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PROCEEDINGS AND DEBATES OF THE 92^{d} CONGRESS, SECOND SESSION

SENATE—*Tuesday, February 15, 1972*

The Senate met at 11 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, we thank Thee for this Nation, born by Thy will, sheltered by Thy providence, kept by Thy mercy. Make us as a people, worthy stewards of our heritage.

Bless those who serve Thee in this place. Lay hold upon their minds that they may grasp the truth. Surround them with Thy love. Fill them with Thy grace. Brace their wills. Steady their affections. Claim them for Thy very own. Fire them with a holy zeal for righteousness and justice so that they may seek first Thy kingdom and Thy righteousness. And may they know Thy peace which the world cannot give nor take away.

In the Master's name we pray. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 15, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, February 14, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

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The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESTORATION OF GOLDEN EAGLE PROGRAM

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1893.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the amendments of the House of Representatives to the bill (S. 1893) to restore the golden eagle program to the Land and Water Conservation Fund Act, provide for an annual camping permit, and for other purposes which were to strike out all after the enacting clause, and insert:

That subsections 1 (a), (b), and (d) of the Act of July 15, 1968 (82 Stat. 354), as amended by the Act of July 7, 1970 (84 Stat. 410), are hereby repealed.

SEC. 2. The Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended (16 U.S.C. 4601), is further amended as follows:

(a) Subsection (a) of section 2 is amended to read:

"(a) ENTRANCE AND SPECIAL RECREATION USE FEES; ESTABLISHMENT; REGULATIONS.—

"(1) ENTRANCE FEES.—Except for areas designated pursuant to subsection (3) of this section, no entrance fees shall be charged by any Federal agency having administrative jurisdiction over areas used for outdoor recreation purposes.

"(2) SPECIAL RECREATION USE FEES.—Each Federal agency developing, administering, or providing specialized sites, facilities, equipment, or services related to outdoor recreation shall provide for the collection of special recreation use fees for the use of sites, facilities, equipment, or services furnished at Federal expense. Daily use fees for overnight occupancy within areas specially developed for such use shall be determined on the basis of the value of the capital improvements offered, the cost of the services furnished, and other pertinent factors.

"(3) The Secretary of the Interior (hereafter referred to as the 'Secretary') may, from time to time, by publication of notice in the Federal Register establish or revise entrance fees for any national park, national monument, national historic site, or national battlefield area administered as a part of the national park system.

"(A) For admission into any such designated area, an annual entrance permit (to be known as the 'Golden Eagle Passport') shall be available, for a fee of not more than $10. Any person purchasing the annual permit, and any person accompanying him, in a single, private, noncommercial vehicle shall be entitled to general admission into any unit of the national park system designated as an entrance fee area during the calendar year in which the annual fee is paid, but such permit shall not authorize any use of specialized sites, facilities, equipment, or services for which additional fees are charged pursuant to subsection (b) of this section. The annual permit shall be nontransferable and the unlawful use thereof shall be punishable in accordance with regulations established pursuant to subsection (e). The annual permit shall be available for purchase through all post offices of the first- and second-class and at such others as the Postmaster General shall direct. The Secretary of the Interior shall transfer to the Postal Service from the receipts thereof such funds as are adequate for the reimbursement of the cost of the service so provided.

"(B) Reasonable entrance fees for a single visit or, not to exceed $3 for a series of visits at a single designated area shall be established by the Secretary for persons who choose not to pay the annual fee under clause (A) of this subsection or who enter such an area by means other than by private, noncommercial vehicle.

"(C) No entrance fee shall be charged for travel by private, noncommercial vehicle over any national parkway or any road or highway established as a part of the National Federal Aid System, as defined in section 101, title 23, United States Code, which is commonly used by the public as a means of travel between two places either or both of which are outside the area. Nor shall any fee be charged for any person for travel by private, noncommercial vehicle over any road or highway to any land in which such person has any property right if such land is within any such designated area. In the Smoky Mountains National Park, unless fees are charged for entrance into said park on main highways and thoroughfares, fees shall not be charged for entrance on other routes into said park or any part thereof.

"(D) The Secretary shall establish procedures, commencing no later than January 1, 1973, providing for the issuance of an annual entrance permit to any person sixty-five years of age or older and his or her spouse, without charge, for use only in the State in which the individuals reside, but such permits shall admit the bearer only. No other free passes shall be issued to any person: *Provided, however,* That no fees of any kind shall be charged of any persons who have a right of access for hunting or fishing privileges under a specific provision of law or treaty or who are engaged in the conduct of official Federal, State, or local Government business.

"(4) All fees established pursuant to this section shall be fair and equitable, taking into consideration the direct and indirect cost to the Government, the benefits to the recipient, the public policy or interest served, the comparable recreation fees charged by non-Federal public agencies, the economic and administrative feasibility of fee collection and other pertinent factors. Clear notice that an entrance fee or special recreation use fee has been established shall be prominently posted at each area and at appropriate locations therein and shall be included in publications distributed at such areas.

"(5) In accordance with the provisions of this section, the heads of appropriate departments and agencies may prescribe rules and regulations for areas under their administration for the collection of any entrance fee and/or special recreation use fee, as the case may be. Persons authorized by the heads of such Federal agencies to enforce any such rules or regulations issued under this subsection may, within areas under the administration or authority of such agency head and with or, if the offense is committed in his presence, without a warrant, arrest any person who violates such rules and regulations. Any person so arrested may be tried and sentenced by the United States magistrate specifically designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided in title 18, United States Code, section 3401, subsections (b), (c), (d), and (e), as amended. Any violations of the rules and regulations issued under this subsection shall be punishable by a fine of not more than $100.

"(6) Except as otherwise provided by law or as may be required by lawful contracts entered into prior to September 3, 1964, providing that revenues collected at particular Federal areas shall be credited to specific purposes, all fees charged shall be covered into a special account under the Land and Water Conservation Fund and shall be available for appropriation, without prejudice to appropriations from other sources for the same purposes, for any authorized outdoor recreation function of the agency by which the fees were collected: *Provided, however,* That not less than 25 per centum of the amount so credited shall be appropriated during the five fiscal years following the enactment of this Act for the enhancement of the fee collection system established by this section, including the promotion and enforcement thereof.

"(7) Nothing in this Act shall authorize Federal hunting or fishing licenses or fees or charges for commercial or other activities not related to recreation, nor shall it effect any rights or authority of the States with respect to fish and wildlife, nor shall it repeal or modify any provision of law that permits States or political subdivisions to share in the revenues from Federal lands or any provision of law that provides that any fees or charges collected at particular Federal areas shall be used for or credited to specific purposes or special funds as authorized by that provision of law.

"(8) Periodic reports indicating the number and location of fee collection areas, the number and location of potential fee collection areas, capacity and visitation information, the fees collected, and other pertinent data, shall be coordinated and compiled by the Bureau of Outdoor Recreation and transmitted to the Committees on Interior and Insular Affairs of the United States House of Representatives and United States Senate. Such reports, which shall be transmitted no later than March 31 annually, shall include any recommendations which the Bureau may have with respect to improving this aspect of the land and water conservation fund program."

(b) Subsection 2(c), as added by section 2 of the Act of July 15, 1968, is redesignated as subsection (d).

(c) In accordance with the provisions of the Act of July 15, 1968, the fourth paragraph of subsection 2(a) of the Land and Water Conservation Fund Act of 1965 is redesignated as section 10.

And amend the title so as to read: "An Act to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes."

Mr. MANSFIELD. Mr. President, I move that the Senate disagree to the amendments of the House and request a conference with the House thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Acting President pro tempore (Mr. ALLEN) appointed Mr. BIBLE, Mr. CHURCH, Mr. Moss, Mr. ALLOTT, and Mr. HANSEN conferees on the part of the Senate.

PRESIDENT NIXON'S VISIT TO CHINA

Mr. SCOTT. Mr. President, this is the year of the rat. It is the Chinese year of 4670. With President Nixon's party preparing to go to China later this week, on behalf of the Senate I extend the best of wishes for a generation of peace and as the Chinese say, "Kung hsi fa ts' ai," happy new year.

Mr. MANSFIELD. Mr. President, will the distinguished Republican leader yield?

Mr. SCOTT. I am happy to yield to the distinguished majority leader.

Mr. MANSFIELD. I wish to join the distinguished Republican leader in extending to the President our best wishes for a successful journey.

There is an old Chinese saying which has been cited time and time again to the effect that the first step is not only the longest but the hardest on the journey to be undertaken.

If I may try to match my distinguished colleague, may I express the hope that the President's reception will be "ding hao."

Mr. SCOTT. "Ding hao" to the distinguished majority leader. I appreciate his joining me in the "Kung hsi fa ts'ai."

Mr. President, the President of the United States said to me only last night that he regards the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), as one of the ablest and most honorable men he has ever known in public office.

He respects him also for his great knowledge of the Far East, especially of the Chinese, and of the fact that the distinguished majority leader was once a professor and teaching that subject at his university.

Thus it happens that the majority leader and the minority leader both have an abiding interest in China and the Chinese and a high regard for the Chinese people wherever they may be, with a deep desire that we may better our relations with them.

WAGE AND PRICE CONTROLS

Mr. SCOTT. Mr. President, the Tuesday, February 15, Los Angeles Times publishes an interesting lead editorial. It is entitled "Controls and Public Confidence" and deals with the results since President Nixon imposed price and wage controls. While, admittedly, there are problems in adjusting to this bold plan, nevertheless the steps the President took must be credited with halting the economic crunch and avoiding the adding of fuel to the fires of inflation.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CONTROLS AND PUBLIC CONFIDENCE

Six months have passed since President Nixon first imposed wage and price controls. If you look at the economy as a whole, the results have been impressive. Nonetheless, the program is threatened with a crisis of public confidence unless steps are taken to make it more equitable, and therefore more credible, in the eyes of the American people.

Recent public opinion polls indicate that the average citizen still thinks wage and price restraints are necessary to control inflation. But the same polls suggest that a growing number of people do not believe the controls are working as well as they should.

Actually, there is no question that substantial progress is being made, overall, toward flattening the spiral in living costs. In 1970, the last full year without controls, consumer prices went up 5.5%.

Thanks largely to the restraints imposed in August, the figure for 1971 dropped to 3.4%.

The Administration is confident the rate of inflation for this year will be even lower.

The Pay Board meanwhile reports that, through Feb. 4, the weighted average of pay increases which it has approved for workers in large companies or bargaining units was only 5.67%. This is impressively close to the 5.5% target.

Unfortunately, things are less rosy than they seem in both the pay and price categories.

Raw food prices are not controlled at all, and they have been rising sharply—with the result showing up in higher prices at your neighborhood supermarket. Some 85% of all retail outlets have been exempted from controls, and so have 45% of all rental housing units. For prices which are controlled, the regulations are so complex that the average citizen cannot tell whether he is being overcharged or not.

Whatever the overall cost-of-living index may indicate, therefore, many of the prices which are most visible to the consumer are still going up—and up.

The Pay Board statistics are similarly open to qualification. Even the most cursory newspaper reader knows that a handful of powerful unions—in the coal and railroad industries, for example—are getting raises a lot higher than the 5.67% average cited by the board.

The board still must rule on tentative settlements, far in excess of the 5.5% guideline, which have been won by the dockworkers.

Later the board must review a whole series of pay raises scheduled for this year under contracts signed before controls were imposed. Some 200,000 Teamsters, for example, are due raises averaging more than 10%, and commercial construction workers have even bigger increases coming.

The Pay Board, not wanting to precipitate crippling strikes in any of these industries, will be sorely tempted to look the other way. But if it does, the public will know the truth of the recent observation by economist Arthur Okun, that the major effect of the program so far has been to hold down increases in nonunion wages.

As President Nixon frequently has said, the success of the wage-price controls depends upon public understanding and support. That support exists now, but it won't exist for long if the people come to think that some wage and salary earners are deemed more equal than others.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore (Mr. ALLEN). At this time, in accordance with the previous order, there will be a period for the transaction of routine morning business, not to extend beyond 11:30 a.m. today, with statements therein limited to 3 minutes.

Is there morning business?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT OF JOINT RESOLUTION ESTABLISHING THE AMERICAN BICENTENNIAL COMMISSION

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1857.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 1857) to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended which was, on page 5, strike out lines 1 and 2, inclusive.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. MANSFIELD. Mr. President, it is my understanding that this has to do with the American Revolution Bicentennial Commission and that the amendment brings about the abolishment of 10 jobs of the supergrade caliber, which I think is a move in the right direction.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SUMMARY OF THE DEFENSE REPORT FOR FISCAL YEAR 1973

Mrs. SMITH. Mr. President, at the beginning of this administration, President Nixon set an objective for not just himself but for all of us. That objective is a generation of peace and a better quality of life for all Americans.

The Nixon administration has devoted 3 years of determination and effort moving us toward that objective while continuing to maintain our Nation's strength.

This has not been an easy task. As this body well knows, restoring peace is far more complex than just stopping a war. The business of peace does not ascribe to simple solutions; nor can it be attained simply for the asking.

It takes work, sacrifice, understanding, and planning. Yes, planning and planning with a strategy in mind. When I say this I think of all the war strategists we have heard or read about in this body; so why should we not be hearing about a peace strategy—a strategy for peace. A strategy to stop a war, gain a peace then maintain it for future generations. And all the while keeping our defenses strong.

Today, before our Armed Services Committee, the Secretary of Defense described the foundation for such a strategy in presenting his report of the Defense Budget for fiscal year 1973 and the Defense Programs for fiscal years 1973–77. The Secretary outlined the steps that have transitioned us from the strategy of war in effect at the outset of the Nixon administration to, "a fully developed national security strategy of realistic deterrence that complements and supports the President's strategy for peace."

Secretary Laird clearly faces up to the fact that not all the goals set by this administration have yet been accomplished. Just as he faces up to those reasoned criticisms of Congress on the defense posture of this Nation. Too much defense this country does not need but not enough can be disastrous.

To emphasize the need the report for the fiscal year 1973 defense budget explains fully the reasons for the increased budget request. It is a sobering reflective analization of the manpower, strategic, political, and fiscal realities facing this Nation.

I, for one, am impressed by what the Secretary of Defense is telling us. I wish that all thoughtful Americans will take the opportunity to read this fine report presented by Secretary Laird.

Mr. President, I now ask unanimous consent to place in the Record the summary of the defense report for fiscal year 1973.

There being no objection, the summary was ordered to be printed in the Record, as follows:

The Secretary's Summary: The Foundation of a Strategy for Peace

This 1972 Defense Report is about peace: how to achieve it and how to maintain it.

It will focus on what the Department of Defense has been doing and what more we plan to do to ensure the continued safety and security of our nation.

Our objective—an objective set for us by the President—is a generation of peace and a better quality of life for all Americans. The Nixon Administration has devoted three years of constant effort to moving us toward that objective while maintaining our nation's strength. These have been years of *transition:*

From war to peace.

From a wartime economy to a peacetime economy.

From a federal budget dominated by defense expenditures to one dominated by human resource programs.

From an era of confrontation to an era of negotiation.

From arms competition toward arms limitation.

The business of peace is a serious and complex one. It cannot be described in simple terms. It cannot be achieved and maintained through simple solutions.

Obviously, we have not fully reached many of the goals we set for ourselves. But we have made substantial progress. This Defense Report is an accounting to the American people of that progress, of shortcomings and of the challenges and changes ahead.

It is with the hope of securing deeper understanding and broader support of our plan for peace that I submit this Defense Report. It traces the orderly progression of President Nixon's program in terms that I believe all Americans can understand.

For our focus is on the future: on a future which recognizes mistakes of the past; a future in which each man hopefully can live at peace with his neighbor and each nation can settle its disputes without resort to war.

My first Defense Report was a *transition* document. My second Defense Report, as its title made clear, described a Defense program designed to move us *toward* a Strategy of Realistic Deterrence.

This 1972 Report takes us another major step forward. It completes the transition to a *fully-developed* National Security Strategy of Realistic Deterrence that complements and supports the President's Strategy for Peace.

A new era in U.S. national security policy began on January 20, 1969, with President Nixon's Inaugural Address. He declared that his highest priority goals were to establish an effective Strategy for Peace and to improve the quality of life.

Following his Inaugural Address, the President enunciated the Nixon Doctrine at Guam in July 1969. Its elements, and their relation to his Strategy for Peace and the National Security Strategy of Realistic Deterrence, are depicted on the inside cover of this Report.

Coupled with positive diplomatic initiatives, the Doctrine both seeks and permits a more creative relationship with our adversaries. The Doctrine is derived from the *strength* and *partnership* pillars of the Strategy for Peace; those pillars in turn provide the essential foundation for the third pillar—*a willingness to negotiate.*

From the Nixon Doctrine and the Strategy for Peace, we in the Department of Defense developed—and the Commander in Chief approved—*the National Security Strategy of Realistic Deterrence*. The basic purpose of this implementing strategy is to provide, through strength and partnership, for the security of the United States and its Free World allies and friends. Its aim is to discourage—and eventually to eliminate—the use of military force as a means by which one nation seeks to impose its will upon another. It seeks to deter war, but insures adequate capabilities to protect our nation and its interests should deerrence fail.

Long before his Inauguration, the President and I had discussed in detail the priority objectives and goals he had set for his Administration. That was a major reason for my statement, when I took office, that I expected to be judged as Secretary of Defense on whether I was able to contribute meaningfully to the restoration and maintenance of peace. I stand by those words.

Based on my service in Congress, I felt that we would get nowhere in the pursuit of peace and national security if we were not willing to face the realities of the domestic and international world. This Report emphasizes, as I have many times before, those Strategic, Political, Fiscal and Manpower realities. Against the background of those realities, we initiated major policy changes—changes which are most graphically demonstrated by the results achieved by our changed approach to Vietnam.

When this Administration took office:

Authorized military strength in Vietnam was 549,500.

There was no accepted plan to bring American troops home.

There was no plan to terminate U.S. involvement in the war unless there was success at the Paris negotiating table.

Both the President and I had long felt that a new, realistic course was essential;

a course which would permit us to shift the responsibility for defending their homeland to the people most directly involved—the South Vietnamese themselves. That new course was Vietnamization: a complement to and alternative for negotiation.

This Defense Report demonstrates how successful Vietnamization has been. On May 1 of this year authorized troop strength will be 69,000—a reduction of 480,500, or 87% from the situation we inherited in 1969. American combat deaths are down 95% from their 1968 peak. Our war expenditures are down by about two-thirds. American air activity in Southeast Asia has been reduced by well over 50%.

Manifestly, U.S. involvement in the war is coming to an end.

We are now planning for the period *beyond Vietnam,* and devoting even greater attention to America's long range security needs—adequate peacetime Nixon Doctrine forces, and the urgent need to assure technological superiority.

But, Vietnamization continues, and it will not be complete so long as the enemy refuses to return all Americans now held in captivity and until there is an accounting for all missing-in-action. We will not abandon our prisoners of war, our missing, or their families. And until our men are free, we will continue to demand that they be treated in accordance with the humanitarian provisions of the Geneva Convention.

Nor should there be any doubt about our determination to take whatever steps are necessary to protect our diminishing forces as we continue to withdraw from Vietnam. If the enemy's response to President Nixon's comprehensive offers of peace should be a continued buildup which threatens the safety of our men—or further offensive actions—we are prepared to respond with American airpower as appropriate.

OUR DEFENSE FORCES: MAINTAINING STRENGTH

In his State of the Union message last month, the President said:

"Strong military defenses are not the enemy of peace. They are the Guardian of peace."

Mindful of the President's determination to maintain whatever military strength is needed, the Department of Defense makes this pledge:

"We are determined to provide adequate United States military forces so that we can, with our friends and allies, deter war."

In my last Defense Report, I established planning goals for the Nixon Doctrine peacetime defense forces under the Strategy of Realistic Deterrence. These *planning goals* called for:

No more than 2.5 million volunteers in the active military forces, backed by a strengthened National Guard and Reserve;

An allocation of no more than 7% of the Gross National Product.

The actual results achieved for the FY 1973 Defense Budget include:

And end-strength of less than 2.4 million military men and women in a diminished draft environment;

A budget of less than 7% of the expected Gross National Product.

The nation's military strength was maintained during 1971 at the level prudence dictated; further, important steps were taken to assure that our strength would remain adequate for future years.

We have been changing the composition of our forces and the allocation of our resources to attain stated National goals in an optimum manner. These changes include:

Better utilization of people.

Improved deployment of our peacetime Nixon Doctrine deterrent forces.

Increased emphasis on partnership and burdensharing.

Improved weapon system acquisition methods.

Coordinated and integrated Security Assistance planning.

The decision-making process in Defense also has changed. Now, the emphasis is on participatory management, with both our civilian and military leaders being given an opportunity to be heard fully before decisions are reached.

There is also a changed relationship between the Department of Defense and the Congress. We recognize the partnership that must exist with Congress, which as a co-equal branch of government shares equally the Constitutional responsibility for insuring the safety and security of our country.

The Strategy of Realistic Deterrence can only succeed if there is general acceptance of the further modification in the National Security Concepts of the 1960s which I identify in this Report. We have a new approach to planning and assessment methodology. With this new methodology, we seek to avoid the errors of the past which led to our ever-increasing commitment in Vietnam. That is a mistake we cannot afford to make again.

What we have done in the past three years now makes it possible for us to put three essential and interrelated planning tools to work for peace: Net Assessment, Total Force. and Long Range Planning.

NET ASSESSMENT

I said at the beginning of this Report that the business of peace is a complex one. Net Assessment in National Security Planning is an indispensable tool for coping with these complexities. In simple terms, Net Assessment, in conjunction with Total Force Planning, tells where we are, what we need to do, and how to get there.

To put it more fully, Net Assessment is a *comparative analysis* of those military, technological, political and economic factors;

which impede or have a potential to impede our national security objectives, *with* those factors:

available or potentially available to enhance accomplishment of those same national security objectives.

Through this process, we are able to determine how to apply our resources more effectively to accomplish our national security goals.

For example, the momentum of Soviet weapons development and deployment demands examination in relation to what we and our allies and friends must do about it. A similar assessment must be made of the increasing military capability across a broad spectrum of the Peoples Republic of China.

Since my last Defense Report hard, new evidence reveals such developments in the threat as:

The deployed Y-class ballistic missile submarine force of the Soviet Union could be as large as our Polaris/Poseidon force by next year, rather than in 1974 as I predicted last year.

Continued nuclear weapons and missile testing by Mainland China with some ballistic missile deployments likely this year.

The new Soviet supersonic dash bomber, designated the Backfire, could be operational by the mid-1970's.

Some 100 new Soviet ICBM silo sites have been identified for new or modified ICBM systems. The possibility of such a new program was mentioned in my Defense Report last year.

Soviet MIRV capability could be achieved next year.

Construction of the Moscow ABM system has resumed, and testing of an improved ABM missile continues.

Ongoing Soviet naval ship construction programs include production of nuclear-powered torpedo attack and cruise-missile submarines.

New Soviet fighter aircraft, especially the high speed Foxbat as well as the Flogger and Fitter B are entering the inventory.

Two new Soviet tanks, one a light tank and the other a new main battle tank are probably in production.

There were some, several years ago, who questioned my earlier estimates and projections of Soviet weapons momentum. If anything, as subsequent events have demonstrated, these estimates and projections were conservative.

In conjunction with my Defense Report, the Chairman of the Joint Chiefs of Staff, Admiral Thomas H. Moorer, will present to Congress and the American people a comprehensive military assessment of the threat and of our own force capabilities.

Our combined presentations this year will represent another step forward in our new emphasis on Net Assessment.

However, as we evaluate the strength of Soviet and Chinese weapons developments and deployments, we must also take into account in a realistic net assessment the fact that they face some considerable constraints, such as:

The Soviet Union and Mainland China must deploy hundreds of thousands of troops to their Far Eastern border;

The Soviet's growing fleet must contend with the paucity of all-weather port facilities;

The Soviets trail the U.S. in many frequently overlooked but essential matters, such as long-range underway replenishment at sea and containerization.

TECHNOLOGICAL SUPERIORITY

Any assessment of the future defense needs of the United States must include a program to assure our continued technological superiority. The 1957 Sputnik success shocked this country, and led to a flurry of remedial action which culminated in our successful moon landings. In that instance, fortunately, we were dealing with a peaceful competition; yet it took us more than 10 years to accomplish the job despite our significant technological lead.

Beginning in 1965, at the same time that we were diverting so much of our effort and technology to Vietnam, the Soviet Union was stepping up its research and development efforts and was beginning to produce many of the weapons systems we note today. The USSR has now reached a position where—unless we take appropriate action—there could be new surprises and new "sputniks." But they are less likely to be in areas such as the peaceful exploration of space; rather they are more likely to be part of a major new Soviet military capability.

It cannot be said too often that an open society such as ours is at a disadvantage in facing the challenge of a closed society which seeks, through all means at its disposal, to become the World's greatest power.

So I would repeat what I have said so many times: The American people may perhaps be willing to accept parity in regard to the deployment of strategic nuclear weapons; but, in my view, they will never accept a position of inferiority.

Therefore, in order to avoid that unacceptable danger, it is absolutely essential that we maintain technological superiority. The one billion dollar increase in the FY 1973 R&D Budget over that which Congress gave us last year is aimed at maintaining that superiority.

The Soviet Union continues to expand its weapons development and deployment programs. There may be some debate as to whether—or by how much—the Soviet Union is outspending us in research and development. What must concern any one responsible for our national security is the demonstrable fact that we could lose the technological race. And second place in that technological race is simply not good enough.

TOTAL FORCE PLANNING

Net Assessment, as I have indicated, is one essential of effective long-range planning.

The other essential is Total Force planning which I described at some length in my Report last year. As I said then:

"In defense planning, the Strategy of Realistic Deterrence emphasizes our need to plan for optimum use of all military and related resources available to meet the requirements of Free World security. These Free World military and related resources—which we call "Total Force"—include both active and reserve components of the U.S., those of our allies, and the additional military capabilities of our allies and friends that will be made available through local efforts, or through provision of appropriate security assistance programs."

I am confident the Nixon Doctrine peacetime force structure in our Five-Year Defense Program will be adequate if Congress votes the necessary funds to make Total Force Planning effective. They include funds for maintaining:

Strategic sufficiency.

Technological superiority.

Weapons modernization.

Sufficient manpower levels.

Strong guard and reserves.

Adequate operations and maintenance.

Security assistance.

Total resource utilization.

In FY 1973 we propose significant increases in funding for:

Strategic nuclear forces, including sea-based missile deterrent forces such as the Undersea Long-Range Missile System, advanced and improved command and control, the new B–1 strategic bomber, and continued deployment of Safeguard. These increases are recommended to maintain our *strategic sufficiency* against a growing threat.

Research and development, with emphasis on diversification, hardware development (including prototyping), basic research and exploratory development, and operational test and evaluation, to maintain *technological superiority*.

Improving General Purpose Deterrent Forces Through *Weapons Modernization:*

Modernizing naval forces, including long lead time funding for a fourth nuclear aircraft carrier, increased procurement of nuclear attack submarines and new sea control ships, to maintain a strong Navy.

Development and procurement of the Air Force F–15 and the Navy F–14 aircraft, modification and improvement of the Army's M–60 tank, procurement of Lance missiles, and continued development of attack and heavy-lift helicopters, to maintain a balanced and effective conventional deterrent in partnership with our allies.

Revitalizing Reserve components by placing a new emphasis on a *Strong Guard and Reserve* and supporting increased modernization and improved readiness and full manning and equipping to make U.S. forces more effective under our Total Force Concept.

Military Assistance, for improving allied capabilities for self-defense through a new emphasis on *Security Assistance* to make Free World forces more effective under our Total Force Concept.

Manpower, including pay, housing and other benefits to continue the momentum to zero draft and an all-volunteer force.

NATIONAL GUARD AND RESERVES

Last year, I reported on the first actions being taken to place greater reliance on our National Guard and Reserve, and to preclude any need to return to a massive draft. We mean to have National Guard and Reserves that are manned, equipped, and trained to mesh, on quick notice, with our active forces.

I am well aware, and this is certainly true also for members of Congress, that for many years we have talked about achieving a true combat ready status for our National Guard and Reserve. Considerable progress has been made, but by no means enough. Our utilization of the Air National Guard and the air units in the various Reserve forces is much improved. We have, for example, assigned Air National Guard units to stand strip alert for the Air Defense Command; Army National Guard units man Air Defense facilities such as the Nike Hercules battalions in many of our states.

But we have only scratched the surface in utilizing the National Guard and Reserve forces in our strategy planning. We have had, over the past decade, too much talk and too little action in making these units combat ready. And the fact is that the effectiveness of many National Guard and Reserve units was eroded by requisitioning too much key equipment during the years when the war in Vietnam was at its peak. Also, many of these units were forced, because of disturbances here at home, to devote a considerable part of their training and resources to the assistance of state and local law enforcement authorities.

Vietnamization has made it possible for us to provide millions of dollars worth of equipment to our National Guard and Reserve. As unrest at home has diminished, it has become possible for our citizen soldiers to devote increasing attention to combat readiness training. These changes have, until now, gone relatively unnoticed. But in the months and years immediately ahead it will become evident that, under our Total Force Concept, the National Guard and Reserve are taking on ever-increasing combat readiness responsibilities. I believe this is exactly what the commanders and members of these units want.

We are now examining the possibility of having Naval Reservists take primary responsibility for manning an aircraft carrier.

There is no excuse for us to waste the talents of many National Guard and Reserve air squadrons, many of whose pilots and technicians are combat-experienced and who want to do something more than to simply participate in training exercises not directly related to specific national security missions under the new strategy.

That is why the budget which President Nixon sent to Congress calls for a $600 million increase for National Guard and Reserve Forces. Our planning for the coming year envisages that the National Guard and Reserve forces will receive more equipment than in any single year in our history. Much of this equipment includes such items as fixed-wing aircraft and helicopters from Vietnam.

Just as we cannot—with smaller U.S. forces—have adequate Free World security without a strengthened and revitalized Security Assistance Program to help our allies build up their own capabilities, neither can we have adequate U.S. forces that are 1,200,000 below 1968 active duty peaks unless we put comparable emphasis on strengthening, training, and equipping a fully manned National Guard and Reserve under the Total Force Concept.

TOTAL FORCE PLANNING AND THE FUTURE

Total Force involves much more than the National Guard and Reserves. For example, we are working on plans in which superiority at sea will continue to be assured in the future through burden-sharing and Total Force.

As part of the partnership emphasis of the Nixon Doctrine, the responsibility for superiority at sea must be shared more fully by our friends and allies. That is why I proposed, among other reasons, at the NATO meeting in December, 1971, creation of a Standing NATO Naval Force in the Mediterranean to complement the NATO Naval Standing Force operating in the Atlantic.

Here at home, I foresee a new order of Total Force application with regard to protection of sea lanes and sea surveillance. We are at work on plans in which the Air Force would share with the Navy some of the responsibility for our deterrent posture at sea. If, for example, B–52's can be employed with great effectiveness in a tactical ground support role in Vietnam—a task for which this aircraft was not originally intended—then there is no reason why the Air Force cannot be assigned some major responsibilities for control of the seas.

And it is possible that in the future, some Army Air Defense expertise, such as that related to countering the threat of low-level air attacks, could contribute to improved ship survivability at sea.

The total Force Concept means nothing less than maximum and integrated use of all our available resources—including those of our allies and friends. We must shed old parochial concepts of national security planning to meet global defense requirements for the future. Some of the decisions we will be making in the immediate years ahead will reach their optimum application in the 21st century.

OUR PLANS FOR PEOPLE

As we look to the future, manpower—our most precious asset—will take on new significance. It will be our responsibility, working with Congress, to complete a revised personnel program that will have the approval and support of the American people.

In the five years from June 1968 to June 1973, nearly 2.8 million military and civilian Defense personnel will have been released to non-defense pursuits.

We now have reached a "base line" force appropriate to fulfill essential peacetime security requirements. The less than 2.4 million military personnel remaining are:

1,068,000 fewer than the peak 1969 Vietnam buildup.

296,000 fewer than the 1964 total prior to the buildup.

1,028,000 fewer than after the Korean war, in 1954.

The winding down of the war has meant substantial monetary savings. Where has that money gone? Much of it has been reallocated in our Defense budget from war-fighting to people. For too long our military men and women were underpaid; some have been forced to live on welfare. The failure to pay adequate salaries to military people—particularly those in the lower ranks—represented discriminatory taxation on them and their families. We have substantially changed that grossly unjust treatment of those who redress pay inequities to persons on the retired list.

The new approach to military compensation will make it possible for us to move away from heavy reliance on the draft and toward zero draft calls and an all-volunteer force. We also need to improve housing and educational benefits, but most of all we need to ensure that military people and their families receive recognition and appreciation from the American people for their devoted service to our country.

We have recently reaffirmed the Human Goals statement for men and women, military and civilian, throughout the Department of Defense. It is reproduced on the back cover of this Report.

I am determined that the Department of Defense maintain its leadership role and make further progress in meeting two of our society's most difficult problems: equality of opportunity and drug control.

As a further contribution to the efforts of the Defense Department to improve the quality of life, we are working on plans that will make it possible, in the next fiscal year, to return some thousands of physicians, dentists and other medical personnel to civilian communities. At the same time, we are determined that there will be no decrease in the high-quality medical care provided our military people, their families and those on the retired lists.

Project MAST (Medical Assistance to

Safety in Traffic) will also be expanded this year. This program supplies military helicopters, many from Vietnam, to assist local communities in providing rapid care to accident victims.

We will continue our strong emphasis on medical research which can help improve the quality of life for all Americans. For example, we are initiating new research programs to assist in the President's program of combating Sickle-Cell Anemia.

Finally, as we approach an all-volunteer force we will continually assess our recruiting and retention programs, and at some point we may wish to consider whether there would be advantages in establishing a joint Defense Recruiting Service. Our zero draft goal coincides with the end of the fiscal year to which this Report addresses itself—July 1, 1973.

MANAGING THE DEPARTMENT OF DEFENSE

A number of organizational and management improvements—many of them recommended by the Blue Ribbon Defense Panel—were made in the past year, notably in the field of intelligence which has been a matter of interest and concern to me for many years.

The Office of the Assistant Secretary of Defense for Intelligence was established with responsibility for management of DoD intelligence resources, programs and activities. A Central Security Service was set up to unify cryptologic and related electronic operations. An Office of Defense Investigations and a Defense Investigative Review Council were established for centralized control of all personnel security investigations. And a Defense Mapping Agency was created to consolidate most mapping, charting and geodetic operations.

Another organizational change of the past year was the establishment of the Office of the Assistant Secretary for Telecommunications with responsibility for management and resource allocation.

The Unified Command Plan was revised to reflect changes in our international policies and to provide a Readiness Command. Several organizational and procedural changes have been made to improve command and control of our military forces, including fixing of responsibility for the operation of the National Military Command System (NMCS).

A Defense Security Assistance Agency was created to direct and administer a program vital to our partnership concept.

I will continue to keep under review proposals for other management changes, such as the possible creation of a Strategic Command. I believe in connection with our new thinking that it may also be possible to eliminate some additional Headquarters staffing.

WEAPONS ACQUISITION

All of our new national security strategy planning—all of the innovations we are putting into effect—will be undermined if we are not able to continue the progress that has been started in improving our weapons acquisition process. Dave Packard, the former Deputy Secretary of Defense, and I paid close personal attention to the development of better acquisition processes. We said repeatedly that there were not going to be any overnight solution to these problems—many of which involved programs initiated in the mid-1960s, or earlier. We also acknowledged that, although we are moving to eliminate the causes for the problems we found, we would have to live for a while with the situation we inherited. We knew also that we would make some mistakes. And we have.

But we said we were going to revamp the weapons system acquisition process to minimize the probability of repeating such past procurement mistakes as the "Total Package Concept" used for C–5A procurement. One key change was our decision to go to a much more practical "fly before you buy" approach, compared with the concurrency policies of the past, are the B–1 and the F–15. Some of the troubles we are having with the F–14, in my view, are compounded by the contract approach utilized and its similarity to previous troublesome acquisition strategies.

Our goal in weapons acquisition is to achieve an optimum balance among weapons effectiveness, weapons costs, and the timeliness of entry into the inventory. We recognize that we are confronted with the dilemma of weapons that are too costly if we try to obtain high effectiveness rapidly or weapons, perhaps, of more reasonable cost that have too little effectiveness and become available too late.

Because national defense is not a stop-and-go proposition but a continuing process, transition actions are required rather than precipitate changeovers.

The Congress knows that I had available to me, early in my service as Secretary of Defense, an option to cancel on a wholesale basis some of the programs which I knew were beset with difficulties. I studied these options very carefully. When I weighed all the factors, including the availability of timely substitutes for the needed defense capabilities represented in those on-going programs, I rejected the tempting alternative of summary cancellation of many troubled programs. And I told Congress why.

This Defense Report spells out our need for $83.4 billion in budget authorization, including some $28 billion for weapons investment. I believe that as a result of the changes we have made, many of them under the leadership of former Deputy Secretary Packard, and many of them reflecting the help and cooperation from the Armed Services and Appropriations Committees, the American people are going to get a better return for their defense dollars.

But I must say again that we are not out of the woods. Last month I asked Mr. Packard, after he had left office, to give me the benefit of his thoughts on how far we have come and how far we have left to go in this important area. He gave me a no-nonsense report. In essence, he said that he felt we had gone a long way, but he also said there is a tough road ahead.

And I want to say that, thanks to Dave Packard, the road ahead is going to be an easier one.

THE FOUNDATION OF A STRATEGY FOR PEACE

I do not suggest that the changes in the approach and implementation to planning outlined in this Defense Report represent perfection or that they are a total solution. Constructive discussion and constructive criticism must continue. We face a whole range of incredibly complex problems.

The responsibility of meeting these problems is one the Congress shares with us. We intend to increase further our consultation and cooperation with the Committees to whom we are responsible.

Of equal importance—since national defense, in the last analysis, is the responsibility of all the American people—is the need for a public dialogue such as we have not had since the days of the genesis of the Marshall Plan.

To the maximum extent possible, I plan to visit with citizens throughout our country, to share with them my thoughts and to hear directly from them their views on the major elements of our strategy.

I would be pleased, for example, to consider favorably an invitation to appear before the Platform Committees of both of the two major parties, where responsible citizens from all over America will be deliberating on the non-partisan issue of national security.

Let me conclude by observing there may be some who will say that the increased request in the FY 1973 Budget for Naval funding is a precursor to a blue-water strategy. This is not the case.

In a world where we are striving to prevent war—and the danger of war—the New Modern Army, including a revitalized and strengthened National Guard and Reserve, has never had a more important or more challenging role than now.

The Air Force, with its unique mobility and flexibility, will be second to no other Service, since its capabilities encompass and support the whole spectrum of required US deterrent forces.

And, of course, the Navy—with its combination of air, sea, and land forces, represented by the US Marine Corps—has an equally key role to play in our National Security Strategy of Realistic Deterrence.

Our new strategy provides an unprecedented opportunity for a new order of Service partnership—a partnership that will be as effective in a peacetime Nixon Doctrine deterrent role as it has so often been in war.

This is not a blue-water strategy.

This is not an aerospace strategy.

This is not a ground combat strategy.

It is a strategy that will require the courage to look anew at parochial and outdated roles and missions assignments.

It is a Strategy of Realistic Deterrence.

It is the essential foundation of a Strategy for Peace.

MELVIN R. LAIRD.

FEBRUARY 15, 1972.

QUORUM CALL

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MANPOWER DEVELOPMENT AND TRAINING ACT AMENDMENT OF 1972

Mr. EAGLETON. Mr. President, on behalf of the majority leader, who is temporarily absent, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 578, S. 3054.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The bill was read by title as follows:

A bill (S. 3054) to amend the Manpower Development and Training Act of 1962.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. EAGLETON. Mr. President, it is my understanding that S. 3054 has been cleared on both sides of the aisle.

At this time I offer an amendment to S. 3054.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

Immediately following line 8 insert the following new section:

"SEC. 2. That all real property of the United States which was transferred to the United States Postal Service and was, prior to such transfer, treated as Federal property for purposes of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), shall continue to be treated as Federal property for such purpose for two years beyond the end of the fiscal year in which such transfer occurred."

Mr. EAGLETON. Mr. President, this amendment to S. 3054 likewise has been cleared on both sides of the aisle.

The purpose of this amendment, Mr. President, is to relieve the acute financial pressure affecting a great many school districts throughout the country because of the transfer of property from the General Services Administration to the newly created U.S. Postal Service. As a consequence of this transfer, children who have in the past been considered "federally connected" for purposes of Public Law 874—the impact aid program—no longer qualify as such and the schools that they attend are no longer eligible to receive Federal funds on their behalf under the impact aid program.

My amendment would authorize a 2-year grace period for these school districts in order to permit them to receive Federal funds which they already have budgeted for the coming year and to permit 1 additional year for an orderly phaseout of this portion of the impact aid funding.

Mr. President, this amendment was previously offered as amendment 733 to S. 659, the Education Amendments of 1971. However, because of the delays that have accompanied consideration of S. 659, and because of the urgent need for rectifying the situation covered by my amendment, I have concluded that immediate action is needed.

This amendment is identical to H.R. 11809, passed by the House on December 6, 1971, and referred to the Senate Committee on Labor and Public Welfare. The chairman of the Education Subcommittee of that committee, the distinguished junior Senator from Rhode Island (Mr. PELL) has very graciously acquiesced to this expedited procedure for concurring in the House-passed bill. I am also grateful for the concurrence of the junior Senator from Wisconsin (Mr. NELSON), manager of S. 3054, and the senior Senator from New York (Mr. JAVITS), ranking minority member of the Labor and Public Welfare Committee.

Mr. President, I ask unanimous consent that a list prepared by the U.S. Office of Education, showing the school districts affected by this amendment, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

POST OFFICE BUILDINGS TRANSFERRED TO POSTAL SERVICE JURISDICTION

Attached is a listing, by State and Congressional District, of Post Office Buildings *claimed in prior years* which have been transferred to the jurisdiction of the U.S. Postal Service and have been declared ineligible for the 1971–72 school year under the definition of Federal property contained in section 303(1) of P.L. 81–874. The P.L. 874 applicants claiming them are indicated with each.

Other Post Office Buildings were transferred but, to date, have not been claimed or have been determined ineligible under P.L. 874 prior to the transfer. Not all buildings that were transferred will become ineligible.

ALASKA

At large

Cordova City S.D.
1606 Ketchikan Gateway Borough S.D.
2 Greater Sitka Boro S.D.
805 Wrangell Pub. Schs.

ARKANSAS

Fourth Congressional District

Camden S.D. No. 35, Quachita County.

CALIFORNIA

First Congressional District

Old Adobe U.S.D., Petaluma.
Tamalpais U.H.S.D., Larkspur (also 6th Cong. Dist.).
Larkspur S.D. (also 6th Cong. Dist.).
Marlin Jr. Col. District, Kentfield (also 6th Cong. Dist.).
San Rafael S.D. (also 6th Cong. Dist.).
San Rafael H.S.D. (also 6th Cong. Dist.).
Dixie S.D., San Rafael (also 6th Cong. Dist.).
Novato Unif. S.D. (also 6th Cong. Dist.).

Third Congressional District

Rio Linda U.S.D.
Sacramento City Unif. S.D.
Los Rios Jr. Col. Dist., Sacramento.
Robla S.D., Sacramento.

Fourth Congressional District

Washington Unif. S.D., North Sacramento.
Marysville Jr. Unif. S.D.
Fairfield Suisun Unif. S.D.
Martinez Unif. S.D.

Fifth Congressional District

San Francisco Unif. S.D. (also 6th Cong. Dist.)
Catati Elementary S.D., Sonoma County.

Sixth Congressional District

Larkspur S.D. (also 1st Cong. Dist.).
Martin Jr. Col. District, Kentfield (also 1st Cong. Dist.).
Tamalpais U.H.S.D., Larkspur (also 1st Cong. Dist.).
San Rafael S.D. (also 1st Cong. Dist.).
San Rafael H.S.D. (also 1st Cong. Dist.).
Dixie S.D., San Rafael (also 1st Cong. Dist.).
Novato Unif. S.D. (also 1st Cong. Dist.).
San Francisco Unif, S.D. (also 5th Cong. Dist.).

Eight Congressional District

San Leandro Unif. S.D.
Berkeley Unif. S.D.
Freemont Unif. S.D.
Pleasanton, Jr. S.D.
Amador Valley Jt. U.H.S.D., Pleasanton.
Oakland Unif. S.D.
Murray S.D., Dublin.
S Co. Jt. Coll. Dist., San Leandro.
Hayward Unif. S.D.
San Lorenzo Unif. S.D.
Peralta Jr. Col. Dist., Oakland
Castro Valley Unif. S.D.
Emery Unif., S.D., Emeryville.

Tenth Congressional District

Palo Alto Unif. S.D.

Eleventh Congressional District

Laguna Salada U.S.D., Pacifica.
Jefferson S.D., Daly City.
Jefferson U.H.S.D., Daly City.
San Mateo U.H.S.D.

Thirteenth Congressional District

Los Angeles Unif. S.D. (also 17th, 20th, 21st, 22d, 24th, 26th, 27th, 28th, 29th, 30th, and 31st Cong. Dists.).

Fourteenth Congressional District

Pittsburg Unif. S.D.
Mt. Diablo Unif. S.D., Concord.
Lafayette S.D.
Richmond Unif. S.D.
Walnut Creek S.D.
Orinda U.S.D.
Acalanes U.H.S.D., Lafayette.
Moraga Sch. Dist.
San Ramon Valley Unif. S.D., Danville.

Fifteenth Congressional District

San Joaquin Delta Jr. College, Stockton.

Seventeenth Congressional District

Twentieth Congressional District

Twenty-First Congressional District

Twenty-Second Congressional District

Twenty-Fourth Congressional District

Twenty-Sixth Congressional District

Twenty-Seventh Congressional District

Twenty-Eighth Congressional District

Twenty-Ninth Congressional District

Thirtieth Congressional District

Thirty-First Congressional District

Los Angeles Unif. S.D.

Thirty-Fifth Congressional District

Oceanside U.S.D.
Chula Vista City S.D.
Santee S.D.
Grossmont U.H.S.D.
Cajon Valley S.D., El Cajon
Escondido U.S.D.
S. Bay U.S.D. Imperial Beach.
Lakeside U.S.D.
Sweetwater U.H.S.D., Chula Vista.
Lemon Grove S.D.
La Mesa Spring Valley, S.D.
San Diego Unif. S.D.
Orange Glen S.D.
Jamul Las Flores U.S.D.
Grossmont Jr. Col. Dist.
Sweetwater Jr. Col. Dist., Chula Vista.
San Diego Comm. Col. Dist., San Diego County (also 36th and 37th Cong. Dists.)

Thirty-Sixth Congressional District

Thirty-Seventh Congressional District

San Diego Comm. Col. Dist., San Diego County (also 35th Cong. Dist.).

COLORADO

First Congressional District

S.D. No., Denver.

Second Congressional District

Jefferson Co. S.D. No. R1, Lakewood.
Englewood S.D. No. 1.
Adams Arapahoe Jt. S.D. No. 28, Aurora.
Adams Co. S.D. No. 14, Commerce City.
S.D. No. 6, Littleton.
Westminster S.D. No. 50.
S.D. No. 12, Denver.
Mapleton Pub. S.D. No. 1, Denver.
St. Vrain Valley S.D. Rt. 1J, Longmont.

Third Congressional District

Colo. Springs S.D. No. 11.

Fourth Congressional District

Roaring Fork S.D. Re. 1, Glenwood Springs.
Garfield S.D. Re. 2, Rifle

CONNECTICUT

Second Congressional District

Town of East Lyme Bd. of Ed.
Town of Colchester Bd. of Ed.
New London Bd. of Ed.
Town of Salem S.D., Norwich.

Third Congressional District

Milford Public Schs.
City of W. Haven Bd. of Ed.
Derby Bd. of Ed.
Orange Co. Bd of Ed., Orange.
New Haven Bd. of Ed.
Town of Oxford Bd. of Ed.
City of Waterbury Bd. of Ed., New Haven County.

Fourth Congressional District

Bridgeport Bd. of Ed.
Town of Stratford Acting as a S.D.
Shelton Bd. of Ed.
Trumbull Bd. of Ed.
Town of Monroe Bd. of Ed.

Sixth Congressional District

Windsor Locks Public S.D.
Granby Bd. of Ed.
Enfield Bd. of Ed., Thompsonville.
Windsor Bd. of Ed.
Hartford Bd. of Ed.
Town of Suffield Bd. of Ed.
Bloomfield Bd. of Ed., Hartford Co.

DISTRICT OF COLUMBIA

At large

D.C. Public Schools.

FLORIDA

Ninth Congressional District

Tenth Congressional District

Broward Co. Bd. of Pub. Instr., Ft Lauderdale.

Eleventh Congressional District

Twelfth Congressional District

Dade Co. Bd. of Pub. Instr., Miami.

GEORGIA

Third Congressional District

Muscogee Co. S.D., Columbus.
Harris Co. Bd. of Ed., Hamilton.
Houston Co. Bd. of Ed., Perry.
Crawford Co. Bd. of Ed., Roberta.
Twiggs Co. Bd. of Ed., Jeffersonville.
Pulaski Co. Bd. of Ed., Hawkinsville.

Fourth Congressional District

De Kalb Co. Bd. of Ed., Decatur.
City Schs. of Decatur.
Atlanta Pub. Sch. System (also 5th Cong. Dist.).
Fulton Co. Bd. of Ed., Atlanta (also 5th Cong. Dist.).

Fifth Congressional District

Atlanta Pub. Sch. System (also 4th Cong. Dist.).
Fulton Co. Bd. of Ed., Atlanta (also 4th Cong. Dist.).

Sixth Congressional District

Clayton Co. Bd. of Ed., Jonesboro.
Bibb Co. Bd. of Ed. & Orph., Macon.
Henry Co. Bd. of Ed., McDonough.
Carroll Co. Bd. of Ed., Carrollton.
Fayette County School System, Fayette County.
Monroe Co. Bd. of Ed., Forsythe.

Seventh Congressional District

Cobb Co. Bd. of Ed., Marietta.
Douglas Co. Bd. of Ed., Douglasville.
Paulding Co. Bd. of Ed., Dallas.

Ninth Congressional District

Cherfokee Co. Bd. of Con., Canton.

HAWAII

First Congressional District

Second Congressional District

Bd. of Ed. of State of Hawaii, Honolulu.

ILLINOIS

First Congressional District

Second Congressional District

Third Congressional District

Chicago Public Schools No. 299 (also 5th, 6th, 7th, 8th, 9th, 10th, and 11th Cong. Dist.).

Fourth Congressional District

Posen Robbins Sch. Dist. No. 143½, Cook County.

Fifth Congressional District

Sixth Congressional District

Seventh Congressional District

Eighth Congressional District

Ninth Congressional District

Chicago Public Schools No. 299 (also 1st, 2d, 3d, 10th, and 11th Cong. Dists.).

Tenth Congressional District

Chicago Public Schools No. 229 (also 1st, 2d, 3d, 5th, 6th, 7th, 8th, 9th, and 11th Cong. Dists.).
Melrose Park Broadview S.D. No. 89, Maywood.
Park Forest S.D. No. 163.
Rich Twp. H.S.D. No. 227, Park Forest.
Proviso Twp. H.S.D. No. 209, Maywood.
Cook Co. E.S.D. No. 102, La Grange Park.
Komarer S.D. No. 94, North Riverside.
Harvey Pub. Schls. Dist. No. 152, Cook Co.
West Harvey Dist. Schl. Dist. No. 147, Cook Co.

Eleventh Congressional District

Chicago Public Schools No. 299 (also 1st, 2d, 3d, 5th, 6th, 7th, 8th, 9th, and 10th Cong. Dists.).

Twelfth Congressional District

Mundelein Cons. H.S.D. No. 120.
Twp. H.S.D. No. 110, Highland Park.
Mundelein E.S.D. No. 75.
Grayslake Comm. H.S.D. No. 127.
Community Unit S.D. No. 60, Waukegan Lake Co.

Fourteenth Congressional District

Lisle E.S.D. No. 70.
Maercker S.D. No. 60, Clarendon Hills.
Downers Grove H.S.D. No. 99.
Downers Grove E.S.D. No. 58.
Naperville Comm. H.S.D.
Naperville E.S.D. No. 78, Wheaton.
Lace Marion Hills S.D. No. 61, Wheaton.
Goodrich S.D. No. 68, Woodridge.
Comm. Cons. S.D. No. 181, Hinsdale.
Hinsdale Twp. H.S.D. No. 86.
Darien Pub. Sch. Dist. No. 61, DuPage Co.
Joliet Pub. S.D. No. 86 (also 17th Cong. Dist.).
Joliet Twp. H.S.D. No. 204 (also 17th Cong. Dist.).
Plainfield Comm. Cons. S.D. No. 202 (also 17th Cong. Dist.).
Lockport E.S.D. No. 96 (also 17th Cong. Dist.).
Lockport Twp. H.S.D. No. 205 (also 17th Cong. Dist.).
Community Consolidated Schools, DuPage Co.

Seventeenth Congressional District

Georgetown E.S.D. No. 177.
Joliet Pub. S.D. No. 86 (also 14th Cong. Dist.).
Joliet Twp. H.S.D. No. 204 (also 14th Cong. Dist.).
Plainfield Comm. Cons. S.D. No. 202 (also 14th Cong. Dist.).
Lockport E.S.D. No. 96 (also 14th Cong. Dist.).
Lockport Twp. H.S.D. No. 205 (also 14th Cong. Dist.).

Nineteenth Congressional District

Rock Island S.D. No. 41.
Moline S.D. No. 40.
East Moline Pub. S.D. No. 37.
Hampton E.S.D. No. 29.
Comm. Unit S.D. No. 200, Sherrard.
Geneseo Comm. Unit S.D. No. 228.
Rockridge Comm. Unit S.D. No. 300, Taylor Ridge.
Comm. Unit S.D. No. 115, Oquawka.

Twenty-Second Congressional District

Comm. Unit S.D. No. 335, La Harpe.

INDIANA

Sixth Congressional District

Clark Pleasant Comm. Sch. Corp., Whiteland.
Mooresville Cons. Sc. Corp.
Metropolitan S.D. of Martinsville.
Franklin Comm. Sch. Corp.
Comm. Sch. Corp. of Southern Hancock Co., New Palestine.
Greenwood Comm. Sch. Corp.
Center Grove Comm. Sch. Corp., Greenwood.

Seventh Congressional District

Avon. Comm. Sch. Corp., Indianapolis.
Plainfield Comm. Sch. Corp.

Eighth Congressional District

Metropolitan S.D. of Mt. Vernon.

Ninth Congressional District

Metropolitan S.D. of Vernon Twp., Crothersville.
Scott Co. S.D. No. 2, Scottsburg.
Salem Comm. Schs.

Eleventh Congressional District

Metropolitan Sch. Dist. of Lawrence Twp., Indianapolis.
Metropolitan S.D. of Warren Twp.
Indianapolis Pub. Schs.

IOWA

First Congressional District

Bettendorf Comm. S.D.
The Davenport Comm. S.D.
Pleasant Valley Comm. S.D.
Burlington Comm. S.D.
Danville Comm. S.D.
Mediapolis Comm. S.D.

Sixth Congressional District

Sergeant Bluff Luton Comm. S.D.
Westwood Comm. S.D., Sloan.
Sioux Comm. S.D.
Lawton-Bronson Comm. Sch. Dist., Woodbury Co.

Seventh Congressional District

Lewis Central Comm. Schs., Council Bluffs.
Council Bluffs Comm. S.D.

KANSAS

Second Congressional District

Unif. S.D. No. 437, Topeka.
Unif. S.D. No. 501, Topeka.
Unif. S.D. No. 343, Perry.
Unif. S.D. No. 340, Meriden.
Unif. S.D. No. 337, Mayetta.
Oskalooka Unif. Sch. Dist. No. 341.
Shawnee Heights Unif. S.D. No. 450, Tesumseh.
Unif. S.D. No. 464, Ronganoxie.

Third Congressional District

Shawnee Mission Rural H.S.D. No. 6.
Common S.D. No. 110, Overland Park.
Antioch C.S.D. No. 61, Overland Park.
Shawnee Common S.D. No. 27.
Roeland C.S.D. No. 92, Shawnee Mission.
Prairie S.D. No. 44.
Valley View C.S.D. No. 49, Overland Park.
Olathe Unif. S.D. No. 233.
Unif. S.D. No. 231, Gardner.
Bonner Springs Unif. S.D. No. 204.
Unif. S.D. No. 500, Kansas City.
Stanley Unif. S.D. No. 229.
Shawnee Mission Unif. S.D. No. 512.

Fourth Congressional District

Haysville Unif. S.D. No. 261.
Valley Center Unif. S. D. No. 262.
Unif. S.D. No. 260, Derby.
Maize Unif. No. 259, Wichita.

Unif. S.D. No. 265, Goddard.
Unif. S.D. No. 263, Mulvane.

Fifth Congressional District

Leon Unif. S.D. Jt. No. 205.
Douglass Unif. S.D. No. 39.
Rose Hill Unif. S.D. 394.
Andover Unif. S.D. No. 385.
Unif. S.D. No. 353, Wellington.
Unif. S.D. No. 356, Conway Springs.
Arkansas City Unif. S.D. No. 470.
Belle Plaine Unif. S.D. No. 357.
Osage City Unif. S.D. No. 420.
Unif. S.D. No. 434, Overbrook.
Unif. S.D. No. 454, Burlingame.
Marais Des Cygnes Valley D. No. 456, Melvern.
Lawrence Unif. S.D. No. 497.

KENTUCKY

Third Congressional District

Louisville Public Schools.

Sixth Congressional District

Bera Ind. Sch. Dist.
Fayette Co. Bd. of Ed., Lexington.
Clark Co. Bd. of Ed., Winchester.
Georgetown I.S.D.
Paris I.S.D.
Courbon Co. Bd. of Ed., Paris.

LOUISIANA

First Congressional District

St. Bernard Parish Sch. Bd., Chalmette.
Orleans Parish Sch. Bd., New Orleans (also 2d Cong. Dist.).

Second Congressional District

Orleans Parish Sch. Bd., New Orleans (also 1st Cong. Dist.).
Jefferson Parish Sch. Bd., Gretna.

Sixth Congressional District

St. Tammany Parish Sch. Bd., Covington.

MAINE

First Congressional District

S. Portland Bd. of Ed.
Old Orchard Beach Sch. Dist.
Biddeford Suptg. Sch. Comm.
Cape Elizabeth Sch. Dept.
Portland Pub. Schs.
Yarmouth S.D.
Town of Jefferson Sch. Committee, Windsor.
Sch. Adm. Dist. No. 57, East Waterboro.
Maine Sch. Adm. Dist. No. 35, South Berwick.

Second Congressional District

Calais Sch. Dept.
Vanceboro Sch. Dept., Danforth.
Sch. Admin. Dist. No. 19, Lubec.
City of Bangor Sch. Committee.
Town of Machias S.D.

MARYLAND

First Congressional District

St. Marys Co. Bd. of Ed., Leonardtown.
Calvert Co. Bd. of Ed., Prince Frederick.

Third Congressional District

Fourth Congressional District

Bd. of Ed. of Balt. Co., Towson (also 7th Cong. Dist.).

Fifth Congressional District

Prince Geo. Co. Bd. of Ed., Upper Marlboro.
Bd. of Ed. of Charles Co., La Plata.

Sixth Congressional District

Bd. of Ed. of Fred. Co., Fred.
Bd. of Ed. of Washington Co., Hagerstown.
Bd. of Ed. of Howard Co., Ellicott City (also 8th Cong. Dist.).

Seventh Congressional District

Bd. of Ed. of Balt. Co., Towson (also 3d and 4th Cong., Dists.).

Eighth Congressional District

Bd. of Ed. of Mont. Co., Rockville.
Bd. of Ed. of Howard Co., Ellicott City (also 6th Cong. Dist.).

MASSACHUSETTS

First Congressional District

Town of Hatfield Sch. Comm.

Second Congressional District

Wilbraham Sch. Committee.
Hampden Wilbraham Reg. S.D.
Ludlow Sch. Comm.
City of Springfield Sch. Comm.
Sch. Comm. of the City of Chicopee.
City of Holyoke Sch. Comm.
Twn. of W. Springfield Sch. Comm.
Westfield Sch. Comm.

Third Congressional District

Shrewsbury Sch. Committee.
Southboro Sch. Comm.
Milford Pub. Schs.

Sixth Congressional District

Nahant Sch. Committee.
Middleton Sch. Committee.
Saugus Sch. Committee.
Danvers Sch. Comm.
Lynnefield Sch. Committee.
Rowley Sch. Comm., Georgetown.
Lynn Sch. Comm.
Masconomet Reg. S.D., Boxford.
Swampscott Pub. Sch.
Salem Public Schools.

Seventh Congressional District

Town of Wakefield, S.D.
City of Revere Sch. Comm.
Marilborough Sch. Comm.

Tenth Congressional District

New Bedford Sch. Comm.
Fairhaven Sch. Comm.
Town of Dartmouth Sch. Comm.
Acushnet Pub. Sch.

Twelfth Congressional District

Falmouth Sch. Comm.
Bourne Sch. Comm.
Town of Barnstable Sch. Committee.
Town of Sandwich Sch. Committee.

MICHIGAN

Second Congressional District

Pub. S.D. of City of Ann Arbor, Washtenaw Co.

Seventh Congressional District

Sch. Dist. of the City of Flint, Genesee Co.

Eighth Congressional District

Lansing Sch. Dist., Inham County.

MINNESOTA

First Congressional District

I.S.D. No. 196, Rosemount.
I.S.D. No. 191, Burnsville.

Third Congressional District

I.S.D. No. 14, Fridley
I.S.D. No. 12, Circle Pines.
Anoka Hennepin I.S.D. No. 286.
I.S.D. No. 16, Minneapolis
Brooklyn Center I.S.D. No. 286.
Special S.D. No. 1, Minneapolis.
I.S.D. No. 281, Robbinsdale.
I.S.D. No. 271, Bloomington.

Fourth Congressional District

I.S.D. No. 621, New Brighton.
I.S.D. No. 625, St. Paul.
North St. Paul Maplewood S.D. No. 622, N. St. Paul.
I.S.D. No. 624, White Bear Lake.
I.S.D. No. 831, Forest Lake.
I.S.D. No. 833, Cottage Grove
I.S.D. No. 623, St. Paul

Sixth Congressional District

I.S.D. No. 742, St. Cloud.
I.S.D. No. 912, Milaca.
Princeton I.S.D. No. 477.
I.S.D. No. 728, Elk River, Sherburne Co.

Eighth Congressional District

I.S.D. No. 137, Lindstrom.
I.S.D. No. 136, Lindstrom.
I.S.D. No. 139, Rush City
I.S.D. No. 138, North Branch.
I.S.D. No. 578, Pine City.

MISSISSIPPI

Fifth Congressional District

Biloxi Mun. Sep. S.D.
Ocean Springs Mun. Sep. S.D.
Gulport Mun. Sep. S.D.
Bay St. Louis Mun. Sep. S.D.
Jackson Co. Unit S.D., Pascagoula.
Harrison Co. S.D., Gulfport.
Laurel Municipal Sep. S.D., Jones Co.

MISSOURI

Fourth Congressional District

Cons. S.D. No. 2, Raytown.
Reorg. S.D. No. 7, Lees Summit.
Grain Valley S.D. No. 4.
Ft. Osage S.D.R. 1, Independence.
S.D. of the City of Independence.
Blue Springs Reorg. S.D. No. 4.
Wellington Napoleon Schs. R. 9.
S.D. of Kansas City.
Grandview Cons, S.D. No. 4.
Hickman Mills Cons. S.D. No. 1.
Reorg. S.D. No. 7, Odessa.
S.D. of Harrisonville R. 9.
Kingsville S.D.R. 1.
Center S.D. No. 58, Kansas City.
Midway Reorg. S.D. No. 1, West Line.
Belton S.D. No. 124.
Raymore Peculiar S.D.R. 2.
Warrensburg S.D.R. 6.
Cass Co. S.D. No. R. 8, Creighton.
Archie Pub. Sch. Reorg. Dist. R. V. Archie.
Miami Reorg. S.D. No. 1, Bates Co.

Sixth Congressional District

Clay, N. Kansas City S.D. No. 74.
Liberty Publ. S.D. No. 53.
Richmond S.D.R. 13.
St. Joseph S.D.
Polo Public S.D.R. 7.
Excelsior Springs S.D. No. 40.
Reorg. S.D. No. 2, Kansas City.
Norborne S.D.R. 6.
Lawson Reorg. S.D.R. XII.

Seventh Congressional District

S.D. of Springfield R. 12.
Willard S.D.R. 2.
Republic S.D.R. 3.
Fair Grove S.D. No. R. 10.
Greene County S.D. R-8. Greene Co.

MONTANA

Second Congressional District

Billings E.S.D. No. 2.
Billings H.S.D.
H.S.D. No. 1A, Great Falls.
E.S.D. No. 1, Great Falls.
Vaughn S.D. No. 74.

NEBRASKA

Second Congressional District

S.D. of Omaha.
Rapillion Pub., S.D. No. 27.
Ralston S.D.
S.D. of the City of Bellevue.

NEW HAMPSHIRE

First Congressional District

City of Portsmouth Bd. of Ed.
Oyster River Coop. S.D., Durham and Madbury.
Rollinsford S.D.
Rollingsford S.D.
City of Dover S.D. No. 11.
Timberland Regional Sch. Dist., Atkinson.
North Hampton S.D.
S.D. of the Town of Execter.
Nottingham Cooperative S.D.
Winnacunnet Coop. S.D., Hampton.
Concord U.S.D.
Newmarket S.D.
Epping S.D.
Raymond S.D.
Londonderry S.D.
Derry Coop. S.D. No. 1.
Manchester S.D. No. 37.
Goffstown S.D.
New Boston S.D.

Merrimack S.D.
Candia S.D.
Hooksett S.D., Suncook.
Allanstown S.D., Suncook.
Hudson S.D.

Second Congressional District

Gorham S.D.
Berlin Sch. Dist. No. 3, Coss Co.

NEW JERSEY

First Congressional District

Brielle Bd. of Ed.
Boro of Freehold Pub. Schs.

Second Congressional District

Bloomfield Mun. S.D. No. 6.

Third Congressional District

South Belmar Bd. of Ed. Monmuth Co.
Middletown Twp. Bd. of Ed.
City of Perth Amboy Bd. of Ed., Middlesex Co. (also 15th Cong. Dist.).

Fourth Congressional District

Trenton Bd. of Ed.
Hamilton Twp. Bd. of Ed.

Fifth Congressional District

Morris Hills Reg. H.S.D., Rockaway.

Sixth Congressional District

Bd. of Ed., Cinnaminson Twp.
Burlington City Bd. of Ed.
Burlington Twp. Bd. of Ed.
City of Beverley Bd. of Ed.
Riverside Twp. Bd. of Ed.
Westhampton Twp. Bd. of Ed., Mt. Holly.
Edgewater Park Twp. Bd. of Ed., Beverley.
Florence Twp. Bd. of Ed.
Burlington Co. Voc. Bd. of Ed., Mt. Holly.
Pemberton Twp. Bd. of Ed., Browns Mills.
Moorestown Twp. Bd. of Ed.

Seventh Congressional District

Hackensack Publ. Sch., Bergen Co.

Eighth Congressional District

Passaic Bd. of Ed., Passaic Co.

Tenth Congressional District

Bd. of Ed. Newark (also 11th Cong. Dist.).

Eleventh Congressional District

Bd. of Ed. of Newark (also 10th Con. Dist.).
Essex Co. Voc. Schs. Essex Co.

Thirteenth Congressional District

Jersey City Bd. of Ed., Hudson Co. (also 14th Cong. Dist.).
Bayonne S.A.

Fourteenth Congressional District

Jersey City Bd. of Ed., Hudson Co. (also 13th Cong. Dist.).

Fifteenth Congressional District

City of Perth Amboy Bd. of Middlesex Co. (also 3d Cong. Dist.).

NEW MEXICO

Second Congressional District

Clovis Municipal S.D. No. 1, Curry Co.

NEW YORK

First Congressional District

C.S.D. No. 5 Twn of Brookhaven, Holbrook.
U.F.S.D. No. 5 Twn of Islip, Bayport.
U.F.S.D. of No. 2 Twn of Babylon, Huntington.
C.S.D. No. 5 Twn of Smithtown, Kings Park.
U.F.S.D. of No. 1 Twn of Huntington, Elwood.
U.F.S.D. No. 12 of Islip, Brentwood.
U.F.S.D. No. 3 Twn of Islip.
Ctr. S.D. No. 7 Twn of Brookhaven, Centereach.
S.U.F.D. No. 10 Twn of Huntington, Commack.
U.F.S.D. No. 3 Twn of Brookhaven, Port Jefferson Station.
U.F.S.D. No. 1 Twn of Babylon, Dix Hills.
U.F.S.D. No. 9 Twn of Islip.
U.F.S.D. No. 5 Babylon, Suffolk Co. (also 2d Cong. Dist.).

Second Congressional District

U.F.S.D. No. 5 Babylon Suffolk Co. (also 1st Cong. Dist.).
U.F.S.D. No. 21 Twn of Oyster Bay.
U.F.S.D. No. 2 Twn of Hempstead, Uniondale.
U.F.S.D. No. 22 Twn of Farmingdale.
U.F.S.D. No. 17 Town of Oyster Bay, Hicksville.
Town of Hempstead, East Meadow, Nassau Co. (also 4th and 5th Cong. Dists.).
Central S.D. No. 4, Town of Oyster Bay, Nassau Co. (also 4th and 5th Cong. Dists.).

Fourth Congressional District

Fifth Congressional District

Town of Hempstead, East Meadow, Nassau Co. (also 1st Cong. Dist.).
Central S.D. No. 4, Town of Oyster Bay, Nassau Co. (also 1st Cong. Dist.).

Sixth Congressional District

Seventh Congressional District

Eighth Congressional District

Ninth Congressional District

Tenth Congressional District

Eleventh Congressional District

Twelfth Congressional District

Thirteenth Congressional District

Fourteenth Congressional District

Fifteenth Congressional District

Sixteenth Congressional District

Seventeenth Congressional District

Eighteenth Congressional District

Nineteenth Congressional District

Twentieth Congressional District

Twenty-First Congressional District

Twenty-Second Congressional District

Twenty-Third Congressional District

Twenty-Fourth Congressional District

School District of the City of New York, Brooklyn.

Twenty-Fifth Congressional District

City S.D. of the City of Peekskill.
City S.D. of Yonkers, Westchester Co.

Thirty-Fourth Congressional District

Thirty-Fifth Congressional District

S.D. of the City of Syracuse.

NORTH CAROLINA

Third Congressional District

Onslow Co. Bd. of Ed., Jacksonville.

Fifth Congressional District

Forsythe Co. Schs., Winston-Salem.

Sixth Congressional District

High Point City Schs., High Point, Guilford Co.

Seventh Congressional District

Fayetteville City Bd. of Ed.
Cumberland Co. Bd. of Ed., Fayetteville.
Hoke Co. Bd. of Ed., Raeford.

Eighth Congressional District

Rowan Co. Admin. Unit S.D., Salisbury.

OHIO

Fourth Congressional District

Bethel Local S.D., Miami Co.

Seventh Congressional District

Mad River Twp. Local S.D., Dayton.
Dayton City Bd. of Ed.
Vandalia Butler City Schs.
Fairborn City S.D.
Northbridge Local S.D., Dayton.
New Carlisle Bethel Local S.D.
Kettering City S.D.
Xenia City S.D.
Washington Twp. Local Schs. Centerville.
Beavercreek Local Bd. of Ed., Xenia.
Springfield City S.D.
Madison Twp. Local S.D., Trotwood.
Jefferson Twp. Local S.D., Dayton.
W. Carrollton City S.D.
Northeastern Local S.D., Springfield.
Urbana City Sch.

Eleventh Congressional District

Exemped Village S.D., Windham.

Thirteenth Congressional District

Akron City S.D.

Fourteenth Congressional District

Barberton City Schs., Summit Co.

Sixteenth Congressional District

Seventeenth Congressional District

Canton City Bd. of Ed., Stark Co.

Twenty-Fourth Congressional District

Middletown City S.D., Butler Co.

OKLAHOMA

First Congressional District

Broken Arrow I.S.D. No. 3.
Sklatook I.S.D. No. 7.
Sand Springs I.S.D. No. 2.
Sapulpa I.S.D. No. 33.
Jenks I.S.D. No. 5.
Union I.S.D. No. 9, Broken Arrow.
Owasso I.S.D. No. 11.
Tulsa I.S.D. No. 1.
Kiefer I.S.D. No. 18.
Liberty I.S.D. No. 14, Mounds.
Sperry I.S.D. No. 8.

Second Congressional District

Pryor I.S.D. No. 1.
Catoosa I.S.D. No. 2.
Claremore I.S.D. No. 1.
Coweta I.S.D. No. 17.
Inola I.S.D. No. 5.
Sequoyah I.S.D. No. 6, Claremore.
Cleveland I.S.D. No. 6.
Wagoner I.S.D. No. 19.
Okmulgee I.S.D. No. 1.
Mannford I.S.D. No. 3.
Oilton I.S.D. No. 20.
Lone Star Dep. S.D. No. 8, Sapulpa.
Porter I.S.D. No. 3.

Third Congressional District

Krebs D.S.D. No. 9.
Wilburton I.S.D. No. 1.
Panola I.S.D. No. 4.
Stigler I.S.D. No. 20.

Sixth Congressional District

Elk City I.S.D. No. 6.

OREGON

Second Congressional District

Creek Co. S.D. No. 2, Creek Co.

Fourth Congressional District

Eagle Point S.D. No. 9.
Jackson Co. S.D. No. 91, Butte Falls.
Medford Sch. Dist. No. 549C.
Central Point S.D. No. 6, Jackson Co.

PENNSYLVANIA

Tenth Congressional District

Blakely Borough S.D., Peckville.
Valley View S.D., Peckville.
Mid Valley Sch. Dist., Olyphant.
Lakeland Sch. Dist., Lackawanna Co.
Old Forge Sch. Dist.
North Pocono S.D., Moscow.
S.D. of the City of Scranton.
Riverside S.D., Taylor.
Dunmore Pub. S.D.

Eleventh Congressional District

Pittston Area S.D.
Wyoming Area S.D., West Pittston.
Wilkes Barre City S.D.
Dallas Sch. Dist., Luzerne Co.
Wyoming Valley S.D., Kingston.
Plains Jt. S.D., Plains Wilkes Barre.
Greater Nanticoke Area S.D.
Ashley Sugar Notch Jt. Schs., Ashley.

Twelfth Congressional District

Susquentia Area S.D., Duncannon.

Fourteenth Congressional District

Penn Hills Township, Allegheny Co. (also 20th and 27th Cong. Dists.).

Wilkinsburg Borough Sch. Dist., Allegheny Co. (also 18th, 20th, and 27th Cong. Dists.).

Churchill Area Sch. Dist., Allegheny Co. (also 18th, 20th, and 27th Cong. Dist.).

Keystone Area Sch. Dist., Allegheny Co. (also 18th, 20th, and 27th Cong. Dists.).

Duquesne Sch. Dist., Allegheny Co. (also 18th, 20th, and 27th Cong. Dists.).

Braddock Borough Sch. Dist., Allegheny Co. (also 18th, 20th, and 27th Cong. Dists.).

South Fayette Twp. Sch. Dist., Allegheny Co. (also 18th, 20th and 27th Cong. Dists.).

Clariton S.D., Allegheny Co. (also 18th, 20th, and 27th Cong. Dists..).

S.D. of Pittsburgh (also 20th and 27th Cong. Dists.).

Sixteenth Congressional District

Palmyra Area S.D.
Annville Cleona S.D.
Cornwall Lebanon Sub. Jt. Sch. Sys.
North Lebanon S.D., Fredericksburg.

Eighteenth Congressional District

Wilkinsburg Borough Sch. Dist., Allegheny Co. (also 14th, 20th and 27th Cong. Dists.).

Churchill Area Sch. Dist., Allegheny Co. (also 14th, 20th and 27th Cong. Dists.).

Keystone Oaks Sch. Dist., Allegheny Co. (also 14th, 20th and 27th Cong. Dists.).

Duquesne Sch. Dist., Allegheny Co. (also 14th, 20th and 27th Cong. Dists.).

Braddock Borough Sch. Dist., Allegheny Co. (also 14th, 20th and 27th Cong. Dists.).

South Fayette Twp. Sch. Dist., Allegheny Co. (also 14th, 20th and 27th Cong. Dists.).

Clariton S.D., Allegheny Co. (also 14th, 20th and 27th Cong. Dists.).

Twentieth Congressional District

Penn Hills Twp., Allegheny Co. (also 14th, and 27th Cong. Dists.).

Wilkinsburg Borough Sch. Dist., Allegheny Co. (also 14th, 18th and 27th Cong. Dists.).

Churchill Area Sch. Dist., Allegheny Co. (also 14th, 18th and 27th Cong. Dists.).

Keystone Oaks Sch. Dist., Allegheny Co. (also 14th, 18th and 27th Cong. Dists.).

Duquesne Sch. Dist., Allegheny Co. (also 14th, 18th and 27th Cong. Dists.).

Braddock Borough Sch. Dist., Allegheny Co. (also 14th, 18th and 27th Cong. Dists.).

South Fayette Twp. Sch. Dist., Allegheny Co. (also 14th, 18th and 27th Cong. Dists.).

Clariton S.D. Allegheny Co. (also 14th, 18th and 27th Cong. Dists.).

McKeesport Area Sch. Dist., Allegheny Co.
S.D. of Pittsburgh (also 14th and 27th Cong. Dists.).

Twenty-First Congressional District

New Kensington-Arnold Sch., Westmoreland Co.

Twenty-Fourth Congressional District

Farrell Area Sch. Dist., Mercer Co.

Twenty-Sixth Congressional District

Peters Twp. S.D., McMurray.
Connelsville Area Sch. Dist., Fayette Co.

Twenty-Seventh Congressional District

Penn Hill Twp., Allegheny Co. (also 14th and 20th Cong. Dists.).

Wilkinsburg Borough Sch. Dist., Allegheny Co. (also 14th, 18th and 20th Cong. Dists.).

Churchill Area Sch. Dist., Allegheny Co. (also 14th, 18th and 20th Cong Dists.).

Keystone Oaks Sch. Dist., Allegheny Co. (also 14th, 18th and 20th Cong. Dists.).

Duquesne Sch. Dist. Allegheny Co. (also 14th, 18th and 20th Cong. Dists.).

Braddock Borough Sch. Dist., Allegheny Co. (also 14th, 18th and 20th Cong. Dists.).

South Fayette Twp. Sch. Dist., Allegheny Co. (also 14th, 18th and 20th Cong. Dists.).

Clariton S.D., Allegheny Co. (also 14th, 18th and 20th Cong. Dists.).

Sto-Rex Sch. Dist., Allegheny Co.
Carlynton S.D., Carnegie.
Bethel Park S.D.
Montour S.D., McKees Rocks.
West Allegheny S.D., Imperial.
Fox Chapel Area S.D., Pittsburgh.
South Park S.D., Library.
Baldwin Whitehall S.D., Pittsburgh.
Brentwood Boro S.D., Pittsburgh.
Chartiers Valley S.D., Pittsburgh.
West Jefferson Hills S.D., Pittsburgh.

S.D. of Pittsburgh (also 14th and 20th Cong. Dists.).

S.D. of the Twp. of Upper St. Clair, Bridgeville.

RHODE ISLAND

Second Congressional District

S. Kingstown Sch. Comm., Wakefield.

SOUTH DAKOTA

First Congressional District

Brookings I.S.D. No. 122.
Lennox I.S.D. No. 100.
West Central I.S.D. No. 154, Hartford.

TENNESSEE

First Congressional District

Sullivan Co. Bd. of Ed., Bloutville.
Kingsport City Sch. Sys.
Sevier Co. Bd. of Ed., Sevierville.

Second Congressional District

Knox Co. Bd. of Ed., Knoxville.
Blount Co. C.D., Maryville.
Knoxville Bd. of Ed.
Maryville City Schools.
Alcoa City S.D.

Third Congressional District

City of Chattanooga Bd. of Ed.
Marion Co. Bd. of Ed., Jasper.
Hamilton Co. Bd. of Ed., Chattanooga.

Fourth Congressional District

Warren County Bd. of Ed., McMinnville.
Anderson Co. Bd. of Ed., Clinton.

Fifth Congressional District

DeKalb Co.

Sixth Congressional District

Franklin Co. Bd. of Ed., Winchester.

TEXAS

First Congressional District

Daingerfield I.S.D.
Cason I.S.D.

Third Congressional District

Grand Prairie I.S.D.
Irving I.S.D.
Duncanville I.S.D.
Lancaster I.S.D.
Cedar Hills I.S.D.
De Soto I.S.D.
Dallas I.S.D.

Fourth Congressional District

Howe I.S.D.
Terrell I.S.D.

Sixth Congressional District

Red Oak I.S.D.
Midlothian I.S.D.

Tenth Congressional District

San Marcos I.S.D.
Lockhart I.S.D.
Blanco I.S.D.
Hays Cons, I.S.D., Kyle.

Eleventh Congressional District

Conally Cons. I.S.D., Waco.
La Vega I.S.D., Bellmead Branch, Waco.
Waco I.S.D.
Midway I.S.D., Waco.
Robinson I.S.D., Waco.
Crawford I.S.D., No. 901.
China Spring I.S.D.
Mart I.S.D. No. 101 908.
Lorena I.S.D.
Bosqueville I.S.D., McLenna Country.
Rosebud Lott I.S.D., Rosebud, Falls County.

Twelfth Congressional District

Birdville I.S.D., Ft. Worth.
White Settlement I.S.D., Fort Worth.
Hurst Euless Bedford I.S.D.
Arlington I.S.D.

Thirteenth Congressional District

Lewisville I.S.D.
Lake Dallas I.S.D.
Bridgeport I.S.D.
Denton I.S.D.

Seventeenth Congressional District

Coahoma I.S.D.
Forsan Co. Line I.S.D.

Twentieth Congressional District

Harlandale I.S.D., San Antonio (also 21st & 23d Cong. Dists.).

S. San Antonio I.S.D. (also 21st & 23d Cong. Dists.).

Southside I.S.D. No. 912, San Antonio (also 21st & 23d Con. Dists.).

Edgewood I.S.D., San Antonio (also 21st & 23d Cong. Dists.).

Southwest I.S.D., San Antonio (also 21st & 23d Cong. Dists.).

East Central I.S.D., San Antonio (also 21st & 23d Cong. Dists.).

San Antonio I.S.D. (also 21st & 23d Cong. Dists.).

North East I.S.D., San Antonio (also 21st & 23d Cong. Dists.).

Somerset I.S.D. (also 21st & 23d Cong. Dists.).

Northside I.S.D., San Antonio (also 21st & 23d Cong. Dists.).

Alamo Hts. I.S.D., San Antonio (also 21st & 23d Cong. Dists.).

Judson I.S.D. No. 916, Converse (also 21st & 23d Cong. Dists.).

Twenty-first Congressional District

Harlandale I.S.D., San Antonio (also 20th & 23d Cong. Dists.).

S. San Antonio I.S.D. (also 20th & 23d Cong. Dists.).

Southside I.S.D. No 912, San Antonio (also 20th & 23d Cong. Dists.).

Edgewood I.S.D., San Antonio (also 20th & 23d Cong. Dists.).

Southwest I.S.D., San Antonio (also 20th & 23d Cong. Dists.).

East Central I.S.D., San Antonio (also 20th & 23d Cong. Dists.).

San Antonio I.S.D. (also 20th & 23d Cong. Dists.).

North East I.S.D., San Antonio (also 20th & 23d Cong. Dists.).

Somerset I.S.D. (also 20th & 23d Cong. Dists.).

Northside I.S.D., San Antonio (also 20th & 23d Cong. Dists.).

Alamo Hts. I.S.D., San Antonio (also 20th & 23d Cong. Dists.).

Judson I.S.D., No. 916, Converse (also 20th & 23d Cong. Dists.).

Boerne Co. Line I.S.D.
Comal Co. I.S.D., New Braunfels.

Twenty-third Congressional District

Harlandale I.S.D., San Antonia (also 20th & 21st Cong. Dists.).

S. San Antonio I.S.D. (also 20th & 21st Cong. Dists.).

Southside I.S.D. No. 912, San Antonio (also 20th & 21st Cong. Dists.).

Edgewood I.S.D., San Antonio (also 20th & 21st Cong. Dists.).

Southwest I.S.D., San Antonio (also 20th & 21st Cong. Dists.).

East Central I.S.D., San Antonio (also 20th & 21st Cong. Dists.).

San Antonio I.S.D. (also 20th & 21st Cong. Dists.).

North East I.S.D., San Antonio (also 20th & 21st Cong. Dists.).

Somerset I.S.D. (also 20th & 21st Cong. Dists.).
Northside I.S.D., San Antonio (also 20th & 21st Cong. Dists.).
Alamo Hts. I.S.D., San Antonio (also 20th & 21st Cong. Dists.).
Judson I.S.D. No. 916, Converse (also 20th & 21st Cong. Dists.).
Devine I.S.D.
Schertz Cibolo I.S.D.
Floresville I.S.D.
Potect I.S.D.
Marion I.S.D.
Laredo I.S.D.
United Cons. I.S.D., Laredo.

VIRGINIA

Second Congressional District

Fredericksburg City Schs.
City of Alexandria Sch. Bd.
City of Fairfax Sch. Bd.
Portsmouth City Sch. Bd.
Sch. Bd. of the City of Norfolk.
Sch. Bd. of the City of Virginia Beach.
Sch. Bd. of the City of Chesapeake.

Third Congressional District

Co. Sch. Bd. of Chesterfield Co.

Fourth Congressional District

Co. Sch. Bd. of Prince George Co., Prince George.
Sch. Bd. of Nansemond Co., Suffolk.
Sch. Bd. of Isle of Wight Co., Isle of Wight.
Co. Sch. Bd. of Prince William Co., Manassas.

Sixth Congressional District

Co. of Roanoke Sch. Bd., Salem.
Roanoke City Pub. Schs.

Tenth Congressional District

Co. Sch. Bd. of Arlington Co.
Co. Sch. Bd. of Fairfax Co., Fairfax.

WASHINGTON

Second Congressional District

Edmonds S.D. No. 15, Lynnwood.

Third Congressional District

Newport Cons. Jt. S.D. Nos. 56, 417.
Peninsula S.D. No. 401, Gig Harbor.
Vancouver S.D. No. 37.

Fourth Congressional District

Walla Walla S.D. No. 140.
Daytona S.D. No. 2.
Yakima S.D. No. 7.
Clarkson S.D.
Union Gap S.D. No. 2.
Moxee S.D. No. 90, Yakima.
Naches Valley S.D. Jt. No. 3.
Zillah S.D. No. 205.
Selah S.D. No. 119.

Fifth Congressional District

Mead S.D. No. 354.
Spokane S.D. No. 81.
Cheney Jt. Cons. S.D. No. 360, 316.

Sixth Congressional District

N. Kitsap S.D. No. 400, Poulsbo.
Clover Pk. S.D. No. 400, Lakewood Center.
Franklin Pierce S.D. No. 402, Tacoma.
Eatonville S.D. No. 404.
Bremerton Cons. S.D. 1000.
Uni. Place S.D. No. 83, Tacoma.
Steilacoom S.D. No. 1.
Bethel S.D. No. 403, Spanaway.
Tacoma S.D. No. 10.
Sumner S.D. No. 320.
Puyallup S.D. No. 3.
Fife S.D. No. 417, Tacoma.

Seventh Congressional District

Kent S.D. No. 415.
Highline S.D. No. 401, Seattle.
Seattle S.D. No. 1.
Northshore S.D. No. 417, Bothell.
Bellevue S.D. No. 405.
Fed. Way S.D. No. 210.

WEST VIRGINIA

Second Congressional District

Jefferson Co. Bd. of Ed., Charles Town.
Tucker Co. Bd. of Ed., Parsons.

Fourth Congressional District

Cabell Co. Bd. of Ed., Huntington.
Wayne Co. Bd. of Ed., Wayne Co.

WISCONSIN

Second Congressional District

Jt. S.D. No. 8, City of Madison.
Jt. S.D. No. 2, Sun Prairie.
McFarland C.S.D., Jt. No. 8.
Jt. S.D. No. 10, Village of Arlington, Poynette.

Third Congressional District

Jt. S.D., City of Prescott.
Jt. S.D. No. 9, City of Elroy.

Eighth Congressional District

Jt. S.D. No. 1, City of Green Bay.
Jt. S.D. No. 2, West De Pere.

Tenth Congressional District

Jt. S.D. No. 1, City of Hudson-Troy, St. Croix Co.

Mr. EAGLETON. I yield to the Senator from Illinois.

Mr. STEVENSON. Mr. President, I compliment the Senator from Missouri for offering this amendment. School districts all across the country are suffering from acute financial distress. It is the purpose of many Members of the Senate to come to their aid with additional and permanent solutions to their financial problems, but until such time this amendment offered by the distinguished Senator from Missouri will offer substantial interim relief.

The financial crisis confronting our schools is one of the major challenges of the 1970's. And nowhere are the inadequacies of our antiquated system for financing primary and secondary public education more evident than in my own State of Illinois.

In school district after school district, from Cairo to Chicago, school boards of education which should be expanding services cannot find enough money to maintain the status quo. Early closings, teacher dismissals, increased class sizes and cutbacks in programs are being considered and implemented throughout the State.

Clearly a new approach to Federal assistance is needed. Under the best of circumstances, however, a permanent solution could not be expected to take effect until 1973 at the earliest. But this year the Chicago public school system faces a $100 million deficit. It was 2 weeks ago 630 teachers were dismissed and special educational programs severely curtailed. This June Chicago's schools will be forced to close several weeks early. Promises of future relief cannot pay today's bills. Interim aid which can help preserve current educational services will pay for itself many times over when new, long-range programs are enacted. The amendment which Senator EAGLETON and I offer today provides just such interim relief.

By providing that for purposes of an educational system's impact aid entitlement, Federal property transferred to the new independent U.S. Postal Service will continue to be treated as Federal property for the next 2 years, this bill will mean an extra $10 million for some 45 beleaguered school districts throughout Illinois.

In Chicago alone, where two-thirds of the impact aid allotment has been on behalf of children whose parents are postal employees, this amendment could mean as much as $7 million over the next 2 years. That is enough to hire back almost all of the 630 teachers who were dismissed; or save both the intensive reading program designed to improve reading instruction in the inner city and the 100-year-old adult education program; or keep the schools open longer in June. It is tragic that in a nation as rich as ours we are faced with these kinds of choices, but we are fortunate that we have the opportunity to salvage something by passing this special impact aid amendment today.

Mr. JAVITS. Mr. President, as a principal sponsor, with Senator NELSON, of S. 3054, and ranking minority member of the Committee on Labor and Public Welfare, I urge that the bill be passed.

The bill would delete a restriction contained in subsection (b) of section 310 of the Manpower Development and Training Act of 1962.

Without this deletion, the Secretary of Labor would be unable to renew or enter into contracts for the continuation of any programs under the act requiring the disbursement of funds beyond December 30, 1972.

The Manpower Development and Training Act of 1962 is one of our principal authorities at the present time for job training, upgrading, and work experience programs for economically disadvantaged, unemployed, and underemployed persons. It is currently funded at $750,000,000 for this fiscal year and provides benefits to hundreds of thousands enrollees.

Under its authority such crucial programs as the JOBS program—Jobs in the Private Sector; the Neighborhood Youth Corps summer—in-school and out-of-school programs, and other activities, including programs conducted by the States, have been conducted over the years.

The act itself will expire this June 30, 1972.

It is expected that the Senate Committee on Labor and Public Welfare and the Education and Labor Committee in the House and the conferees will act prior to that time with respect to a substantial reform of these programs and similar programs conducted under title I of the Economic Opportunity Act.

The administration's Manpower Revenue Sharing Act—and a number of other comprehensive proposals will be considered in that regard; each would repeal the Manpower Development and Training Act and the Economic Opportunity Act authorities.

But in the meantime the Secretary of Labor, in administering the existing programs, is subject to the provision set forth in subsection (b) of section 310, which prohibits disbursement of funds beyond this calendar year.

Mr. President, the effectiveness of existing programs has stemmed in large part from the fact that the Secretary could enter into grants and contracts extending over at least a year's duration, thus providing security to those engaged in the program and, in many cases, insuring the involvement of the private sector.

Without deletion of this section, the Secretary could enter into contracts up until the date of the act's expiration, June 30, but the contract or grant itself could only authorize activities through December 30—for a 6-month period, thus effectively undermining the program through fiscal year 1973.

Mr. President, this bill has the full support of the minority members of the committee and of the administration. In the latter connection I ask unanimous consent that there be printed in the RECORD at this point a copy of a letter to me dated January 26, 1972, from Malcolm R. Lovell, Jr., Assistant Secretary of Labor for Manpower, which emphasizes the need for immediate action along these lines to permit continuity of programing pending enactment of a permanent new manpower program.

Mr. President, for these reasons I urge that the bill be passed so that these vital programs may continue while we act to provide a new legislative base for job and training programs which are so vital to our efforts to combat poverty and to give meaning to efforts of our people to support themselves.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE ASSISTANT
SECRETARY FOR MANPOWER,
Washington, D.C.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: As you are aware, it is very important for the manpower training program and our unemployed citizens, that quick action be taken providing continuity of MDTA training programs. Title II of the MDTA expires June 30, 1972. Section 310(b) stipulates that no funds may be disbursed after December 30, 1972. In order to permit time to close out and complete payment for training services, we cannot approve new projects which extend beyond October 30, 1972. This means that we cannot now, with FY 1972 funds already appropriated, establish training of more than a few months duration. Each week that passes further limits our capability to fund meaningful training programs.

In light of the pending Manpower Revenue Sharing Act and related manpower legislation which would replace the expiring MDTA, the House passed last session, a bill extending the expiring provisions for one year. The bill, S. 3054, introduced by you and Senator Nelson would delete the proviso in Section 310(b) terminating disbursements next December 30, but would not permit new projects after June 30, 1972. Enactment of this bill or the one passed by the House would provide the immediate legislative action needed to permit continuity of programing pending enactment of a permanent new manpower program. As you know, the President has proposed July 1, 1973, as the effective date for manpower revenue sharing. The House bill would authorize continuation of existing programs to that date without need of additional interim legislation.

Sincerely,
MALCOLM R. LOVELL, Jr.,
Assistant Secretary for Manpower.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. If there be no further amendment to be offered, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 3054

An act to amend the Manpower Development and Training Act of 1962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 310 of the Manpower Development and Training Act of 1962 (42 U.S.C. 2620) is amended by striking out the colon and the following: "*Provided,* That no disbursement of funds shall be made pursuant to the authority conferred under title II of this Act after December 30, 1972."

SEC. 2. That all real property of the United States which was transferred to the United States Postal Service and was, prior to such transfer, treated as Federal property for purposes of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), shall continue to be treated as Federal property for such purpose for two years beyond the end of the fiscal year in which such transfer occurred.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

Report on Final Determination With Respect to Indian Claim Case

A letter from the Chairman, Indian Claims Commission, reporting, pursuant to law, its final determination with respect to Docket No. 135, the Iowa Tribe of the Iowa Reservation in Kansas and Nebraska, the Iowa Tribe of the Iowa Reservation in Oklahoma, et al., the Sac and Fox Tribe of Indians of Oklahoma, the Sac and Fox Tribe of Missouri, and the Sac and Fox Tribe of Mississippi in Iowa, et al., Plaintiffs, against the United States of America, Defendant (with accompanying papers); to the Committee on Appropriations.

Proposed Amendment of Law Relating to Conduct of Certain Public Hearings

A letter from the Assistant to the Commissioner, District of Columbia, transmitting a draft of proposed legislation to amend the law relating to the conduct of public hearings before the Zoning Commission of the District of Columbia (with an accompanying paper); to the Committee on the District of Columbia.

Proposed Holding Company System Regulatory Act

A letter from the Assistant to the Commissioner, District of Columbia, transmitting a draft of proposed legislation to improve the laws relating to the regulation of insurance companies in the District of Columbia (with an accompanying paper); to the Committee on the District of Columbia.

Report of the Comptroller General

A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Increase in Unsuitability Discharges of Marine Corps Recruits Requires Improved Planning and Administration" (with accompanying report); to the Committee on Government Operations.

Report of the Agricultural Hall of Fame and National Center

A letter from the Assistant Secretary, The Agricultural Hall of Fame and National Center, transmitting, pursuant to law, a report of that organization, for the fiscal year September 1, 1970 through August 31, 1971 (with an accompanying report); to the Committee on the Judiciary.

Marihuana and Health Report

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the second annual Marihuana and Health Report (with an accompanying report); to the Committee on Labor and Public Welfare.

Report of Architect of the Capitol

A letter from the Architect of the Capitol, transmitting, pursuant to law, his report of all expenditures during the period July 1, 1971, through December 31, 1971 (with an accompanying report); ordered to lie on the table and to be printed.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ALLEN):

A joint resolution of the Legislature of the State of Wisconsin; to the Committee on the Judiciary: Relating to urging Congress to adopt Senate Bill 215 providing procedures for calling constitutional conventions.

Whereas, under article V of the Constitution of the United States conventions may be called to amend the constitution; and

Whereas, some persons contend that no limitations on the subject matter as such conventions are presently in force; and

Whereas, some persons contend that a hastily called convention, in a moment of national turmoil could result in the loss of basic rights; and

Whereas, the honorable Senator Ervin has introduced legislation (Senate Bill 215 of the 92d Congress) establishing procedures for calling a limited convention restricted to matters contained in the petitions from the states requesting the convention; now, therefore, be it

Resolved by the assembly, the senate concurring, That this legislature supports Senate Bill 215, and, in particular, supports the provisions limiting the subject matter of the convention to the specified issues; and, be it further

Resolved, that duly attested copies of this resolution be transmitted to the secretary of the United States senate, and chief clerk of the house of representatives of the United States and to every member of the congressional delegation from Wisconsin.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MOSS:

S. 3171. A bill to provide additional funds for certain wildlife restoration projects, and for other purposes. Referred to the Committee on Finance.

By Mr. TOWER:

S. 3172. A bill to amend the Internal Revenue Code of 1954 to allow a credit to individuals for certain expenses incurred in providing or obtaining elementary, secondary, or higher education. Referred to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. Jackson, Mr. Mansfield, Mr. Tunney, Mr. Eagleton, Mr. Gravel, Mr. Hatfield, Mr. Hollings, Mr. Metcalf, Mr. Moss, Mr. Packwood, Mr. Stevens, and Mr. Thurmond):

S. 3173. A bill to provide a sound physical basis and an operational system for predicting damaging earthquakes in heavily populated areas of California and Nevada. Referred to the Committee on Commerce.

By Mr. MANSFIELD (for Mr. Jackson) (for himself and Mr. Allott) (by request):

S. 3174. A bill to provide for the establishment of the Golden Gate National Recreation Area in the State of California, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. ALLOTT:

S. 3175. A bill to establish a land use policy; to authorize the Secretary of the Interior to make grants to encourage and assist the States to prepare and implement land use programs for the protection of areas of critical environmental concern and the control and direction of growth and development of more than local significance; and for other purposes Referred to the Committee on Interior and Insular Affairs.

By Mr. SCHWEIKER:

S. 3176. A bill for the relief of Talaat Abdel-Malek, his wife, Linea Abdel-Malek, and their children, Lydia Abdel-Malek, Lillian Abdel-Malek, and Louis Abdel-Malek. Referred to the Committee on the Judiciary.

By Mr. RANDOLPH:

S.J. Res. 204. A joint resolution to authorize the preparation of a History of Public Works in the United States. Referred to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOSS:

S. 3171. A bill to provide additional funds for certain wildlife restoration projects, and for other purposes. Referred to the Committee on Finance.

ARCHERY EXCISE TAX FOR WILDLIFE RESTORATION

Mr. MOSS. Mr. President, I am today introducing a bill to impose manufacturers excise tax on bows, arrows, and certain other archery equipment suitable for hunting purposes.

The funds made available would be used to help finance the Wildlife Restoration Act, which provides money on a matching-grant basis to State wildlife departments for research, management, land acquisition, development, and other essential purposes.

This bill would place upon archery equipment adaptable for hunting a tax similar to that already placed upon sporting firearms and ammunition. The amount of tax is the same—11 percent of the price for which the item is sold.

The 11-percent tax on sporting firearms and ammunition was authorized in 1937, and since that time more than $438 million has been made available for the management and enhancement of wildlife. A year ago, the long-existing 10-percent excise tax on handguns was finally dedicated to wildlife restoration, and it is estimated this will add $6 million annually to the approximately $35 million now being invested annually in the wildlife restoration program. The bill I am introducing will place upon bow hunters and the archery industry generally, for whom longer and more liberalized hunting seasons have been provided, the same responsibility for building up our wildlife populations as are already placed upon hunters using other types of weapons.

A similar bill is before the House of Representatives.

By Mr. TOWER:

S. 3172. A bill to amend the Internal Revenue Code of 1954 to allow a credit to individuals for certain expenses incurred in providing or obtaining elementary, secondary, or higher education. Referred to the Committee on Finance.

Mr. TOWER. Mr. President, I am today introducing the General Education Tax Credit Act of 1972. This bill would amend the Internal Revenue Code of 1954 by providing a tax credit of up to $325 to a taxpayer for certain expenses incurred in providing or obtaining elementary, secondary or postsecondary education. The provisions of the bill are geared to benefit primarily lower- and middle-income taxpayers. The credit would be computed on the first $1,500 of expenses for each student in the following manner: Seventy-five percent of the first $200; 25 percent of the next $300; and 10 percent of the remaining $1,000.

The need for this legislation is becoming increasingly urgent. The low- to middle-income taxpayer is finding tuition costs harder to meet as he or she is beseiged with increased taxes and a shrinking dollar. Furthermore, many American educational institutions find themselves in a state of finantcial crisis.

Americans with children in college have seen the inexorable increase in the costs of postsecondary education. According to estimates compiled by the U.S. Office of Education, the average charges for tuition, fees, and room and board for a full-time resident undergraduate student in a public 4-year university for the 1971–72 school year will cost $1,527. For other public 4-year institutions the cost for the year is estimated at $1,305. In private institutions the average cost for the year are estimated at $3,354 for a university and $2,820 for other 4-year colleges. These figures do not include incidentals such as travel, recreation, and clothing.

Present programs of the Federal Government to provide financial assistance to students in the form of loans and grants are simply not doing the job, especially for the middle-income family which usually needs the assistance but cannot qualify for the programs. At the same time, many colleges have been forced to either close their doors permanently or cut back on valuable academic endeavors, because they have been unable to meet the increased costs.

Coupled with the problem at the higher levels of education is the financial crisis in the Nation's public elementary and secondary schools. There is a nationwide "taxpayers revolt" against property tax increases. We have witnessed the truly tragic closing of public schools for months at a time as taxpayers have rejected in referendum after referendum tax increases and local bond issues.

Mr. President, of course an additional complication are recent Federal and State court decisions holding that existing systems of public school financing are discriminatory and unconstitutional, because of the disparities in spending among school districts. One of these decisions occurred in Texas where a Federal district court ruled that the current method of State expenditures for public elementary and secondary education deprives certain individuals of their constitutional rights as guaranteed by the 14th amendment.

Nonpublic schools are also in serious financial condition. Catholic schools, which comprise the bulk of nonpublic schools, have been declining in number and gross enrollment over the last decade. In 1960, there were 12,805 elementary and secondary Catholic schools with an enrollment of 5.1 million. In 1970, the number of schools had been reduced to 12,029 and the number of students in attendance had declined to 4.7 million. These schools have been unable to compete with public schools for lay teachers and have been forced to close as their costs increased. Therefore, parents in the low- and middle-income bracket who want their children to have the benefits of religious instruction as well as academic instruction have been particularly hard hit. They have had the double burden of supporting public schools through property taxes in addition to paying tuition expenses at private schools. Increasingly these parents are shifting their children to the public school system as they find that they are unable to stand the financial burden or that the quality of the parochial or private school has deteriorated as a result of cost cutting.

Mr. President, the financial conditions affecting parochial and private schools have a tremendous adverse affect on our public school system. When parents take their children out of private schools or decide not to send them at all it further aggravates the terrible financial situation in the public institutions.

My bill will attack these problems at all three levels of education. It will relieve the pressure on the public school system by enabling more parents to send their children to private schools. It would enable many thousands of students who would otherwise be denied the opportunity to achieve higher education to attend these institutions. It would reduce the pressure on colleges and universities to cut or maintain current fees when the need for additional revenue is so important to achieve the goal of improved academic education. Coupled with S. 1543, a bill I introduced earlier in the session which provides a tax credit for contributions made to educational institutions, it provides an incentive for individuals not related to a student to help meet the cost of higher education, since they would also be eligible for the credit if they helped a student meet the cost of higher education.

Mr. President, the tax credit idea is well suited for educational endeavors. I have long supported this method of financing as an alternative to direct Federal involvement in education. Many years ago I joined the distinguished Senator from Connecticut (Mr. Ribicoff) in sponsoring legislation to provide tax credits for the support of higher education. There is wide support for this method of financing education as manifested by the Senate vote on an amendment by the distinguished Senator from South Carolina (Mr. Hollings) to the Revenue Act of 1971.

By adopting this proposal, the country's educational standards will be raised, and, at the same time, it will assure retention of decisionmaking by local school boards and college administrators who can best reflect the desires of parents and students. Since no direct Government assistance is involved, there will be no necessity for the imposition of Federal bureaucratic judgments at any level of education. Furthermore, it avoids any conflict with our traditional principle of separation of church and State as guaranteed by the first amendment, since there will be no connection between the Government and any religious institution.

While this proposal will improve the Nation's educational system at all levels, it will not fully solve the problem brought about by recent Federal and State court decisions that have declared existing systems of public school financing to be unconstitutional. I have read and studied the decision handed down by the U.S. District Court for the Western District of Texas that declared my State's system of school finance unconstitutional. I have certain reservations about this decision which I will spell out at a later time. Texas educational leaders are still studying the decision and are hopeful of finding an equitable method to meet the constitutional requirements set down by the court. Furthermore, I am hopeful that the Supreme Court will soon render a judgment on an appeal that I understand will be lodged by the State.

However, I will make one comment on this problem at this time: While the Congress and the executive branch of Government should certainly study the ramifications of this decision, any proposal that seeks to place the Federal Government in the position of being the primary base for funding our public schools has the potential of destroying our principle of local control over public education. Furthermore, such a proposal regardless of its equitable and objective intent will only raise more questions about the viability of federalism as the key element of our governmental system.

Mr. President, my bill will afford local and State governments with a better opportunity to solve their own problems. Critics may harp on the revenue loss involved in the proposal I introduce today. This is a very short-sighted view. Any revenue foregone in the short term will be more than regained in the future as taxes paid as a result of increased earnings by the children whose length of time in school has been extended by this legislation.

Education is definitely the key to life income. According to 1970 Census Bureau figures, the lifetime difference between an elementary school education and a high school diploma is $137,340. The lifetime economic difference between a high school diploma and a college degree is $245,205.

Furthermore, dollars and cents ignore the role that education plays in the personal fulfillment of every individual. The growing expense of education is prohibiting a great number of our brightest and able youngsters from developing their full potential. As a former college professor myself, I can attest to the positive aspects of a postsecondary education in terms of both social and mental advancement.

Mr. President, I ask unanimous consent that the text of this bill be inserted into the Record at this time. Because of the importance and controversy now surrounding the issue of school finance, I urge my colleagues in the Senate to give it their most careful consideration.

There being no objection, the bill, was ordered to be printed in the Record, as follows:

S. 3172

A bill to amend the Internal Revenue Code of 1954 to allow a credit to individuals for certain expenses incurred in providing or obtaining elementary, secondary, or higher education

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "General Education Tax Credit Act of 1972".

Sec. 2. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by renumbering section 42 as 43, and by inserting after section 41 the following new section:

"Sec. 42. Education Expenses.

"(a) General Rule.—There shall be allowed to an individual, as a credit against the tax imposed by this chapter for the taxable year, an amount, determined under subsection (b), of the qualified education expenses paid by him during the taxable year to one or more educational institutions in providing elementary, secondary, or higher education for himself or for any other individual.

"(b) Limitations.—

"(1) Amount per individual.—The credit under subsection (a) for qualified education expenses of any individual paid during the taxable year shall be an amount equal to the sum of—

"(A) 75 percent of so much of such expenses as does not exceed $200,

"(B) 25 percent of so much of such expenses as exceeds $200 but does not exceed $500, and

"(C) 10 percent of so much of such expenses as exceeds $500 but does not exceed $1,500.

"(2) Proration of credit where more than one taxpayer pays expenses.—If qualified education expenses of an individual are paid by more than one taxpayer during the taxable year, the credit allowable to each such taxpayer under subsection (a) shall be the same portion of the credit determined under paragraph (1) which the amount of qualified education expenses of such individual paid by the taxpayer during the taxable year is of the total amount of qualified education expenses of such individual paid by all taxpayers during the taxable year.

"(3) Reduction of credit.—The credit under subsection (a) for qualified education expenses of any individual paid during the taxable year, as determined under paragraphs (1) and (2) of this subsection, shall be reduced by an amount equal to 1 percent of the amount by which the adjusted gross income of the taxpayer for the taxable year exceeds $25,000.

"(c) Definitions.—For the purposes of this section—

"(1) Qualified education expenses—The term 'qualified education expenses' means—

"(A) tuition and fees required for the enrollment or attendance of a student at a level above kindergarten at an educational institution, and

"(B) fees, books, supplies, and equipment required for courses of instruction above kindergarten at an institution of higher education.

Such term does not include any amount paid, directly or indirectly, for meals, lodging, or similar personal, living, or family expenses. In the event an amount paid for tuition or fees includes an amount for meals, lodging, or similar expenses which is not separately stated, the portion of such amount which is attributable to meals, lodging, or similar expenses shall be determined under regulations prescribed by the Secretary or his delegate.

"(2) Educational institution.—The term 'educational institution' means—

"(A) an educational institution (as defined in section 151(e)(4))—

"(i) which regularly offers education at a level above kindergarten; and

"(ii) contributions to or for the use of which constitute charitable contributions within the meaning of section 170(c); and

"(B) a business or trade school, or technical institution or other technical or vocation school in any State, which (i) is legally authorized to provide, and provides within the State, a program of vocational or technical education designed to fit individuals for useful employment in recognized occupations; (ii) is accredited by a nationally recognized accrediting agency or association listed by the United States Commissioner of Education; and (iii) has been in existence for 2 years or has been specially accredited by the Commissioner as an institution meeting the other requirements of this subparagraph.

"(d) Special Rules.—

"(1) Adjustment for certain scholarships and veterans' benefits.—The amounts otherwise taken into account under subsection (a) as qualified education expenses of any individual during any period shall be reduced (before the application of subsection (b)) by any amounts received by such individual during such period as—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which under section 117 is not includable in gross income, and

"(B) educational assistance allowance under chapter 34 or 35 of title 38, United States Code.

"(2) Certain noncredit and recreational and so forth courses.—Qualified education expenses of an individual paid to an institution of higher education shall be taken into account under subsection (a)—

"(A) in the case of an individual who is a candidate for a baccalaureate or higher degree, only to the extent such expenses are attributable to courses of instruction for which credit is allowed toward a baccalaureate or higher degree, and

"(B) in the case of an individual who is not a candidate for a baccalaureate or higher degree, only to the extent such expenses are attributable to courses of instruction necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective.

"(3) PAYMENT OF EXCESS CREDIT TO TAXPAYER.—If the amount of the credit allowable under subsection (a) to a taxpayer for the taxable year exceeds the amount of the tax imposed on the taxpayer by this chapter for the taxable year, reduced by the sum of any credits allowable under section 33 (relating to foreign tax credit), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), section 38 (relating to investment in certain depreciable property), section 40 (relating to expenses of work incentive programs), and section 41 (relating to contributions to candidates for public office), then such excess shall be treated as an overpayment of tax.

"(e) Disallowance of Expenses as Deduction.—No deduction shall be allowed under section 162 (relating to trade or business expenses) for any qualified education expense which (after the application of subsection (b)) is taken into account in determining the amount of any credit allowed under subsection (a). The preceding sentence shall not apply to the qualified education expenses of any taxpayer who, under regulations prescribed by the Secretary or his delegate, elects not to apply the provisions of this section with respect to such expenses for the taxable year.

"(f) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Education expenses.

"Sec. 43. Overpayments of tax."

SEC. 3. The amendments made by this Act shall apply to taxable years ending on or after the date of the enactment of this Act, but only with respect to expenses paid on or after such date.

By Mr. CRANSTON (for himself, Mr. JACKSON, Mr. MANSFIELD, Mr. TUNNEY, Mr. EAGLETON, Mr. GRAVEL, Mr. HATFIELD, Mr. HOLLINGS, Mr. METCALF, Mr. MOSS, Mr. PACKWOOD, Mr. STEVENS, and Mr. THURMOND):

S. 3173. A bill to provide a sound physical basis and an operational system for predicting damaging earthquakes in heavily populated areas of California and Nevada. Referred to the Committee on Commerce.

EARTHQUAKE PREDICTION ACT OF 1972

Mr. CRANSTON. Mr. President, I introduce today, for appropriate reference, legislation to authorize research in the field of earthquake prediction. The legislation will implement a U.S. Geological Survey proposal which should give us the ability to predict, 3 months in advance, when an earthquake will occur, pinpointing the date within 3 days, and the location within 20 miles of where the earthquake will hit hardest.

Last Wednesday, February 2, an earthquake that registered 4.5 on the Richter scale shook areas of South Carolina. Because the earthquake was centered in a rural area, the earthquake did minimal damage. Unfortunately, many earthquakes do occur in the United States that cause considerable damage. Damaging earthquakes have occurred in all 50 States. Scientists forecast that in at least 20 States severe shocks will occur again.

Experts estimate that if another earthquake occurred in California of a magnitude comparable to the 8.3 Richter of the 1906 San Francisco earthquake, between 5,000 and 100,000 lives would be lost and up to $50 billion worth of property would be destroyed. Scientists forecast an earthquake of this magnitude will occur in California within the next 30 years. The earthquake last February in California's San Fernando Valley registered 6.6 on the Richter scale.

In that recent earthquake 64 lives were lost and between $500 million and $1 billion worth of property was destroyed.

If the ability to predict the earthquake had existed the gravest crisis of the San Fernando earthquake could have been averted altogether. When the concrete apron of the Lower Van Norman Dam gave way, only 5 feet of soil separated the San Fernando Valley from 3.6 billion gallons of water behind the dam. More than 80,000 persons were evacuated and estimates warn that up to 10,000 persons would have been killed if the dam had given way. Experts say the dam would have collapsed if the water had been 4 feet higher. Only by merest chance were those thousands of lives saved. Earthquake prediction will take from the hands of chance and place in the hands of science the responsibility to save those lives. If the earthquake had been predicted scientifically, the water in the dam would have been lowered and the danger to those thousands of lives prevented.

The U.S. Geological Survey has proposed this plan which within 5 years should enable them to predict medium and major earthquakes in California and Nevada, giving the day the earthquake will occur within 3 days. Prediction will come up to 3 months before the earthquake actually occurs. This will provide adequate advance warning.

The possibility of this prediction ability exists because of the tremendous breakthroughs in seismology in the past few years. Japanese seismologists were able to give earthquake warnings at Matsushiro in 1966. Russian scientists plan to be able to issue their first formal public earthquake warnings this year if one should occur in the Tadzhik Republic in Siberia where they have been conducting extensive experiments. The Russians expect to be able to predict the location of a quake 5 days in advance and to gage its magnitude to within plus or minus 0.5 on the Richter scale. The United States currently has no such capability.

Both the National Academy of Sciences and the U.S. Geological Survey call for full-scale research by the United States in this important field. Research up to the moment in earthquake prediction has found that certain movements such as previously random foreshocks begin to behave in a systematic fashion and a change occurs in the conductivity of the rocks in the region of an imminent earthquake. These "signal" an upcoming earthquake. Future research should be along the lines of the program embodied in the bill, the U.S. Geological Survey states.

The program authorized by this legislation provides for instrumentation that will be comprised of more than 1,000 geophysical measuring devices along the 600 mile length of the San Andreas Fault system. Some of the research would be aimed at creating more efficient and more reliable instruments to work under the conditions required. These instruments would be linked to a computer that would gather the data and interpret the movements of the earth over a period of time. Further studies to learn the patterns that precede earthquakes, and the many factors that can aid in earthquake prediction, will be part of the program. Other aspects of it include use of the satellite network to help in the study of volcanic forces, earth movements, and other relevant data.

The first 3 years of the 5-year program would be devoted mainly to producing and deploying instruments known to be useful in earthquake prediction, and for developing and testing new devices.

Within 5 years the plan should enable American scientists to predict an earthquake of a magnitude of Richter 5 or greater 3 months in advance, to estimate its severity to within 1 unit of magnitude, and to locate it within a 3–20 miles area. While beginning research would concentrate on faults in California and Nevada, the knowledge gained would be sufficient to predict earthquakes anywhere in the country when the necessary instrumentation has been established.

Once the ability to predict earthquakes exists, knowledge of the best way to warn people is required. It is not known precisely how earthquakes affect people's behavior and psychological reactions. A study of mass behavior may show that it is best to warn people several months in advance, or it may show that a general public warning should only be issued a few days before the coming earthquake. Problems like this will be studied by the portion of the program directed by the Office of Emergency Preparedness.

A plan determining what steps should be taken before the earthquake will be developed.

This plan would include evacuating particularly vulnerable buildings, lowering water levels behind dams to prevent flooding, and turning off gas and electricity to structures likely to be heavily damaged, to prevent fires like the one that followed the San Francisco earthquake in 1906. Emergency supplies of water, food, and medicine will be readied. Such a plan is necessary to best utilize the ability to predict earthquakes.

This earthquake prediction bill provides an authorization of $12.2 million a year for 5 years. The U.S. Geological Survey will direct use of $12 million a year for instrumentation, collection, and interpretation of data from such instrumentation, and supporting field and theoretical studies. Additionally, the Office of Emergency Preparedness will utilize $200,000 each year to study the problems of issuing an earthquake warning, how to make the warning effective, the physical effects of earthquakes, and the behavioral and psychological effects from earthquakes.

The ability to predict earthquakes will greatly reduce the loss of life and injuries earthquakes cause. It will also drastically reduce the large amounts of property damage earthquakes now are able to inflict—thus making the authorization this bill calls for a very sound financial investment.

It is to alleviate these disastrous losses earthquakes cause that I am now introducing this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3173

A bill to provide a sound physical basis and an operational system for predicting damaging earthquakes in heavily populated areas of California and Nevada

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Earthquake Prediction Act of 1972".

(b) The Congress hereby finds and declares that the San Andreas fault and closely related faults of California and Nevada are areas of high seismic risk, that 9.8 per centum of the population of the United States lives in California, that the highly developed urban areas of San Francisco and Los Angeles and their surroundings are especially vulnerable to the dangers of earthquakes, that Japanese scientists have issued earthquake warnings, and that seismic research in the United States is sufficiently advanced that an earthquake prediction capability can be achieved with an earthquake prediction program. To minimize loss of life and property damage, the Congress hereby declares that it is its purpose to establish a program of instrumentation of the San Andreas and closely related faults of California and Nevada; to provide for the collection, analysis and interpretation of data from such instrumentation; and to provide supporting field, laboratory, and theoretical studies leading to the goal of predictions of earthquakes along the San Andreas fault zone.

Sec. 2. (a) It shall be the function and duty of the Director of the Geological Survey to develop and carry out an earthquake prediction program which shall include—

(1) heavy instrumentation of the San Andreas fault and closely related faults of California and Nevada to obtain detailed records of data useful in developing an earthquake prediction capability;

(2) establishment of facilities for the collection and computerized reduction, analysis, and interpretation of the data flow from such instruments;

(3) supporting field, laboratory, and theoretical studies; and

(4) development and field-testing of additional instruments which are useful in connection with the foregoing provisions of this section.

In carrying out that part of such program involving or relating to research purposes, and in expending a significant portion of the funds appropriated pursuant to this Act for such program, the Director shall utilize the services of research personnel in institutions of higher education and public entities or organizations (other than Geological Survey) and private entities or organizations concerned with seismic research.

(b) (1) There is hereby established an Advisory Committee for the Earthquake Prediction Program (hereinafter referred to as the "advisory committee"). The advisory committee shall consist of not less than seven nor more than fifteen members who shall be appointed by the Director of the Geological Survey from among individuals recommended by the National Academy of Sciences. The advisory committee shall select a chairman and vice chairman from among its members.

(2) It shall be the function of the advisory committee to advise and assist the Director in developing and carrying out the earthquake prediction program provided for in subsection (a).

Sec. 3. (a) The Director of the Office of Emergency Preparedness is authorized to establish and carry out a program to review and assess the current state of knowledge on earthquake prediction and the warning systems, to identify key problem areas for further research and evaluation, and to determine what additional steps may be needed to reduce primary and secondary losses from earthquakes. Such review and assessment shall include—

(1) a forecast of the problems expected to be associated with the issuance of earthquake warnings to the population residing in high seismic risk areas;

(2) an analysis, prepared prior to the issuance of earthquake warnings, of steps which should be taken to make such warnings effective, and of how to make the decision to issue the warnings;

(3) an analysis, prepared prior to the occurrence of an earthquake, of the physical effect of an earthquake; and

(4) an analysis, prepared prior to the occurrence of an earthquake, of the behavioral and psychological effects of an earthquake.

(b) The Director of the Office of Emergency Preparedness is authorized to enter into contracts, agreements, or other appropriate arrangements with the National Academy of Sciences to provide such necessary scientific advisory services as may be required in carrying out the purposes of this section.

Sec. 4. The President of the National Academy of Sciences and the Director of the Office of Emergency Preparedness shall make information developed pursuant to this Act available to the Office of Science and Technology, the Congress, Governors in States of high seismic risk, and other government and private organizations which are concerned with preparations for or reactions to earthquakes or earthquake warnings.

Sec. 5. (a) For purposes of section 2 of this Act, there is authorized to be appropriated for the fiscal year ending June 30, 1973, and for each of the next following four fiscal years. the sum of $12,000,000.

(b) For purposes of sections 3 and 4 of this Act, there is authorized to be appropriated for the fiscal year ending June 30, 1973, and for each of the next following four fiscal years, the sum of $200,000.

By Mr. MANSFIELD (for Mr. Jackson) (for himself and Mr. Allott) (by request):

S. 3174. A bill to provide for the establishment of the Golden Gate National Recreation Area in the State of California, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Washington (Mr. Jackson), I introduce a bill and I ask unanimous consent that a statement prepared by him together with certain other material be printed in the Record.

There being no objection, the statement, letter, and bill were ordered to be printed in the Record, as follows:

Statement by Senator Jackson

Mr. President, on behalf of myself and the distinguished senior Senator from Colorado (Mr. Allott), who is the ranking minority member of the Committee on Interior and Insular Affairs, I send to the desk for appropriate reference a bill to provide for the establishment of the Golden Gate National Recreation Area in the State of California, and for other purposes.

This legislation was submitted and recommended by the Secretary of the Interior, and I ask unanimous consent that the letter from the Secretary accompanying this draft proposal and the bill be printed in the Record at this point in my remarks.

U.S. Department of the Interior,
Washington, D.C., February 8, 1972.

Hon. Spiro T. Agnew,
President of the Senate,
Washington, D.C.

Dear Mr. President: There is enclosed a draft bill "To provide for the establishment of the Golden Gate National Recreation Area in the State of California, and for other purposes."

We recommend that the bill, a part of the environmental program announced today by President Nixon, be referred to the appropriate committee for consideration, and we recommend that it be enacted.

As President Nixon has pointed out, "The demand for urban open space, recreation, wilderness and other natural areas continues to accelerate. In the face of rapid urban development, the acquisition and development of open space, recreation lands and natural areas accessible to urban centers is often thwarted by escalating land values and development pressures".

On May 10, 1971, this Department, in furtherance of the President's objective to provide parks in urban areas, proposed legislation to establish the Gateway National Recreation Area in New York and New Jersey. The Golden Gate National Recreation Area in California, as proposed in the enclosed draft bill, is yet another significant step which we recommend be taken toward this high goal.

In 1960, the population of the San Francisco-Oakland standard metropolitan statistical area was approximately 2,500,000. In one decade the population has almost doubled, totaling more than 4,500,000 at present, and in 1990 it will measure more than 7,500,000. While the City and County of San Francisco, Marin County, and the State of California have all provided some open space, the potential for park and recreation development of a much greater acreage should be realized in order to meet the demonstrated need for recreation space.

The boundaries of our proposed Golden Gate National Recreation Area would encompass some 24,000 acres of existing State and County parkland with undeveloped military reservations and private lands into an area offering a variety of outdoor recreation uses.

The boundaries of the national recreation area will extend from the southern boundary of Point Reyes National Seashore southward approximately 22 miles along the Pacific Ocean to the north end of Golden Gate Bridge. Across the Bridge, it will extend from the existing San Francisco Maritime State Historic Park on the east to Fort Point on the west, and from Fort Point westward and southward along the Pacific Ocean about nine miles to include Fort Funston at the southern end. In San Francisco Bay itself, Angel Island and Alcatraz would comprise the third major component of the national recreation area.

The area on the north side of the Golden Gate, which will connect with the Point Reyes National Seashore, is largely undeveloped rugged open land suitable for camping, hiking, fishing, and nature study. It consists of 7,472 acres of State parkland, 2,067 acres of Federally owned land, 198 acres of county land, and 8,021 acres of privately owned land.

On the south side of the Golden Gate is heavily used urban parkland including Fort Mason, Gashouse Cove, Crissy Field, and Marine Green. The Sutro Seaside area will provide water-oriented recreation, and the

Ocean Dunes will be protected and administered for hiking and swimming. Alcatraz Island's chief uses will feature its historic role and its unique location as a vantage point from which to view activities in San Francisco Bay.

Though adjacent to Golden Gate National Recreation Area, Fort Point already designated as a national historic site by the Act of October 16, 1970 (84 Stat. 970), and Muir Woods National Monument, established by Presidential Proclamation No. 793 on January 9, 1908, will retain their identity as separate units of the National Park System.

Land ownership for the proposed Golden Gate National Recreation Area is approximately as follows:

	Acres
Federal	3,618
Army	3,384
Air Force	12
Coast Guard	222
State	[1]11,337
County (Marin)	198
Private	8,021
Total	23,174

[1] Of this acreage, 3,840 acres is submerged land.

Under the bill, those Federal lands which now comprise Forts Cronkhite, Barry and the western portion of Fort Baker, together with other nearby Federal lands, would be transferred to the administrative jurisdiction of the Secretary of the Interior, subject to continued use and occupancy of certain areas by the Department of the Army for a period sufficient to allow relocation of essential military and support facilities. Those areas within the Presidio of San Francisco known as Baker Beach and Crissy Army Airfield would be made available for public use as units of the receration area, subject only to continued use of the airfield during a phase-out period. All other Federal land within the Presidio, the eastern portion of Fort Baker, and Coast Guard property not subject to immediate transfer would be transferred to the Secretary of the Interior as it is determined to be excess of military or operational requirements. This proposed transition from military to recreation use of the historic property adjacent to Golden Gate Bridge takes into account the essential nature of some existing military activities, while providing an immediate, and significant increase in the number of acres available for public recreation.

We propose that State-owned lands within the recreation area be managed by the State of California in a manner compatible with Federal administration of adjoining areas, and that there be no transfer of State property to the administrative jurisdiction of the Secretary at this time. Section 2(a) of our draft bill does provide, however, for acquisition, development and administration of such State lands as may later be donated for this purpose, and Section 3(a) authorizes the Secretary to enter into such agreements with the State of California as may "contribute to uniform management and public use of all publicly owned lands within the recreation area". The 8,021 acres of private land would be acquired, and, where appropriate, leased back to permit continued compatible uses pursuant to the authority in the Act of July 15, 1968 (82 Stat. 354), except that we do not propose to acquire the Audubon Society property (61.48 acres) so long as present compatible uses are continued. Although not specifically provided for, life estates or estates for a term of years, could under provisions of the bill, be permitted in appropriate instances. In addition, scenic easements or other less-than-fee interest can be acquired where appropriate.

Estimated costs for development of the recreation area are approximately $58,000,000. The estimated development cost is based on May 1971 prices, and section 5 of the bill relates the appropriation limitation for development to cost indices as of that date.

Land costs are estimated to be $27,620,000, which is programmed over a three-year period. This estimate includes the cost of acquisition of twenty-one improvements as well as the cost of compliance with the requirements of the Uniform Relocation Assistance and Real Property Acqusition Policies Act of 1970. Real property taxes on the private lands to be acquired totaled $235,321 in 1970. Annual operation and maintenance is expected to cost $1,354,832 the first year, and will increase to about $2,126,039 during the fifth year. A man-year and cost data statement is attached.

The Office of Management and Budget has advised that enactment of this legislative proposal would be in accord with the program of the President.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

S.3174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve and protect for the use and enjoyment of present and future generations an area possessing outstanding natural, historical, and recreational features, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish the Golden Gate National Recreation Area (hereinafter referred to as the "recreation area"). There shall be included within the boundaries of the recreation area those properties in the San Francisco Bay area generally depicted on the map entitled "Boundary Map, Golden Gate National Recreation Area, San Francisco and Marin Counties, California", numbered NRAGG-20,000C and dated January 1972, which map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary shall establish the recreation area by publication of a notice to that effect in the *Federal Register* at such time as he determines that lands, waters, and interests therein sufficient to constitute an efficiently administrable recreation area have been acquired for administration in accordance with the purposes of this Act. The Secretary may from time to time make corrections in the boundaries of the recreation area, but the total area within the boundaries shall not exceed 24,000 acres.

SEC. 2. (a) The Secretary may acquire lands and waters and interests therein within the boundaries of the recreation area by donation, purchase with donated or appropriated funds, or exchange, except that property or interests therein owned by the State of California or any political subdivision thereof may be acquired only by donation, subject to such terms and conditions as may be mutually agreed to and subject to such valid existing rights as may exist under the laws of such State or political subdivision at the time of donation, *provided, however,* that the Secretary may acquire, develop and administer property or interests therein which the State of California or any political subdivision thereof may have retained a reversionary interest. Except as hereinafter provided, Federal property within the boundaries of the recreation area is hereby transferred to the administrative jurisdiction of the Secretary for the purposes of this Act, subject to the continuation of such existing uses as may be agreed upon between the Secretary and the head of the agency formerly having jurisdiction over the property. Notwithstanding any other provision of law, the Secretary may develop and administer for the purposes of this Act structures or other improvements and facilities on lands for which he receives a permit of use and occupancy from the Secretary of the Army.

(b) The Federal property known as Fort Cronkhite, Fort Barry, and approximately one-half of the Federal property known as Fort Baker, together with certain additional Federal property located in Marin and San Francisco Counties, California, all as depicted on the map entitled "Golden Gate Military Properties" numbered NRAGG 20,002 and dated January 1972 is hereby transferred to the administrative jurisdiction of the Secretary for purposes of this Act, *provided, however,* that the Secretary shall grant: (1) a permit for continued use and occupancy by the Secretary of the Army for those portions of said property necessary for existing air defense missions until the Secretary of Defense determines that such requirements no longer exist, and (2) a permit for continued use and occupancy by the Secretary of the Army for those portions of said property for essential missions to include reserve activities and family housing for a period of 10 years or for such longer period of time as may be agreed upon by the Secretary; *and provided further,* that the portion of said Federal property known as Coast Guard Radio Receiver Station, Fort Cronkhite, comprising approximately 12.4 acres, shall remain under the administrative jurisdiction of the Secretary of the Department in which the Coast Guard is operating until such time as all or any portion thereof is determined by the Department in which the Coast Guard is operating to be excess to its needs, at which time such excess portion shall be transferred to the administrative jurisdiction of the Secretary for purposes of this Act.

(c) That portion of the Federal property known as Fort Baker not subject to transfer under the provisions of subsection (b) hereof shall remain under administrative jurisdiction of the Department of the Army until such time as all or any portion thereof is determined by the Department of Defense to be excess to its needs, at which time such excess portion shall be transferred to the administrative jurisdiction of the Secretary for purposes of this Act; *provided, however,* that the Secretary of the Army shall grant to the Secretary such rights as are necessary to assure reasonable public access through such area to Horseshoe Bay, together with the right to construct and maintain such public service facilities as the Secretary deems necessary for the purposes of this Act. The precise facilities and location thereof shall be determined between the Secretary and the Secretary of the Army.

(d) Upon enactment, the Secretary of the Army shall grant to the Secretary irrevocable use and occupancy of that Federal property within the Presidio of San Francisco known as Baker Beach consisting of approximately 100 acres, and as depicted on said map numbered NRAGG 20,002.

(e) Within ten years from the date of enactment, or such longer period of time as may be agreed upon by the Secretary, the Secretary of the Army shall grant to the Secretary irrevocable use and occupancy of that Federal property within the Presidio of San Francisco known as Crissy Army Airfield, consisting of approximately 45 acres, and be depicted on said map numbered NRAGG 20,002.

(f) That portion of the Federal property known as the Presidio of San Francisco not subject to the provisions of subsections (d) and (e) hereof shall remain under the administrative jurisdiction of the Department of the Army until such time as all or any portion thereof is determined by the Department of Defense to be excess to its needs, at which time such excess portion shall be transferred to the administrative jurisdiction of the Secretary for purposes of this Act. If the portion of said Federal property known as Fort Point Coast Guard Station, comprising approximately 14.7 acres, is still in continued use by the Coast Guard at the time that property is declared by the Department of Defense to be excess to its needs, the Secretary shall grant a permit for continued use and occupancy by the Secretary of the Department in which the Coast Guard is operating for that portion of said Fort Point Coast Guard Station necessary for activities of the Coast Guard.

(g) That portion of Fort Miley comprising approximately 1.7 acres of land presently used and required by the Secretary of the Navy for its inshore, underseas warfare installations shall remain under the administrative jurisdiction of the Department of the Navy until such time as all or any portion thereof is determined by the Department of Defense to be excess to its needs, at which time such excess portion shall be transferred to the administrative jurisdiction of the Secretary for purposes of this Act.

(h) New construction and development within the recreation area on property remaining under the administrative jurisdiction of the Department of the Army and not subject to the provisions of subsections (d) or (e) hereof shall be limited to that which is required to accommodate facilities being relocated from property being transferred under this Act to the administrative jurisdiction of the Secretary or which is directly related to the essential missions of the Sixth United States Army; *provided, however*, that any construction on presently undeveloped open space may be undertaken only after prior consultation with the Secretary. The foregoing limitation on construction and development shall not apply to expansion of those facilities known as Letterman General Hospital or the Western Medical Institute of Research.

(i) The Federal property known as Point Bonita, Point Diablo, and Lime Point shall remain under the administrative jurisdiction of the Secretary of the Department in which the Coast Guard is operating until such time as all or any portion thereof is determined by the Department in which the Coast Guard is operating to be excess to its needs, at which time such excess portion shall be transferred to the administrative jurisdiction of the Secretary for purposes of this Act. The Secretary of the Department in which the Coast Guard is operating may continue to maintain and operate existing navigational aids *provided that* access to such navigational aids and the installation of necessary new navigational aids within the recreation area shall be undertaken in accordance with plans which are mutually acceptable to the Secretary and the Secretary of the Department in which the Coast Guard is operating and which are consistent with both the purposes of this Act and the purpose of existing statutes dealing with establishment, maintenance, and operation of navigational aids.

Sec. 3. (a) Prior to the establishment of the recreation area and thereafter, the Secretary shall administer the lands, waters and interests therein acquired for the receation area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented, except that the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of this Act. Notwithstanding their proximity to the boundaries of the recreation area, the Muir Woods National Monument and Fort Point National Historic Site shall continue to be administered as separate units of the National Park System in accordance with the laws applicable to such monument and historic site. The Secretary is authorized to enter into agreements, subject to otherwise applicable Federal, State or local statutes, with the State of California or its political subdivisions with respect to any State and other publicly owned lands within the recreation area in order to contribute to uniform management and public use of all publicly owned land within the recreation area.

(b) Notwithstanding any other provision of law, the Secretary may provide such services and facilities as he deems necessary or desirable for access to the recreation area. The Secretary may provide such services and facilities directly, or by negotiated contract with public or private agencies or persons without advertising and without securing competitive bids.

(c) The Secretary is authorized to enter into cooperative agreements with Federal agencies, the State of California, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, fire-fighting, law enforcement, water and sewer and other community services.

Sec. 4. The authority of the Secretary of the Army to undertake or contribute to water resource developments, including shore erosion control, beach protection, and navigation improvements on land and/or waters within the Golden Gate National Recreation Area in California shall be exercised in accordance with plans which are mutually acceptable to the Secretary and the Secretary of the Army and which are consistent with both the purpose of this Act and the purpose of existing statutes dealing with water and related land resource development.

Sec. 5. There are hereby authorized to be appropriated not more than $27,620,000 for acquisition of lands and interests in lands, and not to exceed $58,000,000 (May 1971 prices) for development of the recreation area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the type of construction involved herein.

By Mr. ALLOTT:

S. 3175. A bill to establish a land-use policy; to authorize the Secretary of the Interior to make grants to encourage and assist the States to prepare and implement land-use programs for the protection of areas of critical environmental concern and the control and direction of growth and development of more than local significance; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

LAND-USE POLICY AND PLANNING ASSISTANCE ACT OF 1972

Mr. ALLOTT. Mr. President, I send to the desk for appropriate reference a bill to establish a land-use policy and to provide for planning assistance to the States.

The bill I introduce today is similar to the administration's bill (S. 992), in many respects, but I believe it is a substantially better bill. The areas of improvement include: Section 101, dealing with the findings and declaration of policy; section 102, dealing with the definition of terms; section 103, dealing with program development grants; and section 107 has been completely redrafted. In addition, the appropriations authorization has been increased from $20 million per year to $100 million per year. There are other minor revisions and improvements throughout the bill.

There is a modification to section 105 which I feel deserves special comment.

The scope of Federal review of State land-use plans should be limited to those aspects of the plan which have a Federal impact or are of more than local significance. The last thing the Federal Government should do is to allow its bureaucracy to get involved in the location of gas stations, schools, drug stores, and the like. To do so would be to insure the ultimate demise of the program, because the bureaucracy would become so bogged down in details as to render itself incapable of making decisions relative to the major policy matters. The intent of the language in section 105 of my bill is to insure that the reviewing authority of the Secretary is limited to that part of the State's land-use program dealing with large-scale development, key facilities, development, and land use of regional benefit, and new communities. There are matters of sufficient significance as to warrant a Federal interest and review.

Mr. President, I am also aware of the general propensity of Federal administrators to take a little bit of statutory authority and stretch it into a program far beyond the contemplation of Congress. With this in mind, I have provided in section 107 that before the Secretary shall take the final action of disapproving a State's application for a grant under the provisions of section 103 or 104, he shall provide to the Interior Committees of the Senate and the House of Representatives a copy of the plan or program together with his analysis and comments relative to the specific deficiencies of the plan or program. While section 107 does not provide for congressional review, it does provide Congress with an opportunity to see how the act is being administered, and I believe this is an appropriate exercise of the oversight function of Congress.

The bill I introduce today does not deal with Federal lands, however, as the Committee on Interior and Insular Affairs sits down to markup a land use bill, I believe that we will come to the realization that in the public land States it makes no sense to provide for planning on non-Federal lands without providing for planning mechanisms for Federal lands. About half of the lands in the Western States are Federally owned, and to ask those States to provide a meaningful plan without considering the Federal lands is like asking a boxer to go into the ring with one hand tied behind his back. I believe the committee will have to deal with this problem before a bill is reported to the Senate floor.

Mr. President, land use planning has been the subject of considerable discussion in the past few years. Many States have made a beginning, but the task is so enormous that Federal assistance appears necessary. The bill I introduce today will provide that assistance. It will also provide for Federal participation in those areas where there is reason for a Federal presence. It is not intended that my bill be considered the last word in land use planning legislation, rather it is a beginning. I feel that we should proceed with caution in this area, because it is an area with such a great potential impact upon the rights, the dreams, and the aspirations of every citizen as to command caution and prudence. I believe my bill is cautious and prudent; however, it should be clearly understood that in my opinion, we must move ahead in the area of land use without delay. It is my hope that my bill or one similar in concept will be signed into law during this session of Congress.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 377

At the request of Mr. Tower, the Senator from Oklahoma (Mr. Bellmon) was added as a cosponsor of S. 377, a bill to amend title 10, United States Code, to equalize the retirement pay of members of the uniformed services of equal rank and years of service, and for other purposes.

S. 963

At the request of Mr. Montoya, the Senator from Alabama (Mr. Sparkman) was added as a cosponsor of S. 963, a bill to authorize the Secretary of Agriculture to cooperate with and furnish financial and other assistance to States and other public bodies and organizations in establishing a system for the prevention, control, and suppression of fires in rural areas, and for other purposes.

S. 1819

At the request of Mr. Baker, the Senator from Maryland (Mr. Beall), the Senator from New Jersey (Mr. Case), the Senator from Georgia (Mr. Gambrell), the Senator from Alaska (Mr. Gravel), the Senator from New York (Mr. Javits), the Senator from Massachusetts (Mr. Kennedy), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Kansas (Mr. Pearson), the Senator from West Virginia (Mr. Randolph), the Senator from Pennsylvania (Mr. Scott), the Senator from Virginia (Mr. Spong), the Senator from Alaska (Mr. Stevens), the Senator from Ohio (Mr. Taft), the Senator from Texas (Mr. Tower), and the Senator from North Dakota (Mr. Young) were added as cosponsors of S. 1819, a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

S. 2064

At the request of Mr. Percy, the Senator from Michigan (Mr. Hart) was added as a cosponsor of S. 2064, a bill which would systematize and better regulate the use and the operations of Federal advisory committees.

S. 2071

At the request of Mr. Moss, the Senator from Rhode Island (Mr. Pastore) was added as a cosponsor of S. 2071, a bill to provide for the care, housing, education, training, and adoption of certain orphaned children in Vietnam.

S. 2497

At the request of Mr. Williams, the Senator from Rhode Island (Mr. Pastore) was added as a cosponsor of S. 2497, the Vietnam Children's Care Agency Act.

S. 2579

At the request of Mr. Harris, the Senator from Maryland (Mr. Mathias) was added as a cosponsor of S. 2579, the ocean mammal bill.

S. 2713

At the request of Mr. Hruska, the Senator from Indiana (Mr. Bayh) was added as a cosponsor of S. 2713, a bill to provide care for narcotic addicts who are placed on probation, released on parole, or mandatorily released.

S. 2738

At the request of Mr. Hughes, the Senator from Maryland (Mr. Mathias) was added as a cosponsor of S. 2738, a bill to amend titles 10 and 37, United States Code, to provide for equality of treatment for military personnel in the application of dependency criteria.

S. 3131

At the request of Mr. Boggs, the Senator from Kentucky (Mr. Cooper) was added as a cosponsor of S. 3131, a bill to amend the Rail Passenger Service Act of 1970 in order to restore certain rights to free or reduced rate rail passenger transportation granted by railroads to employees upon retirement and to clarify the intent of such act with respect to the preservation of such rights.

S. 3152

At the request of Mr. Chiles, the Senator from Colorado (Mr. Dominick), the Senator from North Dakota (Mr. Young), and the Senator from Minnesota (Mr. Humphrey) were added as cosponsors of S. 3152, a bill to amend the Internal Revenue Code of 1954 to provide that no interest shall be payable by a person to whom an erroneous refund is made if the erroneous refund is made due to an error by an officer or employee of the United States.

S. 3162

At the request of Mr. Allott, the Senator from Colorado (Mr. Dominick) was added as a cosponsor of S. 3162, a bill to permit American citizens to hold gold.

SENATE JOINT RESOLUTION 112

At the request of Mr. Brock, the Senator from Mississippi (Mr. Stennis) was added as a cosponsor of Senate Joint Resolution 112, relating to open admissions to public schools for all children.

SENATE JOINT RESOLUTION 117

At the request of Mr. McIntyre, the Senator from Kentucky (Mr. Cook) was added as a cosponsor of Senate Joint Resolution 117, requesting the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day."

SENATE RESOLUTION 259—SUBMISSION OF A RESOLUTION COMMEMORATING THE GIRL SCOUTS OF AMERICA ON THEIR 60TH ANNIVERSARY, MARCH 12, 1972

(Referred to the Committee on the Judiciary.)

Mr. BAYH. Mr. President, today I am submitting a resolution to commend, during the week of March 12–18, the Girl Scouts of the United States for a progressive spirit and for their contributions to the surrounding community.

March 12, 1972, marks the 60th anniversary of Girl Scouting. Girl Scouting in the United States was founded in 1912 by Juliette Low in Savannah, Ga. Mrs. Low brought Girl Scouting from England, where Lord Baden-Powell had founded the Scout and Guide movements for boys and girls. The Girl Scouts were chartered by Congress on March 16, 1950. During those 60 years nearly 31 million girls, men and women have been members of the Girl Scouts. At the present time, there are 3,250,000 girls and 675,000 adults in scouting, with over 400 Girl Scout councils in the 50 States.

The ideals fostered by the Girl Scout organization are impressive. Girl Scouting strives to inspire girls with the highest ideals of character, conduct, patriotism, and service so that they may become happy and resourceful citizens. The organization gives a girl a chance to be herself, to choose what she wants to be, the personal values she wants to hold and the kind of life she wants to lead—in short, her own life style. Girl Scouts learn to make decisions early in life by actually making them.

The activities in which Girl Scouts are involved are truly innovative. Sixty years ago, Girl Scouts studied first aid. They camped, hiked and learned some basic home management skills. They still do. But Girl Scouts nowadays also tour space flight centers, participate in archeological digs, and join in experiments in self-government. They work directly with disadvantaged children in inner-city areas and migrant labor camps. Councils conduct drug education programs; they enlist the aid of other civic and service groups to make local communities aware of the need and the opportunity for effective action against drug abuse. The Girl Scout Council of the Nation's Capital sponsored an Anti-Drug Abuse Convocation in the fall of 1970, joining with other concerned community groups to circulate facts on drugs to area residents. The Girl Scouts produce ecology filmstrips, such as "I Am a River," which showed how a Girl Scout drive cleaned up a 7-mile stretch of the Hackensack River bank in northern New Jersey. I am particularly proud of the example set by Troop 271 of Martinsville, Ind. In Martinsville, Brownies often supply their county hospitals with favors and decorations to brighten the breakfast trays of patients.

Girl Scouting today is searching, relevant and forward looking. It has the capacity and readiness to set new directions and to welcome positive change.

Therefore, I believe the organization deserves our firm support, I ask unanimous consent that the following resolution commemorating the week of March 12–18 in honor of the Girl Scouts be printed at this point in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Whereas Girl Scouts of the United States of America, chartered by the Congress of the United States, is celebrating the sixtieth anniversary of its founding on March 12, 1970; and

Whereas Girl Scouts of the United States of America, begun as a movement to liberate girls from narrow, confining life-roles, has since taken the lead in advancing what are today such universal concerns as protection of the environment, youth patricipation in self-government, strengthened roles for the volunteer worker, and international understanding through friendship; and

Whereas Girl Scouts of the United States of America is quietly and effectively helping to unite young Americans of all races, creeds, ethnic and economic backgrounds, and is providing to millions of girls and adults unlimited opportunities for self-development and responsible service to their communities and to the nation; and

Whereas Girl Scouts of the United States of America, true to its pioneering tradition, continues to anticipate the changing needs of girls and of the society and to encourage its nearly four-million members to be doers, rather than talkers; leaders, not followers; and givers, not takers; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that during the week of March 12–18, the Girl Scouts of the United States of America are commended, on the sixtieth birthday of their organization, for a progressive spirit and lasting contribution to the social welfare of this nation.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 232

At the request of Mr. Chiles, the Senator from Illinois (Mr. Percy), the Senator from Kansas (Mr. Pearson), and the Senator from Alaska (Mr. Stevens) were added as cosponsors of Senate Resolution 232, expressing the sense of the Senate that the remainder of the amount appropriated for the rural electrification program for fiscal 1972 be immediately released by the Office of Management and Budget.

ADDITIONAL COSPONSOR OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 33

At the request of Mr. Brock, the Senator from Tennessee (Mr. Baker) was added as a cosponsor of Senate Concurrent Resolution 33 regarding the persecution of Jews and other minorities in Russia.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971—AMENDMENTS

AMENDMENT NO. 885

(Ordered to be printed and to lie on the the table.)

Mr. ERVIN (for himself and Mr. Allen) submitted an amendment intended to be proposed by them jointly to amendment No. 878 proposed to the bill (S. 2515) to further promote equal employment opportunities for American workers.

AMENDMENTS NOS. 886 THROUGH 890

(Ordered to be printed and to lie on the table.)

Mr. ERVIN (for himself and Mr. Allen) submitted five amendments intended to be proposed by them jointly to the bill (S. 2515), supra.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENTS NOS. 800 AND 801

At the request of Mr. Eagleton, the Senator from Kentucky (Mr. Cook), the Senator from Alaska (Mr. Gravel), the Senator from Michigan (Mr. Hart), the Senator from Iowa (Mr. Hughes), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from West Virginia (Mr. Randolph), and the Senator from New Jersey (Mr. Williams) were added as cosponsors of amendments Nos. 800 and 801, intended to be proposed to H.R. 1, the Social Security Amendments of 1971.

AMENDMENT NO. 820

At the request of Mr. Ribicoff, the Senator from New Jersey (Mr. Williams) was added as a cosponsor of amendment No. 820, intended to be proposed to H.R. 1, supra.

AMENDMENT NO. 870

At the request of Mr. Nelson, the Senator from Pennsylvania (Mr. Schweiker), the Senator from Texas (Mr. Tower), and the Senator from Minnesota (Mr. Humphrey) were added as cosponsors of amendment No. 870, intended to be proposed to the bill (H.R. 1), supra.

ANNOUNCEMENT OF HEARINGS BY SUBCOMMITTEE ON PARKS AND RECREATION

Mr. BIBLE. Mr. President, I wish to announce for the information of the Senate and the public that open hearings have been scheduled by the Subcommittee on Parks and Recreation at 10 a.m. on February 18, in room 3110 of the New Senate Office Building, on the following bills:

S. 3153, Gulf Islands National Seashore Addition—Mississippi.

S. 3159, J. D. Rockefeller, Jr., Memorial Parkway—Wyoming.

NOTICE OF HEARING ON NOMINATIONS

Mr. BYRD of West Virginia. Mr. President, on behalf of the Committee on the Judiciary and its chairman, the distinguished Senator from Mississippi (Mr. Eastland), I desire to give notice that a public hearing has been scheduled for Tuesday, February 22, 1972, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

Richard G. Kleindienst, of Arizona, to be Attorney General of the United States, vice John N. Mitchell, resigning.

Louis P. Gray III, of Connecticut, to be Deputy Attorney General vice Richard G. Kleindienst.

Notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, February 21, 1972, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS

HEALTH SERVICES TO A FULLER SPECTRUM OF SOCIETY

Mr. MANSFIELD. Mr. President, a great deal of emphasis in recent months has been justly placed on the need to provide health services to a fuller spectrum of society. It needs no documentation and the framework upon which any care is not presently available to all in this society and even to those who can avail themselves, the costs are prohibitive.

Hopefully, these matters will be met within the coming months, but in meeting these needs one must also realize that the sponsorship of basic research in the basic biological sciences is the foundation and the framework upon which any medical services are based. An excellent article on the notes of a biology watcher, "The Technology of Medicine," written by Lewis Thomas, M.D., and published in the New England Journal of Medicine, adds, I think, to any dialog of policymakers who will have some part in the allocation of resources at the governmental level. This excellent article was brought to my attention by Associate Professor Norman Reed of Montana State University.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Notes of a Biology-Watcher: The Technology of Medicine

(By Lewis Thomas, M.D.)

Technology assessment has become a routine exercise for the scientific enterprises on which the country is obliged to spend vast sums for its needs. Brainy committees are continually evaluating the effectiveness and cost of doing various things in space, defense, energy, transportation and the like, to give advice about prudent investments for the future.

Somehow medicine, for all the 60-odd billion dollars that it is said to cost the nation, has not yet come in for much of this analytical treatment. It seems taken for granted that the technology of medicine simply exists, take it or leave it, and the only major technologic problem in which policy-makers are interested is how to deliver today's kind of health care, with equity, to all the people.

When, as is bound to happen sooner or later, the analysts get around to the technology of medicine itself, they will have to face the problem of measuring the relative cost and effectiveness of all the things that are done in the management of disease. They make their living at this kind of thing, and I wish them well, but I imagine they will have a bewildering time. For one thing, our methods of managing diseases are constantly changing—partly under the influence of new bits of information brought in from all corners of biologic science. At the same time, a great many things are done that are not so closely related to science, some not related at all.

In fact, there are three quite different levels of technology in medicine, so unlike each other as to seem altogether different undertakings. Practitioners of medicine and the analysts will be in trouble if they are not kept separate.

1. First of all, there is a large body of what might be termed "nontechnology," impossible to measure in terms of its capacity to alter either the natural course of disease or its eventual outcome. A great deal of money is spent on this. It is valued highly by the professionals as well as the patients. It consists of what is sometimes called "supportive therapy." It tides patients over through diseases that are not, by and large, understood. It is what is meant by the phrases "caring for" and "standing by." It is indispensable. It is not, however, a technology in any real

sense, since it does not involve measures directed at the underlying mechanism of disease.

It includes the large part of any good doctor's time that is taken up with simply providing reassurance, explaining to patients who fear that they have contracted one or another lethal disease that they are, in fact, quite healthy.

It is what physicians used to be engaged in at the bedside of patients with diphtheria, meningitis, poliomyelitis, lobar pneumonia and all the rest of the infectious diseases that have since come under control.

It is what physicians must now do for patients with intractable cancer, severe rheumatoid arthritis, multiple sclerosis, stroke and advanced cirrhosis. One can think of at least 20 major diseases that require this kind of supportive medical care because of the absence of an effective technology. I would include a large amount of what is called mental disease, and most varieties of cancer, in this category

The cost of this nontechnology is very high, and getting higher all the time. It requires not only a great deal of time but also very hard effort and skill on the part of physicians; only the very best of doctors are good at coping with this kind of defeat. It also involves long periods of hospitalization, lots of nursing, lots of involvement of nonmedical professionals in and out of the hospital. It represents, in short, a substantial segment of today's expenditures for health.

2. At the next level up is a kind of technology best termed "halfway technology." This represents the kinds of things that must be done after the fact, in efforts to compensate for the incapacitating effects of certain diseases whose course one is unable to do very much about. It is a technology designed to make up for disease, or to postpone death.

The outstanding examples in recent years are the transplantations of hearts, kidneys, livers and other organs, and the equally spectacular inventions of artificial organs. In the public mind, this kind of technology has come to seem like the equivalent of the high technologies of the physical sciences. The media tend to present each new procedure as though it represented a breakthrough and therapeutic triumph, instead of the makeshift that it really is.

In fact, this level of technology is, by its nature, at the same time highly sophisticated and profoundly primitive. It is the kind of thing that one must continue to do until there is a genuine understanding of the mechanisms involved in disease. In chronic plomerulonephritis, for example, a much clearer insight will be needed into the events leading to the destruction of glomeruli by the immunologic reactants that now appear to govern this disease, before one will know how to intervene intelligently to prevent the process, or turn it round. But when this level of understanding has been reached, the technology of kidney replacement will not be much needed, and should no longer pose the huge problems of logistics, cost and ethics that it poses today.

An extremely complex and costly technology for the management of coronary heart disease has evolved, involving specialized ambulances and hospital units, all kinds of electronic gadgetry and whole platoons of new professional personnel, to deal with the end results of coronary thrombosis. Almost everything offered today for the treatment of heart disease is at this level of technology, with the transplanted and artificial hearts as ultimate examples. When enough has been learned to know what really goes wrong in heart disease, one ought to be in a position to figure out ways to prevent or reverse the process, and when this happens the current elaborate technology will probably be set to one side.

Much of what is done in the treatment of cancer, by surgery, irradiation and chemotherapy, represents halfway technology, in the sense that these measures are directed at the existence of already established cancer cells, but not at the mechanisms by which cells become neoplastic.

It is a characteristic of this kind of technology that it costs an enormous amount of money and requires a continuing expansion of hospital facilities. There is no end to the need for new, highly trained people to run the enterprise. And there is really no way out of this, at the present state of knowledge. If the installation of specialized coronary-care units can result in the extension of life for only a few patients with coronary disesase (and there is no question that this technology is effective in a few cases), it seems to me an inevitable fact of life that as many of these as can be will be put together, and as much money as can be found will be spent. I do not see that anyone has much choice in this. The only thing that can move medicine away from this level of technology is new information, and the only imaginable source of this information is research.

3. The third type of technology is the kind that is so effective that it seems to attract the least public notice; it has come to be taken for granted. This is the genuinely decisive technology of modern medicine, exemplified best by modern methods for immunization against diphtheria, pertussis and the childhood virus diseases, and the contemporary use of antibiotics and chemotherapy for bacterial infections. The capacity to deal effectively with syphilis and tuberculosis represents a milestone in human endeavor, even though full use of this potential has not yet been made. And there are, of course, other examples: the treatment of endocrinologic disorders with appropriate hormones, the prevention of hemolytic disease of the newborn, the treatment and prevention of various nutritional disorders, and perhaps just around the corner the management of Parkinsonism and sickle-cell anemia. There are other examples, and everyone will have his favorite candidates for the list, but the truth is that there are nothing like as many as the public has been led to believe.

The point to be made about this kind of technology—the real high technology of medicine—is that it comes as the result of a genuine understanding of disease mechanisms, and when it becomes available, it is relatively inexpensive, relatively simple, and relatively easy to deliver.

Offhand, I cannot think of any important human disease for which medicine possesses the capacity to prevent or cure outright where the cost of the technology is itself a major problem. The price is never as high as the cost of managing the same diseases during the earlier stages of no-technology or halfway technology. If a case of typhoid fever had to be managed today by the best methods of 1935, it would run to a staggering expense. At, say, around 50 days of hospitalization, requiring the most demanding kind of nursing care, with the obsessive concern for details of diet that characterized the therapy of that time, with daily laboratory monitoring and, on occasion, surgical intervention for abdominal catastrophe. I should think $10,000 would be a conservative estimate for the illness, as contrasted with today's cost of a bottle of chloramphenicol and a day or two of fever. The halfway technology that was evolving for poliomyelitis in the early 1950's, just before the emergence of the basic research that made the vaccine possible, provides another illustration of the point. Do you remember Sister Kenney, and the cost of these institutes for rehabilitation, with all those ceremonially applied hot fomentations, and the debates about whether the affected limbs should be totally immobilized or kept in passive motion as frequently as possible, and the masses of statistically tormented data mobilized to support one view or the other? It is the cost of that kind of technology, and its relative effectiveness, that must be compared with the cost and effectiveness of the vaccine.

Pulmonary tuberculosis had similar episodes in its history. There was a sudden enthusiasm for the surgical removal of infected lung tissue in the early 1950's, and elaborate plans were being made for new and expensive installations for major pulmonary surgery in tuberculosis hospitals, and then INH and streptomycin came along and the hospitals themselves were closed up.

It is when physicians are bogged down by their incomplete technologies, by the innumerable things they are obliged to do in medicine when they lack a clear understanding of disease mechanisms, that the deficiencies of the health-care system are most conspicuous. If I were a policy-maker, interested in saving money for health care over the long haul, I would regard it as an act of high prudence to give high priority to a lot more basic research in biologic science. This is the only way to get the full mileage that biology owes to the science of medicine, even though it seems, as used to be said in the days when the phrase still had some meaning, like asking for the moon.

HELICOPTER—BALLOON LOGGING

Mr. CHURCH. Mr. President, during the first session of this Congress the Subcommittee on Public Lands held a series of hearings on timber management on the public lands. Of particular concern to those who testified was the impact of logging on the environment of our national forests. Clearcutting and even selective logging often led to heavy erosion, to the pollution of forest streams with silt, and to the creation of harmful and unattractive access roads to the various timber sites.

Both the Forest Service and the timber industry have been searching for logging methods that would combine economy with a lessened impact on the environment. The advent of more powerful helicopters has offered the prospect of a new tool for logging. Also, balloon anchored cable systems that can lift logs from the site of growth to a loading area without building an extensive road system in a forest, suggest that we may be able to harvest mature, marketable timber by air.

Helicopters and balloons are now being used in the national forests of the Northwest. Logging companies in Oregon, Idaho, and Alaska are now using balloon systems. A Sikorsky S–64E Skycrane helicopter is being used in California today to determine whether this technique can be used on a wider scale.

This approach to logging deserves a careful trial.

I ask unanimous consent that an article on helicopter and balloon logging written by Mr. Robert Lindsey and published in the New York Times of February 11, 1972, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HELICOPTERS INVADING PAUL BUNYAN COUNTRY

(By Robert Lindsey)

MARYSVILLE, CALIF.—As the chop-chop sound of its whirling rotor reverberates softly over the treetops, a helicopter hovers above a steep mountainside that bristles with

Douglas fir trees 150 feet high. The pilot delicately threads a cable down through the trees.

Seconds later, the helicopter rises, lifting a freshly cut, seven-foot-thick log from the forest and carries it off.

In an innovation that has excited many loggers and Government foresters—but left environmentalists undecided whether it is good or bad—helicopters have begun to invade the Paul Bunyan country of California, Oregon and Washington.

Three companies have begun to use helicopters for logging within the last eight months. The United States Forest Service, after experimenting with the concept on a small scale last year, says it plans this fiscal year to sell 100 million board-feet of timber exclusively to helicopter loggers—all of it, the service says, on steep slopes or in remote areas either inaccessible to loggers using conventional techniques or in places where they would cause unacceptable scarring of forest lands.

"What a helicopter does is to get at timber that's been locked up," said Jack A. Erickson, a third-generation logger here whose grandfather used teams of oxen to bring timber from the wilderness. Mr. Erickson is gambling $1.5-million that helicopters are feasible for the job today.

His lumber company last month paid that much to buy a huge Sikorsky S-64E Skycrane. It is the largest helicopter ever purchased by a private company. Until now Skycranes have been used almost solely by the Army in Vietnam.

"You can fly in and get timber that you don't have any other way to reach, and you don't tear up the forest when you're at at," the 36-year-old logger said. "You don't have to build roads, you can cut trees selectively without clear-cutting [the practice of removing all trees in a given area] and you can get at small, isolated patches of timber."

GETTING TREES TO TRUCKS

Most loggers currently haul trees from the cutting site to a central yard—where they are loaded on trucks for shipment from the woods—by one of two methods: "cat logging," in which logs are dragged along the ground by a tractor or "high-lead logging," in which a portable, motorized cable-pulley system is constructed to drag the logs along the ground.

Both methods require cutting of an ugly corridor through the forest. Loggers in this country, Canada, the Soviet Union and Scandinavian countries have been interested since at least 1960 in utilizing helicopters to eliminate the need for slashing a path through the woods. But their efforts were frustrated until recently, largely because a sufficiently powerful helicopter was not available.

Most helicopters can lift no more than 1,000 or 2,000 pounds. Some can lift 7,000. The Skycrane—which has been used extensively for lifting up and ferrying crashed fighter jets in Vietnam—can lift 20,000 pounds, the equivalent of a Douglas fir log nine feet long and more than seven feet wide. American experts believe that Soviet foresters probably are also testing recently developed heavy-lift copters for logging.

Rex Resler, a Forest Service official in Portland, Ore., who is responsible for administering national forests in Oregon and Washington, said trial runs last year involving Mr. Erickson and the Skycrane "left no doubt about the physical practicability of using the helicopter."

"It does on excellent job," he said, "but it's a high-cost system. Whether it is going to be economically feasible, we really don't know yet."

In the helicopter operation, a tree is felled and trimmed with chain saws in the conventional fashion, and a "choker" cable is looped around it. Loggers then hook the choker line to the helicopter cable, and the log is flown to the truck-loading zone.

"It's just a matter of going back and forth like a yo-yo," Mr. Erickson said.

Logging by helicopter is vastly more costly than ordinary methods. One Government specialist estimated the cost of transporting 1,000 board-feet of lumber to a truck-loading Skycrane at $60, compared with a range of $7 to $12 for conventional methods. A board-foot is a unit of lumber measurement equivalent to a board 1 inch thick, 12 inches wide and 12 inches long.

About 25 per cent of the nation's timber resources are on public lands. Timber from national forests is sold for harvesting to private logging companies, such as Mr. Erickson's. This fiscal year, the permitted cut from the forests is estimated to be approximately 13 billion board feet. In California, Washington and Oregon, the total is 6.6 billion.

LOWER RATES PLANNED

The Forest Service says that because helicopters promise to harvest timber that otherwise would be unavailable—and thus theoretically provide a net-increase in the nation's total lumber output—it plans to sell timber to copter-loggers at rates much less than to those using conventional methods. However, Mr. Resler said, the total end cost of harvesting should end up about the same as it is with conventional means.

Douglas fir timber cut during the experimental operations last year was sold for $3 to $12 a board foot: loggers normally would pay $30 to $35.

Helicopter logging is so new, and still on such a comparatively small scale, that environmental groups have yet to take a position on it. Gordon Robinson, staff forester of the Sierra Club, said, "I'm skeptical about it."

He said the helicopters were a welcome innovation if used to reduce clear-cutting and the cutting of ugly swaths through the forest and to minimize soil erosion.

"But if it's just another plot by the Forest Service and the industry to increase [the annual permitted timber cut in national forests], I object very strongly to it," he said. Mr. Resler denied that this is the intent.

Two recent developments promise to spur the new technology:

The Nixon Administration last month announced plans to accelerate development, for the Pentagon, of two super-heavy-lift helicopters that it said could be used in aerial logging and heavy construction. One is to be capable of lifting 34,000 pounds; the other, 45,000 pounds.

Senator Henry M. Jackson, Democrat of Washington, has introduced legislation to establish a five-year, $48 million Forest Service research program to explore potential merits of helicopter logging, as well as use of balloons and an aerial high-lead logging technique called "skyline" logging.

Three logging companies, in Oregon, Idaho and Alaska, are already using balloons. They are tethered up to 5,000 feet above a forest being logged to form a triangular cable-lift system, with the balloon at the apex. Logs are lifted up by the cable and dropped in a truck-loading zone. This method is considerably cheaper than helicopter logging, but less flexible.

In the skyline system, a sort of aerial tramway is built above the treetops to move freshly cut trees without the need for cutting a corridor. This method is already being used in parts of the Northwest.

There is considerable skepticism among professional loggers and people knowledgeable about aviation that helicopters can stand up to the rugged, day-after-day operations of logging at anywhere near an acceptable cost. But Mr. Erickson thinks they can.

"In a way, you have to be a gambler at heart in this business," said Mr. Erickson, a helicopter pilot himself. "Logging is a business where you can be up one year and have a terrible year the next. You've got to take risks and gamble when you think you're right."

PRESIDENT FOCUSES ATTENTION ON LEAD-BASED PAINT POISONING

Mr. SCHWEIKER. Mr. President, in his recent message on the protection of the environment, the President calls to the attention of the Nation a very serious problem which has been afflicting thousands of children in the country. The President cites the hazard to children of lead-based paint poisoning which can result from the ingestion by small children of paint chips and particles of such paint. Repeated ingestion of these lead-painted substances can lead to mental retardation, cerebral palsy, optic atrophy, and impairment of intellectual ability. Tragically, this disease is the cause of death for nearly 200 children a year, and results in the serious illness of another 400,000 children each year, many of them suffering irreparable brain damage.

In addressing the serious nature of the lead-based paint poisoning problem, the President states in his message on the environment that—

> We can and must prevent unnecessary loss of life and health from this hazard, which particularly afflicts the poorest segments of our population.

The President is to be commended for his attention to this vital issue and for his determination to terminate the tragic disease of childhood lead poisoning. Programs to treat and eliminate this disease are being conducted by the Department of Health, Education, and Welfare and the Department of Housing and Urban Development. ACTION and other volunteer groups will assist city governments to help to alleviate lead-paint hazards.

As ranking minority member of the Health Subcommittee, I have long been interested in the potentially dangerous effect of lead on the human body. In 1970 I introduced S. 3941, a bill to provide civil penalties for the use of lead-based paint in certain dwellings. In addition, I strongly supported the Lead-Based Paint Poisoning Prevention Act which President Nixon signed into law last year. Also, I recently joined with Senator KENNEDY in introducing a bill to give this program continuing status.

Therefore, I am very much pleased that the President has added the strength of his leadership to the fight against lead-based paint poisoning. The eradication of lead-based paint poisoning will be greatly speeded by the new priority and the attention which this tragic disease has received from the President.

ANNOUNCEMENT OF POSITION ON VOTES

Mr. HUGHES. Mr. President, on February 4, while I was necessarily absent, the Senate voted on three amendments offered by the Senator from Arkansas (Mr. FULBRIGHT) to the foreign aid appropriations bill. If I had been present, I would have voted "nay" on rollcall 33 (Leg.), "yea" on rollcall 34 (Leg.), and "nay" on rollcall 35 (Leg.). I ask that the permanent RECORD reflect my position.

A NEW APPROACH TO SCHOOL FINANCE

Mr. McGOVERN. Mr. President, reliance on the property tax as the main source of support for elementary and secondary education has forced the Nation's schools into a deepening financial crisis.

At the same time the absence of an alternative source of school finance seems to perpetuate economic inequity. It widens the gap between the poor and the privileged in our society. For millions of American children it stands as an insurmountable barrier to escape from poverty and despair.

Quality education must be placed near the top of any listing of national priorities. We depend on it to assure economic growth. It is a central factor in efforts to eradicate poverty and hunger. It is a powerful method of achieving and preserving our commitment to human dignity.

Yet to date, and especially during the past 3 years, public education has been among the concerns most seriously neglected by the National Government.

EMERGENCY IN SCHOOL FINANCE

A survey of the country's 103 largest school systems last September suggested the dimensions of the problem confronting elementary and secondary education in the United States.

It was disclosed that 41 of those systems were forced to roll back their programs for want of operating funds. Twenty-three had to eliminate teaching positions, notwithstanding higher enrollments, and others reported a job freeze. At least five have gone to shortened school years. Two cities were forced to close for portions of the school year.

Smaller school systems throughout the country are in equally grave circumstances. Services are being sharply curtailed. School libraries are being closed. Instruction in music and art is being eliminated, and the variety of academic courses is being narrowed. Experimental programs are sharply reduced or ended. And the outlook for next year is worse.

Meanwhile many communities have simply reached the end of the line on property tax levies. Dayton and Portland are two prominent examples of cities in which voters have repeatedly turned down bond issues or rejected new school taxes. In California 30 school districts went bankrupt last year, and 60 percent of proposed tax hikes on bond issues were defeated. Nationwide the rate of school bond rejection has risen from 11 percent in 1960, up to 33 percent in 1964, and to 52 percent in 1970.

INHERENT UNFAIRNESS

It is wholly improper to blame this sad state of affairs on the people who must bear the property tax burden.

They are, for want of other sources of funds, stuck with a system which places the heaviest load on those who can least afford to pay it. Families with incomes under $2,000 pay, in proportion to their earnings, roughly three times as much as families earning more than $15,000. There is no more regressive form of tax.

Voters who reject higher property levies know that the system is laced with favoritism and loopholes. Virtually every taxpayer can point to someone else who gets a better break when the tax value of property is assessed. And industry—as in the case with United States Steel in Gary, Ind., and coal companies in Kentucky—often assesses its own property, and sets it at ludicrously low levels. These large firms escape literally billions of dollars each year through this and other methods of avoiding their fair share of the tax load.

Federal tax policies complicate the situation still further. Some 20 States provide, for example, that industrial machinery and other non-real-estate industrial property is assessed at the same level as reported to the Internal Revenue Service. This means, to begin with, that a great deal of productive property escapes taxation entirely, after it has been depreciated. It means, further, that the decision to allow accelerated depreciation last year allows that to happen much more rapidly. The administration's $3 to $4 billion annual gift to big industry has brought with it an irretrievable property tax loss to many of the communities where those industries are located—and a heavier tax load to the homeowners, small businessmen, and farmers who are already stooping from the burden.

The refusal of taxpayers to accept higher rates under such a system deprives schoolchildren of hope and opportunity. But high property taxes crush hopes and opportunities as well. They destroy the security of retirees who find that they cannot afford to keep their own homes because taxes are too high. They render it impossible for small businessmen to ride out poor economic conditions, because the tax bill keeps going up regardless of whether money is coming into the till. Instances of this kind prove that students and taxpayers alike are victims of the system.

UNEQUAL OPPORTUNITY

The property tax structure is clearly regressive and unfair when it is paid. Those same descriptions apply when the revenues are spent on education, because of wide disparities in the tax base among school districts.

We pay a great deal of lipservice to equality of opportunity. The American people are probably unanimous in believing that regardless of the wealth or position into which he is born, each child should have an equal chance at achieving economic and social progress.

Access to learning is a flat precondition to opportunities of that kind. It is one that is becoming increasingly important as society demands an expanding amount of knowledge and skill for most occupations. Yet under the present system of school finance, every child's chance to quality education is dependent not upon his own initiative and energy, but upon whether he had the good sense to be born in a wealthy school district.

The California Supreme Court's landmark Serrano against Priest decision last August affirmed that such inequality is an inevitable condition of reliance on property taxes as they are usually administered. The court pointed out that—

> Affluent districts can have their cake and eat it too; they can provide a high quality education for their children while paying lower taxes. Poor districts, by contrast, have no cake at all.

To cite just a few examples, Beverly Hills, Calif., has a teacher-pupil ratio of 17 to 1; for Los Angeles as a whole the ratio is 27 to 1. Within the State of California, per-pupil expenditures ranged from a low of $569 to a high of 2,414. The nationwide per-pupil expenditure in 1969–70 averaged $773, ranging from a high of $1,250 in New York State down to only $461 in Alabama.

The exodus of population from central cities to suburbs has created special pressure. The cities are left with some of the most severe educational problems, requiring comparatively greater expenditures per pupil, but with depleted capacity to pay. Nationwide, per capita taxes are almost 30 percent higher in central cities, yet revenues available for education are some 25 percent lower. Central city per capita incomes lag $1,500 to $2,000 behind incomes in the suburbs, but they are nonetheless forced to bear a bigger tax load.

In sum, the forced heavy reliance on local property taxes for public education simply does not permit equal educational opportunities. Instead it demands that millions of young Americans remain locked in the conditions of poverty into which they were born.

RECOMMENDED PROGRAM

While the tie between property taxes and public education may have made sense at its inception, it is an anachronism today when the population is highly mobile and when quality education is so plainly a national concern. Further, the signs are clear that that goal simply cannot be achieved without a vastly enlarged Federal contribution.

Present Federal support for education is allocated to specific supplementary programs—compensatory education, aid to handicapped, bilingual education, and others—and is not available for regular operating expenses. Moreover the quantity of Federal aid has been shrinking in proportion to school costs—down from 8 percent in 1968–69 to less than 7 percent in 1971. While all existing provisions—and the authorized funding levels as yet unmet—retain urgent importance, they do not constitute an adequate response either to the size and unfairness of the property tax load or to the quest for equal, high quality education.

Therefore, in addition to existing special purpose and compensatory aid, the United States should undertake a greatly expanded national program for elementary and secondary education with the following major elements.

First, the Federal Government should supply at least one-third of the total costs of public elementary and secondary education. Based on current expenditures that would amount to about $15 billion per year. To achieve reasonable improvements in educational quality, it should reach $24 billion by 1976.

Second, three-fourths of the funds committed under this program should be allocated to the States on the basis of educational need—including numbers of students in average daily attendance, and special conditions which increase per pupil costs—and the capability to raise revenue for education within the State.

Third, the remaining one-fourth should be allocated among the States under an incentive program designed to achieve fair administration of the State and local tax structure. Funds would be used to encourage such steps as publication of property valuations, uniform statewide property assessments, simplified procedures for citizen action to assure equitable tax enforcement, and the elimination of special tax privileges, in line with earlier recommendations on revenue sharing.

Fourth, the funds allocated to each State would be distributed under a formula designed to equalize educational opportunity by achieving minimum standards of educational quality in all school districts from the combination of Federal funds, State aid, and uniform local school tax effort.

Federal support for education on this scale, along with the recommended commitment to equal educational opportunity, can guarantee relief from oppressive property tax burdens in the context of general improvements in the educational system. Further, it provides a hopeful answer to concerns about such issues as busing to achieve school integration, by assuring that no one need be deprived of quality education as a result of such procedures.

Operating money is not, of course, the only difficulty facing the Nation's schools, or the single responsibility of the Federal Government in this sphere. Other important national objectives remain unfulfilled, in such areas as school integration, early childhood education, education of the handicapped, modern vocational programs, adult education, bilingual programs, teacher training, and research of new teaching methods.

To pursue these objectives most efficiently, education deserves a more prominent place in the structure of the Federal Government. Currently there are dozens of Federal education programs scattered throughout the Federal Government. Both considerations suggest the establishment of a cabinet-level Department of Education.

ERVIN STATEMENT ON THE EQUAL RIGHTS AMENDMENT

Mr. ERVIN. Mr. President, soon the Senate will be considering the equal rights for women amendment. I hope that the entire Senate is aware of what the amendment means—that is, no State or Federal law, no matter how reasonable, will be constitutional if it treats men and women differently. This means that there can be no legal presumption in favor of women in child support, child custody, and alimony cases. Our State laws which favor women in inheritance matters and all State protective labor legislation will be voided. Women will have to be drafted and serve in combat with men.

Mr. President, there are countless other laws which the amendment will negate. We all believe in equal rights for women, but the recent Supreme Court case of Reed against Reed indicates that the Court will strike down all unreasonable laws that distinguish between men and women. I agree with Prof. Paul Freund of the Harvard Law School when he said, in effect, that the energy and dedication of the proponents of the equal rights for women amendment should be spent bringing cases under the 14th amendment and under title VII of the Civil Rights Act of 1964.

Mr. President, I discussed the above points in great detail in a statement which I made before the House Judiciary Committee on March 23, 1971. I sincerely hope Members of the Senate will be able to read my statement before voting on this important matter. I ask unanimous consent that my statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE EQUAL RIGHTS AMENDMENT: AN ATOMIC MOUSETRAP

Mr. ERVIN. Mr. Chairman, the objective of those who advocate the adoption of the equal rights amendments S.J. Res. 8 and 9 and H.J. Res. 208 is a worthy one. It is to abolish unfair discriminations which society makes against women in certain areas of life. No one believes more strongly than I that discriminations of this character ought to be abolished and that they ought to be abolished by law in every case where they are created by law.

Any rational consideration of the advisability of adopting the Equal Rights Amendment raises these questions:

1. What is the character of the unfair discriminations which society makes against women?

2. Does it require an amendment to the Constitution of the United States to invalidate them?

3. If so, would the Equal Rights Amendment constitute an effective means to that end?

It is the better part of wisdom to recognize that discriminations not created by law cannot be abolished by law. They must be abolished by changed attitudes in the society which imposes them.

From the many conversations I have had with advocates of the Equal Rights Amendment since coming to the Senate, I am convinced that many of their just grievances are founded upon discriminations not created by law, and that for this reason the Equal Rights Amendment will have no effect whatsoever in respect to them.

UNFAIR EMPLOYMENT DISCRIMINATION

When I sought to ascertain from them the specific laws of which they complain, the advocates of the Equal Rights Amendment have cited certain state statutes, such as those which impose weight-lifting restrictions on women, or bar women from operating saloons, or acting as bartenders, or engaging in professional wrestling. Like them, I think these laws ought to be abolished. I respectfully submit, however, that resorting to an amendment to the Constitution to effect this purpose is about as wise as using an atomic bomb to exterminate a few mice.

From the information given me by many advocates of the Equal Rights Amendment and from my study of the discriminations which society makes against women, I am convinced that most of the unfair discriminations against them arise out of the different treatment given me and women in the employment sphere. No one can gainsay the fact that women suffer many discriminations in this sphere, both in respect to the compensation they receive and the promotional opportunities available to them. Some of these discriminations arise out of law and others arise out of an absence of law.

Let me point out that Congress has done much in recent years to abolish discriminations of this character insofar as they can be abolished at the federal level. It has amended the Fair Labor Standards Act to make it obligatory for employers to pay men and women engaged in interstate commerce or in the production of goods for interstate commerce equal pay for equal work, irrespective of the number of persons they employ.

Congress has also decreed by the equal employment provisions in Title VII of the Civil Rights Act of 1964 that there can be no discrimination whatever against women in employment in industries employing 25 or more persons, whose business affects interstate commerce, except in those instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of the enterprise. Furthermore, it is to be noted that the President and virtually all of the departments and agencies of the Federal Government have issued orders prohibiting discrimination against women in federal employment.

Moreover, State Legislatures have adopted many enlightened statutes in recent years prohibiting discrimination against women in employment.

If women are not enjoying the full benefit of this federal and state legislation and these executive orders of the Federal Government, it is due to a defect in enforcement rather than a want of fair laws and regulations.

EQUAL RIGHTS AMENDMENT UNNECESSARY BECAUSE OF THE 14TH AMENDMENT

A good case can be made for the proposition that it is not necessary to resort to a constitutional amendment to abolish state laws which make unfair discriminations between men and women in employment or any other sphere of life. This argument rests upon the Equal Protection Clause of the Fourteenth Amendment which prohibits states from treating differently persons similarly situated, and is now being interpreted by the courts to invalidate state laws which single out women for different treatment not based on some reasonable classification.

To be sure, the Equal Protection Clause may not satisfy the extreme demands of a few advocates of the Equal Rights Amendment who would convert men and women into beings not only equal but alike, and grant them identical rights and impose upon them identical duties in all the relationships and undertakings of life.

It cannot be gainsaid, however, that the Equal Protection Clause, properly interpreted, nullifies every state law lacking a rational basis which seeks to make rights and responsibilities turn upon sex.

My view is shared by legal scholars. Their views on this subject are succinctly expressed by Bernard Schwartz in his recent commentary on the Constitution of the United States which declares "that a law based upon sexual classification will normally be deemed inherently unreasonable unless it is intended for the protection of the female sex."

Mr. Chairman, I would like to have the sections on sex in Mr. Schwartz's book, *Rights of the Person,* printed at this point in my statement.

RECENT DEVELOPMENTS IN THE LAW

I firmly believe that recent case law illustrates very dramatically a statement made by Professor Freund last year. He said:

"It seems to me, incidentally, if the energy and dedication that have gone into the movement for the equal rights amendment over the past 40-odd years had been devoted to the selection and the sponsorship of test cases with respect to some of the unjust State laws that we have heard about this morning, a great deal more accomplishment could be shown with respect to the advancement of equal rights than we can boast of today."

Proponents of the equal rights amendment have frequently cited what they believe to be hesitance on the part of courts to deal with inequalities facing women. The Supreme

Court particularly has received criticism on this score.

Yet this term the Supreme Court has accepted on appeal a number of cases relating to sex discrimination. The Court will hear cases regarding the validity of an Idaho law preferring men over women as administrators of estates and an Illinois law making a distinction between mothers and fathers of illegitimate children in custody cases. *Reed* v. *Reed,* 465 P. 2d 635 (Idaho 1970); *In re* Stanley, 256 N. E. 2d 814 (Ill. 1970). In addition, a case involving the question of exclusion of women from grand juries in Louisiana will be heard. *State* v. *Alexander,* 233 So. 2d 891 (La. 1970).

The Court has already reached a decision this term in a landmark case arising under Title VII of the Civil Rights Act of 1964. In January of this year the Court reversed a Court of Appeals decision in *Phillips* v. *Martin-Marietta Corp.* which had permitted a corporation to distinguish between women with pre-school age children and men with pre-school age children in hiring. No. 73, L.W. 4160 (Jan. 26, 1971).

I think it is very obvious that the Supreme Court is not ignoring the issue of discrimination against women. Certainly the lower courts are tackling the question, and usually deciding in favor of women's equality. Numerous state labor laws have been found void as being in conflict with Title VII's mandate for equal employment opportunity.

For instance, a federal district court has held a California statute prohibiting a female employee from lifting any object weighing 50 pounds or more as in conflict with Title VII and, therefore, void. *Local 246, Utility Workers Union of America, AFL–CIO* v. *Southern California Edison Co.,* No. 69–453–DWW (C.D. Cal. 1970). Illinois hours limitations for working women have fallen. *Caterpillar Tractor Co.* v. *Grabiec,* 317 F. Supp. 1304 (1970). And an Ohio weight-lifting statute has been held invalid. *Jones Metal Products Co.* v. *Walker,* 39 L. W. 2321 (1970).

In other areas of sex discrimination women have made gains. Many of the long-accepted prohibitions and segregations are being removed. An example is a typical prohibition against female bartenders struck down by the New Jersey Supreme Court last year. *Paterson Tavern & Grill Owners Assn., Inc.* v. *Borough of Hawthorne,* 39 L. W. 2296 (1970).

The Justice Department has taken action to aid women in fighting discrimination. In an important suit against Libbey-Owens-Ford, the Attorney General won a decree giving women opportunity to achieve promotions and advancement on the same basis as male employees.

These events are not typical of a society which does not care to eliminate discrimination. Nor are they characteristic of a judicial system determined to maintain the status quo.

FUNCTIONAL DIFFERENCES BETWEEN MEN AND WOMEN

While I believe that any unfair discriminations which the law has created against women should be abolished by law, I have the abiding conviction that the law should make such distinctions between them as are reasonably necessary for the protection of women and the existence and development of the race.

I share completely this recent observation by Mr. Bernard Swartz: "Use of the law in an attempt to conjure away all the differences which do exist between the sexes is both an insult to the law itself and a complete disregard of fact."

Let us consider for a moment whether there be a rational basis for reasonable distinctions between men and women in any of the relationships or undertakings of life.

When He created them, God made physiological and functional differences between men and women. These differences confer upon men a greater capacity to perform arduous and hazardous physical tasks. Some wise people even profess the belief that there may be psychological differences between men and women. To justify their belief, they assert that women possess an intuitive power to distinguish between wisdom and folly, good and evil.

To say these things is not to imply that either sex is superior to the other. It is simply to state the all important truth that men and women complement each other in the relationships and undertakings on which the existence and development of the race depend.

The physiological and functional differences between men and women empower men to beget and women to bear children, who enter life in a state of utter helplessness and ignorance, and who must receive nurture, care, and training at the hands of adults throughout their early years if they and the race are to survive, and if they are to grow mentally and spiritually. From time whereof the memory of mankind runneth not to the contrary, custom and law have imposed upon men the primary responsibility for providing a habitation and a livelihood for their wives and children to enable their wives to make the habitations homes, and to furnish nurture, care, and training to their children during their early years.

In this respect, custom and law reflect the wisdom embodied in the ancient Yiddish proverb that God could not be everywhere, so he made mothers. The physiological and functional differences between men and women constitute the most important reality. Without them human life could not exist.

For this reason, any country which ignores these differences when it fashions its institutions and makes its laws is woefully lacking in rationality.

Our country has not thus far committed this grievous error. As a consequence, it has established by law the institutions of marriage, the home, and the family, and has adopted some laws making some rational distinctions between the respective rights and responsibilities of men and women to make these institutions contribute to the existence and advancement of the race.

It may be that times are changing and more and more women will leave the home to compete in the business and professional community. However, I would like to call the Committee's attention to the remarks of Professor Phil Kurland of the University of Chicago Law School on this point. He said:

"Times have changed in such a way that it may well be possible for the generation of women now coming to maturity, who had all the opportunities for education afforded to their male peers and who had an expectation of opportunities to put education to the same use as their male peers, to succeed in a competitive society in which all differences in legal rights between men and women were wiped out. There remains a very large part of the female population on whom the imposition of such a constitutional standard would be disastrous. There is no doubt that society permitted these women to come to maturity not as competitors with males but rather as the bearers and raisers of their children and the keepers of their homes. There are a multitude of women who still find fulfillment in this role. In the eyes of some, this may be unfortunate, but it is true. It can boast no label of equality now to treat the older generations as if they were their own children or grandchildren. Certainly the desire to open opportunities to some need not be bought at the price of removal of legal protections from others."

OBSCURITY OF THE EQUAL RIGHTS AMENDMENTS, S.J. RES. 8 AND 9 AND H.J. RES. 208

In the nature of things, lawmakers use words to express their purposes. Courts must ascertain from their words the purposes of the lawmakers. In his famous opinion in *Towne v. Eisner,* 245 U.S. 418, 425, Justice Oliver Wendell Holmes made this trenchant observation: "A word is not a crystal, transparent and unchanged; it is the skin of a living thought and may vary greatly in color and content according to the circumstances and the time in which it is used."

During my many years as a lawyer, a judge, and a legislator, I have discovered that many words have many meanings, and that the purpose they are intended to express must be gathered from the context in which they are used. I have also learned that the most difficult task which ever confronts a court is determining the meaning of imprecise words used in a scrimpy context.

Professor Philip Kurland of the Chicago Law School and the Editor of the Supreme Court Review had this problem with the meaning of the word "equality" in the proposed amendment. At the Senate Judiciary Committee hearings last September, he said:

"It is suggested that the proposed amendment seeks not equality of the two sexes before the law but identify of them. And surely the elimination of differences between men and women cannot be obliterated by constitutional fiat. And so far as I know, the current state of knowledge of the biological sciences is not yet adequate to bring this about as a fact. But once more we are thrown back to the question of the meaning.

"It is evident that the language of the proposed amendment is itself too barren to provide sure answers to these objections. It simply provides that: 'Equality of rights under law shall not be denied or abridged by the United States or by any State on account of sex.' I think the difficulty here is not in the construction of the word sex but rather from the use of the word equality.

"It was almost a century ago that Sir James Fitzjames Stephen, in his book, *Liberty, Equality, and Fraternity,* asserted that ' "equality" is a word so wide and vague as to be by itself almost unmeaning.' I submit that nothing that has happened in the intervening years has done anything to make it more specific."

Also, I believe that the word "sex" is imprecise in exact meaning, and no proposed constitutional amendment ever drafted exceeds the Equal Rights Amendment in scrimpiness of context. The amendment contains no language to elucidate its meaning to legislators or to guide courts in interpreting it. When all is said, the Equal Rights Amendment, if adopted, will place upon the Supreme Court the obligation to sail upon most tumultuous constitutional seas without chart or compass in quest of an undefined and unknown port.

The imprecision of the word "sex" as used in the proposed amendment is clearly revealed by these definitions set forth in the recently published "American Heritage Dictionary of the English Language":

"1.a. The property or quality by which organisms are classified according to their reproductive functions. b. Either of two divisions, designated male and female, of this classification. 2. Males or females collectively. 3. The condition or character of being male or female; the physiological, functional, and psychological differences that distinguish the male and the female. 4. The sexual urge or instinct as it manifests itself in behavior. 5. Sexual intercourse."

When one undertakes to ascertain the obscure meaning of the ambiguous Equal Rights Amendment in an impartial, intellectual, and unemotional manner, he is inevitably impelled to the conclusion that it is susceptible of several different and discordant interpretations.

If it should accept the fourth and fifth defintions of the term "sex" as set forth in the dictionary, the Supreme Court could reach the conclusion that the Equal Rights Amendment merely annuls existing and future laws visiting upon the adulterous acts of women different legal consequences from those it visits upon such acts of men.

If it should accept the first, fourth, and fifth definitions of "sex" as set forth in the dictionary, the Supreme Court could reach the conclusion that the amendment is only concerned with sex per se, and has no application whatever to legal distinction made between men and women on the basis of their respective functions in the relationships and undertakings on which the existence and development of the race depend.

If it should accept the third definition of "sex" as set out in the dictionary, the Supreme Court could reach the conclusion that the Equal Rights Amendment annuls every existing Federal and state law making any distinction between men and women however reasonable such distinction might be in particular cases, and forever robs the Congress and the legislatures of the fifty states of the constitutional power to enact any such laws at any time in the future.

This is the interpretation which I fear the Supreme Court may feel itself obliged to place upon the Equal Rights Amendment. I am not alone in entertaining this fear.

When the so-called Equal Rights Amendment was under consideration in 1953, Roscoe Pound of the Harvard Law School and other outstanding scholars joined one of America's greatest legal scholars, Paul A. Freund of the Harvard Law School, in a statement opposing the Equal Rights Amendment upon the ground that they feared that this devastating interpretation might be placed upon it if it should be adopted. This statement made these indisputable observations:

"If anything about this proposed amendment is clear, it is that it would transform every provision of law concerning women into a constitutional issue to be ultimately resolved by the Supreme Court of the United States. Every statutory and common law provision dealing with the manifold relation of women in society would be forced to run the gauntlet of attack on constitutional grounds. The range of such potential litigation is too great to be readily foreseen, but it would certainly embrace such diverse legal provisions as those relating to a widow's allowance, the obligation of family support and grounds for divorce, the age of majority and the right of annulment of marriages, and the maximum hours of labor for women in protected industries.

"Not only is the range of the amendment of indefinite extent, but, even more important, the fate of all this varied legislation would be left highly uncertain in the face of judicial review. Presumably, the amendment would set up a constitutional yardstick of absolute equality between men and women in all legal relationships. A more flexible view, permitting reasonable differentiation, can hardly be regarded as the object of the proposal, since the Fourteenth Amendment has long provided that no state shall deny to any person the equal protection of the laws, and that Amendment permits reasonable classifications while prohibiting arbitrary legal discrimination. If it were intended to give the courts the authority to pass upon the propriety of distinctions, benefits and duties as between men and women, no new guidance is given to the courts, and this entire subject, one of unusual complexity, would be left to the unpredictable judgments of courts in the form of constitution decisions.

"Such decisions could not be changed by act of the legislature. Such a responsibility upon the courts would be doubtless as unwelcome to them as it would be inappropriate. As has been stated, however, the proposal evidently contemplates no flexibility in construction but rather a rule of rigid equality. This branch of the dilemma is as repelling as the other."

After analyzing in some detail the laws whose validity might be jeopardized by the Equal Rights Amendment, the statement concluded with these observations:

"The basic fallacy in the proposed Amendment is that it attempts to deal with complicated and highly concrete problems arising out of a diversity of human relationships in terms of a single and simple abstraction. This abstraction is undoubtedly a worthy ideal for mobilizing legislative forces in order to remedy particular deficiencies in the law. But as a constitutional standard, it is hopelessly inept. That the proposed equal rights amendment would open up an era of regrettable consequences for the legal status of women in this country is highly probable. That it would open up a period of extreme confusion in constitutional law is a certainty."

Appearing before the Senate Judiciary Committee hearings in September, 1970, it was obvious that Professor Freund has the same view today of the proposed amendment. In a colloquy with me, Professor Freund had the following to say:

"Senator Ervin. I also interpret your statement and what you have said to indicate a conviction on your part that there is grave danger that the courts will interpret the House-passed equal rights amendment, if it is ratified by the requisite number of States, as depriving Congress of the powers it now has under the equal protection clause to adopt legislation which is for the benefit of women?

"Mr. Freund. Yes. I think that is quite right because there must be intended some more absolute standard of equality than the equal protection clause embodies. That would be the point of the amendment.

"Senator Ervin. The equal protection clause authorizes Congress to adopt legislation which is reasonably designed to protect women and at the same time to adopt legislation which outlaws discrimination against women by law, does it not?

"Mr. Freund. That is right.

"Senator Ervin. And if the House-passed equal rights amendment were ratified by the States, thus made a part of the Constitution, it is susceptible of interpretation that it would require the courts to strike down all legal distinctions made between men and women, no matter how reasonable and necessary those distinctions might be?

"Mr. Freund. That is my understanding of what the language as well as the purpose of the sponsors is today."

Professor Philip Kurland of the Chicago Law School also arrived at the same conclusion as Professor Freund. He said:

"Professor Kurland. I would think that the amendment as it is now simply provides that classification by sex by any governmental action is invalid.

"Senator Ervin. In other words, your interpretation of the amendment as presently phrased is that it would be probably interpreted to eliminate sex as a basis for classification in legislation?

"Professor Kurland. If I were charged with the interpretation of the language, that would be the conclusion that I would reach.

"Senator Ervin. If that interpretation would be correct, the law which exists in North Carolina and virtually every other State of the Union which requires separate restrooms for boys and girls in public schools would be nullified, would it not?

"Professor Kurland. That is right, unless the separate but equal doctrine is revived."

THE DESTRUCTIVE POTENTIALITY OF THE HOUSE-PASSED EQUAL RIGHTS AMENDMENT

Time and space preclude me from an attempt to picture in detail the constitutional and legal chaos which would prevail in our country if the Supreme Court should feel itself compelled to place upon the Equal Rights Amendment the devastating interpretation feared by these legal scholars.

For this reason, I must content myself with merely suggesting some of the terrifying consequences of such an interpretation.

The Congress and the legislatures of the various states have enacted certain laws based upon the conviction that the physiological and functional differences between men and women make it advisable to exempt or exclude women from certain arduous and hazardous activities in order to protect their health and safety.

Among federal laws of this nature are the Selective Service Act, which confines compulsory military service to men; the acts of Congress governing the voluntary enlistments in the armed forces of the nation which restrict the right to enlist for combat service to men; and the acts establishing and governing the various service academies which provide for the admission and training of men only.

Among the state laws of this kind are laws which limit hours during which women can work, and bar them from engaging in occupations particularly arduous and hazardous such as mining.

If the Equal Rights Amendment should be interpreted by the Supreme Court to forbid any legal distinctions between men and women, all existing and future laws of this nature would be nullified.

The common law and statutory law of the various states recognize the reality that many women are homemakers and mothers, and by reason of the duties imposed upon them in these capacities, are largely precluded from pursuing gainful occupations or making any provision for their financial securtiy during their declining years. To enable women to do these things and thereby make the existence and development of the race possible, these state laws impose upon husbands the primary responsibility to provide homes and livelihoods for their wives and children, and make them criminally responsible to society and civilly responsible to their wives if they fail to perform this primary responsibility. Moreover, these state laws secure to wives dower and other rights in the property left by their husbands in the event their husbands predecease them in order that they may have some means of support in their declining years.

If the Equal Rights Amendment should be interpreted by the Supreme Court to forbid any legal distinctions between men and women, it would nullify all existing and all future laws of this kind.

There are laws in many states which undertake to better the economic position of women. I shall cite only one class of them, namely, the laws which secure to women minimum wages in many employments in many states which have no minimum wage laws for men, and no other laws relating to the earnings of women.

If the Equal Rights Amendment should be interpreted by the Supreme Court to prohibit any legal distinctions between men and women, it would nullify all existing and future laws of this kind.

In addition there are federal and State laws and regulations which are designed to protect the privacy of males and females. Among these laws are laws requiring separate restrooms for men and women in public buildings, laws requiring separate restrooms for boys and girls in public schools, and laws requiring the segregation of male and female prisoners in jails and penal institutions.

Moreover, there are some state laws which provide that specified institutions of learning shall be operated for men and other institutions of learning shall be operated for women.

If the Equal Rights Amendment should be interpreted by the Supreme Court to forbid legal distinctions between men and women, it would annul all existing laws of this nature, and rob Congress and the states of the constitutional power to enact any similar laws at any time in the future.

I do not believe that the advocates of the Equal Rights Amendment wish to nullify laws which are adopted for the protection of women and for the promotion of the highest interest of society. Moreover, I am unwilling to attribute any such motive to those who sponsored the amendment last year. I attribute to all of them the laudable desire of abolishing unfair discriminations against women without destroying laws reasonably designed to protect them, and without robbing Congress and the legislatures of the fifty states of the power to enact similar laws in the future.

MY AMENDMENT

This brings us to the questions whether Congress should consider the submission to the States of a constitutional amendment to deal with the matter, and whether such amendment should permit Congress and the States acting within their respective jurisdictions to make reasonable distinctions between the rights and responsibilities of men and women in appropriate areas of life.

I honestly believe that the equal protection clause, properly interpreted, is sufficient to abolish all unfair legal discriminations made against women by State law.

Nevertheless, I am constrained to favor a constitutional amendment which will abolish all unfair legal discriminations against women without robbing them of necessary legal protections and without imprisoning the legislative powers of Congress and the States in a constitutional straitjacket.

My reasons for so doing are twofold. First, some advocates of the Equal Rights Amendment do not share my opinion of the efficacy of the equal protection clause; and, second, the equal protection clause does not apply to Congress, and it is problematical whether the Supreme Court will hold in this instance, as it did in *Bolling* v. *Sharp,* 347 U. S. 497, that the due process clause of the fifth amendment imposes the same prohibitions the Federal Government that the equal protection clause does on the States.

For these reasons, I have drafted a substitute Federal equal rights amendment which will accomplish the undoubted purpose of the advocates of the Equal Rights Amendment; that is, to invalidate any present or future laws making unfair discriminations against women without nullifying any existing laws reasonably designed to protect the best interest of women and the highest interest of society, and without incapacitating Congress and the legislatures of the 50 States, acting in their respective spheres, to enact similar salutary laws in the future.

I intend to introduce my amendment in the near future and the crucial section of it will read as follows:

"Neither the United States nor any State shall make any law treating men and women differently unless the difference in treatment is based on physiological or functional differences between them."

THE PROSPECT OF RATIFICATION BY THE STATES

It would be an exercise in futility by Congress to submit S. J. Res. 8 and 9 or H. J. Res. 208 to the States if there is not a substantial prospect that the States will ratify it.

An equal rights amendment would have to receive the affirmative approval of either 75 or 76 separate legislative bodies sitting in 38 of the 50 States before it could become a part of the Constitution. This is so because nothing new can be added to the Constitution without the consent of three-fourths of the States and all the States except Nebraska have bicameral legislatures.

It is scarcely conceivable that State legislators sitting in 75 or 76 separate legislative bodies in 38 States will ever agree that the millions of women whom they represent ought to be denied forever legal protection which their physiological and functional characteristics may reasonably justify. Yet, that is precisely what the equal rights amendment, if ratified by them, could be interpreted by the Supreme Court to do.

Also, S.J. Res. 8 and 9 and H.J. Res. 208 are changed in one important respect from the equal rights amendments which were introduced last year. The amendments introduced this year give Congress total jurisdiction to enforce the amendment. Last year's proposal split the jurisdiction to enforce the article between the States and Congress. To my mind this is an added reason that the States will never ratify this amendment because it grants to Congress only the right to enact laws that reflect in any way differences in the sexes. Obviously, this is a broad area of jurisdiction which the States will not care to relinquish.

For these reasons, sound thinking seems to indicate that there is no substantial prospect that 75 or 76 State legislative bodies sitting in 38 States will ever ratify the equal rights amendment in its present potentially destructive form. Hence, I suggest that an implacable insistence on the part of its advocates that there be no alteration in its wording is likely to defeat their worthy objective of outlawing unfair legal discriminations against women.

With all deference to them, I express my conviction that it would be the better part of wisdom for them to join me in urging Congress and the States to make my amendment a part of the Constitution. By so doing, they can reasonably anticipate that their worthy objective to abolish unfair legal discriminations against women will meet with success. It seems sound to assume that all legislators, both Federal and State, would welcome the opportunity afforded by my proposed amendment to abolish all unfair legal discriminations against women without depriving them of necessary legal protection and without robbing Congress and the States forever of the power to make legal distinctions in favor of women where reason justifies their so doing.

MORE PRAISE FOR SENATOR LEN JORDAN

Mr. CHURCH. Mr. President, Idaho will lose a strong advocate in this Chamber with the retirement of Senator LEN JORDAN. Ever since his announced retirement many Idahoans, both Democrats and Republicans, have expressed their deep regard for Senator JORDAN as a man and as a legislator.

Recently I was sent a copy of a letter sent by the Idaho Hospital Association to Senator JORDAN which praises him highly for his work in the health care field. Because it demonstrates the high regard in which LEN JORDAN is held by his fellow Idahoans, I ask unanimous consent that the text of the letter from the president of the Idaho Hospital Association be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

IDAHO HOSPITAL ASSOCIATION,
Boise, Idaho, February 2, 1972.

Hon. LEN B. JORDAN,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR JORDAN: The Health Care Industry in Idaho and the nation will lose upon your retirement from the U.S. Senate a valued friend and supporter. Your efforts in promoting good legislation on behalf of hospitals and health care in this nation are greatly appreciated and your continuous desires to help improve the accessibility of health for all is apparent. The many hours which you have devoted to health issues while serving on the Senate Finance Committee has been reflected not only in legislation, but also in various federal rules and regulations which affect our nations' health. We of the Idaho Hospital Association will miss your sound leadership in the Senate and on this important committee.

Your statesmanship approach to all issues which face this nation is indeed a mark of greatness and your keen interest in the problems of rural America will be remembered.

We are sure that your decision not to seek another term was a difficult one for you to make, and we support and respect that decision knowing that Idaho is losing an able leader in Washington.

The membership of the Idaho Hospital Association extends our very best to you and Mrs. Jordan for many years of active retirement.

Sincerely yours,
JAMES E. BREINICH,
President.

RULES OF COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. McGEE. Mr. President, section 133B of the Legislative Reorganization Act of 1946, as added by section 130(a) of the Legislative Reorganization Act of 1970, requires the rules of each committee to be published in the CONGRESSIONAL RECORD not later than March 1 of each year. Accordingly, I ask unanimous consent that the rules of the Committee on Post Office and Civil Service be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES FOR COMMITTEE PROCEDURE

Rule 1. Five members of the Committee shall constitute a quorum for the transaction of such business as may be considered at any regular or special meeting of the Committee, except that, for the sole purpose of taking testimony, sworn to or otherwise, a quorum of the Committee, or a subcommittee thereof, shall be one or more Senators. No members of the Committee shall, for the purpose of determining the existence of a quorum of the Committee, be deemed to be present unless he be personally present.

Rule 2. Unless otherwise ordered and notice given, the Committee shall meet for the transaction of its business while the Congress is in session as follows: The second and fourth Tuesdays of the month at 10:00 a.m. Additional meetings may be called by the Chairman as he may deem necessary.

Rule 3. The Committee shall keep a complete record of all Committee actions. Such record shall include a record of the votes on any question on which a record vote is demanded.

Rule 4. No vote cast in the Committee or any subcommittee by proxy shall be counted; but a written communication from an absent member, giving a clear statement of position on the specific subject, shall be counted as a vote.

Rule 5. It shall be the duty of the Chairman to report or cause to be reported promptly to the Senate any measure or recommendation approved by the Committee and to take or cause to be taken necessary steps to bring the matter to a vote.

Rule 6. The Committee shall, as far as practicable, require all witnesses appearing before it to file in advance written statements of their proposed testimony at least 24 hours before hearing, and to limit their oral preparations to brief summaries of their argument. The Committee staff shall prepare digests of such statements for the use of Committee members.

Rule 7. All hearings conducted by the Committee, or its subcommittees, shall be open to the public, except (1) executive sessions for marking up bills, or (2) for voting, or (3) where the Committee, by a majority vote, orders an executive session.

Rule 8. When a nomination for an appointment is referred to the Committee, the name of the nominee shall be referred to both Senators from the State in which the nominee resides. If no objection is made by either Senator within 30 days of the date of referral or if no response is received during that period, the nomination shall be considered as not having been contested.

Rule 9. Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be reported to the whole Committee by a subcommittee, there shall be placed before the whole Committee a print of the statute to be amended or the part thereof to be repealed (together with the citation thereof), showing by stricken-through type the portion or parts to be omitted, and in italics the matter proposed to be added.

Rule 10. The Chairman may name standing or special subcommittees to which a bill, resolution, or nomination may be referred, which subcommittee shall consist of not less than three members, one of whom shall be of the minority; if the subcommittee consists of five members, two shall be of the minority; if the subcommittee consists of seven members, three shall be of the minority.

Rule 11. Whenever a subcommittee delays in reporting more than 30 days (except when time is extended by the Committee), the matter may be withdrawn by the Chairman and submitted to another subcommittee, or considered by the whole Committee.

Rule 12. Subject to statutory requirements imposed on the Committee with respect to its procedure, the Rules of the Committee may be changed or suspended at any time; provided, however, that not less than two-thirds of the entire membership so determine, at a regular meeting with notice of the nature of the change proposed or meeting called for that purpose.

Rule 13. The Chairman of the Committee and the ranking minority member shall be ex officio members of all subcommittees with full right to participate in all proceedings thereof, and shall be allowed to vote as members of any subcommittee.

Rule 14. The Chairman shall be given authority to appoint the staff members and clerical assistants to assist the Committee in its work; provided, that the ranking minority member of the Committee shall be given authority to select one professional staff member and one clerical assistant. The Chairman shall select the official reporter or reporters to serve the Committee.

Rule 15. Meetings of the Committee shall be open to the press except (1) executive meetings to consider nominations for public office, or (2) when otherwise directed by the Chairman or majority vote of members present. The Chairman may grant or deny the privilege of broadcasting meetings of the full Committee. The Chairman of any subcommittee shall have the same power with respect to such subcommittee.

Rule 16. Proceedings in executive sessions of subcommittees may be released to the press and other interested parties unless the subcommittee chairman or a majority of members present otherwise direct.

OPEN GOVERNMENT

Mr. McGOVERN. Mr. President, the need to restore public trust in Government is among the most urgent challenges confronting the country as we move into the 1972 election year.

Opinion surveys in recent years have consistently shown that confidence in Government has fallen to all time lows—that many Americans have begun to doubt or disbelieve virtually everything they are told by politicians and public officials, and to believe that Government exists not to serve the needs of the people but simply to preserve its own power.

The sources of public suspicion and alienation are not hard to find. Put bluntly, Government is not believed because it has not been leveling with the American people.

The gap between preelection promise and postelection performance has grown to a yawning chasm in recent years, in nearly every area of public concern from war and peace to law and order. Political campaigns have degenerated into contests between polling techniques and advertising agencies, to see who is best at packaging candidates and manipulating public opinion.

The same approach continues after election day. The White House staff has more public relations experts today than at any time in history, and the sale of administration policies has become a major bureaucratic preoccupation. Meanwhile the President isolates himself from hard questions by holding fewer presidential press conferences than any of his predecessors, and by demanding network television time so he can speak without the risk of challenge.

Objective reporting has been further chilled by unprecedented harassment of the press—including attempted prior restraints, threatened retaliation for unfavorable reporting and commentary, and even an FBI investigation of a network newsman.

Sources of reliable statistical information are also declining. Expert background briefings on the economy were ended, and reports on urban unemployment were cancelled, because they contradicted the administration's own self-serving descriptions. Crime reports are filtered through political appointees, to make the administration's record look better, before they reach the press and the public. The parity reporting system for agriculture was changed, because the figures exposed an embarrassing contrast between candidate Nixon's promises and President Nixon's result on farm prices.

Even the administration's use of language inspires disbelief. We have a "jobs" program which is, in reality, a $9 billion tax giveaway for big business; a "revolution" which is, in truth, a scheme to shuffle the bureaucracy, a "finest hour" which is, in fact, the abysmal national tragedy in Vietnam.

The Nixon administration is without peer in its efforts to mislead the American people. But it does not have a monopoly. The Pentagon papers disclose a long pattern of deliberate deception and contrivance on the most profound issues of the decade.

Meanwhile responsible officials have hidden their doubts about the war in Vietnam, and have withheld their honest judgments from the public while at the same time professing consistent public support for a disastrous policy.

An informed electorate is a primary condition of democracy. It follows that the deceptive practices of recent years, while they create a serious political issue, also raise doubts about the survival of self-government in this country. We are embarked on a dangerous trend toward control by a collection of elitists whose interests and inclinations dominate national policy irrespective of the public will, and often at the expense of the public good.

We have no reason to expect popular confidence in government until politicians and public officials begin exhibiting their own confidence in the democratic system and in the American people. The electorate has a preeminent right to know what government is doing and why, and to hear the honest judgments of their leaders.

That standard must depend heavily on self-discipline, by candidates and officeholders and by the press as well. But there are other steps we can take to meet it.

To give the American people the best possible opportunity to evaluate fairly the candidates and the issues in 1972, I propose the following immediate steps:

All candidates, both in the primaries and in the general elections, should stand ready to participate in public debates.

All candidates should offer the opportunity for questions from the public on a daily basis.

All candidates should disclose their personal finances, including sources of income, total assets, and liabilities.

All candidates should simultaneously disclose lists of campaign contributions and contributors on a regular basis.

To advance the goal of open government, I propose that the new administration—elected next fall—initiate immediately, by Executive order where possible and by proposed legislation where that is necessary, the following procedures, none of which are presently in effect:

Regular Presidential press conference will be held at least twice each month. Followup questions will be allowed, to assure that answers are completed.

Members of the Cabinet will have press conferences at least once each month.

There will be an end to background briefings in which information is supplied on the condition that the source is not disclosed. All such briefings will be for attribution to the official who conducts them.

Cabinet meetings will be open to the press except in rare cases where the national security imposes a secrecy requirement.

All Presidential appointees will be required to disclose assets, income, and liabilities.

Regular reports will be available on contacts by lobbying organizations and special interest groups with all officials whose responsibilities effect the formation of national policy.

The professional personnel responsible for the collection of statistical information under Government auspices will be available for press briefings and interviews, without exception.

The budgets of all Federal agencies, including those involved in intelligence work, will be disclosed.

Classification of documents or classes of documents will be allowed only upon order of the President, the Vice President, and officials confirmed by the Senate, and a decision to classify must be made within 30 days of production of the document. This process will be open to monitoring by the Congress.

A systematic procedure for automatic declassification of documents will be adopted, providing in general that classification may not last longer than 2 years.

A unit in the Budget Bureau will report annually on recipients of benefits from Federal subsidy programs, including not only direct payments but tax benefits, special mail rates, concessional interest rates, deposits of Federal revenues, and other forms of privilege.

The Federal Government will encourage the adoption of a uniform open government statute for the States, including public disclosures of assets, liabilities, and income by high State and local officials; publication of the distribution of the State and local tax burden by income classes; publication of recipients of State and local benefits and subsidies, including direct payments, tax privileges, property valuation discrepancies, and special services.

YOUTH FOR UNDERSTANDING

Mr. CHURCH. Mr. President, I take this opportunity to extend my heartfelt congratulations to Youth for Understanding on its 21st anniversary and to the 20 young people from abroad who are now participants and experiencing everyday life in the State of Idaho. There are also three Idahoans who will go to Europe this summer. The participants are:

YOUTH FOR UNDERSTANDING PARTICIPANTS IN IDAHO

1. Jose Pinherio, Brasilia, Brazil; Mr. and Mrs. John Patrick Hamilton, Route 2, Buhl, Idaho 83316.
2. Marisa Baer, Rio de Janeiro, Brazil; Mr. and Mrs. Ross Corless, 764 West 400 South, Heyburn, Idaho 8336.
3. Monica Pino, Talca, Chile; Mr. and Mrs. Doran Butler, Star Route, Bliss, Idaho 83314.
4. Marcio Caliope, Fortaleza, Brazil; Mr. and Mrs. Burrel Williams, Route 1, Shoshone, Idaho 83352.
5. Jose C. Rebello, Rio de Janeiro; Mr. and Mrs. C. W. Kroll, 797th St., Idaho Falls, Idaho 83401.
6. Maria De Fatima, Ferreira Goiani, Brazil; Mr. and Mrs. Edward C. McKim, Route 1, Heyburn, Idaho 83336.
7. Lucia T. Theoduloz, Iquique, Chile; Mr. and Mrs. W. A. Sandy, Hagerman, Idaho 83332.
8. Nidia E. Velasco, Cordoba Argentina; Mr. and Mrs. David Boring, Route 2, Gooding, Idaho 83330.
9. Brogotte Boisseau, Trappes, France; Mr. and Mrs. Gary Major, 814 Michigan, Gooding, Idaho 83330.
10. Teodoro Garcia, Chillian, Chile; Mr. and Mrs. Mark Howell, Route 1. Parma, Idaho 83660.
11. Francisco Pereira, Bragannca Paulista, Brazil; Mr. and Mrs. James Evans, Box 636, Glenns Ferry, Idaho.
12. Matti Leinonen, Helsinki, Finland; Mr. and Mrs. Bob Anderson, Box 206, Gooding, Idaho 83330.
13. Fredrik Wachfmeister, Lund, Sweden; Mr. and Mrs. Morris Lattiner, Box 133, Murtaugh, Idaho 83344.
14. Bernard Hardick, Enfchede, Holland; Mr. and Mrs. Leonard Hurst, Bellevue, Idaho 83313.
15. Annette Stubenrauch, Kiel, Germany; Mr. and Mrs. H. L. Arbaugh, 116 3rd Ave. South, Railey, Idaho 83333.
16. Jeanette Postma, Groningen, Holland; Mr. and Mrs. Harold Jenkins, 720 North Davis, Jerome, Idaho 83338.
17. Mehmed Housic, Sara-Jebo, Yugoslavia; Mr. and Mrs. Matt Smith, High Lawn Drive, Twin Falls, Idaho 83301.
18. Guilherno Ferreria, Forteleza, Brazil; Mr. and Mrs. Vernon Gillespie, 350 West 15 South, Mountain Home, Idaho 83647.
19. Wilson Moraes, Recife, Brazil; Mr. and Mrs. Norman B. McIntosh, Kimberly, Idaho.
20. Marcos Sousa, Gaianai, Brazil; Mr. and Mrs. Paul Stutzman, 635 E. State, Meridian, Idaho.

IDAHOANS IN EUROPE

1. Christe Fields, Gooding, Ida.
2. Julia Howell, Parma, Ida.
3. Ted Everett, Shoshone, Ida.

Seeking international understanding by firsthand experience and personal friendships, Youth for Understanding is the largest and fastest growing organization in the field of teenage exchange programs. It deserves commendation for the outstanding way in which it has operated over the years.

Besides bringing young people to the United States, Youth for Understanding now gives high school graduates the opportunity to participate in a year-abroad program, placing them with host families in foreign countries to study at foreign secondary schools; it offers the opportunity to tour Europe on special study programs; for musically inclined students, it sponsors a chorale, a string ensemble, and wind ensemble that travel on concert tours each summer.

Over 30,000 students from 45 countries have now participated in Youth for Understanding programs. In addition, American students from 42 States have been given the opportunity to expand their horizons through international living experiences.

I commend Youth for Understanding for its efforts in promoting the kind of real understanding and cooperation that are the only foundations for the establishment of peace in this world.

IMPROVEMENT OF THE QUALITY OF LIFE

Mr. TAFT. Mr. President, recently the distinguished Senator from California (Mr. CRANSTON), chairman of the Special Subcommittee on Human Resources, in an address to Planned Parenthood of Pittsburgh, outlined the development of programs for family planning over the past dozen years. His remarks put into perspective the interrelationships of the efforts of international, Federal, State, and community organizations to improve the quality of life by approaching our problems of population growth through rational and voluntary means. As Senator CRANSTON points out, although much has been accomplished by this concerted effort, much remains to be done.

I believe that his remarks will be of great interest to other Senators. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR ALAN CRANSTON

In the last decade the world has witnessed a revolution of consciousness concerning the critically important subject of population growth and its relationship to the meaning and quality of life. Our growing population in this country has magnified the problems of housing, natural resources, urban growth, poverty, education, employment, and health—to the point where a national response is required.

And America's special position of leadership in the community of nations requires that we seek answers to the urgent matter of population growth for all humanity. Many of you here tonight have long been committed to enriching human life through the unique voluntary movement known as Planned Parenthood, and I am pleased and honored to speak before you tonight.

Today the quality of human life in our land is threatened by the sheer numbers and the degree of affluence of the people who inhabit the United States. Let us consider for a moment the significance of this country's growth rate during the last 50 years. In 1917 there were one hundred million Americans. Fifty years later, by 1967, our population had doubled to two hundred million. Right now our population is increasing by 2.2 million per year.

Yet the present number of births is the lowest since mid-Depression years, when the rate was about the same. We are not sure what all the factors are that affect population growth. One explanation for the current decline could be the economic recession, when traditionally the number of births drops. As economic conditions improve and if certain trends were to continue—or new trends to develop—the Census Bureau projects that by the year 2000—28 years from now—America's population could go as high as 322 million. Despite the lack of certainty in predicting population growth patterns, I believe we have now reached the point where we must seriously consider how much more population our country can absorb.

We have already demonstrated that we have great difficulty maintaining a decent environment within the confines of our existing population. We make great demands upon our resources—many of which are already in scarce supply. It is also very important to understand that the detrimental effects on our environment are not limited to areas of concentrated population. Certainly, many of the problems afflicting our cities are due to high population density and poor planning. But people consume resources wherever they live, and the impact of this consumption is wide ranging.

The Interim Report of the national Commission on Population Growth and the American Future, on which I am privileged to serve, points out that coping with population growth is not merely a question of evenly distributing our people across the nation. People, whether in New York City or a small town in the midwest, still drive automobiles fabricated of steel produced in Pittsburgh using coal mined in West Virginia. The problems we now face in providing adequate education, housing, health services, rapid transit and meaningful job opportunities, to name just a few, are in part a reflection of our burgeoning population. These problems are going to be compounded as our population continues to expand.

In counterpoint, we know that about one-fifth of all children born between 1960 and 1965—five million children—were not only unplanned but unwanted by their parents at the time of conception. An important study by Dr. Charles Westoff, now Executive Director of the Population Commission, estimated unwanted births to be as high as one million a year—almost half of our present growth rate. Furthermore, while the rate of population growth is largely determined by the size of America's middle class families, the rate of unwanted births is highest among the poor, on whom the economic burden is already far too great. We must never lose sight of the fact that to millions of Americans "quality of life" still means just getting a square meal.

In the last several years, there have been rapid and significant changes in public policy on family planning. In the early 1960s, practically all organized and effective family planning services were financed from private sources. Beginning in about 1963, due to the dedicated efforts of former Senator Ernest Gruening, we began to see a shifting of national legislative policy in this area.

Senator Gruening vigorously called for increased population research within the National Institutes of Health and his hearings called national and world attention to the issues of population growth and family planning. Former Presidents Eisenhower, Kennedy, and Johnson all went on record in support of government activity in this field. And in 1964, the Office of Economic Opportunity made an experimental grant to Corpus Christi, Texas, for limited family planning services.

Yet the Federal Government did not really actively enter the population field at home until 1967 with the passage of amendments to the Social Security Act authorizing family planning services for all welfare recipients who desired them. Also in 1967, as a result of the efforts of former Senator Joseph Clark of Pennsylvania, Congress amended the Economic Opportunity Act to authorize family planning services to low-income persons regardless of marital status. That same year, the important HEW-financed report by Dr. Oscar Harkavy, director of the Ford Foundation's population office, cited the critical need for a more comprehensive national family planning policy and for more funds and manpower in this field.

As the interest and initiative of Congress continued, President Nixon in 1969 stated his strong support of family planning services and population research in the first Presidential message ever delivered on the subject.

Senator Joseph Tydings then opened hearings receiving testimony from some of the world's foremost scientists, experts and planners. This effort culminated just over a year ago in the passage of the historic Family Planning Services and Population Research Act of 1970, which was overwhelmingly approved by both houses of Congress. This truly landmark legislation made explicit for the first time the national commitment to provide modern, voluntary family planning services to all Americans who need and want them, particularly to those who cannot afford private medical care. It created the first federal entity devoted exclusively to supporting family planning services—the National Center for Family Planning Services within HEW—and expanded and improved the population research activities of the National Institutes of Health.

I would like to point out that while some progress has been made, much more remains to be done. Although our birth rate is now proportionately low, I believe we should take steps to bring about a stabilization of our population growth—if, as most demographers seem to expect, there is a renewed upturn in the birth rate. Even if such an upturn does not occur, there is still much to do in providing family planning services in America, and much to do in the world to stabilize population if we are to avoid chaos and tragedy. In order to formulate adequate plans for our social, economic, and environmental needs in a finite world, we must learn more about the implications of population trends and the sociological and psychological factors that affect population dynamics.

Today, there is still as yet no completely safe and effective means of contraception available to any woman, rich or poor. In the area of providing services, we know that four out of every five low-income women between 18-44 years old who need family planning services are still not being served by any organized programs. While government attention has focused on the five to six million poor women in need of family planning services, there are an estimated 37 million nonpoor women of childbearing age who may want and need to plan their families.

Unwanted or accidental pregnancies are experienced by more than half of all American couples. As a nation, we have only just begun to experience the serious health, social and economic consequences of these statistics.

Internationally, we can see an immediate critical need for population programs. In the less developed countries, problems of population growth and birth control are the most pressing of all. In those countries, the average number of fertile women—those ages 20–29—in those countries will increase, over the averages of the last decade, by about one-third in the 1970s and by about two-thirds during the 1980s. Every effort must be made to extend family planning information and services on a voluntary basis to couples in these countries. Unless this is done, improvements in individual living standards will not be achieved and economic and social progress for much of the world will be seriously retarded.

Our Foreign Assistance program has been assisting in solving these world population problems. Funds have been increasing. Last year Congress emphasized the importance of this problem by earmarking $100 million for this purpose. As a result of an amendment I joined in offering with Senator Taft, I am delighted that this earmarking will be continued for the next two fiscal years and at the increased level of $125 million.

I am also much encouraged by the active leadership role of the United Nations Fund for Population Activities in helping less developed countries identify their needs and prepare population projects. The U.N. fund, supported by the world's developed nations, has grown from $15 million in 1970 to an expected $44–50 million for 1972. This country has pledged to match dollar for dollar the contributions of other nations to this Fund. I am hopeful that the target of $100 million by 1974—declared World Population Year—will be reached.

In terms of services, I'd like to turn now to the Federal Government's plan for carrying out the mandate of the Family Planning Services and Population Research Act of 1970—that is, to provide adequate family planning services to all persons who want them but cannot afford them.

The law was intended to greatly increase financial support over existing funding levels. The cost of providing medical family planning services, including an average of two visits per year, supplies, recruitment and educational activities is about $60 per patient per year. With over five million low-income women in need of these services, an estimated $325 million would be required to maintain an adequate national program.

Prior to the passage of the Population Act in 1970, the combined budgets of HEW and OEO for family planning project grants in fiscal year 1971 was just $55.5 million. The new law authorized an additional $40 million, yet the Administration requested and there were appropriated only $6 million.

The administration's budget for fiscal year 1972, however, requested HEW funds amounting to $90.9 million for family planning project grants—a fifty percent increase from FY 1971. In fiscal year 1973, the administration is requesting $139.8 million for HEW-supported family planning project grants—another increase of more than fifty percent.

This increase appears more substantial than it actually is in view of the administration's steps to phase out O.E.O. family planning projects. The fact that more money will be available for family planning services has been achieved only after considerable prodding from Congress over the last two years, and, even so, this $140 million being requested for FY 1973 represents less than half—actually 43 percent—of the absolute minimum funding which is needed to do the job.

And only $33 million of the FY 1973 requested funds will actually be devoted to expansion of existing family planning projects or the establishment of new ones.

The new law also required the Department of Health, Education and Welfare to submit to Congress a five-year plan—a blueprint—for carrying out the new statutory provisions. The Department of HEW, itself, in its report submitted just a few months ago, estimated the total need for fiscal year 1973 to be between $272 million and $310 million, not far from the $325 figure I set forth earlier.

Specifically, the HEW five-year plan states that funds to carry out the plan would have to come from all possible sources including the Federal Government, foundations, industry and national organizations. To better understand how HEW itself intends to carry out its plan, the Senate Special Subcommittee on Human Resources, of which I am Chairman, conducted extensive hearings. It became clear that, under this HEW plan, the intended funding level could be achieved only if the contributions of private agencies, such as Planned Parenthood, were doubled over the next five years and if the expenditures of State Governments could be doubled over the same period. Even then, an adequate level could not be reached until fiscal year 1975.

I mention these statistics and dollar amounts only to emphasize here the gravity of the problem and the urgency of the need. Our society must devote more time, attention, energy and funds to this issue. Government can't and shouldn't do the whole job alone; help is needed from private sources.

In the greater Pittsburgh metropolitan area alone, recent studies estimate that about 50,000 medically indigent women between the ages of 18 and 44 need family planning services. And, as more girls come into their childbearing years, this number grows commensurately. As most of you, I am sure, know, the new non-profit corporation, the Family Planning Council of Southwest Pennsylvania, Inc., was recently established through the concerted efforts of over 25 health-related agencies in the Greater Pittsburgh area to expand the provision of family planning services. The Council has recently received federal funds for a family planning health system that will serve an additional 8,000 low-income women this year.

This is the foundation of a system here in the Pittsburgh area designed to streamline the range and efficiency of services, avoid duplication of efforts, conserve resources, and lower the overall cost of family planning services and other health services. In five years this system will be capable of providing high quality family planning medical services to every medically indigent woman in the twelve-county Pittsburgh area.

Planned Parenthood of Pittsburgh has—and I congratulate you on this—been deeply involved in stimulating the development of the Council and in planning and evaluating this new program. Included in the broad base of participating agencies is Allegheny General Hospital, Magee-Women's Hospital and McKeesport Hospital, and clinics of the United Auto Workers, as well as the Archdiocese of Pittsburgh. Monsignor Seli, Vicar of Family Life of the diocese and one of the incorporators of the Council, has been instrumental in working out the guidelines with the Council of Bishops for the participation of

Mercy Hospital and the Family Life Centers of the diocese.

This is an outstanding cooperative program which should serve as a model for metropolitan areas across the country. The total cost of the Council's excellent program is $1.4 million. About one-third of the cost must be borne by the community—in part through the generous assistance of foundations and industry.

Family planning is, first and foremost, a matter of preventive health care. Indeed, most American couples who practice family planning do so under the direction of their personal physician. Family planning is, in fact, one of the few aspects of health care that emphasizes preventive as well as curative medicine. Unfortunately, however, most health financing mechanisms—the medical insurance carriers, for example—pay for very few of the costs of preventive care. And among the poor, who have the highest incidence of unwanted pregnancies and infant and maternal mortality, there is practically no access to preventive health care.

Right now a major review of our national health policies is under way in the Congress. I believe that we need a system of comprehensive health care that aims at *keeping* people well in addition to *making* people well. I believe it is our duty and responsibility to be sure that all health services related to fertility—including voluntary contraceptive services and full maternal and child health care—be available as an integral part of whatever new system of health protection is chosen by Congress and the American people.

This aspect of preventive, comprehensive health care should be integrated into all existing public health financing systems, such as Medicaid and Federal, state and local employee health plans. At the same time, we must encourage industry and private health insurance carriers to follow suit. This is what we should strive to achieve. Our country has the resources, and we certainly have the need, to do no less.

The real dangers inherent in our population growth are only now being realized. Responding to the challenge of this problem with vital, positive programs is not an easy task. It cannot be accomplished by the Federal Government alone. State and local governments must also assign higher priority to this field.

And foundations and business must join as full partners in the urgent effort to deal with the complications and implications of population growth. Today, for the businessman calculating future targets, foundations planning long-range budgets, and legislators establishing national priorities, no question is more fundamental and far-reaching than that of population.

We have been aware of this problem for forty years. I feel very strongly that we must bequeath to our children, and their children, a birthright under optimum conditions: deeply wanted by their parents, with maximum opportunity to lead healthy and productive lives and to learn and to grow in a secure and fruitful environment. To do this, we must search together for the ways and means to enrich the quality of life in our nation and to commit ourselves to this task for the sake of our children—our nation's most precious resource.

THE GENOCIDE CONVENTION AND DOUBLE JEOPARDY

Mr. PROXMIRE. Mr. President, the argument has been made against the Genocide Convention that its ratification would make American citizens vulnerable to situations of double jeopardy, or two prosecutions for one crime. They argue that an American, tried and acquitted of crimes by an American court, might conceivably be retried for genocide by any international tribunal.

If this were the case we would have cause to worry. Fortunately it is not. Ratification of the convention would not change our existing extradition treaties. In the United States, no citizen can be extradited for a crime for which he has already been tried and acquitted. Thus, under the Genocide Convention no citizen would run the risk of double jeopardy.

It seems to me that the United States has nothing to lose and much to gain by ratifying the genocide treaty. We would still be protected from unjust prosecution and would enhance our position of world leadership by emphatically endorsing this worthy humanitarian treaty

Once again I strenuously urge the Senate to decisively ratify the Genocide Convention and thereby join an overwhelming number of our allies in this statement against world violence.

DEFENSE PROCUREMENT PRACTICES

Mr. GOLDWATER. Mr. President, on the first of February 1972, I took occasion to air some of my long-held views on defense procurement practices during an Armed Services Committee hearing on the nomination of Mr. Kenneth Rush as Deputy Secretary of Defense.

At that time, I voiced the opinion that the Pentagon has been wasting large sums of money on weapons and asked that a major overhaul in procurement practices be pursued.

Today, I wish to amplify and explain my position so that no one will interpret it as a criticism of the man in uniform or of the companies who supply us with our weapons systems. When I spoke of procurement practices which are a "disgrace" my reference was to a system of procurement that had its inception during the days of former Defense Secretary Robert McNamara and which has not been changed to any appreciable degree since then.

Mr. President, my complaint is that under this system it takes the United States as long as 8 to 10 years to get a new weapon system into our military inventory while the Soviet Union, using substantially our old system, can do the job in 18 months to 3 years. During the Rush hearing, I said it was a disgrace that the greatest technological country in the world should find itself in this situation. I repeat it here today. I believe there must be a very rapid and drastic change in our system of procurement if we are to obtain the best possible weapons, at the earliest possible date for the correct amount of money.

I readily admit, Mr. President, that I am no expert in this field. However, it is my considered opinion that one partial step in the right direction would be the elimination of the "cost effectiveness" concept inaugurated by McNamara. It is my belief that there is no way a weapons system can be accurately weighed and judged in this manner. We must rely more heavily upon the abilities that exist among men in our armed services and in industry—men who know how to plan, to suggest and eventually to produce what we need for the security of our people without having a jungle of untrained civilians complicating their decisions.

Mr. President, I plan to pursue this matter as vigorously as possible. It has to be done. Our Armed Forces are not equal to those of the Soviet Union at this time, and I believe we must find a way to regain our superiority at a cost lower than is now envisioned.

EMERGENCY HEALTH CARE

Mr. McGOVERN. Mr. President, among people under 38 years of age in the United States, more people die from accidents than from any other cause.

Accidents cause a greater loss in productive man-days than heart disease, cancer, or stroke. They cause more bed-days of hospitalization than heart disease, and more than four times as many as cancer. And they cause upward of 100,000 deaths each year.

Many of those lives could be saved.

The leading cause of death for people over 40 is the heart attack. Again, many of those deaths are needless.

One of the essential elements of a prudent program to treat these major killers is virtually ignored. Emergency medical services remain the forgotten stepchild of both medicine and government.

Victims of accidents and heart attacks are not, of course, the only ones who need effective emergency care. Persons suffering respiratory distress, burns, and other acute illnesses need prompt first aid, rapid transportation to a hospital, and good care in an emergency room in order to save their lives, reduce their suffering, or limit their disability.

But most Americans do not have those emergency services. Many rural areas are hundreds of miles from the nearest ambulance or doctor and really have no emergency services at all. Major problems persist even in the big cities. The capabilities of hospital emergency rooms are usually unknown, so that critically ill patients may be brought to hospitals not equipped to handle them. Virtually all emergency rooms are overcrowded with nonemergency patients. Ambulances are often poorly designed, and their crews inadequately trained.

Less than 10 percent of ambulances nationwide are equipped to administer oxygen. Less than 15 percent are equipped with splints that are necessary to safely move patients with broken backs and some other injuries. Only 1 percent can administer intravenous fluids needed to treat shock. Fewer than 2 percent can communicate directly with hospital emergency rooms. And less than 5 percent of ambulance attendants are properly trained.

Yet it has been estimated that emergency vehicles with the necessary equipment could prevent as many as 60,000 deaths each year from cardiac arrests and other cardiopulmonary afflictions. At least 10 percent of accident victims could be saved, and effects of nonfatal injuries and attacks could be sharply reduced as well.

There is no significant technological barrier to better emergency care. An official of the American College of Surgeons has estimated that if the knowledge available now were applied to proper treatment and transportation of accident victims, "more lives could be saved than in any other area of medicine."

Nor is the problem one of costs. Compared to other major health problems, emergency services can be made available at relatively low expense for remarkably high returns in saved lives and improved health among the American people.

Instead the problem is largely one of inattention, mismanagement, and, too frequently, simple neglect.

The Federal Government has been almost wholly ineffective in confronting the emergency medical services problem. A 1968 report by the Secretary of Health, Education, and Welfare's Advisory Committee on Traffic Safety recommended that DHEW should work together with the Department of Transportation "to establish prototypical model emergency medical response systems in selected cities and counties throughout the Nation." But 3 years have passed, and this work is not even underway.

What little work is done by the Department of Health, Education, and Welfare is scattered among the many programs of its Health Services and Mental Health Administration. But there is no focus, no coherent plan, and little money in the effort.

The one bright spot in the Federal Establishment has been the National Highway Traffic Safety Administration of the Department of Transportation. It has been actively trying to administer the Highway Safety Act of 1966, which requires each State to plan and implement a statewide emergency services system. But, again, NHTSA has been hampered by a small staff, by inadequate funding, and by a lack of cooperation from the States.

Only a handful of States are actively and effectively implementing the Highway Safety Act standard, and a number of plans, due at the end of 1968, still have not been filed. Statewide or regional coordination is essential, since localities are generally too small to be self-sufficient. And the Highway Safety Act applies only to transportation and communications systems, exempting emergency rooms where a major part of the problem exists.

RECOMMENDED PROGRAM

A realistic effort to fill current gaps in emergency health care must begin with a firm Federal decision to establish a network of emergency medical systems throughout the country, to assure that every citizen has access to adequate services when needed.

Services must be organized and coordinated on an areawide basis. Rapid communications should be available between the public and the system and between emergency rooms and vehicles. Vehicles should be designed and equipped for treatment as well as transportation, which means that they should have vertical height sufficient for intravenous injections and for an attendant to work standing up, and that they should carry basic equipment required to treat trauma, shock, and other most frequent emergency conditions. Special vehicles, including helicopters, should be available to reach remote areas. In hospitals, nonemergency patients should be diverted from emergency rooms to avoid unnecessary clogging of the system.

Achievement of these goals will require a substantial reorganization of the Federal effort. The focus should be placed in the comprehensive planning agencies created under the Partnership for Health Act. Those agencies are now mostly operational and so far they cover about 80 percent of the population. The size of the areas under those agencies is usually most appropriate for a workable emergency system, and this approach assures that emergency care will be considered as a part of the total health delivery system.

Each of these areawide agencies should be given a clearly defined mandate to develop an emergency medical-services system for its area. But beyond that, they must be given the authority to see that the plans are implemented once developed. All Federal funding which bears on emergency services should be channeled through the regional agencies on a "one door" funding basis, both to avoid the existing long and complex multiple review process which large projects must now follow and to permit use of funds as a firm incentive to implement adequate emergency programs.

In the context of this reorganization and consolidation of the Federal effort, the following steps should be initiated immediately:

First. All ambulance attendants should be trained up to the minimal 80-hour emergency medical technician course recommended by the National Academy of Sciences. The total cost, to be borne by the Federal Government, would be about $36 million a year for a 2-year period.

Second. The Federal Government should supply matching funds to the extent required to assure that the entire population has access to adequate emergency vehicles, designed according to clear Federal standards.

Third. The Federal Government should set up a minimum of five complete areawide demonstration systems in different settings—urban and rural—and in different parts of the country. Along with the provision of emergency services, these systems would be designed to collect data and to evaluate new techniques, and their experience would be used as guidance to areawide agencies covering the remainder of the country.

Fourth. Federal funds should be available through the National Institutes of Health to support residencies in emergency medicine in medical centers to produce better qualified physicians to staff emergency rooms.

Fifth. Community health facilities should be expanded through release of at least 1,500 of the prepackaged health units now in storage under the civil defense program, and through recruitment of personnel, including paramedical manpower trained for Vietnam. While meeting urgent community health needs, this step would also alleviate overcrowding of emergency rooms in hospitals and clinics by giving nonemergency patients a practical alternative.

Sixth. Through a combination of FCC regulation and Federal financial incentives, the nationwide implementation of "911" as the uniform emergency number should be made mandatory within 2 years for all telephone systems.

Seventh. The highway safety program should incorporate the posting of frequent and clearly visible signs along all major roads identifying the direction and distance to the nearest emergency facility.

SALT LAKE TRIBUNE HONORS TOM C. KOROLOGOS

Mr. BENNETT. Mr. President, recently the Salt Lake Tribune published an article about my former Administrative Assistant, Tom C. Korologos. Tom is a native of Salt Lake City, and I was pleased to see that he is gaining the recognition he deserves for his work with President Nixon.

But perhaps as important as the personal recognition this article gives to Tom for his accomplishments is the fact that it recognizes there are still opportunities in this country for those who are not afraid of hard work and long hours.

I enjoyed the 8 years Tom was a member of my staff and would hope that with his assignment at the White House that other Members of this body will have the opportunity of becoming better acquainted with the man my staff affectionately refers to as the second-ranking Greek in the Nixon administration.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Salt Lake Tribune, Feb. 6, 1972]

WHITE HOUSE JOB "UNBEATABLE" FOR UTAHAN

Walk through any federal building in Washington, D.C. and one is likely to spot the name of a former Utah resident on the door of some office.

While Utah's population is relatively small, the state seems to have a presence in the nation's capital far out of proportion to the number of its citizens—possibly because Utah is nearly 70 percent owned by the federal government.

The center of power, of course, is the U.S. presidency. And as close to any to this center is 38-year-old Utah native Tom C. Korologos.

He is chief of President Nixon's senate liaison staff—a job which he likens to being the "eyes and ears" of the President in the U.S. Senate.

SEVENTY-HOUR WEEK

It is a job which pays him $35,000 a year and one which requires 60 to 70 hour workweeks.

A former Salt Lake newspaperman, he went to the U.S. capital in 1962 as an aide to Sen. Wallace F. Bennett (R-Utah). He joined President Nixon's staff last year.

He has become neither jaded nor blase by eight years in Washington.

"I'm still a 'Gee Whiz' guy when it comes to Washington," he says. "When people say 'Do you have to go up to the Senate today?' I tell 'em I get to go to the Senate today.' "

Now a portly bespectacled figure with a thick black thatch of grey-flecked hair, he scarcely is representative of the grim image hung to the Nixon Administration.

IRREVERENT QUIPSTER

He sports bellbottoms, a blazer and has an established reputation of being an irreverent and quotable quipster.

He was born in 1933, the first of four children of a Greek immigrant, Christ (Chris) Korologos and his wife Irene.

The father had arrived in the U.S. shoeless and penniless in 1916. He had worked on the railroad in Pocatello for several years then opened a bar in Salt Lake City which he operated until his death in 1963.

Tom attended the Oquirrh Elementary School, worked out with the tumbling team, and attended a church-run Greek school every night where he was steeped in the language and traditions of his ancestoral country. "There was not much time to play."

PAYS OFF

The Greek language paid off when he and his brother Mike played on a Greek Orthodox Church team and were able to confuse the opposition by giving their signals in the mother language.

He was manager of the West High School football team. As a University of Utah student, he studied psychology and contemplated the career of school teacher.

He lost his grocery job when the store was sold, and cast about for new employment. He applied for a job on the Salt Lake Tribune was hired as a copy boy.

His incidental entry into newspapering proved to be his most valuable experience.

GREATEST SHOW

He moved onto the sports desk, where he believes he was the first to coin the express description of Utah snow as "The Greatest Snow on Earth."

He went on active duty as an Air Force officer, serving as information officer at Little Rock Air Force Base.

In 1957 he was awarded a Grantland Rice fellowship to the Columbia School of Journalism, New York City, and graduated at the top of a class of 75. He won one of three traveling Pulitzer fellowships, took advantage of the beginning of the Cold War thaw to become the first Western newsman to enter Bulgaria.

In 1960, he covered the Winter Olympics at Squaw Valley, Calif., for The Tribune and there had his first encounter with the man who was to become his boss.

GREEK TEAM

It so happened that then Vice President Richard M. Nixon was in the restricted athlete's compound. Tom burrowed under a snow fence, proclaimed to any questioners that he was a member of the "Greek team." (There was no Greek team at that winter olympics.)

He spotted the vice president, asked him if he was in shape for the forthcoming campaign against Sen. John Kennedy. Recollection: A smile, and "I sure am."

He joined the Salt Lake Evans Advertising in 1961 and shared, in a minor way, as he recalls, in the agency's campaign to re-elect Sen. Wallace F. Bennett (R-Utah).

After the successful campaign, he was asked by the agency to scout among former news colleagues for an appropriate press aide to the senator.

WHY NOT ME?

After considering several newsmen, the thought struck him like lightning: "Why not me?"

He recalls the first meeting with the senator:

The senator: "Beware of Greeks bearing gifts."

Tom: "How much does a Grecian urn?"

It was the beginning of an affectionate relationship in which the senator was as much a father as a boss.

Tom eventually was named administrative assistant to the senator.

Similar to the job with the senator, the job with the President is one of high pressure. But it is pleasurable pressure: "I thrive on it. I never say I have to work in Washington. I GET to work in Washington."

Early before the traffic rush, he drives the 22 miles between his house in Springfield, Va., and the White House in a fleet MGB convertible.

He arrives in his office in the East Wing of the White House at 6:30 a.m., surveys three newspapers, then joins the daily 7:30 a.m. Domestic Council meeting in the White House.

The council includes 25 staff members, who under the direction of George Shulz, director of the office of management and budget, review events and assess key issues and legislation of importance that day.

At 8 a.m., he heads for the Hill, there joining key senators for breakfast in the Capitol dining room.

LOYALTY TO NIXON

He not only searches out their opinions and attitudes but also relays presidential sentiments to them. His loyalty, of course, is totally to the President. "If he said 'Go stand on top of the Washington Monument,' I'd go stand on top of the Washington Monument."

Bearing Senate sentiments back to the council meeting is not always a pleasurable task—particularly when the sentiment is adverse to administration desires.

But, as he says, he tells it like it is—good or bad. And like the messenger who was decapitated for bringing bad news to the king, he is subject to verbal decapitation.

WEEKENDS AT HOME

Weekends are usually spent at home, watching pro football or tossing ball with the kids, Ann, 9; Philip, 6, and Paula, 2. His wife is the former Joy Goff, whom he married in 1960.

If the job has its pleasures, it also has its frustrations. For Tom, the biggest is the countless telephone calls.

Responding according to the priority of the caller he finds that some calls are seven days in the answering.

WAR POWERS STUDY

Mr. GOLDWATER. Mr. President, there is now pending on the Senate Calendar a piece of legislation which raises perhaps the most fundamental issue to confront Congress in this century. I am referring to S. 2956, which was recently reported by the Senate Committee on Foreign Relations. This bill would purport to define the sole instances in which the President of the United States can deploy or use American Armed Forces outside the United States and, even in these very limited circumstances, would attempt to restrict his commitment of American troops to a period of not to exceed 30 days.

Mr. President, this issue has been before the Nation ever since George Washington was its first President. When President Washington issued a proclamation of neutrality during hostilities between Great Britain and France, he did so against the very vigorous objections of Thomas Jefferson that it was only the Congress who could decide on matters of war and peace. From this historical beginning, the President has traditionally held and used the power of making the primary decisions on matters of foreign policy and of determining the proper occasions on which to use the Armed Forces of the United States in furtherance of that foreign policy.

Mr. President, in line with this principle, past Presidents have sent American troops abroad to defend the national security of the American people on nearly 200 separate occasions. This historical fact was noted by proponents of the pending war powers bill at the hearings of 1971, but witnesses spoke to the situation without having a documented record before them. Speaking only from general impressions, these witnesses uttered many erroneous statements concerning these past Presidential initiatives and used their wrong conclusions as a basis for arguing that S. 2956 is not in conflict with the Constitution as interpreted under 193 years of practical experience. For example, Prof. Henry Steele Commager testified that in almost every instance these Presidential initiatives have been confined to the Western Hemisphere and even to the contiguous territory of the Caribbean. Professor Commager added that in all the previous precedents "some 95 percent lasted less that 7 days."

But, Mr. President, these conclusions are wrong. At the time Professor Commager spoke, there was no thorough and detailed analysis available of these past experiences, and I can understand how anyone speaking from his general conceptions might have been mistaken. However, there now does exist a documented summary identifying at least 196 separate occasions during the past when Presidents have sent U.S. forces overseas, without a declaration of war, on armed, hostile missions. This summary was prepared at my request when I first became interested in the various proposals that had been introduced seeking to place the details of running the Armed Forces into the hands of Congress. I was curious about historical precedents. I wanted to learn how many occasions existed when Presidents had used troops on their own authority without any declaration of war in our past history, and to discover how Congress and the courts had reacted to these instances. I assigned my legislative assistant the task of undertaking a compilation of all of these past Presidential ventures, and it is his research paper which is now available to clarify once and for all the precise nature and number of previous Presidential initiatives.

Mr. President, his paper has been printed as a Law Review article entitled "War Powers Legislation" in the current January 1972 issue of the West Virginia Law Review. Contrary to the claims made by Professor Commager, this new evidence discloses that 96, or almost 50 percent, of these military actions lasted more than 1 month, not merely 5 percent. Also, contrary to what was said at the Senate hearings, this article proves that fully 102 of these military actions took place outside the Western Hemisphere, not simply one or two exceptions.

Mr. President, in order that Senators may have before them during the forthcoming floor debate this totally new analysis of relevant past actions undertaken by Presidents, I ask unanimous consent that the article prepared by Mr. Terry Emerson at my request be printed in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

[From 74 West Virginia Law Review 53–119 (1972)]

WAR POWERS LEGISLATION

(By J. Terry Emerson) *

I. INTRODUCTION

The Ninety-Second Congress has been marked by the unusual drama of a vigorous and persistent effort by the Legislative Branch to confront the President, eyeball to eyeball, over the primary issues of war and peace.[1] Nowhere has the contest been joined in a more fundamental way, reaching to the very core of the division of powers between the two political branches, than in the bold thrust by several senators to codify the rules governing the circumstances in which the United States may go to and remain in war.[2]

No less than 19 senators have introduced or cosponsored one of five different bills or joint resolutions seeking to define the instances when the President may use or deploy the Armed Forces of the United States.[3] Taken singly or severally, these measures purport to demark the sole conditions under which the President can initiate military hostilities and to restrict his authority to continue any such hostility beyond a brief period unless and until he has obtained a new and specific authorization from Congress.[4]

It is the purpose of this article to examine the validity of such a legislative approach and, in so doing, to test its practical soundness.

II. DESCRIPTION OF WAR POWERS BILLS

First, it is necessary to know what the War Powers Bills attempt to do. Accordingly, we might start by reviewing the bill, S. 731, introduced by Senator Javits. The other measures then can be discussed in relation to how they differ from S. 731.

In its first section, the Javits bill provides that the "use of Armed Forces of the United States in military hostilities in the absence of a declaration of war [shall] be governed by the following rules . . . ."[5] These rules are (1) the President shall initiate military hostilities only in four prescribed circumstances;[6] (2) the President shall report promptly to Congress whenever military hostilities commence;[7] (3) in no event shall such hostilities be sustained beyond thirty days unless Congress enacts legislation to this end;[8] and (4) the President's authority to sustain such hostilities may be terminated short of thirty days by joint resolution of Congress.[9]

The four situations in which the President is limited to using the Armed Forces are:

"1. to repel a sudden attack against the United States, its territories, and possessions;

"2. to repel an attack against the Armed Forces of the United States on the high seas or lawfully stationed on foreign territory;

"3. to protect the lives and property, as may be required, of United States nationals abroad; and

"4. to comply with a national commitment resulting exclusively from affirmative action taken by the executive and legislative branches of the United States Government through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment, where immediate military hostilities by the Armed Forces of the United States are required."[10]

In addition S. 731 creates a system by which legislative proceedings shall be expedited whenever a bill or resolution is introduced continuing any military hostility initiated in one of the above four instances or terminating any such hostility.[11] Finally, S. 731 expressly waives its application to hostilities undertaken before its enactment.[12]

By comparison, S.J. Res. 59, introduced by Senator Eagleton, limits the President to committing U.S. forces to action only in three of the four circumstances outlined in S. 731, omitting any authority for the President to comply with a treaty commitment.[13] In fact, S.J. Res. 59 specifically mandates that no "treaty previously or hereafter entered into by the United States shall be construed as authorizing or requiring the Armed Forces of the United States to engage in hostilities without further Congressional authorization."[14]

Another distinguishing feature of the Eagleton resolution is found in its express declaration that "authorization to commit the Armed Forces of the United States to hostilities may not be inferred from legislative enactments, including *appropriation* bills which do not specifically include such authorization."[15]

In addition, S.J. Res. 59, unlike S. 731, includes a definition of the term "hostilities."[16] In this way, S.J. Res. 59 not only applies to "land, air, or naval actions,"[17] but also to the deployment of American forces abroad "under circumstances where an imminent involvement in combat activities with other armed forces is a reasonable possibility."[18] United States military advisors accompanying "regular or irregular" troops of a foreign country on any combat mission are similarly reached by the definition.[19]

If a governing Congressional authorization exists, of which the resolution itself appears to be one, the President is authorized to order American forces into a third country with which we are not then engaged in hostilities when in hot pursuit of fleeing enemy forces or when a clear and present danger exists of an imminent attack on our forces by enemy units located in such third country.[20]

One remaining difference between the Javits bill and the Eagleton resolution is the requirement in S.J. Res. 59 that the President shall report periodically on the status of any authorized hostilities,[21] rather than solely at the onset of such actions.[22]

The third War Powers legislation, S.J. Res. 95 by Senator Stennis, is essentially similar to the provisions contained in S.J. Res. 59. The organization of sections is shifted somewhat, and Senator Stennis explicitly adds authority for the President "to prevent or defend against an imminent nuclear attack on the United States,"[23] thereby making precise what is broadly allowed under the other proposals. Finally, S.J. Res. 95 refers to "armed conflicts"[24] instead of "hostilities."[25]

But the main substantive difference between the two joint resolutions lies in the absence from S.J. Res. 95 of an explicit disavowal saying a national commitment cannot arise from a treaty[26] and its omission of the "hot pursuit" provision of S.J. Res. 59.[27] One change in the Stennis resolution which could become important in different circumstances is its non-application solely to the Vietnam conflict.[28] This could mean that if war should break out at some fresh spot in the world, the action would be within the scope of the proposal's limitations even though it had started before the proposal was enacted. But in the event an unexpected military venture should develop before S.J. Res. 59 became law, the action would not be limited by the statute.[29]

S. 1880,[30] introduced by Senator Bentsen, is almost identical with S.J. Res. 95, and the above summary is adequate to describe its provisions.[31]

The fifth War Powers legislation is S.J. Res. 18, proposed by Senator Taft. It is most like S. 731 in that it defines four circumstances similar to those of that bill in which the President is restricted to using military force.[32] Unlike S. 731, however, the Taft resolution does not restrain the period of such hostilities to thirty days.[33] Nor does it include any procedure for the speedy consideration of legislation seeking to terminate the action.[34] Furthermore, S.J. Res. 18 extends solely to situations involving the commitment of forces "to combat,"[35] while S. 731 may possibly be construed to reach a much broader category of troop movements and uses.[36]

Furthermore, S.J. Res. 18 does not contain any provision exempting prior hostilities from its restrictions.[37] It does contain a detailed part authorizing the continued deployment of United States troops in Vietnam so long as necessary to accomplish a withdrawal of our forces and the assumption by South Vietnam of its own defense.[38]

III. CONSTITUTIONALITY OF WAR POWERS BILLS

A. Fundamental issues

It is immediately evident that each of the War Powers Bills purports to lay down rigid boundaries which supposedly will govern the situations when the President may and may not use United States military forces abroad.[39] Four of the five measures attempt to specify for how long our troops can be committed even in the limited situations where the President is allowed to act.[40]

But what is the source of Congressional authority over the decision of when and where to wage war? Does the Constitution unequivocally deposit the controlling power over military matters with Congress? Is there a line of court decisions clearly supporting the view that Congress can forbid the sending of troops outside the country? Does historical practice bear out the doctrine of Congressional supremacy over the use of force in foreign affairs? Or are the War Powers Bills founded upon misplaced emotions and unproven postulates?

B. Textual arguments in support of legislation

The task of presenting arguments for the constitutional standing of the War Powers legislation has largely been assumed by Senator Javits. On March 5 of 1971, he inserted a thorough brief on his bill, incorporating a discussion of the textual arguments and decided cases, into the Congressional Record.[41]

His brief argues that:

"Article I, Section 8 confers on Congress the major war powers—the powers to provide for the common defense; to declare war; to raise and support an army and navy; to make rules for the government and regulation of the land and naval forces; to provide for calling forth the militia to execute federal laws, suppress insurrections and repel invasions; and to provide for organizing, arming, disciplining and governing the military—and the authority to make all laws necessary and proper to the execution of such powers."[42]

From this, the brief concludes "that the role of war policy formulation was intended for Congress and that the role of the President was to be the faithful execution of Congressional policy."[43] Thus, the executive power as Commander in Chief is seen as only a ministerial function,[44] derived from the experience of the framers of the Constitution with the conduct of the Revolutionary War.[45] Like General George Washington, whose commission from the Continental Congress insisted upon Congressional control of that war,[46] the "President, as Commander in Chief was intended to be the executive arm of Congress, carrying out its policy directives in the prosecution of military hostilities."[47]

The concept held by Senator Javits has received support from Professor Richard B. Morris, who recently assured the Senate Committee on Foreign Relations "it is a fair inference from the debates on ratification and from the learned analysis offered by the *Federalist* papers that the warmaking power of the President was little more than the power to defend against imminent invasion when Congress was not in session."[48]

Not all commentators agree. Professor Quincy Wright wrote in 1969:

"I conclude that the Constitution and practice under it have given the President, as Commander-in-Chief and conductor of

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foreign policy, legal authority to send the armed forces abroad; to recognize foreign states, governments, belligerency, and aggression against the United States or a foreign state; to conduct foreign policy in a way to invite foreign hostilities; and even to make commitments which may require the future use of force. By the exercise of these powers he may nullify the theoretically, exclusive power of Congress to declare war." [49]

It is clear the above statement is not principally a modern day concept, erected in awe at the vast scope of Presidential conduct over the last twenty years.[50] Professor W. W. Willoughby, author of a famous three volume work on constitutional law, reached the same findings in 1929. Willoughby declared that the power of the President to send United States forces outside the country in time of peace "when this is deemed necessary or expedient as a means of preserving or advancing the foreign interests or relations of the United States" is a "discertionary right constitutionally vested in him, and, therefore, not subject to congressional control." [51]

The late Professor Edward Corwin, who was selected by Congress to edit the congressionally sponsored *Constitution Annotated*,[52] also recognized the President's authority to commit military forces abroad on his own initiative.[53] In 1944, he wrote that this power "had developed into an undefined power—almost unchallenged from the first and occasionally sanctified judicially—to employ without Congressional authorization the armed forces in the protection of American rights and interests abroad whenever necessary." [54]

In truth, there exists much informed opinion from which one might doubt the restrictive view held by the advocates of War Powers legislation.[55] Contrary to the position asserted by a sponsor of one of these bills, there is no uniform viewpoint or visible weight of opinion establishing that "the proposals are constitutional." [56]

C. Cases used in support of legislation

Regardless of theoretical arguments, what have the courts decided? According to the brief offered by Senator Javits, they have held unfailingly that Congress may curb the Executive's employment of military force,[57] a claim we shall now test.

Three of the cases relied upon by the War Powers brief construe the application of early statutes applicable to the undeclared Naval War of 1798 to 1800, between the United States and France.[58] In point of fact, all of the cases were decided after the event, subsequent to the close of hostilities and had no bearing whatsoever on the conduct of an ongoing war.

The first of these cases, *Bas* v. *Tingy* [59] (also cited as *The Eliza*), involved the factual determination of whether the term "enemy," as used by Congress, referred to French privateers. The sole purpose of the Court's exercise was aimed at determining whether the owner of the *Eliza* had to pay salvage under a special federal law relating to the recapture of ships from the "enemy," rather than under a general statute which provided for payment of a much lesser amount. It is true three justices made sweeping references to the limits which Congress might set on hostilities, but these statements were in no way necessary to the decision of the case.[60]

Talbot v. *Seeman*,[61] decided a year later, involved the same statutes and included a declaration by Chief Justice Marshall to the effect that "the whole powers of war" were "vested in Congress." [62] Though heavily relied upon by sponsors of the War Powers legislation, the decision imposed absolutely no restriction upon the Executive's conduct of an ongoing war. What the Court would decide in the event Congress sought to shackle the President's discretion in the middle of an actual conflict presents a far different situation than the minor incident settled by this case.

The third case, *The Flying Fish*,[63] construed the meaning of a Federal law providing for forfeiture of American vessels employed in commerce with France. While the statute empowered American war ships to seize United States trading ships going into French ports, President Adams directed the navy to capture United States vessels both going into and coming from French ports. After the war was over, the Court held the seizure of a Danish vessel upon leaving a French port was unlawful.

Plainly the Court's discussion of the conflict between the Presidential order and the Act of Congress was dictum. Neither the President nor Congress had directed the seizure of neutral vessels. The capture of a Danish ship was not permitted under either claim of authority. Further, the case was not aimed at stopping the President from using American forces. It turned on the civil obligations of the commander of one American frigate, not on the respective roles of Congress and the President in the making of war.[64]

Another significant factor downgrading the relevance of the above three cases has been raised by Professor John Norton Moore. Speaking before the Senate hearings on War Powers legislation, Professor Moore advised the committee "these cases involved an issue squarely within a specific grant of authority to Congress. That is, the power 'to make Rules concerning Captures on Land and Water.' Under the circumstances it hardly seems surprising or relevant that a congressional act concerning rules for capture was preferred by the Court to a presidential interpretation of that act." [65]

Further question has been raised about this early line of cases by Secretary of State William P. Rogers, who reminded the Senate Committee on Foreign Relations that they were "decided before the doctrine of 'political questions' was formulated by Chief Justice Marshall in *Foster* v. *Neilson*, 27 U.S. (2 Pet.) 253 (1829) and . . . a similar case would probably never reach decision on the merits today." [66]

Indeed, one of the sponsors of S. 731 writes: "Also, it is conceded that should war powers legislation be enacted and result in a confrontation between the President and the Congress, there is little chance of judicial interpretation." [67]

Chronologically, the next decision relied upon in the War Powers brief is the *Prize Cases*,[68] a Civil War judgment regarding the legality of President Lincoln's blockade against the Confederacy. It is claimed this case proves "the Court's insistence upon Congressional authorization as the basis of Presidential war powers." [69] Yet Justice Grier, who wrote the Court's opinion, carefully explained the issue was not whether Congress had authorized the blockade, but whether the President, acting alone, possessed a right to take military action "on the principles of international law, as known and acknowledged among civilized States?" [70]

In upholding President Lincoln's right to meet the insurrection, the Court said: "If a war be made by invasion of a foreign nation, the President is not only authorized but bound to resist force by force. He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority." [71] In the author's opinion, this case, far from indicating a superior role for Congress, points to the presence of a duty on the President to answer certain challenges against the nation without waiting for Congress to baptize them with a name.[72]

Another case cited in support of the War Powers bill is *Ex parte Milligan*,[73] in which the Court held that neither Congress nor the President could authorize the trial of a civilian before a military tribunal in a State which had been loyal to the Union during the Civil War. Though the case did involve limits on the power of the President, as well as on that of Congress, the Court's language might well be read as restricting the authority of Congress to impede the President's command of military decisions once hostilities break out. Four of the justices remarked upon the power of Congress in time of war as follows: "This power necessarily extends to all legislation essential to the prosecution of war with vigor and success, except such as interferes with the command of the forces and the conduct of campaigns. That power and duty belong to the President as commander-in-chief." [74]

Another case which may actually enlarge upon the President's power, but has been cited as authority for the War Powers legislation,[75] is *United States* v. *Midwest Oil Company*.[76] This case considered the validity of a Presidential decree which withdrew from public acquisition all public lands containing petroleum. The President had issued the order even though Congress had passed a law making these same lands free and open to purchase by United States citizens.[77]

Nevertheless, the Court found that the Executive had been making similar orders contrary to Acts of Congress for a long time and, as a result, had acquired a power to do what it had been doing.[78] As we shall see in a later part of this article, the *Midwest* doctrine may thereby be applicable to support the practice of Presidents to commit United States troops overseas without Congressional direction.[79]

The remaining decision relied on in the War Powers brief is the "Steel Seizure" [80] case which arose out of President Truman's attempted takeover of the nation's major steel mills. Though the Court held, six to three, the President lacked authority on his own to take possession of private property, even on the ground of his role as Commander in Chief, it is plain the Courts majority treated the case as a domestic issue far removed from matters of day-to-day fighting in a theater of war.[81]

Justice Jackson appears to have expressed the mood of the Court aptly when he wrote:

"We should not use this occasion to 'circumscribe,' much less to contract, the lawful role of the President as Commander-in-Chief. I should indulge the widest latitude of interpretation to sustain his exclusive function to command the instruments of national force, at least when turned against the outside world for the security of our society." [82]

Accordingly, it is believed the "Steel Seizure" case is mistakenly cited as being applicable to any situation regarding the use of United States troops outside the country for the protection of American interests. In the words of Secretary of State William P. Rogers, "the precise issue in that case was not the President's authority to conduct hostilities but the scope of his power over a clearly domestic matter—labor management relations." [83]

A somewhat analogous decision, inspiring a multiude of opinions and touching on the fringes of the President's War Powers, with no direct limit on his right to deploy forces, is the *New York Times* case [84] relating to the publication of the so-called Pentagon Papers. In this case, Justice Douglas, joined by Justice Black, aimed a thrust at the President by proclaiming "[n]owhere are presidential wars authorized." [85] But this view was not taken up by any other member of the Court's ruling.

D. Source of President's powers over military and foreign affairs

Numerous authorities have described in detail the vast scope of the President's authority to employ force abroad.[86] In general, these observers point to four distinct powers

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of the President as the root of his independent authority. The powers are centered in his acquisition of all the "Executive Power" of a great and sovereign nation,[87] in his mandate to initiate and conduct foreign policy,[88] in his right and duty to "take care that the laws be faithfully executed,"[89] and in his designation as Commander in Chief.[90]

The very first sentence of article II of the Constitution reads: "The Executive Power shall be vested in a President of the United States of America."[91] As Solicitor General Erwin Griswold has recently noted, the grant of Executive power "is not a merely passive grant."[92]

It was Alexander Hamilton who first used this grant in arguing that the President's role in international matters is a positive one.[93] In fact, Hamilton claimed this clause had vested in the President the inherent powers held by any sovereign nation, including the right to form policy which "may, in its consequences, affect the exercise of the power of the Legislature to declare war."[94] The Hamiltonian concept of inherent powers over foreign affairs appears to have influenced Chief Justice John Marshall, who in 1800 while still a Member of the House of Representatives, conceived the familiar quote: "The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations."[95]

In 1971, Justice Harlan, Chief Justice Burger, and Justice Blackmun breathed fresh life into Marshall's characterization by writing: "From that time, shortly after the founding of the Nation, to this, there has been no substantial challenge to this description of the scope of executive power."[96] The reference by these three justices to the President's "constitutional primacy in the field of foreign affairs" was echoed in the same case by Justice Thurgood Marshall who declared: "[I]t is beyond cavil that the President has broad powers by virtue of his primary responsibility for the conduct of our foreign affairs and his position as Commander-in-Chief."[97]

All four justices cited with approval[98] the landmark case of *United States* v. *Curtiss-Wright Export Corp.*,[99] in which the Supreme Court had embraced the doctrine of "inherent" powers over the conduct of foreign affairs. There the nation's highest tribunal held it was dealing with "the very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations—a power which does not require as a basis for its exercise an act of Congress. . . ."[100]

The third pertinent power of the President is derived from his duty and right to execute the laws, an implicit authority which often is overlooked in contemporary discussions of the war powers. Professor Quincy Wright has remarked on this authority:

"The duty to execute the laws is not limited to the enforcement of acts of Congress and treaties of the United States, but includes also 'the rights, duties and obligations growing out of the constitution itself, our international relations, and all the protection implied by the nature of the government under the constitution'."[101]

Corwin has described the implications of this doctrine as follows:

"Thanks to the same capacity to base action directly on his own reading of international law—a capacity which the Court recognized in the *Neagle* case—the President has been able to gather to himself powers with respect to warmaking which ill accord with the specific delegation in the Constitution of the war-declaring power to Congress."[102]

Thus, the implied power of the President to interpret for himself the scope of our international obligations has enabled him to validly exercise powers which might otherwise appears to have been left to the proper authority of Congress.[103]

It has also been judicially determined that "the President's duty to execute the laws includes a duty to protect citizens broad. . . ."[104] Thus said Justice Nelson, who sitting as a trial judge in 1860 upheld the authority of the President to take whatever action he determines proper to protect "the lives, liberty and property" of the citizen abroad, without awaiting word from Congress.[105] The corollary right of a citizen abroad "to demand the care and protection of the Federal government over his life, liberty, and property" was subsequently recognized by the Supreme Court.[106] which expressly included this protection among the privileges and immunities of citizenship guaranteed by the Constitution.[107]

Not only is there persuasive domestic law on the issue of intervention abroad for the protection of citizens, but J. Reuben Clark, citing several international authorities, claims:

"There is considerable authority for the proposition that such interposition by one state in the internal affairs of another state for the purpose of affording adequate protection to the citizens of one resident in the other as well as for the protection of the property of such citizens, is not only not improper, but, on the contrary, is based upon, is in accord with, and is the exercise of a right recognized by international law."[108]

In addition, the right of the nation to defend itself as well as its citizens, is clearly established in both international and domestic law."[109]

A fourth source of the President's powers in the field of war making rests upon his designation as Commander in Chief.[110] This power has been succinctly defined to encompass "the conduct of all military operations in time of peace and of war, thus embracing control of the disposition of troops, the direction of vessels of war and the planning and execution of campaigns," and to be "exclusive and independent of Congressional power."[111]

What little judicial holdings there are on this power suggest it is largely an unfettered one. For example, in 1886, four members of the Supreme Court pointedly stated: "Congress cannot direct the conduct of campaigns."[112] In 1897, the High Court affirmed a decision by the Court of Claims which held: "Congress cannot in the disguise of 'rules for the government' of the Army impair the authority of the President as Commander in Chief."[113]

E. Historical overview of President's war powers

Some twenty-five years ago, James Rogers, a former Assistant Secretary of State wrote: "It must be evident that the control of foreign policy and of the armed forces left to the President by the Constitution and reinforced by a century and half of augmentation, reduces the reservation of the power to 'declare war' to a mechanical step, sometimes even omitted."[114] What had happened to allow Rogers to assert such a bold claim? It was his discovery, unknown and unnoticed by most Americans, that "[t]he Executive has used force abroad at least a hundred times to accomplish national purposes without reference to Congress."[115]

This astonishing total was evaluated by Professor Corwin, who stated: "While inviting some pruning, the list demonstrates beyond peradventure the power of the President, as Chief Executive and Commander in Chief, to judge whether a situation requires the use of available forces to support American rights abroad and to take action in accordance with that decision."[116]

Clearly little wars are not "phenomena new to the national experience,"[117] as some authorities, obsessed by the Vietnam war, would have us believe.[118] Indeed, by April of 1971, Senator Barry Goldwater informed the Senate War Powers hearing that research at his direction had "turned up 153 such actions."[119] The Goldwater study is a continuing one and a fresh review of the subject by the author in preparation for future testimony by Senator Goldwater reveals there are at least 196[120] separate military engagements initiated by the Executive branch without a declaration of war from 1798 to 1971.[121]

The list seems particularly imposing since its total consists of hostilities where actual fighting took place, landings were made on foreign soil, or United States citizens were evacuated. No precedents are listed involving mere deployment of forces or craft simply to maintain an American presence, even if the deployment constituted an alert accompanied by an advanced state of readiness, except for some eight instances in which the risk of war was particularly grave. Nor have any military operations been offered as precedents which were subsequently disavowed or repudiated by the Executive.[122]

Are these precedents "minor undertakings"[123] and "short-lived"[124] as charged by some critics? Are the incidents confined to the Western Hemisphere and contiguous territory up to "the last twenty years or so," with the sole exception of the Boxer Expedition, as claimed by Henry Steele Commager?[125] The author believes the record stands for itself. We might note first that out of the 196 actions listed, 102 occurred outside the Western Hemisphere,[126] 87 of them taking place before "the last twenty years or so."[127] To which fact, we might add that 82 hostilities constituted actual combat operations or ultimatums tantamount to the use of force.[128]

Ninety-six engagements continued for longer than 30 days.[129] No more than 81 of the precedents,[130] less than half, could arguably have been initiated with the support of a legislative instrumentality. At least 45 of the precedents[131] were "calculated and ideological"[132] in the sense that they committed the United States outside its own territory in order to advance major, long-range national interests stretching far beyond the immediate protection of its citizens or territory.

Were the operations minor? In 1854, at a time when American forces did not exceed 50,000 men, Commodore Perry took 2,000 of them to the other side of the world in order to pressure Japan into reaching a commercial treaty with us.[133] Between 1899 and 1901, the United States used 126,468 troops to put down the Philippine Insurrection.[134]

After World War I had ended, we landed 5,000 soldiers at Archangel, Russia, and 9,000 more in Siberia, to aid the anti-Bolsheviks and to forestall Japanese expansionist plans in Siberia.[135] From 1926 to 1933, United States Marines fought more than 150 battles in Nicaragua and lost 97 men in seeking to foil what has been referred to as the "first attempt of Communism to infiltrate Latin America."[136]

In 1927, the United States had 6,000 troops ashore in China and 44 naval vessels in its waters.[137] In numerous other instances, the United States has put ashore hundreds and even thousands of forces on foreign lands.[138]

Put in the perspective of their own times, it is believed these interventions cannot be classified as "minor." Rather, the author would agree with the assessment of Professor Henry Monaghan that:

"[W]ith ever-increasing frequency, presidents have employed that amount of force that they deemed necessary to accomplish their foreign policy objectives. When little force was needed (*e.g.*, in our incursions in Latin America), little was used; when larger commitments were necessary, they too were forthcoming. Whatever the intention of the framers, the military machine has become simply an instrument for the achievement of foreign policy goals, which, in turn, have become a central responsibility of the presidency."[139]

Further, the author believes Professor Monaghan is correct in telling us that "his-

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tory has legitimated the practice of presidential war-making."[140] In Monaghan's words, "A practice so deeply embedded in our governmental structure should be treated as decisive of the Constitutional issue."[141]

With this historical record in back of us, the principle laid down by the Supreme Court in *Midwest Oil*[142] gains added relevance. Here the Court had announced "that in determining the meaning of a statute or the existence of a power, weight shall be given to the usage itself—even when the validity of the practice is the subject of investigation."[143]

Certainly, the deployment of forces abroad on the initiative of the President alone is a "long-continued practice" extending backward far longer than the usage found to be valid in the *Midwest Oil* case.[144] Furthermore, Congress has known of and acquiesced in the President's usage for nearly a century and a half now, part of the time arguably in the face of a limiting Congressional statute.[145]

One instance when it is clear the President violated the terms of a Congressional statute attempting to govern his power to deploy troops abroad is the experience of the nation under the Selective Service Act of 1940.[146] The law expressly provided that no draftees were to be employed beyond the limits of the Western Hemisphere, except in territories and possessions of the United States.[147]

Notwithstanding the Congressional prohibition, President Roosevelt deployed our troops, including draftees, to occupy Iceland and Greenland several months before World War II had been declared.[148] Iceland, however, is over 2,300 miles away from the closest point in the United States and is invariably placed in the section on Europe in any prominent world atlas. If nothing more, the incident shows Presidents will ignore Congressional limitations when they believe vital American interests are undeniably at stake.[149]

IV. Policy considerations

Regardless of the legality or illegality of the War Powers legislation, are the measures wise or proper from a practical standpoint? Can any Member of Congress, or Congress collectively, foresee all contingencies that may arise in the future? Might the War Powers legislation unwittingly turn the tables on its sponsors by exciting a situation or pushing a reluctant President into broader action than he wishes? A partial answer might be evident from the fact that many of the same authorities who have testified in favor of the general concept of War Powers legislation nevertheless have uttered grave concerns about the wisdom of these measures in practice.

For example, McGeorge Bundy warned "no single rule is likely to meet all our needs, and in particular I think it is dangerous to try to deal with the future by legislating against the past."[150] Alexander Bickel has confessed: "Codification seems to me difficult, heavily prone to error, quite possibly dangerous, and unnecessary."[151] William D. Rogers remarked: "I think the Javits proposal requiring the President in effect to get out if Congress does not act within 30 days is dangerous."[152]

These thoughts have been refined and expanded by others who are in outright opposition to passage of War Powers legislation.[153] Secretary of State William P. Rogers cautioned those who might conceive of the War Powers legislation as serving the end of peace by saying: "Moreover, requiring prior congressional authorization for deployment of forces can deprive the President of a valuable instrument of diplomacy which is used most often to calm a crisis rather than enflame it."[154]

To which he added:

"There is another consideration. To circumscribe presidential ability to act in emergency situations—or even to appear to weaken it—would run the grave risk of miscalculation by a potential enemy regarding the ability of the United States to act in a crisis. This might embolden such a nation to provoke crises or take other actions which undermine international peace and security."[155]

Professor James MacGregor Burns, the recipient of a Pulitzer Prize for his skills as a political historian, has gone further. He has testified that any legislation which would encumber the President's ability to respond and adjust to changing world situations as he determines proper will remove the one essential ingredient preventing World War III—flexibility.[156] Dr. Burns warned that imposing artificial restrictions on Executive discretion "may not lead to peace but to war, as foreign adversaries estimate that the United States will not respond to a threat to world peace because of legislative restrictions on the executive."[157]

The fear expressed by Dr. Burns was recently taken up by former Under Secretary of State George W. Ball, who is credited with being a dove in the high ranks of the Johnson Administration. Mr. Ball reminds us that the Neutrality Acts adopted in the aftermath of World War I "very probably" impeded the United States from taking firm steps which would have averted World War II.[158] This illustration leads Mr. Ball to ask how does one draft a statute that will make it possible for Congress to play a role "in shaping fundamental decisions that may lead to war without inhibiting the President in doing whatever is necessary" to avert some future catastrope parallel to World War II.[159]

Senator Barry Goldwater sounded the same alarm in his appearance before the War Powers hearings. He charged the legislation "will undermine the credibility of our most basic defense agreements such as NATO. With one swipe, our 42 defense pacts will be chopped into 30-day wonders, if that."[160]

Senator Goldwater argued: "Thereby, the proposed bill will place all our treaty obligations in a state of permanent doubt. No ally can ever know if the United States will stand by it for more than 30 days; and even then, it cannot be certain whether Congress will shut off our aid sooner."[161] But there is another side to the coin. If Congress has the right to legislate concerning the rules of war as is argued by the sponsors of War Powers legislation,[162] Congress also possesses the power to order the President into broader hostilities than he wishes. This development could actually occur under a provision of these bills in their present form which establishes a procedure for expedited consideration by Congress of legislation designed to sustain hostilities beyond 30 days.[163]

The danger can be tested against actual history. For example, if the War Power legislation had been in effect at the time of the Cuban missile crisis,[164] Congress would have been required to act swiftly on the matter of continuing the deployment of forces in the Caribbean once the 30-day period possibly allowed by the legislation had expired. Under the telescoped parliamentary procedure created by the legislation, this vote likely would have occurred (Congress then having been in session) within a matter of a few days. Thus, Congress would have voted right at the peak of emotional excitement and public concern over the missile threat.

One can easily suppose in the setting of the time—with enemy missiles being aimed at cities holding 80 million American citizens, with reports arriving of attacks on American reconnaissance planes, and with the killing of an American pilot over Cuba[165]—that a majority in Congress, with one eye on elections only weeks away, would have favored legislation directing an all-out bombardment of Cuba or even an invasion.

As Senator Goldwater observed: "Those who look to Congress as the ultimate haven of peaceful thinking might thumb through the pages of Robert Kennedy's short manuscript on the Cuban Missile Crises."[166] In this book, the late Senator Kennedy recounts that of all the deliberations which preceded his brother's broadcast to the nation on the crisis, his session with the leaders of Congress "was the most difficult meeting."[167]

According to Robert Kennedy:

"Many Congressional leaders were sharp in their criticism. They felt the President should take more forceful action, a military attack or invasion, and that the blockade was far too weak a response. Senator Richard B. Russell of Georgia said he could not live with himself if he did not say in the strongest possible terms how important it was that we act with greater strength than the President was contemplating."

"Senator J. William Fulbright of Arkansas also strongly advised military action rather than such a weak step as the blockade."[168]

In light of this illustration, Senator Goldwater asks: "Is it not possible Congress might, when confronted with dramatic pressure for making an immediate decision, vote in favor of a military strike? Are the Members of Congress more immune to emotional, impulsive reactions than other humans?"[169]

In the event Congress should decide to steer our nation into expanded hostilities, the authors of War Powers legislation would leave the President no exit. Their whole argument for the power of Congress to pass such legislation is squarely based upon the proposition that Congress controls the War Powers and that the President must faithfully carry out the directives enacted by Congress.[170] According to the brief offered by Senator Javits, "the President has no right to contravene such legislation."[171]

There is another problem. What about the ability of the President to respond to specific, sudden emergencies? Is the assurance of Irving Brant correct that the War Powers legislation "does not interfere in the least with the handling of any emergency, from minor property damage to nuclear holocaust?"[172]

Perhaps reference to some actual situations will provide an answer. Oddly enough, the proposal introduced by a Senator from New York, himself Jewish, as well as the other War Powers legislation, would prohibit the United States from acting to defend the state of Israel. This result occurs because under the Javits bill, the President may act to comply with a national commitment only if the commitment results exclusively from a "legislative instrumentality specifically intended to give effect to such a commitment. . . ."[173]

But this country has no legislative commitment to defend the security of Israel. There is no treaty or convention or resolution authorizing the United States to assist in preserving Israel's independence.[174] Senator Goldwater has set the scene:

"No matter that Arab fanatics may be seeking to make good on their aim of shoving the Israelis into the sea. No matter that approximately 20,000 Soviet personnel may be manning SA–3 missile sites and advanced jet fighters while massive Egyptian tank forces mount an invasion on disputed Sinai territory. . . . Regardless of the humanitarian exigencies and the dire consequences on European security, the War Powers Bill prohibits an immediate response by the United States to forestall an Arab conquest of Israel."[175]

Senator Goldwater has added:

"Oh yes, we might rush in Air Force transport planes to whisk our own citizens out of danger. We might even send a contingent of marines into cities where our embassies and legations are located to aid them.

"But when our forces are called upon to act for broader purposes—for reasons of vital strategic interests such as saving another nation's people from annihilation—the war

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powers bill will halt our forces short. This would be carrying out a national commitment." [176]

Nor is the scenario described by Senator Goldwater an implausible one. The United States has already intervened once in the Arab-Israeli crisis in a way that would be specifically curbed under any of the pending War Powers legislation.[177] This incident occurred in June of 1967, during the six-day Middle East war, after President Johnson had heard over the hotline that Russia "had reached a decision that they were prepared to do what was necessary, including using the military" to stop the advance of Israeli troops into Arab territory.[178]

As President Johnson understood it at the time "unless the Israelis halt operations within the next five hours the Soviets will take necessary action, including military. . . ." In response President Johnson reports he ordered the U.S. 6th Fleet to move to within 50 miles off the Syrian coast as "a sign that the Soviet Union would have to deal with us." [179]

Though the preceding illustration refers solely to Israel, the identical problem exists under the Javits bill in the case of any other country with which the United States has no national commitment sanctified by action of Congress.

Another situation in which the President would be barred from taking independent action under most, if not all, of the War Powers legislation is the deployment of troops or equipment to back up United States foreign policy objectives in times of great crises, such as the recurrent Communist pressures on free Berlin.[180] In this connection, the Department of the Navy has compiled a list of what it calls 55 "wars/near wars" since 1946, in which naval units were involved, alerted, or redeployed.[181] All of these movements at the initiative of the President would be prohibited under the War Powers legislation to the extent that they back up a national commitment to a foreign country, with the single exception of commitments specifically dependent upon a treaty or convention which could be implemented for 30 days under the Javits bill alone.[182]

One more example, pinpointing a need for broad Executive discretion, is the 1964 Congo rescue effort which saved 2,000 persons, including about 60 Americans, who were being held hostage by Congolese rebels.[183] Former Secretary of State Rusk has described the incident:

"On one occasion, a large number of Europeans, including the staff of the American Consulate and other American private citizens, were being held as hostages by a savage group in the Eastern Congo called Simbas. Private negotiations with the Simbas over a period of weeks had failed to release the hostages. Threats of execution and brutal torture mounted. We and the Belgians decided (with the approval of the government of the Congo) to drop Belgian paratroopers into the area by American aircraft in order to rescue these hostages who were in a truly desperate situation. There could not have been action by the Congress without alerting the Simbas as to what was up; the result would almost certainly have been the summary execution of American Consular Officers and a considerable number of American citizens." [184]

As compelling as the humanitarian interests are in the Congo situation, it is doubtful the joint rescue mission would have been permitted under the rigid lines set by the War Powers legislation. Insofar as the military operation affected 97% of the persons evacuated, it would not have been legal under these proposals because the individuals were not United States citizens. [185] Of course, if the proposals could be construed broadly enough to permit the President to employ troops in another country under the guise of protecting Americans abroad, even though the main purpose or result reaches far beyond that end, the President can initiate the use of force in nearly every conceivable situation without running afoul of the proposals. Today United States citizens can be found in every nation of the world, including Communist China, a fact which would enable the President to employ force abroad at any place he determines necessary under the excuse of protecting our citizens.

This discussion should not be concluded without referring to a fundamental question posed by some critics of Presidential initiatives. The flavor is caught in the statement by Henry Steele Commager who claims that, with the exception of the Civil War and perhaps the Korean War:

"[T]here are no instances in our history where the use of war making powers by the Executive without authority of Congress was clearly and incontrovertibly required by the nature of the emergency which the nation faced but that on the contrary in almost every instance the long run interests of the nation would have been better promoted by consultation and delay." [186]

It is difficult to answer matters of subjective judgment. But we know of one instance in which Secretary Rusk believes "consultation and delay" would have led to the massacre of some 2,000 human beings.[187] Would these persons and their families conclude the use of military forces was not clearly required?

If you will ask the citizens of the Southwest whether they think it was necessary for Presidents Tyler and Polk to deploy American troops in Mexican territory to protect the people of what was then the independent Republic of Texas and what is now the State of Texas,[188] you might get a pretty vocal and unanimous reply to the question. Or if you will consider the stakes riding on a swift American response to Russian brinkmanship during the Cuban missile crisis, when inaction would have left the United States impotent to remove missiles which were being aimed at American cities holding 80 million citizens,[189] most would agree "second-thoughts" would have made a terrible difference to the well-being of these 80 million citizens.

The truth is that we just cannot predict what chain of events might have been instituted if we had failed to act in each of these 196 military incidents. To study them under a microscope might be worthwhile for a scholar located in an ivy-covered classroom, but for a President, faced with 20th Century reality, even a week's delay might see the overrun of an important friendly nation or the rise of an irremovable threat to national safety.

V. CONCLUSION

The verdict of history, reinforced by occasional judicial pronouncements, convinces the author that the President possesses a broad authority of independent initiative over the use of military force outside the United States. It is settled beyond question under both domestic and international law, that he can deploy fleets, land troops, order airlifts, or conduct battles in order to protect or rescue United States citizens and officials, together wtih their property.[190] It is equally obvious he can employ the military forces against an outside enemy who attacks United States territory or poses an imminent threat of such an attack.[191]

The author believes any legislation which seeks to lay down rules restricting in advance the President's ability to use military forces in these circumstances is illegal. The Constitution does not allow Congress to prohibit the President from acting in these defensive situations; nor does it permit Congress to impose statutory limitations on the period of time during which the President may act in these conditions. To this extent, the War Powers legislation is clearly unconstitutional.[192]

The President possesses authority which stretches far beyond that of making an *ad hoc*, limited response to an emergency where there is a widely recognized and immediate threat to the safety of United States citizens or the integrity of United States territory. Whenever the President, as the primary author for foreign policy and the exclusive Commander in Chief of United States forces determines there is a future danger to the ultimate preservation of the United States and its citizens which is highly probable of arising either as a direct or indirect result of a present crisis, he may commit United States forces on his own authority in any way he deems fit for the purpose of defending the future security of this country and its two hundred and ten million citizens.[193]

In the highly complex, interrelated society of the Twentieth Century, where the sudden domination of an ocean strait, or control of a critical resource, or deployment of a radically new weapon, might install an aggressive nation in a position of exclusive superiority from which it might dictate terms to all other countries, the Eighteenth Century concept of repelling "sudden attacks" must be broadened to encompass defense against threats which are probable of becoming irremovable once allowed to develop unchallenged out of present moves. The crucial test in the modern world has to be whether the damaging consequences to United States security are equally grave and equally likely to happen in the natural flow of events as the "sudden attack" which the Framers of the Constitution comprehended in their personal experience.

It is strange indeed that many of the same political liberals who make highly moving appeals for expanding the scope of federal jurisdiction and obligation on behalf of urban relief, hyphenated-Americans, and other social-welfare causes, deny their own preachments about a "living Constitution" when it comes to the President's ability to defend America's freedoms. Their unbending reliance upon brief debates at the Constitutional Convention as conveying the final meaning of the clause "to declare War" marks these commentators as the "strict constructionists" of all times.[194]

The advocates of War Powers legislation have, in general, allowed their repulsion over the tragedy of Vietnam to misguide them into a strained and rigid interpretation of the Constitution which is both wrong and unrealistic. Weaving through almost all testimony in support of War Powers legislation is the theme that there must not be "another Vietnam." [195] In fact, when Senator Javits introduced his bill, his opening sentence declared: "[T]he most compelling lesson of the 1960's for the United States is our need to devise procedures to prevent future undeclared wars as in Vietnam." [196]

The ironical error about using Vietnam as the reason for curbing Presidential initiatives is that Congress itself has been deeply involved with expansion of the Vietnam conflict each step of the way.[197] Senator Goldwater has documented at least 24 acts of Congress supporting our continued presence in Vietnam, both before and after the much discussed Gulf of Tonkin Resolution.[198]

This view has received judicial verification as well. The U.S. Court of Appeals for the Second Circuit ruled on April 20, 1971, that: "The Congress and the Executive have taken mutual and joint action in the prosecution and support of military operations in Southeast Asia from the beginning of those operations." [199]

In concluding, the author does not wish to leave the impression he believes Congress and the public are helpless to influence decisions on current and prospective foreign military policies. For one thing, a free press admonishing and criticizing the policy of an Executive

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or the Congress can mobilize public opinion in sufficient strength to change the course of action. Vietnam shows us that much.

For another, Congress can refuse to raise an Armed Force of the size an "activist" President requires to intervene at several point across the globe. As a foreshadow of events to come, the 92nd Congress has for the first time set an annual numerical ceiling on the total authorized active duty strength levels of each of the regular forces.[200]

Next, Congress can and must make individual determinations about specific military actions as they develop every time it votes on appropriations to continue these actions.[201] In this manner, Congress will be making its decision in the setting of the precise emergency or problem at hand. It will not be trying to erect rules for every kind of predictable and unpredictable event to come in the long-range future, but will be dealing with known facts and a specific request for a certain number of dollars or a certain number of helicopters, fighter aircraft, or other weapons.[202]

Finally, both Congress and the President can adhere to the Constitutional expectation that the two political branches of our government must spend an enormous amount of time working with each other to avoid the possibility of an impasse at moments of crisis. The Secretary of State, Secretary of Defense, and other ranking decision-makers in each administration must be willing to meet with committees and subcommittees of Congress hundreds of times if necessary trying to work together.

For its part, Congress must have the sense of mind and political courage to shape a recognizable position from which the President can be guided. This means the pertinent committees must develop an almost unanimous view on important issues, so that the President can clearly know the position of the Senate, or the House, as a corporate body, rather than having to choose from among the individual points of view of a hundred or so different members. Thereby, the two branches could better move in unison according to the true anticipation of our Founding Fathers.

APPENDIX

A. Chronological list of 196 U.S. military hostilities [203] abroad without a declaration of war

1798–1800: Naval War with France. When John Adams became President in 1797, he faced the serious problem of strained relation between France and the United States, in which France had made it a practice to seize American merchant ships and to manhandle their crews. Adams first attempted to negotiate a settlement, but, when the French demanded exorbitant bribes and loans, his envoys rejected the proposals and departed.

Adams, thereupon, asked Congress for the power to arm merchant ships and take other defensive measures. Congress responded by creating a Navy Department, voting appropriations for new warships, and authorizing the enlistment of a "Provisional Army" for the duration of the emergency. In July, 1798, the French treaties and consular conventions were abrogated.

The result was a "quasi-war," during which neither country declared war. The American Navy attacked only French warships and privateers and fought primarily for the protection of commerce. Some ninety French ships were captured during this naval war. In 1800 a convention was agreed to and peace was achieved. State, 2.[204]

1800: West Indies. On April 1, U.S. Marines participated in the action between the U.S. schooner *Enterprise* and a Spanish man-of-war brig in the West Indies. USMC, I, 40.

1801–1805: War with Tripoli. During the early years of the Republic, the United States, following the practice of several European nations, paid tribute to North African pirates. Shortly after Jefferson became President, the Pasha of Tripoli, dissatisfied with the apportionment of tribute, declared war on the United States (May 1801). Jefferson thereupon sent warships to the Mediterranean. After naval actions and landings under Commodore Preble, an inconclusive treaty of peace with Tripoli was signed in 1805. Congress passed various enabling acts during the conflict but never declared war. State, 3.

1806: Mexico (Spanish territory). Captain Z. M. Pike, with a platoon of troops and on the orders of General James Wilkinson, invaded Spanish territory at the headwaters of the Rio Grande, apparently on a secret mission. State, 16.

1806–1810: Gulf of Mexico. American gunboats operated from New Orleans against Spanish and French privateers. State, 16.

1810: West Florida (Spanish territory). Governor Claiborne of Louisiana, on orders from the President, occupied with troops disputed territory east of the Mississippi as far as the Pearl River. No armed clash occurred. State, 16.

1813: West Florida (Spanish territory). On authority granted by Congress, General Wilkinson seized Mobile Bay with 600 soldiers; a small Spanish garrison gave way without fighting. State, 16.

1813–1814: Marquesas Islands, South Pacific (claimed by Spain). U.S. Marines built a fort on one of the islands to protect three captured prize ships. State, 16.

1814–1825: There were repeated engagements between American ships and pirates both ashore and offshore about Cuba, Puerto Rico, Santo Domingo, and Yucatan. In 1822, Commodore James Biddle employed a squadron of two frigates, four sloops of war, two brigs, four schooners, and two gunboats in the West Indies. The United States sunk or captured 65 vessels. Marine detachments participated in at least 14 of these actions. State, 16.

1815: Second Barbary War (Algiers). In 1812 an Algerian naval squadron operated against American shipping in the Mediterranean. In one attack an American merchantman was captured and its crew imprisoned. In March, 1815, Congress passed an act that authorized the use of armed vessels "as may be judged requisite by the President" to provide effective protection to American commerce in the Atlantic and the Mediterranean. A naval squadron of 10 vessels under Commodore Stephen Decatur attacked Algiers, compelling the Dey to negotiate a treaty. Decatur also demonstrated at Tunis and Tripoli. All three states were forced to pay for losses to American shipping, and the threats and tribune terminated. State, 3.

1816–1818: Spanish Florida. During the "First Seminole War," U.S. forces invaded Spanish Florida on two occasions. In the first action, they destroyed a Spanish fort harboring raiders who had made forays into United States territory. In the second, Generals Jackson and Gaines attacked the Seminole Indians because their land was a haven for escaped slaves and border ruffians. In the process of pursuing the Indians, United States attacked and occupied Spanish posts. State, 17.

1817: Amelia Island (Spanish Territory). Under orders from President Monroe, U.S. forces landed and expelled a group of smugglers, adventurers, and freebooters. State 17.

1818: Oregon. The *U.S.S. Ontario* landed at the Columbia River and in August took possession. Russia and Spain asserted claims to the area. Rogers, 96.

1820: West Africa. Marines participated in the capture of seven slave schooners by the U.S. corvette *Cygne* off Cape Mount and the Gallinos River on the west coast of Africa during the period from April 5 through 12. USMC, I, 64.

1820–1822: West Coast of South America. Marines were aboard three of the U.S. ships stationed off the west coast of South America from 1820 until May, 1822, to protect American commerce during the revolt against Spain. USMC, I, 65.

1822: Cuba (Spanish Territory). U.S. naval forces landed on the northwestern coast of Cuba and burned a pirate station. State, 17.

1823: Cuba (Spanish Territory). Between April and October naval forces made a number of landings in pursuit of pirates, apparently incident to Congressional authorization which became operative in 1822. State, 17.

1824: Cuba (Spanish Territory). In October, the *U.S.S. Porpoise* landed sailors to pursue pirates during a cruise authorized by Congress. State, 17.

1825: Cuba (Spanish Territory). In March, British and American forces landed on two offshore Cuban islands to capture pirates who were based there. The action appears to be incident to Congressional authority. State, 17.

1827: Greece. Apparently acting pursuant to legislation, in October and November, United States forces from the *U.S.S. Warren* and the U.S. schooner *Porpoise* engaged in seven actions against pirate vessels off Greece and made landings on three Greek Islands. State, 17.

1828: West Indies. In December, incident to legislation, Marines participated in the capture of the Argentinean privateer *Federal* by the U.S. sloop *Eric* at St. Bartholomew Island, W.I. USMC, I, 67.

1830: Haiti. On June 5, marines participated in the capture of the slave brig *Fenix* by the U.S. schooner *Grampus* off Cape Haitien, Haiti. USMC, I, 67.

1831–1832: Falkland Islands (Argentina). American forces under Captain Duncan of the *U.S.S. Lexington* landed to investigate the capture of three American sailing vessels. The Americans succeeded in releasing the vessels and their crews and dispersed the Argentine colonists. State, 17.

1832: Sumatra. A force of 250 men from the *U.S.S. Potomac* landed to storm a fort and punish natives of a town for an attack on American shipping and the murder of crew members. State, 18.

1833: Argentina. Between October 31 and November 15, at the request of American residents of Buenos Aires, a force of 43 marines and sailors landed from the *U.S.S. Lexington* to protect American lives and property during an insurrection. State, 18.

1835: Samoan Island. On October 11, eighty marines and sailors burned the principal village on the island to avenge harsh treatment meted out to American seamen. Paullin, 729.

1835–1836: Peru. Marines from the *U.S.S. Brandywine* landed at various times at Callao and Lima to protect American lives and property during a revolt, and to protect the American Consulate at Lima. State, 18.

1837: Mexico. On April 16, marines joined in the capture of a Mexican brig-of-war by the *U.S.S. Natchez* off Brasos de Santiago for illegal seizure of two American merchantmen. USMC, I, 70.

1839: Sumatra. In January, American forces from the U. S. sloop *John Adams* and the U. S. frigate *Columbia* landed at Muckie, Sumatra, to protect American lives and property and to punish natives of two towns for attacking American ships. USMC, I, 70.

1840: Fiji Islands. American forces totaling 70 officers and men, landed on July 12 and 26 to punish natives of two towns for attacking American exploring and surveying parties. State, 18.

1841: Samoan Islands. On February 25, an American force of 70 marines and seamen from the *U.S.S. Peacock* landed to avenge the murder of a seaman. They burned three native villages. USMC, I, 71.

1841: Drummond Island (Kingsmill Group, Pacific Ocean). On April 6, marines from the

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U.S.S. Peacock landed and burned two towns to avenge the murder of a seaman by natives. State, 18.

1843: China. In June and July, a clash between Americans and Chinese at the Canton trading post led to the landing of 60 sailors and marines from the *St. Louis*. Paullin, 1095–1096.

1843: West Africa. In November and December, four U.S. vessels from Commodore Perry's squadron demonstrated and landed various parties (one of 200 marines and sailors) to discourage piracy and the slave trade along the Ivory Coast and to punish attacks made by the natives on American seamen and shipping. In the process, they burned villages and killed a local ruler. The actions appear to have been pursuant to the Treaty of August 9, 1842, with Great Britain relative to the suppression of the slave trade. State, 18.

1844: Mexico. President Tyler deployed our forces to protect Texas against Mexico, anticipating Senate approval of a treaty of annexation, which was rejected later in his term. Corwin, 245.

1844: China. On June 18, Marines from the U.S. sloop *St. Louis* went ashore at Canton, China, to protect American lives. USMC, I, 72.

1845: African coast. On November 30, Marines joined in the capture of the slave bark *Pons* by the U.S. sloop *Yorktown* off Kahenda, Africa. The action was consistent with the Treaty of 1842. USMC, I, 72.

1846: Mexico. President Polk ordered General Scott to occupy disputed territory months preceding a declaration of war. Our troops engaged in battle when Mexican forces entered the area between the Nueces and Rio Grande Rivers. The fighting occurred three days before Congress acted. U.S., 378.

1849: Smyrna (Now Izmir, Turkey). In July, the *U.S.S. St. Louis* gained the release of an American seized by Austrian officials. State, 18.

1850: African coast. On June 6, Marines joined in capturing a slave ship by the U.S. brig *Perry* off Luanda, Africa. The action was consistent with the Treaty of 1842. USMC, I, 77.

1851: Turkey. After a massacre of foreigners (including Americans) at Jaffa, the U. S. Mediterranean Squadron was ordered to demonstrate along the Turkish coast. Apparently, no shots were fired, but the display amounted to compulsion. State, 19.

1851: Johanna Island (East of Africa). The *U.S.S. Dale* delivered an ultimatum, bombarded the island, and landed a force to punish the local chieftain for the unlawful imprisonment of the captain of an American whaler. State, 19.

1852–1853: Argentina. Several landings of marines took place in order to protect American residents of Buenos Aires during a revolt. State, 19.

1853: Nicaragua. American forces landed at Greytown and remained for two days (March 11–13) to protect American lives and interests during political disturbances. State, 19.

1853: China. On September 11, a small Marine force from the U. S. steamer *Mississippi* boarded a Siamese vessel in the Canton River and put down a mutiny. USMC, I, 78.

1853: West Coast of Africa. In accordance with the Treaty of 1842, on December 3, Marines joined in the capture of the slave schooner *Gambrill* by the U.S. frigate *Constitution* off the Congo River on the west coast of Africa. USMC, I, 78.

1853: Smyrna. Martin Koszta, who was an American declarant, was released by his Austrian captors, by the action of Naval Captain Ingraham who trained his guns upon the Austrian vessel on which Koszta was held. Secretary of State Marcy defended the rescue against protest by the Austrian Government. Berdahl, 50.

1853–1854: Japan. Commodore Matthew C. Perry led an expedition consisting of four men-of-war to Japan to negotiate a commercial treaty. Four hundred armed men accompanied Perry on his initial landing at Edo Bay in July, 1853, where he stayed for ten days after refusing to leave when ordered. He then sailed south, landing a force at the Bonin Islands, where he took possession, and at the Ryukyus, where he established a coaling station. In March, 1854, he returned to Edo Bay with ten ships and 2,000 men, landed with an escort of 500 men, and after six weeks signed a treaty with Japanese authorities at Kanagawa. The whole campaign was on executive authority. State, 19.

1854: West Coast of Africa. Pursuant to the Treaty of 1842, on March 10, Marines joined in the capture of a slave brig by the U.S. brig *Perry* off the west coast of Africa. USMC, I, 78.

1854: China. American and British forces consisting of 150 English sailors, 60 U.S. sailors, and 30 merchant sailors landed at Shanghai on April 4 and stayed until June 7 to protect their nationals during a battle between Chinese imperial and revolutionary troops. State, 19.

1854: Greytown, Nicaragua. In July, the commander of an American naval vessel demanded reparation after an American official was injured during a riot. When this was not forthcoming, the vessel bombarded the town. Foreign property, including British and French, was destroyed. President Pierce defended the action of the American commander in his annual message to Congress. State, 19.

1854: Okinawa. On July 6, a force of 20 Marines from the U.S. steamer *Powhatan* went ashore on Okinawa and seized a religious shrine in punishment of persons who murdered an American. On November 17, Marines and seamen from the U.S. sloop *Vincennes* went ashore again at Okinawa to enforce treaty provisions. USMC, I. 78.

1855: China. There were two brief actions by U.S. warships, the first a landing in May at Shanghai to protect American interests there, the second an attack in August at Hong Kong against pirates. State, 20.

1885: Fiji Islands. In September and October, marines from the sloop-of-war *John Adams* landed four times to seek reparations for depredations against Americans and to force natives to honor a treaty. The landing parties fought skirmishes and burned some villages. USMC, I, 79.

1855: Uruguay. In August and November, U.S. naval forces put sailors ashore to protect American interests in Montevideo. State, 20.

1856: Panama, Republic of New Granada. U.S. forces landed and stayed two days to protect American interests, including the Isthmian railroad, during an insurrection. (By the treaty of 1846 with New Granada, the United States had acquired the right to protect the Isthmus and to keep it open, in return for guaranteeing its neutrality.) State, 20.

1856: China. In October and November, the U.S. warships *Portsmouth* and *Levant* landed 280 officers and men to protect American interests at Canton during hostilities between the British and the Chinese and in response to an unprovoked assault upon an unarmed boat displaying the U.S. flag. The Americans took and destroyed four Chinese forts. State, 20.

1858: Uruguay. Forces from two U.S. warships landed in January to protect American lives and property during a revolt in Montevideo. The action was taken in conjunction with the forces of other powers at the request of the local government. State, 20.

1858: African coast. On September 8, Marines joined in the capture of a ketch laden with slave food by the U.S. sloop *Marion* off the southeast coast of Africa. The action was consistent with the Treaty of 1842. USMC, I, 80.

1858: Fiji Islands. On October 6, about 60 marines and sailors from the *U.S.S. Vandalia* landed to punish natives for the murder of two American citizens and engaged in a fierce conflict with 300 native warriors. State, 21.

1858–1859: Turkey. American citizens were massacred in 1858 at Jaffa and mistreated elsewhere. In the face of Turkish indifference, the Secretary of State asked the U.S. Navy to make a display of force along the Levant. State, 21.

1858–1859: Paraguay. From October 1858, to February 1859, an American expedition went to Paraguay to demand redress for an attack on a naval vessel in the Parana River during 1855. Apologies were forthcoming after a display of force, which amounted to compulsion. Congress authorized the action. State, 21.

1859: African coast. On April 21 and 27, Marines joined in the capture of a slave ship near the Congo River, Africa. The action was consistent with the Treaty of 1842, USMC, I 81.

1859: Mexico. Two hundred U.S. soldiers crossed the Rio Grande in pursuit of the Mexican bandit Cortina. State, 21.

1859: China. On July 31, forces from the *U.S.S. Mississippi* landed at Woosung and Shanghai, where they remained until August 2, to protect American interests and restore order. The American consul had called on the ship for assistance. State, 21.

1860: Kissembo, West Africa. On March 1, 40 Marines and seamen from the sloop-of-war *Marion* landed twice to prevent the destruction of American property during a period of local unrest. State, 21.

1860: Colombia (State of Panama). On September 27, the Marine guard from the sloop *U.S.S. St. Mary's* landed to protect American interests during a revolt. This may have been authorized pursuant to the Treaty of 1846. State, 21.

1863: Japan. On July 16, when Japanese shore batteries at Shimonoseki fired on a U.S. merchant ship, the *U.S.S. Wyoming* retaliated by firing on three Japanese vessels lying at anchor. The shots were returned, and, by the time the action was over, there were casualties on both sides. State, 21.

1864: Japan. From July 14 to August 3, U.S. forces protected the U.S. Minister to Japan when he visited Yedo concerning some American claims against Japan. The forces also were designed to impress the Japanese with American power. LRS, IV, 52.

1864: Japan. Between September 4 and 8, naval forces of the United States, Great Britain, France, and the Netherlands jointly forced open the Straits of Shimonoseki, which had been closed in violation of commercial agreements. Shore batteries were destroyed and 70 cannon seized. State, 21.

1865–1866: Mexican border. In late 1865, General Sheridan was dispatched to the Mexican border with 50,000 troops to back up the protest made by Secretary of State Seward to Napoleon III that the presence of over 25,000 French troops in Mexico "is a serious concern to the United States." In February, 1866, Seward demanded a definite date be set for withdrawal and France complied. Though American forces did not cross the border, the threat of foreign military operations was clear and imminent. U.S., 580–581.

1865: Panama. American forces from the *U.S.S. St. Marys* landed to protect American interests during a revolt. This was apparently implied by the Treaty of 1846. State, 22.

1866: China. Various landings by over 100 marines and seamen were made in June and July at Newchwang to punish an assault on the American Consul and to guard diplomats. State, 22.

1867: Formosa. On June 13, 181 Marines and seamen from the *U.S.S. Hartford* and *U.S.S. Wyoming* landed to punish natives who had murdered the crew of a wrecked American merchantman. Several huts were burned. USMC, I, 91.

1867: Nicaragua. On September 6, Marines landed and occupied Managua and Leon. USMC, I, 92.

1868: Japan. From February 1 until April 4, landings were made at Hiago, Nagasaki, and Yokohama to protect American lives and property during local hostilities. USMC, I, 92.

1868: Uruguay. At the request of local Uruguayan authorities, several landings were made from five U.S. steamers at Montevideo during the month of February in order to protect American lives and property during an insurrection. State, 22.

1868: Colombia. An American force landed at Aspinwall in April to protect the transit route during the absence of local police. This was impliedly permitted by the Treaty of 1846. State, 22.

1869–1871: Dominican Republic. President Grant, having negotiated a treaty of annexation, sent a strong naval force to the island to protect it from invasion and internal disorder, both during the consideration of the treaty by the Senate and for months after its rejection. Berdahl, 48.

1870: Mexico. On June 17, the *U.S.S. Mohican* pursued a pirate ship up the Tecapan River near Mazatlan, landed a party of Marines and seamen, and destroyed it during a pitched battle. State, 22.

1871: Korea. In June, American landing forces under Admiral Rodgers captured five Korean forts after a surveying party, granted permission to make certain surveys and soundings, had been attacked. No treaty or convention was in effect. State, 22.

1873: Columbia. In May and September, nearly 200 American forces landed at the Bay of Panama to protect American lives and interests during local hostilities. The actions were impliedly allowed by the Treaty of 1846. State, 22.

1873–1882: Mexico. U.S. troops repeatedly crossed the Mexican border to pursue cattle thieves. Mexico occasionally reciprocated. Such incursions were finally recognized as legitimate by an agreement in 1882. State, 23.

1874: Hawaii. In February, a party of 150 men from two U.S. vessels landed to preserve order at the request of local authorities. State, 23.

1876: Mexico. On May 16, at the request of the U.S. Consul at Matamoras, a small American force was landed to preserve order when the town was temporarily without a government. State, 23.

1882: Egypt. On July 14, over 100 forces from the U.S.S. *Lancaster,* U.S.S. *Quinnebaug,* and U.S.S. *Nipsic* landed at Alexandria, when the city was being bombarded by the British navy, in order to protect American interests there, including the American consulate. State, 23.

1885: Colombia (State of Panama). On January 18, March 16, March 31, April 8, April 11, April 12, and April 25, American forces landed to protect American property and guard valuables in transit over the Isthmus during local revolutionary activity, an action authorized under the Treaty of 1846. USMC, I, 96.

1888: Korea. On June 19, 25 men from the U.S.S. *Essex* landed at Chemulpo and marched to Seoul to protect American residents during unsettled political conditions. The action was requested by the American Minister. State, 23.

1888–1889: Samoan Islands. In 1886, the German consul announced that the Sanwan group was henceforth a German protectorate, an action that brought the United States and Great Britain together in opposition. By 1889, Germany and the United States were close to a direct confrontation. The United States and Germany, together with Great Britain, shared certain treaty rights in Samoa for the maintenance of naval depots. In November 1888, U.S. Marines landed from the U.S.S. *Nipsic* to protect American interests after civil strife broke out ashore. In January, 1889, German forces landed, and, when those forces were attacked by the natives, German ships shelled the island. This action by Germany aroused the American public, and Congress appropriated $500,000 for the protection of American lives and property on the island and $100,000 for the development of Pago Pago harbor. The United States also ordered two more warships to the scene. All three powers had warships on the scene and an untoward event might have touched off war had not a hurricane in March, 1889, destroyed all the warships except one British vessel. Thereafter, the Germans invited the three powers to a conference, which was agreed to and held in Berlin. In April, 1889, they established a three-power protectorate there. In 1899 the Samoans were divided, the United States acquiring Tutuila. State, 23.

1888: Haiti. In December, American warships made a display of force to obtain the release of an American merchant vessel captured by a Haitian warship. The Haitian Government surrendered the ship and paid an indemnity after Admiral Luce gave an ultimatum ordering its release before sunset. State, 24.

1889: Hawaii. On July 30, at the request of the American Minister in Honolulu, the *U.S.S. Adams* sent a marine guard ashore to protect American lives and property during revolutionary disorder. State, 24.

1890: Argentina. The *U.S.S. Tallapoosa* landed a party in July to protect the American Consulate and Legation in Buenos Aires during a revolt. State, 24.

1891: Navassa Island, Haiti. American forces from the *U.S.S. Kearsarge* landed on June 2 to protect American lives and property during a period of unrest. The action was taken pursuant to Congressional action. State, 24.

1891: Bering Sea. An American squadron operated from June to October, jointly with British naval vessels, seizing four schooners. Rogers, 109.

1891: Chile. In August, 102 Americans of the South Pacific station landed at Valparaiso during a revolt in order to protect the American Consulate and American lives, State, 24.

1894: Brazil. The U.S. Navy engaged in gunfire and a show of force in January to protect American shipping at Rio de Janeiro during a revolt of the Brazilian navy. President Cleveland stated our action "was clearly justified by public law." State, 24.

1894: Nicaragua. In July, American forces landed at Bluefields to protect American interests during a revolt. State, 24.

1894–1896: Korea. On July 24, at the request of the American Minister, a force of 21 Marines and 29 sailors landed at Chemulpo and marched to Seoul to protect American lives and property during the Sino-Japanese War. A Marine guard remained at the American Legation until 1896. State, 24.

1894–1895: China. On December 6, 1894, Marines disembarked from the *U.S.S. Baltimore* at Taku and marched to Tientsin to protect American lives and property during the Sino-Japanese War. The landing party maintained order until May 16, 1895. USMC, I, 98.

1895: Colombia (State of Panama). Marines from the *U.S.S. Atlanta* landed in March to protect American interests during a revolt. This appears to have been authorized by treaty. State, 24.

1895–1896: Korea. During internal disorders from October 11, 1895, to April 3, 1896, the American Legation at Seoul was protected by Marines from various ships. Ellsworth, 60.

1896: Nicaragua. On May 2, Marines were put ashore at Corinto by the *U.S.S. Alert* during revolutionary disorders to protect American interests. USMC, I, 99.

1898: Nicaragua. On February 7, Marines landed at San Juan del Sur by the *U.S.S. Alert* to protect Americans against disorders. USMC, I, 99.

1898–1899: China. American forces guarded the Legation at Peking and the Consulate at Tientsin from November, 1898, to March, 1899, during a period of unrest. State, 25.

1899: Nicaragua. On February 24, in response to a petition from foreign merchants during an insurrection, Marines landed to protect life and property at San Juan del Norte and Bluefields. State, 25.

1899: Samoan Islands. Sixty Americans landed on February 14 from the *U.S.S. Philadelphia,* and on April 1 joined a British force in efforts to disperse native rebels. This may have been under color of treaty or statute. State, 25.

1899–1901: Philippine Islands. The United States employed 126,468 troops against the Philippine Insurrection without a declaration of war after the Treaty of Peace with Spain was concluded. Presumably the United States acted to suppress the rebellion under authority of the Treaty of Peace, which transferred to it the sovereignty possessed by Spain in the Philippine Islands. 40 Ct. of Claims 26–32.

1900–1901: "Boxer" Rebellion (Peking). In 1900 President McKinley sent 5,000 troops to join the international military force organized for the relief of foreign legations besieged in Peking by Chinese "Boxers." Using troops already mobilized for the Spanish-American War and the Philippine Insurrection, McKinley did not seek authority from Congress. Peace terms were concluded at an international conference, and a peace Protocol was signed September 7, 1901. The Protocol was not submitted to Congress. Because of the obvious inability of Chinese authorities to control local disorders, the United States acquired the right to maintain a guard at Peking for defense of the American Legation and to station military forces at certain points in Chinese territory to keep open communications between Peking and the sea. (Earlier, in 1858, the United States had acquired the right by treaty to station naval vessels in Chinese waters.) State, 3–4.

1901: Colombia (State of Panama). American forces went ashore in late November and stayed until December to protect American property and to keep transit lines open across the Isthmus during serious political disturbances. This apparently was authorized by the Treaty of 1846. State, 25.

1902: Colombia (State of Panama). Marine guards landed in April to protect American lives and the railroad across the Isthmus during civil disorders. They continued to land at various times between April and November. This appears to have been authorized by the Treaty of 1846. State, 25.

1903: Honduras. American forces disembarked at Puerto Cortez in March to protest the American Consulate and port facilities during a period of revolutionary activity. State, 25.

1903: Dominican Republic. In April, 29 Marines landed at Santo Domingo, where they remained for three weeks to protect American interests during a period of political disturbances. State, 25.

1903–1904: Syria. A Marine guard landed and remained for a few days at Beirut in April to protect the American Consulate during a Moslem uprising. Also our Mediterranean Squadron demonstrated at Beirut from September to January and at Smyrna the next August. State, 25.

1903: Panama. A revolution leading to the independence of Panama from Colombia broke out in November. Marines landed from the *U.S.S. Dixie* to prevent Colombian troops from carrying out a threat to kill American citizens, after Commander Hubbard had refused to allow the Colombians to transport their troops across the Isthmus. Marine guards remained on the Isthmus from the date of Panamanian independence (November 4, 1903) until January, 1914, to protect American interests during the construction of the Canal. This was allowed under the Hay-Bunau-Varilla Treaty. State, 25–26.

1903–1904: Abyssinia. Twenty-five American marines were sent to protect the U.S. Consul General from November 18, 1903, to January 15, 1904, while he was negotiating a treaty with the Emperor. USMC, I, 109.

1904: Dominican Republic. On January 3, 7, and 17, and on February 11, over 300 Marines landed at Puerto Plata, Sosua, and Santo Domingo to protect American lives and property during a revolt. USMC, I, 108–109.

1904: Morocco. A squadron demonstrated in Moroccan waters in June to force the release of a kidnapped American. A Marine contingent had landed on May 30 to protect the Consul General. State, 26.

1904: Panama. American troops were used to protect American lives and property at Ancon in November when a revolt seemed imminent. This action seems to have been authorized by treaty. State, 26.

1904–1905: Korea. In January, 1904, over 100 American troops were sent to guard the American Legation at Seoul because of the outbreak of the Russo-Japanese War. They remained until November 1905. In March 1904, marines assisted in the evacuation of American nationals. USMC, I, 108.

1905–1907: Dominican Republic. After the Senate failed to ratify a treaty providing that the United States should guarantee the integrity of the Dominican Republic, take charge of its customs, and settle its obligations, President Roosevelt nevertheless put its terms into effect for two years until in 1907 the Senate ratified a slightly revised version. Berdahl, 41–42.

1906–1909: Cuba. An American squadron demonstrated off Havana, and, in September, marines, landed to protect American interests during a revolution. In October, marine and army units landed and took up quarters in many Cuban towns in connection with the temporary occupation of the country under a provisional governor appointed by the United States. This occupation was within the scope of the provision of the 1903 Treaty of Relations between the two countries, which gave the United States the right to intervene to preserve order. The occupation lasted until January, 1909. State, 26.

1907: Honduras. On March 18, during a war between Honduras and Nicaragua, the *U.S.S. Marietta* disembarked 10 men to guard the American Consulate at Trujillo. The *U.S.S. Paducah* also landed forces at Laguna and Choloma on April 28. State, 26.

1910: Nicaragua. In May, one hundred men from the U.S.S. *Paducah* landed at Greytown to protect American lives and property during a revolt. The U.S.S. *Dubuque* also engaged in shows of force. Joined combat was "hourly expected." State, 26.

1911: Honduras. Sixty men from the U.S.S. *Tacoma* and *Marietta* went ashore at Puerto Cortez during a revolt to protect American interests. The American Commander threatened to use force if necessary. State, 26.

1911–1912: China. American forces made six landings to protect American interests during the initial stages of a revolution. They were stationed at Foochow, Chinkiang, Peking, Hankow, Nanking, Shanghai and Taku. This may have occurred pursuant to treaty rights acquired during the "Boxer" rebellion. State, 27.

1912: Panama. During June and July, at the request of local political groups, American troops supervised elections outside the Canal Zone. This was impliedly authorized by the Hay-Bunau-Varilla Treaty. State, 27.

1912: Cuba. In May, American troops landed in eastern Cuba during a revolt and remained for three months to protect American interests. This appears to have been authorized by the treaty of 1903. State, 27.

1912: Turkey. A troop detachment from the U.S.S. *Scorpion* assisted in the protection of the diplomatic corps at Istanbul during the Balkan War. State, 27.

1912: Nicaragua. During a civil war, the President of Nicaragua asked the United States to protect its citizens resident there. Acting on a recommendation of the American Minister, President Taft ordered sizable landings of marines in August and September 1912. Political stability return to Nicaragua by January 1913, but a detachment of marines was kept in Managua to guard the American Legation after the rest of the American troops withdrew. The Legation guard was reinforced in 1922 and remained until August 1, 1925, State, 27.

1913: China. U. S. forces landed in July at Chapei and Shanghai to protect American interests. Rogers reports there were many demonstrations and landing parties by United States forces for protection in China continuously from 1912 to 1941. He writes: "In 1927, for example, this country had 5,670 troops ashore in China and 44 naval vessels in its waters. In 1933 we had 3,027 armed men ashore. All this protective action was in general terms based on treaties with China ranging from 1858 to 1901." Rogers, 117.

1913: Mexico. In September a few Marines disembarked at Ciaris Estero, during a period of civil strife, to aid in the evacuation of American citizens. State, 27.

1914: Haiti. Marines landed in January, February, and August to protect American citizens during a period of unrest. State, 27.

1914: Dominican Republic. During a period of revolutionary activity, U. S. naval forces fired at revolutionaries who were bombarding Puerto Plata, in order to stop the action. Also, by a threat of force, fighting in Santo Domingo was prevented. State, 28.

1914: Occupation of Vera Cruz, Mexico. On April 9, 1914, an American naval officer and 9 crewmen from the *U.S.S. Dolphin*, anchored off the coast of Tampico, Mexico, were arrested and marched through the streets by local authorities. They were released and an apology was extended as soon as the local Mexican commander learned of the incident. Admiral Mayo, commander of the American squadron, also demanded a 21-gun salute to the American flag. The Mexicans refused and President Wilson promptly ordered the North Atlantic battleship fleet to Tampico. On April 20, he addressed Congress in a joint session and asked for authority to use the armed forces. While Congress debated, Wilson learned that a German steamer was headed toward Vera Cruz to unload munitions for Huerta, and he decided to direct the naval action against Vera Cruz instead of Tampico. American armed forces landed at Vera Cruz, and, after an armed engagement resulting in 400 casualties, the Americans occupied the city on April 22. The same day, apparently after the fighting began, Congress passed a joint resolution which declared that the President was "justified in the employment of the armed forces of the United States to enforce his demand for unequivocal amends for certain affronts and indignities committed against the United States," but that "the United States disclaimed any hostility to the Mexican people or any purpose to make war upon Mexico." By November, 1914. American troops had left Mexican soil. State, 4.

1915: Dominican Republic. On August 15, the 5th Marine Regiment arrived at Puerto Plata to protect American lives and property during a revolutionary outbreak. Their protective mission lasted until October 12, 1915. USMC, I, 116.

1915–1934: Haiti. In July, at the initiative of the Executive, the United States placed Haiti under the military and financial administration of the United States, in part to protect American lives and property and in part to forestall European intervention to collect debts. Marines were stationed in Haiti until 1934. The occupation was sanctioned by a treaty signed and ratified by the Senate in February, 1916, but the first months of the occupation were on executive authority alone. State, 28.

1916–1924: Dominican Republic President Wilson ordered the occupation of Santo Domingo in May, 1916, owing to local unrest. At one point, 3,000 marines were ashore. The United States placed a military governor in the Dominican Republic but turned political affairs over to the Dominicans in 1922. U.S. troops withdrew in 1924, and a general treaty signed that year formally sanctioned the previous occupation. State, 28.

1916: China. American forces landed at Nanking to quell a riot taking place on American property. Apparently this was authorized by a treaty. State, 28.

1916–1917: Pershing Expedition into Mexico. In October, 1915, the United States recognized the Carranza regime as the *de facto* government in Mexico. At the same time, Mexican rebel, Pancho Villa, directed a campaign against the United States. In January, 1916, Villa's followers massacred 18 American mining engineers in Santa Ysabel, Mexico.

Then, on March 9, 1916, 400 of Villa's men raided Columbia, New Mexico, and killed 17 Americans. The American public was incensed, and Wilson delayed sending an expedition only until he could obtain Carranza's consent. On March 13, 1916, when Carranza's government acceded, Wilson ordered General John J. Pershing to take U.S. Army units into Mexico. On March 1, Pershing crossed the border with 6,000 troops. On the following day, Congress adopted a joint resolution introduced by Senator Robert LaFollette sanctioning the use of the armed forces. Until then, Wilson had been relying on the Acts of 1795 and 1807 relative to employing the armed forces whenever there is 'imminent danger of invasion.'

Villa eluded Pershing, and the size of the U.S. expedition soon grew to such proportions (12,000 men) that Carranza protested and demanded its withdrawal, threatening war. Wilson on June 18 called out the National Guard and incorporated it into the Army; 150,000 militia were ordered to the Mexican border. But neither country really wanted war, and the crisis gradually subsided. Wilson decided to withdraw all American troops from Mexico in February, 1917. State, 5–6.

1917: Armed Atlantic Merchant Ships. In February, President Wilson asked Congress for authority to arm U.S. merchant vessels with defensive guns, but Congress refused to pass such a law. Thereupon President Wilson acted, on his own authority, to equip American merchant vessels with guns and gunners assigned to them from the Navy. His action occurred prior to the declaration of war on Germany which did not take place until April 6 1917. Willoughby, III, 1568.

1917: Cuba. American troops landed in February at Manzanilla to protect American interests during a revolt. Various other landings were made, and, though the revolt ended in April, 1917, troops remained until 1922 because of continued unsettled political conditions. This was authorized by the Treaty of 1903. State, 28.

1918: China. American troops landed at Chungking to protect American lives during a political crisis. Apparently this was done pursuant to a treaty. State, 28.

1918–1919: Mexico. U.S. troops entered Mexico to pursue bandits three times in 1918 and six times in 1919. In August, 1918, there was a brief skirmish between American and Mexican troops at Nogales. State, 28.

1918–1920: Expeditions to Russia. Following the Bolshevik revolution in Russia in 1917, Allied expeditions landed, in 1918, at Murmansk and then Archangel. American troops first landed in August, 1918, with most arriving in Archangel Harbor on September 4. Though Armistice Day came on November 11, 1918, the American forces remained until June 27, 1919. At Archangel, the U.S. contributed some 5,208 men and suffered some 549 casualties, including 244 deaths.

The Allies also landed units in Siberia in August and September of 1918 where Bolshevik troops were fighting a force of 65,000 Czech soldiers who were trying to fight their way eastward. The Japanese sent 74,000 soldiers; the Americans sent 8,388; and the British and French provided minor contingents. The American forces began embarking for home on January 17, 1920, and the last units left on April 1, 1920.

President Wilson, who acted without Congressional approval, agreed to participate in the Allied expeditions to aid the anti-Bolsheviks, to help several thousands of Czech troops get back to their homeland, and to forestall possible Japanese expansionist plans in Siberia. State, 6.

1919: Turkey. On May 14, a Marine detachment from the *U.S.S. Arizona* landed to guard the U.S. Consulate at Constantinople during the Greek occupation of the city. USMC, I, 121.

1919: Dalmatia. At the request of Italian authorities, U.S. bluejackets were landed at Trau, September, 1919, in order to police order between the Italians and the Serbs. Berdahl, 56.

1919: Honduras. A small American force went ashore at Puerto Cortez to maintain order in a neutral zone during an attempted revolt. State, 29.

1918–1920: Panama. American troops went outside the Canal Zone, on request of the Panamanian Government, to supervise elections. This apparently was authorized by treaty. LRS, 55.

1920: China. American forces landed at Kiukang and Youchow to protect American lives and property. This may have been authorized by treaty. State, 29.

1920: Guatemala. Forty men from the *U.S.S. Tacoma* and *Niagara* went inland to Guatemala City to protect the American Legation and other American interests during local fighting. State, 29.

1920–1922: Siberia. The United States stationed a marine guard on Russian Island, Bay of Vladivostok, to protect United States radio facilities and other property. State, 29.

1921: Panama-Costa Rica. American naval squadrons demonstrated for one day on both sides of the Isthmus to prevent war between the two countries over a boundary dispute. This was impliedly authorized by treaty. State, 29.

1922: Turkey. In September forces from several American warships went ashore with the consent of both Greek and Turkish authorities to protect American interests when the Turkish forces were advancing on the city of Smyrna. State, 29.

1922–1923: China. There were five landings by Marines from April, 1922, to November, 1923 (at Peking, Tientsin, Taku, Tungshan, and Masu Island) to protect Americans during periods of unrest. This may have been authorized by treaty. USMC, I, 22–23.

1924–1925: Honduras. There were intermittent landings from February, 1924, to April, 1925, to protect American lives and property during local unrest. In March, 1924, the *Denver* put ashore 167 men and in September, the *U.S.S. Rochester* landed 111 additional forces. USMC, I, 123–124.

1924–1925: China. From September, 1924, to December, 1924, over seven landings were made by the Marines at Shanghai to protect Americans during a period of unrest. This may have been authorized by treaty. USMC, I, 124–125.

1925: Panama. As a result of strikes and rent riots, and at the request of Panamanian officials, 600 troops from the Canal Zone entered Panama City in October and remained for 11 days to maintain order. This conformed to American treaty rights. State, 29.

1926–1933: Nicaragua. When local disturbances broke out in 1926, the Nicaraguan Government requested that American forces undertake to protect lives and property of Americans and other foreigners. In 1927, five thousand soldiers were put ashore.

Rebel political leader, Sandino, who received Communist propaganda and financial support, turned the situation into a real civil war. In January, 1928, Sandino was forced to flee to Mexico by Marine forces, but backed by Communist aid, he returned in 1930 and Nicaragua flared again. By 1933 an all-Nicaraguan Guardia Nacional became strong enough so that all U.S. Marines could leave. In all the marines had engaged in 150 clashes and lost 97 men, 32 in action. Rebel losses were approximately over a thousand.

The occupation was initiated entirely on the executive responsibility of President Coolidge. The Democrat minority bitterly criticized his policy as a "private war" and as "imperialism," but did not question the President's authority. State, 6–7; and Depuy and Baumer, 168.

1926: China. American forces landed at Hankow in August and September and at Chingwangtao in November to protect American interests. This may have been authorized by treaty. State, 29.

1927–1928: Armed Actions in China. Anti-foreign incidents in China reached a climax in 1927.

In February, a U.S. expeditionary battalion landed at Shanghai, and in March, 1,228 Marine reinforcements landed there. By the end of 1927, the United States had 44 naval vessels in Chinese waters and 5,670 men ashore. In 1928, when the Nationalists had gained greater control over Chinese territory and purged themselves of Communist support, the United States reached a separate accord with the Nationalists, and, in July, signed a treaty which constituted United States recognition of the Nationalist Government. A gradual reduction of United States forces in China began in the same month. State, 7–8.

1932: China. In February, American forces landed at Shanghai to protect American interests during the Japanese occupation of the city, apparently under treaty. State, 30.

1933: Cuba. During a revolution, United States naval forces demonstrated offshore, but no forces landed. This was pursuant to the Treaty of 1903. State, 30.

1934: China. In January, marines from the *U.S.S. Tulsa* landed at Foochow to protect the American Consulate, apparently pursuant to treaty rights. USMC, I, 129.

1936: Spain. From July 27 through September 19, the *Quincy*, carrying a marine guard, served in the Spanish war zone. The vessel touched at several ports, sometimes evacuating American nationals. (Master rolls.)

1937–1938: China. Beginning on August 12, 1937, several marine landings were made at Shanghai to protect American interests during Sino-Japanese hostilities. Marine strength in China, assigned under the International Defense Scheme, reached 2,536 men by September 19. USMC, II, 2–3.

1940: British possessions in Western Atlantic. On September 3, President Roosevelt informed Congress that he had agreed to deliver a flotilla of destroyers to Great Britain in exchange for a series of military bases granted us on British soil along the Western Atlantic. American troops and ships occupied a number of these points in the following months. The President did not ask approval from Congress. State, 8–9.

1941: Greenland (Denmark). In April, after the German invasion of Denmark, the U.S. Army ocupied Greenland under agreement with the local authorities. Congress was not consulted, and the action appears to be contrary to an express Congressional limitation on using troops outside the Western Hemisphere. State, 8–9.

1941: Iceland. By Presidential order, U.S. troops occupied Iceland on July 7, the same day Congress was notified. The President did not consult Congress in advance, and in fact, the action clearly violated an express restriction that Congress had enacted a year before. Both the Reserves Act of 1940 and the Selective Service Act of 1940 provided that United States troops could not be used outside the Western Hemisphere. Iceland is generally placed with the section on Europe in each World Atlas and is some 2,300 miles away from the United States. State, 8–9.

1941: Dutch Guiana. In November, the President ordered American troops to occupy Dutch Guiana by agreement with the Netherlands Government-in-exile. Again there was no Congressional authority for the military occupation. State, 8–9.

1941: Atlantic Convoys. By July 7, President Roosevelt had ordered U.S. warships to convoy supplies sent to Europe to protect military aid to Britain and Russia. By September, our ships were attacking German submarines. There was no authorization from Congress. Corwin, 247.

1946: Turkey. In April, during USSR–Iran hostilities and USSR–Turkey tensions, a U.S. carrier unit was deployed as an affirmation of U.S. intentions to shore up Turkey against Soviet imperialism. USN, 15712.

1946: Trieste. In July, during the Trieste ownership dispute, U.S. Naval units were dispatched to the scene with open warfare imminent. USN, 15712.

1946: Greece. During the political crisis in September, naval units were requested by the U.S. Ambassador. One carrier was on the scene. USN, 15712.

1948: Palestine. On July 18, a Marine consular guard was detached from the *U.S.S. Kearsarge* and sent to Jerusalem to protect the U.S. Consular General there. One consular official was assassinated, and two Marines were wounded during the Arab-Israeli War, USMC, III, 7.

1948: Mediterranean. On January 7, Fleet Admiral Nimitz implied Marine reinforcements sent from the U.S. to Mediterranean waters served as a warning to Yugoslavia that the 5,000 U.S. Army troops in Trieste were not to be molested. USMC, III, 5.

1948–1949: China. A platoon of Marines was sent to Nanking in November, 1948, to protect the American Embassy when the fall of the city to Communist troops was immiment. The guard was withdrawn on April 21, 1949. In November and December, Marines were sent to Shanghai to aid in the evacuation of American Nationals and to protect the 2,500 Americans in the Communist encircled city. USMC, III, 8–9.

1950–1953: Korean Conflict. Communist armies of North Korea invaded South Korea on June 25, 1950. Later that day the United Nations Security Council denounced the aggression, called for an immediate cease-fire, and asked member nations "to render every assistance to the United Nations in the execution of this resolution." On June 27, President Truman announced that he had "ordered United States air and sea forces to give the Korean Government troops cover and support" and had ordered the Seventh Fleet to prevent any attack on Formosa and also to prevent the Chinese Government on Formosa from conducting any air and sea operations against the Communist mainland. The Security Council, on the same day, adopted a resolution "that the members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area."

The Department of State prepared a memorandum, on July 3, 1950, which defended the authority of the President to take the necessary action to repel the attack on Korea, using the argument that the "President, as Commander in Chief of the Armed Forces of the United States, has full control over the use thereof."

Truce talks began in July, 1951, but it was not until July, 1953, that an armistice was signed. State, 9–11.

1954–1955: Tachen Islands (China). From July, 1954, to February, 1955, U.S. Naval units were employed in evacuation of U.S. civilians and military personnel. Five carriers were on the scene. USN, 15712.

1956: Egypt. On November 1 and 2, a Marine battalion evacuated over 1,500 persons, mostly U.S. nationals, from Alexandria, Egypt, during the Suez crisis. USMC, III, 34.

1957. Indonesia. On February 14, the 3rd Marines took up station 550 miles northeast of Sumatra ready to intervene to protect U.S. nationals during the Indonesian revolt. USMC, III, 34.

1957: Taiwan. During Communist shelling of Kinmen Island in July, naval units were dispatched to defend Taiwan. Four carriers were on the scene. USN, 15712.

1958: Venezuela. In January, when mob violence erupted in Caracas, a company of Marines embarked on board the *U.S.S. Des Moines* and remained on station off Venezuela ready to protect American interests. USMC, III, 36.

1958: Indonesia. In March, a Marine company, attack squadron, and helicopter squadron were deployed with elements of the Seventh Fleet off Indonesia prepared to protect U.S. citizens and interests. USMC III, 36.

1958: Lebanon Operation. A period of civil unrest began in Lebanon in May, 1958, led by Moslems who reportedly were aided by the United Arab Republic's President Nasser. When a pro-Nasser coup took place in Iraq July 14, President Chamoun of Lebanon appealed to President Eisenhower. On July 15, President Eisenhower sent 5,000 marines to Beirut to "protect American lives" and to "assist" Lebanon in preserving its political independence. The President publicly stressed the provocative Soviet as well as Cairo radio broadcasts. Eventually, 14,000 American soldiers and marines occupied strategic areas in Lebanon, but with orders not to shoot unless shot at.

On the day of the initial landings, the United States asked the United Nations Security Council to establish an international police force to preserve Lebanon's independence, but the Soviet delegate vetoed the American resolution. Further, the Soviet Union announced that it would hold military maneuvers near the Turkish and Iranian frontiers.

On August 21, the General Assembly passed a resolution calling on the member states to respect one another's territorial integrity and observe strict non-interference in one another's internal affairs. The resolution requested that practical arrangements be made leading to the withdrawal of troops from Lebanon. On September 26, the United States notified the Secretary-General of the United Nations that it had been possible to withdraw a portion of the American forces and to work out a schedule to withdraw the remainder by the end of October. State 11–12.

1959–1960: Cuba. In the period from November 20, 1959, to February 15, 1960, the 2d Marine Ground Task Force was deployed to protect U.S. nationals during the Cuban crisis. USMC, III, 42.

1961: Show of Naval Force in Dominican Waters. On May 30, Dominican dictator Rafael Trujillo was assassinated. Political conditions in the Dominican Republic steadily deteriorated during the summer and early autumn. Then, on November 15, General Hector Trujillo and General Jose Trujillo, brothers of the slain dictator, returned to the island. Secretary Rusk stated three days later they appeared "to be planning an attempt to reassert the dictatorial domination of the political and economic life of the country . . ." He added: "the United States is considering the further measures that unpredictable events might warrant."

On November 19, U.S. Navy ships took up positions three miles off the Dominican coast, and Navy jet planes patrolled the shoreline. The show of force produced the desired result because the Trujillo brothers and other members of the family departed for Miami before the day was over. According to one authority, "It later transpired that the Kennedy Administration was prepared to order U.S. Marines ashore if President Joaquin Balaguer had so requested or if the Trujillos had ousted Balaguer from the presidency." ERR, 449–500.

1962: Thailand. On May 17, the 3d Marine Expeditionary Unit landed in Thailand to support that country during the threat of Communist pressure from outside. On July 1, President Kennedy ordered 1,000 Marines in Thailand to return to their ships, and on July 30, the U.S. completed the withdrawal of the 5,000 Marines sent there, USMC, III, 56–57.

1962: Cuban Naval Quarantine. On October 24, confronted with a build-up of Soviet surface-to-surface missile bases in Cuba, President Kennedy ordered a quarantine 500 miles wide in the waters around Cuba. The blockade was aimed both at preventing delivery of additional Russian missiles and obtaining the removal of those offensive Russian weapons already in Cuba.

The crisis appears to date from Tuesday, October 16, when the Government's inner circles first began to discuss the idea of a blockade. On October 20, the First Armored Division began to move out of Texas into Georgia, and five more divisions were placed on alert. The base at Guantanamo Bay was strengthened. The Navy deployed 180 ships into the Caribbean. The Strategic Air Command was dispersed to civilian airfields, and the B–52 bomber force was ordered into the air fully loaded with atomic bombs.

On October 22, President Kennedy went on television to explain before the nation the situation in Cuba and the reasons for the quarantine. The President first notified members of Congress that same day. On Tuesday, October 23, the Council of the Organization of American States formally authorized by a unanimous vote "the use or armed forces" to carry out the quarantine of Cuba. Apparently, one day later the blockade went into effect.

Other notable dates include October 27, when the Defense Department announced that 24 troop-carrier squadrons of the Air Force Reserve were being recalled to active duty; October 28, when Premier Khrushchev in a message to President Kennedy, announced he had ordered the dismantling of Soviet missile bases in Cuba; November 11, when Deputy Secretary of Defense Gilpatric announced the United States had counted 42 medium-range missiles being removed from Cuba on Soviet ships; and November 20, when President Kennedy announced he had ordered the lifting of the naval blockade.

On December 6, U.S. Navy planes verified that 42 Soviet jet bombers were being transported home from Cuba. The United States apparently closed the book on the Cuban crisis about this date. LRS, I, 24–25; and LRS, II, I–18.

1963: Haiti. On May 4, a Marine battalion was positioned off the coast of Haiti for five days when trouble developed in that country. USMC, III, 61.

1964: Congo. In August, the United States sent four C–130 transport planes with approximately 100 flight and maintenance crews and paratroopers to protect the aircraft while on the ground. The purpose was said to be to provide airlift for the regular Congolese troops to combat areas during a rebellion against the government of Premier Tshombé and President Kasavubu. Earlier, in July, the United States had sent 68 officers and men to Leopoldville to advise the Congolese army. Both actions followed the withdrawal on June 30 of the last of the 20,000-man force which the United Nations had placed in the Congo in order to keep the peace.

Subsequently, in November, rebels in the Stanleyville area held over a thousand foreign civilian hostages, including 60 Americans, who were subjected to many atrocities and whom the rebels threatened to kill. When negotiations between the rebels and the United States failed, the United States and Belgium arranged to land Belgian paratroopers to undertake a humanitarian rescue operation.

On November 24, the force was airdropped by U.S. transport aircraft in the Stanleyville area and liberated most of the hostages. Belgian paratroopers undertook a second rescue operation on November 26, capturing the rebel town of Paulis. In all, about 2,000 foreigners were rescued. President Johnson assumed "full responsibility" for the United States role in the decision to transport the Belgian troops in American planes. Davids, 296–310.

1964–1971: Armed Actions in Laos. At the request of the Laotian Government, unarmed United States jet planes began flying reconnaissance missions over the Plaine des Jarres in May, 1964, in order to gather information on rebellious forces headed by leftist Pathet Lao. After two jets were shot down on June 6 and 7, President Johnson decided to carry out a limited reprisal. On June 9, U.S. Navy jets attacked a Communist gun position in north central Laos, and this was followed by 36 "sorties" which knocked out a number of Communist posts. The United States has continued to play a role of air support in Laos to date. State, 30.

1964–1971: Armed Action in Vietnam. Following the Geneva Accords of 1954 which provisionally divided Vietnam at approximately the 17th parallel, the Communists held control of the northern half of the country while anti-Communists maintained a precarious hold on the south. A U.S. Military Assistance Advisory Group, which assumed responsibility for the training of the South Vietnamese army after the French relinquished command, was steadily expanded as Communist guerrilla activity supported and directed from the north intensified. By 1962, there were 12,000 U.S. advisors.

In August 1964, at the request of President Johnson following an attack on American naval vessels in the Gulf of Tonkin, Congress passed the Gulf of Tonkin Resolution, unanimously in the House and by a vote of 88–2 in the Senate. The Resolution expressed approval and support of "the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression." Also it provided the United States is "prepared as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom." (South Vietnam is a protocol state of SEATO). The joint resolution was signed into law on August 10 as Public Law 88–408.

Both this resolution and the SEATO agreement itself have been claimed as authority for United States activities in Vietnam. In addition, several appropriations laws providing for support of the hostilities in Southeast Asia are purported to represent authority for our engagement there. The Tonkin Gulf Resolution was subsequently repealed by P.L. 91–672 (Jan. 12, 1971).

Since assuming office in January, 1969, President Nixon has ordered the withdrawal of 480,500 troops. The latest reduction will lower the total of American military forces in South Vietnam to 69,000 by May 1, 1972. State, 12–14.

1965: Dominican Republic. A revolt broke out in the Dominican Republic on April 24, 1965, and on April 28 President Johnson announced that Dominican military authorities had requested assistance from the United States in protecting the lives of United States citizens living in that country. The President added that he had ordered the Secretary of Defense to put the necessary troops ashore to protect Americans, and that this assistance would be available to the nationals of other countries as well.

The first United States military contingent to the Dominican Republic consisted of 400 men. On May 2, the President announced that he was sending 200 more men immediately and that an additional 4,500 would go at the earliest possible moment. He cited the increasing Communist control of the revolutionaries, as well as the urgent need for food, medical supplies, and other humanitarian assistance to the Dominican people, as reasons for his decision. At their peak, 21,500 United States troops were in the Dominican Republic.

On May 5, a five-man OAS peace commission succeeded in achieving a cease-fire agreement among the contending forces, and on May 6, the OAS voted to create an Inter-American Peace Force to assist in restoring peace and order. The arrival on May 21 of the first contingent of a Brazilian force permitted the withdrawal of 1,700 United States troops, and as other foreign contingents arrived, additional United States troops were withdrawn. By the end of 1965, the Inter-American Peace Force totaled 9,400. In the meantime, a formula to restore constitutional government, worked out by an OAS Ad Hoc Commission, made considerable progress. The inauguration of a civilian, Hector Garcia Godoy, as provisional president on September 3, 1965, was a major step toward the restoration of stability. State, 14–15.

1967: Syrian Coast. In June of 1967, during the Arab-Israeli War, President Johnson ordered the U.S. 6th Fleet to move to within 50 miles of the Syrian Coast as a sign to the Soviet Union it "would have to deal with us" if it entered the conflict. The action was taken as a counter-move against the Soviet Union after Premier Kosygin told President Johnson over the hotline that the Soviets "had reached a decision that they were prepared to do what was necessary, including using the military" to stop the advance of Israeli troops into Arab territory, and would give the Israelis just five hours to halt their operations. Star, D–4.

1967: Congo. In July, Lt. General Mobutu, who had now become President of the Congo, was challenged by a revolt of about 170 white mercenaries and a few hundred Katangese troops. The Congolese army numbered around 32,000, but required outside logistical support in order to crush the revolt.

Responding to a direct appeal from President Mobutu, on July 8 the United States sent three C–130 military transport aircraft to the Congo, with their crews, to provide the Central Government with "long-range logistical support." Approximately 150 American military men arrived with the planes.

The small American task force immediately began to drop several plane loads of paratroopers and their equipment and continued to fly troops until November. On July 15, the first aircraft was withdrawn; on August 4, the second; and on December, the last. LRS, III.

1970:[205] Cambodia. From April 30 to June 30, U.S. troops attacked Communist sanctuaries in order to ensure the success of the program of Vietnamization. LRS, IV, 57.

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B. Five United States military actions abroad under a declaration of war

War of 1812. (1812–1815): On June 18, Congress approved a declaration of war against England. The war was officially concluded by the Treaty of Chent, December 24, 1814, but the major battle of the war occurred with an American victory at New Orleans in January, 1815.

War Between the United States and Mexico. (1846–1848): Congress declared war on May 11, 1846. The Treaty of Guadalupe Hidalgo ended the conflict on February 2, 1848.

Spanish-American War. (1898): On April 25, 1898, the United States declared war against Spain. The peace treaty ending hostilities was signed in Paris on December 10, 1898.

World War I. (1917–1919): The United States declared war on Germany on April 6, 1917, and against Austria on December 7, 1917. The Treaty of Versailles was signed on June 28, 1919. The treaty was never ratified by the United States

World War II. (1941–1945): The United States declared war on Japan December 8, 1941, and on Germany and Italy December 11, 1941. The war ended in Europe on May 8, 1945. Japan signed the formal surrender in Asia on September 2, 1945.

C. Forty-five major military actions for broad strategic aims

1798–1800: Navy War with France. The U.S. fought primarily for the protection of its free commerce.

1801–1805: War with Tripoli. The U.S. upheld its right of free commerce.

1814–1825: Caribbean Area. The U.S. sunk or captured 65 vessels to protect American commerce.

1815: Second Barbary War. The U.S. acted to provide effective protection to American commerce.

1844: Mexico. President Tyler deployed our troops to protect Texas one year before annexation.

1846: Mexico. President Polk ordered General Scott to occupy disputed territory between the Nueces and the Rio Grande.

1853–1854: Japan. Commodore Perry's expedition of 2000 men and ten ships advanced American commercial interests.

1864: Japan. U.S. Naval units participated in a joint effort to force open the Straits of Shimonoseki for the free conduct of international commerce.

1865–1866: Mexican border. General Sheridan and 50,000 U.S. troops backed up a demand from Secretary of State Seward that French forces withdraw from Mexico.

1869–1871: Dominican Republic. President Grant sought to annex the island.

1888–1889: Samoan Islands. Germany and the United States were close to warfare due to their rivalry over naval privileges in the Samoans.

1899–1901: Philippine Islands. The United States used 126,468 troops against the Philippine Insurrection in order to preserve and foster any rights it had acquired from Spain.

1900–1901: Boxer Rebellion (Peking). The U.S. sent 5,000 troops and marines to relieve foreign legations in Peking and to keep open communication between Peking and the sea.

1903–1914: Panama. Marine guards landed and remained on the Isthmus to protect construction of the Canal.

1906–1909: Cuba. The U.S. temporarily occupied Cuba to preserve order.

1912: Cuba. American troops remained three months to preserve order.

1915–1934: Haiti. By force of arms U.S. troops took over Haiti in part to forestall European intervention.

1916–1924: Dominican Republic. U.S. troops occupied Santo Domingo and supported a military governor in the Dominican Republic.

1917: Armed Atlantic Merchant Ships. President Wilson armed American merchant vessels with guns and gunners assigned from the Navy.

1917: Cuba. Several American landings were made to preserve order.

1918–1920: Expeditions to Russia. The U.S. contributed some 14,000 men to aid the anti-Bolsheviks and to forestall Japanese expansionist plans in Siberia.

1919: Dalmatia. U.S. forces policed order between the Italians and Serbs.

1926–1933: Nicaragua. The occupation of Nicaragua foiled the first attempt of Communism to infiltrate Latin America.

1927–1928: China. Nearly 6000 U.S. troops acted to help stabilize China.

1937–1938: China. Some 2,500 marines helped preserve order in Shanghai under the International Defense Scheme.

1940: British possessions in Western Atlantic. U.S. occupied military bases on British soil to protect long range national security interests.

1941: Greenland. The U.S. Army occupied Greenland for the same reason as above.

1941: Iceland. U.S. troops occupied Iceland for the same reason as above.

1941: Atlantic convoys. U.S. warships were used to convoy military supplies to Britain and Russia.

1941: Dutch Guiana. American troops occupied Dutch Guiana for same reason as above.

1946: Turkey. A U.S. carrier unit was deployed to affirm U.S. intentions to shore up Turkey against Soviet imperialism.

1950–1953: Korean War. U.S. forces acted to assist the Republic of Korea in order "to restore international peace and security in the area."

1957: Taiwan. U.S. naval units were dispatched to defend Taiwan.

1958: Lebanon. A primary purpose of using U.S. armed forces in Lebanon was to assist Lebanon in preserving its political independence.

1961: Dominican Waters, U.S. Navy ships took up positions three miles off the Dominican coast and Navy jet planes patrolled the shoreline to prevent a revolution in the Dominican Republic.

1962: Thailand. Some 5000 marines landed to support Thailand during a threat of external Communist aggression.

1962: Cuban Naval Quarantine. President Kennedy ordered a naval quarantine of Cuba to prevent delivery of additional Russian missiles and to obtain the removal of those already in Cuba.

1963: Haiti. A marine battalion was positioned off Haiti when trouble developed there.

1964: Congo. A task force of four U.S. C–130 transport planes with paratrooper guards was sent to the Congo to provide airlift for the regular Congolese troops against a Communist-assisted rebellion.

1964–1971: Vietnam. American forces have acted to support freedom and protect peace in Southeast Asia.

1964–1971: Laos. The United States has supported the free government of Laos, particularly with air missions.

1965: Dominican Republic. The threat of a Communist takeover and the need to provide humanitarian assistance to the Dominican people were major reasons for the American landings.

1967: Syrian Coast. During the Arab-Israeli war, the U.S. 6th Fleet moved to within 50 miles of the Syrian Coast as a sign to the Soviet Union it "would have to deal with us" if it entered the conflict.

1967: Congo. A task force of three U.S. C–130 transports and 150 men ferried Congolese paratroopers in order to crush a revolt against Mobutu's government.

1970: Cambodia. U.S. troops were ordered into Cambodia to assist the program of Vietnamization.

D. Eighty-two hostilities with actual combat or ultimatums

1798–1800: Quasi-war with France.
1800: West Indies.
1801–1805: War with Tripoli.
1806: Mexico.
1806–1810: Gulf of Mexico.
1814–1825: Caribbean area.
1815: Second Barbary War.
1816–1818: Spanish Florida.
1817: Amelia Island (Spanish Territory).
1820: West Africa.
1820–1822: West Coast of South America.
1822: Cuba.
1823: Cuba.
1825: Cuban Keys.
1827: Greece.
1828: West Indies.
1830: Haiti.
1831–1832: Falkland Islands (Argentina).
1832: Sumatra.
1835: Samoan Islands.
1837: Mexico.
1840: Fiji Islands.
1841: Drummond Islands (Pacific Ocean).
1841: Samoan Islands.
1843: West Africa.
1845: African coast.
1846: Mexico.
1850: African coast.

1851: Turkey (Apparently no shots fired, but the force displayed amounted to a compulsory ultimatum).

1851: Johanna Island (East of Africa).
1853: China.
1853: West Coast of Africa.
1853: Smyrna.

1853–1854: Japan (Commodore Perry's expedition including 10 ships and 2000 men conveyed an imminent threat of force.).

1854: China.
1854: Greytown, Nicaragua.
1854: West Coast of Africa.
1854: Okinawa.
1855: China.
1855: Fiji Islands.
1855: Uraguay.
1856: China.
1858: Fiji Islands.
1858: African coast.
1859: African coast.

1859: Paraguay (The Naval display of force amounted to compulsion.)

1863: Japan.
1864: Japan.

1865–1866: Mexico border (General Sheridan and 50,000 American troops backed up the demand of Secretary of State Seward that French forces leave Mexico.).

1867: Formosa.
1867: Nicaragua.
1870: Mexico.
1871: Korea.

1888: Haiti (American Commander issued an ultimatum threatening force if necessary.).

1888–1889: Samoan Islands (Three powers had warships on the scene during an intense rivalry over claims in the islands. War was close when a hurricane destroyed German and American vessels.).

1891: Bering Sea.
1894: Brazil.
1899: Samoan Islands.
1900–1901: Boxer Rebellion (China).
1899–1901: Philippine Insurrection.

1910: Nicaragua (Armed combat was "hourly expected.)".

1911: Honduras (The American Commander expressly threatened to use force if necessary.).

1914: Dominican Republic.
1914: Occupation of Vera Cruz, Mexico.
1915: Haiti.
1916: Dominican Republic.
1916–1917: Pershing Expedition into Mexico.
1917: Armed Atlantic merchant ships.
1918–1919: Mexico.
1918–1920: Expeditions to Russia.
1926–1933: Nicaraguan occupation.
1927–1928: Armed actions in China.
1941: Atlantic convoys.
1946: Trieste.
1948: Palestine.
1950–53: Korean War.
1962: Cuban naval quarantine.
1964–1971: Armed actions in Laos.
1965: Dominican Republic.
1964–1971: Vietnam War.
1967: Syrian coast.
1970: Cambodia.

E. Ninety-six military actions lasting more than 30 days

1789–1800: Quasi-War with France.
1801–1805: War with Tripoli.
1806–1810: Gulf of Mexico.
1813–1814: Marquesas Islands (South Pacific).
1814–1825: Caribbean Area.
1815: Second Barbary War.
1816–1818: Spanish Florida.
1820–1822: West Coast of South America.
1823: Cuba.
1827: Greece.
1831–1832: Falkland Islands.
1835–1836: Peru.
1838–1839: Sumatra.
1843: West Africa.
1843: China.
1844: Mexico.
1846: Mexico.
1852–1853: Argentina.
1853–54: Japan.
1854: China.
1854: Okinawa.
1855: Fiji Islands.
1855: Uruguay.
1856: China.
1858–1859: Paraguay.
1858–1859: Turkey.
1865–1866: Mexican border.
1866: China.
1868: Japan.
1869–1871: Dominican Republic.
1873: Colombia.
1873–1882: Mexico.
1885: Colombia.
1888–1889: Samoan Islands.
1891: Bearing Sea.
1894: Nicaragua.
1894–1895: China.
1898–1899: China.
1899: Samoan Islands.
1899–1901: Philippine Islands.
1900–1901: "Boxer" Rebellion (Peking).
1901: State of Panama.
1902: State of Panama.
1903: Panama.
1903–1904: Abyssinia.
1903–1904: Syria.
1904: Dominican Republic.
1904–1905: Korea.
1905–1907: Dominican Republic.
1906–1909: Cuba.
1907: Honduras.
1911–1912: China.
1912: Panama.
1912: Cuba.
1912: Nicaragua.
1913: China.
1914: Haiti.
1914: Vera Cruz (Mexico).
1914–1915: Dominican Republic.
1915: Occupation of Haiti.
1916: Occupation of Dominican Republic.
1916–1917: Pershing Expedition into Mexico.
1917: Armed Atlantic merchant ships.
1917: Cuba.
1918–1919: Mexico.
1918–1920: Expeditions to Russia.
1918–1920: Panama.
1919: Dalmatia.
1920–1922: Siberia.
1922–1923: China.
1924–1925: China.
1924–1925: Honduras.
1926–1933: Nicaragua.
1926: China.
1927: China.
1936: Spain.
1937–1938: China.
1940: Occupation of British possessions in Western Atlantic.
1941: Occupation of Greenland.
1941: Occupation of Dutch Guiana.
1941: Occupation of Iceland.
1941: Atlantic convoys.
1948: Mediterranean.
1948–1949: China.
1950–1953: Korean War.
1954–1955: Tachen Islands (China).
1958: Lebanon.
1959–1960: Cuba.
1962: Thailand.
1962: Cuban naval quarantine.
1964–1971: Laos.
1964–1971: Vietnam.
1964: Congo:
1965: Dominican Republic.
1967: Congo.
1970: Cambodia.

F. One hundred and two military actions by the United States outside the western hemisphere

1801–1805: War with Tripoli.
1813–1814: Marquesas Islands (South Pacific).
1815: Second Barbary War.

1820: West Africa.
1827: Greece.
1832: Sumatra.
1835: Samoan Islands.
1838–1839: Sumatra.
1840: Fiji Islands.
1841: Drummond Island (Pacific Ocean).
1841: Samoan Islands.
1843: West Africa.
1843: China.
1844: China.
1845: African coast.
1849: Smyrna (Now Izmir, Turkey).
1850: African coast.
1851: Turkey.
1851: Johanna Island (east of Africa).
1853: Smyrna.
1853: China.
1853: African coast.
1853–1854: Japan.
1854: African coast.
1854: Okinawa.
1854: China.
1855: China.
1855: Fiji Islands.
1856: China.
1858: Fiji Islands.
1858: African coast.
1858–1859: Turkey.
1859: African coast.
1859: China.
1860: Kissembo (West Africa).
1863: Japan.
1864: Japan.
1864: Japan.
1866: China.
1867: Formosa.
1868: Japan.
1871: Korea.
1874: Hawaii.
1882: Egypt.
1888: Korea.
1888–1889: Samoan Islands.
1889: Hawaii.
1894–1896: Korea.
1894: China.
1895–1896: Korea.
1898–1899: China.
1899: Samoan Islands.
1899–1901: Philippine Islands.
1900–1901: "Boxer" Rebellion (Peking).
1903–1904: Syria
1903–1904: Abyssinia (Ethiopia).
1904: Morocco.
1904: Korea.
1911–1912: China.
1912: Turkey.
1913: China.
1916: China.
1917: Armed Atlantic merchant ships.
1918: China.
1918–1920: Expeditions to Russia.
1919: Turkey.
1919: Dalmatia.
1919: Turkey.
1920: China.
1920–1922: Siberia.
1922: Turkey
1922–1923: China.
1924: China.
1924–1925: China.
1926: China.
1927: China.
1932: China.
1934: China.
1936: Spain.
1937–1938: China
1941: Occupation of Greenland.
1941: Occupation of Iceland.
1941: Atlantic convoys.
1946: Turkey.
1946: Trieste.
1946: Greece.
1948: Palestine.
1948: Mediterranean.
1948–1949: China
1950–1953: Korea.
1954–1955: Tachen Islands (China).
1956: Egypt.
1957: Indonesia.
1957: Taiwan.
1958: Indonesia.
1958: Lebanon.
1962: Thailand.
1964–1971: Laos
1964–1971: Vietnam.
1964: Congo.
1967: Syrian coast.
1967: Congo.
1970: Cambodia.

FOOTNOTES

*A.B. Elon College 1956; L.L.B. Duke U. 1959; Richardson Foundation Congressional Fellowship 1959–1960; Assistant Counsel, Office of Legislative Counsel, U.S. Senate 1960–1969; Legislative Counsel to U.S. Senator Barry M. Goldwater 1969 to present.

[1] The Senate alone has spent parts of 61 days of Floor debate on issues affecting the President's war making machinery in the first 143 legislative days of the 92d Congress. These deliberations centered primarily around H.R. 6531, the Military Draft Extension Bill (45 days), and H. R. 8687, the Military Procurement Authorization Act (13 days).

[2] *See* S. 731, S. 1880, S.J. Res. 18, S.J. Res. 59, and S.J. Res. 95, all 92d Congress, 1st Sess. (1971). *But cf.* H.J. Res. 1, 92d Cong., 1st Sess., passed by the House of Representatives on August 2, 1971, in which "Congress reaffirms its powers under the Constitution to declare war," without specifying any rules for the conduct of military hostilities.

[3] Mr. Javits has introduced S. 731 for himself, Mr. Bayh, Mr. Mathias, Mr. Packwood, Mr. Pell, Mr. Spong, Mr. Weicker and Mr. Williams. Mr. Bentsen has introduced S. 1880 for himself and Mr. Byrd of W. Va. Mr. Taft has introduced S.J. Res. 18. Mr. Eagleton has introduced S.J. Res. 59 for himself, Mr. Inouye, Mr. McGovern, Mr. Montoya, and Mr. Stevenson. Mr. Stennis has introduced S.J. Res. 95 for himself, Mr. Mansfield, and Mr. Roth. On December 6, 1971, after this article was submitted, Senators Javits, Stennis, Eagleton, and Spong agreed to introduce a comprehensive redraft of S 731. The substantive provisions of this bill, S. 2956, are essentially the same as those in S. 731, with the addition of language borrowed from S.J. Res. 59 providing that authority to use the Armed Forces shall not be inferred from a treaty or appropriation act. S. 2956 was ordered favorably reported by the Senate Committee on Foreign Relations the next day, December 7.

[4] See discussion pp. 2–6, *infra*.

[5] S. 731, *supra* note 2, at 1, lines 3–5.

[6] *Id.* at 1–2, lines 7–13.

[7] *Id.* at 2, paragraph B, § 1.

[8] *Id.* at 2, paragraph C, § 1.

[9] *Id.* at 2–3, paragraph D, § 1.

[10] *Id.* at 1–2, paragraph A, § 1.

[11] *Id.* at 3, § s.

[12] *Id.* at 4, § 3.

[13] S.J. Res. 59, *supra note* 2, pp. 4–5, § 3.

[14] *Id.* at 2–3, § 1.

[15] *Id.* at 3, lines 9–12, § 2 (emphasis added).

[16] *Id.* at 6–7, § 6.

[17] *Id.* beginning at line 25, p. 6, and ending on line 2, p. 7.

[18] *Id.* at 7, lines 2–6.

[19] *Id.* at 7, lines 6–11.

[20] *Id.* beginning at line 12, p. 3, and ending on line 7, p. 4, § 2.

[21] *Id.* at 5, lines 13–19, § 4.

[22] See note 7, *supra*.

[23] S.J. Res. 95, *supra* note 2, at 2, paragraph B, § 2.

[24] *Id.* at 5–6, § 7.

[25] See S.J. Res. 59, note 16 *supra*.

[26] See S.J. Res. 59, note 14 *supra*.

[27] See S.J. Res. 59, note 20, *supra*.

[28] S.J. Res. 95, *supra* note 2, at p. 5, § 6.

[29] S.J. Res. 59, *supra* note 2, at p. 7, § 7. Nor would the fresh hostility be covered by S. 731. See note 12 *supra*.

[30] *Supra* note 2.

[31] See text accompanying note 16 to note 29 *supra*.

[32] S.J. Res. 18, *supra* note 2, at 2–3, paragraph 1–4, Part I. And see note 10 *supra*.

[33] *Cf.* S. 731, *supra* note 8.

[34] *Cf.* S. 731, *supra* note 11.

[35] S.J. Res. 18, *supra* note 2, at 2, line 10, Part I.

[36] S. 731 refers only to "military hostilities" and does not specify whether a purpose of combat is necessary to constitute a hostility. See text accompanying note 5 to note 12 *supra. But cf.* remarks of Senator Javits when he introduced his bill in which he refers to "combat hostilities" and "combat actions." 117 Cong. Rec. (daily ed.) S1204–S1206 (Feb. 10, 1971).

[37] *Cf.* S. 731, *supra* note 12.

[38] S.J. Res. 18, *supra* note 2, at 3–4, Part II.

[39] See text accompanying note 5 to note 39 *supra*, note 40 *infra*.

[40] *Id.*

[41] *See A Brief on S. 731, to Make Rules Respecting Military Hostilities in the Absence of a Declaration of War*, 117 Cong. Rec. (daily ed.) at S2527–S2531 (March 5, 1971), and *see* Javits, *supra* note 36.

[42] *Brief, supra* note 41, at S2528.

[43] *Id.*

[44] *Id.*

[45] *Id. See also* Javits, *supra* note 36, at S1205–S1206.

[46] *See* exhibit 1, Javits, *supra* note 36, at S1206. *But* cf. view of Professor John Norton Moore that "reliance on the experience under the Articles of Confederation seems a frail reed for interpreting a Constitution promulgated in large measure as a result of dissatisfaction with the experience under the Articles." *Hearings on War Powers Bills Before the Senate Comm. on Foreign Relations*, 92d Cong., 1st Sess. (1971), testimony of Professor Moore inserted in the Cong. Rec. by Senator Goldwater, 117 Cong. Rec. (daily ed.) S6469 (May 10, 1971). Moore's position applies with equal force to the Continental Congress.

[47] *Brief, supra* note 41, at S2529. The textual arguments of the Javits brief are reminiscent of the battle Jefferson and Randolph lost to Washington and Hamilton over the power of the President to "declare" on "the question of war or peace." When President Washington boldly issued a proclamation of neutrality on April 22, 1793, during the outbreak of war between France and Great Britain, it was a clear defeat for the position argued by Jefferson that only Congress could proclaim neutrality. To Jefferson, since Congress alone had the power to declare war, it alone had the power to declare we were not at war. Washington's rejection of Jefferson's narrow reasoning is generally credited with establishing early the principle of Presidential primacy in the making of foreign policy. See C. Rossiter, Alexander Hamilton and the Constitution 84–85 (1964).

[48] *Hearings, supra* note 46. *See* testimony of Professor Richard B. Morris inserted in the Cong. Rec. by Senator Javits, 117 Cong. Rec. (daily ed.) S3359 (March 16, 1971). And *see* testimony of Professor Henry Steele Commager inserted in the Cong. Rec. by Senator Javits, 117 Cong. Rec. (daily ed.) S3353–S3354. *See generally* Note, *Congress, the President, and the Power to Commit Forces to Combat*, 81 Harv. L. Rev. 1771 (1968).

[49] Wright, *The Power of the Executive to Use Military Forces Abroad*, 10 Va. J. Int'l. 54 (1969).

[50] Wright took the same position in 1920. *See* Wright, *Validity of the Proposed Reservations to the Peace Treaty*, 20 Col. L. Rev. 134–36 (1920).

[51] W. W. Willoughby, The Constitutional Law of the United States, (2d ed. 1929).

[52] E. Corwin, Constitution Annotated (1952).

[53] Another well-known constitutional authority states the President "possesses the organizational authority to resort to the use of force to protect American rights and interests abroad and to fulfill the commit-

ments of the nation under international agreements." B. Schwartz, Commentary on the Constitution of the United States, Part I, Vol. II at 196 (1963).

[54] Corwin, *Who has the Power to Make War?*, N.Y. Times, July 31, 1949 at 14 (Magazine).

[55] *Hearings, supra,* note 46. *See* testimony of Moore at S6469–S6470; testimony of Secretary of State William P. Rogers inserted in the Cong. Rec. by Senator Goldwater, 117 Cong. Rec. (daily ed.) S7196–S7201 (May 18, 1971); and testimony of the Honorable George W. Ball inserted in the Con. Rec. by Senator Goldwater, 117 Cong. Rec. (daily ed.) S12619–S12621 (July 30, 1971).

Other recent statements recognizing full plenary power in the President to conduct military operations are: remarks by Solicitor General Erwin N. Griswold inserted in the Cong. Rec. by Senator Goldwater, 117 Cong. Rec. (daily ed.) S12967–S12969 (Aug. 3, 1971); Eberhard P. Deutsch, *The President as Commander in Chief*, 57 ABA J. 27–32 (Jan. 1971); Henry M. Pachter, *Reflections of Unilateral Intervention,* prepared for Foreign Military Commitments, Forensic Q., 135–38 (May 1969); and *Congress, the President, and the War Powers, Hearings Before the Subcomm. on National Security Policy and Scientific Developments of the House Committee on Foreign Affairs,* 91st Cong. 2d Sess. (Comm. Print 1970), testimony of Dr. W. T. Mallison at 30–39, testimony of Professor Abram Chayes at 135–38, and testimony of William H. Rehnquist at 210–16, 228–29, 232, and 235.

[56] Spong, *Can Balance be Restored in the Constitutional War Powers of the President and Congress?,* 6 U. Rich. L. Rev., at 27 (1971).

[57] See *Brief, supra* note 41, at S2529–S2530.

[58] See Appendix "A," *infra,* at 88.

[59] 4 U.S. (4 Dallas) 36 (1800).

[60] *Id.* at 39–45.

[61] Also cited as The Amelia, 5 U.S. (1 Cr.) 1 (1801).

[62] *Id.* at 28.

[63] Also cited as Little v. Barreme, 6 U.S. (2 Cr.) 170 (1804).

[64] *Id.* at 179. In fact, there never has been any Supreme Court holding in time of war which shackled the President's ability to use the forces at his disposal to carry on that hostility. See Ratner, *The Coordinated Warmaking Power—Legislative, Executive, and Judicial Roles,* 44 So. Cal. L. Rev. at 486 (1971).

[65] *See* Moore, *supra* note 46, at S 6469. *And see* U.S. Const., Art. I, S 8.

[66] See Rogers, *supra* note 55 at n.45, S 7201.

[67] Spong, *supra* note 56, at 27. The Supreme Court has consistently refused to tackle cases directly challenging the legality of Presidential military decisions during an ongoing war. For example, the Court has turned away every request for a decision on the validity of the Vietnam conflict that has been made of it. See *Berk v. Laird,* 443 F. 2d 1039 (1971); *cert. denied* 40 U.S.L.W. 3166 (Oct. 11, 1971); Massachusetts v. Laird, *motion for leave to file complaint denied,* 400 U.S. 886 (1970); Mora v. McNamara, *cert. denied,* 389 U.S. 934 (1967); Luftig v. McNamara, *cert. denied,* 387 U.S. 945 (1967); and Mitchell v. United States, *cert. denied,* 386 U.S. 972 (1967).

There are earlier cases which indicate the Supreme Court will not consider issues arising out of any statute purporting to regulate the President's deployment of troops. In *Mississippi v. Johnson* the Court held it had no power to restrain acts of either Congress or the President regarding the use of troops. 71 U.S. 475 (1866). Some half century later the Court held that the propriety of what may be done in the exercise of the power to conduct foreign relations "is not subject to judicial inquiry or decision." Oetjen v. Central Leather Co., 246 U.S. 297, 302 (1918).

Then in 1950, the Court stated:

"Certainly it is not the function of the Judiciary to entertain private litigation—even by a citizen—which challenges the legality, the wisdom, or the propriety of the Commander-in-Chief in sending our armed forces abroad or to any particular region . . . The issue tendered . . . involves a challenge to conduct of diplomatic and foreign affairs, for which the President is exclusively responsible." Johnson v. Eisentrager, 339 U.S. 763, 789 (1950).

Two recent articles which conclude the Court will not entertain the issue of the President's war-making authority are (1) Note, *The Supreme Court as Arbitrator in the Conflict Between Pesidential and Congressional War-Making Powers,* 50 Boston U. L. Rev. 78 (1970), and (2) *Undeclared War and the Right of Servicemen to Refuse Service Abroad,* 10–16, Legislative Reference Service, Library of Congress (Nov. 30, 1970). *But cf.* Tigar, *Judicial Power, The 'Political Question Doctrine,' and Foreign Relations,* 17 U.C.L.A. L. Rev. 1135 (1970).

In light of the probable application of the "political question" doctrine to the war powers legislation, Senator Goldwater has charged: "[I]t may incite one of the gravest Constitutional crises in American history." Testimony of Senator Goldwater before Hearings on War Powers Bills, *supra* note 46, inserted in 117 Cong. Rec. (daily ed.) S5637–S5647 (April 26, 1971) at S5637.

[68] 67 U.S. (2 Black) 635 (1863.)

[69] See *Brief, supra* note 41, at S2529.

[70] Prize cases, 67 U.S. (2 Black) 635, 671 (1863).

[71] *Id.* at 668.

[72] Professor Schwartz claims: "The language of the high Court in the *Prize Cases* is broad enough to empower the President to do much more than merely parry a blow already struck against the nation. Properly construed in truth, it constitutes juristic justification of the many instances in our history (ranging from Jefferson's dispatch of a naval squadron to the Barbary Coast to the 1962 blockage of Cuba) in which the President has ordered belligerent measures abroad without a state of war having been declared by Congress." B. Schwartz, The Reins of Power at 98 (1963). And see text accompanying note 114 to note 149 *infra.*

[73] 71 U.S. (4 Wall.) 2 (1866).

[74] *Id.* at 139.

[75] See *Brief, supra* note 41, at S 2530.

[76] 236 U.S. 459 (1915).

[77] *Id.* at 466–67.

[78] *Id.* at 460–70, 474.

[79] See text accompanying note 142 to note 149 *infra.*

[80] Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952).

[81] *Id.* at 587.

[82] *Id.* at 645.

[83] See Rogers, *supra* note 55, at S 7198.

[84] New York Times Co. v. United States, 403 U.S. 713 (1971).

[85] *Id.* at 722.

[86] See text accompanying note 49 to note 56 *supra* pp. 8–9. And see note 55 *supra.*

[87] E. Corwin, President: Office and Powers 220 (3d rev. ed. 1948).

[88] See text accompanying note 96 to note 100 *infra.*

[89] See text accompanying note 101 to note 108 *infra.*

[90] See text accompanying note 110 to note 113 *infra.*

[91] U.S. Const., Art. II, § 1.

[92] Griswold, *supra* note 55, at S 12968.

[93] See Corwin, *supra* note 87, at 217–20.

[94] Cited in Corwin, *supra* note 87, at 218.

[95] Annals, 6th Cong., col. 613 (1800).

[96] New York Times Co. v United States, 403 U.S. 713 (1971) *supra* note 84, at 756. And see separate dissent by Justice Blackmun at 761.

[97] *Id.* at 741.

[98] *Id.* at 741–42, 756.

[99] 299 U.S. 304 (1936).

[100] *Id.* at 319–20.

[101] Wright, *supra* note 50, at 134–35. And see *In re Neagle,* 135 U.S. 1, 64 (1889), cited by Wright in discussion.

[102] E. Corwin, *supra* note 87, at 240–41.

[103] Corwin has also written:

"But the President may also make himself the direct administrator of the international rights and duties of the United States, or of what are adjudged by him to be such, without awaiting action either by the treaty-making power or by Congress, or by the courts." *Id.* at 239.

W. Willoughby observed:

"It is also to be noted that the powers constitutionally vested in the President with regard to the control of the foreign relations of the United States makes it possible for him to bring about a situation in which, as a practical proposition, there is little option left to Congress as to whether it will or will not declare war or recognize a state of war as existing." W. Willoughby, *supra* note 51, at 1558.

[104] *See* Q. Wright, The Control of American Foreign Relations 306 (1922); Durand v. Hollins, 8 F. Cas. 111 (4 Blatch 451, CCSD NY 1860).

[105] Durand v Hollins at 454.

[106] *See* The Slaughter-House Cases, 83 U.S. 36, 79 (1872).

[107] U.S. Const. amend. XIV.

[108] J. Clark, Right to Protect Citizens in Foreign Countries by Landing Forces, 25 (3d rev. ed. with sup. appendix up to 1933: 1934).

[109] *See* Q. Wright, *supra* note 104, at 307; Spong, *supra* note 56, at 24; Moore, *The Lawfulness of Military Assistance to the Republic of Viet-Nam, The Vietnam War and International Law*; Am. Soc'y of Int'l L. 237 (1968); *id.* at 583–603; Memorandum by U.S. Dept. of State, *The Legality of United States Participation in the Defense of Viet-Nam,* (March 4, 1966); B. Schwartz, supra a note 72, at 175.

[110] U.S. Const. art II, § 2,, cls. 1.

[111] Q. Wright, *supra* note 50, at 134; W. Willoughby, note 51 *supra*, at 1567.

[112] *Ex parte* Milligan, 71 U.S. (4 Wall) 2 at 139. *See also* holding by Court of Claims that "In time of war, the Commander in Chief has the same powers as other civilized governments, and the exercise of them needed no ratification to give them effective force." The Court was speaking of the *undeclared* war in the Philippines. Warner, Barnes and Co. v. United States, 40 Ct. Cl. 1, 32 (1904).

[113] Swaim v. United States, 28 Ct. Cl. 173, 21, *aff'd* 165 U.S. 553 (1897).

[114] J. Rogers, World Policing and the Constitution 55 (1945).

[115] *Id.* at 56.

[116] E. Corwin, *supra* note 54, at 14.

[117] *See* R. Dupuy and W. Baumer, The Little Wars of the United States preface (1968).

[118] *See, e.g.,* Commager, *supra* note 48, principally at S 3355, and Morris, *supra* note 48, at S 3359.

[119] See Goldwater, *supra* note 67, at S 5637.

[120] See appendix A *infra,* as revised by author; February 1972.

[121] Other itemized lists of U.S. military operations abroad are: J. Clark, *supra* note 108, at 51–130 (78 incidents without declarations of war and not later disavowed or repudiated); J. Rogers, *supra* note 114, at 93–123 (139 such incidents); State, *infra* appendix A at 111 (135 such incidents); and Legislative Reference Service, Library of Congress, *Background Information on the Use of United States Armed Forces in Foreign Countries* (1970 Revision) at 50–57 (152 such incidents).

[122] See appendix A *infra,* note 3 at 110.

[123] Reveley, *Presidential War-Making: Con-*

stitutional Prerogative or Usurpation?, 55 Va. L. Rev. 1258 (1969).

[124] Malawer, *The Vietnam War Under the Constitution: Legal Issues Involved in the United States Military Involvement in Vietnam,* 31 U. Pitt. L. Rev. 213 (1969).

[125] See Commager, *supra* note 48, at S 3355.

[126] See appendix F *infra* at 116.

[127] *Id.*

[128] See appendix D *infra* at 114.

[129] See appendix E *infra* at 115.

[130] See appendix G *infra* at 117.

[131] See appendix C *infra* at 112.

[132] *See* Commager, *supra* note 48, at S3355.

[133] See appendix A *infra* at 92.

[134] *Id.* at 98.

[135] *Id.* at 102.

[136] *Id.* at 103. See R. Dupuy and W. Baumer, *supra* note 117 at 168.

[137] Appendix A *infra* at 104.

[138] *Id.* generally.

[139] Monaghan, *Presidential War-Making,* 50 Boston U. L. Rev. 27 (1970).

[140] *Id.* at 29.

[141] *Id.* at 31. *See generally* Griswold, *supra* note 55.

[142] United States v. Midwest Oil Co., 236 U.S. 459 (1915).

[143] *Id.* at 473.

[144] Presidents had issued orders withdrawing public lands from private acquisition over a period of 80 years. *Id.* at 469. In comparison, Presidents have been sending troops abroad on their own initiative for more than a century and a half. *See* appendix A *infra* generally.

[145] The statute reads in pertinent part:

"From and after the passage of this act it shall not be lawful to employ any part of the Army of the United States, as a posse comitatus, or *otherwise,* for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said force may be *expressly* authorized by the Constitution or by act of Congress . . ." (Emphasis added.) H. R. 4867, approved June 18, 1878, § 15 (45th Cong.) 20 Stat. 152.

It is true the law was aimed primarily at the use of troops in suppressing domestic violence or insurrection, but on its face it extends to all use of the Army, without any geographical limitation, for the purpose of executing the laws. As we have seen, the President's right to execute the laws includes a power to enforce international obligations as well as domesitc laws. See text accompanying notes 101 to 104, *supra.*

Furthermore, it was evident to Congress the law it was debating would be applicable to circumstances much broader than the *posse comitatus* situation described in the act. Members of both Houses indicated their awareness of the provision's reach to situations involving the employment of troops against foreign dangers. See remarks of Senator Matthews where he speaks of "foreign wars" 7 Cong. Rec. 4297 (1878) and remarks of Senator Hoar, *id.* at 4303. One proposed amendment, introduced and defeated during floor debate in the House of Representatives, would have exempted from the law the use of forces "on the Mexican border or in the execution of the neutrality laws elsewhere on the national boundary lines." *Id.* at 3849.

In these circumstances and in view of the broad language of the statute, the author believes it can reasonably be interpreted as purporting to limit the use of the Army in the international theater as well as the domestic one. Thereby the doctrine of constitutional interpretation announced in *Midwest Oil* would squarely provide additional support buttressing the legality of the President's use of troops abroad. Section 15 of H.R. 4867 was repealed in 1956 and restated in broader form as the new section 1385 of title 18, U.S.C. (70 A Stat. 626).

[146] 54 Stat. 885.

[147] *Id.* § 3(e), at 886. Congressional debate on the 1940 Selective Service law shows that when Congress referred to the "Western Hemisphere" it definitely meant only that area of North, Central, and South America which "we have long engaged to protect under the Monroe Doctrine."

The provision is also an unlikely precedent for War Powers legislation because its author, Senator Lodge, conceded on the Senate Floor, "This is a pious hope." It was openly recognized by him and others that Congress could not constitutionally restrict the President's deployment of forces. *See* 86 Cong. Rec. 10092, 10103, 10105, 10116, 10129, 10295, 10391, 10742, 10794–10798, and especially 10895–10914, 76th Cong. 3d Sess. (1940).

[148] See appendix A *infra* at 105.

[149] Corwin also argues the U.S. agreement to turn over 50 reconditioned destroyers to Britain in 1940 "was directly violative of at least two statutes . . . ." E. Corwin, *supra* note 87 at 288–89. And *see* appendix A *infra* at 104, and Senate Comm. on Foreign Relations, S. Rep. No. 797, 91st Cong., 1st Sess. (1969) 14–15.

[150] See testimony of McGeorge Bundy, *Congress, the President, and the War Powers, supra* note 55, at 3.

[151] See testimony of Alexander Bickel, *Congress, the President, and the War Powers, supra* note 55, at 45.

[152] See testimony of Attorney William D. Rogers, *Congress, the President, and the War Powers, supra* note 55, at 58.

[153] See testimony of Professor Abram Chayes, who supports legislative efforts to end the Indochina War, but nevertheless vigorously opposes as unconstitutional "bills that seek to lay out a detailed blueprint in advance to govern the relations between the President and the Congress in the exercise of the national war power in all possible contingencies." *Congress, the President, and the War Powers, supra* note 55, at 135.

[154] Rogers, *supra* note 55, at S 7199.

[155] *Id.*

[156] See testimony of Dr. James MacGregor Burns, *Congress, the President, and the War Powers, supra* note 55, at 81–82.

[157] *Id.* Consider the observation of former Ambassador Charles W. Thayer, that:

"It was due largely to the erratic, occasionally irresponsible actions of the ancient Greek assemblies that the city-states' diplomacy was ineffective and defensive collaboration against the Eastern aggressors impossible. Despite growing recognition by Congress and the public of the purpose, methods and needs of an effective diplomacy, so long as the consistent pursuit of long-range interests and aspirations is periodically sacrified to passing whims inspired by fleeting emotions in Washington, the danger persists of a twentieth century repetition of the Greek debacle." W. Thayer, Diplomat 80 (1959).

[158] See Ball, *supra* note 55, at S 12261.

[159] *Id.*

[160] Goldwater, *supra* note 67, at S 5637.

[161] *Id.*

[162] *See generally Brief, supra* note 41.

[163] See generally text accompanying note 10 to note 36 *supra.* And *see* S. 731, § 2; S. 1880, § 4; S.J. Res. 59, § 4; and S.J. Res. 95, § 4, all *supra* note 2.

[164] See appendix A *infra* at 107.

[165] *See* R. Kennedy, Thirteen Days (1969) at 35, 36, 68, 97, and 107.

[166] Goldwater, *supra* note 67, at S 5638.

[167] Kennedy, *supra* note 165, at 53.

[168] *Id.* at 53–54.

[169] Goldwater, *supra* note 67, at S 5638.

[170] *See generally* testimony of Commager and Morris, *supra* note 48; testimony of Professor Alexander Bickel, inserted in the Cong. Rec. by Senator Javits, 117 Cong. Rec. (daily ed.) S 12387 (July 28, 1971). *See generally* Brief, *supra* note 41.

[171] See Brief, *supra* note 41, at S 2528. In case the President should veto any such legislation shoving him into an expanded war, he would be put in the unenviable position of facing a Congress which (1) would likely claim he had thereby deprived himself of any authority to act at all in the hostility concerned and (2) could vote to override his veto.

[172] Brant, *Nixon vs. Constitution in War Powers Debate,* The Washington Post, July 4, 1971, at B–3.

Compare the position of Ambassador Thayer, who views the Foreign Service dangerously handicapped under present Congressional practices, let alone under the complications added by War Powers legislation. For example Thayer recites:

"In his Memoirs, President Truman indicates how the Greek Civil War was very nearly lost to the Communists because of the time needed to get the necessary Congressional action.

"The first warning that the British, then on the verge of bankruptcy, would have to withdraw from Greece not later than April 1, 1946 was telephoned to the President by the State Department on Friday, February 21. Four days later Congressional leaders were notified that some sort of action would be essential. But it was not until seventy-five days later, that the House on May 9, finally approved the measure. Meantime the Communist guerrillas had almost succeeded in overthrowing the Greek government." C. W. Thayer, *supra* note 157, at 78–79.

[173] S. 731, *supra* note 2, at § 1A (4).

[174] Secretary of State Rogers contends "such a restriction could seriously limit the ability of the President to make a demonstration of force . . . to deploy elements of the Sixth Fleet in the Mediterranean in connection with the Middle East situation," which is exactly what President Johnson did in 1967. See Rogers, *supra* note 55, at S7199, and see text accompanying notes 177 to 179, *infra;* Moore, *supra* note 46, at S6470; S. Comm. on Foreign Relations, note 149, at 26.

Representative Zablocki, Chairman of the House Subcommittee hearings on war powers in 1970, told Senator Javits during the latter's appearance at the hearings: "Let us say that as a result of renewed hostilities in the Middle East the President finds it necessary to intervene on the side of Israel. Your bill does not seem to fit that contingency since the United States has no formal treaty or pact with Israel."

Senator Javits replied: "I would hope that long before any such terribly untoward situation would develop in the Middle East . . . this would have been adopted as a NATO responsibility and then it would come under the fourth item of my own bill." *See Congress, the President, and the War Powers, supra* note 55, at 400–401.

Thus, from Senator Javits' own admission the President could not act independently in defense of the people of Israel under his bill, but would have to await either a decision by NATO to take collective action in support of Israel (no one else has suggested Israel is a NATO obligation) or legislative action by Congress.

No authority considers the Middle East Resolution to be pertinent, apparently because it (1) does not grant any authority to employ force, but simply states a policy that "the United States is prepared to use armed forces," (2) does not apply unless the aggressor country is "controlled by international communism," and (3) provides the employment of force "shall be consonant with the treaty obligations of the United States" and we do not have any defense treaty with Israel. Pub. Law 85–7, a joint resolution to promote peace and stability in the Middle East, approved March 9, 1957 (71 Stat. 5).

[175] Goldwater, *supra* note 67, at S. 5637.

[176] Remarks of Senator Goldwater, 117 Cong. Rec. (daily ed.) S. 5636–S. 5637 (April 26, 1971).

[177] See appendix A *infra* at 109.

[178] The Evening Star (Washington, D.C.), May 12, 1971, D–4; Johnson, *The Vantage Point*, excerpt 8, The Washington Post, Oct. 24, 1971, A1, A14.

[179] *Id.*

[180] See Rogers, *supra* note 55, at S. 7199.

[181] U.S. Dept. of Navy, *Summary of Wars/Near Wars Since 1946*, 116 Cong. Rec. S15712–S15713 (May 15, 1970).

[182] See S. 731, *supra* note 173; S.J. Res. 59, *supra* note 173; S.J. Res. 59, *supra* note 2, § 2; S.J. Res. 95, *supra* note 2, § 3; and S. 1880, *supra* note 2, § 3, which prohibit the President from inferring a right to act under any law unless that law "specifically authorizes the use of such forces in armed conflict." *See also* S.J. Res. 18, which prohibits deployments to fulfill a treaty obligation qualified by constitutional limitations or conditions. Since nearly all United States defense treaties "limit" or "condition" our responsibility to act to steps which are "in accordance with" our own "constitutional processes," S.J. Res. 18 would seem designed to preclude Presidential initiatives under all such agreements. *See* S. Rep. No. 794, 90th Cong., 1st Sess. 15, (1967).

[183] See appendix A *infra* at 108.

[184] Unpublished letter of Dean Rusk in personal files of Senator Goldwater.

[185] See testimony of Professor Moore where he warns S. 731 would prohibit "humanitarian intervention similar to the joint United States-Belgian operation in the Congo if the intervention were not for the protection of United States nationals." Moore, *supra* note 46, at S6470.

[186] Commager, *supra* note 48, at S3357.

[187] See text accompanying notes 185–86 *Supra*.

[188] See appendix A *infra* at 91, 92.

[189] See KENNEDY, *supra* note 165, at 35–36.

[190] See text accompanying note 104 to note 108 *supra*.

[191] See text accompanying note 109 *supra*.

[192] Even Professor Bickel, who otherwise endorsed War Powers legislation, cautioned: "I don't think the President can be deprived of his power to respond to an imminent threat of attack (as well as to the attack itself); or of his power to respond to attacks and threats against our troops wherever they may be, as well as against our territory; or of the power to continue to see to the safety of our troops once they are engaged, even if a statutory 30-day period has expired." Bickel, *supra* note 170, at S12390.

Almost all commentators grant that the Founding Fathers purposefully left with the President at least "the power to repel sudden attacks." *See, e.g.,* Note, *The War-Making Powers: The Intentions of the Framers in the Light of Parliamentary History*, 50 Boston U. L. Rev. 1 (1970).

[193] Senator Goldwater has put the same view in these words: "I am convinced there is no question that the President can take military action at any time he feels danger for the country or for its freedoms or stretching a point, for its position in the world." Goldwater, *supra* note 67, at S5639. *See generally* text accompanying note 86 to note 155 *supra*.

And see position of Bernard Schwartz that: "The unwritten constitutional law of presidential power (if not the text of the basic document) has all but vested in the highest officer the virtual authority to make war whenever deemed necessary to protect the interests of the United States." B. Schwartz, *supra* note 72 at 177.

[194] *See, e.g.,* text accompanying note 41 to note 50 *supra;* Javits, *supra* note 36; Morris, *supra* note 48; Commager, *supra* note 48; and Bickel, *supra* note 170.

[195] *See generally,* Bickel, *supra* note 170 at S12388; Commager, *supra* note 48, at S3353; testimony of McGeorge Bundy, inserted in the Cong. Rec. by Senator Javits, 117 Cong. Rec. (daily ed.) S5629 (April 26, 1971).

[196] Javits, *supra* note 36, at S1204.

[197] *See* remarks of Senator Cooper, 117 Cong. Rec. S23722–S23744 (July 10, 1970), with accompanying documents.

[198] *See* remarks of Senator Goldwater, 117 Cong. Rec. (daily ed.) S12446 (July 29, 1971).

[199] Berk v. Laird, 443 F.2d 1039 (1971), *cert. denied* 40 U.S.L.W. 3166 (1971).

[200] During Floor debate on the military draft extension law, Senator Stennis, Chairman of the Senate Committee on Armed Services, asserted this is the first time Congress has set numerical strength levels on the regular forces, as distinguished from the Reserves, and including volunteers, officers, and inductees. *See* remarks of Senator Stennis, 117 Cong. Rec. (daily ed.) at S9589 (June 21, 1971).

See also Senate Report 92–93 on H.R. 6531, 92d Cong., 1st Sess. at 35 (1971); Pub. L. 92–129, Act of Sept. 28, 1971, § 301.

See generally the report by Congressional Reference Service, Library of Congress, *Regulating the Size of the Armed Force Under Selective Service Law*, 117 Cong. Rec. (daily ed.) S9590–S9591 (June 21, 1971).

[201] For example, following a trip to Saigon in May, 1964, Secretary of Defense McNamara brought back recommendations for increases in American assistance, specifically including an increase in the size of the American advisory personnel and a larger air force for South Vietnam. President Johnson asked for, and obtained, from Congress an additional $125 million in military aid funds earmarked for these purposes. Pub. L. 88–633, 78 Stat. 1009, 1010; Pub. L. 88–634, 78 Stat. 1015 (1964).

In 1965, less than nine months after Congress passed the Gulf of Tonkin Resolution, President Johnson sent to Congress an appropriation request specifically and solely related to the war in Vietnam. In it he asked for $700 million to support an increase in the number of troops in South Vietnam. The House of Representatives approved the money by a vote of 408 to 7 and the Senate approved it by a vote of 88 to 3. 111 Cong. Rec. 9282–9284; Pub. L. 89–18, 79 Stat. 109 (1965).

In each of these instances Congress was confronted with a policy decision to expand the defense commitment in Vietnam in the future. These were not requests for funds to cover past expenses, but to support future policy. Here is the kind of clear-cut decision on a specific issue in which the author believes Congress can play a proper and important role in shaping the advance course of the nation's activities or in shifting present trends, if it wishes.

[202] William H. Rehnquist contends that "at the very heart of the Presidential power as Commander-in-Chief is his sole authority to determine the tactics and strategy which shall govern the way in which hostilities once commenced are conducted." SENATE COMM. ON FOREIGN RELATIONS, DOCUMENTS RELATING TO THE WAR POWER OF CONGRESS, THE PRESIDENT'S AUTHORITY AS COMMANDER-IN-CHIEF AND THE WAR IN INDOCHINA, 91st Cong., 2nd Sess. 177 (July 1970).

Thus a distinction should be made between the decision of Congress to cut or reject an appropriation of funds for the conduct of hostilities and the attempt by Congress to dictate rules governing the deployment of forces. For example, the Senate Committee on Foreign Relations was acting within the authority of Congress in October when it voted to reduce the funds sought by the Nixon Administration for military and economic assistance in Cambodia from $341 million to $250 million. SENATE COMM. ON FOREIGN RELATIONS, Rep. No. 92–404 at 46–47, 92d Cong., 1st Sess. (1971).

On the other hand, the author believes Congress would have improperly invaded the President's sphere as the primary source of foreign policy and Commander in Chief had it passed the so-called "End the War Amendment," which called for a total withdrawal of U.S. troops from Vietnam by December 31, 1971. This would be an effort by Congress to "direct the conduct of campaigns," something four Justices said, in *Ex parte Milligan*, that it cannot do. For text of amendment, see 117 Cong. Rec. (daily ed.) at S8760 (June 10, 1971). *Cf.* Mansfield Amendment no. 427, which simply declares a policy of withdrawal from Vietnam and "requests" the President to implement it. See text at 117 Cong. Rec. (daily ed.) S15111 (Sept. 27, 1971).

In some current instances, Congress has passed quasi-restrictions on the deployment of forces with the acquiescence of the President. Section 843 of The Department of Defense Appropriations Act, 1971, is a case in point. P. L. 91–668. This provision prohibits "the introduction of American ground combat troops into Laos or Thailand," but it was not opposed by the Administration. Nor had the Administration earlier opposed a restriction against the introduction of U.S. ground combat troops or advisors into Cambodia when this provision was placed in the Supplement Foreign Assistance Authorization Act for 1971. See Pub. L. 91–652; and Congressional Research Service, Library of Congress, *Legislation Enacted by the 91st Congress to Limit United States Military Involvement in Southeast Asia*, March 30, 1971.

So long as the President agrees to comply with the limitation (each of these two restate a previously announced intention of President Nixon), the language will have the full force and effect of law. However, it is the author's view that the President could legally defy these and simliar restrictions on the use of American forces whenever he determines it is vitally necessary to defend American security.

[203] The list includes only actual battles, landings, or evacuations. Deployments to maintain an American presence, or alerts bringing an advanced state of readiness are not included, except for seven or eight incidents when the risk of war was unusually grave. No military operations known to have been subsequently disavowed or repudiated have been included. The list was prepared with the direction of U.S. Senator Barry Goldwater and is published with his consent. It has been supplemented by the author, February 1972.

[204] Authority for each of the listed hostilities is given at the end of its description. The reference is to one of the sources in the author's Sources for Compilation which follows this section of the Appendix.

[205] Eight military engagements which were subsequently disavowed or repudiated have been omitted from the above list of precedents. These are:

1812: Amelia Island, Spanish territory. United States disavowed General Matthews' occupation of the area when he made himself the head of a revolutionary party. State, 16.

1824: Puerto Rico, Spanish territory. Commodore Porter was later courtmartialed for exceeding his powers when he forced an apology from a group of pirates who had insulted American naval officers. State, 17.

1842: Mexico. Commodore T.A.C. Jones occupied Monterey in the mistaken belief that war had started between the United States and Mexico. He withdrew and saluted, thereby disavowing his action. State, 18.

1857: Nicaragua. An American naval commander compelled the leader of a rebel group who was trying to seize Nicaragua to leave the country. The American commander's action was tacitly disavowed by the Secretary of State and apparently repudiated by President Buchanan. State, 20.

1866: Mexico. After General Sedgwich obtained the surrender of the Mexican border town of Matamoras, he was ordered to withdraw and his act was repudiated by the President. State, 22.

Late 1880's: Bering Sea. The United States paid nearly $500,000 to Britain in damages resulting from the seizure of British sealers by United States patrol boats outside the three mile limit. U.S. 586.

1893: Hawaii. On January 16, Marines from the schooner *U.S.S. Boston* landed at Honolulu and were dispatched until April 1 to protect American lives and property, after the deposition of Queen Liliuokalani. The action was later disavowed by the United States. LRS, III. 53.

1912: Honduras. A small naval force landed at Puerto Cortez to protect an American-owned railroad there. Apparently Washington disapproved and the men were withdrawn in a day or two. State, 27.

[206] Only the primary source is cited, although in several instances the summary was prepared from a composite of information published in more than one of the sources referred to herein.

G. 81 MILITARY OPERATIONS ARGUABLY INITIATED UNDER PRIOR LEGISLATIVE AUTHORITY (NO DECLARATIONS OF WAR)

Year	Military operation	Legislation	Treaty
1798–1800	Quasi-war with France	×	
1801–05	War with Tripoli	×	
1813	Spanish Florida	×	
1806–10	Gulf of Mexico	×	
1813–14	Marquesas Islands	×	
1814–25	Caribbean area	×	
1815	2d Barbary war	×	
1817	Amelia Island	×	
1820	West africa	×	
1822	Cuba	×	
1823	do	×	
1824	do	×	
1825	Cuban Keys	×	
1827 [2]	Greece	×	
1828 [2]	West Indies	×	
1832 [2]	Sumatra	×	
1835 [2]	Samoan Islands	×	
1838–39 [2]	Sumatra	×	
1841 [2]	Drummond Island	×	
1841 [2]	Samoan Islands	×	
1843 [1]	West Africa	×	
1845 [2]	African coast		×
1850 [1]	do		×
1851 [2]	Johanna Island, east of Africa	×	
1853 [1]	African coast		×
1854 [1]	do		×
1854	Okinawa		×
1855 [2]	China	×	
1856	Panama		×
1858	African coast		×
1859 [1]	African		×
1859	Paraguay		×
1860	Panama		×
1864	Japan		×
1865	Panama		×
1867 [2]	Formosa	×	
1868	Colombia		×
1870	Mexico	×	
1873	Columbia		×
1885	Panama		×
1888–89	Samoan Islands	×	×
1891	Navassa Island, Haiti	×	
1894	Brazil	×	
1895	Panama		×
1899	Samoan Islands	×	×
1899–01	Philippine Islands		×
1901	Panama		×
1902	do		×
1903	do		×
1904	do		×
1906	Cuba		×
1911–12	China		×
1912	Panama		×
1912	Cuba		×
1913	China		×
1914	Vera Cruz, Mexico	×	
1916	China		×
1916	Pershing expedition into Mexico.	×	
1917	Cuba		×
1918	China		×
1918–20	Panama		×
1920	China		×
1921	Panama-Costa Rica		×
1922–23	China		×
1924	do		×
1924–25	do		×
1925	Panama		×
1926	China		×
1927	China		×
1932	do		×
1933	Cuba		×
1934	China		×
1937–38	do		×
1950–53 [3]	Korean war		× [4]
1957	Taiwan	×	×
1958 [5]	Lebanon operation	×	
1962 [6]	Cuban naval quarantine		× [7]
1962	Thailand		×
1964–71	Vietnam	×	×
1964–71	Laos	×	×
1970	Cambodia	×	×

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[1] Indicates operation occurred under act of 1819 or treaty of Aug. 9, 1842, with Great Britain, both relative to the suppression of slavery.

[2] Indicates military activity may have occurred pursuant ot broad interpretation of authority conferred by certain acts of Congress against piracy. See act of Mar. 3, 1819 (3 Stat. 510), act of Jan. 14, 1823 (3 Stat. 720), and act of Aug. 5, 1861 (12 Stat. 314).

[3] Though reliance was also placed on the U.N. Charter, the Truman administration based its authority to commit troops squarely on the President's independent constitutional authority. Rogers, discussion supra, note 55, at S7197.

[4] U.N. Charter.

[5] In fact President Eisenhower sent troops into Lebanon without seeking specific congressional approval and without specifically basing his authority on the 1957 Middle East resolution. Rogers, supra, note 55, at S7197.

[6] According to Secretary of State Rogers, "the Cuban resolution, unlike the other area resolutions, contained no grant of authority to the President." Id.

[7] OAS.

REFORMS IN CRIMINAL JUSTICE SYSTEM

Mr. GURNEY. Mr. President, among the major difficulties in dealing with the problem of crime in America today has been the burden placed on our police by certain Supreme Court rulings coupled with our overburdened court system.

The police officer on the beat operates with the knowledge that his work may be for naught. The pusher or murderer whom he arrests may well be allowed to plead guilty to a lesser charge, arranged by his defense lawyer and the prosecutor during "plea bargaining" because the courts are so crowded. Or, if he is tried and convicted, he may be ordered retried or released because of a legal technicality.

Recently, U.S. News & World Report presented an excellent study of the reactions of law enforcement officials to this situation. The thoughts of district attorneys and police chiefs are important in helping us all to understand the frustrations and the needs of those in law enforcement today. Further, the article points out some reforms which are necessary to upgrade the functioning of our criminal justice system.

Mr. President, I recommend this article to the Senate and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COURTS TOO EASY ON CRIME? POLICE CHIEFS SPEAK OUT

Law-enforcement officials are tired of arresting and prosecuting criminals only to see them go free—to commit new crimes. A survey shows why many feel that courts must share the blame for the growth of the nation's crime problem.

Police and prosecutors, fighting a losing battle against the steady rise in crime, are laying much of the blame for their frustration at the door of this nation's criminal-court system.

Many of these law-enforcement officials feel that courts are turning too big a portion of criminals loose, being too lenient or too slow—or overtechnical—in their administration of justice.

New York City's Police Commissioner Patrick V. Murphy put it this way recently in a speech:

"Too many criminals are not going to jail, and their victims scream that the criminal-justice system has broken down—and they are right. . . .

"I will state emphatically that the court system must accept the giant share of the blame for the continual rise in crime."

Commissioner Murphy's statement set off an echo of agreement from law-enforcement officials all across the U.S. One after another police chiefs and prosecutors questioned in a survey by members of the staff of "U.S. News & World Report" expressed similar views. Only a few disagreed.

WORK THEIR HEARTS OUT

From critics of the courts came such statements as these:

"We're fortunate if we're able to get 50 per cent of the criminals in court, and then we're fortunate again if we can convict 50 per cent of those," said Bernard L. Garmire, chief of the Miami, Fla., police force.

"The police go out and work their hearts out, and if the criminals aren't taken care of it becomes a rather frustrating situation.

"A tremendous number of crimes are being committed, few people are getting arrested, fewer still are being convicted, and many of those are getting probation or less than that. When is it going to end?"

Edward M. Davis, Los Angeles chief of police, said the problem of rising crime "can't be solved with wall-to-wall cops or better prosecutors" as long as "courts turn convicted felons back on our streets."

Estimating that 90 per cent of the felons convicted in Los Angeles County are not committed to prison, Mr. Davis suggested that while this treatment may be humane to criminals it is not protecting the right of honest citizens to "life, liberty and the pursuit of happiness." He said:

"Ten years ago, the criminals were locked up behind bars and the people were pursuing happiness on the streets.

"Today, the people are locked up in their homes and offices, and the criminals are pursuing happiness on the streets."

From Charles Boone, Negro chief of police in Gary, Ind., where more than half the residents are black, came this complaint:

"You can't put a black burglar in jail in Lake County, and that makes it impossible to protect the black community here."

Declaring that 90 per cent of those arrested in 1971 for burglary, theft or robbery are "back on the streets" now, Mr. Boone said:

"The courts must either help us with a solution to the crime situation or they become part of the problem. It's like they give out a license to steal."

PLACING THE BLAME

What's wrong with the courts?

Some officials criticize judges for being too lenient in dealing with criminals brought before them.

Other officials blame an outdated, overburdened court system, rather than individual judges. The courts, they say, simply don't have the manpower or the facilities to cope with the rapid rise in the number of criminal cases in recent years. One hears complaints, too, about court rulings that police claim tie their hands, hamper their investigations and set criminals free on "technicalities."

Among those who criticize judges as too lenient is John T. Corrigan, the prosecutor of Cuyahoga County, which includes the city of Cleveland.

Judges, he suggests, are under pressure to be known as "liberal"—"they are concerned with not being thought of as bad guys."

"Leniency is going to catch up with us," Mr. Corrigan warned. "If a criminal who should be confined is not confined, we multiply the problem."

Philadelphia's Mayor Frank L. Rizzo was commissioner of police before his election as mayor last November.

"Some of the judges are too lenient—there's no question," he told "U.S. News & World Report." He added:

"Our big problem is the repeaters—people who commit felonies again and again. I'm not exaggerating when I say that there are people with a record of from 8 to 30 arrests for felonious crime who are put on probation.

"If we could just put them in jail for a long while, we could cut our crime rate in half."

Those who criticize judges find support in Congress.

"As I see it, too many guilty persons escape the penalties of the law," said Senator John L. McClellan (Dem.), of Arkansas, Chairman of the Senate Subcommittee on Criminal Laws and Procedures. "I feel that the courts are too lenient. There definitely has been a trend in that direction, although there's some evidence now of a change."

In San Francisco, the Police Officers Association announced a year ago that it would watch judges "who consistently are too lenient" with criminals. So far, no judge has been cited.

Citizens' groups in several cities have organized surveillance of trial judges, hoping to stiffen their stands in criminal cases.

It is the inadequacy of court facilities—rather than the judges themselves—that most police officials blame for their problems.

Courts are described as understaffed—with not enough judges, prosecutors, defense attorneys or other personnel to keep up with their work.

The results are long delays between arrest and trial and the growth of a method known as "plea bargaining."

In "plea bargaining," a person accused of a serious crime is permitted to plead guilty to a lesser crime to avoid the trouble of a trial on a docket that is already overcrowded.

According to Police Commissioner Murphy, out of 94,000 felony cases in New York City last year, only 552 went to trial. The rest were "disposed of" by plea bargaining or dismissal. Officials in other cities cite similar statistics.

In Houston, Assistant Harris County District Attorney Neil McKay said 90 per cent of the cases are handled by plea bargaining.

"We have to do it to keep our heads above water," he explained. "It is impossible to give every man a trial under the circumstances."

In Atlanta, Fulton County District Attorney Lewis R. Slaton reported that of 6,256 felony indictments in the first 11 months of 1971, only 396 went to trial, with about 3,800 cases ended by plea bargaining.

In Detroit, of 11,000 felony warrants issued in 1970, only 1,115—or slightly more than 10 per cent—were brought to trial. "On the average," says James Garber, chief of the criminal division of the office of Wayne County prosecutor, "about 80 per cent of the cases are disposed of by reduced plea."

Plea bargaining, of course, permits a felon to get off with a lighter sentence than his actual crime would merit.

Prosecutors contend, however, that plea bargaining is an absolute necessity, the way courts are jammed today.

"You can't get away from it," said Fred Inbau, a criminal-law specialist at Northwestern University School of Law. "It's the only way the system can be made to work. If every defendant or prosecutor insisted on a trial, you couldn't possibly cope with it."

Joseph Power, chief judge of the criminal division of Cook County Circuit Court in Chicago, is not concerned about plea bargaining. Said the judge:

"It's nothing new. You've always had discussions between the State and defense counsel. It just has a new name. Now we've brought plea bargaining out in the open. There's a frank discussion in the courtroom between everyone involved, including the judge."

In Cook County, according to Judge Power, the criminal courts' case load has declined the last three years.

"When you read about other urban areas," he said, "our courts look good by comparison."

Chicago Police Superintendent James Conlisk, Jr., agrees. "I think the courts are doing a good job," he said.

DELAYS ASSAILED

State's Attorney Edward V. Hanrahan of Chicago takes a more critical view of the court situation. He said:

"The courts have not adapted themselves properly to handle the volume of criminal business they have before them efficiently or effectively. There are an extremely large number of criminal cases taking too long to bring to trial."

Besides the volume of cases, Mr. Hanrahan blames court delays on "maudlin sentimentality, an overreluctance to force defendants to face trial." He went on to say:

"The media is a tremendous contributor to this. It never talks about victims and it helps turn the tables on the prosecutor. Name me a case in which you can remember the name of the victim. Who, for instance, was a victim of the crime of which Angela Davis is accused?"

Delay in criminal trials was perhaps the most common complaint.

"Delay favors a defendant," said Mr. Garber of the Detroit prosecutor's office. "The knowledgeable defendant takes advantage of every possible roadblock. He knows that delay increases his chances of a reduced plea or dismissal. We must reduce the delay between arrest and final disposition so that the prospect of punishment serves as a deterrent—not structure the system to encourage postponements."

Houston Police Chief Herman Short said courts are too prone to grant long delays.

"I personally have seen the defense use delays as a tool to wear witnesses down," said Chief Short. "If there's too long a delay, witnesses often die or disappear. The long delay between arrest and trial is a significant factor in the rise in crime."

"Some defense attorneys prostitute the system by using delays instead of trying to bring a case to trial," said Washington, D.C., Police Chief Jerry Wilson.

The jury system is cited as a cause of trial delay. A study of Georgia's criminal courts found that in a serious felony case a panel of 48 prospective jurors must be called because so many are challenged by opposing lawyers. Then, it is noted, one juror who disagrees with the others can block a verdict and force a new trial.

CONTROVERSIAL RULINGS

What about the Supreme Court rulings that laid down rigid rules of procedure for police to follow in questioning suspects? And the decisions that forbid the trial use of evidence not obtained in strict conformance with rules imposed by high courts?

There are complaints from police and some prosecutors about such rulings.

"I think that all too often lawyers and judges at the appellate level grasp at minor things to show that a defendant's rights have been violated," said Richard A. Sprague, assistant district attorney in Philadelphia.

"Most regrettably," Senator McClellan has said, trial delays frequently "are occasioned by technicalities that are associated with 'new rights' and procedural requirements which the Supreme Court in recent years has imposed on trial processes in criminal cases."

Yet, many law-enforcement officials discount the effect of court rulings on crime or punishment. Oakland Chief of Police Charles R. Gain said this:

"Numbers of our officers feel that the courts have been too lenient. Some feel that the appellate-court decisions have handicapped the police. But it absolutely cannot be demonstrated according to evidence I have read that the rulings which have been handed down by the so-called 'Warren Court' [the Supreme Court when Earl Warren was Chief Justice] have caused any increase in crime whatever. People tend, when frustrated, to seek a scapegoat."

California's Attorney General Evelle Younger said:

"It is absurd to say that you can attribute the rise in crime to our courts—particularly the Supreme Court.

"Let's not say the courts are handicapping police. Let's say the courts are handicapping themselves. The appellate courts have made it almost impossible for the trial judge to perform his duties."

What most law-enforcement officials appear to want is expansion and modernization of the court system so it can handle its growing burden and give cases the attention they merit.

SYSTEM BROKEN DOWN

In DeKalb County, Ga., Police Chief Dick Hand, former federal prosecutor, summed up:

"The courts have got to be reorganized. The system itself has broken down, simply because of the volume of work thrust upon it. Police departments have improved greatly, whereas the court system has not.

"The biggest thing is not so much the amount of punishment, but the swiftness and the sureness of the punishment.

"Frankly, we don't have much swiftness or sureness any more."

CERTAINTY OF PUNISHMENT—"THIS IDEA HAS BECOME A FARCE"

Following are excerpts from an address by New York City's Police Commissioner Patrick V. Murphy before the Bar Association of the City of New York, on Dec. 20, 1971:

There is more crime today than ever before. There are more criminals today than ever before. There are more victims today than ever before. But too many criminals are not going to jail, and their victims scream that the criminal-justice system has broken down—and they are right. The victims scream that the police are at fault, but this is not right and it is not fair.

We, the police, are far from perfect, but we have shouldered the entire blame long enough. We, the police, are more efficient today than ever. We pour arrested criminals into the wide end of the criminal-justice funnel, and they choke it up until they split over the top. And when I say spill over—they spill over into the street and commit more crime.

So we arrest them again, pour them into the funnel as far as the court system again, and they spill out again. And the cycle repeats itself day after day after day. . . .

In today's courts, everything is aimed at disposition of cases. Our courts have become totally committed to clearing the calendar. Partly this is due to the fact that there are no jail cells to put criminals into. I admit this. Corrections is still another sad story. . . .

But the court system is what I am talking about tonight. The surest deterrent to crime is the knowledge by potential criminals that they are likely to get caught, and the certainty—the certainty, I said—that once caught they will be promptly prosecuted, convicted if guilty, and jailed. There is no such certainty today. This idea has become a farce.

Professional stick-up men, narcotics pushers, gamblers laugh at it. Not only are we not jailing them, but each arrest that they walk away from leads to an increased disrespect of the law, not only by the persons arrested but also by young criminals, amateur criminals, would-be criminals who would emulate them.

In 1960, the New York City police department made 35,629 felony arrests. Last year we made 94,042 felony arrests, an increase of 165 per cent over a 10-year period. You ask what happened to last year's 94,000 felony arrests? Exactly 552 of them went to trial—552 out of 94,000. The rest of them were "disposed of." Disposed of means dismissed outright, reduced to misdemeanors via plea bargaining, reduced to much lesser felonies via plea bargaining.

No doubt certain of the honest, dedicated policemen who made these 94,000 arrests last year came to the belief that conscientious police work is a waste of time, a waste of effort and a waste of devotion. . . .

All we can do is take criminals out of circulation as far as the court system, and we do this. We are arresting criminals, often the same ones, over and over again.

Does this effectively remove them from circulation? It does not. . . . The court system is not dealing with these criminals. They get out on bail, and in the months and sometimes years before the case comes to trial some of them have committed 20 to 50 more crimes and have been apprehended 5 or 10 or 20 additional times.

Or the courts, in their desperate struggle to dispose of cases, send vicious criminals out on the street again on probation or after very brief sentences on much reduced charges, and another 10 or 100 citizens get mugged as a result. . . .

I will state emphatically that the court system must accept the giant share of the blame for the continual rise in crime.

We in the criminal-justice system realize that the courts have problems, that money and time are needed, that the system wasn't designed to cope with modern violence and modern crime nor with the criminal subculture in drugs. Some improvements to the system have been made already. Yet they have been too few and too slow. We can't wait much longer. Society can't wait much longer.

THE RIGHTS OF OUR SENIOR CITIZENS

Mr. McGOVERN. Mr. President, for too long we have been looking at the rights of senior citizens as though they were privileges—something given by society as a whole out of goodness and generosity.

That philosophy must be changed. It is time we started recognizing that such necessities as good health care, a decent income, and a chance to a fulfilling retirement are basic human rights of older Americans. They should be seen as part and parcel of the right to pursue happiness which is guaranteed by the Constitution to all of our people.

Now, language of this kind is quite common in presidential campaigns. And the gap between promise and performance has grown so wide that any voter does well to doubt high-sounding rhetoric. You have every right to be suspicious of candidates who rely on generalities, Madison Avenue imagemaking, public opinion polls, and campaign gimmicks, as a substitute for serious discussion of the issues.

To people who are concerned about the direction of the country, it is not enough for a politician to say, "Don't ask what I'm going to do; trust me." A response of that kind is an insult to the voters of New Hampshire and to the New England traditions which inspired our democratic traditions.

That is why I have been spelling out in detail the kind of program I will present to Congress and to the American people if I am elected President of the United States.

It is why I have devoted months of study, consultation, and staff work to writing a complete alternative defense posture that can guarantee our security and still free tens of billions of dollars to build up our own country here at home.

It is why I have prepared and released a detailed tax reform plan to close the gaping loopholes for the rich and to finance our urgent domestic needs.

And it is why I want to tell you today specifically what I intend to do, as President, on issues affecting older Americans.

First, the social security system must be completely overhauled. As a beginning we should adopt the full 20 percent across-the-board increase recommended by the National Council of Senior Citizens, move the minimum payment up at least $150 a month, and remove the restriction on outside earnings.

Second, I have proposed a program to provide an income supplement—perhaps $1,000 per year to each American. This taxable supplement would be added to existing income from any source, including social security and other pension retirement income.

Third, to protect against the inflation that constitutes another kind of cruel tax on people with fixed incomes, the Government should issue savings bonds with purchasing power guarantees. Their value would automatically go up with increases in the cost of living. They would be available both to individuals and to private pensions and insurance annuities, to guarantee cost-of-living protection.

Fourth, we need a comprehensive national health insurance program. That is why I am a sponsor of the Health Security Act, developed by the UAW's Committee of One Hundred, endorsed by the AFL–CIO and introduced by Senator KENNEDY. In the McGovern administration there would be no foot dragging on this all important issue, and certainly no attempts to write alternatives designed solely to preserve and build the wealth of the giant private insurance companies.

Fifth, I will be spelling out in a few days another health program of special concern in States like New Hampshire—to provide better emergency medical services. Once the cost barriers to decent health care are surmounted, we will still be left with the likelihood that many Americans of all ages, particularly those living some distance from hospitals and clinics, will suffer preventable death or injury because it takes too long to get them to treatment facilities. That should be remedied.

Sixth, the aid to education and property tax relief program I spelled out on Monday has special significance for older Americans. They are gouged more deeply than almost anyone else as a result of the Federal Government's failure to assume its fair share of public education costs.

Property taxes take about 2.8 percent of personal income nationwide. The Senate Committee on Aging has found, however that in one State aged homeowners were paying about 30 percent of their total income in property taxes. In some cases it went as high as 58 percent. So we have the sorry spectacle of people paying most of their working lives so they could have their own home, then being forced out of that home, and onto a tight rental housing market, because they cannot afford the heavy taxes.

I propose that we change that situation, by having the Federal Government assume at least one-third of the education costs that account for the biggest share of the property tax load.

These programs all have a bearing on the income condition of older Americans, and certainly that issue deserves top priority attention.

But we should be concerned as well about what people do after they retire; about making life worth living after 65.

Specifically, I think the individual and our whole society are both losers when we act as if age 65 were a mystical milestone that somehow deprives people of their physical and mental resources.

The truth is that about 80 percent of all American citizens over age 65 are capable of discharging all normal responsibilities. Some live in financial poverty. But all 16 million of the healthy aged have been forced into a poverty of opportunities. They are deprived of the chance to make their own way out of the prison of enforced idleness. As a result, and because of wooden job standards that exclude older workers, many of these people have been goaded into believing themselves that they are useless, and that is simply not true.

I propose, therefore, that the Federal Government assist in the establishment of Retirement Career Guidance Centers, in cooperation with existing nonprofit agencies and organizations. Under this system, small groups of older people could come together with trained counselors to identify their skills, without regard to the title of the jobs they held before retirement; to see how those skills can be put to work in voluntary, part-time or full-time work; and to learn job-finding techniques. For a minimal expenditure of about $12 million, and the cooperation of private agencies and individuals, we could have centers of this kind operating in every State.

Proposals of this kind give substance and meaning to talk about new priorities in this country. We can build a society grounded on justice and on compassion, if we dare to try. And we can build a system in which retirement is not an end but a new beginning and a stimulating new departure. It is in pursuit of those goals that I seek your help in this important matter.

YOUTH FOR UNDERSTANDING

Mr. HRUSKA. Mr. President, it is a privilege for me to comment today on the Youth for Understanding program which is observing its 20th year of building international good will and understanding through an exceptionally successful student exchange program.

The program was begun in 1951 with the placement of 75 German students in homes in Detroit. Since that time more than 30,000 students from 45 countries have participated. The program consists of bringing foreign students to the United States to live and attend high school for 1 year, and of sending American students overseas during the summer months.

The YFU's value is enhanced greatly by the fact that the program's educational exchanges have a maximum effectiveness. They affect the individual at an age when he can assimilate the culture, language and historical background of other nations much more readily and with more appreciation.

One of the intriguing hallmarks of this program is the fact that the total budget of Youth for Understanding for 1971 was less than $4 million. Who can measure the return in international understanding which the Nation has received in return for expenditure of those private funds? Would that we received commensurate return for the billions of public dollars which have been expended in the same countries over the years in an often frustrating effort to secure good will and understanding.

In an era of increasing tension and distrust among nations and their peoples, Youth for Understanding is making a vital contribution toward developing a friendship and trust between the youth of the world. The young people who participate in this program will carry a deep understanding and appreciation of their fellow citizens of the world throughout their lifetime.

This is a most worthwhile work. All of the selfless people throughout the Nation who have dedicated their efforts to it for the past 20 years are to be highly commended.

I encourage support of Youth for Understanding by all Senators and expanded participation by all who seek to build a better world through the education of our young people.

SENATOR CARL HAYDEN

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Washington (Mr. JACKSON), I ask unanimous consent to have printed in the RECORD a statement by him concerning the late former Senator Carl Hayden, of Arizona.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JACKSON

It was with a very deep personal sadness that I learned of the passing of our former colleague and friend, Carl Hayden of Arizona.

He entered Congress when Arizona entered the Union, and remained a faithful and effective member until his retirement in 1968. As the Chairman of the Senate Appropriations Committee, he was directly involved with the great resource projects that have aided in the growth and development of our country, particularly of the West from whence he came. I could talk about his great contribution to the development of the natural resources of our Nation, but these historic achievements are well known. Today, I want to dwell on more than these important milestones that mark the public career of this great American. I want to remember Carl Hayden, the man.

Carl Hayden was more than just a senator and revered Senator to the junior Senator from Washington. Indeed, from the time I entered Congress 31 years ago, he was like a father to me. I knew him to be a kind, gentle, and warm human being who cared about his fellow-man. He had one of the most impressive careers in American political life in the history of the Republic, yet he lived a life of simplicity, fairness, and honesty. His fine character earned him the respect not only of his colleagues but of all who knew him.

It is quite true that with his passing a splendid chapter in the history of the West has come to a close. But all that he accomplished during his lifetime will live on to make a better life for his fellow-citizens and their children.

This is the real monument to Carl Hayden—a wonderful memory of a constructive and dedicated lifetime of service to others. I shall miss him greatly, but to have known him has enriched my life.

TOWARD AN END TO DRUG ABUSE

Mr. McGOVERN. Mr. President, the American drug scene is dominated by harsh realities. Optimistic appraisals and easy solutions have no place; the problem is already acute and it is growing worse. And there are no simple answers.

The problem cannot even be easily defined. It includes addictive drugs—the hard narcotics, generally opium and opium derivatives such as heroin, morphine and codeine, plus alcohol and nicotine as well. It includes hallucinogens such as LSD, mescaline, peyote, and an extensive list of synthetic substances capable of altering visual and mental images. It includes commercially produced amphetamines and barbiturates designed to either offset fatigue or to relax. And it includes the intoxicant cannabis—marihuana or hashish, depending on the method of preparation.

But the problem also includes, by derivation, the widespread belief that an answer to virtually any physical or mental malady on the one hand, or improved health and happiness on the other, can be found in a shot, a pill or a swallow. Certainly the harried housewife who takes an aspirin to relieve a tension headache, the tense bank president who takes a mild depressant to help him sleep, or the student who takes caffine pills to keep himself awake for a cramming session, do not pose a great threat to society. But such widely accepted practices as these help a great deal in explaining why the ghetto youngster whose entire life is a process of hopelessness and despair is a good prospective customer for the heroin pusher who promises escape, however temporary, from those oppressive conditions. He is not unique in seeing drugs as an answer; his problems are just more severe, and his solution is more drastic.

For the most part drugs have made enormous contributions to the health and comfort of the American people. But while the majority may find it a relatively simple matter to determine which drugs are good and which are bad, for whom, and under what conditions, the lines become quite blurred when they are applied to the vast multitude of real life situations.

As suggested above, the most widely abused drugs differ substantially in their effects. They also come from different sources, and they tend to be used for different reasons. No single set of arguments or answers can be applied to all; in fact, the past tendency to lump them all together has had a lasting detrimental effect on education and control programs.

ADDICTIVE DRUGS

All statistics on narcotics addiction are questionable, but best current estimates—and they are admittedly understated—put the American drug addict population at about 350,000 persons. In New York City that may mean as many as 100,000 people. In one District of Columbia neighborhood it translates into a constant heroin craving for one in three males between the ages of 15 and 24

The human tragedy involved in such statistics is bad enough. But the addicts themselves, although they are the most seriously damaged, constitute only a portion of the total problem. Narcotics addiction and crime are inseparable companions.

A heroin addict with a $35 daily habit, and that is probably well below the average, must somehow come up with that amount of cash each day, every day of his life. In 98 percent of the cases he steals to pay the pusher, but because of high cost of fencing stolen goods he must steal as much as five times the value of his habit every day. On an annual basis he must steal nearly $64,000 worth of property. Countrywide—using low estimates on both the number of addicts and the cost of their habits—that translates into about $4.4 billion in crime.

It also translates into one of the country's biggest and most lucrative criminal industries. Opium is not grown in the United States. It is entirely an import crop, coming mostly from poppy fields in Turkey, Afghanistan, Mexico, and Southeast Asia. The cultivation, refinement, shipping, cutting and distribution of heroin requires—and supports—a huge and intricate underworld apparatus. The opiates themselves account for only a tiny fraction of the price paid by the addict; the remainder constitutes the cost of doing business plus a handsome multibillion-dollar profit for criminal industry.

Considering their total costs to society and their infliction of virtually permanent damage on the user, the control of addictive drugs must be the main priority of overall national drug policy. And programs to control addictive drugs must, in turn, be based on a realistic understanding of their physical effects.

People who use heroin develop rather quickly a physical condition in which their bodies crave, in fact require, the substance. Moreover, the physical effects of addicting drugs include the growth of tolerance. Over time the body tolerates stronger and stronger doses, and larger and larger amounts are required to satisfy the craving.

The symptoms of withdrawal are similarly phyiscal and medically determinable. Once addicted the body that is deprived of its narcotic exhibits clear physical reactions—yawning, sweating, tearing, chills, vomiting, nervousness, restlessness and acute pain. The worst agonies of withdrawal last for a full week. Some aspects of addiction last much longer, and others are believed to remain for life. Some authorities believe that heroin use establishes an irreversible metabolic change.

There is thus very little truth to the folk wisdom which assumes that an addict who is deprived of his drugs somehow "dries out." Once established, the addict's need remains.

Until the past few years public policy has relied almost entirely on criminal sanctions against narcotics addicts, and that approach is still dominant. An addict who is found in possession of illegal drugs is automatically arrested and usually incarcerated. He is rarely given medical treatment; most criminal detention facilities are not equipped to provide any form of medical attention. As a consequence the effect on the apprehended addict is simply that he is prevented from supporting his habit for as many days as he is detained. He is ultimately released with no real change in his need to return to narcotics.

And that need is a consuming one, almost certainly overcoming whatever deterrent effect there is in a threatened prison term, either for possession of drugs or for the shoplifting, burglary, muggings, or prostitution required to raise the necessary funds. The same need overcomes whatever humane restraints the addict might feel against becoming a pusher and searching out new heroin markets—against becoming a promotor for the same commodity which has made him a slave. In fact, few pushers who are arrested are not addicts themselves.

So despite more rigorous law enforcement, the traffic in illicit drugs has not declined, the number of addicts has not declined, and the amount and type of crimes associated with addiction support have not declined. All have risen dramatically. Judges find themselves increasingly faced by defendants with drug records. Drug law arrests rose by 740 percent from 1960 to 1970. Some 40 percent of New York City's prison inmates are addicts; two out of every 1,000 men reporting for military induction are rejected due to addiction. It is plain that criminal sanctions have been a dismal failure.

The record does not, of course, support a case for less vigorous efforts by law enforcement agencies to locate addicts and to prosecute violations, particularly for heroin pushing and for the crimes used to finance addiction. The fact that he is usually quite helpless, that his needs are physiological, does not render the damage done by the addict any more bearable to society as a whole.

The record does suggest, however, that with respect to the addicts themselves, law enforcement agencies have been saddled with a problem they are not equipped to handle. They can do next to nothing either to prevent addiction or to cure it. At best they can only keep a portion of the addict population temporarily locked up, and much more is required if the problem is to be brought under control.

There is clearly no cure for addiction that can even approach the merit of prevention, including the most intensive possible pursuit of illicit sources, education, and treatment of the desperate social and economic conditions which make narcotics attractive to a sizable proportion of the population. As for the treatment of present addicts, there is a need to recognize that while its consequences and its most visible manifestations may be criminal, the addict suffers a medical infirmity against which imprisonment is probably no more effective than it would be against cancer or heart disease.

The beginnings of serious treatment of heroin addiction in recent years have concentrated on three major components; ridding the body of the physical addiction, rehabilitating the addict through therapy, and assisting in assimilation back into society. No major breakthroughs have been made in any area. The search for drugs which are antagonistic to heroin continues, with some now in limited use, with limited success. Methadone, which can be addictive itself, but which does not have the same debilitating effects and does not produce a "high," is being used on an experimental basis both as a substitute for heroin and as a method of gradual detoxification, but it has sharp limitations and some dangers. For example, it takes repeated use for an individual to become addicted to heroin; if methadone is prescribed in a case where heroin has been used only briefly, it may create an addiction which could have been avoided. A durable drug-free status has been attained by some addicts through this method, through intensive counselling, and through rehabilitation centers emphasizing peer group contact. The obvious truths that people differ, addicts differ, and they have become involved with heroin for a variety of reasons, are reflected in the fact that no single method is producing consistent results.

HALLUCINOGENS

The middle range mind-altering drugs, particularly LSD, have come to symbolize the so-called youth drug culture. They have two related characteristics which distinguish, and tend to diminish, the overall problem as compared to that of hard narcotics. They are not physically addictive, and they do not, therefore, create the same kind of trafficking attraction for organized crime as is present with heroin, where the physical craving literally guarantees a captive market in which price is no object.

While estimates are no more than educated guesses, drugs of the LSD variety have been tried at least once by as many as 1 million people. Regular use is probably limited to several tens of thousands of mostly middle class youth.

LSD produces strong sensations. It can cause acute panic at the time of use, recurring visual effects and delusions extending months thereafter, and in some cases schizophrenic psychoses. There have been a few instances of accidental death and suicide while under the influence of the drug. Other permanent effects, including the potential for brain damage or damage to offspring, are at least open questions.

Yet as many as 1 million people have used these drugs, apparently without concern about the possible consequences. It is logical to assume that they are more dangerous to those who are undergoing emotional and mental development yet recent surveys indicate that usage has reached at least some proportions of high school students. Such developments raise profound questions about the credibility of drug education programs. Beyond that they suggest something quite disturbing about the influences which have shaped many young personalities to the point where they have so little self-esteem that they are willing to experiment with drugs whose effects are potentially so dangerous. It is no exaggeration to suggest that the use of these substances is akin to suicide.

LSD is rigidly controlled, but penalties for their production and possession are at best only a partial method of dealing with synthetic hallucinogens. The range includes a number of substances which can be made quite easily in a college laboratory or even in a garage, from ingredients which are widely available. As with many other implements of self-destruction, they will likely remain available to determined experimenters.

Criminal sanctions can, of course, help to discourage the use and, of still greater concern, the production and transfer of dangerous hallucinogens. Beyond that, overriding objectives should be intensive research into their nature and their consequences, coupled with broadened dissemination of what is and is not known, in believable forms and through believable channels.

PILLS

An estimated 10 million chiefly middle- and upper-class adult Americans use amphetamines and barbiturates to some extent. The former, principally methadrine, benzadrine, and dexedrine, are "uppers," used to remove fatigue and drowsiness and supposedly to increase mental activity and alertness. The latter, "downers," or depressants, are used to relax or to sleep, and they can be addictive.

Both categories have legitimate uses. But roughly half of the total annual production in recent years has gone into illicit channels. Again the total number of abusers cannot be estimated, but it probably ranges up to several hundred thousand. If the hallucinogens and marihuana symbolize the young drug culture, amphetamines and barbiturates—neglecting alcohol and nicotine only because they are not commonly associated with the drug problem—have been the adult counterparts. There is little disagreement that adults have been the principal abusers, obtaining the drugs, most often by prescription, to treat conditions for which their use is unnecessary and ill-advised. But in this instance the generation gap is narrowing; there is significant use of "uppers" and "downers" among young adults and also by teenagers.

The prospects for effective control of

amphetamines and barbiturates are enhanced by the fact that their manufacture is a relatively complex process, and is thus suitable for strict regulation to fit production to the legitimate demand. The same is true of the ingredients.

MARIHUANA

Estimates of the number of marihuana users vary from a low of 8 million to a high of 20 million persons. Its common effects are not nearly so serious as those attributable to the use of chemical or addictive drugs, but the stigma of criminality attached to marihuana use has already significantly altered thousands of young American lives. Every parent with a child between 11 and 21 years of age has learned to worry about the prospect of seeing their son or daughter arrested for possession of this substance.

Marihuana is not physically addictive, but psychological dependence is apparently possible with regular use. The intoxicating experience of users is inconsistent and depends on such variables as the potency, which is almost totally unpredictable, the state of mind of the person using it, and the setting. In large enough quantities and in concentrated form it can have some of the properties of the hallucinogens. A typical "high" involves a distortion of sensory perception and psychomotor activity.

Despite centuries of experience with marihuana, much remains to be learned about its properties. The active ingredient was not isolated until 1964. In the United States its use in cigarette form as an intoxicant began around the turn of the century. The first national law on the subject, the Marihuana Tax Act of 1937, was based on wildly inflated and inaccurate descriptions supplied by the Bureau of Narcotics. The disastrous myths created then have persisted and have inspired most of the State laws on the subject, notwithstanding persuasive evidence to the contrary. The same myths have greatly impaired the effectiveness of not only those laws but of informational and control efforts dealing with the whole range of more dangerous drugs.

Yet many experts who were once convinced that marihuana was a harmless substance have become less sure as it has been more widely used. As research continues, no more can be said than that it is vastly less dangerous than was once supposed—hardly a positive recommendation.

Continuing investigations on the overall effects of marihuana leave unsettled the related but separate question whether society can or should attempt to completely prohibit its use. The most relevant historical precedent—prohibition of alcohol, a substance which, unlike marihuana, is often physically addictive and which is used by as many as 80 million Americans, at enormous economic and human cost—produced an obvious, abject failure. That experience, along with limitations on enforcement personnel and the grave costs involved in imposing severe sentences and prison terms on usually law-abiding young people and young adults, suggests that a more promising route might be to regulate marihuana along the same lines as alcohol, while continuing and expanding educational programs aimed at discouraging its use.

CONCLUSIONS AND RECOMMENDATIONS

Government has no more compelling or urgent domestic priority than to reverse the alarming growth of drug addiction, the crime which supports it, and of the crime which, in turn, supports.

The concentration of heroin addiction in some of the country's most blighted neighborhoods suggests that the problem is inseparable from the ugliness and the hopelessness which are the daily companions of millions of Americans. Considering the extent to which those dehumanizing conditions persist, it may well be that the country's illicit drug industry, notwithstanding its monstrous proportions, still operates far below its full potential.

Yet no one would suggest that drugs ought to be ignored until those failings are remedied. Narcotics addiction must not be an inevitable answer, even to a desperate human environment, for it can only increase the despair and degradation of the user.

Instead the country ought to do its best to understand drugs and their use, to set priorities for attention ranging from the most to the least serious, and then to approach the problem with a firm resolution that we will commit all the resources needed to defeat it, not at some distant target date but at the earliest possible moment. In the 1940's the United States undertook that kind of an effort in the Manhattan project, to find the key to nuclear fission before it could be found by our adversaries. The race to find an answer to narcotics deserves the same sense of urgency and the same kind of mobilization.

LAW ENFORCEMENT AND CONTROL OF SUPPLIES

A first step toward the effective control of drugs must be to recognize what law enforcement can and cannot accomplish.

It is futile and unfair to expect local and State police and Federal agents either to eliminate the conditions which lead to drug addiction or, without help, to transform addicts into useful members of society. And it presents them with a hopeless task to ask that they pursue with equal fervor the hard drugs which pose the greatest threat to society and the milder drugs, such as marihuana, which are regarded as reasonably safe and are used by millions of Americans. If we expect effective law enforcement in this area, then society must set some realistic priorities on what it expects law enforcement agencies to do.

The 50 States will inevitably establish their own definition of dangerous drugs. They should do so in the knowledge that the prison terms which have often been imposed upon youthful experimenters with marihuana are many times more destructive than the substance itself. They should recognize that laws which define 20 million Americans, and perhaps more, as criminals, create a crushing burden for law enforcement agencies, and that such laws inevitably divert law enforcement resources from more productive activities. Some 45.4 percent of all drug law arrests in 1970 were related to marihuana; only 31.3 percent were related to heroin and cocaine. Had the resources expended on marihuana control been applied to hard drugs, few would dispute the premise that they would have produced an immensely greater benefit to society even if they had produced only a slight rise in arrests.

Some States, notably West Virginia, Illinois, and Massachusetts, have begun to account for these factors and to adjust their laws accordingly, at least to eliminate prison terms and criminal treatment for first possession. Other States would be well advised to move in a similar direction.

But if there are sharp limitations on the capability of law enforcement agencies to deal alone with the drug problem, there are also significant opportunities for more effective action in this sphere. A determined, sharply focused effort to stem the flow of addictive drugs into and throughout the United States, to crack down especially hard on the criminal apparatus which controls the drug traffic, and to increase the rate of apprehension of addicts, both to end their damage to society and themselves and to allow rehabilitation to begin, can move a great part of the way toward ridding this country of the curse of drug abuse.

The following initiatives will help achieve that objective:

First, all Federal agencies, including the Bureau of Customs, the Bureau of Narcotics and Dangerous Drugs, and the Federal Bureau of Investigation, should focus their drug enforcement efforts on truly dangerous and addictive drugs. This means that they should leave any remaining attempts at antimarihuana enforcement to the States;

Second, the Federal effort should be coordinated by BNDD, and that agency should have the full cooperation of the Federal Bureau of Investigation in pursuing the involvement of organized crime in the narcotics industry;

Third, all three Federal agencies require additional specialized manpower if they are to meet their drug control responsibilities. An additional $50 million should be made available for this purpose—$20 million each for BNDD and the Customs Bureau, and $10 million for the FBI, to be used specifically for hiring and training specialists in drug law enforcement;

Fourth, to encourage more effective and more sharply focused State action, an additional $500 million should be made available under the Law Enforcement Assistance Act, to be allocated among the States on the basis of current best estimates of the addict population. These funds should be specifically earmarked for drug law enforcement, including the development and expansion of specialized teams. Investigative information should be freely exchanged between Federal, State, and local authorities, to achieve a fully coordinated effort;

Fifth, the reclassification of amphetamines and barbiturates to allow strict regulation of their supply should be accompanied by corresponding controls on production of their constituent parts; and

Sixth, the United States should undertake aggressive diplomatic efforts aimed at both stemming the illicit international traffic in opiates and at eventually eliminating opium production entirely. To pursue this effort an additional $200 million should be available to assist in the use of new technology, to assist in the transfer of producers of "legal opium" to other crops, and to assure the availability of alternate drugs to replace the need for opiates where they are still in medical use. The United States should also be willing to reduce or eliminate foreign assistance to countries which fail to cooperate with the program to eliminate production and transportation of narcotics.

EDUCATION AND PREVENTION

Considering their harmful effects, it is probably safe to say that no rational being who is fully aware of the consequences would voluntarily choose to experiment with addictive or dangerous drugs. But this plausible premise must coexist with the troubling reality that hundreds of thousands of Americans have become addicted, and thousands more are addicted every year.

This condition may be regarded as a description of the painful circumstances in which many Americans live. But it is also a measure of the success of drug education programs to date, and it is not hopeful.

Existing programs contain much that is useful, and they have been vastly improved in recent years. But they still suffer from past mistakes, including the dissemination of facts about drugs which were demonstrably untrue. The fight for credibility is still being fought.

It follows that accuracy and relevancy are firm preconditions in any program which seeks to inform and to recommend against the use of any drug, whether it is heroin, marihuana, alcohol or nicotine. And much more education of that kind is needed, involving not only governmental agencies but the widest possible range of private organizations as well.

The following approaches should supplement existing education programs:

First, through FCC regulation, commercial advertising which implies that normal problems of human behavior can be solved through the use of drugs should be eliminated from the mass media and confined to professional journals;

Second, Federal agencies with drug control and mental health responsibilities should cooperate in the preparation of an entire range of factual materials, including printed information, films and other visual aids, and other means of communication, designed especially for use in elementary and secondary schools. The materials should be varied to account for differences in ethnic, social, and economic conditions in the neighborhoods where they will be used. They should cover all drugs which are commonly subject to abuse, whether or not the use of such drugs is prohibited by law, to avoid the danger that permitted will be equated with either safe or wise. These materials should be available in quantity, and without charge, to all elementary and secondary schools, and to all State and local drug control agencies, public and private;

Third, the Federal Government should cooperate with, and offer financial assistance where necessary, to States, localities, and private neighborhood groups to recruit personnel and establish broadly based community drug education programs. Special efforts should be made to involve individuals and groups which have lived in the same conditions as the people who are most likely to become addicts, to enhance the credibility and relevance of education programs; and

Fourth, a priority effort should be undertaken to encourage the media and the press to devote public service time and space to drug education messages.

REHABILITATION AND RESEARCH

Rehabilitation is perhaps the least tangible and yet the most critical element in drug control. Unfortunately there is no single answer to successful rehabilitation of the addict; what works for one may as easily have negative or no effects on any other. One consequence of this fact is the need for all treatment and rehabilitation facilities to be able to respond in a variety of ways.

In most cases addiction is a treatable or controllable disease. Yet, despite the virtual epidemic of addiction in many urban centers, rehabilitation programs and facilities are in shockingly short supply. State and Federal prisons, hospitals, halfway houses, and clinics are in desperate need of trained personnel and facilities. The situation is best illustrated by the fact that all of the existing methadone treatment programs have waiting lists.

The shortage of crisis centers is particularly acute. Centers of this kind can respond to addicts or drug abusers who are suffering an overdose, and they can also serve as a means of identifying addicts who come to them for emergency help, and of guiding addicts to longer range treatment and rehabilitation.

The present outlook is for the strain on facilities to worsen. As many as two-thirds of today's addicts became addicted since 1963, and much of that alarming growth has occurred since 1968. But only about 40,000 out of at least 350,000 addicts now receive treatment. There is an obvious need for more funding.

The States should be encouraged and assisted in establishing rehabilitation programs encompassing a wide variety of proven methods plus experimental approaches. Additional research, concentrating in particular on an effort to find a heroin antagonist drug, must be pressed vigorously.

The following initiatives can increase the prospects for successful treatment and rehabilitation of the Nation's addict population:

First, the United States should establish a firm objective of guaranteeing automatic treatment of all addicts who come to the attention of law enforcement and medical personnel. Based on estimates of from $1,500 to $2,000 per addict per year, a minimum of $500 million is required to deal with today's known addicts. That amount should be authorized and made available on an annual basis as rapidly as known addicts can be identified and brought into treatment programs;

Second, $20 million in Federal funds should be made available to support and train personnel for work in the rehabilitation of addicts. Half of that amount would be earmarked for training stipends, and half would be used as Federal matching for salaries paid out of State and local funds;

Third, $25 million should be made available to urban areas, with first priority to those having large addict populations, for the establishment and maintenance of neighborhood crisis centers to serve as referral points and to provide emergency treatment; and

Fourth, the National Institute of Mental Health and the Bureau of Narcotics and Dangerous Drugs must be able to support badly needed research into a variety of rehabilitation methods, including heroin antagonists, therapeutic communities, methadone maintenance, and counseling, job training, and education. Such funds should be offered to the full extent that they can be effectively used.

A STEAM-POWERED ROAD VEHICLE

Mr. GOLDWATER. Mr. President, on February 4, in Reno, Nev., I had one of the greatest thrills of a lifetime that has literally been packed with thrilling events.

I had my first ride in a steam-powered road vehicle. I was not only thrilled because of the ride, but thrilled because once again one of the geniuses of our time, Bill Lear, has overcome what most experts said were insurmountable odds. He has created an engine of simplicity and power that I feel will revolutionize the automotive industry in the same way his earlier discoveries affected the electronics, communications, and aviation industries.

This engine not only produces power and does it quickly and efficiently, but the exhaust emissions are approximately 50 percent of what the official standards will call for in 1976. He is installing the invention in a conventional car, and, having sat in the driver's seat, I can attest to the fact that it will not carry any more instruments than the present automobile. It will operate in precisely the same way as do present automobiles and will start in 6 seconds after the engine has been turned on. Engineers for years have dreamed about using the simple power of steam to provide combustion for land vehicles, and now Mr. Lear has come through again as he has on so many occasions in the past when technology seemed stalled.

PREVENTION OF CRIPPLING STRIKES

Mr. TAFT. Mr. President, on December 6, I introduced S. 2959, the Emergency Labor Disputes Act of 1971. Unlike some other proposals which have been made to curb national emergency strikes, my approach was not limited solely to the transportation industry.

While I would support such legislation, I believe that those who would limit this legislation to transportation disputes are only tackling part of the problem. If the advocates of such narrow legislation would only look to the current coal strike in Great Britain, they will be able to see how an entire nation is being crippled by a nontransportation strike.

On February 14, the New York Times reported that the British Government has ordered 20,000 large- and medium-size companies to cut back to a 3-day week and slash power consumption by 50 percent. Official predictions are that by midweek the number of men laid off as a result of the British coal strike will run between 5 and 8 million. The situation in Great Britain is deteriorating, and it is predicted that up to 20 million workers will have to be laid off very shortly.

This type of calamity can occur in this country just as easily as it can occur in Great Britain. In fact, since the coal industry is nationalized in Great Britain, it would appear that such a crisis could occur even more readily in this country.

Rather than lock the barn door after the horse is gone, I think that we should recognize that legislation is needed now to give the Secretary of Labor additional tools with which to deal with these crippling strikes. There is nothing in this legislation that would require the Secretary of Labor to act if he did not wish to do so. But it would be foolhardy, in my judgment, not to have these tools available if this country is to avert the kind of economic crisis which has now overtaken Great Britain.

I ask unanimous consent that the article to which I have referred entitled, "Britons Warned on Power Crisis," published in the New York Times of February 14, be printed in the RECORD.

I also ask unanimous consent that the article entitled "The Lights Go Out Again in Britain," published in the Washington Post of February 13, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 14, 1972]

BRITONS WARNED ON POWER CRISIS—FULL HALT IN INDUSTRY SEEN IF STRIKE GOES ON 2 WEEKS

LONDON, February 13.—Britain will be forced to impose an almost total electric power blackout and a complete shutdown of industry in about two weeks if the nationwide coal miners' strike continues that much longer, the Government said today.

Government officials said such curtailments would mean that up to 20 million workers would be laid off.

The Government has contingency plans to deal with such a national emergency, Robert Carr, Secretary of State for Employment, said in a British Broadcasting Company radio interview. "But the situation would be very grave," he declared.

John Davies, Secretary for Trade and Industry, told newsmen that if the miners rejected a court of inquiry's findings on the issue, the normal life of the country would come to a virtual standstill.

"Within two weeks or so at the present rate of rundown," he said, "virtually all domestic and industrial supplies will be cut off more or less the whole time."

"We would be moving into a situation where we couldn't be sure of maintaining even the essential services," he asserted. "We could not be sure of keeping all hospitals open and some water and sewage treatment plants would have to close."

COURT BEGINS HEARINGS

As Government officials delivered their warnings, the three-man court of inquiry began hearings on the miners' five-week walkout, which has crippled power supplies and plunged Britain into one of her most critical industrial situations.

The court was named by the Government Friday after the latest round of pay talks between the National Coal Board and the National Mineworkers Union broke down.

After a preliminary meeting with representatives of management and the union, the court announced it would start public hearings Tuesday.

The mineworkers' general secretary, Lawrence Daly, said that if the court's findings were satisfactory they would be put to a rank-and-file ballot within two to three days.

"But the miners are determined to continue strike action until the Government and the Coal Board see reason," he said.

The court is headed by Lord Wilberforce, an Appeals Court judge. It has promised to make known its findings by Friday or within a week at most.

A 47 PERCENT INCREASE ASKED

The miners walked off their jobs on Jan. 9, demanding a 47 per cent pay increase. The Coal Board offered 7.9 per cent.

At the last round of talks the Coal Board raised its offer to 12 per cent, but the union said a 25 percent pay increase was its final demand.

For the fourth day, 10 per cent of the country at a time was blacked out today by rotating power cuts.

Among those affected were international news agencies, which were forced to use small emergency generators to keep communications computers and a minimum of other essential equipment running.

The real disruption appears due tomorrow morning. The Government on Friday ordered 20,000 large and medium-size companies to cut back to a three-day work week and to slash power consumption 50 per cent.

Many large automotive, steel and other industrial concerns already have laid off tens of thousands of workers. Officials predicted that by midweek the numbers laid off would run as high as 5 to 8 million.

[From the Washington Post, Feb. 13, 1972]

THE LIGHTS GO OUT AGAIN IN BRITAIN: COAL MINERS' STRIKE CRIPPLES COUNTRY, THOUSANDS LAID OFF

(By Colin Chapman)

LONDON, February 12.—London is a quiet and somber city tonight. In Piccadilly Circus, the neon lights are out, and the shopfronts of stores and the facades of public buildings are in darkness. Many streets are no longer lit, and, by government decree, no shops, theaters, restaurants, halls or places of entertainment have heating.

Although today is the Londoner's traditional night out, many of the entertainment areas are nearly deserted, with people deciding to stay at home and face the prospect of long power cuts with hot-water bottles, blankets and candles.

The state of emergency announced by the British government yesterday, to conserve the country's dwindling power supplies caused by a five-week-old coal miners' strike, has today forced people to face the worst industrial crisis since World War II and, some say, since the general strike of 1926.

From Monday on, industry will be in a state of near-paralysis. The government has cut the electricity consumption of the nation's 200 largest industrial users by 50 per cent and ordered more than 20,000 factories to shut for four days a week.

Today, up and down the country, board meetings have been frantically called as industry prepares to lay off workers.

Tonight, Trade Minister John Davies warned that if the position deteriorated at the present rate, Britain would be at a standstill in two or three weeks, with 20 million people—virtually the country's entire labor force—out of work.

The first layoffs were announced this afternoon, and much worse is likely to come. British Steel laid off 9,000, Jaguar Motors 6,000, and Lucas Electrics 25,000. Triumph will lay off 2,500 each day until further notice.

General Motors put most of its Vauxhall plants on half-time, while Ford enterprisingly called in workers over the weekend for a big drive to advance production while power supplies remain.

The Central Electricity Generation Board, which controls the nation's supplies—three-quarters of which come from power stations fired by coal—admitted that the situation "grows steadily worse." Stocks of coal are now down to two weeks' supply, although they may stretch out to three weeks if households follow government instructions and burn light and use electric heaters in only one room.

Once the coal runs out, industry will have to shut down totally, along with schools, shops and private homes. The 25 per cent noncoal-burning capacity of the nation's power supplies is sufficient only to keep essential services going.

RESTRICTIONS FELT

In human terms, the government restrictions have already made themselves felt, apart from layoffs: housewives in many areas had to shop by candlelight today, and food stores were giving away perishable goods defrosting in freezers.

Old people were stranded in apartments at the top of high-rise buildings, with the supplies of power to elevators cut off. In one block in London's Southwalk district, the elderly expect to be stranded until the crisis ends—which many fear will be in weeks rather than days.

Most homes are affected by power cuts made on a rotating basis—up to nine hours a day per home.

The only aspects of national life exempt from total cuts are hospitals, railways, docks, water and gas plants, harbors, airports, milk producers, certain food industries, and broadcasting and telephone services. Schools stay open, but only during daylight hours.

The severity of the crisis is matched only by the suddenness of its arrival.

Britain's 292,000 miners went on strike—their first since before World War II—for pay increases of between 25 and 30 percent, after rejecting an offer of 7.9 per cent from the nationalized coal industry.

DISPUTE COMPLICATED

The dispute is not as simple as it sounds: more than an industrial issue, it represents a head-on confrontation between Prime Minister Edward Heath's determination to keep wage claims in the public sector to within the government's norm of 8 per cent annually and the miners' equal resolve to prove they are a special case.

They argue that the wage they receive, about $50 a week, for dirty and arduous work in the coal mines is, by and large, less than that received by most transport workers, clerks and shorthand typists.

They have received support from some other trade unionists and have managed to stifle supplies of coal from pitheads to power stations by a strong and sometimes bitter display of picketing.

That this dispute has many of the qualities of a class struggle is symbolized by the rhetoric of the two principal actors. Prime Minister Heath has resolved to "stand firm against the miners' threat to the silent pickets of our society—the housewives, elderly and those living on fixed incomes."

Transport union leader Jack Jones, announcing his union's support for the miners, retorted that "the government this year gave tax concessions worth millions of pounds to the better off, but it will not pay the miners a living wage."

WILSON ATTACKS HEATH

Labor opposition leader Harold Wilson today accused Heath of a "scheduled exercise in confrontation." "He has appealed to the miners to return to work," said Wilson. "He should show an example by returning to work himself. The half-time prime minister is now producing a half-time Britain, through his determination to bully through as a symbol of his virility."

Tonight, Heath met with Trade Minister Davies, Employment Minister Robert Carr and Home Secretary Reginald Maudling.

Contingency plans exist to order the British army to get coal to the power stations, but the government is reluctant to take this step until a court of inquiry, hastily set up Thursday, announces its findings on the miners' claim.

The government has said that it will pay the miners more than the 8 per cent if the tribunal so recommends.

INFLATION CURBS

Even government supporters are now conceding that the miners are likely to win. If they do, it will reduce to ruins the Heath government's attempts to restrain inflation by curbing wages in the nationalized industries and once more raise doubts about Britain's long-term economic recovery.

As the lights went out over Britain, the country's trade balance went into the red for the first time since the Conservatives were elected 20 months ago, while the Sunday edition of the Observer newspaper reported growing concern in Brussels among Common Market leaders over Britain's economic health.

Perhaps the most ironic commentary is the failure of the British candle-manufacturing industry to produce enough stocks for the gloom ahead. Today, British stores were placing huge orders for candles from Scandinavian and Germany companies—because British firms said they could not promise delivery until next year.

DEPARTMENT OF DEFENSE REPORT

Mr. TOWER. Mr. President, today, Secretary of Defense Melvin Laird appeared before the Armed Services Committee to present his Defense report for the fiscal year 1973 defense budget and the fiscal year 1973–77 program. As always, the Secretary has provided the Congress with a most comprehensive assessment of our Nation's defenses. The report details the goals of President Nixon's strategy for peace, outlines the threats to the free world security and establishes the defense posture required now and in the future to enable the United States to remain a strong and viable nation.

Although the entire report should be read to appreciate fully the direction that our country's defense effort is going, the parts devoted to the strategy and to the net assessment and threat are of considerable interest to me. It is in these parts that the Secretary fully develops the relationship between the broad aspects of the Nixon doctrine and the details of the defense budget. Particularly praiseworthy is the increased emphasis on total force and long-range planning through the use of net assessments. This should result in a more effective use of our defense resources.

Mr. President, I commend Secretary Laird on his fine statement. I ask unanimous consent to place at this point in the Record those parts of the statement to which I have referred.

There being no objection, the statement was ordered to be printed in the Record, as follows:

I. THE STRATEGY IN BRIEF

President Nixon, in his January, 1969, Inaugural Address committed this nation to the pursuit of something we have not known in this century—an enduring peace.

At Guam, six months later, he enunciated the Nixon Doctrine.

In his first Foreign Policy Report to the Congress in early 1970, the President explained in detail his new Strategy for Peace. He insisted that attainment of lasting peace requires a foreign policy guided by three basic principles—strength, partnership, and a willingness to negotiate. The President noted that sustained American strength remains crucial, but related this strength to a new order of partnership under the Nixon Doctrine—a partnership in which:

"The United States will participate in the defense and development of allies and friends but that America cannot—and will not—undertake all the defense of the free nations of the world."

In my Defense Report to the Congress last year, I described a National Security Strategy of Realistic Deterrence based upon the strength and partnership principles of the President's Strategy for Peace and designed to implement the Nixon Doctrine. Strength and partnership also provide an essential foundation for the third principle, a willingness to negotiate.

To set the stage for a comprehensive discussion of our follow-on plans, programs and actions for this year. I will briefly review this Strategy of Realistic Deterrence and its basic relationship to President Nixon's Strategy for Peace.

The Nixon Doctrine calls for a new approach to security planning. It means changing the allocation of responsibilities among Free World nations, by providing a new emphasis on shared strength. This approach has been incorporated in our National Security Strategy.

The ultimate goal of the Strategy of Realistic Deterrence is to discourage—and ultimately to eliminate—the use of military force as a means by which one nation seeks to impose its will upon another. Military power in the hands of nations that wish to preserve peace and freedom is an essential part of this strategy, although military power alone cannot achieve the objective. As long as the threat of aggression against the independence and territorial integrity of nations with whom we share common interests exists, our country and our friends and allies must maintain strong military forces to deter conflict. Further our strategy must provide the defense capability necessary to protect our nation and its interests should deterrence fail.

The task before us is not easy. Successful implementation of the Strategy of Realistic Deterrence is, I believe, the most difficult and challenging national security effort this country has ever undertaken. This is so because we must move forward in an environment of virtual balance in the strategic nuclear field, and in a period of vigorous Soviet military expansion at sea, on the land, in the air and in space. In addition, we must pursue our goal with due regard for the influence of today's other constraining realities—realities which I will discuss at some length.

Success will require deep understanding and strong support, both from Congress and the American people. For without understanding of our national objectives, and without support for the means we adopt to reach them, no strategy pursued by the representative leaders of a free and open society can possibly succeed for long when contested by a powerful, closed society. Free nations must measure the ultimate strength of their defense policies in proportion to the willing support their citizens give to those policies. A closed society is not dependent on such popular support.

A. Approach to defense planning

Our defense strategy is based on the three key elements of the Nixon Doctrine.

"*First*, the United States will keep all of its treaty commitments.

"*Second*, we shall provide a shield if a nuclear power threatens the freedom of a nation allied with us or of a nation whose survival we consider vital to our security.

"*Third*, in cases involving other types of aggression we shall furnish military and economic assistance when requested and as appropriate. But we shall look to the nation directly threatened to assume the primary responsibility of providing the manpower for its defense."

From these elements, and after a thorough review of the situation as it existed at the time this Administration took office, we established the following basic criteria for national security planning for the decade of the 70's:

Preservation by the United States of an adequate strategic nuclear capability as the cornerstone of the Free World's nuclear deterrent.

Development and/or continued maintenance of Free World forces that are effective, and minimize the likelihood of requiring the employment of strategic nuclear forces should deterrence fail.

An International Security Assistance Program that will enhance self-defense capabilities throughout the Free World, and, when coupled with diplomatic and other actions, will encourage regional cooperation and/or security agreements among our friends and allies.

Last year I reported that these defense planning criteria, which reflect the imperatives of the Nixon Doctrine, would be implemented in harmony with the following four guidelines:

In deterring *strategic nuclear warfare* primary reliance will continue to be placed on U.S. strategic deterrent forces.

In deterring *theater nuclear warfare* the U.S. also has primary responsibility, but certain of our allies are able to share this responsibility by virtue of their own nuclear capabilities.

In deterring *theater conventional warfare*—for example, a major war in Europe—U.S. and allied forces share responsibility.

In deterring *subtheater or localized warfare*, the country or ally which is threatened bears the primary burden, particularly for providing manpower, but when U.S. interests or obligations are at stake we must be prepared to provide help as appropriate.

Effective deterrence, of course, is not divisible. It is based on a balanced force structure of strategic and theater nuclear weapons and adequate U.S. and allied conventional defenses. In Europe, for example, our strategic nuclear power, the theater nuclear forces of the U.S. and its allies, and the conventional forces of all the NATO Allies combine to insure that realistic deterrence is effective from the lowest level of conventional conflict to the highest level of nuclear conflict.

The four guidelines reflect our continued commitment to do our part in the common defense. But they also recognize the need for a new and evolving partnership in which our friends and allies carry a greater share of the responsibility for their own defense. The ultimate effectiveness of this new partnership, however, will depend not only on the willingness of others to assume their own responsibilities, but also on the degree to which we are prepared to assist them to do so through effective and adequate security assistance programs.

The United States must continue to maintain adequate strength to meet its responsibilities under the Strategy. The capabilities of our active forces must be improved substantially through modernization and improved readiness. At the same time, we are placing increased emphasis on our National Guard and Reserve components so that we may obtain maximum defense capabilities from the limited resources available. The strengthening of the National Guard and Reserve Forces, as well as the new order of partnership, is an integral part of the Total Force planning approach that is fundamental to the new stratgey.

The Total Force approach, however, involves much more than a mere division of responsibilities or an analytical separation of potential threats into categories of conflict or required forces. The conceptional thrust of Total Force is toward the efficient integration of all relevant Free World resources to provide more security for all of us. This concept, this integration, calls for many changes and improvements. The potential and significance of the concept are profound; so are its difficulties. Total Force demands a new order of coordination and cooperation in order to permit employment of the many different resources in concent—resources that in many cases are both scarce and difficult to relate, in any firm analytical sense, to a common objective.

We are striving to enhance partnership in dealing with the burdens of defense, looking more to our friends and allies in those areas where they have available resources to provide for their own defense. But in doing this, we seek ways that will not create the kind of local imbalance that could invite the use of force by others to settle disputes that bear on our treaty commitments and other important interests. Our present approach in Vietnam and Korea demonstrates this, as does the burdensharing progress in NATO.

We are making substantial progress in our effort to implement Total Force planning, but it does take time to adjust from the deeply imbedded practices of the past to a more flexible and realistic system that will meet the demands of the present and future. These adjustments are being made, both in our own force planning and in planning and in planning with our allies and friends. But we face many difficult problems ahead—problems that we intend to meet more and more effectively through a new emphasis on Net Assessment, Total Force and Long-Range Planning.

B. Net assessment, total force and long-range planning

The three national security planning criteria for the decade of the 1970's, based on the Nixon Doctrine, have established the basic parameters within which we must do our planning. As previously noted, there are four categories of potential conflict with which we, our allies and friends, must be prepared to cope: Strategic Nuclear, Theater Nuclear, Theater Conventional and Subtheater. This means that our force planning must be focused on deriving the most realistic mixture of forces and supporting assistance possible in order to carry out the necessary tasks.

We seek to accomplish this through the process of *Total Force Planning*, which I described in detail in last year's report and which calls for the use of all appropriate resources for deterrence—U.S. and Free World—to capitalize on the potential of available assets.

But force planning, no matter how effective, will rest on an uneasy base if it disregards a host of influences either largely or wholly beyond our ability to control, such as the nature of a potential enemy's capabilities and his likely strategy to the extent that we can perceive it. Acceptable force planning, therefore, must be based not only on a definition of our *objective*, but also on a sophisticated analysis of the nature and relative importance of the various impediments and *obstacles* to the achievement of our objectives—be they economic, political, technological, or military.

We intend to accomplish this through a more coordinated emphasis on *Net Assessment* in my immediate office and throughout the Department of Defense. Net Assessment is a comparative analysis of those factors, military, technological, political and economic, which impede or have a potential to impede our national security objectives with those factors available or potentially available to enhance the accomplishment of those objectives. Through this process, we are able to determine how to apply our resources most effectively in order to improve our total capability to accomplish our national security goals.

It is important to bear in mind, however, that Total Force planning must be carried out both in terms of immediate as well as longer-range phased objectives. Our approach to Vietnamization illustrates this. As it has been with Vietnamization, however, this will be a difficult task since the apparent demands of the moment may sometimes have an adverse impact on what we hope to accomplish in the future.

In order to minimize this often troublesome problem, my Director of Net Assessments will be supported by and work closely with the Office of my Assistant for Long-Range Planning, whose task it will be to assure effective coordination of the Net Assessment and Total Force planning functions of the Secretary of Defense.

Through our net assessment effort to date we have a better understanding of the difficulties that lie ahead, an understanding that I will share with you in the following section.

We have made substantial progress in achieving our objectives over the past year; we have moved closer to peace through effective implementation of the Nixon Doctrine. Our budget and our proposed programs for FY 1973 are designed to continue this movement.

As a former member of the Congress, I am confident that our new approach, with its emphasis on Net Assessment and Total Force planning, will permit the Department of Defense in coming months and years to be even more responsive to the Congress as we share the responsibility for assuring our national security. The appropriate Committees of the Congress will receive more meaningful information in a form more useful to the members than ever before. As we continue to develop and refine these new comprehensive approaches to national security planning, there will undoubtedly be additional changes in the way that I utilize the resources available to the Department. I will keep you fully informed of such changes.

While there are many difficulties ahead—difficulties that we can and must overcome—our policy for the future is clear. It was summarized by President Nixon before the Congress on January 20, 1972:

"We will maintain a nuclear deterrent adequate to meet any threat to the security of the United States or of our allies.

"We will help other nations develop the capability of defending themselves.

"We will faithfully honor all of our treaty commitments.

"We will act to defend our interests whenever and wherever they are threatened any place in the world.

"But where our interests or our treaty commitments are not involved our role will be limited.

"We will not intervene militarily.

"But we will use our influence to prevent war.

"If war comes we will use our influence to try to stop it.

"Once war is over we will do our share in helping to bind up the wounds of those who have participated in it."

II. NET ASSESSMENT AND THE THREAT

A successful Strategy of Realistic Deterrence requires a careful and intricate assessment of the various threats to peace, freedom and stability that exists in today's world.

The overriding concern of the Department of Defense is to provide adequate United States military forces so that we can, with our friends and allies, deter war. Should deterrence fail, these forces must be capable of prompt and effective use to achieve United States national objectives.

Assessment and planning in the nuclear age are intimately related to an understanding of international relations on the one hand and to weapons technology and possible use on the other hand. There is, of course, nothing new in this dependence. What is new is the enormous complexity that has entered into force planning since World War II, compounded by dramatic technological advances, major world economic adjustments, and a fragmenting of the past bi-polar world structure.

The international environment is dynamic, confusing and in some aspects disconcerting. The rate of change—political, economic, social and technical—is perhaps the greatest we have ever known. Net Assessment offers a valuable tool for understanding and responding to these challenges.

To assist in establishing the requirements for United States and allied forces as well as for Security Assistance to our own allies, a series of Net Assessments in selected critical areas have been made. More are in progress. It is important to re-emphasize that any realistic assessments and resulting plans for military forces and new weapon systems must include political, economic and social considerations.

Net Assessment plays a critical role in our Total Force Planning and in the development of forces necessary to maintain our national security. In these assessments we weigh the capabilities of potential enemies against our capabilities and those of our allies. At the same time, we must give careful consideration not only to the strengths of potential adversaries, but also to the deficiencies in their capabilities and the various constraints with which they must cope.

The end product of Net Assessment provides a basis for judging whether, in the case examined, we and our allies will be able to sustain our national objectives and protect our vital interests, or if not, where there are problem areas.

The four realities which I have discussed on many occasions in the past three years represent the four major areas we must take into account in any comprehensive Net Assessment related to national security planning. They are the Strategic Reality, the Political Reality, the Fiscal Reality and the Manpower Reality.

A. The strategic, political, fiscal and manpower realities

1. Strategic

The discussion and assessment of the threats we and our allies face—from strategic nuclear to sub-theater, from communist military assistance to the Soviet challenge to U.S. technological superiority—will be the major focus of this chapter. In combination, these threats represent the more obvious dimensions of the strategic reality.

Developments in the Soviet threat have brought the strategic reality into sharper focus during the past year. The Soviet buildup is showing even greater momentum than I projected in last year's Defense Report:

The Y-class ballistic missile submarine force of the Soviet Union could be as large as our Polaris/Poseidon force by the end of next year, rather than in 1974 as I predicted last year.

The new Soviet supersonic dash bomber, the Backfire, could be operational by the mid-1970s.

Nearly 100 new ICBM silo sites have been identified, for new or modified ICBM systems. The possibility of such a new deployment program was mentioned in my Defense Report last year.

Construction of the Moscow ABM system has resumed, and testing of an improved missile continues.

Ongoing Soviet naval ship construction programs include production of nuclear-powered torpedo attack and cruise-missile submarines, and at least one large new cruiser, armed with multiple missile systems.

New Soviet fighter aircraft, especially the high speed Foxbat as well as the Flogger and Fitter B, are entering the inventory.

Two new Soviet tanks, one a light tank, and the other a new main battle tank are probably in production.

2. Political Reality

The President in his Foreign Policy Report, and the Secretary of State in his annual Report on U.S. Foreign Policy, discuss in detail the national and international political realities that confront the United States.

As Secretary of Defense, I also must take explicit account of both international and domestic political realities. From my perspective as a defense planner, these include:

The political and psychological effects of the growing Soviet military capabilities and presence around the world, such as in the Mediterranean, the Middle East, the Indian Ocean and the Caribbean.

Allied concerns that we maintain substantial forward deployed U.S. forces.

Countervailing Congressional concerns to bring about a withdrawal of substantial portions of our forward deployed forces.

The possible effect potential agreements controlling or reducing arms could have on the need for U.S. military forces.

The difficulty of maintaining broad domestic public support for those programs necessary to assure national security.

3. Fiscal Reality

The fiscal reality is simply stated: resources are limited, yet there is an increasing need to commit greater resources to urgent domestic demands. This reality is apparent from the allocation of resources in this Administration's federal budgets. In 1968 the Department of Defense received about 39% of the federal budget, in 1973 it will be about 30%. Over the same periods the human resources share of the budget went from some 32% to 45%. While these numbers express a fiscal reality, they must also be considered in the context of the internal factors that impact on the DOD budget and the external factors of change in the Soviet Union's budget. For example:

Fifty-three percent of fiscal year 1972 outlays in the DOD Budget were people-related costs, a figure that will rise to 56% in the fiscal year 1973 Budget. By comparison, only about 30–35% of the Soviet defense budget is devoted to such costs. As a result, when we estimate Soviet personnel expenditures relative to U.S. prices, the USSR starts with a significant advantage in purchasing power available for weapons-related programs, given roughly comparable total Defense budgets. This built-in Soviet advantage has been greatly enhanced at our expense since 1965 because of the costs of the war in Vietnam.

The chart below compares United States and estimated Soviet expenditures in support of the conflict in Southeast Asia since 1965 (not printed in the Record).

The following table estimates United States and Soviet military outlays for operations, procurement and military construction; U.S. Southeast Asia expenditures are shown separately. You will note that from 1965 through 1972 the Soviets have had substantially more funds available to apply to the development of their total military capability. The U.S. on the other hand has been restricted in its ability to invest in more modern and improved military capabilities. Since 1966, when the net available to the Soviet Union first exceeded that for the U.S., the Soviet Union has had some $21 billion more available for modernization than has the U.S. This difference has had a significant and adverse impact on the military posture of the United States relative to that of the Soviet Union.

RELATIVE IMPACT OF SOUTHEAST ASIA CONFLICT ON UNITED STATES VERSUS U.S.S.R. 1965-72

[In billion 1970 dollars]

	Calendar year						
	1965	1966	1967	1968	1969	1970	1971
Soviet expenditures: U.S.S.R. military outlays [1]	49.9	51.6	54.1	56.2	57.2	58.3	59.1
U.S. expenditures: U.S. military Outlays [1]	53.6	62.7	72.0	73.8	69.8	65.0	60.7
Military outlays for SEA (including MASF)	3.0	12.7	19.9	20.3	17.7	11.9	6.4
Net available	50.6	50.0	52.1	53.5	52.1	53.1	54.3

[1] Excludes R.D.T. & E., military assistance and AEC-type outlays.

In constant 1970 dollars: the baseline forces before the Vietnam war buildup in 1964 cost $50.6 billion in Budget Authority; the Nixon Doctrine forces, although smaller because of our new Strategy and the Total Force Concept, will cost $79.2 billion in FY 1973. This higher cost in FY 1973 funds a manpower level 326,000 below FY 1964.

A more detailed discussion of the impact of the fiscal reality can be found in the final section of this report: The Defense Budget.

4. The Manpower Reality

The Manpower Reality has become an increasingly important factor in Defense planning, particularly as we move toward a restructured and revitalized defense force without resort to the draft. It is not easy to obtain and retain the manpower needed in quality and quantity under voluntary enlistment.

Military manpower in the last few years has become considerably more expensive. The average annual pay for military personnel and civilian employees has been significantly improved in the past few years. Since 1964, military average basic pay rates have more than doubled (125% growth). Average civilian salaries have increased by 70% since 1964.

Furthermore, when comparing our general purpose forces with those of the Soviet Union, we have to face the hard reality that the Soviets can field more men than the U.S. can at equal over-all costs.

Among the factors which account for higher manpower costs in U.S. forces are the following.

The growing demand for highly skilled people.

The increasing level of technical sophistication of U.S. weaponry which, in turn, requires highly skilled people.

The continued need for a high state of readiness requires extensive training and calls for a high level of maintenance for our weapons systems.

The collective impact of all these pressures is great. The costs of our personnel will constitute 56% of our budget outlays in FY 1973, compared with 43% in FY 1964. The obvious implication is that we must place greater emphasis in our reduced force on modernized and technically capable forces.

These four realities must be carefully considered in determining our military requirements and planning our forces to meet these requirements. We need to know the full dimension of the strategic reality if correct requirements are to be formulated. In meeting the threat we must consider the fiscal reality to bring maximum efficiency in the use of scarce resources for defense, to claim for defense no more of the nation's resources than needed and to minimize economic dislocations influenced by defense spending. Also, we need to take account of the political realities, including the feasibility of obtaining legislative approval and public support for our programs.

Finally, the manpower reality—in conjunction with the fiscal reality—has generated powerful pressures for smaller forces. Given these realities, our forces must have the most modern and effective equipment practicable and must be supported by a vigorous research and development program that can assure our continued technological superiority in the future. In addition, our intelligence activities take on greater importance. In the face of an increasing and complex threat, we need to know more about what is going on. We need foreknowledge of attacks against us or our allies, and we need to know enough about each major threat to be able to counter it as necessary.

Let me now turn to an assessment of the various threats to peace.

THE THREATS TO FREE WORLD SECURITY

Mr. BROCK. Mr. President, in his appearance before the Senate Armed Services Committee today, Secretary of Defense Mel Laird presented the fiscal year 1973 Defense budget and fiscal year 1973–77 program. I believe that, perhaps, the most sobering part of this thorough, comprehensive report is that section which describes the threats to the security of the free world.

Indeed, every American who values his freedom and freedom of choice for all men should be apprised of these threats. This should lead to a better understanding and appreciation of what the Nixon doctrine is all about.

Mel Laird has done his homework, it behooves each of us to do ours.

Mr. President, I ask unanimous consent to have that part of the fiscal year 1973 defense budget and fiscal year 1973–77 program to which I have referred printed in the Record.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

B. The threats to free world security

While all four realities must concern the Department of Defense, the Joint Chiefs of Staff and I must be most concerned about the military realities that face us—the threat posed by the military forces of potential opponents, the potential impacts of military assistance and the technological challenge.

The Chairman of the Joint Chiefs of Staff, Admiral Moorer, will report to you on his view of our military posture. When I refer to military forces inventories it will be in a summary form, knowing that he will give you the details in his presentation. I also will present a few of the charts which Admiral Moorer will discuss more fully in his statement.

It is true that the world is in a period of transition from its former dominance by two superpowers. But it is equally true that, from a military perspective, we must continue to view the Soviet Union as the primary potential threat. The military forces of the Soviet Union, and their threat to U.S. and Free World security, must continue to be the dominant factors in our planning of programs and forces to support our Strategy of Realistic Deterrence.

Three categories of Soviet military forces deserve particular attention—strategic nuclear, theater nuclear and theater conventional. These specific categories were chosen for ease of understanding and clarity of presentation, but such structuring does not mean that the forces discussed can be neatly allocated specific roles in the spectrum of conflict.

As I noted earlier, our Strategy places primary emphasis on U.S. forces for the deterrence of strategic nuclear warfare. We will, therefore, first look at the reality of the Soviet strategic threat, and then discuss the nuclear forces of the Peoples Republic of China.

1. Strategic Nuclear Threat

The Soviet Union: Figures 1 through 4 (not printed in RECORD) give estimates of Soviet strategic offensive strength in terms of numbers of operational ICBM launchers, numbers of SLBM launchers, numbers of intercontinental bombers, and total number of intercontinental strategic offensive delivery vehicles. Estimates of these various measures are provided for the decade 1962–1972, together with similar U.S. measures for comparison.

It is evident that the Soviets have built up their ICBM forces at a rapid rate during the past five years. As of the end of 1971 they had some 1,520 operational launchers, including some deployed in MR/IRBM fields.

There has been very little construction activity on the standard SS–9, SS–11, and SS–13 missile sites during the past year and the Soviets may have completed this phase of missile deployment. However, during the course of last year we detected almost 100 new silos that differ from currently deployed Soviet ICBMs.

The implications of new silo construction are not yet completely clear, but the Soviets may be preparing to deploy two new or modified ICBM systems.

The Soviets have a substantial nuclear-powered, ballistic missile submarine fleet. The most capable component of this fleet is the Y-class which, like the U.S. Polaris, has 16 tubes for launching missiles. The number of such submarines has grown from four operational units in January 1967 to 25 as of January 1972. Additional missile tubes on the older H and G class subs give the Soviets a total approaching 500 launchers in the operational inventory (January 1972). At least another 17 Y-class submarines are in various stages of assembly and fitting out, and could bring the operational force of Y-class submarines to 42 as early as the end of 1973. With a continuation of the current production rate of 9–10 units per year, the USSR would develop an operational force of Y-class submarines considerably larger in numbers to the current Polaris force by the mid-1970's.

There seems little doubt that out-of-area operations by these submarines will increase over the next several years—continuing the recent trend of more extensive and regular Soviet submarine deployments. Currently (in February 1972), there are Y-class submarines deployed in both the Atlantic and the Pacific.

The Soviet intercontinental heavy bomber force remains, as it has for the last few years, at around 195 aircraft (including about 50 tankers). A number of these bombers are equipped to carry air-to-surface missiles.

The Soviets have, however, test flown the Backfire, a new supersonic swing-wing bomber, which they could deploy in significant numbers over the next several years.

Although we believe the Soviet medium bomber force of several hundred aircraft is primarily targeted against Eurasia, we cannot ignore the fact that these aircraft do have a one-way mission capability against the United States.

Soviet Strategic Offensive Forces pose an extremely formidable threat to the United States. Our primary method of coping with these forces is deterrence by threat of retaliation. At the same time, we are striving to achieve a limitation or reduction of these forces by negotiation.

As you know, our offensive strength—our retaliatory capability—is maintained in the form of ICBMs, SLBMs, and bombers. Our current strength in these forces was shown in the previous graphs and is shown numerically for comparison purposes on the table below. Admiral Moorer will provide detailed information on these systems.

STRATEGIC FORCE STRENGTHS

	Nov. 1, 1972		Mid-1972	
	U.S.S.R.	U.S.	U.S.S.R.	U.S.
ICBM launchers	[1] 1,520	1,054	[1] 1,550	1,054
SLBM launch tubes	475	656	580	656
Heavy bombers	[2] 140	565	[2] 140	531
Total offensive force loadings (weapons) [1][3][4]	2,100	4,700	2,500	5,700
Air defenses:				
Fighter-interceptors	3,200	612	3,100	593
SAM launchers	10,000	895	10,000	839
ABM launchers	64	0	64	0

[1] Includes SS-11's at MR/IRBM complexes.

[2] Excludes about 50 Soviet tanker and several reconnaissance aircraft.

[3] Data not available for November 1971. Figures are as of midyear.

[4] Figures for U.S.S.R. are presented as computed. They should not create an impression of precise intelligence.

As I have already indicated, considerable emphasis has been given during the past year to our Net Assessment Programs—particularly Net Technical Assessment—within the Department of Defense. These investigations provide consolidated and organized information, identify intelligence collection requirements, indicate fruitful areas for research, and allow a determination as to how well we are doing in comparison with the Soviet threat. I would like to give you very briefly the results of those assessments which relate to the survivability of U.S. strategic nuclear forces, and our proposed programs. Further details are contained in the following section.

Future significant development in Soviet forces for intercontinental attack will probably lie in qualitative improvements in their ballistic missile forces. Of greatest concern to the pre-launch surivability of U.S. ICBM forces would be improvements in the accuracy of Soviet missiles and the development of a MIRV capability. Considering the problems involved in predicting the future course of Soviet ICBM developments, the lead time required to understand these developments, and the time needed to devise appropriate countermeasures, we are pursuing several different programs. To counter near term qualitative improvements on the Soviet ICBM forces, we are improving the existing hardness of the Minuteman launcher and silo components, for a relatively small investment. In addition, deployment of SAFEGUARD is continuing, and deployment of a prototype Hardsite Defense System, which could be deployed in the future to augment SAFEGUARD, is in progress. Modification of these programs or additional measures may or may not be necessary, depending on developments in the threat or results at SALT.

The pre-launch survivability of U.S. strategic bombers and tankers is not seriously affected by a Soviet ICBM attack, since sufficient warning permits alert aircraft to escape. At present, the greatest threat to the pre-launch survivability of our bombers is the growing force of Soviet SLMBs. In this case, present tactical warning systems are inadequate. Consequently, a new satellite warning system is under development. In addition, a phased program of interior basing, bomber dispersal, and reduced bomber reaction time is being implemented. Admiral Moorer's presentation provides more information on Air Force plans, and the qualitative improvements in the Soviet SLBM force that these plans are designed to deal with. The pre-launch survivability of our bomber forces would be much improved by deployment of the B–1 aircraft currently in development.

We have also assessed the survivability of the Fleet Ballistic Missile System. To date, investigations show that the at-sea portion of those strategic forces is highly survivable. Indications are that the Soviets are attempting to establish an area surveillance system, and associated ASW strike forces, but as yet they do not have this capability. Today, the U.S. enjoys a substantial, though decreasing, lead in acoustic sensor technology and submarine quietness—two important factors that impact on undersea warfare capabilities. In part to offset the possible development of an effective Soviet area surveillance system and for other reasons which are discussed later, we are developing the Undersea Long-Range Missile System (ULMS). This program, together with aggressive effort in submarine quieting and SSBN defense, will, we are confident, provide a continued highly survivable sea-based deterrent.

The strategic defensive forces of the Soviet Union include the extensive deployment of aircraft defense as well as the ABM system deployed around Moscow. Figures 5 and 6 on the following page show the number of Soviet Home Defense Interceptor aircraft and SAM launchers estimated for the period 1963–1972.

Our assessments indicate that Soviet air defense have good capabilities against medium and high altitude bombers, but their effectiveness against low altitude penetrators—less than 1,000 feet—is limited. These defenses consist of several thousand radars located throughout the Soviet Union, a force of over 3,000 interceptor aircraft, and the Surface-to-Air missiles (SAM) shown on the charts on the following page.

The quality of the interceptor aircraft force has improved as newer models have been added. Since 1964, the Soviets have put four new interceptor models into their inventory, the most recent being the FOXBAT. These newer models now make up more than one-third of the force, and are expected to be about one-half of the force by mid-1973.

In addition, four different SAM systems, with about 10,000 launchers, are presently deployed for air defense. This force level should remain about the same through mid-1973. The SA–5 is the newest strategic SAM system, and has been deployed throughout the Soviet Union. Some technical experts continue to be concerned that the SA–5 system could possibly be adapted for use in an ABM role, although there is general agreement that it is not presently intended for this role.

Low altitude approach is the basic tactic used by U.S. bombers to penetrate Soviet air defenses; but that tactic does not, by itself, insure penetration. The penetration of heavy Soviet defenses requires decoys, ECM and air-to-surface missiles. Should the Soviets continue to improve their air defense systems by deploying an over-land Airborne Warning and Control System, or should they, as now projected, introduce advanced interceptors with an ability to locate, intercept, and fire on low flying bombers by the mid-to-late 70's, the United States may have to accelerate SCAD to insure that our B–52s will remain capable, for the rest of this decade, of reaching their targets.

The Soviets are continuing construction of their ballistic missile defenses around Moscow. These defenses include ballistic missile early warning (BMEW) radars, target acquisition and tracking radars, launch facilities and necessary command and control facilities.

There are four ABM–1 complexes at Moscow which provide 64 missiles on launchers. All four complexes are now operational.

From our assessments, we continue to be confident of the ability of Poseidon and Minuteman III to penetrate all known Soviet ABM defenses.

These assessments of the survivability and penetrability of U.S. strategic forces, of our ability to control those forces should deterrence fail, and the identification and pursuit of programs that can and will maintain our capabilities through the 70's, give me confidence that the United States will continue to have sufficient strategic nuclear forces to deter general war. This conclusion is valid provided that the improvement programs for existing forces, and new programs that will be discussed later, are approved and developed, and provided that we are not faced with a serious "technological surprise" on the part of the Soviet Union.

The Peoples Republic of China: It is difficult to assess either the strategic nuclear threat posed by the Peoples Republic of China, or how that threat will evolve through the 1970's. This is true primarily because we lack complete information on the state of their ICBM development, the mix of strategic and theater nuclear delivery systems that may ultimately be deployed, and their development and production problems. The Chinese have not disclosed their strategic doctrine or their allocation of resources to ICBM development.

But this much is clear. The two Chinese space satellite launches during the last year and a half, and the approximately one dozen nuclear tests since 1964, indicate a fairly high degree of sophistication in both missile and warhead development. The two space satellites were probably orbited using a multi-stage vehicle based on their IRBM, and therefore should be considered as part of China's progressive development of an ICBM. We have not as yet been able to confirm the initial flight testing of an ICBM, although a reduced-range testing of an ICBM system may already have occurred.

We cannot state with confidence just when China will have an ICBM capable of striking the continental United States, but it is estimated that deployment could not occur before 1975, with some 10–20 missiles being deployed by mid-1976.

The Chinese have no intercontinental heavy bomber force, and do not appear to be developing one.

The Chinese are known to be interested in nuclear-powered submarine technology, and probably have the capability to develop a prototype nuclear-powered attack submarine in the next several years as part of a program leading to development of a nuclear-powered, ballistic missile submarine. Neither nuclear-powered, ballistic missile submarines nor their associated missiles, however, are likely to be available until the last half of the decade.

2. Theater Nuclear Threat

The Soviet Union: We now turn to the threat posed by Soviet theater nuclear forces. Theater nuclear war is that which involves the use of theater nuclear weapons by or against U.S. forces or our allies, but does not include nuclear attack on the U.S. We seek to deter this type of conflict through the threat of the use of theater nuclear weapons and the capability for escalation.

Soviet theater nuclear forces include about 700 ballistic missile launchers (including medium and intermediate range missiles, as well as the SS–11 dual-purpose missile) and about 850 tactical surface-to-surface missile launchers assigned to their ground forces. In addition, their large medium bomber force of about 700 aircraft in long range aviation and 500 aircraft in naval aviation are capable of carrying nuclear weapons, as are approximately 1,100 light bomber and fighter bombers in the tactical air forces. Soviet naval forces, both surface and subsurface, also carry nuclear-capable missiles. There are also small numbers of the short range Shaddock and Scaleboard missiles.

A great many aircraft in the Soviet tactical air force possess a nuclear weapon delivery capability. In addition to the multi-purpose FISHBED (MIG–21) fighters, this total includes BREWER (YAK–28) and BEAGLE (IL–28) light bombers and FITTER (SU–7) fighter/bombers, which appear to be the primary tactical air nuclear delivery vehicles.

In theater nuclear capable naval forces, the Soviets have continued a steady buildup in their three western fleets—surface and subsurface—for operations against NATO navies, NATO sea lines of communication and coastal targets. These forces include their two ASW helicopter ships, as well as other major surface combatants, submarines and small patrol boats and submarine chasers equipped with possible nuclear capable surface-to-surface and/or surface-to-air guided missiles.

The People Republic of China: At the present time the theater nuclear strike capability of the Peoples Republic of China rests primarily in its small but growing fleet of TU–16/BADGER medium bombers. These aircraft can operate from numerous airfields in China, and can reach targets up to 1,650 nm away without refueling when carrying a normal payload.

The growth of the Chinese nuclear strike capability has been remarkable, given the short time it has been in existence and the formidable obstacles that had to be overcome.

In mid-1970, for example, the Chinese had a small number of TU–16s. However, series production will account for a substantial number by mid-1972.

China is now focusing on the development of liquid-fueled ICBM/IRBM systems. There is some evidence that the Chinese are engaged in the development of solid fuel missiles, but there is no good basis for estimating specific dates for production or deployment. A few MR/IRBMs may have been deployed. We expect to see a modest force of MRBMs and IRBMs deployed this year.

Development of a regional nuclear capability would require an emphasis on IRBMs rather than MRBMs. Moreover, even though we regard Chinese theater nuclear capabilities as primarily deterrence-oriented, the range and warhead yield of the missile force and the expansion of the TU–16 fleet are significant. At present, the Chinese missile threat encompasses most cities and other area-type targets in South and East Asia and a substantial part of the USSR. We believe that the Chinese could begin deployment of an ICBM with a range of 3,000 nm or more, capable of striking all or most of the USSR, by 1975.

During the coming year we will be examining, in even greater depth than previously, the growing Chinese nuclear capability. These studies will be based on what we can learn about technical characteristics, deployment and plausible areas of intended use.

3. The Theater Conventional Threat

We have defined theater conventional welfare as that which occurs when the Soviet Union or the PRC are involved in direct conflict with the United States.

As I mentioned earlier, we would expect all Soviet Union forces to be used should a theater nuclear conflict occur, but in addition Soviet forces are fully capable of taking part in conventional conflicts, as well as in the projection of Soviet presence outside the immediate Eurasian continent.

Over the past year, we have seen Soviet and other Warsaw Pact forces continue their growth both in quality and quantity. The Soviets now have about 160 divisions, 60% motorized rifle, 35% tank and 5% airborne. This total includes many divisions deployed along the USSR-Chinese border where a buildup has been underway for the past few years. However, Soviet divisions are appreciably smaller in personnel than their U.S. counterparts at full strength. The Soviets allocate a considerably smaller portion of their active military manpower to support functions than do we. They seem to rely upon quick mobilization of civilian resources for support.

Two new Soviet tanks probably are in production and will be entering the operational forces in large numbers in coming years.

Over the past several years, the Soviet Union has continued to build up its forces facing the PRC along the Sino-Soviet border. Despite this buildup, however, the capability of Soviet military forces opposite NATO has not been reduced. It is important to note that all of the Soviet divisions in East Germany, Poland and Czechoslovakia are still being maintained in a high state of readiness.

We believe there will be qualitative improvements in the general purpose land forces of the Warsaw Pact nations over the next decade, but we see no evidence to indicate any substantial changes in their contribution to overall Pact capabilities. Barring disruptive political developments, we believe the Soviets will continue to place emphasis on the quality of East European forces opposing NATO.

A gradual buildup in the quality of tactical aviation will probably continue for the next few years. So far as we can determine, the force at the beginning of this year consisted of some 4,000 aircraft in combat units with about 1,800 more in training units. Approximately 2,000 aircraft at the present time are assigned to units that do not have a primary ground attack mission.

As I reported last year the Soviets have developed several new aircraft which could satisfy their requirement to replace obsolescent ground attack fighters, light bombers, and improve their capability to shield ground forces from air attack. These new aircraft reflect a trend towards more versatile aircraft capable of carrying larger conventional payloads as well as nuclear weapons, in addition to providing improved air defense and reconnaissance capabilities. Most of the current tactical aircraft, such at Fitter, Fishbed, and Brewer, began to enter service in the early 60's to meet nuclear war requirements—but due to range and payload limitations are poorly adapted to conventional war tasks. The variable geometry wing (VGW) Flogger, now entering the inventory has improvements in loiter time, range, low altitude capabilities and dispersal characteristics over the Fishbed. The Fitter B, a VGW version of the Fitter A offering improvements as a weapons delivery platform, is also now entering service. Flogger also has excellent capabilities as a fighter bomber. The Foxbat should be in service in tactical aviation in 1973. A few are probably already operating in this role with the Soviet air contingent in Egypt. The introduction of these various systems should result in a smaller but more capable force with greater flexibility by the end of the decade.

Since 1958, the Soviets have put into operation in their Navy, eight classes of long-range surface combatants, five classes of submarines and three classes of patrol boats, all of which are missile-equipped. The Soviets have pursued a vigorous cruise missile research and development program which has resulted in the operational deployment of several different air-to-surface and surface-to-surface missiles.

The Soviet naval air force has not developed new aircraft to carry anti-ship air-to-surface missiles, but uses modified long and medium range bombers of long-range aviation. These aircraft are carried in the inventory of the naval air force.

In order to employ these anti-ship weapons systems effectively, the Soviets have developed a significant ocean surveillance capability. The Soviets have demonstrated in several exercises an ability to conduct a coordinated attack involving aircraft, surface ships and submarines against simulated U.S. surface combatants.

Although the Soviets have made significant advances in their Navy there remains some basic deficiencies and constraints in the use of these forces. The Soviets must contend with a paucity of all-weather ports, a lack of air cover when the fleet operates far from the Soviet home land and a lack of adequate open-ocean replenishment ships. Consequently, Soviet naval forces have significantly less military capability when operated far from the Soviet home land.

Nevertheless, our ability to defend against Soviet cruise missile systems, particularly in confined bodies of water, has not kept pace with the growth of the Soviet threat. Thus, we are initiating a number of programs aimed both at modernizing our naval forces and developing adequate means of defending against their cruise missiles. I will discuss some of these programs in a later section; Admiral Zumwalt, in his presentation to Congress, will describe in detail a number of these programs designed to counter the Soviet threat.

The Soviet Union continues to improve its tactical submarine fleet. The introduction of nuclear powered cruise missile attack classes has added a new dimension to submarine warfare. Additionally, since 1968, several more new submarine classes have been introduced.

With regard to lift forces, the Soviets have increased their military air transport capability to include the Cock (AN–22) heavy logistic transport; a few are now operational with transport units. The AN–22 can carry nearly 100,000 pounds of cargo to a radius of 2,800 nm, or 175 troops to a radius of some 5,000 nm. Additional CUB medium transports and Hook heavy helicopters are being added to the force. A new heavy jet transport, Candid, somewhat similar to our C–141, has been developed and will likely soon be available.

U.S. and allied forces, in consonance with the Nixon Doctrine, share the responsibility for the theater conventional deterrent, including air, ground and naval forces. Our force planning takes this interdependence into account, as it also recognizes the U.S. fiscal and domestic political realities and the major political concerns of each of our allies. As important as these non-military realities are, however, we must remember that our policy of maintaining the military balance vis-a-vis the Warsaw Pact represents, contrary to the opinions of some, a most prudent course. The North Atlantic Alliance has maintained the peace in Europe for twenty-five years.

Our assessments indicate that the current force balance in NATO can be maintained and that an effective deterrent does exist. As we move to implement the President's Strategy for Peace, the lessons we have learned in Europe will not be ignored; we intend to maintain and improve our force capabilities in NATO, given a similar effort on the part of our European allies.

Our friends and allies in Asia face a threat of a different nature. Not only are the Peoples Republic of China, North Korea, and North Vietnam capable of launching full-scale conventional attacks against nearby countries, they also foment guerrilla warfare, sabotage, espionage, and subversion throughout the area.

The Chinese army of some 2.5 million men, a well-balanced force containing 150 combat divisions, is essentially the same as it was last year. But it is continually being modernized and upgraded. The Air Force (including the Navy air arm) can muster over 3,000 jet fighters (several hundred more than last year) and approximately 350 light and medium jet bombers (up by more than 10%). The offensive strength of the Navy centers on a force of over 40 diesel-powered attack submarines—of which a major portion are medium-range R-class. Like the Army and Air Force, the Chinese navy is concentrating on developing sophisticated weapons systems such as guided-missile destroyers and missile-equipped coastal patrol craft.

Logistic constraints—and the necessity of providing forces to meet the Soviet threat—remain and make it unlikely that the Chinese would undertake operations on more than one front. We estimate that a multi-front conflict could be carried out successfully only if China's warmaking capacity and lines of communication remain undamaged.

4. Subtheater/localized threats

Subtheater conventional wars do not involve the United States in direct conflict with either the USSR or the PRC. They could result, for example, from aggression by North Vietnam, North Korea, or they could involve a conflict in the Middle East between the Arab states and Israel.

We are grateful for the ceasefire in the Middle East and continue to hope that the U.S. initiative for peace will be successful. The obvious immediate threat in the Middle East is the constant danger of an Arab-Israeli war, which could expand to involve the Soviet Union and the U.S.

The balance of power in the Middle East obviously has a vital bearing on U.S. security interests. Moreover, the Soviets have deeply involved themselves in several of the Arab states—particularly Egypt, where they have stationed both personnel and equipment to bolster the Egyptian armed forces.

As the President has explained, our assistance programs are designed to preserve the balance of military power in the Middle East.

Our objective is to shift primary responsibility for deterring or fighting subtheater or localized conflict to our allies and friends. Our help will be primarily in the form of other than ground force elements, but could include force deployments under special circumstances.

The country or ally threatened must increasingly bear the primary burden—particularly the manpower burden—of deterring subtheater or localized warfare.

North Korea and North Vietnam possess strong military forces. Either of them could add substantially to the theater conventional threat posed by Chinese forces, if jointly involved in a conflict. Without Chinese involvement, however, neither nation is capable of posing a theater-level threat in Asia.

After the Soviet Union and the PRC, North Korea is the most powerful communist nation in Asia. Supplied in large part by the USSR and to a lesser extent by the Peoples Republic of China, it possesses a modern and continually improving military establishment maintained at a high state of combat readiness. The Army of about 360,000 men has 25 division equivalents and could engage in initial offensive operations without outside aid. The Air Force includes about 450 jet fighters and a significant number of small transports. Naval capabiilties remain limited and are oriented mainly toward coastal defense and hit-and-run attacks against the Republic of Korea. Although aid from the USSR and/or the Peoples Republic of China would be necessary to support sustained large-scale North Korean military operations, Pyongyang has the capability of undertaking a variety of unconventional warfare operations independently.

The North Vietnamese threat in Southeast Asia, although degraded somewhat by the commitment of 12 division equivalents to the Indochina war, nevertheless remains formidable. The Army has an in-country strength of about 315,000 (including six infantry divisions), several thousand artillery pieces, and a large number of tanks. The Air Force has more than 200 jet fighters—over one-third of which are MIG–19s/21s—and over 100 transports and helicopters. The Navy is the weakest component among the North Vietnamese services, consisting of motor gunboats and motor torpedo boats.

The immediate threat to our allies and friends in Indochina results from North Vietnamese aggression and Hanoi-sponsored communist insurgency in the region. At the present time, there are at least 150,000 North Vietnamese/Viet Cong (NVA/VC) personnel in the Republic of Vietnam, more than 60,000 VC/NVA and Khmer Communists (10,000–15,000) in Cambodia, and at least 120,000 NVA and Pathet Lao in Laos.

The war against the Republic of Vietnam remains North Vietnam's first priority. The major threat derives from enemy capabilities to launch large-scale attacks. Cambodia is likely to be the scene of continued enemy military and psychological pressure.

The continuing rise in the communist insurgency in Thailand provides a clear example of the ever present danger of modern revolutionary warfare, in which external communist influence and support fans problems arising from ethnic and social class differences into internal political subversion and thence to open armed aggression.

Armed insurgents operate from bases in much of Thailand's border area. The United States policy has been one of helping the Thais to develop the ability to help themselves. This they are now learning to do—particularly in the military techniques of aerial resupply, coordination of ground and air forces, and the use of fire support bases to assist maneuvering ground forces. There is also better intelligence, slowly improving police-military relationships, and the use of air-mobility—all without the use of U.S. support troops.

5. Communist Military Assistance

Communist military assistance programs have come to be important instruments of Communist foreign and military policies. Thus, they impact directly upon our own security interests and upon the maintenance of international stability.

Since 1955 the Communists have supplied about $26 million in military aid. The Soviets have supplied more than 85 percent of this aid, the East Europeans 8 percent, and the PRC about 7 percent. Of the total, over $16 billion has been supplied to other Communist governments—most notably those of East Europe, North Vietnam, and North Korea. Almost $10 billion has been supplied to the less developed countries of the Third World, primarily in the Middle East, and to India, and Pakistan.

While Chinese military aid to underdeveloped countries has been scattered, over 90 percent of Soviet military aid—and practically all of that aid committed in recent years—has been given to countries situated in an arc running from the Eastern Mediterranean, through the Red Sea, to the Arabian Sea. In this arc are countries which either control the strategic Suez waterway, contain the bulk of the Free World's oil reserves, or are adjacent to the southern borders of the USSR.

About 60% of intra-Communist military assistance provided during the 1955–1971 period is accounted for by arms transfers between the USSR and Eastern Europe. The Soviets provided almost all of this aid, with the level of their assistance averaging over $500 million annually since 1961. Poland and Czechosovakia have annually provided a smaller, but sizeable amount of aid to other Warsaw Pact nations.

North Vietnam has received about 70% of its military aid from the Soviet Union, most of it from 1966 through 1971, and about 30% from the Peoples Republic of China. North Korea, another major recipient, received all but a small portion of its military aid from the Soviets. Since 1966, the Soviets have provided North Korea significant sums annually for force modernization. Soviet military aid to Cuba has been significant and is expected to continue at its present annual level for the next few years.

Almost 90% of Communist military assistance to non-Communist governments during the 1955–1971 period has been Soviet. Of this, over half has gone into the Middle East—to Egypt, Syria and Iraq. The bulk of this aid has been provided since 1967, mostly to the UAR. The Soviets have also negotiated a military aid program valuing over $300 million with Iran and concluded in 1971 a new agreement with Egypt.

The Soviets have also concluded a sizeable military aid program in Afghanistan and India and have provided aid to the States of North Africa and the Horn—areas adjacent to the major recipient countries in the Middle East. The Eastern European countries, together, have provided about $1.0 billion of aid to Third World nations.

The PRC has provided over $300 million to the non-Communist Third World, most notably to Pakistan and Tanzania. Most of this aid was supplied after the Cultural Revolution. We expect that the PRC military aid program will grow.

There are gaps in our information about the purposes and scope of this sizeable Communist military assistance effort, and its impact cannot be precisely measured. In many cases, military assistance is supplied to areas of obvious strategic importance to the donors—such as Soviet aid to the Warsaw Pact nations or Chinese assistance to North Vietnam—and is clearly security as well as politically oriented. In many other cases, the motives have appeared more specifically supportive of broad policy purposes—such as Soviet aid to Cuba and Chinese programs in Tanzania.

Predominantly, however, Communist military assistance programs are selective, and constitute primary components of a campaign for influence and leverage. They provide the Communists with a direct, high impact conduit to the centers of authority in the recipient nations. Such aid has to a considerable extent, served to increase political leverage and thus to affect the behavior of assisted governments. Furthermore, these programs are often geared specifically to weaken relations between the U.S. and the country concerned. When tactically directed, as it typically is, to particularly nationalistic governments, Communist support can contribute substantially to the weakening or elimination of Western influence in target countries. In the past decade it has, in particular, facilitated an expansion of communist commercial and diplomatic presence in the Middle East, South Asia, and North Africa.

Influence is, of course, a subtle and largely immeasurable quality. Having procured Soviet arms, for example, a number of states now are heavily dependent on their donors for new logistical and technical support. At the same time, military assistance has enabled the Communist countries to establish rapport with recipient country military leaders and junior officers. In some cases improved access to recipient country ports, airfields and other facilities has apparently resulted from such programs.

A major part of Communist assistance programs are the low-interest, long-terms loans they offer. While the easy terms are attractive, much of the aid is tied to purchases from or barter arrangements with the donor. Such arrangements can restrict the recipient's flexibility with regard to economic development. In addition, most military assistance offers include the services of military assistance training teams from the donor nation, or an invitation to assisted military personnel to come to it for training. The recipient armed forces are thus exposed to political as well as technical influence over their country's military establishment. The number of Communist military personnel in developing countries increased by about 40 percent between 1969 and 1971—from approximately 7,000 people to over 10,000. In their advisory capacities, they have played key roles in modernizing and reorganizing their host's military establishment.

A major impact of Communist military assistance frequently has been to upset regional military balances, introducing new sources of tension into already unstable areas. While Communist leaders are aware that their aid programs have on occasion encouraged some countries to engage in political and military activity that they otherwise might not have undertaken, they continue to supply aid to such countries if it fits their broad policy goals. Furthermore, as the performance of the PRC and the USSR in the India-Pakistanti hostilities of December 1971 indicated, we continue to be faced with the prospect that the Communist powers will use military assistance as a means to play out their own rivalries, without regard for the effect on regional balances.

The United States must and will remain responsive, through strength and mutual cooperation, to challenges to our security and peace. But we wish, equally, to be alert to the possibilities of reducing the wasteful and destructive competition in providing conventional weapons.

The President has called for an end to confrontation and a beginning of cooperation. One element of that change could be the exercise of mutual restraint in military assistance programs. No nation can, in the long run, be served by adding to instability or increasing the risks of violence which could escalate into great power confrontations. Military assistance programs should strengthen rather than weaken regional balances and national development; they should respect the needs and national pride of the recipients, rather than make of them pawns in a greater international contest; they should, above all, reflect a genuine intent among major arms suppliers to bring conventional as well as nuclear weapons under control.

6. The Challenge to Technological Superiority

Forces in-being and military assistance are only part of the military threat to our nation's security. The technology behind the capabilities of our potential opponents, particularly the Soviets, is of real concern to us. With the continuing technological effort on their part, we must expect the Soviets will be capable of reducing our technological lead in some areas, and at some point in the future, we could even lag in certain critical areas.

Since the late 1960's Soviet expenditures for technological development have increased at an average annual rate of more than 10 percent. For 1972, as an example, the announced science budget of 14.4 billion rubles is almost nine percent greater than 1971 expenditures. A major portion of these science expenditures are believed earmarked for military RDT&E and space exploration. Any substantial increase in science outlays would therefore include an increase in these military related technological efforts.

With a technological effort of that size, and without an appropriate effort on our part, we could lose our technological superiority, if we do not take and gain support for adequate offsetting actions.

Although these comments relate primarily to our estimates of funding associated with Soviet research, the same general trends are evident with regard to other measures—manpower, facility growth, and basic research efforts. Given the fact that theirs is a closed society, if the Soviets were to take the technological lead it would be much more difficult for us to interpret the intelligence information we acquire, and to make confident decisions based on this information.

There may be other, perhaps dramatic changes as a result of the growth of Soviet technical capabilities, which could emerge unexpectedly from their closed society, and which could create urgent problems for us in the future. These surprises and consequent problems could occur across the spectrum of capabilities—as unexpected threats to strategic force survivability, as new, tactical weapons and surveillance systems which we might not understand or be able to cope with, or as major improvements in existing systems.

Some of the more important Soviet research and development efforts deserve mention. Admiral Moorer and Dr. Foster provide more detailed descriptions in their statements, as do the Service Secretaries and Chiefs.

While the Soviets probably have not tested MIRVed missiles thus far, they have conducted many tests of the SS–9 with Multiple Reentry Vehicles (MRVs) since flight testing began in August, 1968. The last MRV tests were in late 1970.

Extensive testing of the MOD 3 version of the SS–9 since 1965 is believed to be for development of either a fractional orbit bombardment system (FOBS), a depressed trajectory ICBM, or a system with both capabilities.

Flight testing of SS–11 modifications commenced in 1969.

Development of a new SLBM, designated the SS–NX–8, continues.

The Soviets have accelerated their SLBM submarine construction.

Soviet development of a new swing-wing bomber continues. This new variable-geometry wing (VGW), supersonic dash bomber, has been designated the BACKFIRE. It has a gross weight of more than twice that of our FB–111. There is a probability that it has a capability for inflight refueling. With refueling it could reach virtually all U.S. targets. Based upon the scope and pace of the BACKFIRE development program, we assess that this new bomber could become operational in the mid–1970s.

During the past three years, we have noted testing of what appears to be an improved GALOSH ABM missile. It has a controlled coast capability and restartable engine providing a higher degree of flexibility in countering incoming RVs.

The Soviets have deployed a wide-spread space tracking system within the territory of the USSR. This system would provide the Soviets with the capability of predicting the position of near earth orbiting satellites.

New major surface combatants are currently under construction at Soviet shipyards.

The Soviets are continuing to develop improved high fragmentation conventional weapons, and within several years the Soviets could have sizeable operational inventories of improved conventional artillery shells, bombs, missile warheads, and ASW weapons in theater force units. From our experience in Vietnam, we know that Soviet and PRC produce excellent foot mobile weapons: small arms, rockets, projectiles, grenades; and their surface-to-surface rockets are cheap, easy to maintain and quite reliable. Continued improvements are being made in these weapons and they are being distributed throughout the world.

I know you will agree that these examples show a very active and productive Soviet RDT&E program.

In addition to the assessments of Soviet RDT&E which have been conducted, we have examined the Soviet decision-making process for weapons system acquisition, and the relative costs for procuring comparable weapons systems in the U.S. and the Soviet Union. These investigations are continuing and will receive a new emphasis as we expand our Net Assessment capabilities. Preliminary indications are that Soviet industry receives the very highest priority within their economy and that the defense sector is probably the most efficient and productive of any part of the Soviet economic system. In addition, it seems clear that the Soviets are apparently allocating a higher percentage of their defense budget to the high technology area of research and development and space than is the U.S.

We cannot guarantee that technological surprises and problems will not develop, but to the extent possible, we are incorporating flexibility in our own development programs to hedge against increased threats or unexpected failures in U.S. systems. We also believe that our technology programs should result in diversified U.S. military systems, so that one adverse event is not likely to impact heavily on the U.S. deterrent posture.

Dr. Foster, in his presentation to the Congress, will enlarge on the technological challenge that we face from the Soviet Union, but I will note here that the Soviets continue to make a substantial investment in their RDT&E system. The Soviets certainly are aware of the growing U.S. domestic pressure for Defense RDT&E spending reductions and the Soviets have decided to continue their steady growth rate in expenditures for science and technology.

CONVENTIONAL FORCES FOR DETERRENCE

Mr. BUCKLEY. Today, Mr. President, the Armed Services Committee had presented to it the fiscal year 1973 Defense budget and fiscal year 1973–77 program by the Secretary of Defense Melvin R. Laird.

In this report of our Nation's defense posture the total force concept and its relationship to the strategy of realistic deterrence is explained in detail. In this nuclear age it is refreshing to see that the role of conventional forces as a part of this strategy is not being forgotten, and that the development and deployment of conventional forces is to be on the basis of a "common strategy with our allies and a common sharing of the defense burden." This is the intended implementation of the Nixon doctrine.

The Secretary's budget provides the programs by which our conventional forces will be modernized and improved so that, together with our allies, this Nation can continue to be capable of posing unacceptable risks to potential enemies.

Mr. President, I ask unanimous consent to have printed in the RECORD that portion of the defense report concerning conventional forces for deterrence.

There being no objection, the section was ordered to be printed in the RECORD, as follows:

E. Conventional forces for deterrence

"To serve as a realistic deterrent, our general purpose forces, together with those of our allies, must be such as to convince potential enemies that they have nothing to gain by launching conventional attacks.

"To deter conventional aggression, we and our allies together must be capable of posing unacceptable risks to potential enemies. We must not be in a position of being able to employ only strategic weapons to meet challenges to our interests. On the other hand, having a full range of options does not mean that we will necessarily limit our response to the level or intensity chosen by an enemy. Potential enemies must know that we will respond to whatever degree is required to protect our interests. They must also know that they will only worsen their situation by escalating the level of violence.

"It is our policy that future guerrilla and subversive threats should be dealt with primarily by the indigenous forces of our allies. Consistent with the Nixon Doctrine, we can and will provide economic and military assistance to supplement local efforts where our interests are involved.

"Our forces will be developed and deployed to the extent possible on the basis of a common strategy with our allies and a common sharing of the defense burden." (President's Foreign Policy Report, 1971)

In deterring theater conventional warfare—i.e., a major nonnuclear war involving the USSR or PRC such as a major conventional war in Europe—U:S. and allied forces share the responsibility.

Under our Total Force Concept for Force Planning, U.S. general purpose forces include assets applicable to theater nuclear, theater conventional and sub-theater roles.

These forces include the full range of air, sea, and ground forces needed to meet our planning goals. The programs that we are recommending this year maintain this full range of capabilities.

National Guard and Reserve forces have a key role to play under the Total Force Concept in implementing the strategy. Reserve components will be the initial and primary source of augmentation of the active forces during a contingency. This increased reliance on the Reserves requires much higher readiness than they have had in the past, however, and we are continuing to emphasize the three key elements of combat readiness—equipping, manning, and training. Progress in the manning and training of the Reserves will be discussed in Section Two of this Report, Manpower Objectives.

There are three areas of significant progress in the equipping of Selected Reserves units to perform their mobilization missions. One takes the form of resource identification—the establishment of formal procedures for observing and controlling equipment flow from the allocation of procurement funds to the receipt of hardware by the units. Another is the provision of equipment to fill requirements and the modernization of equipment on hand. The third is the provision of sufficient full time personnel to manage and maintain the greater quantities of modern equipment and to train other unit members in its use.

In the remainder of this section, I will discuss many of the modernization programs related to our active conventional forces, together with improvements in the equipping of the Reserve and National Guard forces.

Shown on the table on the following page are the major modernization and procurement programs that we are proposing in FY 1973 for the general purpose and mobility forces.

1. Ground Combat Forces

Our capability to respond directly to any conventional land conflict with a high degree of control rests primarily on our Ground Forces, both active and reserve. Their visible combat capability and their deployment in areas where we have important security interests contributes substantially to an effective deterrent posture.

The Army and Marine Forces are sized and structured to be able to respond in concert with our allies to a wide spectrum of conflict intensity ranging from a NATO confrontation with the Warsaw Pact to minor contingencies requiring perhaps only a few brigades or battalions.

SELECTED GENERAL PURPOSE AND MOBILITY FORCES, MODERNIZATION AND IMPROVEMENT PROGRAMS

[In millions of dollars]

	Fiscal years		
	1971 actual funding	1972 planned funding	1973 proposed funding
Ground combat capabilities:			
Final development/termination costs for main battle tank (XM–803)	79	20	----------
New tank development	----------	20	20
Continued production/retrofit, M60A2 tank	12	40	105
Continued modification and procurement of M60A1 tank	66	32	56
Development and continued procurement of TOW and Dragon antitank missiles	119	91	101
Procurement of Lance missile system	32	81	95
Procurement of army helicopters	126	35	----------
Continued development and advance production engineering for Cheyenne helicopter	53	9	54
Continued development of heavy lift helicopter (HLH)	15	30	53
Continued development of utility tactical transport aircraft system (UTTAS)	8	30	64
Air superiority and air defense:			
Continued development/procurement of F-15 air superiority fighter	349	420	911
Procurement of F-5E	9	79	101
Procurement and continued development of F-14 multimission fighter	1,034	1,031	735
Procurement of Phoenix missiles	92	104	100
Procurement of improved Hawk and Chaparral/Vulcan surface-to-air missile systems	104	94	106
Continued development of a new surface-to-air missile system, SAM-D	3	116	171
Interdiction, reconnaissance, and other combat aircraft:			
Procurement of A-7 Air Force attack aircraft	235	224	----------
Continued procurement of F-111 including over-target costs and performance testing	626	487	160
Procurement of A-6E and A-7E attack aircraft	264	192	214

SELECTED GENERAL PURPOSE AND MOBILITY FORCES, MODERNIZATION AND IMPROVEMENT PROGRAMS—Continued

[In millions of dollars]

	Fiscal years		
	1971 actual funding	1972 planned funding	1973 proposed funding
Interdiction, reconnaissance, and other combat aircraft—Continued			
Continued development and procurement of EA–6B electronic warfare aircraft and E–2C fleet early warning aircraft	308	523	380
Procurement of RF–4C reconnaissance aircraft	34	41	-----------
Close air support:			
Development of A–X close support aircraft	28	47	48
Procurement of AV–8A close support aircraft for Marine Corps	87	114	133
Development and initial procurement of Maverick air-to-ground missile	31	91	74
Sea control and other naval forces:			
Procurement/conversion of ASW/AAW destroyers [1]	653	730	730
2 nuclear-powered guided missile Frigates (DLGN–38 class)	206	195	-----------
Development of Condor and Harpoon long range, standoff missiles	41	60	64
Continued development of Aegis ship air defense system (R. & D.)	72	99	82
Procurement of high speed nuclear attack submarines [2]	662	904	1,042
Continued development and procurement of MK–48 torpedo	166	182	184
Development and initial procurement of S–3A carrier-based ASW aircraft	288	583	666
Continued procurement of the P–3C land-based ASW aircraft	169	279	246
Patrol frigate (lead ship)	1	11	193
Sea control ship (advance procurement)			10
Development and test of surface effects ship	20	26	50
Hydrofoil patrol craft		5	60
Advance funding for CVN 70			299
LHA program [3]	313	110	5
Procurement of logistic and support ships	22	206	218
Procurement of Marine Corps:			
Amphibious assault vehicle	40	56	45
Helicopters	17	13	55
Hawk	12	1	21
Mobility forces: C–5A prior year unfunded deficiencies	594	299	208
Miscellaneous:			
VC–X [4]			19
Trainers [5]	35	47	48
120 UH–1H [6]	72	-----------	36
Total other Air Force aircraft	107	47	103
VH–53 [7] White House			37
VH–1N [7] White House			12
LC–130R [8] National Science Foundation			32
Total DOD procurement for other agencies	—	—	81

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[1] 10 in fiscal year 1971; 9 in fiscal year 1972; 9 in fiscal year 1973.

[2] 4 in fiscal year 1971; 5 in fiscal year 1972; 6 in fiscal year 1973.

[3] Termination of program at 5 ships in fiscal year 1972.

[4] 4 in fiscal year 1973.

[5] 12 in fiscal year 1971; 10 in fiscal year 1972; 9 in fiscal year 1973.

[6] 300 in fiscal year 1971; 120 in fiscal year 1973. Air Force procuring 120 UH–1H for payback to Army at $36,000,000 in fiscal year 1973.

[7] 6 in fiscal year 1973.

[8] 5 in fiscal year 1973.

The requirements for Army and Marine Forces are determined after consideration of their unique capabilities to satisfy specfic requirements under the Total Force Concept. In our force planning we recognize these unique capabilities.

Taking the capabilities of our allies into full account, we have concluded that 13 active Army divisions and 3 Active Marine divisions is the minimum peacetime "baseline" force necessary to support national objectives during FY 1973. To counter a major conflict such as NATO, we would rely heavily upon a ready Reserve Component force of nine more divisions (8 Army, 1 Marine Corps) to reinforce our active forces.

Our strategy requires that we be able to respond to a wide range of potential conflicts against both "light" and "heavy" forces. We have structured and equipped major elements of our Army force to be primarily capable, together with our NATO allies, of defending against conventional attack in Europe against an enemy heavy in armor. At the same time we realize that conflict against less sophisticated forces would require different force capabilities. Other elements of the Army as well as our Marine Amphibious Forces would provide such capabilities.

Structured in this way, our ground forces do provide a necessary flexibility—with a hard-hitting ground and airborne anti-tank capability in certain elements, and with other elements capable of relatively rapid deployment to global trouble spots.

The Army is continuing to improve its relative overall combat capability as its manpower resources decrease by reducing support forces and where possible trading off support forces for combat forces. The Army is also continuing to seek to improve the capability of their division organization. The Tri-Capability (TRICAP) division was activated in the spring of 1971 as an experimental division combining armored, air cavalry, and air-mobile forces. The TRICAP test program is expected to provide information for a major force decision concerning TRICAP.

In summary, by the end of FY 1972, the active Army force structure will consist of 13 active division equivalents. All 13 divisions are expected to be manned in FY 1973. The active Army will also maintain five separate brigades, one less than in FY 1972. The Marine Corps will have three active division/wing teams. The reserve land forces will include eight National Guard Divisions and one Marine Corps Reserve Division, and 21 separate Army Reserve component brigades. Excluding the separate brigades, the above forces combine to form total U.S. General Purpose Land Forces of 25 division equivalents at the end of FY 1972, compared to 25⅔ at the end of FY 1971.

By the end of FY 1972 we will have completed the planned reduction in major land forces from their level at the Vietnam peak. Total active manpower will be 841,000 Army and 198,000 Marines at end-FY 1973, compared with 861,000 and 198,000 respectively, at the end of FY 1972. This will be a reduction of about 838,000 in Army and Marine active manpower from the peak of about 1,877,000 at the end of FY 1968.

a. Modernization of Our Ground Forces: There are a number of important programs which comprise our plan to modernize the ground forces of the Army and Marine Corps. While later witnesses will discuss these in detail, I will highlight several major elements which I believe are of particular importance to our overall objective of improving ground combat effectiveness.

New Main Battle Tank Program. Action has been taken to terminate XM803 (MBT–70) tank development consistent with the action of the Congress last year. The Army has initiated a new tank development program with the immediate goal of defining design and performance characteristics which will enable the Army to field a tank capable of meeting the Main Battle Tank mission within the guidelines and constraints established by Congress. The program will take maximum advantage of lessons learned and technology developed in the MBT–70 program, as well as knowledge and experience gained from other tank and tank related programs conducted in recent years. The funds requested for FY 1973 will sustain both the planning effort and development of the most promising componentry until prototyping of complete systems can begin in FY 1974.

M60 Tanks. To continue improvements and retrofit of the M60 Series tanks, $114 million is included in the FY 1973 Budget. Of this, $10 million will be used for a conservative product improvement program to upgrade the M60 Series tanks, the Army's current main battle tanks. These improvements will provide for better performance and longer life. The remainder is for the production/retrofit of 316 M60A2 tanks. This will complete a program which provides a total of 540 missile firing tanks, not as a substitute for, but to complement our main battle tank.

In addition, the Army plans to continue its procurement of M60A1 tanks and has included $49 million for 166 M60A1 tanks.

Tow and Dragon. Deployment of the Tow to Europe began in 1970 and by the end of this year the Army will have all of these forces. We used competitive procurement for both launchers and missiles in FY 1972 and will realize a significant reduction in costs.

The Dragon is a light weight anti-tank system designed to be hand carried by most forward ground combat elements. Like the Tow, it is destined primarily for our European based forces. Funds for the first year's procurement are included in our current budget request.

Lance. Continued procurement of the Lance missile system is planned for FY 1973 and $95 million is included for this purpose. This system will replace the aging Honest John and Sergeant systems. Lance will have a primary nuclear warhead capability, and with greater mobility and quicker reaction time, will provide our ground forces in Europe with considerably increased survivable firepower. These improved characteristics will allow the Army to replace Honest John and Sergeant battalions with Lance on a less than one-for-one ratio with significant savings in manpower.

FY 1972 funds for the development and procurement of a non-nuclear warhead for the Lance were recently deleted by both Congressional Appropriations Committees. The Army is preparing a request for Congressional approval to reprogram funds to continue non-nuclear warhead development. No FY 1973 funds are included for procurement of this warhead.

Advanced Attack Helicopter. During the past year, the Army has made an extensive examination of the handling qualities, weapons accuracy, avionics performance and human engineering of the Cheyenne Attack Helicopter. Over 1400 hours of test time have been accomplished in the development of the program. The majority of the testing has been under Army supervision at the Yuma Proving Ground and both Army and civilian pilots have participated. The test aircraft have met most of the desired requirements of performance and the weapon subsystem have exceeded the Army's expectations, particularly in day and night firing of the Tow missile. Before any procurement, the Army is also making a detailed evaluation of the attack helicopter concept and the necessary system requirements. In this evaluation, the Army is expanding its evaluation of requirements by examining two industry sponsored prototypes. The results of this testing effort will be available in early FY 1973. The information obtained from the review of the industry sponsored aircraft and the results of the operational testing of the Cheyenne together with other information, will provide the basis for a decision to proceed further in FY 1974.

Heavy Lift Helicopter (HLH). The FY 1973 Budget includes $53 million for continued development of the Heavy Lift Helicopter (HLH). Funds will support continued development of the critical components (rotor, transmission, drive system, flight control system, cargo handling system) of a tandem rotor helicopter. Development of engines to power a Test Stand for dynamic critical components will also continue. Funds are provided for initial development of a single prototype.

Utility Tactical Transport Aircraft System. The Army has entered the contract definition phase of development on a helicopter to replace the UH–1H in the air assault role in the 1980's. This helicopter, the Utility Tactical Transport System (UTTAS), will be the Army's first true squad assault helicopter. Its mission will be to transport combat troops and their organic mission-essential equipment in the assault, resupply those units while in combat, and perform the aeromedical evacuation mission. Industry proposals for developing this helicopter are expected on 31 March 1972, and the FY 1973 Budget includes $64 million for this program.

SAM–D. The FY 1973 Budget includes $171 million for engineering development of the SAM–D system which is planned to replace Nike Hercules and Hawk whose basic designs date from the 1950's.

Technology advances in electronic countermeasures hold the potential for further degradation of our current air defense system effectiveness. SAM–D is being designed to maintain its effectiveness in an intense electronic countermeasure environment. By using the latest in digital signal processing and self-test concepts, the programmed SAM–D replacement of Nike Hercules and of Hawk will reduce personnel requirements substantially. FY 1973 will be the first full year of Engineering Development with completion scheduled for the late 1970s.

Marine Corps Modernization Program. The few unilateral Marine Corps development programs normally relate to capabilities peculiar to landing force operations. Such programs as the LVTP–7 and the improved CH–53 Helicopter are good examples. Many other service development programs can, and do, relate directly to Marine Corps requirements. Examples include the Dragon and Redeye missile programs. The Marine Corps follows these programs closely, and uses many of these systems once developed.

Modernization of Reserve Ground Forces Components. Turning now to the availability of equipment for allocation to the Reserve components, deliveries of combat serviceable equipment to the Army's Reserve components in Fiscal Year 1971 had a dollar value of about $726 million, compared with our estimate last January of $450 to $600 million. These issues included 6,500 tactical radios, almost 15,000 wheeled vehicles, approximately 287,000 M–16 rifles, and 52 M–60 tanks. Equipment issues for Fiscal Year 1972 are forecast now to exceed $900 million, and in Fiscal Year 1973 they are expected to be more than $1 billion in value. These forecasts are based in part on programmed repair of serviceable, combat capable equipment in depot stocks. This year's budget includes special funds dedicated to the rework of equipment for issue to the Army Guard and Reserve.

If the projected flow of equipment is maintained, the Army's Reserve Components should have 99% of their authorized aviation assets by the end of Fiscal Year 1973 and all substitute and obsolete aircraft should have been withdrawn; other essential equipment requirements for early deployment combat units should also be met by the end of Fiscal Year 1973; and the remaining units should be substantially equipped by the end of Fiscal Year 1976.

The Marine Corps Reserve division units continued to be equipped in phase with the Active Marine Corps divisions. Marine Corps Reserve Aircraft Wing units are also continuing to modernize with CH–46 and CH–53 helicopters replacing the CH–34s and RF–4s replacing the RF–8s. As in the Naval Air Reserve, the A–4Cs are being supplemented by later A–4E and A-4L models.

The ground force modernization programs described in this section, which represent only a portion of our overall modernization program, will definitely improve our force effectiveness. Additional modernization effort is shown on the summary page. In addition, Secretary Froehlke and General Westmoreland will be prepared to discuss in considerable detail all aspects of the Army modernization program, as will Secretary Chafee and General Cushman for Marine Corps programs.

2. Tactical Air Forces

The threat presented earlier poses a wide range of potential conflict situations in which military response might be required. The tactical air force structure described in this section provides to the National Command Authorities a variety of options, ranging from small, conventional deployments to large scale conventional and/or tactical nuclear operations. These forces are being structured to provide the responsiveness, positive control, and overall capability best suited to provide a wide variety of options to meet the requirements of our strategy.

The flexible nature of tactical air forces enables elements of the combat and supporting forces to be deployed as a package to meet threats to our national interests at the level of theater or subtheater conflict. These contingency force packages can be configured to expressly counter threats to our allies or for minor contingency situations where rapid reinforcement or force presence may be required.

In supporting the overall strategy, tactical aircraft provide a capability to carry out a variety of missions, including close air support, interdiction, counter air (both fleet and area), reconnaissance, tactical airlift, and special purpose missions. The majority of our tactical fighter/attack aircraft are capable of effectively performing several of the fighter and attack missions. The F–4 Phantom is perhaps the most well-known example, although the A–6, A–7, and F–111 also possess this capability.

Close air support missions are flown against enemy forces in close proximity to friendly forces. In FY 72–73 the primary fixed wing close air support aircraft will be the multi-service F–4, the Marine Corps A–4, the Air Force/Navy A–7. As the newer A–7D/Es enter the forces, they will substantially improve close air support and interdiction capability.

Both the Air Force and Navy have the capability to fly interdiction missions against a wide range of land and sea targets. Tactical aircraft with primary interdiction capability are the Air Force F–111, the multi-service F–4, Air Force/Navy A–7, and the Navy/Marine Corps A–6. The capability of these forces are being significantly improved by the addition of the F–111F, the A–6E, and the A–7D/E.

General purpose force air defense/air superiority missions are flown to protect friendly air, sea or ground forces from enemy air attack. The primary aircraft for these missions is the F–4, although the Navy does operate some F–8s for fleet air defense.

Reconnaissance aircraft provide surveillance of enemy activity through day and night photography, side looking radar, and infra-red imagery. The Air Force and Marine Corps operate RF–4Cs to provide reconnaissance capability while the Navy operates RA–5Cs and RF–8 aircraft from carriers.

Tactical airlift provides the theater commander the capability to support deployed forces, to forward deploy forces from air and sea ports and to employ and resupply ground combat forces.

Special purpose aircraft are used in electronic warfare (detection of and countermeasures against enemy electronic emitters), special operations forces, tactical air control (enroute and terminal control of tactical aircraft), and airborne early warning (airborne search radar). Our FY 1972–1973 forces include a variety of special purpose aircraft: EC–121s used in SEA, A–37s used to provide ground support in lightly defended areas, Navy E–2s used as airborne radar platforms for the fleet, and EA–6B and EB–66, EB–57 and EC–47 electronic countermeasure aircraft. In addition, the Marine Corps maintains EA–6A aircraft for an ECM capability.

In order to meet the NATO threat, yet retain the flexibility and quick response capability to provide adequate support in Asia and other areas, in FY 1973 the Air Force will operate 72 active fighter/attack squadrons and 39 reserve squadrons. In addition, the Navy will maintain 70 active and 10 reserve Naval fighter/attack squadrons in FY 73. The Marine Corps will operate three active wings and one reserve wing as part of their Division/Wing teams. In addition to these tactical forces of the Air Force, Navy and Marines, 23 active reconnaissance squadrons will be operated along with six reserve squadrons.

a. Modernization of Tactical Air Forces: Modernization of our tactical aircraft forces is needed in order to meet the threat I described in the previous chapter. Newer Soviet aircraft that must be countered include such systems as the FOXBAT and a variable geometry attack aircraft.

Fighters: The increasing number and quality of aircraft being developed by the Soviet Union increases the risk associated with gaining and maintaining air superiority in any potential NATO/Warsaw Pact conflict. Air superiority in such a conflict is essential, if we are to conduct effective close air support and interdiction tasks without undue interference from enemy aircraft. The task of gaining air superiority when the enemy is operating in a friendly radar environment is extremely demanding and requires long-range aircraft with on-board systems for detecting enemy aircraft. The Air Force is developing the F–15 for this purpose. It is specifically designed to excel in air-to-air combat and is expected to have excellent maneuverability—a vital factor in close-in air-to-air combat. The FY 1973 Budget contains $454.5 million for the F–15 development program, and $422 million for procurement of the first 30 F–15s, plus $34.4 million for initial spares. Emphasis in early FY 1973 will be on obtaining flight testing experience before a production decision is made in the latter part of the fiscal year.

We are carefully examining the advanced technology applicable to the development of a low-cost single-purpose, fighter aircraft that could be procured in large quantities. This prototype project should help us obtain better information on costs and operational suitability before deciding upon development. A total of $46 million is requested for the prototype lightweight fighter program in FY 1973. In addition, with our new emphasis on tailored programs for security assistance to our friends and allies under the Total Force Concept, 90 F–5Es are being procured in the MAP/MASF program to help our allies provide air defense against Soviet type aircraft.

In order to modernize the Navy's tactical aircraft, the Navy is continuing to procure the F–14 in FY 1973 for fleet air defense and air superiority missions. Once operational, the increased capability of the F–14 with the PHOENIX missile system will provide a better defense against the increasing air-to-surface missile threat to the fleet than is currently provided by the F–4. In addition, the increased range and radar capability compared to the F–4 will enable the F–14 to more effectively protect strike aircraft in the force projection mission.

A total of $570.1 million is requested this year for procurement of 48 F–14As. An additional $162.6 million is included in our RDT&E request for the F–14, and $2.1 million for military construction.

There has been a great deal of controversy about the F–14, particularly with respect to its cost and estimated performance. I will discuss the contractual problems in a later section on organization and management. I do regard that existing contract as a valid and binding one.

With respect to F–14A performance the plane has met specifications to date. Nine aircraft are now in a flying status with full radar and weapons systems tests scheduled during the next few months.

Attack Aircraft: In FY 1973 the Air Force will complete the procurement of three wings of A–7Ds. These aircraft, with the integral computer-aided, visual-delivery system, will provide increased capabilities in the close air support and interdiction mission areas. The A–7Ds are intended to replace the F–100s and a majority of the F–105s in the Air Force inventory.

In addition to the A–7D, we are improving our attack capability by procuring 12 F–111Fs for $160 million in FY 1973 to complete a fourth wing of F–111s for the Air Force. The Air Force has procured the F–111F primarily for the long-range tactical interdiction role. With its radar bombing capability, the F–111 is particularly useful at night or in bad weather conditions. The F–111 and the A–7 can also serve a role in anti-surface ship operations—a capability which could be directly applicable to total force operations in areas such as the Mediterranean, the North Sea and the Caribbean.

Reserve Fighter/Attack Aircraft: General Ryan, in his statement to the Congress, indicated the significant progress made by the Air Force in its program to modernize the Anr National Guard and the Air Force Reserve. These are ready forces capable of responding on very short notice. Many of these units participate on a continuing basis with the regular forces and can easily integrate into these forces, if activated. The units in the process of transitioning to more modern and capable aircraft are intensifying efforts to complete their readiness training.

By the end of Fiscal Year 1973, the fighter force within the Air National Guard and Air Force Reserve units is expected to include six squadrons of F–105s, one of F–104s and one of F–4s. The attack segment of the Air National Guard is scheduled to have 25 F–100 squadrons, three A–37 units, and one unit of B–57Gs. The ANG will also possess one F–105 and one F–100 training squadron, in addition to the number indicated above. Additional modernization will be accomplished as more F–105s and F–4s become available from the Active force.

Modernization of Naval Air Reserve fighter/attack aircraft continued with a second F–8 fighter squadron being formed and a second squadron converting from A–4s to A–7s. All A–4C aircraft are scheduled for replacement with A–4E and A–4L models, and the F–8H fighters will be replaced with F–8Js in Fiscal Year 1973.

Special Purpose Aircraft: In addition to modernizing our fighter and attack aircraft, we are increasing the capability of our tactical air forces by making improvements in special purpose aircraft. The FY 1973 Budget contains $184 million for seven EA–6Bs and $170 million for eight E–2Cs, plus $26 million for development of the two aircraft. Funds are included in the FY 1973 budget submission for the development of an Airborne Warning and Control System (AWACS) that can be used not only for strategic air defense, but for tactical air control as well. The application of AWACS to the tactical mission area will enable the Air Force to consolidate in one aerial platform a variety of the functions, i.e., radio relay, command and control, etc., now being performed by many different aircraft.

The Navy is procuring the EA–6B to provide electronic counter-measures to assist A–7s and A–6s in penetrating sophisticated enemy defense. The Air Force is developing a modification to early F–111s using EA–6B electronics to provide similar escort capability for Air Force interdiction aircraft. Both the Navy and the Air Force are developing airborne early warning aircraft: the Navy is providing the E–2C for fleet air defense while the Air Force is developing a tactical version of AWACS.

The Air Force Reserve added this year a squadron of EC–121s to perform an Airborne Early Warning and Control Mission. Air rescue units of the Air Force Reserve are being completely modernized with the transition to HH–34 helicopters and HC–130 fixed wing rescue craft. ANG tactical reconnaissance units are converting to RF–4s. Some of the former reconnaissance units are converting to the attack mission.

Air Munitions and Missiles: FY 1973 will be the second year of a five-year procurement program to build an inventory of more sophisticated, more effective air munitions. When completed, this modernization air munitions inventory will, through a higher degree of effectiveness per sortie, improve the ability of our fighter/attack aircraft to achieve desirable effectiveness with fewer sorties and less exposure to anti-aircraft defenses.

This air munitions modernization program calls for significant additions of new munitions with better target destruction capability than those currently in the inventory. For example, the FY 1973 Budget contains $128 million funds for: Rockeye—a specially designed cluster bomb with anti-armor applications. The FY 1973 Budget also contains $42 million for laser-guided bombs—a much more effective free-fall bomb. Moreover, the TV-guided Walleye glide bomb program is being modernized to provide a weapon with a larger warhead and greater stand-off range.

Modernization of the tactical air-to-ground missile inventory includes $61 million in FY 1973 for procurement of the TV-guided Maverick missile for the Air Force. The Maverick, with stand-off features, is designed to provide significant improvement in our anti-armor capability. The FY 1973 R&D budget contains $58 million for Harpoon, a radar-guided anti-ship missile capable of being both ship-launched and air-launched, and a promising counter to Soviet surface ships capable of launching cruise missiles.

Modernization of the air-to-air missile inventory is aided in FY 1973 by $5 million R&D and $95 million procurement for Phoenix, $12 million R&D and $97 million procurement for an Improved Sparrow, and $7 million R&D and $29 million procurement for an Improved Sidewinder. The Phoenix missile system is designed to provide the F–14 with a long-range, multi-shot capability for improved fleet air defense capability. The improved Sparrow will be more reliable and more maneuverable in medium range air combat than current Sparrow missiles. The Improved Sidewinder will be more effective in close-in maneuvering air combat than earlier versions.

Close Air Support: During the course of last year's hearings the close air support issue was examined extensively, including a special study effort by former Deputy Secretary of Defense David Packard. The first report of his group was submitted to Congress in June 1971, recommending continuation of the development of the Army's Cheyenne attack helicopter and the Air Force A–X. However, specific tests were outlined for each service to accomplish before procurement would be considered. We expect the first flight of A–X prototypes in June 1972. The two airframe contractors are each building two prototypes that will begin a competitive fly-off in November 1972. A total of $48 million is included in this budget for A–X development. Secretary Seamans has described the program in greater detail.

The report of the Close Air Support Review Group also recommended that we make certain tests with the Harrier, a multimission V/STOL aircraft now being procured for the Marine Corps. We intend to continue with Harrier procurement, and the FY 1973 budget contains $133 million for another 30 aircraft to provide flexibility in tactical operations.

The Army's development of advanced helicopter gunships is discussed in the section on land forces. The Department is proceeding with the recommended tests, and I have continued the Review Group and have asked it to carefully examine Command and Control aspects of the close air support mission.

3. Sea Control and Other Naval Forces

The U.S. is a maritime nation dependent on sea lines of communication for international trade and support of our allies.

As a maritime nation we strongly support freedom of the high seas for commerce in peacetime, and we must maintain access to vital sea areas in the event of conflict to ensure support to our own forces and European and Pacific allies.

More specifically, in the Atlantic and Mediterranean area our forces, together with those of our NATO allies, should be capable of sea control operations to help ensure protection of deployed U.S. forces, military support shipping and an austere level of economic support.

In addition, U.S. and allied forces should be capable of keeping sea lines of communication to Europe open indefinitely at a minimum necessary supply level against a maximum Soviet naval interdiction effort.

In the Pacific, U.S. forces should be capable of supplementing the forces of our Pacific allies to ensure that a minimum necessary level of supplies can be maintained against expected threats to the sea lanes.

Our basic military strategy reflects these requirements, and a strong Navy is required to fulfill them. However, I would point out that under the Total Force Concept, the forces of our other Services can and do contribute to meeting this requirement, just as allied forces also contribute to overall capability. Moreover, our naval forces can and do operate in support of land operations.

The naval force levels that we are planning for FY 1973 include 16 aircraft carriers, a total of 242 missile cruisers, frigates, destroyers, destroyer escorts, and active naval reserve escorts, 60 nuclear and 27 diesel-powered attack submarines, and 66 amphibious ships. Counting all ships, the program includes a total of 594 active fleet ships and 58 Naval Reserve Force ships. For comparison, the planned end FY 1972 active fleet strength is 657 ships.

a. Modernization of Sea Control and Other Naval Forces:

Aircraft Carriers: At the end of FY 1973, the aircraft carrier force will consist of nine Forrestal Class or larger, including the nuclear powered Enterprise, plus three Midway Class and four older carriers. The average age of the current carrier force is now over 18 years, with two ships now over 28 years old. Two nuclear powered carriers, Nimitz and Dwight D. Eisenhower, are under construction and are scheduled for commissioning in 1973 and 1975. The carriers will be ready for operational deployment about one year after commissioning.

As I stated last year, I am convinced that our responsibilities in the Atlantic, the Pacific, the Mediterranean and other ocean areas require that we proceed now with the construction of an additional nuclear powered carrier for the Navy to insure adequate aircraft carrier capabilities for the 1980's and beyond. The CVN–70 is needed to continue the modernization of our sea-based tactical air forces; it will replace an old conventional carrier.

We are requesting $299 million in FY 1973 to procure long lead time items for CVN–70, which the Navy currently estimates will cost almost one billion dollars. The Navy will give details on its current cost estimate in its presentations to the Congress. This carrier, along with the USS Enterprise and the two others currently under construction would provide us with four nuclear carriers, enabling us to operate two on each coast.

Other Programs. We are pursuing several important programs for modernizing and updating our other surface combatants. One of them is the construction of 30 new DD–963 destroyers, to be built by Litton Industries. Sixteen of these ships have already been funded, and the FY 1973 Budget includes $612 million to procure seven more ships. We now plan to procure the last seven of the ships in FY 1974. In addition, the budget includes $118 million to modernize two more guided missile frigates.

The Navy is also proceeding with construction of three new DLGN–38 class frigates, which will be equipped with both anti-aircraft and anti-submarine weapons. These three ships are to be constructed on a multi-year contract.

The weapons systems of our surface combatants presently are undergoing a comprehensive updating. The interim surface-to-surface missile system and surface-to-air missiles such as the Standard, Basic Point Defense and NATO Sea Sparrow, are providing enhanced defense against certain high performance and long-range targets. In addition, a new surface-to-air missile system, AEGIS, and surface-to-surface system, Harpoon, are under development of our surface combatants. This year, increasing numbers of combatant ships will be equipped with Lamps helicopters, which will increase the ships surface surveillance capability and also provide active ASW coverage out beyond the range of ship mounted sonars. Most new surface combatants will have an aircraft capability to complement that of the primary aviation ships.

Naval Reserve surface forces have also been upgraded with more modern destroyers replacing older ships. During this past year the numbers of Naval Reserve ships were increased by three destroyers and three minesweepers. Proposed transfers in FY 1973 are three minesweepers and two tugs, with additional forces, including carriers, programmed for future years. The Navy is studying plans to place more ships in the naval reserve as Active force levels are reduced.

Increasing emphasis is being given to ship-based aircraft for sea control operations. The Navy is continuing its evaluation of the "CV concept," aboard the USS Saratoga. This approach involves employing attack, fighter, and ASW aircraft from the same ship, thus vastly increasing the range of threat response available on our carrier decks. The mix of aircraft on each CV will be especially tailored for its mission, ranging from primarily ASW to primarily attack. The Navy's experience to date indicates that the "CV concept" has considerable merit.

The nuclear-powered attack submarine (SSN) is also an important element of our sea control forces. These ships can perform a number of sea control missions. They can be used as barriers across strategic "choke points" to prevent an adversary's forces from getting to sea or returning home. They may also serve as open-ocean search and destroy forces, or in attacking opposing surface ships.

The Navy is continuing its major program to construct new SSN–688 class ships. The number of SSs in the force will decline in future years as more new SSNs are delivered and the Navy moves closer to an all-nuclear force that is highly capable in the ASW role. The new 688-class SSNs will have a propulsion core life of more than ten years, as well as speed and other characteristics that are much improved when compared with those of earlier classes. Twelve of them are already under contract, and the FY 1973 Budget includes $1,042 million to procure six more of these ships.

The submarine's primary weapons system consist of passive sonar and acoustic homing torpedoes. The recently-initiated procurement of the MK–48 torpedo should provide a significant improvement in our combat power. The advanced sonar being installed in the 688 class SSN will also add to this submarine's potential. We are also requesting funds to maintain development options for an advanced high performance SSN and a long-range cruise missile.

The MK–48 Torpedo program is of major importance to the effectiveness of U.S. nuclear submarines against the current and projected Soviet naval threat. The MK–48 Mod 1 was selected in July 1971 for quantity procurement. Production is on schedule and this torpedo is scheduled to be introduced into the fleet in the near future. While this program has experienced many problems in the past, the Navy is now proceeding with the operational evaluation, with satisfactory results to date. A total of $184.1 million is included in the FY 1973 Budget for the MK–48. These funds are primarily for procurement of torpedoes and related equipment, but also include $7 million for R&D to exploit the results of the test and evaluation program.

Our air anti-submarine program is designed to provide a balanced force of both sea-based and land-based air ASW forces. Each possesses unique advantages under difference tactical situations and in different tactical domains. The increased range and area coverage and improved sensing devices that our air ASW forces will attain should further enhance the effectiveness of airborne ASW.

The new fixed wing carrier-based ASW aircraft, the S–3A, is planned for fleet introduction in February 1974. This aircraft will be much more effective than the one it replaces, the S–2, and it will help to cope with the large Soviet submarine threat.

The S–3A development program is proceeding on schedule, and has met the first two milestones. The FY 1973 RDT&E budget contains $37 million to complete the major portion of the development effort. We also propose to procure the second increment of production aircraft in FY 1973, and the FY 1973 Budget includes $628 million for 42 aircraft. The budget also includes a small amount for military construction for this program. This procurement, along with the 13 aircraft authorized in FY 1972, will provide sufficient aircraft to convert the first fleet squadrons to S–3As in 1974.

The land-based patrol ASW aircraft are also an important part of our ASW forces. The Navy now maintains a force of 24 squadrons of the land-based P–3 ASW aircraft and expects to retain this force level for the next few years. We have been procuring the new P–3C aircraft with the more capable A–NEW avionics system to replace older P–3As and P–3Bs. These latter aircraft are being transferred to the Reserve forces as they are phased out of the Active forces to replace obsolete P–2 aircraft. The Third Reserve Squadron will complete the transition from P–2s to P–3s in FY 1973.

We propose to continue procurement of the P–3C in FY 1973, and the budget includes $246 million to buy another 24 of these aircraft. Other programs include in the FY 1973 budget to improve sea control capabilities includes:

Patrol Frigate (PF). The PF will be a relatively small, gas-turbine propelled escort designed to protect convoys, amphibious forces and underway replenishment groups from air and submarine attack. It will not have the size and all the capabilities of our frigates and destroyers, but it should also cost much less than those ships. The FY 1973 Budget includes $193 million to complete design and fund start-up costs, as well as build the lead ship.

Sea Control Ship (SCS). Another ship currently in the review and design stage within the Navy is the sea control ship. Current Navy plans call for this ship to carry a mix of helicopters and Vertical and Short Take-Off and Landing (V/STOL) aircraft to help protect underway replenishment groups, amphibious forces and military convoys. The precise characteristics, size and estimated cost of the SCS are uncertain at this time. We have included $10 million in the FY 1973 Budget to finance the design effort, and hope to move ahead with procurement of the first ship in FY 1974.

Surface Effects Ship (SES). The Navy has been working on test surface effects craft of various sizes for the past few years. If successful, this effort should produce ships with speeds in the range of 80–100 knots and capable of reasonably long range operations.

Hydrofoil Patrol Boat (PHM). These ships should be about twice as fast as current surface combatants. The Navy plans, in conjunction with NATO allies, to build a missile-carrying hydrofoil boat designed to operate in littoral waters. The FY 1973 Budget includes $60 million for the initial procurement of two PHMs.

The amphibious ship force at the end of FY 1973 will include 67 ships, with a capability to lift the assault elements of slightly more than one Marine Amphibious Force (MAF). To provide modern 20-knot ships, we are procuring five LHAs (a large ship capable of handling both helicopters and surface landing craft) and will accept delivery of the last of 20 new class LSTs.

The LHA construction program is behind schedule. These ships, and the DD–93 destroyers that I mentioned earlier, are being built by Litton Industries in a new shipyard. Problems have been experienced in this new and complex ship facility at Pascagoula, both in technical operation and in recruiting a proper workforce.

The Navy has advised me that LHA design work was not completed on schedule, and that this has retarded the DD–963 ship design work. At this time the LHAs are expected to be delayed 12–16 months, but it is not yet known what impact this delay will have on the DD–963 construction program. The Navy will be prepared to discuss this subject in detail.

In order to minimize fleet dependence on shore facilities, the Navy maintains a force of mobile support ships comprised of Tenders, Underway Replenishment Group (URG) ships, and other support ships. Many of the existing ships are old and obsolescent and in need of replacement. As a start on the modernization needed in this area we have included funds for four new support ships in the FY 1973 Budget.

4. Mobility forces

a. Missions; A major requirement of our strategy is a capability to deploy initial or augmenting U.S. forces in time to cope with aggression which cannot be met by local forces alone. While our forces deployed forward in peacetime are an essential contribution to deterrence, a major portion of our forces are based in the United States. The objective of U.S. Strategic Mobility Forces is to provide flexibility of deployment so that appropriate military forces can be positioned and supported where and when necessary. The existence of these forces permits an overall force level lower than would otherwise be necessary to constitute a realistic deterrent.

The threats which our general purpose and mobility forces must be capable of meeting range from a minor contingency, requiring one to two brigades to a Warsaw Pact attack on NATO, requiring a number of divisions. Deployments to a minor contingency can for the most part be accomplished with the active military forces. To meet deployment requirements generated by an attack on NATO or Chinese aggression in Asia, we would rely on full mobilization of reserve forces and a large number of commercial aircraft and all available U.S. flag merchant ships in addition to the active force.

Present planning for the spectrum of possible deployments utilizes principally U.S. commercial and military assets. However, recognizing the considerable lift assets of our NATO allies, we are investigating increased participation on their part in supporting deployments to NATO.

b. Airlift:

Strategic Airlift: As presently programmed, U.S. strategic airlift resources should provide the basic capability needed to meet our deployment requirements through the 1970's. By the end of FY 1973, the build-up of the C–5 force will be completed, and the active strategic airlift force will consist of 4 squadrons of C–5s (79 aircraft) and 13 squadrons of C–141s (275 aircraft). In addition to these military assets, U.S. mobility forces include approximately 330 commercial aircraft in the Civil Reserve Air Fleet (CRAF).

In FY 1973, we are planning to adjust the aerial ports so that our mobility forces have improved facilities and we are able to use more effectively our airlift system in support of our deployment objectives. We have also made adjustments in the ratio of active to reserve personnel in our strategic airlift force by reducing the number of active personnel and increasing the number of reserve personnel in the associate units.

Additionally, military strategic airlift has the capability to deliver forces and supplies directly into the combat zone through assault landings and/or airdrop operations.

Tactical Airlift: In contrast to the strategic airlift force, which provides the deployment capability for U.S. forces, tactical airlift provides airlift within the contingency area for U.S. and allied forces. This support includes the movement of unit equipment, resupply, and passengers. In FY 1973, our active tactical airlift force will consist of 16 squadrons of C–130E aircraft and one squadron of specialized C–130s stationed in Alaska.

One of our needs in this area is to replace in the active forces the STOL airlift capability transferred to the Reserves and to the Vietnamese in the Vietnamization program. For this purpose, we are proceeding with a prototype for an Advanced Medium STOL transport program. The aim of this program is to develop an operationally useful prototype aircraft which will provide an option for procurement.

Reserve Airlift: In addition to our increased emphasis on the reserve portion of our strategic airlift force, we have also significantly increased the tactical airlift capability of the Reserve forces. ANG and USAFR tactical airlift forces have been increased and modernized with the transition from C–124s and the older C–119s to C–130s. The C–7 Caribou will make its debut in the Air Force Reserve this year, and C–123Ks will also be added to provide STOL capability.

The Air Force Reserves will have 17 units equipped with 117 C–130 aircraft and 6 squadrons equipped with 105 STOL aircraft. The Air National Guard will possess 10 units equipped with 81 C–130 aircraft and one specialized C–123 unit in Alaska. The Navy is actively exploring methods of modernizing Naval Reserve airlift units, currently equipped with C–118's, by the introduction of jet transports.

c. Sealift: In the latter half of the 1970's, without acquisition of new assets, our strategic sealift force of dry cargo ships will be limited to three roll-on/roll-off vessels. To meet wartime needs, we must rely almost exclusively on U.S. commercial shipping which can be mobilized under Presidential authority. During a NATO contingency, we could rely on the commercial shipping assets of our NATO allies although the availability of these ships in a contingency is questionable. In the next several months, we will be working with our allies to develop agreements regarding the earlier availability of such NATO-flag vessels. Despite these U.S. and foreign commercial shipping resources, however, we would also require specialized shipping, not currently available from commercial sources.

Military sealift procurement, requirements, and capabilities are currently undergoing an extensive interagency review entitled the Sealift Procurement and National Security (SPANS) Study. We are participating in this study along with the Department of Commerce, Federal Maritime Commission, the Office of Management and Budget, and Industry. We now expect the SPANS Study to be completed by the end of March, 1972, and recommendations should be forthcoming on the following issues: (1) possible revision of the competitive negotiated procurement system used to obtain rates for the movement of peacetime cargo under shipping and container agreements; (2) the need to acquire specially designed vessels for a fleet controlled by the Department of Defense, and (3) the development of a strengthened Sealift Readiness Program which will make available in a timely manner sufficient commercial shipping resources to meet the requirements of minor contingencies.

In addition to addressing these issues, the SPANS Study will also provide the factual basis necessary to update the agreement developed in 1954 between the Secretaries of Defense and Commerce (Wilson-Weeks Agreement) concerning the use of merchant shipping resources by DoD. If the government is to realize fully the benefits of the maritime/sealift programs of these two agencies, an effective policy must be jointly developed.

NEW INITIATIVES IN TOTAL FORCE PLANNING AND REGIONAL CONSIDERATIONS AND TOTAL FORCE PLANNING

Mr. SCOTT. Mr. President, today Secretary of Defense Mel Laird presented to the Senate Armed Services Committee the fiscal year 1973 defense budget and fiscal year 1973–77 program. He has provided us a detailed, comprehensive report, as he has done every year since he became Secretary. In this year's report, he describes, in addition to new initiatives in U.S. force planning, those regional considerations which must be taken into account in the overall strategy of realistic deterrence. In summarizing that section which concerns security assistance, the Secretary states:

> I believe that we have made major progress, through security assistance, in strengthening the capabilities of Free World Nations to defend themselves, thereby helping move toward a more equitable sharing of the defense burden.

This is one of the tenets of the Nixon doctrine whose goal is a generation of peace.

Mr. President, I respectfully request that those portions of Secretary Laird's fiscal year 1973 defense budget and fiscal year 1973–77 program which I have just discussed be printed in the Record.

There being no objection, the statements were ordered to be printed in the Record, as follows:

F. New initiatives in total force planning

As I reported last year, the Strategy of Realistic Deterrence calls for new initiatives and new concepts to complement Total Force Planning. Some of these initiatives will fall in areas where the U.S. bears the primary responsibility, while others stem from closer integration of our planning with that of our friends and allies. Some may more properly be called new directions or redirections of effort, rather than initiatives. Regardless of what we call them, we believe they are necessary—to modernize our forces, reshape them to future environments, and to provide for our security.

1. U.S. Force Planning Initiatives

Last year I described a number of initiatives that we were taking in order to strengthen our forces. This year we hope to build upon these initiatives begun last year, add new ones, and make them a successful part of our overall force planning.

One new initiative under the Total Force Concept relates to Air Force-Navy cooperation to counter Soviet naval threats. Additional tests of the effectiveness of guided weapons against surface vessels are in progress. The Air Force has developed tactics and has updated training manuals for ship attacks. In addition, we are developing plans to take full advantage of the versatility, range, sensors, and weaponry of our new aircraft to assure that our total forces can continue to deal effectively with the Soviet surface fleet.

The Army is also experimenting with the TRI-CAP division. Initial results on the TRI-CAP division look favorable, but we will not be in a position to thoroughly evaluate the utility of this concept until further tests have been completed.

The Navy is studying the possibility of using merchant ships for underway replenishment and rapid deployments in a wartime contingency. The advantage would be to reduce the need for shipbuilding funds to procure new Navy support ships. The Navy will test the feasibility of using a commercial tanker to refuel Navy ships in a series of tests early this year.

Another new item the Navy is considering is the homeporting overseas of fleet units forward deployed. This action could enable us to get better utilization from our force levels during peacetime without adverse family separation effect. Some units are already established in Japan and the Philippines, and we are now examining the merits of additional forward deployments in the Mediterranean, Western Pacific, and Northern Europe.

Indicative of Total Force Planning within the Air Force are the new initiatives which assign a greater share of the CONUS air defense tasks to the Air National Guard. During 1973, the number of Air National Guard units committed to air defense will increase to 24 from a total of 17 units in FY 1972. Notably, this increase of about 24% will result in ANG units possessing more than two-thirds of the total interceptor aircraft assigned to CONUS air defense. These factors illustrate the potential of the Air Reserve Forces to perform essential tasks under the Total Force Concept.

We intend to continue searching for new initiatives that can improve force capabilities and readiness. We will also pursue other new initiatives, both in the area of technology, and in planning with our allies.

2. The U.S. Technology Base and Technological Initiatives

Research and development effort continues as a key factor in Free World capabilities to deter a wide spectrum of conflict.

Maintaining technological superiority requires a dynamic research, exploratory and advanced development effort. The Soviets appear to be seeking to surpass us in military related technological efforts, but we intend to maintain clear military technological superiority. We cannot afford the loss of that superiority. We simply cannot compete with a closed, secretive society without the confidence of knowing the "upper limit" of their military offensive potential at all levels of warfare—and we can know this only if we have technological superiority.

These latter requirements on the Defense RDT&E community are substantially independent of force levels. As I explained last year, we are continuing to support increased RDT&E expenditures in the face of an overall declining force level. The sheer magnitude and trend of Soviet scientific/technological endeavors appears to be unchanged from last year, and it is obvious that the Soviets are mounting a severe challenge to our own present technological superiority. We know that their latest research in several areas is comparable to our own.

This year, in order to maintain our technological superiority, we are requesting a substantial increase over last year and insisting that the Defense community find better management techniques to stretch the productivity of their efforts. Dr. Foster will describe our efforts in greater detail.

There is one area I would like to describe in which we are seeking to get more from our R&D investment. It involves a greater effort to adopt allied developments to our own requirements as a means of increasing the productivity of our combined Free World efforts. This approach clearly represents an example of successful implementation of the Total Force Concept and a step forward in the Administration's policy of partnership. The severe competition for national resources makes it virtually impossible for the U.S. to plan to retain technological superiority across the full spectrum of defense technology all by itself.

Our European and Pacific Allies have built up a strong technological capability at an impressive rate. Collectively these Allies spend about $3 billion on R&D for tactical weapons, approximately equivalent to the U.S. effort. We have begun a major effort with our allies in an attempt to achieve better coordination of our R&D programs, so that we can better benefit from the advances made by our allies in tactical weapon technology. By doing so, it may be possible to increase our own R&D efforts in critical scientific frontiers, which can be of major help in maintaining our lead in advanced technology so vital to our security.

This implements the Total Force Concept in an important new way. It means that the U.S. would depend on its allies for some of its development needs. This dependence would not affect our economy because we would intend, with the help of our industry, to produce any selected allied weapon systems here in the U.S. To this end, we have undertaken to provide our industry a greater degree of freedom in establishing working relationships with European and other allied industries. We do not expect that this dependence will ever be more than a small percentage of the overall U.S. defense effort. But for its small size, we would expect large improvements by reductions in international duplicative developments which will help us and our allies while increasing the bonds of partnership and solidarity between us.

We also see some benefit in competitive international developments in tactical weapons. By emphasizing hardware prototypes and testing them realistically in the field, we can obtain better equipment at less cost. This testing can serve the U.S. needs for competition. If we and our allies can learn to depend on and select the winner for our inventories, we can make an important contribution toward improving standardization, compatibility and interoperability of our forces in the field. This would be a significant step towards reversing a deteriorating trend in this area.

We have also expanded our technological data exchange programs with our Allies and instituted new programs. For example, we have exchanged data with the Republic of Korea, in the hope of establishing an improved technological base for them to develop and produce basic spares and equipment. We believe that this data exchange program is important, because it is through such information exchange programs that the first steps are taken to harmonize requirements and coordinate research and development plans.

Dr. Foster and his staff have explored the promises and potentials of international cooperation with our allies within the parameters described above. He will discuss this matter in more detail and describe examples where interdependence in R&D between us and our allies could benefit the U.S. and improve the overall Free World defense posture.

G. Regional considerations and total force planning

1. Total Force Planning in Europe

Our general purpose theater force requirements are largely determined by planning for U.S. and allied conventional forces which will deter the Warsaw Pact nations from conventional attack of NATO Europe. We and our allies also must insure—and display—our ability to sustain and reinforce our deployed forces and those of our allies through control of the air and sea lanes.

Our force planning for NATO has been developed to implement our agreed strategy. In this regard, it is appropriate to note what the Defense Ministers stated in their communique of December 8, 1970:

"Ministers confirmed the continued validity of the NATO strategy of flexibility in response, which includes forward defense, reinforcements of the flanks and capabilities for rapid mobilization, and calls for the maintenance of military capabilities which are able to provide an appropriate counter to any aggression. They noted the continuous rise in Soviet defense and defense-related expenditure and the evidence that the USSR is continuing to strengthen still further its military establishment, including that in the maritime field where Soviet power and the range of its activity have markedly increased. They, therefore, emphasize the need for improvements in NATO's conventional deterrent, as well as the maintenance of a sufficient and modern tactical and strategic nuclear deterrent.

"The security of NATO being indivisible, Ministers underlined the special military and political role of North American forces present in Europe as an irreplaceable contribution to the common defense."

Our relationship with our NATO allies during this past year provides an excellent example of the Total Force Planning Concept at work.

a. NATO Planning in Perspective: You will recall that in the early stages of this Administration, we undertook an intensive review of our defense needs, deficiencies and policies in Europe. We also worked closely with the allies in a parallel study effort pertaining to NATO as a whole. From this comprehensive assessment and intense consultation with our Allies emerged the NATO Study on Alliance Defense Problems in the 1970's, known as AD–70.

In December 1970, the NATO Ministers approved this study at the Ministerial Meeting in Brussels, identifying the specific deficiencies in NATO's conventional defenses and establishing an action program of force improvements designed to reduce imbalances between NATO and Warsaw Pact conventional capabilities. At that same meeting, the European allies initiated the European Defense Improvement Program (EDIP) of about $1 billion of additional expenditures over the following five years, about half for improvements to their own forces and the remainder for a program of aircraft survival measures consisting of the construction of aircraft shelters and related protective facilities. A large number of these shelters will be for U.S. aircraft but at about 30% of the cost in U.S. military construction funds, since there will be about 70% recoupment from EDIP funds.

At the December 1971 Ministerial Meeting the Ministers assigned priority areas within the overall AD–70 program of force improvements for early action.

On December 7, just prior to the Ministerial Meeting, the Euro-Group Nations, which set up the special European Defense Improvement Plan in 1970 (UK, FRG, Belgium, Netherlands, Luxembourg, Italy, Norway, Denmark, Greece and Turkey), announced a combined total increase in their 197 Defense Budget of over $1 billion, and identified significant improvements along AD–70 lines.

b. U.S. and Allied Cooperation in NATO: The past year has been one of considerable stability in Europe, and of the expansion of cooperation within the NATO alliance. The alliance defense effort has been put on its most solid footing in many years as a result of the NATO AD–70 efforts, the desire of the Europeans to show that they are definitely shouldering their part of the NATO defense burden, and our own efforts to restore the readiness of our forces in Europe.

That our efforts have been reasonably successful in the past year is, however, no reason for complacency. The common coordinated force improvements must be sustained, because we see no slackening of Warsaw Pact defense capabilities, but rather improvements.

On the whole, I am pleased with allied efforts to assume a greater role in the collective defense effort. In this connection, I want to make special mention of the two-year Offset Agreement just concluded with the Federal Republic of Germany in December in Brussels. This is another tangible example of the progress we have made toward achieving the President's goal of a greater sharing of the burdens of the alliance. I would like to call attention to one feature of that agreement in particular. The Federal Republic has embarked on an extensive program of 600 million Deutsch Marks (about $183 million) to refurbish at no cost to the U.S. the antiquated facilities in which our troops have been living. I have been personally concerned that everything be done to insure that our troops enjoy adequate living conditions.

1. Allied Improvement Efforts

The EDIP program announced by our Allies in December 1970 is being rapidly implemented. Over two-thirds of the total program of aircraft survival measures (i.e., shelters and other facilities) is already the subject of definite NATO programming or implementation action. Action on special national force improvements announced as a part of EDIP are also moving forward on schedule.

But the EDIP is only a small part of the European contribution to the Alliance. For the year 1972, almost all of our allies are planning increases in their defense budgets. As I noted earlier, at current prices the total planned increase for 1972 is well over $1 billion, without counting certain possible supplementary budget appropriations to meet further rises in costs. Our allies in the last few years have also taken important steps to modernize the structure and equipment of their forces. These steps are generally in consonance with the priorities established in the AD–70 study, and the allies are also engaged in reexamining and where necessary reshaping their ongoing defense programs to fit those priorities. They have important programs for the modernization of their forces.

Our allies have made clear that the maintenance of their force levels and their extensive improvement programs are worthwhile because of the continued U.S. commitment to NATO defense, given the high quality of U.S. forces, and the critical part they play in NATO defense plans. They have also made clear that efforts to achieve sufficient defense capabilities are a necessary precondition to realistic negotiations on security and cooperation in Europe.

2. Improvements to U.S. Forces in Europe

The U.S. is also making a strong effort to maintain and improve its forces in Europe. During the past five years, manpower shortages and personnel turnover have caused readiness problems for U.S. forces in Europe. In the past year we raised the priority of European forces for personnel, and the units are now at virtually 100 percent of authorized manning.

We plan to continue our FY 1973 force deployments to Europe at current levels, with minor adjustments as appropriate consistent with force modernization and improvement in efficiency of support components.

Modernization of the equipment of U.S. forces is also progressing well. In the first instance, we are making significant improvements in our anti-armor capabilities. The TOW anti-tank guided missile is being introduced in significant numbers now, and the smaller Dragon missile will follow. We will soon introduce the M60A2 tank with stabilized guns and Shillelagh missile launchers with a new laser range finder. Our program to replace gasoline-drive armored personnel carriers with new and improved diesel models is nearing completion. We have almost completed modernization of the helicopter fleet and are equipping Army aviation units with new transports. We plan to deploy the Lance missile to Europe as scheduled.

For our tactical air forces, we will complete conversion of F–100 aircraft to F–111 and F–4 in FY 1973. We have already built some 360 aircraft shelters and should finish the program with over 400 by the end of calendar 1972. We also hope to decrease force vulnerability by increasing the number of available dispersal bases and thus reduce wartime air base loading.

In addition to our own force improvements, both made and planned, we have offered recommendations to the allies for additional measures to bolster allied security. In the spring of 1971, we proposed certain new weaponry for NATO forces.

We further called upon the allies to take a greater role in coping with increasing Soviet naval capabilities in the Norwegian Sea and Mediterranean areas. We have also encouraged the allies to consider and suggest still other measures with which all of us might be able to further enhance our collective capability.

Another significant feature in allied defense planning is the work of the NATO Nuclear Planning Group. The activities of this Group, including the Ministerial sessions that I attend with my colleagues, represent one of the most important and valuable examples of Alliance cooperation.

At the two Ministerial sessions of the Nuclear Planning Group during the past year, I presented briefings on the balance of strategic forces, and shared in frank and useful exchanges with my colleagues on the implications for NATO of recent trends and developments in this area. The major field of work by the Nuclear Planning Group has been a continuing series of studies on the tactical use of nuclear weapons in defense of the Treaty area in support of the strategy of flexible response. A number of studies were completed during the past year, including one that German Minister of Defense Schmidt and I presented to the Nuclear Planning Group in October. These studies have given valuable insights into a critical area of NATO defense. This work program is expected to assist in the development of further guidance on the tactical use of nuclear weapons to augment the political guidelines for their use in defense of NATO approved in 1969. This effort will constitute a vitally important and challenging task for the Nuclear Planning Group in the months ahead.

c. Negotiations Aspects: Our NATO allies are clearly aware of President Nixon's program to move from confrontation into negotiation. At the December 1971 Ministerial meeting, the allies recognized the importance of maintaining our strength and partnership while moving toward detente, reaffirming the Alliance position that its overall military capability should not be reduced except in the context of mutual and balanced force reductions. For our part, we reaffirmed the U.S. position that, given a similar approach by the other allies, the United States would maintain and improve its forces in Europe and would not reduce them except in the context of reciprocal East-West action.

We are working closely with our NATO allies in preparing for possible negotiations on mutual and balanced force reductions (MBFR) in Europe. Over the past year our Government submitted to NATO three major studies on this subject, and we intend to submit the results of future studies as they become available. Only by working closely together can we insure that allied solidarity is preserved.

Our objective, as we move forward with our Allies in developing positions on MBFR, is the maintenance of Alliance security, with a more stable military balance at lower levels of forces. We are considering MBFR in a comprehensive manner, focusing on a combination of reductions, collateral constraints (such as limitations on exercises), and verification provisions. We have concluded that NATO force improvements and MBFR must complement each other; we will need to move forward with force improvements before, during, and after MBFR negotiations.

We are confident that our efforts will ensure that we are thoroughly prepared for MBFR negotiations at such a time as they can be brought about. In this regard, Allied Ministers have invited the Warsaw Pact to hold exploratory talks on MBFR, and Mr. Manlio Brosio has been appointed and given a mandate to explore this subject. Although the USSR and the Pact have failed to date to respond to these NATO initiatives, we and our allies remain prepared to discuss MBFR should they see fit to respond.

d. Summary: Clearly, the year 1971 has been a year of progress in working together with our European Allies in maintaining and improving our own and allied forces to meet the common threat and to share the common defense burdens more equitably. The historic decisions of the December 1970 Ministerial meeting were given impetus during the past year and received new emphasis from the NATO Ministers at their December 1971 meeting in Brussels. I have been heartened by this demonstration of allied spirit in response to U.S. and allied needs in Europe. This integrated planning effort and action program is most essential to provide for our common security, especially in light of the continuing expansion of military power and potentials by Warsaw Pact nations. It is essential to the allied partnership, and it is essential to the maintenance of a position of strength from which to negotiate differences with our adversaries in the pursuit of peace.

2. Total Force Planning in Asia

"In the next decade our Asia policy will be dealing simultaneously with three phases of Asian development. In some countries, there will still be an absolute—though we hope diminishing—need for us to play a central role in helping them meet their security and economic requirements. In others, we will complete the process of adjusting our relationship to the concepts of the Nixon Doctrine. And with all countries, we will be striving to establish a new and stable structure reflecting the renewed vigor of the smaller Asian states, the expanding role of Japan, and the changing interests of the Soviet Union and the Peoples Republic of China . . ."—President's Foreign Policy Report to Congress, 1971.

The United States is a Pacific power, and as such must recognize and accept its responsibilities in the area. We seek to do so as a partner, as one of a group of concerned nations acting in concert. It is our objective to support our allies and fulfill our treaty commitments in the context of the Nixon Doctrine.

Last year I noted that we do not plan for the long term to maintain separate large U.S. ground combat forces specifically oriented to the Asian theater alone, but we do intend to maintain strong air, naval and support capabilities. To serve as a deterrent and to support our allies, we continue, of course, to maintain balanced, forward deployed ground, air and naval forces in the Asian theater. However, we expect to continue to emphasize the strengthening of the military capabilities of our friends and allies, as we move toward Nixon Doctrine peacetime deterrent forces.

The forces and assistance which are provided in the FY 1973 Budget will enable us to continue to provide essential U.S. capabilities while moving in this direction in our planning.

Thus, in Asia, our primary emphasis lies in assisting our friends and allies in developing their own capabilities to cope with aggression, against both internal and external threats. In this sense, U.S. forces will increasingly serve a complementary role, and our security assistance programs are a key to making progress in this direction I believe that we and the Asian nations have made considerable progress in this direction in the past year.

Final agreement has been reached with Japan on the reversion of Okinawa in 1972. Japan is to begin assuming responsibility for the immediate defense of the Ryukyu Islands.

The Republic of Korea has assumed responsibility for the defense of virtually all the Korean DMZ and, with our assistance, is undertaking substantial improvement of her own forces.

We have completed significant reductions in our own force deployment in the Philippines, Japan, Korea, and Thailand.

There is also concrete evidence of the dynamism and regionalism that exist in this region. In this regard, Australia, New Zealand and the UK reached agreement with Malaysia and Singapore on the continued forward deployment of an integrated ANZUK defense force in the two Southeast Asia countries under the new Five Power Defense arrangement.

Thus, although 1971 has been a year of progress, with progress must come change and change is not without its problems. We recognize that as these changes take place, problems and differences must and will arise in our relationships with the nations of Asia. We have sought to minimize the differences and we have laid stress on our many common aspirations; however, we do not hide from problems. We seek straightforward, honest negotiations to find mutually satisfactory solutions. To facilitate this dialogue and emphasize the new role of partnership we seek, both former Deputy Secretary Packard and I traveled to the Far East this past year to discuss with our friends our common security objectives and means to accomplish them.

Japan: As we have all come to recognize in recent years, Japan's growing power on the Asian scene will make her one of the keys to peace and stability in Asia in the years ahead. The importance we attach to maintaining a close security relationship with Japan was underscored by the President in his meeting with Prime Minister Sato at San Clemente in January. A large share of their time together was devoted to a review of our mutual interests in the broad security problems of the Asian region. As they announced at the end of those meetings, and as I said after my trip to Japan last summer, the approaches of our two countries to these problems are complementary.

While some public opposition to our bases still persists in Japan and Okinawa, the Japanese Government recognizes the regional security role our forces play, and their ultimate relevance to Japan's defense. For our part, we are making every effort to streamline our base structure in Japan and Okinawa, and to keep our military deployments there to the minimum compatible with our mutually agreed security interests. In January of this year we reached general agreement with the Japanese Government on yet another consolidation of our military activities and reduction of our land use in the populous Kanto Plain area around Tokyo. As a part of the Okinawa reversion agreement, the whole or part of 34 facilities and areas on Okinawa will be returned. Additionally, 12 facilities will be turned over to the Japanese self-defense forces as they assume Okinawa's defense mission.

For her part, Japan has embarked on a fourth Five-Year Defense plan designed to improve qualitatively herself-defense forces to better perform their assigned task of defending the home islands. When the reversion of Okinawa takes place on May 15, 1972, Japan will begin to assume responsibility for the immediate defense of the Ryukyu Islands.

As a result of my trip to Japan last summer, I gained a better appreciation of Japan's need for military equipment modernization if her forces are to become effective against sophisticated threats. Accordingly, we are encouraging Japan to modernize the equipment of her forces, and have placed our technical services as the disposal of the Japanese to help assess their needs and determine what equipment we might be able to provide within Japanese budget constraints.

Korea: Our relations with the Republic of Korea provide an excellent example of the Nixon Doctrine at work as I saw on my visit there last year. As 1970 closed, the Republic of Korea continued to face across the demilitarized zone a hostile North Korean regime. Considerable effort was required during 1971 to prevent incursions of saboteurs and agents from North Korea and to apprehend those personnel who succeeded in entering the country, and this type of activity continues. North Korea continues to maintain the fourth largest Army in the communist world and to improve her military posture. It was in this environment that we and the Republic of Korea moved forward in 1971 to implement the Nixon Doctrine and our new strategy. These have been the achievements:

U.S. troops no longer man any significant portion of the DMZ where they had been stationed since the cessation of hostilities in 1953.

ROK troops now have assumed responsibility for the security of the line dividing the two halves of Korea, with the exception of the very small portion devoted to the Military Armistice talks.

Authorized U.S. troop strength was reduced over the last year from some 60,000 men to the present strength of about 40,000.

A Five Year Modernization Program for the Republic of Korea Armed Forces has been instituted which, with Congressional sanction and support, will enable the Koreans to maintain an adequate defense posture. In addition, the ROK is taking steps to increase its own self-sufficiency by providing, through its own defense budget, items previously supplied by the U.S. which can be readily procured in Korea.

Cambodia: President Nixon said on November 12, 1971:

". . . Cambodia is the Nixon Doctrine in its purest form. Vietnam was in violation of the Nixon Doctrine. Because in Cambodia what we are doing is helping the Cambodians to help themselves, and we are doing that rather than to go in and do the fighting ourselves, as we did in Korea and as we did in Vietnam."

During the past year, the U.S. security assistance program in Cambodia has been an excellent example of how we believe the Nixon Doctrine should be implemented. In the first place, U.S. assistance is confined to military and economic aid, and some air support, with Cambodia assuming the basic responsibility for its own self-defense. The U.S. has no ground troops and no military advisers in Cambodia.

Additionally, the U.S. assistance effort is being complemented by military and economic aid from a growing number of Cambodia's friends in East Asia and the world. In January, a group of seven countries agreed to contribute to an economic stabilization fund for Cambodia. The most direct assistance, of course, is coming from South Vietnam. Indeed, one of the most encouraging developments of the last year was the increasing number of combined operations conducted by Cambodian and South Vietnamese forces against NVA/VC forces in Eastern Cambodia.

Most heartening of all has been Cambodia's own efforts to defend her territory and people against the North Vietnamese invaders. Cambodia has expanded its military manpower six-fold in the past year and has been able to maintain the major populated areas under government control. Despite enemy interdiction efforts, Cambodia has kept open the major highways and is now assuming responsibility for Mekong River convoys from the South Vietnamese border to Phnom Penh.

These Cambodian efforts have, of course, also placed additional strain on the NVA/VC logistical ssytem and helped to relieve pressure on U.S. and allied forces in South Vietnam. Thus, in the military area there has been considerable progress in the past year. But much more still needs to be done, particularly in the fields of training and logistics. These are the tasks we and our friends will be assisting Cambodia with in the coming year.

Vietnam: "Vietnamization . . . has now effectively concluded the U.S. ground combat responsibility. Our other activities are being transferred to the South Vietnamese. We are ending American involvement in the war while making it possible for those who do not wish to be dominated by outside forces to carry on their own defense."—President's Foreign Policy Report to Congress, 1972.

The President in his Foreign Policy Report to the Congress has presented a comprehensive and detailed review of all aspects of our Vietnam policy. I would like in this Report to highlight those dimensions which are of particular concern to me as Secretary of Defense.

Vietnam became the test case and the first crucial step for implementing the Nixon Doctrine and our new planning approach to Asia. Vietnamization was based on the simple proposition that responsibility for the war should be turned over to the South Vietnamese. We expected them to defend themselves with our material and security assistance but without indefinite American combat involvement. The results to date have justified, in my view, the faith we placed in this new policy and in our South Vietnamese friends.

When we assumed office in January 1969, Americans were deeply involved in combat. And so we set out systematically to bring Vietnam into conformity wtih the principles of the Nixon Doctrine. 1971 has demonstrated the viability and effectiveness of the Nixon Doctrine principles we have applied in Vietnam.

The Vietnamization program has paved the way for a self-reliant South Vietnamese defense force, for increased cooperation among the other free nations of mainland Southeast Asia and for eventual restoration and maintenance of peace in Indochina. Should our approach to peace in Indochina through negotiations fail, our strength through partnership approach will continue to make possible reductions in the level and intensity of the present conflict.

The Vietnamization program was planned in three phases:

Phase I—Assumption by South Vietnam of the ground combat role against Viet Cong and North Vietnamese forces. Phase I was completed last year.

Phase II—Development by South Vietnam of those support capabilities—air, naval, artillery, logistics and other support—necessary to maintain effective security. Major progress was made last year notably including the turnover of in-country naval operations and a very substantial portion of the in-country air combat responsibilities.

Phase III—Reduction of American presence to a military advisory mission, with whatever small security forces are needed to protect this mission, and then further reductions as South Vietnam becomes capable of handling the threat with no U.S. military presence required.

Our activity in Indochina has been and will continue to be in consonance with the goals we established at the beginnig of Vietnamization. We seek to:

Maintain our obligations and interests in Asia as we move toward a generation of peace;

Reduce American casualties;

Secure the release of our Prisoners of War and an accounting for our missing in action;

Continue to withdraw U.S. forces; and

Transfer military responsibility to the Republic of Vietnam in a way that provides the South Vietnamese with a realistic capability to defend itself from aggression.

We are closer now to meeting these goals than at any time in the past. During each of my four trips to Vietnam as Secretary of Defense, I have been heartened by the progress which has permitted me to recommend and the President to direct further reductions in U.S. troop strength.

As I prepare this Report, the situation in Vietnam remains encouraging. Phase I of Vietnamization is completed, with only a small U.S. ground combat force remaining in a security role to protect U.S. forces as Phase II progresses. Phase II is progressing ahead of schedule as the Vietnamese themselves work hard to complete the complex training required before they can fully assume an effective support role. Phase III has begun with the reorganization of our corps and field force headquarters to assistance commands and with reductions contemplated in our military headquarters in Saigon.

In sum, the major part of our Vietnamization program has been accomplished and we are ahead of schedule on the tasks that remain. The philosophy that predominated as we assumed office in 1969 of a U.S. "takeover" of military activities in South Vietnam has been superseded by the reality now of a U.S. "turnover" of responsibility for continued combat operations, as every statistical indicator confirms. Vietnamese forces have demonstrated professional skill, valor and combined arms effectiveness in their operations to date. Particularly noteworthy has been the ability of the Vietnamese to operate away from their permanent bases in areas the enemy has occupied for years. While we cannot expect the South Vietnamese to win every battle, their effectiveness should increase even more as they gain more confidence and strength.

During my second trip to Vietnam in February 1970, I encouraged greater coordination of our military activities with the economic aspects of Vietnamization. The economic implications of Vietnamization are complex but the response to our new emphasis has been encouraging. The burden of defense reduced the availability of goods and services to Vietnam and its people. The result was a rampant inflation; prices rose by 650 percent in the five-year period ended June 1970. The withdrawal of U.S. forces and the consequent reduction in Vietnam's foreign exchange earnings threatened the economy still further. The Vietnamese themselves, however, are displaying a growing economic sophistication and learning to control their wartime economy. Government-instituted reform measures in September and October of 1970 and in March and November of 1971 have addressed many of the economic difficulties facing the Republic of Vietnam with the latest reforms stressing self-sufficiency as a goal. In addition, a reorientation of our economic assistance programs has contributed to achievement of relative stability and enhancement of prospects for growth.

The implication of this improvement in the economy of Vietnam is that the Vietnamese will soon be able to shoulder more of the financial cost of providing for their security while at the same time they benefit from the higher standards of living which increased security and economic stability and growth assure. Nevertheless, continued substantial U.S. economic assistance will be needed for the foreseeable future.

With respect to negotiations, the President's recent nationwide address on January 25, 1972, and the detailed description of our efforts to achieve a settlement presented in his Foreign Policy Report conclusively demonstrate our willingness and Hanoi's refusal to date to achieve an early and honorable peace through negotiations. In this connection the President described, and I would like to underscore our deep concern for the American servicemen now held captive by the North Vietnamese and Viet Cong in Indochina, and for those missing in action. The other side has continued to violate the provisions of the 1949 Geneva Convention with regard to prisoners of war and to ignore the protests of the United States and the civilized world. Hanoi's violations of the Geneva Convention are as follows:

The Geneva Convention requires that prisoners be humanely treated and protected. This provision has been consistently violated.

The Geneva Convention requires that neutral inspection of prisoner camps be permitted, including interviews of the prisoners without witnesses in attendance. The enemy has never permitted such inspection or such interviews.

The Geneva Convention requires that the names of all prisoners be released promptly. Such names as the enemy has released have not been released promptly nor through regular channels.

The Geneva Convention requires notification of deaths in captivity and full information on the circumstances and place of burial. The enemy has not furnished any information about circumstances of death and place of burial.

The Geneva Convention requires that prisoners of war camps be marked clearly and their location be made public. The enemy has not marked its camps nor divulged their location.

The Geneva Convention requires that the seriously sick and wounded be repatriated or interned in a neutral country. The enemy has refused to comply with this provision.

The Geneva Convention requires that prisoners be permitted to send at least 2 letters and 4 cards a month. The average has been 2 or 3 letters a year and none at all from some prisoners.

The Geneva Convention requires that sufficient food must be given to prisoners. Yet, all of the released prisoners have been found to be underweight and suffering from malnutrition.

The Geneva Convention requires that prisoners not be held in close confinement. Yet, the enemy has held some men in solitary confinement for years.

The behavior of the enemy in flouting the basic precepts of humanity and international conventions and in contributing to the anguish of our POW/MIA families must end. Neither President Nixon nor I will consider Vietnamization to be completed until the Prisoner-of-War and Missing-in-Action issues have been resolved.

3. Total Force Planning and Security Assistance

In deterring subtheater or localized warfare, i.e., non-nuclear conflict that does not involve the USSR or PRC in combat, the country or ally which is directly threatened bears the primary burden, particularly for providing the manpower for its defense.

We believe that our allies can and must increasingly bear the primary burden for planning to cope with subtheater and localized conflicts. Such conflicts, running from localized insurgency or guerrilla warfare to the type of conventional attack which North Korea itself could mount against South Korea will continue to threaten the security of our friends and allies through the 1970's. Although security assistance is not limited to the friends and allies threatened by subtheater/localized conflict, in practice, the bulk of our assistance goes to these countries.

A strong, effective program of security assistance to key friends and allies is an indispensable tool for implementing our National Security strategy of Realistic Deterrence. It also plays a central role in fulfilling the Nixon Doctrine objective of a more equitable sharing of the Free World defense burden.

President Nixon has indicated that in the future the U.S. would look to the forces of our allies to deal with guerrilla and subversive threats. However, he emphasized that the United States can and will furnish military and economic assistance to supplement this local effort, where our interests are involved. Elaborating on that theme in his Foreign Aid Message to the Congress on April 21, 1971, the President pointed out that increased security assistance "enables us to continue to reduce our direct presence abroad, and helps to reduce the likelihood of direct U.S. military involvement in the future."

In that same address, the President underlined the importance he attaches to foreign aid as a tool of his foreign policy for the 1970's. He announced his decision to reform the U.S. aid effort, beginning with creation of separate structures for security-related development, and humanitarian assistance. The various ongoing assistance efforts which serve U.S. security interests were thus combined into one coherent program. The elements of that program are the following:

Military Assistance Program (MAP—grants of military weapons and other equipment, as well as of military training.

Foreign Military Sales (FMS) Credit—government-to-government or commercial sales of defense material financed by U.S. government or by government-guaranteed credit.

Security Supporting Assistance—aid intended to offset, in part, the impact of exceptional defense costs of the recipient country on its civilian economy.

Non-funded Security Assistance—Grant Excess:

Grant Excess Transfers—material declared excess to U.S. force requirements.

Equipment Loans and Leases—primarily ship leases.

FMS Cash and Commercial Military Sales.

a. Security Assistance Organization, Reform and Planning: During the past year, a number of steps have been taken in the Executive Branch to make the planning and administration of security assistance more effective.

In reshaping the foreign aid program, the President directed that the planning of all security-related aid program elements be integrated. Accordingly, although MAP and FMS programs were administered in the Defense Department, while economic supporting assistance was administered by AID, during the period in which the FY 1973 security assistance budget was being constructed and subjected to the President's final review, security assistance was treated as an integrated whole.

Within the Department of Defense, I have initiated several innovations to improve integration of security assistance in the overall U.S. security effort. For the first time, planning for FY 1973 military assistance and credit sales took place within the Department of Defense Planning, Programming and Budgeting System (PPBS). The results of the initial effort were gratifying to me because of the long-term prospects for more efficient security resource allocations within the Total Force Concept.

A second important step was creation of the Defense Security Assistance Council, and the Defense Security Assistance Agency, which are discussed in the Organization and Management chapter.

I would note that security assistance planning continues to be an interagency effort within the Executive Branch. This procedure insures that the Department of State is able to exercise its statutory responsibilities for policy guidance of security assistance while the Department of Defense will continue to manage the military program, thus permitting more effective use of all defense resources.

b. Progress in Total Force Planning and Security Assistance:

1. Combined and Complementary Force Planning and Security Assistance

Vietnamization has had a major impact on the size of U.S. forces as it has permitted a step-by-step transfer of responsibility for combat operations to South Vietnamese forces without diminution in security and without undue burden on the stability of the Vietnamese economy. Similarly, joint development and implementation of a U.S.-Republic of Korea five-year security assistance modernization for their forces program has permitted withdrawal of one U.S. division from Korea in FY 1971.

I would emphasize that substantial security aid to South Vietnam must be maintained to continue this progress. Our security assistance to the peoples of Laos, Thailand and Cambodia in their struggle to maintain their independence has likewise been essential and it will continue to be so for some time. Unlike other country programs, most security assistance to South Vietnam, Laos, and Thailand has been provided for several years through the Defense budget. The Thailand program is being returned entirely to regular International Security Assistance funding for FY 1973.

In South Korea, national forces are assuming increased responsibility for their own defense. The ROK Government must maintain large defense forces to meet the threat posed by well-equipped forces in the North. Consequently, it must support a heavy burden on its national economy, and simultaneously undertake increased production in country of defense equipment, aided in part by MAP and FMS credit. Thus, South Korea may continue for some time to be dependent on the United States for support of its defense efforts. Nonetheless, greater Korean self-sufficiency in defense is signaled by that government's recent agreement to assume responsibility for procurement of operating material formerly supplied under MAP as well as inauguration of an FMS credit program to finance development of M-16 rifle and ammunition production facilities in-country.

A significant feature of the five-year program to advance Korean force modernization is our plan to provide the new International Fighter Aircraft, the F-5E. This aircraft has been developed specifically to meet the need of allied and friendly air forces for an effective and flexible, yet relatively simple and inexpensive new fighter aircraft. Congress had a strong role in initiating this program.

U.S. security assistance to our NATO allies, except for Turkey, Greece and Portugal is limited almost exclusively to military export cash sales. Credit assistance is no longer required in most instances, and military sales to Europe represent an economic gain rather than a drain to the U.S. However, three allies, Turkey, Greece and Portugal, continue to require outside grant and credit security assistance to permit them to improve their capabilities for fulfilling their assigned roles in NATO defense plans. Indeed, their importance to U.S. and NATO security interests have increased significantly in recent years as a result of the Soviet military buildup in the Mediterranean and the volatile situation in the Middle East. Both Greece and Turkey have demonstrated their dedication to NATO defense by major manpower and resource commitments to the Alliance. It is in the U.S. interest, therefore, to assist these willing allies to make a more effective contribution to NATO defense by helping them acquire more modern defense equipment and improved training. In the case of Greece, economic growth now permits U.S. assistance for the most part, to take the form of FMS credit for arms purchases rather than outright grants.

2. Supplementary Planning and Security Assistance

Security assistance can also advance U.S. security in ways less directly related to specific force trade-offs under total force planning. As we work cooperatively with the military officers who play such an important role in many Latin American countries, our missions and assistance programs further our interests while responding positively to those of the Latin Americans. Latin American nations are our partners, not our dependents. We seek only to assist—partly through the several, less explicitly military aspects of our security assistance programs such as training aids—in preserving the environment within which social and economic progress can occur.

Among our hemisphere neighbors and elsewhere, selectively, throughout the world the United States seeks to utilize judiciously its diplomatic, economic and military resources to help avert war. We must strike a balance and take care, for example, that our security assistance does not contribute to hostility between neighboring states and forces. We provide security assistance on a case-by-case basis to assist friendly countries to combat insurgency and help defeat externally inspired subversion and maintain the kind of military balance which will deter external attack. In supplying security assistance, and in the licensing of military exports through commercial sale, we seek to emphasize regional arrangements that enhance stability. We must recognize, however, that every nation has the right to be prepared to defend itself against internal and external threats and that most nations do not themselves produce the equipment for their own defense that they may need. We must also be cognizant of the fact that today, as never before, foreign countries have alternatives to acquisition of defense equipment from the U.S.—particularly if some form of purchase is involved. Nonetheless, we shall continue to review most carefully potential sales of military equipment, even to close allies, and to refuse them where regional security or other U.S. interests would be adversely affected.

c. Security Assistance Legislation: For FY 1972 the President proposed to the Congress that it enact sweeping new foreign aid legislation authorizing and funding security assistance separately from development and humanitarian aid. The Congress elected to defer consideration of this approach and instead to appropriate funds under existing legislation. Nevertheless, by the end of the 1971 session I believe that the benefits associated with combining all elements of security assistance into a cohesive program separate from development and humanitarian programs was appreciated by a majority of the Congress.

d. Summary: I believe that presentation of security assistance budget requests in the context of the overall U.S. national security program will permit easier understanding of the linkage between the U.S. force posture and overseas deployments, on the one hand, and adequate security assistance to allied forces, on the other.

It is important that the Congress recognize and understand the important role that grant military assistance and other forms of U.S. security assistance have played over the past two and a half decades in countering threats to non-Communist countries. For while the burdens in blood and dollars which the American people have borne to help defend others have been great, they would in my judgment have been far greater without security assistance. During the past few years, I believe that we have made major progress, through security assistance, in strengthening the capabilities of Free World nations to defend themselves, thereby helping move toward a more equitable sharing of the defense burden.

DEPARTMENT OF DEFENSE REPORT

Mr. GOLDWATER. Mr. President, we in this body are daily confronted with the problems of organization and management of government at all levels. Today the Secretary of Defense presented to the Committee on Armed Services his statement in support of the fiscal year 1973 defense budget. I was extremely gratified to read that portion of his statement dealing with the organization and management of the Department of Defense. I believe that Secretary Laird's approach to these problems has great merit. It is an approach which will insure more economical use of the resources of that Department.

The cornerstones of the Department of Defense concepts of management are participatory decisionmaking, selective decentralization and delegation of authority under specific guidelines.

I would, at this point, strongly endorse one request of the Secretary of Defense. He expressed the hope that the Congress would take early and favorable action on last year's proposal for the establishment of a second Deputy Secretary of Defense. Such favorable action would contribute an immense contribution to the improved management of the Department.

I recommend Secretary Laird's views on management to each Member of this body.

I ask unanimous consent that the organization and management section of Secretary Laird's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

I. ORGANIZATION AND MANAGEMENT

In my Defense Report last year, I discussed the concepts of management we have been and are applying in the Department of Defense. The concepts of participatory decision-making, defined and selective decentralization, and delegation of authority under specific guidance remain valid and we are continuing to build upon them.

Application of these management concepts places more emphasis on people and less emphasis on elaborate detailed procedures. Our approach is to define the task, pick a good man, provide guidance to him and the necessary responsibility and authority to do the job.

Our experience demonstrates that people perform better if they play an active role in the decision-making process leading to the policy decision they are responsible for executing.

The members of the JCS and the Secretaries of the Military Departments remain my principal advisers on programs for the Department of Defense. They know that their views are sought and valued; they play an active role in both decision-making and in the management of the Department.

Although we emphasize decentralization of management and have increased the role of the Military Departments and the JCS, there are functions and decisions which necessarily must remain the responsibility of the Secretary of Defense. Some of the changes in organization and management made last year will assure that, as Secretary of Defense, I can better meet my responsibilities and insure better management of the resources provided to the Department.

We should all recognize that new concepts of management cannot solve all of our problems. We should also be aware that the benefits of new and improved management concepts do not accrue immediately but only in time, and that we must continue to carry the products of earlier management well into our Administration.

A. Specific improvements in organization and management

In a number of instances, the application of our new management concepts has necessitated additional changes in organization since my report last year. Among the more significant organizational and management changes instituted in the past year are:

Establishment of the Office of the Assistant Secretary of Defense (Intelligence).

Establishment of the Central Security Service.

Establishment of the Defense Investigative Service.

Establishment of the Defense Mapping Agency.

Disestablishment of the Office of the Assistant Secretary of Defense (Administration).

Creation of the Office of the Assistant Secretary of Defense (Telecommunications).

Reorganization of the Defense Atomic Support Agency.

Reconstituting the Worldwide Military Command and Control System (WWMCCS).

Establishment of the position of Director of Net Assessments.

Creation of the position of Deputy Director (Test and Evaluation) within the Office of the Director, Defense Research & Engineering.

Changes to the Unified Command Structure.

Establishment of the Defense Security Assistance Agency.

As you know, we requested Congress last year to establish a second Deputy Secretary of Defense. This important position is crucial to effective and continuing management of the largest government Department in the world. I hope that the Congress will act favorably and very soon in authorizing the establishment of this important position.

Each of the organization changes we have been able to make is significant. I will discuss them in some detail, although not necessarily in the order listed.

1. New Assistant Secretaries of Defense

Several organizational changes were made last year in the Office of the Secretary of Defense. During the course of the year, I disestablished the Office of the Assistant Secretary of Defense for Administration and divided its responsibilities among other Assistant Secretaries. In its place, a new Office of Assistant Secretary of Defense for Intelligence was established.

This Congress has authorized one additional Assistant Secretary of Defense, making a total of nine. This new authorization has been used to establish the Assistant Secretary of Defense for Telecommunications. I will discuss the responsibilities of each of these new offices in greater detail.

2. Intelligence

Before discussing organizational changes, I want to point out important adjustments made in the intelligence program itself. Our basic posture in intelligence continues to be one of readjustment from the operational problems of Southeast Asia to the longer term intelligence needs of our overall strategy. This adjustment must take place simultaneously at several levels among the several Department of Defense intelligence programs which are tasked to provide support. In addition to meeting its own requirements, the Department of Defense performs the bulk of all U.S. intelligence collection operations in support of national requirements for intelligence. Adjustments in our intelligence resource levels and in the scope and direction of our intelligence efforts must, then, take into account national intelligence needs, Defense intelligence needs for the support of research, development and planning, and the needs of military commanders to maintain intelligence capabilities and assets essential to the conduct of operations.

If there is a single area which deserves particular and increased emphasis in the intelligence arena at this time, it is the provision of support to our research and development community. The growth of technology with potential application to weapons systems is accelerating. The identification, assessment, and reporting of advances in foreign technology and in technological applications to weapons systems to support our own research efforts are of critical importance. We must understand the requirements of our own R&D organizations for this intelligence support and focus our intelligence efforts carefully and purposefully to provide this information.

There is no question that the manpower problem is the greatest challenge to our ability to sustain our intelligence program at their essential levels of effort and effectiveness. Despite our substantive investments in technical sensors, computers, and other applications of technology to intelligence, manpower remains the largest, and the most critical area of investment in DOD intelligence. From a peak figure of 152,000 in 1969, we will have reduced the manpower in major DOD intelligence programs to less than 117,000 by the end of FY 1972. Since we are faced with a situation in which manpower, our most important resource, is being reduced and limited in numbers, we must get the most effectiveness from present manpower levels. Research and development programs for intelligence systems must be focused on the need to reduce manpower levels and to lessen the dependence of the intelligence effort on high levels of personnel manning.

Since people are our most important intelligence resource, we will improve the career development programs for our military and civilian professionals. We have made some progress in this area of career development but further improvement is needed.

a. The Assistant Secretary of Defense for Intelligence: The most important organizational change in this function during the past year was the appointment of an Assistant Secretary of Defense, with responsibility for management of intelligence resources, programs and activities.

This action continues the emphasis on stronger management of intelligence begun two years ago when the then Assistant Secretary of Defense (Administration), was given additional responsibilities for staff management of the major intelligence resource programs of the Department. Based on the recommendation of the Blue Ribbon Defense Panel and on the experience in intelligence resource management under the Assistant Secretary of Defense (Administration), I established the new office of the Assistant Secretary of Defense (Intelligence) on 3 November 1971.

The Assistant Secretary of Defense (Intelligence) supervises Department of Defense intelligence programs through the entire-management cycle, from initial research and development through programming, budgeting, and the final process of follow-up evaluation. In addition, he provides the principal point for management and policy coordination with the Director of Central Intelligence, the CIA, and other intelligence officials and agencies outside the Department of Defense. These arrangements will provide the Assistant Secretary of Defense (Intelligence) with the management tools needed, not only to achieve greater economy, but also to produce a more effective and responsive intelligence effort.

The establishment of the Assistant Secretary of Defense (Intelligence) leaves unchanged the basic responsibilities of DIA and NSA for their respective areas of general intelligence and cryptology. The Assistant Secretary of Defense (Intelligence) will have the OSD staff management overview of both areas, and will coordinate both programs with those of the other Department of Defense intelligence and intelligence-related activities under his purview, including the warning, reconnaissance, and tactical intelligence programs conducted by the Military Departments. The Assistant Secretary of Defense (Intelligence) will also assume responsibility for recommending the requirements and priorities for net threat assessments of foreign weapons systems.

b. Central Security Service: In accordance with the President's desire to consolidate cryptologic activities, we have established a Central Security Service (CSS), under the Director, NSA, who will serve concurrently as the Chief, CSS. The purpose of this new organization is to provide a unified, more economical, and more effective structure for executing cryptologic and related electronic operations previously conducted under the Military Departments. The Military Departments will retain administrative and logistic support responsibilities for the military units involved, but these units will be managed and controlled by the CSS.

c. Defense Investigative Service: In response to the President's directive, we have established a Defense Agency, the Defense Investigative Service, to centralize control of all personnel security investigations and some related matters within the Department of Defense. This is also consistent with the Blue Ribbon Defense Panel recommendations. The Agency is designed to obtain monetary savings, managerial efficiencies and a more prompt response to overall defense needs for personnel security investigations, as well as to provide a more uniform product. At the same time, it will afford another management tool for assuring that investigative activities of the Defense establishment are always conducted with due respect for the rights of all citizens. The new Agency will operate under staff supervision of the ASD(C).

It will receive advice and counsel from the Defense Investigative Review Council, which I created last year so that our top level civilian leadership could establish detailed guidance for investigative activities and assure that these activities are consistent with law and tradition on civil-military relationships.

d. Defense Mapping Agency: Defense mapping, charting, and geodetic operations (MC&G), are being consolidated to the extent practicable, balancing economy against military requirements. For this purpose, we established the Defense Mapping Agency, a separate entity reporting through the Joint Chiefs of Staff to the Secretary of Defense. The functions being consolidated include production, source of data storage and retrieval, distribution facilities, and the Topography School—approximately 75% of total MC&G resources. Data collection and RDT&E will continue as functional responsibilities of the Military Departments, and units providing direct support to field commanders will remain assigned to the Military Departments.

3. Telecommunications

The effective management of Department of Defense telecommunications has been a matter of concern to me, of special interest to the Blue Ribbon Defense Panel, and also to the Congress. We all agree that there was a great need for improved management of this function, coordinating the needs of the entire department and consolidating resource management of the entire program. This is needed to help insure reliable, survivable, secure and cost-effective telecommunications for the DOD and the National Communications System.

In order to place telecommunications in proper perspective, I think you may be interested in the fact that the Department of Defense telecommunications function involves worldwide operation and about $5.6 billion in capital investment and $2.6 billion in annual appropriations.

As a first step in providing effective management for telecommunications, I appointed an Assistant to the Secretary of Defense for Telecommunications, who, under the close guidance of former Deputy Secretary David Packard, initiated action to establish Department-wide communications policy and to coordinate the Department's communications efforts. This enabled us to provide improved interim management and to assess the management requirements for the long term.

This past year for the first time, we developed the consolidated Telecommunications Program, which we considered as a single package in our normal planning and programming cycle. This program enabled us to identify telecommunications manpower, resources, and programs throughout the Department of Defense. In addition, we prepared an assessment of the Department of Defense programs and needs for satellite communications. This provided us, for the first time, with an overview of our capabilities and requirements in this important area. One Department of Defense telecommunications program newly established is the jointly manned field agency called TRI-TAC. It has the mission of coordinating the tactical communications requirements and insuring the interoperability of equipment applicable to joint use by all components of the Department as well as its timely and economical placement in the field.

The additional position of Assistant Secretary of Defense recently authorized by Congress was used for Telecommunications, replacing the office of Assistant to the Secretary established earlier. I will look to the Assistant Secretary (Telecommunications) to lead and guide the future design and development of DOD telecommunications systems, and to assume the OSD responsibility for the telecommunications management, and resource programming and allocation. The Assistant Secretary of Defense (Telecommunications) will also have key OSD functions in connection with the Worldwide Military Command and Control System.

I believe that the changes we have made in the telecommunications area are an effective response to our concern and the concern of the Congress for improved telecommunications management. I am confident that with this new office we will see continued and effective change and improvement in the management of this function.

4. Defense Nuclear Agency

On 1 July 1971 as another part of our continuing effort to improve defense management and organization, the Defense Atomic Support Agency was reorganized and redesignated the Defense Nuclear Agency (DNA). Our objectives were to insure that DNA activities were realigned to emphasize those functions which are more effectively and economically performed on a centralized basis, to decentralize activities which could be performed better by the military services, to eliminate unnecessary functions and to consolidate support requirements. DNA will continue as a defense agency with the same primary mission but with somewhat reduced functions and personnel. In general, these functions include those requiring unique technical or administrative expertise such as nuclear weapons management, nuclear weapons testing, and nuclear weapons effects research. This action was consistent with the thrust and intent of the recommendation of the Blue Ribbon Defense Panel. We believe this reorganization will result in more efficient overall management of our nuclear program.

5. Unified Command Plan

A major step for improving the command and control of the U.S. combatant forces became effective on 1 January 1972. For the first time since 1963, the Unified Command Plan was revised to reflect changes in our international commitments and policies. This change is in keeping with the Nixon Doctrine and is consistent with our ongoing efforts to revitalize our organizational structure in support of the Strategy of Realistic Deterrence.

The U.S. Strike Command was disestablished and its geographical areas of responsibility assigned to other Commands. In its place a new Command, the U.S. Readiness Command, has been established at MacDill Air Force Base, Florida, with no geographic area of responsibility. It will be manned austerely and its responsibility is to control U.S. based major combatant general purpose forces not assigned to other unified commands. The Readiness Command will have the responsibility to provide a general reserve of combat ready forces to reinforce other U.S. Commands, perform deployment planning, and assist the Joint Chiefs of Staff in developing doctrines and techniques for the joint employment of forces.

The area of responsibility of the U.S. European Command was expanded to include the Red Sea, the Persian Gulf and the Middle East to the eastern border of Iran. This will strengthen the planning capability for defense of the southern flank of NATO and for countering the increased Soviet presence in the Mediterranean and the Middle East. It also insures that all U.S. military planning and operations in Europe will be coordinated and controlled by one commander.

The area of responsibility of the Pacific Command was expanded to include the Indian Ocean to 62 degrees east longitude, those South Asian countries formerly assigned to USCINCMEAFSA, the Aleutian Islands and a portion of the Arctic Ocean. This realigned area of responsibility is more compatible with the forces likely to be deployed for contingencies in these areas.

The area of responsibility for the Atlantic Command was expanded to include the international water areas around the continents of Africa and South America. This arrangement is also more in concert with the existing and likely deployment of U.S. naval forces.

The missions and responsibilities of the Alaskan Command, Strategic Air Command, the Continental Air Defense Command and Southern Command remain essentially the same at this time.

As is true in other areas, we intend to continue to review our worldwide command arrangements in order to insure responsiveness to the President's policies and objectives.

6. Test and Evaluation

The establishment of a Deputy Director for Test and Evaluation within DDR&E with across-the-board responsibilities in OSD for test and evaluation matters is in large part a result of the Blue Ribbon Defense Panel report of mid-1970, which commented extensively on deficiencies with regard to Defense test and evaluation and particularly operational test and evaluation programs. The appointment of the new Deputy Director is a part of our overall program for improvement of systems acquisition management and is improving the timeliness and quality of our testing. His responsibilities include monitoring all DOD testing and advising the Secretary of Defense and the Defense Systems Acquisition Review Council (DSARC) as necessary on test and evaluation matters. His organization is now manned and operating effectively.

The application of these responsibilities, together with other actions we have taken which increase the effect of test and evaluation progress on decisions made on programs following the DSARC process, is having a definite and beneficial impact on a major number of our weapons acquisition programs.

7. Defense Security Assistance Agency

The relationship of security assistance to the Nixon Doctrine, the Strategy of Realistic Deterrence and the Total Force Concept has been further strengthened in the Department of Defense during the past year by two organizational changes.

First, I have established the Defense Security Assistance Council. The purpose of this council is to advise me on matters relating to security assistance and to provide DOD coordination of this assistance. This council is chaired by the Assistant Secretary of Defense (ISA) with members from JCS, the Director of Defense Research and Engineering, the Office of the Assistant Secretary of Defense (I&L), the Office of the Assistant Secretary of Defense (SA), and the Director of the Defense Security Assistance Agency, who will function as the Secretary. The membership is designed to assure that security assistance meets the requirements of those who would receive the assistance and is still consistent with overall DOD plans, programs, and capabilities.

As a second step, I have established a Defense Security Assistance Agency (DSAA). The DSAA is the central organization in the Department of Defense responsible for directing and supervising the execution and administration of approved security assistance programs. In the past, we have found that information on security assistance programs, for a specific country was divided between the OSD staff and the Military Departments. It was difficult and time-consuming to get a complete report on the programs and status of security assistance either by country or area. With the Defense Security Assistance Agency we will now have this capability.

The Director of DSAA is the focal point in the Department of Defense for the administration of approved Security Assistance Programs. He operates in close coordination with the Department of State and under the policy guidance of the ASD (ISA), the Defense Security Assistance Council and, of course, the Secretary of Defense.

Security Assistance is a vital and integral part of the programs of the Department of Defense. The establishment of DSAA assures that Security Assistance will receive the management attention due this critical program.

B. Improvements in military operations

Our experience with military operations over the past three years has demonstrated that one of the areas that most needed improved management and effectiveness was the command and control of our forces. The problems that we identified in this area were in part the result of a lack of overall management of these resources from the point of view of the entire Department of Defense. I believe that this problem has been satisfactorily met by the establishment of an Assistant Secretary of Defense for Telecommunications. Related problems were: the inadequacy of the internal organizational structure designed to pass messages to the operating commands; the fragmentation of responsibility to manage the particularly critical functions that serve the national command authority in time of crisis; and insufficient emphasis on improving our command and control systems.

All of these problems were the subject of an extensive evaluation for former Deputy Secretary of Defense, David Packard, and the Chairman of the Joint Chiefs of Staff, Admiral Moorer. Together, they analyzed the problem, prepared solutions to it, and drafted a new DOD Directive specifically focused on this problem. This Directive has brought about the following changes:

1. Our internal organization for command and control has been streamlined to assure that the instructions of the National Command Authority, the President and the Secretary of Defense, can be rapidly communicated to the operating forces. In the past, these instructions went from the National Command Authority to the JCS, to the operating commands and then to the operating forces. These procedures have been changed so that critical, time sensitive instructions go from the National Command Authority to the Chairman of the JCS who, acting for the JCS, has authority to pass instructions directly to the operating forces.

2. The critical component of the Worldwide Military Command and Control System (WWMCCS) is the National Military Command System (NMCS). This is the system through which the National Command Authorities (NCA) receives information and passes instructions. In the past, responsibility for staff supervision and policy guidance for the NMCS was divided among the JCS, the DDR&E and several of the Assistant Secretaries of Defense. No one person was charged with assuring that the NMCS procedures were adequate or that the systems were compatible. I have designated the Chairman of the JCS to operate the NMCS for the Secretary of Defense. The Chairman has the authority and responsibility to see that the NMCS has the capability and procedures to assure the rapid and reliable

transmission of the instructions from the NCA to the operating forces.

3. We found that our internal procedures for processing the requirements and providing the capabilities necessary for the WWMCCS were unduly cumbersome. This problem has been met by the creation of a WWMCCS Council. This council is chaired by the Deputy Secretary of Defense, and the members are the Chairman of the JCS, the Assistant Secretary of Defense (Intelligence) and the Assistant Secretary of Defense (Telecommunications). It is the function of this council to provide policy guidance for the development and operation of the WWMCCS and to evaluate its overall performance. The council will be specifically concerned with exercises conducted to test the effectiveness of the WWMCCS, the identification of system weaknesses and the development of R&D and procurement programs necessary to improve the capability of the WWMCCS.

This council was formed on 2 December 1971. One of its first actions was a review of the National Emergency Airborne Command Post program's present capabilities, needs and options. The result of its review was my recommendation to the Congress that we take action in FY 1972 to develop and procure an improved capability for this vital link in the command and control of the operational forces. The WWMCCS Council's rapid identification of this problem and its solution gives me confidence that this vital function is now receiving the senior level and responsible direction it needs.

C. Structuring for net assessments

A recognition of the urgent need for an effective net assessment capability is by no means new or original with me. We have long recognized the requirement, but the creation of the capability to accomplish the extremely difficult and complex task of net assessment cannot be completed overnight.

We approached the task on a phased basis. Last year, I advised you that we had established an organization within the Office of the Director, Defense Research and Engineering (DDR&E) to perform net technical assessments. From a modest beginning, this capability has progressed encouragingly. Techniques have been developed to accomplish the technical assessments, and we are now convinced that some of these techniques can be applied beyond the technical scope.

The intelligence community has performed net threat assessments over the years. They have been of varying quality. In the past, the responsibility for making net threat assessments has not been focused. To improve the quality, objectivity and coverage of the net threat assessments, I have assigned the responsibility for their preparation to the Assistant Secretary of Defense (Intelligence), and this function is being organized in his office.

During the past year, we reached the point where it has become possible to tie together the existing elements of net assessments under central coordination and tasking and to expand the scope of the assessments to include all relevant factors. I, therefore, established the position of the Director of Net Assessments in my immediate office. His job will be to integrate the elements of net assessment by tasking the existing functional assessment capabilities as well as the establishment of capabilities within other functional areas as necessary to give us a total net assessment capability.

To assure that this complex task is accomplished effectively, I have reorganized my immediate staff so that there will be a careful and interdependent use of our new strategy planning tools. Obviously, this small staff will continue to utilize as necessary all of the existing civilian and military resources and expertise in the Department.

We are now at a point where we can, based on our past experience, codify and organize formally the processes which we have been using to an ever-increasing degree in handling such complex matters as Vietnamization, the development of our strategy, the problems of maintaining technological superiority, and zero draft. I have been reluctant to establish new organizations. But these processes work. In my judgment, therefore, formal establishment of these two functions was both needed and necessary.

As I mentioned earlier, the Director of Net Assessments will be supported by the office of my Assistant for Long-Range Planning.

We have made encouraging progress toward meeting our requirements for Net Assessment. The endeavor is still in early stages of development. Although the products to date of our net assessments are most useful in the planning and decision-making process, we must recognize that realization of the full potential for Net Assessment lies well out in the future.

D. Improvements in weapon systems acquisition

Weapon Systems Acquisition remains a matter of concern and action in the Department of Defense and one of significant interest to the Congress. It has long suffered from inefficiencies and cost growth. Last year, I reported to you on changes that we have made in the process.

We are now beginning to see some positive results from these policy and procedural changes. The Services have extensively streamlined the management and reporting structure within their systems acquisition functions. Program managers are much more clearly vested with the responsibility and authority necessary to operate effectively and expedite decision making. Our new major program initiations are all characterized by the competitive development, or "fly before buy" concept of management. The Services have also begun a longer range activity of investing in technology for the future through modest prototyping programs. We are just beginning to see the fruits of these labors and expect our future payoffs to be substantial.

Today I would like to outline problems that remain and bring you up to date on our continuing efforts to improve this process.

We all recognize the role that my former Deputy, Dave Packard, played in improving weapons systems acquisition. He brought order out of chaos and provided us with common sense policies for weapon systems acquisition. Just before he left I asked him for his thoughts on what we had learned and what we had accomplished during the past three years. I would like to pass on a few of his thoughts; he identified four factors that seemed to have gotten us in trouble in the past:

The initial decision was wrong, resulting in projects that were too ambitious or unrealistic, and often in project cancellations.

Department of Defense management was not as effective as it should have been.

Cost estimates were unrealistic and accepted even when we could have known better.

Defense industry was in trouble in both its management and finances. To a significant degree, their problems were the product of bad Department of Defense procurement policies.

I believe, and he agrees, that we have taken constructive action in each of these four areas and that we can see marked improvement in all of them. At the same time, there are active programs initiated years ago that still bear the problems that these four factors have generated. Let me list a few examples:

The Mark-48 Torpedo is designed to provide a capability critically needed by the Department of Defense. When we first looked at this program it was in serious trouble both technologically and financially.

It must be recognized that this program was too far along to assume that we will not have problems in the future. We have taken many corrective actions. We did restructure the program. We placed greater emphasis on competitive testing under the most realistic conditions. We then made a procurement decision and selected the contractor we believed had the best proposal and the best comparative capability. At the same time, I want to strongly emphasize that we have not solved all the problems associated with this program. Testing continues and reliability has improved. I hope that when MK 48 will finally meet our needs. I will continue to watch it closely.

The C–5A has come to be the example of all that can go wrong in weapons systems acquisition. It suffered from every one of the four major factors identified by Dave Packard. It is obvious that if we could start over at the beginning of the program, we would do it very much differently—but those decisions were behind us. We will continue to watch the C–5A closely and do all that we can do to obtain this needed lift capability At the same time it is clear that the C–5A cannot, and probably never could, meet all the design objectives specified in the original contract.

The F–14 program is another program that warrants and will receive, our closest attention. It, too, has suffered to some degree from each of the four major factors that have created problems in weapon systems acquisition. The testing of the F–14 airframe and avionics has just begun. This testing is critical since the demonstrated effectiveness of the F–14 will be the primary factor that I will consider in making any further decisions on the F–14 program. I am recommending that the Congress authorize $735 million for the F–14 for FY 1973. I urge your support of this request. This authorization will permit us to retain the contractual commitments that we have negotiated with the Grumman Aircraft Corporation and will provide us the financial authority to exercise an option for the procurement of 48 aircraft in Lot V. While the contractor has indicated that he is unwilling to accept this option, we retain the position that we have a valid and legal contract with Grumman. I want to reassure the Congress that the option on Lot V will be exercised only if I am convinced that the F–14 will provide the capability that the Navy needs and at a realistic cost. The Department of Defense has a significant investment in the F–14 in time and money, but I want to make it very clear that the investment that we will have made is non-recoverable and that my decisions on the F–14 will be based solely upon its demonstrated effectiveness and not upon cost already incurred as a result of earlier decisions.

A final area of major concern is the Navy Shipbuilding Program. I have recommended and strongly support a Shipbuilding and Conversion program of $3.6 billion for FY 1973. I have described in some detail the objectives of our Strategy of Realistic Deterrence, the threat that we face in reaching these objectives, and our great need for improving and modernizing our naval forces. Despite this urgent need, I cannot and will not accept the serious inefficiencies that we have earlier observed in our shipbuilding program. We need a modern and efficient Navy and we need to procure and operate it in an efficient way. I assure you that I will give equal attention to both of these needs.

I have identified those factors which made things go wrong and some of the continuing programs that were affected by these factors. Let me briefly comment on what I think we have done to minimize the effect of these factors.

1. Decision-Making Factors

First, we have a better basis for improving the initial decision to move forward on a contract. In this Administration we have received clear guidance on the President's objectives in national security affairs. Our efforts to accomplish net assessments will enable us to make better decisions on actual requirements and the initial decisions to meet those requirements. We have also made major changes in the internal decision-making process within the Department of Defense. We give new recognition to the views of the Joint Chiefs of Staff and of all of our personnel in uniform. This increased responsibility given to the Secretaries of the Military Departments has resulted in a marked improvement in their management and recommendations. All of these steps have resulted in recommendations to the Secretary of Defense that are both more relevant and more realistic in their demands in terms of both cost and technology.

As part of the weapons systems acquisition process we have placed increased emphasis on the use of hardware to demonstrate capabilities rather than paperwork to describe them. The prototype program presented to the Congress and now underway within the Military Departments is a specific example of this emphasis on hardware rather than paper. I believe that with hardware in hand, we will be vastly better able to make a good initial decision on production than is possible when that decision must be based solely upon contractor and military department estimates.

Secondly, I believe that we have made significant improvements in Department of Defense management and in our weapons system acquisition policies. In my statement last year I discussed some of these policies and the Deputy Secretary of Defense in his testimony to Congress amplified upon my statement. Very briefly in the acquisition process itself, if we are placing increased emphasis on tradeoffs, completing development before production, and better testing before we make a production decision. We have first made a real improvement in the procedure for selecting and training our project managers. The Defense Systems Management School is established and has graduated its first class. The project managers now have increasing responsibility and authority, a more streamlined line of command within their military departments to the decision-makers, longer tour lengths which are tied to major program milestones, and are in a career that is appropriately recognized and rewarded.

The third factor is a basic cause of cost growth that has been most conspicuous in programs in the past. One of the primary reasons for cost growth has been the fact that we have asked for firm bids to produce something that had not been developed. Contractor bids were consistently low and the Department of Defense consistently accepted them without giving adequate consideration to the technical problems, program stretchouts and the cost growth normally associated with that particular type of program. The Department then implicitly put itself in the position of either being willing to see companies suffer major financial losses and possibly go into bankruptcy, or else agreeing to cover the actual costs in one way or another. We have done two things to meet this problem.

First, in looking at programs with very large cost growths, we found that data and techniques were or could have been reasonably available which would have indicated the final actual cost of a system within 10 to 20 percent, compared to the differences between the contractor's bid and the final cost which ranged to more than 200 percent in some cases. We will make more use of these types of estimating techniques in looking at future weapons systems programs so that we can have a better estimate of acquisition cost on which to base our decision.

To this end, I have established an OSD Cost Analysis Improvement Group to review the estimates presented and to develop uniform criteria to be used by all DOD units making parametric cost estimates. This group has representation from the Director, Defense Research and Engineering, and the Assistant Secretaries for Comptroller, Installation and Logistics and Systems Analysis. They will be responsive to the DSARC Chairman in assessing the reasonableness of cost estimates and the criteria followed in their development. At the same time, because valid cost estimates are so critical to a successful defense posture, I expect each Service Secretary to have a staff component capable of preparing independent parametric cost estimates. Our goal is to have formalized procedures for program cost presentations, as well as uniform criteria to which future parametric cost analyses will be expected to conform.

Secondly, we have recognized that development by its nature is dealing with the unknown and wherever appropriate our contracts for development will be on a cost basis rather than of a fixed price type. This will help to minimize the problem of buying in and alleviate many of the problems contractors have faced in the past.

With regard to the fourth factor which has made things go wrong, we have established a better working relationship between industry and the Department of Defense. Industry's weakness in financial structure can inhibit both development capability and productivity, and can contribute to unnecessary costs of weapons acquisition. We must maintain a defense industry that is strong both technologically and financially. Defense profits have been a matter of interest and concern to industry, the Department of Defense, and the Congress. Great attention is normally given to those defense contractors whose profits seem to be excessive. Such industries I have found to be in the minority rather than being representative.

In fact, based on the most recent Renegotiation Board data, pre-tax profits as a percentage of sales have averaged about 2.55%. Based on this data, estimates would indicate that after-tax profits in the Defense industry are less than 1.3% of sales. Based on various studies, including a recent GAO study, it can be safely stated that profits measured either as a percentage of capital (both equity and total capital investment) or of sales, in the Defense industry, are well below profits realized from commercial ventures. It is in the interest of the nation to assure a strong defense industry. I am convinced that only through a strong defense industry can we both obtain the weapons that we need and obtain them at the lowest overall cost to the taxpayer.

We have worked closely with the General Accounting Office this year in taking action to meet legitimate concerns on defense profit levels in two different areas. First, we now permit contractors to collect interest when these claims are honored. It seems a matter of simple equity that in those cases where the government incurs an obligation and the payment is delayed, the contractor should not be expected to finance this obligation during the time it is in dispute. Secondly, we have established a contractual procedure which will recognize the contractor's capital investment in arriving at profits. There has been great interest on the part of the General Accounting Office and the Congress in this recognition of capital. We are proceeding slowly and carefully with this new procedure, so that we can better understand how and when it should be applied.

Two significant changes have also been made with respect to progress payments on contracts. First, a uniform policy has been promulgated on the frequency and timing of progress payments. Second, in the future, progress payments will be made for costs paid by the contractor, rather than for costs incurred as has been the basis in the past. This latter change will provide an increased incentive for the prime contractor to pay material supplies and other subcontractors more promptly. It will also, of course, somewhat increase the requirement for private financing of operating expenses by the contractors.

All of these improvements together will not accomplish the full level of improvements we seek in improving the weapons systems acquisition process. We need to do more and will continue to search for appropriate new techniques to accomplish our aims. For instance, we are not yet convinced that we have established the proper incentives for the elimination of marginal requirements that needlessly increase acquisition—and operating—costs with little performance benefits. We are not convinced we have established sufficient competitive incentives toward economy and simplicity in design and operation. There will probably never be a "final report" on reaching perfection in Weapons Systems Acquisition. However, this Administration intends to continue to provide substantive "progress reports" indicating our efforts in this direction. We are hopeful that the Congress will continue to help us, as they have done in the past, in this difficult task.

MANPOWER OBJECTIVES OF FISCAL YEAR 1973 DEFENSE BUDGET

Mr. THURMOND. Mr. President, it was about a year ago that this body was studying the extension of selective service—the draft. Throughout the many hours devoted to committee hearings and eventual passage of that bill, we heard considerable reference to the all-volunteer force concept, zero draft calls, the need to upgrade the attractiveness of the serviceman's life, and raising military salaries to make them more competitive with industry.

We heard these and many other references pertaining to that one commodity so important to our Nation's survival—people, manpower.

Today it was most gratifying to see this vital subject presented so clearly in the statement of Secretary of Defense Melvin Laird before the Armed Services Committee.

In support of the fiscal year 1973 defense budget and the 5-year defense program Secretary Laird outlined the administration's manpower goals.

In achieving these goals, Secretary Laird stressed the one fundamental objective which guides all of the DOD manpower planning:

> To provide the required personnel to man and operate our military force, thus providing us with essential capabilities for national security.

The Secretary has made an excellent statement. It is important that each Member of the Congress fully understand this important area.

Mr. President, in keeping with this view, I ask unanimous consent that the manpower section of Secretary Laird's presentation be printed in the RECORD.

There being no objection, the section was ordered to be printed in the RECORD, as follows:

II. DEPARTMENT OF DEFENSE MANPOWER OBJECTIVES

A. Major manpower goals

The major Department of Defense goals in manpower policy remain the same as those I reported to you last year. They are:

Reduction of draft calls to zero by July 1, 1973, and achievement of an all-volunteer force.

Improvement of the quality of life in the military services to continue toward the objectives expressed in the 1969 statement of our Human Goals.

Completion of the transition to peacetime manpower levels with minimum hardship to individuals, while simultaneously maintaining and upgrading the quality of the force.

These goals relate to our manpower policy. There is, however, one fundamental objective which guides all of our manpower planning:

To provide the required personnel to man and operate our military forces, thus providing us with essential capabilities for national security.

This year I would like to discuss with you the broad rationale for our manpower requirements—why, in gross terms, we need the personnel strengths that we are recommending—and some of the trends regarding personnel strengths over the past years—with hopes of giving you a better understanding of our current manpower situation.

B. Manpower requirements

The manpower strengths which we are recommending, together with those for previous years, are shown in the two-part table on the following page. The top part shows a summary without general support personnel allocated, and the second part shows this support allocated to our major mission categories. I will discuss the general support category in more detail in subsequent pages.

As you can see, personnel requirements for strategic forces represents a small portion of our overall manpower requirements, about 10% even with support allocated. These people man the strategic offensive and defensive forces necessary to provide adequate capability to fulfill the requirements of strategic sufficiency. They are highly trained, and in many cases require specialized skills.

ACTIVE MILITARY MANPOWER SUMMARY WITHOUT GENERAL SUPPORT ALLOCATED

[Manpower end-strengths in thousands]

	Fiscal year—			
	1970	1971	1972	1973
Strategic forces	143	130	130	127
Offense	90	88	88	89
Defense	38	27	26	24
Command and control	15	14	15	14
General purpose forces	1, 251	1, 082	949	935
Land forces	746	638	513	516
Tactical Air Forces	188	167	166	167
Naval Forces	232	205	206	195
Mobility Forces	85	72	64	57
Other mission	214	204	181	180
Intelligence	93	91	75	68
Communications	59	55	52	50
Research and development	39	37	37	35
Support to other nations	23	21	17	27
General support	1, 457	1, 298	1, 132	1, 116
Base and individual support	657	580	513	506
Training	617	550	460	458
Command	154	138	129	121
Logistics	29	30	30	31
Total	3, 065	2, 713	2, 391	2, 358

WITH GENERAL SUPPORT ALLOCATED TO MAJOR MISSIONS

	Fiscal year—			
	1970	1971	1972	1973
Strategicf orces	273	249	245	240
Offense	172	168	166	166
Defense	73	53	52	49
Command and control	28	28	27	25
General purpose forces	2, 384	2, 075	1, 803	1, 775
Land forces	1, 427	1, 223	975	980
Tactical air forces	356	319	317	317
Naval forces	440	396	389	370
Mobility forces	161	138	122	108
Other mission	408	391	345	344
Intelligence	178	176	146	133
Communications	114	104	98	95
Research and development	74	71	68	66
Support to other nations	42	40	33	50
Total	3, 065	2, 713	2, 391	2, 358

Note: Figures may not add due to rounding.

Much of the support personnel allocated to strategic forces perform essential functions in our deterrent posture, such as manning strategic alert and satellite bases, and operating fleet ballistic missile submarine support facilities.

Our strategic force manpower requirements are dictated by the numbers of forces deployed. As you can see from the table, these have been reduced in the past three years. This reduction is due primarily to the phasing out of both B–52 and air defense aircraft, plus adjustments in headquarters and command and control structure.

Far more defense manpower (about 75% with support allocated) is assigned to missions associated with our general purpose forces. These land, naval, mobility and tactical air forces are maintained not only for defense of the United States but also for the support of other nations to which we are linked by common interests. The structure of these forces and their location around the world reflect two policy judgments which have been in effect for many years. These policies are: that the security of the U.S. and protection of our vital interests require forces for forward deployment and forward defense; and that strategic nuclear forces, by themselves, are not a sufficient deterrent against the entire spectrum of aggression we must be prepared to face.

I noted in an earlier section the planning factors related to providing adequate capabilities to meet our basic military strategy requirements.

Strong and capable general purpose forces in peacetime have significant value in deterring war. Peace would be precarious, indeed, if the President of the United States had no option except the threat of a nuclear attack, when faced with a threat to our security or interests.

In addition, our general purpose forces actually deployed overseas in peacetime take on a significance beyond their purely military function, because they symbolize both to our allies and our enemies the commitment of the U.S. to the area involved.

The basic size of our general purpose forces is significantly influenced by our commitment to NATO. The percentage of U.S. forces necessary to fulfill our deterrent requirements for NATO reflects both an indication of our intentions toward Europe and a military capability of high credibility.

In simple terms our mission in Europe is, together with the forces of our allies, to deter, and to defend if conflict occurs. The political and military adequacy of our commitment is measured by both our NATO allies and potential opponents. We believe that the general purpose force structure we are recommending will provide this adequacy.

The size and composition of our general purpose forces also reflects a requirement to provide substantial forces oriented toward our role as a Pacific power, and an effective mobile capability to deploy these forces in support of our interests. Here to our forward deployed forces serve an essential role—a role increasingly oriented towards helping Asian friends and allies by complementing or supplementing their own efforts.

Let me now turn to a brief discussion of combatant support. The generally used ratio of combat to support personnel, usually derived from aggregate figures, has been erroneously interpreted as a sign that the military, particularly the Army, is losing its teeth and getting a big tail. In combat units, "teeth" can be partially measured by firepower. A comparison of today's Infantry Brigade with its Korean War regimental counterpart using one measure of fire power potential shows that the brigade would use about 40% less manpower than the regiment to develop an equivalent amount of firepower potential. Using the same type of firepower measure as in the infantry example, the Division Artillery with a comparable number of men and weapons has increased its fire-power potential 600% over the past 20 years.

Even with the decrease in the combat to support ratio during the past two decades, the combat capability of our forces has improved markedly. And since weapons are now considerably more potent, it takes, in general, additional people to keep them in service. Sophisticated, accurate and powerful weaponry requires proportionately more support personnel—not necessarily to operate, but to maintain equipment and train the users.

One effect of the changed ratio between combat and support troops is fewer casualties and less deaths resulting from casualties, as the table below shows:

ARMY CASUALTY RATES

	World War II	Korea	Vietnam
Battle casualties[1]	30. 6	22. 7	19. 8
Battle deaths[1]	9. 2	6. 4	3. 6

[1] Rates expressed as cases per 1,000 average Army strength per year.

Let me now turn to a brief discussion of general support, and its components of base and individual support, training, command and logistics.

Currently there are 493 major bases in the United States and 302 overseas. The Department of Defense maintains a base structure to provide facilities for:

Operating forces in wartime (i.e., air bases, ports, etc.);

Keeping forces in peacetime (i.e., training areas, ranges, hangars, troop housing, etc.);

Supporting forces (arsenals, depots, shipyards, training centers, schools, etc.);

Providing services to personnel and dependents (family housing, commissaries, theaters, etc.)

We have undertaken a susbtantial number of activity reduction, realignment, and closure actions worldwide since January 1969. Excluding Southeast Asia, these actions eliminated more than 191,400 military and 137,000 civilian positions, and will reduce annual defense expenditures for the base structure more than $2.9 billion when completed. Most of the actions will be completed by the end of FY 1972, but a few will take longer.

To partially offset these reductions, we have increased certain elements of individual support since 1969, including actions taken to implement the all-volunteer force. For example, recruiting manpower has risen by 8,000 spaces, to the level of the 21,000 requested for FY 1973.

There are many different types of training, including the major basic categories of recruit, specialized, flight crew and unit, professional, and officer acquisition.

A substantial training base reduction occurred in FY 1972. Our plans in this area for FY 1973 provide for very few changes from last year. We cannot further reduce in this area until we are closer to an end to the draft and have been able to offset two-year inductions with volunteers having longer terms of service.

Command support provides manpower for headquarters and administrative staffs at and above the level of numbered Army, Air Force Air Division, Navy Ship Division, Navy Air Wing, and Fleet Marine Force.

In the past two years, we have reduced Command support by 12%. Eight thousand fewer spaces are proposed in the category in FY 1973 than in FY 1972.

Logistics support for supply and maintenance while essential, does not require large numbers of military personnel, since modern inventory management practices call for much automation, and much of our civilian manpower contributes to this task. In FY 1973 only about 31,000 military men will conduct central supply and maintenance operations for DOD.

In summary, the military manpower requirements we are requesting provide for average active duty strength of 2,396,517 in FY 1973. The requirements and justification will be covered in more detail in other hearings. The almost 2.4 million military personnel we are requesting are:

1,068,000 less than we had in 1969 at the peak of Vietnam buildup;

296,000 less than we had in 1964 before the Vietnam buildup; and

1,028,000 less than we had in 1954 after the Korean War was over.

The last time we had an average active duty strength lower than this was before the Korean War, some 22 years ago.

In FY 1973, we are proposing minor adjustments in the manpower strength of our general purpose forces. As I reported to you last year, we have reached what we consider to be a "base line" force, appropriate to fulfill essential security requirements as we continue to shape the Nixon Doctrine peacetime deterrent force structure.

C. Where we stand

We have already made notable progress toward achievement of our basic manpower goals in a number of areas. This progress is measured by diminishing draft calls, increased incentives for voluntary military service, improvement in the life of the American serviceman, and large reductions in military and civilian manpower which have been cushioned by special efforts to alleviate personal hardship.

Since the beginning of the reductions in the size of the military and civilian force we have been plagued with the problems inherent in such a situation—a constantly changing force structure, the involuntary release of personnel, and turbulence in job assignments—all of which are obstacles to the maintenance of efficiency and combat readiness. Barring externally-directed changes in our planned manpower levels, fiscal year 1973 can be expected to be a year of leveling off a period when these disruptive tendencies will become less pronounced. While some further reductions in both military and civilian personnel will occur, the rate of reduction will progressively slow down as we move toward our programmed base line force.

It would be a mistake to assume that all problems are behind us. No one can guarantee that the new incentives for an all-volunteer force will suffice to satisfy the need for manpower, without resort to the draft. Some obstacles, such as the possibility of difficulties in the completion of Vietnamization or the emergence of major unforeseen threats to our vital interests, are not fully within our power to control. In short, the manpower reality which is discussed earlier in this report will remain with us.

Despite these problems, present and potential, I am confident that, with the support of the Congress and the American public, our goals are attainable and that we will move further toward their full realization in the coming year.

D. The zero draft and the all-volunteer force

The immediate major manpower challenge is to reduce draft calls to zero and to create a force composed entirely of volunteers. President Nixon first presented this goal to the Congress in his message of April 23, 1970. In accordance with the President's desire that this goal be achieved as soon as it can be done without endangering our national security, I set July 1, 1973 as the target date for ending reliance on the draft. Meeting this target date will be no easy task, but the decline in draft calls from the Vietnam peak of 365,000 men in calendar year 1966 to the calendar year 1971 call of 98,000, the lowest since 1962, is an encouraging indicator. The following table shows draft calls for the last four years.

Calendar year	*Draft calls*
1968	299,000
1969	289,900
1970	163,500
1971	98,000

In CY 1972, which begins with no draft calls during the first three months, the figure will be substantially lower than in CY 1971. This prospect, when coupled with some recent improvement in enlistments and retention rates, could foster the belief that the all-volunteer force objective is within easy reach in the future. Such an optimistic judgment would be premature.

It is true that there were several signs of progress toward an All-Volunteer Force in the past year—among them, these facts:

Seven of 10 enlistees were true volunteers, compared with a ratio of six of 10 a year ago, and five of 10 two years ago.

In the last six months of CY 1971, 25,000 more true volunteers enlisted than in the same period of 1970.

The mental skills of enlistees (sometimes called the quality mix), measured by the results of Armed Forces Qualification tests, were better in 1971 than in 1970. Also 12% more high school graduates enlisted than in 1970.

Combat arms enlistments in the Army increased from a monthly average of 250 in the last half of 1970 to approximately 3,000 in the last half of 1971—an increase of 1,200%.

In January 1972, almost 10,000 soldiers separating from active duty enlisted in Army Guard and Reserve units. This enlistment program for prior service personnel was tried in 1971 at two Army posts and expanded to twenty posts this year.

Encouraging as these facts are, these higher enlistment rates still fall short of those required for termination of the draft.

Low draft calls in the current fiscal year result largely from decreased Army manpower strength during FY 1972. With end-year strength goals substantially below beginning-year strength, the requirement for Army accessions has been greatly reduced and draft calls have consequently declined. About 140,000 soldiers must be released early during the period January–June 1972 to permit the Army to remain within the strength authorized by the Congress. For these reasons and others, we have not yet had a valid test of our ability to achieve and sustain zero draft calls. When a relatively stable manpower environment exists, it will then be much easier to judge the adequacy of pay raises and other actions designed to achieve an all-volunteer force.

We currently anticipate that there will be manpower supply problems in the following areas:

Combat arms enlistees, for whom the authorized and funded combat arms enlistment bonus will be used as needed.

Officers with professional qualifications, such as physicians and lawyers, and enlisted members with special skills.

Guardsmen and Reservists, whose past enlistments have been largely draft motivated and whose end-CY 1971 total strength was almost 45,000 below the FY 1972 mandated average strength. While greatly expanded recruiting efforts are being made, it is possible that such incentives as bonuses may be needed to stimulate enlistment and re-enlistment in the Guard and Reserves.

1. Enlisted Accessions

The Services will require 630,000 new enlisted accessions in FY 1973, 515,000 for the active forces and 115,000 for the Reserves. This requirement represents about one-half of the males qualified for military service who will reach age 19 during the year. Two countervailing factors will influence voluntary accessions. First, diminishing draft calls and the prospect of the end of the draft will tend to lower the enlistment of men who volunteer in preference to being drafted. On the other hand, the recently enacted pay increases and Project Volunteer incentives can be expected to raise the number of true volunteers. We cannot predict with any accuracy how these two factors will interact, but can probably expect peaks and valleys in our accessions.

During the past year, major emphasis has been given to strengthening our recruiting capability. Both the number of recruiters and recruiting stations have been increased. Recruiting offices have been refurbished and recruiting advertising has been increased. Special duty assignment pay of $50 per month has been authorized for recruiters. The training of recruiting personnel has been improved. The Congress provided additional assistance when it authorized payment of necessary out-of-pocket expenses which recruiters incur while doing their job.

2. Officer Accessions

Another area of interest associated with transition to an all-volunteer force is the status of officer accessions. Although the ROTC program which is the largest single source of newly-commissioned officers, experienced a drop in enrollment for the fifth straight year, there is a growing optimism over the program. Modest increases in enrollments are expected next year. Enrollment in the Platoon Leaders Class (PLC), the most important source of officer procurement for the Marine Corps, has been below the level needed to meet projected requirements. Recent beginning enrollment experience in both programs is shown in this table:

	ROTC enrollments	PLC enrollments
Academic year:		
1968–69	218,466	2,921
1969–70	161,507	2,255
1970–71	114,950	2,325
1971–72	87,807	2,427

The two primary causes of these shortfalls have been a continuing trend from compulsory to elective ROTC, and lessening pressure from the draft.

Two developments should help to overcome this problem, although they may not provide a final solution. First, recent legislation increased the number of ROTC scholarships, raised the subsistence payments to ROTC students, and authorized subsistence payments to PLC cadets. This legislation should make these programs more attractive to the college student. Second, officer requirements have decreased, particularly in the Army, which has experienced the greatest drop in enrollment. As a result, the Army will be able to assign about 7,000 of its newly commissioned ROTC graduates to fill officer requirements in the Reserves in FY 1973.

A final aspect of officer procurement in a zero-draft environment is the problem of meeting the Services' requirements for lawyers and physicians.

Despite our best efforts, the Department of Defense has been unable to attract and retain the number of well-qualified career military lawyers needed to meet minimum requirements. The Department of Defense has sponsored legislation designed to provide financial incentives needed to attract and retain quality military lawyers. This legislation was enacted by the House of Representatives in July 1971, and is currently pending action in the Senate.

During CY 1971 the Selective Service System was requested to call 1,608 physicians under the doctor draft for entry on active duty during the first seven months of FY 1972. Primarily because of the doctor draft call, CY 1971 Berry Plan participation improved over that of CY 1970. It is anticipated however, that the CY 1972 Berry Plan participation will again decline significantly because of the approaching expiration date of the current draft law and overall reductions in the total strength of the active forces.

To meet the critical need of the military services for medical personnel, I again recommend increasing support of medical school students through medical scholarships. Under this proposal, the Department of Defense would, in effect, exchange subsidy of the individual's education in medical school for a specified period of military service. The House passed our medical scholarship proposal on November 3, 1971, and it is now pending in the Senate. While we hope to retain many physicians and dentists for continued military service beyond their initial obligations, many of these personnel will not remain in military service indefinitely. However, those who do not choose a military career will, after their period of obligated service, help to reduce the nationwide shortage of medical personnel.

Before leaving the subject of the zero draft and the all-volunteer force, I must again bring to your attention the incontrovertible fact that pay and improved management of people alone will not achieve this goal. The support of the public, particularly as reflected in the attitude of the American people toward their Armed Services, is vital to the success of the program. We cannot expect to recruit or maintain a high-quality volunteer force with good morale and discipline if a significant segment of our citizenry looks on the Armed Services with scorn. I ask the members of the Congress to join us in taking the lead in manifesting respect and support for the Armed Services—an essential step toward the all-volunteer force.

E. Manning and training the reserve forces under the total force concept

One of the major challenges in moving to an all-volunteer force and implementing the Total Force Concept is maintaining the strength of the Reserves and Guard. It is especially critical that the strength of these forces be maintained because, under the President's policy, the Reserve and Guard will be the initial and primary sources for augmentation of the active forces in any future emergency.

Our experience during the past year, with the three-month draft interruption in the summer and low draft calls during the final months of 1971, indicates that it will be difficult to meet Guard and Reserve strength requirements as draft calls decline toward zero. The long and long-standing waiting lists of draft vulnerable applicants for Guard and Reserve membership have disappeared in most Reserve Component units, and actual strengths have dropped below statutory minimums.

The solution which we propose for these manning problems is to couple a vigorous and aggressive recruiting effort with a program of visible incentives which will make Guard/Reserve service an attractive avocation. We are not underestimating the incentive value of genuine missions and good equipment, and, indeed, we have evidence that these are effective motivators in some cases. One Army National Guard unit in Kentucky, for example, which had suffered significant losses of its experienced noncommissioned officers found these same people returning, and skilled prior service personnel applying, for membership after the unit received its complement of M–60 tanks and obtained a site where these new tanks could be used to develop combat readiness.

We are also confident that the incentives already enacted as part of the Military Selective Service Act (P.L. 92–129) will provide a measure of motivation for non-prior service people to enlist in the Guard and Reserve. Raising from $19 to $43 a month the supplemental income that a man receives upon his return from initial active duty training is a good selling point for our recruiters, particularly among low-income groups. This should be of special assistance in recruiting among minorities where we need to increase representation in the Guard and Reserve program.

Another provision of this same act permits, for the first time, payment of quarters allowance to young Guardsmen and Reservists with dependents during their initial four to six months active duty training. While this assistance does not compensate for the loss of civilian income or interruption of education involved, it does make it more nearly possible for the young married man to make ends meet during this critical post-enlistment period.

We are also pursuing new initiatives in the recruiting of prior service personnel. The Army has tested and is now implementing fully a program which allows early release from active duty for persons joining units of the Guard and Reserve. The test program was highly successful. As of October 29, 1971, some 31 percent of the separating servicemen interviewed had committed themselves to service with Selected Reserve units and, among these, some 46 percent of the black personnel made Reserve commitments. We have asked the Navy and Air Force to examine the advantages of a similar approach as an aid to meeting Guard and Reserve strength requirements.

Another approach we are stressing is the direct procurement of non-commissioned and petty officers in the Guard and Reserve. This administrative procedure permits the enlistment of individuals, whose civilian acquired skills are compatible with military skill requirements, at a pay grade higher than would normally be allowed.

Although recruiting efforts have been intensified and some favorable results have been obtained by using incentives now available, the results have not been sufficient to meet requirements. We are proceeding with the development of additional incentives which can be used as tools for recruiting and retention.

Moreover, we have included in the FY 1973 Budget funds to strengthen both local and national recruiting efforts by providing recruiting materials, offsetting the out-of-pocket expense of the people involved, and providing training which will enhance the ability of key people to perform their recruiting task.

Many of the incentive proposals we have selected as promising the greatest help for Guard and Reserve manning have been introduced in one form or another by members of the Congress. For the items which require legislative action we are in the process of getting our legislative proposals, as well as reports on legislation which has been submitted to us for comment, to the appropriate committees of the Congress. As one example, we have supported a bill to provide equity for Guardsmen and Reservists in the area of medical, dental and death benefits.

Among the other significant incentives being considered are:

A proposal to establish a variable enlistment and selective re-enlistment bonus, which would assist the Services not only to acquire the total numbers of people needed, but also to meet critical shortages in particular skills or geographic areas. These bonuses should encourage long-term enlistments and re-enlistments, and thereby improve readiness levels and enhance the stability of the Guard/Reserve portion of the Total Force.

A proposal to extend Serviceman's Group Life Insurance (SGLI) coverage to Guardsmen and Reservists on a full-time basis, and those who have completed the required service but not attained the minimum age for retirement, so that their families will have a measure of protection in case they die before drawing retirement pay.

A proposal to allow Guardsmen and Reservists with 25 years of creditable service to retire at age 55 rather than at age 60 (this is comparable to retirement at age 60 with 20 years creditable service, which is now permitted).

A proposal to allow persons who have completed all requirements for retired pay, except reaching the minimum age, to elect at age 50 either a lump sum payment in lieu of further claims or a reduced annuity on an actuarially sound basis.

Our intent is to design a program which can be implemented on a phased basis, so that we can evaluate each incentive or other action before adding the next in order to determine relative effectiveness of each item as an aid to recruiting and retention. The pay raise is now in effect. Recruiting effort is being intensified within existing funds. As soon as sufficient experience has been gained with these ongoing programs, we shall be in a position to determine the required scope of follow-on programs such as the variable re-enlistment bonus. Evaluation of such a next step would provide a basis for proposing an enlistment bonus if this were needed as a supplemental incentive. Other portions of the program would be designed to be applied at appropriate times as implementation of the program proceeds.

We are concerned with the early indications of shortfalls in strength of the Selected Reserves of the Guard and Reserve Components (45,000 below statutory strength minimums at the end of Calendar Year 1971, as shown on the following table).

GUARD/RESERVE STRENGTH TRENDS FISCAL YEAR 1972

	ARNG	USAR	USNR	USMCR	ANG	USAFR
Mandated strength	400,000	260,000	129,000	45,849	88,191	49,634
June	402,175	263,299	130,041	47,006	85,689	50,788
July	389,324	264,332	127,558	46,614	85,750	49,453
August	394,790	261,215	125,372	45,852	85,594	48,587
September	391,178	258,694	122,696	44,880	85,705	48,224
October	387,795	254,934	120,685	43,536	86,277	47,568
November	383,711	251,872	119,645	42,401	87,052	47,354
December	380,742	[1] 249,351	120,976	42,364	87,215	[1] 47,196
Shortfall [2]	−19,258	−10,649	−8,024	−3,485	−976	−2,438
Percent shortfall	−4.8	−4.09	−6.22	−7.6	−1.1	−4.9

[1] Tentative data.

[2] Total DOD shortfall −44,722.

If this trend is not halted by higher pay and accelerated recruiting, then it will become necessary either to request authority for bonuses to stimulate Guard and Reserve enlistments or, as a last resort, to develop legislation which will allow us to draft people into the Selected Reserves.

We are hopeful that the impact of the November and January pay increases, coupled with intensive recruiting and retention efforts in all the Reserve Components, will produce a reversal of the current strength trend. However, if the shortfalls continue, we must initiate action in the April-June period of this year to present legislation to the Congress for authorization to use bonuses. At the same time, we would have to initiate the necessary reprogramming and supplemental funding for FY 1973 to accommodate such a bonus.

The possible use of a draft for the Selected Reserve of the Guard and Reserve may, as noted, become a necessity, but it is not considered such today. I believe that, if the incentives we are developing go forward and are implemented, we can attract adequate men and women volunteers for the National Guard and Reserve. I do not want to press for a draft authorization unless that becomes absolutely essential, and I do not think that it is at this point.

Solving the manning problem is an essential element of our efforts to improve reserve readiness. Equally important, however, are improvements in the training we provide to Reserve and Guard units.

Some units, particularly in the Army National Guard and Army Reserve, are experiencing difficulty in obtaining accessible sites for weekend readiness training. But our mobilization capability is being enhanced by increased participation in realistic mission training and closer association with active force units.

Army National Guard and Army Reserve

During the past year, the Army has initiated a program to provide Reserve Component units access to modern equipment, current doctrine and training facilities through association with Active Army units. The Reserve Component unit will still need its full complement of combat serviceable equipment, but the Reserve/Active association will permit personnel to become familiar with newer and more up-to-date types of equipment that are not yet available to the Reserve Component unit.

The Active Army also benefits by receiving maintenance support and services from Reserve Component units which would not otherwise be available. An example of this advantage is provided by three National Guard Transportation Aircraft Repair Shops (TARS) which perform maintenance on Army aircraft on a full-time basis, using technicians and other National Guard personnel. These shops repair and rebuild aircraft for both the Active Army and the Reserve Components, but receive their workload through Active Army channels. A high proportion of aircraft returning from overseas is rebuilt at these facilities.

Another interesting approach is to integrate the Reserve Component unit with the Active unit. The practical application of this concept was implemented last year when three Army Guard tank and two Army Guard mechanized battalions were associated closely during their annual training with the 1st and 2nd Armored Divisions at Fort Hood, Texas. The experiment appears to have worked satisfactorily.

This past summer the arrangement not only was repeated, but it was also expanded by having the 72nd Mechanized Infantry Brigade (Texas) train concurrently with the experimental 1st Cavalry (TRI-CAP).

In addition to these efforts, we are also pursuing more limited forms of association. Units which have achieved company level readiness in Army training tests may participate in Active Army exercises in order to measure their capabilities against those of active units. Moreover, the Continental Army Command has implemented a program in which company-size Reserve Component units conduct training with Army units at nearby active installations. The Army Materiel Command is pursuing a similar program for Reserve Component combat service support units.

We are looking at other approaches to Reserve training. In May of last year, we directed that a comprehensive review of Reserve Component missions, programs, and manpower levels be made. A joint Service study group completed the review on July 15, 1971. For the Army, thirty-three concepts were identified which showed promise as means of improving Army Reserve Component readiness and Total Force capability. The Army is in the process of developing the program, schedule, and related cost data for the concepts to be tested and evaluated.

Naval Reserve and Marine Corps Reserve

During the year, the Naval Reserve attack air squadrons completed their reorganization into two combat-oriented Reserve Air Wings. This past summer these units deployed as full wings aboard Active Navy aircraft carriers, logging more than 1,700 jet landings without accident and attaining, for the first time, measurable levels of combat readiness attested by operational readiness inspections.

Naval Air Reserve anti-submarine warfare units also were reorganized into two ASW groups and 12 fleet-sized patrol squadrons. The ASW carrier groups, like the attack wings, conducted extensive operations during the summer, logging more than 2,000 carrier landings and receiving a fleet evaluation of "Excellent."

Members of the patrol squadrons received both training and operational experience as a result of participation in Active Navy operations. One squadron deployed to Okinawa for two weeks in support of Western Pacific commitments. Others rotated crews to Rota, Spain, throughout the summer to furnish support for 6th Fleet surveillance efforts while accomplishing their two-week active duty for training.

Also working with naval forces in the Mediterranean was the Naval Reserve destroyer USS Gearing (DD710), manned on a rotating basis by Reserve crews airlifted from the United States for two-week tours to augment its full-time nucleus crew.

As a result of testing of new mission concepts for the Naval Reserve, the Navy activated the first Naval Reserve Coastal/Riverine unit at Little Creek, Virginia.

The Marine Corps continued to integrate the 4th Marine Division and 4th Marine Aircraft Wing into Active Marine Corps training exercises to maintain the force at mobilization readiness training standards. The routine exercising of USMCR units of battalion, regimental and larger size in close coordination with Active Marine Corps units assures the availability of forces which can be deployed in accord with mobilization plans.

Air National Guard and Air Forces Reserve

Tactical fighter, reconnaissance and airlift units of the ANG participated in seven joint exercises with active units of the Armed Forces. Two of these exercises were in Europe, two in Alaska, one in Panama, and the remainder within the contiguous United States. Air Force Reserve tactical airlift and special operations units also took part in numerous exercises supporting Army and Air Force requirements.

The ANG continued its active role as a part of the integrated air defense system, providing some 57% of the total interceptor units within Aerospace Defense Command and intercept force in Hawaii. Where the ANG units are located on the same base with Air Force air defense units, as are those at Bangor, Maine and Spokane, Washington, operations are integrated to insure maximum capability for both USAF and ANG units.

ANG units assigned military airlift missions continued to supplement MAC capability as a by-product of training. The Air Force Reserve has formed its 13th and last C–141 associate unit. Further plans for expansion of this productive and economical program call for four C–5 associate units in Fiscal Year 1974.

In addition to participation in Active Forces exercises and continuing operations, the ANG and USAFR provide aircrew training for themselves and the Active Air Force. The USAFR Combat Crew Training Center at Ellington AFB, Texas, trains C–130 crews, and ANG units at Tucson, Arizona and McConnell AFB, Kansas, provide combat crew training for F–100 and F–105 Air Reserve Force aircrews. In addition, the ANG unit at Ellington AFB provides advanced interceptor training in F–101s and F–102s.

These training initiatives not only produce measurable improvements in readiness, but also enable all elements of the active and reserve forces to test and apply new concepts of training and organization which promise greater progress and more productivity in development of Total Force capability.

Closely related to the training problem is the need to improve the means of supporting and maintaining the modern equipment that the Reserve Components are receiving. Increases in the number and complexity of major equipment items create a critical requirement for full time personnel to make the equipment a readiness asset rather than a storage liability. Congressional action to increase the ceilings on National Guard technicians has alleviated a major problem in this regard. We are also taking steps to insure that the other Reserve Components have sufficient technicians to provide the essential full-time backbone of the mobilization force.

Another requirement related to equipment is the availability of adequate facilities. Not only must we provide secure areas for the storage and maintenance of equipment but we must also help our units to locate sites where this equipment can be put into action in live training through-out the year. We are carefully reviewing all previously approved and proposed construction programs to assure that available funds are being applied to properties used for Guard and Reserve training and to insure the continued availability of such properties.

Reserve Forces Policy Board

The Reserve Forces Policy Board has prepared a Report to the Congress, as required by Title 10, Section 133.1c of the United States Code. This report has been provided separately to the Committee for inclusion in the Record at whatever point the Committee desires. As I expressed to the Chairman of this Committee in my letter of November 13, 1971, my written report covering the expenditures, work and accomplishment of the Department of Defense, together with the personal reports by me and the senior officers of the Department of Defense are deemed to satisfy requirements established for the Secretary of Defense and the Secretaries of the Military Departments by that same section of the code.

Summary

The progress made in 1971 and planned for 1972 and 1973 by no means brings us to full attainment of the Total Force objective as far as the National Guard and Reserve are concerned. The units of the Selected Reserve will require continuing priority attention in order to improve their readiness and reduce post-mobilization deployment times as they take on additional responsibilities.

A number of studies and analyses have been conducted during the past year. All of them will be used, along with our continuing analysis of readiness and capability, as a basis for determining the future force mix between the Active Services and the Reserve Components and for insuring the availability of the support required for the Guard and Reserve to perform their assigned portion of the total national security mission.

F. Improvement of military life and achieving human goals

To maintain the effectiveness of a force reduced in numbers, life as a member of the Department of Defense team must be made as attractive as possible without sacrificing good order and discipline. Many policies and programs to achieve this goal are also logical steps toward an all-volunteer force. Most of them, however, are simply matters of fairness and equity toward the men and women, both military and civilian, who serve the nation faithfully.

We must continue to view some of our self-perpetuating practices with critical eyes. For example, Kitchen Police (KP) duty and janitorial duties contribute little to the individual's military skills: the time spent on these tasks could better be devoted to training and other primary duties. The Services have started contracting these services to civilian organizations to release military personnel for military duties. We intend to continue efforts in this area to obtain better utilization of personnel in their military skills and to improve morale.

I continue to believe that adequate housing for both married and single personnel is a morale factor of prime importance, and this conviction is reflected in this Administration's budget submissions. While the FY 1969 budget contained a request for the construction of only 2,000 new units of family housing, the numbers requested have increased significantly to 9,684 in FY 1972 and 12,181 in FY 1973.

Good progress is also being made in developing housing for lower income military families under the provisions of the National Housing Act. In cooperation with HUD, community housing subsidized by FHA is being made available to these families on a preferential basis. The FY 1971 program provided 4,300 units in 14 locations, and 5,050 additional units in 38 locations are included in the FY 1972 program. Further housing gains from this source are expected during FY 1973.

We are also moving toward the goal of offering adequate quarters to all of the single military personnel who live in barracks and bachelor officer quarters. From FY 1969 through FY 1972, over 100,000 new and replacement barracks spaces and more than 9,000 bachelor officer quarters spaces will have been provided. The FY 1973 program calls for construction of about 34,600 barracks spaces and approximately 900 bachelor officer quarters spaces. In December, we concluded an agreement with the Federal Republic of Germany under which the barracks our soldiers occupy in Germany will be extensively renovated. We are improving existing barracks with emphasis on semi-privacy and enough furnishings to provide decent accommodations and meet ordinary, but not fancy, living standards.

We are continuing to improve the opportunities for service personnel to develop intellectually and gain civilian qualifications or marketable skills.

We have emphasized strengthening and broadening of existing Service programs to bring a full range of educational opportunities to the serviceman at his job site wherever it may be. We have placed special emphasis on high school completion and career or vocational opportunities. Two recent acts of Congress have been highly beneficial. Public Law 91–219, the Predischarge Education Program, provides additional benefits for servicemen who desire to complete high school or to take special courses to continue their education or training. Public Law 91–584 makes Veteran's Educational benefits available to servicemen after six months, rather than two years, of active duty. An Administration bill introduced in the last session of Congress would allow further expansion of in-Service education by providing higher education benefits.

Support for the DOD Overseas Dependents Schools is especially important to the morale of military families. The Department of Defense is continuing its efforts to provide quality educational programs for approximately 155,000 students enrolled in these schools and other 18,000 enrolled in tuition-free schools. The funding level planned for Fiscal Year 1973 will permit dependents schools to operate at an average pupil-teacher ratio of about 25:1 for kindergarten and elementary schools and 22:1 for secondary schools. These ratios are comparable to those of school systems of similar size in the United States. The North Central Association of Colleges and Secondary Schools (NCA) has indicated that, in general, the quality of education, the level of teaching and the general support of these schools compare favorably with the best schools in the United States.

Last year the Department took action to increase the scope of legal services available to military personnel and their dependents who are unable to pay civilian legal fees. Under a limited pilot test program, military attorneys in cooperation with state and local bar associations and judiciary have provided free professional legal services, including representation in civilian courts, to eligible personnel. Although the test program will not be completed and evaluated until mid-1972, the reaction to the program by both the civilian and military communities has been most encouraging. The final evaluation of the program and the determination whether it can be applied service-wide will in large measure depend upon the availability of sufficient military lawyers and funds. If the program proves to be feasible, it will be another step in the improvement of military life.

Several major programs in support of one of the Department's Human Goals which have been reaching larger numbers of people in and outside the Defense Department each year will continue in fiscal year 1973. Project Transition, furnishing predischarge counseling, educational services, vocational training and job assistance to service personnel, is one. Since 1969 approximately one million personnel have received vocational counseling, and 175,000 have received vocational training under this program.

During fiscal years 1972 and 1973, in compliance with the President's six-point program for veterans announced in June 1971, we are extending Transition services to include Southeast Asia, the Far East and Europe and expanding services in the United States. Other new programs include vocational counseling and training in the drug control program and special skill training for 12,000 servicemen whose experience has been limited to combat-type jobs.

A similar endeavor is the Referral Program, established in August 1970, to assist career personnel who are retiring in locating potential jobs.

The Department has continued to encourage the involvement of local installation commanders with their surrounding communities. The degree of success can be told in these figures describing the numbers of young people who were provided recreational, educational and training activities on military bases throughout the United States.

1969	250,000
1970	775,000
1971	2,700,000

The Department of Defense has taken a leading role among Federal agencies in the employment of the disadvantaged. For example, the Department has exceeded its quota for summer youth employment in each of the past three years, and has also operated special programs for the employment of Indian youths and Neighborhood Youth Corps enrollees.

G. Special problems—Race relations and drug abuse

Two special problem areas were mentioned in my report last year—race relations and drug abuse. In both, progress has been made.

1. Race Relations and Equal Opportunity

As we continue to translate the principle of equal opportunity established by the Department's Human Goals Statement into programs designed to increase the quality of military life, we have relied heavily upon methodologies designed to improve communications while yielding visible, measurable progress.

During the past year, the Military Departments and Defense Agencies initiated important new policies, including the setting of the numerical goals and timetables for minority employment. To invigorate managerial interest and compliance with the Equal Opportunity Program, each military and civilian manager's performance rating now includes an assessment of his effectiveness in this crucial area. We have also undertaken a detailed review of our Equal Opportunity grievance system.

The tangible results of these and earlier policies can be judged by advancements made by minority group members within the Department of Defense. These advancements are especially noteworthy because they occurred during a period when the total manpower strength was declining.

On the civilian side, since November 30, 1969, the numbers of minority group members in senior management positions (GS–13–15) has risen as follows: Blacks by 9.2 percent, from 977 to 1,067; Spanish-surnamed personnel by 15.6 percent, from 262 to 303; and Orientals by 6.2 percent, from 451 to 479. In the military services, the number of individuals of minority groups holding the top enlisted grades has shown a steady increase. Programs have been developed to increase the number in hard-skill job fields. In the officer corps of the Services, six of the officers selected for general or flag rank were from minority groups, and we continue to increase the input of junior officers from minority groups through intensified recruiting. Seven predominantly black colleges have been added to the Reserve Officer Training Corps program, bringing the number of such schools participating in the program to 26. At the Service Academies, current minority enrollment total is 463; the 185 in the entering classes alone exceed the number of minority graduates during the preceding decade.

Progress in securing the right of all military personnel to available off-base housing has continued. During the past year the program was extended to overseas areas. In the United States, as of December 1971, 98 percent of over 36,000 multi-unit rental facilities surveyed are pledged to a policy of nondiscrimination. During the past two years black military occupancy of these facilities has increased by nearly 50 percent.

Despite our efforts in the Equal Opportunity Program and growing understanding on the part of the most members of the Department of Defense of the gravity of the problem of race relations, we continue to experience a level of disharmony which has the potential for impairing our overall mission. In addition to renewed command emphasis, we are making new efforts to improve communications and understanding among the members of the different races through education.

Education in the dynamics of difference is one of the most important steps the Department of Defense has undertaken. Most people enter military service with insufficient knowledge of, and appreciation for, the culture, history, experience and sensitivities of persons of other races to enable them to function well in a multi-racial environment. In an effort to bridge the communication gap, on June 24, 1971, I established the Defense Race Relations Institute (DRRI). Located at Patrick Air Force Base, Florida, the DRRI graduated its pilot class on December 10, 1971. Students are drawn from the officer and enlisted ranks of the Services; upon completion of the seven-week course they are returned to their units as race relations instructors.

The Services have introduced ethnic literature, music, foods and cosmetics at commissary and exchange facilities. Sales in excess of $4,000,000 since the inception of this new program in 1970 indicate an increased sensitivity on the part of the Services to the minority serviceman's desires and needs.

The Department has continued to enforce equal opportunity requirements among Defense contractors. During 1971 under DOD compliance review total minority employment rose in the nation's five largest textile firms from 21,031 to 31,182, an increase of 48 percent between 1968 and 1971. During the same period minority employment gains were achieved by six major DOD aerospace contractors despite a 29 percent decline in their work forces. These gains include those of the McDonnell Douglas Affirmative Action Program, which has demonstrated good results during the past two years. Our minority employment objectives have also been attained in most DOD construction projects.

2. Drug Abuse and Related Problems

In dealing with the problems of drug abuse, including the improper use of alcohol, in the armed forces, we remain committed to providing to the serviceman a total program, which emphasizes prevention through education, as well as treatment, and rehabilitation of identified drug users.

We now have comprehensive programs in each service to educate their members in the dangers of drug and alcohol abuse. The amnesty program, now called the exemption program, is no longer on a trial basis, but was implemented service-wide in early July 1971.

The hard drug problem is still centered primarily in Southeast Asia. Consequently, we directed on June 17, 1971, that operational plans be placed into effect to increase our control efforts in this area. These included:

Testing of servicemen departing Vietnam to identify those who are using, or dependent upon, drugs.

Detoxification treatment for service members so identified prior to their return to the United States.

Opportunity for a minimum of thirty days of treatment in military facilities in the United States for service members whose terms of service are expiring and who need and desire treatment when Veterans Administration or civilian programs are not available.

Opportunity for treatment and rehabilitation for service members with time remaining in service. When extensive treatment is indicated, they will be phased into Veterans Administration programs as such become available.

Testing for presence of drugs for all returnees from Vietnam was in effect by June 21, 1971. Detoxification centers were established in Vietnam, and rehabilitation facilities were set up there and in the United States. Since the initiation of these renewed efforts, the programs have been expanded to test and identify personnel for drug abuse on a worldwide basis.

As a result of our intensive efforts in Vietnam to control drug abuse, we can state we have succeeded in reversing a heroin epidemic within a year of its beginning to be a major problem. This has been shown dramatically by the reduction in the number of drug abusers detected at time of departure from Vietnam. From a high of 4.0% of returnees in August, this figure has dropped to 2.5% in December 1971. Other usage indicators in Vietnam such as deaths attributed to drug abuse and apprehensions for drug abuse are also down.

We believe these encouraging trends are due to:

Improved educational efforts which have removed the myths and glamour from drug abuse. We have emphasized the presentation of facts to allow for intelligent decisions on the part of those for whom drug abuse may be a temptation.

Identification procedures including random unannounced testing of units and individuals. This has assisted our commanders by giving them knowledge of the true status of drug abuse in their units, highlighting areas where the problem is the greatest, providing treatment for those identified as abusers, and acting as a deterrent for potential experimenters.

The initiation of comprehensive rehabilitation programs in Vietnam for those who turn themselves in under the exemption program and those who desire treatment after being identified as a user through the urinalysis testing.

This combination of education, detection and treatment in Vietnam has reduced significantly the numbers of servicemen returning to the United States with a drug habit and has greatly improved the chances that those involved with drugs will be able to enjoy a useful, drug-free life when they do return.

In connection with our emphasis on drug abuse in the military we have been increasing our emphasis in the area of alcohol control. The Department of Defense recognizes that in some respects alcoholism is even more formidable than narcotics abuse because of its insidious nature, the difficulty in early recognition and evaluation, and the universality of alcohol use. For these reasons, and the fact that consumption of alcohol is legal, the solutions are even more difficult. However, the services have made progress in educating personnel, altering attitudes and gaining treatment and rehabilitation experience through pilot rehabilitation programs and will continue to focus on this very serious problem.

H. Manpower stabilization

The Department of Defense manpower reductions that have occurred under this Administration are of a magnitude topped only by the massive demobilizations following the two world wars. Table 4 displays past and planned manpower strengths for active duty and reserve military personnel and direct-hire civilians.

Reduction in strength of this pace and magnitude have created hardships for many members of the Department of Defense. While the personal hardship and turbulence for many of our military personnel has been real, it has been possible in the aggregate to manage the great bulk of military strength reductions through lower accessions and voluntary early releases of officers and men before their normal separation dates.

However, while it has been possible to hold down accessions of civilian employees, there has not been a widespread desire to leave government service. A "Stability of Employment" program to minimize involuntary separations was therefore established early in the period of drawndown. Under this program employment freezes have been used to retain vacancies for personnel who would otherwise be released. The skills of employees facing release are matched with vacancies throughout the Department of Defense, and the employees are given priority right to vacancies through a computerized placement system. This system has worked well, placing more than 45 percent of the employees who would otherwise have been released. As civilian manning levels stabilize, we hope that normal attrition will cover future civilian reductions.

I have often said that people are our most precious asset. The manpower policies of the Department of Defense will continue to be formulated and carried out with this basic fact always in mind.

RELATIONSHIP BETWEEN DEFENSE AND THE ECONOMY

Mr. YOUNG. Mr. President, as we consider the fiscal year 1973 budget I am certain that all Senators will frequently be concerned with the effect of the budget on the economy. This is why I would call attention to that portion of Secretary Laird's statement in support of the fiscal year 1973 defense budget, presented to the Armed Services Committee today, which deals with the relationship between defense and the economy. I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The requirements of defense—in terms of manpower, weapons procurement, and the industrial base—are spelled out in great detail. Defense budget trends are reviewed. Secretary Laird gives a clear explanation of the impact of pay, modernization, and manpower.

I commend him for a lucid presentation of extremely complex material. Also, I invite the attention of Senators to his review of the change in priorities in the defense budget. Because of this change in priorities, an adequate defense effort imposes a smaller economic burden upon the American taxpayer than at any time in more than 20 years.

This defense budget supports the concept of realistic deterrence. Mr. President, in my view it is also a most realistic budget.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

III. DEFENSE AND THE ECONOMY

Defense programs in real terms—manpower, weapons procurement, the industrial base—continue their sharp decline through FY 1972. These trends are checked, and in some important respects reversed, with the FY 1973 Budget. This budget includes essential increments to modernize our forces and to stem the long-run growth in manpower costs at the expense of investment. Manpower costs do, in fact, increase substantially from FY 1972 to FY 1973. However, for the first time in many years our appropriation requests for investment increase by an even greater amount than for manpower, and there is good reason to hope that the bulk of the manpower cost increase is now behind us. In addition, the President's Economic Program is slowing the rate of purchase inflation—another factor which had eroded investment capabilities. These developments are of key significance in appraising the FY 1973 Budget, which lays the groundwork for a significant advance in modernizing our weapons.

A. Impact of pay and price increases

To understand recent Defense budget trends, it is necessary to have an appreciation of the impact of pay and price increases—especially the former—upon defense spending. These can best be illustrated by using rates of pay for specific grades (bearing in mind that military basic pay and civilian salaries are not comparable) as follows:

Monthly rates of pay	Basic pay			
	E–1 recruit less than 1 year of service [1]	E–5 (sergeant) 4 to 6 years of service	Colonel or Navy captain, over 26 years of service	Salary—Civil servant GS–11 step 4
July 1963 (beginning of fiscal year 1964 last prewar year)	$78.00	$205.00	$985.00	$736.50
January 1972	288.00	429.30	1,933.20	1,220.08
January 1973 (after pay raises assumed in fiscal year 1973 budge.)	332.10	467.40	2,057.40	1,279.86
Percent pay increase July 1963 to January 1973	325.8	128.0	108.9	73.8

[1] July 1973 rate shown is for a recruit with less than 4 months service, a pay step that no longer exists. In July 1963, a recruit with over 4 months service received $83.20 per month. Most recruits have less than 4 months service.

To pay a given number of sergeants, for example, it will cost us 128.0% more in January 1973 than it did in July 1963—without adding or promoting a man. On a weighted overall basis for the fiscal years as a whole—recognizing that the pay raises were in effect for parts of fiscal years, and varied among grades—pay increases may be summarized as follows:

For military personnel, a 124.8% increase in basic pay from FY 1964 to FY 1973.

For civilian salaries in the classified service, a 64.5% increase from FY 1964 to FY 1973; overall, considering wage boards, civilian pay is up nearly 70%.

In addition to this, there have been increases in some military allowances, and military retired pay has quadrupled—from $1.2 billion in FY 1964 to $4.9 billion in FY 1973 due to increases in both the rate paid and the number of retirees.

The results are summarized in Table 5. The top part of that table shows a breakdown of our budget in current dollars—that is, not adjusted for pay and price increases. This is the amount actually spent or planned to be spent. As the table shows, pay and related costs amounted to $22 billion in FY 1964, and rise to $42.8 billion in FY 1973—nearly doubling. All other costs rise by $4.9 billion.

The bottom part of the table shows the picture as it would appear if FY 1973 pay rates and price levels had been in effect throughout. For example, the $22 billion in pay and related costs in FY 1964 would have cost $44.7 billion had FY 1973 levels of pay and allowances been in effect in the earlier year. Purchase costs, to buy the same things as were bought in FY 1964, would have been $38.4 billion (33.5% more) at FY 1973 price levels.

Overall, the program that cost $50.8 billion in FY 1964 would have cost at FY 1973 pay and price levels, $83.1 billion—an increase of $32.3 billion without adding or promoting a man, and without buying a single additional item.

These inflationary factors have been so massive that they completely mask what has been occurring in defense programs. For example:

Payroll and related costs *increase* by $20.8 billion—nearly doubling—from FY 1964 to FY 1973, while military and civil service manpower *drops* by 326,000.

From FY 1968 to FY 1973, military and civil service manpower *drops* by 1,440,000, or 30%; meanwhile, pay and related costs *rise* by $10.2 billion or 31%.

Purchases of goods and services from industry, not adjusted for inflation, dropped from $45.4 billion in FY 1968 to $33.7 billion in FY 1973—a drop of 26%. Allowing for inflation, the drop is 39% from FY 1968 and 12% from prewar FY 1964.

Defense-related employment in industry is 1,316,000 (41%) below the 1968 level and 423,000 (19%) below the prewar 1964 level.

The defense budget as a whole, in constant dollars, is down about 30% from the wartime (FY 1968) peak, and is about 8% below the prewar (FY 1964) level. Defense manpower (military, civil service, and industry) is down nearly 2.8 million (34%) from the FY 1968 level, and is 12% below the prewar (FY 1964) level. In fact, Defense manpower is at lower levels than at any time since before the Korean War.

These facts are certainly not clear if one considers only spending levels measured in current dollars. In these terms, defense spending is about 50% above prewar levels, and indeed has dropped only about 2% from the peak wartime spending levels of FY 1968 and FY 1969. As I have indicated, the major reason for the mismatch between stated defense budget levels on the one hand and real manpower/program trends on the other is manpower cost increases, with purchase inflation playing a smaller role. Before leaving this area, I believe it is important to dwell for a moment upon the reasons for manpower cost increases, and to consider implications for the future. The sharp pay raises of recent years have arisen from four major factors:

The comparability pay (government with industry) principle, embodied in law in 1967, caused unusually large pay raises during this period to achieve a one-time "catch-up."

Meanwhile, pay raises in industry over this period were themselves very high and government raises, geared to these, were thus further accelerated.

FY 1964 pay rates were disproportionately low for the lower military pay grades, the result of a policy followed for many years before 1964, when there were no pay increases at all in those grades. It was not only necessary to abandon this policy during this period under consideration here, but to add large additional amounts ($3.1 billion for FY 1973) to move toward a volunteer force.

The retired population grew from 411,000 in FY 1964 to an estimated 937,000 in FY 1973, related to the surge in the military forces during the 1940's, and costs were affected as well by the requirement that new retirees be retired at a proportion of the much higher pay rates, and the statutory requirement that retired pay rates be adjusted for increases in the CPI.

In short, a great many long-standing bills became due during this period, and our manpower cost trends reflect a huge element of one-time catching up. Looking ahead, it is reasonable to expect much more moderate rates of growth in manpower costs. In summary:

Pay comparability with the private sector has been achieved;

The President's economic program should hold future private sector pay increases to much more reasonable levels than those experienced in the recent past;

The inequities regarding personnel in the lower military pay grades have been removed;

A large part of the cost of moving to a volunteer force is paid in the FY 1973 Budget, and the rate of increase in retired pay costs should moderate.

We should be past the point where pay costs consume a growing proportion of the Defense Budget, and we can move instead to directing more resources into the critical investment area.

B. A greater emphasis on modernization

To this point, we have been discussing the Defense Budget in terms of outlays (spending actual checks issued). In these terms, as Table 5 shows, the mix of the Defense Budget has shifted radically toward manpower costs and away from purchases and modernization. As the table shows, pay and related costs rise from about 43 percent of defense spending in FY 1964 to about 56 percent in FY 1973; over that period manpower costs rise by $20.8 billion, nearly doubling, while all other spending rises by $4.9 billion (17 percent). It is important, though, to remember that this FY 1973 spending mix results to a considerable degree from the budget authority provided for FY 1971 and FY 1972, which is materializing as spending in FY 1973. For ships, aircraft, and other long lead-time items, our FY 1973 spending derives largely from budget authority granted one or two years or more ago. For a look ahead, it is necessary to consider the FY 1973 request for budget authority. Data are presented in Table 6.

This table is arranged somewhat differently than the preceding one. It shows budget authority, rather than outlays, to provide a better look ahead. Incremental war costs are shown separately from baseline costs. Pay and other operating costs are merged, to highlight research and investment trends. I will address my remarks to the lower portion of the table, which shows data in constant (FY 1973 Budget) prices.

In total, defense budget authority rose from $82.8 billion in FY 1964 to $107.3 billion in FY 1968, then falls to approximately the pre-war level in FY 1971–73. The critical point, however, involves the mix within these totals. Note that, in FY 1971, budget authority for research and investment was $27.8 billion in total, compared to $33.3 billion pre-war. Within the FY 1971 total, baseline research and investment funding was $25.4 billion—about one-quarter below the pre-war level. Note that this situation improves significantly in FY 1972, with baseline investment rising to $27.8 billion. There is an even greater improvement from FY 1972 to FY 1973, but is not shown in the table since war cost estimates cannot be shown separately at this time. It can be noted, also, that total research and investment funding rises by $2.2 billion at constant prices from FY 1972 to FY 1973, and that the baseline increase is greater than that since there is a further drop in war costs.

In recent years, manpower and other operating costs played an increasingly dominant role in the Defense Budget. We are sharply reversing this trend. For example:

[Budget authority, constant dollar billion]

	Fiscal years—	
	1964-71	1971-73
Manpower and other operating costs	+$7.6	−$5.8
Research and investment	−5.5	+4.2
Total budget authority change, constant prices	+2.1	−1.6

Because of the lead times involved, these changes are not reflected in FY 1973 outlays (spending) which are influenced to a significant extent by the budget authority mix of FY 1972, FY 1971, and earlier years. The shift will be clearer in the spending patterns of FY 1974 and later years. The budget authority figures make it clear, however, that the erosion of research and investment funding has been halted, and that the groundwork has been laid to provide a significantly higher level of resources for modernization.

C. Manpower trends

Defense manpower trends have had a sharp whipsaw effect on the labor force in recent years, contributing a great deal to employment and unemployment trends. This is illustrated in the labor force data in Table 7. Note that the total labor force will grow about 14.2 million from pre-war 1964 to 1973. This is a record growth, the consequence of the Post World War II baby boom. About 6.8 million of this growth occurred from June 1964 (pre-war) to June 1968 (approximately the wartime peak) and about 7.4 million will occur from June 1968 to June 1973.

Now observe defense manpower trends (military, civil service, and U.S. industry) over this time period. From 1964 to 1968, defense manpower rose by just over 2 million. This meant that 4.8 million additional people became available for jobs aside from direct defense work. From 1968 to 1973, however, defense manpower is cut by nearly 2.8 million, and about 10.2 million people have to find non-defense jobs—more than twice as many as the 4.8 million in the 1964–1968 period. This combination of record labor force growth and the whipsaw effect of defense manpower trends is obviously a large part of our current unemployment problem.

The public employment figures present another perspective on the same problem. From 1964 to 1968, public employment increased by 3.2 million. From 1968 to 1973, the growth drops to 562,000, with defense cuts largely offsetting the growth in other public employment. The result is that public employment absorbed nearly half of the labor force growth from 1964 to 1968, but less than 10% of the growth from 1968 to 1973.

Putting public employment and Defense-related industry figures together, the picture is as follows:

[Manpower, thousands]

	June 1964 to June 1968	June 1968 to June 1973	June 1964 to June 1973
Change in public employment (see table 7)	+3,249	+562	+3,811
Change in Defense-related employment in industry	+893	−1,316	−423
Subtotal	+4,142	−754	+3,388
Private sector jobs required, aside from defense industry	+2,665	+8,164	+10,829
Total labor force change	+6,807	+7,410	+14,217

The private sector of the economy must create 8.2 million additional jobs in the period 1968–73, more than 3 times the number required in the 1964–68 period.

For the long run, these trends are constructive and definitely in the right direction. As Table 7 shows, there will be over 10 million more people available for non-Defense work in 1973 than were available in 1968. The entire growth in the labor force (7.4 million) plus a defense job cutback of 2.8 million are available for civilian pursuits. This is a reallocation of resources in the most elemental sense. In the short run, however, such a massive shift has obviously contributed heavily to our unemployment problems.

Table 7 shows that defense manpower will drop by 2,756,000 from June 1968 to June 1973. In particular, the rate of decline next fiscal year is expected to be one-sixth of what it was in the period FY 1969 to FY 1971. This drop occurs as follows:

	Thousands	Average annual rate
From June 1968 to June 1971 (fiscal years 1969–71)	2,168	723
From July to December 1971 (1st half of fiscal year 1972)	243	486
From January to June 1972 (2d half of fiscal year 1972)	222	444
From July 1972 to June 1973 (fiscal year 1973)	123	123
For a total of	2,756	1,776

The job cutback (military, civil service, and industry) will continue at a high rate through FY 1972, as the sharp reductions in budget authority for past years continue to have their effect. In the next few months, assuming favorable action on our FY 1973 requests, the cutback rate should sharply diminish.

D. Priorities

Table 7 makes it plain that a massive shift in priorities has already occurred, and that an adequate defense effort imposes a smaller economic burden upon the nation than at any time for more than 20 years.

While defense spending rises by $25.7 billion from FY 1964 to FY 1973 other Federal spending rises by $107.7 billion—more than 4 times as much, and state and local spending rises even more. The *increases* in non-Defense public spending are the equivalent of nearly *three* complete additional Defense Budgets.

In dollars of constant buying power, Defense spending *drops* by $6.6 billion over this period; other Federal spending rises by $64 billion, and state and local spending by about $70 billion. This means that the entire real increase in public spending, and about $6.6 billion more, is available for civilian programs.

The entire real increase in the gross national product for these 9 years, and $6.6 billion more than that, is available for civilian pursuits.

By the same token, manpower available for civilian pursuits grows by 15 million from 1964 to 1973—the entire labor force growth, plus a 749,000-man defense cutback over the period. This *increase* of 15 million is nearly three times the *total* of Defense manpower in 1973, including Defense-related industry employment.

As the lower portion of the table shows, the Defense shares of GNP, of the Federal Budget, and of net public spending are the lowest since FY 1950—before the Korean War.

It is quite clear that the period of Defense dominance of manpower and public spending trends has passed. When one looks at the *increases* in non-Defense public spending and in manpower available for civilian pursuits—increases which are several times the Defense *totals*—it becomes clear that further Defense cutbacks can add relatively little to non-Defense needs. Consider that net public spending will be approaching $400 billion in FY 1973, with GNP at about $1.2 trillion—up some $200 billion in two years.

Public employment will be over 16 million within a labor force of 90 million. Viewed against these magnitudes, the funds and industry manpower associated with recovering some of the lost ground in the Defense research and investment area are, in relative terms, very small indeed.

TABLE 1.—DEPARTMENT OF DEFENSE, FINANCIAL SUMMARY

[Millions of dollars]

	Fiscal year—			
	1968	1971	1972	1973
SUMMARY BY PROGRAM				
Strategic forces	7,270	7,671	7,582	8,846
General purpose forces	30,381	24,444	25,655	25,500
Intelligence and communications	5,534	5,397	5,559	5,802
Airlift and sealift	1,806	1,376	1,145	1,031
Guard and reserve forces	2,206	2,691	3,466	4,111
Research and development	4,309	5,167	6,166	7,179
Central supply and maintenance	8,380	8,354	8,267	8,326
Training, medical, other general personnel activities	12,184	14,523	15,250	17,012
Administration and associate activities	1,235	1,563	1,649	1,808
Support of other nations	2,364	3,914	3,348	3,562
Total, direct program (TOA)	75,670	75,101	78,089	83,176

	Fiscal year—			
	1968	1971	1972	1973
SUMMARY BY COMPONENT				
Department of the Army	24,987	22,596	22,207	22,131
Department of the Navy	20,788	21,886	23,775	25,197
Department of the Air Force	24,967	23,191	23,565	23,549
Defense agencies/OSD	1,502	1,694	1,772	1,867
Defense-wide	2,751	4,174	4,916	5,466
Civil defense	86	73	78	88
Military assistance program	588	1,487	945	1,347
Military and civilian pay increases and military retirement system reform			830	3,530
Total, direct program (TOA)	75,670	75,101	78,089	83,176

TABLE 1.—DEPARTMENT OF DEFENSE, FINANCIAL SUMMARY—Continued

[Millions of dollars]

	Fiscal year—			
	1968	1971	1972	1973
SUMMARY BY FUNCTIONAL CLASSIFICATION				
Military personnel	19,939	22,625	23,385	24,656
Retired pay	2,093	3,389	3,931	4,860
Operation and maintenance	20,907	20,410	20,872	21,218
Procurement	22,614	17,865	18,884	19,313
Research, development, test and evaluation	7,268	7,189	7,791	8,599
Special foreign currency program		8		
Military construction	1,560	1,330	1,316	2,061
Family housing and homeowners assistant program	613	724	875	1,029
Civil defense	86	73	90	92
Military assistance program	588	1,487	945	1,347
Total, direct program (TOA)	75,670	75,101	78,089	83,176
Financing adjustments	732	−2,214	−945	202
Budget authority (NOA)	76,402	72,887	77,144	83,378
Outlays	78,027	75,545	75,800	76,500

TABLE 2.—DEPARTMENT OF DEFENSE, SUMMARY OF SELECTED ACTIVE MILITARY FORCES

	Actual	Estimated	
	June 30, 1971	June 30, 1972	June 30, 1973
Strategic forces:			
Intercontinental ballistic missiles:			
Minuteman	1,000	1,000	1,000
Titan II	54	54	54
Polaris-Poseidon missiles	656	656	656
Strategic bombers (AAI)	575	512	511
Manned fighter interceptor squadrons	11	9	7
Army air defense firing batteries	21	21	21
General purpose forces:			
Land forces:			
Army divisions	13⅔	13	13
Marine Corps divisions	3	3	3
Tactical air forces:			
Air Force Wings	21	21	21
Navy attack wings	12	12	13
Marine Corps wings	3	3	3
Naval forces:			
Attack and antisubmarine carriers	18	17	16
Nuclear attack submarines	51	57	60
Escort ships	224	226	207
Amphibious assault ships	80	77	66
Airlift and sealift forces:			
Aircraft squadrons:			
C–5A	2	4	4
C–133, C–141, C–118, C–124, C–130, C–135	15	13	13
Troopships, cargoships, and tankers	93	68	66

TABLE 3.—SELECTED MAJOR PROCUREMENT (QUANTITY)

	Fiscal years			
	1965	1971	1972	1973
Strategic forces:				
Navy: Poseidon conversions (SSBN)		6	6	6
Land forces:				
Army:				
Aircraft and spares:				
LOH (OH 6/58)	88	600	400	
UH–1	759	120		
AH–1		70		
M60A1 tank (inc. M60A1E2)	246	300	[1] 300	[2] 482
U.S. Marine Corps:				
Helicopters	138	15	14	44
LVT–7 family		298	468	354
Tactical air forces:				
Navy and Marine Corps:				
A–6E (A–6A in 1965)	64	12	12	12
A–7	35	30	24	24
F–4	124			
F–14		26	48	48
E–2C			11	8
EA–6B		8	12	7
A–4M		24		
AV–8A		18	30	30
CVAN				
Air Force:				
A–37		81		
A–7D		88	97	
F–4	222	24	36	
F–111	10	12	12	12
RF–4C	128	12	12	
Int'l fighter			21	57
F–15				30
AWACS				3
Naval forces, Navy—				
Ships:				
SSN	6	4	5	6
DLGN		1	1	
DD–963		6	7	7
DLG conv		4	2	2
LHA		2		
Other amphibious	10			
Support (AS, AFS, ARC, AO, AOR, AD, AE, ATS)	9		6	4
Aircraft:				
P–3	48	12	24	24
S–3A			13	42
RH–53D		12	18	
UH–1N			10	
PF				1
PHM				2
Mobility forces—				
Air Force:				
C–5A				
C–130E			12	
Navy: Ships (T–AGOR, T–AGS)	2	2		

[1] Includes retrofit of 210 on hand M60A2 tanks.

[2] Includes retrofit of 316 on hand M60A2 tanks.

TABLE 4—ACTIVE DUTY MILITARY PERSONNEL, CIVILIAN PERSONNEL AND RESERVE COMPONENT STRENGTH

[End of fiscal years in thousands]

	1964	1968	1971	1972	1973
Direct-hire civilian:					
Army [1]	360	462	388	368	367
Navy	332	419	350	334	329
Air Force	305	331	293	279	279
Defense agencies	38	75	63	60	60
Total [1]	1,035	1,287	1,094	1,041	1,036
Active duty military:					
Army	972	1,570	1,123	861	841
Navy	667	765	623	602	602
Marine Corps	190	307	212	198	198
Air Force	856	905	755	730	717
Total	2,685	3,547	2,713	2,391	2,358
Reserve components (in paid status):					
Army National Guard	382	389	402	398	402
Army Reserve	346	312	313	308	312
Naval Reserve	132	131	133	134	133
Marine Corps Reserve	48	48	48	45	46
Air National Guard	73	75	86	89	89
Air Force Reserve	67	46	52	52	56

[1] These totals include Army and Air National Guard technicians, who were converted from State to Federal employees in fiscal year 1969. The fiscal year 1964 and 1968 totals have been adjusted to include approximately 38,000 and 39,000 technicians respectively.

See table 5 at end of tables.

TABLE 6.—DEFENSE BUDGET AUTHORITY IN CURRENT AND CONSTANT (FISCAL YEAR 1973) PRICES

[In billions of dollars]

	Fiscal year—				
	1964	1968	1971	1972	1973
Current prices:					
Pay and other operating costs:					
Baseline force	26.1	33.0	39.6	43.6	
Incremental war costs		10.8	7.3	4.6	
Total, pay and other operating costs	26.1	43.8	46.9	48.2	51.3
Research and investment:					
Baseline force	24.5	24.1	23.8	27.0	
Incremental war costs		8.5	2.2	1.9	
Total, research and investment	24.5	32.6	26.0	28.9	32.0
Total budget authority:					
Baseline force	50.6	57.1	63.3	70.6	
Incremental war costs		19.3	9.6	6.5	
Total budget authority	50.6	76.4	72.9	77.1	83.4
Constant (fiscal year 1973) prices:					
Pay and other operating costs:					
Baseline force	49.5	52.1	48.5	47.9	
Incremental war costs		14.9	8.6	5.0	
Total, pay and other operating costs	49.5	67.1	57.1	52.9	51.3
Research and investment:					
Baseline force	33.3	29.8	25.4	27.8	
Incremental war costs		10.4	2.4	2.0	
Total, research and investment	33.3	40.2	27.8	29.8	32.0
Total, budget authority:					
Baseline force	82.8	82.0	73.9	75.8	
Incremental war costs		25.3	11.0	6.9	
Total, budget authority	82.8	107.3	84.9	82.7	83.4

Note: Detail may not add to totals because of rounding.

TABLE 7.—CHANGING PRIORITIES

	Fiscal year 1964 to 1968	Fiscal year 1968 to 1973	Fiscal year 1964 to 1973
Change (current dollar billions) in:			
Defense spending	+$27.2	−$1.5	+$25.7
Other Federal spending	+34.8	+72.9	+107.7
State and local spending	+33.1	+80.1	+113.2
Change (constant fiscal year 1973 dollar billions) in:			
Defense spending	+26.1	−32.7	−6.6
Other spending	+28.9	+35.1	+64.0
State and local spending	+26.9	+43.4	+70.3
Public employment (thousands):			
Defense (includes military)	+1,114	−1,440	−326
Other Federal	+230	+93	+323
State and local	+1,905	+1,909	+3,814
Total, public employment	+3,249	+562	+3,811
Total labor force (thousands) (June):			
Defense [1]	+$2,007	−$2,756	−$749
All other	+4,800	+10,166	+14,966
Total labor force change	+6,807	+7,410	+14,217

	GNP	Federal budget	Net public spending (Federal, State, and local)
Defense spending as percent of fiscal year:			
1950 (pre-Korea	$4.5	$27.7	$18.7
1953 (Korea peak)	13.3	62.1	46.3
1964 (last peacetime year)	8.3	41.8	28.1
1968 (SEA peak)	9.4	42.5	29.1
1970	8.2	38.4	25.1
1971	7.5	34.5	22.3
1972	7.0	31.0	20.5
1973	6.4	30.0	19.4

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[1] Includes military and civil service personnel and defense-related employment in U.S. industry.

TABLE 5.—DEFENSE OUTLAYS IN CURRENT AND CONSTANT (FISCAL YEAR 1973) PRICES

[In billions of dollars]

	Fiscal year—			
	1964	1968	1972	1973
Current dollars:				
Payroll	15.7	23.4	29.8	31.8
Other military personnel costs	4.6	6.8	6.1	6.0
Military retired pay	1.2	2.1	3.9	4.9
Family housing, excluding pay	.5	.4	.6	.6
Total, pay and related	22.0	32.6	40.4	42.8
All other costs (procurement, R. & D., construction, supplies, and services)	28.8	45.4	35.4	33.7
Total outlays, current dollars	50.8	78.0	75.8	76.5
Constant (fiscal year 1973) prices:				
Payroll	31.9	38.7	32.8	31.8
Other military personnel costs	7.3	9.9	6.7	6.0
Military retired pay	4.9	4.9	4.9	4.9
Family housing, excluding pay	.7	.5	.6	.6
Total, pay and related	44.7	53.9	44.9	42.8
All other costs (procurement, R. & D., construction, supplies, and services	38.4	55.3	36.4	33.7
Total outlays, constant (fiscal year 1973) prices	83.1	109.2	81.3	76.5

Note: Detail may not add to totals because of rounding.

SENATOR CARL HAYDEN

Mr. McCLELLAN. Mr. President, one cannot help being awed by the accomplishments, and touched by the memory, of a truly great American who graced the Halls of the Congress for more than 56 years—our late, beloved colleague, Senator Carl Hayden.

Carl Hayden's greatness did not derive from the fact that he lived for 94 years or that no man ever served his State and our Nation in the Congress for a longer period of time. His greatness had a much deeper and firmer foundation. It was grounded in his extraordinary ability and capacity, his remarkable personality and the effective accomplishment of all he undertook. These attributes were, in turn, cloaked by simplicity, humility, and gentility; and were coupled with an unequaled patience and devotion to duty.

It was my privilege and pleasure to serve with Carl Hayden in the U.S. Senate for 26 years. During that time, I served with him for 20 years as a member of the Committee on Appropriations; and during 14 years of that period, he was my chairman.

Our association, on a continuing basis, was one of my most rewarding experiences. Carl Hayden had a remarkable way of approaching any problem before him. Whether presiding over the Senate, as President pro tempore, listening to requests for funds from committee chairmen, when he served as chairman of the Committee on Rules and Administration, or patiently listening to justifications from executive branch agency heads in their quest for appropriations with which to run their agencies, Senator Hayden always maintained that wonderful balance, genteel manner, incisive insight, and calm demeanor which were his hallmark throughout his legislative service.

In paying tribute to the memory and accomplishments of Carl Hayden, we pay tribute to the American way of life, for he was the epitome of all things that made this Nation great—continuous devotion to duty, a lifelong dedication to a strong, free America, and tireless efforts on behalf of his country.

Carl Hayden has gone to his eternal rest. But as an unknown poet has said:

The sweetest lives are those to duty wed,
Whose deeds, both great and small,
Are close-knit strands of an unbroken thread,
Where love ennobles all.
The world may sound no trumpet, ring no
  bells; but the book of life the shining
  record tells.

Carl Hayden spoke little. He sounded no trumpet, he rang no bells. But the magnitude of his accomplishments will live on, as the book of life the shining record tells.

IMPERATIVES OF CONTEMPORARY CHANGE

Mr. MONDALE. Mr. President, recently there came to my attention a speech delivered before the Council Bluffs Junior Chamber of Commerce by our colleague in the House of Representatives, Representative JOHN C. CULVER. This speech, entitled "As We Move Into the Future, Which Way Do We Go?" is, in my judgment, one of the clearest and most provocative statements I have read of the need we have, both in our Government and in our private institutions, to reorient thinking and action toward the imperatives of contemporary change. Representative CULVER points out in several ways how some of our institutions and many of our current attitudes become frozen and ill adapt themselves to the requirements of a society in which the pace of change, the explosion of knowledge, the just expectations of the citizen are constantly gathering force. Though Mr. CULVER recognizes that inertia is often a tenacious deterrent, he is realistic in his evaluations and confident that we have the capacity and resourcefulness to correct the imbalance if there is both candid leadership and active, sustained citizen involvement. Human reason, free choice, and commonsense harnessed to a future-mindedness can be liberating forces, he asserts. And he proposes for the State of Iowa a statewide conference on the 21st century to be run by and with and for Iowans, and involving not just the technical expert and political leader. Rather it would draw in parents, farmers, workers, and the young, housewives, professional people and others, and thereby enlarge public confidence in the efficacy of our institutions while also renewing the quality of our common life. This proposal surely has merit for States across our land.

He also proposes for the area of congressional reform that the committee jurisdiction of the U.S. Congress, both House and Senate, be redefined to reflect the problems confronting America today and not an America of a bygone era.

I warmly commend Representative CULVER and ask unanimous consent that his speech be printed in the RECORD so that it may have the attention of Members as well as the wider public.

In addition, I am including a copy of a questionnaire he sent to his constituents that asks for their opinions on many of the key questions facing the country during the balance of this century.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

AS WE MOVE INTO THE FUTURE, WHICH WAY DO WE GO?

(Speech by Congressman JOHN CULVER before the Council Bluff's Junior Chamber of Commerce Annual Dinner, Tuesday, Jan. 11, 1972)

Not long ago we were all concerned with the radicalism of some of our young people: the shouting and the demands and the occasional more violent action. Now we tend to be equally puzzled by what looks like apathy: a withdrawal from public events, a cultivation of private retreats.

My own view is that these are both manifestations of the same underlying unease, and that the unease is not peculiar to young people. We have all been brought up to expect certain values in our society, and we look to the political process for correction of imbalances when they appear. But there is an increasing and impressive body of evidence to suggest that many people are beginning to doubt the efficacy of the political process. We are rich in data, this evidence suggests, but poor in coherence; wealthy in our sense of self-worth and importance, but deprived of adequate opportunities to be heard. With each new advance in the science of living, we sense a setback in the grace of life. New technologies abound, but we ask whether they are for us or we for them.

Let me try an example in a field that concerns me a great deal, population resources. It is fascinating to read about the medical breakthroughs of recent years in life-saving techniques, heart transplants, and all the rest. Teams of specialists are at work on cancer cures, and I certainly hope they succeed. But it is increasingly difficult to find general practitioners who are willing to settle in small communities or for that matter, pay a call at your house. Now at the very same time skilled engineers are being put out of work by changes in space and defense programs, and the third or fifth generation farmer is finding it increasingy hard to keep pace with the mechanized efficiencies of competing large farms. I'm not suggesting that every farmer or engineer should be pressed into service as a G.P., far from it; but at the same time we pay a price in political apathy or protest if we resign ourselves to this kind of imbalance as somehow unavoidable.

Of course we don't want war or inefficiency or food gluts as a price of avoiding job changes. But could we perhaps foresee the pace of change and prepare for it? Where should our population be going, in terms of overall growth and location and professional concentration? What incentives should be offered to affect these choices? And when a particularly drastic change is brought about as a result of a change in government programs, should some part of the social and personal cost be ascribed as a charge to that government?

Now these aren't at all easy questions, and I'm not suggesting I have the answers. A great deal of information needs to be gathered, and complex choices made. But I am suggesting that we run a very high political risk when we fail even to ask such questions or to deal with them as part of the political process.

I can illustrate the risks in terms of the alternative we know about for treating complex questions. One is to yield to a yearning for earlier simplicities, by denying that the question exists. The young themselves do this when they return to grass—of either the green or the dried variety. But their elders can be just as ostrich-like. Some of our leading political figures who have made a name by attacking television and the other news media, seem to believe that the bad news will go away if you shoot the messenger. There is no question that we know more things more quickly today than ever before, and that much of what we learn is unsettling. But surely there is no hope of salvation based on ignorance. As economist Kenneth Boulding puts it in his book *The Meaning of the 20th Century,* "the growth of knowledge is one of the most irreversible forces known to mankind." We must learn to accept and deal with the knowledge revolution of our times.

There is a second and quite opposite tendency to retreat from political responsibility in the face of complex questions, and that is by assigning them exclusively to experts. Professor Brzezinski of Columbia has alerted us to what he calls the "technetronic" society, in which power would be vested in a highly specialized meritocracy of people conversant with the language of the computer. Obviously to the extent that we resign responsibility to such experts, we diminish perhaps fatally the essentially element of citizen participation in our public life. Already there may be too many among us who question the impact they can have on decisions based on an array of facts to which they have no access.

Let me give you an example of the tyranny of computers in the hands of experts without political guidance or review. There is a Professor at M.I.T. named Jay Forrester who has recently published a book called *World Dynamics*. It is a product of computerized system simulation, which is a fancy way of playing with statistics. Professor Forrester fed into his computer a series of historical trends on population growth, capital investment, geographical space, natural resources, food production, and various kinds of evironmental pollution. His conclusions are striking: We have only 40 or 50 years left of our current standard of living, after which all countries will decline to the level of the presently under-developed countries. What is more, there is nothing we can do about it, except plan for the inevitable decline. Among academics this has already become known as "Forrester's Law"—which you don't remember voting for and I don't remember passing.

Now as a warning this is timely and appropriate, but as a prediction it is pure nonsense unless we are all willing to abdicate our responsibilities to graph paper. Because the two vital elements missing from this computer study are human reason and free will.

We believe the very nature of our God-given personality allows us to overcome graph paper, to improve on history, and to make the future correspond to what we want it to be.

Another recent example of the so-called inevitability of historical trends was presented in the nomination of the new Secretary of Agriculture Earl Butz, who has repeatedly predicted the continuation of the historical decline of the family farmer.

It is true that in the past 25 years, 20 million people have left rural areas and moved to the cities, so that today we have the incredible conditions where 70 percent of our people are crammed in less than 2 percent of our land. Moreover, it is predicted that in the next 30 years 75 million more will be crushed into cities where 140 million already live in intolerable congestion and social disorder. If we are going to alter these trends and their obvious consequences to both urban and rural life, we must now develop a national growth policy, a policy which will consistently disperse people and opportunities so as to bring about a healthier economic and social environment for the entire nation.

These illustrations are not intended to suggest that computers and historical projection and prediction are not of value, but that we should harness technology to human reason and put it to the service of the democratic process. Professor Forrester's or Secretary Butz's warnings are entirely appropriate as a prediction of what could happen to us if we fail to heed exponential growth curves, if we doom ourselves through ignorance or apathy to the mere re-living of history. What I am suggesting is that this is not inevitable, and that to avoid it we had better get cracking on new and improved ways of organizing ourselves to deal with the future before it deals with us.

I have two specific suggestions to make, one concerned with the Congress in which I serve, and the other addressed to the State of Iowa which I represent. Both are intended to subject the march of events to more meaningful and effective democratic assessment and control. What we want, I think, is to recognize change and complexity, but to insist on political accountability for the decisions that will affect our future.

First, it has been evident to me for some time that the Committee structure of the United States Congress is not related to the modern world. Ask any concerned citizen's group to name the four or five problem areas of greatest contemporary urgency, and you are unlikely to find a single one that has a standing Committee, established to deal with it. Where is the Committee on Economic Conversion, on National Population Distribution & Growth, on Environment, on Health Services? The answer is they don't exist. Instead you find the Committee on Merchant Marine and Fisheries, the Committee on Interior and Insular Affairs, the Veterans' Affairs Committee on Banking and Currency.

I don't say the work of these existing Committees is unimportant, but they totally fail to reflect the priorities of today. The truth is that they were all created to deal with 19th Century problems and they inevitably retain that bias. It is not good enough, I suggest to deal with the pressing problems of our own times as we now do by periodically grafting on *ad hoc* subcommittees. We will not really be able to address housing problems in human terms, so long as they are handled in a subcommittee of Banking and Currency. And it does seem peculiar to expect modern health services delivery systems to be legislated by the tax lawyers on the Ways and Means Committee.

This is not just a technical observation. Committees compete with each other for dominance, and they also strive to impress their sense of priorities on the Executive Branch. Meaningful executive reform cannot really be carried through without comparable reform of the Congress. If we as citizens are really serious about ensuring that our most pressing problems are given top-level attention by our elected officials, we should insist that the Congressional Committee structure be revised to accord with the modern world.

I am therefore, preparing a resolution, to be submitted in the next few weeks, that will call for a thorough review and reform of the authorizing Committees and Subcommittees of the Congress. Instead of twenty Committees largely reflecting the 19th Century, I would hope to end up with ten or fifteen Committees relevant to the last quarter of the 20th Century. One of these Committees might very well be a Committee on the Future, whose task it would be to search out and analyze new technological and other developments before the social problems they present are upon us. By introducing into the public dialogue the possibilities for various alternative futures as well as their cost, we can make the appropriate public policy decisions now to better shape tomorrow to our own choice.

I would also hope to have these Committees staffed and equipped in contemporary fashion. Referring back to computers once again, I have been dismayed to discover that up until this year Congress has had only three or four computers, utilized almost exclusively for housekeeping purposes such as payroll. The Executive Branch by contrast has and uses 4000. Even with the best of intentions we cannot keep tabs on the Executive, let alone conduct our own analyses, in this fashion. Here too, I have been pressing for modernization and I intend to continue to do so.

Proposals such as these will need citizen understanding and support, and this leads me to my second suggestion for us here in Iowa. I think we need to be aggressively looking towards our own future, deciding on the kinds of priorities we want for ourselves right here at home, and giving hard thought to the steps we will need to take to achieve them. And this sort of broad prophetic venture can only be successfully undertaken, in my judgment, if the people of Iowa are actively engaged in its execution.

We have been given a lead and some models by our two youngest and most distant states. Both Alaska and Hawaii have recently held statewide conferences on their futures, with widespread citizen participation and the cultivation of a great deal of interest. These are of course somewhat isolated states with perhaps unique problems and prospects, but their example remains valid nonetheless. The very fact that no mainland state has, to my knowledge, yet done anything comparable just serves to underline the natural leadership opportunity this presents in Iowa. For whatever we decide about our future should provide a point of departure for the whole upper Midwest region—and, by extension, the United States, When we have a chance to be first, I think we should take it.

Accordingly, I am proposing that the Governor request legislative appropriations for a state-wide Conference on Iowa in the Twenty-First Century—to be run by and with and for Iowans. This would be a Conference not just in Des Moines among legislators and technical experts and opinion leaders, but would involve meetings throughout the state with parents, farmers, workers, businessmen, teachers, housewives and many others—including in particular, I would hope, a generous representation of the young. The experts would help in setting up an agenda and would consult with the citizen's committees to be established, but the control would be with the people. In effect, we would be setting up a series of Grand Juries on the Future, operating in public session.

Among the possible subjects to be considered might be the following: (1) Living Space and Life Styles in Iowa 2000; (2) Our Land, Air, and Water Environment; (3) The Individual Iowan: His Privacy and Peace of Mind; (4) Science and Technology, with particular emphasis on Communications; (5) Iowa's Education and the Lively Arts; (6) Political Decision Making and Planning in the Future. Others could cover transportation, housing, the economy and agriculture.

Many of you will probably be quick to see opportunities to improve or modify this list. The important thing is to get the process started. That is why I am asking the Governor to seek the necessary funds, and I hope you will support the proposal with your state legislators.

To me, nothing could be more fascinating or more worthy of our energies than the effort to wrestle the potentialities of the future and subject them to our grasp.

I believe it was Matthew Arnold, in his essay on *Culture and Anarchy*, who reminded us of our society's mixture of traditions—both Greek and Hebraic. It is in the Hebrew tradition to get things done, to push on with our assignments, to achieve. The Greek traditon, which is equally strong, calls for us to pause in our striving and to reflect on the directions we are taking. Abraham Lincoln said it best when he remarked, "If we could first know . . . whither we are tending, we could better judge what to do, and how to do it." I think it is time for us to respond to those invitations in our character and traditions, and to determine for ourselves where we wish to tend.

The alternatives of apathy, ignorance or resignation are not truly in the American character. We who are concerned about the future of our youth should be concerned to set before them a future that will challenge the best of their energies and ideals. Of course the issues we must deal with are complex and the pace of change is awesome. But all the more reason to enlist human reason and free choice and common sense in grappling with our problems.

I am told that the Talmud preaches that, after the destruction of Jerusalem, prophecy was given to the deaf, fools, and minor children. Surely we can do better than that.

Thank you.

Seventh Annual Questionnaire From Congressman John C. Culver

A "PRESENT AND FUTURE" POLL

Dear Friends: As I have done in previous years, I am again requesting your views on some of the critical issues facing our nation today. While, in the final analysis, a Congressman must cast his vote according to his conscience and his own knowledge of an issue, an important part of that knowledge is information as to how his constituents feel about it.

I have organized this year's survey into two parts. The first has questions on which I am likely to be called upon to vote during 1972. The second experimental part asks your views concerning the shaping of public policy for the longer future.

The results of this "present and future" survey will be tabulated, published in the Congressional Record, and provided to you as in past years.

I very much appreciate your continued interest and willingness to take the time to share your opinions with me.

Sincerely,

John C. Culver,
Member of Congress.

1. The economy: Do you think the Administration's economic program has been successful in curbing inflation and reducing unemployment?

2. Vietnam war: Which of the following do you consider the most preferable course of action in Vietnam at the present time?

Continued phased withdrawal of American combat forces, with the possibility of increased bombings of North Vietnam and other countries in Southeast Asia until the South Vietnamese government is sure of its ability to survive.

Setting a specific date for complete withdrawal of all American troops in exchange for guaranteed release of all U.S. prisoners of war.

Resumption of full scale attacks on North Vietnam with any necessary increase in American men or material.

Undecided.

3. Agriculture: Do you favor Congressional action to establish a strategic grain reserve to improve farm income and to provide a guaranteed source of supply in times of natural disaster or emergency?

4. The draft: Which of the following alternatives do you prefer?

Continuation of the present draft lottery system.

Creation of an all-volunteer army.

A national service system which would allow a young man to choose between military service or alternative civilian public service.

Undecided.

5. Rural communities: Do you favor H.R. 7843 (The Culver bill) which would provide federal funds to small towns to assist in fixing up business districts and providing a center for community activities?

6. National priorities: Present inflationary pressures and large budget deficits require both restraint and priority allocation in federal spending. Please indicate those areas of the federal budget which you feel should be decreased, increased, or held at present spending levels.

Control of drug addiction.
Crime prevention.
Public education.
Medical care.
Aid to the elderly.
Improving conditions in small towns.
Increasing farmers income.

Pollution control.
Job training.
Housing.
Welfare reform.
Highways.
Military spending.
Foreign aid.
War in Southeast Asia.
Consumer protection.

7. What do you think is the most important problem facing the country today? What should we do about it?

A POLL OF FUTURE ISSUES

Today the pace of change is so fast and the range of available options so vast, that we cannot afford to let the future happen to us by default. We must look ahead and ask hard questions about both what is possible and what we want. The setting of public values, the ordering of priorities, the assessment of costs and benefits no longer can be ignored.

With that in mind, I have added this section to the poll in order to encourage us to begin thinking together about some of the crucial policy decisions that must be made during the balance of this century. By looking ahead 10, 20, and 30 years, and deciding which direction we should be going, we can hopefully avert social problems that might otherwise arise. The challenge then is whether we accept passively whatever future may evolve or whether we rationally do what we can to shape it toward humane goals.

A. Life in the future: I have listed below some of the many predictions which have been made concerning life in the future. Please check each according to whether you would find it desirable or not.

Increased affluence and leisure.
Elimination of poverty and hunger.
Further replacement of small farms and busineses by large corporations.
Decline in importance of religion.
Disarmament.
Change in the role of the family and marriage in society.
Four day work week.
Less emphasis on technological growth and achievements.
Greater consumer voice in corporation decisions.
Medical advances in genetics and transplants.
Less emphasis on nationalism and increased sense of world community.

B. Leisure time: Which of the following do you think would be helpful to assure that increased free time is enjoyable?

1. Greater spending at all levels of government for readily accessible recreational facilities.
2. Development, with government help, of more retirement communities.
3. Establishment of a minimum income so that everyone will not be economically prohibited from enoying leisure time.
4. Institute changes in educational programs to promote appreciation and fruitful use of leisure, and rely on the mass media to influence and fill our leisure time.
5. Transform many of the state's natural resources into recreation areas.
6. Emphasize participation activities—local softball leagues, drama workshops, painting clubs—instead of spectator activities—major league sports, professional theater, etc.
7. Greater stress on opportunities for artistic and cultural experience.

C. Education: What directions should education take in the next 25 years?

1. Deemphasize college education and improve the opportunities for vocational and craft training.
2. Provide that the federal government guarantee 2–4 years of post high school education—college or vocational—available in parts or as a whole at any time in one's life.
3. Restructure teaching so that students are taught to think more about the possibilities and probabilities of the future.
4. Finance secondary education through a combination of state and federal funds and not through the local property tax.

D. Quality of life in Iowa: If you were to consider the kind of Iowa you would like to see 25 years from now which of the following aspects of our present situation do you consider enduring assets which largely need protection, and which would require improvement and change through citizen and government action?

Environmental quality.
Population increase.
Drug use.
Educational system.
Public safety.
Sense of community, general interest in welfare of neighbors.
Opportunities for meaningful employment.
Transportation and housing.
Personal freedom and privacy.
Health care.
Equal opportunity—racial, sexual, ethnic.
Care of elderly.
Divergence of values between generations.
Cost of living.
The family farm.
Prison system.
Government.

E. Public leadership: In general, which of the following should be more involved in public leadership for the future?

Artists.
Bankers.
Blue-collar workers.
Business leaders.
Doctors.
Economists.
Farmers.
Labor leaders.
Lawyers.
Movie and TV celebrities.
Scientists.
Sports figures.
Teachers and educators.
White-collar workers.
Women.
Young people.

A CONFERENCE ON "IOWA IN THE YEAR 2000"

To help us be pilots as we travel in the future rather than passengers, I have proposed that Iowa hold a statewide future conference. It would be an opportunity to start working on new and improved ways of organizing ourselves to deal with the future before it deals with us.

This would be a conference, not just in Des Moines among legislators and technical experts and opinion makers, but would involve meetings throughout the state with parents, young people, farmers, housewives, businessmen, workers and others. In effect, there would be grass roots assemblies to express the will of the people about the future.

THE PENDING SOCIAL LEGISLATION

Mr. GURNEY. Mr. President, on January 21 I testified before the Committee on Finance on the merits and problems of pending social security legislation. I ask unanimous consent at this time to have this statement included in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR EDWARD J. GURNEY BEFORE THE SENATE FINANCE COMMITTEE ON H.R. 1, JANUARY 21, 1972

Mr. Chairman and members of the committee:

Thank you for this opportunity to express my concern that immediate action be taken to improve social security benefits for our older citizens. I am sure you agree with me that the older people of this country should not continue to be denied needed reforms in their social security protection any longer. If we cannot agree on the changes needed in the welfare program, then we owe it to our senior ctiizens to pass the Social Security and Medicare parts of H.R. 1 now.

When we talk about our older population we are discussing a large and growing proportion of our people. For instance, the 1970 census counted 20,049,592 older Americans out of a total of 203,165,699 residents, or 9.9%. In 1900, the census counted 3.1 million older persons out of 76 million residents, or only 4.1%. Today, the under-65 population is two and a half times as large as it was in 1900 but the 65-and-over groups is six and a half times as large.

Moreover, the older population is essentially a low-income group even though there are considerable numbers of wealthy among them. In 1970, half of the 7.2 million families with 65 and over heads had money incomes of less than $5,953. Almost a quarter of the older families had 1970 incomes of less than $3,000. Of the 5.8 million older persons living alone or with nonrelatievs half had 1970 incomes of less than $1,500. It is clear from these facts that we must take action to improve the economic condition of these individuals who are now retired from the work force but who have done so much to expand our economy in the past.

Only last month, a White House conference on aging meeting here in Washington pointed out in no uncertain terms that income was one of the most important concerns of the millions of older Americans it represented. The income section of this conference pointed out that there is no substitute for money if people are to be free to exercise choices in their style of living. Although it recognized that during the sixties the elderly as a whole enjoyed increased prosperity due to greater employment opportunities, better old age security and other public and private benefits, the income section also pointed out that the last two years may have witnessed the reversal of these trends as inflation eroded the purchasing power of fixed incomes, and rising unemployment reduced job opportunities for older workers. The report submitted by this section at the closing session of the White House conference stated that "direct action to increase the income of the elderly is urgent and imperative."

It was because I share this view that on November 17, 1971, I presented an amendment to the Revenue Act of 1971 which dealt with the social security and medicare improvements contained in the legislation before you today. It was my hope that this action would have prevented unnecessary delays in getting these much-needed and essentially noncontroversial improvements in the Social Security Act passed and the benefits delivered to our older people. The amendment consisted of three basic parts:

First, the provisions relating to old age, survivors and disability insurance.

Second, provisions relating to medicare, medicaid, and maternal and child health.

Third, provisions relating to certain aspects of welfare.

Mr. Chairman, as you pointed out when this proposed amendment was discussed on the floor, its provisions were basically written by this committee and they are good provisions. In fact, the Senate passed them in 1970. However, because the Senate did not want to become involved with numerous other proposed amendments to the Revenue Act, my proposed amendment was tabled.

Therefore, I would like to take this opportunity to highlight the important provisions contained in these amendments which are a part of H.R. 1.

One of the most important provisions in H.R. 1 is the proposed 5 per cent increase in benefits. Effective July 1, 1972. This increase is long overdue and should be acted on at once. Even though 5 per cent is not a large amount it will mean a great deal to those older Americans who are struggling along at or below the poverty level.

Another important provision in the bill before us is the automatic cost-of-living adjustments in benefits. The statement I quoted earlier from the recent White House Conference on Aging underscored the importance of this provision. Older people should not have to wait for congressional action which, as has been true with this bill, is often slowed down because of more controversial proposals tacked on to social security legislation.

H.R. 1 also provides for an increase in widow's benefits from the present amount of 82.5 per cent of her husband's benefit to an amount equal to 100 per cent of the deceased husband's benefit. Instead of suffering a severe drop in income widows who must still pay the same rent, electricity, heat, water, and other bills they did before their husbands' deaths, will see a relative improvement in their economic position.

Another very important provision contained in the amendments I proposed was an increase in the earnings limitation on social security recipients. I realize that the House advocates the $2,000 earnings limit contained in H.R. 1, and that the Senate last year advocated raising that level to $2,400. Personally, I would like to see the earnings limit removed altogether. If that is impossible at this time, I would like to see a $3,000 limit. It is my hope that the committee will incorporate a $3,000 earnings limit provision into this bill. This will encourage the older American to participate in productive work when it is available rather than withdrawing into isolation.

Other proposals contained in H.R. 1 assist those who are disabled. Under present law, a person who must wait 6 months from the time he becomes disabled to the time that he can begin to draw benefits, and the benefits are not retroactive. This, in effect, amounts to a 6 month wait before one can begin being compensated for benefits to which he is entitled. H.R. 1 provides for a waiting period for disability benefits of 5 months, and in effect, adds an additional month of benefits over and above that provided by present law. These are all good provisions and should be adopted.

In addition, due to their urgent need for health insurance protection, medicare coverage should be extended to the disabled.

Another significant provision in this bill provides that should an individual receive an increase in social security benefits, the State could not reduce its assistance to that individual to the point that he receives no benefit from the increase. Now, if a person receives a $10 increase in social security benefits, the State often decreases the amount he was receiving under State public assistance programs. Moreover a rise in social security offen cancels other State benefits to the aged. Hence the social security increase is nullified. This inequity must be eliminated.

These proposals and many others have been considered carefully in the past by this committee and by the members of the Senate. There is no sound reason for delaying action any longer. We should think of the older American who is in dire need of an immediate increase in his social security benefits and take the action required to get that benefit to him.

Mr. Chairman, let me dwell for a moment on the welfare provisions of this bill. Welfare reform, as we all know, is a knotty problem. I find myself in agreement with the ranks of the distinguished chairman of this committee yesterday in the opening meeting of the Finance Committee as to the objectives of any welfare reform program. I would hope that this committee will include in this bill provisions for enforcing the requirement that able-bodied people accept work or be removed from the welfare rolls. I also feel that provisions giving people an incentive to work should be included. Laziness should not be subsidized at the expense of the hard working people who bear the financial burden of any welfare program we consider. With regard to the proposed program of family assistance, I feel it imperative that we pass legislation that promotes family unity rather than discouraging it and that encourages families to work and eventually get off welfare rather than loaf at the taxpayers expense. To do anything else would be inconsistent with the other purposes of this bill, which are to aid those who have worked for a lifetime and deserve security now that they are unable to support themselves.

Mr. Chairman, I thank you for the opportunity to appear before the Finance Committee today.

ATTORNEY GENERAL JOHN MITCHELL

Mr. DOLE. Mr. President, today, President Nixon announced that Attorney General John Mitchell has submitted his resignation, effective March 1. His departure from the Department he has led for the past 37 months will be a great loss, but his contributions to the Department of Justice have enriched and strengthened the administration of justice in America in ways that will be a lasting testament to his wisdom, foresight, and deep understanding of the responsibilities of leadership.

As Attorney General, John Mitchell has formulated and directed one of the most comprehensive approaches ever undertaken to improve the mechanisms and processes of justice throughout the Nation. Recognizing that crime is a problem threatening every level of our society, he launched a broad-scale attack aimed at improving the entire criminal justice system. This effort has been pursued in the legislative field through the advocacy of a broad range of statutes to tighten the criminal laws, to provide greater assistance for law enforcement agencies, to streamline and improve court procedures, and to bring long-overdue reforms to our correctional systems.

These programs have been pursued in the policy field by the formulation and application of departmental programs aimed not only at the Federal enforcement level—such as the top priority campaign against organized crime—but also going to establish a new relationship and framework of cooperation between the Federal Government and the State and local authorities.

By these initiatives, the Nixon administration has laid the foundation for reducing the impact crimes and criminals have on the lives of all our citizens. And in addition, major steps have been taken toward the long-range goal of making the criminal justice system a vehicle to better serve society by being more efficient, more fair, and more effective.

John Mitchell has been a tireless and dedicated worker for the best interests of the American people. He has avoided the headline-grabbing displays of his recent predecessors, and in devoting his full energies to the responsibilities of his office has contributed substantially to making our Nation a better place to live. When he came into office, he cautioned critics to observe what was done, rather than what was said in the Nixon administration, and judging by this standard, John Mitchell and the Department of Justice under his leadership, rate the highest marks for vision, accomplishment, and service.

PRESIDENT NIXON'S MISSION TO CHINA

Mr. ALLOTT. Mr. President, as President Nixon prepares to embark on his great mission to China, I join with all Americans in wishing him Godspeed and every possible success.

As a cosponsor of Senate Concurrent Resolution 57, I urge all Americans, of all faiths, to participate Sunday, February 20, in the National Day of Prayer for the Cause of World Peace.

It should be gratifying to the President and Mrs. Nixon to know that a united nation is prayerfully supporting their mission.

PRISON REFORM

Mr. BROCK. Mr. President, Mr. Ben Bagdikian in the fifth of his series of eight articles on prison reform, gives us a glimpse of some innovative approaches in the rehabilitation of juvenile offenders.

In his article, Mr. Bagdikian deals mainly with the concept of "Behavior Modification." Simply, this is a system where good behavior is rewarded—reinforced, and bad behavior is punished. However, the emphasis is on rewarding to produce desired behavior.

This approach has proven more successful than most and has been used in several California institutions for some time.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JUVENILE PRISON: SOCIETY'S STIGMA

(By Ben H. Bagdikian)

The price list is posted in big red letters for every kid in the classroom to see. Coffee break? $40. Sit in the teacher's swivel chair for a whole period? $20. Take a trip to the library for a book? Only 50 cents.

Get out of here entirely? $7,875.

You don't have the money? Just sign one of these contracts. "I will remain in my seat during the testing period. I will not talk to other wards . . ." up to $50 payment. "I will not fight with Chuck over the TV program"—$100. "I will write out as closely as I can remember exactly what I said and exactly what Chuck said when we fought and then I will write out what I could have said to avoid a fight and still get my point across"—$300.

The assorted young burglars, car thieves, murderers, rapists and robbers are being "paid" to behave the way the state of California wants them to.

They are not charged or paid United States dollars but "Karl Holton Dollars," the medium of exchange in the place. But in Karl Holton Dollars they really mean it. Coffee can cost $40, a pool game $35, a five-minute phone call $150, an afternoon nap $25.

Each boy carries a small blue book, "Karl

Holton Bank" with his savings listed. His daily expenditures and pay are also posted publicly so that no private deals are possible.

Karl Holton School is a prison for boys in Stockton, Calif. It's surrounded by a 14-foot chain link fence, the top four feet of sheer metal to frustrate agile climbers (it doesn't; the boys turn the tines of forks and grapple their way over the top). There are almost 400 juvenile criminals inside.

A couple of football fields away is another prison for boys, constructed to be almost a mirror image of Karl Holton. It is the O. H. Close School, with about the same population. But it has an entirely different and similarly innovative philosophy of treatment.

Side by side, these $35 million experiments are symbolic of the desperation of a society bewildered by the defection of its young. The most distressing criminals in the United States are its juveniles—as young as 7, mostly in the mid- and upper-teens.

One in every six American citizens is a child between the ages of 10 and 17; three of every six arrests for serious crimes are of someone in that age bracket.

Crime rates among youth are alarming in every segment of the country—both boys and girls; inner city, suburban and rural; rich and poor; white and black (though, as with adults, the poor and the black, after arrest, are sent to court and prison more often than affluent law breakers).

Once juveniles are convicted, they do worse than adults. From 40 to 70 per cent of adult prisoners repeat crimes after their punishment; from 74 to 85 per cent of juveniles do so.

The dismal record of juvenile "corrections" is especially frustrating because it deals with presumably pliable youth still forming their characters.

An alarming number of juvenile criminals apparently want to kill themselves, either directly by drugs or engagement in suicidal violence, or by symbolic death through repeated imprisonment.

What happens to these imprisoned youths raises questions about the society that produced them. All over the country, the men and women who run juvenile institutions say similar things, typified by:

We inherit the failures of all the other institutions of our society, the failure of our homes, of our schools, of our churches, of our economy. We get the products of a culture that worships material things—money, cars, clothes—and of a culture that glorifies violence and sanctifies guns. And what can we do about the father who's an alcoholic or the mother who's a drug addict, or the uncle who's a child-beater, or the 10 to 30 per cent of girl offenders who have been the object of incest with their fathers and step-fathers? And what do you expect when our graduates go right back into that environment?

They are profound questions. But they do not relieve the institutions completely. Once juvenile "homes" receive convicted youths, a large proportion of the institutions do things for which the law would prosecute a parent:

Lock the juveniles in terrifying isolation; beat them; put them into circumstances in which forced homosexuality is predictable; crowd them into inhuman densities; force them to associate with promoters of violence.

One expert in criminal justice said "Juvenile corrections isn't better than adults, it's just more hypocritical."

There are still juvenile jails and prisons—"halls" or "homes" or "camps" or "schools" or "centers"—where the chief instruction for a new guard—"counselor" or "correctional officer" or "dorm leader"—consists of how to rough up a juvenile without leaving marks: always use forearms and whole body, never fists or feet.

Most places are still crime schools. "Let me tell you a little story," an experienced worker in corrections said recently. "We were in a new, nice-looking jail in the northwest and interviewed two 14-year-old girls sitting by each other. We asked the first girl what she missed most and she said 'Speed and men.'"

"Speed" is the street term for methedrine, a chemical stimulant that increases heartbeat and raises blood pressure and in large doses produces hallucinations and sometimes death.

"We asked the second girl what she missed most. She obviously was not initiated yet in speed or men. But she was a very unhappy girl and we all felt that it was almost certain that the moment the second girl got out of jail she would rush to find comfort in speed and men."

OVERCROWDING AND BRUTALITY

In Miami last October, the director of the Dade County Youth Hall admitted that the jail was built for 52 but now held 250 and it was necessary to put juveniles in the same room not by offense or personality but by physical size, so that each child would have a better chance of defending himself physically.

"There's just not enough room to do it any other way," Everett Clime, the director said. "Many of them are runaways, many have drug problems, I wouldn't doubt it if a few were prostitutes. There wouldn't be any way to keep them from teaching these things to one another.

In Detroit last November, lawyers brought suit against the Wayne County Youth Home on behalf of five children who were jailed only because they had been abandoned by their parents or had been taken away from parents who were brutal or alcoholics. Once in the protection of the state, these children, the suit claimed, were placed for as long as three days at a time in a bare cell with only a mattress and a toilet, punished by being forced to stand with arms outstretched and not move for hours, and struck on the head with keys.

They allegedly received these punishments for speaking without permission, not answering questions fast enough or looking out of windows without authorization.

Several weeks ago, a Harvard student posing as a 16-year-old delinquent, entered the John J. Connelly Youth Center in Roslindale, Mass. and wrote in the Boston Globe that the place held 200 boys though built for 88, and that staff members held boys heads under water for punishment.

Two boys found talking without permission were punished by having to run between two lines formed by all the other teen-age inmates. The other inmates were required to punch the offenders with a closed fist between the waist and the shoulders. If any boy in the line failed to hit the two boys, he would then have to run the gantlet himself.

How many juvenile centers are run like this in unknown. It is a world closed to the public and to the press. When there are visits, it is usually during hours when the inmates are in classrooms, thus centering attention on the clean hardware and concealing the extent of overcrowding.

There are many humane and purposeful juvenile institutions but they tend to be the ones most heard about because they are less secretive.

State and local programs are varied and unintegrated. The federal government, which presumably would have the most sophisticated talent and the most money, is fragmented and disorganized in its programs.

CALIFORNIA'S TWO EXPERIMENTS

Though 48 per cent of arrests for serious crimes are of juveniles, the chief agency for juvenile corrections research and support, the Law Enforcement Assistance Administration is spending less than 15 per cent of its budget on juvenile delinquency. Work on juvenile delinquency is scattered among a minimum of nine different federal agencies, ranging from the Department of Housing and Urban Development to the Department of Agriculture.

This is why experiments like the two centers in Stockton stand out by contrast. Theirs is the latest attempt in a long search.

For decades, waves of new approaches have washed over millions of troubled children. It began with moralistic instruction, preaching at bad children to be good, still a popular prescription for making adults feel better. Some places concentrate solely on vocational training, though usually in an obsolete or depressed trade.

Some spend most of their time testing the child and make sophisticated analyses. Or they concentrate on academic achievement.

Others believe that what the bewildered soul of a child needs more than anything else is fresh air and competitive sports.

Psychiatry in its various forms dominates some institutions, including every conceivable permutation of counseling and group therapy.

None of them works. Or at least none works if the measure is that most of their graduates will thereafter avoid arrest.

Richard C. Kolze, superintendent of the Karl Holton School, does not pretend that the "Karl Holton Dollars" will buy guaranteed solution either, but his institution is permeated by a religious devotion to trying it.

The theory back of it is "Behavior Modification," a practice that accepts the fact that either we do not know why human beings do the things they do, or if we do, there isn't much we can do to change people by rearranging their thoughts and emotions. It aims at a seemingly modest goal: whatever the causes, just change actions; reward behavior you consider good, punish what you consider bad. Since it is known that punishment produces minimal learning, the emphasis is on reward for desired behavior.

From the first moment a convicted body enters Holton School he gets a contract, a formal written agreement signed by him and his counselor, providing so many Holton Dollars for certain performances.

The "Get Acquainted Contract" says, "During my first week, I will: 1. Introduce myself to every staff member on my hall team; 2. Carry on a 5-minute conversation with every staff member on my hall team; 3. Following each conversation, get the signature of the staff member; 4. Learn the name of every staff member on my hall team; 5. Name (from memory) each staff member on my hall team to my assigned counselor. For this I will receive: 1. 75 points for each signature obtained. 2. 25 points for each name remembered. Some contracts are for "convenience behavior"—managing time well, relations with other inmates, getting out of bed on time, finishing meals on time. The boy must earn $3,525 this way.

Other contracts are for academic achievement. All instruction is individual, so the boy can move as fast as he wishes, competing only with himself. He gets Holton Dollars for good grades, completing tests properly and other tasks related to schooling. He has to earn $2,250 that way.

Finally, he has Critical Behavior Deficiencies to earn dollars. Each month, three staff members and the boy himself fill out a checklist of 80 items believed to be important in predicting how a person will do on parole. These include the number of contracts filed and satisfied, various measures of "positive behavior" and the ingenuity of the boy in doing his tasks. He must earn $2,100 this way.

LIKE THE REAL WORLD

The school discovered that it had created a replica of the economic world and now need a fulltime economist. The recordkeeping is overwhelming. Dollars earned are computed on the spot and reports sent to a central computing office where debits and credits are calculated and posted. They plan to get a computer.

"There are some things we have to watch out for," Kolze says. "We limit the number of 'Dead Man Contracts' that the boy earns for simply not doing something bad. Otherwise, of course, he'll do a lot of bad things so he can get credit for stopping them.

"We watch the contracts the staff writes all the time. Everything depends on the quality of the contracts. If a kid gets dollars just for keeping his shirt tucked in or for going to church, then all we have here is a funny game. But if you contract with the kid to analyze why he's angry at his mother or fights with the other boys, then it means something.

"You see, this puts everything out in the open. The staff can't play games with the kids or the kids do it with the staff. You know: 'Let's hit Mr. Jones up for a favor, he's in a good mood today.' The kid knows what's expected of him and exactly where he stands. There's no guessing, no subjectivity.

"We don't let the staff write up bad attitudes. They can't threaten anything. If they have a problem with a kid it's up to them to handle it some other way.

"We keep a constant analysis of dollar flow patterns. For example, if some kid is accumulating too much money and not spending it, we know that he's getting too rich and won't have to work. We look at what's selling in his hall—maybe pool is a favorite pasttime or phone calls, it varies from hall to hall.

"In some halls, private rooms are the big thing, in others sleeping in. Whatever it is, when some kid in a hall is saving up too much, we raise the prices on the popular items in that hall. We cause inflation so he has to work harder."

Just like the outside world?

"Exactly."

How do you know that the kids won't learn how to manipulate the economic system?

"They aren't smart enough to do that."

Boys pay rent for private rooms—there are dormitories and private rooms in each unit—but they get dormitory beds and meals "free."

"We tried to charge for room and board but it wouldn't work because it meant inevitably that some kids wouldn't be able to pay. And obviously we weren't going to keep them from bed and board, so we'd have to have a welfare system. We planned that, too. But it got so complicated it overloaded the system. Besides, we couldn't sell the welfare system to the other kids who wanted to know why they should give up 10 per cent of their bank account."

Just like the outside world?

"Right."

THE CATCH IS PAROLE

When the Holton School inmate has earned $7,875, he is eligible to apply for parole. But there is a catch. Despite all the daily computations, data processing and elaborate manipulation of the economy, when the big prize has been earned, it is simply eligibility for parole. The real pay-off, the parole, is run on a different system.

"We measure everything on performance of the young man," says Kolze. "But we're dealing with a parole board that is time-oriented. We feel that a lot of our boys could move out of here much sooner. But the board disagrees because they consider the original offense and the amount of time spent in the institution."

A brisk walk from the gate of Holton School is the O. H. Close School, the same kind of physical plant with roughly the same number and kind of boys. "We have everything here," Harold Richards, the superintendent says. "You name it, we've got it—burglary and auto theft are the biggest offenses, but we've got child molesters, murderers, armed robbers, rapists . . ."

Close School is devoted entirely to Transactional Analysis, self-examination based on the assumption that each person has within him three major approaches to life: a built-in Parent, who admonishes; a built-in Child, who reacts emotionally; and a built-in Adult, who is a creature of facts and logic. These interact within the individual, causing him confusion. And each person's three ego states interact with other individuals' three ego states, causing a variety of hidden messages and games between people. (A basic book on the technique is Eric Berne's "Games People Play.")

"What we would hope for," Richards says, "would be that a kid by the time he left here would be able to plug into his own mind before he does something to evaluate the situation before he acts, to find out, as we say, what ego state he's in when he is about to do something."

Instead of the price lists of "Holton Dollars" in the institution across the street, Close School has posters poking fun at games inmates play. "Let's Make Counselor Sorry" and "Look What They've Done To Us" and "I'm Just a Typical Teenager." The staff isn't immune: "After All I've Done for You—" and "I Let You Go On a Furlough and Now See What You've Done" and "Kick Me."

Games, in transactional analysis, are a series of secret messages with a gimmick designed to produce some emotional payoff. The best emotional state and the motto of the technique is, "I'm Okay, You're Okay."

A LIFE SCRIPT QUESTIONNAIRE

When each of the 390 boys enters the school, he fills out a Life Script Questionnaire designed to give insight into the boy's conscious and subconscious expectations for himself.

"The number of kids who have as a lifetime script a violent death, or a lifetime spent behind bars of some sort is just incredible . . . Usually a life script is a reflection of what parental expectations were . . . Many parents unconsciously want their kids to fail. They unconsciously want them to take drugs, for example, even as they say, 'Don't take drugs.' The hidden message is, 'Do take drugs.' "

The staff described one boy committed for forcible rape.

"A brutal crime," Paul McCormick, a worker at the school, said. "A gang of kids grabbed a couple who were up in the hills necking and they robbed the guy and raped her.

"This boy was unaware that he had any anger in him. I finally got him to see that he had brutalized another human being, a complete stranger, so it's an evidence of some kind of hate or anger within himself and not related to that particular girl. That it's in him.

"He wasn't aware of it, but he had been programmed by his mother and father from about the age of 12, who kept saying, 'Now don't get in trouble' when they were really telling him all the time, 'You're the kind of kid who's gonna be bad, bad, bad' . . . What's the worst kind of bad? Rape."

"Well, it's kind of ironic because I got busted for rape and I could have been with my girl friend that very night, and we could have been balling the way we always did."

He says that his companions kept urging the rape. He wanted to return home. But in the end he led the group. He said he didn't enjoy it.

Why do it if he didn't enjoy it?

"It didn't strike me in my mind as forcible rape, kidnap and whatever else. No, it didn't strike me as that.

"I was with my friends and I could only explain this through what I've learned here about myself. I needed strokes—my friends said things I liked. I went along with the group.

"I relied more on my friends than I did on Mom and Dad . . . All my Mom and Dad would do would say that everything I did was wrong. There'd always be, 'You're gonna get in trouble.'

"And I never thought much about what I would do in the future. I wanted to be out of the house. I wanted to go to parties. I wanted to ball chicks. I never thought much about it. I never had any insight into myself until I came here.

He spoke softly.

"I don't have to please nobody. I don't have to make anybody love me or hate me. If I reject stealing a car that my friends want to take, it isn't that I reject my friends, but just the idea of stealing. After that, if they want to reject me, then I can say, '——— you.' Now that's a change because before I had to go along with my friends. Same as with my Mom and Dad."

Does it work? Does it work better than Behavior Modification across the street? Nobody knows. Typically of corrections systems nationwide, California spent $13 million to build the two institutions and has spent $22 million operating them but didn't appropriate research money to measure their relative effectiveness. The federal government had to do it in a study still in progress.

Superintendent Richards was asked whether it was possible that he was merely producing more insightful car thieves and rapists.

He shrugged.

"We don't know. But I have trouble believing that we are not doing some good. I think it's justified to use the medical analogy of treatment: you don't measure it by sudden cure but by the number of relapses. I'd be surprised if our kids don't have fewer relapses. But we just don't know. We won't know for a long time."

SEX DISCRIMINATION IN EDUCATION

Mr. BAYH. Mr. President, the Higher Education Act will soon be before the Senate. I commend the Senator from Rhode Island (Mr. Pell), the Senator from New Jersey (Mr. Williams), and the Senator from New York (Mr. Javits) for their leadership in fighting for this broad, innovative, and necessary legislation. But as we endeavor to guarantee a full education to all citizens regardless of their ability to pay, I urge the Senate to guarantee equal educational opportunity for women as well as for men.

It is clear to me that women today are not receiving equal access to educational funds and facilities, or equal treatment after receiving their educational training. Therefore, I have introduced and I intend to call up during the debate an amendment which would deal in a comprehensive way with sex discrimination in education—in admissions, scholarship programs, faculty hiring, and the pay of professional women—and would provide additional reform in related areas.

I ask unanimous consent that a statement and exhibits on this subject be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

I. Scope on the Problem

It is difficult to indicate the full extent of discrimination against women today. The field of education is just one of the many areas where differential treatment has been documented; but because education provides access to jobs and financial security, discrimination here is doubly destructive for women. Therefore, I believe a strong and comprehensive measure is needed to provide women with solid legal protection from the persistent, pernicious discrimination which is serving to perpetuate second-class citizenship for American women.

The rationale for denying women an equal education is vague, but its destructive presence is all too clear. As a study by an independent task force, formed by the Ford Foundation, reported in March of 1971, "discrimination against women, in contrast to that against minorities, is still overt and socially acceptable within the academic community." We are all familiar with the stereotype of women as pretty things who go to college to find a husband, go on to graduate school because they want a more interesting husband, and finally marry, have children, and never work again. The desire of many schools not to waste a "man's place" on a woman stems from such stereotyped notions.

But the facts absolutely contradict these myths about the "weaker sex" and it is time to change our operating assumptions. First of all, the percentage of entering undergraduate students who graduate in 4 years is about 15 percent higher for women than for men—and their grade averages are also higher than those of men. Second, 70 percent of female college graduates do secure jobs, thus giving the lie to assumptions that they are not serious students. More than half the mothers of school-age children work. At age 35, women with husbands can expect to work fully twenty-four years.

For those women who go on to receive graduate degrees, their work records demonstrate a clear dedication to their careers. Female PhD's rarely give up their careers; 91% of the women with doctorates are working today, 81% of them full-time. Moreover, in a study of 2,000 women 10 years after they received their doctorates, 79% had not interrupted their career at any time. The diligence of these women is worthy of note: by way of contrast, ten percent more men than women had interrupted their careers within ten years of completing the doctoral program. Furthermore, research shows that married women publish more than men.

[In percent]

Present rank	Men	Women
Professor	24.5	9.4
Associate professor	21.9	15.7
Assistant professor	28.2	28.7
Instructor and below	25.3	46.2

Source: Simon & Grant's Digest of Educational Statistics, 1969.

And yet a vicious and reinforcing pattern of discrimination persists. In the summer of 1970, Representative Edith Green, Chairman of the House Special Subcommittee on Education, held extensive hearings on discrimination in education and related areas (hereafter referred to as the *1970 Hearings.*) Over 1200 pages of testimony document the massive, persistent patterns of discrimination against women in the academic world. Yet despite a situation which approaches national scandal, the problem has gone unnoticed for years. Today, many would deny that it exists.

But discrimination against women in education does exist. Moreover it prospers. Alan Pifer, President of Carnegie Corporation of New York, has pointed out that women actually have lost ground in education over the years:

"If we compare the participation of women in higher education today with the situation of 40 years ago we find, rather surprisingly, that it has considerably worsened. In 1930 47 percent of undergraduates, as opposed to today's 38 percent, were women; 28 percent of the doctorates were won by women as against today's 13 percent, and at many institutions, the proportion of women faculty members was higher than today."

I believe it is important to survey in some detail the scope of the problem in certain fundamental areas—hiring, scholarships, and admissions.

A. DISCRIMINATION IN HIRING AND PROMOTION OF FACULTY AND ADMINISTRATORS

Discrimination against females on faculties and in administration is well documented and widespread abuse is clear.

I have been dismayed to learn of the double standard the academic community has applied to those women who choose to make education their life work. In spite of high academic standards, a woman who has met the rigorous standards for a PhD program may suddenly find that these same schools do not have sufficient confidence in their own standards to hire the graduate to teach. A recent report on Columbia University practices found that although the percentage of doctorates awarded to women rose from 13 to 24 percent between 1957 and 1968, the percent of women in tenured positions at the graduate facilities have remained constant—at slightly over 2 percent. Similar situations exist, according to testimoney during the *1970 Hearings,* at numbers of other schools.

Although women comprised 6.9 percent of those enrolled in law school in 1969, a survey of 36 prominent law schools during 1968–70 showed that out of a total of 1,625 faculty members, only 35 or 2.1 percent were women, and 25 percent of those 36 were classified as Librarians. (See Exhibit D.)

Furthermore, the rule is that once hired, women do not receive advancement as often as men. While almost half of the male teachers are given the status of full professor, only 10 percent of the women make it that far. As a result, the highest faculty ranks are weighted with men; the lowest rank with women:

Finally, those women who are promoted often do not receive equal pay for equal work. In 1965–66, at the instructor's level the median annual salary of women was $410 less than that of male instructors; at the assistant professor's level it was $576 less; at the associate professor's level, $742 less; and at the level of full professor, it was $1,119 less. ("Fact sheet on the Earnings Gap", U.S. Department of Labor, Women's Bureau, 1970.) According to testimony submitted during the *1970 Hearings,* the women at the University of Pittsburgh calculated that the University was saving $2,500,000 by paying women less than they would have paid men with the same qualifications.

Preference for men over women to fill administrative posts is just as clear. For instance, Dr. Peter Muirhead, Associate Commissioner of Education, testified during the *1970 Hearings* that more than two-thirds of the teachers in elementary and secondary schools are women, but they constitute only 22 percent of the elementary school principals and only 4 percent of the high school principals. According to a recent study by the National Education Association, only two women can be found among 13,000 school superintendents.

In higher education, female administrators are virtually non-existent. Dr. Ann Scott, from the University of Buffalo, highlighted the "progressive evaporation of women as we climb the academic ladder" by pointing out that while women are only 5 percent of the full professors at the institution, they are even less—1 percent—of the top administration (*1970 Hearings*). Even at women's colleges there has been a decline in recent years in the number of high administrative posts held by women. And as Dr. Bernice Sandler pointed out in a recent speech, if it were not for female presidents at Catholic colleges, the number of women college presidents would be less than the number of whooping cranes!

B. DISCRIMINATION IN SCHOLARSHIPS

Although documentation of discrimination in scholarship aid is less conclusive than in other areas, a recent study by the Education Testing Service found that although men and women need equal amounts of financial aid in college, the average awards to men are $215 higher than to women. In addition, concern was expressed during the *1970 Hearings* that programs of compensatory education for disadvantaged students are often weighted toward male disadvantaged students. Of the twenty-six students accepted in 1968–69 for a program run by Brandeis University, all were male. Regarding graduate studies, testimony suggests that women fare slightly worse than men in receiving financial assistance. Claims have also been made that rules permitting only full-time students to receive aid discriminate against women who are going to school while running a household.

C. DISCRIMINATION IN ADMISSIONS

Of course the area where discrimination affects the greatest number of women is in admissions—admissions to undergraduate, graduate, professional, and vocational institutions of education.

I am concerned that in 1970 the percentage of the female population enrolled in college was markedly lower than the percentage of the male population. 40.5 percent of males between the ages of 18 and 21 were enrolled whereas only 28.6 percent of the females of the same age were enrolled. For the ages of 22–24 years, 20.6 percent of the males were enrolled whereas only 8.9 percent of the females were going to college. (See Exhibit E)

The reasons for disparity in enrollment are of course complex and by no means entirely due to overt discrimination. Surely some of these differences result from sex-role expectations in our society. However, there are indications that discrimination does exist at many schools. The 35 schools which are considered by one college handbook to be the "most selective" in the country, admitted a freshman class in 1970 which was only 29.3 percent female. (See Exhibit F) This figure compares very poorly with the national admissions rate of 41 percent women. In the 25 leading graduate departments of history, rated by the American Council on Education, women comprised only 30 percent of 1970 first year enrollees; in the 32 leading biochemistry departments, women comprise only 31 percent of 1970 first year enrollees. (See Exhibit G) More generally, a 1970 study of 240 random schools conducted at the University of Wisconsin indicated that at lower levels of ability, applications from men are markedly preferred over identical applications from women. (See Exhibit H) Dr. Peter Muirhead of the Office of Education testified during the 1970 Hearings that consistently higher records of female students at undergraduate and graduate schools "suggest a tendency to require higher standards of women for admissions."

For professional schools, Dr. Francis S. Norris testified during the same hearings that although the number of women applying for admission to U.S. medical schools increased by more than 300 percent between 1929–30 and 1965–66 (while male applications increased by only 29 percent), the percentage of women applicants who were accepted actually declined during the same time period. (See Exhibit I) In 1966–67, only 18 out of 89 medical schools in the country had more than 10 percent women students.

Admissions to vocational programs and institutions is another area where discrimination on the basis of sex can be documented. Unfortunately, the Office of Education does not keep complete statistics on the number of programs or classes which are restricted in terms of sex; however, a survey of city Boards of Education indicated that sex-separation is the rule rather than the exception. In the state of Massachusetts, there are 17 secondary vocational schools for boys and 3 secondary vocational schools for girls. Although the Board of Education in New York City has tried to institute a coeducational policy where practicable, out of 5 vocational high schools, 12 are for boys only and five are limited to girls. And in

Detroit, I am told that all four vocational schools are for boys only. In addition, many new vocational classes which are run as part of an academic high school program are sex-segregated.

The discriminatory effect of sex-segregation in vocational education is that many fields which are designated for females such as cosmetology or food handling are less technical and therefore less lucrative than fields such as T.V. repair and auto mechanics "reserved" for males. And yet it is only tradition which keeps women out of these fields. Enrollment figures show that across the nation, no field of study is limited to only one sex anymore: enrollment in home economics programs was 13.3 percent male in 1969; enrollment in agriculture was 2 percent female in 1969. If women can receive agricultural, electronic or mechanical training in some programs, they should be able to receive that same training in all programs.

II. SUMMIT OF AMENDMENT

The amendment I am proposing is a strong and comprehensive measure which I believe is needed if we are to provide women with solid legal protection as they seek education and training for later careers, and as they seek employment commensurate to their education. The amendment is designed to expand some of our basic civil rights and labor laws to prohibit the discrimination against women which has been so thoroughly documented.

A. PROHIBITION OF SEX DISCRIMINATION IN FEDERALLY FUNDED EDUCATION PROGRAM

Central to my amendment are Sections 1001–1005, which would prohibit discrimination on the basis of sex in Federally-funded education programs. Discrimination against the beneficiaries of federally assisted programs and activities is already prohibited by Title VI of the 1964 Civil Rights Act, but unfortunately the prohibition does not apply to discrimination on the basis of sex. In order to close this loophole, my amendment sets forth prohibition and enforcement provisions which generally parallel the provisions of Title VI.

Under this amendment, each Federal agency which extends Federal financial assistance is empowered to issue implementing rules and regulations effective after approval of the President. These regulations would allow enforcing agencies to permit differential treatment by sex only very unusual cases where such treatment is absolutely necessary to the success of the program—such as in classes for pregnant girl or emotionally disturbed students, in sport facilities or other instances where personal privacy must be preserved. Failure to comply with the regulations may result in the termination of funding. However, termination must be preceded by notice and opportunity for a hearing, as well as by a determination that voluntary compliance cannot be secured. The effect of termination of funds is limited to the particular entity and program in which such noncompliance has been found, and judicial review is provided under either specific legislation or the Administrative Procedure Act.

This portion of the amendment covers discrimination in all areas where abuse has been mentioned—employment practices for faculty and administrators, scholarship aid, admissions, access to programs within the institution such as vocational education classes, etc The provisions have been tested under Title VI of the 1964 Civil Rights Act for the last eight years so that we have evidence of their effectiveness and flexibility.

My amendment allows some exemptions, pending the completion of more extensive investigation of certain specific problems. First, military and Merchant Marine schools, as well as religious institutions where compliance would not be consistent with the religious tenets of the organization, are exempted. In addition, the admissions policies of certain institutions of education are exempted until further study can be made. As a matter of principle, our national policy should prohibit sex-discrimination at *all* levels of education. However, problems are presented by the fact that many schools—particularly private undergraduate schools of higher education—have established over many years an identity and tradition as single-sex institutions. As a result, they argue that a change such as requiring a sex-neutral admissions policy would be disruptive both in terms of the academic program and in terms of psychological and financial alumni support.

I do not have sufficient information to answer either of these claims. But since private institutions of higher education rely on private gifts and endowment income for 17.6 percent of their operating expenses and public monies for only 6.8 percent of expenses (as opposed to public institutions which rely on public monies for 52.5 percent of their operating expenses, and on private gifts and endowment for only 2.7% of expenses), it seems reasonable to allow time for a careful and specific study of the financial repercussions which these schools claim would occur if they were covered by this amendment. For, instance, if private gifts decrease, is the Federal government prepared to make up the difference to these schools?

In view of the problems described, one suggestion has been to exempt admissions policies for substantially single-sex schools. However, an exemption based on the standard of "substantially single sex" has many inequitable applications. For instance, a number of traditionally male schools have begun to admit women in the past few years—often against substantial alumni (hence, fiscal) pressures; others have not yet made the decision to become coeducational but they have been urged to do so. These schools which have made no effort to open their doors to women would be allowed to continue to discriminate under a single-sex exemption, while those schools which have begun to reform voluntarily would be subject to federal controls which they might have avoided by being less progressive.

Thus it appears fairer to require all schools to adopt sex-neutral admissions policies. In any event, I believe specific hearings are needed to answer these questions which had not been raised at the time of the *1970 Hearings*. Since there are also a number of high schools which are single-sex, a similar study is needed on the question of requiring them to admit students of both sexes. I have been amazed to learn that the Office of Education does not even keep statistics on how many elementary and secondary schools—even public schools—are restricted in admissions to one sex. After these questions have been properly addressed, then Congress can make a fully-informed decision on the question of which—if any—schools should be exempted.

In the meantime, the amendment I am proposing covers admissions to institutions of graduate, professional, and vocational educational institutions and public undergraduate institutions. No one can argue that these schools have any justifiable reason to discriminate against one sex or the other. Admissions policies of other schools are temporarily exempted until further study can be made as to the feasibility of requiring that all admissions policies be sex-neutral. For the purposes of such study the amendment requires that the Commissioner of Education conduct a study, with open hearings, on the desired extent of Section 1001's coverage, and that he make recommendations to Congress by the end of next year on this question.

My view is that many of these exemptions will not be supportable after further study and discussion. In fact, I hope and expect that the prospect of this study will serve to remind educational institutions that the discussion of heir admissions policies is not closed. There has been commendable progress by many institutions in the last few years, but we have a long way to go before the many injustices are corrected. In the meantime, there are other areas in education where the path to justice is clear and has not been followed.

B. PROHIBITION OF EDUCATION—RELATED EMPLOYMENT DISCRIMINATION

Title VII of the 1964 Civil Rights Act has been extremely effective in helping to eliminate sex discrimination in employment. Unfortunatly it has been of no use in the educational field, because the Title by its terms exempts from its protection employees of educational institutions who "perform work connected with the educational activities" of the institution. Therefore, the second major portion of this amendment would apply Title VII's widely recognized standards of equality of employment opportunity to educational institutions.

In addition, to make sure that both men and women employees receive equal pay for equal work, my amendment would extend the Equal Pay Act of 1963 to include administrative, executive, and professional workers, including teachers, all of whom are presently excluded. One of the purposes of the Higher Education Act is to encourage as many students as possible to seek a full education so as to be self-sufficient and contributing members of society. It is of little comfort for women to know that they are encouraged to further their schooling but that in spite of a fine education, they will be earning far less than male colleagues for the rest of their lives.

Both of these provisions to expand existing law and protect women were recommended by President Nixon's Task Force on Women's Rights and Responsibilities. The provision amending Title VII was approved previously by the Senate, but since its fate in Conference is uncertain, the provision has been retained in my amendment. I urge the Senate to approve both provisions so that two more pernicious and unfortunate loopholes in existing laws and be eradicated, and both academic and non-academic women who have made the decision to seek higher education and specialized training can expect to receive both nondiscriminatory access to better jobs and equal pay for equal work.

C. STUDIES OF SEX DISCRIMINATION

The third set of provisions in my amendment would require two different types of studies, a specific analysis of the effects of sex discrimination on educational institutions and students, and an ongoing review and analysis of the nationwide effects of the problems.

First, the Commissioner of Education would be required to make an immediate study of sex discrimination in education, just as he did for other forms of discrimination under Title IV of the Civil Rights Act. This proposal was a priority of President Nixon's Task Force on Women's Rights and Responsibilities. This study by the Commissioner of Education would finally give us a clear picture of the exact nature of sex discrimination in education, its pervasiveness and its cost to society. In addition, the Commissioner's study would also provide an open forum for a thoroughgoing discussion of the proper role—if any—for single sex institutions of education. The Commissioner would be charged with submitting to Congress by the end of next year his report, together with recommendations for remedial action. The report shall include an analysis of the extent to which it would be advisable to eliminate the present exemptions under Section 1001 of the amendment.

Second, for purposes of long term study and action, the U.S. Civil Rights Commission will have continuing authority to study and collect information, make investigations, and appraise the laws and policies of the United States concerning the denial of the equal protection of the laws by reason of sex, just as it now studies discrimination on the basis of race, color, religion, or national origin.

This part of my amendment was suggested by President Nixon's Task Force on Women's Rights and Responsibilities, and the President personally recommended this expansion of the powers of the Civil Rights Commission in his State of the Union address. Not only would study by the Civil Rights Commission assist us in determining where the most egregious discrimination lies, but it would provide an independent analysis of the wisest way to attack interrelated problems of discrimination in education, employment, and counselling or training. This nation's need for a central clearinghouse and authority on all questions relating to sex discrimination has become very clear to me during my work on this particular amendment, the Equal Rights Amendment, the Women's Equality Act, and the proposal to provide universal child care. Congress has already been asked to enact major pieces of legislation relating to women; in the next few years it will have to evaluate the progress made under this legislation and to consider new proposals. To ensure a well-informed perspective, I believe we should expand the Commission's responsibility now to include the area of sex discrimination.

D. SUITS BY THE ATTORNEY GENERAL

There are, of course, other loopholes in the Civil Rights Act where sex was not mentioned. To correct one more, this amendment would permit the Attorney General to initiate litigation concerning the denial on the basis of sex of admission to or continued attendance at a public college, and to intervene in litigation already comenced by others regarding the denial of equal protection of the laws on the basis of sex. The Attorney General already has both these powers in regard to discrimination on the basis of race, color, religion, or national origin; again sex was left out. President Nixon's Task Force on Women's Rights and Responsibilities recommended that these loopholes in the law be closed, so that the Justice Department can help develop case law in such a vitally important area.

CONCLUSION

Many of the provisions of this amendment have been discussed on the Senate floor in the past. Some have been passed by either the House or the Senate.

But the simple, if unpleasant, truth is that we still do not have in law the essential guarantees of equal opportunity in education for men and women. When I proposed an amendment similar to this last August it was ruled "non-germane." Now I am coming back to the Senate with this comprehensive approach which incorporates not only the key provisions of my early amendment, but the strongest points of the anti-discrimination amendments approved by the House.

While the impact of this amendment would be far-reaching, it is not a panacea. It is, however, an important first step in the effort to provide for the women of America something that is rightfully theirs—an equal chance to attend the schools of their choice, to develop the skills they want, and to apply those skills with the knowledge that they will have a fair chance to secure the jobs of their choice with equal pay for equal work. I include exhibits A–I at this point in my remarks.

Exhibit A

S. 659

Amendment intended to be proposed by Mr. Bayh to S. 59, a bill to amend and extend the Higher Education Act of 195 and other Acts dealing with higher education, viz: At the appropriate place in the bill, insert the following new title:

TITLE X—PROHIBITION OF SEX DISCRIMINATION

Sec. 1001. (a) No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that:

(1) in regard to admissions to educational institutions, this section shall apply only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education;

(2) in regard to admissions to educational institutions, this section shall not apply for one year from the date of enactment, nor for six years thereafter in the case of an educational institution which has begun the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such change which is approved by the Commissioner of Education;

(3) this section shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization; and

(4) this section shall not apply to an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine.

(b) For purposes of this title an educational institution means any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one school, college, or department which are administratively separate units, such term means each such school, college, or department.

Sec. 1002. Each Federal department and agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 1001 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made, and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however*, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thrity days have elapsed after the filing of such report.

Sec. 1003. Any department or agency action taken pursuant to section 1002 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 1002, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, United States Code, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of section 701 of that title.

Sec. 1004. Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

Sec. 1005. (a) Clause (1) of section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b) (1)) is amended by inserting at the end thereof the following: "(except that this clause shall not apply with respect to employees of a State, or a political subdivision thereof, employed in an educational institution)".

(b) Section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1) is amended by (1) inserting the words "educational institution," after the word "association," wherever it appears in such section, and (2) by inserting a period after "religious activities" and deleting the remainder of the sentence.

Sec. 1006. Sections 401(b), 407(a) (2), 410, and 902 of the Civil Rights Act of 1964 (42 U.S.C. 2000c(b), 2000c–6(a) (2), 2000c–9, and 2000h–2) are each amended by inserting after "religion" the following: "sex".

Sec. 1007. The Commissioner of Education shall conduct a survey of educational institutions throughout the country in order to determine the extent to which equality of educational opportunity is being denied to citizens of the United States by reason of sex. At a date no later than December 21, 1973, the Commissioner shall submit to Congress the results of his survey along with recommendations for action to guarantee equality of opportunity in education between the sexes. Such report shall include a recommendation, made after affording interested parties an opportunity for hearings and investigation, as to the feasibility of extending the requirements of section 1001 of this title to those educational institutions which are presently exempted, in whole or in part.

Sec. 1008. Paragraphs (1), (2), (3), and (4) of subsection (a) of section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c(a)) are each amended by inserting immediately after "religion" the following: "sex,".

Sec. 1009. Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended by inserting after the words "the provisions of sections 6" the following: "(except section 6(d) in the case of paragraph (1) of this subsection)".

Sec. 1010. (a) Paragraph (1) of subsection 3(r) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(r) (1) is amended by deleting "an elementary or secondary school" and inserting in lieu thereof "a preschool, elementary or secondary school".

(b) Section 3(s) (4) of such Act (29 U.S.C. 203(s) (4) is amended by deleting "an elementary or secondary school" and inserting in lieu thereof "a preschool, elementary or secondary school".

Exhibit B

Summary of Amendment No. 874 to the Higher Education Bill, S. 659

Sec. 1001. *Basic Prohibition*. Provides that no person may be discriminated against on the basis of sex in any education program receiving Federal financial assistance, except that:

(1) in regard to admissions to educational

institutions, this section shall apply only to institutions of graduate, professional, and vocational education, and to public institutions of undergraduate education,

(2) admissions to institutions changing from single-sex to coeducational enrollment are exempt from this section for 7 years if operating under a plan approved by the Commissioner of Education,

(3) this section shall not apply to religious institutions where compliance would not be consistent with the religious tenets of such organization, and

(4) this section shall not apply to military and Merchant Marine schools.

SECS. 1002–1004. *Enforcement and Related Provisions.* Each Federal agency which extends Federal financial assistance is empowered to issue implementing rules and regulations effective after approval of the President. Compliance may be effected by funds termination or other means. Termination must be preceded by notice and opportunity for hearing, and a determination that voluntary compliance cannot be secured. The effect of termination of funds is limited to the particular entity and program in which such noncompliance has been found. Judicial review under specific legislation or the Administrative Procedure Act is provided. Contracts of insurance or guaranty programs, such as FHA loans, are not altered. These provisions parallel Title VI of the 1964 Civil Rights Act.

SEC. 1005. *Employment Discrimination.* Amends the Civil Rights Act of 1964 to bring employment in public and private educational institutions within the coverage of the Equal Employment Opportunity provisions of Title VII. (Recommended by President Nixon's Task Force on Women's Rights and Responsibilities)

SEC. 1006. *Suits by Attorney General.* Amends Title IV of the 1964 Civil Rights Act by adding discrimination by reason of sex to the present grounds on which the Attorney General can initiate legal proceedings on behalf of individuals alleging that they have "been denied admission to or not permitted to continue in attendance at a public college." Also extends to cases of sex discrimination the Attorney General's power to intervene in litigation already commenced by others. (Recommended by President Nixon's Task Force on Women's Rights and Responsibilities)

SEC. 1007. *Study by Commissioner of Education.* Requires the Commissioner of Education to investigate sex discrimination at all levels of education (public and private) and report his findings, together with recommendations for action to guarantee equality of opportunity in education between the sexes. The report shall include a recommendation as to the feasibility of extending the requirement of Section 1001 of this Title to those institutions which are presently exempted, in whole or in part. (The study to those institutions which are presently exempted, in whole or in part. (The study and legislative recommendations were recommended by President Nixon's Task Force on Women's Rights and Responsibilities)

SEC. 1008. *Civil Rights Commission Jurisdiction.* Broadens the jurisdiction of the Civil Rights Commission to include sex-based discrimination. (Recommended by President Nixon's Task Force on Women's Rights and Responsibilities and in the 1972 State of the Union Message)

SEC. 1009. *Equal Pay for Professional Women.* Amends the Fair Labor Standards Act by eliminating the present exemption of individuals employed in executive, administrative, or professional capacity from the equal pay for equal work provisions, (Recommended by President Nixon's Task Force on Women's Rights and Responsibilities)

SEC. 1010. *Preschool Inclusion.* Expands the definition of "enterprise" under the Fair Labor Standards Act to add "preschool" to the existing list of "elementary or secondary schools" as types of activities performed for a business purpose or engaged in commerce.

EXHIBIT C

SEX DISCRIMINATION IN HIGHER EDUCATION

"Discrimination against women, in contrast to that against minorities, is still overt and socially acceptable within the academic community." (*Report on Higher Education,* an independent task force report to HEW, funded by the Ford Foundation, 1971.)

40% of boys with high school grades of C or lower make it into college; only 20% of the girls with the same grades make it to college.

In the 35 most selective schools in the country (as rated by Cass & Birnbaum, Comparative Guide to American Colleges, 1970–71), *women comprised only 29.3% of entering freshmen in 1970.*

Although men and women need equal amounts of financial aid in college, the average awards to men are higher than to women:

	Men	Women
Average single award: Scholarship, loan, or job in the institution	$760	$518
Average packaged award: Grant with a job or loan	1,465	1,173

Source: Study by Education Testing Service, 1969–70.

Undergraduate grade averages for women are significantly higher than for men—34% of the women average A or A—, as opposed to 27% of the men; 41% of the men average less than B+, as opposed to 30% of the women. However, far more men than women get into graduate school, particularly professional schools:

[In percent]

Degrees conferred in all fields—1968–69	Men	Women
Bachelors	44.5	55.5
Professionals (medical, law, theology, etc.)	96.0	4.0
Masters	63.0	37.0
Ph. D's., Ed. D., etc	87.0	13.0

"The bias against women professors and administrators in colleges and universities has denied both professional women a just opportunity for work and students a chance to observe 'models' of female achievement." (*Report of the Women's Action Program,* Department of Health, Education, and Welfare, January, 1972.)

In 36 prominent law schools, only 35 out of 1,625 faculty members are women, and 25% of these are librarians.

Highest faculty ranks are weighted with men; the lowest ranks with women:

[In percent]

Present rank	Men	Women
Professor	24.5	9.4
Associate professor	21.9	15.7
Assistant professor	28.2	28.7
Instructor and below	25.3	46.2

Source: Simon & Grant's Digest of Educational Statistics, 1969.

Although female teachers hold the same qualifications, they often receive substantially less pay than their male counterparts:

The difference in median salaries for men and women is more than $3,000 in chemistry, physics, mathematics, economics, and the biological sciences.

In 1965–66, at the instructor's level, the median annual salary of women was $410 less than that of male instructors, at the assistant professor's level it was $576 less, at the associate professor's level $742 less and at the level of full professor it was $1,119 less.

The U.S. has far fewer women professionals than other countries:

According to Alan Pifer, president of the Carnegie Corporation of New York, only 3.5% of lawyers, 2% of dentists, 7% of physicians and less than 1% of engineers are women. By contrast, in Sweden women make up 24% of lawyers, and in Denmark 70% of the dentists. In Britain, 16% of the physicians are women; in France, 13%; in Germany 20%; in Israel, 24%; and in the Soviet Union, 75% of physicians are women.

EXHIBIT D

DISTRIBUTION OF WOMEN FACULTY AT LEADING AMERICAN LAW SCHOOLS

School	Number of women	Total number of faculty
Boston University	1	50
Columbia University	1	63
Cornell University	0	23
Duke University	0	19
Fordham University	0	31
Georgetown University	1	70
George Washington University	2	88
Harvard	1	82
Indiana University:		
Bloomington	1	25
Indianapolis	1	21
Loyola University (California)	1	34
Marquette University	1	21
New York University	2	149
Ohio State	1	39
Rutgers (Camden and Newark)	4	43
St. John's University	0	37
Stanford University	0	36
Temple University	1	48
University of California, Berkeley	1	45
University of Chicago	1	39
University of Connecticut	0	41
University of Florida	2	37
University of Iowa	0	34
University of Maine	0	12
University of Maryland	0	30
University of Michigan	1	62
University of Minnesota	0	38
University of Missouri:		
Columbia	1	17
Kansas	2	23
University of North Carolina	0	26
University of Oregon	0	16
University of Pennsylvania	0	38
University of Southern California	3	53
University of Texas	1	52
University of Virginia	1	52
University of Wisconsin	1	40
Wayne State	1	31
Yale	2	60
Total	35	1,625

Note: The following table is a breakdown of the number of women faculty (35) according to professional title:

Assistant or associate professor	8
Instructor or lecturer	6
Librarian or librarian-assistant professor	9
Professor	7
Research assistant professor	1
Visting associate professor	4
Total	35

Source: All of the above statistics have been compiled from the Association of American Law Schools Directory of Law Teachers, 1968–70.

EXHIBIT E

PERCENT OF THE POPULATION 16 TO 34 YEARS OLD ENROLLED IN COLLEGE, BY AGE, RACE, AND SEX: OCTOBER 1970

[Civilian noninstitutional population]

Age and sex	All races	White	Negro
Both sexes:			
16 and 17 years	3.4	3.5	2.1
18 to 21 years	34.0	35.8	20.9
18 and 19 years	37.3	39.3	21.8
20 and 21 years	30.4	31.9	19.9
22 to 24 years	14.3	15.1	7.0
25 to 29 years	7.0	7.2	3.8
30 to 34 years	3.7	3.8	2.6
Male:			
16 and 17 years	3.4	3.5	2.0
18 to 21 years	40.5	43.2	20.6
18 and 19 years	40.2	43.1	17.6
20 and 21 years	40.9	43.4	24.4
22 to 24 years	20.6	22.0	8.0
25 to 29 years	10.6	10.8	4.9
30 to 34 years	4.8	4.8	3.6
Female:			
16 to 17 years	3.4	3.4	2.3
18 to 21 years	28.6	29.5	21.1
18 and 19 years	34.6	35.7	25.4
20 and 21 years	22.3	23.0	16.3
22 to 24 years	8.9	9.2	6.2
25 to 29 years	3.7	3.8	2.8
30 to 34 years	2.6	2.3	1.7

EXHIBIT F

UNDERGRADUATE ADMISSIONS, 1970, TO THE MOST SELECTIVE SCHOOLS[1]

School	Total	Men	Women
Amherst	319	319	
Barnard College	460		460
Brandeis University	453	248	205
Brown University	1,129	800	329
Bryn Mawr College	231		231
California Institute of Technology	220	190	30
Carleton College	463	249	214
Chicago University	632	366	260
Columbia College	1,362	892	470
Cornell University	4,013	2,672	1,341
Dartmouth College	828	828	
Harvard	2,308	1,928	380
Harvey Mudd College	(1)		
Haverford	179	179	
Johns Hopkins	780	505	275
Massachusetts Institute of Technology	948	857	91
Middlebury College	451	270	181
Mount Holyoke College	538		538
New College	224	107	117
Pembroke College (public)	531	305	226
University of Pennsylvania	3,565	1,971	1,604
Pomona College (public)	1,083	647	436
Princeton University	980	803	177
Radcliffe College	(2)		
Reed College	342	194	148
Rice University	577	429	148
Oberlin College	680	363	317
St. John	1,870	1,198	672
Smith College	644		644
Stanford	1,395	885	510
Swarthmore College	303	168	135
Vassar College	518	183	335
Wellesley College	469		469
Wesleyan University	385	276	109
Williams College	342	342	
Yale	1,248	1,019	229

	Percent of places for women	Men	Women
Total:			
Total admissions	29.3	19,193	11,281
Admissions to most selective coeducational institutions	32	18,876	8,939

[1] The standards of selectivity are a measure of the scholastic potential of the student body, an indication of the hurdles a student will face in applying for admission, and the level of intellectual competition he will meet after matriculation. (Ratings were taken from James Cass & Max Birnbaum, Comparative Guide to American Colleges, Harper & Row, 1970–71.)

[2] Not listed.

EXHIBIT G.—SELECTED GRADUATE ADMISSIONS

LEADING INSTITUTIONS, BY RATED QUALITY OF GRADUATE FACULTY

GRADUATE ADMISSIONS—HISTORY

School	Total	Men	Women	Percent of places for women
Harvard[1]	[2]41	33	8	21
Yale	38	29	9	24
California (Berkeley)	129	80	49	38
Princeton	22	19	3	14
Columbia	59	35	24	41
Stanford	23	19	4	17
Wisconsin	86	53	33	40
Chicago	67	44	23	34
Michigan	132	96	36	27
Cornell	19	12	7	37
Johns Hopkins	20	13	7	35
California (Los Angeles)	193	131	62	32
Indiana	76	46	30	40
Northwestern	8	6	2	25
Pennsylvania	13	11	2	15
North Carolina	66	39	27	41
Brandeis	26	18	8	30
Brown	12	9	3	25
Duke	48	36	12	25
Illinois	50	39	11	22
Washington (Seattle)	73	59	14	19
Minnesota	35	27	8	25
Texas	96	75	21	22
Virginia	90	60	30	33
Rochester	28	18	10	36
Total	1,450	1,007	443	30.4

GRADUATE ADMISSIONS—BIOCHEMISTRY

School	Total	Men	Women	Percent of places for women
Harvard[1]	[2]27	26	1	4
California (Berkeley)	25	18	7	28
Stanford	6	5	1	17
Rockefeller	4	4		0
Wisconsin	29	21	8	28
Cal Tech	3	3		0
Massachusetts Institute of Technology				
Brandeis	11	8	3	27
Cornell	4	4		0
Johns Hopkins	11	5	6	54
California (Los Angeles)	11	8	3	27
Duke	13	6	7	54
California (San Diego)				
Washington (Seattle)	24	14	10	41.5
Yeshiva	1		1	100
Chicago	7	6	1	14
Illinois	24	16	8	33
Princeton	6	3	3	50
Case Western Reserve	8	4	4	50
New York University	8	4	4	50
Pennsylvania	11	7	4	36
Washington (St. Louis)	7	4	3	48
California (Davis)	20	16	4	20
Michigan	12	9	3	25
Yale				
Columbia (New York)	5	2	3	60
Purdue	44	28	16	36
Michigan State	40	26	14	35
Minnesota	16	12	4	25
Indiana[3]				
Vanderbilt	4	3	1	25
Oregon	4	3	1	25
	385	265	120	31

[1] The ranking of institutions was taken from "A Rating of Graduate Programs" by Kenneth D. Roose and Charles J. Anderson, American Council of Education.

[2] 1st year enrollment figures were taken from "Students Enrolled for Advanced Degrees Fall 1970," by Mary Evans Hooper, Higher Education Surveys Branch, HEW.

[3] No graduate enrollment for 1970.

EXHIBIT H.—THE EFFECT OF RACE, SEX, AND ABILITY LEVEL ON AN APPLICANT'S CHANCES OF ADMISSION TO COLLEGE

Applicant's			
Sex	Race	Ability level	Admission level[1]
Male	Black	Low	2.75
Do	do	Medium	3.40
Do	do	High	3.80
Do	White	Low	3.25
Do	do	Medium	3.55
Do	do	High	3.70
Female	Black	Low	1.85
Do	do	Medium	3.20
Do	do	High	4.05
Do	White	Low	2.00
Do	do	Medium	3.75
Do	do	High	4.05

[1] The higher the number, the greater the enthusiasm with which S was accepted for admission.

Source: Walster, Cleary, and Clifford, "Research Note: The Effect of Race and Sex on College Admission," Sociology of Education, vol. 44, 1970.

EXHIBIT I

ACCEPTANCE DATA ON MEN AND WOMEN APPLICANTS TO U.S. MEDICAL SCHOOLS FOR SELECTED SCHOOL YEARS 1929–30 TO 1965–66

	Women				Men		
School year	Number of applicants	Number accepted	Percent accepted	As percent of total acceptances	Number of applicants	Number accepted	Percent accepted
1965–66	1,676	799	47.7	8.9	17,027	8,213	48.2
1964–65	1,731	824	47.6	9.1	17,437	8,219	47.1
1960–61	1,044	600	57.5	7.0	13,353	7,960	59.6
1955–56	1,002	504	50.3	6.3	13,935	7,465	53.6
1950–51	1,231	385	31.3	5.3	21,049	6,869	32.6
1940–41	585	303	51.8	4.8	11,269	6,025	53.5
1935–36	689	379	55.0	5.5	12,051	6,521	54.1
1929–30	481	315	65.5	4.5	13,174	6,720	51.0

Source: The Journal of Medical Education, vol. 42 No. 1, January 1967, Association of American Medical Colleges, Datagram, vol. 7, No. 8, February 1966.

RESTORING PEACE CORPS FUNDS—A SOUND INVESTMENT

Mr. WILLIAMS. Mr. President, I wish to express my concern at the treatment of the Peace Corps in the proposed appropriations for foreign aid. Here is surely a case of "benign neglect," only the results promise to be anything but benign.

When the Peace Corps was first proposed it was greeted by many with either skepticism or derision. The last thing the United States needed, in the opinion of the critics, was a group of idealistic youngsters, or oldsters, poking around the villages of half the world. Some saw the Peace Corps as just another boondoggle, but this time with an international twist, promising the glamor of living abroad as the capstone of 4 collegiate years. Some in the foreign aid bureaucracy resented the independent thrust which the Peace Corps represented.

But the Peace Corps silenced and eventually won over most of the critics by its performance. Its volunteers in Africa made possible a vast increase in school enrollments. Its community development programs in Latin America meant not only the building of schools, roads, and bridges, but the formation of community organizations and the encouragement of community leadership so that the people could help shape their own future. In Colombia Peace Corps volunteers helped establish the largest educational television system in any developing country. In India the Corps focused its efforts on food production and then on assisting family planning efforts.

The idealism of the volunteers, the resourcefulness with which they discharged their duties, and the overall success of the program in the early years made a very positive impression on the Congress. The agency's appropriations rose from $30 million for fiscal 1962 to a high of over $114 million in fiscal 1966. Through fiscal 1967 the funds appropriated for the Peace Corps were always sufficient for expansion, even if they did not always equal the amounts authorized. Furthermore, the Corps annually returned unobligated funds to the Treasury, and earned a thoroughly merited reputation for economy with Members of both Houses.

But 1966 was the high-water mark. After that, appropriations declined slowly, and that decline has gathered momentum in the past 2 years. For fiscal 1971 the Congress appropriated $90 million, a drop of almost $8.5 million from the previous year. For the present fiscal year the administration asked only $82.2 million for the Peace Corps, but only $68 million was approved by the House. That is the lowest figure since 1963.

I realize full well that the Peace Corps has come under a new form of attack in many instances. Where its volunteers were once applauded because they became closely involved with the people of the developing countries, they are now criticized as agents of U.S. imperialism. While the Corps was once extolled as an antibureaucratic bureaucracy, it is now attacked on one hand as part of the foreign policy establishment or assailed on another hand because its members are not required to be an integral part of American foreign policy. It has even been decried as a reformist organization which postpones or prevents the revolution which some believe to be the necessary prerequisite for development. Also, in an age of domestic turmoil, many would prefer to see Peace Corps funds spent in this country.

So the Corps is caught with criticism from all sides and many of its critics will not be satisfied until it is phased out entirely. Its identity has already been compromised by its incorporation with other service agencies in an amorphous conglomerate known as ACTION. But the Peace Corps record deserves better than this appropriation. It does not deserve the kind of slash in funding with which it is presently faced.

I have been receiving a large volume of correspondence regarding New Jersey volunteers who are affected by this budget cut. New Jersey has had 1,435 volunteers in this program. I believe these volunteers have benefited from the program, their host countries have benefited, and the United States has benefited.

One of these volunteers is Jerry Kuiper from Wyckoff, N.J., who has been a Peace Corps volunteer in Ecuador for the past 2 years. Jerry has been a teacher, friend, and adviser to the people, and he has been working to build a bridge across a treacherous river. This bridge would give the people of a rural Ecuadorian village a convenient route to a central market area.

In working on this project, Jerry has brought together many people of the area who were strangers and even enemies. With his encouragement the people showed their interest by cutting timber for the bridge, using carpentry skills that they once believed were beyond them as mere subsistence farmers.

I was also interested in Jerry's observations about the United States when he recently returned to visit in New Jersey.

One of the statements he made was that his experiences in Ecuador made him appreciate America much more. Advantages that he once took for granted, and old friends and relationships became dearer to him. The weekend of January 15, Jerry returned to Ecuador to continue his work after having surgery at George Washington University. A tree had fallen on his arm at the bridge he was working on.

Jerry is one example of what the Peace Corps has meant to thousands of people in New Jersey and throughout this Nation. They have learned a great deal about themselves; they have had the opportunity to help people in another land to improve their lives; they will leave a lasting impression of good will toward the United States among the people they have served; and they will return home as keen observers of what is most valuable in the American way of life at a time when this country should be reminded of its virtues as well as its faults.

The Congress, the administration, and the American people are now very concerned about the feasibility of a volunteer army. We appear willing to go to great lengths to create any conditions necessary to attract the desired military volunteers. I cannot believe that this same Congress, this same administration, and these same citizens would ignore the reasonable needs of successful volunteer organizations like the Peace Corps. The Peace Corps has volunteers who leave personal comforts, established social relationships, and often professional recognition for a life of austerity, often facing privations, a lack of sanitary facilities, and many other hardships.

Volunteers, such as the one I mentioned, cost the taxpayers $2,500 to train. While they work, they receive $75 a month, banked for them at home, and a bare subsistence to live abroad. Perhaps we should compare the cost of training a draftee to become a combat rifleman. The cost for this training is about $3,340 and the rifleman's base pay is $280 per month. Our ultimate hope in bearing this expense for training a combat rifleman is that his training will never have to be used. Our certain knowledge in training a Peace Corps volunteer is that his training will be used to better the condition of his fellow man.

A nation that is willing to spend $378 per person for its military establishment, as we did last year, should be willing to continue to spend 45 cents a year per person on its Peace Corps volunteers.

In recent years the United States has been spending in the neighborhood of $70 billion annually for purposes of defense. This huge expenditure has bought us a most tenuous and fragile peace, a peace maintained by the delicate balance of terror. In its entire decade of existence the Peace Corps has cost less than $1 billion, but in terms of its contribution to the chance for a genuine peace over the long term, it brings a far greater return for every dollar invested.

That return may not be so impressive in quantitative terms but it has been impressive in the quality of the results. Alongside more generously funded programs the achievements of the Peace Corps may seem insignificant. But the true contribution of the Peace Corps is not easily quantifiable. Rather it consists of intangibles such as the cumulative impact of thousands of personal contacts between volunteers and the people among whom they worked and the effects it has on the volunteers and those around them after they return home. For the Peace Corps has demonstrated—and continues to demonstrate—that we in the United States really care about the people of the third world, it adds a human dimension to a process that can all too easily become impersonal and bureaucratized; its mode of operation narrows the gulf between the giver and the recipient and makes for a more genuine relationship between the two. Finally, it tends to reaffirm those virtues, about the United States, which the volunteer might have started to take for granted.

For all these reasons, I believe the Peace Corps must be continued, and encouraged by adequate funding, funding that is at least at the level of the original authorization.

In this regard, I am very pleased that the Senate foreign assistance appropriations bill for 1972 contains a recommendation for $77.2 million for the Peace Corps. Although much too little was authorized for the Peace Corps, this is the full amount of funds authorized. Now that this position has prevailed in the Senate, I am hopeful we in the Senate will take every opportunity to express our strong support for this provision and that our conferees will insist upon the retention of this amount of funding for the Peace Corps in whatever foreign aid appropriations bill is finally adopted.

As many will recall, I strongly opposed the incorporation of the Peace Corps into the Action agency. After the Senate voted on the Action proposal, I made a statement on the Senate floor enumerating what I believed was accomplished by resisting the reorganization plan. I stated at that time:

> Most importantly, this opposition to the President's plan has placed the Administration on notice that the Congress intends to maintain a continuing "oversight" with regard to this "Action" agency. If there is any attempt to emasculate or otherwise downgrade the programs which are being included under this umbrella, or any attempt to substitute quantity for quality, in the nature of the volunteers chosen, and the type of work which they do, the Congress will be quick to notice, and to call upon the Agency to fulfill its promises.

I believed then that we and the administration had committed ourselves to an effective, well-funded Peace Corps program. I believe now that Congress should act to honor that commitment.

ADDRESS BY HON. SECOR BROWNE, CHAIRMAN, CIVIL AERONAUTICS BOARD

Mr. PEARSON. Mr. President, the Chairman of the Civil Aeronautics Board, the Honorable Secor Browne, has been both praised and criticized for his independence of mind and his efforts to propose new solutions to problems which continue to plague our aviation community.

The Chairman recently accompanied me to Wichita, Kans., to propose a new type of experiment designed to seek new and better ways of providing air service to the small and medium-sized communities of this Nation. The people of my State, I can say with certainty, were most impressed by the study and thought which the Chairman obviously had devoted to this subject. And though the implications of this proposal may not have been apparent to most of us in Wichita, nor indeed now be to most of the aviation industry, we did understand that he knew what he was talking about. Moreover, we sensed that he was willing to explore new ways of doing things.

The Chairman's independence of thought has also been demonstrated by his analysis of current problems confronting the airline industry. Responding to the notion that mergers are solutions to economic ills, Mr. Browne has been quoted as saying:

> I'd rather have good times. Mergers don't necessarily solve problems.

To my mind, Mr. President, it is refreshing to know that the Chairman of the Civil Aeronautics Board has an open mind on this subject of airline mergers and their relationship to the health of our air transport industry.

I might note in passing that our experience with the Penn Central Railroad made it clear to many of us on the Senate Commerce Committee and in the Congress as a whole that transportation mergers do not necessarily improve the health of the merged entity or, indeed, of the industry generally.

For the independence of thought shown by Chairman Browne and the members of the Civil Aeronautics Board on whose behalf he has spoken, I would, therefore, offer my compliments. Further, I ask unanimous consent that the Chairman's remarks in Wichita and in Dallas be printed in the Record. I invite them to the attention of the Senate.

There being no objection, the items were ordered to be printed in the Record, as follows:

Remarks by Secor D. Browne at Dallas, Tex.

Good afternoon, ladies and gentlemen.

First of all I'd like to talk about your airport. This certainly is one of the more responsible projects undertaken in the United States in the decade of the '70's. I congratulate you all for your foresight and your initiative. I also congratulate you on your Director, Mr. Sullivan who is, in my judgment, one of the most competent airport executives, not only in the country, but in the world. You are lucky to have him.

The question you probably want to ask me is when will Dallas/Fort Worth International Airport get international routes? I can't answer that. I can say this—inevitably Dallas/Fort Worth International Airport will be truly international and will be linked to the major world capitals. That is in the future. But now, with the economic condition of our carriers and the state of world aviation in general, additional services are just not a practical reality.

The Board is under the heaviest possible pressure to provide international services to existing airports at major cities including Atlanta, Miami, and Seattle. Several foreign governments are interested in additional services to Chicago, and other parts of the country. As far as I am concerned, there will be no major expansion of services until we get our airline economics straightened out.

I know it sounds simple. Why can't we just grant a route from here to anywhere? But it's not simple. Each route you make is a two-way street. You have to go somewhere, you've got to give something for it. However, until our carriers surface financially solid, I cannot see the Board granting further major route awards. But, I can see the recovery of our airlines, hopefully in the very near future, and I can see Dallas/Fort Worth becoming a major international hub. Again, I congratulate you on your vision and your courage.

I want to talk to you about a serious problem that concerns us all. When you've got a serious problem, you go where the nerve ends are—be they Administration nerve ends or Congressional nerve ends. You make your pitch there and it gets through. I've made essentially these same remarks in Miami, Los Angeles, now here; and before the end of the year, in San Diego, Seattle, Chicago and Detroit. These are all centers where the problem I'm going to talk to you about is well understood. Boiled down, it comes out something like, "After the DC–10, the 747, the L–1011, what?" And the answer is "nothing" unless we do something.

You may wonder why am I making this speech. Well, the Civil Aeronautics Board is unique among regulatory bodies in having the duty to promote the industry which it regulates and that's air commerce. If we don't have any airplanes, we won't have any air commerce. That's my ticket of admission.

In referring to future aircraft needs, I am not overlooking the over-capacity situation which exists today. In the mid-60's our carriers, our government, and our public watched air traffic grow by 15 to 20 per cent each year and decided there would be a need for new airplanes with more capacity about now. The airlines asked for new routes and the Board granted them. They ordered airplanes and the airplanes are now being delivered.

None of us looking into the murky crystal ball could see the recession that hit us and the slump from which we're now recovering. I repeat—this over-capacity problem is temporary. Within the next five years, six years, seven years, we will need more and newer airplanes.

What will we need? Right now we could use an airplane for local service carriers to replace the F27 and the Convair 580 turbo prop. We are going to need an airbus pretty soon in the Northeast and the West Coast corridors. When the ability of the air traffic control system and our congested airports to move people with what we're using now—727, the DC–9, and so on—has been exceeded, we will need a big short haul machine. We need an airbus. At some point we will need a STOL airplane—that's a short takeoff and landing airplane—to take care of moving people even shorter distances between city centers and within high density areas. At some point we are going to have an SST. We need an SST. We also need quiet, clean engines. We are getting quiet, clean engines in the DC–10, the 747, the L–1011. These aircraft are good neighbors. They're quiet. They're clean. But they're only part of the fleet we need now and the one we will need in the future.

Unless we do something, that laundry list I just read you will all be procured abroad. That means *outside* the United States. At this point I must be critical of our own government, which I think is overconcentrating on the wrong problems. All that you hear and read deals with research and development of new aircraft—the short takeoff and landing aircraft. Research and development is *not* the problem. I certainly don't criticize NASA or the DOT and the FAA for looking at the research and development problem. But the real gut problem is how do you get an airplane from research and development through prototype into production? How do you get by the reverse cash flow problem?

Let me give you an example. An airplane, like a 747, costs about $25 million. At the peak—or should I say at the bottom—of this reverse cash flow you're likely to be about 1.5 billion dollars in the hole in expenses for R&D, prototype, tooling and inventory. None of our manufacturers alone, or probably not even all of them together, have resources of this magnitude that they could possibly apply to a new project. From the private sector you simply can't raise this kind of money.

Well, how did we do it before? We did it before because the Department of Defense, frankly, was buying aircraft. They undergirded the development of engines and airplanes that gave us the 707 and the DC–8. The C–5 was the reason you have a 747 and a DC–10.

Government isn't buying airplanes anymore for DoD. Yet our industry is competing with Governments. The French, the British, the Germans, the Italians, the Japanese, are all investing in their aerospace industries with their particular view of capturing our world dominance in aerospace, particularly in the air transport industry.

What's at stake is an industry; here, in the northwest, in California, and in Georgia as well as the thousands and thousands of suppliers all over the United States. At stake is the balance of payments earnings generated by these magnificent airplanes with which we have supplied and at the moment are still supplying the world. Our carriers, as I said as I went through my laundry list, will have to equip abroad. We will have a steady flow of money, cash, and credit going overseas.

We can already see a reverse drain, not only of money but of brains. Responsible management, responsible to stockholders and responsible for keeping engineering and technical expertise together, have no choice but to make deals with government-supported industry abroad.

The only clean, quiet engine I now know under development is by SNECMA. That's the French state engine corporation. And that engine is being developed under agreement with General Electric. I don't blame

General Electric. Boeing has an arrangement with the Italians to develop a STOL vehicle. The Japanese are now negotiating with Lockheed or Boeing or Douglas for a partner in the development of an airbus. Again, I don't blame responsible management. They have no choice. I blame us. We, that's all of us in the form of the Administration and the Congress, must somehow help to undergird our industry.

What do I propose? For a trial balloon, I suggest some sort of aerospace reconstruction finance corporation—a financial body, not a technical body. The SST was, of course, a tragic loss. It was a loss not only for an airplane but of the beginning of an entity which might have provided this kind of financial muscle not only for an SST but for the rest of a new generation of airplanes.

There was, however, a mistake in a program. I say this without criticizing the very capable people who ran the SST program office. The mistake was that it was perhaps more of a technical than a financial body.

The requirements of the air carriers got lost in interpretation between them and a government agency and the manufacturers. That's why I can't overemphasize that anybody that would step forward only to review and consider financial matters should not interject itself more than absolutely necessary in the normal marketplace relationship between buyer and seller.

In other words, what I envision is the carriers, as they have historically done, preparing their requirements for any one of the aircraft that I have suggested. Normal manufacturers' bidding and production agreements between the air carriers and the manufacturers would be followed by the normal cycle of down payments, progress payments, delivery payments and so on. What I want to see done is to get the government to alleviate that enormous obstacle—negative cash flow—to bring it within the realm of possibility for both the carrier and the manufacturer.

I do *not* want to eliminate the element of risk. If the carriers risk their money on specifications or requirements that are wrong, too bad for them. If the manufacturers don't deliver the airplane that was ordered at least within reason, too bad for them. I only think we, as taxpayers, by guaranteed loans, by underwriting the progress payments, by accelerated depreciation policies and by offering money at reasonable interest rates, should make it possible for the system that we have created to survive.

We need this vehicle, or something like it, to replace what is missing. I hope that what I propose can happen. It's not a partisan issue. It's not a regional issue. It's a national issue. It should not be submerged in 1972 by either side.

An Assistant Secretary in another department the other day referred to me as "the outrageously independent Chairman of the Civil Aeronautics Board." I think this is a time to be outrageous. The aerospace industry is an enormous part of the wealth of this nation.

This is not a matter of alternative support of an industrial program with money that otherwise could go to health, welfare, or education. If we don't preserve our basis of wealth, what will we have to tax? If we don't preserve what is probably the chief, if not soon to become our *only* area of international technical superiority, what will we have left to sell abroad? If we don't have products to sell, will we not indeed turn into a nation of service industries, busily taking in each others' laundry?

REMARKS BY SECOR D. BROWNE AT WICHITA, KANS.

Thank you Senator Pearson.

I'd like to speak first about another question which is tied to the local service problem before I reach the principal theme of Service to Small Communities. It's really a question which relates very much to Wichita as it does to Seattle, to Los Angeles, to the States of Texas and Florida, and in fact it relates to almost all of the United States.

There is a general assumption that the aerospace industry is concentrated in the northwest, the west coast, and perhaps Texas. You all know that definitely is not true but you might not know that a map showing distribution of aerospace and aviation industry does include all but eleven of our 50 states.

The question is: "After the 747 and the DC–10, What?" The answer is, if we don't do something, after the 747 and the DC–10 there will be nothing. Those aircraft, plus the L–1011, appear to be the last major transport aircraft to be built. It may sound odd to raise this point at a time when we all know there is a problem of over capacity in the nation's airlines. But this problem is temporary.

Most of the people in this room realize that it takes from five to seven years for an airplane to get born. Right now we need some aircraft types and within five to seven years we will need more. At this moment we need a replacement for the tired Convairs. We need something to replace the F27.

We need clean, quiet engines beyond those powering the DC–10 and the 747. Somewhere down the line, and maybe not too far away, we need an airbus—a two engine, 250 passenger aircraft suited for high density markets such as the Northeast Corridor, the west coast and others. We certainly need a short takeoff and landing aircraft. Someday, we not only will need, but must have, a supersonic transport.

What's at stake in our aerospace industry? You probably know that 80 per cent of the aircraft in the free world's fleet are American made. You probably realize what that means to our balance of payments. You also know that if we don't maintain our markets, we will lose the 80 per cent. We will lose the balance of payment in-flow, and we will have an out-flow as our carriers re-equip with foreign aircraft.

It's interesting to note that airplanes are one of the few outstanding technological achievements left in our export package.

The Italian Government ran an ad recently in the Wall Street Journal and the Washington Post. It was aimed at the ten per cent surcharge and listed what the Italian Government and the Italian people bought, in an attempt to show what good customers they are of the U.S. It was curious that the only major category of advanced technology or equipment was airplanes—some $131 million worth. Most of the items were things like food and raw materials, things that the Italians either consumed or finished and shipped back to us.

Many of the tape recorders here today are made by the Japanese. We use Italian office machines. We use German milling machines and we drive Japanese, French, Swedish, Italian and German automobiles. Clearly airplanes and aircraft exports are among the few outstanding products we have with which to compete in the world's market.

What am I worrying about? What's missing? As many of you in this room know, if you are apt to put a $25 million airplane into production, like the Boeing 747, you are going to be about $1.5 billion dollars in the hole at the maximum negative cash flow. Previously this flow, this kind of muscle, came from the role of the Department of Defense which, with steady production of bombers and tankers and the development of engines and airframes, made possible the 707 and the DC–8 family.

The reason there is a 747 and a DC–10 today, in my judgment, is that there is a C–5. The C–5 paid for the development of the General Electric engines that power the DC–10. A parallel program paid for the development of the Pratt and Whitney engines that now power the 747.

Our industry today simply can't raise the kind of financial resources to go from development through to production. And that's Boeing, Douglas, General Electric, Pratt and Whitney, Lockheed, either singly or in my view, in competition. Today, our industries are competing, not with other industries, but with governments—the French, British, German, Italian and Japanese—either singly or in combination.

We are undergoing a reverse brain drain. Boeing has made a deal with the Italians to develop a short takeoff and landing vehicle. General Electric has entered into a deal with SNECMA—the French State engine factory—to develop a ten ton thrust cleaner, quieter engine which will power many of the future generations of aircraft. If we ever re-engine any part of our present fleet, that will probably be the engine.

I don't blame the managements of any of those companies. They have the responsibility to keep their engineering teams together and they have responsibilities to their stockholders. I think we, as people of this country, as taxpayers, and as the government, also have a responsibility. I'd like to emphasize. I am not talking about research and development. I'm talking about the burden of cash flow to get through tooling, through inventory, through production costs.

Having painted this black picture, what do I suggest we do? Well, I propose something that I call an Aerospace Reconstruction Finance Corp. I use those words because I think this entity should be financial in nature—not technical. It should be either independent or under the wing of the Treasury, and should be small.

Probably the only mistake of the SST program, in my view, was that it did have a project office, following the Defense Department procurement procedures, which meant that there was a 125 man team—a good one—but a 125 man team between the airlines and the manufacturers. There was considerable concern on all our parts that what was being developed and what might come out of it was the government's airplane, not the airlines' airplane.

I don't think we need to re-design anything. I repeat, all we want to do is provide the financial muscle to continue the historic process whereby the air carriers develop their requirements, the manufacturers bid, the carriers make down payments, progress payments and final payments. All I want the government to do is undergird this process, provide that portion of the risk which is simply beyond the ability of the airline industry and the manufacturing industry to handle.

What I propose will also preserve the element of competition and some element of risk. I suggest that this undergirding be achieved first by means of guaranteed loans; second, by an improved depreciation policy to encourage the carriers to replace obsolete equipment and finally, by revised interest policies. Presently we have the curious situation whereby Japan Air Lines or Alitalia or Air France can get money from ExIm Bank for about half of what our carriers have to pay in the private sector.

I'm suggesting a choice between social programs, like education, health or housing. These are all important. What I'm suggesting is a means to provide and preserve one of our major bases of wealth in order to provide something which we can tax in order to have the resources to have these programs. We must have something to sell in the world market. Otherwise I am afraid we will turn into a nation of service industries very busily taking in each other's laundry.

Moving to another topic, the carriers, in my view, have turned the financial corner. From the pre-tax loss of $194 million in 1970, the newspapers now show that the carriers are about to break even as a group for 1971.

In 1972, even without a possible three per cent fare increase, I'd say the carriers, as a group, should net between 200 and 250 million dollars.

There are various indicators. October of 1971 had a $65 million swing from October of 1970. In 1970 the trunks alone lost $40 million. In October, 1971 the trunks alone made $25 million. October, November, and December traffic has been up between seven and nine per cent over a year ago.

Why has this come about? First of all because of some improvement in the economy. But also because of actions of responsible airline management in combination with what I like to call responsive regulation. Airline managements have taken hold of costs. They have reduced capacity. The board has provided an improvement in yield by granting a six per cent fare increase, and by permitting multilateral capacity reductions.

There are a couple of caveats if the carriers are to realize a $200 to $250 million profit this year. The first is labor. Some 50 per cent of the airline dollar is spent for labor. Recent increases, before the wage/price freeze, were in my view, far beyond anything which could be matched by productivity improvement. The wage/price control, I hope, will help. But I feel it is up to the Congress to put some sort of transportation labor control into effect, and pressures to do this, of course, have been increased by the dock strike.

The second caveat is the capacity problem. The history of airline over-capacity simply must not be repeated. Last year the system load factor of the airlines was 48 per cent. This was seven per cent below what the Board has found to be a reasonable standard. This year the airlines are scheduled to put more than 60 wide-bodied jets into operation. These simply cannot be put into service on a one-for-one basis, substituting one wide-bodied for one 707 or DC–8. This is going to be tough on the industry—both the manufacturer and the airline. It's going to mean stretch outs, possibly cancellations, probably groundings. But we cannot put more seats back into the air.

Furthermore the airlines must get over the myth of market share. If you're flying 35 per cent of the seats in a market, as an airline, and you have 25 per cent of the traffic, you are, in my view, clearly out of your mind. You hurt the public; you hurt other carriers and you hurt yourself. This is an area of management responsibility. I've made this part of the speech elsewhere in the nation and I say it again because now is the time when airlines are planning, and when they must face these hard decisions. But if there is no restraint in the matter of capacity, and no control of labor, there will be no $200 to $250 million profit. The Board will continue to be responsive, but I think we must ask the airlines and the manufacturers to be responsible in these areas.

Finally, let's focus on the topic of Service to Small Communities. This is what brought me to Wichita today, and it is a matter of great importance to you and to us.

To the Civil Aeronautics Board, the names London, Paris, Lebanon, Melbourne and Athens, must *also* mean London, Kentucky; Paris, Texas; Lebanon, New Hampshire; Melbourne, Florida, and Athens, Georgia.

Over two years ago the Board initiated a study into the problem of airline service to small communities. The Board was aware that things were far from well.

Changing times require changing ideas. We are honoring our pledge to Congress to re-think the entire question of air service to small communities, and to bring forward new and different ideas.

We considered six alternatives:

1. changing or abandoning the subsidy class rate;
2. seeking a subsidy increase;
3. implementing a non-Federal subsidy program;
4. subsidizing air taxi operators;
5. instituting a contract bid system;
6. doing nothing.

We found that the greatest promise for better service at a reasonable cost to the taxpayer seems to be in a new approach—the contract bid system.

The regional carriers have responded very well to the needs of the system over the years. But the transportation system, particularly air transportation, is dynamic, and changes have taken place which require a new look at the means by which the smaller communities are served. In the years just after World War II, the regional carriers were small, local enterprises operating 21–28 seat DC–3 aircraft purchased at low cost from the government and the trunklines. Their principal purpose was to provide service over fixed, linear routes between small communities and hub cities, for both connecting and local traffic, at relatively low subsidy cost to the Federal Government. The usual pattern of service was, and remains, two round trips a day.

By law, the regional carriers are aided by federal subsidy payments for their non-competitive services to smaller points. Although the subsidy bill has increased in recent years to about $59 million in fiscal year 1971, the nation has received outstanding value for its money.

In recent years, four basic changes have taken place in the nation's small community transportation system.

First, during the 1960's, the nation's highway system was vastly expanded and improved as the result of a multi-billion dollar program.

Second, there has been a shift in population, in Kansas and other plains and mountain states. The population has declined in the rural centers, yet these communities must continue to have air service.

Third, during the 1960's, regional carriers grew through mergers and route expansion. They have sought and received longer and denser routes and access to new, large hub terminals to afford new and improved single-carrier services to many points. The carriers have grown in terms of equipment, and many of them now provide token scheduled service at the smaller communities. Some of them operate aircraft which can no longer use the airports at some of the communities which require airline service.

Fourth, since the mid-1960's, air taxis operating demand services and commuter carriers operating scheduled services under a blanket exemption from virtually all regulatory requirements, except as to safety and aircraft size, aircraft offering up to 19 revenue seats are operated—have expanded nationwide. They provide scheduled service to about 150 points that are not certificated. In addition, such carriers serve numerous certificated points and markets and provide replacement service for certificated carriers at about 60 points. The record of the commuter carrier's substitution service has been mostly good. They have been able to give greater frequencies, better schedule timing, and improved performance.

The emerging and critical problem is the increasing difficulty the regional carriers have in responding to the needs of the communities on their systems. Each year the regional carriers—faced with rapidly mounting costs—are incurring substantially increased subsidy needs to continue to provide small community air service at their smallest system points with their 40-to 55-seat equipment. Simultaneously, they have been seeking to reduce their small community service obligations by means of deletions, consolidations, and suspensions. In many cases, a temporary suspension is sought and granted to the local carrier in conjunction with a third level carrier offering replacement service at some of the small communities. Further, as route systems have expanded, schedules necessarily have been suited to the needs of higher density large and medium points on the systems, and service to smaller points is becoming less responsive to needs.

Coupled with these problems, the smaller communities have been faced with sharply rising airport costs, and in many cases simply do not have airports capable of handling the larger jet equipment used by the regional carriers.

Faced with the need to insure continued responsiveness of the system to needs of all the communities, the Civil Aeronautics Board has decided to seek a special appropriation and special statutory authority to test an experimental contract method of supporting and selecting carriers to provide small community air service. We will propose that with the authority to take bids and grant contracts without certification, we could conduct a limited number of tests in various areas of the country, perhaps Kansas, Alaska and North Dakota, to determine whether the contract method is workable. If this were confirmed, subsidy expenditures would be more directly related to the services provided, rather than as now, to a local service carrier's system as a whole. It should be emphasized that this would be a limited experiment. The present system would, of course, remain in effect during the experiment.

The main features of the proposal would be to allow all carriers, including air taxi and commuter carriers, to submit bids for the provision of a pattern and quality of service specified by the Board after taking into account the needs of the small community concerned in the experiment. Additional service could be provided independently of the contract. Contract awards, based on bids submitted by reliable and responsible carriers, and subject to performance safeguards, would be for a two or three-year term. Contractors would be advised that they would have no vested grandfather type rights for follow-on contracts which might be awarded.

The Board would ask qualified operators to bid to provide such services as the Board determined necessary.

The matter of safety of course would remain with the FAA. The matter of economics is the Board's business. To insure that a successful contractor would complete the service in the period which he had undertaken, the Board would require surety and bonding of some form.

We would have to seek appropriations to be able to let contracts for let's say these three areas or three systems. Our guess is that this will cost about $2 million per year for the three systems which we would propose. This might not increase the present subsidy, because we might be able to relieve local service carriers of enough of their burden to keep the subsidy cost at the same, or lower, level.

Renegotiation rights during the life of the contract would be expressly precluded. Uneconomic bids would be unlikely if contractors are on notice that higher payments cannot be obtained through renegotiation. As a definitive check, the Board would develop detailed procedures to enable the staff to carefully screen out unrealistic bids, and each contractor would be subject to performance bonding or similar financial guarantees which would have the effect of assuring completion of the contract and, in the event of failure, would provide funds for the immediate institution of service by a substitute carrier.

Such procedures would also spell out minimum standards for filing bids and would include such matters as corporate financial condition, insurance, experience of officers and employees, and adequacy of compliance with all applicable FAA safety standards. The Board would also issue the detailed specifications against which bids would be tendered. It is contemplated that the Board's staff and the community would participate in the development of specifications covering the service that would fulfill that community's needs.

In the past, academic critics of the existing subsidy system have suggested the possibility of a bidding system as an alternative. However, the pros and cons of such a system have never received a practical test, and there is no empirical basis for altering the present system. The Board believes that the problems of continued adequate service to smaller communities are sufficiently serious, and the possible benefits of a bid system are sufficiently promising, to warrant a limited experiment at the earliest possible time.

What we need is the authority to conduct the experiment. What we need is the experience, and that's why we're going to be coming to Senator Pearson and his colleagues for their help.

Thank you.

LITHUANIAN INDEPENDENCE DAY

Mr. WILLIAMS. Mr. President, February 16 marks the anniversary of the declaration of the independence of Lithuania.

Fifty-four years ago, the brave patriots of Lithuania renounced the control of Germany over their nation and proclaimed their freedom.

Prior to German dominance, Lithuania had faced years of suppression by Russian dictatorship. Great attempts by the czarist government were made to replace Lithuanian language and culture with Russian. Fortunately, however, the attempts were never successful, and the policy of forcing Russification was finally abandoned in 1905.

In 1915, Russian control over Lithuania was replaced by that of the German forces, who overran this tiny nation with its powerful army. Again the Lithuanian people were forced to accept the dominance of a foreign and unfriendly government.

By 1917, however, as the powerful Germany army began to lose its supremacy, and as Russia became more involved in its own internal turmoil, the people of Lithuania seized the opportunity to organize and strengthen their own government. After the establishment of a 20-member governing council, these courageous and determined people proclaimed on February 16, 1918, a free and independent Lithuania.

Although it was not until July 1920, that Russia accepted Lithuanian independence, this nation took immediate steps toward establishing a free government. By 1922, a permanent constitution was adopted, according freedom of speech, assembly, and religion. The power of legislation was vested in a parliament, and the executive authority was given to the President and his Cabinet.

However, the years of Lithuanian independent growth and improvement were short lived. By 1939, both German and Soviet aggression was again forced on Lithuania. On August 3, 1940, Lithuania was declared a constitutent republic of the Soviet Union by the Supreme Soviet in Moscow, and by 1944 all Lithuania was occupied by Russian forces.

Mr. President, in the very short years of their independence, the people of Lithuania proved to the world their strong and determined desire to be free. That desire is still alive today. I wish, therefore, to join with all Americans in paying tribute to Lithuanian Independence Day.

EXECUTIVE INTERCHANGE PROGRAM

Mr. PERCY. Mr. President, a highly productive program is underway which brings business executives into government jobs for 12 to 18 months at a time and also puts government employees in private business for a similar length of time. The program is designed to give business executives a feeling for what government service is like and to give Government employees experience in private enterprise.

The January 1972 issue of Nation's Business has an article on this program and with it long broadening opportunities for potential participants as well as Government offices. I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

From Businessman to Civil Servant—And Vice Versa

Sometimes, in his rather austere quarters at the Department of Commerce, Timothy O'Shea must think back to London.

His office there was at No. 1 Regent St., a posh location in the generally fashionable West End.

It was a short train ride from his home in Sunningdale to Waterloo Station. From there, a 15-minute walk brought him to his office, across the Thames, a little before 9 a.m.

"The British," he explains, "get off to a more leisurely start."

Now he rises earlier, hops in the car, heads for Highway 70-S and battles traffic in a 20-mile drive from his Gaithersburg, Md., home to downtown Washington. His responsibilities are comparable, he feels, but not the office accommodations.

He arrives in his office about 8:05 a.m. and will be there, except for lunch, until close to 7 p.m.

In London, he was European marketing director for a group of Westinghouse Electric Co. products. He agonized over problems like how to sell more U.S. picture tubes to West German makers of TV sets.

In Washington, he works in the Commerce Department's Office of Program Analysis. His chief concern, at the moment, is how to get more mileage out of the Department's 42 field offices.

Mr. O'Shea is one of 43 businessmen who have left their jobs for 12 to 18 months to work in the federal bureaucracy.

They're taking part in the Executive Interchange Program. Its goal is to bring two worlds that are often poles apart—business and government—closer together.

The program, which got under way less than two years ago, is a two-way street.

THE OTHER GUY'S TROUBLES

It gives promising young business executives a taste of what life's like in the world of civil service. And it permits up-and-coming federal employees to sample the tribulations and triumphs of life in the corporate executive suite. So far, 16 government executives have made the switch to the payrolls of private enterprise.

Most of those in the program are in middle management—grades 14 to 16 for the government employees, and the $25,000 to $35,000 pay bracket for the business executives.

Both groups have found the 12-to-18-month stint an eye-opener.

Ronald Stegall, a coordinator in the Model Cities Administration, Department of Housing and Urban Development, now is in the Manhattan GHQ of Norton Simon, Inc.

"I've gained a fuller understanding," he says, "of the kind of constraints business has to face. And an awareness of the fact that it is not a monolith.

"There's a great diversity of attitudes in business, as in any other community."

Thomas O'Brien, a program manager at the Federal Aviation Administration, recently spent a year as a new products manager with Mobil Oil Corp.

"It gave me a better insight," he says, "into how business thinks and how limited it can be in responding to certain demands.

"For example, like an edict to stop pollution. This might take two years, cost hundreds of millions of dollars and pose some tough problems on where to get the money."

Similarly, bright young men from the corporate aeries of Manhattan learned lots in the federal labyrinths.

ONE MAN'S MEAT . . .

"It's quite difficult to get a big department or agency to move or make a decision," says John F. Flanagan, director of corporate plans, American Airlines, who spent a year with the Department of Transportation.

"It takes a lot of discussion, consultation and concurrences.

"From a business viewpoint, that's bad. We like to move faster.

"But from the government's point of view, that's good. Deliberation keeps it from possibly making a lot of bad decisions. And a government decision has a lot bigger impact on a lot more people than any decision we make in business."

As with Mr. O'Shea, Mr. Flanagan's tour of duty in Washington meant a lot of adjustments in his personal life and work habits.

"Before I came to the Department of Transportation," he says, "I was manager, operations planning, at American Airlines' headquarters in New York City.

"We were planning how to introduce the new 747's into service. That meant we had to look at everything. Passenger terminal facilities, ground equipment, food service, caterers, stewardesses, training pilots—the whole package.

"About 10 of us worked full-time on the project. We got help, of course, from others in the company whom we called on when their expert knowledge was needed.

"We had just wrapped this up when I went to the Department of Transportation for a year, under the Executive Interchange Program.

"Actually, I was sort of conditioned to the importance of mass transit by working in New York City.

"I lived in an old colonial home in Mt. Vernon in Westchester County. Every day I rode a commuter train to Grand Central Station, two blocks from our offices.

"When I was assigned to DOT, I was interested in seeing how the government approached the problem."

A VARIETY OF COMPANIES

More than 30 American business firms, big and small, are already taking part in the Interchange Program—lending some of their own promising executives to federal agencies and making room for federal managers in company executive slots.

The firms include, in addition to those already mentioned:

American Standard, Inc.; American Telephone & Telegraph Co.; Atchison, Topeka & Santa Fe Railway Co.; Atlantic Richfield Co.;

Avco Corp.; Bank of America; Bendix Corp.; Computer Congenerics; Consolidated Edison Co. of New York, Inc.; Cummins Engine Co., Inc.; General Electric Co.; General Telephone & Electronics Corp.; International Business Machines Corp.; Lockheed Aircraft Corp.; Ling-Temco-Vought, Inc.; McDonnell Douglas Corp.; McKinsey & Co.; Mead Corp.; Motorola, Inc.; North American Rockwell Corp.; Owens-Illinois, Inc.; Standard Oil Co. of California; Standard Oil Co. (New Jersey); State Street Bank & Trust Co.; Syntex Corp.; Teledyne, Inc.; and TRW, Inc.

"The goal of the program was summed up well by President Nixon," says Joseph T. McCullen Jr., recently named executive director, President's Commission on Personnel Interchange.

"He said that constructive cooperation between government and business can result in more imaginative and effective measures to achieve our goals. That's what it's all about."

Here are some of the solid achievements the program can boast of already:

The Federal Aviation Administration spends some $13 million a year to inspect air navigation aids. It now has a practical plan to cut costs by replacing the old DC–3's and T–29's it uses with half as many smaller, executive jets.

Annual savings are estimated at $7.7 million a year. The plan was prepared under the direction of an airline executive whom FAA acquired through the Interchange Program.

More than 6,000 U.S. business firms have asked how they could help improve our balance of payments by joining the ranks of exporters. "Tell us more," they said in effect, "about how we can sell abroad."

The queries resulted from an aggressive domestic information program launched by the Commerce Department's Bureau of International Commerce. It was the brainchild of a marketing executive who came to the Department under the Interchange Program.

Four of the nation's largest airports are so swamped with traffic that Washington has had to clamp a ceiling on landings and take-offs. By 1980, unless the crisis is solved, all 30 of the airports that handle 80 per cent of our air traffic will be in the same boat.

But a study, prepared for the Department of Transportation and the National Aeronautics and Space Administration, has a solution. It took a task force of DOT and NASA staffers, plus outside experts, nearly five months to prepare the blueprint for expansion and changes in techniques.

If it is implemented, by legislation and executive action, the nightmare of 1980 will be averted.

Once more, a business executive brought into government through the Interchange Program played the key role in the rescue operation. Says David A. Lehman, then on loan to DOT from IBM:

"I was brought in to look at the problem of civil aviation to the year 2000 A.D. It involved a lot of factors. Like what kind of research and development might have to be done to bring us out of the transportation crisis. What kind of legislation do we need? What can industry do? What benefits would accrue to the nation?

"The result was the CARD study. CARD standing for Civil Aviation Research and Development. It has been approved by DOT and NASA and looks like it is on the tracks."

Mr. Lehman, who is executive assistant to one of IBM's top managers, has decided that the over-all long-range value of the Interchange Program may far exceed that of the help it has given in solving specific problems.

The most lasting benefit, he feels, may come from improving the relations between those two sometime antagonists—business and government. Other Interchange Program executives share that view.

They agree that the two chief differences between the world of government and the world of business involve the pace at which things happen and the way performance is measured.

FASTER FOOTWORK

Business has faster footwork, says the FAA's Mr. O'Brien. "Industry seems to be leaner in staff," he adds, "and less encumbered with paper work. It also tends to be a little more flexible in funding. Business can move money more quickly to areas or activities that promise a better return."

As for gauging success or the lack of it, Mr. O'Brien says:

"One of the main fallouts to government is that we will have to develop standards to measure performance or efficiency, and techniques to improve performance."

Business, executives point out, has one handy yardstick that is not available to government—the profit and loss statement.

"However," says HUD's Mr. Stegall, "I don't think business has as clear and simple a goal as the bottom line on the profit and loss statement.

"For example, the company has long-range goals that a year's profit and loss statement won't reflect. Also, the P/L statement doesn't reflect profit that could have been made—but wasn't. Management may have made a lot of mistakes that don't show up in the profit and loss figures.

"So they're not a true measure of performance.

"If the figures are good over a long span, say 50 years, then they would truly reflect performance. But in the short run, they may or may not be an accurate index."

Business executives tend to take a somewhat different tack than the government executives do on performance measurement.

UNKNOWN QUANTITIES

Says Westinghouse's Mr. O'Shea: "It's not so much that a company looks just at dollar signs. The main difference is that most companies can quantify their performance. The plant can count how many widgets it produced, or how many cars it made.

"The government as a lot of trouble quantifying what it does, except for some agencies like Internal Revenue, which can count the amount of money it took in, or the number of income tax returns it handled.

"But I don't think the big problem is that government and business are entirely different. Government is a service industry and a growing segment of private business is, too.

"However, government can do user analyses, or user studies, to find out if it's making people happier or more productive—or whatever the bureau's goal is.

"There has to be a measurement. There should be accountability in government—as well as in industry. And in many instances, there is, from what I can see.

"Congress certainly makes itself—and its wishes—known.

"So government faces some of the disciplines that we do in industry, though not all. Certainly, there are two yardsticks that should be applied to a government bureau:

"One, is it doing something that's necessary?

"Two, is it doing it effectively?"

What, interchange executives were asked, did they miss most when they went from business to government?

Mostly, they replied, the lack of easy access to higher authority, and the inability to act quickly on their own.

What was most attractive about stepping into the shoes of a government manager?

"Being part of Washington, being where it's at," says American Airlines' Mr. Flanagan. "Make no mistake, there's where the action is."

FRIDAY IS DEADLINE FOR REQUESTING TIME AT FPC CONFERENCE ON NATIONAL GAS SURVEY

Mr. METCALF. Mr. President, important conferences in which the public should participate are often conducted with insufficient advance notice of procedures for participation. A case in point is the conference to be held at 2 p.m. Tuesday, February 22, in the seventh floor auditorium of the Federal Power Commission at 441 G Street NW.

This "public conference" is scheduled to "receive comments by all interested members of the public on—the FPC—National Gas Survey." Notice of this meeting did not appear in the Federal Register. The FPC Notice of Public Conference was not distributed to some parties of interest when it was issued last week. This week a short press release was distributed at the FPC.

Persons who wish to participate in the conference are supposed to notify the Commission Secretary, in writing, by Friday, February 18.

So that the public may be advised, and participate to the fullest extent practicable, I ask unanimous consent to insert at this point in the Record the February 10 Notice of Public Conference, the February 14 press release and, for background purposes, a letter to FPC Chairman Nassikas from Ralph Nader and David W. Calfee.

There being no objection, the material was ordered to be printed in the Record, as follows:

United States of America, Federal Power Commission, Natural Gas Survey

Notice of Public Conference

(February 10, 1972)

Please take notice that on February 22, 1972, at 2:00 p.m., a Public Conference will be held in the auditorium of the General Accounting Office Building, 441 G. Street, N.W., Washington, D.C., for the purpose of receiving comments by interested members of the public regarding the National Gas Survey.

Any person desiring to participate in such Conference should file with the Commission's Secretary, on or before February 18, 1972, a notice of his intention to do so, in order that a schedule of presentations can be made. Such notice should include the full name of such individual, his address and the organization or group he represents, if any. Each organization or group should have one speaking representative at the Conference.

Kenneth F. Plumb,
Secretary.

Public Conference Scheduled on FPC's National Gas Survey

The Federal Power Commission has scheduled a public conference for February 22 in Washington, D.C. to receive comments by interested members of the public on its National Gas Survey.

The conference will be held at 2 p.m., in the 7th floor auditorium of the General Accounting Office Building, 441 G Street, N.W.

Those wishing to participate in the conference should notify the Commission's Secretary in writing by February 18, including the full name of the individual, address, and organization represented, if any. Each organization should have one speaking representative at the conference.

For further information call 386–6102 (Area Code 202).

Washington, D.C.

Hon. John N. Nassikas,
Chairman, Federal Power Commission,
General Accounting Office Building,
Washington, D.C.

Dear Mr. Chairman: The Commission's orders of December 21, 1971, represent a denial of its obligation under the Natural Gas Act to "protect consumers against exploitation by natural gas companies."[1] The two orders of that date, the "Order Establishing Technical Advisory and Coordination Committee Task Forces and Designating Membership" and the "Order Directing Study and Analysis of Natural Gas Reserves and Prescribing Procedures for the National Gas Survey," both reveal the Commission's rejection of the public interest.

The order establishing and appointing task forces demonstrates an alarming pro-industry bias among the appointees. Notions of fair representation for all the interested parties—consumers as well as industry—have been ignored. Since consumers will ultimately bear the burden of inadequate information through higher costs, irrational regulation and unenforced anti-trust laws, their interest in the National Gas Survey is clear. Despite this interest, however, there are no identifiable consumer representatives among the one-hundred and sixty Task Force appointees. This official encouragement of a form of preferential communications by opening channels for special interest groups to reach the Commission while denying consumers equal access to those same channels is a flagrant disregard of the public interest. On the Task Forces this practice is particularly disturbing since much of the Survey's work will probably be done at this level.

The order directing the study of gas reserves fails to protect the public interest in several respects. First, the scope of the study is unnecessarily narrow. Second, the cloak of confidentiality was wrapped around information which should be made publicly available. Third, the secrecy surrounding the whole procedure raises doubts about the validity of the result. In sum, the procedures adopted in the order promise a reserve study which will constitute little more than a republication of presently available industry data.

The Commission has decided to collect only a portion of the information that is currently available to the American Gas Association (AGA) Committees which develop reserve estimates.

The problems of narrowness and confidentiality are most sharply raised by looking at what the study fails to cover. The first omission is data on reserves by field. These data are presently developed by the AGA and in fact will be temporarily made available to the Survey's accounting agent, though not to the Commission or the public. The Commission's decision to collect these reserve figures only after they have been aggregated by state serves merely to protect the figures from any effective challenge by either the public or the Commission.

The second major omission is information on who owns and controls those gas reserves. The development of a national energy policy which can deal, among other things, with inter-fuel competition and conglomerate energy companies requires such data. The Federal Trade Commission staff concluded last spring, "it is clear that the public interest would be served if energy antitrust planning could be based—at least in part—on viewing the industry in terms of reserve ownership and control."[2] In light of the emerging debate on national energy policy and the need for this information, it seems irresponsible for the Commission to undertake a major study of the national gas industry which promises to provide no information on the ownership of reserves.

The justification for failing to collect reserve information by field and by company has been the asserted confidentiality of such information. The only legitimate basis for a confidentiality claim is to preserve the information of one company from its competitors. In this case, not only is there an overriding public interest in disclosure even if the information could provide some competitive advantage, but evidence in the record before the Commission in previous cases indicates that at least some of this information is already available to competitors who sit together on AGA Subcommittees. Thus, to the extent that this information is already available to competitors, such knowledge utterly destroys the trade secret claim which is being manipulated against the public and its government in the furtherance of unjustified special economic advantage.

The procedure for the reserve study is seriously flawed by the cloak of secrecy which surrounds it. The heart of the proposed study upon which every claim of validity depends is the sampling of specific fields by the Commission's reserve teams. The choice of fields to be sampled, however, is left to an independent accounting agent who will no doubt be recommended by and acceptable to the industry dominated Advisory Committees. The Commission's order fails to specify either the procedures for identifying these fields, safeguards to assure randomness, or means for public scrutiny of the process. In all these respects, the order raises legitimate doubts about the validity of the sampling procedure.

Furthermore, even if an acceptable means is developed to choose fields for sampling, there is no guarantee that the companies will provide any more information to the Commission's reserve team than they provided to the AGA Committee. The order provides only that information "may be requested" from the companies by the reserve teams. There is no requirement that companies furnish all the relevant information. Thus, at best, the study will be a limited exercise attempting only to validate reserve figures which have already been voluntarily submitted to the AGA.

The Commission's decision to base its study upon figures which are submitted to the AGA in a wholly voluntary proceeding is an unjustified concession to the gas industry's special interest in secrecy. Instead, the study should take as a starting point either the Form 15 reserve figures or some other data which are required by law to be fully and accurately reported. The present order provides only that reserve teams "may compare" Form 15 data. This total reliance upon voluntary submissions without a systematic effort to reconcile them to available data which is legally required fails to protect the public interest.

The potential abuses inherent in a system of extensive advisory committees have been long recognized. The Commission paid lip service to legal restrictions upon those Committees, asserting that they would be limited to advising the Commission on the planning and conduct of the Survey. In fact, however, the order provides that a "Task Force Advisory Section . . . will assign each sample field to a company and will schedule reserve team visits to the various companies." Thus the Commission has explicitly delegated to an all-industry group the decision of which company to rely upon for checking reserve figures for a particular field. Such delegation is not only grossly inappropriate and contrary to the provisions in the Commission's own order limiting the role of advisory committees, but it is also an illegal delegation of government power under Executive Order 11007 which provides that "no committee shall be utilized for functions not solely advisory."[3] This function is clearly more than merely advisory.

In order to meet its statutory obligation of protecting the public interest under the Natural Gas Act, the Commission must at a minimum undertake the following four actions to modify the Natural Gas Survey.

The first relates to public participation and comment shaping the Survey. The orders developing the Survey have to date all been promulgated without an opportunity for participation by parties who are interested in the Survey but not represented on the relevant Advisory Committees. Protection of the public interest requires at a minimum that all interested persons be allowed at least one hearing to comment on the developments of the Survey to date and to propose directions for its further development. Thus the first step is to hold a series of open hearings at which the public interest in the National Gas Survey can be explored. The questions of purpose, scope and confidentiality must all be examined. It is critical that the Commission open up some channels for consumer and other non-industry viewpoints to be considered in shaping both the reserve study and the remainder of the Survey. This action would stand in sharp contrast to the present approach in which the Commission reaches its decisions behind closed doors relying almost exclusively upon the counsel and advice of the gas industry.

The second action is to order the appointment of additional representatives on all of the Advisory Committees and Task Forces to provide consumers with representation at least equal to that of the gas industry.

The third action is to solicit systematically for a public record the comments of other federal and state agencies concerning the information which would be most useful from the proposed National Gas Survey. Specific requests should be directed to the Federal Trade Commission, the Department of Justice, and to agencies which use substantial amounts of natural gas.

The fourth action is to substantially revise the procedures for studying gas reserves so that there can be greater faith in the accuracy of the data submitted and so that critical decisions upon which the reliability of the Survey depends are made in a fashion which opens them to the light of public scrutiny.

We are hopeful that your response to these comments will reflect the spirit of constructive criticism with which they are offered and will lead to an expeditious and useful dialogue on this important matter.

Yours truly,

Ralph Nader
David W. Calfee.

SAD COMMENTARY ON AMERICAN DREAM

Mr. BROCK. Mr. President, the fact that too often today men, women, and children are afraid to leave their homes for fear of attacks, stabbings, and muggings, is a sad commentary on the great "American dream" of freedom for all.

Today millions of Americans face this plight in suburbs and slums all over our country. What causes a once crime-free, open, friendly neighborhood to close-up and exude fright from every pore?

Mr. President, I ask unanimous consent that a letter to the editor from a black Puerto Rican New Yorker be printed in the Record. Here, from Mr.

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[1] *Hope Natural Gas Co. v. FPC,* 320 US 591, 610 (1964).

[2] FTC memorandum from Office of Planning and Evaluation, "Possible Dimensions of a Commission Energy Study," April 22, 1971, pp. 63–64.

[3] Executive Order No. 11007, 27 F.R. 1875 (1962).

Campbell's own words, we can sense the fright of a man for himself and his family on the streets of America today.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

"I AM A FRIGHTENED MAN"

To the EDITOR:

One of these nights I will not be coming home to my wife and four-year-old son. I will have been the victim of one of the numerous packs of muggers that have turned the streets of Bedford-Stuyvesant-Williamsburg into an asphalt jungle filled with terror and violence for my fellow black and Puerto Rican neighbors and myself and my family.

I am of black and Puerto Rican parentage. I grew up in Harlem and East Harlem in the midst of fighting gangs. As a young man I would come home late at night from evening college after working during the day. During all my previous 39 years I never really felt afraid for my own safety. I have been afraid for my mother, my son, my wife and other loved relatives, but never for myself. Now I'm afraid, really afraid, because I can see my number coming up, and feel absolutely helpless.

I want to see my son grow up into a happy, successful and honorable person. What is most terrifying is the knowledge that the odds are now definitely against that happening.

So many of my friends, neighbors and relatives are getting mugged, stabbed, assaulted and robbed that I know it is just a matter of days or merely hours before my turn will come.

What makes it even more horrifying is that now for the first time I know how a helpless old man, a woman or a child feels while walking down the street in the early evening darkness. Scared and absolutely helpless, with no policemen around, and knowing that no one wants to get involved.

I am no longer a cocky combat-ready ex-Marine infantry sergeant. I am a frightened man returning home from work at night, looking behind me, to the side of me, to the front of me, wondering if tonight is the night I will get it.

Will I get it in the subway exit where the bulbs are broken nearly every night, in the street while passing one of the numerous empty lots or empty houses, or on my doorstep while putting my key in the lock?

I know it is too late to save my life, but I pray that the people and our leaders wake up, organize and stamp out illicit drugs, permissiveness and loss of respect for authority, which I know are the causes of this tremendous increase in violent crime.

Then we will be able to save the lives of our children and of countless other people that deserve a life free from fear of a violent death or even of a violent mugging. Then people will be able to concentrate on living life to its fullest, on being happy, bright-eyed and filled with a love for humanity that is reciprocated by their fellow human beings.

LOUIS S. CAMPBELL.

SICKLE CELL ANEMIA

Mr. PERCY. Mr. President, the fight against sickle cell anemia is picking up momentum. In his recent state of the Union message, the President reaffirmed his commitment to our black citizens by requesting an increase in funding for sickle cell anemia research efforts. The enactment of the National Sickle Cell Anemia Control Act, which was passed by the Senate in December, would also go a long way to ending the era of neglect surrounding this hereditary blood disease which afflicts 10 percent of America's blacks and is fatal in one of every 500 cases.

I feel that Senators will be interested to hear of Illinois' fine efforts to combat this dreaded disease. Last fall, the Illinois legislature passed two sickle cell anemia measures, one requiring a sickle-cell anemia screening test for black schoolchildren and another requiring the inclusion of such a test in blood tests for marriage. And just recently, I learned that the Chicago Board of Health will begin next month the largest sickle cell screening project ever undertaken. I am extremely proud of Illinois leadership in this field, and I ask unanimous consent that an article describing Chicago's new program be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Feb. 6, 1972]

CITY MOUNTING MASSIVE ATTACK ON SICKLE CELL DISEASE

(By Ronald Kotulak)

The nation's most intensive search for hidden cases of sickle cell disease, the most prevalent genetic disorder of blacks, is scheduled to be launched by the Chicago Board of Health next month.

With the addition of new equipment, the board will be able to more than double its current screening program, bringing it up to 250,000 tests a year and making it the biggest sickle cell screening project in the world, said Dr. Edward Murray, director of the board's children and youth care projects.

Until recently, the medical profession has tended to ignore this disorder and most of its potential victims didn't even know it existed.

A MILLION TESTS PROPOSED

"We have a target population of 1,102,620 black residents in Chicago, and we hope to test every one of them within the next three years," Dr. Murray said.

There are two types of the disease. The most common is sickle cell trait, regarded as harmless until recently but now recognized as potentially dangerous under certain stressful conditions.

The second form is sickle cell anemia, a severe, painful, usually fatal disease that kills half of its victims by their 20th birthday.

Dr. Hyman Orbach, director of the board's division of laboratories, said tests of 80,000 blacks last year showed that 1 in 10 had the trait and 1 in 500 suffered from anemia.

This is the same proportion found in other screening programs, and it means that in Chicago there are potentially more than 2,200 blacks with sickle cell anemia and more than 110,000 with the trait.

PROVES MALARIA RESISTANT

The genetic disease is almost exclusively limited to blacks. Some experts believe that the defective gene may have been beneficial in Africa because persons with sickle cell disease are more resistant to malaria.

The chief goals of the board's screening program are to identify persons with the trait and provide them with genetic counseling and to detect those with sickle cell anemia so that they can be referred to medical clinics for comprehensive treatment.

While there is no cure for anemia, continuous treatment often can double the life expectancy of these patients, Dr. George Hornig, a pediatrician at the University of Illinois Medical School, said.

BLINDNESS A SIDE EFFECT

Blindness, one of the little recognized side effects of sickle cell disease, also can be prevented in most cases with new therapy, reported Dr. Maurice F. Rabb, of the University of Illinois' Eye and Ear Infirmary.

With the growing awareness of the magnitude of the sickle cell problem, more researchers are beginning to look for possible cures and new therapeutic measures. Some have recently reported promising results.

President Nixon earlier called for greatly expanded research in sickle cell disease and increased the National Heart and Lung Institute's budget for this research fivefold, to $6 million.

PERFORM 400 TESTS A DAY

When the Board of Health program is in full operation, it will be able to perform 400 tests a day and have results ready in 24 hours. Blood samples will be taken at the board's 11 urban progress centers thruout the city and at other locations.

The laboratory test involves a process known as electrophoresis in which red blood cells flow thru an electrical field.

The disease affects the hemoglobin, the oxygen-carrying part of the blood.

Since the genetic deficit causes a slight alteration in the molecular makeup of the hemoglobin, the sickle cell blood cell has different weight and electrical properties. As the blood passes thru the electrical field, the cells with the refective hemoglobin travel at different rates and are thereby detected.

OFFER GENETIC COUNSELING

The board's program includes training workers from the urban progress centers to contact persons with the trait and offer them counseling and to check on those with anemia to insure they are receiving treatment, Dr. Murray said.

"Since there is no cure, one of our most important objectives is to counsel parents who have the trait about the risk of their children having anemia," Dr. Murray said. "Then it is up to them to decide if they want to have more children or follow some other course of action."

Dr. Hornig said that many parents elect not to have more children when they are informed of the hereditary nature of the disease.

CHANCES TOLD

If only one parent has the trait, the chances are that of four children, two will carry the trait and two will have normal hemoglobin.

However, if both parents carry the trait, the chances are 1 in 4 that each of their children will be born with sickle anemia.

In sickle cell anemia, the red blood cells change from their normal doughnut shape into a crescent or sickle shape. This change occurs because the defective hemoglobin, under certain biochemical conditions, changes its configuration. It becomes elongated, thereby forcing the normally round cell into a sickle shape.

CLOG THE ARTERIES

The rounded red blood cells have no trouble gliding thru the small blood vessels of the body. But when they become crescent shaped, they hook onto each other and have trouble traveling thru the tiny arteries.

As a result, the misshapen cells pile up, forming a barrier that prevents any cells from getting thru. No oxygen can get to the affected areas. Pain and death of some tissue result.

The hardest hit areas are the spleen, liver, intestines, and joints. When the small arteries feeding the brain are clogged with sickle cells, a condition exactly like a stroke is produced.

A newborn infant with sickle cell anemia may not show any signs of the disease until a few weeks after birth, when his feet and hands swell up because blood flow is blocked.

HOW CRISIS IS TRIGGERED

Most of the time, the red blood cells in the anemia patients are normal. But they may be triggered into a crisis by infections, heavy exertion, extremes of heat and cold, emotional stress, dehydration, and other factors.

As the cells change shape, they produce joint pains, ulceration of the lower extremities, abdominal pains, fever, jaundice, and heart and neurological disturbances.

The crisis times are unpredictable. Some patients may have them two or three times a year. Others may go seven or eight years without one.

ALTITUDE CAN HURT

Continuous therapy can help reduce the crises and allow the patient to lead a relatively normal life, said Dr. Hornig. Such therapy often consists of the use of intravenous fluids to offset dehydration, antibiotic to prevent infections, and periodic blood transfusions.

"With good care, a patient with sickle cell anemia can expect to do normally well for 30 to 40 years," Dr. Hornig said.

But there also is potential danger for persons with the trait who don't have the full-fledged disease. They may trigger a crisis when their oxygen supply is drastically reduced by exercise, flights at high altitudes, drunkenness, or underwater swimming.

The potential hazard to the trait carriers was not fully recognized until the Viet Nam conflict, when some black servicemen ran into trouble during high altitude flights.

A previously unrecognized side effect of the disease is blindness, Dr. Raab said. Studies at the University of Illinois indicate that in some groups with anemia, 60 to 70 per cent of the victims may eventually have some permanent loss of vision in one or both eyes.

HOW EYES ARE AFFECTED

"As more attention is focused upon these crippling effects of the disease, it is astonishing that the majority of the public as well as the medical profession are unaware of the potential danger than exists to the eyes," he said.

The danger arises when the sickle cells plug up small vessels feeding the retina, the sensitive layer of cells at the back of the eye upon which light rays are focused. The vessels grow new branches in an attempt to bring oxygen to the retina.

But these new vessels are fragile and often break. When they rupture, blood flows around the retina; causing it to become detached. This condition frequently leads to the permanent loss of vision.

PREVENTION POSSIBLE

If these new vessels can be detected in time, they can be sealed off with a new argon laser beam, thereby preventing them from rupturing, Dr. Raab said. Studies are needed to determine if the threat to vision also is a problem for those with the trait, he added.

Two groups are cautiously hopeful about recent research finding. Dr. Anthony Cerami, Dr. James M. Manning, and Dr. Peter N. Gillette at the Rockefeller University in New York City have found that sodium cyanate can permanently prevent sickling of red blood cells in the test tube. They are now testing the compound on 25 patients.

The other group, headed by Dr. Robert M. Nalbandian of the Blodgett Memorial Hospital in Grand Rapids, Mich., has treated more than 70 sickle cell patients with encouraging results.

COMMUNITY EFFORT MADE

In addition to the Board of Health program, a community effort was started late last year to screen school children for sickle cell disease. That effort is led by the Harry Smotherman Sickle Cell Anemia Foundation.

Ernest Jackson, first vice president of the foundation said the group was formed because of the growing awareness among blacks of the sickle cell disease. The group, headquartered in the Harris YWCA at 62d Street and Drexel Avenue, was named after a Loyola University student who died last year from sickle cell anemia.

DIANNE HOLUM AND ANNE HENNING—ILLINOIS GOLD MEDAL WINNERS IN WINTER OLYMPICS

Mr. STEVENSON. Mr. President, I shared with millions of Americans the excitement of watching the televised coverage of the 1972 Winter Olympics in Sapporo, Japan. All Americans are proud of the young men and women who represented the United States in the competition in Sapporo. The people of Illinois are especially proud of Dianne Holum and Anne Henning, both of Northbrook, who each won gold medals in speed skating events, and Janet Lynn of Rockford, who won a bronze medal in figure skating. Together, these three young women from Illinois won five of the eight medals brought home by the American team.

Miss Holum and Miss Henning, together with three other Olympic skaters from Northbrook and their coach, were welcomed home from Japan yesterday. The pride that gripped their hometown was vividly portrayed in an article published in today's New York Times. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the newspaper article was ordered to be printed in the RECORD, as follows:

DIANNE HOLUM AND ANNE HENNING—ILLINOIS GOLD MEDAL WINNERS IN WINTER OLYMPICS

(By Andrew H. Malcolm)

NORTHBROOK, ILL., February 14.—It was a bright, beautiful day here today, but the sunshine didn't go up over too well with some.

Bad ice and bad skating are bad news most any time in this northern Chicago suburb, but it was singularly inappropriate today as the town laid out a heroine's welcome for the two hometown skaters, Dianne Holum and Anne Henning, who together won half of the United States' eight Winter Olympics medals.

The two medal winners shared honors with three other Northbrook skaters who also were on the 17-member Olympic skating team coached by Ed Rudolph, the energetic Northbrook resident who is generally credited with developing ice sports here to the point that the town can now call itself "Speed Skating Capital of the World."

"The sun," groused one of the village's 27,000 residents, "is killing the ice. It'll be rotten skating."

The melting ice didn't dampen spirits. The two Olympic gold medal winners and their teammates arrived from Japan late this afternoon to a noisy welcome by 300 fans and Mayor Richard J. Daley of Chicago at nearby O'Hare International Airport.

Miss Henning, 16 years old, and Miss Holum, 20, appeared tired and a bit overwhelmed as they left the airplane. But within moments Miss Henning, the 500-meter sprint-skating winner, and Miss Holum, the 1,500-meter skating winner, gave away to laughter and excitement among their young friends.

They then rode in a horn-tooting motorcade to Northbrook, where they were greeted by fireworks and a crowd estimated by the police at about 8,000. And at the outdoor Meadow Hill Ice Rink, the scene of local triumphs, the young skaters were showered with flowers and praise while the ice melted around the chilly feet of their admirers.

OTHER PASSIONS

In downtown Northbrook, every store flashed a congratulatory sign. All 14 schools were shut tight and some businesses hooded their registers and closed their doors. But one thing that didn't shut down on this poor day for skating at Northbbrook's two outdoor rinks was the Sports Complex, the village's $940,000 indoor ice rink.

"The people here just wouldn't stand for it," said Frances Plummer, the head skating teacher.

In fact, the skating rink, which was approved in a bond referendum, is rarely closed at all. Weekdays it runs at least 20 hours a day. On weekends the ice is busy around the clock.

There are beginners' skating lessons (over 1,400 enroll in each 10-week session), figure skating (the rink opens at 5 a.m. for practice), ice hockey (eight leagues, beginning at age 5), and the annual ice show—with of course, a cast of a thousand.

But though Northbrook provides the coach and five of the United States team's 17 members, skating is not the town's only passion.

"This is just a nutty sports town," said Mrs. Genny Adsit. On that sad day in May when the indoor ice goes away, the tennis courts fill up, traffic grows heavy on the Olympic bike track and the 1,100 boys in Little League scamper to floodlit diamonds.

Northbrook is, in short, an affluent sports-minded suburb where almost everyone believes that the family that plays together stays together. The Book Bin, the local bookstore, sells more sports books than any other kind.

It is a far cry from the wee village of Shermerville that a band of industrious German farmers founded in the mid-1880's. In fact, it's a far cry from the village of Northbrook that many residents knew only 12 years ago.

Since then it has doubled in population, and like dozens of other Chicago suburbs such as Wheeling, Buffalo Grove and Lombard, has found its 1970 census already woefully outdated.

Housing developers are quickly buying up the remaining farmlands and golf courses. Property that once sold for $1.50 an acre now goes for upwards of $40,000.

And the local-welcoming hostess, Mrs. Carol Bergey, makes at least a dozen calls a week now at the brightly colored, two-story, two-garage homes springing up in Northbrook's 11.5 square miles.

One survey put the median home value here at $50,000 and median income over $16,000, ranking Northbrook among Chicago's 10 wealthiest suburbs.

There is some friction here between a minority of long-time residents who want the village (Northbrookians do not use the word city or town) to stay the same and the overwhelming majority of later arrivals, who are bringing change.

"Change is inevitable," says John C. Williams, the village president, "even if you don't like it."

But there is no friction over skating.

"We come out as often as possible," said Jack Lofstrom as he stood in a long line at the indoor rink. His daughter, Becky, 3, and son Jeff, 4, tugged at his sleeves to get on the ice. Another son, Mark, 8, was at home with a banged knee suffered in hockey practice.

GREAT FAMILY SPORT

"Like all our friends," Mr. Lofstrom said, "we carry our skating stuff to church on Sunday. We're out of there at 10:30 and on the ice by 11. It's a great family sport."

Suddenly 9-year-old James Dickman smashed into the ice, breaking his left arm. "You mean we have to go home?" he asked his father.

One resident said, "Northbrook is still very friendly and very child-oriented. You don't see parents dropping their children off to skate; they come, too. We may have grown into a big suburb, but we've kept a lot of the friendly qualities and pride in youth that you don't see in the big city."

Many such families were attracted to Northbrook by its reputation for good schools and athletic facilities. The athletics are over-seen by the Park District, an elected board that can levy its own taxes. One recent study found that 75 per cent of Northbrook's population was involved with one Park District activity or another.

For many years Ed Rudolph, the skating team coach, has been a Park District commissioner and is generally credited here with pushing development of the ice rink, bike track and other facilities.

"Rudolph was the driving force behind the skating growth," said Chip Maze, a Park District official, "but he was operating in mighty fertile sports ground. These parents really believe in sports for their children. Sports teach them discipline, self-confidence and teamwork. And if you're out ice skating, you're not getting into any other trouble."

EVERYONE KNOWS THEM

These days it seems everyone in town knows the two skating stars. "I used to see them at 7 in the morning out running," said Steve Meyer. Another youth added, "They're always training. I don't think they know what a boy looks like."

Their Olympic success has already boosted the rink's waiting list for skating lessons to over 500. "When I was little, I wanted to be like Sonja Henie," said Mrs. Gisella Pulf as she picked up skating application forms. "Now my daughter has to be like Anne and Dianne."

Tomorrow everything should be back to normal in Northbrook. That is, the stores will reopen, the schools will be back in session, and the ice rink will still be crowded. And, oh yes, the skating team leaves for Europe for another round of tournaments.

AMERICAN FOREIGN POLICY—PAPER PRESENTED BY SENATOR McGEE

Mr. TOWER. Mr. President, on February 5 and 6, I attended my fifth annual International Wehrkunde Conference in Munich. Wehrkunde is a European defense study conference involving unofficial representatives from the NATO nations. The meeting provides a forum for frank expression by the participants free of diplomatic commitments.

There is usually a paper presented by a representative of each participating country, basically outlining that country's perspective of defense posture and foreign policy. This year, our colleague from Wyoming (Mr. McGee) presented the American paper. I commend Senator McGee for his thoughtful approach to this complex subject and ask unanimous consent that his very fine paper be printed in the Record. I know that all Senators will want to avail themselves of the opportunity to become more familiar with this most important subject. Senator McGee's paper will help in the meaningful debate in which we will engage here in the Senate.

There being no objection, the paper was ordered to be printed in the Record, as follows:

American Foreign Policy—Its Aims and Limitations

(Presented by Senator Gale McGee, U.S. Senator from Wyoming)

It may seem curious for an American to be addressing himself to balance of power as an ingredient of foreign policy. Mine is a country that prospered for a hundred and fifty years by either avoiding a European system founded on power equilibrium or by exploiting the strife of the Continent. Geography, it is true, had much to do with this. Perhaps luck played a role. Indeed, it was Otto von Bismarck's reputed lament, as he viewed around him the rapid rise of the United States in the realm of world politics, that "There seems to be a divine Providence which watches over little children, drunks, and the United States of America."

In those closing years of the 19th Century, however, America was only a minor participant on the stage of European affairs. Ours was a tradition not only of isolation from the political struggles that dominated Europe in the 19th Century, but also of a deep distrust of the generally monarchist regimes that seemed to base their political alliances more on considerations of power than on those fundamental purposes that propelled my nation to its independence: the pursuit of life, liberty, and general tranquility. Throughout the 19th Century and into the 20th we remained removed from any need to examine whether power might not be the price for these pursuits.

Living apart from the realities of power, we enjoyed the illusion that reason alone could guide the relationships between nations. Being ourselves a nation based largely on the rule of law, we preached that the norms of municipal law could pertain as well to international relations. And, as a result, as we moved into the 20th Century, American foreign policy enjoyed a super-abundance of idealism. This translated into our fascination with international arbitration and a conviction that ideals could be legislated within the international community by treaty. We were misguided in several respects. First, ideals or morality probably cannot be legislated within a national community, let alone an international one. Second, the foundation of consensus indispensable to any community did not exist in relations between states. Therefore, there simply was no international community but rather a group of rather garrulous nations characterized as much by their differences as by their similarities.

Contrasting with this strange mixture of idealism and legalism in America's approach to foreign policy, there was a solidly pragmatic approach to things domestic. If miracles occur, one occurred in Philadelphia during the summer of 1787 when a remarkable group of Americans gathered together to design our Federal Constitution. John Dickinson of Delaware summed up the atmosphere of that body when he said, "Experience must be our only guide. Reason may mislead us."

World War II is the obvious turning point in the direction of American foreign policy. As a consequence of its outcome, the United States found itself strangely on the front lines of the world, no longer able to hide behind the protective balance of Europe or the facade of isolationism. Throughout our history we had at the very most enjoyed the luxury of choosing one of the two sides whenever conflict was threatened in Europe. But even that option had disappeared by 1945. For the first time in our national life we emerged as one of the two sides.

That the balance of power would have to be re-established as soon as possible in the wake of World War II was a foregone conclusion. What was far less certain, however, was whether the United States as the new leader of the Western world would be able to rise to those requirements. Not the least of the complications derive from the war itself. Not only did it destroy three great powers, each of which in turn left a vast political vacuum in its wake; but two of the victorious nations (England and France) were left so weakened by the conflict that they could no longer continue their historic role as significant factors in the balance of power. Perhaps never in history has so much violence been done to the old infrastructure of world stability. In the East as well as the West very few vestiges of the past were left intact.

It was into this chaotic setting that history thrust the United States of America. Never in modern times has one nation emerged from a world war with such great power and such frightening responsibility for the wise use of that power as did the United States. And as history long since should have taught, unless and until the world is brought back into balance following a war, few—if any—meaningful strides could be taken toward an improved world community.

I suppose that 1945, 1946, and 1947 marked our coming of age as a player on the world stage. By 1945 we found that our isolation could no longer endure. The traditional sea power of the British had seriously declined. The land armies of the French were shattered beyond repair. The kind of world it was and the kind it might become represented the opposite poles between which the United States sought to plot a new course into the future.

Two extremes seemed to be at war with each other. These extremes contradicted principles and obscured laudable objectives. Whether the people of the United States would be able to rise to the demands of the times and blend the realities of power politics with the dreams of idealism constituted the great test of the postwar period. It was again the tension John Dickinson recognized between experience and reason. The experience of two world wars taught us that we could no longer avoid the effect of a major European conflict.

I do not apologize for our late discovery of this truth. The concept of the balance of power simply did not apply to the United States until the second decade of this century. That it would take America another two decades to accept the responsibilities of its entry into the European equilibrium is not surprising. Indeed, the European nations—versed for over two centuries in the art of balancing contending powers—permitted the mechanism of balance to atrophy during the first half of this century. Two world wars showed that atrophy would lead rapidly to an impotent system where equilibrium played no part; and one major power, so disposed, could effectively dominate the continent.

What Friedrich von Gentz wrote in 1806 is still applicable today: "If the states system of Europe is to exist and be maintained by common exertions, no one of its members must ever become so powerful as to be able to coerce all the rest put together."

While some might say that states possessing great power are dangerous simply because of their preponderance of power, I believe most of us would agree that the pertinent question is not "How much power do they have?" but "What are they likely to do with it?" The United States welcomed the fact of pax Britannica throughout most of the last century. Pax Sovietica, on the other hand, would be as unacceptable to America as it would be to Western Europe.

In a period when Soviet military capabilities remained comparatively modest, its stridently aggressive rhetoric created little fear. But when the Soviet Union emerged from World War II with the largest armed force in Europe, its aggressive pronouncements seemed ominous indeed. The experience of Russia's historic pressures toward expansion and the recent history of the spread of the Soviet Union into territories of Finland, Estonia, Latvia, Lithuania, Prussia, Poland, Czechoslovakia, and Romania did not suggest that expansion would be limited to words alone.

The Berlin Blockade offered the first threat to the postwar stability of Europe. In an effort to restore equilibrium to a Western Europe confronted by a powerful Soviet Union, the United States broke with its historic isolation from Europe's balance of power in peacetime to join in a common defense alliance.

The Berlin Blockade is often referred to by historians of the period as the ultimate test of American intentions—the test that was made with great success. Some have attributed to Winston Churchill one of the most succinct evaluations of the meaning of Berlin when he is supposed to have said, "If you Americans had responded to this threat as you responded to the threat of war in 1918, Russia would be on the Atlantic Coast of Europe today."

The key to two decades of peace in Europe since the first Berlin Crisis has been NATO. The very fact that fifteen nations came together to serve the common defense demonstrates a degree of determination that would, and did, cause a potential aggressor to take heed. The Alliance's determination, coupled with the military capabilities to back up that determination, is the formula for successful deterrence. Weaken either, and the balance of power will shift away from today's equilibrium. And were that balance to shift to our disfavor, our common security would be undermined.

Already just such a concern is being expressed in many quarters. What happens if Washington and Moscow reach agreement on nuclear capability? At this moment the two nations appear to be on the threshold of an agreement that, in effect, confirms the deterrent parity of Soviet nuclear armament. The expected SALT agreement will center upon defensive nuclear weapons. But it signifies our acknowledgement of a Soviet capability comparable to our own to deter the other from the first use of nuclear weapons.

This situation has far-reaching political and military implications. Above all, it means that conventional arms regain much of their pre-nuclear importance. If neither we nor the Soviets are likely to make first use of nuclear weapons, the game may well be decided by conventional forces.

It is for this reason that a reduction of our forces in Europe without adequate preparation would be so disastrous for our interests.

I am not suggesting that Soviet troops will roll in as American troops roll out. I am suggesting that the political weight of Soviet conventional preponderance in Europe will work increasingly to our grave disadvantage.

In plain terms, Western Europe will be unable in the short term to resist Soviet political and economic pressure if the arithmetic of the conventional force balance gives the Russians a preponderant position.

And that would mean the loss of the assets of a political, economic, and military nature that our entire postwar European policy has protected and enlarged. It would be throwing the game.

We must continue, therefore, a prudent preparedness at the same time we must use today's power equilibrium as a springboard to relaxing the tensions that have beset postwar Europe. We must be prepared to explore a mutual and balanced reduction in the opposing forces but without endangering our security. We must pursue the detente forecast in NATO's study of its future tasks. But we must recall that success in these efforts will best flow from the Alliance's posture of continued strength. As we explore opportunities for reconciliation with the Soviet Union, it would be foolish to allow a favorable balance of forces to slip away from us.

But a shift in that balance even now is underway. This is noticeable in at least two significant areas of the globe. The first of these areas is Eastern Europe.

The current diplomatic maneuvering on both sides in regard to the status of Berlin in particular and the two Germanys in general contains in it a possibility of grave importance affecting the balance of Europe and NATO. Most of us have long understood that only the Soviet Union could reunite Germany. And few fault that laudable goal.

But there has been all too little thinking and planning for a new structuring of the balance to permit taking this possible development into account. In fact, looking at the question from as far away as Washington, one has the feeling that precious little is being done to adjust to or compensate for such a shift.

Elsewhere in Europe it may not be very far down the road ahead that the status of Yugoslavia, whose role is epitomized in the regime of President Tito, will be tested; and "Titoism" is about to be tested again. Upon the disappearance of Mr. Tito, there will surely be a tense struggle for his succession. When Tito goes, the pro-Soviet group will be intensely active. It will expect Soviet support. And while the Soviet Union has pulled back on the Brezhnev Doctrine, the temptation to recover Yugoslavia may be irresistible.

If that situation arises in a period of nuclear parity, and the more so if the United States has reduced its conventional presence in Western Europe, it may seem a tolerable risk to the Soviet leadership. And how will we react if the Soviet Union does intervene? Can we afford not to react? Can we afford to let Yugoslavia be recaptured with all the implications that it will have for the rest of Europe and the Far East?

The second area of impending change in NATO's concern is posed by the new Soviet presence in the Eastern Mediterranean. In effect, this change in itself achieves in meaningful ways a flanking movement around NATO. Both the Soviet land position in Egypt as well as her naval presence in Mediterranean waters have achieved for the Soviet Union a breakthrough that had been—at best—an historic dream of the czars of old as well as the commissars of this century. It is now a fact of life. With that fact of life NATO must be prepared to deal.

When we add to this immediate dimension of the new Soviet presence the contemplative opening of the Suez Canal and the new Soviet presence in the Indian Ocean, it is at once obvious how very much in the way of the flow of power is traceable all the way back to NATO. The implications for NATO of the changing power centers around the globe at the very least require that we update NATO both in its mechanism as well as in its strategic directions. It is easier to say that we should do this than to spell out precisely how we should go about it.

But with one aspect of the new problem I can speak to you with a greater degree of certainty, and that is the resurgent isolationism now on the rise in my country. This mounting demand for a considerable retrenchment of American commitments overseas comes after a quarter of a century of unparalleled American contribution and sacrifice to the costs of world peace.

It is partly a sense of frustration and partly a sense of fatigue. But added to those two factors must be the national concern over the sttae of our country's economy, what with a federal debt that now exceeds $400 billion and a budget deficit for the upcoming year of $40 billion. Together these account for a formidable body of American opinion demanding a cutback of American forces in Europe.

Many of us in the United States oppose that kind of cutback, particularly the more so if it is undertaken unilaterally *vis a vis* the Soviet Union. But it is not certain how much longer we can hold enough votes in the Congress to prevail. That is where you can help.

The time has come for my government to take the lead in a reform of NATO that will shift to our West European allies a far greater responsibility for the Alliance. We should propose a reform to be accomplished over a number of years to put the defense of Western Europe primarily into Western European hands and under Western European Command. We should maintain our full commitment to our allies. We should maintain a significant military presence in Western Europe. But we should encourage our allies to forge a Western European defense force within NATO and in which France would play a renewed role of leadership.

In restructuring the new NATO, moreover, careful thought might be given to the establishment of a permanent NATO fleet in the Mediterranean to meet the current Soviet thrust. With the growing Soviet presence in that area, a permanent NATO fleet would exert a powerful political pressure and would serve as a major deterrent to the growing Russian threat from bases in Egypt. A permanent NATO fleet in the Mediterranean would blunt Soviet efforts to outflank Southern Europe from the North African coast.

The enlargement of the Common Market and the undeniable impetus that British membership gives to European unity has set the stage for a new defense system.

We must help bring about this unity as the best bulwark for our own defense and as our best hope of creating a stable long-term balance of power that will assure our security and that of our European and Asian allies.

The process will be difficult. The obstacles here and abroad will be awesome. But the need to put our relations with Western Europe and the Soviet Union on a more secure and more stable base has never been greater.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

EXECUTIVE SESSION—SEABED ARMS CONTROL TREATY

The ACTING PRESIDENT pro tempore. The hour of 11:30 having arrived, and in accordance with the previous order, the Senate will now go into executive session for the purpose of considering the treaty, Executive H, 92d Congress, first session.

The Senate, as in Committee of the Whole, proceeded to consider the treaty (Ex. H, 92d Cong., first sess.), the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof, opened for signature at Washington, London, and Moscow on February 11, 1971, which was read the second time as follows:

Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof

The States Parties to this Treaty,

Recognizing the common interest of mankind in the progress of the exploration and use of the seabed and the ocean floor for peaceful purposes,

Considering that the prevention of a nuclear arms race on the seabed and the ocean floor serves the interests of maintaining world peace, reduces international tensions and strengthens friendly relations among States,

Convinced that this Treaty constitutes a step towards the exclusion of the seabed, the ocean floor and the subsoil thereof from the arms race,

Convinced that this Treaty constitutes a step towards a treaty on general and complete disarmament under strict and effective international control, and determined to continue negotiations to this end,

Convinced that this Treaty will further the purposes and principles of the Charter of the United Nations, in a manner consistent with the principles of international law and without infringing the freedoms of the high seas,

Have agreed as follows:

ARTICLE I

1. The States Parties to this Treaty undertake not to emplant or emplace on the seabed and the ocean floor and in the subsoil thereof beyond the outer limit of a seabed zone, as defined in article II, any nuclear weapons or any other types of weapons of mass destruction as well as structures, launching installations or any other facilities specifically designed for storing, testing or using such weapons.

2. The undertakings of paragraph 1 of this article shall also apply to the seabed zone referred to in the same paragraph, except that within such seabed zone, they shall not apply either to the coastal State or to the seabed beneath its territorial waters.

3. The States Parties to this Treaty undertake not to assist, encourage or induce any State to carry out activities referred to in paragraph 1 of this article and not to participate in any other way in such actions.

ARTICLE II

For the purpose of this Treaty, the outer limit of the seabed zone referred to in article I shall be coterminous with the twelve-mile outer limit of the zone referred to in part II of the Convention on the Territorial Sea and the Contiguous Zone, signed at Geneva on April 29, 1958, and shall be measured in accordance with the provisions of part I, section II, of that Convention and in accordance with international law.

ARTICLE III

1. In order to promote the objectives of and insure compliance with the provisions of this Treaty, each State Party to the Treaty shall have the right to verify through observations the activities of other States Parties to the Treaty on the seabed and the ocean floor and in the subsoil thereof beyond the zone referred to in article I, provided that observation does not interfere with such activities.

2. If after such observation reasonable doubts remain concerning the fulfillment of the obligations assumed under the Treaty, the State Party having such doubts and the State Party that is responsible for the activities giving rise to the doubts shall consult with a view to removing the doubts. If the doubts persist, the State Party having such doubts shall notify the other States Parties, and the Parties concerned shall cooperate on such further procedures for verification as may be agreed, including appropriate inspection of objects, structures, installations or other facilities that reasonably may be expected to be of a kind described in article I. The Parties in the region of the activities, including any coastal State, and any other Party so requesting, shall be entitled to participate in such consultation and cooperation. After completion of the further procedures for verification, an appropriate report shall be circulated to other Parties by the Party that initiated such procedures.

3. If the State responsible for the activities giving rise to the reasonable doubts is not identifiable by observation of the object, structure, installation or other facility, the State Party having such doubts shall notify and make appropriate inquiries of States Parties in the region of the activities and of any other State Party. If it is ascertained through these inquiries that a particular State Party is responsible for the activities, that State Party shall consult and cooperate with other Parties as provided in paragraph 2 of this article. If the identity of the State responsible for the activities cannot be ascertained through these inquiries, then further verification procedures, including inspection, may be undertaken by the inquiring State Party, which shall invite the participation of the Parties in the region of the activities, including any coastal State, and of any other Party desiring to cooperate.

4. If consultation and cooperation pursuant to paragraphs 2 and 3 of this article have not removed the doubts concerning the activities and there remains a serious question concerning fulfillment of the obligations assumed under this Treaty, a State Party may, in accordance with the provisions of the Charter of the United Nations, refer the matter to the Security Council, which may take action in accordance with the Charter.

5. Verification pursuant to this article may be undertaken by any State Party using its own means, or with the full or partial assistance of any other State Party, or through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.

6. Verification activities pursuant to this Treaty shall not interfere with activities of other States Parties and shall be conducted with due regard for rights recognized under international law, including the freedoms of the high seas and the rights of coastal States with respect to the exploration and exploitation of their continental shelves.

ARTICLE IV

Nothing in this Treaty shall be interpreted as supporting or prejudicing the position of any State Party with respect to existing international conventions, including the 1958 Convention on the Territorial Sea and the Contiguous Zone, or with respect to rights or claims which such State Party may assert, or with respect to recognition or nonrecognition of rights or claims asserted by any other State, relating to waters off its coasts, including, *inter alia*, territorial seas and contiguous zones, or to the seabed and the ocean floor, including continental shelves.

ARTICLE V

The Parties to this Treaty undertake to continue negotiations in good faith concerning further measures in the field of disarmament for the prevention of an arms race on the seabed, the ocean floor and the subsoil thereof.

ARTICLE VI

Any State Party may propose amendments to this Treaty. Amendments shall enter into force for each State Party accepting the amendments upon their acceptance by a majority of the States Parties to the Treaty and, thereafter, for each remaining State Party on the date of acceptance by it.

ARTICLE VII

Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held at Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the preamble and the provisions of the Treaty are being realized. Such review shall take into account any relevant technological developments. The review conference shall determine, in accordance with the views of a majority of those Parties attending, whether and when an additional review conference shall be convened.

ARTICLE VIII

Each State Party to this Treaty shall in exercising its national sovereignty have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other States Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it considers to have jeopardized its supreme interests.

ARTICLE IX

The provisions of this Treaty shall in no way affect the obligations assumed by States Parties to the Treaty under international instruments establishing zones free from nuclear weapons.

ARTICLE X

1. This Treaty shall be open for signature to all States. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after the deposit of instruments of ratification by twenty-two Governments, including the Governments designated as Depositary Governments of this Treaty.

4. For States whose instruments of ratification or accession are deposited after the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform the Governments of all signatory and acceding States of the date of each signature, of the date of deposit of each instrument of ratification or of accession, of the date of the entry into force of this Treaty, and of the receipt of other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XI

This Treaty, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the States signatory and acceding thereto.

In witness whereof the undersigned, being duly authorized thereto, have signed this Treaty.

Done in triplicate, at the cities of Washington, London and Moscow, this eleventh day of February, one thousand nine hundred seventy-one.

For the United States of America: William P. Rogers, James F. Leonard.

For the United Kingdom of Great Britain and Northern Ireland: Cromer.

For the Union of Soviet Socialist Republics: A. Dobrynin.

For Finland: Olavi Munkki.

For Jordan: A. Sharaf.

For Sweden: Hubert de Besche.

For Cyprus: Zenon Rossides.

For Bulgaria: D. L. Guerassimov.

For Burma: San Maung.

For Hungary: Nagy János.

For Iceland: Hördur Helgason.

For Canada: Marcel Cadieux.

For Ethiopia: Minasse Haile.

For the Republic of Korea: Dong Jo Kim [Romanization].

For Laos: Lane Pathammavong.

For Guatemala: J. Asensio Wunderlich.

For Denmark: Torben Ronne.

For Honduras: Roberto Galvez.

For the Republic of China: Chow Shukai.

For Ireland: W. Warnock.

For the Niger: A. Joseph [Joseph Amina].

For Costa Rica: R A Zuñiga.

For Liberia: S. Edward Peal.

For New Zealand: R L Jermyn.

For Nepal: Kul Shekhar Sharma.

For the Khmer Republic: Sonn.

For Luxembourg: Jean Wagner.

For Mali: S Traoré.

For Czechoslovakia: D Rohal-Ilkiv.

For Tanzania: Shilam [G M. Rutabanzibwa].

For Poland: Jerzy Michalowski.

For Japan: Nobuhiko Ushiba.

For Afganistan: A. Malikyar.

For Morocco: Abdeslam Tadlaoui.

For Nicaragua: Guillermo Sevilla-Sacasa.

For Malta: Arvid Pardo.
For Lebanon: N. Kabbani.
For Republic of Viet-Nam: Bui-Diem.
For Iran: Dr. A. Aslan Afshar.
For Austria: Gruber.
For Ghana: E. Moses Debrah.
For Tunisia: S El Goulli.
For Norway: Arne Gunneng.
For Australia: John Ryan.
For The Netherlands: R B Van Lynden
For Romania: Corneliu Bogdan.
For The Central African Republic: R. Guerillot.
For The Dominican Republic: S. Ortiz.
For Switzerland: Felix Schnyder.
For Belgium: Walter Loridan.
For Burundi: Nsanze Terence.
For Swaziland: S. T. M. Sukati.
For Rwanda: Fidéle Nkundabagenzi.
For Italy: Egidio Ortona.
For Uruguay: H. Luisi.
For Bolivia: A. S. de Lozada.
For Botswana: Lhinchwe II.
For Colombia: D. Botero B.
For Guinea: F. Keita.
Four Mauritius: Pierre Guy Girald Balancy.
For South Africa: H. L. T. Taswell.
For Panama: J. A. de la Ossa.
For Greece: B. Vitsaxis, 12 of February 1971.
For Paraguay: Roque J. Avila, 23 February 1971.
For Sierra Leone: John J. Akar, 24th February 1971.
For Turkey: Melih Esenbel, Feb. 25, 1971.
For Yugoslavia: B. Crnobrnja, 2 of March 1971.
For Senegal: Cheikh Fall, 17th of March 1971.
For Dahomey: Wilfrid de Souza, le 18 Mars 1971.

Mr. PELL. Mr. President, the treaty which we shall now take up represents the kind of cooperation we ought to have between the legislative and the executive branches in the area of foreign policy. In recent years there has been an increasingly vocal concern, particularly in the Senate, over the role of Congress in foreign policy and over restoring the balance contemplated by our Constitution.

That role is in many respects a negative force—the Senate may reject treaties and may refuse to confirm Ambassadors. The Congress may refuse to approve, or it may limit, appropriations for particular purposes impinging on our foreign relations.

The Seabed Arms Control Treaty shows that the role of the Senate can also be positive. The principal impetus for U.S. action on this matter before us derived from activity here in the Senate and the Foreign Relations Committee in 1967. On September 29, 1967, I introduced Senate Resolution 172, dealing with the need for reasonable rules to govern the activities of nations in the marine environment. Shortly thereafter, I introduced a draft treaty covering these issues in the form of Senate Resolution 186. The Foreign Relations Committee held hearings on those resolutions, but encountered resistance from the executive branch on the grounds that an agreement, such as the one we are considering today, was premature and unrealistic.

The issue was not buried, however. At the United Nations, and here I pay great tribute to Ambassador Arvid Pardo of Malta, a decision was taken in 1967 to examine thoroughly the problems involved in preserving use of the seabed for peaceful purposes. The question of preventing an arms race on the seabed was placed on the agenda at Geneva in August 1968. Intensive discussions followed, both at Geneva and at the U.N., and on December 7, 1970, the U.N., 25th General Assembly, to which I was a U.S. delegate, voted 104 to 2—with two abstentions—to commend this treaty. The United States signed it on February 11, 1971, referred it to the Senate on July 21, 1971, and the Foreign Relations Committee, after a hearing, reported the treaty favorably last Wednesday. Thus, shortly more than 4 years after our original initiative with a proposed seabed treaty, we take up approval of a final seabed treaty, signed by 85 nations.

The treaty is not as broad as many would like. But the history of arms control negotiations is a history of compromise. The Nuclear Test Ban Treaty in 1963 did not cover underground tests. The Conference of Committee on Disarmament at Geneva has been unable to secure agreement on a treaty covering both chemical and biological weapons; instead, a compromise convention dealing only with biological warfare has been approved. The fact that the Seabed Treaty is also a product of compromise should not undermine its acceptability or detract from its significance.

This treaty is important because it will forestall a potential arms race on the ocean floor. It is true that the United States and the Soviet Union have not deployed any weapons system which the treaty would prohibit, and no such weapons have yet been actively produced. But such weapons systems were on the drawing boards. While an actual arms race in this environment has not yet started, this does not mean that one could never start. Indeed, the developments of technology have already brought into focus some possible applications of nuclear weaponry on the seabed. Consideration apparently has been given to the feasibility of placing remote-controlled missiles off the coast of target States, and even to the possibility of underwater ABM systems. Furthermore, a futuristic seagoing tank—appropriately called a "creepy crawlie"—has received widespread attention. While these weapons systems are now prohibited under the treaty, there is no guarantee that man's ingenuity could not contrive new, equally clever means of wreaking destruction from the ocean floor. Indeed, our experience with military technology and the arms race suggest the contrary—if they are not banned, some such contraptions will ultimately be invented, and sold. This treaty will substantially eliminate the incentive to pursue research programs in this direction.

The Seabed Treaty is also a useful supplement to the Nonproliferation Treaty. Like the treaties dealing with Antarctica, Outer Space, and the Nuclear Free Zone in Latin America, the Seabed Treaty adds another area immune to the proliferation of nuclear weapons. Seventy percent of the earth's surface is now being precluded from having weapons of mass destruction implanted thereon.

This treaty also has political implications in the international community which could be significant. It is another step to enhance the mutual confidence of the Soviet Union and the United States, thereby facilitating further dialog and additional measures. It represents another announcement to the world that arms control and disarmament is a high priority of the superpowers. It shows that progress in this area is not stalled.

Finally, I would like to call attention to article V of the treaty which obligates the parties to continue negotiations for prevention of an arms race on the seabed. I trust the administration will not treat this obligation lightly. Despite the apparent reluctance of the Joint Chiefs of Staff to proceed further—as the treaty requires—I hope that the United States will table concrete proposals in this area at Geneva as soon as possible.

The undertaking in article V of the Seabed Treaty is similar to the more general provision in the Nonproliferation Treaty requiring the nuclear powers to conduct negotiations for further measures of arms control and disarmament. The Seabed Treaty is one of the first products of the negotiations contemplated by the NPT. In this connection, it is important that arms control measures involving the oceans—not just the seabed—go forward expeditiously.

The Seabed Treaty is an integral part of the fabric of agreements which the United States and the Soviet Union have reached in an attempt to contain the arms race. I hope it is also a step toward a more comprehensive, stable regime for assuring the permanent, peaceful use of the earth's oceans.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. PELL. I yield.

Mr. MANSFIELD. Mr. President, I want to commend the distinguished Senator from Rhode Island, who, as usual, has done an outstanding job in explaining the details of this most meritorious treaty.

I think it ought to be brought out, as it is in the report, that the genesis of this treaty lies in the initiative shown by the distinguished Senator from Rhode Island (Mr. PELL) in this instance; but, I might add, in many other instances as well he has been an inspiration in the consideration of matters of this kind, and his experience as a Foreign Service officer has helped greatly the rest of us on the committee to understand the intricacies of the treaty under consideration.

I just could not let this occasion go by without expressing by personal thanks to the distinguished Senator for the thorough and ongoing work which is his hallmark and for the many contributions he has made in his discussions in the Foreign Relations Committee, for the great influence he exercises in the Senate, and the high regard in which we all hold him. Modest though he is, I think it is about time that credit should be given where credit is due.

Mr. PELL. I thank my colleague very much indeed for those words. I do not deserve them, but I thank him.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PELL. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I came to the Senate floor to do precisely what our very distinguished majority leader has done. As a member of the Committee on Foreign Relations, I am intimately and personally acquainted with the spendid attention and work which the seas, the laws governing the seas, and disarmament with respect to the seas have received from the Senator from Rhode Island (Mr. Pell).

It is significant, I believe, that the very first page of our report on this treaty says:

> Senator Pell proposed for consideration a draft treaty to carry out that objective.

That resolution was introduced on November 17, 1967—almost 4½ years ago.

Notwithstanding the many other popular standards, I think that a Senator should be judged, not by his lineage in the newspapers, and really not even by his votes, though they count quite significantly, but by his initiatives. The Senate is a creative place, in which many new things for the benefit of our country, and through our country, of all mankind, can be done. This is an extremely creative initiative, for which the Senator from Rhode Island has been chiefly responsible in this body.

Senator Pell has focused our attention on the basic fact that the earth's surface is mainly the seas which cover most of it, and the resources of the seas as well as the dangers to the seas are just beginning to be appreciated after all of these centuries. I think this is a salutary line of interest and inquiry. It has borne fruit in this treaty as in other matters, and may indeed be the answer to the riddle of how to maintain a population of 6 billion instead of the 3.7 billion we now have on earth.

As an admiring friend and one who has watched the almost unique custodianship of this issue by the Senator from Rhode Island, I wish to pay my tribute to him, and thank him in the name of the people of my State, for his initiative in this particular field.

Mr. PELL. I thank the Senator from New York very much. He and I served together as delegates to the 25th General Assembly of the United Nations, which is when this draft treaty, which received its initiative partly from this body, was commended to the whole United Nations. I know that the Senator from New York, with me, has the same aspirations and hopes, not only for our Nation, but for the world.

The ACTING PRESIDENT pro tempore (Mr. Allen). Without objection, the treaty (Ex. H. 92d Cong., first sess.) will be considered as having passed through its various parliamentary stages, up to and including the presentation of the resolution of ratification, which the clerk will now read.

The legislative clerk read the resolution of ratification, as follows:

Resolved (Two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof, open for signature at Washington, London, and Moscow on February 11, 1971 (Ex. H, 92–1).

Mr. MANSFIELD. Mr. President, has the Senator from Rhode Island requested to have printed in the Record an excerpt from the report of the Committee on Foreign Relations and the message from the President of the United States?

Mr. PELL. I have not.

Mr. MANSFIELD. With the Senator's permission, I ask unanimous consent that the message from the President and the appropriate excerpt from the committee report be printed in the Record.

There being no objection, the message and excerpt were ordered to be printed in the Record, as follows:

Seabed Arms Control Treaty

Letter of Transmittal

The White House,
July 21, 1971.

To the Senate of the United States:

I am transmitting herewith, for the advice and consent of the Senate to ratification, the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof, opened for signature at Washington, London and Moscow on February 11, 1971.

This Treaty is the product of intensive negotiations during the past two years at the Conference of the Committee on Disarmament at Geneva and at the United Nations. On December 7, 1970, 104 members of the United Nations voted to commend the Treaty and urged that it be opened for signature and ratification at the earliest possible date.

In broadest outline this Treaty prohibits the emplacement of nuclear weapons and other weapons of mass destruction on the seabed beyond the outer limits of a 12-mile coastal "seabed zone" defined in the Treaty. The provisions of the Treaty are described in detail in the accompanying report of the Secretary of State.

The seabed is man's last frontier on earth, and that frontier should be a source of promise. This Treaty represents a practical and timely step toward helping protect this new environment. It is a significant addition to the structure of multilateral arms control agreements such as the Limited Test Ban Treaty, the Antarctic Treaty, the Outer Space Treaty, and the Non-Proliferation Treaty, contributing to international security.

I consider this Treaty to be in the interest of the United States and the entire world community and recommend that the Senate give its advice and consent to ratification.

Richard Nixon.

(Enclosures: (1) Report of the Secretary of State. (2) Certified copy of the Treaty.)

Department of State,
Washington, D.C., June 29, 1971.

The President,
The White House.

The President: I have the honor to submit to you, with the recommendation that it be transmitted to the Senate for its advice and consent to ratification, a certified copy of the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof.

The Treaty was opened for signature at Washington, London and Moscow on February 11, 1971. Sixty-two States, including the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, signed the Treaty in Washington on that date. A number of other States have also signed the Treaty in one or more of the three capitals.

This Treaty is the product of several years of discussion and negotiations at the Conference of the Committee on Disarmament at Geneva (CCD) and at the United Nations. It represents an outstanding example of how an important multilateral instrument can be developed with the participation and significant help of many countries.

In 1967 the United Nations decided to engage in a thorough examination of the question of reserving the seabed underlying the high seas for peaceful purposes.

The question of preventing an arms race on the seabed was included in the agenda adopted by the Eighteen Nation Committee on Disarmament at Geneva (now the CCD) in August 1968. Concrete negotiations on this issue got under way at Geneva the following year. Initial discussion focused on the scope of a possible prohibition, the seabed area to which the prohibition should apply, and procedures for verifying compliance with the prohibition.

After extensive discussion, the United States and the Soviet Union reached agreement on the text of a draft treaty, tabled at the CCD on October 7, 1969, to prohibit the emplacement of nuclear weapons and other weapons of mass destruction on the Seabed.

CCD members proposed various amendments to this text, some of which were incorporated in a revised US-Soviet draft dated October 30, 1969.

This draft was reviewed by the twenty-fourth United Nations General Assembly in the autumn of 1969. A number of additional amendments were proposed at that time and the General Assembly called on the CCD to continue its work on the draft treaty.

During the 1970 CCD session, the United States and the Soviet Union twice revised their joint draft treaty to incorporate amendments that had been developed in New York and also amendments reflecting further suggestions by CCD members. Many countries had expressed the view that a way should be found to give all parties to the Treaty (and in particular coastal states), regardless of their technological capabilities, a greater opportunity to take part in verifying the Treaty prohibitions. Through detailed consultations and negotiations, the United States and Soviet sponsors of the Treaty developed procedures that would assist all parties in assuring themselves that the prohibitions of the Treaty are being observed.

The progress achieved at Geneva was reflected in the third version of the Joint United States-Soviet draft treaty tabled on April 23, 1970, and in the final draft tabled on September 1, 1970.

On December 7, 1970, by a vote of 104 to 2 (with 2 abstentions) the General Assembly voted to commend this Treaty and request that it be opened for signature and ratification at an early date. This resolution reflected the conviction of the international community "that the prevention of a nuclear arms race on the seabed and the ocean floor serves the interests of maintaining world peace, reducing international tensions and strengthening friendly relations among States."

The Treaty consists of a Preamble and 11 Articles.

The Preamble has five paragraphs expressing the consensus of the parties. The first recognizes the common interest of mankind in the use of the seabed for peaceful purposes; the second stresses the positive value of preventing a nuclear arms race on the seabed; the third states that the Treaty is a step toward the exclusion of the seabed from the arms race; the fourth expresses the conviction that the Treaty is a step toward general and complete disarmament; and the final preambular paragraph affirms that the Treaty will further the purposes and principles of the United Nations Charter without infringing the freedom of the high seas.

The principal obligation of the Treaty is set forth in the first paragraph of Article I. It provides that the parties undertake not to emplant or emplace nuclear weapons or other weapons of mass destruction on the seabed and the ocean floor and in the subsoil thereof beyond the outer limit of a "seabed zone" as defined in Article II.

The prohibition also extends to structures, launching installations or any other facilities specifically designed for storing, testing or using such weapons. The Treaty would therefore prohibit, *inter alia*, nuclear mines that were anchored to or emplaced on the seabed. The prohibition would not, however, apply to facilities for research or for commercial exploitation not specifically designed for storing, testing or using weapons of mass destruction. On the other hand, facilities specifically designed for using such weapons would not, because they could also use conventional weapons, be exempted from the prohibition.

The prohibitions of the Treaty are not intended in any way to affect the conduct of peaceful nuclear explosions or to affect applications of nuclear reactors, scientific research, or other non-weapon applications of nuclear energy, consistent with other treaty obligations.

For the purpose of this Treaty, submarines and other vehicles that can navigate in the water above the seabed are to be viewed in the same way as any other ships; submarines would therefore not be violating the Treaty if they were either anchored to, or resting on, the seabed.

The second paragraph of Article I provides that the prohibition shall also apply within the coastal "seabed zone" with two exceptions: first, it does not apply to the seabed beneath the territorial waters of the coastal State, thus leaving unaffected the sovereign authority and control of the coastal State over its territorial waters within the seabed zone; second, it does not apply to activities of the coastal State anywhere within the twelve-mile zone.

The third paragraph of Article I provides that the parties will not assist, encourage or induce any State to carry out activities referred to in paragraph one.

Article II defines the "seabed zone" mentioned above. It states that the outer limit of this zone shall be coterminous with the 12-mile outer limit of the zone described in Part II of the Convention on the Territorial Sea and the Contiguous Zone signed in Geneva on 29 April 1958, and shall be measured in accordance with the provisions of Part I, Section II of that Convention and in accordance with international law. The words "and in accordance with international law" were added to establish that where the provisions of Section II of the 1958 Convention are expressly inapplicable, as in the case of so-called "historic" bays, the rules of customary international law will govern the location of the baseline from which the outer limit of the "seabed zone" is to be measured for the purposes of this Treaty.

The Treaty's verification procedures are set forth in Article III. Paragraph one provides that each Party shall have the right to verify through observation the activities of other parties on the seabed so long as observation does not interfere with such activities. This provision does not imply the right to enter a facility or to open up a piece of equipment on the seabed; it does however permit close observation of a facility or an object on the seabed.

Paragraphs two and three of Article III set forth procedures for consultation and cooperation among the parties to remove any doubts concerning fulfillment of the obligations of the Treaty.

Paragraph four provides for recourse to the United Nations Security Council should there remain a serious question about a possible breach of the Treaty's obligations.

As specified in paragraph five, parties may undertake verification pursuant to the Treaty with the full or partial assistance of any other party or through appropriate international procedures.

Paragraph six makes clear that verification activities must not interfere with the activities of other parties and are to be conducted with due regard for rights recognized under international law, including the freedom of the high seas and the rights of coastal States with respect to the exploration and exploitation of their continental shelves.

It should be noted that the verification provisions of this Treaty apply only to the area beyond the outer limit of the "seabed zone".

To avoid any possible implication of prejudice to any party's position on law-of-the-sea questions, the Treaty contains a broad disclaimer provision in its Article IV. This Article states that nothing in the Treaty shall be interpreted as supporting or prejudicing the position of any party with respect to existing international conventions or with respect to rights or claims regarding coastal waters or the seabed including continental shelves.

In Article V of the Treaty, the parties undertake to continue negotiations in good faith concerning further measures in the field of disarmament for the prevention of an arms race on the seabed.

Article VI sets forth the procedure for amending the Treaty. An amendment would enter into force for each party accepting it upon acceptance by a majority of the parties, and for any other party on the date it accepts the amendment. This Article is similar to one contained in the Outer Space Treaty.

Article VII of the Treaty provides for a review conference to be held five years after its entry into force. The provision for a review conference was included to assure that the purposes of the preamble and the provisions of the Treaty were being realized, taking into account any relevant technological developments. This provision is similar to one contained in the Non-Proliferation Treaty.

Article VIII provides that a party may withdraw from the Treaty upon three months notice if it finds that extraordinary events related to the subject matter of the Treaty have jeopardized its supreme interests. This provision is similar to one found in the Non-Proliferation Treaty.

Article IX states that the Treaty will not affect the obligations of parties under international instruments establishing zones free from nuclear weapons.

Article X designates the United States, the United Kingdom and the Soviet Union as Depositary Governments, and provides that the Treaty shall enter into force upon the deposit of instruments of ratification by twenty-two signatory States including the Depositary Governments. It specifies how other States may become parties and contains provisions of a formal nature relating to ratification, accession, and registration with the United Nations.

The provisions for signature and accession have been designed to permit the widest possible application of the Treaty. At the same time adherence to the Treaty will in no way imply recognition or change in status of regimes the United States does not now recognize. Nor will it in any way result in according recognition or change in status to any regime not now recognized by any other party.

I believe that this Treaty represents a practical and timely step in the field of preventive arms limitation. I hope the United States, whose ratification is required to bring the Treaty into force, will become a party in the near future.

Respectfully submitted.

WILLIAM P. ROGERS.

(Enclosure: Copy of the Seabed Arms Control Treaty.)

SEABED ARMS CONTROL TREATY

BACKGROUND

This treaty derives in part from an initiative of Senator Pell of the Foreign Relations Committee. On September 29, 1967, Senator Pell introduced Senate Resolution 172 which, among other things, called for the initiation of arms control measures to prevent the stationing of nuclear weapons and other weapons of mass destruction on the ocean floor. Senate Resolution 186, introduced on November 17, 1967, by Senator Pell, proposed for consideration a draft treaty to carry out that objective. The Foreign Relations Committee held hearings on those resolutions on November 29, 1967.

Although the executive branch was opposed to adoption of those resolutions, work was concurrently proceeding in the United Nations, and in 1967 the United Nations engaged in a thorough examination of the question of reserving the seabed underlying the high seas for peaceful purposes.

This question was included in the agenda adopted by the Eighteen Nation Committee on Disarmament at Geneva in August 1968.

After extensive discussion the United States and the Soviet Union reached an agreement on the text of a draft treaty which was tabled at the Conference of the Committee on Disarmament (CCD) at Geneva on October 7, 1969.

After four revisions, the General Assembly voted on December 7, 1970, by a vote of 104 to 2 (with 2 abstentions) to commend this treaty and requested that it be opened for signature and ratification.

On February 11, 1971, the treaty was opened for signature at Washington, London, and Moscow. On that date, 62 countries, including the United States, signed the treaty.

This treaty was submitted to the Senate on July 21, 1971

PROVISIONS OF TREATY

The following summary of the treaty was provided by the Secretary of State:

"The Treaty consists of a Preamble and 11 Articles.

"The Preamble has five paragraphs expressing the consensus of the parties. The first recognizes the common interest of mankind in the use of the seabed for peaceful purposes; the second stresses the positive value of preventing a nuclear arms race on the seabed; the third states that the Treaty is a step toward the exclusion of the seabed from the arms race; the fourth expresses the conviction that the Treaty is a step toward general and complete disarmament; and the final preambular paragraph affirms that the Treaty will further the purposes and principles of the United Nations Charter without infringing the freedom of the high seas.

"The principal obligation of the Treaty is set forth in the first paragraph of Article I. It provides that the parties undertake not to emplant or emplace nuclear weapons or other weapons of mass destruction on the seabed and the ocean floor and in the subsoil thereof beyond the outer limit of a "seabed zone" as defined in Article II.

"The prohibition also extends to structures, launching installations or any other facilities specifically designed for storing, testing or using such weapons. The Treaty would therefore prohibit, *inter alia*, nuclear mines that were anchored to or emplaced on the seabed. The prohibition would not, however, apply to facilities for research or for commercial exploitation not specifically designed for storing, testing or using weapons of mass destruction. On the other hand, facilities specifically designed for using such weapons would not, because they could also use conventional weapons, be exempted from the prohibition.

"The prohibitions of the Treaty are not intended in any way to affect the conduct of peaceful nuclear explosions or to affect applications of nuclear reactors, scientific research, or other non-weapon applications of nuclear energy, consistent with other treaty obligations.

"For the purpose of this Treaty, submarines and other vehicles that can navigate in the water above the seabed are to be viewed in the same way as any other ships; submarines would therefore not be violating the Treaty if they were either anchored to, or resting on, the seabed.

"The second paragraph of Article I provides that the prohibition shall also apply within the coastal "seabed zone" with two exceptions: first, it does not apply to the seabed beneath the territorial waters of the coastal State, thus leaving unaffected the sovereign authority and control of the coastal State over its territorial waters within the seabed zone; second, it does not apply to activities of the coastal State anywhere within the twelve-mile zone.

"The third paragraph of Article I provides that the parties will not assist, encourage or induce any State to carry out activities referred to in paragraph one.

"Article II defines the "seabed zone" mentioned above. It states that the outer limit of this zone shall be coterminous with the 12-mile outer limit of the zone described in Part II of the Convention on the Territorial Sea and the Contiguous Zone signed in Geneva on 29 April 1958, and shall be measured in accordance with the provisions of Part 1, Section II of that Convention and in accordance with international law. The words "and in accordance with international law" were added to establish that where the provisions of Section II of the 1958 Convention are expressly inapplicable, as in the case of so-called "historic" bays, the rules of customary international law will govern the location of the baseline from which the outer limit of the "seabed zone" is to be measured for the purposes of this Treaty.

"The Treaty's verification procedures are set forth in Article II. Paragraph one provides that each Party shall have the right to verify through observation the activities of other parties on the seabed so long as observation does not interfere with such activities. This provision does not imply the right to enter a facility or to open up a piece of equipment on the seabed; it does however permit close observation of a facility or an object on the seabed.

"Paragraphs two and three of Article III set forth procedures for consultation and cooperation among the parties to remove any doubts concerning fulfillment of the obligations of the Treaty.

"Paragraph four provides for recourse to the United Nations Security Council should there remain a serious question about a possible breach of the Treaty's obligations.

"As specified in paragraph five, parties may undertake certification pursuant to the Treaty with the full or partial assistance of any other party or through appropriate international procedures.

"Paragraph six makes clear that verification activities must not interfere with the activities of other parties and are to be conducted with due regard for rights recognized under international law, including the freedom of the high seas and the rights of coastal States with respect to the exploration and exploitation of their continental shelves.

"It should be noted that the verification provisions of this Treaty apply only to the area beyond the outer limit of the 'seabed one.'

"To avoid any possible implication of prejudice to any party's position on law-of-the-sea questions, the Treaty contains a broad disclaimer provision in its Article IV. This Article states that nothing in the Treaty shall be interpreted as supporting or prejudicing the position of any party with respect to existing international conventions or with respect to rights or claims regarding coastal waters or the seabed including continental shelves.

"In Article V of the Treaty, the parties undertake to continue negotiations in good faith concerning further measures in the field of disarmament for the prevention of an arms race on the seabed.

"Article VI sets forth the procedure for amending the Treaty. An amendment would enter into force for each party accepting it upon acceptance by a majority of the parties, and for any other party on the date it accepts the amendment. This Article is similar to one contained in the Outer Space Treaty.

"Article VII of the Treaty provides for a review conference to be held five years after its entry into force. The provision for a review conference was included to assure that the purposes of the preamble and the provisions of the Treaty were being realized, taking into account any relevant technological developments. This provision is similar to one contained in the Non-Proliferation Treaty.

"Article VIII provides that a party may withdraw from the Treaty upon three months notice if it finds that extraordinary events related to the subject matter of the Treaty have jeopardized its supreme interests. This provision is similar to one found in the Non-Proliferation Treaty.

"Article IX states that the Treaty will not affect the obligations of parties under international instruments establishing zones free from nuclear weapons.

"Article X designates the United States, the United Kingdom and the Soviet Union as Depositary Governments, and provides that the Treaty shall enter into force upon the deposit of instruments of ratification by twenty-two signatory States including the Depositary Governments. It specifies how other States may become parties and contains provisions of a formal nature relating to ratification, accession, and registration with the United Nations.

"The provisions for signature and accession have been designed to permit the widest possible application of the Treaty. At the same time adherence to the Treaty will in no way imply recognition or change in status of regimes the United States does not now recognize. Nor will it in any way result in according recognition or change in status to any regime not now recognized by any other party."

COMMITTEE ACTION

The Committee on Foreign Relations held a public hearing, chaired by Senator Claiborne Pell, on the Seabed Arms Control Treaty on January 27, 1972. At that time, the following witnesses testified: John N. Irwin II, Under Secretary of State; James F. Leonard, Assistant Director for International Affairs, Arms Control and Disarmament Agency; Lawrence F. Eagleburger, Deputy Assistant Secretary for Policy Plans and National Security, Department of Defense, who was accompanied by: Rear Adm. H. H. Anderson, Director for Policy Plans and National Security Affairs, Department of Defense; Herbert Scoville (appearing on behalf of the Arms Control Association); and Jeremy Stone, executive director, Federation of American Scientists.

On February 9, 1972, the committee met in executive session and unanimously ordered the Seabed Arms Control Treaty reported favorably to the Senate for advice and consent to ratification.

RECOMMENDATION

The committee recommends that the Senate give its advice and consent to ratification of this treaty. Although this treaty is a limited step, it is one which should be taken. At this time there are no weapons systems in existence or programed which would be prohibited. Nevertheless, in the absence of this treaty there would be every incentive for continued research to perfect viable seabed weapons systems, and no prediction can be made as to whether those efforts would succeed. Thus, this treaty will diminish the incentive to conduct research on these new types of weapons and may accordingly forestall an arms race in this environment generated by the unpredictable vagaries of future technology.

As Under Secretary Irwin stated before the committee, "the seabed is the last frontier of man on this planet," covering 70 percent of the earth's surface. It is important that this vast area has been eliminated as an arena for the United States-Soviet arms competition prohibited by the treaty.

The treaty is also a supplement to the nonproliferation treaty. It represents a step in carrying out the obligations set forth in article VI of the nonproliferation treaty, pledging the signatories to negotiate effective measures relating to cessation of the nuclear arms race at an early date.

However, it is one step toward halting the arms race—and it must not be the last—and the committee concludes that the United States should ratify the treaty. Accordingly, it recommends that the Senate give its advice and consent to that ratification.

Mr. JAVITS. Mr. President, will the Senator from Rhode Island yield momentarily again?

Mr. PELL. I yield.

Mr. JAVITS. I think I failed, while recognizing the fine initiative and position taken by the Senator from Rhode Island in this matter, to state that we must not, of course, overlook what the majority leader has just noted so very carefully, that is the role of the executive department and of the President in negotiating this treaty and now submitting it for our approval. It is an important element of the administration's policy to come to agreements respecting limitations on nuclear weaponry, and when one is obtained, naturally, it comes as a very satisfying development to those of us who are very hopeful that SALT may mark the end of the burgeoning arms race in the nuclear field.

As we express our appreciation of the Senator's very fine role with respect to this matter, we must also at the same time call attention to the achievement of the President and his administration in bringing about the negotiation of this treaty. It can be a milestone along the road which we also fervently wish to travel, and help begin to reverse the tide of pyramiding nuclear armament. Our defense budget, of which nuclear arms form a big element is now well over $80 billion as estimated by the President. These expenditures inhibits so much which is constructive on land and sea, for the future of mankind.

I am sure Senator PELL feels as we do about the role of the President in this matter. We served together as delegates at the U.N., and he made his special care in that representation this special activity in the development of this treaty, to very fine effect. I think, in all propriety, we must note and praise the role of the President in the negotiation and submittal of this treaty.

Mr. PELL. Great tribute is owed also, I think, to the Ambassador who negotiated it, Jim Leonard, and the director members of the Arms Control and Disarmament Agency, William Foster and Gerard Smith.

Mr. JAVITS. Good.

Mr. PELL. I think the job that was done Ambassador Leonard did in pushing this treaty through was very noteworthy. When we started out 4 years ago, the admirals in the Pentagon and, I am sure, their counterparts in the Kremlin, opposed this treaty, and it took a great deal of persuasion on the part of ACDA and those who believed in this concept to persuade the Defense Department that there was no adverse effect in moving ahead on this treaty. I remember bringing up the subject of the seabed in conversations with Premier Kosygin who, I believe, has had similar problems with his military.

So I think great credit is due both this administration and the previous administration, which started the ball, and in particular to Ambassador Leonard, William Foster and Gerard Smith.

Mr. JAVITS. I thank my colleague.

Mr. ROTH. Mr. President, I support the Senate's giving its advice and consent to the ratification of the Seabed Arms Control Treaty. Although this treaty may seem insignificant in terms of current weapons development and deployment plans, it could become important if technological developments make the seabed emplacement of nuclear weapons feasible. Moreover, this treaty diminishes the incentives for the continuation of expensive weapons research in this area, continues the momentum toward broader arms limitation agreements and helps to foster the proper psychological atmosphere in which further accords may be achieved.

If we can view the conclusion of this treaty with considerable hope, we cannot be complacent about progress in this very critical and sensitive field of arms control. The present treaty, which covers an area of only potential interest to defense strategists, required about 3 years to negotiate. It bans nuclear mines actually emplaced in or moored to the seabed, but it does not ban submarines positioned on the seabed, even if they remain fixed for weeks. This treaty is only a very small step which does not affect the national security posture of the United States. The significant question is not then whether or not we should give our advice and consent to this treaty, for clearly we should, but where do we go from here.

I am sure that the vast majority of the people of this Nation support the administration in its efforts to conclude a substantive agreement on the limitation of both offensive and defensive missile systems. But while continuing endeavors are underway to limit nuclear weapons, less attention has been paid to the control of conventional arms, except in the area of biological and chemical weapons. Yet, in many ways, it is the conventional arms field that is the most immediately relevant, for the tragic wars of recent years in Southeast Asia, the Middle East, and South Asia have all been fought with conventional arms, many of which have been supplied from outside these regions by the great powers. It is most tragic when these weapons have been supplied to opposing sides of the free world countries of the United States, Great Britain, and France, whose global interests are otherwise quite compatible.

As I recently expressed in a statement on the situation in South Asia, it is my hope that the President's visits to China and to the Soviet Union will help to encourage an atmosphere conducive to great power agreements on the limitation of conventional weapons to lesser developed countries. While I am aware of the many nuisances and difficulties of such agreements, I believe that the initial exploratory moves should be begun as soon as possible, at least with our friends and allies, if not with those we hope will become more friendly.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from South Carolina (Mr. HOLLINGS) relative to the Seabed Treaty now under consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY SENATOR HOLLINGS

The treaty now being considered by the Senate is a significant step forward in the long and difficult effort to place some limits on an uncontrolled worldwide arms race.

Essentially the treaty is an agreement among the nations of the world that they will not extend the nuclear arms race to the seabeds of the world oceans. The importance of that agreement becomes clear when we consider that the ocean seabeds constitute an area equal to 70 percent of the surface of the globe. Placing such an area off limits in the arms race is a noteworthy achievement.

I think the treaty is important also from another viewpoint. During the past decade we have seen extraordinary advances in marine technology—in man's ability to explore, work, and even live in the marine environment. It would be nothing less than tragic if the first and foremost application of this technology were to be the design, construction, and emplacement of weapons of mass destruction on the seabed.

I hope that this agreement, barring nuclear weapons from the seabeds, may also turn our attention to the potential peaceful uses of the lands underlying the oceans. All evidence indicates that the world seabeds constitute an immense reserve of mineral wealth. The rapid development of marine technology promises to make possible the use of these resources to improve the material well-being of man. If we can turn our energies, and our dollars, from military uses of the seabeds to productive and peaceful uses, we will be contributing much to the future welfare of mankind.

Mr. President, the basic thought that lies behind this treaty is that the oceans of the world, and most particularly the seabeds, should not be the spawning ground for a new era of international conflict and hostility, or a new arena for the nuclear arms race. The oceans and the seabeds are the heritage of all mankind, and the exploration and use of the seabeds should proceed on the basis of international cooperation. This treaty is one step toward that goal.

Mr. President, the junior Senator from Rhode Island (Mr. PELL) has played a major role in the development and successful conclusion of this international agreement. He came forward with the proposal when the executive branch was not interested. He cajoled, prodded, and persuaded until his proposal was accepted as the policy of the United States. There are few instances in our history in which an international agreement has arisen from the initiative of the legislative branch of our Government. This treaty, I believe, is just such an instance, and I congratulate my colleague from Rhode Island.

Mr. COOPER. Mr. President, I join Senators in commending Senator PELL for his leadership and for his persistent work for 4 years which has brought about far-reaching prohibitions upon the deployment of nuclear weapons upon the seabed.

Senator PELL's initiative and diligence was a major factor in bringing the treaty to the favorable conclusion we witness today.

The treaty recognizes that man's ingenuity can be used for good or for ill, and that it is both wise and necessary to take steps now to prevent the use of the ocean seabeds for the purpose of deploying weapons of mass destruction.

I hope the ratification of this treaty will be followed shortly by an initial treaty on the limitation of strategic nuclear weapons systems at SALT. Once again, we thank Senator PELL for his efforts to lessen the danger of nuclear annihilation. He has made a great contribution and deserves praise.

Mr. MATHIAS. Mr. President, I wish to express my strong support for President Nixon's recommendation that the Senate give its consent to the Seabed Treaty now before us.

Not since the turbulent conflicts of the 17th century have the rules of the seas commanded such intense attention or been so important to the affairs of nations as they are today. Sadly, we witness today an increasing catalog of disputes over the extent of territorial waters and the delineation of fishing rights. In seeking to sustain an exploding population of a shrinking planet, man is turning increasingly to the sea as a source of nourishment. Man is not only fishing with large factory ships, he has begun to develop the technique of fish farming. And he has long been engaged in mining and drilling along the ocean floor—the seabeds.

It seems to me that, if we do not now establish the international ground rules for conduct on the seas, we may soon be faced with an outbreak of open hostilities and armed conflict eclipsing anything we have witnessed thus far.

The Seabed Treaty represents a significant step in the right direction. It prohibits, through arms control agreements, the deployment of nuclear weapons and other devices of mass destruction on the ocean floor beyond a 12-mile coastal zone. It thus will prevent the spread of nuclear weapons to some 70 percent of the earth's surface covered by the seas. This area, the seabed, is, as Under Secretary of State John Irwin has pointed out—"the last frontier of man on this planet."

I believe that the Seabed Treaty will be a further important step in the effort to control the spread of nuclear arms on this planet. It will be a fitting follow-on to earlier nuclear arms control treaties including the Antarctic Treaty, the Outer Space Treaty and the Nonproliferation Treaty. Hopefully it will also serve as a stepping stone to a Strategic Arms Limitation Treaty which this country has been seeking over the past years in negotiations with the Soviet Union. Each of these milestones gives us hope for what may prove to be the "Disarmament Decade of the 1970's." This would be eloquent tribute to the President's compelling objective of changing from an era of confrontation to one of negotiation.

Certainly it would be foolish and irresponsible in the interest of seeking an adequate Seabed Treaty to jeopardize the military security of this country. It bears noting, therefore, that "the Joint Chiefs of Staff have been consulted throughout the negotiations on this treaty" as Mr. Eagleburger, of the Department of Defense, testified last month. He stated further:

> The Department of Defense believes this treaty is in the security interests of the United States, and supports the President's recommendation that the Senate give its advice and consent to its ratification.

Mr. President, we often remain unaware of the extent of persistent and painstaking effort that is necessary to produce a treaty of this nature. Let me, therefore, remind this body of the vast amount of exertion and real work that has gone into this treaty. It is the distillation of several years of detailed discussion and negotiation both in the United Nations and in the Geneva Disarmament Conference. From 1967 when the United Nations first examined the prospects of such an agreement until September 1970 when a final draft was presented at the Geneva Disarmament Conference, the draft treaty underwent innumerable changes and revisions. I had the honor in May 1969, to serve as a senatorial observer with the American delegation to the Geneva Disarmament Conference along with the distinguished junior Senator from Rhode Island (Mr. PELL). At this session, Special Ambassador Adrian Fisher, now dean of the Georgetown University Law Center, presented our first draft of the treaty to that conference.

In the fall of 1970, the United Nations General Assembly voted in favor of the present draft by a vote of 104 to 2. It was then opened for signature in February 1971. Thus far, 86 nations have signed the treaty and 23 have ratified it. It will come into force once it is ratified by the three depository Governments—the United States, the United Kingdom, and the Soviet Union.

Mr. President, I know of no more important effort to the future of humanity than the systematic limitation of nuclear weapons. But this task cannot be accomplished simply by good will or by good rhetoric. Neither can it be gained by recklessly abandoning our defenses in the hope that others will do the same. Nuclear disarmament can only be attained by methodical, persistent, and painstaking steps such as the Seabed Treaty. This treaty is not a dramatic stride, but a limited and practical step.

In the hard world of international relations, however, I am sure I shall be forgiven if I favor the practical to the dramatic. For, it is such "limited steps" which will serve as realistic platforms for further steps along the road to international control of nuclear arms, and eventually to the rule of law among nations.

I shall close my remarks by quoting from a fine letter received today from Dean Adrian Fisher, who can be regarded as one of the principal architects of the treaty. He writes:

> I am aware that some have said that the treaty is not really important. One can argue how vast a step it is, but it is a step and a step toward peace. That is important. Without such a treaty, I am morally certain that one or more of the parties to the present nuclear confrontation might have embarked on a program to place these weapons on a seabed primarily because of a concern that another party might do so and that it had to get there first. This treaty prevents such a dangerous escalation.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GEORGETOWN UNIVERSITY
LAW CENTER,
Washington, D.C., February 15, 1972.
Hon. CHARLES McC. MATHIAS, Jr.,
U.S. Senate,
Washington, D.C.

> DEAR SENATOR MATHIAS: I am advised that the Senate is voting today on the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and the Subsoil Thereof. I remember very well that you and I were together at Geneva in May of 1969 when I presented the first draft of that treaty to the then Eighteen Nation Committee on Disarmament. You were sitting at the Conference table and acting as a member of the Delegation, a matter which did our delegation a great deal of honor. Since that time there have, of course, been refinements on the initial document. In particular, the Article on Verification has been filled out and the Article on the outer limits of the seabed zone has been drafted in a way to avoid possible embarrassment to the position of the U.S. on other aspects of the law and the sea. All in all, a rather commendable ship has been drafted on the keel that you helped lay in May of 1969 and you should be proud of the development that you helped begin.
>
> I am aware that some have said that the treaty is not really important. One can argue how vast a step it is, but it is a step and a step toward peace. That is important. Without such a treaty, I am morally certain that one or more of the parties to the present nuclear confrontation might have embarked on a program to place these weapons on a seabed primarily because of a concern that another party might do so and that it had to get there first. This treaty prevents such a dangerous escalation and you should be proud of your participation in it.
>
> Sincerely,
>
> ADRIAN S. FISHER.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the pending question will be put. The question is, Will the Senate advise and consent to the resolution of ratification?

On this question, the yeas and nays have been ordered, and the clerk will please call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from Maine (Mr. MUSKIE), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. LONG), and the Senator from Wyoming (Mr. MCGEE), are necessarily absent.

I further announce that the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Georgia (Mr. TALMADGE), are absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from Maine (Mr. MUSKIE), and the Senator from Oklahoma (Mr. HARRIS), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Wyoming (Mr. HANSEN), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT), is absent because of illness.

If present and voting, the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The yeas and nays resulted—yeas 83, nays 0, as follows:

[No. 43 Ex.]

YEAS—83

Aiken
Allen
Allott
Baker
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fulbright
Gambrell
Goldwater
Griffin
Gurney
Hart
Hollings
Hruska
Hughes
Inouye
Javits
Jordan, N.C.
Jordan, Idaho
Mansfield
Mathias
McClellan
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—17

Anderson
Buckley
Fong
Gravel
Hansen
Harris
Hartke
Hatfield
Humphrey
Jackson
Kennedy
Long
Magnuson
McGee
Mundt
Muskie
Talmadge

The PRESIDING OFFICER (Mr. BENTSEN). On this vote the yeas are 83, and the nays 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. At this time, without objection, the Senate will resume the consideration of legislative business.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The PRESIDING OFFICER (Mr. BENTSEN). Under the previous order, the Senate will turn to the consideration of the unfinished business which the clerk will report.

The assistant legislative clerk read as follows:

> Calendar No. 412, S. 2515, a bill to further promote equal employment opportunities for American workers.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1 P.M.

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess until 1 p.m. today.

Mr. JAVITS. Mr. President, will the Senator withhold his request momentarily so we may understand what we are going to be doing?

Mr. BYRD of West Virginia. Mr. President, I withhold my motion. May we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. JAVITS. Is it correct that at 1 p.m. we will take up the matter of reconsideration of the Hruska amendment which failed by a tie vote?

Mr. BYRD of West Virginia. The Senator is correct. Under the previous order, there is a 1-hour limit beginning at 1 p.m. on the debate on the motion to reconsider the vote by which the Hruska amendment (No. 877) was previously rejected.

There being no Senator present at the moment who wishes to discuss that matter, I now renew my motion that the Senate stand in recess until 1 p.m. today.

The motion was agreed to; and at 12:21 p.m. the Senate took a recess until 1 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GAMBRELL).

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, will the Senator from Georgia yield me 10 minutes?

Mr. GAMBRELL. Mr. President, if the Senator would wait, I first should like to make an introductory statement and I will then yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I would be pleased if the Senator from Georgia would do that.

Mr. GAMBRELL. Mr. President, under the previous order, the Senate now has turned to the consideration of the motion to reconsider the vote by which the amendment submitted by the Senator from Nebraska (Mr. HRUSKA), amendment No. 877, was not agreed to on last Wednesday.

Mr. President, I believe the Senate will recall that the vote on that amendment was 33 to 33, and by virtue of there being a tie vote, the amendment failed. Under the circumstances that developed at the time, I had agreed to accommodate one of the Senators by giving a live pair. And by virtue of my not having voted, the result might have been changed. I felt it incumbent upon me to make a motion to reconsider the vote by which the amendment was rejected.

I do not intend to debate this matter at length and so stated to the leadership at the time the time limitation was agreed to. I think that most Senators know what their position will be.

Mr. President, I favor the amendment of the Senator from Nebraska for the reasons I stated at the time the amendment was offered on February 8, as set forth in the RECORD of that date.

I think the Senate should have an opportunity to express itself by a majority vote on this issue and not have the issue decided by a tie vote.

The proposal of the Senator from Nebraska, as I understand it, would limit the means by which action might be taken to protect minority rights under the job discrimination provisions of the EEOC bill.

I myself see no reason for having six or seven different remedies for the protection of these rights, particularly when an employer would be thereby subjected to a great deal of harassment.

In my own judgment, by far the greater number of employers in this country would be happy to abide by this law and are simply seeking to find out what the requirements of the law would be and are not undertaking to frustrate equal opportunities for our citizens in connection with employment, whether by race, sex, religion, or national origin.

Mr. President, assuming that good faith, as I do, on the part of most employers, I do not think they should be held in suspense as to how many different modes of attack might be made upon them when any one or certainly the several that remain under the amendment of the Senator from Nebraska would be sufficient for the purpose.

Therefore, Mr. President, I at this time yield 10 minutes to the Senator from Nebraska for his statement in support of the amendment.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 10 minutes.

EXCLUSIVE REMEDY AMENDMENT

Mr. HRUSKA. Mr. President, I thank the Senator from Georgia.

Mr. President, I rise in support of the motion to reconsider the vote by which my amendment was rejected last week.

The proposed amendment provides that apart from those actions specifically sanctioned by S. 2515 or pursuant to the provisions of the Equal Pay Act of 1963, the only remedy available to individuals aggrieved by employment discrimination is a charge filed with the Equal Employment Opportunity Commission.

Under the amendment there are exceptions. Under this amendment, actions filed by aggrieved individuals with State fair employment practices agencies; actions filed by the Attorney General in pattern or practice of discrimination cases; private actions filed by aggrieved individuals in the Federal district courts following the failure of the Commission to act upon a charge within the time proscribed in the bill; actions brought by the Secretary of Labor for noncompliance with the regulations of the OFCC; and actions brought in the courts for alleged violations of the provisions of the Equal Pay Act of 1963, are all preserved. The amendment would therefore, continue the availability of a wide range of avenues of redress from employment discrimination.

It might be noted parenthetically that the other body approved a provision similar to my amendment. But it was much more broad. It was much more broad, for example, in that the Equal Pay Act of 1963 was not included as an exception. That deficiency was noted in the debate in the other body. For some reason—very likely the fact that there was a closed rule prohibiting amendments—it was not incorporated in the text of the amendment as adopted, according to my recollection.

The merit of that proposal on the other side of the Capitol was recognized and there was inserted the additional exception for the Equal Pay Act of 1963 which, very simplistically, said that there must be equal pay for similar or equal work for men and women.

This amendment reflects a recognition, however, of the fact that we are now curing the defects of the existing law by recognizing the expertise of the Commission in the field of employment discrimination and granting the Commission the necessary enforcement tools with which they can satisfactorily fulfill their role to end such discrimination. Adoption of this amendment would result in funneling into the Commission the matters within its expertise and the consequent avoidance of an unnecessary multiplicity of independent and overlapping suits brought before other administrative agencies or under other laws.

Under existing laws, individuals who allege that they are the victims of discriminatory employment practices have access to a multiplicity of forums before which they can bring actions seeking to redress a single alleged employment discrimination. Although Congress, in title VII of the Civil Rights Act of 1964, created the Equal Employment Opportunity Commission and invested it with the primary responsibility for investigating and conciliating alleged violations of title VII, the legislative history of that act as well as subsequent court decisions established that the Commission was not the exclusive authority for enforcement of equal employment rights.

Thus, under the present law, an individual can subject an employer or labor organization to the necessity to defend simultaneously against a number of separate actions, brought before a number of separate and distinct forums for the same alleged offense.

As the Commission has noted in an ex parte statement submitted to the Interstate Commerce Commission concerning Equal Opportunity in Surface Transportation, ex parte No. 278:

> . . . Title VII of the Civil Rights Act of 1964 did not grant exclusive jurisdiction to the Equal Employment Opportunity Commission (EEOC) in all matters of employment discrimination over which it has jurisdiction. On the contrary, its very design provides for the uses of *all available means* to achieve the end of employment discrimination. (Ex Parte No. 278, Page 56) (emphasis added).

Thus, for example, notwithstanding the enactment of title VII, it was held that the National Labor Relations Board still retained jurisdiction in the area of civil rights in employment. In *United Packinghouse Workers Union* v. *NLRB* (Farmers Cooperative Compress), 416 F. 2d 1126, 1133, n11 (C.A.D.C., 1969), the court found, as a matter of law, that racial discrimination by an employer is an unfair labor practice and stated that:

> The act itself says nothing to indicate that the National Labor Relations Board is ousted from jurisdiction in these matters, and an examination of the legislative history demonstrates that the Board was not meant to be. CONGRESSIONAL RECORD, volume 110, part 7, page 207.

Similarly, court decisions issued subsequent to the passage of title VII have held that title VII has not preempted the field of civil rights in employment and thus an individual has an independent cause of action in cases of employment discrimination pursuant to the provisions of the Civil Rights Acts of 1866 (42 U.S.C. section 1981) and 1871 (42 U.S.C. section 1983) and that actions may be brought under all three laws simultaneously.

However, according to the EEOC, the list of available forums in which actions concerning employment discrimination can be maintained continues. In its statement to the ICC, the Commission stated that:

> . . . the provisions of title VII only applied to the activities of the EEOC—and to the Department of Justice as applicable—and were not intended to preclude *other Federal agencies* from *independent* action in this area (emphasis added).

It is, therefore, the Commission's position that in addition to nonregulatory administrative agencies such as the National Labor Relations Board, Federal regulatory agencies such as the FCC and ICC similarly have the authority to regulate the employment practices of those who are subject to their jurisdiction.

Moreover, the Commission apparently is not satisfied merely with asserting that such regulatory agencies have jurisdiction over the employment practices of their regulatees—a tenuous assertion at best—but it has also felt compelled to interject itself into the affairs of these agencies and attempt to direct those affairs.

For example, apparently without any charge having been filed, the Commission conducted an independent investigation of the employment practices of the trucking industry and solely on the basis of a statistical disparity in employment between minority and nonminority employees concluded that a prima facie case of discrimination at law had been established. This was not enough for the Commission, however. After reaching this gratuitous conclusion, the Commission then tried to impose on the jurisdiction of the ICC by attempting to have the ICC adopt rules forbidding discrimination in the surface transportation industries, violations of which would hopefully, according to the EEOC, result in loss of a carrier's license to operate.

Similarly, the EEOC has applied the same consideration to the FCC and has interjected itself into the affairs of that independent agency. For example, again apparently without any charges having been filed, the EEOC conducted a study of the equal employment opportunities in the Bell System. In a voluminous report entitled "A Unique Competence," the EEOC concluded that from top to bottom, the Bell System discriminated against its employees on the basis of sex, race and national origin. However, the Commission's 290 page report is replete with conclusions unsupported by evidence and reads like a star chamber indictment. Nevertheless, the Commission on the basis of this obviously prejudiced report would have the FCC impose sanctions on the Bell System.

Thus, in addition to all the other actions a respondent can be subjected to, the Commission would also include Federal regulatory agencies in that already bulging list. It is apparently of no consequence to the Commission that such agencies have neither the requisite experience in the area of civil rights in employment, nor the knowledge, training, resources or investigative know-how to involve themselves in that area. On the contrary, the lack of resources and experience of these agencies in the field of employment discrimination serves the Commission's purposes all too well. The Commission can then invest itself with the authority to act as the investigatory arm of these agencies, draw unilateral conclusions as to the regulated industry's employment practices and utilize these agencies as mere rubber stamps for the application of sanctions as a result of their conclusions.

Under the present provisions of title VII, the EEOC was not granted prosecutory or enforcement authority which it could call upon in order to fulfill its role to eliminate employment discrimination. Rather, the Commission was forced to rely solely on its efforts to persuade and conciliate in order to fulfill its function. Therefore, since the Commission had been given no enforcement authority, an arguable rationale existed for the availability of multiple forums, each with jurisdiction to hear, decide and remedy complaints of employment discrimination. The lack of authority granted the EEOC in 1965 rendered it inadequate for the task imposed upon it by Congress. It was, therefore, intended by Congress that victims of employment discrimination should be able to avail themselves to the fullest extent of the resources of other agencies and other applicable statutes.

However, this rationale no longer is applicable. We are now granting the EEOC the necessary authority to effectively administer and enforce the Nation's equal opportunity employment laws. Yet, the bill now before the Senate contains no provision restricting the availability of alternative avenues of redress for persons aggrieved as a result of employment discrimination. Nothing contained in S. 2515 prevents an individual from subjecting a respondent to the onerous prospect of being subjected to the vexations, time-consuming and financially burdensome necessity of having to defend against a number of separate actions, before a number of separate forums, all for the same alleged offense. Further, even if a respondent successfully defends against one action, he is still vulnerable to liability before any of the other available forums.

This procedure is contrary to this Nation's well established principle that one accused of a violation of the law should not be harassed and vexed by multiple actions for a single offense. This principle is constitutionally recognized in the criminal law by the prohibition against "double jeopardy" and in the civil law by the correlative concepts of "res adjudicata" and "collateral estoppel." It is also recognized in administrative law. For example, the National Labor Relations Act, upon which the instant bill is largely patterned, provides that the Board exercises exclusive jurisdiction in the area of its authority and other forums are preempted from consideration of cases properly before the Board.

I believe that the failure of the bill to protect respondents from the burdens incident to being forced to defend against a multiplicity of actions represents a serious deficiency. Our aim here is only to provide effective authority to the Commission to enable it to provide protections to the minorities and women of this Nation from employment discrimination. It is neither to harass respondents nor to deny them the fundamental rights of due process.

The amendment which I have offered merely represents a recognition of that conclusion. It does not, as the rhetoric in the House suggested, eliminate actions under the Equal Pay Act and my amendment specifically retains the availability of actions under that act. My amendment is not intended to eliminate the jurisdiction of the Attorney General in pattern or practice cases. We all recognize the fine and valuable work done by the Justice Department in this area and my amendment insures that the Attorney General's efforts and jurisdiction will be continued.

This amendment is only intended to eliminate actions brought before agencies or forums such as the NLRB, ICC, and FCC, which Congress did not intend to have jurisdiction over employment discrimination. Moreover, while the need to preserve the right of private actions is recognized and retained in this amendment, the expertise of the Commission to sift and investigate the evidence and attempt conciliation of the dispute before such private actions can be brought is nevertheless preserved.

Therefore, the intent of this amendment is not to impede the effectiveness of the Commission. On the contrary it is my opinion that it would advance its effectiveness. We are all aware that one gage of the Commission's ultimate effectiveness will be its ability to obtain voluntary compliance. Failure in this regard could result in the Commission's being drowned in its own caseload. This danger is even greater now that approximately 12 million additional individuals are being included within the Commission's jurisdiction. S. 2515, in its present form, militates against such voluntary compliance on the part of respondents. Apart from the inherent unfairness of imposing this liability upon a respondent, the fact that under S. 2515 an individual will still be able to bring a multiplicity of contemporaneous suits will inhibit respondents from entering into voluntary settlements, because any settlement effected before one forum will not eliminate its potential liability before the other available forums.

Mr. President, it is not the intent of this amendment to abridge or to contract the rights and the benefits the law confers upon those who allege discrimination in employment practices. They are fully protected and they are given every consideration in this amendment in connection with that matter with reference to their charges of discrimination, but they are denied that multiplicity of actions that now exists in their favor which can be used for harassment, for the accumulation and imposition upon the labor unions and the employers who are made respondents, the necessity to expend much money, time, and litigation, all involving a single alleged offense.

Some point has been made that the Department of Justice witness who appeared before the committee was opposed to an amendment of this kind. Reference has been made to his testimony and a subsequent letter which appears at page 162 of the hearings of the committee on the bill, S. 2515. The fact is that there was not an outright opposition. There was opposition to the extent that the language of the amendment could be interpreted as eliminating the use of provisions of Federal law other than title VII in the attack on employment discrimination.

The witness, Assistant Attorney General David Norman, went on to say:

> We will be happy to work with the committee staff in clarifying the language.

The language to which he addressed himself did not have the exceptions provided in the effective language of this amendment.

Reference has been made to the idea that all available resources and remedies should be retained in the field of civil rights to assure employees their rights.

Among other things, Mr. Norman said:

> In the field of civil rights, the Congress has regularly insured that there be a variety of enforcement devices to insure that all available resources are brought to bear on problems of discrimination.

It is submitted that is precisely what this amendment does. It spells out the language and clarifies the language, it states what can be and what cannot be used as the basis for a suit, and that is proved by the example cited by Mr. Norman in his testimony on page 163. He said:

> For example, housing discrimination may be the subject of suit by the Attorney General, a private suit by the party affected, or a conciliation effort by the Department of Housing and Urban Development.

This amendment meets that exact situation. There is retained expressly the suit by the Attorney General; there is expressly saved to the employee a private suit by him or her; there is expressly provided the conciliation effort by the Commission and other agencies.

In addition to those three, however, there is in the case of the pending amendment the saving grace of allowing the Pay Act to be fully effective, and also any pending determination in State court.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GAMBRELL. I yield the Senator 3 additional minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 3 additional minutes.

Mr. HRUSKA. Mr. President, another example given by the Assistant Attorney General was in the field of education. He stated "remedies for discrimination are available to private persons," which is the case in our amendment, "the Attorney General," which is the case in our amendment, and the "Department of Health, Education, and Welfare," which is our situation again, except instead of HEW there is the Equal Employment Opportunity Commission.

He went on to state:

> At this juncture, when we are all agreed that some improvement in the enforcement of Title VII is needed, it would be, in our judgment, unwise to diminish in any way the variety of enforcement means available to deal with discrimination in employment. The problem is widespread and we suggest that all available resources should be used in the effort to correct it.

With that statement this Senator completely concurs, but he will not go so far as to say there should be such a surplusage of means available that instead of being a tool, an instrument to achieve redress for a single offense in this area, that there is open the situation, the very detrimental, harmful, and expensive situation of a multiplicity of suits involving a single alleged offense.

It is on that basis that the motion to reconsider should be approved so that we may have a vote anew with these facts before the entire body.

Mr. President, if there is any time remaining, I reserve it for future use. For the time being I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, will the Senator yield to me for 10 minutes?

Mr. WILLIAMS. I am happy to yield to the Senator from New York.

Mr. JAVITS. Mr. President, we oppose this amendment most strenuously. I wish to emphasize that to the entire Senate. If this amendment were to be accepted, I really fear for the fate of this whole measure into which we have poured so much time and effort.

The key to the vote is whether we want this amendment; not whether it should be reconsidered. The motion to reconsider was simply a technique by which the tie vote could be resubmitted, as it were, when there were more Members present. That is perfectly proper and legitimate, but I believe that the consideration which we can give to the measure in this debate is adequate for the purpose of voting substantially on the motion to reconsider; that the vote should very decidedly be "no," that there should not be reconsideration, and that the amendment should fail.

The key to the reason it should fail is in the statement of the Senator who proposed it, who said, "They are fully protected," meaning those against whom there is discrimination in employment. Our answer is decidedly "no," they are not fully protected unless the amendment is defeated. The reasons for that are as follows:

There are other remedies, but those other remedies are not surplusage. Those other remedies are needed to implement the promise we make under the Constitution to prevent discrimination in employment. The laws of 1866, 1871, as well as the law of 1964 are to implement that promise.

Let me point out specifically what we have in mind. It will be noted that the key to the amendment is the word "remedy." That appears on the first page of the amendment, at line 6. It does not say anything about a suit or type proceeding to be instituted; it states "remedy" and nothing else. That means, if we are to construe that word, every remedy, whether that remedy is litigation, or decertifying a trade union, or denying somebody the right to a Government contract. The proposer of the amendment has, for all practical purposes admitted that himself.

These are not remedies encompassed in title VII, which has its own methodology, whether that results in a pattern or practice suit or a cease and desist order. The methodology in title VII is a unitary thing; it pits the individual or class of individuals against the employer; it does not affect third parties. There have been cases in which third parties have been guilty of bringing about the discrimination. The way those third parties have been reached has been through the statutes of 1866, the generalized civil rights statute, the injunction against denying the opportunity for contract without discrimination to all Americans. Also, title VII does not have the facility to reach the bargaining process as the NLRA can where the issue heavily involves trade unions, and a whole union could be decertified.

Now, Mr. President, these are absolutely critical rights. Then, to detail some more, there is very grave doubt under this amendment whether any effective effort can be made by individual complaint to bar Government contracts, as we are retaining in the Department of Labor the Office of Federal Contract Compliance. This is a very important right and should not be permitted to rest alone on the initiative of the U.S. Government.

Another area in which there has been an enormous amount of activity which might be curtailed by this amendment is in regard to discrimination by recipients of Government grants. There, for example, a great deal has been done in regard to sex discrimination in colleges. Again, the exclusivity of remedy—that is the word that is used—would, it seems to me, bar a remedy for this kind of discrimination.

The Senator himself has made it clear that intercession, for example, in ratemaking procedures, as, for example, the fact that this Commission itself has sought to intercede with the Federal Communications Commission concerning possible discrimination by the American Telephone & Telegraph Co. against its employees, and using that as a disqualifying fact in regard to the rate increase that may be sought by the A.T. & T., might be curtailed.

In addition, private individuals can themselves sue State and local governments, without waiting for the Attorney General. We have a case very recently in which a judge in Alabama ordered the Department of Public Safety to start adding black troopers immediately to the extent of one-fourth of the force. That was a suit brought under the Civil Rights Act and the Constitution.

I ask unanimous consent that the newsstory and description of just what was at stake, from the New York Times of Sunday, February 13, 1972, be made a part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

State Police: The Force That Is Always Whiter Than White

ATLANTA.—When most Southern states bowed to external pressure in recent years and integrated their state police for the first time, only Alabama and Mississippi refused to break the color line.

This intransigence, as had happened in the anguish over school desegregation, propelled both states onto a collision course with the Federal courts. Last week, in two separate rulings, the crash finally occurred.

In the first and most significant ruling, District Judge Frank M. Johnson, Jr. ordered the Alabama Department of Public Safety to start adding black troopers immediately until one-fourth of the 644-man force—soon to be increased to 744—is composed of blacks, the racial balance of the state's population. He instructed the department to hire one black trooper for every new white one until the balance has been reached. This was the first time a Federal judge had specified population ratios in the desegregation of a governmental unit.

Two days later, Mississippi was ordered to guarantee that blacks would receive equal opportunity to apply for 22 new openings in the Highway Patrol, but the court stopped short of prescribing a quota, leaving some doubt about the legal consequences if no blacks are actually recruited. But even so, in Mississippi, where the shootings two years ago of black students at Jackson State University by the state police further entrenched the agency's reputation among blacks as the bloody instrument of a racist society, the action sent tremors through members of both races.

It remains to be seen, therefore, how successful these states can be in recruiting blacks when all across the country state police agencies have had a lack-luster record of attracting applicants from minority groups, particularly blacks. Some of the reasons:

There is growing hostility in the black community to the police apparatus everywhere.

Blacks with the qualifications to become state troopers can easily find better-paying opportunities in an improving job market.

Most state police, whether they are restricted to traffic control or play a broad role as an investigatory agency, assign troopers to posts far removed from metropolitan areas. In the South the countryside is usually the stronghold of white racists, bringing down harassment on the black trooper above and beyond the call of duty. In the rest of the country the assignment to remote areas means black troopers are forced to live and work outside of the black communities concentrated in the cities.

In New York State, which has a long tradition of hiring blacks as troopers, there are now only 10 blacks on a force of 3,463, a ratio approximately of one black trooper for every 350 whites, or the equivalent of the ratio that exists now in Florida and Georgia, and below the corresponding level in the Carolinas and Louisiana.

"We'd like to appoint 200 blacks today, but they just don't apply," Stephen Smith, director of personnel for the New York State Police, said. "We go to every source we can find and they tell us they're not interested in law enforcement. They don't want to be associated with the fuzz. We just recruited a Peruvian Indian as a trooper, and it was easier than getting a black. If Alabama is successful in digging up new black prospects I'm going down there and find out how it's done."

In Florida, Gov. Reubin Askew, whose credentials on race relations are perhaps the best among Southern Governors, ordered the state's Highway Patrol to give full priority to the hiring of blacks when he took office last year, when there were three black troopers on the force. Today, despite the campaign, the number of blacks is down to two.

"We've gotten so desperate that the last black we recruited we had to waive the weight restriction by 30 pounds just to get him in," says Col. Eldridge Beach, the new director of the patrol.

Blacks have argued, as they did in the Alabama suit, that state examinations for troopers are inherently discriminatory and can disqualify blacks who would otherwise make fine law officers. Florida, among other states, recently had educational experts review its standard state police applicant test. It was found to be fair and "color-blind"—that is, it contained no material so oriented that it worked to exclude blacks, Colonel Beach said.

Judge Johnson refused to interfere with the existing Alabama test. He told state police officials, "I am as interested as you all in maintaining the high quality of state troopers. I am unwilling to order demeaning tests just to get blacks on the force." But, he said, "the burden is on you to find qualified blacks."

By week's end, amid widespread grumbling, a formula for compliance with the order had yet to be announced by Public Safety Headquarters in Montgomery.

Mr. JAVITS. So, Mr. President, the key to the proposition which we laid before the Senate—incidentally, this has now been the law for the last 8 years—is that what this amendment would seek to do is cancel away much of that law. It seems to me that should not be the attitude of the Senate, in face of the fact, as I say, that employees are not fully protected by the exclusive remedy which is sought to be compelled by this amendment.

It seems to me, therefore, that if we are to give this assurance that we are really and genuinely open about this and that we are trying to deal with the problem of discrimination in employment, which we consider to be basic, then we should allow the remedies presently available to continue to be available.

One last thought which is critically important; it is well known—and I speak from personal experience, since I was a party to the debate and the controversy which ensured—that the price of the Civil Rights Act of 1964 was a very weak job discrimination title. That was the price exacted, and that was the price paid. That is why we are here—to button that up—because time and the enormous backlog of cases in the Equal Employment Opportunity Commission indicate that this is a serious deficiency in the structure of our antidiscrimination law.

Under those circumstances, before we ever have had an opportunity to make these laws more effective, now by such an amendment, if it becomes law, we will dismantle what is already the law and thereby make a grave mistake.

It seems to me that is the absolute, clinching argument in respect of what we are trying to accomplish. We are going to take perhaps two steps forward and then take one step backward if we adopt the amendment. I think this is most unfair to the proposition which the Senate would be espousing if we passed the bill.

I would like to emphasize the importance of this amendment. Those who suffer from job discrimination, those who endeavor to right job discrimination, are deep and firm in their conviction that one of the most critical issues on the bill is what is incorporated in the amendment. Should the amendment be adopted, a very critical aspect of the enforcement of antidiscrimination in respect of employment or jobs will have been affected, with a very critical weakening of the whole structure—so much so that many of these people feel the bill is not worthwhile, no matter what is left in it, if it has in it destruction of what is in the law today.

For all these reasons, I cannot emphasize enough to the Senate the importance of defeating the motion to reconsider. That is the reason why we were deeply alarmed when the tie vote occurred, because there was a very slim attendance in the Senate. We are extremely fortunate that it was a tie. The same kind of absence could have resulted in the amendment's prevailing. We have a chance to go ahead, with the Senate now having an attendance, as shown by the last vote, of 83 Members, to defeat the motion to reconsider and lay the matter at rest and have the Senate decide the policy, at a time when everybody, including the Senator from Colorado (Mr. DOMINICK), who is arguing on the cease-and-desist order issue, agrees that we are at least trying to do more than we have. At a time when we are trying to increase the enforcement power in regard to discrimination in employment, it is certainly not the time in which to dismantle a very important series of remedies—and again I use that word—which would be dismantled were this amendment to be adopted.

The PRESIDING OFFICER. Who yields time?

Mr. GAMBRELL. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Georgia has 9 minutes remaining. The Senator from New Jersey has 15 minutes remaining.

Mr. GAMBRELL. Mr. President, I should like to address myself briefly to a little broader question than what is presented by this amendment itself. I have read in the press where there is a filibuster in progress in reference to this bill, and I heard a rather heated discussion, chiefly between the Senator from Montana and other Senators last Wednesday, in reference to the inability of the Senate to get on with its business and what might be done under certain alternative situations that might arise here today. I even read in the New York Times where I was conducting a filibuster on this bill; and, interestingly, on the same day I got a letter from the chairman of the committee, the Senator from New Jersey, congratulating me on my efforts to improve the bill, which I appreciated his writing me. So I have no concern about my own role in dealing with this bill.

The reason why the bill is still here and has remained here for several weeks are twofold: One is that the bill was imperfect as brought to the floor, as indicated by the number of amendments, including one I offered, which were approved while the bill was on the floor. I certainly assume the editors of the New York Times and others who pointed the finger at some of us do not want us, just like toy soldiers, to march and approve any old bill that was reported here by the committee without going over that bill with a fine-tooth comb.

The other reason why the bill has not been adopted is the intolerant insistence by the sponsors of the bill in having their way.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. GAMBRELL. I yield.

Mr. WILLIAMS. Did I hear the words "intolerant insistence"?

Mr. GAMBRELL. Yes; I said "intolerant insistence."

Mr. WILLIAMS. I wonder if the Senator would reconsider the use of that word. As a matter of fact, if there has been any criticism against those who are leading the bill, it is that perhaps they have been too ready to consider changes and compromises. Citing the New York Times as perhaps misunderstanding the Senator from Georgia, that same newspaper suggested—did not suggest; they said—that the Senator from New York and the Senator from New Jersey had thrown in the towel and all we were trying to do is try to bring to bear the forces of reason and compromise. I would hope the Senator would reflect and retract his "intolerant" business.

Mr. GAMBRELL. Mr. President, I would ask the Senator from New Jersey if he would agree to make his comments on his time, rather than out of mine. Would that be agreeable with the Senator? If not, would he yield back to me?

Mr. WILLIAMS. Was my last statement timed, so that I might——

Mr. GAMBRELL. May I answer the Senator's question on the Senator's time?

Mr. WILLIAMS. That is all right with me.

The PRESIDING OFFICER. The Senator from New Jersey is recognized, and yields on his time to the Senator from Georgia.

Mr. GAMBRELL. I would like to say to the Senator that I think the New York Times used him rather badly in its comments. I do not consider that the Senator from New Jersey or the Senator from New York——

Mr. WILLIAMS. I was not complaining, by the way, about the newspapers.

Mr. GAMBRELL. I do not think they offered anything, or compromised their position hardly an inch. They cast a smoke screen over the basic position, and I will have to say fooled the editors of the New York Times as to what they were trying to do. The compromise they offered was no compromise whatsoever.

But I go back to my statement that a bill giving broad powers to the EEOC would have been passed on this floor a long time ago if they had offered any compromise to go along with the Dominick amendment, which gives broad and effective enforcement powers under this bill. I think the reason the bill is still here is because there was no yielding on the proponents' side. They could have overcome a cloture vote any time they wanted to, but they insisted on having it their own way.

For those reasons, I hope some resolution of this problem can be arrived at this afternoon, so that the bill can receive a final vote and be sent on to conference; because certainly the vote here this afternoon is not the last word on the bill.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. GAMBRELL. I yield to the Senator from Nebraska.

Mr. HRUSKA. How much time remains on the respective sides, Mr. President?

The PRESIDING OFFICER. There are 5 minutes remaining to the proponents and 13 minutes remaining to the opponents.

Mr. WILLIAMS. Mr. President, I yield myself 5 minutes.

I believe that the Senator from New York made all of the necessary or essential points in opposition to reconsideration of this amendment. His arguments went, of course, to reasons for opposing the amendment itself. We have decided, on a tie vote, in opposition to the amendment, and here we are faced with a motion to reconsider under the rules. I do not wish to be redundant, in view of the presentation of the Senator from New York. I simply wish to make one or two points.

The Assistant Attorney General was quoted by this Senator last Friday, when this amendment came up, in support of a position in opposition to the amendment of the Senator from Nebraska. The Senator from Nebraska somehow sees in that quotation from Assistant Attorney General Norman something to support his position. I do not see it that way at all. Speaking for the administration, I think it should be reiterated, Mr. Norman said:

> At this juncture, when we are all agreed that some improvement in the enforcement of title VII is needed, it would be in our judgment—

This is the judgment of the administration—

> unwise to diminish in any way the variety of enforcement methods available to deal with discrimination in employment. The problem is widespread, and we suggest that all available resources should be used in the effort to correct it.

That was in response to this question of the exclusivity of remedy. The administration's position is the position that we take in the Senate in opposition to this amendment.

Two of the basic statutes that have guided this country for a century would be wiped out, in substantial part, by this amendment. In 1866, it was enacted that:

> All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

For 100 years, there has been built a body of law dealing with the rights of individuals that would be wiped out, in terms of precedent when a cause is advanced.

The statute I have quoted was followed up, in 1871, by another provision. These are basic laws from which, as the Attorney General stated, developed a body of law that should be preserved and not wiped out, and that all available resources should be used in the effort to correct discrimination in employment.

On another point, I find an inconsistency presented by the Senator from Nebraska. He speaks of exclusive remedy through the Equal Employment Opportunity Commission, and yet he advances the idea of retaining with the Attorney General the pattern and practice suits.

This is, I think, directly in conflict with his approach here of eliminating other remedies and retaining only the mission remedies.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. WILLIAMS. I yield myself 1 additional minute.

There is another inconsistency also. In the Senator's vote to retain within the Department of Labor the Office of Contract Compliance, here again, the purpose of the bill is to bring together in the Equal Employment Opportunity Commission this particular aspect of discrimination in employment, and that was resisted by the Senator from Nebraska. So on basic matters he wants exclusivity; on other matters, he wants a proliferation.

I think that the way this bill presents the whole proposal, the Equal Employment Opportunity Commission should have the power of enforcement, but there should not be a single unitary method of defining the rights of men and women in this country, and that the statutes that are on the books from a long time back should not be repealed by this amendment.

Mr. JAVITS. Mr. President, will the Senator yield for just 1 minute?

Mr. WILLIAMS. I yield.

Mr. JAVITS. I, too, would like to revert to the remarks made by the Senator from Georgia (Mr. GAMBRELL) about intolerance, giving in to superiority, and being stubborn.

Mr. President, how has the majority voted in this body? The majority has voted with us. We would be untrue to our mandate if——

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. WILLIAMS. I yield the Senator 1 additional minute.

Mr. JAVITS. We would be untrue to our duty as far as the Senate is concerned if we abandoned a proposition which the Senate has sustained. It seems to me that this is certainly not stubbornness; it is the very contrary. It is our duty to seek to sustain a position which the majority in the Senate have sustained.

I think that is the most critical single factor. As the Senator from New Jersey (Mr. WILLIAMS) has said, on the other hand we are being accused of being too soft about this matter. So I must say that I take seriously everything the Senator from Georgia says, and I do not feel we have been at all intolerant. I feel, on the contrary, we have simply done our duty.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. Each side has 5 minutes remaining.

Mr. HRUSKA. Mr. President, I shall not take all the time that remains. It is my understanding that the Senator from New Jersey has completed his argument; and with that idea in mind, I should like to close the argument on this motion for reconsideration.

Mr. President, the key word in this amendment is not "remedy" at all, as is contended. The key word is "person," rather than "remedy," because the amendment says that this proceeding under the Civil Rights Act of 1964, under the EEOC, shall be the exclusive remedy of any person. I am confident that the word "person" will not include any Government agency as being a person.

Therefore, when it is argued that the rights of the Office of Federal Contract Compliance, for example, under that law are being forfeited and will be ineffective, that is not true; because whatever rights and whatever prerogative the Office of Federal Contract Compliance will have will not be within the purview of this amendment. It is the idea of limiting the remedy of the person who brings a proceeding under the procedures set out in section 706.

The object of the amendment is to prevent the person from taking advantage of a multiplicity of actions so as to increase the harassment and the expense, and to impose burdens upon the employer for a single alleged offense. That is the thrust of the amendment, and that is how it is met.

Mr. JAVITS. Mr. President, will the Senator yield, on my time, to answer a question?

Mr. HRUSKA. Mr. President, I thought——

Mr. JAVITS. I yield myself 1 minute.

Mr. HRUSKA. I yield.

Mr. JAVITS. Mr. President, I am puzzled by what the Senator says about the OFCC. The Senator is an excellent lawyer, and he has used the word "actions"; but the operative provision in his amendment is the word "remedy," not "actions."

Therefore, it seems to me that he would cut off the right of the individual to complain to the Federal Contract Compliance, which an individual now has a right to do and to generate that kind of remedy. That is what we claim. We do not claim that the Office of Federal Contract Compliance will be cut off, but we claim that the individual will be cut off from traveling that route and seeking that remedy.

By using the word "actions," I would not wish it to seem that the argument changes the amendment.

Mr. HRUSKA. Mr. President, this brings us to the language in the testimony of Mr. Norman, Assistant Attorney General:

> Things of this kind have arisen. We will be happy to work with the committee staff in clarifying the language.

This Senator certainly has interpreted the language of this amendment and understands it to mean that there will be nothing to impair the statutory capabilities of any of the Government agencies from proceeding as they wish.

However, when it comes to the individual person involved, he may not maintain—if this amendment is adopted—a number of actions involving the same alleged offense in a number of forums; that is the purpose, that is the idea, that is the thrust of the amendment.

I find it very much in consonance with fair play and with the effectiveness of the enforcement powers and the available resources which are spelled out in the law.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

Mr. HRUSKA. Mr. President, will the Senator yield back his time?

Mr. WILLIAMS. I yield back the remainder of my time.

Mr. HRUSKA. I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. All time has been yielded back.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. TAFT). Without objection, it is so ordered.

The question is on agreeing to the motion entered on February 9, 1972, to reconsider the vote by which the Hruska amendment No. 877 was rejected on that day.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Maine (Mr. MUSKIE), and the Senator from Washington (Mr. JACKSON) are necessarily absent.

I further announce that the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

On this vote, the Senator from New Hampshire (Mr. COTTON) is paired with the Senator from Washington (Mr. MAGNUSON). If present and voting, the Senator from New Hampshire would vote "yea," and the Senator from Washington would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG), the Senator from Wyoming (Mr. HANSEN), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New Hampshire (Mr. COTTON) is detained on official business.

On this vote, the Senator from New Hampshire (Mr. COTTON) is paired with the Senator from Washington (Mr. MAGNUSON). If present and voting, the Senator from New Hampshire would vote "yea," and the Senator from Washington would vote "nay."

On this vote, the Senator from Wyoming (Mr. HANSEN) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Wyoming would vote "yea," and the Senator from Oregon would vote "nay."

The result was announced—yeas 37, nays 50, as follows:

[No. 44 Leg.]

YEAS—37

Allen
Baker
Bennett
Bentsen
Bible
Brock
Buckley
Byrd, Va.
Byrd, W. Va.
Chiles
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Fannin
Gambrell
Goldwater
Griffin
Gurney
Hollings
Hruska
Jordan, N.C.
Jordan, Idaho
Long
McClellan
Miller
Randolph
Roth
Smith
Sparkman
Spong
Stennis
Thurmond
Tower
Young

NAYS—50

Aiken
Allott
Bayh
Beall
Bellmon
Boggs
Brooke
Burdick
Cannon
Case
Church
Cook
Cooper
Cranston
Eagleton
Fulbright
Gravel
Harris
Hart
Hughes
Inouye
Javits
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Saxbe
Schweiker
Scott
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NOT VOTING—13

Anderson
Cotton
Fong
Hansen
Hartke
Hatfield
Humphrey
Jackson
Kennedy
Magnuson
Mundt
Muskie
Talmadge

So the motion to reconsider was rejected.

The PRESIDING OFFICER. The question recurs on amendment No. 884 of the Senator from Colorado. Time until 5 p.m. is equally divided between the Senator from Colorado and the Senator from New Jersey. Who yields time?

Mr. DOMINICK. I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. DOMINICK. Mr. President, if I may have the attention of Senators, I want to say that what we are going to vote on at 5 p.m. may be the key to determination of whether we are going to get a bill at all. Certainly, if we get a bill it seems to me we want to have a bill in which either side in an employment discrimination case will have the benefit of the court system to determine whether or not the case is just and whether or not the defense to it is just.

Mr. President, while we have so many Members present I would like to ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOMINICK. Mr. President, the amendment which I have proposed by way of a substitute to the amendment proposed by the Senator from New Jersey and the Senator from New York has the basic principles in it that I talked about when we had those very close votes 2 weeks ago. I think the Senate is pretty evenly divided on this particular subject. I am certain that many Senators feel they are somewhat committed to one side or the other at this point. For those who still have some doubt, however, I would like to give them a couple of reasons for voting for my amendment, which I think are different than those reasons before enumerated.

The main objection, as I understood it, to my particular amendment was the fact that the court system is, by and large, bogged down and, therefore, it would not be possible to get a fast bearing and review of an employment discrimination charge. There was a feeling among the proponents of the Williams-Javits amendment that an administrative procedure by way of a cease-and-desist order would be quicker and more efficient.

I sincerely believe that it would not be either quicker or more efficient. Certainly, the present amendment, for which I am offering a substitute, would not be quicker or more efficient. It would create considerable delay beyond the original amendment that I had put in the time before a case could be decided because it would require an additional order of the district court by way of appellate procedure to determine whether the recommendations and findings of the Commission were, in fact, valid.

Under the Williams-Javits amendment, as I read it, and I do not think it has been denied, there would be, first of all, the initial determination of reasonable cause; after conciliation efforts failed the case would be heard by the Commission and "recommendations" entered; it would then be sent to the court.

Anyone who felt aggrieved could ask for review. The district court would review the procedure, and after they made their determination the case could go to the appellate court and then to the Supreme Court.

So obviously, Mr. President, you have another level of review in there and, therefore, further delays in the final determination of the case.

Mr. JAVITS. Mr. President, will the Senator yield on a point of fact?

Mr. DOMINICK. I yield.

Mr. JAVITS. I understood the Senator to say that if there was no conciliation agreement under the amendment of the Senator from New Jersey and me, the case is sent to the court. That is not the way our amendment is drawn. If there is no conciliation agreement the case is sent to a hearing before a hearing examiner or to the commission.

Mr. DOMINICK. I think the Senator should reread it because as I understand it he is giving jurisdiction to a district court, but there is then held a hearing by the hearing examiner of the commission and the commission has a right to issue a ruling on it.

Mr. JAVITS. If the Senator will yield. There are two matters confused. The district court does have the right to consider substantial questions of law which may arise in the course of hearings, but no transit through district court is required; it goes direct to hearing.

Our plan, as we understand it, is that it goes to hearing.

Mr. DOMINICK. Mr. President, I think, for the benefit of the RECORD, I might read from amendment No. 878, which is the Williams-Javits amendment, just to clarify this particular point. What it says is that once it is decided that a conciliation agreement acceptable to the commission is not possible, the commission notifies the general counsel. The general counsel then initiates a formal hearing before the commission by issuing and serving upon the respondent a complaint. If he issues this complaint, he files the complaint with the United States District Court for the district in which the unlawful employment practice in question is alleged to have occurred.

So perhaps we are both right. Perhaps what I am saying is that the court retains the jurisdiction for the legal question, but the hearing is held by the commission.

Mr. JAVITS. We are not both right, because filing a proceeding with a court does not initiate a proceeding. Nobody is heard. It is true that the court is informed that such a proceeding is pending, so that, if an issue of law is involved, and the parties go before the court, it does not come from the moon. I agree with the Senator that perhaps it is sui generis. It is not the pattern of normal proceedings.

Mr. DOMINICK. I shall be happy to accept the modifications the Senator has made of my explanation, but I think the proceedings are subject to a really large amount of delay under this type of proceeding.

In other words, there is practically no precedent for this type of procedure that I can think of. What it amounts to is a cease and desist proceeding in which the district court does have some jurisdiction on interlocutory orders concerning major matters of law, but not much. Further, the commission issues recommendations instead of cease and desist orders, but those recommendations become final unless an appeal from the respondent, is made, in which case the court is restricted to looking at the record taken by the commission, and if it finds the recommendations supported by any kind of substantial evdience, then those recommendations become conclusive.

As I pointed out yesterday, Mr. Norman, the Assistant Attorney General for the Civil Rights Division, says in his letter to me that:

> Although the words "cease and desist orders" in the original bill have been deleted and the term "recommendation" substituted therefor, this change does not appear to be a substantial one, since under either version the EEOC position becomes an enforceable order unless modified by the court upon review.

Under the original bill language, the cease and desist order would have been modified by the court of appeals; in this case it is modified in the district court if it is modified at all.

The letter, a copy of which I put in the RECORD yesterday continues on page 2 to say:

> Although the Williams-Javits amendment provides for filing of the administrative complaint with the district court, we do not perceive any substantial change resulting from that novel procedure. Also, the Williams-Javits amendment provides for an interlocutory appeal to the district court on any "controlling question of law" if it finds that such review "would materially advance the ultimate termination of the litigation."

That determination again is made by the Commission, of course.

The Assistant Attorney General continues—

> It is a doubtful that this addition is a significant one, since controlling issues of law were judicially reviewable under S. 2515, and this Department's experience under the analogous provisions for interlocutory appeal from district court decisions indicates that such appeals are only useful in rare occasions.
>
> The one material change which the Williams-Javits Amendment would make in S. 2515 is to transfer judicial review from the courts of appeals to the district court. This change adds another layer of review to the already lengthy process of charge, investigation, cause finding, administrative complaint, hearing before hearing examiner, review before the Commission and review in the Court of Appeals.

Then Mr. Norman goes on to say that my amendment would be the better system. This conforms with the testimony which he gave before our own committee when he appeared there during the hearings.

I am happy to show this letter to any Senator who is interested in reading it.

Among other significant changes which I have made since we last voted on my court enforcement amendment is that I have provided that in cases of general public interest, so certified by the general counsel, that instead of going before a district court for enforcement procedures, the case will be referred to a three-judge court in the same manner as is true now in voting rights cases, in the same manner as is true in housing cases, and in the same manner as is true in public accommodations cases. In this way, there is a three-judge court, and the losing party can have its order appealed directly to the U.S. Supreme Court, thereby expediting the remedy procedures.

In like manner, where the case is not so certified, it will be expedited within the Federal district court.

I realize that such expedition is not a very easy thing to accomplish in the district courts. I want to be perfectly frank about that. But the language does indicate to all that we are making the effort where we have job discrimination cases of importance. I am talking about an even-handed hiring practice which might have been in effect for a number of years, which has been handled, for example, by big companies employing thousands of people.

The PRESIDING OFFICER. The Senator's time is expired.

Mr. DOMINICK. I yield myself another 10 minutes.

Take for example the case involving A.T. & T.

What happened there was that A.T. & T. put out a recruiting pamphlet for office service and for telephone service and illustrated it with a picture of a girl and in the body of the pamphlet referred to her. The company also sent out at the same time a hiring practice pamphlet with a picture of a lineman up a pole and referred to him. The company is being sued for blatant discrimination by women, on the ground that women can get only office jobs and men can get jobs only on pole work. Such allegation may be true. There may be some women who would like to be a pole woman instead of a pole man. There may be some men who would rather be a secretary than be out on the field service. That is perfectly true. But to say the company would be subject to a charge of deliberate and intentional discrimination seems, to me, pretty hard to swallow. It had apparently been following an even-handed approach. I would presume that this case, which has not been decided in any way whatsoever yet, will be of some significance, because it deals with an even-handed method of trying to hire people. The fact that there is a picture of a woman on one pamphlet and a picture of a man on another I do not think is too bad.

Perhaps we are going to have to put a picture of a zebra on both of them and get away from depicting a man or woman at all in order to avoid a charge of sex discrimination.

In any event, it seems to me that this is the type of case that might easily be referred to a three-judge court. After hearing, if somebody wanted to appeal the finding, it could appeal that directly to the Supreme Court, and thereby expedite the whole proceeding.

If, on the other hand, a party had to go ahead under a procedure like that under the Williams-Javits amendment, the aggrieved would have a complex series of problems. First he or she would have to go before the Commission. On any controlling issue of law he or she would have to go to a court for an interlocutory order. Then the Commission would issue recommendations and findings. These recommendations and findings would undoubtedly be appealed to the district court. The district court, in turn, would have to go through the record of the case. Then, after the district court had finally issued its order and made its enforcement procedure available, the case would be appealed to the circuit court of appeals, and it would be only after that that the party could get a final decision.

So, the procedures I have outlined in my amendment would generally make the procedures and determination of what is fair and equitable available as soon as possible. That is what we are all aiming for.

I saw an article just the other day by Edward Bennett Williams, in which he was deploring the problem in criminal cases of a lack of speedy trial and appellate procedures. Well, in like manner, the civil cases throughout these discrimination procedures are terribly bogged down, and they are bogged down in the Commision right now—when one considers, as I have said repeatedly, that the Commission is 32,000 cases or more behind already, that they take 20 months in even conciliating a case before a person can file a complaint, let alone hear a case and issue recommendations. On top of that, the increased jurisdiction the Commission is going to get under this bill just exacerbates the problems posed by the procedures proposed by the Williams-Javits amendment.

So I would hope that the Senate would support this substitute. I have said from the very beginning that I would like to see us get a bill.

But I must confess in all fairness that unless we separate these administrative agencies so they do not have executive, legislative, and judicial powers all within one agency, this country is going to become more and more centralized. We are going to have more and more problems with the Federal Government injecting itself into every area and everyone's business, and we are going to have difficulty in maintaining the separation of powers which has been such an inherent part of the structure of the United States ever since this country was created.

At this particular point, I believe it would be relevant to have printed in the RECORD an article entitled "Separation of Powers: Old Issues Still Alive," written by James J. Kilpatrick and published in today's Washington Star. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SEPARATION OF POWERS: OLD ISSUES STILL ALIVE

(By James J. Kilpatrick)

The United States Senate has been locked in debate for almost a month on an issue as old as the Republic itself. The pending bill, having to do with the Equal Employment Opportunities Commission, may be disposed of this week. The issue itself will remain. It merits your thought.

The debate centers upon an effort led by Sen. Williams of New Jersey and Javits of New York to endow the EEOC with power to enforce its findings by the issuance of cease-and-desist orders. A conservative coalition, led by Sen. Dominick of Colorado, is opposing the move.

Here we touch the bedrock of our philosophy. If the Founding Fathers were motivated by one impetus more than any other, it was by their hostility to the oppressions of a remote and central government The King had refused his assent "to laws for establishing judiciary power." Instead, he had "erected a multitude of new offices and sent hither swarms of officers to harass our people." With the Revolution won, a new

Constitution sought forever to prevent a recurrence of the evils.

Two principles emerged. One was the principle of federalism, by which political powers would be dispersed among the central government on the hand, and the separate states on the other. The second principle was separation of powers—the concept that by separating the judicial powers of the central government, the old abuses might be avoided.

Both principles have eroded with time. The Senate's current debate goes directly to this question: Shall the doctrine of separation of powers be further eroded? Senate liberals are cheerfully agreeable: The Williams-Javits bill would make of the EEOC a combined executive and judicial agency. Senate conservatives are stoutly resisting: They want judges alone to do the judging.

Liberals make this case: More than a dozen executive agencies, notably the National Labor Relations Board, already have the power to issue binding cease-and-desist orders. Such orders result from the findings of professional hearing examiners. The 25-year-old Administrative Procedures Act provides abundant safeguards of due process of law. In any event, final orders are subject to judicial review. At a time when federal courts are sorely burdened, with heavy backlogs and long delays, judges should not be further burdened by the trial of cases charging discrimination in employment.

Conservatives make this response: The EEOC, with a backlog of 32,000 cases, is more burdened than the courts. Even if an independent general counsel were provided, the agency still would be functioning as prosecutor, judge and jury. The very nature of the EEOC makes impartial determinations impossible, for the commission and its staff have a built-in bias in favor of minorities. Judicial review is severely limited by the practice of routinely affirming cease-and-desist orders if "substantial evidence" supports them.

At the heart of this disagreement is the difference that eternally divides liberal and conservative. The liberal tends to trust government and to urge that its powers be expanded; the conservative looks upon government with a wary eye and asks that its powers be restrained.

This is what the fight is all about. If the liberals prevail, the EEOC will become one of the most powerful agencies in government—far more powerful than the NLRB, which is confined to areas of organized labor. Its coercive authority would reach to charges of discrimination (by reason of race, sex or religion) in both public and private employment. In small business as well as large. Proponents agree that a vast new bureaucracy would have to be created.

Fortunately, the House already has voted, though narrowly, against this expansion of power. Nixon opposes the Williams-Javits bill, but he opposes it only in part. Politically, the issue is exceedingly close; philosophically, the two sides are at least 200 years apart.

Mr. DOMINICK. Mr. President, let me just go over the language of my amendment, so Senators will know, what the procedural steps would be if my amendment should be adopted, as I certainly hope it will be.

A charge is filed with the Commission; and if, within 30 days after that charge is filed, the Commission is unable to secure a conciliation agreement, then the Commission notifies the general counsel, and the counsel may then bring a civil action against any respondent other than a governmental agency.

Such action, as I say, can be brought either before the district court, if it is determined to not be of general public importance, otherwise it can be brought before a three-judge court, thereby expediting the case. If it does involve a governmental agency or an employee of a governmental agency, be it local or State, then it is sent over to the Attorney General, the Attorney General decides whether to bring it into court. A Federal employee, under the amendment, would still have a right to go through the agency and determine whether or not he wants to go to the Civil Service Commission for final determination or whether he wants to go into court himself in order to get a solution to his problem. This was worked out in committee; I worked on it with the Senator from California (Mr. CRANSTON), and we think that we have achieved more remedies for those who are discriminated against in Federal employment than have ever been available to them before.

The point is, however, that every governmental agency and every employee of a governmental agency, State, local, or Federal, has his rights in the Federal courts. Under the bill as reported and under the Williams-Javits amendment, you do not have that right if you are a private employee or a private employer. I, for the life of me, cannot see why we should discriminate against that one group. It seems to me that where we are dealing with job discrimination, it makes no difference what type of job you have, you should be entitled to the same remedies anyone else in that situation has, and this is a right to have the Federal court determine whether or not you have been discriminated against.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. TAFT). Who yields time?

Mr. JAVITS. Mr. President, I yield myself 10 minutes.

I have heard with great interest the arguments of the Senator from Colorado, but I really think that to engage in a discussion as to which will be more time consuming, though I think it is very important in terms of choosing between remedies, is really not relevant to the choice between the two methods of approach to the court system which are contained in the amendment of Senator WILLIAMS and myself and that of Senator DOMINICK. Once you are over on the court system, the question is, how do you minimize an extended burden, rather than what we propose in the bill fundamentally, which is that the proceedings leading to a cease-and-desist order take place in the Commission.

The issuance of a cease-and-desist order by the Commission is an important authority, and is a remedy of a really different order of magnitude, because it enables the Commission to make a finding, which is incorporated in an order, which is then made public, and which brands a particular respondent as a discriminator. That is, its real importance, and it is substantially extremely important, because we are dealing here with business concerns, practically all of which are dependent upon public patronage for their future.

Therefore, the power to issue a cease-and-desist order is a very substantive power and a very thorough power in bringing respondents to book, and hence an agency which has that power has much more chance of cutting down its workload than an agency which has not, because there is a certain finality in what it deals with, and we feel very strongly that the reason for the backlog in the Equal Employment Opportunity Commission is precisely this lack of any finality, that the best we can do is say, "Okay, we cannot conciliate this; we may complain to other Government departments with whom you have contracts, but essentially you are on your own; go ahead and sue."

But now we come to a situation in which we have been unable, notwithstanding the will of the majority of this body, to prevail in that view; everyone knows that, including the Senator from Colorado. So we have to consider what else we may do under the circumstances, because the will of the Senate is going to be determined, not by a majority, as the Constitution requires, but by two-thirds. So the Senator from New Jersey and I have decided that we simply have to seek an accommodation with the minority, which is what it is, in order to go the court route, and we feel that in doing that, now we are going to a totally different type of enforcement, and we ought at least to try to deal with the question of congested court calendars.

That is what it really comes out to. And the only way we see we can deal with the question of congested court calendars is, for all practical purposes, to make the commission an official referee. So that, as is the practice in bankruptcy or where a special master is appointed in a given case, the case is heard, the findings of fact and conclusions of law are offered to the court, and the record is closed, except if a court desires it added to. So we felt that that was a way, especially in the big industrial centers, to cut down the time delay, and that is all our amendment is about.

For all practical purposes, we have gone over to the court method, but we have gone over to it in an effort and with a technique which can cut the timelag very materially.

Frankly, I will not—because I think it is footless—be drawn into an argument with the Senator from Colorado about the niceties of the practice in both of these approaches. Though he said that we file a copy of a complaint in court, I point out that that does not represent a proceeding. It represents notice to the court, and no time delay whatever is involved in that.

As to the other niceties of procedure, I do see a major difference in a dependence upon congested court calendars, whether it is a three-judge court or a one-judge court; and that is the step which we are trying to abbreviate, without in any way jeopardizing the rights of the parties who are protected before the hearing examiner by the Administrative Procedures Act and the review of the court which is bound to ensue in our case. There is no other way, because the court can issue the decree.

Again I point out that you are dealing with such long delays in the courts that justice deferred is justice denied. It is interesting to compare the time relationships to the statute itself.

Let us understand that we are dealing with a round period of approximately 150 days, that that is the allowable time for the Commission to move into a given situation. The first 30 days represents an effort to conciliate, making a total of 6 months. So that is the Commission operation. At the end of 6 months, it becomes plenary. Looking down the list of these delays in all the court cases, we find that the average is 17 months. As you go down the circuits in the individual district courts—and that is where the overwhelming majority of these cases will lodge—it is simply appalling; because in the courts where you are going to have the major cases and the congestion in the great industrial States, the delays are in excess of 18 months. In my own State of New York, for example—I say this with tears—there is a delay in the second circuit, in the southern district, which is the primary business district, of 35 months in civil cases.

As you go down the list, what do you find? Massachusetts, an industrial State, 19 months. New Hampshire, which is not an industrial State, 14 months. Rhode Island, another industrial State, 18 months. Connecticut, another industrial State, 27 months. The State of New York, practically all industrialized, no less than 18 months; and that is in the western district, around Buffalo; and 35 months in the southern district, which is the major district. New Jersey, an industrial State, 29 months. In Pennsylvania, a major industrial State, the least delay is in the middle district, 23 months; the most delay is in the eastern district, around Philadelphia, 41 months—probably the longest in the country. And so on as you go down the line.

As you tackle the industrial States, you find that that is where the congestion is the most severe, and that is where your problem is. It is even interesting that in Alabama, a Southern State, generally a rural State, the minute you get into an industrial area—to wit, the southern district of Alabama, which undoubtedly includes Birmingham—you have a 20-month delay. When you get into other industrial States—as, for example, Illinois—the least delay is in the eastern district, 16 months; but in the northern district, which is Chicago, 20 months.

That is what the amendment of Senator WILLIAMS and myself seeks to cut down, and nothing more than that. As a matter of fact, you could write our amendment very unelaborately by simply including a proviso that in all such cases there shall be a referee or special master and it shall be the Commission, unless there is some good reason to the contrary, and you can eliminate the rest of it and get down to the nub of what we are trying to accomplish.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield myself an additional 5 minutes.

Mr. President, I understand the feeling of the Department of Justice and the administration, and I do not agree with them. They came into this situation with a recommendation for court enforcement. They are not ready to go to the extent of cease and desist, and they have made that recommendation, and they are stuck with it; and apparently they cannot move off the dime. There is no real argument here as to why you should try to abbreviate the time taken in district and circuit court proceedings through having a special master or referee technique which is provided by Senator Williams and myself.

Let us listen to the reasons of the Justice Department. This is what the Assistant Attorney General says:

> In my testimony before the Senate Labor Committee I set forth four grounds for our view that the judicial enforcement is preferable to administrative proceedings.

That is not the argument now, by the way. One of those was applicable only to governmental employees and was accepted by the committee, so that is out. That leaves three:

> (1) Federal district judges hold court throughout the country and enjoy a confidence and respect in their communities which cannot be matched by administrative officers; and their authority to issue enforceable orders enables them to resolve cases speedily.

Mr. President, I do not see how anybody could write that without his tongue in his cheek. Look at the record which the Department of Justice is always inveighing against, with an enormous machinery and administrative conferences as to how you can hold down court delays. I do not understand how anybody could have the unmitigated gall—that is all it is—to make as an argument the fact that "their authority to issue enforceable orders enables them to resolve cases speedily."

It reminds me of Gilbert and Sullivan and that line of policemen who were going to catch the pirates. They said, "We go! We go!" And the general said, "But you don't go." And that is all these fellows say. They say it enables them. Certainly, it does. They all can be making orders speedily, but they do not, and they cannot, because under this amendment they have to try the case and they have many other cases, and they are being bedeviled about criminal cases they are not trying, and their dockets are bogged down. To make this kind of statement and expect adult people who have some knowledge of the situation in the country to accept the fact that we should turn this over to the Federal courts in nisi prius proceedings because they are able to resolve cases speedily is a far cry from resolving them speedily.

The second argument:

> Because of the sensitive nature of the issues to be resolved and the fact that the larger cases involve the rights and expectations of substantial numbers of people, it is inappropriate to leave the critical factual determinations and formulations of relief to hearing examiners and commissioners sitting in Washington.

Where do these fellows sit? What is the arrogance about sitting in Washington? They sit in Washington. Are they looking down their noses at those who sit in Washington? Are they running down the other fellows who sit in Washington?

In the multiplicity of decisions which will come from district court judges, as we have seen in all the civil rights cases since 1964, we have the grist of an enormous amount of courtwork, the courts of appeal and to the Supreme Court; whereas, in the decisions of these administrative agencies, you have at least the possibility for a coordinated body of law moving right from a circuit court of appeals to the Supreme Court, with "stare decisis" being easier to obtain. If this argument be valid, then we should immediately move to repeal every single mandate which gives cease and desist power to any agency, including the National Labor Realtions Board. I think that is really the thrust of the position that the Senator from Colorado would have us assume. This is a generic proposition. It is not generally directed to EEOC. It happens to be one which catches the fancy of businessmen who have been proved to be involved. I gave this example in practically all the States today with cease and desist powers—34 States.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 additional minutes.

Mr. JAVITS. Mr. President, the third point:

> The fact that Federal courts resolve the factual legal issues in equal opportunity cases in the areas of voting, housing, and education make them a particularly appropriate forum for resolving the same kinds of issues in employment discrimination cases.

The only trouble there is this: In voting, we vote every year. In housing we do not get houses every Wednesday. In the education cases, we arranged for a child's schooling at the beginning of the year and he goes through the year.

All these cases involve, generally speaking, respondents—units of State and local governments—with the possible exception of housing. Certainly voting and education do. But do not represent the immediacy of the discrimination which hurts in respect of a job because the job is here today and it does not wait—someone else is hired in place of the man discriminated against, separating the man from the likelihood of welfare against the fact that he has a job out of which he can earn a living. So that is the immediacy, the personal quality, the wide diversity of the respondent—all the business concerns, for all practical purposes, in the United States, employing each of them more than 15 people, that makes it necessary that some new techniques be established. The very argument used in favor of the Dominick amendment is the biggest argument against it, and that is the backlog of the agencies, because it seeks to profit from the fact that the agency has been crippled and curtailed through having no remedies, being denied the only remedies that will be effective.

In the case of the Williams-Javits amendment, at least we get to an established position in respect of applying action and a court remedy which will reduce the tremendous delays in the law in this country, with which it is being plagued and which we will pyramid, with further problems placed on the courts whose backs are well-nigh broken already by the problems posed by delayed calendars.

Let us look at the amendment of the Senator from Colorado (Mr. DOMINICK). What does he promise? There is a lot of talk about expedition, but let us see what we actually say in dealing with expedition. I should like to read that to the Senate because I think it is extremely important:

> Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this title. Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the plaintiff would have worked but for the alleged unlawful employment practice,

Those districts constitute the biggest glut and backlog in terms of the courts because there are districts in which either the establishment is located, in which the man would have worked, where the office records are maintained, or where they denied him the job. These are the industrial centers of the country. Sure, there would be cases everywhere, but we are talking about the great majority of cases. These are the basic and fundamental places where there is a glut of industrial business. Those are the ones that have bogged down the court calendars.

One other thing as to this matter of expedition. I refer to page 3 of the amendment at the bottom of the page. It states:

> Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date . . .

I repeat that, "at the earliest practicable date." "At the earliest practicable date." Mark that well, Mr. President; "at the earliest practicable date."

Is that an expedited case?

What is the earliest practicable date? Twenty months, 35 months, 43 months?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 additional minutes.

Mr. JAVITS. Then we go on. Suppose they do not say this is a major case and we do not need a three-judge court, then a district judge is enough. This is the instruction. So, in the event that the general counsel or the Attorney General does not file a request, the chief judge of the district is immediately to designate a judge to hear and determine the case. If no judge in the district is available, the chief judge or the acting chief judge shall certify that fact to the chief judge, who then designates a district or circuit judge to hear and determine the case. In other words, these judges will be going wild trying to get someone to hear existing cases let alone other cases.

> It shall be the duty of the judge designed pursuant to this subsection to assign the case for hearing at the earliest practicable date . . .

There we go again, "at the earliest practicable date."

Nineteen months, 20 months, 35 months, 43 months?

Now, Mr. President, the great wrong which the Senator from New Jersey (Mr. WILLIAMS) and I have done is that we have tried to expedite this practice by having the Commission hold the hearing. This is the first time, and it is claimed this will involve us in all kinds of awful complications.

Well, the only awful complication that it will involve us in is to cut down the time it takes to try the cases by something like 12 months or 14 months.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 additional minute.

Mr. JAVITS. That is all. That is the big deficiency in the amendment, that we will cut the time, cut the delay by somewhere around 14 months, given the average of all the district courts which is in the area of 17 months—the average, aside from the big industrial places where it is very much greater.

We have been frustrated. We cannot get cease and desist. We should get it, but we cannot, even though the majority says they want it. So we have got to go to court proceedings. At least, let us not break the backs of the courts. That is all we ask. Therefore, we believe that the Dominick amendment should be rejected and ours should be approved.

Mr. COOPER. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. COOPER. Would it not be possible if the amendment offered by the Senator from Colorado (Mr. DOMINICK) is adopted for the court to appoint a commissioner, or a master, or examiner, to hear this type of case?

Mr. JAVITS. Yes, it would. I might tell the Senator that if the Dominick amendment should be agreed to—and I hope and pray that it will not be because I think it is ill advised in terms of this whole matter—that is one point to which I will address myself or, perhaps, happily, the Senator from Kentucky (Mr. COOPER) will, because that would be an important point, to try to find some other way to cut down the time element involved in actually dealing with these congested cases.

Mr. COOPER. Let me ask the Senator this question. If one agrees that the judicial process rather than the cease-and-desist process is the best procedure, why would not the appointment of a master, commissioner, examiner, or whatever, by the district court expedite these cases as quickly as the commission?

Mr. JAVITS. Mr. President, I would say to the Senator that it probably will not expedite it as much because of the fact that in most cases we do not even have the background of a referee in bankruptcy who deals with the subject all the time, as a commissioner would, with the opportunity to establish guidelines and the ground rules in a given place, in a given court, namely, the U.S. District Court for the District of Columbia. I do not believe it would be as expeditious. However, it would certainly be an improvement on the DOMINICK scheme.

Mr. COOPER. Mr. President, will the Senator from Colorado yield me 3 minutes?

Mr. DOMINICK. I would be happy to yield 10 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 3 minutes.

Mr. COOPER. Mr. President, I do not need the 10 minutes. The Senator from New York (Mr. JAVITS), the Senator from Colorado (Mr. DOMINICK) and the Senator from New Jersey (Mr. WILLIAMS) have worked very hard on this bill and have contributed much to the debate in the weeks it has been before the Senate. Not being a member of the committee, I cannot claim their expertise.

Mr. President, I do address myself to what I believe is a fundamental point. The Senator from New York is absolutely correct when he says that the dockets of the courts are clogged. In my State of Kentucky there is a delay in the trial of cases. I have seen the table showing the backlog of cases from which the Senator from New York quoted. The delay is applicable to all types of cases.

The Senator is correct in his statement that if justice is delayed, there is no justice. However, I go beyond the question of the backlog of cases in my thinking. That is bad. The reason I suggested, if the Dominick amendment is agreed to, the use of commissioners or masters or examiners or whatever we term it, to hear these cases, would remove in great degree the problem of delay.

I will vote for the Dominick amendment, believing that the expedition of the hearing of such cases can be accomplished, but, chiefly, I support the amendment because, fundamentally, I believe that the district courts, with the competence to hear the evidence at first hand is much fairer than the cease-and-desist procedure, providing a hearing by the Commission, judgment by the Commission, and if there is an appeal to the courts, the record upon which the court may finally pass, is only the record of the Commission. I do not consider this fair and truly due process.

The Senator from Colorado is correct in stating that the greatest progress in the field of civil rights against discrimination has been through the decisions of the courts.

I have confidence in the fairness of the courts. I want, of course—as all of us do, I believe—that full justice be accorded those against whom discrimination in employment is practiced. But it is necessary to be fair not only to the complainant, but to the respondent.

I cannot escape the conviction that if a commission is established with one objective in mind and dealing in a very delicate field, that Commission would not be as objective or as unbiased as a court. The aspect of fear and coercion arises, whether or not correct. All must believe that justice is done. No, it is not upon the question of delay—which, of course, that I support the Dominick amendment is important—but it is upon my belief that the courts are the best, due process, the best way to cope with discrimination in employment. We also have to protect our fundamental system of justice.

Mr. President, I recognize and have great respect for the arguments of my friend, the Senator from New York, but on these fundamental grounds. I intend to vote for the Dominick amendment.

Mr. TAFT. Mr. President, the arguments favoring the Dominick amendment because the EEOC would be investigator, prosecutor, and judge, are simply in error. On January 20, I offered an amendment to this bill which removed the prosecutory function from the EEOC and placed it with a totally separate agency under the direction of the President. This amendment was adopted. Consequently, as this legislation now stands the EEOC will not be able to issue any cease-and-desist orders or take any action against any party without the concurrence of this independent office of general counsel.

The real issue is whether the small businessmen will have to defend charges before an agency or go to the expense of hiring big city lawyers to defend them in U.S. district courts. In my judgment, the small businessmen of this country are going to find themselves in very costly, lengthy and difficult situations if they are hauled into U.S. district courts to answer every charge. It is far easier, cheaper and more convenient to have these matters handled administratively, as they now are with the Federal Trade Commission.

Cease-and-desist orders are nothing new for the businessmen of Ohio and many other States. The Ohio Civil Rights Commission, and its parallel organizations in the majority of our States, have been vested with cease-and-desist authority for many years. It is, therefore, regrettable that certain national organizations are taking a position that, if successful, will only have the effect of throwing the small businessmen of this country into U.S. district courts with the great expense that is associated with those actions.

This is one reason why I oppose this amendment.

Mr. DOMINICK. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 3 minutes.

Mr. DOMINICK. Mr. President, I think that the Senator from Kentucky has said more in a few short sentences and has gotten to the heart of the whole matter better than we did with a lot of words.

I appreciate the support of the Senator from Kentucky. I value it highly. I think it is important to our cause that he once again pointed out the fact that this is by no means an anticivil rights amendment.

Briefly, in reply to the Senator from New York, for whom I have great respect, and refer to the statement of Mr. ERLENBORN before the Labor Subcommittee. In that statement he says:

> An examination of the Fifth Annual Report of the Equal Employment Opportunity Commission, submitted April 1, 1971, shows that the top ten States in terms of the number of charges of employment discrimnation recommended for investigation are: Alabama (897), California (665), Florida (633), Georgia (633), Illinois (433), Louisiana (1,102) New Jersey (373), Pennsylvania (611), Tennessee (617), and Texas (1,522).

He then lists for those 10 States the median time interval for non-jury trials. The longest is in the northern and eastern districts of California which are 23 months and 21 months respectively. One district in Pennsylvania, the middle district of Pennsylvania, has a delay of 21 months.

The rest of the districts range from 1 to 13 months, with a median time of 10 months, which certainly is better than the situation with respect to the present backlog in the EEOC.

I bring that up because I, too, like the Senator from New York, feel that if we can get enforcement power of some kind, the backlog is bound to decrease because there will be muscle power by which settlements will come about more readily than was the case before.

Our position in supporting enforcement was also supported before our committee not only by Mr. David L. Norman, but also originally by Mr. Brown, Chairman of the EEOC. This convinces me that we are not operating on something which will either harm or destroy the attitude and integrity of the EEOC. We are doing something that will establish fundamental justice for both parties, trying to separate the powers of the administrative agencies.

The Senator from New York said that if this measure passes, we should immediately launch into the same procedure and the same type of thing in the other agencies. I think it should be considered but not done immediately.

There is nothing new about my machinery. Justice Jackson recommended this a long time ago and Mr. Landis recommended it when he reviewed the administrative agencies.

There is nothing new in this. It was not done because they though the administrative agencies would be more efficient. We have said over and over again that probably the most efficient form of government is probably anything other than the republican form of government we have in this country. I think that our republican form of government is still best.

I hope we can keep it that way by keeping the separation of powers as advocated in my amendment.

Mr. President, I reserve the remainder of my time.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, I yield to no one, as is well known, in my respect for the Senator from Kentucky. However, even by his own definition there is not contained within the Dominick amendment—whatever we may do thereafter, and that is always up to the Senate—even the elementary precaution which has been suggested, the appointment or the mandatory appointment within a given time of such a master.

Now, as to the median figure cited by the Senator from Colorado, I would like to point out that that word "medium" is a killer. I have here the annual report of the Director of the Administrative Office of U.S. Courts. I do not think there is anything more authoritative. As a matter of fact, that is more authoritative than Representative ERLENBORN who is a distinguished colleague of ours in the other body, who has extrapolated on this matter.

This report refers to the district court backlog for fiscal 1970, the last year for which we have information, and it shows 17 months. Then, it goes into key industrial areas, as I have described them.

Mr. President, I ask unanimous consent that the table to which I have referred may be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

U.S. DISTRICT COURT BACKLOG

(Prepared by the Subcommittee on Labor of the Committee on Labor and Public Welfare, Harrison A. Williams, Jr., Chairman. Based on Annual Report of the Director of the Administrative Office of the United States Courts, 1970. Reprinted at pp. 508–513 Hearings on S. 2515.)

Time interval from filing to disposition of tried civil cases (fiscal year 1970).

Circuit and district:	*Time interval in months—median*
Total all district	17
District of Columbia	21
First circuit	17
Maine	--
Massachusetts	19
New Hampshire	14
Rhode Island	18
Puerto Rico	21
Second circuit	26
Connecticut	27
New York:	
Northern	20
Eastern	20
Southern	35
Western	19
Vermont	13
Third circuit	35
Delaware	--
New Jersey	29
Pennsylvania:	
Eastern	41
Middle	23
Western	36
Virgin Islands	10
Fourth circuit	14
Maryland	20

Circuit and district:	Time interval in months—median
North Carolina:	
Eastern	20
Middle	--
Western	13
South Carolina	12
Virginia:	
Eastern	12
Western	9
West Virginia:	
Northern	--
Southern	31
Fifth circuit	13
Alabama:	
Northern	9
Middle	6
Southern	20
Florida:	
Northern	10
Middle	18
Southern	14
Georgia:	
Northern	17
Middle	5
Southern	17
Louisiana:	
Eastern	27
Western	22
Mississippi:	
Northern	13
Southern	9
Texas:	
Northern	12
Eastern	13
Southern	17
Western	8
Canal Zone	9
Sixth Circuit	16
Kentucky:	
Eastern	23
Western	15
Michigan:	
Eastern	28
Western	18
Ohio:	
Northern	24
Southern	23
Tennessee:	
Eastern	7
Middle	—
Western	15
Seventh circuit	19
Illinois:	
Northern	20
Eastern	16
Southern	18
Indiana:	
Northern	19
Southern	12
Wisconsin:	
Eastern	22
Western	—
Eighth Circuit	13
Arkansas:	
Eastern	12
Western	11
Iowa:	
Northern	—
Southern	15
Minnesota	11
Missouri:	
Eastern	10
Western	17
Nebraska	24
North Dakota	—
South Dakota	12
Ninth Circuit	16
Alaska	—
Arizona	21
California:	
Northern	28
Eastern	—
Central	14
Southern	—
Hawaii	—
Idaho	—
Montana	14
Nevada	31
Oregon	13
Washington:	
Eastern	12
Western	14
Guam	—
Tenth Circuit	12
Colorado	13
Kansas	24
New Mexico	11
Oklahoma:	
Northern	10
Eastern	10
Western	10
Utah	13
Wyoming	—

Mr. JAVITS. Mr. President, I wish to refer to one other matter that is important: Why the role of the Commission? I deeply believe the cease-and-desist power in these particular cases with this kind of case, and considering the condition of our courts, is absolutely essential to the best functioning of the guarantee against discrimination respecting employment.

I point out that there are many very popular agencies, with the backing of the very people who are against this kind of power for the EEOC, which have cease-and-desist powers. The Federal Trade Commission is a striking example. In addition, a number of Government departments have it. We have analyzed all of those.

If this were so iniquitous—what the Senator from Colorado calls vesting the investigative, prosecutorial, and judicial powers in the same agency—look at the situation. Thirty-four States have authority analogous to this authority in their State establishments in which they seek to correct discrimination in employment. I think that is the weight of the evidence.

As to the generic case for administrative agencies and administrative law, I think the courts themselves would be the most violent opponents of any effort to dismantle that machinery. They know it would crush and destroy them. They could not survive with the inundation that would result unless we changed the court system and tripled or quadrupled the number of judges. Unless that were done we would be lost. I do not need to argue that case here and now, but that is the situation we are inviting.

The last point I wish to make is that the three-judge court idea is not new and it is not something that the Senator from Colorado is giving us in this amendment. It is in the law now. A three-judge court may be convened at the request of the Attorney General, and that is contained at page 64 of the committee report, setting forth section 707(b) of the statute.

In short, Mr. President, we would be departing from the classic way in which to enforce these rights.

Now that we have filed our amendment the question is: Which of the two methodologies is prefered? We hope there is a way to deal with this crushing burden on the court process. The plan of the Senator from Colorado does not deal with that at all. Perhaps the idea of the Senator from Kentucky would be the right one, but I have no feeling about it. However, the Dominick amendment just throws the cases into the courts, and there are bound to be many cases. The backlog amendment works against the Dominick amendment rather than for it. It would throw the cases into the courts, to sink or swim, with tremendous congestion on the court calendars. If our amendment is imperfect we can change it, but we tried to provide a time relation through time intervals in the law of 1 or 6 months.

The time interval defined in the Dominick amendment refers to the earliest practical date. Based on the tremendous congestion in the courts, that would be 10 months, even by his amendment, against 6 months, which is the maximum bracket of the commission.

Mr. President, for all those reasons I adhere to my original view. I am sorry my beloved friend does not agree with me but we agree so often there would be something wrong with one of us if we did not disagree sometime. However, I feel the Dominick amendment should be rejected and that the Williams-Javits amendment should be agreed to.

I reserve the remainder of our time.

Mr. WILLIAMS. Mr. President, I yield myself 5 minutes.

First, it impresses me that the debate supporting the Dominick amendment rather fundamentally puts into question the viability, the workability of so much of our accepted government procedures within the last 35 years. Of necessity, a growing country, with this tremendous new activity, had to deal with its problems of growth and congestion, and confusion by administrative agencies.

It is suggested here that there is a question about the procedures of government working the will of the people through administrative agencies and their procedures.

In most of our economic areas we have created agencies of government with responsibilities defined by law, with questions to be decided, and they are decided by administrative agencies. In order to protect that system and to insure fairness of procedure, in 1946 there was enacted into law the Administrative Procedures Act which defines the rights of individuals, in a sense, "on trial" before these agencies of government. The Securities and Exchange Commission, created back in 1934, was one of the first to be given powers to decide. We have the Interstate Commerce Commission and it goes back farther. We have the National Labor Relations Board and we have the Federal Trade Commission. All of these agencies of government, to be effective, had to have a machinery for decision. That is exactly what seems to be questioned here in the debate that supports the Dominick amendment.

This is another area of the application of now proven methods, and it is resisted. I would say this has been the central point of the debate on this bill and we are now down to the opportunity to decide it for the third time during this debate.

This issue was before the Senate 2 years ago when we had the bill before us. The vote then was in opposition by a rather substantial margin, I believe, to the proposal of the Senator from Colorado. I think the vote was 41 to 27. We will shortly vote on this proposal. While I personally regret that there is a question over administrative procedure because we know it is part of American Government today.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WILLIAMS. I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. WILLIAMS. That is a regret, but I do not want to linger too long on that, because, with the amount of debate on the method of enforcement, perhaps some of the major advances are being overlooked. This is what I would like to focus on for a moment.

I suggest that we have made a tremendous advance toward the goal of bringing the effective opportunity of eliminating discrimination in employment, because the question is not whether there should be enforcement power added to the mandate of the Equal Employment Opportunity Commission, but how it should be done. It is a matter not of quality but, in a sense, it is a question of degree. So it is a tremendous advance that the Senate has come to that point where we are really in dispute only over method, not over the substance of the issue of enforcement, although I am sure there will be those—they will be a small minority—who will object altogether to new enforcement authority in this area.

Beyond that, this bill, if enacted, will be a landmark of new opportunity for millions and millions of people, because the legislation will bring the force of law to support the constitutional promises to the millions of people who are employed in State and local government. While they are constitutionally protected now in the 14th amendment, they require statutory and legal enforcement of a constitutional right. This bill does that.

Of course, the bill broadens its coverage to reach the employers of 15 or more and unions with 15 or more members. I will say that is a great advance. Ideally, I think it should apply to all, but we have made that decision, and for only practical reasons have we made it employers of 15 or more and unions with 15 or more members. A man or woman who has been discriminated against has been wronged just as much whether he or she is an employee in a little shop with three or four or one with 15 or more. However, for practical reasons, it is still a great advance in bringing legal protection to so many millions of people who are not now covered by the law.

In the area of Federal employees, the employees long questioned whether they had the right to sue in court to protect their right against discrimination. We have established that right in this bill and made very clear that the Civil Service Commission has clear authority. I shall not dwell on that, because I was not the author of the provision that strengthened the opportunity of Federal employees. The Senator from Colorado was the author of that significant advance in the bill.

So at this point, when we are locked in debate on the method of enforcement, let it not be overlooked that the bill is a major advancement.

While the Senator from New York and I are in opposition to the amendment offered by the Senator from Colorado, his hand on all of these major advances in the broadening and strengthening of equal opportunity I think should be noted at this time.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WILLIAMS. Mr. President, I yield myself 2 minutes just to say where I stand on the amendment.

I think the Senator from New York, again, has crystallized and made so clear the compelling reasons for bringing to the Equal Employment Opportunity Commission in its new enforcement powers the proven administrative machinery that we see in other agencies of government. There will reside that expertness which is needed in this very sensitive and indeed complex area.

We know the Federal judges are burdened, and we burden them again and again. The subject matter before us is as broad as life, and they have a backlog of cases. We fear, and fear for good reason, that this additional burden of initial jurisdiction would be a crushing burden indeed and would defeat the true effectiveness of the law that here will be enacted.

For those reasons of a mechanism that truly goes to effectively reach the goal, I oppose the amendment offered by the Senator from Colorado, and I do it expressing the greatest respect for the Senator and the greatest appreciation for all that he has done in what I feel to be a most constructive way on this legislation.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. Mr. President, I intend to yield to my distinguished colleague from Alabama, but I think it would be worthwhile at this point to put some of the following quotations into the RECORD.

The Chairman of the EEOC, Mr. Brown, in testimony in 1971 before the House General Subcommittee on Labor said as follows:

> In the area of relief I believe that the District Court approach is clearly and demonstrably preferable to the cease-and-desist method. The pertinent yardstick is the amount of time an aggrieved person must wait before he is afforded relief, either temporary or permanent. . . . Under the district court approach, if one prevails before the court, he is entitled to an immediate injunction and other relief to bring about a rapid end to the discriminatory practices proved at the trial. . . . As a matter of practice, this would not be the case under the cease-and-desist approach.

In connection with the amount of time and the cases as they now stand before the Commission, it is interesting that the Senator from New York has been emphasizing the so-called industrial States, whereas the fifth annual report of the Equal Employment Opportunity Commission which was submitted on April 1, 1971, shows that the top 10 States in terms of the number of charges in employment discrimination recommended for investigation are: Alabama, with 897; California, with 665; Florida, with 633; Georgia, with 633; Illinois, 453; Louisiana, 1,102; New Jersey, 373; Pennsylvania, 611; Tennessee, 617; and Texas, 1,522.

Then I might add that it goes on and shows that in those States I have pointed out, the median time interval in nonjury trials ranges from 1 month in the southern district of Georgia, in Savannah, to 21 months or at the maximum 23 months in the northern district of California. I do not think, therefore, that the relevant district court backlogs are unconscionable.

Certainly, as the Senator from Kentucky has previously stated, if the judge finds in any one of these districts that he is totally overwhelmed with the caseload, and he cannot get these matters heard in a reasonable time, he is entitled in any case to appoint a hearing examiner and have the hearing examiner go ahead and hear the case under his jurisdiction. That is perfectly allowable under the Federal Rules of Civil Procedure, and he can do it any time he feels that it would expedite the decision of the case.

So it would seem to me that, with the original testimony of the Chairman of the EEOC in favor of my approach, with the support of the Assistant Attorney General for the Civil Rights Division of the Justice Department in favor of my approach and with the support of the administration as a whole, there is substantial authority for court enforcement. Additionally, what we are doing is trying to provide a remedy which will clear up this backlog and will cut down, I hope, on some of the questionable investigatory procedures of the commission which many people have complained about and said they thought were not really investigation on the complaint that had been filed, but some form of harassment.

This, I think, is too bad, because I do not like to see the Commission find itself faced with that problem. Yet it can do very little about that, as long as it has no type of enforcement procedures. It just has to bring down all the weight of the Federal Government in order to be able to handle such volume.

Mr. President, how much time do we have remaining on our side?

The PRESIDING OFFICER. The Senator from Colorado has 45 minutes remaining.

Mr. DOMINICK. I yield 20 minutes, or as much thereof as he may need, to the Senator from Alabama.

Mr. ALLEN. I thank the Senator from Colorado for yielding to me at this time.

Mr. President, I commend the distinguished Senator from Colorado (Mr. DOMINICK) for the introduction of this amendment and for the dedication that he has given to the task of seeing that some measure of due process of law is provided for the determination of complaints and charges of discriminatory employment practices.

Mr. President, every Member of the Senate, I am sure, would like to see every person in this country go just as far in life as his ability, his ambition, and his efforts will take him. Every Member of the Senate, I feel sure, wants to see every person in this country have an opportunity to seek and obtain employment where employment is available, without any discrimination against him, and without any unfair employment practice being used against him. As the distinguished Senator from New Jersey said just a moment ago, about all that is left in this issue is the matter of the enforcement machinery.

The distinguished Senator from New Jersey and the distinguished Senator from New York want to lodge all power in the hands of the Equal Employment Opportunity Commission to receive complaints, to investigate complaints, to make charges based on those complaints, to try and adjudicate those charges, and then to issue cease-and-desist orders.

The distinguished Senator from Colorado, in his amendment, which I support, would continue all of those powers in the EEOC except that the charges would have to be filed with the various Federal district courts throughout the country where the alleged unfair employment practices took place.

Mr. President, much has been said about the congestion of the Federal court dockets. There are 398 Federal district judges in the country, and only one Equal Employment Opportunity Commission. Where is there more likely to be a bottleneck? In one Commission, lodged here in Washington. The Senator from New York (Mr. Javits) made light of the Assistant Attorney General speaking of this Commission being lodged here in Washington. There is great significance to that statement, because if all of these matters are to be tried in Washington, is that fair to witnesses? Is that fair to the parties, that they should have to appear before the Commission in Washington?

Is it not more reasonable that these charges should be tried in the Federal district courts, where the occurrences took place, where the Federal judges have some knowledge of community conditions, and where they have some knowledge of the parties involved? I say it is not unreasonable to expect that these complaints be tried in the Federal district courts. Already the EEOC has a backlog of some 18 to 24 months of work, and it is contemplated that it will have an additional 32,000 complaints before it during this fiscal year and an additional 45,000 in the next fiscal year.

The proponents say, "If they had cease-and-desist powers, they could clear that docket in a hurry." Well if they can clear the docket in a hurry with cease-and-desist powers, it would certainly indicate that they are going to throw efforts to conciliate these disputes out the window.

That is the main reason why the EEOC was created, and that is the power that it has now, to conciliate suits. But if they are going to clear a docket of some 32,000 to 45,000 cases, and take on every State, city, and county employee, every employee of every educational unit in the country, and every employee of an employer who employs as many as 15 people, how are they going to perform their function of conciliation, if this one Commission is to try all of those cases? Think how many cases they would have to turn out, literally every hour of the day. And how much due process can you get where one commission is judge, jury, and prosecutor all rolled into one?

Mr. President, I have been interested in the so-called compromise that has been suggested. It was interesting to me that the compromise amendment, which was introduced, I believe, on February 8, was offered by the distinguished Senator from New Jersey (Mr. Williams) and the distinguished Senator from New York (Mr. Javits). That caused the junior Senator from Alabama to inquire, "compromise as between whom?" They certainly did not compromise with the distinguished Senator from Colorado (Mr. Dominick). They did not compromise with the distinguished Senator from North Carolina (Mr. Ervin). So whom did they compromise with?

The New York Times on February 8, before the amendment was even offered, said:

> Senate liberals yield in dispute over job rights.

There has not been any yielding. No one in the Senate feels there has been any yielding. Obviously there has not been any.

The distinguished Senator from Colorado (Mr. Dominick) has indicated that if this amendment is approved by the Senate, he would support the bill. When the Dominick amendment was defeated by the narrow margin of 48 to 46 votes, the junior Senator from Alabama made the statement on the floor of the Senate that in his opinion that would be one of the most expensive victories that had been won by the proponents of the measure, because he felt that a sufficient number of Senators would be willing to debate this measure until cut off by cloture if a measure of due process is not provided by the bill—due process such as is provided by the Dominick amendment.

I again commend the distinguished Senator from Colorado for his determination to see that due process is provided by this bill.

Mr. President, I believe that this issue is rapidly coming to a head. Just as the junior Senator from Alabama predicted that the defeat of the Dominick amendment might make it difficult for the bill to be passed. he believes now that if this amendment is adopted, the bill, while it will continue to be discussed, will be passed in that form; because he believes that a sufficient number of Senators will be induced to vote for cloture if this amendment is adopted.

So it does not seem to the junior Senator from Alabama that there is any logic in the position of the proponents of this measure to point to the so-called clogged condition of calendars in the Federal courts when there are 398 Federal district courts throughout the country that would divide this work—assuming, of course, that suits would be filed before all 398 Federal district court judges.

Mr. President, the so-called compromise that is pending before the Senate, to which the Dominick amendment has been offered, is not a compromise. For all that appears here, for all that appears from the Senators who have debated the issue, not one Senator has come over to the position of this so-called compromise amendment.

So there has been no compromise, even though the liberal press has indicated that there was.

I was interested in the headline of the article in the New York Times, "Senate Liberals Yield in Dispute Over Job Rights." Mr. President, I ask unanimous consent to have the article from the New York Times printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Senate Liberals Yield in Dispute Over Job Rights—Offer Compromise in Hope of Ending a Filibuster on Federal Panel's Power

(By David E. Rosenbaum)

Washington, February 8.—Unable to break a Southern filibuster, liberal Senators gave up today on their fight to give the Equal Employment Opportunity Commission the power to order employers and unions to stop discrimination in jobs.

Senators Jacob K. Javits, Republican of New York, and Harrison A. Williams, Jr., Democrat of New Jersey, offered a compromise proposal today, along the lines favored by President Nixon, in an effort to obtain action on legislation that has been before the Senate since it convened January 18.

Rather than authorize the commission to issue "cease and desist" orders against companies and unions that it found to be discriminating, the Javits-Williams proposal would merely allow the commission to go into Federal court to prove discrimination and ask the court to prohibit it.

COULD CERTIFY DISCRIMINATION

The Nixon Administration has recommended all along that the commission be given the authority to institute court suits, and the House approved a measure to this effect last year.

The Javits-Williams plan would give the commission's findings additional weight in court proceedings, however, by empowering the commission to hold hearings on cases of alleged job discrimination and to present certification of discrimination to the court, much as a bankruptcy referee presents his findings to a court.

According to Senator Javits, the courts could be expected to uphold the commission's findings most of the time under this procedure, since most of the evidence would already have been heard by the time cases reached a judge.

DOMINICK IS OPPOSED

Senator Peter H. Dominick, Republican of Colorado, who has been the principal spokesman for the Administration in the battle over giving enforcement power to the commission, said that he would oppose the Javits-Williams plan.

Senator Dominick, whose amendment to allow the commission to go into Federal court instead of issuing cease-and-desist orders was rejected two weeks ago by 2 votes, plans to offer his amendment again as a substitute for the Javits-Williams proposal.

A vote on these measures is unlikely to come before next week.

The commission was created by the Civil Rights Act of 1964. It was empowered to hold hearings and to try to obtain voluntary concilation from employers who discriminate but was given no means to enforce its findings.

Senator Javits acknowledged that he was "giving away a lot" by his compromise but said that there was no other way to get any bill past the Southern filibuster.

He said he believed that with his proposal he could obtain the necessary two-thirds majority vote needed to cut off the debate. Two attempts to halt the filibuster have failed.

In another concession to the Southerners, the Senate agreed, 56 to 26, today to a compromise on the size of companies and unions that fall under the commission's jurisdiction.

At present, a company must have at least 25 employes and a union of at least 25 members before the commission has jurisdiction. The pending legislation would have lowered the ceilings to eight. The Senate agreed to lower it to 15 next year.

Mr. ALLEN. This article refers to the so-called yielding prior to the time the amendment even was introduced into the proceedings of the Senate. So there has been no yielding.

The issue is still the same: Will these alleged unfair employment practices be tried before a Federal district court judge, or will they be tried by the very same agency that receives complaints and prosecutes the complaints and hears the complaints?

Mr. President, I do not believe that the national media have given proper coverage to the arguments made against this bill by the opponents of the bill. I do not believe that the national news media have been telling the American public the full and true facts about this bill to expand the power and authority of the Equal Employment Opportunity Commission.

This debate has been rather extended, but no good bill has lost in the Senate by reason of this debate. Just the other day, I noted that on the Senate calendar were only 20 measures pending before the Senate. After the 92d Congress has been in session for more than 13 months, all it has on the calendar are some 20 measures. So this debate will not hold up—and has not held up—anything. It has not held up foreign aid. That bill was passed. It has not held up the dock strike legislation. It did not hold up the seabed treaty that the Senate approved this morning. It is not holding up a single piece of meaningful legislation. So the debate should continue until due process of law is provided for this bill.

Mr. President, one would think, from hearing the argument of the proponents of the measure, that this bill seeks to outlaw discrimination in employment. It does not do any such thing. That is already the law. It does not take this bill to provide a rule or a law against discrimination in employment. We hear the proponents of the measure actually refer to themselves as "the good guys." That reference has been made by proponents of the measure on the Senate floor. They are the good guys. I suppose that if they are the good guys, the opponents of the measure must be the bad guys. I do not see it that way.

I want to see due process of law provided in the settling of these disputes regarding unfair employment practices, and we are not going to get fair treatment where we have a commission that does the whole job.

Are you going to get biased treatment in favor of employers by going into the Federal court? The record indicates otherwise. Who has been enforcing the civil rights matters throughout the country? The Federal courts. Who has provided for the desegregation of the public schools? Who has provided for the enforcement of antidiscrimination in housing? The Federal courts. They have had compassion in the matter of civil rights, and there is no indication that they would not have the same degree of compassion regarding charges or complaints of unfair or discriminatory employment practices.

Mr. President, the purpose of this extended debate is to alert the American public to the dangers and evils of the bill. I submit that the national news media have failed in their responsibility to report the full facts underlying the opposition to this bill. The proposed legislation has been before the Senate for possibly a month, and those of us who oppose it have revealed time and again the threats the bill poses to individual rights and freedoms. Yet, you turn on the radio or television or read the newspaper, all you hear or see is that a few Senators—usually they are the Southern Senators—are filibustering the bill to make employment opportunities fair and equal. You hear little about the contends of the bill itself.

Why does not the national news media tell the public that the bill would give a Federal agency the power to control the employment practices of all schools, including private and parochial?

Why does not the national news media tell the public that the bill would give a Federal agency power to control the employment practices of all State, county, and city governments?

Why does not the national news media tell the public that aside from the swarm of Federal agents which would be required to carry out its repressive provisions, the bill does not create one single new job?

The news accounts always refer to the measure as a civil rights bill. "Yet, in the opinion of the junior Senator from Alabama, the bill denies the most precious of all civil rights—the right of trial by jury.

Why does not the national news media tell this to the people? Why does it not tell the people that the bill would make the Equal Employment Opportunity Commission investigator, prosecutor, judge and jury all in one?

The PRESIDING OFFICER (Mr. TAFT). The time of the Senator from Alabama has expired.

Mr. DOMINICK. Mr. President, I yield 5 additional minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 additional minutes.

Mr. ALLEN. Mr. President, news accounts last week, reported that a "compromise" amendment was being offered by the bill's sponsors. Subsequent debate on the Senate floor revealed that no compromise had ever been reached and that proponents of the bill admitted this fact. But not one word of this startling admission ever appeared in print or was said on radio or television.

This is not a civil rights bill. It is a force bill. If fair employment opportunity is the only issue, not five Senators would vote against the measure.

I do not believe there would be a single vote against the measure if that were the only issue; namely, fair employment opportunity. On the other hand, if the American public knew what the bill contains, the outcry of protest would be so strong that a majority of Senators would not dare vote for the legislation.

Mr. President, I call upon the national news media to give the American public a full explanation of the threats which the bill poses to individual rights, liberties, and freedoms.

I am confident that fully informed Americans will not support legislation which endorses the surrender of principles and concepts which are so inseparable from our cherished system of democracy.

Mr. President, the proponents of this bill have extended the operation of the act to every educational institution in the country. They have extended it to every State, county, and city employee. They have extended it to the employer or the employees of every employer who employs as many as 15 people.

The only thing left is whether the Commission can issue its own orders based on its investigation and its prosecution of any complaint before itself. It would be judge, prosecutor, and jury and, I guess, Federal marshal as well. That would not provide due process for any employer caught within the toils of the EEOC.

Mr. President, I feel that there would be an excellent chance for this bill to become law if this amendment is adopted. Every single provision of the Dominick amendment adds to the power and authority of the EEOC. There is not one single line in the bill—not one single line in the Dominick amendment—that takes one bit of power, one bit of authority, or one bit of jurisdiction away from the EEOC. Every single line adds authority. It adds power. It adds jurisdiction.

So, Mr. President, far from indicating any lack of sympathy for those who say they are being discriminated against in employment, this amendment adds power, just as the bill itself does, to the EEOC.

Mr. President, I support the Dominick amendment. I hope that it will be agreed to by the Senate when the vote occurs at 5 p.m. today.

Mr. President, I ask unanimous consent to have printed in the RECORD three editorials, two of which indicate my point with regard to the treatment by the national news media. The third is an editorial published in the Birmingham News of last week.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 10, 1972]

THE CIVIL RIGHTS FILIBUSTER

The month of February has slipped into town with the shoddy spectacle of the Senate of the United States droning on in a quiet anti-civil rights filibuster that threatens to eat up most of the legislative month. This one has already claimed the cease and desist powers that a bill reported out by the Labor and Public Welfare Committee would have given the Equal Employment Opportunity Commission. Although proponents of the committee bill have abandoned the fight for cease and desist and have retreated to the softer ground of giving the commission the authority to go into court to enforce its will, opponents of the bill still vow to continue the filibuster.

All of this dredges up ghosts of an earlier day. Fair employment legislation was one of the earliest legislative goals of the civil rights movement even before the movement's heyday in the '60s and more than once the country watched such proposals rolled under by filibusters in the Senate Chamber. Finally EEOC was established by the Civil Rights Act of 1964.

But, as we have noted before, discrimination in employment against women and minorities persists, massively. This is true partly because of bias, partly because of tradition, partly because of the complexity of the problem and partly because this commission was not created equal. The commission was given authority to receive complaints, investigate them, find reasonable cause and then conciliate. There the EEOC's powers stopped. It was given no enforcement power and the burden of further action was placed on the individual complainant to take his case to court—providing he had sufficient resources and will. For the commission, conciliation without a bite at the end was something like a kiss without a squeeze—not much.

It is clear that if the Congress seriously intends for the EEOC to make a serious contribution to the still mountainous problem of employment discrimination, it must give the agency some credible enforcement powers. Now that the cease and desist powers are ruled out, for this session at least, the next best alternative is to give the commission expeditious procedural recourse to the courts. At this stage of the debate, we are witnessing a filibuster without a point. And this time, it is not just the racial or ethnic minorities who are being hurt, but also women. The Senate should stop this silly business, vote on the bill and get on with its work.

[From the New York Times, Feb. 10, 1972]

THE SAME OLD STORY IN THE NATION

(By Tom Wicker)

From its beginnings, the Nixon Administration has insisted that the way to judge its civil rights activities was to "watch what we do, not what we say." The implication was that, while talking one way to mollify a conservative constituency, the Nixon men would accomplish a great deal in the other direction.

Southern Senators, on the other hand, having long been the most determined opponents of any kind of social or economic or political advance for blacks, have lately taken to insisting that they and their constituents have gone further than the rest of the nation in providing equal opportunity for all. Particularly in the area of school desegregation, there is some substance in this Southern claim—and even in the Nixon Administration's "watch what we do" boast.

In the crucial area of employment opportunity, however, both the Southern Senators and the Administration can now plainly be seen wearing the same old Confederate uniforms. It is, in fact, rather like old times in the Senate now that the Southerners, with Administration support, have filibustered to death the proposal to equip the Equal Employment Opportunity Commission with cease-and-desist powers against employers found guilty of discriminating.

The net loss, of course, is not just for blacks; since the E.E.O.C. has jurisdiction over sex as well as race discrimination, the Senate's action also is a grievous blow to women's rights. And one of those most responsible is also a man who has had a big hand in defeating or watering down the women's rights amendment, Sam J. Ervin Jr. of North Carolina.

There is no question, however, that the Senate's action was mainly another refusal to do anything much about the problem of job discrimination against blacks. Studies of black unemployment—which runs consistently at about twice that of whites, and far worse in the cases of black teenagers and black women—show it is not entirely even largely due to their lack of job skills and education, much less to an unwillingness to work; rather the problem is to a great extent one of discrimination.

Nevertheless, as it now stands, the E.E.O.C. has no enforcement powers at all although in thirty states there are commissions that have cease-and-desist authority. But as the price for getting any kind of bill past the Southern filibuster, Senator Javits and others have had to agree to a compromise. It would, first, give the E.E.O.C. only the right to go to Federal court to try to get compliance with any finding of discrimination; second, it would raise from eight to only fifteen the number of employes that would have to be in a company, or members of a union, to bring that company or union under E.E.O.C. jurisdiction. The filibustered bill would have made it 25 employes or members, vastly expanding the commission's reach.

The compromise adopts, in effect, the Administration's position, which is already embodied in a bill that passed the House. That it is intended to be a soft position, rather than a tough stand against job discrimination, became apparent when Senator Peter Dominick, the Administration spokesman on the issue, said he would oppose a part of the proposed compromise that would have permitted Federal courts to accept the E.E.O.C.'s findings as evidence, without further trial on the facts of discrimination cases.

Since the Federal courts are already clogged, and the average delay in disposition of cases is about ten months, it is apparent that adding a whole new area of litigation to their burdens is not an expeditious way to handle job discrimination; it is more nearly another way to bog down judges and prosecutors already unable to manage their workloads. Moreover, lengthy trials, plus the long appeals process, are bound to be more costly to complainants than the administrative remedy that had been proposed for the E.E.O.C.; the result will be to leave much discrimination essentially unchallenged.

Just this week, Federal Judge Frank M. Johnson Jr. complained that although he had ordered the state of Alabama, about two years ago, to cease employment discrimination in all state agencies, "It looks like my order wasn't very effective." He was in the process of issuing another order, this one to the all-white Alabama state police, to recruit enough blacks to fill a quarter of its positions. Two years from now, will anything have been done about this second order, which is sure to be appealed?

Since the E.E.O.C. is being given jurisdiction over state and local workers, if it were also to have cease-and-desist powers—as does the National Labor Relations Board, the Securities and Exchange Commission, and the Federal Communications Commission, to name only a few—it might well be able to get a better and quicker response by administrative sanctions than Judge Johnson could with court orders.

But action is not what the Nixon Administration and the Southern Senators want; delay and talk and promises are all they care to offer in the way of equal employment opportunity.

A DANGEROUS GRAB FOR POWER

Another move to deliver statutory enforcement into the hands of a federal administrative agency at the expense of the country's employers is presently before Congress.

What this would amount to, if granted, would be to place a federal agency in the position of being prosecutor, judge and jury in cases where adjudication has rested effectively, until the present, in the federal courts.

The basic effort is known as the Williams Bill (S. 2515), the provisions of which would hand over to the Equal Employment Opportunity Commission cease and desist powers in the area of employment complaints, similar to that power now held by the National Labor Relations Board, a lever that has proved to be more of an abuse of employers than a protective arm for complainants.

There is no argument heard today that protection against unfair employment practices is unneeded or that still more stringent enforcement powers should not be given the EEOC. To place that agency in a position where it may investigate and file complaints, and then, in turn, hear arguments and defense and then rule on the issue is too much like a "hanging jury" to fit the concept of the democratic process.

The Dominick amendment to the Williams measure provides for initial adjudication of employment complaints in federal district courts, an area which, contrary to arguments by proponents of the Williams Bill, is equipped to render decisions within a reasonable length of time.

Supporters of the Dominick amendment do not base their arguments on a desire to thwart the presentations of fair employment opportunities to all qualified persons regardless of race, sex or creed. The day when job bias will be tolerated is past. And it is the duty of Congress, as we see it, to fashion legislation which will give apropriate federal agencies the power to bring fair employment opportunities to all people who are qualified and willing to hold a job.

We do not believe, however, that another step in the encroachment of federal bureaucracy, which possesses no greater expertise in this field than do the courts, is the answer to employment abuses.

The Williams Bill suggests handling government another cudgel to wave at the private sector of the nation's economy. The Dominick amendment suggests a far more conciliatory method and one that will have a more satisfactory effect for all parties involved.

Progress in the area of job opportunities will not be accomplished at the expense of equitable treatment for all.

Mr. DOMINICK. Mr. President, I yield myself 30 seconds to express my deep appreciation to the distinguished junior Senator from Alabama (Mr. ALLEN) for the comments he has just made on behalf of my amendment. I sincerely hope that we will be successful this time. If so, I agree with him that there is a good chance we will get a bill.

Mr. TAFT. Mr. President, I take the floor at this time to discuss the situation we find ourselves in on the upcoming vote which will occur shortly. I still disagree with the concept of the Dominick amendment. I still expect initially to cast my vote against it.

I feel, however, as has been pointed out here today, that there are many provisions in the bill at the present time, in my opinion, which are most desirable and which we should attempt to enact into law and so improve the present statutes on the books with regard to equal opportunity and the operation of the commission, especially regarding the 15 employee coverage matter, which has been discussed early today. Especially I refer to the general counsel provisions. In respect to the general counsel provisions, it is important from the point of view of legislative history that we not confuse what I believe has been erroneous statements with regard to the current status of the bill, in view of the passage of amendment No. 797 which was proposed by the distinguished Senator from

Pennsylvania (Mr. SCHWEIKER), on my behalf, and on behalf of the distinguished Senator from New York (Mr. JAVITS) as well.

I read from amendment No. 797, in part, as follows:

> . . . The General Counsel shall have responsibility for the issuance of complaints, the prosecution of such complaints before the Commission, and the conduct of litigation as provided in sections 706 and 707 of this title. The General Counsel shall have such other duties as the Commission may prescribe or as may be provided by law. The General Counsel shall appoint regional attorneys with the concurrence of the Chairman, and shall appoint such other employees in the Office of the General Counsel as may be necessary to assist in carrying out the General Counsel's responsibilities and functions under this title.

Mr. President, quite a number of times this afternoon, and since passage of amendment No. 797, it has been alleged that the commission continues—under the legislation as passed without the Dominick amendment—to exercise the prosecution and the judicial as well as the administrative functions under the law.

I would demur from that, with regard to the question of prosecution, because I believe, under the terms of the amendment as adopted, it is abundantly clear that a case must begin by a complaint starting with the general counsel, and then being filed by the general counsel, if we are to keep this legislation in the bill.

This, to me, eliminates some of the difficulties that I might otherwise have had with maintaining the position that the commission should directly or indirectly have the authority to issue cease-and-desist orders.

Indeed, if this amendment had not passed, I would have long since supported the original amendment. I believe that with this change it is an improvement and is worthy to try to get into the law.

It seems to me that along with the other improvements, the time has about come for the Senate to realize that it must go ahead, because apparently cloture is not going to be obtained.

For that reason, I will later—although I do not think I will change my views on the bill—I will give a pair to a Senator who will not be here to vote.

We will have to go to conference on the bill with the House, because the House does not include the provisions of the Javits' compromise of the Dominick amendment as now proposed.

It is obvious to me that we are not going to get the original provisions in the language of the bill on cease-and-desist orders or perhaps even the language of the Javits' compromise proposal. So, with all of these items in balance, I wanted to explain to the Senate my intention to give a pair. It is my hope that the bill will proceed through the Senate expeditiously and proceed to conference and will be greatly improved in the language as proposed.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TAFT). Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. TAFT) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of Senate proceedings.)

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. WILLIAMS. Mr. President, I move that the Senate stand in recess, subject to the call of the Chair, but not later than 4:40 p.m., with the time for the recesses to be equally divided.

The PRESIDING OFFICER. The time for the recess will be equally divided.

Mr. DOMINICK. Mr. President, we have only 18 minutes remaining. It was my thought that the time until 5 o'clock would be equally divided.

The PRESIDING OFFICER. At this time 18 minutes remain to each side.

Mr. WILLIAMS. I renew my request that the Senate stand in recess until not later than 4:40 p.m., subject to the call of the Chair.

The motion was agreed to; and at 4:24 p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 4:40 p.m. when called to order by the Presiding Officer (Mr. TAFT).

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515), a bill to further promote equal employment opportunities for American workers.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. Mr. President, I yield myself 4 minutes.

It is my feeling that we are rapidly approaching D-day on this particular bill. It is my sincere feeling that unless we can pass this substitute amendment of mine, we are not going to have a bill at all. As I pointed out a little earlier, the number of complaints filed before the EEOC is rapidly growing. The number of complaints which they are able to settle by conciliation agreements satisfactory to the Commission has not substantially improved; in fact, they have gone downhill.

The major reason for that, in my opinion, is that there is no enforcement procedure at the present time which gives the EEOC the necessary muscle to reach an agreement which is satisfactory both to the respondent and to the aggrieved.

My approach, which is the court approach, is a method of enforcement, just as is the so-called cease-and-desist approach originally reported in S. 2515, and just as is the method which has been offered by the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS). For the life of me, I can see nothing wrong in proceeding with an enforcement procedure which would give us the muscle by which we could then settle more employment discrimination cases probably much more rapidly and probably with many fewer cases going to the courts.

It is a procedure relying on an institution inherent to our system. It is a procedure which I think conforms to the basic separation of powers which we desperately need to reemphasize in this country. It is the reason why, in many cases, many of us have been urging that we get the power out of Washington, so as to be able to decentralize such power to the various areas the resources with which to handle their own problems.

In this particular type of situation, we would be distributing the power to enforce this law to 93 district courts with 398 district judges. Mr. Brown, the Chairman of the EEOC, has said very frankly that it would take quite awhile to get the necessary attorneys, the hearing examiners, the rules and regulations, and everything else set up in the event that the EEOC received the cease-and-desist powers. He has indicated that the enforcement system would be far more flexible and far more efficient if we adopted the district court procedure. Mr. Brown so testified before the House committee. It was his feeling that with a complaint filed before the Commission, you had immediate enforcement through the injunctive process, but if you had a cease-and-desist order before the Commission, you had to go before the district court and receive an enforceable order before you could get anything done. And therefore, you had anything but an efficient system to obtain injunctive relief, which in many cases seems to be what is needed.

With the emotional involvement in our country over matters involving discrimination, I have no illusion that this will be an easy job either for the Commission or for the courts. But I do feel deeply it will be far more fair to the respondent and the complainant alike to put it in traditional hands, rather than to put still another power into the hands of an administrative commission responsible to no one except the person who originally appointed them. It does not seem right to me, as I have said repeatedly to put into the hands of any administrative agency the powers to make the rules, investigate whether the rules are being abided by, receive the complaint, and then issue the orders. This is the very thing we have tried to get away from in our country.

If this can be done, we shall have taken, to paraphrase a famous remark, at least one small step in the right direction.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I know I join my colleague from Colorado in expressing the wish that there were Senators here to listen to these closing arguments in a matter as important as this, something for which we and they have fought literally for years. Ever since the Civil Rights Act of 1964 was passed, we have known that it had this essential weakness of a lack of enforcement power. There has always been this deep dispute about what the power should be, and here we are at the voting point.

I think, Mr. President, that now, this afternoon at 5 o'clock, this matter ought to be definitively settled, and I feel, speaking for myself, notwithstanding the number of votes we have had on it, and I think the Senator from New Jersey (Mr. Williams) probably feels the same way, that whatever the verdict of the Senate may be, this is it.

We have worked on this question and fought it up and down the pike for as long as I think anyone has any right to.

To summarize our argument, Mr. President, we say that cease and desist is right, and that it is the way to cut down the backlog and the way to develop the expertise which the agency requires, and the way in which to give this act teeth. Even though it does not have plenary authority, the cease-and-desist order itself is allegedly feared by the business community. On the contrary, nothing happens until you get a court decree. But that is water over the dam, Mr. President. Even though the majority of the Senate wants cease and desist, it cannot have it, the way the Senate is organized today and the way rule XXII operates.

So the question, then, is what kind of court proceeding should there be? The Senator from New Jersey and I have realistically understood that, and done our best to present to the Senate a practice which differs from that of the Dominick amendment in the essential point that we have the commission which is holding the hearing through its hearing examiner certify the record to the court and make recommendations respecting findings of fact and remedies, that is, a decree. Then the court, and only the court, has the power to enter a decree.

We believe that by vesting in the commission this authority to hear, we are in effect automatically providing a special master or referee in each case, and that thereby we would be able to cut down the tremendous court delay. We submitted our chart of the official record of the U.S. district court backlog, which showed that we ought to be able to cut that backlog time by more than half by the techniques we have suggested.

I analyzed the objections of the Department of Justice, and showed that they were based upon illusion and not upon fact, because the Department of Justice tells us that the courts can resolve cases speedily.

They can, but they will not, because they have these tremendous backlogs. They say the courts can deal with critical and sensitive cases. Again, that is precisely why we have commissions, to build up a body of expertise to deal with critical and sensitive cases. They tell us the courts are resolving critical and sensitive cases in other civil rights areas such as housing and education, and we point out that there is time to move around and have a proceeding, which differs from employment.

Second, we point out that in these particular areas you are dealing mainly with governmental entity.

For all those reasons, we believe that the difference respecting the procedure which is involved in terms of cutting down the time lag attributable to the court delays because of the tremendously congested calendars can very much better be handled by the amendment of Senator Williams and myself. Beyond anything else, I emphasize the narrowness of the difference. The fact is that this is going to court. The fact is that it is the court which will make a decree, under our amendment or his amendment. The fact is, as Senator Cooper properly pointed out, that the technique of special masters or referees is not unusual. It can be used, and we require it to be used. In addition, we get the benefit of the administration which has great expertise in a central procedure fully protected by the Administrative Procedure Act.

Finally, I think this absolutely dispenses with the argument that you are putting the powers of investigation and of punishment in the hands of one body. In the first place, we do it with many other bodies, but that is ended, because both amendments vest the power to issue the decree ab initio, in the first instance, in the court.

For all those reasons, I believe that our amendment is a distinct improvement; that it gives a great benefit, considering the nature of the discrimination—to wit, in jobs—over that of the Senator from Colorado, and that his amendment should be rejected and ours should be supported by the Senate.

The PRESIDING OFFICER. Who yields time?

If no Senator yields time, it will be charged equally to both sides.

Mr. JAVITS. Mr. President, I ask unanimous consent that we may have a quorum call, with the time charged equally to both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JAVITS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. DOMINICK. I yield myself those 3 minutes.

Mr. President, during the process of this debate, reference has been made to the comparable cease and desist powers that are in the NLRB. The other executive agencies are largely, I would say, regulatory agencies, as opposed to the EEOC or the NLRB.

I think it is a matter of interest that before the Special Subcommittee on Labor in the other body hearings were held on proposals to expedite the NLRB processes. Those hearings, it should be noted, brought out the point that it could take 2½ years from the time a worker walks into a regional NLRB office with a charge until the time a court of appeals finally issues an order that he be reinstated with or without back pay. So it seems perfectly apparent that even in an agency that has been established that long, which has hearing examiners, an independent general counsel, special expertise and all its precedents, it still takes 2½ years.

I do not think that this would be true under job discrimination with the adoption of my amendment, because once the trial is over, the court at that point is free to issue injunctive relief and to issue such other remedies as it may deem appropriate, or even, to dismiss the case, if it determines that the evidence has not supported the complainant.

In summary what we are doing, is asking for enforcement for the EEOC through the court system, through an expedited three-judge court where the case is of general public interest, so that there can be expedited proceedings, with appeal directly to the Supreme Court. Where the case is not of general public interest will be brought into district court for expedited hearings, and once the decision has been made, the judge who has jurisdiction can issue whatever remedy seems suitable in view of the facts before him.

It avoids the conglomeration of powers in one executive agency of the prosecution, the investigation, the judicial hearing, and the enforcement proceeding—all of which put into one body are wrong, be it the EEOC or the NLRB.

So I urge the adoption of my amendment.

CIVIL RIGHTS AND THE NEED FOR ENFORCEMENT OF FAIR EMPLOYMENT PRACTICES

Mr. MOSS. Mr. President, the struggle to expand equality in America has had a long journey. The path is marked by periodic accomplishments that have advanced rights that should have been given to all our citizens at the establishment of our Nation. The Senate is now considering another in the recent series of such landmarks, and the action we take will have an important effect upon the future course of the civil rights movement.

Will we move ahead steadily, or will we fall back and pause, perhaps beginning a decade of backsliding in our commitments to the minority groups in our Nation? The present question before us is set in terms of the right of Americans to hold jobs on an equal basis. It is rather ironic that we face the crucial question of employment after we have faced most of the other questions of civil rights. Employment is the most basic and fundamental avenue to attaining the ability to pursue life, liberty and happiness. Work is an end in itself, but it also provides the means for a person to exercise many of his other rights. With a job, a man can begin to emerge from the ghetto or the rural slums, seek better housing and education, and drop his constant dependence on public agencies to provide his support. Without a fair chance at job placement and advancement, none of these rights have full meaning for him.

The past two decades have seen momentum build in the effort to deliver human rights to all Americans on an equal basis. The landmark in that struggle was the enactment of the 1964 Civil Rights Act. Throughout these two decades, a coalition has emerged at each stage attempting to thwart the sharing of these fundamental rights. We decide again today whether that coalition will prevail, or the cause of equality will advance another step. Because of the crucial role employment plays in providing status and substance, the activities of the Equal Employment Opportunity Commission are an extremely important measure of our commitment to equal rights. If we are serious, we must give it the power to enforce the part of the 1964 act that promises equal employment opportunities.

"Unfinished business" still dominates the field of civil rights activity. We have discovered that the promises in the 1964 Civil Rights Act were just a beginning, for they are empty without enforcement and implementation. We have learned since that date that job discrimination is more pervasive and subtle than we supposed; an examination of the discussion in 1964 reveals that we were naive about such discrimination, thinking that voluntary compliance and conciliation would be enough to stop the prejudicial activities of most, and that those who blatantly and defiantly excluded others from the opportunity to work would be stopped by court action. We now know that the problem is much deeper. We have found that discrimination is pervasive, and that those discriminating often do not do so overtly. Many do not even recognize that they have constructed hiring and promotion systems that are discriminatory.

In many real ways, the 1964 act has been the basis for discovery rather than cure. We now discuss the employment problems of women, Spanish-speaking Americans, Indians, and other groups. The activities of the EEOC and the Civil Rights Commission have allowed protests to be registered from all those who have grievances, and we have discovered that basic civil rights must be extended to all groups that suffer from the denial of fair employment practices. This has been a worthwhile awakening for the country.

Considerable room for progress remains. Blacks constitute 10 percent of the labor force, but hold only 3 percent of the professional, technical and management positions. Their average family income in 1970 was only 60 percent the level of income for whites, and Spanish-speaking families received even less. The figures are $10,236 for a white family, $6,279 for blacks, and $5,641 for Spanish-speaking. Women scientists receive only three-fourths the salary of men in the same field, and do even worse at lower levels of training.

Will we fulfill the promises we have made? Unless we give expanded enforcement powers to the agency responsible for ending employment discrimination under the statutes we have passed, we will not. If I felt that there were a reasonable chance that the more gentle techniques presently in the law would work, I would not be as concerned as I am. But the history over the past years shows an increase in the number of discrimination compaints and all too little satisfaction in resolving the grievances. The employer presently can refuse to listen; he knows that most workers do not understand courts and cannot afford to take their problems there.

We have been presented a reasonable bill by the Committee on Labor and Public Welfare. Procedural due process is guaranteed in the bill when cease-and-desist orders are issued, and disputants will always have recourse to the courts in the end.

This bill says, in effect, that we plan to carry out the promises that we have made in the past. We are not going to allow State and local governments to discriminate in employment, nor will we exempt small-scale employers from the obligation to treat other humans in a fair fashion in the employment market. Both of these sectors of our economy will actually benefit from such guidance; community relations are bound to improve when policemen, firemen, educators, and other public employees reflect balanced proportions of their communities.

The movement toward equality in our time will not go forward automatically. Citizens and their elected officials must continue to press for advancements. The momentum began anew during our generation, and we should see to it that this trend continues. We must not begin to backslide. The task before us is that of shaping a foundation for the creation of a better society. I believe that the Williams-Javits amendment to S. 2515 is a reasonable compromise that still retains appropriate powers for the Equal Employment Opportunity Commission, and I, therefore, intend to support it rather than any substitute measure.

The PRESIDING OFFICER. The time of the Senator from Colorado has expired.

The Senator from New Jersey has 1 minute remaining.

Mr. JAVITS. I yield myself 1 minute.

Mr. President, I think the arguments have been summarized, and in this minute I should like to state the following:

First, I hope that this will be the final decision on this question. Second, I hope that Senators will understand that if the Dominick amendment is rejected—which we urge upon the Senate—the amendment of Senator Williams and myself will follow immediately and can be voted on, which will also give us a court procedure, but with the safeguard of cutting down the time required in order to try a case, through having the hearing agency the Commission itself; and in our judgment that will serve to cut that time by at least a half and probably two-thirds.

The VICE PRESIDENT. All time on the amendment has expired.

Under the previous order, the question is on agreeing to the amendment of the Senator from Colorado to the amendment of the Senator from New York and the Senator from New Jersey. On this question the yeas and nays have been ordered.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Colorado (Mr. Dominick) (No. 884) to the amendment of the Senator from New York (Mr. Javits) and the Senator from New Jersey (Mr. Williams).

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. TAFT (when his name was called). On this vote I have a pair with the distinguished Senator from Wyoming (Mr. Hansen). If he were present and voting, he would vote "yea;" if I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. FULBRIGHT (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Maine (Mr. Muskie). If he were present and voting, he would vote "nay;" if I were at liberty to vote, I would vote "'yea." I withdraw my vote.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Georgia (Mr. Talmadge). If he were present and voting, he would vote "yea;" if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), the Senator from Washington (Mr. Magnuson), and the Senator from Maine (Mr. Muskie) are necessarily absent.

I further announce that the Senator from Georgia (Mr. Talmadge) and the Senator from Massachusetts (Mr. Kennedy) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), and the Senator from Washington (Mr. Magnuson) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. Fong), the Senator from Wyoming (Mr. Hansen), and the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Hawaii (Mr. FONG) and the Senator from Oregon (Mr. HATFIELD) would each vote "nay."

The pair of the Senator from Wyoming (Mr. HANSEN) has been previously announced.

The result was announced—yeas 45, nays 39, as follows:

[No. 45 Leg.]

YEAS—45

Aiken
Allen
Allott
Baker
Bellmon
Bennett
Bentsen
Bible
Brock
Buckley
Byrd, Va.
Byrd, W. Va.
Cannon
Chiles
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Fannin
Gambrell
Goldwater
Griffin
Gurney
Hollings
Hruska
Jordan, N.C.
Jordan, Idaho
Long
McClellan
Miller
Roth
Saxbe
Smith
Sparkman
Spong
Stennis
Thurmond
Tower
Weicker
Young

NAYS—39

Bayh
Beall
Boggs
Brooke
Burdick
Case
Church
Cranston
Eagleton
Gravel
Harris
Hart
Hughes
Inouye
Javits
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott
Stafford
Stevens
Stevenson
Symington
Tunney
Williams

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—3

Fulbright, for.
Mansfield, against.
Taft, against.

NOT VOTING—13

Anderson
Fong
Hansen
Hartke
Hatfield
Humphrey
Jackson
Kennedy
Magnuson
Mundt
Muskie
Packwood
Talmadge

So Mr. DOMINICK's amendment (No. 884) to the amendment of the Senator from New York (Mr. JAVITS) and the Senator from New Jersey (Mr. WILLIAMS) was agreed to.

Mr. MILLER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMINICK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. MANSFIELD. Mr. President, at this time I would like to ask the distinguished Senator from Louisiana a question. Would it be possible to take up the debt ceiling measure which I understand needs consideration immediately, even if it meant delaying the reporting of H.R. 1 by 1, 2, or 3 days?

Mr. LONG. The committee has scheduled hearings on H.R. 1. We have scheduled hearings for the day after tomorrow, which is Thursday. It was my intention that we remain on that bill until it is reported, and I insist on doing that, unless the President and the majority leader feel it necessary to move with the debt limit bill during that time. If the leaders would like us to do that we will turn to the debt limit bill and move with that bill as expeditiously as we can. I am sure it is understood that the time we put on that bill is time we cannot put on H.R. 1. We cannot do both things simultaneously.

Mr. MANSFIELD. I understand that, but there is a dire need for the consideration of this legislation as soon as possible. The distinguished chairman of the committee informed the Senator from Montana several weeks ago that he thought all of the hearings and the preliminary work would be done by about March 1, and then the report would be prepared, which would take a week, 10 days, or 2 weeks. It is a highly complex and complicated measure.

However, in view of the economic situation confronting this country it would appear that a delay of 2 or 3 days on H.R. 1 would not be of that much significance, as long as the day is far ahead.

If the chairman of the committee could see his way clear to give consideration to taking up the debt ceiling bill, it might be in the best interests of the Nation at this time.

Mr. LONG. If that is what the leadership on both sides of the aisle want, we will do our best.

Mr. SCOTT. That is a matter of very considerable urgency, and while the amount approved in the House bill is not as much as the amount requested by the President, it is desirable that we act on the debt limit first. I would hope there would be a minimum of time taken on reporting it to the floor. Perhaps we can get a time limitation.

Mr. LONG. I would hope that action on the debt limit bill would not require a lot of extraneous issues, and that we can limit ourselves to that measure and act expeditiously on the floor. If so, we can get back to H.R. 1 in short order.

Mr. SCOTT. I agree. It is hardly a bill that needs many riders; it rides pretty heavily in the saddle itself. I hope Senators will save their accouterments.

On another matter, I am informed that a cloture petition will be filed today on the pending legislation, to be voted on, I suppose, on Thursday. Is that correct?

Mr. MANSFIELD. Mr. President, if the Senator will yield, if a cloture petition is filed today I would hope that the vote could occur around 11 o'clock Thursday morning next. I make that statement, because on that day there does begin the annual Canadian-United States interparliamentary meeting. If a cloture petition is filed and voted around 11 o'clock it would give many senatorial delegates time to arrive there at a reasonable hour, not as reasonable as originally intended, but if something could be done it would be most appreciated, because we have sort of let the Canadians down on occasion because of the press of business in the Senate. I would ask the distinguished Senator from Vermont and also the distinguished Senator from Idaho if they would consider that as being possible.

Mr. CHURCH. Under the arrangements that have been worked out the delegation was supposed to leave here at 5 o'clock in the afternoon tomorrow. The first session is to commence during the evening.

Mr. AIKEN. We have nothing special tomorrow evening, as far as I know, except to get settled in Ottawa.

Mr. PASTORE. Mr. President, we cannot hear a thing. May we have order?

The PRESIDING OFFICER (Mr. TUNNEY). The Senate will be in order.

Mr. CHURCH. The sooner we can have the vote the better it would accommodate the delegation.

Mr. AIKEN. It will take only an hour and a quarter to get there. We can take care of appointments in the afternoon, that is, if we have to have a cloture vote. I hope we can wind up the bill without it.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. MANSFIELD. I direct these remarks especially to the distinguished Senator from North Carolina (Mr. ERVIN), the distinguished Senator from Alabama (Mr. ALLEN), and the distinguished Senator from Georgia (Mr. GAMBRELL). I wonder if it would not be possible at this time, in view of the vote on the Dominick amendment, to perhaps arrive at a time limitation covering amendments and amendments thereto to the rest of the bill. In that way it would be possible to avoid a vote on cloture and maybe we could bring this matter to a close. Could I have the reaction of the distinguished Senators mentioned?

Mr. ERVIN. Mr. President, in reply to the suggestion made by the distinguished majority leader, I consider this bill so bad I think I would be derelict in my duty if I agreed to a time limitation.

Mr. PASTORE. The answer is "No." [Laughter.]

Mr. ERVIN. This bill would destroy the federal system of government. It would make Federal judges employment agencies for States.

This bill, for the first time in American history, undertakes to confer upon the Federal Government, acting through Federal judges, the power to determine who will be the officers, as well as the employees of States and political subdivisions of the States. I feel that would have such a destructive effect on the federal system of government that I could not agree to a time limitation.

Mr. MANSFIELD. I was trying to avoid a vote on cloture, if possible, but I wonder, in view of the situation which has developed which leads me to the conclusion that if we are ever going to dispose of this legislation it will be either the cloture or laying it aside.

What would the Senate think of the possibility of a vote on cloture tomorrow afternoon at a reasonable hour?

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. MANSFIELD. Yes, indeed.

Mr. DOMINICK. At a moment I believe we have before us the Javits-Williams amendment, as amended. I thought we could dispose of that prior to the time we get to this matter for fear that we will get caught in a parliamentary quandary.

Mr. MANSFIELD. The Senator has a good point. I thought I would raise the question to see the prospects, as long as we have so many Senators in the Chamber at this time.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. ERVIN. If the majority leader makes a unanimous-consent request that we vote on cloture at some stated time tomorrow afternoon, and in the event cloture fails to be agreed to, that this bill would be laid aside, we certainly would have no objection.

[Laughter.]

Mr. MANSFIELD. Well, under ordinary circumstances I would give that idea some consideration—not much, but some—but under present circumstances I could not give it any consideration, because we have gone this far. We ought to try at least once more. Then after that it will be up to the joint leadership to decide what should or should not be done about the pending legislation. But I hope this time cloture will prevail, and I hope to be one of the signers of the cloture motion.

Mr. RANDOLPH. Mr. President, if the Senator will yield, as long as we are talking about future dates, can the majority leader tell us if there is to be any business from the standpoint of possible votes in the Senate on the observance of Washington's birthday next Monday?

Mr. MANSFIELD. The answer is "Yes."

Mr. President, the Senator from Colorado has the floor.

Mr. COTTON. Mr. President, if the Senator will yield, I am thoroughly aware of the fact that we cannot please every Senator, but would 10 o'clock be as good for Wednesday?

Mr. MANSFIELD. Ten o'clock would be agreeable, if a motion is laid before the Senate.

Now I think I ought to yield to the Senator from New York, who has an amendment.

The PRESIDING OFFICER. The question recurs on Amendment No. 878, as amended.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is the Williams-Javits amendment now any further amendable?

The PRESIDING OFFICER. No.

Mr. JAVITS. And the text of it now is what was the Dominick amendment?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. Not yet.

Mr. JAVITS. I see no necessity for them. I hope we will have a voice vote.

Mr. ERVIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the Williams-Javits amendment, as amended. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) and the Senator from Massachusetts (Mr. KENNEDY) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Washington (Mr. JACKSON), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG), the Senator from Wyoming (Mr. HANSEN), and the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Wyoming (Mr. HANSEN) would vote "yea."

The result was announced—yeas 82, nays 3, as follows:

[No. 46 Leg.]

YEAS—82

Aiken
Allen
Allott
Baker
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fulbright
Gambrell
Goldwater
Gravel
Griffin
Gurney
Hollings
Hruska
Hughes
Javits
Jordan, N.C.
Jordan, Idaho
Long
Mansfield
Mathias
McClellan
McGee
McIntyre
Miller
Mondale
Montoya
Moss
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—3

Hart
Inouye
Metcalf

NOT VOTING—15

Anderson
Fong
Hansen
Harris
Hartke
Hatfield
Humphrey
Jackson
Kennedy
Magnuson
McGovern
Mundt
Muskie
Packwood
Talmadge

So the Williams-Javits amendment (No. 878), as amended, was agreed to.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HRUSKA. Mr. President, I call up my amendment No. 834——

Mr. DOMINICK. Mr. President, will the Senator from Nebraska yield? I have some technical amendments which really do nothing except redesignate section numbers and delete duplicated material. They are of no substantive value whatsoever, and I thought if the Senator from Nebraska would withhold, we could probably get the amendments through without any discussion.

Mr. HRUSKA. Mr. President, I yield for that limited purpose, on the stipulation that I do not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I send to the desk an amendment and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 47, beginning with line 19, strike out through line 19 on page 50.

On page 65, line 21, strike out "(q)".

On page 65, line 23, strike out "section 706 (q) through (w)" and insert in lieu thereof: "section 706(f) through (k)".

Mr. DOMINICK. Mr. President, I can assure my colleagues that there is nothing of substance in this amendment. It amounts to putting the preceding amendment in line with the remainder of the bill by changing the section numbers, and deleting duplicated language. I am willing to have a vote on it right now.

The PRESIDING OFFICER (Mr. TUNNEY). The question is on agreeing to the amendment of the Senator from Colorado (Mr. DOMINICK).

The amendment was agreed to.

Mr. DOMINICK. I thank the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

AMENDMENT NO. 834

Mr. HRUSKA. Mr. President, I call up my amendment No. 834, and ask that it be made the pending business.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Delete section 5, beginning on line 20, page 50, and continuing through line 3, page 52, and renumber the succeeding sections as appropriate.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE ON CLOTURE MOTION

Mr. MANSFIELD. Mr. President, it is my understanding that the distinguished Senator from Nebraska (Mr. HRUSKA) will have at least one major amendment, possibly two; that there may be other amendments as well; but so far, the remainder of the week on the pending measure does not appear too interesting.

It had been thought that perhaps a cloture motion would be laid before the Senate tonight and that a vote on cloture would occur on Thursday next. However, in the interest of comity, a different arrangement was arrived at, and it is now the understanding of the joint leadership that the cloture motion will be laid before the Senate on Friday and the vote will occur on Tuesday next.

May I say that so far as I am concerned—and I will sign the cloture motion this time—there will be no more cloture motions. In other words, the peak of the pending measure will be arrived at on the next cloture motion to be filed on Friday next and to go into operation 1 hour after the Senate convenes on Tuesday next.

PROGRAM

Mr. MANSFIELD. Mr. President, I wish at this time to have the attention of the distinguished Senator from North Carolina, who last year was promised at least 3 days' notice before the joint leadership would take up Calendar No. 576, S. 659, an act to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act—creating a National Foundation for Postsecondary Education and a National Institute of Education—the Elementary and Secondary Education Act of 1965, Public Law 874, 81st Congress, and related acts, and for other purposes. I hope that this notice will be sufficient, so that when we have disposed of the pending business, the next order will be S. 659, the so-called Higher Education Act of 1965, as amended.

Mr. ERVIN. I want to thank the distinguished majority leader and assure him that the notice is abundantly sufficient.

Mr. MANSFIELD. I thank the Senator from North Carolina.

Mr. ALLEN. Does the distinguished majority leader not plan, then, to have a two-track system, in view of the fact that the pending business will be disposed of, in all likelihood, one way or the other, on Tuesday next?

Mr. MANSFIELD. If possible, to keep the calendar as clear as possible, we will try, in the late afternoon, to bring up other legislation which will be controversial but only to an extent, and certainly nothing in comparison with the pending legislation.

Mr. ALLEN. But it will not be the higher education bill?

Mr. MANSFIELD. No, no. That will follow the present bill.

Mr. ALLEN. I thank the distinguished majority leader.

Mr. SCOTT. But, as I understand it, we will go on the two-track system, in the sense that we will be considering other legislation so as not to lose any further time of this session of Congress.

Mr. MANSFIELD. Yes, as it becomes available, and as we get the OK of Senators who are interested in the particular proposals under consideration.

For example, there is the bill to amend the Federal Aviation Act, S. 1821, which the leadership will discuss with the Senator from Nevada (Mr. CANNON).

Then there is a bill S. 582, to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and esturarine zones, and for other purposes, which we will discuss with the Senator from South Carolina (Mr. HOLLINGS). There is a possibility of bringing that up.

Then there is H.R. 9096, an act to amend chapter 19 of title XXXVIII of the United States Code to extend coverage under servicemen's group life insurance to cadets and midshipmen at the service academies of the Armed Forces, in which the Senator from Indiana (Mr. HARTKE) and others are interested.

There is also H.R. 7117, an act to amend the Fishermen's Protective Act of 1967, in which the distinguished assistant Republican leader, the Senator from Michigan (Mr. GRIFFIN), is interested. He reported out this bill for the Senator from Washington (Mr. MAGNUSON).

There is another one, in which the Senator from Nevada (Mr. CANNON) is interested, S. 1821, already mentioned, having to do with the Federal Aviation Act of 1958, as amended.

Those may be considered, if we can work out an arrangement.

Mr. SCOTT. My understanding, then, is that the two-track system will start tomorrow when some of these bills will be taken up tomorrow; is that not correct?

Mr. MANSFIELD. If the Senators who are primarily interested in these bills will indicate their concurrence, because we do not want to embarrass them in any way.

Mr. SCOTT. I intend to notify all the Senators on this side of the aisle who are absent today of the importance of the coming cloture motion vote on Tuesday and what it means. I would hope that we would not have any repetition of the situation where one or more Senators who are absent for a likely time will say they felt or they thought they were assured that nothing very important would happen in their absence.

I should like to point out that every bit of legislation which we are called upon to consider and to pass on is important. We are paid to be here. We are paid to vote on measures and to express our opinions on them. They are all important. But the particular cloture motion vote on next Tuesday is certainly a matter of the highest priority and I believe it would be hard to explain back home if, after this ample notice, Senators elected to absent themselves no matter how important their other business may be.

We do have paragraph 40(a), section 229, subtitled "Deductions for Delinquent Indebtedness," of the general and permanent rules relating to the Senate on page 195 of the Senate Manual for 1971.

The PRESIDING OFFICER (Mr. GAMBRELL). The chair thanks the Senator for that clarification. [Laughter].

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

Mr. MANSFIELD. May I say that I will send out telegrams, along with the distinguished Republican leader, to all Senators. I would express the hope that, come Tuesday next, 99 Senators will be on hand in this Chamber. I would also express the hope that there will be rollcall votes tomorrow.

The Senate continued with the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

Mr. MANSFIELD. May I ask the distinguished Senator from Nebraska (Mr. HRUSKA): Does he have an amendment pending?

Mr. HRUSKA. Yes, I have.

Mr. MANSFIELD. Would the Senator consider a yea and nay vote on that amendment?

Mr. HRUSKA. That would be agreeable.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, in other words, so far as the joint leadership is concerned, we will do our best to see that there are rollcall votes every day this week—tomorrow, Thursday, and Friday.

Senators should not be surprised if, cloture lacking, there are live quorum calls instead.

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I do this because I see no need for coming in early, the purpose of which was to try to speed up the legislative process to the end that we could get on to other business.

Mr. President, inasmuch as I have the floor at this moment, I should like to take this occasion to thank the distinguished Presiding Officer now in the chair, the Senator from Georgia (Mr. GAMBRELL), for his thoughtfulness and his courtesy and his understanding during the course of the debate on this most important piece of legislation.

I want the record to show that he did not, in any way, delay the consideration of this legislation. I commend him for his thoughtfulness, as I have indicated, for his deep concern, and for his cooperation with the leadership at all times.

The PRESIDING OFFICER (Mr. GAMBRELL). The Chair thanks the distinguished majority leader.

EXCERPTS FROM STATEMENTS MADE BY SENATOR HARTKE DURING HIS 13 YEARS IN THE SENATE

Mr. BYRD of West Virginia. Mr. President, at the request of the distinguished senior Senator from Indiana (Mr. HARTKE), I ask unanimous consent to have printed in the RECORD excerpts from some of his statements, made during his 13 years of service in this body, concerning major issues facing the United States.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

AGRICULTURE

The American farmer is in trouble. For two long decades he has been caught in the grips of an increasingly devastating cost-price squeeze. This squeeze has taken a terrible toll. Every year seventy thousand farm families have been forced off their land and into our already congested cities. The departure of these families from rural America has now swollen into the greatest mass migration in history. Most of these losses have not been marginal, inefficient farms, but sound, productive units that have produced efficiently down through the years and that could have continued to do so had they been given a reasonable chance. Thus, while the productive capacity of America's farm plant has increased dramatically over the past two decades, that increase has been an unrewarding one for the nation's small and medium-sized commercial farmer.

The steady and seemingly inexorable demise of the family farmer has in large measure been caused by the rise of highly organized big businesses which seek to consolidate their economic power and eventually control this nation's food supply system. With the independent farmer standing by helplessly, the gigantic corporate interests continue to absorb our productive farmland and turn it into big, depersonalized business units.

These revolutionary changes, which threaten to alter for all time the face of American agriculture, could not occur without the acquiescence and encouragement of our government. Our Department of Agriculture, with its vast and far-flung resources, has the capability to reverse this trend and to sustain the independent farmer in his fight for survival. Among these resources, of which I speak, are the half-billion dollars a year of public research funds that too often in the past have been devoted disproportionately to the immediate interests of agri-business and agri-bigness; the large procurement powers of the Department of Agriculture that could be directed toward the small and medium-sized farm operation; and, above all, the entire subsidization and taxation system that too often has encouraged the corporatization of agriculture at the expense of the smaller operators.

To a large extent, the revolutionary changes occurring in our Nation's food supply system are rooted in a theory of economic determinism which holds that the consolidation of American farms and the elimination of the independent farmer is both progressive and inevitable. I do not agree. Such a theory represents the abandonment of an historic national commitment to opportunity for people on the land. Since the founding of our country, the family farmer has remained the bedrock of both our society and our economy. If we continue to allow the economic ruin of our family farmers, along with the forced migration from farms and small communities to our larger cities, we will have destroyed a vital population balance and thereby jeopardized our economic and social well-being.

In a very real sense, American agriculture stands at a crossroads. We must decide upon the kind of agriculture and rural America we want. Do we wish to allow the continuation of present trends which will ultimately transform rural America into a vast depopulated wasteland where only a few are left to serve the economic giants engaged in the land-to-market production of food, or do we wish to commit ourselves and our resources to the task of rural development and revitalization—of bringing back economic prosperity to those millions of Americans who have faithfully dedicated their time, their energy, their resources, and their very lives to provide this country and its people with an unparalleled abundance of economical food and fiber? Our answer to this question is crucial—for at stake is nothing less than the survival of nearly 3 million American farm families.

BUSING

One of the most emotional issues confronting the American public today is the use of bussing to achieve racial balance in our schools. For many citizens bussing is a recent problem; for others, it has been an accepted part of life for many years.

Bussing has both good and bad connotations. In many rural areas bussing is needed because schools are not within walking distance of homes. In urban areas bussing has been used because of the threat to children's safety posed by congested traffic. Unfortunately there is also a sad aspect of our bussing legacy.

Just as I do not favor the bussing of children to maintain segregation in our schools, I do not favor the bussing of children solely for the purpose of achieving the proper racial balance. Bussing is a temporary answer to a serious and complicated issue.

Bussing is not and has never been the real issue. The real issue has always been the achievement of quality education for all children. In *Brown v. Board of Education*, the Supreme Court of the United States, found that black schools were inherently unequal, and that black students did not receive the quality education given to white children. Therefore the theory was developed that if the schools are integrated, the quality of education will be enhanced. We must never forget that the primary goal is to achieve a quality education for every child. To continue to remonstrate over bussing only obfuscates the real issue. To lose sight of the real goal of quality education would make the achievement of integration a hollow victory.

In the years following the 1954 Court decision little has been done to break down the barriers which gave rise to segregated schools. Instead, bussing has been used as the most convenient means of achieving integration. Rather than bemoan the lack of action to achieve quality education, we must direct our efforts to action that will obviate the need for court-ordered bussing of school children.

This action should include such elements as: equal employment opportunities, community control of schools, consolidation of school districts, remedial teaching, effective integration of neighborhoods, and a commitment by all to an open and integrated society. As the Courts have stated, "It is only when school authorities fail in their affirmative obligations that judicial authority is invoked." In other words, the fact that we have defaulted has left the courts with the responsibility of achieving quality education. That the courts are ill-equipped for this task has been exhibited time and time again.

CONSUMER PROTECTION

We are becoming a consumer-conscious society—a society in which the unorganized majority of consumers are demanding to know more about the products they buy and the food they eat. In response to this demand, the Congress has been considering a variety of proposals which are designed to provide the consumer with the information he or she needs to have in order to make intelligent purchasing decisions.

Last year I introduced the Truth-in-Savings Act, which is designed to provide the consumer-depositer with information about interest rates and the method of interest computation. If we assume that you want to open a savings account and receive a 5 percent interest rate, there are more than 100 different methods of calculating that interest. Even for the small account, those 100 different methods can mean as much as a 200 percent difference in the amount of each credited to your account each year.

I have also introduced legislation which requires that all household detergents which contain dangerous substances—such as caustic sodas—bear a warning label. During the past year, there was much confusion about the desirability of using some of the detergent substitutes for those containing enzymes. A few Government officials claimed that many of these substitutes contained substances which could be harmful if swallowed by children. To meet this particular problem, my proposal also contains an appropriation of $100,000 to develop a child-proof detergent container which cannot be opened by a child.

No substance is more vital to man's existence than food, but we know so little about what we eat. During the past several months, there have been a series of "scares" about fish, canned soup and other items. The housewife who goes to the supermarket has come to know that food labels are of little help in her pursuit of wholesome food at the best possible price.

To meet this need, I have introduced the Truth-in-Food Labeling Act. This proposal requires that all consumer food products bear a label which contains the following information: The contents of the package including the ingredient contents listed in the order of their predominance; the nutritional content of the food product (how much vitamin A, vitamin C, etc.); the grade of that product (grade A, B, C, etc.) so that the consumer can compare the quality of competing brands of the same product; a "pull date" for all perishable and semi-perishable food products indicating the date beyond which that item can no lnoger be sold as fresh; and the name and place of manufacture. Armed with this information, the consumer can make a rational decision about which product to buy.

While I do not support legislative proposals which serve merely to harass honest businessmen, I will continue to give my support to proposals which remove the aura of mystery from the products we buy.

THE DRAFT

As an increasing number of American lives are being distorted by the current liabilities in our nation's selective service procedure, Americans have been forced to examine this system more closely. Just as many others have done, I have become convinced that the present method of conscription has failed and must be changed.

A case against the draft can be constructed with relative ease. As well as its unwarranted intervention into the lives of our youths, it is inefficient. uneconomic, and increasingly unpopular. The Gates commission, initiated by President Nixon to determine the feasibility of an all-volunteer army, repudiated the assertions made by its opponents. A volunteer force does not lead to military take-overs, nor does it lead to a "poor man's" army. In fact, it does the opposite. Those that would enlist would do so because they truly desired to, and as a result would form an organization that is more capable of looking after our national interests.

But of greater importance than these benefits, is the fact that an all-volunteer army is more compatible with American tradition. In a truly constitutional democracy, the rights of the individual must be protected, and this freedom of voluntary action must carry over into our armed forces.

It is time we bring the method of staffing American armed forces into line with our professed ideals of individual freedom and personal choice. I have consistently supported the creation of an all-volunteer force because I believe it would be in the best interests of freedom. We must act now to put an end to the peacetime military draft.

THE ECONOMY

For the past three years, our economy has been hovering at the edge of depression. Unemployment remains at or near the 6 percent level; inflation continues with only slight relief; and real economic growth within the past year alone has fallen far short of even the most optimistic official predictions. And, in 1971, our country faced an international trade deficit for the first time in 83 years.

During most of those three years, we relied on an economic policy of tight money and high interest rates. But the result was that we were fighting the economy, not inflation. Traditional monetary and fiscal policies have been a failure in meeting the needs of our 1970's economy.

The recently enacted seven percent investment tax credit is a prime example of the shortsightedness of our economic thinking in recent years. In 1969, I opposed the repeal of that tax because I believed that the tax spurred business investment which would in turn expand the economy. Nevertheless, the tax was repealed. Now, two years later, after experiencing a sagging economy, the Congress reinstated the investment tax credit.

We cannot tolerate an unemployment rate of six percent, nor can we rely on the discredited cure of undirected government spending. Rapid changes in our economy has left millions with outmoded skills and with little prospect for employment. The only answer to the need for both jobs and a stable economy is for the Federal Government to create 2½ million well-planned, permanent new jobs in the public sector. At the same time, tax laws and trade policies which encourage the export of jobs must be changed.

To meet the challenge to our economy, I have reported that the following steps be taken:

(1) Enactment of the foreign trade and investment act which I introduced last year. This proposal will help to protect American jobs while promoting equitable foreign trade.

(2) Enactment of a full employment proposal which will assure that anyone who does not possess the skills needed by the private sector will be given a public sector job.

(3) Enactment of a 10% increase in social security benefits to bolster the purchasing power of the elderly.

(4) Abandonment of the present oil import quota system which forces consumers to pay outrageously high prices.

(5) Adoption of a balanced federal budget to reduce the severe strain on credit markets which is crippling the housing industry, small business, and state and local governments.

(6) A full study of our tax laws to assure that all inequities are eliminated, and an increase in the personal exemption to $1,000 to assist those in the bottom half of the income spectrum.

(7) Enactment of federal legislation which will encourage a new basis for the financing of education and thus relieve the property owner of a major portion of the burden of real estate taxes.

What I seek is a firm national commitment to jobs, growth, and the development and use of new technology. Only with this profound commitment does our economy have a chance.

One of the most crucial problems that we are facing today is that of providing adequate education for the people. In too many communities throughout the nation, public education is being confronted with overcrowded classrooms, underpaid teachers, and inadequate facilities. To solve these problems, drastic reforms are needed.

At least two reforms are required. First, the burden of financing education must be shifted from property tax revenue to taxes that are based on the ability to pay. By doing this, the States would assume a greater share of the financing of education. Second, the Federal Government should allocate additional revenues to both State and local governments for support of education. This can be accomplished by utilizing a method such as I have proposed in the Senate of revenue-sharing between the States and the Federal Government.

New and innovative methods for financing higher education are needed. It is senseless to make it more difficult for the child from a low or middle-income family to attend college. Any rise in the cost of higher education would be a step in the opposite direction. The over-simplified rationalization that it is the student alone who benefits from higher education and therefore he alone should pay the cost is a myth. It is not only he but all of society who benefits from his education. Without well-educated, well-trained people, our society will make little progress. Education is not an expenditure, it is an investment.

In addition to committing ourselves to a long-term means of providing revenue for all levels of education, we will have to provide emergency financial assistance to those school systems which are now on the brink of financial disaster. Whether it be in the form of government loans or outright grants, we must act now to keep our schools open and to raise the quality of education.

Since I have been in the Congress, I have introduced a number of proposals in the field of education. The following have been accepted and are now part of the law.

(1) The work-study program, which allows students to supplement their learning with practical experience;

(2) The guaranteed student loan program, affording the student himself an opportunity to borrow and providing government support for his interest payments;

(3) The "opportunity grants," which form the third part of the student assistance program;

(4) The improvement of the overseas teacher salary schedule, solving a problem which had caused great friction in the Defense Department schools for nearly ten years;

(5) The Adult Education Act of 1966, which was the first law to provide Federal assistance to adult education programs;

(6) A teacher's tax reduction for continuing education expense; and

(7) The new G.I. educational opportunities.

I am fully committed to the support of programs such as the Higher Education Facilities Construction Act, the Library Services Act, the National Defense Education Program (including its student loans), the Teacher Corps and a broad scope of assistance in the vital work of upgrading the educational level of people of all ages and backgrounds.

The Nixon administration has consistently tried to tell the American people that a modest increase in our investment in education is somehow more inflationary than a sharp increase in the spending for military gadgetry and for bailing out financially unstable corporations. It is time to establish our priorities. The Federal Government must assume a larger share of the responsibility for educating the people.

I will continue to support programs which offer assistance to education at all levels, for all the people. We must move with courage and imagination to solve the present educational crisis.

PROBLEMS OF THE ELDERLY

As a member of the special committee on aging of the United States Senate, I have been in a position to witness the misery and suffering that confront the elderly American. What I have witnessed leads me to one conclusion—we must make a national commitment to end the social and economic injustice that presently afflicts 20 million senior citizens, and will affect millions more in years to come.

The elderly of this country are entitled to a life of dignity and economic security. They have the right to expect that the country they served through their most productive years will not forsake them in their time of need. I believe that every older person should have enough income to buy nutritious food, decent housing, adequate clothing and proper medical care.

To that end, I have introduced legislation to provide the elderly Americans with money they need—and will spend—for food, clothing, and other basic necessities. This will provide an entirely new floor of economic protection for the elderly. The main thrust of the legislation is to provide for a 10% increase in social security cash benefits, an increase in the amount of money an older American can earn without suffering any loss in social security benefits, coverage under medicare of prescription drugs needed to treat chronic illnesses, and reduction in the waiting period for disability benefits from six months to three months. This legislation will provide the economic independence for older Americans that is so essential if we are to break down the last segregation in America—segregation of the aged.

In addition to economic obstacles, major obstacles, major barriers for the elderly exist in the areas of health, housing, transportation and other social services. If we are ever to have a better world for the elderly, we must provide the resources and meet the service as well as the economic needs of the elderly. There has been some experimentation in providing services for the elderly, but the existing programs are inadequate. Therefore, I have introduced in the Senate "the Comprehensive Older Americans Services Bill"—a broadly based and comprehensive effort to meet the needs of the elderly. It will establish programs to provide a full scale of health, education and social services for the elderly. This legislation is aimed at the coordination of the presently existing but fragmented services and the creation of new programs to deal with those needs that have been neglected in the past.

Among the key features of the Comprehensive Older Americans Services Bill are: 1) strengthening the role of the Administration on Aging. 2) expansion of services under the Older Americans Act. 3) low-cost transportation for the aged. 4) Expansion of work service opportunities, including strengthening the retired senior volunteer program and the foster grandparents programs. 5) Effective coordination of Federal aging programs. 6) A pre-retirement training program. 7) Health, nutrition, education and other social services. 8) An improved system of delivering services to older citizens, and meaningful employment opportunities. 9) Gerontological centers to study the aging process, and 10) senior citizen community centers.

I have also introduced legislation to eliminate the maze of Governmental bureaucracy encountered by the elderly American in his retirement years. Unfortunately, the elderly citizen has limited expertise in coping with the intricacies of programs designed for their well being. This situation is serious because these programs are essential to the quality of life of the older American. Furthermore, it is clear to all who investigate the matter that the elderly need assistance to secure benefits under Government programs. Yet they rarely find assistance available. This lack of aid often results in the loss of benefits.

To remedy this crisis, I have introduced a legislative proposal which spans a broad spectrum, including courtroom and administrative advocacy, simplification of the technicalities of Federal and State programs, and research and implementation of remedies to problems emanating from Governmental programs which do not allow the elderly to live in dignity. In essence, I have called upon the Federal Government to develop a national effort of forceful advocacy on behalf of senior citizens.

The "Older Americans' Rights Act", "the Comprehensive Older Americans Services Bill" and the "Legal Services for the Elderly" are examples of the type of action that is imperative to resolve the crisis faced by the elderly American.

The needs of the elderly have been neglected for too long. We must make economic and social justice for the elderly a reality. We need only the will and the commitment to concentrated, purposeful action.

ON THE ENVIRONMENT

Today we are confronted by an environmental crisis—a crisis so grave that it threatens the health and life of every human being. For generations now, we have been waging a relentless assault upon nature. In the mistaken belief that they will always be renewable, we have spoiled our land and the air above it as well as the waters below that quench our thirst. As our technology and standard of living have continued to grow, we have dispersed ever larger quantities of diverse and novel materials, from city and farm alike, into our life support system.

These pollutants remain in our environment, impairing both our economy and the quality of our life. They can be carried long distances by air or water or on articles of commerce, threatening the health, livelihood, recreation, and happiness of citizens who have no direct stake in their production, but who cannot escape their influence. This grim set of circumstances could have been avoided had we remembered that a war against nature cannot be won by any aggressor—not even man. Our actions have violated the most fundamental environmental premise—namely, that man is an interlocking part of the total environment, answerable for the quality and livability of the Earth's mantle of air, water, and land.

If we are to finally control the pervasive nature of pollution and secure our return to the environmental heritage we somehow lost along the way, we must learn to harmonize with those natural forces which control, modify and balance the environment. It is not easy for so successful a people to accept the need for limitations—yet restraint, care and partnership must come if we wish to insure the quantity and quality of our resources. The foundation stones of a rational, national environmental policy revolve around five strategic problems.

First, we must establish a national land use policy. This should take the form of national land zoning because the use of any land parcel in one place has an impact for good or ill elsewhere. Such a policy would serve to protect our Nation's flood plains and prevent the unwise development of these resources, which in the past, has caused such problems as flooding, erosion, and water pollution.

Second, our nation must commit itself to the principle of optimum development. In the past most of our planning has been designed to achieve maximum levels of development. The hard reality is that we have now reached that level of material development and consumption whereby each new increment diminishes the quality of life. Therefore, progress must now be measured in terms of quality, rather than quantity.

Third, we must seriously consider the need for some form of population limitation. Nearly all serious human ecologists agree that not only many foreign lands, but the United States as well, are severely overpopulated. These men plainly state that in the absence of population control, additional food productivity will not gain more than a decade before consumption will once again overtake the gains.

Fourth, it is imperative that we establish a national energy policy. Our power problems stem not only from the misuse of our non-renewable resources, but from their over-use as well. Today these irreplaceable resources are limited and they are diminishing at a rapid rate. Each year we expend nearly 1.500 trillion kilowatts of power. It should be evident that this diet cannot be sustained in the United States and that the problem will be disasterous if and when other nations reach our level of consumption—as they seem determined to do.

Finally, we must actively search for alternative energy sources. While atomic energy may for a time fill part of the growing fossil fuel vacuum in large scale power production, we must realize that even this source of fuel is limited and diminishing. Therefore, research is needed to develop renewable energy sources. Concurrent with the development of any new energy source, however, must be a commitment to place consumption at levels which permit the disposal and reuse of all by-products including waste energy.

These, then, are the building blocks with which we can construct a rational, national environment policy. To be sure, there are other tactical needs: We should greatly accelerate recreation area acquisition and development near urban centers; we need a major revision in water development policy; we must provide more Federal support for State and local outdoor recreation programs; and, finally, it is imperative that we develop a far more comprehensive Federal program of environmental pollution abatement.

The benefits of effective and lasting pollution control are indispensable to the health and life of every human being. Cost can no longer be used as an excuse for inaction. We must provide a decent world for our children to live in. Above all, we must act today, for tomorrow will be too late.

FOREIGN AFFAIRS

United States foreign policy has been conducted in a manner dangerous to democracy in the United States, to the freedom of its people, and to their welfare. The President has acted almost unilaterally in the field of foreign affairs. While the exact extent of Congress' role in the formation of foreign policy is not clear, it is clear that Congress does have a constitutionally vested role and that in two important areas of foreign affairs, that of the war powers and of approving treaties, Congress' role is exclusive.

Time and time again Congress has discovered that U.S. foreign policy is determined or conditioned by actions that it neither directly authorized nor implicitly knew. Low level military and civilian officials have frequently undertaken a course of action, attributed in only the most theoretical sense to Presidential decision, which in incremental steps has determined the shape and direction of U.S. foreign policy.

Southeast Asia is not the only place the activities of minor U.S. officials, unknown to the President or Congress, are determining action which will shape our foreign policy. Although everyone now says that we cannot be the world's policeman, we have in the past, and I expect are presently, maintaining a constabulary for small South American countries. Not only does the U.S. support South American armies and police, but U.S. soldiers have on occasion engaged in actual combat against native rebels.

The control of local affairs be the exclusive province of local authorities. U.S. intervention in a situation whose eventual outcome and underlying justice is far from clear, is extremely unwise.

There are those who maintain that this philosophy "smacks of neoisolationism." Instead of neo-isolationism I believe that we have gone from isolationism to interventionism without even having arrived at internationalism. Our past isolationism and our present interventionism results from the same sense of moral and national superiority. It is my firm belief that we should not seek to end U.S. involvement in world affairs, but to seek an involvement that does not abuse our power abroad nor impair our free institutions at home One does not have to be a pacificist to find something amiss in the charge of the light brigade.

I believe in a strong President—and a strong nation, for that matter. However, I seriously question the wisdom of concentrating foreign policy decisions in one branch of government, or the practice of diffusing power throughout a bureaucracy to be arbitrarily exercised in darkness. Decisions involving the continued existence of this country must be made by people accountable for their actions. We have an elaborate network of safeguards to protect a person's liberty at home but no procedural checks on millions of American soldiers being sent abroad to die.

The suggestion that certain kinds of actions be undertaken only with congressional approval and with the knowledge of high governmental officials, would strengthen rather than weaken the presidency. If the United States is to exercise a more reasonable, reasoned and responsible foreign policy then we can do no less.

GUARANTEED JOBS

The economy is the dominant issue in 1972. News of trade deficits, budget deficits and rising prices fill the front pages of our newspapers. But the most important subject for many Americans is jobs.

We have a 6 percent unemployment rate in this country today, the highest since 1961. More than 5 million people are out of work and there is little hope that the private sector can expand fast enough to provide the necessary jobs.

For the past 35 years, we have assumed that the answer to a high rate of unemployment was either tax reductions or additional Government spending. Inevitably, either of these approaches has caused inflation and higher prices, which in turn have led to renewed unemployment. When the Government tries to slow inflation with higher taxes and/or reduced public spending, it may sometimes succeed in keeping prices down—but it also produces unemployment.

We are pursuing such a policy now by permitting a painfully slow expansion of the economy stimulated by tax reductions. Even if successful, this policy can be pursued for no more than a year or so before we are once again forced to confront the problem of inflation by slowing down the economy and thus producing higher unemployment.

It is time that we broke with the misguided policies of the past and adopted a new economic game plan which will give us full employment without substantial inflation. By full employment I do not mean a 5 percent rate of unemployment or even a 4 percent rate, but zero long-term unemployment.

If we are to meet this goal, we will have to provide more than millions of new jobs. Of the 5 million people currently unemployed, most are unskilled and therefore unable to get a job in our increasingly-skilled job market. Another smaller but equally significant group of unemployed are highly skilled but because of changes in national priorities or unfair competition from abroad have lost their jobs and are unable to find new ones.

Experience has made it clear that the private sector cannot expand to provide jobs for these millions of able-bodied unemployed without at the same time causing inflation. The answer lies in creating 2½ million new public sector jobs—jobs financed by the Federal, State, and local governments. Not temporary jobs, but permanent jobs. Not make-work jobs, but jobs which give an opportunity for self-pride and self-advancement.

Some may say that the cost for these new jobs will be excessive, but such critics forget that we are already paying the unemployed through unemployment insurance and welfare programs. By paying the able-bodied unemployed for socially-useful work, we can enhance the moral fiber of the Nation, stabilize and invigorate the economy, and all at a cost of only $6 billion—one-fourth of what the Defense Department spends on research alone and less than one-tenth of what we will spend on social welfare programs this year.

We can think of this $6 billion as an investment, because in return, we could look forward to true economic stability, with no need for recurrent recessions and inflations; a faster rate of long-term economic growth, since all of our resources would be used; and a long-awaited reordering of our national priorities.

My proposal is a bold one, but it will mean jobs for the unemployed and I believe that guaranteed jobs are better than guaranteed welfare. You cannot build hope on a welfare check. You can only build hope on a pay check.

HEALTH CARE

Every American has an undeniable right to the best health care available without regard to geographical origin or ability to pay. In the most affluent nation of the world, we have a health care system which is both inefficient and inadequate. With health costs rising at a rate of 12 percent each year, decent health care will be beyond the reach of many Americans unless we act now to adopt a national health insurance program.

I endorse a program of national health care which encompasses more than the mere payment of doctor bills and the reimbursement of hospital costs. It must also include improvement in the means of delivery and the availability of health care, as well as providing preventive health care programs.

Both the present private and public forms of health insurance have failed to curb the skyrocketing costs of the medical system. Under the existing system, 34 million Americans under the age of 65 have no health insurance whatsoever; 2 in every 5 have insurance to cover bills outside the hospital only; and more than 38 million have no surgical coverage.

No statistics can convey the misery which is felt by those individuals and families unable to meet their health bills. We can no longer afford to have one standard of health care for the wealthy and another standard for those who are not. Nor is the current crisis limited to the poor. Thousands of middle income families have been forced to deplete their life savings to meet unexpected major medical costs. Tens of thousands more are foregoing regular doctor visits and proper preventive medical care because they cannot afford the cost.

Not only are Americans confronted by staggering economic problems as a result of the present medical situation, but they are also paying for unsatisfactory care. The lack of standard controls over medical care has often resulted in horrid, below standard care. The national shortage of health manpower means that even if a family can afford care, it is not always available. An effective national health insurance program would help to correct these failures of the system and to insure that health care functions on behalf of the consumer, not just the provider of the services.

A single national health insurance plan would serve to coordinate and standardize the services now fragmentally administered by medicare, medicaid, and private insurance.

Many claim that this Nation cannot afford to provide medical benefits for all its citizens. I would contend, however, that the economic condition of this country would be strengthened rather than weakened by a national health insurance program. The program, by offering medical care to all Americans, would enable millions more to maintain healthy conditions and to engage in productive work. Quality health would then result in an increase in production and GNP. I firmly believe that medical research and health care will pay off not only in lives but also in dollars. Statistics demonstrate that between 1944 and 1967, improved medical research has saved 8 million lives and, thereby, $102.5 billion in incomes of wage earners, and $12.8 billion in Federal income and excise taxes paid on this income.

We must adopt a national health insurance program which will cure the sickness of our existing health care system.

Few of us realize that there are more than 6 million retarded children in the United States today. Until recent years, it was assumed that, once a retarded child was assigned an intelligence or behavioral level, he would stay at the level for the rest of his life. Fortunately, there are now many programs available to foster the mental and social growth of the retarded.

One such program has established more than 20 university-affiliated centers to train workers who then are sent to staff the hundreds of community mental health centers throughout the country. During 1971, the administration failed to request any funds for the operation of these 20 centers despite the fact that Federal funds were used in their construction. An amendment which I sponsored to add $8.5 million to the budget for this purpose was passed by the Senate.

The problem of mental health is a growing one. While the proportion of 10 to 14 year-olds in our Nation's population is increasing by more than 10 percent over the next decade, the proportion of children in this age group who are in mental hospitals will grow by more than 100 percent. If we are to meet this challenge, we must undertake a massive Federal program of assistance in the training of qualified personnel and the establishment of mental health.

HUMAN RIGHTS

A major flaw in the American democratic system has been the failure to secure true equality for all American citizens. In the past few years this defect has been recognized and attempts have been made to rectify the situation. The 1960's saw considerable efforts by the Congress to achieve that true social and economic equality which has eluded the minority groups of this country. In the last decade the right to equal treatment was extended to such previously neglected areas as employment, housing, public accommodations and voting.

I am proud to have had the opportunity to support that crucial and much needed legislation. As a freshman Senator, I supported efforts to expand and strengthen the Civil Rights Commission. In 1960 and 1964, I was pleased to vote to support and co-sponsor legislation to outlaw discrimination in public accommodations and employment practices, respectively. In 1968, I supported civil rights legislation designed to eliminate discrimination in the sale or rental of housing, and in 1970 I voted to extend the Voting Rights Act.

In addition I have proposed legislation to alleviate the economic obstacles encountered by minority groups. My minority mortgages bill and other complementary pieces of legislation opened up a source of home financing for the applicant against whom there was private financial discrimination. The bill was designed to assist families who desired to purchase homes but were unable to do so. I felt that such action was necessary to ensure that our existing housing machinery be geared to overcome the discriminatory practices which prohibit many fellow citizens from enjoying home ownership.

To further remedy economic injustices confronting minorities I have supported legislation to increase the number of non-white workers in construction and other trades. In the present Congress, I am a co-sponsor of major legislation to enhance the role of the Equal Employment Opportunity commission in eliminating discriminatory employment practices both in the private and public sector.

While I have no doubt such legislation has been imperative, I am under no illusion that it has been the panacea for all the ills that years of discrimination have heaped upon blacks and other minority groups. The cold statistics show, even with the substantial civil rights legislation of the past decade, that minority groups of this country have experienced little change in their economic and social positions. Nonetheless, I feel that we must continue to strive to develop comprehensive efforts to provide equal opportunity.

It is clear that unless there are programs to provide food, health care, low-income housing and jobs—the legislation already enacted will serve little functional purpose.

Proposals that I have developed for full employment, welfare reform and health care will supplement the existing legislation designed to promote equality. This legislation will significantly affect the minority groups who comprise staggering percentages of the unemployed, who have been forced to turn to public assistance, who suffer from a lack of adequate health care.

It is my opinion that only comprehensive action can eliminate the vestiges of discrimination of the past. However, this can only happen if it is clear that there is a firm and unswerving dedication to the advancement of civil rights. If we are to achieve a society in which all can share in the Nation's abundance, then we can do no less.

LABOR

The working men and women of America are presently confronted by serious problems. They are constantly troubled by rising unemployment, the continual drain on American jobs, the problems of conversion to a peacetime economy; and they often question if their contribution to the prosperity of this country is understood or appreciated.

For the past several years, the Vietnam war has been at the root of our economic problems. The legacy of that conflict is a six percent unemployment rate and an economy which appears on the verge of collapse. We must begin now to plan for a peacetime economy. The United States has the ability—in both human and material terms—to prosper without depending on war (or the threat of war) to spur the economy.

To take these necessary steps, I have offered proposals that would facilitate investment in new plants, provide for development of new technology, and establish appropriate education, training and placement for workers and veterans who may be displaced by conversion to a peacetime economy. In addition, these proposals will aid those workers currently displaced by foreign investment. The Foreign Trade and Investment Act I have introduced to eliminate the advantages of foreign investment is the first complete legislative program to bring together in one bill the reshaping of the tax, trade and other Federal laws to challenge the international crisis that now threatens American jobs.

Furthermore, my proposal for full employment with the Federal Government providing money for nearly two million new jobs will facilitate the coordination and direction that will be necessary to meet the needs of a peacetime economy. This legislation will also alleviate the heavy burden of unemployment and will end the give-away of American jobs and tax dollars now created by tax laws that encourage foreign production and technology transfers by U.S. firms.

In addition to providing for full employment and eliminating the drain on American jobs caused by international competition, there are other issues affecting the working man and woman that cry out for resolution. The problems of pensions, health insurance and disability benefits and programs are all of crucial interest to the worker.

A particular concern of American workers is pensions. In many cases when a worker retires he probably has more in pension rights than he does in his bank account. My own interest in this problem dates from 1964 and the failure of the Studebaker Corporation pension program in South Bend, Indiana. When Studebaker closed its doors in South Bend, the workers' pension plan was inadequate to compensate those who had claims against the pension fund. The effect was disastrous. Thousands of employees lost significant amounts of their hard-earned money. Unfortunately, todays' economic uncertainties fairly well guarantee that there will be a dramatic upturn in the number of pension plan failures in the next few months.

To remedy this situation, I have introduced legislation in each successive Congress to establish a Federal insurance program which would be self-financing. The proposal I have suggested would assure the worker of pension security without the expenditure of one cent of public funds. It would protect the worker's investment in a pension fund just as his savings are insured in a savings bank.

Another situation often overlooked is the problem of the worker who elects or must necessarily retire before he become eligible for social security benefits. I have introduced legislation to prevent the penalization of early retirees. In this same vein, I have offered legislation to aid workers suffering from disability and therefore must retire.

An example of this type of legislation is my proposal to adopt a more realistic criteria for determining the eligibility of a miner for black lung disability benefits. Although Congress passed the Federal Coal Mine Health and Safety Act establishing disability compensation for our Nation's miners suffering from pneumoconiosis, the present interpretation has resulted in a refusal to grant compensation if the miner is able to hold some job, some place. We owe it to the miners and thousands like them in other dangerous occupations to see that their well-being is protected. The legislation I have introduced is directed to that end.

Fair play for the worker demands that action be taken on other fronts to ease the economic strain he faces. Health insurance, consumer problems and automobile insurance are examples of the type of issues that concern the worker. He realizes that high insurance and costly but inadequate health plans can cripple him economically. Proposals for no-fault automobile insurance, comprehensive health care, together with the Truth-in-Savings Act and the Truth in Food Labeling Act which I have introduced, are directed toward easing the intolerable economic burden confronting the worker.

In addition to providing employment and curtailing the export of American technology and jobs, efforts must be made to resolve the other issues affecting the worker's economic and physical well-being. We must strengthen our job health and safety laws; and develop adequate health and insurance plans.

Working men and women are the cornerstone of our economy and of the prosperity of our democratic society. They deserve no less than just and fair treatment.

ON LAW AND JUSTICE

American society is today experiencing a catastrophic breakdown in the orderly processes of "law and justice." As a former deputy prosecutor and mayor of a major Indiana city, I am greatly troubled and concerned by the fact that in many places our citizens are not secure in their homes, and are not safe on our streets. We must all, I think, admit that our system of crime control and criminal justice simply is not working, and the situation is becoming more acute every day.

The crisis affects all phases of the criminal justice system. Consequently, attempts to alleviate the problems in one sector will have little impact until comprehenive efforts are made in other sectors.

Most of the approaches currently under consideration are short-sighted and ineffective. For example, some have suggested that the way to curb crime is to limit the availability of firearms, while others have suggested that citizens resort to the use of firearms to protect themselves. I do not agree with the former position as such action would be unfair to gun collectors, legitimate sportsmen and farmers. On the other hand, I do not believe that the only answer to a rising crime rate is for citizens to carry weapons with which to protect themselves. I believe the protection of the people is properly left to the police.

One of the proposals I have made would directly aid state and local law enforcement officers. A policeman in our modern society must be a specialist in sociology, law, self defense, and the use of highly sophisticated technical equipment.

A vital feature of my legislation is the inclusion of criteria that most law enforcement officials consider important to any evaluation of a police department's caliber. First, there must be standards established for recruitment and selection, including established minimum standards of educational aptitude for police work. My proposal would also stress the need for comprehensive training. A recent study found fewer than 15 percent of all law enforcement agencies provide immediate recruit training for officers.

Another feature of my proposal calls for an examination of the compensation and benefits that are provided for law enforcement officers The existing pay scales continue to prove incapable of attracting men who can meet the high standards that are required by our society, but little has been done to rectify this deplorable situation.

A third phase of the criminal justice system that needs to be probed is our correctional institutions, which are in need of reform. We must face the fact that our prison system makes criminals out of inmates. We must have a system that truly rehabilitates offenders.

The recent prison tragedies have made us aware of the severe crisis that exists in the correctional institutions of our nation. We must demand institutions that foster the development of those incarcerated into responsible members of their communities.

The innocent victim of crime is too often neglected in the discussion of our criminal justice system. Most victims have limited means to compensate for economic losses due to criminal attack and this economic penalty contributes to the dangerous and widespread belief that crime pays for the criminal, while the government is insensitive to the needs of the victim.

I have proposed legislation to help eradicate this major effect of crime and ease the oppressive economic effects of a criminal conduct in our society Under my proposal, any person injured or killed by one in violation of any penal law of the United States or any state would be entitled to receive benefits for loss of earnings, medical, and hospital costs and expenses for any other services or special care necessitated by the injury.

If America is going to stem the tide of lawlessness, then the measures I have outlined must be implemented immediately. Our society can no longer tolerate the serious conditions created by the failures of our criminal justice system.

NARCOTICS

The specter of heroin addiction haunts every community in the Nation. It is a scourge which afflicts as many as 300,000 people—nearly 25 percent of them teenagers and 50 percent of them in New York City alone. Americans are waking up at a time when every social and economic level of our society is caught in the grips of this menace.

We, in Congress, and elected officials on the state and local levels throughout the country have been decrying the spread of heroin addiction for years. Now, it is time that we acted. The history of the drug problem in the United States makes one fact abundantly clear: There has been a lack of leadership in the field of drug abuse.

It is this lack of commitment to which we must address ourselves. I propose that we establish a national drug abuse program. While the long-range goal of this effort must be to wipe out drug addiction, its immediate goal should be to provide some form of effective treatment for every addict in the United States today. To inaugurate the National Drug Abuse Program, and to emphasize that this effort is not limited to the Federal government, bust instead is a coordinated local, state and national attack, I propose that a nationwide conference be called at which representatives of all levels of government and representatives of interested community groups would plan the program.

Heroin addiction is a community problem; we cannot solve it from Washington, nor can it be solved from any of our state capitals. If we are to treat addicts, we must treat them in the community in which their addiction began, and it is back to the community that the addict must return to function as a productive citizen. We cannot sweep him under the rug, for he will return to haunt us. Every community must be able to provide all of the services needed by its addict population.

The role of the Federal government must be to provide leadership, money and expert assistance. These resources should be made available to officials in state and local governments on a rational and coordinated basis. I envision the following programs as major elements in the National Drug Abuse Program:

Federal financial assistance to assist in the construction and operation of community narcotics rehabilitation centers, treatment programs, methadone maintenance centers, and detoxification centers.

Federal financial assistance to support research in new and improved methods of drug abuse treatment, rehabilitation and prevention. This research should include demonstration programs to test the effectiveness of new techniques of treatment. I do not rule out the possible use of a limited heroin maintenance program for those older addicts who cannot be motivated to succeed in any other rehabilitation effort.

Federal assistance to state and local governments in providing expert assistance to establish community treatment and prevention programs.

Federal financial assistance to school districts and colleges which undertake effective drug education programs.

A cooperative effort among Federal, state and local government officials to wipe out drug traffic within the United States.

A similar cooperative effort to exchange drug abuse information pertaining to treatment and prevention programs.

Federal task forces which will work with local law enforcement personnel to crack down on drug trafficking.

Reorientation of Federal and state laws pertaining to drug abuse so that trafficking is discouraged and the addict is treated as a health problem and not as a criminal.

A massive effort on the part of the Federal government to effectuate bilateral and multilateral agreements which will eliminate a major portion of the international traffic in dangerous drugs.

It is time that we mobilize every available resource in this country to combat what is certainly one of the major menaces facing our society. The fight to eradicate drug abuse will be a costly one, but these costs will be minute compared to the ultimate costs to our society if we fail to act.

A PEACETIME ECONOMY

For the past several years, the Vietnam war has been at the root of our economic problems. The legacy of that conflict and of the shortsighted is a six percent unemployment rate and an economy which appears on the verge of collapse.

We must begin now to plan for a peacetime economy. The United States has the ability—in both human and material terms—to prosper without depending on war (or the threat of war) to spur the economy.

A recent Harris poll showed that the American public is convinced we must firmly confront the problems of conversion from a wartime to a peacetime economy, and resolve the serious domestic crisis that necessitates our reordering America's priorities. This attitude calls for a substantial re-orientation of attitudes and action. We must divert our efforts from policies and thinking which are insufficient to maintain full employment and inadequate to provide assistance to those who have lost their jobs.

The task is formidable, but it can be accomplished. Expert analysis from the arms control and disarmament agency, the urban coalition and former Budget Director Schultz suggests that annual military spending could be reduced by 18 to 36 billion (including savings from complete military disengagement from Vietnam) without affecting our ability to deter nuclear attacks and to defend our allies.

Although we can no longer afford to export American jobs or to support military activity overseas, little more than token gestures have been undertaken to prepare for the successful adaptation from a war to a peace economy. The need is for innovative action now.

I have offered proposals to facilitate investment in new plants, to develop new technologies, and to provide appropriate education, training and placement for workers that will be displaced by conversion to a peacetime economy. In addition, those proposals will also aid those workers currently displaced by the tax advantages in foreign trade and investment. The foreign trade and investment act of 1972, which I introduced to eliminate such advantages, is the first complete legislative program to bring together in one bill the reshaping of the tax, trade and other Federal laws to challenge the international crisis that now threatens American jobs. In addition, my proposal for full employment with the Federal Government providing nearly two million new jobs will facilitate the coordination and direction that will be necessary to meet the needs of a peacetime economy.

If our country is to avert a serious national crisis, action on the proposals I have mentioned must be immediate. No problem is more vital to both workers and consumers that the conversion from a wartime to a peacetime economy. The social and technological obstacles are substantial, and the resources we are allocating are clearly insufficient. We must act now, or we will be forced to react to a dilemma of almost unmanageable proportions.

SAVING JOBS

To survive in the rapidly changing world economy of the seventies America must take a new, hard look at its work trade position. Today, we face an international trade crisis which threatens the livelihood of most Americans and the status of this country as a world industrial leader.

The foreign trade and investment act of 1972 provides dramatic new tools for meeting this challenge. The events of the late sixties, and the more sweeping ones of recent weeks affecting our currency and balance of payments, prove that the old remedies have not worked. The textbook theories of the thirties and forties no longer apply in today's world of international trade. The pet explanations and panaceas of the past have not been effective in treating our trade sickness.

The danger signs are unmistakable: heavy unemployment continues; our factories work well below capacity; inflation continues unabated—all at a time when other industrial nations are enjoying little unemployment, near peak production, and rising standards of living.

If enacted, this bill, which I introduced in the Senate, would be a giant step toward restoring America's economic health and regaining balance in international trade and investment. Without it the heavy export of jobs, technology and capital by companies based in this country, will continue unabated. As well, the torrent of imports that has already wiped out whole industries will gradually erode our industrial base.

This present trend has been encouraged by our present trade and tax laws which make no requirement that free trade also be fair trade.

The foreign trade and investment act of 1972 seeks to protect the best interests of America against the worst practices of international corporations. It seeks to meet the challenge of foreign imports by better insuring that American Manufacturers can compete equitably with foreign producers.

American taxpayers want a fair chance to reap the benefits of their tax dollars spent on American technology. But as fast as the technology for space or electronic equipment is developed and the patent is received, that technology is often transferred abroad—with the help of U.S. tax laws and the U.S. Government. This bill treats this problem.

American consumers want to buy imported products from time to time, and this bill will not stop such products from entering the country. But American consumers want to know where the imported unit and its parts were made and not be fooled by an American brand name on the front. Americans want to know that the American price they pay is related to the cost of the product—and not a windfall for importers and retailers.

There is no dispute that American businessmen and workers want to make goods in America for sale here. No one wants an economy of salesmen, for we know that a nation cannot be strong unless it has a strong base of productive industry. Right now, even though only 73 percent of U. S. industrial capacity is being used, the growth of many major companies continues and their profits increase because their production operations are abroad.

We see no reason to encourage this production abroad. Under current law, a U. S. Corporation with a foreign factory receives credit against the U. S. tax for tax payment to a foreign government. But that same corporation cannot take credit against its U. S. tax for the State taxes it pays. The tax provisions of the foreign trade and investment act would end the giveaway of American jobs and tax dollars now created through holes in the tax law that encourage foreign production and technology transfers by U. S. firms.

If our economy expands, the rest of the world can continue to participate on an increasing basis. If our economy declines the rest of the world must understand that America's problems at home need attention.

Those that suggest that the United States become a "service economy" have been unable to explain what they mean. They seem to think that U.S. business wants to leave the country, that auto-workers do not want to make cars, that steelworkers do not want to make steel, that textile workers, garment workers, shoeworkers, electrical workers, and aircraft employees will gladly give up their jobs. "Service" employment is not possible without a production base. When a plant shuts down, the people who work in the stores in the community lose their jobs. Service employment declines. The tax base is eroded, and public service jobs are lost. American workers are important to the United States—all kinds of workers, unskilled and skilled, professional, services and technical. Yet the more the United States ignores what has happened from the transfer of production out of the country since 1965, the less chance it will have to bring about full employment in the 1970's.

TRANSPORTATION

Transportation is universal. It is the movement of goods to market, of people to jobs and schools and cultural facilities; it is railroads, trucks, water carriers, airplanes—it is the auto, the bus, the subway. It is also pollution—pollution of the air, pollution of the eardrums, pollution of the environment. But these are only the superficial manifestations of transportation. More fundamentally, transportation is as vital and as powerful a shaping force of economic life and of the quality of our society as any other single factor. Without transportation, the American economy simply cannot grow and prosper.

And just as transportation is crucial to a growing economy, so too does transportation exert a great influence on life itself. Our cities have been shaped and reshaped by transportation. It would be as inaccurate to separate transportation from the urban problem as it would be to separate it from housing or education or employment. In a good analogy, someone has likened transportation to the body's central nervous system, in that it holds together all of the pieces and separate functions of the society and economy.

Despite its crucial importance, the American transportation system today is in serious trouble. And as I look ahead, and attempt to take into account the enormous additional requirements that will be imposed upon it, I am deeply concerned that, absent major new initiatives, the system will crumble.

The 1970's represent a watershed in transportation. This can be the decade of crisis in American transportation. It could also be the decade in which the full technological potential of transportation was realized—in which transportation-induced pollution was virtually eliminated, in which transportation was made available to all Americans regardless of income or location, in which businesses of all sizes were assured of the availability of efficient transportation. Whether this will be the decade of crisis or the decade of new accomplishment depends, however, not on wish or accident, but on a deliberate comprehensive, no-holds-barred reassessment of all the features that go to make up the American transportation system. The time has come, as we enter a new decade, to take a fresh, uninhibited look at our transportation system.

This must be a thoroughly planned, deliberate examination of every aspect of transportation. It must start with an appraisal of where we are—the adequacies and shortcomings of transportation to the various categories which make up the transportation industry, of our regulatory policies and practices, and the other factors that characterize transportation as we know it. From this starting point, the assessment must look ahead to future transportation requirements, starting with recognition of the fact that the American economy in the 1970's will grow (in real terms) by about 50 percent. This implies that the transportation system must handle a vastly increased volume of freight. In less than a decade a surface transportation system that has taken more than a century to develop must expand by one-half. Whether it can do so—whether there will have to be new approaches to financing transportation investment—whether there will have to be changes in federal regulatory and other policies—are questions that must be deeply and carefully probed.

We must also look outside transportation, for transportation greatly affects the quality of the environment and influences every aspect of daily life. As we look into the near future we must attempt to assess the social and environmental consequences of transportation and identify areas in which new technology—new systems for the movements of goods and people—might be introduced to make transportation a constructive social partner. In short, we must measure where we are, assess future requirements, ascertain how transportation in the foreseeable future is likely to serve the needs of the economy and of society, and determine how technology and new policy approaches might contribute to a better transportation system.

The subcommittee on surface transportation, which I chair, has begun a comprehensive assessment of the sort I have described. We have begun with a general look at the condition of the railroad industry. It will be a long, difficult and time-consuming endeavor. But it is vital and is a job that calls for serious attention and firm commitment. Our aim can be simply put: To insure that the United States has a transportation system that efficiently serves the needs of all our people and that makes use of new technological approaches so as to complement as closely as possible our social and environmental concerns. We must have a good transportation system, but I am persuaded that this will only come about through careful study and a willingness to adopt new approaches.

VETERANS

As chairman of the Senate Veterans' Affairs Committee, I am concerned that today's veteran not be penalized because he has been called upon to fight an unpopular war. I believe that the very government which drafted these men in the first place has an obligation to ensure that each veteran has an opportunity for a decent education, employment, housing, and first rate medical care. Adequate compensation for war injuries and income security for older needy veterans are also essential.

In particular:

EDUCATION

The present educational allowances do not meet today's increased educational costs. Over 59 percent of today's returning veterans have never applied for educational benefits. Yet 53 percent of these men said they would if benefits were increased to an adequate level. Today's veteran should have the same educational benefits that were available to veterans following World War II.

MEDICAL CARE

The finest medical care possible should be provided to those veterans who are in need of it. I have consistently opposed administration attempts in the past to cut back on veteran health care funds. I will continue to push for sufficient funds in the future. The curse of drug addiction which afflicts over 100,000 of our nation's veterans must be met head-on with every available resource. As chairman of the Senate Veterans' Affairs Committee, I am pleased that I was able this past year to have V.A. drug treatment capabilities expanded 48 times the previous level. Yet, much more needs to be done and I will continue to fight for it.

EMPLOYMENT

A recent survey indicated that 15 percent of our young veterans are out of work. The unemployment rate for these men has been consistently higher than for nonveterans throughout this past year. This is a national disgrace that cannot be remedied by slogans or bumper stickers. The government has the full responsibility to ensure that every man is properly trained and has a decent job available to him.

COMPENSATION

Compensation paid to veterans who have sustained service-connected injuries should be increased to cover the rise in cost-of-living since the last increase. In addition, the rate should be adjusted upward where it is evident that the compensation does not adequately reflect the economic loss that results from the veterans' disability. Congressional passage last year of my bill will provide cost-of-living increases to widows and orphans of veterans who have died of service-connected causes.

PENSIONS

I am pleased that my bill passed last year which provides for cost-of-living increases in pensions payable to war-time veterans and their survivors for service-connected disability and death. I will continue to fight for adequate pensions to ensure that every older veteran is able to live out his days in dignity.

VIETNAM

Recently President Nixon went on national television to report on the search for peace in Vietnam. Despite the impression which he sought to give, there was little in that speech to indicate that Mr. Nixon has made a commitment to peace in Indochina.

The Nixon peace proposals are certainly not "a long step forward." Indeed, they hearken back to 1966 at Manila where Lyndon Johnson offered to withdraw all American forces from Vietnam six months in exchange for an agreement by the other side to do the same. What was wrong with Johnson's proposals of 1966, remains wrong with Nixon's proposals of 1972. The Nixon administration remains committed to the preservation of the corrupt and ineffective Thieu-Ky regime in South Vietnam. That commitment pervades every so-called peace plan it has offered. We have not offered a general disengagement but rather a withdrawal on terms which assure that the present leadership clique in the South remains in power. Most analysts agree that the Saigon regime would quickly fall in the event of a genuine American disengagement from the war. As the North Vietnamese have made clear in their public proposals, they would be prepared to release all American prisoners in exchange for a pledge to end all American combat activities within a time certain. In this sense, the disengagement action remains available to Nixon as a way to obtain the release of American prisoners and assure the end of American casualties.

The Nixon proposals cover up the failure to offer a power-sharing compromise by window-dressing and deceptive rhetoric. There is no power-sharing as the administrative, military, and police functions would be left entirely under the control of the Thieu regime after the cease-fire goes into effect and during the six-months period in which elections are being organized. The offer to have Thieu (and his Vice President Tran Van Huong) resign one month before the elections take place seems meaningless for several reasons. First of all, the apparatus of power would continue intact, and there is no assurance that Thieu would not continue to run things from off-stage. Secondly, Thieu's replacement by the Chairman of the Senate, a weak bureaucrat allied with Thieu, reinforces the impression that the Saigon regime would retain full control over the country. Thirdly, in the face of the resistence of the repressive Thieu regime there is no prospect that a mixed electoral commission, even with the participation of the National Liberation Front, could organize free elections, or even that elections are the best way to select an interim government to supervise the transition from war to peace. On this basis, it hardly seems reasonable or likely to expect North Vietnam or the provisional revolutionary government of South Vietnam to consider seriously this type of political settlement. It is not an offer of genuine compromise. It is, indeed, a demand that the insurgent forces lay down their arms and allow the Thieu government to dominate South Vietnam during the period in which elections of a permanent government are taking place. If Mr. Nixon really believes that this line of proposal represents having "gone the extra mile in offering a settlement that is fair," then he is deceiving both himself and the American people. More likely Nixon does understand, is putting forth proposals that are drawn to quell and bewilder domestic opposition to the war without any hope or expectation that the other side will accept them, or even negotiate from such a baseline.

On March 4, 1971, I introduced a Senate resolution to end the war. That resolution contains 215 words, but everything it says can be boiled down to two: Out now!!

My visit to Paris last spring gave me an opportunity to speak with all sides involved in the Paris negotiations. I came away convinced that the only settlement of that war—the only way we could stop the killing and bring our boys home—was to declare a date certain for complete withdrawal of our combat forces.

The President refused because he did not want to make a public commitment of such valuable information. Now he tells us that he has made a withdrawal commitment in secret negotiations, but he has also made it clear that he has made no commitment for a complete disengagement of American combat forces—an end to an American military presence in Vietnam.

This is political gimmickry at its worst. The American people are tired of this war—they want our troops and all of our men who are held prisoner to be brought home. Vietnam is a festering wound on our society. We must take action to get out now.

WELFARE REFORM

The need for welfare reform has never been more urgent. National dissatisfaction with the present welfare system is universal. Frustration with its inadequacies and abuses defies all the traditional obstacles to national concensus. It transcends the barriers of age, color, class division, political allegiance and ideological conceit.

There has over the past several years been an explosion in the size and cost of welfare programs in all states. In many cases, the burden of welfare expenses has pushed states to the brink of fiscal disaster. There is no question that in an age of rapid travel, country-wide communications and the prominence of national economic policy, welfare must become an increasingly federal responsibility.

But the failures of our present welfare system are certainly not limited to its financial impact on the states. The current welfare programs have become an affront to everything our country stands for. It encourages fathers to leave their families. It pits white people against black people. It demeans personal dignity. It discourages people from earning a living for themselves and their loved ones. It alienates middle and lower income Americans from poor Americans.

Certain reforms are needed for all welfare recipients—jobs and job training are needed for those able to work, payments to all must assure a decent standard of living. But different categories of welfare recipients also require specific reforms in the present law.

Nine percent of welfare recipients are blind or otherwise disabled. There is no reason why a country as rich as ours with its humanitarian traditions can not assure these citizens a fully adequate standard of living.

Another fifteen percent of current recipients are found among the nation's elderly. I have long felt that all elderly Americans should be assured a decent living through the social security system. Where the individual is ineligible for social security, or where social security payments are inadequate, income supplements should be paid. In addition, I want to see an immediate doubling of the minimum social security payments.

Slightly less than one percent of all individuals on welfare are ablebodied males. I have never seen the point of yelling about work incentives and doing little or nothing to see that work is actually available. Accordingly, I would couple a work requirement with the creation of a substantial number of public sector jobs. With the needs of cities and the condition of the physical environment, there will be no want of jobs both meaningful and socially useful.

The overwhelming majority of welfare recipients are women and dependent children. Some fifty-five percent are children alone. Eighteen percent are mothers, most of whom are working, in training or desirous of finding employment.

A pre-requisite to any massive increase in the number of working welfare mothers is an adequate system of day care centers. And these must be centers for the children and not just inexpensive dumping grounds to get mothers back to work. Child care should include the provision of educational services to fit the age, ability, temperment, and interests of each child: of nutrition, of health services, opportunities for social and emotional growth, opportunities for parental education, participation, and involvement, and adequate training of personnel.

At the heart of welfare reform, then, lies job creation, the establishment of day care centers and benefits raised to assure a decent standard of living for all.

WOMEN'S RIGHTS

Although women achieved political equality in this country 50 years ago, full equality of the sexes remains a far cry from reality. There is a dark, insidious pattern of discrimination in both Federal and State laws working to deprive women of equal rights.

In 1923, the first efforts were made to pass a constitutional amendment to provide full equality for women. I am hopeful that, before the fiftieth anniversary of this initiation of that amendment, women will have been granted the rights to which they are entitled.

In April 1971, I introduced the same equal rights amendment which was supported by the Senate Judiciary Committee 28 years ago. The 14th amendment and the guidelines of various Federal agencies have managed to legally, if not in practice, outlaw discrimination against any race, religion, or national origin; yet sex discrimination has for the most part been overlooked.

The economic injustices suffered by women have not been mitigated; they have worsened. Although women represent a vital part of the economy, both statistics and statutes reveal that in industry, in Government, in the home and in the office, women are paid less, hired last, promoted least, and given the least intellectually demanding work. Even the Equal Pay Act and the Civil Rights Act have failed to decrease the prejudice toward working women, who represent 38 percent of the labor force. Women in 1968 were only receiving 58.2 percent of what their male counterparts earned, whereas in 1955, they obtained 63.9 percent. The National Education Association has discovered that women professionals bring home less than half of the men's salaries on all professional levels.

Not only does an economic bias prevail, but a professional one persists as well. The opportunity to enter the professions is habitually denied to women. Although the educational level of women has improved substantially and the advancements of society have freed women from a domestic function, women are continually frustrated by their inability to surmount the barriers of discriminatory employment practices.

The equal rights amendment, which I introduced in the Senate, states that "equality of rights under the law shall not be denied or abridged by the United States on account of sex." I am convinced that effective guarantee of equal rights for women will be accomplished by the ratification of this amendment. It will establish a constitutional framework upon which to build a coherent body of law providing equal rights to women. I believe this to be a much more effective and immediate way to halt discrimination than the development of remedial legislation or prolonged court action to combat existing discriminatory laws.

I also am a co-sponsor of legislation to strengthen the Equal Employment Opportunity Commission so that it will have the power to carry out its decisions on grievance cases. The equal employment opportunity bill empowers the commission to exercise cease and desist powers with respect to cases of discrimination against women. In addition, the amendments to the Equal Employment Opportunity Enforcement Act will expand previous coverage and bring Federal and State Government employment practices under its jurisdiction. Hoepfully, discrimination in hiring women for both Government and private positions will be eliminated.

What women want is equality, nothing more, nothing less. The concept of justice is simple, but its achievement is never easy. It takes hard work, long years, persistent attention, and courage in the face of adversity, but justice is never defeated. I urge all my fellow men to respond unanimously to this longstanding call to justice for women.

ORDER FOR RECOGNITION OF SENATOR CHILES ON FRIDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, on Friday next, February 18, 1972, immediately following the recognition of the two leaders under the standing order, the distinguished junior Senator from Florida (Mr. CHILES) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR UNFINISHED BUSINESS TO BE LAID BEFORE SENATE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, immediately following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements made therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The pending question is amendment No. 834 to S. 2515.

Mr. BYRD of West Virginia. Mr. President, I thank the distinguished Presiding Officer.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 12 o'clock meridian. Immediately following the recognition of the two leaders under the standing order, there will be a period for the transaction of routine morning business for a period of not to exceed 30 minutes with statements therein limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business, S. 2515. The pending question will be on the adoption of amendment No. 834 offered by the Senator from Nebraska (Mr. HRUSKA).

The yeas and nays have been ordered on that amendment. There is no time limitation agreement thereon.

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock meridian tomorrow.

The motion was agreed to; and at 6:14 p.m. the Senate adjourned until tomorrow, Wednesday, February 16, 1972, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate February 15, 1972:

DEPARTMENT OF JUSTICE

Richard G. Kleindienst, of Arizona, to be Attorney General, vice John N. Mitchell.

Louis Patrick Gray III, of Connecticut, to be Deputy Attorney General, vice Richard G. Kleindienst.

EXTENSIONS OF REMARKS

THE PRESIDENT'S NATIONAL COMMISSION ON FIRE PREVENTION AND CONTROL

HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Tuesday, February 15, 1972

Mr. SCHWEIKER. Mr. President, I am delighted that the President's National Commission on Fire Prevention and Control is now in full operation. This Commission established by title II of the Fire Research and Safety Act, Public Law 90–259, is to do a 2-year study of the Nation's fire problem. It will submit its findings and recommendations to President Nixon and the Congress in July 1973.

I am personally pleased that a Pennsylvanian, Mr. Richard E. Bland, is the chairman of this important Commission. Mr. Bland is associate professor of engineering research of the Institute for Science and Engineering, Pennsylvania State University. He is also special assistant to the director of the Ordinance Research Laboratory and head of operations of the laboratory. He has been working with volunteer fire services since 1943.

The Commission will be holding hearings February 15–17 in the Old Senate Office Building which will focus on a variety of fire problems.

Mr. President, I ask unanimous consent that a press release describing the National Commission be printed in the RECORD.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

AN INTRODUCTION TO THE PRESIDENT'S NATIONAL COMMISSION ON FIRE AND CONTROL

The National Commission on Fire Prevention and Control is a Presidential Commission charged to do a two-year study of the nation's fire problem. The Commission in July 1973, will submit to President Richard Nixon and to the United States Congress a Report of its findings and recommendations.

Richard E. Bland, Commission Chairman, said, "I am shocked as all Americans are that approximately 12,000 of our countrymen died by destructive fire in 1970. In 1970 an estimated 210 firemen died (paid and volunteer) in the line of duty in the United States. Property damage from fire totalled more than 2½ billion dollars in spite of the heroic efforts of the nation's one million volunteer firemen and 195,000 fire fighters who render a fine public service at great personal risk. It is the responsibility of everyone to do the maximum to prevent this tremendous waste of life and property by fire."

The Commission is making a comprehensive study and investigation to determine practicable and effect measures to reduce the destruction of life and property by fire caused by fire in the cities, suburbs, communities and non-metropolitan areas of our country.

The Commission investigation includes:

1. A consideration of ways in which fires can be more effectively prevented through technological advances, construction techniques and improved inspection procedures;

2. An analysis of existing programs administered or supported by the Departments and agencies of the Federal Government and of ways in which such programs could be strengthened so as to lessen the danger of destructive fires in Government-assisted housing and in the redevelopment of the nation's cities and communities;

3. An evaluation of existing fire suppression methods and of ways for improving the same, including procedures for recruiting and soliciting the necessary personnel;

4. An evaluation of present and future needs (including long term needs) of training and education for fire service personnel;

5. A consideration of the adequacy of current fire communication techniques and suggestions for the standardization and improvement of the apparatus and equipment used in controlling fires;

6. An analysis of the administrative problems affecting the efficiency or capabilities of local fire departments or organizations; and

7. An assessment of local, State and Federal responsibilities in the development of practicable and effective solutions for reducing fire losses.

HEARINGS

The Commission or, on the authorization of the Commission, any subcomittee or member thereof, may, for the purpose of carrying out the provisions of Title II, hold hearings, take testimony, and administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee thereof.

Under provisions of Public Law 90–259, each Department, agency or instrumentality of the Executive Branch of Government, including an Independent Agency, is authorized to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions.

There are 20 members of the Commission.

Richard E. Bland, Chairman, is Associate Professor of Engineering Research of the Institute for Science and Engineering, of Pennsylvania State University in State College. Pennsylvania. He is also Special Assistant to the Director of the Ordinance Research Laboratory and Head of Operations of the Laboratory. Mr. Bland's fire training and work have been with the volunteer sector of the fire service since 1943. He is Assistant Fire Chief of the Borough of State College, Pennsylvania. The Chairman is 46 years old.

W. Howard McClennan is Vice Chairman of the Commission. He is President of the International Association of Fire Fighters, Washington, D.C. Born September 11, 1907, Mr. McClennan has spent most of his adult life as a fire fighter and as an official of the I.A.F.F. The union has approximately 156,000 members.

Commissioners are: The Honourable Maurice H. Stans, Secretary of Commerce; and The Honourable George Romney, Secretary of Housing and Urban Development;

Louis Amabili, Director, Delaware State Fire School, Dover, Delaware; Lieutenant Tomy Arevalo, Fire Lieutenant, El Paso Fire Department, El Paso, Texas; Percy Bugbee, Honorary Chairman, National Fire Protection Association, Boston, Massachusetts; Mrs. Dorothy S. Duke of Lorain, Ohio, Consultant to Secretary George Romney of the U.S. Department of Housing and Urban Development and Housing Specialist, National Council of Negro Women, Washington, D.C.; Dr. Ernst R. G. Eckert, Professor of Mechanical Engineering and Aerospace Engineering, Department of Mechanical Engineering, University of Minnesota, Minneapolis, Minnesota; Roger M. Freeman, Jr., President, Allendale Mutual Insurance Company, Providence, Rhode Island;

Peter Hackes, Correspondent, National Broadcasting Company, Washington, D.C.; Dr. Robert Hechtman, President, R. E. Hechtman and Associates, Reston, Virginia; Albert Hole, California Fire Marshal, Sacramento, California; John F. Hurley, Fire Commissioner for the City of Rochester, New York; John L. Jablonsky, Director, Codes and Standards, American Insurance Association, New York City; Keith Klinger, Fire Chief Emeritus, San Clemente, California; Anne W. Phillips, M.D., Brookline, Massachusetts; John Proven, Executive Secretary, Fire Equipment Manufacturers Association, Inc., Evanston, Illinois; H. Baron Whitaker, President, Underwriters' Laboratories, Inc., Chicago, Illinois; and William J. Young, Chief of the Newington, New Hampshire Fire Department.

Advisory Members of the Commission are: U.S. Senator Warren G. Magnuson of Washington; U.S. Senator Caleb J. Boggs of Delaware; U.S. Representative George P. Miller from the Eighth District in California; and U.S. Representative Jerry L. Pettis from the Thirty-Third District in California.

Howard D. Tipton is Executive Director of the Commission. He is a resident of Glendora, California which he served as City Manager. Mr. Tipton, who is 35 years old, also was a consultant to various cities in California before assuming his duties at this Presidential Commission in September, 1971.

The United States Congress established the Commission by Title II of the Fire Research and Safety Act. This is Public Law 90–259.

PENSION PROPOSALS

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 9, 1972

Mr. DENT. Mr. Speaker, in order to further the dialog and exchange of ideas on the subject of private pension reform, I insert in the RECORD the remarks of Mr. Gabriel G. Rudney, Assistant Director of the Office of Tax Analysis of the Treasury Department before the Tax Seminar of the Machinery and Allied Products Institute.

As indicated in his speech, the research currently being conducted by the Treasury Department gives us a clearer understanding of the dimensions of this most difficult problem. I think it important that this important material be brought to the attention of my fellow members.

Mr. Rudney's table is the best explanation and analysis I have yet read of the President's pension reform bill. I think it incumbent on every person engaged in the pension reform debate to be informed about all proposals:

THE ADMINISTRATION'S PENSION PROPOSALS

(By Gabriel G. Rudney)

Mr. Chairman, ladies and gentlemen of MAPI, we at the Treasury welcome the opportunity this afternoon to discuss with you the Administration's pension proposals, and it is a personal pleasure for me to appear here. In fact, the MAPI staff has made it even more pleasurable because they have prepared and distributed to you an excellent summary of the proposals. This affords me the opportunity to treat rather briefly a description of the proposals and to spend more time on why the proposals were made and what are the expected results. I shall confine my talk to proposals which come under the tax statutes.

The Administration's fiduciary responsibility and reporting and disclosure proposals which are largely the responsibility of another Federal agency are much the same as legislation which has been introduced before, and many of you who have particular interest in fiduciary responsibility have no doubt a good working knowledge of that legislation.

My talk will focus on the Administration's proposals for a pension vesting rule, the income tax deduction for employee contributions, and the increase in limits of deductible contributions to self-employed retirement plans.

As a preface, however, and an important one, I want to indicate that it is the conviction of this Administration that a healthy growing private retirement system is essential as a supplement to social security. President Nixon in his pension message described the outstanding achievements of the private pension system to date and the creative roles of American management and labor. The private retirement system offers us, more than social security, a greater degree of flexibility in meeting individual retirement needs, private investment discretion, and opportunities for efficiencies in administration. The system also offers us an opportunity to set aside private resources for investment in the private sector of the economy.

But it is essential that the health and growth of the private system be sustained. The President stated that there is still room for expanding and strengthening the system. When the system is viewed from a more global perspective there are shortcomings which need to be corrected. In this way we can safeguard the total system from more regulation than is necessary.

The Administration's proposals evolve from findings which indicate:

(1) That for many workers in plans the benefits which accumulate for them will not be available to them when they retire,

(2) That for many workers in plans, the benefits which accumulate for them and which are paid on retirement are insufficient to meet retirement needs,

(3) That many workers for a variety of reasons are not covered by plans, their prospects for plan participation are dim, and therefore they must depend on social security, and

(4) That the self-employed are limited in providing for their retirement needs much more so than corporate employees and corporate executives.

Each of these areas received intensive study in this Administration, and the need for solutions is well established. The areas have also been studied by others, but in some cases the solutions offered impose such rules which could endanger the private pension system itself.

Allow me to address my remarks to the first problem: The forfeiture of rights to benefits accumulated for workers under certain circumstances. This is a matter of qualification for vesting which is a nonforfeitable right of an employee to receive his accrued benefits under a plan whether his employment is terminated voluntarily or by discharge. Under present law there generally is no minimum vesting standard in corporate plans except in the case of discrimination in favor of officers, stockholders, supervisory employees, and highly compensated employees. However, the law does require plans of unincorporated businesses in which an owner-employee participates to provide full and immediate vesting of contributions on behalf of covered employees. In effect then, we have regulation now which varies widely simply because of legal form of business organization. This diversity in application of vesting rules is a separate problem area. But irrespective of such diversity, improvement in vesting itself is an objective of great importance because it goes to the heart of the private pension system—retirement security. We want an expanding, healthy private retirement system as an alternative to the ever-increasing level of social security taxes and benefits which deprive persons of the flexibility in managing their retirement savings which the private system allows. The private system will not be healthy, however, so long as a substantial percentage of the work force, particularly older workers, are subject to forfeiture of their accrued benefits as a result of conditions over which they may have no control and which are inherent in an economy as dynamic and a work force as mobile as our own.

The magnitude of the problem may be illustrated as follows: Almost 70 percent of participants in all corporate pension plans today are not vested. Granted this percentage includes young workers with short service. A portion of them will have the opportunity to obtain vested rights if they stick with their current employment. A portion of them because they are young will have the opportunity to obtain vested rights if they move on to other employment and participate in other plans. We should look more properly at older and long service workers. Looking first at age:

40 percent of participants age 45 or more are not vested.

34 percent of participants age 50 or more not vested.

26 percent of participants age 55 or more are not vested.

It is this nonvesting experience among older workers that is critical. These workers do not have the opportunities available to younger workers to obtain vested rights to benefits.

Looking at years of service, 13 percent of participants are in plans which provide no vesting before retirement and more than one-half of plan participants are subject to requirements of both 15 years or more of service and minimum age of 45 or more before at least 50 percent vesting occurs. A long service requirement and a high minimum age requirement are in a sense substitutes for each other. For a 25-year old employee, a 15-year service requirement and a minimum age requirement of 40 are equivalent. Thus one would expect that plans with long service requirements would make relatively less use of high minimum age requirements and vice versa. We find however that long service and high minimum age requirements tend to be used together. This combination in effect restricts the vesting prospects of younger long-service workers and older short-service workers.

This lack of adequate vesting in employee pension plans, and the consequent hardships from forfeitures, particularly by older workers who may have shaped their savings plans by depending on such future benefits, have led to strong pressures for a minimum vesting standard, either within or outside the tax law. Some proposals go further and call for portability of pension credits under which an employee would carry his accrued pension credits from job to job. Consider the consequences of such a drastic proposal; all plans would necessarily have to be forced into an almost uniform mold to make portability work properly. This would deprive the private pension system of its greatest advantage—flexibility in developing a plan which provides for contributions and benefit plans, as well as investment policies, determined by the individual employer and employee group to best suit their own needs. Consider also that portability has far less importance if adequate vesting is provided, because the employee accrues and retains permanently his pension credits with the several employers by whom he may have been employed over his work life.

The solution then is a simple minimum vesting standard which would not impose unreasonable cost burdens on employers by focusing on the most sensitive element of the problem—assurance to older workers that they will in fact have rights to what they have worked for. The Administration has developed this standard known as the "Rule of 50" under which 50 percent vesting would be required whenever any combination of age and years of covered service equals 50, with vesting of an additional 10 percent each year for five years thereafter. Thus, a worker who begins to participate in a plan at 30 would at age 40 with 10 years of covered service become 50 percent vested; a worker age 45 with 5 years of covered service would also achieve this level.

To complement the vesting proposal, the proposed legislation has minimum service and age standards for eligibility to participate in a plan. An employer would not be required to cover an employee with 3 years or less of service who has not attained an age in excess of 30 years. Moreover, an employer would not be required to cover an employee who has attained an age within 5 years preceding normal retirement age under the plan.

These reasonable eligibility minimums are needed on one hand to prevent the dissipation of plan assets on benefits earned by employees with short periods of service. On the other hand, the eligibility minimums are needed to prevent possibilities of arbitrary exclusion of employees from participation in private retirement plans.

In addition, to avoid making employment of older workers less attractive because of the vesting standard, a maximum waiting period would be provided which is three years of participation reduced by years of service before participation. Thus, if a plan requires one year of service to participate, the "Rule of 50" may be made operative only after two years of participation. For example, if a plan requires one year of service to participate, an employee hired at age 50 would become eligible to participate at age 51 but would not be eligible to become 50 percent vested until age 53. He would not become fully vested until he attained age 58.

As indicated a moment ago, a plan would not be required to cover a worker who had attained an age within 5 years of normal retirement age under the plan. If normal retirement age is 65, then a plan would not be required to cover a worker hired at age 60 and over.

It is noteworthy that the cost of bringing an older worker into a plan and vesting him under the "Rule of 50" is not very different from the costs of bringing an older worker into a plan which has no vesting until normal retirement age. To provide a $100 pension at 65 to a worker participating at age 55 the cost is $570 in a plan without vesting and $585 in a plan under the "Rule of 50". This is determined on the basis of a straight life annuity for males, with assets invested at 5 percent, and the typical turnover assumption that 3 percent of participants age 55 will leave before retirement.

The "Rule of 50" would not be costly and would be a major step in assuring pensions, particularly among older and long-service workers. Although it would raise the number of participants vested in their plans from 31 percent of all participants to 46 percent of all participants, more importantly, among participants age 45 and over, the percentage with vesting would rise from 60 percent to 92 percent. The number of employees with vested rights would increase by 3.6 million, of whom 3 million would be age 45 or more. Thus the "Rule of 50" would assure retirement benefit rights for virtually all older plan participants.

The rule would apply to all plans established after November 30, 1971. But for existing plans on that date the rule generally would apply to benefits accrued beginning in 1974. However, plan participation prior to 1974 would be considered in meeting the age and participation test.

Because the rule would apply only prospectively as far as accrued benefits are concerned, the cost impact of the "Rule of 50" would be modest. It would raise over-all pension costs by an average of 5 percent, or about 0.3 percent of covered payroll. For plans currently providing *no vesting before retirement* the "Rule of 50" would increase plan costs by an average of 8 percent or about 0.4 percent of covered payroll. The average cost increase for all plans would amount to about 1.5 cents per hour for each covered employee. For plans with *no vesting* the average cost increase would be 1.8 cents per hour for each covered employee.

Adequate vesting as provided by the "Rule of 50" would largely answer the claims for need for portability of pension credits. Older employees with adequate vesting would earn and realize their pension benefits from one or more employers and portability would be unnecessary.

Under present law a plan benefiting a self-employed person must provide an employee immediate and full vesting after 3 years of service when he is eligible to participate. The vesting and participation rules result in vested rights for many young workers who have short periods of service. Their benefits are very small, and the administrative costs of handling these are relatively high.

The proposed legislation would provide that in self-employed retirement plans an employee would attain 50 percent vested rights when he qualified under a rule of 35. As a condition to participate, an employee would have to be at least 35 with no more than one year service, or between 30 and 35 with no more than two years service, or under 30 with no more than 3 years service. Thus, under present law, an employee employed at 20 participates and becomes fully vested at 23. Under the legislation, he would participate at 23, but would become 50 percent vested at 29, and fully vested at 34. Under the legislation, an employee hired at 35 would become 50 percent vested at 36 when he participates and fully vested at 41.

There is now uncertainty and variation in administrative practice with respect to vesting and eligibility requirements in determining whether a plan of a closely held firm satisfies the nondiscrimination requirements. The proposed legislation would authorize the setting forth by regulation of the circumstances by which a plan would qualify with respect to participation and vesting. Such regulations could not be more restrictive than requirements imposed on plans benefitting self-employed who are owner-employees. Plans so treated would be the case of a covered partner with more than a 5 percent interest in capital or income, or would be the case of a group of covered partners having relatively smaller interests (that is, more than one percent but no more than 5 percent) for which the total interest of the group represents more than half of the interest in capital or income. Similarly, corporate plans would be so treated under the regulations with respect to ownership in the corporation.

Let me go on to the next two problems: Lack of plan coverage for many workers and the inadequacy of benefits. About half of the full-time nonagricultural adult work force is covered by existing plans, and the average annual pension benefits for retired couples is about $1,600. This Administration considers it of paramount importance to move in the direction of remedying the fact that millions of employees are not covered or are inadequately covered by employer plans. It proposes to do this by encouraging employees to invest in retirement savings.

Under present law, employer contributions on behalf of an employee to a private qualified retirement plan and the investment earnings on these contributions are generally not subject to tax until paid to the employee or his beneficiaries, even though the employee's rights to receive these amounts become nonforfeitable before the payment is made. Employee contributions are currently subject to tax as made (that is, no deduction is allowed), but tax on investment earnings on such contributions is deferred. But amounts saved independently for retirement by an individual and investment earnings on such savings are taxed currently.

As a consequence, present law discriminates substantially against those who do not participate in qualified plans or who participate in plans providing small benefits.

This Administration proposes that nonparticipants be allowed an annual income tax deduction for computing adjusted gross income for a limited annual contribution to an individual retirement plan. Similarly, the deduction should also be available to participants in low-benefit employer-financed plans. Investment earnings on these contributions should be tax deferred. There would be restrictions on withdrawals.

The proposed deduction would be limited to the lesser of 20 percent of earnings or $1,500.

If an individual participates in an employer-financed plan with inadequate benefits, the extent of the employee deduction would be limited by the fact that the employer contributes. In such case, the 20 percent limitation would be reduced to reflect pension plan contributions by the employer. Under the proposal, the employee may assume that employer contributions on his behalf are either 7 percent of earnings or a lesser amount, in which case the employee would under regulations have to provide evidence of that circumstance.

In the case of public retirement systems where employees are not covered by social security (as in the case of the Civil Service) the deduction should be further limited by the assumed amount of social security tax that would be imposed.

The limitations are proposed to direct the tax benefit primarily to low and moderate earners. The limitations also preserve the incentive to establish employer-financed plans. The limits are high enough nevertheless so that older workers will be able to finance a substantial retirement income. For example, a $1,500 contribution to an individual retirement plan beginning at age 40 will generate at retirement age of 65 an annual pension of $7,500 in addition to social security benefits.

Present law places limitations upon contributions on behalf of self-employed individuals. While the self-employed are subject to a limit of the lesser of 10 percent of earned income or $2,500 on deductions for retirement saving, no such limits apply to employer contributions on behalf of corporate employees. As a consequence, corporate executives and corporate-owner managers have substantial tax benefits as compared with self-employed persons. Yet corporate owner-managers and self-employed typically perform the same economic function. This situation has discouraged the formation of self-employed plans and encouraged many self-employed to incorporate their businesses simply to avoid these limitations. Incorporations for retirement tax advantages have created a serious inequity with respect to the self-employed who are unwilling or unable to incorporate.

To reduce this inequity, this Administration proposes to raise the deduction limit for the self-employed to 15 percent of earned income, or $7,500 whichever is less. It would also reduce considerably the tax motivation to incorporate. In addition, it would promote the growth of self-employed plans and have a beneficial impact on the coverage of employees in unincorporated enterprise and on their level of benefits.

This concludes my remarks. I will be happy to answer any questions you may have.

AIR DEFENSE GAP

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Tuesday, February 15, 1972

Mr. THURMOND. Mr. President, an editorial of February 8, 1972, published in the Aiken, S.C., Standard, has called attention to a serious defense problem.

The editorial, entitled "Air Defense Gap Alarming," comments on the findings of the House Armed Services Committee that the southern part of the Nation is naked to an enemy air attack.

It should also be noted that industry and cities in the southern part of the Nation are defenseless against a missile attack. The Soviets have had cruise range missile submarines in the southern waters.

Mr. President, I ask unanimous consent that the editorial be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

AIR DEFENSE GAP ALARMING

The House Armed Services Committee has shown more concern than the Defense Department that a defecting Cuban pilot flew a MIG–17 fighter to a Florida air base in 1969 and a Russian-built transport flew from Havana to New Orleans last year carrying some uninvited delegates to a sugar conference. How were these unannounced flights made without triggering an air defense alert?

Rep. F. Edward Hebert, chairman of the committee, now provides the answer. There is virtually no air defense system to be triggered along our southern border and the Gulf Coast. It is that simple.

A Defense Department spokesman offers us some reassurance, pointing out that the Soviet Union could not launch a major manned bomber attack without the United States knowing it. Besides, many defense strategists believe manned bombers are not worth worrying about in this age of far more formidable nuclear missiles.

Perhaps so. Still it is hardly alarmist to recall that most of the American people and their leaders were convinced in 1941 that the Japanese either would not or could not carry out an attack on Pearl Harbor. Nevertheless, it happened, and with devastating results.

The glaring gap in defense of our southern approaches has gone unmended in a period of sustained hostility toward the United States by the Castro government in Cuba. During the same period there has been a bid by the Soviet Union to establish a naval presence in the Caribbean, and there have been visible efforts by both the Russians and Chinese Communists to cultivate friends among Latin American governments.

It may be a remote possibility that any government, either a major power or a lesser one subject to the will or persuasion of our enemies, would embark on the reckless adventure of a bombing attack on any part of the United States. This is no reason, however, to invite one by leaving the door wide open.

The commander of the North American Air Defense Command has told the Hebert committee that even the radar screen protecting the north, east and west approaches to North America is vulnerable to a low-level bomber attack. Our radar coverage is ineffective below 2,000 feet. With Canada hinting that it might pull out of its NORAD commitment, we might well question whether it is only our "southern exposure" that needs attention.

The Russians maintain a fleet of 900 long-range bombers and are investing heavily in their new "Backfire" supersonic bomber. This swing-wing plane is said to be capable of flying at the speed of sound at an altitude of 500 feet, carrying parachute-dropped hydrogen bombs. It could fly from Soviet bases to the United States and back without refueling and may be operational by next year.

While some of our strategists may believe that bombers are obsolete, the Russians obviously do not.

DECISION FOR DISASTER: THE TRUTH ABOUT THE BAY OF PIGS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 9, 1972

Mr. RARICK. Mr. Speaker, turning points in history are not always recognized at the time of their occurrence. Their significance is determined not by the extent of the movement or the size of the forces involved but by the magnitude of their consequences.

One such turning point in recent U.S. history was the attempted liberation of Cuba by Cuban patriots in April 1961 that ended in the tragic defeat of the liberators at the Bay of Pigs.

What are some of the major consequences? It prevented the removal of the first overt Soviet beachhead in the Americas, enabled the capture by the Castro Communist Cuban Government of future leadership of a free Cuba, facilitated the construction of Soviet missile and submarine bases close to the United States, contributed toward killing the Monroe Doctrine, and served as a prelude to the 1962 Cuban missile crisis, all at a time when the United States had a superiority in modern weaponry over its strongest potential enemy.

Moreover, the takeover of Cuba places Soviet power on the northern flank of the Atlantic approaches to the Panama Canal and was the first specific step in the long-range Red plan for wresting control of the canal from the United States and thus separating the Americas. Recent actions of the pro-Communist revolutionary government of Panama increase the danger of our losing the canal.

So inept and always against the interests of our country have been some of the moves of our Government in regard to the Panama Canal that it has made some discerning observers wonder if there has been an agreement between suspect elements in the State Department and Soviet power to surrender U.S. control of the vital waterway.

Writings about the Bay of Pigs disaster at the time and subsequently have been voluminous. Unfortunately, most of them were aimed at defending those responsible, were conjectural or inaccurate, thus adding to the confusion and causing knowledgeable persons to ask embarrassing questions. President Kennedy's public acceptance of full responsibility for the fiasco was not an adequate explanation but a ploy apparently designed to stop public discussion.

It remained for an able and distinguished Cuban, Dr. Mario Lazo, who narrowly escaped execution following the Bay of Pigs catastrophe but was able to reach the United States, to make it his purpose in life to find out why the carefully planned liberation attempt failed.

Devoting 7 years to the task, he applied the investigative skills of a gifted and respected lawyer and produced an authoritative book that should be studied by every concerned policymaker of our Government, especially those in higher echelons charged with the responsibility of decision.

Appropriately named "Dagger in the Heart: American Policy Failures in Cuba," this volume, published in 1968 by Funk & Wagnalls of New York, is must reading for all who seek the truth concerning the Bay of Pigs tragedy and who should be held accountable. In addition, it gives a comprehensive account of the subsequent missile crisis of 1962 thus uncovering the masks that have obscured both the 1961 and 1962 failures.

Mr. Speaker, the United States seems verging toward another period of cataclysmic historical involvement. I know of no better way to judge the future except by the past. The Reader's Digest in a special feature in September 1964 by Dr. Lazo published his condensation of the story of the Bay of Pigs defeat under the telling title, "Decision for Disaster," which I quote as part of my remarks along with a biographical sketch of its author.

[From the Reader's Digest, September 1964]

DECISION FOR DISASTER: THE TRUTH ABOUT THE BAY OF PIGS

(By Mario Lazo)

ABOUT THE AUTHOR

On the morning of April 17, 1961, Dr. Mario Lazo, one of Cuba's most distinguished international lawyers, waited at his beach house in Varadero, 80 miles east of Havana. He was aware that the invasion of Castro's Cuba had begun. He was aware, too, that he had not much time left as a free man.

There were many reasons why Fidel Castro wanted Mario Lazo. Dr. Lazo had, in effect, enjoyed dual citizenship: a Cuban since birth, he had been, for a while, a U.S. citizen by naturalization. He was educated in the United States, with a law degree from Cornell. During World War I, he served with the American Expeditionary Forces as a captain of infantry in France. Then, for 35 years, in partnership with Dr. Jorge E. deCubas, he headed one of the outstanding law firms in Latin America, representing many foreign corporations as well as the U.S. government and an impressive Cuban clientele. Finally, like many other patriotic Cubans, he had collaborated with the anti-Castro underground. His arrest was inevitable.

Several weeks later, Dr. Lazo managed to escape from the island. Arrived in the United States, he made a vow: *"Even if it takes the rest of my life, I will find out why the invasion of Cuba failed."*

The account that follows is the result of three solid years of investigation by Dr. Lazo. To talk with Cuban survivors of the abortive expedition, he went first to Spain, then around the Caribbean, finally back to the United States. When he had learned the key facts from these men, he tackled the more difficult job of reaching into high places in Washington. Here Dr. Lazo's international connections as a lawyer served him well. He was able to speak in confidence with those who knew, at firsthand, what happened in Washington during those critical April days in 1961.

Operation Pluto as planned originally

Air Strike 1

Scheduled for Saturday a.m., April 15. Objective: Free Cuban Air Squadron (16 B-26's) to attack airfields and destroy all or most of Castro's aircraft on the ground.

Air Strike 2

Scheduled for Sunday a.m., April 16. Objective: Destroy any remaining aircraft; bomb anti-aircraft and other military installations.

Air Strike 3

Scheduled for Monday a.m., April 17. Objective: Provide final assurance that every Castro plane has been destroyed. Hit tank, mobile-gun and truck concentrations and sink warship anchored near Cienfuegos. Return to base, refuel and fly support missions over beachhead.

First landing party to make the Giron airstrip operative as base for Free Cuban planes. Their missions: to block roads leading from Havana to beachhead; knock out Havana power plant, oil refineries; strike at Castro's troops, tanks, trucks, tractor-drawn artillery concentrated around Havana.

Why Operation Pluto Failed

Strike 1 was scaled down to eight planes—by White House order.

Strike 2 was canceled entirely—by White House order.

Strike 3 was canceled—by White House order—only a few hours before Bay of Pigs landing.

The Giron airstrip was captured but never occupied as an operating base. The Free Cuban planes that reached the invasion area, like the men ashore, were at the mercy of Castro's remaining jets, which, according to the plan, should have been destroyed by the three air strikes.

DECISION FOR DISASTER

Almost 3½ years have passed since the tragedy of the Bay of Pigs in April 1961 shocked the American people and damaged U.S. prestige and leadership throughout the free world. Yet the circumstances behind the fiasco are still cloaked in official secrecy. Recent attempts to get the facts have resulted in stories which have only added to the confusion. People everywhere are still puzzled and unsatisfied, because these basic questions remain unanswered:

Why were 1500 men sent to "invade" an island defended by more than 200,000 troops and militia bearing modern Soviet-bloc arms and equipment?

Why was the landing left vulnerable to Castro's small but nonetheless jet-equipped air force, which decimated the attacking planes and sank ships loaded with arms, munitions, fuel, food, electronic equipment and other essentials?

What role was assigned to the Free Cuban Air Squadron of obsolete U.S. planes flown by Cuban pilots, which all together were no match for Castro's T-33 jets?

What happened to the air strikes that were supposed to have been made by the Free Cuban Air Squadron to destroy Castro's air force prior to the landings?

Why were the isolated beaches of the Bay of Pigs, which allowed no means of escape if the invasion failed, chosen as the landing site?

Was the seemingly risky invasion plan reviewed—and *approved*—by America's highest military experts, the Joint Chiefs of Staff?

The general opinion (which, I confess, I once shared) is that the Bay of Pigs invasion failed either because the operation was bungled by the Central Intelligence Agency, or because the plan of invasion was inadequate.

Both these suppositions are wrong.

The operation was directed brilliantly and executed heroically. The plan was a masterful one, as Castro himself later admitted; if it had been carried out as designed, it should have succeeded.

The military plan *was* approved by the U.S. Joint Chiefs of Staff. But changes were made in it later, at the insistence of President Kennedy's political advisers—without consulting the Joint Chiefs or the CIA, and, when they heard of the changes, against their wishes.

These changes doomed the invasion to disaster before it even got under way.

The decision to help anti-Castro Cubans liberate their homeland was made by President Dwight D. Eisenhower early in 1960. The task was assigned to the Central Intelligence Agency, with Deputy Director Richard M. Bissell in charge of the operation. The Pentagon was to provide military supplies and assistance. The plans were to be reviewed by the Joint Chiefs of Staff. And, finally, the whole operation would have to be approved by the President.

By the time of the November 1960 Presidential elections, a number of tentative plans were under consideration by the CIA, but none had reached the stage where it was ready for consideration by the Joint Chiefs. Air drops to the anti-Castro freedom fighters in Cuba's Ecambray mountains were being attempted. In isolated camps in Louisiana, Florida and Central America, Cuban volunteers were receiving ground-fighting instruction. Cuban pilots were being trained in planes provided by the U.S. government.

The morale of the freedom fighters was high. Their American instructors exuded confidence, based largely on the conviction that any operation approved by President Eisenhower would not be allowed to fail, even if final victory required the unconcealed support of U.S. troops, ships and planes. "We knew damn well," one American officer said, "that Ike would never undertake a military operation except with the determination to *win*."

This was the situation that confronted President John F. Kennedy when he entered the White House in January 1961. Shortly before the inauguration, President Eisenhower, in reviewing international affairs with his successor, had warned that the situation in Cuba was grim and growing ever more dangerous, especially in view of mounting Soviet military aid. "There is no time to lose," he is reported to have told Kennedy. "You may have to send troops in."

The invasion site in the first plan submitted to President Kennedy in February 1961 was not the Bay of Pigs but Trinidad, a city of 20,000 about 100 miles farther east on the south coast of Cuba, at the foot of the Escambray mountains. Trinidad was chosen because it offered a number of advantages. It was a substantial distance from Havana, where Castro troops and armor were concentrated. The population was strongly anti-Castro. It had a suitable airfield. But, most important, the site provided an alternative if things went wrong: invaders could escape into the nearby mountains and conduct guerrilla operations.

When this first plan came up for consideration, President Kennedy was reminded by his State Department and White House advisers that U.S. participation in the invasion was supposed to be secret and undercover. An amphibious landing that had all the recognizable evidence of a U.S.-mounted operation at a coastal town as large as Trinidad would give the whole thing away. As a result, the President, yielding to his advisers, ordered the CIA to find a less conspicuous landing site.

The CIA and the Joint Chiefs abandoned the Trinidad site only after vigorous protest. After considering a number of alternatives, they finally chose Playa Girón, near the Bay of Pigs. This beach did have several points in its favor. The latest American U–2 and F–101 reconnaissance photos showed that there was no concentration of Castro troops in the vicinity. The airstrip at Girón was more suitable for B–26 operations. The area between the beach and the mainland was an immense, alligator-infested swamp connected by four highways that could be cut or controlled from the air.

The military men, however, saw that Girón had one big disadvantage. The area was not suited to prolonged guerrilla operations; if things went wrong, there would be no alternative to fall back on. Still, the fact that, at this stage, the CIA and the Joint Chiefs were willing to accept Girón is evidence in itself that the operation as then planned was almost certain to succeed.

The essential element of the plan—called Operation Pluto—was the use of air power. Castro's small air force was to be destroyed on the ground via *three* air strikes by the Free Cuban Air Squadron based at Puerto Cabezas, Nicaragua. There were to be two strikes prior to the invasion, and one to coincide with the landings at the Bay of Pigs. *Only after every Castro plane had been destroyed was the invasion force to hit the beaches.* Then the invaders' main objective was to seize the airfield near the beachhead and hold it until the Free Cuban Air Squadron could move over from Nicaragua. Thenceforth, with complete control of the air over the entire island, the liberators could expect Castro's collapse in a matter of days.

The Free Cuban squadron consisted of 16 B–26 medium bombers, 4 four-engine C–54's and 5 twin-engine C–46's (the two latter groups being unarmed transports for paratroopers and supplies). More aircraft of the same types were to be available as replacements for losses. True, these planes were of World War II and Korean War vintage; and the B–26's had been stripped of tail guns to enable them to carry needed fuel for the seven-hour (1300-mile) flight from Nicaragua to Cuba and back, with approximately 45 minutes over the target. Nevertheless, U.S. military advisers considered them entirely adequate for the air requirements of Operation Pluto.

Castro's air force was made up of 16 operable aircraft: six T–33 jets, six fast British Sea Fury propeller-driven fighters, and four B–26's.

Finally, a handpicked group of Cuban civilians was to be flown in to set up a provisional government at the town of Girón, and to call for recognition and military assistance. It was known that most of the nations of the Caribbean area were ready to respond to such a plea. Under such circumstances, the temper of the Cuban people would inevitably have ended the Castro regime with a minimum of bloodshed.

Everything, however, hinged on the *three* planned air strikes. Strike No. 1, on the morning of Saturday, April 15, was to be a surprise attack which would knock out the major portion of Castro's planes on the ground, chiefly at Camp Columbia in Havana and at San Antonio de los Baños, about 20 miles away. Strike No. 2, on Sunday, was to mop up what was left, if any, of Castro's planes, and to take out anti-aircraft and other installations.

Strike No. 3, on Monday morning, April 17 (D-Day), guided by reconnaissance photographs, would give final assurance that every Castro plane had been destroyed on the ground. It would also hit tank, mobile-gun and truck concentrations and sink a warship at anchor near Cienfuegos. Other bombers would interdict the beachhead.

The first landing party would clear the Girón runways while a freighter in the invasion fleet unloaded gasoline, bombs, ammunition, supplies and a group of aircraft mechanics. Girón henceforth would be the operating base of the Free Cuban Air Squadron.

With control of the air, the squadron's B–26's could then block the main highways leading toward the beachhead, and blast Castro's tanks, trucks and tractor-drawn artillery. Another primary target was the Havana power plant (and possibly a few subsidiary stations), which generated 90 percent of Cuba's electricity. Bombing the plant would black out much of the island, silence communications (telephone, telegraph, radio, television), and bring all major industries and rail transportation to a standstill. Cuba's water supply, dependent on electrical pumping, would be reduced to a trickle.

There was never any intention of attacking Fidel Castro's well-armed troops with a brigade of 1,500 men. Nor was the small brigade intended to "invade and occupy" the whole of Cuba. Operation Pluto was meant to be *essentially an air operation*.

That, briefly, was the plan evolved by the CIA and approved by the Joint Chiefs. On April 4, the plan came up for final review at a dramatic meeting in the State Department over which President Kennedy presided. Among those present were: Secretary of State Dean Rusk; Secretary of the Treasury Douglas Dillon; Sen. J. William Fulbright, chairman of the Senate Foreign Relations Committee; Gen. Lyman Lemnitzer, chairman of the Joint Chiefs; Adm. Arleigh Burke, Chief of Naval Operations; Allen W. Dulles, Director of the CIA; Gen. Charles P. Cabell, Deputy Director of the CIA; Paul Nitze, Assistant Secretary of Defense; Thomas Mann, Assistant Secretary of State for Latin American Affairs; Presidential assistants McGeorge Bundy, Arthur M. Schlesinger, Jr., and Richard Goodwin; Presidential consultant Adolf Berle; and Richard M. Bissell, of the CIA, charged with supervising Operation Pluto on a day-to-day basis.

Bissell spoke forcefully and lucidly, explaining that the essential element of the proposed operation was the destruction of Castro's small air force on the ground by pre-invasion air strikes. This, he said, could be accomplished easily by the Cuban-manned bombers guided by U.S. reconnaissance photographs. The crowded conference room gave Bissell respectful attention; he was the man mainly responsible for the CIA's share in the extraordinarily successful U.S. reconnaissance program, which, in mid-1960, finally opened the closed society of the Soviet Union to U.S. intelligence inspection. As a result of the U–2 air squadron's activities, supplemented by certain remarkable U.S. scientific techniques, for both of which Bissell was largely responsible, the United States knew for a fact that at the time of the Bay of Pigs invasion any Soviet threat to support Castro with intercontinental ballistic missiles would be an empty threat. Only one launching complex was nearing completion.

The sole voice raised against Operation Pluto at the meeting was that of Senator Fulbright, who denounced the plan as immoral. In view of what developed in the next few days, it is significant that Secretary of State Dean Rusk, *at that time*, did not oppose the plan.

The following day, April 5, President Kennedy made his decision to proceed with Operation Pluto. D-Day was to be Monday, April 17.

The go-ahead was flashed to the Free Cuban air case, called "Happy Valley," in

Puerto Cabezas, and preparations for the three air strikes were speeded up. Morale was high, even though the removal of the tail guns from the B–26's had caused some uneasiness. The Cuban airmen asked their U.S. superiors whether the stripped planes, defenseless from the rear, would not be easy prey for Castro's jets. The answer from the American officer in command was reassuring: "Don't worry about Castro's jet fighters—*they won't get into the air.*" He was echoing the Washington strategists who counted on the complete destruction of Castro's air force on the ground.

By April 11, newspaper reports indicated that there was serious disagreement within the Kennedy administration about how far the United States should go in helping Cuban refugees to overthrow Castro. These reports disclosed that some of those who had participated in the April 4 meeting, notably Secretary of State Dean Rusk, had veered away from their first positions. Presidential consultant Adolf Berle and Assistant Secretary of State Thomas Mann stood firm, however, foreseeing that purely political decisions could destroy a skillfully devised military operation.

Torn between the opposing factions—the CIA, Joint Chiefs and their supporters on the one hand, and the politicos on the other—the new and youthful President Kennedy wavered. Finally, he agreed to further compromises suggested by his political advisers. These compromises radically changed the original plan. They were made *without consulting the CIA or the Joint Chiefs,* who, when they learned of them, used every means at their disposal to have them countermanded by the President.

The next compromise was in Air Strike No. 1 against Castro's airports, scheduled for dawn Saturday, April 15. The plan called for a strike in full force, using all 16 of the B–26 bombers the Free Cubans then had at their disposal. The State Department argued that the attacking group would look too numerous to be consistent with the pretense that the air strike was conducted by defecting Castro pilots. So, on an order from the White House, the first strike force was whittled down to *eight* planes.

On April 7, the second of the three planned strikes (scheduled for Sunday, April 16) was canceled entirely! The reason given was the insistence of the State Department (and some of the President's other advisers) upon preserving the "non-involvement image" of the United States. The President's political advisers also decided that two air strikes (really one and a half) should be sufficient to destroy Castro's planes on the ground.

When they heard of these changes, the Joint Chiefs of Staff and the CIA considered recommending cancellation of the entire invasion plan. After further review, however, they decided that the *third* air strike, scheduled for Monday, April 17, could be counted on to take care of whatever air force Castro had left.

On April 12, uneasiness mounted at the CIA and the Pentagon when President Kennedy stated at his press conference: "There will not under any circumstances be an intervention in Cuba by United States armed forces." The goverment, he said, would make sure that "there are no Americans involved." This statement, when repeated by Secretary Rusk five days later, was to be a contributing factor in the disaster, as we shall see.

The "point of no return," beyond which the operation could not be called off, was set for noon on Sunday, April 16.

The eight planes authorized to take part in Strike 1 reached the south coast of Cuba at dawn on Saturday, April 15, on three different courses. Coming in at low altitude, the planes crossed the island northward without being picked up on Castro's primitive radar. The attack achieved complete surprise. Three planes hit the field at San Antonio de los Baños; three more struck at Camp Columbia in Havana; two others attacked the airport an Santiago de Cuba. The Free Cuban squadron's losses were three planes; one B–26 was hit by anti-aircraft fire, crashed at sea, and both pilots were lost; another, returning toward Nicaragua, made a crash landing on Grand Cayman, a small British island; a third cracked up as it barely reached a U.S. base near Key West.

The Cubans and their American supervisors considered the limited strike a success. Fidel Castro's air force had been reduced by half—but he still had three T–33 jets, three Sea Furies, and two B–26's.

I have talked to a number of pilots who flew on Strike No. 1. Their major worry when they returned to base at Happy Valley, they told me, was the threat posed by Castro's remaining jets and Sea Furies. They also thought of what might have been accomplished if the squadron had struck in full force, as originally planned. Their concern was more than matched by the chagrin of the pilots who did not fly the scheduled mission because their planes remained grounded in Nicaragua—by orders. Yet both groups, I have been convinced, were confident that Strike No. 3 (still scheduled for takeoff at 1:40 Monday morning) could mop up Castro's remaining aircraft and also perform assigned missions over the beachheads. A new and unexpected development was to occur, however.

At 3 p.m. on Sunday the pilots at Happy Valley were called together in the rear of the operations shack. For the next four hours the Monday-morning mission was explained in detail by U.S. intelligence officers, who displayed remarkable aerial photographs taken by U.S. reconnaissance planes. These photos showed where each Castro plane and anti-aircraft battery was located; tank, gun and truck concentrations; and a warship at anchor off Cienfuegos. Again stress was placed on the top-priority objective: *destroy Castro's remaining aircraft.*

At 7:30 p.m., when the individual briefings of the Cuban pilots had been completed, an American adviser named Gregory Bell, instructor of the C-46 pilots, entered the room. Glancing at a paper in his hand, he told the Cubans that it might not be necessary for them to fly the scheduled Monday mission. Apparently other planes would take care of Castro's aircraft. However, the pilots and crews were ordered to stand by until the base confirmed the Washington order. At midnight, Bell returned with confirmation that the third strike had indeed been officially canceled.

The Cuban pilots assumed that some important decision had been made in Washington. They believed, however, that it was a decision favorable to their cause. Since there was no other Free Cuban air base in operation, the change of orders, they felt, could mean but one thing: U.S. military aircraft had been assigned to wipe out the Castro planes.

That night all hands were more confident than ever of the invasion's success.

Their confidence was unjustified. On the preceding day—Saturday, April 15—news of the first air strike against Castro's airfields had loud repercussions at the United Nations. Raul Roa, Castro's foreign minister, appeared before the General Assembly's Political Committee. He charged that the bombing was the prelude to an invasion planned, financed and directed by the United States. Adlai Stevenson, the U.S. representative, rejected Roa's accusations out of hand with force and eloquence—and stepped into an embarrassing trap.

As part of Operation Pluto, a B–26 bomber, painted to resemble the B–26's in Castro's air force, had flown from Nicarágua directly to Miami, where the Free Cuban pilot declared that the morning's raid was the work of Castro's own pilots who, like himself, were revolting against the communist regime. Pilot and plane were photographed, and the pictures were immediately distributed by the wire services. Apparently unaware that a ruse was involved, Adlai Stevenson accepted the story at face value and, in his rebuttal of Roa's charges, stated flatly that the raiding planes were Castro's own and that the pilots were defectors. He pointed to the Miami photographs as evidence.

Roa had no trouble in exploding the story. The B–26 flown to Miami by the "defecting" pilot was recognizably different from Castro's B–26's. The Cuban delegate went on to charge that "mercenaries hired by the United States" were about to bomb Cuba again. Stevenson could only answer that "steps have been taken to impound the Cuban planes which have landed in Florida, and they will not be permitted to take off for Cuba."

In the confusion that followed, there is one certainty: When Stevenson learned of the blunder that had placed him in such an embarrassing position before the United Nations, he was understandably furious. Other facts have become lost in a thicket of contradictions and denials.

However, the *actions* that climaxed the hectic weekend are undeniable. At 7 p.m. Sunday, an order was issued from the White House canceling the final and crucial air strike scheduled for dawn the next day—D-Day. The order was transmitted to Cabell and Bissell, of the CIA, by Presidential aide McGeorge Bundy, who then made a hurried trip to New York to confer with Stevenson. Said Hanson Baldwin, military analyst of the New York *Times,* some three months after the invasion: "That cancellation was apparently the result of representations by Secretary of State Dean Rusk, and through him by Mr. Stevenson."

That decision sealed the doom of the invasion and marked it for disaster.

The cancellation order was a staggering blow to the CIA. Deputy Director Cabell, a U.S. Air Force general with a brilliant combat record, saw the handwriting of disaster on the wall. He and Bissell went at once to the State Department.

Secretary Rusk listened to their arguments and pleas, but was not impressed. The invasion force was at sea and only a few hours from the Bay of Pigs. Rusk was reminded that the Free Cubans' slow propeller-driven B–26's were no match for the Castro jets that were still operable. These jets could control the air, sink ships with rockets and decimate the landing force. Still, the Secretary was unmoved. The ships could unload under cover of darkness and retire before daybreak, he said, adding that the CIA was overstressing the danger of enemy planes; political considerations were more important.

Finally, however, Rusk agreed to telephone President Kennedy, who was at Glen Ora, his country place in Middleburg, Va. He repeated the pleas of the CIA representatives, and expressed his own opposition. The President's answer: The cancellation order stands. Stunned and dismayed, Bissell and Cabell returned to CIA headquarters and complied with the President's order.

That was the order that Gregory Bell confirmed to the pilots at Happy Valley at midnight on Sunday. These men had no way of knowing it, but, at that instant, Cuba's dream of liberation was shattered and Fidel Castro was handed a smashing victory—only a few hours before the first blood was shed at the Bay of Pigs.

At 4 a.m. Monday, while frogmen were marking the channels for landing craft through the reefs off the Bay of Pigs, and with some assault troops already ashore, Cabell returned to Rusk to plead for air cover from the U.S. carriers lying over the horizon. With the Secretary of State still opposed, Cabell himself phoned President Kennedy in Virginia. The President supported Rusk. The answer, still: *No.*

So, during that fateful night and early morning the invasion fleet steamed slowly toward disaster—five small freighters escorted by U.S. destroyers and two radar-equipped LCI's of World War II vintage. Nearby were the U.S. aircraft carriers *Essex* and *Boxer*, with destroyer escorts. The *Boxer* carried a battalion of Marines.

At 10 p.m., one of the LCI's led a freighter onto the beach at Girón. Some 20 miles to the west another LCI escorted a second freighter into the Bay of Pigs. Now another freighter appeared out of the night, and the clank and clash of its gear told that landing craft were being lowered. As the noise of landingcraft diesel engines was added to the din, the lights at Girón began to go out. A single machine-gun emplacement opened fire. An LCI quickly wiped it out with its 50-caliber guns. The doomed invasion was under way.

Soon the first assault troops were leaping ashore and streaking for their obectives. Before dawn, many of the invaders had reached the town of Girón, where they went from house to house reassuring the citizens: "We are Cubans. We have come to liberate Cuba!" Before long they had control of the airport and, with a bulldozer, went to work clearing away sandpiles from a not quite completed runway. That very morning, they thought, their own bombers would be arriving.

Then, with the first invaders ashore, and with others approaching in small boats and still others struggling to unload the freighters, Castro's planes came roaring in, guns and rockets blazing. The men on the beaches were virtually defenseless.

By 8 a.m., one freighter, struck by a rocket, had to be beached on an offshore reef. The men swam ashore without guns or ammunition. Later, a Castro Sea Fury dived out of the sun and made a direct hit on a second freighter with a rocket. The ship, carrying a precious cargo of anti-tank road mines, ammunition, food, gasoline and radio equipment, blew up in a tremendous blast and sank quickly. Supplies for a week's fighting were lost. Castro's remaining three T-33 jets, three Sea Furies and two B-26's commanded the skies.

At 3 p.m. the three freighters left afloat were ordered to leave the invasion area; the word came from the American officer who was directing the landings from the LCI *Blagar*, lying 12 miles away. The armed LCI's landed five medium tanks and a few trucks and departed. The withdrawal left the landing forces stranded on the beaches with less than ten percent of their ammunition and other critically needed equipment. But, as the Castro troops closed in on them over the unobstructed highways, they put up a fight and inflicted heavy losses. Also, surprisingly—in view of the desperate circumstances—many militiamen and citizens in the Girón area joined the liberation forces.

The Free Cuban commander on the beach asked repeatedly for the air support that the American advisers at the training camp had promised. By radio he pleaded: "Where is the promised air cover? Do you back us or quit?" Several times he was told that air support was coming, and once that air cover would be over the beachhead in a matter of minutes.

U.S. Navy jets did, in fact, fly over the invasion area on several occasions, usually in pairs, once in a close formation of six. When they first appeared, Castro's jets vanished from the air. The cheering invaders on the beaches watched as the American planes dipped their wings in salute and flew inland. They were sure that the turning point had come. But soon the Navy jets headed out to sea again. Castro's planes then returned and brazenly remained over the beachhead during subsequent U.S. flights.

What happened, I learned later, was that when Secretary of State Rusk, at his Monday press conference, repeated with emphasis President Kennedy's earlier statement that U.S. forces would not intervene in any way, Castro assured his pilots that the U.S. Navy jets posed no threat—they were merely taking photographs. Thus, after the first flight, Castro's jets renewed their devastating attacks, ignoring the occasional appearance of the powerful U.S. jets, which took no part in the fighting at any time.

The Free Cuban Air Squadron, although no match for Castro's jets and Sea Furies, engaged in the unequal combat, and lost half its planes the first day. The pilots, some of them wounded, continued flying the long seven-hour missions between Nicaragua and the beachheads even after the task was clearly hopeless. With machine guns and rockets, they sprayed the advancing Castro columns, blew up tanks and trucks loaded with militiamen. They sank a gunboat and coast-guard cutter approaching Girón Beach.

Of the original 16 bombers, only three survived the whole action. Tuesday night American pilots flew ten additional bombers into the Nicaragua staging base to replace those lost or damaged. What gave out finally was the squadron's manpower.

The earliest reports from the Bay of Pigs, reaching Washington over U.S. Navy radio circuits, confirmed the worst fears of the CIA and the Joint Chiefs. When the President learned of the air squadron's decimation by Castro's jets and the loss of two freighters, he became alarmed. On Monday afternoon, he countermanded his Sunday-evening order forbidding strikes against the airports. This resulted in a mission dispatched to bomb the San Antonio de los Baños base near Havana on Monday night. But this so-called "air strike," as we shall see later, was in reality no strike at all.

On Tuesday the dispatches reaching Washington grew grimmer by the hour. That evening, Bissell realized that his warnings could no longer be disregarded without peril. Facts of the impending collapse, he was convinced, armed him for one last effort to save Operation Pluto. He sent word to the President that he must see him urgently.

President Kennedy was holding a reception at the White House for his Cabinet and members of Congress and their wives. But the President left the party and joined Bissell in a tense meeting to which Secretaries Rusk and McNamara, General Lemnitzer and Admiral Burke, among others, had been summoned. I have been privileged to hear several accounts of that meeting, and each bears out the others in every detail.

Strongly supported by Burke and Lemnitzer, Bissell made a fervent appeal for the only thing that could now save the Cuban invasion: use of the U.S. military power available on the ships just over the horizon. Rusk was unalterably opposed.

Next, Bissell and Burke asked that a detachment of Marines be permitted to go into action. This, too was refused. All these proposals, they were reminded, would amount to U.S. "involvement."

The last request made by Admiral Burke was for the use of *one* U.S. destroyer, to lay down a barrage on Castro's forces. The President asked: What if Castro's forces return the fire and hit the destroyer? Burke answered emphatically: "Then we'll knock hell out of them!"

The President said that then the United States *would* be involved. My informants quote, with obvious admiration, Burke's answer:

"We *are* involved, sir. We trained and armed these Cubans. We helped land them on the beaches. God-dammit, Mr. President, we can't let those boys be slaughtered there!"

The outcome of that meeting was perhaps the most timid compromise of all: the President agreed that Navy fighter planes, with their U.S. markings painted out, could fly "reconnaissance" over the bleachhead, but *there should be not more than two planes, and they could fly for one hour only*, from 6:30 to 7:30 a.m.! That was the extent of the "support" authorized. The United States could not afford to "compromise the American image" before the rest of the world.

Several accounts have claimed that President Kennedy, in response to the final plea of the CIA and Joint Chiefs, authorized a U.S. "air umbrella" over the invasion perimeter to permit the Free Cuban squadron to "attack in force." Actually, on Wednesday morning, April 19, the number of Free Cubans able to fly was pitifully small. But a final air mission was pieced together in Nicaragua; it was composed of one unarmed C-46 transport plane piloted by two Cubans, and two B-26 bombers, each piloted by two American instructors. The Americans had volunteered to provide "fighter escort" for the C-46. The purpose of the mission: the C-46 was to leave supplies at the Girón airstrip and pick up a youthful Free Cuban pilot, Matias Farias, who, with maps and a ground report of the invaders' plight, might be able to support Bissell in the fight he was waging in Washington.

During the opening air battles over the beaches on Monday, Farias, flying a B-26, had put a Sea Fury out of action and destroyed a Castro B-26 before his co-pilot, Eddie Gonzalez, was killed and his own plane was forced to crash-land near Girón. With his left arm splintered and his face torn by a bullet, Farias made his way to field headquarters. Now he would be brought back to the Nicaraguan base.

The two bombers were shot down, however, and all four Americans died. The C-46 landed at Girón—the only invader plane to use the airport—and then made it back to Happy Valley with Farias aboard. Farias tape-recorded a vivid account of the disaster unfolding on the beaches, which was flown to Washington by a U.S. jet. But it was too late. The "battle of Washington" had been lost.

By nightfall on Wednesday, April 19, the fighting on the beaches was over. For three days the men had fought without rest and with little food or water. The promised "continuing" supplies had never reached the invaders. Now they had run out of ammunition and food. Almost to a man, they were captured or killed. A few put out to sea in tiny fishing boats found along the beach. One of these, with 22 men aboard, drifted for 15 days; when it was picked up by an American freighter, there were only 12 survivors.

Shortly before 5 p.m. on Wednesday, the Free Cubans' beach commander sent his final message to the American vessels standing off the Bay of Pigs. "I am destroying all my equipment," he said. "I have nothing left to fight with. The enemy tanks are already in my position. Farewall, friends!"

Gathering their remaining strength, the men crawled into the swamps. There some survived for two weeks before they died or were captured.

Castro's planes, spared by the cancellation of the air strikes, had been in the air continually. They operated in pairs, while others reloaded and refueled nearby. Flying at twice the speed of the Free Cuban bombers, the remaining jets had turned the tide of the battle, just as Bissell, Cabell, Burke and Lemnitzer had foreseen.

But the invasion was over. Castro's boasts of how little Cuba had, in three days, defeated mighty Uncle Sam were now heard round the world, relayed triumphantly by Moscow and Peking. U.S. prestige dropped to a new low in Latin America, the Far East, Southeast Asia and even among its European allies. Fidel Castro was raised to a pinnacle of prestige. There was no doubt anywhere about the U.S. "involvement"—as there never could have been in an open society—but it was involvement in *failure*.

Was there, at any time, a substitute operation for the crucial third air strike that was canceled?

Attorney General Robert F. Kennedy, in a curious interview published in *U.S. News & World Report* of January 28, 1963, explained: "There was supposed to be another attack on the airports on Monday morning. . . . There had been a flurry at the United Nations and elsewhere. . . . The President was called about whether [the attack] should take place. As there was this stir . . ., he gave instructions that it should not take place at that time. . . . *And, in fact, the attack on the airports took place later that day.*" (The italics are mine.)

What was the "attack on the airports" that Robert Kennedy said "took place later that day" [Monday]?

On Monday, *two* Free Cuban bombers were authorized to hit the San Antonio airfield where Castro planes were based. The pilots were warned, however, to avoid any risk to civilian lives or property. The planes took off from Nicaragua at 7:30 p.m. They arrived over the target four hours later, on a moonless night, with both the base and the nearby town blacked-out and hidden by a low cloud ceiling. Unable to distinguish the target, the pilots obeyed their orders and returned to Nicaragua *without firing a shot or dropping a bomb!*

To call this Monday-night flight an "attack on the airports," and to equate it with the original air strike planned for Monday dawn (and then canceled), which was to have been carried out by eight bombers manned by fresh pilots who had been briefed for hours with U-2 target photographs before them, is not exactly an exercise of candor.

Robert Kennedy was a member of the committee appointed by the President to investigate the fiasco, and he helped write the committee's secret report—which has never been published. Certainly he had access to all the facts, including those related to the air strikes that were planned and then canceled. He must know it is *not* a "fact" that the original Monday "attack on the airports . . . took place later that day"—or at any time thereafter.

Robert Kennedy's allusion to the "flurry at the United Nations and elsewhere" also raises questions. We know that part of the flurry on that Saturday afternoon was caused by fear of Khrushchev and his threat to support Castro, with the implication that intercontinental ballistic missiles would be used if necessary. This solemn warning of nuclear retaliation might have given pause to people who were incompletely informed. But is it conceivable that Stevenson and Rusk, and some of the White House advisers, were unaware of the solid proof then in the President's possession that *the U.S.S.R. had no operational ICBM's in firing position at that time?*

Volumes have been written about the reasons for the failure of Operation Pluto. Some accounts have apparently been devised to whitewash the advisers who influenced President Kennedy's decisions and, at the same time, to vilify those Americans who honestly tried to plan and execute—according to their orders—a Cuban invasion of Cuba which should have succeeded.

My findings, I believe, refute the slanders of the CIA, the favorite "whipping boy" of the Kennedy administration's apologists. Yet it would be absurd to imply that the CIA's performance was flawless. Why, for example, was not the anti-Castro underground alerted? Many reasons have been given: the fact that its units had been infiltrated by Castro agents and some of its U.S.-trained leaders had been executed; the disunity among the early Cuban exiles, which in turn prevented cohesion among the underground groups inside Cuba. It has even been said that when the CIA became convinced that the invasion was doomed as a consequence of White House orders canceling the air strikes, it elected not to launch the Cuban underground on an adventure that would increase the death toll. Allen Dulles said that the underground was not alerted "for reasons of security." This is unacceptable to the Cuban people. Why could not the active anti-Castroites inside Cuba have been alerted at the moment of the invasion without a security risk? I and thousands of others in the Matanzas area, for instance, were not arrested until 11 hours after the first landings.

Today, however, with the facts known at last, the time has come for all Free Cubans to turn away from past failures and to concentrate on the future. Our sole concern now must be the liberation of our homeland, on our own. We are aware, of course, that this fight for freedom has implications that go far beyond Cuba. For the free world will be lost if its people ever accept the idea that communist revolutions are irreversible. We Cubans know that if there is one country where communism can be reversed, it is Cuba. That is something we must demonstrate to the world.

We welcome the aid of those individual Americans who wish to help us in our struggle. But, in view of the experience at the Bay of Pigs, we can never again accept aid as subordinates of U.S. policy.

Cubans-in-exile know that the real impetus of the liberation movement will come from the Cubans who are still suffering Castro's tyranny. The true liberators are in Cuba now; the future governors of a free Cuba will come out of Castro's prisons and from his disillusioned army and militia. The underground is reforming, discovering new leaders, recovering from the disaster of 1961. The leaders are dedicated, selfless patriots who are working without thought of personal gain or political reward.

Our task, in exile, is to spark the coming revolt and to support it with our funds, our faith and, if necessary, our lives.

YOUTH FOR UNDERSTANDING

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 9, 1972

Mr. ASPIN. Mr. Speaker, it is my pleasure to join with my many colleagues in commending the over 2,500 American teenagers who are participating in this year's Youth for Understanding program. At a time when international understanding and good will is more important than ever, it is encouraging to see the number of American and foreign youth that are interested in getting to know each other and each other's culture. Since all exchange students have a chance to live with a family, the possibility for learning about a different culture is very great.

Thousands of enduring friendships have been created by this people-to-people program. Understanding and good will have been quietly established with the beneficial consequences which cannot be readily measured.

This program has had and will continue to have my full support. I commend those who are involved in this program for their efforts in behalf of international understanding.

SENATOR CARL T. HAYDEN

HON. NORRIS COTTON

OF NEW HAMPSHIRE

IN THE SENATE OF THE UNITED STATES

Tuesday, February 15, 1972

Mr. COTTON. Mr. President, the recent death of former Senator Carl Hayden brought back fond memories to many persons, including one of my fellow New Hampshirites, Bob Monahan, who is a former member of our State's legislature as well as a friend. Bob now writes a column for the Granite State Gazette, whose circulation is mainly in the Lebanon-Hanover area of New Hampshire. In his column of February 3 he recounted the memorable meeting he had with Senator Hayden during World War II.

I ask unanimous consent that the column be printed in the RECORD, so that the interesting incident described by Bob can be brought to the attention of the late Carl Hayden's friends and admirers throughout the entire Nation.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

SENATOR CARL T. HAYDEN

(By Bob Monahan)

The Portland-Oakland sleeper was crowded, as it always was during the hectic years of World War II. We were returning alone to San Francisco from a trip into Oregon to check the latest Jap balloon-bomb discovery in the National Forests of that tinder-dry State.

Because we had to hop off about midnight at Shasta City, where the headquarters of the Shasta National Forest was located, we had not tried to reserve a berth, preferring to doze in one of the coaches. Beside us, also dozing, was an elderly gentleman who looked remarkably familiar.

On a hunch, we asked him if he knew Senator Carl Hayden of Arizona. He not only knew him but was he. Then, he explained that he was heading for the Bay Area but wanted very much to see Shasta Dam near Redding, where we were due about 3 a.m. How could he get from the station to the gigantic dam across the Sacramento River at that time of night?

We took a chance, explaining that we were disembarking at a whistle stop in about an hour, that a furnished U.S. Forest Service guest house which my key would unlock was within a block of the station, and that I'd get him over to the dam the next morning. That looked good to him, and so it proved to be, especially as he was having a bad night.

The next day I commandeered the Forest Supervisor's car, drove the Senator to the dam, where his visit was a complete surprise but the red carpet was not long in being rolled out. After all, Hayden was then chairman of the Senate Committee in charge of all irrigation, reclamation and related projects in the entire country.

The Senator insisted that I accompany him as we passed thru the heavily guarded entrance and were shown the insides of the tremendous dam. We even had a substantial lunch together at the special table reserved for the general contractor and his associates. True to my promise, I managed to get him back to the Southern Pacific to connect with the next southbound train.

They buried Senator Hayden last week in his beloved Arizona, four years after retirement. At the age of 94 he had served more years in Congress than any other man. During those 56 years he spent 41 in the Senate, where a colleague named Truman is reported as calling him "the silent senator."

The UPI lead paragraph in its obituary referred to him as "laconic." That he may have been, but when we parted company in Shasta City, he minced no words in urging me to get in touch with him, if I ever needed help. It developed that he had been a sick man when we talked him off that crowded train, that he had very much wanted to see for the first time the largest dam then under construction, and was one not to forget personal assistance.

During his 14 years as chairman of the Senate Appropriations Committee, there were times when I was tempted to play my trump card, but I never did and am glad I never had to.

CROWN OF ST. STEPHEN: U.S. ASSURES ITS SAFETY

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 9, 1972

Mr. RARICK. Mr. Speaker, in an extension of my remarks in the CONGRESSIONAL RECORD of December 2, 1971, along with those of other Members of the Congress I urged our Government not to surrender the Crown of St. Stephen, the symbol of Hungarian nationhood, to the Communist regime now in control of Hungary.

Those efforts seem to have been productive for President Nixon has been reported as having sent assurances to Cardinal Mindszenty, primate of Hungary now in exile in Austria, that the crown would remain in the United States for safe keeping for the time being.

In order that the story of the present statue of the crown as told in a news article by Paul Hofmann may be recorded in the annals of the Congress and thus become known to responsible officials of our Government, I quote it as part of my remarks:

[From the New York Times, Feb. 9, 1972]

UNITED STATES ASSURES MINDSZENTY IT WILL SAFEGUARD CROWN

(By Paul Hofmann)

VIENNA, February 6.—President Nixon is understood to have sent assurances to Jozsef Cardinal Mindszenty that the Crown of St. Stephen, the thousand-year-old symbol of Hungarian nationhood, would remain in United States safekeeping for the time being.

To many Hungarians the crown has mythical and deeply emotional significance. Cardinal Mindszenty is fearful that it will fall into Communist hands.

The message from Washington, recently relayed here ot the exiled Roman Catholic Primate of Hungary by a go-between, somewhat allayed his fears that the United States might turn the crown over to the Government in Budapest.

However, the 79-year-old Cardinal believes that after the Presidential election in November the United States may yield to continuing pressure from Budapest for the return of the national treasure.

Newspapers in Britain and elsewhere have been predicting that the United States would send the crown back soon. Representative William J. Scherle, Republican of Iowa, said last year that he was afraid that it would be given back to Hungary in return for the release of Cardinal Mindszenty and he warned that he and others in Congress would seek to block such action.

The crown, delivered to the United States Army for safekeeping at the end of World War II, has been in a place known only to the United States President, the Pope and a handful of officials.

Cardinal Mindszenty believes that, for religious, historical and constitutional reasons, he should have a say in its final dispostion.

"The world is in very bad shape," he told an American newsman who inquired last week about the status of the crown. "Better not speak about it."

Members of his small entourage indicate that the Vatican does not want him to see reporters, although they deny that he promised Pope Paul VI not to give interviews. But the fact is that he does not speak substantively for publication.

Cardinal Mindszenty left Hungary last September after nearly 15 years in asylum in the United States mission in Budapest. He stayed at the Vatican as a guest of the Pope for a few days and moved to Vienna in October.

He occupies a rather gloomy second-floor suite at the Pazmaneum, a Hungarian church institution named after Petrus Cardinal Pazamy, who was primate in the 17th century, when a large part of Hungary was occupied by the Turks.

The Cardinal's routine here resembles his life in the American mission in Budapest. He starts his day by saying mass at the Pazamaneum chapel, then spends many hours in his study, interrupted by an hour's stroll in the garden. He rarely goes out and has no car.

The most notable differences from the refuge in Budapest are that the quarters are less cramped and that the Cardinal can see any visitors he wants. Many Hungarians ask for an audience and receive his blessings.

VISITORS ARE SCREENED

Callers are carefully screened by the Cardinal's staff. "The Communists try to spy on the Primate or agitate against him," an aide asserted.

Groups of Hungarian-American Roman Catholics have invited the Cardinal to visit the United States, which he plans to do this spring or summer.

For many years Cardinal Mindszenty has been writing his memoirs and a history of the church in Hungary. With both works near completion, he is negotiating with publishers in Europe and the United States.

The Cardinal, who will be 80 years old on March 29, looks sallow but less fatigued than when he arrived in Rome. His aides say he is in satisfactory health. "His Eminence is, I'd say, tough," a member of his entourage remarked.

The Cardinal's "definitive" departure from Hungary on Sept. 28 was the result of long negotiations between the Budapest Government and the Vatican. Vatican officials said in September that the Crown of St. Stephen was not mentioned in the negotiations. However, Budapest has long been pressing Washington through diplomatic channels to return it to Hungary.

The crown is one of three national treasures handed to American officers in May, 1945, under circumstances that have never been fully disclosed. The others, known as crown jewels, are a gold scepter and orb and a gold-encrusted royal mantle.

According to legend Pope Sylvester II sent the crown to Stephen as a sign of appreciation of his country's conversion to Christianity. The crown, in Byzantine style, is studded with gems, decorated with inset miniatures depicting religious scenes and surmounted by an inclined cross.

Every Hungarian king is said to have been crowned with the relic, which was considered an essential expression of national sovereignty.

Churchmen here say that the Budapest Government's repeated requests for the crown betray a desire to add an aura of historical legitimacy to its domination. To Cardinal Mindszenty and his followers the Communist rulers are usurpers.

American spokesmen have said repeatedly that the eventual return of the crown to Hungary should take place at a time marked by an improvement in relations.

Cardinal Mindszenty's interest in the crown is based on a Hungarian constitutional provision that assigns to the Primate a role as regent during vacancies on the throne. In the Cardinal's view, such a vacancy exists now.

WHO IS UNEMPLOYED AND WHY: UNEMPLOYMENT HEARINGS IN MINNEAPOLIS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 9, 1972

Mr. FRASER. Mr. Speaker, in January, I held hearings on the unemployment and economic problems of my district. I submit for the RECORD the following summary of the testimony presented during those hearings. Because of the number of witnesses and the length of testimony presented over the 2 days of hearings, it is difficult to do justice to all the testimony. The following summary pulls together a few of the main themes presented which I feel might be useful for other Members of Congress.

The following is a list of individuals and organizations who testified:

R. Pinola, Director, Research and Planning, State of Minnesota Manpower Services.

Thomas Cook, Hennepin County Medical Society.

Donald Jackman, Minneapolis Central Union Labor Council.

Bettina Blank, Minnesota Council of Churches and Minnesota Catholic Conference—Chairman, Economic Conversion Task Force.

Scotty Stone, People's Church.

Charles Pillsbury, Council for Corporate Review.

Geraldine Wedel, Minnesota Nurses Association.

William E. English, Control Data (Equal Opportunity Planning).

James Rude, student.

Rosemary Chapin, Minnesota Resource Center for Social Work.

Stuart Walker, Walker Employment Service.

John Cosgrove, Minneapolis Planning Department.

Gary Berg, United Auto Workers, Community Action Program Council.

Paul Wallace, Metro VEST.

Walter Carlson, Minnesota Unemployed Workers.

Wallace Schrade, unemployed veteran.

Edward Lambert, Jobs for Vets.

Robert Anderson, Co-chairman, Governor's Jobs for Vets.

Donald Banghart, Vietnam Vets Against the War and Jobs for Vets.

Ron Edwards.

Charles Swenson, Operating Engineers Local No. 49.

H. D. Emswiler, VEST Research and Development.

Tollie Flippen, President NAACP.

David Yale, private citizen.

Stan Fure, President, City of Minneapolis Education Association.

Frank Adams, Director, State of Minnesota Office of Emergency Planning.

Ed Bolstad, President, Minnesota Federation of Teachers.

Harvey Wickman, President, United Auto Workers Local #932.

Bea Kersten, AFL-CIO Community Services.

Walfred Pedersen, University of Minnesota Counseling Service.

Ellen Dresselhuis, Legal Aid Lawyer.

Stan Kano, Bill Kennedy, Wally Short, HIRE (Helping Industry Recruit Ex-offenders).

Ron Vagemast, Minnesota Society of Professional Engineers.

Clarence Johnson, Construction and Laborers Union Local #563.

David Roe, President, Minnesota AFL-CIO Federation of Labor.

Arnold Storer, Minneapolis Relief Department.

D. C. Deering, United Transportation Union.

Max Goldberg, Unemployed Engineers.

Matt Johnson, Urban League Employment Specialist.

Miriam Almquist, Minnesota Teachers Service.

Tom Mason, Ronald Carr, Upper Midwest Indian Center.

E. M. Hendrickson, Philip Johnson, American Red Cross, Service to Military Families.

John Martinson, Bureau of Indian Affairs.

Eugene Elphick, private citizen.

James Carter, student.

SUMMARY OF MANPOWER HEARINGS HELD BY CONGRESSMAN DONALD M. FRASER

On January 21 and 22, I conducted hearings in Minneapolis on the unemployment problems of Minneapolis residents. The purpose of the hearings was to determine who the unemployed are in the Twin Cities area and why they are out of work. The answers relate to nationwide problems of the labor force and structural problems of the economy.

Forty-five witnesses appeared to give testimony during the 2 days of hearings. Others who were not able to appear submitted written statements. The witnesses represented unemployed Vietnam veterans, students, workers from the Moline plant, engineers, teachers, Indians, blacks, nurses, and women. Representatives of labor unions and both State and local manpower services also appeared.

The picture that emerged from the hearings is one of great waste of human talent and energy. As a result of the hearings, I will offer suggestions and amendments to the present manpower legislation before Congress.

Meaningful employment is a fundamental requirement of a healthy society. To undertake constructive measures in the training, referring, and creation of jobs is one of the primary tasks confronting us at this time. As several witnesses pointed out, one of the great failures of the present administration has been the concentration of tax breaks for industry which have encouraged relocating or automation and have directly contributed to the shrinking market for jobs.

UNEMPLOYMENT PICTURE IN MINNESOTA

R. Pinola, director of research and planning for the Minnesota Manpower Services Department gave an excellent description of the State's unemployment problem.

Traditionally the unemployment rate for Minnesota has been consistently lower than the overall rate for the country. Since 1969 the Minnesota rate has continued to be lower but the rate of increase has been much higher than that for the whole country.

In 1969, 21 Minnesota counties had an unemployment rate of 6 percent or more. By 1971, 41 counties had an unemployment rate of 6 percent or more. In 1969, 25 States had a higher unemployment rate than Minnesota. By 1970, 20 States had higher rates and 24 had a lower rate of unemployment. These figures indicate that Minnesota's economy is more volatile than that of many States and has thus been more susceptible to the effects of the recession.

Unemployment compensation figures give an idea of the impact of the recession. In 1969 with an unemployment rate of 2.9 percent, $24 million in benefits were paid. In 1970, the unemployment rate went to 4.2 percent and $53 million in benefits were paid. By 1971 the unemployment rate had grown to 5.3 percent and $70 million in benefits were paid.

The number of individuals who exhausted their unemployment benefits also increased: In 1969, 11,600 individuals exhausted their U.S. benefits; in 1970, 23,000; by 1971, this number increased to 37,000. In summing up, Mr. Pinola concluded that Minnesota had been hit harder than the United States as a whole by the current recession. While he predicted some improvement in the Minnesota economic picture for 1972, he was not optimistic about the likelihood of a recovery.

Other testimony presented during the 2 days of hearings provided a personalized picture of the unemployment problem in Minneapolis. Individual witnesses discussed the unemployment situation as it affected them directly. Unions and professional associations described the situation as it affected their members. Organizations who traditionally provide services to the unemployed talked about the effect of the rising unemployment rate on their work.

RELIEF PROGRAMS

One agency whose workload has increased substantially in the past 3 years is the Minneapolis Relief Department. Arnold Storer testified that the welfare caseload has increased 16 percent during each of the last 3 years—1969–71. This increase is directly related to the deteriorating economic situation. Over 90 percent of the present caseload of 2,437 individuals are single men and women. This reflects a change in State law which provided aid to families with dependent children aimed at families where the father was out of work. This took these families off the local relief program. Most of these single individuals are willing and able to work but there are no jobs to employ them. The agency ran out of funds in 1971 and will most likely do the same in 1972. In 1971, $600,000 had to be obtained from the city council to provide for the increased caseload.

AFL-CIO COMMUNITY SERVICES

Bea Kersten representing the AFL-CIO community services reported that more individuals had been referred to her for services in the last year than in the past 20 years. She found that many individuals when confronted with unemployment apply for early retirement or disbility benefits. As a result, they suffer a substantial loss in the benefits they would have received if they had been able to continue working until age 65. She recommended liberalization of the social security disability benefits program and new regulations to prevent reductions in benefits when early retirement is necessary. The act prohibiting discrimination on the basis of age should also be strictly enforced.

STUDENTS

Walfred Pedersen of the University of Minnesota counseling service testified that there has been a 20-percent decrease in the number of part-time jobs available for students. These part-time jobs are essential for students because 38.7 percent of students currently enrolled receive no financial help from their parents. This rate compares to 24.3 percent just 5 years ago. The failure of students to find part-time work results in many more applications for bank loans to pay for their education. Even more significant is the fact that placements of students have decreased by about 9½ percent, from 15,000 last year to about 13,000 this year.

Mr. Pedersen recommended that work-study programs be expanded and that universities receive direct funding to create jobs for students.

ORGANIZED LABOR

Representatives of organized labor testified on the hardships of many of their members. Harvey Wickman of UAW Local No. 932 described the effects of the projected closing of the Minneapolis Moline plants in the Twin Cities area. Over 1,300 workers will be affected by the shutdown and 800 of this number are close to retirement.

He analyzed the shutdown as a reflection of Nixon economic policies. Low farm prices have meant that farms are unable to buy the company's product, farm machinery. And the administration's tax breaks for industry have encouraged relocation and automation.

Mr. Wickman described the problems facing a worker who is 48 years old, and has been with the company for 30 years or one who has only an eighth grade education, but who has been doing a good job. For these individuals retraining is not a possibility. No one will hire them because of their age. Unemployment compensation and welfare are the only alternatives and these can be very degrading. These layoffs have a terrible economic and social impact on the entire community.

The United States is the only civilized industrial country in the world that allows a company to close down without taking care of its workers, Mr. Wickman said. Labor has been fighting for years for a pension reinsurance bill to guarantee that when a company goes out of business the pensions will still be paid. He asked for the support of legislators at all levels to deal with these problems.

Gary Berg, representing the UAW community action program endorsed legislation introduced by Congressman HENRY REUSS, H.R. 10769, which would prohibit exemptions from industrial development bond provisions if any portion of the proceeds were to be used to assist the relocation of an industry from one area to another.

Mr. Berg also supported an Industrial Fair Standards Act and a bill to provide Federal standards for unemployment compensation and workman's compensation. At present there is no way to insure that corporate expansion of relocation does not take place at the expense of one group of employees.

Donald Jackman of the Minneapolis Central Labor Union Council endorsed the position of the AFL–CIO that every American willing to work has the right to the dignity of a productive job. If necessary, the Government must provide jobs to meet this objective.

Dave Roe, president of the Minnesota AFL–CIO, urged the spending of $12 billion that Congress has appropriated but the President refuses to release. He said that these funds could provide numerous jobs in the construction of public facilities, in conservation and environmental programs. He also called for concrete planning for conversion to a peacetime economy. Workers are always willing to learn new skills but companies refuse to provide that opportunity by starting alternative production.

D. C. Diering of the United Transportation Union testified to the growing unemployment among railroad workers in Minnesota. In addition to generally depressed economic conditions, it also reveals the decline in the importance of railroads as a means of transportation. Between 1956 and 1969 Minnesota lost approximately 110 passenger trains. In 1971 Amtrak took all but four of the remaining passenger trains. Mergers of railroads have meant the loss of numerous jobs for railroad workers. In addition rail freight service has declined and stations have been abandoned.

Mr. Diering concluded that in spite of all the negative indicators he is still optimistic about the future of the railroads if they are given good management.

Clarence Johnson, representing the Construction and Laborers Union Local No. 563 and Charles Swenson of Local No. 29 of the Operating Engineers discussed the problems of seasonal employment facing workers in the building trades. Approximately 6,000 workers are currently unemployed due to seasonal layoffs. Over half the individuals employed in the trades worked less than 1,000 hours in 1971. Many are not eligible for unemployment benefits and others encounter administrative difficulties and delays in collecting their benefits.

MINORITY UNEMPLOYMENT

Several witnesses testified on the unemployment problems of Minneapolis' black and Indian communities.

Matt Johnson, deputy director of the Minneapolis Urban League, testified that while the overall population of Minneapolis had declined by 9 percent according to the last census, the black population of the city has grown by 60 percent. This growth has meant increased difficulties for blacks in finding employment. Unemployment among blacks is approximately 12 percent; among young blacks under 20 it is 30 percent or more. There are serious underemployment problems. Sixty-seven percent of employed blacks work in service or laboring occupations which offer no upward mobility or do not pay adequate salaries.

The problems are getting worse. Blacks are still the last hired and the first fired. The movement of industry to the suburbs makes commuting very difficult for blacks.

Scotty Stone of the Peoples' Church criticized the current manpower programs because they train the participants for low-wage, dead-end jobs. He called for involvement of the community in the programs designed to help them because residents are the people who know their problems best. Existing programs should be consolidated and put into community hands and any jobs that are created should be tied to the development of the community.

Tollie Flippen, president of the Minneapolis branch of the NAACP criticized the implementation of the Emergency Employment Act in Minnesota, saying it did little for the jobless in Minnesota and nothing for the black unemployed in Minneapolis. He urged the implementation of the Full Employment Act of 1946 with the Government creating the jobs necessary to provide work for the unemployed.

William English—Equal Opportunity Planning for Control Data—observed that a 4-percent unemployment for the country means too high a rate for blacks and other minorities. The reason involves the failure of Government agencies to enforce compliance laws governing the hiring of minorities in projects financed with Federal funds. The public sector sets the example for private industry. If public agencies are not forced to comply with the law, it is impossible to force private industry to hire minorities.

INDIANS

The Indian population in Minneapolis faces problems similar to those experienced by residents of the black community. John Martinson—employment specialist with the Bureau of Indian Affairs—discussed some of the difficulties Indians have in obtaining employment. Eighty-one percent of Indians in the Twin Cities are blue-collar workers and 40 percent of this group are unskilled. Many Indians have difficulty in communicating; and thus, they perform poorly in job interviews. The Indian job applicant often lacks adequate transportation and, therefore, does not have access to the higher paying jobs in the suburbs.

The recession has further complicated the employment situation for the Indian: Competition is keen and the length of time required to place an Indian, either skilled or unskilled, has increased significantly. Two years ago the majority of Indian jobseekers were placed in 3 days. Today it takes anywhere from 5 to 21 days to place the applicant, depending on his skill level.

Tom Mason of the Upper Midwest Indian Center, confirmed Mr. Martinson's findings.

VIETNAM VETERANS

Several witnesses testified on the difficulties returning Vietnam veterans are having in finding employment. N. Philip Johnson and E. M. Hendrickson, of the Red Cross service to military families program gave the results of a survey conducted to determine what had happened to veterans who had returned to Minneapolis. Of the 300 veterans questioned, 17 percent returned information. Of that 17 percent, over one-third were employed, over half were attending school, and the remaining 15 percent were unemployed. Many of these unemployed veterans went into the service right out of high school or without completing high school; thus, they had very little in the way of marketable skills.

Three members of the Governor's Jobs for Vets Commission—Ed Lambert, Bob Anderson, and Don Bungart—testified on the problems of motivation, alienation, and inadequate veterans' benefits.

Mr. Lambert advocated setting up a street agency that would provide motivational counseling.

Bob Anderson, who serves as cochairman of the Governor's Jobs for Vets, felt that the present Federal employment programs and education benefits are not adequate and should be expanded. World War II and Korean veterans could live on the income provided in the GI bill but it is no longer sufficient. The proportion of veterans using these benefits is lower than for either World War II or Korea.

Wallace Schrade, a young Vietnam veteran, recounted his personal experience in attempting to find a job after his tour of duty with the Army. A draftee, Mr. Schrade was an accountant at Dow Chemical Co. As a veteran, Mr. Schrade has reinstatement rights, and after leaving the service, he contacted Dow about returning to the company. While Dow agreed to rehire him, they made it very clear that they were only doing so because of their legal obligation. The correspondence stated:

> Pursuant to the provisions of Section 9 of the Military Selective Act of 1967, we are offering you a position as an accountant . . . but that his future with the company would not be promising.

Mr. Schrade decided against returning to Dow under these circumstances and has continued to search for employment. He is still unemployed.

SCIENTISTS AND ENGINEERS

Scientists and engineers have been hard hit by the recession and members of these professions can be counted among the growing number of unemployed in the Twin Cities.

Ron Vegamast of the Minnesota Society of Professional Engineers testified that since 1968, technical employment in the prime contractors and first tier subcontractors has been reduced by about one-third. The second and third tier subcontractors have been even more adversely affected.

The result has been mass layoffs of about 17 percent of the engineers and scientists in the United States during the last 2 years. About one-half of them have found employment in their fields; the remaining 100,000 are unemployed or seriously underemployed. The individuals having the most difficulty finding work are those individuals who have a specialized background in aerospace or defense, those over 45 years of age and those with backgrounds in aeronautical and electrical engineering. The total unemployment rate for engineers, scientists, and technicians is 5.5 percent for the metropolitan area. Of the 13,000 engineers in the Minneapolis area, 660 are unemployed or seriously underemployed; of the 3,200 scientists in the area, about 100 are unemployed; of the 10,000 technicians and draftsmen, about 660 are unemployed.

Of this unemployed group, one in five have their masters degrees and one in 40 have their Ph. D. Twenty-seven percent are over 45 years old and 58 percent are over 35. Fifty-three percent have been unemployed or underemployed for 6 months or longer. About three of every four are willing to relocate if they can find work.

The prospects of improvement are not good. The economy would have to grow by 16.8 percent in the next year to absorb the currently unemployed engineers and to take care of the new graduates. Among the difficulties inherent in current programs is the mistaken orientation of finding technical work for the unemployed scientists, rather than nontechnical work. There are not enough technical jobs to go around.

Max Goldberg, an engineer who has been out of work for the last 16 months, testified that the U.S. Department of Labor has failed to provide adequate data on technical employment and has failed to enforce the Age Discrimination Act.

He emphasized the need for a new approach by industry and organized labor to stem the exportation of our technological superiority and jobs. He advocated policies aimed at continued capital growth, R. & D. efforts that would recognize the oneness of the world market, and innovative efforts in Government-industry cooperation.

James Rude, a Ph. D. candidate in computer sciences at the University of Minnesota placed the blame for the high unemployment rate among scientists on organized labor, the Nixon administration, management of large corporations and members of the science and engineering profession themselves.

According to Mr. Rude, labor's insistence on high wages meant that management did away with R. & D. programs in favor of production. The Nixon administration failed to provide alternate research projects to take the place of cutbacks in aerospace and defense. Corporate management failed to stand up to the wage demands of organized labor, and demanded too much specialization from their technical employees. And engineers and others skilled in high technology are at fault for becoming too specialized and not remaining versatile or flexible in their interests.

Paul Wallace represented Metro VEST, a self-help voluntary organization, composed of unemployed scientists, engineers, and technicians. Metro VEST attempts to find jobs for its members.

A sample of the 450 members indicates that about 240 are employed or unemployed and 70 percent of these are earning less than they had previously. The average age of active members is 44.9 years and of the inactive members 42.2 years. Mr. Wallace concluded that the average unemployment period of 13 months is too long and the average age indicates the severity of the problem for people past 40. The prospects for new jobs developing in the area of social improvements—housing, mass transit, and so forth—are not good. The projects are either too long range or the jobs created will not offset the loss of jobs in other fields.

Mr. Wallace recommended: Broadening and reassessing the TMRP program; maintaining the space shuttle program; provision for national analysis of the unemployment statistics for scientists and engineers to make a better determination of the extent of the problem; and support for metric conversion.

Dr. D. H. Emswiler discussed his efforts to establish a research and development company, VEST R. & D. Association, Inc., to put the talents of the unemployed technical personnel in the Minneapolis area to work. To date the company has received one contract from the Navy that will employ three Metro VEST members, and hopes to receive additional funding from other Government agencies. They are also interested in providing consulting services to businesses in the Twin Cities area.

TEACHERS

Representatives of the Minneapolis teaching community discussed the current oversupply of professionals in the education field:

Ed Bolstad and Dale Holstrom, representing the Minnesota Federation of Teachers, testified that the surplus of teachers is really a "contrived oversupply" designed to benefit school districts. Many districts are using half-time teachers and teacher aides are being misused.

The teacher surplus could be used to great advantage by reducing the class size and improving the teacher student ratio. Major innovations in education are now possible because there are sufficient qualified personnel. Funds should be made available to take advantage of the present opportunities.

Miriam Almquist, manager of the Minnesota Teachers Service supported their testimony and emphasized the need to cut class sizes and to channel students interested in teaching into counseling and remedial education.

Stan Fure's—president of the Minneapolis Education Association—statement for the record provided a statistical analysis of the teacher surplus for both the country and the State of Minnesota.

In the fall of 1971 approximately 120,700 teachers could not find work. He projects a surplus of 145,300 elementary and secondary teachers by 1974 and an oversupply of 195,700 teachers by 1979.

In Minnesota only 71.4 percent of the 1971 graduates of the teacher training institutions in the State found jobs. The remaining 1,600 had to find jobs elsewhere or did not use their college training. In the Minneapolis Public School System, the ratio of applicants to teachers hired was 11 to 1.

NURSING AND SOCIAL WORK

Representatives of two other professions, nursing and social work, presented statements on the employment problems faced by many in their fields as a result of the recession. Geraldine Wedel—Minnesota Nurses Association—reported that many part-time and full-time nurses have been asked to take days off without compensation. Over the past year—1971—five hospitals in the State have laid nurses off. Three of those hospitals have recalled the nurses but two hospitals in Minneapolis are continuing to lay off staff.

Several factors account for these layoffs—low hospital occupancy due to the fact that the unemployed cannot afford medical care; decline in the birth rate; return of many inactive nurses to work because their husbands are unemployed and the decrease in the average stay in the hospital.

There are three positions available for every 10 newly licensed nurses. The data also shows that considerably fewer positions have been budgeted in both hospitals and nursing homes than in the past.

Rosemary Chapin—Minnesota Resource Center for Social Work Education—discussed social workers currently employed and recent college graduates in social work who are looking for employment.

The AFDC caseload in Hennepin County has risen in the last 4 years from 5,000 families to 15,000 families. In the Minneapolis Relief Department the caseload per worker has increased by 20 percent in the past year. Volunteer and privately financed agencies report the same trend. At the same time, however, staffs are not only remaining at past levels in many cases they are decreasing in size.

Social work is one of the three most elected majors in the Minnesota college system, but placements do not come close to equaling the number of interested applicants. From January to November 1971 Hennepin County received a total of 1,449 social service job applications to fill 153 positions.

Unemployment among social service personnel has a double adverse affect in the community: It deprives workers of normal income, and deprives other unemployed persons of needed assistance with the financial and social problems they experience as a result of unemployment.

WOMEN

Problems of women were also discussed at the hearings. Ellen Dresselhuis, who works as a legal aid lawyer in Minneapolis and also serves as president of the Minnesota Women's Equity Action League, testified that about 50 percent of her clients are unemployed and that 70 to 80 percent of that number are women.

She cited the lack of adequate and inexpensive child care as the single most important factor in the problem of female unemployment. The majority of welfare mothers would prefer to be employed but have found it economically unfeasible to work because of the high costs of child care. Ms. Dresselhuis also discussed the problems encountered by many women who seek unemployment compensation benefits. She pointed out the discriminatory nature of a State statute which prohibits an individual from claiming benefits when the reason for terminating employment is to assume household duties or to live with one's spouse. The vast majority of individuals affected by this law are women.

The application of the unemployment compensation laws also discriminate against women with respect to wages. Women are expected to take jobs at wages lower than they had previously received and are disqualified for benefits if they do not. Men, however, are seen to have good reason to quit if their employer offers them wages lower than their previous earnings and are found eligible for unemployment compensation.

Stan Kano of HIRE discussed the employment problems of exoffenders. The majority are poor and have less than a high school education. Almost 77 percent of exoffenders are unskilled and 18.2 percent are semiskilled. Almost half are unemployed when convicted and the consistent unemployment rate for exoffenders is about 40.8 percent.

The majority of employers consider the ex offender a high risk and are unwilling to hire him. There are also severe discrimination problems resulting from civil service laws and the interpretation of these laws.

Many individuals discussed their personal experiences among the ranks of the unemployed. One, David Yale, was unemployed for a year until he was finally hired by the PEP program. He has a B.A. in English and an M.A. in American Studies but there were no jobs available in his field. During the course of his search for a permanent job he worked as a cleaning man in a restaurant and collected food stamps. He also learned printing in a Manpower training program. A year after his search began he was hired by the city as a recreation aide and thinks it will be a career. He feels that 10,000 public service jobs are needed for the Twin Cities alone.

CONVERSION

Representatives of two groups stressed the need for post-war planning to deal with the problem caused by winding down the war Bettina Blank of the Joint Religious Legislative Committee, stressed obligation of the Federal Government to assist those sectors of society adversely affected by shifts in national policy such as military spending. The three areas where assistance is needed are first, the worker who loses his job because of spending cutbacks, second, the corporation which must find alternate products to manufacture and third, the community which can no longer support its population with jobs and services.

> We feel that the Federal Government has an obligation to those individuals, corporations and communities wounded by defense cutbacks. The Government, by letting contracts for military goods is, in effect, employing the individuals who become involved through their employer holding the contract.

Emphasis was given to the importance of good planning to anticipate the problems of dislocation and deal with them before they become critical.

Thomas Cook of the Hennepin County Medical Society described the many projects that could be developed to utilize the skills of the unemployed or to train the unskilled. The environment and medicine are two fields where large numbers of people are badly needed.

Two individuals responsible for administering the Emergency Employment Act testified on the operation of the new program. Frank Adams, director of the State Office of Emergency Planning, stressed the need for seven to eight times the amount of money currently available to Minnesota for EEA. The State has 2,500 federally funded jobs to use in 65 countries and 30 State agencies. In some Minnesota counties 16 percent of the workforce is unemployed.

John Cosgrove, director of manpower planning for the city of Minneapolis, gave a status report on the city's EEA program. He indicated that the three major groups to be served by the program were unemployed veterans, the disadvantaged and unemployed technical personnel. One hundred and ten of the 141 funded positions have been filled. An additional 78 jobs have been created for the areas of the city with over 6 percent unemployment. The target areas actually have a 10-percent jobless rate. The concept of EEA is good but the program needs to be expanded and it should be longer term.

Charles Pillsbury of the Council for Corporate Review discussed the need for a grass roots effort to deal with dislocation, arguing that programs offered by the Federal Government did not offer much relief. He suggested that the initiatives should come from private industry and organized labor.

A group of members of the Council for Corporate Review sang their concluding remarks to the tune of "Joe Hill." It was a song entitled "The Ballad of Reconversion" and the last two stanzas went as follows:

Congress saw the mess they'd made
And said let's reconvert
We'll take the money from the planes
And let the people work.
And let the people work.

I dreamed I had a job last night
As strange as that may seem
A job to help my fellow man
Fulfill our highest dream.
Fulfill our highest dream.

E. GUY WARREN

HON. GEORGE P. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 9, 1972

Mr. MILLER of California. Mr. Speaker, California, and the Eighth Congressional District in particular, has lost one of its most distinguished citizens in the passing of E. Guy Warren.

Guy Warren served as chairman of the California State College Board of Trustees. He graduated from the University of California, Berkeley, and did postgraduate work at Harvard School of Engineering in Boston.

The Warren family has made many contributions to California education. Guy Warren was intensely interested in all things that contributed to the welfare of the State and district. He was a moving force who had a keen sense of humor, and was always ready and prepared to help his fellowman. He will be missed in our community.

THE RUSSIAN OPPRESSION OF UKRAINIANS INTENSIFIES

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 9, 1972

Mr. RARICK. Mr. Speaker, from information provided the people by the established news media, the conclusion could be rightfully drawn that the Soviet Jews are the only people whose rights are being violated in the Soviet Union. The plight of the 47 million Ukrainians behind the Iron Curtain goes relatively unnoticed.

For some strange reason, blatant disregard by the Soviet leaders for the basic human rights of minority groups in Russia is rarely reported by the national wire services. Information reaches me frequently of such transgressions and injustices perpetrated by Soviet leaders on the oppressed Christians and other minorities as well as Jews within the Soviet Union. Especially is this so with regard to the Ukrainians. Reports from several Ukrainian sources indicate that injustices against individuals, groups and nations in the U.S.S.R. are increasing and that the Soviet regime is eliminating dissent by eliminating people in the Soviet Union who are making an effort to advance the basic human rights of people—freedom of speech, thought, and freedom for their own nations. These reports reveal that thousands of people in the U.S.S.R. of all nationalities among which the Ukrainians are dominant are presently in prisons and concentration camps. Among those in Ukraine who reportedly are in the vanguard in speaking out for the rights of individual Ukrainians and the Ukrainian Nation and who have either been eliminated or isolated are the following:

Bishop Wasyl Velyckowshkyj—head of the Ukrainian Catholic Church—which is operating secretly—was sentenced to 4 years imprisonment in 1969 and is presently in hard labor in a concentration camp.

Valentyn Moroz—historian and writer, sentenced a second time in 1970, and is now serving a 14-year sentence in a concentration camp in Mordovia protesting the Russification of Ukraine,

Alla Horshka—artist and defender of the protests against the Soviet regime, was under observation and later killed by the KGB November 28, 1970.

Michael Soroka—a well-known political figure who died in a Soviet concentration camp June 16, 1971, serving his 25-year sentence.

Today in the Soviet Union hundreds and thousands of innocent people are reportedly on the road to extermination only because they have the courage to stand up for freedom and human rights and are demanding justice in their country.

Ukrainians in non-Communist countries took the occasion of the January 22 observance of the 54th anniversary of the independence of the Ukrainian Republic to protest a new wave of oppression of Ukrainians in the U.S.S.R. in which 19 intellectuals in Ukraine were arrested by the KGB for alleged "anti-Soviet propaganda and agitation." In reality, this "crime" amounted to calling on Soviet leaders to abide by the promises of their own laws.

The crime of Valentyn Moroz, who is now serving a 14-year prison sentence, was that he dared to write essays stating that he was proud to be a Ukrainian.

So that our colleagues may have a better understanding of "justice" Soviet style, I include the document "Instead of a Last Plea" by Valentyn Moroz and other pertinent articles following my remarks along with my bills to place the question of human rights violations of Ukrainians and the Jewish minority in the Soviet Union on the agenda of the U.N.O.:

[From Svoboda, the Ukrainian Weekly, Jan. 29, 1972]

INSTEAD OF A LAST PLEA

(A new document is being widely circulated in Ukraine. Written by Valentyn Moroz and titled "Instead of a Last Plea," the statement was given to the judges by Moroz at the beginning of his trial in 1970. A copy of the document has reached the West. The following information was added by the person who copied the letter: "At the time of his second illegal trial Valentyn Moroz decided to boycott the proceedings and to remain silent not answering any questions put to him. For this reason he turned this statement over to the judges at the beginning of the trial, which took place behind closed doors.")

The following is a translation from Ukrainian by Askold Skalsky:

I will not cite the Criminal Code and try to prove my innocence. I am not being tried for any guilt and you know this very well. We are tried for the part we are taking in processes that are undesirable to you. There are people whom you have more reasons for arresting on formal and legal grounds than me. But it is convenient for you to let these people remain free since they dampen the intensity of the national revival in Ukraine and curb its speed, usually not even understanding this. You will never touch these people, and even if they should accidentally fall into your hands you would try to free them immediately. You have reached the conclusion that V. Moroz raises the temperature of processes in Ukraine that are undesirable to you; therefore, better to separate him from his surroundings with prison bars. Well, this would be completely logical if not for one thing . . .

FUEL TO FLAMES

Beginning with 1965 you have put scores of people behind prison bars. What has this brought you? I will not bother to speak about the current trend—no one has yet been able to stop it. But have you at least been able to liquidate its real and material manifestations? Have you stopped, for example, the stream of unofficial, uncensored literature which is now called "Samvydav." No. This proved to be beyond your strength. Samvydav is growing, enriched by new forms and genres and creating new authors and readers. And most important, it has spread its roots so widely and deeply that no number of state informers or Japanese tape recorders will be of any help. Your might has accomplished nothing, and what you are doing could be labeled as simply wasted effort. But the point is not that such effort leaves no one hot or cold, or has no result. One cannot say that about your work, for it already has produced a noticeable effect. But this effect is the very opposite of what you had expected. It seems that you have not frightened, but rather interested people. You wanted to put out the fire: instead you have added fuel to the flames. Nothing has contributed more to the revival of national life in Ukraine than your repressions. Nothing has so turned people's attention to the process of Ukraine's rebirth as your trials. As a matter of fact, these very trials have shown great many people that community life has revived in Ukraine. You wanted to hide people in Mordovian forests; instead you have placed them on a vast arena and the whole world saw them. Most of the activists in the national rebirth of Ukraine became activists in an atmosphere of reawakening that was evoked by your very repressions. In a word, it is high time that you finally understood: repressions hurt you first of all. But you go on with your trials. . . . For what? To fulfill a quota? To pacify your sense of official duty? To unburden your anger? More than likely—from inertia. Into the present post-Stalin stage of Ukraine's national rebirth you have introduced that without which it would have remained immature and unripe: you introduced the element of sacrifice. Faith appears when there are martyrs. You gave them to us.

BOOMERANG

Every time that there appeared something living on the Ukrainian horizon, you threw stones at it. And every time it was not a stone you threw but a boomerang. It returned and struck—you! What happened? Why do your repressions fail to produce the usual result? Why did the usually reliable ammunition turn into a boomerang? The times have changed—that is the whole answer. Stalin had enough water to put out the fire. But you are in a totally different situation. You live in a period when the reserves have been exhausted. And when there is little water, it is better not to tease the fire with it. For then it burns more strongly. Every child knows this. You took a stick into your hands in order to scatter the flames, but instead only stirred them up more. There is no strength for anything else. This means that the social organism in which you live has entered into a phase of development where repressions produce only a backlash. And every new repression will now become a new boomerang.

When you put me in prison on June 1st (1970) you again set a boomerang into motion. You have already seen what will happen next. Five years ago I was put in a prisoner's dock and the result was an arrow. Afterwards I was put behind a barbed wire fence in Mordovia and the result was a bomb. Now, once again, having understood nothing and learned nothing, you are beginning all over again. Only this time the momentum of the boomerang will be much stronger. In 1965 Moroz was an obscure instructor of history. Now he is known . . .

And so Moroz feeds on prison fare. Let's put it this way: What will you get out of it? The only kind of Moroz who would be of any value to you would be a submissive Moroz who wrote a declaration of guilt. This would truly be a stunning blow to all informed Ukrainians. But you will never live to see such a Moroz. If you think that by putting me in prison you will produce some kind of vacuum in the Ukrainian national revival then you are being unrealistic. Understand at last: there will no more be a vacuum. The abundance of Ukraine's spiritual potential already suffices to fill any vacuum and to provide socially active people to take the place of those in prisons and those who have left public activity. The 1960's brought a marked revival in Ukrainian life; the 1970's also will not be a vacuum in Ukrainian history. The golden days when all life was squeezed into official compartments have passed; they have passed irrevocably. There now exists a culture independent of the Ministry of Culture, and a philosophy independent of the journal "Voprosy Filosofii." Now social phenomena that have come into the world without official permission will continue to exist and will increase with every year.

The court will try me behind closed doors. But it will turn into a boomerang anyway, even if no one hears me, even if I stay silent in an isolated cell in Vladimir prison. There is a silence that is louder than shouting. And even if you will destroy me, you will not be able to stifle that silence. It is easy to destroy, but consider this truth: Those who are destroyed sometimes count for more than the living. The destroyed become a banner. They are the rock from which fortresses of crystal are built in pure souls.

I know what you will say to this: Moroz thinks too much of himself. But the point here is not Moroz. The point is every honest man in my place. Besides, in a place like Vladimir prison where people are prepared for a lingering death from some kind of secretly administered drug, there is no place for petty ambitions.

MOST PROFOUND

National rebirth is the most profound of all spiritual processes. It is a many-faceted, many-layered phenomenon. And it can reveal itself in a thousand forms. No one can foresee all of them and weave a net wide enough to encompass this process in all of its dimensions. Your dams are strong and sure, but they are built on land. The spring waters have simply gone around them and found new river beds. Your toll roads are closed. But they will stop no one, for new routes have been built beside them a long time ago. The rebirth of a nation is a process which has practically unlimited resources, for national sentiments live in the soul of every person, even that person who, it would seem, has long ago died spiritually. This was seen, for example, during the debates in the Writers' Union when people from whom one would have least expected it voted against the expulsion of I. Dzyuba.

You persist in repeating that those who are in prison are just criminals. You close your eyes and act as though there were no problem. Very well. With such unwise assumption you might be able to last for perhaps ten years. And then? The new processes in Ukraine and in all of the Soviet Union are just beginning. The rebirth of Ukraine is not yet a mass phenomenon. But do not rejoice; it will not be that way always. In an era of total literacy, when there are 800,000 students in Ukraine and everyone owns a radio, in such an era every social phenomenon becomes a mass phenomenon. Is it possible that you do not understand that soon you will have to deal with social trends on a mass scale? The new processes are only beginning, and your repressions have ceased to be effective. What will happen next?

There is only one way out: renounce the outdated politics of repression and find new forms of coexistence with the new trends which have already anchored themselves irrevocably in our life. Such is the reality. It has appeared without asking permission and it has generated new circumstances which demand a new approach. For people who are called upon to handle government matters there is enough to think about. But you go on playing with boomerangs. . . .

WE SHALL FIGHT!

There will be a trial. Well, we shall fight. At this very time when one man has written a recantation and another has turned into a translator at this very time it is necessary for someone to provide an example of firmness and erase the depressing impression which arose after the withdrawal of certain people from active public life. The lot has fallen on me. . . . It is a difficult mission. To sit behind prison bars is easy for no one. But not to respect one's self is even harder. And that is why we shall fight!

The trial will come and everything will begin anew: new protests and petitions new material for newspapers and radios of the whole world. The interest in what Moroz wrote will grow tenfold. In a word, another heap of wood will be thrown on the fire which you want to put out.

Indeed, this is subversive activity. But don't look for my guilt in this—I didn't put Moroz behind bars, I didn't throw a boomerang.

[Translation published by ABN in Munich, Germany]

Another document from Ukraine, which is currently being circulated there in mimeographed form, has been chanelled through to the West. This is the protest declaration of Vyacheslav Chornovil, against the barbarous destruction of the graves of Ukrainian soldiers at the Yanivskyi cemetery in Lviv by local authorities. Below, we reproduce the complete text of the declaration.

Kyiv

To the Presidium of the Supreme Soviet of the Ukr. SSR, Com. Lyashko the Central Committee of the Communist Party of Ukraine, Com. Ovcharenko, First Vice-President of the Council of Ministers of the Ukr. SSR, Com. Tronko:

DECLARATION

It is difficult to imagine anything more savage, more inhuman, or more dreadful than to dishonour the dead. It would probably be more compassionate to shoot a person outright, than to demolish his grave with a bull-dozer later and to cast out his bones from the ground. . . .

That, which is now taking place at the Yanivskyi cemetery in Lviv, almost in the center of Europe, can be guaged only by the most brutal Asiatic Middle-Age standards. Under the direction of specially appointed persons, a bull-dozer levels the graves of the Striltsi (Ukrainian Sich Riflemen during World War I—trans. note) and the navy's shovel turns over the human remains. They say that this is being done under the sanction of the head of the Iviv Oblast Executive Committee, Telishevskyi. I do not know what administrative qualities this person has, that he was entrusted with such a responsible position, but just one of these absurdities is sufficient to demote this barbarous functionary to a swine-herd.

Let us consider what is happening. Firstly, the dishonouring of the graves by a direct enemy is a blasphemy rejected by the civilized world. Death levels opinions and ideologies. And death demands respect. In the Criminal Code of the Ukr.SSR, there is Article 212, which anticipates criminal sanctions for the desecration of graves. Secondly, these youths from Halychyna, who lived at the end of 1918 and laid down their lives in the struggle with Polish legionaires, defended Halychyna from colonial enslavement by feudal Poland—are they the enemies of the Soviet government? It is not known where they would be found now, if they had not died in those days. They would perhaps be in the army of the UNR (Ukrainian National Republic) or perhaps in Ch.U.H.A. (Red Ukrainian Army of Halychyna). To the point, those who appreciate quotations will discover positive words about the Striltsi in Lenin's works. Why should they, who died over 50 years ago, be taken vengeance upon now? For the fact that they saved Halychyna from Polish oppression? We, who do not acknowledge solidarity with the Pilsudski followers,[1] with pacification, with Bereza Kartuzka,[2] see that even the Poles, having occupied Halychyna and hating their enemies, the Striltsi, did not scoff at their graves. Even during Stalin's time, no thoughts of the outright destruction of these graves came to mind, although they did ridicule them. What apex have we now reached with you?

Currently, there is much talk of the infiltration of bourgeois ideology. I do not think that all the bourgeois publications and radio stations combined could master such strong anti-Soviet propaganda as did one bull-dozer in Lviv, which cut down the heads of the Striltsi crosses.

After the burning of the State Library of the Academy of Sciences of the Ukr. SSR in 1964 and the political arrests for the open expression of convictions, it is difficult to name an act in the future, which would so greatly undermine the authority of Soviet government, as this current outrage in Lviv. The results are already evident. Thousands of Halychyna residents, during the past few days, have passed by the desecrated and devastated graves. Confusion and indignation has arisen among the population. Rumours are being spread about the intentions (also far from humane and perhaps even provocative)—to respond by destroying the graves of the leaders of parties, armies and so on. Will we stoop so low, as to introduce a state of siege in cemeteries?

I refrained from individual appeals to Party and Soviet leaders after the incident in 1967, when for honest remarks about the violations of the norms of socialist legality, I was first thrown behind bars, and then transformed from a critic and journalist into a railroad worker. But today, I cannot be silent. In the name of humaneness, I appeal to you to intervene in the acts of the provincial petty despots and stop this destruction of the graves of the Striltsi, to restore that portion of graves that were demolished, and transfer the corpses of people buried on their bones. By doing so, disassociate yourselves from this crime which is presently occurring in Lviv.

CITY OF LVIV, *August 16, 1971.*

VYACHESLAV CHORNOVIL.

Organization for the Defense of Four Freedoms for Ukraine, Inc. Against the Suppression of Free Thought and the Persecution of Writers and Artists

WASHINGTON, D.C.—Beginning Wednesday, January 13, 1972, members of our organization will picket the Soviet exhibit in the Concoran Gallery of Art at 17th Street, N.W. The demonstration is in behalf of the thousands of Ukrainian intellectuals who have been subjected to mass arrests, secret and "kangaroo" trials, illegal incarceration and cruel and severe sentences by the Russian Communist Government, and also to protest Moscow's suppression of free thought, violation of human rights and forced russification in Ukraine. Ukrainians constitute 65% of all political prisoners in the U.S.S.R.

One should note that Ukrainians as well as other non-Russian people in the U.S.S.R. (about 125,000,000) are subjected to programs engineered by Russian behavioral scientists that are aimed at the total destruction of their religious, cultural and ethnic identity. Accompanying these Russian programs are religious persecution and assassinations of Ukrainian leaders, economical exploitation and physical mass genocide of the Ukrainian people; cultural persecution and *forced Russification;* and wanton destruction of Ukrainian ancient and historical buildings and archives. It is because of the resistance of the Ukrainian intellectuals to Russian repressive policies that they are being subjected to mass arrest and incarceration by the Russian Communist Government. Although the Russian policy of political, cultural and religious genocide toward Ukrainians and other non-Russian people in the U.S.S.R. is a flagrant violation of the UN charter and the Universal Declaration of Human Rights, the UN and other proper authorities are curiously silent about this.

To cover up the political, religious, cultural and economic genocide toward Ukrainians and other non-Russian nations in the USSR, Moscow has exported many performing groups and organized many exhibits to divert the attention of the West from the tragic situation in Ukraine. One of these exhibits is "Soviet Union: Arts and Crafts in Ancient Times and Today" currently in the Corcoran Gallery of Art. This Soviet exhibit is a glaring example of the Russification, the suppression of achievement and a wanton plunger of the art treasures of the non-Russian nations in the USSR by the Russians, from the time of the Czars up to the present rulers in the Kremlin. One should note that the slogan of the Soviet show "Art belongs to the people" was used not only by Lenin but also by A. Hitler and other dictators throughout history in order to cover up their ruthless denial of power to the people.

It is hoped that sufficient world public opinion could be generated to persuade the Russin Communist Government *to free* Ukrainian intellectuals and *to terminate* its harsh political, religious and cultural policy toward Ukrainians and other non-Russian nations in the USSR.

SUPPORTERS OF HUMAN RIGHTS! FRIENDS OF FREEDOM!

(1) Support "International Human Rights Year" by exposing and denouncing Communist Russia's Violation of the U.N. Declaration of Human Rights in Ukraine!

(2) Support the cause of freedom of Ukraine and all other captive nations.

(3) Condemn Communist Russia for its ruthless suppression of Orthodox, Catholic, Protestant, Judaic and Islamic religions in the USSR!

(4) Ask your Congressman and Senator to denounce continued Russian Communist enslavement of Ukraine, and their support for national self-determination of all the captive nations!

[From the Svoboda, the Ukrainian Weekly, Jan. 29, 1972]

Score Inhuman Treatment

JERSEY CITY, N.J.—An angry mood of protest in the wake of recent arrests in Ukraine pervaded the traditional observances of the 54th anniversary of Ukrainian independence proclamation held last weekend in the vast majority of Ukrainian communities in this and other countries of the free world.

CONCERN, INDIGNATION

The arrests of 19 Ukrainian intellectuals by the KGB for alleged "anti-Soviet propaganda and agitation" set in motion a series of protest actions in every center of Ukrainian life as the commemorative events departed from the traditional pattern in the light of new repressions in Ukraine.

Some of the Ukrainian communities have scheduled their programs for the week-end with an even more intense spirit of protest against the arrests in Ukraine, which included the incarceration of such noted dissidents as Vyacheslav Chornovil, Ivan Dzyuba, Ivan Svitlychny, and Evhen Sverstiuk, in addition to the young historian Valentyn Moroz, sentenced in 1970 to nine years at hard labor and five years of exile.

All major Ukrainian institutions and civic organizations are seeking ways to alleviate the plight of the arrested intellectuals, some by taking appropriate procedural steps on the national and international levels, others by staging demonstrations and conducting letter-writing campaigns to President Nixon and American legislators.

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[1] Polish chauvinists, followers of Joseph Pilsudski, premier and virtual dictator of Poland until 1935.

[2] Renowned Polish concentration camp for political prisoners.

Last Sunday, New York community's traditional observance of the January 22nd anniversary turned into a mass demonstration of concern and indignation over the acts of Soviet repressions in Ukraine. Ukrainian churches were filled to capacity by veterans youth, civic and women's groups during the morning services.

The same was true of Chicago, Newark, Jersey City, Brooklyn, Washington, Passaic, Detroit, Cleveland, Boston, Syracuse, Philadelphia, Hartford, New Haven, and many other cities.

The gubernatorial and mayoral proclamations, designating January 22nd as "Ukrainian Independence Day," contained strong statements against the persecution of Ukrainian intellectuals in Ukraine. The sermons by the clergy in churches and the speeches at the commemorative programs in halls filled to capacity were attuned to the recent developments in Ukraine.

In Chicago, where a capacity throng assembled for the Sunday afternoon concert at Chopin High School auditorium, a resolution was adopted to start immediately a letter-writing campaign to President Nixon and other American officials appraising them of the situation in Ukraine and asking for their intercession.

N.Y. DEMONSTRATION

The Ukrainian Student Organization of Michnowsky, which had earlier announced a series of protest actions for the week beginning January 22 through January 29, was the sponsor of a demonstration Friday, January 28, in New York at the UN building and at the Soviet Mission. The demonstration was endorsed by the UCCA, SUMA, SUSTA and others. Auxiliary Bishop Basil H. Losten of the Philadelphia Catholic Archeparchy called on the clergy and faithful to support the action.

Assembled for the weekend in New York were members of the World Congress of Free Ukrainians for the fifth plenary session in the course of which a number of steps were contemplated to alleviate the plight of the arrested. The UCCA, in its turn, sent special memoranda to President Nixon and to Mrs. Rita Hauser, U.S. representative at the UN Human Rights Commission.

Also, a number of protest actions were staged in conjunction with the arrival here of Russian poet Yevgeni Yevtushenko.

[From the Svoboda, The Ukrainian Weekly, Jan. 29, 1972]

FREE THEM NOW

No single news in the new year has aroused the Ukrainian community in the free world as much as the recent arrests of 19 intellectuals in Ukraine, among them men noted for their courageous stand in the past in defense of human and constitutional rights.

The names of Chornovil, Svitlychny, Dzyuba and Sverstiuk, just to name four of the 19 arrested during the week of January 10 in Kiev and Lviv, have now been added to the rote of present-day martyrs incarcerated in Russo-Communist prisons, their only "crime"—demanding that the Soviet regime abides by its own laws. Arrested and persecuted in the past for no more than daring to speak out, they have thrown the gauntlet of challenge to the oppressive regime in the Kremlin and its equally callous puppets in Kiev and other public capitals of the USSR.

"I can no longer remain silent," wrote Chornovil last September in an impassionate plea to the authorities to stop the savage desecration of the Ukrainian soldiers' graves at the famed Yaniv cemetery in Lviv. "In the name of humanity, I appeal to you to intervene in the actions of stupid provincial cited article 213 of the Criminal Code which prohibits desecration of graves under severe penalties can hardly be construed as "anti-Soviet agitation and propaganda. "Yet five months after he had written the letter, Chornovil was accused of that "crime" and arrested by the KGB. It appears that in the Soviet Union one may not even defend the memory of the dead.

But there is more to it than meets the eye. The regime has an all too long history of attempting to eradicate a people's past. Some of the world's best manipulators, assembled and trained in various "institutes," are constantly preoccupied with the unabashed rewriting of history, twisting and eliminating facts according to the dictates of the party. Apparently to no avail. For Moroz, Chornovil, Dzyuba and scores of others either muzzled or thrown behind bars are supposedly the products of the Soviet machine: they are men and women born and raised under the Communist system that was to be mankind's panacea. Yes, there's the rub.

And there is double hypocrisy in the Kremlin's facade. At the very time that the KGB is raiding homes across the vast empire and hauling people off to prisons, Moscow's "boy wonder" Yevtushenko is sent to these shores, parading as a "liberal," pontificating on America's involvement in Vietnam, telling us of "crime in the streets," and reading what passes for poetry. Not a word about his professional colleagues languishing in Mordovia or in insane asylums.

No less a personage than comrade Furtseva, Moscow's minister of culture, comes here at this very time to show off "Soviet culture" at exhibits. She speaks not of destroyed churches, of monasteries turned into warehouses, of Hutsul icons carted off to Moscow, of monuments razed by bulldozers. Perhaps she did not read Moroz. Or did she?

That the Ukrainian community in the free world is in an uproar is understandable. From the oldest to the youngest, our people are protesting as much against these inhuman acts in Ukraine as against the passivity of supposedly humanitarian institutions in the West. And protest we must—peacefully, without violence—while seeking ways to alleviate the plight of Chornovils, Dzyubas, Sverstiuks and all of our people held in captivity. Their struggle is our cause, their striving for justice and freedom is our mission.

(ABN Correspondence, Bulletin of the Anti-Bolshevik Bloc of Nations, Nov.-Dec. 1971)

TO THE CONSCIENCE OF THE FREE WORLD

Horrifying news about the perfidious, intensified terror in Ukraine and other subjugated countries and in the concentration camps of Siberia with respect to prisoners—fighters for the rights of the individual and nation—is reaching us through various channels. The underground of the revolutionary OUN (Organization of Ukrainian Nationalists) is sounding an alarm in the face of plans prepared by the KGB *to liquidate young creators of culture and defenders of freedom of speech and conscience,* who are in no way connected with the revolutionary OUN. The revolutionary OUN which acts in extreme secrecy, is conscious of all dangers and threats which confront its members. The revolutionary liberation organizations do not recognize any constitution of the USSR or the so-called "union republics" and uncompromisingly combat everything which has any relation to the occupying power, and are invariably ready to make sacrifices. But they are troubled by the unusually barbarous attacks of Moscow upon the fighters and patriots, the noble creators of cultural values, who courageously and openly stand up in defense of eternal values of their countries, without being members of any underground organization, just being honest and high-principled patriots of their homelands and individuals who do not want to degrade their own dignity and the worthiness of man.

The unprecedented murder of an artist—the heroine and martyr *Alla Horska,* who was treacherously murdered by the KGB, having allegedly arranged a quarrel with her father-in-law, the obvious murder of the *prisoner Mykhailo Soroka,* who spent nearly 30 years in prisons and concentration camps, but who did not want to deny his own self and his native land, the now confirmed murder of *Vasyl Symonenko,* who was given an injection of poison after which he died suddenly, the death "in freedom" of numerous Ukrainian patriots, who having been in hospitals, have received injections of poison . . . Their names shall be made public in due time.

We received the following confirmed, horrifying report: prisoners who are due to be released by their executioners from the Mordovian and other concentration camps and prisons are taken to the camp infirmary several months prior to their release (approx. three months) because of this or that minor or major illness and are given a slow-acting poisonous injection of some disease (most likely leukemia). After his release the prisoner dies a "natural" death . . .

What is the purpose of all this? Stashynskyi had already testified that the Russians are aware of the importance of the symbols of inflexibility in the struggle for liberation, in particular among the Ukrainian people and therefore their aim is to *destroy* these symbols physically, in order that they do not appear among the people, in order to extinguish the aspirations and faith of the people, in order to oppress the people.

Therefore, in line with Moscow's plans, Mykhailo Soroka had to die, for he had grown into a symbol of firmness and indestructibility, into a symbol of a disciple of truth, freedom, justice, whose name was echoed throughout Ukraine and across the USSR, in all prisons and concentration camps, as a man of firm character, as a patriot of his unsubdued Ukraine. On June 15, 1971 news had been received from him, and on June 16th he no longer lived.

[ABN Correspondence, Bulletin of the Anti-Bolshevik Bloc of Nations, November-December 1971]

UKRAINIANS IN GREAT BRITAIN APPEAL TO THE WORLD SYNOD OF BISHOPS

To the Fathers of the World Synod of Bishops,
The Vatican, Rome.
Your Beatitudes,
Your Eminences,
Your Excellencies,

The entire Christian World places great hopes and expectations on the World Synod of Bishops. These days, in response to the Holy Father's call, prayers are offered to the Lord that your synodal deliberations and decisions bring beneficial results for the entire Christian Church. Among this ecumenical offering of prayers, prayers of the Ukrainian People of God are not lacking. This people of God, apart from reasons common with all the Christians in the world, has in addition its own reasons, filled with pains and sufferings, to regard hopefully the Synod of Bishops as "one of the important hours for the Church", as was termed by the Holy Father.

We know that the Synod has chosen two themes for its deliberations and decisions, namely: "De Sacerdotio ministeriali" (the priestly ministry) and "De justitia in mundi" (justice in the world). The first theme, undoubtedly, is essentially an internal Church problem, and as such is considered in accordance with the criteria of the Christian Revelation, Church Tradition and pastoral needs. On the other hand, the second subject, "justice in the world", in our humble opinion, or more precisely the attitude which the Synod will take towards it in its conferences, and above all in its decisions, will also overstep the boundaries of the Synod, the Church, and will concern all men to a greater or lesser degree. From the declaration of the principles, and even more so from the practical instructions regarding the achievement of justice in the world, they will recognize the spirit of the Church.

We, representatives of the organized Ukrainian community, believe that the Synod will profoundly and from all possible aspects consider the real situation of justice in the world, its comprehension in the light of Christ's Gospel and the doctrine of the Church, will issue instructions for practical action in its realization, and will certainly emphasize the appropriate places of the encyclicas: "Mater et Magistra", "Pacem in Terris", "Gaudium et Spes", and "Populorum Progressio".

We also believe that the world will hear the voice of the Synod of Bishops in this matter, as the voice of the authentic Church which the Divine Founder has made the "sign" and source of God's presence among the people. The following prophecy has been said about Messiah: "I have put my Spirit up on him, he will bring forth justice to the nations . . . He will not fail, or be discouraged, till he has established justice in the earth" (Is., 42, 1-4 RSV). Yes, Christ came into the world to free men from any enslavement. His Church has to and must continue to carry on this cause. In our times, in particular, she must be a "sign", visible to everyone, of the realization of justice in accordance with the principle, "give to each his own".

Sympathizing with all the wronged, enslaved and humiliated people and peoples in the world, we feel it our special duty to ask the Synod to take a clear position, in accordance with the principles of Christian teaching, with regard to that terrible total enslavement of man and peoples, which had been established by the Soviet Union, and in fact by the godless Russian empire. According to our deepest conviction we admit that, if in discussing various forms of political, class, racial, religious and cultural enslavement and injustice in the world, the Synod would fail to condemn all these forms of oppression in the most modern slave-owning empire in the world, Russia, the Synod would show that it fears people more (blackmail, intimidation, provocations, etc.), than it fears God. Here we are reminded of the words said by Christ's disciples, Peter and John: "Whether it is right in the sight of God to listen to you (people) rather than to God?" (Acts, 4, 19).

We remind the Synod of Bishops that, having enslaved Ukraine, Soviet Russia has surpassed in its perfidy the most cruel tsarist oppression of the Ukrainian people and its Church. In the 1930s Stalin and his henchmen have murdered (starved to death) about 7 million Ukrainians, and the present-day Kremlin potentates, to whom, at present, unfortunately, the officially recognized Russian Orthodox Church serves as a tool, have resorted to spiritual genocide—by means of a "diabolic alchemy." They are trying to multilate spiritually the entire nation, that is to create "homo sovieticus" from a Ukrainian, a human being without the feeling of personality, a man-slave. This man, however, like all men, has been created in God's image! On their own land, God-given to them, the Ukrainian people are forbidden to speak their own language, they are forbidden even with a word to state publicly that which is "formally" allegedly guaranteed by the Soviet Constitution, i.e. the right to independent State life within its own ethnic frontiers; a Ukrainian is not even permitted to say loudly that he loves his Ukraine, because this, in the opinion of the Russian occupier, is a crime, "bourgeois nationalism," a Ukrainian may and must only love Moscow! The powers in the rest of the world know well what is happening in Ukraine but keep silent, because this is demanded by "practical politics."

Have the Fathers of the Synod kept silent about it, too, those who deliberate on justice in the world? We pray to God that He give you, Most Reverend Fathers, Princes of the Church, the courage of Christ's Apostles. Do not be silent, we beg you, for "qui tacet consentire videtur"! Speak your authoritative word, that Christ's Church stands up in defence of all the peoples, that she desires peace in the world, but that peace must not be the fruit of violence, but a fruit of justice. Issue your appeal to the world forum demanding that the Russian empire, the most cruel in the world, be dismembered in the spirit of justice for every nation enslaved in it. If such a dismemberment does not take place, Russia will always remain a great danger to the world.

Last year, Ukrainian Catholics throughout the world marked the sad 25th anniversary of the arrest of their entire hierarchy in their native country. It was carried out by the Russian secret police whose agencies are, as a matter of fact, undermining all the countries of the world. This was the first cruel step in the plan to force the Ukrainian Catholics under the supremacy of the state-sponsored Moscow patriarch. The subsequent fate of our Catholic Church is known to the entire world. A living witness of its sufferings and its living symbol is its Primate, His Beatitude Metropolitan Archbishop Major Joseph Cardinal Slipyi Confessor of Faith.

A similar fate befell earlier the Ukrianian Autocephalous Orthodox Church whose heirarchs, headed by the Metropolitan Archbishop Lypkivskyi and Boreckyi, were killed by the atheistic Russian regime.

May we remind you, Most Reverend Fathers, that since 1595 the Ukrainian Catholic Church united with the Apostolic See has been the strongest part of Eastern Christianity in union with the successors of the Apostle Peter. Many martyrs and confessors of faith have given their lives for this unity. Cardinal Joseph Slipyi spent 18 years in Russian prisons for this unity. Archbishop Vasyl Velychkovskyi, hundreds of priests and thousands of faithful are suffering in prisons for this unity which nevertheless is preserved in modern catacombs throughout Ukraine. It is known in the Church circles that the Russian Orthodox Church, at its Synod in Zagorsk, "legalized" the crime she committed together with the secret police when they destroyed the visible structure of the Ukrainian Catholic Church in Western Ukraine, by "abolishing" in a brazen manner, the Union of the Ukrainian Catholic Church with Rome. But, to our great regret, we have not heard so far of any condemnation of this illegal criminal act by the Apostolic See. Therefore we appeal to you, Fathers of the Synod: condemn before the world this injustice inflicted on the Ukrainian Catholic Church!

Some people explain that "ecumenism demands caution with Moscow so as not to upset her". However, we state with deepest conviction before God that ecumenism cannot be created by tolerating lawlessness, crimes and all that derives from them. Yes, they can be pardoned in the name of Christian love, but first there must be repentance and satisfaction of justice.

It is painful for us to state the fact that ecumenism is not understood in the sense of seeking unity with the catacomb Churches including the Ukrainian Autocephalous Orthodox Church.

The word knows that although our Church is persecuted, and humiliated, it is alive and militant. Nevertheless, it needs sympathy, understanding and concrete help from the entire Christian world. In particular, at the present moment the Apostolic See ought to come with an all-out assistance to the Ukrainian Catholic Church. In the spirit of traditions of the Eastern Churches, in the spirit of decisions of the Ecumenical Council Vatican II, in view of the wishes of the entire hierarchy and the People of God, the time has come to complete the structure of the Ukrainian Catholic Church with a patriarchate, because everything points to the fact that only a patriarchate can preserve the Ukrainian Catholic Church in diaspora and to prepare it for the great mission in our enslaved country. We address you, Most Reverend Fathers of the Synod: kindly beg the Holy Father to listen to our pleas to erect the Ukrainian Catholic Patriarchate.

We know that the difficulties, possible in this case, do not concern the essence of the matter, because there is a legal basis for the erection of the Ukrainian Catholic Patriarchate and justifications commensurable with it. It is true that we are alarmed because we know that Moscow is taking many direct and indirect steps in order not to permit the erection of the Ukrainian Patriarchate. The world knows, however, that Moscow is always against everything which does not agree with its imperial interests, and in the religious sphere—which does not agree with the interests of the "Third Rome". If this is so, then should its spirit of violence also be active in the Catholic Church, too, from the positions of the "Third Rome"? We are reluctant to believe that. We believe, however, that the Synod of Bishops, assisted by the prayers of millions of Christians, will be a genuine voice of the Church of Christ, and that not politics, not diplomacy or other human methods and factors, will be its strength, but her Divine Founder who said: "I am the way, the truth and the life".

We remain with the expressions of our filial devotion,

Yours faithfully,
THE COMMITTEE FOR THE PATRIARCHATE.

[ABN Correspondence, Bulletin of the Anti-Bolshevik Bloc of Nations, Nov.-Dec. 1971]

AGAINST THE RUSSIFICATION OF UKRAINE

The recently announced results of the census of the Soviet Union conducted in 1970 reveal a decisive threat to the Ukrainian nation of a long-range change in the ethnical composition of the population of the Ukr. SSR. In eleven years, that is since the 1959 census until 1970, the number of Russians in Ukraine has grown from 7 million to 9.1 million. Today the Russians constitute 19.4% of the population of Ukraine as against 16.9% in 1959 and 9.2% in 1926. In that same time the percentage of Ukrainians among the population of the Ukr.SSR is constantly falling: 80% in 1926, 76.8% in 1959, 74.9% in 1970. Thus in the Ukr.SSR for every 1,000 Ukrainians there were 106 Russians in 1926, 220 in 1959 and 258 in 1970.

A constant increase in the number of Russians in Ukraine is to a decisive extent the result of the planned settlement of Russians and Russified elements of other nations on Ukrainian territories. Russia is channelling non-Ukrainians to Ukraine in the capacity of workers at new construction sites or for work in party and state apparatus. Foreign bureaucrats, settled in Ukraine, together with Russified Ukrainians are the spokesmen not only of the national and political subjugation of Ukraine, but also play the role of the exploiting, designated elite which enjoys special material privileges of the USSR's ruling caste.

The colonization of Ukraine by Russian and Russified elements of other peoples of the USSR is primarily directed at the industrial oblasts (provinces) of Ukraine, particularly important for development of a modern nation. To the oblasts in which the number of Russians increased since the previous census belong: Voroshylovgrad, in which the Russians now constitute 41.7% of the population, Donetsk—40.6%, Kharkiv—29.4%, Zaporizhia—29%, Dnipropetrovsk—20.9%. The aim of this colonization policy can only be an attempt to continue to transform these oblasts into the mixed Ukraino-Russian territories, and later to cut them off from the Ukrainian mainland. The number of Russians has considerably grown in the Odessa oblast as well, where they constitute 24.2% of the population.

At the time when Ukraine is being colonized by foreigners, the leaders of the empire are organizing deportations of Ukrainians outside the borders of the Ukr.SSR or are purposely creating conditions which force Ukrainians to search for work in other "republics" of the USSR. In such a way Ukraine is losing a part of her peasants, chiefly from the western oblasts, from the Forest-Steppe Belt, as well as a part of workers, students and professional intelligentsia. Finding themselves outside their native land, the Ukrainian emigrants do not enjoy any rights of a national minority and therefore do not have a possibility to preserve in the long-run their native language, culture and ties to their homeland. When they are deported to other non-Russian "republics", they very often become, although against their will, an instrument of Russification of the local peoples, at a time when other non-Russians, settled in Ukraine, largely perform a similar role there. The process of Russification of Ukrainians is in particular strong on the territories of the Russian SFSR, in the Kursk, Voronezh and Bilhorod oblasts, bordering on the Ukr.SSR, and in the Krasnodar and Stavropil region, in Kazakhstan and in the south-western Siberia. The result of this Russification policy is such that when according to the 1926 census 6,871,000 Ukrainians were registered in the RSFSR, in 1970 there were only 3,346,000. Even if the official data of the census are in part purposely falsified, they do not change the clear-cut tendency of Russia's policy in relation to the Ukrainian people.

The last and the next-to-the-last census of the USSR reveal phenomena which seriously threaten the biological and this spiritual substance of the Ukrainian nation. If the colonization of Ukrainian territories by the Russians and the Russified settlers of the non-Russian peoples of the USSR continues at the present rate in the nearest decades, and the Ukrainian self-defense against it and against deportations and migration of Ukrainians outside the borders of the Ukr.SSR will not be adequate, the territory historically inhabited by the Ukrainian people, which has seriously decreased in the time of Soviet rule, will continue to decrease.

The Russification course is being intensified in various phases of life of the Ukrainian people, including universities (with insignificant exceptions in Lviv and Kyiv) and other higher and special secondary schools. In secondary schools with Ukrainian language of instructions Russian classes are being introduced for children of local party and military bureaucrats. In practice the Ukrainian language has been driven out of public usage or has been maimed beyond recognition, turning into a strange Ukraino-Russian slang.

Theories of the so-called merger or drawing closer or consolidation of nations of the Soviet Union, which in practice lead to the denial of national, cultural and historic identity of the Ukrainians and their inclusion, together with other non-Russian peoples, in a single so-called Soviet people, which in reality is to be the Russian people, are forcefully imposed upon the Ukrainian people.

The policy of forced change in the makeup of the population of Ukraine and the Russification of the Ukrainian people, which are conducted by Russian imperialists, should be considered as planned political genocide. Ukrainians who are forced to leave Ukraine whether by way of organized recruitment or on other pretexts, should fight for the right to live and work in the land of their fathers. This is an inalienable right of every nation. The two greatest tyrants of the 20th century—Stalin and Hitler—wanted to deprive the Ukrainian people of this right by means of deportations and settlement of foreigners in Ukraine.

The policy of Russia in relation to Ukraine, the indicators of which are the results of the census, calls for intensified self-defense of the Ukrainian people not only against deportations and migration of Ukrainians and settlement of foreigners, as well as for a struggle for other natural rights of the nation. In particular, the Ukrainian people have the right to demand that all schools in the Ukr.SSR, with the exception of schools for national minorities, conduct instructions in the Ukrainian language and that the Ukrainian language be used publicly in various branches of life. Outside the borders of the Ukr.SSR, Ukrainians should enjoy the rights of national minorities. In the struggle for their existence, the Ukrainians should cultivate the spirit of national solidarity and mutual assistance, the feeling of historic and spiritual community. A member of every nation is first of all bound by loyalty to his brother in blood, tradition, language, culture and history.

In the free world, a special task faces Ukrainian scholars and educational institutions, which can bring to the international forum the question of defense of the biological substance of the Ukrainian nation and the territory which it historically inhabits. It is the duty of the emigres to influence various circles in the free world to condemn the attempts by Russian imperialists to continue to conduct Stalinist and Hitlerite experiments with Ukrainian and other subjugated people.

H. Con. Res. 64

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President, acting through the United States Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violations in the Soviet-occupied Ukraine on the agenda of the United Nations Organization.

H. Con. Res. 161

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President, acting through the United States Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violations of the Jewish minority in the Soviet Union on the agenda of the United Nations Organization.

SENATE—*Wednesday, February 16, 1972*

The Senate met at 12 meridian and was called to order by Hon. Robert C. Byrd, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, as today men begin again their pilgrimage to the cross, repenting of sin and contemplating the cost of man's salvation, we beseech Thee to guide us by the wisdom of the cross, that we may learn once more that it is only in the surrender of the lower self that the higher self is born, that in the giving of life that life is found, and that death is the way to resurrection power.

Remove from us all that obscures Thy presence—the careless habit, the indifferent attitude, the disobedience of divine law, the rejection of Thy guiding light. May this penitential period bring redemptive grace to all the people. In days burdened with duties, may we ever keep our hearts open to the divine spirit and to worship while we work. Here and elsewhere, may we daily "offer unto Thee ourselves—a reasonable and living sacrifice, beseeching Thee to accept our sacrifice of praise and thanksgiving—and in the unity of Thy Holy Spirit may we ascribe all honor and glory unto Thee, world without end." Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Ellender).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., February 16, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Robert C. Byrd, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

Allen J. Ellender,
President pro tempore.

Mr. BYRD of West Virginia thereupon took the chair as Acting President pro tempore.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. Byrd of West Virginia) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, February 15, 1972, be dispensed with.

The PRESIDING OFFICER (Mr. Tunney). Without objection, it is so ordered.

ATTENDANCE OF A SENATOR

Hon. WARREN G. MAGNUSON, a Senator from the State of Washington, attended the session of the Senate today

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEAP YEAR AND EQUAL RIGHTS FOR WOMEN

Mr. SCOTT. Mr. President, the Committee on the Judiciary has just agreed to meet on February 29 to vote on the constitutional amendment granting equal rights for women.

I should like to point out that this is Leap Day in leap year when, by ancient tradition, women are expected to use the privilege of proposing marriage to men.

It is also Sadie Hawkins Day. Therefore, it should be a most memorable day when the bill is reported to us. I hope that all who are interested in it, especially our women constituents, will have due cause to celebrate Leap Day and Sadie Hawkins Day, and to move as the spirit guides them.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. TUNNEY). Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

OPTOMETRIST OF THE YEAR

Mr. FULBRIGHT. Mr. President, Dr. C. Garland Melton, Sr., of Fayetteville, Ark., was recently named "Optometrist of the Year" by the Southern Council of Optometry.

This is a fitting honor for Dr. Melton, who has been an outstanding leader in his community and in his profession for many years.

Mr. President, I ask unanimous consent that an article from the Northwest Arkansas Times of February 8, concerning Dr. Melton's honor, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DR. MELTON IS DECLARED "OPTOMETRIST OF THE YEAR"

Dr. C. Garland Melton, Sr., of Fayetteville, was named "Optometrist of the Year" by the Southern Council of Optometry at its annual Educational Congress which ended in Atlanta today. Dr. Melton's selection was announced Monday night by Dr. W. Judd Chapman of Tallahassee, Fla., a past president of the American Optometric Association and chairman of the Council's Awards Committee.

Dr. Melton was selected for outstanding professional and community achievements. Arkansas Congressman Wilbur D. Mills received the Award of Merit. Both announcements were made at Monday evening's Awards Banquet.

Dr. Melton was named 1971 Optometrist of the Year by the Arkansas Optometric Association. A past president of the Arkansas association, he has practiced optometry in Fayetteville since 1923. He has been a member of the state and American optometric associations for 48 years, and has served as a member of the Arkansas State Board of Optometric Examiners for 30 years, having been appointed by five consecutive governors.

He is a fellow of the American Academy of Optometry, and a member of the American Optometric Foundation. He served as a member of the American Optometric Association Council on Education for 16 years, during which time three new colleges of optometry were established. He is listed in the 1971 edition of "Who's Who In the South and Southwest."

Dr. Melton is a permanent member of the Board of Stewards of Fayetteville's Central United Methodist Church, where he has been a member for 48 years. He served on the Board of Education for the Fayetteville public schools for 18 years, is a past president of the Washington County Crippled Children Board, and the Fayetteville Community Chest. He has served on the Washington County Red Cross board, the Boy and Girl Scout Councils, and the Fayetteville City Hospital Board.

He is a past member of the Washington County Democratic Central Committee, has been a membr of the Fayetteville Lions Club for 48 years, is a past president of the club, and a past deputy district governor of Lions International. He is a Mason and a Shriner.

HAROLD OHLENDORF OF OSCEOLA, ARK., OUTSTANDING CIVIC LEADER

Mr. FULBRIGHT. Mr. President, one of the outstanding civic leaders in my State, Mr. Harold Ohlendorf, was recently honored by his friends and neighbors in Osceola, Ark.

Mr. Ohlendorf has made many contributions to the betterment of the Osceola area as well as the State of Arkansas. He served for 16 years as president of the Arkansas Farm Bureau Federation. He has also been active in the National Cotton Council. He has served on numerous commissions and committees and has been a director of the Osceola School Board and the Osceola Memorial and Chickasawba Hospitals.

He has also been instrumental in bringing several major industries to Osceola.

Mr. President, I am pleased to join in paying tribute to Harold Ohlendorf for his many contributions to the progress and welfare of Osceola and Arkansas. I ask unanimous consent that an article by Phil Mullen from the Osceola Times of February 10 on the Harold Ohlendorf Appreciation Luncheon be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAPACITY CROWD FOR HAROLD OHLENDORF APPRECIATION LUNCHEON FRIDAY

(By Phil Mullen)

The "Appreciation Luncheon" given for Harold Ohlendorf on last Friday was acclaimed by many as "the nicest, the most successful such affair ever held in Osceola."

Friends of the Ohlendorfs filled the Riverlawn Country Club to capacity and as the folks crowded in, Mr. Ohlendorf said several times, "I never saw so many people. I never dreamed this many people would come to a luncheon given for me."

But they did and they were not personally invited. The luncheon was announced, tickets were put on sale, and 150 were sold, which appeared to be "an even greater tribute to Mr. and Mrs. Ohlendorf."

Almost all of those in attendance were Mississippi County citizens. There were a few from out of town but out of town invitations were limited because there would have been no room.

On the program, six of Mr. Ohlendorf's oldest friends and closest associates spoke briefly in extending the community's appreciation and respect.

THE PROGRAM

Melvin Lapides, one of the co-sponsors, spoke humorously after remembering that his family and Harold's family had been close friends for years. He remembered that his late father, Louie Lapides, "used to consider Harold's corn patch as his very own and to gather what corn he needed accordingly."

Mr. Lapides presented Mr. Ohlendorf with a "gold-plated corn cob in remembrance of times past" and with a "silver-plated yo-yo to give him something to do when he gets old."

Faber White, who worked closely with Mr. Ohlendorf through the years on all of the local development programs, was unable to be present because of illness.

It was recalled that Mr. White and Mr. Ohlendorf were among those who started 20 years ago to bring more housing to Osceola. And that they were successful in several programs "because they, and other civic-minded local people, promoted these housing projects on a completely non-profit basis." The 60 unit Seminole Village, now a rental project, was mentioned as the latest success.

R. E. L. Wilson, III, also one of Arkansas' outstanding citizens, spoke on Mr. Ohlendorf's contribution to agriculture, as the 16-year president of the Arkansas Farm Bureau Federation and as a "moving force in the National Cotton Council almost from its inception."

Mr. Wilson said that Mr. Ohlendorf was "one of a small group that thought up the dollar a bale contribution for cotton research and promotion," a program that is now beginning to pay off for the cotton farmer.

Mr. Wilson interjected a great deal of humor about his old friend and said, "Harold is what I call an executive farmer. He can snooker his friends into taking more civic service jobs."

Allan Segraves also was ill and Bill Joe Edrington, president of the Osceola Board of Education, spoke of Mr. Ohlendorf's service, of more than 30 years, on the local school boards. He said, "In recent years, when we have seen the largest physical growth in the Osceola school system, and when we have faced many problems, Harold's prestige and influence have gotten us out of many a tight and his service has been invaluable to the school board."

Dr. L. D. Massey, chief of staff of the local hospital, said, "I have known Harold since he was a boy. Since the time when we had no public health facilities in this area and very little public sanitation."

Dr. Massey said Mr. Ohlendorf was among the leaders "who held meetings up and down the road" and make the hospitals projects a success, overcoming many obstacles.

The Osceola Memorial Hospital was opened in 1953 and the Chickasawaba Hospital in 1954.

Mr. Ohlendorf has served for several years on the Board of Governors of the Mississippi County Hospitals and is a former chairman of the board.

PRESENTATION MADE

Jim Williams, vice president for manufacturing of the great American Greetings Corp., flew down from Cleveland, Ohio to be on the program. He recalled that it was "12 years ago when Harold and the other local leaders started talking to us about locating a plant in Osceola."

That plant did come here in 1961 and has become the largest plant under one roof in Arkansas, employing some 1500 people.

Mr. Williams presented a letter of appreciation and high regard from the top officials of AG and he said, "Harold, you have been of such great help to us that we have thought of putting you on the payroll. But we knew you would work for free so we left it that way."

Mr. Williams also presented to Mr. Ohlendorf a beautiful painting. He said, "Our president, Mr. Irving Stone, had one of our top artists do this painting for you and Mrs. Ohlendorf."

Charlie Lowrance, one of this area's most respected and best liked citizens, spoke briefly, from the floor, about "my neighbor, Harold Ohlendorf." Mr. Charlie also managed to be humorous as well as sentimental and extended his highest regard to Mr. Ohlendorf.

THE PLAQUE

Mayor Dick Prewitt made the final talk. He had a beautiful engraved wall plaque to present to Mr. Ohlendorf. It expressed the community's appreciation for Mr. Ohlendorf's "Many contributions to the progress and welfare of our community" and it was signed by: Mayor and City Council, Osceola Chamber of Commerce, Mississippi County Hospitals, Osceola Board of Education, Mississippi County Farm Bureau and Mississippi County Library Board.

THE RESPONSE

In his response, Mr. Ohlendorf was almost overwhelmed with sentiment. But then he managed to recall some humorous incidents, particularly on the trips made to Virginia, Massachusetts and Ohio by himself, the late Mayor Ben Butler, J. C. Buchanan and Dane Fergus—those trips that were a part of bringing the industries here from Crompton, Osceola Shoe and American Greetings.

Mr. Ohlendorf predicted that Osceola "is on the brink of more growth and more progress" and said, "Do you realize that when we get our Osceola river terminal that we will be a seaport?"

He said, "I am greatly honored by what you have done today and it is the most wonderful experience of my life. I accept these compliments in the names of the many other people who did as much as I did in all of these programs of progress."

He also said, "I accept these honors also in the names of the people who make these programs work, the nurses, doctors and staff members of the hospitals; the teachers and administrators and staff members of the schools; the employees and management of the industries; the civic leaders of today, and the public officials, who are working as hard as we did to make this community an ever better place to live and work."

Mr. Ohlendorf and one of their pretty daughters, Mrs. Dennis Rowe, were present to share the appreciation spotlight.

DEATH OF EDGAR SNOW, AMERICAN JOURNALIST

Mr. FULBRIGHT. Mr. President, it is a tragic coincidence of history that Edgar Snow should die upon the eve of the President's visit to China.

Mr. Snow was the first American writer to publish an accurate and perceptive article about the present leaders of China, the men wtho led the revolution through its most difficult days.

Along with John Service, John Paton Davies, Raymond Ludden, Colonel Barrett, and a few other members of the American Embassy in 1944, Mr. Snow gave our Government an accurate analysis of the situation in China.

Our Government rejected their advice, and our people have paid, and will continue to pay, an incalculable price for that mistake in judgment. By such decisions is the destiny of great nations determined.

I had the pleasure of visiting with Mr. Snow in Washington in 1966, and we exchanged some letters. He was a soft-spoken, mild-mannered, unassuming man without pretense or affectation. It is a tragedy that just as his judgment is being vindicated, he is taken from the scene.

My sympathy goes out to his family.

Mr. President, I ask unanimous consent to have printed in the RECORD a short obituary on Mr. Snow, published in the Washington Post.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

EDGAR SNOW SAW RISE OF RED STAR

(By Stanley Karnow)

Edgar P. Snow, the American journalist who introduced the Chinese Communists to the world, died yesterday of cancer at his home near Geneva, Switzerland. He was 66.

His illness forced him to abandon plans to cover President Nixon's visit to Peking next week for Life magazine.

Mr. Snow scored the great journalistic coup of his career in 1936, he interviewed Chinese Communist leader Mao Tse-tung, then an obscure figure living with his ragged forces in China's northwestern province of Shensi.

The long series of interviews with Mao and other prominent Chinese Communists, combined with his observations of their activities, went into Mr. Snow's "Red Star Over China," a book now considered to be a classic work on 20th-Century China.

Mr. Snow interviewed Mao, Premier Chou En-lai and other key Chinese Communists on several subsequent occasions. His last meeting with Mao, a five-hour session, took place in Peking on Dec. 18, 1970.

In an account of that encounter published in Life magazine on April 30, 1971, Mr. Snow reported that Mao had told him that President Nixon "should be welcomed" to Peking because the problems dividing China and the United States "would have to be solved" at a Sino-American summit meeting.

Although the White House knew by then from secret communications that Mr. Nixon would be invited to China, the Snow account served to confirm Peking's decision to open talks with the President. It was therefore viewed by the administration as an important signal.

Another significant hint that the Chinese were interested in a reconciliation with the United States was apparent on Oct. 1, 1970, when Mr. Snow was photographed with Mao watching China's National Day parade. The photograph was published in Peking's official People's Day over a caption stating that China sought friendship with the American people.

Because of his close contacts with Mao, Mr. Snow was often regarded as an apologist of the Chinese Communists. But he was never ideologically committed to the Communists as were such American writers as Agnes Smedley or Anna Louise Strong.

John K. Fairbank, head of Harvard's East Asian Research Center and the dean of U.S. China specialists, has called Mr. Snow "an activist, ready to encourage worthy causes rather than be a purely passive spectator." Fairbank has also portrayed Snow as a "zealous factual reporter, able to appraise the major trends of the day and describe them in vivid color for the American reading public."

Born in Kansas City, Mr. Snow began his journalistic career as a reporter on the Kansas City Star. In 1928, when he was 23, he embarked upon a trip around the world but went no further than Shanghai. There he found work as an editor on the China Weekly Review, an English-language publication managed by an American.

Westerners resident to Shanghai and China's other coastal cities in those days seldom ventured into the Chinese interior. But in the early 1930s, Mr. Snow traveled through northwestern China while that region was suffering from famine, and that experience reportedly left him with strong feelings about the country's inequalities.

Although his knowledge of the Chinese language was rudimentary, he also befriended many Chinese, some then prominent and others later to gain fame.

While in Shanghai, he mingled with numerous Chinese intellectuals and writers. He knew Mme. Sun Yet-sen, the American-educated widow of the founder of the Chinese Republic. Now known by her maiden name, Soong Ching-ling, she is currently China's deputy chief of state.

Mr. Snow and his first wife Nym Wales, who was then a writer, moved to Peking in 1932. There Mr. Snow lectured at Yenching University, an American-subsidized institution, and became acquainted with Chinese students then active in opposing Japanese aggression.

Harassed by the police, one of these students took refuge in the Snow apartment and later served as Mr. Snow's interpreter during his interviews with Mao. Today he is Huang Hua, chief of the Chinese delegation at the United Nations.

When he conceived the idea of seeking out Mao, Mr. Snow later recalled, virtually nothing was known of the Chinese Communist leader. Chiang Kai-shek's Nationalists—and Soviet sources as well—had pronounced him dead even though reports filtering out of the Communist-held zone repeatedly related his exploits.

In early June, 1936, punctured with inoculations against smallpox, typhoid, cholera, typhus and the plague, Mr. Snow boarded a dilapidated train in Peking and headed into the Chinese interior. Carrying credentials given him by Chinese friends, he made his way through the Nationalist lines and reached the remote Communist headquarters.

Mr. Snow remained there for three months, spending hours listening to Mao tell him the story of his life and development as a revolutionary. The biography still stands as the most authoritative account of Mao's life in any language.

Mr. Snow also interviewed the other Chinese Communist leaders, among them Chou En-lai, Lin Piao and Peng Teh-huai. He gathered detailed notes as well on the Communists' celebrated Long March, in which they broke out of Nationalist encirclement and trekked 6,000 miles across China to their Shensi Province redoubt.

He took notes, too, on the Communists' land reform, taxation and educational systems, describing the agrarian quality of Chinese Communism as distinct from the Soviet model.

Emerging in October, 1936, he wrote a series of newspaper articles on his experience and finished his book, "Red Star Over China," in June, 1937. The conclusion of the book would prove prophetic. It said:

"The movement for social revolution in China may suffer defeats, may temporarily retreat, may for a time seem to languish, may make wide changes in tactics to fit immediate necessities and aims, may even for a period be submerged, be forced underground, but it will not only continue to mature; in one mutation or another it will eventually win . . ."

Mr. Snow's book had an immediate impact in China and around the world. Thousands of copies were reprinted by the Communists, since the book contained the first authentic biography of Mao. It also became a manual for guerrillas in several countries eager to learn of Mao's methods.

During and after World War II, Mr. Snow worked as a correspondent for the Saturday Evening Post in many parts of the world. After the Communists took power in Peking, he visited China three times.

On one of these visits, in 1965, Mr. Snow had a significant interview with Mao in which the Chinese leader hinted that he was contemplating the Cultural Revolution. In the interview, Mao criticized Chinese youth for their lack of revolutionary spirit, thus foreshadowing the creation of the Red Guards, who were conceived to perpetuate the Maoist ideal.

Mr. Snow attempted to visit China during the Cultural Revolution, but was refused authorization. He later attributed the refusal to the temporary rise of radical elements in Peking's Ministry of Foreign Affairs.

However, he was permitted to spend six months in China in 1970, and after that visit reported on the ferment caused by the Cultural Revolution. He also revealed the maneuvers that would lead to the Chinese invitation to President Nixon.

One of the key disclosures in an article he published in Life in April, 1971, was the fact that senior Chinese officials believed that the Nixon administration planned to withdraw U.S. troops from Vietnam.

Although he published several books, Mr. Snow never matched "Red Star Over China"—the work that thrust him into prominence and therefore served as the basis of his later production.

He is survived by his wife, the former actress Lois Wheeler; a son, Christopher, and a daughter, Sian.

PRESIDENT NIXON'S VISIT TO CHINA

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "President Nixon and China," written by James Reston, and published in today's New York Times.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRESIDENT NIXON AND CHINA

(By James Reston)

WASHINGTON, February 15.—President Nixon is now on the verge of his historic voyage to China, and a lot of serious men are raising some questions about it. Former Under Secretary of State George Ball is saying that summit meetings in general are bad. The President's own former Ambassador to the United Nations, Charles Yost, is saying that summit meetings can be useful, but maybe this one to China will lose more in Japan and Russia than it will gain in Peking.

Well, it is too late for theories, since the journey is on; and anyway, it could be that the President's instinct to go to China, whatever the diplomatic doubts, whatever the political motives, whatever the dangers in Moscow and the rest of Asia, was right.

It is not quite fair of the Democratic Presidential candidates to charge Mr. Nixon with going to Peking solely for domestic Presidential political reasons. No doubt he thought of the effect of the China visit in election terms, and timed it just before the first Presidential primary election in New Hampshire, when he could dominate the headlines and the television.

But long before anybody was thinking about the Presidential election of 1972, Mr. Nixon was thinking about the possibility of a reconciliation with China. Very soon after he came into the White House, Mr. Nixon went to Paris and told President de Gaulle that one of his primary objectives was to try to reach some kind of accommodation with Peking.

De Gaulle was impressed with the sincerity of this remark by Mr. Nixon and instructed his ambassador in Peking to pass it on in confidence to the Chinese Premier, Chou En-lai. I talked to the French ambassador, Etienne Manach, last summer in the Chinese capital, long before there was any talk about President Nixon's political motives in going to Peking and he confirms the story: He had reported what President Nixon said to de Gaulle, he felt that Chou En-lai was impressed with the accuracy of the report, and he was convinced that this confidential remark by Nixon to de Gaulle, among other private diplomatic initiatives, persuaded Chou En-lai to receive Dr. Kissinger and arrange the Nixon visit to Peking.

The question now is what is going to come out of this China journey, and again, the experts are extremely skeptical. President Nixon gave a dinner this week for André Malraux, now in his 71st year, who has a long experience in China and was brought to the White House presumably to brief the President on the China visit.

If I heard Malraux accurately after the White House dinner, he has serious doubts. The leaders of China, he said, will have a critical question for Mr. Nixon: "Does the United States really have a policy for the future of the Pacific? Does Mr. Nixon have a clear intention and purpose about what is to be done in this vast area of the world between now and the end of the century?"

Malraux sounded very pessimistic—pessimistic about his own Europe, about the future of the Common Market, pessimistic about the clarity and purpose of the United States. He did not doubt the good intentions of the President, who he felt, had a "dream of historic destiny," but did he have a policy to achieve it, and what would Mr. Nixon reply when the Chinese asked him to define his policy for the future of Asia?

Malraux reminds one of Sir Ernest Satow, the expert on Asia in the British Foreign Office of the last generation. Whenever a young British diplomat was going out to the Far East, Sir Ernest used to tell him: Do not waste your time worrying about what is in the Oriental mind; for all you know, there may be nothing in it you will be able to understand. Therefore the main thing is to be clear about what is in your own mind.

What is in Mr. Nixon's mind, as he approaches Peking, may not meet the standard of precision Satow and Malraux had in mind, but his intuition and the trend of his thought is pretty good, and the leaders in Peking, who are always drawing a distinction between the "wicked" American Government, and the "good" American people, should not be deceived.

Moscow and Tokyo have been rather unfair to President Nixon about all this. He is merely trying to do in Asia what Willy Brandt did in Europe. He is reaching out for an accommodation with China, as Brandt did with the Soviet Union, and insisting on a recognition of the geographical and political facts. He may be playing politics at home with the Peking trip but mainly he is searching for a new discussion and a new order in the Pacific.

Hopefully, Chou En-lai will see this central point. There are many difficult questions to be discussed, and on Taiwan and Vietnam there will probably be no agreement. But on the wider question of a new way of getting Washington, Peking, Moscow and Tokyo together for peace in the Pacific, which is really what Mr. Nixon has in mind, he has the overwhelming support of the American people.

Mr. FULBRIGHT. Mr. President, I personally approve of the President's efforts to change our attitude toward China.

The question raised by Mr. Malraux is a valid one:

> Does the United States really have a policy for the future of the Pacific?

The movement to improve relations with China does not appear to me to be consistent with the widening of the war into Cambodia and Laos and the intensification of the bombing in so much of Indochina.

The PRESIDING OFFICER (Mr. TUNNEY). The time of the Senator from Arkansas has expired.

Mr. BYRD of West Virginia. Mr. President, I yield my 3 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas may proceed.

Mr. FULBRIGHT. I thank the Senator from West Virginia very much.

Mr. President, in short, the apparent contradictions among our actions or policies, to say the least, are confusing. In much the same way, it seems to me that in going to Moscow, which I approve of, it should at least suggest that the establishment of a large home port in Greece and a new base in Bahrain could at least be postponed pending the outcome of that visit.

To appear to seek a relaxation and at the same time threaten does not appeal to me as a reasonable way to reach agreement, nor does it suggest a sound and well-thought-out policy.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Soviets Warn U.S. on Greek Port," written by Ronald Koven, and published in today's Washington Post.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIETS WARN UNITED STATES ON GREEK PORT

(By Ronald Koven)

The Soviet Union has made public warnings to the United States that if it persists in its plan to establish naval bases in Greece this can only provide a "corresponding reaction" from the Soviet side.

This warning came in a complaint by Soviet Ambassador Anatoly F. Dobrynin to Secretary of State William P. Rogers last Thursday. State Department spokesman Charles Bray stressed that the Dobrynin complaint was part of an "oral statement" backed up by a paper he submitted to Rogers with his notes, rather than a fullfledged diplomatic protest.

The Soviet complaint comes in a period of increasing East-West competition for political advantage in the Mediterranean. In addition to the already-existing Soviet-American tensions over the Arab-Israeli conflict, there is new jockeying for position in the strategic islands of Malta and Cyprus.

Bray's comments followed a story by the Soviet news agency Tass describing what Soviet envoys in Athens and Washington had told the Greek and U.S. governments. A State Department source confirmed that the Tass account was substantially accurate.

However, Bray rejected the Soviet allegation that the United States is setting up naval bases in Greece.

He described the recently announced

Greece-American "agreement in principle" to set up home port arrangements in Piraeus as "an administrative arrangement to let dependents reside in Greece, making it possible for units of the 6th Fleet to stay on station in the Mediterranean." He said it provides for no increase in U.S. ships or fighting men there.

The State Department has acknowledged in the past, however, that the Greek agreement is related to the Soviet naval buildup in the eastern Mediterranean.

The Soviet navy has been building a major base at Mersa Matruh on the Egyptian coast in a desert region between Alexandria and the Libyan frontier. In a cable to The Washington Post from Cairo, correspondent William Dullforce said that Western diplomatic sources in the Egyptian capital believe that the expansion of facilities there could well be the "corresponding reaction" Moscow has in mind.

Dullforce said that, despite reports that the Soviet navy is already using the port, Western sources in Cairo say it is still in the development stage. The work is reportedly limited so far to dredging and deepening the harbor approach.

The Soviet navy has been using Alexandria, but Soviet activities in that major commercial port are subject to public scrutiny.

The United States has negotiated with the Greeks for the right to house 3,500 family members of sailors belonging to a carrier task force of the 6th Fleet. They have also been seeking light repair facilities at Piraeus, the port of Athens.

This announcement stirred objections among American and Greek exile opponents of the Athens military regime, but the Nixon administration has argued that any support this may lend to the junta must be balanced against the advantages in America's own interests.

No other country in the eastern Mediterranean is suitable and the arrangement permits ships to stay on station for two years without returning to the United States, instead of the present six months, U.S. officials contend.

The Tass dispatch said that Soviet ambassadors "drew attention" to the fact that "the establishment of such bases was a dangerous step, fraught with serious complications in the Balkans and the Mediterranean area, running counter to the interests of peace and relaxation of tension in Europe."

Radio Moscow, in an English-language broadcast monitored here, also related the U.S. activities concerning Piraeus to the current tensions over Cyprus. The radio said that the ruling colonels in Athens "presented Cyprus with an ultimatum that virtually wipes out its independence" just a few days after the Piraeus announcement.

Mr. FULBRIGHT. Mr. President, the article relates to the same matter of the actions I have just described, and it strikes me they could well be in the category of the U-2 incident, in that the President's actions, preoccupied as he is with his mission to Peking and Moscow, may be prejudiced by other branches of the Government on other activities. This strikes me as being inconsistent with the objectives of the President. So I hope that the Government and the proper officials in the executive branch will take these matters into consideration in order that nothing will be allowed to inhibit the prospect of the President's reaching useful agreements with both the Chinese and the Russians.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

(The remarks Mr. JORDAN of Idaho made at this point on the introduction of S. 3177 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

(The remarks Mr. PASTORE made at this point on the introduction of S. 3178 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

TRIBUTE TO FORMER SENATOR FRANK P. GRAHAM

Mr. ERVIN. Mr. President, on behalf of my colleague, Senator JORDAN, and myself, I announce to the Senate with great sadness the passing of a former Member of this body, Dr. Frank Porter Graham, who had a great career as the president of the University of North Carolina at Chapel Hill, as a Member of the U.S. Senate, and as a successful intermediary between the Dutch and the natives in regard to Indonesia, and as a negotiator in the India-Kashmir dispute.

Dr. Graham had the most compassionate heart of any human being it has ever been my privilege to know. He knew more North Carolinians of his generation and was more beloved by North Carolinians than any other person of his generation.

He leaves behind him a large heritage of service to the people of his native State of North Carolina and to the people of his Nation.

We shall not see his like again.

PRESIDENT NIXON'S JOURNEY TO PEKING

Mr. MANSFIELD. Mr. President, on the eve of the President's journey to Peking I think it is apropos to make a few remarks. May I say that the matter of the President's visit to the People's Republic of China has been a matter of discussion between the President and the Senator from Montana for 3 years this month.

During that time he has mentioned his desire to revive the Warsaw talks so that contacts could continue to be maintained between the Chinese and U.S. Ambassadors in the Capital of Poland, which started, incidentally, in the summer of 1954 at the conclusion of the first Geneva conference.

Second, he indicated that it was his desire at an appropriate time to remove the secondary and primary boycott against the People's Republic of China, which has been in effect since 1951 and which always was counterproductive.

Third, he indicated it was his intention to broaden the list of Americans who may visit China, subject, of course, to approval by China.

Fourth, he stated that at an appropriate time it was his intention to consider the possibility of allowing the Chinese, on the same basis as the Soviet Union, to be eligible for nonstrategic items.

Fifth, he indicated that he would do his best to increase trade possibilities between our two countries.

Sixth, he expressed the hope that he would be able to fulfill a long-held desire to visit China, which he is now about to do.

Incidentally, he will be the first American Chief of State to visit the People's Republic of China and also when he visits Moscow in May, he will be the first American Chief of State to visit the Soviet Union.

Mr. President, about 4 years ago, the University of Montana initiated a new public lecture series. The University was kind enough to invite me to deliver the first address. In contrast to today, the subject which was selected was not much in the public awareness in those days. The remarks were entitled "China Retrospect, and Prospect."

I have just reread the statement which I delivered at the University on March 29, 1968. It was, in general, a plea to the largely student-audience to cut away the shackles of thought which an older generation, of which I am a part, had self-imposed on itself in its reactions to the cataclysmic experience of the Chinese revolution. I urged the students to examine new approaches, approaches which might provide the beginnings of a beginning in restoring relations of peace with China.

For the most, the approaches which were discussed then have now been incorporated into the foreign policies of the Nation. President Nixon has played an exceptional personal role in bringing about this transition. He has ended the boycott on Chinese goods. He has not only removed the ban on travel to China but has given encouragement to visits, through his words and, of course, his personal example.

Most pertinent, the President has acted to change the language of intercourse between the two nations from that of mutual hostility and deprecation to tolerance. In so doing, the President has set the stage, in my judgment, for a peaceful evolution of United States-Chinese relations which could serve well that generation of students whom I addressed 4 years ago and their successors for many years to come.

There is no assurance, of course, that this evolution will occur but the door is opened by the President's impending visit. Clearly, it will take far more than a visit of state to undo the knots of two decades of a venomous acrimony. Nevertheless, I know the Senate joins with me in wishing President Nixon every success in the endeavor which he is about to undertake.

Mr. President, just for my own personal benefit I wish to read the concluding portion of that speech which I gave at the University of Montana 4 years ago:

> To sum up, then, it seems to me that the basic adjustment which is needed in policies respecting China is to make crystal clear that this government does not anticipate, much less does it seek, the overthrow of the government of the Chinese mainland. In addition, there is a need to end the discrimination which consigns China to an inferior status as among the Communist countries in this nation's policies respecting travel and trade. Finally, it ought to be made unequivocal that we are prepared at all times to meet with Chinese representatives—formally or informally—in order to consider differences between China and the United States over Viet Nam or any other question of common concern.
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> Adjustments of this kind in the policies of the nation, it seems to me, require above all else a fresh perspective. We need to see the situation in Asia as it is today, not as it ap-

peared twenty years ago in the Himalayan upheaval of the Chinese revolution. We need to see the situation not through the fog of an old and stagnant hostility but in the light of the enduring intertsts of the United States in the Western Pacific.

In this context we will better be able to find appropriate responses at appropriate times to the specific problems of the Sino-U.S. relationship, whether they have to do with U.N. representation or diplomatic recognition or the offshore islands or whatever. Without prior adjustment in perspective, however, to seek to deal definitively with these questions, would be, to say the least, an exercise in futility.

I should emphasize before concluding that it is unlikely that there will be any eager Chinese responses to initiatives on our part. Nevertheless, I see nothing to be lost for this nation in trying to move along the lines which have been suggested. Chinese intransigence is no license for American intransigence. Our stake in the situation in the Western Pacific is too large for that sort of infantile indulgence.

I see great relevance in thinking deeply of the issues which divide China and the United States to see if they can be recast in new and uncluttered molds. There is every reason, especially for young people, to examine most closely the premises of policy regarding China which were enshrined almost two decades ago. The fact is that the breakdown in Chinese-U.S. relations was one of the great failures of my generation and it is highly doubtful that its full repair shall be seen in my lifetime. The problem, therefore, will fall largely to you.

This was delivered to the student body at the University of Montana at Missoula, but it applied to all young people all over the country.

It is not a particularly happy inheritance, but there is reason to hope that it may fare better in your hands.

Unlike my generation, you know more about Asia. You have a greater awareness of its importance to this nation and to the world. In 1942, four months after Pearl Harbor, for example, an opinion poll found that sixty percent of a national sample of Americans still could not locate either China or India on an outline map of the world. Certainly that would not be the case today. Furthermore, you have not had the experience of national trauma in moving abruptly from an era marked by an almost fawning benevolence toward China to one of thorough disenchantment. You were spared the fierce hostilities which rent this nation internally, as a sense of warmth, sympathy, and security regarding China gave way to feelings of revulsion, hatred, and insecurity.

Your Chinese counterparts, the young people of today's China—they are called the "Heirs of the Revolution"—have a similar gap to bridge as they look across the Pacific. Your generation in China, too, has been contained and isolated, and its view of the United States has been colored with the hates of another time. It has had no contact with you or, indeed, with much of the world outside China.

On the other hand, those young people have grown up under easier conditions than the older generation of Chinese who lived their youth in years of continuous war and revolution. It may be that they can face you and the rest of the world with greater equanamity and assurance than has been the case at any time in modern Chinese history.

I urge you to think for yourselves about China. I urge you to approach, with a new objectivity, that vast nation, with its great population of industrious and intelligent people. Bear in mind that the peace of Asia and the world will depend on China as much as it does on this nation, the Soviet Union, or any other, not because China is Communist but because China is China—among the largest countries in the world and the most populous.

Mao Tse-Tung remarked in an interview several years ago that "future events would be decided by future generations." Insofar as his words involve the relationship of this nation and China, whether they prove to be a prophecy of doom or a forecast of a happier future will depend not so much on us, the "Old China Hands" of yesterday, but on you. the "New American Hands" of tomorrow.

So, Mr. President, again I wish to extend to the President every wish for his success on this momentous journey.

I ask unanimous consent that the full text of my remarks, verbatim, as delivered at the University of Montana on March 29, 1968, be included at this point in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

LECTURE BY SENATOR MIKE MANSFIELD (D., MONTANA)

(Sponsored by the Maureen and Mike Mansfield Endowment (The University of Montana Foundation) at the University of Montana, Missoula, Montana, Friday, March 29, 1968)

CHINA: RETROSPECT AND PROSPECT

Viet Nam is heavy on the heart of the nation. The Vietnamese war is a tragedy. It is a tragedy in the American lives which it claims. It is a tragedy in the death and devastation which, in the name of salvation, it has spread throughout Viet Nam.

My views on United States policy respecting Viet Nam are no secret. I have stated them, restated them, and elaborated them many times. I have cautioned against an ever-deepening military involvement in that conflict. I am opposed to any increase in it today. I believe that the way out of a barbarous situation is not to go further into it.

The first step towards peace, in my judgment, is to concentrate and consolidate the U.S. military effort and to escalate the peace-effort, looking towards the negotiation of an honorable end of the conflict.

That, in brief, is the way I feel about Viet Nam. That is the way I have felt about it for a long time. The President knows it. The Senate knows it. Montana knows it.

What I have to say to you, today, touches only indirectly on Viet Nam. My remarks are intended to go beyond Viet Nam to what may well be the roots of the war. In this first lecture of the series on international affairs, I wish to address your attention to what is the great void in the foreign relations of this nation—to the question of China.

As a nation, we have lived through a generation in only hearsay association with a third of the entire human race. At the inception of this void, we were engaged in a costly and indecisive conflict in Korea—on China's northeast frontier. Two decades later, we are engaged once again in a costly and indecisive conflict, this time on China's southeast frontier. These two great military involvements on the Chinese periphery are not unrelated to the absence of relevant contact between China and the United States.

Sooner or later a tenuous truce may be achieved in Viet Nam even as a truce was achieved in Korea. In my judgment, however, there will be no durable peace in Korea, Viet Nam, or anywhere else in Asia unless there is a candid confrontation with the problems of the Sino-U.S. relationship.

China needs peace if the potentials of its culture are to be realized. This nation needs peace for the same reason. In this day and age, the world needs peace for civilized survival. You young people have the greatest stake in peace. For that reason, I ask you to look beyond Viet Nam, behind Korea, to what may well be the core of the failure of peace in Asia—to the U.S.-Chinese estrangement of two decades.

In 1784, Robert Morris, a signer of the Declaration of Independence, sent the first American clipper ship to trade with China. The year that President George Washington took the oath of office, 1789, fourteen American ships were riding at anchor in the Pearl River off Canton in South China.

There are no American ships in Chinese ports today. There have not been for almost twenty years. In twenty years, hardly an American doctor, scientist, businessman, journalist, student, or even a tourist has set foot in China.

Across the Pacific Ocean, we and the Chinese glare at one another, uncomprehendingly, apprehensively, and suspiciously. In the United States, there is fear of the suddent march of Chinese armies into Southeast Asia. In China, there is fear of a tighter American encirclement and American nuclear attack.

We see millions of Chinese soldiers poised on China's frontiers. We see leaders who threaten in a most violent way. We see an internal Chinese turmoil to confirm our fears of irrationality and recklessness. Finally, we see a growing nuclear power, with the looming spectre of a full-fledged Chinese intercontinental ballistic missile force.

On the other hand, the Chinese see themselves surrounded by massive American military power. They see U.S. naval, ground, and air bases scattered through Japan, Korea, Taiwan, Okinawa, Guam, the Philippines, and Thailand. They see over half a million American troops in neighboring Viet Nam and hundreds of thousands more nearby. They see tremendous nuclear capability with missiles zeroed in on Chinese cities. They see the United States as "occupying" the Chinese island of Taiwan and supporting a Chinese government whose declared aim is the recapture of the mainland. And they see, too, what they describe as a growing collusion between the United States and the Soviet Union, a country which they believe infringes China's borders, threatens to corrupt the Chinese revolution and exercises an unwelcome influence throughout Asia.

We and the Chinese have not always looked at one another with such baleful mistrust. The American images of China have fluctuated and shifted in an almost cyclical way. There has been the image of the China of wisdom, intelligence, industry, piety, stoicism, and strength. This is the China of Marco Polo, Pearl Buck, Charlie Chan, and heroic resistance to the Japanese during World War II.

On the other hand, there has been the image of the China of cruelty, barbarism, violence, and faceless hordes. This is the China of drum-head trials, summary executions, Fu Manchu, and the Boxer Rebellion—the China that is summed up in the phrase "yellow peril."

Throughout our history, these two images have alternated, with first one predominant and then the other. In the eighteenth century, we looked up to China as an ancient civilization—superior in many aspects of technology, culture, and social order and surrounded by an air of splendid mystery.

Respect turned to contempt, however, with China's quick defeat by the British in the Opium War of 1840. There followed acts of humiliation of China such as participation in extra-territorial treaty rights and the Chinese Exclusion Act of 1882.

Attitudes shifted again in the early twentieth century to one of benevolence largely in consequence of the influence of missionaries. There were more missionaries in China from the United States than from any other country. More American missionaries served in China than anywhere else in the world. The Chinese became, for this nation, a guided, guarded, and adored people.

Chinese resistance to the Japanese invasion in 1937 produced another shift from benevolence to admiration. At the end of the Second World War, admiration was displaced by disappointment and frustration, as the wartime truce between Nationalist and Communist forces collapsed in cataclysmic internal strife. This nation became profoundly disenchanted with China, a disenchantment which was replaced abruptly in 1949 by hostility.

The hostility was largely a reaction, of course, to the coming to power of a Communist regime on the Chinese mainland. We did not interpret this event as a consequence of the massive difficulties and the vast inner weaknesses of a war-torn China. Rather, we saw it almost as an affront to this nation. We saw it as a treacherous extension of the Soviet steam-roller policies which had reduced Eastern and Central Europe to subservience at the end of World War II.

Then, in 1948, came a Communist coup in Czechoslovakia and the Soviet attempt to blockade Berlin. The triumph of a Communist government in China followed immediately after these events in Europe. The nation was shaken to its fingertips.

Still, the press of events continued relentlessly. In June 1950, the North Koreans launched a sudden attack on South Korea. The Chinese forces intervened in the war in November of that year. The United States was brought into a major military confrontation in which, for the first time, the Chinese were enemies and not allies.

After these events, the assumptions of American policy towards China were revised. An effort was made to meet both the concern and outrage respecting China which existed in this nation and the revolutionary militancy of the new Chinese regime in Asia. Policy was cast anew on the premise that the government on the Chinese mainland was an aggressor which, subject to directions from Moscow, would use force to impose international Communism on Asia. Conversely, it was assumed that if the endorsement of the free nations were withheld, this regime which was said to be "alien" to the Chinese people—some sort of overgrown puppet of Moscow—would wither and eventually collapse.

On this basis, recognition was not extended to Peking. The official view was that the National Government, which had retreated to the island of Taiwan, continued to speak for all of China. We cut off all trade with the mainland and did what could be done to encourage other countries to follow suit. In a similar fashion, we led a diplomatic campaign year after year against the seating of the Chinese People's Republic in the United Nations. We drew an arc of military alliances on the seaward side of China and undergirded them with the deployment of massive American military power in bases throughout the Western Pacific.

Much has happened to call into question the assumptions in which these policies toward China have been rooted. In the first place, the People's Republic has shown itself to be neither a part of a Communist monolith nor a carbon copy of Soviet Russia. The fact is that, of the numerous divisions which have arisen within the Communist world, the differences between Moscow and Peking have been the most significant. They so remain today although the more rasping edges of the conflict appear somewhat tempered by the war in Viet Nam.

At the same time, the government on the mainland has not only survived, it has provided China with a functioning leadership. Under its direction, Chinese society has achieved a degree of economic and scientific progress, apparently sufficient for survival of an enormous and growing population and sophisticated enough to produce thermo-nuclear explosions.

In the last two years, the so-called Cultural Revolution in China has rekindled what has been a periodic expectation that the Peking government is on the verge of collapse and the way is open for a military return to the mainland of the National Government on Taiwan. There seems to be little doubt that the turmoil in China has caused serious disruptions. What appears in conflict in the cultural revolution, however, is not the Peking structure as such but the adequacy of its ideological content. That would be a far cry from the kind of popular revulsion which might be expected to open the doors to a new regime.

In any event, the worst of the upheavals within China appear to have ended months ago, without any irreparable break in the continuity of the government or the operations of the economy. It is the height of folly to envision, in the present situation, an occasion for the overthrow of the Peking government by external military pressures. Indeed, what would be better calculated to end, overnight, the remaining ferment on the mainland than a plausible threat to the security of China or an actual attack on Chinese territory?

If the People's Republic, then, is here to stay, what of the other assumption on which this nation's policy respecting China has long been based? What of the assumption that the Chinese government is an expanding and aggressive force? That it is restrained from sweeping through Asia because we have elected to meet its challenge along the 17th Parallel which divides the Northern and Southern parts of Viet Nam?

In recent years, the present Chinese government has not shown any great eagerness to use force to spread its ideology elsewhere in Asia although Chinese armies have been employed in assertion of the traditional borders of China. To be sure, China has given enthusiastic encouragement and has promised to support wars of national liberation. However, China has not participated directly in these wars and support, when it has been forthcoming, has been limited and circumspect.

In Viet Nam, for example, there is certainly Chinese encouragement and aid for the North Vietnamese and the Viet Cong. Chinese involvement, however, has been far more peripheral than our own. The enemy soldiers with whom we are compelled to grapple are all Vietnamese and, in fact, mostly South Vietnamese. At every stage of the war, the assistance we have provided to South Viet Nam has far exceeded the aid from China and from all outside sources to the Viet Cong and North Viet Nam—both in terms of men and materiel. There is Chinese equipment in South Viet Nam but there are no Chinese battalions. Even in North Viet Nam, Chinese manpower is reported to amount, at most, to one-tenth of our forces in Viet Nam, and the great bulk of these Chinese are labor troops, some involved in air-defense but most of them engaged in repairing bomb damage to roads, railroads, bridges, and the like.

Chinese actions in Tibet, and along the Himalayan frontier of India, are often cited as evidence of militant Chinese Communist aggression. The fact is, however, that Tibet has been regarded, for many decades, as falling within China's over-all boundaries. Not only the Peking government but also the Chinese National Government on Taiwan insists that Tibet belongs to China. India also acknowledges such to be the case. Indeed, American policy has never recognized Tibet as other than Chinese territory.

In the case of the border war with India in 1962, the Chinese Communists occupied territories which, again, not only they, but also the Chinese Nationalists, consider to be Chinese. It is not precisely characteristic of a militant expansionism, moreover, for a government to withdraw its military forces from a territory which they have invested. Yet, the Peking government did so from parts of India which were occupied in 1962 as well as from North Korea.

As for indirect aggression through economic means, China has been able to exert only a limited influence, either through aid or trade. In Africa and, indeed, in Southeast Asia, where attempts have been made to use trade and aid for political ends, the results have not been conspicuously successful. The fact is that most of China's trade today rests on a commercial-economic base. It is carried on largely with the non-Communist countries, including, may I add, many of our closest allies.

In short, to speak of China, today, as aggressively expansionist is to respond to Chinese words rather than Chinese actions. That is not to say that China will not pose all manner of threats tomorrow. If there are not enough nightmares already, consider the prospects when China's nuclear capabilities will have been extensively developed, along with a full-fledged intercontinental ballistic missile force.

Of course, there is an immense potential danger in China; but there is also an immense potential danger in every other powerful nation in a world which has not yet learned how to maintain civilized survival in a nuclear age except on the razor's edge. Insofar as China is concerned, the fundamental question for us is not whether it is a danger, real or potential. The fundamental question is whether our present policies act to alleviate or to exacerbate the danger. Do we forestall the danger by jousting with the shadows and suspicions of the past? Do we help by a continuance in policies which do little if anything to lift the heavy curtain of mutual ignorance and hostility?

Like it or not, the present Chinese government is here to stay. Like it or not, China is a major power in Asia and is on the way to becoming a nuclear power. Is it, therefore, in this nation's interest and in the interest of world peace to put aside, once and for all, what have been the persistent but futile attempts to isolate China? Is it, therefore, in this nation's interest and in the interest of world peace to try conscientiously and consistently to do whatever we can do—and, admittedly, it is not much—to reshape the relationship with the Chinese along more constructive and stable lines? In short, is it propitious for this nation to try to do what, in fact, the policies of most of the other Western democracies have already long since done regarding their Chinese relationships?

I must say that the deepening of the conflict in Viet Nam makes more difficult adjustments in policies respecting China. Indeed, the present course of events in Viet Nam almost insures that there shall be no changes. It is not easy to contemplate an alleviation with any nation which cheers on those who are engaged in inflicting casualties on Americans. Yet, it may well be that this alleviation is an essential aspect of ending the war and, hence, American casualties. That consideration, alone, it seems to me, makes desirable initiatives towards China at this time.

There are several obvious areas in which these initiatives would have relevance. Discriminatory restriction on travel to China, for example, is certainly one of these areas. The Chinese may or may not admit Americans to their country, as they choose. But it is difficult to understand why our own government should in any way, shape, or form seek to stand in the way of the attempts of American citizens to breech the great wall of estrangement between the two nations. It is, indeed, ironic that during the past three years there have been more visits of Americans to North Viet Nam, a nation with which we are at war, than to China in the past thirteen years.

On the question of travel, it should be recalled that the Chinese were the first to suggest in 1956 that American journalists visit China. The suggestion was summarily rejected by the then Secretary of State. When, later, it was decided to accept the suggestion, the Chinese had changed their minds. Since that time, this nation has been more inclined to ease the travel barriers, on the basis of official agreement for exchanges of persons, but the Chinese have shown no disposition to enter into agreements or, for that matter, to admit Americans on any basis.

In any event, it seems to me that it is in the positive interest of this nation to encourage Americans, if they can gain entry, to travel to China. May I add, I refer not merely to the travel of selected journalists, doctors, and other specialists, as is now the policy, but to the travel of any responsible American. In the same fashion, it seems to me most appropriate to admit Chinese travelers to the United States under the same conditions that pertain to visitors from other Communist countries.

Trade is another area in which long-standing policies respecting China are open to serious question. Technically, this country still maintains an embargo on all trade with China. The basis for this policy is compliance with a voluntary resolution of the United Nations which was adopted at our behest at the time of the Korean conflict. It is doubtful that the resolution ever carried much weight among the trading nations of the world. In any case, it has long since been forgotten. Today, the principal nations in the China trade in rough order of importance are the United Kingdom, Japan, the Soviet Union, West Germany, Australia, Canada, Italy, and France. Of all the great maritime nations, the United States alone clings to a total trade embargo with China. Moreover, we are also the only nation in the world which makes an effort to enforce what can best be described as a kind of secondary boycott of re-exported Chinese products.

These policies have had little visible economic impact, but they have had the most serious political repercussions. It is conceivable that, to the Chinese, the policies are something of an irritant. To friendly nations, however, they have been a source of constant friction. Most serious, their continuance over the years has injected unnecessary venom into the atmosphere of U.S.-Chinese relations.

Nor can it be said that the situation in Viet Nam has compelled the pursuit of the embargo and boycott. The fact is that these restrictions were in place before most Americans ever heard of Viet Nam, and, certainly, long before Americans became involved in the war. If the Vietnamese conflict is now seen as justification for leaving these policies undisturbed, what is to be said of the existing attitude toward trade with other Communist countries?

The fact is that the European Communists are providing North Viet Nam and the Viet Cong with sophisticated military equipment which, from all reports, exceeds in value the assistance which comes from China. On what basis, then, is it meaningful to permit and even to encourage non-strategic trade with the European Communist countries while holding to a closed-door policy on trade with China? What constructive purpose is served by the distinction? Any rationalization of relations with China, it seems to me, will require an adjustment of this dual approach. We need to move in the direction of equal treatment of all Communist nations in trade matters, whatever that treatment may be.

In any event, problems of travel and trade are secondary obstacles in the development of a more stable relationship between China and the United States. There are other far more significant difficulties. I refer, principally, to the question of Taiwan and to the war in Viet Nam.

There is no doubt that the Chinese government seeks in Viet Nam a government which is friendly, if not subservient. Peking has not concealed, moreover, its desire for the withdrawal of American military power from Southeast Asia. It does not follow, however, that the price of peace in Southeast Asia is either Chinese domination or U.S. military intervention. That is a black and white oversimplification of a gray situation. The fact is that neither Burma on China's border nor Cambodia have been "enslaved" by China, despite an association of many years, despite periodic difficulties with the great state to the north and despite an absence of U.S. support, aid, or protection.

These two nations have managed to survive in a state of detachment from the power rivalries of the region. Furthermore, China is a signatory to the settlements which emerged from the Geneva Conferences of 1954 and 1962 and which contain at least a hope for a middle way to peace in Indo-China. So far as I am aware, the Chinese have not been found in direct or unilateral violation of these agreements. It is not impossible that a similar settlement, with Chinese participation, might be reached on Viet Nam.

Indeed, it is to be devoutly hoped that there can be a solution along these lines. Unless it is found, there is a very real danger—as the Korean experience shows—that the prolongation of war on China's frontiers may well bring about another U.S.-Chinese armed confrontation.

Perhaps the most important element in the rebuilding of stable relations with China is to be found in a solution of the problem of Taiwan. It may help to come to grips with this issue, if it is understood at the outset that the island of Taiwan is Chinese. That is the position of the National Government of the Republic of China. That is the position of the People's Republic of China. For a quarter of a century, this common Chinese position has been reinforced by the policies and actions of the United States government.

Since that is the case, I do not believe that a solution to the Taiwan question is facilitated by its statement in terms of a two-China policy, as has been suggested in some quarters in recent years. The fact is that there is one China which happens to have been divided into two parts by events which occurred a long time ago. Key factors in the maintenance of peace between the separate segments have been the interposition of U.S. military power in the Taiwan straits, and the strengthening of the National Government of China by massive injections of economic and military aid.

This course was followed by the United States for many reasons, not the least of which was that it made possible a refuge for dedicated allies and associates in the war against Japan. Most of all, however, it was followed because to have permitted the closing of the breech by a military clash of the two opposing Chinese forces would have meant a massive bloodbath and, in the end, the rekindling of another great war in Asia.

However, the situation has changed in the Western Pacific. Taiwan is no longer abjectly dependent for its survival on the United States. Some of the passions of the deep Chinese political division have cooled with the passing of time. Another generation has appeared and new Chinese societies, in effect, have grown up on both sides of the Taiwan Straits.

Is there not, then, some better way to confront this problem than threat-and-counterthreat between island Chinese and mainland Chinese? Is there not more better way to live with this situation than by the armed truce which depends, in the last analysis, on the continued presence of the U.S. 7th Fleet in the Taiwan Straits?

The questions cannot be answered until all involved are prepared to take a fresh look at the situation. It seems to me that it might be helpful if there could be, among the Chinese themselves, an examination of the possibilities of improving the climate. As I have already indicated, the proper framework for any such consideration would be an acceptance of the contention of both Chinese groups—that there is only one China and Taiwan is a part of it. In that context, the questions at issue have to do with the dichotomous situation as between mainland and island governments and the possibility of bringing about constructive changes therein by peaceful means.

There is no cause to be sanguine about the prospects of an approach of this kind. One can only hope that time may have helped to ripen the circumstances for settlement. It is apparent, for example, that the concept which held the Chinese government on Taiwan to be the sole hope of China's redemption has grown less relevant with the years. For Taiwan, therefore, to remain isolated from the mainland is to court the risk that the island will be left once again, as it has been on other occasions, in the backwash of Chinese history.

The removal of the wedge of separation, moreover, would also seem to accord with the interests of the mainland Chinese government. It does have a legitimate concern in the reassertion of the historic connection of Taiwan and China. It does have a concern in ending the hostile division which has been costly and disruptive both within China and in China's international relationships.

From the point of view of the United States, too, there is an interest in seeking a less tenuous situation. Progress in settling the Taiwan question could contribute to a general relaxation of tensions in the Western Pacific and, conceivably, even to resolutiin of the conflict in Viet Nam. Certainly, it would make possible a reduction in the enormous and costly overall defense burdens which were assumed in Asian waters after World War II and which, two decades later, still rest on the shoulders of this nation.

To sum up, then, it seems to me that the basic adjustment which is needed in policies respecting China is to make crystal clear that this government does not anticipate, much less does it seek, the overthrow of the government of the Chinese mainland. In addition, there is a need to end the discrimination which consigns China to an inferior status as among the Communist countries in this nation's policies respecting travel and trade. Finally, it ought to be made unequivocal that we are prepared at all times to meet with Chinese representatives—formally or informally—in order to consider differences between China and the United States over Viet Nam or any other question of common concern.

Adjustments of this kind in the policies of the nation, it seems to me, require above all else a fresh perspective. We need to see the situation in Asia as it is today, not as it appeared twenty years ago in the Himalayan upheaval of the Chinese revolution. We need to see the situation not through the fog of an old and stagnant hostility but in the light of the enduring interests of the United States in the Western Pacific.

In this context we will better be able to find appropriate responses at appropriate times to the specific problems of the Sino-U.S. relationship, whether they have to do with U.N. representation or diplomatic recognition or the offshore islands or whatever. Without prior adjustment in perspective, however, to seek to deal definitively with these questions would be, to say the least, an exercise in futility.

I should emphasize before concluding that it is unlikely that there will be any eager Chinese responses to initiatives on our part. Nevertheless, I see nothing to be lost for this nation in trying to move along the lines which have been suggested. Chinese intransigence is no license for American intransigence. Our stake in the situation in the Western Pacific is too large for that sort of infantile indulgence.

> I see great relevance in thinking deeply of the issues which divide China and the United States to see if they can be recast in new and uncluttered molds. There is every reason, especially for young people, to examine most closely the premises of policy regarding China which were enshrined almost two decades ago. The fact is that the breakdown in Chinese-U.S. relations was one of the great failures of my generation and it is highly doubtful that its full repair shall be seen in my lifetime. The problem, therefore, will fall largely to you. It is not a particularly happy inheritance, but there is reason to hope that it may fare better in your hands.
>
> Unlike my generation, you know more about Asia. You have a greater awareness of its importance to this nation and to the world. In 1942, four months *after* Pearl Harbor, for example, an opinion poll found that sixty percent of a national sample of Americans still could not locate either China or India on an outline map of the world. Certainly that would not be the case today. Furthermore, you have not had the experience of national trauma in moving abruptly from an era marked by an almost fawning benevolence toward China to one of thorough disenchantment. You were spared the fierce hostilities which rent this nation internally, as a sense of warmth, sympathy, and security regarding China gave way to feelings of revulsion, hatred, and insecurity.
>
> Your Chinese counterparts, the young people of today's China—they are called the "Heirs of the Revolution"—have a similar gap to bridge as they look across the Pacific. Your generation in China, too, has been contained and isolated, and its view of the United States has been colored with the hates of another time. It has had no contact with you or, indeed, with much of the world outside China.
>
> On the other hand, those young people have grown up under easier conditions than the older generation of Chinese who lived their youth in years of continuous war and revolution. It may be that they can face you and the rest of the world with greater equanimity and assurance than has been the case at any time in modern Chinese history.
>
> I urge you to think for yourselves about China. I urge you to approach, with a new objectivity, that vast nation, with its great population of industrious and intelligent people. Bear in mind that the peace of Asia and the world will depend on China as much as it does on this nation, the Soviet Union, or any other, not because China is Communist but because China is China—among the largest coutries in the world and the most populous.
>
> Mao Tse-Tung remarked in an interview several years ago that "future events would be decided by future generations." Insofar as his words involve the relationship of this nation and China, whether they prove to be a prophecy of doom or a forecast of a happier future will depend not so much on us, the "Old China Hands" of yesterday, but on you, the "New American Hands" of tomorrow.

Mr. SCOTT. Mr. President, the distinguished majority leader, in a speech of some years ago, spoke with great foresight and intuitive wisdom. I congratulate him for that, and I am delighted that he spoke of the President's visit in such hopeful terms.

We will all—the world will—watch this meeting, not expecting great things immediately, but recognizing that the opening of a dialog with 800 million people is itself a world-shaking event. We may achieve—and I hope we will achieve—some easing, some solution, of what the Germans call Kulturkampf der Menschheit, which means the cultural struggle of mankind.

We have had this cultural struggle. I do hope we are now taking the first step of the thousand miles of a mutual understanding of the cultures of our country and those of other nations.

I yield to the distinguished Senator from Maryland.

Mr. MATHIAS. I appreciate the Senator from Pennsylvania's yielding me just a moment to respond to his own remarks and to the remarks of the distinguished majority leader, which I think were as loyal and generous as they were thoughtful and realistic. I think they give us a valuable threshold upon which to enter the door of a new era in our international relationships with China. But, Mr. President, I also have to comment on the somewhat happy coincidence that in this body that effort is being led by the majority and minority leaders, both of whom have an unusual knowledge of the Orient and China, men who have made China a subject of personal study for many years. I think that fact can be of great importance at this moment in history. I think we are very lucky that they are learned in this area, because it is bound to lead to a greater understanding of the new era into which we are moving.

I am mindful that the President will be accompanied on this trip by his national security adviser, Dr. Henry Kissinger, and of a book Dr. Kissinger wrote about a different problem and a different time, entitled "The World Restored," a title which I hope will be applied by some future historian to the era I hope will be opened with the President's trip tomorrow.

EXTENSION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended for an additional 12 minutes, with the usual limitation on statements therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S VISIT TO MAINLAND CHINA

Mr. DOLE. Mr. President, I, too, would commend the distinguished majority leader for his very complimentary remarks and also for his foresight as illustrated in the excerpt from the speech he has read, which was made in 1968, and to commend the distinguished minority leader for his comments—which only point out that, on February 4, I introduced a concurrent resolution, with Representative ARENDS of Illinois doing so in the House, designating this coming Sunday, February 20, as a National Day of Prayer for the Cause of World Peace, and designating Monday, February 21, as a Day of United Support for the President's Efforts in Pursuit of Relaxation of International Tensions and an Enduring and Just Peace.

I would say to my colleagues, with respect to the concurrent resolution, which was passed unanimously in the other body, that it is my hope the Senate will take appropriate action later in the day, because on February 21 the President will begin his historic mission in mainland China. I know some persons will disagree with the President's efforts, that they think it is beneath the dignity of the President to travel to mainland China. Whether it was the right thing to do may be determined by those who will write the history of the world later, and that history may be written by children in China, Russia, and America who may be living then because of the President's visit to mainland China this next week.

So I would hope that all Americans, regardless of political persuasion or ideology, will, on Monday, February 21, unite in support of the President—not President Nixon, but the President of our country—in his pursuit of relaxation of tensions and a just and enduring peace. Again, I state that I hope later on this afternoon the Senate will act on the House-passed concurrent resolution.

MASS BUSING FOR FORCED INTEGRATION AND RACIAL BALANCE IS WRONG

Mr. BYRD of West Virginia. Mr. President, there are those who would have us believe that the controversy over massive busing of schoolchildren to achieve an arbitrary racial balance in the classroom has polarized the black and white communities. Recent developments show that exactly the opposite is true—the overwhelming majority of Americans, black as well as white, are strongly united in their opposition to this kind of social experimentation with our children.

In fact, opposition to massive school busing may be doing more to unite Americans of all races than any other issue in recent years.

For a number of years now, proponents of busing have assumed that black parents would jump for joy at the prospects of their children being herded on buses and transported like cattle far from home for the purpose of sitting next to white children during the school day. That assumption was ill-founded at best, and it was based on two wrong principles: First, that black parents were more interested in integration than education; and, second, that predominantly black schools are inherently inferior.

I believe that most black parents are just as interested in improving schools in this country as are most white parents, and that they place the highest priority on obtaining a good education for their children. And I also believe that predominantly black, or all-black, schools are capable of reaching the same academic levels as predominantly white, or all-white, schools, To be sure, there are many black schools in this country where educational levels are low, but this results from the fact—at least for the most part, I should think—that spending for the education of black students has been less than for white students. In any event, I do not believe it is rightly attributable to the fact that there are not enough white students in the classroom. I have always advocated that the amounts spent on educating children be equal, regardless of their race; and I continue to feel that this is the sensible and positive approach to the very serious educational problems facing our country.

That the majority of black parents favor the neighborhood school concept goes without question. Columnist Joseph Alsop points out in this morning's Washington Post that parents in New York City have the option of busing their children out of their neighborhoods, and he notes that less than 2 percent of the black parents use this option. The majority of black parents there apparently know what the people at HEW—and some Federal judges—should learn; namely, that a black child is not going to become better educated simply because he is surrounded with white faces.

Also, in the Washington Post this morning is a column by a noted Negro columnist, William Raspberry. Mr. Raspberry writes that sending "black children chasing behind white children is wrong and psychologically destructive," and he poses some very pertinent questions:

> What's so ideal about mathematically precise distributions of human beings? What's so inherently evil about a block in which all the homeowners (or a classroom in which all the pupils) happen to be black? Or white?

These columns point up the need to improve education in the United States, and they note the futility of trying to achieve that goal by massive busing. I wish that the proponents of this kind of forced integration would recognize that need and put their efforts behind measures that would result in some concrete improvements in all our schools—for all children, regardless of race.

Mr. President, I ask unanimous consent that the columns to which I referred be printed in the Record, together with two additional columns on the subject by Joseph Alsop.

There being no objection, the columns were ordered to be printed in the Record, as follows:

[From the Washington Post, Feb. 9, 1972]

THE FACTS ON BUSING

(By Joseph Alsop)

There are two basic questions concerning forced busing to achieve integrated schooling.

First, will massive busing produce its only rationally desirable result, which is to overcome the grave educational retardation of the average black child in public school?

Second, will the educational effect of massive busing justify the social and economic costs?

You would think, by now, that American liberal intellectuals might have found time, in the intervals of slogan-chanting, to seek factual answers to these key questions. In fact, however, the present report is by way of being a first attempt.

To begin with, it must be noted that the kind of forced busing everyone is talking about nowadays is quite different from short range neighborhood busing, for school consolidation. It amounts to forcible homogenization of entire school populations, leading to approximate proportional representation of all racial groups in every school in the homogenized population.

Forcible homogenization is the real character of the busing ordered by Judge Robert R. Merhige, in his famous Richmond decision. If Judge Merhige is sustained, forcible homogenization will follow in many of the great urban-suburban school complexes in the U.S., in the North as well as the South.

There are two important models for this kind of homogenization which have been working in this country long enough to permit judgment of the effects of black educational retardation. These are also the two most striking models that have also failed, in the main, to provoke massive white flight from the reformed school system and resulting center city decay.

White Plains, N.Y., homogenized its schools in 1964–65, and Berkeley, Cal., took the same step in 1966–67. Both are rather prosperous and relatively small communities, White Plains with about 8,000 pupils in the school system, and Berkeley with about 15,000. The proportions of black children of school age are, respectively, slightly under one quarter and about 45 per cent.

In 1967, the second year of the White Plains reform, a special study was made of the performance of the black children who had been transferred from the old, all-black, local ghetto school to majority-white schools. The study, by Marian Graves, reportedly showed "modest" improvement in the black children's reading ability, which is always the key test of educational retardation.

As the study has not been published to this day, the improvement must have been extremely "modest"; otherwise the detailed results would surely have been trumpeted abroad by someone. The word "modest" is quoted from the White Plains school superintendent, Dr. Arthur P. Antin, who freely admits that his black pupils are still not reading "anywhere near national averages." Again, no figures are available.

In Berkeley, in contrast, careful statistical studies have been continuously made. Before homogenization, for example, Berkeley's black pupils finished third grade, on average, at the level of 2.8. This means they were then an entire school year behind California's statewide average for finishing third graders, which was, and is 3.8.

Immediately after homogenization, Berkeley's black average actually slipped slightly. But there has now been a gain. Finishing black third graders are now averaging 3.1 in reading ability, or a little more than 10 per cent above the pre-homogenization level, but still far below the statewide average. Meanwhile Berkeley's white schoolchildren of the same age are reading at the level of 4.4, or well above the statewide average, and 13 months ahead of the black children in the same schools.

This means that homogenization in Berkeley, as is also the case in White Plains, has done nothing to hold back the white children. It should finally be noted that these are both expensive school systems, with per pupil costs of $1,500 a year in Berkeley and a near-record $2,000 a year in White Plains.

"Modest" gains against black educational retardation—but very "modest" ones, alas—are thus perceptible in both these cases. In both communities, there was good will, and both were of easily manageable size. Hence the costs of homogenization were trifling. In these two cases, therefore, it was plainly a good thing to do.

But the question is really whether homogenization is also a good thing to do, in far less manageable situations, where there is little or no good will, and the costs will surely be very great indeed. An answer will be attempted in the next report.

[From the Washington Post, Feb. 2, 1972]

IS IT REALLY WORTH IT?

(By Joseph Alsop)

Throw entire school systems up in the air, to come down again together in a crash of parental anger, racial tension and increased school costs. With luck, you may then get a very modest reduction in the terrible education retardation that afflicts black children in our public schools.

Since the cure for black educational retardation is sure to be so strikingly incomplete, it raises a central question. This central question about massive, long range busing to achieve school integration can be put in five words:

Is it really worth it?

This, alas, is the lesson of the two best tests one can find anywhere. These have been made in White Plains, N.Y., and in Berkeley, Calif. The disappointing data concerning them were offered in the last report in this space.

In Berkeley and White Plains, moreover, the school reforms were launched with good will, and the busing is very short range and wastes little time. It is bound to be quite different when, and if, urban and suburban school systems are homogenized on a huge scale, in an atmosphere of extreme ill will, with the children also forced to waste an hour or so each day on the buses.

That is what is coming to Richmond, Va., and its adjacent suburban counties, Henrico and Chesterfield, if the famous opinion of Judge Robert R. Merhige is sustained. The background of Judge Merhige's order is strikingly interesting.

In brief, the city of Richmond itself was the target of a series of court orders, long before the suburban counties were brought into the suit that came before Judge Merhige. Full integration of the Richmond school system, based on massive busing for racial balance, was finally undertaken in the 1969–70 school year.

In that year, too, an attempt was made to better the racial balance of Richmond's school population. This was done by bringing into the city limits a slice of the then-suburbs, including about 10,000 additional white school-children.

The result of this last step was a Richmond school population 43 per cent white and 57 per cent black. White flight from the integrated Richmond system immediately began, however.

In just two years, Richmond lost 7,500 white school children. The system is now 70 per cent black. And if things go on as they now are, one can see down the road a Richmond school system comparable to the existing system in Washington, D.C., which is nearly 100 per cent black.

The extent of the white flight from Richmond should be enough, in and of itself, to indicate the extreme ill will that submission to Judge Merhige's court order will generate. No one has yet determined the actual cost of homogenizing the school populations of Richmond and most of Henrico and Chesterfield Counties.

Yet the cost is sure to be considerable. Where 19,000 children are now being bused in Richmond itself, no less than 78,000 children will have to be bused to obey Judge Merhige, according to Richmond's school superintendent, Dr. Lucian Adams. And this will usually be long range busing, for trips taking 40 minutes to an hour, in sharp contrast to the short range busing to neighborhood schools that of course takes place already in the suburban counties.

The newly homogenized school system will have a total of about 100,000 children (depending on what parts of the two counties are included), as against about 45,000 in Richmond today. Finally, and most ironically, a somewhat higher cost majority-black school system will be added to lower-cost white systems. Virginia school investments are shockingly low; but Richmond still spends from $50 to $100 more per pupil per annum than the suburban counties spend.

That is not the final irony, however. Richmond's black children are in majority-black schools costing only $800 per pupil per annum. Yet Richmond's black schoolchildren show very little more educational retardation than the black children of Berkeley, Calif., in carefully integrated schools costing 1,500 per pupil per annum.

To be specific, the black children's end-of-third-grade reading level in Richmond is 2.8, and in Berkeley it is 3.1. The Berkeley gain is equivalent to three months in school. Yet Berkeley's black third graders are still massively retarded, whether you take California's statewide average, or the average reading level of 4.4 of Berkeley's white children in the same schools and the same classes.

So one asks again: Is it really worth it?

[From the Washington Post, Feb. 16, 1972]

REAL BUSING BALANCE

(By Joseph Alsop)

President Nixon to the contrary, every thinking American ought to give strong support to massive, forced busing to achieve racial balance, on a single, quite simple condition. The condition is reasonable evidence that this kind of busing really will overcome the terrible educational retardation that afflicts the average black child, whose true handicap is deep poverty.

For many years now, liberal educationists have told us that thoroughly desegregated schooling would surely overcome this retardation. Indeed they have told us that it was the (only) way to overcome this retardation. But, unhappily, they have disregarded the hard facts.

In most favorable conditions, two major efforts have been made to prove the truth of the liberal educationists' theory. In White Plains, N.Y., and in Berkeley, Calif., the school systems have long been racially homogenized in just the way demanded by Judge Robert R. Merhige in his famous Richmond, Va., decision.

In this series of reports attempting to get at the hard facts of the busing problem. the results in White Plains and Berkeley have already been set forth in some detail. It is enough, therefore, to say that the basic results have been bitterly disappointing, despite undoubted moral fringe benefits.

There have been modest educational gains; but the black retardation is still grave. Black third graders in Berkeley, for instance, though marginally better than before homogenization, are still reading at an average level 13 months behind the white children in the same classes and the same schools.

In short, the results predicted by the liberal educationists have not been attained, even in these two school populations of easily manageable size, with strong goodwill to help. The results are obviously bound to be far less good, moreover, where the attempt is made to homogenize school populations of many tens of thousands in an atmosphere of extreme ill will.

In these unfavorable conditions, there are also bound to be heavy countervailing costs to set against the gains, if any.

Quite aside from the nationwide political tumult about massive, forced busing, the widespread presence of acute ill will is proved by the fate of most American center cities of any size in the last decade and a half. In the center cities in this period, for many different reasons (including court orders in Southern cities), the old neighborhood school system has been progressively weakened.

The result has been a continuous determined and enormous flight from the center cities of white parents with children of school age. The census and school figures are there to prove it. So we are on the verge of getting segregated, ghetto solar cities which will certainly benefit no one at all.

Judge Merhige has now declared in his Richmond decision that the remedy is to merge the center city school districts with the neighboring suburban school districts, thereby leaving the whites nowhere to flee to. But in the first place this kind of large-scale homogenization is not even practical inside the larger center cities themselves. In New York City, for example, it would require busing Manhattan's black schoolchildren to outer Queens and remote Staten Island and vice versa, too.

There are also other costs and difficulties that no one seems to compute. One is the prospective cost to the children themselves of an extra half-hour a day (in Richmond) to an hour-and-a-half a day (in such a city as New York) that will be required by long-range busing. Another is the money cost. Another is the inevitable cost of increased racial tension and ill-will.

And that the majority of black parents also prefer neighborhood schools, beyond doubt. In New York, for example, they have long had the option of freely busing their children away from their neighborhoods to schools of their own choice. Yet only the tiniest minority—well under 2 per cent—are currently taking up this option.

Sen. Edmund Muskie has also revealed that his private polls say the same thing about the wishes of the black community as the data from New York City.

Radical, costly school improvement in the neighborhoods where the children are is another way to offer quality education to the children of the poor, both black and white. This way was briefly tried in New York City some years ago; and when really supported, the New York experiment achieved what has not been achieved in White Plains and Berkeley—ghetto third graders reading at a level equal to the national average. The experiment has been all but dismantled by now because of bitter hostility from some of the liberal educationists, and from total want of support from any of them. Take your own choice between the alternatives.

[From the Washington Post, Feb. 16, 1972]

MASSIVE BUSING: A WASTE

(By William Raspberry)

If this weren't an election year, it just might be possible to do something rational about school integration and busing.

But not only is it an election year; it is also a year in which all sorts of people, in all parts of the country and of all political persuasions are expressing their strong misgivings about the prospects of massive busing for the purpose of racial integration of public schools.

And with that kind of mandate, you can count on the politicians to see their duty—and overdo it. Already presidential candidate Jackson is pushing "freedom of choice." Haven't we heard that one before?

Others are talking up constitutional amendment.

It's a bit of an embarrassment, all things considered, but I happen to agree with Vice President Agnew on this one. I agree with him that massive busing solely for purposes of racial integration is a waste. And I agree with his opposition to a constitutional amendment as the way to end the waste.

The artificial separation of people, in schools or out, based on their race is wrong. It is, for one thing, psychologically destructive of the minority members who are separated out.

But to send black children chasing to hell and gone behind white children is also wrong and psychologically destructive. It reinforces in white children whatever racial superiority feelings they may harbor, and it says to black children that they are somehow improved by the presence of white schoolmates.

My favorite nightmare is of all the white people in the country moving to Alaska, and all the black children in the country following them in an endless line of buses.

Integration is a noble goal. But there comes a time when thoughtful men wonder with Joseph Alsop: "Is it really worth it?"

If white people, either because they wish to avoid contact with black people or for any other reason, choose to move far from where most black people live, how can it make sense—in terms of education or common sense—to send black kids chasing after them?

At some point, it becomes obvious that there must be a cheaper way to achieve the goal which is the education of our children.

But even the goal gets confused. Some of the advocates of massive busing, it seems to me, are being guided by the wrong ideal.

They start off with the assumption that in melting-pot America, racial integration is a good thing. But they take the melting pot metaphor altogether too literally, and it becomes their goal to make every classroom of every school (and every block of every neighborhood) an accurate cross-section of the makeup of the total population.

They would like to put us all into that metaphorical melting pot and ladle out enough portions of homogenized American to fill every schoolroom, workroom and living room in the country.

Well, what's so ideal about mathematically precise distribution of human beings? What's so inherently evil about a block in which all the homeowners (or a classroom in which all the pupils) happen to be black? Or white?

This is no brief for a return to the lie of separate but equal. It is an appeal for rational priorities, a plea that we make the test of a school whether it does what schools are supposed to do—educate our children.

It is both evil and illegal to say to a child: You cannot attend this school because it is a white school. But how much better is it to say: You must attend this school because it is integrated and we need you for racial balance?

The ideal is a situation in which race is irrelevant to assignment. Preoccupation with mathematical precision, unfortunately, is not the way to achieve that idea.

But no constitutional amendments, please. The effort that route would require would be bound to make too many of us feel that we were solving the problem of education in a pluralistic society. It would in fact solve nothing at all, except to return us to where we were the day before yesterday.

The Vice President was right again when he said:

"I think that there is almost a Pavlovian reaction. Whenever a subject becomes highly controversial, you must turn to a constitutional amendment. I think these things are capable of being handled within the normal statutory framework and constitutional framework of our existing Constitution."

But only if we deal with the situation and stop looking for new ways to run.

PARTIAL REVISION OF RADIO REGULATIONS AND FINAL PROTOCOL, GENEVA—REMOVAL OF INJUNCTION OF SECRECY

Mr. BYRD of West Virginia. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from a partial revision of the radio regulations—Geneva, 1959—and final protocol, Geneva, July 17, 1971—Executive E, 92d Congress, second session—transmitted to the Senate today by the President of the United States, and that the revision and protocol with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message from the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the text of a Partial Revision of the Radio Regulations (1959) relating to space telecommunications, with a Final Protocol, dated at Geneva July 17, 1971.

I transmit also, for the information of the Senate, the report of the Secretary of State with respect to the Partial Revision.

The English texts of the Partial Revision and Final Protocol, as certified by the Secretary-General of the International Telecommunication Union and transmitted herewith, are contained in a volume designated Final Acts. The volume also includes texts of certain documents (resolutions and recommendations) in respect of which no action with a view to ratification on the part of the United States is necessary.

The Radio Regulations (Geneva, 1959), as amended, to which the United States is a party, are further amended by the Partial Revision transmitted herewith in regard to matters relating to space telecommunications, with particular reference to the use of space radio techniques, including those for manned space vehicles and for the radio astronomy service, and to the technical criteria and procedures for frequency sharing between space and terrestrial services and between space systems.

The Final Protocol contains the texts of declarations made by certain of the governments represented at the Conference at which the Partial Revision was adopted. These declarations relate to rights to take action to protect the interests of the respective countries should any other country not comply with the provisions or should reservations made by other countries jeopardize the efficient operation of their respective telecommunication services.

Inasmuch as "the United States of America" and "Territories of the United States of America" are, under the terms of the International Telecommunication Convention, separate voting Members of the Union, the Final Acts embodying the Partial Revision were signed separately for each.

The Partial Revision will come into force on January 1, 1973, and will supersede the existing regulations adopted at a space telecommunications conference held in 1963.

I hope the Senate will give early and favorable consideration to this matter so that the United States can become a party to the Partial Revision.

RICHARD NIXON.

THE WHITE HOUSE, *February 16, 1972.*

Enclosures:

1. Report of the Secretary of State.
2. Partial Revision of the Radio Regulations (Geneva, 1959) and Final Protocol, Geneva, July 17, 1971.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, with amendments:

S. 2359. A bill for the relief of Willard O. Brown (Rept. No. 92–611).

By Mr. BURDICK, from the Committee on the Judiciary, without amendment:

S. 1395. A bill to amend section 48 of the Bankruptcy Act (11 U.S.C. 76) to increase the maximum compensation allowable to receivers and trustees (Rept. No. 92–613);

S. 1396. A bill to amend section 35 of the Bankruptcy Act (11 U.S.C. 63) and sections 631 and 634 of title 28, United States Code, to permit full-time referees in bankruptcy to perform the duties of a U.S. magistrate (Rept. No. 92–614);

H.R. 8699. An act to provide an administrative assistant to the Chief Justice of the United States (Rept. No. 92–616);

H.R. 9180. An act to provide for the temporary assignment of a U.S. magistrate from one judicial district to another (Rept. No. 92–617); and

S.J. Res. 190. A joint resolution to provide for an extension of the term of the Commission on the Bankruptcy Laws of the United States, and for other purposes (Rept. No. 92–615).

By Mr. BURDICK, from the Committee on the Judiciary, with an amendment:

S. 1394. A bill to amend the Bankruptcy Act to abolish the referees' salary and expense fund, to provide that fees and charges collected by the clerk of a court of bankruptcy in bankruptcy proceedings be paid into the general fund of the Treasury of the United States, to provide salaries and expenses of referees be paid from the general fund of the Treasury, and to eliminate the statutory criteria presently required to be considered by the Judicial Conference in fixing salaries of full-time referees (Rept. No. 92–612).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S.J. Res. 169. A joint resolution to pay tribute to law enforcement officers of this country on Law Day, May 1, 1972 (Rept. No. 92–618); and

S.J. Res. 189. A joint resolution to authorize the President to designate the period beginning March 26, 1972, as "National Week of Concern for Prisoners of War/Missing in Action" and to designate Sunday, March 26, 1972, as a national day of prayer for these Americans (Rept. No. 92–619).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Wilbur D. Owens, Jr., of Georgia, to be a U.S. district judge for the middle district of Georgia;

Ermen J. Pallanck, of Connecticut, to be U.S. marshal for the district of Connecticut;

William D. Keller, of California, to be U.S. attorney for the central district of California;

Harold Hill Titus, Jr., of Washington, D.C., to be U.S. attorney for the District of Columbia; and

Wilbur H. Dillahunty, of Arkansas, to be U.S. attorney for the eastern district of Arkansas.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JORDAN of Idaho (for himself and Mr. ALLOTT):

S. 3177. A bill to establish a land policy; to authorize the Secretary of the Interior to make grants to encourage and assist the States to prepare and implement land use programs for the protection of areas of critical environmental concern and the control and direction of growth and development of more than local significance; to establish guidelines; administer the public land policy; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. PASTORE:

S. 3178. A bill to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for President and Vice President. Referred to the Committee on Commerce.

By Mr. HARTKE:

S. 3179. A bill to provide opportunities for employment to unemployed and underemployed persons, to assist States and local communities in providing needed public services, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. MATHIAS:

S. 3180. A bill for the relief of Miss Belen Reyes Yabut. Referred to the Committee on the Judiciary.

By Mr. CHURCH (for himself, Mr. GURNEY, Mr. KENNEDY, Mr. WILLIAMS, Mr. MONDALE, and Mr. MOSS):

S. 3181. A bill to provide for the establishment of an Office for the Aging in the Executive Office of the President, for the fulfillment of the purposes of the Older Americans Act, for enlarging the scope of that act, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. SCOTT (for himself and Mr. JAVITS):

S. 3182. A bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide. Referred to the Committee on the Judiciary.

By Mr. JORDAN of North Carolina:

S. 3183. A bill for the relief of Richard D. Hupman. Referred to the Committee on Rules and Administration, by unanimous consent.

By Mr. WILLIAMS:

S.J. Res. 205. A joint resolution to authorize the President to proclaim the last Friday of April, 1972, as "National Arbor Day." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JORDAN of Idaho (for himself and Mr. ALLOTT):

S. 3177. A bill to establish a land policy; to authorize the Secretary of the Interior to make grants to encourage and assist the States to prepare and implement land use programs for the protection of areas of critical environmental concern and the control and direction of growth and development of more than local significance; to establish guidelines; administer the public land policy; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

LAND USE POLICY AND PLANNING ASSISTANCE ACT OF 1972

Mr. JORDAN of Idaho. Mr. President, on behalf of the distinguished Senator from Colorado (Mr. ALLOTT) and myself, I send to the desk for appropriate reference a bill to provide for a land-use policy and planning assistance. Senators will recall that during the second session of the 91st Congress, the Senate Committee on Interior and Insular Affairs reported a bill, S. 3354, to establish a national land-use policy. That bill was reported on December 14, 1970, and it was obviously too late in the session to expect any Chamber action on such an important measure.

As a part of the report on that legislation, the senior Senator from Colorado (Mr. ALLOTT) and I set forth our views concerning land-use planning in supplementary views. In those supplemental views we expressed our belief that land-use planning for both Federal and non-Federal lands should proceed together, since they are mutually interdependent, and the results of decisions with respect to one will generally have an impact upon decisions to be made with respect to the other.

In the first session of the 92d Congress I joined with the senior Senator from Colorado in sponsoring a measure to establish a public land policy and to provide for the machinery for public participation in the decisionmaking process. That bill, S. 2450, was the subject of hearings on September 21 and 22 of 1971.

Earlier in the year, a similar, though not identical, measure was introduced in the House of Representatives by the chairman of the Committee on Interior and Insular Affairs (Mr. ASPINALL). The House measure, H.R. 7211, was the subject of committee hearings on July 26, 27, 28, 29, and 30, 1971. Consequently, title II of the bill I introduce today has been the subject of a number of hearings on both the Senate and the House side of the Capitol.

The measure I introduce today combines the essentials, with some modification, of the administration's land-use bill, S. 992, and of the public land policy bill, S. 2450. By so doing, this measure would meet the objective set forth in our supplementary views on S. 3354 by combining and insuring coordination of Federal land-use planning with non-Federal land-use planning. In many of the Western States the majority of the land area is federally owned, and in my opinion—and the senior Senator from Colorado shares this view—it makes little sense to ask for the planning and regulation of land use on non-Federal lands without requiring similar land-use management of the public lands. The measure I introduce today will meet this objection, and I believe it is the only logical way to proceed with respect to land-use planning and management.

By Mr. PASTORE:

S. 3178. A bill to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for President and Vice President. Referred to the Committee on Commerce.

Mr. PASTORE. Mr. President, I send to the desk for appropriate reference a bill. I want to say at this juncture, Mr. President, that the bill I am introducing today would repeal the equal opportunity requirements of section 315 of the Communications Act for legally qualified candidates for the offices of President and Vice President in the general election. This measure, I believe, complements the recently enacted Federal Election Campaign Act because it will further reduce the cost of campaigning for the highest office in the land. After all, that was a major objective of the campaign legislation.

Unlike most elections for other public offices, a presidential race attracts numerous candidates. Broadcasters have told us they are, therefore, reluctant to give free time to significant candidates because of the equal time requirement, and the cost that would be involved if they had to give equal time to all of the candidates who run for the office of President.

I might say, Mr. President, with respect to the last election that with the exception of the three major candidates, all the other candidates combined received less than 5 percent of the vote.

Be that as it may, I think that under the provision in the law today, if they gave a Republican candidate any free time or a Democratic candidate any free time or the candidate who ran on the American ticket the last time—Mr. Wallace—any free time, they would have to give it to every individual candidate. The cost would be of such magnitude that, for that reason, they would give it to no one. That has been one of the problems we have encountered in seeing to it that the candidates who run for the office of the Presidency are given sufficient exposure on television so that they can bring their message to the American people.

Thus I feel that the major reason for exempting the office of the Presidency from the requirement is not present where other offices are concerned.

The reason I say that is that the position taken by Mr. Nixon was that if the law applies to the office of the Presidency, it ought to apply to every Member of the Congress. There is a difference involved. Members of Congress run either in a district or in a State, and that has nothing to do with the networks. But when a candidate for the Presidency runs, he appears on the national networks; therefore, the networks come into the picture. For that reason, I had conversations with the presidents of the three networks—ABC, NBC, and CBS—and they all agreed that were we to eliminate the office of President and Vice President from the provisions of section 315, the networks would offer free time to each of the major candidates of the major parties.

I make the general assertion, because the question arose, that this might force the President of the United States into the awkward position of being compelled to accept a challenge to debate. I tell the Senate very frankly that I do not think the President ought to be embarrassed in any way. I have said so on the floor of the Senate time and time again. I do not think that he ought to be compelled to debate. For that reason, I brought that matter up before the three presidents of the networks. They all agree that the candidate himself would have the exclusive choice of the format he would follow.

This is not a bill to embarrass anyone. It is a bill to help the networks to accommodate the major candidates for the office of President and to give them free time. For the life of me, I cannot understand how anyone would object to it. However, that is the situation.

The Senate passed the measure several times, and the House deleted it from the campaign expenditures bill. So I am introducing it today, and, as chairman of the subcommittee, I assure Senators that it will be acted upon expeditiously and reported to the Senate in due time.

I hope it will be passed by the Senate and by the House and will be sent to the President, and that once and for all the networks will be enabled to give free time to a candidate for the office of the Presidency.

I am so happy to see that the chairman of the National Republican Party is in the Chamber. I want him to understand once again that the bill is not aimed to embarrass anyone. It is designed to enable the networks to give free time to the candidates for the office of the Presidency, for, as is so well known, it costs almost $1 million for each exposure.

When the Committee on Commerce held hearings on the election campaign legislation, the heads of the three major networks testified that they were prepared to offer substantial amounts of free time to significant presidential candidates if this requirement of equal time were repealed.

At that time it was made abundantly clear that their offers were not conditioned upon a predetermined format. In other words, no candidate would be required to debate in order to receive free time. In this regard, I quote from the committee's report accompanying the campaign bill:

> Your committee also wishes to point out that in urging the adoption of this legislation to repeal Section 315 as it applies to Presidential and Vice Presidential candidates, it is not enforcing any particular format for the appearance of the candidates. Rather, complete freedom is given to the broadcaster and the candidates to develop specific program formula for the appearance of candidates. The Committee feels the flexibility being given in this legislation will permit the broadcaster and the candidate to innovate and experiment with various program formats, including joint appearances. Whatever is done should be done as a result of discussions, negotiations and cooperation between the candidates and the broadcasters.

What the committee said then is equally true with respect to the bill I am introducing today.

I urge the Senate to take this additional step so that the American voting public will have a greater opportunity to see and hear the candidates for the most important office in the land.

By Mr. HARTKE:

S. 3179. A bill to provide opportunities for employment to unemployed and underemployed persons, to assist States and local communities in providing needed public services, and for other purposes. Referred to the Committee on Labor and Public Welfare.

GUARANTEED JOBS—NOT GUARANTEED WELFARE

Mr. HARTKE. Mr. President, more than 25 years ago Congress set a national goal "to promote maximum employment, production and purchasing power." It has been more than a quarter of a century since the Employment Act of 1946 became law, yet we have yet to achieve that all-important objective of full employment.

There can be no effective welfare reform until we solve the unemployment problem; nor can we stabilize our economy until we succeed in achieving full employment. For too long, this problem has been the subject of rhetoric and empty promises. With an unemployment rate hovering around the 6-percent level, now is the time to act to meet the commitment made in 1946.

I am today introducing legislation to

provide a job for every able-bodied American. In essence, my "Full Employment Act" assures that anyone who cannot find a job in the private sector will have access to a public sector job. These will not be transitional jobs, nor will they be made work jobs. Instead they will be jobs which will help translate the social concerns of Government into concrete action. They will be jobs in which workers can take pride in their accomplishments.

Mr. President, for the past 3 years, the employment picture has been colored with gloom. Last month we had further proof that the President's program of economic regeneration has been a failure. Despite policies which are supposedly new and escalating rhetoric from the White House, 5,477,000 Americans were unemployed last month. As startling as this figure is, it fails to reflect the millions who are underemployed—those working a short week and living on a shrunken paycheck. Nor does this figure include those who have been unable to find work and have simply stopped looking.

As chairman of the Senate Committee on Veterans' Affairs, I am well aware of a most shameful aspect of the unemployment picture. Some 400,000 of the unemployed are Vietnam veterans. Men torn from careers in formation, pulled away from jobs and normal lives, sent to the purposeless quagmire of our Indochina involvement, and then returned to a society that offers them no place. This is nothing short of a national disgrace.

For the past 35 years, we have assumed that the answer to a high rate of unemployment was either tax reductions or additional Government spending. Inevitably, either of these approaches has failed. Even at times when the national unemployment rate was relatively low, we have fallen far short of real full employment. In the last quarter of 1968, for example, the overall unemployment rate fell to 3.4 percent—the lowest rate recorded throughout the 1960's. The rate for white adult males was actually even lower—1.8 percent. At the same time, however, the rate for women was 4.5 percent; for blacks, 6.6 percent; for white youths, 10.8 percent; and for black youths, 25.3 percent. The full employment I propose today would provide for a complete end to actual unemployment for all groups of Americans, rather than a continuation of the superficial and misleading numbers game with which we have been satisfied.

The perennial reliance upon traditional fiscal and monetary policy has led us to alternate between periods of unacceptably high unemployment and times of rising prices. The result of 25 years of a stop and go policy is a price level roughly twice what it was in 1945 and relatively little progress in attacking the structural problems that are responsible for so much unemployment. Nor has this process of generally fixing prices been a costless proposition. Older Americans on fixed incomes have found their savings from years of toil seriously eroded.

Higher domestic prices coupled with a generally disastrous trade and investment policy have frequently priced American goods out of the international market. And despite all these costs in terms of human impoverishment and national strength, we find ourselves with an unemployment rate hovering around 6 percent.

Although there has been increasing recognition of structural unemployment and the marked skill imbalances in the economy, most economists have supported monetary and fiscal policy as the main tools to assure full employment and price stability. More recently, there has been a growing body of work focusing on structural improvements that will reduce unemployment without forcing us back into a ruinous price spiral. A leader of this new breed of labor economist, Dr. Melville J. Ulmer of the University of Maryland, has directed his studies toward the goal of alleviating the level of unemployment in the hard-to-place unskilled without demanding national economic action that would be bound to lead us to further inflation. Essentially, Professor Ulmer advocates a matching of public service jobs to the skills and aptitudes of the existing supply of labor.

The current policies of the Nixon administration are but an extension of the high unemployment policies of the past. These policies will not succeed in lowering prices or holding back inflation, nor will they succeed in lowering unemployment below the 5-percent level.

It is time that we broke with the misguided policies of the past and adopted a new economic game plan which will give us full employment without substantial inflation. By full employment I do not mean a 5-percent rate of unemployment or even a 4-percent range, but zero long-term unemployment.

If we are to meet this goal, we will have to provide more than millions of new jobs. Of the 5 million people currently unemployed, most are unskilled and therefore unable to get a job in our increasingly skilled job market.

Another smaller but equally significant group of unemployed are highly skilled but because of changes in national priorities or unfair competition from abroad have lost their jobs and are unable to find new ones.

Experience has made it clear that the private sector cannot expand to provide jobs for these millions of able-bodied unemployed without at the same time causing inflation. The answer lies in creating new public sector jobs—jobs financed by the Federal Government and provided at the Federal, State, and local levels.

Some may say that the cost for these new jobs will be excessive, but such critics forget that we are already paying the unemployed through unemployment insurance and welfare programs. By paying the able-bodied unemployed for socially useful work, we can enhance the moral fiber of the Nation, stabilize and invigorate the economy.

Others may oppose any legislation which turns over to the public sector a larger portion of the Nation's economic activity than is customary during peacetime. To these people, I say that Government is in a unique position to calculate both the social costs and the social benefits of its activities. Government need not be solely concerned with maximizing profits and replacing manpower with technology. Instead, Government can weigh the availability of unused manpower against the values of purer air and water, better schools and medical care, more livable cities, safer streets, better care of the aged, better mass transit, more day care centers and other services which can best be offered by Government. In short, Government can match the concerns of society to the resources at hand.

The continued growth of a technology intensive society promises to leave millions of Americans with obsolete skills and no prospects of meaningful employment. This situation seems so needless and wasteful when there are so many unmet public needs crying for manpower. My bill will provide many middle-aged Americans with new hope, start millions of young people on the road to productive lives, and assure our returning veterans of full membership in the society that sent them off to war.

Mr. President, I ask unanimous consent that the text of the Full Employment Act be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3179

A bill to provide opportunities for employment to unemployed and underemployed persons, to assist States and local communities in providing needed public services, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Full Employment Act of 1972".

STATEMENT OF PURPOSES

Sec. 2. The Congress finds and declares that—

(1) to attain the objective of the Employment Act of 1946 "to promote maximum employment, production, and purchasing power" it is necessary to assure an opportunity for a gainful, productive job to every American who seeks work and furnish the education, training, and job placement assistance needed by any person to qualify for employment consistent with his highest potential and capability;

(2) the United States has the capacity to provide every American who is able and willing to work, full opportunity, within the framework of a free society, to prepare himself for and to obtain employment at the highest level of productivity, responsibility, and remuneration within the limits of his abilities;

(3) the growth of the Nation's economic prosperity and productive capacity is limited by the lack of sufficient skilled workers to perform the demanding production, service, and supervisory tasks necessary to the full realization of economic abundance for all in an increasingly technical society, while, at the same time, there are many workers who are working below their capacity and who, with appropriate education and training could capably perform jobs requiring a higher degree of skill, judgment and attention;

(4) the placement of unemployed or underemployed workers in private employment is hampered by the absence of a suffi-

cient number of appropriate employment opportunities;

(5) there are great unfilled public needs in such fields as health, community improvement, education, transportation, public safety, recreation, environmental quality, conservation, and other fields of human betterment and public improvement, which can be met by expansion of public sector employment opportunities providing meaningful jobs for unemployed and underemployed persons, including those who have become unemployed as a result of shifts in the pattern of Federal expenditures; and

(6) economic prosperity and stability in the United States and the well-being and happiness of its citizens will be enhanced by the establishment of a comprehensive full employment program designed to assure every American an opportunity for gainful employment.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Secretary" means the Secretary of Labor;

(2) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands; and

(3) "city" means an incorporated municipality, or other political subdivision of a State, having general governmental powers.

AUTHORIZED APPROPRIATIONS

SEC. 4. (a) For the purposes of carrying out this Act, there are authorized to be appropriated such funds as may be necessary.

(b) Notwithstanding any other provision of law, unless enacted in specific limitation of this subsection, any funds appropriated to carry out this Act which are not obligated prior to the end of the fiscal year for which such funds were appropriated, shall remain available for obligation during the succeeding fiscal year, and any funds obligated in any fiscal year may be expended during a period of two years from the date of obligation.

ALLOCATION OF FUNDS

SEC. 5. (a) Sums appropriated pursuant to this Act for any fiscal year shall be allocated in the following manner:

(1) Not less than 80 per centum shall be apportioned by the Secretary among the States in an equitable manner, taking into consideration the proportion which the total number of unemployed persons, and of persons heading low-income families and unrelated low-income persons, in each such State bears to such total numbers, respectively, in the United States.

(2) The remainder shall be available as the Secretary deems appropriate to carry out the purposes of this Act.

(b) The amount apportioned to each State under clause (1) of subsection (a) shall be apportioned among areas within each such State in an equitable manner taking into consideration the proportion which the total number of unemployed persons in each such area bears to such total numbers, respectively, in the State. To the maximum extent appropriate, apportioned funds for each such area shall be expended through approved applications submitted by prime sponsors.

(c) The Secretary is authorized to make reallocations for such purposes under this Act as he deems appropriate of the unobligated amount of any apportionment under subsections (a)(1) and (b) to the extent that the Secretary determines that it will not be required for the period for which such apportionment is available. Any funds reallocated under this subsection are not required to be apportioned in accordance with subsection (a)(1) or (b), and no revision in the apportionments of the funds not so reallocated shall be made because of such reallocations.

(d) As soon as practicable after funds are appropriated to carry out this Act for any fiscal year, the Secretary shall publish in the Federal Register the apportionments required by subsections (a)(1) and (b) of this section.

FINANCIAL ASSISTANCE

SEC. 6. The Secretary shall enter into arrangements with eligible applicants in accordance with the provisions of this Act in order to make financial assistance available for the purpose of providing employment for unemployed and underemployed persons in jobs providing needed public services.

ELIGIBLE APPLICANTS

SEC. 7. Financial assistance under this Act may be provided by the Secretary only pursuant to applications submitted by eligible applicants who shall be—

(1) public agencies and institutions of the Federal Government;

(2) public agencies and institutions of States and cities; and

(3) Indian tribes and any private nonprofit agencies and institutions approved by the Secretary for the purpose of this Act.

ELIGIBLE PARTICIPANTS

SEC. 8. Eligibility for participation in any program under this Act shall be determined in accordance with the provisions of this Act authorizing such program; and persons who or persons heading families who receive benefits under title IV of the Social Security Act, or food stamps or surplus commodities under the Agricultural Act of 1949 and the Food Stamp Act of 1964, shall be included among individual eligible to participate in programs assisted under the provisions of this Act.

APPLICATION

SEC. 9. (a) Financial assistance under this Act may be provided by the Secretary for any fiscal year only pursuant to an application which is submitted by an eligible applicant and which is approved by the Secretary in accordance with the provisions of this Act. Any such application shall set forth a public service employment program designed to provide employment and, where appropriate, training and manpower services related to such employment which are otherwise unavailable, for unemployed and underemployed persons in such fields as health care, public safety, education, transportation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvement, rural development, conservation, beautification, and other fields of human betterment and community improvement.

(b) An application for financial assistance for a public service employment program under this Act shall include provisions setting forth—

(1) assurances that the activities and services for which assistance is sought under this Act will be administered by or under the supervision of the applicant, identifying any agency or agencies designated to carry out such activities or services under such supervision;

(2) a description of the area to be served by such programs, and a plan for effectively serving on an equitable basis the significant segments of the population to be served, including data indicating the number of potential eligible participants and their income and employment status;

(3) a description of the methods to be used to recruit, select, and orient eligible participants, including specific eligibility criteria, and programs to prepare the participants for their job responsibilities;

(4) a description of unmet public service needs and a statement of priorities among such needs;

(5) description of jobs to be filled, a listing of the major kinds of work to be performed and skills to be required, and the approximate duration for which participants would be assigned to such jobs;

(6) the wages or salaries to be paid participants and a comparison with the prevailing wages in the area for similar works;

(7) the education, training, and supportive services (including counseling, medical care, and family planning) which complement the work performed;

(8) the planning for and training of supervisory personnel in working with the participants;

(9) a description of career opportunities and job advancement potentialities for participants;

(10) appropriate arrangements with community action agencies, and, to the extent appropriate, with other community-based organizations serving the poverty community, for their participation in the conduct of programs for which financial existence is provided under this title;

(11) an indication of the full participation and maximum cooperation among local public officials, area residents, and representatives of private organizations in the development of the program and a description of their respective roles in the conduct and administration of the program; and

(12) such other assurances, arrangements, and conditions, consistent with the provisions of this Act, as the Secretary deems necessary, in accordance with such regulations as he shall prescribe.

APPROVAL OF APPLICATIONS

SEC. 10. An application, or modification or amendment thereof, for financial assistance under this Act may be approved only if the Secretary determines that—

(1) the application meets the requirements set forth in this Act;

(2) an opportunity has been provided to the Governor of the State to submit comments with respect to the application to the Secretary; and

(3) an opportunity has been provided to officials of appropriate cities to submit comments with respect to the application to the Secretary.

SPECIAL CONDITIONS

SEC. 11. (a) The Secretary shall not provide financial assistance for any program under this Act unless he determines, in accordance with such regulations as he shall prescribe, that—

(1) the program will result in an increase in employment opportunities over those which would otherwise be available and will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of non-overtime work or wages or employment benefits), and will not impair existing contracts for services of result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

(2) persons employed in a public service job under this Act shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employment under the Fair Labor Standards Act of 1938, as amended, if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay in the same labor market area for persons employed in similar public occupations;

(3) all persons employed in a public service job under this Act will be assured of workman's compensation, retirement, health insurance, unemployment insurance, and other benefits at the same levels and to the same extent as other employees of the employer and to working conditions and promotional

opportunities neither more nor less favorable than such other employees enjoy;

(4) the provisions of section 2(a)(3) of Public Law 89-286 shall apply to such agreements;

(5) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants; and

(6) every participant shall be advised, prior to entering upon employment, of his rights and benefits in connection with such employment.

(b) Where a labor organization represents employees who are engaged in similar work in the same labor market area to that proposed to be performed under any program for which an application is being developed for submission under this Act, such organization shall be notified and afforded a reasonable period of time in which to make comments to the applicant and to the Secretary.

(c) The Secretary shall prescribe regulations to assure that programs under this Act have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

ADDITIONAL LIMITATIONS AND CONDITIONS

SEC. 12. (a) Any amounts received under chapters 11, 13, 31, 34, and 35 of title 38, United States Code, by any veteran of any war, as defined by section 101 of title 38, United States Code, who served on active duty for a period of more than one hundred and eighty days or was discharged or released from active duty for a service-connected disability or any eligibile person as defined in section 1701 of such title, if otherwise eligible to participate in programs under this Act, shall not be considered for purposes of determining the needs or qualifications of participants in programs under this Act.

(b) The Secretary shall not provide financial assistance for any program under this Act unless he determines, in accordance with regulations which he shall prescribe, that periodic reports will be submitted to him containing data designed to enable the Secretary and the Congress to measure the effectiveness of all programs. Such data shall include, but be not necessarily limited to, information on—

(1) enrollee characteristics, including age, sex, race, health, education level, and previous wage and employment experience;

(2) duration in previous training and employment situations, if any;

(3) total dollar cost per person, including breakdown between salary or stipend, supportive services, and administrative costs. The Secretary shall compile such information on a State, regional, and national basis.

(c) The Secretary shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, political affiliation, physical disability, or beliefs.

(d) The Secretary shall not provide financial assistance for any program under this Act which involves partisan political activities; and neither the program, the funds provided therefor, or personnel employed therein, shall be, in any way or to any extent, engaged in the conduct of partisan political activities in contravention of chapter 15 of title 5, United States Code.

(e) The Secretary shall not provide financial assistance for any program under this Act unless he determines that participants in the program will not be employed on the construction, operation or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

ADMINISTRATIVE PROVISIONS

SEC. 13. (a) The Secretary may prescribe such rules, regulations, guidelines and other published interpretations or orders under this Act as he deems necessary. Such rules, guidelines, regulations, and other published interpretations or orders may include adjustments authorized by section 204 of the Inter-governmental Cooperation Act of 1968.

(b) The Secretary may make such grants, contracts, or agreements, establish such procedures, and make such payments, in installments and in advance, or by way of reimbursement, or otherwise allocate and expend funds made available under this Act, as he may deem necessary to carry out the provisions of this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction, repairs and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments. The Secretary may also withhold funds otherwise payable under this Act in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act or any term or condition of assistance under this Act.

(c) The Secretary is authorized, in carrying out his functions and responsibilities under this Act, to accept in the name of the Department, and employ and dispose of in furtherance of the purposes of this Act, or any title thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.

(d) The Secretary is authorized, in carrying out his functions and responsibilities under this Act, to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

(e) The Secretary is authorized to accept and utilize in carrying out the provisions of this Act funds appropriated to carry out other provisions of Federal law if such funds are utilized for the purposes for which they are specifically authorized and appropriated.

(f) In addition to such other authority as he may have, the Secretary is authorized, in carrying out his functions under this Act, to utilize, with their assent, the services and facilities of Federal agencies without reimbursement, and with the consent of any State or political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivision with reimbursement.

(g) The Secretary is authorized, in carrying out his functions under this Act, to expend funds without regard to any other law or regulations for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by him only when necessary to fulfill the purposes of this Act and subject to prior written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of his intention to exercise such authority and the reasons and justification for the exercise of such authority.

ADVANCE FUNDING

SEC. 14. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, the amendment made by subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act of otherwise) of two separate appropriations, one for the current fiscal year and one for the succeeding fiscal year.

TRANSFER OF FUNDS

SEC. 15. Funds appropriated under the authority of this Act may be transferred, with the approval of the Director of the Office of Management and Budget, between departments and agencies of the Federal Government, if such funds are used for the purposes for which they are specifically authorized and appropriated.

LABOR STANDARDS

SEC. 16. All laborers and mechanics employed in any construction, alteration, or repair, including painting or decorating of projects, buildings, and works which are Federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). All others shall be paid at a rate not less than the ten-prevailing Federal minimum wage. The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

COOPERATION OF OTHER AGENCIES

SEC. 17. Each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to provide such services and facilities as he may request for his assistance in the performance of his functions under this Act.

(a) The Secretary shall carry out his responsibilities under this Act through the utilization, to the extent appropriate, of all possible resources for skill development available in industry, labor, public and private educational and training institutions, State, Federal, and local agencies and other appropriate public and private organizations and facilities, with their consent.

ADVISORY COMMITTEE

SEC. 18. (a) The Secretary shall appoint an Advisory Committee on Public Service Employment which shall consist of at least 13 but not more than seventeen members and shall be composed of persons representative of labor, management, agriculture, education, economic opportunity programs, as well as representatives of the unemployed. From the members appointed to such Committee, the Secretary shall appoint a Chairman. Members shall be appointed for terms of three years except that (1) in the case of initial members, one-third of the members shall be appointed for terms of one year each and one-third of the members shall be appointed for terms of two years each, and (2) appointments to fill the unexpired portion of any term shall be for such portion only. Such committee shall hold not less than two meetings during each calendar year.

(b) The Advisory Committee shall—

(1) review the administration and operation of all programs under this Act and advise the Secretary of Labor and other appropriate officials as to carrying out their duties under this Act;

(2) conduct independent evaluations of programs carried out under this Act and publish and distribute the results thereof; and

(3) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of such programs as are authorized under this Act.

(c) The Advisory Committee shall make an annual report, and such other reports as it deems necessary and appropriate, on its findings, recommendations, and activities to the Secretary and to the Congress.

(d) The Advisory Committee may accept and employ or dispose of gifts or bequests, either for carrying out specific programs or for its general activities or for such responsibilities as it may be assigned in furtherance of subsection (b) of this section.

(e) Appointed members of the Advisory Committee shall be paid compensation at a rate not to exceed the per diem equivalent of the rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code, when engaged in the work of the Advisory Committee, including traveltime, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

(f) The Advisory Committee is authorized, without regard to the civil service laws, to engage such technical assistance as may be required to carry out its functions; to obtain the services of such full-time professional, technical, and clerical personnel as may be required in the performance of its duties, and to contract for such assistance as may be necessary.

(g) For the purposes of this section, funds may be reserved from the sums appropriated to carry out this Act, as directed by the Director of the Office of Management and Budget.

STATE AND LOCAL ADVISORY COMMITTEES

SEC. 19. For the purpose of formulating and implementing programs under this Act, the Secretary may, where appropriate, assist in the establishment of representative advisory committees on a community, State, and regional basis.

REPORTS

SEC. 20. (a) The Secretary of Labor shall make such reports and recommendations to the President as he deems appropriate pertaining to manpower requirements, resources and use, and his recommendations for the forthcoming fiscal year, and the President shall transmit to the Congress within sixty days after the beginning of each regular session a report pertaining to manpower requirements, resources and use.

(b) The Secretary shall transmit at least annually as part of the report required under this section a detailed report setting forth the activities conducted under this Act.

INTERSTATE AGREEMENTS

SEC. 21. In the event that compliance with provisions of this Act requires cooperation or agreements between States, the consent of Congress is hereby given to such States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

EFFECTIVE DATE

SEC. 22. The effective date of this Act shall be July 1, 1972. Rules, regulations, guidelines and other published interpretations or orders may be issued by the Secretary at any time after the date of enactment of this Act.

By Mr. CHURCH (for himself, Mr. KENNEDY, Mr. WILLIAMS, Mr. MONDALE, Mr. GURNEY, and Mr. MOSS):

S. 3181. A bill to provide for the establishment of an Office for the Aging in the Executive Office of the President, for the fulfillment of the purposes of the Older Americans Act, for enlarging the scope of that act, and for other purposes. Referred to the Committee on Labor and Public Welfare.

ACTION ON AGING ACT OF 1972

Mr. CHURCH. Mr. President, I introduce for appropriate reference the Action on Aging Act of 1972. The Senator from Florida (Mr. GURNEY), and the Senator from Utah (Mr. MOSS), the Senator from Minnesota (Mr. MONDALE), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Massachusetts (Mr. KENNEDY) have joined me as cosponsors of this proposed legislation.

Recent reorganization moves have raised very basic and serious questions about the capability of the Administration on Aging to function as the Federal focal point for the elderly. Despite strong expression of congressional intent on several occasions, AOA's role has deteriorated markedly in recent years. As a consequence, it is now a weak agency with little clout and visibility. And it can no longer serve as a forceful advocate for improving and enriching the lives of aged and aging Americans.

Approximately 5 years ago, AOA lost its direct line of communication to the Secretary of Health, Education, and Welfare when it was made a component unit in the newly created Social and Rehabilitation Service. Further downgrading occurred in 1970 when action was initiated to transfer the research and training programs to the SRS regional offices. And AOA was all but dismantled when the foster grandparent and the retired senior volunteer programs were spun off a few months ago to the newly created volunteer agency, Action.

With its programs being systematically stripped away, AOA is now left with only the administration of the title III community programs on aging and the areawide model projects. Moreover, during the past 2 years, its program responsibility has been reduced by two-thirds.

Additionally, AOA lacks the capability of performing essential interdepartmental coordinating functions because of its low status in the Federal hierarchy. This point was made very forcefully by the President's Task Force on Aging in 1970 when it said:

> The experience of the Administration on Aging . . . makes it abundantly clear that interdepartmental coordination cannot be carried out by a unit of government which is subordinate to the units it is attempting to coordinate.

Equally important, this task force stressed that no agency now has authority to determine priorities, settle conflicts, eliminate duplication, and make other key decisions for a comprehensive and coordinated policy for aged and aging Americans.

Last March, as chairman of the Senate Committee on Aging, I joined the chairman of the Subcommittee on Aging of the Labor and Public Welfare Committee (Mr. EAGLETON) in conducting joint legislative review hearings on the Evaluation of the Administration on Aging and the Conduct of the White House Conference on Aging. This inquiry has already had a dramatic impact on many key fronts for older Americans. These hearings, for instance, have helped to produce a $71.5 million funding increase for the programs under the Older Americans Act, from $29.5 million to $100 million. This represents the highest appropriation, by far, in the history of the act.

Equally significant, this study led to the appointment by the Senate Committee on Aging of a 20-member advisory council on the Administration on Aging—or a successor. In October, this advisory council issued a far-reaching report, calling for major organizational changes to establish a clearcut, coherent, and coordinated policy to serve the aged of today and tomorrow.

The bill that I introduce today is designed to carry out these recommendations. Briefly, this measure would establish an independent Office on Aging at the White House level to be directed by an Assistant on Aging to the President. This new Agency would have broad responsibilities, including:

Formulating and administering policy;

Coordinating and monitoring programs among departments and agencies with a direct concern in matters related to aging;

Initiating and administering programs, until the value of these projects is demonstrated sufficiently to delegate to existing agencies; and

Providing funds for innovative programs to appropriate departments or agencies.

Second, my proposal calls for the establishment of an advisory council—composed of distinguished individuals in the field of aging—to serve the independent Agency on Aging in a wide range of capacities. One of its key duties would be to prepare a comprehensive report each year, identifying major issues affecting older Americans and the progress made during the year in resolving their problems.

Third, my bill retains the Administration on Aging. But, it would be headed by an Assistant Secretary on Aging in HEW, instead of only a commissioner as is the case now. This is significant, I believe, because it would establish a high level spokesman for the elderly with a direct line of authority to the Secretary. Moreover, an Assistant Secretary could provide the visibility and leadership which is so urgently needed to carry out the programs under the Older Americans Act in an effective and forceful fashion.

This legislation now takes on added meaning because in just a few months—on June 30—the Older Americans Act will expire. During this time the Congress must determine whether the Administration on Aging should be continued as is presently constituted, strengthened, or replaced with something entirely new.

The reasons for early and favorable action on this legislation, I believe, are compelling. Today the existing governmental framework for coping with the problems and challenges of the elderly is, to a very large degree, fragmented and haphazard. And this diffusion of responsibility has resulted in duplication of efforts, lack of coordination, and gaps in our Nation's overall approach for the 20 million Americans now past 65, as well as the millions more nearing that age.

However, the establishment of an independent Agency on Aging at the White House level would provide the high-level spokesman for policy development in the field of aging. It would also produce greater coordination of Federal programs to serve the elderly. Additionally, the Presidential Assistant on Aging would be ideally situated for establishing priorities for a national policy on aging. And above all, the Assistant on Aging could help assure that our national programs for the aged are built upon sound and intelligently conceived plans.

Moreover, streamlined and effective Government organization is essential if the recommendations emerging from the White House Conference on Aging are to be effectively implemented this year and in the years ahead.

Our Nation can ill-afford a halfhearted commitment to come to grips with the problems besetting the aged. What is needed now is a high-level advocate with the power and prestige to represent the elderly effectively in the highest councils of government.

All Americans—whether they be young, middle-aged, or older—have an important stake in this decision because our haphazard efforts in the field of aging have resulted in high costs for our Nation, the elderly, and their families. These economic, social, psychological, and other costs are likely to climb unless major policy and organizational changes are instituted.

Persons now old have a direct interest because a strong Federal spokesman is a cornerstone in any national policy to make the later years a time of fulfillment, instead of despair and neglect. Middle-aged individuals also have a direct concern because they may be ill-equipped to cope with the problems associated with advancing age, such as the lack of coordinated social services, isolation, loneliness, and many others. And the young also have a stake because they can expect to spend more years in retirement than any other generation in the history of mankind.

This proposal, I am pleased to note, has been enthusiastically endorsed by the delegates at the White House Conference on Aging.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3181

A bill to provide for the establishment of an Office for the Aging in the Executive Office of the President, for the fulfillment of the purposes of the Older Americans Act, for enlarging the scope of that Act, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Action on Aging Act of 1972".

DECLARATION OF PURPOSE

Sec. 2. It is the purpose of this Act to—

(1) provide increased coordination, improved planning, more innovative services, and other activities on behalf of Older Americans through the establishment of an Office for the Aging in the Executive Office of the President; and

(2) broaden and strengthen the mission and administrative role of the Administration on Aging.

DEFINITIONS

Sec. 3. As used in this Act—

(1) "Office" means the Office for the Aging;

(2) "Director" means the Director of the Office for the Aging;

(3) "Council" means the National Advisory Council for the Aging;

(4) "department and agency of the Federal Government" means any department, agency, or independent establishment of the Executive Branch of the Government including any wholly owned government corporation.

TITLE I—OFFICE FOR THE AGING

ESTABLISHMENT

Sec. 101. (a) There is established in the Executive Office of the President the Office for the Aging.

(b) The Office shall be headed by a Director who shall be appointed by the President by and with the advice and consent of the Senate. There shall be in the Office a Deputy Director who shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director may prescribe and shall be acting Director in the absence or disability of the Director or in the event of a vacancy in the position of Director.

FUNCTIONS OF THE OFFICE

Sec. 102. It shall be the function of the Office to—

(1) advise and assist the President as he may request on programs and activities for older Americans conducted or assisted by any department or agency of the Federal Government;

(2) provide effective procedures for the coordination of programs and activities for older Americans conducted or assisted by and department or agency of the Federal Government with particular emphasis upon practical coordination of the availability of such programs and activites at the local level;

(3) encourage the development of State and local governmental agences and private agencies and organizations which will carry out programs and activities designed to meet the special needs of older Americans;

(4) develop and establish demonstration programs of an innovative character, when deemed necessary by the Director, designed to meet the special needs of older Americans and to carry out such programs until such time as their worth is demonstrated;

(5) establish effective procedures—including regular meetings with appropriate officers of the Departments of Health, Education, and Welfare, Commerce, Agriculture, Labor, Transportation, and Housing and Urban Development, the Civil Service Commission, the Veterans' Administration, the Office of Management and Budget, and the Office of Economic Opportunity—designed to assure a more effective consideration of the interests of older Americans in the operation of programs and activities conducted or assisted by those departments and agencies;

(6) advise and make recommendations to all departments and agencies of the Federal Government with respect to general policy matters concerning programs and activities related to the interests of older Americans; and

(7) report to the Congress at least once in each fiscal year on the activities of the Office during the preceding fiscal year.

ADMINISTRATIVE PROVISIONS

Sec. 103. (a) The Director, subject to the direction of the President is authorized to—

(1) appoint and fix the compensation of such staff personnel as he deems necessary;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $125 a day for individuals;

(3) promulgate such rules and regulations as may be required to carry out the provisions of this title;

(4) designate representatives to serve or assist on such committees as the Director may determine to be necessary to maintain effective liaison with departments and agencies of the Federal Government and with State and local agencies carrying out programs and activities related to the special interests of older Americans; and

(5) use the services, personnel, facilities, and information of departments and agencies of the Federal Government and those of State and local public agencies and private research agencies, with the consent of such agencies, with or without reimbursement therefor.

(b) Upon request made by the Director each such department and agency is authorized and directed to make its services, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent to the Office in the performance of its functions.

ADVISORY COUNCIL ON THE AGING

Sec. 104. (a) There is established a national advisory council on the aging to be composed of 15 members appointed by the President for terms of 3 years without regard to the provisions of title 5, United States Code. Members shall be appointed so as to be representative of older Americans, national organizations with an interest in aging, business, labor, and the general public.

(b)(1) Of the members first appointed, five shall be appointed for a term of one year, five shall be appointed for a term of two years, and five shall be appointed for a term of three years, as designated by the President at the time of appointment.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

(3) Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner by which the original appointment was made.

(4) Members of the Council shall, while serving on business of the Council, be entitled to receive compensation at rates not to exceed $135 per diem, including travel time and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(c) The President shall designate the chairman from among the members appointed to the Council. The Council shall meet at the call of the chairman but not less often than four times a year. The Director shall be an ex officio member of the Council.

(d) The Council shall—

(1) advise the Director on matters relating to the special needs of older Americans;

(2) review and evaluate programs and activities conducted or assisted by departments and agencies of the Federal Government with particular emphasis upon identifying unsolved special problems of older Americans; and

(3) make recommendations to the President and to the Congress for the establishment of new programs and activities for

older Americans in view of the evaluation conducted by the Council.

(e) The Director shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities.

(f) The Council shall make such interim reports as it deems advisable and an annual report of its findings and recommendations (including recommendations for changes in the provisions of this Act) to the President not later than March 31 of each year. The President shall transmit each such report to the Congress together with his comments and recommendations.

COMPENSATION OF OFFICERS

SEC. 105. (a) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(21) Director, Office for the Aging.".

(b) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(56) Deputy Director, Office for the Aging.".

(c) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(95) Assistant Directors, Office of the Aging.".

TITLE II—AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

ASSISTANT SECRETARY FOR THE AGING

SEC. 201. (a) Section 201(b) of the Older Americans Act of 1965 is amended by inserting at the end thereof the following new sentence: "The Commissioner on Aging shall be an Assistant Secretary of Health, Education, and Welfare.".

(b) Paragraph (17) of section 5315 of title 5, United States Code, is amended by striking "(5)" and inserting in lieu thereof the following: "(6), one of whom shall be an Assistant Secretary of Health, Education and Welfare for Aging.".

EXTENSION OF OLDER AMERICANS ACT OF 1965

SEC. 202. (a) Section 301 of the Older Americans Act of 1965 is amended by striking out the word "and" immediately before "$30,000,000" and inserting immediately after "June 30, 1972" a comma and the following "$——— for the fiscal year ending June 30, 1973, and $——— for the fiscal year ending June 30, 1974,".

(b) Section 305 (b) of such Act is amended by striking out the word "and" the first time it appears and inserting in lieu thereof after "June 30, 1972" a comma and the following: "and $——— for the fiscal year ending June 30, 1973, and $——— for the fiscal year ending June 30, 1974".

(c) Section 603 of such Act is amended by striking out the word "and" and by inserting after "June 30, 1972" a comma and the following: "$——— for the fiscal year ending June 30, 1973, and $——— for the fiscal year ending June 30, 1974".

(d) Section 614 of such Act is amended by striking out the word "and" and by inserting after "June 30, 1972" a comma and the following: "——— for the fiscal year ending June 30, 1973, and $——— for the fiscal year ending June 30, 1974".

(e) (1) The first sentence of section 703 of such Act is amended by striking out the word "six" and inserting in lieu thereof the word "eight".

(2) The second sentence of such section is amended by striking out the word "and" and inserting after "June 30, 1972" a comma and the following: "$——— for the fiscal year ending June 30, 1973, and $——— for the fiscal year ending June 30, 1974".

By Mr. SCOTT (for himself and Mr. JAVITS):

S. 3182. A bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide. Referred to the Committee on the Judiciary.

Mr. SCOTT. Mr. President, I am today submitting on behalf of myself and Senator JAVITS, legislation originally requested by our Foreign Relations Committee, implementing the proposed Genocide Convention.

I ask unanimous consent to have printed in the RECORD, at this point, the letter of transmittal, a sectional analysis, and the bill itself.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3182

A bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title 18, United States Code, is amended by adding after chapter 50 the following new chapter:

Chapter 50A—GENOCIDE

"Sec.

"1091. Definitions.

"1092. Genocide.

"SEC. 1091. Definitions.

"As used in this chapter—

"(1) 'National group' means a set of persons whose identity as such is distinctive in terms of nationality or national origins from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(2) 'Ethnic group' means a set of persons whose identity as such is distinctive in terms of its common cultural traditions or heritage from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(3) 'Racial group' means a set of persons whose identity as such is distinctive in terms of race, color of skin, or other physical characteristics from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(4) 'Religious group' means a set of persons whose identity as such is distinctive in terms of its common religious creed, beliefs, doctrines, or rituals from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(5) 'Substantial part' means a part of the group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity.

"(6) 'Children' means persons who have not attained the age of eighteen and who are legally subject to the care, custody, and control of their parents or of an adult of the group standing *in loco parentis.*

"SEC. 1092. Genocide.

"(a) Whoever, being a national of the United States or otherwise under or within the jurisdiction of the United States, willfully without justifiable cause, commits, within or without the territory of the United States in time of peace or in time of war, any of the following acts with the intent to destroy by means of the commission of that act, or with the intent to carry out a plan to destroy, the whole or a substantial part of a national, ethnic, racial or religious group shall be guilty of genocide:

"(1) kills members of the group;

"(2) causes serious bodily injury to members of the group;

"(3) causes the permanent impairment of the mental faculties of members of the group by means of torture, deprivation of physical or physiological needs, surgical operation, introduction of drugs ir other foreign substances into the bodies of such members, or subjection to psychological or psychiatric treatment calclated to permanently impair the mental processes, or nervous system, or motor functions of such members;

"(4) subjects the group to cruel, unusual, or inhumane conditions of life calculated to bring about the physical destruction of the group or a substantial part thereof;

"(5) imposes measures calculated to prevent birth within the group as a means of effecting the destruction of the group as such; or

"(6) transfers by force the children of the group to another group, as a means of effecting the destruction of the group as such.

"(b) Whoever is guilty of genocide or of an attempt to commit genocide shall be fined not more than $20,000, or imprisoned for not more than twenty years, or both; and if death results shall be subject to imprisonment for any term of years or life imprisonment. Whoever directly and publicly incites another to commit genocide shall be fined not more than $10,000 or imprisoned not more than five years, or both."

"(c) The intent described in subsection (a) of this section is a separate element of the offense of genocide. It shall not be presumed solely from the commission of the act charged.

"(d) If two or more persons conspire to violate this section, and one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than $10,000 or imprisoned not more than five years or both.

"(e) The offenses defined in this section, wherever committed, shall be deemed to be offenses against the United States."

(b) The analysis of title 18, United States Code, is amended by adding after the item for chapter 50 the following new item:

"50A. Genocide---------------------- 1091."

SEC. 2. The remedies provided in this Act shall be the exclusive means of enforcing the rights based on it, but nothing in the Act shall be construed as indicating an intent on the part of the Congress to occupy, to the exclusion of State or local laws on the same subject matter, the field in which the provisions of the Act operate nor shall those provisions be construed to invalidate a provision of State law unless it is inconsistent with the purposes of the Act or the provisions of it.

SEC. 3. It is the sense of the Congress that the Secretary of State in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for an offense defined in chapter 50A of title 18, United States Code, when the offense has been committed outside the United States, and

(a) where the United States is competent to prosecute the person whose surrender is sought, and intends to exercise jurisdiction, or

(b) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such offense.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., February 16, 1972.
The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal to implement the

Convention on the Prevention and Punishment of the Crime of Genocide.

The Genocide Convention, which is now pending before the Senate for advice and consent to ratification, is intended to make genocide—the commission of certain atrocities with the intent to destroy a national, ethnic, racial or religious group—an international crime. It was drafted under United Nations auspices, adopted by the General Assembly in 1948, and entered into force in 1951. It was sent to the Senate by President Truman in 1949, but was not acted upon by the Senate. On February 19, 1970, President Nixon sent a message to the Senate, urging it "to consider anew this important Convention and to grant its advice and consent to ratification." The Convention was approved by the Senate Committee on Foreign Relations on December 8, 1970, but it was not brought to a vote by the Senate before the adjournment of the 91st Congress.

On May 4, 1971, following additional hearings, the Committee on Foreign Relations favorably reported the Convention to the Senate. (Senate Ex. Rept. 92–6): On page 9 of its report, the Committee states that it has asked the executive branch to submit implementing legislation to the Congress so that the Senate may have a draft at the time that the Convention is being debated. Accordingly, a draft bill to implement the Convention is hereby submitted.

The draft bill contains three sections which are explained in detail in the accompanying sectional analysis. Section 1 of the bill would add a new chapter on Genocide to title 18 of the United States Code. While generally following the language of the Convention, the provisions contain definitions designed to make it clear, without awaiting judicial interpretation, precisely what acts are punishable, thus clarifying some of the vague terms of the Convention. The provisions also give effect to certain understandings set forth in Senate Ex. Rept. 92–6, pp. 1–2.

Section 2 of the bill would exclude civil remedies for violations of the Convention, and would express the Congressional intention not to preempt State law in the field.

The third section expresses the sense of the Congress that extradition treaties negotiated under the Convention shall provide protection for Americans against double jeopardy for genocidal acts committed abroad if they have been proceeded against in the United States.

We hope that this draft will assist the Senate in its deliberations concerning advice and consent to ratification of the Convention, and that, following Senate approval of the Convention, the bill will be promptly enacted.

The Office of Management and Budget advises that enactment of the proposed legislation would be consistent with the objectives of the Administration.

Sincerely,

John N. Mitchell,
Attorney General.

SECTIONAL ANALYSIS

Sec. 1 of the bill would add to title 18, United States Code, a new chapter 50A, Genocide, consisting of new sections 1091 and 1092:

Proposed section 1091 of title 18 contains definitions of some of the terms used in the Convention, in order to comply with the principle that criminal statutes should have a sufficient degree of certainty to make it clear without judicial interpretation just what acts are punishable.

Clauses (1)–(4) define the groups which the statute is intended to protect in terms of the characteristics which distinguish them from the rest of the population of the larger society of which they are a part. The larger society can be either a nation or the international community of nations.

Clause (5) defines "substantial part" in terms of its numerical significance to the group as a viable force. The term is used in proposed section 1092 defining the offense of genocide in order to comply with the understanding of the Senate Committee on Foreign Relations concerning the intent provision of Article II of the Convention. Senate Ex. Rep. 92–6, pp. 6–7.

Clause (6) defines children as dependent persons under 18 years of age.

Proposed section 1092 of title 18 creates the crime of genocide, tracking substantially the language of the Convention, except for the use of the term "substantial part" (see explanation of clause (5) above), and except for subsection (a) (3), which defines genocide by "mental harm" as the willful causing of permanent impairment of the mental facilities, thus complying with the second understanding of Senate Ex. Rep. 92–6. The definition also details precisely the means used to cause the impairment, in order to avoid a claim of impairment based on incidental or hypothetical mental harm. Not only must the act be willful, but it must be calculated to cause dysfunction. "Mental faculties" is amplified and focused in terms of mental processes, nervous system, and motor functions.

Genocide by killing and bodily harm use the Convention terminology entirely, since killing and assault are recognized crimes.

Subsection (a) (4) defines genocide by "inhumane treatment" and clarifies the ambiguity of the Convention's phrase "conditions of life."

Subsection (a) (5) defines genocide by imposed birth control as the willful imposition of measures intended to prevent the natural group increase "as a means of effecting the destruction of the group as such."

Subsection (a) (6) defines genocide by repatriation as the willful and forcible transfer of the children of the group as a means of effecting the destruction of the group.

Subsection (b) proscribes attempted genocide and public incitement to genocide, in order to comply with Article III of the Convention. In this regard, it is unnecessary to proscribe complicity in genocide, as required by Article III, since this inchoate offense would be covered 18 U.S.C. 2 (principals), and 18 U.S.C. 3 (accessory after the fact).

Subsection (b) also sets forth the penalties for genocide and related offenses. Like the penalties for violations of other criminal statutes, increased penalties are provided if death results.

Section 2 of the bill would provide that the remedies in it are the exclusive means of enforcing the rights based on it, thus excluding civil remedies, but would also express the Congressional intent not to preempt State law in the field.

Section 3 of the bill would express the sense of the Congress that extradition treaties negotiated (pursuant to Article VII of the Convention) shall provide protection for Americans against double jeopardy for genocidal acts committed abroad if they have been proceeded against in the United States or if the United States intends to exercise its jurisdiction. See Senate Ex. Rep. 92–6, p. 11–12. This section is included because the draft statute would make it possible for the United States to assert jurisdiction over citizens of this country in cases of alleged genocide where the facts giving rise to the case took place outside United States territory. As a result it is possible that there may be situations where both the United States and another country will have jurisdiction to try someone for the same alleged offense. The statutes of the United States are not directed to the issue of who exercises jurisdiction, but leave the answer to the text of the extradition treaty involved. 18 U.S.C. 3184. See, for example, Treaty of Extradition with Brazil, 15 U.S.T. 2094, Art. V., which is the source of the language for this section. The Secretary of State is directed to ensure that future extradition treaties which treat genocide as an offense for which extradition may be granted shall reserve to the United States in cases where double jurisdiction exists the right to try its own citizens rather than grant extradition. Clause (b) of the section is, as a matter of policy, presently included in all extradition treaties.

By Mr. WILLIAMS:

S.J. Res. 205. A joint resolution to authorize the President to proclaim the last Friday of April 1972, as "National Arbor Day." Referred to the Committee on the Judiciary.

NATIONAL ARBOR DAY

Mr. WILLIAMS. Mr. President, today I am introducing for appropriate reference a resolution that would authorize the President to proclaim the last Friday in April, 1972, as "National Arbor Day."

It is of special interest that this worthy observance be authorized this year, for this April marks the 100th anniversary of the first Arbor Day ceremony.

Last session, I introduced a resolution calling for the annual observance of "National Arbor Day." I am not abandoning my original intent, as I still believe that the annual celebration of this occasion is a fitting tribute to the efforts that have been made in preserving one of our most prized possessions.

I am hopeful, however, that this resolution I am submitting today will enable prompt and favorable action by the appropriate committees and by Congress in order that all Americans may join in officially recognizing the centennial observance of Arbor Day in April 1972.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2592

At the request of Mr. Hartke, the Senator from New Mexico (Mr. Montoya) was added as a cosponsor of S. 2592, a bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes.

S. 2767

At the request of Mr. Thurmond, the Senator from New Jersey (Mr. Case) was added as a cosponsor of S. 2767, a bill to authorize nonregular military service personnel to elect retirement as early as age 50.

S. 2994

At the request of Mr. McClellan, the Senator from California (Mr. Cranston) and the Senator from Iowa (Mr. Miller) were added as cosponsors of S. 2994, a bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes.

S. 3078

At the request of Mr. Hartke, the Senator from New Jersey (Mr. Case) and the Senator from Delaware (Mr. Boggs) were added as cosponsors of S. 3078, a bill to amend title 5, United States Code, to require the heads of the respective executive agencies to provide the Congress with advance notice of certain planned organizational and other changes or actions which would affect Federal civilian employment, and for other purposes.

S. 3152

At the request of Mr. Chiles, the Senator from Utah (Mr. Moss), the Senator from Arizona (Mr. Goldwater), and the Senator from North Dakota (Mr. Burdick) were added as cosponsors of S. 3152, a bill to amend the Internal Revenue Code of 1954 to provide that no interest shall be payable by a person to whom an erroneous refund is made if the erroneous refund is made due to error by an officer or employee of the United States.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 232

At the request of Mr. Chiles, the Senator from Hawaii (Mr. Inouye) and the Senator from North Dakota (Mr. Young) were added as cosponsors of Senate Resolution 232, expressing the sense of the Senate that the remainder of the amount appropriated for the rural electrification program for fiscal 1972 be released immediately by the Office of Management and Budget.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 57

At the request of Mr. Dole, the Senator from Maryland (Mr. Mathias), the Senator from California (Mr. Cranston), the Senator from Illinois (Mr. Percy), the Senator from New Hampshire (Mr. McIntyre), the Senator from New York (Mr. Javits), the Senator from Texas (Mr. Tower), the Senator from Massachusetts (Mr. Brooke), the Senator from Connecticut (Mr. Weicker), the Senator from New York (Mr. Buckley), the Senator from Maryland (Mr. Beall), the Senator from Nebraska (Mr. Hruska), the Senator from Kansas (Mr. Pearson), the Senator from Alabama (Mr. Sparkman), the Senator from Arkansas (Mr. McClellan), the Senator from Tennessee (Mr. Baker), the Senator from Tennessee (Mr. Brock), the Senator from Idaho (Mr. Jordan), the Senator from Arizona (Mr. Goldwater), the Senator from Pennsylvania (Mr. Scott), and the Senator from Michigan (Mr. Griffin) were added as cosponsors of Senate Concurrent Resolution 57, calling for a national day of prayer for the cause of world peace.

SOCIAL SECURITY AMENDMENTS OF 1971—AMENDMENT

AMENDMENT NO. 891

(Ordered to be printed and referred to the Committee on Finance.)

WELFARE REFORM AND AMERICAN INDIANS

Mr. RIBICOFF. Mr. President, today I am introducing a series of amendments to H.R. 1 to assure that Indians receive equitable treatment under the proposals before the Congress for welfare reform. Because of the special status, rights, and disabilities of reservation Indians under Federal law, H.R. 1 as drafted, will have completely unintended and unfair consequences for those Indians presently entitled to assistance under the Social Security Act.

H.R. 1 provides that no person with resources exceeding $1,500 shall be eligible for benefits. Many Indians who need assistance are ineligible under that formula since they are beneficial owners of Indian trust land—land which is technically worth more than $1,500 but which cannot be alienated by the beneficial owner since legal title rests with the Federal Government.

The impact of the $1,500 cutoff on a particular reservation community can be seen from statistics developed in a 1970 study conducted on the Pine Ridge Reservation in South Dakota by the U.S. Department of Health, Education, and Welfare. The study shows that social security benefits constitute a major source of reservation income. Twenty-two percent of the Indian population are welfare recipients, and 36 percent of the full-blood Indian women receive welfare payments. Approximately half of the Indian population receives lease income from 1,089,076 acres of allotted trust land on the reservation. The December 1968 semiannual distribution of lease income ranged from $1 to $3,300, with only three or four payments exceeding $1,000.

Many aged, blind or disabled Oglala Sioux and many families who would otherwise be entitled to benefits under H.R. 1 will be denied benefits because of their ownership of an interest in trust land, which, while it may be worth more than $1,500, is not freely alienable, is managed by the Federal Government, and brings an annual return to the Indian owner which is insufficient to lift him above the poverty line.

My proposal would remedy this inequity by requiring the Secretary of Health, Education, and Welfare to exclude property held in trust by the Federal Government for Indians in determining eligibility. If income actually received by an Indian from trust land exceeds the maximum provided in the bill, he will be rendered ineligible for benefits. My proposal would only insure that large numbers of Indians will not be automatically barred from benefits by the $1,500 resources cutoff even though they would be eligible on the basis of income actually received.

My amendments will also assure that Indian tribes can provide supplemental benefits to needy recipients, just as States are allowed to provide supplements under H.R. 1. This would assure that, on the 96,000 square miles of Indian reservation lands where State laws have not been applicable, the local tribal governments could continue to provide public assistance benefits.

Unemployment is also a major problem for the American Indian, because few private employment opportunities are available on reservations. On the Pine Ridge Reservation in South Dakota the 1970 HEW study indicated that 36.6 percent of the Indian work force was unemployed and that 54 percent of the employed Indians worked for Federal or other government agencies. More than one-quarter of the Indian work force population on the Pine Ridge Reservation is engaged in seasonal and temporary employment such as firefighting or harvesting.

These conditions are typical of Indian reservations throughout the United States, the development of the private sector on most reservations is impeded by their remote locations, transportation problems, and the shortage of capital in reservation communities.

My proposal would assure that public service employment programs could be continued with Federal funding past the 3-year limit applicable to the public service programs for regular State and local government. In view of the relatively small size of the reservation Indian population, currently estimated at 488,000, a public service employment program can have a significant impact on reservation poverty for a relatively small cost.

Since most tribes lack financial resources, this proposal provides 100 percent Federal funding for these jobs. Such a funding formula is consistent with similar financing provisions for Indian tribal projects in recent laws, including the Omnibus Crime Control and Safe Streets Act, the Juvenile Delinquency Prevention and Control Act, and the Emergency Employment Act of 1970.

Another part of my proposal would assure that Indian tribes are eligible for H.R. 1 funding for projects and services now available only to "public or nonprofit private agencies." It would further assure that funds for child care services within each State containing Indian reservations would be apportioned among such reservations and nonreservation communities on the same basis as such funds are apportioned among the States. Often in the past, Indian tribes have been discriminated against in the distribution of public funds.

Finally, judgment funds awarded to Indian tribes which are distributed on a per capita basis among members of the tribe by the United States under the Indian Claims Commission Act would not be counted as income in determining eligibility for social security benefits. Such an income exclusion follows congressional intent to rectify past injustices perpetrated against the American Indian.

AMENDMENTS NOS. 892 AND 893

(Ordered to be printed and referred to the Committee on Finance.)

Mr. HARTKE submitted two amendments intended to be proposed by him to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives of requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

AMENDMENT NO. 894

(Ordered to be printed and referred to the Committee on Finance.)

Mr. CHILES. Mr. President, I wish to call the attention of this body to the plight of the handicapped American, the disabled who are receiving compensation under our social security system, and who have been singled out for a rather unusual and discriminatory application of our social security regulations. I am referring to the way the law is administered so that an individual's disability status is jeopardized if he earns between $90 and $140 per month and is removed if his earnings exceed the latter figure. The basis of this regulation is the way the Secretary of Health, Education, and Welfare has interpreted and applied the law which says that the disabled by definition are unable to perform "substantial gainful work."

The purpose of the amendment to H.R. 1 which I wish to introduce today is first to remove the amount between $90 and $140 from consideration as far as interpreting the word "substantial" is concerned and to allow the disabled the possibility of up to $140 per month in earnings so long as the nature of the work performed is not inconsistent with his disability. Second, to provide flexibility in defining what we mean by "substantial" work. Certainly, what was substantial back in 1932 is hardly that today, and what was in 1969 may not be in 1972 or 1975. Therefore, I would propose to tie the maximum earnings allowable to the same exemption we allow retired persons under the social security law. Today it would be $1,680 per year, but it would be more, depending upon what happens in the Congress this year to pending welfare reform legislation.

Aside from the foregoing, this provision would remove an aspect of the law which discriminates between the retired and disabled person. For example, if a 61-year-old disabled person earns more than $90 per month, his earnings prompt a reconsideration of his status and might well under the circumstances be considered "substantial." One year later he may "retire" under reduced pension and earn up to $140 per month with no questions asked, or possibly more if the exemption is raised this year.

In other words, we have established a more flexible monetary standard for determining full retirement than we have for determining full disability. We are encouraging retired persons to supplement their social security incomes without jeopardizing their retired status while we penalize the disabled who are by definition younger and, therefore, more encumbered with financial responsibilities and obligations and thus in greater need. Of course, the disabled veteran has no such restrictions of any kind.

I think it is fundamental to the human spirit to make use of oneself, to find useful, remunerative things to do, no matter what the handicap, no matter what the limitation. Was Helen Keller disabled? Did she in her lifetime rise above her disability to find "substantial gainful work?" Do not some of the 1 million 6 hundred thousand disabled persons receiving an average monthly income of $145 today aspire to some useful activity, if we did not interpret the law in such a narrow sense that they are effectively denied the chance? I am not insisting that the disabled beneficiaries be allowed to earn exhorbitant extra incomes which would render the concept of disability compensation meaningless. What I propose is a system that permits some meaningful, useful, remunerative activity if the spirit and flesh are somehow willing, even if medical determinations have indicated that they should not be.

I am simply proposing that we allow the handicapped the same exemption we allow our retired citizens insofar as extra earnings are concerned. This would not swell the disability rolls; it would not entail any substantial, if any, increase in allocations. It would provide balance and equity in the treatment we provide our disabled citizens on the one hand and our older citizens on the other; it would lend a quality of dignity to our concept of the disabled person; and it would for those who can muster the effort, provide a means to supplement to a very modest degree the meager income that is already well below the minimum standard for poverty in this country. An average of $1,752 per annum which the disabled receive is hardly exhorbitant; add to this now the exemption we provide them automatically when they "retire" and we come up with the outrageous sum of $3,432 per annum at the maximum, assuming, of course, they have the steady physical capacity to earn the extra $1,680.

Allow me to end my remarks by reading to you from a letter sent to me by the handicapped adults of Tampa, Florida's third largest city:

> There are many young adults and middle aged people physically handicapped from birth, childhood, or later in life who receive welfare or social security. Many of these people are capable of a certain amount of work. However, our earning capacity is limited because of our handicaps, thus preventing us from making enough money to live on. We feel that we should be allowed to work and continue to draw social security. This would be in line with a privilege accorded the elderly, who are allowed to earn up to $1,600 a year. We feel that handicapped young people, who desire a more active life and can make a contribution to our society are entitled to the same privilege.

Mr. President, this is all my proposal is designed to accomplish, to accord them that same privilege.

ADDITIONAL STATEMENTS

THE FIRE OF FREEDOM STILL BURNS

Mr. CURTIS. Mr. President, in all the world there are so few, so very few, who live in freedom and can turn their faces to the light. So few, Mr. President, so few.

Count them.

The few in Europe's western borders.

A few scattered through Africa.

That tiny band perched so precariously on the eastern shores of the Mediterranean.

A dusting of free men through the South Pacific, and on the islands off Asia's mighty mainland.

And we fortunate ones in the northern half of the Western Hemisphere.

And there, sir, the count must end. For the rest of the world is trapped in darkness.

We are so very, very few. And it must give us pause to wonder. Why is freedom—why is the flame of liberty—confined to such small numbers of human beings?

Have we done something that has caused the Creator to smile upon us this blessing of freedom?

What have others done that it should be denied to them and that they must live through their lives in the deep shadow of night?

Beyond question, Mr. President, some men have cravenly thrown away their chance to live free and have accepted the foot of the tyrant in shamed silence. Some, wrapped in folly, have themselves chosen the dark rather than the light.

But from most this precious gift was stolen by cunning men or taken by the force of arms. And freedom for them is gone, not so much lost as taken away.

This is what happened to the tiny fragment of humanity known as Lithuania. Nestled as they have been on the shoulder of the Baltic on the direct road of commerce and conquest running from east to west, the Lithuanians have for their entire history been the prey of conquering tyrants. Their land has been ravaged time and again by the marauding forces of the great powers of Eastern Europe.

Down through the centuries they have fought valiantly to protect themselves and their land. But they were such a tiny people and the armies that moved back and forth across their land in the ebb and flow of history were so massive.

It was impossible for a handful to stem the tide.

It is a wonder, then, that even a flickering glow of freedom was able to withstand the overwhelming onslaught of tyranny that has swept over them.

But, Mr. President, although liberty itself is denied most men, the hope for freedom can be denied to none.

Of such is freedom. Though chained, a man's heart yet may be free. Though imprisoned, the spirit cannot be confined. Only when a man or a nation accepts slavery do they indeed become forever slaves.

Throughout its long and proud history the people of Lithuania have never accepted slavery. They have never been willing to grovel. They have never been willing to accept the heel upon their necks.

And so it is, Mr. President, that today, after over 30 years of occupation, by the Russians, the Nazis, and then the Russians again, the fire of freedom still burns brightly in their hearts. The desire to be once again walking tall among the tall of the earth wells up within them.

And I say to you, so long as this fervent, flaming soul lives, Lithuania's people shall once again be free.

They shall once again, Mr. President, join those few of us who can and do walk in freedom.

They have fought so long for this great blessing, this great privilege, that they shall prevail.

RULES OF THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. JORDAN of North Carolina. Mr. President, in accordance with the provisions of the Legislative Reorganization Act, I ask unanimous consent to have published in the CONGRESSIONAL RECORD the Rules of Procedure of the Committee on Rules and Administration.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES OF PROCEDURE OF THE SENATE COMMITTEE ON RULES AND ADMINISTRATION

(Adopted February 4, 1971, Pursuant to Section 133B of the Legislative Reorganization Act of 1946, as Amended.)

TITLE I—MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the committee shall be the second and fourth Wednesdays of each month, at 10 a.m., in room 301, Senate Office Building. Additional meetings may be called by the chairman as he may deem necessary or pursuant to the provisions of sec. 133(a) of the Legislative Reorganization Act of 1946, as amended.

2. Meetings of the committee shall be open to the public except during executive sessions for marking up bills or for voting or when the committee by majority vote orders an executive session. (Sec. 133(b) of the Legislative Reorganization Act of 1946, as amended.)

3. Written notices of committee meetings will normally be sent by the committee's staff director to all members of the committee at least 3 days in advance. In addition, the committee staff will telephone reminders of committee meetings to all members of the committee or to the appropriate staff assistants in their offices.

4. A copy of the committee's intended agenda enumerating separate items of legislative business, committee business, and referrals will normally be sent to all members of the committee by the staff director at least 1 day in advance of all meetings. This does not preclude any member of the committee from raising appropriate nonagenda topics.

TITLE II—QUORUMS

1. Pursuant to sec. 133(d) 5 members of the committee shall constitute a quorum for the reporting of legislative measures.

2. Pursuant to rule XXV, sec. 5(a) of the Standing Rules of the Senate 3 members shall constitute a quorum for the transaction of routine business.

3. Pursuant to rule XXV, sec. 5(b) 3 members of the committee shall constitute a quorum for the purpose of taking testimony under oath; provided, however, that once a quorum is established, any one member can continue to take such testimony.

4. Subject to the provisions of rule XXV, sec. 5(a) and sec. 5(b), the subcommittees of this committee are authorized to fix their own quorums for the transaction of business and the taking of sworn testimony.

5. Under no circumstances, may proxies be considered for the establishment of quorum.

TITLE III—VOTING

1. Voting in the committee on any issue will normally be by voice vote.

2. If a third of the members present so demand, a record vote will be taken on any question by rollcall.

3. The results of rollcall votes taken in any meeting upon any measure, or any amendment thereto, shall be stated in the committee report on that measure unless previously announced by the committee, and such report or announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment by each member of the committee. (Secs. 133 (b) and (d) of the Legislature Reorganization Act of 1946, as amended.)

4. Proxy voting shall be allowed on all measures and matters before the committee. However, the vote of the committee to report a measure or matter shall require the concurrence of a majority of the members of the committee who are physically present at the time of the vote. Proxies will be allowed in such cases solely for the purpose of recording a member's position on the question and then only in those instances when the absentee committee members has been informed of the question and has affirmatively requested that he be recorded. (Sec. 133(d) of the Legislative Reorganization Act of 1946, as amended.)

TITLE IV—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN

1. The chairman is authorized to sign himself or by delegation all necessary vouchers and routine papers for which the committee's approval is required and to decide in the committee's behalf all routine business.

2. The chairman is authorized to engage commercial reporters for the preparation of transcripts of committee meetings and hearings.

3. The chairman is authorized to issue, in behalf of the committee, regulations normally promulgated by the committee at the beginning of each session, including the senatorial long-distance telephone regulations and the senatorial telegram regulations.

TITLE V—HEARINGS

All hearings of the committee shall be conducted in conformity with the provisions of sec. 133A of the Legislative Reorganization Act of 1946, as amended. Since the committee is normally not engaged in typical investigatory proceedings involving significant factual controversies, additional implementary rules for hearing procedures are not presently promulgated.

TITLE VI—SUBCOMMITTEES

1. There shall be seven, three-member subcommittees of the committee as follows:

Standing Rules of the Senate.
Privileges and Elections.
Printing.
Library.
Smithsonian Institution.
Restaurant.
Computer Services.

2. After consultation with the ranking minority member of the committee, the chairman will announce selections among the members of the committee to the various subcommittees (and to the Joint Committee on Printing and the Joint Committee on the Library) subject to committee confirmation.

3. Each subcommittee of the committee is authorized to establish meeting dates, fix quorums, and adopt rules not inconsistent with these rules.

4. Referrals of legislative measures and other items to subcommittees will be made by the chairman subject to approval by the committee members.

HEROIN AND GOLD

Mr. ALLOTT. Mr. President, what do heroin and gold have in common? Obviously very little—except that the U.S. Government forbids Americans to hold either in this country.

And what distinguishes heroin and gold? Obviously many things do—including the fact that the Government forbids Americans to own gold at home or abroad, whereas the Government does not forbid Americans to own heroin abroad.

Obviously this is an absurd situation. The bill I introduced yesterday (S. 3162) is designed to restore reason to the law by restoring to American citizens the right enjoyed by most people in the world, and the right enjoyed by Americans until 1934—the right to hold gold, at home or abroad.

Today, Mr. President, I received a lucid and persuasive statement in favor of S. 3162. It comes from Prof. Donald L. Kemmerer of the Department of Economics at the University of Illinois, Urbana, Ill. So that all Senators can consider Professor Kemmerer's sensible remarks, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT BY PROF. DONALD L. KEMMERER

Why are the restrictions against an American citizen owning gold bullion more complete than those against his owning heroin, opium, bird of paradise feathers, aigrettes, and burglar's tools. At least so far as the American government cares, an American citizen may own any of these abroad but may not import them. Yet he may not own gold bullion *even* abroad. One immediately senses the good reason why a citizen may not import or possess the above mentioned commodities with the exception of gold. The restrictions on it are the most severe of all and yet gold seems the most harmless. Why? Only a few countries in the world forbid their citizens to own gold bullion and most of those nations are dictatorships.

The prohibition to own gold bullion in the United States, or to import it into this country, dates back to 1933–34, and the prohibition to own it overseas went into effect early in 1961. (The United States did not extend the prohibition to demand gold for paper dollars to foreign central banks or treasuries, only to its own citizens.) The underlying reason is that the federal government did not want American citizens to compete with it in the ownership of gold although the immediate causes of the 1933–34 and 1961 edicts differed somewhat.

This leads us to ask why, basically, the government wished to monopolize the American gold supply. A nation disposing of a large gold reserve is in a strong foreign trade and international finance bargaining position, just as a nation with a stockpile of atomic weapons is in a strong military and diplomatic bargaining position. Citizens are not in a position to reduce their government's atomic stockpile but any American, in a minuscule way, until mid-August, 1971 might take steps to reduce the government's gold stockpile. Every time he sipped a cup of coffee (it all comes from overseas), or drank some imported beer, wine or Scotch (whether he did so here or abroad), every time he visited a foreign country, every time he bought foreign securities (and oddly that might include shares in a South African gold mining company), every time his Congress voted foreign aid or monies to support troops in Europe or Asia, he drew down on the government's gold stockpile to the extent that foreign individuals and governments were not offsetting our expenditures with them by their purchases from us or loans to us. But somehow to Treasury officials the most harmful and inexcusable of all expenditures by American citizens was for gold bullion because what he got, his government obviously did not get and it might indirectly be losing the equivalent. Hence their severity on gold bullion buyers.

During the past 20 years, and especially from 1958 on, Americans spent considerably more abroad (including foreign aid and wars) than foreigners bought from us, and our gold reserves fell from a high of $24.8 billion in September, 1949 to about $10 billion (if indeed that much) a year or so ago. The growth of our debts (short term liabilities reached over $45 billions) and the decline of our gold reserves worried the foreign nations who were our creditors and last year a growing number began asking for gold. On August 15, 1971 President Nixon announced that we would no longer settle balances against us by paying from our stockpile of gold. We had cut our last tie with the gold standard.

At this point the American citizen's right to accumulate his own personal stockpile of gold, either here or abroad, no longer, in any way, menaced his government's gold reserves. True, the citizen's buying gold might have a slight adverse effect on the value of the dollar in the foreign exchange market, just as it always had, but not one whit more than his buying Brazilian coffee, French wines, Chilean copper, Russian or Rhodesian chrome, German toys or Japanese cars would. If one is to forbid a citizen from buying gold because it will hurt the dollar on the foreign exchange market, he should also forbid citizens buying any foreign product or service whatsoever. To do that completely would cut off all foreign trade and is absurd even to contemplate. Since the United States is no longer on any form of the gold standard, however loosely one might define it, there remains not the slightest provocation for forbidding American citizens to own gold at home or abroad. I strongly urge to Congress both to remove all such prohibitions from the statute books and affirmatively to grant citizens the right once again to own gold anywhere in any form.

Donald L. Kemmerer,
Professor of Economics.

THE LOVE OF POWER

Mr. ERVIN. Mr. President, as chairman of the Judiciary Subcommittee on Separation of Powers, I have had an opportunity over the past 4 years to deal directly with several areas in which the system of checks and balances built into our Federal Government has gone awry.

These have included the use of executive orders by the President to usurp the legislative functions of the Congress, such as were issued to create the Philadelphia plan and to grant unwarranted powers to the Subversive Activities Control Board; the practice of executive impoundment of appropriated funds by which the President circumvents the intent of the Congress as expressed in the appropriations acts passed by it; the so-called doctrine of executive privilege, which is the much abused theory by which the President withholds information from Congress, even when requested to provide it.

In each of these examples, the power of the executive branch has been increased at the expense of the constitutional authority and prerogatives of Congress. There have been many bills introduced, but Congress has been unable or unwilling to stop this aggrandizement by the executive of its own powers and functions.

Mr. President, we have seen in this great Nation over the past 40 years the growth of an almost unrestrained Federal bureaucracy, and the power and influence of the Federal Government is now felt in almost every nook and cranny of American life. Examples range from the abolition of county and district lines and the long distance busing of our schoolchildren in the name of equal educational opportunity to the spying on private citizens by the U.S. Army.

The encroachment of Federal power into the lives of every American citizen should be the concern of us all, for the protection of such liberties as the right to privacy is the business of everyone regardless of political affiliation or label.

Mr. President, I recently read an article entitled "The American Presidency: On Power As a Disease," written by Tristram Coffin, and published in the Nation magazine of December 20, 1971. While I do not agree with all of the points made by Mr. Coffin, this article demonstrates very well what George Washington meant, in his Farewell Address, as "the love of power and the proneness to abuse it."

Mr. President, I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The American Presidency—On Power As a Disease

(By Tristram Coffin)

Mr. Coffin, editor of the newsletter Washington Watch, *is currently at work on a study of the Presidency.*

Washington.—The American President, no matter how fine a fellow he may be personally, is a hydra-headed monster. The job is too big, too complex, too spiked with responsibility for any one human being. It is small wonder that Presidents hide out in pomp, fantasy, the Burning Tree golf course, or Key Biscayne. That may be the only way to endure the job.

The President must be:

Commander in Chief of the "Free World." Amaury de Riencourt writes in *The Coming Caesars:*

"Today, one man is directly in command, either as peacetime President or wartime Commander in Chief, of more than half the world's economic and technical power. Along the militarized borders of the Western world, he is in full control as Augustus and the Roman emperors after him were in full control of the limes. . . . He is the only statesman of the Western world who can make decisions alone in an emergency. He is in control of a de facto empire into which the scattered fragments of the dissolving British Commonwealth are gradually being merged. Everywhere, on the European continent, in the Western hemisphere, and in the Far East, he can make the weight of his incalculable power felt with immediate and crushing speed."

It might be pointed out, no one elected the American Chief Executive to this job. When the President made a recent grand pronouncement, the French journal, *Combat*, demanded: "Who authorized Mr. Nixon to speak in behalf of our planet?"

The United States bought and paid for the job. No other country was willing to spend so much money, energy and lives to save the world from the heathens. America was taking up, a little less mystically, where Nazi Germany had left off—saving the world for the superrace. The same superman, racial nonsense runs through the Manifest Destiny and Hitler's ravings. The economic cost is fairly steep—$15 billion annually in economic and military aid, $14 billion to maintain forces in NATO, $21 billion to $25 billion for the nuclear umbrella for NATO, and up to $20 billion for the war in Indochina.

It hardly seems a desirable role, yet every President in the cold-war era, except General Eisenhower, took to it enthusiastically. They spent most of their time with generals, poring over maps and strategies; and they tended to lose sight of such mundane matters as schools, housing and the environment. There must be a sense of exhilaration in this exercise, for when the American President retires and goes home, the photographs he hangs in his study are of himself surrounded by beribboned officers.

General Manager of the Federal Government. This most titanic operation ever envisioned involves itself in every activity known to man. It is even the landlord of bawdy houses in Nevada. No one any longer pretends that the megastate can be run efficiently or humanely, that the mail will arrive on time or the lowly citizen's voice be heard. The megastate is a wasteland of bureaucratic rulers, forms and petty despots.

The departments are huge, unmanageable empires, often at odds with one another. The Department of Agriculture pays $2 billion a year to farmers not to produce more crops. The Department of the Interior spends billions to irrigate new farmlands to grow more food and fiber.

Presidents do not enjoy the housekeeping chore. They turn it over to cronies, political allies, ex-Congressmen, professional bureaucratic managers and big-business governors. When the populace cries out, the President names a commission whose solemn duty it is to file a report.

Manipulator of the Legislative Process. The major spectator sport in Washington is the tug of war between the White House and the Capitol. It is no longer a fair game, for the President has too much weight on his side—the unestimated boodle of federal contracts that he passes out like an ancient Oriental pasha, the party political machinery, the control over a series of agencies which in turn oversee radio-TV, transportation, food and drugs, taxes and export licenses. The Congress, in a supplicating role, can hardly rise from its bended knee to fight off Presidential fiat.

Economic Czar. We no longer indulge in the fancy that ours is a free economy; it is politically called a "managed economy," with the government at the controls. Taxes, government spending, controls, priorities are jiggled about, and the effect of this jiggling reaches far beyond America. When we spent, largely for military operations, more overseas than we took in, the world's monetary system was inflated with cheap dollars it could not digest, and a global recession seemed inevitable.

Since few Presidents know anything about economics, they turn its intricacies over to a succession of advisers, whom they switch about when the going gets rough. The only part of this job the President really handles is the exuding of confidence, the belief being that if the Chief Executive says business is good, people will raid their piggy banks.

Master Politician. Every President wants to be reelected. He watches the voters out of the corner of his eye, and hustles his aides to produce tricks to entertain and win the favor of the electorate. Nixon, a master of the staged act, thought the Cuban missile crisis was a superjob. It had everything—the good guys versus the band, danger, suspense and a happy ending.

Great Oracle of the Temple of Washington. The American people, with their religious fundamentalist background, are believed to yearn for an authoritarian, Jehovah-like figure, and the more so since religion has lost its hell-fire punch. The President is peculiarly well situated to play this part. He has power to reward or destroy. He is the leader of a chosen people, the children of Manifest Destiny. He appears in the newspapers and on TV, exhorting, condemning, praising, reassuring, and waving the flag. He is Moses in a gray flannel suit and striped tie.

This is a role to tempt any mortal, but Presidents forget that the worshippers want something more than words. If deeds are not forthcoming, their adoration curdles.

Ceremonial Head of State. It lacks a crowned head, but the most powerful nation in history does not forgo pageantry—twenty-one-gun salutes. Hail to the Chief, formal White House dinners that rival such splendid hosts as the former Kings of Egypt and Saudi Arabia, rose garden receptions for Miss America, and levees for visiting monarchs.

Presidents when rebuffed seem to retreat into this sanctuary, far from the shrieks and groans of the people. When union labor chiefs laughed at President Nixon, he rushed back from Florida to Washington, without advance notice, and appeared at a ballet performance at Kennedy Center, to receive the adoration of the court and to shake hands with everyone he could touch.

The office is now so powerful that the President can have his own wars, without even consulting Congress; tell that body he will "ignore" its policy guidelines, refuse to abide by its appropriations, and give orders for the arrest of thousands of unarmed demonstrators.

That certainly was not the idea of the men who wrote the Constitution. They thought they had established a general manager, who could get his policy from the Senate (a board of directors) and the House (the stockholders). Alexander Hamilton warned of "avarice" and "ambition" in a President and commented: "The history of human conduct does not warrant that exalted opinion of human virtue which would make it wise to commit interests of so delicate and momentous a kind, as those which concern its intercourse with the rest of the world, to the sole disposal of a magistrate created and circumstanced as would be a President of the United States." And Hamilton in his day was the warmest advocate of a strong Presidency.

The Constitution gave Congress specific powers—over foreign policy, the military, appropriations, taxes, even appointments. Hamilton wrote: "The ordinary power of appointments is confined to the President and the Senate jointly." The President was supposed to come before the Senate and secure its "advice and consent" before undertaking any major acts or policy changes or appointments. Apparently, the authors of the Constitution saw the Chief Executive actually appearing in person before the Senate. George Washington did so once, but was so miffed by the questions and lack of respect for his position that he never returned.

Over the years, and particularly during and since World War II, Congress has turned over to the President almost all the authority granted it by the Constitution. The unique quality of American democracy—independent parliament—has all but been destroyed. The adversary relationship designed in the Constitution has been abandoned under the guise of "bipartisan foreign policy" and the "consensus." In this withering-away process, political opposition has also died, so that there is little difference between Democrats and Republicans on Capitol Hill. Lyndon Johnson was President Eisenhower's chief Congressional bullwhip artist, and Majority Leader Mike Mansfield and Speaker Carl Albert have become Nixon proconsuls.

The fears of the authors of the Constitution have been justified. Hamilton commented on the "temptations" of power "which it would require superlative virtue to withstand." John Jay wrote: "Absolute monarchs will often make war when their nations are to get nothing by it, but for purposes and objects purely personal, such as a thirst for military glory, revenue for personal affronts, ambition, or private compacts to aggrandize or support their particular families or partisans. There are a variety of other motives which affect only the mind of the sovereign; often lead him to engage in wars not justified by justice or the voice and interests of his people. . . ."

The problem, as Hamilton so well understood, is that the President is a mere human being, for whom power can become as crippling a disease as schizophrenia. The insanity of Presidents is not often mentioned publicly, although it is a subject of pressroom and cocktail gossip. But George E. Reedy, the former LBJ aide, said in *The Twilight of the Presidency;* "The problem of the unbalanced President is on the mind of every close observer of the political process. . . . It is certain that whatever neurotic drive a President takes with him into the White House will be fostered and enhanced during his occupancy."

Not only does the President have unparalleled power; he operates in an isolation that is almost bound to create fantasy. He is surrounded by regal pomp not seen since the Middle Ages. His assistants vie with one another to make "the old man" feel happy and thus grateful to them, for in this way they can steal a little of his power.

His aides screen out soreheads and dissenters. President Kennedy's conferences on the Bay of Pigs were stacked with yes men, perhaps, without his being really aware of the imbalance. When Senator Fulbright, an old friend of Johnson, criticized his policies in Latin America and Asia, he was no longer invited to the White House for chummy talks. Nixon threw out his Secretary of the Interior when he begged the Chief to listen to the young people. Neither Johnson nor Nixon made any effort to understand the revolt of youth. Indeed, Nixon called them "bums" and contented himself with the fiction that "Middle America," a term made up by his speech writers, was the vast majority of people and that they loved him.

The President operates behind a cloud of secrecy which neither the press nor Congress penetrates. Sen. Sam J. Ervin, Jr. chairman of the subcommittee on Separation of Powers, says: "The affairs of the executive branch are hidden from the scrutiny of Congress and the American people." Henry Steele Commager writes of "a concerted campaign to deny the American people the knowledge about the operation of their Government so essential to the sound functioning of a democracy."

The President exercises "executive privilege" and refuses to send his assistants to Congress to be questioned on high policy. Ervin comments: "They will not produce Army generals to testify about Army surveillance. . . . They will not produce Dr. Kissinger to talk about foreign policy. . . . They will not produce State Department plans which explain our foreign policy."

The White House keeps the press at a distance. Gone are the large televised press conferences, where any question could be asked. This was dumped by President Johnson and an even more stultifying process has been introduced by Nixon. Instead of the regular weekly press conference, the President appears without advance warning to make announcements before the captive White House press corps. White House reporters are like poor relatives dependent on the largesse of the rich uncle. If they are alertly critical, their sources dry up, the White House complains to editors, and FBI investigations are ordered.

When Washington is too much for him, the President boards his jet and flies to a secluded resort where, with old cronies, he plays golf, bridge or poker, and hears no harsh voices. As Reedy warned, "The most important and least examined problem of the Presidency is that of maintaining contact with reality."

It is very difficult, under these circumstances, for a President not to conclude that he is indeed a rare bird with special gifts. Even so chastened a man as Harry Truman soon became as cocky as a spring robin. In the early days, Truman confessed to James Farley, "I didn't want to be President. I wouldn't have accepted the nomination if I had thought Mr. Roosevelt was going to die. I don't want the nomination in 1948. I want to go back to the Senate. That's where I belong."

Within a few months, Truman had completely reversed the Roosevelt foreign policy, dropped the atom bomb, fired an FDR favorite from the Cabinet, and in 1948 ran for re-election like a fire engine responding to a four-alarm.

One leavening factor should be the voters. But how does that incoherent voice reach the White House? Actually, the President develops a curious concept of the public, thanks largely to the electronic media. It is a dumb animal which can be conditioned to react like Pavlov's dogs. The "motivation" experts assure the President that, treated to a little makeup, a "sincere" look, low voice, familiar clichés, the public will buy him lock, stock and barrel. Humbug is the regular currency of the White House in modern times. Johnson discovered at the last moment, after the New Hampshire primary, that it did not work. Nixon obviously was startled by public reaction to the Cambodian invasion.

The probability that a President will make mistakes, even hideous ones, is high. No one is checking on him. Congressional investigations come after the deed. Unlike the parliamentary system, the President need not answer for his errors in a public forum. The information and intelligence given him are often false. The CIA assured Kennedy that the Cubans would rise up and overthrow Castro when the *émigré* army hit the beaches, and the Joint Chiefs of Staff told him that the invasion was entirely "feasible" as a military operation. One sane voice from the outside, that of Senator Fulbright, told Kennedy his advice was idiotic, but by then the plan was too far advanced to be canceled. Johnson was told by the military just before the Tet offensive that "captured enemy documents" showed that Hanoi and the NLF were at the point of collapse. Nixon was informed of a huge and vital enemy headquarters in Cambodia that could be seized for the asking. All of this was nonsense.

The problem of getting information to the President is that it is screened so many times before it reaches him, and is prepared to suit his fancy. Intelligence people on the ground floor are often astonished to read or hear how their reports have been distorted at the high levels. Living in a closed court, the President finds it hard to distinguish between national welfare and his own vanity and ambition. The lines blur. Lyndon Johnson, supposedly one of the shrewdest politicians ever to come down Pennsylvania Avenue, turned Vietnam into a major war, against the advice of CIA reports and a part of the Pentagon. He was obsessed by the thought that *he* was not going to be driven out of Vietnam with "my tail between my legs." Gloria Steinem refers to "the system of value and behavior known as the Masculine Mystique. . . . Peace at any price is humiliation, but victory at any price—even genocide in Indochina and chaos at home—is quite all right."

Congress has only two instruments, both difficult to wield and time-consuming, by which to restrain a President. The first is the power of appropriation—it can refuse to spend money for a war. But that is a two-edged sword. The President can refuse to allocate funds for their pet projects and private boodle. Beyond closing the purse, Congress can have the President impeached, but the process is so complex, so lengthy, that it is almost impossible to carry out.

There must be a remedy, and indeed it can be found in the deliberations of the Constitutional Convention. Madison wrote, "Ambition must be made to counteract ambition. . . . It may be a reflection on human nature that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary."

The President must be confronted regularly with doubt and suspicion and required to seek the advice and consent of the legislative body. There is at present no device to enforce this discipline. Congress is obviously too large for the job. A new agency to span the gulf between Capitol Hill and the White House must be created.

It might be a legislative council of six members, drawn equally from the two houses and favoring the majority party in Congress. It would be chosen by secret ballot, with the stipulation that at least one member from each body should be a freshman, to encourage fresh viewpoints.

The President would be required to meet with the council every week, unless he were ill or out of the country. As a symbolic act, the meetings would take place in the Capitol. The President would be required to ask the advice of the council on all major acts and policies, and to answer its questions truthfully. The council would report to Congress and discuss issues raised at its meetings in open debate. The council, or any member, would have access to the media to publicize matters of public concern or to criticize Presidential actions.

The President would be required to send officials of his administration, including members of his personal staff, to testify before appropriate committees of Congress. The custom of "executive privilege" would be dropped. Obviously, a system is crazy which sends a nun to jail for refusing to testify before a grand jury on relatively minor matters, and allows a President to defy Congressional demands for information on major policy. Any official who refused to appear could be held in contempt of Congress.

All executive agreements with any foreign governments would be submitted to the Senate for confirmation by a two-thirds majority. As it is, Secretaries of State and even Vice Presidents make commitments, without the knowledge or consent of Congress. Agnew assured the Greek dictatorship that the United States would arm and support it.

Either house of Congress could vote a motion of "no confidence" in the President on any specific act or policy. After Nixon's invasion of Cambodia, for example, Congress might have passed such a motion. This would serve to deter Presidents, for they would not want to face voters with a "no confidence" motion hanging over them.

These reforms would not bring the millennium, but they would let some air and light into the closed cell of the Presidency and rescue the Chief Executive from his own isolation and vanity.

BEEF IMPORTS

Mr. PEARSON. Mr. President, I am very much concerned about reports that certain administration officials are urging the President to authorize substantial increases in meat imports.

I am opposed to such an action. I believe it would be a mistake.

In 1964, Congress, after long and careful consideration, adopted the meat import law. The intent of this law was to stabilize, not to stop the flow of beef imports to this country. Indeed, the law provided for regular annual increases of imports commensurate with the growth in the demand for beef in this country. In other words, the law was aimed at preventing a flood of foreign beef imports over the level that would break domestic livestock prices.

That law has worked well. As the American market has grown other countries have been able to sell more meat to the United States, within an orderly fashion and without disrupting domestic prices.

We should not try to overturn this program in 1972.

The American cattle producer has finally reached the point where he has a chance to make a reasonable profit. Prices in 1972 are now back at the level they were in 1951. Even so, beef cattle prices are still only at 88 percent of parity. In other words, production costs have increased at a greater rate than prices, and, therefore, the cattleman still does not receive full parity.

Substantially increasing beef imports at this time is not going to result in any adjustment at the retail level. But almost certainly the cattleman would be hit with lower prices because of the psychological impact that such an action would have on the market.

It is most unfortunate that every time the American farmer starts getting a half way reasonable break on prices, there are those who come in and say we have got to knock them down. The fact is, Mr. President, that if farm prices would have increased at anything like the rate of other prices in this economy, the American consumer would have experienced a runaway inflation over the past 20 years. The American farmer has never contributed to the inflationary spiral in this country. Quite the contrary. That inflation would have been sharply greater if it had not been for the enormous efficiency of our farmers and ranchers.

Therefore, again let me say that I think a substantial increase in meat imports at this time is wholly unwarranted and would set in motion a chain of events which would be very harmful to the American agricultural economy.

SENATOR CARL HAYDEN

Mr. SPARKMAN. Mr. President, we were all saddened by the recent death of Carl Hayden. This distinguished man represented his State of Arizona in the Congress of the United States from the time it entered the Union until he voluntarily retired at the end of his term in January 1969. His first service was in the House of Representatives from 1912 until 1927, when he moved over to the Senate where he served until 1969. This long congressional service was a tremendous record and his representation of his State and the Nation as a whole has never been exceeded by any person.

I had the privilege of knowing Senator Hayden from the time that I entered Congress in January 1937 throughout his long career here. As chairman for many years of the Appropriations Committee and as President pro tempore of the Senate for his last 12 years, he rendered great service to the entire Nation. He was a man to whom his colleagues were glad to turn for advice and assistance. He was gentle; he was dedicated. We missed him greatly when he left the Senate, and we shall long miss him now that he has passed on from this earth. I mourn with all his death.

COMMITTEE ON ARMED SERVICES RULES OF PROCEDURE

Mr. BYRD of Virginia. Mr. President, the chairman of the Committee on Armed Services (Mr. STENNIS) has asked me to submit for publication in the CONGRESSIONAL RECORD the rules governing the procedure of the committee. These rules of procedure have been unanimously adopted by the Committee on Armed Services.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE ON ARMED SERVICES RULES OF PROCEDURE

1. *Regular Meeting Day and Time.* The regular meeting day of the committee shall be each Thursday at 10:00 a.m., unless the Committee or the Chairman directs otherwise.

2. *Additional Meetings.* The Chairman may call such additional meetings as he deems necessary.

3. *Special Meetings.* Special meetings of the Committee may be called by a majority of the members of the Committee in accordance with section 133(a) of the Legislative Reorganization Act of 1946, as amended by section 102(a) of the Legislative Reorganization Act of 1970.

4. *Open Meeting.* All meetings of the Committee shall be open to the public except executive sessions for marking up bills or for voting or unless the Committee by majority vote provides otherwise.

5. *Presiding Officer.* The Chairman shall preside at all meetings and hearings of the Committee except that in his absence the ranking majority member present at the meeting or hearing shall preside unless by majority vote the Committee provides otherwise.

6. *Quorum.* (a) A majority of the members of the Committee are required to be actually present to report a matter or measure from the Committee.

(b) Except as provided in subsections (a) and (c), and other than for the conduct of hearings, six members of the Committee shall constitute a quorum for the transaction of such business as may be considered by the Committee.

(c) Three members of the Committee, one of whom shall be a member of the minority party, shall constitute a quorum for the purpose of taking sworn testimony, unless otherwise ordered by a majority of the full Committee.

(d) Proxy votes may not be considered for the purpose of establishing a quorum.

7. *Proxy Voting*. Proxy voting shall be allowed on all measures and matters before the Committee. The vote by proxy of any member of the Committee may be counted for the purpose of reporting any measure or matter to the Senate if the absent member casting such vote has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded.

8. *Announcement of Votes*. The results of all roll call votes taken in any meeting of the Committee on any measure, or amendment thereto, shall be announced in the Committee Report, unless previously announced by the Committee. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the Committee who was present at such meeting.

9. *Hearings*. (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee or any Subcommittee thereof, at least one week in advance of such hearing, unless the Committee or Subcommittee determines that good cause exists for beginning such hearing at an earlier time.

(b) Hearings may be initiated only by the specific authorization of the Committee or Subcommittee.

(c) Hearings shall be held only in the District of Columbia unless specifically authorized to be held elsewhere by a majority vote of the Committee or Subcommittee conducting such hearings.

(d) Each hearing held by the Committee shall be open to the public except when the Committee determines that the testimony to be taken at such hearing may relate to a matter of national security, may tend to reflect adversely on the character or reputation of the witness or any other individual, or may divulge matters deemed confidential under other provisions of law or regulations.

(e) Witnesses appearing before the Committee shall file with the Clerk of the Committee a written statement of his proposed testimony at least one day prior to a hearing at which he is to appear unless the Chairman and the ranking minority member determines that there is good cause for the failure of the witness to file such a statement.

(f) Confidential testimony taken or confidential material presented in a closed hearing of the Committee or Subcommittee or any report of the proceedings of such hearing shall not be made public in whole or in part or by way of summary unless authorized by a majority vote of the Committee or Subcommittee.

(g) Any witness summoned to give testimony or evidence at a public or closed hearing of the Committee or Subcommittee may be accompanied by counsel of his own choosing who shall be permitted at all times during such heaing to advise such witness of his legal rights.

(h) Each Subcommittee of the Committee shall (1) fix the number of members that shall constitute a quorum of such Subcommittee for the purpose of taking sworn testimony, (2) determine the circumstances under which subpoenas may be issued, and (3) the member or members over whose signature subpoenas may be issued.

10. *Nominations*. Unless otherwise ordered by the Committee, nominations referred to the Committee shall be held for at least seven days before being voted on by the Committee. Each member of the Committee shall be furnished a copy of all nominations referred to the Committee.

11. *Real Property Transactions*. Each member of the Committee shall be furnished with a copy of the proposals of the Secretaries of the Army, Navy, and Air Force, submitted pursuant to section 2662 of title 10, United States Code, and with a copy of the proposals of the Director of the Office of Emergency Preparedness, submitted pursuant to section 43 of the Act of August 10, 1956 (50 U.S.C. app. 2285), regarding the proposed acquisition or disposition of property of an estimated price or rental of more than $50,000. Any member of the Committee objecting to or requesting information on a proposed acquisition or disposal shall communicate his objection or request to the Chairman of the Committee within twenty days from the date of submission.

12. *Legislative Calendar*. (a) The Clerk of the Committee shall keep a printed calendar for the information of each Committee member showing the bills introduced and referred to the Committee and the status of such bills. Such calendar shall be revised from time to time to show pertinent changes in such bills, the current status thereof, and new bills introduced and referred to the Committee. A copy of each such revision shall be furnished to each member of the Committee.

(b) Unless otherwise ordered, measures referred to the Committee shall be referred by the Clerk of the Committee to the appropriate department or agency of the government for reports thereon.

TWO LITHUANIAN ANNIVERSARIES

Mr. CASE. Mr. President, the month of February marks two important dates for the Lithuanian people.

February 12 is the 721st anniversary of the formation of the Lithuanian state. On that day in 1251, Mindaugas the Great unified all the Lithuanian principalities into one kingdom.

And today, February 16, is the 54th anniversary of the establishment of the Republic of Lithuania.

As I have done many times during past Februaries, I would like to take the occasion of these important anniversaries to salute the Lithuanian people. Those Lithuanians who have come to the United States have made an outstanding contribution to our country. Unfortunately, Lithuanians who remain in their homeland are unable to exercise the basic human rights of self-determination. I can only hope that not too many Februaries in the future, Lithuanians everywhere in the world will be able to live in freedom.

AFL-CIO OPPOSES EQUAL RIGHTS FOR WOMEN AMENDMENT

Mr. ERVIN. Mr. President, the largest labor organization in the country, the AFL-CIO, has recommended that Congress not pass the equal rights amendment. In its resolution No. 122, the organization stated:

> We continue opposition to the so-called equal rights amendment as an unnecessary addition to the Constitution, ultimately more harmful than helpful to the legal rights of women.

Prior to the adoption of the resolution, the executive council of the AFL-CIO, in a report to its convention, said:

> We have opposed the equal rights amendment to the Constitution because of its potentially destructive impact on State labor legislation for women workers.

Before the Senate votes on this important measure, I hope each Senator will ponder these words of the AFL-CIO's report. It says:

> The proposed equal rights amendment would render all protective labor laws for women workers unconstitutional, as well as any other laws treating the sexes differently. Such laws, for example, include marriage laws which place primary responsibility for family support on husbands and fathers.

So, Mr. President, all laws which treat men and women differently, no matter how reasonable, will be unconstitutional. I hope this is understood, because it is the essence of my opposition to the amendment.

The AFL-CIO realized the significant impact the passage of the amendment could have when it mentioned that "laws which place primary responsibility for family support on husbands and fathers" will be held unconstitutional. Prof. Jonathan H. Pincus of the Yale University School of Medicine has called this aspect of the equal rights amendment the "Tonkin Gulf resolution of the American social structure."

Mr. President, I ask unanimous consent that the portion on the equal rights amendment of the AFL-CIO's executive council report to the ninth convention and resolution No. 122 be printed in the Record.

There being no objection, the item was ordered to be printed in the Record, as follows:

Women Workers

Over the past two years the issue of discrimination on the basis of sex has come to the fore. Numerous women's groups have been formed to monitor and influence the enforcement of such anti-discrimination legislation as the Equal Pay Act and the sex discrimination provisions of the Equal Employment Opportunity section of the 1964 Civil Rights Act (Title VII), to seek elimination of sex discrimination by government contractors, to obtain the same coverage for women under general civil rights statutes as for racial, national and religious minorities, and to promote the so-called equal rights amendment to the Constitution.

The labor movement has traditionally supported measures to eliminate discrimination against women. But it has often disagreed with particular recommendations promoted by some non-labor groups. Especially, we have opposed the equal rights amendments to the Constitution because of its potentially destructive impact on state labor legislation for women workers.

Much of such state protective labor legislation has been eliminated or weakened by the federal courts and state legislatures on the ground that it interferes with equal opportunity for women to work. Experience, to date, shows that "equality" has been used to remove labor law protections for women, rather than to extend them or adapt them to men. The proposed equal rights amendment would render all protective labor laws for women workers unconstitutional, as well as any other laws treating the sexes differently. Such laws, for example, include marriage laws which place primary responsibility for family support on husbands and fathers.

Labor continues to voice its opposition to the proposed equal rights amendment. The 14th Amendment to the Constitution guarantees "equal protection" to citizens. There are federal statutes against discriminatory practices. The legal remedy against discriminatory practices lies in enforcement of existing statutes and in new legislation rather than by constitutional amendment.

COUNCIL RECOMMENDATION

The labor movement seeks to be increasingly responsive to the needs and wishes of its women members, within the context of overall trade union objectives. These include economic security for all workers, the extension of minimum wage and other labor standards legislation, provision of day care centers, maternity leave and benefits, access to education and training, equal pay for equal work, and elimination of discriminatory employment practices based on sex.

The AFL–CIO affirms its commitment to non-discrimination on the basis of sex. We seek to honor this commitment in collective bargaining agreements, in the conduct of union affairs, and in legislative enactments.

We continue opposition to the so-called equal rights amendment as an unnecessary addition to the Constitution, ultimately more harmful than helpful to the legal rights of women.

RESOLUTION NO. 122—WOMEN WORKERS (E. C. REPORT, PAGE 100)

The labor movement seeks to be increasingly responsive to the needs and wishes of its women members, within the context of overall trade union objectives. These include economic security for all workers, the extension of minimum wage and other labor standards legislation, provision of day care centers, maternity leave and benefits, access to education and training, equal pay for equal work, and elimination of discriminatory employment practices based on sex.

The AFL–CIO affirms its commitment to non-discrimination on the basis of sex. We seek to honor this commitment in collective bargaining agreements, in the conduct of union affairs, and in legislative enactments.

We continue opposition to the so-called equal rights amendment as an unnecessary addition to the Constitution, ultimately more harmful than helpful to the legal rights of women.

ZPG

Mr. PACKWOOD. Mr. President, it always does my heart good to see credit given where credit is due. I was, therefore, pleased and gratified to read an interesting column which appeared recently in the Los Angeles Times. Written by Ernest B. Furguson and entitled "Zero Population Growth Group Is Not Zero," the article commends the ZPG membership for their hard work, endurance in the face of enormous obstacles, and eventual success, slow but sure.

ZPG has stuck steadfastly to its stated mission, and has not strayed into unrelated fields or issues, a temptation to which many other interest groups frequently succumb. Their efforts are divided into public information and political activism and I for one have been grateful for the excellent assistance of their Washington staff, particularly Carl Pope and Lee Lane.

Let me take this opportunity to congratulate ZPG for its energy, creativity, and persistence and for its fine nationwide support in moving this Nation toward the urgent goal of population stability.

I ask unanimous consent that the column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ZERO POPULATION GROWTH GROUP IS NOT ZERO

(By Ernest B. Furgurson)

WASHINGTON.—It is blissful to be able to confirm that the public, followed at a distance by the politicians, is at least catching up with ideas you have preached for years. Columnists particularly enjoy this form of ego massage, often accompanying it with phrases like, "As we wrote in this space 11 months ago . . ." Organizations which at their foundings were brushed off as a bunch of kooks prattling on about weird schemes are especially susceptible, too, and liable to have hallucinations of grandeur when the rest of the world begins to discern dimly the truths they patented long ago.

For example, the outfit calling itself Zero Population Growth is in position now to begin a great campaign of we-told-you-so if it so desires, and from there, if it followed others' form, to demand that it be allowed to dictate the platforms and name the candidates of the major political parties. But ZPG is showing restraint uncharacteristic of an organization that has made it from the far fringes of idealism to the center of public concern.

By now, few reading Americans can be unaware that a cold computer study financed by major European industries and produced by MIT scientists finds that current population and industrial trends will bring the human race into fatal confrontation with itself before the coming century is over. And in London, 33 prominent scientists back up a study that says population there must be leveled off, then gradually halved in order for the nation to survive.

That, of course, is the kind of warning ZPG has been putting out since its founding. But now the warnings have the cachet of big-business sponsorship and the seal of the scientific establishment, so sober, nonalarmist publications are paying attention. In this country there has been no single study with the wallop of those cited above. It has been more of a drip-drip process. But an Opinion Research Corp. poll among the general American public, commissioned by the Population Commission, says it is taking effect.

By those figures, 65% of Americans now think population growth is a serious problem; 57% think U.S. population is "about right" now; most prefer to live in more thinly settled areas; more than half think population growth is causing the country to use up its natural resources too fast, producing social unrest and dissatisfaction; and that people should limit the size of their families even when they can afford a large number of children (57% agreed, 32% disagreed on that last point). Forty-three per cent thought two children constituted an average family size—more than picked any other figure.

Interestingly, when population growth was matched against other national problems to be faced over the next 30 years, 31% ranked it ahead of pollution, 39% ahead of racial discrimination, 31% ahead of poverty, 29% ahead of crime and 39% ahead of population distribution.

A breakdown of the polling sample showed it to be slightly older and less educated than the whole population, which means its opinions were probably even less pro-population control than the whole.

As noted, the politicians are trailing the public at a fairly remote range. Despite general awareness of the growing urgency of population control and a widespread liberalization of abortion laws at the state level, not one of the recent congressional proposals applying directly or tangentially to the problem has passed into law.

For instance, a heavy last-minute telegram and letter campaign pushed by the U.S. Catholic Conference blocked Senate Labor Committee approval of a population stabilization resolution although a majority of committee members were already on record in favor—and although the measure was merely a policy statement in favor of voluntary population control, with no teeth in it. It was postponed and probably buried by a superior lobbying effort.

That lesson was not lost on ZPG. As this congressional session and election year began, the organization claimed 35,000 members in 380 chapters, and they were increasing their dues and otherwise muscling up to translate aroused public opinion into political action. They were trying to get presidential candidates to stand still for questioning about population policy. But they were not hallucinating any takeover of the democratic convention or otherwise dreaming beyond their means.

Instead, they were swapping data on the status of legislation, which congressmen to pressure about what, state initiative procedures and publicity techniques. As the group's paper put it, "ZPG, with all its allies, is still a very small fish in the presidential pond . . . We need to make a lot of splashes, in every political pond we can find," which means at the local and state level.

Such becoming realism, so untypical of a group that began on those idealistic fringes, may explain why ZPG has moved so close to where the action is. Or vice versa.

ALLIED HEALTH PROFESSIONS IN CONNECTICUT

Mr. RIBICOFF. Mr. President, in 1968, when I conducted hearings into the problems of health care in America, it became apparent to me that medical treatment could be improved significantly and made more widely available if we began to employ a new kind of medical agent, a "paramedic" who could treat minor ailments, spot potential health hazards, and save the physicians' valuable time for sicknesses and injuries which only a doctor can treat.

Allied health personnel could be especially useful for setting up mobile clinics in inner cities—and in declining rural areas as well—where poor people could receive the routine health care the rest of us take for granted.

Two sources of allied health personnel are available. The most readily available talent pool can be found in the Army—where medical corpsmen are being highly trained and can treat about 95 percent of the routine injuries and ailments.

The second source of paramedical talent—and the one which provides the best long-term solution to the problem of building up the allied health profession—is the allied health profession school.

The University of Connecticut, which recently entered the medical education field with its new medical school, has developed an innovative and worthwhile allied health education program, TACT—toward an allied health career today.

Operation TACT has as its main objective the preparation of students at the high school level for job entry into the health occupations field or for admission to community colleges which have allied health programs.

The need for allied health manpower in Connecticut and the exclusion of minority and disadvantaged persons from relevant, academic, and institutionalized programs is well documented.

The TACT project can potentially open up new careers for these persons as well as provide crucially needed medical manpower. The city of Hartford, with its wealth of health and educational resources and its problems of unemployment and underemployment, will provide a challenging setting for this project.

I ask unanimous consent that documents describing TACT be printed in the Record.

There being no objection, the documents were ordered to be printed in the Record, as follows:

Highlights

(a) Operation—Towards an Allied Health Career Today.

On October 14, 1971 and October 29, 1971, a planning group representing: (a) Hartford School System; (b) Greater Hartford Community College; (c) Manchester Community College; (d) University of Connecticut Allied Health Planning Team; and (e) Urban League of Greater Hartford met to develop and finalize a proposal to develop an Allied Health Educational Continuum from the senior high school through the University. A contract proposal was sent to the Division of Allied Health, Bureau of Health Manpower, National Institute of Health, for funding. Louis Bourgeois, Ph.D., Program Consultant, has been assigned as Project Officer and is in the process of developing the Work Scope Proposal. If you are interested in additional details on the status of the Contract, I am sure Dr. Bourgeois would be delighted to answer your questions. His telephone number is 202–496–6751.

Operation TACT has as its main objective, the preparation of students at the high school level for job entry into the health occupations field or for admission to the community college; graduates of community colleges will be awarded the Associate degree and will be prepared for employment or admission to the University.

The participating agencies have identified personnel and equipment on an "In-Kind" basis in the first phase to develop the curricula and clinical affiliation aspects and have committed their institutions to the implementation of the program. Details of the program are attached as Appendix I.

Equal Representation in Allied Health (ERAH): The Association of Schools of Allied Health Professions has been awarded a contract from the Bureau of Health Manpower to develop three regional programs to increase the enrollment in the allied health professions of minority students, Black, Spanish-Surnamed, and Indian. Dr. Bourgeois is the Contract Officer for this project also.

The ERAH Advisory Committee has designated Hartford, Connecticut as the Eastern Office to cover the New England States and New York. The University of Connecticut has been asked to submit an outline of a program to the Association as the subcontractor for this regional aspect of the project.

(c) Special Improvement Grant: As you are aware, the Bureau of Health Manpower, Division of Allied Health, administers the Allied Health Special Improvement Grant monies.

The University of Connecticut has submitted the attached grant (Appendix II) for a five year period. (To be forwarded later).

The first year requests one hundred and fifty thousand ($150,000) dollars to permit the University to name the Dean of the School of Allied Health Professions and to assign the three existing programs, Dietetics, Medical Technology, and Physical Therapy, to the Dean to develop coordinated interrelated curricula in the three areas.

POINT OF INTEREST

It is presently proposed to submit a bill to the General Assembly via the Legislative Education Committee to designate the School and an appropriation at the next session.

Allied Health Education Continuum, Greater Hartford Area

OBJECTIVE

To actualize an allied health education continuum in the Greater Hartford area which:

(1) Recruits minority and disadvantaged persons for allied health professions

(2) Gives incentive and support to training, development and mobility

(3) Engages the learner in developmental work experiences, and

(4) Sensitizes facilities and institutions to respond to the need for a "new kind of health manpower to emerge".[1]

It is proposed that the initial education continuum incorporate a selected secondary school, the vocational technical school, an identified community college and The University of Connecticut. It is also proposed that options for study, work-study employment and work developmental experiences be based on a variety of financial assistanceships. The latter is necessary as incentive and support for the economically disadvantaged. This proposal has major intention to:

(1) Blend the stages of planning and implementation;

(2) Establish the framework for enlarging this educative plan within the Greater Hartford area.

NARRATIVE

The need for allied health manpower in Connecticut and the exclusion of minority and disadvantaged persons from relevant, academic and institutionalized programs is well-documented.[2] Special training projects which exist for adults are not freely credited at academic institutions and often dead-end the participants to employment in specific institutions. The lack of allied health education in the curricula of inner-city schools causes many students to be ignorant of the various opportunities in allied health and the requirements for allied health professions. Moreover, the gap of allied health in secondary curriculum coupled with the training program syndrome and a lack of mobility from such programs fosters a disrespect for certain types of health occupations and the nonexistent rungs of the allied health ladders.

The retention of suitable candidates in the areas of allied health must be based on:

1. Viewing recruitment as an on-going, interest-expanding process
2. Assuring that planned educational experiences are intellectually stimulating and immediately useful
3. Offering services supportive to individual needs and personal short and long-range career plans.

Continuum can result from task oriented planning. This means that those agencies with responsibility to and for the education, work-study and employment of participants have real input into (a) program design, (b) role definition, (c) implementation of programs, (d) admission, matriculation and developmental work experiences.

There is little need for further verbiage on mobility, transferability, career ladders, etc. Problems to be incurred in implementation cannot be resolved here by furthering the philosophical discussion. Therefore the suggestion for this proposal is for rather straightway initiation of:

1. A basic allied health course at the secondary level for secondary school juniors, seniors and adults.
2. Projects for summer employment and/or summer work-study will be developed and interrelated with the basic allied health course and admission requirements for the vocational-technical schools and community colleges.
3. Relating the basic coursework of item one to the options in item two, and
4. Designing and implementing programs for freshmen-sophomores, junior high school students, teachers and counselors to stimulate interest in allied health careers.

STAGE I

(a) Organize a task oriented advisory committee for the project including significant representation of:

(a) Hartford Public School (administration, instruction and counseling).

(b) The vocational-technical school.

(c) The community colleges.

(d) University of Connecticut Allied Health Professions.

(e) Clinical supervisors.

(f) Employers.

(g) Prospective students and

(h) Community-based agencies and programs.

(b) Charge to Committee:

1. Development of the curriculum for preparing students for employment upon graduation from high school or for admission to the community college.
2. Concurrent development of the allied health curriculum for the community college level programs. Programs for the part-time and adult students will be investigated.
3. Identification of health personnel needs in the Greater Hartford area will be made; and projected personnel needs for proposed clinics, HMO and group practices will be made.
4. During this period, prospective employers for the work-study program at all levels will be identified and the job description and administrative protocols will be developed for the formal contracts.
5. Clinical affiliations will be surveyed and a schedule will be developed to assure total utilization of the resource and the protocols for the formal contracts designed.
6. Evaluation protocols will be defined.

STAGE II

1. Teachers for these courses need to be hired by the schools by July 1972 and will be required to attend a two or three week orientation program that month. It is predicted that the faculties will spend the next months developing the specifics of the curriculum, including the work study program, arranging clinical affiliation, developing formal contracts for the affiliation and establishing the roles and responsibilities of each institution, the faculty and clinical supervisors.
2. An adult education program directed to individuals in the community who are not in school or who are employed in the health area but wish to improve their skills and enhance their promotion potential.
3. A recruitment program directed to the community will be devised.
4. Protocols for evaluation of the program will be pre-tested.

WORKSHOPS

(a) A one-day conference of the entire committee plus potential employers, administrators of health care institutions and those related official state agencies to discuss the project's goals and objectives and alert them to their potential involvement on sub-committees.

(b) A three-week workshop for teachers and counselors relating to the new program.

(c) A one-day conference for teachers and counselors in the school system to orient them to the new program.

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[1] Alfred Fisher, *The Minority Tapes*, Report on Selected Minority Motivation Programs for Health Careers, National Health Council, New York, New York, 3/23/71.

[2] Frederick G. Adams, The Need for Allied Health Professional Personnel Training in the State Of Connecticut, 1970.

LONG RANGE PLANS

1. Funds must be identified which will provide staff for three to five years to carry on evaluation of the program in concert with the original committee and the administrators and faculties conducting the programs. On-going evaluation of the students who have graduated and are employed and/or are continuing their education. Evaluation must be made on a longitudinal basis of the work-study programs.

2. Funds must be identified for teacher supplements and student stipends for at least two years when the program will be incorporated in the educational institutions.

ADDENDUM

The City of Hartford with its wealth of health and educational resources and its problems of unemployment and underemployment provides a challenging milieu for this project.

U.N. DEVELOPMENT PROGRAM

Mr. JAVITS. Mr. President, during the congressional recess a great and very wise American retired after many years of distinguished service to his country and to the world. I refer to Paul Hoffman who, following a distinguished career in the U.S. Government, became the Administrator of the United Nations Development Program—UNDP.

In a recent publication of the United Nations entitled "Years of Challenge and Response," Paul Hoffman concisely sets forward the role the UNDP has, and is playing in furthering economic development in the developing third world. I commend Paul Hoffman's remarks to the Senate. I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ONE MAN, MANY MILLIONS—AND A PROGRAMME

Franklin D. Roosevelt: "We are all of us children of earth—grant us that simple knowledge. If our brothers are oppressed, then we are oppressed. If they hunger, we hunger. Yet we can make, if we choose, a planet unvexed by war, untroubled by hunger or fear."

Some observations by the Administrator of the UNDP . . .

The man in this picture is a threat to world peace—and also one of the best hopes for building a more peaceful world.

He is a threat to world prosperity—and also one of the best hopes for increasing the world's wealth.

Above all, he is a human being who has been largely and needlessly deprived of basic human necessities and opportunities. This is the single most important fact to keep in mind when we talk about global poverty.

For the term "global poverty" is, after all, nothing more than a convenient abstraction. Like a shadow, it is merely the projection of reality and not reality itself. Yet only by coming to grips with the *several* realities of world poverty can we solve the problems which that poverty presents, not just to those who suffer its immediate consequences but to all mankind.

WHAT ARE THE REALITIES OF GLOBAL POVERTY?

Reality number one is the existence throughout Asia, Africa, Latin America and the Middle East of hundreds of millions of *poor people*—people who live with hunger and often die of it, people who are pinned down by ignorance and cannot escape from it, people who are open to attack by every form of killing and crippling disease, people whose homes are rural shacks or urban slums, people whose children move in appalling numbers directly from the cradle to the grave.

Reality number two is the growing frustration of the poor in the low-income lands over the lack of opportunity to substantially better their lives. There is no more explosive force on the world scene than the resentment this lack of opportunity creates, particularly among the angry young men—and women—who make up over sixty percent of the population in the developing countries. Conversely, there is no force potentially more constructive than their determination to improve matters. The prospects for world peace depend in no small measure on whether they will be given the chance to work for change, or see themselves compelled to fight for it.

Reality number three concerns the cause and eventual cure of poverty in the low-income nations. One of the most important findings of the UN's first Development Decade is that most "poor" countries have a great deal of potential wealth—but that, on the average, they are able to use productively only 20% of their natural resources and 10% of their man, woman and youth power. What remains untapped is enormous. It is clearly sufficient to permit the building of economies with all the strength and dynamism necessary for meeting human needs—provided that adequate growth possibilities are opened up in certain key economic sectors, and that adequate numbers of people are equipped to take full advantage of those possibilities.

Reality number four is that during the past decade, with all its disappointments, a significant number of low-income countries have succeeded in laying the foundation for meeting both these prerequisites. And in every case where this vital though sometimes "hidden" progress was made, there was a maximum national effort supplemented by the right kinds and sufficient amounts of external development aid.

THE CONTRIBUTION OF PREINVESTMENT ASSISTANCE

One of the most important forms of external development aid has been—and continues to be—a type known as "pre-investment and technical assistance."

Preinvestment and technical assistance contributes to the development process in two related ways. It helps low-income countries open up sound investment opportunities—so that they can mobilize from domestic savings and attract from external sources the sizable amounts of capital without which rapid economic progress simply cannot take place. But it also does something more. It helps these countries acquire the knowledge, working skills and technological capabilities that will allow them to make fully effective use of capital and of all other available growth resources. Both these contributions of pre-investment and technical assistance are essential to progress on virtually every front of the development drive.

Consider, for example, the vital agricultural sector from which two-thirds of the people of the developing countries derive their livelihoods. Money alone will never grow more crops, raise more timber, catch more fish or fatten more cattle. What is needed, in addition to money, is accurate information. Is potentially productive acreage now lying fallow? Could substantially more be grown on presently cultivated land? What kind of fertilizers, how much irrigation, which new agricultural techniques must be used to realize these possibilities? Where are the marketing opportunities that will provide incentives for raising farm output above the subsistence level, and how can farm credit facilities be improved? Today's dramatic advances in technology also have a decisive role to play in raising both agricultural production and rural incomes. Particularly significant have been the development of higher-yielding, faster growing and more disease-resistant crop strains; the discovery of new methods for locating underground water resources and for tracking the migrations of food-fish; the successes registered by experiments aimed at converting inedible organic substances into protein-rich nutrients. Finally, there is the growing need for practical education. Farmers who never went to school must be taught to read simple agricultural manuals; extension workers must be trained, as must veterinarians, forestry officers, and specialists in rural development, land resettlement and dozens of other complex skills. All this work and more lies in the province of preinvestment and technical assistance.

So, too, do many of the vital problems of industrialization in the low-income countries. Capital, and a good deal of it, is necessary to build modern industrial facilities. But factories need more than financing. They need locally available raw materials cheap enough to be processed at a profit. They need entrepreneurs to plan them, managers and supervisors to run them, electric grids to power them, export markets to absorb at least part of their output and to bring in foreign exchange. They need decent housing and adequate medical care for their labour forces. All this is a taken-for-granted part of the economic landscape in the already advanced countries. In nations whose economies may be just emerging from the 17th or 18th century, all are likely to be in very inadequate supply.

A PARTNERSHIP OF THE MILLIONS

Over the past ten years—in these sectors and across the whole broad spectrum of other development needs—the UNDP, its predecessors and the international Agencies affiliated with the United Nations system have rendered an increasing volume and variety of services. They have helped governments representing more than 1,500 million people to survey, assess and exploit their latent natural resources. They have worked with these governments to strengthen educational and training institutions at every level of learning. They have supported the establishment of facilities for disseminating and applying technology in the specialized and often quite new forms required by low-income countries. They have furnished advisors, consultants and, in some cases, operational personnel for essential tasks of planning and administration. They have provided fellowships for advanced training abroad to thousands of men and women whose development responsibilities call for skills they could not acquire at home.

These pre-investment and technical assistance activities have been financed by the voluntary contributions of almost every member of the United Nations and its related Agencies—contributions totalling over $1,433 million since 1959 and growing from some $55 million for that year to nearly $200 million for 1969. But because the governments of the low-income countries themselves assume responsibility for more than half the costs involved in implementing projects supported by the Programme, the value of work carried out in the field over the last decade has been some two-and-one-third times greater than the amount of voluntary contributions to the Programme's central resources.

Yet, here again, money is far from everything.

The basic contribution, the basic commitment has been human—a commitment of will, of purpose, of hope and hard work, of faith that the future will redress and redeem the past.

"Action Times Ten" presents a very limited sampling of what has been and is being accomplished by a unique partnership—a partnership not simply among national governments and international Agencies, but among hundreds of millions of men and women who are striving to help themselves and one another.

Mr. JAVITS. Mr. President, a further tribute to Paul Hoffman's work in strengthening the U.N. development program over the past 10 years appeared in the report of President Richard Nixon on the "United States Foreign Policy for the 1970's, The Emerging Strategy for Peace." I ask unanimous consent that the paragraphs dealing with the UNDP and the work of Paul Hoffman be printed at this point in the RECORD.

There being no objection, the paragraphs were ordered to be printed in the RECORD, as follows:

A UNITED STATES FOREIGN POLICY FOR THE 1970'S, THE EMERGING STRUCTURE OF PEACE

(A report by President Richard Nixon to the Congress, February 1972)

A reduction of U.S. support for the UNDP would be particularly unfortunate. The UN system has gradually become a major instrument for encouraging economic and social progress in the developing countries, and the UNDP is the primary instrument by which the UN fills this role. The United States has been the major contributor of funds to the UNDP, and since its inception the UNDP has been headed by a distinguished American, Paul Hoffman.

Last year there were several developments which should reconfirm the American attachment to this program. Progress continued in making the UNDP's machinery more efficient. The contributions to the UNDP from other countries were significantly increased. And when Paul Hoffman retired at the end of the year, the UN chose another outstanding American, Rudolph Peterson, as his successor. The UNDP deserves our continuing support.

Mr. JAVITS. Mr. President, in placing this material in the RECORD I invite the attention of Senators to the fact that the funding level for the UNDP in fiscal year 1971 is very much in dispute since the House of Representatives did not provide any funds for this most worthwhile organization in the fiscal year 1972 appropriation bill. It is my hope that the Senate-House conferees will rectify this matter, since the Senate provided almost full funding.

Finally, I would like to wish Paul Hoffman boundless good health and fruitful new labors as he enters his 80th year.

ADDRESS BY SENATOR BUCKLEY BEFORE NATIONAL PRESS CLUB

Mr. BYRD of Virginia. Mr. President, on February 11 the able junior Senator from New York (Mr. BUCKLEY) delivered a thoughtful speech on the international posture of the United States at a luncheon meeting of the National Press Club in Washington.

Senator BUCKLEY had just returned from a visit to eight nations in Southeast Asia and East Asia, and while he made no claim of having become an "instant expert" on these areas, his speech shows a deep familiarity with the many complex problems involved in the relationship between the United States and Asia.

Senator BUCKLEY pointed out the implications of the Nixon doctrine, citing both the responsibilites involved in this doctrine and the fundamental purpose of lessening the likelihood of U.S. involvement in ground wars in Asia.

Because Senator BUCKLEY's speech is of great interest and significance, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

EROSION OF CONFIDENCE IN AMERICA: CAN THE FREE WORLD REALLY DEPEND ON THE UNITED STATES?

(A speech by Senator JAMES L. BUCKLEY)

I have just returned from a visit to eight nations in Southeast and East Asia; nations which have achieved a significance in recent American affairs which in most cases is far out of proportion to their size and resources, but which has been dictated by their geography.

Now, I am well aware of the justified skepticism of the "instant expert" syndrome which afflicts so many American travelers, members of the Congress not excepted. I like to think, however, that I have managed to escape its more virulent manifestations. In the first place, I am not exactly a stranger to the region. My interest in the Orient dates back to 1945 and 1946 when, as a member of the United States Navy, I found myself visiting such exotica as Manila, Haiphong, Shanghai, Peking and Seoul, and other ports and points in between. And subsequently, during the fifteen years preceding my election, I spent a month or more a year—most often more—engaging in business in the Far East.

The purpose of my recent visit was to try to assess how these nations view the problems of their own security, and to determine how they have been affected, if at all, by recent significant shifts in our external policies and in the tone of our internal debates. To this end, I met with senior political and military leaders, as well as with private citizens, in each of the nations which I visited; namely, the Philippines, South Viet Nam, Cambodia, Laos, Thailand, the Republic of China, Japan and Korea.

I sought to learn how our allies view the rapidly changing events which affect their security, because only with this perspective can we make the most effective use of our power and influence in the cause of peace. We in this country have too great a tendency to operate in a vacuum. Because we have for so long borne so huge a share of the security burdens of the free world. we tend to forget that others are involved in our decisions, and that the network of worldwide alliances which we have constructed for our own ultimate protection cannot thrive without mutual understanding, a mutual effort, and a mutual trust.

Perhaps it is because we have never sought world responsibilities, but rather have had them thrust upon us, that we can at times become dangerously provincial in our outlook. We become absorbed in our internal debates as if the world outside were unable to listen in. It is easy for us to insist that what we do and say at home, what we choose to undertake abroad, is no one else's business but our own. But if we have asked other nations to join us, to choose sides in arrangements for our mutual security, and if at this moment ours is the only power which stands between certain of these nations and the extinction of their independence, then I hope I will be pardoned for suggesting that we *ought* to be concerned about the concerns of these other nations, even though they inhabit such remote corners of the globe as southeast Asia. Southeast Asia, of course, has dominated our news and our thoughts in recent years. Yet we continue to think of it in terms of Laos and Cambodia and North and South Viet Nam; in terms of a cluster of sleepy little countries of little consequence to the outside world. Yet in reality, Southeast Asia consists of far, far more; and it is because of this reality that we became involved in Viet Nam in the first instance.

We tend to forget that Southeast Asia extends from Burma and Thailand on the west down through Malaysia and Singapore, across the Indonesian Archipelago and then northward to include the Philippines. This is an area of more than 1,500,000 square miles. It contains one of the strategic waterways of the world, the Malacca Straits, and it is inhabited by close to 300 million persons. Furthermore, it contains immensely rich mineral resources which are critical to the booming free economies of Asia and which will be increasingly important to ours. While events in Laos and Cambodia may seem very remote to us and therefore unimportant, they are of a rather urgent interest to Thailand, a country which we like to regard as a reliable buffer between Communist China to the North and Malaysia to the south; and Malaysia, of course, shares in Borneo a common border with Indonesia, whose flirtation with Communism under Sukarno caused Australians such grave concern.

I hasten to say that I am not suggesting that we dispatch airborne divisions to Laos and Cambodia. Rather, I merely wish to call attention to some of the geographic facts so that we might have a proper understanding of some of the implications of what is happening in Asia today; so that we may determine what price, if any, we should be willing to pay in order to be able to exercise some measure of influence over the course of events.

We on the east coast tend to be preoccupied with Europe. We can understand the inter-relationships which exist around the North Atlantic, but we find it much more difficult to see the parallels which exist to our west even though for the past three decades, Asia has been at the vortex of U.S. involvement in world affairs—first in the Pacific theatre of operations in World War II, then in Korea, and most recently in Viet Nam. Eighteen of the last thirty years have seen the United States involved in military conflict in Asia. For better or for worse, since the early 1950's, the United States has been the principal proponent and architect of a series of alliances on which a dozen nations along the periphery of Asia have had to depend for their security.

While there may be arguments as to the extent and details of our involvement in the problems of Asia, no one in a position of responsibility suggests that we can turn our backs on them. We are a Pacific power just as we are an Atlantic power. The control of Asia and its vast manpower and mineral resources by a power hostile to the United States would be as intolerable a threat to our security as would be the control by a hostile power of the human and industrial resources of western Europe. If the rimland of eastern Asia were to fall in hostile hands, the threat against the island republics extending from Indonesia around through Japan would be palpable, and our own continued access to vital waterways and resources would be placed in jeopardy. Moreover, the geographic and political isolation which would follow would dangerously reduce the alternatives which would be available to us in planning for our own defense. This is why every American President for over one hundred years has understood the need to maintain an American military presence in the western Pacific.

But the need to maintain such a presence does not dictate a particular form. The form of our involvement can and should change as conditions and power relationships change, and as we gain in experience. In the twenty years which have elapsed since our Pacific security arrangements first took shape, profound changes have taken place in the non-communist countries of Eastern Asia. By and large, these nations have succeeded to a remarkable degree in shaking off the yoke of primitive economies and feudal institutions. Their leap from the eighteenth to the twentieth century has been all the more impressive because it has taken place in the midst of one of the most profound ideological confrontations of our times, and it has taken place under the umbrella of American military protection.

At one time or another since V–J Day, each of the peoples of Eastern Asia, with the exception of Japan, has felt the impact of that driving, disciplined, fanatic force which is communism. It is a force which now controls the Chinese mainland and the northern halves of Korea and Viet Nam. It is a force which has launched direct attacks on South Korea and South Viet Nam, and on Laos and Cambodia; a force which has organized and sustained guerrilla operations in Thailand, Burma, Malaysia, Indonesia and the Philippines. It is a force, I might add, which as yet has shown no signs of exhausting its incredible energy and determination.

Yet despite the continuing threats and pressures to which they have been subjected, most of these nations are well advanced towards political and economic stability. Anyone who has travelled through the region over the past twenty-five years has witnessed, as I have, the dramatic changes which have taken place. They have seen the transition from rickshaw to pedicab to taxicab. They have seen colonial towns transformed into bustling modern cities with all their attendant problems of pollution and traffic congestion; and they have noted a growing self-confidence among their peoples as they have successfully demonstrated their capacity to manage their own affairs.

These developments in Eastern Asia do not in any way lessen our interest in the stability and security of the region, but they do make possible that fundamental change in the character of our support which is embodied in the Nixon Doctrine. Whereas we at one time had to shoulder virtually the entire burden for regional security, the indigenous nations now have the political and economic capacity to mobilize and maintain the forces required for their own security, provided we make available the necessary military hardware. Thus the role of the United States can be reduced to that of training and supply, and to the maintenance of the regional naval and air power required to enable us to meet our commitments and to deter major aggression.

When the Nixon Doctrine was first announced in July of 1969, it was met with a great degree of anxiety by a number of our friends in Asia who feared that it might prove to be merely a rhetorical smokescreen designed to hide the fact of an American withdrawal from its alliances. On my recent trip, however, I found that any doubts about the President's motives in advancing the doctrine were fully dispelled, and the doctrine itself welcomed as the most viable framework for a long-term approach to regional security. But while I found an enthusiasm for the principles involved in the Nixon Doctrine, and a determination on the part of our allies to make it work, I also encountered an increasing concern over our failure in so many ways to carry through with its implicit undertakings implicit in it.

Almost without exception, our friends in Asia are faced with clear and present threats to their security. The Thais must cope with increasingly active bands of Communist-trained insurgents; large areas of Laos, Cambodia, and South Vietnam are presently occupied by Communist invaders; and South Korea and Nationalist China must continue to live in the shadows of well-armed, hostile neighbors who have vowed to overwhelm them. Our friends are prepared to do what they can to defend themselves, but they require the military hardware with which to match the increasingly sophisticated weapons with which their enemies are being so freely supplied. In too many cases, however, we are failing to deliver the arms and the support implicit in the Nixon Doctrine.

This failure on our part to follow through is giving rise to agonizing doubts as to the ability or willingness of the United States to sustain its role of leadership in the western Pacific. Except in the case of South Vietnam, we simply are not coming forward with the kind of support which is required to sustain the kind of confidence in our tenacity which will be needed if we are to make the Nixon Doctrine work. The administration has requested the necessary funds, but the Congress has cut them back—and our friends are left to speculate whether they can safely stake their own survival on America's staying power in the long-term struggle to safeguard the security of the western Pacific.

While we engage in endless debate, and as we impose arbitrary restrictions on the manner and extent of our aid, others across the Pacific must face the realities of the threats to their survival.

The South Koreans, for example, must face the reality of a belligerent neighbor to the north which is in flagrant violation of the armistice terms in constructing new airbases and fortifications near the DMZ; a neighbor which has now developed an air force several times larger than her own; a neighbor which periodically declares its intention to reunite Korea by force of arms. Under the circumstances, it is hardly surprising that the South Koreans take seriously the threats from the north. It is for this reason that two years ago they expressed such great concern when we first proposed to withdraw one of the two American divisions stationed in their country. We were able to satisfy them, however, that the removal of this division would not jeopardize their ability to defend themselves against the growing military strength of North Korea. We were able to do so because, and only because, we promised to implement a five-year program for the modernization of their own forces, a program which both sides agreed to be essential to their future security. Two years have now elapsed since the program was agreed upon; but already, because of cuts imposed by the Congress, we are over a year behind in our deliveries; and this despite the fact that the savings which we have been realizing by the withdrawal of that one division are more than enough to pay for the promised equipment.

Let us move on to Cambodia, where I had the opportunity to visit a town known as Kampong Chan in the eastern part of the country. This town lies less than two miles across the Mekong River from the Chupp rubber plantation which now harbors two North Vietnamese divisions. We had to reach the town by helicopter because Communist units operating in the area had cut it off from the capitol Kampong Chan is protected by a rag-tag army of local volunteers. I inspected one platoon comprised largely of sixteen-year-old boys, and I saw that they were equipped with six different types of rifles of European, American and Chinese manufacture, some of them dating back to the Second World War. They had only a few hours of training.

The Cambodians, you will recall, were supposed to have collapsed within days of the time when American forces were withdrawn to South Viet Nam. Yet despite their lack of training, despite their primitive equipment, tens of thousands of simple villagers rose to the defense of their land and have somehow kept themselves from being inundated by the North Vietnamese regulars. The Cambodians have demonstrated the will to fight for their own survival, and they have absorbed losses which have been needlessly high because of their inadequate equipment and training. With our material help, they have the capacity to survive. Yet we have imposed an iron limitation on the amount of aid which we can extend to them, and arbitrary constraints on our ability to train them on their own soil in the rudimentary arts of war. Thus thousands of Cambodians will meet a needless death at the hands of well-trained invaders equipped with some of the most modern weapons which the Soviet and Chinese arsenals can provide. This is the nation which has been described in the Senate as "hapless, helpless, and hopeless."

Let us look, now, at Thailand—a country which for centuries has managed to maintain its independence and to live at peace with its neighbors. The Thais are faced with an increasingly serious problem of insurgency along their northern, northeastern and southern borders. In two separate incidents during my visit to Bangkok, a total of forty policemen were killed in ambushes in areas where the insurgents have been tightening their control. The Thais can scarcely be blamed for being worried about events in the neighboring countries of Laos and Cambodia with which they share borders extending over 1500 miles, or about an all-weather highway which the Chinese Communists have now extended across northern Laos to within thirty miles of their border. It is self-evident, therefore, that Thailand will need to develop effective counterinsurgency forces on a major scale.

In Laos we have a nation of less than three million persons which is on the verge of having its national identity destroyed by North Viet Nam. Three-fifths of its territory is already occupied by North Vietnamese troops, and its leaders watch in anguish as the arbitrary congressional ceiling on aid expenditures makes it necessary for the United States to cut back air support for the beleaguered and outnumbered Laotian army.

And so it is throughout the region. While the Communists continue to exhibit an unrelenting drive to achieve their ends, we appear to have become increasingly uncertain of our own objectives, increasingly unwilling to supply our friends with what they need in order to be able to defend themselves. Small wonder that we see in Asia today a sapping of confidence in the dependability of the United States.

This confidence was further shaken by the dramatic and unexpected nature of the President's announcement of his plan to visit Peking. This sudden reversal of a twenty-year policy in which we had enlisted the support of our allies sent shockwaves throughout Eastern Asia. I am satisfied that President Nixon has since been able to reassure the leaders of these countries that the United States will make no agreements which will undercut their security, and that we will not back away from our existing commitments. But the seeds of doubt have been planted, and it will take far more than rhetoric to root them out. Except in the case of Nationalist China, I found little or no objection to the opening of channels of direct communication between the United States and Peking, but I met everywhere a deep concern over the fact that the United States could unilaterally and without advance warning undertake so radical a change in policy. There are pervasive fears that, impelled by a new mood of isolationism at home, we will in the end agree to secret accommodations with Peking which will compromise the security of our allies; and everywhere there are those who will be looking for any sign which suggests that America is prepared to withdraw from an involvement in the affairs of Asia.

In this context, the continued existence of our mutual defense agreement with Taiwan takes on a particular significance, because for many of leaders in Asia it has become a litmus test of our intentions. Whatever the other arguments for the necessity to maintain this agreement, and I find them very powerful, an abrogation of our undertaking to defend the Republic of China against attack would have the most profound and adverse impact on our position in the Far East.

We can and must, in our own self-interest, restore the badly shaken morale of our friends in Asia; and we can do this most effectively, in my judgment, by implementing the Nixon doctrine, and by making it clear in our actions abroad, and in our debates at home, that America will continue to give effective support to its Pacific alliances for as long as may be required to safeguard our mutual interests.

This is an undertaking which is well within our means. The interests of the United States in Asia today can now be supported wtih a minimum effort because of the great strides which have been made by our allies in achieving a capacity for their own defense. We must understand, however, that the U.S. role is in many ways that of a catalyst. If we fail to make self-help possible through the support implicit in the Nixon doctrine, we will develop pockets of weakness which will invite attack, and we may once again find ourselves faced with a major military confrontation. An investment in the security of Asia at this time is the most inexpensive insurance which I can imagine.

But we must remember that if we are to maintain effective alliances, we must decide as a people that ours is a long-term commitment, and we must restore confidence in our capacity as a nation to sustain our role of leadership. If we should appear to falter, to grow weary of that role; if we appear unable to match the tenacity of the Communists, then the framework for regional security which we have constructed at so great a cost will surely fall apart.

And we must also be able to demonstrate that we will not fall victim to our own good nature. Because we have no aggressive designs on others, we find it hard to understand that others have a driving compulsion to dominate. Because we seek peace, we assume that others seek it with an equal intensity. Because we negotiate in good faith, we are too often tempted to place a dangerous reliance on the good faith of others. It is this beguiling streak of innocence embedded in our nature which may raise the greatest question as to our ultimate capacity to meet the responsibilities which have been thrust upon us. I believe, in fact, that we may now be entering a point in history, both in Asia and elsewhere, which will test whether or not Leo Durocher stated a rule of universal application when he said, "Nice guys finish last."

THE SUPREME COURT AND THE FEDERAL SYSTEM

Mr. THURMOND. Mr. President, on January 27, 1972, the State newspaper in Columbia, S.C., published an editorial, entitled "Supreme Court Once More Erodes the Federal System."

The article points out the fact that the Supreme Court is continuing its recent trend of downgrading the role of the States in the American system, despite the fact that there are four "conservatives" on the Court. The Court's most recent step in this direction was one of omission rather than commission. The Supreme Court accomplished this by letting stand two lower court decisions which held that a State could not require a 1-year residency before a welfare applicant becomes eligible for benefits.

Mr. President, the editorial criticizes this decision because it is one more move toward a complete takeover of the welfare program by the Federal Government, and a giant step toward centralizing governmental functions which properly should be discharged by the States. Decisions such as this certainly bear out the accuracy of Thomas Jefferson's warning:

> The Judiciary is the instrument which is to press us at last into one consolidated mass.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SUPREME COURT ONCE MORE ERODES THE FEDERAL SYSTEM

Despite the presence of four Nixon-appointed "conservatives" on the bench, the United States Supreme Court once more has downgraded the role of the states in the American system.

This time, the sin was one of omission rather than of commission, since the high court let stand two lower court decisions which impaired the rights of states. The issue was the same in both cases: an effort by two states (New York and Connecticut) to require one year's residency in the respective states before a welfare applicant became eligible for benefits.

There was nothing surprising in the ruling (or lack of ruling). The federal courts two years ago determined that newcomers to a state were entitled to welfare on the same basis as established residents.

Still, it was disappointing that the Burger court did not take the opportunity to revitalize the weather-beaten concept that the states and the central government exercise sovereignty within their respective realms. One would think that a state would retain the right to decide how its own funds would be spent. But perhaps that right has become eroded because of the infusion of federal funds into the welfare picture.

Be that as it may, the inevitable consequence of the Supreme Court's attitude is to increase the pressure for a complete takeover of the welfare program by the federal government. States which find themselves strapped for funds (a common characteristic these days) will try to shift as much of the relief burden to Uncle Sam as is possible.

New York's Gov. Nelson A. Rockefeller put the case in these words:

"Allocation of welfare to the federal level is essential to avoid fiscal bankruptcy of state and local governments and to end the social and moral bankruptcy of the present welfare system."

It should be noted in passing that states such as New York and Connecticut invited their present headaches by dispensing welfare benefits more liberally than did other states. The natural result was that welfare-seekers were attracted to the more bountiful states. That trend may be expected to accelerate in light of the Supreme Court's most recent action.

Hence, the predictable effort to get Uncle Sam to pick up the check for a governmental function which properly should be discharged by the states. And when that succeeds, as seems likely, the United States will have taken one more giant step toward centralization.

It all bears out the accuracy of Thomas Jefferson's warning of 1821:

"The Judiciary is the instrument which is to press us at last into one consolidated mass."

THE GENOCIDE CONVENTION AND FREE SPEECH

Mr. PROXMIRE. Mr. President, article III of the International Genocide Treaty has become a point of controversy in the move toward ratification. Included in that article is mandatory punishment for acts of "direct and public incitement to commit genocide."

Critics of the convention argue that such an agreement by the United States would result is an abridgement of the right to free speech, the cornerstone of the Bill of Rights. Since the days of Oliver Wendell Holmes and the "clear and present danger" doctrine, the question of incitement and unlawful expression has been heatedly debated by constitutional experts. As a result, a detailed code of legal interpretations has developed to protect both the individual and society.

The question now is whether or not American ratification of the Genocide Convention would violate that code and thus be unconstitutional. If so, then ratification would be impossible for no treaty in conflict with the highest law in the land is permissible. But as I have mentioned on an earlier occasion, no conflict exists. For if we exchange the word "genocide" with murder, or any other crime, it becomes apparent that incitement toward criminal action is already illegal and not protected by the first amendment.

The Bill of Rights was designed to protect the individual from the whims of a changing society, but it was also constructed to protect society from the malice of individuals. The Genocide Convention's ban against incitement to commit genocide represents a necessary safeguard for society without violating the right to lawful free speech.

With this certainly and in the hope of a less violent world community, I ask the Senate to take up immediately the question of the Genocide Convention and ratify the treaty.

RECIDIVISM

Mr. BROCK. Mr. President, recidivism is one of our most critical problems in America's current correctional system. The percentage of people reimprisoned is a phenominal 66 percent.

Mr. Ben Bagdikian, in his sixth of a series of eight articles on prison reform, deals with the problem of rehabilitation in the surrounding Washington area.

He discusses the intrinsic problems of staying "clean" on the street after leaving the totally repressive environment of a prison.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SHAME OF THE PRISONS—REHABILITATION: A FRAYED HOPE

(By Leon Dash)

The 12-year-old boy thought he was alone in the dormitory of Cottage 7, sweeping under the beds. But he wasn't alone. A creaking wooden floorboard caused him to turn. A 14-year-old fellow inmate of the old Industrial Home School for Colored Boys (now Junior Village) was sneaking up behind him.

"He said he'd been watching me and said I was either going to fight him or let him have sex with me," Lawrence Smith Jr. recalls.

Smith refused. The bigger boy grabbed him. Smith pushed back. They fought and Smith says he won that battle.

This was one boy's introduction, 18 years ago, to the world of District of Columbia "corrections"—to sexual assaults, fights and beatings behind the walls of institutions where juveniles and adults from Washington have been sent for the announced purpose of being rehabilitated.

In the years since young Smith was first locked up, the D.C. prison system has undergone drastic changes. There have been pioneering reforms that others have seen fit to duplicate.

But today Smith is back in prison. There he joined his father, who preceded him into prison. And while the Smiths' history is not necessarily typical, it tells a lot about the prison system in the District of Columbia.

The longest period the younger Smith (who calls himself Smith-bey) has spent outside of jail since the age of 12 was eight months. He is now 30.

His father, Lawrence Smith Sr., now 47, has just completed more than 12 years at Lorton for the sale of narcotics and for parole violations.

Smith Sr., who was addicted to heroin early in adult life, typifies an older generation of unskilled, undereducated criminals. He talks in a dry, even monotone which lacks the rhetorical cadence and hostility to the "establishment" characteristic of many of the younger Lorton inmates.

In December, 1956, while his son was still at National Training School, Smith Sr. was paroled from Lorton with $45 and what he describes as an "old suit," after serving a three-year sentence. His wife and five other children were living on welfare.

During most of his stay at Lorton Smith Sr. had worked as a grinder in the institution's old foundry—smoothing the rough edges of sewer tops, fire hydrants and police callboxes that were being made for the District government. "Back in those days," the older Smith said, "we were only making $3.60 a month."

Upon release from Lorton, Smith Sr. recalled, there was no sense in looking for foundry work like that he had been doing for three years at Lorton. There were no foundries in Washington. It wasn't too long, he said, before he was back to using heroin and selling it to support himself and his family.

His son, Smith-bey, is representative of the younger, more aggressive inmate at Lorton today. He is six years over the average age of the Correctional Complex's 1,800 inmates, which is 24, but their median level of education is the same as Smith-bey's—eighth grade.

The younger Smith has spent most of the last 18 years inside prisons or hospitals: after the Industrial Home School, then Cedar Knoll in Laurel, Md., the old National Training School for Boys, three federal prisons, the federal drug treatment hospital in Lexington, Ky., almost four years under psychiatric care at St. Elizabeths Hospital and the Lorton Youth Center.

He finally joined his father at the Lorton Correctional Complex last summer following conviction of armed robbery, assault with a dangerous weapon and carrying a concealed weapon. Sentenced to five to 15 years, he'll be eligible for parole when he is 35 years old.

As it happens, Smith-bey's father's sentence expired Jan. 20, following the longest single period he has seen his son since 1954. But Smith Sr. is facing a fresh indictment from 1970 of conspiracy to sell drugs while he was out on parole.

Whatever the differences between father and son, there are important similarities. With the exception of some clerical work the father has done at Lorton, both men lack marketable skills after almost two decades of jail sentences.

And both father and son ended up at Lorton.

Stories such as the Smiths' are not uncommon among Lorton's inmates. Fathers and sons, brothers, cousins and childhood friends have all, together or separately, passed in and out of Lorton's main gate.

Although there are no statistics a large number of the 2,200 inmates at Lorton's Correctional Complex, maximum security facility and Youth Center have been recycled through the District's juvenile delinquent institutions only to end up, finally, as young-adult offenders at Lorton.

The two Smiths typify the depressing cycle of crime and imprisonment, more crime and more imprisonment that seems to characterize the graduates of District reform schools and prisons. The products of chaotic, unproductive backgrounds, they drift into crime and serve time in "correctional" institutions where their problems deepen and they get no practical skills.

THE PRESSURE OF CHANGE

That history illustrates something else: the acute political and public-relations pressures aroused within a community when a prison system tries to change.

In the last four years, the corrections department has undergone drastic changes. They were directed first, and with apparent success, to reducing the incidence of riots, racial battles, homosexual assaults and other destructive forces inside the prisons.

More important, the reforms have tried to alter the endless recycling of former prisoners back into crime. This has been the major concern of the D.C. Department of Corrections since the mid-1960s.

A prison sentence can break up a home and expose a family to the shame and burden of welfare subsistency, and it can increase the chances that the children will turn to crime. It can compound problems of alcohol and drug addiction.

The reforms have had several aims. They have been directed at gradually letting prisoners get used to freedom they will have after they have served their sentences. Another aim has been to teach them skills that will earn them money legally. There have also been efforts to give the prisoners guidance in the personal problems that might have cause their criminal careers in the first place, and which may have been deepened by the experience of being locked up for long periods of time.

The department's innovative programs have been aided by Lorton's location near this city. Most state and federal prisons are in rural areas far from inmate's families and remote from jobs and qualified staffs. But most of the Lorton inmates, over 90 per cent of whom are black, have grown up in Washington. They have family and community ties in Washington, an important element of community-based correctional efforts.

Corrections director Kenneth L. Hardy feels convicts should be released from prisons gradually through community projects that give them a chance to adjust to life outside of prison walls. "Release a man gradually," Hardy said recently. "Give him a chance to re-establish himself, find a job, see his family."

But community-based programs, allowing convicts back onto city streets before their sentences are completed, have met with harsh criticism from the Metropolitan Police Department and officials of the District government and Justice Department, as well as private citizens.

The central issue is new crimes committed by convicts while participating in any one of three community-based programs—halfway houses, weekend evaluative furloughs or "community outreach" programs such as group visits to the city to put on dramas.

DISPUTE OVER HALFWAY HOUSES

Critics of the department's programs, led by Deputy Mayor Graham W. Watt, Police Chief Jerry V. Wilson and a local lawyer now on the City Council, Tedson Meyers, point to crimes against persons as the basis for their concern. Community programs, they contend, expose Washington's citizens to unnecessary danger.

One focus of dispute is the halfway houses, which expanded from one in the fall of 1969 to 13 by June of last year. Part of a police report issued last November lists re-arrests of 34 halfway house residents and of 18 halfway house escapees between July and September.

The combined total of 52 new arrests represents fewer than 10 per cent of the 618 convicts who lived in halfway houses during the three-month period, and of the total, 43 were charged with lesser crimes. But three were charged with homicide (a major sore point with critics) and six with armed robbery.

An October corrections department report says that 81.6 per cent of the men who go through halfway houses were not arrested for new criminal activity. The rate among inmates directly released from Lorton is 69.8 per cent.

"These figures tend to prove," said Stuart N. Adams, the corrections department's associate director for planning and research, "that our halfway house program is working."

But Blair G. Ewing, former director of the city's office of criminal justice plans and analysis, said Adams' statistics give an unclear picture of what is happening inside the halfway houses. Ewing, a consistent critic of the house, said that if there is still an incidence of 23 to 29 per cent of drug use and a 24 per cent rate of escape, then the program is not working as it should.

The central argument about halfway houses is simply not answerable now. Defenders say, in effect, that almost all convicts will be back in society one day, that halfway houses appear to reduce the incidence of repeated offenses and that, therefore, society is better served by such efforts to re-integrate the inmate into the outside world.

Critics, in effect, base their case on the simpler truth that halfway house residents couldn't commit any of these crimes if they were still in Lorton.

Until the data are sufficient to show whether the total number of repeated offenses is reduced or increased by halfway houses, the argument is likely to go on.

Other pieces of evidence are elusive, too. In the past, for example, Allen M. Avery, associate director of community services in the department of corrections, has claimed that most of the problem in halfway houses was residents who had been committed either by the courts or through the District's bail bond agency.

But a breakdown supplied on request by Avery's office showed that 45 of the 52 men rearrested after they had been sent to halfway houses had come either from the Lorton Youth Center, through the parole board or on the recommendation of counselors—and Avery's office has a voice in each of these. Only five of the 52 re-arrested men had been committed by the courts and two were bail-bond felons.

Asked why the data differed from his previous statements. Avery said that in the future a closer check would be kept on how inmates are committed.

OTHER COMMUNITY PROGRAMS

The rapid expansion of community projects and other innovative programs began in 1969 following a disturbance at Lorton the previous year.

Two penologists identified with reintegration programs, M. Robert Montilla and John

O. Boone, were brought into the corrections department with a mandate for reform.

Consistently on the defensive over the last year, both Montilla and Boone insisted their programs had real rehabilitative value that would reduce the number of such classic examples of criminal recidivism as the Smiths. But both men, angered by criticism of their programs and apprehensive about reversion to old custodial policies in which prisons simply hold people until the end of their sentences, resigned at the end of last year.

Last July, Boone was ordered to stop the furlough program. Following 21 drug overdoses and one drug overdose death at Lorton, all of the community-outreach programs were also halted on grounds that these could have been the way convicts got the drugs. Those community-outreach programs in which Lorton inmates make trips to Washington to work with District youths have since been resumed on a restricted basis.

Corrections officials had been pushing community efforts in part because of overcrowding in all of the District's prisons. The renewed overcrowding if the community programs end will lead to a breakdown in their rehabilitative efforts within Lorton, they claim.

Former Lorton superintendent Boone said that idleness, a feeling of hopelessness and lack of motivation caused by "warehousing" prisoners create tensions that lead to strife among inmates.

Programs such as evaluative furloughs or Lorton's Federal City College program provide inmates with high levels of motivation, Boone said. "A man doesn't want to get a DR (disciplinary report) and thereby, lose his privileges," Boone added.

The future of the community programs is now unclear.

All community programs, Deputy Mayor Watt said in a recent interview, will remain in their present status until five-member mayoral committee, chaired by former Corporation Counsel Charles T. Duncan, completes a five-month study of corrections.

What the committee decides will affect not only future prisoners at Lorton but also the citizens of Washington whom Lorton is designed to protect.

The committee's choice is personified by the lives of Lawrence Smith and his son, Smith-bey. The father was kept behind bars as much as possible—arrested first at age 29 and in jails and prisons for 12 of the following 18 years and back in prison again until last January.

And one of his sons has been repeating the same cycle. While father and son were behind bars, the citizens of the District were protected from them; but when they emerged they repeated crimes at an accelerated rate.

The District of Columbia, like the country at large, is now deciding whether the greater threat is to keep criminals off the street as much as possible and then suffer the consequences when the offenders come back, or to have them serve shorter sentences with more time spent in teaching the offender how to live legally and peacefully, with fewer relapses.

After Lorton, an Unreal Half Freedom

David Irving (Beachball) Sims wasn't sure he would make it through a halfway house when he first left Lorton the day before Thanksgiving.

Sims is 23, with an eighth-grade education. He served almost six years of a 5- to 12-year term for manslaughter. Now he was entering a program that allows offenders to hold jobs and visit family and friends, while living under supervision in a halfway house.

In and out of institutions since he was sent to Cedar Knoll in 1963, Sims recalled that it had been a nightmare when he had first gone outside of Lorton last June for an "evaluative furlough" to see whether he could handle life on the outside.

"It just hit me that I was out on the street after five years," he said. "It didn't feel real. I felt like gettin' a taxi and coming back" to Lorton.

And when he first arrived at Community Correctional Center 5 at 1817 13th St. NW last November, he felt the same anxiety. Center 5, which is administered by former correctional officers, has the reputation among District offenders as the toughest halfway house to "walk," or get through.

"Man, you never know about these houses," he said shortly after he arrived. "They might send me back to Lorton today."

But after a two-hour orientation, Sims was granted an afternoon furlough. "I got to get over to Anacostia," Sims said as he waited impatiently for a counselor to open the electrically locked door. Outside, he expressed puzzlement over why he had been assigned to a halfway house in the Shaw area. "I don't even know where I am. I've never been over here before."

But after stops to buy a coat, a bottle of Chivas Regal scotch and two cases of beer, Sims reached the National Capital Housing Authority's Garfield Terrace housing project in Anacostia, where his parents, a sister and most of his childhood friends live.

Sims' mother, a stout, middle-aged woman, was suprised to see him, and said she was glad he was working his way out of prison. Sims' father was not at home.

After a short conversation, Sims changed clothes and left, promising his mother he would see her the next day "for Thanksgiving."

He went to see an old friend who lives nearby. The friend was not at home, but his wife, another childhood friend of Sims', invited him in.

Three youths sitting around the kitchen table momentarily raising their drooping heads when Sims walked through the door. They greeted him halfheartedly through partially closed, bloodshot eyes.

"How ya doin' Irv?" one of them said in a slurred voice. Then he nodded off back to sleep before Sims could answer.

Sims talked briefly with two middle-aged persons who sat in the dimly lit living room, drinking beer and listening to a rock and roll record that played over and over.

Anxious about his 9 p.m. curfew and seemingly uncomfortable, Sims told them he would see them again soon and left.

Outside, while threading his way through the piles of garbage and trash that littered Garfield's grounds, Sims said he would have to stay away from his old friends. "I think they're on dope," he said. "Everyone aroun' here is on dope."

Sims now works at a suburban country club as a kitchen helper, the only daytime job he could find. He is now positive he can "walk" the restrictions of Center 5, but is not sure what will happen if he is released on parole in March.

Faced with parole supervision until 1978, Sims is very unsure of his ability to stay out on "the street" that long.

"I don't know what I'm going to do as far as holding people up. Very few (ex-convicts) stay out there that long."

District of Columbia System's Final Stop

The last stop in the District of Columbia system of criminal justice is the Lorton correctional complex for adult offenders.

Built as the Lorton Reformatory in 1916, the complex is located 21 miles south of Washington near Interstate 95, just on the outskirts of northern Virginia's suburban sprawl. Perched on top of a hill in undulating Fairfax County farmland, the complex's 70-odd acres are surrounded by a 20-foot high chain-link fence topped with barbed wire.

Among inmates, it is known as "The Hill." It has 25 dormitories designed to hold 1,400 prisoners.

Next to "the Hill" is a maximum security prison on 10 acres of land surrounded by a 30-foot high brick wall. Known as "the Wall," the maximum security prison has three double tiered cellblocks in which about 300 inmates spend up to 24 hours a day.

A half-mile away in a grassy 38-acre hollow is the Lorton Youth Center. It is surrounded by two chain-link fences, 15 feet apart, topped with barbed wire. There are four buildings with 324 one-man rooms. An admission building doubles as a dormitory when the number of youths goes above 324 which happens often.

A section of the old Workhouse is now the fenceless minimum custody institution. Located a mile south of the Youth Center, minimum custody has three 100-man dormitories.

LITHUANIAN INDEPENDENCE DAY

Mr. PACKWOOD. Mr. President, I am delighted to join my Senators today in commemorating the 54th anniversary of Lithuania's Declaration of Independence. This is a most appropriate time for the Senate to pay tribute to the Lithuanian fight for freedom which has been long and warmly supported by many Americans.

The history of Russian domination of Lithuania began in 1795 when it was first annexed by Russia. A series of revolts followed, all of which were unsuccessful. After Lithuania's third revolt in 1861, the tsarist government attempted to replace Lithuanian language and traditions with Russian, but through indomitable strength and determination, the Lithuanians were able to maintain their cultural integrity.

During World War I, German occupation of Lithuania brought Russian domination temporarily to an end. On February 16, 1918, the Lithuanian nation declared its independence. This independence, however, was to prove to be short-lived. With the outbreak of the Second World War two decades later, a mutual assistance treaty was forced upon Lithuania by the Soviet Union. Total Soviet control came in 1944 when the Soviet army reoccupied Lithuania.

The United States has never recognized the Soviet incorporation of Lithuania or the other two Baltic States, Estonia and Latvia. We continue to recognize an independent Lithuania and maintain diplomatic relations with the independent Lithuanian legation in Washington.

This policy was reaffirmed in 1967 by Secretary of State Dean Rusk in a letter to Mr. Joseph Kajeckas, chargé d'affaires ad interim of the Lithuanian legation in Washington:

> United States support of the Lithuanian people's just aspirations for freedom and independence is reflected clearly in our refusal to recognize the forcible incorporation of your country into the Soviet Union and in the warm sympathy manifested by the American people in the Luthuanian cause.
>
> In continuing to look resolutely toward a free and independent existence, the Lithuanian people both here and abroad have established a firm foundation for the hope of free men everywhere that the goal of Lithuanian national self-determination will ultimately be realized.

The light of liberty still flickers in these tiny Baltic nations. Let us extend our very best wishes to all Lithuanians on this day of celebration.

LITHUANIAN INDEPENDENCE—1972

Mr. RIBICOFF. Mr. President, I am pleased to be able to take part again in the commemoration of Lithuanian independence.

The passage of time blurs memories and people tend to forget past wrongs. This month, thousands of Americans of Lithuanian descent will seek to remind their fellow Americans of the end of Lithuanian independence as they commemorate two very important occasions in the history of Lithuania. 1972 marks the 721st anniversary of the formation of the Lithuanian State, and the 54th anniversary of the establishment of the Republic of Lithuania.

Normally such notable events in the history of a nation are times of joy and celebration. Unfortunately this has not been the case since all three Baltic States were invaded and occupied by the Soviet Union in 1940. To its credit, our own Government still refuses to recognize the forced incorporation of these three states into the Soviet Union. But this lack of official recognition, along with the diplomatic accreditation by our own country of the representatives of Estonia, Latvia, and Lithuania by themselves, are not enough. We must continue to take every opportunity to call attention to the cynical attitude of the Soviet Union towards these three Baltic States.

Our diplomatic representatives at the United Nations and elsewhere should be prepared to confront the Soviet Union with its acts of aggression against the Baltic States when Soviet spokesmen raise the cry of "imperialism" against our own country. The issue of Baltic independence deserves to be brought up by not only the United Nations, but in other appropriate forums.

The Congress of the United States is already on record regarding this subject. During the 98th Congress, House Concurrent Resolution 416 was adopted, calling for the freedom from Soviet domination of Lithuania, Latvia, and Estonia. In the light of this clear expression of concern by the Congress, our Government should treat the illegal occupation of the Baltic States as a matter of continuing importance.

I hope that the coming year will witness significant progress in the struggle of the people of Lithuania to regain their liberty and independence, and that all the peoples of the Baltic States will some day live in freedom.

I ask unanimous consent that House Concurrent Resolution 416, agreed to by the Senate on October 22, 1966, be printed in the RECORD.

There being no objection, the concurrent resolution (H. Con. Res. 416) was ordered to be printed in the RECORD, as follows:

H. CON. RES. 416

Whereas the subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations, and is an impediment to the promotion of world peace and cooperation; and

Whereas all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social, cultural, and religious development; and

Whereas the Baltic peoples of Estonia, Latvia, and Lithuania have been forcibly deprived of these rights by the Government of the Soviet Union; and

Whereas the Government of the Soviet Union, through a program of deportations and resettlement of peoples, continues in its effort to change the ethnic character of the populations of the Baltic States; and

Whereas it has been the firm and consistent policy of the Government of the United States to support the aspirations of Baltic peoples for self-determination and national independence; and

Whereas there exist many historical, cultural, and family ties between the peoples of the Baltic States and the American people: be it

Resolved by the House of Representatives (the Senate concurring), That the House of Representatives of the United States urge the President of the United States—

(a) to direct the attention of world opinion at the United Nations and at other appropriate international forums and by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Estonia, Latvia, and Lithuania, and

(b) to bring the force of world opinion to bear on behalf of the restoration of these rights to the Baltic peoples.

EVASION OF ANTITRUST LAWS BY SOFT DRINK INDUSTRY

Mr. HARRIS. Mr. President, during the past year the Coca-Cola Co., and the other big soft drink companies have conducted a lobbying campaign on an unprecedented scale aimed at allowing them to evade the antitrust laws.

On July 15 of last year the Federal Trade Commission issued complaints against Coca-Cola and the six other biggest soft drink companies for violation of the Federal Trade Commission Act. The FTC charged that Coke and the other companies require their franchised bottlers to monopolize the local markets for each brand of soft drink. Since Coca-Cola's contracts with local bottlers restrict the bottlers to limited geographic areas, a grocery or supermarket has only one monopolistic source of supply for bottled Coca-Cola.

As a result of this geographic limitation on competition and the big companies' excessive spending on advertising, the soft drink industry is a shared monopoly, in which the top four companies have 70 percent of the market. Coca-Cola alone has about one third of the market. The FTC says that when all these practices and structure are added up, the consumer pays about 30 percent more than he should everytime he buys a bottle of Coke. That is a 3 cents overcharge on a 10-cent bottle and a $1.5 billion redistribution of income from ordinary Americans to the big soft drink companies.

The Federal Trade Commission has called on Coke and the other companies to stop this kind of bilking of the public. Coca-Cola was not to be so easily challenged however. Even before the FTC complaints were actually issued, the company launched an intense lobbying campaign aimed at the Congress. Simply because of its immense size, Coca-Cola is able to lobby every Senator and Congressman from his home district. Some have suggested that the influence of Coke is more extensive than that of the American Armed Forces. In any case, the company blankets the United States with about 900 local bottlers, more than enough to cover every congressional district.

In early spring Coca-Cola and the other companies mobilized this massive potential political power by directing their bottlers all over the country to bombard local Congressmen and Senators with protests against the FTC's complaint. On May 18, 1971, John S. Knox, Jr., executive director of the Coca-Cola Bottler's Association, wrote a memorandum on this subject to local bottlers throughout the country. Attached to it was a set of sample letters for the bottlers to use in contacting their Congressmen. These samples included such definitive statements as:

> My Company is the Coca-Cola Bottling Co., of ———. It is now owned by me and my family, and prior to that was owned by my father, and prior to that was owned by his father. We are the main business in the town of ———. We have a total of ——— employees, including ——— driver-salesmen.

With the blanks filled in, that kind of letter is one thing if it comes from a real small businessman in your home State. But when it is part of a carefully orchestrated lobbying campaign by a billion dollar corporation which reaches into every part of America and most of the world, it is something else entirely. It is a blatant example of the excessive power of big corporations.

This massive lobbying campaign has had its effect. According to staff members at the Federal Trade Commission, the efforts of Coke and the other companies to stir up Congress have made an impact. The FTC has received inquiries from over half the offices on Capitol Hill. Some have contacted the FTC four and five times with complaints from hometown bottlers. Alan Ward, the head of the Commission's Bureau of Competition was quoted last summer as saying, "We have had more letters than I have ever seen." Another FTC staff member reports that over the Christmas adjournment, Congressmen were calling in from their districts to check up on the status of the FTC's complaint before they had to face their local bottlers.

Not content with merely protesting the FTC's effort to enforce the antitrust laws, Coca-Cola and the other companies are also trying to get the antitrust law repealed—just for them. During the last several months, the National Soft Drink Association has circulated on Capitol Hill a draft of a bill to repeal part of the Federal Trade Commission Act for any "trademarked food product." The draft bill includes the appropriate blanks to fill in the date the bill is introduced and the name of the legislator proposing it. At the top of the first page it is kindly pointed out that "House and Senate versions would be identical."

The local bottlers got into this act, too. In a letter to one of our colleagues, one bottler wrote:

> In the event that the FTC should rule against our industry, our only hope is that the Congress would enact protective legislation to preserve the franchise system—we are sending a copy of this letter to Mr. Tom Baker, executive vice president of the National Soft Drink Association. We feel sure that Mr. Baker will call on you in the near future to better explain our position. In the meantime we will appreciate your support in this matter.

Following the soft drink companies' intensive lobbying, their bill was finally introduced by a single Congressman on December 13, 1971. Since the Congress reconvened this year, scores of other Congressmen have introduced the same bill.

At first the soft drink industry had some trouble finding a Senate sponsor for their bill. That did not mean they had not been trying. In their search for a Senate sponsor, the industry enlisted the aid of Mr. Earl Kintner, a former Chairman of the Federal Trade Commission under President Eisenhower and now the member of a Washington law firm. Mr. Kintner joined with Tom Baker of the National Soft Drink Association in presenting Senators with the draft of the industry's bill. In fact, on January 22, 1972, in an interview with Associated Press carried in the Washington Post, Mr. Kintner admitted he is lobbying for an exemption from the antitrust laws for the soft drink industry. He said in that interview:

> We are indeed trying to protect their territorial franchises by trying to secure legislation to protect their right to sell their products in an assigned territory in competition with other bottled products.

Since Mr. Kintner has been carrying the ball for the soft drink companies, the industry's bill has acquired over 30 cosponsors in the Senate and has been referred to the Judiciary Committee.

I ask unanimous consent to have printed in the RECORD the Federal Trade Commission's complaint against the Coca-Cola Co. This complaint is similar to the Commission's complaint against the other big soft drink companies and describes in some detail the legal and economic arguments for encouraging free enterprise in the soft drink industry.

There being no objection, the complaint was ordered to be printed in the RECORD, as follows:

United States of America, before Federal Trade Commission, Docket No. 8855

IN THE MATTER OF THE COCA-COLA CO., A CORPORATION; COCA-COLA BOTTLING CO. (THOMAS), INC., A CORPORATION; COCA-COLA BOTTLING WORKS (THOMAS), INC., A CORPORATION; AND COCA-COLA BOTTLING WORKS 3D, INC., A CORPORATION

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties named in the caption hereof, each of which is hereby made and is sometimes hereinafter referred to as respondent(s), have violated the provisions of Section 5 of the Federal Trade Act Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in this respect as follows:

Paragraph one: For the purposes of this complaint, the following definitions shall apply:

(a) Bottler—any individual, partnership, corporation, association, or other business or legal entity which purchases respondents' concentrate for use in the manufacture and sale, primarily at wholesale, of respondents' pre-mix or post-mix syrups or soft drink products, or who purchases respondents' pre-mix or post-mix syrups or soft drink products for resale, primarily at wholesale;

(b) Central warehousing—a method of distribution in which soft drink products are received at a storage facility and either resold or delivered to retail outlets or wholesalers;

(c) Concentrate—the basic soft drink ingredient sold to bottlers by respondent, usually as a syrup, and which is combined with water and other ingredients for packaging in bottles or cans for sale and distribution as soft drink products, or is used to make post-mix and pre-mix syrups;

(d) Consignment—a form of distribution in which the consignor retains title, dominion, bears all risks of loss and delivers his products to the consignee who is indistinguishable from a salesman or agent;

(e) Place of business—the location of any facilities available to a bottler without regard to customers or geographic area for production or service in the conduct of business operations, to include but not limited to business headquarters, branch sales offices, warehouses and garages, but specifically excluding the plant at which a bottler combines concentrate with water, and possibly other ingredients, for the packaging of soft drink products;

(f) Post-mix syrup—soft drink concentrate which is used in fountain dispensing or vending equipment and is usually sold by bottlers in steel tanks. A typical post-mix system draws one ounce of syrup from a tank, usually having about a five-gallon capacity, and mixes it at the point of sale with five ounces of carbonated water to produce approximately 600 six-ounce finished soft drink servings per tank;

(g) Pre-mix syrup—although essentially the same syrup as post-mix, a pre-mix system differs from a post-mix system in that it draws from a tank, usually having about a five-gallon capacity, a finished serving of soft drink product containing both syrup and carbonated water, "pre-mixed," to produce 100 six-ounce soft drink servings per tank; and

(h) Soft drink products—nonalcoholic beverages and colas, carbonated and uncarbonated, flavored and non-flavored, sold in bottles and cans, or through pre-mix and post-mix systems or the like.

Paragraph two: Respondent The Coca-Cola Company, sometimes hereinafter referred to as Coca-Cola, is a corporation organized, existing and conducting its business under and pursuant to the laws of the State of Delaware. It maintains its office and principal place of business at 310 North Avenue, N.W. Atlanta, Georgia 30313. The Coca-Cola Company and subsidiaries had net sales of $1,185,808,864 (approximately 45% of which is accountable to foreign operations), and assets of $802,100,548 in 1968. In 1968, Coca-Cola made sales to over 900 domestic bottlers located throughout the United States.

Respondent Coca-Cola Bottling Co. (Thomas), Inc., sometimes hereinafter referred to as Thomas Company, is a corporation organized, existing and conducting its business under and pursuant to the laws of the State of Delaware. It maintains its office and principal place of business at 1600 American Bank Building, Chattanooga, Tennessee 37402. In 1968, Thomas Company made sales to over 196 bottlers located principally in Indiana, Maryland, Mississippi, New Jersey, New York, Ohio, Pennsylvania, Virginia and West Virginia.

Respondent Coca-Cola Bottling Works (Thomas), Inc., sometimes hereinafter referred to as Thomas Works, is a corporation organized, existing and conducting its business under and pursuant to the laws of the State of Delaware. It maintains its office and principal place of business at 1600 American Bank Building, Chattanooga, Tennessee 37402. In 1968, Thomas Works made sales to over 65 bottlers located principally in the States of Kentucky and Tennessee.

Respondent Coca-Cola Bottling Works 3rd, Inc., sometimes hereinafter referred to as Works 3rd, is a corporation organized, existing and conducting its business under and pursuant to the laws of the State of Delaware. It maintains its office and principal place of business at 1600 American Bank Building, Chattanooga, Tennessee 37402. In 1968, Works 3rd made sales to over 25 bottlers located principally in the States of Pennsylvania and New Jersey.

Paragraph Three: Respondent Coca-Cola, through its Coca-Cola U.S.A. division, is engaged principally in the manufacture and sale of soft drink products and concentrate which it sells to over 900 bottlers who purchase the concentrate under a license to produce and sell soft drink products under such trade names of respondent Coca-Cola as "Coca-Cola" ("Coke"), "TAB," "Sprite," "Fresca," "Fanta" and "Simba." Bottlers combine the concentrate with water and other ingredients and package the mixture in bottles and cans for resale as soft drink products to retailers. In addition to manufacturing and selling soft drink products and concentrate to its bottlers, Coca-Cola operates bottling plants in 27 areas of the United States and sells soft drink products to retailers.

Respondent Thomas Company has operated for many years as a parent bottler under an agreement with Coca-Cola by which Thomas Company was granted certain rights from Coca-Cola with respect to the sale of Coca-Cola soft drink products in certain designated territories. Thomas Company is engaged principally in the purchase of concentrate from Coca-Cola for resale by Thomas Company to numerous bottlers which have obtained licenses from it to bottle and resell certain specified tradename soft drink products of Cocoa-Cola.

Respondent Thomas Works has operated for many years as a parent bottler under an agreement with Coca-Cola by which Thomas Works was granted certain rights from Coca-Cola with respect to the sale of Coca-Cola soft drink products in certain designated territories. Thomas Works is engaged principally in the purchase of concentrate from Coca-Cola for resale by Thomas Company to numerous bottlers which have obtained licenses from it to bottle and resell certain specified tradename soft drink products of Coca-Cola.

Respondent Works 3rd has operated for many years as a parent bottler under an agreement with Coca-Cola by which Works 3rd was granted certain rights from Coca-Cola with respect to the sale of Coca-Cola soft drink products in certain designated territories. Works 3rd is engaged principally in the purchase of concentrate from Coca-Cola for resale by Works 3rd to numerous bottlers which have obtained licenses from it to bottle and resell certain specified trade name soft drink products of Coca-Cola.

Paragraph Four: Respondents are engaged in "commerce" within the meaning of the Federal Trade Commission Act (15 U.S.C. 44) in that a continuous flow of interstate commerce in concentrate and soft drink products exists between their headquarters and production facilities and the numerous bottlers located throughout the United States which purchase their products.

Paragraph Five: In the course and conduct of their businesses, respondents, except to the extent limited by the acts, practices and methods of competition hereinafter alleged, have been and are now in competition with other corporations, firms, partnerships and persons engaged in the manufacture, processing, distribution and sale of concentrate and soft drink products in commerce.

Paragraph Six: Respondents have hindered, frustrated, lessened and eliminated competition in the distribution and sale of pre-mix and post-mix syrups and soft drink products sold under their trade names by restricting their bottlers from selling outside of a designated geographical area. This restriction is set forth in the agreement between respondents and their bottlers.

A typical license between respondent Coca-Cola and its bottlers provides that as to a specifically described geographic territory:

". . . Company agrees to furnish to Bottler, and only to furnish for the territory herein referred to, sufficient syrup for bottling purposes to meet the requirements of bottler in the territory herein described.

* * * * *

". . . Company does hereby select bottler as its sole and exclusive customer and licensee for the purpose of bottling the Bottlers' bottle syrup, Coca-Cola, in the territory described.

"[Bottler agrees] . . . not to use trademarks Coca-Cola or Coke, nor bottle nor vend said product except in the territory herein referred to. This limitation, however, is not to prevent Bottler from acquiring similar rights for other territory.

* * * * *

"[Bottler agrees] . . . not to use said distinctive [Coca-Cola] bottle for any other purpose than the bottling of Coca-Cola, and not in any territory except as herein referred to."

A typical license between respondents Coca-Cola Bottling Co. (Thomas), Inc. and Coca-Cola Bottling Works (Thomas), Inc. and the bottlers of each provides in part that licensor, wishing to assign to the bottler certain rights as to a specifically described geographic territory which has been received by approved transfer from The Coca-Cola Company, agrees:

". . . to obtain and furnish to party of the second part [bottler] and only to obtain, for the territory herein referred to, sufficient syrup for bottling purposes to meet the requirements of party of the second part in the territory herein described, provided party of the first [licensor] can obtain the delivery to it of such syrup from The Coca-Cola Company under the contract existing between party of the first part and The Coca-Cola Company.

* * * * *

"[To select bottler] . . . as its sole and exclusive customer and licensee for the purpose of bottling Bottlers' Coca-Cola syrup, and using the name Coca-Cola thereon in the territory herein described."

In consideration therefor, bottler agrees:

". . . Not to use the name Coca-Cola nor bottle nor vend said product except in the territory herein referred to without the written consent of party of the first part and The Coca-Cola Company. This limitation, however, is not to prevent party to the second part from obtaining such rights from parties authorized to use the name Coca-Cola and to bottle and vend said product.

* * * * *

". . . To order, for the purpose of bottling Coca-Cola, the distinctive bottle, and none other, adopted or that may be adopted by party of the first part; to use said distinctive bottle and none other, in bottling Coca-Cola, and not to use said distinctive bottle for any other purpose than the bottling of Coca-Cola, and not in any territory except as herein referred to without the written consent of party to the first part and The Coca-Cola Company."

The license restrictions between Coca-Cola Bottling Works 3rd, Inc. and its bottlers are substantially similar to that of Coca-Cola, Coca-Cola Bottling Co. (Thomas), Inc. and Coca-Cola Bottling Works (Thomas) Inc. Coca-Cola is a party to the agreement between Coca-Cola Bottling Co. (Thomas), Inc., Coca-Cola Bottling Works, Thomas), Inc. and Coca-Cola Bottling Works 3rd, Inc. and their bottlers.

Paragraph Seven: The aforesaid agreements used by respondents have had, and may continue to have, the following effects:

(a) Competition between and among respondents' bottlers in the distribution and sale of "Coca-Cola" ("Coke"), "TAB," "Sprite," "Fresca," "Fanta" and "Simba" brands of soft drink products has been eliminated;

(b) Competition between and among Coca-Cola's bottling operations and its bottlers in the distribution and sale of Coca-Cola soft drink products at the wholesale level has been eliminated;

(c) Competition between and among Coca-Cola's bottling operations and bottlers licensed by Coca-Cola Bottling Co. (Thomas), Inc., Coca-Cola Bottling Works (Thomas), Inc., and Coca-Cola Bottling Works 3rd, Inc., in the sale and distribution of Coca-Cola's soft drink products at the wholesale level has been eliminated.

(d) Competition between and among bottlers licensed by Coca-Cola and bottlers licensed by Coca-Cola Bottling Co. (Thomas), Inc., Coca-Cola Bottling Works (Thomas), Inc., and Coca-Cola Bottling Works 3rd, Inc., in the sale and distribution of Coca-Cola soft drink products at the wholesale level has been eliminated;

(e) Innumerable retailers and other customers have been deprived of the right to purchase "Coca-Cola" ("Coke"), "TAB," "Sprite," "Fresca," "Fanta" and "Simba" brands of soft drink products from the bottler of their choice at competitive prices; and

(f) Consumers of "Coca-Cola" ("Coke"), "TAB," "Sprite," "Fresca," "Fanta," and "Simba" brands of soft drink products have been deprived of the opportunity of obtaining such products in an unrestricted market and at competitive prices.

Paragraph Eight: Respondents' contracts, agreements, acts, practices and methods of competition aforesaid have had, and may continue to have, the effect of lessening competition in the advertising, merchandising, distribution, offering for sale and sale of pre-mix and post-mix syrups and soft drink products; deprive, and may continue to deprive, the public of the benefits of competition in the purchase of pre-mix, post-mix and soft drink products; and constitute unfair methods of competition and unfair acts or practices, in commerce, in violation of Section 5 of the Federal Trade Commission Act.

Wherefore, the premises considered, the Federal Trade Commission on this 15th day of July, 1971, issues its complaint against said respondents.

NOTICE

Notice is hereby given to each of the respondents hereinbefore named that the 14th day of September, A.D. 1971, at 10 a.m., o'clock is hereby fixed as the time and Federal Trade Commission Offices, 1101 Building, 11th & Penna. Avenue, N.W., Washington, D.C. as the place when and where a hearing will be had before a hearing examiner of the Federal Trade Commission, on the charges set forth in this complaint, at which time and place you will have the right under said Act to appear and show cause why an order should not be entered requiring you to cease and desist from the violations of law charged in this complaint.

You are notified that the opportunity is afforded you to file with the Commission an answer to this complaint on or before the thirtieth (30th) day after service of it upon you. An answer in which the allegations of the complaint are contested shall contain a concise statement of the facts constituting each ground of defense; and specific admission, denial, or explanation of each fact alleged in the complaint or, if you are without knowledge thereof, a statement to that effect. Allegations of the complaint not thus answered shall be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the complaint, the answer shall consist of a statement that you admit all of the material allegations to be true. Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint, and together with the complaint will provide a record basis on which the hearing examiner shall file an initial decision containing appropriate findings and conclusions and an appropriate order disposing of the proceeding. In such answer you may, however, reserve the right to submit proposed findings and conclusions and the right to appeal the initial decision to the Commission under Section 3.52 of the Commission's Rules of Practice for Adjudicative Proceedings.

Failure to answer within the time above provided shall be deemed to constitute a waiver of your right to appear and contest the allegations of the complaint and shall authorize the hearing examiner, without further notice to you, to find the facts to be as alleged in the complaint and to enter an initial decision containing such findings, appropriate conclusions and order.

The following is the form of order which the Commission has reason to believe should issue if the facts are found to be as alleged in the complaint. If, however, the Commission should conclude from record facts developed in any adjudicative proceedings in this matter that the proposed order provisions as to respondents might be inadequate fully to protect the consuming public or the competitive conditions of the soft drink industry, the Commission may order such other relief as it finds necessary or appropriate, or such relief as may be supported by the record to protect the competitive viability of small bottlers.

ORDER

I

It is ordered that The Coca-Cola Company; Coca-Cola Bottling Co. (Thomas), Inc.; Coca-Cola Bottling Works (Thomas), Inc. and Coca-Cola Bottling Works 3rd, Inc., and the officers, agents, representatives, employees, successors and assigns of each respondent, directly or through any corporate or other device, in connection with the advertising, merchandising, offering for sale and sale or distribution of soft drink products, concentrate, pre-mix syrup or post-mix syrup, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly:

1. Attempting to enter into, entering into, continuing, maintaining, enforcing or renewing any contract, combination, understanding or agreement, including consignment agreement, to: (a) limit, allocate or restrict the territory in which, or the persons or class or persons (including but not limited to central warehousing customers) to whom soft drink products or pre-mix or post-mix syrups may be sold by bottlers; (b) restrict the location of a bottler's place of business; (c) provide for an allocation of fees between one bottler and other bottlers for sales in any particular geographical area, or to any person, or class of persons (including but not limited to central warehousing customers); or (d) engage in any act, practice or conduct having like or similar purpose or effect.

2. Imposing or attempting to impose any limitations or restrictions respecting: (a) the territories in which, or the persons or class of persons (including but not limited

to central warehousing customers) to whom bottlers may sell pre-mix or post-mix syrups, or soft drink products; (b) the location of the bottler's place of business; (c) the allocation of fees between one bottler and other bottlers for sales in any particular geographical area, or to any person, or class of persons (including but not limited to central warehousing customers); or (d) engaging in any act, practice or conduct having like or similar purpose or effect.

3. Refusing to sell, threatening to refuse to sell or impairing sales to any bottler anything used in the manufacture and sale of soft drink products, including but not limited to, concentrate, pre-mix concentrate, post-mix concentrate, or the container in which they are sold; or in any way penalizing any bottler because of the: (a) territory in which, or the persons or class of persons (including but not limited to central warehousing customers) to whom bottlers sell soft drink products or pre-mix or post-mix syrups; (b) the location of the bottler's place of business; or (c) the refusal of the bottler to allocate fees between himself and other bottlers for sales to any person, or class of persons (including but not limited to central warehousing customers), or in any geographical area.

4. Attempting to enter into, entering into, continuing, maintaining, enforcing or renewing any contract, combination, understanding or agreement, or imposing or attempting to impose any requirement, that any bottler, in any manner, inform it of the territories in which, or the persons or class of persons (including but not limited to central warehousing customers) to whom the bottler sells, or attempts to sell, soft drink products, or pre-mix or post-mix syrups.

II

It is further ordered that respondents, The Coca-Cola Company, Coca-Cola Bottling Co. (Thomas), Inc., Coca-Cola Bottling Works (Thomas), Inc. and Coca-Cola Bottling Works 3rd, Inc., shall within sixty (60) days after service upon them of this order serve upon all bottlers of their soft drink products a copy of this order along with a copy of the attached letter on official company stationery and signed by the president of each respondent.

III

It is further ordered that the respondents, the Coca-Cola Company, Coca-Cola Bottling Co. (Thomas), Inc., Coca-Cola Bottling Works (Thomas), Inc. and Coca-Cola Bottling Works 3rd, Inc., shall forthwith distribute a copy of this order to each of their subsidiaries and operating divisions.

IV

It is further ordered that respondents, The Coca-Cola Company, Coca-Cola Bottling Co. (Thomas), Inc., Coca-Cola Bottling Works (Thomas), Inc. and Coca-Cola Bottling Works 3rd, Inc., notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change which may affect compliance obligations arising out of the order.

It is further ordered that each respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary and its official seal to be hereto affixed, at Washington, D.C., this 15th day of July, A.D., 1971.

By the Commission.

CHARLES A. TOBIN,
Secretary.

(Official Stationery)
(Date)

DEAR:

The Federal Trade Commission has entered an order against The Coca-Cola Company; Coca-Cola Bottling Co. (Thomas), Inc.; Coca-Cola Bottling Works (Thomas), Inc. and Coca-Cola Bottling Works 3rd, Inc. which among other things prohibits them from limiting, allocating or restricting the territory, persons or class of persons to whom our bottlers may sell. In addition, the order prohibits The Coca-Cola Company; Coca-Cola Bottling Co. (Thomas), Inc.; Coca-Cola Bottling Works (Thomas), Inc. and Coca-Cola Bottling Works 3rd, Inc. from restricting the location of the bottler's place of business or requiring an allocation of fees between one bottler and other bottlers for sales to any particular customers in any geographical area.

The Coca-Cola Company; Coca-Cola Bottling Co. (Thomas), Inc.; Coca-Cola Bottling Works (Thomas), Inc. and Coca-Cola Bottling Works 3rd, Inc. are also prohibited from refusing to sell or threatening to refuse to sell to any bottler anything used in the manufacture and sale of soft drink products. Furthermore, The Coca-Cola Company; Coca-Cola Bottling Co. (Thomas), Inc.; Coca-Cola Bottling Works (Thomas), Inc. and Coca-Cola Bottling Works 3rd, Inc. are prohibited from requiring or requesting any bottler to, in any manner, inform them of the territories in which, or the person or class of persons (including but not limited to central warehousing customers) to whom the bottler sells, or attempts to sell, soft drink products, or pre-mix or post-mix syrups. A copy of the order is attached.

The Federal Trade Commission has expressed its intention to determine the effect upon the marketing of soft drink products caused by the attached order by ascertaining at some future date the extent to which sales of soft drink products by bottlers extend to customers outside of previously established, but now prohibited, territorial restrictions.

Very truly yours,

TRIAL BRIEF FILED PRIOR TO INITIAL PREHEARING CONFERENCE

To: Honorable Andrew C. Goodhope, Hearing Examiner.

I. STATEMENT OF THE CASE

A. Violation charged by the complaint

A violation of the provisions of Section 5 of the Federal Trade Commission Act is charged by the complaint in this matter.[1] Having reason to believe that the respondents have violated the Act in the manner charged, and that a proceeding in respect thereof would be in the public interest, the Commission issued its complaint in this matter on July 15, 1971. Alleged in essence is that the territorial restrictions imposed by respondents on the independent business firms licensed by it to bottle and/or sell Coke products cause an unlawful anticompetitive effect in the marketplace. The complaint charges, and complaint counsel will prove, that such contracts, agreements, acts, practices and methods of competition of the respondents, which restrict these independent bottlers from selling outside a designated geographical area, have had and may continue to:

(1) eliminate competition between and among these independent bottlers in the marketing of Coke brands,

(2) eliminate competition between and among these independent bottlers and between and among respondents' bottling operations in the marketing of Coke brands,

(3) deprive innumerable retailers and other customers of the right to purchase Coke from Coke bottlers of their choice at competitive prices,

(4) deprive consumers of the opportunity of obtaining Coke soft drinks in an unrestricted market and at competitive prices.

Consequently, an unfair method of competition and unfair act or practice, in commerce, in violation of Section 5 of the Federal Trade Commission Act exists in these matters.

B. Answer to the Charge by Respondents

In answer to the complaint, respondents, by separate but substantially similar responses, admit in essence the declaratory, statements as to their being in competition in commerce, and the existence of territorial restrictions and the consequent methods of doing business as set forth in the complaint. Unchallenged in their answers is the complaint assertion that competition is eliminated between and among those independent firms which bottle and/or selling the same Coca-Cola soft drink brands, also at wholesale and retail. Denied are the allegations drawn from those declaratory statements which constitute the basis for the violation charged. Specifically and summarly, the denials and assertions made in respondents' answers can be stated thus:

(1) The Federal Trade Commission has no jurisdiction or authority to modify the judgment of the District Court of Delaware which declared the territorial restrictions to be ancillary to the main purpose of a lawful contract and therefore not illegal (Coke Answer at 4–5; Thomas Answer at 5–6; Replied to hereinafter at VI–1 and V–6, *infra*).

(2) Nonjoinder of indispensible parties, *i.e.*, respondents' bottlers, requires dismissal of the complaint. (Coke Answer at 5; Thomas Answer at 7–8; Replied to hereinafter at VI–2, *infra*.)

(3) This action to the extent that it seeks to modify respondents' contracts is a penalty or forfeiture and is barred by the Statute of Limitations, 28 U.S.C. § 2462. (Coke Answer at 5–6, Thomas Answer at 8; Replied to hereinafter at VI–3, *infra*.)

(4) If the Commission is successful in its actions, respondents will be subject to inconsistent judgments because of the existing District Court of Delaware decree and, thus, respondents' rights to due process of law are violated (Coke Answer at 6–7; Thomas Answer at 8–9; Replied to hereinafter at VI–6, *infra*.)

(5) The result of successful Commission action here would be unfair and anticompetitive (Coke Answer at 6–7; Thomas Answer at par. 8, page 6 and 8–9; Replied to hereinafter at V–4–12, *infra*.)

(6) There is no public interest in this proceeding (Coke Answer at 7; Thomas Answer at 10; Replied to hereinafter at VI–8, *infra*.)

II. STATEMENT OF THE FACTS

The complaint charges respondents with violating Section 5 of the Federal Trade Commission Act through the imposition of territorial restrictions on its bottlers. Such imposition is admitted by the respondents. Respondent Coke has operated under a territorial restriction system since the 1890's.

Respondent Coke had consolidated net sales of $1,185,808,864 (approximately 33% of which is accountable to foreign operations) and consolidated assets of $802,100,548 in 1968. It sold syrup or concentrate to approximately 900 licensed bottlers located throughout the United States. Through its Coca-Cola U.S.A. division respondent Coke is engaged principally in the manufacture and sale of syrup and concentrates under such trade names as "Coca-Cola," "Coke," "TAB," "Sprite," "Fresca," "Fanta" and 'Simba.' Also, Coke has subsidiaries which operate bottling plants in 26 cities of the United States and sell soft drink products to retailers in those areas.

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[1] Two answers to the complaint have been filed in this matter; one by the respondent The Coca-Cola Company (hereinafter referred to as Coke), and another by respondents Coca-Cola Bottling Co. (Thomas), Inc., Coca-Cola Bottling Works (Thomas), Inc., and Coca-Cola Bottling Works 3rd, Inc. (hereinafter collectively referred to as Thomas).

Respondent Coke has contractual relationships with the other respondents herein named, Coca-Cola Bottling Co. (Thomas), Inc. and Coca-Cola Bottling Works (Thomas), Inc., whereby these companies operate as parent bottlers, purchasing bottlers' syrup and B–X syrup from Coke for resale to the approximately 900 bottlers of Coke products. Coca-Cola Bottling Works 3rd, Inc., also a respondent hereto, operates as a parent bottler. It, however, operates under a parent contract with Coca-Cola Bottling Co. (Thomas) rather than with Coke. As of June 1968 Thomas had contracts with 122 first line bottlers in Alabama, Delaware, Indiana, Maryland, Mississippi New Jersey, New York, North Carolina, Ohio, Pennsylvania, Virginia and West Virginia. These bottlers had subcontracts with 45 bottlers located in Indiana, Illinois, Maryland, Mississippi, Missouri, New Jersey, New York, Ohio, Pennsylvania, Virginia and West Virginia; Thomas Works had contracts with 38 first line bottlers, located in Alabama, Georgia, Kentucky and Tennessee and which had subcontracts with 13 bottlers located in Alabama and Kentucky; Works 3rd had contracts with five first line bottlers in New Jersey and Pennsylvania.

Respondents' bottlers purchase extract or syrup from the respondents, mix the syrup and package the resulting mixtures for distribution to retailers. The agreements between the bottlers and respondents state that the bottlers will confine their sales to an assigned territory, the metes and bounds of which are specified in the agreements.

In recent years sales of canned soft drinks have become significant. Because many bottlers do not have sufficient resources to finance a canning line, they obtain canned soft drink products from Coke, from contract canners, from other bottlers which have canning lines or from canning cooperatives. Canned soft drink products are subject to the same territorial restrictions as are bottled soft drinks.

When it is necessary for bottlers to have canned soft drinks manufactured for them by others, Coke requires its bottlers to enter into agency agreements with the party doing the canning in which the bottler is authorized by Coke to appoint a canner to make canned Coke products. Coke bills the bottler for the syrup used by the canner and the canner agrees that he will not acquire title to the canned products.

An exception to this pattern of territorial restrictions occurs in the instance of postmix syrup which is distributed through 3,600 wholesalers without restriction as to where the postmix syrup may be sold. In contrast to postmix which is freely sold, premix syrup (B–X syrup) is sold by Coke bottlers subject to the same restrictions as are canned and bottled soft drinks.

III. THE VIOLATION CHARGED CONSTITUTES A PER SE VIOLATION

A. An unlawful vertical territorial restriction

Violations of the Sherman Act are also violations of Section 5 of the Federal Trade Commission Act. *Federal Trade Commission* v. *Cement Institute,* 333 U.S. 683, 693 (1948). Territorial restrictions of the same nature as those challenged in this proceeding have been declared unlawful *per se* under the Sherman Act. *United States v. Arnold, Schwinn & Co.,* 388 U.S. 365, 376 (1967). There, the Supreme Court held that, "where a manufacturer *sells* products to its distributor subject to territorial restrictions upon resale, a *per se* violation of the Sherman Act results." Further held was that only under certain restrictive conditions could a manufacturer confine its distributors to specified territories, and then only if "it retains all indicia of ownership, including title, dominion and risk and so long as the dealings in question are indistinguishable in function from agents or salesmen. . . ." 388 U.S. at 381.

As to this matter, respondent makes no attempt to retain title, dominion and risk of loss. Moreover, its bottlers are clearly independent businessmen, not agents. In *Schwinn,* the Court also suggested an exception to the *per se* illegality of territorial restrictions as to new entrants and failing companies. 388 U.S. at 374. However, neither exception is pertinent here as this respondent is neither a new company nor a failing company.

Several lower court decisions, with but one exception, *Tripoli Co.* v. *Wella Corp.,* 425 F.2d 932 (3rd Cir. 1970), have construed *Schwinn* to hold that territorial restrictions are *per se* illegal. *Janel Sales Corp.* v. *Lanvin Perfumes, Inc.,* 396 F.2d 398, 406 (2nd Cir. 1968); *cert. denied,* 393 U.S. 938 (1968); *Interphoto Corp.* v. *Minolta Corp.,* 295 F. Supp. 711, 720, affirming the temporary restraining order requiring shipments of products outside of the area in which the dealer had been restricted, 417 F.2d 621 (2d Cir. 1969); *Sherman* v. *Weber Dental Mfg.,* 285 F. Supp. 114, 116 (E.D. Pa. 1968); *Chapiewsky* v. *G. Heilman Brewing Co.,* 1969 Trade Cases ¶ 72,712 (W.D. Wis. 1969); *Fagan* v. *Sunbeam Lighting Co., Inc., Eastern,* 303 F. Supp. 356, 361 (S.D. Ill. 1969); *United States* v. *Glaxo Group Ltd.,* 302 F. Supp. 1, 8–11 (D.D.C. 1969); (further proceeding) 5 CCH Trade Reg. Rep. ¶ 73,190 (D.D.C. 1970). A good illustration of how the courts have applied the *Schwinn* decision is *United States* v. *Glaxo Group, Ltd.,* 302 F. Supp. 1 (D.D.C. 1969). There a licensor sold a drug product in bulk form to licensees and the licensees agreed not to resell the product in bulk form without receiving the licensor's permission. 302 F. Supp. at 5. The licensees were prohibited from selling the product in any form but a dosage form. The Antitrust Division moved for a partial summary judgment, arguing that the bulk sale restriction was *per se* illegal under *Schwinn.* The court found that whether the product is "finished would appear to be of little competitive, and of no legal, consequence; whether a sale is involved is, under *Schwinn,* the threshold question." 302 F. Supp. at 9 n. 40. *Cf., Ethyl Gasoline Corp.* v. *United States,* 309 U.S. 436, 455–457 (1940). The ancillary restraint doctrine, in which the lawfulness of a restraint is tested by the reasonableness of the restraint as measured by the lawful main purpose, was as a result of *Schwinn,* held inapplicable as to such territorial restrictions. Hence, the bulk sale restriction was held a *per se* violation of Section 1 of the Sherman Act. A partial summary judgment was granted. 302 F. Supp. 1, 9–11 (D.D.C. 1969). Furthermore, in a related proceeding in the same case a different judge also held that the bulk sale restriction was a *per se* violation of Section 1 of the Sherman Act. 5 CCH Trade Reg. Rep. ¶ 73,190 (D.D.C. 1970).

Thus, the lower courts have interpreted *Schwinn* as finding that territorial restrictions constitute a *per se* violation of Section 1 of the Sherman Act. In addition, the holding in *Glaxo* demonstrates that the courts will not treat the sale of raw or unfinished materials any differently than the sale of manufactured products. Consequently, the fact that *Schwinn* involved a restriction on the sale of a finished product, *i.e.,* bicycles, and this case involves the sale of an intermediate product, a concentrate which is processed into a finished product, *i.e.,* soft drinks, upon which the restriction is placed, does not affect the legal consequence. In both instances, such vertical restrictions are illegal *per se.*

A limited exception to *Schwinn* was announced in *Tripoli* v. *Wella,* 425 F.2d 932 (3rd Cir. 1970), where the Third Circuit upheld the lawfulness of Wella's policy of restricting the resale of its products, many of which could cause such dangerous effects as blindness, to state-licensed barbers and beauticians. Testing the restriction by the ancillary restraint doctrine, the court concluded that "the licensed user restraint was reasonably ancillary to Wella's lawful purpose of protecting the public from injury and itself from liability." 425 F.2d 932 at 939. Clearly, *Wella* is not relevant here because customer restrictions on the sale of a product which is potentially dangerous to inexperienced purchasers are not involved in this matter. Indeed, few food products exist which are less dangerous than soft drinks. Rather, involved here is a restriction on the area in which independent bottlers can resell their products.

Significantly, the Commission refused an advisory opinion on, among other things, the lawfulness of a proposed distributor agreement which required that distributors prevent its customers from reselling manufacturer's products. 3 CCH Trade Reg. Rep. ¶ 18,730; (Advisory Opinion No. 333). In so doing, the Commission stated that it would not "approve any standards whereby a wholesaler's eligibility for added discounts is contingent upon the imposition of specified restrictions upon his customers by him." *Supra* at ¶ 18,730. Furthermore, *Tripoli* is also inconsistent with *Glaxo.* There the defendant argued that its bulk sale restriction had the purpose of insuring uniform standards of health and safety in the preparation of the final production dosage form. The court held that this argument was inapposite since all restraints on alienation were illegal under the *Schwinn* doctrine. 302 F. Supp. 1, 9 (D.D.C. 1969), *Cf. Ethyl Gasoline Corp.* v. *United States,* 309 U.S. 436. 450 (1940).

In *Ethyl, supra,* the Supreme Court condemned under the Sherman Act a licensing program under which the patentee sold a gasoline additive to refiners and prohibited them from selling gasoline containing the product to anyone except those persons designated by the patentee; the licenses also provided for other restrictions on the use of the additive and the manner in which gasoline containing the additive was to be sold. The Court said, "It is not denied, and could not well be, that if appellant's comprehensive control of the market in the distribution of the lead-treated gasoline . . . had been acquired wholly without the aid of the patents, but wholly by the contracts with refiners and jobbers, such control would involve a violation of the Sherman Act." 309 U.S. at 455.

Another case which relied upon *Schwinn* is *Hensley Equipment Co.* v. *Esco Corp.,* 383 F. 2d 252 (5th Cir. 1967), a patent infringement action and a misuse counterclaim. Involved was a grant of a patent license to Caterpillar to manufacture excavating teeth for power shovel buckets in which Caterpillar had agreed that it would restrict the sale of parts made pursuant to the license to its own use and that of its dealers. This restriction on the parts was held to constitute a *per se* violation of Section 1 of the Sherman Act, since the patent protection was exhausted by the first sale by the patentee. The court concluded that it was a *per se* violation of the Sherman Act for a manufacturer to restrict the persons to whom an article might be sold once he parted with dominion. 383 F. 2d at 263.

B. An Unlawful Horizontal Market Division

An unlawful horizontal market division exists between respondent and its bottlers which also is *per se* illegal, regardless of the unlawful vertical market division. The market division allegation in this matter is based upon the fact that respondent's bottler agreements provide that these independent bottlers cannot sell outside of the territory assigned to them by respondent. However, such independent bottlers in the areas in which respondent has bottling operations are potential competitors of respondent's wholly-owned bottling operations. This potential competition is snuffed out by the territorial restriction provisions in the bottlers' contracts with respondent. By agreeing that they will not compete outside of the territories allocated to them by respondent, the independent bottlers have contracted that they would not compete with respondent's wholly-owned bottling operations. Thus, the bottler contracts constitute a division of markets between competitors, *i.e.*, between the independent bottlers and respondent's wholly-owned bottling operations.

Furthermore, Coke has agreements with Thomas which provide that Thomas sells Coca-Cola "concentrate", *i.e.*, the base which is mixed with sugar and water to make soft drinks, to approximately 223 bottlers of Coke products. Unlike Coke, Thomas does not have bottling operations of its own. Nevertheless, Thomas' bottler contracts are similar to Coke bottler contracts in that they also confine the areas in which Thomas bottlers may compete. Coke consents to each of Thomas' bottler agreements specifically. Consequently, as a result of Coke being a party to the bottler agreements, Coke has agreed with Thomas and Thomas' bottlers that bottlers will not compete with either Coke's wholly-owned bottling operations. Thus, these agreements also constitute horizontal market division agreements as to Thomas as well as to Coke. In view of the substantial sales of respondent's products, this proceeding constitutes a most significant market division case, regardless of its not to be slighted vertical aspects.

Market division agreements between competitors have been found to be illegal *per se* since *United States* v. *Addyston Pipe & Steel Co.*, 175 U.S. 211 (1899). This principle was recently reaffirmed in *Burke* v. *Ford*, 389 U.S. 320 (1967), and *United States* v. *Sealy, Inc.*, 388 U.S. 350 (1967). *See, United States* v. *National Lead Co.*, 332 U.S. 319 (1947), *United States* v. *Penn-Olin Chemical Co.*, 378 U.S. 158 (1964).

The *Attorney General's Committee to Study the Antitrust Laws* has stated that agreements among competitors to divide markets have no purpose other than the elimination of competition. *Attorney General's Committee to Study the Antitrust Laws* 26 (1955). As the Supreme Court noted in *Burke* v. *Ford*: "When competition is reduced, prices increase and unit sales decrease." 389 U.S. 320, 322 (1967). Thus, the effect of market allocation agreements is similar to price-fixing agreements in that both types of agreements affect price and both are considered *per se* illegal under the antitrust laws.

The recent decision of *United States* v. *Topco Associates, Inc.*, 1970 Trade Cases ¶ 73,338 (N.D. Ill. 1970), *petition for cert. filed*, 39 U.S.L.W. 3362 (Feb. 26, 1971), raises the question of whether all horizontal market division agreements are *per se* illegal. *Topco* involved a member-owned marketing organization which is a common purchasing agent of private label food and non-food products for 25 medium-sized supermarkets. Challenged were the provisions of the membership agreements which specified the areas in which Topco members could sell Topco-label products. Also in connection were the provisions of the agreements which required members to obtain permission to expand the sales of Topco products into another member's territory. The court held that the *per se* illegality of market division agreements did not apply to this arrangement and applied a rule of reason approach to it. It held that the territorial restrictions enabled Topco members "to compete more effectively with national chains whose private label brands are sold exclusively through their own outlets", *supra at* ¶ 89,562, and were therefore lawful. The Antitrust Division is seeking reversal of the lower court opinion. The Solicitor General's jurisdiction statement urged that the Supreme Court take jurisdiction over this case and find the restrictions to be *per se* illegal. The Supreme Court has noted probable jurisdiction. 39 U.S.L.W. 3455 (April 20, 1971).

However, even if the lower court's decision in *Topco* is affirmed by the Supreme Court, it would not affect this proceeding. The rationale of *Topco* is that restrictions imposed by medium-sized firms are lawful as they permit these firms to compete more effectively with large national firms. As is apparent the facts of the soft drink proceeding are significantly different from those in *Topco*. This proceeding involves the largest firms in the soft drink industry. Thus, even if *Topco* is not reversed by the Supreme Court, its holding would be inapplicable to this proceeding. The courts have rejected countervailing power arguments before. *See, Bethlehem Steel Co.* v. *United States*, 168 F. Supp. 576, 618 (S.D.N.Y. 1958).

Respondents assert that the territorial restriction system is an effective method of marketing its products. A similar argument was made in *Schwinn*. In rejecting this argument and instead finding illegal *per se* Schwinn's restriction on the areas in which its retailers and wholesalers could sell. the Court observed:

"But this argument, appealing as it is, is not enough to avoid the Sherman Act proscription, because in a sense, every restrictive practice is designed to augment the profit and competitive position of its participants. Price fixing does so, for example, and so may a well-calculated division of territories." (388 U.S. at 375).

Another similar argument was rejected in *United States* v. *Masonite*, 316 U.S. 265 (1942). Although a price-fixing case, the *Attorney General's Committee to Study the Antitrust Laws* points out the similarity of the two practices. (*See*, discussion at III–5, *supra*). The court in *Masonite* stated:

"Since there was price-fixing, the fact that there were business reasons which made the arrangements desirable to the appellees, the fact that the effect of the combination may have been to increase the distribution of hardboard, without increase of price to the consumer, or even to promote competition between dealers, or the fact that from other points of view the arrangements might be deemed to have desirable consequences would be no more a legal justification for price-fixing than were the 'competitive evils' in the Socony-Vacuum case." 316 U.S. at 276.

Parties to market division agreements have also argued that such an agreement is necessary to protect the members of the agreement from ruinous competition. In 1898 this argument was first rejected in *Addyston Pipe & Steel*, 85 Fed. 271, 219 (1898), *aff'd.*, 175 U.S. 211 (1899) there the court held that: "however great the necessity for curbing themselves by joint agreement from committing financial suicide by ill-advised competition, [the agreement] was void at common law. . . ." Thus, the Court has emphasized that with respect to vertical territorial restrictions and horizontal market division, the only relevant consideration in determining their lawfulness is to ascertain whether the restrictions exist. If they do exist, then they are declared unlawful without any inquiry into their competitive effect.

C. Unjustifiable as a lawful incident of trademark licensing

No Inconsistency Exists Between Valid Trademark Licensing and Trademark Licensees of the Same Licensor Being Free to Sell in Each Other's Territories.

Trademark licensors cannot lawfully restrict the areas in which their trademark licensees can compete. Trademark licensors are not exempted from the antitrust laws and any territorial restrictions imposed under the guise of trademark law are unlawful. By permitting the use of a trademark by a "related company" the Lanham Act permits trademark licensing. 15 U.S.C. § 1055. The Lanham Act defines a related company as "any person who legitimately controls or is controlled . . . in respect to the nature and quality of the goods and services upon which the mark is used." 15 U.S.C § 1127.

When the Lanham Act was being considered the Antitrust Division voiced objections to the bill on the ground that it would be used as a basis for violating the antitrust laws. *Phi Delta Theta Fraternity* v. *J. A. Buchroeder & Co.*, 251 F. Supp. 968, 977–78 (W.D. Mar. 1966), summarizes these objections. To insure that the antitrust laws were not contravened by the Act, Congress inserted the word "legitimate" in the section providing for trademark licensing and in the definition of related companies. Schniderman, *Trademark Licensing—a Saga of Fantasy and Fact*, 14 Law & Contemp. Phob. 248, 261 (1949). The purpose of this was to indicate that trademarks could not be used to violate the antitrust laws. In addition, defendants in trademark infringement suits were granted the affirmative defense "that the mark has been or is being used to violate the antitrust laws of the United States." 15 U.S.C. § 1115(b)(7).

Complaint counsel can find no cases involving trademark licensing in which the courts have prohibited concurrent use by two users of the same trademarked products in the same geographical area on trademark grounds. Such cases as there are concern sales by unrelated companies of different products under the same or similar trademarks. The principle that different sales by different companies under the same trademark in the same area can be unfair competition and may harm the public since there is no guaranty that the products sold will be the same is not here challenged. Indeed, complaint counsel agree with the principle. However, this principle is inapplicable to trademark licensing where, because of the quality control exercised by the licensor, the products sold by the different licensees are the same. The very essence of trademark licensing is the sale of uniform products sold by a number of licensees. Thus, the public can be assured that throughout the country their soft drinks will be the same no matter which licensee bottled the product. This is in accord with the shift in the function of trademarks from being an indication of source to being a guaranty of quality. 3 Callman, *Unfair Competition Trademarks and Monopolies* S 65.2.

That the lawfulness of territorial restrictions in soft drink bottling trademark licenses has been upheld in *Coca-Cola Bottling Co.* v. *Coca-Cola Co.*, 269 Fed. 796,814 (D.C. Del. 1920) constitutes an unwarranted contention. Territorial restrictions as to individual bottler licenses were not involved in this case. Rather, it concerned an agreement in which the bottling company was given the right to establish bottling plants or to have others who would follow Coca-Cola's quality control procedures establish plants in all but a few states in the United States. The bottling company agreed to purchase syrup from Coca-Cola and Coca-Cola agreed not to sell it to anyone in the area licensed to the bottling company. Subsequently hundreds of independent sub-bottlers were established. Following a disagreement about the price of the syrup, Coca-Cola attempted to cancel the agreement and the bottling company sued to enjoin the cancellation. Coca-Cola argued that the territorial grant in the contract was an unlawful restraint of trade. In finding the contract lawful under the ancillary restraint doctrine, the court did not consider the territorial restrictions in the individual bottler contracts but only considered the agreement between Coca-Cola and the bottling company. Moreover, this 1920 district court opinion cannot now be given great weight. The agreement amounted to market division. If litigated today, such market division would be found unlawful since the ancillary restraint doctrine is inapplicable in market division situations as the Court has declared them illegal *per se*.

Another case relied upon to support the argument that the courts have upheld territorial restrictions in trademark licensing is *Dennison Mattress Company* v. *Spring-Air Company*, 308 F. 2d 403 (5th Cir. 1962).

Dennison involved a *Sealy*-like organization in which a number of mattress companies had banded together to organize a corporation in which each mattress company was a stockholder. The member companies followed uniform specifications for the mattress products sold under the common trademark and each member company sold its products in a specified territory. Dennison asserted as a defense to its contractual obligation to pay advertising assessments owing to the umbrella corporation several antitrust defenses including an allegation of territorial restrictions. The Fifth Circuit affirmed the lower court's finding that the antitrust defenses did not relieve Dennison of its contractual obligations. This result seems correct as the Supreme Court has repudiated antitrust defenses to contractual obligations unless enforcement of the contract would involve "one of the very restraints forbidden by the Sherman Act" *Kelly* v. *Kosuga*, 358 U.S. 516, 520 (1959) and the legality of the advertising fees did not seem related to Dennison's liability for the advertising fees. However, we think deciding this case on the basis of a rule of reason approach was incorrect.

The Fifth Circuit's upholding of territorial restrictions was based upon its finding that the licensor had the affirmative duty to invoke quality control over its licensees noting that licensors which failed to impose such control could lose their trademark. The court seemed to link quality control with territorial restrictions without showing how territorial restrictions were necessary to assure apppropriate quality control. The specification of product and production standards should have been sufficient to insure the necessary quality control. And as pointed out *infra* territorial restrictions are a less direct and less certain method of assuring quality control than imposing territorial restrictions. Thus, we assert that the rationale of *Dennison* is incorrect. It should be noted that Spring-Air's victory was not a long-lasting one as some weeks after *Dennison* had been decided, Spring-Air entered into a consent agreement with the Antitrust Division in which it agreed to cease imposing territorial restrictions on its licensees. 1962 CCH Trade Cases Par. 70,402 (N.D. Ill. 1962). Moreover, in *Serta Associates, Inc.* v. *United States*, 393 U.S. 534 (1969) (*per curiam*) and in *United States* v. *Sealy, Inc.*, 388 U.S. 350 (1967) which involved similar facts to *Dennison*, the Court held that the territorial restrictions were illegal *per se*.

Controlling the quality of the products sold by respondents does not compel the confinement of its bottlers to particular territories. A soft drink quality control program does not need to embrace territorial restrictions in order to be effective, and hence such restrictions are not required by the trademark laws.

Competition between trademark licensees is not inconsistent with valid trademark licensing. *Huber Baking Co.* v. *Stroehmann Bros., Co.*, 252 F. 2d 945, 956 (2d Cir. 1958); *cert. denied*, 358 U.S. 829 (1958). Three of the circuits have ruled on the question of whether a territorial restriction will be implied in a trademark license where one is not expressly stated. Two of the circuits have held that where the restriction is not expressly stated they will not imply it, *Parkway Baking Co.* v. *Freihofer Baking Co.*, 255 F. 2d 641 (3rd Cir. 1958); *Pacific Supply Corp.* v. *Farmers Union Central Exch., Inc.*, 318 F. 2d 894 (9th Cir. 1963); *cert. denied*, 375 U.S. 965 (1964), and one circuit has taken the opposite view in a case in which the evidence strongly supported a finding that a restriction had been intended by the parties. *Huber Baking Co.* v. *Stroehmann Bros., Co.*, 252 F. 2d 945 (2d Cir, 1958); *cert. denied*, 358 U.S. 829 (1958). The courts have ordinarily been unwilling to imply a territorial restriction because they have found that since the products sold by the licensees are the same, the public would not be harmed. For example, *Parkway Baking Co.* v. *Freihofer Baking Co., supra* 255 F. 2d at 643; concerned bakery licensees which had licenses to use the secret formula of the licensor, National, to bake and sell bread under a common trademark, Hollywood. Parkway, the licensee in Philadelphia, sold Hollywood bread to American stores at American's warehouse and American delivered some of the bread to its stores in Allentown, the area of the Freihofer licensee. *Supra* at 648–49. In dispute was the question of whether Parkway's sales violated its licensee. The court found that there was no confusion as to source since the source of origin was the licensor in both instances. In addition, the trial court noted that the products sold in both instances were practically identical, thus, implicitly finding that the trademark had fulfilled its function of being a guaranty of quality. *Supra* 134 F. Supp. 823, 825–26 (E.D. Pa. 1957), *aff'd* 255 F. 2d 641 (2d Cir. 1958). Thus, the courts have found that the sale by more than one trademark licensee in an area is not unlawful under the trademark laws.

Analogizing trademark licensing to patent licensing demonstrates that Congress did not intend trademark licensors to impose territorial restrictions on their licensees. Merely because the patent laws arguably permit patentees to limit the territory in which it can make or sell patented products is no reason why this principle should apply to trademark licensing. Patent laws involves a more significant public policy—the encouragement of invention. Trademark laws involves a much less significant public policy aim—the protection of a trademark or trade name. Another significant distinction is that the purported basis for territorial limitations in patent licensing is statutory, 35 U.S.C. § 261. No similar statutory basis exists for territorial limitations in trademark licensing. Congress, however, had the opportunity to provide for trademark licensing a statutory basis as it purportedly did for patent licensing. This Congressional failure to provide such a statutory basis shows clearly that Congress did not intend that territorial restrictions be permitted in trademark licensing. Moreover, several commentators have severely criticized the presumption that Section 261 authorizes territorial limitations in patent licenses. Baxter, *Legal Restrictions on Exploitation of the Patent Monopoly: An Economic Analysis* 76 Yale L.J. 267, 349 (1966) *and Gibbons, Domestic Territorial Restrictions in Patent Transactions and the Antitrust Laws*, 34 Geo. Wash. L. Rev. 893 (1966). These commentators state the purpose of this provision was to allow a territorial assignee the right to sue for patent infringement in his own name and not to authorize territorial restrictions.

Attempts to justify a territorial restriction system as a means of determining which bottler has produced inferior products are based on the assertion that if several bottlers were able to sell in the same area, the licensor would have difficulty in tracing the offending bottler. In a monograph on the subject of territorial restrictions in trademark licensing, the author commented on this contention as follows: "Endeavoring to maintain the quality of a licensee's production through restricting the areas in which he can manufacture and sell goods is akin to cutting down an elm in which a cat has been treed in order to prevent the cat from falling and being hurt. The desired result may or may not be achieved and there are more direct and less drastic ways to achieve it." Dole, *Territorial Trademark Rights and the Antitrust Laws*, 132–33 (1965). The author further observes, "A licensor's quality control should safeguard the integrity of a licensed mark regardless of the number of licensee's selling in the same territory, and confusion as to the identity of the trademark users can be adequately dispelled by requiring that licensees couple their individual trade names or trademarks with display of the licensed mark." *Supra* at 134. Thus, respondent could require that its bottlers affix their name alongside of its name; or if it wishes, a code name designating the bottler could be affixed. This would enable respondent to trace the identity of bottlers whose products are inferior. The public would continue to be protected from inferior products, while receiving the benefits of intrabrand competition.

Antitrust violations cannot be immunized by the use of trademarks. Moreover, in enacting the Lanham Act, Congress cannot be considered as having spoken in terms of the law that existed at that time. Thus, to contend that since vertical territorial restraints were arguably lawful then, vertical territorial restraints are lawful now with respect to trademark licensing would be absurd. In enacting the Lanham Act, Congress was well aware of the fact that the antitrust laws are not static, and that changes in the interpretations of the antitrust laws could be expected to occur in the future. As stated previously, Congress intended that the antitrust laws would apply to trademark licensing. No indication exists that Congress wished to freeze the antitrust laws with respect to trademark licensing to the body of antitrust law as it then existed.

In *Timken Roller Bearing Co.* v. *United States*, 341 U.S. 593 (1951), cited with approval in *U.S.* v. *Sealy*, 388 U.S. 350, 356 n. 3 (1967), the Supreme Court held that territorial restrictions in a trademark license can be unlawful where the restrictions are accompanied by price-fixing. Subsequently, *Schwinn*, held vertical territorial restrictions without more as *per se* illegal. This decision cannot be considered inapplicable here merely because *Schwinn* did not involve trademark licensing. That such is the law is established. The Supreme Court stated in *Timken:*

"A trademark merely affords protection to a name, . . . A trademark cannot be legally used as a device for Sherman Act violation. Indeed, the Trademark Act of 1964 itself penalizes use of a mark 'to violate the antitrust laws of the United States'." 341 U.S. at 598–99.

As demonstrated earlier, the protection of a name does not require the imposition of territorial restrictions on trademark licensees. Consequently territorial restrictions in bottling or any other form of trademark licensing do not pose any different problems than the typical supplier-dealer relationship in which territorial restrictions are present. In both instances the loss of intrabrand competition injures the public. The elimination of intrabrand competition has particularly serious anticompetitive effects where, as in this industry, interbrand competition has lost much of its effectiveness due to the strong preferences of consumers for specific soft drink brands. Consequently, the *Schwinn* doctrine is clearly applicable to trademark licensing.

The applicability of *Schwinn* to trademark licensing is made manifest by the manner in which the courts have applied the *Schwinn* doctrine. Although none of the cases have involved trademark licensing as such, that it is applicable to trademark licensing is clear. For example, *United States* v. *Glaxo Group Ltd.*, involved a restriction on a drug company to refrain from reselling a drug product in any form except individual dosage form. *Supra,* 302 F. Supp. 1, 5 (D.D.C. 1969). The stated purpose of this restriction was to prevent bulk sales to companies who would themselves package the drugs in dosage form. Glaxo argued that this restriction was necessary to insure uniform standards of health and safety in the preparation of a final product. The court rejected this contention finding that the *Schwinn* rule was a *per se* one. *Supra,* at 9. Thus, that the *Schwinn* doctrine is applicable to trademark licensing is manifest.

That *Schwinn* is inapplicable to soft drink bottling because *Schwinn* involved a finished product and this proceeding involves bottlers purchasing concentrate and producing a finished product from it for resale is a distinction without legal significance. In determining whether the sale of the finished product by the bicycle distributor in *Schwinn* or the bottler herein can be controlled by the manufacturer, the finished product concept is clearly inapplicable. Indeed, the soft drink companies have gone far beyond what was attempted in *Schwinn* since they are attempting to restrict the transfer of a product manufactured from an ingredient they have already sold. Both the distributor and the bottler are independent businessmen. Each sells a product that he has purchased—one sells the product in the form in which it was purchased, the other sells the purchased product after manufacturing it into a new form. From the viewpoint of the impact on competition, the effect of the territorial restrictions is identical in both instances—the elimination of intrabrand competition. Our interpretation of *Schwinn* is bolstered by *United States* v. *Glaxo Group Ltd.,* 302 F. Supp. 1,5 (D.D.C. 1969), a case which involved a restriction by a drug company on a licensee selling a drug in any form except individual dosage form. The stated purpose of this was to prevent bulk sales to companies who would themselves package the drugs in dosage form. Glaxo argued that this restriction was necessary to insure uniform standards of health and safety in the preparation of a final product. The Court rejected this contention finding that the *Schwinn* case did apply. *Supra,* 302 F. Supp. at 9.

Distinguishable from Lawful Exclusive Sales Representation

This proceeding is not an attack upon exclusive sales representation. In *United States* v. *Arnold, Schwinn & Co.,* 388 U.S. 365 (1967), the Court carefully distinguished between situations in which distributors were prohibited from selling outside of an area assigned to them and situations where a manufacturer selects certain customers and agrees to sell to them alone. The Court stated in referring to the latter situation: "[I]f nothing more is involved than vertical 'confinement' of the manufacturer's own sales of the merchandise to selected dealers . . . the restriction, on these facts alone, would not violate the Sherman Act." *Supra* at 376. Immediately prior to this passage the Court cited *United States* v. *Colgate & Co.,* 250 U.S. 300 (1919) which makes apparent that it was doing nothing more than recognizing the existence of the *Colgate* doctrine.

Uncontested is the propriety, of a manufacturer having an exclusive representation system by which it establishes a dealer in a particular individual territory and promises to sell to no one other dealers in that particular territory. Such is manifestly the situation confronted in this matter. This proceeding concerns a territorial restriction system in which bottlers are *forbidden* to sell outside of their designated territory, not an exclusive representation system in which distributors are *free* to sell where and to whom they please.

That territorial restrictions are treated differently from exclusive representation systems can be illustrated by two cases. Interestingly, these cases are frequently cited for the proposition that territorial restrictions are, in fact, only exclusive representation cases. *Packard Motor Car Co.* v. *Webster Motor Car Co.,* 243 F.2d 418 (D.C. Cir. 1957), involved a situation in which the largest Packard dealer in Baltimore, Maryland was losing money. The dealer requested that Packard terminate the other two Packard dealers in Baltimore. Packard agreed to do so and in the resulting suit brought by one of the terminated Packard dealers the Court held that the termination was lawful. The other case, *Schwing Motor Co.* v. *Hudson Sales Co.,* 138 F. Supp. (D. Md. 1956), *aff'd., per curiam,* 239 F.2d 176 (4th Cir. 1956), involved similar facts. In discussing these cases the Court in *White Motor Co.* v. *United States,* 372 U.S. 262, 270 n. 8, (1963) stated that the doctrine of these cases was of limited scope since the manufacturers involved were much smaller than the "Big Three" and had suffered losses in their respective market shares. In conclusion, the Supreme Court noted that: "*. . . the exclusive franchises involved in these cases apparently were not accompanied by territorial restrictions.*" (Emphasis added.)

The Commission has distinguished the two systems. *Snap-On Tools Corp.,* a territorial restriction system case, rejected respondent's argument that *Schwing* and *Packard* were controlling on the question of the lawfulness of its territorial restriction agreements. In finding the restrictions illegal, the Commission held: "The cases relied upon by respondent are of little aid here. *Schwing Motor Car Co.* v. *Hudson Sales Corp.* [citation omitted], and *Packard Motor Car Co.* v. *Webster Motor Car Co.* [citation omitted], involved the entirely different situation of exclusive franchises where the manufacturer agreed to sell to no other dealer in a designated area. No restraint upon the dealer was involved." 59 F.T.C. 1035, 1048 (1961), *rev'd.,* 321 F.2d 825 (7th Cir. 1963), *rev'd.,* in effect, by *United States* v. *Arnold, Schwinn & Co.,* 388 U.S. 365 (1967). Recently, in *Glaxo, supra,* the Court clearly distinguished between exclusive representation and territorial restrictions. Its final order permitted defendants to grant exclusive distributorships but enjoined defendants:

"From entering into, adhering to, maintaining or claiming any rights under any agreement or understanding with any of its licensees under any United States patent relating to drugs, which prevents, restrains or limits any party thereto from selling any drug in bulk form, or otherwise prevents, restrains or limits *any party thereto in its free choice of customers or persons with whom it chooses to deal.*" (Emphasis added.)

In clarifying that provision of its Final Judgment, the Court declared that such injunction:

"Is not to be construed to prevent defendant from granting exclusive licenses or exclusive distributorships or to grant licenses limited to particular fields of use under any United States patent relating to drugs." *United States* v. *Glaxo Group Limited,* USAC, Civil Action No. 558–68, dated August 12, 1971.

Thus, it would be disingenuous to clothe a territorial system in the garb of an exclusive representation system for the courts and the Commission have treated them differently, finding territorial restrictions illegal and exclusive representation systems legal.

IV. THE RELEVANT MARKETS: INDUSTRY STRUCTURE

A. Boundaries of the product market

The relevant product market herein issue is composed of that constellation of beverage products which, as set forth in the complaint (Paragraph I), includes concentrate, post-mix syrup, pre-mix syrup, and soft drink products, and combinations thereof. Excluded from relevant product market consideration are such beverages as dairy products, dry mixes, fruit and vegetable juices, cider, natural and artificial spring water, coffee and tea. The Standard Industrial Classification (SIC) reference which best describes the industry characterized by this relevant product market is SIC Number 2086: Bottled and Canned Soft Drinks. *Standard Industrial Classification (SIC) Manual,* 50 (1967).

Within the soft drink market two principal identifiable submarkets exist: the diet soft drink and the non-diet soft drink. Within each of these two principal submarkets there are further submarkets by flavoring, e.g., the colas, lemon-limes, root beers, fruit flavors, and the "World's most misunderstood soft drink." A low degree of substitutability exists among the products in each of these product submarkets.

Concentration Levels Among Syrup Manufacturers and Manufacturers and Soft Drink Bottlers. The soft drink industry is composed of essentially two segments; firms like respondent who manufacture concentrate or syrup which is sold to the licensed bottlers who mix the concentrate with various ingredients, and package the resulting mixture for sale to retail outlets as finished soft drinks under respondent's trade names. Concentration in the shipment of syrup is high. In 1969, the top four firms had approximately 70% of the market, and the top eight firms had approximately 80%. *Soft Drink Industry,* 12 (December 31, 1971) (Estimate of industry expert, John Maxwell). The relative positions of the top firms vary in different regions of the country.

Bottler Concentration. While the national concentration level of bottlers is low, this national indicator is not significant since soft drink bottling is a local business. Large numbers of bottlers hold contracts with more than one respondent which makes the possibility of interbrand competition for the brands sold by each bottlers extremely unlikely. As a result purchasers of soft drinks have only a few bottlers with whom they can deal. For example, in 1963 the four firm concentration levels for nine large metropolitan areas averaged 68%, with a range of from 60% to 81%. *Concentration Ratios in Manufacturing Industry, 1963, Part II.* Total sales of soft drink products including pre-mix and post-mix syrup as well as canned and bottled soft drinks amounted to estimated wholesale sales of 4.8 billion dollars in 1970. Sales had grown by almost 10% from 1969. *National Soft Drink Association Progress Report, 1971.* (13)

Merger Trend Among Soft Drink Bottlers. The number of soft drink bottlers has declined from about 5,200 in 1947 to about 4,400 in 1954, and then to about 4,000 in 1958. As recently as 1963, there remained but 3,600. About 3,000 existed in 1967, but this number dropped to about 2,300 by the end of 1970. Significant is that of those 2,300 bottlers remaining in 1970, about 1600 of them were bottlers of the eight firms named as respondents in these matters (Docket Nos. 8853–59). These eight are the largest and most significant soft drink companies in this industry. The remaining bottlers produce lesser known brands; many of which are regional, proprietary, or private label in nature. As will be established at trial, the merger trend among all bottlers is paralleled in the case of respondent's bottlers.

Product Differentiation and Barriers to Entry. Respondent's products, as well as the products of those other respondents, are highly differentiated products. Tremendous sums are expended each year by all of the respondents in a successful effort to create strong consumer preferences for their products. As a result, a low degree of substitutability exists among consumers for these highly differentiated products. Thus, intrabrand competition is largely ineffective. Moreover, further hampering a competitive market is the fact that barriers to entry in this industry are quite high. New entrants face the difficult task of overcoming the stronger consumer preferences which have been created for the products of established respondents. In fact, recently several major companies have made unsuccessful attempts to enter the soft drink market.

Economic Effects of Territorial Restrictions in a Highly Concentrated Market Having Highly Differentiated Products and High Barriers to Entry. As a result of territorial restrictions all competition between bottlers of the same brand *i.e.*, intrabrand competition, is eliminated. The existence of competition between bottlers of different brands, *i.e.*, interbrand competition, does not diminish the importance of competition between bottlers of the same brands. For prices to be at the lowest level both types of competition must exist. The importance of intrabrand competition is magnified when as here there is an industry in which exists a high concentration level, and where products are highly differentiated and barriers to entry are high. The Cabinet Committee on Price Stability observed that where concentration is high "rivals behave more like monopolists than competitors." *Industrial Structure and Competition Policy, Study Paper Number 2 of the Staff of the Cabinet Committee on Price Stability* 54 (1969). Also stated is that in industries where highly differentiated products exist, high barriers to entry will occur, resulting in higher prices than would be true if competitive economic structure existed. *Supra*, at 43. Consequently, because of the anticompetitive structure of the soft drink industry, elimination of intrabrand competition causes higher prices than would exist if territorial restrictions were eliminated.

B. Appropriate geographic markets

A Relevant Geographic Market is Necessary in Ascertaining the Effects of Territorial Restrictions. Although respondent's products are sold nationally, the restrictions in question, are restrictions on the individual territories of bottlers whose businesses are thereby local in character. Territorial restrictions most typically confine a bottler's operation to a small metropolitan area and certain adjoining territory, or to a part or all of a large metropolitan area.

In *Brown Shoe Co.* v. *United States,* 370 U.S. 294, 336–37, (1962) the Supreme Court noted that as to cases brought under Section 7 of the Clayton Act "the geographic market in some instances may encompass the entire Nation, under other circumstances it may be as small as a single metropolitan area." The guiding principle of determining the relevant geographic markets, noted the Courts, is that it be in accord with commercial reality and be "economically significant." *Id.* In view of the localized nature of a bottler's business, the relevant geographic market for determining the effect of respondent's restrictions is the local markets in which the bottlers operate. See, *United States* v. *Maryland & Virginia Milk Producers Ass'n,* 362 U.S. 458 (1960); *United States* v. *Columbia Pictures Corp.,* 189 F. Supp. 153, 192–94 (S.D. N.Y.).

V. THE VIOLATION CHARGED CONSTITUTES AN UNFAIR METHOD OF COMPETITION

Development of Evidence Concerning Effects of Territorial Restrictions As to the Consuming Public, Competitive Conditions In the Soft Drink Industry and the Competitive Viability of Small Bottlers.

A full record relevant to the violation charged will make manifest the unlawfulness of the unfair method of competition here challenged. Such territorial restrictions will be rendered devoid of these defenses which are affirmatively asserted in their support by respondents' answers. A finding that relief from the anticompetitive effect of this unfair method of competition is necessary and appropriate will be apparent from the full record of evidence to be presented. In presenting such evidence, a record as to (1) the existence of the violation charged, (2) the invalidity of those affirmative defenses asserted, and (3) the consequent relief necessary and appropriate will be developed in the case-in-chief. As these three evidentiary factors all have mutual elements that are interrelated, the convenience of all parties to this adjudicatory proceeding, hearing examiner, witnesses and reporter included, will be best served by a logical development of a full record which clearly relates the unlawful nature of the violation charged.

No implication should be drawn that development of a record beyond that necessary for a *per se* case is either inconsistent with or casts doubt upon the fundamental theory of complaint counsel's case as to territorial restrictions in the soft drink industry: The Violation Charged Consistitutes a *per se* Violation of Section 5 of the Federal Trade Commission Act. That a record is to be developed which extends to matters beyond that necessary to establish such a *per se* violation constitutes a manner of proof which is both logical and convenient, and serves the best interests of all here involved. To this end, therefore, the case-in-chief will develop a readily coherent record setting forth fully during one presentation, the anticompetitive implications of the violation as well as illustrating the invalidity of asserted affirmative defenses, and the necessity of appropriate relief.

Indeed, the underlying purpose of this adjudicatory proceeding is to develop in these hearings a full record of evidence upon which the Commission may order such relief as it finds necessary or appropriate. Enforcement of the antitrust laws in such a manner is particularly appropriate as to the administrative law concepts which underly Section 5 of the Federal Trade Commission Act, and the particular expertise embodied in the Commission. See, *FTC* v. *National Lead Co.,* 352 U.S. 419, 428 (1956). As to relief, the preamble to the order accompanying the complaint issued for adjudication states:

"If, however, the Commission should conconclude from record facts developed in any adjudicative proceedings in this matter that the proposed order provisions as to respondents might be inadequate fully to protect the consuming public or the competitive conditions of the soft drink industry, the Commission may order such other relief as it finds necessary *or* appropriate, or such relief as may be supported by the record to protect the competitive viability of small bottlers." (Complaint, p. 9) Consequently, besides showing the existence of the *per se* violation charged and the invalidity of the affirmative defenses asserted, the record of evidence developed during the case-in-chief in this matter will also show how the violation constitutes an unfair method of competition as to (a) the consuming public, (b) the competitive conditions of the soft drink industry, and (c) the competitive viability of small bottlers.

Post-complaint discovery will be required prior to presentation of the case-in-chief. Since pre-complaint discovery in this matter was primarily directed to developing a *per se* case, only such evidence as broadly describes the structure of the soft drink industry, the effect of territorial restrictions on the consuming public, competitive conditions of the soft drink industry and the competitive viability of small bottlers is readily at hand. However, as is apparent from but a cursory consideration of this trial brief, these challenged territorial restrictions in the soft drink industry constitute far more than only "reason to believe" that a violation exist. Moreover, existence of the evidence to the "discovered" is known. Requisition of it is now proper. Adjudication of this and its companion matters has been referred to by the industry press as an event having landmark significance in the history of the soft drink industry. Indeed, the high repute of respondents' counsel in all of these matters is confirmation of the significance with which it is regarded by the industry. If in fact this is to be a case of such landmark significance, a full record must be developed for the Commission's consideration. To this end, the discovery soon to be requested of all respondents will be specific, and directed toward evidentiary matters pertaining to the case theory which is made manifest by this trial brief being filed now, even prior to an initial prehearing conference in this matter. Discovery documents appropriate for this purpose are being finalized and will be submitted to respondent and third parties within 10 days of the close of the initial prehearing conferences in these matters.

The propriety and appropriateness of developing a full record is indicated *In the Matter of L. G. Balfour Co.,* Docket No. 8435 (July 29, 1968) which clearly recognized the Commission's responsibility when, like here, an industry-wide practice is challenged, to perform a reasonable evaluation of the competitive situation so as to ascertain whether a particular order would be in accord with the purpose of the laws it seeks to enforce. Indeed, as the Commission must in framing and order in this matter, resolve any doubts regarding the appropriateness of relief in favor of the public interest (see, *U.S.* v. *Baosch & Lomb Optical Co.,* 321 U.S. 707 (1944)), a record will here be developed which will support just such a resolution in the public interest, i.e., "in a manner calculated to foster and promote free competitive enterprise." Employment Act of 1946, 15 U.S.C. § 1021–1024. An appropriate framework for an analysis of the manner in which these territorial restrictions hamper free competitive enterprise and constitute an unfair method of competition is provided by those considerations expressed in the preamble as to (a) the consuming public (b) the competitive conditions of the soft drink industry, and (c) the competitive viability of small bottlers.

A. As to the consuming public

In the marketplace individual preferences are what count in the ledger of social values. The whole concept of efficient resource allocation is built upon the foundamental belief that the consumer is sovereign. The nation's economy traditionally relies upon competition to harness the energies of profit-seeking individuals and firms and allow these energies to serve the consumer effectively. To achieve this end as to the consuming public, buyers and sellers operate in markets under a minimum of restraints on structure and conduct. The goals of each are mutually beneficial to both themselves and the national free economic system. Sellers are vying for rewards obtained through the satisfaction of customers. Customers in turn seek to maximize values by the selection of purchases. Competition enlarges and enriches consumer choice.

As to this matter specifically, as to the consumer the question is the manner in, and the degree to which, competition in the soft drink market serves the consuming public. Does it encourage efficiency and reasonably priced products? Does it result in a *genuine* improvement in quality of output? What are the value relationships between such considerations? These essence of violation charged is a simple one-territorial restrictions which foreclose intrabrand competition. Although these restrictions are imposed by the respondent licensor upon its independent licensed bottlers, the consequent anticompetitive effects of this unlawful restraint does not make itself work clearly manifest in the sales transactions between respondent licensor and independent licensed bottler. Rather, it is in the subsequent sales transactions in which these bottlers, in marketing their soft drink products to retail outlets are prohibited from engaging in intrabrand competition, that the impaired benefits of a free enterprise system become manifest.

Indeed, an appropriate analogy would be that the consumer could buy a particular brand name automobile from but one dealer in a particular geographical area. As becomes apparent from a consideration of the charged violation's anticompetitive effect upon competition in the soft drink industry as well as the competitive viabilty of small bottlers, the soft drink consuming public is not well served by these territorial restrictions and their consequent foreclosure of intrabrand competition.

B. As to competitive conditions in the soft drink industry

In several specific instances, the fact that competitive conditions of the soft drink industry are severely impaired by these challenged territorial restrictions becomes most apparent. At this early stage of this matter, and in this trial brief filed prior to the initial prehearing conference, the discussion hereinafter set forth is best illustrative of such consequences. In the course of further adjudication, such matters in this regard will be developed on the record with greater specificity.

1. *Territorial Restrictions Prevent Food Retailers From Getting the Benefits of Central Warehouse Delivery.*

Respondents' territorial restrictions foreclose use of more efficient methods of distribution than the currently prevalent store delivery method now in use whereby each bottler services retail stores individually as to the brands it is authorized to market. Bottlers are now, in effect, prohibited from selling to the central warehouse of grocery wholesalers and food chain retailers. Respondents impose such restrictions on the ground that since warehouses cover an area wider than that of one bottler, selling to a central warehouse is the equivalent of selling outside the bottler's specified territory.

Central warehouse delivery has certain inherent cost advantages from the standpoint of both the bottler and the purchaser. Instead of laboriously stacking by hand cases of soft drinks on carts and pulling the cart into each store, forklift trucks can be used to move palletized loads of soft drinks in a central warehouse, and then to load the soft drinks on trucks for delivery to retailers. Also, soft drinks can be shipped into the warehouse by tractor-trailor vans or by rail car. Obviously, central warehouse delivery results in savings of delivery expenses to the bottler.

The advantages of central warehousing to the retailer are manifest. Specifically, however, it must be emphasized that the benefits of central warehouse delivery are not limited to food chain retailers. Other such advantages are available to all food retailers, and is especially beneficial to the smaller retailer. Independent food retailers whether they are supermarket size or corner, convenience store size purchase most of their products from wholesalers who receive truckloads of soft drinks. Many independent retailers belong to cooperative wholesalers in which the retailer members own the warehouse and advertise together. Other independent retailers belong to voluntary groups in which the wholesaler is an independent business but with the retailer members also advertising under a common trade name. Smaller food retailers may purchase grocery products from cash-and-carry warehouses operated by grocery wholesalers.

Bottlers can provide soft drinks to warehouses more cheaply than to individual stores. Delivery of soft drinks to the retailer as part of its regular warehouse shipment from the food wholesaler is a less costly method of delivery. Hence, central warehouse delivery constitutes a more efficient method of distribution than that one now permitted, i.e. direct bottler-to-retail outlet in a certain specified territory. This is so primarily because the delivery costs of truck and driver are spread over many more items. As a result, the lower ultimate cost to the retailer under the central warehouse system enables him to offer lower prices to consumers. Such prices are assured when intrabrand competition is allowed to exist.

To the small food retailer even more so than the large retailer, reducing the number of store deliveries is quite beneficial. The small food retailer frequently has few employees and thus each delivery forces him to take time away from his customers while he checks in the delivery. Instead of six soft drink trucks a week the soft drinks can be delivered as part of the retailer's regular grocery order; freeing the retailer to spend his time more productively with his customers. Other advantages are a reduction in the number of invoices to be processed, and the loss by theft through numerous back door openings.

Retailers and bottlers have been denied the opportunity to determine the benefits of central warehouse delivery of soft drinks. Perhaps retailers prefer delivery by numerous bottlers and bottlers will not wish to make more efficient central warehouse deliveries. However, retailers and bottlers must be permitted to allow the economics of central warehouse delivery and store delivery decide which system they deem best for them rather than having the decision forced upon them by respondents.

2. *Effect of Territorial Restrictions on Prices*

The territorial restrictions within which respondents' bottlers operate do not coincide with the relevant geographic markets in which it is economically feasible for these bottlers to sell soft drinks. Existence of such imposition upon bottlers of a gerrymandered, unrealistic and uneconomic market is illustrated by an examination of the markets served by private label bottlers i.e., bottlers manufacturing soft drinks primarily for sale to grocery wholesalers and chain stores under its owner or the purchaser's name. These markets encompass much broader areas than the arbitrarily drawn ones served by respondents' bottlers. Private label bottlers sell in as large an area as they find distribution economically feasible. Moreover, in those few instances where territorial restrictions have broken down as to respondents' bottlers, they too have found it economically feasible to transport soft drinks over a much greater distance than the perimeters of the territorial boundaries set by respondents' fiat and not market realities.

Also significant is that some of respondents' bottlers operate in much larger territories than others. The reason for their larger territories, however is not the result of the normal competitive processes. Instead it is the result of such larger bottlers having acquired their neighboring bottlers; or more rarely, of having the good fortune to have originally been allotted large pieces of real estate. Finally, in some areas of the nation, regional soft drink companies exist, these companies generally sell their products bearing their brand name in a more extensive geographic area than do respondents' bottlers. In summary, that respondents' bottlers can economically serve much wider areas than they currently do is made manifest by comparison of accepted food retailing markets and the territories of those bottlers located in that area.

In most geographic areas the warehouses operated by cooperative wholesale grocers, voluntary wholesale grocers and supermarkets, distribute food products over an area spanning many of respondents' bottlers. For example, a wholesaler grocer may from one warehouse serve an area in excess of one hundred fifty miles in every direction; an area in which ten or more of respondents' bottlers may operate. The areas served by these warehouses are generally similar in scope to the area served by bottlers who are unencumbered by territorial restrictions or by those of respondents' bottlers which may have chosen to participate in intrabrand competition in this free enterprise system.

The operators of grocery warehouse frequently will, upon completion of their grocery deliveries to retailers return to the warehouse with a load of merchandise from some nearby producer instead of returning empty. This practice of greater equipment maximization is called "backhauling." Any bottler who is within the delivery area could easily sell these warehouses; whether by use of such backhauling from its bottling plant by central warehouse customers or by making large unit palletized deliveries to central warehouse customers with its own trucks.

Significant price differences exist among respondents' bottlers within a relevant geographic area within which they could economically market if the restrictions were ended. In the absence of the restrictions, the desire wholesalers and retailers to purchase their products at the lowest price level would cause the wholesale prices of soft drinks within a relevant geographic area to gravitate toward the lowest price offered by one of respondents' bottlers. Indeed, such is a function of the free enterprise system.

3. Territorial Restrictions Subvert the Policies Enunciated in Section 7 of the Clayton Act and Sections 2(d) and 2(e) of the Robinson-Patman Act by Rendering these Laws Nugatory as to Soft Drinks:

In enacting Section 7 of the Clayton Act, Congress sought to assure the Federal Trade Commission and the courts the power to deal with the increasing trend toward concentration. *Brown Shoe Co.* v. *United States* 370 U.S. 294, 317–18 (1962).

Because territorial restrictions foreclose any possibility of intrabrand competition between respondent's bottlers, courts and the Commission cannot easily prevent anticompetitive acquisitions from occurring. This is so because, since respondents' bottlers do not compete with each other, acquisitions by such bottlers do not diminish competition. A recognized merger wave among bottlers began over a decade of years ago and has continued to gather momentum. Unless territorial restrictions are declared unlawful the Congressional mandate that anticompetitive mergers be checked will not be satisfied. Surely Congress did not intend to have its will subverted by private parties who claim exclusion from the competitive free enterprise system which the antitrust laws seek to assure.

Similarly, Sections 2(d)a 2(e) of the Robinson-Patman Act, 15 U.S.C. 13(d), 13(e), prohibit a seller from granting promotional allowances or services to customers unless they are available to all competing customers on *proportionately* equal terms. That is another portion of the antitrust laws regulating free competitive enterprise with which respondents need not concern itself. As their bottlers, customers clearly do not compete with each other, now due to the territorial restrictions which are imposed upon them, this statute is also unenforceable. Thus, if respondents discriminate in the granting of services and allowances, neither the discriminated party nor the Commission can seek a remedy. The law abhors such a situation.

In enacting Section 7 of the Clayton Act and Sections 2(d) and 2(e) of the Robinson-Patman Act, Congress did not carve out any exemption for the soft drink industry. Yet, the current situation is as if Congress had exempted these respondents and their bottlers. The merger wave in soft drink bottling can continue unabated, as can discrimination in the granting of allowances and services. Nothing can be done about these situations so long as territorial restrictions continue. Important Congressional policies such as these cannot be easily subverted.

C. As to the competitive viability of small bottlers

Territorial Restrictions Here Challenged Have Adverse Economic Effects Upon Small Bottlers. Predictions of doom for small bottlers without territorial protection are at least questionable if one considers only successful small business operations in other industries which do not have such restrictions. But there are other obvious flaws in this argument.

The assumption that territorial protection preserves small businesses has no more validity for the soft drink industry than it does for other businesses. The steady and sharpening decline in the number of small bottlers in recent years, the loss of market share to private brand bottlers, and other similar development well illustrate the present vulnerability of those small bottlers whose territories limit their competitive capabilities. Survival or success under the present territorially-limited system thus may not depend on a bottlers' industry, judgment, or skill, the economies of his operations or the quality of his service, as much as it does on the boundaries of his territory.

Proscribing competitive opportunities for growth cannot really protect the inefficient, even if that was desirable. Such restrictions as these here challenged do limit the competitiveness of the efficient large and small bottlers.

That certainly is undesirable. Moreover in some instances the territories of bottlers are too small to support a plant of efficient size. Because of the territorial restrictions such smaller bottlers cannot attempt to expand their territories so as to have a large enough marketing area to support an efficient plant. Consequently, these bottlers have the choices of continuing to operate a high cost plant, sell out to a neighboring bottler or purchase a neighboring bottler.

Although there is ample reason to doubt that the territorial limitations "protect" small bottlers, the Commission has in the preamble specifically expressed its concern about the implications for small bottlers of the relief proposed in the complaint. The Commission has adequate power to tailor its orders in this matter so as to remedy the violations and minimize the possible damage to small bottlers. Possibly, an appropriate order might require some divestiture of assets, forbid or only conditionally permit certain types of transactions, and preserve some territorial limitations for a further period of time. Finally, nothing in the Commission's action is designed to have any effect on bottlers' claims against their licensors or damages caused by reason of the antitrust violations charged in these actions.

VI. AFFIRMATIVE DEFENSES ASSERTED BY RESPONDENTS

A. Prior court decree deprives Commission of jurisdiction

Asserted by respondent is that, to the extent that this proceeding seeks to alter, modify, or otherwise affect the rights and obligations of respondent under a prior judgment, *The Coca-Cola Bottling Co.* v. *The Coca-Cola Co.*, 269 F. 796 (D. Del. 1920), the Federal Trade Commission is without jurisdiction or authority to ask. (Coke Answer, pp 4–5, Thomas Answer, pp 6–7).

However, in so doing respondents must rely heavily on a consent decree resulting from the 1920 proceeding in the federal District Court which they assert upholds the lawfulness of the territorial restriction provisions of the type here challenged in this matter by the Federal Trade Commission. As illustrated by that case after discovering how profitable the bottling business was, Coke attempted to cancel the agreement it had made with the Thomas Bottling Co. which gave to Thomas the exclusive right to bottle soft drinks under the Coca-Cola trademark in all but a few states. The contention made there by Coke and relied upon as to this matter, was that Coke had violated the Sherman Act by entering into such a territorial restriction with Thomas, which itself had subsequently subdivided its territory. The Court, however, held the contract lawful under the ancillary restraint doctrine, and thus no violation of the Sherman Act was found to support the Coke contention.

Such result was in a court of equity, and did justice to the parties there involved. However, it should not be relied upon in this proceeding. At issue there was a contractual action. Although a contract may be invalidated if it violated the antitrust laws, it is fundamentally inequitable to allow one contracting party to use its own wrongdoing to invalidate a contract.

Moreover, a decision in favor of Coke would have furthered monopoly. In this regard the court stated that:

"[T]he effect of the contract . . . was the complete severance of the bottling business from the business of supplying soda fountains with the syrup, while the result which the defendant seeks under statutes intended to prevent monopoly would give to the defendant a complete and exclusive monopoly of both the fountain and the bottling business. The accomplishment of this result through the instrumentality of the antimonopoly statutes would, indeed, be unique." 296 F. at 813.

In this proceeding, restrictions are to be sought as part of an appropriate remedy which would prevent respondents from making any such acquisition of bottling companies. (See Trial Brief, pp. VII–1 *infra*).

Not considered by the district court were the territorial restrictions in the individual bottler contracts. Rather, only considered was the agreement between Coke and Thomas. Although the individual bottlers became bound by a later consent decree, the actual issue of individual bottler restrictions was not dealt with specifically in this decision and because of the consent decree procedure, was never fully adjudicated by the court.

B. Failure to join indispensable parties; i.e., the bottlers

Asserted by respondents is that the complaint in this proceeding in challenging certain provisions of contracts between respondents and third parties, i.e., the bottlers, has failed to join in this proceeding such third parties, which are alleged to be indispensable hereto because such contracts have been judicially held to be valid and lawful transfers of "property rights", and "perpetual" in value. (Coke Answer, p. 5; Thomas Answer, pp. 7–8.)

Although raised by answers as an affirmative defense (Answer, p. 1–5), this question is also asserted in a separate motion to dismiss filed August [31, 1971 by Dr. Pepper]. An answer to such motion of Dr. Pepper was filed September 9, 1971. As this answer fully responds to the contention, no further discussion of the matter appears warranted at this time.

Nevertheless, because this contention is one raised by all respondents but Royal Crown in each of these substantially identical matters (Docket Nos. 8853–59), and also reasserted by motion it presents a legal question having like factual background as to all respondents; and thus, a matter well suited for disposition in a common manner at one time to all matters, and at one pre-hearing conference if such hearing is deemed necessary. By its nature, these contentions are of the type which can appropriately be resolved prior to the commencement of hearings.

C. Neither the statute of limitation bar this proceeding, nor does laches

As to the Statute of Limitations: Respondents assert that the Federal Trade Commission is prevented from proceeding in this matter by virtue of the statute of limitations, 28 U.S.C. § 2462 (1965). (Coke Answer, pp. 5–6; Thomas Answer, p. 8.) It reads in pertinent part as follows:

". . . an action, suit or proceeding for enforcement of any civil fine, penalty or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued if the offender or property is found within the United States in order that proper service can be made thereon."

An antitrust proceeding such as the present one is not the type of action intended to be covered by the above statute. Clearly, this proceeding does not seek to enforce a "civil fine, penalty or forfeiture." Because the primary purpose of the antitrust laws, and especially the Federal Trade Commission Act, is to restore competition rather than punish offenders, application here of the statute of limitations concept is unwarranted. *U.S.* v. *duPont & Co.*, 366 U.S. 316, 326 (1961).

In private treble damage actions, which would appear to be more in the nature of penalty or forfeiture actions than suits in the public interest, it is well settled that such actions are compensatory rather than in the nature of a penalty or forfeiture. Thus, 28 U.S.C. § 2462 is held not applicable. *Chattanooga Foundry & Pipe Works* v. *Atlanta*, 203 U.S. 390, 397 (1966); *Huntington* v. *Attrell*, 146 U.S. 657, 668 (1892); *Brody* v. *Daly*, 175 U.S. 148, 155, 156 (1899); *Greene* v. *Lans Amusement Co.*, 145 F. Supp. 346 (D.C. Ga. 1956); *Florida Wholesale Drug* v. *Ronson Art Metal Works*, 110 F. Supp. 573 (D.C.N.J. 1953).

Civil cases brought by the government have reached the same conclusion. In *FTC* v. *Ruberoid Co.*, 343 U.S. 470 (1952), a price discrimination case under § 2(a) of the Robinson-Patman Act, respondent attached the breadth of the order. The court stated, "Orders of the Federal Trade Commission are not intended to impose criminal punishment or exact compensatory damages for past acts, but to prevent illegal practices in the future." 343 U.S. at 473. See also, *U.S.* v. *National Lead Co.*, 366 U.S. 316, 326–327 (1961) "Courts are not authorized in civil proceedings to punish antitrust violators, and relief must not be punitive."; *Hartford-Empire Co.* v. *U.S.*, 323 U.S. 386, 409 (1945), *clarified*, 324 U.S. 570 (1945). Therefore, neither 28 U.S.C. § 2462 nor any statute of limitations concept is applicable to this proceeding.

As to Laches: The Federal Trade Commission is not guilty of laches in filing this complaint at this time. The equitable doctrine that the alleged practice have been in open and widespread use for over sixty years is of no relevance to the timeliness of these proceedings. Moreover, even if a laches-like situation is shown to exist, this cannot operate as a bar to governmental action in the public interest such as is inherent in these proceedings.

The inapplicability of a laches concept has long been recognized in Federal Trade Commission actions. In *F.T.C.* v. *Algoma Lumber Co.*, 291 U.S. 67 (1934), the Commission alleged that respondent's use of the name "California white pine" for its timber products was a deceptive practice in violation of § 5. Respondent asserted that it had used this name for over 30 years without fraudulent design. In dismissing this defense, Justice Cardozo said:

"There is no bar through lapse of time to a proceeding in the public interest to set an industry in order by removing the occasion for deception or mistake unless submission has gone so far that the occasion for misunderstanding, or for any so widespread as to be worthy of correction is already at an end.

. . . Till then, with every new transaction there is a repetition of the wrong." 291 U.S. at 80.

In an earlier opinion, the Court had said that "as a general rule laches or neglect of duty on the part of officers of the Government is no defense to a suit by it to enforce a public right or protect a public interest." *Utah Power & Light Co.* v. *U.S.*, 243 U.S. 389, 409 (1917). This rule was reiterated in a recent deceptive advertising case brought by the Federal Trade Commission. *U.S.* v. *Vulcanized Rubber and Plastics Co.*, 178 F. Supp. 723, 726 (E.D. Pa. 1959), *aff'd*, 288 F. 2d 257, *cert. denied*, 368 U.S. 821. See also, *FTC* v. *Bunte Bros.*, 312 U.S. 349, 352 (1941).

The defense of laches has long been held inapplicable in suits by the United States when asserting its rights as a sovereign to enforce a public policy. See, VI *Toulmin Antitrust Laws*, § 18.9 (1951). In a conspiracy action under the §§ 1 and 2 of the Sherman Act the court in *United States* v. *General Instrument Corp.*, 87 F. Supp. 157, 164 (D. N.J. 1949), stated in response to the defense of laches:

"To develop the facts necessary to initate an action of the scope here involved required a tremendous investigatory task. The plantiff was not placed on notice leading to a reasonable belief of suppression of completion in violation of the Sherman Act in the production of variable condensers until sometime during the war emergency a bottleneck developed in variable condenser production. Its proofs included many documents designed to show the situation of the defendation the setting in which the alleged conspiracy was established, the state of the industry within which the alleged conspiracy operated, and those preliminary and collateral matters necessary to present the alleged conspiracy in its context of operating facts. These necessitated minute and detailed study to develop the facts. Furthermore, since the United States is asserting right as a sovereign to enforce a public policy, this defense as a matter of law is inapplicable, for the United States is not the nominal but the real plantiff. *U.S.* v. *Beebe*, 127 U.S. 338, 344, *U.S.* v *Insley*, 130 U.S. 263, 266, 9 S. Ct. 485, 32 L.Ed. 968." *U.S.* v. *General Instrument Corp.*, 87 F. Supp 157, 164 (D. N.J. 1949).

See also, *U.S.* v. *California*, 332 U.S. 19 (1947); *U.S.* v. *Summerlin*, 310 U.S. 414 (1940). On the basis of these precedents any contention that laches bars this proceeding should be dismissed summarily.

D. Violation of due process results possible subjection to conflicting decrees

An issue of possibly conflicting decrees is said to arise from the possibility that the Commission will find territorial restrictions unlawful which, respondents argue, would be inconsistent with the final decree in *The Coca-Cola Bottling Co.* [*Thomas*] v. *The Coca-Cola Co.* [*Coke*] *supra*. The decree entered in that 1920 case was a contract entered in the form of a consent judgment following the decision and while the case was upon appeal. That contract provided, among other things, that Coke could not sell in Thomas' territory or permit anyone else to do so without Thomas' consent.

Asserted by both respondents Coke and Thomas is that if this Commission proceeding results is a finding that territorial restrictions are unlawful, and that the finding is affirmed by appellate courts, that respondents will be forced to disobey either the Commission order prohibiting the restriction or the 1920 decree of the District Court.

Specifically, Paragraph 8 of the judgment provides that Coke would not have the right to sell within the territory of Thomas nor could Coke "permit or license anyone else to do so" without Thomas' permission. Thus, the contract does not prohibit the 223 bottlers of Coke products which have their contracts with Thomas from competing with each other nor does it prohibit the approximately 650 Coke bottlers who are parties to contracts with Coke, not Thomas, with competing with each other. Consequently, no inconsistency exists between the two decrees as to this type of competition here in issue. What is clearly prohibited is that Coke itself cannot sell its products within the Thomas bottlers' territories. A prohibition on Coke competing with its bottlers for a period of time is contemplated by complaint counsel and is discussed in the remedy section.

In many ways the potential conflict in this matter is similar to that presented in *Federal Trade Commission* v. *Cement Institute*, 333 U.S. 683 (1948). There the Supreme Court held a multiple basing point pricing system employed by 74 members of the Cement Institute to be a violation of the Federal Trade Commission Act. Defendants argued that the Commission's decision was inconsistent with a case previously brought by the Department of Justice against many of the same defendants as to the *FTC* v. *Cement Institute* proceeding. That previous decision, *Cement Mfgrs. Protective Assoc.* v. *United States*, 268 US.. 588 (1925), "the *Old Cement* case," found that the multiple basing point pricing system was lawful under Section 1 of the Sherman Act.

Rejecting the argument that the earlier decision estopped the Commission, the Supreme Court held:

"The Court's holding in the *Old Cement* case would not have been inconsistent with a judgment sustaining the Commission's order here, even had the two cases been before this court on the same day."

Also noted was that the issues were somewhat different, and that:

"In the second place, individual conduct, or concerted conduct, which falls short of being a Sherman Act violation may as a matter of law constitute an 'unfair method of competition' prohibited by the Federal Trade Commission Act. . . . The Commission and the courts were to determine what conduct, even though it might then be short of a Sherman Act violation was an 'unfair method of competition'." *Supra*, at 708.

The Court further stated in this regard that Congress' enactment of the Federal Trade Commission had as its purpose the supplementing of the enforcement of the Sherman Act 333 U.S. at 692. Thus, the Court recognized that a Sherman Act action could result in a dismissal of the action. This is essentially what happened in the "*Coke* v. *Thomas*" case—a Sherman Act issue was raised as to the division of the bottling business from the fountain business. There the court found that no violation had occurred. More significant here, however, is that the court did not find that territorial restrictions as to individual bottler contracts were lawful. This issue was dealt with only to the extent discussed earlier, and then only in a settlement agreement between the parties which was entered as a consent judgment.

In *Cement Institute*, the Supreme Court recognized that subsequent actions against the identical conduct might be brought by the Commission, the result of which could result in the conduct being declared illegal under the Commission's broader statute. Thus, the earlier judgment would be subservient to the Commission's since Congress had clearly intended the Commission to supplement antitrust enforcement and not be hindered by the Sherman Act cases in doing so. Certainly Congress did not intend a private settlement agreement prior in 1920 between two private parties, when charged in 1971 by the Commission, to interfere with the Commission's determination as to whether the challenged conduct of the two parties is lawful.

E. The proceedings are devoid of public interest

But to read the trial brief, indeed if only to scan its table of contents, makes manifest the invalidity of the contention that these proceedings are devoid of public interest. Its issue is a per se violation. The Commission has indicated its reason to believe that respondents have violated the Federal Trade Commission Act. Consequently, the proceedings are in the public interest See *Hershey Chocolate Co.* v. *FTC*, 121 F. 2d 968 (3d Cir. 1951); *Hills Bros.* v. *FTC* 9 F. 2d 481 (2d Cir. 1926), *cert denied*, 270 U.S. 662 (1926). (Coke Answer, p. 7, Thomas Answer, p. 10).

VII. AN APPROPRIATE REMEDY

Prohibiting Vertical Integration. As will be developed by the record in this matter, the prohibition of vertical integration between respondents and bottling companies for a period of time appears an appropriate part of any relief ordered in this matter. Since the very reason for this proceeding is to stimulate intrabrand competition, to eliminate territorial restrictions while doing nothing to prevent respondents from acquiring potential competing bottling companies would be anomalous.

Respondents Coke and PepsiCo, are the largest bottlers in the United States. Coke has bottling operations in 26 areas and has sales of approximately $123 million in 1967. PepsiCo has bottling operations in 25 areas, and has sales of approximately $116 million in 1967. Other soft drink companies have much less extensive bottling operations but may be tempted to integrate forward when the territorial restrictions are eliminated.

Because of the potential anticompetitive effects of dual distribution in this industry, any order should prohibit respondents from making any acquisitions of bottling companies for a period of years. For the same reason, the order should prohibit respondents from integrating into bottling by establishing new plants in the territories of other bottlers. Also, respondents' wholly-owned bottlers should be ordered to adhere to existing territorial boundaries for a period of years; however, such an area would not extend this prohibition on sales to customers that ship the products outside of the bottlers' territories.

A prohibition on building new plants and on restricting the companies to their current territories would provide a period of time in which small bottlers could merge into, efficient medium-sized units, thereby becoming better able to compete with their licensors' bottling operations when these restrictions are eventually removed. By restricting the soft drink companies from engaging in these activities and by bringing proceedings against anticompetitive acquisitions of smaller bottlers by large bottlers, the smaller bottlers will inevitably merge into medium-sized units. These units will be sufficiently large to have the necessary economies of scale needed to compete with large bottlers. This suggested policy is in accord with the Commission's recent decision in *Kennecott Copper Corp.*, 3 Trade Reg. Rept. par. 19,619, at 21,668–69 (F.T.C. 1971). Noted there was the desirability that merger activity be channelled toward smaller firms. Also, this remedial devise would protect small bottlers from being driven out of business by dual distribution practices of respondents.

VIII. CONCLUSION

In conclusion, that this brief is being filed at a time even prior to the initial prehearing conference in this matter is a fact which cannot pass without comment. Moreover, six other similar trial briefs are being filed this week in those soft drink territorial restriction matters which are companion cases to this proceeding. Of course, all such briefs are readily available to all respondents in all seven of these substantially identical pending matters. Consequently, at an early stage in these proceedings the theory of the complaint counsel's case-in-chief and remedial action thought appropriate has been set forth in detail for respondents enlightment. Moreover, complaint counsel did so in compliance with an order, the principle rational of which had been subsequently rendered moot by the denial of the requested consolidation of all seven of these matters now pending to the extent stated. (See Orders dated September 7, 1971 and September 29, 1971.)

No dissatisfaction is indicated by the required compliance with the order. Indeed, hopefully this early effort will promote an expeditious adjudication of these matters. Nevertheless, to this end, similar early filing by each respondent of a like effort in response to that now filed would appear appropriate. Also, being set forth at such an early date, certain latitude is sought within which to further develop and supplement the concepts and arguments expressed herein. This is especially so, under the circumstances here present, where the anticipated post complaint discovery has to date not yet been sought. However, of most immediate significance is that respondents file in the immediate future a response hereto so that all parties in this matter may be equally informed, and put on notice of each others' contentions, at these initial stages in this proceedings.

For the foregoing reasons, as heretofore set forth in this brief, complaint counsel submit that, based upon a complete record of reliable, probative, and substantial evidence, the violation charged by the complaint will be proved to constitute an unfair method of competition and unfair acts or practices, in commerce, in violation of Section 5 of the Federal Trade Commission Act; and consequently, the entering by the hearing examiner of an initial decision stating such findings, setting forth appropriate conclusions, and containing the requisite order would be appropriate.

Respectfully submitted.

ROBERT B. LEE,
DAVID I. WILSON,
Complaint Counsel.

Dated: October 18, 1971.

COMMEMORATION OF LITHUANIAN INDEPENDENCE

Mr. PROXMIRE. Mr. President, it is my privilege today to pay tribute to the gallant and courageous people of Lithuania who today celebrate the 54th anniversary of Lithuanian independence. On February 16, 1918, after centuries of forced servitude to the crowns of Poland, Germany, and Russia, these determined people proudly proclaimed the new independent Republic of Lithuania.

As freedom came to this citadel of Christianity on the Baltic it nobly assumed all the responsibilities concomitant with democracy. Soon the new representatives of the Lithuanian people began to institute land reforms, reestablish industry and transportation facilities, and undertake the resolution of social and educational problems. Their commitment and perserverance in the struggle for liberty for over two decades earned the young republic the sobriquet of "Little America." It was with great pride that this Nation looked upon the progress and success of her sister state.

But this joy was shortlived when, in 1940, Soviet troops marched into the Baltic and once again occupied Lithuania along with Latvia and Estonia. This act stands as one of the foremost violations of international law in the history of the civilized world. Those valiant Lithuanians, either living under Russian rule or scattered throughout the free world, are living testimony to Soviet tyranny. Those too young to remember or understand this shameful deed need only recall the Russian invasion of Czechoslovakia in 1968 for a recent repetitive example.

The flame of freedom remains kindled in these brave people of the Baltic as Lithuanians everywhere continue to work and pray for a new day of independence. Theirs has been a long struggle, but they remain undaunted. As they celebrate their day of glory the United States joins in their denunciation of Soviet oppression. Throughout the past 22 years our Government has continued to recognize the Baltic governments-in-exile as the true representatives of the peoples of Lithuania, Latvia, and Estonia.

Today, as we speak in honor of that great moment of independence 54 years ago, all Americans should recommit themselves to those principles of freedom and justice which the Lithuanians proudly propounded in 1918.

THE NEW HAMPSHIRE SOIL CONSERVATION PROGRAM CONTINUES ITS EXCELLENCE

Mr. McINTYRE. Mr. President, I had the chance to meet this morning in my office with leaders of the New Hampshire soil conservation program.

Present were the State conservationist, Don Burbank, of Durham, Mr. Richard Vappi, of Moultonboro, the president of the New Hampshire Association of Conservation Districts, and his lovely wife; Mr. Robert Hibbard, of Loudon, Mr. R. S. Berry, of Stratton, and Mr. John York, of Kensington, the past president of the Association of Conservation Districts.

They presented me with the 1971 report of accomplishments for the districts in New Hampshire.

Once again I was deeply impressed with what has been accomplished by this vital program. This is truly one of our finest programs because it is a significant partnership of Federal, State, local, and individual effort to preserve our natural resources and make this a better nation for now and for future generations.

I wish to compliment the leaders who visited with me for their dedication to this cause and through them the thousands of others in New Hampshire who participate in this program and the millions throughout the Nation who work with the U.S. Soil Conservation Service and the conservation districts who accomplish so much with so little.

I am deeply concerned that the administration has called for a cutback of $23 million in soil conservation funds for this year. This cutback will strike a particular blow at the corps of environmental conservationists. I for one will have to see a lot more justification than is currently available to support any such cut in this most important program.

Mr. President, so that Senators may be aware of the many and significant accomplishments in soil conservation in New Hampshire this year, I ask unanimous consent to have printed in the RECORD the written material presented to me this morning on 1971 conservation highlights in New Hampshire.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IN PARTNERSHIP WITH CONSERVATION DISTRICTS AND OTHERS

One of the strengths of the conservation movement in New Hampshire is the dedicated service and cooperation from the many agencies and organizations. Among the most important of these agencies is the local conservation district.

The Soil Conservation Service provides technical assistance to all who advance the district's objective of using and treating our soil and water resources as needed within their capabilities.

Funds and services from local and state government, private individuals and organizations have all helped to promote the conservation effort. These contributions in 1971 were estimated to be $395,000. Conservation districts continue to seek ways to acquire funds to support an Executive Secretary and staff to more adequately support and carry out the District program.

ASSISTANCE TO INDIVIDUALS AND GROUPS

During 1971, the Soil Conservation Service provided technical assistance to 6,868 landowners and groups in solving their soil and water problems. The following are some of the major conservation practices applied during the year:

Diversions, 6,143 feet.
Fish Stream Improvement, 15,800 feet.
Hedgerow Planting, 8,500 feet.
Drainage Field Ditches, 20,155 feet.
Tile Drains, 46,275 feet.
Pasture and Hayland Management, 9,087 acres
Ponds, 166 number.
Access Roads, 255,278 feet.
Recreation Trail and Walkways, 73,300 feet.
Wildlife Wetland Management, 1,573 feet.
Wildlife Upland Management, 7,660 acres.
Woodland Improvement Harvest, 2,164 acres.
Land Adequately Treated, 41,711 acres.

OTHER ACCOMPLISHMENTS

Soil Survey, 192,501 acres.
Conservation Plans Prepared, 117 number.
New District Cooperators, 330 number.
Resource Inventories and Evaluations, 3,523 number.

ASSISTANCE TO COMMUNITIES

Our challenge in New Hampshire is to get conservation principles into the political decision-making process for land and water use decisions—at state and community level; to accelerate greatly the soil survey mapping, especially in the southern part of the state; and to base land use on its ability to sustain use and retain the quality of the base for future use.

Town meeting 1971 saw community consideration of a number of planning and environmental warrants. The positive votings on some of the items on the warrants are as follows: 21 communities established conservation commissions; 24 communities voted to join new or existing regional planning commissions; 9 communities voted to establish planning boards; 8 communities passed land use regulations; and 20 communities voted authority to planning boards to review subdivisions.

Some of the highlights of the assistance given to communities in 1971 included:

Assistance in the evaluation of 10 sites as possible locations for 5 new school plants.

Evaluation of 22 sites as to suitability for sanitary landfill operations for 25 towns.

Help officials in 15 towns prepare resource plans for the development of water supplies for rural fire suppression.

Provide technical assistance for installation of 23 reservoirs and 43 suction-type hydrants as part of town fire suppression plans.

Provide resource data to 31 towns for use in developing or amending land use regulations.

ASSISTANCE THROUGH THE RESOURCE CONSERVATION AND DEVELOPMENT—NORTH COUNTRY PROJECT—COOS, CARROLL AND GRAFTON COUNTIES

The North Country Resource Conservation and Development (RC&D) Project continues to coordinate a multi-agency effort that is adding to the well-being of New Hampshire's northernmost people through resource development. RC&D is the catalyst that is making things happen.

Throughout the north country men and machines are at work on various kinds of community resource improvement: a housing development for the elderly is going up in Littleton; nature trails and labs are being installed at several project area schools; 6,000 junk cars have been collected and sent on their way; a low-cost incinerator for small town use is being developed; eroding streambanks are being riprapped; recreation areas are being developed; and large tracts of low value forests are being renovated.

The 28 new requests for community assistance in 1970–71 make a total of 63 requests that are now being investigated and planned, 32 that have been planned and are being installed, and 25 that have been completed this past year. These 120 active and completed project measures represent an estimated increase in annual gross income in the project area of over $2.75 million.

ASSISTANCE IN CONSERVATION EDUCATION

Some of the major conservation gains during 1971 are that most colleges and secondary schools are setting up curricula for teaching conservation principles and developing conservation standards for various uses of resources.

Teachers' workshops, supported by schools and conservation agencies, give classroom knowledge of resource conservation and its importance to America.

This past year several of our personnel participated in a teachers' workshop held at Mr. Cardigan Lodge. Approximately 40 teachers at the elementary, high school and college level attended the one-week session. Many of our other people gave talks to students in the classrooms.

The Soil Conservation Service provided planning assistance to 17 schools for the development of outdoor laboratories for teaching about natural resources.

ASSISTANCE IN SOIL SURVEYS

Modern soil surveys have been published for Merrimack, Rockingham, and Belknap Counties. Strafford County is scheduled for publication in 1972. The published soil survey identifies the local of each kind of soil in the county on aerial photographs. The narrative of these publications provides valuable information for land use planning activities.

Ceremonies to commemorate the completion of the soil survey field work in Strafford County were held on William Champlin property in Rochester.,

Individual community soil reports and maps used in connection with land use planning have been prepared at the request of more than 40 communities throughout the State.

Three thousand one hundred requests for soil survey data were serviced this past year for landowners and developers in connection with applications to the State for the construction of sewage or waste disposal systems.

ASSISTANCE THROUGH SMALL WATERSHED PROGRAMS

Seventeen PL 566 watershed applications have been received. The total drainage area of these watersheds covers approximately one-fifth of the state. Two watershed projects have been completed and four more are currently under construction. The estimated cost of these six projects is $18.8 million, of which $11.8 million is PL 566 funds. These projects will provide over one-half million dollars of average annual benefits to local communities.

The Sugar River Watershed, the largest project planned to date, involves a total expenditure of $8 million, of which about one-half is PL 566 funds. In addition to land treatment, the plan includes ten floodwater retarding structures, six of which are multiple-purpose sites providing nearly 1,200 acres of water for recreation.

A work plan for Indian Brook watershed located in the town of Lancaster is in the final stages of development. This plan includes channel improvement and to structures for flood protection of agricultural and urban land. One structure is a multiple purpose fish and wildlife development which is being financed jointly with PL 566 funds and state funds through the New Hampshire Fish and Game Department and Water Resources Board.

A contract was awarded this year for the design of recreation facilities which will be a part of the total recreational development on the 135-acre multiple purpose flood control recreation dam in the Dead River Watershed near Berlin, New Hampshire.

Over $700,000 of watershed construction work was completed during the past year. This work included the completion of two construction contracts in the Souhegan River watershed located in Hillsborough County—consisting of one flood control dam containing 195,000 cubic yards of earth fill and a fish and wildlife development—and three flood control structures in the Baker River Watershed project located in Grafton County.

ASSISTANCE THROUGH FLOOD HAZARD ANALYSIS PROGRAM

There is an urgent need to initiate a program to plan for the orderly development of the land susceptible to flood hazard. Flood hazard analyses with a joint coordinated priority approach are a logical basis for developing the needed technical data for realistic flood plain land use and management programs.

In this connection, a flood hazard analysis study has been initiated by the Soil Conservation Service, New Hampshire Office of State Planning, and the town of Lancaster to delineate flood hazard areas in the town. It is anticipated that the study will be completed and a report prepared in 1972.

RIVER BASINS PROGRAM

The Soil Conservation Service in New Hampshire is providing USDA leadership in the New England River Basins Commission and in the Connecticut River Basin (Type 2) Study.

The Connecticut River Basin Comprehensive Plan has been completed. The Appendix on agriculture defines water and related land resource problems, needs and solutions. An environmental statement was prepared jointly by all agencies invoved in the study. The comprehensive plan and the environmental statement, along with comments, were submitted by the New England River Basins Commission to the Water Resources Council this past fall.

AIKEN, S.C., MARCH OF DIMES CAMPAIGN

Mr. THURMOND. Mr. President, students from the University of South Carolina, Aiken Regional Campus and Aiken High School recently held a marathon flag football game which lasted for 72 hours.

In this effort for the March of Dimes, they collected in excess of $2,300. Fifty-three young men started the game, but only 45 were able to finish. Following the game, the local March of Dimes organization and the city of Aiken each presented certificates of appreciation to the players. USCA sophomore Ronnie Abney, chairman of the teenage program for the March of Dimes, received a special commendation, and his mother, Mrs. Betty Abney, was named the marathon mother.

The game's statistics are to be filed with the Guiness World Book of Records and hopefully to be entered as the longest nonstop football game, 72 hours.

In light of the criticism youth are receiving today, we are very proud of the youth in Aiken, especially since they had to overcome many obstacles in order to hold the marathon football game.

Mr. President, I ask unanimous consent that an article which appeared in The Aiken Standard of Aiken, S.C., on December 31, 1971, entitled, "Capacity Crowd on Hand for End of Record Game," and an article which appeared in the Augusta Chronicle, of Augusta, Ga., on December 31, entitled, "1764–1150 Totals More Than $2,000 for Dimes March," be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the Aiken, S.C., Standard, Dec. 31, 1971]

Capacity Crowd on Hand for End of Record Game

(By Charles Henshaw)

A capacity crowd of around 1,000 persons turned out last night for the final play of the 72-Hour March of Dimes Flag Football Game. It was nearly four times the amount which was on hand for the kickoff Monday.

As the final seconds closed on the world's longest football game (USCA scrambled into a lineup, and hurried a 30-yard pass). It was incomplete, but USCA won anyway, soundly defeating Aiken, 1,764–1,150, probably the world's highest football score.

The game's statistics are to be filed with the Guiness World Book of Records and hopefully to be entered as the longest nonstop football game, 72 hours.

More than $2200 was collected for the March of Dimes. Approximately, $2,000 was taken at the gate in donations, concessions added $200, and the game ball was auctioned off for $65 to the Farmers and Merchants Bank. March of Dimes official Lee Downes said that exact totals will not be available until Monday.

Fifty-three young men started the game, but only 45 were able to finish. Amidst a number of minor injuries, one player collapsed from exhaustion, one sustained three cracked ribs, one a severely injured wrist, and another had his lower front teeth loosened. The last casualty was Roland Windham, Jr., who was briefly hospitalized yesterday with an inflamed knee condition. Of the 53, only one left the game out of disenchantment.

Following the game the local March of Dimes organization and the City of Aiken each presented certificates of appreciation to the players. USCA sophomore Ronnie Abney, chairman of the Teen-Age Program of the March of Dimes, received a special commendation, and his mother, Betty Abney, was named the Marathon Mother.

Chairman of the Aiken County March of Dimes, John Thomas, called the game a "tremendous effort." "I'm sorry we didn't gross as much as the kids thought it would, but it will help our other programs. It put the Aiken County March of Dimes on the map."

The players had hoped to raise $1,000 for every 24 hours they were on the field.

[From the Augusta (Ga.) Chronicle, Dec. 31, 1971]

1764–1150 TOTALS MORE THAN $2,000 FOR DIMES MARCH

(By Ed Kuhn)

AIKEN, S.C.—The final score was 1764 to 1150 and it wasn't a high scoring basketball game either.

It was football and USC/Aiken defeated Aiken High School in what it believed will stand as the longest flag football game on record after 72 hours of continuous play which ended here Thursday night.

The marathon contest began Monday at Eustis field and was played for the benefit of the March of Dimes. The opposing teams were made up of volunteers from the Aiken regional campus of the University of South Carolina and Aiken area high school students.

Numbering 49 in all, the players raised over $2,000 dollars for the March of Dimes fund and established themselves as the self-proclaimed world's champion marathon flag football players.

"We're expecting a few disputes as to the validity of our claim to the record, but we feel ours is unique and will stand because of the way we set it up," said Ron Abney a student at USC/Aiken and originator of the contest. "We've already had a call from Louisiana State University and some people out there claim they played for 10 days and nights but we don't think they played with the same people for that long."

Abney and the remainder of the participants believe their record will hold because there were no substitutes for the original group which started Monday night.

"This is the uniqueness of our game," Abney continued. "We allowed players to sign up until the opening kickoff Monday, but didn't go outside for any help after that."

Fifty-three players started the game Monday night and played in shifts round the clock while sleeping in tents. Injuries cut the number to 49 at the climax Thursday. The majority of injuries were pulled muscles and bruises with the exception of 17-year-old Roland Windham who was hospitalized with torn ligaments in his left knee.

John Thomas, chairman of the Aiken County March of Dimes, called the game a "tremendous effort" by the students. Each player was presented a certificate of appreciation from the city of Aiken and the March of Dimes. The game ball was auctioned at the end of the game and was sold to the Farmers and Merchants Bank of Aiken for $65.

Among the individual records established in the 72-hour contest were longest continuous play set by Abney and Mike Gray. Both played non-stop for eight hours. High individual scores were Chuck Jones who had 29 touchdowns, Hank Morris with 28 and Levi Chavous at 25.

No evidence of an existing record has yet been discovered, but the players have made an effort to locate one. Inquiries have been forwarded to the Library of Congress as well as to Sen. Strom Thurmond and Rep. Bryan Dorn of South Carolina.

"We're going to make every effort to find a record but if we don't find one, and we haven't done so yet, we'll just submit ourselves as the record holders and wait for somebody to say differently," Abney added.

FALLOUT FROM NIXON'S EMBRACE OF BRAZIL

Mr. CHURCH. Mr. President, when the head of Brazil's military regime, General Emilio Garrastazu Medici, visited Washington in December, he was received with full pomp by the White House. President Nixon bestowed a fulsome accolade on the military president when he said that the whole of Latin America would go the way Brazil went. Since Brazil has been a military dictatorship since 1964, such a comment was not well received by those Nations that still conduct their affairs of state within a framework of democracy. Even nondemocracies were upset that the U.S. President would designate one country as the future star. According to a dispatch in the Financial Times of London, Nixon's embrace of Medici "brought out suspicions that Washington is using the Brazilian Government as a stalking horse for its strategies." This would imply a policy for the benefit of American-based multinational corporations, extensive counterrevolutionary activity, and a multitude of authoritarian regimes throughout the hemisphere.

I ask unanimous consent that a dispatch by Hugh O'Shaughnessy be printed in the RECORD.

There being no objection, the dispatch was ordered to be printed in the RECORD, as follows:

[From the Financial Times, London, Jan. 14, 1972]

WHY NIXON BEFRIENDS BRAZIL

(By Hugh O'Shaughnessy, Latin America Correspondent)

A month ago President Nixon bestowed a fulsome accolade of international recognition on Brazil by receiving in Washington General Emílio Garrastazú Médici, that country's president, as part of a series of meetings with such Western leaders as Georges Pompidou, Edward Heath and Willy Brandt.

Since then the effects of Mr. Nixon's signal mark of attention towards Brazil and its military government have become clear. In Brazilian official circles Mr. Nixon's diplomacy is yielding its benefits and can be counted a success. In the rest of Latin America the results have not been so positive for Washington.

Last month's encounter was deliberately played up by the White House. The Brazilian President's visit was, it was said, within the contexts of Mr. Nixon's consultations with the leaders of friendly countries before his historic departure for Peking and Moscow. In that context Brazil was also the representative of the U.S.'s Latin American neighbors and of Washington's allies among the developing countries.

From the Brazilian end the Itamarati, Brazil's skillful Foreign Office, made it clear that Médici was going to Nixon to talk "as an equal."

The common Brazilian attitude might be best illustrated by the remark of the former Finance Minister and one of the principal architects of Brazil's recent economic growth, Sr. Roberto Campos. "The U.S.," he said, "is about to relinquish its leadership role in Latin America while we are prepared to take on part of the vacated responsibility."

The visit put the seal on the close collaboration that has existed between Washington and Brasilia since 1964 when the Brazilian military overthrew President João Goulart, the last civilian leader in Brazil.

The U.S. used its political and economic leverage against the populist left-wing Goulart administration long before it actually fells and the then U.S. envoy in Brazil, Mr. Lincoln Gordon, complimented the new military junta some hours before President Goulart actually yielded up office.

As the military in Brazil reversed Goulart's policies of hostility to U.S. foreign policy objectives and to U.S. business so Washington stepped up its monetary and technical assistance.

The amount of monetary assistance that Washington has given to the Brazilians since 1964 comes to around $2,000 m. and has actually exceeded the estimated total worth of U.S. investments in the country, large though these are. As Senator Frank Church, Chairman of the U.S. Senate's Subcommittee on Western Hemisphere Affairs, acidly remarked in hearings in Washington last year, "So we have pumped in $2 billion since 1964 to protect a favourable climate of investment that amounts to about $1.6 billion."

FRIENDLY

Senator Church was consciously caricaturing the situation. But Washington's help to Brasilia has not been and is not wholly aimed at protecting U.S. investment. The thinking behind the flow of funds was summed up during the Médici visit when Mr. Nixon said that the whole of Latin America would go the way Brazil went.

The U.S. Ambassador in Brasilia, Mr. William Rountree, told the Brazilian Senate succintly: "Brazil is essential to the security of the United States."

A friendly Brazil is not just a convenience for U.S. investors but a great political and military advantage for the State Department and the Pentagon, deserving of a very high insurance premium.

Just how solid has been the political underpinning of the Brazilian Government which has accompanied the flow of aid dollars was revealed at Senator Church's hearing on U.S.-Brazilian relations in Washington last year. Speaking before Senator Church's subcommittee General George S. Beatty, chairman of the U.S. delegation to the Joint Brazil-U.S. Military Commission, agreed that the Pentagon was helping the Brazilian Government in a bewildering number of techniques of government. They included "censorship, chemical and biological operations, briefings on the CIA, clandestine operations, communism and democracy, counter-guerrilla operations, dissent in the U.S., electronic warfare and counter-measures, the use of informants, counter-intelligence, subversion, espionage and counter-espionage, interrogation of prisoners and suspects, handling mass rallies and meetings, nuclear weapons effects, psychological operations, raids and searches, terror and undercover operations."

This "public safety programme," having largely achieved its purpose of assisting the Brazilian military to master their political opponents, is to be phased out this year. There is no sign, however, that U.S. financial aid will falter and indeed may have to be reinforced if, as many believe will occur soon, Brazil finds herself in foreign exchange difficulties.

The Médici visit before Christmas therefore put elegant frills on a cake which had been baking in the oven for six years. It also served to tone down those differences of opinion that have sprung up between Washington and Brasilia, notably about Brazil's claim to 200 miles of territorial water and the U.S. reluctance to continue to co-operate in the International Coffee Organization. Mr. Nixon's red carpet has pleased and flattered a friendly government in the most effective possible fashion and ensured continuing co-operation.

The ripples that the visit has been causing in the rest of Latin America have however done something to counter the benefits for President Nixon and the State Department. The visit has rekindled the old rivalries and fears that the Spanish-speaking countries have in the past felt towards the Portuguese-speaking giant. (By population and area Brazil is about twice as big as the largest Spanish-speaking republic, Mexico.) It has also brought out suspicions that Washington, which is currently assuming a "low profile policy" in Latin America, is in fact using the Brazilian Government as a stalking horse for its strategies.

CRITICISM

Hardly had General Médici left Washington before President Rafael Caldera of Venezuela came out with a strong personal statement which, while not specifically naming Brazil, rejected the idea that many Latin American country could exercise any "hegemony" over the rest of the region. Mexican officials let it be known that they were unhappy with the contrast between the red carpet treatment that General Médici received and the informality in which President Nixon met President Echeverria earlier last year.

In Peru and Argentina the Press has been active in criticising the visit. The usually staid Buenos Aires daily *El Cronista* claimed that the bad social and economic conditions in much of Brazil made nonsense of any Brazilian aspirations to great power status. "There is not much difference between the Brazilian North-East and Patrice Lumumba's Congo," it editorialised.

President Lanusse of Argentina will be visiting Brasilia at the beginning of March to make his own judgment of Brazil's intentions. Meanwhile, it is clear that Argentina is seeking to join with the countries of the Pacific coast of South America in forming some sort of diplomatic and economic counterweight to growing Brazilian aspirations.

FOREIGN TRADE

Mr. HARTKE. Mr. President, the recent closing of the Bendix Co. plant in York, Pa., brings into sharp focus the need for the prompt passage of S. 2592, the Foreign Trade and Investment Act of 1972, which I introduced in September of the last session. Like many other American companies, Bendix has responded to a tariff code loophole that encourages American capital to seek a foreign home. Six hundred Bendix workers have now joined the more than 60,000 Americans that have lost their jobs to this loophole in the last 5 years.

Present tariff law permits manufactured items to be exported for assembly and reimported with a tariff charged only on the value added by low paid foreign labor. Mexico has attracted a particularly large number of firms in part because of its proximity, but largely because of the Mexican Government's border industrialization program. Under this program, Mexico offers wholly owned subsidiaries of foreign companies many special privileges such as leasing arrangements, work permits for key personnel, and duty free import of machinery, raw material, and supplies.

All the labor, however, except the managers, must be Mexican, and the products must be exported. Since wages in this region vary between 20 cents and 55 cents an hour, it comes as no surprise that the program has been spectacularly successful. Since its inception, the number of U.S. companies operating on Mexican soil has jumped from 30 to 290, and is expected to top 330 by the end of this year.

Partially fabricated products are sent to Mexican plants for processing or assembling, then shipped back across the border for final finishing, which in many cases is as simple as affixing a "Made in U.S." label and then sold to U.S. consumers at current U.S. prices.

The result is an ill thought through foreign aid measure in which the American working man with years of seniority pays with his job and often his future. And this catastrophe is being repeated and will continue to be repeated until we face the harsh realities of exported jobs and the failure of national trade policy. I believe that a remedy for these ills is to be found in the Foreign Trade and Investment Act of 1972.

TOTAL FORCE PLANNING

Mr. DOMINICK. Mr. President, Secretary of Defense Melvin R. Laird has been presenting to the Committee on Armed Services his statement in support of the fiscal year 1973 defense budget and the defense program for the 5-year period from fiscal year 1973 to fiscal year 1977.

Over the next few weeks those of us on the committee will hear from other Department of Defense witnesses on specific aspects of the program outlined by Secretary Laird and will make our analysis and recommendation to the full Senate. While we will probably not agree with every aspect of the Department's request, I am impressed with the comprehensiveness of the program outlined by the Secretary. In essence, he has laid it on the line and has given an excellent outline of the administration's program to continue its strategy of realistic deterrence.

Mr. President, I would especially invite the attention of Senators to that portion of Secretary Laird's statement dealing with total-force planning. This is the real meat of the defense request and it warrants the serious attention of all of us if we are to make an objective and realistic judgment as to our national security requirements. It is also an area with which the American people should become familiar.

Mr. President, I ask unanimous consent that the portion of Secretary Laird's statement entitled "Total Force Planning To Implement the Strategy" be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

III. TOTAL FORCE PLANNING TO IMPLEMENT THE STRATEGY

A. THE FY 1973 BUDGET AND THE FIVE-YEAR PROGRAM

I presented to you last year the first Five-Year Defense Program of this Administration, indicating that we had essentially completed the transition from the expanded force levels needed to fight the Vietnam conflict to our baseline force for future planning. In the program I am presenting to you today, we are maintaining the baseline while designing the Nixon Doctrine forces needed to implement our strategy. The proposed peacetime force structure is, in my judgment, adequate to fulfill the basic planning requirements which I will discuss presently. However, this judgment is conditioned on effective implementation of the Total Force Concept—both with regard to increasing the capability of our own Reserve and Guard Forces, and with respect to our allies' willingness to continue improving their active and reserve forces. Table 2 at the end of this Report provides a summary of the forces we now plan to maintain over the FY 1973–1977 period.

In the following sections, I will discuss many of the specific programs we are recommending in the FY 1973 Budget to preserve baseline capabilities; to provide for readiness, modernization and improvement in needed baseline capabilities; and to create additional options for new forces should future events require them.

Before turning to the specifics of our programs, I would like to discuss briefly the major trends in the FY 1973 Defense Budget. The FY 1973 budget I am presenting today is designed to provide a balanced program across the spectrum of capabilities required to implement our National Security Strategy of Realistic Deterrence.

1. Financial highlights

Budget authority requested for FY 1973 totals $83.4 billion. This is an increase of $6.3 billion over FY 1972, and represents 29.8% of the total Federal Budget, the lowest level in 23 years. It should be noted that a large part, a total of $4.1 billion or 65% of the $6.3 billion increase represents increases in the cost of military, civilian and retired pay.

Defense outlays for FY 1973 are estimated at $76.5 billion, up by $700 million from FY 1972. Here again, the increase is much less than that for other federal programs. Defense outlays represent 30% of the federal budget in FY 1973, the lowest level since FY 1950. The percentage of the GNP devoted to Defense continues to decline—from 7.0% in FY 1972 to 6.4% in FY 1973. This is a 22 year low.

We also are requesting a supplemental appropriation for FY 1972 totaling $141 million in R. D. T. & E. and $113.8 million in procurement funds. Only essential programs that in our judgment could not await the availability of FY 1973 funds have been included in this important request. We have proposed in our supplemental request additional funding to accelerate important programs within amounts that have already been authorized for appropriations during FY 1972.

b. Major program highlights

The FY 1973 Budget provides significant increases in the following areas:

Budget authority for strategic nuclear forces will increase by $1.2 billion, including a major step to strengthen the sea-based element (ULMS) of our deterrent and to procure a new Advanced Airborne Command Post (AABNCP). A major part of the supplemental proposed for FY 1972 is to be applied to these two programs. We are also continuing development of the B–1 strategic bomber to provide an option to improve that element of our deterrent forces for the 1980's and beyond.

Budget authority for research and development will increase by $1.0 billion, to provide the increased effort needed to maintain our technological superiority. The remainder of the FY 1972 supplemental will also be applied to R. & D.

Budget authority for shipbuilding and conversion will increase by over $500 million to a level more than two times the 1966–1970 average, demonstrating our emphasis on modernizing and maintaining a strong Navy.

Budget authority for Guard and Reserve Forces will increase by over $600 million, reflecting their increased role under the Total Force Concept and the need to prepare them to augment the active forces in any future contingency.

Training, medical and general personnel programs will increase by $1.8 billion in FY 1973. This indicates the emphasis placed on personnel-oriented program as we move toward a zero draft and an All-Volunteer Force, as well as the increased costs of military retired pay and medical care and other support for active and retired military personnel.

Support to other nations increases $300 million, reflecting a larger increase for Military Assistance, offset by reduced requirements for support of Vietnamese and other Free World forces.

As for specific programs, in the strategic forces area major increases are proposed for the B–1, the sea-based missile force, Airborne Warning and Control System (AWACS), Safeguard and the AABNCP. General purpose force funding increases are included for a fourth nuclear-powered aircraft carrier, the Air Force's new F–15 fighter, the Navy's new Patrol Frigate, and nuclear attack submarines.

Total military and civilian defense manpower is expected to be 3,394,000 at the end of FY 1973, the lowest level since 1950, This total represents a decrease of 38,000 from FY 1972, and its is 1,440,000 below the Vietnam war peak of FY 1968. Military manpower is down 1,189,000 and civilian manpower 251,000 from 1968 peaks. Over this same period defense-related employment in industry will also register a decline of about 1.3 million.

The dollar outlays for manpower continue to increase. Pay and related costs have increased from 53% of the budget in FY 1972 to about 56% in FY 1973, compared with 52% in FY 1971 and only 43% in FY 1964. However, budget authority for manpower is roughly constant at 53% for both FY 1972 and FY 1973.

As we proceed towards an all-volunteer force and as we seek to make military service more attractive and more rewarding, we can expect upward pressures on manpower costs to continue. We will continue our efforts to bring them into a more realistic balance with our other critical needs. It will not be easy to strike a balance between our equipment needs and our manpower needs. I believe, however, that the FY 1973 Budget will provide the minimum funds needed for both manpower and equipment and will give us the force capability and readiness which are essential for the National Security Strategy of Realistic Deterrence.

B. MILITARY STRATEGY AND FORCE PLANNING

Our goal is to deter war. The military means to this deterrence goal require maintenance of military forces—sufficient for deterrence and adequate in size and readiness, when combined with the forces of our allies—to defend our vital interests in the event of conflict.

In defense planning, the resources available to meet thet requirements of Free World security include both active and reserve components of U.S. forces, the forces of our allies, and the additional military capabilities of our allies and friends that can be made available through provision of appropriate security assistance programs.

History has shown the disparity between plans for and use of military force. We cannot predict in specific detail how our military forecs might be used in any given situation. We can, however, specify what we want them to be able to do, provide some inherent flexibility, and estimate what they can do in likely situations. We must be sure that our forces provide relevant power—power to reduce the probability of conflict; power to fight, if necessary, in defense of our interests.

Our FY 1973 Budget plus certain programs contained in the FY 1972 Supplemental request reflect in particular our concern about the nuclear threat posed by the Soviet Union. The programs we are proposing are the minimum required, in my judgment, to provide forces and development programs necessary to maintain our strategic sufficiency.

While our planned five year strategic force program reflects tentative decisions about deployment of certain forces under development, it is designed for maximum flexibility in order to take account of developments either in the threat or at SALT.

Our theater and tactical nuclear capable forces also serve an essential role in the spectrum of deterrence. To be a realistic deterrent, these forces must possess a credible and effective theater nuclear capability, backed by U.S. strategic forces. While these forces are designed primarily to deter nuclear conflict, they also serve to help deter conventional aggression because of the uncertainty surrounding the circumstances under which theater nuclear weapons might be employed. Our planning calls for moderate improvements in our current capabilities in this area.

Our force planning objective for theater conventional warfare is to provide for adequate ground, air, naval and mobility forces—active and reserve, allied and U.S.—which in combination with our nuclear forces will deter such conflict. This requires an effective and visible U.S. and allied capability to cope with major USSR or PRC aggression against any country or area vital to our interests.

We recognize that subtheater/localized conflict cannot be controlled or prevented by the unilateral fiat of any major power, and that such conflicts can erupt periodically and, in some cases, unexpectedly.

Force planning for both theater and subtheater conventional conflict involves the most appropriate application of the Total Force Concept. We have therefore established the following guidelines:

Friendly countries should be encouraged to increase their regional and self-defense efforts, with due regard for maintenance of international economic stability.

Security assistance should help foster regional security arrangements, so that individual country defense burdens are kept within practicable limits and regional arms races are avoided.

Allied forces may be structured in a balanced fashion in anticipation of unilateral defense; or emphasis may be placed on developing forces—particularly those for ground combat—capable of operating effectively with U.S. support forces. Determination of which objective is most appropriate will depend on individual circumstances.

The forms of security assistance will be chosen in accordance with local requirements, cost and availability.

The U.S. general purpose force structure can be adjusted further when allied defense assets already on hand can perform the same function adequately. Similarly, future allied capabilities often will be able to substitute for U.S. forces. Where possible, we should support this local force development with appropriate security assistance.

Any redeployments of U.S. forces presently stationed in forward positions will be carried out consistent with maintenance of adequate Free World forces to support our interests and those of our allies.

Four general categories, consistent with the above guidelines, govern our planning under the Total Force Concept. They facilitate, where appropriate, an orderly progression from heavy reliance on U.S. forces to increasing reliance on indigenous forces. These categories are:

Combined force planning assumes integration of U.S. forces with local forces and calls for force plans to be developed in close consultation with allies. Examples include NATO, Korea and Vietnam through the completion of Phase I of Vietnamization last year. This planning reflects detailed consideration of all assets available to the various countries in fulfilling necessary requirements for deterrent forces in peacetime and effective combat forces should deterrence fail.

Complementary force planning assumes U.S. obligations of some military nature to help defend a particular country under attack but generally does not include prepositioned, integrated U.S. forces on the ground during peacetime. This planning also is developed in close consultation with friends and allies. Examples include Thailand, Japan, and Vietnam until Phase II of Vietnamization is completed. The primary consideration with regard to U.S. forces is the role these forces would play in the event of conflict in augmenting national forces in areas where local capability is low or marginal. Primary reliance should be placed on the use of local manpower and the development of self-sufficient local capabilities against large scale external aggression, with the U.S. providing specialized support and necessary assistance, designed to augment local forces.

Supplementary force planning reflects a U.S. role in supplementing local capabilities primarily through the provision of appropriate security assistance. This planning emphasizes making available the requisite training, equipment and supplies to improve the deterrent forces of our friends and allies. Examples include Indonesia, Cambodia and certain countries in the Middle East.

Unilateral U.S. force planning reflects U.S. requirements for responding to contingencies where U.S. interests or obligations are at stake. This would involve only U.S. forces in situations where we would not expect active support from others.

As I noted earlier in my statement, an attempt to integrate more closely available Free World resources will require many changes in our past approaches—changes which pose difficulties in both understanding and implementing effective programs.

While we are making substantial progress in our efforts to implement these total force planning guidelines, it will take time to complete the adjustment from the rigidities of the past to the realities of the future. These adjustments can and must continue to be made, both in our own force planning and in our planning with our allies.

Let me now turn to a discussion of the details of the program which we are recommending to you for the forthcoming year, after which I will highlight some of the initiatives we are pursuing in our own force planning and in our relations with our allies.

C. STRATEGIC NUCLEAR FORCES FOR DETERRENCE

"Our forces must be maintained at a level sufficient to make it clear that even an all-out surprise attack on the United States by the USSR would not cripple our capability to retaliate. Our forces must also be capable of flexible application. A simple "assured destruction" doctrine does not meet our present requirements for a flexible range of strategic options. No President should be left with only one strategic course of action, particularly that of ordering the mass destruction of enemy civilians and facilities." President's Foreign Policy Report to Congress, 1972.

1. Strategic sufficiency and the implications for force planning

In deterring strategic nuclear warfare, i.e., enemy use of nuclear weapons involving a direct attack on the U.S., primary reliance will continue to be placed on U.S. strategic deterrent forces.

In planning these forces, we have certain objectives derived from the sufficiency criteria. As explained last year these include:

Maintaining an adequate second-strike capability to deter an all-out surprise attack on our strategic forces.

Providing no incentive for the Soviet Union to strike the United States first in a crisis.

Preventing the Soviet Union from gaining the ability to cause considerably greater urban/industrial destruction than the United States could inflict on the Soviets in a nuclear war.

Defending against damage from small attacks or accidental launches.

I want to note, however, the these criteria are under intensive review in light of the changing strategic conditions, including the momentum of Soviet and Chinese nuclear capabilities, and potential outcomes in the Strategic Arms Limitation Talks (SALT).

As the President has stated, sufficiency includes maintaining forces adequate to prevent our allies, as well as the U.S., from being coerced. Therefore, we also plan our strategic nuclear forces so that they will enhance our theater nuclear capabilities and the nuclear capabilities of our allies to deter attacks on them by strategic or other nuclear forces.

In order to maintain needed flexibility, we design our forces so that we have strategic alternatives available for use depending on the nature or level of provocation. This means capabilities that enable us to carry out an appropriate response without necessarily resorting to mass urban and industrial destruction.

Turning to specifics in our planning, although each element of our strategic offensive forces at the present time possesses a substantial capability in its own right, we plan to maintain a combination of land and sea-based missiles and manned bombers during the program period. This will enable us to take advantage of the unique capabilities inherent in these different systems to provide a hedge against enemy technological breakthroughs or unforeseen operational failures, either of which might adversely affect our deterrent, and to complicate Soviet and PRC offensive and defensive strategic planning.

In our strategic defensive planning, we are designing our forces in accordance with the objectives already described, especially the deployment of defenses that limit damage from small attacks or accidental launches to a low level.

Our objectives for air defense of the United States include:

Deterring air attacks by defending strategic retaliatory forces, and key military and urban/industrial targets.

Defending the National Command Authority.

Limiting damage from deliberate or unauthorized small air attacks.

Restricting the unauthorized overflight of U.S. airspace.

Warning against ballistic missile attack on the U.S. will be based on maintaining a highly reliable warning network with adequate coverage. We seek to minimize the susceptibility of this network to any countermeasures. Furthermore, command and control systems should be secure, reliable, flexible, and survivable to insure that strategic forces are immediately responsive to political and military decisions.

In our research and development planning for strategic offensive forces, we are directing our efforts toward vigorous programs emphasizing innovation, flexibility, diversification, and survivability rather than, as some believe, the maintenance of a large independent retaliatory capability in each of the current force components. We are examining new concepts for future strategic offensive forces, keyed to an approach that diversifies U.S. programs if additional capabilities are needed in the future.

Our continuing analyses of strategic force effectiveness indicates that planned strategic forces should continue to provide an adequate deterrent for the near term. We have reliable and survivable strategic retaliatory forces today, and their capabilities for retaliation cannot be denied by nuclear attack in the near term.

2. The planned fiscal year 1973 strategic forces

No major changes in deployed U.S. strategic retaliatory forces will be evident in FY 1973, although we are continuing to make qualitative improvements in our forces. At the end of that fiscal year, our strategic offensive force levels will continue to include 1,000 Minuteman missiles, 54 Titan missiles, 455 B-52 aircraft (26 squadrons), 72 FB-111 aircraft (four squadrons), and 656 Polaris and Poseidon missiles carried in 41 nuclear submarines. In the strategic defensive forces, we will reduce to 585 manned interceptors and 755 surface-to-air missiles on site, together with associated warning and command and control systems.

With planned modernization, and with a phased Safeguard deployment as appropriate, these strategic force strengths represent our baseline planning forces for the future.

3. Major strategic force programs

The major programs for improvement and modernization discussed in the following sections are designed to provide capabilities to fulfill the basic planning objections I noted earlier, while at the same time preserving flexibility to adjust capabilities in the future if necessary. A summary of the FY 1973 programs, and the FY 1971 and FY 1972 effort, is shown on the following page.

a. The strategic retaliatory force

In the strategic offensive forces area, we continue to move forward with planned improvements to all elements of our deterrent in light of the continuing momentum of the Soviet threat.

SELECTED STRATEGIC FORCES PROGRAMS

[In millions of dollars]

	Fiscal year—		
	1971 actual funding	1972 planned funding	1973 proposed funding
Reliable, survivable retaliatory forces:			
Development and procurement of new undersea long range missile system (ULMS)	44	140	942
Continued development of new strategic bomber, B-1	75	370	445
Development and continued procurement of short range attack missile (SRAM) and modification of aircraft	281	383	314
Continued development of subsonic cruise armed decoy (SCAD)		10	49
Continued procurement of Minuteman III and Minuteman force modernization (inc dev costs)	695	848	837
Conversion of SSBNs to Poseidon configuration, continued procurement of Poseidon missiles and associated effort	952	766	751
Development of advanced ballistic reentry systems and technology	100	104	104
Reconnaissance, early warning, and air defense:			
Development and deployment of advanced airborne command post (AABNCP)	1	120	141
Continued development and production of air borne warning and control system (AWACS), and over the horizon radar (OTH)	92	142	474
Continued deployment of new satellite strategic surveillance system and development of follow-on systems	105	86	80
Ballistic missile defense:			
Continued deployment of Safeguard	1,369	1,117	1,483
Identification and development of advanced ballistic missile defense technology by the Army's ballistic missile defense agency	104	96	102
Prototype development of hard-site defense	25	60	80
Civil defense O. & M	73	78	88

Last year I reported to you that we had made some hard decisions with regard to development of certain strategic force programs and that we would continue to keep this area under close review. In light of continued developments in the threat, we have decided this year to accelerate development of the Undersea Long-Range Missile System (ULMS), as well as moving forward with development of the B-1 bomber.

Undersea Long-Range Missile Systems (ULMS). The continuing Soviet strategic offensive force buildup, with its long term implications, convinced us that we need to undertake a major new strategic initiative. This step must signal to the Soviets and our allies that we have the will and the resources to maintain sufficient strategic forces in the face of a growing Soviet threat. It would be diplomatically and politically unacceptable for the U.S. to allow the Soviets to achieve a large numerical superiority in both land-based and sea-based strategic missiles. Moreover, there would be an increasing military risk that future technological advances in conjunction with much larger numbers of Soviet strategic missiles, might offset the qualitative improvements we are planning for our land-based strategic forces.

I have carefully reviewed all alternatives for new strategic initiatives and have decided that acceleration of the ULMS program is the most appropriate alternative, since the at sea portion of our sea-based strategic forces has the best long term prospect for high pre-launch survivability. The Navy assures me that this acceleration will permit deployment of the first ULMS submarine in 1978, at least 2-3 years earlier than would have been the case in the regular program.

In reaching this decision, we considered a range of alternatives, including further modification to existing submarines and construction of additional submarines using the basic design for the latest POSEIDON submarines. We concluded that acceleration of the ULMS development program was the best possible course of action available for several reasons including:

First: The ULMS program is already underway as a major development program. It therefore does not involve disruption of ongoing programs which already have high priority, such as the POSEIDON conversions and construction of nuclear attack submarines.

Second: ULMS offers the best technical program currently available to provide future sea-based strategic force capability. It makes the greatest use of new submarine quieting technology, and is capable of carrying a larger ballistic missile than can be fitted in existing submarines. The option to deploy this larger missile provides flexibility for increased range, and hence larger operating area at sea, or alternatively a capability to carry large, more advanced penetration payloads at less range, should this be desirable in the future.

Third: Deployment of ULMS, with a capability to carry a greater number of large missiles, means that a given nuclear payload can be deployed with fewer boats and crews.

Finally: The ULMS missile development program will permit an option to retrofit the shorter range ULMS I missile into POSEIDON submarines in the future, should that be desirable.

A total of $942 million is being requested for the ULMS program in FY 1973.

The ULMS program we are proposing will be discussed in further detail by other witnesses before the Congress. I am confident Congress will understand the need for accelerating the ULMS program, and will continue to provide this program the excellent support which it has received in the past.

The B–1 Strategic Bomber. The FY 1973 Budget includes $445 million to continue engineering development of the B–1 intercontinental bomber, intended to replace the aging B–52 fleet. The B–1 is being designed to improve capabilities over the B–52 through faster reaction, increased resistance to nuclear effects, shorter escape times, longer range, greater payload, higher speeds at both high and low altitudes, reduced infrared signatures, decreased radar cross sections, and greatly increased ECM capabilities. In total, these increased capabilities would enhance pre-launch survivability and penetration capabilities of the manned bomber force for the post 1980 time period.

The B–1 is being developed in such a manner as to minimize concurrency between development and production. In this respect, there will be about one year of flight testing on the prototypes before a production decision is necessary. This approach would permit us to have the B–1 operational in meaningful numbers by the early 1980's.

As Secretary Seamans indicated during his recent appearance before the Congress, the B–1 engineering development contract with North American Rockwell is a "Cost Plus Incentive Fee" contract with no provision for a buy option. I want to emphasize that we will not commit the B–1 to production before performance requirements are demonstrated. The program provides for seven basic milestones, and was changed significantly last year when two test aircraft were eliminated and other adjustments made in the development program. The first flight is scheduled for April 1974.

Other Programs. As I noted last year, to enhance the prelaunch survivability of our current strategic bomber force against the Soviet submarine-launched ballistic missile threat, alert aircraft are being dispersed over a greater number of bases, generally further inland than in the past. Nineteen satellite bases, each with austere facilities to support aircraft, will be in operation by the end of FY 1973. We are continuing to examine options for more extensive interior basing of this force, and other means to further improve prelaunch survivability against a broad range of potential threats—the one of most concern being a postulated improvement of submarine-launched ballastic missiles, which would decrease the warning time available to the bomber force.

To improve the capability of the B–52 and FB–111 bomber force to penetrate improved defenses postulated for the latter half of this decade, we are requesting $314 million in FY 1973 to: (1) procure Short Range Attack Missiles (SRAM); and (2) modify 92 B–52 aircraft to carry SRAMs. In addition, we are requesting $49 million to continue development of the Subsonic Cruise Armed Decoy (SCAD) to counter projected improvements in Soviet area air defenses for the late 1970s. Both SRAM and SCAD will be compatible with the B–1.

SCAD, which is expected to have a range of several hundred miles, will simulate the radar characteristics of a bomber, thereby presenting many additional incoming objects that the Soviets must counter with area defenses. The SCAD is also being designed to accept, with minimum modifications, incorporation of a warhead with associated improved guidance and increased range. We presently plan to produce prototypes of key SCAD subsystems—engines and avionics—prior to making a decision to produce the system.

The SRAM carries a nuclear warhead and travels at supersonic speed. It gives the attacking plane a capability to "stand off" from a target and avoid terminal anti-aircraft defenses, or the capability to suppress the defenses and penetrate to the target. After a favorable test program, the Air Force entered into full production of the missile last year.

We are continuing the program to deploy MIRVs in our Minuteman and Poseidon missiles. We consider this program essential to preserve the credibility of U.S. deterrent forces when faced with the growing Soviet strategic threat. The MIRV program provides a number of small, independently-targetable warheads on a single missile. Should part of our missile force be unexpectedly and severely degraded by Soviet pre-emptive actions, the increased number of warheads provided by the remaining MIRV missiles will insure that we have enough warheads to attack essential soft urban/industrial targets in the Soviet Union. At the same time, the MIRV program gives us increased confidence in our ability to penetrate Soviet ABM defenses, even if part of our missile force were destroyed.

Including MIRV, several major programs for the improvement and modernization of our land-based missile force are now underway, with a total funding requested of $837 million. The budget includes $415 million to procure a quantity of Minuteman IIIs, toward a planning objective of 550 missiles. The force modernization program includes upgrading Minuteman silos in order to reduce their vulnerability to nuclear blast and radiation effects. This upgrading program is coordinated with the replacement of Minuteman I by Minuteman III missiles to complete both the silo upgrading and Minuteman III deployment programs efficiently.

In addition, our Safeguard deployments will provide active defense of a part of our ICBM forces, and we are continuing prototype development of Hardsite Defense (HSD) to provide an option to protect our land based ballistic missiles against threats greater than those with which Safeguard is designed to cope. I will discuss these programs and their relation to our overall planning in a later section.

We are continuing to convert Polaris submarines to carry the Poseidon MIRV missile. The Poseidon development test program was completed in June 1970. Through February 1972, there have been 24 missiles fired from operational submarines. The Budget includes $751 million to convert more submarines, procure more missiles and provide long lead items for conversions planned next year. Funding for the Poseidon submarine conversion program should be completed in FY 1974, with the exception of outfitting and postdelivery costs.

One other important developmental effort that we are continuing in the strategic offensive area is the Advanced Ballistic Reentry Systems (ABRES) program. We plan to continue our investigations of several types of re-entry systems, and are requesting $104 million in FY 1973 for this effort. Dr. Foster will discuss the details of this program with you.

b. Strategic Command and Control

As I explained earlier in this chapter we seek reliable, flexible and survivable command and control systems. The growing threat from Soviet strategic forces makes early improvements to our national command and control system imperative. The most critical need is for a survivable, enduring command post. Over the years, we have concluded that the best solution to this problem for the foreseeable future is to go airborne with adequate command, control and communications facilities on board. Accordingly, we have decided to move ahead and request funds for procurement of new aircraft for this purpose.

Our current airborne command and control system is deficient in that it lacks capacity for added communications and data processing equipment. We need to improve the survivability of the system, and to provide the more secure communications needed for control and execution of the forces, the long endurance, the space for sufficient high level staff to support the National Command Authorities, and the space for the battle staff and equipments which provide the information needed in the critical decision-making process.

Earliest possible correction of deficiencies is essential. We believe that by moving vigorously now we can greatly improve our command and control posture by early 1975. To achieve this goal, the first steps are to acquire aircraft with the size and endurance needed and to initiate acquisition of the new on-board facilities.

To perform the command and control job, a fleet of seven AABNCP aircraft is needed. We requested $119.8 million in our FY 1972 Supplemental request to purchase the first Boeing 747 aircraft and related electronics. We propose to purchase two more aircraft in FY 1973 and one additional aircraft in 1974 to achieve early correction of our deficiencies. The initial aircraft will provide some important improvements in our capability by 1973. Three of these first four aircraft will use the existing EC–135 electronic equipment and the fourth will be used for a special electromagnetic pulse test program and as a test bed for the development and operational testing of those new equipments which will be needed. By providing a larger, more capable aircraft, even with the present electronic equipment, we will be able to obtain greater endurance, more flexibility, capacity for larger battle staffs, and additional space to put improved communications and automatic data processing as it becomes available.

To provide a much needed improvement in Naval and Air Force communications, and to strengthen the survivability and flexibility of our control and communications to the strategic bomber forces as well as the SLBM forces, we have initiated in FY 1973 a new communications satellite program for air and sea-mobile users-Fleetsatcom.

c. Strategic Defensive Forces

1. Air Defense

At the end of FY 1972 the air defense forces will include a total of 27 squadrons of interceptors and a number of Nike Hercules and BOMARC surface-to-air missile units. In FY 1973, no changes are planned in the total number of interceptor squadrons, but in keeping with our Total Force Concept, Air National Guard Air Defense forces are programmed to assume a greater share of the aerospace defense mission. At the end of FY 1973 they should include 4 squadrons of F–106s, 10 of F–102s, and 6 of F–101s. The other main force changes planned are reductions in BOMARC surface-to-air missiles, which back up our manned interceptor force, and the Back-up Interceptor Control (BUIC) sites, which provide backup air defense command and control.

Our air defense systems have not in the past been able to meet all of the objectives assigned to them. Command and control systems have been vulnerable, warning systems have been unable to detect all incoming aircraft using low-level penetration tactics, and our interceptors are too few in number and lack the "look-down shoot-down" capability required against low-flying bombers.

Because of this vulnerability and the reduced effectiveness of parts of our present air defense forces, we have decided to make some selected reductions in the current force levels, accepting some additional risks in the near term while pursuing development of more effective air defense components for the future.

To fulfill our air defense objectives we propose to continue research and development efforts that will give us the option to deploy an effective, survivable, modernized air defense force. Our FY 1973 Budget includes research and development funds for two key systems: the CONUS Over-the-Horizon radar (OTH-B), and the Airborne Warning and Control System (AWACS). We are also requesting funds to procure three AWACS test aircraft that could later be reconfigured as operational aircraft.

The Conus OTH-B radar system is important because it offers the potential to provide distant, all-altitude detection of approaching aircraft. Tests now being conducted should soon provide performance data essential to a deployment decision.

AWACS will provide the capability to detect and track aircraft flying at all altitudes, against the surface clutter over land or sea. Two prototype radars are being prepared for flight testing in military versions of the Boeing 707 commercial jet aircraft and the tests should be completed in late 1972. We can then select the better radar system, and decide in light of circumstances at that time whether to proceed with the final stages of system development.

AWACS will also have the capability to serve as an aircraft control center for tactical air forces. In this role AWACS would improve the effectiveness of our tactical air forces by providing an aerial platform for the detection and identification of hostile aircraft and the direction and control of friendly aircraft assigned to counter those threats. The tactical AWACS would replace several airborne elements of the existing system used in the command and control of deployed tactical air forces.

We are examining the feasibility of using aircraft now under development as the basic airframe for an Improved Manned Interceptor (IMI); which would complement AWACS by providing "look-down shoot-down" capability with high endurance and good firepower. In addition, the Army surface-to-air missile system (SAM-D), currently under development primarily for field army use, may prove useful in a Conus air defense role in the future as a replacement for the Nike-Hercules system.

2. Missile warning and space systems

Early warning of ICBM attack will continue to be provided by the Ballistic Missile Early Warning System (BMEWS) radars and the "forward scatter" Over-the-Horizon (OTH) radar system. At the present time, the 474N system (SLBM detection and radar warning net) which can give only limited warning of an SLBM attack, has been improved with the addition of a long-range radar along the east coast in fiscal year 1972. However, because of the restricted capabilities in these systems, a new satellite early warning system is being designed to meet requirements that BMEWS, OTH and 474N cannot fill. This advanced system will complement our radars in providing early warning of ICBM, SLBM and Fractional Orbital Bombardment System (FOBS) launches. The system will greatly improve the overall capability of our warning network, especially against SLBM launches.

Satellite tracking and identification is now provided by the existing USAF Spacetrack system and the Navy's SPASUR system; both are tied into the North American Air Defense Command and supported by the Space Defense Center for continuous space object cataloguing.

3. Ballistic missile defense

a. Safeguard

The Safeguard Anti-Ballistic Missile Defense System has been and continues to be designed to achieve several objectives outlined by the President to counter a combination of Soviet and Chinese threats. They include:

"Protection of our land-based retaliatory forces against a direct attack by the Soviet Union.

"Defense of the American people against the kind of nuclear attack which the Peoples Republic of China is likely to be able to mount within the decade.

"Protection against the possibility of accidental attacks from any source."

A review was conducted again this year in accordance with the President's commitment of March 14, 1969. This review of Safeguard includes:

Technical Progress: The technical effort on Safeguard over the past year has progressed very satisfactorily and there are no technical problems which would affect a decision to continue the Safeguard deployment in FY 1973.

Test results have been excellent. The second phase of the Safeguard system test program began in the Fall of 1971. Of the seven tests conducted so far in this series, all have been successful.

Construction at the Grand Forks site is on schedule and about 80% complete. Construction at Malmstrom has been delayed by about one year by labor problems with corresponding delay in site readiness to early 1976. Construction at Malmstrom has been restarted.

All of the Safeguard ground equipment for Grand Forks and Malmstrom is under contract and procurement of equipment has been initiated for the Whiteman site.

Threat: The momentum of the Soviet nuclear threat continues and the nuclear capability of the Peoples Republic of China is increasing. (This is detailed elsewhere in this Defense Report.)

Diplomatic Context: Negotiations on Strategic Arms Limitation (SALT) continue. Current focus in SALT is towards obtaining an initial agreement covering ABM systems together with some limitation on offensive missile systems. However, we cannot at this time be certain that a SALT agreement will be reached or what the provisions of an agreement would be.

For FY 1973, we propose to:

a. Proceed with the planned deployment at the four Minuteman sites.

b. Continue with area defense research and development under Safeguard and the Advanced BMD program.

c. Initiate advanced preparations for defense of the NCA at Washington, D.C.

d. Continue wtih the Hardsite Prototype development program discussed below.

This overall ABM program would:

Enhance probabilities for SALT success by maintaining both the flexibility and the strength of the President's negotiating position.

Provide a level of protection, dependent upon the nature and severity of the attack, for Minuteman, and command and control centers in the central United States (Omaha and Colorado Springs) at the earliest possible time, and a base for defense of inland bomber bases with improved area defense components.

Provide the means of affording added valuable time for decision-making and delegation of authority in the event of an attack on Washington, D.C.

Provide a continued option for introduction of advanced area defense at a later time, should this become necessary due to threat developments.

Provide the base for augmenting Safeguard defense of Minuteman sites with Hardsite Defense if threat developments warrant.

b. Prototype Hardsite Defense Program

With significant qualitative improvements in Soviet ICBMs even without increases in the number of Soviet ICBMs, the postulated threat to Minuteman in the last half of the 1970s could grow to a level beyond the capabilities of the four site Safeguard defense of Minuteman. Therefore, we propose a FY 1973 Hardsite program funded at $80 million in RDT&E funds plus $20 million in construction that would permit initial deployment of the system in the late 1970s.

4. Civil defense

We are proposing a limited number of changes in the civil defense program for FY 1973, including:

Enhancement of state and local capability in attacks and other disasters;

Reorientation of the program to emphasize, wherever possible, available protection from nuclear weapon effects and natural disasters.

Shifting of some on-going programs to systems that would only be implemented in a crisis in order to reduce peace-time costs and prevent rapid obsolescence.

Major elements of the new program include (a) maintenance of the current shelter system, but reorienting marking, stocking and home survey programs toward crisis implemented activities; (b) for shelter survey, creation of State Engineer Support Groups to give participating states the in-house capability to replace Federal Engineering Support currently provided; (c) use of analytical techniques to determine the most likely hazards for each community in the event of nuclear war, e.g., blast, fire, fallout; and (d) development of guidance for local governments based on risk analysis, to include evacuation planning guidance for high risk areas.

During 1972 a prototype low frequency warning system will undergo final testing. It is expected to be operational by early 1973.

The budget includes $88.1 million for Civil Defense. As in the past, a sizeable portion of the funds requested are for assisting State and local Civil Defense activities.

D. THEATER NUCLEAR FORCES FOR DETERRENCE

"The nuclear capability of our strategic and theater nuclear forces serves as a deterrent to full-scale Soviet attack on NATO Europe or Chinese attack on our Asian allies." President's Foreign Policy Report to Congress 1970 and 1971.

In deterring theater nuclear warfare, i.e., enemy use of nuclear weapons overseas without a direct attack on the U.S., primary responsibility remains with the United States, but certain of our allies share in this responsibility by virtue of their own nuclear capabilities.

As I noted last year, with the rough equality of U.S. and Soviet strategic force capabilities, reliance on strategic weapons alone is not sufficient for an effective deterrent. Our theater nuclear forces add to the deterrence of theater conventional wars in Europe and Asia; potential opponents cannot be sure that major conventional aggression would not be met with the use of nuclear weapons. The threat of escalation to strategic nuclear war remains a part of successful deterrence at this level.

Our planning reflects a continued requirement to relate our nuclear weapon posture in the theater to our conventional posture in such a way that we have realistic options in the theater which do not require sole reliance on strategic nuclear weapons. Thus, we plan to maintain nuclear capabilities that contribute to realistic deterrence, while allowing for maximum flexibility or response in every major contingency we plan for should deterrence fail.

We are continuing to evaluate the long-term structure of our nuclear programs. Our current capabilities in theater assets, include tactical aircraft, missiles, rockets, field artillery, and atomic demolition munitions. Research and development and weapon improvement programs are moving forward in this area, to insure that our weapons and the associated command and control systems have adequate capability and continue to emphasize minimum chance of accident. These programs will permit the continued sufficiency of our theater nuclear forces as an essential element of our deterrent posture.

BEFORE WE VOTE NEW TAXES, LET US MAKE THE ONES WE HAVE NOW WORK

Mr. CHURCH. Mr. President, there is a great deal of rumor and speculation these days about what is described as a value-added tax, which is in reality a national sales tax. It is said we will soon have a proposal before us on this matter.

I might suggest that before the Nixon administration, or anyone else for that matter, rushes to institute a new tax upon the American people—a tax, incidentally, which will be regressive in nature, taxing the low- and middle-income American at a greater rate than the high income American—a close look be taken at the billions of dollars that escape taxation under the current maze of income tax exemptions, deductions, and special breaks.

An excellent editorial appeared in the February 15, 1972, edition of the Washington Post describing the need for and the difficulty of achieving true tax reform. I ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record as follows:

Tax Reform Should Come First

The Federal income tax law, in all its complexities, can be used to encourage almost anything. It encourages people to contribute to churches and charities and schools, to explore for oil, to buy houses and stocks and municipal bonds, to create retirement funds, to invest in apartment buildings and farms and cattle, to give away money before they die, and to do all sorts of other things. For a long time, its rate structure encouraged people to get married. Now, it seems, the changes made by Congress in 1969 encourage them to do something less than get married if each prospective spouse has an income. That, at least, is one lesson that can be drawn from recent news stories about the tax situation or a young local couple; they are paying higher taxes as a married couple than they would if they were not married.

This list, and it could be much longer, points out the fact that the basic purpose of the income tax—to raise money according to the ability of people to pay—was deserted long ago. It was lost in the struggle made by many groups of citizens for special treatment and in the effort of Congress to use tax provisions to foster other goals. But with the government looking for new sources of revenue, such as the proposed value-added tax, it is time for a full re-evaluation of the income tax. That is what a group of liberal Democrats in the House of Representatives is seeking and it was their pressure to which Rep. Wilbur Mills yielded when he asked the President this week to make proposals on tax reform.

The problems inherent in such reform, to be sure, are extremely difficult. One man's tax loophole is another's well-deserved right. And the kind of conduct one group wants to foster with a tax deduction may be precisely what another group wishes to discourage. Take, for example, three of the recent changes. The child-care deduction created last year helps lower- and middle-income families, unlike most deductions which help high-income taxpayers; it encourages the women in these families to work. The political contributions deduction also created last year helps politicians; it is designed to encourage more people to get involved in politics. The change in the rate structure involving working couples benefits unmarried taxpayers who had complained bitterly about the old system; but it has the curious side-effect of penalizing working couples largely because the tax law does not recognize the economic value of housework performed by a wife.

Each of these situations—and all the other loopholes or incentives, whichever you want to call them—has a built-in lobby behind it. Each lobby, or at least most of them, has a substantial argument supporting its own special benefit. But when all of them are taken together, they skew the tax structure so badly that the figures you see on that tax form—14 to 70 per cent—are almost meaningless. A recent study by Joseph A. Pechman and Benjamin A. Okner of the Brookings Institution shows that the effective tax rate runs from under 2 per cent below $5,000 gross income to about 32 per cent at $1,000,000.

Talk about tax reform in an election year may well be futile. All the political pros say it is. But the fact they say so merely underlines the need for reform. The loopholes, the gimmicks, the incentives are of such value to particular groups of people that many of them are willing to put substantial sums into political campaigns in order to assure their continued existence. Thus, in many instances, campaign contributions can be traced directly to tax benefits. So it is heartening to see some members of Congress who are at least willing to bring the matter up in an election year. Sooner or later the issue is going to have to be faced squarely. It, rather than the value-added tax, ought to be given first priority by this administration, and any other, in the search for more federal revenues.

WILL THERE BE PEACE IN ULSTER?

Mr. HARTKE. Mr. President, today I wish, to announce my cosponsorship of the resolution (S. Res. 180) introduced by Senators Ribicoff and Kennedy which calls for an end to the violence and bloodshed in Northern Ireland and sets forth the principles upon which a genuine solution must be based.

The recent death of 13 citizens underlines the severity of the situation. Unfortunately this is just the latest example of the violence and bloodshed that is rampant in Ulster. The need is pressing to end this violence, and to end it immediately. Along with Senate colleagues, I beseech the British Government to bring about the immediate resolution of the turmoil that is striking at the very fiber of the United Kingdom.

There are those who admonish us not to raise our voices to protest the violence that reigns in Northern Ireland. They say that it is an internal matter within the United Kingdom. I say that no citizen of the world should be afraid to speak out to condemn violence and injustice where it exists.

Unfortunately, the administration has chosen to remain silent on the tragedy of Northern Ireland. This is not the first time that they have refused to condemn violence and repression. The Nixon administration has not only refused to condemn the military junta in Greece which is strangling civil liberties in that country, they have cultivated relations with it. The administration has refused to condemn the atrocities committed by the Pakistan Army against the people of Bangladesh. If the United States is to be respected for its dedication to justice and equality for all people, then it must not be afraid to make its voice heard when such is denied to citizens of the world. Because of the U.S. position as a world leader, the failure to voice its concern is often interpreted as a condonation of oppressive policies.

I am pleased to join those Members of the Senate who have not been afraid to speak out on the tragedy in Northern Ireland. Mr. President, I ask unanimous consent that a recent article by Ted Lewis be printed in the Record. The article makes some salient points concerning the role of the United States in speaking out on the injustices in Northern Ireland.

There being no objection, the article was ordered to be printed in the Record, as follows:

Capitol Stuff

(By Ted Lewis)

Washington, February 1.—The administration's insistence that this government has no business sticking its official nose into the Northern Ireland crisis raises a question of considerable political and diplomatic significance.

The issue has been suitably pinpointed by Sen. Abraham Ribicoff (D-Conn.). He and Sen. Edward M. Kennedy are sponsoring a Senate resolution calling for the withdrawal of all British troops from riot-wracked Ulster, Ribicoff takes the view that a flareup of injustice anywhere in the world requires an American condemnatory response.

THE ULSTER ISSUE SUITABLY PINPOINTED

In contrast, the administration takes the hard line that the niceties of diplomatic tradition must be followed—that what has been tragically happening in Northern Ireland is an internal matter within the United Kingdom. In other words, our official stand on the moral issue of justice is limited to what transpires between nations, not within any country.

Let's admit, the hypocrisy in this official stance is sufficient to make one's blood boil, and we are not referring only to Irish-Americans.

Consider just one case: The slaying of millions of East Pakistanis by troops from West Pakistan. To this day, this government has not condemned the Bangladesh massacre—on the grounds, basically, that the mass blood-letting was within the borders of another sovereign nation, hence none of our official business.

This is a hands-off policy that is actually a relic of the horse-and-buggy past, when protocol and striped pants set the style for relations between nations. And it comes in handy to fall back on when a moral issue arises that we want to sidestep. On the other hand, when it is considered in our interest to intervene in an internal crisis of another country, the record shows we have not hesitated to do so, and not necessarily to prevent injustice.

Greece, for example, is now run by a military junta to our liking. And we are now squeezing Chile by withholding foreign aid funds because that country's regime is not to our liking.

What has been happening in Northern Ireland is of great American concern for a much more solid reason that the motives that prompted our moral intervention or abstinence policies in Greece and East Pakistan. American interest in freedom for Ireland goes way back to the days before establishment of the Irish Free State under De Valera. Millions were raised in America for the IRA. The Ulster issue has figured in many an American election in an oblique religious way.

So the idea that Ribicoff and Kennedy are intruding into the foreign policy-making prerogatives of the State Department by sounding off at present at the British may be legally correct, but not politically sound. As Ribicoff said today, "It's just too bad" that the British are angry with him and Kenendy and the administration provoked by his "meddling."

"I intend to speak up against injustice wherever it occurs in the world," Ribicoff said, "and I think the time has come for people to speak out on problems not just in their own back yard."

ALARMIST VIEWS OF LAST FALL WERE WARRANTED

Now, way back last October, when Ribicoff and Kennedy first offered their resolution calling for British troops to pull out of Northern Ireland, they were accused of simply playing partisan politics with the issue. There were cracks about how both were sounding off only because of the big Irish vote in their home states.

The British press taunted them with smug arrogance. "Ulster is not Britain's Vietnam," said one London newspaper commentator. Even the Irish Independent, of Dublin, which proclaims itself as "Ireland's national newspaper," chided the two senators for their warning that Ireland was on the brink of civil war.

But Sunday's slayings of 13 civilians in Londonderry by British troops is sufficient proof that Kennedy's and Ribicoff's alarmist views of last fall were warranted. And in the process, they have succeeded in raising the possibility that the Senate may act on the issue, even though the administration refuses to get involved.

A RESOLUTION IN INTEREST OF HALTING BLOODSHED

The Ribicoff-Kennedy resolution is, of course, only a gesture of rebuke to the British. It simpy would put the Senate on record as favoring the withdrawal of British troops in the interest of halting the bloodshed. But it does provide a means of permitting a moral gesture against injustice—and gestures of this kind are in the American tradition.

Kennedy's co-sponsorship of the proposal is, incidentally, in the family tradition. Back in 1957, his elder brother, John F. Kennedy, then a senator, dared similarly to act on his own in connection with Algeria's effort to be independent. He called on the Eisenhower administration to end its acquiescence to French repressive measures in Algeria.

He was accused at home of meddling, and in France of jeopardizing U.S.-French friendly diplomatic relations. Secretary of State Dulles said Algeria was France's problem, not ours. But it wasn't long before Charles de Gaulle made Algeria independent.

LITHUANIAN INDEPENDENCE DAY

Mr. GRIFFIN. Mr. President, free men everywhere join the people of Lithuania in marking February 16 as a day of sadness and a day of renewal. It is the 53d anniversary of Lithuanian Independence.

On February 16, 1918, the free Lithuanian State was born. It followed true democratic principles for more than 20 years before it was overrun in 1940.

For more than 30 years now, the heroic people of that nation have resisted totalitarian oppression while looking to the day when freedom will be restored.

The people of Lithuania and the millions of Lithuanian Americans who observe this day with both pride and sadness deserve the admiration of us all.

Rather than accept defeat and bondage, Lithuanians in the home country and those who have taken up citizenship elsewhere look to the day when freedom will return to their native land.

As a citizen and a U.S. Senator, I take pride in knowing that the United States has not recognized the forcible annexation of Lithuania.

We can observe Lithuanian Independence Day by renewing our dedication to the democratic principles that are denied those in Lithuania.

PUBLICATION OF RULES OF PROCEDURE OF SELECT COMMITTEE ON STANDARDS AND CONDUCT

Mr. STENNIS. Mr. President, as required by the Legislative Reorganization Act of 1970, I submit herewith for publication in the RECORD the Rules of Procedure adopted by the Select Committee on Standards and Conduct:

RULES OF PROCEDURE

Resolved, That the Select Committee on Standards and Conduct, United States Senate, adopt the following rules governing the procedure for the Committee:

1. *Meeting time.*—The meetings of the Committee shall be on the first Monday of each month at 10:30 a.m. or upon call of the Chairman.

2. *Organization.*—Upon the convening of each Congress, the Committee shall organize itself by electing a chairman and a vice chairman, adopting rules of procedure, and confirming staff members.

3. *Quorum.*—A majority of the Members of the Committee shall constitute a quorum for the transaction of business, except that two Members shall constitute a quorum for the purpose of taking sworn testimony.

4. *Proxies.*—A Member may vote by special proxy on any issue which comes before the Committee for decision except as otherwise designated in these rules.

5. *Record of Committee action.*—The Chief Counsel of the Committee shall keep or cause to be kept a complete record of all Committee action. Such record shall include a record of the votes on any question on which a record vote is demanded.

6. *Public hearings.*—All hearings conducted by this Committee shall be open to the public, except executive sessions for voting or where the Chairman orders an executive session. The Committee, by a majority vote, may order a public session at any time. In making such determination, the Committee will take into account evidence which may tend to defame or otherwise adversely affect the reputation of any person.

7. *Secrecy of executive testimony.*—All testimony taken in executive session shall be kept secret and will not be released for public information without the approval of a majority of the Committee.

8. *Stenographic record of testimony.*—An accurate stenographic record shall be kept of the testimony of all witnesses in executive or public hearings. The record of his own testimony, whether in public or executive session, shall be made available for inspection by a witness or his counsel under Committee supervision; a copy of any testimony given in public session, or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session, shall be made available to any witness at his expense if he so requests.

9. *Release of reports to public.* No Committee report or document shall be released to the public in whole or in part without the approval of a majority of the Committee. In case the Committee is unable to reach a unanimous decision, separate views or reports may be presented and printed by any Member or Members of the Committee.

10. *Subpenas.*—Subpenas may be issued by the Committee Chairman or any other Member designated by him, and may be served by any person designated by the Chairman or Member. The Chairman or any Member may administer oaths to witnesses.

11. *Swearing of witnesses.*—All witnesses at public or executive hearings who testify to matters of fact shall be sworn unless the Chairman, for good cause, decides that a witness does not have to be sworn.

12. *Counsel for witnesses.*—Any witness summoned to a public or executive hearing may be accompanied by counsel of his own choosing who shall be permitted while the witness is testifying to advise him of his legal rights.

13. *Right to submit interrogatories.*—Any person who is the subject of an investigation in public hearings may submit to the Chairman of the Committee questions in writing for the cross-examination of other witnesses called by the Committee. With the consent of a majority of the Members of the Committee present and voting, these questions shall be put to the witnesses by the Chairman, by a Member of the Committee, or by counsel of the Committee.

14. *Written witness statements.*—Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the counsel or Chairman of the Committee 24 hours in advance of the hearings at which the statement is to be presented. The Committee shall determine whether such statement may be read or placed in the record of the hearing.

15. *Prohibition of cameras.*—Television, motion picture and other cameras and lights will not be permitted to operate during a hearing.

16. *Interrogation of witnesses.*—Interrogation of witnesses at Committee hearings shall be conducted on behalf of the Committee by Members and authorized Committee staff members only.

17. *Right to testify.*—Any person whose name is mentioned or who is specifically identified, and who believes that testimony or other evidence presented at a public hearing, or comment made by a Committee Member or counsel, tends to defame him or otherwise adversely affect his reputation, may (a) request to appear personally before the Committee to testify in his own behalf, or, in the alternative, (b) file a sworn statement of facts relevant to the testimony or other evidence or comment complained of. Such request and such statement shall be submitted to the Committee for its consideration and action.

18. *Confirmation of staff.*—All staff members shall be confirmed by a majority of the Committee.

19. *Changing rules.*—These rules may be modified, amended, or repealed by a decision of the Committee, provided that a notice in writing of the proposed change has been given to each Member.

PEKING SUMMIT AND RELATIONS WITH JAPAN, INDIA, AND THE SOVIET UNION

Mr. CHURCH. Mr. President, I support President Nixon's move to open a dialog with China's leaders. This is something which had to be done. Our former ambassador to the United Nations and a successful diplomat for 40 years, Charles W. Yost, agrees with this effort, considering it a "useful and important" development, but "only if the administration also moves promptly and unequivocally to restore our relations with Japan and India, and if in the future it resists the temptation crudely to play Soviets and Chinese against each other.

I ask unanimous consent that Mr. Yost's article, published in The Washington Post of February 15, 1972, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IS THE PEKING SUMMIT WORTHWHILE?

(By Charles W. Yost)

The attention of much of the world will be focused during the remainder of this month on one of the most spectacular and unexpected events of recent times—the visit of an American President to Peking. However, the important question is whether this event will prove to be only a spectacle—a "super colossal" TV show—or whether it will have substantial and lasting results.

Certainly the President was wise and bold to break the absurd taboo which has so long separated the United States from the government of the most populous country in the world. Relations with the People's Republic of China should have been "normalized" long ago, but from a domestic point of view this could best be done by a Republican president who had for years opposed it. To turn about face on this issue was a real act of statesmanship.

I am one of those who believe that, in general, summit meetings between the leaders of powerful states, particularly adversary states, are desirable. They are of course best if they can produce or lead toward significant agreements, as it is hoped the Moscow summit in May will do.

It is my belief, however, that, even if they do not produce immediate agreements, and as long as expectations about them have not been raised too high, summits may serve a useful purpose. They enable leaders to obtain a personal "feel" of each other and, if managed with restraint and sophistication, can clear up delusions and misunderstandings which could otherwise, over time, cause very serious trouble. There would be real advantage in their being undertaken periodically, and as routinely as possible.

Do these remarks apply to the forthcoming Peking summit? Not entirely. This is a very special case.

The President himself has been careful to emphasize that immediate, substantial agreements are not to be expected. The political differences between the two governments are too deep-seated to permit of more than minor symbolic understandings at such an early stage in the thaw.

As far as concrete issues are concerned, what the Chinese most want from the United States is an abandonment of Taiwan. It is quite clear that the President could not and would not, for both domestic and strategic reasons, give them satisfaction on this score. He will presumably merely repeat the rather ambiguous conventional formulas he has used before.

What the Americans most want from China is help in persuading Hanoi to agree to a Vietnam settlement acceptable to us. Since the "war aims" of the administration and of Hanoi remain incompatible, and both Hanoi and Peking have rejected the President's latest "peace proposals," this also will not happen. Peking will no more abandon or coerce Hanoi than we will abandon or coerce Taiwan.

One must also admit that the Peking summit has already had some serious negative consequences as far as the United States is concerned. The expectation of it presumably played a major part in our disastrous and otherwise inexplicable "tilt" toward Pakistan and against India throughout last year.

Failure to consult Japan in advance, and apparent continued failure by the President to reassure Prime Minister Sato at San Clemente last month, have, together with brusk Zig-zags in our economic policy, seriously undermined our most important Asiatic alliance.

As the Japanese ambassador said in a speech just after the San Clemente meeting, the President's trip to China might "be the beginning of a process of unraveling our mutual security in the far east." One immediate consequence was no doubt the visit of Soviet Foreign Minister Andrei Gromyko to Tokyo a short time ago.

If the Peking summit is unlikely to produce any significant agreements, and if it has had these unfortunate side effects on the two other great Asian states hitherto most friendly to us, why was it undertaken?

Those outside the government—indeed, many inside—can only speculate about the reasons. Presumably gamesmanship vis-a-vis the Soviets, spectacularly indicating that the game of two has become a game of three, was an important element. It remains to be seen whether the United States really has much to gain from this rather old-fashioned and hazardous kind of gamesmanship.

One also cannot help feel that the selection of 1972 for the visit is not without some domestic political significance. However, there is a question whether many Americans will vote either for or against the President simply because he paid a spectacular but, as far as they can see, not particularly consequential visit to Peking.

Nevertheless, adding up all the pluses and minuses, I should be inclined to consider the meeting useful and important. What counts most is that it gives the greatest possible impetus to the restoration of normal relations between two of the world's greatest powers. It brings to a dramatic close 20 years of senseless divorce.

The ledger will be well balanced, however, only if the administration also moves promptly and unequivocally to restore our relations with Japan and India and if in the future it resists the temptation crudely to play Soviets and Chinese against each other.

LITHUANIAN INDEPENDENCE DAY

Mr. PELL. Mr. President, today is a day of bittersweet significance for the many Americans of Lithuanian descent. It was on this day, in 1918, 54 years ago, that the people of Lithuania realized a cherished dream—independence from foreign domination. This remarkable people have a long and varied history and a rich cultural heritage dating from the 13th century when the several principalities were united into one great kingdom. This cultural heritage sustained the Lithuanian people through centuries of foreign oppression until the collapse of Germany and Russia at the end of World War I made independence possible. On February 16, 1918, a 20-man national council, headed by Antonas Smetona, proclaimed Lithuania a free and independent republic.

The interval between the two World Wars was a period of great accomplishment for the Lithuanian people. Land reform was instituted, industries established, transportation facilities expanded, a national education system created, and much social legislation enacted. The people were happy and content despite ominous rumblings on their borders until June 22, 1940. On this day, the Soviet Union, taking advantage of the opportunity afforded by its pact with Nazi Germany, forcibly incorporated Lithuania unto the U.S.S.R. as its 14th "Republic." Those who dared to resist, and there were many, were executed or deported to Siberia and, except for the period of Nazi occupation, the small country has been under Soviet rule ever since. Needless to say, the United States has never recognized this brutal takeover.

Thus, February 16 is celebrated by the over 1 million Americans of Lithuanian descent with a certain note of sadness for the lost freedom of their ancestral homeland. It is altogether fitting that their fellow Americans, as freedom loving people, join with them in their observance and in their hope that Lithuania will once again be free.

CONCENTRATION OF POWER

Mr. HARRIS. Mr. President, a recent article in the New York Times entitled "How Big Is Too Big?" deals with the problems which big brother IBM is giving to the data-processing industry—and to the Justice Department, which has filed an antitrust suit against the corporation.

I think that the article will be of interest to any Senator who, like myself, has become increasingly concerned by the concentration of economic power—and political power—in the hands of a few powerful corporations.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW BIG IS TOO BIG?

(By William D. Smith)

Should the International Business Machines Corporation be broken up?

Can I.B.M. be broken up without retarding the progress of computer technology domestically or damaging United States trade and its international balance of payments?

If I.B.M. should and could be broken up, what would be the best way to do it?

I.B.M. is easily the biggest company in the computer business and the three questions are by far the most important issues facing an industry that is the world's fastest growing and in the next decade may become the largest as well, surpassing automobiles and oil.

The questions are not academic. I.B.M. is involved in seven antitrust suits including one filed by the Justice Department as its last act under the Administration of President Lyndon B. Johnson. All the units are in various pretrial stages.

The search in the courts for answers to the questions could result in major changes in the interpretation and enforcement of United States antitrust laws.

How the questions are resolved will have grave effects far beyond the industry, for the computer is no simple tool and information processing has come to permeate every aspect of our national life from the ghetto to the moon.

The trend toward computer omnipresence seems likely to continue and accelerate.

Some 142,400 computers, including minicomputers, are installed around the world. Of this total, 84,600 are in the United States.

I.B.M. has installed, by value, 53 per cent of the computers outside the United States and 71 per cent of the equipment in this country.

I.B.M.'s domination of its market is probably the greatest by a single company of a major industry.

A survey of I.B.M. competitors, industry consultants, economists, lawyers and other interested and informed sources on the initial three questions has resulted in a wide variety of proffered solutions. Some surprising supporters for I.B.M. were discovered and some unexpected opponents.

Solutions ranged from breaking up I.B.M. into 20 or more units to leaving "well enough alone."

Many people asked not to be quoted, giving a variety of reasons.

Dr. John W. Mauchley, one of the discoverers of the electronic computer, voiced the most common theme.

"It is a very complex issue," he said. "A sensible approach to the matter is essential.

"Informed and responsible opinion must be brought to bear on the issues to prevent the uninformed and irresponsible from making the ultimate decisions."

Another comment that recurred came from a professor at a leading Eastern university who is considered a major thinker in the information-processing field. He said:

"There is no focus in official circles anywhere in the United States on computers and the importance of the technology as a great national asset."

That some people have made up their minds on the issues is obvious from the fact that I.B.M. is now involved in seven antitrust actions, four of which the company considers major.

The most important of these is Case 69 Civil 200, filed before the United States District Court for the Southern District of New York by the Justice Department under President Johnson in December 1969.

Other major actions are the Control Data Corporation vs. I.B.M.; the Greyhound Computer Corporation vs. I.B.M., and the Telex Corporation vs. I.B.M. The remaining suits were brought by International Data Terminals, Inc., M.D.C. Data Centers, Inc., Symbolic Control, Inc., and a counterclaim to an I.B.M. suit, by V.I.P. Systems, Inc.

The Greyhound suit is furthest along. A spring trial date is expected in this suit, and a decision is likely around midyear.

The Government case charges that I.B.M. has monopolized the general-purpose-computer market by combining the price of hardware, software and support services; by pricing new computers at unusually low profit levels; by announcing new computer models when it knew it was unlikely to be able to deliver such models within the announced time, and by granting discriminatory price discounts to educational institutions.

In April, 1971. the Government filed a motion asking that a Federal District Court judge be named to hear all the pretrial discovery of pertinent information in order to expedite the case. The judge declined to consider the motion until all vacancies on the court were filled. The vacancies have now been filled and the Justice Department has renewed its request.

Thomas D. Barr of Cravath, Swaine & Moore, I.B.M.'s law firm, has opposed the motion, noting that the computer company has asked the Government to participate in the discovery process in the Control Data case, which is considerably further along.

The Government has been accused in some quarters of "dragging its feet" in the case, of being inadequately staffed to handle I.B.M.'s large legal operation and of having little or no knowledge of the computer industry.

An executive of an I.B.M. competitor said:

"The Government wouldn't know what to do with I.B.M. if it wins the case. If the Justice Department out of hand had the right to order I.B.M. to do what Justice wanted, they couldn't do anything because they haven't the foggiest idea of what the industry is all about."

The Justice Department denies all of these allegations. "We feel confident that we can take on the best," a spokesman said. "This is the most important case in the division and has more people and resources devoted to it than any other matter."

The Justice Department spokesman said that the department had 300 lawyers, all of whom could become involved in the I.B.M. case if necessary. He added that the department had 120 antitrust actions pending.

The Government spokesman said that the department had been studying how to restructure I.B.M. if the case were won.

Raymond Carlson and Joseph H. Widmar are heading the Government's case. Both lawyers were prominent figures in the consent decree worked out with the International Telephone and Telegraph Company under which it was allowed to keep the previous acquired Hartford Fire Insurance Company and all of the Grinnell Corporation except for its fire-protection division. In return I.T.T. agreed to divest itself of the Avis Rent A Car System and the Canteen Corporation, among others.

The Government spokesman said he could not estimate a date for the trial.

"We are actively pushing to get the case to trial," he said. "Should I.B.M. decide that they don't want to fight and offer to give necessary relief through a consent decree, we would of course, accept since the objectives we seek would be obtained at a saving of time and money for all parties."

But a consent decree is precisely what should not happen, according to some critics of I.B.M.

One of these, William G. Shepard, professor of economics at the University of Michigan and former economic adviser to the anti-trust division of the Justice Department under the Johnson Administration, said:

"Setting by consent decree would be a clear error because it would suppress the kind of information the public needs for an intelligent choice.

"Whether and how the eventual restructuring of I.B.M. might occur depends on the facts that the court should hear."

Professor Shepard, who recommended that the Justice Department file its case, criticizes the department for letting itself in for a massive collection of data on the industry, "much of it useless to the case."

Others disagree with this assessment. Robert B. Forest, editor of Datamation Magazine, the leading trade journal in the field, believes that the very collection of the data is a major benefit to the industry and the nation.

"Nearly every other industry in the country has a data base and indices by which its performance and its relationship to the economy can be measured," Mr. Forest said.

"This paradoxically is not true of information processing. The data base being acquired can be used by the Government to make available for the first time critical information on the size and shape of our nation's most important industry."

Critics of I.B.M. and the Justice Department charge that every day of delay allows I.B.M. to make from $1-million to $3-million, "because of its monopoly position," a cost, they say, ultimately paid by the public.

"Delay is the great worm in the antitrust bud and I.B.M. is playing it very skillfully," according to Professor Shepard.

Others would disagree with this opinion, Mr. Forest said:

"It seems to me that before we go off half-cocked, creating cures that may be more dangerous than the disease, we might try to get some facts assembled."

Antitrust plays an important part in the American economy. The common law, statute and court interpretations outlawing price-fixing, group boycotts, geographical division of markets and other monopolistic practices reflect the primary American commitment to private enterprise in a blend of Government and private decision-making and to competition as the chief regulating force in the economy.

The antitrust laws have on rare occasions been used to break up existing combinations. The most important cases involved the Standard Oil Company (New Jersey) and the American Tobacco Company. In 1911, the Supreme Court ordered the dissolution of each, setting forth in the process the "rule of reason."

It stated, in effect, that big was not necessarily synonomous with bad, and that only trusts that had achieved size through predatory practices, as had Standard Oil and American Tobacco, were to be dissolved. "Good trusts," as it found the United States Steel Corporation to be nine years later, would be permitted to continue.

A decision involving the Aluminum Corporation of America in 1945, to a large degree, revised the "rule of reason." Alcoa's sin was size, not predatory behavior.

It should be noted, however, that the Government did not break up Alcoa, nor did it break up the United Shoe Machinery Company in a similar case in 1953. It forced other remedies.

"A number of parties are asking that I.B.M. be broken up," one of the nation's leading antitrust lawyers said.

"History and precedent indicate that the courts are very reluctant to break up existing companies.

"If unlawful monopolization is proven, then relief would be what is necessary to restore the competitive situation. Logically this could well mean breaking up I.B.M.

"But I.B.M. did not get where it is by acquisition, and it would seem contrary to the national ethos to punish someone for being better."

I.B.M. has declined to discuss the antitrust question, saying that the matter is still under litigation.

The company has 110 lawyers on its staff, with five working on the antitrust problem full time, according to a source close to the company. In addition, the company has outside counsel.

The company's legal operation is headed by a vice president, Nicholas deB. Katzenbach, former Attorney General of the United States during the Johnson Administration.

I.B.M.'s position on the issue can only be gleaned from past statements and from unofficial sources inside and outside the company.

I.B.M. strongly believes that it has been the major impetus in the creation and promotion of the information-processing industry. All of its supporters and even many o its critics agree.

Kenneth Olsen, head of the Digital Equipment Corporation, one of the most successful companies in the industry and an I.B.M. competitor, said:

"The whole industry owes its growth to I.B.M. We have all benefited from their integrity and their building of customer confidence in computers."

I.B.M. also maintains that information-processing is not an equipment-and-parts business but a complex systems business that requires total involvement between company and customer.

I.B.M. has also argued that, rather than a monopoly situation, the industry is highly competitive, with an ever-increasing number of companies. It has pointed out that, although it has grown tremendously, the industry has grown faster, and that I.B.M.'s share of the market has, in fact, slightly decreased in recent years.

I.B.M. might also be expected to point to the major role it plays in overseas markets and the importance of the money it brings back to America's balance of payments.

I.B.M.'s most vocal critic has been Joan M. Van Horn, who heads VIP Systems, Inc., of Washington. I.B.M. sued Miss Van Horn for back payments on equipment. Miss Van Horn fired back with a counterclaim and has not stopped setting off verbal and written missiles since.

Miss Van Horn wants I.B.M. broken up into many small, independent corporations. Not subsidiaries, but separate, divested entities. "The split should be many, not just a few; probably by product, or even by plant, the basic economic unit of production, each with its own marketing force," Miss Van Horn said.

"I believe in addition that each spun-off company should be enjoined from selling complete systems or facilities management services and confined to selling computer components for at least 20 years.

"I.B.M. has never introduced a new product except in response to competition. And as the competition erodes, the prospects for our industry grow dimmer. I.B.M.'s economic domination of the industry does not benefit its customers by any economies or scale.

"However, its very presence makes it almost impossible for competition and would-be competitors to obtain adequate financing or a viable share of the market."

Miss Van Horn's opinions have resulted in considerable response, both favorable and unfavorable.

Dick Brandon of Brandon Applied Systems, Inc., computer consultants, said:

"It is impossible to break I.B.M. up into many small pieces without destroying the industry as we know it today. It would create chaos.

"I.B.M. should not be broken up. It is not the answer to the problem. I would prefer to compete against one I.B.M. than two, three, four, or even eight similarly managed competitors without the present gloves that have been tied on in fear of antitrust action."

William C. Norris, chairman of Control Data, is probably I.B.M.'s longest standing and most angry critic. Because Control Data is involved in litigation with I.B.M., Mr. Norris was more restrained than usual, but he asserted, Control Data is firmly convinced that structural relief is essential if competition is to be restored to the industry.

"The effects of I.B.M.'s monopoly and the vulnerability of all competitors are made clear by R.C.A.'s departure from the field," he added. "We feel that appropriate relief must be considered in its entirety and not be limited to divestiture."

A major competitor speaking off the record declared:

"Hell, yes, I.B.M. is a monopoly, but the ideas to break it into a number of small manufacturing companies are crazy. Something must be done so that I.B.M.'s efficiency is not destroyed while still giving competition a fair chance."

He suggested breaking I.B.M. into overseas and domestic operations. Then he would chop off the leasing operation from the manufacturing. Beyond this, he proposed that industry standards be set by a broadly based group rather than let I.B.M. set de facto standards and thereby put competition way behind in developing systems. He also proposed the opening of all I.B.M. research to the general public to create a more competitive situation.

Burke Marshall, a former Assistant Attorney General who later joined I.B.M. as a vice president and general counsel and who is now a deputy dean of the Yale Law School, said:

"The issue should probably be looked at in terms of who would be helped? Look at the constituencies, employees, customers, competitors, technological development, national economy.

"The answer in all cases would appear to be that they would not be helped. The suit, therefore, would appear to be for public policy reasons rather than general welfare."

Mr. Marshall emphasized before commenting that, while he would try to be objective, "you should make clear that I am still on a small retainer from I.B.M."

Herbert W. Robinson, an independent consultant who formerly headed the C.E.I.R. Corporation, a large software concern, contended that, "I.B.M. could kill anyone it wished to, but money is being wasted by I.B.M. to keep competitors alive."

"Break up the company and you unleash a number of monsters," he added. "A better solution would be to have a consent decree where I.B.M. would be forced to limit its growth to zero over the next 10 years or until it fell to about 50 per cent of the market. Put it into a straitjacket until the small boys grow."

A variation on this theme was advanced by a former I.B.M. executive who has become a competitor.

"The best way to do it is to set a market share for I.B.M., around 50 per cent, and then tell I.B.M. to arrive at it by any means they want by the end of a set period of time. Why should the Government worry about it when I.B.M. knows itself best and has the brains to handle the matter?"

John Diebold of the Diebold Group, the man who is credited with giving the word "automation" its present meaning, believes that it would not be in the public interest to break up I.B.M.

"I.B.M. is not a monopoly," he asserted. "There are many other players in the industry, among them some of the largest companies in the world. I find it hard to see who, other than competitors, and they only in the short run, would gain from a split of I.B.M. The United States balance of payments would certainly be hurt and badly."

Richard L. Caveney, president of the Computer Peripheral Manufacturers Association, is adamant that I.B.M. should be broken up. He suggests that it be split into four separate segments: manufacturing, leasing, sales and service, and a parent holding company.

Mr. Caveney did not feel too optimistic about a breakup occurring. He contends that the legislative and executive branches of government are nothing but tools of big business.

Lawrence Spitters, president of Memorex Corporation, a manufacturer of peripheral equipment, advocates a breakup of I.B.M. and the issuance of guidelines so that I.B.M. is forced to release its standards for equipment two years in advance of production.

Some informed people in the industry have little sympathy for the third-party peripheral manufacturers. "They are nothing but parasites living off I.B.M. and the other mainframe manufacturers" Ted Wittington, a computer expert for Arthur D. Little, Inc., commented.

Mr. Wittington maintained that I.B.M. should not be broken up, but that possibly some form of restraint should be placed on the company's ability to use the full weight of its greater resources. He suggested that the company could be regulated like the American Telephone and Telegraph Company as to prices and profit.

James Peacock, managing editor of the E.D.P. Industry Report, a highly respected newsletter, said:

"The objective of establishing a more competitive computer industry will not be served by breaking up I.B.M. It would damage the position of the United States in international commerce and would not lead to more prosperity for competitors."

He suggested, however, that I.B.M. be forbidden to offer selective discounts, that there be a one-year delay between the announcement by I.B.M. of a change in marketing policy or practice and its implementation, and that leases by I.B.M. of more than one year be prohibited.

Mr. Forest of Datamation commented: "There is not much doubt in our minds that I.B.M. maintains a rather unhealthy headlock, if not a stranglehold, on most segments of the information-processing industry."

"As clear and present as the danger seems, the possible solutions remain murky at best. Breaking up I.B.M. could create several monsters instead of one. Preventing the manufacturers from renting or leasing would turn the industry over to the financial community. We prefer I.B.M., thank you."

And so it goes. It should be remembered, however, that the computer has the potential to become either the greatest boon mankind has ever discovered or an electronic devil straight out of the pages of "1984." Some people even suggest that George Orwell's timing is just about right.

I.B.M.'s Role

I.B.M., its supporters and even many of its critics contend that the company has been the major impetus in the creation and promotion of information processing.

I.B.M. looks at information processing not as an equipment-and-parts business but as a complex systems business that requires total involvement between supplier and customer. It sees its job as providing solutions to customer problems in partnership with the customer.

The company has argued that the computer industry, rather than being a monopoly situation, is highly competitive, with an ever-increasing number of companies. It has pointed out that, although it has grown tremendously, the industry has grown faster, and that I.B.M.'s share of the market has, in fact, slightly decreased in recent years.

I.B.M. might also be expected to emphasize the major role it plays in overseas markets and the importance of the money it brings back to the United States balance of payments.

REPRESENTATIVE JAMES R. MANN AT THE LAW ENFORCEMENT CENTER GROUNDBREAKING IN GREENVILLE, S.C.

Mr. THURMOND. Mr. President, it is comforting to note that more and more people are becoming aware of the problem relating to rising crime in our country. Although there has been a slight decrease in the rate by which crime is increasing, it is, nevertheless, still increasing.

I am greatly encouraged when Government officials speak out to encourage those on the State and local levels who are endeavoring to meet this problem.

On January 21, 1972, Representative James R. Mann, of the Fourth Congressional District of South Carolina, spoke in Greenville, S.C., during the groundbreaking ceremonies for their law enforcement center.

His remarks are highly appropriate and deserve to be read and considered by all of us.

Mr. President, I ask unanimous consent that the speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

LAW ENFORCEMENT SPEECH

This ground breaking is evidence of a new awareness of the needs of law enforcement in Greenville County. Too long have we settled for patch work repairs when major surgery was required. Much of the credit for this new awakening must go to our leaders of local government. Prompted by a realization that better jail conditions would increase respect for law and order and would contribute toward the rehabilitation of those taken into custody the Greenville County Legislative Delegation and the Mayor and City Council about four years ago requested that the city and county planning staff make a detailed study of detention facilities in Greenville County. This resulted in a report by the Greenville County Planning Commission of August, 1968 wherein the Planning Commission recommended the development of a law enforcement or public safety center complex, to include a detention facility, law enforcement headquarters, court facilities and a civil defense operating center.

Fortunately this recommendation did not fall upon barren ground. One of the advantages accruing from the reapportionment decisions was the development of viable county governments in the State of South Carolina. The Greenville County Council is an example of that viable county government. Its initiative, its boldness, have taken some people by surprise, but it filled a vacuum that needed filling. As an elected governing body it affords to the citizenry of this county a responsive agency through which to govern themselves. Our hats are off to those who served it as members during its formative days. They were quick to recognize the shortcomings of law enforcement in Greenville County, and this law enforcement center is an example of that recognition. The pressing need has caused them to proceed with minimal assistance from state or federal governments, based upon their belief that the people of Greenville County deserved better law and were willing to foot the bill for such facilities. It is my hope that additional assistance will be coming from the Appalachian Regional Commission, which has helped already, and the Law Enforcement Assistance Administration.

The County Council is to be commended for its further initiative in law enforcement in that it caused to be created a Law Enforcement Study Committee which had made further recommendations with reference to the improvement of law enforcement throughout Greenville County and its subdivisions. The proliferation of law enforcement agencies in our county and in our state has permitted the highly sophisticated and even the amateur criminal to wander between jurisdictions with relative impunity. Thus it is that Greenville County shows up poorly in law enforcement statistics. The Police Service Bureau recommended by the Law Enforcement Committee and endorsed in principle by the Greenville County Council is a minimum step toward meeting the needs of a sophisticated coordinated and cooperative law enforcement system. Most of the law enforcement agencies in Greenville County are incapable from their own budget and from their limited numbers of personnel to provide the sophisticated services with reference to communications, identification, drugs, and many other facets of the law enforcement problem, that can be provided by a cooperative effort such as the Police Service Bureau. Even greater cooperation and further consolidation should be considered as we seek to close the loopholes and to improve the machinery of law enforcement.

One must pay tribute to the devotion and diligence of the law enforcement officers of all branches of law enforcement in Greenville County, the Sheriff's office, the Greenville City Police Department, and the police departments of the various municipalities as they over the years have fought the good fight with too few people, too little equipment, too little training. What they lacked in assets they tried to make up in long hours and devotion to duty, but as indicated earlier we have sought to combat the problem with minor patch work rather than major surgery.

Of course law enforcement machinery is not all that is required to fight rising crime in the United States. As the oft-quoted Frenchman de Toqueville said "There is no country in the world in which everything can be provided for by the laws, or in which political institutions can prove a substitute for common sense and public morality." Every citizen, every business, every civic organization, every educational institution, every religious institution and every governmental institution should be involved, and coordinated if possible, in the solution of criminal behaviour. We cannot resort to the simplistic answer that poverty, inadequate housing or lack of education are the causes or that their elimination are the cure. Affluence, resort to escape through alcohol and drugs, a seeking after security, an absence of a viable religious faith, all of these and many more are significant factors in the causes of crime.

Thus it is that today we can all resolve to make a new beginning and seek the goals of prevention of crime, quick solution and punishment of crime, fairness in the administration of justice, and the establishment of a correctional system that will return its products as useful members of society. This is not an impossible dream, and if we are to improve the quality of life in Greenville County, and yea, in this Great Country of ours, we must each be willing to devote a part of our time and more of our assets to achieve domestic peace and happiness for ourselves and those generations yet to come. Thus it is that I look with pride upon this site, upon those individuals who have brought it thus far, and upon the people of Greenville County who will support it to fruition.

THE ROLE OF RECREATION IN CORRECTIONS

Mr. HARTKE. Mr. President, we must all admit that our system of crime control and criminal justice is not working and that the situation is becoming more acute every day. Within the past year the crime rate has continued to rise and we have witnessed a series of disorders within our criminal justice system.

The recent prison tragedies have made us painfully aware of the severe crisis that exists in the correctional institutions of our Nation. Too often, prisons have become hostile environments in which we simply detain offenders for a period of time. We must demand institutions that foster the development of those incarcerated into responsible members of their communities.

Many programs and proposals for change have been offered. But one area that has often been overlooked is the role of recreation in the correctional system. One noted authority who has pursued the role of recreation as a therapeutic device is Mr. Carroll R. Hormachea, director of the institute of criminal justice, department of community services, Virginia Commonwealth University, Richmond, Va. Mr. Hormachea recently presented a paper at the annual congress of National Recreation and Park Association which I commend to the Members of the Senate.

Mr. President, I ask unanimous consent that the paper be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

THE ROLE OF RECREATION IN THE CORRECTIONAL PROCESS

(Presented by C. R. Hormachea, October 21, 1971)

Until last month, the problems of the correctional institutes of the nation seemed detached from the rest of the society, and most people tended to show little concern for these problems. Then it happened. The correctional system of the nation blew wide open in a small upstate New York community that most people had never heard of before . . . Attica.

Attica where 41 men, guards and prisoners alike lost their lives.

Attica, and the prisoner insurrection that occurred there, sparked advocates of prison reforms throughout the country. Now, because of Attica, people are concerned about the correctional system and prison officials have become most sensitive to the possibilities of any more such incidents.

To explain what happened during that horrible week at Attica . . . or to try to play the Monday Morning Quarterback—is not the purpose of this gathering. Attica has served as a "grabber". The resultant attention focused on that institution and others in the nation has caused people to begin to question the system and to demand prison reforms.

In the past, people have exhibited some concern for the correctional system and the inmates, but most of this has been "lip service". In reality, most people tend to forget the system and accept the "late show" version of what goes on in prisons. They fail to realize the pressures which are exerted on those who, must live regimented lives as a punishment for the transgressions of which they were adjudicated. This is not to imply that crime should go unpunished nor that the punishment should be less, but rather that a certain responsibility is incurred by the state for anyone who lives as a charge of the state, if he is to be rehabilitated and returned to society as a productive citizen.

The President's Commission on Law Enforcement and the Administration of Justice, popularly known as the Crime Commission, studied the nation's prison system and their research indicated that the daily average population in the correctional facilities of the nation is 1.3 million persons. Cost of maintaining such facilities are staggering!

Throughout history, man has sought to make transgressors pay for their crimes in a number of ways. Criminals have suffered physical as well as psychological torment as punishment. Punitive measures have consisted of death, by any number of means (some more imaginative than others); mutilation; branding; quasi-religious ordeals designed to impose divine justice; as well as various other means of corporal punishment. Exile and transportation also have served as means of society's retribution for crime. All of these punishments, however, were expected to serve as deterrents; rather than to rehabilitate the offender and return him to the society.

American penology began with the prison reforms of the Quakers at the Walnut Street jail in Philadelphia. About the same time, the Auburn System developed in New York. Both systems were based on silence of the inmates. In other words, the inmates lived and worked in complete silence. In the Pennsylvania system, the inmate lived and worked in his solitary cell. The Auburn System, which was to become the model for American penology, provided for the prisoners to work together but to maintain silence. It provided no means of communications. It was felt that by maintaining silence the men would be able to contemplate their wrongdoings and become resolute to err no more.

In some of the old prisons, and until fairly recent times, the only recreation that the prisoners enjoyed was a forced walk through the prison yard. At one time, the inmates were forced to were masks as they marched in the lock step through the yard, in order that they might not communicate with the other prisoners.

Prison reform has been slow in its development. The Quakers intended that criminals contemplate their sins in order that they might reform. Later, this philosophy was furthered with the concept that prison was a place for rehabilitation. But this philosophy, though first introduced in the 19th century, did not really catch on until the advent of World War II.

The concept of rehabilitation provides that the inmate repents his crimes and, upon completion of his sentence, is returned to society as a potential productive member. This philosophy is a sound foundation for a more productive prison system; a system where a man is salvaged, rather than lost deeper in crime.

Recreation in the prison setting is essential to the well-being of the inmates. "All work and no play" is an adage we all remember from our youth, and it well applies to the correctional situation. Recreation provides that vital link with reality in an otherwise artificial world.

Historically, inmates have been accorded some limited opportunities for physical exercise. Mark Richmond, in his *Prison Profiles,* points out that prior to World War II one prison offered three basic forms of recreation; the yard, the library, and the auditorium. Today that institution offers a broader range of programming for recreation.[1]

The pre-World War II concept of recreation mentioned was not an isolated case, but rather the norm. Prison administrators found it difficult to justify recreation programs in an institution intended for punishment.

In order to understand the value of recreation in a correctional setting, it is necessary to recognize the effect on the individual in the system. Prison is a regimented and artificial existence. To say the least, the inmate entering prison undergoes a demoralizing experience. Here he is stripped of his dignity and his outside identity. Many far-sighted prison administrators have recognized this initial prison shock, and have instituted extensive recreation programs during the classification and quarantine period which the inmate undergoes upon entering the institution.

Recreation provides a vital link with the "outside" world for the inmate. Instead of spending his time brooding over his situation, he can channel his energies into various forms of recreation and leisure pastimes and, hopefully, improve his own attitude. Through recreation, the inmate is provided with a means of maintaining his identity and participating in pastime activities which are familiar to him since recreation activities are the same in or out of prison. Recreation also can assist in lessening the pressures felt by the prisoners and to work off his aggressions.

Recreation and its therapeutic value has been proven many times over in all types of institutional settings. Prison is really not too different. Recreation can be both a therapeutic and a preventive force by helping inmates work off some of the frustrations which they experience. One prison warden commented that a good recreation provides for better inmate morale and a lessening of custody problems.[2]

Recreation programming as it exists in prisons usually is not as diversified as the interests of the inmates. Many such programs are sports-oriented and usually the men will then split into groups of players or spectators. Program diversification is a "must" and it should offer opportunities for outdoor activities as well as such indoor activities as cards, television, special interest groups, hobbies and crafts. Physical fitness of the inmate should not be neglected, and the program should include a daily program of fitness exercises.

Recently at the Virginia State Penitentiary a group of inmates wrote and produced a live television drama, using an all inmate cast and crew. This program has been shown throughout the state on both commercial and educational television. The response to the drama program has been such that Virginia Commonwealth University drama instructors presently are offering courses at the institution.

Examples of unusual programming are numerous and innovative. However, most programs have not developed beyond the local institution. This is partially due to inadequate facilities as well as a lack of professional recreation leadership.

Through innovative programming, the prisoner can be transformed into a useful citizen. Not only does he develop a talent which otherwise might have remained dormant, but such activity serves to develop the concept of the whole man once again. According to Clemmer, a noted penologist, 44% of the inmates' time in the prison can be classed as leisure time. Therefore, the importance of the recreation cannot be overemphasized.

As a rehabilitative tool, recreation offers the inmate an opportunity to utilize his leisure time in a constructive and pleasureful way. By channeling this energy, the inmate is less likely to become involved in infractions of the rules of the institution or in plotting to escape. Recreation teaches him to get along with his fellow inmates and others connected with the institution as well as helping him to acquire a more positive attitude toward life in general. Further, he can develop a sense of self-control that will assist in his rehabilitation.

In conclusion, it is imperative that correctional administrators recognize the value of recreation in accomplishing the goal of rehabilitation. This can be done by employing professional recreators to plan and carry out these programs.

In recent prisons disorders in a number of locations, prisoners have listed among their demands more recreation facilities. Whether this is in the form of more television time, more recreation equipment or more diversified programs, it must be remembered that, for the inmate, recreation is an important and vital link with the outside world.

THE BUSINESSMEN'S EDUCATIONAL FUND FIGHTS DEFENSE WASTE

Mr. PROXMIRE. Mr. President, the Senate Appropriations Committee heard testimony on February 3 from Mr. Harold Willens, national chairman of the Businessmen's Educational Fund. The subject of Mr. Willens' hard-hitting statement was the misplaced priorities reflected once again in the administration's fiscal 1973 budget.

Mr. Willens called specific attention to the $6.3 billion increase in the Defense Department's budget authority. He suggests:

This increase ignores the plain lessons of two decades. It is like dealing with Ford Motor Company's greatest mistake by stepping up production of the Edsel.

I share the belief of the Businessmen's Educational Fund that we can sharply reduce this new Pentagon budget without endangering our national security. I also believe that Mr. Willens' remarks, while directed primarily to members of the Appropriations Committee, deserve careful scrutiny by all Members of Congress.

Mr. President, I ask unanimous consent that the text of the remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT BY HAROLD WILLENS

The Businessmen's Educational Fund appreciates your invitation and commends you for imaginative innovation. By broadening the base of its deliberations: by opening its doors and its minds to public testimony, this influential Committee has broken new ground which can lead to consequences of historic magnitude.

For too long the Congress has behaved like a wholly-owned subsidiary of presidents from both parties. For too long the Congress has defaulted its role in the balanced system of checks and balances our country's founders established to limit presidential power. For too long the Congress has obediently approved Administration requests for staggering sums which have not been used in the nation's best interest.

Fundamental reassessment of resource allocation is urgently needed. These hearings are the right place for such reassessment. Verbal commitment to better policies and priorities are as meaningless for a country as for a corporation. *Financial* commitment is the name of the game: putting our money where our mouth is.

The Businessmen's Educational Fund, a national non-partisan organization, believes our national resources have not been wisely invested. We look to you in the hope that a better distribution of our federal tax dollars can be initiated. And because many of us wrestle with complex corporate budget problems, we understand that rational allocation is easier to talk about than to achieve, especially for a country faced by the multiple demands which go along with a leadership role in world affairs.

But that, we feel, is exactly where we have gone astray—and where you can uniquely serve our people by carrying through to its logical conclusion the concern about fundamental priorities which is evidenced by the unprecedented format of these very hearings. The Congressional Record of last December 15 included a statement by this Committee's distinguished Chairman. Referring to public witnesses concerned with national issues, Senator Ellender said: ". . . We would invite them to testify on general goals and priorities, rather than on specific appropriation line items . . . too often we are exposed to only the Administration thinking on overall priorities and national goals. . . . It is time we expand our scope to take an overall look at spending practices." It is in the spirit of these remarks that we come before you, convinced of the urgent need to reassess the fundamental values which should underlie American public policy and resource allocation.

The crux of the problem is defining the kind of world leader the United States ought to be. We have the military capability to destroy any country on earth. We possess a substantial share of the world's wealth and consume a substantial share of the world's resources. Because we are so richly endowed our national actions have international impact. Yet we shall always need commercial and cultural interaction with others. There is no way so rich and powerful a nation can ignore or be ignored by other nations. Those who speak of isolation or neo-isolation speak empty words.

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[1] Richmond, Mark. "Recreation" in *Prison Profiles,* Oceanea Publications, Inc., Dobbs Ferry, New York, 1965.

[2] Report of the National Correctional Recreation Association Conference, 1968.

It is not a question of leadership but leadership for what ends: What kind of international role should the United States play during the 1970's?

We suggest for your consideration two interrelated guiding principles in response to this question. The first is that America can best lead by setting an example. There is no better way of gaining respect from other nations and stimulating them to good acts than by establishing a truly free, just, and prosperous society for all American citizens. Only by demonstrating the ability to solve the problems of poverty and discrimination and to create a vital society can we earn the basis for giving advice which other nations are likely to find persuasive.

The second principle is to employ our influence and power through partnership rather than force: to be a world partner rather than a world policeman. Military power should not be used as an aggressive instrument for mandating our vision of how other societies ought to be shaped and governed. Businessmen should no longer expect the American Government to make their foreign investments safe and profitable at the cost of American lives.

As we approach our 200th Anniversary we need to reflect upon the most basic precepts embodied in our Constitution and Declaration of Independence. Our ideal is a world community in which every society has an opportunity to determine for itself the kind of existence and political organization it chooses. We submit that leadership through example and partnership—rather than force—is the national role most consistent with our basic principles, and therefore the proper course for the United States.

Measured against such standards, our performance during the past two decades has been inadequate. If a balance sheet were to be drawn comparing America's assets—international goodwill among them—20 years ago and now, we would not be proud of the bottom line.

In some ways we have made substantial progress: an increased gross national product, a rise in educational attainment, a decline in illiteracy, virtual elimination of polio and smallpox, landmark court decisions which have riddled the fabric of discrimination.

But much remains undone. Vietnam veterans return to widespread unemployment and racial tension. They find cities being devoured by poverty, crimes, pollution, heroin and rats. These veterans bear personal witness, along with the 55,000 who died, to the ultimate obscenity of perverted priorities. By pouring lives, brains, technology and money into profitless ventures based on imaginary dangers, the country served by these veterans has jeopardized the best system ever devised by man: free enterprise democracy. While trying to force our will upon others we have neglected and damaged our own precious way of life.

By far the major reason for our failure to stem domestic disrepair—and despair—has been the disproportionate share of our public wealth allocated to military purposes. Excessive military spending has preempted our opportunity to build on exemplary model society at home and has lured us into actions bringing loss of respect abroad. Apart from the long-range inflationary damage caused by Vietnam, the military billions spent there alone could have made a visible difference in controlling urban blight, environmental crisis and social disintegration. The Indochina blunder is not an aberration. It is an inevitable outgrowth of policies reflecting excessive military influence—and spending.

You and your elected fellow officials, along with my greed-governed peers in the business community, have created a military-industrial machine which now dominates our foreign policy and domestic economy. President Eisenhower's prophetic warning has been ignored because presidents, isolated from reality, demanded monumental military sums which have been rubber-stamped rather than realistically evaluated. At one point Congress, at least symbolically, was ready to surround our cities with missiles while allowing them to rot from within.

No one denies that we have needed and continue to need convincing deterrent forces to prevent an attack on the United States or close allies for whom we provide a nuclear shield. National security remains a paramount goal. But we have all acted irresponsibly—as lawmakers and citizens—by allowing one department of the government to call all the shots. Simplistic foreign policy preachments and a massive military bureaucracy have hoodwinked us into a one-dimensional definition of national security. It is against our self-interest to equate national security with multiple military overkill while ignoring economic vitality, confidence in government and faith in the system.

In three critical areas we have made massive errors which have caused massively wasteful military spending. First, the fundamental assumptions underlying our military posture have been full of holes. Time and again we have mistaken legitimate nationalistic aspirations akin to our own American Revolution and misread world events because of a faulty perception of a monolithic aggressive communist movement. We have been blinded by an archaic view of Soviet and Chinese intentions. By refusing to reassess erroneous assumptions we have missed opportunities to make significant advances toward lasting world stability and peace. It is time to accept the fact that China and Russia (who certainly have their share of military hardliners, as we do) are led by people, not monsters: that survival is their mission, not trying to destoy us—an attempt they know would result in their own destruction. Only then can we achieve more open, flexible policies and mutual step-by-step arms reduction reflecting current realities rather than the angel/devil world view underlying our foreign policy. I have seen businessmen march lemminglike toward corporate oblivion blaming the evil of others every step of the way, never thinking to look inward for possible partial fault. Let us avoid even the remote risk of having that happen to our country.

Secondly, specific actions taken to implement those foreign policy assumptions have been ill-advised. Intervention in the civil affairs of other countries where the military result could have no impact on American security has cost us dearly in lives lost, dollars spent, and world opinion soured. In Saigon last year a woman described to me how prison guards, paid with our money, had forced bottles and live eels into her sexual organ: a form of torture from which equally innocent women died before her eyes. At Con Son Prison, where this had happened, an American construction firm was meanwhile building 288 additional "isolation wards" (Vietnamese call them "tiger cages") under a $400,000 U.S. Navy contract. For such use our tax money has been appropriated by your committee in the holy name of "National Defense."

Finally, the arming and operating of military forces to implement our mistaken foreign policy have been carried out in flagrantly wasteful fashion. The staggering cost overruns in procurement of major weapons systems have been amply documented. Even more wasteful have been decisions leading to retention of weapons systems which have long since outlived their military usefulness. Most costly of all has been a general attitude of unquestioning acquiescence to military requests for new and more weapons. The blame cannot be levied on the military professionals who are after all only doing their job. To say that a military man wants expensive—and perhaps unneeded—weapons systems is simply to recognize what he is paid to do. So it rests upon our elected representatives to give military spending requests the same tough-minded scrutiny other programs receive. The following few words from a Fortune Magazine editorial indicate the Businessmen's Educational Fund is not alone in these views: "U.S. ground troops have been deployed around the world for a generation like the Twentieth Century equivalent of the Roman legions. The United States is in the grip of a costly escalating pattern of military expenditure (which) has come to live a life of its own."

And to remind you that our military planners share the responsibility for an endless arms race which grows increasingly dangerous and costly, here are a few words from a Wall Street Journal editorial at the time multiple independently-targeted re-entry vehicles (MIRV) were in the news. "The Pentagon is deploying this weapon at least four years in advance of the Soviet deployment it reportedly is a reaction to. If that sounds as fishy to Soviet diplomats as it does to us . . . their generals would inevitably want to press harder with their own multiple warhead testing" the Wall Street Journal said. Those words proved prophetic as well as descriptive of how unbusinesslike it is to let military men determine military spending levels.

Several years ago we distributed an article written by former Marine Corps Commandant General David M. Shoup, entitled "The New American Militarism." With 20,000 copies we included a survey asking business leaders if they disagreed or agreed with General Shoup's statement that "America has become a militaristic and aggressive nation." Because these are strong words and businessmen are not known for courageous public positions, we were astonished to receive 2000 replies agreeing with General Shoup's accusation. There may be surprising support—even in the business community—for discarding imperialistic military policies which have caused Congress to shortchange many of our people and misdirect resources required to create the inspirational model which would prompt others to want American partnership.

In that context consider again the cogent words of Senator Ellender: "It is time we expand our scope to take an overall look at spending priorities." Right now this Committee can perform a unique national service by rising above political pressures and special interests: by applying an objective Overview which can prevent repeating past mistakes.

You represent the best current hope for actualizing the "new priorities" for which most Americans are calling. No government body is better positioned to step out of—and above—the roaring stream of events in whose context hasty, irresponsible budget decisions have been made.

It would be irresponsible, for example, to appropriate extra military money just to provide jobs. Nothing would more clearly illustrate the power of the one-two military punch which has bullied Congress into abdicating the role intended by the Republic's founders; men who wanted to prevent presidents from becoming de facto kings, and who knew the dangers of an overly-powerful military establishment.

The first punch consists of exaggerated threats which cow Congress into underwriting annual military wish lists. After absurd spending levels create a military grip on the economy, the second punch is delivered, as indicated by Secretary Laird's recent response to former Deputy Defense Secretary David Packard's remark that the Pentagon could save $1,000,000,000 a year spent on unneeded military bases. Said Mr. Laird: "I'd hate to be called the secretary who has caused more unemployment than any other."

Military spending is not the way to solve unemployment problems. In this context it should be stated that the Marshall Plan—not NATO—made possible the economic rebirth and democratic survival of our European friends. So also equitable economic assistance—partnership—can keep desperate people from embracing the economic lure of socialist systems. Of all the myths which die hard, one of the most tenacious is the belief that American economic prosperity requires heavy military spending. We agree with the opinions expressed at one of our meetings by Louis B. Lundborg, who was then Bank of America's board chairman, about the great need and for benefits which would come from economic conversion to quality of life expenditures. Advancing that kind of economic conversion is the best way to solve unemployment problems.

To meet the challenge and the opportunity before you will require something vastly different from the Congressional subservience which has emasculated the potency of checks and balances. To meet that historic challenge this Committee must now assume again the constitutional responsibilities which Congress has abandoned.

For you are now being asked to authorize an increase of 6.3 billion military dollars for fiscal 1973. That request is a gross insult to your intelligence because it ignores the plain lessons of two decades: it ignores the reduced costs of the Indochina conflict; it ignores the fact that heavy military spending fueled the inflation which has gutted our economy; it ignores the trillion dollar misunderstanding that arms escalation increases national security; it ignores the so-called 2½ war strategy-fantasy responsible for the quantum leap from a sensible military spending level of $12,000,000,000 in 1948, when the cold war was really frigid.

Asking you to increase military spending at this point in time is like dealing with Ford Motor Company's greatest mistake by stepping up production of the Edsel. If an imperious Ford executive had urged such action; if a weak staff and Board had gone along, a costly mistake might have been compounded into the demise of a great corporation. We respectfully submit that elements in this analogy are worthy of your consideration as you review a military budget which asks you to continue—and expand—counter-productive spending policies.

In its crisis Ford Motor Company showed true leadership quality by recognizing and correcting its mistake, thus serving well the long-term interests of its shareholders. Our executive leadership is not doing as well for the shareholders of the American enterprise.

But the constitutional power of the purse still resides in Congress. We appeal to you to use better budgetary discretion than is revealed in the request before you. It is time for Congress to express its own views on basic policy directions and spending rather than obediently accepting Administration assumptions and dictates.

Administration advisors are not blessed with ultimate wisdom, as we have learned from the costly advice of Walt Rostow, Dean Rusk and others. As businessmen we can of course appreciate your need for expanded analytical staff capabilities. We would regard as a prudent national investment money spent for that, as well as for a Congressional think-tank institute to provide a more equal analytical balance between Congress and the Administration in place of the grossly imbalanced present relationship.

But that is for the future. The immediate need is for meaningful response to an historic challenge.

While calling for strong fiscal discipline and asking Congress to forestall "raids on the Treasury" the President placed before you a Budget which raids the Treasury by failing to reduce military spending levels based on the faulty perceptions and assumptions of the 1950's and 1960's.

The question before you is this: Since the President has failed to lead us into new directions, will this Committee exercise the leadership we so desperately need? Will this Committee inspire the Congress to an independent action which forsakes old ways proven wrong?

By exercising the courage of true leadership you can start a process which will gainfully affect our own people and reestablish the international respect we have lost.

Imagine the worldwide reaction if Congress, inspired by this Committee, reallocates to quality of life program $20,000,000,000 now budgeted for military spending! Would China and Russia be able to resist international pressure to follow such leadership? Beset by their own domestic needs, might they not welcome that first military de-escalatory step which requires the courage of true leadership?

In business we seek but rarely find low-risk, high-yield ventures. This is such a venture. With our overkill capacity, with the President's forthcoming visits to China and Russia, with evidence that inefficiency and duplication keep us from getting maximum military return for minimum costs—the calculated risk of a $20,000,000,000 reduction is well worth the probable gains. As to where the cuts should be made, copious documentation exists to provide intelligent guidelines.

In closing, we express the fervent hope that by facing past mistakes with clarity and dignity; by defining national security more broadly and opting for a world leadership partnership role; by shifting fiscal policies to give to "new priorities" real meaning—and by reasserting the constitutional role of Congress through a specific budgetary action—this Committee will exercise the leadership for which our people yearn; leadership which will benefit our nation as well as all the world.

UNITED STATES-CHINA RELATIONS

Mr. CHURCH. Mr. President, as President Nixon begins his journey to Peking, Hangchow, and Shanghai, I think that comments on United States-China relations over the course of a quarter century would be useful for background purposes. I ask unanimous consent that a concise historical run-down by Jack Anderson and articles by John S. Service, who recently revisited China where he was born and served in our foreign service, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Parade Magazine, Feb. 6, 1972]

WHAT EVERYONE SHOULD KNOW ABOUT UNITED STATES-CHINA RELATIONS

(By Jack Anderson)

WASHINGTON, D.C.—It could have been a moment that changed the course of history.

It happened in 1954. John Foster Dulles, architect of America's cold war policy, faced Chou En-lai, the Chinese Foreign Minister. They were in the conference room in Geneva, where the major powers were carving Indochina into spheres of influence to bring temporary peace to the area.

Chou walked toward Dulles, and held out his hand. Dulles hesitated, then clasped his hands behind his back. The Secretary of State muttered, "I cannot," and stalked out of the room.

The incident still burns inside Chou as the most humiliating of the scores of rebuffs the United States has handed Communist China in the past 25 years.

Still-secret files, stored in guarded government warehouses in Washington, tell how the U.S. has fumbled a number of opportunities to achieve the very détente with Red China that President Nixon is traveling to Peking to seek.

The China papers are heavy with the names of America's recent great—Truman and Eisenhower, Kennedy and Nixon. They tell how Chiang Kai-shek's lavishly financed "China Lobby" pressured the U.S. into decisions that have cost us billions of dollars, two bitter wars, and immeasurable prestige.

We have made an exhaustive investigation of a number of the China papers. We have conducted extensive interviews with men who were close to the events to learn what the remaining documents contain.

Here are the highlights of the story U.S. officials have tried to hide:

On several occasions during the 1940's, the Chinese Communists hinted at their independence from Moscow and sought U.S. friendship. They were rudely rejected.

The U.S. made a firm decision to back Chiang and "contain" Mao before Red China intervened to hold North Korea. Yet the Communists continued to attempt to establish friendly ties.

Secretary of State Dean Rusk proved an inflexible block to the reappraisal of our China policy during the Kennedy years.

The Vietnam war, like the one in Korea, probably could have been avoided if we had opened relations with Red China.

Richard Nixon, who built his political career as a staunch anti-Communist and friend of old Chiang, came into office with the goal of normalizing relations with the Chinese mainland. He angled for his Peking invitation despite the opposition of close advisers.

WHO "LOST" CHINA?

The details of American China policy from the 1940's to the 1970's is told in a collection of diplomatic papers, relatively few of which have been made public. These documents have been the heart of the controversy over who "lost" China. Some were the basis of the 1949 Truman Administration "White Paper" which showed that China was lost by Chiang's corruption, mismanagement and ineptitude.

The China Lobby—a collection of China traders, public figures and hirelings—charged that the "White Paper" was a "whitewash." When the Republican Party took control of the government in 1953, the pro-China bloc in Congress ordered the State Department to publish the entire record of Sino-U.S. relations from 1942 to 1949.

Two volumes were published. They showed, beyond dispute, that the burden of responsibility for China's "loss" weighed directly upon Chiang. Further, the documents revealed U.S. diplomats in China had warned repeatedly that Chiang was uncooperative in the war against Japan, that his regime was thoroughly corrupt, and that he would not be able to defeat the Communists in a civil war. These warnings were consistently ignored by U.S. policy makers.

CHIANG POWERFUL

During the past three decades, Chiang Kai-shek has exerted an inordinate influence over the foreign policy of the United States. When the China papers proved an embarrassment to him, he urged publication be stopped.

Two more volumes were released in 1967 and 1969, but these still don't cover Chiang's downfall. The record of events beyond 1945 remains secret.

The papers show that until 1944, America's

China policy was ambiguous. The U.S. was far more interested in defeating the Japanese, who then controlled China, than in the power struggle between Chiang's Kuomintang and Mao's Communists.

It was felt that the best way to overthrow the Japanese was to continue support for Chiang, while trying to convince him that peace with Mao and his million-man army would expedite victory. To the continued frustration of American officials, Chiang was more interested in defeating Mao.

Gen. Joseph "Vinegar Joe" Stilwell, a caustic, capable officer, was assigned as Chiang's chief of staff in 1942 to "improve the combat efficiency of the Chinese Army." Stilwell was unable to reform either the army or Chiang. Exasperated, Stilwell wrote in his diary that Chiang was "a peanut dictator."

To smooth the conflict between Chiang and Stilwell, President Roosevelt sent Patrick J. Hurley to China as his "personal representative." Hurley was a prominent Republican with a reputation as a negotiator.

In China, Hurley set his own policy. His mission, he repeated in his cables to the State Department, was to "sustain" Chiang's government. He was never officially corrected.

The China papers show that one of the first Communist bids for U.S. recognition came in July, 1944. U.S. military officials toyed with the idea of giving Mao's troops arms and ammunition to use against the Japanese. To get an accurate appraisal of the Communist potential, the Army flew an observation group, known as the "Dixie Mission," to Mao's redoubt at Yenan. With the mission was John Stewart Service, second secretary of the U.S. Embassy.

"Chairman Mao expressed the hope," Service wrote on July 28, 1944, "that a representative of the State Department might be regularly stationed at Yenan. He stated that the reason for his hope is that the time of greatest danger of a Kuomintang attack on the Communists will be soon after the cessation of hostilities against Japan." Mao's request was ignored.

Meanwhile, other U.S. diplomats were warning that the U.S. should not take sides in the civil war. "The situation is rapidly becoming critical," Service wrote. "China faces economic collapse . . . morale is low . . . the authority of the central government is weakening . . ." John Paton Davies, who replaced Service with the Dixie Mission, told Washington: "The Communists are in China to stay . . . China's destiny is not Chiang's but theirs."

MAO QUOTED

From Yenan in 1945, John Service reported that "the Chinese Communists consistently deny that they have any 'relations' with the Soviet government." After a talk with Mao, Service quoted the Chairman as saying: "Between the people of China and the people of the United States, there are strong ties of sympathy, understanding and mutual interest . . . America is not only the most suitable country to assist [in the] economic development of China; she is also the only country fully able to participate . . ."

The field reports nevertheless conflicted with Hurley's self-appointed mission to save Chiang, and he stormed home in a rage, resigned, and went before the Senate Foreign Relations Committee to accuse the embassy staff of "defeating" American policy. The China experts were abruptly transferred to other posts.

Later, during Sen. Joseph McCarthy's witch-hunts, Service, Davies and others were accused of being Communist sympathizers and were cashiered out of the Foreign Service.

Now with the Center for Chinese Studies at the University of California, Service told us that had the U.S. heeded his warnings, "the Korean War would not have come about. Or if it had, there would have been no Chinese intervention." Service and Davies agree that the Vietnam war could also have been avoided.

TRY FOR PEACE

But America was on another course. Gen. George C. Marshall replaced Hurley in China, tried to bring peace between Chiang and Mao, and wrote bitterly of the Chiang government's "incompetence, inefficiency and stubbornness." After two years, Marshall came home to be Secretary of State.

Chiang's troubles with our diplomats did not carry over at the Treasury Department. He received some $2 billion in grants and credits between the end of World War II and 1949, plus another $1 billion in arms and ammunition.

Still, his hold on China steadily deteriorated as our diplomats had predicted. It was April, 1949, when Mao's angry army swarmed across the Yangtze River and sent Chiang scurrying to the safety of Taiwan. Disenchanted at last with the U.S., the Chinese Communists evicted all American diplomats and turned to Russia for aid.

A few voices were heard in Washington calling for recognition of Red China. They were quickly smothered.

There were more Chinese overtures in the 1950's, all rejected. Truman declared a "hands off" policy on Taiwan, but threw his weight—and the U.S. Seventh Fleet—behind Chaing. When the North Koreans invaded South Korea, our intelligence reports of the time show they were encouraged almost entirely by Russia, not China. But Truman saw it as a Communist conspiracy.

With the national passion for guilt by association fostered by Joe McCarthy, no one in the State Department of the 1950's dared suggest moves to open communication with China. But the Communists, our diplomats of the day now admit, proved remarkably patient.

At an "Asian and Pacific Peace Conference" in Peking in 1952, the Chinese called for the U.S. to bring peace in Vietnam and Malaya "through negotiations."

At the Geneva Conference on Indochina in 1954, the Chinese again campaigned for peace in Indochina, and Chou offered Dulles his hand. Despite the rebuff, the U.S. and China, working through third parties, initiated a series of talks which were later moved to Warsaw at China's request.

At a meeting of Third World leaders in Indonesia in 1955, Chou publicly offered to negotiate with the U.S. on "relaxing tension in the Taiwan area." The suggestion was killed by the State Department, which demanded that Chiang's government be treated as an equal at any talks.

In 1960, American writer Edgar Snow managed to travel through China for five months, and spent nine hours with Mao. It was obvious that Mao's overtures were really directed to the White House. When Snow returned home, he was summoned to the State Department for an interview. It lasted only ten minutes.

John Kennedy named W. Averell Harriman Assistant State Secretary for Far Eastern Affairs, and the old statesman quickly filled the China desk with men with new ideas. The China papers of the Kennedy years will show that long, hard attempts were made to revamp our China policy. Insiders say few suggestions ever got past Dean Rusk's desk.

In the Johnson Administration, the possibility of a new approach to China was mired, along with the rest of the nation's foreign policy, in the quicksand of Vietnam.

Real progress in Sino-U.S. affairs had to wait for Richard Nixon. Fifteen days after he took office, Nixon forwarded a memo to his chief foreign affairs adviser, Henry Kissinger. "I think we should give every encouragement to the ideas that this Administration is seeking rapprochement with the Chinese," he wrote. He then ordered a major review of China policy.

Three times a week, Nixon and Kissinger met to plot their approach. Most of the ideas for secret communication with the Chinese, says Kissinger, came from the President himself. The Chinese were first contacted early in 1969 through French President Charles de Gaulle. Other European intermediaries were subsequently called upon to transmit messages to Peking.

TRAVEL EASED

Meanwhile, Nixon set the stage by easing restrictions on Americans traveling to China, moderating the trade embargo, and ending the regular patrols of the Seventh Fleet in the Taiwan Straits. Here and there he dropped a hint to the Communists. In his February, 1971, "State of the World" speech, for example, he made history by referring to the Red Chinese Government by its official name, the "People's Republic of China." Peking responded with an invitation to the U.S. table tennis team.

Then came the most stunning development of all. In early July, 1971, Nixon announced that Henry Kissinger had just returned from Peking with a personal invitation from Premier Chou En-lai for the President to visit China. Nixon promptly accepted.

The eyes of the world will be on Richard Nixon as he makes that historic trip this month. It has been a long 25 years.

INSIDE CHINA TODAY

In the flowery language of Oriental oratory, China's Mao Tse-tung has always referred to the struggle between the Western and Eastern worlds as "the war of the east wind against the west wind."

The phrase has become as significant as it is colorful. For the west wind that blows into China comes from Russia. The secret intelligence reports out of China today show clearly that an epic struggle is developing between the titans of communism.

Declares a classified cable: "Bitter contention over the Indo-Pak crisis—including references to Soviet threats and blackmail of China—clashes over other issues in the United Nations and recently increased Moscow propaganda exploitation of the Chinese party split have raised Sino-Soviet polemics to the highest point since 1969.

"In addition, the Soviets appear to be taking other steps, such as unilaterally recessing the border talks, to signal a deterioration in relations. . . ."

There are also ominous rumblings out of Russia about a pre-emptive strike into remote Sinkiang Province, where the Chinese are testing their nuclear missiles.

The most direct threat was made during the recent India-Pakistan war. Russia's ambassador to India, Nikolai Pegov, was quoted in a secret CIA cable as threatening: "If China should intervene (against India), said Pegov, the Soviet Union would open a diversionary action in Sinkiang."

[From the New York Times, Jan. 24, 1972]

The Return of a Native: "That Old China Was a Troubled Place"

(By John S. Service)

Berkeley, Calif.—An American returning to China after 26 years comes with different eyes. Absent since before the Communists won the country, he cannot but remember China as it used to be.

That old China was a troubled place—for most Chinese. Warlords, national disunity, civil war, imperialism, unequal treaties, Japanese aggression, ruinous inflation, grinding poverty, natural disasters, callously rapacious rulers.

Since I am the returnee, the reader should be aware of additional frames of reference. I was born in China and, including my youth, spent 28 years there. My personal career as an officer of the American Foreign Service became embroiled in differences of judgment and policies of the United States. My present trip was as a guest of the Chinese Government and based, at least in part, on my friendly acquaintance with many of the Communist leaders during the war years

(1941–45) in Chungking and Yenan. So much for background.

For six and a half weeks, from late September to early November, my wife and I traveled some 6,500 miles inside China—north, west, east, and south. One important area we saw—Szechwan Province in the west (and my birthplace)—had long been "off limits" to foreign travelers. I was, in fact, permitted to visit every place I asked to see.

Much of our journey was by air. But the jet age has fortunately not yet reached China. Planes fly low, by day, and preferably only in good weather. The shape of the land, and the mark of man's hand upon it, are plainly to be seen. Even better was a thousand miles by car in the countryside (where I upset protocol by pre-empting the seat beside the driver). In every city we got into the streets, shops, parks, theaters, and restaurants. And, in town or country, I walked—often without guide or escort. My Chinese, though rusty, gave me ears and at least half a mouth; and I could still read.

It is easiest to deal first with the physical changes. In the countryside, the face of the land has been changed by incalculable human toil. Land is saved and gained by elaborate terracing, erosion control, drainage, reclamation. The communes have brought a new layout of the land into larger, more efficient fields. From the air, one sees the neat pattern of the commune members' tiny individual plots clustered close to the villages.

In most areas, graves that once usurped precious tillable land have been removed. This prepared me for finding—when I eventually reached Chungking—that the little foreign cemetery with the grave of my father and elder sister had disappeared. Ancestor worship has disappeared; and so, also, the favored, special status for foreigners.

Everywhere there are irrigation projects: dams, reservoirs, aqueducts, and canals—large and small, completed or still in construction. There have been extensive efforts at reforestation—not all successful. But there are carefully nurtured trees—often in multiple rows—along every road, canal, and railway. In the bleak and treeless landscape of the north, there is a new greenness.

Wherever I went there were telephone and electric power lines. Many communes have their own generating plants. Electricity has brought thousands of pumps for irrigation.

In the cities, there are many new, broad, tree-lined avenues (kept scrupulously swept by multitudes of busy women); some impressive Government buildings (in styles ranging from Soviet to Chinese-palace to eclectic); and a drabness that comes from the absence of colorful old shop signs and advertising (except for political slogans).

In the extensive new suburbs are miles of large, well laid-out factories (often, alas, with smoke-belching chimneys), power plants and refineries, and row upon row of workers' housing.

It is true—though surprising—that there are no derelicts and beggars, no people in rags and tatters, no signs of starvation nor malnutrition. Instead, at street-corner markets in cities such as Peking, cabbages and other vegetables are heaped in great mounds on the ground—and if unsold, are left undisturbed overnight. Fruit is everywhere in overflowing abundance.

When I was a boy in Chengtu, the rice harvest came once a year at the beginning of September. Revisiting there in mid-October, I was puzzled to find the harvest not yet begun. The answer: the great rice bowl of the rich Chengtu plain has been converted to two-crop rice, each more plentiful than the single crop of the past. Gone are the days when meat was a rarity reserved for New Year and great occasions.

One may miss the brightly gowned upper-class women and entertainers (of various now vanished types) of old Shanghai days; but the people are reasonably well and neatly clothed. Notwithstanding those who have written about the land of "blue ants," there is more color in Chinese clothing now than there used to be. Silk is popular for quilt coverings but a silk brocade factory near Chengtu conceded that some elaborate traditional patterns had not been made since the Cultural Revolution. In Peking (and *not* at one of the special "Friendship Shops" for foreigners), my wife bought an off-the-rack pair of pants of acrylic fiber, handsomely cut, and well made. Her great regret now is that she bought only one pair.

In a commune co-op store (in the countryside near Sian), there was a display of "sanitary paper" (toilet tissue)—coarse by Western standards, but (like bicycles) not an item that farmers had money to buy in the old days.

[From the New York Times, Jan. 25, 1972]

The Return of a Native: II—A Conscious Pride in China's Development

(By John S. Service)

Berkeley, Calif.—To a Westerner, life in new China may appear earnest, sober and rather serious. We heard no firecrackers and saw no fireworks. We saw no Buddhist monks or Taoist priests. Nor did we see a single bridal procession or funeral cortege. The pigeons in Peking no longer have whistles that hum as they fly, but the sparrows are coming back. There are no dogs in the cities, but they are still in the villages—and they look now as though someone fed them. Small boys are still able to sleep happily on the backs of the water buffaloes they tend.

The click-clack of mah-jongg tiles, once the background noise in Chinese hotels, is nowhere heard. At a store in Chengtu, I saw a box in a showcase and asked the girl clerk to show it to me. My interpreter read my thought and smiled. It looked like a box for a mah-jongg set, but it was not.

In Shanghai, we drove by the old Lido—where Don José and his big Filipino dance band used to be almost as good as Guy Lombardo—and some of the hostesses spoke beautiful Pekingese Mandarin to aid a young American consular officer in after-hours language study. It was dark and apparently used as a warehouse. Dark also, or converted to utilitarian uses, were the other night spots of the "Paris of the Orient." One could sympathize with the sad comment of a lonely Danish seaman: Shanghai was the deadest place he had ever found.

For the Chinese and especially for those with simpler tastes, life is not all grim. Chinese food is the best in the world, still very much enjoyed, and available because they can better afford it—to far more people than ever before. For the same reason, there is more consumption of Chinese rice wine and spirits. Beer no longer seems to be enjoyed mostly by foreigners; and China has started making quite passable grape wines. Surprising to Westerns, alcoholic drinks are not heavily taxed and hence are relatively cheap. But I did not see any drunkenness. In fact, I noted with relief that hosts no longer regard it a great thing to put the guest of honor under the table. No one gains compliments by having an "ocean capacity." And I never heard a single shouted "finger game"—in which the loser drinks, and at which most Chinese in the old days could make a monkey out of foreigners (particularly me).

The Chinese have always liked their theater, with its stylized acting, singing and dance. Today every school, factory, and Government organization seems to have its own often very polished troupe. Children start in kindergarten. Of course, it all has a political or patriotic message. But it need not be unpleasant or obtrusive. On the plane between Sian and Yenan, a Russian copy of the old two-engined DC–3, the little stewardess (19 years old and wearing two braids) passed hot tea and fruit and then made up for the lack of piped music by demurely offering to sing some North Shensi folk songs of the Sino-Japanese War. Loudspeakers blaring music can be an annoyance; but one can quickly find out where the switch in your railway compartment is located.

The Chinese have always been proud of their past. And they are fond of nature—usually in famous beauty spots.

When I was a boy, I had been taken to the supposed site of the thatched hut outside Chengtu of the famous Tang Dynasty poet, Tu Fu. I remembered it as a deserted, quiet place. Now it is the center of a large shady park visited by throngs of people. They also see a new museum with laudatory inscriptions honoring Tu Fu by Mao Tse-tung and many others.

On Purple Mountain near Nanking, classes of school children were visiting the mausoleum of Sun Yat-sen—still honored as a revolutionary leader of his country. In Peking, the whole palace of the Forbidden City is a great park-museum. Crowds peer with interest into the luxurious living quarters of the Empress Dowager as the loudspeakers pour out a historical lecture that spares no details, such as the invasion of the palace by the foreign armies after the Boxer Uprising in 1900. Stone and bronze animals bear signs: "Please do not climb on the statues."

A foreigner is interested in the way in which he is received. In the old days, humbler classes seemed to regard you as something strange and fearsome. Traders and suppliers of services saw you as possessed of wealth but often not much sense. The police and military knew you were a protected individual. The governing and intellectual groups showed their resentment by reverse condescension and an air of cultural superiority. Now you are treated by everyone in a direct, person-to-person way of absolute equality.

Part of this is, of course, a carryover of the way in which Chinese now treat each other. But there is also a conscious pride in what China has accomplished—by her own efforts.

The foreigner is no longer someone to be emulated. In the old days, and especially in the treaty port cities like Shanghai, men wore Western suits as an indication of status. Nowhere—not even in Shanghai—did we see a single Chinese man in Western garb.

An ability to speak foreign languages used to be a prestige symbol. Chou En-lai, in his talk with me on the day after the admission of the People's Republic into the United Nations, spoke scornfully of Kuomintang diplomats who "could not even speak Chinese." Old friends, quite able in the past to speak English, preferred to talk to me in their own language (and why not?).

In Kuomintang days, I had become quite used to officials who seemed suspicious of Americans who could speak, and especially read, Chinese—presumably because we were less likely to believe what we were told. Now I found that my sadly eroded language was uniformly greeted with unmerited praise, pleasure—and sometimes even astonishment. Pidgin English, mercifully, is now completely dead. We never heard a single "me no wantchee."

One aspect of this Chinese attitude toward foreigners is worth mentioning. You are received, and treated, as an individual. A sharp differentiation is always made between you, as a person, and the policies of the American Government. It is normal in China today for people to be frank and direct, to get to the point, to criticize and to eschew the old face-saving habits of circumlocution.

This emphasis on people-to-people relations is exemplified by a big new poster in Canton: "Our friends are all over the world."

The extent of knowledge and understanding of America varies between different groups and strata.

At the top, the men in responsible positions in the Ministry of Foreign Affairs—and of course Premier Chou En-lai—are extremely well informed about the world and the United States. They look at the world with knowledge and great realism. It is not surprising, with a united, confident and relatively prosperous country behind them, that they have opened their doors—at least a crack—to American visitors; and that they are moving out to play a role in the world which they believe that China's status deserves and her interests require.

[From the New York Times, Jan. 26, 1972]

The Return of a Native: III—Life in China Is "Obviously Better"

(By John S. Service)

Berkeley, Calif.—Were we shown a succession of Potemkin villages? Certainly the Chinese want to make a good impression; we would do the same. But in Szechwan Province and elsewhere, we saw many places never before visited by foreigners (it becomes quite easy to recognize where you are a novelty). And we did not wear blindfolds. One does not need to enter and inspect a commune to be able to see, from the road as one drives past, the number of new dwellings (built and owned by the commune members). In the old days, a new farmhouse was a rarity.

Life is obviously much better for the great majority. There is no longer starvation, and bitter poverty. But by American standards, life is still simple, frugal, and austere.

Countries other than China have improved the livelihood of their people. Even Mussolini was able to make the trains run on time. What about the atmosphere and quality of life in China? The answers demand a long and intimate immersion in present-day Chinese society—a chance, for instance, to live in a commune for an extended time. These opportunities I did not have. But one becomes aware of a prevailing attitude. Call it, if you prefer, a spirit, mood or temper.

Perhaps the single word that best describes it is egalitarian. It is exemplified, of course, by everyone being a "comrade."

A few other examples: Stopping for tea at a roadside refreshment stand, you invite your driver to join the party. He does so, takes an unselfconscious part in the conversation, and slips away to buy a few persimmons (the first of the new season and not yet sold in the city) to share with all.

My interpreter (a cadre of considerable seniority) engages a gardener at the Ming tombs in a conversation about how the hidden entrance to a recently excavated burial chamber was discovered. The gardener took part in the dig. He talks informatively and with animation. But most interesting to me is the direct, statusless manner in which they speak.

Seeing a harvest crew in the field, we stop the car and walk over. They are operating a new treadle-operated threshing machine. They answer our questions about the machine and the crop. In turn they ask where we are from. But no one is so awed that he stops threshing rice.

In Canton we go to a large garden restaurant. Spurning the special, elaborately decorated section for foreign visitors we join "the people" on the main floor. Our waitress (who has probably seldom waited on foreigners) talks knowingly about the specialties of the house, makes recommendations, answers questions about local matters and takes attentive care of us and her other tables (the restaurant was crowded to capacity). She asks if we would like a tour of the establishment and conducts this with aplomb, and knowledgeable pride in the (state-operated) enterprise. (The dinner for five came to $2.20.)

What has produced this new temper? Obviously a great many factors.

China has changed from being a country where the great majority was illiterate to one where the great majority is literate. A half or more of the population has been born in the 22 years since the Communists took power. All children now go to school—most of them to the junior high school level.

Once the ability to read has been acquired, the process of political education can be continued. Our room attendants read "The People's Daily"; and they joined in regular group meetings to read and study the thought of Mao. Most important, with everybody able to read, the historic gulf between the uneducated and the educated, between the peasants and the old literati, has been narrowed—and self-confidence increased.

Another basic change: The status of women. All occupations and professions have been opened to them—with equal pay and such benefits as maternity leave, infant care, and nursery schools. One factory—a shopfront "street industry" turning out small parts for trucks (which are now produced even in Chungking)—was staffed entirely by women.

Gone are the days when women were subordinate, disadvantaged members of society. Shortly before Emperor Haile Selassie of Ethiopia was to arrive in Peking, I left our hotel for a shopping expedition. When I thought to return, it was too late. Traffic control in the areas around the parade route had been taken over by groups of women, mobilized by the street committees and wearing badges to confirm their duties. These sturdy housewives cordoning every avenue were friendly, pleasant, and even sympathetic: but the street was closed and I could not pass.

Another difference is the People's Liberation Army. It has become the paragon of civic virtue and the model of political reliability. Mao himself has summoned the country to "learn from the P.L.A." Its motto, "To Serve the People," has become a national slogan: adopted by every state enterprise—down to the little old lady (with clean white cap and apron, a trim, white-painted pushcart, and a string bag for discarded wrappers) selling popsicles on the Peking streets.

[From the New York Times, Jan. 27, 1972]

The Return of a Native: IV—China's Very Unstarchy Army

(By John S. Service)

Berkeley, Calif.—The old saying was that "good iron is not forged into nails: good men do not become soldiers." Now the army in China is a calling of pre-eminent prestige. A senior cadre tells of his daughter's (and his own) disappointment at her failure to qualify for enlistment—not as an officer, but in the ranks.

Interviewing high school seniors, one finds that "to serve with the People's Liberation Army" is the most popular career goal (one serious girl, though, hopes to "benefit mankind" by making a great, scientific discovery).

It is, however, an oddly unmilitary army. No one, for instance, wears any insignia of rank. The middle-aged man sitting across from me in the airplane must be an officer of some seniority, or else he would not be flying. But there is no sign in his dress or manner, nor is he accompanied by orderly, aide or armed bodyguard. Everyone, in fact, wears the same shapeless, unstarched and unpressed cotton uniform. No hint of spit and polish, of swagger and strut. There are guards at some Government buildings (and at our hotel, because some diplomats had been assaulted—"by ultraleftist troublemakers"—during the frenzied days of the Cultural Revolution). Off-duty, unarmed P.L.A. men are in great numbers on the streets, in parks and theaters, and in the stores (where they clearly have money and expect to pay for their purchases). But one never sees units of marching men, or hears a military band or even the fumbling army bugle practice that used to make dawn hours hideous in inland Chinese cities.

Also new, of course, is Mao's persistent drive against elitism and bureaucracy; his efforts to eliminate the old chasm between mental and physical work, between city and country, and between intellectuals and the workers and peasants. This, in large part, is what the Cultural Revolution was all about—but one can trace it back at least to Yenan days. It is not all negative—against élitist intellectuals, bureaucratic cadres, and bourgeois technicians; it also rests on a populist faith in the innate abilities and creativeness of the common people.

This insistence on the dignity of manual labor and the benefits of physical fitness has brought a new revolution in the schools. Every student spends some time in shop work—schools in Chungking seemed to be producing simple parts for motor trucks; some time in military training, usually field marches by school or class—including the girls—lasting for one or several days; and some time in farm work, generally going to the communes at harvest or sowing—unless the school has its own fields. The same is true of universities.

In 1943, I traveled by bus from Chungking to Kansu with a party of Chinese Government officials, engineers, college professors and newspaper correspondents. They were "modern" intellectuals. None, of course, had the long fingernails proudly worn by the earlier Confucian scholars. Most wore Western clothes; indeed, a good many had studied in foreign universities. It was midsummer and oppressively hot on the Chengtu plain. After several days, we came to the Chialing River, flowing smooth, cool and clear as it emerged from the mountains. Our bus had to be ferried across the river. There was a line of trucks ahead. We settled down to a hot wait. The river was inviting. I suggested a swim. When I showed signs of being serious, excuses began to be made. I ended by swimming alone. We traveled together for two more months, and my companions' inaptitude for physical exercise was fully confirmed.

In October, 1971, I revisited some warm springs about twenty miles from Chungking. In World War II days it had been a favorite site for country homes of high Kuomintang officials. Now the whole area has become a public park—including a large, outdoor, warm-water pool. We were a group of eleven or twelve: three drivers, the rest middle-level or senior cadres. The leader asked whether I liked to swim. I said I had not been in the water for several years. "Come on," was the reply. "None of us is expert." So I swam and, presumably because of the long absence of foreigners from Szechwan, before an undeservedly large and enthusiastic audience. But every member of the party was in the water with me. There was only one man, the eldest, not actually able to swim.

Perhaps swimming is a special case: Mao has set the example by his fondness for swimming the Yangtze. By it was obvious, in bathing trunks, that the bodies of these men were used to physical work and activity.

Egalitarian confidence and self-assurance might be accompanied, one supposes, by some self-importance and arrogance. Actually, what one finds everywhere are courtesy, cheerful good humor and cooperative helpfulness.

The atmosphere is comfortable, relaxed and free of tensions. Everyone works hard. If any people have a work ethic, it must be the Chinese. But the pace is not frenetic. It was new, for instance, to find that a long lunch-break, from noon to 2 P.M. or 2:30, seems now to be a general habit.

The police, unlike the past, are now unarmed—without even a stick. And, except for the men and women on traffic duty, they are few and inconspicuous. One does not hear the night watchman of old times, striking his clapper as he makes his rounds. Crime and robbery do not seem a problem. No longer are the walls around a new home or factory topped by jagged broken glass set in cement.

In all our traveling, we never saw an adult strike a child; and only very seldom did we hear a child cry.

In fact, after we had been a month in China, I realized that I had not heard any swearing and cursing. Our interpreters said there had not been any campaign against cursing, but it no longer seemed "appropriate."

This new civility may owe something to the example of a state and party that seem to prefer governing by persuasion and propaganda rather than by command and force. One wonders, though, if it does not also have some foundation in the much more comfortable, stable life enjoyed by most people, the broader sense of community that has been created, and the ending of the old, bitterly competitive scramble for a bare existence.

CLOSING THE FISCAL AND BUDGETARY INFORMATION GAP

Mr. METCALF. Mr. President, Congress has seen few products of executive branch efforts over the last decade to improve the acquisition, reporting, and analysis of fiscal, budgetary, and program-related data.

Our Federal budget is enormous and—as evidenced by the President's presentation for fiscal 1973—enormously confusing.

That confusion will be compounded in the months ahead, as the various congressional committees seek the detailed information basic to intelligent program review and policy determination. In some instances data will be withheld, delayed, or manipulated for political reasons. In others it simply will not be available in usable form.

On March 1, the Joint Committee on Congressional Operations will begin hearings on this problem. Our primary concern will be development by the Office of Management and Budget and the Treasury Department of the Federal fiscal and budgetary data system envisioned in title II of the 1970 Legislative Reorganization Act. The intent of title II is clear: To give Congress—along with other users—ready access to meaningful fiscal, budgetary, and program-related data in the executive departments and agencies.

Title II requires congressional participation, through the Office of the Comptroller General, in the development of such systems.

Our purpose in reviewing implementation efforts over the past year is to get—

First, a clear and concise description of what the OMB-Treasury approach is;

Second, a statement of the improvements in acquisition and reporting of fiscal, budgetary, and related program data that are expected to result from it;

And third, assurance that whatever benefits do result—for executive managers—are not only consistent with congressional interests but applicable to congressional needs as well.

Executive branch response to congressional inquiries has become increasingly sluggish and incomplete in the last decade. A sustained—and cooperative—effort involving the entire Federal Government will be required to close this increasingly costly information gap.

We trust that this important work can be moved forward in a spirit of reason and realism, as urged in the President's state of the Union address, and in a "continuing partnership between the President and the Congress."

Mr. President, the chairman of the Joint Committee on Congressional Operations, the Honorable JACK BROOKS of Texas, shares these views and plans to make a similar statement today in the other body.

INTERNATIONAL CULTURAL AND TRADE CENTER

Mr. SCOTT. Mr. President, on November 19, 1970, I placed in the RECORD a proposal for an International Cultural and Trade Center as conceived by Mr. Simon Kriger. Today, Mr. Kriger and his associates are happy to bring to the attention of the Nation that the International Cultural and Trade Center Foundation, Inc. was incorporated on October 4, 1971, as a nonprofit corporation to accomplish the goals set out in the aforementioned RECORD.

I ask unanimous consent to have printed in the RECORD material on ICTC, which was given to me by Mr. Kriger.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERNATIONAL CULTURAL AND TRADE CENTER

Many conferences have been held with various government officials, including Mr. Leonard Garment of the White House staff; many from the District of Columbia Government, including Mr. James Banks, Mr. Sterling Tucker, Mr. Harley Daniels and Mr. Kirk White; from the District of Columbia Redevelopment Land Agency, Messrs. Melvin Mister, M. Brimmer, J. Clark and others; and, from the National Capital Planning Commission, Messrs. Benjamin Reifel and Charles Conrad. Also consulted were officials of Pittsburgh Plate Glass Corporation, General Mills, Chamber of Commerce across the Nation, representatives of various foreign countries, educational organizations as well as literally hundreds of private citizens. Without exception, the concept of ICTC has been seriously and enthusiastically received.

The stated purpose of the ICTC are to create a symbol of and center for international cooperation and a forum for association between citizens of all countries leading to better understanding between peoples and nations of the world.

This Center will enhance the images of the Capital of the United States, revitalize the downtown area of Washington, D.C., and help the financial situation of the city.

The immediate goals leading to the achievement of these objectives and purposes are:

(a) To create a dynamic new center of internationally oriented activity, entertainment and attraction;

(b) to create a center for the educational enrichment of residents and visitors to the Nation's Capital;

(c) to rejuvenate the retail core of downtown Washington, not only the plots on which the Center will be built but also the surrounding area;

(d) to cooperate with the planning activities and programs of the various agencies engaged in community planning and development in the District of Columbia and specifically to coordinate the ICTC Foundation, Inc. planning and activities with the National Visitors Center in Union Station, with the proposed Sports Arena and Convention Center planned for construction in the Mount Vernon Square area and with the Bicentennial celebration which is being organized to be held in 1976;

(e) to facilitate such work of cooperation through the assignment of various committees for investigation, study and recommendations of various underlying problems affecting community planning and development in the downtown area of the District of Columbia;

(f) to promote participation of all legitimate merchants and entrepreneurs of all races in the Washington business community and to preserve a maximum number of small businesses threatened with financial ruin by urban renewal;

(g) to increase trade among nations;

(h) to increase the tax base and tax revenues of the District of Columbia;

(i) to increase the amount and diversity of employment in the area;

(j) to create a new goal for students by involving them in building a bridge of better understanding between the peoples and nations of the world through meaningful roles in the creation of an international cultural and trade center in downtown Washington, D.C.

(k) to solicit, collect and expend funds to carry out the foregoing purposes.

According to Mr. Kriger, these are realistic goals and objectives. They can be achieved by sponsoring the erection and maintenance of multi-purpose buildings in or near the central area of the District of Columbia, designed to house arts and crafts shops, boutique and couturiers shops, exhibit areas for the display of products typical of the exhibiting countries or states, restaurants and other food-dispensing areas reflecting the cuisine of the major countries of the five continents, and other areas as deemed advisable to afford space for displaying or presenting the culture and trade possibilities of the various peoples, states and nations of the world. Under the proposed construction plans, office space will be available for lease particularly to internationally-oriented businesses and enterprises and public or quasi-public organizations concerned with international matters.

As planned, the Center will embody the following characteristics:

1. A permanent structure or structures providing a home for:

(a) Consulates, trade centers and other internationally oriented organizations of foreign countries.

(b) Offices and outlets for representatives of industries and trade from various countries.

(c) Trade representatives from each of the 50 states.

(d) Outlets for representative businesses from each of the 50 states.

(e) Retail stores featuring international products.

(f) Restaurants with international cuisine.

(g) International entertainment.

2. A center for use by international, national and local groups for lectures, concerts, exhibits and meetings of all kinds, including: (a) meeting rooms, (b) display areas, and (c) accommodations (not necessarily an integral part of the center itself).

3. A free port or duty free zone for international travelers.

4. An unusual and impressive architectural design, with provision for interior arcades and pedestrian malls with immediate access to entertainment, retail, commercial and eating establishments and integrated areas for public facilities and private offices. International design competition is planned.

More and more the problems of the nation's capital are the result of a deteriorating downtown area . . . and it is a challenge to the nation and to the city's many citizens to find a solution. ICTC's leaders stated that the downtown area of Washington, D.C. must function better if the city is to prosper and our people live well. Mr. Kriger noted that the private forces that built up our cities are commonly incapable alone of remolding them for our current needs thus necessitating some broader government intervention and massive public spending. The nations of the world will be invited to participate in ICTC's new plan. A steadily growing number of people from various fields and nations must become actively involved, directly or indirectly, in setting new goals in cultural understanding and through this find means to achieve economic betterment.

It is hoped that the ICTC project becomes a people's project . . . with all citizens getting involved. In so doing, we will achieve that greater understanding one gains from participation in constructive involvement. Cities are not autonomous creatures which can shape their destinies alone. Rather, they are often buffeted by forces they do not fully comprehend, but to which they must nonetheless respond. The people supporting the ICTC Foundation's efforts are sensitive to human needs and have imaginations. Only time and public support will tell whether their efforts will succeed.

Urgently needed are the endorsement and financial backing of all who are concerned about peace and good will among peoples and nations. ICTC believes that the local, national and international climates needed to do the job are available. Nations will be whatever their cities become. Cities are still the seats of commerce, Mr. Kriger noted, and the paths that lead to them are paved on bedrock of cultural understanding of peoples. The Nation's Capital can well lead the rest of this Nation. This requires that the most inventive brains and talents in and out of government at all levels work at this task. The ICTC plan is imaginative to the point that it is drawing international attention.

The ICTC plan deserves the united support of all Americans and friends from around the world as one avenue which can solve a vexing problem of our decaying cities and bring our nation and the five continents closer together. It is Mr. Kriger's considered opinion that this project may result in a chain of similar ICTCs throughout other capitals of the world and thus form a formidable basis for peaceful coexistence based on commercial, industrial and trade interchange and competition, welded by better knowledge and understanding of the cultures exhibited. The possibility is being explored of organizing annual or biannual changing exhibits of the arts of individual countries from the national museums of each country.

The purpose of placing this statement in the Congressional Record is to acquaint every member of Congress with the project of the International Cultural and Trade Center Foundation, Inc., and, hopefully, with their help and the help of their constituents to develop a concept which will become the project of the entire country and, eventually, that of the world.

Many foreign countries have accumulated substantial reserves in American currency and it is the general desire for some of them to improve the climate existing between their country and the United States. This can be done very appropriately by such countries utilizing part of such reserves in investment in the proposed International Cultural and Trade Center. This will not only facilitate funding ICTC's creation but will again contribute to improvement in the relations between all countries through a joint venture of this type and constitute a real foundation for promoting peace among all peoples. This is a good and logical path to such a goal. Negotiations have begun along these lines.

In foreseeing the great event of the nation's 200th birthday now being planned by the American Revolution Bicentennial Commission, all of the above goals when reached, particularly if it is done before 1976, will be a major factor in the success of the Bicentennial celebration.

COMMEMORATION OF LITHUANIAN INDEPENDENCE DAY

Mr. BAYH. Mr. President, today marks the 54th anniversary of Lithuanian independence. Such an occasion provides us with an opportunity to recount the trials and triumphs of a great people. The struggle for liberty has occupied a central place in the story of Lithuania, a nation which has been in the midst of incessant political conflict. But in spite of changing political boundaries in Eastern Europe from the 12th century onward, Lithuania's cultural integrity and desire for freedom was never extinguished. And the initiative of her people was demonstrated when hundreds of thousands of Lithuanians emigrated to this country during the great migration of 1867–68. Their resourcefulness and energies contributed greatly to our efforts toward full industrialization. And with their help, we forged a stronger union.

Despite that triumphant moment in February of 1918 when Lithuanian patriots declared the independence of their people, Lithuania of today awaits another deliverance to self-determination. Unfortunately, its initial period of liberty and freedom was short lived; it ended with the absorption of the Lithuanian state into the U.S.S.R. in August of 1940. Now, like the other captive nationalities in the U.S.SR, Lithuanians are not free as they once were to be Lithuanians. Their customs and other national characteristics are held valueless on the Marxist road to the socialist man.

Many would asume that the Soviets have succeeded in subduing the most innate of all human qualities—the longing for freedom. But that is not the case. Indeed the Lithuanian sailor, Simas Kudirka demonstrated just last year that the spirit of personal liberty is not dead. It is well that we recall his name on the anniversary of the birth of Lithuanian independence. Nor can we forget—or should we—that his bid for freedom was denied as much by our unresponsive bureaucracy as by his Communist pursuers. Yet his struggle for freedom was living proof that the ideal of liberty in the minds of men will endure oppressive governments and will challenge the most ponderous of all bureaucracies. Neither apathy nor repression can dim the light of Simas Kudirka's lesson for all of us.

Once again we have expressed our faith in the Lithuanian people and have wished them well. Albert Erich Senn, a noted historian on the history of the Baltic States, has observed that Lithuania's struggle of nationalism was "a reflection of the 20th century world spirit of democracy and national self-determinism." Let us once again renew our pledge to support the Baltic countries until all can again live in freedom.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The PRESIDING OFFICER (Mr. TUNNEY). Under the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 2515) to further promote equal employment opportunities for American workers.

The Senate resumed the consideration of the bill.

AMENDMENT NO. 834

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 834) proposed by the Senator from Nebraska (Mr. HRUSKA).

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TUNNEY). Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3122) to extend sections 5(n) and 7(a) of the Federal Water Pollution Control Act, as amended, until the end of fiscal year 1972.

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 524) relating to a National Day of Prayer for the cause of world peace, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills:

S. 7. An act to provide for the establishment of the Buffalo National River in the State of Arkansas, and for other purposes; and

S. 1857. An act to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515), a bill to further promote equal employment opportunities for American workers.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, I rise in support of the amendment to the pending measure which seeks to delete section 5 from the bill. Section 5, as written, adds three new subsections to section 707 of the Civil Rights Act of 1964, thereby affecting the transfer of the functions and the jurisdiction and the authority of the Attorney General to prosecute "pattern and practice" cases over to the jurisdiction and the authority of the EEO Commission.

Let me say at the outset that, unless there is some occasion developed for a more protracted extension of this issue than this Senator can envision now, I believe it is very likely that we will get to a vote by the middle of the afternoon. I have had a brief discussion of this question with the manager of the bill and he appears to be in agreement with my statement concerning a prompt vote, although he is perfectly competent to express himself on that subject and he is present in the Chamber.

Mr. President, section 707 of the Civil Rights Act deals with pattern and practice cases, cases in which a group or groups might engage in any practice or activity which would result in the denial of, or the resistance to the full exercise of the rights and the privileges that are contained in title VII of the Civil Rights Act of 1964 and those rights that have to do with assuring persons who are employees or who are applicants for employment of no discrimination, on account of the several grounds upon which discrimination might be exercised.

If a situation of that kind appears to exist, the Attorney General is authorized to investigate the case and then to prosecute a civil case. And the suit would be brought in the Federal district court. However, if the Attorney General certifies that it is of general public interests and requests a three-judge court, a three-judge court will be convened by the chief judge of the circuit and will hear the case on an expedited basis. Appeal would lie to the Supreme Court directly from that three-judge court. If there is no certificate of general public interest, the case is tried by a regular district court and goes through the regular routes of appeal that such cases normally take.

The suits that are involved in this pattern or practice category are a special kind of suits that partake in large measure of a class action bill that can involve a company with all of its branches, all of its divisions, and all of its affiliates, or they can take a labor union having a membership of tens of thousands of members. They can take employers and companies and unions in the same proceedings, or, as a matter of fact, they may take the form of affecting an entire industry, so that it would be a class action.

Two examples immediately come to mind in that regard. One had to do with an action involving the California-based movie industry, and there, suit was filed and prosecuted as against several companies and some labor unions.

Another instance of that type of industry action arose in Las Vegas with the gambling casinos and hotels there. There were 17 hotels and casinos, together with five unions embracing approximately 20,000 positions involved in a single suit. The practice and the discrimination that was practiced there was made the subject of the suit. A decree was entered which had cease and desist and other provisions aimed at eliminating those discriminatory practices.

Section 5 of the bill would take all of those functions that have heretofore been exercised by the Attorney General and assigned to him and transfer them over to the Equal Employment Opportunity Commission. The Commission would be directed to try those cases under procedures set out in section 706 of the Civil Rights Act.

Mr. President, it is the opinion of this Senator that this bill has been greatly improved by the adoption of the Dominick amendment. There are additional views as to how the matter might have been handled, but by assigning and adjudicating disputes and controversies in the proper place, namely, the courts, where trial of the case is had, where a decree is entered into, and where orders of compliance and postcompliance judgments may be taken, seems to me, in my judgment, a great improvement.

I do believe that the bill would be further improved by the adoption of the pending amendment, because there would be the concurrent judgment or at least a concurrent jurisdiction residing in the Department of Justice in the cases involving employment discrimination. I previously made a detailed and technical statement sitting forth the reasons for the introduction of this amendment. I would refer interested colleagues to page 3391 of the RECORD of February 9, 1972.

There are a number of reasons why this amendment is an improvement over the committee provision.

I might assign as the first reason the basic proposition that the Attorney General and the Department of Justice already have general jurisdiction and general enforcement authority over other types of civil rights acts and statutes, so that the Attorney General has jurisdiction and has authority and litigates in the field of discrimination in housing, education, voting, employment, and many others.

It would be a very singular development indeed if the Attorney General were to be deprived of his jurisdiction to prosecute civil rights cases, cases arising from the conferring of civil rights to people in the interests of employment. There is no justification for it that this Senator can see under the present conditions and the status of the bill S. 2515 together with the Dominick amendment.

So first of all we have the Attorney General having the general power of enforcing civil rights laws. Second, the Department of Justice is well equipped to handle such cases. They have the FBI to make investigation. They have the U.S. marshals to assist with the enforcement of the proceedings. and they have the appeals unit in Civil Rights Division of the Department of Justice which assures nationwide standards and uniformity. In addition they are a part of a great department with all of its resources. The employment section has a well trained corps of lawyers, some 35 in number, with great expertise in this special field.

They have gained a good deal of expertise in this particular kind of case, in addition to the experience that the Department of Justice has gained in the prosecution of other types of civil rights cases. And the Department has the 93 U.S. Attorneys' offices with their numerous staffs throughout the Nation to assist with these cases. The EEOC cannot duplicate these resources. To transfer 707 authority will be to guess that in 2 years the EEOC will be able to handle these cases in a professional and effective manner. We have no need to guess when we know Justice is doing the job very capably at present.

Section 5 provides that under this section there shall be transferred to the Commission "the function of the Attorney General," together with such personnel, property, records, and unexpended balances of appropriations, allocations and other funds available, held, or used in connection with the functions of section 707.

It cannot be done.

Notwithstanding that provision for transfer, it is not possible to transfer the FBI to the Commission. It would not go. It is impossible to transfer the investigators they have available. It is impossible to transfer the personnel, as much of the personnel, and especially the lawyers, are attached to the Department of Justice and have other duties and commitments. The section is an integral part of the Department and cannot be moved about like a chess piece together with supporting resources.

There is no way of forcing any of the attorneys or the personnel to go to another agency. Many of the attorneys there are willing to work for the Department of Justice but would not be willing to devote their efforts and their time to the work of the Commission.

That is not derogatory to the Commission. It is a matter of personal and professional discretion and judgment. It is true that the Commission may in due time develop a system of investigators; it is true that in time the Commission may develop and have an organization built up; but it will take time and moreover it would be a duplication of what is now taken care of in very good shape under the present system.

Another point which would argue in favor of the Department of Justice retaining this jurisdiction is that in the field of enforcement and compliance they have gained a good deal of valuable experience in other types of civil rights cases than those which involve only employment. There would be a continuity of litigation in this field if the Attorney General and the Department of Justice retain jurisdiction instead of abandoning and negating the past education and expertise. There would be a continuity of a very fine record to which I shall refer in a little while.

Not only has the Department done a very effective job of enforcing section 707, and I would point out that it has been successful in every single case brought to final judgment, but it has acted expeditiously as well. Of the past dozen or so cases filed by the Department pursuant to its "pattern and practice" authority, every one has been reduced to judgment within 11 months. That is a most excellent and enviable record which will be very difficult, if not impossible, for the EEOC to duplicate.

It may be 3 years before there would develop within the EEOC a pipeline of cases which would insure effective enforcement of section 707 because of the necessity of developing a new staff, personnel, and procedures for this particular kind of special case.

Furthermore, with the Department of Justice it is possible to develop in an orderly way and in a logical way case law which will serve as a valuable precedent. They can do that because they see the picture as a whole; they see civil rights, not consisting of separate segments, but consisting of many aspects, including voting, education, housing, and so on, which require a rounding out of precedents that can be logically developed in the litigation of pattern and practice cases.

It would take a long time to develop that machinery and it should not be engaged in when it would be a duplication and in some ways a useless procedure.

The record of the Department of Justice has been a good one. It is sometimes said, "Well, they have tried only about 70 or 75 cases." That is true, but there has been a great deal of progress in those 70 cases. Let us say for purposes of convenience that the number of cases is 70. Those lawsuits have affected over 275,000 positions directly and many more indirectly because of the precedent set.

The case record of individual complaints before the EEOC is in the range of 30,000 a year. They can process only a very small percentage of them, they investigate some and are able to discard them or find them to be without merit, and so on. That volume of 30,000 cases is estimated to grow to 40,000 this year, according to Chairman William Brown of the Commission. When we consider that the Department has 70 lawsuits in the hard form of a court decree, with compliance and enforcement procedure, at the hands of the judge who issues the decree, then we know it is a very potent and a very effective piece of machinery toward achieving the goals of title VII of the Civil Rights Act.

Mr. President, the fact is that the Equal Opportunity Employment Commission does not want this new power, this new authority, to prosecute pattern and practice cases. Chairman Brown of the Commission testified on that subject and he pointed out that because of the heavy caseload which is now in the range of 30,000, and which probably will be 45,000 this coming year, they have more than enough to do.

The situation since he gave that testimony has become even greater and more burdensome by way of volume and proceedings because under this bill the Commission will have additional power to bring suits in court and to prosecute them. Heretofore that was not the case.

Chairman Brown testified along that line in the committee even when the caseload was not so burdensome. He said at one point:

> Mr. BROWN. Mr. Chairman, I certainly feel that the commission has the competency to handle these matters.
>
> I would question at this time whether it has the ability in terms of resources—that is, financial resources—or in terms of people.
>
> I would be very much against the transfer, as I have indicated in my prepared text, of the Office of Federal Contract Compliance responsibility at this time.
>
> I would be against the transfer of Attorney General's right in Title VII at this time and also the responsibility of the Civil Service Commission to the EEOC.

Chairman Brown went on to state:

> One of the problems, as I have mentioned, is the overwhelming backlog of cases.

He goes into the figures and then he states:

> As a matter of fact, in the budget which was submitted for fiscal year 1973 we anticipated some 45,000 new incoming charges of discrimination in fiscal year 1973.

He concludes his testimony on this aspect by stating:

> So, taking those figures into consideration—plus the fact that in some cases I question the advisability of putting some of the provisions in this Commission—as it relates to the Office of Federal Contract Compliance—my position would be that I am not in favor of those transfers.

When he says "those transfers" he includes that of title VII.

So we have a situation here, Mr. President, where the agency itself does not want the powers, and certainly, together with all the other reasons, that would be good ground for leaving the power and authority exactly where it is. It would subserve the right of the employees and the public in a more expeditious, more thoughtful, and more stable enforcement of the provisions of the bill and title VII.

These remarks, together with those made on February 9, state the reasons why I feel this amendment should be approved.

At the present time, unless there is objection, I yield to the Senator from Florida who has some remarks to make. He has an engagement later this afternoon and it would serve his convenience to permit him to speak at this time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GURNEY. Mr. President, I intend to support the amendment of the distinguished senior Senator from Nebraska (Mr. HRUSKA) which would leave in the Department of Justice authority to bring "pattern and practice" lawsuits rather than make an ostensible transfer of the authority to the Equal Employment Opportunity Commission. I use the word "ostensible" deliberately because I do not believe an actual transfer would result if the committee bill is adopted; rather "pattern and practice" authority would cease in many important regards.

S. 2515 would not only withdraw the prosecution of pattern and practice cases from the Department of Justice, but would aggravate the mistake by eventually removing the adjudicating function from the courts and instead utilizing a proposed administrative tribunal. This action could only hurt potential plaintiffs under title VII by replacing an effective tribunal with an unproven administrative entity, vulnerable to political pressures, and required to rely upon the courts of appeals for enforcement of its decisions. While a district court's decision is admittedly subject to appeal, only about 7 percent of all such decisions are, in fact, appealed. Furthermore, even where appeals are taken, the district court's decision is implemented promptly on remand to the district court. In the case of an administrative board, however, the final appellate determination on the merits may only begin a new round of litigation to resolve disputed compliance matters. As a result, as one commentator noted in discussing NLRB cases which follow this procedure:

> . . . the hard cases can run on for years. It was 13 years before the employees found to have been unlawfully discharged in the *Mastro Plastics* case collected their back pay. Moreover, the Darlington plant closure case was begun in 1956 and was not finally closed until this year.
>
> See address to the ABA Labor Law Section Convention of Mr. Howard J. Anderson, Senior Editor of Labor Services of the Bureau of National Affairs Inc., 71 LRR at 632 (1967).

The Mastro Plastics case is by no means an exception. In General Steel against NLRB, almost 7 years have elapsed as that case has moved from the Board to a court of appeals and back again to recommence the cycle twice. Currently the case is before the Board for the third time and will undoubtedly require a petition to the court of appeals for enforcement. Finally, in Rutter-Rex Mfg. Co. against NLRB, the Board issued a decision in 1956 finding the employer guilty of unfair labor practices. Now over 15 years later the case is still being litigated—see 194 NLRB No. 6. These long delays have become the trademark of a procedural system in which the adjudicative body lacks the power to enforce its orders.

The Department of Justice, on the other hand, in conjunction with the courts, has proven their effectiveness in enforcing pattern and practice cases.

David Norman, the Assistant Attorney General, Civil Rights Division, testified concerning this proposal. In part he said:

> The cease and desist authority is geared toward individual complaints and complainants. We find it difficult to understand how pervasive practices of hiring, transfer and promotion which have discriminatory impact can be successfully met in the complaint-oriented administrative procedures, even apart from the question as to whether housing problems such as those at Cannon Mills

> could be addressed in an administrative proceeding under Title VII.
>
> A suit which illustrates my point is the *Seattle Building Trades* case, styled *United States* v. *Ironworkers, Local 86, et. al.*, 315 F. Supp. 1202 (W.D. Wash., 1970). That suit was filed on October 21, 1969. After discovery, trial on the merits was held in February and March of 1970, and on June 16, 1970, effective relief was granted by the district court. The relief took effect on June 30, so that although the defendants' appeal is still pending in the court of appeals, the victims of discrimination are now employed and are obtaining the benefits of the lawsuit. That suit involved the referral and membership practices of the five largest building trades in the Seattle area, and the apprenticeship selection standards and practices of three affiliated joint apprenticeship training committees.
>
> The Court's decree not only grants specific relief for 135 individual victims of discrimination but also provides for the reformation of procedures with respect to referral, membership and selection of apprentices. Again, we question whether this kind of area-wide suit against eight separate defendants could be handled in an administrative proceeding. Based on the history of the National Labor Relations Board, we feel quite certain that effective relief could not have been obtained administratively in the short period of time in which the court was able to address itself to this problem, hold a full-scale hearing and grant effective and enforceable relief.

I submit that Federal district court judges with their broad experience in deciding complex legal issues are better equipped than are administrative hearing examiners to deal with large-scale employment discrimination effectively. Because "pattern and practice" discrimination engaged in by an employer or union adversely affects substantial numbers of individuals, it is critical that such aggrieved individuals be afforded the most expeditious and readily enforceable relief available. As noted earlier, such expedition can be more readily achieved in court because of the built-in delays inherent in the structure provided in S. 2515. Of particular significance when dealing with massive industry-wide discrimination is the power of district courts to retain jurisdiction in order to grant additional relief. In the Seattle Ironworkers case referred to above, the court provided that the parties could return to the court if the facts required modifying the decree to effectuate its purpose.

In contrast, an administrative tribunal could not modify its order once it had been enforced in court without the court's approval or instituting a new action and petitioning again for enforcement in the court of appeals. The present court system clearly offers the greatest flexibility in obtaining effective relief quickly in pattern and practice cases.

In sum, it seems apparent that the vesting of pattern and practice jurisdiction in a commission with a cease and desist authority would constitute, in the words of Deputy Assistant Attorney General Norman, "a severe curtailment of Federal enforcement efforts in the field of equal employment opportunity." The courts have been clearly responsive to the legislative mandate in section 707. In fact, courts have uniformly recognized the urgency which the Act requires, and have expedited these cases in every way. See, *United States* v. *Gustin-Bacon Division, Certain-Teed Prod. Corp., et al.*, 425 F.2d 539 (C.A. 10, 1970) *cert den'd*, —— U.S. ——, (3 (CCH) E.P.D. Para. 8005); and *United States* v. *Local 1, Ironworkers*, —— F.2d —— (C.A. 7, 1970) (3 (CCH) E.P.D. Para. 8098).

The consequence of adopting S. 2515 would be that on the date the amendments become effective, with the exception of those "pattern and practice" suits already before the courts, all judicial enforcement of title VII would cease. The victims of discrimination would thus lose the protection of the expansive equity powers of the Federal district courts. No longer would the decision of the trier of fact be able to retain jurisdiction in order to insure that the aprporiate effect is obtained without initiating a new proceeding. Thereafter, the only protections afforded individuals subject to employment discrimination would be through the cease and desist authority of the Commission.

I submit, Mr. President, that the transfer of pattern and practice prosecution functions from the Department of Justice to the EEOC and the removal of the Federal courts' jurisdictions to hear such cases would not strengthen the law—it would cripple it.

As a matter of fact, it is hard for me to understand how the authors and supporters of this piece of legislation suggest the removal of this power and function from the Department of Justice and from the jurisdiction of the Federal courts. The very discrimination they are aiming against is better hit and tackled and dealt with in the practices we have now in the Justice Department than they would be in this new and untried procedure.

I certainly hope the Senate, when we vote on the very fine amendment of the distinguished senior Senator from Nebraska, will see the folly of the way the bill is drafted and put back into it the present effective practices of letting the Department of Justice and the courts handle these discrimination cases.

I yield back the remainder of my time.

Mr. BROCK. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. We are not under limited time.

Mr. BROCK. Mr. President, I rise in support of the amendment of the Senator from Nebraska. Yesterday the Senate took an action, in the passage of the Dominick amendment requiring court process to protect the rights of all the people in this country, which I think was an enormous step forward in implementing this bill. Today we have, I think, an equivalent opportunity.

The bill now before the Senate, S. 2515, provides in section 5 that authority to bring "pattern and practice" lawsuits against employers will be transferred from the Department of Justice to the Equal Employment Opportunity Commission. I do not believe that this should be done.

Our distinguished colleague from Nebraska (Mr. HRUSKA) has introduced a simple amendment which would strike section 5 from the bill. I intend to support this amendment and urge my colleagues to do likewise.

Present law permits the Department of Justice to bring suits in Federal courts which will adjudicate all the employment practices of a corporation, union or group of unions, with the relief directed to the underlying policies which are discriminatory or which perpetuate the effects of past discrimination. Pursuant to this authority, the Department has brought some 70 suits and been successful in all that have been finally determined. These 70 suits have involved directly more than 275,000 employees and indirectly—by way of precedent—multitudes more.

Those who criticize the Department for the careful use of its powers under this section should consider the larger ramifications of the 70 suits which have been brought.

The effectiveness of the pattern and practice program should not be gaged merely by reference to the number of cases filed. Rather, it should be judged in terms of wide-scale relief obtained by the Attorney General which has benefited hundreds and thousands of minority workers.

For example, in one case the Department of Justice prosecuted three steel companies as class defendants representing the interests of approximately 1,500 contractor employers. A favorable decision in this one case would affect the workers in a whole sector of the economy. In addition, as recognized by Chairman Brown of the EEOC,

> The importance of these suits has largely been the decisions which resulted and which have set the precedents for subsequent lesser Title VII actions. To nullify this powerful and effective means whereby the courts can interpret and clarify the provisions of Title VII, while at the same time establishing new judicial precedents applicable to other courts and administrative agencies alike, would not, in my judgment, serve to promote the most effective administration of equal employment.

For obvious reasons, in order to obtain these dual objectives, the litigated cases are chosen selectively. For instance, in the first 6 months of 1971 the Department has disposed of 77 matters of which only 11 were litigated; the 70 "pattern and practice" cases are, I understand, the result of sifting through nearly 1,700 matters. The cases prosecuted are the cream that offer the greatest impact upon vast segments of the economy.

This has been pointedly illustrated by the testimony of Mr. David L. Norman, the Deputy Assistant Attorney General for Civil Rights, who pointed out that:

> The kinds of lawsuits . . . filed . . . reflect problems which can be met successfully in a "pattern or practice" case, but which would be very difficult if they were dealt with in an administrative process. For purposes of illustration, let me make reference to . . . *Cannon Mills*, filed April 8, 1971.
>
> The *Cannon Mills* suit alleged a "pattern and practice" in hiring, transferring and promotions with respect to employment practices, and discriminatory rental and assignment of company-owned housing. The suit pertains to all of Cannon's plants which employ approximately 24,000 persons.
>
> The consent decree which was entered on

> February 24, 1971 changed the standards for transfer and promotion for the affected class of black employees, a class including approximately 90 per cent of the black employees, and provides that they may transfer without loss of seniority to the better-paying, traditionally white jobs. It also provides the objective criteria for hiring and promotion which are set forth in a detailed job description catalog.
>
> The system of rental of housing was totally reformed.
>
> In short, the decree calls for reformation of the entire system of hiring, transfer and promotion; and at the same time deals with the problem of housing segregation.
>
> (Statement of David L. Norman, Deputy Assistant Attorney General Civil Rights Division, Department of Justice, before General Subcommittee on Labor, Committee on Education and Labor, House of Representatives, March 3, 1971.)

The Cannon Mills case is just one example of how the waves caused by a single suit and the decision therein spread out to cover an entire industry and, indeed, an entire system of employment practices. This is the type of work done by the Department which is overlooked by its critics. When it is considered that only 20 of these 70 cases have been based on referrals from the EEOC, it can be seen that the record of the agency to which this power would be shifted is no model of effectiveness when contrasted with the very effective work of the Justice Department.

This is just one of the reasons, Mr. President, why I feel that section 707 authority should remain with the Department and the Attorney General. It is one of the reasons why I support the pending amendment.

Mr. President, I yield back the remainder of my time.

Mr. DOLE. Mr. President, I rise to indicate my support for the amendment offered by the distinguished Senator from Nebraska (Mr. HRUSKA) to the pending bill (S. 2515). As the distinguished Senator from Nebraska has pointed out, the amendment would delete section 5 from the EEOC bill which would have the effect of leaving in the Department of Justice the authority to bring pattern-and-practice lawsuits.

S. 2515 provides that the authority to bring this important class of lawsuits presently invested in the Attorney General under section 707 of the Civil Rights Act would be transferred to the Equal Employment Opportunity Commission. The pattern-and-practice remedy permits an adjudication of all the employment policies of a corporation, union, or group of unions promptly, with the relief addressed to the underlying policies which are discriminatory or which perpetuate the effects of past discrimination.

Contrary to the opinion of the committee which reported this bill, the desired goal of equal employment opportunity can best be served by retention of this authority in the Department of Justice. This opinion is supported by EEOC Chairman Brown, who, in his testimony before the Senate subcommittee on October 4, 1971, stated:

> I feel that such a transfer would not, at this time, be in the best interests of the Commission and would not promote the most effective administration of Title VII.

The Attorney General has developed, and is continuing to develop an expertise in the area of pattern-and-practice lawsuits. The success of the Attorney General's efforts in pattern-and-practice actions was ably documented by witnesses before the subcommittee. For example, in opposing the proposed transfer, Congressman ERLENBORN noted that—

> Between July, 1965, when Title VII took effect, and September 1, 1971, the Civil Rights Division of the Department of Justice filed some 69 or 70 suits on the basis of Section 707. The Division has had a high degree of success in litigating these cases, and principles established in them at the trial or appellate level have been useful to complaining private litigants and to other federal agencies. Undoubtedly, one of the reasons for its success is the fact that it has access to the investigative resources of the Federal Bureau of Investigation. All in all, it would seem to me, that an expertise in discriminatory employment practice cases has been developed in the Division that is too valuable an asset to lay to waste. (Statement of John N. Erlenborn Before the Labor Subcommittee of the Senate Labor and Public Welfare Committee on H.R. 1746, S. 2215 and S. 2617, Proposals to Further Promote Equal Employment Opportunity for American Workers).

This expertise is derived not only from experience in the area of employment discrimination but also from the broad experience obtained as a result of the exercise of the Attorney General's authority in prosecuting "pattern and practice" discrimination in the areas of housing, voting, and the related authority vested in the Department of Justice to prosecute discrimination in education. Further, in prosecuting "pattern and practice" discrimination in employment, the Attorney General has available the human resources of a skilled and trained group of attorneys who, over the past years, have obtained a highly successful litigation record as evidenced by the fact that the Department of Justice has never lost a concluded employment discrimination action.

Moreover, in order to administer its responsibilities under section 707 more effectively:

> In October of 1969, the Civil Rights Division reorganized and created an employment section . . . so that the attorneys and the supervisory attorneys . . . assigned to that section, which now number about 29, would work exclusively on pattern and practice cases, seeking to achieve equal employment opportunities for everyone. (Statement of David L. Norman, Deputy Assistant Attorney General, Civil Rights Division, Department of Justice, before General Subcommittee on Labor, Committee on Education and Labor, House of Representatives, March 3, 1971.)

These 29 attorneys—now increased to 35, I understand—are for the most part young men, who chose to begin their legal careers in the Department of Justice where they have been trained and supervised. This is the tradition in most Government agencies; these men would, in the normal course of events, train those who would follow them before leaving Government service. S. 2515 would attempt to transfer a working unit as if it was composed of machinery—not men. Undoubtedly many of these 29 will choose to stay with their present mentors in the Department and others may leave the Government, but in any event, the traditional process will be disturbed, and a unique expertise lost. The experience and skill of these attorneys working in an employment section devoted exclusively to "pattern and practice" lawsuits, coupled with the extensive and unequalled investigative resources and experience of the Federal Bureau of Investigation, is not a transferrable commodity.

Some critics have erroneously claimed that the Justice Department has been lax in fulfilling its responsibility. Pointing to the 70 cases filed by the Justice Department, the critics have asserted that more are required. Such criticism is superficial and overlooks the inherent nature and the scope of pattern and practice litigation. Typically, the Justice Department is concerned with repeated or systematic discrimination by an employer, union, or employment agency. Frequently, a single case will involve numerous facilities or an entire areawide industry, and will affect several thousand employees. Thus, an analysis of statistics from the Justice Department's files shows that in the 70 pattern and practice cases filed, 275,500 employees and well over 242 facilities were involved. As an example, one such case concerned the employment practices of a trucking company with 8,466 employees working at 22 different sites scattered over the east coast and the Midwest. Another pattern suit attacked the hiring and employment practices in the Las Vegas resort industry affecting a large number of employees. A total of about 20,000 employees was involved, plus 17 hotels and casinos, and five unions.

In another instance, an employment agency having 10 offices in a large midwestern metropolis was the target of a Justice Department pattern and practice suit.

Also, there have been a number of suits which have challenged the practices of many or all of the major building and construction trade unions in an entire metropolitan area. Of necessity, such suits are often complex and extensive, requiring the expenditure of vast resources. Clearly it would be a mistake to measure the Department's dedication by the number of suits filed without a clear understanding of what is involved. Indeed, the foregoing analysis of the scope and impact of the Justice Department's litigation record in the area of equal employment demonstrates that it has been active and vigorous in its enforcement responsibilities.

Despite this record, the Justice Department's critics would transfer responsibility for pattern and practice suits to the Equal Employment Opportunity Commission without analyzing the Commission's own performance in this area. Under the current structure of title VII, the Commission is supposedly the initiating force which refers cases to the Department of Justice. Since the Commission's sole duty is to handle title VII claims, it would be only reasonable to anticipate that the Commission would have discovered and referred a multitude of cases. This is especially true in view of the Commission's policy to undertake an extensive investigation of each respondent's personnel records and policies each time a charge of individual discrimination is filed. Nevertheless, when the facts are examined, it becomes apparent that the Commission, not the Department of Justice, has been the laggard. Out of the thousands of cases processed by the Commission each year, it has, on average, only referred 70 pattern cases a year to the Department of Justice. The Department has, on the other hand, prosecuted 70 cases among the hundred considered for prosecution during the same period of time. In view of the low proportion of cases of any type that are traditionally tried, this is indeed a quality record. This record looks even better when it is discovered that of the 70 cases filed, only 20 resulted from EEOC referrals, according to data supplied by the Department of Justice.

Mr. President, the effective work of the Department of Justice in bringing and winning so many important "pattern and practice" suits argues very forcefully for the retention of this power in its present place. This would be accomplished by the adoption of the Hruska amendment. In order to maintain effective enforcement of section 707 of the 1964 Civil Rights Act, I urge the Senate to approve the pending amendment.

In conclusion, I would point out again, as the Senator from Nebraska has, that in the testimony of Chairman Brown of the EEOC before the Senate subcommittee on October 4, 1971, he stated:

> I feel that such a transfer would not, at this time, be in the best interests of the Commission and would not promote the most effective administration of title VII.

I would suggest that the Chairman of the Commission is in a pretty good position to know what might be best for the EEOC, and that when he suggests that a transfer at this time would not be in the best interests of the Commission, it emphasizes the need for the adoption of the so-called Hruska amendment.

I also share the opinion of the Senator from Nebraska that the Attorney General and some 35 outstanding attorneys in the Civil Rights Division have developed an expertise in the area of pattern and practice cases. I think this experience should not be lost. Therefore, I support the amendment of the Senator from Nebraska.

I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, the bill that is before the Senate was introduced on September 14 last year. The amendment now being debated, offered by the Senator from Nebraska, was introduced and printed on January 27 of this year. I mention this to point out that this amendment really contemplated the legislation in the form in which the bill was originally introduced back in September.

Since this measure has been before us, for the last 5 weeks—to some it might be longer—there have been some significant changes, and probably the most significant change was the amendment voted on yesterday, offered by the Senator from Colorado (Mr. DOMINICK), which dealt with the mechanism and the method of enforcement available to the Equal Employment Opportunities Commission.

Under the bill as introduced, as we all know, the method and mechanism was, as it is with other agencies, cease and desist with appropriate court review. We had three votes on that issue: two votes to retain cease and desist and one vote to delete it and establish court proceedings as the method of enforcement.

The significant thing is, of course, that out of the three votes, the last vote did change the jurisdiction or the method of enforcement from cease and desist orders through the Equal Employment Opportunity Commission and its general counsel to prosecuting the cases in court.

In view of yesterday's action, I had thought that in all logic the Senator from Nebraska might well not call up his amendment, because it seems to me that it was introduced under different circumstances. The present circumstances certainly would suggest to me that this amendment is unnecessary, because we now have an Equal Employment Opportunity Commission, assuming the enactment of the legislation, now must go to court. Therefore, this particular method of court enforcement presents certain great problems, including duplication of the possibility—to use a word that has been used here a great deal—of double jeopardy, in the sense that respondent can be approached from either side, from the Department of Justice or from the Equal Employment Opportunity Commission.

Whether it is double jeopardy or not—it is not in the criminal sense—harassment is certainly possible if this particular jurisdicton over patterns and practices is not transferred to the agency that I suggest in logic should control the subject matter with which we are dealing in this bill.

The matter is before us, and we will have to have a vote on it, although, without any order for the yeas and nays, there is still time to withdraw it even without unanimous consent, I suggest to the Senator.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. HRUSKA. Would it be just as relevant and just as pertinent, in view of the totally different picture we now have in the bill since the adoption of the Dominick amendment, that the manager of the bill would withdraw section 5, because there is no duplication, in that the pattern and practice cases are of a different nature than the complaint procedures that are contained in section 706? Section 5 says that all the functions will be transferred to the commission, and the commission, in prosecuting pattern and practice cases, must follow the procedures set out in section 706. Section 706, I submit, is a complaint-oriented procedure and is not geared to the handling and the management of pattern and practice cases which are in the nature of class actions.

It seems to me that the manager of this bill would be well advised to eliminate that section, because it is wrong to put into the Commission's authority the prosecution of what amounts to class actions. They are not equipped to do it, and particularly are not equipped when they are going to be circumscribed, when they are going to be hemmed in, by a complaint-oriented procedure which is contained in section 706.

Mr. WILLIAMS. I gather that the suggestion is not acceptable.

I was in error earlier. The yeas and nays have been ordered on this amendment.

Mr. HRUSKA. They have been ordered; yes.

Mr. WILLIAMS. I was in error in that regard.

I should like to back up and review just where we are and how we got here, with respect to patterns and practices in equal employment opportunity and this law that deals with discrimination in employment.

Mr. President, at the time title VII of the Civil Rights Act was enacted, it was felt that the enforcement of violations of that title could be accomplished through voluntary compliance and through conciliation. Many believed that compulsory enforcement powers would only be necessary in those rare instances where recalcitrant and persistent violations were encountered. Therefore, it was decided that enforcement powers in the Department of Justice, to be activated either by the Department on its own initiative or through the recommendations of the EEOC, would be enough to cope with these more severe problems. This anticipation felt in 1964 has proven to be wrong.

We did not anticipate the extent of discrimination which existed at the time we enacted the legislation, nor did we fully understand its nature. We permitted a fatal flaw to be passed into law. But that was in 1964. We have now seen the effects and the extent of the problem. Employment discrimination represents a major widespread practice in the Nation. At the same time, the only Federal machinery available for the enforcement of the provisions of title VII; the Justice Department has not been able to keep up with the need for extensive litigation in this field. The Department itself has placed employment discrimination low on its list of priorities and, of course, its priority list is long and broad.

During the past 7 years, it has only brought 69 cases under its authority granted in section 707 of the act. This has produced a tremendous gap between the needs and the realities as illustrated by the fact that in fiscal 1970 alone, the EEOC, under the provisions of its recommending powers, recommended that the Justice Department bring actions in no less than 78 separate cases. That is, in 1 year, the EEOC, with the recommendation authority it now has, recommended 78 separate cases. The total 7-year history of the Department of Justice has been a history of bringing only 69 cases—less than the EEOC had recommended in 1 year. It is obvious from this figure that vast numbers of persons are not receiving the full measure of justice that we attempted to provide them when we enacted that landmark legislation, even with the inadequacies of that legislation as they have appeared since its enactment.

In providing for this transfer, the committee was nonetheless, very much aware of the outstanding contribution to the development of title VII that has been made by the Civil Rights Division of the Justice Department. The complaint is not at all with the quality of the actions brought—it has been excellent—but, rather, with the number of cases. Sixty-nine in 7 years is just not sufficient, in terms of the activity that is needed in bringing enforcement through the demands of law that there not be discrimination in employment.

However, we recognized the important reservoir of talent and expertise in the Justice Department and provided for a 2-year phase-out of the Attorney General's responsibility—a phase-out of this responsibility and a full phase-in to the Equal Employment Opportunity Commission.

The EEOC now will have—under the bill as it is at this moment—jurisdiction to bring discrimination cases before a Federal district court. There will be no difference between the cases that the Attorney General can bring under section 707 as a "pattern and practice" charge and those which the Commission will be able to bring as a result of yesterday's decision to give EEOC court enforcement powers. Frankly, the pattern and practice section becomes a redundancy in the law. We anticipate that the Justice Department and EEOC will cooperate during this period so that the Commission will have an opportunity to build up its ability to handle these cases.

I think the Senator from Nebraska is wise and correct in his observation that it might take 2 to 3 years for the Commission to be fully equipped. We have provided this 2-year transitional period, which does fit the time estimate of the distinguished Senator from Nebraska.

The Justice Department will be able to maintain the momentum it has established until such time as the Commission assumes sole responsibility.

The consolidation of the "pattern or practice" jurisdiction of the Justice Department into EEOC will benefit the complainants, the employers, and the courts.

It will benefit the employer by consolidating all authority and guidance for employment discrimination. This will eliminate the possibility of harassment from multiple investigations and will make the employer answerable only to the one agency. It will eliminate such instances as illustrated by the case of Crown Zellerbach Corp. against United States in 1969. In this case, the union and the employer negotiated a conciliation agreement with the EEOC, after intensive and lengthy investigation and negotiation. However, subsequently the Office of Federal Contract Compliance entered the picture, and then the Justice Department filed suit in the Federal court. These subsequent steps reopened an area that had already been investigated, and subjected the company to new investigations and, of course, subsequent suit. This duplication of effort is wasteful—most unnecessarily wasteful. It is not our aim to unnecessarily harass employers or to subject them to inconsistent demands from a variety of Federal agencies.

The complainant will also be benefited by the consolidation of the functions for title VII enforcement in one agency. He will now be able to bring his complaint to the one agency with the full knowledge that his grievance can be remedied through the procedures of the EEOC, and that this agency will investigate the situation, allow the parties to settle their differences, or will institute its own enforcement provisions to resolve the dispute. In this manner, the complainant is assured of a fair and speedy resolution of his problem, and as a general rule will not have to look elsewhere for his remedies.

In closing, Mr. President, I would like to emphasize that the transfer of the pattern-or-practice jurisdiction to the EEOC is an integral part of the basic goal which we are trying to achieve here—the giving of additional meaning to the Civil Rights Act. We cannot allow ourselves to make the same kinds of mistakes today that we made 7 years ago when we passed the Civil Rights Act. Employment discrimination robs the Nation of its full potential and undermines the national goals of social equality and economic stability. To make the mistake in 1964 was understandable. To continue to make the same mistakes in 1972, in my judgment, is unforgivable. We must provide the Nation with strong and uniform enforcement of those goals of equal employment which we so clearly established by that significant step that was taken back in 1964.

Mr. President, all the reasons I have cited marshal themselves against this amendment offered by the Senator from Nebraska.

I urge rejection of the amendment.

Mr. JAVITS. Mr. President, once again we face the same problem, when an amendment comes up, no matter how important it is, we face an empty Chamber. I know that Senators are busy, but it gives the impression that nothing very important is happening on the floor of the Senate. I hope very much, in the interesting way we have it here, where our voices, in a sense, permeate the walls, because people are informed as to what is going on and what is being debated and whether it is important or not, individual Senators have word on that from the staffs, attachés, and other Senators, so that I hope the word may go out as to the really great importance of this particular amendment.

It ranks in importance with the amendment we adopted yesterday, as it were, settling the basic platform of the bill. It ranks with the refusal to transfer the Office of Federal Contract Compliance. It ranks in importance with the exclusivity of remedies amendment which we voted not to reconsider yesterday.

A pattern or practice suit is, after all, nothing but a broader version involving more parties in greater depth in terms of length of time and the prevalence of a given practice than an individual suit. It simply is a raising to another degree, another order of magnitude, of the individual suit and, hence, it affects many more people and requires a degree of attention which celebrated cases in any field should have.

The question is whether we should perpetuate, when the entire basis for it has been removed, what would be after this bill becomes law a bureaucratic anachronism by giving the power to institute suit to two entities, where they both concern private parties.

That is really the issue.

The Department of Justice retains the right to sue in respect of State and municipal agencies. We understand there is a very good reason for that because we are dealing with governmental entities within the federal system. But here we are dealing not with those Government entities but with, as I say, simply another order of magnitude, from the order of magnitude of the individual suit, which by decision we have taken yesterday, it seems to me, should have absolutely sealed the fate of this amendment. By our decision yesterday we gave the EEOC the power to bring suit in big as well as small cases.

The committee was cognizant of the argument of readiness, that is, is the Commission ready to deal with litigation on a major scale. We dealt with that by delaying the transfer by 2 years.

So we have taken the real precaution, the sensible precaution of deferring the operative date of the transfer so as not to load onto the Commission any more immediacy than is necessary. Therefore, as the Department of Justice is set up for these litigations on the pattern or practice basis, let them go ahead with it.

We took an even further precaution in giving the President—and I think this is a critically important point—the power even to stop the transfer after the 2 years if, when he looked at the situation, he found it was desirable to continue to permit both EEOC and the Justice Department to bring these cases.

We did that by utilizing the reorganization plan technique which is found on page 51, lines 6 to 10 in the bill in which we provide that the transfer is to be made in 2 years of this jurisdiction, "unless the President submits, and neither House of Congress vetoes, a reorganization plan pursuant to chapter 9, of title 5, United States Code, inconsistent with the provisions of this subsection."

To wit—inconsistent with the transfer.

So, it seems to me that we have very carefully and very intelligently made this change.

One other point which it seems to me is absolutely decisive is that the EEOC, under the Dominick amendment, has the authority to institute exactly the same actions that the Department of Justice does under pattern and practice. These are essentially class actions, and if they can sue for an individual claimant, then they can sue for a group of claimants.

It seems to me that this is provided for by the rules of civil procedure in the Federal courts, and also it is inherent in the amendment which we adopted. Under those circumstances it seems to me that this amendment is conclusively dealt with, and whatever may have been the argument which might have obtained in respect of cease and desist orders and the desire to retain this jurisdiction in the Department of Justice when the Commission was going to proceed by cease and desist order rather than by suit, has now given way to the fact that the Commission can only proceed by suit. And if it proceeds by suit, then it can proceed by class suit. If it proceeds by class suit, it is in the position of doing exactly what the Department of Justice does in pattern and practice suits.

I have referred to the rules of civil procedure. I now refer specifically to rule 23 of those rules, which is entitled Class Actions and which give the opportunity to engage in the Federal Court in class actions by properly suing parties. We ourselves have given permission to the EEOC to be a properly suing party.

Therefore, to sum up this argument, we have first the Commission with the authority to act in exactly the same type of case in which the Department of Justice acts. Second, we have taken away the cease and desist authority and substituted the power to sue which fully qualifies the Commission to take precisely the action now taken by the Department of Justice.

Third, we have delayed the transfer to deal with the possibility of overwork and have even given the President the opportunity to delay it further if he wishes to file a reorganization plan at the end of the 2-year period which we have provided.

Mr. President, in the area in which the Department of Justice will deal with Government entity, we leave the right to sue with them. So, to inhibit the transfer of pattern and practice suits is simply to create two agencies to do the work of one.

If we inhibit that, we risk complete confusion as both the Commission and the Attorney General can proceed in exactly the same kind of case.

There is really no reason for it in view of the legal staff and the other reasons which the Commission itself would develop.

There is one further point on which I draw again from my experience with respect to the Civil Rights Act of 1964. I have said on a number of occasions in this debate that that was a compromise and that much was given up, especially in respect of the right of seeking a remedy against discrimination in employment. And one of the things that was given up was any enforcement authority or the right to sue by the EEOC that we are trying to repeal now. That is why we felt we had to give the Attorney General the power to sue in big cases, in class action cases, and in cases where there was a constant pattern of discrimination directed at individuals with limited resources whom we were relegating to the courts and who could hardly be expected to carry such a broad and deep case. We are now changing that and giving it back to the Commission.

It seems to me that the logical conclusion which follows from that is that the authority previously given to the Justice Department is no longer necessary.

For all of those reasons and with special emphasis upon the fact that we made the decision yesterday, which it seems to me is absolutely controlling on this amendment, I believe that the amendment should be rejected.

Mr. HRUSKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I wonder if I might propound a question to the distinguished Senator from New Jersey and the distinguished Senator from New York jointly. Would the Senator yield for a question?

Mr. WILLIAMS. I do not have the floor.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. ALLEN. I would like to ask the Senators a rhetorical question if they do not wish to get the floor. I would like to inquire, in view of the parliamentary situation in regard to the bill, since all of the amendments have been directed toward the committee substitute, whether it is the intention of the managers of the bill after all amendments have been offered to the substitute to ask for the adoption of the committee substitute rather than to move to lay that amendment on the table in order to go back to the bill as introduced. Would the Senator be kind enough to enlighten the junior Senator from Alabama in that regard?

Mr. WILLIAMS. Mr. President, I would say that the Senator from New York and I have not conferred specifically on that. And I would yield to the Senator from New York for an observation.

Mr. JAVITS. Mr. President, my observation on that would be simply that, as the Senator from New Jersey has said, we have not conferred on what we desire to be the best practice to follow with respect to that particular matter. So, we are unable to inform the Senator from Alabama to that effect.

I would say, as far as I am concerned, that I would hope that I should not do anything or be required to do anything which would change or compromise the decision of the Senate. In my judgment the Senate has decided upon the issue of the method of enforcement by the commission. And I believe that those who wish to have a bill would now be under a duty to proceed in any procedural way in accordance with the will of the Senate. I will not, in any way that I am conscious of, try to bring about a parliamentary situation in which we retread all of that ground. I believe the decision taken yesterday is the decision as to the matter of policy. I am perfectly willing until we conclude the bill to be guided by it.

Mr. ALLEN. Mr. President, is that translated then into saying that when the committee substitute has been perfected, it is the will of the Senate that the adoption of the committee amendment will be sought?

Mr. JAVITS. No, it cannot be translated into anything but a principle.

I cannot adopt the practice the Senator from Alabama would have me adopt. I do not know what it means. I am sure I speak for the Senator from New Jersey, also. Therefore, we cannot adopt it. But I believe as Senators and gentlemen the principle adopted yesterday will be carried out in whatever parliamentary way it is possible to do so.

To say "yes" means I am buying something I do not know anything about and I cannot do that.

Mr. ALLEN. I am inquiring whether we would throw away the work of the Senate for the last month and table the work of the Senate on the committee substitute. I am trying to determine if that is what is going to be sought or if agreement on the committee substitute as finally amended is to be sought.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. JAVITS. I think the Senator is inferring that we are not going to stand by what I have said. I say we will stand by it. But I cannot buy some abstract question of parliamentary procedure which I do not know anything about. We have stated the principle we will follow, and we will stick by it. That is the best we can do at this moment.

Mr. ALLEN. Very well.

Mr. WILLIAMS. I subscribe to everything the Senator from New York has said. The question is answered.

Mr. ALLEN. I am satisfied with the explanation given by the distinguished Senators.

Apparently, in time, they are going to agree on the committee substitute rather than table that and get back to the original bill.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, I have no requests for any further time on our side, and I have no further remarks in which to engage. We are ready for a vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nebraska. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a pair with the senior Senator from Georgia (Mr. TALMADGE). If he were present and voting, he would vote "yea." If I were permitted to vote I would vote "nay." Therefore I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Florida (Mr. CHILES), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the

Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) and the Senator from Massachusetts (Mr. KENNEDY) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Iowa (Mr. HUGHES) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kentucky (Mr. COOPER), the Senator from Wyoming, (Mr. HANSEN), and the Senator from Alaska (Mr. STEVENS) are detained on official business.

If present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 33, nays 43, as follows:

[No. 47 Leg.]

YEAS—33

Allen
Allott
Baker
Bellmon
Bennett
Byrd, Va.
Byrd, W. Va.
Cotton
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Gambrell
Goldwater
Gurney
Hollings
Hruska
Jordan, N.C.
Jordan, Idaho
Long
McClellan
Miller
Pearson
Roth
Saxbe
Smith
Sparkman
Stennis
Thurmond
Tower
Young

NAYS—43

Aiken
Bayh
Beall
Bentsen
Bible
Boggs
Brooke
Burdick
Cannon
Case
Church
Cook
Cranston
Eagleton
Griffin
Harris
Hart
Hatfield
Inouye
Javits
Magnuson
Mathias
McGee
McIntyre
Metcalf
Montoya
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott
Spong
Stafford
Stevenson
Symington
Tunney
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—23

Anderson
Brock
Buckley
Chiles
Cooper
Fannin
Fong
Fulbright
Gravel
Hansen
Hartke
Hughes
Humphrey
Jackson
Kennedy
McGovern
Mondale
Moss
Mundt
Muskie
Stevens
Taft
Talmadge

So Mr. HRUSKA's amendment (No. 834) was rejected.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

Mr. SCOTT. Mr. President, may I inquire as to whether we are under controlled time?

The PRESIDING OFFICER. We are not under controlled time.

Mr. SCOTT. Then I ask unanimous consent to proceed for 3 minutes on another matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUSING OF SCHOOLCHILDREN

Mr. SCOTT. Mr. President, the distinguished Senator from Florida (Mr. GURNEY) is unfortunately, I think, under the impression that the distinguished majority leader and I may have indicated that, by reason of our personal views that statutory action on busing legislation might be more expeditious and more effective and might accomplish the desired result more quickly, we would block any constitutional amendment.

I wish to assure the Senator from Florida, who has made a statement on this issue, that I would under no circumstances make any effort to block any constitutional amendment, including any on this subject, which might come from the appropriate committee. Those are leadership functions, and they would be exercised in strict good faith on behalf of all Senators.

I have merely stated that while I might at some time be in favor of a constitutional amendment, at this time I am leaning to the view that perhaps we can deal with this matter more effectively and with much greater benefit to the general public if we proceed by the statutory route.

That does not exclude constitutional amendments. They should, of course, be considered in committee. Some of them have meritorious aspects. We are simply anxious to proceed with the legislation.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SCOTT. I am glad to yield to the majority leader.

Mr. MANSFIELD. Mr. President, just about 10 minutes ago, I saw this news release. To say that I was surprised is to put it mildly; to say that I was shocked is to put it honestly; because in response to questions raised by the press, the distinguished Republican leader and I, separately, without each other's knowledge, to the best of my knowledge, said that we would both prefer to consider the possibility of statutory legislation because we felt that it would be quicker, that the matter of "busing" could be attended to more expeditiously—perhaps more fairly. In response to a question addressed to me by the press concerning a constitutional amendment, I believe I answered that I would prefer to meet the issue through legislation because it was quicker and because the need for some action is now. Not only do I feel that an amendment to the Constitution is unnecessary, it should be remembered that a constitutional amendment would as well require a two-thirds vote of both Houses and ratification by three-quarters of the States; and thus might prolong the consideration of this problem for a substantial period of time. I thought that the matter should not be avoided or prolonged but should be faced up to as expeditiously as possible. The goal I think all of us share is that of achieving quality education for all of the children of this Nation and of doing so on the basis of an equal opportunity for everyone concerned.

Mr. SCOTT. Mr. President, it is my understanding that the majority leader feels as I do; namely, that if any constitutional amendment on this subject is reported by a committee and is put on the calendar, ways will be found to bring it before the full Senate.

Mr. MANSFIELD. Absolutely. It is not the intention of the joint leadership—never has been—to block legislation.

It is the last sentence of this news release which surprises me, in which it is said:

> I would hope Senators Scott and Mansfield would not block the Senate from taking up this busing amendment this year, regardless of how they personally view the issue.

It seems to me that what our distinguished colleague has done is to put words in our mouths and meanings into our minds which just were not there and are not there.

Again, I wish to emphasize, together with the distinguished Republican leader, that any legislation—constitutional amendment or not—reported by a committee will be given the utmost consideration by the Senate and as speedily as possible.

Mr. SCOTT. I thank the distinguished majority leader.

As a matter of fact, I am preparing and considering the submission of an amendment having to do with busing—on my own behalf and on behalf of other Senators who may wish to associate themselves with me at the proper time and on the proper bill.

I am glad that the majority leader has spoken as he has. I am sure that the distinguished Senator from Florida will be reassured and can be entirely comfortable in his own mind that we will not confuse our leadership functions with our roles as individual Senators.

Mr. MANSFIELD. I am very glad that the distinguished Republican leader has brought up this matter. I believe that the distinguished Senator from Florida must have been under a misapprehension, because what he alleges in this release to the press could not be further from the truth.

Mr. SCOTT. The distinguished Senator from Florida has a very great concern in this matter, and he is representing his constituency. I fully understand his concern and his desire for action. I, myself, would be glad to do anything which would expedite whatever action the Senate decides to take in this matter.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. PERCY. Lest there be any misapprehension that this could be a speedy way to handle this very complex problem—the fact that it will be put on the floor if reported by a committee—I should like to say that as of now my strong feeling is that this is not the right way to go about it; that a constitutional amendment would be the wrong way to approach this problem; that we can better approach the problem through legislation. I would not want to see such constitutional amendments supported by the Senate. I was pleased to note that Vice President AGNEW concurs with this position.

Mr. SCOTT. I thank the Senator.

Mr. BYRD of Virginia. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. BYRD of Virginia. Mr. President, the Senator from Virginia did not see the news article to which the Senator from Pennsylvania and the Senator from Montana have directed themselves.

But I was most encouraged to hear the Senator from Pennsylvania and the Senator from Montana—the minority leader and the majority leader—say that compulsory busing is an issue which the Senate should face up to at this session. I think that is encouraging.

I had not been aware that either the minority leader or the majority leader had in mind that the busing issue should be met with legislation at this session. I am pleased to hear that.

I am one of those who has felt that probably the effective remedy, and perhaps the only effective remedy, would be a constitutional amendment. But if the majority leader and the minority leader are willing to support effective legislation, then most certainly I would support such legislation. I want to see this matter handled as quickly as possible.

But a constitutional amendment approach could be used also, as was recommended by the distinguished Senator from Washington (Mr. JACKSON).

I am interested in the colloquy between the Republican leader and the Democratic leader. I am pleased to have heard what the Senator from Pennsylvania and the Senator from Montana have said.

I might add that those of us who strongly oppose compulsory busing for the purpose of achieving an artificial racial balance seem to be picking up support from unexpected sources.

Mr. SCOTT. I thank the distinguished Senator from Virginia.

I believe that we should arrive at some sense of what the Senate's opinions are That is why I had suggested the statutory method of procedure. I think we ought to do it in this session. I think we ought to do it without filibuster and without inordinate delays. Let us find a way to arrive at a decision in which we can work out the best way to treat the busing issue. We may differ as to ways to do it.

As I have said, I have an amendment. And I am not running under fire, by any means. My amendment will follow what I said in 1965, on the floor of the Senate, in response to the late Senator from Illinois, Mr. Dirksen, that I was opposed to busing solely to achieve racial balance. Others would go further; others would not go as far.

Any amendment I may offer will be in an effort to come to a meeting of the minds. I think that the issue has now come to fruition, to a point where all of us, in good will, ought to be anxious to dispose of it. What comes out may not please everybody, but I know that it will reflect the majority view of the Senate. I only urge that it be done without unnecessary delay, such as extended debate.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. STENNIS. Mr. President, I understood the Senator from Pennsylvania to say that he has an amendment.

Mr. SCOTT. That is right—which I prefer to offer to a later bill which will soon come up.

Mr. STENNIS. I understood the Senator from Montana to say that he would favor taking up any bill that came from a committee.

Mr. SCOTT. Any constitutional amendment.

Mr. STENNIS. Any constitutional amendment that came from a committee. I thought the Senator said any measure that came from a committee.

But I want to make the point now that neither of the leaders would intentionally limit the activities with respect to a bill that came from a committee, because of ideas that are born here on amendments, not only on this bill but also on military bills and others that are given full consideration.

Mr. MANSFIELD. We both pointed out that we certainly would not block any measure which came from any committee, because that is not our job; and a bill reported by a committee—an amendment or a bill—should be given the opportunity to be presented to the Senate for disposition.

Mr. STENNIS. That would include amendments from the floor, as the Senator from Pennsylvania has pointed out.

Mr. SCOTT. Yes.

Mr. President, I ask unanimous consent to speak for 5 additional minutes.

The PRESIDING OFFICER (Mr. BEALL). The Senator from Pennsylvania has the floor.

Mr. SCOTT. Mr. President, I note the presence in the Chamber now of the distinguished Senator from Florida (Mr. GURNEY). I apologize to him because when I started to speak I thought he was in the Chamber but he left immediately after the vote for a few minutes. I assume that he knows what I have been saying, which is chiefly that we want to assure him that neither the majority nor the minority leader up to now nor ever have had the slightest intention to block any constitutional amendment that comes from a committee. We would be willing to see that it gets to the calendar and is called up.

I had confined my statement to the belief that proceeding by statute is the more expeditious way to do it.

The distinguished majority leader said that we should face this issue and I agree with him on that. I mentioned that I, too, would have an amendment to the proper bill, when it comes up, and the colloquy which followed was along that general line.

I was responding to the Senator's statement to the press, which I am sure was made under a misapprehension, because my statement was exactly the statement made by the Vice President in which he favors the statute method rather than a constitutional amendment. That does not mean that any Senator's right to bring up a constitutional amendment would be in the slightest way impeded or interfered with.

I spoke of the Senator's great concern and interest in this matter and the strong fight he has led for it.

I make this further statement in order to give the Senator from Florida a chance to make any observations he wishes at this time.

Mr. GURNEY. Mr. President, I thank the distinguished Republican leader for yielding to me.

In the first place, I am sorry that I was not in the Chamber when he and the distinguished majority leader made their statements. Since I started all this ruckus I would have preferred hearing what they had to say.

Mr. President, I want to assure both the distinguished Republican leader and the distinguished majority leader that I did not intend any disrespect for them at all. My reading of the story in the Washington Post this morning certainly gave me all the indication I needed, that so far as the great prestige of the majority leader and the Republican leader is concerned, that they were not behind any antibusing amendment; and from what I read on the front page this morning, if there was ever going to be an antibusing amendment on the floor of the Senate for consideration at some further date, certainly the leaders were not going to be behind it. That is perfectly all right. They have that privilege as individual Senators just as much as the Senator from Florida has the same individual privilege as a Senator to back an antibusing amendment.

I know that in my State of Florida right now—where everyone is campaigning for President, both Democrat and Republican—the question of busing is the No. 1 big issue. It is also the No. 1 big issue in many other States in this land. Never, in my time in public office, has there been a bigger, a "guttier" issue which has grabed the American people as this issue of busing.

I did think, so far as my people in Florida are concerned, as they look to me for political leadership, that when our leaders in the Senate say they are going to oppose an antibusing amendment, then the Senator from Florida has the responsibility, in properly representing his people in Florida, to criticize what he thinks is a prejudgment, of the only way I think this issue will be settled.

We have tried in piece of legislation after piece of legislation, in bill after bill, all the 3 years since I came to the Senate, and before that when I served in the House of Representatives to stop forced busing, but whatever the legislation that came out of the committee or was passed in the Senate and House, it has been ignored by the Supreme Court or stricken down by the Supreme Court. Therefore, the only way that this Senator believes anything will be done to alleviate the crisis caused by busing is an antibusing amendment.

I want every Senator to be able to get out on this floor and argue the busing issue and then to cast his vote yea or nay on the issue, this issue which the people of the United States want resolved more than any other issue I know of in this year 1972.

I reiterate that I had no intention of casting any disrespect on our distinguished leaders in the Senate but it is my responsibility, representing the people of the great State of Florida, to speak for them on this most important issue of forced busing.

I back up the statement that I said and I would make it again.

Mr. SCOTT. I am sure now that the distinguished Senator from Florida is under no misapprehension

The statement in yesterday's newspapers, as I recall it, gave no such indication that the majority leader and I would, under any circumstances, block any action of the committee on a constitutional amendment.

This morning's newspaper was more or less a rewrite of the previous article. I do not recall the exact words. But when I read what the Senator from Florida had said, which indicated that the majority leader and I wanted to block a constitutional amendment, I told the press, yesterday and this morning, that under certain circumstances I might find a constitutional amendment I could support but I thought that by statute was the more effective and expeditious way to do it. I also said that I agreed with the Vice President's initial reaction. This morning I mentioned to the press—they asked me about my amendment, they knew of it—that I had an amendment relating to busing which I was going to introduce when the higher education bill comes before us.

So the distinguished Senator from Florida may rest at ease that, as I say, and repeat, that neither the majority leader nor I, in the leadership position, are indicating that we are opposed to what the distinguished Senator from Florida is trying to achieve. We are trying to achieve that, too. We may differ as to the most expeditious way to do it. I made the statement when I did in order that it might appear in the same story, which certainly would otherwise have given the impression that the majority leader and I were blocking a constitutional amendment on busing.

I assure the Senator from Florida that we are not going to do that as long as I am in this post.

Mr. GURNEY. I thank the Senator from Pennsylvania very much. I appreciate his forthrightness and his candor.

Mr. SCOTT. Thank you, sir.

TRANSMITTAL TO CONGRESS OF INTERNATIONAL TREATIES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate proceed to the consideration of Calendar No. 564, S. 596.

The PRESIDING OFFICER (Mr. BEALL). The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 596) to require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within 60 days after the execution thereof.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, it is understood, of course, but to make certain, I ask unanimous consent that when the Senate has acted on this bill it return to the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, with the approval of the author of the bill, the Senator from New Jersey (Mr. CASE), I ask unanimous consent that the vote occur on this bill, which I understand is noncontroversial, at 3:45 p.m. today.

The PRESIDING OFFICER. Does the Senator ask that rule XII be waived?

Mr. MANSFIELD. Yes, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, may I ask the distinguished majority leader, we are waiting for the Senator from New Jersey now; is that correct?

Mr. MANSFIELD. Yes.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I now yield to the distinguished Senator from Kansas (Mr. DOLE).

NATIONAL DAY OF PRAYER—SENATE CONCURRENT RESOLUTION 524

Mr. DOLE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 524.

The PRESIDING OFFICER (Mr. BEALL) laid before the Senate, House Concurrent Resolution 524, which was read by title as follows:

A concurrent resolution authorizing the President to designate Sunday, February 20, 1972, as a National Day of Prayer for the cause of world peace.

Mr. DOLE. Mr. President, I ask unanimous consent for the immediate consideration of this concurrent resolution.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DOLE. Mr. President, the pending measure is a significant legislative item. It is more than a statement of congressional sentiment. Of course, it does provide an opportunity—perhaps too rare in these days of differing viewpoints on many important issues—for the Congress to speak with one voice in support of the President's efforts. But this measure has broader dimensions, for it expresses the hopes of all mankind for an end to conflict between nations and the realization of a just and lasting peace in the world.

The hope for peace is a common bond of mankind, and the quest for peace is its own universal cause—without party, race, or nationality.

The response to this resolution has been heartening. It received broad and enthusiastic support in the House where it was passed earlier today by unanimous agreement. In the Senate the response has been similar, and in spite of the brief time since its introduction some 30 Senators have joined in sponsoring it. I know that others would have joined if time had permitted, but the names of those who have been added give ample illustration of the degree of support received.

I can think of no more fitting gesture on the part of our Nation as the President embarks on his journey to the People's Republic of China than to join in days of prayer and support for his efforts to seek peace.

I know that this action will be deeply appreciated by the President, and it will speak with a powerful voice of America's enduring and fervent desire to live in peace with all nations and all people.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 524) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

H. CON. RES. 524

Whereas the American people share with all the peoples in the world an earnest desire for peace and the relaxation of tensions among nations; and

Whereas it is the policy of the United States to engage in negotiations rather than confrontations with other nations; and

Whereas on February 21, 1972, the President of United States will begin a historic visit in the Peoples Republic of China to confer with that nation's leaders with the purpose of seeking more normal relations between the two countries and exchanging views on questions of mutual concern; and

Whereas the people of the United States hold the highest and most fervent hopes for the success of the President's mission: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress—

(1) That Monday, February 21, 1972, be commemorated as a day of united support for the President's efforts in pursuit of the relaxation of international tensions and an enduring and just peace;

(2) That the leaders of all nations and men of good will throughout the world be urged to devote all possible efforts to promote the cause of peace and international harmony as set forth in the preamble to the Charter of the United Nations;

(3) That the President designate Sunday, February 20, 1972, as a National Day of Prayer for the cause of world peace; and

(4) That copies of this resolution be sent to the Governors of the several States and be delivered by the appropriate representatives of the United States Government to the appropriate representatives of every nation of the world.

QUORUM CALL

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF FEDERAL WATER POLLUTION CONTROL ACT—CONFERENCE REPORT

Mr. BYRD of West Virginia. Mr. President, I have been requested by the distinguished senior Senator from West Virginia (Mr. RANDOLPH) to submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3122) to extend sections 5(n) and 7(a) of the Federal Water Pollution Control Act, as amended, until the end of fiscal year 1972.

I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. BEALL). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of February 9, 1972, at p. 3430.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

Mr. HOLLINGS. Mr. President, I wish to address some remarks to the equal employment opportunities bill. Yesterday, by a vote of 45 to 39, the Senate accepted the Dominick amendment to the equal employment opportunities bill. As a sponsor of the original Dominick amendment, as well as the one that was adopted, I can attest to the fact that this acceptance has not been easy.

On January 24 and again on January 26, a similar amendment was defeated by a narrow 2-vote margin. However, by now accepting this amendment and denying cease-and-desist power to the Equal Employment Opportunity Commission, we have guaranteed that the Commission will not be a special interest group arrogating to itself the roles of indicator, prosecutor, judge and jury.

Rather, we have assured that the commission will be able to turn to the Federal court for review of its actions. By prevailing for a judicial procedure, we have assured to the employer that he will not be unconscionably harassed.

Most importantly, we have guaranteed to minorities an effective means of achieving equal job opportunities. And this equal opportunity is, after all, what must be accomplished.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Honorable Arthur M. Williams, Jr., president of the South Carolina Electric and Gas Co. and a company policy memorandum.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOUTH CAROLINA ELECTRIC & GAS CO.,
Columbia, S.C., February 11, 1972.

Hon. ERNEST F. HOLLINGS,
U.S. Senate, Senate Office Building,
Washington, D.C.

DEAR FRITZ: I am taking the liberty of writing you about a matter with which I am deeply concerned. Concerned because it involves very deeply the effective operations of this Company, the people of our State and the acts of the Federal Government. Neither you nor I are responsible for what employment patterns may have existed over the past decades. Since I have assumed the Presidency of this Company—a little over five years ago—we have been in the forefront in attempting to employ qualified members of minorities and have, I believe, achieved this goal. In so doing, we have had classes to teach our own employees—whether they were from minority groups or not—basic educational qualifications to enable them to enter into apprenticeship programs.

In pursuance of this goal, we have promulgated an Affirmative Action Plan which has been submitted to the Atlanta Office of the General Services Administration; as you may know, GSA is a Federal agency appointed by the Executive Branch to monitor equal employment activities in all utility companies. This plan includes affirmative goals and time tables. GSA has done an on-site investigation of this plan. This has been buttressed by a Policy Memorandum, a copy of which is attached, which states that this Company has "a policy of equal employment opportunity without regard to race, color, religion, sex, or national origin" and that this policy "is not only morally and legally proper, but it is also good business."

During the past four years, more than 35 members of the major minority race in South Carolina have been promoted into formerly all-white positions. We have successfully recruited on black college campuses and have promoted many members of the major minority group in South Carolina into virtually every type of job available. Our minority employment has been increased by over 71 per cent in the last four years. Last year alone, over 29 per cent of our new employees were members of this major minority race. The personnel of this Company is actively engaged in, and the Company actively supports, black oriented organizations, such as the Urban League. One of our employees has served as a loaned executive for the National Alliance of Business.

Last November, EEOC Chairman William Brown invited a long list of utility presidents to testify before his Commission. It has been my experience with this type of hearing that those testifying are subjected to abuse and used as whipping boys—while this is no novel position for me, I did not see where it would serve any useful purpose for me to go into such a capacity. This Company did, however, have two representatives at the hearing.

This Company was then issued "A Commissioners Charge" from Chairman Brown, a copy of which is enclosed. In addition to this, we were served with a copy of a request for information which, and I feel you will agree, will not only be burdensome but will be costly to respond to. In these days when business is being adjured to hold down prices, it seems to me that it really behooves agencies of the Federal Government to not present businesses with forms to fill out which will involve so much cost—especially when this appears to be duplication of work already done by another Government agency, the GSA.

Chairman Brown commented in very uncomplimentary terms on the companies who declined (and there were 16) to testify before his hearings. I might add that Chairman Brown has made himself even more unavailable. We have attempted to get in touch with him to discuss this matter by phone and planned to send a representative to talk with him in person if he would talk wih us. So far, we have been unable, in spite of sincere and firm attempts, to contact him.

I note that there is presently before the Congress a bill which would give EEOC cease and desist powers and transform it into prosecutor, judge and jury. Not only is this contrary to the basic concept of American jurisprudence, but I think the actions of EEOC in our case have shown how they would mishandle any such authority. I hope you will continue to exert every effort to forestall such unwarranted power to this agency.

With best personal regards and all good wishes, I am,

Sincerely yours,

ARTHUR M. WILLIAMS, JR.

SOUTH CAROLINA ELECTRIC & GAS CO.,
POLICY MEMORANDUM, *May 3, 1971.*

Subject: Affirmative action plan.

COMPANY POLICY

South Carolina Electric and Gas Company believes that a policy of equal employment opportunity without regard to race, color, religion, sex, or national origin is not only morally and legally proper, but is also good business.

In the area served by the Company and from which it draws its employees, there are significant numbers of citizens who, for a variety of reasons, have not risen to their maximum productive level. If they can be made more productive, they will at the same time become greater consumers and better customers for the Company. Many of these citizens will be reached if all employers, this Company included, take affirmative action to insure equal employment opportunity.

The Company also recognizes that the employment problems of minority group members and women do not end when they have earned jobs. It believes that such employees will be more efficient and more productive if they are afforded equal opportunity on the job and are treated in all respects without regard to race, color, religion, sex, or national origin.

OFFICER RESPONSIBLE

The Vice President Employee Relations shall be responsible for implementation of this Affirmative Action Plan, compliance with all fair employment practice laws, and communication with outside groups affected by this Plan.

PROBLEM AREAS

The Company observes that the number of members of some minority groups or women employed in particular jobs is usually less, but is some case much greater, than would be projected from their percentages of the population in the area served by the Company. These jobs can be categorized as follows:

Category 1. Those jobs which a large proportion of minority group members and women can perform when hired or after minimum training and experience. Significant numbers of minority group members and women now hold such jobs. A new problem will arise if any of these jobs are held by such large numbers of minority group members of women that they become considered minority group or female jobs.

Category 2. Those jobs which can be performed only after relatively long periods of training or education, and for which only small numbers of minority group members or women have attempted to qualify.

Category 3. Those jobs which because of their specialized nature, physical conditions, danger, or a combination of these factors, have heretofore attracted few minority group or female applicants.

Category 4. Those jobs in management which usually require years of experience in somewhat lower level management positions which until fairly recently have rarely been filled by minority group members or women.

OBJECTIVE

The Company's objective in Affirmative Action is to cause greater numbers of qualified minority group members and women to seek employment or advancement, so that the normal workings of a non-discriminatory selection procedure will result in increasing numbers of such persons being hired for, and advanced to, all positions in the Company.

ACHIEVEMENT OF OBJECTIVE

The Employee Relations Department will review all Category 1 jobs to determine if there exists a normal distribution of minority group and female employees. The Vice President Employee Relations will make recommendations to the department heads concerned as to how any necessary re-distribution can be accomplished with minimum adverse effect on efficiency and morale.

The Employee Relations Department will devise whatever special communications program is necessary to encourage greater numbers of minority group and female employees or potential employees to undertake the education or training essential to Category 2 jobs. Recruiting sources which are likely to refer qualified minority group or female applicants will be more greatly utilized. Only job related qualifications will be required for such positions. A program of continuing education coupled with financial incentives for participation therein will be maintained as long as it is needed.

The Employee Relations Department will attempt to discover the specific reasons for low minority group and female interest in Category 3 jobs. Any misunderstandings revealed will be removed by careful explanation.

To the extent that the Company fill Category 4 jobs from without its own organization, it will make greater use of recruiting sources which are likely to refer qualified minority group members or women. It is recognized that within the Company many minority group members and women may not appear to be motivated toward advancement because of the mistaken belief that they will be held back because of their minority status or sex. The Company will undertake to seek out those of such employees who may be qualified except for motivation, and consider them for Category 4 jobs and for those positions which are prerequisite to Category 4 jobs.

COMMUNICATION OF POLICY

The Company's policy of equal employment opportunity will be communicated to all employees by appropriate means. The Company will propose the addition of a non-discrimination clause to any collective bargaining agreements which do not contain such language. All notices and posters relating to the fair employment practice laws will be prominently displayed.

The public will be informed of the Company's policy on equal employment opportunity, with particular notice to those organizations which are most likely to refer for employment qualified minority group members or women. Other employers with whom the Company does business will be given particular notice of this policy, and sub-contractors will be made aware of any obligations which they may have under the Executive Order.

AFFIRMATIVE ACTION FILE

The Employee Relations Department will maintain a separate file which will contain copies of all reports, memoranda, and correspondence relating to action under this Plan, including copies of Form EEO-1, copies of communications of this policy to internal and external groups, reports of up-grading and distribution of minority group members and women, the details of recruiting efforts directed at increasing the number of qualified minority group and female applicants, and information relating to adjustment of selection standards to increase employment opportunity to all citizens.

INTERNAL REPORTING

As often as necessary, but not less than annually, the Vice President Employee Relations will report to the Executive Committee on progress in Affirmative Action. He will be prepared to explain and suggest remedies for any failure to achieve the objective of the Plan.

ARTHUR M. WILLIAMS, Jr.,
President.

ATLANTA DISTRICT OFFICE, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Atlanta, Ga., January 26, 1972.

Re TAT2-0748.

Mr. H. W. WALDON,
Vice President, Employee Relations, South Carolina Electric & Gas Co., Columbia, S.C.

DEAR MR. WALDON: As we agreed during our telephone conversation on Friday (1/21/72), I am taking this opportunity to serve you with a copy of the above captioned charge by mail. Kindly acknowledge receipt by completing the enclosed form entitled "Acknowledgment of Service" and return same to me at this office in the enclosed self-addressed return envolope.

In an attempt to move expeditiously in this proceeding, I am enclosing a complete outline of information and/or documentation that I will need to review initially. Please develop this material immediately and forward it to me in Atlanta. As I suggested to you during our conversation, it is hoped that review of the materials requested will allow us to determine a course of on-site investigation.

Please know that I am at your service and if you have further questions regarding this matter do not hesitate to call me in Atlanta at (404) 526-6068.

I remain,

Sincerely yours,
H. A. HUGGINS,
Equal Employment Officer.

OUTLINE OF INFORMATION AND DOCUMENTATION

GENERAL

1. List of all employees of the Company since January 1, 1969. This list should reflect specifically the following about each:

a. Name and address.

b. Race and sex.

c. Date of hire.

d. Initial job to which hired.

e. Initial salary or rate of pay.

f. Initial department to which assigned.

g. All subsequent personnel changes such as promotion, transfer, demotions, pay raises*, discharges, rehires and reprimands (in each change please indicate "from" and "to").

2. Complete organizational chart of the Company showing staff, departments and sub-departmental work units and number if used.

RECRUITMENT

1. Written policy on recruitment.

2. Name, position title, race of each member constituting a recruitment team.

3. Sources of all recruitments.

4. Name and description of each position recruited for.

5. Name of all persons employed through the recruitment program since January 1, 1969 reflect the race and sex of each and the specific position for which recruited.

HIRING AND PLACEMENT

1. Written policy on hiring and placement.

2. Title and description of all jobs and position used by the Company since January 1, 1969.

3. Indicate the pass of promotability and/or seniority lines of progression for each job and position listed in response to item No. 2.

4. Name and title of all job vacancies within the Company since January 1, 1969.

5. Copy of the applications for employment for all persons hired since January 1, 1969.

6. Copy of the applications for employment for all applicants rejected and the reason for rejection since January 1, 1969.

7. Copy of each testing instrument used and accompanying validation studies.

8. Copies all test and results administered to the applicants listed in response to items 5 and 6.

PROMOTION AND TRANSFER

1. Copy of Company's written policy on promotion and transfer.

2. Copies of all seniority list used to determine promotability or other employee status changes.

3. Copies of all bids placed for employee status changes such as promotions, transfers, etc. This information should reflect the reason(s) for rejection in each case when the bidder was rejected.

4. Copy of the work history record for each employee promoted or rejected for promotion since January 1, 1969.

TRAINING

1. Name, race, sex, religion, job title of all persons assigned to and received the benefit of a Company administered training program since January 1, 1969. This information should include the following:

a. Job for which trained.

b. Criteria by which selected.

c. Evaluated results of training for each person participating.

d. Copy of the work history record for each.

2. Name and description of all training programs used by the company January 1, 1969. Please state the requirements for each.

3. The same information requested in item No. 1 for persons requesting training who were denied.

TERMS AND CONDITIONS

1. Copy of Company rules and regulations setting down the terms and conditions of employment.

2. Company policies on the following:

a. Overtime.

b. Sick Leave.

c. Annual Leave.

d. Leave of Absence.

e. Maternity Leave.

3. Description of Company's disciplinary system and how it is administered.

LAYOFF, RETENTION AND RECALL

1. Name, race, sex and seniority of all persons subjected to layoff since January 1, 1969 reflecting the following:

a. Date of layoff.

b. Date of Recall.

c. Reason for Layoff.

2. Complete description of the Company's policy on layoff and recall.

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* Bonuses.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION VS. SOUTH CAROLINA ELECTRIC & GAS COMPANY

Re: Charge No(s) TAT2-0748

ACKNOWLEDGEMENT OF SERVICE

The undersigned hereby certifies that on ———, 1972, he was served by Certified Mail a copy of the foregoing Charge alleging employment discrimination in violation of Title VII of the Civil Rights Act of 1964.

This ——— day of ———, 1972.

——— ———,

——— ———.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Washington, D.C.

COMMISSIONER'S CHARGE: TAT2-0748

Pursuant to Title VII of the Civil Rights Act of 1964, I charge the following employer and union with unlawful employment practices:

South Carolina Electric and Gas Company, 328 Main Street, Columbia, South Carolina, and IBEW Local 772, Columbia, South Carolina.

I have reasonable cause to believe that the above employer and union are within the jurisdiction of the Equal Employment Opportunity Commission and have violated and continue to violate Section 703 (a) (c) and (d) of the Civil Rights Act of 1964 by discriminating against Negroes and females on the basis of race and sex with respect to recruitment, hiring, job assignment, promotion, training, compensation, representation and other terms and conditions of employment:

1. Respondent employer discriminatorily refuses or fails to recruit and hire Negroes and females in the same manner it recruits and hires Caucasians and males.

a. The company employs a total of 2207 employees. Of these, 285 (12.9%) are Negroes. The population of Columbia is estimated to be 40% Negro.

b. The company employs 339 (15.4%) females.

2. Respondent employer discriminatorily places Negroes and females in lower paying and traditionally relegated jobs.

a. Of 1030 blue collar jobs, Negroes hold 248 (24.1%). Of 1,157 white collar jobs, Negroes hold 17 (1.5%). All three laborers and twenty service workers are black.

b. Of 537 clerical and office workers, 310 (57.7%) are females. There is only 1 female in the blue collar category.

3. Respondent employer discriminatorily excludes and/or restricts Negroes from higher-paying positions and/or jobs above the blue collar level.

4. Respondent employer discriminatorily excludes and/or restricts females from higher-paying positions and/or jobs above the office and clerical level.

5. Respondent employer discriminatorily limits and restricts Negroes and females in certain job categories.

6. Respondent employer discriminatorily maintains segregated departments according to race and sex.

7. Respondent employer discriminatorily fails to provide Negroes and females with equal training opportunities.

8. Respondent employer discriminatorily fails to provide Negroes and females with equal job opportunities and promotions afforded other employees.

9. Respondent union discriminatorily fails to represent Negroes and females on the same basis as Caucasian males.

10. Respondent employer and union have further discriminated against Negroes and females in all policies and practices, like, related to, or growing out of the specific practices enumerated above.

The class aggrieved includes, but is not limited to all persons who have been and continue to be or might be or might be adversely affected by the unlawful practices complained of herein.

——— ———,
Commissioner.

Mr. HOLLINGS. Mr. President, this letter and memorandum will indicate some of the harassment which has taken place and which, of course, I do not condone.

Since the second session of this Congress convened on January 18, the overwhelming majority of the Senate's time has been occupied with the consideration of the equal employment opportunity bill.

It is the type of harassment described by Mr. WILLIAMS which has alarmed me and caused me to oppose the Commission's having judicial powers. Accordingly, I have consistently supported amendments to the bill which would deny to the Commission a broad, blank check of judicial power. Allowed the free rein of the original bill, the Commission would have become a champertous and surreptitious volunteer. Approval of the Dominick amendment, in my view, has given the Commission a reasonable and effective means of carrying out their mission: presenting their findings to an impartial, judicial tribunal.

Mr. President, I must now act in good faith by voting for final passage. I cannot deny the fact that the Equal Employment Opportunity Commission to date has been ineffective in protecting equal opportunities. I cannot deny that the Commission's authority must be beefed up, and I cannot deny that equal job opportunities for our minorities must be guaranteed. The bill now carries this guarantee with it. Accordingly, it is now time for the Senate to approve the legislation.

QUORUM CALL

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CASE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSMITTAL TO CONGRESS OF INTERNATIONAL TREATIES

The Senate resumed the consideration of the bill (S. 596) to require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within 60 days after the execution thereof.

Mr. CASE. Mr. President, I understand the pending business is my bill S. 596.

The PRESIDING OFFICER. The Senator is correct.

UNANIMOUS-CONSENT AGREEMENT

Mr. CASE. Mr. President, I ask unanimous consent that we may have a time limitation on this measure with a final vote to occur at 3:45 p.m. today, the time to be equally divided between the proposer of the measure and the majority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASE. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 minutes.

Mr. CASE. Mr. President, I had forgotten we have this new loudspeaker gadget. My colleague, the Senator from West Virginia, was very kind to suggest that we put it into operation and I hereby do so.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. CASE. Mr. President, under the terms of the bill which I have introduced, all international agreements entered into by this Government will henceforth be transmitted to the Congress within 60 days of their execution. Sensitive agreements will be transmitted to the Senate Foreign Relations and House Foreign Affairs Committees under an appropriate injunction of secrecy.

THE FOCUS OF THE BILL

No problem presently exists with the transmittal of unclassified international agreements to the Congress. Under existing statute—section 112a, title I, U.S. Code—the Secretary of State presently compiles and publishes all international agreements other than treaties concluded by the United States during each calendar year.

Although the provision of this statute on its face is all-inclusive, the position of the executive branch has been to withhold from regular dissemination to Congress—even on a classified basis—those documents which it deems sensitive in view of security considerations.

My bill is designed to end such an exception to the principle that Congress has the right to know the terms of all this country's commitments.

THE EXTENT OF THE PROBLEM

The Constitution contains no explicit provision authorizing the President to enter into executive agreements. They began under George Washington and during this century have increased at a rate which has paralleled our progressive involvement in world affairs. In numbers, executive agreements—which do not require the advice and consent of the Congress—have come to far exceed treaties, which do require congressional approval.

During the year 1930, 25 treaties and only nine executive agreements were entered into by the United States. By 1968, this ratio had been overwhelming reversed, with the record reflecting more than 200 executive agreements in comparison with only 16 treaties. As of January 1, 1969, according to the State Department, the United States was party to 909 treaties still in force; the number of publicly disclosed executive agreements in force totaled 3,973.

Although the equivalent number of secret agreements entered into by the executive is not a matter of public record, enough is known to establish the key role they have played at critical junctures in this Nation's history.

At the turn of the century, in an example cited by the distinguished historian, Prof. Ruhl J. Bartlett, President Theodore Roosevelt, through the Taft-Katsura agreement of 1905, agreed to Japanese hegemony over Korea in return for Japan's accession to U.S. control over the Philippine Islands. In 1917, according to Professor Bartlett, the Lansing-Ishii Agreement went so far as to include a secret protocol which nullified the very agreement to which is was attached.

In 1943, the understandings reached at the Cairo Conference were made public, but the provisions of the Yalta Agreement which altered the Cairo compact were not publicly disclosed for 3 years. And the Yalta Agreement in its entirety was not published until 1947.

More recently, the Symington Subcommittee on National Commitments uncovered contemporary examples of secret agreements entered into without reference to the Congress: with Ethiopia in 1960; Laos, 1963; Thailand, 1964; South Korea, 1966; Thailand, 1967; and the secret annexes to the Spanish Bases Agreement of 1953.

In the case of the Ethiopian agreement, the executive's pledge to equip the Ethiopian Army—at a cost of $147 million through 1970—and commit U.S. resources to the maintenance of Ethiopia's territorial integrity, had the clear potential of involving this country in the almost continuous civil war and border disputes of this section of Africa. This agreement, concluded in 1960, was transmitted to the Senate Foreign Relations Committee on May 18, 1970—and this occurred only after the Symington subcommittee had learned of the commitment.

Unlike the other agreements uncovered through the independent efforts of this subcommittee, notably those concerning Laos and Thailand, the Ethiopian commitment did not embroil the United States in yet another open-ended conflict.

But it could have.

These and other similar international agreements—those we know of and those whose existence are still unknown to the Congress—affect our survival and defense in the most fundamental sense. They go to the heart of our foreign policy.

In this age of instant communications and U.S. military deployment abroad in the eye of potential conflict, these agreements, which can in an instant commit or involve this country in possible hostilities, must be formally and systematically examined by the Congress before they are triggered by events.

Failing such prior examination, the U.S. Congress—as increasingly has been the case since World War II—is reduced to postmortem review of accomplished facts.

THE EXECUTIVE BRANCH'S PROPOSAL

Both the existence of this problem of congressional access to those agreements and the need for new procedures is admitted to by the executive branch itself.

During hearings on my bill on October 21, 1971, Mr. John R. Stevenson, legal adviser to the State Department, confirmed this point on several occasions:

> In certain instances in the past they (the Congress) have not been informed on a current basis but only ad hoc some years later.
>
> . . . we recognize there is a problem here. I think the problem that has been most pinpointed is the fact that the information hasn't been obtained until a number of years after the event.
>
> It seems to me that a systematic procedure is required for keeping Congress informed.
>
> There is a problem which you referred to of having the Congress informed on a more current basis.

Nonetheless, although conceding that Congress has not been fully informed, the State Department, in its official response, declared itself "firmly of the opinion that legislation on this subject would be undesirable."

Instead, the State Department recommended that the Department of State and the committees concerned "meet to work out mutually acceptable practical arrangements."

As further defined by the State Department during the course of hearings, however, these "practical arrangements" would preserve in every important aspect the executive's present ability to withhold or disclose at will the terms of these agreements. For Congress to accede even informally to these practices would be to acknowledge the subordination of Congress to the executive branch. In effect, it would legitimatize what, in fact, has been an unconstitutional assumption of power by that branch:

> The executive would reserve to itself the decision as to whether Congress should be even told of an agreement. Mr. Stevenson, State Department Legal Adviser: "I cannot tell you right now that there wouldn't be some reservation of Presidential discretion of the President's ultimate power to decide what he wanted to do in a particular case."
>
> The executive would determine how Congress would be informed, and in some instances even presumably dictate whether the full committee membership should have the information or whether it should go to certain selected members only. Mr. Stevenson: "In some cases there would be a briefing with respect to the subject matter of the agreement. In other cases the agreement could be shown to several interested members of the committee but not permanently retained by the committee."
>
> The executive would decide which sections of an agreement Congress could know about, and certain categories of information would be completely excluded. Mr. Stevenson: "If in briefing you got the substance of what was involved, that would not necessarily mean that you had to have detailed annexes which might have vital military significance but very little foreign affairs significance."

WHY LEGISLATION IS NECESSARY

In 1954, the Eisenhower administration, in a letter from then-Assistant Secretary of State Thruston B. Morton to the Senate Foreign Relations Committee, said:

> The Department would be glad to supply the Senate copies of all such (international) agreements.

There were no quibbles, no exceptions to the principle that the Senate should receive all international agreements in their full and original text. Indeed, the State Department cooperated in drawing up the language which is in my bill regarding the handling of classified agreements, and legislation similar to mine, except that it did not provide for the transmittal of agreements to the House of Representatives, subsequently passed the Senate in 1956.

In explaining why this legislation, once agreed to by the Eisenhower administration, is now being opposed by the present administration, the State Department response was:

> I think this administration, reviewing the problem in the context of the on-going discussions we have had with this committee, feels that the respective interests of the President and Congress could be better reconciled without having quite *the rigidity* that this bill proposes. (Emphasis added)

In my view, the lessons of the years since 1956, let alone the relations between the State Department and the Senate Foreign Relations Committee, have shown us that this "rigidity"—which I interpret to mean strict accountability by the executive branch—is essential to the task of restoring the people's confidence in their government.

If any reminder is necessary of these lessons we have learned so painfully in the intervening years since this legislation was last considered, it was provided in a recent editorial in a major eastern newspaper:

> If the dreary story of our involvement in the Vietnam war demonstrates anything, it is that the Executive Branch does not necessarily know best; it is that an uninformed Congress will make uninformed decisions or none at all; it is that secrecy breeds distrust and that neither Congress nor the public can be expected to support policies unless they have the basic data upon which to make their judgments.

We know the consequences of unchecked executive power.

How, then, can we accede to a continuation of this practice of selective disclosure to the Congress of this Nation's commitments?

For it is not enough that Congress be "told about" or "be made aware" that the executive has entered into a new agreement stationing U.S. forces abroad or extending U.S. assistance in return for some political concession. Rather, it must be possible that Congress can participate and offer an independent judgment on these policy decisions.

To fulfill this role, Congress must be able to inform itself with precision of the terms of all international agreements. And this is not possible unless, in the case of sensitive agreements, the designated committees of Congress have the opportunity to study and weigh the exact language of every document in its entirety.

Even apart from the question of exact language which commits this country to a course of action, there should be no "a prior" judgment as to which annex or which section may or may not be of concern to the Congress.

As previously noted, the State Department witness in testifying on my bill asserted that Congress did not "have to have detailed annexes which might have vital military significance but very little foreign affairs significance."

How an agreement can be of "vital military significance" and not affect foreign policy, I do not know.

But I am aware of a chilling example of how crucially significant to the future of this country such an "annex" can be.

In the transcript of the White House

meetings surrounding the India-Pakistan war released by Columnist Jack Anderson on January 4, Presidential Adviser Henry Kissinger was quoted as saying:

> When I visited Pakistan in January 1962, I was briefed on a secret document or oral understanding about contingencies arising in other than the SEATO context. Perhaps it was a Presidential letter. This was a special interpretation of the March 1959 bilateral agreement.

Whether in fact such a "special interpretation" existed which could have directly involved the United States in the India-Pakistan war, this is an example of how an annex of mere "military" significance, although perhaps concluded in a time of relative tranquillity when its application seemed remote, can have an overriding importance to this country's foreign policy.

Selecting disclosure in any of its forms is unacceptable.

This bill, in the terms used by the executive branch in opposing it, is "rigid." It offers no loopholes. Every international agreement entered into by the United States would be formally transmitted to the Congress in its full and original text. And, as made clear in the Senate Foreign Relations Committee report accompanying the bill, the intent is clear that the executive should make available to the Congress all such agreements now in force.

This bill does not represent an attack upon the executive branch. Instead, it is designed to restore the constitutional role of Congress in the making of this country's foreign policy.

In the words of former Justice Jackson of the Supreme Court, redressing this balance is the responsibility of Congress itself:

> With all its defects, delays and inconveniences, men have discovered no technique for long preserving free government except that the Executive be under the law, and that the law be made by parliamentary deliberations.

Mr. President, this bill is a matter that has been before the Senate before and it has been approved by the Senate before. In substance, it is the same as an amendment which our former leader, Senator Knowland, proposed. It was adjudged to be worthy at that time and I think it is even more worthy right now.

This measure would require that all international agreements entered into by our Government be transmitted to Congress within 60 days of their execution. Sensitive agreements would be transmitted to the Committee on Foreign Relations of the Senate and the Foreign Affairs Committee of the House under whatever injunction of secrecy the President deemed appropriate. Of course, there would be no problem with respect to unclassified agreements. Under existing law they are supposed to be published within each calendar year.

This statute has been observed more in the breach in recent years. I would suggest that the present practice whereby the Congress is not made aware of agreements is altogether improper and represents a most unfortunate situation.

Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the committee report.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

COMMITTEE ACTION

Public hearings on S. 596, which had been introduced in the Senate by Senator Case on February 4, 1971, provided the committee with testimony expressing the favorable views of a distinguished historian and a leading academician and the unfavorable views of the administration. On October 20, 1971, Prof. Ruhl J. Bartlett of the Fletcher School of Law and Diplomacy provided the committee with an analysis of the problem of secrecy to which this bill addresses itself in the broader context of the historical problem of executive agreements as means of contracting significant foreign commitments. On the basis of this historical perspective, Professor Bartlett expressed his view that—"this proposed measure is so limited in its scope, so inherently reasonable, so obviously needed, so mild and gentle in its demands, and so entirely unexceptionable that it should receive the unanimous approval of the Congress."

On the same day the committee heard testimony by Prof. Alexander M. Bickel of the Yale University Law School, who also expressed strong support for the measure. "In requiring, as S. 596 would do," said Professor Bickel, "that international agreements other than treaties to which the United States is a party be transmitted to it, Congress would be exercising a power that, in my opinion, clearly belongs to Congress under the Constitution."

Professor Bickel also expressed his belief that "Congress has too long tolerated, indeed cooperated in, a diminution of its role in the conduct of foreign affairs and in the decision of questions of war and peace—a diminution that approaches the vanishing point."

In this respect, Professor Bickel concluded, the balance of power between Congress and the President ought to be redressed, to which end S. 596 would constitute "an important step."

The views of the administration were presented to the Committee on October 21, 1971, by Mr. John R. Stevenson, Legal Advisor to the Department of State. Mr. Stevenson expressed the administration's view that the provision of a reliable flow of information to Congress could best be provided for by "practical arrangements" of a nonlegislative nature. Conceding that in the past they (the Congress) have not been informed on a current basis but only ad hoc some years later, Mr. Stevenson concluded nonetheless that "we are dealing with a question of practical arrangements, not with a question of right or authority which would in any way be altered by statute."

On December 7, 1971, the bill was considered by the committee in executive session and ordered reported without amendment and without dissent.

BACKGROUND OF THE BILL

The legislative history of S. 596 goes back to 1954 when a similar proposal was introduced in the Senate by Senators Homer Ferguson of Michigan and William Knowland of California. It was reported favorably to the Senate in August 1954 but no action was taken on the bill. The proposal was revived by Senator Knowland in 1955 and subsequently, in July 1956, favorably reported and then adopted unanimously by the Senate. No action was taken by the House of Representatives.

As adopted in 1956, and as introduced by Senator Case in February 1971, the bill was in a form which had made it acceptable to the Eisenhower administration. As originally conceived in 1954, the proposal called for the submission of all executive agreements to the Senate within 30 days. The Eisenhower administration, through its Assistant Secretary of State for Congressional Relations, Thruston B. Morton, objected that the 30-day time period was too short and objected further to the absence of a provision for the protection of highly classified agreements. In order to meet that objection, the bill was amended to provide for a 60-day transmittal period and also to permit the President, at his option, to submit sensitive agreements not to the Senate as a whole but to the Committee on Foreign Relations "under an appropriate injunction of secrecy." With these amendments the Eisenhower administration offered no objection to the bill.

As reintroduced by Senator Case in 1971, S. 596 was broadened to require the reporting of agreements to the House of Representatives and its Committee on Foreign Affairs as well as to the Senate and its Committee on Foreign Relations. In all other respects the bill as introduced by Senator Case and favorably reported by the Foreign Relations Committee in 1971 is the same as the proposal to which the Eisenhower administration offered no objection in 1954 and 1955.

COMMITTEE COMMENTS

In the view of the Foreign Relations Committee, S. 596 embodies a proposal which is highly significant in its constitutional implications. The bill does not undertake to resolve fundamental questions relating to the treaty power of the Senate and the frequently countervailing claim—or simple use—of executive authority to enter into binding agreements with foreign countries without the consent of Congress. S. 596 undertakes only to deal with the prior, simpler, but nonetheless crucial question of secrecy. The committee shares Professor Bickel's view that the adoption of this bill would be "an important step" in the direction of redressing the balance of power between Congress and the President in the conduct of foreign relations.

The committee does not accept the administration's view, as expressed by Mr. Stevenson, that the sole requirement for the flow of reliable information to Congress is the working out of "practical arrangements." As outlined by Mr. Stevenson, these "practical arrangements" would still fail to establish the *obligation* of the executive to report all agreements with foreign powers to the Congress. In the absence of legislation, even the soundest of "practical arrangements" would leave the ultimate decision as to whether a matter was to be reported or withheld to the unregulated judgment of the executive.

It is well and good to speak, as Mr. Stevenson does, of the executive's recognition of the needs of Congress and of the desirability of "mutual cooperation and accommodation" between the two branches of government. These are highly desirable, but the principle of mandatory reporting of agreements with foreign countries to the Congress is more than desirable; it is, from a constitutional standpoint, crucial and indispensable. For the Congress to accept anything less would represent a resignation from responsibility and an alienation of an authority which is vested in the Congress by the Constitution. If Congress is to meet its responsibilities in the formulation of foreign policy, no information is more crucial than the fact and content of agreements with foreign nations.

As the committee has discovered there have been numerous agreements contracted with foreign governments in recent years, particularly agreements of a military nature, which remain wholly unknown to Congress and to the people. A number of these agreements have been uncovered by the Symington Subcommittee on Security Agreements and Commitments Abroad, including, for example, an agreement with Ethiopia in 1960, agreements with Laos in 1963, with Thailand in 1964 and again in 1967, with Korea in 1966, and certain secret annexes to the Spanish bases agreement.

Section 112(a) of title I of the United States Code now requires the Secretary of State to compile and publish all international agreements other than treaties concluded by the United States during each calendar year. The executive, however, has long made it a practice to withhold those agreements which, in its judgment, are of a "sensitive" nature. Such agreements, often involving military arrangements with foreign countries, are frequently not only "sensitive" but exceedingly significant as broadened commitments for the United States. Although they are sometimes characterized as "contingency plans," they may in practice involve the United States in war. For this reason the committee attaches the greatest importance to the establishment of a legislative requirement that all such agreements be submitted to Congress.

The committee fully recognizes the sensitive nature of many of the agreements the executive enters with foreign governments. At some point the committee may wish to explore the question whether the executive is exceeding his constitutional authority in making some of these agreements. That, however, is not the issue to which S. 596 addresses itself. Its concern is with the prior, more elemental obligation of the executive to keep the Congress informed of all of its foreign transactions, including those of a "sensitive" nature. Whatever objection on security grounds the executive might have to the submission of such information to Congress is met by the provision of the bill which authorizes the President, at his option, to transmit certain agreements not to the Congress as a whole, but to the two foreign affairs committees "under an appropriate injunction of secrecy to be removed only upon due notice from the President."

As reported by the Foreign Relations Committee, S. 596 would not require the submission to Congress of international agreements entered into prior to the enactment of the bill. It is the strongly held view of the committee, however, that the absence of a retroactive provision in this bill is not to be interpreted as license or authority to withhold previously contracted agreements from the Congress. In keeping with the spirit and intent of the bill, the committee would expect the executive to make all such previously enacted agreements available to the Congress or its foreign affairs committees at their request and in accordance with the procedures defined in the bill.

In conclusion, the committee reiterates its view that the proposal contained in S. 596 is a significant step toward redressing the imbalance between Congress and the executive in making of foreign policy. Twenty years ago Congress undertook an examination of the broader issue of the treaty power through its consideration of the so-called Bricker amendment. One of the essential purposes of the Bricker amendment, in the various forms in which it was considered by Congress, was to place restrictions on the use of executive agreements as a means of contracting significant agreements with foreign powers in circumvention or violation of the treaty power of the Senate.

The present proposal, which was originally initiated as a modest alternative to the Bricker amendment, does not purport to resolve the underlying constitutional question of the Senate's treaty power. It may well be interpreted, however, as an invitation to further consideration of this critical constitutional issue. For the present, however, the committee strongly recommends the adoption of S. 596 as an effective means of dealing with the prior question of secrecy and of asserting the obligation of the executive to report its foreign commitments to Congress.

Mr. CASE. Mr. President, in the interest of saving time, because I know that Members of this body are already very much aware of the purpose and the purport of this bill, I shall be happy to yield any Senator who wishes to express his view.

Mr. ERVIN. Mr. President, I commend the distinguished Senator from New Jersey for bringing this measure to the Senate, and I commend the Committee on Foreign Relations for reporting it without amendment.

I think this is a bill which fills a need which has existed for a long time. There has been no remedy.

Under the Constitution the Senate most certainly has a voice on questions of foreign policy. It has been the custom of the President for a long time to make executive agreements which are never submitted for ratification, as treaties are submitted; these executive agreements have a very wide impact, and their consequences bear heavily on the doctrine of separation of powers.

For example, during the days of the Second World War a presidential agreement was made in the form of an executive agreement which resulted in taking property in New York State out from under the law of New York State, which had control over that property, and turning it over to Russia.

I think everyone who has studied this problem has been perplexed by the extent of executive agreements made by the President without knowledge of Congress and the fact that it is extremely difficult for Congress to obtain an analysis of those executive agreements or to know what is in them. Indeed, this fosters secrecy in Government.

Since the Supreme Court has held that, in some instances, executive agreements take precedence over State laws, this bill guarantees that Congress would be apprised of the existence of such executive agreement and their contents.

Mr. President, I think the Senator from New Jersey has made the Nation his debtor in proposing this particular legislative proposal.

The Subcommittee on Separation of Powers, which I am honored to chair, has long been interested in this area. If the executive branch of the Government is entirely free to determined what it will submit to the Senate in this area, then the constitutional provision requiring Senate participation in the treaty making field is no more than a price of dead parchment.

Mr. CASE. I thank the Senator from North Carolina sincerely for his contribution for his most generous reference to me. Mr. President, when you have on your side the strong right arm of the Senator from North Carolina, you have an ally—if I may mix two metaphors—of incalculable value.

Mr. President, I understand the yeas and nays have been ordered on the measure. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. CASE. I hope when the time comes to vote, which under the understanding already arrived at will be at 3:45 p.m., we may have a showing of unanimous interest and support by the Members of this body for this bill.

For a long time we have been understandably aware of the nature of the problems that have faced us and the world, but because of the enormous increase in the business of the Senate and each of its Members, we have let the important matter of dealing with foreign countries slip more and more from our hands exclusively to the hands of the executive.

I am not blaming the executive in any sense. If there is fault here I think it must rest squarely on our shoulders in the Senate.

When there is a vacuum the President—and not particularly this President but all Presidents—have tended increasingly to take unto themselves what now has almost seemed to be absolute authority in the field of international affairs. The President must be the prime mover in those areas, but the Senate's duty of advice and consent, and not only with respect to formal treaties, or just with respect to ambassadors and other officers, but also all other areas, must be maintained if we are to have sound relations.

I see the Senator from New York on his feet. He has been most helpful in this matter. I now yield to him.

Mr. JAVITS. I thank the Senator. I wish to inquire of the Senator as to the balance in numbers as between executive agreements and treaties so far as the United States is concerned. In other words, how large a problem are we dealing with here in quantity?

Mr. CASE. If the Senator will indulge me for just a moment, that information is here.

Mr. JAVITS. I think there is a ratio of something like 4 to 1.

Mr. CASE. It is over 3. Yes; I think the Senator is correct. It is 4 to 1. The interesting thing about it is that some of the most important things that have been done in recent years have been done by executive agreement, and some of the more routine and simple things have been sent to us as treaties.

Mr. JAVITS. The second point which bears on the answer the Senator just made is this. Is there any difference, as the Senator finds it, between a commitment which the United States makes by a treaty and the commitment the United States makes by executive agreement and as respects the other party? It may make a difference and often does make a difference as to our support, but what about the other party? Does not the other party in every case assume that if the President of the United States made an agreement, that is it, and the United States is bound?

Mr. CASE. I am sure the other party does, although sophisticated diplomats understand the technicalities of our constitutional system. That is not the real point. The point is, what do people in other countries think about agreements our President has made.

Mr. JAVITS. But more profound, the President is making an executive agreement, which is a certification by him, that he can bind the country and does not need Congress; and the people in other countries rely on the fact that it is a valid agreement; our President has given his word, it is a valid agreement, and he needs no further authority.

Mr. CASE. The Senator makes a good point. Carrying it further, the importance of that point in a direct sense is this: The people of this country and the Senate recognize that other countries do rely on agreements the President purports to make on the part of the Nation. There is great reluctance, because we are responsible people, to disturb that reliance.

Mr. JAVITS. Is there any way we have of saying, "No, Mr. President, this is not properly an executive agreement. It should be a treaty, or we should approve it in the Congress in some way," unless we know it has been made and what it is?

Mr. CASE. Of course, there is no way for us to know it has been made and what it is, until and unless the time comes for us to put some money into it, and then, unless we further abdicate our authority in that basic parliamentary field, we would have at least a technical right to withhold the funds, but not an actual right, in fact.

Mr. JAVITS. That is right.

Is it not true that there are literally hundreds of places in the world where the United States has forces?

Mr. CASE. That is correct.

Mr. JAVITS. And each one of those forces is a tripwire which could, under any construction, even under the War Powers Act, which has been reported to the floor, engender a reaction which could put American forces into hostilities? That is an extremely important matter, and yet it could happen under any one of these multilateral agreements?

Mr. CASE. That could happen, and, as the Senator knows, it has happened.

If I may advert to the matter of the War Powers Act, the Senator's initiative here in connection with the War Powers Act is in the same direction, for the same broad purpose, and I have been so happy to be associated with him in that particular.

Mr. JAVITS. I thank my colleague.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. CASE. Mr. President, will the Senator from West Virginia yield me a little time, unless he wants to use it here now?

Mr. BYRD of West Virginia. Mr. President, I yield the Senator 5 minutes.

Mr. CASE. I promised to yield to the chairman of the committee and to the Senator from Texas (Mr. BENTSEN).

Mr. JAVITS. Mr. President, will the Senator yield me 30 seconds just to complete the thought?

Mr. CASE. I yield.

Mr. JAVITS. I think this is the day of open covenants openly arrived at. It has at last come. What the Senator is doing is implementing what is the new diplomacy. I strongly support that and hope the Senate will pass this bill.

Mr. CASE. I appreciate that. I would perhaps only qualify what the Senator has suggested in saying this is at least the day of open covenants. Whether they should be openly or privately arrived at is a matter of discussion.

Mr. JAVITS. I will accept that.

Mr. CASE. Mr. President, I yield now to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I wish to say that I support the bill. I congratulate the Senator from New Jersey for bringing it before the Senate.

For the purpose of the legislative record, I wanted to have a short colloquy with the Senator. This measure is not in any way intended to abrogate our authority to have submitted to us important matters as treaties. Is it? Perhaps the Senator referred to it before in his colloquy.

Mr. CASE. Only by implication. I am glad to have it made explicit.

Mr. FULBRIGHT. We hear stories and reports. It was recently reported, for example, in the recent exchange with regard to Vietnam—and I have no idea of the validity of it—that the President was thinking of offering a large sum, in the neighborhood of $7 billion, for reconstruction of Vietnam. The Senator would agree that anything of that consequence, whether it be money or the stationing of troops, or anything like that, should not be handled by executive agreement, but should be submitted to the Senate as a treaty. Is that correct?

Mr. CASE. The Senator is correct.

Mr. FULBRIGHT. The Senator may recall recently a report in which there was a move for an agreement for the establishment of a base in the Persian Gulf. The Senator agrees that should be a treaty. Does he not?

Mr. CASE. The Senator is correct.

Mr. FULBRIGHT. I agree with the Senator completely. I wanted to make it clear that because we passed this bill, which I support, that in no way gives validity to such agreements, which I agree with the Senator from New Jersey should be treaties, if we are to have any respect for the true meaning of the Constitution. The Constitution did not anticipate that matters of this importance should be done secretly by executive agreement.

I know the Senator agrees with that. I wanted to emphasize that for fear that, upon the passage of this bill, there will be those who will say, "Well, the Senate has gone on record as endorsing any executive agreement as valid so long as it is reported to the Senate within 60 days."

That is not what the Constitution provided. It provided that the Senate should have the opportunity to express its views and to reject or approve such a treaty when it was submitted.

Mr. CASE. That is correct.

Mr. FULBRIGHT. I wanted to be careful on this point. I have had a little hesitancy about it. It is a step forward in the right direction. It is not unlike reservations I have, again not because I am against the bill, to the bill on war powers of the Senator from New York, in which certain specifications have seemed to me to be subject to the possible interpretation that it authorizes the President to take this action, or is an inducement to him, whereas I do not think that is its real purpose. We are really trying to restrict him; we are not trying to broaden the power. I know the Senator from New York did not intend that.

It may be that my interpretation is not the most logical one, although I felt it was. In this case I think the Senator from New Jersey is quite in order. I think he has done a very fine thing in bringing this measure to the Senate. I shall support it, but I did want to make that point clear.

Mr. CASE. I am glad the Senator did, because it is completely in accord with my own view of the matter. In fact, to have knowledge of and copies of all agreements would make it possible for us to decide whether or not particular agreements should come before us as treaties. We can deal with that question, and we do not estop ourselves by getting copies of the agreements.

Mr. FULBRIGHT. That is right. So often the problem is that once it has been made and accepted, we have not been able to undo it. The only way we can do anything about it is perhaps through a limitation on an appropriation bill, or to refuse to implement it. That is a very drastic remedy, and I doubt that we would be able to muster the votes to do it. We have tried to do it before. It is not an orderly way to do business. That is the great weakness if an executive chooses to ignore us.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. I thank the Senator very much.

Mr. CASE. Mr. President, if I may have 2 minutes more so that I may yield to the Senator from Texas, I would appreciate it.

Mr. BYRD of West Virginia. Mr. President, if the Senator will yield, I will allot my remaining time to the Senator from Texas, if the Senator from New Jersey does not object.

Mr. CASE. The Senator from New Jersey would not be able to object, but even if he were, he would not object.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I rise in support of and as a cosponsor of the piece of legislation submitted by the Senator from New Jersey, S. 596, a measure which I believe has far greater significance than its simply stated objective of requiring that the Executive communicate with Congress.

Mr. President, upon my return, to Congress approximately 1 year ago, I was amazed at the extent to which relations between the executive branch and the Congress had regressed during the 16 years of my absence. It is particularly within the realm of foreign policy that I have noticed a great and unhealthy gap in the communications system between the White House and Capitol Hill.

We are all familiar with the long list of foreign policy goals and decisions which Congress has found out about after the fact—and too frequently not from the executive but from other sources instead. This is a condition which must not be permitted to continue if we are to retain the confidence of the people in their Government and in the historic balances of their Constitution.

It is not my purpose here to criticize the Executive's conduct of foreign policy. In general I support the administration's efforts to end the Vietnam war, to open communication with China, and to reach arms agreements with Russia. My purpose here is to seek reaffirmation of congressional powers, for when Congress reaffirms its powers, it also confirms its responsiveness to the American people. The U.S. Congress has the constitutionally derived privilege, indeed obligation, to share in the foreign policymaking process. According to the law of the land, Congress is an equal partner with the executive branch. As an equal partner, and as the elected representative body of the people, it is entitled to a voice in governing this country and in this country's foreign commitments.

The Founding Fathers wrote into the Constitution a well-known balance between the executive, the legislative, and the judiciary. That balance is being increasingly usurped by an Executive which is constantly appropriating unto itself the foreign policy function it must, by law, share with the Congress.

The guidelines for checks and balances as set forth under the Constitution are not self-perpetuating, for they often run contrary to human emotions, such as the desire for power. Men who achieve the Presidency are usually self-confident, strong, and impatient individuals, reluctant to share power or decisionmaking with anyone else.

As a President, it is easy to rationalize and justify a course of action which leaves the decision process and reporting only to yourself and a self-appointed inner court of courtiers. Why risk or subject such a carefully nurtured and orchestrated agreement which has already been argued out with an adversary country to the possible further criticism and evaluation of a portion of one's government, not completely subject to one's own will? So it is also with those around a President, who certainly are not eager to have their counsel to the President questioned by a source to which they owe no allegiance. And so goes each variance and tilting of the balance of power. Each variance becomes the precedent for the next and further distorts the constitutional guidelines, until finally the current model of a balanced government looks as though one had badly tilted the original. But I blame not just the executive branch, for the Congress is equally to blame.

Too often in recent years Congress has taken a subordinate role to both the executive and the judiciary, a role contrary to the balance of powers envisioned by those who wrote the Constitution. It is not just that the executive has decided to reach out and take these powers, or that the judiciary branch has moved too much into the legislative realm. Part of the reason for the loss of these powers is congressional inaction. Congress itself must share the blame for its dwindling powers for in recent years it has permitted something of a vacuum to develop by its own inactivity and inattention, and the executive branch and the courts have moved to fill that void.

It is high time that the elected body given a share of foreign policymaking powers under the Constitution—the body consisting of elected representatives most directly responsible and responsive to the people and thus closest to control by the people—reasserts itself as an equal partner with the President.

And we must go further than just utilizing the power of the purse strings, the authority of appropriation. Because of the loss of full participation in the making of foreign policy, the Congress has become almost solely dependent on the appropriation process as a vehicle in making its voice heard. In fact, because of the reaction of Congress in some instances to learning of the secrecy and the usurpation of its own prerogatives by the President, Congress has reacted too strongly through powers of the purse. This, at times, has been less than contributory to sound policy. If the Congress rightly shares in the development of programs and policy direction, both domestically and foreign, there will be less of that purse string reaction.

Let me stress, Mr. President, that we in Congress have no constitutional authority in the conduct of foreign affairs; that is, the President's province, and we should not seek to weaken that constitutional power. We must, however, insist on the restoration of constitutional authority of the Congress to share in the formulation of that policy. I want to make that distinction and to insist that the theory apply as the Constitution intends.

I want to emphasize the fact that, in this bill, the Congress does not seek to weaken the President's foreign policymaking powers; rather we simply want to reassert the balance specified in the Constitution. Moreover, as was brought out during the hearings on this legislation, this bill does not destroy Presidential powers, it reaffirms them.

One of the important purposes of this legislation is to make the American people aware of the directions our foreign policy is taking so that we are not caught unaware of shifting trends, and so that we do not find ourselves in a situation, as the Senator from New Jersey has pointed out, in which a President believes he has to take unsupported action—unsupported because the Congress and the people had not been informed of earlier decisions and agreements. We do not want to tie the President's hands in his efforts to engage in foreign policymaking. We want the President to be free to negotiate the agreements he determines in the best interests of the United States. That, I reiterate, is his constitutional prerogative. We are merely asking that he inform the Congress, so we may intelligently perform our function as well.

How can a President hope for a restoration of bipartisan support for foreign policy if one partner to the policy is unaware of secret agreements upon which he justifies a policy which otherwise might appear to be not in the best interests of our country? Congress cannot be put in a position of accepting on blind trust and faith the admonition that a chief executive, or his aide, shielded by executive privilege, is somehow omniscient and omnipotent and always knows best. The judgments of Congress will only be as good as the information on which they are based and to withhold vital information essential to the decision process will result in bad legislation.

At issue, Mr. President, is the Constitution and the powers that the Constitution has allotted to the legislative branch. We must not continue to sit idly by and watch those powers being whittled away by the executive and the courts. The Congress has a responsibility to the people to legislate wisely. This cannot be done if the Congress is not informed. This measure in no way challenges the authority of the President. Rather it merely facilitates the flow of information to the Congress as a whole, or in certain cases, solely to the foreign affairs committees. It would not impede the President's ability to conclude executive agreements. It does not hamper the executive in the free negotiation of these agreements. Rather it reaffirms the constitutional powers of Congress, as the elected representatives of the people, in the policymaking process.

The first step in restoring this vital responsibility of Congress is to require, by law, better communication between the Executive and the Congress. The opening of information to the public, where it is not damaging to the national interest, and to those designated by Congress to fully scrutinize secret agreements where it is determined such is in the national interest, is the first small step toward restoration of congressional equality. There should be the fullest possible public scrutiny of foreign agreements, and the decisions which determine the direction the Nation is going in foreign policy. I submit, Mr. President, that those parties representing the United States in negotiations will be even more diligent in obtaining the best possible deal for our country if they know the agreement will be subjected to the crucible of public debate, or at least the scrutiny of the Congress. This is a nation and a Government responsible to the people, and the people must participate if we are to expect them to believe their Government and retain confidence in it.

The Executive has moved more and more under the cloak of secrecy, not only for the protection of national interest, but also too often secrecy for the sake of protection against criticism or examination of decisions by the constitutionally coequal Congress.

We hear the argument that those in Congress cannot be trusted with foreign policy secrets. I say "absurd."

It has been demonstrated again and again that even the most sensitive information frequently turns up in public print before Congress is aware of the facts, and I refer to some of the "papers" which have been much in the news over the past few months. I do not condone the revelation of secrets; in fact, those who leaked them from positions of responsibility in Government should be made to answer to the laws. The point is, the possibility of secrets becoming public knowledge as pretext for preventing conferring with Congress is just not valid. Secrecy is too often used as a lame excuse for failing to share information with Congress.

During the course of negotiations over an executive agreement, so many groups are involved in working out the language of the agreement that one wonders why the circle of those informed cannot be extended to include the Houses of Congress, or at least the select committees dealing with foreign relations. Is Congress to be less trusted than the Rand Corp., Dr. Ellsberg, the myriad of typists and clerks who document, type, and file such reports? Would the President prefer to trust the many staff members of the foreign government who participate in the drafting of such an agreement and owe no allegiance to this country? Does the administration feel that Senators and Congressmen are any less trustworthy than its own staff which, I might add, has been responsible for a number of leaks recently, including some from the most sacrosanct of secret groups, the National Security Council? Is it too much to ask that as the Xerox machine impersonally disgorges the copies, somewhere on that distribution list be found the words "Congress of the United States"? the price paid for possible loss of secrecy is more than compensated for by the realining of our system of checks and balances and restoration of confidence.

This whole question, certainly, has been too long neglected. I urge the Senate's support for this much-needed bill which is a small step toward rectifying our time-honored and proven system of governmental checks and balances.

It is imperative that we reaffirm the Congress role in the foreign policymaking process and thus strengthen the public's confidence in the ability of the Congress to legislate wisely and on a fully informed basis. We must restore to the people of this Nation the feeling that they know of the commitments their Government has made in their name.

Mr. President, I yield the remainder of my time to the distinguished Senator from New Jersey.

Mr. CASE. Mr. President, I thank the Senator from Texas for his generosity in yielding the remainder of his time, and also wish to express my deep appreciation of the remarks he has made. They are very sound, and I am sure will have the profound effect upon our colleagues that they should have, on their own merits.

I am happy to yield 1 minute to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I appreciate the Senator giving me time to comment very briefly on this bill, which is the result of the distillation of his own experience and his own observation of events within our Nation and in the world over a long period of time.

I think clearly one of the loopholes that has developed over the course of time in the constitutional procedure by which the people of the United States are given an organic part in foreign policy through the provision that the Senate must ratify treaties is the fact that there are now all sorts of international agreements which are given other names than treaties; and while this may appear to be a semantic difference to the layman, it becomes a very important difference to those who are engaged in keeping track of foreign policy in the democratic process.

What the Senator from New Jersey has proposed here, and what is, I think, eminently practical and very necessary, is that the right of the people in our democratic representative system be preserved in the area of foreign policy. That is what this bill would do, and I am very happy to support it.

Mr. CASE. I thank my colleague for his very pertinent comment and his support, which I think reflects, as far as I can tell, the unanimous view of the Members of this body and those whose attention has been directed to the problem.

The PRESIDING OFFICER (Mr. BEALL). All remaining time having expired, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Alaska (Mr. GRAVEL), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), and the Senator from Minnesota (Mr. MONDALE) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) and the Senator from Massachusetts (Mr. KENNEDY) are absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN) and the Senator from Iowa (Mr. HUGHES) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 81, nays 0, as follows:

[No. 48 Leg.]

YEAS—81

Aiken
Allen
Allott
Baker
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fulbright
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hart
Hatfield
Hollings
Hruska
Inouye
Javits
Jordan, N.C.
Jordan, Idaho
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Metcalf
Miller
Montoya
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—19

Anderson
Brock
Buckley
Fannin
Fong
Gravel
Harris
Hartke
Hughes
Humphrey
Jackson
Kennedy
McGovern
Mondale
Moss
Mundt
Muskie
Taft
Talmadge

So the bill (S. 596) was passed, as follows:

S. 596

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 1, United States Code, is amended by inserting after section 112a the following new section:

"§ 112b. United States international agreements; transmission to Congress

"The Secretary of State shall transmit to the Congress the text of any international agreement, other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President."

SEC. 2. The analysis of chapter 2 of title 1, United States Code, is amended by inserting immediately between items 112a and 113 the following:

"112b. United States international agreements; transmission to Congress."

Mr. HRUSKA subsequently said:

Mr. President, it was with some reluctance that I voted in the affirmative in the unanimous vote on S. 596 which has just occurred. S. 596 is the bill to require that international agreements other than treaties hereafter entered into by the United States be transmitted to Congress within 60 days after the execution thereof.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of that bill from line 5 on page 1 to line 10 on page 2.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

"§ 112b. United States international agreements; transmission to Congress

"The Secretary of State shall transmit to the Congress the text of any international agreement, other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate in-

> junction of secrecy to be removed only upon due notice from the President."

Mr. HRUSKA. Mr. President, the executive branch, both in its letter to the Foreign Relations Committee commenting on S. 596 and also in the testimony of the legal adviser of the Department of State, has emphasized its full agreement with the general purpose of this bill—to insure that the Congress is informed promptly of the conclusion by the United States of all new international agreements about which the Congress needs to know, if it is to carry out properly its constitutional responsibilities. In its testimony before the committee the administration has emphasized its recognition of the needs of Congress to be informed of agreements with foreign powers and the desirability of mutual cooperation and accommodation in this respect.

At the same time, the administration emphasized its view that the provision of a reliable flow of information to the Congress can be made without this legislation. The administration's witness stated to the committee that the administration believed practical arrangements could be worked out to achieve the end sought by the legislation.

The administration view that such arrangements could be worked out was not accepted by the committee in its report. Certainly it would appear desirable before this legislation is passed to discuss with the administration the possibility of arrangements which would make this legislation unnecessary.

Mr. President, this matter was further discussed in the hearings before the Committee on Foreign Relations. I read from the testimony of John R. Stevenson of the State Department. The Senator from Alabama (Mr. SPARKMAN) was presiding.

> Mr. STEVENSON. Mr. Chairman——
>
> Senator SPARKMAN. May I say I realize you did, you discuss certain sensitive agreements, and you point out the fact that Senator CASE recognizes that in the bill that he has drafted. How would that be handled?
>
> Mr. STEVENSON. Mr. Chairman, to review briefly some of the ground I have covered, at the present time the vast bulk of the agreements other than treaties are published and are transmitted to Congress through the regular procedures from the Government Printing Office.
>
> Senator SPARKMAN. I realize that.
>
> Mr. STEVENSON. So it is only the classified agreements that raise a problem.
>
> With respect to those agreements, we would like to discuss procedures with the committee. Now, the bill, as I understand it, would contemplate that in all cases these agreements would come to the two committees as a whole, and would be retained by the committee. In the past we have had problems involving particularly sensitive agreements which we have worked out in a number of different ways. In some cases there would be a briefing with respect to the subject matter of the agreement. In other cases the agreement could be shown to several interested members of the committee but not permanently retained by the committee.
>
> Senator SPARKMAN. That would be a matter to be worked out.
>
> Mr. STEVENSON. We don't have any specific proposal at this time, but I think our feeling is there is a broader range of possibilities than those contemplated in this legislation.

Mr. President, it would be my hope that when the other body considers this matter, the broader possibilities for handling this problem will be explored.

I notice in the report, on page 2, the following:

> Conceding that in the past they (the Congress) have not been informed on a current basis but only ad hoc some years later, Mr. Stevenson concluded nonetheless that "we are dealing with a question of practical arrangement, not with a question of right or authority which would in any way be altered by statute."

I presume that is a reference, perhaps a little delicate, and not explicit on the surface, to the doctrine of the separation of powers, and whether there is danger that we could invade the doctrine of the separation of powers which applies to some aspects of the executive department's functioning. That is one aspect that very likely should be explored further.

The second one, frankly, is that the efficacy of any steps taken to insure secrecy in the committee would be highly suspect. The bill calls for the filing with the committee of these agreements "under an appropriate injunction of secrecy to be removed only upon due notice from the President."

Anyone who has served in the Congress any small number of years—they do not have to be great in number—knows there is very little assurance that secrecy will prevail. In fact, the opposite is true. Here we would be dealing with the number of those serving on the committee in this body and also with the larger number who are in the relevant committee in the other body. There would be no assurance that the secrecy would be inviolably kept, and if it is a particularly sensitive executive agreement, that might spell trouble for this country.

If there are other ways—and Mr. STEVENSON seems to think there would be other ways—it might be well to take that into consideration.

I voted for the bill. I voted for it reluctantly, because it was called up somewhat unexpectedly, and by the time I had eaten my very modest lunch, following a 4 hour spell here on the floor, the process of voting was already going on. I do not complain about that, but I did feel that this would be a good place to insert a few references to some of the real issues involved. I am hopeful that these remarks may serve also as an indicator to the other body, when it does consider the measure just passed, that the items to which I have referred should be given due consideration.

I yield the floor.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

The PRESIDING OFFICER (Mr. (BEALL). Under the previous order, the Senate will now return to the consideration of the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows: A bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

Mr. BYRD of West Virginia. Mr. President, I take the floor to announce that there will be no additional rollcall votes today.

I yield to the distinguished senior Senator from North Caronila (Mr. ERVIN), so that he may lay before the Senate an amendment and make it the pending question for consideration on tomorrow.

Mr. ERVIN. Mr. President, on behalf of the distinguished Senator from Alabama (Mr. ALLEN) and myself, I call up amendment No. 888 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 33, insert the following between line 10 and line 11:
>
> "(5) In subsection (f), change the period at the end of the subsection to a colon, and add thereafter the following words:
>
> "'*Provided, however,* That the term "employee" shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to advise him in respect to the exercise of the constitutional or legal powers of his office.'."
>
> Renumber section (5) as (6).

Mr. BYRD of West Virginia. Mr. President, will the Senator from North Carolina yield?

Mr. ERVIN. I yield.

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PERCY TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, after the two leaders have been recognized under the standing order, the distinguished Senator from Illinois (Mr. PERCY) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the remarks of the Senator from Illinois (Mr. PERCY) tomorrow there be a period for the transaction of routine morning business, not to exceed 30 minutes, with statements therein limited to 3 minutes each, and that at the conclusion of routine morning business the

Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent—and I have cleared this request with the distinguished manager of the bill (Mr. Williams), the distinguished author of the amendment (Mr. Ervin), and the distinguished Senator from New York (Mr. Javits)—that time on the pending amendment, No. 888, offered by Mr. Ervin, be limited to 2 hours; that the time on the amendment begin to run tomorrow at the time the Chair lays before the Senate the unfinished business; that the time on the amendment be equally divided between the mover of the amendment (Mr. Ervin) and the manager of the bill (Mr. Williams); and that time on any amendment to the amendment, debatable motion, appeal, or point of order be limited to 20 minutes, to be equally divided between the mover of such proposal and the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Is it the intention of the distinguished Senator from North Carolina to ask for the yeas and nays tomorrow?

Mr. ERVIN. May I inquire what time the Senate will convene tomorrow?

Mr. BYRD of West Virginia. At 12 o'clock.

Mr. ERVIN. The reason I was asking, I had a hearing scheduled for 10 o'clock.

Mr. President, I do not care to debate this question this afternoon, except to make one or two observations.

This is an exceedingly important amendment. The bill defines a State and a political subdivision of a State as employers for the first time in the history of legislation of this kind. It defines an employee as one who is employed by an employer. The dictionary states that any person or concern which employs another, usually for wages or a salary, is an employer. Under these provisions, no one is excepted. In other words, the bill is broad enough in its present form to cover Governors of States, State supreme court justices, State legislators, and so forth.

The report states:

> A question was raised in committee concerning the application of title VII in the case of a Governor whose cabinet appointees or close personal aides are drawn from one political party. The committee's intention is that nothing in the bill shall be interpreted to prohibit such appointments on the basis of discrimination on account of race, color, religion, sex, or national origin. That intention is reflected in section 703(h) and 706(w) of the law.

In other words, this would give the Federal courts jurisdiction to inquire as to what motive a Governor had in selecting men for his cabinet who would give him advice on his constitutional and legal duties, on if a Governor was actuated in any extent in the selection of an adviser or if the people were actuated in any extent in the election of a public official, so that the Commission could come in and remove that public official from office or that adviser from office and dictate who should be employed in his place.

I respectfully submit that that is going too far, for Congress to empower an Executive agency at the Federal level to tell the Governor of his State, or the people for that matter, whom they can elect Governor, or Supreme Court Justice, or State legislator, or what officials shall be selected to advise the Governor as to his constitutional and legal duties.

Mr. President, it is absurd for a Federal agency to be able to say to a State who its Governor, State officials, or advisers shall be. I respectfully suggest that if Congress is not going to make itself ridiculous, this amendment should be agreed to.

We will argue the amendment more tomorrow.

Mr. METCALF. Mr. President, will the Senator from North Carolina yield?

Mr. ERVIN. I am happy to yield to my good friend from Montana.

Mr. METCALF. Once upon a time, we had a Postmaster General who was a great political adviser to the President. Jim Farley was such an example.

Today, we have in the Department of Justice an Attorney General who is leaving to run a political campaign for his President. He first becomes Attorney General and now he leaves it.

What happens in that sort of situation?

Mr. ERVIN. If that was done at the State level, and the attorney general was an appointee of the Governor, EEOC could come in and tell the Governor that he could not have that attorney general to advise him on the law, that he would have to take someone the EEOC picked out instead.

Mr. METCALF. How could we keep such an Attorney General who comes in and says, "Well, I am going to be Attorney General for awhile," but when the next election campaign comes up, he says, "I am going back into campaigning operations." How can we prevent that?

Mr. ERVIN. We cannot prevent anything at the State level. The EEOC——

Mr. METCALF. I am trying to prevent something at the Federal level.

Mr. ERVIN. In the old days, I thought that a Postmaster General was the appropriate person to advise the President, because he did not have anything else to do except to read the Postal Guide.

Mr. METCALF. We had a lot of appointments but——

Mr. ERVIN. This bill does not deal with it at the Federal level. It deals with it at the State level.

Mr. METCALF. I was wondering what happens when we have an Attorney General who comes in at the Federal level, after he has been working at a campaign level and gets appointed Attorney General, and then after 2½ or 3 years he moves it back into his campaign.

Mr. ERVIN. Mr. President, I am trying to get for the Governor of a State the same authority to pick out his attorney general as the President has to pick out his Attorney General or campaign manager.

Mr. WILLIAMS. Mr. President, I should like to ask the Senator one or two questions just to see if there is a way to describe the scope and the limits of the amendment. Certainly it is clear that an elected official at the State or municipal level should not be covered in any way by this bill as an employee.

Mr. ERVIN. The Senator is correct. However, I feel that he is covered now.

Mr. WILLIAMS. It says "as an employee." Frankly, I do not understand the terminology. It says that the term "employee" shall not include any person elected to a public office in a State or political subdivision of any State by the qualified voters thereof.

Mr. ERVIN. Mr. President, under the Civil Rights Act of 1964, an employee is defined in substance as one who is employed by an employer. This is just to put an exception to that provision and make it clear that the term employee is not to be construed as including an elected official or a person chosen by the elected official to advise him as to his constitutional and legal duties.

I think that the point the Senator is driving at is that this is narrowly drawn to make certain that the only persons covered by the bill at a State or local level are elected officials and the people who advise them as to their constitutional and legal powers. It would leave covered by the bill those people who merely carry out the directives.

It would only exclude elected officials and those who give them advice as to how they should carry out their legal and constitutional duties, and not those who actually carry them out as administrative officials.

Mr. WILLIAMS. It would certainly be the Governor's attorney general, for example.

Mr. ERVIN. The Senator is correct.

Mr. WILLIAMS. The Governor of the State of New Jersey has personal counsel. This would cover that particular officer or individual.

Mr. ERVIN. The Senator is correct. However, it would not exclude a person who merely carries out the advice which the elected official would receive from those who advise him.

Mr. WILLIAMS. Mr. President, in other words that would be the law clerks and the law assistants of the personal counsel. The Governor or mayor would not be included within this term.

Mr. ERVIN. We are getting into a rather gray area there.

Mr. WILLIAMS. I wanted to see if we could find where the clear area is and the ambiguous area.

Mr. ERVIN. They would be excluded from this exclusion or this exception, because the only person excluded besides the elected official is the person who advises him. I chose that word advisedly. It would be the person who would advise him in regard to his legal or constitutional duties. It would not just be a law clerk. The Attorney General picks his own employees.

Mr. WILLIAMS. Mr. President, I have an instinctively favorable reaction to this particular exemption or exclusion under the law. However, I am glad that we are going until tomorrow, because some of the ambiguity can be worked out before I commit myself to it.

Mr. ERVIN. Mr. President, I really think that makes a bad bill a little less obnoxious, because I do not think the author of this bill ever intended to cover elected officials, those elected by the duly qualified voters. However, I fear that they have covered them by the breadth of the language.

In my own county we have a board of commissioners appointed by the people. They run the county affairs. They choose for themselves a legal adviser, a county attorney. I think they ought to be allowed to choose that attorney without any restrictions whatsoever, because a person ought to know who he relies on for advice as to the duties of his office. This would exclude the attorney, but not any other Government or county official, such as clerks or secretaries or people like that.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. JAVITS. Mr. President, I would like to point out for the RECORD that we have said at page 11 of the report:

> A question was raised in the Committee concerning the application of Title VII in the case of a Governor whose cabinet appointees and close personal aides are drawn from one political party. The Committee's intention is that nothing in this bill should be interpreted to prohibit such appointments unless they are based on discrimination because of race, color, religion, sex or national origin. That intention is reflected in sections 703(h) and 706(w) of the law.

Incidentally, that should be 706(g) and not (w).

When we turn to that section, we find that the prohibition in the law has to do with one who was refused employment, suspended, or discharged for any reason other than discrimination on account of race, color, religion, sex, or national origin, or in violation of section 704.

We think it would not be unlawful to refuse employment or to discharge or suspend anyone on grounds other than discrimination. We had in mind that that was a protective provision.

However, if we look at the term "employee," which is found at the top of page 49 of the report, it says:

> The term "employee" means an individual employed by an employer.

So I think we have covered the person elected to office.

Mr. ERVIN. I cannot find it. I wish the Senator would point it out to me.

Mr. JAVITS. Well, we will examine it carefully. If we have not done so, we will. However, we have defined an employee as a person employed by an employer. I do not think that any elected public official is considered to be a person employed by an employer.

Mr. ERVIN. The first section strikes out the exclusion. All of that would make the State an employer. According to the definition just read, he would be employed by an employer, and the State is an employer and the Governor is employed by the State.

Mr. JAVITS. The operative word is "employee." And I do not believe that the courts construe an elected official as being employed by a State. However, we will check into it very carefully. I agree with the statement of the Senator from New Jersey. We will check this carefully overnight.

What disturbs me is the ambit of the words:

> Or any person chosen by such officer to advise him in respect to the exercise of the constitutional or legal powers of his office.

It seems to me that we have to look into the matter. When I was attorney general of New York, I had some 500 employees, some 200 of whom were lawyers and some 300 of whom were various functionaries, stenographers, subpena servers, researchers, and so forth.

I would like to have overnight to check into what would be the status of that rather large group of employees.

I realize that the Senator is seeking to confine it to the higher officials in a policymaking or policy advising capacity.

In all deference to the Senator and in the interest of everyone, whatever the decision is going to be, we should go carefully over this matter, as to whether the term "employee" really encompasses any elected official. I do not believe it does. We should go over the ambit of the exemption. I do not think there is any big argument about the first. If we want to put in words showing what we think it means, I would not have any quarrel about that.

I do think that the Senator will certainly expect to examine carefully how deep you go when you say "any person chosen by such officer to advise him in respect to the exercise of the constitutional or legal powers of his office."

I thank the Senator.

Mr. ERVIN. This is a question to which I am sure the Senator from New York and the Senator from New Jersey will give attention. I think this is a crucial question. I believe the bill in its present form is susceptible to an interpretation which would cover Governors. The Supreme Court has expressly held that a State is a group of free persons—not three but free people—occupying a certain territory and organized for the purpose of government under a written constitution. They could not elect a Governor under that wording.

I thank the Senator.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFERRAL OF S. 3183

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that a bill for the relief of Richard D. Hupman, introduced earlier today by the distinguished Senator from North Carolina (Mr. JORDAN), be referred to the Committee on Rules and Administration.

This has been cleared with the distinguished chairman of the Senate Committee on the Judiciary (Mr. EASTLAND) and with the distinguished ranking Republican member of that committee (Mr. HRUSKA).

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT UNDER CLOTURE MOTION

Mr. BYRD of West Virginia. Mr. President, having been informed by the distinguished manager of the pending bill (Mr. WILLIAMS) that a motion to invoke cloture will be offered on Friday, the day after tomorrow, I am authorized by the majority leader to ask unanimous consent that time under the rule, on the motion to invoke cloture, begin running at 11:15 a.m. on Tuesday next.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the 1 hour of time under the rule, on the motion to invoke cloture on Tuesday next, be equally divided between and controlled by the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished manager of the bill (Mr. WILLIAMS).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that all amendments to the bill which are at the desk at the time the mandatory quorum call under rule XXII begins on Tuesday next be considered qualified as having been read so as to meet the requirements of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, will the distinguished majority whip yield?

Mr. BYRD of West Virginia. I yield.

Mr. GRIFFIN. With reference to all amendments at the desk at the time the quorum call being qualified, I always like to have it understood in the RECORD that that does not change the requirement that those amendments must be germane, if that is the understanding of the majority whip.

Mr. BYRD of West Virginia. May I say to the distinguished minority whip that that was my understanding and it was my intention. It was my intention that the request would go only to that requirement which deals with the reading of such amendments.

The PRESIDING OFFICER. That is the understanding of the Chair.

Mr. GRIFFIN. I thank the Senator.

HIGHER EDUCATION ACT—UNANIMOUS-CONSENT PROPOSAL

Mr. BYRD of West Virginia. Mr. President, I have been asked by the majority leader—in order to make certain technical changes which are necessary, but which will not alter in any sense whatsoever the basic understanding that was universal in the Chamber with respect to the agreement limiting time on the higher education bill of 1971—to make a unanimous-consent request. Again I say it does not alter the understanding which was expressed and made clear at the time the previous agreement was entered into last December.

The agreement on the higher education bill was with reference to S. 659. The majority leader wants the agreement to apply to the Senate committee substitute for the House amendment in the nature of a substitute for S. 659. It was the understanding that that was what it would apply to, inasmuch as S. 659 is not the measure which will be before the Senate. The majority leader also wants to make it clear that, in view of the fact that all amendments to the committee substitute will be amendments in the second degree, the 2-hour limitation should apply to such amendments, whereas the agreement at that time stated that with respect to amendments in the second degree, there would be only one-half hour on each such amendment. The 30-minute provision should be made to apply to perfecting amendments to the language of the committee substitute proposed to be stricken out by an amendment to the committee substitute.

Therefore, I ask unanimous consent, Mr. President, that the agreement which was entered into in December apply to the Senate committee substitute for the House amendment to S. 659 in the nature of a substitute; provided, however, that——

Mr. **GRIFFIN**. Mr. President, reserving the right to object, and I shall object at least temporarily, until I have an opportunity to study what the request involves, and so on, it comes to me without any advance information or consultation. Obviously it is a matter of importance to many Senators on both sides.

For the time being, I shall object.

Mr. **BYRD** of West Virginia. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. **BYRD** of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BYRD** of West Virginia. Mr. President, I shall not renew the request at this time, because I think the distinguished assistant Republican leader certainly is making a reasonable suggestion that he be given an opportunity to discuss this matter with the various Senators on his side of the aisle; and the request can be renewed at a later time, when there is a better understanding of the request.

Mr. **GRIFFIN**. I appreciate the statement by the majority whip and his understanding. I am sure that by tomorrow, if he wants to renew his request, he will be in a better position.

Mr. **BYRD** of West Virginia. I thank the distinguished Senator.

PROGRAM

Mr. **BYRD** of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 12 o'clock meridian. After the two leaders have been recognized under the standing order, the distinguished Senator from Illinois (Mr. PERCY) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business.

The pending question will be on amendment No. 888, by the distinguished Senator from North Carolina (Mr. ERVIN). There is a time limitation of 2 hours on that amendment, with 20 minutes on any amendments thereto, debatable motions, points of order, or appeals. That may or may not be a rollcall vote. In any event, Senators may anticipate possible rollcall votes on that amendment and/or other amendments, motions, and so forth, during the afternoon of tomorrow.

As I have already indicated, the manager of the bill, the Senator from New Jersey (Mr. WILLIAMS), intends to offer on Friday a motion to invoke cloture; and the vote on the motion to invoke cloture will occur on Tuesday next, at about 12:25 or 12:30 p.m.

ADJOURNMENT

Mr. **BYRD** of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until 12 o'clock meridian tomorrow.

The motion was agreed to; and (at 4:54 p.m.) the Senate adjourned until tomorrow, Thursday, February 17, 1972, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate February 16, 1972:

U.S. DISTRICT COURTS

James L. Foreman, of Illinois, to be a U.S. district judge for the eastern district of Illinois vice William G. Juergens, retiring.

Howard David Hermansdorfer, of Kentucky, to be a U.S. district judge for the eastern district of Kentucky vice a new position created by Public Law 91-272, approved June 2, 1970.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Philip Birnbaum, of Maryland, to be an Assistant Administrator of the Agency for International Development, vice Ernest Stern, resigned.

IN THE ARMY

I nominate the following-named officer for reappointment in the active list of the Regular Army of the United States with grades as indicated, from the temporary disability retired list, under the provisions of title 10, United States Code, sections 1211 and 3447:

To be colonel, Regular Army, and brigadier general, Army of the United States

Brig. Gen. William David Tigertt, [redacted] [redacted] Army of the United States (colonel, U.S. Army). He is presently serving under a recess appointment.

RICHARD NIXON.

IN THE NAVY

Vice Adm. Benedict J. Semmes, Jr., U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

IN THE MARINE CORPS

Gen. Raymond G. Davis, U.S. Marine Corps, when retired, to be placed on the retired list in the grade of general.

Lt. Gen. Earl E. Anderson, U.S. Marine Corps, for appointment to the grade of general while serving as Assistant Commandant of the Marine Corps in accordance with the provisions of title 10, U.S. Code, section 5202.

IN THE AIR FORCE

The following-named officers for promotion in the Air Force Reserve, under the appropriate provisions of chapter 837, title 10, United States Code, as amended, and Public Law 92-129.

LINE

Lieutenant colonel to colonel

Abston, Lester D., [redacted].
Barden, John H., [redacted].
Bartholomew, Rudolph D., [redacted].
Berry, Frank A., Jr., [redacted].
Campbell, Charles R., Jr., [redacted].
Chambers, Robert C., [redacted].
Combs, Andrew C., [redacted].
Cooper, Dewitt T., Jr., [redacted].
Cox, Richard, [redacted].
Duncan, Lyman C., Jr., [redacted].
Evans, Herman L., [redacted].
Even, Raymond J., [redacted].
Foster, William H., [redacted].
Graham, James C., [redacted].
Haggarty, Edward L., [redacted].
Hannon, Wesley, [redacted].
Heermans, William H., [redacted].
Hoade, Thomas F., [redacted].
Hoberg, Jerome N., [redacted].
Hollinger, Melvin W., [redacted].
Johnson, Robert A., Sr., [redacted].
Kilpatrick, James A., [redacted].
Kleinheinz, James E., [redacted].
Konopisos, James A., [redacted].
Larson, Wendell C., [redacted].
Lay, Richard I., Jr., [redacted].
Llenza, Orlando, [redacted].
Mason, George H., [redacted].
McHugo, John W., [redacted].
McMorries, George D., [redacted].
Montecalvo, Giuseppe, [redacted].
Nantz, Kenneth E., [redacted].
Paulson, Noel A., [redacted].
Penland, Roy S., [redacted].
Petit, James W., Jr., [redacted].
Purtill, Thomas J., [redacted].
Reid, Donald K., [redacted].
Renn, Robert E., [redacted].
Richards, Donald E., [redacted].
Rogers, Paul N., [redacted].
Rudolph, Harold W., [redacted].
Schroeder, Darrol G., [redacted].
Schutte, Warren G., [redacted].
Semonin, William J., Jr., [redacted].
Simpson, Richard J., [redacted].
Stewart, Howard A., [redacted].
Taft, Harold E., Jr., [redacted].
Taylor, John E., Jr., [redacted].
Thompson, Robert L., [redacted].
Thraillkill. Franklin E., [redacted].
Utermahlen, Donald C., [redacted].
Walls, Bobby E., [redacted].

MEDICAL CORPS

Hoye, Stephen, J., [redacted].
Rodwig Francis R., [redacted].
Sandrolini, James A., [redacted].
Skowron, Ralph A., [redacted].

NURSE CORPS

Wollert, Wanda M., [redacted].

LINE

Major to lieutenant colonel

Albin, Clyde E., [redacted].
Allison, Edgar L., Jr., [redacted].
Anderson, Francis B., [redacted].
Atchley, Jimmie O., [redacted].
Atkins, James H., [redacted].
Bailey, James T., [redacted].
Binsfield, Harvey D., [redacted].
Birk, William L., [redacted].
Blackwell, Kenneth G., [redacted].
Borsik, Philip D., [redacted].
Boyd, John H., [redacted].
Brown, John O., Jr., [redacted].
Buchholz, William F., [redacted].
Buck, Robert W., Jr., [redacted].
Cameron, Wheelock H., [redacted].
Carmack, Donald L., [redacted].
Castorena, Ramon B., [redacted].
Clifford, George E., Jr., [redacted].
Cole, Robert E., [redacted].
Cole, Richard L., [redacted].
Danielson, Andrew D., [redacted].
Dattolico, Christino, [redacted].
Davies, Charles P., Jr., [redacted].
Depperman, Robert E., [redacted].
Dooley, James H., Jr., [redacted].
Douglas, Dallas R., [redacted].
Dugas, Arthur L., [redacted].
Earl Kenneth R., [redacted].
Eastman, William D., Jr., [redacted].
Eckert, Charles L., Jr., [redacted].
Edwards, Kenneth D., [redacted].
Everling, Thomas J., Jr., [redacted].
Fascher, Valmah L., [redacted].
Field, James E., [redacted].
Gaines, Charles D., [redacted].
Garbe, John P., [redacted].
Geraci, Vincent C., [redacted].
Gilmer, Walter G., [redacted].
Goettsche, Lee R., Jr., [redacted].
Golding, John T., [redacted].
Good, Alan N., [redacted].
Goodwin, Arthur R., Jr., [redacted].
Grant, Thomas A., [redacted].
Hager, Ivan L., [redacted].
Hall, Richard E., [redacted].
Hamilton, John L., [redacted].
Hamilton, Richard H., [redacted].
Hanson, Rodney M., [redacted].
Harris, Herman J., [redacted].
Headley, Leo M., Jr., [redacted].
Heaps, Leon H., [redacted].
Heithman, Richard E., [redacted].
Henley, George R., [redacted].
Higgins, William H., [redacted].
Hohenberger, Raymond H., [redacted].
Hopkins, Raymond D., [redacted].
Horstman, Charles R., [redacted].
Howard, Charles F., Jr., [redacted].
Itsines, Nick, [redacted].
Janicki, Bernard A., [redacted].
Jordan, Herbert E., [redacted].
Kaminski, Paul P., [redacted].
Kedroske, Marvin C., [redacted].
Kenney, Felton D., [redacted].
Kessler, Richard L., [redacted].
Kirchner, John P., [redacted].
Korzan, Darold J., [redacted].
Krebs, Roland C., [redacted].
Kunz, Delbert T., [redacted].
Lamoreaux, James E., [redacted].
Leaptrot, Brinson N., [redacted].
Lefebvre, Donald C., [redacted].
Leonard, William H., Jr., [redacted].
Linebaugh, Jimmy C., [redacted].
Livers, Francis D., Jr., [redacted].
Looney, Donald R., [redacted].
Lucas, Neil E., [redacted].
Marler, Charles R., [redacted].
Marquez, Jose P., [redacted].
Marshall, James E., [redacted].
Mathews, Henry M., [redacted].
Mau, John H., [redacted].
Mauer, Henry A., [redacted].
McDonald, Jack L., [redacted].
McGuire, Frances L., [redacted].
McLaughlin, Marcellus R., [redacted].
McNamara, Thomas D., [redacted].
Mercier, Fernand M., [redacted].
Murch, Thomas J., [redacted].
Muselmann, Clifford R., [redacted].
Nelson, Stanley F., [redacted].
Neufang, Richard K., [redacted].
Nisle, Arthur L., [redacted].
Norton, Fred I., Jr., [redacted].
Northup, Clayton H., [redacted].
O'Brien, Stephen B., [redacted].
Ott, Dennis H., [redacted].
Parker, Daniel R., [redacted].
Peach, Matthew H., [redacted].
Pedersen, Richard D., [redacted].
Phielix, James J., [redacted].
Popejoy, Russell F., [redacted].
Prentiss, Richard C., [redacted].
Raup, Karl A., [redacted].
Reese, Richard C., [redacted].
Reinschmidt, Albert L., [redacted].
Rickard, Russel, [redacted].
Roberts, George H., [redacted].
Roberts, William S., [redacted].
Rodriguez, Joseph R., [redacted].
Roe, Roland H., [redacted].
Rosanbalm, Robert D., [redacted].
Rumbo, Ralph C., [redacted].
Sachs, Sumner S., [redacted].
Sample, Walter E., [redacted].
Sargent, Galen B., [redacted].
Schnee, Frank W., [redacted].
Schroer, Louis J., [redacted].
Schwartz, Donald A., [redacted].
Shallcross, Harry C., [redacted].
Smith, Gene R., [redacted].
Snyder, Donald E., [redacted].
Stanley, Norman C., [redacted].
Starkman, Russell A., [redacted].
Steinke, Henry J., [redacted].
Stockett, Zack L., [redacted].
Strahan, Charles A., [redacted].
Suzanne, Jacques A., [redacted].
Taschioglou, Byron J., [redacted].
Vallone, John F., [redacted].
Vorhies, Marshall E., [redacted].
Warthling, Edward E., [redacted].
Waterhouse, Richard G., Jr., [redacted].
Wellman, Joseph D., [redacted].
Westphal, Eric J., [redacted].
Williams, Thomas E., [redacted].
Winn, Russell P., [redacted].
Wish, Joseph J., [redacted].
Yuill, John H., [redacted].
Yunge, Herbert H., [redacted].
Zulaski, Joseph F., [redacted].

CHAPLAINS

Cuthriell, William, [redacted].
Johnson, David H., [redacted].

MEDICAL CORPS

O'Dell, Stanley E., [redacted].

NURSE CORPS

Atkinson, Helen C., [redacted].
Bolterman, Phyllis, [redacted].
Brown, Patricia D., [redacted].
Carder, Bernice M., [redacted].
Dunn, Jane F., [redacted].
Pitt, Mary L., [redacted].

In the Marine Corps

The following-named officers of the Marine Corps for permanent appointment to the grade of chief warrant officer (W–4):

Robert M. Black
Talmadge Clark
Robert L. Clay
Kenneth L. Davis
Edward J. Duerr
Roy K. Harris
Philip N. Healy, Jr.
William J. Hill
Samuel J. Jones
Thomas E. Jordan
Stephen M. Myorski
Henry E. Noonkester
Lawrence Parretti
Richard T. Powell, Jr.
Thomas F. Swearingen
James O. Watson

The following-named officers of the Marine Corps for permanent appointment to the grade of chief warrant officer (W–3):

James M. Barnes
Timothy C. Bell
William A. Biggers
Delmar G. Booze
Norman D. Braden
Shella R. Bray, Jr.
Lionel H. Bridges
Edwin J. Brown
William L. Buck III
Kenneth F. Burris
Donald R. Cameron
James J. Castonguay
Wayland D. Chavers
William J. Clancy, Jr.
Jessie R. Clark
Jack N. Clow
Donald E. Collier
Roger J. Combs
Allen D. Crosier
Ralph W. Deaver
Charles F. Denison, Jr.
Roland A. Desjarlais
James H. Divis
Peter Dobon, Jr.
Paul J. Donley
John Doyle
William E. Duke
Roger A. Essi
Thomas E. Evans
Gerald D. Fabricius
James P. Fleming
Harry A. Florence, Jr.
Billy R. Freeman
Bernard C. Glinka
Donald W. Gregory
Glenn R. Hammond
Robert H. Hanevik
Herbert G. Hase.
Charles H. Henderson, Jr.
Guy M. Howard
Jack R. Hoy
Henderson B. Jones
William Kasten
Robert E. Katz
Ronald R. Kendall
James J. Knocke
Donald C. Lanson
William P. Lepore, Jr.
Willard R. Lewis
Robert L. Lord
Carl K. Lunn
Enrique L. Machado
Harry B. Malnicof
Edmund J. Mazzei
Paul O. McAvoy, Jr.
Roger A. McIntosh
John L. Meyers
Jacques L. Miller
Dorne A. Millis
Robert J. Mocny
Richard C. Moran
Charles L. Morrow
William E. Muirhead
Richard A. Nailor
Monte V. Nelson
Donald D. Nimmow
Billy W. Owens
Porter G. Pallett
Charles D. Parker
Fred R. Parry
Leonard J. Patchin
Dean C. Pedlar
George A. Pelletier
Billy E. Perry
Robert G. Pontillas
Richard L. Porter
Joseph C. Raymond
Donald D. Redmond
Carroll J. Riley
Robert D. Rogers
Robert J. Romano
Roger L. Runkle
Arthur I. Swanson, Jr.
Gary R. Thompson
Charles G. True
Morton Vaserberg
Alan E. Wickens
Jack A. Wilder
Sydney M. Wire
William C. Wright
Robert H. Yoder
David A. Zeferjohn
James H. Zimmerman

The following-named officers of the Marine Corps for permanent appointment to the grade of chief warrant officer (W–2):

Ronald Achten
Carmen Adams
David S. Aldrich
Robert E. Allinger, Jr.
James L. Allingham
Constantine G. Ambrose
Curtis E. Anderson
Joseph N. Anderson
Russell P. Armstrong
James B. Ash
Allan K. Austin
Glenn R. Avey
Welles D. Bacon
Wayne D. Bahr
Claude R. Baldwin, Jr.
Illuminado Berrios, Jr.
Neal S. Bezoenik
Robert L. Blake
Victor H. Bode
Gerald J. Bolick
Robert W. Bostwick
Henry C. Boucher, Jr.
Lescoe R. Bourne
Frank E. Box
Donald B. Braun
Francis W. Brewer, Jr.
Bruce Brightwell
Victor E. Browning, Jr.
Murray W. Bryant
Bernard C. Burke
Thomas R. Burham
Harold D. Byerly
William G. Byrne, Jr.
Billy R. Campbell
Donald L. Caroway
Francis J. Carr
Michael J. Carroll
Ray A. Casterline
John D. Cauble, Jr.
Robert J. Caulfield
Barbara J. Chovanec
Bartley W. Christian
Hershel G. Chronister
Owen D. Clark
Michael J. Clarke
George C. Cleveland
Rayborn S. Clifton, Jr.
Jose T. Coccovaldez
James E. Collette
Garnet E. Cope
Robert R. Corcoran
Jose N. Corderotorres, Jr.
William B. Corley, Jr.
Lazaro Corpus, Jr.
James A. Cothran
Harry S. Cotton
William H. Cox
Hilton Craig, Jr.
Oscar E. Creech, Jr.
Douglas J. Danley
Kenneth V. Davis
Louis D. Dearman
Jesse A. Dobson
Howard G. Dodd
Charles J. Dotson
Steven J. Draper
Samuel E. Driggers
Sidney B. Edwards
Robert D. Embesi
Robert R. Epps
Riley S. Ethington
Jack H. Evans
John E. Fales
Michael D. Fazio
Bobby L. Ferguson
Harold D. Ferguson
Charles L. Ferko
Roy A. Ferrell
Nelson R. Fincher
Joe M. Floyd
Ronald R. Fraizer
George M. Francis
Donald L. Galvin
William C. George
Craig D. Gibbons
Leon E. Gingras, Jr.
Robert L. Goller
Ellwood D. Gordon
Edward B. Guckert
Pedro Gutierrez
Arnold S. Hageman
Gerald E. Hanscom

Donald L. Hanson
John A. Harris
Frank R. Hart
James E. Haskins
Joseph B. Hatfield
John D. Henry
Harold L. Henry
Donald L. Herpy
Herbert O. Hicks, Jr.
Francis A. Higginson
William A. Higgs, Jr.
Paul R. Hoffman
Julius B. Hopkins
Bobby E. Humeston
Edward W. Humphrey
Holland C. Hutchinson
Barton E. Immings
Lowell B. Jackson
Arthur L. Johnson
Ronald L. Jones
Gene C. Kamplain
Harold A. Keith
Joseph E. Kelly
Michael B. Kennedy
Carl E. King.
Thomas F. King, Jr.
Ray E. Kittilstved
Joseph Kochuba
Leroy A. Kramvik
George D. Krebs
Raymond L. Kunkle
William A. Kuykendall
Aurel E. Lafreniere
Donald A. Lane
Robert L. Laudun
Thomas L. Laws
Juan M. Lem
Donald C. Lewins
Babre Lewis
Donald R. Ladnier
Donald C. Long
Roger L. Lorenz
Gary L. Losey
Patrick J. Lynch
Jose Magallan
Paul L. Malone
John R. Marcucci
William T. Maroney III
Harold T. Martin
Jerry L. Massey
Aove E. Mattox
Roger L. Mauldin
Bryan M. McGill
James F. McLean
James R. Mcrae, Jr.
William D. Meadors III
Daniel E. Miller
Robert M. Miller
William F. Milton, Jr.
Eugene E. Montgomery
Earl F. Morris, Jr.
Thomas W. Morris
James Muschette, Jr.
Louis Myers
Ronald C. Newman
William G. Nickels
John A. Nowicki
Sam G. Ochoco
Jerry W. Odell
Joseph N. Parisi
Roger B. Peterson
Ronald J. Peterson
Jesse P. Pullin
Francis B. Quallen
Paul F. Quinn
Virgil G. Rhoads
Gordon A. Rice
Carl S. Richardson
Joseph F. Rizzo
Richard J. Roberts
Dorsey Robinson, Jr.
Charles R. Roden
Ramon Roman, Jr.
Robert A. Roquemore
Paul A. Rossano
James F. Ryan
Stephan C. Salamack
Dale F. Saunders
Peter B. Sawin
Eileen R. Scanlon
John L. Schell
Richard J. Schmidt
William F. Schrider
Walter R. Schuette
Thomas R. Sellers
Jimmie R. Shafer
Michael L. Shanklin
David F. Shewmake
William F. Shreve, Jr.
Edwin P. Simpson III
Theron Simpson, Jr.
Robert M. Skidmore
Lloyd L. Skinner
Thomas L. Slaughter
Francis C. Slavin, Jr.
Robert R. Sloan
Charles L. Smith
Alan J. Southard
Herbert B. Stafford
Patrick L. Stevens
John F. Stewart
Kimble H. Stoltz
Robert L. Strawser
Richard C. Stricklin
Robert R. Stutler
Bobby G. Taylor
Robert E. Taylor
Gary G. Thomas
Larry F. Vance
Robert L. Vincent
Kenneth E. Weadbrock
Jesse L. Webb
Ronald E. Webb
Gaines L. Willis
Joseph C. Wilson
Bruce M. Windsor, Jr.
Stanley G. Woinoski
James E. Woodruff, Jr.
James M. Thomas
Frank C. Towers
Terry N. Tracy
Louis G. Troutman
James A. Turner
Wayne D. Wildgrube
Clarence F. Williams
Gene R. Williams, Sr.
George E. Williams
Leroy Williams
Barbara A. Wynnyk
James J. Yantorn
Richard L. Yoerk
William C. Young
Kenneth P. Zrubek

HOUSE OF REPRESENTATIVES—*Wednesday, February 16, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

If any man will come after Me, let him deny himself, take up his cross and follow Me.—Matthew 16: 24.

O God, our Father, by whose mercy we have come to the beginning of another period of Lent, grant that we may enter it this day with humble and contrite hearts. Help us by self-denial and prayer to prepare our spirits for a deeper penitence, a greater faith, and a better life. Confirm us in our purpose to walk more sincerely in Thy ways and to be more earnest in our service to our country.

We pray for our President as he leaves for China. Grant unto him safety in his journey, wisdom in his conversations, firmness in his efforts for peace, and understanding in his concern for good will among the nations.

Lead us all into a closer fellowship with Thee that we may be made worthy of this day, adequate for our tasks, and ever ready to lead our people in the paths of peace: through Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 1857. An act to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1893) entitled "An act to restore the golden eagle program to the Land and Water Conservation Fund Act, provide for an annual camping permit, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Bible, Mr. Church, Mr. Moss, Mr. Allott, and Mr. Hansen to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 2097) entitled "An act to establish a Special Action Office for Drug Abuse Prevention and to concentrate the resources of the Nation against the problem of drug abuse," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McClellan, Mr. Ribicoff, Mr. Metcalf, Mr. Chiles, Mr. Percy, Mr. Javits, Mr. Gurney, Mr. Hughes, Mr. Randolph, Mr. Williams, Mr. Kennedy, Mr. Mondale, Mr. Cranston, Mr. Packwood, Mr. Dominick, and Mr. Schweiker to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3054. An act to amend the Manpower Development and Training Act of 1962.

NATIONAL DAY OF PRAYER FOR CAUSE OF WORLD PEACE

Mr. ARENDS. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 524) and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. Con. Res. 524

Whereas the American people share with all the peoples in the world an earnest desire for peace and the relaxation of tensions among nations; and

Whereas it is the policy of the United States to engage in negotiations rather than confrontations with other nations; and

Whereas on February 21, 1972, the President of the United States will begin a historic visit in the Peoples Republic of China to confer with that nation's leaders with the purpose of seeking more normal relations between the two countries and exchanging views on questions of mutual concern; and

Whereas the people of the United States hold the highest and most fervent hopes for the success of the President's mission: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress—

(1) That Monday, February 21, 1972, be commemorated as a day of united support for the President's efforts in pursuit of the relaxation of international tensions and an enduring and just peace;

(2) That the leaders of all nations and men of good will throughout the world be urged to devote all possible efforts to promote the cause of peace and international harmony as set forth in the preamble to the Charter of the United Nations;

(3) That the President designate Sunday, February 20, 1972, as a National Day of Prayer for the cause of world peace; and

(4) That copies of this resolution be sent to the Governors of the several States and be delivered by the appropriate representatives of the United States Government to the appropriate representatives of every nation of the world.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

(Mr. ARENDS asked and was given permission to extend his remarks at this point in the Record.)

Mr. ARENDS. Mr. Speaker, I am introducing in the House a companion resolution to that being introduced today in the Senate by Senator Robert Dole, of Kansas, asking that Sunday, February 20, be designated a National Day of Prayer for the cause of world peace.

In 1969, this Nation sent three men on a journey to the moon. Their vehicle bore the inscription, "We come in peace for all mankind."

On Monday, February 21, one man—the President of the United States—will begin a journey as historical and as hopeful as the first moon landing. He also goes in peace for all mankind.

I know that we all support the purposes for which he embarks on this long and arduous journey. I know that we are united in our hopes for his success. I know that we all wish him Godspeed.

But if this effort is to be crowned with success, it must find favor in the eyes of God. So as we unite in hope, let us unite as a people in prayer.

A National Day of Prayer will enable us, as one people, to reaffirm our faith—"In God We Trust"—and our determination to achieve peace in the world.

Mr. GERALD R. FORD. Mr. Speaker, on Thursday the President leaves on an historic trip to China, a trip that marks an end to a quarter century of hostility between the world's most powerful nation and the world's most populous nation.

As the President departs on this mission for peace I wish him Godspeed and the greatest of success. I feel sure that every other Member of the House shares my sentiments.

On Sunday, on the eve of the President's beginning dialog with the leaders of the People's Republic of China, the American people will observe a National Day of Prayer for the cause of world peace. This is most appropriate, Mr. Speaker. This is most heart warming for the President as he begins summit talks of the greatest significance for the future peace of the world. Let us all join in this prayer for peace at this auspicious moment in our history.

Mr. SCHMITZ. Mr. Speaker, I have no desire to object to a National Day of Prayer for world peace, which all men of good will devoutly desire. But the language of this resolution goes to the point of endorsing the President's visit to the capital of those who run what has to be the most viciously tyrannical government on the face of the earth—a government which is the avowed enemy of God and man, which according to evidence presented in the Senate Internal Security Committee's report last year entitled "The Human Cost of Communism in China," stands convicted of direct responsibility for the deaths of tens of millions of its own people.

This Peking government does not represent the people of China and never has represented them. Have we forgotten the thousands of its own troops taken prisoner in Korea who risked their lives month after month by refusing to go back to Mainland China, holding out for Taiwan instead? Yet now we seem ready to acquiesce at any moment in the elimination of all that is left of free China on Taiwan, having already accepted with no more than a pro forma protest the expulsion of the Republic of China from the United Nations.

I do not believe—nor, from a large-scale sampling of opinion in my district, do I find that the greater part of my constituents believe—that this trip to China is going to lead to anything that could rightly be described, in the language of the resolution before us, as "an enduring and just peace." Consequently we do not give "united support" to this Peking visit nor hold "the highest and most fervent hopes" for it. In fact, I would rather see February 21 declared a national day of mourning for the loss of our resolution to offer unyielding resistance to the supreme evil of the 20th century, and February 20 declared a National Day of Prayer not only for world peace, but for the courage and the vision to understand once again that while communism remains in power genuine and lasting peace can never be attained, and to act on that understanding in accordance with Christian moral principles and the natural law.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ARENDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks on the concurrent resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

TIME FOR MORE EFFECTIVE EFFORTS TO BRING SPAIN INTO NATO

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKES. Mr. Speaker, the delays which characterize efforts to bring Spain into NATO seem interminable. Conversations continue indefinitely. One session held last October in Stuttgart brought together a Spanish-American joint committee on defense matters. Heretofore such meetings have been held only in Madrid. This one was at a military headquarters in the NATO heartland. Thus while Spain remains excluded from NATO membership, a linkage with the Atlantic alliance is developing. Nevertheless, overall progress seems very, very slow and this is unfortunate.

Through bilateral accords with the United States, Spain plays a role in the defense of the West, but an open involvement with NATO would permit a much more significant contribution. Spain can contribute in a meaningful way to NATO at a time when NATO needs a boost. The United States is under constant pressure at home to reduce its participation in NATO and the nations of Europe have been slow to meet their full commitments. The Spanish forces at the door of the Mediterranean and enjoying the protection of the Pyrenees would give NATO a strong new image in both Europe and Africa.

Earlier efforts to bring Spain into NATO were discouraged by northern European countries such as Norway and Denmark which object to the Spanish form of government. It would be well for these and other countries to look at the strong anti-Communist policies of Spain and that country's ability to keep its currency solvent and crime under control. The American State Department has not distinguished itself by the caliber of its efforts to bring Spain into NATO. There is room for a much more vigorous effort.

ANNUAL AUTHORIZATIONS IN THE PRESIDENT'S 1973 BUDGET

(Mr. MAHON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MAHON. Mr. Speaker, the President's new budget involves about $47 billion in new budget obligational authority for fiscal 1973 for various ongoing programs that require further authorization action by the legislative committees prior to consideration of the related appropriations.

It seems to me that in the authorizations—and, of course, in the appropriations—we must approach the question of what shall be authorized and appropriated with a great deal of restraint this year. I say that especially because it is estimated in the new budget that by June of 1973, the national debt will approximate the astronomical figure of $490 billion. About one-fourth of that total will have been accumulated during the fiscal years 1970–73.

The storm signals are obvious.

May I add, Mr. Speaker, that the $47 billion figure is a part of the overall total of about $271 billion in new budget obligational authority proposed for fiscal 1973 in the new budget. That is an increase of about $21 billion over the estimate for the current year. According to the new budget, about $185 billion of the $271 billion total will require action by the Congress at this session. The remainder—some $86 billion—relates to permanent appropriations that do not require annual action by the Congress, principally the social security and several other trust funds; interest on the national debt; and a handful of others.

Mr. Speaker, I am placing in the Extensions part of the RECORD a more detailed statement in regard to legislative authorization requirements for ongoing programs. I am not making reference to the authorizations involving new initiatives which total several billion and which I will address at a later date.

MRS. LOUISE McDERMOTT CELEBRATING 100TH BIRTHDAY

(Mr. KEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KEE. Mr. Speaker, a constituent of mine, Mrs. Louise (Joseph H.) McDermott, of Bluefield, W. Va., will be celebrating her 100th birthday on February 20, 1972.

Mrs. McDermott has lived in my hometown of Bluefield for the last 40 years. She is a remarkable woman and is one of the best liked and most respected citizens in the area.

I would like to point out that she is the mother-in-law of Hugh Shott, editor and publisher of the Bluefield Telegraph. The McDermott and Shott families are two of the best known families in West Virginia's fourth and finest district. Their activities are not limited to southern West Virginia. They have a good name throughout the State, and in fact throughout much of the Nation.

It has been my pleasure and privilege to know Mrs. McDermott for many years. She has been a wonderful mother, a devoted wife, and a real friend of mine. All who know her admire her enthusiasm for life, her deep religious convictions, and love for her fellowman. I want to join with her legion of friends in honoring this great lady.

Mrs. McDermott on the occasion of your 100th birthday, I want to send you this brief message of congratulation and my sincere wish that you may enjoy the best of health for many more years.

I hope that your 100th milestone will be a happy day, and since friendship is the real measure of happiness, I know it will be. God bless you and all your loved ones.

MEAT IMPORT RESTRICTIONS MAY BE LIFTED

(Mr. ZWACH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ZWACH. Mr. Speaker, I am deeply concerned over statements made by officials of the Cost of Living Council that meat import restrictions may be lifted to give lower prices to consumers.

The consumer advocates forget that the producers also are consumers, and that while wage earners are sharing in our country's general affluence, the producers share in it at the rate of only 72 percent, the present parity rate.

The price the producer is getting for beef today has finally climbed to the level of 1951, 20 years ago, and we know how much the cost of everything else has risen since that time. Farm machinery has tripled in price and trucks have doubled. Wages are up 60 percent in the past 20 years.

While beef prices to the producers are at 1951 levels—the highest in 20 years, the consumer people say—there is a different story in the supermarket.

Choice beef, in 1951, sold over the counter at 87 cents per pound, but it is bringing $1.04 today. Round steak in 1951 sold for $1.09 but costs $1.36 today and a rib roast is $1.18 per pound, compared to 85 cents in 1951.

A comparison of retail prices, as opposed to prices to the producers, clearly proves that the producer is not responsible for today's high over-the-counter costs. America is still getting the greatest food bargain in the world and the farmers' share of the food dollar is constantly shrinking, it even dropped a cent during the past 12 months.

It has been suggested that a freeze be put on meat prices to the producers. I am sure our producers would accept such a freeze the very minute prices reached 100 percent of parity. Before that time, either to freeze prices or to open the gates to added imports would create a serious economic problem for all of our countryside, not just our producers.

I am conveying these thoughts to President Nixon and Secretary of Agriculture Butz and am urging them to take whatever measures are necessary to protect our countryside from further economic discrimination.

RESIGNATION FROM COMMITTEE ON INTERNAL SECURITY

The SPEAKER laid before the House the following resignation from the Committee on Internal Security:

WASHINGTON, D.C.,
February 9, 1972.

Hon. CARL ALBERT,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: During the first week of May, I will resign from the Congress to assume the governorship of Louisiana.

Realizing that my absence from the Committee on Internal Security has created problems in generating a quorum, I hereby resign as a Member of the Committee effective this date so that appropriate action can be taken to fill my position with a more active Member of the Congress.

Kindest regards and best wishes.

Sincerely,
EDWIN W. EDWARDS.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
February 10, 1972.

The Honorable the SPEAKER,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:30 p.m. on Thursday, February 10, 1972, and said to contain a message from the President wherein he transmits the Eleventh Annual Report of the U.S. Arms Control and Disarmament Agency.

With kind regards, I am,

Sincerely,
W. PAT JENNINGS,
Clerk, House of Representatives.
By W. RAYMOND COLLEY.

ELEVENTH ANNUAL REPORT OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 92–255)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

Pursuant to the Arms Control and Disarmament Act as amended (P.L. 87–297), I herewith transmit the Eleventh Annual Report of the U.S. Arms Control and Disarmament Agency. I am also pleased to report to the Congress that this document reflects appreciable progress in the disarmament field during calendar year 1971.

Our progress has been especially significant in the Strategic Arms Limitation Talks with the Soviet Union. In May 1971, I was able to announce that a deadlock had been broken. We reached an understanding with the Soviet leadership to concentrate on working out an accord to limit the deployment of defensive anti-ballistic missile systems (ABMs), and to conclude it simultaneously with an agreement on certain measures limiting offensive strategic weapons. This joint understanding reinforces my firm commitment to reach an equitable agreement limiting both offensive and defensive strategic nuclear weapons.

Another highlight of 1971 occurred when the American and Soviet SALT Delegations reached two collateral agreements that were signed in Washington on September 30. The first dealt with measures to be taken by each country to reduce the risk of accidental nuclear war, while the second provided for improvements in the reliability of the Washington-Moscow Direct Communications Line, or "Hot Line", by using satellite communications systems.

In Geneva, at the Conference of the Committee on Disarmament, the United States was also among the principal architects of a convention banning the development, production and stockpiling of biological weapons and toxins. The presence of these weapons in the arsenals of any civilized nation is no longer justified.

As 1972 opens, I am determined to maintain American leadership in achieving arms control measures which will enhance both national and world security and contribute to a lasting peace.

RICHARD NIXON.

THE WHITE HOUSE, *February 10, 1972.*

COMMUNICATIONS FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.
February 10, 1972.

The Honorable the SPEAKER,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:30 p.m. on Thursday, February 10, 1972, and said to contain a message from the President wherein he transmits the 1970 annual report on coal mine health and safety.

With kind regards, I am,

Sincerely,
W. PAT JENNINGS,
House of Representatives.
By W. RAYMOND COLLEY.

COAL MINE HEALTH AND SAFETY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor:

To the Congress of the United States:

Section 511(a) of the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91–173) requires the Secretary of the Interior to submit, through the President, an annual report to the Congress on coal mine health and safety. I am pleased to transmit herewith the report for 1970.

RICHARD NIXON.

THE WHITE HOUSE, *February 10, 1972.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *February 11, 1972.*
The Honorable the SPEAKER,
U.S. House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 4:02 p.m. on Friday, February 11, 1972, and said to contain the first quarterly report on activities under the new Economic Stabilization Program.

With kind regards, I am,
Sincerely,
W. PAT JENNINGS,
Clerk, U.S. House of Representatives.
By W. RAYMOND COLLEY.

THE ECONOMIC STABILIZATION PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking and Currency:

The message and accompanying papers referred to the Committee on Banking and Currency.

To the Congress of the United States:

As required by Section 216(a) of the Economic Stabilization Act Amendments of 1971 (Public Law 92–210), I am pleased to transmit herewith the first quarterly report on activities under the new Economic Stabilization Program. This first report covers the period from August 15 through December 31, 1971.

RICHARD NIXON.

THE WHITE HOUSE, *February 11, 1972.*

CONFERENCE REPORT ON S. 3122, FEDERAL WATER POLLUTION CONTROL ACT

Mr. JONES of Alabama. Mr. Speaker, I call up the conference report on the bill (S. 3122) to extend sections 5(n) and 7(a) of the Federal Water Pollution Control Act, as amended, until the end of fiscal year 1972, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. HALL. Mr. Speaker, reserving the right to object, will the gentleman take time to explain the conference report, including the Senate amendments?

Mr. JONES of Alabama. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. I shall do so.

Mr. HALL. Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of February 9, 1972.)

The SPEAKER. The gentleman from Alabama is recognized.

Mr. JONES of Alabama. Mr. Speaker, I should briefly like to explain the conference report on the bill S. 3122.

Authorizations for programs contained in the Federal Water Pollution Control Act expired on June 30, 1971. Since that date the Congress has enacted two resolutions permitting the continuance of the programs to October 31, 1971.

On December 15, 1971, the Committee on Public Works, after completing the most extensive and constructive hearings ever held on the water pollution control program, ordered reported H.R. 11896, the Federal Water Pollution Control Act Amendments of 1972. However, it is not anticipated that this legislation will be enacted into law in the immediate future.

In the interim, it is necessary that the existing program be extended while the Congress continues its careful and diligent work on H.R. 11896, probably the most important environmental legislation ever to be considered.

On February 7, the House passed S. 3122 which included three sections. Section 1 extended section 5(n) of the Federal Water Pollution Control Act and provided an additional authorization of $45 million for the period ending June 30, 1972, for research, investigation, training, and information programs. Section 2 provided an additional $11 million for section 7(a) for the period ending June 30, 1972, so as to permit the States to continue the planning of programs in an orderly fashion. Finally, section 3 increased the authorization for the basic grant program for waste treatment facilities under section 8(d) to $2 billion, or an increase of $1.350 billion. The bill authorized a total of $1.406 billion.

On February 9, as a result of a conference with our Senate colleagues, we were able to iron out the differences between the two bodies on this legislation. It was agreed in section 1 to extend section 5(n) of the Federal Water Pollution Control Act to April 30, 1972, and provide for an additional $30 million for research, investigation, training and information programs. An additional $9 million was authorized for salaries and related expenses incurred during the period of November 1, 1971, to June 30, 1972. Section 2 of S. 3122 authorizes an additional $11 million for carrying out section 7(a) of the Federal Water Pollution Control Act to June 30, 1972. This is identical with what was contained in the House-passed bill. Finally, in section 3 in lieu of the $1.350 billion provided for in the House-passed bill for the construction grant program, the conference agreed to cut this back to $1 billion and extended the program to April 30, 1972.

The conference report allows additional authorizations of $1.050 billion. This is in lieu of the $1.406 billion authorized in the House-passed bill. I must point out, however, that the difference in the amount is primarily brought about by extending section 5(n) and 8(d) to April 30, 1972, rather than June 30, 1972, as proposed by the House.

Mr. Speaker, although S. 3122 would authorize a total of $1.050 billion, it should be noted that the enactment of this legislation will not require the appropriation of any additional moneys. Public Law 92–73, the Agriculture-Environmental and Consumer Protection Appropriation Act, 1972, included the necessary moneys for this program subject to later authorizations. This bill is the authorization to utilize the funds previously appropriated.

Mr. Speaker, I urge the immediate passage of the conference report so as to prevent further delays in continuing this extremely important program.

Mr. HARSHA. Mr. Speaker, I urge immediate passage of the conference report on S. 3122. The immediate passage of the report will allow the Federal water pollution control program to continue during the period that the House Public Works Committee and the full House complete their work on the 1972 amendments to the Federal Water Pollution Control Act.

The Committee on Public Works is presently incorporating amendments which were passed by the committee during executive sessions held in December and is preparing the report to accompany this comprehensive bill. This is a difficult and time-consuming task because of the length and complexity of this bill. The bill itself will be over 200 pages long and will require a report of equal length. The many matters and issues in the bill are complex and it will have significant effects on many aspects of our Nation's life. This work must be completed in a thorough and effective manner or the effectiveness of the nation's water pollution control program could be impeded. The time needed to complete this large task, plus the time which will be required for conference on the differences with the other body, makes it necessary that we extend funding authorizations under the existing law as we previously said we would have to do.

The conference substitute incorporates most of the provisions of S. 3122, which passed the House on February 7, 1972. The conference substitute will extend section 5(n), except authorizations for salaries, through April 30, 1972, with an additional authorization of $30 million. The conference substitute will also authorize $9 million for the period through November 1, 1971, to June 30, 1972, for the payment of salaries and related expenses necessary in connection with the Federal Water Pollution Control Act. The conference substitute for section 5(n) authorizes a total of $39 million, as compared with the House-passed bill which would have extended funding for section 5(n) for research, investigation, training, and informational programs at a level of $45 million through June 30, 1972.

The conference substitute accepted the House provisions for section 7(a) to continue the grants for State water pollution control programs through June 30, 1972, with an additional $11 million authorization.

The conference substitute on authorizations for treatment works construction grant programs will extend the program to April 30, 1972, at a total authorization of $1.65 billion or $35 million less than the $2 billion authorization through June 30, 1972, contained in the House-passed bill.

Mr. Speaker, S. 3122 will not require the appropriation of any additional moneys since Public Law 92–73, the Agriculture-Environmental Consumer Protection Appropriation Act of 1972, has appropriated the necessary moneys subject to later House authorizations. What we are doing here is authorizing the obligation of the needed, previously appropriated funds.

Mr. Speaker, it is unlikely that the House Public Works Committee and the full House will be able to complete its work in the manner required and then also come to conference agreements with the other body on the differences between the two Houses before April 30, 1972. However, it is imperative that we immediately approve the partial authorization for the fiscal year ending June 30, 1972, which are contained in the conference report. At some time prior to April 30, after a review of actual obligations under the authorizations and appropriations, it can be determined whether an additional extension will be required.

Mr. Speaker, while I believe that the House passed measure is superior to the bill from the other body, I believe that the conference agreement will meet our needs at this time. I urge immediate passage.

Mr. Speaker, I have an additional comment.

When the resolution was discussed on the floor under suspension Mr. CLEVELAND, of New Hampshire, made inquiry of Mr. JONES and Mr. GROVER. His question related to whether pollution abatement programs undertaken this year would qualify for any increase in Federal matching funds we may enact later this year. I am pleased to inform the gentleman from New Hampshire (Mr. CLEVELAND) that the answers are still in the affirmative.

Mr. Speaker, I yield to the gentleman from New York (Mr. GROVER).

Mr. GROVER. Mr. Speaker, I also rise in support of the conference report.

I am sure I speak for the entire New York delegation, when I say we are quite concerned that the concept of reimbursement which we were discussing when the original legislation was before us a fortnight ago will be given very favorable consideration by the committee and by the Congress at large. It is extremely important to the States which have taken broad and aggressive steps, as New York State, under the visionary leadership of Governor Rockefeller, has in the past, with a billion dollar bond issue authorized by the people of the State directed to this very important program of cleaning up our waters.

Mr. DULSKI. Mr. Speaker, I support the Conference Report on the Federal Water Pollution Control Act (S. 3122) with some reluctance.

The bill as it comes from conference does keep the Federal program going, but the conference changes represent a backward step from what the House approved on February 7. Even the House action was inadequate, as I said at the time, and now we are winding up with still less.

I recognize fully that this is an interim measure and that a new authorization bill has been ordered reported by the Committee on Public Works. I am hopeful that the new basic bill will receive prompt consideration by the House and earliest possible final action by the Congress.

Time is fleeting. Many projects already have been delayed—I am particularly familiar with the many which have been deferred in my own State of New York. The essential momentum is in danger of being lost in the drive to control water pollution and we simply can't afford to let this happen.

I will vote for the conference report today through simple necessity, but I wanted to take this opportunity to express on the record once again my great concern about the problem of water pollution and the current interruption in basic Federal legislation.

We have made great strides in communities all across the country, but we still have much more to be done. This is not a matter which we can take for granted in any degree.

Mr. DORN. Mr. Speaker, I rise in support of the conference report on S. 3122 which extends through April 30, 1972, funding for the section 5 research and development program of EPA; through April 30, 1972, additional funding for sewage treatment construction grants; through June 30, 1972, for grants to the States to assist them with their water pollution control programs.

This body has passed two previous extensions of the authorization that are needed to implement the money appropriated last year by the Congress for fiscal year 1972 for the water pollution program.

It is essential at this time that we extend these authorizations so that these programs can be kept going at the monetary level the Congress has already approved. This authorization before us also includes the necessary funding to pay some 1,300 employees of EPA through June of fiscal year 1972 and that figure is set at $9 million.

During the last session of this Congress the Committee on Public Works held extensive hearings on the entire water pollution program and in the closing days of the last session reported out an important piece of legislation which I believe will eventually become the Federal Water Pollution Control Act of 1972. This is a massive piece of legislation covering all phases of the water pollution control program from the areas of funding through and including a stronger enforcement program.

Later in this session this body will consider, and I anticipate will pass, this major piece of legislation, and before this Congress concludes it is my hope it will be signed into law. However, until the Congress acts on the legislation there is need for the authorizations which are covered in this conference report we are considering today. I urge its adoption.

Mr. JONES of Alabama. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the conference report (S. 3122) just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

ECONOMIC OPPORTUNITY ACT AMENDMENTS OF 1972

Mr. MADDEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 811 and ask for its immediate consideration.

The Clerk read the resolution as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12350) to provide for the continuance of programs authorized under the Economic Opportunity Act of 1964, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against sections 4, 16, and 21 of said substitute for failure to comply with the provisions of clause 4, rule XXI are hereby waived. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

CALL OF THE HOUSE

Mr. HALL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 41]

Abourezk
Abzug
Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews
Ashbrook
Badillo
Baring
Bell
Betts
Blatnik
Boland
Bow
Bray
Brotzman
Brown, Mich.
Burleson, Tex.
Caffery
Carey, N.Y.
Carney
Carter
Celler
Chisholm
Clark
Clausen, Don H.
Clay
Collier
Collins, Ill.
Corman
Davis, Ga.
Delaney
Dent
Dowdy
Dwyer
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, La.
Esch
Evins, Tenn.
Findley
Flynt
Foley
Ford, William D.
Fulton
Galifianakis
Gallagher
Gettys
Giaimo
Gray
Green, Oreg.
Gubser
Hawkins
Hébert
Hillis
Holifield
Jarman
Jones, Tenn.
Kastenmeier
Kazen
Keith
Landrum
Link
Long, La.
Lujan
McClory
McCloskey
McClure
McCormack
McEwen
McKevitt
McKinney
Macdonald, Mass.
Mailliard
Mayne
Michel
Mikva
Mills, Ark.
Minish
Mink
Morse
Myers
Nichols
Obey
O'Hara
O'Konski
Patman
Pelly
Pike
Price, Tex.
Pryor, Ark.
Pucinski
Quillen
Roybal
Sarbanes
Scherle
Scheuer
Shoup
Sisk
Springer
Stanton, J. William
Steed
Stokes
Stubblefield
Sullivan
Symington
Talcott
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Veysey
Vigorito
Whalley
Wilson, Charles H.
Wright

The SPEAKER. On this rollcall, 314 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ECONOMIC OPPORTUNITY ACT AMENDMENTS OF 1972

The SPEAKER. The gentleman from Indiana is recognized.

Mr. MADDEN. Mr. Speaker, I yield one-half hour to the gentleman from Nebraska (Mr. MARTIN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 811 provides an open rule with 2 hours of general debate for consideration of H.R. 12350, Economic Opportunity Act amendments. The resolution also provides that it shall be in order to consider the committee substitute as an original bill for the purpose of amendment. Because of appropriations in a legislative bill, points of order are waived against sections 4, 16, and 21 of the substitute for failure to comply with clause 4 of rule XXI.

H.R. 12350 would extend for 2 years the Economic Opportunity Act of 1964, as amended, $2,304,066,000 are authorized to be appropriated for fiscal year 1972 and $3 billion are authorized for fiscal year 1973. Of these amounts, $350 million are reserved for each year for funding of local initiative programs.

The Headstart program would be greatly expanded and separate authorizations are provided in the amount of $500 million for fiscal year 1972 and $1 billion for fiscal year 1973.

Mr. Speaker, H.R. 12350 is a comprehensive piece of legislation and I urge the adoption of the rule in order that it may be considered.

Mr. MARTIN. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, as the gentleman from Indiana has explained. House Resolution 811 provides for an open rule with 2 hours of debate on the amendments to the Economic Opportunity Act, H.R. 12350. This same legislation was vetoed by President Nixon last December 9, for various reasons which he explained to the Congress. The veto was then upheld by the other body.

Six days later, on December 15, this legislation was introduced by the Committee on Education and Labor, and a total of 2 days of hearings were held on legislation encompassing almost $5.5 billion, on January 25 and 26 of this year. That is a pretty fast clip, Mr. Speaker, allowing a little more than $2.5 billion for each hearing, for a total $5.3 billion authorization.

One of the reasons the President gave for vetoing the bill last December was the child development program which was included in the legislation passed last year. This fortunately has been eliminated by the Committee on Education and Labor, but, as to be expected, I assume, they have made a great substitute for this Child Development Act. They have added $500 million to the Headstart program for the current fiscal year of 1972, which has only about 4 months to run, and $1 billion for the Headstart program for fiscal year 1973.

I am glad to see the Committee on Education and Labor has continued its general practice of rounding off these figures for us. I do not know how they come up with the fact that we should need $500 million additional authorization for the current fiscal year and $1 billion for the next year, but it is easy to remember the figures this committee provides us with, because they always come up with round figures.

They never come up with small figures or odd figures, but with huge figures in even amounts.

What does this bill include? It includes, Mr. Speaker, a hodgepodge of many, many different programs. It goes into the manpower training programs. There are at least five listed in the report on pages 3 and 4.

I have done some research on Federal manpower and retraining programs, and have been able to identify at least 31 that we have in this field at the Federal level.

On many occasions in the hearings before our Rules Committee I have asked the chairman of the Committee on Education and Labor, the gentleman from Kentucky, as to when he was going to get to work, hold some hearings, and consolidate these programs and eliminate the duplication and waste which currently exists. I am always assured that the committee is going to get to work on it in the very near future. But evidently the committee has not seen fit as yet to do so.

I should like to quote from the committee report, on page 3, written by the majority, as follows:

> To some extent the authority of Title I of the Economic Opportunity Act and MDTA duplicate and overlap each other and the Committee on Education and Labor has been considering for some time the need for comprehensive manpower legislation to eliminate the duplication and rationalize the nation's manpower programs.

I am glad they are still thinking about it, but I wish we could have some action. Here is a $5.3 billion program, and we still do not have any action from the Committee on Education and Labor as to studying this duplication and waste which they admit, Mr. Speaker on page 3 of the report.

Then I should like to quote from page 27 of this report, again written by the majority, in regard to evaluation. This is an astounding statement.

> The Committee is concerned that after 5 years of experience with the Economic Opportunity Act there is so little basis for evaluating the actual impact of the program, its effectiveness, or the relative effectiveness of the various programs developed and the mechanisms devised for the delivery of services. The Committee would like to have more adequate evaluative data in order to find out which programs are working well and which are not. There are many excellent programs that have been developed under the EOA and there have been some failures. It has not always been clear which are which.

This, Mr. Speaker, is right in the report, and yet the committee has not seen fit, in the 5 years this program has been in existence, to do anything about it, to get a proper evaluation, and they admit here on page 27 of the report this is so. Then they come up to the Congress, to the House, with a $5.3 billion a year program for this year and next year, with adequate evaluation of the programs and consideration of duplication and waste.

It is time that the Committee on Education and Labor assumed a responsible attitude toward the legislation under its jurisdiction. This happens, Mr. Speaker, time after time with the legislation that they send up to the floor of the House.

It is interesting to note that $2.3 billion of this authorization is for the current fiscal year, 1972. The present authorization under this program—and this is a little tricky—on the OEO program does not expire until June 30, 1972. The amount of money to be authorized expired last year, June 30, 1971. What occurred in the meantime? When we had the appropriation bill come up late last year, for this program, points of order were waived because there was no authorization for the spending of the money. The Congress appropriated the funds for fiscal year 1972.

There are only 4 months left in the current fiscal year. The other body still has to take action on this program. Then it has to go to conference. So it will be sometime before it gets to the President.

By the way, the ranking member of the Committee on Education and Labor testified before us in the Committee on Rules on this legislation that he had word from the President that he would again veto this bill if it comes to him at the White House in the form in which it came out of the Committee on Education and Labor. So in that respect we are simply wasting our time in going through the motions of considering this legislation.

One other feature to which the President objected in his veto message last year and which has not been corrected in the bill we have before us is the new title X, which adds the National Legal Services Corporation to the bill. This would be a private nonprofit corporation to encourage the availability of legal services. Under title X, section 1004, it provides for a 17-member board of directors to be appointed by the President with the advice and consent of the Senate. However, the President's choice is restricted in that he must appoint 11 directors from lists of nominees submitted by nine organizations. This was one of the objections of the President in his veto message.

The SPEAKER. The time of the gentleman has expired.

Mr. MARTIN. Mr. Speaker, I yield myself 2 additional minutes.

So here we have the committee coming back with the National Legal Services Corporation program practically the same as it was in the legislation considered last year and to which the President objected as one of the points of his objections in his veto message which he sent to the Congress.

Mr. Speaker, I should like to read a short paragraph from the minority views in regard to the GAO investigation held not too long ago in regard to this program:

> Compounding the child development picture is the myriad of programs authorized by the Federal government through many pieces of legislation. The General Accounting Office issued a report on January 24, 1972, in which it evaluated eleven of the child care programs operating in the District of Columbia. The study found overlap, duplication, excessive administrative costs and endless bureaucracies all resulting from the *legitimate* implementation of the laws. While the GAO study focused on the District, it pointed out that the same problems found here exist in virtually every major city in the country, and "indicates a need for consolidating and/or coordinating the Federal child-care programs."

Again a duplication and waste of effort in many, many programs.

Then one last word in regard to a program included in the legislation which perhaps some of you have overlooked. On page 22 of the report:

A youth recreation and sports program is included in the OEO. Hooray for us.

Mr. Speaker, we have just concluded the TV reports and pictures of the Winter Olympic Games from Japan. It was called to the attention of the American people on this broadcast from the Winter Olympics that many nations, particularly in Europe, that the Government sponsors and pays year round their top athletes, particularly those who compete in the Olympics and other worldwide competitions.

I am glad to see that the Committee on Education and Labor under the OEO program is taking recognition of the sports efforts of governments in other lands of the world and that they are including in this OEO program, that is supposed to be an antipoverty program, the development of sports.

I also notice, for the benefit of the Members of the House of the gentler sex, that 50 percent of the instructors in this program must be of the feminine sex. I congratulate them for extending this consideration to the ladies in this respect.

I hope, Mr. Speaker, that this legislation is defeated.

Mr. MADDEN. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12350) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky.

The motion was agreed to.

The SPEAKER. The Chair appoints as Chairman of the Committee of the Whole the gentleman from New York (Mr. ROONEY), and requests that the gentleman from Illinois (Mr. ROSTENKOWSKI) temporarily assume the chair.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12350, with Mr. ROSTENKOWSKI, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Kentucky (Mr. PERKINS) will be recognized for 1 hour, and the gentleman from Minnesota (Mr. QUIE) will be recognized for 1 hour.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, first, let me state that this bill has been thoroughly considered in the committee. I do not think we should leave a false impression in this Chamber to the effect that we hurried through the legislation with only 2 days of hearings.

The facts are that we conducted 40 days of hearings and heard some 300 witnesses last year in connection with the extension of the legislation.

Mr. Chairman, the bill before the House this afternoon, H.R. 12350, Economic Opportunity Act Amendments of 1972, has but one primary purpose. That purpose is to extend the basic provisions of the landmark act of 1964 for an additional 2-year term, until June 30, 1973.

On three previous occasions, in 1967, 1969, and 1971, it has fallen my lot to open debate in the House on measures to extend this legislation.

On at least the first two of those occasions, it seemed necessary to discuss the philosophy and to defend the concept of the original Economic Opportunity Act. Fortunately, that requirement is past.

Neither the country nor the Congress will any longer tolerate a "don't care" attitude toward the poor. The existence of an agency within the framework of Government whose focus is upon the peculiar problems of the poor is, I think, an accepted article of our civic furniture.

On December 9, a little over 2 months ago, the President saw fit to veto a comprehensive OEO measure on which the Congress had labored for almost a year. While I, and I am sure a majority of the House, did not agree with his reasoning, the veto was permitted to stand.

The Committee on Education and Labor has been keenly aware of the responsibility it had to approach the task anew, and we moved as expeditiously as was possible, considering the workload before the Christmas adjournment and the delay in commencing the 1972 session.

While there were persuasive arguments that no additional hearings were necessary after the tedious and painstaking study the committee made only last year, we did proceed to hold hearings on the new bill, H.R. 12350, on 3 days in January.

The current measure was ordered favorably reported to the House on February 1 by a record vote of 25 to 6.

This bill authorizes a 2-year extension of the act as requested by the Office of Economic Opportunity in conjunction with the President.

It would authorize the appropriation of $2,304,066,000 for the current fiscal year ending 4½ months hence; and $3 billion for the fiscal year ending June 30, 1973.

Mr. Chairman, I am sure the question foremost in the minds of the Members is how the Committee on Education and Labor has dealt with the objections raised by the President in his December 9 veto of S. 2007.

The first objection raised by the President dealt with the authority to delegate OEO programs to other agencies.

He stated:

> In the 1964 Act the President was granted authority to delegate—by executive action—programs of OEO to other departments of the Government. This flexibility, however, would be taken away under amendments added by the Congress—and the President would be prohibited from spinning off successful and continuing programs to the service agencies.

H.R. 12350 continues the authority of the President to delegate OEO programs to other agencies or departments.

I might say parenthetically that I have reservations about this change, personally. We have seen good programs done much harm by the spinoff process. While the President sees the antispinoff clause as an infringement upon his prerogatives to administer, I view the delegation of spinoff authority as a dangerous erosion of Congress' own power to legislate. Nevertheless, in the interest of obtaining speedy enactment of the OEO extension, I am willing to forego the argument at this time.

The second major concern of the President with S. 2007 as expressed in his veto message was the legislative earmarking of funds for specific programs. The President said:

> This locks OEO executives into supporting and continuing programs that may prove less productive; it inhibits the very experimentation and innovation which I believe should be the primary mission of OEO.

H.R. 12350 eliminates this objection.

Of the $2,304,066,000 authorized for 1972 and the $3,000,000,000 authorized for fiscal year 1973, the only reservation is contained in section 2(b) for the funding of local initiative programs under section 221 at a level of $350,000,000 each year.

Next, the President's veto message expressed disapproval of the authorization for the National Legal Services Corporation. In his veto message the President stated:

> The provision creating the National Legal Services Corporation differs crucially from the proposal originally put forth by this Administration. Our intention was to create a legal services corporation to aid the poor, that was independent and free of politics, yet contained built-in safeguards to assure its operation in a responsible manner. . . . The restrictions which Congress has imposed upon the President in the selection of directors of the Corporation is also an affront to the principle of accountability to the American people as a whole. . . . The President has full discretion to appoint only six of the seventeen directors; the balance must be chosen from lists provided by various professional, client and special interests groups, some of which are actual or potential grantees of the Corporation. . . . To compound the problem of accountability, Congress has further proposed that during the crucial 90 day period—when the corporation is set into motion—its governance is to rest exclusively in the hands of designees of five private interest groups . . . I urge the Congress to rewrite this bill, to create a new National Legal Services Corporation, truly independent of political influences, contained strict safeguards against the kind of abuses certain to erode public support—a legal services corporation which places the needs of low-income clients first, before the political concerns of either legal service attorneys or elected officials.

Mr. Chairman, H.R. 12350 rewrites the provisions of the bill with respect to the establishment of a National Legal Services Corporation. To the incorporating trusteeship which was criticized by the President, the following new members have been added: the Attorney General of the United States, the Director of the Office of Economic Opportunity, the Associate Director for Legal Services of the Office of Economic Opportunity, the Chairman of the Executive Committee of the National Advisory Committee to Legal Services—all of them positions filled by appointment of the President. He, therefore, appoints all members of the trusteeship.

Responding to the concern in the veto message of the possibility of conflict of interest in the board of directors, H.R. 12350 absolutely prohibits anyone who is in any way receiving any benefit from the corporation's activities or from any of the grantees of the corporation, from serving on the board of directors.

The audit provisions of section 1010 have been further strengthened by making it clear that the President or his duly authorized representative and the Comptroller General of the United States or any of his duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers and records of any recipient of assistance from the corporation.

Then the President's veto message contained this statement:

> But the most deeply flawed provision of this legislation is Title V, "Child Development Programs."

Mr. Chairman, the President should now be completely happy with H.R. 12350 in that respect. There is not any child development program in it. The committee, I think, simply decided it pointless to argue the President's inconsistency. Apparently he opposes child care services in the OEO legislation, but is strongly in favor of child care services in H.R. 1, the welfare reform legislation. So, in the interest of moving along with the important work of the OEO, the committee is willing to let him have his way. But I daresay we will hear more of the subject later on in the year.

But, Mr. Chairman, the committee feels that one proven, overwhelmingly successful program for children should not be deferred. That, of course, is Headstart.

We all agree with Dr. Edward Zigler of the Office of Child Development when he said:

> The Headstart program represents one of the best expressions of our Nation's concern for its children.

Current estimates are that approximately 1.6 million children need Headstart services now. We have been operating on the assumption that we are serving only 1 in 5 of these children. Because of this, the committee is recommending that the authorization for Headstart be increased to $500,000,000 for fiscal year 1972, and to $1,000,000,000 for fiscal year 1973.

This, I hasten to add, is not earmarking, but a committee judgment as to what the spending level for those 2 years should be.

It is accompanied by broadened authority to take in children of the near-poor on a graduated fee basis.

I mentioned that we had been proceeding on the assumption that we were only reaching 20 percent of the children who should be receiving Headstart services. I must now tell you about a survey conducted by the committee which indicates we are not doing nearly that well in many parts of the country.

We are now in the process of tabulating and analyzing responses from Headstart sponsors contacted by the committee in recent days. Let me share with you just a few samples of how far we are falling short of what we believe to be congressional intent.

From an agency in Forest City, Ark., we learn that only 800 of an estimated 8,084 poor children are being served. No one could be proud of or pleased with the fact that in that community, we are providing for less than 10 percent of the eligible poor children, and are failing in our obligation to more than 90 percent.

Sacramento, Calif., agency indicates that there are 7,000 eligible children with only 1,418 being served. Their present allocation is $750,000. They estimate that an additional $6,000,000 would be needed to meet the needs of all eligible children. Only 543 of the 9,000 eligible children in Waycross, Ga., are presently being served. The present level of funding is $226,352. An additional $8,457,000 is needed. One Headstart sponsor in Chicago estimates that there are 100,000 eligible Headstart students in the area served by their project, but that only 10 percent are being served. They request $108,000,000 more than the less than $10,000,000 they are presently receiving.

From Wichita, Kans., an agency advises that there are 2,505 eligible students in their area, but that only 348 are being served. Their present allocation is $479,528. They need five times as much—more than $2,000,000—in order to serve all eligible children. An agency in Bangor, Maine, reports 1,485 eligible children, but only 305 being served. Present allocation is $245,000 and they need $1,473,000.

An agency in San Antonio, Tex., estimates that there are 15,000 students with only 1,500 being served on a budget of $1,537,200. This compares with an estimate of $10,400,000 which the agency feels is necessary to meet the needs of all eligible children. From Norfolk, Va., the agency reports 20,000 eligible but only 2,500 being served. More than $17 million over and above the current Headstart allocation is needed.

More than 550 responses have been received from virtually every State in the Union. The totals from the 550 responses show that in areas where there are 782,288 eligible students, only 159,485 are being served—that is barely 20 percent of those eligible and in need.

Mr. Chairman, at the end of my remarks I shall insert in the RECORD a State-by-State tabulation of the results of the questionnaires processed thus far with respect to two questions intimately related to the issue at hand—the issue being whether we should expand the Headstart authorization even more.

PRELIMINARY RESULTS OF A SURVEY OF HEADSTART SERVICES AVAILABLE TO CHILDREN

State	Number of respondents	Approximately how many children 3 to 6 years of age residing in your area are eligible for Headstart services?	How many of the eligible children are now being served in a Headstart, day care, or child development program?
Alabama	13	55, 897	8, 619
Alaska	1	2, 735	875
Arizona	3	920	380
Arkansas	18	30, 329	4, 926
California	17	31, 784	3, 215
Colorado	11	2, 577	1, 189
Connecticut	3	942	516
Florida	8	63, 738	1, 959
Georgia	7	12, 740	2, 671
Hawaii	3	16, 407	935
Idaho	1	20	15
Illinois	17	16, 410	4, 698
Indiana	7	5, 497	1, 347

PRELIMINARY RESULTS OF A SURVEY OF HEADSTART SERVICES AVAILABLE TO CHILDREN—Continued

State	Number of respondents	Approximately how many children 3 to 6 years of age residing in your area are eligible for Headstart services?	How many of the eligible children are now being served in a Headstart, day care, or child development program?
Iowa	6	2,985	721
Kansas	6	4,340	1,340
Kentucky	37	34,189	12,806
Louisiana	16	48,056	5,197
Maine	7	3,955	1,032
Maryland	6	5,176	1,466
Massachusetts	12	7,312	2,490
Michigan	15	17,827	4,438
Minnesota	19	12,802	3,319
Mississippi	9	29,089	15,204
Missouri	10	29,923	4,370
Montana	6	2,042	725
Nebraska	5	2,840	437
Nevada	1	810	130
New Hampshire	5	7,037	685
New Jersey	3	6,650	937
New Mexico	9	3,295	2,082
New York	18	10,949	2,180
North Carolina	26	38,702	8,190
North Dakota	8	1,771	1,035
Ohio	25	30,807	7,322
Oklahoma	13	17,109	5,856
Oregon	5	14,523	853
Pennsylvania	24	20,349	3,676
Rhode Island	5	3,538	1,041
South Carolina	12	30,232	6,516
South Dakota	9	2,589	1,020
Tennessee	18	19,018	6,796
Texas	41	55,077	11,045
Utah	5	5,285	1,007
Vermont	1	800	105
Virginia	26	38,795	6,461
Washington	14	12,393	2,018
West Virginia	12	11,815	2,976
Wisconsin	17	9,272	2,166
Wyoming	3	940	498
Total	[1] 563	782,288	[2] 159,485

[1] Number of responses tabulated to date.

[2] Equals 20.39 percent.

LEGAL SERVICES

The bill before us today is the committee's response to the call from the President, from the overwhelming majority of the organized bar, and from the poor themselves for an independent National Legal Services Corporation.

The President found some fault with the measure passed by the Congress last fall. A genuine, bipartisan effort was made to arrive at a version of the legislation that would meet the President's requirements, and at the same time provide the kind of high caliber service to the poor that everybody seems to want.

That the committee succeeded is best evidenced, I think, by the eloquent statement in support of the National Legal Services Corporation contained in the supplementary views contained in the committee report, and signed by seven minority members: Mr. Steiger of Wisconsin, Mr. Forsythe, Mr. Esch, Mr. Hansen of Idaho, Mr. Bell, Mr. Reid, and Mr. Dellenback.

I think the House has been impressed by the strong support for the corporation idea that has come from lawyers themselves, and from their organizations throughout the land.

Look at the roster of just a few of them: The Board of Governors of the American Bar Association, the ABA Standing Committee on Legal Aid and Indigent Defendants, the ABA Section on Individual Rights and Responsibilities, the Young Lawyers Section of the ABA, the National Advisory Committee for Legal Services, the National Legal Aid and Defender Association, the National Bar Association, the American Trial Lawyers Association, and a great many local and State bar associations.

The President's veto message concerned itself with the matter of accountability. Congress, too, is concerned with accountability, and the need to create a corporate entity that would be responsive to the Congress, the executive branch, and the professional considerations of the bar, and to the special considerations of the poor client. As for myself, I agree with the seven minority Members of the Committee who said in their supplementary views:

> In our view, the present Title X creates a Corporation more accountable to these various interests than either the original bipartisan or Administration bills.

The new bill, like the one vetoed, prohibits any lobbying by project attorneys. It also prohibits their participation in partisan politics and elections, and nonpartisan elections as well.

The proposed title X limits representation by project attorneys to persons who are "members of the client community," a phrase we intend to cover only those unable to obtain private legal counsel because of inadequate financial resources.

On the matter of criminal representation, the committee preserved the language forbidding criminal representation under any circumstances.

And so, with these strictures, the committee is again ready to cut the umbilical cord with the legal services program, and launch it as an independent entity. With it go the hopes that it lives up to its promise to cut the price tag from full justice to the poor.

JOB CORPS

Notwithstanding its anonymity in being rolled over heels into a table item listed "Department of Labor Programs," the Job Corps is continuing to meet a genuine need among poor youngsters in the pre-21 age bracket.

I regret very much the diminished emphasis placed upon this program since its delegation to the Department of Labor 2 years ago. I challenged the wisdom of such a move in 1969, and 2 years experience with the Job Corps under the sheltering wings of Secretaries Shultz and Hodgson have not disproved my point. I said then that they were slamming shut the door of opportunity in the faces of hundreds of young men and women to whom it offered the only available escape from the cycle of poverty.

The administration told us all about the efficient, brilliantly operated minicenters it was going to set up to take care of the young people then going into the Job Corps. They closed many fine Job Corps centers at a time there was not anything to replace them. At one time we had about 35,000 Job Corpsmen. The latest figures I have indicate there are now about 23,000.

The complaint was made that the Job Corps cost too much per enrollee back in 1969 when the campaign to downgrade it began. The minicenters were supposed to be a lot less expensive. The administration's action had the effect of providing fewer training opportunities, and trying to do the job on the cheap.

Well, the committee took testimony last month to indicate that at the Breckinridge Job Corps Center in my home State of Kentucky, the average graduate was in training 10.4 months, and the operating cost was $4,166 per graduate. At another fine center, Gary, in Texas, the cost is running about $4,900 per graduate.

Last month, Assistant Secretary of Labor Lovell gave us figures to indicate that at those little mini-centers—and there are not many of them—the average length of stay is 4.56 months, and the average per-enrollee cost is $2,391 for that period. That means you have to at least double that figure to get a figure comparable to the Job Corps trainee at Breckinridge, and then add another $1,000 in annual overhead. The Job Corps, Mr. Chairman, is looking better all the time.

The committee bill before us today recommends $865.3 million for the Job Corps and other Department of Labor programs, in fiscal year 1972, which is substantially below the $1.4 billion in the vetoed bill, and the $900,300,000 recommended by the President in his fiscal year 1973 budget.

NEIGHBORHOOD YOUTH CORPS

The bill before us provides for the continuation of the Neighborhood Youth Corps and involves out-of-school, in-school, and summer programs.

This is one of the most successful and most popular programs undertaken under the Economic Opportunity Act. It provides remedial education and skill training to disadvantaged youngsters, to school dropouts, or to those who might otherwise drop out. It focuses directly on work experience and employment opportunities.

CONCENTRATED EMPLOYMENT

Provision is also made in this bill to continue the Concentrated Employment Program—CEP—which is directed at problems of impacted unemployment and underemployment in blighted rural areas and in selected large city slum areas. The program provides a full range of manpower and supportive services in the designated target areas through contracts between the Department of Labor and individual prime sponsors.

MAINSTREAM

Another successful program by the OEO and delegated to the Department of Labor is Operation Mainstream. This is a job-creating program for poor, chronically unemployed adults and underprivileged older persons in rural areas. It has operated through public and private nonprofit organizations.

In my own area, the green thumb project, operated under this program, has been tremendously successful in providing useful jobs for the elderly and otherwise unemployable. The communities have been the beneficiaries.

EMERGENCY FOOD AND MEDICAL SERVICES

I regret very much that in its fiscal year 1973 budget, the administration is asking for only $3,500,000 for emergency food and medical services, with all of these funds to be used for Indians and migrants.

This program was funded at the level of $48,700,000 in fiscal year 1971, and the apportionment was cut back administratively to $3,500,000 for the current fiscal year. This, I think, is folly, notwithstanding the administration's reasoning behind the move. They contend that there will be a major decrease in the need for such services with passage of the family assistance plan, and through changes in the food stamp program.

We do not yet have a family assistance plan, of course, and changes in the food stamp plan have had no significant effect upon the need for the emergency food and medical services program.

The committee has had communications from people across the country, both in official and unofficial capacities, urging continuation of that program.

We have, therefore, recommended a level of funding of $20,000,000 which itself is considerably below the $62,500,000 recommended in the bill vetoed by the President.

SENIOR OPPORTUNITIES AND SERVICES

We have long known, and testimony before the committee last year has reinforced our belief, that poverty falls most burdensomely upon the old. Consequently, we have sought to emphasize programs targeted to that growing group in our society.

The senior opportunities and services program is one of these special-focus programs. It seeks to provide better health, employment, housing, welfare and consumer opportunities for elderly people, and from all accounts, it has worked well on a modest allocation of funds. We are asking a funding level of $12,000,000 for this program, up somewhat from the $8,000,000 budgeted for the current fiscal year and fiscal year 1973.

RURAL HOUSING

The bill before you also contains a new program in the field of rural housing. We have included this, recognizing that the condition and shortage of decent housing available to low-income families in rural areas is one of the most critical matters facing the country. It is also one of the most neglected, because the homes of the rural poor are too often isolated up in the mountain hollows, or screened by the woods or the mesquite, and far away from the affluent corridors served by the interstates and the expressways. Public housing is not the answer to this particular problem, because these people are country folk. They like the elbow room afforded by their remote residence. To them the concept of wall-to-wall or gable-to-gable urban living is both alien and intolerable.

There is genuine need for new housing, and for the rehabilitation or repair of old.

While this is a new program under this name, it does not constitute an entirely new field for the Office of Economic Opportunity. The agency now funds some 40 or 45 housing development corporations across the country, to say nothing of the housing work it is carrying on for migrants and Indians.

The committee does not intend or contemplate that this will be a major new housing program. The modest $10 million suggested for it is the best guarantee of that. This is a modest rural program, aimed at a special housing problem in which existing housing legislation simply has not proved effective. It is confined to the rural areas and limited to rural housing development. The committee felt it should have special identity.

DRUG REHABILITATION

The committee bill makes other amendments to the special emphasis program section of the act. It directs that priority be given to veterans and employers of significant numbers of veterans in special programs to promote employment opportunities for the rehabilitated drug addicts, and to aid employers in dealing with addiction and drug abuse among the formerly hard core unemployed.

ENVIRONMENTAL ACTION

The committee bill authorizes a new program called "Environmental Action." Under this special emphasis program, low-income people would be paid for working on projects designed to combat pollution and to clean up a rapidly degenerating physical environment in America. This I personally believe to be potentially one of the most beneficial steps yet taken by the Congress to deal with the environmental problem. Why cannot we use the otherwise unemployed poor to help clean up the mess that affects so many of our urban and rural areas? They can be usefully employed in removing solid wastes, in clearing streams, in carting away all of the unsightly old automobile carcasses that choke the roadways and creeks in many places. They can carry out projects designed to upgrade water supplies and to improve the movement and processing of sewage. They can plant trees, improve our parts, and help reclaim lands which have sustained ecological damage from strip mining and other forms of man-generated or natural destruction.

Of course most, if not all, of this work is expected by the committee to be done in public areas that will have a substantial impact upon the total community.

Although I have dwelt upon the environmental aspects of this program, I certainly do not intend to imply that it is less than an employment program. The primary aim of environmental action is to promote jobs for poor people. The strong secondary aim is to help patch up and nurse our environment back to health. In this way, persons on such a program can do good while doing well.

Because this is a new program, and because it comes at a time of lean prospects for OEO funds, I would hope the agency would not spread the $10,000,000 requested so thinly as to make the results negligible in the total community. A lesser number of projects in carefully chosen locations would be more desirable, I think, in that the results could demonstrate the beneficial impact of this new legislation. If it works, and I believe it will, I hope to see this special emphasis program broadened in the future.

Obviously, Mr. Chairman, the range of programs undertaken to carry out the purposes of the Economic Opportunity Act of 1964 is so great that one cannot adequately cover all of the programs in a single presentation. I can do little more than scratch the surface today.

I simply say to the Members that money spent to uplift the poor, to help them along their way to becoming self-supporting, self-reliant, indeed proud citizens, is not charity, and it is not welfare. It is an investment in the people of the United States. And that is the ultimate security.

I hope the bill will be given a resounding affirmative vote in the House

Mr. QUIE. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, if we really want to make certain that we can get out of the dilemma we are faced with at the present time, where OEO is operating under an appropriation but no authorization, what we ought to do is extend for 2 years what the administration requested, extend the Economic Opportunity Act for 2 years. The chairman and I agreed upon this and introduced such a bill, H.R. 6394, on March 18, 1971. At this time we should not add controversial amendments to the law, using the pressure of the OEO's extension as a hostage to get those amendments through.

I want to pay particular attention to the Legal Services Corporation and use this analogy. If the House should pass a piece of legislation which the Senate turned down flat, undoubtedly the next year when the House took up that piece of legislation again, it would take into consideration the Senate's opposition and try to fashion the bill to meet that opposition, so the legislation would be considered in the other body.

Three steps are necessary for enacting legislation into law, for the legislation to become law, action by the House and the Senate and the President.

The President last year vetoed this bill. He vetoed it because of the child development provisions included in that bill, also because of the manner in which the Legal Services Corporation was drafted. He spelled out his views, as we quote in the minority views to be found on pages 85 and 86 of the committee report, the President said:

> The provision creating the National Legal Services Corporation differs crucially from the proposal originally put forth by this administration. Our intention was to create a legal services corporation, to aid the poor, that was independent and free of politics, yet contained built-in safeguards to assure its operation in a responsible manner. In the Congress, however, the legislation has been

> substantially altered, so that the quintessential principle of accountability has been lost.
>
> In re-writing our original proposal, the door has been left wide open to those abuses which have cost one anti-poverty program after another its public enthusiasm and public support.
>
> The restrictions which the Congress has imposed upon the President in the selection of directors of the Corporation is also an affront to the principle of accountability to the American people as a whole. Under congressional revisions, the President has full discretion to appoint only six of seventeen directors; the balance must be chosen from lists provided by various professional, client and special interest groups, some of which are actual or potential grantees of the Corporation.
>
> The sole interest to which each board member must be beholden is the public interest. The sole constituency he must represent is the whole American people. The best way to insure this in this case is the constitutional way—to provide a free hand in the appointive process to the one official accountable to, and answerable to, the whole American people—the President of the United States, and to trust to the Senate of the United States to exercise its advise and consent function.
>
> To compound the problem of accountability, Congress has further proposed that during the crucial 90 day period—when the corporation is set into motion—its governance is to rest exclusively in the hands of designees of five private interest groups. That proposal should be dropped.
>
> "It would be better to have no legal services corporation than one so irresponsibly structured. I urge the Congress to rewrite this bill, to create a new National Legal Services Corporation, truly independent of political influences, containing strict safeguards against the kind of abuses certain to erode public support—a legal services corporation which places the needs of low-income clients first, before the political concerns of either legal service attorneys or elected officials."

The President as you see objected for two reasons. One, Mr. Chairman, is the way the board is established, and the other is the trusteeship.

With the President laying out specifically his opposition to those two places, I would think the Committee on Education and Labor would have taken his views into consideration and made changes in order to meet his objections and draft legal services legislation that would be acceptable and adopted into law.

I can guarantee that the bill before us today will not be enacted into law. I think we should make certain that the EOA could be extended in order to make the transition the administration has in mind, that the operating programs be established in permanent agencies, and this organization eventually would become the research and innovative organization to develop programs to aid poor and disadvantaged people.

Mr. Chairman, I think the President is correct in his opposition as stated in his veto message. I think the President is right in his opposition to the requirement that private groups should submit the lists from which he must make his appointments. There is no precedent for this anywhere in government. In the committee report on pages 88–91 I have laid out the Government-owned corporations and independent administrative agencies and nonprofit corporations of the Federal Government and how their boards are selected. As you can see there is no precedent for the President being restricted to lists submitted to him by private groups. If such a requirement becomes law I can see the possibility of conflict of interest in the client and project attorneys group, from which he would have to make his selection.

This is not a program where in which the private groups mentioned in the bill share in any of the expenses. The Federal Government is paying 100 percent of this Corporation's costs.

When we established the Postal Corporation, we did not provide that the postal users would send a list to the President and that he had to pick from that list when the Board of Governors was established. Not at all, even though they pay for most of the Postal Corporation costs.

Under the Postal Corporation we moved immediately from the Postal Department to the new Corporation. There was no necessity to establish a trusteeship for 6 months run by a privately selected group. An amendment was adopted in Committee adding members to the trusteeship from the administration but the private groups would still have the majority.

It was interesting to read the supplementary views in the report, indicating that the "Board must be chosen, staff hired, regulations issued, and facilities made ready before business may be transacted." The major decisions would be made during the 6 months transition from OEO to the Legal Services Corporation by this private group which would have far-reaching effects and which most members here would expect a Presidentially appointed Board to do.

The OEO could easily handle the legal services program until it is moved to the Legal Services Corporation.

What is important today is that it just does not seem sensible at all for Congress to go through this whole act again, taking a bill up in the committee, going through the House, going through the Senate, going to conference, and passing a bill we know right now the President will not accept. We are spinning our wheels, and I think looking a bit ridiculous in the process.

I have some reservations about some other parts of the bill, too.

I would say, number one again, is false hope being held out for Headstart authorizing an increase in funds for fiscal year 1972. The authorization for Headstart is $500 million. We have already appropriated the money for Headstart for fiscal year 1972 at $376 million. Does any Member believe that the Congress is now going to turn around and pass another appropriation bill? I certainly doubt it, because by the time we get done with all our fighting back and forth on this bill it is going to be mighty close to the end of the fiscal year. There are only 4 months left of this fiscal year now. There is no possibility and we should not hold out false hope.

And there is the question next year of going to a billion dollars. I doubt that is wise either. Headstart has really been an experiment. We learned a great deal from it, which were good, but we also learned some of the things that ought to change such as lowering the minimum age from 4 to 3. Another is that we should not require Headstart to go through a community action agency in every case. There are counties which need Headstart programs which do not have community action agencies.

Also, in the intervening years since 1965 local schools have become more and more interested in preschool education. The chairman and I held hearings in Minnesota and in Kentucky, and we found school administrator after administrator coming in to say to us that schools felt a great need to develop preschool programs within their own education systems, and all they needed was the authority and funds to do it. I believe that many schools could handle and administer preschool child development programs with great sensitivity. We ought to amend the law to give them the opportunity to receive grants directly rather than subcontracting from a community action agency.

One could ask himself, "Who is really behind this legislation?"

If Members will turn to page 44 of the bill, at the bottom of the page, as to the additional funds, the language says:

> Funds appropriated for the purpose of carrying out this section shall be used first to continue ongoing Headstart projects,

With that I agree. Then it goes on:

> or new projects serving the children from low-income families in those areas which were being served during the preceding fiscal year.

This means that those areas which presently are receiving the Headstart programs are going to be able to receive funds for 100 percent of their children before there would be any money available to anyone else to start Head Start for their eligible children.

It is interesting to note the kind of disparity which presently exists around the country. There are a few States which get a high percentage of their needs met.

Let us look at Mississippi. The estimate I received from the Office of Child Development is that in Mississippi there are 58,370 children eligible for Headstart, and 31,223 in the Headstart programs, meaning 53 percent of the eligible children in Mississippi are presently being served.

In Alaska 99 percent are being served. Then you go to some other States such as North Dakota where you find only 3 percent of the children who are eligible for Headstart programs are being served. In Nevada it is 9 percent and in New York 10 percent of the needy children are being covered. In Rhode Island 9 percent. So it varies. I am inserting at this point in the RECORD a chart showing all of the States, the numbers of children and the numbers of programs.

PROJECT HEADSTART

State	Number of children: Eligible in State	Number of children: Served in State	Percent of children served in State	Number of grantees in State	Number of centers in State
Region I:					
Connecticut	14, 800	3, 640	24	95	19
Maine	11, 200	1, 340	11	71	19
Massachusetts	30, 340	4, 693	15	180	33
New Hampshire	5, 180	605	11	28	7
Rhode Island	8, 140	796	9	30	9
Vermont	4, 440	736	16	39	8
Region II:					
New York	109, 340	11, 025	10	382	154
New Jersey	32, 660	5, 380	16	224	70
Region III:					
Delaware	6, 030	679	11	35	5
District of Columbia	10, 050	2, 010	20	65	3
Maryland	28, 140	2, 617	9	136	19
Pennsylvania	92, 460	6, 739	7	390	72
Virginia	46, 230	3, 475	7	191	42
West Virginia	18, 090	2, 606	14	216	31
Region IV:					
Alabama	62, 860	7, 695	12	240	33
Florida	89, 800	10, 835	12	282	39
Georgia	67, 350	4, 692	6	196	43
Kentucky	31, 030	6, 702	21	520	78
Mississippi	58, 370	31, 223	53	497	28
North Carolina	62, 860	7, 167	11	406	64
South Carolina	26, 940	5, 065	18	139	26
Tennessee	49, 390	6, 475	13	309	38
Region V:					
Illinois	67, 600	11, 347	16	408	51
Indiana	39, 600	4, 024	10	229	32
Minnesota	22, 400	2, 756	12	349	73
Michigan	56, 000	5, 976	10	225	52
Ohio	78, 400	8, 724	11	528	72
Wisconsin	17, 400	3, 093	17	168	33
Region VI:					
Arkansas	29, 150	4, 208	14	200	30
Louisiana	58, 300	6, 932	11	194	30
New Mexico	13, 250	2, 656	20	92	21
Oklahoma	29, 150	6, 095	20	258	38
Texas	135, 150	16, 367	12	461	120
Region VII:					
Iowa	15, 600	2, 655	17	120	26
Kansas	11, 700	2, 810	24	38	15
Missouri	41, 340	8, 173	19	272	18
Nebraska	9, 360	1, 529	16	43	13
Region VIII:					
Colorado	25, 380	4, 923	19	140	23
Montana	8, 100	996	12	32	12
North Dakota	5, 940	205	3	20	12
South Dakota	7, 020	460	6	40	9
Utah	4, 320	1, 130	26	51	12
Wyoming	3, 240	370	11	22	7
Region IX:					
Arizona	16. 600	1, 480	8	55	7
California	147, 700	18, 340	12	600	58
Hawaii	4, 980	1, 595	32	69	4
Nevada	3, 320	300	9	10	3
Region X:					
Alaska	2, 040	2, 022	99	41	3
Idaho	3, 740	1, 674	44	30	10
Oregon	11, 900	1, 175	9	70	19
Washington	16, 320	3, 066	18	115	32

Source: 1970 Current Population Survey, U.S. Bureau of Census.

What this bill does is say just put more money into the areas that presently have it and ignore the others. I do not think that situation is fair or represents sensible legislation.

Rather than take the time in trying to remedy what it seems to me is impossible to do on the House floor, I think we ought to extend the Economic Opportunity Act for 2 years as it presently exists, and then let our committee work on amendments, controversial as they are, and let the House work its will without attempting to use the EOA extension as the hostage.

In closing, I am including the substitute I will offer tomorrow:

AMENDMENT TO H.R. 12350 (IN THE NATURE OF A SUBSTITUTE) OFFERED BY MR. QUIE

Strike out everything after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Economic Opportunity Amendments of 1972".

SEC. 2. For the purpose of carrying out the Economic Opportunity Act of 1964 (hereinafter referred to as the "Act"), there are hereby authorized to be appropriated $2,058,500,000 for the fiscal year ending June 30, 1972, and $2,109,800,000 for the fiscal year ending June 30, 1973.

SEC 3. Sections 171, 245, 321, 408, 615, and 835 of the Act are each amended by striking out "five succeeding fiscal years" and inserting in lieu thereof "seven succeeding fiscal years". Section 523 of the Act is amended by striking out "four succeeding fiscal years" and inserting in lieu thereof "six succeeding fiscal years".

Mr. PERKINS. Mr. Chairman, I yield 10 minutes to the distinguished gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Chairman, I rise in support of this legislation.

While I support all of it very enthusiastically, I shall apply my energies at this time to the Legal Services action of this bill, title X.

There has been a lot of argument about Legal Services in this country since its inception in 1965, but a number of us have felt that with the advent of Legal Services for people who could not afford attorneys to represent them, this was really granting finally full citizenship to a number of people.

It is very true Baker against Carr, which brought us one-man one-vote, was very important to full representation in the halls of Congress and other representative and legislative branches of Government. The Voting Rights Act of 1965 also provided that kind of representation in legislative and administrative offices. However, it was not until 1965 with the Legal Services that the right to access to the courts was provided for people who could not afford to pay attorneys.

I submit the recognition and granting of the availability of the courts is just as important to people in the full recognition of their citizenship as the other two matters.

Legal Services, as I said earlier, has been in operation since 1965. All during that period of time it has been under the Office of Economic Opportunity and for most of that time as a special emphasis program. Without question it has been one of the best programs within that office.

Last year, in 1971, 1.2 million Americans who would not otherwise be able to assert their right to justice and to exercise the avenue of the courts of this Nation were able to do so, because of the Legal Services program.

While it has been one of the best, I think it would be less than candid to say it has not been controversial. Obviously it has been controversial. That is perhaps why it is the focal point of action in the bill before us.

But this should not startle us. By its nature it is bound to be controversial.

I submit further to you that if it is doing its job it will be controversial and it will continue to be controversial.

All of us are grown up here. We know that this controversy results in political pressures. The landlord who heretofore, or before the advent of Legal Services, had no reason to fear his impoverished tenants would bring action against him is understandably upset when suddenly this materializes and they can bring action against him. The Government agency or entity which heretofore has never been questioned by that kind of client community is understandably upset today when that kind of community has Legal Services in operation.

So there is just no way, if this program is functioning correctly, that there is not going to be some controversy.

As I said before, we are grown up here. We know that with controversy comes political pressures and indeed that is at it should be. But it is not as it should be in the judiciary branch of this Government.

While we can expect this controversy with regard to the matters we handle in the halls of this Congress, we ought not to have to expect it in the judicial branch. We ought not to have the spectacle of the Vice President of the United States intruding himself into a specific lawsuit brought by a specific Legal Services group. We ought not to have the Governor of California intruding himself into Legal Services matters in his State and trying to obtain a certain result.

So the best thing that can be done is to get Legal Services into a public corporation which will be free of political interference.

Now that is not just my feeling, not just the feeling of the people who support this legislation on the floor, but it has been the feeling of the American Bar Association for a number of years.

I would like to quote from the statement of Mr. Edward L. Wright, president of the American Bar Association, who testified before our committee as follows:

> Recurring attacks on the Legal Services program have helped shape our view that the Legal Services program should be provided a new and independent home. * * *

> The main focus of the association and its authorized representatives has been the protection and continuation of the program in a framework through which the lawyer could serve his clients to the extent of his professional responsibility and the ethical mandates of the profession. The maintenance of this professionalism is absolutely essential for the success of any Legal Services program.

I submit to you that that professionalism cannot be maintained when it is subjected to the political pressures that the Legal Services has been.

Mr. Chairman, the President's own Commission on Reorganization of the Executive Branch, suggested the very type thing we are attempting to do with this bill today and that is to say to place Legal Services in an independent public corporation where it would be free of the political pressures to which it has been subjected.

Mr. Chairman, the Federal Bar Association, the State bar associations of most of the States and many of the local bar associations—the list is much too long to read—have also suggested precisely what we are attempting to do today.

So, this bill does provide an independent Legal Services. It provides for a board, every member of which is selected by the President of the United States. It provides granting contract authority which assures, first of all, that no political activity will be engaged in by these Legal Services people.

As a matter of fact, I am sure the gentleman from Minnesota will agree with me about this because he and I worked on this bill, that it is tougher than the Hatch Act, because it goes beyond partisan political office and also includes nonpartisan political office.

It provides no legislative advocacy unless the individual legal services attorney is representing a specified client or unless he or she is asked to appear before a legislative body by that party.

It provides and has strengthened provisions against solicitation, which was one of the problems we have witnessed heretofore.

It has strict requirements for following the Code of Professional Conduct.

This bill before us has an absolute prohibition against criminal representation.

This bill is almost identical to the bill which previously passed the House of Representatives and upon which there was a very substantial vote in favor.

The gentleman from Minnesota has mentioned the difference about the board. There is a slight change in the board, but a very slight change. And then he notes that because of the transition period that we ought to either change it or do away with the bill. The facts are that the point the President made when he vetoed the bill and talked about the transition period is not the point the gentleman from Minnesota made at all. This is the point the President made, and I will quote his language; he said:

> To compound the problem of accountability, Congress has further proposed that during the crucial 90-day period—when the Corporation is set into motion—its governance is to rest exclusively——

The CHAIRMAN pro tempore (Mr. BRASCO). The time of the gentleman from Washington has expired.

Mr. PERKINS. Mr. Chairman, I yield 2½ additional minutes to the gentleman from Washington (Mr. MEEDS).

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. Mr. Chairman, I will yield to the gentleman from Iowa as soon as I have completed my statement.

Continuing with the quotation from the President:

> Its governance is to rest exclusively in the hands of designees of five private interest groups. That proposal should be dropped.

The fact is—we have provided for the designation—four more people, all of whom will be chosen by the President of the United States to be on the board during what the President calls the crucial and formative stage. We have taken care of that problem. We have also taken care of, I think, a very proper concern of the President as expressed in his veto message with regard to the matter of conflict of interest.

Finally, I think we have taken care of again a legitimate concern of the President, and so expressed by him in his veto message, with regard to the question of accountability.

All three of these matters are vastly different than the bill which was reported out by the House-Senate conference committee, and which the President vetoed and gave the reasons for doing so as he did; all but one of which we have taken care of. So this is not an illustration the gentleman from Minnesota used of a Senate bill and a House bill being in total conflict. This is a different bill than the bill the President vetoed. I submit to you that I think he will sign it if we pass it. It is a good bill, and it should be enacted for the betterment of the service of the people, and for this system of government.

Now, I will be happy to yield to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, I thank the gentleman for yielding. I do not agree with the gentleman at all that a Member of Congress, or the Governor of California, if he thinks something is wrong with respect to the orderly processes of Government, or any other official of Federal Government, or a State government, if any believe that what the Legal Services are doing is wrong; there is no reason in the world why they should not intervene, particularly as to whether what the Legal Services is doing conforms with the law. And the gentleman had better believe that on such basis I will intervene at any time I think proper.

Mr. MEEDS. I certainly do not disagree with the gentleman from Iowa that they should excise an oversight function, but I think it would be a very pertinent breach of the code of ethics if they were to be involved in a specific lawsuit and attempt to change the results of that lawsuit one way or another once it is before the court.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Missouri.

Mr. ICHORD. On page 76 of the bill, dealing with the legal corporation, there is a prohibition of services or funds to be used to provide Legal Services with respect to any criminal proceedings.

I would ask the gentleman whether that prohibition would cover a civil proceeding arising out of a criminal proceeding. The State of Missouri has experienced a rash of civil suits filed by convicts in the penitentiary against prosecuting attorneys, judges, police officers, and even the defendant's attorneys who have been appointed to represent the accused.

Would this legal services corporation not permit attorneys and funds being used under this act for the purpose of representing convicts in suits such as that?

Mr. MEEDS. It would be my understanding that that is a civil action and as such would not be prohibited by this section. However, it also might be, and probably would be, a fee-generating case.

Mr. ICHORD. I have an amendment which I will offer to prohibit services being provided under those circumstances. I will give the gentleman a copy of it and I hope he will support the same.

Mr. MEEDS. If it is an amendment prohibiting fee-generation cases, I would certainly agree with the gentleman, although I think the bill is clear on that, I do not think it would hurt to perfect it in that regard.

Mr. ICHORD. I do not think prohibiting fee generation cases would cover the matter as to which I am concerned.

Mr. MEEDS. If the gentleman is telling me that certain public officials ought to be free of civil actions brought against them, then I could not agree with him.

Mr. ICHORD. I am not saying that certain individuals should be free from civil actions. But I think they should be free from the provisions of legal services being provided under this act.

Mr. MEEDS. I disagree with the gentleman.

Mr. MAYNE. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman.

Mr. MAYNE. Mr. Chairman, I would appreciate it very much if the gentleman would spell out a little more thoroughly just what he means by fee generating cases. Perhaps that is a word of art which means one thing to the gentleman and another to me. I am not sure whether he means cases that might conceivably produce a fee or whether he thinks there should be some standard of probability that a fee can be collected invoked before this term is used.

Mr. MEEDS. A fee generating case is the kind of case which when presented to the local bar community, and almost all of these local legal service operations have a screening committee or an intake committee or an individual—and if there is any question that the person who comes for services to the legal service corporation can afford to pursue this matter himself, then he cannot receive those services.

Or if there is a question that the case itself would generate a fee, as a contingency fee case would—an automobile accident case and similar matters—then that person is referred to members of the local bar and the legal services corporation will not handle that kind of case, because it generates its own fee and the individual should be represented by an attorney in the local community.

Mr. MAYNE. Of course, it only generates its own fee in the event the litigation is successful for the plaintiff, if it is a contingent fee case.

Mr. MEEDS. Let us take an example. Say it is a situation in which the screening committee refers it to every member of the bar in the local community and none of them would take it—then the legal services would take it.

Mr. MAYNE. It would not then be considered a fee generating case?

Mr. MEEDS. Because it would not generate a fee.

Mr. MAYNE. I thank the gentleman.

Mr. MEEDS. But they are very thorough about checking this—very thorough. It is not the intent of this program to in any way represent people who can afford to represent themselves, or who have cases which will, in effect, pay the attorneys fees.

Mr. GROSS. Mr. Chairman, will the gentleman yield again very briefly?

Mr. MEEDS. I yield to the gentleman from Iowa.

Mr. GROSS. Has the gentleman seen the figures on the flood of lawyers who are coming out of the law schools of this country? Is not this provision in the bill in the nature of creating a pretty good WPA for lawyers?

Mr. MEEDS. I do not think so, sir. It seems to me so far as all of the lawyers who are coming out of law schools today, that most of them are very much in demand and our society seems to require them.

Mr. GROSS. There is a grave question as to how much of a demand there will be for the flood of lawyers who are coming out now. I look upon this as a pretty good WPA for a lot of lawyers.

Mr. MEEDS. I look upon it, rather, as a method of providing legal services to those who would not otherwise have the availability of the courts, and therefore the justice, of this Nation.

Mr. PIRNIE. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from New York.

Mr. PIRNIE. I should like to ask the gentleman in the well if he does not think there is a danger of subsidizing harassment by suits, because the individuals bringing the suits will have nothing invested. They can make what may prove to be groundless charges, and yet be subsidized in their litigation. Is that in the interest of society?

Mr. MEEDS. It is not in the interest of society to subsidize harassment, and unfortunately I assume some individuals may do that. But I do not know of any way to build the kind of program that is not subject to that human frailty and still achieve the right to access to our courts for all the people of this Nation. I think the harassment aspect is very small. I regret that it has happened. I assume that it will happen in the future. But I think it will be a very, very infinitesimal portion of the great good to be done by this program.

Mr. PIRNIE. May I ask the gentleman what he considers to be small? It seems there has been ample testimony that there have been abuses of this subsidy already.

Mr. MEEDS. The gentleman and I might disagree about what "ample" is, but the knowledge which I had of the situation is that it has been a very small part of the total legal services program.

Mr. PIRNIE. I thank the gentleman.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding. On the point that was just raised in the most recent colloquy, I want to say the gentleman is quite open, I think, and honest in saying that harassment can and maybe in some cases has taken place. It is not true, however, that the courts do have available to them the necessary tools to dismiss frivolous suits and to enjoin harassment suits if such do occur?

Mr. MEEDS. Indeed they have, and a clear case of harassment by an individual legal services attorney would be covered by the Code of Professional Ethics, the same as it would be for any other attorney who did that in the United States. He would be subject to reprimand for his conduct, and perhaps even the loss of his right to practice law. He is to be governed by exactly the same Code of Professional Standards as any other attorney practicing before these courts.

I also point out to the gentleman that this legislation before us in this respect is even tighter than the present law is with regard to this matter, as I said earlier. We have made it amply clear that the Code of Professional Conduct is to apply exactly as it does to other attorneys. We have provided for guidelines in appeal procedure. We have prevented solicitation, straightforward solicitation or even subtle solicitation. We have provided that only when there is a client represented by the individual attorney can he even legislatively act for that client.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield further?

Mr. MEEDS. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding. Let me say that I agree with the gentleman in many respects. This bill has been carefully drafted. I worked with the gentleman and others who are interested. I think the prohibition against criminal representation in the bill is good. The gentleman has already called attention to the provisions that are, as the gentleman said, stronger than the Hatch Act relative to political activity.

I have been a supporter of the legal services program. I am a supporter of the concept that the legal services program should be transferred to a separate corporation, as the administration has recommended, and as many Members of this body have recommended. I do, however, want to make it clear at this time——

Mr. MEEDS. I appreciate the gentleman's support.

Mr. ERLENBORN. If the gentleman will continue to yield, I would like to make clear at this point that I do not think this is the proper vehicle. I think there are still some problems unresolved to which the President has called attention in the veto message.

Mr. MEEDS. I am sure there is only one point in this whole bill with which the gentleman from Illinois and I would disagree, and he is absolutely correct, he was a member of the group who helped to fashion what is a compromise in conflicting views. I certainly hope the gentleman will not let that very minor point dissuade him from continuing support of the bill.

Mr. MAYNE. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Iowa.

Mr. MAYNE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am a little concerned by the statement the gentleman from Washington just made which seems to indicate that, if Legal Services Corporation attorneys were to file suits for purposes of harassment, they would be subject only to the same standards of professional ethics as any member of the bar. I hope the gentleman does not mean by this that the only corrective and disciplinary action to be taken in such a case would be that available under the established disciplinary procedures of the organized bar. My concern arises from the fact that the bar all too often has been very slow to discipline its own members. As a former chairman of the Grievance Commission of the Iowa Supreme Court, I have had some opportunity to observe how long it sometimes takes the brethren of the organized bar to act to discipline a member even in the clearest cases of outrageous professional misconduct.

Mr. MEEDS. Is the gentleman suggesting Legal Services attorneys should be treated differently from other members of the bar in this respect?

Mr. MAYNE. I am suggesting I would feel a great deal more comfortable about this bill if it included some specific requirement that responsible Government officials in charge of this program having supervision over Legal Services Corporation attorneys will act promptly of their own initiative to stop such harassment and will take whatever corrective and disciplinary action needs to be taken as a matter of internal administration within the corporation itself. They certainly should not be free to wash their hands of the matter by passing the buck to the Bar Association to resort to disciplinary procedure that may take months or even years before a decision is finally reached. It is a very difficult and time-consuming process, as I am sure the gentleman knows from his own experience, to get lawyers and judges to take the necessary steps to discipline and, if necessary, act to disbar one of their own profession.

Mr. MEEDS. This is true.

Mr. MAYNE. It is one of the hardest things to do in the legal profession, and this legislation should make clear that legal services officials have the duty to prevent harassment or any other improper action by legal services personnel insofar as possible and to discipline offenders when misconduct does occur.

Complaints should not just be passed on to Bar Association grievance committees to get around to in their own good time. There should be established procedures within the Legal Services Corporation itself providing surer protection and quicker remedies against harassment by Government lawyers.

Mr. MEEDS. I am sure the gentleman and I are in complete agreement that the Legal Services Corporation practicing attorneys ought to be subject fully to the professional code of conduct and, in addition, ought to be subject within their own organization to the kinds of guidelines which, while not interfering with their individual responsibility to their clients, will regulate their conduct to all society, and this is precisely what we have done.

Mr. MAYNE. Would the gentleman agree this should be something that should proceed more expeditiously than is all too often characteristic of the typical Bar Association ethics and grievance procedure?

Mr. MEEDS. That is one of the reasons we should pass this bill. We have tightened it up in all the ways I have enumerated and even more.

Mr. HICKS of Washington. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore (Mr. Brasco). Evidently a quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 42]

Abourezk
Abzug
Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews
Ashbrook
Baring
Barrett
Belcher
Bell
Betts
Blatnik
Boland
Bow
Bray
Brotzman
Brown, Mich.
Burleson, Tex.
Caffery
Carey, N.Y.
Carney
Carter
Chamberlain
Clark
Clausen, Don H.
Collier
Colmer
Corman
Davis, Ga.
Delaney
Dowdy
Dwyer
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, La.
Esch
Findley
Flynt
Foley
Fraser
Fulton
Galifianakis
Gettys
Giaimo
Green, Oreg.
Gubser
Hébert
Hillis
Holifield
Jarman
Jonas
Jones, Tenn.
Kastenmeier
Kazen
Keith
Landrum
Link
Long, La.
Lujan
McClory
McCloskey
McClure
McCormack
McEwen
Macdonald, Mass.
Mailliard
Michel
Mikva
Mills, Ark.
Minish
Moss
Myers
Nichols
Obey
O'Konski
Patman
Price, Tex.
Pryor, Ark.
Pucinski
Quillen
Rosenthal
Roybal
Scherle
Scheuer
Shoup
Sisk
Smith, Calif.
Stanton, J. William
Steed
Stubblefield
Stuckey
Sullivan
Symington
Talcott
Teague, Calif.
Thompson, Ga.
Tiernan
Veysey
Vigorito
Whalley
Wiggins
Wilson, Charles H.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Brasco, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 12350, and finding itself without a quorum, he had directed the roll to be called, when 327 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN pro tempore. When the Committee rose, the gentleman from Kentucky (Mr. Perkins) had 17 minutes remaining, and the gentleman from Minnesota (Mr. Quie) had 50 minutes remaining.

The Chair recognizes the gentleman from Minnesota (Mr. Quie).

Mr. QUIE. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois (Mr. Erlenborn).

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to the bill H.R. 12350 and in support of the substitute bill that will be offered by the gentleman from Minnesota (Mr. Quie).

I think we are all aware that the authority for spending for the Office of Economic Opportunity has lapsed, and it is incumbent upon the Congress and the President to provide a new authority for the Office of Economic Opportunity. We have made one attempt at this so far, but it has been unsuccessful because this body and the other body insisted on including in that extension of authority other matters such as the creation of the Legal Services Corporation and the authorization for a new program for early childhood development. The President—and I think rightfully so—vetoed that bill.

The gentleman from Minnesota indicated in the Chamber here today that in his opinion this bill, as it is now pending before us, will not become law, and in an attempt to see that the proper authorization is extended to OEO, he will offer an amendment that will be a simple 2-year extension of the present authority—in other words, without changing the role or the concept of Headstart and without changing the role or the concept of the legal services as now furnished through OEO.

I would like to address myself first to the comprehensive child development or day care concept that was in the prior bill and that which is in the bill pending before us. Many Members of this body have expressed support for the concept of extending day care facilities, or day care and comprehensive medical and other facilities for the preschool children in this country. I, myself, have had a less active role in this and have less of a commitment than some of the other Members, but I do think some day care facilities are necessary, and there is a proper role to be served here.

To resolve the questions that do come up when we consider what type of day care or comprehensive child care program to enact, we should give due consideration, and I think this can be done through the vehicle of a separate bill.

To get around the President's objections in the prior bill that he vetoed, the majority on our committee opted to merely expand the dollar authorization for Headstart. This is nothing like the comprehensive program that probably we ought to have. It is nothing like the authority contained in H.R. 1, which I hope will be enacted and will provide day care facilities for those most in need.

I think it is a perversion of the concept of the Headstart program if we try to make a comprehensive day care program out of Headstart. Headstart, itself, I do not think has been anything more up to the present time than a search for the proper preschool role to be played by the Federal Government.

We are not certain that the Headstart concept is so well developed it now should be expanded universally. At least I am not convinced. I do not believe many of the experts, who have looked at Headstart and have tried to gauge its long-term impact, are yet convinced this is the proper vehicle for early childhood development.

There is evidence that the gains made in the Headstart program are soon lost after the child gets into the regular school program, in the next 2 or 3 years in the early grades.

So it is my feeling—and I share this feeling with the gentleman from Minnesota—that this sort of expansion of Headstart is unwarranted, and it is not a proper substitute for the kind of early childhood development program we could give good though to if we did it in a separate bill.

So far as the creation of a separate Legal Services Corporation is concerned, I stated earlier on the floor, and I want to reiterate, I have supported the extension of legal services to the poor that is now in the OEO program, and I do support the concept of spinning this off from OEO. I believe this has a certain maturity and acceptance, and pursuant to the concept President Nixon has vocalized since he has been in office OEO should not be carrying on the ongoing administration of a program that is proved, which becomes administration of an ongoing program. The proper role of OEO should be in research and development. Once something like Headstart has gotten some maturity it should be spun off to the Office of Education, or the Job Corps should be spun off to the Labor Department as we have done during this administration. In the same way, I think, legal services should be spun off. There is no other handy place to put it. I believe there is a good rationale for the creation of a legal services corporation.

But I do not believe we have that proper vehicle in this bill. Again, that should be handled in a separate bill that can get the proper attention in our committee and can get the proper attention here on the floor of the House.

The President in vetoing the prior OEO authorization called specific attention to complaints he had concerning provisions of that bill. One concerned the composition of the board of the corporation. That has not been answered in the bill before us.

I believe just to send this back without taking into consideration those concerns expressed by the President in his veto message is a slap in the face of the President and is just asking for the veto of this bill, which I believe we can anticipate.

For these reasons I hope the substitute offered by the gentleman from Minnesota will be adopted. We can extend the

OEO authorization for 2 years. We can then go about taking the proper legislative steps to get due consideration for early childhood development and the creation of a legal services corporation.

I pledge my support particularly to the latter, the creation of a legal services corporation. I have personally less of a commitment to the broad, comprehensive early childhood development bill. I have certain basic reservations about extending these services on a free or nearly free basis to all who might desire them.

I might mention, by the way, in the Headstart authorization in this bill the authors of this bill have taken out of the early childhood development section of the prior bill the same fee schedule worked out in the committee. It is obviously an attempt to turn Headstart into an early childhood development program. It cannot fill this role. It will not properly fill this role.

As pointed out in the minority views, in the report, what is being done here is another legislative promise that will not be fulfilled. The authorization for funds cannot be appropriated. The promise of the delivery of services is to people who will not get them.

It is these overblown promises that this Congress has so often in the past made and not delivered that I think have brought Government into disrepute. Let us not make that mistake again. Let us adopt the substitute offered by the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Chairman, the issue confronting us is not easily resolved in the bill reported by the committee, H.R. 12350. I voted to report this bill to the House, and I intend to support essentially the bill as reported by the Committee on Education and Labor.

I find myself in the position, unfortunately, of not being able to agree with my ranking member, the distinguished, able, articulate, and intelligent gentleman from Minnesota (Mr. QUIE)—I will leave all of those in there—because I do not believe that this House ought to at this point take away from this bill the effort that has been made to create a Legal Services Corporation.

I share all of the reservations regarding the expansion of Headstart and particularly the earmarking of funds for the expanded Headstart program, which is a part of this bill.

I trust that the Quie substitute will be defeated, and then I would work to support and I hope pass an effort to strip out the expansion of the Headstart program, but I will resist any effort to strip from the bill that portion of it in title X which creates a Legal Services Corporation.

I must say Mr. Chairman, that I have been impressed by the outpouring of support for OEO from literally hundreds in Wisconsin, particularly from Fond du Lac.

The effort of so many is a tribute to the citizen support found throughout Wisconsin for community action agencies and is an important reason for my support to settle this issue and pass an effective OEO extension.

Mr. Chairman, it is difficult to over emphasize the importance of equal justice for the stability of our society.

Nearly 7 years ago, in the midst of growing discontent in this country, the legal services programs began their mission of providing full and vigorous legal representation to the poor. They demonstrated that injustices can and will be corrected, that this country provides means for righting wrongs other than confrontation in the streets. Legal aid attorneys showed thousands of people that their rights and interests could be proclaimed and protected with dignity.

This work is unfinished. Our committee has heard testimony that less than 20 percent of the eligible poor have any access to legal services representation. Recognizing the need for this program, the President's Committee on Executive Organization, frequently called the Ash commission, recommended transferring the legal services program to a nonprofit Legal Services Corporation.

BOARD OF DIRECTORS

The creation of a National Legal Services Corporation manifested a recognition by the President, Congress and the professional bar that the Legal Services program must be transferred to an independent entity. This Corporation is designed to insure the accountability and professionalism of this program—as well as its independence.

Accountability for legal services must run to the Congress, executive, judiciary as well as to the profession and the clients of the program. This Board in title X reflects the need for accountability. All appointments—and I stress all—are by the President subject to the advice and consent of the Senate. Of the 17 appointments a number are selected by the President from lists provided by the five major associations of attorneys in the country, former legal services attorneys from lists provided by an Advisory Council established under the legislation, and client representatives chosen by those eligible for service. The President has the complete and unfettered flexibility to ask for new lists from any group until he is satisfied that he can make an appropriate appointment. His flexibility and discretion are unlimited in this respect.

The Congress holds the Corporation accountable in the Board process through the advice and consent function of the Senate. The judiciary will be represented with two persons recommended by the Judicial Conference of the United States.

The need for independence and accountability for this vital program was of paramount importance in 1965 when the American Bar Association, among others decided to support the legal services program. The bar insisted that a National Advisory Committee for Legal Services be established to make certain that the dictates of the Canons of Professional Ethics were adhered to, especially in regard to the sanctity of the lawyer/client relationship and the independence of the attorney. This committee was made up of persons from the organized bar and the legal services program and were later joined by client representatives.

This committee not only aided the program in its policy deliberations but its makeup insured the support and monitoring of the program by the organized bar. Without this support, legal services for the poor would falter and fade away. For these important reasons—bar support, monitoring, and accountability to professional ethics—it is crucial to insure that the organized bar be truly represented in both the selection and makeup of the Board. Similarly, the other constituent groups must be involved.

The minority views in the committee report addressed the question of the structure of the Board of Directors of this Corporation. They asserted that the structure "establishes a precedent and has no parallel in the Federal Government." These views were substantiated by a chart attached to the report which is utilized to indicate the "radicalness of this legislation." This chart was also contained in a joint informational report of the section on individual rights and responsibilities and the standing committee on legal aid and indigent defendants of the American Bar Association which recommended a Board strikingly similar to the Board in title X.

This report recommended that representatives of the professional bar, as well as the other constitutent groups of the legal services program be represented. In fact, the ABA report concluded that the President should not have the power to appoint all of the Directors on the Board. Certainly this ABA report did not conclude that a Board selected with the cooperation of the President and these groups was, in any fashion, unprecedented or radical.

In fact, there are a great number of federally authorized or funded entities which are structured in a parallel manner. A close reading of the chart contained in the Conference report substantiates this view.

For instance, the Railroad Retirement Board, which administered nearly $1.7 billion in fiscal year 1970, is controlled by a three-member Board. Two of the three Board members are appointed by the President from recommendations of employees and from the carriers. These recommendations are mandatory. The President must select a person from each of these two groups to fill these positions. This is exactly the process used in selecting 11 out of the 17 members of the National Legal Services Corporation Board of Directors. In fact, title X is much clearer than the Railroad Retirement Act in assuring that the President may ask for as many alternate recommendations as he wishes in order to find an appropriate candidate for appointment.

The board of Howard University is made up of persons selected by the students, faculty and alumni with no Presidential appointments. Howard University utilized over $52 million in Federal funds in fiscal year 1970 and is of course authorized under Federal legislation.

In addition, there are numerous Corporations or entities authorized by the Congress whose Boards are mandatorially made up of persons who are selected from various named groups or occupations. In most of these instances, the President has complete discretion as to which particular individuals he might appoint, but mandatorially must take persons from the named groups. Included in these types of structures are the National Science Foundation, the National Endowment for the Arts, Federal Prison Industries, Inc., the Corporation for Public Broadcasting, and the Overseas Private Investment Corp.

There are three federally chartered profitmaking Corporations in which the President does not even have a majority of appointments to the Board of Directors. Each of these Corporations has a significant impact upon their particular area of concern. Title X allows the President all the appointments to the Board of Directors while exercising nearly absolute flexibility and discretion.

Mr. Chairman, title X authorizes a professional, accountable and independent legal services program. It is a fine and workable balance between the need to assure that the President is not thwarted in an effort to hold the Board of the Corporation accountable while maintaining an independent structure free from debilitating political interference. We should overwhelmingly support the committee bill without change.

Mr. Chairman, at this point I want to include the complete text of the supplemental views contained in the committee report:

SUPPLEMENTARY VIEWS

We support the Committee action in approving Title X of H.R. 12350 which creates a National Legal Services Corporation. We agree with the President's characterization on May 5, 1971 of the need for a Corporation to administer the Legal Services Program now housed in the Office of Economic Opportunity:

"Even though surrounded by controversy, this program can provide a most effective mechanism for settling differences and securing justice within the system and not on the streets. For many of our citizens, legal services has reaffirmed our faith in our government of laws. However, if we are to preserve the strength of the program, we must also make it immune to political pressures and make it a permanent part of our system of justice."

The Committee has considered two major approaches to implementing the National Legal Services Corporation. One was contained in H.R. 8163 introduced for the Administration by Mr. Quie on May 5, 1971. The other was introduced on March 18, 1971 by a broad bipartisan coalition of nearly 100 House members. These bills were strikingly similar in that both created a private, nonprofit corporation to administer a program of providing comprehensive legal services to the poor through locally administered and controlled grantees.

Throughout its brief history, the Legal Services Program has sought to protect the independence of its lawyers and the traditional lawyer-client relationship. The American Bar Association agreed to support the Program in 1965 only after it was given assurances that the Program and its lawyers would not be subjected to influences which would alter these traditional and important ethical considerations. In the main the ABA concerns were based upon Ethical Consideration 7-1 which maintains:

"The duty of a lawyer, both to his client and to the legal system, is to represent his client zealously within the bounds of the law. . . . The professional responsibility of the lawyer derives from his membership in a profession which has the duty of assisting members of the public to secure and protect available legal rights and benefits. In our government of laws and not of men, each member of our society is entitled to have his conduct judged and regulated in accordance with the law; to seek any lawful objective through legally permissible means; and to present for adjudication any lawful claim, issue, or defense."

The need to protect independent advocacy combined with professional dictates to be free of outside sources of pressures, even from third parties who either employ or pay the lawyer, moved OEO to establish a National Advisory Committee for Legal Services in 1965 to provide policy guidance to the Director of OEO and the Associate Director for Legal Services. The National Advisory Committee is made up of leaders of the professional bar, experts in the legal representation of the indigent, legal services lawyers, and has augmented its membership by allowing representatives of the client community to join in its deliberations.

The Corporation would not only provide the necessary independence and institutionalization for the Program in order to insure its continued adherence to professional dictates it would similarly provide for needed expansion and assure professional administration.

The funds for legal services have not increased at a rate which would approximate the growing demand for representation. It is estimated that the Program is only serving about 20% of the need for legal counsel. Many areas of the country still are in need of a Program, and many of the present efforts are woefully underfunded.

In July, 1969 OEO took a giant stride forward by making legal services an independent Office in that Administration. Previously it had resided in the Office administering the Community Action Programs and had suffered because of insensitivity to professional concerns and client needs. The implementation of the Corporation will insure that the Board and professional administrative staff are competent and experienced persons whose total concern is providing professional representation.

The transfer of the Legal Services Program to the Corporation was recommended by the President's Committee on Executive Organization, the Standing Committee on Legal Aid and Indigent Defendants and the Section on Individual Rights and Responsibilities of the American Bar Association, the Board of Governors of the American Bar Association, the Young Lawyers Section of the American Bar Association, the National Advisory Committee for Legal Services, the National Bar Association, the National Legal Aid and Defender Association, and the American Trial Lawyers Association. In addition, many local and state Bar Associations support the implementation of the Corporation.

The need for independence is clear—but there is a need for accountability as well. Members of this Committee, both in hearings and in the Conference Committee from both sides of the aisle, struggled with the problem of accountability in attempting to insure the the Corporation would be responsive to the Congress, the Executive Branch, professional considerations and the Bar, as well as respond to the primary concern of client representation. The President's veto message of December 9, 1972 similarly concerned itself with the question of accountability. In our view, the present Title X creates a Corporation more accountable to these various interests than either the original bi-partisan or Administration bills.

Title X of H.R. 12350 allows the President to nominate all members of the Board in establishing the initial and subsequent Board of Directors. The United States Senate advises and consents on each of these nominations. The Administration Bill likewise allowed the President all the nominations. The bipartisan Bill only allowed the President and the Senate to consider five of the nineteen appointments.

H.R. 12350 provides that the five national Bar Associations and Advisory Committees of Project Attorneys and Clients provide lists to the President from which he chooses Board members. However, the President may reject and request as many lists as he wishes from any or all of these groups. The process insures that the Bar, the clients, and project attorneys will be meaningfully involved in the selection process but that the President has nearly complete flexibility and discretion in these eleven nominations. Thus the delicate balance between accountability and independence is secured while maintaining the crucial involvement of the various constituent groups in this Program.

Both the Administration Bill and the bipartisan Bill limited the GAO audit authority to only financial considerations. Title X allows the GAO complete audit authority and thus insures that the Congress will be able to review all of the activities of the Corporation through the GAO.

Both the bi-partisan Bill and Title X of H.R. 12350 require independent audits of the Corporation and its grantees. The Administration Bill only required independent audits for five years.

Title X calls for only a two year authorization for the Corporation whereas the Administration legislation would create a permanent entity. In addition, the Administration Bill would have allowed three year appropriations as compared to the annual appropriation authority in Title X. In both these instances the Corporation is more accountable under H.R. 12350.

Annual reports are required to be made by the Corporation both to the Congress and the President. In addition, the Committee added a subsection which allows the President or his representative full access to all records and documents of the Corporation.

Thus Title X authorizes an entity subject to full GAO review, independent audits, Congressional oversight both in the legislative and appropriation committees, and has three separate sections dealing with the necessity of adhering to the Canons of Ethics and the Code of Professional Responsibility of the ABA. In addition, the President appoints all members of the Board with the advice and consent of the Senate.

The President's veto message also stated "To compound the problem of accountability, Congress has further proposed that during the crucial 90 day period—when the Corporation is set into motion—its governance is to rest exclusively in the hands of designees of five private interest groups." It should be recognized that the trustees' authority during this ninety day transition is strictly limited to the filing of incorporation papers in the District of Columbia and the establishment of a process of the selection of the two Advisory Councils.

It would be impossible to efficiently implement this Corporation without such a transition. A Board must be chosen, staff hired, regulations issued, and facilities made ready before business may be transacted. If no such transition is effected, the Corporation and the Program would be sentenced to many months of inefficiencies.

In order to meet the President's objection, the Committee has increased the number of trustees during this 90 day period from five to nine by adding the Attorney General of the United States, the Director of OEO, the Associate Director for Legal Services of

OEO, and the Chairman of the Executive Committee of the National Advisory Committee for Legal Services.

The President raised another important issue when he observed in his veto message that some persons on the Board may be representative of organizations "which are actual or potential grantees of the Corporation " Previously this Bill (Title IX of S. 2007) had strong language in Section 904(f) prohibiting any Board member from participating "in any decision, action, or recommendation with respect to any matter which directly benefits that member or any firm or organization with which that member is currently associated."

To further meet any possible problems the Committee added to the conflicts of interest section a new subsection which would prohibit any person who is a paid employee or consultant of the Corporation or any of its grantees from serving on the Board of Directors.

In many ways Title X is a much more effective piece of legislation than either of the other bills previously introduced in this area. It recognizes and reflects the genuine concerns of many members in several areas by restricting activities such as representation of persons charged with a crime, solicitation, the outside practice of law, political activity, and legislative advocacy. The independence of the Program and its lawyers is insured as well as the local character of its grantees. Accountability to the Congress and the Executive is strictly maintained.

Finally, the overriding concern of providing access to Justice for millions of poor people is insured and institutionalized in a responsible manner. President Nixon eloquently expressed the crucial need for this Program in his statement of August 11, 1969:

"The sluggishness of many institutions—at all levels of society—in responding to the needs of individual citizens, is one of the central problems of our time. Disadvantaged persons in particular must be assisted so that they fully understand the lawful means of making their needs known and having their needs met."

SUMMARY

The need for an independent legal services corporation is clear. Title X which authorizes the corporation is a careful and considered balance of provisions that insure accountability, responsible legal representation, and true independence.

In order to meet two chief objections of the President's veto message of December 9, 1971 the Committee has amended the trusteeship and has eliminated any possibility of conflict of interest with regard to the Board.

We stress other reasons for supporting the corporation:

1. This program is locally administered and controlled.

2. All members of the Board of Directors are appointed by the President with the advice and consent of the Senate.

3. Through annual appropriations the corporation is subject to congressional review. The GAO is given authority to review all activities of the corporation and its grantees. The corporation is required to submit annual reports to the Congress, and there will be continuing oversight by the appropriate legislative committees.

William A. Steiger.
Edwin B. Forsythe.
Marvin L. Esch.
Orval Hansen.
Alphonzo Bell.
Ogden R. Reid.
John Dellenback.

Mr. QUIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, accountability is the one matter which should be of primary concern to this body here today. Whether you are for or against the establishment of a National Legal Services Corp. the question of public responsibility is the single factor which must be considered above all else. Tax dollars are being used in the existing legal services program and will be in the new corporation, and yet we are being asked to approve a proposal which exempts this new entity from full responsibility to the President, the Congress and above all the general public. The new corporation will also be responsible to a small group of men who are not answerable to the public. So that members may understand why I feel accountability is so important I am inserting at this point a report of the ad hoc task force assembled by the National Legal Services and Defender Association meeting held recently concerning the transition of the legal services program:

Report of Ad Hoc Task Force

I. INTRODUCTION

The National Legal Aid and Defender Association (NLADA) convened the Ad Hoc Task Force (Task Force) concerning the transition of the Legal Services Program of the Office of Economic Opportunity to the proposed National Legal Services Corporation (Corporation). NLADA, as well as the participants, was concerned that the transition would be difficult without an attempt by a representative group to define the issues raised by the transition period and to suggest alternative recommendations in this regard. (See Attachment A for Title IX of S. 2007, Conference Report and two Committee Reports).

The Task Force clearly intends that these observations and recommendations are only for advice—and clearly do not bind the individual members of the Task Force, their organizations, the Trustees of the Corporation or the Board of Directors of the Corporation.

The members of the Task Force and their organizations are as follows:

Clinton Bamberger, Former Director OEO/LSP.

Richard Carter, OLS Back-Up Centers.

David Dugan, P.L.E.A. Poverty Lawyers for Effective Advocacy.

Charles Edson, Frosh, Lane and Edson.

Jacob Gordon, American Trial Lawyers Association.

Burt Griffin, Former Director OEO/LSP.

Bob Hellrung, Office of Legal Services/OEO.

Earl Johnson, Former Director OEO/LSP.

C. Lyonel Jones, NLADA Civil Legal Aid Committee.

Frank Jones, Executive Director, NLADA.

Michael Kantor, Executive Director, Action for Legal Rights, Inc.

Terry F. Lenzner, Former Director OEO/LSP.

Ken Phillips, OLS Back-Up Centers.

Irma Quarles, National Clients Council.

Mark Rudy, National Clients Council.

Jeffrey Schwartz, Poverty Lawyer for Effective Advocacy—National Tenants Organization.

Robert Spangenberg, P.A.G. Project advocacy group (PAG).

Donald Stocks, National Bar Foundation.

Theodore Tetzlaff, Office of Legal Services/OEO.

John Tracey, American Bar Association.

James White, Association of American Law Schools.

Dudley Williams, National Bar Association

NLADA attempted to include every constituent group of Legal Services Program on the Task Force while maintaining an effective working number of persons. Certain other constituent groups were invited to participate but declined because of the fact that they were effectively represented by others already members of the Task Force.

The Task Force has met in plenary session twice since its inception (November 9 and December 8, 1971). (See attachment B for Agendas and Minutes). The Task Force organized itself into subcommittees in order to consider particular issues in depth. The subject areas to be reviewed were of necessity narrowed. First, the Task Force determined only to focus upon the first ninety days of the transition—the period involving a trusteeship. Second the Task Force only focused on issues that directly related to the trusteeship and the process of the transition—more substantive aspects of individual appointments or substantive policy considerations. Third, the Task Force determined that it could properly address other issues such substantive policy matters at the proper time. Lastly, the Task Force agreed to participate with the National Office Legal Services in promoting a Conference to address the policy issues which must be resolved during the six month transition period. (See Attachment C.)

The following subcommittees were appointed:

A. Procedures for the Selection of the Clients and Project Attorneys Advisory Councils:

Don Stocks, Chairman, Bob Spangenberg, Frank Jones, Jeff Schwartz, Tony Henry—NTO, Mark Rudy, Representatives of NWRO.

B. Incorporation Procedures:

Chuck Edson, Chairman, Bruce Lane.

C. Appropriations:

Terry Lenzner, Chairman, Ted Tetzlaff, Bob Hellrung, John Tracey, Frank Jones, Dudley Williams, Jacob Gordon.

D. Trustees' Staff:

Dick Carter, Chairman, Earl Johnson, David Dugan, Jim White, Burt Griffin.

E. Problems of Physical Resources (Space, Telephones, Travel, Etc.):

It is hoped that this analysis and accompanying recommendations are useful to the trustees in their deliberative process. We remain available to provide our assistance in this regard.

II. THE TRUSTEESHIP PERIOD

The Congress was concerned that the implementation of the Corporation and the transition from OEO be effected in the least disruptive manner possible. To a large degree the legislation represents a transfer of the Legal Services Program, as it has matured, to a new home, with a view to insuring professionalism, independence, and necessary accountability.

In order to insure a proper transition, the drafters of the NLSCA of 1971 determined that a transition period was necessary. Obviously, the Board of Directors, under any formula, would not be available to direct the operations of the Program on the day the President signed the Act. Similarly it was considered to be important that a time certain be established in order to relieve any possible uncertainties or anxieties surrounding the initial date of operaton for the Corporation.

During this transition period, the Act provides that the Corporation shall be formed and put into action by a five member trusteeship.

Under the Bill (S. 2007) approved by the Conferees and ratified by both Houses, a portion of the Board of Directors was appointed by the President with the advice and consent of the Senate, from lists provided by the clients and project attorneys Advisory Councils. Therefore, these Councils would have to be established prior to the selection and first meeting of the initial Board of Directors. In addition, the Corporation would have to be incorporated under the laws of the District of Columbia.

The Congress felt that these two functions could be carried out in an initial ninety day period under the aegis of a group of trustees. Subsequent to that period, a second ninety day period would involve the initial Board of Directors hiring staff, opening offices, setting policy gudelines, and generally preparing for operations to begin 181 days after the President enacts the legislation.

One hundred eighty days is not an overly lengthy period of time to accomplish these goals. It is imperative that necessary actions be initiated quickly and decisively to effect a smooth and orderly transition.

The trustees' major responsibilities of (a) establishing procedures for the selection of the Advisory Councils and their operation within 60 days after enactment, (b) to incorporate within ninety days and (c) to generally oversee the qualification of an initial Board by the ninety-first day will require, among other things, the implementation of clear, simple, and effective procedures and the engaging of a full-time staff to assist in these concerns.

The trusteeship should convene as soon as possible to study its role. The trusteeship has a number of responsibilities under the Act that it must perform in a very short period of time. It should become familiar with these responsibilities and review the proposals of the Ad Hoc Transition Committee concerning incorporation, formation of the Board of Directors, funding, program policy and procedure, and these recommendations concerning the trusteeship's necessary staff.

The trusteeship should plan its method of operation. It should determine where and how frequently it will meet. It should determine how many trustees will constitute a quorum for the transaction of business. It should decide what authority it will delegate to the Staff Director and what authority it will reserve to itself.

The trusteeship should screen candidates for and conditionally hire the Staff Director for the trustees pending signing of the Act. The Director, in turn, should be authorized to screen candidates for and conditionally hire a staff.

Fourth, the trusteeship must establish an effective working relationship with OEO, particularly the Office of Legal Services. The trusteeship will have to reach agreement with OEO concerning the size and composition of the trusteeship's staff, and OEO must insure that funds are available to the trusteeship the moment the President signs the bill into law. The Director of the Office of Legal Services may offer to assign members of his staff to work for the trusteeship. This is perfectly acceptable. However, if they are assigned to fill any of the 16 positions herein proposed, they should be qualified for the positions they fill and they should be assigned on a full time basis.

Fifth, the trustees must insure that there is full and open communication between the White House and the groups providing lists of nominees to insure that the White House and the Senate are able to fully consider and act upon these appointments within the time allowed by the Statute.

III. Staff for the Trustees

The Task Force proposes that OEO fund a 16-member staff consisting of eight professionals and eight non-professionals, to assist the trusteeship. The staff includes a Staff Director, who would be hired by the trusteeship. That person, in turn, would hire the remaining staff. Employment would be at the pleasure of the trusteeship, to whom the Staff Director would be fully accountable.

The organization of the proposed staff would be as follows:

OEO/OLS—Trusteeship; Staff Director; Administrative Assistants, 1 Secretary, 1 Bookkeeper, 1 Courier; Staff Components, Personnel, 1 Attorney, 1 Secretary; Policy, 1 Attorney, 1 Secretary; Management, 1 Management Assistant, 1 Secretary; Finance, 3 Budget Analysts, 1 Secretary; Advisory Council, 1 Attorney, 1 Secretary.

The trusteeship should have an independent staff not only to carry on the responsibilities required during the trusteeship period, but also to begin necessary preliminary staff work for the Board of Directors. This independent staff is necessary for the following reasons:

1. On the effective date of the Legal Services Corporation Act, a six months' time clock will begin to run. The Corporation will be available to assume responsibilities for the operation of the Legal Services Program after the elapse of that six months' period only if there is substantial staff assistance from the very beginning. The Corporation Board cannot wait until its formation to commence compiling information concerning the multitude of staff policy issues that must be resolved prior to the assumption of responsibility for operation of the program; nor can it wait until that period to begin consideration of the management structure for the program.

2. The Corporation is to be an independent entity, as free as possible of influence from the federal government. Accordingly, it is important that its functions from the inception be performed by staff accountable to the Corporation trusteeship rather than OEO or any arm of the federal government.

3. The amount of staff work that will be required during the trusteeship period is enormous and will require the full time efforts of a substantial number of well-qualified people. Accordingly, it will not be feasible to have this work performed as collateral duties of OEO Legal Services staff members who have their own substantial responsibilities in carrying on the existing Legal Services Program during the six months' interim period.

4. The problems confronting the Corporation are sufficiently interrelated that it becomes important that all staff members should be accountable to a single staff leader as well as to the trusteeship. The development of the personnel bank must be coordinated with the possible management structures, and both of these are related somewhat to the appropriations process and to many of the potential policy issues. It is not really feasible for these functions to be performed by staff members partially responsible to the OEO Legal Services Director and partially responsible to the trusteeship.

A. Positions

1. *"Co-ordinator" or "Executive Director"*—Responsible for hiring, training and supervising all staff, this person would manage, disperse and account for all funds OEO allots to the trusteeship. This person would be assisted by a receptionist-secretary and a bookkeeper-secretary. The courier would be available to all members of the staff to carry messages, mimeograph materials, purchase supplies, and so forth.

2. *Assistant in Charge of the Establishment of the Advisory Councils*—This person would help develop the advisory group mechanism, bring together the various client and project attorney groups, assist them in forming their respective Advisory Councils, and then help to steer their Board nominees and those of other organizations through the Presidential list-picking process and Senate confirmation. This Assistant should also work with the lawyers forming the Corporation on the duties and functions of the Board.

3. *Financial Component:*

a. *First budget assistant*—would work on the technical aspects of the budget for the operation of the Program in FY '73 and the preliminary plan for FY '74. This assistant should also work on the method for funding of programs and the scope of the budget recommendations to Congress, which may differ from those offered by OEO.

b. *Second budget assistant*—especially for liaison work with OEO, the White House and Congress on budget presentations in FY '73 and support for an expanded program in FY '74.

c. *Third budget assistant*—especially for the identification and use of funds outside OEO. This work could include the exploration of private and foundation funds for special projects of the Corporation.

4. *Assistant for Planning and Management Systems*—It is recommended that the Corporation promptly let a contract for a management study to a consulting firm familiar with past management of the Legal Services Program. The consulting firm would be requested to make recommendations within 90–120 days on such issues as regionalization, liaison with government agencies, and grant and contract making practices.

The Assistant for Planning and Management Systems will work closely with the consulting firm to define problem areas, secure cooperation from OEO, and outsiders, and be able to follow through on the firm's recommendations. This assistant would also set time schedules for the performance of a number of events that should take place during the first ninety days, through the first six months and on into the first days of the Corporation. The Assistant would define tasks for the eventual Executive Director and the staff priorities for the first months of operation under the new Director.

5. *Assistant for Personnel*—This assistant would develop job descriptions and a recruitment bank for the Board and the eventual Director. The assistant would obtain performance information on existing OEO personnel and would recommend salary levels and would recommend personnel policies.

6. *Assistant for Policy Issues*—This assistant would deal with the issues, some of which are among the 28 on the agenda for the Airlie Conference, that determine the policy guidelines for the operation of the new Corporation and for grants and contracts with Legal Services projects and Research and Development Centers now funded by the Office of Legal Services. There would probably not be need for the Corporation to resolve policy issues during the transition period, but at least the Corporation should be aware of the issues and familiar with possible solutions. Should OEO attempt to implement undesirable policy changes during the transition period, the trusteeship and Board would then be prepared to lobby against such changes.

7. *Secretarial Staffs*

a. Executive Secretary to the Co-ordinator.

b. Assistant for payroll, expenses and financial accounting.

c. Chief Secretary/Office Manager.

d. Four clerk typists.

B. Job requirements

Without question, the staff must be of the highest caliber and clearly loyal to the cause of equal justice for the poor. All must have solid records of past employment and achievement. All must have demonstrated capability of working smoothly with people of other races and economic levels. All must be willing to take on a six month job without promise of further employment. The management, financial and clerical staff need not have had prior legal services experience, though such would be preferred. All other staff must have had substantial legal services experience (at least two years). In addition, the staff should meet the following specific requirements:

1. *Staff Director*—Thorough understanding of the issues, problems, possibilities and people involved in the areas suggested by the five components; demonstrated diplomatic and legal administrative abilities; widely known and fully respected throughout the legal services world; preferably a member of a racial minority group.

2. *Attorney for Personnel*—Wide knowledge of people throughout legal services; widely known and respected throughout the

legal services constituency; substantial experience in recruiting staff and evaluating the performance of legal services programs.

3. *Attorney for Policy*—Thorough understanding of the issues and alternatives currently confronting legal services and the new Corporation; a creative thinker capable of expressing ideas concisely and forcefully both in oral and written form.

4. *Assistant for Planning and Management Systems*—Extensive knowledge of management systems; solid experience in designing and implementing programs, particularly those involving service oriented corporations; flexible and creative approach. Experienced in and familiar with the OEO Legal Services Program.

5. *First Budget Assistant*—Accountant or accounting experience, preferably in a Governmental setting; extensive knowledge of and experience with government agency funding, preferably federal agencies; capable of analyzing the needs of the Corporation and projecting a budget with full documentation.

6. *Second Budget Assistant*—Thorough understanding of the funding needs of legal services and the issues which are likely to arouse opposition in Congress and within the Administration; extensive experience with the appropriation process.

7. *Third Budget Assistant*—Thorough understanding of the funding needs of legal services and the issues which are likely to be raised by potential grantors as objections to funding; extensive knowledge of and experience with other federal program and private organizations which are potential sources of funds.

8. *Assistant in Charge of the Establishment of the Advisory Councils*—Thorough familiarity with the varied legal services constituency; widely known and respected by that constituency; proven ability as a negotiator; willingness to travel frequently.

C. Budget

1. *Personnel*—Some of the personnel for the transition could be assigned from the present staff at OEO. But it will be necessary to hire, as a minimum, from outside OEO an "Executive Director" or "Co-ordinator" and two professional assistants. Salaries from three to six months of up to $15,000 for the Staff Director and $12,000 for each assistant are suggested. Non-professional staff salaries should be commensurate with present OLS levels.

2. *Office*—It may be desirable to consider utilizing space in the present OEO offices.

3. *Travel*—This should cover both Board and staff expenses. At least $12,000.

4. *Telephone*—These expenses could be eliminated by using OEO facilities.

5. *Supplies*—These expenses could be eliminated by using OEO facilities.

6. *Consulting Contract*—Estimated at $60,000.

Maximum Estimated Budget: $130,000–$150,000.

IV. INCORPORATION

Attachment D is the proposed Corporate Charter recommended by the Task Force. It basically typifies the non-profit model which has been accepted in the past in the District of Columbia with regard to entities such as the Corporation for Public Broadcasting.

The incorporators as designated by the Act are the trustees.

The proposed document does not reprint the entire bill as part of its Charter. This was done in order to avoid the necessity of amending the Charter whenever the Congress decides to amend the Act. Instead, the Charter, at various points, incorporates the Act by references or specific sections of the Act.

Even though the Act is only supported by a two year authorization, the Charter mandates that the existence of the Corporation be perpetual.

Article VI of the proposed Charter reflects Section 902(b) of the EOA Amendments regarding the tax status of the Corporation. It merely reiterates the Congressionally approved examption authorized by Section 501 (c)(3) of the Internal Revenue Act. There is a remaining question in this regard concerning the advisability of requesting a tax ruling from IRS. The ruling is potentially valuable in that a favorable disposition insures that the Corporation will be listed in the "Blue Book" of tax exempt corporations. Conversely, there is a small risk, because of the legislative advocacy authority, IRS might raise an issue even in the face of the Congressionally approved exemption.

A major issue to be addressed concerns the nature of the by-laws to be filed by the trustees along with the Incorporation papers. The Task Force rejected a proposal which would have recommended the filing of an extensive set of by-laws. Detailed by-laws would not be in the best interest of a preferred policy of insuring that the initial Board of Directors—representative of and accountable to the constituent groups—has complete and meaningful input into the organization and initial policies of the Corporation.

Similarly, the Task Force felt that some guidelines were needed as a skeletal structure for the initial four to five months of operations subsqeuent to enactment. Therefore, the Task Force recommends that a skeletal set of by-laws be filed to insure responsiveness and efficiency without in any way reducing the flexibility of the initial Board in establishing the Corporate structure and operations.

Will the National Legal Services Corporation have to qualify to do business in every state in which it has a grantee? Will it have to qualify only in states where a regional office is established (if any)? Will the Corporation only have to qualify in the District of Columbia? These questions were researched by Lane and Edson and their recommendations were adopted by the Task Force. In their opinion, it would not be necessary for the Corporation to qualify to do business in every state in which it let a contract or made a grant. However, if the Corporation operates with regional offices it probably would be necessary to qualify in those states.

One of the major issues to be resolved concerns the policy regarding the number of Board members who must qualify before the initial Board begins operations. The Congress clearly indicated in the Conference Report that this problem was one which should be carefully considered:

Regarding the constitution of the initial Board of Directors of the Corporation, it is the intention of the Congress that all groups submitting lists to the President of prospective nominees should do so at the earliest possible time in order that the President may submit to the Senate all of his nominees to constitute the Board of Directors as soon as possible, thereby permitting all Directors to be duly appointed and the Board authorized to begin to function no later than 90 days after enactment of the bill and well in advance of the date—six months from the date of the bill's enactment when the Corporation is fully empowered as a successor to the OEO Legal Services Program.

The above statement clearly manifests the intent of the Congress to achieve transition as quickly as possible—without sacrificing the input of any segment represented on the Board. Clearly, both Houses considered—by virtue of the bills they adopted—the importance of having all constituent concerns represented on the Board. It is then evident that this concern, taken in conjunction with the statement of the conferees, implies a Congressional intent not to allow the Board to begin to operate until at least such segment (e.g. clients/lawyers) of the Board has at least one person qualify.

Therefore, the Task Force recommends that at least fourteen Board members qualify before the initial Board of Directors is allowed to succeed the trustees. The Act is silent in this regard. In that case, the D.C. Non-profit Corporation Act is operative. Therefore, the articles can establish the number of persons needed to qualify before operations can commence.

Funds for the transition must be provided by OEO to the Corporation from its general appropriations. There will be a necessity for the trustees to expend funds in order to carry out its duties, e.g. employing staff. It is recommended that the trustees be accountable, as fiduciaries, to the Corporation for these funds.

V. ADVISORY COUNCILS

Under the legislation the former project attorneys and persons eligible for service who occupy four positions on the Board of Directors are selected in a four step process. Step one involves the establishment of procedures by the trustees for the selection of separate Project Attorney and Client Advisory Councils. Step two concerns these Councils' selecting persons to be placed on a list to be provided the President. Step three, the President submits two clients and two former project attorneys from the lists provided to the Senate. Step four, the Senate exercises its advice and consent responsibilities.

The trustees have the responsibility of consulting with and receiving the recommendations of client and project attorney organizations and groups in order to establish the procedures for the selection of the two initial Advisory Councils. The procedures must insure, at a minimum, that (a) not more than one person is selected from any one state or territory, (b) all areas of the country are represented, (c) in the case of clients, that all significant segments of the client population be represented, (d) the terms of office and qualifications for participation be established, (e) the lawyers on the Project Attorneys' Advisory Council be actively employed by a program funded by the OEO Legal Services Program, and (f) the clients be persons eligible for assistance under Title IX criteria.

The Clients' Advisory Council's responsibilities include:

(1) Providing lists of names of potential members of the Board to the President from which he submits two names to the Senate for their advice and consent;

(2) Advising the Board of Directors and the Executive Director, on a continuing basis, on policy matters relating to the general needs of the client community;

(3) Acting as liaison between the client community and legal services programs, including informational programs in languages other than English.

The Project Attorneys' Advisory Council advises the Board of Directors and Executive Director on general policy matters and submits lists to the President of individuals to be considered for appointment to the Board in the positions reserved for former project attorneys.

It should be emphasized that the rules, regulations and procedures established by the trustees for the selection and activities of the Advisory Councils can be superseded at any time after the initial Board has legally begun to operate. Section 905 gives the Board full authority to establish such rules.

The Task Force and the Subcommittee found the problem of establishing an initial Clients Advisory Council to be complicated. The client community served by legal services programs is large in numbers, diverse in ethnic and geographic makeup, and is not represented totally by any group or even a collection of identifiable groups. It is even difficult to establish the criteria in order to determine which groups should be consulted, in the first instance, with regard to soliciting recommendations for the establishment of procedures for selecting the Council. The second step, the actual selection procedures, is even more difficult. The problem involves not only what groups or individuals should participate, in either step, but exactly what forum for participation should be utilized.

The Task Force recommends that the two steps, i.e., the consultation process and the selection progress, be clearly delineated. It is important, for the sake of the trustees' credibility in light of their relative lack of accountability, that they consult with truly representative groups and conscientiously follow their recommendations if at all possible. It is critical that the groups consulted be selected for consultation, utilizing firm, well thought out and publicized criteria.

The Task Force recommends, at a minimum, that the following standards be implemented as requirements for a group in order that it consult with the trustees in the development of criteria for the selection of the Clients Advisory Council:

(a) At least three-quarters of the leadership (Board, Steering Committee, etc.) must be democratically selected.

(b) A majority of the organization's members must be eligible for assistance under present OLS guidelines.

(c) The organization must be non-profit in character.

(d) It must have a "commonality" of interest with the Legal Services Program and its goals.

(e) If a particular organization is represented by a national body, it is required to participate through the national body.

(f) Certain unique groups might be included even though they are not organized, or operate, on a national basis if they are not represented by another organization, e.g., a migrant farmworker organization in Florida or an Appalachian Poor People's Group.

The Subcommittee and the Task Force considered various procedural methods of selection—keeping in mind the requirements of (a) no more than one person from any one state or territory, (b) all areas of the country and significant segments of the client population be represented. Various regional or statewide election procedures were considered but thought to be too expensive, unwieldy, unable to be carried out within the time allotted, and would not insure that *all* significant segments of the client population are included.

A second alternative would be to have elections, only allowing client representatives on current legal services boards to exercise a franchise. Although this procedure would be relatively inexpensive and singularly democratic, it would not insure the kind of broad participation necessary to broaden the base of support for the Corporation, enhance its accountability or develop credibility. Also, there would be no way to insure that all significant segments of the client population finally serve on the Advisory Council.

A third option would be to finance regional and/or national convention(s) including various client groups under pre-established criteria. These conventions would select, through a nomination and selection process, those persons to serve on the initial Clients Advisory Council.

The fourth option involves the establishment of a conference limited to organizations as described under the criteria for consultation who would, in turn, select the initial advisory council. This has the advantage of less expense, gives some assurance of a representative council, and would allow the participants to balance the desire for a democratic selection process with the dictates of the legislation with regard to geographic and demographic representation. There is a further advantage in that it assures an ability to convene the group and select a Council within the 60 days allowed under the legislation.

The Task Force takes no position with regard to recommending any particular selection process. Our major concern is that the client groups consulted have the major voice in determining the final procedure for selection.

However, we would reiterate the necessity for the final procedures to be adopted with a view towards:

(1) the requirement of the legislation including geographic and demographic balance;

(2) cost;

(3) principles of democratic processes;

(4) timing (60 days requirement).

With regard to the Project Attorneys Advisory Council, there are at least three and perhaps several more official groups of legal services attorneys that can be identified. In accordance with the language of section 905 (b), they are required to be consulted and to make recommendations to the Board. A brief rescription of these organizations follows:

1. Project Advisory Group (PAG)—PAG is the oldest organized group presently in existence. It was created as a committee of project directors from around the country to represent the interests of legal services lawyers and to advise the National Office of Legal Services in regard to the issuance of new policy by that office.

In 1969, the PAG was reconstituted and gained its total independence from the National Office of Legal Services. It now consists of thirty-three project directors and staff attorneys representing each OEO Region and has representation from several back-up centers. Twenty-four members are project directors and nine are staff attorneys. The PAG is self-perpetuating in the sense that its members select, on their own, new candidates as vacancies occur. It calls its own meetings and sets its own agenda. The group meets together on the average of four times a year. It has no outside source of funds and no membership dues.

2. Poverty Lawyers for Effective Advocacy—(PLEA) was formed in August of 1969 at Vail, Colorado during a six week Colloquim Conference attended by 100 legal services lawyers. The organization formed around a series of incidents, political in nature, that were jeopardizing existing programs. Its goals were similar to the PAG but its purposes were aimed more at the staff attorney than the project director.

At the present time, there are five officers and ten members of the Board of Directors, Among the officers and directors, about ⅔ are from either the West or East Coast. Election of officers and board members is conducted each year. At the most recent election, there was only one candidate for each seat on the Board. Dues are assessed at either $5 or $10 depending upon experience and PLEA has approximately 600 members.

3. Reginald Heber Smith Fellows—The Reggie program commenced in 1967 and may well be the most important investment ever made by OEO to Legal Services. The current policy is to offer first year contracts to between 200–250 lawyers who will then be assigned to individual legal services programs. Those completing their first year are then offered a second year in almost all cases. It is only the rare exception when a Reggie is refunded for a third year. However, several hundred Reggie alumni have been given regular staff and administrative positions in legal services programs following the two year period.

4. Organization of Legal Services Back Up Centers (OLSBUC). The various national and statewide back up centers met in late 1970 and formed OLSBUC. The purposes of the organization is to provide a vehicle for discussion among the centers and with the Legal Services Division regarding OEO policies affecting their administration and operations. Also, to facilitate input from the centers on other policy matters affecting Legal Services where they have special competence—OLSBUC was formed. At least one staff member from each center participates with OLSBUC. There are currently eleven such centers in existence.

5. Regional and State Legal Services Lawyers Organizations—In the past two years, a number of regional and state legal services organizations have been developed. Some of these consist only of project directors in a region or state, others offer membership to every legal services lawyer in the Region or state. Some are highly organized, others are loosely organized. It might be well to secure information on each of these organizations from the Legal Services Regional Directors.

For example, in the New England region, there is only one organization for the entire region. There is a separate organization for offices in Massachusetts and a similar one in Connecticut consisting mainly of project directors.

6. Other Organizations Within Legal Services—There are several other groups presently in existence within legal services. One is the Black and Brown Lawyers Caucus which is chaired by Paul Miller of Kansas City. Another is the Black and Brown Reggie Caucus which is chaired by Willie Cook of Washington, D.C. Both organizations are principally concerned with the issues within legal services that affect minority lawyers and clients.

The Civil Legal Aid Committee of NLADA is chaired by C. Lyonel Jones of Cleveland and consists of nine practicing legal aid and legal services lawyers. Three are elected each year by member organizations of NLADA. They have a very wide purpose and scope which encompasses all of the issues affecting civil legal aid lawyers and their clients.

These are some of the associations of legal services lawyers who should be consulted for recommendations. An effort should be made to determine whether there are other similar organizations.

Nationally a large percentage of clients of legal services lawyers are from minorities, it is important to assure that they are adequately represented by minority lawyers on the Council. Consideration should be given to black lawyers, Puerto Rican lawyers, Mexican-American lawyers and Indian lawyers. Consequently, whatever ultimate scheme is developed for selection, these interests should be taken into account.

The organizations discussed largely consist of members who practice law in the larger urban projects. Consequently, the policies promulgated by these organizations frequently represent the views of large city projects. As of 1970, there were almost 50 legal services projects with budget of $50,000 or less and over 100 with budgets of $150,000 or less. Their representation and views were seldom heard and it may well be necessary to take this problem into account in the formation of the Council. By contrast, only thirty-four projects had budget exceeding $500,000 and yet these are the programs that are usually represented in these organizations.

Apart from the large city, intermediate-sized city and small town projects, there are other distinct types of legal services projects that must be considered. Among these are rural and Indian programs. The problems and concerns of these types of programs are, in the main, different than the classic neighborhood legal services program and deserve careful attention in the selection of a Council.

Section 905(1)(b) states, ". . . Such procedures must ensure that all areas of the country are represented, and in no event may more than one representative on such Council be from any one state." Without prior legislative history, the trustees, faced with this language, are going to be faced with the problem of interpreting the words "all areas of the country." Perhaps this could be interpreted to mean each of the ten OEO Regions. If so, that would only leave one seat at large. Or perhaps it might mean North-East-South-West. This would provide at least three seats for each geographical area, if anyone is able to draw geographical lines.

As we know some of the ten regions have many more programs and several million dollars more in grants than others. Does this require no representation in certain OEO regions? Must there be equal representation?

In our judgment, then, the situation revolves around the following questions. The first is how the priorities are established in the design of a Council. This has to do with racial mix, geographical mix and the type of program mix (large city, small town, etc.). We think this question must be decided initially. The second question is once the mix has been decided, what is the election procedure to arrive at the specific individuals, by name, who make up the Council? Should there be an election? If so, should it be a national election or a regional election? Could it be conducted by some of the organized groups?

Dealing with the initial question, the trustees might consider the following alternatives:

(a) Racial Mix:

3—black lawyers.

2—brown lawyers.

1—Indian lawyer or representative of an Indian program.

5—other lawyers (1 to be a Reginald Heber Smith Fellow and 1 to be a member of the staff of a back up center).

(b) Program Mix:

3—lawyers representing lsps in cities exceeding a population of 500,000 or with federal budgets exceeding $500,000.

3—lawyers representing lsps in cities with a population of between 125,000 and 500,000 or funded at a level between $100,000 and $500,000.

2—lawyers representing lsps in cities or towns with a population less than 125,000 or funded at a level less than $100,000.

1—lawyer representing a program where over 75% of the eligible clients are American Indians.

1—lawyer representing a program where over 75% of the eligible clients are migrant workers.

1—lawyer engaged full time on the staff of a back up center either national or statewide.

(c) Geographical Mix—In order to provide maximum flexibility, one might go back to the former seven regional office set-up with OEO. Those offices were located in Washington, D.C., New York City, Atlanta, Chicago, Dallas, Kansas City, and San Francisco. The trustees might propose a breakdown as follows:

1—Washington, D.C.—Black and from a program in a city exceeding 500,000 population.

2—New York City—One brown Reggie from a program in a city exceeding 500,000 population and one lawyer from a city with a population between 125,000 and 500,000.

2—Atlanta—One other lawyer from a program in a city with a population less than 125,000 and one black lawyer from a city with a population between 125,000 and 500,000.

2—Chicago—One black Reggie representing a program in a city with a population of between 125.000 and 500,000 and one other lawyer in a city with a population less than 125,000.

1—Dallas—One Indian lawyer or representative of an Indian program.

1—Kansas City—One lawyer representing a city with a population in excess of 500,000.

2—San Francisco—One brown lawyer representing a migrant program and one other lawyer representing a back up center.

There are obviously an infinite variety of ways to modify this procedure.

Perhaps another scheme would be to work on the same racial, and program mix but use the present 10 OEO Regions and build the first two factors so that each region has one seat determined in racial and program mix. The ten members could then select at large the back up center member with only the requirement that he not be from the same state as any other Board member.

On the second question of nomination and selection, it could be done in several ways. First, under the ten region plan, nominations and voting could be done exclusively by practicing legal services lawyers in that region. The elections ciuld be conducted by the Regional Offices or an independent group such as NLADA or the various associations of attorneys groups.

The nominations could be offered by the various associations of attorneys groups and the voting exclusively by the practicing attorneys in that region.

Or, after the nominations in any fashion, there could be a nationwide vote of all legal services lawyers or just those who work for programs in the appropriate program mix.

The Committee adopted the Subcommittee recommendation that the racial composition of the Steering Committee reflect as closely as possible the ethnic composition of Legal Services clients, that a proper program mix be ensured, e.g., urban, rural (Indian and migrant), semi-rural, and back up centers. That a geographical balance be maintained, ensuring each area of the country be represented, e.g. utilize "old" seven region concept in which the four largest regions, in terms of program numbers, have two representatives each and the remaining three have one representative each for a total of eleven.

VI. APPROPRIATIONS

The Legal Services Program is facing a crisis of great magnitude with regard to its budgetary situation. Appropriations and allocations for the Program have not increased in two years. There is little prospect that—without the Corporation—this situation will improve in Fiscal Year 1973. By contrast, personnel and non-personnel costs are rising—as they have increased since the inception of the Program. More experienced lawyers are not able to obtain salary increases. There is an increasing demand to expand present programs and a need to implement new initiatives. Research and demonstration efforts—once a valuable testing ground in order to test concepts and delivery systems—have been seriously curtailed. Support services such as training, evaluation, the Reginald Herber Smith Program, CLEO, technical assistance, publications and back up centers, are being put back. Thus, by not increasing the funds available to the Program, in actuality, Legal Services is shrinking both quantitatively and qualitatively.

Because the trusteeship will span a period of at least 90 days, a vacuum will be created. The Office of Legal Services will be phasing out. Thus, they may not be as aggressive as necessary in asserting the position of the Program with regard to appropriations. Other entities in OEO will have concerns apart from Legal Services. Private organizations will be unable to fully advocate the budgetary cause due to a lack of information and manpower. The Task Force strongly recommends that the trustees utilize their position and authority to represent the needs and interests of the Legal Services Program both within the Administration and before the Congress.

See Attachment E for the Office of Legal Services Fiscal Year 1973 Budget Estimates.

The Task Force recommends that the first priority in this area involve an upgrading of legal services operating personnel salaries. We are in danger of losing experience and expertise because of the failure to increase the salaries of our most accomplished personnel. Statistics must be developed to compare legal services lawyers' salaries with their counterparts in government and private practice at various intervals subsequent to law school. Upward salary adjustments due to inflation must be taken into account. Starting salaries should be studied with a view towards our competitive position in recruiting.

The need for the expansion of present programs should be studied. Legal Services has created a demand for representation which is going unfulfilled. Similarly, caseloads are at an all-time high and the quality of work is beginning to reflect this pressure.

There are other crucial areas which must be funded at an increasing rate, not cutback, or new programs to be implemented:

a. New Programs in cities without OEO Legal Assistance efforts for the poor,

b. Indian Legal Services Programs,

c. Specialized programs for the elderly, juveniles, and rural poor,

d. An expansion of the Reginald Heber Smith Program,

e. Continued support of CLEO until other resources become available,

f. A dramatic effort must be implemented in the area of legal para-professionals,

g. The Training Program must be maintained,

h. Evaluation and technical assistance should be expanded,

i. The Clearinghouse Review and Poverty Law Reporter should be expanded to be able to address legislative concerns and new areas of involvement,

j. New state and regional back-up centers should be established,

k. Clinical education courses related to the needs of the poor need to be supported,

l. New research and demonstration efforts need to be implemented.

The trustees should utilize a portion of its staff to address these and other needs, establish priorities, and fill the advocacy vacuum in the area of appropriations.

VII. SUMMARY OF RECOMMENDATIONS

A. General Recommendations:

1. The trustees act as quickly as possible to insure that the Advisory Councils are selected and act to provide their respective lists of nominees for Board membership to the President within the time allowed. In addition, the trustees must act as liaison between the groups providing lists of names to the President and the White House in order to stay within the statutory limitations of time provided for the nomination and appointment of the initial Board of Directors.

2. The trustees must establish working procedures consistent with its statutory role as soon as possible after enactment of the NLSCA including:

(a) Method of operation;

(b) Hiring staff;

(c) Where and the frequency of its meetings;

(d) Establish the authority it will retain unto itself and the authority it will delegate to the staff;

3. The trusteeship must immediately establish an effective working relationship with all elements of the Office of Economy Opportunity.

B. Recommendations Concerning Staff for the Trustees:

1. The staff should be obtained from staff outside of persons currently employed by OEO as a general rule.

2. Staff must be hired as soon as possible.

3. Sixteen persons should be hired on a full-time basis—eight professionals and eight non-professionals. Their specific responsibilities would be organized around:

(a) Establishment of the Advisory Councils;

(b) Appropriations;

(c) Planning and Management Systems;

(d) Personnel;

(e) Policy Issues.

4. Maximum budget recommended for the trusteeship is from $130,000–$150,000.

C. Recommendations concerning Incorporation:

1. The Charter incorporates the Act by reference.

2. The tax status of the Corporation be fully analyzed with regard to its tax exempt status and the status of the grantees.

3. Skeleton by-laws be adopted by the trustees allowing the initial Board complete flexibility in this regard.

4. The trustees act to qualify the Corporation to do business in those states where the acquisition of such a status will be required.

5. The Charter and by-laws insure that the initial Board cannot act until and unless each segment of the Board (Public, Bar, lawyers/clients) has at least one-half of their representatives qualify or at a minimum, fourteen of the seventeen Board members have have qualified.

6. The trustees be accountable as fiduciaries, to the Corporation, for the acceptance, distribution, and maintenance of funds provided by OEO for the transition period.

D. Advisory Councils:

1. The trusteeship should clearly differentiate with regard to the consultation process and the establishment of porcedures concerning the Clients and Project Attorneys Advisory Councils.

2. Selection of groups to be consulted prior to establishing procedures for the make up of the initial Clients Advisory Council:

(a) At least three quarters of the leadership of the group must be democratically elected,

(b) A majority of the organization's members must be eligible for assistance under present OES guidelines,

(c) The organization must be non-profit in character,

(d) The organization must have a "commonality" of interest with the Legal Services Program,

(e) If a particular organization (whose activities cover only a local, state or regional jurisdiction) is represented by a national body, it is required to participate through the national body,

(f) Certain unique groups might be included even though they are not organized, or operate, on a national basis if they are not represented by another organization e.g. a migrant farmworkers organization in Florida or an Appalachian poor people's group.

3. Any procedures adopted for the creation of either of the Advisory Councils should take into account:

(a) The requirements of the legislation especially concerning geographic and demographic balance,

(b) Cost,

(c) Principles of democratic processes,

(d) Time needed to implement.

4. The trustees should consult, at least, with the following groups representing the interests of project attorneys:

(a) Project Advisory Group,

(b) Poverty Lawyers for Effective Advocacy,

(c) Reginald Heber Smith Community Lawyer Fellowship Program,

(d) Organization of Legal Services Back Up Centers,

(e) Civil Legal Aid Committee of NLADA,

(f) Regional and State Legal Services Organizations.

5. The views of lawyers from minority groups and the smaller legal services projects should be reflected in the final procedures, along with others, adopted.

6. The final composition of the Project Attorneys Advisory Council should reflect, as closely as possible, the ethnic composition of legal services clients as well as represent the views of both large and small projects.

E. Recommendations concerning Appropriations:

1. The trustees should play an active role in advocating the need of the Program in all available forums.

Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, I am deeply concerned about a section of this bill that probably has received very little notice from any of the Members at this time, and yet I think it is a very important section of this bill. It is section 226 on page 49, going over to page 50. This section of the bill deals with the national summer youth sports program.

This program has been going on for 3 years, and has been highly successful. It works with young people who come from disadvantaged families economically, 90 percent of the entire group who are serviced by this program are under the poverty level.

Last year there were 135,000 children in this country who were covered, and took an active part in this program.

So some of you may understand what this is about, the National Collegiate Athletic Association has sponsored this program, and has made the athletic facilities of 111 colleges open to the young people all over this country who were participating. This program has a budget of approximately $3 million.

This year in the bill—and I am reading from line 19 on page 50—it says:

> The Secretary of Health, Education, and Welfare shall take such steps as are necessary to assure that at least 50 per centum of the youths and instructors participating in programs funded in whole or in part pursuant to the authority of this section are females.

Obviously there is nothing, then, in this program to eliminate females, nor has there been any such effort, in fact, there has been an encouragement, to get as many young women involved in this program as possible. But to state in this bill that unless 50 percent of the coaches and 50 percent of the participants are female or else there will be no program I think is doing a great injustice to the young women involved in the program, as well as the young men. I do not think it was the intent of the committee to do this.

Tomorrow I am going to offer an amendment. The amendment is simply going to say not more than 50 percent of the youth and instructors can be female.

Now, I think this is important because certainly we want to encourage the program to have as many women active in it as is possible. While I am not totally sure, I think the way the bill reads right now, where it says at least 50 percent must be female, means that technically 100 percent could be females and there might be no males at all in the program.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I will be happy to yield to the gentleman from Minnesota.

Mr. QUIE. The problem in your argument is that when you say no more than 50 percent can be female, then 100 percent could be male.

Mr. PEYSER. I appreciate the gentleman's statement, but my original thought was to strike the entire section and not make any reference to it at all, but then I thought that it would probably be better to give the feeling that the Congress is interested in having women participate in the program, and I thought that by saying that not more than 50 percent would be female, it would give the feeling that we are interested, and concerned in having women participate.

Mr. QUIE. I would believe the best thing to do would be to strike the reference entirely, and that is what I intend to do in my substitute.

Mr. PEYSER. I am delighted to hear that, about striking the section. I have no great pride of authorship in this, but I would like to be sure that, one way or another, as far as the national summer youth sports program is concerned, which I think is a tremendously worthwhile and important program, and one that takes comparatively little money in this budget, but means so much to so many young children, it will not have anything that is as restrictive as this in it, and possibly by this restriction in effect eliminate the entire program for these young people.

The CHAIRMAN pro tempore (Mr. ROSTENKOWSKI). The time of the gentleman from New York has expired.

Mr. QUIE. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I thank the gentleman for the additional time.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman.

Mr. QUIE. I appreciate the gentleman yielding.

That program has been operating now for 3 years; has it not?

Mr. PEYSER. That is right.

Mr. QUIE. There is no specific authorization for it.

Mr. PEYSER. That is right.

Mr. QUIE. If we provide for a 2-year extension of the present act, they could still continue the program without any specific authorization; is that correct?

Mr. PEYSER. That would be correct.

Mr. QUIE. So I share the views of the gentleman. This has been a worthwhile program, and I would like to see it in those 2 years extended, as I indicated to the gentleman before and I do think we have the best way possible of making it continue as a good program without getting into any difficulty by accepting a substitute which I hope to offer which would provide for an extension for the fiscal year 1972 and 1973 of the present economic opportunity act.

Mr. PERKINS. Mr. Chairman, will the distinguished gentleman yield?

Mr. PEYSER. I yield to the gentleman.

Mr. PERKINS. It would be my hope that the gentleman from New York would support the present bill which the distinguished gentleman did in committee, notwithstanding the clever statement made by the gentleman from Minnesota.

Naturally there is no opposition on this side of the aisle to the gentleman's proposal, which was adopted in committee. You certainly have a right to offer the amendment tomorrow. I am certainly delighted, and I want to compliment the gentleman from New York for supporting this amendment in committee. We have a good bill here and I think it behooves the membership of the committee that supported the legislation to defend it on the floor. I want to thank the gentleman for his contribution.

Mr. PEYSER. I thank the gentleman very much and I appreciate the gentleman's statement.

I am delighted that the chairman and the minority leader on the committee are of one opinion so far as this particular section of the bill is concerned. I hope that this will happen tomorrow.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. QUIE. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. PEYSER. I yield to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. I think that we should bring it to the attention of the committee that the language to which you referred, that at least 50 percent shall be of the female sex, was offered by a Member from the other side of the aisle in our committee, so I would not expect that everybody on that side would be agreeable to remove that provision. But that is why I raised the objection really and the question that I did earlier in this colloquy, the question of permitting 100 percent to be men. I think it is best to be quiet on it and go ahead and extend the act without a specific authorization.

Mr. PEYSER. I thank the gentleman.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. REID).

Mr. REID. Mr. Chairman, I appreciate the distinguished ranking member, the gentleman from Minnesota, yielding who is not alone articulate and able but also very handsome, which my colleague, the gentleman from Wisconsin, failed to point out before.

I rise in support of H.R. 12350, which would extend for 2 years the Economic Opportunity Act.

Since this act became law in 1964, millions of Americans living in poverty have been reached and helped. Continuation of this act will insure the continued operation of many programs which have proven their effectiveness in supplying vitally needed services and support for the poor. It has, from the beginning, been the intention of this act to "eliminate the paradox of poverty in the midst of plenty in this Nation by opening to everyone the opportunity for education, training, the opportunity to work, and the opportunity to live in decency and dignity." The Office of Economic Opportunity has been an active advocate for the poor in implementing these intentions. To fail to extend this act would seriously undermine these efforts, by turning our backs on the poor.

Members of the Committee, I believe this bill represents a step forward. It directs priority be given to veterans and employers of veterans under a direct rehabilitation program while promoting employment opportunities for rehabilitating addicts, and it creates a new environmental action program and new rural housing development and rehabilitation program to assist in the alleviation of housing problems of low income families in rural areas.

The bill adds a youth recreation and sports program in title II to provide disadvantaged youths a recreation and physical fitness instruction act.

In addition, the bill also requires of the Director of the OEO that non-Federal contributions not exceed 20 percent of the cost. I think this will help in some communities where meeting the matching requirements is difficult.

Finally, the bill provides for a 5-year national poverty action plan to be filed by December 31 of each year.

With regard to one of the most important elements of the OEO program, this bill presents for the consideration of the House an increase in authorization of $124 million for Headstart above the amount appropriated in fiscal year 1972. This bill represents a total of $2,058,000,000 compared to an authorization last year of $1,980,000,000. It expands the authority to provide Headstart services for those just above the poverty level on a graduated fee basis. Headstart has been one of the most successful programs for our Nation's children, giving those who need special help, a headstart. Currently, however, only 20 percent of those eligible are currently being served. An increase in funding will enable this program to significantly increase the number of children served and will in addition, enable improvements in the program to be made.

Let me say in addition, that this is not, as some have claimed a substitute for child development legislation. Rather it is an attempt to expand the services of a proven, successful program.

If, in the future, we pass separate child care legislation, there will not be a duplication, for it would include Headstart at this priority of funding.

Next, I would like to direct the attention of the Members to the question of the Independent Legal Services Corporation. I think it is quite clear in the legislation that the incorporating trustees, who include the Attorney General of the United States, the Director of OEO, the Associate Director of Legal Services of the Office of Economic Opportunity, the chairman of the Executive Committee of the National Advisory Committee to Legal Services, the president of the American Bar Association, the president of the National Legal Aid and Defender Association, the president of the Association of American Law Schools, the president of the American Trial Lawyers Association, and the president of the National Bar Association, will in due course, as provided by the statute, name 11 members for the clients advisory council and 11 members for the project attorneys advisory council.

Subsequent to that, as provided in section 1004, the corporation is directed to name 17 individuals to be appointed by the President, with the consent of the Senate; six members to be appointed from among individuals in the general public, not less than three of whom shall be members of the bar of the highest court of the State, two members from lists of nominees submitted to the President by the Judicial Conference of the United States, two from the Clients Advisory Council, two from the Project Attorneys Advisory Council, and five members to come from lists submitted by the American Bar Association, the Association of American Law Schools, the National Bar Association, the National Legal Aid and Defender Association, and one member from the American Trial Lawyers Association. I believe that this is an equitable and independent approach.

The President, however, believes that the best way to achieve accountability is "to provide a free hand in the appointive process to the one official accountable to, and answerable to, the whole American people—the President of the United States."

Those of us who support the appointive procedure in this bill, including, I understand, Mr. Fred Speaker, the present director of the legal services program, do so, I think on a very simple ground, namely, that the Legal Services Corporation should be independent, and totally independent, both of the Congress and of the Executive, and that is why we have sought to develop a system which would provide lists naming the ablest people in the country with competence in this area, giving complete flexibility to the President to ask for as many lists as possible, but not compromising on the principle that this board should be independent of the White House quite as much as it should be independent of the Congress.

This measure will give the legal services program the independence from political pressures which it so badly needs. The many thousands of disadvantaged Americans from whom this program has provided their first real access to justice will take faith that they have not been abandoned in the face of political controversy.

The legal services program has been one of the most successful and beneficial Federal programs developed in recent years. It has been described as "an active advocate for the poor," and it has given hope to countless persons, who might otherwise remain alienated, that the American system can work for them.

Because this program has been so meaningful and successful, it was vital that we in Congress find a way to save it in the face of controversy. I believe the bill before us is an admirable resolution of that difficult problem. Legal services will now have independence, but it will also have accountability.

I am confident that the legal services program will flourish under the National Legal Serices Corporation, and I therefore enthusiastically urge my colleagues to support this measure.

Finally, Mr. Chairman, let me talk briefly about the child development title, which is not in this bill at this time. I personally thought that when child development day care was moving through the House in previous periods last year, that it should be a separate bill, that it should come to the floor with a separate report, and be considered separately.

In any event, all Members are conversant with what happened and with the Presidential veto.

The situation today is that Senator MONDALE and Senator NELSON have offered a bill in the other body, and it is my understanding that they plan to attach it as an amendment to the OEO bill in the Senate. So that should the bill before you pass this House and then go to conference, we might well be in a situation with a child development title being added in the other body.

I personally hope that we will consider on a priority basis a child development and day care center title, which would be a separate bill. Congressman BRADEMAS and I are considering once again introducing a separate bill, and it would be my hope that if we are to proceed on this, and if the Membership thinks this makes sense, that we will be able to act on that separately in the House prior to the time that we would be faced with acting on a conference report which could include a child development title presented in the Senate, but not considered in the House.

I personally feel that there is nothing more important than passing a major national day care center and child development bill.

Incidentally I might note that on February 14, the AFL-CIO Executive Council adopted a statement on day care, calling . . . "upon the Congress to reenact a day care program during the present session." I think such a bill would be the most important extension of our national educational commitment that could be made, and it requires a broad socioeconomic mix, including middle-income families that frequently are left out of things these days.

But equally a broad socioeconomic mix is necessary intellectually for the development of the children. So I hope Members will once again consider this title.

Mr. Chairman, I see the chairman of the Select Subcommittee on Education on the floor, so I yield to the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Chairman, I appreciate the observations of my distinguished colleague, the gentleman from New York. I commend the gentleman on his continuing concern about the child development program.

Mr. Chairman, I shall not at this point in the discussion take time to speak about the importance of the comprehensive child development bill. Earlier, on December 14, 1971, in remarks in the House of Representatives, in the CONGRESSIONAL RECORD of that day beginning at page 46824, I reviewed at some length my reasons for support of this important legislation and set forth my criticism of President Nixon's veto of the Comprehensive Child Development Act.

Let me therefore, Mr. Chairman, take this opportunity to reiterate simply that I continue to believe that the time has come for the United States to make the commitment for which President Nixon called in 1969, namely: "A national commitment to providing all American children an opportunity for healthful and stimulating development during the first 5 years of life."

In this connection, Mr. Chairman, I was most pleased to read the splendid statement by day care centers issued by the AFL-CIO Executive Council on February 14, 1972.

This AFL-CIO statement is one of the clearest and best statements I have yet seen on the importance of providing a program of comprehensive child development for all American children, and I ask unanimous consent to insert this statement at this point in the RECORD:

STATEMENT BY THE AFL-CIO EXECUTIVE COUNCIL ON DAY CARE CENTERS

President Nixon's veto of legislation providing a dramatic new national program of comprehensive child development is indefensible. In refusing to sign this badly needed social measure, the President played cruel politics with the welfare of pre-school children and their working parents.

Today, some 3.7 million working mothers have children under the age of five. Yet there are places for only 700,000 children in day care facilities—and many of these are inadequate. Despite this demonstrated need for decent day care, the President chose to ignore this need and issued a veto message filled with right-wing rhetoric pleasing only to ultra-conservatives.

Earlier, the President had recognized the pressing need for the very program he has now rejected. On February 19, 1969, he declared:

"So critical is the matter of early growth that we must make a national commitment to providing all American children an opportunity for healthful and stimulating development during the first five years of life."

In addition, the 1970 White House Conference on Children set as its first national priority the creation of a comprehensive child development program. Establishment of such a program also was a top priority of the President's Joint Commission on the Mental Health of Children.

Responding to these requests, Congress acted. After lengthy hearings and well-documented testimony, the Congress passed legislation that would have benefited millions of Americans.

As enacted, this program would have provided a wide-range of educational, health and nutritional services for the young children of both welfare recipients and working parents. The day care centers would have been controlled by local communities with provision for parental involvement. Participation would have been voluntary with fees based on ability to pay.

Such a national program held great promise for the young children of union families. If signed by the President, it would have provided children with real benefits at low cost instead of the present system of hired baby-sitters that now must be utilized by millions of working families.

Unfortunately, while President Nixon is willing to provide mandatory and inadequate, custodial day care for the children of welfare recipients so that their mothers can be freed for training and jobs. he is unwilling to provide comprehensive day care for either the children of welfare recipients or the children of workers.

The AFL-CIO vigorously opposes any class system of day care. Certainly, there can never be equality of education if there is federally financed inequality at the pre-school level.

What is needed—and needed now—is the beginning of a comprehensive day care program available to all children with fees based on the family's ability to pay.

The AFL-CIO condemns the Presidential veto.

We call upon the Congress to reenact a similar day care program during the present session. We urge the President to reconsider his position and place the needs of young children above political strategy.

Mr. QUIE. Mr. Chairman, I have no further requests for time.

Mr. PERKINS. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Chairman, a year and 2 months ago when I came to Congress, I probably held the same views that many Members of the House hold today with respect to the Office of Economic Opportunity and all the many programs that have been born under its aegis and have been operated throughout the country. I had restrained views about OEO. I had certain misgivings about what was the adequate way and the best way to spend the money.

But I have now had the opportunity to sit through the 40 days of hearings to which our distinguished chairman alluded some moments ago coupled with the 2 days of hearings we have had in calendar year 1972. During these several meetings, Mr. Chairman, we have heard from mayors, we have heard from county judges, we have heard from city councilmen, we have heard from directors of projects, and we have heard from recipients of the aid. We have heard from people, in short, Mr. Chairman, who represent all walks of life, bar none.

Not everybody who testified was pleased with what he saw at the local level, but, almost without exception, every single person had some ray of hope about the whole operation of the OEO programs. Almost everyone brought some idea to the committee which could be refined and distilled and spread across the country so that a better and more efficient job could be done with the limited store of money.

I had my opinion changed, Mr. Chairman, probably more because of sitting through these hearings with the chairman and the other members of our committee than because of any other single thing that has occurred in these 14 months. I have to say that we show in this Chamber, in today's debate, and we will show tomorrow when a vote is taken, a general disenchantment by the Members of the House with this program, a disillusion, if the Members will, with respect to how the money is being spent. But, Mr. Chairman, I have to remind Members that there are disillusioned people abroad in this country, and there are disillusioned people among those whom we serve, and there are disenchanted people in our constituencies who are looking to the Congress for care and with hope in their hearts, and who are looking for some succor in this time of woe for them.

We can launch off into outer space and use a great many beautiful words, but I will try not to lapse into hyperbole while I say that, although there is no doubt disenchantment on the part of some Members with the program, there will be greater disenchantment on the part of the people if OEO is not expanded as proposed in H.R. 12350.

I am deeply afraid, Mr. Chairman, if

we fall victim to the approaches which have been recommended and which will be recommended, which is to truncate this program and cut off its head, we will have even more than before betrayed the purpose of the program and perhaps more significantly, we will have betrayed those people who are looking to us as their avenue of release, as their saviors.

It would seem to me, Mr. Chairman, we are at an important psychological point with respect to the Office of Economic Opportunity.

If we strike, and we strike carefully, we will have captured that psychological momentum which will carry this program on, not ever overlooking past failures, not ever believing this is the optimum program. Simply, we will have captured the day. We will have moved in the right direction.

It seems to me if we were to adopt the program, as described by our chairman some time ago, we then have responded in a mature, careful, thoughtful, and appropriate way to the needs of the community and of this country of ours.

In summary, I should like to urge the Members of the House to support H.R. 12350, never, of course, ignoring objections which have been brought to their attention by their constituents, never ignoring the need to refine this program and to make it much better than it is, never saying this is the perfect program. Certainly we ought not at this point snuff it out, because this is what will happen, in my opinion, if simple extension is ordered by this House and adopted as a matter of law. I believe we will have really just terminated the useful life of OEO; we will have eliminated it as an incubator of ideas, as a foster parent of some of the great and useful social programs of this country.

Mr. Chairman, I would urge the Members of the House, in care and in caution, not to go along with simple extension at this time, but, in fact, to support H.R. 12350 in its present form, in its expanded role, in the stance which it now occupies, which will be the ideal approach for this day and age.

Mr. PERKINS. Mr. Chairman, I yield 5 minutes to the gentlewoman from New York (Mrs. CHISHOLM).

Mrs. CHISHOLM. Mr. Chairman, ladies and gentlemen, I think it is very, very sad once again to stand here this afternoon and really talk about whether or not we really have a "gut" commitment to those people in this Nation who have been so disillusioned and deprived, to those people to whom consistently and persistently we give something with one hand and with the next hand take it away.

I heard someone say earlier this afternoon that there is no need for the overextension or overexpansion of the Headstart program. I believe what many of us in this Chamber need to do is to have the opportunity actually to go out into the community, not sitting up here on the Hill. We need to go out into the communities where these programs have been in existence for some time, and be able to view firsthand the kinds of benefits that are derived from these programs on the part of the people who live in these various communities.

It is perfectly all right for us to sit up here on the Hill and to have the responsibility for coming up with policies and legislation that will dictate to the people of this country the kinds of lives they will be able to continue in this most affluent society we have, but I believe there is another thing to do, which is really to go out to the communities and to see the benefits from the programs that have been incorporated under the Office of Economic Opportunity.

We fully realize that there are grievances within this total program, but I do not believe that we should take a position of having to gradually whittle away the program that has brought some kind of hope to the lives of many, many people in this country.

I dare say in the U.S. House of Representatives if we were to consider whittling away many of the things we do here and many of the things many of us have questions about we would be the first ones to rise up and cry out in rancor against what was happening.

We must have responsibility to take these programs and to see what are the positives in the program, because, after all, when we look at the programs statistically in terms of what the benefits have been we have to recognize they have been uplifting to many, many people.

The Headstart program for the first time in this country has brought under its jurisdiction thousands of children in this country who never had day care treatment in their lives, thousands of children referred to hospitals and clinics.

We have thousands of families who are being put in the position of having the availability of facilities denied them that were brought in as a result of the Office of Economic Opportunity. These are the poor people of America.

I think we should recognize that there are many, many aspects of the program that must be corrected, but we must not come here and try to whittle away a program that has been meaningful for the people of this country who have been powerless and helpless.

It seems that is all we continue to do in the Congress. We do not use other kinds of measures here. With regard to everything that has to do with the preservation of our most important resources, which are our older people and children, we find over and over again a whittling down. I think we have taken quite some time in doing this. Let me say that we desire to be a legal services program that is independent and responsive to the legal needs of the poor and the deprived in this country. I think this is a most important thing.

I only hope when this is all over, after we get through with the amendments to this bill, we will realize it is very important at this hour in the history of America not to play a cruel hoax on our people, giving something with one hand and taking it way from them with the other hand, whether we do it overtly or covertly.

Thank you.

Mrs. MINK. Mr. Chairman, I rise in support of H.R. 12350.

Passage of this bill is vital if we wish to continue to entertain the hope of defeating poverty in this country. Programs under this act such as Comprehensive Health, Family Planning, Drug Rehabilitation, Headstart, Follow Through, Legal Services and the other programs have made great strides in their short existence in cultivating a ray of hope in the millions of poor and disadvantaged in the country.

The recent Census Bureau figures clearly show the need for this program. The poor in this country increased in 1969–70 by about 1.2 million people, a percentage increase of 5.1 percent. The actual number of poor is now close to 26 million. It is clear from these official statistics that we have a great distance to go yet to eliminate poverty. In fact, we have been losing ground each year because of lack of funds.

The war on poverty must remain in the foreground of our national priorities. H.R. 12350, calling for the extension and, in some instances, increased funding for OEO programs is critically needed to reaffirm our deep concern and desire to win this war against poverty. It is a necessary first step to provide equal opportunity for all.

The total recommended program level as called for in H.R. 12350, increases authorization for fiscal year 1972 to $2,304,066,000, and to $3 billion for 1973. Significant portions of these increases must of necessity cover the costs of inflation and increased wages. In the more vital areas there will be room for some program increase. The pathetic increases called for in the administration's budget requests would barely continue programs at their present inadequate level, and perhaps not even accomplish that. The administration speaks so well of its commitment to the disadvantaged of our society, but its actions in this regard belie its pious statements.

Of all the programs that would be extended by this bill, none is more important nor can have more of a long range beneficial impact on the future welfare of our society than the Headstart program. The increases for this vital program to $500 million for 1972 and $1 billion for 1973 are absolutely necessary if we are to meet the critical needs of our youngest citizens.

Of the 1.6 million children already eligible to participate in Headstart programs, only 20 percent are currently benefiting from the programs—only 20 percent. This program is so important in the war on poverty because it seeks to assist those most affected by poverty, those with the best chance of escaping if only given the chance, and most importantly, it seeks to elevate those who would otherwise be most prone to perpetuating that poverty—the children of the current generation of poor.

Headstart is a preschool program endeavoring to provide necessary medical, dental, educational and social services for children of the disadvantaged who would not otherwise receive these services. Its basic premise is that all children should be on an equal basis in beginning their formal education. To allow some children to enter this period of their lives already handicapped is a gross injustice.

If we hope to have these children adapt to the society in which they must live, we must equip them adequately in their efforts to succeed in life and to escape the vicious cycle of poverty. We must not allow them to be shunted aside before the race has even begun, and to expose them to the scorn and ridicule of their peers because they do not meet the vague standards of what they "should" know and how they "should" act.

Increased funding for Headstart is a wise investment in the future of our society. Every dollar spent in extending and improving this program will return an investment of thousands in future outlays that will not have to be made if we display the humble wisdom of realizing that the disadvantaged child of today will be the chronic incapable of tomorrow without this assistance. So, we are not giving these children anything except the right to equality of opportunity. By making available this opportunity to which they are already entitled, we are merely investing in our own future. To do otherwise, to deny this increase in funding this vital program is to place an intolerable mortgage on the future, a mortgage which might well not be redeemable.

H.R. 12350 is not a panacea for the many national ills to which it addresses itself, but it will continue to provide that necessary ray of hope to the aged, the poor, the disadvantaged children, the migrant worker. The bill offers not to cure all of their ills; it offers only to declare that we are aware and concerned and will continue to make the effort to assist them in some small way. We could and should do far more. But to deny even this modest commitment would be tragic. We would in effect be saying that we know of our national ills, but no longer care to make the effort to live up to our ideals of equality of opportunity for all, and compassion for those among us who find themselves less fortunate.

America has long been portrayed as a beacon of hope in a world of darkness, where low economic status did not attach a stigma or a perpetual barrier to future attainment of a decent life. If we are to continue as the land of opportunity we must continue to provide the means by which people can overcome their obstacles of poverty and live a life of decency and dignity.

Mr. Chairman, H.R. 12350 is one means of continuing to focus that beacon of opportunity. I urge its passage, especially including the increased funding for its most vital program, Headstart.

Mr. BADILLO. Mr. Chairman, I strongly urge my colleagues on both sides of the aisle to act without delay on H.R. 12350, the Office of Economic Opportunity Amendments.

Last year both the House and the Senate worked long and hard in preparing S. 2007, the 1971 Office of Economic Opportunity Amendments, only to have their work and intent thwarted by Presidential veto, a veto which was both inexplicable and unpardonable. This year, there is further objection on the part of the administration to a measure which is already weak.

Although the level of authorization for the expanded Headstart program would permit the inclusion of only two out of every 10 eligible children in 1972—and I ask my colleagues to keep in mind here the fact that by law 90 percent of the children participating in the program must come from families below the poverty line—the administration opposes even this paltry expansion of child care programs on the basis that Headstart represents an experimental program and should, therefore, not be expanded. We are urged to wait, instead, for the provisions of H.R. 1, legislation which I and a great many of my colleagues cannot support, and the implementation of which, aside from its merits, the President already decided to postpone once because of budgetary reasons. This despite the fact that the administration continually reiterates its desire and intention to reduce the welfare rolls by requiring mothers of little children to go to work while developing comprehensive child-care services of an unspecified nature for their children.

As far as the Legal Services component of this measure is concerned, S. 2007, the vetoed measure, was drafted by the conferees after lengthy consultations to represent a compromise acceptable to the administration. All of us are familiar, of course, with the President's objections to the measure. H.R. 12350, as reported out by the committee, contains provisions specifically designed to meet the President's objections with respect to the composition of the board, for instance. But the administration, once having tasted success, now opposes these provisions and desires us to consider the establishment of a Legal Services Corporation in the context of a separate piece of legislation. What good, except further delay, could come from such an approach escapes me. We have already gone in much detail into this proposal and have spent innumerable hours listening and evaluating the pros and cons of every aspect of the legislation.

OEO programs already suffer because of their short-term authorization and unpredictable funding. The end of the fiscal year is very close and we are running out of time. A great many of the programs operating in our communities come up for refunding this June and Senate and House conferees will still have to meet on this measure. I believe it is imperative that we pass this measure without delay. Speedy action on our part will demonstrate that at least the legislative branch of our Government is concerned with the welfare of the poor and the continuation and initiation of much needed programs.

Mr. PERKINS. Mr. Chairman, I reserve the balance of my time, 7 minutes, and I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Brasco, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12350) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

SPEAKER AUTHORIZED TO DESIGNATE MEMBER TO READ WASHINGTON'S FAREWELL ADDRESS

Mr. TEAGUE of Texas. Mr. Speaker, I ask unanimous consent that on Monday, February 21, 1972, George Washington's Farewell Address may be read by a Member to be designated by the Speaker.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DESIGNATION OF REPRESENTATIVE ROMANO L. MAZZOLI TO READ GEORGE WASHINGTON'S FAREWELL ADDRESS

The SPEAKER. Pursuant to the special order agreed to today, the Chair designates the gentleman from Kentucky (Mr. Mazzoli) to read George Washington's Farewell Address immediately following the approval of the Journal on Monday, February 21, 1972.

"WE SAY"

(Mr. HALEY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HALEY. Mr. Speaker, my State of Florida has known the distinguished service of many able public servants, but none has been so dedicated to needs of our veterans as the late Melvin T. Dixon, our State veterans' service officer who passed away last month at a very young age.

Mel Dixon's untimely death was a great shock to all who knew him and knew his work. His passing was a personal tragedy to those of us who were his long time friends. He will be deeply missed by all who knew his compassion for and devotion to the veteran and his family. No higher tribute can be paid to any man than the words of those privileged to work through the years with him. I have asked permission at this time to place in the Congressional Record the memorial testimonial his staff gave to him. That eulogy follows:

"WE SAY"

He was a man who lived by a challenge; this challenge gave him work to do, a job that he could call his own, where he could both lose himself and find himself in the daily job of doing it. Where his hands would not be tied nor his talents cramped, where his spirits would not be dwarfed by selfishness and greed and where he could breathe the pure sweet air that was his birth right. It gave him a job where opportunities reached outward and upward to the blue skies above, where his loved ones and he would never know confining boundaries or limited horizons; a job where he could earn a decent, honest living and realize just compensation for hard work. A job where he never felt the crippling chains of anothers favor.

It gave him the work to do among his fellow men where he could feel at the setting sun that he had given a bit of happiness to a troubled world. That he had eased the load of his brothers' shoulders; that in some way he had brought peace and quiet to fearful hearts.

It gave him work to do, a job where he could be glad of life because it gave him the chance to love and to work and to play and to look up at the stars to be satisfied with his possessions; but not content with himself until he had made the best of them; to despise nothing in the world, except falsehood and meanness and to fear nothing except cowardness: To covet nothing that was his neighbors except his kindness of heart and gentleness of manner; to think seldom of his enemies, often of his friends, and every day of his opportunity to serve.

And at last it gave him the courage to take the job and do it well, for only in so doing could he expect to find his own untarnished happiness.

And this, is the challenge by which he lived his life: For this kind of challenge in the daily struggles of life there are no medals, and no decorations, but it has enshrined him in the hearts of a vast host of friends and associates.

As State Service Officer, Melvin T. Dixon's scholarship in veterans affairs, his seriousness of purpose, and his sincere dedication in perpetuating the commitments this State and Nation has made to its veteran population, have brought unparalleled prestige to the veterans program. A gentleman of irreproachable moral and ethical principles and one with a deep compassion for his fellow man, Mel initiated and brought to fruition several innovations within the program designed to improve the economic and social status of veterans, their widows and orphans.

He simply stood up straight and tall, and bravely fought the foe; until one day God took his hand and said: "Come my son, It's time to go."

LARGE LANDLORD PROSTITUTES THE PRESIDENT'S GUIDELINES

(Mr. WRIGHT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WRIGHT. Mr. Speaker, there has come to my attention a thoroughly shocking and outrageous example of how at least one large corporate landlord in the Washington metropolitan area is openly flouting the spirit of the President's phase II rent control guidelines.

This particular landlord is brazenly citing those very guidelines as excuse and justification to gouge his tenants for monthly increases of approximately 9 percent—not only flagrant beyond the 2.5 percent goal set forth in the guidelines, but far above the increases he was even asking before the publication and revision of the guidelines.

The landlord involved is the Charles E. Smith Cos., reputed to control more than 2,000 apartment units in nearby northern Virginia.

I am inserting in the RECORD the documentation of an individual case in which this landlord was seeking from a given tenant, at the time of the phase I freeze and again as recently as last November, a monthly rental increase of $7. Now, through a clever and self-serving interpretation of the rent control guidelines, he is avariciously demanding of that same tenant an increase of $16 monthly—almost $200 more a year, and more than twice what he was seeking in the way of increase before the rent control program came into effect.

Adding insult to injury, he is sending to his tenants a selective computation which he represents as a table of "average" increases being levied against other tenants. The so-called typical increases range from about 5 percent to about 9 percent, wildly above the 2.5 percent rule in every cited case.

Ironically, the President's well-intended effort to control rents is being prostituted by at least this one mammoth landlord as a trumpet call to enrich himself at the expense of his many hundreds of helpless tenants by extracting from each of them an extra pound of flesh which even he was not brash or selfish enough to demand before the guidelines were enunciated.

If incredibly he may somehow be barely within the letter of the regulations, he clearly is far outside the spirit of those regulations, and somebody needs to blow a loud whistle on him.

And if this practice is indeed within the letter of the regulations—and to the extent that it may be general among big landlords—then manifestly those regulations are palpably wrong, counterproductive, and self-defeating.

For this one big landlord is literally thumbing his nose at the President's valiant efforts to hold down the cost of living and is callously using those very efforts to extort literally hundreds of thousands of extra dollars from his unsuspecting tenants and increasing their collective cost of living by this amount.

This situation cries out for immediate and drastic rectification.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 15, 1972.

Mr. DONALD C. RUMSFELD,
Executive Director, Cost of Living Council, New Executive Office Building, Washington, D.C.

DEAR DON: I am sending you a communication dated January 26 from the Charles E. Smith Companies to one of the tenants of one of their apartment buildings. It may just conceivably be that, by some strained and tortured interpretation of the outermost perimeters of your guidelines, what is done here would be barely within the law.

But it is shockingly clear that it is far and away outside the spirit of the law!

This large landlord, in the application of the obtuse reasoning contained in this letter—a letter, incidentally, which no average renter could be expected to comprehend—very obviously is using his interpretation of the allowable rent guidelines to justify a higher increase than he was daring to ask before your guidelines went into effect.

This same renter had received on July 28, 1971, a letter advising her that as of September 1, 1971, her rent would be increased from $185 monthly to $192 monthly. This of course was rescinded during the 90-day period of the President's Phase I freeze.

Now, as result of the Phase II guidelines, the landlord who was daring to ask only $192 for the year beginning last September 1, now has the gall to demand $201! Instead of a modest increase of approximately 3.6 percent which would have applied on the basis of a year's lease beginning last September 1 had there been no Phase I and Phase II, this landlord is now demanding an extortionate increase which actually comes to 9.1 percent above the very appreciable rent she has been paying. The landlord himself calls it an 8.6 percent increase but my arithmetic brings it out to 9.1 percent. Either is way outside the spirit of the regulations which were aimed at holding rent increases to approximately 2.5 percent.

There are so many discrepancies in this document written by the Charles E. Smith Companies and its application to previous documents that I hardly know how to unravel it all. On November 30, Charles E. Smith Companies wrote to this same tenant and advised her that the "base rental" for her apartment was $192 and that effective January 1 her rent would be increased to that figure. But as of January 26, the same landlord makes reference to the same tenant to a base rent of $196.

There is attached to the letter a listing of apartment units which are represented as being, I suppose, in roughly the same category as that of the tenant involved in this communication. According to my computations applied against each of these, the increase exacted from the average one of such tenants seems to come to about 6 percent—and the range is from 4.2 percent to the high of 8.6 percent (or as the case may be 9.1 percent) arbitrarily attributed to the tenant in question.

Now, something is very drastically wrong. If this large company is holding these out as representative rent increases, quite obviously they wildly exceed the goal of 2.5 percent established by the Price Commission. If they are not representative in character, then it strikes me that the landlord is engaging in a palpable deception by so representing them. In either event, if this is allowed on anything like the broad base upon which this particular landlord operates, then something is clearly and palpably awry in the administration of the Phase II controls.

For, if this is to be permitted, then we shall have to concede at least two conclusions:

(1) enunciation of the guidelines has, at least in this case, provided an excuse for the landlord to increase his rents by at least twice as much as he had ultimately anticipated doing; and

(2) to claim that the Phase II controls are holding rent increases to approximately 2.5 percent is in itself a deception.

Apparently this particular landlord is leaning upon a distorted interpretation of some regulation which interprets the base rental as the *highest* price charged for the *highest* 10 percent of "similar" units leased during a base period of one month immediately preceding the President's Executive Order in August.

In the present case, however, this particular landlord can not in my judgment establish that he was actually getting $196 monthly for "similar" units. Some of those referenced in the enclosed computation are not at all similar. Further, it seems quite evident to me that if this landlord actually *were receiving* $196 for the average such unit in late July and early August he would not have asked of *this tenant* (who was paying $185) an increase of to only $192 to be effective as of September 1.

Obviously if this average tenant in a similar unit was paying $196 in July, the landlord would have *asked* at least $196 rather than asking $192. I think the landlord may be misconstruing the guidelines in such a way as to substitute what he was *wanting* to get in place of what he actually *was getting*, and then applying an arbitrary 2.5 percent increase on top of what he would have been *asking*—not necessarily getting—if there had been no Phase I and Phase II!

Obviously, this is one clear illustration of one large landlord who has used the guidelines as an excuse and justification to increase rents to a far higher level than he was preparing to ask in the absence of the guidelines.

I want to know if this is going to be permitted.

Sincerely,

JIM WRIGHT.

CHARLES E. SMITH COMPANIES,
Washington, D.C., January 26, 1972.

The President's Price Commission issued revised regulations governing rents on December 29, 1971. Under these regulations, a base rent must be determined for each individual apartment in a building or complex. Rent increases of 2.5% of the base rent are permitted on an annual basis.

As of August 15, 1971 your apartment was under a lease with terms of greater than month-to-month duration which was signed prior to May 15, 1971. According to the regulations, the base rent for this class of apartment is the average transaction rent. This is defined as the monthly rent charged for the most recent rent payment interval during the period before May 15, 1971, multiplied by a fraction. The numerator of the fraction shall be the sum of all monthly rents charged in all of the eligible transactions. The denominator of the fraction shall be the sum of all monthly rents charged for the rent payment interval immediately preceding the date possession is to be acquired under each such eligible transaction.

Eligible transactions are those which (1) involve a residence in the same building or complex which, before the transaction, had most recently been on a lease of more than month-to-month duration, (2) which were entered into with a renewal tenant and (3) which occurred in one of the following periods and the period used shall be the most recent of the following periods in which a transaction occurred:

(i) July 16, 1971 through August 14, 1971.

(ii) June 16, 1971 through July 15, 1971.

(iii) May 16, 1971 through June 15, 1971.

A computation of the average transaction percentage for Crystal Towers North & South appears on the accompanying schedule. This percentage 106% times the rental for your apartment for May 7, 1971 $185.00 equals your base rent $196.00.

As of March 1, 1972 your rent will be increased by $17.00 from $185.00 to $201.00. This amount represents an increase of 8.6% rounded to the nearest dollar. Your new rent is 2.5% above your base rent.

You have the right to examine the documentation which supports this proposed rent increase in order to satisfy yourself that the proposed rent increase is in accordance with the rent regulations prescribed by the Price Commission. This documentation is located at 1101 17th Street, N.W.; and may be inspected upon request between the hours of 8:30 A.M. and 5:00 P.M. Monday through Friday.

If you do not understand the basis for this increase or believe that the increase is not allowable under the rent regulations of the Price Commission, advise us and we will arrange a suitable meeting time with you at a location convenient to your residence to discuss the proposed increase and explain its justification.

It is hereby declared under the penalties of perjury that the foregoing statements and facts are true to the best of our knowledge and belief; and that the increase in your rent is not in violation of the Economic Stabilization Regulations.

Very truly yours,
CHARLES E. SMITH MANAGEMENT,
H. L. JOHNSTON, *Property Manager.*

CRYSTAL TOWERS SOUTH

COMPUTATION OF AVERAGE TRANSACTION PERCENTAGE

Increase date and apartment No.	New rent	Old rent	Increase	Percent increase
Aug. 1, 1971:				
137-S	$293	$270	$23	8.5
216-S	184	175	9	5.1
229-S	195	185	10	5.4
338-S	215	205	10	4.8
404-S	347	330	17	5.1
505-S	304	280	24	8.5
521-S	288	265	23	8.6
527-S	203	193	10	5.1
533-S	309	285	24	8.4
620-S	200	190	10	5.2
737-S	304	280	24	8.5
804-S	380	350	30	8.5
816-S	210	200	10	5.0
1105-S	289	275	14	5.0
1135-S	289	275	14	5.0
Subtotals	4,010	3,758		
107-N	172	165	7	4.2
116-N	210	200	10	5.0
223-N	342	315	27	8.5
230-N	205	195	10	5.5
238-N	230	220	10	4-5
323-N	305	290	15	5.1
415-N	236	225	11	4.8
423-N	310	295	15	4.8
614-N	205	195	10	5.1
719-N	205	195	10	5.1
723-N	353	325	28	8.6
738-N	240	230	10	
805-N	315	290	25	8.6
902-N	192	183	9	
912-N	391	360	31	8.6
919-N	205	195	10	
924-N	293	270	23	
931-N	210	200	10	
1004-N	336	320	16	
1011-N	294	280	14	
1014-N	215	205	10	
1017-N	168	160	8	
1024-N	273	260	13	
1032-N	315	290	25	
1036-N	213	203	10	
1037-N	284	270	14	
1104-N	336	320	16	
1105-N	289	275	14	
1117-N	168	160	2	
1120-N	226	215	11	
1123-N	320	305	15	
1126-N	213	203	10	
1129-N	208	198	10	
1133-N	320	305	15	
1134-N	320	305	15	
1202-N	199	183	15	
1205-N	294	280	14	
1207-N	173	165	8	
1211-N	299	285	14	
1215-N	252	240	12	
1220-N	231	220	11	
1221-N	252	240	12	
1224-N	278	265	13	
1232-N	285	270	15	
1234-N	326	310	16	
Subtotal	11,306	11,080		

CHARLES E. SMITH COMPANIES,
Washington, D.C., November 30, 1971.

By an Executive Order providing for Stabilization of Prices, Rents, Wages and Salaries, President Nixon froze rents for the period August 14, 1971 through November 12, 1971. This period, known as Phase I, has been followed by Phase II which is currently in effect.

Phase II, among other things provides for the establishment of a base rental for all apartments and for no increases above this established base rental except with the approval of this Commission. Simply stated, the base rental is the highest price charged for 10% of similar units which were leased during the base period, July 16, 1971 through August 14, 1971.

Accordingly, this is to notify you that the base rental for your apartment is $192.00. This base rent may change at a later date due to changes in rules or to new guidelines for apartment rental increases.

Effective January 1, 1972 your rent will be increased to $192.00 per month which is the base rent.

If you have any questions regarding this matter please contact your resident manager or property manager.

Very truly yours,
CHARLES E. SMITH MANAGEMENT,
H. L. JOHNSTON, *Property Manager.*

NUCLEAR WASTE IN AMERICA'S BREADBASKET

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, the Saturday Review, an esteemed journal of public opinion in this land, esteemed for its literary excellence and its perceptive handling of complex and controversial matters, in its February 19 issue dealt in some detail with the proposal to bury atomic waste in Kansas.

Entitled "Radioactive Ashes in the Kansas Salt Cellar," the article in spite of its brevity is a comprehensive and intelligent exposition of the ill-starred effort by the Atomic Energy Commission to store dangerous atomic ashes in Kansas salt mines. The Commission is shorn of a good deal of its supposed infallability and even of its purported scientific excellence.

More than once I have pointed out that the AEC in its zeal to promote the peaceful uses of the atom had given little thought to essential and integral problems of the program—the safe and effective disposal of the deadly wastes. The Saturday Review puts it better:

> The AEC was hard pinched. The disproportionately low priority it had assigned to atomic furnace ash disposal over the years had left it vulnerable now that the private industrialists it had subsidized were reaching for the market they had been promised. . . .

The Saturday Review touches also upon a point that has puzzled so many—the protective attitude of some members of the Joint Committee on Atomic Energy for the Commisison and its acts of commission and omission, even when the facts condemn it. Describing the hearing on the Kansas waste plant by the Joint Committee, the author says:

> Almost all the rest of the space (in the transcript) was taken up in defense of the AEC, enunciated not only by AEC officials but also by members of the joint committee, only two of whom—Senator JOHN PASTORE of Rhode Island, the committee chairman, and Senator HOWARD H. BAKER, Jr., of Tennessee—expressed sympathy with Kansans' fears.

Since I was the Kansan who took most of the committee's time, and indeed aside from Dr. William Hambleton of our State Geological Survey, the only Kansas witness to take the stand, I feel particularly warm about that paragraph.

The front cover of the Saturday Review, featuring the article in its science number, describes the piece with the heading: "Nuclear Waste in America's Breadbasket." A significant point is here made. The author asks:

> Why a salt mine? Why Lyons? Why Kansas? Kansas has no atomic furnaces. Why should America's breadbasket, its fabled wheat

fields rippling golden in the sun, become an inglorious cover for the radioactive ashes of everyone else's atomic furnaces?

I agree. Why indeed? The question now is, concludes the Saturday Review, "whether the AEC's tactics at Lyons have stigmatized the radioactive dump concept too starkly to restore it to respectability in the public's mind."

Mr. Speaker, I request that the text of the Saturday Review article be printed in the CONGRESSIONAL RECORD at this point in my remarks.

RADIOACTIVE ASHES IN THE KANSAS SALT CELLAR

(By John Lear)

The town of Lyons, Kansas (pop.: under 5,000), sits over two salt mines, one beneath the north end of town, the other under the south end. The main tunnels of the mines head directly toward each other and come within 1,800 feet of meeting, 1,000 feet below the streets of Lyons. The north-end mine has been abandoned for some time, and the U.S. Atomic Energy Commission wants to buy it and turn it into a dump for disposal of the radioactive ashes of all the atomic furnaces in the country. The south-end mine is in daily operation. Its owners oppose the opening of the radioactive dump because they fear it would harm their business—people might think their salt was contaminated by radioactivity.

The south-end mine owners are not alone in their fears of radioactivity's contaminating effects. These fears have spread all over Kansas and have reached Washington, D.C., where Kansas Congressman Joe Skubitz talks of changing the wording of billboards that stand alongside every main highway leading into Kansas. Now the billboards flaunt this legend over Governor Robert Docking's name: "Welcome to Kansas. Home of beautiful women. Please drive carefully."

Skubitz says that if the north-end mine at Lyons is finally taken over by the AEC the billboards will have to read: "Welcome to Kansas. Home of beautiful women and the national nuclear waste dump. Please be careful."

The fears arise, of course, from the peculiar nature of splitting atoms as displayed in the fissionable isotopes of uranium and plutonium. In one respect, these radioactive fuels are the same as fossil fuels: wood, coal, oil, and natural gas. They all burn in a relatively steady process. Oil and gas are not good illustrative analogues, however, because their burning leaves little residue. Let us take coal instead. When coal burns, both the flame and the source of the flame can be seen clearly. When part of the coal is exhausted of its energy, that part dies; if the ash does not crumble away, it can at least be discerned and knocked away. It is finished burning. Not so with radioactive fuels. They burn internally. The combustion can be neither seen nor felt. The ashes are all mixed up with still energetic fractions of the fissioning isotopes. At any time the potent fractions are a large proportion of the fuel in the furnace (which scientists confusingly call a "reactor"), for nuclear combustion is more efficient if exhaustion of the available energy does not pass a certain point. Hence, any batch of fuel removed from the furnace is still dangerously hot.

In fact, the radioactivity contained in atomic furnace ashes is so intense that the ashes must be handled at a considerable distance from the human keepers of the furnace. Remotely controlled mechanical slaves, often of enormous size, do the sifting behind thick walls of concrete, lead, or steel and at the bottoms of deep pools of water. The ashes themselves boil spontaneously, and some will continue to boil for half a million years. The AEC allows private atomic furnace operators to keep these seething brews on private premises under proper safeguards for ten years. Then the ashes must be taken to a reprocessing facility. Only one such facility is operating in the country today. It is near Buffalo, New York. Another is under construction in Illinois. A third is planned for South Carolina. In the reprocessing, acids chemically separate the isotopes, which continue to change identity as they lose energy. The ones that are still useful as fuel are shipped back to the atomic furnace. Regulations recently put into effect require the residual mixture to be dried to a solid state and bundled in glass or ceramic before being capsuled in metal for permanent burial in some such place as the abandoned salt mine at Lyons.

Why a salt mine? Why Lyons? Why Kansas? Kansas has no atomic furnaces. Why should America's breadbasket, its fabled wheat fields rippling golden in the sun, become an inglorious cover for the radioactive ashes of everyone else's atomic furnaces? Because seventeen years ago, when atom-splitting was still a federal government monopoly (inherited from the military makers of atom bombs conceived as a last-ditch defense against Adolf Hitler and finally used to erase two Japanese cities from the earth), a panel of specialists chosen by the National Academy of Sciences looked into the future and saw only one possible containment for the furious energy of radioactivity during the thousands of years it would remain perilous to man. That containment was in geological structures lying deep within regions of the earth's crust that have long established records of stability, few visitations from earthquakes, and no access to flowing water. Thickly bedded salt looked safest of all. Salt resists corrosion, and flows slowly under the influence of heat, like a tallow candle. At a certain distance from the heat source, the flowing stops and the salt hardens again, sealing up whatever space has been opened by the flowing.

Five hundred thousand square miles of the continental United States is underlain with salt, but only three patches of it meet the minimum requirements of a radioactive disposal site: salt at least 200 feet thick in order to absorb the most extreme radioactive effects with space to spare; salt buried at least 500 feet below the surface of the ground so that even glacial erosion could not wear away the rocky over-burden and expose the salt to the rain; salt within a 2,000-foot depth to avoid prohibitively expensive access. One deposit of such dimensions is in western New York State, another lies under the city of Detroit; and the third stretches tens of thousands of square miles from central Kansas west and southwest through the panhandles of Texas and Oklahoma into New Mexico.

Millions of years before there was a state of Kansas, the breadbasket of today was occupied by a shallow sea intermittently connected to the Gulf of Mexico. Salt, evaporated from the sea water by the sun, accumulated to depths of between 200 and 300 feet all along the shore. During subsequent geological ages, successive layers of sedimentary rocks formed above the salt, and water gathered within these layers to feed the soil from which the wheat, the alfalfa, the sorghum, the soybeans, and the tall corn grow.

Perhaps because the salt around the city of Hutchinson, Kansas, had been easily mined since the 1800s, the AEC chose it as the first site for radioactive ash disposal. In 1959, Congress was asked to finance the underground carving of a giant Atomic Age replica of an old-fashioned moonshiner's still. It was proposed that, deep within the Kansas salt bed, a great cavern be cut in the shape of a laboratory flask. Into this chamber radioactive liquids from atomic furnaces throughout the country were to be poured and allowed to ferment into impotence. Congressman Skubitz, then administrative assistant to the late U.S. Senator from Kansas Andrew S. Shoppel, recalls that piping was to run upward from the cavern to the ground and back to carry hot gases, cool them, and return them to the cavern. Senator Shoeppel considered this a "harebrained" idea. Congressman Skubitz still thinks it was and calls it characteristic of the superficiality of the AEC's attention to the need for atomic furnace ash disposal while billions of tax dollars are lavished on the AEC's "client relationship with private companies operating power plants" that will steadily produce more radioactive ashes.

Two years after abandoning the idea of the moonshiner's still, the AEC asked the American Association of Petroleum Geologists to select some saline aquifers (underground reservoirs of salt water) into which the radioactive liquids might be put. When the AAPG study committee recommended an aquifer under Lincoln County, Kansas, the designation was deleted from the committee report at the AEC's request.

Two years after that, in 1963, having accepted a National Academy of Sciences suggestion that radioactive ashes be solidified before their permanent disposal was attempted, the AEC returned to the salt cavern concept. An existing cavern was available in a worked-out segment of a mining property of the Carey Salt Company at Hutchinson. Hutchinson, the state's old salt marketing center, has excellent transcontinental rail connections that would facilitate transport of atomic furnace ashes from all directions. But the AEC soon shifted its attention twenty miles away to the entirely abandoned Carey salt mine under the north end of Lyons.

In 1965, a crew of scientific observers from the AEC's Oak Ridge National Laboratory moved into Lyons and lived there for the next year and a half, conducting Project Salt Vault. They drilled holes in the floors of five empty mine caverns, filled the holes with encapsuled radioactive ashes from the AEC's atomic test furnaces in Idaho, and measured the effects of the capsules' heat and radiation on the surrounding salt. The ashes from Idaho were old and not nearly as hot as ashes from a reprocessing plant of today; so electric heaters were brought in to approximate reality. The only unexpected observation was that a few drops of water moved through the salt toward the ash-filled capsules. Calculating the total effect of their findings, the AEC crewmen estimated that if twenty capsules containing radioactive ashes in glass blobs eight to ten feet long and six to ten inches in diameter were spaced out in a cavern 300 feet long and 30 feet wide, and if the caverns then were refilled with salt, the ceilings would sink two feet, the floors would rise two feet, each wall would move one foot inward, and each capsule of ashes would move two feet up and six inches sidewise during the following ninety years.

After the Oak Ridge crew left Lyons, nothing further was heard of the need for a radioactive dump until the General Accounting Office of Congress reported, in May 1968, that its men had been scrutinizing the AEC's management of the radioactive waste problem. They learned that ninety-three billion gallons of very hot furnace ashes had been stored in supposedly leakproof tanks in the states of Washington, Idaho, and South Carolina, where the AEC's own facilities are concentrated. The GAO reported that several hundred thousand gallons of these dangerous liquids had leaked out of their containers and had escaped into the ground.

Silence fell again for eighteen months. Then, late in January 1970, AEC geologist

Tom Lomenick appeared without notice in the offices of the Kansas State Geological Survey on the University of Kansas campus at Lawrence. Lomenick asked for help in determining how to predict geological change in central Kansas during the next million years.

The next silence was shorter. On March 24, two AEC representatives arrived unexpectedly in the offices of Kansas Governor Robert Docking in Topeka and requested an immediate interview. They told the Governor that the Carey mine at Lyons had been chosen for use as an atomic furnace ash dump and that it would be advisable to prepare the people of Kansas to accept the proximity of radioactivity.

When news of this interview reached the university campus at Lawrence, it set geology professor William Hambleton to growling. After many years of service in the State Geological Survey, he was preparing to assume its directorship at the beginning of the new fiscal year, only three months off. He did not agree that people should accept the proximity of radioactivity unless they were confident that they would be safe. He mulled this dissent for three weeks and then put it into a letter to the Governor.

The letter pointed out that once the AEC took title to the Lyons mine the state of Kansas ever after would be helpless to protect its citizens against mistakes. Lacking detailed geological information about the mine himself, Hambleton pleaded with the Governor to demand thoroughly documented scientific data establishing the safety of the mine for the designated purpose.

Hambleton's advice seemed sound to the Governor, who immediately authorized the State Geological Survey to undertake as much study of the Lyons site as the state budget would allow. The Governor also suggested to the Kansas legislature that it summon a symposium to corral all views of the controversy. State Attorney General Vern Miller was ordered to take whatever legal steps were necessary to protect the rights of the citizens of Kansas from abuse by any AEC action at Lyons. At the same time, the Governor's position was transmitted to the AEC and to the Kansas Congressional delegation, which includes U. S. Senator Robert Dole, national chairman of the Republican Party.

Reaction in Washington was prompt. The National Academy of Sciences Committee on Radioactive Waste Management invited Hambleton to join the committee's Panel on Disposal in Salt and to participate in its next meeting at Oak Ridge, Tennessee. He joined the panel and, after hearing the AEC's case in favor of Lyons, refused to sign the original draft of the panel report, insisting on the insertion of a number of precautionary provisos.

The scientific community is notoriously allergic to public exposure of its internal politics. The AEC had to go through the motions of placating someone it continued to underrate as a hick surveyor from the Bible Belt. Hambleton was asked to play host to a scientific group discussion of the recommendations the academy panel had asked him to make. After a full day of talking at Lawrence, on June 16, the conferees went into executive session on the 17th. While they were still debating, AEC Assistant General manager John Ehrlwine summoned news reporters in Topeka and announced the "tentative selection" of the Lyons mine. Even Oak Ridge employees of the AEC at the Lawrence meeting were embarrassed by this fait accompli.

THE QUESTION NOW IS WHETHER THE AEC'S TACTICS AT LYONS HAVE STIGMATIZED THE RADIOACTIVE DUMP CONCEPT TOO STARKLY TO RESTORE IT TO RESPECTABILITY IN THE PUBLIC'S MIND

Hambleton expected some signal of disapproval from the academy panel. When none came, he compiled his own "interim report" of events. "Unquestionably," he wrote, the AEC would now proceed to buy the Lyons mine and prepare for operation of the radioactive dump by 1974. He said that it was now more crucial than ever that Kansas protect its citizens by carrying through adequate investigation of the Lyons site and by exploring the possible "selection" of more appropriate sites, either in Kansas or elsewhere."

On December 2, Hambleton wrote a further report. He distributed copies of it to interested scientists, the Governor's office, and the press. In it he disclosed that, pursuing one of the recommendations he had made to the academy panel, the AEC had added $100,000 to State Geological Survey funds already assigned to make a detailed study during the month of August of the surface geology, ground-water hydrology, and subsurface geology of a nine-square-mile area centered on Lyons.

Hambleton said he had proposed the drilling of four holes from the surface of the site through the salt to a depth of approximately 1,300 feet. Two holes had actually been drilled. A core had been drawn from the full length of one while core samples had been taken from the other. The corings would make it possible for the first time for the AEC to do what he said should have been done earlier on its own initiative: analyze the order and respective thicknesses of the layers of rock and salt at the mine and locate possible fractures along which fluid movement possibly could occur.

To date, he revealed, the AEC had based all its calculations on the supposition that there was a single layer of pure shale underlain by a single layer of pure salt. The cores, however, contained many alternating layers of salt and shale. Hambleton then explained that discrepancies between the AEC's assumptions and the geological realities "could be responsible for breaking the seal" of rocks overlying the salt and for permitting entry of surface or subsurface waters into the salt bed to create erosional problems and to invite dangerous convection effects.

Hambleton's December 1971 report also discussed the energy to be buried. "As long as the waste containers maintain their integrity, only very small quantities of salt would be subject to high-energy, heavy-particle radiation," he agreed. "However, release might occur once or twice a year for about three years, and melting or explosion might cause containers to migrate to lower depths, possibly the shale areas, and faults could develop in overlying rocks because of explosions. In addition, the metal containers are expected to deteriorate within six months, and the ceramic material [binding the radioactive ashes] is expected to deteriorate within several years. Accordingly, radioactive particles could migrate through the salt. . . . Water is available in the salt, and the waste particles could be suspended by turbulent boiling." The released radioactivity could also cause chemical breakdown of the salt itself. The salt molecule is constituted of chlorine and sodium atoms, and sodium burns intensely in the presence of water.

The AEC was hard pinched. The disproportionately low priority it had assigned to atomic furnace ash disposal over the years had left it vulnerable now that the private industrialists it had subsidized were reaching for the market they had been promised. Twenty-one atomic furnaces were in operation, fifty-five were under construction, and thirty-six more were under contract. Some time had been bought for solution of the ash problem by allowing the furnace owners and reprocessors to hold the ashes on their own properties for a decade, and the space necessary to accommodate the ashes had been reduced by the order to solidify the liquids. Nevertheless, the ash pile estimated for 1980 would make a cube thirty-three feet on a side; by the year 2000 the cube would be 180 feet on a side. It would be necessary to move only three capsules of ashes into the Lyons mine in 1976, but by 2000 there would be 500 intensely radioactive capsules ready for disposal every year, plus 700 capsules of less virulent stuff. The AEC could not afford any further delay, but it could not escape circulating a statement of environmental effects before going to Congress for funds with which to buy the Lyons salt mine.

Governor Docking got his copy of the environmental impact statement in December 1970. Almost everyone in Kansas who read the copies Hambleton distributed was enraged by the AEC's continuing failure to answer his questions. There was an even more hostile reaction to the AEC's insistence on preparing to put radioactive stuff into the mine and experimenting with it on the assumption that whatever difficulties might arise could safely be "engineered out." Moreover, Kansas hooted at the AEC's vague promise to remove the radioactive capsules from caverns refilled with salt should removal become necessary. What fantastic excavation instrument would be used? It had not been invented yet and would not be until need for it arose. This would happen in Kansas?

Both houses of the Kansas legislature and the whole Kansas delegation in Congress had joined the uproar by the time the Congressional Joint Committee on Atomic Energy called a public hearing last March on the AEC's request for $25-million to buy 180 acres of the Lyons mine property and 900 additional acres of salt plus subsurface mineral rights to a 1,700-foot-wide buffer zone surrounding those two adjoining, properties. Activation of the appropriation would take out of production, for twenty-five to thirty years, 1,000 acres of Kansas farm land now planted in wheat, sorghum, or soybeans, or devoted to pasture.

Governor Docking authorized Hambleton to testify in the name of the state of Kansas. Among the other hearing witnesses was a functionary of the National Academy of Sciences who admitted that the AEC had not told the academy whether or not the salt panel's provisos had been satisfied. Another witness disclosed that the AEC had managed to make one computer calculation based on the multi-layered rock and salt core provided by Hambleton. A third witness explained that the scientist responsible for the heat-transfer studies repeatedly requested by Hambleton had died and was only now being replaced. Hambleton's own remarks occupied about six of the 279 pages of the Lyons appropriation hearing transcript. Almost all the rest of the space was taken up in defense of the AEC, enunciated not only by AEC officials but also by members of the joint committee, only two of whom—Senator John Pastore of Rhode Island, the committee chairman, and Senator Howard H. Baker, Jr., of Tennessee—expressed sympathy with Kansas' fears. A prediction that Senator Pastore made, however, turned out to be right: Congress was not willing to act against the unanimous opposition of the elected representatives of Kansas. Instead, it approved an appropriation bill amendment submitted by Senator Dole prohibiting the AEC from purchasing the Lyons mine within the following three years unless the acquisition was first approved by a special committee to be appointed by the President.

The AEC did not confess any change of attitude after the Congressional rebuff. But it did completely reorganize its machinery for administering the radioactive waste disposal system. Closer to Hambleton's home grounds in Lawrence, the members of the Lyons Chamber of Commerce—who at first had enthusiastically favored the abandoned Carey mine purchase—experienced a modification of opinion. They had originally looked upon Hambleton as a crank, but last June they invited him to Lyons to address interested townspeople at their high school. They met his University of Kansas plane at the Lyons airport in a playful mood, displaying a hangman's noose and asking whether the plane could fly home if it were tarred and feathered. Half a hundred Lyons residents went to the schoolhouse to hear what Hambleton had to say. One of them was J. B. Allen, superintendent of the mine that the American Salt Corporation operates at the south end of Lyons. After the meeting, Allen asked whether or not Hambleton had seen a letter the corporation president and general manager, Otto Rueschoff, had written to the AEC from the corporation headquarters at Kansas City, Missouri.

At Allen's suggestion, Rueschhoff sent a copy of the letter to Hambleton. The original, dated May 4, had been dispatched in reply to one that F. M. Empson, an AEC health physics specialist at Oak Ridge, had written to Rueschhoff on April 14. Empson had been in the crew that lived at Lyons during the Salt Vault experiment. As the only AEC employee known to have met Rueschhoff personally, Empson was picked to ask the salt mine company executive for proprietary information that probably would not be forthcoming—such as how much salt the south-end mine at Lyons produced each year. Rueschhoff did not give this information, but his letter to Empson did list some interesting reasons why the abandoned Carey mine at the north end of Lyons might not be a safe place for a radioactive dump.

Although the American Salt Corporation and the Carey Salt Company were competitors in a business notoriously reluctant to share information, Reuschhoff was familiar with the Carey property because each of the Lyons mines has only one entry-and-exit shaft. In the 1930s, the rival mine owners considered connecting their main tunnels in order to provide each other with a back door in case of accident. These plans were abandoned when the Carey salt mine was closed, but the negotiations lasted long enough for Rueschhoff to learn that the Carey mine shaft drillers had passed through forty feet of water in the rock overlying the salt; a caisson had to be installed to complete the operation.

The shaft of American's own mine at the south end of Lyons, as Rueschhoff reported in mining parlance, is "wet." Water regularly collects in a receiving ring at the shaft bottom and has to be pumped to the surface.

Only five days after Empson's letter to Rueschhoff was written, drillers and blasters in the dry-mining segment of the American mine bored seven feet into what they thought was solid salt and hit a hole from which mud and water poured until the hole was closed with concrete. No one knew how the hole got there. Mine records gave no clue. The owner of the land above the mine was equally nonplused. An unrecorded well was suspected, but no opening could be found in the ground above, even after a bulldozer dug up the soil to a depth of four feet in a 200-foot radius from where the entrance to such a well should have been.

An equally puzzling episode of 1965 was recalled by Rueschhoff. It occurred in that part of the American mine where hydraulic methods are used to remove the salt. In the way customary to such operations, three vertical holes were drilled 600 feet apart in a triangular configuration. Fresh water was pumped into one hole with the expectation that it would break through the salt below, find the other two holes, and wash the dissolved salt back up to the surface in them. In this instance however, the brine did not come up. The downpouring water—170,000 gallons of it—simply disappeared.

After Hambleton went to see Rueschhoff and reported their conversation to the AEC, enthusiasm for a dump anywhere in the Lyons neighborhood waned perceptibly. In a subsequent talk to the Kansas Engineering Society, the new director of the AEC's waste disposal system, Dr. Frank Pittman, referred to unresolved "problems" that had arisen. AEC Chairman Dr. James R. Schlesinger wrote a letter to Tammy Lee Estes, an anxious Fort Scott, Kansas, schoolgirl, and promised her that the Lyons mine would not be used unless its safety could be guaranteed. However, he reiterated the scientific preference for disposal in salt beds.

Hambleton had never questioned the desirability of using the salt beds under adequate safeguards, and a recent report of his to the AEC identifies seven other places in Kansas that might be suitable as atomic furnace ash disposal sites. The question now is whether the AEC's tactics at Lyons have stigmatized the radioactive dump concept too starkly to restore it to respectability in the public's mind.

If a dump is not established somewhere, the American people will have to relinquish the benefits of the Atomic Age until scientists learn to effectively control the fusion of atomic nuclei and thereby open a new era of almost clean power.

THE PLIGHT OF THE PEACE CORPS

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BUCHANAN. Mr. Speaker, the future of one of this Nation's more successful foreign assistance endeavors is today at stake—not because the program itself is being eliminated, but because it is threatened with expenditure reductions to such a level that many of its activities must be curtailed.

I am speaking, Mr. Speaker, of the Peace Corps. Both this body and that on the other side have authorized $77.2 million for fiscal 1972 Peace Corps operating funds. The Senate has appropriated this same amount, but the House passed appropriations of only $68 million. The differences are now the subject of discussion before a conference committee on the foreign aid appropriations.

Only $9.2 million separates the Senate and House figures—not much when compared with the many other vast expenditures of this Government. The Defense Department, for example, spends more than $11 million on toiletries alone and more than the entire Peace Corps budget on such items as cleaning liquid, office supplies, and books.

Surely we can ill afford to spend less for a program to promote peace and help dozens of underdeveloped nations build a better standard of living for their citizens than we do to buy pencils for the Defense Department to push, and papers for it to shuffle.

The $77.2 million figure is by no means an increase. It is $36,000 less than that appropriated for fiscal 1966 and $12,800 less than that appropriated for fiscal 1971. But we have reached a point where we can go no lower without seriously impairing the effectiveness of the Peace Corps.

A reduction of $9.2 million may appear small on paper, but the amount of damage it will do to the program is tremendous.

Such a reduction will necessitate bringing home almost half of the 8,000 Peace Corps volunteers. It will mean pulling out of 15 countries and curbing activities in 40 others. All this must be done despite the fact that the Peace Corps has requests by foreign governments for more than 2,000 additional volunteers.

Under the direction of Joe Blatchford, the Peace Corps has matured to include greater numbers of skilled volunteers and has seen the average age of volunteers increase by 3 years. Yet it has retained the idealism which reflects the American spirit and which is working proof to millions of people in many different lands that this country is comprised of a people who care what happens to its neighbors everywhere.

Man's inhumanity to man makes countless thousands mourn, as Robert Burns once said, but the humanity of the United States to its fellow man through the work of the Peace Corps has helped dry some of the tears in distant lands and should be permitted to continue doing so.

The full appropriation of $77.2 million will allow the corps to continue at least its current level of operations, Mr. Speaker, and should, in my judgment, be approved.

HAZARDS OF CHINA VENTURE

(Mr. NIX asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. NIX. Mr. Speaker, the most spectacular event on the diplomatic front in recent memory was the President's surprise announcement of his upcoming trip to mainland China. This trip holds forth some promise of moving toward more normal relations with this nation of 800 million people, a nation which has remained virtually isolated from the world community for 2 decades.

At the same time, several important questions have been raised about the potential ramifications of the China visit. In a January 23 commencement address at Western Connecticut State College in Danbury, Conn., our colleague JOHN S. MONAGAN has pointed out some of the dangers inherent in this journey. Congressman MONAGAN noted that while normal relations with China are desirable, they must not be achieved at the expense of our long-standing allies. Japanese-American relations in particular have been jeopardized by the China initiative. Congressman MONAGAN raised the logical question of what commitments the President has made to obtain his invitation, and whether the objectives of the trip could have been made through a less flamboyant approach.

As a member of the House Committee on Foreign Affairs, the gentleman from Connecticut is well equipped to discuss the dangers of summit diplomacy. It would serve all members well to heed his warning that the short-range gain of a diplomatic spectacular can easily be washed away by unexpected long-range repercussions. Because of the importance and immediate relevance of this subject, I would like to include JOHN MONAGAN'S commencement address at this point. I urge all my colleagues to consider the important questions which the gentleman from Connecticut has raised.

Remarks of Representative John S. Monagan at Commencement Exercises, Western Connecticut State College, Danbury, Conn., Jan. 23, 1972

Commencement is traditionally a time for assessment of the past, and for reflections about the future. For the graduate, this means evaluating his years in college, and determining the relevance of his training. For parents there is the satisfaction that a child has passed a significant milestone. For faculty and administrators, graduation marks the successful bringing forth of another class.

Like many other traditions, the commencement speaker has not been free from attack during the turbulence of the last half-decade. Speakers have been shouted down, called irrelevant or worse, and been forced to give way to counter speakers. It was a hardy individual indeed who dared to stand up before a graduating class.

However, the mood of the campus has mellowed considerably in the last year. Perhaps students have become more introspective. Perhaps the emptiness of confrontation politics has become apparent. Or perhaps the tight job market has re-directed student energies to a more economic focus.

Whatever the reason, the campuses have indeed stopped shouting, and the time seems ripe for the return of the commencement speaker to good standing, not so much to bestow wisdom upon the departing graduates, as to raise questions and exchange ideas.

The dominant concern of students and of the nation at large during the past few years has been foreign affairs, and in particular the Vietnam War. I need not review the internal dissension which this conflict has caused. What I do stress is that our international relations, based for over two decades on a policy of communist containment, are dramatically changing in ways which experts would have thought impossible several years ago. The Vietnam War has raised an endless series of questions and conflicts concerning the basic assumptions of United States foreign policy. These questions are being answered in new and unique ways, and all the ramifications will not be felt for some time.

Of particular importance is the reduction by the Executive of our commitments abroad through the "low profile" approach to foreign affairs. Having suffered the pains of exercising military and diplomatic power in Vietnam in such a way as to lose public support, the current policy means that we relinquish our power to shape events in many other areas of the world.

To a people quickly wearied of the exercise of our influence in international affairs, this reversal is in many ways a welcome one. Many have felt that the United States was over-extended abroad, and that the Vietnam War was proof of this condition. To them, the low profile seemed a logical and necessary step to a rational U.S. foreign policy.

However, at the risk of going against the present popular impulse toward isolationism, I must caution that there is a great potential danger in carrying a low profile policy too far. I would even say that the United States must continue to maintain a responsible presence in the world both for its own security and for the preservation of world order.

Our government's increasing determination not to exercise power, while good in many respects, has added the extra element of doubt to relationships with all our associates throughout the world. Many allies, including our European friends, are beginning to express deep misgivings about U.S. intentions. It is clear that the low-key approach to foreign affairs will have far-reaching effects which were neither expected or intended.

This is significant in light of the Soviet Union's increased military activity throughout the world, particularly with its enlarged Navy. If our low profile policy has reduced our commitments too significantly, and if we have not retained the confidence of our traditional allies, we may find ourselves unable to influence events toward our security and general peace in the world.

The most spectacular event on the diplomatic front during the past years was President Nixon's surprise announcement that he would go to Communist China. His speech took only a few minutes, but in that time he not only reversed twenty years of hard-line anti-China policy, but touched off international tremors whose impact will be extensive and unpredictable.

The visit itself holds forth the potential of improving relations with a nation which has over 800 mililon people and an increasing nuclear strike capacity and which has signaled a desire to return to the world community. I hope that achievements will come from this spectacular venture, for I feel that better U.S.-China relations on a proper and reciprocal basis are essential for the future, and will to some degree offset the massive Russian power expansion which I have previously mentioned.

At the same time, while normal relations with China are desirable, they must not be achieved at the expense of our long-standing allies. Unfortunately, the way in which the China announcement was handled had created the potential for just such an occurrence. The failure to notify heads of state maintained the secrecy and drama of the event, but it also directly embarrassed important foreign leaders, and badly damaged our credibility with several allies. If our low profile foreign policy has planted doubts, the secrecy of the China announcement has created suspicion as to just what the United States is doing.

Japanese-American relations in particular have been jeopardized by the China initiative. The failure to consult our most valuable ally in that region of the world has seriously hurt the cooperative Sato government at home. Japan faithfully followed America's lead on the China question right up to the announcement. The bombshell hit without warning and left Japan diplomatically up the creek so far as its own relations with China were concerned.

The Japanese Ambassador to the United States has gone so far as to warn that the Presidential trip might be "the begininng of a process of unraveling our mutual security in the Far East." It would be ironic indeed if after spending so many lives, so much national energy, and money to save an ally in South Vietnam, we were to lose perhaps our most valuable partner in that region because of an insensitivity to their point of view.

The problem is a crucial one, for it raises questions It is certainly reasonable to ask what commitments have been made to obtain the invitation and whether this trip was actually necessary, or whether the objectives of the trip could have been met through a less flamboyant approach.

Thus far I have focused on the dominant concern of the student community during the last few years—foreign affairs—but the last half decade has also brought profound changes in other areas.

Perhaps the most significant political event of this period was the enactment of the 18 year old vote. By this one stroke, some 11½ million Americans became eligible to play an active and significant role in determining our national future. Analysts have been unable to agree on the voting patterns which will emerge from this extension of the franchise, but the important point is that 18 to 21 year olds now have an effective channel through which to express their opinions.

However, even to those who supported the 18 year old vote, the extent to which this age group has failed to exercise its voting rights can only be called disappointing. Figures throughout Connecticut show that only one out of five of this group has registered, well below the adult figure.

The proof of the wisdom of extending the franchise lies with those who are its beneficiaries. I urge them to exercise their responsibilities, share in party activities, and play their part in influencing the direction this nation will take in the days ahead.

The last half-decade has also profoundly changed the world of higher education. Higher education began the 60s in a spirit of great optimism. The space program and other technical advances demanded better trained, more specialized personnel, and the necessary funds were supplied to meet this demand. The nation in general increased its appetite for advanced preparation, and the future of higher education seemed bright and promising.

That has changed now. The space program has been de-emphasized and the need for specialized personnel no longer seems urgent. Financing has reached the point where the staff of the Carnegie Commission estimated one year ago that about 1,500 colleges and universities—nearly ⅔ of the nation's public and private institutions, enrolling over ¾ of all students—were in financial difficulty or headed for it. Equally important, the last few years have raised gnawing questions about the future of higher education, about the role of colleges and universities, and even about the relevance of a college degree.

The simplest solution to the financial problem would seem to be additional government funding of higher education. Last year the House of Representatives adopted legislation which provides $1 billion yearly for institutional aid based on enrollment.

But are additional Federal funds the effective long-term answer to the financial struggle of institutions of higher learning? And, more important, does this guarantee educational quality? It is not clear to me that the answer is affirmative. While Federal pump priming would keep many institutions on their feet for a longer period of time, it would do little to solve the basic problems which have led to financial difficulties in the first place.

What is needed instead is a re-evaluation of present methods of funding higher education, a realization that funds will continue to be limited and that more effective means of using available funds must be quickly devised.

It is clear that the simple increase of money for education will not automatically improve the quality of that education. It is also obvious from our financial crisis that schools will no longer experience explosive physical expansion. They must now change by substitution, by re-evaluating, and even by contracting. They must define better the important question of purpose and commit their resources toward these restructured goals. If this is accomplished, in the long-run, the present economic crisis may actually benefit higher education more than harm it.

Finally, we may inquire not only where our institutions of higher education are heading, but what is the trend of thinking of the American student today.

Obviously there is more to the present mood than economics. I hope that one of the legacies of the turbulence of the 60s will be an increased social concern among young people, and the recent dramatic increases in law schools and medical school applications seems to indicate that this may be the case. While there has been a disappointing drop in political interest, there seems to be a definite trend towards fields reflecting social concern and a wholly praiseworthy revulsion against material acquisition as a measure of human accomplishment.

If this pattern holds, it could be one of the most significant developments of our time both for the young people involved and for the future of the nation. It will be some time before historians evaluate the events of the 60s, but if these years have kindled in our young people a disregard for materialism, a devotion to things of the spirit and a more mature understanding of our country's goals and achievement, we shall look back upon this decade and say that despite all the difficulties, it was a good time to be an American.

THE INCREASE IN THE COST OF LIVING

(Mr. BARRETT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BARRETT. Mr. Speaker, as you know I am usually in my office every evening to be available to my constituents. The past week, while the House has been in recess, has afforded me an excellent opportunity to spend many, many hours in my district office meeting with hundreds of my constituents. It gave me an opportunity to meet with many of the residents of the first, second, 30th, and 39th wards of the city of Philadelphia. Under the new congressional redistricting, these wards once again will be a part of the First Congressional District of Pennsylvania, which I have the honor to represent. The latest census figures indicate a total of approximately 130,000 population in these wards.

Reflecting on these meetings several problems and matters of concern stand out above the others. The single, biggest item concerning all my constituents is the continued increase in the cost of living, especially the rise in the price of food, an obvious necessity. The latest figures indicate that there has been a continued increase in food prices over the past year. Among food costs, the greatest increase has been in meats with beef prices being the leader. January figures indicate that fattened cattle prices in Omaha were up 25 percent from a year ago and the highest in 20 years. This increase will be reflected in increased prices to the consumer. Published reports also indicate that these prices will continue to rise. The situation clearly reflects a serious shortcoming in the administration's handling of price controls.

At the same time family breadwinners find themselves out of work or working a reduced workweek. In some instances the situation requires other members of the family to go out and seek employment to add to the family income. When the main breadwinner finds himself unemployed and unable to find new work, one or more members of the family may need to enter the labor market, competing for jobs that are already scarce. Even if they are successful, they often find that it takes more than one member of the family to earn what the major breadwinner was earning.

Many of these families are not eligible for public assistance; others are unwilling to accept public assistance. They don't want welfare. They need and want jobs. The actions of this administration are not fulfilling that need.

In addition to the general problems of rising costs and falling incomes, is the plight of our senior citizens. The elderly, who are living on small retirement incomes or social security benefits are finding the increased costs of food a major problem and item of concern. Their income has not kept pace with the increased costs of necessities.

Legislation, which would increase social security benefits by 5 percent, is being considered by the Senate after passing the House on June 22, 1971. The minimum benefit would be increased from $70.40 to $74 a month beginning June of this year. I reaffirm the stand I took last June and have advocated for some time. The minimum monthly benefit should be increased to $100 a month. Approximately a year ago, I introduced a bill, H.R. 4085, to amend title II of the Social Security Act to provide a 15-percent across-the-board increase in monthly benefits with subsequent cost-of-living increases in such benefits and a minimum primary benefit of $100. The passage of time with its attendant economic burden on our senior citizens supports the adoption of that proposal. I take this opportunity to urge the Senate to amend H.R. 1 to reflect my proposal. I believe such action would receive House support.

Mr. Speaker, it is income tax season and I would once again like to call to the attention of the Congress the particular need for tax relief for our senior citizens.

On March 4, 1971, I introduced legislation, H.R. 5619, to exempt from taxation the first $5,000 of income of an individual who is over 65 years of age. I said a year ago that the particular increased cost-of-items bearing heavily on our elderly warrants this exemption. The basis for such recommendation a year ago is stronger today than it was then.

Mr. Speaker, I have taken this time to call attention to pressing matters of—

Increased costs of living, especially in food prices,

Unemployment and underemployment,

Increases in social security benefits and

Greater income tax exemption for the elderly.

My warnings regarding these issues a year ago have proven to be correct. The programs and activities of the administration of the past year have not abated these continuing problems. The administration's rosey statements for the future are wishful thoughts and not supported by clear reading of the indicators.

I strongly urge the Congress to increase social security benefits and the income tax exemption for the elderly as I have outlined. Congress must also insist that the administration take responsible steps to halt the continued increase in food prices and to substantially decrease the number of unemployed and underemployed.

STATE OF THE WORLD

(Mr. PEPPER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. PEPPER. Mr. Speaker, during the recent recess I had an opportunity to look into the 235-page report which the President made on February 9 on the "State of the World."

I was astonished to find that only a few lines out of 235 pages referred to the Soviet military presence in Cuba.

This seems to me to reflect a very disturbing and potentially very dangerous indifference to the Soviet military buildup in Cuba. The language suggests that the Castro regime's military ties with the Soviet Union have merely "invited" a permanent Soviet military presence into the hemisphere; whereas, the harsh fact is that there is now a very substantial, permanent Soviet military establishment on the island of Cuba.

In its own right, Castro's Cuba is the second strongest military power in the Western Hemisphere. He has some 700,000 men under arms and he boasts that he could raise this number to 1 million armed men in only 24 hours. Castro also has a Soviet-supplied air force of some 250 planes, including the latest Mig-21 fighters.

But the overriding reality is that the Soviet Union, for all intents and purposes, has a permanent naval base in Cuba, and it is changing the balance of power in the Caribbean. We are simply standing by while a permanent military and naval presence is established on our doorstep, and we will soon find, I fear, that it is too late to prevent the permanent entrenchment of Soviet power in the Western Hemisphere.

The administration has sought to convince the American people that the Soviet military presence in Cuba evaporated when the Soviet submarine tender sailed away in the fall of 1970. But the reality is that Cuba has been converted into a very significant submarine base, despite the absence of the tender.

The most important need of modern nuclear submarines is the exchange of crews, after the long cruises made possible by nuclear fuels. This is the thing Cuba provides for the Soviet Navy. Instead of Soviet nuclear submarines having to return to their home bases to change crews, the Soviet now are able to fly new crews to Cuba, and to provide recreation and relaxation for the displaced crews under the brillant Caribbean sun.

According to my information, these crews are most frequently flown into El Mariel Airport in what was Pinar del Rio province. Others come into Oriente and Cacocum airports. They are transferred to Cienfuegos and soon may be flown directly into that port city.

The Cienfuegos Airport has been lengthened, so that the air strip now ends near the bay. And, in addition to providing superior opportunities for troop and naval crew movements, there are reports that a tunnel from the airstrip to the bay will provide a means of moving cargos from submarine to aircraft and aircraft to submarine without detection by the United States.

The simple fact, Mr. Speaker, is that the existence of a Soviet naval base in Cuba is not dependent upon the presence or absence of a submarine tender.

The warships and submarines of the U.S.S.R. come and go, but the shore facilities they require are permanently established. The basketball, volleyball, soccer, and tennis courts at Cienfuegos are more important than the repair facilities of a tender because they greatly extend the range of Soviet nuclear submarines which no longer have to return to Soviet home bases.

The big Soviet naval complex is in the southern part of the island, and include Cienfuegos, where three-fourths of the bay has been closed to the public; the Bay of Pigs, which is now armed to the teeth, and the Isle of Pines, three-fourths of which has been fortified. The real operational base, however, for Soviet submarines is Cayo Largo, where there is an abrupt drop to 1,000 feet, ideal for submarines, and where radio stations, airstrips and other special facilities have been developed.

Cienfuegos, one of the finest harbors in the world, is regularly visited by Soviet naval squadrons. The last squadron, including a missile frigate and nuclear submarines, arrived in Cuba last October 31 and remained until the end of January. In these 3 months these ships conducted maneuvers in Cuban waters in cooperation with Castro's naval forces and made the northern coast of Cuba inhospitable to Cubans seeking to flee Castro's tyranny. In 1969 270 Cuban refugees succeeded in fleeing Cuba by boat to the United States. In 1970 the number was 240. In the past year only 126 managed to get through the Soviet-Cuban screen north of the island.

Last September 40 Cubans were able to escape to Honduras, but they were forced to sail from the south, rather than take the former route through the north to the United States. The fact is that Castro and his Russian allies have made north Cuba a military zone from which disaffected Cubans have been removed to the central and southern provinces.

The Cuban people and the Cuban military have not been hospitable to this Soviet presence in their country. The evidence is in the sabotage that has occurred in the areas where Soviet forces are concentrated and in the present efforts of the Soviet authorities to disperse their troops in barracks built in open fields away from Cuban population centers.

These Soviet forces are estimated to comprise 30,000 to 35,000 soldiers, including some 7,000 officers. They are a formidable military presence and in their support the Soviet Union is extending airport runways to move troops and submarine crews more easily, and is developing permanent barracks and other facilities, especially in the northern provinces of the island.

This continuing buildup of power in Cuba has greatly extended the range of the Soviet navy by enabling it to change its nuclear submarine crews without returning to its home bases. And it is altering the balance of military and naval power in the Caribbean.

If we continue to be indifferent to this buildup of military and naval power on our doorstep, we will soon find—perhaps as early as the end of this year—that the Soviet Union is so firmly entrenched in the Caribbean that it can never be dislodged.

Mr. Speaker, as you know, I have in my congressional district many refugees from the Castro regime. Among these is Dr. Manolo Reyes, the editor for Latin American news of television station WTVJ in Miami, who has proven to be an excellent source of information for me on what is happening in Cuba.

Dr. Reyes has repeatedly advised me about military developments in Cuba and time after time these reports have been confirmed by our own military authorities. He is the source of much of the information I have presented today and I have good reason to respect and rely upon the information he has given me.

On June 30, 1970, Dr. Reyes testified in an executive session of the House Internal Security Committee, of which I am a member, on the Soviet effort to establish a naval base at Cienfuegos. A month later, on July 27, 1970, he made the first public mention of Cienfegos as a Soviet naval center in testimony before the Inter-American Affairs Subcommittee of my colleague, DANTE FASCELL. And on September 25, 1970, the Pentagon confirmed that the Soviet Union was attempting to establish a naval base at Cienfuegos around a submarine tender then in Cienfuegos Harbor.

I have good reason to respect Dr. Reyes' sources of information and his ability to evaluate the information he receives. He advises me that the Soviet military buildup is nearing its climax. He believes that by the end of this year the Soviets will be so solidly entrenched that the Soviet presence will be permanent, and that it can only be directed, ultimately, against the United States.

I do not know whether Dr. Reyes evaluation is the correct one. But I have come to believe that we would be foolish to ignore it, and I am, therefore, presenting this information and his warning to my colleagues today.

I cannot understand the apparent indifference of the present administration to the developing Soviet military and naval presence in the Caribbean. Nor can I remain silent about it, when it poses such a threat to the security of the United States.

THE PRESIDENT'S HISTORIC JOURNEY TO PEKING

The SPEAKER. Under a previous order of the House the gentleman from New Jersey (Mr. GALLAGHER) is recognized for 60 minutes.

Mr. GALLAGHER. Mr. Speaker, I rise to offer the President my heartfelt support and best wishes on the eve of his departure on his historic journey to Peking.

This is truly one of the memorable occasions of the postwar world. As we know only too well the familiar landscape of that world was the division of most of the nations on this earth into mutually antagonistic power groupings—labeled as a short-hand the free world and the Communist bloc.

Certainly, the differences between these two groupings were real enough. Korea, Berlin, the fate of Greece and Turkey, the future of Austria and Germany, Cuba, Vietnam, and I could go on. But to the discerning student of international affairs it became increasingly clear over the years that some of these crises did not find the Communist world neatly lined up in one camp and the free world in another. Also it has become increasingly apparent that differences in ideology—between communism and democracy—were ofttimes less relevant in explaining international crises than the national histories of the countries involved.

The President has been sensible in not raising expectations about the results of his meetings with Chairman Mao Tse-tung and Premier Chou En-lai. As he noted there is an essential difference in meeting with the People's Republic compared, say, to the Soviet Union. With the Soviet Union there are already many items of business on the agenda on which there have been negotiations for months and sometimes years which took place through normal diplomatic channels. But with the People's Republic we are more or less starting off from scratch, and these talks were set up necessarily through extraordinary diplomatic channels.

This is not to say that we should not expect solid accomplishments from these meetings. But expectations should not be raised too high. And there are, as always, risks inherent in any summit conference.

It is especially encouraging to me that the President is fully aware of the shockwaves that his journey to Peking has occasioned among the nations of the Far East. With respect to the Republic of China he noted that "The change in the United States-Chinese relationship after 20 years of animosity was bound to be unsettling. Indeed, once Peking had decided to improve relations with the United States, it had the capability to shake our relationships with our friends through unilateral moves."

President Nixon was candid in acknowledging the depth of concern properly felt by our particularly good and true friend—the Republic of China. In the President's words: "In my address announcing my trip to Peking, and since then, I have emphasized that our new dialog with the PRC would not be at the expense of friends. Nevertheless, we recognize that this process cannot help but be painful for our old friend on Taiwan, the Republic of China. Our position is clear. We exerted the maximum diplomatic efforts to retain its seat in the United Nations. We regret the decision of the General Assembly to deprive the Republic of China of its representation although we welcomed the admission of the People's Republic of China. With the Republic of China we shall maintain our friendship, our diplomatic ties, and our defense commitment.

This is a position that the Congress supports. It is a position that I believe most fair-minded Americans support. It is a position that allows the United States to explore new possibilities for peace and world order in these complex times in which we live. It is, however, a position that takes into consideration that the foundation for peace and world order has already been developed by the United States and the Republic of China and other countries with which we have defense commitments and traditions of friendship and trust.

The Republic of China has lived up to its United Nations commitments while a member. Under the leadership of President Chiang Kai-shek its capable people have transformed an island of rock and stone into a burgeoning industrial nation. And the fruits of that economic development have been widely shared through enlightened income distribution.

It is important to note that the whole world will be watching and waiting to see whether the United States lives up to its commitments to the Republic of China. You might say that the Republic of China is today a kind of international weathervane recording American willingness to live by its word.

The world should know that the United States respects and stands by its friendships with countries like the Republic of China. The United States remembers who its friends are, and outstanding as a friend and ally has been the Republic of China, in good times and in difficult times.

We have a friendship with the Republic of China of long standing. We will honor that friendship.

We have deep and important diplomatic ties with the Republic of China. We fully intend that these diplomatic ties will continue and indeed strengthen.

We have a mutual security treaty with the Republic of China. We will stand by that treaty.

We have American troops stationed in the Republic of China. American troops will remain there.

As the chairman of the Subcommittee on Asian and Pacific Affairs of this House I understand full well that events of recent days have given rise to some anxiety on the part of the Republic of China. But I ask the people of the Republic of China to remember that they can count on the friendship of the United States. We have a very deep well of reciprocal friendship and loyalty with the Republic of China. I am sure this will continue into the future as it has in the past.

Mr. PASSMAN. Mr. Speaker, will the gentleman yield?

Mr. GALLAGHER. I yield to the gentleman from Louisiana (Mr. PASSMAN).

Mr. PASSMAN. Mr. Speaker, as our great President departs for his long journey to the Mainland of China, let us join together in wishing for him a safe journey, and may his mission bring forth good results.

It is obvious that our minds are on the President's trip to Mainland China, but we should stop, look and listen—take the time to reminisce and reflect calmly about one of the greatest and most dependable allies this country has ever had and ever will have, and that is Nationalist China headed by that renowned world figure and leader, President Chiang Kai-shek, assisted daily by his gracious talented lady, Madame Chiang Kai-shek. Those of us who have been privileged to meet this grand and great couple recognize what great wisdom they possess and what great allies they have been and, doubtless, will continue to be.

The President of the United States is a very busy man, and he has many difficult problems that he is trying to solve, but even during the busy hours when his untiring effort to keep our friend, Nationalist China, in the United Nations failed, he quickly criticized those who applauded the action and said forthrightly:

> We will not let Nationalist China down, we will abide by our treaty with Nationalist China.

I accept this statement at face value, well fortified by the facts of history, and that is that this great country of yours and mine has never broken a treaty on its own initiative.

Mr. Speaker, I want to thank the distinguished gentleman from New Jersey (Mr. GALLAGHER) for yielding this time to me.

Mr. GALLAGHER. Mr. Speaker, I wish to compliment the gentleman from Louisiana (Mr. PASSMAN) on his fine statement, and thank him for his remarks.

Mr. Speaker, I now yield to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Speaker, I am most appreciative of my good friend, the gentleman from New Jersey, for his courtesy in yielding time to me, and I congratulate the gentleman for the soundness of his views, and for the important contribution the gentleman is making.

Mr. Speaker, for the first time in history, an American President is going to China in an effort to bring about a better understanding with that country. The startling part is that he is going to Red China, a nation which has been our severest critic for a quarter of a century and a nation which has constantly sown seeds of discord in other countries. China is training and arming guerrillas which spread revolution in much of Asia; 30,000 Red Chinese troops continue to violate the neutrality of Laos while they build roads aimed at Thailand and at access to North Vietnam.

It will take some time for us to adjust to this unusual situation, but I believe most Americans approve of the President's efforts. Personally, I do not like having my President go to Red China to talk to the No. 2 man in that country. There is a big question in my mind whether he can make sufficient gains in the search for peace to compensate for the loss of face which America will endure throughout the oriental world. Nevertheless, I respect the President for his efforts and I wish him complete success in his undertaking.

We have come full circle in our dealings with the China question. There is little doubt but that the President's trip, plus the timing of the Kissinger visits, helped to set the stage for admission of Red China to the United Nations and the unfortunate and unhappy expulsion of Nationalist China. There are no words to disguise the fact that the aims and prestige of the United States received one of the worst setbacks in history in the voting at the United Nations on the China question.

At best, this was a bad beginning for an important effort to bring about a better understanding between world powers. Nevertheless, such an effort is needed. Perhaps equally important is the need to keep that effort in proper perspective. For instance, I note that in some official documents where once we referred to Red China, we now speak of the Peoples' Republic of China, and I hear there have been occasions when we used the much more expressive term "China."

I would remind those responsible that America is not yet ready to accept one China. There are two Chinas and one is our friend; one is not. We hope both will in time be our friends, but in the meanwhile, let us not alienate the one whose friendship is strong and certain. We do not have to make all the concessions in this new game of placating the Chinese dragon. Yet that is what we seem to be doing.

On the eve of the new adventure with Red China, it is time to make it clear to the world that we do not intend to ignore our long time friends of the Republic of China on Taiwan; that we do not intend to leave that nation to the questionable mercy of the Chinese Communists; that we do not consider Taiwan a province of mainland China.

What exactly is the policy of the United States with regard to the Chinese Government on Taiwan? The free Chinese have much at stake in the President's trip to Red China. Mr. Nixon, in preparation for his trip to the mainland met with a number of world leaders—the French, the British, the West Germans, the Canadians, and the Japanese. Why not the free Chinese? Most of the nations with whose leaders the President conferred, voted with the Communists and against the United States in the United Nations.

The Congress has a right to know the direction which this Nation's policy toward Taiwan is taking. The American people have a right to know. Our Chinese friends on Taiwan deserve better than the treatment they have received. There are still Chinese on the mainland who have not embraced communism. It is important that the United States not be a party to closing the door on their hopes for a free China in the years ahead. In all of this, let us make it clear that we share with the Chinese people throughout the world the hope and belief that in the years ahead freedom and dignity and self-government shall be restored to mainland China and preserved on Taiwan.

Yes, we respect the President for his efforts for peace and we wish him success. But America and the world will welcome positive evidence that our Government will not turn its back on old friends in the search for new ones.

Mr. GALLAGHER. Mr. Speaker, I yield to the gentleman from California (Mr. HANNA).

Mr. HANNA. Mr. Speaker, I compliment the gentleman from New Jersey (Mr. GALLAGHER), the chairman of the Subcommittee on Southeast Asian Affairs for bringing to the floor of this House the subject of the perspective of U.S. policy toward the Republic of China in the light of the overtures now being made toward the Peoples Republic of China.

Mr. Speaker, as the news media will be dominated by the reported particulars of the President's pending visit to Peking, it is entirely appropriate and timely that this body give some attention to the conditions and the situation of the Republic of China on the island of Formosa.

It was a cruel and traumatic experience for the Republic of China to suffer the political embarrassment of leaving the United Nations. All knowledgeable observers must have been impressed by the calm and mature manner in which the people of the Republic of China adjusted to the crisis. One could have anticipated disturbances in the capital, concern in the country, and confusion in the business and commercial world. None of this occurred. One could have predicted a bitter tirade against those who had failed to support the ROC position, but the comments which came were quite restrained. It can be read in this reaction that the citizens of free China have a mature confidence in themselves and a determined attitude about their future. For this they should be congratulated and admired.

We might well inquire as to whence comes the strength of this small nation in its hour of travail. The first place of support comes from the economy of Taiwan. Nationalist China's economy has been growing at a yearly rate of slightly over 10 percent. It has maintained a modest increase in population of below 2.5 percent. The gross national product is now over $6 billion in U.S. dollars, and per capita income is over $300. This last figure places Taiwan as one of the highest per capita incomes in the Asian countries.

What has caused the dynamic growth on this small island, with a population of 15 million? Informed sources attribute the motive power to these factors:

First. Political stability—the government is not only firmly entrenched and accepted, but it also lends effective effort to encourage and support the economic development.

Second. A solid basic structure—the Chinese are basically industrious, skillful, and hard working. Ninety-eight percent of all children are in school, and there is being constantly developed an increasingly trained and educated labor pool.

Third. Commitment to infrastructure—Taiwan has a comparatively efficient railway, harbor, and electrical power and road system which supports industry.

Fourth. Reasonable government policies for development—the Republic of China started with government programs to help agriculture and to encourage light industry. Thus, the development was steady and strong and did not require large financial burdens on the government. The booming economics of the United States and Japan provided markets for Taiwan's food exports and labor-intensified products, such as plywood, textiles, electrical appliances and sundries.

Fifth. The $1 billion 400 million in aid from the United States from 1945 to 1965—this aid provided a great assist to the self-help and resolute efforts of the people and their government. Since 1965, the Republic of China has followed policies which encourage savings and which have built a solid credit standing with international commercial banks and multinational institutions, such as the World Bank and the Asian Development Bank.

The basis for past improvements will remain and be strengthened for the future and we can be assured that the Republic of China will be around as a leader among the free nations in Southeast Asia for some time.

Another base of support for confidence is the impressive record the ROC made in such a few years in the field of international economic cooperation. As soon as Free China graduated from U.S. aid, they launched boldly into programs of assistance for those underdeveloped nations less well off than they. As Minister K. T. Li put it in a speech sometime ago:

> We have gathered in the course of our continued progress in agriculture, industrial and economic development a wealth of experiences useful to other developing countries. These experiences have to do with the problems of growth as well as the ways and means of tackling them. The advanced countries may be more ahead in terms of per capita income but they do not necessarily have the experience highly relevant in an under-developed or developing country. We ourselves have just gone through the required stages of development and our experiences are more readily adaptable to the needs of developing countries.
>
> What is more, we want to share our experiences. We do so in line with the Three Principles of the People, which among other things, stress the need for improving the people's livelihood with the ultimate goal of building up a "one-world of freedom and equality."

Because the Republic of China shared its good fortune and its wealth of experience with others less fortunate, even while they were yet pushing for the expectations and goals of their own people, they built a solid foundation of confidence. They also built a record of achieving and spreading economic progress under a democratic system of government and in the competitive enterprise environment of the free world—a showcase of the benefits to be gained outside the controls, the chaos, and the repressions of the Communist system. The free government on Taiwan will not be forgotten nor will it quickly fade away, because it has established an enviable and recognized performance of cooperation with other countries in the world in the cause of freedom and prosperity.

We take this time then to assure the people of the Republic of China that their island kingdom, though small, has a great impact on many in the United States and countless others around the world. We would like them to know that we have marked and have been impressed by the calm and resolute manner in which they have met recent events and by the stance taken for their future. Taiwan is an important economic unit in the free world of Southeast Asia and in the world in general.

Whatever might happen with mainland China and the People's Republic, let us continue our awareness and appreciation for what has happened in Taiwan and the Republic of China.

Mr. WINN. I thank the gentleman from New Jersey for yielding part of his time.

Mr. Speaker, I want to congratulate Mr. GALLAGHER, who has served this House so well as chairman of the Subcommittee on Asian and Pacific Affairs of the Foreign Affairs Committee for taking this time in order that the House may discuss and offer their comments on the fine work that our President is doing.

It was my pleasure to accompany the Speaker of the House (Mr. ALBERT) on an official trip for this body, this summer. We had the great pleasure of meeting Generalissimo Chiang Kai-shek and Madam Chiang Kai-shek and indeed we found them to be true friends of the United States. Their concern and attitude toward Red China is understandable.

We recall that President Nixon said in his state of the world message:

> We shall maintain our friendship, our diplomatic ties, and our defense commitments to the Republic of China on Taiwan.

I, for one, Mr. Speaker, want to join my many colleagues in demonstrating congressional support for this position. In my visits with many of the Nationalist Chinese, I said, time and time again, that President Nixon would continue support of the Republic of China.

The turmoil that took place in the United Nations at the time of the election of Red China to that body, has already been pointed out by my colleagues. We have discussed that sorry situation many times in this body.

We all wish our President a successful trip in his visit to Peking and wish him a safe trip as he starts on his historic journey. But I do want to reiterate and express our concern to the friendly nation of Nationalist China that we continue to work and strive to see that our friendship remains everlasting.

Mr. GALLAGHER. I thank the distinguished gentleman from Kansas.

I yield to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentleman from New Jersey (Mr. GALLAGHER) for taking this time of the House to place American Taiwan policy in better perspective.

Having just returned last month from 4 days in Taipei and having talked to Premier and Vice President C. K. Yen, Vice Premier Chiang Ching-kuo and Chief of the General Staff, Gen. Lai Mintang, I am convinced that American Taiwan policy needs a better focus.

Since 1949 when the Nationalist Chinese Parliament, army, and executive moved from the mainland to the Island of Taiwan, considerable change has taken place.

The U.N. action excluding Nationalist China and admitting Red China is a fact, as is likewise the Nixon Peking visit and the imminent recognition of Red China by the United States and other nations.

I do not believe that the above actions are occurring because more of the world thinks the Communist way of life is better or nonthreatening to the free Democratic countries, but that the action is taken merely recognizing a status quo fact of life on the mainland of China for 23 years.

While the theory of the Red Chinese is

apparently to operate a country of 800 million plus people according to the trite and obscure little Red Book of Mao, likewise is it not in the interest any longer of the Chinese on the Island of Taiwan to continue with the fiction that the island is still a province of the mainland that is now being separately recognized. Likewise the fiction that 460 octogenarians running the Taiwan Parliament last elected from the mainland in 1949 is also difficult to explain to a doubting younger generation of Americans.

It occurs to me and I so expressed myself to the aforementioned dignitaries, that Taiwan, as the third largest economic trader on the Pacific Ocean, behind only Japan and California, having a gross foreign trade in excess of $4 billion, should be recognized individually as such.

It appears to me that the security of this small island of 15 million people lies more in its economic success—the people actually like the $400 per capita GNP—than in the presence of the American 7th Fleet.

I would think this island more secure with five jets on the ground and a viable progressive economic democracy that the U.S. young and old can clearly identify with, rather than have 100 jets on the ground and a sterile dictatorship-parliament that many democracies have trouble understanding.

Such to better understand the progress of Taiwan, its trading potential, and its security implications with the outside world, I have suggested to the Chinese leadership the idea of establishing an interbusiness professional governmental council with the United States. The idea has met with broad acceptance both among Taiwan leadership in Taiwan and the United States, the American diplomatic staff, Members of Congress, both House and Senate with whom I have spoken, including many professionals from business, universities, and private foundations across the country.

Such a group as I envision would operate partly as an interparliamentary conference but would have broader implications. Members from Taiwan should include some Members of the Parliament, other elected officials of Taiwan, young members of the Taiwan Government, business and professional.

I can envision a group of 40 members from each country meeting several times annually in both countries under the sponsorship of an appropriate university, funded from independent foundation funds not previously connected with China policy.

I believe that a broad group nonpartisan from multilevels of government and business could provide motivation for achieving an ideal status for Taiwan and enhance not only the security of Taiwan but also the United States.

In the final analysis I feel that the Taiwan Government can provide the best defense or offense against mainland communism, not by covert plans to invade the mainland, but by showing the world that economic progress under a Taiwanian democracy is easily four times as good as the Red mainland measured in GNP dollars—a viable democracy at this juncture, however, is critical.

Pertinent letters follow:

Chief of the General Staff,
Ministry of National Defense,
Republic of China, February 12, 1972.

Hon. Robert L. Leggett,
Member of Congress, Rayburn House Office Building, Washington, D.C., U.S.A.

Dear Mr. Leggett: I have received your letter of February 1, 1972 and am pleased to know that you are proceeding with your effort to promote stronger ties between our two countries. I wish to reassure you that if any of your friends in the United States Congress comes to my country for a visit, we shall extend him our sincere welcome. I on my part shall do my best to make all the arrangements for him to visit our military installations or even to take a trip to Kinmen if he so desires.

Though you may not have much time to travel abroad, I nevertheless hope you will be able to come to Taiwan at least once or twice a year. And when the next time you come, I hope you will spend a few more days here so that you will not only meet your old friends in Taipei but may have an opportunity to visit the central and southern part of Taiwan as well.

Since Taiwan is geographically far apart from America, the general public in the United States do not seem to know much about Taiwan. Exchange of visits by political and economical leaders of our two countries is therefore extremely important. It is hoped that those who have been to Taiwan will tell their friends what they have seen here. Many people hold different views on Taiwan after their visit. As the old proverb goes, "seeing is believing." I think you may have the same feeling.

As the Chinese Lunar New Year is only two days away, I take this opportunity to wish you a happy Chinese New Year and a very successful year ahead.

Sincerely yours,

Lai Ming-Tang,
General, CAF
Chief of the General Staff.

Office of the Vice President,
Republic of China, February 12, 1972.

Hon. Robert L. Leggett,
Congress of the United States, House of Representatives, Washington, D.C., U.S.A.

Dear Mr. Leggett: Thank you for your letter of February 1, 1972. It was my pleasure to have you visit me in my office. And I enjoyed our conversation very much.

I am also delighted to learn that your excellent idea of a mutual inter-parliamentary economic exchange has found strong support among your colleagues and friends. It is my belief that your activities along this line will greatly contribute to strengthening the traditional relationship and cordial ties between our two countries.

I look forward to hearing from you in the near future.

With my warmest regards and best wishes,

Sincerely yours,

Yen Chia-kan,
Vice President and Prime Minister.

Mr. MEEDS. Mr. Speaker, will the gentleman yield?

Mr. GALLAGHER. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Speaker, I join the gentleman in wishing the President well on the eve of his departure to the People's Republic of China with the intent and hope of improving relationships between this country and that great people. I think those efforts are long overdue and I wish him every success. But, I also hope this can be done without unduly straining our relationship with the fine people of the Republic of China.

I have had the opportunity in the past to visit Taiwan, and I think no one can come away from there without being tremendously impressed with the great economic strides that have been made by this very ingenious people.

Mr. Speaker, I was also particularly impressed with the efforts of the people of the Republic of China in education. I had the opportunity to meet with the Legislative Yuan and discuss legislation with their people and to visit their educational facilities. The dedication of the Chinese people to the education of their children is second to none in the world. The Republic of China has, per capita, more colleges and public schools than any country in Asia, and as such is making a great effort to educate its own people. I think they are to be commended for their economic and educational efforts, and I certainly wish and hope that in this effort to reconcile our differences with the People's Republic of China, we can still retain our friendship with the people of the Republic of China.

Mr. GALLAGHER. Mr. Speaker, I thank the gentleman for his remarks.

Mr. ALBERT. Mr. Speaker, as the President prepares to depart tomorrow on his historic trip to the People's Republic of China, I extend to him my best wishes for a successful mission. I sincerely hope that Mr. Nixon's discussions with the leaders of mainland China will contribute to the cause of world peace in this dangerous era. The President takes with him on this mission the prayers and best wishes of Members of both parties in Congress and, I am sure, the people of the United States of America. We have been amply warned, and I believe deservedly so, not to expect any resounding decisions from this initial trip after more than two decades of almost total Chinese isolation from international affairs. But with this initial dialog and through the meetings we hope will follow it, misunderstandings and fear of one another's motives will hopefully be replaced by increasing normalization of relations.

At the same time, I think we should emphasize that during the 22 years of mainland China's isolation, our bonds of friendship with the Republic of China on Taiwan have been constantly strengthened. Our historic relationship with the great Chinese people has been perpetuated during this period solely through our relations with Taiwan. We have maintained close diplomatic ties and an irrevocable commitment to the defense of the republic, and there is no reason why these mutual relations should not continue as strong as ever in the future.

Last summer I headed a congressional delegation to the Far East last August, and as spokesman of that group, I assured the people of Taiwan that our commitment to our longtime friends would not be sacrificed as a part of any new Asian policy. I pointed out to them that thousands of Americans have died fighting for freedom around the periphery of Asia since World War II, and that we would not lightly abandon the goals or the principles for which we have committed our people and our resources.

President Nixon has recently asserted

his intention to maintain our friendship, our diplomatic ties, and our defense commitment to the Republic of China, and has also pledged that his Peking trip will not result in the bartering of the interests of any other country. I echo his sentiments, and I am confident that I speak for a majority in the Congress in offering my total support for the President's position.

Mr. GERALD R. FORD. Mr. Speaker, on Thursday President Nixon begins a momentous mission for peace, a visit to mainland China. I share the hope of all Americans that the President's trip signifies the opening of a door, the beginning of a new era, a normalization of relations between the United States and the People's Republic of China. At the same time, I wish to join with the President in emphasizing that our friendship with the Republic of China, our old ally on Taiwan, is not diminished in any degree.

As the President himself has asserted—

> Our new dialogue with the People's Republic of China will not be at the expense of friends.

The President amplified this statement in his state of the world message when he declared:

> We recognize that this process cannot but be painful to our old friend on Taiwan, the Republic of China. Our position is clear. We exerted the maximum diplomatic efforts to retain its seat in the United Nations. We regret the decision of the General Assembly, to deprive the Republic of China of its representation although we welcomed the admission of the People's Republic of China. With the Republic of China, we shall maintain our friendship, our diplomatic ties, and our defense commitment.

Mr. Speaker, I subscribe fully to the views expressed by the President concerning the Republic of China in his state of the world message. I join my colleagues in reaffirming the friendship the United States feels toward Taiwan.

Mr. HÉBERT. Mr. Speaker, I would hope that we see unparalleled unity in the House and Senate in wishing the President Godspeed as he embarks on his historic journey to Peking.

We all want peace in the world, and this trip may be the opening of the door to generations of peace. There are many who have vigorously opposed the President's trip and view it as succumbing to the Red Chinese.

I would never be in favor of giving in to them in any fashion, but I do believe that it will be beneficial for us, during this time of advanced technical and nuclear weaponry, to establish a line of communication with Peking.

The President has displayed a foresight and courage which will earn him a niche in the history of the relations between Red China and the United States.

Understandably, his journey is producing shock waves in the Pacific area—Taiwan, Korea, and Japan.

I hope that the President, as he moves to tumble the wall which has surrounded us from Red China, does not forget these countries, who are our friends.

Of particular concern is our relationship with Taiwan and Chiang Kai-shek, the President of the Republic of China.

He has been a friend of the United States and a great leader of his people. We must always treat him with the reverence, respect, and friendliness which he has earned from us through the years.

I am confident that the President has given this matter serious consideration and will take steps to solidify our relationship and reassure Chiang Kai-shek and the others that we are not fickle friends.

Good luck, Mr. President, and we are with you in spirit.

Mr. BARRETT. Mr. Speaker, tomorrow President Nixon embarks on the most historic foreign trip that an American President has made since Woodrow Wilson left for Europe in 1919 to attend the Versailles Peace Treaty meeting. Every Member of Congress on both sides of the aisle wishes the President Godspeed on this important and far-reaching trip. This trip, as everyone will agree, holds the potential for change in the whole of our Far Eastern foreign policy.

I would like to thank my distinguished colleague from New Jersey (Mr. NEAL GALLAGHER), the chairman of the Foreign Affairs Subcommittee on Asian and Pacific Affairs, for taking this special order in order to afford the Members of the House the opportunity to comment on the President's upcoming trip and our general policy toward the recent developments in the Far East.

Chairman GALLAGHER and myself have recently returned from an extensive trip through the Far East. In each country we visited we had detailed discussions with government officials and extensive briefings by our embassy staff. It is with this background that I make my comments this afternoon on the President's trip to mainland China.

While much has been written and discussed about the grand new potentials in our relationship with Communist China and the rest of the Far East, I believe that not enough discussion has been conducted regarding the serious problems that are likely to arise.

Our whole post World War II foreign policy has been based mainly on a spirit of cooperation with our friends throughout the world, coexistence with the Communist nations, and the friendship and assistance with the neutral nations of the world.

I believe that the basic trust developed between this country and the other nations of the world has been seriously harmed by the procedures employed by President Nixon and Henry Kissinger in establishing the rapprochement with mainland China. The United States has longstanding treaties, commitments, and friendships based on longstanding American positions that can now no longer remain the same. If some precautions had been taken by President Nixon and Dr. Kissinger in preparing other Asian nations, no matter how small, then many fears and strong, yet quiet reactions, to the China visit would not be as troublesome as they are today. Basic trust in the U.S. policy has been destroyed by the adoption by the President of Dr. Kissinger's power politics approach to our foreign policy. Of course, secrecy was needed in any dealings with mainland China, but an abrupt and sudden decision with no notification to friends whose association, proximity, and relations to their giant neighbor was of utmost importance caused not only a loss of face, but severe lack of confidence in the candidness of the United States in our relations with these Asian nations.

The chief loss of confidence in American policy, in my own view, was in Japan. Despite all the solemn pledges heard in the recent Sato-Nixon meetings in San Clemente, the Japanese Government was seriously chagrined by President Nixon's July announcement.

I do not intend to review here the immediate reactions, but do believe that the foreign policy of Japan is forever severed from its close tie with the U.S. foreign policy. Japan will proceed, on its own and very rapidly, to establish diplomatic, commercial, and cultural ties with mainland China. The United States has already agreed to withdraw from the island of Okinawa and remove its large military base from there. I believe that the Japanese Government, in the near future, will seriously question the need for continued American military presence in Japan. Prime Minister Sato is the last of the postwar Government officials who have run the Japanese Government. Even if Prime Minister Sato's leading candidate to succeed him, at the present Foreign Minister Takeo Fukuda, is chosen to be the next Prime Minister of Japan, the strong factions in the Japanese Social Democratic Party are going to propel him toward a foreign policy totally independent of the United States, particularly regarding mainland China.

Japan is the strongest economic power in the Far East and we have failed to consider Japan's economic and political power with regard to the rapprochement with mainland China. Foreign Minister Fukuda has greeted President Nixon's visit as an opportunity for a relaxation of tensions in Asia and a hope for better days. But, Japan will direct its own course in Asia despite the U.S. plans.

The unanimous warning that I received in my meetings with government officials in Asia was that President Nixon must proceed with extreme caution in his meetings with Mao Tse-tung and Chou En-lai. Time was ripe for a United States-Communist China dialog, but the means of doing it have hurt the U.S. position in Asia.

Mr. Speaker, the distinguished gentleman from New Jersey (NEAL GALLAGHER) and myself had the privilege to meet with President Chiang Kai-Shek on January 12, 1972, in Taipei. I was surprised at the open-minded attitude displayed by President Chiang toward the Nixon trip to the mainland. President Chiang said that the world must watch and wait before any judgments are made. I felt also that President Chiang was warning us that President Nixon will be dealing with the most sophisticated and diplomatically shrewdest men in positions of power today. Beware of any agreements and commitments was the message I received from not only Taiwan, but throughout Asia, and furthermore these warnings carried the message that the United States must retain and voice again its treaty commitments in the Far East.

In 1965 I met with President Chiang who at that time warned me that the

United States should not commit ourselves to a ground war in Vietnam; we could never win. His sage advice remained with me and affected my whole view on the disaster of our involvement in Vietnam.

My views expressed today are not colored by President Chiang's comments nor of those of Japan, but have been developed over a period of 26 years of close observation of the Far East and more particularly by the impression recently developed from visiting most of the Far Eastern nations.

I do believe the President's trip to mainland China opens a closed door. A door that has been closed for many years, has much dust and cobwebs that are blown about. When the initial opening takes place, we all must wait for the dust to settle before the way is clear.

Mr. ADDABBO. Mr. Speaker, I am one Democrat who wishes the President good luck and Godspeed on the eve of his historic journey to Peking.

This journey could mean significant progress in mending relations between the world's most populous country and the world's most powerful country, in the President's words. Beyond that we fall into the realm of speculation, something that the President has wisely warned against.

This is an opportunity for much but we must not disappoint ourselves by raising untoward expectations.

Also, I am pleased that the President in his state of the world address made special mention of the longstanding defense and diplomatic commitments the United States has to Taiwan. Embarking on the long road of rapprochement with China must not be the occasion for forsaking old friendships, whether with Taiwan, or Korea, or Japan, or the other countries of the area.

Mr. PRICE of Texas. Mr. Speaker, last October, I spoke in support of the Republic of China and its effort to remain in the United Nations. Since that time, the United Nations has regrettably voted to oust this nation of 15 million people. Thus, Taiwan, with a population larger than those of two-thirds of the members of the United Nations, was cast out of the world organization.

With all the emphasis one finds today in the press and on television concerning Communist China, we need to be reminded that the Republic of China's future remains one of the brightest in Asia. Economically, the Republic of China continues to be the number one success story in all of Asia outside Japan. Even in the absence of U.S. economic assistance, which was ended in 1968, the Republic of China's gross national product has increased 8 to 11 percent annually and now totals nearly $6 billion. Per capita income is over $300. Only Japan, Singapore, and Malaysia in all of Asia have a higher per capita income level, and the Republic of China will likely surpass the latter two countries by 1980. Communist China, by contrast, has a per capita income not exceeding $100. The Republic of China's trade position is one of expansion and confidence. Within the next 2 years, its total trade will surpass Communist China's; on a per capita basis, the Republic of China's trade is nearly 40 times that of Communist China. In short, the Republic of China represents what the United States has been trying to achieve in Asia since 1945: a dynamic, progressive society that is constantly building and improving upon the foundations of a prosperous life for its people. The United Nations vote should be remembered in this context.

The United States has contributed a good deal to the Republic of China's success story with aid and support for over two decades. Our friendship with the Republic of China goes back to the days before Pearl Harbor when President Roosevelt refused Japan's demands that we cease to support the Republic of China Government in Chungking. After Pearl Harbor, the United States and the Republic of China became staunch allies and have remained so ever since. It is a relationship that has benefited both peoples and will continue to do so in the future.

Our longtime alliance with the Republic of China and that nation's position today as one of the strongest and most prosperous countries of Asia lead me to believe firmly that the interests of the United States require that we retain our investment in its future and that we not sacrifice the Republic of China for the extremely doubtful benefits to be derived from any so-called normalization of relations with Communist China. This requires, I believe, two commitments on the part of the United States: A commitment to continue full diplomatic relations with the Republic of China and a commitment to fulfill our defense obligations. If the United States abandons either one or both of these commitments, the consequences to our entire position in the Far East could be disastrous. The United States, in effect, would be selling out 15 million people who have depended on us for over two decades to preserve their freedom and independence. We would open the door for their enslavement and would have to bear the moral stigma of this for ages to come. Those who believe Chou En-lai's pious assertions that the Communists would undertake no reprisals against the people of the Republic of China ought to move in with Alice in Wonderland.

If the United States abandoned the Republic of China by breaking diplomatic relations or shirking its defense commitment, the doubts already raised in the minds of our Asian allies would multiply tenfold. It is all too apparent that those Asian countries we have supported over the years are genuinely worried that the new U.S.-China policy will ultimately entail an American withdrawal from the Far East and its security commitments there. Some of our closest friends are apprehensive that the United States is entering a period of political and moral decay and that we will make a deal with Peking at their expense. Japan, our strongest ally in the region, has been severely shaken by the prospect that the United States will sacrifice the free nations of Asia for closer ties with the Communists in mainland China. Let us now reaffirm our alliance and commitments to the Republic of China; only by doing so will free Asia be able to restore its faith in the promises of the United States.

Mr. COLLIER. Mr. Speaker, the prayers of his fellow Americans will accompany President Nixon as he journeys to the other side of the globe and their good wishes will encourage him in his efforts to bring enduring peace to a world divided by conflict. They will wish him success as he tries to reach meaningful agreements with those who have power and influence over more than half the world's people.

I join with what I trust will be the overwhelming majority of my colleagues in expressing the support of the people's representatives in Congress for the continued independence of the Republic of China. Our friendship for the Chinese people, which has endured for over a century, embraces those on Taiwan as well as those on the mainland of Asia. Since World War II, room has been found in the family of nations for more than 70 new members—surely there is room in the world for Free China.

While Richard M. Nixon strives for friendly understanding with the leaders in Peking, there ought to be a moratorium on ill-conceived, ill-timed, and ill-tempered statements. Let us close ranks, withhold hasty comments and automatic and instantaneous analyses, and suspend judgment until the results of the deliberations in Peking have been revealed and there has been sufficient time for mature deliberations.

Mr. Speaker, let us hope and pray that the President will be able to achieve genuine peace between the peoples of America and the peoples of China. Let us divert the talents and energies of both Americans and Chinese, as far as is possible in a world populated by imperfect human beings, from preparations for war to the pursuits of the arts of peace. May God speed the day when the genius of man, be he white, yellow or black, will be devoted, not to the invention of worse ways in which to kill his brothers but to the finding of better ways in which to bring knowledge, health, prosperity and spiritual blessings to his neighbors throughout the world.

Mr. STEIGER of Arizona. Mr. Speaker, I want to join with my colleagues in wishing the President every success and a safe trip on his historic journey to mainland China.

I know that while there, he will bear in mind his resolution to maintain our friendship, our diplomatic ties and our defense commitment to the Republic of China on Taiwan.

The President's visit can be a significant step toward the achievement of world peace and understanding.

Mr. PICKLE. Mr. Speaker, soon the President of the United States embarks on a historic journey to a country virtually unknown to us, a government with whom we have had little contact since its formation, a land whose ways are strange and often at variance with our own.

There is in such a situation almost by definition great danger for misunderstanding and mishap in the meeting of our Head of State with theirs. There is also—wherever there is a great danger—great opportunity. That is why we stand here today, from both sides of the aisle and from all political persuasions, to wish our President Godspeed on his journey to the People's Republic of China.

On his shoulders and on ours now lies a dual responsibility. We must keep our heads and our wits about us as we deal with a strange land. But we must also—even in the midst of the tension, the publicity, and the natural excitement which will surround the President's journey to Peking—we must never, never forget our old friends.

Taiwan, in the roster of the world's nations, is far from being one of the less populous ones. We must remember the people of this island even as we walk on the shores of the nearby mainland.

It was my privilege 2 years ago to visit Taiwan, and there to meet with Gen. Chiang Kai-shek and Madame Chiang and other national leaders. We toured the island and I viewed there the energy and the enthusiasm of the people and the development going on all over the country. The people of Taiwan are working, building, growing, building a country and a democracy. They have pride in their new government and nation. We must encourage that interest and that development.

We cannot ignore the People's Republic of China. They are part of the world it is true. But at the same time we must guarantee for the people of Taiwan a proper place in the world balance.

Japan, India, and many other countries on the Asian scene have stood with us and extended an open hand of friendship for as long or longer than the People's Republic has even been in existence. It would be a gross wrong to forget them now—to forget, in the excitement of the moment, their longstanding needs and wants on the Asian scene and in the family of nations.

We must move in the months ahead with statesmanship—to open new doors to peace if we can—and to keep a close watch that we do not at the same time close old ones.

Mr. STRATTON. Mr. Speaker, I join in wishing the President success in his trip to the Chinese mainland.

His efforts to get better acquainted with the Red Chinese have a potential for furthering improved international relations and world peace and I support those efforts. Let me take this opportunity, however, to remind the President of our longstanding commitment to the Nationalist Chinese on Taiwan, still recognized by the United States as the legitimate Government of China.

Last summer I had the opportunity to visit Taiwan when I was invited to participate in the Nationalist Chinese observance of Captive Nations Week. Visiting with the Chinese living in Taiwan, I was reminded, as I now remind the President, that the Chinese Communists have forced thousands of people to leave their homeland and to live in exile rather than live under Communist domination.

As the President meets with Chou En-lai, I hope that he will bear in mind that Chou recently stated that the primary objective of the Red Chinese is still the takeover of Taiwan. The Nationalist Chinese are our old friends, and the Communist Chinese tell their people that the United States is their enemy.

While our best wishes for a successful journey will be with the President when he departs tomorrow, at the same time I join in expressing my own belief that improved international relations can never result from neglecting old allies.

I hope the President shares this belief and that we will continue our mutually beneficial relationship with the Nationalist Chinese for many years to come.

Mr. McCLORY. Mr. Speaker, while recent headline events have focused our attention on Communist China, insufficient thought has been given to our ally, the Republic of China on Taiwan. In our zeal to pursue a rapprochement with the People's Republic of China, the United States has gradually diminished its active support of the Nationalist Government of Formosa. In my view, this trend is ill-advised and could very well lead to misunderstanding on the part of our allies.

In 1969 nearly all the ships of the U.S. 7th Fleet were ordered out of the Taiwan Strait where they had long been a visible symbol of America's commitment to Taiwan. In the same year American sponsored reconnaissance flights from Taiwan were terminated. The strength of the U.S. Military Assistance Advisory Group and the Taiwan Defense Command have been gradually reduced in addition to the cuts being made in the troops on Taiwan who provide support for the Vietnam war effort. In the last few months the regrettable expulsion of the Republic of China from the ranks of the United Nations added a new dimension to the so-called "two Chinas" policy which we are presently pursuing.

It is time to review this chain of policy decision before we have cut our ties with the Republic of China so thin that they are no longer credible. America's commitment to the defense of Taiwan and the Pescadores is set forth in the mutual defense treaty of 1955 and was reaffirmed by President Nixon in his foreign policy report to Congress last week. It is certainly the intention of the Government and people of the United States to honor this treaty and to respect the long friendship that has existed between our country and the Republic of China. We must not inadvertently let these ties loosen.

It should also be pointed out that the Republic of China deserves our continued political and military support and that such support will benefit Asian stability and, therefore, American interests. The 15 million people of Taiwan have worked hard to establish a viable nation, a strong economy and an effective defense force. America has encouraged them and helped them along this road, but the Republic of China now stands on its own, no longer needing or receiving U.S. economic assistance. Since aid was stopped the Republic's economy has maintained an average annual growth rate of 10 percent. Taipei's trade volume topped $4 billion in 1971, which approximates the amount of trade conducted by mainland China. They have also built a strong armed force of 540,000 men; but they still need air and naval support to defend their islands. It is this spirit of industriousness, responsibility, bravery, and cooperation that we want to foster in Asia. Let us reaffirm without qualification our commitment to a loyal and dependable ally, the Republic of China.

Mr. CONTE. Mr. Speaker, as we all know, the President is embarking on a historic visit to the People's Republic of China. That such a trip could even occur makes the mission a success, and demonstrates the progress that has been made in striving for better international relations and world peace. We have progressed from mutual distrust and constant fear, past the now-famous "ping-pong diplomacy" which helped to break the ice, and now we are able to look beyond old verbal assaults in favor of the rational exchanges of ideas.

I commend the President for journeying along the path that has led to these landmark discussions. And I share his hope that the groundwork for future cooperation is being established with this trip.

To envision the scope of this occasion and its total meaning for the United States is a very difficult task. I am sure that most of us applaud this effort to foster peaceful discussion and understanding. The President's journey will surely have a big impact. Many issues will be discussed, including basic questions affecting Nationalist China. With this in mind, I would like to voice my concern for our ally on Taiwan.

Newsweek magazine, February 21, 1972, reported that, on Taiwan, applications for passports have jumped to a record 5,000 a month. The Taiwanese are seemingly afraid that we will become estranged because of our recent friendliness with mainland China.

We have been assured by the President, however, that he will not lose sight of our ally, and that we will continue to honor our friendship with, and defense commitments to Taiwan. It is unfortunate Nationalist China has been cast into the background, especially after its ouster from the United Nations. This leaves a nation of over 16 million people who are not represented in this world body. I hope that this situation will be speedily remedied.

Our talks with Peking must not be construed as dissolving our relationship with Taiwan. We must recognize that no predetermined strategy has been negotiated with China, except for the fact that we are trying to normalize our relationship. This can be done without short-changing Chiang Kai-shek.

The necessity for constructive consultation between countries is all too obvious. Consultation encourages understanding. Understanding leads to cooperation which insures peace.

Mr. Speaker, I would like to express my best wishes to the President, knowing that he has the interests of world peace at heart.

Mr. DERWINSKI. Mr. Speaker, I am pleased to join in this special order today in which so many Members are emphasizing their support of our commitment to Nationalist China, and extending their prayers and good wishes for President Nixon as he commences his journey to Peking.

I believe that the President's trip to

Peking, while deserving of the tremendous interest that it has aroused, should also be viewed with legitimate doubts as to what major accomplishments, if any, will be forthcoming from it. The President, as a student of history, must certainly keep in mind historic summit disasters such as that of Chamberlain at Munich, Roosevelt at Yalta, and Truman at Potsdam.

The President is receiving plenty of advice these days and my only suggestion to him would be that he adopt a "show me" attitude and not make any concessions whatsoever to the Red Chinese until they have clearly demonstrated that they will end their subversive activities in Asia, Africa, and Latin America and conduct themselves in a legitimate fashion in international relations. Any government that has come to power by use of the gun barrel, and remains in power by maintaining an oppressive military force, cannot be looked upon in the same manner as a respectable and reputable ally.

However, the President can certainly convey to the Red Chinese that they have nothing to fear from the United States but they should be concerned with the imperialistic expansion policies of their Communist neighbor, the U.S.S.R.

Mr. Speaker, the President's trip is a positive and innovative diplomatic mission. By virtue of holding the office of the President of the United States, Mr. Nixon is automatically the leading spokesman of the free world and, as such, represents righteousness in contrast to the sinister ideology of communism. The threat to world peace comes from the Communist and certainly not from the free world nations.

I believe that we in the free world have clearly gained momentum in world affairs but to reach maximum effectiveness we must develop a totally coordinated attack against the Communists in propaganda, diplomatic and economic fields. The Communists must be kept on the defensive in all fields and the internal dissent which exists in every Communist-held nation must be effectively nurtured by free world forces.

For years communism has claimed to be the "wave of the future." Its pressures in diplomatic, propaganda, economic and military fields created the image of an irresistible force. However, the failure of any Communist government to provide true progress for the people it controls and the outright rejection of communism in election processes throughout the world clearly demonstrates that communism is a self-defeating philosophy.

The international Communist conspiracy is the great threat to world peace and stability. True peace and freedom, the legitimate goal of all mankind, will come to Vietnam, Cuba, China, and other oppressed lands only when the peoples are represented by governments of their own true choice.

Mr. Nixon and his official party, and the entourage of Americans accompanying them, will obviously have only a limited view of today's Red China. They will be shown scenes and places that have been carefully selected by the Peking Government. It will remain for Mr. Nixon and his advisers to carefully check the limited data and intelligence information available to get an accurate picture of the true conditions under which the Chinese people live under their Communist rulers.

In contrast to the continued economic backwardness of the mainland, the Nationalist government on Taiwan has performed an economic miracle. They have developed a thriving economy, steadily expanding foreign trade with a favorable balance, and have reached a per capita income level second only to Japan among oriental nations.

In my judgment, this certainly demonstrates in a favorable way, progress achieved under the Nationalist Government, a free world ally of ours, vis-a-vis the Red Chinese Government.

Mr. Speaker, I am also convinced that by an overwhelming number, Members of Congress believe that we should continue to maintain our solid relations with the Republic of China thus demonstrating the validity of an American commitment. Any interpretation of the President's trip as producing a lessening of our commitment to the Republic of China, is clearly erroneous.

Again I join many of my colleagues this afternoon in this very timely special order supporting our President and extending encouragement to our friends and loyal allies of the Republic of China.

Mr. CRANE. Mr. Speaker, as President Nixon prepares to embark upon his trip to Communist China, it is essential that we take this opportunity to reaffirm our treaty commitments to the government and people of the Republic of China on Taiwan.

Our commitments to Free China, it is important to remember, go back to 1949, when the Communists seized the mainland and the Nationalists moved to the island.

It is also important that we consider the nature of this commitment in its broader international implications, as well as with regard to the moral and legal questions involved.

Our country has, for many years, prided itself upon being a reliable ally. We have carefully assisted in the construction of a system of alliances, in Europe, in Asia, and elsewhere in the world, based upon a mutual interest in stopping the forces of aggression.

To implement this policy we have provided billions of dollars in economic and military aid to friendly nations. We have risked war in Berlin, in Lebanon, and in the Dominican Republic. We have fought costly and bloody conflicts in Korea and in Vietnam. In pursuit of a world in which aggression cannot succeed and in which might is not the final arbiter of right and wrong, thousands of young Americans have given their lives.

Many people on Taiwan are now concerned about whether our commitments to them are firm or whether there is the possibility that in a great power agreement between the United States and Communist China, they may be considered expendable.

Those on Taiwan, and elsewhere in Asia, who share this fear, are not without their reasons for doing so. In November 1969, the 7th Fleet terminated its two-destroyer patrol off the coast of China and in July 1971 the United States stated that it would not transfer nuclear weapons now on Okinawa to Taiwan and also ended air reconnaissance missions over the mainland leaving from Taiwan.

When President Nixon was asked January 2 by CBS correspondent Dan Rather whether the United States was beginning to withdraw its troops from Taiwan, his answer was "Not at the present time," which many in Asia took to mean that it was a possibility later on.

Many on Taiwan believe that in his "state of the world" message on February 9, the President moved even further in this direction. In his message, President Nixon noted pointedly that "the ultimate relationship between Tawain and the mainland is not a matter for the United States to decide." At the same time, the President declared that "We shall maintain our friendship, our diplomatic ties, and our defense commitment" to the Republic of China on Taiwan.

It is only natural, in light of what may be contradictions, for our allies to wonder about the future. It is clear that Peking insists upon an immediate "return" of Taiwan. Premier Chou En-lai for example, was reported to have taken the position that he would never come to the United States or the United Nations as long as the United States maintained diplomatic relations with Nationalist China.

It is clear that the status of Taiwan is high on Communist China's list of priorities, and there is no doubt that not only the people of Taiwan but those of all countries in Asia with whom we are allied, wonder what the future will hold.

The state of Asian opinion was discussed by Roll Call columnist Allan C. Brownfeld upon his return from a trip to the Far East. He noted that:

> The single impression which this writer could not escape during a two week tour of the Far East . . . is that our Asian allies are nervous. They cannot understand why President Nixon announced his trip to Communist China without first consulting them, as partners in an alliance are allegedly supposed to do. They also find it difficult to explain why the American President appears to be going to Peking out of weakness rather than out of strength.

Mr. Brownfeld notes that:

> In the opinions of the Japanese, Chinese Nationalists, and others with whom this writer had an opportunity to speak, present American policy may bode ill not only for the free nations of Asia but also for peace itself.

Following is Mr. Brownfeld's column, which appeared in Roll Call of January 27, 1972:

ASIANS QUESTION AMERICAN COMMITMENT

(By Allan C. Brownfeld)

The single impression which this writer could not escape during a two week tour of the Far East which included visits to Japan, Taiwan and Hong Kong is that our Asian allies are nervous. They cannot understand why President Nixon announced his trip to Communist China without first consulting them, as partners in an alliance are allegedly supposed to do. They also find it difficult to explain why the American President appears to be going to Peking out of weakness, rather than out of strength. In the opinions of the Japanese, Chinese Nationalists, and others with whom this writer had the opportunity to speak, present American policy may bode ill not only for the free nations of Asia but also for peace itself.

While official circles in Asia refrain from any real criticism of American policy, it is not difficult, when speaking to influential citizens outside of the government, to gauge their real feelings. In Taiwan, for example, officials continually expressed the belief that America's commitment to that island's security and defense was firm. They had faith in America's good word, they said, and while dubious about the President's trip to Peking, they did not permit any real criticism to enter their official pronouncements.

Yet Chinese outside of the government felt much more free to discuss their real feelings. Nancy Yu-Huang, the American educated publisher of the English language daily newspaper, the China Post, stated that "America has been the best friend of China traditionally. Americans are young and vibrant, but have less experience and patience than those in Asia. We are more philosophical. Watching you in international affairs we feel is like watching a child, full of energy, but too emotional. We learned our lesson about Communism the hard way. Even if I were not Chinese, watching President Nixon's plans for his trip to Peking, I would say it was like watching a child playing with fire." Mrs. Yu-Huang stated that "The Communists are very shrewd," diplomatically implying that Mr. Nixon's entourage might not be a proper match for them.

Twenty two foreign affairs experts discussed President Nixon's trip to Peking at the Institute of International Relations in Musa, a suburb of Taipei. The opinions expressed reveal the depth of concern which may be heard not only on Taiwan but also in South Korea, Thailand, the Philippines, Indonesia, Singapore, Japan, and throughout Southeast Asia.

Professor Lin Chih-lieh, for example, stated that "The proposed Nixon visit to Peking clearly manifests the fact that the policy of containment in Asia has been completely destroyed. From now on, as a consequence, U.S. influence in Northeast Asia, Central-South Asia, and South Asia will be greatly diminished. Nixon's visit to Peking cannot repair the weakpoints in his Asian policies. Nixon's announcement of his intention to visit the Chinese Communists has prompted the Soviets to enter Asia. Adequate proof for this assertion is offered by the existence of Soviet-made weaponry and supplies in the war raging in the Indo-China peninsula."

The announcement of President Nixon's trip produced shock waves across the Asian continent. It caused the declaration of an emergency in South Korea and the military take-over of the government of Thailand. The Japanese Liberal Democratic Party, long pro-Western, is in serious trouble and Japan is now making overtures not only to Communist China but to North Korea as well.

Behind President Chung Hee Park's declaration of an emergency in South Korea is the belief that the United States cannot be relied upon any longer to settle disputes among small nations. "It was a timely warning for us that the Indo-Pakistani War . . . has clearly proved the principle that a nation reaps nothing but catastrophe by entrusting other powers with its security," says a booklet just issued by the Korean Ministry of Culture and Information. "In this war," says the pamphlet, "the United Nations demonstrated its incompetence to maintain peace, and the big powers exhibited not their eagerness to solve international disputes, but the fact that they are capable of becoming friends of their enemies of yesterday or vice versa, depending on their national interest."

What concerns our Asian allies is not only the fact that America's word no longer seems dependable but also the fact that America says one thing and seems to be doing another. While Nixon Doctrine is less than they would want, it nevertheless appears reasonable in principle. Yet, many argue, the actual military policies being pursued make it impossible to implement.

While the President argues that our commitment to our allies in Asia is firm, American troops are rapidly leaving Asia. South Vietnam is hardly the only country witnessing a massive withdrawal of American forces. In South Korea, 20,000 American troops suddenly have orders to return home by midyear. More than 30,000 Americans in other Far East nations will also be pulled back. These include 9,000 men from Thailand, 6,000 from the Philippines, 5,000 from Okinawa, 12,000 from Japan, and smaller reductions in Taiwan. Asians cannot view the President's initiative to Peking as anything but a sign of weakness since it comes at the very moment of American withdrawal as well as at the time when Soviet strategic weapons seem to be moving ahead of those of the United States, a fact of which they are very much aware.

What the new policies may produce is not a "generation of peace," but a generation of instability which can lead only to testing and probing by those Communist countries which maintain their aggressive policies. Professor Lucian W. Pye of the Center for International Studies at M.I.T. states clearly that during the past year "Asian economic progress was offset by political anxieties over the emerging realities of the Nixon Doctrine. The prospect became clear that the essence of Vietnamization was an American acceptance of considerable Asian instability and uncertainty."

It is clear that domestic American policies is playing a larger part in determining our strategic policies in Asia than are the realities of what is necessary to provide for stability and, as a result, peace in that area. But, even within this context, we have acted in a way which appears to Asians to have slighted them. In a continent where symbols and "face" are as important as substance, we have tread heavily and harshly. Professor Zbigniew Brzezinski, writing in Foreign Affairs, comments that ". . . we must pay more careful attention to atmospherics and symbols. It is most unfortunate that President Nixon chose to announce his planned visit to Peking before going to Tokyo." He notes that "There is . . . a potential for a demonstratively anti-American leadership even within the Liberal Democratic Party, and American clumsiness and insensitivity could easily have the effect of bringing it to the surface."

President Nixon's goal of peace is one which is shared by all Americans, as well as by our Asian allies. They doubt, however, that peace can be purchased at the expense of moral leadership, fulfillment of commitments, and insensitivity to allied interests.

We must make it clear to our allies in Asia, and particularly in Taiwan, that we intend to stand by our commitments, that America's word is as meaningful today as it has been in all of the years since World War II.

Beyond the question of what any failure to fulfill our commitment to Taiwan would do to America's credibility elsewhere in the world, lies the tragedy, morally, militarily, politically, and economically, which would be brought about by any failure to preserve the integrity of the Government on Taiwan.

If Taiwan were ever lost to the free world, for example, we would be turning over to Communist China Free Asia's No. 2 economic power. After a decade of growth averaging 10 percent annually, Taiwan has become, in the words of Fortune magazine, "a resilient industrial mini-state." Taiwan is the rare developing country that exports principally industrial goods, 78 percent of foreign sales, rather than raw materials.

Last year Taiwan matched the estimated $4.3 billion total trade of the Communist mainland, and this year will overtake it. The per capita gross national product, $400, is already about four times as large as in Communist China. The island's exports, which range from canned mushrooms to railway cars, rose 40.6 percent last year to $1.6 billion. Taiwan amassed a $34 million trade surplus.

Taiwan has approved $559,180,000 in investment projects, with U.S. companies accounting for $250 million; over half the cumulative total has come in the past 3 years.

Those businessmen who short-sightedly foresee huge markets on the Communist mainland should consider the fact that if Taiwan were to fall, far more would be lost to American industry and investment than it could ever hope to recover in a decade or more from the Communists. There is, for example, little market for consumer goods on the mainland, and little prospect of doing business on any basis other than long-term credits. Taiwan, on the other hand, is a showplace of what free enterprise can do. It is as dynamic an example of freedom at work, as opposed to the oppressive tyranny only 90 miles away on the mainland, as is West Germany, with the totalitarian and stagnant East German society bordering it.

More important than this is the fact that in Taiwan the ancient Chinese culture, literature, and religious tradition continues to live and to thrive, while on the mainland that tradition has been ruthlessly crushed. The cultural revolution of Mao Tse-tung was a massive and deliberate assault against the very core of Chinese culture, and it went even further than similar assaults in the Soviet Union in that it attempted to destroy the authority of parents and teachers.

Writing in Orbit, Prof. Gerhart Niemeyer notes that:

> By contrast, Chiang Kai-Shek has governed in a spirit of respect and reverence for the traditional order of China. While running a tightly authoritarian establishment, he has not dedicated his power to the subversion of China's substance. In morals, habits and customs, rituals and beliefs, he has acted as a steward of a great heritage, while providing his people with the benefits of a rapidly expanding economy . . . Chiang Kai-Shek's government . . . has maintained its link with the legitimizing principles of the Confucian tradition, the renovating movement of Sun Yat-sen, and the traditional pattern of Chinese habits and customs.

A danger we face, and one of which our allies both in Asia and Europe are very much aware, is that of an emerging isolationism in America. Such a feeling of isolation has followed every war, and it is only natural that it would follow Vietnam. It is essential, however, that our political leaders avoid the easy path of going along with this erroneous and potentially disastrous feeling.

It is clear that the people of Taiwan are depending upon America's honor. If we abandon these allies we will be fulfilling the prediction of the radicals of the New Left that America is, after all, "like everybody else," willing to do anything for what it conceives of being its narrow self-interst of the moment. Such an abandonment would be neither in keeping with our moral role in the world, nor with our self-interest. The people of Taiwan will be disappointed only if America turns its back not only upon them, but upon its own national honor as well.

It is essential that we not lose perspective in viewing the trend toward American isolation and withdrawal. Much of today's rhetoric is reminiscent of Franklin Roosevelt's remark in the 1930's, when he attributed World War I's "mad race in armaments . . . in no small measure to the uncontrolled activities of the manufacturers and merchants of engines of destruction." Prior to World War II, the Nye Committee investigated the so-called merchants of death, who, as a result of armaments, had drawn us into World War I. The result was virtual American disarmament, leaving the Nation helpless just prior to Munich and exposed at Pearl Harbor. In 1945, Gen. George Marshall wrote:

> We finish each bloody war with a feeling of acute revulsion against the savage form of human behavior, and yet on each occasion we confuse military preparedness with causes of war and then drift deliberately into another catastrophe.

We must not permit our country to drift into another catastrophe as a result of an erosion of our alliances and doubt of our commitment by our allies. A mature and powerful nation must honor its commitments and must play its role or be prepared to relinquish it to those who do not shrink from their responsibilities.

I am confident that our Government will not shrink from its responsibilities, that the forces of isolation and withdrawal will be overcome, and that our commitment to Taiwan will be firmly adhered to. The future of the entire free world rests in the balance, for Taiwan is one of its distant and dangerous outposts. There freedom remains a shining example for those who live under the tyranny of the Communist regime on the mainland. Our commitment to the maintenance of that freedom is in the best traditions of our country, and as we reaffirm that commitment so do we also reaffirm those traditions.

Mr. ZABLOCKI. Mr. Speaker, it is my pleasure and honor to join my colleague and friend, the Honorable CORNELIUS GALLAGHER, and to commend him for arranging this special order to express our country's support of the continuation of our friendship, diplomatic ties, and defense commitment to the peace-loving people of Taiwan.

I strongly urge the President in his upcoming trip to the People's Republic of China not to directly or indirectly undermine the more than 25 years of strong and still growing friendship that our country has enjoyed with the Republic of China.

Mr. Speaker, this is a very appropriate occasion to remind the President of the disappointing and unwarranted event of last fall during which the Republic of China, one of the original founders of the United Nations in 1946 as well as an original member of the Security Council, was ignominiously expelled from the United Nations. This fact adds even greater emphasis to my point that the President's dialog with the People's Republic of China must not be at the expense of our friends and allies of the Republic of China.

Furthermore, the President should be reminded of our foreign objective since World War II to provide a framework for economic and regional stability in Asia and of the crucial role that the Republic of China has and still plays in this objective. As you know, Mr. Speaker, the economic growth and significance of the Republic of China commands special notice and recognition. The Republic of China has in effect become a model for economic growth and development. During 1971 alone, its gross national product rose by over 1 percent, per capita income by 13 percent, and exports by more than 33 percent.

It is this economic progress and resultant political stability of the Republic of China which should continue as a cornerstone of the foundation of Asian security. The significant role we have played in providing the margin of security for the Republic of China over the past 25 years coupled with the sheer determination and will of its people to be free has resulted in economic and political stability and a feeling of national consciousness for the people and country of Taiwan.

In closing, Mr. Speaker, I would like to remind the President of our country's long-standing commitment of support of our friendship, diplomatic ties, and defense alliance with the Republic of China which the President himself had called for in his state of the world message just last week.

Indeed, it may be desirable to explore closer contact, including trade, cultural exchanges and at some future date even diplomatic interchange with the People's Republic of China. But we should never forsake an old and loyal friend and ally for a doubtful and suspicious new acquaintance. Undoubtfully the President will bear this in mind and will emphasize the "people to people" concept during his visit to Peking. The people on the mainland of China always have been and will continue to be our friends. I join with other fellow Americans in wishing President Nixon and his associates a fruitful and safe mission in their quest for understanding and peace in today's troubled world.

Mr. FINDLEY. Mr. Speaker, tomorrow President Nixon leaves on his long anticipated journey to the People's Republic of China. This bold initiative by the President is viewed with mixed feelings by many Americans.

A few hope that the millennium has arrived and that peace and prosperity will reign over the world. Others view the President's trip with hope tempered by the realism of 25 years of ill will between our two great nations.

Still others see in the President's China initiative an opening of the flood gates to Chinese adventurism in the affairs of other nations of the world.

Although Chinese adventurism is indeed a possibility against which we must stand firm, I believe that it is a risk we would have to take anyway—whether Peking was admitted to the U.N. or not, whether President Nixon visits China or stays away. The fact is, the People's Republic of China has become a world power, with one-third of the world's people, with a nuclear missile arsenal, and with an earth-orbiting satellite. China is today the third most powerful nation on the globe, ranking just after our own country and the Soviet Union. If the Chinese are determined to use their vast power to bring misery to the peoples of the world, they will likely do so despite the U.N. or a President's visit.

On the other hand, the very factors which make China a world power also make it especially important that no misunderstanding be permitted to develop between us and them. We have enough problems without needlessly making additional ones for ourselves. If there is a forum at which the United States and China can exchange views if the two leaders of our countries can exchange visits, America can make in abundantly clear to Peking and to others just how far we will go, and where we will draw the line against Chinese adventurism. Through communication the Chinese can appreciate our resources including our decisionmaking process.

Once before, in the late 1940's, former Secretary of State Dean Acheson delivered a major foreign policy address drawing a defense perimeter in the western Pacific Ocean which seemed to exclude Korea from U.S. military and troop assistance. Many historians believe that this statement, more so than any other factor, invited Communist inspired aggression in the Korean peninsula, and eventually involved the United States in a long and costly war.

We cannot afford such misunderstandings in the future. As we withdraw from Vietnam, we must make it clear to the Communists just what our commitments are, and will continue to be, in the coming decade in Asia. Withdrawal of U.S. troops from Formosa does not mean the termination of U.S. treaty commitments to that island nation. Nor are our commitments to Japan, Australia, or New Zealand any the less binding or important. Undoubtedly, these are matters which President Nixon will discuss with Chou En-Lai and Mao Tse-Tung in Peking.

There is another, more personal, reason for the President's visit. It is very personal indeed to many residents of Illinois. On September 20, 1965, Air Force Captain Philip E. Smith of Roodhouse, Ill., was flying his jet aircraft on a mission over North Vietnam. In an unfamiliar part of the world, he followed a coastline in a direction he thought was south. Instead, he was heading north, and when he reached China, his plane was forced down. Captain Smith, who has since been promoted to major, bailed out and has been held in a Peking prison ever since. He has never been brought to trial for any offense. He has not been permitted to see any members of his family, who still live on a farm in Greene County, and his mail has been severely restricted. The few letters he is permitted to write ask for the most basic of human needs—toothpaste, shoes, underwear, blankets. Although his health has remained fairly good, Philip says that he "dreads the winter time" because of the extreme cold.

Over the years, I have seen many of Philip's letters to his family, as I have attempted to help bring about his release. When President Johnson was in the White House and John Gronouski was our Ambassador to Poland, I tried to get the State Department to make Major Smith's release the No. 1 item on the agenda of the periodic secret talks which were then going on in Warsaw. Little came of this effort, and finally, even the secret talks were broken off by the Chinese as a protest against President Johnson's Vietnam policies.

At other times, I attempted to persuade various individuals from other nations to intercede on behalf of Major Smith, but these efforts, too, were unsuccessful. If the person was willing to help, he was unable to get a visa from the Chinese to visit their country.

When I was in Paris, where China has one of its largest embassies, I walked to its embassy there and delivered a letter written in both English and Chinese. The letter, addressed to Premier Chou En-Lai, asked at the very least, for him to permit Major Smith's family to visit Philip, and hopefully to release him. I argued that 6 years was sufficient punishment, whatever the suspected offense. Although I talked with several embassy officials and asked them to convey my letter to Peking, I have no way of knowing whether they did so and I have not yet had any reply.

On two occasions, I have applied for a visa myself in the hope that I might personally go to China and plead Philip's case. When I was in Ottawa, in the fall of last year, I asked the Chinese ambassador about it. He had no report.

After years of fruitless effort, I am convinced that Philip Smith's best hope for release lies in President Nixon's trip to China. In the past few weeks, I have met with several White House officials to urge that he personally plead Major Smith's case with Chinese officials. As a result of my talks with them, I am convinced that Philip Smith's imprisonment ranks high on the list of things which the President will discuss with Chou En-Lai.

As a final reason for our changing attitude toward the People's Republic of China, the potential for expanded trade with this Asian giant is nothing short of phenomenal. For example, each year, China buys upwards of 100 million bushels of wheat to feed its people. There is no shortage of wheat in the world and China has no difficulty getting whatever quantity it needs. At times it has bought wheat from Australia, and currently it is buying from Canada. Yet, scientific studies indicate that the wheat produced in the United States is actually more suitable for Chinese consumption and might have a competitive edge over that of other nations. Right today, there are about 370 million bushels of wheat in storage in the United States, and you and I are paying for it each day it sits there. Yet, until President Nixon acted recently to lift the trade embargo, it was illegal to ship any of the grain to China.

Another product which the Chinese need is cotton, and U.S. warehouses generally bulge with the surplus U.S. cotton. In fact, China could become a major buyer of many other of our agricultural products over the next decade.

Considering the shaky position of our balance of payments, and the export deficit we have been running this year, the United States should encourage exports to all countries, including China.

Our new initiatives in China policy—the President's trip, the cancellation of the self-imposed embargo, the authorization of travel, the effort to secure Chinese admission to the United Nations and to the Security Council—all these amount to a dramatic, major change in U.S. policy.

In addition to these steps already taken, I suggest the U.S. rescind the Formosa resolution, which is regarded as a standby declaration of war on China, reduce our forces on Formosa, and officially recognize the territorial integrity of China. We should state publicly our complete opposition to any violation of Red China's borders whether by the Soviet Union, Nationalist China on Formosa, or any other nation. At the same time, we should reaffirm our pledge to defend Formosa from attack.

Our efforts to deal with China and Russia on an equal basis make sense in terms of peace, as well as trade. If successful, they will substantially improve our security position worldwide without the expenditure of one extra penny for military affairs.

On the other hand, to continue the double-standard policy President Nixon inherited under which the United States dealt with Russia on terms far more favorable than with China would be to run a grave risk of miscalculation and perhaps even war.

Under the old double standard, we traded with Russia but refused to do so with China.

We have had diplomatic relations, arms negotiations, agreements of various kinds, exchange of tourists, extensive trade relations, and joint activities through the United Nations with the Soviet Union, but until the President's new policies, none of these with China.

This double standard could not be justified in terms of friendship and cooperation by the Kremlin. Russia, not China, has been the main supplier of the military hardware used against our troops in Vietnam. By almost any standard, Russia, not China, poses the more serious threat to our interests.

Yet we have until recently pretended that China did not exist while dealing with the Soviets amicably. Worst of all, this double standard, if continued, might have led to the false assumption in Moscow and elsewhere that in a showdown the United States would gang up with the Soviets against China. This false assumption might have caused the Soviet Union to undertake aggressive military moves along its disputed common border with China.

A balanced policy, one which seeks to treat both Communist power centers on the same terms, therefore, makes great sense in terms of security. It reduces the likelihood of war in Asia, and gives the Soviets incentive to ease pressures on the United States elsewhere in the world.

In recommending this new "open door" policy toward China, I do not wish to leave the impression that an era of good relations with China is about to begin. Good relations may be a very long time in coming. So may trade. Nor do I wish to leave the impression that vigilance is no longer needed. Like the Soviet Union, China is ruled by a dictatorial, conspiratorial system that is characterized by hostility and suspicion.

Our national security interests require that we accord to China the same consideration we have long extended to the Soviet Union. They also require that we keep our guard up.

China has opened a new door to the world. President Nixon will be only one of many visitors to walk through it. He will do so, I am sure, with care and caution. In time, other Americans may also walk through it, some to trade, others to visit, together hopefully bringing about a permanent warming in relations between our two countries.

And, hopefully, one day, soon, Maj. Philip E. Smith will walk out that door and be reunited with his family in Illinois.

Mr. SCHMITZ. Mr. Speaker, it is fitting that as we approach the eve of the President's visit to the greatest enemies of free China, now established in power at Peking, that we here in Congress serve notice that many of us will not stand silently by while free China is sacrificed—clearly a top policy objective of the Red Chinese Government.

It should be quite obvious by now that the Chinese Communists' smiling-face offensive was not launched merely to seek detente with the United States and Japan but to isolate the Republic of China in the international community and obstruct Taiwan's continued economic growth through the strategy of political infiltration and subversion. The Red Chinese position has not shifted 1 inch in the past 20 years on the matter of the Republic of China. Indeed, just 2 days after the United Nations vote which expelled the Republic of China, radio Peking reiterated its longstanding position stating that:

> Taiwan is an inalienable part of the territory of the People's Republic of China, and all arguments such as "two Chinas," "one China, one Taiwan," "the status of Taiwan remains to be determined" and similar absurdities are illegal, absurd and entirely untenable.

The following day the Communist People's Daily in Peking added this demand:

> The United States must withdraw all its armed forces and military installations from Taiwan and the Taiwan Strait. The Chinese people are determined to liberate their sacred territory of Taiwan.

Translated from the Marxist-Leninist jargon this means that the Chinese Communists plan to force the United States from the area so that they can then conquer the Republic of China. It is important to note that the Red Chinese now have a standing army five times larger than that of the Republic of China and Red China remains insoluble so long as the Communist Party of China continues in its crushing regimentation of the Chinese people living on the mainland and openly threatens aggression against Chiang Kai-shek and free China. Thus, any U.S. support for one side correspondingly weakens the other. Unfortunately, with the President and his entourage traveling to Peking this month to the court of Mao Tse-tung and the President's further relaxation of U.S. restrictions on trade with Communist China, it is evident that the Red Chinese are being strengthened in their effort to capture control of our longtime ally.

Even with all the pro-Red China propaganda coming at us from all sides these days on television and in newspapers and magazines, there is substantial feeling against embracing Peking at the expense of Nationalist China, at least in my own district in southern California, the 35th, where more than two-thirds of my constituents answering questionnaires on this subject supported my position in opposition to the new China policy. As the ill effects of the administration's current course in Asia become ever more apparent, and the myth of the "two China policy" is exploded by unfolding events, opposition will surely grow even more widespread—to a point.

That point comes when accumulated misfortunes make opposition look hopeless, when the myth of inevitability takes hold of the opposition, drives the prospect of possible success from their minds, and seals the fate of free China with the deadly wind of passive resignation. This point must not be reached, and it is imperative that we do all in our power to assure that it is not reached. We must also fight to prevent the fastening of the next link of the chain which is being bound before our very eyes around the Chinese people. We must continue to oppose any diplomatic recognition of Red China by this administration since diplomatic recognition of the Communist as the legitimate government of mainland China would not only result in severing relations with the Republic of China, but would immensely strengthen the Chinese Communists internally. Such recognition would only increase Red China's economic and military strength while inviting disaster for Taiwan in the immediate future and laying the groundwork for further Red Chinese espionage and subversion in our own land. The evidence to support this is overwhelmingly clear.

As I pointed out in November, of the 119 nations having diplomatic relations with either the Republic of China or Red China, not one had diplomatic relations with both. It is apparent that diplomatic relations with one of these two governments excludes diplomatic relations with the other. Even relations at the consular level are with one or the other but not both. Of the three nations having only consular relations with either Nationalist or Red China, none had relations with both. While the Republic of China can easily survive without membership in the United Nations, menaced as it is by Peking it could not long survive should the United States seal it into total isolation by establishing diplomatic relations with Red China.

Therefore, there can be no "two China policy," especially for the United States. No matter how many might desire that it be otherwise, it is truly a fatal illusion. We must not abandon Taiwan.

Mr. BUCHANAN. Mr. Speaker, President Nixon's forthcoming trip to China is an historic occasion and can signal the beginning of increased lines of communication between the United States and the people on the mainland of China. What this trip does not signify is the abandonment of our friendship for and our commitments to the Republic of China.

Taiwan is important to the United States and the world for a number of reasons. It is a repository of the culture of China which is one of the world's oldest and greatest civilizations. On the mainland, Mao Tse-tung has sought to systematically destroy this old Chinese culture and replace it with one in his own image.

The Republic of China has become of increasing economic importance in recent years and is now a source of assistance to other developing nations around the world.

As the President noted in his recent foreign policy message to the Congress, the world's most exciting records of economic developments are being written by the nations of free Asia, one of the most outstanding of which, in my judgment, is that being written on the island of Taiwan.

Free China has been an economic model for the entire developing world as reflected by its 11 percent growth in gross national product last year, its 13 percent increase in per capita income and its 33 percent rise in exports.

The Republic of China is also militarily important to the balance of power in that part of the world. Again President Nixon emphasized our intention to maintain our commitments on Taiwan when he recently referred to our bilateral security treaties with the Republic of China and several other Asian nations as the "touchstones of regional stability."

These are statements, and there are many more, which affirm our strong ties to the people on the island of Taiwan.

And this brings up a further reason why the United States must stand by her commitments to this old and time-tested friend among the nations of the world. This reason has to do with the value which we put upon our word and the extent to which any nation can trust such commitments.

We cannot expect to have any degree of trust or credibility in the councils of the world unless we stand by such clear and long standing obligations.

Not only is it essential that the rights and freedoms of the people of the Republic of China be protected, but also that this symbol of hope be retained for the sake of millions of repressed and impoverished Chinese on the mainland.

Mr. Speaker, many of my constituents have expressed to me their concern over the fate of the Republic of China in the wake of its expulsion from the United Nations and in light of the President's visit to Red China.

While the departure of the Republic of China from the U.N. is a tragedy, it by no means reflects a decline in the relations between the United States and Taiwan.

The President's trip to mainland China is an effort to continue Mr. Nixon's drive toward his goal of a generation of peace and, while I have reservations about the merit of the entire China policy and about the degree of good that can come from increased communication with China, I will offer my prayers for his success and safe return.

I personally shall also reflect in my prayers my continuing concern for the rights and welfare of the free Chinese on the island of Taiwan and the millions of their brothers on the mainland who have suffered from the oppressive policies of Mao's totalitarian regime.

Mr. BOLAND. Mr. Speaker, President Nixon's trip to Mainland China may open up a new era of negotiations between superpowers that have loftily shunned each other for decades. However alien China may appear to us, both culturally and ideologically, she nevertheless exists. We cannot close our eyes and wish her away. It can be argued—quite convincingly, in fact—that the world community's scorn for China has played no small part in her belligerence. China has been isolated from her peers for too long, left to feed upon her own suspicions and hatreds.

It is far too early, of course, to venture any predictions about the ultimate significance of the thaw in American-Chinese relations.

It is a cheering sign, nevertheless.

As everyone here knows, Mr. Speaker, the Republic of China on Taiwan is something less than enraptured by President Nixon's trip.

But I feel safe in assuring my colleagues that the Republic of China will not be orphaned by the United States—summarily dismissed after more than 20 years of allegiance to the United States. President Nixon himself pledged in his state of the world message that:

> We shall maintain our friendship, our diplomatic ties and our defense commitment to the Republic of China.

A nation of millions and a growing industrial power, the Republic of China must continue to work in diplomatic partnership with the United States.

We must continue to honor our responsibilities to her.

Like my colleagues joining in this discussion today, I intend to see that we do honor those responsibilities.

GENERAL LEAVE

Mr. GALLAGHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of this special order.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

NORTHBROOK, ILL.: SPEED SKATING CAPITAL OF THE WORLD

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 15 minutes.

Mr. CRANE. Mr. Speaker, for the past few weeks, millions of Americans, as well as millions of people from throughout the world, have thrilled with the exciting spectacle that comes only every fourth year, the Winter Olympics.

While it is true that the U.S. teams in recent Winter Olympics have not had as much success as most Americans would like, I can assure you that the residents of Northbrook, Ill., are quite satisfied with the performances of their representatives in the XI Winter Olympiad.

Northbrook, which I am proud to say is in my district, is the home of Dianne Holum and Anne Henning, the winners of two of the three gold medals won by the United States.

Dianne and Anne, together with teammates Leah Poulos, Greg Lyman, and Neil Batchford, have brought fame and honor not only to their hometown of Northbrook, but also to the United States.

Although we in the United States did not get to witness it personally, I am sure that none of the many relatives and friends of the Northbrook contingent, nor any of the hundreds of Americans who attended the Olympics, will ever forget that moment when Dianne Holum accepted the first U.S. gold medal, followed by the raising of the American flag and the music of the "Star Spangled Banner."

That same scene was repeated a day later when Anne Henning won our second gold medal. And before the games ended, Dianne added a silver medal to her collection and Anne won a bronze medal, giving the Northbrook girls four of the eight medals won by the U.S. team.

Articles follow:

[From the Chicago Tribune, Feb. 10, 1972]

Northbrook's Holum First To Win Olympic Gold for United States

(By Ted Damata)

Sapporo, Japan, February 9.—Northbrook, Ill., put the United States on the world Olympic map today. A little daughter of the clan from the suburb of Chicago put the United States back on the gold standard and lifted the Stars and Stripes out of the Olympic gutter.

Dianne Holum, 20, a junior college student who worked part-time as a waitress to pay for her skate training, today won the 1,500-meter speed skating title in the 11th Winter Olympic Games.

She broke the Olympic record to bring the United States its first gold medal of the games, an embarrassing third that was wiped away by a group of 25 wildly-cheering citizens of Northbrook and nearby environs. The petite longhaired blonde, skating in the fifth set of pairings in the Makomanai Rink, whipped around the 4½ laps in 2:20.85. It knocked out the old Olympic mark of 2:22.40 set by Kaija Mustonen of Finland in the 1960 games at Grenoble, France.

Miss Holum, daughter of Arlene and Edward Holum, skated against Russia's Nina Stratkevitch, who presser her with a time of 2:23.35. Dianne skated the first 300 meters in :20.0, with Nina keeping pace. At the 700 meters, Dianne pulled slightly ahead with a time of 1:04.6. At the 1,100 meters mark, the little girl from Illinois flashed a 1:42.9 and there was no doubt about who was going to hit the finish first.

But, in the last lap her tiring legs kept pumping away relentlessly to maintain the record pace to the wire.

It was necessarily grueling, a pace forced by Ateje Keulan—Deelstra of Holland, who skated in the first pairing and broke the record with 2:22.05. It was an opening pace that would dishearten most skaters, but Dianne skated a near-perfect race to accomplish the feat.

The ice was rated "good," the weather was bright, sunny and 30 degrees. There was a shifting wind of about five miles an hour when Miss Holum broke from the barrier. She got a good start, a finely-timed rolling start that gave her about a half-stride break on her Russian skating partner.

Dianne, a Chicage Tribune Silver Skates champ, started in the outside lane, and pumped away with strong rhythmical strokes. She took the corners almost perfectly, picking up time on the Russian, who several times went out too high on the turns. Miss Holum finished on the inside lane, coming down the stretch where she drew emotional strength, confidence, and courage for the finishing kick from the cheering crowd from Northbrook.

The contingent went wild. Up went the Northbrook Skating Club 10-foot banner, solid red with gold lettering. It was held aloft by Dick McCarter and George O'Connell.

Ma and Pa Holum embraced, everybody kissed Arlene and shook the hand of Edward, head of the Holum Binder and Loose Leaf Co., in Chicago. There were, among the dancing contingent 7,000 miles from home, Elaine Passarella, whose young son could make the next Olympics; Mrs. Edward Rudolph wife of the coach; George and Fran Howie; Bill and Joanne Henning, whose daughter, Anne, should bring the United States its second gold medal tomorrow in the 500 meters; Jim and Dean Edwards, Lee Rogers, Herb and Rita Knudter, the O'Connells, the Poulis clan, who saw daughter and sister Leah score a 2:31.29 in the 1,500 today; and Steve Tsalikis, and Einar Jonland, whose son Gary skated in the men's 1,500.

They'll all join tonight in the Park Hotel for a celebration, "and we'll have champagne even if I have to mortgage the house," said Mrs. Holum. O'Connell, who helps conduct The Tribune Silver Skates Derbies, jokingly questioned her confidence. "How many mortgages can they give you on that house." It brought another roar, along with a rally of newsmen, TV photographers, mikes, etc.

Ma and Pa Holum cooperated nicely with the pressing demands. Then Dianne came up. Dressed in the Olympic blue, slacks and short coat, she embraced her parents and the trio, oblivious of the mob, and talked the race over again.

"I was hoping for 2:21," she was saying, then quit as the press tightened the knot. "I can't breath, I can't see," she said and pulled away. They saw her again minutes later, down on the field accepting the gold medal in the center of the tri-stand, flanked by the second and third place winners—Stein Baas-Kaiser, the second-place silver, and her teammate from Holland, Deelstra, third place bronze, who also broke the Olympic mark with 2:21.5.

Then, for the first time during these Olympic games, the Stars and Stripes was raised to the top of the center flag pole while the band played the National Anthem. Unlike the one used in the opening ceremony of the games carried by Dianne, this one was bright, full of color, and of rich material.

At least, on this day, it looked that way as it unfurled majestically in the wind.

There were tears by all, prideful tears and tears copiously shed by Edward Holum, the father whose daughter reached the pinnacle of sportdom today.

She now has the Olympic "hat trick"—a gold, plus a silver and a bronze which she won at Grenoble in the 500 and 1,000 in 1968. And today's effort was not her best; she skated the 1,500 in 2:19.5 last month at Davos.

In other events today, Magnar Solberg, a Norwegian policeman, defended his 1968 Olympic title by winning the individual biathlon event—a combination of cross country skiing and rifle marksmanship. Hansjorg Knauthe of East Germany won the silver medal, while Lars-Goran Arwidson of Sweden took the bronze.

Also, Galina Koulakova of the Soviet Union won the women's five-kilometer cross-country race and became the third multiple gold medal winner of the 11th Winter Olympic Games.

Miss Koulakova, who had won the 10-kilometer race, covered the 3.1 miles in 17 minutes, 50 seconds to beat Marjatta Kajosman of Finland, timed in 17:05.50. Helena Sikolova of Czechoslovakia took the bronze medal in 17:07.32.

Soviet World Champions Irina Rodnina and Alexei Ulanov, skating an athletic, fast-moving routine, earlier won the pairs' figure skating championship.

In hockey, Sweden pumped in four second-period goals to score a 5–3 victory over Poland to take a temporary hold on first place in Class A action. Russia, tied with the Swedes with three points one behind Czechoslovakia going into the day's round, was to meet the United States later tonight.

In preliminary action, Norway's slalom specialist, Erik Haaker, clocked the best time of the top seeds in the first heat of the men's giant slalom event.

Tomorrow, Miss Holum will work out lightly to hold her championship edge for the 1,000 meter medal run Friday. She also will be with the Northbrook contingent tomorrow—"same seats and same clothes, don't change a thing," to root for Anne Henning in the 500, and another gold medal.

The two girls, and Ed Rudolph, the coach, bypassed the Holum party this evening. There was the promised champagne, unmortgaged, food and dancing girls. It was held in the Holum suite in the Katori Inn, "and these Japanese dancers from the hotel came up and did a few of those butterfly dances," explained Pa Holum. "They had seen Dianne win on television and wanted to contribute something to what they called our greatest day. They were wonderful, everybody's been wonderful."

Both parents had prayed for victory. "Good is good," said Holum. "St. Anthony didn't fail us; he's in our parlor from now on." He continued:

"You know, I cried when our flag went up. The United States is the greatest country in the world; I know, I've been everywhere. People back home do not appreciate what they have, and it could be even better for them if they contributed some appreciation."

Then he voiced some of it for "the two greatest coaches in the world" who helped Dianne reach her goal today. "Rudolph and Vloedgraven prepared her for this." Rudolph's part is familiar, but who is Vloedgraven?

"He's a fine Dutch gentleman who specializes in training young skaters," answered Holum. "Jon lives in Holland . . . Daventer . . . and Dianne lived in his house for three months while he ran her thru his special off ice condition training. He's been helping her for two years; she's even learned to speak Dutch. She's gotten to be part Dutch; maybe that's why they like her; they treat her like one of them."

That, then explains a strange conversation between two members of the Holland skating union, seconds after Dianne Holum sped across the line to beat two Dutch girls out of the top medal.

Mr. Van Kerdel said to Mr. Leevwenkoek: "She is good. This is good. We did a good job with her." They shook hands.

[From the Christian Science Monitor, Feb. 11. 1972]

Dianne Saves the Day

(By Larry Eldridge)

Sapporo, Japan.—American spirits at the 1972 Winter Olympics had reached a low ebb by the time the women's speed skating events began. Then just when things looked blackest, Dianne Holum saved the day—winning the 1,5000 meter race and giving her nation its first gold medal.

It was a big moment for all Americans at these Winter Games—make no mistake about it. A lot of hopes had been dashed, and with the competition more than half over, all they had to cheer were a pair of third-place finishes.

But now a dark-haired, 20-year-old example of sheer dedication from Northbrook, Ill., was standing proudly on the podium. And for the first time all week, Americans heard the Star Spangled Banner and saw their flag raised.

For Miss Holum, the victory climaxed years of seemingly endless training.

"I guess all the work I put into it was worth it now," she said after her triumph. "Everything turned out right."

TRAINED ALL SUMMER

Asked to describe the difference in feeling between this moment and the silver and bronze medals she won as a teen-age whiz at Grenoble four years ago, Dianne said there was no comparison.

"You're always trying for the gold medal," she said. 'That's the ultimate goal of every athlete who enters the Olympic Games, of course."

Miss Holum said she began pointing for the Olympics back in April, running, cycling and exercising around her home. She kept this up all summer, then went to Holland in September for further preparation both on and off the ice. She came home late in November, then drove two hours each day to train in the United States' only championship-size rink at West Allis, Wis. Finally it was off to Europe for some tune-up competitions, then on to the Olympics.

"I had a certain amount of confidence," she said. "I thought in the back of my mind I had to beat the Dutch and Russian girls."

The draw put her in the fifth pair, skating head-to-head with Nina Statkevitch of the Soviet Union, one of her chief rivals.

"I was satisfied," she said. "It helps to have a good pair. I knew she'd be tough, and that if I beat her I had a chance for a medal."

Dianne was behind for a while, then surged ahead and finished in Olympic record time of 2m.20.85s. Then came the toughest part—waiting it out while the rest of the field tried to beat her.

"I was scared the time wouldn't hold up," she said. "I knew some of the top girls still had to skate."

"VERY CONSCIOUS OF PACE"

The biggest scare came near the end when world-record holder Stien Baas-Kaiser of Holland turned in a tremendous closing burst, but just missed with a 2:21.05 clocking. Another Dutch skater, Atje Keulen-Deelstra, took the bronze medal in 2:22.05.

"My own time didn't surprise me," Dianne said. "My plan was to try to skate 2:21. I kept getting information from my coach about my lap times, because you have to be very conscious of pace. You don't want to start too fast, or you'll finish too slowly. The race went just as we planned, and I knew if I stayed strong on the last lap I'd make it."

Dianne stayed strong, finishing with a sizzling burst which no one else who had maintained her earlier pace was able to match.

"Of course I went all out," she said to a questioner. "It was the last lap. You shouldn't have an ounce of strength left when you finish. If you do, you should have used it some time in the race."

The bilingual press conference at which Dianne made her comments took weird turns on occasion, and she must sometimes have thought winning a gold medal was a breeze in comparison.

At the beginning, a couple of reporters asked the two Dutch girls a string of totally unrelated questions about everything from Mrs. Baas-Kaiser's age (34) to motherhood, amateurism and Avery Brundage. Miss Holum stared with disbelief at some of the questions, but then it was her turn.

For a while the questions stuck to speed skating, then came one which nobody quite understood, but which translated into something about President Nixon and Vietnam. Dianne, battling fatigue and exasperation, decided that was it. She got up and walked out, but a few minutes later, after the fortuitous departure of the "political reporters," she reappeared for session No. 2.

Tracing her career, Dianne said she started figure skating as a very young child, then switched to speed skating at age 10 when her family moved to Northbrook, a suburb of Chicago.

By the time she was 14, she was skating internationally, and improving steadily. Grenoble was one peak, then last year she won the 1,000-meter race in the world meet at Helsinki and finished fourth in the overall standings.

As for all the attention she received as her country's first gold medal winner, Miss Holum figures that was just the luck of the draw.

"I'm just lucky that the 1,500 came first," she said. "We have skaters who can win some of the other races, too."

Dianne herself was considered a strong contender for both the 1,000 on Friday and the 3,000 on Saturday. After that its on to the World Championships March 4 and 5 in Holland, and then—despite her tender age of retirement.

[From the Chicago Tribune, Feb. 11, 1972]

Everything Is "Itchi Bon" for Northbrook's Anne

(By Ted Damata)

Northbrook, Illinois, Japan.—Suddenly, everybody is American. People, with corn coming out of their ears, who a few days ago were going around and about saying "no speak English," Thursday were talking Northbrook.

A couple of girls from the town a short way up the pike from Chicago's loop, smashed the language barrier and two records and shoved Sapporo the host city of these Winter Olympic games, out into the suburbs. Friday, when Dianne Holum, 20, and Anne Henning, 16, finish 1–2 in the 1,000 meters speed skating event, Mayor Daley takes over.

Yesterday it was Miss Holum who captured the first Olympic gold medal for the United States when she shattered the Olympic mark in the 1,500 meter skate. This uncovered a few Americans, who were hiding and blushing from a U.S. score of no gold, no silver and only two bronze medals after six days of exercising.

Thursday Miss Henning, the "Queen of the 500," put the Stars and Stripes in everyone's eyes with a bizarre, dazzling, and spectacular victory in the 500 meters race to give the U.S. its second gold medal in a row. She not only won, she won it twice, breaking the Olympic mark each time.

This tall, long-legged girl with the walking stride of a Babe Didrickson, but with a powerful skating stride all her own, zoomed into first place with a :43.73 in the fifth pairing. It erased the Olympic mark of :45.0 set by Lidia Skoblikova of Russia in the 1964 games at Innsbruck.

However, Anne was unintentionally fouled in the changeover lane by her skating partner, Sylvia Burka of Canada as they hit the crossroad together. Miss Henning, skating in the outer lane, pulled up to permit the Canadian girl to switch from the inner lane to the outer lane. The traffic rules provide that the skater going from the outer to the inner lane has the right of way.

Miss Burka is blind in one eye and apparently could not see, but Miss Henning refused to fault her. Silvia Burka fled the Makomanai rink in tears, disqualified, and the committee, by rule, permitted Miss Henning a rerun with the best of the two marks entered in the books.

Anne did a solo at the end of the program. Her first record effort stood up like Gibraltar against the onslaught of 31 of the world's greatest women skaters. Six of these also broke the record, and among them Sheila Young, 21, of Detroit. She did it in :44.53 for fifth place. Kay Lunda, 14, of Madison, Wis., was the other U.S. skater to improve the standard. She did it in :44.95, placing seventh.

The second place silver medal went to Vera Krasnova of Russia with :44.01, and was followed in third place by teammate Ludmila Titova, who took the bronze with :44.45.

That was the situation when Anne Henning toed the mark for her second run. It was anticlimatic, and the only spur was a shot at the world record: 42.50 she set at Davo last month. She didn't make it, but she did improve on her first effort with a :43.33, which goes into the book as an Olympic standard.

"I felt let down," she said after the second race, "I couldn't get up for it, and I don't think I would have done as good the second time except for the folks."

The folks are the 25 mothers, fathers, sisters, brothers, friends, and the neighbors from Northbrook and environs, who came here to cheer for "the greatest skating team in the world." They have been the Americans all the way, staunchly.

Suddenly, the home crowd swelled to hundreds, and Thursday they even had an echo unit for their chants and songs. A contingent of U.S. troopers based near Tokyo, flew in to this most northerly isle of the Japanese archipelago to root for the home team. They went to the U.S. Embassy here to get some flags, but had to purchase the banners at the equivalent of Kresges, paying 500 yen each for them. They sounded well from across the rink.

"U.S.A. itchi bon! U.S.A. itchi bon! U.S.A. itchy bon! Which means in Japanese, "U.S.A. No. 1" And there was "Hiya, Henning! Hiya, Henning! Hiya—Hiya—Hiya Henning!"

The original 25 needed the reinforcement Thursday, Wednesday they were relentless, and enthusiastic with their cheers for Dianne Holum. It was a beautiful emotional binge. Thursday was the morning after the day before and the champagne and scotch had a subduing effect. But they are celebrating again for Anne at the Jozanka Spa, Hotel Shikanoyu, renamed the Henning Hilton.

Anne Henning called the cheering sections "fabulous", claiming "they gave me the encouragement I needed coming in the stretch. I felt all along a sort of worry—not tired—just sort of blah with nothing really pressing me. When I heard their cheers, I just had to stretch out; I couldn't let them down."

She felt her best effort was her first race. "I was keyed just right and had the race figured just right." She estimated she lost one second in her time by the mixup, but she apparently was being conservative. Just before reaching the changeover point she lost her arm rhythm. She refused to admit or deny it but that apparently was the moment she realized the possibility of a collision. She broke stride, pulled her body up straight and permitted Miss Burka to cross over.

Bill and Joanne Henning of Northbrook, father and mother of Miss Henning, were not with the gang at the finish. They went different ways, eyes straining almost embarrassingly. They were rejoined and permitted rail positions as Avery Brundage of Chicago, president of the International Olympic Committee, presented the gold medal to their baby.

[From the Christian Science Monitor, Feb. 14, 1972]

U.S. GIRLS BRING HOME THE MEDALS

(By Larry Eldridge)

SAPPORO, JAPAN.—Women's lib is just now catching on in many areas, but luckily for United States Olympic prestige it's been around for a while in some of the nation's sports programs.

If it weren't for the girls, in fact, the 1972 Winter Games would have been a disaster for Uncle Sam. With competition nearly over, the men were still looking for their first medal. But the girls had saved the day.

Skier Susan Corrock and figure skater Janet Lynn picked up bronze medals during the first few days. Next a couple of speedskating stars from Northbrook, Ill., Dianne Holum and Anne Henning, gave the U.S. its first taste of gold in the 1,500 and 500-meter events respectively.

The rest of the world finally beat Northbrook in the 1,000 on Friday, but the 16-year-old Miss Henning salvaged third place and a bronze medal.

BARBARA ANN AWAY FIRST

Then Barbara Cochran, a pert 21-year-old college student from Richmond, Vt., crowned the late US surge by winning the slalom—as always, one of the week's glamor events. It was the first gold medal for the United States in any Olympic skiing competition since Andrea Mead Lawrence took a pair of them in 1952.

The fact that American women do better in international competition than men, relatively speaking, comes as no surprise to the coaches. One speedskating official cites a longstanding tradition of women's equality in his sport as the reason.

"Our system always has been non-discriminatory, while the Europeans just don't operate the same way," said Jim Hawkins, manager of the U.S. team and secretary of the U.S. International Speedskating Association.

"As a result, our girls are competing at the age of eight or nine or 10, while the European girls don't get much competition of consequence until they are 14 or so.

"There's fine competition, don't get me wrong. But there's no question it's easier to compete successfully internationally in the women's events."

The same thing obviously applies in skiing, where U.S. girls have been far surpassing the men on the international circuit for the last couple of years.

Miss Cochran demonstrated the fact again Friday, flashing down the steep and treacherous Mt. Teine course twice in a combined time of 91:24 seconds to nose out France's Daniele Debernaro by 2/100ths of a second, with another French girl, Florence Stevrer, finishing third.

Starting first on the initial run, Barbara Ann turned in the best time of all 42 competitors.

"I always prefer racing first," she said. "If I learn too much about the placement of the gates, I tend to be too cautious. I'd rather not know."

"EACH RACE I DID BETTER"

The starting order for the top seeds was reversed for the second run, so this time Barbara Ann went last among the major contenders. And ahead of her, Miss Debernaro had turned in a brilliant run to challenge for first place.

"We didn't tell Barbara Ann about it," Coach Hank Tauber said. "She just went out and won it on her own, without knowing how the others had done."

Although her sister, Marilyn, had been outdoing her on the European circuit, Barbara Ann said she came to Sapporo with confidence.

"I wasn't strong at the beginning of the year," she said, "but each slalom race I did better, so I was hoping to do well here."

She said Marilyn gave her just three words of advice prior to her second run: "Go fast again."

Until Miss Cochran's performance, the U.S. speedskaters were the rage. Miss Holum, 20, got her country's first gold medal, then Miss Henning matched that effort a day later.

Anne, her long blonde hair falling to her shoulders, was a picture of happiness at her post-race press conference. She displayed the "Snoopy" pin she wears for luck and hailed the 40 Northbrook fans who are here to cheer their girls on as "fantastic."

The amazing high school junior was pretty fantastic herself in the race, displaying the poise of a veteran to overcome some bad luck which might have discouraged a lesser competitor. Off to a flying start, she had to pull up momentarily halfway through the race when she was obstructed trying to change lanes.

SECOND RUN A RECORD

"I thought I lost a lot of time—maybe as much as a second—but I said to myself, 'don't blow it now; keep going as fast as you can,'" she said.

She got moving again and finished in the Olympic-record time of 43.73 seconds. The judges said she could skate again at the end, with the best time counting, but she had misgivings.

"I wasn't sure the first time would stand up against all these strong skaters," she said. "But my legs were super tight and I didn't know if I could beat it if I had to."

As it turned out, she didn't have to, but she did anyway, lowering her own new record to 43.33 seconds.

That set the stage for a dramatic confrontation between hometown rivals Anne and Dianne in the 1,000 on Friday, but it didn't materialize. Germany's Monika Pflug, 17, outdid them both, with Atje Keulen-Deelstra of Holland coming in second.

Miss Henning led the applause for her conquerers, and didn't seem disappointed at all that her second medal was a different color.

"I'm not let down," she said. "I'm very satisfied with what I did today. I'm very happy."

So is Northbrook, which now boasts three 1972 Olympic medals—and the rest of the United States, which has an equal number.

[From the Chicago Tribune, Feb. 13, 1972]

DIANNE STRIKES SILVER FOR 3,000 METER RACE

(By Ted Damata)

SAPPORO, JAPAN.—Dianne struck silver!

Grim, determined Dianne Holum, one of two golden girls from Northbrook, Saturday capped a brilliant display of speed skating in the Winter Olympics by taking the second place silver medal in the 3,000 meter speed skating event.

It was a smashing finale for Dianne, for the United States, and yes, even for the 100 members of the Northbrook contingent following their heroines with cheers and tears all week long.

Dianne, who had won the 1,500 meters early in the week, was timed in 4 minutes, 58.67 seconds and led thru most of the event—until Dutch skater Stien Baas-Kaiser smashed the Olympic record in the gruelling event.

It would have taken a recordbreaking performance to keep Dianne from the gold. Mrs. Baas-Kaiser sped around the Makomanai rink in 4:52.14, to spoil the dream, and crack the standard of 4:56.20 set four years ago.

It was the first silver medal of the games for the United States and brings the total to three gold, a silver and three bronze medals. Anne Henning, Northbrook's 16-year-old champ earlier had taken the gold in the 500 meters and the bronze in the 1,000 meters.

While the Northbrook fans waved flags and banners and chanted "rah, rah Dianne," the 20-year-old student at College Du Page, was paired against Rosemarie Taupadel of West Germany.

After a slow start, Dianne produced a tremendous finishing kick over the last 800 meters and pushed early leader Atje Kuelen-Deelstra into third place.

Altho her time failed to break the record, it was too much for all but one skater. Mrs. Baas-Kaiser, 33, in the next-to-last pairs, set a fast pace from the start and was almost three seconds ahead of Dianne after 1,000 meters and by 2,200 meters had stretched her lead to nearly six seconds.

Of the seven medals won by the United States, all have been by women, and all but two were scored by area residents. Besides the gold and silver by Dianne and the gold and bronze by Anne, there was Rockford's Janet Lynn's winning the bronze in figure skating.

Friday, Barbara Cochran of Vermont took the special slalom and last week Susan Corrock of New Hampshire took a bronze in the downhill.

Afterwards, Miss Holum and Mrs. Baas-Kaiser told how they fought a battle of strategy.

Dianne said: "I started out slowly because I wanted to conserve my energy. It was not until the last 800 meters that I really made my big effort. I had a good finishing time, but there were some good skaters to follow and I didn't know whether it would be good enough for a gold medal."

The Dutch girl said, "I made a fast start because I knew I had to do that if I was to beat Dianne."

Miss Holum said: "I have a gold medal and a silver and I'm very happy. Stien beat me by six seconds and that was pretty good."

Jean Wicki drove Switzerland's No. 1 sled to victory in the four-man bobsled championship. The Italian No. 1 sled was second and the German No. 1 sled was third.

Wicki, who has been driving sleds for 10 years, had won the bronze medal in the two-man bobsled. He took the lead in the four-man event in the first of the four heats and was never threatened.

The favored Soviet Union won the gold medal in the women's 15-kilometer cross-country ski race. Galina Koulacova, who was racing the last lap, earned a third gold medal in the 11th Winter Games. Finland won the silver medal and defending champion Norway the bronze.

Earlier, the 29-year-old Miss Koulacova, a teacher from Izhevsk, had won the gold medal in the five- and 10-kilometer individual races.

Perhaps the only disappointment Saturday for the United States came in the men's figure skating, when, for the first time since 1936, they were out of the top three.

U.S. champion Ken Shelley and Olympic veteran John Misha Petkevich both put on dazzling free skating exhibitions but could get no higher than fourth and fifth respectively. Ondrej Nepala of Czechoslovakia won, with Sergei Tchetveroukhin of Russia second and Patrick Pera of France third.

In related events Marc Hodler, president of the International Ski Federation, said that neither Annie Famose of France nor Earl Schranz of Austria is under suspension because they plan to file suits against companies using their names in advertisements.

Hodler said Miss Famose had given the French Ski Federation power of attorney to bring suit against a radio-television station. He said Schranz had done the same with the Austrian Ski Federation.

[From the Chicago Tribune, Feb. 15, 1972]

THE GIRLS BRING HOME THE GOLD

Our Olympians came home yesterday. Straight from the snow and ice of Sapporo, Japan, where they mined their first Olympic gold for the United States, Dianne Holum, 20, and Anne Henning, 16, returned to the place where their road to glory began—Northbrook.

And, understandably, all Chicagoland joined the northwest suburb in a roaring welcome for the girls who have enabled Northbrook to bill itself as "The Speed Skating Capital of the World." More than any other competitors at the 11th Winter Olympic Games, the two personable young women had won their way into the hearts of American sports fans who watched the spectacle on television or read about the record smashing event in their newspapers.

For Dianne and Anne brought the first gold medals—in the 500 meter and 1,500 meter races respectively—at a moment when it looked as if the big United States contingent would make its dreariest showing ever. The Northbrook skaters added two more medals—a silver one for Dianne and a bronze one for Anne—accounting for half of the eight medals taken home by the United States, making its best finish since the 1960 games at Squaw Valley.

If Women's Libbers had needed any further boost for their campaign for equality, they could have found it in the showing of the other American women athletes, including another Illinois girl, Janet Lynn. The 18-year-old Rockford girl placed third in women's figure skating. Another bronze medal went to Susan Corrock, 20, of Ketchum, Idaho, in the downhill ski, while Barbara Cochran, of Rutland, Vt., came out of nowhere to win the gold in the women's slalom.

From the viewpoint of the home folks, they were the shining lights in the glittering panoplay of the games. But why did the girls do so much better than the American men? Perhaps, as some observers suggested, the girls try a little harder. Perhaps they are more dedicated, more willing to spend month after month in gruelling training. Significantly all six of the Olympic competitors from Northbrook had first won their spurs, so to speak, in the annual Chicago Tribune Silver Skates [four, including Anne and Dianne, were ex-champions.]

Whatever the reason, the young ladies from the United States upheld the best traditions of the Olympics, of good sportsmanship, and of womanhood. Diamonds may be the best friend of most girls, but to Dianne and Anne it will always be the golden honor of the Olympics.

[From the Evening Star, Washington (D.C.), Feb. 15, 1972]

Where Only Skating Counts

(By Andrew H. Malcolm)

Northbrook, Ill.—It was a beautiful, bright sunny day here yesterday, but that didn't go over too well with some people.

"The sun is killing the ice. It'll be lousy skating," said one of the town's 27,000 residents on hand to welcome Dianne Holum and Anne Henning, the two hometown speed skaters who won half the United States' eight Winter Olympic medals.

Downtown every store had a congratulatory sign up. A few businesses closed down. All 14 schools were shut tight. A general festive air hovered over this northern Chicago suburb, which has dubbed itself "Speed Skating Capital of the World."

But way out on Pfingsten Road, down among the expensive new homes going up in the Royal Oaks, Heathercrest and Normandy Hill developments, it was business as usual at the village's $940,000 indoor ice rink. It is the only rink in the United States equipped for Olympic speed skating.

"I can't think of anything we could close down for," said Frances Plummer, the head skating teacher. "The people here just wouldn't stand for it."

In fact, the skating rink, which was approved in a bond referendum, is rarely closed at all. Weekdays it runs at least 20 hours a day; on the weekends the rink is booked solid around the clock.

Although Northbrook provided the coach and five of the U.S. skating team's 17 members, speed skating is not the town's only passion.

There are beginners' skating lessons (over 1,400 enroll in each 10-week session), figure skating (the rink opens at 5 a.m. for practice), ice hockey (there are eight leagues beginning at age 5), and the annual ice show (with a cast of thousand).

And on that sad day in May when the indoor ice goes away, the tennis courts fill up, there's heavy traffic on the Olympic bike track and the 1,100 boys in Little League take to their floodlit baseball diamonds.

Northbrook is, in short, an affluent sports-minded place where almost everyone believes the family that plays together stays together.

It is a far cry from the tiny village of Shermerville, which a band of industrious German farmers founded in the mid-1800s. In fact, it's a far cry from the village of Northbrook that many residents knew only 12 years ago.

Since then it has doubled in population, and like dozens of other Chicago suburbs such as Wheeling, Buffalo Grove and Lombard, has found its 1970 census already woefully outdated.

Housing developers are quickly buying up the remaining farmlands and golf courses. Property that once sold for $150 an acre now goes for upwards of $40,000.

And the local welcoming hostess, Mrs. Carol Bergey, makes at least a dozen calls a week now at the brightly-colored, two-story, two-garage homes springing up in Northbrook's 11.5 square miles.

One survey put the median home value here at $50,000 and median income over $16,000, ranking Northbrook among Chicago's wealthiest suburbs.

There is some friction here between a minority of long-time residents who want the village (Northbrookians do not use the words city or town) to stay the same and the overwhelming majority of later arrivals, who are bringing change. But there is no friction over skating.

It seems that everyone in town knows the two skating stars. "I used to see them at 7 in the morning out running" said Steve Meyer. Another youth added, "They're always training. I don't think they know what a boy looks like."

Their Olympic success has already boosted the rink's waiting list for skating lessons to over 500. "When I was little, I wanted to be like Sonja Henie," said Mrs. Gisella Pulf as she picked up skating application forms, "Now my daughter has to be like Anne and Dianne."

The two girls and their other teammates arrived from Japan late yesterday afternoon. They were welcomed by Mayor Richard J. Daley, of Chicago and rode in a motorcade to their hometown for a parade and ceremonies at the Meadow Hill Ice Rink.

Today everything was back to normal in Northbrook. That is, the stores were open, the schools were back in session, and the ice rink was still crowded.

[From Time magazine, Feb. 21, 1972]

Northbrook, Ill., Speed-Skating Capital

To the casual visitor, Northbrook, Ill., is just another quiet bedroom community on the outskirts of Chicago. To the 27,000 citizens who live there, it has always been the busy, bristling "Speed-Skating Capital of America." Until recently there may have been some doubters of that heady claim. Not now. Not after two of the town's favorite daughters, Anne Henning and Dianne Holum, skated off with gold medals in the 1972 Winter Games. Indeed, the local Chamber of Commerce has already begun to engrave its stationery with a new slogan: "Speed-Skating Capital of the World."

Why Northbrook? For one thing, there is Ed Rudolph, 60, a onetime high school skating champion who has devoted nearly 20 years to training Northbrook youngsters in his sport. A landscape contractor who also serves as the Northbrook park commissioner, Rudolph began his program by designing baseball diamonds that could be frozen over in the winter for skating. With strong financial and moral support from the townspeople, he has since been instrumental in adding a modern indoor facility that is in operation 24 hours a day throughout the weekends.

Beginning each May, Rudolph's charges spend five months in "dry training": calisthenics, running and bicycling. Then they hit the road for West Allis, Wis., and the only Olympic-sized artificial rink in the U.S. Traveling in a car pool run by their parents, they visit the bleak Wisconsin state fairgrounds every day for six straight months, spending three hours a day on the ice and three hours in transit.

Anne Henning, a cheery, curly-haired blonde who never travels without her lucky Snoopy button and a large supply of peanut butter, does not miss the social life that is ruled out by her training regimen. Says she: "There are lots of boys in the training group too, you know." Dianne Holum, a fiercely dedicated competitor who worked as a waitress last year to help finance a three-month training stint in The Netherlands, adds: "I don't mind the sacrifices. An Olympic gold medal is a life's ambition come true." Even so, the demands are such that many young skaters have to drop out of school and study with a tutor. To pay the $1,000 to $2,000 a year that it takes for the care and feeding of a skater, some Northbrook mothers take parttime jobs. Is it worth it? Anne's father, Bill Henning, thinks so. "The U.S. is the only country in the Northern Hemisphere where speed skating is not a major sport," he explains. "Our hope is to make it one."

COSMETICS SAFETY

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. Halpern) is recognized for 5 minutes.

Mr. HALPERN. Mr. Speaker, 1 year ago I introduced H.R. 3813, the Consumer Product Safety Act of 1971. I did so because I firmly believe that the exposure of consumers to unreasonable consumer product hazards is excessive by any standard of measurement.

More than 20 million Americans are injured each year in the home as a result of accidents connected with consumer products. Of that total, 110,000 people are permanently disabled and 30,000 are killed. Clearly a significant number could have been spared if more attention had been paid to potential hazards. The annual cost to the Nation of these product-related injuries may exceed $5 billion.

The bill which I introduced provides for strict enforcement of existing consumer laws and also establishes a Consumer Product Safety Commission which would be authorized to propose consumer product safety standards whenever necessary. The Commission would also have the power to bar a product from the market if it finds that such a product would cause unreasonable risk of personal injury. To assure that the powers of the Commission are exercised in support of its stated goals and purposes a consumer advocate would be charged with specific as well as broad powers to act in the consumer interest.

I am more convinced than ever that this legislation is needed because present laws and existing Government agencies lack the power and scope to effect meaningful change. Passage of this bill will go far towards assuring consumers that they will receive the protection they so desperately need.

As technology increases and American industry grows, its necessary time for careful planning and analysis will often give way to rather harmful results. One major industry in particular, which as a result of product usage causes more than 60,000 injuries a year and goes almost completely unregulated, is the cosmetics industry. There are no standards in this multibillion dollar a year industry in which there are over 1,000 cosmetic-producing companies. Clearly, some consumer protection agency should be established to keep a careful watch over an industry which does not pretest its products or list its ingredients on a label.

I strongly believe that the enactment of the Consumer Product Act of 1971 will establish the machinery to see to it that products manufactured by the cosmetics industry will not pose the potential threat that it does today to the health and safety of the American consumer.

On February 6, 1972, in an article which appeared in the New York Times, Enid Nemy carefully outlined some of the current problems confronting the American consumer in dealing with the cosmetics industry. I think the article strongly points out the need for the establishment of a Safety Products Commission and for the swift enactment of the Product's Safety Act of 1971.

If there are no objections I would like to include this article in the RECORD.

The article follows:

COSMETICS SAFETY: ADMITTEDLY A PROBLEM, BUT WHAT'S THE SOLUTION?

(By Enid Nemy)

Most women assume that cosmetics are a harmless way of trying to improve on nature. It isn't always so.

Despite the fact that the vast majority of cosmetics are safe, some aren't. The "some," according to a 1970 report of the National Commission on Product Safety, annually injure 60,000 people. The injuries are mostly to women and involve such complaints as skin eruptions, loss of hair, severe allergic reactions, burns, and itching, all considered sufficiently serious to restrict activity for one day or require medical attention.

Another survey by the same Presidential commission indicated, too, that beauty aids accounted for the second largest group of personal injury claims among American insurance companies. The survey took in the 30 products most frequently linked to injuries, from glass bottles and containers, which ranked first, to stairs, cleaning agents, clothing, ladders and lawn mowers. It excluded automobiles, foods and drugs.

Unlike food and drugs, cosmetics are almost completely unregulated. There are no mandatory standards in the $6-to-$8-billion-a-year industry, in which about 200 of the estimated 1,000 cosmetic companies account for 90 per cent of the sales. Nor are there requirements for pre-marketing testing, although some manufacturers maintain both on a voluntary basis. There is also no necessity to list ingredients on a label.

"The public becomes the guinea pig to test the safety of cosmetics," said Representative Lenor Sullivan, the Missouri Democrat, who has unsuccessfully been introducing cosmetic legislation since 1954.

"The burden of proof is on the Food and Drug Administration to show that a product is not safe, rather than on the manufacturer to prove it is safe," she said.

The latest version of her bill is still pending before a House committee, but a spokesman for Mrs. Sullivan conceded that "there's not much hope" when asked about its chances.

"Not unless there is much more consumer interest than there has been up to now," he added. "Most people assume products are safe or the Government wouldn't let them be sold, but the Government doesn't know whether or not they are safe until they get complaints."

The Government does get complaints, although they are minimal considering the millions of cosmetics products sold each year. The complaints in no way reflect those reported to other sources, such as doctors and insurance companies. Dr. Charles Edwards, the F.D.A. commissioner, has acknowledged that the agency "receives only a fraction of the total number of cases of adverse reactions."

Last year, for instance, the F.D.A. received 314 consumer complaints, up about 40 per cent from 1970, the last year for which there is a breakdown of figures. Thirty per cent of the complaints dealt with hair cosmetics, including bleaches, dyes, shampoos, straighteners and wave sets (Government authority over coloring in food, drugs and cosmetics does not include coal tar hair dyes, which are used in many permanent hair dyes).

Both preparations, particularly bubble baths, some of which were found to have an excessive amount of wetting agents that caused bladder problems, accounted for 11 per cent of the complaints and another 9 per cent stemmed from mouthwashes and dentifrices. In the latter area, inflamed lips were attributed to chloroform, which has since been excluded from most of these products.

Deodorants and antiperspirants added 7 per cent and so did eye preparations, and nail preparations and facial creams were each responsible for 6 per cent. The remainder was divided among many areas.

At the moment, the F.D.A., with some cooperation from the industry, is reviewing certain hair dyes, doing research in mercury reactions, testing the possible asbestos content in talcum powder and investigating the effect of certain shampoos on eyes.

It is also investigating aerosol sprays, considered potentially harmful to people with heart conditions, continuing the evaluation of hexachlorophene in many areas, including vaginal deodorants, and carrying on general testing of bacterial contamination in cosmetics, with special emphasis on eye make-up.

Realistically, the F.D.A., and most proponents of consumer legislation, are well aware of two facts:

The first is that pre-testing would not entirely preclude the possibility of potentially harmful ingredients being used in cosmetics. This would apply particularly if the possible danger came from a cumulative, or long-term effect, such as is thought to be the case with hexachlorophene and mercury. It would also not eliminate the possibility of sensitive or allergic reactions to some products by some people.

The second is that pre-testing would not mean that the product would have to be cleared by the F.D.A. before being marketed. A pre-clearance policy would, an F.D.A. official pointed out, require considerably more staff ("several hundred or more"). An industry official noted that it would also delay the introduction of new products for what could be a considerable period of time.

Although Representative Sullivan has attributed some of the continued resistance to her proposals to "the cosmetics industry . . . able to convince the all-male committee that the women of America would rise up in revolution if Congress in any way interfered with their 'right to be beautiful,' " there is little doubt that more stringent regulations or guidelines of some kind are being seriously considered.

On the Government level, bills affecting cosmetics have already been introduced by Representative John Moss, a California Democrat, and Senator Warren Magnuson, Democrat of Washington. The Moss proposal would set up a Products Safety Commission that would have stand-by authority to regulate the safety of cosmetics should other Federal agencies with jurisdiction fail to take action. The Magnuson bill is similar in effect.

Representative Frank Evans, Democrat of Colorado, has also drafted, and is continuing to research, a bill that would provide certain mandatory standards for the cosmetics industry. It would require registration of cosmetics manufacturers, listing of ingredients, expiration dates and manufacturers' addresses on labels, and pre-testing in 13 areas, including toxicity, irritancy, eye irritation, microbiological contamination and stability of preservative systems. It would also require quarterly reports to the F.D.A. on consumer complaints received by cosmetics companies.

On the industry level, the Cosmetics, Toiletry and Fragrance Association (C.T.F.A.), has filed two petitions with the F.D.A., and prepared a third, which would set up voluntary procedures for its membership. And the F.D.A., in a proposed statement of policy, has taken a new approach to cosmetics control.

The F.D.A. proposal, conceived by Peter Hutt, the agency's general counsel, would provide controls without a law being enacted by Congress. It is a theory of "implied warranty" where, in effect, the agency concedes that it has no pre-marketing clearance authority over cosmetics but "the marketing of a product constitutes an inherent, implied warrant of fitness for its labeled purpose, including safety in use."

The new concept could become a major point of argument in court cases against products alleged to be unsafe by the F.D.A.

The C.T.F.A. petitions would provide voluntary registration of such information as headquarters and plant locations and product ingredient formulations (to the F.D.A. and Poison Control Centers). The as-yet unfiled petition would make available to the F.D.A. adverse reaction or complaint files of consumer experience.

As yet, the industry has filed no petitions on pre-testing, although it has issued a number of guidelines "designed to upgrade the entire manufacturing process."

"A substantial amount of testing is now being done," said James H. Merritt, president of the 200-member association. Asked how many members, or what percentage of the membership did, in fact, pre-test, he had no precise figures. "I get the impression that a wide amount is being done," he said.

The industry, he said, was in favor of self-regulation, rather than mandatory controls and most members of the association agree with this view.

Dr. Robert Shaffner, director of product technology in the F.D.A., agreed that a voluntary program would be "a good starting place." However, other consumer experts favor some form of mandatory control, contending that "fly-by-night" manufacturers and others might not comply voluntary.

"You can't have A, B and C saying 'we'll cooperate' and D saying, 'go jump,' " said Dr. Cyril H. March, former chairman of the American Medical Association's committee on cutaneous health and cosmetics.

Dr. Marsh, an associate professor of dermatology at New York University, favors a scientific advisory board on cosmetic ingredients. The board could consist of representatives from industry, Government, law and medicine.

Although he favored more explicit "warning" cautions on certain products and the availability of product formula information in central locations, he did not approve the concept of ingredient labeling for the public.

"People don't read labels . . . nothing is as bad as a law that isn't helpful," he said.

The industry, "as a general proposition," also opposes ingredient labeling. Some of the reluctance has been attributed to fear of disclosing formulae to competitors and complicating package design.

Last year, Barnaengen AB, a major Swedish company, began listing its ingredients on packages and inserts, to enable consumers to avoid substances to which they might be allergic and at least two American companies, Revlon, one of the largest, and Esteé Lauder, one of the most prestigious, are considering their own ingredient labeling. Spokesmen for both companies said they were not concerned at being copied.

"Products can be copied without even knowing the ingredients," said Norman Grief, a Revlon vice president.

Avon Products Inc., the largest manufacturer ($870-million last year) said it recognized "the consumers' right to know" with a recently adopted policy of sending product ingredient information to anyone requesting it.

All three companies are also among those with extensive research and testing programs.

To Leonard Lauder, a member of the C.T.F.A. board of directors, the industry's increased concern for self-regulation stems from greater sophistication and awareness on the part of the consumer.

"Things that were taken for granted before are not taken for granted anymore," he said.

TO IMPLEMENT THE GENOCIDE CONVENTION

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. McCulloch) is recognized for 5 minutes.

Mr. McCULLOCH. Mr. Speaker, I have today joined with my good friend and colleague, the distinguished chairman of the Committee on the Judiciary (Mr. Celler), in introducing a bill to implement the "Convention on the Prevention and Punishment of the Crime of Genocide," which is now pending in the other body for advice and consent to ratification.

Since the text of this convention was unanimously approved by the General Assembly of the United Nations in 1948, 75 countries have ratified it. I hope that proposing this legislation at this time will serve to enhance the prospects for a meaningful and informed debate on the advisability of American participation in the convention, both within the other body as the ratification process follows its constitutionally prescribed course and in other quarters of the Nation, by supplying tangible evidence of the likely impact of ratification upon domestic law.

If the United States is to lend its support, even in a symbolic way, to the international effort to brand genocide as both a moral and a legal outrage, it is altogether reasonable that a formulation of the specific crimes to be defined and the means of assuring due process of law to any person accused of committing one of them be laid on the table now, for honest scrutiny by all. This bill should go a long way toward allaying the sincere doubts which have been expressed by some in the past as to the practical domestic application of some terms of the convention.

Mr. Speaker, I include at this point the text of the bill, accompanied by a sectional analysis and letter of transmission from the Department of Justice:

A bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title 18, United States Code, is amended by adding after chapter 50 the following new chapter:

CHAPTER 50A—GENOCIDE

"Sec.
"1091. Definitions.
"1092. Genocide.

"Sec. 1091. Definitions.—As used in this chapter—

"(1) 'National group' means a set of persons whose identity as such is distinctive in terms of nationality or national origins from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(2) 'Ethnic group' means a set of persons whose identity as such is distinctive in terms of its common cultural traditions or heritage from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(3) 'Racial group' means a set of persons whose identity as such is distinctive in terms of race, color of skin, or other physical characteristics from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(4) 'Religious group' means a set of persons whose identity as such is distinctive in terms of its common religious creed, beliefs, doctrines, or rituals from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(5) 'Substantial part' means a part of the group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity.

"(6) 'Children' means persons who have not attained the age of eighteen and who are legally subject to the care, custody, and control of their parents or of an adult of the group standing in loco parentis.

"Sec. 1092. Genocide.—

(a) Whoever, being a national of the United States or otherwise under or within the jurisdiction of the United States, willfully without justifiable cause, commits, within or without the territory of the United States in time of peace or in time of war, any of the following acts with the intent to destroy by means of the commission of that act, or with the intent to carry out a plan to destroy, the whole or a substantial part of a national, ethnic, racial or religious group shall be guilty of genocide:

"(1) kills members of the group;

"(2) causes serious bodily injury to members of the group;

"(3) causes the permanent impairment of the mental faculties of members of the group by means of torture, deprivation of physical or physiological needs, surgical operation, introduction of drugs or other foreign substances into the bodies of such members, or subjection to psychological or psychiatric treatment calculated to permanently impair the mental processes, or nervous system, or motor functions of such members;

"(4) subjects the group to cruel, unusual, or inhumane conditions of life calculated to bring about the physical destruction of the group or a substantial part thereof;

"(5) imposes measures calculated to prevent birth within the group as a means of effecting the destruction of the group as such; or

"(6) transfers by force the children of the group to another group, as a means of effecting the destruction of the group as such.

"(b) Whoever is guilty of genocide or of an attempt to commit genocide shall be fined not more than $20,000, or imprisoned for not more than twenty years, or both; and if death results shall be subject to imprisonment for any term of years or life imprisonment. Whoever directly and publicly incites another to commit genocide shall be fined not more than $10,000 or imprisoned not more than five years, or both."

"(c) The intent described in subsection (a) of this section is a separate element of the offense of genocide. It shall not be presumed solely from the commission of the act charged.

"(d) If two or more persons conspire to violate this section, and one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than $10,000 or imprisoned not more than five years or both.

"(e) The offenses defined in this section, wherever committed, shall be deemed to be offenses against the United States.

(b) The analysis of title 18, United States Code, is amended by adding after the item for chapter 50 the following new item:

"50A. Genocide..........................1091."

Sec. 2. The remedies provided in this Act shall be the exclusive means of enforcing the rights based on it, but nothing in the Act shall be construed as indicating an intent on the part of the Congress to occupy, to the exclusion of State or local laws on the same subject matter, the field in which the provisions of the Act operate nor shall those provisions be construed to invalidate a provision of State law unless it is inconsistent with the purposes of the Act or the provisions of it.

Sec. 3. It is the sense of the Congress that the Secretary of State in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for an offense defined in chapter 50A of title 18, United States Code, when the offense has been committed outside the United States, and

(a) where the United States is competent to prosecute the person whose surrender is sought, and intends to exercise its jurisdiction, or

(b) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such offense.

Office of the Attorney General,
Washington, D.C., February 16, 1972.
The Speaker,
House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Enclosed for your consideration and appropriate reference is a legislative proposal to implement the Convention on the Prevention and Punishment of the Crime of Genocide.

The Genocide Convention, which is now pending before the Senate for advice and consent to ratification, is intended to make genocide—the commission of certain atrocities with the intent to destroy a national, ethnic, racial or religious group—an international crime. It was drafted under United Nations auspices, adopted by the General Assembly in 1948, and entered into force in 1951. It was sent to the Senate by President Truman in 1949, but was not acted upon by the Senate. On February 19, 1970, President Nixon sent a message to the Senate, urging it "to consider anew this important Convention and to grant its advice and consent to ratification." The Convention was approved by the Senate Committee on Foreign Relations on December 8, 1970, but it was not brought to a vote by the Senate before the adjournment of the 91st Congress.

On May 4, 1971, following additional hearings, the Committee on Foreign Relations favorably reported the Convention to the Senate. (Senate Ex. Rept. 92–6). On page 9 of its report, the Committee states that it has asked the executive branch to submit implementing legislation to the Congress so that the Convention is being debated. Accordingly, a draft bill to implement the Convention is hereby submitted.

The draft bill contains three sections which are explained in detail in the accompanying sectional analysis. Section 1 of the bill would add a new chapter on Genocide to title 18 of the United States Code. While generally following the language of the Convention, the provisions contain definitions designed to make it clear, without awaiting judicial interpretation, precisely what acts are punishable, thus clarifying some of the vague terms of the Convention. The provisions also give effect to certain understandings set forth in Senate Ex. Rept. 92–6, pp. 1–2.

Section 2 of the bill would exclude civil remedies for violations of the Convention, and would express the Congressional intention not to preempt State law in the field.

The third section expresses the sense of the Congress that extradition treaties negotiated under the Convention shall provide protection for Americans against double jeopardy for genocidal acts committed abroad if they have been proceeded against in the United States.

We hope that this draft will assist the Senate in its deliberations concerning advice and consent to ratification of the Convention, and that, following Senate approval of the Convention, the bill will be promptly enacted.

The Office of Management and Budget advises that enactment of the proposed legislation would be consistent with the objectives of the Administration.

Sincerely,

——— ———,
Attorney General.

SECTIONAL ANALYSIS

SEC. 1 of the bill would add to title 18, United States Code, a new chapter 50A, Genocide, consisting of new sections 1091 and 1092:

Proposed section 1091 of title 18 contains definitions of some of the terms used in the Convention, in order to comply with the principle that criminal statutes should have a sufficient degree of certainty to make it clear without judicial interpretation just what acts are punishable.

Clauses (1)–(4) define the groups which the statute is intended to protect in terms of the characteristics which distinguish them from the rest of the population of the larger society of which they are a part. The larger society can be either a nation or the international community of nations.

Clause (5) defines "substantial part" in terms of its numerical significance to the group as a viable force. The term is used in proposed section 1092 defining the offense of genocide in order to comply with the understanding of the Senate Committee on Foreign Relations concerning the intent provision of Article II of the Convention. Senate Ex. Rep. 92–6, pp. 6–7.

Clause (6) defines children as dependent persons under 18 years of age.

Proposed section 1092 of title 18 creates the crime of genocide, tracking substantially the language of the Convention, except for the use of the term "substantial part" (see explanation of clause (5) above), and except for subsection (a)(3), which defines genocide by "mental harm" as the willful causing of permanent impairment of the mental faculties, thus complying with the second understanding of Senate Ex. Rep. 92–6. The definition also details precisely the means used to cause the impairment, in order to avoid a claim of impairment based on incidental or hypothetical mental harm. Not only must the act be willful, but it must be calculated to cause dysfunction. "Mental faculties" is amplified and focused in terms of mental processes, nervous system, and motor functions.

Genocide by killing and bodily harm use the Convention terminology entirely, since killing and assault are recognized crimes.

Subsection (a)(4) defines genocide by "inhumane treatment" and clarifies the ambiguity of the Convention's phrase "conditions of life."

Subsection (a)(5) defines genocide by imposed birth control as the willful imposition of measures intended to prevent the natural group increase "as a means of effecting the destruction of the group as such".

Subsection (a)(6) defines genocide by repatriation as the willful and forcible transfer of the children of the group as a means of effecting the destruction of the group.

Subsection (b) proscribes attempted genocide and public incitement to genocide, in order to comply with Article II of the Convention. In this regard, it is unnecessary to proscribe complicity in genocide, as required by Article III, since this inchoate offense would be covered in 18 U.S.C. 2 (principals), and 18 U.S.C. 3 (accessory after the fact).

Subsection (b) also sets forth the penalties for genocide and related offenses. Like the penalties for violations of other criminal statutes, increased penalties are provided in death results.

Section 2 of the bill would provide that the remedies in it are the exclusive means of enforcing the rights based on it, thus excluding civil remedies, but would also express the Congressional intent not to preempt State law in the field.

Section 3 of the bill would express the sense of the Congress that extradition treaties negotiated (pursuant to Article VII of the Convention) shall provide protection for Americans against double jeopardy for genocidal acts committed abroad if they have been proceeded against in the United States or if the United States intends to exercise its jurisdiction. See Senate Ex. Rep. 92–6, p. 11–12. This section is included because the draft statute would make it possible for the United States to assert jurisdiction over citizens of this country in cases of alleged genocide where the facts giving rise to the case took place outside United States territory. As a result it is possible that there may be situations where both the United States and another country will have jurisdiction to try someone for the same alleged offense. The statutes of the United States are not directed to the issue of who exercises jurisdiction, but leave the answer to the text of the extradition treaty involved. 18 U.S.C. 3184. See, for example, Treaty of Extradition with Brazil, 15 U.S.T. 2094, Art V., which is the source of the language for this section. The Secretary of State is directed to ensure that future extradition treaties which treat genocide as an offense for which extradition may be granted shall reserve to the United States in cases where double jurisdiction exists the right to try its own citizens rather than grant extradition. Clause (b) of the section is, as a matter of policy, presently included in all extradition treaties.

CHILD CARE SERVICE

The SPEAKER. Under a previous order of the House, the gentleman from Minnesota (Mr. QUIE) is recognized for 60 minutes.

Mr. QUIE. Mr. Speaker, the issue of child development is one which has received a great amount of attention in the Congress this year. There are fundamental questions which must be addressed before we can proceed to develop or expand legislation in this area any further. Recently I sent every Member of Congress a study conducted by the General Accounting Office in which they evaluated child care activities in the District of Columbia. The report contained charts which traced the development and implementation of child care legislation which has emerged from the Congress in recent years, and illustrated the overlap and duplication of effort and services which have resulted from the legitimate implementation of the laws Congress has passed.

The study found that there are 11 Federal programs in the District of Columbia funding child care activities—AFDC services, WIN, Headstart, ESEA–I, ESEA–II, Impact Aid, Concentrated Employment program, Neighborhood Youth Corps, Public Service Careers, JOBS, Model Cities. These 11 programs operate through three Federal departments—HEW, Labor, HUD—five Federal agencies—Social Rehabilitation Service, Office of the Secretary HEW, Office of Education, Manpower Administration, Model Cities Administration—and are administered by five local agencies—District of Columbia Department of Human Resources, District of Columbia Public Schools, United Planning Organization, Contractors Providing Job Training, District of Columbia Model Cities Agency—who subcontract to an unlimited number of local child care operators.

Although the study was centered in the District, the GAO indicated that the same charts could probably be drawn for every other major city in the country. The point of the report which is of considerable concern to me is that, as programs have emerged from different committees of the Congress for various reasons with the intention of meeting specific needs, no standardization or coordination has ever been put into place. In an effort to comply with the laws, Federal departments and agencies have set up bureaucracies and employed specialists to implement the legislative mandates. The result has been a bewildering duplication of agencies, inequitable distribution of funds and services and, most of all, a complete lack of coordination and supervision of these independent programs. The report is clearly an objective look at the problems which exist. It points out the critical need for some action to consolidate and coordinate Federal child care and child-development programs.

Consolidation of programs is certain not the only problem facing the Federal Government. Consideration is being given to expanding its activities in the child care and child development fields. There are many questions which must be answered before we can measure the actual impact that rapid expansion of these programs will have throughout the country. I am attaching at this point several studies conducted on the subject of impact as well as the research questions which must be considered before any new efforts are made.

The first insert is one part of a large study done in my own State of Minnesota by the Day Care Policy Studies Group of the Institute for Interdisciplinary Studies in Minnesota. Their work was part of a contract through the Office of Economic

Opportunity. The paper, which was written by James L. Hedrick and Gary Fatland, is a discussion of the challenges to the rapid expansion of federally sponsored day-care programs. They attempted to analyze and focus on the policy issue of what is involved in choosing the ideal blend of Government reliance upon the private day-care market, governmental support to the private day-care market, and governmental funding and operation of day-care facilities. This report is discussed from the perspective of both legislation and regulation and also in terms of the perspective of the local administering agency. The intent is to provide a framework with which to allocate limited resources in a way as to avoid the usual problems assumed of a rapidly expanding Government program. The report is as follows:

CHILD CARE SERVICES

1.0 INTRODUCTION

The passage of any one of a number of bills introduced in Congress this year would result in a major expansion of child care services in this country. Studies and surveys of present day care practices have shown that the delivery of day care services is not well developed, and would probably need concerted governmental effort to expand to the degree anticipated.

It is estimated that $653 million was expended for child care (including Head Start by the federal government in fiscal year 1971) and that $900 million will be expended in 1972.[1] Further, it is estimated that the Family Assistance Plan (if passed) would result in an approximate doubling of the 1971 budget for child care (i.e. $1.2 billion).[2] The OEO Comprehensive Child Care Amendments would allocate $2.1 billion to child care. Estimates of the costs of child care, if most low-income mothers participated and if a quality program were launched, could easily rise to $5 billion. And this is not all; other resources—state, local, not-for-profit, for-profit, and participating parents—are being encouraged to participate in day care programs to greater or lesser degrees, depending upon the particular legislation in question.

The exact estimates for budgetary expansion, the exact form of legislation, the exact nature of federal, state, and local participation are not important to this paper. What is important, however, is that federal action concerning child care is quite likely to stimulate the currently small and relatively insignificant child care system into becoming a major human service. This paper addresses the issues that should be faced and should be studied when considering a major expansion of the child care industry. Major mistakes can possibly be avoided and possibly millions of dollars can be saved by studying and assessing the consequences of alternative approaches to providing day care before such systems are launched.

The discussions and debates thus far have focused primarily upon the issues associated with specific bills facing Congress. Many of the important questions regarding the expansion of child care services have rarely been raised and analyzed. The expansion of other, similar federal programs has never been fully evaluated to help assess the problems to be faced in the expansion of child care services. For these reasons, this paper is conceptual in nature. The authors intend to present a perspective from which to view the expansion of the day care delivery system and to draw from this perspective some specification for research that might provide information for rational choices among alternative child care delivery mechanisms.

2.0 PROBLEMS ASSOCIATED WITH THE EXPANSION OF CHILD CARE PROGRAMS

It is assumed, for the purposes of this paper, that the government has resolved the policy issues with regard to child care, including justification for federal leadership in, the objectives pursued through, and the scale of the child care program desired. The issue is the determination of the most feasible manner to implement the policies decided upon.

When the government rapidly expands expenditures in a particular area, such as child care, it soon can expect major barriers to affect the operation, management, and control of the program. The Auerbach assessment of child care under the present WIN Program identified several major barriers facing the expansion of child care services:[3]

Lack of state and local funds,

Lack of federal funds for construction or major renovation,

Inadequate levels of public welfare agency payments,

Shortage of staff in public welfare agencies,

Shortage of trained child care personnel,

Federal child care standards,

State licensing requirements (health and safety),

Other state licensing requirements.

Several of these barriers are unique to the WIN Program and its administration and may not be applicable to expansion that employs other routes for development. Other barriers, however, may be just applicable to any—or all—programs to be enacted in the future. For example, lack of federal funds for construction, the shortage of trained child care personnel, inability to meet federal child care standards, and the difficulties of meeting state and local licensing requirements are all problems that are as likely to affect future programs as they have past programs.

Even though the barriers faced by child care services in support of the WIN Program were deemed to be significant, they are relatively minor compared to the problems that can be expected when the scale of child care is expanded significantly in a very short time, as has been proposed by some child care legislation. If the federal child care budget expands 250% in one year (as has been proposed under Title IV of the Equal Opportunity Act), the scale of expansion will place a significant strain on the child care providers.

Increases in cost and inefficiency can be expected among child care providers if rapid expansion forces them to upgrade personnel to meet program requirements. The child care industry would also face supply problems in terms of facilities and licensing; but those associated with the supply of trained personnel are particularly important to the expansion of child care services since child care is a highly labor-intensive service (approximately 75% of the costs go for personnel.[4] The Auerbach study found that "the number of graduates from Early Childhood Education . . . who have also had a few years experience and could therefore qualify as head teachers and directors is too small to meet the present need, much less any expansion in the number of facilities."[5]

If this is the situation now, what would a 250% expansion of the federal budget for child care create in the way of early childhood teacher shortages and imbalances?

It has been estimated that if every three-, four- and five-year-old were in some form of preprimary program, 800,000 additional personnel would be required to maintain a ratio of one adult to every ten children. The growing number of excess teachers trained for school-age instruction should not be considered an automatic answer to this need, for the training of teachers for school-age and preschool-age children is not identical. However, with some retraining, these people should be a valuable resource.[6]

If Auerbach is "right," developers of child care services under an expanded program are likely to find themselves faced with significant difficulties in recruiting teachers and administrators. Lowering standards for quality or number of staff would run counter to federal child care standards and would thus be unacceptable; bidding teachers away from elementary schools would also be harmful; and training new teachers would require several years lead time. The net result of a very rapid expansion of day care would likely be some combination of the following:

Significant increase in salaries could be expected for early childhood teachers due to competitive bidding among child care providers and between such providers and other providers of early childhood education (Head Start, elementary schools, etc.). A hypothetical example of what this might do to program expectations is as follows: Assume that a two billion dollar day care program were launched with the expectation that two million children would be served at a cost of $1,000 per child; if the process of bidding for teachers, administrators, and aides resulted in a 20% increase in labor costs over those existing at the time the program was launched and if labor costs were assumed to be 75% of all program costs associated with day care expansion, then the costs of providing child care would increase from $1,000 per child to $1,150 per child ($1,00 x 20% increase in labor costs x 75% labor costs as percent of all costs). As a result of cost increases, program administrators would be forced either to (a) serve fewer children for the same budget (1.74 million "achieved" vs. $2.0 million "expected"), or (b) request an additional budget to serve the planned number of children $2.3 billion "achieved" vs. $2.0 billion "expected"). (This hypothetical analysis assumes that other costs are not similarly inflated by day care expansion—which is not likely to be the case, since facilities, etc., are also in short supply.)

Conflicts might occur with Federal Interagency Standards or with similar quality standards that establish minimum "child-per-teacher" ratios. An expansion program for child care would likely carry with it a multi-fold increase in the number of children cared for, but the supply of child care teachers would not be expected to expand in like proportion in the span of a year (or less), particularly since teachers are not nationally mobile. Shortages may exist in some areas of the country simultaneously with surpluses in other areas. An increase in the number of teachers could not be expected to keep pace with an expansion of the number of child care enrollees (thus, indicating an increase in the ratio of children to teachers). This is particularly complicated since under the present child care arrangements, many, if not most, child care centers are not meeting the "child-per-teacher" standards put forth in the Interagency Standards. It is further complicated by the fact that most child care is now being provided by "ad hoc," unlicensed, and unregulated at-home care through either baby sitters or family day care; such present arrangements do not provide a strong potential source of teachers or administrators for expanded day care.

Thus, because of the assumed rapid expansion of child care services, there is likely to be real pressure either to lower significantly the child-per-teacher ratios of the interagency standards—and thus lower one aspect of program quality—or to reduce the expansion prospects of the program, returning some of the appropriated funds to the Treasury, serving fewer children and mothers than orginially intended.

2.1 NEEDED RESEARCH

The above example has demonstrated how critical it is to consider explicitly how the supply of trained personnel will be increased

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to support day care expansion. Many of the budgetary and other analyses that have been used to support legislation in favor of child care have provided cost estimates under the assumption that costs will not be affected by a rapid expansion of child care services; however, this is unlikely to be the case because of the barriers to day care expansion, which include the shortage of early childhood teachers and facilities, licensing difficulties, and so on. Many analyses that support decisions in favor of child care have implicitly assumed that the current Federal interagency standards are compatible with rapid program expansion; this also is unlikely.

Questions need to be asked and answered about "hard numbers." How much might day care manpower costs be influenced by rapid day care expansion? How much might interagency children-per-teacher ratios have to be increased to avoid increasing the costs of day care expansion and to avoid vacancies on day care staffs? How gradual does day care expansion have to be in order not to effect an increase in day care costs and a change in interagency standards?

These questions are not easy to answer. Complex supply-provider models need to be developed and data collected and analyzed to provide such answers. The research has not been adequately done and the supporting data have not been adequately collected and analyzed. Manpower requirements for child care programs are difficult to define and to convert into operational training curricula—as a consequence, the training resources and needs are difficult to estimate.

The supply of trained personnel varies significantly across the country; shortages may exist in some communities and not in others. These possible geographical variations need to be estimated but are difficult to do because of the complexities of analyses and the shortage of data describing national manpower resources. In many child care situations, paraprofessionals can likely be substituted for professionally trained personnel; in other situations, professionals are likely to be more effective—the substitution coefficients between professionals and paraprofessionals need to be estimated.

In many communities, Headstart and elementary education teachers can be used for expanded day care: what is the availability of such personnel geographically, and how can they be brought into child care without adversely affecting the programs from which they were drawn? Looking toward the future supply of teachers: how many persons enrolled in early childhood education, how many are in training, how many can be expected to graduate, what proportion can be expected to enter the day care industry? These questions are important and need to be evaluated. The same type of questions need to be asked—and answered—for paraprofessionals: how many are in training, how many might graduate, and how many might enter day care?

The answers to these types of empirical questions require an extensive and thorough research effort, but they are necessary to help define the scale and size of training programs and of the manpower allocation procedures that will build a future child care industry. The researchers must analyze the several types of manpower (teachers, paraprofessionals, administrators, and others), the competing requirements of the several industries that need such manpower, the fact that early childhood manpower is not geographically mobile, the currently unknown dropout rates of students and trainees, the currently unknown extent to which elementary education teachers can successfully (and are interested in) converting to child care, and many other factors.

A survey of the literature has uncovered only one study that has attempted to project national need for early childhood programs and that has developed a model to show feasible rates of program growth to meet this need. The principal findings of Jule M. Sugarman's book (reprinted in the Hearings of the Comprehensive Child Development Act of 1971" [7]) are as follows.

The estimated additional numbers of children who will need child care services nationally are:

Kindergarten 1,300,000.
Nursery schools 3,000,000.
Day Care 1,310,000.
Mini-programs 1,890,000.

Approximately 38% of the need is among disadvantaged children.

National capacity for program growth to meet need is estimated at 250,000 child care slots a year.

At this rate of expansion, it is estimated that 24 years will pass before total program growth is completed.

There is an estimated need for 456,000 additional professionals and 529,200 preprofessionals. This increase would require increasing staff at average annual rate of 19,000 professionals and 22,000 paraprofessionals—a substantial expansion from the estimated present annual rate of 5,000 new professionals and 10,000 new preprofessionals.

The number of children who will need facilities grown from 80,000 in the first phase of the program "model" to 725,000 in the last phase.

2.2 CURRENT SUPPLY OF EARLY CHILDHOOD TEACHERS

An evaluation of the supply situation for early childhood teachers under expanded child care should begin with an assessment of the most recent trends in this field, since these trends provide some indication of whether or not the field is "gearing up" for the largest expansion possible in child care. Recent increases in the numbers and scale of these trends provide some indication of whether or not the field is "gearing up" for the largest expansion possible in child care. Recent increases in the numbers and scale of programs for preschool children have contributed to expansion in the number of schools providing preschool education and to expansion in the type of curriculum alternatives offered. The Head Start Program has had probably the most pronounced influence in the training of early childhood educators—serving to greatly expand the demand for early childhood trainees and serving also to support the supply of trained professionals in this field. About 57,000 persons are working year-round for Head Start, and thousands more are working in the summer program. Head Start has helped to alleviate the shortage of early childhood personnel by initiating its own training programs, which have persuaded many colleges to change their approach to the preparation of students in early childhood education. About one-third of the states have begun to consider establishing standards for teachers in early childhood education, primarily because of the impetus provided by Head Start.

Several approaches have been employed by Head Start to expand the supply of early childhood trainees and students:

1. Training institutes at 13 university centers offer five-to-eight courses to a total of about 2,500 persons annually (1968 figures). They provide basic studies in early childhood education, with emphasis on disadvantaged children and techniques for working with such children and their families.

2. Orientation programs for teachers and aides at community training centers trained 56,000 persons in fiscal year 1968 to be teachers, aides, and related professionals.

3. In-service programs are run at local Head Start centers.

4. A special program enables non-professional Head Start employees to earn degrees in early childhood education. By June 1968, 85 of these programs were being offered at two hundred colleges and universities where more than 5,500 Head Start staff had earned college credits.

A number of other federal programs also served to support early childhood education:

1. The Education Professions Act, parts C and D, authorizes programs in pre-school training, including fellowships for higher education in early childhood education.

2. The Teacher Corps, also under the Education Professions Act, trains personnel in the local colleges, but also provides credits for actual community participation by corpsmen as classroom aides. By 1968, about 50 interns had graduated in early childhood education—many of them participating in Head Start as their community activity.

3. In-service training of personnel in early childhood education has also been supported under Titles I and IV of the Elementary and Secondary Education Act and Title I of the higher Education Act.

TABLE 1.—TRAINING OF CHILD PERSONNEL, FISCAL YEAR 1970

Program	*Estimated number of persons trained*
Department of Health, Education and Welfare:	
Child welfare training	[8]1,500
Education Professions Development Act:	
Teachers	2,000
Administrators, teacher trainers, and trainers of teacher trainers	1,500
Teacher aides	1,500
Subtotal	4,600
Follow Through (kindergarten teacher aides)	1,000
Head Start employee training:	
College level courses in child development	7,000
Short summer orientation and in-service training programs	60,000
Leadership development programs (6 to 8 weeks of intensive child development skill training)	2,000
Subtotal	69,000
Department of Labor manpower programs:	
Child care attendants	150
Kindergartners	15
Nursery school teachers	155
Nursemaids (in private homes)	1,110
Mothers' helpers (combination maid-attendants)	100
Subtotal	1,530

The training of child care personnel for fiscal year 1970 is shown in Table 1. It is again important to note the scale of Head Start training in relation to the overall supply of early childhood personnel. Thus, it is fair to say that the most recent trends in emphasis on early childhood training and education has served to expand appreciably the capability of the educational sector to produce competent personnel in this field—a trend that should prove encouraging to the development and expansion of day care. In particular, Head Start expansion has developed the capability for training personnel to deal with the special problems of disadvantaged children and their families—a recent turn of events that should help to facilitate the provision of well-trained professionals and paraprofessionals for day care. However, it is also fair to say that the scale and emphasis that has been provided through Head Start is not of the magnitude of many day care proposals; the early childhood education field will possibly be asked to make an even stronger effort toward expansion, should

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major day care legislation pass. (The federal expenditures for Head Start were $360 million in fiscal year 1971, and the proposed budget for day care under Title IV of the Economic Opportunity Act is $2.0 billion—to provide an approximate idea as to the magnitude of increase in teachers and aids that would be required to support an expansion of child care services.)

2.3 AN ILLUSTRATION OF PRIORITIES FOR THE EXPANSION OF CHILD CARE SERVICES

As a following section of this paper discusses, the complexities of expansion—in terms of increased costs, possible inability to meet quality standards, numerous barriers to hiring and training of staff, construction of facilities, licensing, and so forth—are formidable. If quantitative research demonstrates that these are, indeed, barriers to the expansion of current child care services, some hard choices will need to be made in developing priorities for launching a major day care program.

There is a major difference between in-school child care and preschool child care. The former type of care is provided only part of the day (before and/or after school) and the latter type of care is typically provided on an all-day basis. In-school care is only about one-third as expensive as preschool care.

There are also some important differences between all-day care for preschoolers and part-day care for in-schoolers in regard to the relative ease with which each type might be expanded. It is possible that, in most communities, arrangements can be made with public (or even private) school systems to use their facilities for part-day care for in-schoolers. It is also possible that some of the school staff will be willing and interested in participating in such a program. Such arrangements could help to overcome some of the principal barriers facing all-day care, such as licensing, shortage of facilities, trained staff, and so on. It is likely that part-day care can be expanded with greater ease and speed than all-day care because of the presumed access to the resources of the local school system in the "off-peak" hours and/or after school. Thus, the implication for the expansion of child care services on a national scale is that more rapid expansion might be accomplished for part-day program development than for all-day program development. If the program goal is principally to help the heads of household who are supported by AFDC to attain work as soon as possible after program implementation, the greater potential speed of expansion of the part-day program might be used as justification for providing priority to only those heads of households having children in school. (Such a priority for care may not, of course, be well accepted publicly or politically.)

Table 2 provides evidence of the potential importance of the part-day program vs. the all-day program.

TABLE 2.—FAMILIES RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN, BY AGE GROUP OF YOUNGEST CHILD IN FAMILY

	December 1967		Number of families in December 1970 (projecting same percentages)
	Number of families	Percent of families	
Youngest child under age 6	768,000	60	1,531,000
Youngest child between ages 6 and 12	354,000	28	715,000
Youngest child above age 12	156,000	12	306,000
Total, all families	1,278,000	100	2,552,000

Source: "Child Care Data and Materials," table 4, p. 22.

It is assumed that the head of household in families with the youngest child between ages six and 12 would have the opportunity to seek training or employment (assuming priority is given to the part-day program); 28% of such families would be affected, as opposed to 60% of those families that have the youngest child under the age of six. The implication is that approximately one-third of the eligible AFDC population would be able to seek employment if priority were given to the part-day program and if only this program were implemented in the first year.

3.0 APPROACHES TO LAUNCHING A FEDERAL DAY CARE PROGRAM

Concerning the launching of an extensive federal day care program, numerous bills, proposals, and suggestions have been presented and debated in public forums in the past several years. Each has been debated on its own merits; and only in a non-structured way are comparisons evaluated. In this section, the authors develop the outline of a strategy that should aid in shifting such discussions to a level of aggregation that permits direct choices among various proposals for launching a day care program.

Day care expansion can be launched using any one or a combination of several approaches. Approaches are defined in this section, and the advantages and disadvantages of each are explored in relation to a number of desirable characteristics of program expansion (including such factors as minimum costs, range of program quality, rapidity of program expansion, flexibility for future contraction, enforceable and controllable standards, ability to achieve program objectives, etc.). Several research analyses are suggested as the means of providing answers to the quantitative impact questions raised.

3.1 PROGRAM APPROACHES

Demand and supply of day care can be provided through the following general types of approaches:

Demand.—Example: *Vouchers* given to eligible persons to use only in paying for day care services. Vouchers provided to all families eligible for the program would insure that all eligible persons had ready access to such services.

Supply.—Examples: *Market subsidies* and support for day care services could be provided independently of the federal, state, or local governmental day care administrations. Examples: lower market interest rates on loans for buildings equipment, and personnel; tax reductions on purchase of buildings and equipment, such as investment tax credits, rapid amortization, etc. A comprehensive example of supporting day care that is external to the governmental structure is contained in the Long bill, which establishes a Federal Child Care Corporation that is enabled with broad powers and responsibility to meet the nation's need for child care services. The federal government would lend the corporation up to $500 million to enable it to begin operations; but it would be expected to be self-sufficient thereafter.

Direct governmental administration and funding to enable different levels of government (federal, state, and local) to assume various degrees of responsibility for launching a day care program. The key criteria to identify this approach to day care is that the government itself is responsible for administration (although it may or may not be responsible for actually operating the program). The degree of emphasis on which the level of government is responsible for making basic program decisions differs across the various legislative proposals being considered. For example, the Bayh, Javits, and Mondale proposals for child development programs are essentially federal-local proposals that virtually by-pass the state level of government; whereas, other proposals (the Dellenbach bill and Revenue Sharing) give greater administrative responsibility to state governments.

Another breakdown of provision of services—one that cuts across the above approaches—is the following:

1. Government can emphasize support to the day care *operators* directly and/or

2. the government can emphasize support for the *suppliers* of inputs to day care operators (teachers, equipment, facilities, etc.).

Yet another cross-classification of the provision of services that is important to policy decisions is the following:

1. The government can emphasize support to private operation of day care services and inputs, *and/or*

2. the government can emphasize support to the public operation of day care services and inputs.

Program Attributes.—There are many program attributes that people would like to see in the expansion of day care. There is no unique way of developing a comprehensive list of such attributes or a ranking and weighing of such attributes in terms of importance, since different persons and groups view day care in different ways and with different values. The following attributes represent one approach to listing a desirable set program characteristics for day care expansion:

(a) ability to achieve the stated objectives of a day care program,

(b) ability to achieve a high quality day care service,

(c) minimum costs per unit of product,

(d) ability to plan and manage the delivery of day care services,

(e) enforceable and controllable standards for day care,

(f) capability for rapid program expansion,

(g) flexibility for program contraction,

(h) ability to evaluate program accomplishments in relation to objectives and to make program changes if necessary,

(i) ability to effectively coordinate day care delivery with programs aimed at similar objectives,

(j) appealing to public, to congress, and to the administration.

In general, the above attributes of day care delivery systems connotate a day care delivery system that is targeted toward a particular set of federal objectives; that is responsive to consumer preferences for day care, particularly with respect to quality of care; that is achieved at lowest supplier costs (including greatest technological potential); that can be administered, regulated, and realigned (when necessary); that can be expanded rapidly but also has the potential for contraction; and that has the support of the legislative and executive branches of government (at all levels) and, of course, the support of the people.

To set the stage for a discussion concerning how effectively the major approaches to day care can satisfy certain of these desired program attributes, it is important to introduce some major assumptions concerning objectives that will underlie the analysis. It is assumed that the government (and society) are convinced that day care is a needed service in this country and that day care will not be provided satisfactorily unless there is a major impetus provided by federal legislation. It is assumed that a major goal of society is to set minimum quality standards for day care since there seems to be a prevailing opinion that the government does not want to sponsor a day care program that has the potential for harming children. Further, it is assumed that the government will pay all (or most) of the program costs for those families in poverty, but that cost support will gradually taper to zero for "near-poor" families. In the following sections, only a few of the approaches to day care expansion are compared on the basis of some of the above attributes. The reasons for selectively are that all attributes do not apply to all approaches and that, in many cases, little of substance can be said about some comparisons.

Demand and Supply.—A major problem with utilizing only "supply" approaches to the provision of day care services is that it is difficult to make day care universally accessible to the target population (poor and near-poor). This is likely to be so even if the programs are advertised, and so on. Experience with human service programs in this country (which is only one of the supply "types") has shown that a great proportion of the target population(s) of such programs are never effectively reached by the programs, and that the reasons for failure to reach the target populations are seldom identified. If only the supply side of day care expansion is supported, it is likely that some providers of day care will not choose to provide services to particular geographic areas or demographic groups. (The problems of providing day care to declining rural areas is likely to fall in this category.)

To effectively make day care assessible to all target groups, it would be necessary to provide for full and effective consumer choice to *all* families eligible for free or reduced cost day care, regardless of the availability of day care locally. HEW has been considering the use of vouchers. which would be provided to the poor and near-poor for use in purchasing day care services. However, vouchers used alone are *unlikely* to provide a satisfactory mechanism for delivery of day care services; something needs to be developed on the service delivery side. If people have money to purchase services but services are not available locally, vouchers are of little value.

If people have funds to purchase day care but only substandard care is available, there is a conflict with present federal objectives for day care, which say that minimum standards are needed for protection of children. In section 2.0 it was indicated that the supply of early childhood teachers is limited in relation to the scale of day care expansion, and that other major barriers face supply expansion in day care. Thus, it is unlikely that expanding the demand by putting day care purchasing power in the hands of the poor and near-poor will prove sufficient for generating efficient day care service delivery of the scale desired.

To summarize, the provision of vouchers to the poor and near-poor to purchase day care services is likely to be important to ensure target group coverage for day care; however, vouchers alone are unlikely to create the scale of industry desired because of many "supply-side" barriers, such as shortage of teachers, staff, and management.

A note on needed research is in order at this point. The above approach combining consumer vouchers with supply delivery support is relatively new in human service delivery programs. If time and resources permit, it would appear worthwhile to establish a controlled research demonstration to identify the many unknown parameters of such a program including participation rates with and without vouchers, estimates of the total subsidies involved in underwriting *both* vouchers and supply delivery, quality of services attained, and ability to match families to day care services with and without vouchers.

Quality and Costs of Day Care Services.—The quality and costs of day care services are likely to be sensitive to choice-of-day-care alternatives being used to launch day care—whether the alternative be direct governmental administration or market subsidies. There is no simple answer to which of these two major alternatives will serve to achieve the "best quality product of day care for the lowest cost"; however, there are a number of issues addressed in this section that should make the choice criteria clearer.

If the government initiates a day care delivery program through market subsidies, low-interest loans, tax breaks on investments, and so on, it might be expected that private entrepreneurs would participate in day care expansion to a greater extent than if the governmental administrative channels were utilized (i.e., federal, state, and/or local governmental management and control of the program). Business moves to good investments and day care could likely be made a good investment if the government provided significant reductions in the cost of providing direct day care services and/or inputs to day care services through subsidized loans, tax credits, or even the possibility of a Federal Child Care Corporation. Businessmen like the freedom of managing and controlling their own operations, so many businessmen might well stay away from contracts with governmental bodies to produce day care services under the program alternative of direct governmental administration—possibly leaving the area of contract and grant operation of day care primarily to non-profit and public entities.

The funding of day care centers through the incentives route *need not* be considered to be devoid of governmental control. Licensing and inspection standards as well as auditing and bookkeeping procedures have long been used as regulation mechanisms through which governmental bodies initiate and enforce standards upon private business. Thus, quality standards can (and should) be enforced upon the private sector when providing day care services in conjunction with incentive subsidies.

Thus if sufficiently high-minimum day care services standards are established and enforced to protect the health and well-being of the child, the private market could be trusted to provide services above the minimum standard—the exact level of quality and quantity of day care services provided to be established by competitive market forces resulting from constant market negotiations between the buyers and sellers of day care services.

On the other hand, the governmental administrative approach to provision of quality and quantity day care services may work itself out as follows. The government would "hand-pick" operating agencies to be recipients of day care funds. Such choice selection would *presumably* result in the selection of those best able to provide day care services; but is this so? Grants programs as now operated by federal government agencies leave much to be desired in this aspect. The sheer distance between federal, state, and local governments in time, space, and communications often drives a wedge between intent and practice when moving a program from federal objectives to local implementation.

Differences in priorities assigned to day care by various levels of governmental administration will affect day care services delivery much as the delivery of other social services are *now* being influenced by differing priorities assigned to services at different governmental levels. Ofttimes, due to time and budgetary constraints, states or cities are chosen for program participation based on their "image" rather than on whether they are capable of delivering the particular type of service in question. Many state and local governments are learning to specialize in "grantmanship" to obtain funds from the federal government. Thus, in practice, the choice selection of day care operators by the governmental agency is likely to be based only partially on the capabilities of the day care operator himself and the type of day care services he proposes to deliver.

The motives of not-for-profit providers are not as clear-cut as those of for-profit providers. Some directors of non-profit day care centers may be "empire builders," others may be experimenting with new approaches to early childhood education; still others may be infatuated with the child development program—often to the expense of cost considerations. On the other hand, the day care services of profit companies may tend to be somewhat more homogeneous and the quality of services provided somewhat lower than not-for-profit services, reflecting the demand of participating families with low incomes and the competitive nature of the private market. The profit operations, however, are likely to be more efficient than non-profits resulting in lower service costs per unit of service offered.

In net, it is anticipated (1) that the costs per unit of equal quality service provided by the private market would tend to be *lower* for the profit than the non-profit (or public entity), due to competitive market forces to find efficiencies that serve to lower costs, and (2) that the quality of services will be better tailored by the profit operator to the type of day care service that the market demands than will be true of the non-profit agency, due to the continuous process of negotiation between the consumers and vendors of day care services. In connection with (2), it might be hypothesized that parent participation in program development and operation (that is typical of administrative programs) is no more effective for satisfying consumer desires than the private market impact of the dollar, which the consumer uses to tell the entrepreneur whether he prefers one type of service or another. Another hypothesis is that the governmental administrative costs for the grants program will likely exceed quite significantly the costs of delivering day care services compared to the same size of program operating through loan and tax subsidies. (However, this will likely be offset somewhat by the fact that non-profit and public entities tend to attract volunteers and other in-kind contributions that serve to lower overall costs.)

Need for Multi-Year Commitment to Support Day Care Expansion.—When a local government entity enters into a commitment to administer day care services, it typically wants assurances that the federal government is not going to withdraw support at some future time. If a private-entrepreneur is considering the choice between the renovation of a building to meet minimum standards and the construction of a new facility, he may choose the former over the latter, even though the latter may be more efficient in the long run, because he is not sure of the government's long-term commitment to day care. These are but two examples of the possible inefficiencies and conflicts created when the federal government commits itself fiscally to a shorter time period than it is committed to programmatically.

In other words, there are real resource costs associated with annual program funding when, in fact, the government is fully committed to expansion of day care on a permanent basis but, through its budgetary behavior, the government commits itself only on a year-to-year basis. This inefficiency can be partially rectified through multi-year devices such as long-term loans, multi-year contracts with suppliers, etc. In terms of the direct support of day care services, the practical situation is that annual federal appropriations are the "facts-of-life" and that any efforts at multi-year commitments are typically promises that can be broken. In terms of the mechanism of key resources, multi-year fiscal commitments are possible where trust funds have been set up (such as the loan programs of the Small Business Administration); but for education programs funded on an annual basis, the year-to-year uncertainties tend to result in increased program costs.

Governmental Support to Operators of Day Care Projects and Suppliers of Day Care Impacts.—The principal criteria for determining the relative balance between direct support of day care services and support of inputs (or key resources) lie in the requirements for each in terms of producing day care services. The day care industry requires inputs for production—as well as processes for combining inputs into the outputs desired to achieve the objectives sought. Considering day care expansion, it is obvious even without extensive analysis that both inputs and operations need to be increased significantly if day care expansion is to be achieved.

In section 2.0, it is argued that the insufficient supply of teachers trained in early child curricula is believed to be a major barrier to expansion and that expansion can only be attained if the supply of teachers is significantly increased. The supply of facilities is also a problem; Head Start and other programs have placed a strain on the existing facilities; however, even when facilities are available locally they often do not meet the strict state and local licensing standards for child care centers. Thus, the shortage of input supply is obvious; only the *size* of the shortages and the implied budgets and resources required to fill the shortages need to be estimated through empirical research.

The need for support of operational day care units is equally obvious. The operations of day care services vary in quality, but are generally below Interagency Standards and are high in cost for quality of services provided. Expansion of day care to achieve the scale desired plus substantial upgrading of quality of services will require the development and implementation of a major service delivery system. Direct support of day care services by the federal government through greatly expanded funds for day care, selection of federal, state, or local administering bodies, provisions for planning, technical assistance, evaluating, management, development of quality standards, and quality control are aspects of direct service provision that must be implemented to achieve the scale and quality of day care implied by major pending legislation.

4.0 PLANNING FOR DAY CARE DELIVERY AT THE LOCAL LEVEL

Existing and proposed child care legislation nearly always requires the formation of a local plan of operation. The intent of this section is to explore the basic local planning operation and to relate it to federal planning. Given the intent of a day care program (custodial or developmental), the local planning operation must decide the optimal usage of its limited resources. Three primary approaches exist:

(a) to depend upon consumer choice and the provisions of the private market;

(b) to depend upon consumer choice accompanied by assistance to the private market;

(c) to construct and operate facilities for the use by eligible families.

These three approaches approximate the options available at the federal level, as discussed in section 3.0.

The proper blend of these approaches depends upon many factors, including: the existent and potential supply of private, local day care; the intent of the program; the difficulties involved with local licensing and regulation; and so on. This section discusses the planning steps involved in making local determinations, discusses some special problems, and attempts to relate this process to the above set of decisions. This discusssion is drawn mainly by the recent reports by Irving Lazer ("Delivery Systems," Chapter 15 of *Day Care: Resources for Decisions*, Edith H. Grothberg, editor; Washington, D.C.: Office of Economic Opportunity, Office of Planning, Research and Evaluations, 1971) and by Karen E. Hapgood (Day Care Centers, Chicago: American Society of Planning Officials, 1970).

4.1 THE PURPOSES OF A DAY CARE PROGRAM

The main purpose of a particular day care program will effect its sources of support, its target population, its program emphasis, and the range and sources of its services. Planning being conducted by a local agency will mostly be in response to federal legislation containing a specific purpose. To date, these programs have been mostly poverty programs, with the intent being to free poverty mothers for work (Social Security Title IV–A and WIN) and to provide supplemental development assistance to poverty children (Head Start). Anticipated legislation, however, will most likely broaden this eligible population to include non-poverty children admitted on payment of an income-related fee schedule. The intent here is new: to provide better care for the children of working mothers regardless of income considerations.

Increasingly, married women are joining the labor force to supplement family income and/or to find a more satisfying social role. The advent of this phenomenon in American society dictates a new look at the daily care of children. Historically, public school has not been conceived as a device to free the mother for work, but rather as an educational institution. With both parents working (or the single parent, as is now more frequently the case) society must concern itself with a new task: substitute parentage.

Handicapped or disabled children are increasingly being enrolled in special day care programs; and a growing number of parents of normal children are enrolling their children into programs designed to enrich their social and cognitive skills.

Other reasons for formal child care may be to help a mother in personal distress, and to assist her to receive job training or employment and to leave the welfare rolls.

Thus, the motives for the provision of child care by public bodies may vary considerably. And the choice of approach to the implementation of the day care program must take into account both the feasibility (in terms of the objectives) and the maximum cost-effectiveness of the various approaches. For example, can a local planning group depend upon private suppliers to provide developmental care? Can licensing and regulation insure the adequate performance of this type of provider? How does the local supply of potential providers stack up against the projected demand for a particular service? To begin to answer such questions, an assessment of the local situation is needed.

4.2 ASSESSMENT OF LOCAL DAY CARE DEMAND AND SUPPLY

Those responsible for planning in a particular region must first assess the potential number of users of day care services. Of course, not all eligible families will choose to use the program. Thus, some local estimate of the proportion who will participate must be performed.

In *Child Care Programs: Estimation of Impacts and Evaluation of Alternative Federal Strategies.*—(Part IX of the Final Report), various methods are explored to estimate the response to the offering of a free and adequate child care programs to low-income families. Of these methods, probably the use of surveys that ask of parents' intent toward using the service is most appropriate. Of course, this approach is often inaccurate, due to the lack of real knowledge on the part of the survey respondent as to his future behavior. However, this survey should provide a rough estimate. Such a survey may also gather other useful data, such as work hours, type of care desired, services needed and/or desired, etc. Part VII of the Final Report, *Types of Day Care and Parents' Preference*, cites surveys that may be replicated for this purpose.

Base population figures concerning the number of eligible children may be obtained from the Bureau of the Census. Also, the local board of education, the welfare agency, and other departments providing child services, may have accumulated applicable data. Experience of local existing day care providers may also be instructive.

Assessment of needs must be viewed over a period of time. Involved here is both the demonstration effect (the use of day care "catching on") and the movement of demographic characteristics of an area.

Next, the planning agency must determine the potential of the local market to provide the desired services. Here, of course, it is most important to have in mind the product desired and the desired location of services. Further, a notion must be established of the ability of particular providers to deliver a particular product. For example, the usage of day care homes may be either excluded from consideration for a particular day care product desired or else planned in conjunction with other supportive services outside the day care setting.

One area of vitally needed research concerns the feasibility of various provider types to deliver particular day care services. Past practices cannot really serve as a guide, for past practices may well be a function of consumer desires rather than limitations intrinsic in the provider type.

Perhaps the most difficult aspect of surveying day care supply is to assess *potential* supply with relation to the price of the product. Here, the experiences of other locales may serve as a guide, but some assessment of the local situation should be made. Probably the most useful approach would be to hold meetings with potential local providers to gain knowledge of potential suppliers. Two aspects of the local situation need to be assessed: the willingness of local groups and institutions to participate as suppliers, and the availability of local facilities and personnel. The local administering agency should probably approach such a determination with an open mind. Much innovativeness can occur with regard to both supplier participation and use of facilities. Also, local values may determine a preference for one type of provider over another.

Potential legislation may dictate the procedures a local agency must follow to gain the needed supply. The 1971 Comprehensive Child Care Bill requires the administering agency first to approach the local public school system to determine the feasibility of public school involvement. Also, the legislation may stipulate the approval of a local plan by a higher body of government and/or board created by the legislation. Further, the planning body itself may be determined by the legislation, which affects the planning mechanism.

Future research needs to be performed as to the ideal way in which a planning operation may assess the capacity of local groups and facilities to provide products at various prices. Little is known as to the cost-effectiveness of provider types, and this should be the central concern of the planning board.

The planning process, with regard to local supply, can next follow a logical sequence. First—given the capacity of local private suppliers to deliver the desired product and the regulatory mechanism needed in such a system—to what degree would it be desirable to create and operate day care facilities directly?

Two considerations enter here: the availability of funds from the outside (such as Small Business Loans) and the amount of money available for construction (either from grants or from loans). From the local agency's point of view, probably the most day care for a given allotment of funds may be obtained from use of participating private capital. However, the local agency must first decide if it desires to work with private suppliers (for-profit and non-profit). The capital of for-profit suppliers would require a return on the investment. The capital supplied by non-profit suppliers would need to be solicited from agencies or institutions. Thus, local planners would probably want to stretch the output of available public funds by cooperating with private suppliers—unless a supply shortage or a desire to operate centers exists.

At present, a number of federal programs exist that may assist the local private market to create day care supply. (See Part III of the Final Report, *Existing Day Care Legislation.*) The local agency may wish to explore whatever assistance these programs may offer before going forth with facilities construction. The Appendix offers a review of services usually available that may supplement a day care program.

Finally, the local agency may decide on the desirability and/or necessity to construct and operate its own facilities. To do this, it may be able to receive financial assistance from the legislation or it may need to finance the center locally.

4.3 DECISION-MAKING AND ADMINISTRATION

As mentioned above, the nature of the decision-making body often determines the type of delivery system chosen, the program, and the level of support. It is imperative, therefore, that it be considered in the designing of a program. The outstanding feature of most federal legislation, with regard to decision making, is the involvement of parent participation in the decision process. As experience has shown, it is difficult to incorporate a parent decision board into a proprietary operation. Mostly, the influence on proprietary centers by user parents is accomplished by the choice of patronage. Parent decision boards, then, often imply the use of non-profit or public facilities. Again, however, the local agency should keep an open mind on this question, for private-for-profit operators may be able to be included in the system.

4.4 COSTS

Two kinds of costs are involved in day care services—start-up and operating. Both will vary widely from region to region, mainly in relation to necessary capital investments in facilities and local salary levels.

Start-up costs will vary with relation to the amount of participating private capital involved. This cost has represented a major barrier to the provision of services under previous Social Security legislation, which has depended upon local provision of facilities. Also, the nature of the region to be served will dictate the cost of facilities. As has often been pointed out, the cost of renovation in the inner city is often too high to meet state and local standards.

It is on the basis of local funds available for start-up costs that the choice of private or public operation will often hinge. Although the solicitation of private capital is often made on the basis of operating efficiency, the lack of public facilities or funds may dictate the use of participating private capital. Nine-tenths of present day care in the United States is provided by private operators.

Operating costs consist of expenditures for food, program supplies, household supplies, repairs, and replacement of equipment, general building maintenance, rent, utilities, insurance, and salaries. The Office of Child Development of HEW has issued comparative and estimated costs of group day care provider types.

Naturally, the choice of a particular delivery system has direct implications as to the anticipated cost of the system. An optimal strategy must consider the qualitative and quantitative aspects of the supply, the attainment of specific goals with limited resources, and possible economies of scale with regard to the size of the operation selected. The decisions concerning delivery systems, in turn, depend also on the availability of facilities, population density, local and state laws, local attitudes toward child care, and program preferences of funding sources.

The choice of group settings plays an important role in the selection of a delivery system (of provider types). If it is desired to serve children of all ages in a center to better facilitate the employment of the mother, the choice of provider type may be dictated to be family day care and multi-room center facilities. Also, age restrictions also determine the staffing needs of the centers. Here, centers may be able to provide a more economical mixture of personnel.

Locating a center within a school system may eliminate the need for many current and fixed expenditures. Further, students can be used as aides to teacher supervisors. One drawback to the usage of school facilities, however, is they are, at present, often over crowded and may not provide the outdoor space desirable.

Staffing is a major cost consideration for the local agency. At the present time, it is widely asserted that many teachers trained for school-age children are seeking employment and represent a readily trained and high-quality work force. However, the local agency must make adequate provision for training such personnel at the initiation of the program and for replacement personnel. Also, the type of personnel needed will be a function of the provider types used.

Further cost considerations are contained in Part IV, volume 1, of the Final Report, *Costs of Day Care.*

4.5 FACILITIES

In considering the types of facilities to be chosen, an immediate concern that narrows the choice of facilities is local fire and safety rules and the distribution of age ranges to be served. The younger the ages of the children served, the more demanding are the fire and safety regulations. Few houses meet the requirements necessary for approval under most safety codes, and few buildings designed for other purposes can be so renovated to meet code requirements at a reasonable cost. In many areas, in fact, it has been found that the choice of the program system is dictated by the availability of space, rather than by other factors.

Programs for day care are typically found in four different settings: family day care homes, day care centers, multipurpose social and public service agencies, and job-related sites. These types of facilities are described in *Types of Day Care and Parents' Preferences.* Each of these provider sites has various advantages and disadvantages in the provision of services and cost-effectiveness. The availability and costs of various settings limit program options, and the search for optimal settings should thus be an initial step in the local planning process. The decision of where to establish a service may necessarily preclude decisions concerning the type of service and the intended clientele.

4.6 FURTHER FINANCING

At present, there are no federal funds available for new construction and furnishings, except under Model Cities programs or the Department of Housing and Urban Development program, which offers small grants for modernization of facilities. Industry and foundations are private sources that may be approached for start-up contributions. Often, a company may be willing to contribute to this type of system rather than set up its own center for its employees.

Various states have responded to the demand for day care services with various forms of support for day care. For example, the state of New York makes available low-cost loans to rehabilitate, equip, or build day care centers. Nonprofit civic, fraternal, religions, social, and community-action organizations are eligible for these loans.

If the system is designed in such a way that it must depend upon gifts, grants, and service contracts for further finances, it will naturally tend to be unstable; it will depend upon the fluctuations in the success of the fund-raisers. Two helpful studies of possible federal programs for further support are *Federal Programs for Young Children* (published by the Appalachian Regional Commission, Child Development Staff, Washington, D.C., October 1970) and *Federal Funds for Day Care Projects* (published by the Department of Labor, 1969).

4.7 STANDARDS

As mentioned previously, a major barrier to the use of present facilities is the existence of local and State laws and regulations. These vary enormously by location, and often dictate the choice of provider types. Also, the Federal Interagency Day Care Requirements (1968) lay down requirements for programs directly financed with Federal funds—although these are currently in the process of being modified and occasionally are relaxed.

The required standards for construction, operation, and location of day care facilities are found in applicable State and local legislation. Typically, these standards are far more concerned with physical facilities than with program content. In most States, the Department of Health and/or Welfare is responsible for issuing standards and approving licenses for day care centers. In other instances, other agencies, such as the board of education, may be setting the standards.

The existence of these standards may place severe constraints upon the approach used. For example, they may dictate the building of centers where no other buildings can pass the standards. One approach is to try to change some of the standards (as the Child Care Corporation Bill calls for doing).

Other than regulations concerning physical facilities, there are also three other main considerations in determining where a day care center should be located: convenience to the users, availability and adequacy of open space, and safety measures.

Convenience is an often cited feature and is usually desired by parents. Typically, they would like a facility to be close to home and in a familiar neighborhood. Also, convenience may mean a location near the mother's center of employment. Sufficient open space is often difficult to find in urban settings and is rarely available in a typical home yard. Safety includes freedom from heavy traffic.

Because of the scarcity of land and money available for construction or renovation, planners may have to be innovative when it comes to finding sites. Private providers may often be frustrated by regulations and lack of capital, and may require agency assistance. Also, the building of a new site may be called for by the lack of available space. Zoning is another barrier to expansion; zoning laws rarely were written with concern for day care centers. Efforts to change zoning ordnances may be the only answer in many instances.

4.8 OTHER CONSTRAINTS IN SYSTEM CONSTRUCTION

Many communities have preferences that must be taken into account either directly—by a parent participation board—or by responding to expressions of opinion to responsible officials. These may include a preference for a particular delivery type (e.g., preference for or against private operators) or an attitude toward group care for infants or very young children. Also, there may exist strong opinions with regard to the quality of care provided.

Restrictions on funds may emerge locally or from other sources. For example a public program may stipulate total control by user parent group. This may complicate effective program coordination with other local agencies.

The density of the target population may dictate usage of a particular delivery system. For example, in rural areas it may be difficult to have any other than a day care home ssytem, due to the distances between users' homes and day care centers.

4.9 CONCLUSIONS

Two issues are involved in the expansion of local day care systems: choice of the degree to which the local agency will concern itself with the stimulation and/or creation of day care supply, and the choice of particular provider types.

Generally—given the lack of research that could provide specific advice as to the optimal blend of varying dependencies upon the free market, a supported private market, and publicly operated facilities—all that can really be done is to arrange the considerations and prescribe methods to obtain the necessary information. Local agencies must decide how best to use the available funds—given the constraints of the local supply situation. Further, the difficulties that usually complicate programs that attempt to improve the general welfare through transfer and human capital investment programs must be faced, for the desires of the community may not perfectly accord with the desires of the recipient families.

FOOTNOTES

[1] "Joint Hearings before the Subcommittee on Employment, Manpower, and Poverty and the Subcommittee on Children and Youth of the Committee on Labor and Public Welfare, United States Senate, First Session on S. 1512 to Amend the Economic Opportunity Act of 1964 to Provide for a Comprehensive Child Development Program in the Department of Health, Education, and Welfare," May 27 and June 16, 1971, Part 3, p. 763.

[2] Ibid., p. 763.

[3] "An Appraisal of the Work Incentive Program." Auerbach Corporation Submitted to the Office of Evaluation Manpower Administration, U.S. Department of Labor, March 15, 1970, pps. B–21 through B–45.

[4] See *Costs of Day Care*, Institute for Interdisciplinary Studies, December 1971; also *Training Programs for Child Care Personnel*, October 1971.

[5] "An Appraisal of the Work Incentive Program," p. B–35.

[6] *Early Childhood Development Alternatives for Program Implementation in the States*, The Education Commission of the States Task Force on Early Childhood Education, Denver, Colorado, June, 1971.

[7] "Joint Hearings," Part 1, May 13 and 20, 1971, pps. 236–348.

[8] The extent to which these persons received training related to child care specifically is not known.

Source: "Child Care Data and Materials," Committee on Finance, United States Senate, June 16, 1971, Table 29, p. 61.

APPENDIX. SERVICES AVAILABLE OUTSIDE DAY CARE SETTINGS

The categories of services that are typically offered in connection with day care are discussed in this appendix. These services are food, medical and dental care, parent participation, educational services, social services and special services such as psychological services, music and art. Virtually all of the services available through day care are available to various subgroups of the population through existing public programs outside day care. Not all services, however, are equally available to all population groups.

Whether or not a service is available to an individual depends on many factors. Technical eligibility does not guarantee that funds have been allocated nor that the program has been implemented. In addition, the service is available to an individual only if he has information about it and if it is accessible, so that the costs of getting it do not outweigh the benefits. What follows is an overview of the federal programs outside of day care which provide the same services typically provided in a comprehensive day care and child development program.

A summary in graphic form of all federal programs in which services are available to children from birth to age fourteen is presented in the table at the end of this appendix. The specific services available under each federal program, the agency sponsoring the program, and the eligible population are summarized there.

Nutrition is available to children through several comprehensive service programs for children, such as Head Start and programs for migrant and Indian children, under Title I, ESEA. Except for an emergency food program provided by the Community Action Program, all of the other federal programs providing food are offered by the Department of Agriculture. Of these seven, two of the most familiar are available to all school children—the School Lunch Program and the Special Milk Program. Two other programs are available through the schools for disadvantaged children only and include additional food and breakfast. Direct Food Distribution and the Food Stamp Program are, thus, the only programs that provide food to the disadvantaged without being distributed through the schools. In a sense, children are only indirectly provided with food through these last two programs, since their families are responsible for obtaining the food and for the nutritional planning involved in selecting food under the two programs.

The only health service available to all children through the federal government, without income eligibility restrictions, is the Community Immunization Service. A wide variety of programs intended to provide medical services, and in some cases dental and Psychological services as well, exist for disadvantaged children. Such services are provided children through several comprehensive service programs, including the Community Action Programs, Head Start, and Follow Through.

Comprehensive service programs including health services also exist for migrant children and Indian children through Title I, ESEA, and other programs. Programs focusing on health for all disadvantaged children include the Special Projects for Health Care of Children and Youth, the Medical Assistance Program and the Maternity and Child Health Services. These services were recently made even more comprehensive as a result of the amendment signed to the Social Security Act in 1967, which is only now being implemented; this amendment will extend a complete range of health care benefits, including dental and optical, to all poor children not covered under other federal programs. This program should fill any gaps in the many programs previously available for poor children.

Educational services are, of course, an extremely broad category and the judgment as to whether these services are available to children must be qualitative as well as a quantitative one. There are no educational services available through federal programs for *all* children. Disadvantaged children in special groups such as migrants or Indians are eligible to receive educational services through Title I, ESEA, which also makes funds available to local school systems for work with disadvantaged children. Other special groups, such as handicapped or institutionalized children are also eligible for Title I, ESEA, educational aid. In addition to the Title I programs, several other educational programs are available for migrants and Indians.

Social services are available to children through Head Start and Follow Through, and indirectly to them through their families' participation in WIN or AFDC. Federally financed social services are not available to the general population; and, unlike the other service categories, there is no federal program that provides *only* social services to the disadvantaged. These services are always a part of a more comprehensive service package.

Special services such as instruction in art and music are not available through federal programs, except when they are included in a more general educational package.

Child development programs are now being undertaken in families' homes with the aid of a home visitor, who instructs the mother, and sometimes the father as well, in techniques for fostering the child's cognitive and emotional development. "Home Start" is a new Office of Child Development project involving this technique for intervening in children's development in their early years. The Parent and Child Center programs also provide child development services, frequently utilizing parent involvement. Services to children are provided through education of their parents and are not necessarily tied to a day care setting.

Finally, it should be remembered that even the basic day care service—protection and supervision of children—is available for children from their own mothers through the Aid to Families with Dependent Children (AFDC) program.

Thus, it appears that child development services are potentially available to children through existing federal programs. Some additional steps could be taken to insure the availability of these services to children in day care settings. Eligibility requirements for the various services should be studied and possibly expanded to make sure that all children in the desired target population can be served. The program of services should be integrated both on the federal and local levels. An information and referral service, possibly coordinated through day care centers or through local day care organizations, might serve both to integrate the many available federal programs and to help make them available to those who need them.

FEDERAL PROGRAMS WITH BENEFITS FOR CHILDREN

Program No.	Program	Children eligible				Health					Education		Social services							
		All	Disadvantaged	Handicapped	Other	Food provided	Nutrition education	Medical	Dental	Psychological	Education	Education materials	Child care	Social service	Recreation	Protection	Money	Clothing	Other	Parent involvement
	AGRICULTURE																			
5.00	Direct food distribution		×			×														
4.65	Extension programs for improved nutrition	×					×													
5.01	Food stamp program		×			×														
5.05	School lunch program—School breakfast program		×		×	×														
5.03	School lunch program	×				×														
5.06	Special feeding program					×														
5.07	Special milk program	×				×														
5.02	Non-school-child nutrition program, special food service program for children.				×	×														
	AMERICAN PRINTING HOUSE FOR THE BLIND																			
9.06	Educational materials for the blind											×								
	OFFICE OF ECONOMIC OPPORTUNITY																			
2.17	Community action program		×			×	×	×	×	×	×		×		×					×
2.19	Community action program—Emergency food and medical services.		×			×	×	×												×
2.20	Community action program—Comprehensive health services.		×					×	×	×										×
1.05	Migrant and seasonal farmworkers assistance				×		×	×		×	×		×							
	HEALTH, EDUCATION, AND WELFARE																			
2.21	Aid to families with dependent children		×										×			×	×			
1.01	Headstart		×			×	×	×	×	×	×			×	×					
2.25	Child welfare services				×											×				
2.02	Community immunization services	×						×												
1.00	Child care services—Title IV–A		×										×							
2.15	Crippled children's services			×				×												
1.08	Educationally deprived children—Local educational agencies		×								×									×
1.10	Educationally deprived children—Migratory children				×	×		×			×		×					×		
1.07	Educationally deprived children in institutions for the neglected or delinquent				×						×	×								
8.14	Educationally deprived children—Handicapped children			×							×									
2.26	Social services to recipients of aid to the blind			×										×						
2.24	Social services to recipients of aid to families with dependent children		×					×		×	×					×			×	
2.16	Special projects for health care of children and youth		×					×	×											
1.03	Work incentive program—Child care		×		×								×							
1.02	Follow through		×				×	×		×	×			×					×	
1.04	Foster grandparents program		×	×	×															
8.19	Handicapped innovative programs—deaf—blind centers			×						×	×									
1.11	Handicapped preschool and school programs, pt. B			×																
2.09	Indian health—patient medical care				×		×	×	×	×										
2.12	Intensive infant care projects		×					×												
4.08	Juvenile delinquency planning, prevention, and rehabilitation				×								×							
2.14	Maternal and child health services		×		×		×	×	×											
2.13	Maternity and infant care projects		×				×	×												
2.10	Medical assistance program		×					×												
6.04	Mental retardation—university—affiliated facilities			×				×												
2.07	Migrant health grants				×		×	×	×											
	INTERIOR																			
4.62	Agriculture extension for Indians				×										×					
1.09	Educationally deprived children—Indian children				×			×		×	×	×						×		×
3.00	Indian child welfare assistance				×											×	×			
	LIBRARY OF CONGRESS																			
9.05	Division for the blind and the physically handicapped			×								×								
	VETERANS' ADMINISTRATION																			
3.02	Dependency and indemnity compensation for service-connected death				×												×			
3.05	Guardianship service for veterans and their dependents				×														×	
3.03	Pensions to widows and children				×												×			
3.04	War orphans and widows educational assistance				×						×						×			

Mr. Speaker, in adidtion to the impact massive amounts of new dollars might have on child care programs, many questions still remain unanswered as to how and where these dollars should be spent. It appears that all of the leaders in the field have not yet agreed on the approaches which will best meet the needs of all children. Leading authorities still do not know whether every child needs the type of experience Headstart offers. Headstart's own research has not provided sufficient data to conclude that every service offered in that program is absolutely necessary. We still do not know the total effect of separating children from their parents for long periods of time and putting them into centers. And, most significantly, although most would agree that a role for the parents is vital in any child development program, it is still not known how best to structure such a program to bring about the maximum involvement of the parents and the greatest benefit to the children.

Recently the Federal Interagency Panel on Early Childhood Research and Development attempted to answer inquiries from the President and the Office of Management and Budget concerning the status of the Federal effort in the area of early childhood development. The panel—composed of the Office of Child Development, National Institute of Child Health and Human Development, National Institute of Mental Health, Maternal and Child Health Service, Community Services Administration, Office of the Assistant Secretary for Planning in HEW, Office of Education's National Center for Educational Research and Development, Bureau of Education for the Handicapped, Bureau of Elementary and Secondary Education, Follow Through program, Bureau of Educational Personnel Development, Early Childhood Training program, and the Office of Economic Opportunity—attempted to address the entire question of research needs in this area as well as make recommendations for the future. The problems are so massive and the questions yet to be answered regarding this entire area as shown in this report illustrate that even the strongest supporter of child development legislation must realize that we really do not have all of the answers as to how to proceed and implement programs even if massive amounts of new Federal dollars were available.

So that Members might have a better understanding of the problems of today, of some of the research that has been conducted, and some of the issues and areas which are yet to be resolved, I am attaching a copy of the panel's report:

PANEL REPORT

I. INTRODUCTION

Purposes of this review

The federal government has already passed some legislation and is now considering broad and extensive legislation which will dramatically expand day care services for children. This legislative activity is in response to pressures from a variety of sources: Welfare Rights Organization; Women's Liberation groups; those interested in day care to reduce welfare rolls; those interested in day care to improve the lives of both poor and non-poor working mothers, their children and families; and labor unions and employers seeking to bring about an increased stability in the labor force. With pressure from all these sources, there is little doubt that the number of children in day care will vastly increase in the next few years, and that the increase will have an impact not only on the day care children, but also on child-rearing practices, the institution of the family, and other aspects of our social system.

Day care in the United States, and for that matter in the rest of the world is not new, but careful research in day care is relatively new. However, there is a marked increase of interest in research concerning day care. Thus, nine of the agencies on the Federal Interagency Panel on Early Childhood Research and Development report that they are planning a major incerase in focus on projects related to Child Care and Preschool Education for FY '73. Further, five agencies report anticipated increases for day care research concerning the impact of day care on child development, four in training needs, three on the impact of day care health services, and one on the effect of separation from home. Because of the paucity of research on day care in the past, and the anticipation of considerable increase in allocation of scarce research funds to day care issues, it seemed appropriate that the Information Secretariat respond to a request to review the studies and findings on the status of day care research at this time, and try to identify major issues needing research for the next two to five years. Hopefully, this review will assist individual agencies on the Interagency Panel on Early Childhood Research and Development identify needs and gaps as they develop plans for future funding of research projects in day care.[1]

Scope

In anticipation of the introduction of a wide-spread system for delivering day care services in this county, it would be highly desirable to review research studies in the entire social system in which day care operates. In addition to the day care child, changes and impact can be anticipated in the following:

The parents and family of the day care child.

The employer of the parents.

The general labor market.

The day care industry, including: Program planners, operators of day care programs.

Staff and trainers of staff of day care programs.

The social and medical systems which deliver services to day care programs.

The educational institutions into which day care children "graduate" or which operate aspects of day care programs.

Day care industry suppliers, equipment manufacturers, designers, builders.

Voluntary organizations such as Welfare Rights, Women's Lib, National Day Care Council.

Political lobby groups.

Any major change in one social institution brings about a complex and interlocking set of reactions in the entire system, and it would of course be desirable to study the whole system and anticipate questions likely to arise in each segment. Though desirable, such an undertaking is not possible within the present time-frame. We must of necessity limit ourselves to studies dealing with delivery systems for day care including auspices, decision-making and staff, the curriculum, health and social services of day care programs, as well as the impact of day care on children and their families.

Within the area of research relating to children, there are at least three levels of research relevant to planning for future studies:

1. *Research evidence about all children.* Starting with studies on prenatal influences, this evidence includes the present state of knowledge about medical, nutritional, safety needs of children, as well as knowledge about maturation and development, including the physical, cognitive and social-emotional aspects.

2. *Research evidence about particular groups of children.* Included under this rubric are studies of infants and young children, programs on early childhood intervention, preschool education and services, etc. More specifically, these include studies of attachment behavior and dependency relationships with adults, studies of mother-child and teacher-child interactions, programs to assess and/or increase cognitive and language development in young children, attempts to measure and facilitate social-emotional development, studies of group and peer interactions in school and community settings. Also likely to be relevant are existing systems to deliver a variety of services to particular children, such as the public schools, Head Start, as well as various training, parent involvement and medical and social service components.

3. *Research conducted in the United States or other countries dealing specifically with the day care situation.* These studies concern physical facilities, staffing, and the assessment of the impact of day care on the development of children and on their families. At the present time, the studies already completed (not in the planned or on-going stages), focus on:

(a) *Descriptive information* on models of day care presently available in the U.S., Europe, the Soviet Union, Israel, as well as some anthropological descriptions of child care arrangements in other parts of the world.

(b) *Surveys* of the parents and children utilizing day care services, including why parents use day care services and what they want the services to provide.

(c) A few *qualitative assessments* of day care centers or systems, using observations and clinical judgments of services specified as needed and desirable for young children.

(d) *Demonstration programs* of highly professional, generally university based studies of short range (less than 5 years) impact of day care programs on very young children and their families.

For purposes of this review of research needs for day care, research findings are drawn from the three levels identified. But a note of caution is imperative. We cannot assume a direct application of these findings to day care since they may be for different purposes, under different circumstances, or indeed in different cultures.

To illustrate, it is mostly unlikely that the deleterious effects on institutionalized children will be found among children in day care settings, since day care children do have parents and go home at night. However, we do not know the extent to which the effects of separation for a few hours a day as is the case in most preschool programs, will be compared to separation for ten hours a day. We know from the few intensive demonstrations with small adult-child ratios and much investigator dedication that these day care programs do not seem to harm infants and toddlers, but we do not know how well these findings will hold up in a mass system of day care services without the professional input of knowledge, ego investment and enthusiasm. These issues of comparability, model dissemination and quality control are some of the research questions which need to be investigated, and are highlighted in this document.

The primary sources of information utilized to identify research issues in day care are:

The data supplied by the Interagency Panel on Early Childhood Research and Development on past and present studies in day care and related issues. These studies covered FY '72 and '71 fundings as well as plans for '72 and '73 funding. A number of agencies were most cooperative and provided copies of final reports on all completed day care studies.

Fndings from day care research projects funded by other sources on which published reports are available. Where possible, information is included on a variety of on-going projects conducted at various universities, training centers and by private and public agencies for which only interim reports are available.

Reviews of research in early childhood development and intervention, including reviews of testing and evaluation, reviews of program impact, such as Head Start and Planned Variation Studies.

Conferences and interviews with staff of federal agencies involved in day care issues both to discuss their findings and to see information about the research issues and needs most concerning them.

II. RECENT RESEARCH IN DAY CARE

In this section we review recent research in day care which includes surveys of need, availability and utilization of day care, assessments of quality day care, studies of the costs of day care services and demonstration models, primarily for infant and toddler day care services.

Surveys

With increased interest in day care services has come an increased number of surveys of the arrangements made by working mothers for the care of their children, the need and the demand for such services.

The number of working mothers and their utilization of day care centers and family day care homes is estimated (Westinghouse-Westat, 1970) as follows:

Total number of children under 14 years of age, with working mothers	12,200,000
Children under age 6 with working mothers	[2] 3,800,000
Children in day care centers and family day care homes, full-day	1,300,000
In centers full-day	575,000
In family day care homes full-day	712,000
Children age 6 to 14 with working mothers	[3] 8,500,000
Children in before and/or after school care	233,000
In public schools	21,000
In day care centers	87,000
In family day care homes	125,000

Footnotes at end of article.

Thus we see that of all children under age 14 with working mothers, only about 12% are in formal day care situations. While about 34% of the children under six years of age are in day care centers or family day care homes, only 3% of the school age children are in known after school care of all sources.

As indicated by this chart prepared for the White House Conference on Children report, Profiles on Children, only 6% of the children of working mothers were cared for in group day care centers in 1969.

Overwhelmingly, working mothers make informal arrangements for the care of their children. In families with incomes under $8,000 a year and with children under 9 years of age, all but a very small number are cared for in or out of the home by relatives as indicated by the Westinghouse figures:

1,900,000 children are cared for in the home by relatives.

580,000 children are cared for by relatives outside of the home.

300,000 children are cared for in their own home by someone other than a relative.

130,000 children are watched by the mother while they work.

Since only a total of 575,000 children under 14 of *all* economic groups are presently enrolled in day care centers, it is obvious that relatives are the main source of care for children from lower income families. The extended family, so nearly buried by social scientists, is still very much alive and at least for lower income families with working mothers is a prime source of caretaking arrangements. This raises a number of research issues which will be discussed in "The Extended Family and Day Care."

Availability of Day Care Services

The predominant and consistent finding on the availability of formal day care arrangements is that there is so little of it. The fact that there is such limited formal day care available while so many working mothers make their own informal arrangements does not necessarily mean that there is no need or demand for additional formal day care services. The Westinghouse study concluded that the major reason why there were so few day care centers and licensed homes was because of the cost involved:

"There has been little money for day care because mothers often are not paid enough to be able to afford day care, or they may not be willing to pay for the most desirable kind of care; and society, more specifically the government, has assumed at best only token responsibility for this function." (p. v, vi.)

Further, there seems to be a distribution problem of the limited formal day care resources available. Day care operators sampled in the Westinghouse-Westat survey reported an estimated 124,000 children on waiting lists, while there are an estimated 31,000 vacant day care slots available.

Need and Demand

The amount of need and demand for day care are complex issues which depend upon a number of factors other than the number of employed mothers and the present arrangements for day care that they have made. The complexity is illustrated in this study from the Westinghouse-Westat study of need and demand:

"Demand for day care can be discussed in terms of effective demand, that is, the number of enrollments that will be effected under given costs, characteristics of day care, and social and economic conditions . . . Quantification . . . (depends on such things as) employment patterns, changing trends toward employment of women, marriage and divorce rates, fertility ratios, and other social patterns . . ."

Demand for day care services depends also on the number of non-working mothers who would work if they had day care services available. In the Westinghouse survey, 1,500,000 or 21% of sample mothers reported they would desire day care centers for the youngest child if working, and about 500,000 were seeking employment actively when surveyed. These figures do not indicate how many of these mothers actually will find employment since that depends upon their level of employability, and the labor market among many other factors.

Demand also depends upon how satisfied present working mothers are with their arrangements for their children's care. According to the same report, only 400,000 or about 24% of the 1,700,000 working mothers reported that they desired no change in their present arrangements.

Demand for formal day care services depends too on the cost of these services compared to the costs for informal arrangements. The demand for day care would be very much affected by the amount of subsidy provided to center services, as indicated by the 1970 survey:

"Findings of the survey indicate there is a sizable potential demand among low to moderate income working mothers for better day care center capacity. This category of working mothers would like to improve present child care arrangements but would require subsidies to afford better care. Nonworking mothers of this same income class find the lack of adequate day care provisions for their children an obstacle to labor force participation. However, for the most part, they were also found to have a lower level of educational attainment than working mothers at this income level, and perceive lack of training and suitable job openings as obstacles to employment."

In summary then it can be said that:

Little or nothing is known about the kind and quality of the care of most of the children of working mothers.

The vast majority of the children of low income working mothers are cared for by relatives in the home or in the home of the relative.

Of the formal day care arrangements of the 1,300,000 preschool children: Family day care homes provide for about 56% of the children while day care centers account for about 44%.

Recent evaluations of quality day care services

The complex and value-laden areas of defining and identifying "quality" day care services or "exemplary models" have been examined and reported on in two recent studies. The Abt Associates study funded by OEO was conducted on a nation-wide sample of day care centers, and a survey by Prescott and Jones was conducted in southern California.

The purpose of the Abt study was to investigate and describe the nature and characteristics of quality day care programs by means of in-depth examinations of 20 day care programs selected from a list of 188 recommended by various individuals and organizations concerned with day care. The study developed numerous interview and observation guides listed in Appendix A. Field observers who were either child care teachers or directors were trained in the use of these instruments.

Included among the models described and assessed were day care programs operated by private non-profit and profit agencies, including industry and commercial day care programs, public agencies, and Head Start affiliates. These programs served both poverty and non-poverty families, although poverty families were mainly over-represented in the sample.[4] These programs were divided into two groups—13 case studies of individual day care centers and seven systems of day care services, some of which operate several separate day care centers, and others operate both center based and family day care homes. See Appendix B for descriptions.

Of the centers selected, six served infants, 10 served toddlers, 19 preschool children and seven provided extended day care for school age children. Each of the models was decribed and assessed in terms of the history of the service and the community in which it operates, the particular notable elements of the program, the basic program of education, nutrition, transportation, health care, social services and parent organization. The administrative structure including policy-making and staffing are described and costs presented for operating the entire program, on an annual per child basis, and on a cost/per child/per hour basis.

The five volumes of this report provide a wealth of information for day care planners, researchers and policy makers. The observation guides, interview schedules and assessment instruments are included in the Appendix A of Volume IV of the Abt report and should be useful for future assessments of day care services.

A few highlights of the Abt study include:

Good and excellent child care comes in many forms; there is no one kind of quality child care.

Good and excellent child care is presently being offered by the whole range of sponsors including welfare departments, inner city community groups, public schools, private homes and under many other auspices.

Good and excellent child care is very hard to guarantee, but the most important indicator of good care is the quality of the director and staff.

Good and excellent child care is expensive to provide whether the care is in family day care homes, single centers or large systems.

Home care programs were more apt to provide warm and secure care, particularly to infants, sick childen, children with special problems and children in rural areas. However, they found that the day care mothers were paid far less than minimum wage and the educational programs they offered were very slim. Large centers cost a little less per child, but seem to find it difficult to provide quality care even when they maintain favorable staff-child ratios.

The major findings relating to facilities, staff and programs for children are discussed in Chapter III.

Prescott and Jones (1969 and 1970) have examined teacher-child interactions in group day care settings and evaluated the quality of day care. The studies are based on a random sample of 50 day care centers selected from the 396 facilities providing full day care for preschoolers in Los Angeles County. Their evaluations used such techniques as observation of teacher-child interaction in centers, teacher ratings based on responses elicited from children as a result of teacher lessons, interviews with directors and teachers, and assessments of structural factors such as the quality of the physical space, the administrative framework, program format and characteristics of the staff.

Among the findings of these investigations relating to the quality of the day care centers are:

Size of the center is directly related to the quality of the program. Centers of moderate size, between 30 and 60 children, tend to be of highest quality. Quality declined in centers of over 60 children, even when space and staff quality were high. As centers increased in size, they became more sterile; the administrative complexity tended to increase the possibility of an impersonal environment and non-individualized schedules, rules, etc.

Auspices: There did not appear to be any great differences in the quality of the programs related to auspices, although in proprietary centers they found child rearing values and practices to be less discrepant with those of the parents. Proprietary centers

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Footnotes at end of article.

were more concerned with pleasing parents. Family day care seemed to offer more intimate, relaxed experience and greater flexibility in caring for infants and toddlers than center based day care.

Staff: Though they report quality of teacher performance to be directly related to the type and amount of staff *training*, Prescott and Jones urge that specifications of educational qualifications and credentials be kept flexible. Flexibility of teacher requirements allows for selection of a broad range of teachers able to communicate with the widely diverse parent population of day care children. Staff of quality day care programs were judged to be more child-centered, and more frequently to use non-authoritarian styles described as nuturant, warm, friendly, sensitive, relaxed and individual-oriented than staff of day care programs of less high quality. They emphasize that staff planning and communication with parents should be directed toward compensating for inherent limitations of the day care situation (lack of opportunity for privacy of children, observation of adult transactions, testing of limits, expression of strong emotions for example).

Variety: As in the Abt study, Prescott and Jones report that good child care comes in a variety of settings and auspices and types. They conclude that there is a great importance in having a variety of programs to fit needs of different family styles and different ethnic childrearing patterns.

Costs of day care programs

Until recently there has been an astonishing lack of data on the cost of day care services; these data are difficult to obtain particularly since most day care arrangements are made in informal ways. However, recent studies funded through OEO and OCD as well as studies conducted by several of the states have provided some better information on costs. Great care must be taken in comparing cost findings from one study with another, primarily because the studies did not use the same set of criteria in gathering their information. Further, costs must not be confused with charges or fees paid for day care, even in proprietary agencies. Even in these, but particularly in non-profit centers, space, equipment, food and other consumable supplies are often not included in "budgets" or costs. The cost findings in several surveys have been carefully studied and are presented here with *many* qualifications noted.

Table I reports the findings on day care arrangements by a variety of sources and provides the cost estimates of different quality levels of day care made by HEW. Both the Westinghouse survey and the Abt study were nation wide.

TABLE I.—COSTS OF FULL TIME EQUIVALENT DAY CARE—PER CHILD/PER YEAR

	HEW [1] Center estimates based nationwide	Westinghouse [2] nationwide	Headstart [3] New York City only	Abt—Nationwide [4]	
				Centers	Systems
Custodial or minimum	1,245	400			
Educational or acceptable	1,862	700			
Comprehensive or desirable	2,320	1,300	2,115	2,614	2,131
Range reported			1,768–2,470	1,295–3,895	1,170–3,055

[1] HEW, estimates.

[2] Westinghouse-Westat report—includes costs and fees paid by parents.

[3] Based on 1971 budget, New York City Headstart (not actual expenditures).

[4] Costs include estimates of value of donations.

While Westinghouse sampled all day care arrangements made by working mothers, proprietary and non-proprietary, formal and informal, the Abt study viewed individual centers and systems for delivery of day care services judged to be "exemplary." For this reason, the costs found in the Abt study are presented in the comprehensive or desirable category, as are the costs in the Head Start day care centers in New York City. These figures are *not* really comparable since the HEW figures are *estimates*. The Westinghouse figures are nationwide and reflect fees paid in informal and formal day care arrangements, whereas Head Start figures are for New York City only and are based on 1971 budget *estimates* not expenditures, and the costs in the Abt[5] study include estimates of the *value of donations* of service and in-kind.

In spite of all these limitations on the comparability of the data, the extremely low costs reported by the Westinghouse survey indicate need for further examination.

TABLE II.—DAY CARE PROGRAMS—CENTER-BASED-FULL TIME EQUIVALENTS, PER CHILD/PER YEAR

	Industry [1]	9 N.Y. public [2] nonprofit agencies	Abt, exemplary models [3]
Mean	2000	2063	2614
Range	837–2,390	1,685–2,985	1,295–38,895

[1] Industry figures based on survey of 8-day care centers by Urban Research Corp., Chicago, conference on industry and day care, 1970.

[2] Costs of day care: Implications for public policy, New School for Social Research, August, 1971, figures based on survey of public day care centers offering comprehensive services.

[3] Costs include estimates of value of donations.

Table II shows reported costs for center based day care programs operated by industry, public agencies in New York City and Abt's exemplary model for center based programs. Average costs between centers sponsored by industry and non-profit agencies and those center based models studied by Abt vary by about $600. Much of this difference is because Abt included the value of donations in their computations of costs. Within any one type of sponsorship, larger centers were reported to have lower costs, but larger centers were generally judged to be more formal and sterile. In the larger centers, as in the systems studied by Abt, quality of service was very difficult to monitor. Costs per child within any one center were lower than there were several children from the same family since certain supplemental family services such as social services and parent education did not have to be duplicated.

Costs of Family Day Care

Costs of family day care have been investigated by a variety of sources including the Abt study and a study of day care costs in New York City conducted by Blanche Bernstein (1971). The annual cost per child in family day care meeting the HEW standards for different levels of quality are estimated as follows:

Minimum standard	1,423
Acceptable standard	2,032
Desirable standard	2,372

The family day care system judged by the Abt study to be an "exemplary" model of day care had annual full time per child cost of $2,287 or within $100 of the HEW desirable standard estimate. The Bernstein study of various family day care systems providing full-day care for a total of 4620 children found that average costs were $1,730 per year.

The survey conducted by Pacific Oaks in Pasadena and Altadena, California, of fees charged by women providing day care in their homes reported the average charged was $1,040 per year, per child, but the range was from $114 to $1,170 per year. These *fees* cannot be compared with the *costs* in New York City, for the Pasadena family day care mothers were not part of a system which provided any supplementary services to the children or their families. All of these homes were arranged for privately by the mothers and were unsupervised prior to the initiation of the Pacific Oakes study, and no attempt was made to assess "quality" of care. The Bernstein study concluded as a result of their investigation that—

> "If the same package of services is provided to children, it makes little difference in the cost per child whether the children are in a day care center or family day care. The fact of the matter is that it is as expensive to a mother to care for four children as it is to provide one professional and three non-professional classroom personnel for 15 children at the desirable level for both day care centers and family day care." (p. 9).

Costs of Day Care as Related to the Age of the Child

There is little information about the cost of day care services within preschool age groups, and particularly for infants under a year of age,[6] primarily because day care centers and services do not keep their records in age categories (Welfare Council of Chicago study) and further, until recently only a relatively few day care centers accepted infants, usually because of state regulations. Bookkeeping procedures to provide this type of age-cost information would require a large additional amount of paper work.[7]

Few of the day care centers surveyed provide care for infants. Family day care homes do provide infant care and often this care begins shortly after birth. Keister (1967) found that about half of the children in the survey she conducted had been younger than six months when regular care by someone other than the mother began. Family day care that is arranged for by the mother was not found to be higher for infants than for other preschool children (Sale, 1971). Keister (1970a) reports that estimates of costs for infants and toddlers in a 20 infant center are $2,420 per year and $1,973 per year in a 30 infant center. Additional data about the costs for providing infant care in both centers and family day care systems are needed for further program planning.

Costs of day care for school age children are naturally much lower than for preschool children since these costs reflect only the before and after school and sometimes vacation periods. Also fewer adults can supervise larger groups of children. Standards recommended by HEW are $310 per year per child for minimum standard care, and $653 for both acceptable and desirable care. The director of one New York City extended day care program reported (Bernstein, 1971) that after school and summer care average $1,030 per year.

Summary

There is wide variation in reported costs of operating full time day care programs for preschool children. The costs range from a low of $400 a year for minimum services reported in the Westinghouse study to a high of $3,895 reported for one center in the Abt exemplary model study. These costs vary with the "quality" of service, the age of the child in day care, the locus of the service, and the auspices of the day care, and the size of the center or system.

In summary it may be said, that although little data are available on infants in day care, the younger the child, the higher the cost. Though family day care services are often reported to cost less than center based care, much of the cash difference disappears when services are comparable. Family day care which is sponsored and supervised by an agency provides a wider variety of services than similar arrangements made informally by the mother. Consequently, agency sponsored family day care costs are higher. There is not a great deal of difference in cost be-

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Footnotes at end of article.

tween day care provided by various auspices—industry, non-profit agencies or a national sample of "exemplary models"—when value of donations are included in cost estimates. In each case the range within each type of auspices is far greater than the differences between them.

Large centers and large systems tended to have lower costs reflecting certain economies in purchasing and staffing. However, large centers and systems found it very difficult to deliver quality care and particularly to monitor the quality of services.

In conclusion it can be said that good care of young children is not cheap no matter who sponsors the service or where those services are provided.

Federally funded training programs for day care workers

Ten training programs for child care workers are included in the 1970 federally funded programs. One of the programs is for high school students, one for junior college students, three are for low income persons not already involved in child care services, and five are for people already involved in providing child care services. Eight of these programs provide training for a period lasting longer than at least a week. (Of the remaining two programs, one had a training period of six days, while the other did not provide the information.) Two of the programs provide their graduates with a formal degree, while five others also provide for or are explicitly designed to facilitate moving up a career ladder in the field of child care. In the information available on these programs, four of the projects explicitly mentioned inclusion of systematic evaluation of the trainees' performance.

Model day care programs with an evaluative component

Although there are many day care programs in existence, very few of them include systematic evaluation of their impact. As of 1970, the day care programs with systematic evaluation of their impact planned or already in operation consisted primarily of a few university-based programs—Center for Early Development and Education, Little Rock, Arkansas; Children's Center, Syracuse, New York; Frank Porter Graham Child Development Center, Chapel Hill, North Carolina; Group Care of Infants, Demonstration Project, Greensboro, North Carolina; Howard University Nursery School Demonstration Project, Washington, D.C.; Milwaukee Family Rehabilitation Project, Milwaukee, Wisconsin; and Program in Child Welfare Research, New Haven Connecticut. Also included is one industry-based day care center—the KLH Child Development Center, Inc., Cambridge, Massachusetts.

Impact of model interventions

Appendix C contains a description of various characteristics of each of these programs. Below are summarized some of the major available findings on the impact of the programs. No data on impact were available for the New Haven and Chapel Hill programs. Only information from interviews with staff, company members, officials, and parents was available for the KLH program. Thus, these three programs are not included in the following summary on impact.

The available short-term data from the centers indicates that in terms of development measured by standardized cognitive tests, these day care programs did not harm the children from middle or low income backgrounds. At the end of full-day participation in the program at the Syracuse Children's Center, when the children were nearly five years old, the center children, who were from both low and middle socioeconomic levels, had significantly higher IQ scores than a matched group of home-reared children. Whether the children had entered day care before or after three years of age did not make a difference in the amount of cognitive gain. (Caldwell, 1969). The children who attended the day care program in Greensboro, from six to nine hours per day, were from both low and middle income backgrounds. At 9–36 months of age and after at least a half year in the program, the center children scored significantly higher on the Bayley Mental Scale or the Stanford-Binet than did a matched group receiving no day care. However, the absolute difference in score between the two groups was very small. (Keister, 1970a). At about five years of age and after two years of day care the children in the Howard University project, all from a low socioeconomic level, scored significantly higher on the Stanford-Binet than did the control group without a day care experience. (Cisin, 1970). The children in the full-day Milwaukee Family Rehabilitation Project, all of whom were from low class backgrounds and were enrolled in the program by six months of age, scored increasingly above the development norms between the ages of 25 to 37 months. A comparable control group performed very close to test norms between 6 and 31 months of age (Heber & Rynders, 1969). After being in the program of the Center for Early Development and Education, Little Rock, for seven months, the 3 to 5 year olds, who were from lower and lower middle class families, showed significantly greater gains on most of the cognitive measures than a comparable group who were not in the program. (*Center for Early Development*, 1971).

The Greensboro project found that at 9–36 months of age the Center children, who had attended the Center for six to nine hours per day for at least a half year, had a slight but statistically significant advantage over control children on the Preschool Attainment Record, a measure of social maturity. (Keister, 1970a). The Syracuse project found that at approximately 30 months of age and following about one and one-half years of full-day participation in the program, the group day care children did not differ significantly from comparable home-reared children in terms of their general emotionality, rating of mother-child attachment, or maternal emotionality. (*Programs for Infants*, 1970).

The only reported short-term results which favored the home-reared over center children are the findings on the children's health in the Greensboro project. In that project it was found that Center children had significantly more occurrences of diaper rash and colds or runny noses than did home-reared children. (Keister, 1970a).

The two studies which have reported long-term results are those at Syracuse and Howard Universities. In both of these projects, the IQ score of the children from low income backgrounds who had participated in the center program decreased after termination of the special program. (Caldwell, 1969; Cisin, 1970). This is similar to the results of Head Start programs and many experimental preschool projects. (Stearns, unpublished manuscript.)

In both the Howard University and Syracuse University projects there were differences in the amount of cognitive gain and retention of the gain between different groups within a sample from low socioeconomic backgrounds. When the low socioeconomic group was divided into two groupings according to the mother's education and persons per room in the household, as in the Howard project, or according to the amount of stimulation in the home, as at Syracuse, it was found that the more advantaged group gained more from the experimental program and retained a larger proportion of these gains. It was found in the Howard study that this difference between the two low socioeconomic groups was particularly marked for the group of children who initially had lower IQ scores. The Howard University project also found that those with initially higher IQ's made most of their gains immediately and maintained those gains during the second year of the program, while those with initially lower IQ's gained over the two-year period. This suggests it may take longer for those with an initially lower IQ to respond to intervention.

Day Care for Deaf-Blind

Included in the federally funded day care programs of fiscal year 1970 are two educationally oriented day care centers for the deaf-blind, one in Colorado and one in New Jersey. The New Jersey program is for children from 2 to 5 years olds. The Colorado program is for 5 to 10 year olds. The information available on these programs did not state how the impact of these programs is to be measured.

Day care research in process

A larger number of studies related to day care were funded in FY '71 than '70, and though these studies are still in process and little information is yet available on their findings, the project areas and basic questions, when articulated, are listed to provide information about what can be anticipated when these studies are completed. Appendix D provides a list of these projects, the agency funding them and the reported objectives. Investigations in process include research in the following areas:

Research Relating to the Auspices of Day Care Programs

A number of OCD projects are examining the delivery of all child care services, including day care, through 4–C auspices.

The National Urban League is examining the delivery of day care services through the auspices of a community corporation.

A National Demonstration in Early Childhood Education as well as a subsidized industry-based day care center are investigating the impact of employer-based day care services.

The process of converting part-day Head Start programs to day care programs is being examined.

Research in Staffing of Day Care Programs

Several projects have been funded to examine the use and effects of different types of staff of day care projects, including male workers, NYC workers, AFDC mothers and the use of indigenous staff with only periodic supervision of professional staff.

The use of an existing day care center for training of staff, as an information source, and to develop technical assistance for anticipated day care centers.

Day Care Programs and Special Populations

Numerous grants have been made to examine aspects of day care programs for special populations. Programs are being developed to provide day care services for Indians, for migrant workers, for the single-parent working mother, for whole families and for adolescents studying child development.

An infant satellite nursery, a family development center and a day care center for infants with school-age mothers.

A study of infants in day care.

A study of various components of a day care program to examine their interrelationships and how each component functions to reinforce the others.

A longitudinal study of the impact of day care on the social, emotional and cognitive development of 45 children between the ages of three and four years. Among the program attributes are multi-age groupings, different environment settings, pupil choice of environment and activity, balance of activities in the program and homogeneous grouping for three year olds for some activities and heterogenous groupings for social experience. Assessment procedures include the use of Binet, Preschool Attainment Record, Inventory of home stimulation, ITPA, Peabody Picture Vocabulary Test, Implicit Parental Learning Theory Scales as well as a variety of other measure for four to six year olds.

Manifold Intervention Study to establish a "living environment" for infants, including design, equipment and routines to enable a small staff to care effectively for a large number of infants, (a ratio of four staff to 20 infants for example). Study plans to develop guidelines for staff-infant ratios, a standardized measure of the level of care infants are receiving, and a published description of the procedure for measuring such care.

Impact of Day Care on Employer or Labor Force

One project is examining the question of the impact of day care on the employment of mothers in the FAP population.

The evaluation of the HEW day care center is examining the benefits gained by an employer providing day care services including possibly reduced absentee rates of employees.

Planning, Management, Evaluation and Dissemination

A number of grants have been made on management, evaluation and dissemination issues.

An examination of whether or not a program information system will be utilized in planning policy if not accompanied by additional documentation. Ways of disseminating information are being examined.

An information system for evaluating child care services.

A Cost-Benefit analysis of child development programs for the disadvantaged, utilizing present research information. Project is designed to assist federal, state and local decision-makers in shaping individual child development programs and the level of investment in alternative age groups.

An evaluation of an Infant Group Day Care project to develop guidelines for future development of infant centers.

A study of the local evaluations of the Parent Child Centers which focus on children under age three and their families.

Publications and Conferences

A grant to produce a survey of the literature on the immediate and long range effects of preschool programs.

A grant to review the state of the art in early childhood Research and Development programs as reported in the literature.

III. RESEARCH FINDINGS AND RESEARCH QUESTIONS FOR FUTURE INVESTIGATION IN DAY CARE

This chapter covers the findings of research investigations in day care and closely related areas of child care. In the process of reviewing the research findings, additional unanswered questions have been identified. The findings as well as the research needs have been organized around the following areas:

The auspices providing the day care, including the source of care as well as the type of care including center based or family day care through formal or informal arrangements.

The staffing of day care services and related issues. Qualifications and characteristics of day care staff, selection, training, staff-child ratios, staff composition, as well as staff supervision and turnover.

The facilities of day care centers and programs, including issues relating to the size of the center, the size of groups, space per child, the organization of space and equipment and the issue of privacy.

The children in day care, including questions of the impact of separation from the mother and of day care in general on children, stability or mobility of children within the day care situation, children's group dynamics, age mix, socioeconomic and ethnic mix, and children with special problems or characteristics.

The relationship of parents to the day care program, including parent participation, communication with parents, impact of day care on the family and the extended family.

Children's curriculum and activities in the day care center or operation.

The support services provided by comprehensive day care programs, including physical and mental health services, nutrition and social service.

Methodological findings and questions for future day care research.

AUSPICES OF DAY CARE

Day care is provided under a number of different types of auspices: private nonprofit, private profit, public agencies or Head Start affiliates. Day care can be provided through large systems, individual day care centers, agency sponsored family day care homes, or family day care arranged by the parents. A number of studies have examined the auspices of day care programs (Prescott and Jones, Westinghouse-Westat, Abt, Emlen, Collins). Most report that they do not find any significant differences in quality of services between public, private or proprietary day care services, and that each type of auspice provided the entire range in quality of care. The differences which have been described include:

Publicly funded, particularly Federally funded programs tend to have greater parent participation in decision-making positions than do private, or proprietary services. (Westinghouse).

Proprietary centers on the other hand were reported to be more eager to please the parents and more concerned with parental wishes. (Prescott and Jones).

Day care services sponsored by industry have been judged to provide quality care, but often present transportation problems for mothers with very young children since the industry is rarely in the residential community.

Though the size of the center was not necessarily an indicator of quality, large centers tend to become more impersonal, and the directors have less contact with parents, children and staff. (Prescott and Jones, and Abt). On the other hand, large centers cost somewhat less per child, and are more apt to employ professional program people including nutritionists, nurses, pediatricians on a consulting basis, social workers, etc.

DAY CARE SYSTEMS

These include a number of centers and sometimes a combination of center and home programs and tend to provide a greater stability of service, and greater continuity of program philosophy. (Abt). On the other hand, quality of services is very hard to insure and monitor in a large system. The major question in developing large systems of day care services is how to monitor the quality of the services, and how to keep the services from becoming rigid and dehumanizing to staff, parents and children.

DAY CARE CENTERS

Both the Westinghouse survey and the Abt evaluation found that a disproportionate percent of families served in day care centers are low income and from minority groups. This may be because more centers have been subsidized by public funds and are located either in inner city neighborhoods, or are operated by public agencies which give preference to low income families. It is therefore difficult in the *existing* day care centers to bring about a socio-economic or ethnic mix without launching a massive bussing program. Among the advantages of day care centers is that individual centers can be and often are started by particular interest groups and the services and curriculum developed to meet their needs. Examples of such programs are the Black Panthers, Haight Ashbury Center, and University Co-ops. These centers tend to be ideologically as well as ethnically and socio-economically homogeneous, but very responsive to the communities they serve.

Home Day Care Services—Agency Sponsored

Only a very small percentage of the family day care being provided is sponsored and supported by any agency, public or private. Most family day care is arranged by mothers and is unlicensed and unsupervised. (Emlen, Westinghouse-Westat).

Family day care systems sponsored by agencies have a number of advantages commented on by nearly all researchers who have written on the subject.

They tend to provide warm-responsible care. (Sale; Prescott & Jones; Abt).

They are better able to serve sick children and children with special problems.

The family day care homes are usually in the neighborhood where the child lives so that transportation is not necessary, school age children can be watched after school by the same day care mother. (Sale; Emlen).

The child is not removed from his neighborhood peer group.

Most family day care homes have an age-mix of both day care children and natural children.

Family day care mothers are on the whole better educated than day care center staff.

On the other hand, family day care (either sponsored by an agency or arranged by the natural mother) tends to have little or no educational components. (Abt; Westinghouse).

Family Day Care Arranged by the Mother

Very little is known about the need or quality of day care arrangements now provided for over two million preschool children. Recent investigations (Collins; Emlen; Prescott; Sale) present some information about small numbers of day care mothers selected by the natural mother to care for their children. Sale reports that about 60% of the homes studied were licensed: others report that only about 10% are licensed, a point which may be irrelevant, since all stated that some licensed homes were not particularly good, while some unlicensed homes were very good, and quality did not seem to be related to whether or not the home was licensed.

An important finding was made by Collins when studying day care mothers in Portland, Oregon while developing a registry of family day care mothers. She discovered what was termed a "natural triangle" of caretakers when mothers selected their own day care mothers. Some triangles consisted of the natural mother, the day care mother, and a relative of the natural mother who would baby sit in an emergency. Other triangles consisted of the natural mother, the day care mother, and a friend or relative of the day care mother who would take the child in the event that the day care mother was sick or had a personal emergency. Thus Collins concludes that when day care is arranged by the mother rather than through a system, there may be greater continuity of care than when an agency arranges a substitute who may vary each time the day care mother is unable to care for the child. She felt it was important not to disturb this informal arrangement while still trying to introduce some support services.

In spite of the fact that little is known about independently operated family day care homes and that many are unlicensed, Emlen points out, and his findings are supported by others, that much of the family day care provided is far better than most professionals have believed. Particularly since mothers who need to earn money and choose to do so by caring for children are reported to be "child-centered." (Collins). Further, the working mother may interview a number of family day care mothers and select the one who most agrees with her child rearing philosophy and values, an opportunity not generally possible in a day care center where professionals may view the mother's child-rearing attitudes and practices as something to be "compensated" for.

All who have studied family day care mothers report on the small amount they are paid—always less than minimum wage. Most charge on a sliding scale according to what the mother can afford, and most family day care mothers in the group studied by Sale earned between $75.00 and $100.00 per week based on a figure of five children in the home. The cost of food, toys, equipment and wear and tear on furnishings must be deducted from the total earnings.

On a nation-wide basis, 86% of family day care mothers are white, 7% black (Westinghouse) though of the group of 22 family day care mothers in the sample studied by Sale, 12 were black. The number of white day care mothers is disproportionate to the total number of caretakers in day care operations. In day care centers 62% of the staff are white and 34% black. (Westinghouse). A larger proportion of the children in day care situations are in day care centers, in part because these centers are often subsidized by public funds so that costs are lower, and because they are often located in inner city locations where there is a high concentration of black families. In addition to these factors, there appear to be some ethnic differences in the choices mothers make; more white mothers report that they would prefer to put their children in family day care homes while a larger number of black mothers report a preference for center care for their children. (Westinghouse). This finding may be confounded by social class, however, since more middle income parents report preferring family day care to center care for their children, and because center based care is often cheaper than family care.

The finding that large numbers of children are cared for by relatives either in the child's home or in the home of the relative raises the possibility of examining a number of research questions. The differential impact on infants raised by day care mothers who are relatives vs day care mothers who are not, might be examined.

Summary of major issues in the auspices and type of day care services:

How to monitor content and quality of services in large day care systems, centers and homes.

How to develop systems for delivery of health, nutrition and social services to children in family day care settings.

How to identify unaffiliated family day care mothers in a neighborhood, and to develop a methodology to observe the quality of care being provided without total distortion due to observer effect.

How to utilize the existing system of relatives providing child care and make support services available where needed.

How to identify and set up systems for maximum use of available day care mothers in a neighborhood.

Study what would be required to recruit more minority group women as day care mothers.

Develop a feasible method for introducing an educational component into family day care programs.

Develop a feasible plan for integrating the ethnic and socio-economic mix in day care centers.

Study the interaction of the child and the family day care mother, as it relates to the impact on the mother-child relationship.

Research related to staffing of day care centers

In this section research issues in relation to the qualifications, characteristics, and selection of day care staff, their training, the composition of the staff and various staff-staff and staff-child ratios will be explored. Special issues such as age and ethnic mix as well as socio-economic differences between staff and children will be considered briefly. Research needs relating to staff supervision, stability and turnover and its potential impact on children will also be covered.

Staff Qualification

One issue on which there is unanimous agreement by all researchers is that the staff of the day care center or service is *the* single most important determinant of the quality of care provided. There is also widespread agreement that the educational qualifications for the director and staff should be flexible because educational achievement *per se* is no guarantee of quality. There are many who report this finding and it may be summed up as follows:

"One of our most striking findings has been that formal education qualifications of staff are not associated with excellence of staff. Directors believe it is important to train on-the-job, to recruit men and community residents, but above all to recruit warm and responsive teachers. We conclude that, in general, personnel funds should be spent on ensuring enough staff members rather than emphasizing staff with degrees."

If *formal* educational credentials do not guarantee quality in child care workers, then selection criteria and process are of utmost importance.

Staff Selection

Statements on the need for careful selection of day care staff abound, such as:

"The bulk of research evidence suggests that personnel selection should receive high priority in planning Day Care for children under three. One can train staff to carry out techniques, but to judge from our present state of knowledge, it would be much more difficult to modify style variables, e.g., train a tense person to be relaxed, a cold person to be warm, a controlling person to be less controlling. Since style variables play a crucial part in the adult-infant interaction and therefore need to be controlled, two steps seem indicated: 1) work out careful selection procedures in the recruitment of Day Care personnel and 2) carry out research on the modification of style variables in adults who function as caregivers of young children in Day Care Centers or similar setting." [9]

In addition to a high degree of agreement that formal educational requirements are not necessarily indicative of quality and that the need for careful selection is great, there is also widespread. though not unanimous agreement among professionals in the field of child care about the desired traits and personality characteristics of staff to work with children. A brief survey done by Chambers (1971) found that all directors said that "the right person" was more important than education, and as a result of the survey she developed the following list of desired characteristics for day care staff:

Qualities sought in Day Care Center Staff [10]

Based on interviews with day care center directors: Derived categories supplied with illustrative sample quotes.

1. *Basic Liking for Children:* "warmth and flexibility to take the minute-by-minute testing."

2. *Empathy for Children; Ability to Accept Children at Their Present Development Level:* "never cease to enjoy the jokes children tell and even their pleasure messing in mud—and be refreshed by these experiences rather than bored"; "expectations at children's level, not expectations worker would like for cleanliness, neatness, etc."

3. *Flexibility:* "may be young or older—it's not a matter of age—but willing to be open to change"; avoidance of "this is the way we did it last year" approach not "overly meticulous"; "people who can't see other ways of doing things" (are undesirable).

4. *Lack of Prejudice:* avoid worker who "looks at child as 'poor child' rather than as an individual".

5. *Bright Without being Overly Intellectual:* "this person (overly intellectual) may make a good supervisor—this meets intellectual curiosity . . . just working with children is not exciting enough".

6. *Educated but With Much Practical Field Experience:* avoid "a person from an educational program where 'something hasn't happened' " to the person (self-awareness) avoid "the fixed—they are so set by what they learn from books, they can't be flexible"'.

7. *Understanding of and Liking for Parents*: "able to accept family's experience as valid if different from teacher's".

8. *Person Not Seeking Fulfillment of Own Needs Through Children:* "people who can give to children but encourage them to use own resources and permit them to grow away from adult" ; not "people who just love children—often come to work with children in hopes of satisfying their own desire to be mothered and protected".

9. *Mature Functioning as Adult, with Interests and Investments Outside of Child Care:* "being a person for the child"; "people who can do outside things"; "people who are happy being adults and receive satisfaction from working with adults—don't work *for* children *against* adults".

10. *Capacity for Further Growth as a Person:* "people with intelligence and educability"; "will she take what she has one step further?"

We do not know with any degree of certainty—

The extent to which these or any other list of desired characteristics) are present among all teachers or day care pesonnel.

The extent to which they are present among day care staff judged to be superior by directors, by parents, or by children.

The extent to which the desired characteristics are present in the total population.

It would appear, however, that the desired characteristics may be present in a fairly large percent of the population who seek employment in day care since there are many reports (Keister; Caldwell; Abt) that employment of staff for day care centers is not a problem. If this is the case, and it seems likely that it is, more research needs to be done on how to *identify* and *select* for desired characteristics rather than how to train for these characteristics. Further, day care staff are reported to be selected by interview method rather than by testing (Chambers; Abt; Prescott et al) and therefore ways of recognizing and cues for identifying desired characteristics in interview situations need to be more fully explored. Investigating interview cues is of importance especially since studies of selection of child care mothers by Halechko and Saxe, (1969) and by Codoni and Cowles, (1970) conclude that interviews are a better predictor of success than background or test variables.

One of the findings of the Abt study was that though directors reported no difficulty in recruiting teachers or other staff for day care centers, boards of directors reported great difficulty in recruiting, employing and holding on to good directors. Turnover among directors is high, so that particular attention might be made to discovering differences between directors who remain in their jobs and those who do not. The importance of the director in child care services is emphasized by many researchers (Prescott, et al, 1967; Kirschner, 1970).

STAFF TRAINING

The largest amount of research into teacher characteristics of day care staff and the relationships to the children has been made by Prescott and her associates. They report that "program quality increases as the amount of special training of directors and teachers, especially teachers increases." The distinction between education and training

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is made by most researchers, and preservice and inservice training are stressed as vital parts of delivering services.

Beller (1971) points to the great need for training because one cannot assume that caregivers have a working knowledge of behavior principles, nor how to apply them consistently. He further states that "cohesive plans for caregiver instruction are needed to systematize a Day Care Center's program and to insure continuity of care for the children regardless of which staff person is involved." The recommendation of *training for consistent caregiving* is of particular importance since most researchers agree that infants and young children require a high frequency of contact with a small number of adults, and because of what we know about turnover rates among staff. We need to examine if consistency of care developed through selection and training can serve as a substitute for consistency of *caregiver* so often demonstrated to be essential for infants.

The amount of training seems to be associated with the type of teacher-child interaction. Siegel, et al, (Grotberg, 1971) report that the less training child care workers have, the more likely they are to be authoritarian. Prescott, et al., (1967) report that teachers with little or no training used restriction most often and indirect guidance least often. Further, as the teacher's amount of training increased her attitudes toward authority became less arbitrary and her attitudes of warmth increased.

While many training programs have been developed for staff of nursery schools, ways to adapt these training programs to day care need to be more fully explored. In particular, the findings of Collins and Emlen indicate that providing training for family day care mothers (who in fact are *the* staff of most of the children in day care) is difficult to arrange, since these mothers routinely put in a ten hour day with their day care children and more with their own children. Since training is expensive, we need to find out if additional training will reduce staff turnover.

Experience in Head Start and other preschool programs have provided a wealth of material on training for work with children, including a variety of experimental curricula, films, manuals and materials. (DARCEE, The Children's Center of the State University of New York, The Remote Training Institute, are a few examples). Other projects have concentrated on training programs for *mothers as teachers* of their own children. (Gordon; Badger; Karnes). Few programs, however, have trained child care staff to work with *parents* of the children enrolled. Training designs for both professional and nonprofessional staff are needed to facilitate staff-parent communication, encourage parent participation and parent-child education.

The Curriculum Content of Staff Training Programs

Opinions about curriculum content of staff training programs are as diverse as the content of curricula for children's programs. Inservice staff training is usually related to the curriculum model of the program and the philosophy of the director, though most programs have a core of content on child development, basic needs of children such as feeding, sleeping, toilet training, etc. Whatever model chosen, the training program must be related to the model, and careful systematic observation of staff training is essential to determine the extent to which staff training is being implemented and how curricula theories are translated into teacher-child interaction.

The problem of model replication is being examined in the study of the comparison of four preschool programs being conducted by Miller among other variables. Also being studied are what changes and modifications, if any are made, and whether teachers can maintain the program qualities in the absence of constant supervision from the program developer. Among the findings presently reported are that program differences emerged clearly with samples of four teachers in three of the programs and two in the fourth, despite within-program teacher differences on the variables assessed by monitoring procedures. In respect to such individual difference variables as experience, personality and intelligence, there was wide variation among the teachers, but differences were not related to the program the teachers were using. There is no evidence from this study then that individual teacher characteristics were a source of differences among the programs. This finding suggests that preschool teachers can be greatly influenced in their teaching methods by brief training sessions (four to eight weeks of teacher training and two onsite visits by consultants). The use of video tape of actual transactions can be most useful in pointing up areas where training has been effective and where additional training is necessary.

Staff Turnover

Stability of staff is important as an issue relating to the continuity of care for the child and to the cost of training and maintaining competent staff in day care programs. It is not surprising that staff turnover is often high, particularly when the staff salaries reported by the Westinghouse nationwide survey are considered. The median fulltime salary for directors of day care centers was $400 a month, for teachers $358, for teacher-aides less than $300. Interestingly enough, full time clerical workers average $401 a month. The survey also reports that there are only minor salary differences over the broad range of experience levels. Salaries do tend to increase, though in a narrow range, as educational level increases. Length of employment is generally unrelated either to educational level or to salary. Salary is only one variable in staff turnover however, for even in the experimental program developed at Syracuse by Bettye Caldwell, staff turnover was high. At the experimental Parent-Child Centers in the first year of operation, 27% of the staff of all 36 centers terminated, even though salaries, particularly for non-professionals were much higher than average. At one center there was a 100% staff turnover and at two others 70% turnover in one year of operation. However, an examination of the kinds of staff who left and who remained had some interesting implications. Turnover was greatest for staff under age 24, for those either with only an elementary school education or with a college degree, and for white rather than black or other minority staff. Further, since relatively little was invested in the training of professional staff—teachers, social workers, nurses, psychologists—the loss of professional staff did not mean a great loss in training investment to the individual Parent Child Center. When a teacher aide or social work aide left however, there was a very great loss of training time and costs to the Parent Child Center. While the universities and the individual staff member bore the cost of initial training for professional staff, the Parent Child Center bore the costs of training the para-professional staff. These findings would imply on the one hand, that turnover is greater for staff with the greatest occupational mobility, and for generally high risk groups—the young and poorly educated. There are however, many other variables that have to do with general working conditions, staff composition, harmony and relations with the community. Since funds for training day care staff are likely to be limited, studies to identify the staff variables and the program variables affecting staff turnover would seem to have a high priority.

In addition to administrative concerns about staff turnover, the impact on young children cannot be minimized. Therefore we need research not only on how to select and train staff for maximum stability, but also how to train staff to help children adjust to separation both from their mothers and from staff members. If there are factors which facilitate attachment and separation, then these need to be identified and understood in ways which can be operationalized.

Research Issues Related to Staff Ratios

A review of the research in preschool and school age programs indicates that class size is significantly related to student achievement in performance, and that the relationship is increasingly negative as the class size enlarges. (Gutherie, 1970). Both Beller (1970) and Gewirtz (1968) are concerned with the significance of caretaker-child ratios and inter-action. Beller emphasizes that emotional dependency is important for the learning of the young child.

Data from experimental day care researchers suggest that the staff-child ratio is even more important for younger children, and for children in full day care in contrast to part day preschool programs. Bettye Caldwell (1968) on the basis of her experience suggests that a 1:4 ratio is appropriate for children under three years of age, a ratio of 1:5 or 1:6 for three year olds, and 1:6 or 1:7 for four year olds. Keister (1970a) reports that initially they established a ratio of one adult for each four babies under 18 months, but that after the program became well established they found they could raise the ratio to one adult for each five babies. For children two years of age the ratio was 1:6 and for three year old 1:10. Head Start has a 1:5 ratio with one teacher and two aides for every 15 children. Research does not yet tell us which is *the* most desirable ratio of staff to child, but every indication is that the younger the child, the smaller the ratio should be.

Further research on staff-child ratio is needed on several questions: What are optimal staff-child ratios for infants and toddlers? Are there different staff-child ratios appropriate for different activities? For different activities of the day? What are appropriate staff-child ratios for children of mixed ages, 0–6? Of children of mixed ages, 0–14? Other staff ratios are closely related to administrative and program needs, such as what is an optimal ratio of administrative to teaching staff or the ratio of nursing staff to children. Some ratios relate to supervisory functions such as, what should be the ratio of professional teachers to teacher aides. Both Head Start and public school data are useful, but need to be tested in a day care situation.

Staff ratios are usually reported in gross ways: staff to child frequently with no indication of how many of the staff are administrative, or other support staff, how many part time, or for what activities.

The Abt study points out that the ratio of administrative and support staff to teachers and children may have great importance on the quality of care the children receive and in how smoothly the program operates. Their charts present a refinement which should be considered in computing staff-child ratios for all day care programs that is the Adult/Child Contact Hour Ratio. This is important since staff generally work eight hour shifts, but children may be in day care up to 10 hours a day and many staff do not work directly with the children. The Westinghouse survey stated that estimates of average staff to child ratios nationwide are meaningless, partly because of wide differences in individual center ratios and staffing patterns, and partly because of the large number of part-time personnel. For these reasons we have very little *useful* data on staff-child ratios in day care except in small demonstration programs.

Cross-Age Helping Relationships

A number of preschool and elementary school programs have experimented with what is called "cross-age helping relationships," and several currently funded FY '71 programs are investigating such staffing in day care centers. These programs have used elementary and high school students, NYC enrollees and adolescent pregnant girls as staff of preschools and as tutors in reading and other academic programs. In some programs the purpose seems to focus only on the younger children, in others the focus is on provided supervised child care education and experiences for the older children.

This highly innovative and experimental program has been for most people, in most of the world, and in most times, a way of life. Older children in this country and elsewhere, both within the family, tribe, village or community have always been involved in the care, supervision and recreation of younger children. Testimonials from professionals, teachers, parents, and the younger and older children in these cross-age programs are all enthusiastic. However, in spite of narrative reports which describe individual cases in which great changes have taken place, Rosenshine and Furst (1969) reviewed the tutoring research and found that only half of the projects reported a significant impact on achievement of the younger children, and none of the projects which included affective measures reported affect changes. Two suggestions are made in an attempt to explain the dilemma between the most positive reports of the participants and the rather meager findings. The first suggestion is that the effects of tutoring may be delayed, and the second is that the impact of the experience may be on some variable or process that is not being measured. The educational impact of these experiences on the older children and adolescents is now being measured and appears to be more successful.

Male Staff in Day Care Programs

The present staff of day care programs are overwhelmingly female; the Westinghouse study (1971) reports that only 6% of all day care staff are men and these tend to be either administrators or janitors. The impact on children of such a small and distorted distribution of employed men has been considered in various research studies. Several research projects in Head Start including one by Van den Daele used males to encourage children to imitate occupationally relevant roles which the males played. Initial results reported that the experience contributed to the level of ego development of the children. A study is presently in process to determine if male workers in day care will facilitate appropriate sex typing for both boys and girls. This study is being done by Boyd McCandless. Sale reports that in her sample of 22 day care mothers, there was a great deal of male involved, primarily of fathers, but also of brothers and male relatives. No assessment was made of the specific kind of involvement or its impact on the children.

The on-going studies utilizing adolescents in preschool and day care centers include a considerable number of boys in their tutoring population. It is not known at the present time whether these studies are examining sex differences among the tutors as a variable.

Ethnic Mix

At present about 34% of staff of day care centers and 7% of family day care mothers are black and 62% of center staff and 87% of family day care mothers are white. (Westinghouse). Children in day care homes are almost always of the same ethnic group as the day care mother. While there tends to somewhat greater ethnic mix in day care centers, many if not most centers are ethnically homogeneous. We need better data on the ethnic mix currently prevalent in day care centers, and then develop research to assess the effects on children's attitudes of various combinations of ethnic mix among staff and children. We also need some examination of the impact of heterogeneous ethnic groupings of staff on staff interaction and harmony. Since tension between staff members is invariably reflected in relations with the children, we need studies which examine the impact of these interactions on the children.

Staff Supervision

The Supervision of staff is very closely related to the inservice training of staff of day care programs. Supervision includes the day-to-day process of working with staff to make sure the program is carried out as planned. How close this supervision must be depends both on the training and experience of the staff and whether a new program is in the process of being implemented. Often research models require closer supervision, even of highly trained staff, to be sure that the research design is being carried out.

In most small centers, and particularly proprietary ones, the owner-director may provide all staff training through on the job supervision. Even in large centers and where there has been extensive preservice training, the on-the-job supervision in large measure determines the extent to which the training is translated into the program.

There is evidence from the model day care intervention programs about desirable supervisor-teacher-aide ratios, but since these were innovative research programs, these ratios may be unnecessarily high and expensive. The ratios established by Head Start may have some relevance, but again the full day schedule of day care staff is very different from half day Head Start needs. Supervisory conferences in day care may be difficult to schedule unless informal situations are used for on-the-job supervision.

The Abt report describes the staffing pattern for an "exemplary" day care staffing pattern for a center with 50 children:

1 director—full-time
1. administrative assistant, full-time
1 head teacher, full-time
3 teachers, full-time
4 assistant teachers, full-time
2 aides, full-time
1 cook, part-time (27½ hours per week)
1 custodian, part-time
1 nurse, part-time (8 hours a week)

This arrangement provides for four classes of children, two each of 10 and 15. Each class has one teacher (the head teacher teaches a class in addition to supervising the other three teachers), one assistant teacher, and ½ aide. The teacher-child ratio is 1:5 and the supervisory ratios are as follows:

Director-teacher	1:4
Head teacher-teacher	1:3
Teacher-assistant teacher	1:1

This arrangement allows for continuous in-service training of the assistant teachers and aides and frequent supervision of other staff.

Providing supervision for family day care mothers is an entirely different type of situation from supervision within centers. All supervisory staff must travel to the day care homes, both to observe the mothers in the work situation and because family day care mothers do not have much time available to attend supervisory conferences outside of the home. Experiences with this type of observation in a small sample of day care homes are described by Sale (1970). There is need to find out more about ratios of supervisory staff to day care mothers as well as to describe the process of this supervision.

Summary of Research Issues in Staffing of Day Care Services

A summary of the major research questions in the area of staffing for day care programs includes studies to:

Identify specific characteristics desired for staff or day care centers, including cues for identifying these characteristics in an interview situation.

Research is needed to find out the extent to which the identified characteristics are present in the general population and in the existing day care staff judged to be superior.

New ways to recruit and train directors for day care programs.

Ways to adapt existing Headstart and preschool training programs for day care staff, including staff of center programs as well as for family day care mothers.

How to train staff to provide consistent care of infants and toddlers.

How to train staff to assist children adapt to change in caretaker staff.

Ways to train staff to communicate and work with broad range of parents of the day care children.

Research on how to train and supervise staff to insure for adequate replication of model programs.

Study the staff variables and the program variables which affect staff turnover.

Establish optimal or desirable ratios of staff to children for children under a year, toddlers, runabouts, and preschoolers.

Experiment with staff ratios for children of mixed age groups and in different activities.

Establish ratios of administrative, support and supervisory staff.

Study the impact of cross-age helping relationships on children, teenagers and parents.

Study the impact of male workers in day care centers on the center program, the children and the male staff.

Examine the implications and effects of ethnic mix among staff on staff relations, communication with parents and teachers.

Physical facilities

The physical facilities of a day care setting are very basic to the program. The physical facilities provide both opportunities and limitations of the program. A gross, but perhaps very important, aspect of any day care center is its size, in terms of how many children are served overall and in terms of the space per child. Then, too, the quality and organization of the space and equipment in the center affect the quality of the program. In this section we shall discuss these various aspects of the physical facilities of day care programs. Relevant research questions needing attention in the future will be incorporated throughout the discussion.

Number of Children Served

In their evaluative survey of a random sample of day care centers in Los Angeles County, Prescott and Jones (1969, 1970) found that the number of children served by the facility as a whole was a dependable predictor of program quality. They found that larger centers had greater resources for securing good physical space and trained personnel and cost a little less per child. However, they found that the quality of care was generally higher at centers serving from 30 to 60 children than at centers serving over 60 children, even where the space and staff at the larger centers were good. They found that there was significantly more emphasis on rules and restraints in the larger centers than in the smaller ones. The smaller centers emphasized pleasure, creativity and interaction with other children more than did the larger centers. Teacher manner was almost never rated as sensitive in the large centers. In the larger centers the children were seldom observed to be highly interested and enthusiastically involved. The Abt Study (*A Study in Child Care*, 1971) also found that, although larger centers cost a little less per child, they seem to find it harder to provide quality child care even when they maintain favorable staff-child ratios.

How might future studies enlarge upon the findings of Prescott and Jones and of the Abt study on the size of day care centers? Additional surveys of the quality of existing day care facilities could gather further information on the relationship between the number of children served and the quality of the care. If the relationship found by Prescott and Jones and by Abt Associates is also found by others, attention could be paid to the reasons for such a relationship and to any exceptions found. Have certain large centers or could large centers devise ways to provide flexible, individualized, child-centered care and reduce the amount of rules and restraints? Are there ways of grouping the children, or arranging furniture and equipment, and of scheduling activities which could maximize the flexibility and individualized attention in the larger facilities? The Abt study furnishes some preliminary information on such matters in its descriptions of some large centers which have exemplary programs. There is a need for further work on these matters.

The Manifold Intervention Studies is trying to develop an infant day care environment which will provide optimal conditions for a small staff to care for a large number of infants while facilitating the development of a particular skill. Perhaps their findings will be relevant to maximizing flexibility and individualized attention in larger centers.

Kagan (1970) noted that as size of a group becomes larger, children shift their role identification from adults to peers. This is another finding needing further investigation in a day care setting. Studies might vary the size of the group for different kinds of activities and/or for different kinds of children according to how much adult or peer identification is desired.

Space Per Child

Each State requires a certain amount of inside and outside square footage per child. These requirements vary widely from state to state. Greater attention might be paid to the rationale behind such requirements. What data are or could be used as a basis for setting such requirements? Should there be both minimum and maximum space delineations? Perhaps vast amounts of space, particularly for certain ages or certain kinds of children is not optimal. For example, how does space *per se* affect how much gross motor activity or exploratory behavior a toddler will engage in? Perhaps when the space gets beyond a particular amount, the toddler will be reluctant or frightened to move about or will only use a very limited amount of the available space. Another question to keep in mind is how the amount of space affects the amount and kinds of social relationships in the day care program.

Quality and Organization of Space and Equipment

There is a great deal of equipment and furnishings available for infants and young children. Implicit in the operations of good preschools are various principles and methods for selecting and organizing space and equipment for a group of preschoolers. Many lists and descriptions of equipment and furnishings for group care of infants and preschoolers can be obtained. Sources of such information include Mazyck (1969), Parker et al. (in press), and *Programs for Infants* (1970).

In their survey of day care facilities, Prescott et al. (1967) found that where the environment was rich in number of things and in providing features of the natural world, such as animals, the teachers and children were involved and interested. They found that the children were more active and involved where pathways within a room were evident and where the type of space was variable. The Manifold Intervention Studies project, is examining empirically and formalizing the existing preschool technology for maintaining a living environment for toddlers and preschoolers. It is also developing procedures to use such living environments to teach preacademic and language skills. Since there exists no comparable technology for maintaining a living environment for groups of infants, the Manifold Intervention Studies project has also set about developing such a technology for groups of infants. Part of the activities of the Longitudinal Day Care Program is to develop materials for each of three types of preschool environments—those geared to active, expressive, or task-oriented activities. These projects are supplying helpful and necessary information for planning the organization and quality of the space and equipment of day care centers.

In the process of planning day care settings, one might take into account the various characteristics of a day care center which makes it a unique child care setting: (1) *the great amount of time* that (2) *groups* of (3) young children will be spending in the setting. Some of the factors which might consequently be taken into account in a day care center to at least a greater extent than in other existing settings for the care of young children include: provision for lengthy naps and full meals, variety of stimulation, similarity to a "real home" setting, contact with community resources, and the provision of privacy.

Nursery schools have generally not provided full meals and facilities for long naps, since most nursery schools provide only half day service. However, such provisions are generally part of day care services. Besides the additional furnishings and equipment needed for such services, procedures surrounding these activities have to be worked out.

The variety of stimulation provided within an environment may become more important the longer the children stay in that environment. Since children spend a great part of their day in the day care setting, the variety of stimulation provided by the setting may be an important issue. What types and amounts of variety are optimal for children of different ages?

Since children will be spending so much time in the day care setting, it may be important to consider how much this setting should be like a "real home." Is it best for all the equipment and materials in the environment to be tailor-made for children? Perhaps children should be surrounded by adults' furnishings and equipment, some of which may be inconvenient and perhaps even somewhat dangerous, but which nearly approximates their situation at home and acquaints them with the world of older people. How much "regular household routine" should the children witness and be a part of in the day care setting?

Day care centers generally confine the children in their charge to the indoor day care facilities and a nearby outdoor play area. Outings in the community are usually not included because of transportation problems and because of the responsibility of the center for the children's safety. How might such outings be provided? Are some kinds of day care settings more easily able to provide such outings than others? What is the effect on children of becoming acquainted with various community resources and workers as a part of their day care experience?

Since the children will be spending so much time in the day care setting, provision of privacy may become an important matter. Prescott et al. (1967) note that being away from adults provides a child with opportunities to make choices about rules to be maintained and broken. They suggest that it is very likely such decision-making heightens the child's sense of self-competence and individuality and also gives him an arena for experimentation. Smith (1969) found that preschool children produce more complex and lengthy sentences when in a peer situation than in a teacher-child situation. Besides having privacy in the sense of lack of adult supervision, having space and equipment all one's own may also be very important for a variety of reasons, such as the development of a healthy self-concept and respect for the rights of others. Meers (1971) notes that some East Europeans have observed the tendency of the very young group-reared children to indiscriminately damage their playthings, without manifest anger, when not supervised closely. It may be that in the absence of private property, toddlers have little respect for collective ownership. Thus, perhaps it may be important to study the development of care of objects that are known to be the child's own—brought from home—compared to objects belonging to the day care location.

Summary of Research Issues Related to Physical Facilities of Day Care Settings

A summary of issues for future research related to the physical facilities of day care settings includes:

The relationship between size of day care settings and quality of care.

The effect of size of the group on role identification of children.

Data base for setting space requirements.

The effect of amount of space on social relationships.

Effect of the quality of space and equipment on program impact.

Effect of the organization of space and equipment on program impact.

Provision for sleeping and eating.

Providing a variety of stimulation.

The effect on program impact of similarity of the day care experience to "real home" settings and activities.

Providing contact with community resources for the children.

Provision of privacy for the children.

Issues Relating to the Children in Day Care

The goals of day care vary widely. They include decreasing the welfare rolls, increasing employment, decreasing sick leave rates, increasing adult education, maintaining a safe place for children, and enriching children's experiences. Several or all of these goals may be part of any given day program. But whatever the goals, the day care experience will certainly have an impact on the children served. Especially in light of the expected great increase in day care in the near future, it is important that we consider what this impact will be. Our present status of knowledge about the impact of day care on children will be discussed below. The discussion of the impact of the overall day care program will be followed by a discussion of the impact of one aspect of the day care experience about which many people are particularly concerned—separation from the mother. Mention will be made throughout these discussions of issues pertaining to the impact of day care on children toward which future research efforts might be directed.

Because of the high rate of geographic mobility and job turnover in this country, children are frequently required to change schools or day care arrangements or are in situations where the teachers and staff change frequently. Also, of course, changes are made in the type of care or schooling given to a child as the child grows older. Therefore, there is not only the impact of a particular day care program to consider, but also the impact of changing from one type of day care or schooling to another. Thus, the section will next include a discussion of and research issues related to evaluating the impact of changing from one type of program to another.

Since day care often involves several children being together, one might consider the effect of the other children and the group situation on the individual children involved. In light of this consideration, children's group dynamics will be discussed. Then various special aspects of the composition of children's groups—age, socio-economic, and ethnic mixing—will be discussed in relation to day care. These discussions will include relevant questions for future research.

The section on children will end with a brief discussion of the research issues related to the provision of day care for children with special problems or characteristics.

Impact of Day Care on Children, Impact of Overall Program

Chapter II of this paper contained a summary of the impact on children of American day care programs with an evaluative component. In that summary, it was pointed out that no major negative effects on children have been found. Indeed, some day care programs have led to a slight temporary advantage in cognitive performance for those attending the day care center as compared to a control group without such experience.

Meers (1971) states that, "the clinician is less fearful of gross pathology that might derive from Day Care, than of incipient, developmental impediments that would be evident in later character structure, such as flattened feelings (schizoid personality), associal attitudes (psychopathic tendencies), defense against emotional intimacy (fear of marriage), etc. (p. 20)." The kinds of ill effects mentioned by Meers might not be detected until adolescence or thereafter. Not enough time has yet elapsed following any of the American studies on the impact of day care for us to determine such long-term results. The passage of time alone will, of course, not produce these results. In order to get such long-term information, past, current, or future experimental day care programs will have to include a means of following and testing both the treatment and control groups through adulthood.

Grotberg (1971) points out another gap in our current information on the impact of day care. She points out that our present information for American children under three comes from university-based programs with a highly competent staff, very small child-adult ratios, and very high per child cost. Perhaps the lack of negative effect of these programs would not occur under a difference type of day care program. Thus, it is important to consider not relying solely on the results of small university-based day care programs in determining the impact of day care. Perhaps we could incorporate both short- and long-term evaluation of impact into "typical" day care programs within the community.

Impact of Separation

Great concern has been expressed over the issue of the impact of separation of young children from the mother for more than a few hours a day. We do have some information on the short-term effects of such separation. Keister (1970b) analyzed studies of babies who grow up in homes where they have "multiple mothering," studies on the effects of maternal employment on children, and a study of a university-based day care program. From her analysis she concluded: "No study of short-term intermittent separation from the mother has thus far demonstrated the damaging consequences seen in 'institution' babies (p. 9)".

Although none of the studies analyzed by Keister and none of the university-based American day care studies have demonstrated gross pathology due to separation from the mother, perhaps separation has subtle ill effects. The Children's Center at Syracuse studied some of the subtler effects of separation due to day care. The Syracuse project found that at approximately 30 months of age, following an average of one and one-half years of full day care at the center, the day care children did not differ significantly from the comparable home-reared children in terms of their general emotionality, rating of mother-child attachment, or maternal emotionality (*Programs for Infants*, 1970). The Longitudinal Day Care program, federally funded in Fiscal Year 1971, will also be studying some of the subtle effects of separation. This study includes an assessment of the effect of early mother-child separation on subsequent relationships with parents and on ability to cope with new situations and interact with peers and new adults. There is need for further studies of the subtle effects of separation. In addition, there is presently information on only the short-term effects of separation. There is a need for also measuring more long-range effects of separation.

Besides looking at the overall effect of separation on a heterogeneous group of children, as has been done up to now, one might also look for differential effects of separation on children differing in various ways. For example, the research of Schaffer and Emerson (1964) indicates that infants who had strong principal attachments were attached to a greater number of other adults than were infants who had weak principal attachments. This suggests that we might find separation from the mother to be easier for those infants with a strong attachment to the mother than for those with a less strong attachment. It also suggests that separation may be easier for infants who are provided with a strong, consistent relationship with one particular caregiver in day care than for those with a less strong relationship with one caregiver. Some other comparisons which might show differential effects of separation are those between children of different ages, sex scio-economic background, and temperament.

Impact of Change Within or Between Programs

Due to the high rate of geographic mobility and job turnover in this country and to natural changes in abilities and interests of a child as he grows older, children go from one day care arrangement to another and from day care to various school experiences. Also, staff and teachers within a program change frequently.

It would be of interest to study the impact of changing from one type of program to another. Are some sequences better for children than others? The ongoing study of Louise Miller which involves comparison between different preschool programs is dealing with this question for preschoolers. A study dealing with this question in relation to younger children would be of interest. Besides looking at the characteristics of different programs in determining optimal program sequences, one might also consider the relation of various child characteristics, such as age, socio-economic background, and intelligence, to the impact of various program sequences.

Effect of Peers Children's Group Dynamics

It is generally agreed that a low children-to-teacher ratio is desirable. This implies that the relationship of the children to an adult is of great importance. Perhaps at least as important in children's development are their relationships with other children.

Coleman (*Equality*, 1966) reported that for children 5 to 19 years of age there is a strong relation between pupil's achievement and the educational backgrounds and aspirations of other students in the school. Indeed, the composition of the student body was found to be more important in predicting pupil achievement than such characteristics as school facilities, teachers, and curricula. This fact may account for the persistent finding that, after leaving an intervention program, children do not maintain the rate of development they achieved while in the program. In other words, perhaps after leaving these programs these children were greatly affected in public school by their peers whose educational attainments and aspirations were low.

Wolff and Stein (1966) found that when 50% or more of a grade school class had attended Head Start, the rate of gains attained in Head Start were maintained. When 25% or less had attended Head Start, the differences in rate of development between those who had and had not attended Head Start were most likely to disappear. Datta (1969) viewed this finding as support for the hypothesis that the public school teacher sets the level of activities for the group as a whole. This finding might also point to the effect of peers on pupil achievement. From the above we see that there are indications that peers affect a child's achievement in school. Very little is presently known about the dynamics of such an effect or about the dynamics of children's behavior in groups in general. A few examples of information in this area can be cited. For instance, Dennis Smith (1969) found that preschool children produce more complex and lengthy sentences when in a peer situation than in a teacher-child situation. J. Conrad Schwartz (1968) found that preschool children were more secure and more verbal when they worked or played in a novel situation near a friendly and known peer. Such research results give us leads to ways one might use the dynamics of children's group behavior to enhance development and learning. The day care setting could provide much data on children's group dynamics. It could also be a place where one could attempt to use such dynamics to enhance development.

Age mix

Preschool and public school children have traditionally been grouped by age in yearly intervals. With such a grouping one would supposedly not need as wide a range of materials and activities to interest and challenge all the children as one would need with a wider age grouping. Grouping by yearly intervals was intended to allow a child to associate with others very close in interests and abilities to himself.

Recently some day care centers (e.g., the Syracuse Children's Center and the Longitudinal Day Care Program) are using a wider age grouping than the traditional one. The R & D Plan of the Office of Program Development, Office of Economic Opportunity, will also be looking at the issue of age grouping. Very little is yet known about the effects of a broad age mixture. An example of the little we do know in this area is the finding of Tizard (1970) that nurseries in which the children's language development was highest were also characterized by a smaller proportion of children under three.

The above finding of Tizard (1970) points to one of the supposed advantages of wider age grouping—that the younger child would have a learning model much closer in style and ability to himself than an adult. Other potential advantages of a broad age mixture are as follows. It could free the teacher more as the older ones could help in teaching and caring for the younger ones. Older children would have opportunities to use their competence in a helpful way and develop patience and compassion. Siblings in the same center could be together maintaining closer family ties. The situation in general would more closely approximate that of a family setting.

Current and future day care programs using a relatively wide age mix could test whether the supposed advantages of a wide age mix are borne out in fact. Perhaps certain age groupings are very good for some types of activities but less so for others. What arrangements of equipment and furnishings are best to accommodate a wide age range of children? What modifications of staff behavior are helpful in adapting to a broad age mixture? How can staff facilitate constructive interaction between children of varying ages? These are the types of questions which need to be answered in relation to the age mixture of children in a day care setting.

Socio-economic and/or ethnic mix

With the recent efforts in our society toward increased socio-economic and ethnic integration come many questions about the impact of such integration on the children involved. Coleman (*Equality,* 1966) found that, in terms of the peer group effect on pupil achievement, the effect of ethnic mix differed for different ethnic groups. Coleman, for all practical purposes, equated "minority" with "lower socio-economic background." For children from five to nineteen years old, he found that if a white pupil from an upper socio-economic level is put in a school where most pupils do not come from such a background, his achievement will be little different than if he were in a school composed of others like himself. But if a minority pupil from a lower socio-economic level is put with schoolmates from a higher socio-economic background, his achieve is likely to increase. Thus, Coleman found no negative effects of socio-economic/ethnic mixing.

Two studies suggest that socio-economic mix may sometimes have less than beneficial effects on the children involved. Rosenfeld (1967) found that children from a lower socio-economic level do not perform well in a competitive situation with middle class children, appearing to lose the self-confidence and skills they demonstrated with another child from the lower socio-economic level. Stodolsky and Jensen (1970) found that when small groups of preschool age children from low socio-economic levels were placed in classes with a majority of children from higher socio-economic levels, a peer mix occurred initially. However, as time went on the socio-economic groups increasingly rejected each other and remained within their own group.

The above findings suggest that the effects of socio-economic/ethnic mixing may be very complex. Further work is needed on the finding reported by Coleman of differential impact of socio-economic/ethnic mix on children from different socio-economic/ethnic groups. Stodolsky's and Jensen's (1970) finding of changes over time in the effect of socio-economic mixing points to a need for investigation of the effect of socio-economic mix over a relatively long time span. Various other factors may also affect the outcome of socio-economic/ethnic mixing, such as age at which it is initiated, the proportion of various socio-economic/ethnic groups, and parents' attitude toward such mixture. It would also be helpful for day care studies to look for and try out methods by which a teacher could maximize the benefits of socio-economic/ethnic mixture.

Since a wide range of socio-economic level is represented within the various ethnic groups, it may be important to consider socio-economic mix and ethnic mix separately and to examine the effect of interaction between these two variables. For example, is the effect of socio-economic mix different when the mix includes various ethnic groups as compared to when it includes only one ethnic group? Also, does the effect of an ethnic mix vary when it includes socio-economic mix as compared to when it does not?

Special Groups

There are many children with various kinds of special problems or characteristics, such as children of ethnic minority groups who do not speak English or are bilingual, children of migrant workers and children who are emotionally disturbed, physically handicapped, or mentally retarded. For each of these special groups the question arises as to what type of day care program would be best and what the effect is of combining these children with others who are without these special characteristics or problems.

Summary of Research Issues Related to the Impact of Day Care on Children and the Effects of Various Child Characteristics on Day Care

Summary of the issues for future research related to the impact of day care on children and the effects of various child characteristics on day care includes:

Measuring the impact of "typical" day care programs within the community.

Measuring the long-range impact of separation from the mother and of day care in general.

Measuring the subtle effects on children of separation and of day care in general.

Possible differences in the impact of separation from the mother for children with different characteristics and backgrounds.

The relation between the nature of the child-caregiver relationship and the impact of separation from the mother.

The impact of changing from one type of program to another.

The dynamics of children's behavior in groups.

Effects of various age mixtures.

Effects of socio-economic and/or ethnic mix.

Optimal day care experiences for children with special problems or characteristics.

Day care curriculum

This section will discuss three sources of curricula which can be used or adapted for use in day care programs—curricula developed by preschool education programs, by infant stimulation programs, and by day care programs themselves. For each of these curriculum sources, we shall consider the dimensions upon which different curricula vary, evaluation of the differential impact of different curricula, and replication of program models.

The three curriculum sources just mentioned provide curricula either exclusively or primarily for children five years of age or below. However, there is also a need to consider what types of programs can be provided for older children after school and during school vacations. This section will end with a discussion of care for older children when they are not in school.

Throughout this section relevant questions for future research will be raised.

Preschool Education Curricula

There is a large variety of educational or developmental curricula for preschoolers. In Parker et al. (in press) forty such programs are described. Some of the dimensions upon which these programs vary are those of cognitive-social/emotional development, structured curriculum—"discovery" approach, acquisition of particular skills—acquisition of generalized modes and processes of thought, and one-to-one group instruction.

There are several recent or ongoing projects which have compared the effects of different preschool curricula. The First Year Report of the ongoing Head Start Planned Variation study nicely summarizes the various outcomes to date of such comparative studies:

"When Planned Variation was undertaken in 1969, two patterns of programs' effects had been documented in research projects involving a small number of models and children in particular locations. One comparative evaluation (Weikart, 1969) had demonstrated an *equality of effects* of well-implemented programs: three different preschool curricula, all with highly trained teachers and careful program supervision, had produced approximately equal gains in children's cognitive performance and academic achievement.

"Several other comparative evaluations (Di Lorenzo et al., 1969; Karnes et al., 1969; Miller and Dyer, 1970) had yielded findings consistent with the notion of a *specificity of effects*. In each of these comparisons, programs with particular emphases and well-formulated objectives in specific areas did indeed have larger effects in these areas than did other programs.

"The pilot year Planned Variation findings suggest that a global appraisal supports the equality of effects pattern, but more differentiated analyses point to a pattern of specific effects. Equal effects of well-implemented curricula were reflected in the fact that although there were some significant differences among models, the more striking findings concerned the large effects of all well-implemented classes and the frequent (although small) favoring of model over "regular" classes. At the same time, a specificity of effects was manifested such that programs with well-formulated objectives in particular areas did produce effects consistent with their orientations (p. 30)."

So far, of course, only short-term data are available from the Head Start Planned Variation study. As more time passes, such studies as the ongoing Head Start Planned Variation study, the Follow Through program, and the controlled comparison study of Louise Miller ought to give us important information on the differential short- and long-term impact of different preschool and elementary school programs. In addition, they ought to help in identifying which particular aspects of different programs are related to which particular effects.

Setting up controlled comparisons between different curricula, as in the studies just discussed is one way of gathering information about which curriculum to use for what purpose. Another way to gather such information is to study the differential characteristics and needs of different types of children. For example, Lesser (1965) reported finding differences in configuration of mental abilities between first graders of different ethnic backgrounds—specifically, between Jews, blacks, Puerto Ricans, and Chinese. The mental abilities differed in degree between low and middle class members of the same ethnic groups, but not in terms of configuration. Another case of possible differences between groups of children which could have implications for child care programs was pointed out by Elkind (1970). He stated that at least for the middle class child there is no preponderance of evidence that formal instruction is in any way superior to the traditional preschool. We may find that various types of preschool educational curricula have differential impact on children from low socioeconomic backgrounds but do not have the same kind of, or any, differential effects for middle class children. Such information about different characteristics of different groups of children may be helpful in both the planning of an operational day care program and in providing hypotheses to be tested by day care research.

The initial results of the Head Start Planned Variation program and the program of Louise Miller demonstrated at least moderate success in replicating various preschool models. The Head Start Planned Variation study found that various factors influenced the success of implementation of the early education models. These factors include the amount of pre-service and in-service training and program supervision provided by a model, the adequacy of facilities and materials in a particular Head Start center, and the political stability of a Head Start center within the community. In addition, some models may need more time than others for successful implementation. In the Head Start Planned Variation study (1971), it was found that "models that resembled 'packages', having many explicit, teachable components were more easily implemented during this first year than models in the form of highly flexible advisory and consultant systems (p. iii).

Infant Stimulation Curricula

Several infant stimulation curricula have been developed (e.g. Gordon, 1961; Parker et al., in press; and Schaefer and Aaronson, 1971) or are in the process of being developed (e.g., the study entitled Manifold Intervention Studies and the Curriculum Research in Infant Education being carried on at Yale by William Kessen and Greta Fein.)

Infant curricula generally vary from each other on dimensions which are the same as or similar to those on which preschool curricula vary. They vary along such dimensions as cognitive-social/emotional development, structured curriculum—"discovery" approach, and emphasis on specific skills—provision of a wide variety of experiences. We are not yet at the stage of controlled comparisons of different infant curricula. This is an area open for future research.

Research in the area of differences between individual infants in such characteristics as temperament, responsivity, and sensitivity to various sensory modes of stimulation is growing rapidly. The results of such research may provide day care programs with ideas about what types of curricula would be effective for what types of infants.

No carefully controlled studies have yet been done on replication of infant stimulation models. This is another area open for future research.

DAY CARE CURRICULA

Each of the model day care programs mentioned in Chapter II of this paper has developed or is in the process of developing schedules, operating principles, and specific activities for use in a day care program.

Various issues are involved in past, current, and future efforts toward developing curricula for day care programs. Day care programs could and often do incorporate curricula developed by preschool and infant stimulation programs. These curricula were generally developed for programs of much shorter daily duration than that of day care programs. Therefore, a question to be considered is whether curricula from these other programs are sufficient for a day care program. Due to their greater length per day, day care programs may have to modify curricula from other programs and/or develop additional program material.

Such activities as long naps and one or more full meals are part of a day care program but are not generally included in infant stimulation and preschool programs. Bathing and dressing infants and carrying out toilet training for toddlers are some other activities involved in day care programs which are not generally part of shorter programs for young children. There is a need to develop procedures for carrying out these activities which will enhance the development and well-being of the children.

Due to the great amount of time each day children spend in day care, such programs perhaps need to give greater consideration to various program dimensions than do shorter programs for children. Prescott and Jones (1970) mention several such dimensions: expression—control of emotions, nurturance—promotion of independence, promotion of individuality—promotion of group membership, close adult supervision—freedom from adult supervision, activity—inactivity (rest), choice among activities—assigned tasks, large-small muscle activities, flexible—fixed time schedule; stable, safe environment—varied, challenging environment, rich natural environment—rich manmade environment.

As of yet, there have been no carefully controlled comparisons between different types of day care curricula. Future researchers might consider setting up such comparisons. Involved in such an endeavor might be efforts to find out which curricula are optimal for children of varying characteristics.

Some work on dissemination and implementation of day care models is already being done or planned, e.g., the Vermont Study and the R & D Day Care Plan of the Office of Program Development, Office of Economic Opportunity. Such work is especially needed in light of the expected great increase in day care.

Care of School Age Children

For many school age children there are several hours each day when school is not in session and when parents are not at home. Children whose school system operates on a split-shift basis spend even more hours outside of school than do other children. There are also lengthy school vacation periods during which children need care.

The Westinghouse-Westat Day Care Survey indicates that only 3% of school age children are in known before and/or after school care of all sources. Within this 3%, 54% are cared for in family day care homes and 37% attend day care centers. The remaining 9% receive care in the public schools.

We see that a very small percentage of school age children are in known before and/or after school care. We need information on the before and after school child care provisions made for the remaining population of school age children and the demand for various before and after school child care services. We also need information on the availability of and need for child care services during school vacation periods. Surveys of services provided by such resources as state and local recreation departments; park boards; nonprofit public agencies as settlement houses, Boy's Clubs, and YMCA's; and private camps would be very helpful in supplying such information.

We might attempt to measure the impact of existing or future child care for school age children on the children, families, and community. Family day care is the type of known before and/or after school care most frequently used at present. What are the advantages and disadvantages of such care for school age children?

We might also consider what additional kinds of child care services for school age children could be offered. Various child care services for children in Scandinavia might provide good ideas for services for preschool and school age children in this country. In Norway adults called "park aunts" are employed to look after preschoolers in parks and on playgrounds. The park aunts are initially given a six week orientation course and training in first aid (Mueller, 1971). Swedish university students use a three family system of child care. Children from three families and a nursery nurse spend a week in each of the homes of the three participating families on a rotating basis (Mueller, 1971). In Denmark children of working parents are eligible for after school care, frequently in the neighborhood child care center which they attended as infants. Supervised recreation and facilities for doing reading and schoolwork are provided at the centers. The activity rooms used by the older children are used for recreation programs for the elderly during the morning hours (Wagner and Wagner, 1971).

Summary of Research Issues Related to Day Care Curriculum

A summary of the issues for future research related to day care curriculum includes:

Development of additional infant stimulation and day care curricula.

Controlled comparisons between various preschool curricula, between various infant stimulation curricula, and between various day care curricula.

Determination of what kinds of curricula are effective for what kinds of children.

Demonstration and examination of the process of replicating program models.

Determination of available sources of and demand for child care for school age children.

Development of additional child care services for school age children.

Measurement of the impact of child care for school age children on the children, family, and community.

Research issues relating to the families in day care services

Research about families of the children in day care include the following general areas:

How families select a particular kind of day care service and how satisfied they are with the service; the amount of congruity there is between parents child-rearing expectations and that of the day care service.

Issues of parent involvement, including participation in decision making roles, parents as staff or as teachers of their own children.

The extended family and their role in providing day care services.

Family mobility, both geographic and social and its relevance in day care situations.

How Families Select a Day Care Arrangement

Since the majority of arrangements for day care made by parents are informal, not a great deal is known about them. What little is known about how parents select *formal* day care arrangements may also be applicable to all parents, but until this question is examined, we will not know for sure. A few studies (Westinghouse; Sale) have indicated that the cost of the day care arrangement and its proximity are important criteria for selection. Mothers seeking day care arrangements tend to find out about available sources from other working mothers in the neighborhood and explore these first. The Westinghouse report also states that "care in the child's home is the type of arrangement that has greatest acceptability among mothers in the target population. It is used most frequently by working mothers and cited most frequently as their preference, if they want to find work, by nonworking mothers." Of the working mothers surveyed by Westinghouse, about a third of those who were dissatisfied with their present arrangement stated that they would prefer a day care center.

Until working mothers have more alternatives available to them, the choices they presently are making may be influenced more by availability than by preference for one or another type of day care. While the Westinghouse study questioned parents about their satisfaction with their existing day care arrangements, there is reason to question the validity of the findings because of the way in which the questions were asked. Further investigation of parents preferences and satisfactions in day care are indicated.

The amount of satisfaction with a particular day care arrangement depends in part on the amount of congruity there is between parents' childrearing expectations and that of the day care center or service. As previously reported, Prescott and Jones (1967) found that there was more congruity between parents expectations and that of the staff in proprietary centers, and these were also more eager to please the parents. We know that when there is a great deal of distance between what parents expect and what day care staff and administration expect, both are dissatisfied. Hess, et al. (in Grotberg, 1971), states, "The intensity of dissatisfaction among these groups can easily be underestimated. In our conversations with the representatives of a small number of community, social, and political groups, a common theme of resistance to and rejection of governmental (national and local) programs emerged repeatedly." Hess and his co-authors describe the targets of some of this dissatisfaction—towards universities, business and government, and the programs they have in the past operated. The extent of this dissatisfaction, and the nature and focus of it may be an important research issue. We need to know more specifically whether the dissatisfaction is because of issues of control of services and funds, employment of staff, or of program content. We need to know more about the things which satisfy parents. The Westinghouse study of the impact of Head Start on the children found that nine out of ten parents felt that Head Start had helped their children, but we do not know the *ways* in which the parents felt that they were helped. If we did, we might know better how to satisfy parents and help children.

Parent Involvement in Day Care Situations

Parents have been involved in four ways in Head Start and other early childhood intervention programs: in decision-making positions on boards and committees, as employed staff or volunteers in the delivery of services; as teachers of their own children; and as learners in adult education and employment training programs.

The Westinghouse survey indicates that *representation* on decision-making boards is far greater in centers funded by OEO or other federal agencies, but we do not know much of the nature or impact of this representation on the content or operations of the day care program. Information on parent involvement as decision-makers in Head Start is available; but most of this information also deals with the number of positions on boards and committees, and the frequency and number of months of attendance at meetings. The Kirschner Survey (1970) of the impact of Head Start on community institutions found that particular Head Start Advisory Groups and parent groups were directly involved as primary change agents in the community. We do not know the extent to which these data will be applicable to day care since it is very likely that the entire relationship of the parent to the day care situation will be different from in the Head Start, and we have yet to explore the parameters of this potential relationship. There are data indicating that this participation must be intensive for it to have a measurable effect. As Stearns, in her review of research in preschool programs (in press), states:

"It is a fairly general finding that induced parent participation does not make a noticeable difference in the preschool child's performance unless that participation is fairly intensive, that is, at least regular attendance at weekly meetings focused on a fairly narrow topic. It is unlikely that monthly evening meetings with parents on topics of child-rearing, intellectual development, 'What permits can do,' etc. has a measurable influence on children's performance."

This finding would raise the question of how effective the involvement of working parents, mothers in particular, can be expected to be in day care programs. It is most unlikely that a working mother could manage her home and job *and* participate in any but an occasional way. Stearns states further,

"The effective parent participation programs seem to be almost indistinguishable from volunteer teacher programs. That is, the more the parent is viewed and views herself as an educator of her child, and the more she is provided with ideas and 'lessons' and specific methods to use with her child, the more effect she has on the intellectual development of all the young children in the family."

The need to explore effective ways to involve working parents in their limited available time is a priority need. The relevance of parent involvement to the achievement of their children in later years is summarized by Schaefer (1971): "The amount of parent involvement in the child's education may explain up to four times the variance in Child's intelligence and achievement test scores at age 11 as the quality of the schools."

Innumerable programs have been developed and operated in which *parents are employed or work as paid staff* or volunteer-teachers in programs for their children. These range from co-operative nursery schools, various public school programs, Head Start, and community based programs sponsored by churches or civic organizations. The employment of parents as staff in Head Start and similar intervention programs allows for a maximum participation of the parent, and consequently the maximum opportunity for impact. The impact of some of these 'parent as staff member' in programs has been reported by various researchers, and their findings summarized by Stearns (1971) and Jacobson, (1971). They report that all studies report that the low-income parent employed as staff show positive changes on the variables measured; some also report that these positive changes are reflected in their children's achievement. The Kirschner report on the first year of operations of the Parent-Child Centers found that those parents who were employed as staff showed more positive changes than other parents. It should be pointed out, however, that when we talk of "parents" as staff, in all but a very small percentage of cases, we are talking about "mothers" as staff. The effect of the mother's employment on family structure, interaction and stability has not been examined. Systematic follow-up on these and other variables is needed.

Parents have always been involved as *teachers of their own children*, and in recent years various programs have been developed to structure the nature of the participation in the learning situations of their children. Programs pioneered by Ira Gordon and Earl Schaefer have multiplied. A major new thrust in this direction is the development of Home Start by the Office of Child Development. In a recent survey conducted for OCD by Childhood Resources, Inc., they found a total of 54 home based programs now in operation. Of these, four were day care programs for preschool children with a strong developmental emphasis, and 14 were research or model demonstration programs. Building on these and the experience gathered in Head Start, it can be expected that more and more programs will be developed along the "parent as teacher" model.

Parents have also been involved in *adult educational programs* to increase their own homemaker, employment, or basic education skills, including understanding of child development. It can be expected that day care parents may be more involved in adult-education and training programs than in other forms of parent involvement, since the provision of day care will allow teenage mothers to complete their education, and mothers to enter work training. Some of these training programs may be sponsored by the day care service, some coordinated with day care, and others totally unrelated. We need more information about the kinds of education and training experiences day care parents need and want.

In evaluating the impact of parent participation programs, there are many selection factors and variables which need to be controlled for, (i.e., parents who participate have higher I.Q.'s than those who don't, are upwardly mobile and more motivated, etc.). Nonetheless, there appears to be a correlation, if not a causal relationship between the amount of participation of the mother and the learning gains of the children. (Stearns, in press). Most evaluations of impact on parents of early childhood programs or day care services have investigated the relationship of the intervention to a particular outcome: reading achievement of the child, disciplining methods of the mother, self concept of the child, employment of the mother, etc. As Stearns, point out:

"Effects for the worse on poor families stemming from parent participation in the conduct of the programs have been even less systematically studied than positive effects. We do not know whether, in any instances, having responsibility for directing programs has led to more marital instability, less responsibility for care of children, more alienation, disillusion and corruption."

There is some fragmentary evidence that increased employment of mothers may have increased marital tension as a result of the wife's success in the employment as staff in a preschool program. In addition to these potential effects described by Stearns, we need to know more about changes positive and negative, in the family life as a result of the day care situation releasing the mothers for work. We need to know about the impact on the mother's self-concept as well as that of the spouse. We need to know about the effect on family interaction when the *amount* of interaction is greatly reduced because so much of the day is spent apart from one another.

The extended family and day care

As the Westinghouse-Westat study indicated, the extended family is still providing most of the day care for children in families with incomes under $8000 a year. Since this was the income group surveyed, we do not know the extent to which the extended family provides care for children in families above that level, and such a survey would seem indicated. We need to know more about the characteristics of the family members who are providing this day care, and the kinds and quality of these arrangements.

Until more is known about the extent, quality and needs of these day care arrangements, it will not be possible to determine what kinds of supports, if any, can be made available to the extended family member operating as a day care mother. The supports needed might include the entire range . . . financial, transportation, educational, health and social services, or whatever combination is appropriate and needed in different geographic areas and for different target groups.

Family Mobility and Its Relevance to the Day Care Service

Geographic mobility is a way of life for most Americans. Public schools in some urban areas report that there is between a 50 and 70 percent pupil turnover in inner city schools in one academic year. The amount of turnover of children in day care may be even greater, since in addition to the effects of geographic mobility, children are placed in and out of day care situations due to irregular employment of the mothers, and because of changes in family structure. In contrast, children in elementary school continue attendance whether or not the mother works or a relative moves into the home. We need to know more about the effects of irregular attendance on the individual child, on the peer-group children, and on the operations of day care situations. We need to know also if providing quality day care acts to stabilize this family mobility, as has been reported for some of the day care demonstration models (Keister, Caldwell). The question of how to assist families in selecting new day care programs similar to the previous program should be examined. This might help reduce the effects of different child-rearing styles when children are shifted from one day care situation to another.

Summary of Research Issues Relating to the Families in Day Care Services

We need more information and research on the following issues:

The criteria parents use in selecting day care services.

The extent to which parents are satisfied with the day care arrangements they already have, and what preferences they would have if a greater range of choices were available.

For those parents who are dissatisfied with present arrangements, what are the sources of the dissatisfaction.

For those parents who are satisfied with the present arrangements, what are the sources of their satisfaction.

We need to know more about the influences that parents have on program operations when they are involved in decision-making positions on boards.

There is need to know to what extent working parents can be involved in decision-making and operational aspects of day care programs and if programs are altered in significant ways when parents are involved.

There is need to learn effective ways to involve parents in day care programs.

We need information about the extent to which day care programs serve as employers of parents.

Program development is needed on how to help working parents function better as teachers of their own children.

The range of education and training experiences day care parents want needs to be surveyed.

The impact of the mother's employment within the day care center or elsewhere, on the family interaction, structures and stability needs more investigation.

The effects of the mother's employment on her self concept and that of her spouse needs more study.

The impact on the family of reduced interaction when so much of the day is spent apart from one another is an issue for further study.

We need studies to find out more about the characteristics of members of the extended family now providing day care.

We need to learn about the nature and quality of the day care provided by the extended family.

There is need to study the needs to children being cared for in the extended family to find out what kinds of supports can be made available if needed.

Data on the age at which children first enter day care, the number of months in one setting and the rate of turnover need to be collected.

The effects of a high rate of child-turnover on the day care operation, on the child, and on the family needs investigation.

We need to know more about ways children can be prepared for shifts in day care arrangements.

There is need to explore how mobile families can be assisted in selecting new day care arrangements which are congruent in program style with the previous day care program.

Support services in day care programs

Support services in day care programs include components to provide for the Physical and Mental Health of the children and their families, Nutrition and Social Services. These services have long been present to some extent in most day care centers and systems, but recent federally funded programs, primarily Head Start, have increased the emphasis of the need for these supports in comprehensive programs to low income families.

For the most part, research in these program components has not kept pace with the growth in services. Grotberg (1969) in her comprehensive review of research in Head Start, comments on the paucity of research proposals submitted in the area of health and nutrition. As indicated in the following sections, research conducted specifically on health and nutrition needs of children in day care is very sparse, though the areas for potential research are many.

Research in Physical and Mental Health Services

Most studies of health services in child care are largely descriptive and are in the following areas:

Descriptions of the extent of Professional Involvement: of physicians in the Public Health Service, (Peters, 1964) and private physicians (Scurletis, 1966). Recent increases in funding for public medical services to young children, through Head Start for example, are altering the situation so rapidly that more current data are needed. The anticipated provision of extensive day care for infants and toddlers means that we also need data from the categorical programs such as those developed through Maternal and Child Health and State and County sponsored well baby clinics.

Surveys of Health Needs and Health Status: One study focused on health practices and problems in community Day Care settings was conducted by Morris (1964). The extensive survey of Head Start children conducted through the Census sample and reported on by North (1969) and Hunter (1970) presents data on the health and immunization status of Head Start children. Data on existing health defects, including those discovered and treated prior to Head Start and those discovered in Head Start are presented. As might be expected of a group of low-income children, the immunization rates are lower than for the general population of children of similar age, and the number of untreated medical and dental needs greater. The Hunter study also provides information about the amount of treatment provided in Head Start based on reports of the parents. One study of the relationship between hemoglobin and intellectual functioning was conducted using Head Start children. (Munro, 1968).

Epidemiological Studies of Respiratory Infectious Disease among children in demonstration day care centers. For many years standards and guidelines for operating centers and programs for young children have recommended that children with respiratory infectious disease be excluded until they have recovered from their symptoms. This of course presents a hardship for the mother who must be on her job in spite of the child's illness. Evaluation of health standards for exclusion of ill children have been examined by two of the experimental day care programs: Caldwell at the Syracuse Center and a more extensive investigation at the Frank Porter Graham Center in Chapel Hill. Some of the findings of the Chapel Hill project include: "A summary of respiratory disease experience based on nearly 100 child-years of observation (1966–70) reports approximately 8.5 respiratory illnesses per child-year. The rates were highest in children under one year of age—slightly over 9.5 illnesses per child-year—and slowly dropped to less than seven respiratory illnesses per child-year at age five. . . ." (When illnesses were limited to those associated with the presence of fever) the rate dropped to 3.1 febrile respiratory illnesses per child-year for all children and 3.8 for infants. (Ann De Huff Peters, M.D., in Grotberg, 1971, p. 321).

Dr. Peters goes on to state, "It is difficult to compare illnesses rates in the children at the Frank Porter Graham Center with published data on illness rates because of the variance in methods of surveillance, criteria for illnesses and differences among the surveyed socio-economic groups." Nonetheless, Peters states that the rates of Chapel Hill infants are quite similar to those found by the Cleveland Family Study Center over a 10 year period among middle class children reared at home.

It has been traditional in day care services to isolate children who become ill while in attendance as well as to exclude at the beginning of the day those who show symptoms at morning inspection. Most centers have provided an isolation room where children can stay until picked up by a parent. Peters reports that this was not found to be necessary at the Frank Porter Graham center, though she cautions that this center had a very high level of staff training and health care which might be difficult to duplicate.

There is need to replicate existing epidemiological studies of respiratory disease among children care for in various types of day care arrangements as compared to children in their own homes. Further investigation is neded on the question of whether to exclude and/or isolate children with infectious diseases from group care settings, and if so, at what ages.

Studies of Mental Health Aspects of Children in Day Care. There is a great deal of concern among mental health specialists—psychiatrists, psychologists and social workers, about the short and long term effects of day care on infants and young children. The amount of research data available in no way matches the extent of concern.

Opinions among professionals range on the one hand, from fears that infants placed in inadequate group care settings may suffer from marasmus, to optimistic hopes on the other, that day care will provide the panacea for intellectual development of low income children that once was the hope of other preschool programs. A review of the psychoanalytic concerns about the potential hazards of group care of infants and toddlers is presented by Meers in Grotberg (1971). It includes a discussion of a number of areas of concern in which research data are needed:

Data are needed on the presence and/or prevalence of such catastrophic conditions as anaclitic depression and hospitalism among infants in day care situations.

Studies of incidence of pathological maturational adaptations within various day care centers and services of children at various ages as compared with the prevalence in control groups.

Data on prevalence of gross pathologies such as marasmus, autism, childhood schizophrenia, and psychopathic disorders.

Data on less drastic impediments such as flattened affect and fear of close attachments.

Because this particular survey is concerned with potential psychological *damage* inherent in group care of infants, it does not imply the extent to which we need research data on the potential psychological *benefits* possible as a consequence of day care for infants and toddlers.

Potential benefits range from extremely short term, immediate issues such as the extent to which the child is happy in the day care situation. As Zigler (1970) has pointed out, the child's present feelings of well-being ought to be of concern in children's programs. A study of Head Start children by Dittman et al., (1970) attempted to answer the question of whether the children were better off in the preschool setting than they would have been at home. The study found that they were exposed to many new experiences through Head Start and that the preschool provided a central focus for their day.

Other studies of social-emotional impacts on development of preschool children are concerned with trying to measure specific areas such as the child's concept of himself and perceptions of others, and of social behavior of the children in the classroom situations. There is some evidence from various studies (Beller, 1969, Weikart, et al., 1970) that preschool sometimes gives children an increase in desired social skills. This evidence is not conclusive, and we do not know the extent to which the limited findings can be applied to children in full day care or to children younger than three years of age.

We need data on the social development of day care children of all ages, in all kinds of day care situations before we have adequate information to support or refute the fears or dreams of mental health professionals. We also need better methodological and assessment techniques in these areas.

Research or reviews of the standards, licensing and supervision of health programs in Day Care settings. Day care standards have been set or described by a variety of different bodies including the *Federal Day Care Requirements* adopted by Federal agencies, by most states, many cities, by the Academy of Pediatrics Committee on the Infant and Preschool Child, and by 4–C Committees. These requirements need to be assessed periodically as new information and data suggest changes or revisions.

Research in Systems for Delivering Health Services in Day Care Settings. For the most part, day care services have used the existing systems for delivering health services. These include public health departments, private physicians as well as university medical schools. Experimental approaches to providing direct health services to children in day care, whether center based or in family day care need to be developed, implemented and evaluated.

Innovated Approaches to Staffing of Health Services in Day Care are needed. The ratio of various types of health professionals ranging from pediatricians to licensed practical nurses and nutritionists per 60 children are recommended in the chapters by Peters (in Grotberg, 1970). Included are estimates of how health staff spend their time in day care centers. These recommendations should be most useful for making policy decisions related to the staffing and funding of health service components. Other approaches to staffing of health components need to be developed for particular communities, especially those where health professionals are scarce, where children are in widely separated day care homes and where transportation time and costs are excessive. Continued development and assessment of training programs for nurse-practitioners, paraprofessional medical aides and other innovative health service staff are priority need.

Nutrition

An adequate quantity and quality of nutritional intake is necessary at all ages for adequate growth and development, but there is growing evidence that it is of greatest importance for young infants and children as well as in the final months of intrauterine life.

Anthropologists first noted that children of immigrants born in the United States grew taller than their parents, and that the longer the parents had lived in the U.S. the taller the average heights of the children. The relationship between physical growth and nutrition are now widely accepted by the general population as well as those concerned with nutritional research and its clinical applications. Not so well understood are the functional consequences on behavior of malnutrition. Models for exploring the relationship of malnutrition to behavior among humans have been described by Birch (in Grotberg, 1970).

"At the human level these have consisted of: (a) comparative studies of well- and poorly-grown segments of children in populations at risk of malnutrition in infancy; (b) retrospective follow-up studies of the antecedent nutritional experiences of well-functioning children in such populations; (c) intervention studies in which children in the poor risk populations were selectively supplemented in both of these groups; (d) follow up studies of clinical cases hospitalized for severe malnutrition in early childhood; and (e) intergenerational studies which seek to relate the degree to which conditions for risk of malnutrition in the present generation of children derived from the subnutrition experienced by their mothers when these latter were themselves children." (p. 344)

Birch reviews the evidence from studies in this country and abroad with both human and animal models. He is careful to point out the many limitations of the available information. While the information is not conclusive and the methodology for studying both the nutritional and non-nutritional variables need further development and refinement, he cautiously suggests the following implications:

"The data we have considered make it necessary to conclude that nutritional inadequacies are associated, in both direct and indirect ways with deficiencies in physical and mental development. The evidence indicating that the nutritional insults experienced by children both in utero and in post-natal life influence physical growth and functional competence at later ages of critical importance. The degree to which direct negative consequences for normal nervous system growth and differentiation attach to malnutrition is dependent both upon the degree of severity of the malnutrition and upon the time of life at which it is experienced. The child who as a fetus or infant is exposed to significant degrees of malnutrition is placed at increased risk for abnormal physical and mental growth. The data also suggest that these long-term consequences of these early insults are greatest when, after their occurrence, the chronic circumstances in which the child grows and develops are ones in which both social and nutritional circumstances are substandard." (p. 359)

In spite of any remaining research questions about the relationship between nutritional inputs and behavioral outcomes, day care centers should provide an adequate diet for the children in attendance. These centers and programs may also provide a "captive" group for further nutritional research about the relationship of diet to prenatal and early childhood development.

Among the research needs in nutritional areas suggested by Birch are: longitudinal and follow-up studies of the relationship between nutrition and later behavioral competence; multi-disciplinary studies which control for genetic, as well as social and nutritional factors. Also needed are basic research investigation in assessing nutritional status, protein intake, hemoglobin level and their relationship to intelligence.

Applied studies are needed on how to utilize cultural traditions which provide for essential nutritional needs, and studies to learn how to motivate children and adults to act on the information they already know about adequate diet. These motivation studies would include how to encourage teenagers, particularly pregnant girls, to select a balanced diet rather than the "empty calories of potato chips, coke and candy. There is need to investigate the effects of media advertising on food choices among young children, and to explore the possibility of regulating some of the advertising such as cigarette and alcohol advertising is now regulated.

Social Services in Day Care

Since the turn of the century the profession of social work has been assigned the task of assessing the fitness of child care in various situations whether the care be in the child's home, in a potential adoptive or foster home, or in public programs providing part day or full day care of children. Until very recently, the placement of young children in full day care was viewed as a last resort for emergencies in family life. The development of the welfare system was urged by social workers among others as crucial to keep mothers at home with their young children. Only in the past few years has this been reexamined. The increase in the number of working mothers together with a reassessment of research information about early child development and the effects of maternal deprivation have led to changes in the social work stance toward day care services for preschool children.

In keeping with professional traditions and experience, social workers have been prominent in recent assessments of the quality of day care programs, licensing procedures as well as in the delivery case work services to families enrolled in day care. As advocates for quality day care services, social workers have been active in defining day care in comprehensive rather than custodial terms.

Recent studies within the field of social work have raised questions about the effectiveness of case work in reducing welfare dependency (Wallace, 1967) and juvenile delinquency (Meyer, et. al, 1965). Together with a questioning of traditional professional methods, a growing emphasis on community organization, the use of paraprofessionals, and programs of parent involvement, have led to a redirection of many social service intervention programs.

As with other programs, changes in service patterns have not been accompanied by careful evaluations of new intervention strategies. Though social services to Head Start families include direct case work services, parent involvement and organization of parents for community change, most reports seem to be descriptive rather than evaluative. A review of the literature by Miriam Stearns (1971) does not report any evaluation of the impact of social services programs in Head Start. Likewise, the Kirschner report on the Parent-Child Centers provides an extensive description of the social work service delivered by the centers, but provides only case history assessments of the impact of these services.

This report found that social services were organized around four major areas: meeting (1) the material needs, (2) the social needs, (3) the psychological needs, and (4) the community or environmental needs. It was found that nearly a third of all staff time in the Parent-Child Centers was devoted to meeting the material needs of the families by providing transportation to services, providing emergency food and funds, aiding with clothing distribution, finding housing, and even providing laundry facilities.

Programs to meet the social needs of families included dinners, family game nights, arts and crafts classes, trips, camping, family movies, a library and toy loan and teen activities and socials. The psychological needs were met through a walk-in clinic, family counseling and referral to other agencies for psychological help. Community organization efforts were directed at increasing or improving the quality of educational, health and welfare services in the community and organizing around local issues.

As indicated by the above findings, the range of services provided by the social work component can be very broad. Considering the fact that in this program at least, a third of all staff time was devoted to meeting the *material* needs of the families, further evaluation of the impact of this large allocation of staff time seems warranted. There is obvious value in providing better housing, emergency food for a hungry family and shoes for a child to wear to school. Despite years of social work rhetoric on the subject, divided social attitudes and a variety of legislative actions in the area we still cannot answer the following basic questions:

Is it more expensive to assign staff to locate resources to meet the material needs of clients or to distribute the money and allow the client to purchase what he needs?

Are people made more or less dependent when they are given money to meet their needs? Are there differences between specific groups (age groups—social groups etc.) in development of dependence-independence?

Are people rehabilitated or encouraged in dependency by the provision of massive social service inputs such as are provided by the Parent-Child Centers?

These questions are basic to the field of social work, but can be applied to social service components of day care programs.

In addition to a change in the stance of social work toward day care for young children and the change in kinds of services rendered, there have been major changes in the staffing of many social service components. Social Work was one of the first fields to accept the use of aides or paraprofessionals in the delivery of social services. Head Start programs have made extensive use of social work aides, and some State Departments of Social Welfare have since developed career ladders for social work aides. This is an important development in providing employment for able, but non-credentialed people to work in human services. While many training programs for social work aides have been developed, most have concentrated on training aides to work with low income clients. Since day care programs will serve a broader range of income groups, these training programs need to be adapted to this new client-group as well as for needs unique to day care families.

Support services including physical and mental health, nutrition and social services are important components of day care programs. The research needs in these programs are summarized below:

Physical and Mental Health Research Needs

There is need to develop data on the types and extent of medical services available through state and local health departments for infants and toddlers comparable to the Head Start census data of preschool children.

Existing epidemiological studies of respiratory diseases among children in group care need to be replicated. It is important to use standardized surveillance and criteria in replications so that data from different studies will be comparable.

Data are needed on the presence and/or prevalence of such conditions as anaclitic depression and hospitalism among infants in various day care conditions.

Studies are needed to determine the incidence of pathological maturational adaptations within various day care systems of children at various ages as compared with the prevalence in control groups.

Data are needed on the presence or prevalence of gross pathologies such as marasmus, autism, childhood schizophrenia and psychopathic disorders.

A methodology for assessing mental *health* in young children needs further refinement including measures of social-emotional adjustment.

We need to continue to examine whether children in day care have increased or decreased social skills when compared to controls.

There needs to be a periodic assessment of the federal standards for day care, as well as a review of state laws, regulations and licensing procedures regulating health standards for day care.

New systems for delivering medical services to poor and non-poor children in day care centers needs investigation.

Innovative approaches to staffing of health services day care centers needs exploration along with training programs for medical paraprofessionals.

Nutrition Research Needs

Ongoing studies of the relationship between malnutrition and behavior need to be continued and replicated.

Continued development of a methodology for studying both the nutritional and non-nutritional variables affecting physical and cognitive development is a priority need.

Longitudinal and follow-up studies of the relationship between certain deficits—protein, iron for example, needs continued investigation.

We need multi-disciplinary studies which control for genetic as well as social and nutritional factors to replicate existing studies.

There is need to study how to motivate adults and children to act in accordance with information they already know about good diet.

There is need to investigate the effects of media advertising on food choices of young children.

Social Services

There is need to establish firm criteria and outcome measures for assessing the impact of social service programs.

There is need to examine whether it is more expensive to assign staff to locate material resources than to supply them to needy families.

To extent to which specific groups of people become more or less dependent when money is given to them to meet their needs, needs further research.

We need to examine the extent to which specific groups of people are rehabilitated or encouraged in dependency by the provision of massive social service intervention.

The differences between intervention strategies: case work, advocacy, community organization, confrontation, needs further assessment to identify appropriate interventions for particular circumstances.

There needs to be continued examination of professional social work and paraprofessional roles along appropriate changes in selection and training programs for both groups.

Measurement and evaluation

The goals of the day care program help determine what is to be measured. If the goal is to reduce the welfare rolls, increase employment, reduce sick leaves, or increase adult education, the program would be evaluated in terms of the actual rises and declines on these variables. If a goal of the program was to provide a safe and healthy environment for children, impact might be measured in terms of frequency of accidents and illness. If the goal was to enhance children's development, various cognitive, psychomotor, or socio-emotional measures might be used.

In this section we will first discuss various kinds of measures which may be used—cognitive, linguistic, socio-emotional, physical, measures of the whole child, and economic and political measures. This will be followed by a discussion of various aspects of the measurement process, such as looking at program effects on various homogenous groups, determining causation of program outcomes, studying behavior within different contexts, the added difficulties in replicating model programs due to observer effects and to the effects of being involved in a "special" program, and collecting longitudinal data. Throughout the discussions, measurement and evaluation issues related to day care research are pointed out.

What to Measure Cognitive

The first area of measurement to be discussed is that of cognitive functioning. Many issues are involved in this area. A quite controversial issue is that of the use of psychometric tests of intelligence as a measure of program impact. Kohlberg and Mayer (unpublished manuscript) point out that intelligence as measured by psychometric tests was defined and measured by a strategy for isolating unchangeable capacity. Because this concept of intelligence implies non-modifiability "it cannot possibly provide a basis for preschool educational objectives (p. 38)," claim Kohlberg and Mayer. Along this same line, Stearns (unpublished manuscript) points out that although we know there is a strong predictive relationship between IQ scores and later academic achievement test has not been demonstrated that induced *changes* in IQ score are correlated with changes in achievement. In other words, then, since the psychometric concept of intelligence was designed to measure unchangeable capacity, it may be inappropriate to use this concept of intelligence when measuring cognitive *change*. If one does so, the predictive validity of psychometric intelligence may be different from its predictive validity in the "orthodox" uses of the measure. It may also be the case that as job opportunities for minority groups enlarge and perhaps criteria for school entrance and employment are changed to give minority groups greater opportunities, the ability of IQ to predict educational and occuaptional attainments may be less good than previously.

Several alternatives to the use of psychometric intelligence for measuring the impact of applied programs on cognition have been tried or suggested. Measures of Piagetian developmental intelligence are being developed and tested in various child research projects and are among the measures of impact of some day care programs, such as the Syracuse Children's Center. Kohlberg and Mayer (unpublished manuscript) point out that while psychometric measures of general intelligence at mental age six correlate with Piagetian measures of cognitive level, there is also a common factor to all developmental level tests factorally independent of psychometric intelligence.

They further point out that developmental intelligence does not necessarily entail the characteristic of non-modifiability as does the psychometric concept of intelligence. We need longer term data than is yet available on the ability of developmental intelligence to predict later success. Present day care projects could help provide for the gathering of such long-term data.

Kagan (1971) states that it is useful to regard cognitive development as made up of constituent abilities that operate somewhat independently of each other in the manner described in Guilford (1967). The use of this concept of intelligence in measuring the impact of day care could be looked into further.

Another way of evaluating cognitive development is in terms of cognitive style, which includes such things as analytic thinking, field independence, reflectivity, and delay; and in terms of prudence, which includes delay gratification, time perspective, and achievement motivation. Kohlberg and Mayer (unpublished manuscript) point out that all these traits increase regularly with age in various cultural settings and correlate with intelligence but can be distinguished from it.

They are lower in disadvantaged than in advantaged children and show considerable predictability or stability over time, at least in elementary and adolescent years. All seem more modifiable in preschool and elementary years than psychometric intelligence. More longitudinal work needs to be done before these aspects of cognition can be established as useful aims and standards of day care and educational programs. Day care programs could be instrumental in supplying such data.

Another cognitive measure typically used to evaluate the impact of applied programs for the disadvantaged is that of school achievement. This may not be as important a predictor of life success as is generally assumed. Kohlberg and Mayer (unpublished manuscript) point out that the longitudinal stability or predictive power of school achievement tests is largely due to a factor of general intelligence. They further report that in terms of future job success, high school dropouts do as well as graduates who do not attend college. High school graduates with poor achievement scores and grades do as well as those with good scores. College graduates with poor grades do as well as those with good grades. With IQ controlled, the only way school achievement furthers job success is by facilitating college entrance. (Level of education, in terms of college or no college, produced differences in level of occupation.)

LINGUISTIC

Many tests of language ability have been and are being developed. However, there are many difficulties involved in developing measurement techniques which provide valid indices of children's language abilities. For example, the context within which speech occurs is known to affect the amount and complexity of speech produced. Also, there are many problems involved in deciding upon what the significant characteristics of language behavior are. Thus, developing appropriate instruments for evaluating various kinds of language behavior and interaction is a slow, laborious task. Day care programs could contribute to this endeavor. They could also contribute to obtaining further information about the relation between scores on language measures and later life attainments.

Socio-emotional

Our abilities to assess cognitive and linguistic competence, though still in need of much work, are more advanced than our techniques for assessing social and motivational competencies. Also, there is a lack of consensus about what constitutes positive change in the area of socio-emotional development. Stearns (unpublished manuscript) points out that we do not have enough normative studies for us to know about "natural" socio-emotional development nor enough longitudinal studies to tell us how early traits in this domain relate to adult socio-emotional characteristics.

Kohlberg, LaCrosse, and Ricks (1970) found that the only early childhood variables predicting adult adjustment or mental health are IQ and family background. Preschool dependence, withdrawal, aggression, anxiety, etc. were not found to significantly predict adult maladjustment. Kagan and Moss (1960) found that the long-term effects of dependency behavior as expressed in early childhood are not necessarily predictive of such behavior among adults, although more consistency was noted for girls.

Whatever the relationship turns out to be between preschool socio-emotional development and later life adjustment, knowledge about the relationship will probably have ramifications in planning day care programs. Meanwhile, research in day care programs could help supply some of this needed information.

The point is often made in the day care literature that the happiness, enjoyment, and enthusiasm of the children in the program has seldom been systematically evaluated but that this certainly ought to be involved in determining the impact of a day care program. Along this same line, the enjoyment and enthusiasm of the parents and staff might also be considered as important outcome variables.

Besides measuring socio-emotional characteristics of individuals, one can also examine the *interaction* which takes place between individuals, such as between staff members; between staff, parents, and children; and between children. Hess (1969) studied mother-child communication patterns among different socio-economic groups. He found that the child who did well in school was likely to have a warm, supportive mother who stressed personal-subjective control strategies and avoided imperative commands and status-normative appeals. The mothers of children who did well in school also used effective teaching techniques such as orienting the child to the task, giving specific feedback, accompanying directions with rationales, eliciting the child's interest and cooperation, and giving praise.

Day care programs have barely begun to include evaluation of interaction between individuals involved in the program. The Longitudinal Day Care Program* does include such assessment. The Program in Child Welfare Research** includes examination of the quality of the relationships of children. Day care programs might pay more attention to interaction variables and to determining their relationship to later life outcomes.

Various socio-emotional characteristics of parents and families other than interaction patterns are being studied by some day care research programs (e.g. the Syracuse Children's Center, the KLH Child Development Center,** and the Program in Child Welfare Research at Yale). These include child-rearing attitudes of parents, the amount of stimulation provided for children in the home and the values and life styles of families. The Syracuse Children's Center found that within a group of children from a low socio-economic level, those whose homes provided a greater amount of stimulation made greater cognitive gains and showed greater retention of such gains than those with less stimulation at home. There is a need for more day care programs to evaluate various characteristics of parents and families and to determine the relation between such characteristics and short- and long-term attainments of children. It would also be of interest for day care programs to study what changes occur in these characteristics as a result of participation in the day care program.

Physical

Tests of the developmental level of infants generally include items pertaining to motor and perceptual skills. Such tests of development are typically used in infant day care programs which have an evaluative component. However, day care programs seldom evaluate the motor and perceptual skills of preschoolers. More day care programs involving preschoolers might include measures of these types of skill.

Some university-based day care programs (e.g., programs at Greensboro* and Chapel Hill, North Carolina, at Syracuse, and at Yale) have and/or are including assessment of the health and nutrition of children in day care. More day care programs need to include such assessment. Day care programs could also contribute to our knowledge about the relation of health and nutrition to short- and long-term behavior.

Whole Child

There is a growing interest in the field of child development in evaluating the whole child; that is, in evaluating more than just an isolated aspect of children. University-based day care programs have typically emphasized measurement of cognitive functioning but have generally also included some assessment of various other child characteristics The range and depth of day care assessment might be increased in the future. There might also be more efforts in future day care research to investigate how children with certain *patterns* of various characteristics behave during and and are affected by day care.

Economic and Political

Since the goals of the proposed increase in day care will include such things as a decrease in the welfare rolls and an increase in job holders and trainees, there will be a need to assess whether increasing day care meets these goals.

The Measurement Process

Measurement and evaluation in day care research needs to be executed very carefully. It is often the case that such carefulness is lacking in applied programs with an evaluative component. For example, Hawkridge et al. (1968) found only 21 compensatory education programs out of 1,000 which were free from errors in sampling, design, testing, data recording, or interpretation.

In measuring the impact of day care, it is important to measure *what* works for *whom* rather than just looking at the overall effect of a program on a large heterogeneous group. Toward the end of determining causal relationships between program elements and outcomes, research in day care might include more systematic observation of the specific events which occur within a program and controlled comparisons between different day care programs

In assessing the impact of day care, there is a need to take into account the fact that children's behavior varies in different contexts. For example, it has been found that particularly among black and Puerto Rican children, those tagged as "non-verbal" in test situations with an adult often show remarkable verbal skills when adults are absent. Therefore, there is a need to try to determine the optimal contexts within which to assess various types of abilities.

Being part of an experimental study involves the knowledge that much attention is being paid to the project and the feeling that one is involved in a special, important undertaking. This feeling of being special and important by being part of an experimental program, often referred to as the Hawthorne effect, and possible observer effects within an experimental program add to the difficulty of replicating the program on a wider, "non-experimental" basis. These are some of the factors which make it necessary to carefully investigate the process of replication of a day care program.

Some of the impact of day care on children and families may not become evident until many years after participation in the program has ended. Likewise, some of the effects of day care on society may become evident only after the programs have been operating for many years. Therefore, it is important that day care research provide for measurement of not only short-term effects but also of long-term effects

Summary of Research Issues Related to Measurement and Evaluation

A summary of issues related to measurement and evaluation which need attention in future day care research includes:

Use of cognitive measures other than psychometric tests of intelligence.

Development of linguistic measures.

Normative studies of socio-emotional development.

Evaluating the enjoyment and enthusiasm of those involved in day care programs.

Evaluation of interaction between individuals.

Evaluating socio-emotional characteristics of parents and families.

Inclusion of tests of the motor and perceptual skills of children beyond infancy.

Assessment of the health and nutrition of children.

Determining the relation of measures of cognitive, linguistic, socio-emotional, and physical functioning to later life attainment and adjustment.

More attention to measurement of the whole child.

Evaluation of the economic and political impacts of day care.

Examining program effects on various homogeneous groups.

Determining causal relationships between program elements and outcomes.

Determining optimal contexts within which to assess various types of abilities.

Measurement of both short- and long-term impact of day care.

IV. RECOMMENDED RESEARCH PRIORITIES AND STRATEGIES

Bringing together the pressing social issues underlying current legislative and executive mandates with the present status of knowledge about day care, a number of research issues quickly fall into a recognizable hierarchy of priorities. These priorities are organized under the broad categories of (1) programmatic research, (2) evaluate research, (3) basic research, (4) methodological research and (5) disseminative research. No inference of priority is intended by the order of these categories; rather it is likely that each category needs launching simultaneously with the others. Priorities, where appropriate, are listed within each research category with top priority first.

Programatic Research is defined as that research concerned with development and validation of program components within varying delivery systems. This research area includes appropriate training as well as survey data needed for program planning on a national or local basis.

Some kinds of programmatic research relate to children in all kinds of day care, some relates to center based systems, some to family day care homes and some to informal arrangements as well as extended day care for school age children. Included in the list of research issues are large program issues covering broad areas of delivery of day care components, and some are very specific.

Programmatic Research Issues for All Types of Day Care Planning

There is need to have a variety of types of information about the entire day care market. This includes the population of children now in day care as well as those who might be if a greater variety of types of services were readily available. Research issues which relate to all types of day care are:

A periodic review of federal standards of day care as well as reviews of state laws, regulations and licensing procedures relating to day care programs. Of specific concern at the present time are state laws limiting group care of children under three years of age.

There is need to survey the potential day care market for all income groups.

There is need to survey the extent of unmet medical needs among infants and toddlers. These data should be gathered in such a way that they are comparable with the Head Start census Data on older preschool children.

For future program planning it is necessary to know the extent to which parents with children in all types of day care programs are satisfied with their present arrangements and if they would make other choices if there were greater availability of services.

For those parents who are satisfied, we need to know the sources of satisfaction, and for those who are unsatisfied, we need to know the particular aspects they find unsatisfying.

There is need for more information about the costs of providing day care for infants and toddlers under two years of age in all types of day care arrangements.

There is need to survey the minimum ages at which children are accepted by the various types of day care arrangements as well as the average number of months children remain in one setting.

Examine ways to increase average staff salaries in centers and earnings of day care mothers. Examine the relationship between increased earnings of day care staff and staff turnover.

Programmatic Research Issues in Center and Satellite Day Care

This type of day care includes the concept of the single center, systems of centers, and satellite which includes family day care for the children part of the time with center-based group activities at other times. Programmatic research issues related to center day care include:

Auspices: Develop a feasible plan for integrating the ethnic and socioeconomic mix of children in day care centers.

Explore ways to make center based care as warm and flexible as day care homes are reported to be, and to compensate for inherent limitations of day care centers. These limitations include the lack of privacy for the child, the lack of opportunity to observe adult interactions, to test limits or to express strong emotions.

Examine a variety of approaches for matching demand for day care to the available slots in day care centers.

Explore ways to make publicly sponsored day care centers as responsive to parental wishes as proprietary centers are reported to be.

Gather data on the youngest age at which children are admitted to center based care, the average number of months the children remain in one arrangement, and the costs (not fees) involved in caring for infants and toddlers under the age of two.

Staff: Identify specific characteristics deemed desirable for day care staff, and specify cues by which these traits may be identified during interviews for selecting staff.

Identify new ways to recruit and train directors for day care programs

Develop training programs which will provide for a continuity and consistency of care between caretakers and over a period of time for infants and toddlers.

Develop ways to select and train staff to deal with the broad range of *parents* as well as children in day care centers.

Identify the staff variables and the program variables related to rate of staff turnover.

Experiment with various staff-child ratios to develop widely applicable standards for optional or desirable ratios of children of different age groups, for children in different activities and for mixed ages of children.

Examine various model and quality programs to develop standards of administrative-caretaker staff ratios.

Adapt existing training programs for use in day care settings.

Study the effects of various ethnic mixes among the staff on staff interaction and staff stability.

Study the impact of various ethnic mixes of the staff on the children.

Explore ways of training staff to help prepare children for moves from one day care situation to another.

Children: Determine what kinds of curricula are appropriate for special groups of children.

Study ways to provide a variety of types of stimulation for children of different ages within the limitations inherent in full day center based care.

Explore program needs for children of mixed ages within a day care center.

Study program needs of mixed socio-economic groups. What is required to bring about this mix, including transportation, staffing, special program requirements.

Design optimal day care curricula for children with special problems or characteristics.

Explore ways of providing children in day care with a variety of experiences throughout the community.

Explore ways of providing periods of privacy for day care children.

Families: Examine and describe ways in which mobile families can be assisted in selecting new day care arrangements congruent with previous ones so that children will experience as much continuity of type of care is not of caregiver.

Find out more about the criteria parents use in selecting day care centers.

Medical: Experiment with new systems for delivering medical services to poor and nonpoor children in day care centers.

Develop innovative approaches to staffing of health services of day care centers, develop training programs for medical paraprofessionals.

Programmatic Research Issues in Family Day Care

Auspices: Data are needed on the characteristics of the children, the caretakers and the programs of existing family day care arrangements. Paticularly needed is information about family day care homes that are not affiliated with an agency, and those which accept children of middle income families.

The quality of existing family day care needs assessment, including the relationship between quality of service and licensing status.

Staff: New ways to identify, recruit, select and train family day care mothers are needed. Included here are whatever outreach methods necessary to recruit minority group women as day care mothers.

Examine ways of providing support and relief for family day care mothers, while still maintaining the small number of caretakers which is a major strength of the family day care approach.

Examine ways to reduce turnover among family day care mothers.

Children and Curricula:

Explore ways of introducing an educational component into family day care homes when and where needed.

Study the interaction of the child and the day care mother in the usual setting.

Develop additional curricula materials appropriate to the family day care mother; these materials should take recognition of the conditions of family day care: children of mixed ages, space used for family living and not necessarily child-oriented, etc. In particular, additional curricula materials for infants and toddlers are needed.

Families: Explore ways to involve parents as teachers of their own children, and develop materials appropriate to both parents and the day care mother.

Support Services: Various delivery systems need to be tried to make available support services of health, nutrition and social services when needed.

Research Strategies in Family and Center Based Day Care include:

1. Continued development of demonstration programs which include all components. Information emerging from present demonstrations needs to be incorporated and utilized in the development of future demonstration programs. Of particular concern at the present time are demonstrations for infants and children under three years of age.
2. Isolating and validating individual program components so that they can be adopted by on-going programs. These include innovative and effective models of curriculum, of medical, nutritional or other individual components.
3. Pilot testing of innovative concepts of day care components in research and community settings.

Programmatic Research Issues Relating to Informal and Extended Day Care

More information is needed about the children in informal day care arrangements with relatives, friends or neighborhoods. Survey data of *all* income groups should include information about the demographic characteristics of the children and their families as well as the caretakers.

More information is needed about the present existing community resources providing extended day care for school age children. Such a survey should include information about *all* income groups, include afterschool programs provided by schools, non-profit youth serving agencies, proprietary programs as well as informal arrangements with relatives, friends and neighbors.

Specific research issues cannot be raised until more is known about the existing informal day care arrangements and the characteristics of the caretakers, the users and the quality of care. Therefore the research strategy for this type of day care, which now provides service for the vast majority of children must be aimed at gathering descriptive information. This should include information about the participants as well as what happens during the day under these arrangements. When this information has been gathered and analyzed subsequent research strategies can be devised. Such strategies may be quite similar to, or indeed quite divergent from those suggested for Family and Center Day Care.

Evaluative research

Evaluative research is defined as that research which compares the effectiveness of programs against their own goals as well as established national goals for Day Care. Evaluation of the short and long-range impacts of day care programs on the children, their families, on communities and society are included in this type of research.

The research issues related to day care are divided into three major evaluation strategies: formative, summative and planned variations. Formative evaluations are those which are conducted within a specific program or small group of programs to assess the extent to which the program in general is meeting its own goals, or to provide information on specific questions. Information emerging from formative evaluations may in some cases be utilized in later summative evaluations. Summative evaluations are those conducted at the end of a period of time or within a community, or on a national level.

Formative Research Issues

Auspices: Develop criteria and a method by which the content and quality of services can be monitored in large day care systems, centers, and family day care homes.

Staff: Study the impact of cross-age helping relationships on: the children, teenagers, parents; staff.

Evaluate the impact of male workers in day centers on the center program, the children, the male staff.

Examine the effects of various ethnic mixes among staff on relations, on communication with same and different ethnic group parents.

Facilities: Study the effect of the size of the group on the role identification of the children.

Continue to examine the relationship between the size of the center and quality of care.

Study the relationship between the amount of space and social relationships among children.

Evaluate the effects of the quality of space and equipment on program impact.

The relationship between the organization of space and equipment and impact of program on the children.

Children: Measure the impact of typical rather than model or ideal day care programs on the children.

Measure the long-range impact of separation from the mother and of day care in general.

Study the impact of interaction of the child and the family day care mother on the mother-child relationship.

Measure the subtle effects on children of separation from the mother at various ages and of day care in general.

Study the relationship between the nature of the child-care-giver relationship and the impact of separation from the mother.

Measure the impact of changing children from one type of day care program to another.

What effect does a mixed age group of children have on children at different ages. Does it slow down development of older children? Advance development of younger children?

What is the impact of socio-economic and/or ethnic mix of children at various ages—birth through six.

Curricula: Measure the impact of extended day care for school age children on children, family, community.

Controlled comparisons between various preschool curricula, between various infant stimulation curricula, and between various day care curricula.

Family: What impact does the reduced interaction resulting from day care have on family.

What impact does the employment of the mother within the day care center itself have on the family.

What impact does the employment of the mother outside of the day care center have on the family.

Support Services: Is it more expensive to assign staff to locate material resources for indigent families than to supply money for them to make their own purchases?

Do specific groups of people become more or less dependent when given an adequate amount of money to meet their needs?

Do various groups of people (age groups, geographic, disabled, etc.) become rehabilitated or more dependent by the provision of massive social service interventions? (saturation services)

Summative Evaluations of Day Care Programs

Summative evaluations of day care programs may include short or long-term studies of impact across programs in one community or on a national basis. A recommended priority for conducting summative evaluations on a national basis are:

Establish criteria and develop a plan to evaluate the content and quality of services being provided by day care centers, systems and family day care homes.

Establish criteria for measuring short and long term impact on the children involved in the various types of day care. Such criteria should encompass broad areas of child behavior.

Begin gathering a data base on children now in day care situations.

Conduct a follow-up study of a cross section of children who attended publicly and privately operated day care centers during World War II. A number of such day care centers are still in operation and may have records. Such a follow-up study might examine such things as rates of marriage and divorce, educational achievement, employment history and stability, health history, and also examine such gross measures of pathology as commitment rates, arrest records, number of automobile and industrial accidents, etc. Such data are available on sub groups within the population and might serve as crude control comparisons.

A national study might be aimed at finding out the number of women who were able to find employment as a result of having day care services available for their children, the earning of these women as compared with the costs of the day care provided.

For evaluating the impact of programs on children, further research is needed in the use of cognitive measures other than psychometric tests of intelligence, the inclusion of tests of the motor and perceptual skills of children beyond infancy, on the development of linguistic measures.

Evaluations of the interaction between staff, parents and children and the impact on the children are needed as are evaluations of socio-emotional characteristics of parents and families.

In assessing impact, more attention should be paid to measurements of the whole child including measures of cognitive, linguistic, socio-emotional and health and physical functioning of the child.

Basic research

Basic Research is defined as that research which provides new knowledge to a given field. Since basic research tends to develop slowly and is inherently dependent upon what is already known, it does not seem appropriate to suggest priorities. However, basic research issues relating to day care include the following issues:

Physical facilities:

Examine how size of a group affects the role identification of children.

Develop a data base for setting space requirements. Study effects of amount of space on physical and cognitive activities and on social relationships.

Study effects of different types of arrangements of space and equipment on physical, cognitive and social activities.

Staff and training:

Further investigation of the impact on children of various teacher characteristics and types of teacher-child interaction.

Determination of the prevalence among the general population and among potential and present day care personnel of various characteristics which have beneficial impacts on children.

Study the modifiability by training and experience of various staff traits and types of behavior.

Children and parents:

Further investigation of how children learn, including individual differences and developmental changes.

Further investigation of the impact of home stimulation on learning.

Normative studies of the socio-emotional development of children, including variations in behavior as a function of social context.

Examination of the effects on children of various family lifestyles, child-rearing techniques, and modes of interaction.

Investigation of the dynamics of behavior among groups of children at different ages and within different socio-economic levels.

Further examination of the language abilities of children, including developmental changes in language ability and differences between various socioeconomic levels and ethnic groups and between the sexes.

Further investigation of the language characteristics of parents from different socio-economic levels and how these characteristics affect the language development of children.

Measurement of the impact of separation from the mother and of day care in general at various ages. Data on gross effects, as the presence and/or prevalence of conditions such as anaclitic depression, hospitalism, childhood schizophrenia and psychopathic disorders as compared with control groups. Studies to determine the presence and/or prevalence of pathological maturational adaptations within various day care settings as compared with controls. In addition, data on more subtle socio-emotional effects of separation and day care in general.

Services:

Further investigation of the relation of malnutrition and of various specific nutritional deficits to physical and cognitive development and the effects of compensating for nutritional deficits at various ages.

Further investigation of the relation of health status, at birth and thereafter, to physical and cognitive development.

Measurement and Evaluation:

New methodology for assessing cognitive, linguistic, and socio-emotional functioning.

Further information on the long-range stability and predictability of various measures of cognitive, linguistic, and socio-emotional development.

Work on determining the optimal social contexts within which to assess various types of abilities.

Strategies for conducting basic research are well established. These include: experimentation, observation, conceptualization, description and analyses, etc. New strategies for conducting basic research are needed in order to study (a) the whole child, and (b) the life-space of the child, as well as (c) to conduct basic research into the longitudinal aspects of child development.

Methodological research issues in day care

Methodological research is defined as that research concerned with methods for identifying problems, formulating hypotheses, gathering data, developing measurement instruments, and analyzing findings. The overall rubric might well be termed research design. Again, no priorities are identified; instead, methodological questions are presented according to the categories of day care areas used in this section.

General: What research designs or methodologies can include all of the factors impinging on any child to determine sources of impact on his development?

How is it possible to have interdisciplinary or multidisciplinary research designs and methodologies developed?

How can parents and other affected groups be involved in research designs and methodologies?

How may large studies provide more sensitive measures of impact rather than the usual faltening effect resulting from massive data?

How can the strengths of small studies be translated into strengths for large studies?

Auspices:

What design will permit an assessment of the strengths and weakness of various levels of day care programs under various delivery systems? How can day care programs be compared with nursery programs, Head Start programs, etc.?

Staff:

How can different types of training be compared in a meaningful way when different programs with different goals are involved?

Facilities and Support Services:

How can facilities and support services be given weightings so that their role in the day care program is included in examining impact?

Are separate facilities and support services studies needed or can the roles of facilities and the support services be weighted within the total program in its total setting?

Children and Families:

What kinds of designs or methodologies might combine immediate impacts of day care experience on children and their families with long range impacts?

Curricula:

It is possible that the current Planned Variation research is adequate as a methodological study at this time. New problems in methodology will undoubtedly emerge from this extensive study. Some of the questions raised by Louise Miller's study in comparing four Head Start curricula should be helpful.

Instrumentation and Measurement:

Underlying problems in methodology are problems in measurement. What kinds of instruments are needed to correspond to research designs and methodologies developed on an interdisciplinary or multi-disciplinary basis.

What are the limitations of present instruments for use in the day care setting? What new instruments are needed?

How is it possible to shift from shaping programs to fit underlying values and expectations of measurement instruments to shaping instruments to fit new program goals and expectations?

Research Strategies for conducting methodological research are well established. However, there is need to design new strategies consistent with the present need to study: (a) The whole child, (b) The life-space of the child, and (c) Longitudinal aspects of child development.

Dissemination research issues

Dissemination research is concerned with transmitting knowledge and information relevant to day care and applying or replicating program components or models.

To assist in the rapid expansion of day care models and components, research priorities include:

The development of systems appropriate to local communities to match existing available day care slots in centers and family day care homes with parents seeking day care services. Such systems might include a central registry for day care operators, the use of various types of media to make continuous announcements on available day care openings, or other outreach methods.

Comparison between a variety of approaches to disseminating information about day care models might include: using an existing demonstration model for training staff in an apprentice situation and then dispersing staff to replicate the model. Another approach might be to fund a community or group of parents to visit a variety of models and select the one they feel appropriate to their needs. A third alternative might be to prepackaging components of a model day care demonstration, including materials necessary for staff training, curricula, equipment, etc. These approaches could then be compared for replicability as well as for the time needed to establish the second model.

Ways to reduce the present lead time of one man year needed to establish a day care center need further examination.

Further exploration needs to be made of *ways to make existing information available in useful form for paraprofessionals*. Examination of those materials which have in the past been widely used (Dr. Spock for example) might provide clues for future materials development. Films, casettes and other training devices need experimentation and adaptation for *day care* use. We need a comparison of the extent to which materials are utilized when they deal with general topics such as "Meeting the emotional needs of preschool children" compared to those which present specific topics, such as "How to deal with temper tantrums?" "What to do when Willie won't eat his lunch" or "How to manage rest periods for two year olds in a day care center."

The possibility of developing a journal for paraprofessionals in day care should be explored. The journal might utilize a variety of media and methods of communication in addition to the written word. Included might be film strips, casettes, craft kits and other innovative approaches to disseminating information to caretaker staff.

The need to gather *new information for dissemination* needs further experimental approaches. These might include regional conferences to bring together program operators with one another, as well as with researchers and national organizations related to day care, 4 C committees and ARD's. Published or filmed reports of these meetings might be made available to participants and their constituents.

There needs to be further development of *strategies to communicate basic* and applied research information to other researchers engaged in related or subsequent research. Interagency committees on a local level might be established for coordination of operating programs for children.

Strategies for dissemination of research include studies on the utilization of information, market needs, demonstration centers, identification of methods for implementation of program components or models and assessment of dissemination efforts. A state of the arts document would be an appropriate first step for pulling together existing knowledge about the status of research on dissemination.

FOOTNOTES

[1] *Definition of Day Care:* For the purposes of this review we are defining day care as supplemental care of preschool children for six or more hours a day by someone other than the mother, whether the care takes place in center settings, group care homes, or individual family day care homes, as well as extended day programs for school age children up to age 14 for before and after school and vacation periods.

[2] Bureau of the Census Current Population Survey, 1965, cited in Westinghouse-Westat.

[3] Ibid.

[4] Other studies have shown that middle class working mothers are more likely to put their children in family day care homes or employ someone to take care of the child at home. The overrepresentation of the poor in day care programs is not a sampling error, but due to the fact that it is primarily the poor who use day care centers.

[5] The Abt report, Volume III, p. 153 includes ratios of national costs to that of individual states.

[6] The Westinghouse Report includes figures for children two years of age as category, but not for infants under one year. A survey conducted by Marion Howard on Group Infant Care Programs reports on fees paid in 43 programs, but these fees do not necessarily represent actual costs of the services.

[7] The Welfare Council of Chicago study developed a system and manual of instructions for cost analysis in day care programs It does not break out costs by age of child. It may be that consideration should be given to this break down in future cost studies.

[8] Richard R. Ruopp, *A Study in Child Care 1970–71*, Vol. I, Findings (Cambridge, Mass.: Abt Associates, Inc., 1971), p. 7.

[9] E. Kuno Beller, "Adult-Child Interaction and Personalized Day Care," in E. Grotberg (Ed.) *Day Care: Resources for Decisions* (Washington, D.C.: Office of Economic Opportunity, Office of Planning, Research and Evaluation, PRE/K, June 1971), p. 236.

[10] See Chambers, in Grotberg (1971), p. 407.

TAX REFORM, NOT SALES TAXES

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 5 minutes.

Mr. FUQUA. Mr. Speaker, time and time again there has been a cry for the reform of the tax laws in this Nation. Time and time again this plea has gone unheeded and the result has been the loss of billions of dollars in tax revenues which are desperately needed to balance our dangerously unbalanced financial situation.

The President told us last year that he would submit a tax reform program this year. The hour is growing late for full and adequate consideration of this complex question. It needs to be done now.

Coupled with the desperate need for tax reform is the need for Members of Congress to explain to the American people just what a possible value-added tax might mean. It is a sugarcoated bill which is no more nor no less than a national sales tax. It will hit the average wage earner hard and will be a real burden to bear.

Perhaps it is politically expedient to pass a huge tax increase in the form of another hidden tax as a sales tax is added at each step of processing. But, it will be the average family who will pay the bill in the form of increased cost of living. It concerns me greatly that this would open a Pandora's box—a small tax initially, followed by successively increasing percentages.

Let us talk more about tax reform.

It has been reliably estimated that the U.S. Treasury could collect some $18 billion more annually if all Americans paid their fair share of taxes. Why should there be a different standard?

It is said that more than 112 Americans who had an annual income of more than $200,000 in 1970 escaped without payment of income taxes. This is hard to explain to the average wage earner, particularly with April 15 approaching.

Quite frankly, it is hard to explain to me. It never has been explained satisfactorily.

One after another, certain segments of our society had special privileges built into our tax structure. They need review by the Congress—and I submit that those unfair and discriminatory provisions need to be eliminated.

Let me commend Chairman MILLS of the Ways and Means Committee for his action in calling on the President for tax reform recommendations. Now that we are being asked for a $50 billion increase in the $430 billion Federal debt, it would seem that this is the appropriate time to bring every influence to bear to correct these deficiencies in our tax structure.

Let me say in passing that there are many of our colleagues who were so critical of increases in the Federal debt under Democratic administration who remain strangely silent at increase requests that made those of my party look insignificant. Both, I add, are bad and the price we have to pay for heedless fiscal policies.

Let me return to the value added tax.

It has been discussed in high circles and we have seen trial balloons raised.

Let us let the air out of those balloons.

There is no Santa Claus when it comes to taxes. A value-added tax is pure and simply a sales tax. It is regressive and takes its greatest toll from the poor and low income.

As the legislative body of this Nation, we should make this point clear to the American people. It matters not how laudatory would be the goal of eliminating some of the excessive property taxes and to provide for the cost of education. It is my considered opinion that when the people of this Nation understand just what this tax would mean, it will be dropped like a red hot coal.

There are few questions which need our study and scrutiny more than tax reform. Efforts in that direction have my full support.

GORDON RULE DISMISSED BY THE NAVY

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 20 minutes.

Mr. ASPIN. Mr. Speaker, I am sure my colleagues are aware that the Department of the Navy has removed the civilian chairman and abolished the civilian review board that formally passed judgment on shipbuilding claims. Apparently the Navy has paid at least $25 million in provisional payments to Avondale Shipbuilding, Avondale, La., after the civilian claims board totally rejected a $73.5 million claim by Avondale.

Even though the civilian claims board rejected the claim, the Navy is trying to quietly sneak this $25 million payment through. This is like spanking a bad boy with one hand while giving him candy with the other.

Avondale attempted to settle its claim with $73.5 million in July. The chairman of the civilian claims board, Mr. Gordon Rule, rejected the claim. Subsequently, Mr. Rule was removed from the board as its chairman and the board was abolished. In January, upon the directive of the Chief of Naval Material, an all military board was assigned the task of making final judgment on claims.

Before it was revealed in the press that Gordon Rule had been in effect transferred from his job as chairman of the claims board, the Navy was prepared to announce Monday that the $25 million had been made to Avondale. Strangely, the news was held up because of news reports that Mr. Rule had been transferred and his board eliminated.

Now claims are in the hands of the military. Military controls means a bonanza for shipbuilders and it looks like the boondoggle has already begun with the $25 million claim to Avondale.

The Navy apparently told reporters that it plans to adhere to Rule's original decision on the Avondale claims. The payment of $25 million surely calls this into question.

Now that Mr. Rule and other civilians have been pushed aside, the Navy apparently believes provisional payments—which undoubtedly will become permanent settlements—can be made. I believe that men, such as Gordon Rule, who make tough decisions in the face of enormous pressure should be promoted, not demoted by the Pentagon.

THE BROADCAST INDUSTRY LICENSE RENEWAL PROGRAM

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. COLLINS) is recognized for 20 minutes.

Mr. COLLINS of Texas. Mr. Speaker, one of the most important industries in America is the broadcasting industry. The entertainment, news, and public service programs provided by this industry are a great part of our American life. Thanks to the broadcasting industry the public is immediately in the know about events happening in our country and all over the world. America should be truly grateful to the broadcasting industry for all the services it provides.

The industry's No. 1 problem today is license renewal. This is a problem that threatens to restructure and disrupt the entire industry. In order to fully understand the present plight of the broadcasting industry in regard to license renewal, it is necessary to undertake a brief historical review of the law.

Prior to the decision of the Federal Communications Commission in the WHDH Boston case in 1969, renewal decisions where competing applications were filed, were governed by the WBAL Baltimore 1951 decision, and the Wabash Valley 1963 decision. These two cases began with the unassailable premise that the past performance of a broadcaster is the most reliable indicator of his future performance, and the practical effect of these decisions was to give an incumbent licensee a virtually insuperable advantage on the basis of his past broadcast record. In the WBAL case, the Commission had ruled that a licensee's unexceptional record of past programing performance, coupled with the unavoidable uncertainty of whether the challenger would be able to carry out its program proposals, was sufficient to overcome the licensee's demerits on the other standard comparative criteria. As a result of the WBAL decision, licensees were secure at renewal time from the attacks of competing applicants

In 1969, for the first time in the history of the Commission, in an extremely controversial case, the Commission applied standard comparative criteria in a renewal proceeding on the application for the renewal of license of WHDH-TV Boston, and by applying standard comparative criteria denied renewal, granting the application of one of the challengers. On the surface, this would indicate a swing away from the WBAL 1951 decision. In reality, however, it is generally understood that the Commission did not intend its Boston decision to be that. It is generally understood that the Commission considered the Boston case to be a unique case, caused by ex parte questions relating to the original acquisition of the license. The Commission did, however, in the Boston case, state its intention to insure that the foundations for determining the best practicable service as between a renewal and a new applicant are more nearly equal at their outset. The Commission found that the licensee's programing service had been average and it was entitled to no preference, and that the licensee was inferior on the comparative criteria of diversification of the media and integration of ownership and operation.

The WHDH decision came as a complete shock to the broadcasting industry, and placed in jeopardy your licenses for the first time in the history of broadcasting. This decision in effect held that the only licensee secure from attack would be the individual who lived in the community in which he operated his radio station, and where he devoted his full business time and attention to this operation, and had no other broadcast interests or interests in any other media of mass communications such as newspapers, and did a job of programing which was something more than average. The WHDH decision in effect stated that all other broadcast renewal applications would be subject to the applications of financial opportunists carefully contrived to meet standard comparative criteria, filed not because a better job needed to be done, but because there was a financial bonanza at the end of the road if these applications were filed against multiple owners. Eight applications against major television licenses were filed with the Commission.

At the same time, the broadcasting industry, recognizing that its entire future stability was in jeopardy, asked Congress to correct this inequitable situation by legislation. Senator PASTORE introduced a bill which was designed to reestablish the right of the licensee to renewal, provided that the licensee had performed in accordance with its promises to the Commission which, of course, had resulted in the original authorization. While the Pastore bill was pending, more than 100 Congressmen and 23 Senators quickly announced their support of the bill. Hearings were held on the bill, and objections were raised by certain so-called community interest groups, that the bill was designed to stop filings by members of minority groups so as to preclude them from obtaining broadcast facilities. Proof that this was not so can be found in the eight applications which were filed. None of those applications were on behalf of applicants who were members of minority groups. They were businessmen who apparently saw an opportunity to obtain a license of tremendous value for little investment.

Thereafter, in order to give reasonable assurances of protection to broadcasters who were doing a responsible job, the Commission, on January 15, 1970, released a policy statement on comparative hearings involving regular renewal applicants, stating in effect that in a hearing between a licenesee applying for renewal of his radio or television license, and a mutually exclusive applicant, the licenses shall obtain a controlling preference by demonstrating substantial past performance without serious deficiencies. Thus, under this policy statement, if the licensee prevailed on the threshold issue of the substantiality of his past record, all other applications would be dismissed without a hearing on their merits. The results of this policy statement were threefold. First, Senator PASTORE dropped his bill. Second, no further applications were filed with the Federal Communications Commission on top of renewals, and third, unfortunately an appeal was taken from the policy statement by two community interest groups and two of these applicants who had filed on top of renewals. What the policy statement of the Commission provided in effect was that if you did a decent job you were protected. Thus, the broadcaster was told that he could buy an insurance policy for his renewal. All he had to do was to perform in a substantial manner. Obviously, the history of the broadcasting industry clearly demonstrates that by far the great majority of broadcasters have at all times performed in substantial and superior ways. Thus, the old WBAL Baltimore decision was reinstituted except for the fact that whereas in WBAL an average performance was sufficient, we had now reached the point of a substantial performance.

On June 11, 1971, in the case of Communications Center against FCC, the law involving license renewal was changed again. Simply stated, this decision reverses and declares illegal the Commission's policy statement of January 15, 1970. The Court has indicated that the purpose of its decision is to permit the Commission to choose the applicant who will provide the best practicable service to the public and who will insure the maximum diffusion of control of the media of mass communications. The Court pointed out that the Communications Act places the licensee on renewal in the same position as an initial applicant. The Court pointed out that in a comparative hearing involving a renewal applicant, each applicant has to be aware that its task is to make the best case possible on the basis of program offering, integration, diversification, past performance, and any other matters the parties may ask the Commission to consider as pertaining to licensee fitness. The Court indicated that insubstantial past performance should preclude renewal of license. The Court pointed out that superior, as distinct from substantial and previously average, performance should be a plus of major significance in renewal proceedings, and that although "superior" has not been defined, the Court suggested that anyone involved in "superior" programing will eliminate excessive and loud advertising, will deliver quality programs, and will reinvest to a great extent the profits on his license to the service of the viewing and listening public. The Court pointed out that this decision would permit new interest groups and hitherto silent minorities as they emerge in our society, to be given some stake in and chance to broadcast on our radio and television frequencies. That this, from a practical standpoint, is not true, is clearly established by the eight applications which were filed after the Boston decision, which included no hitherto silent minorities and included as new interest groups those groups who quite obviously saw an opportunity to profit on a broadcast license. The Court concluded that its decision restores healthy competition by repudiating a Commission policy which is unreasonably weighted in favor of the licensees it is meant to regulate to the great detriment of the listening and viewing public.

The effects are self-evident. Chairman Dean Burch of the Federal Communications Commission, who when faced with the decision stated, "If this decision stands, it is the end of multiple ownership." Broadcasting magazine, in its editorial statement released immediately following this decision, wherein it was stated with reference to the need for corrective legislation, that "nothing less than survival is at issue."

And survival is precisely what is at issue in this decision. This decision is designed to restructure the broadcasting industry in such a manner as to eliminate all absentee ownership and all multiple ownership. Few broadcast licensees can meet the test of a carefully contrived applicant. Those few who can would be precluded from buying a second station because then under these criteria both would be lost. Obviously, the value of broadcast facilities is destroyed by this decision, since if a license is only good for its present term, the value of that station must be related to the present term of the license, rather than to a multiple of gross income or profit, which multiple traditionally has extended well beyond one license period and in many instances to five or six license periods. This decision simply stated, somewhere along the line, either sooner or later, gives the broadcaster the opportunity of going through an expensive, time-consuming renewal hearing, to lose his license to a group asembled for the purpose of obtaining a valuable franchise at a low price.

Judge MacKinnon, in his concurring statement, indicated that if the broadcasting industry desired the protections of the Commission's 1970 policy statement, "It must be accomplished by amendment of the statute." Therefore I have introduced legislation that will provide the protection that responsible broadcasters are absolutely entitled.

This legislation will do three things. First, it lengthens the renewal period from 3 to 5 years. Second, that in renewal hearings, the licensee shall obtain a controlling preference by demonstrating substantial past performance without serious deficiencies. Third, it shifts the burden of proof from the applicant to the FCC in license renewal cases.

Simply stated, the bill will provide that if a broadcaster has operated his station during the past renewal period, so as to serve the public interest, convenience, and necessity, he is entitled to a renewal of license without the expense, delay, and uncertainties of a challenge by one looking to take his license without cost. Without the adoption of this law, the broadcasting industry as we know it will be completely restructured.

I ask your cosponsorship for my bill, H.R. 12019, which is now in the suspense file of the Commerce Committee. Let us maintain a fair and impartial broadcasting industry through H.R. 12019.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore (Mr. MEEDS). Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's pioneers of progress and in so doing renew our faith and confidence in ourselves as individuals and as a nation.

In 1876, Alexander Graham Bell pioneered the first microphone and consequently revolutionized the world of communications.

PRESENT SOCIAL SECURITY LAW PENALIZES THOSE WHO REMARRY

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, of the many inequities which must be eliminated in our social security system, one which is particularly disturbing cries out for immediate rectification. A number of my senior citizen constituents who are widows or widowers have complained that the present provision in the social security laws terminating or reducing widow's or widower's benefits upon remarriage has the effect of chilling, for financial reasons, their desires to remarry.

Let me explain what they mean. Under present law a widow receives 71.5 percent of her husband's benefits upon reaching the age of 60 and receives 82.5 percent of these benefits at the age of 62, and the widower receives 82.5 percent of his wife's benefits at the age of 62. Once the widow or widower remarries, however, these benefits are reduced to 50 percent, provided he or she is over 60. If the widow or widower is under age 60 upon remarriage, the benefit eligibility is terminated entirely. Thus, in effect, these laws compel them either to live lives of loneliness or to have relationships without the benefit of marriage.

For many such persons, and particularly for those with strong religious and moral beliefs, this poses a terrible dilemma. What my bill would do would be to eliminate those provisions in the social security laws whose effect is to terminate or reduce widow's or widower's benefits upon remarriage.

Our older citizens are experiencing a very difficult time meeting their everyday minimum financial needs, and they are especially hard-hit by inflationary food prices, escalating medical costs, and rising rents. Is it not outrageous for the Government to penalize those who would remarry by reducing their social security benefits upon such remarriage?

Surely it is ironic that a society which often criticizes the lifestyle and permissive attitudes of the young at the same time encourages out-of-wedlock relationships among its older citizens.

CONGRESSMAN KOCH REPORTS FROM WASHINGTON

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, this week I am mailing to my constituents my fourth newsletter of this Congress. I would like at this time to insert the full text of this report in the CONGRESSIONAL RECORD. It follows:

CONGRESSMAN EDWARD I. KOCH REPORTS FROM WASHINGTON

Dear Constituent and Fellow New Yorker:

The controversy in Forest Hills over a low income housing project should concern all of us. We know now that practically every city and suburb will soon be confronted with having to provide housing opportunities for low-income families in midlde-income neighborhoods. It is called "scatter-site housing"—low income units built outside the slums and on a scale that can be accommodated in a surrounding stable community.

I support the concept of scatter-site housing and I support a scatter-site project in Forest Hills on the present site. But the project planned by the City is not scatter-site at all. 840 units in three 24-story buildings make this nearly twice the size of any other low-income project planned or built for a midlle-income neighborhood in New York City. City planner Ada Louise Huxtable calls it a "major housing project under a scatter-site label."

As a member of the Banking and Currency Committee having jurisdiction over federal housing programs, I share the position of Congressman Ben Rosenthal and his Forest Hills constituents who say that this project should be scaled down.

Almost everyone I have talked to about the Forest Hills project has admitted that it is too large—yet too far along to stop. I disagree. It is not too late to correct this planning blunder which is so potentially damaging to the cause of scatter-site housing everywhere.

The Forest Hills project has brought two concepts into contention: one, the traditional concept that if you work hard all your life, someday you will move to a "better neighborhood," and the second, equally valid concept, that those long victimized by racial discrimination cannot break out of poverty without the helping hand of government. "Scatter-site housing" is intended to help the poor without destroying the "better neighborhood" of those who have made it.

When a good friend of mine learned that I opposed the size of the project, he called to say: "Ed, I am very distressed that you would oppose the project in its present size. We must all be for increasing the number of apartments available to the poor no matter what the social cost. The people in Forest Hills must pay their dues."

I said, "Look, you are a rich man and there is nothing wrong with being rich; you have used your money for good social causes when many have not. You have a marvelous brownstone in Manhattan and a wonderful summer home in the country. And the day your children were born you registered them in private schools. And you are telling me that the people in Forest Hills have to pay their dues? I am telling you that they are willing to pay their dues. They simply don't want to pay yours too."

New York City is in a very precarious position. Its middle class is leaving. The statistics are shocking. In the last ten years more than one million middle class New Yorkers left the City. And they are the people who pay most of the taxes which make it possible for our City to work for the great social goals which so many of us share.

If middle class needs are ignored and middle class fears are belittled, then the middle class will continue to leave the City and we will have gained nothing even if we build ten Forest Hills. And tragically, the poor will suffer most. No great strides can be made toward securing the economic and social progress of New York unless we acknowledge the legitimacy of middle class aspirations as well as those of the poor. The City's refusal to scale down Forest Hills so as to reduce the number of low-income families only sets off one group against the other to the detriment of us all.

The City administration can still rectify its error by sitting down with the community and working out a reasonable settlement. It is not too late for the City to revive the art of compromise which has kept New York together through decades of enormous change.

TAFT-KOCH CONDITIONAL AMNESTY BILL

Since December 1969 when I went to Canada to learn more about draft resistors, I have proposed that we consider options whereby these young men would be allowed to return to this country and to their families. There are an estimated 50,000 to 70,000 Americans living in exile because they refused to participate in the Vietnam War. With the continuing return of our troops from Vietnam; I believe it is now appropriate and necessary that we do something about bringing home these young Americans.

I have joined with Senator Robert Taft, Jr. (R.-Ohio) in introducing conditional amnesty legislation. My bill, H.R. 12417, would allow those who have evaded the draft by leaving the country to return if they agree to provide two years of civilian service in VISTA, Veterans Administration and Public Health Service hospitals, or in other services approved by the Attorney General, (Senator Taft's bill, S. 3011, requires three years of civilian service.)

The two years of civilian service required under my bill is comparable to that required of men who receive a conscientious objector draft classification under existing law. The Taft-Koch bill would become effective upon enactment and allow a man one year in which to exercise his option to return.

I know that many in this country believe that those who have left should never be granted amnesty, while others, equally intransigent, believe they should be welcomed back as heroes. Instituting a conditional amnesty any time in the near future will demand some compromise from everyone. I believe that civilian service in return for repatriation is a reasonable step which takes into consideration the legitimate feelings of those who served in Vietnam—many of whom opposed the war, and of the families of those who lost their lives or were wounded there.

This country has already suffered a tragic loss through the deaths of 55,000 young Americans in Vietnam. We cannot bring these men back, but we can bring back those who are in exile. To effectively bar their return by doing nothing, would compound the tragedy of Vietnam.

The talents and services of these young men are needed in this country. In New York City the number of jobs they might perform are unlimited; one such example is found in Willowbrook, a state institution for the mentally retarded, where children are now suffering because of the lack of hospital staff. Should draft resisters be allowed to return to work at an institution like Willowbrook, they would be providing a critically needed service and greatly aiding these children.

In a recent survey conducted by the Gallup Organization for *Newsweek* considerable support was found for conditional amnesty; 63 percent of the respondents said they favored amnesty with a national service requirement.

Regardless of how we feel about the war, surely at this point we must be conscious of the need to heal the divisions in our country which it has caused. Conditional amnesty for those who left the country in order to avoid fighting in a war they believed to be unconstitutional and immoral is one way of achieving this goal.

BILL H.R. 8389

I am pleased to report that last November 1st the House passed my bill, H.R. 8389, which requires states and localities receiving federal "corrections" funding to provide treatment for drug addicts in prisons, on probation and parole. Not nearly enough is being done in our prisons to treat this identifiable cause of crime, and it is expected that the Senate will act soon on this legislation so that it can be enacted into law this year.

HIGHWAY TRUST FUND

This is a year in which the Highway Trust Fund will be up for review. There are many entrenched and powerful interest groups bent on the perpetuation of the Highway Trust Fund's single purpose: highway construction. If we are to change the pattern of transportation funding this year and get more money for mass transit, a tremendous effort will have to be made by the public.

In just the last two months there have been some encouraging changes in the automotive industry's long resistance to opening the Highway Trust Fund for mass transit expenditures. The corporate heads of the four major auto companies have announced their support for diverting to mass transit some of the proposed increase in Michigan's gasoline tax ordinarily used for highway purposes. And the Mobil Oil Corporation has called for the enactment of a "national master transportation program" and a re-evaluation of our transportation funding.

I have proposed legislation (H.R. 4571) that would establish a single National Transportation Trust Fund combining all highway, airport and mass transit programs and their revenues. It would unify the administration of these transportation programs, placing mass transit in a competitive position with highways. The House Public Works Committee will be holding its hearings on highway legislation in March and I will testify on H.R. 4571 at that time.

Also under consideration will be my Bicycle Transportation Act of 1971 (H.R. 9369) authorizing the use of Highway Trust Fund moneys for the development of bicycle lanes and paths. The Department of Transportation has indicated that it will support my bill.

In a related matter, I have joined with the Environmental Defense Fund in a suit against the Department of Transportation to compel them to file a report with Congress on the environmental impact of future highway construction. If the environmental damage were estimated in advance, some proposed highways could not be built.

Our suit is based on the Environmental Quality Act of 1970 requiring all federal agencies to include an environmental impact statement for related programs. The Department of Transportation does not plan to submit such a statement with its highway needs report and recommendations for future highway construction extending to 1990. In my opinion this is a violation of the law. Without an environmental impact statement requiring the discussion of alternatives to more highway construction, the Congress can hardly make a proper judgment about the Highway Trust Fund. And the absence of such a study calls into question the objectivity and soundness of the Department's planning.

STREET CRIME

My mail and meetings with constituents reflect the growing concern with street crime in the District. What an outrage it is that people feel like prisoners in their own homes after dark. There are no easy solutions to this growing problem, but there are two matters in which I am involved that could help improve present conditions.

The first is a practical suggestion about what the average citizen can do. I call it "Blowing the Whistle on Crime." It is simple, inexpensive and it works.

On every block in New York City, residents can organize a block association and give whistles to everybody with these instructions:

First. Anytime you see something suspicious going on—blow your whistle.

Second. Anybody who hears a whistle—dial the police on 911 and blow your whistle.

The shrill din of many whistles going off to alert neighbors about potential crime is often enough to scare off muggers or intruders, and a strong deterrent against future crime in areas where it is known that residents are prepared to act on a pre-arranged system of signaling each other. The whistle system can promote a greater sense of community solidarity and a closer relationship with the police who have indicated their support for the idea.

Since I first began talking about "Blow the Whistle on Crime" my office has received hundreds of inquiries on the subject. This enormous interest reveals the fear and frustration we all feel. My New York office has whistles available for distribution at cost to block associations and tenant groups. We have already distributed over 1,500 whistles to organizations from every borough. Interested groups should contact my New York office.

The second matter involves a bill of mine, H.R. 839, which would require the Federal Executive Protection Service to provide the funds and manpower for guarding foreign consulates and missions. There are about 200 such facilities in New York City, most of them in our District. Presently the New York City Police must guard these properties and City taxpayers alone pay for this service (at a rate of over 2 million dollars annually). As a consequence, many local police officers are removed from their normal duty of patrolling the streets, and residents and merchants are forced to hire private guards.

It is neither fair to residents of the 17th C.D. as taxpayers, nor as citizens concerned about the safety of their children as well as their own personal safety, to be so deprived of the protection to which they are entitled. The growing menace of street crime makes the passage of this bill an urgent matter. The bill must first be the subject of a legislative hearing. If you support its passage, I urge you to write to me indicating your position. Such letters will be presented to the Congressional committee with jurisdiction and would greatly help the chance of obtaining a hearing.

BUSINESS SURVEY

Our District is the leading corporate center of the nation. Of the 500 largest companies in the United States ranked by sales, 100 are headquartered in the 17th C.D.

Because of my concern about business leaving New York City, I conducted a survey last fall of these major corporations. Of the 61 companies responding to my questionnaire, 27 (44%) told me they are considering (or have already begun) a move of part or all of their operations from New York City.

The reasons most often cited for moving out are the high cost of living and doing business in the City, the high incidence of crime, and inadequate mass transportation.

Ninety percent of those responding believe the incidence of crime adversely affects their company's operations—recruiting new management personnel from other parts of the country, the refusal of employees to work overtime or at night, and the increased cost of security measures within offices and office buildings. Most of the companies responding believe that improving mass transportation should be of primary concern to all levels of government.

I have remained in contact with these corporations telling them what I'm trying to do about mass transit and street crime. I also serve on a newly formed subcommittee of the New York Congressional delegation dealing with the problem of business leaving the City.

There cannot be real progress in advancing desirable social goals for the City if the climate for business (which pays a good share of the cost) inhibits growth and prosperity. The two go hand in hand.

I intend to survey other businesses, both large and small in our District, to learn more about their problems and how to help.

HAVE YOU RECEIVED YOUR INTEREST ON YOUR RENT SECURITY DEPOSIT?

If your lease was signed after September 1, 1970, New York State Law requires landlords to keep tenants' security deposits in interest bearing accounts, to inform tenants where the money is held, and to remit the interest on the money to tenants annually. This may be done either by direct payment or a deduction from a rent bill. The landlord may keep 1% of the interest for his administrative costs. If you have not received an interest payment or not been told where your security is deposited, you should contact your landlord.

Your comments on this newsletter and any proposals you might have on any subject are of interest to me. Please write to me c/o House of Representatives, Washington, D.C. 20515.

If you need assistance, call my New York City office at 26 Federal Plaza on 264–1066 between 9:00 a.m. and 5:00 p.m. on weekdays.

The newsletter included four pictures. The following are the captions:

Blow the Whistle on Crime.

* * * * *

Senator Robert Taft, Jr. and I discussed our bi-partisan conditional amnesty bill on a recent television show.

* * * * *

On February 2nd, I testified before the Senate Banking, Housing and Urban Affairs Committee on my bill, H.R. 10400, calling for federal funds to pay the cost of maintaining the "rights-of-way" of our subways and commuter railroads. Under my bill (sponsored in the Senate by Senator Jacob Javits), the Metropolitan Transit Authority would receive approximately $100 million annually in operating subsidies.

H.R. 10400 ("The Urban Transportation Emergency Relief Act") will be considered by the House Banking and Currency Committee later this month. I am a Member of that Committee and I will be working closely with my colleagues to obtain federal operating subsidies for New York's subways and buses.

* * * * *

Recently, Senator Edward M. Kennedy testified before the House Ways and Means Committee in support of the Health Security Act and my bill (H.R. 8799) which would extend the Children & Youth and Maternal & Infant Care projects for five years. The projects provide comprehensive health care for more than 500,000 children living in poverty. Senator Kennedy sponsors H.R. 8799 in the Senate where it is now being considered by the Finance Committee for inclusion in H.R. 1, the Social Security and welfare reform bill.

WHITHER NOW, ECUADOR?

(Mr. VAN DEERLIN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, Jose Velasco Ibarra has just been deposed again, for the fourth time in his tumultuous career as the off-again, on-again, President of Ecuador.

The politics of that small nation are indeed difficult to follow, except for one persistent strain: The unyielding hostility toward America's legitimate fishing interests.

Regardless who happens to be chief of state, Ecuador in the past dozen years has consistently followed a policy of harassing and seizing U.S. tunaboats operating beyond the 12-mile limit recognized by most civilized nations but within the 200-mile limit extravagantly claimed by Ecuador.

And the official U.S. response to this provocative behavior has been consistently wishy-washy, regardless of change in national administrations.

Congress, down through the years, has always demonstrated bipartisan concern for the interests of our fishermen. We have approved a series of bills designed to firm up the resolve of the State Department and other executive agencies immediately concerned.

Thus far our efforts to dissuade Ecuador have not amounted to much, mainly because of reluctance in the White House and State Department to enforce these laws. At the same time, on the plus side, there has been substantial improvement—again, ordered by Congress—in the provisions for compensating boatowners who suffer losses as a direct result of seizures.

With all this in mind, I awaited with considerable anticipation the President's third annual report to Congress on the state of the world. The year 1971 had been a particularly bad one for the tuna fishermen, most of whom operate out of my home city of San Diego. Ecuador set new records in bellicosity, taking fines totaling more than $2 million from these innocent victims, I was therefore eager to see what Mr. Nixon was proposing to curb this high seas brigandage.

I must confess, Mr. Speaker, to a deep sense of disappointment. Throughout the 236-page document, issued last week, there were only two brief references to the fishing rights dispute with Ecuador, on pages 105, 106, and 208.

And this administration, like its predecessors, continues to put all its faith in a settlement through negotiations or arbitration. There is no suggestion in the report that we consider resorting to the sterner measures many of us feel are needed to make Ecuador desist.

The President does point out that, as required by law, our Government has suspended new military sales and credits to Ecuador as a result of the seizures.

But then the report suggests that we rely on the Law of the Seas Conference scheduled for 1973 under United Nations auspices to provide an international consensus for resolving the fishing rights controversy.

In a perfect world, this, of course, would be an ideal solution—an amicable settlement arrived at by the gentleman diplomats. But on the basis of Ecuador's past track record, I personally put little stock in the efficacy of international conferences as a way out of this dilemma.

First, what assurances do we have that the Law of the Seas Conference will even be held? And if it is, will Ecuador consent to be bound by whatever decisions are reached by the conferees? And what are we to do in the meantime, to discourage Ecuador from continuing the seizures?

The President also reiterates the willingness of the United States to submit our dispute with Ecuador to the World Court for arbitration. But so far the Court has shown little inclination to take the case. And even if it did, would Ecuador accept the verdict? And after how many years?

What, then, are we to do?

To start, the United States should insist on reimbursement for fines and other penalty fees taken illegally from our fishermen by Ecuador and other foreign governments. If these claims were not honored within a predetermined period of time, then an equivalent amount of aid should be withheld from present or future entitlements—all as required by law.

We should consider clamping an embargo, partial or complete, on fishery products from nations engaging in these illicit seizures.

We should cut off, at least for the time being, all foreign aid to Ecuador—as the House voted to do in December.

We should force the recall of all our warships, regardless of how small, on loan to Ecuador.

And finally, we should insist on approval of the amendment, which the House wisely adopted February 1, to throw the weighted vote of our own country against future loans to Ecuador by the Inter-American Development Bank. These loans amounted to $30 million last year, at a time when Ecuador was setting new national records in self-enrichment through seizures. Not surprisingly, most of the working capital of the bank is provided by the United States.

Inexplicably, the House-approved amendment, was deleted by a conference committee from S. 748, a bill authorizing U.S. contributions to the Inter-American Development Bank. Our colleague GLENN ANDERSON will move to instruct House conferees to insist on inclusion of the amendment, an opportunity for the House to show Ecuador we mean business.

Most of the measures which I have outlined have been before us for a long time. In general, they would hit Ecuador in the pocketbook—an earthier form of diplomacy, perhaps, than that usually associated with international courts and conference.

But these sterner measures, taken together, might at least get the job done.

At this point, I include a pertinent editorial from the San Diego Evening Tribune of February 9, 1972:

IMPATIENCE OF TUNABOAT OWNERS MAY FORCE GOVERNMENT ACTION

> They still call it blackmail and robbery, but some tunaboat owners have capitulated to Ecuador's demands that they buy licenses at $5,000 and up to fish in international waters.
>
> The reversal in policy is a desperation move to avoid harassment and seizure of tunaboats for ransom.
>
> But the action may also force the United States government to intensify its pursuit of an agreement to end the "tuna war."
>
> Members of the American tuna fleet and the federal government contend that the 200-mile limit on territorial waters claimed by Ecuador and several other Latin American nations violates the 12-mile limit recognized by most countries.
>
> Long ago, the government urged the boat owners to refuse to pay license fees. Owners of seized ships have been reimbursed for subsequent fines they were forced to pay under the guns of Ecuadorian warships—last year the fines amounted to almost $3 million.
>
> But the reimbursement did not compensate the tunaboat crews for the risks nor the owners for the lost time and threat to their catch.
>
> The U.S. government's opposition to the 200-mile limit is justified by the general international acceptance of the traditional three-mile diplomatic limit and the 12-mile limit observed in fishing rights. And the government's reluctance to further impair delicate relations with the nations of South and Central America is understandable if not heroic.
>
> But the issue is important not only to the United States, but to all maritime nations. It must be resolved.
>
> The impatience of the tuna fishermen shatters the delusion that government inaction is anything but acquiesence.

VIETNAM—KENT STATE UNIVERSITY FACULTY PROTESTS BOMBING

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the recent escalation of bombing in Vietnam has prompted the faculty senate of Kent State University, representing 1,245 faculty personnel, to pass a resolution "to urge upon the President and the Congress the prompt ending of the war." The resolution continues, "This action should await only agreement over prisoner release and the unhampered withdrawal from Indochina of all personnel under the President's jurisdiction other than officially accredited diplomats."

It is especially appropriate that this protest comes from the faculty of Kent State University. They are still living in the shadow of the tragic events at Kent State in May 1970 and cannot forget that the tragedy arose out of a student protest over the escalation in Cambodia.

What the Kent State faculty senate recognizes is that, far from winding down the war in Vietnam, President Nixon and this administration have recently been escalating it, merely by substituting air power for ground forces.

Not only is there an enormous concentration of American Air Force planes in Southeast Asia, which are being used in massive raids almost daily, but the administration is now increasing the amount of naval air power in the Gulf of Tonkin.

Tomorrow, the aircraft carrier U.S.S. *Kitty Hawk* with a crew of 5,000 will leave San Diego harbor for the Gulf of Tonkin where she will join three sister carriers already engaged in the air operations against North Vietnam. The U.S.S. *Constellation* was also recently ordered back to combat operations in the Gulf of Tonkin, cutting short a period of rest and relaxation in Hong Kong. With the return of these two carriers, 10,000 more men and 160 attack aircraft will have been added to the war effort.

This represents a large increase in the number of military personnel being sent to the area. And when these numbers are combined with the total number of U.S. forces engaged in military activities in Indochina, it greatly diminishes the impact of so-called Vietnamization in reducing the number of Americans in Indochina.

Two years ago it was Cambodia. Last year Laos. This year massive escalation of the air war. The official excuse given in each case was that the escalation was necessary to protect the withdrawal of American troops.

I do not believe that the American people are taken in by this hypocritical farce, especially not the young people, who have borne the brunt of this pointless, endless war, both in body and in spirit. The Kent State faculty resolution notes that:

> The outlays on war are seriously undermining the opportunity of young people to obtain higher education at a reasonable cost . . . the continuance of the war nourishes the negativism and drug-addiction so deleterious to study and work.

Mr. Speaker, I ask unanimous consent to have the resolution of the Kent State faculty senate printed in the RECORD at this point.

> The recent resumption of heavy bombing in Vietnam and the policy it seems to express raise serious questions. The moral, political, and military are better dealt with in other contexts. Under the Senate Charter, however, Section 1.2.3., "any matter relevant to the welfare of the university" is proper Senate business, and we, the Senate, are constrained to examine the significance of these developments for higher education as we know it at Kent State University

We note that the outlays on war are seriously undermining the opportunity of young people to obtain higher education at a reasonable cost; that the war diverts both funds and thinking from the steps needed to counteract unemployment among university-trained as well as others willing to work; that the continuance of the war nourishes the negativism and drug-addiction so deleterious to study and work.

These losses to our higher education are no longer justified by the needs of any particular government abroad, if they ever were.

We therefore resolve, as an official body with Charter responsibilities, to urge upon the President and the Congress the prompt ending of the war. This action should await only agreement over prisoner release and the unhampered withdrawal from Indo-China of all personnel under the President's jurisdiction other than officially accredited diplomats.

Copies of this statement shall be sent to President Nixon, Senators Mansfield, Saxbe and Taft, Congressmen Albert, Seiberling and Stanton, The Association for Higher Education, President Olds, the KSU Board of Trustees, Student President Slocum, and the media.

ANOTHER HAPPY NEW YEAR FOR THE PENTAGON

(Mr. MITCHELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MITCHELL. Mr. Speaker, lately, we have heard much confusing rhetoric about the size of the administration's budget proposals for defense. The President refers to it as the smallest budget request in modern time as compared to budget requests for human resources. And yet, the Department of Defense continues to receive the largest single share of the Federal pie. And, if approved, this will be the largest military expenditure ever during peacetime, in fact the largest expenditure since World War II.

It was a great relief, therefore, when I came across the following article, published by SANE. In addition to being interesting and informative, it manages to clear up much of the confusion surrounding the new military spending proposals. I believe my colleagues will be surprised and disturbed by what they read here. I wholeheartedly commend this article to your attention:

SOME SANE THOUGHTS ON THE FISCAL 1973 BUDGET: ANOTHER HAPPY NEW YEAR FOR THE PENTAGON

President Nixon is requesting a sizable increase in the military budget (Defense Department, AEC, military assistance, Selective Service). The increase amounts to almost $1 billion in outlays for the coming year ($78.3 billion), or $6.3 billion in new obligations which are spread over several years ($85.4 billion).

If approved, this will be the largest military budget since the end of World War II. In terms of money which Congress may allocate, the military continues to receive the largest single slice of the federal pie.

This increase in military spending fails to add to our security. By continuing to stoke the nuclear arms race and to direct a major share of federal resources into military programs, it increases our insecurity.

In trying to sell this budget to Congress and the public, the President makes two misleading claims: (1) "spending on defense has been brought below spending on human resources," and (2) "our goal in this country is full employment in peacetime."

These claims are made at a time when a rain of American bombs continues to fall on Southeast Asia, American military alliances ring the globe, the two super-powers can destroy each other many times over with nuclear weapons, millions of Americans fear walking the streets of their own cities because other Americans might assault them, millions more are without work, schools are closing in various cities for lack of funds, and public services are sometimes more reminiscent of an underdeveloped country than of the world's most industrialized power.

DEFENSE SPENDING VERSUS HUMAN RESOURCES

President Nixon's assertion that defense spending is now lower than spending on "human resources" can be made only by including government trust funds such as Social Security and the Highway Trust Fund as part of the federal budget. These trust funds were set up years ago to provide specific benefits, and are financed by separate taxes. Congress cannot dispose of the contents of the trust funds. They should rightfully be considered as separate cookie jars, not as part of the federal pie. (The trust funds were *not* included in the federal budget until 1968.)

The Nixon Administration also misleads the public by its failure to acknowledge in their proper place two items which belong under the costs of past wars: veterans payments and the interest on the national debt (most of which is war-incurred). The first is placed in the Nixon budget under "human resources". The second is listed separately.

When the trust funds are set aside and veterans payments and the interest on the national debt are placed under the costs of past wars, the budget submitted a year ago by the President for Fiscal 1972 looked like this:

Military programs (Defense, AEC, military assistance, Selective Service), 44%.

Costs of past wars (veterans, interest on national debt), 17%.

Military-related programs, 61%.

Human resources (education, manpower, health, income security), 17%.

Physical resources (agriculture, rural development, natural resources, commerce, transportation, community development, housing), 11%.

All other (international affairs and finance, space, general government, revenue-sharing, non-military pay increases, contingencies), 11%.

These figures were compiled by the Legislative Reference Service of the Library of Congress at the request of Senator Mark Hatfield. They show that human and physical resources *combined* were slated by the President to receive only 28% of the funds voted by Congress, against 44% for the military and another 17% to pay off the costs of past wars.

Using the same process, the proposed Fiscal 1973 budget looks approximately like this:

	Percent
Military programs	42
Costs of past wars	18
Military-related programs	60
Human resources	19
Physical resources	11
All other	10

Thus, when the trust funds are removed and the various budget items are placed where they belong, we see that in the past year the cost of current military programs has gone down 2% and the cost of past wars has increased 1%. This amounts to a net decrease of 1% in military-related programs, an insignificant difference. Moreover, the increase in human resources from 17% in Fiscal 1972 to 19% in Fiscal 1973 is barely visible.

In terms of national priorities, the Fiscal 1973 budget is more of the same.

PEACE AND JOBS

At the end of 1971, the unemployment rate stood at 6.1% and 5.2 million members of the American labor force were without work. President Nixon implies that the release of more than 2 million persons from the armed services and defense plants is the cause of this high unemployment.

Its basic causes, however, are the Administration's economic and fiscal policies. The situation has been inflamed by the Administration's failure to stimulate new jobs for those it knew would be released from the military services and defense industries. Without generating new civilian jobs, there can be no full employment.

The President cruelly misleads the public—and especially those without jobs—by claiming that "our goal in this country is full employment in peacetime." If that is the goal as defined by 4% joblessness (some Western European nations define it at 2%), it is nowhere in sight. To the degree that President Nixon uses federal resources to create jobs, he lavishes military and space spending on the aerospace and other defense-dependent industries, aggravating the strains already caused by a well-financed military sector and a starved public civilian sector.

The increase in military spending proposed by the Nixon Administration seems designed in part to provide those jobs which it has failed to generate in the civilian sector. Yet, it is unnecessary to increase military spending (or build space shuttles) in order to create new jobs and lower the unemployment rate.

Several recent studies have concluded that spending on domestic priorities is just as good, if not better, at generating jobs as defense and space spending. The U.S. Arms Control and Disarmament Agency's *Adjustments of the U.S. Economy to Reductions in Military Spending* (edited by Bernard Udis, 1970) suggests that civilian programs are just as effective at creating jobs as military spending. It emphasizes that "there is nothing unique about the capacity of military spending to generate jobs." Dr. James Scoville, economics professor at the University of Illinois, has concluded in a chapter in the Urban Coalition's *Counterbudget* that: "Reallocation of a fixed federal budget from high-cost (i.e., high outlays per job created) defense programs to lower-cost social welfare operations is sufficient to generate a modest increase in total employment. With an increased total budget, as proposed in this report, this effect would be somewhat greater" (P. 307).

Decreases in defense spending need not mean increased unemployment, nor is the economy dependent on defense spending for the creation of jobs. It is possible to fully employ Americans without being held hostage by military spending—if we spend the money necessary to meet our unmet domestic needs. Meeting the unmet needs of this country means not only solving some of our most pressing social and economic problems, but also providing millions of new jobs for American workers. Planning is required, however, and the Administration appears to have done none.

A study by Leonard Lecht of the National Planning Association, *Manpower Requirements for National Objectives in the 1970's,* based on meeting the national goals of President Eisenhower's Commission on National Goals (*Goals for Americans,* Prentice-Hall, 1960), concluded that between 1962 and 1975, 33,360,000 jobs could be created by meeting the goals outlined by the commission. If we take his estimate for the total number of jobs that could be created by 1975 (101,206,000) and compare it with the size of the labor force at the end of 1971 (about 80,000,000), we see that by meeting the goals established in 1960, over 20 million new jobs could be generated by 1975.

It is significant to note that defense expenditures for 1975 in this estimate, made by Lecht in 1966, are only $70.7 billion. So even with a lower defense budget, it would be possible to continue to generate high levels of employment in the United States by attempting to meet the domestic goals of the country.

ESTIMATED MANPOWER REQUIREMENTS AND EXPENDITURES FOR INDIVIDUAL GOALS IN 1962, AND FOR ASPIRATION GOALS IN 1975[1]

Goal	1962 manpower requirements (thousands)	1962 expenditures (billions of 1964 dollars)	1975 manpower requirements	1975 expenditures	Percent increase in requirements and expenditures (1962–75)
Consumer expenditures	42,489	364.8	58,649	674.4	38– 26
Health and education	9,069	65.2	17,140	175.8	89–170
Housing	3,425	30.9	5,422	65.0	588–111
International aid	509	5.5	812	12.5	60–126
National defense	3,457	53.8	3,264	70.7	—6– 32
Natural resources	652	6.0	1,201	17.1	84–183
Private plant and equipment	5,586	50.1	11,250	155.0	101–209
Research and development	2,259	17.3	4,295	40.0	90–131
Social welfare	4,593	39.1	8,395	94.4	83–142
Transportation	3,961	35.9	5,972	76.6	51–113
Urban development	6,336	67.7	10,160	136.7	60–102
Minus double counting and transfer adjustments	14,490	174.1	25,354	379.6	
Net total, all goals	67,846	573.3	101,206	1,161.6	44–103

[1] The goals: Ch. 6—PP. 125 ff. of Lecht, "Manpower Requirements for National Objectives in the 1970's," center for priority analysis, National Planning Association, 1968.

Sources: Leonard A. Lecht, "Goals, Priorities, and Dollars—The Next Decade," the Free Press 1966; Lecht, "Manpower Requirements for National Objectives in the 1970's," center for priority analysis, National Planning Association, 1968.

Consumer Expenditures—a high consumption economy in which average family income would be $10,400.

Health—health insurance to cover dental and psychiatric bills, to provide coverage for all Americans for medical care, rapid increases in medical personnel.

Education—based on President Kennedy's statements, more and better and better-paid teachers.

Housing—a decent home for every American family.

International Aid—1% of gross national product.

National Defense—depends on international tensions.

Natural Resources—preserve and conserve natural resources; mostly to supply, treat and store water and to develop outdoor recreational facilities.

Private Plant & Equipment—to create the private plant and equipment needed to provide the productive capacity necessary to meet the nation's goals.

Research & Development—to aid knowledge, to improve men's lives, to meet industrial needs and to protect the nation's security.

Social Welfare—to approximate the promise of American life with the reality of American life for the aged, unemployed, disabled, dependents, etc.

Transportation—to create efficient and progressive transportation systems and to accommodate the public preference for the automobile.

Urban Development—healthy urban growth, transportation, housing, education, public services, etc.

MILITARY POWER AND NATIONAL SECURITY

The priorities set forth in the proposed budget reflect the old assumptions of the cold war and even the pre-nuclear age. These assumptions are: (1) more military power improves national security, and (2) it is the duty of the United States to defend nations throughout the world against communism, by military means if necessary.

President Nixon claims that an increase in military spending is necessary to maintain an "adequate nuclear deterrent" and "to faithfully honor all of our treaty commitments." The bland rhetoric masks a continuing military over-response.

NUCLEAR DETERRENT

Both the United States and the Soviet Union have long since passed the point of rational deterrence. In 1967, former Defense Secretary Robert McNamara asserted that the most realistic measure of military power is the number of deliverable nuclear warheads. In February, 1968, he estimated that 200–400 of these warheads would constitute an "effective" nuclear deterrent, capable of destroying one-fifth to one-fourth of the Soviet population and more than one-half of Soviet industrial capacity.

As of mid-1971, according to Defense Secretary Melvin Laird's Posture Statement, the United States had 4,600 nuclear warheads and the Soviet Union had 2,000. The United States is already deploying multiple warheads on its missiles. The Soviet Union is expected to follow suit. It is estimated that the United States will have 11,000 warheads by the mid-1970's, the Soviet Union 7,000.

Today's strategic balance far exceeds Secretary McNamara's 200–400 level of "effective" deterrence, which had already been surpassed when he proposed it. The nuclear arms race, then, pits overkill against overkill, anxiety against anxiety, waste against waste. It can only undermine the national security of those nations which engage in it.

TREATY COMMITMENTS

The general purpose forces are to receive $25 billion, still the largest single segment of the military budget. Both the general purpose forces and military assistance are designed in large part to "faithfully (honor) all of our treaty commitments." These two military programs are geared to a system of cold-war alliances initiated a full generation ago, and never cut back. The United States now has public military commitments to 48 countries on every continent. In addition to the public commitments, secret agreements are known to have been made with Ethiopia, Laos, Thailand and Spain. Indeed, the first American has been killed in Ethiopia, presumably by rebels of the Eritrean Liberation Front (*New York Times*, January 22, 1971).

In some cases these commitments have provided the path to military intervention by the United States (South Vietnam, Laos, Cambodia, Thailand, Ethiopia). In others they are maintained long after the original purpose has disappeared. For example, the United States made commitments to Pakistan in the 1950's to protect it against China. By 1971, Pakistan was at war not with China but with India, and the United States and China found themselves diplomatically allied in support of Pakistan. What is the meaning of "faithfully honoring" that particular commitment in the future, especially in the light of Pakistan's genocide against the Bengalis?

The United States is propping up repressive regimes not only in Pakistan, but also in Greece, Brazil, Taiwan, South Vietnam and elsewhere. Outside of Western Europe, the system of alliances often works to the detriment of the people whose governments have received commitments from the government of the United States.

President Nixon has changed this system of military alliances in only one way. He is substituting Asian manpower for American ground forces in the Pacific area, while maintaining United States naval and air power. The potential for American military intervention remains, however. It will continue to remain as long as the administration in Washington is determined to influence the course of political developments in other nations, by open or covert military means if necessary.

The Nixon Administration has made no comparable commitment to the use of international agencies to prevent military intervention in the affairs of other countries.

JOINT ECONOMIC COMMITTEE ESTIMATE OF "NATIONAL SECURITY" BUDGET, FISCAL YEARS, 1972 AND 1973, UNIFIED BUDGET OUTLAYS

In its *1971 Joint Economic Report*, the Joint Economic Committee of Congress attempted for the first time to delineate the full costs of "national security" to the American taxpapers. According to the JEC's judgment: "expenditures for defense and defense-related activities should be incorporated under the heading 'National Security' and should contain the following types of information: (1) Total outlays of the Department of Defense for military purposes; (2) Outlays for all other agencies or programs whose activities are related to current military programs; (3) Outlays of all other agencies or programs justified on the grounds of national security; and (4) Outlays of all other agencies or programs in payment for past wars or military programs."

The following table presents the Committee's analysis of the costs of national security in the FY 1972 budget and SANE's estimates for the same categories for the FY 1973 budget:

NATIONAL SECURITY BUDGET

[In millions of dollars]

	1972 (estimate)	1973 (preliminary estimate)
Defense, military assistance and defense-related activities:		
DOD military	74,975	75,900
Military assistance [1]	1,827	1,800
Atomic energy	2,318	2,422
Space research and technology	3,151	3,191
Arms Control and Disarmament Agency	9	10
Renegotiation Board	5	5
National Security Council	2	3
Stockpiles	30	23
Expansion of defense production	—24	—32
Selective Service	78	80
Emergency Preparedness	9	8
Deductions for offsetting receipts	—898	—692
Subtotal	81,482	82,718

Footnotes at end of table.

NATIONAL SECURITY BUDGET—Continued

[In millions of dollars]

	1972 (estimate)	1973 (preliminary estimate)
Payments for past wars and defense program:		
Veteran's benefits	10,644	11,745
Interest [2]	14,765	15,871
Subtotal	25,409	27,616
Programs justified on grounds of national security [3]:		
Ocean shipping [2]	345	351
Impacted area school aid [2]	365	358
Subtotal	710	709
Total, national security	107,601	111,043

[1] Includes military assistance program, supporting assistance, credit sales, and part of the food for peace program.

[2] Includes 75 percent of program.

[3] Portions of programs, not listed, have been justified in the past on national security grounds, such as the National Highway System, the airport program and others. The JEC intends to further analyze such programs.

Source: Joint Economic Committee, "1971 Joint Economic Report; Budget of the U.S. Government, Fiscal Year, 1973."

FUNCTIONAL BREAKDOWN OF U.S. GOVERNMENT BUDGET OUTLAYS ON THE FEDERAL FUNDS BASIS FOR FISCAL YEARS 1972 AND 1973

[Dollar amounts in billions]

	1972 (estimate)		1973 (preliminary estimate)	
	Amount	Percent of total budget	Amount	Percent of total budget
National defense	$77.5	44	$78.3	42
Veterans benefits	10.3	6	11.3	6
Interest on debt	19.7	11	22.7	12
Total, military related	(107.5)	(61)	(112.3)	(60)
Human resources	(30.2)	(17)	(36.0)	(19)
Education and manpower	8.4	5	10.9	6
Health	8.9	5	10.4	5
Income security	12.9	7	14.7	8
Physical resources	(20.2)	(11)	(19.7)	(11)
Agriculture and rural development	5.8	3	6.9	4
Natural resources	4.2	2	2.4	1
Commerce and transportation	5.7	3	5.6	3
Community development and housing	4.5	3	4.8	3
Other	(18.9)	(11)	(18.8)	(10)
International affairs and finance	4.0	2	3.8	2
Space research and technology	3.2	2	3.2	2
General government	5.8	3	5.5	3
General revenue sharing	4.0	2	5.0	3
Civilian agency pay raise	1.0	1	.8	(1)
Other	.9	1	.5	(1)
Total, Federal funds (outlays)	176.8	100	186.8	100

[1] Less than 1.

Source: Budget of the U.S. Government, fiscal year 1972, compiled by the Library of Congress Legislative Reference Service. Budget does not include trust funds such as Social Security or the Highway trust fund. Budget of the U.S. Government, fiscal year 1973, estimates made by the staff of SANE based on Legislative Reference Service analysis of fiscal year 1972 budget.

MILITARY BUDGETS AND SECURITY POLICY

(Statement by Seymour Melman, cochairman of SANE and professor of industrial engineering, Columbia University)

Five different military budgets have been recently proposed for the United States:

(1) The Nixon budget for National Defense, $85.4 billion

(2) Senator McGovern's defense budget, $54.8 billion

(3) The Urban Coalition's *Counterbudget*, $50.4 billion

(4) The Brookings Institution's *Agenda for the Nation* budget, $50 billion

(5) Seymour Melman's proposed budget, $29 billion

These five budgets pay for the different military forces that are necessary to implement the national security policies that are preferred by each of the proponents.

President Nixon proposes a budget that is competent to pay for armed forces for operating a nuclear war, plus two conventional wars at the same time. One of the conventional wars is the war in Indochina, to be continued. In addition, the Nixon program includes major new investments in aircraft, missiles, submarines and surface craft for adding to nuclear overkill forces. By mechanizing major parts of the non-nuclear armed forces, the Nixon Administration hopes to be able to operate conventional wars with fewer men in the uniformed services. The Nixon budget continues the strategy of using military power as an all-purpose political instrument and defines the security of the United States as equivalent to numerical preponderance of instruments of military power.

The McGovern budget is a major step away from the Nixon concept of security based on military power. The McGovern budget withholds additional funds for adding to overkill, terminates the Indochina War, withdraws half of U.S. troops from Europe, and reduces U.S. armed forces to 1.7 million, as against the Nixon plan of 2.5 million under arms. The difference of about $30 billion between the Nixon and the McGovern budget makes available the funds that would be required for implementing a true shift in national priorities toward emphasizing civilian, rather than military economy. The McGovern defense budget is the first step toward demilitarizing American society.

The Urban Coalition's military budget in *Counterbudget* relies primarily on the elimination of mismanagement and waste in the operation of the Pentagon, the ending of the war in Indochina, and the elimination of obsolete weapons systems to accomplish a reduction in defense spending to the $50.4 billion level.

The Brookings' budget of 1971 was based on a security policy similar to that of President Nixon's, but included allowance for substantial reductions in forces on grounds of economizing and making more efficient use of manpower.

The Melman budget defines forces and equipment adequate for three functions: nuclear deterrence; guarding the United States; and capability for participating in international peacekeeping. The forces for these functions are calculated at no more than 1 million men in a volunteer army.

We offer the following fundamental critique of the Nixon budget:

(1) It continues the Indochina War,

(2) It finances major additions to nuclear overkill. In 1971 the United States could deliver 4,600 nuclear warheads to foreign locations by intercontinental delivery vehicles. For the 175 Soviet cities of population of 100,000 or over this meant an overkill of 26 times. The Soviets, with a lesser nuclear force, 2,000 warheads, could "overkill" the 150 U.S. cities of 100,000 or more 13 times. This nuclear arms race has become absurd. People cannot be killed more than once. If the U.S. and the U.S.S.R. were to exchange their nuclear forces would it make any military difference as between these two countries?

(3) The Nixon budget prepares for more wars of intervention in the Vietnam fashion. It includes a continued emphasis on the Westmoreland program for the "electronic battlefield" which depends on mechanization for delivery of destructive power and requires fewer men per ton of ordnance delivered.

(4) The Nixon budget commits more than 8 million man-years for non-productive economic growth in the United States, assuming $10,000 as the cost of a man-year. This means 8 million man-years whose produce does not contribute to the quality of life nor to further production. The concentration of skilled manpower on economically non-productive work is the prime cause of the growing non-competitiveness of many U.S. industries and the collateral increase in unemployable labor and uninvestable capital.

(5) The Nixon program includes no preparation whatsoever for conversion from military to civilian economy. Despite catastrophic unemployment conditions in many cities and regions, the Nixon Administration has declined to respond to any proposals for preparing the way for conversion of either enterprises or individuals to civilian economy.

(6) The Nixon military budget commits over $400 per person in the United States to military power in the name of security. Actually, this priority diminishes the security of the American people; for in every modern state the security of the nation is a function not only of military position but also of the economic and social well-being of the population. The security of the American people is menaced today by the plague of hard drug addiction, the breakdown of community, and unemployment rates extending to 34.9% as among teenagers in the ghettoes. The Nixon budget with its military priority offers no prospect of improvement of life for the 30 million Americans, white and black, who are still the disinherited of American society.

A set of practical steps could be taken by the federal government to improve American security, including:

(1) sharp reduction in the Pentagon budget along the lines proposed by Senator McGovern, as a first step;

(2) reduce sharply the irrationally large overkill forces;

(3) stop the Indochina War and bring American forces home;

(4) negotiate mutual force reductions with the U.S.S.R.;

(5) start withdrawal from the grossly over-extended military commitment system in 48 countries;

(6) use the savings from the McGovern defense budget to finance major job-creating activities, especially in the major metropolitan centers and civilian industrial areas of the United States. The agenda prepared by the Council of Economic Advisers in its 1969 Economic Report can be used as a first guide to a civilian priorities program.

ALTERNATIVE DEFENSE BUDGETS

The following tables represent some alternatives to the current defense budget and programs of the U.S. government. The first study by Charles Schultze and others is an annual project of critically examining the federal budget conducted at the Brookings Institution in Washington. The second table is from an Arms Control and Disarmament Agency study concerned with the effects of cutting defense spending on the U.S. economy. The final source is from the Urban Coalition's *Counterbudget* which proposes alternatives directed toward changing national priorities—which proposals were endorsed by such people as Mrs. Fred Harris, John Lindsay, John Gardner, James M. Roche, David Rockfeller, Leonard Woodcock, and Whitney Young.

None of these budget alternatives alter the basic assumptions of American defense strategy; they concentrate on the ending of the war in Indochina, eliminating waste in defense contracting, and cutting back on strategic and general purpose forces. The following article by Seymour Melman, however, considers the effect of altering some of the assumptions of defense policy on military budgets for the United States.

I. Charles L. Schultze (former Director of the Bureau of the Budget), Edward R. Fried, Alice M. Rivlin, and Nancy H. Teeters, *Setting National Priorities: The 1972 Budget,* The Brookings Institution, Washington, D.C., 1971. Following table from page 67:

PROJECTIONS OF OPTIONAL DEPARTMENT OF DEFENSE BUDGETS, BY MILITARY PROGRAM, FISCAL YEARS 1972 AND 1976

[In billions of dollars]

Option and program	1972	1976[1]
Option I:		
Austere Nixon doctrine	44	52½
Diversified strategic deterrent with only essential modernization	17	20½
All-volunteer Army	(2)	1½
Vietnam	8½	1
Total	69½	75½
Option II:		
General-purpose forces as in 1972 budget	51	61
Strategic forces, as in 1972 budget	20	24
All-volunteer Army	(2)	2
Vietnam	8½	1
Total	79½	88
Option III:		
Nixon doctrine with heavy modernization	55	65½
Diversified strategic deterrent with rapid modernization	23	27½
All-volunteer Army	(2)	2
Vietnam	8½	1
Total	86½	96

[1] Outlays other than for the cost of the all-volunteer Army and Vietnam have been adjusted for projected increases in pay and prices.

[2] The $1,500,000,000 provided in the fiscal year 1972 budget for the volunteer force is included in the 1972 cost of the general purpose and strategic forces in each option. The figure shown for this purpose in 1976 is the estimated additional cost that will be required to put the proposal into effect: $1,500,000,000 for option I (with a smaller number of troops) and $2,000,000,000 for options II and III.

Source: Authors' estimates.

II. Bernard D. Udis (editor), *Adjustments of the U.S. Economy to Reductions in Military Spending,* prepared for the U.S. Arms Control and Disarmament Agency, Washington, D.C., December, 1970. Following table and assumptions from pages 9 to 12.

SAMPLE POST-VIETNAM DEFENSE BUDGETS[1]

[1972 prices; billions of dollars]

Type of budget	Minimum deterrence	Streamlined baseline	Fiscal year 1965 inflated	Postwar baseline	Postwar superiority
Budget categories:					
Strategic forces	4.3	7.8	8.2	10.6	16.6
General purpose forces	15.0	19.0	22.7	21.6	26.4
Intelligence and communications	2.8	5.0	5.4	5.9	10.4
Airlift and sealift	1.0	1.4	1.6	1.5	1.9
Guard and Reserve forces	1.6	2.0	2.3	2.0	2.8
Research and development	2.9	5.2	5.7	8.1	10.8
Central supply and maintenance	3.8	4.8	5.7	5.4	6.7
Training, medical, etc.	4.6	5.8	7.0	6.6	8.0
Administration and associated activities	.8	1.0	1.4	1.2	1.4
Support of other nations	1.2	1.2	1.3	1.4	2.4
Retirement pay and pay raise	4.2	6.2	6.2	6.2	6.2
Total obligational authority	42.2	59.4	67.9	70.5	93.6

[1] See below for the assumptions underlying each budget.

Source: William W. Kaufmann, "Alternative Post-Vietnam Defense Budgets," U.S. Congress, 91st Cong., 1st sess., Joint Economic Committee, Subcommittee on Economy in Government, "The Military Budget and National Economic Priorities, Pt. 1" (Washington: Government Printing Office 1969), pp. 163–181, especially pp. 178–179.

ASSUMPTIONS GOVERNING THE SAMPLE DEFENSE BUDGETS DEVELOPED

(By Prof. William W. Kaufmann)

1. Minimum Deterrence ($42.4 billion)—

(a) Strategic nuclear deterrence is based solely on the Polaris-Poseidon force; Minuteman, bombers, and CONUS active defenses are phased out;

(b) Theater nuclear forces are phased out of the inventory;

(c) 6 division forces and 6 tactical air wings are dropped from the force structure, and General Purpose force planning is based on the assumption of the capability simultaneously to cope with one major and one minor contingency;

(d) Proportionate reduction in other programs associated with the General Purpose Forces (categories 4, 5, 7, 8, and 9), and a cut in military assistance;

(e) A reduction in the pay raise to reflect the reduction in manpower;

(f) The armed forces are assumed to number 2.3 million.

2. *Streamlined Baseline* ($59.4 billion)—This budget is intended to reflect the following characteristics:

(a) deferral of the decision to deploy Safeguard and Minuteman III, and phaseout of older-model B–52's;

(b) cessation of further expenditures on theater nuclear forces;

(c) potential for modernization of the forces to the extent that older programs are traded off against needed new ones, and through salvage of high-value Vietnam surpluses;

(d) The armed forces are assumed to number 2.5 million.

3. *FY 1965 Inflated* ($67.6 billion)—This is the original FY 1965 defense budget with the following changes:

(a) The first ten categories are inflated by 20 percent;

(b) Retirement pay and a pay raise are added;

(c) The armed forces are assumed to number 2.7 million.

4. *Postwar Baseline* ($70.5 billion)—This budget reflects not only the end of the war in Vietnam, but also a reduction in the General Purpose Forces to the level of about FY 1965. However, the strategic and affiliated programs are maintained near the levels of the FY 1970 budget. The armed forces are assumed to number 2.7 million.

5. *Postwar Superiority* ($93.6 billion)—This budget has been arrived at by taking the following steps:

(a) Adding $6 billion to the Strategic Forces in order to start procuring 700 Improved Capability Missiles, 210 AMSA, AWACS and the F–106X, a heavy ABM defense, and an expanded fallout shelter program;

(b) Expanding Research and Development and Intelligence and Communications proportionately;

(c) Reducing the budget by $16.7 billion to account for the end of the war in Vietnam;

(d) The armed forces are assumed to number 3.5 million.

III. The National Urban Coalition, Robert S. Benson and Harold Wolman (editors), *Counterbudget: A Blueprint for Changing National Priorities, 1971–1976,* Praeger Publishers, New York, 1971. The following text and table are from pages 268 to 273.

Major changes in the size and composition of U.S. military forces are demanded between 1971 and 1976. In several instances—notably research on a new sea-based strategic deterrent system (ULMS), sealift capacity, and modernization of Reserve forces—significant spending increases are recommended.

These increases are more than matched by recommended major decreases in spending stemming primarily from:

1. improved management and operating efficiencies;

2. elimination without replacement of systems rendered obsolete by changing technology, combined with careful scrutiny and pruning of new weapons system modernization;

3. elimination of wastefully duplicative strategic deterrent forces and a cessation of attempts to build and operate strategic defensive systems such as Safeguard;

4. an enlarged defense manpower and dollar burden assumed by U.S. allies in both Europe and Asia; and

5. An end to U.S. military involvement in Vietnam (except for a residual $1 billion annual military assistance contribution).

Altogether, we recommend that U.S. military spending decrease from $74.5 billion in 1971 to roughly $60 billion in 1972 and $50 billion during the following four years. Excluding Vietnam spending, the five-year decline would be only from $61 billion to $49 billion.

In constructing a defense budget, it is important to keep clear the distinction between what is minimally required to defend the United States and what additional increment we feel it prudent to bear in order to foster our interests in the world at large. Pure defense of the continental United States actually costs very little in comparison to the total size of our so-called national defense budget. Of the sums above, spending that is directly related to the national security of the United States would shift only from $30 billion in 1971 to $26 billion in 1976, primarily as a result of recommended reductions in strategic forces. The residual, which constitutes U.S. military assistance (broadly defined) to the defense of allied nations, would decline from $44 billion to $24 billion.

The term "national defense" is in fact a highly misleading description of the total purposes served by U.S. military spending. A more strictly accurate descriptive term for U.S. military spending might be "national defense and military assistance," after the two central purposes. The term "military assistance" here has a much broader connotation—representing all U.S. military forces exceeding those required to defend continental U.S. territory—than in the conventional reference to arms grants and sales to other notions.

If our recommendations were implemented, U.S. defense forces by 1976 would be fully adequate to deter any concerted strategic or conventional attack on the United States itself. The devastating second-strike destructive capability of the invulnerable Poseidon fleet, supplemented by bombers and Minuteman missiles, would deter any strategic attack. Even if some other nation had the transportation and logistics capability (which none now does) to launch a major conventional assault on the United States, our modest conventional forces would quickly fend them off. The United States would also continue to possess the strongest and largest military forces in the world earmarked for defense of other nations. Altogether, then, we feel confident that our recommended changes in U.S. military forces could be made without endangering the security of the United States.

Finally, we must reiterate the uncertainties about military plans and intentions of other nations. Our recommendations for U.S. military forces are dependent upon the international political and military assumptions set forth in the text. No five-year plan should ever constitute a rigid operating guideline; the United States must constantly and diligently re-examine the military threats facing it. To the extent that future projections of the behavior of other nations differ from those we have assumed, U.S. forces should be adjusted appropriately from the levels and composition we have recommended. Based on current knowledge, we consider our recommendations and appropriate set of defense policies for the five years ahead.

NATIONAL DEFENSE AND MILITARY ASSISTANCE: MAJOR PURPOSES

[Outlays, in millions of current dollars]

	Administration[1]		Urban coalition recommendations				
	Estimated 1971	Proposed 1972	1972	1973	1974	1975	1976
Strategic and related forces	16,340	16,470	12,510	11,380	11,025	11,070	10,510
Baseline general-purpose and related forces	45,160	53,630	41,830	37,255	36,525	37,915	38,815
Vietnam	13,000	5,900	5,900	1,700	1,000	1,040	1,100
Total	74,500	76,000	60,240	50,355	48,550	50,025	50,425
Total, excluding Vietnam	61,500	70,100	54,340	48,635	47,550	48,985	49,325

[1] Only the totals have been made available by the administration. Allocations are based on staff estimates.

All the Muscle at One-Third the Cost

(By Seymour Melman)

There would be no problem of paying for reordered national priorities if there were not a military budget and other war costs, past and present, that account for 64 per cent of the 1971 tax dollar. Since the Second World War the military burden has totaled over $1,100-billion, more than the value of all residential and business structures in the United States. Having forgone the productive use of such immense resources, it is no mystery that so much deterioration is visible around us and that inflation, underemployment, and fiscal weakness have become the ills of the American economy.

This decay in American life cannot be remedied except by demilitarization—first of the federal budget. The Nixon administration proposes a 1972 budget of $79.2-billion for the Department of Defense. I suggest that the military security of the United States can be competently served with armed forces costing two-thirds less, between $25- and $29-billion. The difference, approximately $50-billion per year, is what is needed to start restoring the United States economically and morally.

A defense budget should be adequate to pay for the men and equipment needed to implement a particular military security policy. The security policy is the heart of the matter. "How much is enough" is defined by "enough for what?" If what is wanted is the capability to try to overwhelm opponents in deliberately run nuclear wars, then recent U.S. military budgets and forces are barely adequate, or too low. On the other hand, if the preferred security policy is aimed basically at defense—defined as nuclear deterrence, competence to guard the United States, and the capacity to contribute to international peacekeeping—then the present U.S. military establishment and its costs are extravagant.

At present, the Nixon administration's policies call for capability to fight a nuclear war and two other wars at the same time. I propose this commitment be reduced to the three defense objectives: first, deterring nuclear attack; second, guarding the shores of the United States; third, participating in international peacekeeping. The forces required to implement this security policy would amount to 964,000 men as compared to the administration's 1972 requirement of 2,505,000 men in uniform. The budget requirements are in similar proportion. These results are readily demonstrated in terms of contrasting requirements for Strategic Forces and for General Purpose Forces.

The Strategic Forces designed to deliver large nuclear weapons over intercontinental distances include 521 B–52 and B–58 bombers, 1,054 large landbased missiles of the Minuteman and Titan class, and forthy-one submarines equipped with Polaris and Poseidon missiles. In mid-1971 these could deliver 4,600 nuclear warheads, each one a city-destroyer with TNT equivalent ranging from 50,000 to 20,000,000 tons. To gain perspective, it should be noted that the Soviet population and industrial system is concentrated in about 156 cities of 100,000 popultaion or more.

The 1971 Strategic Forces' overkill capacity of at least thirty times is being rapidly doubled by the MIRV program. This extravaganza makes sense only as part of a counterforce policy that is aimed at directing a first-strike blow against all Soviet land-based weapons. But such a war could not be won since Soviet submarines could be themselves destroy the main cities of the United States.

I estimate that strategic weapons, plus their elaborate warning systems, will require, directly and indirectly, about 450,000 uniformed military personnel in 1972. The cost of the administration's Strategic Forces program will be about $16.3-billion, or 21 per cent of the proposed defense budget.

My alternative policy requires the operation of a nuclear deterrence force until there is a controlled agreement on disarmament. This force should have a highly reliable capability to destroy by retaliation any adversary that mounts an attack on U.S. territory or vitally linked entities such as Canada and Western Europe. The size of this deterrent force should be determined with regard to the fact that, for the foreseeable future, the U.S.S.R. would be the only conceivable nuclear attacker. Therefore, an adequate U.S. deterrent is one that threatens the Soviet's 156 population-industrial centers. If Soviet leaders are not deterred by the prospect of 156 warheads arriving at that many places, then they would be too insane to be deterred by anything.

For a policy of deterrence, the preferred nuclear delivery force would be the Polaris submarine fleet, as now constituted, without any MIRV program being required. The present Polaris fleet has the necessary speed, range, evasiveness, and reliability. In the judgment of the Secretary of Defense, the "Polaris and Poseidon submarines at sea can be considered virtually invulnerable today." Therefore, the Polaris fleet removes dangerous pressure for hair-trigger response to threats, accidents, or deliberate attack on the United States.

The policy of deterrence I propose would also allow very large savings to be made in presently proposed new weapons systems. For example, the Navy plans for MIRVing the Polaris fleet call for an outlay of $5,115,000,000, while the Air Force would spend a projected $10,101,000,000 to adapt the Minuteman missiles (without allowances for cost overruns). The proposed supersonic B–1 bomber would carry forty tons of weapons for 10,000 miles with one aerial refueling. But its cost, with new tankers, support facilities, and allowance for overruns, would be as high as $75-billion.

The deterrent force, on the other hand, based on the Polaris fleet, would require a complement of 29,000 men. With full supporting staffs and services (research, medical, training, administrative, etc.), the total operating cost would amount to about $3-billion per year, compared with the present $16.3-billion price tag on the administration's expanding Strategic Forces.

The General Purpose Forces of the United States were designed, according to their originator, former Secretary of Defense Robert S. McNamara, to be "related not so much to the defense of our own territory as to the support of our commitments to other nations." The General Purposes Forces for 1972 are planned to include about 2,100,000 men with the heaviest firepower and the greatest mobility of any military machine in the world. In addition, 1,100,000 civilian Pentagon employees help to operate about 600 major bases in this country.

The General Purpose Forces were designed for "flexible response." That means the ability to apply force with weapons ranging from pocket knives and sand in the gears to tactical nuclear warheads. This capability is, in essence, the instrument of Pax Americana, of

U.S. imperial power around the world, In thirty nations we have 430 major bases and about 1,600 lesser installations. As with its imperial predecessor, "the sun never sets" on the U.S. military establishment.

The cost of operating and further developing the General Purpose Forces in 1972, together with supporting civilian employees and supplies, would be $59.5-billion, or 75 per cent of the administration's defense budget. This includes about $6-billion for Vietnam operations.

My proposal for a U.S. military security policy includes guarding the United States and participating in international peacekeeping. These functions would be performed by combined air, sea, and land forces. An air patrol consisting of 100 land-based tactical planes would guard the coasts of the United States. This patrol would be complemented by two aircraft carriers (preferably nuclear) on each coast with six destroyers per carrier, together with twenty mine-counter-measure ships. The naval forces, ordinarily based on American coasts, could also participate in international peacekeeping, together with airborne combat battalions that would be stationed mainly in the United States.

The airborne combat units would comprise 100 battalions, each unit of 400 men with its own autonomous long-range air transport, supply, and air-ground support capability. The manpower for these defense forces would have to be highly trained and multi-skilled volunteers, in the grades of technical sergeant and up, well paid, and under a long enlistment program. Each man would train into a great many skills.

I underscore that these proposed forces are *not* suited for wars of intervention, as in Vietnam. They include neither the number of men nor the sort of weaponry that is required for large-scale military intervention and sustained occupation and control of populations. Also, the airborne battalions could serve as part of a symbolic U.S. presence—without the present "army of occupation" size and cost.

U.S. defense and peacekeeping forces of this kind could be operated by 735,000 men as compared with the 2,100,000-man level programed by the Nixon administration for 1972. I am unable to give a separately itemized estimate of the cost of operating the force I propose since it includes military units of a type not presently operated. A rough approximation is possible, however. Present forces cost about $30,000 per man-year (including new weapons, etc.); on this basis, the cost of the proposed non-nuclear defense and peacekeeping force would be 735,000 men multiplied by $30,000, or $22,050,000,000.

Investment in research and development for new weapons is strongly affected by the choice of security policy. You can't "improve" on nuclear overkill, for example. So, adding the B–1 bomber, Poseidon missiles, and the ABM system can only support a suicidal attempt at winning a nuclear war. These costly systems are unnecessary to a U.S. force designed to deter and defend.

Expense and intricacy do not necessarily yield useful technology. Determined guerrillas, for example, are not overcome simply by more accurate control of more firepower, as in the "electronic battlefield" envisioned by General Westmoreland. About $625-million was spent in 1969 and 1970 trying out electronic sensors and computer-directed firepower in Thailand, Laos, and Vietnam. They didn't work.

A revised military security policy would require an appropriate research and development program. The approach, however, would not be to undertake the development of weapons just because something could be done or because someone else has done it. Probably less than 15 per cent of the Pentagon's present new weapons list (estimated to cost $120-billion) would be relevant to the defense policy I propose here. The Pentagon's $6,096,000,000 research and development budget for 1972 could be prudently cut by at least two-thirds.

Military policy and defense spending should not be destructive of the quality of our lives. From research conducted by Bruce Russett at Yale, we now have useful ways of measuring the cost to the civilian economy of increases in military spending. Professor Russett shows that investment in consumer durable goods and in new industrial production equipment is especially diminished by military spending. Thus, an added dollar spent by the Pentagon means, among other losses, $.163 less for consumer durables, $.114 less for residential structures, and $.110 less for new production equipment. The Indochina War has cost the United States about $150-billion so far. On the basis of these calculations, this has meant $24,450,000,000 less for consumer durables, $17.1-billion less for 450,000 homes, and $16.5-billion less for new production equipment during the 1960s. Witness also that in the American Northeast, supplies of power, transportation, and communication have ceased to be reliable.

A widening network of American industries is becoming technically and economically depleted, incompetent not only in the world market, but unable to hold even domestic markets. This is true in steel, shoes, machine tools, civilian electronics, shipbuilding, typewriters, automobiles, and other industries. For more than a century, American technical know-how produced new product designs and production techniques. High U.S. wages could be offset by efficiency in the production of excellent products at a low unit labor cost. This vital capability has been diminished by the long and lavish concentration of research talent and capital on military technologies—in which cost minimization is not a basic criterion.

The bitter lesson, especially of the 1960s, is that the security of American society is diminished by policies that aim at worldwide hegemony based upon military power, with the assumption that the wealth of this country is virtually unlimited and that military spending of an unproductive sort is no different from productive economic growth. By the end of 1971, it may no longer be said that the main threat to American security is military, or that the security of the United States may be assured primarily by military means. My proposed redesign of U.S. armed forces and the resultant reduced budgets will make available the large funds that are urgently required for economic and other rehabilitation in the United States.

It is not feasible to anticipate the full range of effects and problems associated with a fundamentally revised American security policy. Nevertheless, because it serves the needs of the American people, I advocate its implementation without regard to prior Soviet agreement.

What if the Russians refuse to follow a policy similar to the one that I propose for the United States? In that case, the Soviets would pile up meaningless nuclear overkill and flexible response forces that would add nothing to the effective security of their society nor diminish the military security of the United States. Such a Soviet policy would, however, continue to drain Soviet resources and would impose a heavy burden of economic privation on the Soviet people.

In the last analysis, one of America's problems is overcoming the fears that many Americans feel if we are not outdoing the Russians weapon by weapon and technology by technology. At a recent informal discussion that included a number of military officers, I presented some of my ideas. Finally, one Air Force man rose to his feet and cried out: "We've gotten so accustomed to just reacting to the Russians that we have allowed ourselves to become too reactive. Why, if the Russians announced they were going to hell, in no time the Bureau of Mines would come up with a program . . ."—at which point the entire discussion dissolved in laughter.

ADDITIONAL ALTERNATIVE DEFENSE BUDGETS

I. Seymour Melman's proposal in "All the Muscle at One-Third the Cost," *Saturday Review*, October 9, 1971.

To provide for the defense of the United States—including nuclear deterrence, competence to guard the United States, and the capacity to contribute to international peacekeeping:

$25 to 29 billion (see previous page on the specific cuts that Melman proposes to reduce the defense budget to this level).

II. Robert S. Benson, "The Cost of Security: National Defense and Military Assistance Requirements for the 70's," The National Urban Coalition, May, 1971.

This background study for the Urban Coalition's *Counterbudget* provides the following table to indicate the costs of simply defending the United States of America—without providing military assistance to the rest of the world:

Core requirement for defense of United States—in billions of 1971 dollars for 1971

Strategic and related forces	16.3
General purpose forces:	
4 active Army divisions (& support)	3.1
6 Reserve divisions (& support)	1.8
8 air wings (& support)	2.7
Anti-submarine warfare & mine sweeping	3.0
Intelligence and communications	1.2
Research and development	2.4
Total	30.5

III. Senator George McGovern, *Toward a More Secure America: An Alternative National Defense Posture*, January, 1972 (placed in the appendix of *The Congressional Record*, January 19, 1972).

The following outlines the alternate budget that Senator McGovern suggests for FY1975. It is based on reductions of strategic and general purpose forces that he feels are unnecessary to achieve national security. Military manpower would be reduced to 1.7 million by 1975, ABM construction would be halted, the B–1 bomber would be halted, MIRVing of Minutemen and Polaris missiles would be halted, the 54 Titan missiles would be retired, our bomber force would be reduced, and our aircraft carrier force would be reduced. Reducing and retiring these forces would not endanger the national security of the United States, according to Senator McGovern. The remaining strategic and general purpose forces would be adequate to provide for the defense and national security of the United States.

	McGovern defense budget[1]	Administration's fiscal year 1972 program[2]
Military personnel	$18.6	$28.1
Military retired pay	5.1	6.0
Civilian payroll	10.2	13.2
Subtotal, pay	33.9	47.3
Equipment, supplies and services	20.9	40.1
Total	54.8	87.3
Proposed strategic forces program costs, 1975 (McGovern budget):		
Strategic forces:		
Minuteman	.2	
Polaris/Poseidon	2.9	
B-52/FB-111	.7	
SRAM/SCAD	.1	
Bomber defense	.8	
Surveillance	.7	
Safeguard	0	
Subtotal, strategic forces	5.4	
Operating outlays	7.6	
Investment outlays	6.5	
Total	14.1	

	McGovern defense budget[1]	Administration's fiscal year 1972 program[2]
Proposed strategic forces program—Continued		
Intelligence and communications	$3.2	
Research and development	2.5	
Supply and maintenance	1.0	
Training, medical, and other personnel activities	1.4	
Administration	.6	
Total, strategic forces	14.1	
Proposed general purpose forces program costs, 1975 (McGovern budget):		
General purpose forces	17.9	
Intelligence and communications	2.3	
Airlift and sealift	1.5	
Guard and reserve	3.2	
Research and development	3.0	
Operating outlays	26.5	
Investment outlays	14.2	
Total	40.7	
Central supply and maintenance	4.1	
Training, medical, and other personnel activities	6.1	
Administration	1.2	
Support to other nations	.5	
Military assistance	.9	
Total, general purpose forces	40.7	

[1] McGovern defense budget, fiscal year 1975 total program osts (in billions of dollars).

[2] The administration's fiscal year 1972 program costs (in billions of 1975 dollars).

Illustrative new programs or expansions of existing federal programs, fiscal year 1972

[Hypothetical expenditures—billions of dollars]

PROGRAM	
Total expenditures	$39.7
Education	7.0
Preschool	1.0
Elementary and secondary	2.5
Higher	3.0
Vocational	.5
Health	3.8
Kiddie-care	.5
Medicare for disabled	1.8
Comprehensive health centers	1.0
Hospital construction and modernization	.5
Nutrition	1.0
Community service programs	.8
Jobs and manpower	2.5
Public jobs	1.8
Manpower Development Training Act	.5
Employment service	.2
Social security and income support	9.5
Unemployment insurance	2.0
Public assistance	4.0
Social security improvements	3.5
Veterans	.3
Economic, area and other special development programs	2.2
Entrepreneurial aid	.5
Area redevelopment	.5
Rural development	1.0
Indian assistance	.2
Crime, delinquency, and riots	1.0
Violence and riot prevention	.1
Safe streets programs	.3
Rehabilitation of offenders and delinquents	.3
Prevention of delinquency and crime by special measures for delinquency-prone youth	.3
Quality of environment	1.7
Air pollution prevention and control	.1
Public water supply construction programs	.3
Water polution control and sewage treatment	1.0
Solid waste disposal	.1
Natural beautification, environmental protection, and recreational development	$0.2
Natural resource development and utilization	1.4
Land and forest conservation	.2
Water resources and related programs	.5
Mineral and energy (excluding hydroelectric) development	.2
Natural environmental development	.5
Urban development	5.5
New cities	.5
Land acquisition and financial planning (suburban)	.5
Urban mass transportation	.5
Model cities	2.0
Other urban facilities and renewal	2.0
Transportation	1.0
Airway and airport modernization	.4
Rapid interurban ground transit	.1
Modernization of merchant marine	.2
Motor vehicle and transportation safety research and safety grants	.3
Science and space exploration	1.0
Post-Apollo space program	.5
Scientific research in oceanography, communications, social and behavioral sciences, and natural sciences	.5
Foreign economic aid	1.0

Source: Bureau of the Budget and Economic Report of the President, 1969.

SOME ILLUSTRATIVE SPENDING PROPOSALS FOR MEETING THE UNMET NEEDS OF THE UNITED STATES

(a) Seymour Melman's proposals in *Our Depleted Society* (Dell, 1965):

Housing—elimination of substandard housing, $42 billion.

Health Care—providing for more doctors and more medical schools, $2.5 billion.

Education—improvement of the entire educational system in the U.S., $70 billion.

Clean Water—insurance of clean water by curtailing pollution, $17 billion.

Natural Resources—a prudent program for development and conservation of American natural resources, $40 billion.

Renewal of Depleted Industries—investment for industrial renewal, $25–50 billion.

Recreation—purchases of recreational equipment and construction for urban swimming pools, $500 million.

(b) Urban Coalition proposals in *Counterbudget* (Praeger, 1971):

Health—establish a national health insurance trust fund, $51.6 billion.

Social Insurance—increase in Social Security, disability and unemployment benefits, $35.6 billion.

Income Support—to end poverty in the U.S. by 1975, $28.7 billion.

Education—federal contribution to early, elementary and secondary education should increase, $11.1 billion.

Social and Physical Development—federal aid to states and localities for governmental services, $22 billion.

Environment—federal support for population control, $1.8 billion.

Elimination of Hunger—$4 to $5 billion annually.

(c) Federal Heart Disease Program—$295 million recommended by a government task force over the next two years to establish a federal research and treatment program to cut the number of deaths from heart attacks and strokes (the number one disease killer of Americans).

(d) Federal Child Care Program—$2.1 billion to provide for child nutrition, health and day care; this Congressional action was vetoed by President Nixon, December 9, 1971.

(e) Clean Water—water treatment legislation pending before Congress, $14 billion for 4 years in the Senate version; $20 billion for 5 years in the House version. The Nixon Administration has contended that these programs would be too costly.

(f) Environmental Quality—While the Administration feels that $14 billion for 4 years would be too costly, its own Council on Environmental Quality has presented the following estimate of what it will cost between 1970 and 1975 for the abatement of water pollution: $38 billion. The Council also estimated that it would cost $23.7 billion for the abatement of air pollution and $43.5 billion for adequate solid waste treatment programs. Total—$105.2 billion.

(g) Dental Health Care for Children—a bill introduced in Congress by Senator Magnuson to increase the number of dental personnel, to provide for dental care for children, and to increase the availability of dental care for all Americans, $142 million for three years.

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TRIBUTE TO LITHUANIA

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, each February brings with it the celebration of two important days in Lithuanian history—the 721st anniversary of the formation of the Lithuanian State, and the 54th anniversary of the establishment of the modern Republic of Lithuania, on February 16, 1916. Unfortunately, while Americans of Lithuanian descent will be commemorating these holidays across the United States, the citizens of Lithuania itself will have little to cheer about. Subject to Russian domination since World War II, the people of Lithuania have been unable to enjoy the basic rights of individual liberty which we in the United States have enjoyed throughout our history. They have been forced to sacrifice their rights to the political ambitions of the Soviet Union.

The attempted defection of Lithuanian sailor Simas Kudirka last November evidences just how far Lithuanians have been stripped of their rights. Seeking asylum on an American ship, Kudirka was forcibly beaten and removed from the U.S. vessel by Soviet sailors. American behavior during this incident was of course inexcusable. New State Department guidelines, issued partly as a result of pressure by myself and other members of the House Subcommittee on State Department Organization and Foreign Operations, should prevent further U.S. confusion, and improve our responses to asylum requests.

What has not improved, however, is the Soviet attitude toward Lithuanian desire for freedom. There have been no new declarations coming from the Soviet Union since the Kudirka case which clarify the individual right to emigrate to the country of one's choice. There have been no declarations that Lithuania will be given her independence at any time in the future.

Happily, the Kudirka episode has also evidenced the fact that the Lithuanian desire for freedom is still burning. During his appeal at his own trial, Simas Kudirka stated:

> I have nothing to add to what I have already said, only one wish, more specifically, a request to the supreme court and the government of the Soviet Union: I ask that you grant my homeland, Lithuania, independence.

Despite the many years of Soviet repression, this spirit, the spirit of Simas Kudirka still exists in all Lithuanians today. The people of Lithuania continue to cherish the dream of self-determination. They continue to long for the individual rights and human dignity to which they are entitled.

In celebrating these two important Lithuanian anniversaries each year, the U.S. Congress plays an important role in keeping alive the hope in all Lithuanians for freedom. During the 89th Congress, I was one of the sponsors of a Lithuanian resolution which unanimously passed the Congress. This legislation, House Concurrent Resolution 416, calls for the restoration of rights to the people of the Baltic Nations, Estonia, Latvia, and Lithuania. The resolution supports the aspirations of Baltic peoples for self-determination and national independence, and it urges the President to bring these questions before the United Nations and other appropriate international forums. I urge all Members to join me in reaffirming the spirit of this resolution and in celebrating the Lithuanian spirit of independence on these important anniversaries.

THE BROOKLYN NAVY YARD COMES BACK

(Mr. ROONEY of New York asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROONEY of New York. Mr. Speaker, some years ago when Secretary of Defense McNamara, in one of his misguided "economy" moves, announced the Brooklyn Navy Yard would be closed, a dank economic pall lowered over Brooklyn and in particular over the 14th Congressional District which I represent and in which the yard is located.

Gone in one swoop were thousands of jobs, and millions of dollars in payroll. For many it meant seeking work elsewhere and for others it meant the demoralizing necessity of learning a new trade and then seeking new work. It was a time of anguish for many, many people in my district, Mr. Speaker. It was a time that would have broken the backs of a lesser people. But these people were tough. They retrained, they traveled long distances to get work and they came together to see what could be done.

What could be done? Well, the obvious answer was to reopen the yard. But how? Obviously no one person could do it by himself. So, groups of citizens, businessmen and labor unions were formed. They all had a goal—to bring work to the yard. Of course, this required money—for evaluation of possibilities, training, construction of new facilities, and for the refurbishing of old. In most cases the money had to come from the Federal Government—from the Small Business Administration, the Economic Development Administration, and other branches of the Commerce Department; from the Department of Labor and from the Office of Economic Opportunity and other various agencies. The Commerce Labor Industry Corp. of Kings—CLICK—the lessee of the yard, for instance, has received over $1.38 million for administration, training, and rebuilding of facilities to attract new businesses to the yard; the Brooklyn Local Economic Development Corp. received almost $500,000 to locate business opportunities in the area and to offer management assistance to small businesses.

Perhaps the grandfather of them all, though, was the Federal loan guarantees of many millions made to Seatrain Shipbuilding Corp. which started construction on supertankers of 230,000 tons each, which, when finished, will be the largest ships in the U.S. Merchant Marine. Seatrain is expected to eventually have 2,500 people employed on this project in the navy yard. Many of these employees are being trained in the yard under training grants from the Federal Government. Plans are being made for construction in the future of more huge ships at the navy yard. In addition to those hired directly by Seatrain at the navy yard, another estimated 2,000 jobs will be created by subcontracting work.

I do not think it is an exaggeration to say that in a short period of time, the employment picture at the navy yard will be almost as good as it was before Whiz Kid McNamara pulled out. The success of the concerned citizens in the 14th Congressional District has not come easy. It has been a hard and, at times, seemingly hopeless fight. But it has been proven that a strong, resourceful, willing-to-work community can come to the Federal Government and get the help needed to get back on its feet. This is what Government is all about. I am proud to have been able to work with the people who have with pride done so much for the 14th Congressional District in Brooklyn.

The following are some of the items of financial assistance from the U.S. Government to Seatrain Shipbuilding Corp. and others for the problem caused by the closing of the Brooklyn Navy Yard in the 14th Congressional District of New York:

Air Reduction Co	$420, 289
Brooklyn Local Economic Development Corp	414, 043
Chromium Plating & Polishing Co. (outside yard)	520, 000
Commerce Labor Industry Corp. of Kings (CLICK)	1, 382, 550
Ecology, Inc	1, 880, 000
New York City Department of Commerce and Industrial Development	180, 000
New York City Economic Development Administration	50, 000
New York City Public Development Corp	142, 000
Richardson Wood (consultants)	3, 000
S. & S. Corrugated Paper Corp. (outside yard)	2, 226, 000
Seatrain Shipbuilding Corp	11, 250, 000

OBSERVANCE OF LITHUANIAN INDEPENDENCE, FEBRUARY 16, 1972

(Mr. ROONEY of New York asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ROONEY of New York. Mr. Speaker, today a proud people observe their Independence Day. They observe it with solemnity rather than with great pleasure and jubilation. They observe it almost in sorrow, because deep in their undiminished sense of loss over the past 32 years. Today our Lithuanian friends and all our fellow citizens of Lithuanian extraction reflect sadly on the historic event which took place on February 16, 1918, when long awaited and cherished independence came to the freedom-loving Lithuanian people. They do so sadly, because they were permitted to enjoy their precious freedom for so short a time.

Fifty-four years ago the free world rejoiced with the people of Lithuania in their newly awarded freedom. Then began an era of great hope and great expectations not only on the part of the citizens of that proud new republic but by all of their friends who saw them forge ahead with great spirit and determination. This small country, the cradle of an ancient civilization reaching back to the second century, was now coming into its own as a sovereign power after years of subjugation.

As Americans, we were particularly proud of the part of our leaders had played in bringing freedom to the small Baltic States of which Lithuania was one. So close did Americans feel to the gallant infant nation that it was truly an informal, but nevertheless a real, type of adoption. Little wonder it was that when independence was stripped from Lithuania, by its illegal and brutal incorporation into the Red Soviet Union, Americans felt remorse and shock as deeply as did the people who saw their sovereignty vanish overnight.

Since that day in 1940 when the Russian Communists grabbed Lithuania, our Government and our citizens have not ceased to denounce the Soviets for their gangster tactics. Never have we recognized the puppet government which was set up to replace the government of loyal and dedicated Lithuanian patriots. For 32 long years we have extended our sympathy and our friendship to these luckless people. For 32 years we have given them whatever help the Kremlin agents permitted. For 32 years we have sought redress for them for the unlawful acts of the Soviet Russians. But thus far our efforts have not been very fruitful. A sinister criminal act still goes unpunished—a freedom-loving people continue to live in bondage while we enjoy the blessings of freedom.

We are now making plans to commemorate our own anniversary of 200 years of priceless independence. How wonderful it would be if we could help to achieve the independence of Lithuania and her enslaved Baltic sister states prior to that time, so that they could join us as sovereign nations in our anniversary observance.

But such will not happen unless we do more than we have done up to this point. There is a job for each one of us to do now. Individually and collectively, we must impress upon the present administration the urgency of getting the matter of the restoration of the Baltic States' independence on the U.N. agenda. We must pursue a relentless course in obtaining maximum support of other governments to demand a full and forceful debate of this major issue. We must concentrate on winning the active support of the newly established nations whose sympathies are surely with nations still in bondage.

Mr. Speaker, this should be a joint effort on the part of many. We can all be certain that our efforts will be visible evidence of the depth of our determination to redress an ignoble wrong. Whatever success we may achieve will be a boon to our friends in Lithuania and to our fellow American citizens who proudly boast their Lithuanian lineage.

JUDGE DOROTHY KENYON

(Mr. RYAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RYAN. Mr. Speaker, it is with a deep sense of personal sorrow that I bring to the attention of the House the fact that Judge Dorothy Kenyon passed away on Saturday, February 12.

For more than half a century, Dorothy Kenyon was in the forefront of the fight for women's rights and social reform. Her life was marked by compassion, dedication, and an untiring effort to make this a more just world.

A graduate of Smith College and New York University Law School, Judge Kenyon was appointed by Mayor Fiorello LaGuardia to a judgeship on the New York City Municipal Court in 1939. Following her service on the bench, she served as a member of the League of Nation's Committee on the Status of Women. She continued this work with the United Nations, championing the fight for greater participation of women in that organization and its agencies, and spearheading a drive to establish equal rights for women under an international treaty.

Judge Kenyon was one of the earliest directors of the American Civil Liberties Union, was past president of the Consumers League of New York, and served on the National Board of Americans for Democratic Action.

A stanch believer in political reform, Judge Kenyon was an early leader in the New York Reform Democratic movement, which was founded in the late 1950's by Eleanor Roosevelt and Herbert H. Lehman, among others. She was a guiding spirit in her neighborhood Reform Club—the New Chelsea Club for Democrats. It was a privilege for me to know her and work with her in the fight to democratize the New York Democratic Party.

Not one to allow the passing years to slow her down, Judge Kenyon established the first free legal services office for the needy on Manhattan's West Side in 1968.

Throughout her life, Dorothy Kenyon strove to make this Nation live up to its promise of equality for all. There can be no more fitting tribute to her than our rededicating ourselves to her quest.

At this point, I include in the RECORD a tribute to Dorothy Kenyon which appeared in the New York Times on February 14:

JUDGE DOROTHY KENYON IS DEAD; CHAMPION OF SOCIAL REFORM, 83

Dorothy Kenyon, a former justice of the Municipal Court and a leader in the struggle for women's rights and social reform for more than half a century, died Saturday at her home, 433 West 21st Street. She would have been 84 years old on Thrusday.

From her admission to the bar in 1917 through a legal career that included private practice, civic work, the judgeship and membership on the United Nations Commission on the Status of Women, Judge Kenyon remained an outspoken and witty advocate of social betterment.

"I always pick the losing cause," she said in an interview in 1938. "I guess I'm crazy about the underdog. But I think I'm helping women by my kind of life."

For years her letters to the editor peppered the pages of The New York Times, most recently on Aug. 29, 1971, when as a board member of the American Civil Liberties Union, she inveighed against discrimination by sex on college campuses.

"One of the most important precepts of the movement for women's rights," she wrote, "is that the aspirations of women are bounded only by their talents, abilities and potentialities as individual human beings."

DAUGHTER OF A LAWYER

Mrs. Kenyon was born in New York, the daughter of a lawyer, William Houston Kenyon, and of the former Maria Wellington Stanwood. (Her two brothers also became lawyers.)

"Years ago," she recalled, "my lawyer father said the words I should like to hear everybody use today. Holding tight to his hand and skipping to keep up with his long stride, the little girl that was me suddenly popped this question out of nowhere to him: 'Can girls be lawyers, father?' "

"And he answered, smiling, 'Why not, my dear?' "

Miss Kenyon graduated in 1904 from Smith College, where she majored in economics and history, played on the hockey team, and was elected to Phi Beta Kappa.

On a trip to Mexico the condition of the Indians aroused her "sense of public obligation." She matriculated at New York University Law School, one of the few such institutions that then accepted women, and received a Doctor of Jurisprudence degree in 1917.

PRACTICED LAW

After being admitted to the bar, she served as research specialist for a group of lawyers who were preparing studies for the delegates to the * * * practiced law at first privately and then with Dorothy Straus in the firm of Straus & Kenyon from 1930 to 1939.

As chairman of the committee to study procedure in women's courts in 1936, she called for more sympathetic treatment of prostitutes and for stronger prosecution of their exploiters.

In 1936–37 she served as Deputy Commissioner of Licenses. She opposed Mayor Fiorello H. La Guardia's decision to withdraw the licenses of the burlesque theaters, asserting that they offered "the only beauty in the lives of icemen and messenger boys."

Appointed by Mayor La Guardia, Miss Kenyon filled a vacancy on the Municipal Court bench in 1939–40, after which she resumed the practice of law.

From 1938 to 1943 she was a member of the League of Nations Committee on the Status of Women. She continued this work with the United Nations from 1946 to 1950, fighting for a greater participation of women in the U.N. and its agencies, particularly the World Health Organization, and leading a drive to establish by international treaty such rights for women as equal nationality, equal pay for equal work, equal property rights, equal political privileges.

BATTLE WITH M'CARTHY

One of the earliest directors of the American Civil Liberties Union and long an activist in liberal causes, she was accused in 1950 by the late Senator Joseph R. McCarthy, Republican of Wisconsin, of having been "affiliated with at least 28 Communist-front organizations."

Miss Kenyon, in her direct way, called McCarthy "an unmitigated liar," and "a coward to take shelter in the cloak of Congressional immunity." Before a Senate subcommittee she denied "any connection of any kind with communism or its adherents."

Some years ago she presented in The New York Times Magazine the case for women lawyers:

"There is a growing school of thought," she wrote, "including such an eminent authority as Judge Jerome Frank, that regards the entire field of law as feminine rather than masculine.

"If the subject matter of law is human relations, the rules of conduct of human beings in society, can it be that law is peculiarly women's field after all—women who are supposed, if nothing else, to be experts in human relations, women who are the lawgivers, the prosecutors, the jury, the judges of their young, mediators of disputes to tax the wisdom of Solomon, diplomats of the first water and, proverbially, speakers of the last word?"

She was past president of the Consumers League of New York and served on the national board of Americans for Democratic Action.

ON ABORTION LAW

In 1965, campaigning for a liberalized abortion law, she declared: "For a state to force a woman to bear a child against her will is outrageous."

The following year in a letter to The Times, she criticized Mayor Lindsay for not having appointed women to his government. In 1968, with a young lawyer, she set up the West Side's first free legal service division for the needy.

She had been a sailing enthusiast.

Surviving are two brothers, Theodore S. Kenyon of Short Hills, N.J., and W. Houston Kenyon Jr. of New York.

A memorial service will be held Thursday at 4 p.m. in St. Peter's Episcopal Church, 346 West 20th Street.

MEAT IMPORTS WRONG WAY TO CONTROL GROCERY PRICES

(Mr. QUIE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. QUIE. Mr. Speaker, I was shocked at recent statements attributed to our former colleague, Donald Rumsfeld, who, in his capacity as Director of the Cost of Living Council, expressed concern about rising livestock prices and said consideration was being given to increasing meat import quotas.

It is inconceivable to me that anyone would even consider beating down livestock prices which have just now reached the level of 20 years ago.

The livestock producer cannot be accused of receiving Government subsidy. Traditionally, cattle producers have abhorred any Government tampering with the free market system.

Rather, they are subsidizing the housewives of America. If American consumers were spending the same percentage of their take-home pay for food as they did 20 years ago, they would be spending in the range of 40 percent more—$40 billion more—for farm-produced food per year than they do now.

Between 1969 and 1970, the typical American family paid $47 more for its yearly "market basket" of food—and the farmer's share of that went down $4. Who is subsidizing whom?

I would suggest that the administration look elsewhere than at the farmer or livestock producer in its attempts to control grocery price increases.

Many of us who represent rural areas felt the Meat Import Control Act with its annual 10-percent escalator in authorized imports of beef, veal, and mutton was very generous. We now import well over a billion pounds of meat each year, principally from Australia and New Zealand.

Although realized net income from farming is expected to be about $1 billion higher in 1972 as compared with last year, the farmer still has only about three-fourths as much per capita disposable income as do nonfarm people. American consumers spend only 15.5 percent of their disposable income on food. It is the best bargain in the world.

It would make no sense to penalize the farmer and livestock producer for that type of efficiency by increasing his foreign competition just after we have experienced the largest trade deficit in our history.

If, indeed, serious consideration is being given to increased meat import quotas, I urge that move be abandoned without delay. It is the wrong way to go.

LIQUIDATION OF U.S. BUSINESS INTERESTS IN APARTHEID AND REPRESSIVE AFRICAN COUNTRIES

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, on behalf of the Congressional Black Caucus I am introducing for consideration a proposal which takes a bold step in combating American ties to racism and oppression throughout the world.

For us, it is a travesty that scores of U.S. business concerns—including many of the largest companies in the Nation—are inexorably linked with racist, suppressive regimes. For these businesses and their leaders, profit knows no politics.

If there is one area where collusion between American business and repression has most widely developed, it is in Africa—most notably southern Africa. And given that only in the last few years have American businesses initiated large-scale undertakings in Africa, it is not unrealistic to expect that U.S. investments will increase significantly over the coming years; and, as these investments grow, so will ties between American business interests and the governments of the countries where these American concerns are located.

Already there is ample evidence that American business concerns aid and abet the oppressive and apartheid policies imposed by the governments of the Republic of South Africa, South-West Africa, Rhodesia, and those territories under Portuguese control.

This bill not only liquidates U.S. investments in those countries, but it also establishes a procedure for aiding victims of repressive policies supported by American businesses.

SUMMARY OF LEGISLATION

In summary, this measure would:

First, create a reparations commission composed of representatives of African liberation organizations appointed in conjunction with the Organization of African Unity, members of the Congressional Black Caucus, and representative stockholders and board directors of U.S. business concerns with operations in South Africa, South West Africa, Rhodesia, and the Portuguese territories.

The commission will study:

The relationship between U.S. business concerns and the governments of the Republic of South Africa, South West Africa, Rhodesia, and African territories under Portuguese control, with special regard to payments for military and police protection provided for such concerns;

The extent to which investments and other operations by U.S. business concerns have contributed to the existence and continuation of such governments;

The amount of profits of such business concerns attributable to operations in the Republic of South Africa, South West Africa, Rhodesia, and African territories under Portuguese control;

The discrepencies in wage scales and benefits paid by such concerns to different races and classes of workers; and

The violations of the United Nations Universal Declaration of Human Rights by U.S. business concerns in the Republic of South Africa, South West Africa, Rhodesia, and African territories under Portuguese control.

The Commission would then issue a report with its findings and recommendations 1 year from the date by which all Commission members have been appointed. The report would include in its findings—

A just reparation to be paid by U.S. business concerns with operations in the Republic of South Africa, South West Africa, Rhodesia, and African territories under Portuguese control. Such reparation shall be put in trust managed by the Commission and by the Organization of African Unity. Such reparations shall in each case be not less than 65 percent nor more than 75 percent of the current value of a concern's holdings in each of the countries or territories mentioned above;

Recommendations to the Attorney General pertaining to steps leading to the seizure and disposition of assets of U.S. business concerns with operations in the Republic of South Africa, South West Africa, Rhodesia, and African territories under Portuguese control; and

Recommendations to the Secretary of the Treasury and the Attorney General of the means by which reparations shall be transferred to the trust account.

Third, terminate the U.S. business concerns operations of any kind in the Republic of South Africa, South West Africa, Rhodesia, and the Portuguese territories. All such American businesses would have to submit a plan of liquidation within 3 months of the issuance of the reparations commission's report, and complete liquidation would be finished within a year of that report's publication.

Fourth, in the case that U.S. businesses fail to comply with the recommendations of the commission or to liquidate their holdings, the Attorney General—upon court orders—can seize assets determined to be equivalent in value to those holdings from those companies operations in this country.

NO OTHER RECOURSE

Obviously, the provisions of this bill are far-reaching and imposing. Yet, what other recourse exists? It is all too clear from the tragic events of the last decade in Southeast Asia that moral arguments are shunted aside when profits and "interests of stockholders" are at stake.

Already, thousands of Africans have died and suffered in their attempts to win freedom, justice, and equity. We are pledged to fight for these rights here in America; can we be pledged to less elsewhere in the world?

If it requires stringent legislation to lessen any American relationships to these racist, totalitarian, minority regimes, then that must be done.

In introducing this legislation, we know that we speak for more than just ourselves as black elected officials. This bill was developed over months of research and communication between our offices and interested groups here in America and in other countries.

Last March, in the Congressional Black Caucus recommendations on U.S. policy presented to President Nixon, we asked:

> United States relations with Southern Africa are in need of a major overhaul. This country should take the lead in isolating the Republic of South Africa, the world's most racist nation. Disincentives should be developed to discourage the expansion of further private American investment there. On the other hand, private American enterprise should be encouraged to seriously examine the potential for profitable investment in other parts of Africa.
>
> We urge the Administration to actively support legislation proposing the withdrawal of the United States sugar quota for the Republic of South Africa, and its reallocation to other African countries. We further urge the Administration to implement the United States pronouncements in the United Nations to help liberate the remaining areas under colonial rule in Africa.

THE WASHINGTON DECLARATION

May 25, 1971, was set aside as World-Wide Solidarity Day for African Liberation, and that day, Representative JOHN CONYERS, Jr. and I were presented what has now been termed "The Washington, D.C. Declaration." The "Declaration" was drafted by the African Commission of the National Committee of Black Churchmen and subscribed to by the Black Polaroid Workers Alliance of Boston, the Pan African Skills Project of

New York, the Black IBM Workers of Washington, the League of Revolutionary Black Workers of Detroit, the Black Caucus of the American Committee on Africa, and the Black Law Students of Rutgers Law School.

The declaration goes as follows:

AFRICAN LIBERATION DAY

Brothers and Sisters: It is with grave concern and a sense of urgency that we come to you today—this African Liberation Day—to serve upon you a tremendous task. A dangerous task, for we are aware that you, like many of us, are under close surveillance by the repressive forces of the FBI and its tyrannical leadership, as disclosed most recently, by several of your white counterparts here in Government.

Yet, it is neither a task for which you are ill-equipped to undertake, nor a task whose monumental capacities you are not capable of overcoming. For you have inherited a legacy of meaningful triumph: Was not Frederick Douglass, a run-away slave, one of this country's greatest legislators, in those earlier causes for our people? Have we not most recently witnessed the wise legislation of Brother Adam Clayton Powell, as reported in the April 23, 1971 edition of "Muhammad Speaks", in reference to legal assistance to the poor in Phoenix, Arizona? You have already displayed your courage and wisdom, by refusing to sit like little children and listen to the insults of a man who has not only shown his contempt for Black people here, but also for some of Africa's greatest leaders, by boycotting Richard Nixon's fictitious State-of-the-Union address. As fictitious as the American Revolution from which it began, for a true revolution will account for the well-being of *all* of its people—we have never even been considered! We urge and encourage you to continue onward. You cannot stop now, for an oppressed people must take risks if they are to gain that which is rightfully theirs and take their proper place among mankind. You have come together and asserted your leadership, only intelligent action will determine the legitimacy of your claims, nothing else.

Surely the deplorable situation in Southern Africa needs no introduction to you here today. Indeed, the Chairman of the Sub-committee on Africa who has conducted numerous hearings on the matter, sits among you! Even if that were not the case, volumes upon volumes of condemnations against Apartheid, the Pertuguese, etc. have been released and have mounted so high, that perhaps they touch the very skies. Yet none of this has had any effect. For the most part, these documents have been laughed at, shelved, violated and on and on. Of all the abuses, the most vulnerable is the *violations* and it's *here* where we must concentrate our attention, in order to complement the heroic and gallant efforts of our Brothers and Sisters in the Liberation Forces of Africa, who are fighting and dying for all of our freedom.

If the 1970's is the decade of Pan-Africanism—and from all indications both here and in Africa it will be—then certainly we must no longer think of merely a "common struggle" for it is indeed, the *same* struggle! Are we not reminded that while our Brothers and Sisters in South Africa must carry "passes of identification," stay in restricted areas, work for slave wages, are tortured, divided from their families, imprisoned and finally are murdered while peacefully assembled; Black people here in the United States must also carry passes (welfare receipts), refused the right to live in certain "choice" areas, work for slave wages in comparison (Black workers at Ford Motor Company in Detroit), tortured and starved in prisons ("Tombs" Prison Riots in New York), divided from families by fighting illegal and inhuman wars (Vietnam), imprisoned unjustly (Angela Davis, H. Rap Brown, Erika Huggins) and finally murdered (Martin Luther King, Emmitt Till, Sammy Young, Jr.). We ask you, how can anyone not *identify* that they are the same struggle?!

Therefore Brothers and Sisters, we need your bold and courageous legislation at this point in history, to put an end to these gross injustices against our humanity. It is not unique for members of the Legislative Branch to offer Legislative proposals designed to impose economic restraints or "blockades" on other nations to secure collateral political objectives. More specifically, representatives of the dominant culture have done precisely this to exclude Third World countries from the decision-making process on an international scale. It is not enough to oppose such measures. On behalf of Domestic Third World Blacks and those presently resident in Third World countries about whom we share extreme concern, we implore you to take the affirmative and place upon the legislative table, legislation not inconsistent with your role as representatives of the Black community. This is not inconsistent with what all who believe in a cause, have the perception to identify means to achieve goals consistent with the cause, and the principles to be unswayed, have ever done! We ask no more. Permit us, in our humble and layman capacities to cite a few examples of the *types* of legislation to which we refer:

A RESOLUTION TO END EXPLOITATIVE PRACTICES IN SOUTHERN AFRICA BY AMERICAN CORPORATE BUSINESSES

I. Be it resolved that because of continued oppression upon colonized peoples in Africa by illegal regimes functioning there and because of the fact that American investments in certain regions in Africa lend stability to the colonizing powers in Africa, the Congress of the United States of America hereby enacts the following:

II. Sec. 1. All American business concerns, Gulf Oil Corporation, General Motors, Shell Oil, I.B.M., Chase Manhattan Bank, Ford Motor Corporation, Coca-Cola, e.g., now operating, functioning, in planning, etc., in the areas of Southern Africa, are hereby forbidden to continue its holdings in these areas.

To implement the above, all American concerns involved shall establish the following procedures to conclude its operations and turn over control of its assets in these aforementioned African areas to the African people of said areas. This transition shall have taken place, in its entirety, no later than three months from the enactment of this resolution. Three months being considered here as a reasonable and just period of time for such transactions.

Sec. 2. A Committee shall immediately be established, comprised of 3-members of the Board of Directors *only*, plus 3 stockholders only who hold the least shares each in concerns, of each involved American business concern, plus, at least 5 representatives, but no more than 5 per Liberation Organization, of these Southern Africa areas, who are recognized by the Organization of African Unity, i.e., MPLA of Angola, ANC of South Africa, Frelimo of Mozambique, etc.

Sec. 3. This Committee shall be empowered to, disclose and discover, (a) the relationship between the American corporations and the illegal Government regimes/colonials with regard to payments for military protection provided for these corporations' operations; (b) the extent to which these American investments and operations are contributing and have contributed to the maintenance of these illegal Government regimes/colonials; (c) the amount of profits extracted from operations in these areas; (d) that based upon the findings of II. Section 3. (a), (b) and (c) a just reparation shall be paid to the Liberation Movements already accredited to the Organization of African Unity, along with turning over all existing holdings, operations, etc. of these American Business Concerns. In no case shall "just reparations" exceed more than 75% of discovered financial involvement, nor less than 65%.

A RESOLUTION TO END VIOLATIONS BY AMERICAN CORPORATE BUSINESSES OF UNITED NATIONS RESOLUTIONS AND U.S. EMBARGO ACTS, CONDEMNATIONS, RESOLUTIONS WITH REGARDS TO SOUTHERN AFRICA

I. Be it resolved that because of continued violations by American Corporate Concerns of all laws, condemnations, etc. including even the violation of the United Nations Charter on Human Rights with regards to Relationship to Southern Africa, the Congress of the U.S.A. hereby enacts the following:

II. Sec. 1. All American Business Concerns as described in II. Sec. 1, guilty of violations as aforementioned in regards to operations in Southern Africa, are hereby directed to cease and desist, immediately.

To implement the above, a Committee similar to that mentioned above, but expanded to include at least 5 members of the Black Caucus of the U.S. Congress for the purposes of seeking out, disclosing, indicating and convicting, all American Corporate Businesses, guilty of said violations.

Sec. 2. That any American Corporate Business, failing to comply, shall henceforth have all possessions functioning in the Southern African areas, seized by a United Nations Militia and turned over immediately to the proper organizations mentioned in both Titles and shall forfeit the allotted percentages they may have otherwise received, as mentioned in II. Section 3.

It is imperative that the United States government move to put humanism in American international corporate business. It is the corporate structure practice in the international arena that is chiefly responsible for the rising tide of anti-American feelings around the world. Be it resolved that Congress move consistently with the basic democratic principles that this country espouses and those principles of equity expressed in the United Nations Charter on Human Rights.

Congressman CONYERS and I committed ourselves to drafting legislation based upon the recommendations included in the "Washington Declaration." The bill the members of the Congressional Black Caucus are introducing today encompasses those concepts.

We are serious in our determination that positive action be taken soon to terminate U.S. business relationships with apartheid and repression in Africa.

As substance to our position, and as background information on the need and importance of this bill, I am now going to insert into the RECORD what I consider to be a comprehensive introduction to the type of research and reporting about repressive policies in Southern and Portuguese Africa and the relationship of American enterprises in those areas:

THE AMERICAN CORPORATION IN SOUTH AFRICA: AN ANALYSIS

(By Timothy H. Smith, the Council for Christian Social Action)

INTRODUCTION

During the last five years in the United States there has been an escalating interest in the role of the American corporation in Southern Africa, and particularly in the Republic of South Africa. Questions have come from many quarters—from universities such as Princeton, from numerous Protestant Churches, from Peace Corps returnees, from sectors of the black community, about the question of American investment in South

Africa. Some groups which held stock in corporations with subsidiaries in South Africa have pushed them to explain their involvement in a land known around the world for its policy of apartheid.

However, while pressure on corporations who pollute the environment or have discriminatory hiring practices has often been based on hard, detailed data, too often that data has been lacking as we have analyzed specific American companies in South Africa. Obviously such research is necessary for any intelligent analysis of both the general effect of American investment in South Africa and the role a certain company may play. In an attempt to gather some of this data I spent the months of July and August, 1970, traveling in South Africa interviewing representatives of approximately twenty businesses there. Since I was preceded by letters of introduction from parent companies, fortunately these interviews always included the Managing Director of the company, often accompanied by Labor Relations Officers and other officials.

In addition, I met union leaders, journalists, students, publishers, economists, professors, and American and Canadian government representatives. Obviously it was vitally necessary to juxtapose the views of white Americans and South Africans with those of Africans, Asians, and Cape Coloreds to establish a true perspective; and, therefore, a good deal of time was spent with students, unionists, academics, etc., in these communities.

The following report is a drawing together of portions of this data to help us continue our reflections on an appropriate strategy regarding American corporate presence in Southern Africa. Obviously this report is not an attempt to be definitive—this research must and will be continued—however, some of these facts and impressions will be new and relevant pieces of input into the research and action field.

To help clarify how the following data fits into a pattern, let us somewhat precipitately list a series of brief conclusions that come out of this study. One must recognize there is a built-in limit caused by a sampling of twenty companies out of hundreds. Nevertheless, some patterns repeat themselves virtually across the board; and, therefore, projection to the whole U.S. business community seems a fair exercise.

The fact is that American business and American businessmen assist in perpetuating and strengthening the racial status quo in South Africa.

1. Individually, American businessmen generally support the racial policies of the South African government or a slightly modified form and work contentedly within the white South African context of labor relations.

2. Their attitudes also reflect a generally hostile stance toward America's "hard line" (their term) foreign policy toward Southern Africa. The attitude spectrum goes from "let South Africa solve her own problems" to strong hopes for American acceptance of and support of South Africa's "sensible" policy. Therefore, any lobbying in the USA is or would be for a more sympathetic policy toward South Africa.

3. Even when critical of certain aspects of South African government economic policy, American business representatives insure that both their personal and corporate relationships with the government are extremely cordial.

4. Their personal relationships inside South Africa follow a "whites only" format. This greatly affects their perceptions of the lives, needs, and aspirations of Africans, Asians, and Coloreds.

5. They believe that revolution and majority rule are both against their best interests since such change would hurt the economy and their firms. Therefore, they are against radical change leading to a transfer of power from white hands.

6. Generally they believe that things are much better for "non-whites" than ever before because of the increased standard of living.

7. Often they are frustrated by restrictive government legislation in the economic field, but few oppose the government policy of industrial "border areas" which is clearly racially motivated.

8. South African executives working for American subsidiaries tend to follow these patterns.

American corporations

1. Subsidiaries state they are "apolitical" in South Africa. However, their presence there exercises a strong political and economic effect in the favour of the status quo.

2. By both their admission and that of the South African government, American subsidiaries help strengthen, diversify, stabilize, and make the South African economy self-sufficient. Such a role also creates a vested interest in the economic status quo by these corporations.

3. Generally US companies operate within the context of given South African business norms, eg. while they might oppose Job Reservation as too restrictive, they would generally pay the going rate for an African worker rather than what he is worth. Also, many would consider moving into border areas for economic reasons, despite the racial implications.

4. Concern for non-white workers is invariably a paternalistic concern rather than a desire to provide workers with benefits, wages, and powers which are their right.

5. As guests in South Africa, subsidiaries felt they must follow the laws and customs of the country. This stated intention leads them to acquiesce to a system which is openly racist.

6. Charitable contributions are made to the South African Foundation by a number of businesses, an act which has distinctly political overtones.

7. While many American subsidiaries would join with a number of South African firms in attempting to liberalize certain of the government's labor policies, they are neither explicitly nor implicitly working toward an erosion of white control.

Appendix I lists samples of questions asked in interviews, and Appendix II the companies visited.

Attitudes of representatives of U.S. business

Perhaps it would be instructive to start with an accounting of the individual attitudes and social outlook of the representatives of US business. These attitudes are revealing on their own, but they are doubly important when one asks fundamental questions about American corporations' effect upon social change in South Africa and their effect on the formulation of American foreign policy toward South Africa. One cannot make deductions about the attitudes and actions of every American or South African working for American firms, but certain general trends are both obvious and important. It should also be noted that a majority of American companies have white South African nationals in top level positions of responsibility who, of course, tend to follow the prevalent racial patterns.

General attitudes

In July, 1969, Market Research Africa (Pty) Ltd., a member of the Charles St. Thomas Group in Johannesburg, compiled "A Study of the Attitudes of American and Canadian Businessmen Based in South Africa Towards Selected Issues Regarding the South African Economy, Business and Politics." This was the third in a series of yearly surveys designed to measure changes in the attitudes of American and Canadian businessmen living in South Africa. It was presented as a promotional device at the American Management Association's seminar on Business Opportunities in South Africa held in New York, August, 1969.

One hundred six replies were received to the questionnaire, a 35% response of those polled. Not surprisingly those polled found the economy very healthy (75%), expected it to expand and considered that business opportunities were "better than one would find in most developed countries" (90%). Fifty-eight percent felt that gross pre-tax profit opportunities, as compared to other developed countries, were excellent.

Perhaps more important, 77% felt South Africa's racial policies represented "an approach that is, under the circumstances at least, an attempt to develop a solution." Less than one in ten continue to feel that the approach is "altogether incorrect."

Of those interviewed, 31% stated that they would vote Nationalist if eligible to vote, 32% United Party, and 20% Progressive Party. Simple arithmetic shows that 63% of businessmen polled would have voted for parties strongly supporting the general system of apartheid. From representatives of companies interviewed we have gathered even more detailed data. Interestingly enough, there seemed little difference between US subsidiaries with US citizens or white South Africans as top management. In terms of their conduct in South Africa and the reports fed back to the parent company about the economic and social conditions of South Africa, they are remarkably similar.

Social attitudes of U.S. businessmen

The social relations of American businessmen in South Africa may be a partial indicator of their attitudes. When top management were asked whether they had any friends or acquaintances in the African, Asian, or Cape Coloured communities, to a man the answer was no. One of the more sensitive men admitted that the closest contact he had made with Africans was at the U.S. Embassy July 4th function. Echoing the situation of all interviewed, he explained that inter-racial contact for American businessmen in South Africa is tremendously difficult unless a person made extreme efforts. Of course, in South Africa the incentive to make that extra effort is negligible.

The grossest reaction to the question about inter-racial contact came from the Managing Director of Ford Motor Company in South Africa, who simply stated, "I didn't mix with them in the States; I don't mix with them here, and if I went back to the States, I wouldn't mix with them there either." It is an obviously fair conclusion to state that American and South African managers of American business fit into one of the predominant white social patterns in South Africa, that people do not mix across the race line.

When questioned about certain aspects of life for "non-white" South Africans, almost invariably businessmen interviewed started talking about their servants, "my boy" or "my girl" as they put it. Their only close contact with "non-whites" was with their servants; yet many talked as if they were experts on the customs, culture, superstitions and problems of non-whites. For instance, one executive stated in an appreciative way that Asians were the best waiters in the world.

The implications of this "whites only" social pattern are more significant than the fact itself. (Note: The term "non-white" is being used in this study to signify the total grouping of Africans, Asians, and Cape Coloureds. It is an offensive white South African term but allows us to refer to these three groups under one heading.) These men have tremendous power over the lives of thousands of "non-white" workers, and their attitudes about African, Asian, and Coloured people often bear no relationship to the facts—or at most a very racially prejudiced relationship. The way they use this power mirrors these attitudes.

The extension of the problem is this: Many of these corporate personnel felt they were speaking with authority when they talked about "the Bantu." (The very fact that the term "Bantu" was so easily used instead of African symbolizes insensitivity to African feelings and an open ear to the official language of the government since many Africans find this term highly offensive.) They felt they had a good grasp of the needs and aspirations of "non-white" South Africa and acted accordingly. Thus, one Chrysler executive could say, "the African doesn't want a trade union. He isn't used to democracy, he is used to an authoritarian hierarchical tribal structure. He accepts the white man as his guardian."

The fact is that African trade unionism had some very strong roots especially in the time of Clements Kadalie before it was destroyed by the South African Government. Further indicating this official's misunderstanding of "non-white" aspirations was the quickly volunteered opinion of a Cape Coloured woman working in the plant that the "non-white" workers desperately needed a union.

The white South African mythology about the needs, desires, and customs of "non-white" South Africa therefore becomes operative in the life of the American subsidiary in South Africa and is fed back to the U.S. parent company. Thus, any information dispersal by U.S. corporations in the U.S.A., whether to the government or the public at large, is often based on exactly this kind of interpretation by their subsidiary. (eg. Our Africans are happy, our "nonwhites" wouldn't want a union, Africans don't need as much money to live as whites.)

Such executives will use what power they have both in the macrocosm of South African society and in the microcosm of their plant, to perpetuate a status quo that rests on white superiority, denies black workers political rights, a living and just wage, and the right to organize. At best, the American and South African manager reflects a warm paternalism, concerned from afar with "these people's needs," at worst an impersonal desire to bring "these uncivilized savages" into a technical age and work them hard for the American factory's profit.

Stereotyped comments often heard were: "Africans are very content in South Africa." "Look at my 'boy' and 'girl' (read servant), they're making more money than they've ever made in their lives and are perfectly happy." "Cape Coloreds are basically dishonest." "Africans can do repetitive jobs, but it is very difficult to train them past that point." It would be an understatement to say that American business' understanding of and sympathy for the suffering of the non-white majority is minimal.

The vast majority of those interviewed stated that life for non-whites in South Africa had improved substantially over the past ten years as the economy boomed and as the standard of living increased. This contention will be dealt with in depth later in the report; but, needless to say, few if any Africans, Asians, or Coloreds we talked to could embrace this contention with any enthusiasm. The cross section of those businessmen interviewed had very little knowledge of non-white maltreatment suffering or inconvenience. Very few knew of the massive removals of Africans being carried out by the government, for instance.

Even the most "liberal" representatives of American business, men who would have voted for the Progressive Party, stated their firm opposition to majority rule in South Africa. Many stated they felt that white control insured a stable economic order. Derogatory comparative remarks with independent Africa and the supposed economic and political instability of the rest of the continent, were used to legitimize minority control in South Africa. Mr. Emlett, the Managing Director of Union Carbide Southern Africa, a company which has taken a sizeable economic loss because of economic sanctions against Rhodesia and lobbies quite openly against sanctions in Washington, stated calmly that he was against majority rule since it would be bad for both the economy and Union Carbide. Mr. Emlett further pursued his particular political beliefs favoring white control by serving on the U.S.-South African Committee of the pro-apartheid South African Foundation. Mr. J. Purcell, Managing Director of Goodyear in South Africa, a McCarthy type of Democrat who stated he would vote Progressive if this was South Africa, also spoke strongly against majority rule saying it would "create chaos," which non-white South Africa presently faces under apartheid. It is obvious that men whose job is to monitor the economy and protect the profits of their corporation do so whilst ignoring the political cost or the human suffering.

The role of the corporation

Using the attitudes of the individual manager of an American company as a general backdrop, let us explore the role of the American corporation itself and how it relates to the South African society and economy. Officials of U.S. parent companies have been forced to explain this relationship to inquisitive citizens who ask about their South African holdings. These explanations often include these positions, (1.) U.S. know-how, skills and investment have contributed substantially to the South African economy, eg. on June 30, 1970, GM/SA stated, "GM South African has made a major contribution to the growth and development of the Republic." (2.) Usually the enlightened attitudes of both U.S. businessmen and U.S. corporations lead to a more humane wage, labor and benefits policy for all those employed. Many companies speak proudly of being leaders in the South African field, perhaps among the first with a certain pension scheme or wage policy. In addition, non-whites are being taught technical skills, they explain. These technical skills and the rising standards of living make life for non-white South Africans much better than ever before. (3.) American businesses are contributing to the breakdown of apartheid by undermining certain discriminatory labor laws such as the Job Reservation Act limiting certain jobs to whites, and the quota system demanding a percentage quota of whites in industry in specific areas. American businesses are aiding the liberalization of apartheid laws and are in the forefront of progressive changes leading to the development and expansion of job opportunities within South Africa.

(4.) As guests in a country American business, whether it likes it or not, must follow that country's laws and customs and must be "apolitical" in its activities in South Africa. (5.) One could not expect it to disengage and bring a loss upon stockholders. (6.) American corporate presence in South Africa is consistent with the foreign policy of the United States.

A Response: The following are partial responses to these claims.

(1) It is undoubtedly true that American capital and know-how have played a key role in the expansion and health of the South African economy, but it is the interpretation of this fact that is most pertinent. This supposition is affirmed from numerous sources. Although American capital is numerically small (12% of all foreign investment in South Africa), it plays an important role in key sectors of the economy. Certainly the essential auto, rubber and oil industries have been helped immeasurably by the technical and financial input of U.S. corporations. The main issue is the political implications of this investment and economic assistance.

American business in a time of crisis

One of the political implications, or political side effects, of this single-minded desire to strengthen the South African economy and carve out an economic "place in the sun" for the American corporation, as one corporate manager put it, is the response of American business to a crisis such as the political-economic crisis of the early 60's. The role and response of the American corporation at that time may provide several lessons.

Perhaps the facets of that important period are more appropriately described by the words of the supporters of apartheid rather than an opponent. The South Africa Foundation, an overtly pro-South African organization, described it in this way in its tenth annual report:

In March, a month after the Foundation had opened its office, the tragedy of Sharpeville occurred. This was followed by strikes, demonstrations and further riots at Langa, Pimville, Dube, Bloemfontein, Durban, Pondoland and elsewhere. A state of emergency was proclaimed and world confidence in South Africa seemed to dissolve. In April a madman seriously wounded the Prime Minister in an attempted assasination.

Despite these climactic events, contitutional government and good order were maintained and the threat of economic collapse and political revolution receded despite continuing unrest. Just when the situation appeared to improve, international misgivings were again revived by the announcement of a referendum to decide whether South Africa should be a Republic.

But early in 1961 at the Commonwealth Prime Minister's Conference in London, Dr. Verwoerd withdrew South Africa's application for continued membership as a Republic of the Commonwealth. The crisis of confidence reached a critical phase. The stock market fell, people and capital fled the country, gold and foreign reserves dwindled. South Africa's future looked bleak if one was to judge from press, radio, and television reports, or from the pronouncements of some politicians, churchmen, academics, and other observers. The situation was, as might be expected, exploited to the full by the United Nations, certain Afro-Asian countries, the Communist powers, and by a legion of well-meaning but largely ineffectual "do gooders." But the tide had turned. The new Republic weathered the storm and slowly peace, progress, and prosperity resumed their march.

The description continues in another established source. The economy "hinged on a sharp decline in confidence when, as growing unrest in the country and the changing colours on the political map of Africa seemed to presage a large-scale internal conflict of wills, the flow of foreign as well as domestic investment became more hesitant. These uncertainties were clearly reflected in a net outflow of private capital of about $194 million during 1960. Of the R176 million which the Reserve Bank could 'identify' some R148 million was a repatriation of foreign indirect investment via sales of listed securities, and R28 million was previously South African resident capital being placed abroad. A further net R45 million of foreign capital left the country during the first half of 1961." (IR—$1.40) (Note: Merton Dagut, "The South African Economy Through the Sixties," *Optima*, Johannesburg, September, 1969.)

The financial crisis was, of course, also a political crisis. Paul Sauer, Deputy Prime Minister and acting Prime Minister after the wounding of Dr. Verwoerd, had stated boldly that the time had come for a re-thinking of South Africa's racial policies. Admittedly, Mr. Sauer's re-thinking, in all probability, would have been a shallow one and far from equal rights for all South Africans. But the point is this! At a time in which political and economic instability was leading to a type of re-evaluation, the natural inclination of the profit-motivated U.S. businessmen was to stabilize the economy, since economic instability threatened profit and growth. In this case, of course, economic stabilization meant a return to the political normalcy of "apartheid as usual." It was in this critical period that several American companies ran advertisements proclaiming their faith in South Africa's future and Charles Englehard initiated the American-South African Investment Corporation, a means of attracting American capital back into South Africa.

American business pushed for a return to economic stability even though the stability of the status quo automatically assisted in crushing hopes for even mild political change. In the frank words of the Managing Director of Goodyear Tyre Co., S.A., American business in South Africa must be inevitably "counter-revolutionary," opposed to radical political change especially by violence. Revolution, or even rapid social change, would not be in the best interests of these companies since it would obviously jeopardize their profit and long range growth possibilities, he said.

The pleas of most U.S. businesses that they are "apolitical" creatures who as a rule of thumb do not interfere in politics is as shallow as it is convenient. If a corporation simply meant that it did not give partisan funds or support to a political party then they might be able to defend their position, but to pretend that U.S. business presence and actions in South Africa have no political implications is ludicrous.

However, many corporations parade the argument that they are apolitical as if it had the quality of a natural law to it. A Chrysler P.R. statement claims "Chrysler does not believe it is its mission to oppose laws and customs in host countries because they differ from ours." John Deere writes to a church executive, "In doing business, however, we do not find it possible to be involved in judgements very much beyond the normal business relations of a supplier and a customer."

3M wrote to the Council on Economic Priorities, "In all phases of our international operations, we keep in mind, and try to instill in each of our employees, that when we do business in other countries, we are guests in those countries and try to conduct ourselves accordingly. This means that we tend to follow local customs and refrain, as foreigners, from attempting to impose our own views and policies—which, in our case as an American company, involve the active promotion of the equal-opportunity-employer concept." These sorts of explanations are repeated endlessly.

The extreme question to that position is to ask if a corporation actively investing in Nazi Germany would call itself "apolitical," especially if their presence and product assisted the Nazi military potential. For many people this comparison is not extreme, for South Africa's leaders come from that same breed and her official philosophy of racism is equally offensive, especially in the "non-white" world's eyes.

The more moderate question is this. Is it not obvious that the investments of huge multinational corporations automatically carry with them de facto political implications? These same corporations go to great pains to explain how their investment in developing countries assists in the process of economic development which some would contend helps build a stable political base. In other words, international business has already admitted that the simple act of investing or establishing a factory in another nation has real and perceptible effects upon the life and internal affairs of that nation. However, in the case of investing in developing countries, corporations feel they have proof of the beneficial effects of their investment and therefore, proudly propound this theory. In the case of South Africa, many of these same companies hide behind the "apolitical" mask, explaining that their involvement there is solely for business reasons.

In fact, the political implications of investing and doing business in South Africa are very clear. Investment in the auto, oil, and rubber sectors of the economy assist in building South Africa's military potential. Trucks made by U.S. firms sold to the South African army are but one example of the way in which a "neutral economic investment" helps South Africa. Oil explorations assist South Africa in her frantic search for petroleum, a key strategic product.

Such assistance strengthens the white minority's military power, ultimately assisting them not only in suppressing rebellion at home but also in fighting African liberation Movements in Mozambique, Angola, and Rhodesia.

In addition, a strong healthy economy in South Africa allows South Africa to continue her politics of white supremacy unshaken.

Polaroid's recent swarm of advertisements in the U.S.A. while deceptive in their contention that education and an expanding economy were a key to change in South Africa, spoke directly to the point that U.S. business is "apolitical" in South Africa. Polaroid stated that it would no longer sell IDX2 identification systems to the South African government for use in the passbook program, admitting that such sales assisted in the white oppression of the black majority. Such an admission by Polaroid helps to crack the myth that U.S. corporations in South Africa are apolitical. When a corporation provides important materials, know how, or equipment for use directly or indirectly in the process of oppression it is both morally and politically implicated in their use. In the future more and more corporations will be forced to admit that their rationale that they are apolitical does not have the religious sanctity of "natural law." One fears, however, that we will be treated to elaborate exhibitions of window dressing which seem to be conscientious challenges to white South Africa but are in the fact attempts to curry favour back home without really endangering their South African position.

American Business—An Enlightened Influence?

We have dealt already with the personal attitudes of the representatives of American business, be they American or South African. In the words of one American Managing Director, Americans here are not much different than white South Africans, they either support the system totally or in a modified form. The comforts which all whites in South Africa enjoy assist in destroying any liberalism they originally may have had, he continued.

In reply to the argument that American business is enlightened in South Africa, several points are in order. One should quickly point out that companies and business norms in the U.S. are infinitely more progressive in labor relations, etc., than the prevailing business norms in South Africa. For example, U.S. business now recognizes, perhaps out of a sense of self-interest, that it must hire, train and promote black Americans in its American operations, if it is to retain any social credibility in American eyes.

In South Africa the question of hiring and meaningfully training blacks for better positions is a "non-question." While here it is a source of inflated pride to point to a long overdue hiring and training program for black Americans, in South Africa it would be a public relations disaster to start such a program since it would be interpreted as undercutting white jobs. Government and unions would immediately be on your back. No business journals or businessmen in South Africa refer to "social obligations" toward "non-white" South Africa.

The most one hears is a reference to skills one picks up and the employment provided by working in Company A or the black charities that Company B gives to. The South African context of avowed white superiority and control should insure that claims of "enlightened practices" in South Africa face close and skeptical scrutiny back in the U.S.A.

Multinational corporations are also at their observation of the laws and customs of the host company in which they are a guest. In South Africa this would mean that "liberal" business practices in the U.S. sense would be frowned upon and might bring a bad reputation to a company.

The national principles of Caltex (See Appendix VI) applied to the South African situation indicate a "good citizen" policy which allows little leeway for going beyond the limits set by the South African business community. If those norms and limits are unapologetically racist, American companies would plead that this is not their fault. These are the rules of the game, and they must acquiesce.

Wages

A frequently seen example helps illustrate this point. Chrylser South Africa is a company proud of its labor record and its "liberal" stand in the South African situation. Chrysler officials quietly disclose that they really ignore the Job Reservation Act and allow Africans or Coloreds to take white reserved jobs under a slightly different name (although they do not pay them the white wage rate). These officials, as most men interviewed, had high praise for their workers, citing quality, speed and efficiency of production as well as low employee turnover as signs of a healthy, productive factory.

In the Elsies River plant near Capetown the Plant Managing Director stated that the Chrysler product was easily equal to their product manufactured in their plants in Turkey and Italy. Quality, efficiency, the dedication of workers were easily comparable. Chrysler was proud of their product and work staff. However, when asked if the Cape Colored workers in the factory were paid the rate for the job (equal pay for equal work), he candidly confessed that the market laws of supply and demand differed for whites, coloreds, and Africans. He could pay a Colored man less than a White and still be competitive in the market.

Therefore, Africans and Coloreds are paid what Chrysler or other American companies can get away with and still keep him as a worker. It seemed immaterial that starting workers were paid wages below the poverty datum line (breadline) or that mxaimum ceilings for whites and non-whites favored whites, or that skilled and respected long-term colored workers were paid $135 a month—scarcely $60 above the breadline for an average family. (See Appendix 4 Chrysler and Coloured Union Organizing in the Cape).

Workers were not paid with consideration given to their worth or their needs (to stay alive). They were paid within the customary norms set by the South African business community. It is interesting to note, for instance, that Union Acceptances Limited, a Johannesburg based firm which produces a handbook of comparative wages and benefits of employees for the use of corporations who desire to remain competitive has just recently included four pages out of 334 pages on non-white workers. Until this time comparative statistics on wages and benefits for non-whites were not really of interest to employers. Companies just paid what they thought made sense in the context. Enlightened policies in the South African context are hardly enlightened from the point of view of non-white South Africa or international labor.

Some comments on average wages paid in the South African situation also help to set the claim of "enlightened wage policies" by American companies in proper context.

A 1969 study produced by the Isando Industrialists Association (Isando is an industrial area outside Johannesburg containing numerous American companies) contained the following data to be used as guidelines for competitive wages. Replies were received from 67 members representing a 44% response. The survey was entitled, "Bantu Wage Structure Survey."

Type of employment: Highest, lowest, average

Motor Vehicle Drivers, R36–00, R10–40, R21–50.

Operatives and Semi-skilled, R36–45, R8–50, R15–90.

Labourers, Heavy Duty, R18–79, R6–30, R11–52.

Labourers, Light Duty, R22–00, R6–30, R11–45.

Messengers, R25–00, R7–05, R13–22.

Clerks, R29–54, R11–00, R17–58.

Night Watchman, R17–70, R9–80, R13–90.

Cooks, R16–62, R11–28, R13–95.

Boss Boys, R22–50, R22–50, R22–50.

Packers, R17–00, R17–00, R17–00.

(1R = $1.40.)

The Survey also noted two monthly cost items for Africans: 1.) "Average Payments by Bantu for Accommodation and Travelling" R4–50 a month for married, R2.60 a month for single; 2.) Travelling per week R.60 per week from Tembisa, R.2.00 a week from Soweto. It also showed whether feeding schemes such as free lunches or tea were provided for workers. Nineteen of 67 respondees had feeding schemes, ten of these free, nine contributory.

Several points can be made from this Survey. 1.) In South Africa even provision of a feeding scheme or medical assistance program is rare; and, therefore, a company like GM might consider itself "liberal" since it provides such a service. It undoubtedly is "liberal" in this context, however that context is incredibly paternalistic, inadequate, and far from even the climate in the U.S.A. A "liberal" company in South Africa could easily be classed as exploitative and unjust by international standards. 2.) As seen in the survey, six out of ten jobs listed provide wages on or below the poverty datum line (breadline) established by the Dept. of Non-European Affairs Dept. of Johannesburg of 60R. a month for a family of five. A normative competitive and respectable wage in South Africa may be a starvation wage for an African. A "liberal" company in that context may well pay slightly, or considerably, above that average; but it is far from what the worker needs or what his labor is worth and far from what would be considered a respectable wage, a rate for the job in international terms.

Much more to the root of the question is the nature of international capitalism. Experience in America as one watched the struggle and birth of unions should have taught us that the American corporation did not provide decent wages and benefits without considerable pressure from workers. Under South African law Africans, Asians, and Coloreds are prohibited from forming effective powerful unions. There is no pressure upon these companies from within South Africa to prohibit exploitation of labor, etc., except the market itself. For example, as skilled industrial labor becomes scarcer, competitive worker benefits, e.g. pensions, are provided to insure that workers would not be lured to another plant. What sense of "decency" and "fairness" is exhibited by these corporate officials is also imbued with a deep paternalism, a sureness that Company A "knows what is best for its Bantu workers."

The claim of American subsidiaries that they have "enlightened" wage scales and labor relations is considerably dampened when one asks, "More enlightened than what!"

Exemptions: A factor in toeing the line

Another extremely important factor limits the "liberalism" of a foreign corporation in South Africa. Because of the numerous and complex labor legislation in South Africa, companies are often forced to seek exemption from government legislation. Exemptions are needed to allow a "non-white" in a white reserved job, to change the quota of white to "non-white" workers, to increase the number of African workers in a plant in certain areas, etc. If a company desires to be the recipient of such exemptions, it is obvious that it must not be on a bad footing with the government.

On several occasions the example of a government boycott of Ford products was raised to make the point that a company should not cross the government. In 1966 Ford was about to sell a quantity of four-wheel-drive vehicles to the South African government from Canada when the Canadian government stepped in and declared the sale illegal under the U.N. arms boycott of South Africa. Ford in South Africa faced two years of a South African government boycott of their products in response, an act which hurt them considerably and brought Henry Ford to South Africa to "make peace" with the government. The lesson was obvious. Good relations with the South African government are essential for a foreign company to do good business in South Africa.

Of course, anything which the government might consider a "political" act by a company would jeopardize that relationship. In this context it would be absurd in the mind of these companies to consider speaking out publicly against government policy. "Good corporate citizenship" in South Africa prevents any drastic diversion from government policy or accepted norms.

Among those interviewed and from correspondence with additional companies, it seems that even the companies who seriously complained about the restrictive effects of the government's economic policy described their relationship with the South Africa government with terms like "excellent," "amiable," "good working relationship at all levels," "honest," "direct," "the government has always treated us fairly," "mutual respect." It seems clear that one of the costs of doing business in South Africa is the establishment of a friendly working relationship with the government. That close relationship, functioning as it must on amiable terms, exposes the corporation and its officers of the government point of view. Thus, it often becomes both psychologically and financially beneficial for the company to listen acceptingly to both government problems and solutions.

Rather than American companies in South Africa acting as the liberalizing leaven in apartheid, it is in their best interests to cooperate with the government and against their best interests to act out a moral stand by opposing government racial policies. Private complaint or a public stance against government policies risks the profits which initially drew the corporation to South Africa. True, some American businessmen have joined some of the more verligte (enlightened) Afrikaaner and English businesses in pushing against restrictive labor legislation, but they are certainly no more vociferous than their South African counterparts and generally tend to accept the context of opposition set up by their South African business colleagues.

The context of opposition will be dealt with later in the paper, but it would be an understatement to state that South African business firmly endorses white control in South Africa and is only willing to open employment opportunities for "non-whites" in order to keep industry rolling smoothly. In no way would they consider sharing power with Asians, Africans, or Coloreds. American business follows this model and acts accordingly.

Relevant laws and customs

Since these corporations are committed to working within the laws and customs of South Africa, it is necessary to look at some of these laws and customs.

The South African government is terribly concerned about the increase of black population in the cities. One response to this movement of African labour into "white" industry and "white" cities is the border industry policy, which seeks to divert industrial development to the borders of the African Reserves. The Reserves function as reservoirs of cheap labour within easy access of industry rather than to become the economically developed regions pictured in apartheid ideology.

Through such measures as the Physical Planning and Utilisation of Resources Act of 1967 the government is encouraging the establishment of new industries and the relocation of urban industries in these border areas. Among the incentives offered by the government to companies to move into these areas has been the authorization of African wage rates lower than those in the cities. Government Wage Determinations for industries in these areas have tended to recommend wages lower than elsewhere, and often lower than those actually being paid in them at the time.

Between 1960 and 1968 over $360 million had been invested in these border industries, creating employment by 1969 for about 109,000 Africans and 35,000 others. While at the moment this is only marginal significance relative to the size and importance of urban industry, it must be contrasted with the almost total neglect of industrial development in the Reserves, where between 1960 and 1966 only thirty-five new industries were established, employing 945 Africans.

The Physical Planning Act and its accompanying incentives are clearly part of a racially motivated political strategy to keep as many Africans as possible away from the "white cities." Companies such as Firestone and International Harvester, by expanding into these border areas, support government policy in a very important way. This is often a factor of political sympathy by corporation executives. For instance, International Harvester's Managing Director stated, "This Bantustan thing—I agree with it 100%. It is economically and politically sound. I am sympathetic to what the South African government is trying to do. I don't want hundreds of Africans running around in front of my house." However, whether openly sympathetic or not, such a move has obvious political implications undercutting the claim of many American corporations that they are "apolitical."

The plan to create "border areas" is part of an overall design to remove "inessential" Africans from all white areas. The removal of these inessential Africans has taken two basic forms: the removal of whole African settlements from rural areas designated as "white," and the removal of individual Africans by "endorsing them out" under various movement controls. Up to the beginning of 1968, 193 African communities—a total of 72,000 people—had been removed from their rural settlements, and 276 more were scheduled for removal. Each year thousands of Africans are endorsed out of the urban areas to the Reserves. The government has made it clear that it intends to expel economically inactive Africans from the white areas.

The migrant and rightless status of Africans working in the "white" area is secured by a complex system of labour and movement controls which severely restricts the rights of these Africans. The government has been extending the migrant status of these workers, notably by the Bantu Laws Amendment Act of 1964. the Bantu Labour Act of 1964. and the Bantu Labour Regulations of 1965 and 1968. Under these Regulations, no African may leave the Reserves unless he has obtained a contract of employment through a government labour bureau, and no such contract may be valid for more than a year, though it may be renewed. In addition, a man's family may not automatically travel with him. Through these labour bureaux, the government wields very wide powers over African workers. The rights of Africans to stay in "white" areas because of certain qualifications such as birth, long residence of continuous employment in them, have been whittled away. Commenting on the 1968 Regulations, a government minister declared that through them "we now give judicial recognisance of our expressed policy of building our economy on contract labour."

The whites want the continued use of African labour without the continued residential presence of African people in the "white" areas. Thus, non-essential Africans are removed, while essential African workers are shuttled about, deprived of rights in the places where they live and work, and without jobs in the "homelands" where they are told to exercise their rights. Through this migrant labour system the whites secure their supposedly contradictory goals of prosperity and white supremacy and racial separation, at the expense of the Africans, on whom it inflicts permanent instability, the destruction of family life, and other serious disabilities. While U.S. firms may find some of this impractical, there is no chorus of raised voices in protest.

The job colour bar is extensively prescribed in legislation, and up to 1968, twenty-four job reservation determinations had been made under the Industrial Conciliation Act, which gives the government wide powers to make such discrimination. The job colour bar is also secured by various other means. But these determinations affected only about three per cent of the labour force, and up to June 1967, out of 891 applications from employers for exemptions, only 74 were refused.

In fact, many American corporations interviewed either did not directly face a legal form of job reservation or had been granted wide exemptions from certain parts of the law, such as hiring an extra "quota" of Africans or allowing vacated "white jobs" to be taken by "non-whites."

However, lack of legal restrictions did not make them automatically progressive companies. What was not prescribed by law was an equaly stringent custom. Many American employers explained that while it may be legally possible it would be disastrous in terms of white employee reactions to bring a "non-white" into a "white" job or allow a "non-white" to be in a supervisory position over whites. Custom and deference to the feelings of white employees often takes on the character of a law and would be just as unthinkable to transgress. U.S. firms were, in general, properly respectful of these white customs and feelings.

Economics and social change

We move to the contention of some American businessmen that apartheid is breaking down since it is economically unrealistic, and that economic forces will push South Africa to a more realistic economic and racial policy, improving the lot of non-whites.

Life is "better" for non-white South Africans

We have pointed out that almost no American or South African businessmen have contacts outside the white group in South Africa, a fact that greatly colours their perceptions of the reality of non-white life. We have also indicated that these men speak with assumed authority when they discuss the needs and aspirations of non-white South Africans. These are the same men who state that things have substantially improved for Africans, Asians, and Cape Coloureds and point to their rising standard of living as proof that things are not as bad in South Africa as many are led to believe.

Within the ranks of these American business managers the theory that industrialization and economic growth will substantially better the position of the non-white community and may work to undercut the overall policy of "separate development" also has considerable currency. It is important, therefore, to try to put this theory in perspective and especially to define what they mean when they talk about the undermining of apartheid.

As a start let us analyze the argument that "non-white South Africa has never had it so good," since the standard of living for Africans, Asians, and Coloureds has been rising as a result of the economic boom.

One must seriously ask whether the overall quality of life for Africans, Asians and Cape Coloreds in South Africa has actually improved to the degree that many American business representatives contend.

Dr. Francis Wilson, a Capetown economist and editor of South African Outlook, helps put the picture of a rising income and standard of living for blacks in a realistic context in a May, 1970, Outlook article. He writes:

"It is true that in the manufacturing sector (which in 1967 employed 530,000 Africans) the annual cash income of the average black worker between 1936 and 1964 rose from R84 to R410: an increase, in real terms of 90%. But the situation in other sectors of the economy is very different.

"In the gold mines (which today employ some 350,000 Africans) the annual cash wage in 1968 was, in real terms, no higher and possibly even lower than it was in 1911. The cash earnings of the average white man on the mines in 1948 were twelve times as much as the cash earnings of the average black worker: by 1968 they were twenty times larger.

"As regards white farms (where approximately one-third of black South Africans live) we have little information. But such as there is suggests that farm labourers in both the Orange Free State and the eastern Cape grew poorer during the first three decades of the century. However, between 1932 and 1958 real cash earnings (excluding any changes in wages in kind) in the eastern Cape rose by roughly 40%. But farm wages vary enormously from place to place, so that until we have further information it is impossible to say whether the majority of farm labourers have become richer or poorer over the past fifty years.

"In the Bantustans (where another third of black South Africans must keep their families) there is evidence that the people have become poorer over time. In a detailed study of the Ciskei during the 1920s, Dr. James Henderson of Lovedale found that Africans were desperately poor. And their position in 1925 was, he estimated, worse than it had been fifty years earlier. In the Transkei (using the figures of the Native Economic Commission and the Tomlinson Report) we find that between 1930 and 1951 the total value of all produce consumed or sold by the average family of five persons fell, in real terms, by something of the order of 20%. Since 1952 the evidence suggests that the people in the Transkei have not become any better off.

"Nor do these figures take account of the increasing thousands of people who are being moved, off white farms and elsewhere, to resettlement villages. Their poverty, if Professor Hobart Houghton's study of landless villagers in the Ciskei is any guide, is acute. In 1961 the median per capita income in the village he investigated was R1.75 a month from all sources, including remittances sent home by migrant workers and the value of vegetables grown for home consumption. And the cost of providing each person with the minimum food required for healthy life was calculated, at the prices then ruling, to be R5.00 a month."

The gap between white and non-white, Dr. Wilson writes, continues to grow and will contribute, as in Latin America, to a more explosive situation.

The picture of a growing wealth and health among Africans is further deflated by the comments of Sid de Villiers Graff, the leader of the Parliamentary opposition. Hardly a proponent of African rights, he still argued in a House debate in February, 1969, that the Standard of living of the African people in the reserves had remained static or fallen over the last fifteen years. The Tomlinson Commission had estimated in the mid-fifties that the per capita income in the reserves was $67, and of this $36 was earned in the reserves. The remainder was obtained from people working outside the reserves. Present figures indicate a per capita income of $74 of which $31 was earned in the reserves. Taking the value of money into account, the standard of living of the people has fallen, he said.

One must conclude that at the very least it is a contentious point when American business blithely tells us that Africans in South Africa are much better off than they have been before. In addition, that comment totally ignores the mounting piles of repressive legislation, the forced breakup of African family life, increasing number of removals of African families to government areas, the continued endorsing out of thousands of Africans who are told they have no right to live in the "white cities"—all vital factors affecting the quality of life of Africans. At the same time, Cape Coloreds are being driven from their Capetown homes to live in government housing outside the city and also have lost the right to vote for representatives in the "white governments," a further loss of political power. Even where the standard of living had increased, the overall quality of life, the sense of worth, well being and progress, while it may have improved in government eyes, has not done so from the perspective of non-privileged, non-white South Africa. Here again the picture painted from aloof American business sources bears much more similarity to the illusions propagated by the government than to African, Asian, or Colored reality.

Byproducts of economic growth

At present economic growth in South Africa has produced a severe manpower shortage, especially among skilled workers. For instance, there was a 19% shortage of unskilled labor and a 24% shortage of artisans in May, 1970. Since nearly all skilled jobs are restricted to whites only there is tremendous pressure to train and employ more skilled non-whites in positions vacated by whites. Newspaper editorials and articles are constantly hammering the government on this point, claiming that economic health and the growth rate of the country is being badly hampered by its restrictive labor policies. (See Appendix 5, Editorial in Sunday Times June 28, 1970) South Africa's growth rate has sunk from 7.5% to 5% and is expected to be 3.5% in 1971. Large numbers of influential business voices argue that this artificial meddling with the economy must stop. Progressives like Harry Oppenheimer have called it "economic suicide" and more conservative men like Jan Marais of the Trust Bank have also challenged the government.

A Rand Daily Mail news article August 11, 1969, put it this way:

"Leaders of the motor industry yesterday joined the growing clamout against the industrial colour bar, and warned that the motor trade alone would be short of as many as 58,000 artisans only twenty years from now. The president of the S. A. Motor Industry Employers' Association, Mr. E. J. Keevil, said employers were being prevented by fear, frustration, and ignorance from employing non-whites in higher skilled jobs. 'Fear of what the government might do if we train our Black, Indian, and Coloured workers to do semi-skilled jobs which hitherto white workers had done but for which insufficient white labour is now available.' There was frustration, too, in the drive to develop export markets because the artificial labour shortage was forcing basic wages increasingly higher, thus increasing the cost of manufactured products and pricing them out of the export market."

A flu epidemic that left the railways floundering because of a shortage of workers further underlined the problem that political ideology applied to economics can sometimes cause. Seventy goods trains a day were cancelled in June, 1970, and 13,645 cancelled during the 18 months before June 30 because there were not enough men. One in four jobs on the railways was being left undone. The railways have since employed enough non-whites to prevent stoppages under the assurance that there was "no threat to white worker security." A survey from the Stellenbosch University's Bureau for Economic Research, far from a frequent critic of government policy, (in July, 1970) turned out a gloomy report on the future of the nation's economy. The Survey identifies the major bottleneck in the economy as the shortage of labor, while the government's labor policy and the Physical Planning Act are considered serious deterrents to expansion. The English press in South Africa used this as further proof for their case, oftentimes contending that it was grossly unfair to underdevelop the African working population as is done. The recent national election results are used as an indicator that the white voter is more pragmatic and willing to accept economic changes that are not ideologically "kosher."

Stephen Mulholland, a columnist for the Johannesburg Sunday Times, emphasized the sensibleness of the use of more skilled non-whites in a July, 1970 column. "I believe it is reasonable to expect that economic and everyday needs of the ordinary people will in the end triumph over the ideological insanity which today threatens our economy," he wrote. The Financial Mail, a South African Journal, notes, "Either apartheid gives a bit or the growth rate does."

In general, these arguments come across as sensible, sound, pragmatic, and reasonable. The American businessman may hope that they convince the government so that the growth rates can continue and the restrictions placed on the use of Africans in more skilled jobs can be removed. In this instance both American and South African business are to the left of the government.

It is this same rationale which stimulates the optimistic American businessman, who believes that economic sanity and reasonableness must prevail, to tell us that apartheid must break down under the weight of economic forces insuring a bright future for Africans—a better job, more pay, more respect for his needed skills, integration rather than segregation. This claim will be made more and more frequently as inquisitive stockholders ask companies for an explanation and perhaps moral justification of their operations in South Africa. It is an interesting footnote that at present very few of those businessmen interviewed propounded this theory in detail. It may increasingly gain popularity as a rationalization for business presence in South Africa; but it is certainly not the heartfelt hope, the well thought out strategy of U.S. business at present. Its superficially convincing nature, contending as it does that the American corporation is on the side of the angels, makes it deserving of a meaningful and full response, for indeed this theory is both deceptive and misleading. Interestingly, many American businessmen interviewed felt that the contention was ridiculous. They argued that economic forces would not destroy separate development and create an integrated society but would only prevent it from reaching its purest ideological end of total separation of the races while retaining most of its vital characteristics.

Perhaps it would be best to try to portray the fallacy in diagrammatic form and then move into more detail.

South Africa may be pictured as a pyramid with the white ruling class in firm control at the top, making the rules of the game not only for themselves but for the "non-white" underclass as well. Any concessions made by the whites in power, even when motivated by pity, are made with the interests of that white group clearly and primarily in mind. Even the most optimistic of analysts of South Africa would not hide the fact that South Africa's clear goal is to protect white interests. Numerous quotations of government officials bear this out, among them a 1956 quote of the present Prime Minister Vorster which is still on target: "We know one person only to whom we owe an explanation and that is the white worker in South Africa who has brought the Nationalist Party to the position it occupies today and will keep it in that position in the future." White interests, including those of the white worker, are still the order of the day, and this should be kept in mind whenever we hear talk about changes in South Africa today.

To be specific, the dominant white ruling group on the top of the pyramid may be willing to make certain concessions to make the economic system run more smoothly or to insure that white living standards are not jeopardized in any way. They may be willing to allow additional non-whites to take formerly white skilled jobs or to allow more non-whites in urban areas. However, one thing should be clear through a close scrutiny of the statements of even the most liberal industrialists. Their desires are precise. They do not ask for an abolition of apartheid nor even the abrogation of the industrial color bar, but merely for the relaxation of some restrictions which would enable them to fit non-whites into jobs where whites are no longer available. The underclass would be allowed to move a small number of "representatives" up the pyramid, but the essential pyramid power relationship, who makes the rules, would not have shifted one inch.

If our goal is to alter tha power relationship so that political power is shared, the goal of all the Colored, African, and Asian political parties before they were banned, then the integration of a number of skilled Africans into the lower echelons of the white economy is hardly a cause for celebration. The political power remains firmly rooted in the hands of a government responsive only to a white constituency. The result is simply a nation of slightly better fed and clothed political and economic serfs.

If one lesson of the black power movement in America should be clear to us, it is the demand for a re-allotment of both economic and political power as a pre-requisite of serious social change. However, it is exactly this re-alignment which is not being suggested when American and South African industrialists talk of integrating more skilled non-whites into the white economy. They do not agitate for equality of opportunity either in the trades or professions or in the acquisition of skills. They do not speak out forcefully on the whole question of the contract labor system with its many injustices. The orientation is not toward a better lot for non-whites but consolidating the lot of whites.

A paragraph in "The Black Paper", a report prepared as an alternative foreign policy choice for the Canadian government succinctly stated:

"It would be wrong, however, to conclude that these economic factors will undermine apartheid. The economic growth that the regime seeks to promote is that growth which will bring maximum wealth to the white minority. A national rate of growth that is greater but would undermine the economic privileges and social and political supremacy of the whites does not appeal to the white minority. Apartheid is essential to the pattern of life, the power, and the disproportionately high standard of living of the whites as a community."

By pressing for certain limited economic reforms but not for deep-rooted change liberal industrialists will be able to achieve a number of economic objectives:

Greater productivity than is possible with white workers;

Overcome the problem of not having a regular supply of cheap labour;

Produce at lower unit costs because of paying lower wages to non-whites for doing the same jobs, thus increasing their profits;

Be able to compete in the export market, especially in the rest of Africa, and so hope to increase their political stranglehold on areas in that continent;

At the same time maintain the artificially high standards of living of the white community;

Put on a face to the rest of the world that their intentions are honorable.

The point is this. While white government concessions may allow non-whites into more skilled jobs and admit that Africans are a necessity in the urban areas, perhaps even removing a few of the more denigrating symbols of apartheid, power will still be firmly entrenched in white hands. True, the official ideolgy, the grand design of assigning all Africans to a homeland to be allowed in the cities only as migratory laborers, may have been modified, but the underlying theme of white control, white supremacy if you will, has remained untouched. In fact the theme of white control is the parent of apartheid, allowing parts of the latter to be reshaped withough touching the former.

Perhaps some more detailed data will help make this presentation strike closer to home.

African labor underpins the whole South African economy, with Africans providing about 70% of the country's economically active population and with the majority of them engaged in essential labor for the whole white population.

Earlier some of the laws which determine the lives of these African workers were reviewed. In addition it must be noted that the denial of trade union rights to African workers has been key to apartheid both in principle and in practice. Almost without exception representatives of American businesses interviewed opposed the concept of trade unions for Africans. Statements such as "African unions would be meaningless in this situation since we provide for their needs"; "the union situation here is entirely different than the U.S.A."; "Africans don't understand democratic methods such as unions" were often heard. Even though work associations for Africans (informal and powerless caucuses to allow Africans to express grievances) are legal, very few employers felt there was any need for them. In this case American subsidiaries were identical with South African business. While some may have attacked job and geographical color bars, there has been no outcry against trade union and wage color bars. While the more liberal wish the removal of artificial labor restrictions that inhibit their growth and profit, none are speaking out on behalf of Africans' right to organize. In fact there are instances in which American subsidiaries have been openly hostile to the establishment of unions for Coloreds in their shops, (Union organizing among Coloreds is legal,) the Chrysler subsidiary being a clear example. (see Appendix 4) Of course if there were powerful African unions with the right and power to strike, they could force higher wages, limit profits and serve as a basis for political action. Although labor organizing is in the best interests of the African, it would threaten corporate control. It is significant that in this important area of labor discrimination the liberal industrialists, including some U.S. businesses and the South African government are not at all in conflict. This area of apartheid has not been undercut in the least by industrialization.

There is more evidence that indicates that economic development has not at all been undermining the core structure of white supremacy. Several important questions come to mind: What is the nature of economic relationships between whites and non-whites"? Has the essential structure of this relationship been significantly undermined by recent economic development? What access do Africans have to the means of economic power, and what is their share in the distribution of wealth?

Let us attack the last question first. We have partially indicated that African access to economic power is greatly limited by the impossibility of African labor organizing and that American companies sit comfortably under that restriction. African trade unions are excluded from legal recognition under the Industrial Conciliation Act, and strikes by African workers are illegal under the Bantu Labour (Settlements of Disputes) Act. Under this last Act, the interests of African workers are supposed to be represented by government officials. Laws such as the General Laws Amendment Act and the Suppression of Communism Act also stop possibilities for African labor organizing or striking, defining sabotage for instance in sweeping terms. African trade unions therefore are left as powerless shells with tremendous problems in even attracting members.

Educational discrimination also restricts African acecss to economic power. Despite South African government claims that African enrollment in schools is mushrooming, the miniscule funds spent on their education and the concentration of pupils in the lowest classes undercuts their claim. A book could be written on the specifics of this area.

Not only is the racial distribution of income in South Africa drastically unequal (African income in 8% that of whites, R7 per month compared to R95 per month, according to a *Financial Mail* April 1969 article reporting on research by Market Research Africa, and in manufacturing a white earns in a day what an African earns in a week.) but the gap between African and white income has increased during the last decade of economic boom.

For instance the Financial Mail, September 6, 1968, indicated that white earnings in the manufacturing industry rose from 440% to 485% those of non-whites from 1962–67. True, South Africa has experienced an economic boom and true, Africans, Asians and Coloreds in South Africa are partial recipients of the rising standard of living resulting from that boom. However, the economic dribble down effect is a far cry from a just economic order in South Africa. To use a somewhat extreme example would be to cite that American slaves also benefited from thriving Southern economy, but no one today would use that fact to legitimatize a system in which plantation owners became wealthy from exploited black slave labor. It is equally absurd to suggest, as U.S. business representatives do, that Africans. Asians and Coloreds are much better off today than ten years ago without analysing the overall system that allows a modicum of wealth to sift into non-white hands or pointing out that the gap in earning power between whites and non-whites has widened. Inflation in South Africa further cuts the real buying power of non-whites.

Responsibility for wage rates and ranges does not lie solely with the government. The white employer, American subsidiaries included, play a key role in determining wages. The government sets a minimum wage pattern for each industry; however no maximum wages are set. In fact except for the John Deere subsidiary none of the companies interviewed used government minimum wages, even for starting salaries, declaring that they were neither competitive nor adequate wages. The market tended to set its own levels which were several rand a week higher than government levels. As indicated by the Isando Industrialists study this market level was still often below the breadline and by stretch of the imagination could be considered a reasonable compensatory wage. American industrialists either follow this pattern or pay slightly higher but still inadequate wages. For example John Deere admitted that its starting wage for Africans was the government's minimum wage of $17 a week. Chrysler's average wage for Africans in its Pretoria plant was $81 a month (right on the poverty datum line) and GM's average African wage, by their own estimation, was 40% above the breadline, hardly a progressive wage policy

Here, then, is another case of the "liberal industrialist" supporting a racial and economic norm instead of challenging it. The proposed case that industrialization will cause significant social changes or that the liberal industrialists is operating with African interests at heart in South Africa seems to sit on shaky ground. In a key period of economic growth the possibility of corporations in South Africa substantially raising wages and taking a slight loss in profit has not happened.

Although no government regulations restrict paying higher wages, American corporations, understandably from their point of view, feel that they cannot radically diverge from the average wages in the industry. They know that substantial unilateral increases would bring official disfavour, and, since they are industrial guests in South Africa, it would not be in line with their "good citizen" policy and their desire to have amiable, unblemished relationships with the government to be industrial innovators in this sensitive area.

From an ethical standpoint one must obviously place a heavy portion of responsibility on the shoulders of American business, for although it is natural to cooperate with the government and the white trade unions, it is done at the cost of exploiting African, Asian, and Colored labor. This source of relatively cheap labor and near breadline starting wages has continued while profits have increased enormously, e.g., by 1967 two hundred South African companies had increased their net profits $100 million in four years.

Structure of racial relationships

What is the nature of the economic relationship between whites and non-whites? Has the essential structure of this relationship been significantly undermined by recent economic development? The answer to these questions is perfectly clear. The nature of economic relationships between whites and non-whites remains as it has for decades, essentially a master-servant relationship. It is instructive to note that among U.S. businesses interviewed, those who fell under the Job Reservations Act were interested in filling vacant white jobs with trained, skilled non-whites but were neither interested nor had a vision of the day in which whites were supervised by non-whites. Those not affected by the Job Reservations Act stated it would cause incredible personnel problems if whites were ever supervised by non-whites and that from their point of view trying to break through this iron clad custom would be seen as politically motivated and would cause severe repercussions. If a subsidiary dealt with a white union, e.g., GM, tremendous dissension would arise at the mere suggestion of the erosion of white job privilege. In short, the nature of the economic relationship between the races is one of white preference, privilege and control in the labor field. Although white unions are willing to have a job "go coloured" if there is no white to fill a slot, they are adamant about whites retaining preference for any job and strongly against any competition between white and non-white for jobs. This, of course, means that educated and trained Africans still are assigned menial jobs with little chance for promotion. It is not uncommon to see Africans with university degrees working as salesmen, making substantially less than their white counterparts. For instance, Chrysler has employed an African with a B.A. in Personnel Relations to help supervise the hiring and testing of African job applicants. His wage is considerably less than a white university graduate's wage would be.

The leader of the opposition United Party, although pressing for greater use of non-white labor, stated before the National Election:

"Job reservation has two aspects. One aspect is what is known as the conventional colour bar in South Africa and this in practice amounts to a tacit agreement and sometimes an expressed agreement between employers and employees that certain spheres of work will be reserved for White workers. That is the South African convention and that is one which we do not propose to abolish. We will take measures to protect any group of workers against any transgression of this convention."

The United Party is well aware that its constituency is white; and, therefore, protection of white jobs and white supervision must be part of their platform and is unlikely to change. It is inconceivable that the United Party would ever propose changing the structure of the economic pyramid of South Africa; white supremacy will naturally continue to be a U.P. plank even while advocating a loosening of labor restrictions to strengthen the economy.

The United Party example should be a clear indicator of future economic relationships between races in South Africa even in an economically "liberalized" situation. The evidence bears out the conclusion that economic development has not undermined that basic relationship of white control and superiority and is not likely to as economic growth continues. Access by Africans to the essential means of economic power remains restricted, the distribution of income is extremely unequal, and government control of African labor has been growing rather than diminishing. There is no basic contradiction between South Africa's expanding industrial economy and white domination of the economy and society. Over the past twenty years of growth there has been a steady political move to the right in South Africa. In fact, the white economic and political supremacy of South Africa is being reinforced by a strengthened and expanding economy. There may be some modifications in the system as it acts itself out, but white superiority remains the basic and constant underlying theme. The pyramidal structure remains untouched both socially and economically.

Charitable contributions

Charitable contributions made by American subsidiaries also tell us something about how they think and act. Many companies gave to African, Asian or Colored educational enterprises as well as white universities. Often here we were reminded that the subsidiary was not political and therefore could not give to political or controversial projects.

One of the fascinating and revealing offshoots of this question is the often found support for the South African Foundation.

One of the more sophisticated international information dispersal and lobbying units for a pro-apartheid position is the South African Foundation. In many ways the Foundation does a propaganda job that preempts the need for American corporations to campaign more actively on South Africa's behalf. By its own admission it is heavily subsidized by American corporations in South Africa who subscribe on a pro-rated basis according to size. Of those companies interviewed, a sizeable number were members of the Foundation. Several executives stated that South Africa had the world's worst public relations department, that a skilled public relations effort could help South Africa considerably and that the South African Foundation was fulfilling that task in an admirable way (of course, the frightening underlying assumption here is that South Africa's problem is nothing that any good public relations job could not help cure). The Foundation was started in the early sixties to "promote international understanding of South Africa," and in its first year tried to help "stem the tide of ignorance, criticism, and misrepresentation against the Republic" (South Africa Foundation—10th Annual Report).

Begun as an attempt to generally influence mass media and do "public relations on South Africa's behalf," it changed its approach to influence high-level opinion makers. In the words of the Foundation, "Visitors are chosen for their influence on official and public opinion." In a liberal moment the Foundation writes, "They are not expected to make favourable statements about South Africa on their return, unless they voluntarily choose to do so." The sentence closes cryptically "which most, in fact, do."

In 1963 the Foundation established a part-time representative in Paris, turning into a permanent office in 1966 and in 1968 a permanent Foundation representative was appointed in New York. The American representative was active in opposing the Kennedy amendment to take away South Africa's sugar quota.

Charles Engelhard was one of its 25 original founders, and today a "Man to Man" committee composed of leaders of the American community in South Africa assists it in its task. Among the participants of that Committee is Mr. Logan Emlett, Managing Director of Union Carbide Southern Africa and a personal opponent of majority rule.

Although the tenth Annual Report attempts to explain that the Foundation does not engage in "propaganda" but "communication," it proposes that one of the objects of encouraging visits by opinion makers is to study at first hand "the strategic, political, and economic importance of South Africa for the non-Communist world." This theme is a favourite of Major General Sir Francis de Guingard, the President of the Foundation, and is one of the basic rationales for the appeal for Western friendship and renewed arms sales to South Africa. The Foundation's President had a chance to meet with President Nixon and Dr. Henry Kissinger at a time, in their words, "when the Administration was re-evaluating the U.S. policy towards South Africa, and the occasion was taken to bring to the President's notice some points which have received too little attention in the past." "It would be hard," the report goes on, "to overestimate the importance to South Africa of this discussion."

A further example of the politics of the Foundation! L. B. Gerber, the Director of the Foundation, urbane and friendly, a perfectly appealing host to guests who wished to "learn the truth about South Africa," explained that there is no middle ground between separate development and integration in South Africa and, therefore, South Africa must pursue separate development (read apartheid or white superiority) even with its faults. Integration, Mr. Gerber continued, has never worked in the world. Majority rule would bring chaos to South Africa, he said.

In a statement typical of white "authorities" on African needs, Mr. Gerber felt that Africans were materially well off and that the prime concern of "people at that state of civilization is food, clothes, and housing." Mr. Gerber's desire for white supremacy was couched in rationally appealing terms and put forth as a concerned gentleman. His approach has and obviously does appeal to the minds of the Foundation's white visitors. The stark reality behind it, however, is that the Foundation's top bureaucrat is an unashamed apologist for apartheid, a believer in white supremacy.

Their Tenth Annual Report and others make fascinating reading as one studies the actions of the Right in influencing world opinion and foreign policy towards South Africa.

One could evaluate the South Africa Foundation for pages. The key point is this. The American corporation states that it is an "apolitical" creature in South Africa merely following, in the words of the Caltex Principles, the "laws and customs of the country." Within South Africa it would be considered a normal and non-political act to be a subscribing member to the South Africa Foundation, an act of "good citizenship" aimed at creating a pool of goodwill in South Africa for the member corporation. The real fact is that American corporate support for the South Africa Foundation is a blatantly political act assisting a pro-apartheid group in its international operation of building friends and allies for South Africa. This fact is but one of the most obvious which strips away the apolitical facade of the American corporation in South Africa.

Among the list of subscribing members of the Foundation include John Deere, Caterpillar, Mobil Oil, Caltex, International Harvester, Union Carbide, Chrysler, General Motors, and Barlow-Weyerhauser.

It is an interesting footnote that many of the companies which were members of the Foundation felt that contributions to the Institute of Race Relations and the Christian Institute, both primarily white but critical of government policy, would be considered "political" acts. There was no differentiation made between supporting the politics of the status quo and the politics of an opposition.

The Foundation's politics also made it a fair indicator of the issues which seriously disturb the white power structure in South Africa. The 10th Annual Report records, "Despite superficial indications to the contrary like demonstrations against Springbok teams agitation against the new South African Airway service to New York . . . the real indices of progress in South Africa shown increasing trade, investment, immigration, and tourism, and an ever growing economy." This is reminiscent of the quote contributed by a South African to Henry P. Van Dusen, past President of Union Seminary when he stated, "So long as U.S. banks and business back us, we can go ahead."

It is obvious that American economic capital and know how are valued much more by those in power as an indicator of U.S. support than protests against South African Airways are considered a threat. This is obviously why both the Foundation and the Government encourage investment in South Africa. The Foundation, for instance, made contact with 150 businessmen, including the executive officer of 30 companies. It would seem that the Foundation feels the goodwill of American businessmen is an asset to the formulation of opinion and foreign policy in America, and it seems clear that it feels the economic involvement of these men is significant.

Business influence on American foreign policy

One badly underrated effect of the attitudes of American corporate officials and the vested interest companies have established there, not to mention the cautious "good citizen" policy they have developed in South Africa, is the effect of business on the formation of American foreign policy toward South Africa. Of those officials interviewed, *all* expressed opposition to present U.S. policy toward South Africa. The more moderate felt America was too harsh, did not understand the complexity of the South African situation, and pleaded for time and tolerance. The more vociferous critics claimed U.S. policy was "phony," "a sop to negro militants," "this really makes my blood boil," "unfair," "unrealistic," "divorced from reality," "government doesn't understand the racial situaton here is different" and pressed for a complete turnabout in U.S. policy and support for South Africa's racial policy.

If one remembers from our analysis of the attitudes of representatives of U.S. business that they ranged from mildly critical mixed with plea for tolerance to fiercely sympathetic, then we are faced with a number of men on the scene who are feeding material back to their U.S. parent generally interpreting South Africa government policy affirmatively. As the number of requests (or demands) from stockholders, students, and Churchmen about corporate holdings in South Africa increases, U.S. companies of course will naturally turn to their subsidiaries in South Africa for answer. The answers returned will naturally reflect the attitudes and interests of those subsidiaries and may even be written by employees of the subsidiary. A quick tally of responses to detailed questionnaires sent by Princeton University in 1968 and the Council on Economic Priorities in 1970 reveals that very few companies revealed any moral ambiguity about their involvement in South Africa. Most responded in general terms, some with naive comments such as we do not discriminate on racial grounds but promote people with educational qualifications and experience in mind; some contend that international contact and involvement will bring about change in South Africa.

Mobil Oil and Union Carbide representatives pulled out their answers to the Princeton questionnaire in our interviews in South Africa. It was obvious that it was the South Africa subsidiary which was the source of the information presently circulating among the inquisitive in the U.S.A.

The Standard Oil (N.J.) subsidiary Esso Standard South Africa (Pty) Ltd. had just completed a lengthy memorandum about their operation in South Africa for a visit of several parent company officials. This report could easily represent the material produced by numerous other subsidiaries. The memo included a thumbnail sketch of South Africa's history, some comparative statistics with the rest of Africa, an assessment of the present racial situation, a run down of Esso's South African operation, and the future economic possibilities for Esso in South Africa. The substance of the report was written by David Knowles, a young white South African, who was head of the economics and planning department. In a short interview, Mr. Knowles stated, 1.) that the overall policy of Separate Development was correct; 2.) the urban "Bantu" was a problem since it is impossible to remove them from the white cities; 3.) South Africa should rid itself of petty apartheid. Both Mr. Knowles and Mr. Hartman, the Managing Director, were firmly opposed to integration or sharing political power with blacks. The Esso memorandum prepared for the visiting executives stated, 1.) the average wage of all races in South Africa was far above wages in the rest of Africa, (This is like comparing black Americans to Ghanians and saying they are better off); 2.) the races have always been separate in South Africa, for when the whites came to the Cape, Africans were just moving into the North (a highly contentious anthropological and historical argument); 3.) "This economy was built, no question, by the whites" (need one reply to this!); 4.) Soon there will be total literacy among Bantu children. (In fact there is a drastic dropout rate after four years of school and the percentage of Africans who are able to attend secondary school or university to take leadership positions among their people has remained constant.) All these points are contestable and are based upon premises of government ideology.

The point of this recounting of the Esso memorandum is simply to indicate that the data, facts, and impressions put before top level American corporate executives tends to be material based upon and/or sympathetic to South Africa's apartheid mythology. If one does a quick arithmetical accounting of the number of Americans in South Africa, the business community must be seen as both a sizable and influential proportion. The power of such a group with a vested interest in the South African status quo in effecting American policy conservatively cannot be discounted.

Perhaps another example will help make our point. The Chairman of the Board of Goodyear Tire Co., U.S.A., Mr. Russell de Young, recently visited South Africa. Mr. DeYoung is understandably a conservative person. On his visit he talked to Prime Minister Vorster for nearly an hour. Mr. Vorster spent the time describing what a difficult situation the Nationalists had "inherited" and how much South Africa "had done for the Bantu." As a result of this conversation, officials in South Africa felt Mr. DeYoung would be moderately pro-South African. At the very least he would contribute to the prevailing milieu of discussion in upper business circles that South Africa may have some problems, but they are theirs to solve and outside pressure should be stopped. Naturally such a milieu excludes the possibility of the legitimacy of violent revolution and could be a strong voice against it in Washington. Considering the interchangeability of U.S. top corporate managers and government, such a milieu of opinion has even more influence and power.

With these observations in mind, we should keep sharp eyes and attuned ears to the answers of American corporate managers about their business presence in South Africa and try to discern what form of presence they do or could maintain in Washington. It seems prophetically clear from these observations that in a time of political crisis or revolution in South or Southern Africa, not only will American business move to stabilize the situation around them but will actively give counsel to listening ears in Washington, armed with a sophisticated version of South African propaganda. The question of U.S. corporate influence on our foreign policy cannot be discounted as we evaluate the role of U.S. corporations in South Africa.

CONCLUSION

This report has not attempted to be the definitive word on the role of U.S. business in South Africa, but to add some new and significant data for our ongoing understanding. The picture is unfortunately not hopeful. The American corporation in South Africa is generally indistinguishable in its business practices from its South African counterpart.

Another report easily twice this size could be written on the detailed ways in which U.S. companies both individually and cumulatively act as supporting props for the system of apartheid. The resource list (Appendix 7) will serve as a pointer to other literature which can explain this relationship in more depth.

Some analysts today, including Polaroid Corporation and the U.S. State Department are pretending that if General Motors and other U.S. companies suddenly became equal opportunity employers in South Africa they would no longer be accomplices in apartheid. Of course such a claim only presents half the story. Would a U.S. company in Nazi Germany providing strength and health to the German economy be freed from all responsibility if it equitably employed Jews on its staff in the German subsidiary? The thought boggles the mind! To the extent that U.S. corporations are agents which support and strengthen the South African economy they are also responsible for the strength of apartheid. A healthy economy strengthens white control, white imperviousness to economic sanctions, white ability to keep blacks oppressed. As U.S. companies contribute toward that economic strength they become automatic accomplices in perpetuating the racist status quo, a fact which no amount of Polaroid type public relations in the U.S.A. can wipe out.

United States investment in South Africa therefore plays several roles. Its general acquiescence to the laws and customs of white South Africa make it a silent citizen in South Africa, a variation of the "good German." More important are the ways in which individually and cumulatively, U.S. investment assists in strengthening the economy which operates at the direction of and primarily on behalf of the white minority. A significant contribution to the strength of the South African economy is also a contribution to the strength and future of continued white control and oppression.

If indeed U.S. investment in South Africa assists in maintaining the overall system of white control then the only legitimate demand possible by those wishing to challenge that control is that U.S. companies must withdraw from South Africa.

APPENDIX I

The following is a list of companies in which representatives were interviewed:

John Deere—South Africa—Mr. Martin Zaunbrecker, Managing Director.

International Harvester Co.—South Africa Pty., Ltd.—Mr. James Hatos Managing Director.

Insurance Company of North America—Arthur C. Kilburn, Manager.

American Motors—South Africa Pty., Ltd—Mr. Frank Read.

Chrysler—Mr. Charles Blakely, Managing Director, Chrysler South Africa; Mr. LeRoux, Labor Relations Officer; Mr. Bickerstein, Public Relations Officer; Mr. C. Bennington—Plant Manager, Elsies R. Plant outside Capetown.

Ford Motor Company of South Africa Ltd.—Mr. R. J. Scott, Managing Director; Mr. Fred Ferreira, Director Personnel; Mr. Church, Plant manager, Ford engine plant.

General Motors—William P. Slocum, Managing Director; Alan de Kock, Director of Personnel and Public Relations; R. J. Ironsides, Plant Manager.

Barlow Weyerhauser Packaging Investments Pty. Ltd.—David Brown, Managing Director.

ESSO Standard South Africa Ptd., Ltd.—Mr. E. R. Hartman, Managing Director and David Knowles, Head of Economics and Planning Department.

Caltex Oil of South Africa Ltd.—Mr. R. D. Wrigley, Jr., past Managing Director and Mr. W. Marshall Smith, Managing Director.

Mobil Oil Southern Africa (Pty.) Ltd.—Mr. W. F. Beck, Managing Director and William Greenwood, Personnel.

Atlantic Richfield Company—Mr. Franz Keyser, Manager.

Goodyear Tire and Rubber Company—Mr. John Purcell, Managing Director.

Barlow's Tractor Division, Mr. K. C. Comins—Managing Director.

Honeywell Automation (Pty.), Ltd.—Mr. Garrett, Managing Director.

Honeywell Computers (Pty.), Ltd.—Mr. Malcahy, Managing Director.

Caterpillar Africa (Pty.), Ltd.—Mr. Alan Leach, Managing Director and Mr. Steve Green, Personnel.

Internatonal Computer Limited (British)—Mr. G. Hill.

Anglo-American Corporation—Mr. Zak de Beer, Assistant to Harry Oppenheimer.

Similar questions were explored with the following persons:

Mr. R. Silberhauer—Bantu Wage and Productivity Association.

Mr. Gerber—Director of South Africa Foundation.

American Consulate Johannesburg:

Mr. Lutkins, Consular General.

Mr. Ted McHale, Labor Relations.

Mr. Blankenheimer, Commerce.

Durban:

Mr. "Red" Duggan, Consular General Durban.

Mr. M. Lee, Director of Chambers of Industry for the Western Cape.

Representatives from the following unions:

Engineering Workers Union.

National Union of Laundering, Cleaning and Dyeing Workers.

National Union of Motor Assembly Workers.

Engineering Industrial Workers Union, Natal.

Amalgamated Clothing Workers.

Canadian Government:

Mr. G. Orban—Assistant Trade Commissioner, Johannesburg.

Mr. C. V. Cole—Political Officer, Capetown.

Dr. H. Ringrose—National Industrial Council on Motor Industry.

Mr. H. Hastings—Chairman of American-South African Committee of the South Africa Foundation (businessmen).

Adam Small—Professor, colored poet.

Francis Wilson—Economist, writer.

Fred Van Wyk—Institute of Race Relations News.

Father Cosmos Desmond—Author.

Alan Mountain—South Africa Foreign Trade Association.

Tony Heard—Assistant Editor Cape Times.

Peter Randall—Study Project on Christianity in Apartheid Society.

APPENDIX II.—TOPICS DISCUSSED IN INTERVIEWS

The following are a series of issues which were usually touched on in interviews. Our style was one of conversation rather than TV interviewing. Therefore, many of these topics would come up naturally in the course of discussion. They are not phrased as questions here but simply the question areas explored.

Policy of the Corporation

Has it ever lobbied against certain apartheid legislation privately or spoken out publicly?

Does it lobby in the USA?

Charitable contributions?

Relationship of the company with the South African government?

Attitude toward Coloured unions or African work associations?

P.R. materials from the company.

Short history of the company in South Africa.

Amount and type of investment.

Where are they situated in South Africa? (Angola, Mozambique, S.W. Africa, Rhodesia).

Possibilities for growth in the rest of Africa.

Are any of their operations in "border areas", on the edge of Bantustans?

Rate of return on investment?

Rate of growth?

Business potential of South Africa and restrictive factors e.g. lack of skilled labor.

Importance of the investment and product to the economy.

Could the product be used by the military?

Labor

Number of employees by racial category.

Benefits, facilities and wages by race.

Number of women working and types of jobs women are allotted, benefits, pay scales.

Stability of labor force, quality of work.

Training and educational opportunities for workers.

Whether the company imported personnel from Europe to fill skilled positions where white South African labor was unavailable.

Channels for complaints of workers.

Hiring and firing procedures.

Legislation affective companies

Job Reservation Act.

Physical Planning Act.

Local content program.

Attitudes

Response to US Foreign Policy toward South Africa. Comments on Ambassador Yost's speech discouraging investment in S.W. Africa.

Comments on the UN.

How is industrialization affecting Africans, Indians, and Coloureds? What are the resultant social changes? What might be the results ten years?

Any friends of acquaintances among Africans, Asians, or Coloureds.

Feelings about majority rule.

Feelings about the South African government and its policies.

APPENDIX III

A BUSINESSMAN LOOKS AT APARTHEID

(By Neil Wates)

(Note.—Mr. Neil Wates, managing director of Wates Ltd., one of the largest building conpanies in the United Kingdom, visited South Africa in June 1970 at the invitation of South African businessmen, after he had rejected their first approach for a franchise of the Wates system of industrialized building. After his visit, he made a "report on business opportunities in South Africa", informing his colleagues that he was even more opposed to investing in South Africa. An extract from the report was published in The Observer, London, on 20 August 1970, and aroused considerable interest.

(The full text of the report is published here, with permission from Mr. Wates:)

In January 1970—about the time we received news of our success in operation *"Breakthrough"* in the United States—we also received an invitation from a firm of South African developers to franchise our System to them. We refused to do so, on the general grounds that we felt we could not be true to our company goal *"to grow people"* if we were forced at the same time to work within a system which limited the opportunities of some people *"to grow"* according to the colour of their skin.

Our South African friends responded, very properly, that we did not know our subject, that we were totally misled by hostile propaganda and that we simply could not take such a decision 7,000 miles away. Accordingly we agreed that I should go out on behalf of the company to look at the situation at first hand.

I must report *prima facie* South Africa is the ideal land for investment; stability is a relative term, but in the foreseeable future there can be few more stable countries than South Africa. The economic outlook is excellent—the possible fall in the volume of gold production is almost bound to be offset by what I regard as an inevitable increase in the price of gold within the next two years; apart from gold, secondary mineral exports are growing—platinum, uranium, copper, magnesium, chromium, aluminium, etc. There is a rising trade in manufactured products, new markets are being opened up in the United States and Japan; politically the country is extremely stable—there would seem to be no prospect of ousting the present régime; the student unrest in universities as experienced in Europe and the United States is completely unknown; there are no strikes and above all, the non-whites are completely quiescent.

I must further report that the opportunities for a system of industrialized building, such as the Wates System—which not only saves man-hours, but, above all, skilled man-hours and eliminates wet trades—are enormous. The white-dominated unions have a virtual stranglehold on the construction industry; the only way to cut the Gordian knot is through eliminating the wet trades and creating totally new jobs altogether, which would enable employers to open up job opportunities for non-whites without ever being accused of taking jobs away from the whites.

In this context, it is only fair to say also that I met Liberal businessmen of the highest calibre who argued that economic forces were bound to bring about the downfall of *apartheid*—and their own system would prove a powerful weapon in the campaign.

Notwithstanding all this, I must report that the idea of doing business in South Africa is *totally unacceptable;* we could not be true to the basic principles on which we run our business and we should lose our integrity in the process. We should have to operate within a social climate where the colour of a man's skin is his most important attribute and where there is virtually no communication between the races; we should be locked into this system. We should have to operate within an economic climate which is designed to maintain an industrial helotry; we should, in turn, profit from such exploitation and ultimately end up with a vested interest in its maintenance.

We should have to operate within a legal climate where the rule of law has been abolished in favour of rule by decree, which bids fair to become a reign of terror.

The cumulative effect of all these factors in the long term must be self-defeating; within the short term it must make it impossible for ourselves individually, or as a company, to connive at anything which would serve to perpetuate a system which in the last analysis has no other justification than the preservation of white supremacy as an end in itself.

To analyze each of my points in a little more detail . . .

1. NO COMMUNICATION BETWEEN RACES

This is a well known fact to the African; they simply cannot afford to *"tell it like it is"*; the tragedy is that most whites are totally unaware of the way they are isolating themselves by limiting their contact with non-whites to a purely functional or master/servant relationship. In the first place, there is very little physical contact—there are of course the well-known, albeit incredible to a foreign visitor on his first encounter—*"non-European"* park seats, bus-stops, airport entrances, lavatories, taxis, buses, etc. etc. (The duplication of services would be absurd if it were not often tragic; witness the collapse of a grossly overloaded non-European footbridge over a railway, causing the death of many Africans, while the adjoining *"whites only bridge"* was empty.)

In the second place, there is very little social contact; white and non-white cannot sit in the same office, eat in the same public place and enjoy simultaneously the same cultural or physical recreations. Of course, a white can invite a non-white to his home—but it would be fraught with difficulties. In the first place, his servants—not to mention his neighbours—would raise their eyebrows; in the second place, unless the African had his own transport, the white could not run him home at the end of the evening without a permit. It would, of course, be illegal for the African to stay the night.

Above all—following the *Improper Interference Act* 1968—whites and non-whites cannot attend the same political meetings or join the same party.

Small wonder that with such little communication between the races, so much fear and misunderstanding is engendered, together with a siege mentality among the whites. As visitors, we found it almost impossible to talk to Africans and we had the usual absurd stores about *"them"* from our fellow whites—their ignorance, their criminality, their immorality, and so on. For contact with *"the African,"* we had to wait until we visited Zambia, where Africans were obtaining levels of responsibility and acquiring skills which would have frankly astonished the story-tellers in South Africa.

These tales were greeted there with the laughter they deserved, but it was an incredible shock to realize that our dinner party with the President of Zambia—truly one of the world's great men—would have been virtually impossible in South Africa.

2. SCANDALOUS UNDER-UTILIZATION OF HUMAN ABILITIES

In the first place, the policy of reserving key jobs for whites virtually means that 3.6 million whites must provide the entire management capability and key skills for a population of over 19 million. In the second place, the sheer bureaucracy of running such a dirigistic economy to go with the systematic arrest of 5 per cent of the population a year and imprisonment of 4 per cent, has increased the percentage of economically active whites involved in the public sector from 30 per cent in 1960 to over 36 per cent in 1969.

The real scandal lies in the fact that all the real job opportunities one can see being grasped by Africans both in supervisory management and in the area of technical skills in a country like Zambia are totally denied to them in South Africa. It is impossible to say how many first-class minds are doing the most menial jobs and it is, of course, impossible to measure the waste of ability.

The theory of separate development is plainly nonsense: all the time the whites depend on the blacks for their industrial manpower—and of course there can be no meaningful development in the homelands where most of the blacks are working in white areas. Only 8.7 per cent of employed Africans are working in the homelands—whilst over one third *"live"* in the homelands, but work away from home on annual contracts. This self-defeating policy prohibits any prospect of career development for them, let alone the building up of any loyalty to the company and reduces the non-white to the level of a *"Labour Unit"*.

Of course we would ensure that any business we set up would be a beacon of good employment practices, with basic principles of equal pay, equal fringe benefits and working conditions. But we could not open the career to talents in the way we strive to do in this country and in the United States through our policy of *"optimizing individual and the company goals"*—because some goals are simply not open to some individuals.

3. "CLIMATE DESIGNED TO DEMORALIZE AND MAINTAIN AN INDUSTRIAL HELOTRY"

White industry needs African labour; but each one of those Africans must have a permit to *"work, live and be"*. It is true that he can establish certain residential qualifications to live in a township—if, for example, he has worked in the area for 15 years, or 10 years in the same job. But he may not necessarily be able to live with his wife—he certainly cannot invite a friend in for the night without permission and he is liable to lose all his rights if he is found to be *"idle and undesirable"*—whereupon he will find himself sent to a *"homeland"* which means nothing to him.

What he needs, of course, is a home and not a Government-fabricated myth of a homeland. What he gets is life in a transit camp, without property, and with precious few political or legal rights. So far from being a protector, the law is seen as a persecutor; incredibly 934,000 people were convicted of offenses in 1968, 674,000 were admitted to prison during that year and the average daily prison population was 80,000.

Since it is virtually impossible not to break the law in a small way each day, major and minor offenses become blurred and respect for the law goes to the wall.

It is small wonder that there is virtually a reign of terror in the native townships by night; in Soweto, the average number of murders on the peak night of the week is seven; nobody knows how much unreported crime of violence takes place—but then none of this would be obvious to the superficial white observer; there is a curfew for all non-Europeans in the centre of Johannesburg which makes it probably the safest city in the world for the white man to walk about at night. Yet the price of all this—and indeed of the whole agreeable servant-supported way of life in the white suburbs—is being paid for by the blacks who are kept out of sight in the townships.

It is no defence to point out the undeniable truth that the black South Africans are better off than blacks in any other country in the world; the important factor is their relative well-being to their white fellow citizens; the Africans constitute 68 per cent of the population, but their share of the national cash income is 19 per cent—whereas the whites constitute 19 per cent and their share of the cash income is 73 per cent.

This is only one measure of inequality—the facts are that political, social and economic inequities of the system are such that we would find it impossible to give effect to our ideas for "*creating a sense of partnership within the company, where people are encouraged to give of their work.*"

4. "RULE OF LAW" ABOLISHED

If there is a physical reign of terror in the township, all the ingredients are there for a legal reign of terror within the country. Legally speaking, it is extremely hard to distinguish the situation in Vorster's South Africa from Hitler's Germany in 1933; Hitler engineered the Reichstag fire and then declared an emergency decree "*for the protection of the people and the State*"; he set up People's Courts for political offences; he interfered in criminal cases to protect his officials; he had the right to banish or imprison people whom he thought had been too lightly treated in the Civil Courts and he placed his Gestapo beyond the law.

In South Africa, under the 1967 Terrorism Act (which created new offences and made them restrospective to 1962), it is explicitly stated that "*no Court shall pronounce on the validity of any action for the release of a detainee under this Act.*" Under the Bantu Administration Act, the State President is supreme and his actions cannot be challenged in respect of the African's right to remain, reside or work in certain areas. With the Suppression of Communism Act of 1950 which virtually says you are a Communist if the Minister says so ("*Lord Gardner*"), there are wide powers to arrest, together with the right to bar Counsel—and if you obtain your discharge under this Act you can simply be re-arrested in open Court and detained *sine die under* the Terrorism Act—as happened to the 22.

Clearly the Terrorism Act is itself an act of terror; in accepting the security of the State, rather than that of the individual as the overriding consideration, the rule of law has been abolished and a potential reign of terror through rule by decree has been established.

Clearly South Africa is becoming a very difficult—not to say dangerous—place for anyone who values freedom.

I will confess that I traveled to South Africa hoping that I would find good reasons for doing business there; privately I had always considered critics of South Africa to be shrill and emotional—to whom everything black was good and everything white was bad. But the parallel between Hitler's treatment of the Jews in the 1930s and South Africa's treatment of the blacks today, became daily more obvious to me in the course of my visit and was brought home most vividly to me when I saw blacks being literally herded like cattle through the Bantu Administration Courts. Just as I think with hindsight it would have been totally wrong to do anything to connive at nazism in those days, so also do I think we should do nothing that would help to perpetuate *apartheid*.

APPENDIX IV

CHRYSLER AND COLOURED UNION ORGANIZING IN THE CAPE

The response of Chrysler to the demands and formation of a Coloured union may help us make our point.

Although Chrysler representatives deny that Chrysler was or is hostile to unions for non-whites, the minutes of negotiation sessions in the mid-sixties paint a somewhat different picture. In 1964 and 1965 Chrysler South Africa (Pty.) Ltd. was involved in negotiations with the Western Province Motor Assembly Workers Union, a union comprised of Cape Coloureds. The union pressed on several issues:

(1) An agreement including 20% pay raise, since only 3 of 26 Assemblers employed "were able to adequately cover their minimum basic needs," which amounted to $25 per week. Mr. Heeger, the union negotiator, argued that the industry was booming; and, therefore, Chrysler in Capetown could afford to raise wages to the level in the rest of the country.

Mr. Lock, the Chrysler negotiator, stated that the $.25 an hour which Chrysler paid was competitive and that Chrysler "considered the union's proposals as unreasonable."

(2) The union should be recognized as representing Chrysler's Coloured workers and agreements should be negotiated with them.

Mr. Lock responded that Chrysler employed a high percentage of whites, and "in view of this the firm did not favour negotiating with a union only covering a certain portion of the workers."

This response was made in spite of the fact that unions are naturally based on racial groupings in South Africa, and the only real way Cape Coloured representatives could have their interests represented is through a Coloured union. In addition, Mr. Heeger recounted in interviews that Chrysler would not allow union representatives on their premises even during lunch break and that on one occasion when he was talking to a throng of interested workers *outside* Chrysler's gates, Chrysler had called the police, who came and arrested him. Chrysler, Mr. Heeger posited, worked in every way possible to stop its Coloured workers from organizing into a union.

In a representation to the Minister of Labor answering a government request in May, 1964, for comments on the establishment of a Conciliation Board to deal with the dispute about whether a Coloured union should be allowed to organize in her plant, Chrysler made several points:

(a) Chrysler did not believe that a majority of its Coloured employees were members of the union and did not believe "that a union is a useful or necessary organization in the circumstances." (This in light of Chrysler's overt actions preventing union organizing.)

(b) "The wages plus cost of living allowances paid to our Coloured workers compare favourably with those paid to operative labour in other Motor Assembly Plants;" Therefore "the proposed wage scales and conditions of payment are completely unrealistic and quite out of perspective." In these two sentences Chrysler has indicated that its wage rates are in effect set by the averages of the industry notwithstanding the facts that these averages are inadequate, racially discriminatory, and out of line with the major profit being made.

(c) "We maintain that our Coloured employees are very well cared for," Chrysler reported, and went on to say that they had formed a new Personnel and Industrial Relations Department because of the importance of personnel relations. The paternalism inherent in this 1965 statement is echoed by Chrysler officials in 1970. The Elsie's River Managing Director argued that his plant had no need for unions since it stayed far enough ahead in wages and benefits that a union becomes superfluous. He went on to say, however, that white artisans were represented by the Iron and Steel Union, providing an interesting double standard for Whites and Coloureds.

The Director of Personnel and Labor Relations in Chrysler's Pretoria plant stated, "We feel at this stage that the less we have to do with unions the better. There's enough incentive for us to look after our people better." To an African the concept of bargaining is a foreign one, for "he accepts the white man as his guardian."

The concept of the right of a worker to organize and press for changes which he, not the employer, feels are in his best interests, a totally accepted concept in the US, is definitely not part of the modus operandi of Chrysler in South Africa.

In its representation to the government in 1965, Chrysler pleaded that top management would not have time to engage in lengthy negotiations with union representatives since tremendous energies were to be expended in implementing the government local content program (a program to increasingly produce vehicles from South African products.). Thus Chrysler appealed to the government's self-interest, asking them to refuse the union's request to establish an agreement and a Conciliation Board to oversee re Coloured union establishment stating Chrysler is "confident that, with the continued cooperation of the Department of Labour, we can maintain sound industrial relations in all our affairs with all races in our employ, without an agreement."

Such a statement documents in stark form several things: 1.) Chrysler obviously resisted any negotiations with Coloured unions. 2.) Chrysler's concern for standards of "sound industrial relations" are in accordance with South Africa's Department of Labour and the Factory Act. These are sad standards to be following when both government bureaucracy and legislation are dedicated to white power and preferential white treatment.

Chrysler, therefore, not only actively opposed Coloured unions but actively supported government labor policy and standards.

[From the Johannesburg Star, July 8, 1970]

ONLY WHITES NEED APPLY

Chrysler, South Africa, invites applications for the vacant positions of production supervisors.

Opportunities exist for men with supervisory experience, who wish to follow a career in a modern vehicle Manufacturing and Assembly Plant, where full recognition is given for ability and initiative.

Previous experience in car assembly operations would be useful but not essential as the men appointed, will be placed on Training Programmes to equip them with the skills required in the job. Practical experience in any of the following areas would be a recommendation:

Spray painting.
Panel beating.
Upholstering.
Welding.

The positions are on Salaried Staff and general conditions of employment include excellent salaries, five-day-week and comprehensive Medical Aid, Pension and Group Life Insurance plans.

A salary of not less than R280.00 per month is offered. Previous vehicle assembly experience will be recognized in determining a higher starting salary.

To arrange an interview please telephone Mr. Jandrell at 76–4951 ext. 217, or evenings 31048 (Petoria).

[From the Sunday Times, June 28, 1970]

Appendix V

Hammering the Economy

APARTHEID

The magic concept that was once a certain election winner—is starting to rock the Nationalist Party to its foundations; and, at the same time, it is running South Africa into serious economic difficulties.

We are being given plenty of warning about these difficulties. South Africa's foreign trade deficit (excluding gold) is now running at R70-million a month, a total of R350-million for the first five months of 1970, which is about 65 per cent higher than the deficit for the corresponding period last year.

The labour crisis has become so alarming that the Chamber of Mines, the Federated Chamber of Industries, the Afrikaanse Handelsinstituut, Assocom, Seifsa and others, have become almost hysterical in their warnings about the danger. Just how serious the labour crisis has become was perhaps best described by Mr. J. H. Liebenberg, president of the Railway Artisan Staff Association, who says that "as things are at the moment, South Africa is sitting on a bomb."

HERE TO STAY

Not the least disturbing of recent disclosures is that contained in the Reserve Bank's Quarterly Economic Review, which points to a falling off in the rate of investment in new plant and equipment in the manufacturing sector. This means only one thing—that the economic growth rate is about to start slowing down.

A number of factors—some of them possibly beyond our control—contribute to this depressing trend; but what is abundantly clear is that one of the most important of these harmful factors is apartheid.

After years of apartheid theory, we have reached the stage of practical apartheid, with the Government making desperate attempts to implement a policy that conflicts with all the laws of economics, of supply and demand and of rationalised labour.

The damage is twofold. In the first place, apartheid cannot be implemented, with the result that the Government is wasting an enormous amount of time, money and manpower on a project that is utterly incapable of fulfilment.

Secondly, this hare-brained experiment is knocking the economy for a loop. It places artificial restraints upon the normal flow and development of the labour force, which in turn slows down productivity and prevents business men from carrying out the normal expansion necessary to keep the economy stable—and buoyant.

THE PLANNING ACT

One of the most senseless of the Government's apartheid devices is the Physical Planning Act, which deliberately sets out to prevent entrepreneurs from carrying out normal expansion. The attempts to induce them to set up border industries are often impractical, unrealistic, and come to nothing. The upshot is that, although the "border industries" remain a trifling part of the economy, the other industries (where real development could take place) are being curbed and restricted.

As recently as yesterday, the chairman of the Standard Bank, Mr. A. Q. Davies, echoed the warnings. He pointed out that the official Government belief "that the natural growth potential of the economy must be restricted to meet the narrower limit set by government policy, has produced an air of despondency in some circles. It is felt that a loss of economic momentum, as the result of a more rigid application of government policy, could be the first signs of economic retrogression".

Just how far the process has gone is reflected in the Reserve Bank's statement that industrialists (apparently despairing of expanding their operations because of Government restraints) are setting aside less capital for new plant and equipment.

The Government has got results, of course, but these are all unpleasant. On the one hand, the economy is reeling from the apartheid hammer blows directed at it from different ministerial departments; and, on the other, the Government does not even have the consolation of seeing apartheid actually work.

HARMFUL EFFECT

All kinds of theories and explanations are being offered to account for the swing against the Government in the elections; but, before April 22 and since, we have held the view that the most important single event likely to influence voters against the Government is the harmful effect the apartheid policy is having on the economy.

Until recently, the voters regarded apartheid as something reserved exclusively for Non-Whites; and they were content to let it go at that because they felt confident that it contained nothing harmful for the Whites. That idea has been shattered. It is now abundantly clear, even to many Nationalists, that apartheid laws aimed at labour and industry are dislocating the economy, preventing normal growth and leading, inevitably, to some kind of recession.

If that were to happen then the jobs of White people would be in danger—and this, understandably, is what frightens them. Most White workers today can see for themselves that their own jobs depend on the rational deployment of labour. They know for certain that we are all utterly dependent on Non-White labour and could not exist for a week without it.

GROWTH RATE

Furthermore, the White voters have also reconciled themselves to the fact that Non-Whites are here to stay. They have come round to the view, also that if the Non-Whites are here permanently, we must make the best of their presence in the White areas, instead of knocking them and the economy in a vain hope that we will somehow make the Bantu vanish to the "homelands."

Although this should all be clear by now, it is doubtful whether the message has got through to the Government, which shows no signs of abandoning its reckless policy of "purifying" South Africa regardless of the cost.

A few more elections, and perhaps the Government will learn that the voters are now willing to accept economic integration (a) because they have no other choice and (b) because their livelihood depends on it. Once they accept it, they want a policy based on the reality of economic integration. They do not want an outmoded, fanciful, archaic policy designed for an apartheid which simply does not exist—and can never exist.

We trust that the economic danger signals will serve as a warning to the Government that its apartheid ideologies are false and unworkable. The Government is actually jeopardising the nation's security and safety by enforcing a policy that can cause nothing but disruption.

Appendix VI

The Principles of Caltex

1. To comply in letter and spirit with laws and regulations, and to co-operate with government officials.

2. To help strengthen national economies and the well-being of the people in our marketing areas, consistent with sound business principles.

3. To stimulate development of local industries whenever possible, by purchasing locally, requirements of equipment, goods and services.

4. To employ, train and advance nationals of each country, building and maintaining a loyal and efficient corps of employees devoted to furthering mutual best interests.

5. To provide fair wages and working conditions for employees and to establish plans for their benefit and protection.

6. To be a good citizen and neighbour, observing all local customs and practices; to develop an understanding of and interest in the welfare of the community and its people.

7. To manufacture high quality products, developed by constant research, always zealously guarding the reputation of our trade mark; to aid the development of industry, transportation and agriculture by supplying these products at a fair price.

8. To achieve fuller appreciation of our importance as a constructive influence in the economic and social life of the country.

Appendix VII

Additional Resources

1. "Apartheid and Imperialism: A Study of U. S. Corporate Involvement in South Africa, "September-October, 1970, Africa Today, available from the American Committee on Africa, 164 Madison Avenue, New York, N.Y. 10016.

2. "Chrysler, Ford and General Motors in South Africa", a study by the Council on Economic Priorities, 1028 Connecticut Ave. N.W. Washington, D. C.

3. Reprints of pertinent articles are available from the Southern Africa Committee, 637 W. 125th Street, New York N. Y. 10027. A kit containing specific articles and the magazine "Apartheid and Imperialism" is available from the committee for $1.25.

4. "Poverty, *Apartheid* and Economic Growth", prepared by Sean Gervasi for the Special Committee on Apartheid, March 17, 1971, (A/AC.115/L. 288).

5. "Work, Wages, and Apartheid" by Ruth First, Unit on Apartheid, United Nations, September 1970.

6. Africa Research Group, P. O. Box 213, Cambridge, Massachusetts 02138. Good source for research on U.S. Investments in South Africa.

7. "Wisconsin Companies in South Africa" by the Madison Area Committee on Africa, available through the American Committee on Africa (see #1 above).

Appendix VIII

Idea That Foreign Investment Can Improve Conditions of Africans—A Delusion

(By Mrs. Jean Sinclair, National President, The Black Sash)

(The declaration by Neil Wates, prominent British businessman, against investment in South Africa—published in Unit on *Apartheid* Notes and Documents as a Special Article in October 1970, provoked a significant debate in business circles and the press. The *Financial Mail* of Johannesburg commented on September 1, 1970, that the decision of Mr. Wates does harm to the people discriminated against and deprived, and that "it is better to do what one can as a businessman to improve conditions of life *within the system.*" In reply, Mrs. Jean Sinclair, National President of the Black Sash asserted that this view is a "delusion". Extracts from her reply are reproduced below.)

This hackneyed argument is the standard reply given to those who criticise the lack of positive action in the face of the myriad laws, controls and restrictions which inhibit the growth of a free enterprise economy and hold workers in virtual serfdom. It is an argument which stills the conscience of the businessman in the belief that he is alleviating the deprivation and hardships suffered by the African people.

Who is benefiting?

With respect and in all sincerity I ask who is benefiting by the opening up of new industry and the investment of new capital in South Africa? First, the Government, which takes 41 per cent of the profits in tax; second, the industrialist and his shareholders, who make a fair return on their investment; and last the African worker, who has a "better job and 30 rand in his pocket at the end of the month."

Poverty wages

Thirty rands a month is an average poverty wage, is 29 rand below the poverty datum line and is the level at which the African becomes liable for income tax. Those who believe that economics will bring about change and who believe that half a loaf is better than no bread should at least ensure that every worker receives a living wage.

According to Mr. Donald Woods, two-thirds of all South Africans are suffering from malnutrition. In Soweto alone approximately 70 per cent of the population live below the breadline. Mr. W. Langschmidt (Market Research Africa) estimates that 25 per cent of all urban households had monthly incomes as low as between 1 rand and 19 rand a month; 40 per cent between 20 rand and 49 rand 20 per cent between 50 rand and 79 rand, and only the remaining 15 per cent are earning more than 80 rand a month.

Africans constitute 68 percent of the population and their share of the nation's income is 19 percent. In contrast, the whites, who comprise 19 percent of the population, receive 73 percent of the income.

Profiting from exploitation

The provisions of the Physical Planning Act, the recent statements of the Prime Minister and the Ministers of Labour and Bantu Administration with regard to the utilization of labour, and the insistence of moving more industry to the border areas, where wages are even lower than in the metropolitan areas, the terms of the Industrial Conciliation Act having been withdrawn from these areas, are surely indicative of the Government's determination to carry out its policy without regard to the needs of the economy and without concern for the needs of the African workers.

These facts make Mr. Wates' statement all the more pertinent. The crux of what he had to say is contained in the following paragraph of his report: ". . . We could not be true to the basic principles on which we run our business and we should lose our integrity in the process. We should have to operate within a social climate where the colour of a man's skin is his most important attribute and where there is virtually no communication between the races; we should be locked into this system, we should have to operate within an economic climate which is designed deliberately to demoralise and to maintain an industrial helotry; we should, in turn, profit from such exploitation and ultimately end up with a vested interest in its maintenance."

If Mr. Wates were to adopt (the) rather presumptuous suggestion that he could use his profits for the benefit of African education, health and welfare, he would be doing the very thing which he finds so repugnant. He would be helping to bolster up the whole rotten system of *apartheid* and would "have a vested interest in its maintenance."

Businessmen silent on inhumanity of apartheid

For far too long, commerce and industry have sought to negotiate with the Government to obtain minor concessions and exemptions for themselves, from certain prohibitions and restrictions contained in legislation. But the public has never heard their voices raised in protest against: poverty wages which are often paid to African workers; lack of bargaining power for Africans; suffering used by influx and efflux control and the migrant labour system; the serious shortage of housing; lack of security of tenure; broken families; the long distances they have to travel to and from work; the restrictions on the type of work they may do.

All the protest and the discussion has been with reference to the effect of the manpower shortage on the economy, but very little is heard about the effects of the policy on the African people who are being pushed around and denied the right to work.

Mr. Wates' decision, instead of invoking criticism should cause South Africans in general and businessmen in particular to stop and think why the whole world abhors South African policy, and to question whether they are, using their considerable power to bring pressure to bear on authority to alter its uncivilised and inhumane policies before the country is completely isolated and before its economy is ruined.

POVERTY, APARTHEID AND ECONOMIC GROWTH

(By Sean Gervasi, United Nations Department of Political and Security Council Affairs, Unit on Apartheid)

(NOTE.—This paper was prepared by Mr. Sean Gervasi, research officer in economics at the Institute of Commonwealth Studies at Oxford University, for the Special Session of the Special Committee on *Apartheid*, held at the United Nations Headquarters in March 1971. He writes:

"The situtaion of Africans in the reserves and in 'white areas' of South Africa is actually worsening in every sense. A small percentage of Africans may be somewhat better off than it was ten years ago but the whole system of *apartheid* has become far more oppressive. The vast majority of Africans continue to live in real poverty and there is no prospect of their situation changing at all. It will certainly not change as a consequence of further economic growth. . . . Those who speak of the 'liberating effects' of market forces are flying in the face of reason and the facts."

The opinions expressed are those of the author.)

I. THE BREAKDOWN OF APARTHEID?

The milder critics of *apartheid* have often argued that in the "long run", the logic of "competitive capitalism" would triumph over the deliberate injustices of official apartheid policy in South Africa. Economic progress would somehow "dissolve" the system of *apartheid*. Today this argument is heard more and more frequently.

Apartheid, we are told, is actually "breaking down" under the pressures created by economic growth. Economic progress and *apartheid* are incompatible. It is, therefore, only a matter of time before further growth brings major changes in the system. This is obviously an attractive argument, even if one is unsure precisely when the "long run" will come. Many people who despair about the situation in South Africa incline to believe it. This new "liberal optimism" has important political implications for all of Africa south of the Sahara. It is consequently important to subject it to more careful analysis than it has so far received.

To many people, *apartheid* means what the South African Government says it means. It means "separate development" of the races. The implementation of *apartheid* policy would, therefore, seem to imply an increasing separation of the races at every level. Precisely the opposite has taken place during the last twenty years. More and more Africans have come to the cities. The importance of Africans in the labour force has increased. Africans are beginning to take on semi-skilled and operative jobs. These trends indicate a greater degree of economic interdependence between the races. The Africans appear to be increasingly part of one social structure.

This "greater integration" suggests to some that *apartheid* is not really working. Indeed it suggests that the goals of *apartheid* are impossible ones. The new optimism then bases itself on a rather imaginative projection of these trends. Some proponents of this view make rather more precise statements. But many move from the observation of general trends such as those cited to the conclusion that *apartheid* is bound to disintegrate "on its own."

This rather general view of the "breakdown" of *apartheid* does not really merit much attention. It is based on a mistaken premise. *Apartheid* is not about "separate development". It is in reality an indirect system of forced labour. Africans constitute more than 70 per cent of the labour force in South Africa. The economy could not do without them. As Dr. Malan once put it, "Our whole economic structure is to a large extent based on non-white labour." [1] So there is nothing surprising about the recent changes in the geographic and occupational distribution of the African labour force. These are the normal results of economic growth. They do not signify a "breakdown" of *apartheid*.

Change has taken place within the traditional "way of life", white supremacy. The social system remains precisely what it was. Whites are wealthy and free. Non-whites remain poor. And their lives are controlled by others down to the minutest detail. As long as this remains the case, all evidence about population movements, "greater interdependence" and so on is quite beside the point.

Two versions of argument

There is another argument, however, about the incompatibility between *apartheid* and economic growth which demands careful analysis. There are essentially two versions of it. The first, which I shall call the "weak" version, is that economic growth will bring a general increase in incomes. The relative position of every group in society remains the same. Income distribution does not change. But the rising level of absolute incomes eventually raises even the poorest groups above the level of poverty. Economic growth, in other words, eventually produces qualitative changes in the conditions of life, even for Africans. In this way, *apartheid* begins to "break down."

This assumes, of course, that poverty is the worst feature of the *apartheid* system, or at least the one with which non-whites would first want to do away. The argument is to a certain extent persuasive. The system of discrimination and control might be easier to bear if everyone could live above the poverty line. There is no point in discussing this issue here. And the argument will be examined on its own assumptions.

The "strong" version of the argument holds that economic progress will produce two results. It will lead, first of all, to a greater flexibility in the economy by producing higher over-all incomes. This will create "space" for a certain redistribution of income in favour of the poor. For with higher incomes, redistribution will involve less sacrifice for whites. At the same time, growth will produce changes in the occupational structure, and non-whites will have opportunities to acquire new skills and higher pay. Malherbe states the "strong" version succinctly: "What is needed rather is to create a much larger national cake in which case fairer slices *could* be distributed on the basis of higher contributions." [2]

In this version of the argument, there is a rise in absolute levels of income with a progressive change in the distribution of that income. Again, it is clearly implied that pov-

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erty will be eliminated or significantly reduced. And this is implicitly held not only to be desirable, but to constitute in some sense a "dissolution" of *apartheid*.

If poverty could be eliminated in this way, it might be worth discussing whether *apartheid* would in fact be near some kind of "breakdown." This paper will touch upon that question only briefly. It will be concerned primarily with whether economic growth can produce the results which are claimed for it.

Narrow definition of apartheid

Some observers do persist in talking about the "liberating forces" of the market economy. And they clearly think that these forces are liberating people from "colour injustice", that is, from *apartheid*.[3] This is a rather naive view, whatever one's assumptions about the consequences of economic growth. It is based upon a narrow, or strange, definition of *apartheid* itself. It is important to be clear about what this definition is, and about what it leaves out. For it is only against the background of a correct definition of *apartheid* that one can see the limitations of the argument from growth and, indeed, the confusion which lies behind this whole approach.

Malherbe and others apparently believe that poverty is the core of the problem, and they see it as an isolated phenomenon. That is perhaps why they believe that *apartheid* can be "broken down" simply by raising wages. The poverty of Africans, however, is not an isolated phenomenon. It is part of a much larger puzzle. It is a consequence of the way South Africa is organized. This is crucial to understanding the real nature of *apartheid* and the limitations, even on its own assumptions, of the argument from growth.

Apartheid is commonly seen as a particularly vicious manifestation of racial prejudice. Mild critics of the system tend to focus on "racial discrimination" in their condemnation of it. Such attitudes are, of course, unimpeachably liberal. These critics often go even further and argue that discrimination is unnecessary and irrational. And that view makes it easy to believe in the argument from growth. If *apartheid* is "economically irrational", then it should be fairly easy to do away with it. However well-intentioned they may be, such arguments are wildly mistaken.

The real essence of apartheid

Apartheid has a very real and concrete logic. As a system it has become increasingly coherent in the last twenty years. To see this fact, however, one must dig beneath the surface. The basic purpose of *apartheid* is, and always has been, to secure an abundant supply of cheap labour for the economy.[4] An abundance of cheap labour can be ensured only by forcing people to do what is required of them. *Apartheid*, therefore, entails an elaborate system of rules for regulating the lives of non-whites. Labour legislation, pass laws, Bantustans, labour bureaux, African "education", "area development", and so on, are all part of this system. The operation of the system also entails a ready will to apply force. The real essence of *apartheid* is to be found in the complex of rules, and the arbitrary force, which whites have used to dominate others and to make them their servants.

The essence of the *apartheid* system is that it makes it impossible for Africans to be anything but cheap labour. This reduction of human beings to fuel bricks in an economic machine is achieved in two ways. Africans are, first of all, denied the means necessary to live independently of the white economy. For they have no rights of permanent residence except in those areas designated by the Government as African "homelands." These areas are exceedingly poor. Their economies are based almost entirely on subsistence agriculture. They lie outside the bounds of the modern South African economy. And the condition of these reserves has been steadily deteriorating in recent decades. Between 1947 and 1967, production of major food-stuffs there actually declined.[5] This fall occurred, of course, in a period of rising population, so that per capita income has probably been falling sharply.

At present, 5.1 million Africans, or 40 per cent of the total African population, live on the reserves. In theory, all Africans could be removed from white areas and forced to live in the "homelands." The real meaning of the new "political" arrangements legally separating the races is not that Africans will be "truly independent." The meaning is to be found in the economic situation of those who are forced, or could be forced, to live in these areas.

People living in the conditions which prevail in the reserves will be perennially on the border of starvation. Many undoubtedly do die from starvation and diseases related to malnutrition. According to the South African Medical Journal, in one African reserve at least 50 per cent of all children die before the age of five.[6] People, in other words, cannot live in the areas to which they have been restricted. The men of the reserves, and many of the women, are therefore driven out by necessity to seek work in "white areas."

When Africans leave the reserves, however, they venture into a world in which they have almost no rights of any kind. They are turned into migrant labourers whose lives are regulated by a complex system of controls. They may enter urban areas only if they have obtained contracts of employment from a Government labour bureau. In most cases, an African must accept a job offered to him. The African worker is sent whenever he is needed. He must carry a pass book containing the details of his employment, and he must produce it on demand for the police.

An African who is unemployed and does not return to his reserve risks being arrested without a warrant and sent to a work colony for up to three years. Africans have no right to bargain collectively, no right to strike, no right to take any kind of collective action. Breaches of contract by African workers are a criminal offence. In short, for Africans, the "White areas" are a police state in which they are compelled to do what they are told or suffer the consequences.

The second edge of *apartheid* policy thus reduces Africans to "non-beings" by depriving them of any real freedom and choice when they enter "white areas". Their lives are almost totally controlled. This denial of freedom is reinforced by a denial of any real opportunity for escaping from this situation. Africans are, on the whole, denied access to education and professional skills. For Africans, schooling is neither free nor compulsory. There is a shortage of teachers and a shortage of schools. Higher education, for those who are qualified, is difficult to obtain. Facilities are inferior to those available to whites. The situation is summarized by one simple fact: real *per capita* expenditure on African education is now considerably below the 1950 level.[7] And that was not high. The educational system thus offers Africans almost nothing.

Even for those who do manage to reach university or technical training school, it will be difficult upon graduation to make use of acquired skills or knowledge. For the South African Government has barred Africans from most skilled jobs. Under the Industrial Conciliation Act of 1956, the Minister of Labour may bar anyone from any job because of his race. Very few Africans have the chance of moving up the occupational ladder.

The policy of *apartheid* has always required the maintenance of a delicate balance in the distribution of the African population. Those who were not needed stayed in the reserves; those who were needed stayed, or were sent, where they were needed. When the South African economy was based on agriculture and mining, it was not an enormously difficult policy to implement. The Government had to control conditions in the reserves, the white rural areas and the mines. Most of the African population lived outside the urban areas. Those who did not, including many other non-whites, were tolerated. The pace of social and economic change was slow. And white supremacy could be maintained without the apparatus of a police state. *Apartheid* thirty years ago was organized, but it was not as highly organized as it is today.

The process of industrialization has changed all that. It has set in motion many changes. The total demand for labour increased sharply, and many more African workers were drawn to the cities. The pattern of demand for labour also changed. Africans entered the industrial system. Some of them even entered skilled jobs. These changes posed a threat to many whites. They could have led to greater freedom for Africans, and to changes in the country's whole social structure. So the pressures which might have led to greater equality and to a mixing of the races socially had to be contained.

Change was allowed to take place, but only within the framework of white supremacy. Africans were allowed to come to the cities. But the response to this "pressure", to the fear of "being engulfed", was to control them more closely, to assert more vigorously the separation of the races. As one recent observer put it, "the Government is not essentially opposed to the continuing movement of African labour into the 'white' economy; it is simply opposed to this process of labour mobility, which is necessary to continued economic development, becoming at the same time a process of residential and political mobility."[8]

Apartheid becomes more oppressive

The first step in "controlling" the new situation was to rationalize apartheid. The number of Africans had to be kept down to an "essential minimum" determined by the labour requirements of the economy. Africans were gradually denied legal right to reside in the "white areas". They were "endorsed out" or removed by the tens of thousands. The Government made it clear that it intended to expel all Africans who were not economically active from "white areas". A much more extensive system of controls was needed to make this policy work, and to make it efficient. This was the reason for the multiplication of regulations affecting non-whites, and especially Africans. This was the reason for "influx control", for the establishment of labour bureaux, and for the destruction of African family life.

The African became a migrant labourer everywhere outside the reserves. The State naturally needed all the powers which would make it possible to shuttle him back and forth like a captive animal. As it acquired those powers, the whole system became more oppressive. It became necessary to guard against rebellion. Legislation contained evermore sweeping provisions for the "suppression of communism". By the 1960s, South Africa had become a highly efficient police state.

Two important conclusions emerge from this brief review of recent developments in the administration of *apartheid*. The first is obvious enough. The argument from growth apparently presumes that the majority, or nearly all, Africans will be affected by economic growth. This is not the case. Only those working in the modern sector of the economy could conceivably benefit from economic growth. More than 40 per cent of the total African population, however, lives in

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the reserves, that is, outside the modern sector. These people could not begin to benefit from the supposed effects of growth, except in a marginal way. The argument from growth, therefore, would not apply to these Africans even if it were valid. It is consequently much less important than it appears to be.

At the same time, one must recognize that "apartheid" refers properly to the whole system of laws and regulations required to control the non-white population. And on this definition, the argument from growth is simply wrong. *Apartheid* in this sense has clearly become more harsh and oppressive. The idea that it is somehow "breaking down" is not merely nonsense, but an inversion of the truth. The failure to understand this fact arises from the use of a narrow and misleading definition of the system in the first place. For both these reasons, the case against the argument from growth is strong even before one attempts to analyse its validity in respect to those Africans whom one might expect to benefit from rising wages and incomes.

II. POVERTY, INEQUALITY, AND ECONOMIC GROWTH

In examining the "weak" version of the argument from growth, the question at issue must be clearly and precisely formulated. What are the proponents of the "breakdown" theory really saying?

Firstly, they are saying that economic growth will mean rising incomes for all. There is no need at all to object to the idea of rising money incomes. That comes out of the definition of economic growth. But the real question is whether the real incomes of the poor will rise, and whether, furthermore, they will rise to a level that will lift the average urban African out of poverty. Let us formulate the question in another way. Will the average African gain a substantial increase in real consumption in the course of economic growth?

This will depend, it should be emphasized, on whether the economy makes more real resources *per capita* available for the poor. It will depend, in other words, on whether the economy gives any kind of priority to such claims. And in formulating the question in this way, one must remember that there are always competing claims for resources. What the proponents of the "breakdown" theory are suggesting, therefore, is that the claims of the poor for higher *per capita* real consumption will be given an important weight by the market mechanism. Is this reasonable?

Direction of growth in market economy

Several further points need to be established before this last question can be properly analysed. To begin with, one must recognize that there is no such thing as "just growth". The concept of "national product" is short-hand. It is a way of describing the "mix" of goods and services produced in the economy. Any economy can produce different "mixes". The composition of output can be of one kind or of another. It may comprise butter and beans or guns and beans. What goods an economy produces is obviously of crucial importance. It is therefore misleading to talk about growth alone. The important question is what kind of growth takes place.

When output grows, it grows in particular ways. Additions to output may mean more of some goods, say, basic necessities, or more of others. It may involve the production of some goods which are altogether new. Growth thus entails quantitative and qualitative changes in the pattern of output. So, broadly speaking, we may distinguish different paths of economic growth. An economy may grow in different directions, producing different "mixes" of goods. The significance of the fact that there are competing claims for resources should now be more clear. The issue at hand is whether the South African economy will follow a path of growth in which the production of more basic necessities receives priority.

In a market economy, priority will always be given to those kinds of production which yield the largest profits. A good product will yield a high profit when the "demand" for it is strong, that is, when people are willing to pay a relatively high price for it. Thus the most profitable markets are likely to be those where there is the greatest spending power. This means that the distribution of income is bound to have an important influence on the composition of production. If the distribution of income, for instance, is highly unequal, the markets for luxury goods may exert a strong pull on real resources. For the wealthy will have a much higher *per capita* spending power than the poor. The goods which they wish to consume, as distinct from the goods the poor wish to consume, will yield relatively high profits. The distribution of income defines the conditions in which economic growth takes place. It is, therefore, bound to determine, to an important extent, the direction of growth, to determine the content of change.

Consequences of highly unequal distribution of income

The distribution of income in South Africa is highly unequal. There is probably not another country in the world where it is quite so unequal. It is a distinctly unusual case. Africans constitute 68 per cent of the population and receive less than 20 per cent of all income. Whites account for less than 19 per cent of the population and receive 74 per cent of total income.[9]

What, then, would one expect to happen in the course of economic growth in South Africa? Would priority tend to be given to producing more basic necessities for urban Africans, or would real economic resources tend to be diverted to other uses? The answer depends on the growth of the relative spending power of the rich and the poor.

Let us suppose that all money incomes rise and that there is no change in the distribution of income. These are the assumptions of the "weak" argument from growth. At every new and higher level of income, the previously existing distribution of income will be reproduced. For the rules which determine shares in the economy do not change. This means that the absolute *per capita* incomes of the rich are growing more rapidly than those of the poor. And this relatively greater growth of absolute incomes will be marked, since the initial distribution of income is highly unequal. There can, in such a case, be only one conclusion. The tendency will be for resources to shift continuously to the production of new goods for the wealthy. They are always getting further ahead of the poor in spending power. And that is what determines how resources are used in a market economy. Production of basic necessities may increase. But it is not likely to do much more than keep pace with the growth of numbers. This kind of production certainly will not receive priority.

This is the conclusion to which we are inevitably led by analysis. It must be said, of course, that the results are clear here precisely because the distribution of income is as skewed as it is. If income were much more equally distributed, it would be far more difficult to draw inferences about the probable changes in the composition of total output. The facts of economic history in South Africa confirm the suspicion that this must be the correct conclusion. The data, of course, are scarce. But the facts that are available are quite striking.

Recent investigations into the cash wages of gold miners, to take one example, have produced astonishing results. Everyone would expect the money wages of miners to have risen substantially during the last fifty or sixty years. And most would probably expect their real wages to have risen. A study by a Cape Town economist, however, has shown that the real consumption of African gold miners has remained unchanged since 1911. In the same period, the real earnings of whites in the industry have increased considerably.[10] Wages have risen in money terms from 57 rand *per anum* to 183 rand *per annum* for Africans. But real resources *per capita* have remained constant. This is because the new resources "created" by growth were drawn into other, more profitable, sectors of production. Those other sectors of production were more profitable because the relative spending power of whites was growing. And, of course, white South Africans did not want basic necessities, but other things.

The case of African gold miners provides the best illustration of the argument that the real consumption of the poor will rise by very little when the distribution of income is highly unequal. Comprehensive wage data for other categories of African workers are not available. The facts that are available, however, again tend to confirm the conclusions which emerge from this analysis. The plight of urban African families, to take another example, is well known. In Soweto, an African suburb of Johannesburg of some 600,000 people, 68 per cent of the families surveyed were living below the poverty datum line. The average monthly shortfall in income per family was, in most cases, more than 20 per cent of the minimum essential expenditure.[11] Surveys for other urban areas have arrived at similar conclusions.

African wages, obviously, have increased. Yet the great majority of urban Africans apparently continue to live below a subsistence standard. This could only happen if prices were rising as rapidly as African wages—or more rapidly. And the cause of a lagging supply of basic necessities could only be the shift of resources to other uses in the course of growth.

Clearly, the "weak" version of the argument from growth is not valid. The market mechanism will not give priority to higher *per capita* consumption for the poor in the course of economic growth. For even when all incomes grow at the same rate, when income distribution remains the same, the absolute average income of the wealthy will rise by much more than that of the poor. The spending power of the rich will grow enormously in absolute terms. This growth of absolute income, much of which will be "discretionary", will create highly profitable markets for new commodities and more expensive versions of old ones. Resources will consequently be attracted into production of the kinds of commodities which the rich desire. That is the logic of the market. Thus the rising money wages of the poor do not bring higher real consumption. For the resources to supply the kinds of goods which the poor require are not available, having been pre-empted for other uses. As money wages rise, prices will rise and cancel out the potential benefit of increased wages.

This argument holds, it should be noted, only when it is clear that there are very substantial inequalities in the distribution of income. But that is precisely the South African case. There is no real possibility in South Africa of the poor rising above the level of poverty as long as the distribution of income remains unchanged. The idea that economic growth could "undermine" *apartheid*, even in this very limited sense, simply does not bear scrutiny. It is wrong.

III. ECONOMIC GROWTH WITH CHANGES IN THE DISTRIBUTION OF INCOME

The "strong" version of the argument from growth suggests that poverty among Africans may be reduced or eliminated if wages rise

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Footnotes at end of article.

steadily and if there is a redistribution of income in the course of economic growth. This could be an important argument. But the whole burden of the argument must now fall on the assumption that income will be redistributed.

It has been shown that growth itself cannot eliminate poverty in South Africa. The inequality in the distribution of income plays a crucial role in the process of growth. It is the decisive factor in a market economy. If the distribution of income were to change radically, and to change, obviously, in favour of the poor, then that change would probably redirect real resources in the course of growth. The economy could then give priority to the production of basic necessities—if the change in distribution were substantial. It could move along a different path of economic growth.

However, we are still left with two questions. The South African Government is clearly not going to redistribute income by the fiscal means commonly used in other countries. Is economic growth itself, then, likely to bring about any significant changes in the distribution of income over time? And, secondly, are there signs that such changes are actually taking place in South Africa today?

The only changes in income distribution which occur "naturally" in the course of economic growth are those which come from geographical and occupational shifts in the distribution of the population. Geographical changes in the distribution of the population are not relevant here. For, as available statistics indicate, Africans find themselves in poverty even after they have shifted from low income to high income areas. What is at issue is whether there is any prospect for a change in income distribution which would favor urban Africans. This could only come about through an occupational upgrading of African workers in urban areas. There are now definite signs that such changes in the African work force are beginning to take place. There is a general shortage of skilled labour in South Africa. And there are not enough skilled white workers to fill all the places which industry needs to fill. Africans have been moving into more skilled jobs for some time. Will the cumulative effect of those changes which have taken place, and those which are likely to, bring about a significant redistribution of income in favour of African workers?

Changes in the structure of employment will improve the situation of African workers only on certain conditions. The first is that significant numbers of Africans are able to enter skilled and operative jobs. In 1960 only 6 per cent of skilled workers in industry were Africans.[12] Larger numbers of Africans have entered the skilled categories in the last ten years. But precise figures on the percentage of skilled workers who are African are not available. It is quite possible that the percentage may have doubled, or even trebled. However, even if there were 150,000 Africans in highly skilled work, that number would not be more than a relatively small fraction of African heads of households in the urban areas. So it is unlikely that the number of Africans moving up the occupational ladder has been very large in relation to the number of urban Africans.

The second condition is that occupational upgrading should lead to significant increases in wages. Here again the condition is not met. Many Africans who have taken on skilled jobs have not benefited very much in money terms. For Africans are paid less money for the same job just because they are Africans. Furthermore, many skilled jobs are fragmented when white labour cannot be found for unfilled vacancies. The *Financial Mail*, for instance, has pointed out that the 1968 wage agreement for the iron, steel, engineering and metallurgical industries led to the fragmentation of many skilled jobs so that Africans could do them at lower wages. The consequence was that "they and their families will continue to exist below the Poverty Datum Line for at least another two years." [13] Thus the apartheid system is breaking the usual link between higher skills and higher pay.

The evidence suggests that economic growth has so far benefited Africans very little. Some urban Africans have undoubtedly risen above the poverty level. But their numbers have been small relative to the total. Yet this has been a period of very rapid growth. And occupational shifts have been significant. These are precisely the conditions which, according to the "strong" version of the argument from growth, would lead one to expect a significant change in the distribution of income in favour of Africans. This has not happened.

Indeed, the available evidence on wages suggests that, despite some occupational upgrading, the distribution of income has actually shifted against Africans. Non-white wages have obviously improved in absolute terms. But the increase in white wages has been more rapid. Davenport, for instance, has has shown that the average monthly wages of Africans increased 59 per cent between 1957 and 1967. The average monthly wages of whites, on the other hand, rose by more than 61 per cent during the same ten-year period.[14] Other studies suggest that the gap between white and African wages may have increased even more rapidly. The expected redistribution of income in favour of Africans has just not taken place. In fact, the changes which have occurred in income distribution strengthen the case against the argument from growth made in the analysis of the "weak" version. The conditions required to sustain the "strong" version are not being met in South Africa. If anything, income is being redistributed in favour of whites. The "strong" version of the argument from growth is therefore completely irrelevant to the South African situation.

FOOTNOTES

[1] *House of Assembly Debates* (Hansard), April 12, 1950, col. 4142.

[2] E. G. Malherbe, *Bantu Manpower and Education* (South African Institute of Race Relations, Johannesburg, 1969), p. 32 (emphasis added).

[3] W. H. Hutt, *The Economics of the Colour Bar* (André Deutsch for the Institute of Economic Affairs, London, 1964), p. 180. A useful analysis of the thesis presented by Hutt, Malherbe and others may be found in Johnstone, "White Prosperity and White Supremacy in South Africa", *African Affairs*, April 1970.

[4] See International Labour Office report of the *Ad Hoc* Committee on Forced Labour (1953), p. 80, para. 375; and United Nations, *Industrialization. Foreign Capital and Forced Labour in South Africa*, ST/PSCA/Ser. A/10 (1970), Chap. II, passim.

[5] *Financial Mail*, Johannesburg, October 4, 1968.

[6] Leary and Lewis, *South African Medical Journal, Nutrition Supplement*, December 18, 1965, p. 1157.

[7] M. Horrell, *Bantu Education up to 1968* (South African Institute of Race Relations, Johnannesburg, 1968), pp. 38–39.

[8] Johnstone, *op. cit.*, pp. 129–130.

[9] *Financial Mail*, Johannesburg, April 18, 1969, reporting on research conducted by Market Research Africa

[10] *Financial Mail*, Johannesburg, May 10, 1968.

[11] S. Suttner, *Cost of Living in Soweto* (South African Institute of Race Relations, Johannesburg, 1967).

[12] Malherbe, *op. cit.*

[13] *Financial Mail*, Johannesburg, March 15, 1968.

[14] *Rand Daily Mail*, Johannesburg, July 21, 1968.

IBM IN SOUTH AFRICA (AMERICAN COMMITTEE ON AFRICA FACT SHEET)

Big brother 360/50

An IBM computer is the key U.S. contribution to the South African police state system of classification of people by race in order to control and exploit them. Africans have long been required to carry and produce on demand a reference (pass) book which now records jobs, tax payments, permission to be in a particular area, and other details; between two and three thousand people are arrested every day for technical violations of such apartheid regulations. As of August 1, 1966, every individual 16 or older in South Africa was required to possess an identification card stating his racial group.

Extending its degree of control over all the people of South Africa, the state, in 1970, produced a "Population Registration Act" under which a central register is being compiled which will contain detailed information about every woman, man and child in South Africa. This will include every person's identity number, name, sex, date and place of birth, race classfiication, citizenship, marital statuts and a photograph. It will also store information about every individual's residential and postal address, health information, particulars concerning passports and permits to leave the country and dates of departure and return; particulars concerning driver's licenses, gun licenses, etc.; educational qualifications and occupation; the official language each individual chooses to use; and finally paticulars of death or final departure from the Republic.

So far as Africans are concerned, the register will contain all the above information and, as well:

District in which he ordinarily resides;

Ethnic group or nation and tribe to which he belongs;

If his date and place of birth are unknown estimated

Year of birth, and district in which he was born;

If he is not a South African citizen, his fingerprints.

When introducing the legislation in Parliament, the Minister announced that the whole records system would be computerized (over a five year period) thus making it far more efficient. In March, 1971 the South African Government announced that an IBM 360/50 computer was to be rented at a monthly cost of $43,978.73 to operate the system. Thus all the information used to register, regulate and control African labor under the myriad tax and so-called pass laws will be processed into easily accessible form through the IBM computer.

In addition to being listed at the central register from February 1, 1972, every white, Coloured and Asian person will have to carry a 50-page blue identifications document full of personal information similar to that listed above. All those under 16 will have 12-page light green books instead of the longer documents; the green book will be issued to an infant instead of a birth certificate. Africans will continue ot carry their 96-page reference books for the present.

To keep the population register and all identity documents up to date, fresh copies of two photographs must be submitted whenever the current ones are no longer recognizable. The Secretary of the Interior must be notified of any change in permanent or residential address within 14 days (or such time as he may set); the proprietor of any premise is responsible for all its residents and must notify the Secretary within 45 days of arrivals and departures if the people concerned have not done so themselves. Thus the whole of the population comes under complete state control, and people are turned into informers against one another.

The ruling National Party Congress in

Windhoek (Namibia) has demanded that the "Book of Life" identification system be extended at once to include Africans in that territory. One delegate revealed white expectations for the new computerized control by protesting that thousands of Ovambos (Namibia's most numerous African group) "defect" from their jobs and take other jobs, and remain in "South West Africa," i.e. outside their assigned homeland, illegally. Whites, Coloureds, and Namas in Namibia are already scheduled for registration, thus solidifying South African control and integration of the territory in defiance of both the United Nations and the International Court of Justice.

The pass system

South Africa's system of apartheid rests firmly on rigorous and detailed police controls, and the computer which can streamline and speed up enforcement of the controls will be a boon to the white regime. Apartheid's core is the preservation of the cheap labor supply that makes South Africa so profitable for foreign investors. Africans, the majority of the workers, have no political or economic rights; their unions are not recognized and strikes are illegal. They are allowed into 87 per cent of the country (called the white areas) only as workers, while the aged, the children, the unemployed, the disabled, all termed "superfluous appendages," are subject to deportation to the 13 per cent of the land reserved for Africans. Once workers are in these reserves they can get out only by taking jobs through the local labor bureau. The passes show their permission to be in the white areas. These areas are likewise divided into places and even buildings where Whites or Coloureds or Asians or Africans (those temporarily permitted) may live or work or eat or see a movie or play tennis. Everything depends on race. Race depends on classification. And identification will depend on IBM. As a corollary, political opposition to the system must be ruthlessly suppressed, for the ruling whites are outnumbered more than four to one. This is easier when the whole population is chained by an internal passport system, and Big Brother 360/50 knows all about them, with a 50-page compulsory document for a start.

Brains for apartheid

Number One Policemen is not IBM's only job in South Africa. Two years ago the National Research Institute for Mathematical Sciences of the Government Council for Scientific and Industrial Research in Pretoria installed an IBM system valued at $2.8 million and further additions are planned to cope with the ever increasing needs of the Institute. IBM is thus aiding the industrial and scientific (and as a corollary, military) expansion of the apartheid state in a very fundamental way.[1] The Council works with NASA (the U.S. Space Agency) and it sold to the U.S. Army a military electronic device "tellurometer" which it developed in cooperation with Plessy (armaments company). Viet Nam has revolutionized war in many ways, the most far-reaching of which (though not yet fully efficient) is the electronic battlefield, and South Africa is so far advanced in the technique that it has been able to aid the U.S. Army. Gen. William Westmoreland, in the Congressional Record for October 16, 1969 revealed:

"On the battlefield of the future, enemy forces will be located, tracked, and targeted almost instantaneously through use of data links, computer assisted intelligence evaluation, and automated fire control. With first round kill probabilities approaching certainty, and with surveillance devices that can continually track the enemy, the need for large forces to fix the opposition physically will be less important."

IBM thinks for South African Airways, too. As part of the government's $50–70 million expansion of facilities at Jan Smuts international airport, SAA has spent $8.4 million to put in a "new fully automated, integrated passenger reservations and message-switching system." Its nerve center is IBM duplex system 360. The computer system, known as SAAFARI for South African Airways Fully Automated Reservations Installation, links all major cities in South Africa with the central computer in Johannesburg to give instant information. It became operational in 1971. South African Airways is a government agency whose operations are controlled by apartheid law, and plays a key role in its outreach tactics. The airline's expansion to major world centers (i.e. New York and Rio in 1969) is part of the drive for tourists which is bolstering foreign exchange and also sending home foreign sympathizers who have seen only the privileged white society and shared its pleasures.

Another duplexed IBM system 360 is in use by Volkskas, a large banking system with branches throughout the country whose data will be linked through the IBM network. IBM has a special team devoted to businesses dealing with stocks and shares. The Volkskas innovation set off speculation about other fields, especially in higher education, where centralized data banks would improve efficiency and information. Volkskas-IBM is using the wire services of the Post Office telecommunications system, as, presumably, similar computer ventures would. Thus the South African government and IBM cooperate to improve financial facilities and strengthen the apartheid economy. South Africa's largest retail chain, O.K. Bazaars, is among the businesses that have installed IBM systems.

IBM and the labor "shortage"

IBM deals in small business as well as large. In June, 1971, the first IBM copier commercially installed in South Africa was acquired by the Manufacturers Life Insurance Company in Johannesburg; that means an almost infinite field for expansion has opened. One of the most dangerous aspects of IBM's operations in South Africa is the extent to which apartheid supporters may find automated solutions (consistent with white control) to the artificial scarcity of skilled labor created by job discrimination laws. If IBM continues its growth in South Africa it will become an indispensable pillar of apartheid.

The government's determination to keep nonwhite workers from skilled jobs serves as a brake on the growth rate of the expanding economy and industrialists are protesting, trying to import skilled white worker's instead of employing South Africa's nonwhite (IBM is said to import many of its ranking employees), searching for alternative ways to meet the artificial shortage. A paper presented at a National Development and Management Foundation conference dealing with the labor shortage argued that the computer could "significantly reduce the demand for labor." A *Sunday Times* (Johannesburg) section on computers (August 1, 1971) under the heading "Labour Scarcity Propels Us Into Computer Age" opened: "South Africa's continuous shortage of skilled labour is making it an ideal market for computer and data-processing equipment."

U.S.-owned computer firms in South Africa may insist that they oppose apartheid and are helping their workers in spite of it. But the fact is that their computers can do more than any other technique to enable apartheid to survive: computer methods allow the economy to run with a minimum number of skilled workers, methodically reducing the economic pressure that was beginning to force training and upgrading on the job for black workers.

100 Percent Amreican

IBM does business in South Africa[2] through a wholly owned subsidiary, International Business Machines, (S.A. Pty.). Because of its favorable growth rate, IBM has this year invested an additional $3.42 million by buying shares in the local company, nearly doubling its capitalization, now $8.4 million. The new U.S. funds were to enable the company to obtain more computers from the United States to lease in South Africa. The market, which five other companies share with IBM, is now worth around $50.4 million annually, but IBM's South African managing director believes the potential is $252 million and will more than double that in a decade. In 1970 more than half the parent IBM's net income came from overseas and it controls more than half the market in every country except Britain.

The IBM operation

IBM has been in South Africa since 1952, primarily as a marketing operation. As of December, 1970 it employed about a thousand people, some 75 of whom were nonwhites, including 50 Africans. 125 employees received training overseas last year but no racial breakdown of this, or how many and who went to the United States, is available. Almost certainly all this training was for whites. IBM claims every other employee is a university graduate.

IBM reports that black employees hold positions in accounting, planning, and service areas, warehousing, and maintenance, and that their numbers will be increased as the "growth and nature" of the business permit. The word "nature" assumes that some type of job reservation is in effect. Since blacks comprise the great majority of all South African workers, the percentage employed by IBM is small (5 per cent). As all U.S. companies in South Africa, IBM discriminates openly.

Advertisements placed by IBM in the South African (white) press to attract employees do not mention color but they could not meet U.S. Civil Rights Acts standards on either sex or age criteria: "A matriculated young lady under 30", "go-ahead young man under 35" and the like.

IBM also reports identical pay scales for black and white, but this gives no clue as to how many identical jobs and how many identical pay checks there are (one of the ways South Africa meets its labor "shortage" is by retitling, and sometimes breaking down, white jobs to be done by nonwhites at lower job rates). Blacks employed by IBM are reported to earn twice as much as blacks similarly employed by other companies, but even these wages may still come out below the poverty datum line. IBM is proud of many benefits provided for all employees (insurance, pensions, medical and educational aid) and estimated the cost at $700 per employee per year; but there is no indication of employee participation in the determination or direction of these.

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[1] "Defense" is a misnomer for South Africa's military activities. It controls Namibia illegally by force and one of its greatest violations of the League of Nations (now UN) mandate was the fortification of the Caprivi strip, where air bases are aimed against the north; the airport it is building for Malawi is reported to have similar significance. South African troops have been in Rhodesia (Zimbabwe) supporting the illegal Smith regime since the first guerrilla attacks after UDI. There are South African helicopter bases, and reportedly troops, in Angola aiding Portuguese forces against the liberation movements, and in the Tete province of Mozambique for the same reason.

[2] IBM has small marketing and service operations in Angola, Mozambique, and South West Africa (Namibia). Shipments to Rhodesia were stopped in 1968.

IBM Principles and Apartheid

In the general statement which prefaces its seven principles of business practice, IBM gives away the basis of its support for apartheid.

It is the policy of IBM to hire people strictly on their qualifications to perform a given job. regardless of race, colour, creed, national origin, age or sex, insofar as *laws and local practices* within the country permit. (emphasis added)

Against this background, IBM's anti-apartheid statements are irrelevant. Not only law constrains IBM, but local practice takes precedence over qualifications to perform the job.

By South African standards, IBM may be a better than average employer as it claims; but by U.S. Standards it is in violation of labor and civil rights legislation. As far as apartheid is concerned, IBM—like all other U.S. employers in South Africa—cannot protect its workers from the worst ravages of the system: breakup of families, subjection to segregated facilities, the indignity of having every aspect of political and economic life determined by others. There is no indication that IBM has registered any protest against such "local practices." And it directly strengthens the police state tyranny of the apartheid government far more than most U.S. concerns which primarily aid the economy.

Among its principles, ironically, IBM lists:

"To play our part in furthering the progress of the communities in which our facilities are located; and to recognize our responsibilities as a corporate citizen of the nation and the world."

In the South African community, it aids the police apparatus to suppress dissent and so prevent change and progress. In the world it defies the efforts of the United Nations to isolate and remove support from apartheid. (For instance, General Assembly Resolution 2506 (XXIV), November 21, 1969, asks member states "to desist from collaborating with the Government of South Africa by taking steps to prohibit financial and economic interests under their national jurisdiction from cooperating with the South African Government and companies registered in South Africa.")

Who is IBM?

IBM is a corporate entity, but many identifiable people share responsibility for its partnership in apartheid.

First are its *officers and directors* who profit themselves, and who represent those who profit most. Those whose other interests are particularly relevant are listed. Protests should be directed to them. IMB's general offices are at Armonk, New York, 10504.

Thomas J. Watson, chairman of the Executive Committee. Mr. Watson is also an official or trustee of Bankers Trust Company, Rockefeller Foundation, Brown University and the California Institute of Technology.

T. Vincent Learson, newly appointed chairman and chief executive. He came up from the ranks in IBM and is a member of the Board of Overseers of Harvard University.

Bruce Bromley, whose legal firm, Cravath, Swaine, and Moore, handles IBM's business.

Paul L. Davies of Lehman Brothers, a firm that has arranged loans and investments for southern African status quo interests.

John M. Fox, President of United Fruit Company.

G. K. Fulston of Olin Corporation, whose subsidiary Olin-Mathieson Chemical Corporation does business in South Africa.

Amory Houghton Jr. is chairman of the Board of Corning Glass Works, is a director of U.S. Steel, New York Life Insurance, serves on the boards of Harvard University and Episcopal Theological Seminary, and is a Trustee of the Rockefeller Foundation.

Grayson Kirk, president emeritus of Columbia University, serves on the boards of Socony-Mobil, Con Edison, the Council on Foreign Relations, the Asian Foundation, the Greenwich Savings Bank, Nationwide Securities, and is a trustee of the Institute of International Education.

Louis H. LaMotte, of New College and Bennett College.

Patricia Harris of Fried, Frank, Harris, Shriver and Kampelman, named in April, 1971 as a woman and black token representative following an annual meeting in which opposition to IBM management and policies was voiced.

Second are the *stockholders,* few of whom have questioned IBM policies. Among them are:

American Baptist Convention; Christian Church, Disciples of Christ; Lutheran Church in America; United Presbyterian Church, U.S.A.; United Church of Christ; Protestant Episcopal Church; United Methodist Church.

It is likely that many universities are also represented among the stockholders. People who are concerned should find out whether they are related to stockholders in any way: church, university, union, pension investment, other agencies and groups.

Third are the *customers,* who buy or rent typewriters, copiers, and computers, or who support agencies, organizations, and businesses that do. Check your own home and office.

Fourth are the *workers* of IBM, among them the IBM Black Workers Alliance which calls upon IBM to end its business in South Africa, as well as demanding an end to racial discrimination in IBM employment policies in the United States. (Other similiar organizations of IBM workers include the Black United Front and the Concerned Workers Alliance.) BWA reports the firing of three employees and forced resignation of a fourth, all in the Washington, D.C. area because of their campaign against business with South Africa. Complaints about discrimination have been filed with the Human Relations Commission in Washington.

Action against apartheid

Directors can demand that IBM withdraw from southern Africa. That means *leased* computers will stop implementing apartheid.

Stockholders can vote for directors who will withdraw; can demand withdrawal themselves; can sell their stock if IBM won't.

Customers can stop buying and leasing. *Everybody* can boycott.

Workers can organize and educate to build the Alliance and join with other forces against apartheid.

Workers can raise the issue in some way. Write to IBM, especially if you have contact with an officer or director. Write to the press the next time a story on wonderful IBM (they are frequent) appears. Bring it up in meetings, organize delegations to see those responsible if you are part of any agency involved with IBM. Learn more about southern Africa so you can effectively tell others why IBM—and all U.S. enterprise—should stop support for apartheid rule and get out of South Africa now.

References: Sources of information used in preparing this Fact Sheet include the Argus; Financial Mail; Forbes (September 1, 1971); Hansard Q&A; IBM material: correspondence, notices and reports of annual meetings, official releases such as Personnel Policies and IBM Principles; Natal Mercury; New York Times; Office of Church Resource Studies material; Rand Daily Mail; South African Digest; South Africa Property Gazette; The Star; The Sunday Times; Survey of Race Relations 1971; The Technological Warlords (Computer People for Peace); Wall Street Journal.

[From "Is Southern Africa Wisconsin's Business?"]

AMERICAN SUPPORT BOLSTERS RACISM

(By Madison Area Committee on Southern Africa)

But what does all this have to do with the United States, or, specifically, with Wisconsin? People ask why we should get involved. The answer is that the United States is already involved, through military and economic ties, with the white regimes of Southern Africa. The United States has voted for United Nations resolutions condemning *apartheid* and colonialism as long as they remain pious generalities. But the United States, with other Western powers, has also consistently blocked effective action by the United Nations in this area. It has voted against resolutions that call for economic disengagement or elimination of military ties, even using its Security Council veto (for the first time ever) to block a strong resolution on Rhodesia. And this negative role is accompanied by more active involvement as well. In South Africa, American investments are second only to those of Great Britain. The investment there makes good profits; it also helps maintain the system of racial oppression. Portugal gets American investment in its African colonies, and, as a NATO ally, receives military assistance as well. The United States is already involved.

United States Gives Military Support to Racism

Portugal is itself an underdeveloped country. It would be hard put to continue its wars of counter-insurgency if it were not for the aid from its western allies. In a war heavily dependent on air power, Portugal does not produce its own aircraft, nor its own napalm. The use of NATO weapons, from the United States and Western Europe, is essential to Portugal's African wars. From the United States, T–6 trainer planes, B–26 bombers (supplied by the CIA), F–84 and F–86 fighters form part of Portugal's arsenal. Recently it has been reported that Portugal is now using herbicides in Angola, the only country besides the United States to use such weapons in war. According to the New York Times (December 10, 1970), the State Department was worried that the Fulbright committee might ask where the Portuguese got the herbicides.

Official U.S. statements maintain that American military aid to Portugal is not used in Africa, and is irrelevant to the African wars. But Portugal is fighting in Africa, not in Europe, and official statements are not very convincing in the face of military equipment captured by African nationalists with "Made in U.S.A." written on it. The effect of American military aid to Portugal is clearly against the interests of the African peoples.

In spite of the United Nations arms embargo on South Africa, which the United States claims to observe, South Africa does get military equipment—executive jet aircraft classified as "civilian type" equipment for use by the South African Air Force, and spare parts for items supplied before 1963 (when the embargo was voted by the United Nations Security Council). In 1969 such items amounted to $3.1 million in Pentagon sales to South Africa.

U.S. gives economic support to racism

American economic support is even more significant, especially if one focuses on South Africa. But to many Americans it is hard to understand that this economic involvement is just as much an attack against Africans as is the military aid to counter-insurgency forces. Businessmen with investments in South Africa, or in Angola, claim that they are supporting economic development, and that in the long run this is good for everyone, black and white. The idea is that the benefits will trickle down, and that development will increase the demand for skilled labor and break down discrimination. But in this case, as in others, the idea that the pursuit of profit will automatically bring improvement for everyone is mistaken. It simply doesn't conform to the facts:

Fact: *Although South Africa's economic advance has been going on for decades, during those very same decades restrictions on the non-white population have increased, rather than diminished.* Indeed, the worst of the repressive legislation has been enacted during the decade of greatest economic growth. Political rights have been abolished, and those who once voted or organized protests can do so no longer. African education has been set back by the Bantu Education Act, which specifically aims at inferior education for Africans. And while the average level of income grows, the disparity between white and non-white also grows. Businessmen are upset at "petty apartheid," which causes economic inconvenience for them, but they make no protest against the basic elements of the cheap labor system that ensures them high profits. American business involvement reaps the benefits of this system, contributes to its expansion, and enhances the stability of oppression in Southern Africa.

Fact: *American business involvement, by strengthening the economy, strengthens the economic and military power of those who control it.* It adds not only to their capacity to continue racial oppression, but also to their military potential. When, after Sharpeville, there was a crisis of confidence in the South African economy, American business moved to protect its investments by aiding in stabilization (led by a loan from ten American banks to the South African government), thus ensuring the maintenance of *apartheid* as usual. Kaiser Jeep Corporation, a subsidiary of American Motors, brags in its advertisements of being the world's largest manufacturer of tactical military vehicles. Its plant in South Africa has produced jeeps for use both in South Africa and in Mozambique. In Angola, Gulf Oil Company's royalties to the Portuguese government amount to a substantial proportion of Portugal's military budget there. American oil companies are also involved in South Africa's search for oil, in anticipation of possible United Nations sanctions.

Fact: *Discriminatory labor practices are required by law in South Africa and businesses investing there comply with these practices.* A British businessman who decided not to invest in South Africa, Mr. Neil Wates, concluded after a visit there that "We should have to operate within an economic climate which is designed deliberately to demoralize and to maintain an industrial helotry; we should, in turn, profit from such exploitation and ultimately end up with a vested interest in its maintenance." (*London Observer*, August 23, 1970.)

Fact: *While American businessmen in offices in New York or Milwaukee may claim that their presence helps to "liberalize South Africa's racism," their representatives in South Africa show no such urge.* A recent survey of American businessmen in South Africa revealed that only 8% of them regarded South Africa's racial system as "an approach that is altogether incorrect." Sixty-two percent said they would probably vote, if they were South African citizens, for either the Nationalist Party, or the United Party, both of which are firmly committed to white supremacy. In a July, 1970, interview, the Managing Director of Union Carbide in South Africa said that "majority rule would be bad for the economy of South Africa and bad for Union Carbide—we're against it." Ford's Managing Director in South Africa was even more blunt, replying to a query about his contacts with non-whites that "I didn't mix with them in the States, and I don't mix with them here." Many American companies, moreover, contribute to the South African Foundation, an organization which promotes "international understanding" of South Africa, particularly in the western countries.

American economic involvement, then, helps to consolidate the *apartheid* regime. It is carried on, moreover, with the encouragement of the U.S. government which professes to abhor *apartheid*. The United States has seen fit to limit economic transactions with other countries under the Trading with the Enemy Act. It has even cooperated with England in the limited Rhodesian sanctions (leaving the South African loophole open). But the Department of Commerce continues to encourage new investments in and trade with South Africa, including that which may have military significance (e.g. oil).

The business involvement clearly has its effects in setting a bias for government policy as well. The men whose companies are involved in Southern Africa are men of influence. Charles Engelhard, a major American investor in South Africa, is also a prominent contributor to the Democratic Party, and member of the prestigious Council of Foreign Relations. The Council, which has a membership of some 1400 businessmen, lawyers, diplomats, and academics, is of crucial importance in setting the general assumptions under which American foreign policy operates. Among its officers and directors are three officials of Chase Manhattan Bank, involved in Southern Africa not only through the loan already mentioned, but also through the British-based Standard Bank and the Portuguese Banco Totta-Standard. American Metal Climax, one of the largest mining companies in Southern Africa, is also represented with three directors in the Council on Foreign Relations. As the conflict escalates in Southern Africa, and these men find their interests endangered, there is danger of even greater American support for the white regimes in Southern Africa.

The effect of business involvement touches American workers too. American business, confronted with increasing problems in competing with Western Europe and Japan, is trying to ensure itself against difficulties here. Exports can help insulate a company against fluctuations in the economy here, as ex-Governor Knowles emphasized so strongly in his push for export expansion. But subsidiaries overseas can provide an even more effective insulation, against depression, import tariffs, and labor organization. For if wages become too high, and the pressure from labor too great, those companies large enough to afford it can transfer operations overseas, and use cheaper labor to produce the same products. This pattern is already a common one for American business, especially the large multinational corporations. Recently John Deere sold a large shipment of spare parts to the United States, parts which had been manufactured at lower cost in South Africa. In Southern Africa the cheap wages and high profits which these companies seek are available because of the force of the South African state.

The extent of American involvement is graphically illustrated by the fact that it is not limited just to the Pentagon or to the large New York banks and corporations. It extends right into Wisconsin. Companies here too are eager to shield their profits from depressions and from strikes. And they also have found their way to the high profits, cheap labor, "stable" political situation, and economic expansion of white-ruled Southern Africa.

Clark Oil Goes International

Clark Oil & Refining Corporation, Milwaukee, is a Midwest company refining and distributing petroleum products through a network of 1,257 service stations in ten states. Its net income for 1969 was about $13 million; the number of employees in Wisconsin about 2,000. Until recently the company had little or no overseas contacts. In 1967, however, Clark entered into a joint arrangement with Sunray and Skelly for exploration in Mozambique, and obtained a concession from the Portuguese colonial government.

According to a Clark News Release of May 4, 1970, net income for first quarter of 1970 was down because of the "extensive drilling programs in Mozambique". The company is involved elsewhere in exploration, but, according to the same release, "the company's most important program is being conducted in Mozambique, where a fourth offshore well is being drilled."

Did the Clark executives think, when they went into Mozambique, of the war against Portuguese colonialism going on there? Did they think that their activities there, even if they didn't strike oil, provided income to the Portuguese Government, and strengthended it in its fight against granting independence to Mozambique? Or did they simply figure that Gulf Oil is making money by cooperating with the Portuguese, maybe Clark will strike it rich too? Who cares that the Mozambican people had nothing to say about the concessions? Other companies (such as the Swedish electrical firm ASEA) have refrained from economic involvement in Mozambique (in the Cabora Bassa hydroelectric project) because of African protests that the involvement would only help Portuguese colonialism. Clark Oil, far from refraining, has chosen Mozambique as its first major overseas exploration site.

Would You Give South Africa Nuclear Power? Allis-Chalmers Did

Allis-Chalmers Manufacturing Company markets its products in 135 foreign countries. In South Africa Allis-Chalmers received the contract for building and servicing a nuclear reactor. It also sells farm and construction machinery, and advertises in South African magazines.

According to the *Capital Times* (8/24/67), Allis-Chalmers "is the most diversified of the five major farm machinery companies". It is Wisconsin's largest firm in transformers, electric motors, and power generators. It also manufactures construction and road building equipment, and is the beneficiary of a $3 million Army contract for forklift trucks and scoop loaders. It has granted $15,000 to the UW Law School for a Center for Mediation in labor-management disputes.

From the *New York Post,* Aug. 12, 1970:

The discovery frees South Africa from any threat that its nuclear growth can be blocked by outsiders. And there apparently would be nothing to stop other medium-size and small nations from getting on the bandwagon to secretly build atomic weapons. Vorster hinted that the secret new method was within the financial means of modest nations.

The Atomic Energy Board, which is responsible for South Africa's atomic energy program, provides another example of the country's close scientific and technical links to the United States. According to the Board's published reports, scores of its scientists and engineers have been trained in the United States, particularly at the U.S. Atomic Energy Commission's Oak Ridge National Laboratory, since South Africa's lone reactor is an Oak Ridge design, purchased through Allis-Chalmers. Considering South Africa's strategic sensitivities, the question of nuclear weapons intentions naturally arises. . . .

NUCLEAR APARTHEID

Apartheid intrudes into everything in South Africa, but it does so in a most curious fashion in the field of nuclear research. Of the 900 or so employees at Pelindaba, all are white, including—a rarity from experience elsewhere in South Africa—the lady who served the lunch that I had with J. P. B. Hugo, the deputy director general. Hugo explained, "We had quite a problem when we were planning to build this place. There are lots of radioactive materials here and we have to have decontamination facilities in case of an accident. Of course, we'd have to have white and nonwhite facilities, since no sharing is allowed. We added it up, and decided that the cost would be too high, so we've kept it all white. We've mechanized the cleaning operations and things like that and it's worked out very well."

S. C. Johnson & Son, Inc., Racine

INTERNATIONAL COMPANY

S. C. Johnson, which makes your auto polish, household polishers and cleaners, is an international company. In 1968 foreign sales represented 40% of the sales volume, and the percentage was expected to reach 50% in 1970. In 1968 already more than half of the company's 5,400 employees worked abroad. In South Africa S. C. Johnson has a plant in Johannesburg.

FAMILY COMPANY

S. C. Johnson is also a family company. S. C. (Sam) Johnson and 24 of his relatives own 91% of the stock (the rest is owned by other officers and directors of the company). With its stock not listed on the exchange, S. C. Johnson is one of the ten largest privately held corporations in the country.

PUBLIC AFFAIRS FOUNDATION

The Johnson family foundation has played an important role in Wisconsin in promoting world affairs "education." Leslie Paffrath, its director, came to the foundation from a previous post with the Carnegie Endowment for International Peace, one of the major institutions supporting establishment foreign policy institutions. The Johnson Foundation was responsible for helping start the Institute for World Affairs at the University of Wisconsin (Milwaukee), and holds numerous conferences bringing together "opinion leaders" from the state and from around the world. Two examples of the "education" are:

September 16, 1970—"A major conference on military spending and national security. . . . The three-day meeting, which will include speakers from the Pentagon, Congress, the defense industry and universities, has as its purpose the development of 'citizen insight into defense issues.' "

The S. C. Johnson Foundation has been a contributor to the "United States-South African Leadership Exchange, Inc.," which promotes visits of South African leaders to the U.S. and vice versa.

April 30, 1962—South African business magnate Anton Rupert speaks to the U.S.A.-South African leadership exchange at Wingspread (Johnson Foundation conference center) on "I Plead for my Country and All Its Peoples." He told his audience that "The fact that the Whites have kept themselves separate and maintained a certain standard of living has caused them to set a standard to which the non-Whites aspire. In the process the latter are being helped up, whereas the Whites are not being pulled down . . . in South Africa you need not fear Communism . . . the Pax Americana—like the Pax Brittanica of old—embraces the Cape."

Cutler-Hammer in South Africa

THE SUN NEVER SETS ON CUTLER-HAMMER

"The hum of activity never ceases in the growing world of Cutler-Hammer, for the company's business literally spans the clock as it spans the globe. Whether it is sunset over a copper mine in South Africa, midmorning in the Cutler-Hammer Mexicana plant or midnight on a ferryboat in New York, Cutler-Hammer people and products are at work serving the electrical needs of an increasingly technological world." *1965 Annual Report.*

Cutler-Hammer is an important American partner in the electronics engineering field in South Africa which is dominated by American, British and Dutch firms.

Cutler-Hammer Igranic Ltd., Johannesburg is a joint venture with British and South African capital. Its production of electrical controls has recently been moved into a new 100,000 sq. ft. factory in the township of Wadeville. Cutler-Hammer International boasts that it is now "the largest producer of electrical controls in the fast growing South African industrial market."

THIS IS CUTLER-HAMMER

Cutler-Hammer, Inc. is an international developer and producer of electrical/electronic products and systems. It supplies a wide range of products for the home, industry, commerce and the military.

Founded in 1892 the company has worldwide employemnt of 12,600. It is owned by 7,350 shareholders. Corporate headquarters is in Milwaukee, Wis., which also is the headquarters for four of its five operating divisions.

PUTTING HIDDEN VIETCONG ON TV—HAVE RADAR, CAN TRAVEL

So announced the 1966 Annual Report. Cutler-Hammer developed a portable radar system which could pick out the movements of men over a six mile radius. These and other "electronic counter-measure systems" (a convenient euphemism for counter-insurgency) are being readily put to use defending the American global empire against popular movements for national liberation.

Cutler-Hammer has grown into a major producer of the instruments of electronic warfare, as it has extended its interests into the very areas of the world where this warfare will be tried in the future, for example South Africa. As movements for national liberation grow stronger, the experience and capital of international corporations like Cutler-Hammer become more vital to protect and lend economic stability to a racist and oppressive status quo.

40% of Cutler-Hammer's business comes from the United States government, most of it in the Airbourne Instruments Laboratory Division. "AIL remained one of the nation's largest contributors of electronic reconnaissance systems in the Department of Defense." (1967 Annual Report)

Kimberly-Clark Corp., Neenah

In case you haven't heard of Kimberly-Clark, it is "the largest producer in the United States of facial tissues and feminine hygiene napkins" (Annual Report, 1969). Ever hear of Kleenex? The Kleenex company also produces a great variety of other paper products, commercial and industrial.

Kimberly-Clark is big in Wisconsin, big in the U.S.A., and big in the international market. "In general terms, the company's international market grows at two to three times the U.S. rate both in sales and earnings. Profit margins and returns on investment also run higher in most instances" (Annual Report, 1969). That includes South Africa. Kimberly-Clark of South Africa operates two paper mills.

Kimberly-Clark also seems especially close to Wisconsin politics. William R. Kellett, former President of Kimberly-Clark, served as chairman in 1965 of a committee of "citizen-businessmen" that developed a proposal for total recognition of Wisconsin state government. Another "Kellett Commission" has been at work on the reorganization of the state's system of higher education. State Representative David Martin, candidate for Lieutenant-Governor in 1970, is an employee of the Kimberly-Clark Corporation. And John R. Kimberly is not only a director of Kimberly-Clark, First Wisconsin National Bank, Northwestern Mutual Insurance Company, and First National City Bank of New York (one of the banks involved in the consortium loan to South Africa). He was also State Finance Chairman of the Republican Party from 1965 through 1970. The men who invest in South Africa are men of influence.

Other Wisconsin Companies in Southern Africa

1. Doughboy Industries, Inc., New Richmond, Wisconsin—In South Africa, Doughboy Industries produces packaging equipment. In Wisconsin, Doughboy is into turkey feed and swimming pools. In 1966 Doughboy was charged with price fixing and trying to drive small poultry farmers out of business. One of the major stockholders at the time was Governor Warren Knowles.

2. Lakeside Laboratories, Milwaukee, Wisconsin.—Lakeside Laboratories is a pharmaceutical firm. Since 1959 it has been owned by Colgate-Palmolive. Both Lakeside and its parent company have subsidiaries in South Africa.

3. Manpower, Inc., Milwaukee, Wisconsin.—Manpower is the world's largest contractor of temporary employment. In South Africa that means inevitably employment along racial lines.

4. Parker Pen Company, Janesville, Wisconsin.—Parker Pen is heavily dependent on international markets, with two-thirds of its production sold outside the U.S.A. It also has plants in many countries, including both South Africa and Rhodesia. United Nations sanctions against Rhodesia have been officially in effect since 1965, when the white minority regime there illegally declared its independence. Parker operations continue, however, in Rhodesia as well as South Africa. Daniel Parker, Chairman of the Board, is a nationally prominent businessman, the 1968 President of the National Manufacturers Association, and a member of the prestigious Committee for Economic Development.

5. Geo. J. Meyer Manufacturing Company, Milwaukee, Wisconsin.—Geo. J. Meyer produces a complete range of bottling equipment in South Africa.

6. Nordberg Manufacturing, Milwaukee, Wisconsin.—Nordberg is involved in South Africa with mining machinery, instrumentation, and automation. Since 1970 it has been merged with Rex Chainbelt, another Wisconsin company.

7. A. O. Smith Corporation, Milwaukee, Wisconsin—In South Africa A. O. Smith is reported as manufacturing petroleum product meters. A major product in Wisconsin is automobile frames. Harvestore Products (crop storage units) is a subsidiary of A. O. Smith.

8. Sta-Rite Industries, Delavan, Wisconsin—Through an arrangement with the South African firm Penguin-Poolquip Holdings, Sta-Rite is involved in the production of centrifugal and submersible pumps in South Africa.

9. J. I. Case Company, Racine, Wisconsin—J. I. Case is involved in South Africa in sales and distribution of farm implements and machinery, construction equipment and utility vehicles. It is 90% owned by Tenneco, a large American conglomerate which is also involved in Southern Africa, in oil exploration in South Africa, and in mining for sulphur in Angola.

10. Ray-o-Vac, Madison, Wisconsin—Ray-o-Vac has been since 1957 a division of ESB (Electric Storage Battery), Inc., with headquarters in Philadelphia. ESB products are "produced at 32 plants in 16 countries of the free world" (Annual Report 1970). Among these "free world" countries is South Africa.

Vice-Versa? The American Zinc Company, near Benton, Wisconsin, has been owned (60%) since 1963 by Consolidated Gold Fields of South Africa, with offices in London and Johannesburg. Consolidated Gold Fields, the mining house built by Cecil Rhodes, is one of South Africa's largest mining groups.

Business Is Not Just Business, You Know!

A common answer to criticism of business involvement in South Africa is that business can't get involved in politics, especially not foreign policy, and that to disapprove publicly of South Africa's policies would be politics. But the men in these companies do not hold themselves aloof from molding opinion on foreign policy. Peter Foote (of Cutler-Hammer), E. B. Fitzgerald (of Cutler-Hammer, etc.), Donald Slichter (of Rex Chainbelt, etc.), and several others in key positions with First Wisconsin and Northwestern Mutual (William G. Brumder, George M. Chester, Catherine B. Cleary) are all consultants for the World Affairs Council of Milwaukee, which cooperates with such agencies as the University of Wisconsin Extension and the League of Women Voters to "inform" the people of Wisconsin about foreign policy. The initial funding for the Council's Institute of World Affairs came in 1960 from the Johnson Foundation. Leslie Paffrath, of that foundation, is also a consultant to the World Affairs Council.

In 1967, and again in 1969, the World Affairs Council hosted men who have been prominent defenders of the racist regimes in Southern Africa. In 1967 one of the principal speakers at the Institute of World Affairs was Charles Burton Marshall, author of a book opposing United Nations sanctions against Rhodesia, and professor at Johns Hopkins University. He was asked how citizens could influence foreign policy, and gave this revealing response:

"I am not going to suggest that great numbers of us should desert our tasks in order to become experts on foreign policy. We should comfort ourselves with the thought that there are still many children to be reared in this country, streets to be swept and repaired, roofs to be mended, many young to be taught, and all kinds of things to be done besides attending to foreign policy. . . . So I want to caution you to moderation. Do not overdo this business of getting involved in foreign policy. Do not neglect your husband or your wife or your professional duties for the sake of trying to save the world situation. . . . When you think the United States is being carried, by some excess of enthusiasm, into something it is not going to know how to finish, write a cautionary note to someone in authority."

In October, 1969, the World Affairs Council gave a dinner in honor of former Secretary of State Dean Acheson. In recent years Acheson has been one of the leading spokesmen for even closer American cooperation with Portugal, and has opposed even the limited sanctions against Rhodesia. In his memoirs, entitled *Present at the Creation*, he praises Salazar, the Portuguese dictator, a man with whom he was impressed on first meeting, as a modern version of Plato's philosopher-king.

Of United Nations actions against racism and colonialism in Southern Africa, Acheson spoke on April 16, 1969, condemning the harassment of "three friendly countries in Southern Africa." These three friendly nations are South Africa, Rhodesia, and Portugal. In his memoirs Acheson expresses his regret that the United Nations has become "an instrument of interference in the affairs of weak white nations."

The World Affairs Council, it seems, is not likely to raise questions about racial oppression in Southern Africa, or to criticize American support that reinforces its strength. This is not to suggest that the World Affairs Council, its members, or the companies many of them represent, are active propagandists for Southern African racism. Rather it is that their involvement not only reinforces racial discrimination in Southern Africa, but also biases the consideration of Southern Africa by the public here.

GREAT DECISIONS: 1970

This eight-session, noncredit lecture series—*Great Decisions: 1970*—offers an excellent opportunity to survey eight critical areas of United States foreign policy under the guidance of University faculty and other area specialists. The eight-week series is sponsored by the Institute of World Affairs (University Extension and The University of Wisconsin—Milwaukee).

Feb. 3: "Soviet Union." What course for the Kremlin in the 1970's?

February 10: "Latin America." Does U.S. policy promote military rule south of the border?

February 17: "France." After de Gaulle, a new deal for France's allies?

February 24: "Race and World Politics." What role for the U.S. in the struggle for racial equality?

March 3: "Japan." A great power role for the rich man of Asia?

March 10: "U.S. Defense Policy." The Pentagon and its critics—what policies should prevail?

March 17: "Middle East." What stakes for the great powers in the Arab-Israeli conflict?

March 24: "United Nations." After 25 years, still man's "last, best hope" for peace?

Coordinator: Carol Edler Baumann, Director, Institute of World Affairs, UWM.

Time: Tuesdays, 7:30–9:00 p.m.

Dates: February 3 through March 24 (8 meetings).

Place: The Wisconsin Center.

Class Fee: $13 (includes "Great Decisions" booklet).

Great Decisions is an annual publication of the Foreign Policy Association used around the country in courses and discussions. In the 1970 study on "Race and World Politics" Portuguese colonialism is not mentioned at all, and South Africa is presented as a very "strange" country, in which it is economic advance that holds out hope for the future. Suggested readings are two: a survey of economic trends, and an article entitled "South Africa: Are There Silver Linings?" The Foreign Policy Association has among its directors, along with other executives of companies involved in Southern Africa, Charles Engelhard, who was honored as chairman of its annual dinner in 1967.

OTHER COMPANIES INVOLVED IN SOUTHERN AFRICA AND WISCONSIN

Aetna Insurance.
Allied Chemical.
American Motors.
Armco Steel.
Borden Co.
Carnation Co.
Caterpillar Tractor Co.
Chrysler Outboard Corp.
Cities Service Oil Co.
Coca-Cola.
Crown Zellerbach.
Del Monte.
Du Pont.
Fairbanks Morse Power Systems.
Gardner-Denver Company.
General Electric.
General Motors.
Goodyear Tire and Rubber.
Gulf Oil.
Interchemical Corp.
IBM.
International Harvester.
John Deere Horicon.
3M (Minnesota Mining and Manufacturing).
Mobil Oil.
National Cash Register.
Oak Manufacturing Co.
Olin-Mathieson.
Otis Elevator Co.
Owens Illinois Inc.
Pepsi-Cola.
Rockwell-Standard.
St. Regis Paper Co.
Dr. Scholl Shoe Co.
Shell Oil.
Sun Oil.
Union Carbide.
Uniroyal.
Weyerhauser.

GENERAL MOTORS IN SOUTH AFRICA

In 1969, General Motors, with a total South African investment of $125 million, sold 31,701 cars and 11,314 trucks, representing 17.8 percent of the South African car market, and 14.4 percent of the commercial vehicle market. General Motors has had an assembly plant in Port Elizabeth since 1926, and by 1971 anticipates having sold a total of one million cars in South Africa. GM South Africa now has three plants, all located in the Port Elizabeth-Uitenhage area. In 1968 it produced what is regarded as the "first South African car", the Ranger, with 55 percent local content.

GM exports products to South West Africa and Mozambique and, until the United States embargo in July 1968, also exported to Rhodesia. GM's increasing export activity and increasing local manufacture are directly in line with the South African Government's policy of self-sufficiency and provide material help in alleviating her balance of payments problem.

GM employs 5,500 workers, 3,500 of whom are Non-whites. GM Chairman J. M. Roche explains the wage policy in South Africa as follows:

"With regard to the GM South African's wage policy, GM South African does not discriminate between the races as to wages, except for a difference in starting rates which are higher for Whites than for Colored or Native employees. Any employee of any race can progress to a higher rate of pay on his job performance and length of service."

The starting rate for Africans and Coloureds at the GM engine plant is 52 cents an hour, or $83 a month. A semi-skilled worker, usually a Coloured, received between 70 cents and $1.00 an hour. Machine setters and changers, mostly Whites, earn between $1.40 and $2.00 an hour. A skilled artisan, always a White, receives over $2.10 an hour.

GM operated for 42 years in South Africa without a union. Recently a Coloured and a White union were formed in the Port Elizabeth plants. (African unions are not allowed in South Africa.) GM negotiates with the White union on the job categories to be reserved for Whites. Because of the labor shortage, some Coloured and African workers occasionally get positions vacated by Whites. However, GM has also actively encouraged the immigration of workers from Europe and Latin America to fill the shortage of white labor. Roughly 20% of the skilled labor force in one of GM's plants is made up of such immigrants.

Source: Economic Priorities Report, October–November, 1970.

GENERAL MOTORS

Is the world's largest manufacturer:

Sold 7.2 million vehicles for $24 billion in 1969.

Is the 10th largest defense contractor ($700 million).

Makes 30% of its cars overseas.

Spent $384 million in Wisconsin in 1969.

Employs 11,000 workers in Milwaukee and Janesville.

GM press release, June 30, 1970—"GM South African has made a major contribution to the growth and development of the Republic."

GM plant manager, July 1970—"We are dependent on the skilled White to keep us in business and the Coloured man to keep us running."

GM plant manager, July 1970, referring to Africans—"I wouldn't say these people don't have any reasoning power, but what they do have is very limited."

This Willys ad was taken from the Portuguese army journal, *Jornal do Exército*, April 1969.

Kaiser (Willys) Jeep Corporation "is now the world's largest manufacturer of tactical military vehicles" (*Business Week*). It has subsidiaries around the world, including

Portugal and South Africa. A large shipment of jeeps was exported from the United States to Angola in 1963. More recently, in July 1968, the South African plant of Kaiser received an order worth more than $3 million from the Portuguese government.

A translation of the ad: "The name that made the all-terrain vehicle universal . . . Willys Jeep is the vehicle with the largest world production, the vehicle that has shown the best test results, that is the most resistant to wear . . . It is the 'all terrain' vehicle preferred by the armed forces because of its incomparable resistance and versatility of application."

Since 1969 Kaiser Jeep has been a subsidiary of American Motors.

INVESTMENT, RECRUITMENT, AND THE STATUS QUO

The scope of American economic involvement in Southern Africa, as illustrated by the companies described and listed above, is big enough so that the involvement there becomes nothing out of the ordinary—"business as usual". Racism and colonialism are given extra support not as a result of exceptional malice on the part of businessmen, but as a result of the basis on which the system operates. The stage is set for cries to defend American interests against movements for independence and inequality that might threaten them. And the status quo orientation is reinforced by the investment policies of state and university, and by university policy on corporate recruiting—the assumption is that business is business, and that criteria of human welfare are irrelevant.

Thus the Wisconsin State Investment Board, and the University of Wisconsin, each hold stock portfolios, managed on a strict business basis. The result is substantial holdings in companies involved in Southern Africa. As of June 30, 1969, the Wisconsin State Investment Board held common stock in 117 companies. Of these, 33 had subsidiaries or affiliates in Southern Africa, including Cutler-Hammer, Dow Chemical, General Motors, and Kimberly-Clark. As of the same date, some $3 million of the $13.4 million in stock managed by the University of Wisconsin regents was in companies involved in Southern Africa. Among the companies were:

	No. of shares	*Market value*
Gulf Oil	4, 000	$153, 000
Mobil Oil	4, 850	284, 355
Addressograph - Multigraph	4, 200	310, 800
National Cash Register	2, 000	255, 760
Deere & Co	2, 368	100, 640
General Motors	5, 429	422, 810
Kimberly-Clark	3, 300	201, 300
Simplicity Patterns	7, 472	554, 796
General Foods	6, 000	489, 000
A. C. Nielsen	5, 100	169, 525

Of these companies, Kimberly-Clark and General Motors are discussed in the preceding sections. There is an ad from Mobil Oil. But Gulf Oil also deserves special notice, because of its role in Angola in support of the Portuguese war effort. Income to the Portuguese Government in 1969 from the Gulf Oil concession amounted to some $11 million, equivalent to a large proportion of the military budget for the "province" of Angola. The Portuguese Government promised Gulf "to undertake such measures as may be necessary to ensure that the company carry out its operations freely and efficiently, including . . . such measures as may be necessary to prevent third parties from interfering with the company's free exercise of its contractual rights." The possible third parties include, it is clear, the African people of Angola themselves.

The same reinforcement of the status quo is revealed in university policy on recruitment on campus. On March 4, 1967, the University Faculty passed a resolution to allow organizations to recruit on campus only if they did so in accordance with the provisions of the Federal Civil Rights Act and the Wisconsin Fair Employment Practices Statutes. Both of these state categorically that it is unlawful for any employer to discriminate and deny employment because of race, color, sex, or national origin. But inquiry about U.S. companies that have subsidiary plants or offices in South Africa receives the answer that such civil rights legislation does not apply. This question was raised specifically in a letter in spring 1970 from the Madison Area Committee on Southern Africa and the All African Peoples Union to Chancellor Edwin Young:

"In the Wisconsin State Journal of February 13, you were quoted as saying that any 'legitimate business' had a right to recruit on the UW campus. We would like from you a clarification of what you mean by legitimate.

"According to a University Faculty resolution of 4/3/67, incorporated in a policy statement of the University Placement Services. 'Any organization recruiting on campus will do so in accordance with the provisions of Title VII of the federal Civil Rights Act and Wisconsin's Fair Employment Practices Statutes Sections 1131–1137.' Both state categorically that it is unlawful for any employer to discriminate and deny employment because of race, color, religion, sex, or national origin.

"Yet many companies that make use of campus facilities for recruitment (including First National City Bank, Kimberly-Clark, General Electric, Cutler-Hammer, and others) operate subsidiary businesses in the Republic of South Africa. There, as you must be aware, discrimination in employment is the universal practice, one of the cornerstones of the 'way of life' imposed by white South Africa on the rest of the population. This means that American companies operating in South Africa adopt as a matter of course policies of clear and unambiguous racial discrimination against nonwhites.

"Such practices affect not only the people of South Africa, but also Afro-Americans who work for these American companies. An Afro-American who might work for such a company as a junior executive, does not have the same opportunity to be employed in its South African subsidiary as does an American white. Such a policy is clearly discriminatory.

"We would like to know then: do you consider racial discrimination legitimate? Is it right for the university to make its facilities available to those practicing discrimination? Or did you really mean that any business is legitimate?"

The reply from Chancellor Young read as follows:

GENTLEMEN: Thank you for your recent letter. I appreciate your concern over the racial policy of the government of South Africa. Certainly it is a policy which is unacceptable in our own country.

However, I do not wish to indulge in a semantic debate about the word "legitimate" as it applies to any particular business or businesses. In the context you refer to, I take the word legitimate to mean, quite simply, that a legitimate business is one which subscribes to the legal requirements imposed by our state and federal governments.

Those businesses that conduct interviews on our campus do not deny employment to any of our students on the basis of race, religion, or ethnic background. If they did, they would be in violation of both the Civil Rights Act and the Wisconsin Fair Employment Practices Statutes.

Until the question of the legitimacy of those businesses you mention in your letter is successfully challenged in the courts, we shall continue to consider them bona-fide employers and thereby eligible to conduct job interviews on campus.

Sincerely,

EDWIN YOUNG,
Chancellor.

In the 1969–70 school year, 545 companies were listed as sending recruiters to the UW Madison campus. Of these companies approximately 18% have subsidiaries or affiliates in South Africa. The University, according to Chancellor Young, will "continue to consider them bona-fide employers and thereby eligible to conduct job interviews on campus".

At the University of Michigan this fall, the response was different. Companies involved in South Africa are now barred from using the services of the OSS Placement Office there. (See next page for details.)

The following is a memo sent from a student group at University of Michigan:

To: Office of Student Services Policy Board
From: The Brain Mistrust (BMT)
Subject: Enforcement of the University's policy governing the use of its facilities by corporate recruiters
Date: 6 October 1970

The University of Michigan maintains the following policy for campus recruiters: The University of Michigan Placement Services is administered in a manner which provides equal opportunities for placement and employment of University of Michigan students and alumni. Consequently its services are not available to any organization or individual which discriminates against any person because of race, color, creed, sex, religion or national origin, nor which does not maintain an affirmative action program to assure equal employment opportunity.

This policy has not been enforced.

Many of the companies recruiting on campus operate in the Union of South Africa. It is well known that these companies practice blatant discrimination through unequal wage scales based entirely upon race, through segregated facilities in their plants, through discriminatory promotion practices, and through adhering to other apartheid laws and policies. The companies themselves openly admit to practicing apartheid, as illustrated by Henry Ford II's statement: "When abroad, we must operate by the standards of the host country or forfeit our welcome."*

No corporation operating according to South Africa's apartheid policies should be permitted to use University of Michigan recruiting facilities. We call for strict and immediate enforcement of the University's stated policy.

Thank you.

JEFF FIELD
LIZ FIELD
DON LARKIN,
for the BMT.

The new policy below is the result:

UNIVERSITY OF MICHIGAN OFFICE OF STUDENT SERVICES POLICY BOARD STATEMENT

The University of Michigan Placement Services is administered in a manner which provides equal opportunities for placement and employment. Consequently its services are not available to any organization or individual that discriminates against any person because of race, color, creed, sex, religion, or national origin, nor which does not maintain an affirmative action program to assure equal employment opportunity.

1. No corporation operating where discrimination is legally enforced on the basis of race, color, creed, or sex, for example, South Africa, shall be allowed to use the services of the

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*Quoted by George M. Houser in "Report of Special Study Mission to Southern Africa," House Report No. 91–610, Nov. 6, 1969, p. 99

OSS Placement Office. Furthermore, the OSSPB urges other academic placement offices to follow this policy.

2. Allegations that a company has discriminated in its recruiting or hiring in ahy of its business activities either within or without the United States may be made within the Office of Student Services. A determination shall be made if there is sufficient evidence to request the company involved to participate in a public forum. Failure to participate in a public forum will automatically result in the company not being allowed to use OSS Placement Office services.

3. If there is an allegation that a company or its representative has discriminated in its recruiting or hiring activity on this campus, the Placement Office of the Office of Student Services will undertake to conduct an investigation. Determination of violation and the sanction to be applied (warning or denial of use of the services of the OSS Placement Office) will be determined within the Office of Student Services.

[From Polaroid Revolutionary Workers Newsletter]

INTERNATIONAL BOYCOTT—PROGRESS REPORT

On October 27, 1970 the Polaroid Revolutionary Workers Movement called for an International Boycott of all Polaroid Instant Gadgets. We would like to report that public support in condemning Polaroid in its role as sole supplier of instant pass photos and race identity cards in South Africa has been shown by the loss of $15 million to-date in Polaroid's sales. Polaroid has admitted losses of $4 million in the first quarter, and $11 million in the third quarter of 1971.

We thank all those right-on thinking people who have supported our campaign this past year as well as call for further and intensified international support as we go into Phase II of the International Boycott. We feel that those financial losses should influence Polaroid, thru the workers or stockholders, and that the public's response will make it unprofitable to remain in South Africa.

POLAROID'S EXPERIMENT TO PROTECT ITS SOUTH AFRICA INVESTMENT

Polaroid will put the final touches on its PR campaign in January 1972. That date ends the so-called "Experiment in South Africa." Polaroid has tried to saturate the public with facts and figures about the economy of South Africa with the ploy of increased investment in South Africa as a means of ending the insanity, brutality, and inhumanity of that race-identifying system, apartheid. The fact remains that Black South Africa—eleven years ago—chose armed warfare as the means of gaining their freedom. The fact is that Polaroid's investment in South Africa, and that of all foreign investors, is seriously threatened by the Liberation Movements in Angola, Mozambique, and Guinea Bisseau, and directly threatened by Blacks in Namibia, Rhodesia, and South Africa itself. The Polaroid Experiment is a part of the plan to maintain the power of the white fascist forces in South Africa and must be condemned now. There is no need to wait until Jan. '72. The results were established when Polaroid was confronted by PRWM. South Africa needs the pass and Polaroid to maintain apartheid. Polaroid's will remain in South Africa and continue to supply that insane regime with its cameras, film, and ID equipment.

POLAROID PROMISES TO STRENGTHEN APARTHEID WITH IBM'S HELP

While Polaroid and other supporters of racist South Africa are publicly talking of change in the apartheid system (Dialogue), they are planning and preparing the reinforcement of that vicious system. In February 1972, the South African regime will begin a new registration plan under the Population Registration Act of 1950. The plan is to replace the passbook and race IDs with a new Computerized ID Card. A Polaroid ID Card produced by the ID–3 Instant Identification System hooked up to an IBM 360 Computer Data Bank. On March 2, 1971 in the South African Hansard states: "The plan was scheduled to begin in June, 1971 but was canceled (due to PRWM's campaign). It will begin the first of Feb., 1972, will employ 438 persons under the Ministry of Interior, and Deputy Secretary will be in charge." The implementation of the plan will take five years.

TECHNOLOGICAL FASCISM

This is a new phase for the fascists in South Africa, technological facism that knows no humanity. Now the police can be replaced by a computer box, and the pass and race ID with a Polaroid Data Card. We are dealing with the same mentality that reigned in Nazi Germany and that intends to put South Africa into an era that does not allow for conventional destruction. The result of Polaroid's and IBM's technological assistance in South Africa—the same system of population registration is used in South Vietnam under Operation Phoenix—is aimed at eliminating the forces of liberation in all of Southern Africa.

FUTURE OF PRWM

The future of PRWM is therefore very clear and necessary. We will continue to intensify our efforts against the Polaroid Corporation and all US companies in South Africa. The International Boycott, already a success, will continue with reinforced efforts nationally and internationally. We will continue to work to bring about a consciousness in the US concerning the role of the government, the corporations, and an unknowing public that aid and abet that inhuman system of forced labor.

We have expanded our functions and have expanded our membership to include not only Polaroid workers and former Polaroid employees, but also any right-on thinking person who supports the struggle for the liberation of Southern Africa and the international liberation of all Black Peoples.

We must and will continue our public opposition to *forced identity cards* being issued thru out this country under various innocent disguises. We are opposed to the recent plan *forcing high school students* in Boston, Cambridge, Richmond, Berkeley, Memphis, New Orleans, Chicago, Detroit Washington, D.C., and too many more cities *to carry an identity card and to be entered into a national computer data bank.* We see an increasing similarity between the laws of South Africa and the United States, and the resulting conditions. We call upon the public to deal with the seriousness of *compulsory identity cards and the uniform means being imposed—Polaroid ID*—NOW, before it's too late.

WHERE IN THE WORLD ARE YOU GOING? SOUTH AFRICA? RHODESIA? OR THE SUNNY SHORES OF MOZAMBIQUE?

South Africa's *soft sell* reaches every community in Wisconsin through: Tourism, Programs of exchange, and "Information Service"

Tourism: Tours through commercial agencies for "fun in the sun" via Pan Am or South African Airways' new U.S.-approved flights from New York to Johannesburg. (Sorry, no blacks, please.) As an American tour director writes, S.A. is "physically the most comfortable country and the most like home . . . If this is darkest Africa then somebody must have let in a lot of light" (L.A. Times, 2/15/70) While there, see "the fake native village where the government sells you a permit to shoot photos of bare-breasted black women." (Air Travel, 4/69)

More than 14,000 Americans went last year. S.A. Tourist Corp. director Basson tells us why: "South Africa needs friends for influential people in the world." Mr. Basson adds that the tourist industry was also a major force in attracting foreign investors." (Sunday Times 7/9/67).

Visits to South Africa are good business for the white South Africans. Their effective control over all inhabitants and the threat of punishment for those who dissent from racial policies means the tourist does not hear disagreement. The physical beauty and white wealth combine to create a pleasing picture to the naive American visitor. One such veteran wrote recently in a "letter to the editor"

"Yesterday I returned after five weeks in South Africa and Rhodesia, and the visit was, indeed, an eye opener . . . I talked to a number of black people and all expressed the highest satisfaction with the status quo and with the prime minister."

People-to-people exchange: South Africa wants Wisconsinites to "visit" and see how peaceful is the "strongest anti-Communist government in Africa." And Wisconsin residents go . . . to conferences of "female fliers," to world ploughing championships. to consult with Dr. Christiaan Barnard, etc.

The American Field Service sends Wisconsin high school students to South Africa for "international learning and goodwill." A Stoughton, Wisconsin girl reported on her stay with the family of the Deputy General of the South Africa Reserve Bank. "Susan had her picture taken sitting on $26,000,000 in gold brick!" Susan also reported that, "Meals at the Groblers were served by a maid named Martha, who has been with the family for 14 years." (Capital Times 9/22/69) Another "soft-spoken American export" of A.F.S. of 17 *told the Johannesburg Star* that "When we read about *apartheid* in the States, it sounds terrible . . . But I can't see any other solution."

In exchange, A.F.S. brings *white* South African youth to Wisconsin, where they are free to tell their story about "what it's really like in South Africa."

On a national level, the United States South African Leadership Exchange Program, Inc., exchanges "professional, business, community, and religious leaders" of "all races." Of course blacks may go only if the South African government will give them a visa or passport. Financial supporters of this project from Wisconsin companies are the Johnson Foundation, Del Monte Corporation, the Weyerhaeuser Foundation.

At the University of Wisconsin white South Africans are welcome to learn the complex technologies of nuclear physics, of computers, of social control, of industrial techniques—all to strengthen the status quo there.

Information service: Every Wisconsin school teacher has access to free films, posters maps and teachers guides on South Africa. Between 1966 and 1969, South Africa allocated more than $1.75 million for publicity in the United States. The South Africa Foundation explained. "The promotion of South Africa's image in the U.S. is without doubt the Foundation's highest priority . . . to convince them that a policy of friendship and cooperation with S.A. is not in the final instance irreconcilable with the best interests of America and the West." (Johannesburg Sunday Times, 5/14/67). G.M. and other U.S. companies in South Africa help finance the Foundation's work.

In addition, literature on South Africa floods the schools, companies, libraries, and newspapers of America. The *Detroit Free Press* editor noted, "I receive more propaganda from South Africa than from *all* other foreign governments combined."

Modern American capitalism: Ethics and standards of American multinational business management in South Africa:

A British construction firm: ". . . The idea of doing business in South Africa is totally unacceptable; we could not be true to the basic principles on which we run our business and we should lose our integrity in the process . . . We should have to operate within a social climate where the colour of a man's skin in his most important attribute and where there is virtually no communication between the races . . . We should have to operate within an economic system which is designed deliberately to demoralise and to maintain an industrial helotry; we should, in turn, profit from such exploitation and ultimately end up with a vested interest in its maintenance." (Mr. Neil Wates, Man. Director, Wates, Ltd., London—a leading British housing construction firm)

Polaroid: "How can we presume to concern ourselves with the problems of another country? Whatever the practices elsewhere, South Africa alone articulates a policy exactly contrary to everything we feel our company stands for. We cannot participate passively in such a political system. Nor can we ignore it . . . We decided whatever our course should be it should oppose the course of apartheid." (Ad, Polaroid Corp., New York Times, 1/13/71, p. 23)

Ford—In and for South Africa: "Give them (the South Africans) an opportunity to expand their philosophy of sending Bantus back to their homelands. Give them an opportunity to pursue this policy without criticism. (Managing Director, Ford Motor Company of South Africa, Ltd., 7/70)

Chrysler in South Africa: ". . . near Pretoria, Chrysler has built the most modern automobile plant in Africa . . . Why? Because this is the fulfillment of Chrysler's faith in South Africa. Faith so strong that it is backed by every resource that Chrysler can bring to bear." (Ad, Financial Mail, 3/17/70)

General Motors-South African: "GM South African has made a major contribution to the growth and development of the Republic." (GM Press Release, Washington Post, 6/30/70)

"I don't consider it appropriate to publically work for changes in laws . . . I feel that companies such as ours are really performing a very useful service . . . our non-white peoples here in South Africa can work their way into the economy to come out of their rural and tribal existence out in the country where they can actually participate in a civilized industrial life and this is pretty much the story of the development of the U.S." (Managing Director, GM South African, 7/70)

Labor unions in S.A.: "Of the 168 trade unions in South Africa, 86 are limited to White (sic) persons only, 37 to Coloured and Asiatics, and 45 are open to Whites, Coloureds and Asiatics. Under the Bantu Settlement of Disputes Act of 1953, no Bantu persons in South Africa may be members of trade unions." (South African Tempo, 4/68)

"We feel at this stage the less we have to do with unions, the better. There's enough incentive for us to look after our people." (Chrysler South Africa Personnel Official, 7/70)

CONCLUSION

It is probable that a similar analysis, tracing the links between Southern Africa and American companies involved there, and the role of the American foreign policy elite that believes such involvement legitimate, could be carried out for many other states in the United States. In some one might even find Portuguese military men studying electronics or counter-insurgency, in others one might find the same men involved in South Africa also playing important roles in state politics (e.g. Englehard in New Jersey). But the argument might come back: except for men like Engelhard, South Africa is really peripheral. Their companies have other profitable investments to exploit, and South Africa is a small percentage, even if it is particularly profitable. And World Affairs Councils have other propaganda points they are more interested in communicating to opinion leaders than anyhting about Southern Africa.

In some cases, this may be true. But that is not the point. The point is that the profits are being made, the involvement is growing, and it is important in helping maintain the racist and colonial regimes in Southern Africa. In the absence of pressure against them, the companies, and the elite, have no intention of changing their ways. Perhaps some companies would sacrifice their South African investment for something somewhere else—if they had to choose. Now they don't; it's profits there, and here, and elsewhere. Meanwhile the oppression in Southern Africa goes on, and the war. Cutler-Hammer, Kimberly-Clark, Parker Pen and the others continue to make their pofits. So do Gulf, and Mobil, and General Motors, and the University of Wisconsin, which owns their stock. Companies that openly adhere to racial discrimination recruit on campus, and World Affairs Council speakers counsel audiences not to "overdo this business of getting involved in foreign policy". The result of following that advice might well be another Vietnam-scale involvement; at the least it would mean the continuation of America's tacit alliance with South Africa and Portugal. For those who profit from the present policy cannot be expected to change it out of the goodness of their heart.

The weight that such involvement has in determining policy is reinforced by the legitimacy granted to business and its leaders by the rest of us. Such thinking as "What's good for GM is good for the country" still pervades the American mentality, in spite of a growing skepticism based on pollution, the war, and the economic squeeze for workers. Southern Africa is an extreme case of the disregard for human welfare involved in accepting such a principle. To expose and to challenge American business involvement there is important for Southern Africa. It can also be a part of the struggle for reorientation of America, towards solidarity with the oppressed peoples of the world, solidarity instead of enmity.

American Committee on Africa,
New York, N.Y.

To: Representative Ronald V. Dellums, United States House of Representatives.
From: Charles Hightower, Washington Director, American Committee on Africa.
Date: March 25, 1971.
Subject: General Electric Supplying Power to South Africa.

Enclosed please find material relating to the establishment of the massive hydroelectric facility now underway for the Cabora Bassa installation. Note that the General Electric Company has already completed the control relay panels that will service the South African terminal for the power system which is located near Irene in the Transvaal.

In response to some inquiry from Black employes of General Electric in New York, Mr. J. Russell Mudge, a company vice president, wrote last September to present a rationale for his company's presence in South Africa. A copy of this letter is included. This company like General Motors, Polaroid, the International Business Machine Corporation and others are under increasing pressure from Black American workers on the question of involvement in South Afica.

It should be noted that on May 19, 1970, this year the United States Ambassador to the United Nations, Mr. Charles W. Yost said in a speech press statement that the United States would henceforth officially discourage investment in Namibia and that Export-Import Bank credit guarantees would not be made available for trade with Namibia. Mr. Yost has subsequently been replaced as UN Ambassador.

But, according to a report in the *Chicago Sun-Times* of March 21, 1971, General Electric is seeking a $55-million credit guarantee for its construction of the transformer system for Cabora Bassa.

I telephoned the office of Deputy Assistant Secretary W. Beverly Carter at the State Department to inquire about the Cabora Bassa issue. Mr. Carter is reported to be out of the city; however, his assistant, Mr. Brady G. Barr, stated that he did not know if the General Electric credit had been finalized. Mr. Barr said the State Department was opposed to the extention of credit through the Export-Import Bank for American corporate investment in the Mozambique scheme. But, as Mr. Barr told me, the State Department is "just one input" in this matter.

South Africa General Electric's Iscor Order

South African General Electric Company has been selected to supply the automation for Iscor's massive combination slabbing-plate mill to be installed at the Vanderbijlpark works in mid-1970. The eventual costs of the mill will be R52-million.

The brain centre for controlling the system will be a GE/PAC process computer.

The order was received through the Japanese firm, Tokyo Shibaura Electric Company Limited, the main electrical contractors on the project. The automation system is being implemented by close co-ordination between Iscor, Toshiba Ishikawajima-Harima Heavy Industries Co. Ltd. (the main mechanical contratcors), and S.A. General Electric's personnel.

The concept of computer control on slabbing-plate mill operations is one which has been undertaken by few steel mills in the world to the degree which has been decided upon by Iscor. Improvements in production efficiency and quality of product are expected.

Car Radio With Built-In Stereo

S.A. Philips has developed a South African car radio with a built-in stereo sound system. The new all-wave car radio goes on sale in May.

The radio, which is to be known as the "2 Plus Stereo," has stereo transistor powered amplifiers which deliver a total of 10 watts to two matched speakers; high sensitivity and selectivity and a South African-designed noise-limiting circuit which greatly reduces interference.

Transport: Order for Diesel Locos

The South African Railways has awarded a R17-million contract to the SA General Electric Company of Benoni, Transvaal, for building the largest and most powerful diesel electric locomotives to go into service in the Republic.

With six locomotives coupled and operated by one driver, they will be able to haul trains of between 6096 and 8128 metric tons (6000 and 8000 tons)—equal to the load of a medium-sized cargo ship.

Most of the 75 locomotives ordered are expected to be used on ore haulage from the Northern Cape Province, and on the non-electrified Cape Midlands system generally.

A delivery rate of 25 locomotives a year from the middle of 1971 is stipulated in the contract. The order follows the successful completion and delivery of 115 diesel locomotives built by SA General Electric Company for SA Railways under a contract valued at R22–million.

As in the case of this earlier order. Dorman Long (Africa) will be the main sub-contractor, and will make the bodywork, platform, bodies, wheels, axles, and other parts, and assembly rates.

General Electric Co.,
New York, N.Y., September 11, 1970.

We believe the Company has made it quite clear by its domestic announcements and its activities within the United States that we should do everything we can to help equalize job opportunities available to all, without discrimination based on race, creed or color.

Discriminatory laws and practices in South Africa make realization of those objectives much more difficult for our subsidiary, South African General Electric Company (Pty.) Limited. SAGE was organized by the Company in 1898, long before the present Government of South Africa adopted its apartheid policy.

Our South African subsidiary provides employment to 764 non-whites (82% of its hourly paid employees) at a minimum hourly wage of $0.308, although the minimum Union Contract rate is $0.26 per hour. In fact, some of the black employees have progressed to $1.33 per hour. Both Union agreements and organizations in South Africa reserve practically all higher skilled work for white employees. However, the rapid growth of the South African economy, to which SAGE is contributing, provides employment and economic opportunity to more and more non-whites, not only in their usual occupations but also in the more skilled categories traditionally held only by whites. As a result of this kind of internal economic pressure, South African legal and other bans to the employment of non-whites as skilled craftsmen are breaking down at an increasing rate. For example, SAGE is currently running training classes for non-whites to teach them how to wire switchboards.

Similarly, Union Contracts, which are negotiated on an industry-wide basis in South Africa, are an avenue which the white workers attempt to use to perpetuate the inferior economic status of the non-whites. Conversely, Union Contract negotiations provide an opportunity for companies like SAGE to work with liberal South African industrialists to obtain improvement in the status for the non-whites. It is our firm belief that without progress in the upgrading of the non-white both in pay and skill, South African industry cannot grow at anything like the rate it is now experiencing.

Very truly yours,

J. RUSSELL MUDGE.

SOUTH-WEST AFRICA: ANALYSIS OF AMERICAN OBLIGATIONS VIS-A-VIS NAMIBIA IN THE LIGHT OF THE INTERNATONAL COURT'S OPINION

(By the American Committee on Africa)

BACKGROUND

Namibia, formerly known as South West Africa, is an arid, mineral-rich territory slightly larger than Texas. It has a population of some 650,000 of whom more than 80 per cent are non-white.

South West Africa was recognized as a German protectorate in 1890. After the First World War it was entrusted by the League of Nations to the then Union of South Africa as a "mandated territory," to be administered for the benefit of the indigenous people. But South African rule was brutal, discriminatory, and exploitative, and the Union was repeatedly criticized by the Permanent Mandates Commission of the League for acting as if it had annexed the territory.

When the League was dissolved at the end of World War II, South Africa, alone of all the mandatory powers, refused either to convert its mandate into a trust territory under the United Nations or to grant it independence. Nevertheless, without offering in any way to reform its administration of the territory, it solemnly promised that it would continue to administer South West Africa "in the spirit of the mandate."

Shortly thereafter the Union sought approval from the United Nations (which had succeeded to the League's supervisory power over mandates) to incorporate South West Africa; but the United Nations found strong opposition among the Africans and refused. The South African government thereupon undertook to incorporate the territory in fact without changing its former legal status. In particular, it intensified its policy of racial segregation under the new designation of a partheid (now euphemistically called "separate development") in further violation of the U.N. Charter and of its mandate obligations. Neither negotiation nor cajolery nor pressure turned the Union from this course.

Since the United Nations seemed unable to stop South African violations of its "sacred trust," Ethiopia and Liberia, acting under an untested mandate provision, brought a proceeding in the International Court of Justice to try to prevent further maladministration of the territory. But after six years of hearings the Court refused, on procedural grounds, to render a decision on their complaint.

At that point (October 1966) the United Nations General Assembly, citing South Africa's continuing breaches of its obligations, revoked the Republic's mandate and decided to administer the territory (which it renamed for its most prominent geographical feature, the Namib Desert) directly. After the revocation of the mandate, but before the Court's Advisory Opinion of this year, the Assembly created the Council for Namibia to act for it *ad interim* as the United Nations' administering authority until the earliest possible time that an independent government is formed.

The South African government refused, however, to turn over the administration of Namibia to the United Nations and sought instead to strengthen its international position by encouraging foreign investors to exploit the vast, newly discovered mineral riches of the territory. Unable to induce or compel the Republic to give up its illegal occupation, the General Assembly sought Security Council assistance. The Security Council in turn appealed to the International Court of Justice for advice on the legal duties of states resulting from the illegal occupation.

THE COURT'S OPINION

On June 21 of this year the Court advised the Security Council that United Nations members had the following duties:

(1) to recognize the "illegality of South Africa's presence in Namibia";

(2) to recognize the "invalidity of its acts on behalf of or concerning Namibia"; and

(3) "to refrain from any acts and in particular any dealings with the Government of South Africa [a] implying recognition of the legality of, or [b] lending support or assistance to, such presence and administration . . ."

THE NATURE OF THE U.S. OBLIGATIONS

Since the Court's opinion was not rendered in an adversary proceeding, but in response to a request for advice, it is not binding on states in the sense that a judgment in a contentious proceeding would be binding on the parties thereto. Nevertheless, the opinion represents a definitive exposition of the law on the question raised by the Security Council. Further, it is based on much the same basic premises, principles and reasoning and reaches substantially the same conclusions on major issues as the *amicus* brief submitted by the United States in the course of the proceedings before the World Court.

Consequently, the United States, a permanent member of the Security Council which sought the ruling, and a proponent of the international Rule of Law, should be deemed obligated, legally as well as morally, to fulfill the duties laid down by the Court as applicable to all states.

Actions which the United States should take to fulfill these duties include many which it can undertake immediately and independently (i.e., without preliminary action by any organ of the United Nations) and others which depend upon prior U.N. action.

In the case of the latter, the United States has the additional and antecedent obligation of proposing or sponsoring and supporting appropriate measures and of helping to devise effective means of implementing them.[1]

Actions which should be taken by the United States immediately and independently of the United Nations:

I. *American diplomatic and consular accreditation to South Africa*

The United States should specifically inform the South African government and publicly announce that its diplomatic personnel in South Africa are accredited to the Republic only, and not to the territory as well; and it should revise the area of jurisdiction of its consular personnel in Capetown to exclude Namibia. Past United States action—closing the consular office in Windhoek, the territorial capital, and physically withdrawing United States personnel from the territory while nevertheless continuing their accreditation to "South West Africa"—is not sufficient.

In addition the United States should instruct its diplomatic and consular personnel in South Africa to vigorously express American disapproval of the occupation of Namibia by all traditional means, such as absenting themselves from public events relating to the territory and refusing to entertain South African officials connected with the occupation.

II. *Preventing South African representation of Namibia in international affairs*

The United States should seek to prevent the participation of South Africa, insofar as it purports to represent or act for on on behalf of or concerning Namibia, in any international body or conference in which the United States participates. The United States should also refuse to negotiate, sign, or ratify any treaty under or as to which South Africa purports to represent or act on behalf of or for or concerning Namibia.

III. *No invocation of treaties extended to Namibia*

The United States should refuse to invoke or apply treaties which have been extended to Namibia insofar as Namibia, Namibians, or Namibian property or products are concerned. In particular the United States should set up procedures to ensure that Namibian products do not qualify for most-favored-nation treatment which the General Agreement on Tariffs and Trade requires the United States to afford to South African products. These procedures should include a provision whereby products which are produced both by South Africa and Namibia are deemed ineligible for preferential treatment unless a United States consul certifies the products to be non-Namibian in origin.

In addition, the United States should inform the South African government that it will refuse to extradite Namibians under its extradition treaty, which was extended to Namibia. The United States should also refuse to apply its double-taxation treaty to American taxpayers doing business in Namibia or otherwise paying taxes to the South African government in connection with Namibian affairs.

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[1] It should be noted that there may be overlapping obligations relating to the same subject matter and that some of these obligations may be more extensive than others, or the application of some may preclude the application of others. In every case the more extensive should be applied. However, all obligations are listed, as in some cases the more extensive action may require additional time to become effective or may be prospective only in application, whereas the other may be immediately applicable or apply to subject matter already in existence or to transactions already in progress.

IV. *Invalidity of South African concessions and other acts*

The United States should deem invalid every grant or concession (mining, drilling, extracting, processing, manufacturing, fishing, etc.) in Namibia which is derived directly or indirectly from the South African government[2] since the termination of the mandate. As a consequence, inter alia, the Security Exchange Commission should require registration statements of the holders of such grants and concessions to reflect the invalidity of their title, and public regulatory agencies should require the balance sheets of such grantees and concessionaires, as well as the reports of accountants and auditors, to reflect the invalidity of their title.

Conversely, the United States should recognize as valid grants and concessions made by the United Nations administering authority. Consequently, title to products obtained in or removed from Namibia under any grant or concession shall be deemed to vest in the holder of the valid grant or concession and not in the holder of the grant or concessions derived from the South African government.[3]

The United States should not recognize any claims arising out of judicial or quasi-judicial acts (inter alia, judgments, orders, decrees, settlements, notarial acts, arbitral awards) of the South African government taken since the termination of the mandate which relate to Namibia, Namibians, or Namibian property or products.

The United States should not recognize claims arising out of executive or general administrative acts (e.g. administrative findings or decrees, rules and regulations, receipts, official statistics, etc.) relating to Namibia, Namibians, or Namibian property or products which have been taken by the South African government since the termination of the mandate. As a consequence, official receipts should not constitute proof of payment (of taxes, loans, license fees, etc.): South African registration or authentication of documents should not validate them; and findings of fact by a South African administrative agency should be inadmissible in proceedings before American tribunals, etc.

The United States should not recognize claims arising out of documents (such as deeds and registrations, licenses, and certificates) emanating from the South African government since the termination of the mandate insofar as such officials should not accept South African certificates as to weight, measure, contents, or value or prices of goods sought to be imported into the United States; maritime officials should not accept registrations of Namibian vessels or maritime licenses issued to Namibians; and public regulatory agencies should not accept registered deeds to Namibian property or South African certificates as to origin, purity, etc., of Namibian products.

The United States should deem invalid obligations (e.g. savings bonds, short term notes, etc.) in any way connected with Namibian projects which have been issued by the South African government since the termination of this mandate. As a consequence, inter alia, United States public regulatory agencies should not permit banks, insurance companies, and other business organizations under their jurisdiction to treat such obligations as assets, accept them as collateral, etc.: fiduciaries should be surcharged for investing in them; and all banks in the federal reserve system should refuse to honor or clear them.

The United States should not recognize the validity of claims arising out of patents, copyrights, design and trademark registrations, and related rights issued by the South African government in respect of Namibia since the termination of the mandate.

V. *Treatment of American businesses in Namibia*

The United States Internal Revenue Service should not grant credits against American taxes due for taxes paid by American taxpayers to the South African government on Namibian property, profits, or transactions or on business done in Namibia.[4] Since payments made to an illegal usurper give rise to no rights, the I.R.S. should similarly refuse claims of American taxpayers to deduct any such taxes paid to the South African government as ordinary and necessary expenses.

The United States should discourage Americans from doing any business in Namibia or concerning Namibian property or products by denying them, inter alia, credit guarantees, loans, subsidies, government insurance, tariff preferences or quotas, tax credits, and otherwise normal consular services in Namibia. All departments of government, including specifically Commerce, Defense, and State, should notify Americans doing or contemplating doing business in Namibia as to this official policy and should refuse to give them any commercial and/or technical assistance.[5]

By analogy to taxes levied or proposed to be levied on gambling and leaded gasoline, the United States should levy a special surcharge on profits of United States taxpayers derived from operations in or relating to Namibia, which it is official United States policy to discourage.

The United States should treat as unincorporated business associations all organizations (specifically including subsidiaries of United States corporations) incorporated by the South African government since the termination of the mandate to do business in Namibia. As a consequence the liability of members, officers, directors, and purported incorporators and shareholders for the debts of such business associations should be unlimited, and any such association should be deemed legally incapable of acting in the capacity of a corporation.

VI. *Political asylum for Namibian refugees*

The United States should grant political asylum on the most favorable terms to Namibian refugees and should provide or help to obtain educational, vocational, and medical services for such refugees.

Actions which should be taken by the United States through the United Nations:

I. *Acceptance of court's opinion*

The United States should sponsor and support a Security Council resolution accepting and supporting the International Court's Advisory Opinion.

II. *Support for administering authority*

The United States should sponsor and support a resolution calling on all United Nations members, organs, and specialized agencies to recognize the interim administering authority as representing Namibia; to invite representatives of the authority to participate as full members in all meetings, conferences, negotiations, etc. which concern Namibia or its rights and interests; and to permit the authority to undertake all responsibilities (such as signing and ratifying international treaties which are drafted under the aegis of such United Nations agencies or organs or of which they are depositories or as becoming a member of bodies created under such treaties).[6] The United States should so treat the administering authority, effective immediately.

III. *Travel documents and visas*

The United States should encourage all United Nations members to acknowledge and accept the travel documents issued to Namibians by the admininstering authority and should support the exclusive right of the administering authority for Namibia to issue visas for entry into or residence in Namibia.

IV. *Postage*

The United States should support the administering authority in establishing its own postage, in obtaining representation on the international Postal Union, and in obtaining recognition of its stamps as the only valid postage for mail originating in Namibia.

The United States should support the issuance of special commemorative stamps by the United Nations postal authorities to commemorate the termination of the mandate and the assumption of the administration by the United Nations.

V. *Regulation of business in Namibia*

The United States should support the right of the administering authority to levy taxes on persons, business associations, and corporations obtaining income from or doing business in Namibia, and it should assist the authority in developing techniques to collect such taxes, either directly or with the assistance of United Nations member states whose nationals would be subject to such taxes.[7] The United States should grant appropriate tax credits for such payments by Americans while denying them for tax payments made to the South African government.

The United States should support the right of the administering authority to incorporate new and existing businesses in Namibia and the correlative rights to set standards for incorporation and to deny corporate charters to businesses or to withdraw them from corporations enfranchised by it on the grounds of failure to meet or to abide by such standards.

The United States should support the right of the administering authority to require all corporations enfranchised by the South African government since the termination of the mandate to do business in Namibia to become incorporated by the authority according to its provisions therefor and to penalize all corporations subject to such requirements which fail to so incorporate. The United States should not recognize the corporate status of organizations doing business in Namibia which fail to incorporate under the administering authority.

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[2] Throughout this analysis "South African government" includes the Territorial Administration, and acts of the South African government include acts of the Territorial Administration as well as acts of any person or agency operating de facto under the control of the South African government.

[3] The United States substantially recognized this position long before the Court rendered its opinion: on May 19, 1970 Ambassador Yost announced that his government would not protect United States investments in Namibia acquired since the termination of the mandate against the claims of a future lawful government of the territory.

[4] The International Court's specific prohibition against invoking treaties extended to Namibia applies to the United States-South Africa double-taxation treaty.

[5] Ever since the revocation of the mandate, the United States has recognized the illegality of the South African occupation of Namibia, and in 1970 Ambassador Yost announced that this country would henceforth discourage American investment there, in particular by refusing to make available Export-Import Bank credit guarantees for such investment. The Court's Opinion now requires the United States to broaden the scope of its action.

[6] In its written statement to the Court on the Namibian question, the United States indicated that it felt the Council, acting *ad interim*, should be treated as the effective governing body.

[7] Note that the right—and duty—to levy and collect taxes is implicit in the General Assembly resolution 2248 (S–V) (1967) para. III(1)(a), which provides that "The administration of South West Africa under the United Nations shall be financed from the revenues collected in the Territory . . ."

The United States should support the right of the administering authority to establish rules and regulations governing natural persons and unincorporated associations doing business in Namibia and should assist the Council in devising effective means to compel them to comply therewith.

VI. Abolition of racial discrimination

The United States should assist the administering authority in developing effective means to abolish all laws mandating or permitting racial discrimination.

VII. Protection of Namibian workers

The United States should support the right of the administering authority to establish basic rights for African workers in Namibia (specifically including a code of minimum conditions of employment) and to establish and/or license and regulate interim fiduciaries which shall, in the absence of bona fide local labor unions, be able to act, inside or outside Namibia, on behalf of African workers against employers who fail to observe the code or otherwise deprive such workers of fundamental rights.

SPECIAL NOTE

The United Nations Assembly and Security Council have already called on all states not to supply arms to South Africa because of its *apartheid* policy. In principle the United States admits its obligations to honor this existing embargo; but in practice it continues to permit the sale of spare parts for arms previously delivered as well as of jeeps and "civilian" aircraft, which can be—and are—converted to military use.

The Court's Opinion on Namibia, which holds that all states have a duty to refrain from acts which support the (military) occupation of the territory, places the United States under a double requirement to refuse to license the sale or supply to South Africa of any arms, military supplies or equipment (including supplies or equipment convertible to military use, and spare parts), or technical know-how related thereto.

PROVISIONAL GOVERNMENT OF NAMIBIA,
New York, N.Y., November 29, 1971.

CONGRESSIONAL BLACK CAUCUS,
Congress of the United States,
House of Representatives,
Washington, D.C.

YOUR EXCELLENCIES: The Provisional Government of Namibia presents its compliments to the Chairman of the Congressional Black Caucus of the Congress of the United States and has the honour to enclose herewith a statement of action by the United States Government on the critical issue of Namibia's independence.

We hope that the Congressional Black Caucus will initiate immediate action by the United States Government against the illegal occupation of Namibia by the South African government. Such a program of action if carried out effectively by the United States Government against the Government of South Africa will accelerate the independence struggle of Namibia.

The Provisional Government of Namibia avails itself of this opportunity to renew to Your Excellency the assurance of its high esteem.

Yours sincerely,
MBURUMBA KERINA,
Permanent Representative at the United Nations.

A PROGRAM OF ACTION AGAINST THE ILLEGAL OCCUPATION OF NAMIBIA BY THE SOUTH AFRICAN GOVERNMENT PRESENTED TO THE CONGRESSIONAL BLACK CAUCUS OF THE CONGRESS OF THE UNITED STATES BY THE PROVISIONAL GOVERNMENT OF NAMIBIA

Speaking before the United Nations General Assembly in 1966, H. E. Ambassador Arthur Goldberg presented the United States position in the following uncompromising terms:

1. that South Africa had not only failed to fulfill its mandate obligations but had disavowed them;
2. that its mandate was therefore rightfully terminated;
3. that, apart from the mandate, South Africa had no right to administer South Africa (West) and was therefore illegally occupying it;
4. that after the termination of the mandate South West Africa came under the direct responsibility of the U.N.;
5. that the people of South West Africa had the right to self-determination, independence, and freedom in accordance with the U.N. Charter;
6. that South West Africa has an international status until it obtains its independence;
7. that South Africa has an international obligation to refrain from any action that would alter the Territory's status;
8. that all countries have an obligation to "find practical means . . . to enable the people of the Territory to exercise the right of self-determination and to achieve independence."

IMPLEMENTATION OF AMERICAN POLICY WITH REGARD TO NAMIBIA

In a policy statement honoring the 25th anniversary of the United Nations, H. E. Ambassador Yost stated the following on 20th May, 1970:

1. The United States will henceforth officially discourage investment by U.S. nationals in Namibia.
2. Export-Import Bank credit guarantees will not be made available for trade with Namibia.
3. U.S. nationals who invest in Namibia on the basis of rights acquired through the South African Government since adoption of General Assembly Resolution 2145 . . . will not receive U.S. Government assistance in protection of such investments against claims of a future lawful government of Namibia.
4. The United States will encourage other nations to take actions similar to these.

RECOMMENDATIONS FOR IMMEDIATE AMERICAN ACTION ON NAMIBIA

1. To treat as unlawful and void every activity and action of the South African government which affects Namibia or which is taken for or on behalf of Namibia;
2. To refuse to take any action, or to permit its citizens to take any action, which directly or indirectly acknowledges the lawful authority of, or the validity of claims deriving from the South African government acting for, on behalf of or in relation to Namibia;
3. To recognize the Provisional Government of Namibia as the only lawful authority in respect to Namibia until its independence; and
4. To grant assistance to the Provisional Government of Namibia which seeks to replace the unlawful de facto government of South Africa in Namibia.
5. The United States should adopt a firm and positive policy toward Namibia.
6. American officials, in all public statements, should consistently refer to South Africa, in relation to Namibia as "the (unlawful) occupying power."
7. Accreditation of the American counsul in Capetown should be withdrawn insofar as it extends to Namibia.
8. The United States should terminate (or alternatively, treat as automatically terminated by operation of law) the extension to Namibia of any bilateral treaty between the United States and South Africa. In particular, the United States should terminate the extension to Namibia of the extradition treaty between the United States and South Africa in accordance with Articles 14 and 15 of that treaty.
9. The United States should recognize the passports of the Provisional Government of Namibia issued to Namibian "nationals" and should grant American visas to Namibians travelling on such passports.
10. The United States should mark all American passports "not valid for travel in Namibia (South West Africa)" until Namibia is independent.
11. The United States should support the right of the Provisional Government of Namibia to represent Namibia in any international organization and in any international activity in or to which South Africa has or might have represented Namibia.
12. The United States should treat all South African "laws" affecting Namibia (viz., acts of the South African Parliament; proclamations of the State President, the Prime Minister, other cabinet ministers, or the Administrator of Namibia, ordinances of the territorial Legislative Assembly; and all sub-legislation) which have come into effect since the adoption of resolution 2145 as invalid insofar as the United States or international law is concerned.
13. American courts should refuse to enforce all judgments of Namibian courts and all judgments of South African courts which affect Namibians causes of action originating in Namibia, or property located in Namibia.
14. American courts should refuse to entertain claims or defenses based on or derived from the law in effect in Namibia. In particular this rule should be applied to contracts, including pension and executive compensation contracts between American companies operating in Namibia and their officers and employees.
15. American courts and judicial officers should refuse to honor or to take or order action under letters rogatory, letters of administration, and similar documents emanating from Namibian courts or from South African courts in relation to Namibians or Namibian causes of action or property.
16. The President of the U.S.A. should express American displeasure at the continuing South African occupation of Namibia in every way sanctioned by diplomatic usage.
17. The President of the U.S.A. should continue to prohibit the sale of all arms (including replacement parts) to South Africa as long as it continues to occupy Namibia.
18. The President of the U.S.A. should prohibit any and all joint planning and training (including anti-insurgency training), joint exercises, and/or military cooperation of any sort between American and South African forces as long as South Africa continues to occupy Namibia. The President should similarly oppose any kind of military cooperation by NATO forces with South Africa under the same circumstances.
19. The President of the U.S.A. exert maximum diplomatic pressure to induce in particular the United Kingdom and other Commonwealth countries, France, Italy, West Germany, and Japan not to sell arms to South Africa as long as it continues to occupy Namibia in violation of U.N. resolutions and the decision of the International Court of Justice.
20. The President of the U.S.A. and the Secretary of State should make sure that American Foreign Service personnel posted to South Africa are personally sympathetic to the American official position concerning Namibia, that they have no racist attitudes, and that they are able to make the American position on Namibia and the reasons therefor known to the South African government and public.
21. The government should exert pressure on American lending institutions, on the World Bank, and on similar institutions not to give any financial support, including stand-by credit arrangements, to any South African project or institution in any way connected with Namibia, or to any purely South African project or institution if the

result is to release South African funds for projects affecting Namibia.

22. The government should prohibit investment by Americans in Namibia and should strongly discourage such investment.

23. The government of the U.S.A. should prohibit or, at the very least, discourage trade with Namibia as long as the South African government continues to occupy Namibia illegally.

24. The United States should prohibit every European in Namibia, every South African doing business in Namibia, and every South or European business association in Namibia of any sort which is organized, incorporated, or doing business, directly or indirectly, in the United States such as the importation of persian lamb skins (SWAKRA) and mineral resources.

25. American tax law should be directed towards the discouragement of investment in and trade with Namibia.

26. The United States should refuse to recognize all franchises, rights, titles, interests, and claims relating to Namibia which have been granted by South or Namibian authorities since the adoption of resolution 2145 of the United Nations.

27. The United States government should rigorously enforce, with respect to Namibia, American laws prohibiting the importation of goods produced, in whole part, by forced and prison labor.

28. The United States government should not recognize or accept certificates of quantity, quality, origin, content, wholesomeness, conditions of production, genuineness, etc. issued on Namibian products by South or Namibian officials, persons, or organizations authorized or licensed to issue such certificates by the South African government.

29. The United States government should prohibit every transportation company or travel agent in the United States from selling, arranging, or providing, directly or indirectly any tours to or in Namibia or any transportation, accommodations, meals, or services within Namibia. It should prohibit also every such company or agency from contracting or arranging, directly or indirectly, with any Namibian department or agency, government corporation, or business association or with any South African department, agency, government corporation, or business association doing business in Namibia to provide any transportation, accommodations, meals or services anywhere.

30. The United States government should require everyone travelling on a South African Passport who gives lectures on any subject relating to Namibia for which he receives any payment exceeding his actual out-of-pocket expenses, from any source, to register as a South African agent; and it should require that a public announcement be made immediately prior to each such lecture that South Africa, of which the speaker is a citizen and registered agent, unlawfully occupies Namibia in violation of international law, as interpreted by the United States and the United Nations.

31. The United States government should increase its educational assistance to Namibian refugees, both through the Provisional Government of Namibia and through American institutions.

32. The Immigration and Naturalization Service should stop harrassing present and former Namibian students, who should be routinely granted waivers of the foreign residence requirements attached to their visas.

33. Non-student refugees from Namibia should be granted political asylum by the United States under circumstances at least as favorable as those which other refugees have obtained.

34. The United States government having acknowledged that conciliation and negotiations have failed to persuade South Africa to relinquish its unlawful occupation of Namibia, should firmly support the Provisional Government of Namibia whose purpose is to free Namibia from South African illegal occupation and thus institute a non-racial democratic government for all Namibians irrespective of race, colour, creed, sex, tribe and religion.

The Provisional Government of Namibia submits this statement of action in the hope that Black Lawmakers in Washington, D.C. will initiate a constructive program of disengagement by the United States government in Namibia until such time that the people of Namibia accede to independence. We hope that other Lawmakers in Washington D.C. who have supported the cause of the independence of Namibia over the past years within and without the United Nations will find it possible to lend their assistance to the efforts of the Black Caucus.

The United States government must defray the transportation of Namibian students who have been offered private scholarships to further their education in American Educational Institutions. A special fund allocated for this purpose must be administered through the Department of Educational and Cultural Affairs of the Department of States and not through the United Nations. All Namibian students will be screened and recommended by the Provisional Government of Namibia.

An Open Letter to the Black Lawmakers in the United States Congress

The Southwest Africa
National United Front,
Brooklyn, N.Y., February 16, 1971.

H. E. Rep. Charles C. Diggs. H. E. Rep. Robert N. C. Nix, H. E. Rep. Augustus F. Hawkins, H. E. Rep. John Conyers Jr., H. E. Rep. Charles B. Rangel, H. E. Rep. Ronald V. Dellums, H. E. Rep. Ralph H. Metcalfe, H. E. Rep. George W. Collins, H. E. Rep. Parren J. Mitchell, H. E. Rep. William L. Clay, H. E. Rep. Louis Stokes, H. E. Rep. Shirley Chisholm, and H. E. Senator Edward W. Brooke.

Your Excellencies: The South West Africa National United Front (SWANUF) presents its compliments to the Black Lawmakers in the United States Congress and has the honor to make the following statement regarding the crucial problem of the international Territory of Namibia (South West Africa).

The South West Africa National United Front is the major freedom movement in our country. Its purpose is to free Namibia from the dangers of South African racist apartheid colonialism. To achieve this end we have among other things appealed to the American public opinion to bring pressure to bear upon the Government of the United States to cease all official and unofficial relationship with the Government of South Africa until such time that the South African racist colonial regime has acceeded to the demand of our people for total independence.

In offering suggestions for possible inclusion in your public and official statements on this question, we do so with deep confidence that Your Excellencies will do everything possible to commit the overwhelming weight of the United States Government behind the independence struggle of Namibia from South African racist colonialism.

Events in Africa are moving at an incredible speed. The year 1971 must see the independence of Namibia. In view of this swift change, American policy on Africa today is divided into two phases: First, political aid to those African States not yet free and independent such as Namibia, and second, economic assistance to the independent States of Africa.

The South West Africa National United Front (SWANUF) makes the following specific suggestions. Rather than enunciating vague propaganda sounding principles—which can be ambiguously implemented in the hope that these can, with modifications, become part of an American policy towards Namibia we appeal to you to take the following action in our behalf:

1. Urge the Government of the United States in the strongest terms to sever all official relationship with the apartheid government of South Africa as long as the latter continues to violate decisions of the United Nations to vacate the international Territory of Namibia.

2. Urge the Government of the United States to warn the apartheid government of South Africa that the United States Government will associate itself with all those powers determined to establish United Nations presence in Namibia in accordance with the decisions of the Security Council and the best interest of the "Rule of Law".

3. Urge the Government of the United States to press the South African racist colonial government to make efforts to reach early understanding with the United Nations for the immediate transfer of governmental powers to the people of Namibia (South West Africa).

4. Urge the Government of the United States to vote on the question of Namibia in the United Nations in accordance with its anti-colonial tradition.

We presented to Your Excellencies in this memorandum the challenge of the Namibian problem to the United States; we call upon your vision, so desperately needed in a benighted Government of the United States; for a sense of urgency, so difficult to stimulate in a lethargic administration; for a decisive government policy of positive action against an illegal racist colonial regime in Namibia which continues to defy international opinion and the decisions of the United Nations General Assembly. Namibia could become the foundation upon which better fraternal relationship between Africa and the United States of America could be built.

It has been a privilege on behalf of the South West Africa National United Front (SWANUF) to submit to Your Excellencies the above mentioned views.

The South West Africa National United Front (SWANUF) avails itself of this opportunity to renew to Your Excellencies the assurance of its high esteem.

Very truly yours,

Veiue Mbaeva,
Mburumba Kerina,
Kahepure Mbaha,
Kuaima Riruako.

A Preliminary Press Statement on the So-Called Plebiscite

The South West Africa National United Front (SWANUF) wishes, in this position statement, to review the evolution of the Namibian (South West Africa) question in order to clearly establish the abuses of past plebiscites conducted by the South African racist colonial regime in Namibia.

In 1946, the South African colonial regime conducted a fraudulent plebiscite in the Territory designed to give legitimacy to South Africa's illegal occupation of Namibia. The United Nations General Assembly following written petitions from African leaders and peoples in the Territory overwhelmingly rejected South Africa's offer regarding incorporation of Namibia into South Africa as it fifth province. The General Assembly equally condemned the manner in which the Government of South Africa conducted the so-called "plebiscite" and declared that its bias nature violated accepted international procedures governing the conduct of "plebiscites".

The issue in question in the case of Namibia currently before the International Court of Justice is not the problem between South Africa and the United Nations General Assembly or between South Africa and the International Court of Justice, but rather the crucial question of self-determination for the peoples of Namibia and the problem of the "consequences" of South Africa's continued illegal occupation of Namibia.

It cannot be denied that under normal political circumstances recourse to "referendums" or "plebiscites" can be the serious basis for a definitive settlement of international problems such as Namibia on condition that Namibians may express themselves freely without the threat of the "suppression of Communism Act" and such other abominable repressive legislation arbitrarily applied to the international Territory of Namibia by the South African racist colonial regime.

The serious question of the modalities of the application of this principle form the crux of the problem of "plebiscite" as has been the case in the past. The record of the South African Governments' abuses of the legal processes in Namibia has become a *force of habit,* and ineradicable reflex. This record has been on the docks of the International Court of Justice and on the agencies of the United Nations General Assembly. It needs no further elaboration.

To this effect, the *South West Africa National United Front* wishes to stipulate that:

1. The context of the liberation struggle in Namibia and the fundamental requirements of a democratic procedure such as "plebiscite" oblige it to demand serious scrutiny by the International Court of Justice in view of the nature of oppression to which our people in Namibia have been subjected over the years by the South African racist colonial regime.

2. Such a "plebiscite"—exclusive of any discussion concerning the independence of Namibia—constitutes an invitation to the International Court of Justice by a criminal government to sit in judgment over its crimes against the people of Namibia.

Moreover, it has been the terrible fate of Namibians, since the hand over of their country to the racist colonial government of South Africa in 1919, to experience in turn the dehumanizing life of concentration camps known as Native Reservations", Bantustans", Homelands", etc. We see these caricuture governments of Bantustans as counter-life, counter-joy, in league with ultimate nothingness and final death in the Namib and Kalahari deserts.

By unlawfully occupying Namibia with military forces and indiscriminate oppression and exploitation of Namibians, the South African racist colonial regime has stamped upon Namibia, an aspect of totalitarian life which is the very opposite of democracy. The South African Government is consequently disqualified to preside over a plebiscite". It is certain that the South African Government which for the past 50 years has sought to destroy the inherent dignity of Namibians could not, or more precisely cannot rehabilitate this dignity in Namibia.

Since the "plebiscite" concerns the establishment of the institutional structures for thousands of Namibians living in Namibia, self-determination or independence postulates the recognition of all Namibians as a political and juridical entity, that is, as a Nation.

The South African racist regime refuses to recognize this right to self-determination or independence of the Namibians as such, admitting only in terms of separate "tribes", "Bantustans" or "Homelands". It believes in dividing Namibians and their country into tribal regimes, while at the same time solemnly proclaiming a universal principle with a view to confusing international public opinion.

The experiences of the South African Government should have demonstrated to it the illusion and the futility of hoping to found a lasting policy upon the dispersion, the breaking up of Namibians and the balkanization of their country into what it supposes will be rival "Tribal Bantustan Governments" or "Homeland Governments" for the benefit of the policies of "white supremacy" and European domination of Namibians.

It is, indeed superfluous to recall the historical precedents of "plebiscites" and "referendums"; diplomatic instruments such as the "Treaty of Versailles" have formally rejected the very presence of an army in a given area. That under such conditions there can be no free and incontestable popular expression under the rule of military occupation and terror. In reality, the South African racist regime and its invisible allies have proposed a procedure of "plebiscite" to the International Court of Justice as a smokescreen destined to permit the South African government to pursue its total colonization of Namibia with the expressed support of its "Bantustan" or "Homeland" lackeys.

It is an irony that the South African Government which in the past envoked the *sub judice* principle in contentious proceedings before the International Court of Justice, it has now decided to violate the same principle by advertising its fictitious "plebiscite". The South West Africa National United Front. (SWANUF) reserve its right to continue to oppose the South African racist colonial regime in our country until the people of Namibia achieve their total national independence.

KUAIMA RIRUAKO,
KAHEPURE MBAHA,
VEIUE MBAEVA,
MBURUMBA KERINA,
Representatives at the United Nations.

STATEMENT DELIVERED BY MR. NUJOMA, PRESIDENT OF SWAPO, BEFORE THE UNITED NATIONS SECURITY COUNCIL ON OCTOBER 5, 1971

Mr. President and Distinguished Members of the Security Council: There are privileges in life that should be accompanied by particular solemnity. The privilege that your august body has bestowed upon me as the first Freedom Fighter to be accorded this opportunity, indeed is one of such privileges. Aware of this stupendous task that rests upon my shoulders today, Mr. President, allow me to express my most sincere debt of gratitude to you and through you to the distinguished Members of the Security Council.

Mr. President, this session of the Security Council has been convened to discuss ways and means of enforcing previous decisions of the United Nations General Assembly as well as those of the Security Council in the light of the advisory opinion of the International Court of Justice rendered on 21st June, 1971. The International Court gave an unequivocal ruling when it stated: "The continued presence of South Africa in Namibia being illegal, South Africa is under the obligation to withdraw its administration from Namibia immediately and thus put an end to its occupation of the territory". Discussing this opinion, *The New York Times* stated that, "With this historic thirteen-to-two verdict, the Court has cleared away the legal and political fog that for years obscured the status of the former German colony." Thus, the Namibian people and the peace-loving people of the world have won the legal contest. Now it is up to the Security Council to live up to its responsibility.

The United Nations is confronted with the most determined and most serious onslaught on its principles since the organization was set up. Therefore, the Security Council, as an organ on which its members conferred primary responsibility for the maintenance of international peace and security, should and must not fail, to take authoritative and decisive action. This time, Mr. President, we are not asking for declaratory statements which have no effect on the illegal occupation forces. On the contrary, we are imploring your august body to take concrete and immediate action under Chapter VII. In that Chapter, Article 39 of the Charter enjoins upon the Security Council the duty to determine the existence of any threat to peace, breach of peace, or act of aggression, and that it shall take appropriate action. Who can doubt that these conditions are now prevalent. Who can doubt that a case has arisen for the Security Council to take action as provided in Articles 40 and 41? The only people who doubt this are the Western major powers. They do so, not because the situation in Namibia does not threaten international peace and security, but because they want their agents in South Africa, to continue providing them with cheap labour which results in enormous profits for their investors. How long will these people who profess to be the champions of equality, democracy, and free speech pursue their insatiated greed for material things and ignore the value of human life? How can the situation in Namibia be described as peaceful when South Africa is arming herself to the teeth with the most advanced weapons of destruction? How does one explain the fact that the South African army is today fighting in Angola, Mozambique and Zimbabwe? How does one explain the constant threat made against independent African states? For instance, Vorster threatened President Kaunda of Zambia in the following terms: "We will hit you so hard so that you will not forget". And lastly, what is to become of international law, if the countries represented here can ignore with impunity any interpretation of law that is not in their favour? Where are the advocates of "law and order"?

We welcome the stand taken by the government of the United States in accepting the advisory opinion of ICJ as stated by Secretary of State William Rogers in the General Assembly; we hope the United States will follow up this responsibility with appropriate measures to end South Africa's illegal occupation of Namibia.

Mr. President: The South African Foreign Minister gave "facts and figures" on the economic development of Namibia which, if one does not read between the lines, imply that South African presence in Namibia has rewarding economic and other benefits to both the black majority and the white minority alike.

Least the members of this Council and the world at large be bambuzzled, we would like to point out two very important factors which must be borne in mind with respect to the situation in Namibia.

First: We wish to make it perfectly clear to the world that the African majority do not manifestly benefit either financially or materially from the economic development of Namibia. If there is indeed any benefit at all, it is only marginal or latent and certainly not to the extent in which the whites benefit. Hence, all those impressive "facts and figures" so dramatically revealed by the Minister, have no bearing on economic conditions of the African population.

Secondly: Everything in Namibia—as well as in South Africa—is geared towards benefiting the white section of the population. Hence, any economic planning is carried out for the interest of the white minority at the expense of Africans. We want this fact to be appreciated for what it is.

Thirdly: The South African Foreign Minister again gave figures meant to prove to the world how much the South African Government is doing for the Africians: number of hospitals, number of schools, radio stations, tarred roads, nurses, clerks, bookkeepers and truck drivers, etc. These are meant to show how much Pretoria has done for us. Mr. President, we want it to be perfectly clear to the world that we want Independence. We want South Africa to relinquish her illegal occupation of Namibia. We will never be wooed by roads, hospitals, schools, etc. as long as South Africa remains on Namibian soil. Again, we want the world to appreciate this fact for what it is.

Mr. President: The South African Foreign Minister stated that this Government is making "determined efforts to bring the peoples of South West Africa toward self-government." Sir, this is a gross abuse of the noble concept of self-determination and a *euphemism* for apartheid or Bantustan or Homeland. Sir, I think it is appropriate for me to quote what our people at home had to say about Bantutsans. Bishop L. Auala and Pastor P. Gowaseb in both the open letter to Vorster himself and to their respective members made the following points:

"The Government, by the application of the Homeland's policy constitutes to the creation and continuation forever of the divisions between the races. It is stated that this policy is intended to lead the races to self-government and independence. But our small race groups cannot really be aided by separation. They will be isolated and denied the chance to take a proper part in the development of the country."

In another incident, a group of students at Ondangua stated that: ". . . Ovambos would rather suggest to Vorster and his company to create WHITESTANS for Germans, Afrikaners and English elsewhere, but not in Namibia."

Mr. President: There are factors militating against and, indeed, precluding the successful implemenation of Bantaustans. The economic realities of our time require large expanses of land and massive populations to provide the base for markets. Thus, a five-year development plan for Ovamboland, in isolation, is an illusion of hope. It is economically unfeasible, and therefore politically unrewarding. The social and economic expectations of the people of this region will most certainly over-ride the fantasies of apartheid.

The spokesman for the White people of South Africa further stated that, "Per capita income is amongst the highest in Africa." Economists have long admitted that this jumbling of figures in order to arrive at a so-called per capita income, is the most inaccurate way of measuring the real income of a person. It may only approximate reality in a country where there is an equal distribution of national wealth. It is completely inapplicable in the case of Namibia where there is such a disparity in incomes. Namibians are among the poorest Africans I have seen. I wish to inform Dr. Mueller that he does not know Africa, and therefore he should refrain from making unrealistic and highly misleading comparisons with other African states. When economists talk about poverty of a given people, they talk in terms of relative deprivation. Dr. Mueller should therefore compare Namibian African disposable income with that of the White Namibians or White South Africans. He will realize immediately that the African income is at the subsistence level.

STATEMENT. The Foreign Minister of the all-white Government of South Africa further stated, ". . . The system of education in South West Africa is directly in line with the modern approach to schooling in Africa—the emphasis being on the importance of African cultures in the education of the African youth . . ."

FACT. There is absolutely no truth whatsoever in this assertion. Indeed Mr. President, the philosophy of education which governs the education of Africans in Namibia is based on the notorious policy statement of the late Dr. Verwoerd (when he was Minister of Bantu Administration and Education) that the ". . . Black child's education must be geared towards preparing him for subservient position in society . . . not to give false hopes to want to aspire to the position of the white-man who must remain his master . . ." Nothing has happened in the past twenty years or more to prove that this policy has been scrapped. On the contrary, there is all the evidence to prove that education of the African in Namibia has deteriorated.

STATEMENT. The Minister stated *inter alia*, that ". . . the standard is the same as that of the Whites in South and South West Africa. . . ."

FACT. Mr. President, society in all its spheres—the sphere of education included—is organized on the basis of race discrimination in Namibia. This is the very basis of apartheid. It is therefore shocking to hear the Representative of the white section of the society contending—contrary to the very philosophy of apartheid—that whites and blacks receive the same education in Namibia. In fact, Mr. President, the assertion implies that whites and blacks receive the same educational opportunity(ies) in Namibia. What then is Bantu education? Dr. Mueller conveniently omitted to mention the system of Bantu education. It was conveniently avoided for very obvious reasons. The fact is that education for whites is free and compulsory whereas the same cannot be said of the education of the Africans.

In more than forty years of its maladministration of Namibia, the white government of South Africa dismally failed to prepare our people by providing them with meaningful education which would enable them to run a modern government when Namibia becomes independent. Bantu education can certainly not prepare us to handle the complexities of modern establishments.

This does not mean that we ourselves have been idle. I am pleased to state here, Mr. President, that SWAPO, of Namibia in its short existence has educated more Namibians than South Africa did in over the past fifty years. Through our initiatives I am proud and happy to announce that in the past ten years, we have educated 25 engineers, 4 medical doctors—including the first African woman doctor, 7 lawyers and more than 35 holders of university degrees in various fields. To some, these figures may appear modest and insignificant. To us, who have been denied so much for so long, it is a record of which we are justly proud and are determined to improve upon. Our sincere thanks must go to all those countries—both members and non-members of this organization—who generously gave scholarships for our people to undertake further studies. It is our hope that they will continue doing so in the future.

STATEMENT. Dr. Mueller further stated, ". . . it is our conviction that the peoples of South West Africa wish us to continue to administer the Territory until they have achieved full self-determination under our guidance. . . ."

FACT. The truth is that the people of Namibia have never accepted and will never accept the Administration of South Africa. In this respect we can do no better than cite some of the recent developments inside Namibia which categorically prove our people's outright rejection of the South African Government. Again, for obvious reasons, Dr. Mueller did not mention these developments.

As we stated earlier, the people of Namibia enthusiastically welcomed and approved the Advisory Opinion of the International Court of Justice on the 21st of June, 1971. Perhaps the most significant development following the Court's Advisory Opinion has been the position and stand taken by the African church leaders in Namibia. The church occupies an esteemed position among our people, and its leaders are no less esteemed than the political leaders of our country most of whom are either in jail, detention or in exile today.

Two very influential leaders of the Ovambokavango Luthern Church and Evangelical Lutheran Church, following the Court's Advisory Opinion, addressed an open letter to the Prime Minister of white South Africa on the 30th of June, 1971. This letter is a historic document of far reaching consequences in our struggle for freedom and independence in Namibia. Copies are being circulated in the United Nations and therefore I am not going to quote it in full. However, I will quote some of the relevant parts for the information of the Security Council.

"We believe that South Africa in its attempts to develop South West Africa has failed to take cognizance of Human Rights as declared by U.N.O. in the year 1948 with respect to non-white population." Furthermore, the letter goes on to state . . . "The Church Boards' urgent wish is that in terms of the World Court and in cooperation with U.N.O. of which South Africa is a member, your government will seek a peaceful solution to the problems of our land and will see to it that Human Rights be put into operation and that South West Africa may become a self-sufficient and independent state."

The letter was signed by Bishop Dr. Auala and Moderator Gowaseb of Evangelical Ovambokavango Church and the Evangelical Lutheran Church of South West Africa, respectively.

Mr. President, the impact this open letter had on the white population of Namibia was traumatic as it was hysterical. The same impact was felt in South Africa. The Prime Minister of white South Africa, John Vorster, flew to Windhoek and had a four-hour confrontation with a delegation of eight led by the two courageous spiritual leaders. They were threatened and intimidated but they firmly stood by the open letter they sent to the Prime Minister. They also reiterated their stand in rejecting the condemnation of the local whites who could not understand their government's failure to silence these spiritual leaders once and for all.

Again, Mr. President, let me cite another example of the countrywide protests against South Africa's illegal presence in Namibia. This time, I refer to the anti-government demonstrations by secondary as well as high school students in many parts of the country.

When the Foreign Minister of the all-white South African Government addressed the Security Council the other day, he mentioned the Ongwediva Training Institute in Ovamboland which he described as ". . . an impressive complex comprising three institutions in one—a high school, a teacher training center and a trade center . . ."

What the Minister failed to mention is that Ongwediva Training Institute, since its establishment, has been nothing but a perennial source of trouble for the South African occupation authorities. There have been so many anti-government demonstrations at this training institute. The biggest of these occurred after the Court's Advisory Opinion when the South African government was forced to close down the institution. Hundreds of students were expelled because of this political demonstration in favour of the Court's opinion. It was therefore perplexing to hear the South African Minister talk in such laudatory terms of this institute which is indeed the center of protest by the young generation of our country.

Not only is Ongwediva a symbol of new nationalism in Namibia but it is also here that many students were expelled because they refused to accept the Afrikaans language as a medium of instruction. This came as a profound shock to the South African authorities.

Similar demonstrations have taken place at the Augustineum High School in Windhoek where 70 students were expelled only last week. Mr. President, we have cited these important examples to demonstrate to the world that contrary to South Africa's claim that our people wish to remain under her administration, the people want an immediate end to South African rule. It is because our people want the immediate end to South African rule that the Court's opinion was accepted with such enthusiasm by our people.

We are aware of the claims by the South African Government that chaos and disorder will inevitably follow in the wake of its withdrawal. Mr. President, this contention is based on sheer imagination and has been repeatedly used to cast doubts on the integrity and ability of the Namibian people.

For centuries the people of Namibia of all ethnic groups have lived side by side in peace and harmony. Warfare and strife was unknown to them. It was only at the advent of German colonialism, with its usurpation of our land and property, that we began to taste the bitter fruit of discord and conflict. SWAPO, therefore, wishes to reiterate that we recognize the contribution that all people in Namibia must make, including those who came as settlers from Europe, for the general well-being and prosperity of our country. The white people have nothing to fear as long as they play a constructive role in the reconstruction of the country.

Another fallacy often proclaimed by South Africa is that the economic structure of Namibia will collapse once her Administration is replaced. Nothing could be further from the truth. For the interests of Namibians dictate that the economy must be strengthened and expanded in order to insure the well-being of its citizens. The only source from which disruption could come is from the South African Government to sabotage the economy of Namibia; there is no prospect that this will ever happen from any other quarter. Mr. President, I wish to declare in the name of the People of Namibia that unless this august body acts decisively to secure the withdrawal of South Africa from the international territory of Namibia, we shall have no alternative but to continue the armed struggle with greater intensity. We do not love bloodshed, but when we are dealing with a government like South Africa which believes in violence and bloodshed we must be prepared to meet it on its own terms. Our struggle may be long and protracted; our struggle may be bloody and costly in terms of human life; it is a price we are prepared to pay for our independence.

In conclusion, Mr. President, I shall be failing in my duty if I did not express our gratitude to the illustrious son of Africa, His Excellency, the President of the Islamic Republic of Mauritania, for his moving address he delivered on behalf of the Organization of African Unity. May I also avail myself of this opportunity to extend our sincere thanks to five Foreign Ministers who accompanied him and the entire O.A.U. membership through them.

To Whom Should U.S. Firms Operating in Namibia Pay Taxes?

(By the American Committee on Africa)

THE POSITION OF THE U.S. GOVERNMENT, THE UNITED NATIONS, AND THE WORLD COURT

On June 21, 1971, the International Court of Justice ruled, in an advisory opinion given at the request of the Security Council of the United Nations, that "the continued presence of South Africa in Namibia (South West Africa) being illegal, South Africa is under obligation to withdraw its administration from Namibia immediately and thus put an end to its occupation of the Territory."

The Court voted 13–2 with only the British and French judges dissenting. Judge Dillard of the United States voted with the majority and wrote a concurring opinion in which he specifically endorsed Security Council Resolution No. 276 which enjoins all member states to refrain from any acts or any dealings "implying recognition of the legality" of South Africa's presence in Namibia. The United States had earlier voted for Security Council Resolution No. 276 (January 30, 1970) as well as the predecessor Security Council Resolution No. 264 (March 20, 1969).

Thus, it would appear that the U.S. Government is officially committed to refrain from any act which would imply recognition of South Africa's authority over Namibia.

Can U.S. corporations legally pay taxes to South Africa?

Consequently, some have argued that U.S. corporations operating in Namibia who pay taxes to the South African Government (and thereby continue to recognize the authority of South Africa over Namibia) should be enjoined from the payment of such taxes in the future. Some contend that such payments, if allowed to continue by the U.S. Government, would violate Security Council Resolution No. 276, which the U.S. is committed to uphold. At a *minimum*, it is argued, the U.S. Government itself, in the collection of corporate income taxes, should not give a foreign tax credit for any payment made by a U.S. corporation to South Africa in respect to that corporation's operations in Namibia. Taxes paid to the United Nations would, of course, be eligible for a foreign tax credit since the U.N. is now recognized, under international law, as the legal authority in Namibia.

The U.S. tax code

The United States Internal Revenue Code provides in Section 901(b)(1) that a U.S. corporation will receive a foreign tax credit for any "income, war profits, and excess profits taxes paid . . . to any foreign country . . ." This should probably not be interpreted literally as allowing a tax credit for payments made to *"any"* foreign country but only to that foreign country legally recognized as the sovereign power in the location where the U.S. company operates.

Support for this more narrow interpretation can be found in Section 904(a)(1) which limits the amount of foreign tax credit as follows:

". . . the amount of the credit in respect of the tax paid or accrued to any foreign country . . . shall not exceed the same proportion of the tax against which such credit is taken which the taxpayer's taxable income from sources within *such* country or possession (but not in excess of the taxpayer's entire taxable income) bears to his entire taxable income for the same taxable year." (Emphasis supplied).

This paragraph would appear to link inextricably the legitimate foreign taxing authority with the territory where the U.S. corporation operates. Consequently, despite the broad language of Section 901 ("any country") it should be clear under the U.S. Internal Revenue Code that only taxes paid by a U.S. corporation to *the* recognized sovereign power ("such country"—in Section 904) in the place where the corporation operates abroad are legitimate expenses eligible for a foreign tax credit.

Questions of standing and legal procedures

How could this issue best be raised in the U.S. courts? Much more legal analysis would be necessary to give a definite answer. However, there appear to be at least three ways: (1) a shareholder of a U.S. corporation operating in Namibia should have standing to sue that corporation for tax payments made to South Africa on the ground that such payments are prohibited under international law and constitute a waste of corporate assets; (2) the U.S. Internal Revenue Service might be sued as a party defendant in a *mandamus* type action seeking to force it to disallow, for purposes of U.S. corporate tax return, any payment made to South Africa by a U.S. corporation in Namibia; (3) a declaratory judgment action could be brought seeking an interpretation of Section 901 of the U.S. Internal Revenue Code as it relates to the special situation of Namibia under international law.

In any one of these cases it is hard to see how the U.S. Government could defend allowing a tax credit for payments to South Africa since to do so would "imply recognition" of South Africa's illegal presence in Namibia. This, the United States has specifically pledged not to do when it voted for Security Council Resolutions 264 and 276.

Statement on U.S. Business Involvement in South Africa and Namibia

(By Barbara Rogers)

I have been doing some research into British trade and investment in South Africa and Namibia,[1] and the conclusions are to some extent relevant to the question of United States business involvement there.

The British case is distinct from that of any other country, because of South African dependence on British capital and the British market; any change in the terms of economic relations between the two countries would have a profound effect on South Africa. Over 30% of South Africa's exports go to Britain, while between three and four per cent of Britain's exports go to South Africa. Almost two-thirds of the foreign investment in South Africa is British-owned.

This dependence on the link with Britain is a major cause of concern among South African government economists at the moment, since with Britain's entry into the European Common Market, South Africa will lose the concessions which she has enjoyed for so long. In particular, Commonwealth Preference will be removed from South African exports to Britain; this will probably cut off at least 10 per cent of South Africa's total exports (excluding gold). British investment in South Africa is also given uniquely favoured terms, being exempt from exchange control regulations. This too is likely to be withdrawn with Britain's entry into Europe. Since the enlarged EEC accounts for over 50% of South Africa's exports, and the major part of its foreign investment, this trend is unfavourable to South African interest.

The prospect of South Africa having to struggle against shrinking export markets and perhaps dwindling foreign investment is of interest to U.S. business involved in South Africa and Namibia. Much of recent investment has been made on the assumption that the South African economy as a whole is exceptionally wealthy, is growing very fast, offers the highest returns on investment together with absolute security, and is invulnerable to outside pressure. This image has been very carefully built up by the South African information effort, together with South African business lobbies in which U.S. concerns are expected to participate.

The real picture is quite different. I do not intend to go into detail now about the problems of the South African economy, although I could elaborate on this if it would be useful. Briefly, South Africa faces a large labour problem due to its *apartheid* labour policy. The shortage of skilled and semi-skilled labour is acute, owing to the Government imposition of migratory labour pattern and a refusal to expand significantly education and training facilities for blacks. The growth rate is declining from 6 to 7% per annum throughout the 1960's to about 4% in 1970, and perhaps 3% in 1971.[2] There is a very harsh credit squeeze, which among other things, restricts the opportunity for local borrowing by U.S. business concerns, making them dependent on a continuous inflow of capital from the U.S. to finance expansion. This is a case of direct support for South Africa's balance of payments at the expense of the U S. balance of payments. Foreign investment that needs continual subsidies from home is not an asset. Further investment is continually forced on U.S. manufacturing concerns dealing with the South African market, by means of pro-

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tectionist import policies and local-content regulations.

The Johannesburg Stock Exchange is in a very low condition, having fallen further recently than during the Sharpeville panic of 1960–1961. The trend in company profits is not very promising.[2] A rapidly increasing rate of inflation is threatening the basis of South African wealth, which is the gold-mining industry. Almost all the premiums obtained from the increased price of gold on the free market have been swallowed up by increased costs.

The expected decline of gold production during the 1970's by almost 50% of present production is one of the basic causes for concern about South Africa's external economic relations. It makes South Africa vulnerable to fluctuations in trade levels, and in particular to any decrease in the inflow of investment capital.

In 1970, South Africa's deficit on the balance of trade was R.1,008 million, compared with R.600.9 million in 1969: a deterioration of 67.8%. Gold sales brought in R.800 million in foreign exchange, while invisibles probably cost R.300 million. The deficit on current account was therefore about R.500 million.[3]

This deficit was enough to cut South Africa's gold and foreign exchange reserves in one year by well over half. The full effect of the deficit was cushioned only by the inflow of foreign capital, which in 1970 amounted to some R.350 million—over half the balance of payments loss.

Without this inflow, South Africa would have been faced with a serious economic crisis.

Projections point to an increasing deficit. The obstacles raised by E.E.C. enlargement will exacerbate the trend. It therefore seems that even with a constant level of foreign investment, the problem is likely to become increasingly serious. This in itself will presumably become evident even to U.S. investors; they would then modify their enthusiasm for South Africa only after the profitability of their South African interests had already fallen considerably. Since there is an embargo on the repatriation of capital, however, the realization will have been too late.

My basic point does not relate to existing U.S. involvement in South Africa. It is that by actively encouraging large amounts of *new* investment, the U.S. and other governments are subsidizing a regime which cannot stand on its own feet. Even without the foreign exchange constraints, domestic capital formation in South Africa can sustain a growth rate of only 2% per annum. This would not be sufficient to maintain the present regime in power, since it depends on a high and rapidly rising level of prosperity for the white electorate, and the avoidance of unemployment. To quote the Prime Minister himself, Mr. V. J. Vorster: "the greatest danger confronting South Africa is not so much the threat from outside her border, serious though that may be, but mass unemployment and disturbed race relations."

The real meaning of new U.S. investment in South Africa, therefore, is that it helps to maintain the illusion of a healthy economy, boosting the business confidence around the world; it helps to fill the balance of payments gap that would otherwise force South Africa to change its economic structure radically; and it supplies foreign exchange for the whole expensive *apartheid* apparatus, including the propaganda drive, the attempt to dominate neighbouring African countries economically, and the purchase of arms and equipment for use against the blacks in South Africa, and * * * for threatening black African countries. For example, there are the French Cactus missiles bought in violation of a United Nations arms embargo which the U.S. observes.

The economic system of South Africa can be compared to the former Southern United States economy, based on slavery. Basically, the profits can be high because the Blacks concerned have no economic or political rights—no right to withdraw their labour, among other things. They do not even have elementary social rights, such as the right to maintain a stable family life. The US is now subsidising this kind of economic system, which it has itself rejected during the Civil War.

The subsidies will perhaps dry up only when investors, and the Government which encourages and guarantees their investments, realize the economic problems which are arising out of the attempt to apply a system of slavery to a sophisticated modern economy. Research has shown[4] that the slave trade was abolished in Britain only when a study was published showing that the system represented a net drain on the British economy.

What I should like to suggest is that commercial officials in US embassies and consulates in South Africa be withdrawn, or should stop actively encouraging US investment there. The Import-Export Bank could stop giving assistance for companies dealing with South Africa. Official advice to any business enquiries should emphasise: the difficulties in recovering any capital invested; the increasing economic problems facing South Africa, both domestically and externally; and the commitment to an alien economic and political system involved in new investment. There are many other ways and means open to the Government if it wishes to influence or control private investment in a foreign country. In an extreme case, such as Cuba, a complete break in economic relations can be imposed. If it is official policy to discourage a US commitment anywhere, it can be enforced in spite of the complications. These are always exaggerated by those who basically want to see South Africa continue as at present, with the full support of all US agencies.

The reason for avoiding an increased commitment to South Africa is, I think, fairly obvious. In the first place, Britain is an example of the embarrassment that results from complete economic involvement in Southern Africa, and consequently political support against the force of world opinion, particularly from the Afro-Asian nations. For the United States, there is the additional risk that in the event of any outbreaks of violence in South Africa or Namibia, the armed forces could be drawn in, as in Vietnam. The prospect of US troops fighting with the Whites against the rights of the Black majority is not likely to promote peace in the ghettoes, or improve race relations in the country as a whole.

NAMIBIA

For South Africa, then, I emphasise the question of new US investment rather than what is already in South Africa, simply because the embargo on capital repatriation makes new investment the only practicable target. In the case of Namibia, however, the situation is quite different. The arguments that apply to the case are also different: they are legal, rather than economic or political.

The case of Namibia is basically very simple: South Africa is occupying it illegally, and the United Nations is trying to remove it.

To summarise the case up to now: the the League of Nations gave South Africa a Mandate to administer the territory of South-West Africa, replacing the German colonisers, after the First World War. After the Second World War, South Africa maintained that the Mandate had lapsed with the dissolution of the League, and that she could rule there without interference; the United Nations, however, insisted that the Mandate was still in force and obtained an opinion from the International Court of Justice in 1950 which supported this view.

After the failure of an attempt to obtain a binding decision from the Court in 1966, the General Assembly decided that the Mandate had been terminated and that the territory therefore came under the direct authority of the United Nations. The United States voted for this resolution, No. 2145 of 1966, which provided the basis for all subsequent resolutions on this issue. There has been a series of these, from both the General Assembly and Security Council. In 1970, after the deadline set for South Africa to leave Namibia had expired, the Security Council decided to refer the matter back to the International Court of Justice for an advisory opinion on the legal consequences for States of South Africa's continued presence in Namibia.

The Court's opinion was announced in June 1971. It advised the Security Council that States had the following obligations:

To recognise the "illegality of South Africa's presence in Namibia";

To recognise the "invalidity of its acts on behalf of or concerning Namibia";

"To refrain from any acts and in particular any dealings with the Government of South Africa implying recognition of the legality of, or lending support or assistance to, such presence and administration . . ."

US policy on the question of Namibia is quite clear. It accepts the advisory opinion of the International Court of Justice, and is committed to finding a practical solution to the problem of South Africa's illegal occupation of Namibia. This was stated to the General Assembly in the speech by Secretary of State Rogers at the beginning of the current session, on 4 October 1971:

"In Africa, where the right to a freer existence is still denied to many, we are constant in our support of practical and peaceful means to achieve self-determination and end racial discrimination . . . Consistent with that objective we have decided to accept the advisory opinion of the International Court of Justice on the legal consequences for states of South Africa's continuing occupation of Namibia."

The US announced last year that it would discourage investment by its citizens in Namibia and deny credit guarantees and other assistance for trade with that territory. In his explanation of the affirmative US vote on Security Council Resolution 283 of 1970, the US representative stated that his delegation was gratified to note that the economic measures which States were called upon to take in operative paragraphs 4 through 7 of the resolution were consistent with and in fact, he believed, reflected the policy already enunciated and being implemented by his Government. The relevant paragraphs are worth recalling. They are as follows:

"The Security Council . . .

"4. *Calls upon* all States to ensure that companies and other commercial and industrial enterprises owned by, or under direct control of the State, cease all dealings with respect to commercial or industrial enterprises or concessions in Namibia;

"5. *Calls upon* all States to withhold from their nationals or companies of their nationality not under direct government control, government loans, credit guarantees and other forms of financial support that would be used to facilitate trade or commerce with Namibia;

"6. *Calls upon* all States to ensure that companies and other commercial enterprises owned by the State or under direct control of the State cease all further investment activities including concessions in Namibia;

"7. *Calls upon* all States to discourage their nationals or companies of their nationality not under direct governmental control from investing or obtaining concessions in Nami-

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bia, and to this end withhold protection of such investment against claims of a future lawful government of Namibia."

The measures outlined in these paragraphs of Resolution 283, which the US supported so enthusiastically, are very far-reaching. I find the official policy statements very encouraging in this respect. I would simply ask when it is to be implemented, and who is to be responsible for this implementation. In my experience of Government, foreign policy tends to be kept in a separate compartment, and not communicated to those who need to relate it to taxation questions, Government contracts, and instructions to Government-owned corporations. I wonder if this Committee is satisfied that there is sufficient co-ordination of Government policy on the issue of Namibia. I do not know of any of the US commitments being honoured as yet, apart from the ban on involvement by the Import-Export Bank. I should be happy to be proved wrong.

Among the Government agencies which should be involved in the application of policy are the Internal Revenue Service (IRS), the Securities Exchange Commission (SEC) and the Federal Trade Commission (FTC). As regards taxation questions, the committee which is being set up to co-ordinate non-Governmental interests in Namibia has consulted private tax counsel. We have been given to understand that US persons (individuals or companies) who earn income in Namibia and pay tax on that income to South Africa are not entitled to credit these taxes against US income tax under the laws as they now stand. This is because taxes paid to South Africa under such circumstances are not taxes as defined by US law. The question which will therefore arise is: why has the IRS not done anything about this? A related factor is the US double-taxation treaty with South Africa, which purports to cover Namibia. This was concluded—apparently illegally—after Resolution 2145 of 1966, when the US was already committed to the view that South Africa's Mandate was terminated. This is an example of the lack of co-ordination on foreign policy which I have already referred to.

The number of US companies in Namibia is small, and there are only two with any major stake. Their original investment has been recovered many times over. They are American Metal Climax and the Newmont Mining Corporation, which between them control the biggest mining concern in Namibia, the Tsumeb Corporation. Navarro Exploration Co. is also operating a mine there. Apart from these, there are some companies which are prospecting in Namibia. They are:

United States Steel Corporation (participating in the African Triangle Mining, Prospecting and Development Co. (Pty) Ltd.)

Gulf Oil Co.

Standard Oil Co., through its subsidiary, Chevron Oil, and also in consortium with: Texaco.

H. M. Mining and Exploration Co., prospecting for petroleum in consortium with: Syracuse Oils, and Woodford Oil and Gas Co.; Nord Mining Co.; Bethlehem Steel Corporation (which is also a shareholder in Newmont Mining Corporation).

Only 3 out of the 13 companies involved are actually operating concessions and deriving profits from Namibia.

The SEC is relevant here. It should be aware of the doubts about legal title which would arise with any new issue by the companies mentioned, or any other, purporting to relate to concessions in Namibia. It would be reasonable for the SEC to notify the companies which are prospecting there of the difficulty of floating any new issue, in the event of their wishing to exploit a discovery of oil or minerals. Public regulatory agencies would require the balance sheets of all the companies concerned, as well as the reports of accountants and auditors, to reflect the invalidity of their title in Namibia.

Two questions arise in connection with the Federal Trade Commission. The first is the question of rules of the General Agreement on Tariffs and Trade (GATT). Since South Africa cannot claim the benefits of GATT membership for Namibian exports, arising out of South Africa's own "Most Favored Nation" status, Namibian products would have to be treated separately from South African ones. Those which could be from either place would be deemed to be of doubtful origin. There are established procedures for cases of this kind of GATT. Here, the onus of proof would be on South Africa to produce evidence of South African origin, in order to obtain MFN rates of import duty. The same conditions apply to South Africa's claim to represent Namibia on any international organisation or agreement. All US delegations to the UN specialised agencies should at least be briefed on US policy as regards Namibia.

The second question relating to the FTC is that of the ownership of goods imported from Namibia. Payment for mineral licenses, for example, may well have to be considered as void if the fee was paid to South Africa and not the United Nations, the legal authority. The goods would then perhaps have the status of stolen or smuggled goods, and liable to confiscation. Any commercial transaction is then called into question: insurance, bills of lading, storage, customs clearance, etc.

Conversely, the US authorities should be prepared to accept the validity of licenses, concessions, grants and other contracts obtained from the authorised UN organ dealing with Namibia. This is at present the Council for Namibia together with the UN Commissioner for Namibia when he is appointed. The US should, to be consistent, support the strengthening of the Council of Namibia, and should be prepared to serve on the Council in order to further its prestige. The Council's right to levy taxes and conclude licensing and other agreements for Namibia would of course be supported. Objections from the US Mission to the UN seem to rest largely on a pessimistic view of the present effectiveness of the Council for Namibia. This does not provide a convincing excuse for a failure to improve its effectiveness for the future.

Speculation about the effect on South Africa of this kind of action is very difficult. However, there is no doubt that the South African authorities are worried even by the purely diplomatic pressure which has been exerted so far. The Government spokesman on the territory, Mr. du Plessis, said recently that the current political uncertainty and even threats of international intervention were not beneficial to the economic development of South-West Africa. This would eventually mean that the territory would be less self-sufficient than it could have been, and a heavier burden would consequently be placed on South Africa.

Increasing the pressure on South Africa for its occupation of Namibia would in itself be in the interests of the US, whether or not it is successful. With the China issue settled, Namibia has become the primary issue of the current General Assembly session. The US has been said to be in need of an issue where it can restore its international reputation for the defence of freedom, democracy and the rule of law. Namibia, and Southern Africa as a whole, could prove to be the right issue. Simply by carrying out its policy commitments, the US could contribute substantially to a peaceful settlement of this explosive African issue, and to the standing of the United Nations.

If it wanted to, the US could use its economic links with South Africa to enforce a withdrawal from Namibia. As we have seen, South Africa is dependent on an influx of new foreign capital. Any threat of reducing the flow, possibly with reference to Article 2(5) of the UN Charter, could be enough in itself to make South Africa recognise its international responsibilities, as well as its obligations to its own African people.

FOOTNOTES

[1] *South Africa's Stake in Britain.* The African Bureau, London, 1971. 24 p.

[2] Lee *Financial Gazette,* 8 October 1971.

[3] *South African Financial Gazette,* 22 January 1971.

[4] Eric Williams, *Capitalism and Slavery,* Andé Deutsch, London, 1968.

[From the Washington Post, Jan. 11, 1972]

Namibia Strike Goal Is Achieved

Pretoria, South Africa.—South Africa announced today it would abolish the contract labor system in Namibia (Southwest Africa), after a month of crippling strikes by almost 13,000 laborers from the Ovambo tribe.

The Ovambo laborers were protesting against the contract system which binds them to one employer, restricts them to certain areas and isolates them from their families for long periods.

A government spokesman said the system in the South African-administered territory would be replaced by agreements between African tribal authorities and the South African government.

Strike action by the Ovambo laborers began a month ago in the main port of Walvis Bay and quickly spread to the capital of Windhoek and several mining centers, crippling the territory's economy.

Mining—the main industry—was brought to a virtual standstill and the railways, port facilities and the building industry were badly affected.

ACOA Fact Sheets—Strike in Namibia

(By the American Committee on Africa)

Since the middle of December, striking Namibian (South West African) contract workers, now numbering more than 12,000, have brought the crucial mining industry there to a near standstill. One of the focal points of the strike is the Tsumeb mining operations, jointly controlled by two U.S. companies, American Metal Climax and Newmont Mining. The strike has also spread to service trades, construction, and other occupations.

A Washington Post article (1/4/72) by Stanley Uys writing from Capetown reports that the continuing strike poses a major challenge to the South African regime in Namibia, which was declared illegal in an International Court opinion last June.

Namibia is a mineral-rich country (more than 50% of the economy is based on mining). But the mining companies there, including American Metal Climax and Newmont, are stripping the country of its natural wealth, using the captive African population to do it, under the brutal contract labor system enforced by the South Africans.

Namibians have no political rights in their own country; all movement and work is controlled by the South African occupiers. The Ovambo contract workers are confined by South Africa to a "native reserve" on the northern border, and allowed out only as contract labor. They have no choice of jobs or say in determing wages, working and living conditions, and are confined in segregated barrack-like compounds when on contract. To strike or otherwise break contract is a crime.

There is a long history of Namibian resistance to South African domination, and SWAPO (the South West African Peoples Organization) has organized guerrilla operations against the South African forces in Namibia. Last September, Chief Clement Kapuuo of the Hereros in Namibia started legal action in London, based on the International Court's opinion, to prevent further exploitation of Namibia's mineral resources by international corporations without the consent of the people of Namibia.

Now the widespread defiance of the slave labor system by contract workers throughout the country in the face of overwhelming South African force is an extraordinary act which shows how completely the Namibians reject the life South Africa has forced upon them. The strike has been so effective (South Africa has been unable to find strikebreakers) that South African authorities fear the strike may spread to the oppressed workers in South Africa.

HOW THE STRIKE SPREAD

The press in Windhoek, the capital, reported on December 10 that Walvis Bay workers planned to strike on December 14 and had written to ask others to join them. Windhoek proved to be the center of action when 5,200 workers struck on December 13. They included refuse collectors, porters, hotel and airport workers and miscellaneous workers. The Walvis Bay action started with 475 strikers, but additional workers were reported out after payday. As the strike spread to the mines, the U.S.-owned Tsumeb mine, largest copper producer in the territory, was struck by nearly 4,000 workers. A white skeleton staff has kept the copper smelter open on a nominal basis but the lead smelter closed. Tsumeb's Kombat mine with 800 workers, also closed completely. At Berg Aukas, 900 workers closed the lead and vanadium mine; at Klein Aub copper mine, 458 of 640 struck; at Swakopmund, 72. Later in the month, workers closed the new Rosh Pinah tin mine.

The latest news is that the strike has now spread to one of the largest diamond mines in the world, the DeBeer's controlled Consolidated Diamond Mine at Oranjemund, a symbol of the mineral wealth that enriches white South Africa, where 250 workers have walked out.

Smaller strikes were reported in the press only in some special feature warranted, and the full count may never be known. For instance, a construction gang working on a post office refused to move to its next scheduled job at a tin mine. A cook on a farm near Grootfontein heard about the strike on the radio and told the eight other farm workers. All struck and the farmer took them before a magistrate. It is reported that two were returned to Ovamboland as "agitators," and the others were beaten, but six still refused to return to work.

Strikers everywhere protested against the contract-labor system. The protest in some places was directed also against living conditions and low wages. At Berg Aukas the demand for a $2.80 a day wage was reported. At a meeting in Walvis Bay, strikers told the South African-appointed chief Native Affairs Commissioner that they were protesting the statement of the Commissioner General of the Northern Native Territories that workers freely accepted the contract-labor system because they signed up freely.

Wide popular support is being given to the strikers. Live-in domestic servants in Windhoek were found to be hiding strike "agitators" and house owners were warned by the City Council that they were liable and should check their homes. SWAPO reported from London the dismissal of African police in Windhoek and Walvis Bay for collaboration with the strikers. They also reported that the Ukwanvama tribe in Ocamboland was reported to be stopping Ovambo workers from Angola at the border. The normal influx of 500–600 workers twice a week from Ovamboland to the south was stopped altogether by an official ban as well as the strike. Efforts of both tribal and governmental authorities to get African strikebreakers met with almost complete failure. The one verified case was of 90 Kavango workers who replaced 72 school children who had been paid $2.80 a day to scab as refuse collectors in Windhoek. The use of convict labor has been reported.

When the strike erupted in Windhoek, the authorities sent to South Africa for police reinforcements, sealed off the workers' compound and surrounded it with police. Thus the press report that the strikers returned to Ovamboland (in special trains, taking a thousand a day) voluntarily does not convey the police pressure applied. SWAPO reported that the workers were being taken north and placed in restricted areas for security screening. Of forty Ovambo strikers arrested in Windhoek early in the strike, most were sentenced to two months but actually sent back to Ovamboland; their offenses were failure to possess or to produce proper identification and/or permits, or failure to return to Ovamboland with the others. On December 29, 12 Ovambo and one Coloured were charged in Windhoek with violence, threats, and intimidation in encouraging others to strike and they have been denied bail.

Although meetings were held between South African government officials, Ovambo headmen, and strikers in Walvis Bay and Windhoek, these were only to present strikers with the ultimatum of return to work or return north to Ovamboland. Strikers were told of a meeting to be held in February between Ovambo headmen and SWANLA (the South-West African Labor Association), the employers' group, with the Commissioner General of Northern Native Territories as chairman. Newmont Mining, which manages the Tsumeb mine, stated that it would enter negotiations with South Africa, SWANLA, and Ovambo chiefs. (Chiefs or headmen hold office at the pleasure of the South African occupiers and are paid by government.)

On December 29, M. C. Botha, South Africa's Minister of Bantu (African) Administration and Development, met with South West African Administrators, mining Executives, and industrialists. He then announced that the South African occupiers would work to revise the contract-labor system in Namibia. This may implement a change already under discussion to replace SWANLA by a group of chiefs. Since there would undoubtedly be a parallel group of employers to deal with such a new structure, the change would be more apparent than real. In no case is there even a suggestion to negotiate with workers themselves or representatives responsible to them.

THE CONTRACT-LABOR SYSTEM

The movement of Africans within Namibia is tightly controlled by the South African occupation forces. Two-thirds of the country, including cities, ports, mines, transportation and communication facilities, is now a "white area" although there are African enclaves within it. If South African occupation continues, the Africans will be forced into twelve so-called "homelands" including about half the less desirable land. Ovamboland is the first of these to be established. Africans on these reserves may neither leave nor enter without a permit from South African forces and they may not travel outside without a pass issued by an employer or a magistrate.

There are 350,000 Ovambo, 45 per cent of the Namibian population (which is 85% African). Ovamboland is an undeveloped area with a subsistence agricultural economy and few jobs, and the Ovambo must pay taxes in money. Thus many Ovambo are forced to find jobs outside, and work may be secured only through the South West African Native Labour Association on which the major employers are represented. SWANLA medically checks, X-rays, and grades the worker (A-mines, B-farms, C-livestock breeding). Employers order workers from SWANLA in the same way—so many A, B, and/or C workers—and pay a $35 recruiting fee. A bracelet ("okangolo," mark of engagement) is attached to the worker's wrist and he is sent to Grootfontein by bus, then by train to his destination. At Grootfontein he receives a pair of shorts, a shirt, a blanket, and bread. The contract is usually for a year, with a possible six-month extension, and the worker's family may not accompany him. Workers on contract may not leave the employment area, change jobs, or cancel the contract, and must return home when it ends, to leave again only on a similar contract. Namibian workers are chattel in the South African controlled contract labor system. SWANLA sets a minimum wage. For a fit class A general laborer this is $11.55 a month. Housing is provided, usually barrack-like compounds, and "good wholesome food, containing either meat or fat and not less than 12 lb. of meal per week." Wages are sometimes withheld until the end of the contract, most often by farmers.

TSUMEB CORPORATION

United States involvement in Namibia is most clear in the case of the Tsumeb Corporation, although other U.S. firms also operate under the contract-labor system. The Tsumeb mine was opened in 1908 by German capital. In 1946 a predecessor of American Metal Climax acquired it from the Custodian of Enemy Property. Now AMAX and Newmont Mining Corporation each hold 29 per cent interest with Newmont as manager. It is estimated that at the current speed-up rate of extraction, the Tsumeb mine will be exhausted within 25 years and will have taken a billion dollars worth of metal from Namibia. Tsumeb has two other mines in Namibia (Kombat and Matchless) and is involved in other activities with at least four other U.S. and South African corporations. American Metal Climax and Newmont made profits of more than $15 million from Tsumeb in 1970; average pay for the Africans is said by management to be about $30 a month, while average pay for European miners is about $280. At least two strikes by African workers occurred at Tsumeb during the sixties. Tsumeb General Manager R. J. Ratledge has admitted that Ovambo do not work there by choice. "When Ovamboland has a good rainy season, Tsumeb has more difficulty recruiting employees. If it's a good year and they don't have to work, they stay at home."

SOUTH AFRICA, NAMIBIA, AND THE UNITED NATIONS

The United Nations revoked South Africa's mandate (allocated by the League of Nations after World War I) over South West Africa in 1966 because of maladministration. On June 21, 1971, the International Court of Justice stated that the continued presence of South Africa in South West Africa is illegal. It held that member states of the United Nations are obliged to recognize the illegality of the South African presence; recognize the invalidity of its acts on behalf of or concerning Namibia; and refrain from acts and dealings implying recognition or lending support or assistance to South Africa's presence and administration. The U.S. government has accepted the Court's opinion.

Consequently, grants and concessions derived from the South African government including the territorial administration, are invalid; this covers most U.S. mining and all exploration ventures. Products obtained in or removed from Namibia under invalid claims are held or transferred illegally. South African apartheid, racist, and anti-labor legislation is likewise invalid and, incidentally, a direct contradiction of the original mandate terms. Taxes ought not to be paid to the illegal South African government or the territorial administration it supports; but in 1969 Tsumeb paid $9.58 million.

PORTUGUESE TERRITORIES

[From the American Committee on Africa]

THE STATUS OF THE LIBERATION STRUGGLE IN AFRICA

The purpose of our struggle is not only to destroy. It is first and foremost aimed at building a new Mozambique, where there will be no hunger and where all men will be free and equal—FRELIMO Central Committee, September 25, 1967.

An uneasy two-thousand-mile boundary wavers across Africa, separating independent states to the north from the captive nations under South Africa's hegemony. South West Africa, Namibia to be, has been incorporated as a fifth province, despite U.N. objections. Rhodesia, the future Zimbabwe, survives despite sanctions largely thanks to South African trade, finance, and support including troops. Botswana, Lesotho, and Swaziland oppose the apartheid philosophy but are economically dependent on surrounding South Africa. Angola and Mozambique, Portuguese colonies in revolt, are bound to South Africa by trade, by growing investments, by joint irrigation and power projects, and by military support.

In southern Africa, years that saw other African states gain independence brought only increased repression, and growing cooperation between the oppressors, South Africa and Portugal. In Angola, Guinea-Bissau, and Mozambique, the wars for independence erupted in the early sixties; liberation forces now pin down an estimated 150,000 Portuguese troops and control from one-fifth to two-thirds of each territory. The Sharpeville massacre and following repression drove the major South African opposition parties underground and into exile. South Africans are now united with Zimbabwe freedom fighters in the struggle against Rhodesia, while the Namibians of South West Africa, discouraged by the ineffectiveness of international action, are organizing to take back their country.

GUINEA-BISSAU AND CAPE VERDE ISLANDS

"It is now we who surround the Portuguese."—Amilcar Cabral, July, 1970.

Since 1963 the PAIGC has been at war with Portugal, seeking independence. Its forces are 7–10,000 troops; the Portuguese 30–35,000 PAIGC controls two-thirds of the country; Portugal claims 85 percent. Evidence strongly supports PAIGC. The Portuguese report that with their population resettlement (in controlled, strategic hamlets) policy, 44 per cent of the country is uninhabited. In effect, this concedes nearly half of Guinea to PAIGC. The Portuguese describe their two "great zones of peace," one around Bissau, the capital, the other the Manjaco area only thirty miles north and west. Manjaco is the prime development area, as well as "most successfully pacified," so the cost of building a road there from Bissau is a useful check. It took four months to pave 25 miles at a cost in lives (from guerrilla action) of ten soldiers and 70 civilian workers; and the road is travelled only in armed convoys.

The extent of PAIGC control is shown by changes in Portuguese tactics: They have withdrawn to the towns, relinquishing the countryside. They have changed from motorized troops (armored cars) and infantry to air strikes and quick raids (napalm bomb attacks, burning crops and villages). They have abandoned the strategy of military victory for the policy of "winning over the people" and for the first time schools and social services are being introduced.

PAIGC has organized the liberated countryside and has built a national army as well as local militia. Three mobile hospitals survive bombings, while a major medical center is located just inside neighboring Guinea-Conakry. About 15,000 children are in a school system which continues to grow and 300 are outside the country for special training. Local governments function; there is cooperative marketing and some export of crops.

ANGOLA

"The enemy penetrates all sectors of life in Angola, openly and in every possible way."—*Luanda newspaper, O Comercio, July, 1970.*

MPLA, most successful Angolan resistance, reported 11,000 troops in 1970 and control of one third of the country. It has broken through the attempt of the Portuguese to contain it in the east, and has organized the struggle in five combat zones. The third zone, Moxico and Cuando-Cubango provinces bordering Zambia, is most fully controlled. The second region is the Cabinda enclave, home of Gulf Oil; an early center of revolt, it suffered a severe Portuguese counter-offensive and military administration, but from 1970 on resistance has been growing again. The first region includes the capital, and north to the Congo-Kinshasa border. Liaison was established in 1970 with urban guerrillas, especially in Luanda where 100 were arrested in 1970 and deported or imprisoned. The fourth zone, Lunda and Malanje, includes outlet routes from the rich cotton and diamond districts and is well defended by troops including, according to MPLA, South African commandos. The fifth zone, Bie and Huambo, is accessible from Moxico and much more heavily populated. In the first five months of 1970, the Portuguese reported guerrilla activities in 35 different localities in the eastern region. MPLA reported that in the first nine months of 1970 it had killed 1,083 Portuguese troops, attacked 33 garrisons, wrecked 77 vehicles and 25 bridges, and sunk seven boats.

MPLA has a well-organized educational system and is producing texts and training teachers for Angola. Its depth is illustrated by an administrative and training center in Congo-B which lists among its needs (for potential contributors) equipment for physics, chemistry, zoology, botany, and mineralogy laboratories. SAM, the medical assistance service, undertakes preventive medical programs such as smallpox inoculation as well as servicing the armed forces and civilians; nurses and medical aids are being trained. Seeds and agricultural tools are urgently needed.

A second movement is GRAE, the united front originally recognized as the Angolan Government in Exile. It continues to be important because it traditionally represents large numbers of Angolans and because it has the support of the Congo-Kinshasa government with its long Angolan border. Its strength is in the north and northeast and it has instituted schools and other services. GRAE claimed 13,000 men fighting in Angola in September, 1970 but estimates run as low as 4,000. They are well armed and trained and have a potential base of some 400,000 refugees in the Congo to draw on. Portuguese sources have reported GRAE activity in 1970 north of Luso in Moxico district and near Quibaxe in the Dembos region where the Portuguese have been making a major effort to clear the coffee route.

UNITA, third Angolan movement, has fought since 1966 with captured weapons only. It claims two military bases and instruction centers inside Angola and two companies armed with NATO weapons. But its inadequate arming is shown by the death of a Central Committee member last year in an assault of 17 archers against a Portuguese platoon. Angolan newspapers verify UNITA action around the eastern Benguela railroad and an area to the south, while it claims to contest control in Moxico, Cuando-Cubango, Malanje, Bie, and Huila districts. About 300 students are in a literacy program for children and adults, and a clinic treated more than 20,000 patients last year. Agricultural cooperatives are encouraged.

As in Guinea and Mozambique, the Portuguese have recently increased attention to primary schooling and introduced social services and the infrastructure of development in some areas. The same policy of collecting people into strategic hamlets, reinforced by wide devastation of the land, is followed. But in Angola both MPLA and UNITA have reported deliberate destruction of crops by herbicides as well as napalm attacks on villages. South African helicopters are reported operating side by side with Portuguese, and South African bases and military personnel are mentioned at Luso, Gao Coutinho, and Mavinga as well as the Caprivi Strip. This policy is an attempt to ruin the economic foundation of the guerrilla struggle by inducing starvation in vast numbers of people in liberated zones. Failure to halt the liberation offensive is indicated by New Portuguese censorship. Since August, 1970, Portuguese military bulletins are issued monthly, not weekly, and no longer mention place names, type of guerrilla activities, or Portuguese military operations.

MOZAMBIQUE

Who can carry off the multitude and lock it in a cage?—*Poem on a 1947 strike, Noemia de Sousa, Mozambican Nationalist.*

FRELIMO territory includes a million people in three northern provinces, Cabo Delgado, Niassa, and Tete where South African troops help the Portuguese guard the site of Cabora Bassa dam. Recently, FRELIMO forces have crossed the Zambesi and the Messalo, opening operations in two other provinces, and an underground is growing in the cities. In summer, 1970, 1,400 Mozambicans in Lourenco Marques and Gaza districts were arrested as FRELIMO members.

Thus FRELIMO continues to advance while the Portuguese commander in Mozambique, Kaulza de Arriaga, continues to claim victory. In July, 1970, following a major offensive called Gordian Knot (35,000 troops and 15,000 tons of equipment), he announced destruction of the last sanctuaries of FRELIMO. Two months later, operation Novo Rumo had to be launched. In April, 1971, operations Garrottee and Apolo were needed to rout FRELIMO sorties into Cabo Delgado and Tete. (As in Guinea and Angola, the Portuguese are also stressing education and social services in an effort to counter the success of the nationalists.) The scale of the Portuguese campaigns and their control of the air did mean heavy losses in equipment, and hunger because of crops destroyed. But FRELIMO multiplied operations to counter them. While some 10,000 FRELIMO troops battle an estimated 80,000 Portuguese, the structure of free Mozambique is growing; around 20,000 children in school, 400 medical personnel trained to service the liberated areas, crops marketed for sale and exchange abroad; and institutions from printing presses to aid for the handicapped are developing.

FOURTH FRONT

The Portuguese dictatorship is facing mounting opposition at home as well as in Africa. Around 100,000 people leave illegally for Europe annually, many to escape the draft, and thousands of draft resisters are in prison. Army deserters appear both in Europe and in Africa. Lisbon trials of liberation movement people arouse indignation. Since October, an underground Armed Revolutionary Action Group has destroyed a dozen planes and copters at an Air Force base, bombed a police training college, exploded a grenade in the engine room to stop the troop transport Cunene and bombed the U.S. embassy library and several minor sites.

ZIMBABWE (RHODESIA)

"Under heavy concentrated fire from well-defined terrorist positions".—Citation in Rhodesia's first Honors List, November, 1970.

Continuance of the little publicized Zimbabwe resistance was illustrated by the first Honors List announced in Rhodesia; most of the awards to 62 members of the security forces were for "bravery in battle with terrorists," and five were posthumous. Although the liberation forces are concentrating on building an adequate network of support, communication, and supplies within the country, guerrilla action continues. Actions reported early in 1970 included an attack on a patrol launch on the Zambesi; a raid on Victoria Falls airport which destroyed a plane and several copters, killing five Rhodesians; and an assault on a military base in the Wankie area in which eight South Africans were killed (South Africa has 3–4,000 troops supporting the Smith regime). Incidents which may be sabotage are frequently reported in the press: members of the Army or Security forces shot, damaging explosions, and the like. The struggle continues in various ways. Most open has been the resistance for years of the Tangwena tribe to forcible dispossession from ancestral lands, which has encouraged others to protest dispossession. A recent book by former Prime Minister Welensky states that a growing number of prosecutions and convictions is reported for aid to "terrorists" by the African people.

Zimbabwe has two liberation movements, the Zimbabwe African Peoples Union and the Zimbabwe African National Union. Early in 1971 the outlook was for unity, but further divisions have been reported.

NAMIBIA (SOUTH WEST AFRICA)

"We are Namibians and not South Africans"—One of 37 defendants on trial in Pretoria, February 1, 1968.

Three mass trials of Namibians under South Africa's Terrorism Act are known from 1967 to 1970; but since men have been detained incommunicado up to two years, there is no certain way of knowing the number held and their future. Defendants have included leaders of the South West African Peoples Organization, and it is clear that SWAPO organized the recruitment, sending abroad for training, and return of guerrilla forces that were particularly active in the Caprivi Strip (which South Africa fortified contrary to Mandate terms, with an airbase directed at independent Africa; it has 17,000 troops in the whole territory). Some were trained in the Ovambo area, northern Namibia.

Despite the loss of so many in prison or exile, guerrilla activity continues in Caprivi, the Okavango, Ovambo, and Kaoveld areas and in action against the Cunene dam project in Angola. During the year, 125 successful ambushes and 75 attacks on enemy camps were reported by SWAPO. South Africa has posted a reward of $1,400 for a SWAPO guerrilla leader.

SOUTH AFRICA

Who are the real terrorists? Those who have used the gun, the sjambok, the baton to terrorize our people into accepting a life of poverty and humiliation.—1970 underground leaflet distributed in Cape Town, Port Elizabeth, Johannesburg and East London.

Both the African National Congress and the Pan Africanist Congress, banned African political parties, exist underground in prison, and in exile. The quote above is from an A.N.C. leaflet calling on the people to support the freedom fighters and to join the struggle themselves. It was distributed by an explosive device from the top of a building. Simultaneously, tape recorders broadcast, chained in place until implements to sever the chain were brought while an excited crowd swelled despite police.

Recent activities appear in charges brought against Winnie Mandela and 21 other A.N.C. members after public protest against their continued detention without trial. (Other trials have convicted P.A.C. members.) The state charged that they visited all sections of the country and held meetings in homes, cars, fields, with groups limited to five or ten for security reasons; experienced members lectured on A.N.C. policies. It was alleged that discussions were held on preparing the way for the guerrilla struggle and that efforts were made to obtain or to make explosives and to select targets; that leaflets and pamphlets were prepared and distributed on local issues such as the Urban Bantu Councils; advantage was taken of funerals for A.N.C. demonstrations. Defiance of the police state was echoed in court by spectators who greeted the defendants with the A.N.C. salute.

Police action in recent months has also revealed continuing resistance in South Africa. In Port Elizabeth thousands of Coloureds gathered for a protest meeting against a rise in bus fares and an arrest led to a clash with the police; five demonstrators were shot and many arrested, while at least ten officers were injured by stone-throwing crowds. A police round-up of members of the Unity Movement resulted in the detention of 20 last February; this followed a period of increasing peasant unrest in which, according to Unity, 65 peasants were killed by police.

THE UNITED STATES AND THE LIBERATION STRUGGLE

Both Portugal and South Africa are trying to gull the world into the belief that their policies have changed: Portugal by announcing military success and defections in the "provinces" and greater autonomy for them; South Africa by promoting dialogue and promising economic advantages to other African countries. The United States, in the general swing to the right of the Nixon Administration, has embraced the opportunity to stress the value of continuing relations with the colonial and racist regimes.

Specifically in 1971, the U.S. has licensed the sale of 707s to Portugal for troop transport and of light planes and helicopters, easily convertible for military use, to South Africa. U.S. exports of herbicides to Portugal quadrupled between 1969 and 1970, the year Portugal began to use them in Angola. This is in addition to the support NATO gives Portugal in military training, intelligence, and equipment, without which it could not continue wars on three fronts. And it continues the support to South Africa which has enabled that country to reach self-sufficiency and become a nuclear power.

[From Muhammad Speaks, Apr. 2, 1971]

MPLA's 10th Year of Warfare

"We are fighting for the right to govern ourselves, the right to present ourselves to the world with our own social personality, the right to be respected as a people who during past centuries contributed to the progress of humanity."—*Dr. A. Neto of MPLA.*

(The People's Movement for the Liberation of Angola, MPLA, celebrated its tenth anniversary of armed struggle on February 4. Marking the occasion, Dr. Angostino Neto, president of MPLA, addressed an assembly of free Angolans, like Amilcar Cabral of Guinea-Bissau, Dr. Neto is gaining worldwide recognition as a leader of one of the most successful national liberation movements in the world.)

(By Dr. Angostino Neto)

Angola.—The Popular Movement for Liberation of Angola today celebrates the glorious date of the beginning of the armed struggle in our country, initiated by the heroic militants of the MPLA.

This 10th anniversary assumes a great importance, as it implicates for our patriotic and revolutionary forces, the affirmation of the possibility to continue the struggle for national independence until victory over Portuguese colonialism.

With tenacity and intelligence, the guerrila war developed on several fronts; the revolutionary attitude of our people was accentuated and elucidated. The expansion and depth of our struggle is not measured only by the extension of the military fronts and controlled areas. But also and principally by the character of the struggle, the deeply-rooted revolutionary ideals in the spirit of our militants.

Today we can be certain that our people are regarding the MPLA as the irreplaceable vanguard of our struggle. The Portuguese colonialists, desperate because of the existence of the struggle in three of their colonies—in Angola, in Guinea and in Mozambique—are trying to save their position, repressing in a barbaric manner the people of the respective African countries by realizing a shameful and intense campaign, a mental intoxication, using all means in their power to try to cheat our people.

Apart from the growing amount of technical means for their war machine, apart from the increasing rise of budget, the Portuguese colonialists also try to allure, to buy and to corrupt the population, employing a so-called psycho-social campaign.

However, there is no doubt that our enemy, the Portuguese colonialists, was obliged to make concessions of political character to the Angolan people. These concessions are demagogical. They can never attain the principal objects of our struggle. They are merely a sign in the day-break emerging through the colonialist night.

The augmentation of social conditions for some Angolans, the growing number of schools and hospitals, the benefits that lately have been appearing for the Angolans, including social facilities are victories which our people obtained through the armed struggle.

The recent proposition made by the prime minister of the Portuguese government, Mr. Marcelo Caetano, is yet another victory for our people, and shows clearly how the colonialists are feeling the weight of the war.

These victories, however, are not sufficient to integrally satisfy our peoples right to independence. The Angolan people do not accept charity from the colonialist oppressor.

We are not fighting to obtain the benevolence and favors of the Portuguese government which exploits our country, oppresses our people and which is hated by all patriots. We are fighting for a right—the right to be free, the right to govern ourselves, the right to present ourselves to the world with our own political and social personality. The right to be respected as a people who during past centuries contributed to the progress of humanity.

The proposition of autonomy for the colonies and consequently the autonomy for Angola, contain the usual equivocations, the usual demagogies of the Portuguese government.

Side by side with the Portuguese colonialists, their allied, imperialists and racialists of all colors assemble to allow each one of them to try out his political tactics inside our country in order to preserve the interest constructed upon the shoulders of our people. Thus it is that these imperialists are at all costs trying to create splits within the Angolan people, in order to present us to the world divided, and consequently inefficient.

The puppets are appearing here and there, some of them short-lived. Others with major persistence and all of them supported by the formidable propaganda machinery that the imperialists dispose of and * * *

However, the mercenary character of these groups, make them fall into close tribalism and infected preconceptions of all kinds, and therefore do not even permit the confidence of the Angolans themselves, whom they pretend to defend.

The MPLA is confident of the power of its political orientation, and of the correctness of its final objects. Victory is certain.

Certain of the experience acquired during these ten years of struggle and of the enlargement of its combat fronts, our movement has also enlarged its bases of political and material support in the world.

The enemy cannot forget the MPLA, it is in fact the Portuguese colonialists who dedicate major attention. It's sufficient to listen to their programs of propaganda in the radio. It's enough to hear the recommendation they are making to the population still imprisoned in areas under their control. Their attention, their fear is always manifested towards the MPLA.

If there were no other elements of proof, this alone is sufficient to assure us that we are inflicting severe blows on the enemy. It gives us the certainty that we are really and truly following an anti-colonialist and anti-imperialist orientation.

As soon as they run short of arguments and force, the colonialists call our movement a communist movement, in order to include us in the ideological conflict that today is dividing the world. In order to attract the sympathy of the capitalist countries' governments.

Therefore, yet another time affirm, our Popular Movement for the Liberation of Angola is not a communist movement. It never pretended to be. The MPLA is a large movement, embracing militants of all ideological currents, all religions, all social classes in order to reach this, to any people, sacred right; the right to dispose of ourselves and of our country.

With this false propaganda, the enemy merely pretends, to perpetuate his domination of our country, but we are not letting ourselves be cheated.

The struggle is growing harder and harder and is putting to the test the enemy's resistance. Today the guerrilla war does not limit itself to ambushing columns or destroying bridges. Today the barracks are finding themselves under the fire of our artillery.

As time advances, the units of our armed forces acquire a better spirit, a better technique, a major combatting capacity. And if some time ago, the Portuguese soldier could find refuges in his barracks, today none of them are able to rest peacefully, as at any moment shells may fall on their heads.

Our movement is absolutely convinced that the generalization of the struggle is inevitable and that this is the sure way to urge the desired political solution of our problem.

We are certain that the militants of our movement, following the glorious traditions of our people in struggle, are in every part of our country, celebrating this glorious date, with the firm determination to make every day a 4th of February, showing the barbaric and archaic Portuguese colonialist that the entire Angolan people is ready to capture our independence, whatever will be the price we have to pay.

AZORES AGREEMENT MEANS INCREASED U.S. BACKING OF PORTUGAL'S COLONIAL WARS

(By American Committee on Africa)

After almost ten years of public and private, on and off negotiation, the United States and Portugal have just signed a pact which will give the U.S. five years continued use of its air and naval bases on the Portuguese Island of Terceira in the Azores, 100 miles west of Portugal in the Atlantic. In return for entering into this formal agreement the Portuguese are to receive considerable economic assistance from the U.S. in the form of long term loans and financial grants. Financial aid from the United States at this point is particularly important for Portugal, whose economy has been badly shaken by the 10 year war in Africa and is now desperately short of foreign exchange.

HISTORY OF THE AZORES AGREEMENT

It is the geographic position of the Azores in the mid-Atlantic that has led to their military significance and consequent role in Portuguese-U.S. relationships. The Allied forces established bases there in the Second World War. Britain's R.A.F. was using the Lajes airbase in 1943, the U.S. moved in a year later, Portuguese "neutrality" having been broken down by the British insistence and Salazar's perception of the way the war was going. George Kennan, then stationed in Lisbon, arranged for assurances to Portugal that "the United States of America undertakes to respect Portuguese sovereignty in all Portuguese colonies." [Dept. of State Bulletin, v 14 (1946) p. 1082] Portuguese fears that the Atlantic Charter might be applied to their colonies by the victors were assuaged. The Azores served as a support point for war-time trans-Atlantic flights, it became a key stop-over point for the Overlord operation (the Normandy invasion).

The U.S. stayed on at Lajes airbase after the war, Britain relinquishing it to American control in 1947. The accord entered into between the Portuguese and Americans made no provision for rent payments, but the U.S. presence on the island has pumped considerable money, estimated currently at $12 million annually, into the local economy. There are now about 1500 American servicemen and 2000 dependents on the Azores. But Portugal's most important gain from the U.S. presence is reflected in the continued support the U.S. has given the colonial power in the last 25 years.

Thus the U.S. sponsored Portugal's membership in the North Atlantic Treaty Organization despite the fact that the Portuguese military dictatorship contradicted NATO's principles; the U.S. has, through the years, refused to support resolutions at the United Nations which called for a total arms embargo on Portugal despite incontrovertible evidence that equipment supplied to Portugal "to be used only outside Africa" is in fact constantly used against the liberation movements in Africa.

The last formal agreement between the Portuguese and the U.S. for the use of Lajes base lapsed in 1962, since then the use of the base by the U.S. has continued on an ad hoc basis; initially the Portuguese apparently intended to use the potential denial of the base usage in order to persuade the U.S. to moderate its criticisms of Portuguese colonialism. In 1961, just after the Kennedy administration came in, the struggle for liberation in Angola reached the fighting stage. In debates at the UN, Adlai Stevenson, on behalf of the U.S. took position clearly supporting eventual self-determination for the Portuguese colonies. This earned the keen displeasure of Portugal.

Later, as it became apparent that the U.S. position did not place it in real opposition to Portuguese interests, the "price" for agreement renewal became some kind of material assistance . . . 1968 and 1969 reports indicated that the Portuguese were demanding direct military assistance; this position was later modified to other forms of financial assistance which have now in fact been granted in the new accord.

MILITARY IMPORTANCE OF THE AZORES TO THE UNITED STATES

The first and most important role of the Azores until recently has been as a stopover point. It was used in 1958 for the Lebanon crisis, and played a role in the Berlin crisis of 1961 and the 1964 Stanleyville drop in the Congo. [Library of Congress Legislative Reference Service (DP700 F–261) "U.S. and British Policy towards Portugal" p. 10] In 1963 it was still true that "approximately 75% of normal U.S. military air traffic to Europe and the Middle East transits the air facility on Terceira Island." [Deputy Assistant Secretary of Defense Frank K. Sloan in *The Angolan Revolution* by John Marcum, p. 273]. In the summer of 1961 the Joint Chiefs of Staff had declared the Azores base essential to American security in case of trouble over Berlin. Given this estimate by the military, Portugal had considerable leverage in 1961 and 1962 in trying to get the U.S. to refrain from giving any further support to self-determination in Portuguese Africa, or perhaps even to backtrack on action already taken. The fact that the base agreement was to expire at the end of 1962 gave special force to the factor. The result, of the importance of the Azores in particular, and of more general convictions of the relative importance of Africa and Europe, was quite clear. The United States, with the General Assembly session of 1962, ceased to support UN resolutions as they moved from the symbolic condemnation of colonialism of 1961 to more vigorous condemnation of Portugal and calls for action to bring Portugal into line with previous resolutions.

The present real military importance of the Azores has, by all accounts, lessened considerably. Longer range aircraft make less necessary such a stopover point. A recent visitor commented that "at present it is an almost inactive operation." "Formerly known as 'the crossroads of the Atlantic,'—Lajes now generally has fewer than a dozen aircraft on the ground—United States C–54's and C–47's and a few Portuguese Navy DC–6 reconnaissance planes. It is still used by short range transport planes for refueling.

"The American operation there is unusual in that the Navy maintains an air facility, the Air Force handles the ground support and the Army operates port facilities at nearby Praia da Vitoria." [New York Times, May 10, 1970] There are reported to be only about half the staff that were originally employed at the peak of operations in the early '60's. The Azores base has been described as "a highly over-staffed operation that is costing the American taxpayer a lot of money." [Walter Hackett, in an article in the Congressional Record–Senate, June 5, 1969. At the time of the article by Hackett there were 1,795 American military personnel, 500 American civilian employees, and 2,500 dependents at the base.] James Reston, in his column of March 5, 1969, pointed out that "Washington needed the Azores as a ferry base in the last war for aircraft of limited range; it needs the Azores no longer, but the old arrangements go on." However, the Pentagon can always find a use for a base.

In an article inserted in the Congressional Record for June 5, 1969 by Senator Pell, of Rhode Island, the following is given as the rationale for continued use of the Azores: "The basic mission of the USAF in the Azores . . . is to maintain Lajes (Field) as a bastion of defense in case of global war. The mission also calls for the United States to assist Portugal in local defense, to maintain a Navy air-sea rescue operation and center of operations for anti-submarine warfare and to run a weather station operation. The Military Airlift Command also uses Lajes as a shuttle point for mail, supplies and personnel to our forces in Europe." Pentagon officials have emphasized the anti-submarine warfare function. By virtue of its location, it still may be useful, if not essential in the contingency of U.S. intervention in the Mediterranean or in Africa. The evaluation of the importance of the Azores for American defense obviously depends on an evaluation of what sort of defense is necessary. If one assumes that it is necessary to be prepared for all contingencies, any base is of course useful, and the Azores not the least useful among them. What emerges clearly is that the Azores base plays a role leading to a close U.S. association with Portugal, the last "colonial" power fighting three colonial wars in Africa.

U.S. RELATIONS WITH PORTUGAL

The Azores pact, which gives Portugal economic aid in return for the U.S. base, formalizes and strengthens the continuing U.S. support of Portuguese colonial rule in Angola, Mozambique and Guinea-Bissau. Until recently U.S. military and economic assistance to Portugal has been indirect and disclaimed. Now the Nixon administration has dropped all pretenses and has openly declared its intention to come to the aid of its struggling ally. Portugal is finding it increasingly difficult to survive on the three battlefronts in Africa. The liberation movements in Angola, Mozambique and Guinea-Bissau have all won important victories in the last few years, and continue to win increasing popular support as they control new areas of territory and establish democratic self-government in the liberated zones. The Portuguese now have to support an army of over 150,000 men in Africa, and are spending close to 50% of their annual budget on the wars. This is a crippling burden for a small, poor country. The dictatorial regime is also facing increasingly militant opposition internally and a faltering economy. Against this background the new U.S. economic aid emerges clearly as an effort to strengthen Portugal, thus helping it to reestablish control in Angola, Mozambique and Guinea-Bissau.

The aid being given to Portugal under the new agreement is considerable. It is reported to include $15 million for each of two years under the PL 480 program, to be used for the purchase of food, an undertaking by the Export-Import Bank to consider projects in metropolitan Portugal to a value of $400 million, an oceanographic vessel for fishery research, $1 million towards educational development, and the waiver for two years of $175,000 annually which represents Portugal's payment towards the maintenance of the U.S. Military Assistance Advisory Group (M.A.A.G.) still provided for under the Military Assistance Program which the U.S. operates in relation to Portugal. This U.S. aid will serve to relieve the enormous pressure on foreign exchange which currently bedevils the Portuguese economy, releasing funds for the purchase of necessary military equipment, in the long run may serve to strengthen the whole economic base of Portugal, providing much needed capital for development, thus enabling Portugal to maintain its hold on its African colonies.

This last U.S. action is the culmination of a number of recent U.S. actions which have all pointed in the same direction. Recent U.S. Government and private aid to Portugal includes:

The sale of 707's and 747's to Portugal which Portugal says will be used for troop transport to Africa; (*Daily Telegraph*, June 21, 1971 and *Flight International*, Jan. 21, 1971)

Over $2½ million in direct military aid to Portugal each year; (Office of Assistant Secretary of Defense, *New York Times Almanac*, 1971 and Office of Statistics and *Reports, A.I.D.* 1969)

$12 million put into the Portuguese economy by U.S. military expenditures in the Azores each year; (*New York Times*, Dec. 9, 1971)

The sale of five Bell helicopters to the Portuguese for use in Mozambique; (*AFP*, Jan. 12, 1971)

Gulf Oil's operations in Cabinda, Angola, which had brought the Portuguese government over $30 million by the end of 1970; (A statement by Gulf Oil Corporation, April 1971)

The training of Portuguese armed forces, both in the U.S. and in Europe and the continuing exchange of military missions. U.S. Vietnam-style tactics (herbicides, napalm, strategic hamlets, bombings of civilians) are now used by the Portuguese against the people of Angola, Mozambique and Guinea-Bissau; ('US Military Involvement' by William Minter in "Allies in Empire", *Africa Today*, July-Aug. 1970, p. 29)

There has been no recent development on the international scene which can in any way be said to threaten U.S. military security so as to make the Azores base suddenly critical for the defense of the U.S. In fact, the 1970 military bases agreement with Spain has further reduced the military significance of the Azores to the U.S. The change and the threat relate to Portugal's hold on its colonies in Africa, and the signing of the Azores pact places the U.S. government firmly in the camp of a colonial power fighting against the peoples of Angola, Mozambique and Guinea-Bissau, all of whom are determined to wrest their freedom and independence from Portugal and its allies.

AMERICANS FOR DEMOCRATIC ACTION,
Washington, D.C., January 29, 1972.

The Honorable THOMAS E. MORGAN,
Chairman, Foreign Affairs Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The $436.5 million plus executive agreement with Portugal concluded on December 9, 1971, is a profoundly tragic mistake, the most serious step the United States ever has taken *against* the principle of self-determination in Africa.

The Export-Import Bank and P.L. 480 funds it makes available will strengthen Portuguese war-making capability in Africa. The open-ended commitment to provide Portugal with "non-military excess equipment" will not only furnish troop support materiel gratis, but will enable Portugal to buy military equipment for use in Africa with funds that it otherwise would have had to use to purchase non-military equipment. In our rush to raise exports, we must be careful not to devalue ourselves.

One of the "concessions" Portugal made December 9 was to continue to permit the U.S. to use its Azores Islands bases until February 3, 1974. We agree with the findings of a panel of the United Nations Association of the U.S.A. which, on December 3, 1971, called these bases "technologically dispensable and politically costly." These bases annually inject $13 million in revenue otherwise unavailable into the economy of the islands. We feel that is sufficient "rent." Remaining U.S. grant military aid to Portugal should be suspended and an embargo imposed on all shipments of arms, defoliants, and potential military equipment from the U.S. to Portugal. If Portugal then requests that we close our bases, the U.S. should do so. The U.S. must no longer regard the Azores bases as a credible lever for Portugal to use in negotiating with the U.S.

We urge a thorough Congressional investigation of the pact. Further we support the position of Senator Clifford Case and others who have called for the Administration to submit the pact to the Senate for approval.

We the undersigned oppose all U.S. government cooperation with Portugal of a military, economic, or political nature until the people of Mozambique, Angola, Guine-Bissau, and Cape Verde Islands have achieved independence.

Allard K. Lowenstein, Americans for Democratic Action.

Charles C. Diggs, Chairman, Africa Subcommittee of the House Committee on Foreign Affairs.

Rev. Jesse Jackson, People United to Save Humanity, Chicago.

Vincente Ximenes, former Commissioner of Equal Employment Opportunities Commission, Washington.

Roy Wilkins, NAACP.

Clifford Alexander, Jr., Washington.

Prof. Morton Coleman, University of Pittsburgh.

Carl Holman, Washington.

Hosea L. Williams, Southern Christian Leadership Conference.

Angel Ortiz, Co-Chairman, National Spanish Speaking Coalition.

Edward H. Brown, Jr., Congress on Racial Equality.

Joseph L. Rauh, Jr., Washington.

William A. K. Lake, Washington.

Clinton E. Deveaux, Southern Elections Fund, Atlanta.

Ulric Haynes, Jr., New York City.

Charles E. Cobb, Commission for Racial Justice, United Church.

Allan Fisher, Commission for Racial Justice, United Church.

Richard L. Sklar, UCLA.

Eva M. Sklar, Los Angeles.

Waldemar A. Nielsen, New York City.

Patrick E. Gorman, Amalgamated Meat Cutters, Chicago.

Jerry Wertheimer, San Francisco State College.

William P. G. Chaplin, San Francisco State College.

B. H. Lieber, San Francisco State College.

Tim Smith, Council for Christian Social Action, United Church.

Roger Morris, Washington.

Herschelle Challenor, Brooklyn College.

Paul Parks, Model City Administrator, City of Boston.

Leslie C. Sayre, *Intermedia*.

Chester J. Marcus, United Church Board for World Ministries.

S. Smith, United Church Board for World Ministries.

T. Hagen Bailey, Denver.

Roberta Ann Dunbar, University of North Carolina, Chapel Hill.

Herman Harmelink III, Reformed Church in America.

Cyndi Kahn, Denver.

Pablo Eisenberg, Washington.

E. Mill Richards, United Church Board for World Ministries.

Daniel G. Matthews, Washington Task Force on African Affairs.

Josiah H. Beeman, United Presbyterian Church.

William A. Payne, Sonoma State College.

Peter J. Connell, Washington.

Collin Gonze, United Auto Workers Union.

Paula S. Barker, *Issue*.

Donald L. Robinson, Washington.

Robert Bates, Washington.

Marie L. Merrell, Washington.

Edward Engelberg, Brandeis University.

John Blum, Chairman, Americans for Democratic Action, S.E. Penn.

Brenda Mahoney, New York City.

Lawrence W. Henderson, New York City.

James Turner, Cornell University.

David Seal, Washington.

G. Stephen Ryer, Pittsburgh.

David M. Stowe, United Church Board for World Ministries.

John A. Renling, UCBWM.

Alfred C. Krase, UCBWM.

Alfred C. Bartholomew, UCBWM.

Howard Schomer, UCBWM.

B. Kenneth Anthony, UCBWM.

Robert S. Browne, Fairleigh Dickinson University.

Peter Weiss, American Committee on Africa.

Ted Van Dyk, Washington.

James Duffy, Groton, Mass.

James H. Smallhout, Haverford College. Penn.

Robert C. Good, former U.S. Ambassador to Zambia, University of Denver.

Edward A. Hawley, University of Denver.

John Marcum, *Africa Today*.

Gary Mundt, Co-ordinator, Vietnam Veterans Against the War, Denver.

George Williams, Boulder, Colorado.

Dean John Rice, Head of Black Experience Program, University of Denver.

Norman Pilgrim, Denver.

George Shepherd, University of Denver.

Duane W. Ball, Denver.

Alan R. W. Campbell, Denver.

Robert K. Clark, Denver.

John Venturer, Denver.

Richard B. Robinson, Denver.

S. Fodor, Milwaukee.

Mark Cohen, Denver.

Ellen H. Brooke, Denver.

Ken Maguire, Denver.

Joe Murray, Arvada, Colorado.

Gene Gall, St. Petersburg, Florida.

Peter J. Eehoger, Arvada, Colorado.

Richard E. Meunier, Denver.

M. Kristin Peerand, Denver.

Walter C. Opellofer, Boulder, Colorado

Virginia B. Cowles, Denver.

Harry Alerfach, Denver.

S. Macen Fawkes, Jr., Denver.

Susan A. Dinklage, Denver.

Karen Henvyn, Denver.

David J. Mulley, M.D., Arvada, Colorado.

Sheila J. Ivers, Denver.

Joanne Parker, Denver.

Paul Ivizak, Denver.

Barbara Hunt, Denver.

Richard Pollock, U.S. National Student Association.

John A. McQuiggan, Washington.

TESTIMONY TO U.S. SENATE FOREIGN RELATIONS COMMITTEE ON SENATE RESOLUTION 214 AS AMENDED

(By Dr. Willard R. Johnson, Associate Professor of Political Science, Massachusetts Institute of Technology, on behalf of the African Heritage Studies Committee on Positive Action)

Mr. Chairman, Distinguished Senators, guests: I am here in support of S. Res. 214 which calls for the submission to the U.S. Senate for its advice and consent any agreement between the U.S. Government and Portugal or Bahrain for military bases or foreign assistance. Further, I wish to encourage the members of the Senate, should such agreements be so submitted to the U.S. Senate, to withhold their consent from any offer of foreign aid to the Government of Portugal.

I give this testimony on behalf of the twenty-eight members of the Commitee for Positive Action of the African Heritage Studies, persons who are among the leading Afro-American scholars, journalists, professional people and students, many of them with previous high-ranking government experience, and on behalf of the several hundred members of the AHSA who are students and scholars of African Affairs at colleges and universities and in community organizations throughout the country.

President Nixon has stated that a principal objective of his foreign policies is a full generation of peace, with the guns silenced around the world. We will not have it.

The flurry of recent diplomatic activity, the reversal of long held positions in our foreign affairs, the attempts to realize a *detente* with the other superpowers, all suggests that the Nixon Administration is basically satisfiied with the status quo, the present distribution of power and spheres of influence around the world. Nixon's State of the Union address strengthens this assessment:

"Where are interests or our treaty commitments are not involved our role will be limited. We will not intervene militarily. But we will use our influence to prevent war. If war comes we will use our influence to try to stop it."

Noble as these goals are, and much as we share the desire for universal peace they are meant to serve, black Americans especially, and all Americans who abhor racial domination and political oppression, must consider the President's satisfaction with the present distribution of power, at least with regard to southern Africa, to be intolerable. Black people in this country do not accept the international status quo, they cannot afford to be isolationist, their interests demand that they love justice and freedom for their kindred people more than peace.

There is no peace in southern Africa. War has already come there. In the words of President Julius Nyerere of the United Republic of Tanzania, "It is not the eleventh hour, it is already past the twelfth." The war underway is a class war, it is a race war, and it is an international war; and in each respect the sides currently line up the same way. The privileged, foreign, dominant white forces, backed by investment, loans, and credits, and by military, governmental, scientific, educational, and diplomatic aid of white governments and white peoples in Europe and America, are shooting, bombing, subjecting to the ravishes of naplam and defoliants, black African peoples, in their traditional homeland, in order to rule them, exploit their labor and the riches of their land, and to secure the interests white people have staked out in or near the area.

The most openly racistic and abusive system of political domination since the times of Hitler is being operated in southern Africa by scarcely 4½ million resident whites against nearly 8 times that number of indigenous blacks. This system, anchored in South Africa, is consolidating and reaching out for new ground with the aid of American private business interests, trade, and a whole range of governmental sponsored agencies and programs. Black Americans cannot rationally be expected to be indifferent to the abuses their kindred peoples are suffering in Africa, abuses that a number of them still living can remember in their own experience in America. Nor can they ignore the interventions private and public interests and agencies are making with increasing frequency and importance in the wars of liberation underway in southern Africa, interventions which invariably are working to the benefit of the oppressors.

Portugal is a major participant in this war. It was the first colonial power in Africa and is trying to be the last. It initiated the most extensive and beastly traffic in slaves the world has seen. For over five hundred years, since before Columbus was sent westward, the Portuguese sent their seaships and their Bishops south, in both cases to expand the trade in people. African youths sent to the missionaries were sold into slavery, the Bishop himself got a rake off from the trade. Throughout the time that Portugal took over and ruled the African lands directly, the African peoples there had had no political rights, no economic benefits, no physical security, no dignity in their relationships with the Portuguese. In over five hundred years of what the Portuguese have called a civilizing mission and a policy of assimilation whereby African subjects would become Portuguese, less than one percent of the African people have acquired such a status. The Portuguese presence and practice in Africa has been an affront to the very idea of civilization.

It takes no special genius to recognize the betrayal of a people's most noble sentiments and values by a government that refuses to be held accountable to them. It can only make one despair unto sickness to see the American Government ally itself with the Portuguese Government to the dishonor of the professed public philosophies and best instincts of the people of both—the Portuguese people's assertion through the centuries of the value of personal relationships with other peoples free of race prejudice, and the American people's assertion of the ideal of liberty. Both lands have already paid an atrociously high cost for the monstrous denial of these values that their national histories embody. Certainly the American people have already paid too high a price for the contradictions in their own history to throw away with lack of forethought the opportunity we have finally to rid our society of the vestiges of the slave system, or the "age old ills" and "lingering inequities" as President Nixon has called them; these can hardly be eradicated from American society if the American Government is going to place its power and its riches in support of a government like that of Portugal that still fights a full scale war to preserve the master-slave relationship with the African peoples it unjustly rules. The world has seen enough oppression of black people by white, of one people by another. We ought to be done with it forthright and completely.

And yet the U.S. Government proposes to offer the Portuguese Government $435 million in various forms of aid and credits for the use of what some have stated are non-essential and perhaps outmoded military bases. It does this after we have used these facilities for nine years without any agreement at all, and after twenty-eight years of no direct payments for their use. Why?

It is plausible to believe that this aid is now offered because Portugal's cost in waging war to keep her "overseas provinces" has now surpassed her ability to meet them, and Portugal has turned to the U.S. in desperation. Upwards to fifty percent of her national budget now goes to military expenditures (which total over $400 million) and over 150,000 of her soldiers are in Africa fighting a war that is estimated to be taking four to five casualties a day. The army is one of the chief proponents of the war because it has grown fat, albeit also frustrated, with the war. The toll is taken from the people as well, as Portugal remains one of the world's poorest countries with a per capita national product scarcely more than that of Ghana. Only a few thousand Portuguese peasants respond to the government's appeal to go to Africa, where land and agricultural capital is provided. More go to other countries of Europe, where there are now over 600,000 migrants. Many of them go to avoid the draft, and many to look for work. The migration is such that the total population of the country has declined absolutely over the last decade.

Most observers agree that Portugal could not wage the colonial wars without the help in military aid, loans and credits, equipment and training she has received from other countries, notably the United States, France and Germany. The level of this aid from the United States dropped sharply in the late sixties but amounts to a great deal cumulatively—nearly $400 million since 1953. And now the U.S. proposes to match that 18 year level of aid in the next two. France and Germany provide extremely important types of aid, particularly aircraft suitable for counterinsurgency warfare. Portuguese soldiers are making sharply increasing use of herbicides and defoliants. These appear to be of American manufacture. The aid that the United States gives that is not used directly in the warfare, and historically much of it has been so used, serves to permit Portugal to devote more of her own resources to the war effort.

The most direct way to stop this aid is for the U.S. Congress to prohibit it and to refuse to appropriate money for it. The U.S. Government should also veto any additional NATO aid to Portugal. The aid, credits, P.L. 480 assistance, and Export-Import Bank services which the recent Azores agreement offered to Portugal should be repudiated and eliminated from any treaty or any other kind of agreement we may establish with Portugal. If anything, such aid should be offered to the organizations fighting in Guinea Bissau, Angola and Mozambique for the liberation of those areas from colonial rule.

Any aid we give to Portugal, whether governmental or private, amounts to our participation in the colonial race war being waged in southern Africa. If we continue to participate on the side of the alien and oppressive minority rulers, we may have to fight some of the battles of that war right here in the United States. Black Americans, and we think other Americans as well, cannot be expected to be indifferent to Portugal's, Rhodesia's, and South Africa's abuse of human rights and their denial of what our own country's public traditions have taught us to regard as fundamental rights of any people.

Elimination of formal governmental support to Portugal and other southern African minority governments is not enough. If private Americans continue to build up economic interests and if governmental, educational, scientific, and cultural involvement increases, vested interests that bolster the white regimes will grow to the point where the U.S. will most likely be drawn into a new Vietnam situation of escalating and sustained warfare. But the build up of interest in support of the white regimes will not go unopposed and unresisted here at home. A large segment of American society will find such support utterly reprehensible, and despite the widespread fatigue with foreign affairs and war, can be expected to vigorously oppose American support of the white regimes. The U.S. will not find it possible to take a neutral position under such circumstances and the costs of intervention on either side, if we let the build up of our present involvement there continue, will be higher than we can now imagine.

Do any of us imagine that the U.S. would have fought the Vietnamese war the way we fought it, had one in nine Americans been of Vietnamese descent? Can anyone imagine that we would drop napalm, or defoliants over towns and countryside in England? Can you imagine the reaction in this country, and what would happen to our aid program and the rules governing the use of NATO equipment, were Britain to drop American-made napalm or defoliants in North Ireland?

Black Americans have too many problems in achieving just political rights, adequate economic benefits, and minimal social conditions in our present home not to prefer to have those things come to our brothers and sisters in our ancestral home without extraordinary effort on our part; but we are very much aware that we are both denied them for many of the same reasons, and that no person can sincerely pose as a supporter and a friend to that struggle here while participating in the opposition to that struggle there.

The only safe and humane use of white American power in southern Africa would be to break the hold of these alien and oppressive white minority governments. At the very least Americans had best withdraw and dismantle the already extensive network of business, private and government involvement they have allowed themselves to build up in southern Africa.

POWER TO THE PORTUGUESE EMPIRE FROM GENERAL ELECTRIC

(By American Committee on Africa)

On March 21, 1971 Charles Bartlett's syndicated column carried a brief announcement that General Electric U.S.A. is pressing the Export-Import Bank (an autonomous agency of the U.S. Government) to provide $55 million financing for a transformer system G.E. wants to supply to the Cabora Bassa dam and hydroelectric project in Portuguese-ruled Mozambique, in East Africa.

This is much more than a simple business deal. It involves United States support for Portuguese colonial rule in Africa, and, beyond that, support for the whole white-supremacist power bloc in Southern Africa.

THE CABORA BASSA DAM PROJECT

The Portuguese have been fighting an expensive war, that annually absorbs almost half the nation's budget, for ten years, in order to hold on to their African empire. The Cabora Bassa scheme is a key-stone in current Portuguese strategy to ensure control of these African possessions and eliminate the growing strength of the liberation movement. The project is the largest single internationally financed scheme in Southern Africa. It involves the construction of a 550 foot high, 1,000 foot long wall across the Zambezi River in the northwest Tete Province of Mozambique which will create a dam 70 per cent larger than the Aswan Dam. The main purpose of the dam is to create the necessary water pressure for a hydro-electric scheme that will eventually be able to generate 4,000 megawatts. The initial stage of the hydro-electric project aims at generating 1,200 megawatts by 1974; transmission lines being constructed will carry power down to South Africa. Escom, the South African government-sponsored Electricity Supply Commission plans to take 680 megawatts by 1975, and 1,470 megawatts by 1980, and will thus absorb at least 50 per cent of the power produced. In fact, for the Portuguese, the whole scheme hinged on South African purchase of the power; Mozambique itself will not be able to use a significant proportion of the full power capacity for many years. As for South Africa, Cabora Bassa power is only a relatively insignificant 8 per cent of Escom's own generating capacity; but the power will be fed into the vast sub-continental power grid that South Africa hopes to build across the whole of Southern Africa, from Angola, Lesotho, Swaziland and Mozambique, to as far afield as Malawi and the Democratic Republic of the Congo.

PORTUGAL'S OBJECTIVES

The Cabora Bassa project is designed to open up the whole of central Mozambique. Vast irrigation projects will become possible, and the Portuguese plan to bring in a million white settlers. Concessions to develop the rich mineral deposits have already been granted to South African and other foreign corporations.

Portugal's three main objectives in constructing this dam are thus clearly:

1. To develop the whole Tete region and create an extended prosperous white settler community, to act as a strong countervailing force to the African liberation struggle.

2. To link Mozambique's economy more closely with that of South Africa, thus ensuring even greater South African support.

3. To associate European and American economic interests with the maintenance of Portuguese control over the territory.

In fact, the Cabora Bassa project, if carried through, will have the effect of strengthening the whole white-racist Southern Bloc, including Ian Smith's Rhodesia. Rhodesia hopes to buy power from the scheme, and will benefit greatly from the transformation of the Zambezi into a navigable river right up to the Rhodesian border. The white settler regime already finds its sanctions-struck economy reaping considerable returns from supplying material and equipment to the dam builders. The U.S. support of sanctions against Rhodesia would become a mockery if U.S. corporations were allowed to aid Rhodesia via Cabora Bassa.

THE ROLE OF SOUTH AFRICA

The South Africans are determined also to prevent the liberation movements from winning self-determination and independence in Portuguese Africa; they recognize, quite correctly, that such a victory would weaken their position, and they have acted on their conviction by supplying military aid (troops, helicopters, advisors) to the Portuguese. There has also been increasing economc intervention. South Africans are investing heavily in Portuguese mining, agriculture and industry, tightening the bonds between the countries of the Southern Bloc alliance. Their recognition of the importance of the Cabora Bassa scheme is indicated by the fact that having for ten years encouraged the preliminary investigations of the project, they are now providing the major organizational thrust in the international consortium that has been created to carry out the scheme.

Portugal had neither the economic nor the technological capacity to do the job: the first three stages of the project, building the dam, the southern power station, the transmission lines to South Africa and the necessary access roads etc. will cost $300 million. The Portuguese called for international bids, and the ZAMCO (Zambezi Consortium Hidroelectrico) group which won the contract in September, 1969 was primarily put together by South African initiative. It consisted of West German, French, South African and Swedish firms. The Swedish Company, ASEA, withdrew from the consortium in response to widespread protest in Sweden, and because the company could not obtain guarantees that the contract would not breach Swedish law relating to Rhodesia sanctions. The reorganized ZAMCO consortium, which included an Italian and a Portuguese firm, is reported to be headed by the Anglo-American Corporation of South Africa which is providing the secretariat for the whole operation.

Financing of the dam relies heavily on export credits to be granted by the Governments of the participating firms, and the South African Industrial Development Corporation (quasi-governmental) has also made a significant sum available to Portugal for certain aspects of the Cabora Bassa contract.

OPPOSITION TO CABORA BASSA—THE MOZAMBIQUE LIBERATION FRONT

There is tremendous opposition to the construction of the Cabora Bassa project under Portuguese rule; opposition has been spearheaded by Frelimo, the Mozambique Liberation Front which has been fighting the battle for African freedom in the field since 1964. In an address to an ad hoc group of the United Nations Committee on Decolonization, Frelimo characterized the project thus:

"Cabora Bassa is a crime. It is a crime not only against the Mozambican people but also the entire people of southern Africa and Africa as a whole. The complicity of the western powers in the realization of the construction project of the Cabora Bassa Dam has provoked the indignation of the popular forces of the world, in particular the popular forces of these same western countries. A vast movement of solidarity is developing in the world especially envisioning the impediment of the dam construction. This movement of solidarity comes to support precisely the positions and decisions of Frelimo and the Mozambican people."

Frelimo has backed up its words with successful military actions. In response the South Africans are reported to have sent troops into the Tete area to back up the Portugese military effort and the Portuguese Army Chief in Mozambique, General Kaulza de Arriaga in a recent statement announced that the dam would be built and kept fully operational "whatever the cost may be and whoever may get hurt." The General said in an interview quoted by Agence France Presse that the dam had become "more than a great economic undertaking . . . It now stands as a symbol of progress, racial harmony and civilization." He said that Frelimo tried to send saboteurs to the dam last year, but they were either killed, captured or forced to retreat by the execution of a military-civilian plan which had been worked out for the defense of the Tete area. He claimed that the use of highly mobile and strong forces was already leading to the fragmentation of the Frelimo guerrillas, and that their "annihilation" is only a matter of time.

In fact, Frelimo has recently expanded its front in Tete by a thrust across the Zambezi River, a considerable feat in light of the intensive Portuguese defense of the dam region and the June, 1970 general offensive launched against Frelimo by the Portuguese military. The Portuguese periodically announce the destruction of the liberation forces, but it is apparent that these forces are in reality growing stronger. It is clear that any American participation in the Cabora Bassa project will involve open support for the Portuguese colonialists against the mass of the Mozambican people.

OPPOSITION TO CABORA BASSA—EUROPEAN ACTION

It is significant that General Electric is initiating its collaboration with the scheme in Mozambique at a time when international pressure has forced other major foreign corporations to withdraw, or seriously reconsider their position. In late 1970 the Organization of African Unity Summit Conference, following up on its earlier condemnation of the project, decided to send a delegation to the countries which support Portugal directly or through contributing towards the construction of the dam to try to pursuade them to withdraw their support. President Kaunda of Zambia was elected head of that delegation which also included the Foreign Ministers of Algeria, Cameroun, Kenya and Mali. In January, 1971, the Italian Government informed the OAU that it had withdrawn the export credit guarantee which it had previously granted to the Italian firm SAE for the financing of the construction of the high tension mains between Cabora Bassa and the Republic of South Africa. Previously, as mentioned above, the Swedish company ASEA pulled out, and there has been evidence of mounting pressure in West Germany against corporate participation in Cabora Bassa.

GENERAL ELECTRIC—A LOGICAL CHOICE

General Electric's willingness to support the project in the fact of such international opposition is a logical outgrowth of the long established relationships this corporation has had with the countries of Southern Africa. G.E. has a plant in South Africa which produces household appliances, switch-gears, capacitors, industrial controls and locomotives. It employs some 1,394 people at its factory including 764 non-whites who are paid at an hourly rate varying from 30¢ to $1.33. G.E. has filled many important South African Government contracts, including most recently the supply of control relay panels for the Transvaal terminal of the Cabora Bassa scheme and 75 locomotives to the government-run railway scheme. G.E. and the Export-Import Bank have also cooperated in Portuguese Africa in the past in a deal which involved the supply of General Electric locomotives for operation by the Lobito Mining Company in Angola.

CABORA BASSA AND U.S. POLICY

Any move by any U.S. corporation to lend support to the Cabora Bassa project must be stopped immediately, The U.S. Government has lately indicated in a number of ways a willingness to compromise with oppressive racist regimes in Southern Africa. Thus in September, 1970 Assistant Secretary of State Newsom announced that the U.S. would now allow the supply of small jet planes to South Africa. According to a *Financial Times* (U.K.) report, it has been privately confirmed that these aircraft will be delivered directly to the South African Government and will be made available to the South African Army. It is thus possible that the aircraft may be fitted out for "spotting" or police duties of an internal nature which seems to make nonsense of the declared U.S. support of an arms embargo in relation to South Africa. In much the same vein it has also recently been revealed that the U.S. Government is allowing the supply of 2 Boeing 707's to the Portuguese Government for use as troop carriers. This trend must not be allowed to continue with the granting by the government-controlled Export-Import Bank of credits to G.E. for Cabora Bassa.

Support of Cabora Bassa means support of Portuguese colonialism, of South African apartheid, of Rhodesian racism. Support of Cabora Bassa means support for South African economic expansion into the rest of Africa, and the suppression of the struggle of the peoples of Southern Africa. Support should go to the forces of liberation, and not to the governments and companies which oppress them.

AMERICAN COMMITTEE ON AFRICA,
New York, N.Y.

To: Ronald V. Dellums
From: Charles Hightower, American Committee on Africa,
Date: May 7, 1971
Subject: Some Questions for Gulf Oil Corporation

Concerning the forthcoming testimony of Mr. Paul Sheldon, Gulf Oil Corporation vice president for public relations before the Subcommittee on Africa on May 12th, I am forwarding some data and possible questions on the issue of Gulf's involvement in southern Africa:

1. *Defence of Gulf installations.*—According to Portuguese sources there was considerable MPLA activity in the Cabinda District in 1970, including the ambushing of Portuguese troops, setting of booby traps and attacks on some urban centres.

The Portuguese Government responded by placing the whole of Cabinda under military administration in April 1970, including the appointment of a military officer as the new Governor. This appointment was regarded as especially significant as it was the first time in Angola that a military authority had been given administrative responsibility under the new legislation introduced in 1970 which provided that the Portuguese Ministers of Overseas and National Defence, in consultation with the territorial Government and the National Defence Council, may designate areas of the overseas Territories as subject to a special administrative military regime. In such areas the military authority is also responsible for the administrative functions of the highest civil authority.

Does Gulf regard the transfer of administration to the military authority as providing more security for the defence of the territory and Gulf's own operations in the territory?

Does Gulf maintain the same friendly relations with the military authority that it did with the previous civil Government in Angola?

In view of the increased MPLA pressure in Cabinda does Gulf have any plans to increase its own capability to defend its operation or does it intend to rely on the Portuguese military authority?

What role do the "small detachment of police" that Gulf have referred to in the past as being Gulf employed play in the projected defence of Gulf Oil Corporation property?

The District Governor and Military Commander of Cabinda, Brigadier Ferreira Goncalves, said early in 1971 that as a result of the construction of new roads over the past two years it has become possible to bring guerrilla activities under control more rapidly. Have, at any time, any of the roads constructed by Gulf for access to installations been used by the Portuguese military authorities?

TAXATION

Portuguese Tax laws lay down a variety of taxes due by all businesses operating in Angola. These include special defence taxes. Gulf has said that it does not pay defence taxes. Would Gulf detail the nature of all taxes paid, and the amounts so paid in 1970.

OIL SALES

Portuguese sources have stated that Gulf has shipped oil to the USA and to Portugal. Would Gulf give figures for all oil provided to destinations in the USA and Portugal since the inception of its operation in Cabinda. Would Gulf also give figures for the projections on shipments of oil to Portugal in 1971 and thereafter. Where is Gulf oil produced in Cabinda currently refined?

Has Gulf supplied the Portuguese government with oil?

If Gulf has supplied the Portuguese Government with oil has any of the said oil been used by the armed forces in Portuguese Africa? If so, how much?

MOZAMBIQUE

According to a report in "Tropical and Mediterranean Markets" the Pan American Oil Company, a Gulf "associate," acting on calculations made after Gulf Oil's test drillings in 1969, has decided to proceed with test drillings southwest of Beira. Pan American Oil is a subsidiary of the Standard Oil Co. of Indiana; it owns 50% of an on and off-shore concession of 11.8 million acres south of Beira in Mozambique. The other half was owned by Gulf Oil. Does Gulf still control its 50% share of the Mozambique oil operation. If not, what percentage interest does it maintain? Is Gulf in any way still connected with oil or gas exploration, development or production in Mozambique? If it is in any way so connected what are the financial costs of its involvement?

Will Gulf be in any way connected with the Company planning to produce natural gas in Mozambique. Does Gulf have any knowledge of the reported plans of this company to supply such gas to the Republic of South Africa?

2. Some questions for Gulf Oil Corporation—May, 1971:

FACTUAL ISSUES

1. In 1969 Gulf has stated that it paid the Angolan Government $11 million. What constituted these payments? (i.e. what percentage was surface rent, royalties, taxes etc.) How much was paid in dollars and how much in escudos?

2. Has Gulf begun to make a profit from its Cabinda subsidiary? If so, when did it begin, how much is it, etc?

3. Does Gulf pay to the Angolan Government a defense tax as stipulated by Portuguese law?

4. How much did Gulf pay to the Angolan Government in 1970 (and what constituted these payments—see question No. 1), and how much does it project to pay in 1971?

5. Gulf has stated that it pumps about $20 million per year into the economy of Angola (this amount does not include direct payments to the government but rather refers to goods and services purchases, wage etc.). How is that $20 million actually spent? (Gulf says it spends $700,000 for wages for its employees; and we feel it imports its equipment etc. from outside/i.e. non-Angolan/sources. Therefore the question of where Gulf spends its $20 million.)

6. It was reported in the reply of the United Church of Christ (Ohio Conference) to Gulf Oil that the Governor-General of Angola has assured the white settlers of that colony that Gulf would relieve much of their tax burden by helping to pay for Angolan defense, and it was also asserted in the Portuguese development plans for the colonies that "economic development was the best foundation for sustaining the defense effort." Given these assertions by the Portuguese that Gulf's presence in Angola is important for monetary and economic purposes, does Gulf still deny it aids the Portuguese defense plans?

7. Finally, how can Gulf says that its payments for its Cabinda subsidiary "flow into Angola and stay there" when the Portuguese Minister of Foreign Affairs said petroleum investments were important for the contribution of foreign exchange aiding Portugal's balance of payments structure? Is it not true, then, that Gulf's payment do provide Portugal with funds directly?

More philosophical questions—i.e. related to attitudes of corporation.

1. Gulf has written in its statement to the Ohio Conference of the United Church of Christ that "all operations are in Cabinda, which is an enclave of the Portuguese West Africa *province* of Angola." Does this mean that Gulf considers Angola a "province" of Portugal? If so, does this mean that Gulf does not agree with the definition of the United Nations that Angola is a non-self-governing territory (i.e. a colony)? If Gulf does agree with the definition of Angola as a colony, does the corporation believe in the stated goals of the United Nations and the United States calling for decolonization, i.e. independence for Portugal's colonies?

2. Gulf has stated, again in its statement to the Ohio Conference of the United Church of Christ, that "we definitely prefer the form of government of the U.S. to those of other governments." Do you follow,

then, the Constitution of the United States and its laws in your international operations? If not (i.e. Gulf will answer that they obey the laws in the area of operations), does this mean Gulf is willing to basically violate the U.S. Constitution by denying workers in Angola fundamental freedoms such as the right to organize, strike, bear arms etc.

GULF OIL IN CABINDA

Gulf Oil is the largest single American investor in Portuguese Africa; it began prospecting in Cabinda (the Angolan enclave between the two Congos) in 1954, made its first important oil strike in 1966, and had invested $130 million by the end of 1969 in developing the most profitable oil venture in Portuguese Africa, and was planning further massive expansion (a projected $76 million) in the immediate future.[1] In 1967 Cabinda Gulf set itself an export target of 150,000 barrels a day (bbpd) by 1970; by June 1969, production was moving rapidly past 30,000 bbpd. Recent finds both on- and off-shore make it likely that previous production estimates will prove conservative. Official sources in Lisbon consider Cabinda capable of producing some 12 million tons of crude oil annually. Those closer to the scene in Angola talk of even greater possibilities, which would place Cabinda among the first four or five oil producers in Africa.[2] Gulf, the sole concessionaire in Cabinda, regards this as "one of the major growth areas in the corporation."[3]

Thus great wealth is being generated in Cabinda, but none of the bounty reaches the African population; it is being shared between the colonial Portuguese Government and Gulf Oil.

In fact Portugal fought very hard in Cabinda to ensure that it would reap the benefits of Cabindan natural resources. South African journalist Al J. Venter, in his mission to alert the "Western world" as to the crucial struggle being fought "for the preservation of European civilization in Africa" by the Portuguese, makes some interesting revelations about the struggle in Cabinda. Describing the events of 1961–1962 he says: "After the initial onslaught which followed close on the heels of the March 1961 attacks in Northern Angola, the insurgents (the People's Movement for the Liberation of Angola, MPLA) were successful in occupying more than 90 percent of the enclave . . . They were successful in routing the ill-prepared Portuguese militia and police and stopped just short of the capital, Cabinda." He goes on to describe the long battle the Portuguese had to re-establish their control, commenting on the crucial importance of air support in the struggle and on the constant use of U.S.-built planes in the battles he saw. Of Gulf itself, he says, "Although they were obliged to suspend operations during the worst of the terrorist raids in 1961, machine-gun muzzles were barely cold before they moved in again."[4]

Portugal intensified its efforts to pacify Cabinda after the first Gulf strikes in 1966. Extra troops were moved into the area and the cordoning off of the population into aldeamentos was speeded up. In 1967 Cabinda received the largest of the budget allocations in the colonies for its rural regrouping program. Thus the Portuguese were carrying out their side of their contract with Gulf Oil, for in that contract they specifically agree "to undertake such measures as may be necessary to ensure that the Company may carry out its operations freely and efficiently, including measures to permit the Company the use of and free access to public land and such measures as may be necessary to prevent third parties from interfering with the Company's free exercise of its contractual rights."[5] Further, the authorities "agree to provide military guards to protect the oil fields if special security measures prove necessary." Complementary to these security measures all foreign company contracts now stipulate that the company involved is bound to support the Portuguese Government "in securing peace and order." Allocations for the construction of military barracks and payments to the Portuguese Government for the defense of "national property" are other standard clauses in current contracts.

Venter describes some of the Gulf camps he saw as "surrounded by 8-ft. barbed wire fences and spot-lights." Gulf also employs its own security guards, who are "expected to keep watch for sabotage" as well as to defend Gulf property against outside attack.[6]

Thus it emerges that Gulf runs its operation behind a complex defense screen, in close cooperation with the colonial government. The enemy? The African people of Cabinda and Angola.

THE ECONOMICS OF GULF OIL

The 1966 contract between Gulf and the Portuguese Government involved a whole series of payments to be made by Gulf during the lifetime of the agreement. Payments included surface rent, bonuses, income tax equivalent to 50 percent of any profit, a contribution to the Mining Development Fund, and certain concession payments. When Gulf signed the new agreement at the end of 1968 the Portuguese were facing escalation of the war on all three battlefronts in Africa. The metropolitan Portuguese budget was already effectively allocating almost 50 percent of all annual expenditure to the war. Still more money was needed—and Gulf proved to be at least one good source of such revenue. Thus the new contract was drastically revised, giving the government considerable extra financial benefits.[7]

Surface Rent was raised retroactively to 2,000 escudos ($70) per square kilometre for the period January 1, 1967 to December 31, 1970, the unpaid balance to be paid in advance within 30 days of the signing of the contract.

Minimum Investment was set at 25 million escudos ($875,000) on development for the first five-year period plus 75 million escudos ($2,625,000) to be spent annually on prospecting.

Royalties were set at 10 cents (U.S.) a barrel to be paid monthly from January 1, 1969, in the currency actually earned. (The expected 150,000 bbpd. output would thus provide the government with an annual royalty payment of $5.5 million, or $15,000 a day.)

Income Tax paid by the company was to be 50 percent of its net profit. The estimated amounts due for 1971–1973 had to be paid in advance, within 30 days of the signing of the contract.

Mining Development Fund payments required from the company totalled 20 million escudos ($700,000) for the period 1968–1977 with an estimated half paid in advance, within 30 days of the signing of the contract.

Direito de Concessao is a concession right enjoyed by the government equivalent to 12.5 percent of all petroleum produced, in addition to the 50 percent tax on profit. The government has the option of taking the value, calculated on the posted price, instead of the petroleum.

A recent United Nations' study estimated that the Portuguese Government probably obtained total payments amounting to 563 million escudos (more than $20 million) from Gulf in 1969.[8] (It seems relevant to point out that the provisional Angolan budget allocation for military expenditure for 1969 was double that amount, 1,250 million escudos—$44 million.)

Two other aspects need to be examined in relation to Gulf's role in Cabinda.

The first is the classic development argument which contends that any large investment in an underdeveloped economy must be good for the mass of the people, even if only indirectly, through spill-over effects. Cabinda is now commonly described as a boom town, but in fact the boom is very circumscribed. Gulf is variously reported to have employed between 2,000 and 500 people in its operation. A recent Christian Science Monitor reporter says, "Gulf has installed workshops and accommodation for 400 technicians, mainly Americans.[9] Gulf officials, in an interview in March 1970, said they were employing 64 expatriate employees (mainly American and 182 Portuguese, both white and black. All sources agree that wages for the technicians are high; Venter describes them as more than $2,800 a month. In the nature of the case technicians are highly trained, skilled men. Very few, if any, Africans would qualify for such posts, because the Portuguese educational system has made it almost impossible for blacks to acquire any education until recently. Thus the technicians' jobs (whatever their number) will go to whites, while the Africans fill the unskilled labor vacancies at wages that normally average $1 a day.

New houses have been built in Cabinda since the oil finds, but even the Portuguese officers complain that competition with the Americans has driven prices beyond their reach. Few Africans can afford those new houses.

New roads have been built in booming Cabinda; they serve to move troops quickly across the country, making attacks on the liberation groups easier to mount.

If Cabinda is a boom town, its boom is for whites only. Any wealth created by the Gulf operation that does not flow into the hands of the Portuguese Government for defense expenditure is mopped up by the local settler population.

Finally, it is important to recognize the particular significance of the product Gulf is extracting from Cabinda: oil, a crucial strategic material. Portugual has, in its contract with Gulf, retained the right to a large percentage of the oil produced. Current Portuguese oil consumption is 78,000 bbpd. When Gulf reaches its projected 150,000 bbpd production, it will be able to provide Portugual with a source of oil safe from all threats of international sanction, a fact which the Portuguese have been quick to recognize. As Rebocho Vaz, Governor-General of Angola, stated:

"As you know, oil and its derivatives are strategic materials indispensable to the development of any territory; they are the nerve-centre of progress, and to possess them on an industrial scale is to ensure essential supplies and to dispose of an important source of foreign exchange.

"Apart from this, in the mechanized wars of our times, its principle derivative—petrol—plays such a preponderant part that without reserves of this fuel it is not possible to give the Army sufficient means and elasticity of movement. The machine is the infrastructure of modern war, and machines cannot move without fuel. Hence the valuable support of Angolan oils for our armed forces."[10]

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[1] World Petroleum, Annual, 1969.

[2] Christian Science Monitor, April 24, 1970. Financial Times, May 6, 1970.

[3] New York Times, January 12, 1969.

[4] Al J. Venter, The Terror Fighters, (Capetown: Purnell, 1969), pp. 84, 91.

[5] United Nations A/6868, 1967; A/7752/Add. 1, November 28, 1969, p. 27; A/7200/Add. 3, October 17, 1968, p. 79; A/7623/Add. 3, September 25, 1969, p. 53.

[6] New York Times, July 28, 1969.

[7] U. N. Conference Room Paper SCI/69/3, June 24, 1969, p. 7.

[8] Ibid., p. 10.

[9] Christian Science Monitor, April 24, 1970.

Additional Information:

A. In 1970 production was 84.700 bbpd. (Gulf Annual Report, 1970)

B. As of late 1970, royalties are based on 12.5 percent of the posted price of a barrel of oil, less certain taxes, not 10¢ a barrel.

C. Gulf stated that in 1969 it paid $11 million, not $20 million, to the Angolan Government.

D. The defense budget of Angola for 1970 was cited by Gulf as $24 million, or about double the Gulf 1969 payment. (Reply of Gulf Oil Corporation to the Ohio Conference of the United Church of Christ)

E. In 1970 Gulf claimed to employ 186 people 65 percent of whom are "nationals", with a total payroll of $700,000, which at best would average $3,762 per worker. Of the Angolan population of 5 million even the handful employed by Gulf receives only a minute fraction of the total wealth Gulf generates from its Canbinda find.

F. Gulf also claims to inject money into the Angolan economy through the purchase of goods and services worth $20 million a year. The Gulf contract stipulates the purchase of "Portuguese" goods but much is spent on heavy industrial American equipment which cannot be bought from Portuguese sources.

Taken from July–August 1970 Africa Today available from the American Committee on Africa, 164 Madison Ave., N.Y.C. 10016.

AMERICAN COMMITTEE ON AFRICA,
New York, N.Y., October 21, 1971.

Representative RONALD V. DELLUMS,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN DELLUMS: I enclose herewith for your information a copy of a letter sent to the Export-Import Bank in regard to its recent loan of $15,100,000 to T.A.P.

Yours sincerely,
RICHARD LEONARD,
Executive Assistant.

AMERICAN COMMITTEE ON AFRICA,
New York, N.Y., October 21, 1971.

Mr. HENRY KEARNS,
Chairman, Export-Import Bank of the United States, Washington, D.C.

DEAR MR. KEARNS: Thank you for your letter of 29 September, 1971.

We protest strongly the recent Export-Import Bank loan of $15,100,000. granted to Transportes Aereos Portugueses, S.A.R.L. (TAP), Lisbon, Portugal, for the purchase of two Boeing 747 commercial aircraft, spare engines, spare parts and related equipment and services. We see this as a serious breach of the United States embargo, in operation since 1961, on the sale and shipment of arms to Portugal for use in Africa.

We would draw the following factors to your attention in support of our request that this loan be immediately withdrawn and that the Boeing Corporation and all other United States companies involved in this transaction be prohibited in terms of the embargo from providing such aircraft to the Portuguese Government or its agencies.

I. United States policy in relation to this embargo has been outlined as follows: "since the imposition of our arms embargo in 1961, we have required assurances from the Portuguese Government that any material supplied to Portugal from public or private U.S. sources will be restricted to the NATO area, which does not include the African territories. To the best of our knowledge, these assurances have always been kept."
(letter to Senator C. Case from Colgate S. Prentice, Acting Assistant Secretary for Congressional Relations, November 13, 1970.)

II. In January, 1971 press reports revealed that the United States had approved the sale of two Boeing 707 aircraft to the director of civil aviation, Portugal. The administration replied to a series of questions put to Secretary of State Rogers by Senator Case on this implications of this sale as follows:

1. The only restriction normally placed on the sale of civil aircraft to foreign countries is that they must obtain our approval before they re-export the airplanes to third countries. This policy is followed with respect to Portugal. The United States has not asked Portugal for any other assurances nor sought to place restrictions on the use of these aircraft.

2. The sale about which you inquired was deemed not to come within the terms of the 1961 embargo on the export of arms for use by any of the parties to the disputes in Portuguese Africa.

3. In your third question you asked whether U.S. aircraft previously sold to the Portuguese commercial airline have ever been used for military purposes in Africa. In response to this, we presume that U.S. aircraft sold to the airline have been used in normal transport operations to carry all types of passengers and cargo, both civilian and military.

III. In fact the Portuguese Airforce has now openly admitted that the two Boeing 707 arcraft will be primarily used to ferry troops to Portugal's three war fronts in Africa. The use of these aircraft as troop transporters was announced by a Portuguese Air Force Commander, Colonel Costa Maia, in Angola, and was confirmed by a civil aviation spokesman in June, 1971.

In the light of these admissions, past United States contentions that there is no need to place restrictions on the sale of civil aircraft to Portugal might be regarded as simply naive. Continuance of such a policy in the face of avowed Portuguese military use of the so-called civilian aircraft can only be seen as a deliberate cessation of the arms embargo.

Portuguese military authorities now refer with increasing frequency to the critical role played by the air force in the wars in Africa. Airports are being rapidly extended, and General Kaulza Arriaga said recently that his most urgent concern, after assuming the command of the military operations in Mozambique, had been to give the army mobility by making it an "airborne force." Previously he said it used to take a month to transport troops or send reinforcements . . . but since 1970 the armed forces in Portugal have *contracted the use* of the civil air facilities in the Territory.

It appears clear that the Portuguese authorities have in the past made use of "civil aircraft" for military purposes. It is incumbent on the United States to end such deliberate Portuguese flouting of the arms embargo; this can only be done by ceasing to make available to the Portuguese any aircraft at all, since such equipment is most likely to be used for military purposes. We therefore request the Export-Import Bank to withdraw its loan to the T.A.P.

Yours sincerely,
RICHARD LEONARD,
Executive Assistant.

AMERICAN SOCIAL SCIENTIST BEHIND THE WIRES IN NORTHERN IRELAND DETENTION CAMPS

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, for all of us the strife in Ulster looms as a tragic mark in the history of England and Ireland. Yet, there have been few Americans who have reported back to us with firsthand knowledge and information about recent events in the north.

Dr. Rona Fields, of Altadena, Calif., recently returned to this country from Northern Ireland. She speaks with unique authority about the situation since she was probably the first American social scientist to have visited inside the barbed wire of the Unionist internment camps. A psychologist on the staffs of both Valley State College in Northridge and California State College at Los Angeles, Dr. Fields has conducted a research study of the effects of the extremely unstable social situation on Catholic and Protestant children in Ulster.

She has sent to me copies of some of the articles she has written about her research and travels in Northern Ireland. Anyone who reads this material will aquire a new sense of urgency about the Irish situation. Dr. Fields eloquently describes the permanent damage inflicted on all sectors of the population, and especially the Catholic community living under the shadow of the Special Powers Act. She also puts the struggle into its proper context as a fight for human rights and dignity, not as a sectarian squabble.

About the present political situation in Ireland, Dr. Fields comments:

> The immediate political objectives of the Civil Rights movement are: (a) direct rule from Westminster (to assure responsibility for the actions of the troops by the UK government as a whole); (b) ending the Special Powers Act; (c) some intervention by UN direction or supervision of the troops. The political realities are such that on February 16, the thirty leaders of the opposition parties (all the non-Unionist parties) are to appear in court in Belfast to answer to charges of holding an illegal march and rally. The penalty for these "crimes" can be six months in jail. . . . I would suggest that US action might be taken at several levels: (a) economic sanctions . . . weapons in the arsenal employed in Northern Ireland emanate from this country. There is no reason to continue to allow such shipments under these conditions. (b) State department actions to the UN. Legislative pressure on the executive branch to request UN intervention in Northern Ireland. (c) Legislative support for enforcement of world law.

The materials include articles from the Los Angeles Times, the New York Times, and the Irish Times; an article by Dr. Fields on "The Men Behind the Wires"; evidence submitted by the British Society for Social Responsibility in Science to the Committee on Interrogation Procedures; and an article by Dr. Fields and J. L. P. Thompson on the responsibility of psychologists for the use made of their methods in interrogation procedures:

WAR WARPS LIVES OF NORTHERN IRELAND CHILDREN

(By Narda Trout)

The children walk to school down lanes lined with barbed wire, barricades and sentry posts that are manned by soldiers.

They go to sleep at night to the sound of bombs exploding and snipers' bullets ripping through the walls of nearby buildings.

Living in this atmosphere, the children of Northern Ireland are growing up in constant fear and they are losing all sense of human worth—including their own, according to a San Fernando Valley State College professor who recently returned from the strife-torn country.

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[10] African World Annual, 1967–68, p. 29.

"If the war continues, the children of Northern Ireland will be unable to live any kind of normal, peaceful, productive existence," said Dr. Rona M. Fields, a sociologist and psychologist who has completed a study of children in the troubled British province.

HORROR AND ANXIETY

"All the experiences we equate with horror and anxiety to a child—like the bombing—the children of Northern Ireland are becoming desensitized to and are losing their capacity to balance between right and wrong, good and bad," said Dr. Fields, an Altadena resident.

"They are losing their ability to see the human factor in the course of events; they feel things just happen and there is nothing to do to prevent them from happening.

"Their perspective is that life and death are things over which they have no control, that the military and police control their lives," she explained.

Her study is part of years of research on "the relationship of a climate of extreme social prejudice to the development of moral judgment." It was financed by the Society for the Psychological Study of Social Issues, a division of the American Psychological Assn.

Dr. Fields, who teaches in the education department at Valley State and in the psychology department at Cal State Los Angeles, found "the children walk the streets with no sense of security at all, and fear is a factor in their daily lives—the fear of being killed."

The professor's research in Northern Ireland included one-hour interviews with 48 children—an equal number of Catholics and Protestants—ages 6 to 14.

"Stories of children 6 to 8 years old were replete with death and destruction," she said, pointing out that these are the conditions of human life which they are daily exposed.

In addition, Dr. Fields said, Catholic children fear their fathers or brothers might be arrested and interned under the Special Powers Act, which provides that no charges need be brought against men suspected of being members of the outlawed Irish Republican Army.

"You can walk through some Catholic districts for hours and never see a man over 17, unless he is old or invalid," said Dr. Fields. "They are all on the run or already interned."

About 1,000 Catholics reportedly have been interned at one time or another.

She described the typical day of Northern Ireland youngsters:

"A Catholic child wakes at 7 a.m. and can discover that his father is on the run or the man next door has been arrested. But he doesn't talk about it.

HOLLER EPITHETS

"He walks to school, realizing that at any time he can be stopped by British troopers. A Catholic girl walks past troopers who hoot and holler epithets.

"The children must get home before dark because after dark dangerous things happen.

"Once home they help their mother with the younger children—nearly all the families have 4 to 10 children—and do homework. At night they hear sniper fire and bombs exploding in the streets. Some are afraid to sleep in their own rooms.

"The Protestant child, while he doesn't have to worry about his father or brother being arrested, must worry about the gunfire that emits from snipers and patrols on his way to school.

"Often their mothers as well as their fathers work and they have to help with the chores and take care of younger brothers and sisters."

The professor said Protestant children informed her they are threatened at night to go to sleep . . . "or the Pope will get you."

"I have often thought of this as a war of children against children," Dr. Fields said, "with an 18-year-old soldier screaming epithets at a 14-year-old-girl, or a 19-year-old soldier beating up a 15-year-old boy."

Other reports indicate the children hurl epithets of their own and soldiers are the frequent target of rocks and bottles tossed by children as young as 6.

WAY OF LIFE

Nearly all the boys she interviewed in Belfast expressed a desire to become "fighters" on one side or the other when they grow up indicating they see no end to the conflict, which to them is a way of life.

She told of one incident in which two boys, ages 6 and 7, were playing with some chicken bones they found in the street in the Protestant Shankhill district, "just as any boys anywhere will play." But then an armed patrol came down the street and immediately the game turned to playing soldier.

The professor also conducted interviews with children in Dublin, in the neighboring Republic of Ireland, and was able to ask children in both countries: "What if there were no rules?"

"The children in the north said if there were no rules, everyone would kill each other, while the children in the south said people would steal things, cars would run into ditches, banks wouldn't work. There was no mention of killing," she noted.

"The children in the north see killing and maiming as the only actions and reactions open to humans."

Only one of the 48 North Ireland children questioned, a 13-year-old girl named Regina, saw an alternative to killing and war through negotiations.

Asked about the conflict, Regina said "It's terrible, it shouldn't be happening and what the people need to do is talk to one another."

But the extreme prejudice and lack of trust work to prevent any communication between Catholics and Protestants, Dr. Fields said.

In order to have cooperation of both Catholic and Protestant sources, in her study Dr. Fields carried a letter of introduction from the American Friends Service Committee, a neutral Quaker organization.

"I went with the blessings of the American Friends Service Committee, the Los Angeles Catholic Human Relations Council and the Anti-Defamation League."

Psychologist Says Detainees in Ulster Undergo Torture

Los Angeles, Jan. 7—A social psychologist returned this week from an investigation in Northern Ireland with what she contends is evidence that psychological torture as well as physical abuse is being used in interrogation of Catholic prisoners held in internment camps.

Dr. Rona Field said in an interview today that submission to high-frequency sound waves and sensory deprivation—research methods that have been outlawed for use on human subjects by the American Psychological Association—were being used to undermine the dignity and destroy the effectiveness of the Catholic minority of Northern Ireland.

Although there are no clearcut indications of the effects such treatments have on humans, both methods are considered potentially dangerous. Sensory deprivation—isolation at a constant lighting condition with prisoners tied so they cannot make a sound—is thought to have been used as a brainwashing technique on prisoners of war in Korea.

"The debilitating effect of these processes will be long-range and will be a drain on any government that might evolve there," said Dr. Field, who is to present a scientific analysis of her findings at a meeting of the professional organization next month.

PREMATURE SENILITY

She cited the case of one 40-year-old released prisoner whose mental and physical condition suggested senility—a condition inconsistent with his health at the time of his internment.

"The big, burly man walks like he's 65, whimpers in the dark, is afraid of heights, and has an attention span so short he cannot carry on a conversation," she said.

The 18-day investigation in Northern Ireland and Dublin, where comparative studies were made to study the effects of the violence of children, included more than 100 interviews with released prisoners, their families, families of men now being held prisoner, ministers and teachers.

Dr. Field is believed to be the first psychologist admitted to the detention facility at Long Kesh, where more than 400 of the 600 detainees are being held under the Aug. 9 Special Powers Act. There she interviewed a sociologist, "interned with 89 other prisoners in a 50-by-50 meter cage," who, she said, supported her conclusions with findings of his own.

The Men Behind the Wires

(By Rona M. Fields)

On December 31, 1971, a California college professor visited with a colleague in Northern Ireland. Both professors have been employed as sociologists in schools of Education. Both professors are in their thirties; have been heavily involved in a twenty year struggle for human dignity and basic civil rights for minority group members, both received part of their education at Catholic institutions and part at non-sectarian State schools. Their meeting and conversation took place behind the wires of Long Kesh concentration camp in Northern Ireland. The California Professor had traveled to Ireland to study the relationship between a climate of extreme social prejudice and the development of moral judgment in children. The Irish professor had arrived at Long Kesh four months earlier because his work had been to alter the conditions of social prejudice which impair the development of moral judgment in children.

I am the California professor. I am, so far as I know, the first American social scientist to have visited behind the barbed wire enclosures of the internment camps set up by the Stormont government to enforce the Special Powers Act. My colleague was removed from his home and family on August 9, 1971 and is presently being held without charges and without sentence. His name is Des O'Hagan. He is a professor at Stanmillis College in Belfast. He is also a member of the executive committee of the Northern Ireland Civil Rights Association. He is not "typical" of the men behind the wires, although he does typify the invocation and enforcement of rule by force in Northern Ireland and "definition by dictatorial fiat".

The vast majority of the more than 1800 men and boys (some as young as 12) who have been detained and physically and psychologically brutalized in the months since August 9, 1971, have had little political involvement. The only commonality amongst them has been their having been Catholic by birth. According to the politics of Northern Ireland, however, and more specifically, the politics of the ruling Unionist party, the religious affiliation of birth is sufficient to determine whether votes will or will not be cast for the Unionist party. In maintaining the Unionist hegemony it has been essential to do two things: (a) place your opposition into a condition in which they cannot—by their acts or speeches—define themselves for their prospective constituency; (b) then define the opposition as "traitors" or "violent men", as threats to the safety and well-being of every "good citizen".

As the Civil Rights Movement in Northern Ireland grew through increasing participation by Protestant working class, Catholics of all classes; as students, teachers, civil servants and the unemployed all began to recognize their community of interest; as a genuine multi-party system began to emerge in Northern Ireland The Unionist Party and the Stormont regime found it increasingly necessary to employ tactics "a" and "b".

Finally, by resorting to the instrumentality of the British military units placed by the UK Home Secretary conveniently under the command of the Unionist party, two further tactics could be brought into play. With the aid of the military it became possible to further isolate from any contact with each other, persons belonging to the two "identifiable" populations—Catholics and Protestants. This was accomplished through erection of barricades, and, more significantly, through differential treatment.

Second, it became feasible to enforce those aspects of a military rule which are most demoralizing to civilian populations: random searches, raids, internment without trial, confiscation of goods, destruction of personal property.

The combination of these tactics is sufficient to eliminate (for most people) any alternatives but those of violent retribution or total abject apathy. In terms of relative psychological strength (an indice of mental health) the former alternative is more positive.

Conditions of internment are themselves an example of the use of all of those tactics with the additional one (guaranteed to produce maximum tension) of combining overcrowding, intense physical discomfort and maximal psychological uncertainty. Every person in these camps has been subjected to extreme physical and psychological torture prior to arrival. None have any assurance of release nor of subjection to further torture. They suffer physical pain, an aftermath of hallucinations, disorientation and extreme anxiety symptoms.

There are a variety of political orientations, allegiances and levels of commitment among those interned. Some of them are experiencing their third period of internment within eleven years.

When interned together, unrelieved by any diversion or change of company or activity their political difference become exacerbated into internecine disputes. This further fulfills the intents and purposes of those who ordered and designed the conditions of internment. The governors of these institutions and the wardens have no power in the Ministry of Home Affairs. Cognizant of the overcrowded and damaging conditions of the camps, the Governor of Long Kesh has been pressuring inmates to appeal to the Advisory Board for release. Thus far, twenty-one of the twenty-five men who have thus appealed have been released. The conditions of release demand that an oath be taken to take no part in any non-Unionist political party. This in itself bears witness to the one party plans of the Northern Ireland government.

Des O'Hagan is an exception among the prisoners in Long Kesh. He is one of the very few against whom formal charges were introduced. Professor O'Hagans' house was searched when he was arrested and he was charged with owning "subversive documents". These "documents" consisted of an assortment of social and political history and theory volumes and Sinn Fein membership applications. Considering his work as a sociologist, when he was finally brought before the magistrates, they declared that to them "it is apparent that Des O'Hagan is not a violent man" and they fined him 25 pounds (the equivalent of $65) and dismissed the case. Whereupon the guards removed Professor O'Hagan directly back to Long Kesh! The next day, using the mass media, Brian Faulkner, Prime Minister for Northern Ireland declared that all of those who were imprisoned were "violent men" and thus, despite the finding by the magistrates that O'Hagan was "nonviolent", he was defined by the government as "violent". Obviously, further contradiction is made impossible when the "violent nature" in question has been placed incommunicado behind the wires!

The process of visiting an internee has become a familiar experience for the women and children of Northern Ireland. Each detainee is allowed one half hour visit per week. This is allotted to the "next of kin". Since the majority of families of detainees are without private automobiles and the camp, located on a swamp, is some miles distant from Belfast (about forty minutes drive) there are enormous complications involved in visiting.

In order to keep the visiting appointment almost an entire day is spent in arranging for transportation, child care and finally, the interminable process of being "checked in" and "waiting your turn." Finally there is the search procedure. One never knows how thorough the search will be. There are stories of body searches in which every part is thoroughly examined, and there are the more ordinary procedures during which (in deference to the Hansenist and Protestant Fundamentalist attitudes toward nudity) handbags are thoroughly searched and matrons pat the female and child visitors over their clothing.

The half hour permitted for "family togetherness" transpires in an airless, cell-like cubicle, the door to which has a large window. The wardens assigned to that cubicle peer frequently through the window. Since demonstrations of affection are not common public spectacles in Ireland, one may be quite certain that, with the exception of hugs for the children, there is no physical exchange. The usual experience, as recounted by many of the wives, consists of trying to recall and rapidly relate all of the information about all of the members of family and friends since the last visit. Usually this exchange includes news of further searches of the home, neighbors who have been lifted, the nightly sprayings of black paint by the British army patrols, occasional CS gassings, the four a.m. noise patrols which have "kept the baby and the old people from having a peaceful nights' sleep" and an assortment of news about rent and rate strike warnings and notices.

Descriptions of the conditions of prisoners and the nature of internment are also subject to definition by the government. The Compton Committee of inquiry which was set up to investigate allegations of mistreatment of prisoners reported on November 16, 1971, that, while there were cases of "ill treatment" there was no "brutality or torture". The independent British and international societies which requested access to the internees for purposes of investigating these allegations (Amnesty International and the British Society for Social Responsibility in Science both applied for this permission) were denied official access. Nonetheless the findings of these investigators conducted under "unofficial" auspices substantiate the findings of this author and the allegations made by the Association for Legal Justice. These findings are that psychological torture (ranging from the very crude to the very sophisticated) and physical torture have been applied to persons as young as twelve and has resulted in severe consequences. These effects also indicate that there is a high probability of permanent damage for those so treated.

There is little continuity between the conduct of the British regiments who were originally sent in to "keep the peace" and the behaviors of the military as to December, 1971. This discontinuity can be laid to the fact that prior to the invocation of the Special Powers Act, special Scots regiments were installed in Northern Ireland. These particular regiments have traditions and identity from their historic deployment in actions to "subdue Irish rebels". The combination of this tradition and the training of the officers in anti-insurgents' campaigns in Indonesia, Palestine, Aden and Cyprus provides a task-orientation consistent with the tactics of the Stormont regime. The troops are kept closely quartered and are allowed out only on patrol. They have very limited contact with their homes and families and are very restricted as to contact with civilians. They exemplify British military discipline. The Scots Guards, for instance, have notably maintained their posture and presence despite heckling harassment by tourists while on sentry duty at Buckingham Palace and elsewhere. This discipline is maintained through allowing certain mechanisms for "tension release".

Initially the routines of physical brutality were conducted with the utmost attention to the legalisms (i.e. the military conducted "interrogations" at the direction and under the supervision of the RUC Special Branch), by December of 1971, such "niceties" were no longer required. There were attested incidents of persons being "lifted", taken to RUC stations, dismissed by the RUC and carried away by their military captors to regimental barracks for "a couple of hours of beating about". British military doctors are, significantly, the only persons knowledgeable about the extent of injuries and deaths directly attributable to mistreatment. Like all other British military personnel, they are subject to the "official Secrets Act" according to which, they cannot publicly reveal anything concerning their military duties. When civilian physicians have been asked to treat the victims they have been compelled to sign release forms disclaiming the extent of injury and necessary follow-up treatment. In some instances, even without such release forms civilian physicians who do not want to be bothered by the military have modified accounts of effects or overlooked significant symptoms. This keeps the "records straight". One is reminded sharply of those officials and medical personnel of Auchswitz and Dachau who maintained meticulous records to account for that which by any humane standards was incredible and inhuman. The power of definition owned by the writing on an "official" document serves the Stormont government very well.

Visitors from the International Red Cross have been quoted as stating that the conditions of the internment camps do not add up to prisoner of war standards. Yet these "prisoners" of an undeclared war are, theoretically citizens (or subjects) of the United Kingdom and therefore supposedly eligible for all the privileges and considerations of such nationality. Nowhere else in the United Kingdom could such treatment and practice prevail. It is therefore worthwhile to investigate why this can happen in Northern Ireland.

Irish people who have either worked in England or gone to school there frequently recount instances of having been referred to as "nigger Irish" or, "Irish savages". To a non-Briton there would appear little distinction between the names (given and family) of many persons in the United Kingdom as to whether they were of Irish Scot, Welsh or English origins. The conquering hordes of Angles, Saxons, Vikings and Normans had been generous in scattering their names and seed throughout the British Isles and with little favoritisms. But ethnic identity is a major issue in these isles. The British passport still relies for identification on somewhat archaic anthropological indices such as "head shape". Irish identity is itself a contradiction of romantic idealism and self-deprecation. To the English who alternately exploited and resuscitated the economy of all or part of Ireland, that island and its people represent the drain and strain of the kingdom—"the mad race", "the dreamers", "the bufoons'".

There is an awful tendency in the United States and in England as well as the rest of the world, to view the present turmoil in Northern Ireland through nostalgic analogies with, or in the context of, the historic Irish Republican movement. This compendium of proclivities to distortion have combined into some very obvious media contortions, as well.

BBC's Twenty Four Hour News crews have fought for the right to present their features intact as they produce them. Despite their commitment to this position, there has been an uneven record on the part of the company in presenting these productions. For instance, the programs covering the IRA have been presented. The programs covering the Civil Resistance campaign and the Civil Rights movement have not been presented. This selective process keeps alive the image of "mad dog vengeance fighting" and obscures the real context of the violence. The BBC has had a better overall record than other network media but even at that, they have managed to contribute to the distortions. They have re-emphasized the violent alternative without presenting the context of mass support for the less dramatic but more consensual civil disobedience alternative.

There has been the neglect of mention of the former "B Specials", or as they are referred to, the "Ulster Volunteers" and "vigilantes". There's reason for this omission. This group has supposedly ceased to exist and public mention of their existence brings threats of death to the publicist. These are not idle threats. "Accidents" have been known to happen to newspeople covering the Northern Ireland scene.

Commonly known but never mentioned is the fact that bombings are carried out by this "non-existent" group. Any superficial detective work could distinguish, at the site of a bombing, which group was responsible. The IRA (Provos) use very sophisticated timing devices. The UVF do not. This omission consigns the actions of the CRA and the IRA to some degree of irrationality. It also prevents recognition of the continued presence of the very real threat which precipitated the influx of British troops.

Media distortions in the U.S. have contributed to the confusion. During the "build up" of the antiinternment campaign of the CRA during the last three weeks of December, 1971, there was only one U.S. correspondent in continual presence in Belfast. (I was, in fact, only a special correspondent on unpaid assignment by a local FM station!)

Wire services supplying U.S. newspapers and radio, received their information from ITM. (The British commercial medium which is reputed to have less thorough coverage of Northern Ireland than does BBC) The *New York Times* was obtaining its news directly from the *Irish Times* (a Dublin based newspaper which maintains constant coverage in Northern Ireland), and the *Chicago Tribune* received a weekly column from the editor of the *Sunday News* (a Belfast paper).

This terrible power of definition established and maintained by the Stormont regime has served to bury the issues and confuse the public at home and abroad. It has, in fact, served their purposes so well as to have maintained the image of this as a "holy war" of sectarian interests, rather than as it is—a struggle for civil rights and human dignity.

Evidence Submitted by the British Society for Social Responsibility in Science to the Committee on Interrogation Procedures

The Compton Report stated that detainees in Ulster had been subject to a particular procedure—wall-standing (standing spread-eagle against a wall), hooding, masking noise, bread and water diet and sleep deprivation. It considered each of these to be physical ill-treatment, a term it never defined. The Report did not explain why they should be so considered, nor what their purpose was. We believe that a consideration of the effects of the procedure will show that the value-judgment implied in the Report's attempt to distinguish between ill-treatment and brutality is not viable.

The history of certain aspects of this procedure is widely known. The techniques resemble those used by the KGB in Russia for interrogation purposes. The prisoner there was arrested and taken to the detention prison, where he underwent an introductory routine which included removal of all clothes and possessions, this all occurring with no explanation. He was then placed in solitary confinement in a featureless room for an indefinite period, totally isolated from human contact except during interrogation. He had to sit or stand in a fixed position all day, was allowed to attempt to sleep only at certain times and always in a fixed position facing light. Any deviation from this regimen was punished. Throughout he was fed on an inadequate diet.

Obviously there are certain common elements between this and the Ulster procedure. However, the hooding and the noise were not part of the Russian procedure. They appear to have been developed from a line of research initiated in the early 1950s—sensory deprivation. This research began partially in an attempt to understand brainwashing, but was also being used by the Canadian psychologist, Hebb, in the development of a theory that there exists an optimum level of arousal for cognition, a theory stimulated by Moruzzi and Magoun's work on the reticular formation. The first sensory deprivation experiments were conducted in Hebb's laboratory in Montreal. They involved student volunteers who lay on a comfortable bed wearing translucent goggles that admitted only diffuse light and cuffs which reduced tactile stimuli. They were in a partially sound-proofed cubicle, and a masking noise drowned any noises which had not been completely blocked by the sound-proofing. Despite being paid twenty dollars a day few were willing to remain more than two or three days even though they slept for a considerable portion of the time. They became very bored, desperate for any kind of stimulation, could not concentrate and hallucinated. What was generally anticipated to be a handsomely-payed rest turned out to be extremely unpleasant.

Since the original study, a very large number have been performed in the USA principally sponsored by Defense Department agencies, ostensibly because of the increasing number of restricted and monotonous environments in which military personnel now operate such as in space vehicles, submarines and polar stations. In contrast we know of very few published English studies, which suggests that psychologists in England have in general found insufficient theoretical interests in the procedure to warrant the ethical difficulties involved.

The studies have used various methods of producing sensory isolation. In the most extreme studies subjects were suspended in a tepid bath of water wearing nothing but a breathing mask which also covered eyes and ears. In this environment only 10% of subjects were able to last more than 10 hours (Shurley 1966). Such an experimental situation is expensive to construct and so more typically a totally darkened room is used either sound-proofed or with a white-noise source masking extraneous sounds. Clearly such an environment is very similar to the "noise" and "hood" of the Ulster procedure.

Schultz in a review written in 1965 listed fifteen studies concerned with the affective changes produced by sensory deprivation. For example in a study by Smith and Lewty (1959) 20 subjects volunteered to undergo the normal treatment for as long as they could stand it. The average endurance-time for man was 29 hours compared with the maximum of 43 hours reported by Compton. The authors reported that all subjects experienced anxiety and frequent panic attacks either early in the session or more commonly shortly before they gave up. Those who terminated early gave unbearable anxiety, tension and panic attacks as their reason for leaving. Nightmares involving suffocation, drowning and killing people were reported by five.

There are various ways of increasing the affective consequences of the situation. One is to restrict the subjects' movements. This can be so powerful that even with a monotonous, but not totally deprived, sensory environment psychotic-like effects can occur. Thus Leidermann and his team (1958) noted such symptoms with confinement to an iron lung or with restriction of body movement due to complex traction. The symptoms only responded when the sensory and social environment were improved. In the Ulster situation, the spread-eagle position at the wall serves this function, as well as being a physical torture. Subjects in sensory deprivation experiments normally reduce its effects on them by sleeping extensively; this is prevented in Ulster.

Of great relevance in the Ulster situation is that psychological variables interact with the physiological ones in intensifying sensory deprivation effects. Ignorance of termination time, for instance, was sufficient to produce confusional states and fears of insanity in only a two-hour deprivation period in one experiment. Solitary confinement can produce many similar effects to that of sensory deprivation. Moreover endurance in the typical situation seems strongly related to personality dimensions such as neuroticism, narcotics being less able to stand the situations. Clearly for the detainees the psychological pressures must have been enormous. Sudden arrest in the middle of the night, being physically beaten and dreading what the future might hold can be expected to interact traumatically with the sensory deprivation situation. This could be expected also to increase greatly the pliability of the detainees under interrogation, as sensory deprivation increases the suggestibility and lowers intellectual competence. (These latter phenomena may be related to its progressive slowing of EEG frequencies in the alpha range (Zubek, 1969)). However, greater pliability and suggestibility do not produce more accurate information.

The Ulster methods have much in common with methods used by the K.G.B. (see Hinkle and Wolff, 1956). The period of confinement is much shorter but the isolation techniques are more powerful, solitary confinement being superceded by the "hood." The scars left by Communist methods on the personalities of their prisoners have become well known in the West (e.g. Sargent, 1957), although the best documented are the consequences of Chinese methods (Lifton, 1961). Typically one obtains symptoms of anxiety neurosis similar to those that can be generated by any traumatic event.

As an indication of this possibility Dr. O'Malley of the Mater Hospital, who has interviewed three of the detainees at the request of their solicitors considers that probably one and possibly another will suffer long-lasting anxiety neurosis symptoms. He points out that this is only a preliminary diagnosis based on the one and a half hour interview allowed him by the authorities with each of the three.

The British Society for Social Responsibility in Science had hoped to send an independent team of psychiatrists and other scientists to examine the extent of ascertainable psychological damage among those internees and detainees who suffered the full vigor of the 'disorientation' techniques. However the Home Secretary has not seen fit to recommend to the Northern Ireland Government that it should grant us interview facilities. We regard this as regrettable, particularly in view of Lord Balniel's statement in Parliament (Hansard, 30 November 1971) that it will be for the Parker Committee to decide from whom it wishes to take medical evidence. We have still not received a reply from the Northern Ireland Government to our request, and so must present our evidence without the benefit of a report from our investigating team.

In the light of the information currently available, both as to the techniques of interrogation used in Northern Ireland and their observed and likely effects, we hold that such techniques—wall-standing, hooding, masking noise, bread and water diet, sleep deprivation—should be prohibited. If adopted as official practice, they would incorporate a further misuse of science and technology, as well as a crudely behaviouristic view of the individual as an object to be manipulated mechanistically by the State.

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Psychological Research: The Perversion of Human Welfare

(By Rona M. Fields and J. L. P. Thompson)

The recent attempts to revise the APA ethical code to provide guidelines in the conduct of psychological research is itself an acknowledgment of the potential for demotion of human welfare which is inherent in its practices. The U.S. Department of Health, Education, and Welfare has, additionally incorporated standards for granting funding to research proposals which utilize human subjects in order to prevent those practice which might subvert subject well being.

During the past four years, the subject of legitimacy in both the manner of psychological research and the uses and control of the findings of such research has been argued by Wright (1968), Kelman (1969, 1971), Scriven (1971), Clark (1971) and Albee (1971).

Unlike other inventors, the psychologist has no "patent rights" to either the products of their investigation nor the methodology used in its pursuit. In fact, there would appear to be little that the research psychologist can do even as regards the use of these efforts in support or attack of a thesis totally foreign to the convictions and intents of its preceding initiator. For instance, the differential data compiled on IQ scores by race was used to substantiate the thesis that there is an inherent difference in intellectual potential corrolary with race. This was done despite the fact that some of the original data had been gathered for purposes of developing standardization norms more truly representative of a diverse population. (Jensen, 1971) Even more obvious have been those instances where the military use of psychological research findings and methodologies has resulted in the application of sophisticated techniques for torture, interrogation, brainwashing and terrorization of civilian populations. (Pilisuk, 1969 and 1971)

In some such cases, psychologists have been in a position analogous with those physicists and other scientists who played a part in developing nuclear power and then saw it unleashed for military purposes. Some of these scientists felt then, for the first time, a sense of social responsibility. They joined together and formed groups such as SANE to call on their colleagues and fellow citizens to ban the further use of this destructive potential.

Nobel, whose invention of explosives brought him wealth and fame realized his social responsibility, then, toward peace and instituted the peace prizes. More recently chemists and physicians have recognized the applications of their discoveries for the destruction of civilian populations and have initiated public outcry. However, given the barbarity of many of the weapons currently in use and still being developed for use in southeast Asia this outcry has not seemed very effective.

There is precedent in international law for recognition of the human responsibilities for treatment of sick and wounded within the context of political matters.

Within this social framework of heightened awareness, psychologists are attempting to formulate the machinery and politics that could guide us in the production and use of our professional resources. We are recognizing that, as scientists and as professionals we can and have been used by various political interests without our direct consent. Just as insidiously, members of our profession can and have been employed to serve political interests which are inimicable to our ethic of ". . . to promote human welfare."

It is in this sense that we examine the use of psychology in torture at home and abroad. In all such instances, institutional psychology is employed as an instrument for maintaining particular political systems and attaining particular political objectives without the consent of the subjects.

In Northern Ireland at the present moment, the British military under the direction of the Royal Ulster Constabulary (and in some instances without their direction) is using sensory deprivation, sensory overstimulation, fatigue, environmental stress, white sound and aversive shock as interrogatory procedures against the male population, ages ranging from twelve through sixty-five.

In one barracks, they having succeeded in emulating a psychological laboratory to the extent that there is a completely soundproofed room, complete with all white perforated walls which serves as a "controlled environment." According to statements by these who have been subjected to "treatment" therein, the techniques employed are: silence, wall staring, sleeplessness, dehydration, noise tapes that operate whenever a detainee relaxes on a camp bed, hooding to restrict breathing, forced stress positioning and restrictive tying into stressful and damaging positions . . . (excerpts from interviews with released detainees, Fields, 1972)

The techniques employed by the British military/RUC "interrogators" are intended to deliberately produce mental disturbance and deterioration in order to persuade the victim or weaken his ego-defenses sufficiently to induce compliance with giving information. From my personal examination of one hundred cases of such applications, the intent to produce mental disturbance has been achieved. As for permanence, the effects remained clinically notable after a period of up to six months and could possibly be permanent.

It is asserted that these techniques were developed by the British military through experiences gained from the Nazis and Japanese (psychologists of both nations are still engaged extensively in research on these topics—if the Psychological Abstracts are any criterion!). They then refined these techniques through use in Palestine (against the Jews); in Cyprus (against Eoka); in the Hulu camp in Kenya (against the Mau Mau).

There is of course, no physical brutality that is without a component of psychological torture. These experiments which incorporate the physiological contingencies in concert with specific attacks on the cognitive processes' would appear to produce the most long term and permanent damage. In this way, the "hooding" of detainees which serves at once the function of deleting sensory experience and limiting the supply of oxygen and blood sugar to the brain through restricting breathing, produces mental damage, circulatory disrepair and a host of anxiety syndromes. This reduction of oxygen supply has effects similar to those of drugs on states of consciousness. Like drug effects, there are behavioral consequences often extending beyond the period of immediate reaction.

In criticizing the use of those procedures, and especially the sensory deprivation process, we were quoted by the *New York Times* (Jan. 9, 1972) as stating that the sound wave treatment and sensory deprivation were considered debilitating and potentially dangerous. In reaction to these statements, several colleagues whose "life work" involves such experimentation wrote angry letters to us. One such letter (Suedfeld) pointed out that:

The American Psychological Association does not have the authority to outlaw research techniques. The 1971 indices of *Psychological Abstracts*, published by the APA, list over 30 publications under the heading "Deprivation/Sensory" in which human subjects were used . . . . extensive research on sensory deprivation has shown that while it can indeed have deleterious effects, these are temporary except when deprivation occurs during early life or for extremely long periods; and, in fact, there are beneficial effects as well. For example, the technique is being used as a tool in psychotherapy. (Suedfeld, Jan. 10, 1972.)

These comments serve to emphasize the questionable legitimacy and probable direct responsibility psychology has, for the consequences of pursuing the "pure science" research.

Following Suedfeld's direction, we researched *Psychological Abstracts* and discovered the following items:

Hocking, P. (3 Queens Rd. Melbourne Australia) *Extreme environmental stress and the significance for psychopathology American Journal of Psychotherapy*) 1970, 24(1), 4–26—Describes some of the immediate and long term effects of a number of situations involving severe to extreme stress, semistarvation, sensory deprivation . . . in people subjected to extreme forms of psychological stress suggests that permanent psychologic disability may result and . . . personality characteristics may do no more than determine how long an individual can withstand prolonged extreme stress. (78 ref.) (Physiological Psych. Vol. 44, 12074)

Kolshun, Osanu, Kikechi, Reijji & Murai, Noriko (nigate U. Japan) *Studies on Sensory Deprivation* VI Part 2. Effect of Sensory Deprivation upon memory processes. . . . Investigated the effect of sensory deprivation on recall in long- and short-term memory. In long-term memory the effect was inhibitory rather than facilitative. This result suggests the need of differentiating the respondant recall from the spontaneous recollection. In short-term memory a deteriorative effect of sensory deprivation was seen not on the rote learning function, but in the organizing function of memory. (Experimental Psych. Vol. 43, 13073)

Vodanovic, Marjana (Inst. du Psychologiu, Zagreb, Yugoslavia) *Effect of Fatigue on conformity of free associations.* A list of 94 commonly used words . . . was applied immediately after Ss had completed 7½ hrs. mental work . . . it appears legitimate to conclude that, on the average, fatigue . . . lead to a statistically significant increase in the conformity of answers. (Experimental Psych. Vol. 43, 13646)

These references provide a couple of additional interesting bits of data. Psychological experiments dealing with the effects of deliberate impairment indicate that such treatment may be aidient in psychotherapy only in that it makes the subject more suggestible and thus mire controllable for institutional and political purposes. Along with many other abstracts, those cited above indicate that there are indeed serious long term effects of such treatment, and, in most instances, the study of effects considers only the immediate ones. There are no follow-ups longitudinally. Much of the debilitation could well be extended and increased with the passage of time.

In addition to these psycho-physiological, but nonchemical procedures, a high proportion of the detainees in Northern Ireland, claim to have been force-fed a pill and/or liquid following which they experienced hallucinations, dizziness, nausea and further dehydration. This procedure too, is not unknown in the annals of Psychological experimentation in the United States. In some experiments conducted on prisoners here in California the drugs anectine and succynylcholine have been used. (These will be cited more extensively.) Psychologists have long engaged in research relating to drug effects, stress and suggestibility.

The gamut of interrogatory techniques employed by the British Military/RUC in Northern Ireland is a compendia of "aversive conditioning" practices which have been researched and advocated primarily by psychologists as "psycho-technology". The use of these techniques has been directed toward "learning adjustive behavior". They are often predicated on complicated professional jargonese but the techniques themselves have only such substance as that which was initially stated by Thorndike as the "law of effect". That is, behaviors are learned or discarded in accordance with the degree to which their effects are rewarded. Pavlov attempted to explain the process of conditioning through the physiology of the central nervous system but there are no conclusive evidences that such conditioning produces a one-to-one relationship in development of "neural pathways". (Pribram, 1971)

"Adjustive behavior" has a direct relationship to the norms requisite for maintaining any socio-political system. Szasz has repeatedly documented the utility of institutional psychiatry for enforcing the systems norms. (1964, 1970). But institutional psychiatry has had a very effective partner during the past several decades—both at home and abroad. This partner, psychological research, and most especially adversive conditioning have been analogous with the "Inquisitor's Henchman"—the "confessions Extractor". (szazs, 1970). While the British would appear to be relying on the application of psychological procedures by lay persons, military and constabulary personnel, in the State of California, psypchologists and medical people have become more directly involved in the application of these techniques. Those who, in Ireland, are suspected of being "violent men" are "processed" in barracks and internment camps as well as in the jails. In the State of California there are "adjustment centers" which have been established by the State for "violent men". In both situations, "violent man" is a definition placed on them by the authorities as a description of their behavioral deviance. So long as they are locked up there is no way that they can counter that definition nor provide one of their own for their persecutors. In these adjustment centers, prisoners become the subjects for psychological and medical experimentation; recipients of adversive conditioning as part of the "treatment" program; and are, in Ireland subjected to the experienced previously described.

There is something of a legalistic difference in the prisoners of California and the prisoners of Northern Ireland. The former have been charged with some offence, and have, at least theoretically been accorded due process, found guilty and sentenced. In Northern Ireland, the prisoners, including the children have not been accorded anything resembling due process, and have seldom been charged. The latter have been "lifted for questioning". Of course, in the State of California, a parolee may also be summarily "lifted for questioning" often under the guise of being taken for "psychological examination".

Another procedural difference between the two is that the stated goal of the British interrogators is to "obtain information" and the techniques are predicated on wearing away resistance to revealing such information. The goal in California is to "change" the prisoners behaviors so as to make them more susceptible to "institutional control and regulation."

The existence of the machinery for aversive conditioning has, in both instances, a larger social effect. This coercive effect is most readily seen in the situation in Northern Ireland. In order to avoid this 'treatment process" being inflicted on oneself, an individual is placed in the position of making choices between two polar alternatives: (i) abrogating personal convictions to bring behaviors in line with the extant norms (which will maintain the socio-political status quo); (2) Commitment to violent actions with total disregard for their own or other human life. The latter has as its rationale, "whether or not my behavior is morally correct, I shall be unbearably chastised, therefore, there is no valid recourse to moral judgment. There is no value to human life."

This second alternative is probable despite management of contingencies. This is evidenced through the many studies which demonstrate the inconsistent long term effects of aversive conditioning. (Church, 1963; Rachman, 1955). Further, it is apparent through studies of child-rearing practices, that physical punishment results in greater aggression. (Bandura and Walters, 1959)

Bandura lists four major objections to the effectiveness of severe physical punishment as a means of correcting behavior: (1) Severe punishment gives rise to anxiety which may reinforce patterns of behavior that are even more undesirable than the experimental behavior; (2) aversive conditioning may cause the patient to avoid the therapist and thus lose the potential for more positive treatment; (3) use of physical punishment provides an aggressive model for imitation which counters the effectiveness of the aversive stimuli; (4) the aversive conditioning tends to increase the frequency and amplitude of aggressive behavior. (Bandura, 1959, p. 300)

Bandura's objections are cited inprologue to a report entitled "Assessment of an Aversive Treatment Program with Extreme Acting out Patients in a psychiatric facility for Criminal Offenders". (Mattocks and Jew, 1971). After citing the research evidences for the unreliability of aversive treatment, the authors proceded to outline their own proposal and program of aversive treatment through the use of drugs. Like other such experiments and treatment programs, there is no attempt to morally justify this admittedly dangerous and inconsistantly effective program. They make the point that a "critical attitude" is required towards the use of punishment as a means of altering behavior. In this case they have clearly decided that their procedure is justified: insofar as they have thought about the problem at all, they seem to be satisfied with two patently inadequate rationalizations: 1) The violence or torture they apply is redefined as "treatment" instead of "punishment". (It *is* violent torture: Succinylcholine, when injected intramuscularly, results in complete muscular paralysis including temporary respiratory arrest. Onset of effects are rapid and the reaction can be controlled by the amount injected" (Mattocks and Jew, p. 3). 2) The "patients" are seen as undeserving of consideration as human beings because previous treatments failed. The authors are concerned about aversive therapy involving violence toward children but feel that no detailed defense is required to inject succinylcholine into "violent" prisoners.

Yet on the critical evidence they themselves refer to it is a reasonable hypothesis that the violent behavior of these individuals is itself a response to excessive physical punishment in the past. Instead of investigating this hypothesis they apply further violence in the expectation that it will finally lead to "cure". This has powerful parallels in the escalation of violence in Northern Ireland, and of course, the recent political history of U.S. involvement in Vietnam!

Such applications of expert knowledge are everywhere. As quoted in Viet Report:

Interrogations will continue, reaching each peasant in the hamlet once every ten days. The project will work something like a dental clinic: the peasant will be given his next interrogation appointment as he ends his first session (1/24/66). The project, which is advised by General lamdala (1/26/66) plans to issue identity cards and set up family registers (1/23/66). In addition there will be an attempt to organize every group of four to eight houses into an '"inter-family group". One family head in each neighborhood grouping will be appointed as group head. (1/23/66) . . . . will also organize a system of interlocking organizations . . . to try to make every member of the hamlet a member of some kind of government sponsored organization with some discipline and control over him . . . "It's a litle bit totalitarian", a source remarked, "but the idea is to tie each person to some kind of controlled organization". (William Ross in *Viet Report*, 1966, pp. 27–32)

Most insidious perhaps, is the fact that such "expert knowledge" is most often solicited and paid for by the controlling agencies. Psychologists write handbooks for the police to control the behavior of the arrestee in extracting a confession from him (Zimbardo, 1966), Psychologists engage in research funded by military agencies to devise means for more effectively bringing civilian populations "under control" (Pilisuk, 1970) Psychologists design experiments to render inactive deviant prisoners (Mattocks & Jew, 1971). Psychologists legitimize the de-basement of human beings by providing organizational forums (such as this convention) for the presentation of such research findings.

This situation is summed up by Kelman in a soon to be published book, *Freedom and Coercion in the Life Sciences:*

The ethical problems surrounding social research, with their direct implications for human freedom, can be conceptualized in terms of the power relationship between the subjects of social research, on the one hand, and the social scientist as well as the sponsor and user of social research on the other hand. Ethical problems arise because of the fact that—and to the extent that—the individuals, groups, and communities that provide the data for social research are deficient in power relative to the other participants in the research process. I ——— as that between the researcher and the research sponsor . . . the power deficiency of the subject . . . his position of relative disadvantage within the social system . . . also . . . his position within the particular organization in which the research is conducted. . . . (pp. 2–5).

The majority of subjects for experiments in sensory deprivation, aversive conditioning and environmental stress have been students and prisoners. (Kelman) Membership in either of these groups predisposes an individual to less than absolute free choice as regards subjecting oneself to experimentation. Both groups are all too aware that there is a relationship between "volunteering" and reinforcement contingencies. For prisoners, volunteering is often the only alternative for sheer physical survival. Administratively non-participation in the group entitles a man to a "free one way ride" to another prison because of the limited number of group psychotherapy "chairs". Among inmates Vaccaville enjoys a reputation of being one of the better correctional retreats. (F. H. Ernst & W. C. Keating, "Psychiatric Treatment of the California Felon", paper read at Western regional meeting of the APS. San Francisco, Calif. Sept. 26–28, 1963)

In a recent telephone interview, Dr. L. J. Pope, Warden of the Vaccaville facility, was also unwilling to discuss the new program in any detail. Pope did insist that prisoner participation would be voluntary, yet his word betrayed the administrative pressure that will probably influence inmate volunteers: "If they don't want to take the drug they don't have to", he said, regarding chemotherapy treatment. "If they want to stay coo-coo and stay locked up all their lives that's alright with me". (Ernst & Keating)

There is an historical precedent in psychology for the utilization of institutionalized persons as human guinea pigs. American psychologists somehow prefer to think that this kind of professional practice might have been the custom for their colleagues in Nazi Germany but that it is not a real issue in American psychology. Unfortunately, this is far from true. John B. Watson's earliest experimental work in conditioning human emotions involved, as subjects, infants and very young children who had been institutionalized through parental failures of various kinds. (They were living in orphanages consequent to birth out of wedlock or economic hardship.) The classic study of "little Albert" who learned to be terrified of any white furry object is in itself a symbol of the heritage of Psychology and Behaviorism. It is a precedent for the perpetration of psychological violence on an individual already victimized by social injustice.

In contrast to the direction taken by Watson, John Dewey said, in 1937:

> We need to recover from the impression that the essential problem is solved when chemical, immunological, physiological and emotional knowledge is sufficiently obtained. We cannot employ and understand this knowledge until it is placed integrally in the context of what human beings do to one another in the vast variety of our contacts and associations.

There is questionable validity to the continued pursuit of those studies which, in their process have probable deleterious effects on the subjects; nor those studies which very clearly have direct application to the subjugation of person through political systems enforcements. How many years and research evidence does it take to convince us, as scientists, that there are ways through which the application of scientific principles and methods can injure human beings? How many evidences do we need to know that the effects of these procedures are damaging and can readily be used to pervert human welfare? How many times must we stand indicted before our fellow human beings for "doing our job" in a very similar fashion to the manner of Eichman "doing" his? Who is ultimately responsible for the horror and devastation of so many lives in Northern Ireland today? Is it the soldier or constable, who is employing these procedures is "doing his job"? Or is it us, the Psychologists who in inventing and legitimating these methods and promoting these findings are "only doing our job"!

LEAVE OF ABSENCE

Mr. Nichols (at the request of Mr. Boggs), for today, on account of official business.

Mr. Alexander (at the request of Mr. Boggs), for today, on account of official business.

Mr. Corman, for Wednesday, February 16 through Friday, February 18, on account of official business.

Mr. McEwen (at the request of Mr. Gerald R. Ford), for today and the balance of the week, on account of official business.

Mr. Murphy of New York, for Friday, February 18, 1972, to February 28, 1972, on account of official business.

Mr. Price of Texas (at the request of Mr. Gerald R. Ford), on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Collins of Texas, for 20 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. Young of Florida) and to revise and extend their remarks and include therein extraneous matter:)

Mr. Crane, for 15 minutes, today.

Mr. Halpern, for 5 minutes, today.

Mr. McCulloch, for 5 minutes, today.

Mr. Miller of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. Mazzoli) and to revise and extend their remarks and include therein extraneous matter:)

Mr. Gonzalez, for 10 minutes, today.

Mr. Fuqua, for 5 minutes, today.

Mr. Aspin, for 20 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Abernethy, and to include an editorial.

Mr. Mahon, and to include tables and extraneous material.

Mr. Madden, and to include extraneous material.

Mr. Jones of Alabama to revise and extend his remarks on conference report on Federal Water Pollution Control Act.

Mr. Quie to include extraneous matter with his remarks made today in the Committee of the Whole.

(The following Members (at the request of Mr. Young of Florida) and to include extraneous material:)

Mr. Conable in two instances.

Mr. Steele in two instances.

Mr. Esch.

Mr. Landgrebe in five instances.

Mr. Bell.

Mr. Derwinski in three instances.

Mr. Anderson of Illinois in two instances.

Mr. Cleveland.

Mr. Cederberg.

Mr. Zwach.

Mr. Snyder in two instances.

Mr. Schmitz in two instances.

Mr. Wyman in two instances.

Mr. Whitehurst in two instances.

Mr. Smith of California.

Mr. Robison of New York.

Mr. Smith of New York.

Mr. Broomfield in three instances.

Mr. Conte.

Mr. Keith.

Mr. Halpern in two instances.

Mr. Coughlin.

Mr. Goldwater in three instances.

Mr. McClory.

Mr. Dickinson.

Mr. Hosmer in three instances.

Mr. Forsythe.

Mr. Wydler.

Mr. Brotzman.

Mr. McCloskey.

Mr. McKevitt.

Mr. Sandman.

Mr. Whalen.

(The following Members (at the request of Mr. Mazzoli) and to revise and extend their remarks and include extraneous matter:)

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Hagan in three instances.

Mr. Kluczynski in two instances.

Mr. Fountain in two instances.

Mr. Steed in two instances.

Mr. Flood.

Mr. Carney in two instances.

Mr. Eilberg.

Mr. Pickle in five instances.

Mr. Yatron in two instances.

Mr. Gaydos in eight instances.

Mr. Dingell in two instances.

Mr. Mollohan in two instances.

Mr. Harrington in four instances.

Mrs. Hicks of Massachusetts in two instances.

Mr. Ryan in six instances.

Mr. Celler in two instances.

Mr. Annunzio in three instances.

Mr. Vanik.

Mr. Brooks.

Mr. Anderson of California in two instances.

Mrs. Chisholm in three instances.

Mr. Murphy of Illinois.

Mr. Cotter in three instances.

Mr. Begich in five instances.

Mr. Hungate.

Mr. Evins of Tennessee in five instances.

Mr. Hamilton in two instances.

Mr. Rodino in three instances.

Mr. Daniel of Virginia.

Mr. Jacobs.

Mr. Mazzoli.

Mr. Waldie in six instances.

Mr. Hicks of Washington.

Mr. O'Hara.

Mr. Hébert.

Mr. Brasco.

Mr. Dorn in two instances.

Mr. Stokes in three instances.

Mr. Roush in two instances.

Mr. Bingham in two instances.

Mr. SCHEUER.
Mrs. GRASSO in 10 instances.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 7. An act to provide for the establishment of the Buffalo National River in the State of Arkansas, and for other purposes; and

S. 1857. An act to amend the joint resolution establishing the American Revolution Bicentenial Commission, as amended.

ADJOURNMENT

Mr. MAZZOLI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 10 minutes p.m.), the House adjourned until tomorrow, Thursday, February 17, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1598. A communication from the President of the United States, transmitting a draft of proposed legislation to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for apropriations (H. Doc. No. 92–252); to the Committee on Foreign Affairs and ordered to be printed.

1599. A letter from the adjutant general. Veterans of Foreign Wars of the United States, transmitting the proceedings of the 72d National Convention of the Veterans of Foreign Wars, pursuant to Public Law 88–224 (H. Doc. No. 92–253); to the Committee on Armed Services and ordered to be printed with illustrations.

1600. A letter from the Clerk, U.S. House of Representatives, transmitting his semiannual report of receipts and expenditures of appropriations and other funds for the period of July 1, 1971, through December 31, 1971, pursuant to 2 U.S.C. 104(a) (H. Doc. No. 92–251); to the Committee on House Administration and ordered to be printed.

1601. A letter from the director, National Legislative Commission, American Legion, transmitting the 53d annual report of the American Legion, including the proceedings of the 1971 national convention and an audit of financial statements (H. Doc. No. 92–254); to the Committee on Veterans' Affairs and ordered to be printed with illustrations.

1602. A letter from the Architect of the Capitol, transmitting his semiannual report of expenditures for the period of July 1 through December 31, 1971, pursuant to section 105(b) of Public Law 88–454; to the Committee on Appropriations.

1603. A letter from the Secretary of Defense, transmitting a report of real and personal property of the Department of Defense as of June 30, 1971, pursuant to 10 U.S.C. 2701; to the Committee on Armed Services.

1604. A letter from the Secretary of Defense, transmitting the annual report for calendar year 1971 on activities under the Alaska Communications Disposal Act, pursuant to section 206 of the act; to the Committee on Armed Services.

1605. A letter from the Under Secretary of the Army, transmitting copies of the index covering legislation enacted by the Government of the Ryukyu Islands in 1971, pursuant to Executive Order 10713 of June 5, 1957; to the Committee on Armed Services.

1606. A letter from the Secretary of Transportation, transmitting a statement on obligational authority available under section 4(c) of the Urban Mass Transportation Act of 1964; to the Committee on Banking and Currency.

1607. A letter from the Secretary of Transportation, transmitting the first annual report of the Urban Mass Transportation Administration on capital assistance, technical studies, and relocation grants, covering the period October 15, 1970, through December 31, 1971, pursuant to section 4 of the Urban Mass Transportation Act of 1964, as amended; to the Committee on Banking and Currency.

1608. A letter from the Commissioner of the District of Columbia, transmitting a draft of proposed legislation to amend the law relating to the conduct of public hearings before the Zoning Commission of the District of Columbia; to the Committee on the District of Columbia.

1609. A letter from the Commissioner of the District of Columbia, transmitting a draft of proposed legislation to improve the laws relating to the regulation of insurance companies in the District of Columbia; to the Committee on the District of Columbia.

1610. A letter from the Assistant Secretary of Agriculture, transmitting a report on the funding status of the school breakfast program and the nonfood assistance program, pursuant to section 3 of Public Law 92–153; to the Committee on Education and Labor.

1611. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of a report of the President and the memorandum requesting it concerning the furnishing of assistance to Pakistan, pursuant to section 630(w) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

1612. A letter from the Assistant Secretary of the Interior, transmitting a corrected version of the 15th annual report on the status of the Colorado River storage project and participating projects, pursuant to 70 Stat. 105; to the Committee on Interior and Insular Affairs.

1613. A letter from the Commissioner, Bureau of Indian Affairs, U.S. Department of the Interior, transmitting the Bureau's annual credit and financing report for 1971; to the Committee on Interior and Insular Affairs.

1614. A letter from the Commissioner, Indian Claims Commission, transmitting a report of the final determination of the Commission in docket No. 135, *The Iowa Tribe of the Iowa Reservation in Kansas and Nebraska, the Iowa Tribe of the Iowa Reservation in Oklahoma, et al., the Sac and Fox Tribe of Indians of Oklahoma, the Sac and Fox Tribe of Missouri, and the Sac and Fox Tribe of Mississippi in Iowa, et al., Plaintiffs,* v. *The United States of America, Defendant,* pursuant to 25 U.S.C. 70(t); to the Committee on Interior and Insular Affairs.

1615. A letter from the Secretary of Commerce, transmitting the annual report of the activities of the Department of Commerce under the Fair Packaging and Labeling Act, covering fiscal year 1971, pursuant to section 8 of the act; to the Committee on Interstate and Foreign Commerce.

1616. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual report of activities of the Health Services and Mental Health Administration, pursuant to section 310(b) of Public Law 91–515; to the Committee on Interstate and Foreign Commerce.

1617. A letter from the Secretary of Health, Education, and Welfare, transmitting the second annual report on marihuana and health, pursuant to title V of Public Law 91–296; to the Committee on Interstate and Foreign Commerce.

1618. A letter from the Chairman, Federal Power Commission, transmitting a copy of a publication entitled, "Statistics of Privately Owned Electric Utilities, 1970"; to the Committee on Interstate and Foreign Commerce.

1619. A letter from the Executive Director, Federal Communications Commission, transmitting a report on the backlog of pending applications and hearing cases in the Commission as of December 31, 1971, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

1620. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204 (d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

1621. A letter from the Executive Director, National Parks Centennial Commission, transmitting the annual report of the Commission for calendar year 1971, pursuant to Public Law 91–332; to the Committee on the Judiciary.

1622. A letter from the Assistant Secretary, Agricultural Hall of Fame and National Center, transmitting the annual audit and report of the Board of Governors of the Agricultural Hall of Fame and National Center for the year ended August 31, 1971, pursuant to section 14(b) of Public Law 86–680; to the Committee on the Judiciary.

1623. A letter from the Secretary of Commerce, transmitting the annual report of the Maritime Administration for fiscal year 1971; to the Committee on Merchant Marine and Fisheries.

1624. A letter from the Secretary of Health. Education, and Welfare, transmitting a report on grants approved by his office which are financed wholly with Federal funds and subject to the reporting requirements of section 1120(b) of the Social Security Act, covering the period of October 1 through December 31, 1971; to the Committee on Ways and Means.

RECEIVED FROM THE COMPTROLLER GENERAL

1625. A letter from the Comptroller General of the United States, transmitting a report on the increase in unsuitability discharges of Marine Corps recruits; to the Committee on Government Operations.

1626. A letter from the Comptroller General of the United States, transmitting a report on the problems associated with converting defense research facilities to meet different needs, Department of Defense; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POAGE: Committee on Agriculture. H.R. 12931. A bill to provide for improving the economy and living conditions in rural America; with amendments (Rept. No. 92–835). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. ABZUG:

H.R. 13141. A bill to amend the Uniform Code of Military Justice in order to provide that courts-martial may place persons on probation upon conviction for certain narcotic-drug-related offenses, and for other purposes; to the Committee on Armed Services.

H.R. 13142. A bill to establish an independent Board of Parole, to provide for fair and equitable Federal parole procedures, to establish a National Parole Institute, and to provide assistance to the States for the operation of fair and adequately staffed parole systems, and for other purposes; to the Committee on the Judiciary.

By Mr. BROOMFIELD:

H.R. 13143. A bill to require that all schoolbuses be equipped with seatbelts for passengers and seatbacks of sufficient height to prevent injury to passengers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CLANCY:

H.R. 13144. A bill to amend title XVII of the Social Security Act to provide financial assistance to individuals suffering from chronic kidney disease who are unable to pay the costs of necessary treatment, and to authorize project grants to increase the availability and effectiveness of such treatment; to the Committee on Ways and Means.

By Mr. COLLINS of Texas:

H.R. 13145. A bill to amend the Federal Aviation Act of 1958 to provide for the suspension and rejection of rates and practices of air carriers and foreign air carriers in foreign air transportation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DANIELS of New Jersey:

H.R. 13146. A bill to require the President to notify the Congress whenever he impounds funds, or authorizes the impounding of funds, and to provide a procedure under which the House of Representatives and the Senate may approve the President's action or require the President to cease such action; to the Committee on Rules.

By Mr. DELLUMS (for himself, Mrs. Chisholm, Mr. Clay, Mr. Collins of Illinois, Mr. Conyers, Mr. Fauntroy, Mr. Hawkins, Mr. Metcalfe, Mr. Mitchell, Mr. Nix, Mr Rangel, and Mr. Stokes):

H.R. 13147. A bill to terminate the exploitative activities of U.S. business concerns in the Republic of South Africa, South-West Africa, Rhodesia, or any African territory under Portuguese control and to end certain violations of the United Nations Universal Declaration of Human Rights by such businesses, and for other purposes; to the Committee on Foreign Affairs.

By Mr. Dickinson:

H.R. 13148. A bill to amend the National Trails System Act to provide for a feasibility study of the William Bartram Trail in Alabama; to the Committee on Interior and Insular Affairs.

By Mr. DINGELL (for himself, Mr. Saylor, and Mr. Aspin):

H.R. 13149. A bill to amend the act of May 19, 1948, with respect to the use of real property for wildlife conservation purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. DULSKI (for himself and Mr. Henderson):

H.R. 13150. A bill to provide that the Federal Government shall assume the risks of its fidelity losses, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FRELINGHUYSEN:

H.R. 13151. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. GARMATZ (for himself, Mr. Dingell, Mr. Pelly, Mr. Clark, Mr. Mailliard, Mr. Ashley, Mr. Mosher, Mr. Lennon, Mr. Downing, Mr. Grover, Mr. Stubblefield, Mr. Keith, Mr. Murphy of New York, Mr. Ruppe, Mr. Jones of North Carolina, Mr. Goodling, Mr. Leggett, Mr. McCloskey, Mr. Biaggi, Mr. Snyder, Mr. Griffin, Mr. Steele, Mr. Anderson of California, Mr. Forsythe, and Mr. Tiernan):

H.R. 13152. A bill to authorize the Secretary of the Interior to assist the States in controlling damage caused by predatory animals; to establish a program of research concerning the control and conservation of predatory animals; to restrict the use of toxic chemicals as a method of predator control, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. GARMATZ (for himself, Mr. James V. Stanton, Mr. du Pont, Mr. Moss, Mr. Karth, Mr. Nedzi, Mr. William D. Ford, Mrs. Griffiths, Mr. O'Hara, Mr. McDonald of Michigan, Mr. Metcalfe, and Mr. Kyros):

H.R. 13153. A bill to authorize the Secretary of the Interior to assist the States in controlling damage caused by predatory animals; to establish a program of research concerning the control and conservation of predatory animals; to restrict the use of toxic chemicals as a method of predator control, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mrs. GREEN of Oregon:

H.R. 13154. A bill to provide for the payment of losses incurred by growers, manufacturers, packers, and distributors as a result of the barring of the use of cyclamates in food after extensive inventories of foods containing such substances had been prepared or packed or packaging, labeling, and other materials had been prepared in good-faith reliance on the confirmed official listing of cyclamates as generally recognized as safe for use in food under the Federal Food, Drug, and Cosmetic Act, and for other purposes; to the Committee on the Judiciary.

By Mr. GUDE (for himself, Mr. Badillo, Mr. Edwards of California, Mr. Fraser, Mr. Morse, Mr. McCloskey, Mr. Mitchell, Mr. Obey, Mr. Steele, Mr. Frenzel, Mr. Drinan, Mr. Rees, Mr. Mikva, Mr. Bingham, Mr. Carey of New York, Mr. Harrington, and Mr. Kastenmeier):

H.R. 13155. A bill to provide for a study and investigation to assess the extent of the damage done to the environment of South Vietnam, Laos, and Cambodia as the result of the operations of the Armed Forces of the United States in such countries, and to consider plans for effectively rectifying such damage; to the Committee on Foreign Affairs.

By Mr. JACOBS:

H.R. 13156. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

H.R. 13157. A bill to require the National Railroad Passenger Corp. to provide free or reduced-rate railroad transportation to retired railroad employees and their dependents on the same basis that such transportation was available to such employees and dependents on the date of enactment of the Rail Passenger Service Act of 1970; to the Committee on Interstate and Foreign Commerce.

By Mr. JOHNSON of California:

H.R. 13158. A bill to name a bridge across a portion of Oakland Harbor, Calif., the "George P. Miller-Leland W. Sweeney Bridge"; to the Committee on Public Works.

By Mr. LONG of Maryland:

H.R. 13159. A bill to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. McFALL:

H.R. 13160. A bill to amend the Federal Alcohol Administration Act with respect to the requirements for labeling; to the Committee on Ways and Means.

By Mr. MADDEN:

H.R. 13161. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mr. MINSHALL:

H.R. 13162. A bill to amend the Tariff Act of 1930 so as to exempt certain private aircraft entering or departing from the United States, Canada, Mexico, and the Bahama Islands at night or on Sunday or a holiday from provisions requiring payment to the United States for overtime services of customs officers and employees, and for other purposes; to the Committee on Ways and Means.

By Mr. MOLLOHAN:

H.R. 13163. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

H.R. 13164. A bill: American Folklife Foundation Act; to the Committee on House Administration.

By Mr. MONAGAN:

H.R. 13165. A bill to amend the draft laws to provide for the deferment of students appointed to maritime academies and colleges; to the Committee on Armed Services.

H.R. 13166. A bill to amend the Maritime Academy Act of 1958 to provide that students at State maritime academies and colleges may be appointed by the Secretary of the Navy as Reserve midshipmen in the U.S. Navy; to the Committee on Armed Services.

By Mr. MONTGOMERY:

H.R. 13167. A bill to extend commissary and exchange privileges to certain widows of certain deceased veterans; to the Committee on Armed Services.

H.R. 13168. A bill to amend title 38, United States Code, to encourage persons to join and remain in the Reserve and National Guard by providing full-time coverage under servicemen's group life insurance for such members and certain members of the Retired Reserve up to age 60; to the Committee on Veterans' Affairs.

By Mr. POAGE:

H.R. 13169. A bill to amend existing statutes to authorize the Secretary of Agriculture to issue cotton crop reports simultaneously with the general crop reports; to the Committee on Agriculture.

By Mr. PRICE of Illinois:

H.R. 13170. A bill to encourage State and local governments to provide relief from real property taxes for elderly individuals; to the Committee on Ways and Means.

By Mr. RIEGLE (for himself, Mr. Halpern, Mr. Helstoski, Mr. McClure, Mr. Roe, and Mr. Ullman):

H.R. 13171. A bill to promote development and expansion of community schools throughout the United States; to the Committee on Education and Labor.

By Mr. RODINO:

H.R. 13172. A bill to amend the Vocational Rehabilitation Act to provide improved vocational rehabilitation services to individuals; to the Committee on Education and Labor.

By Mr. ROSENTHAL (for himself, Mrs. Abzug, Mr. Addabbo, Mr. Badillo, Mr. Bingham, Mr. Halpern, Mr. Koch, Mr. Rangel, Mr. Ryan, and Mr. Wolff):

H.R. 13173. A bill to provide emergency assistance for the construction of academic facilities for York College of the City University of New York; to the Committee on Education and Labor.

By Mr. ROSTENKOWSKI:

H.R. 13174. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification and reform of the provisions relating to subchapter S corporations; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 13175. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. SCOTT (for himself, Mr. Baker, Mr. Nichols, and Mr. Robinson of Virginia):

H.R. 13176. A bill to clarify the jurisdiction of certain Federal courts with respect to public schools and to confer such jurisdiction upon certain other courts; to the Committee on the Judiciary.

By Mr. SCOTT (for himself, Mr. McCormack, Mr. Nix, Mr. Rarick, Mr. Charles H. Wilson, Mr. Bob Wilson, Mr. Gray, Mr. Robinson of Virginia, and Mr. Pepper):

H.R. 13177. A bill to amend title 38, United States Code, in order to permit certain veterans up to 9 months of educational assistance for the purpose of pursuing retraining or refresher courses; to the Committee on Veterans' Affairs.

By Mr. SEIBERLING:

H.R. 13178. A bill to amend the Randolph-Sheppard Act for the blind so as to make certain improvements therein, and for other purposes; to the Committee on Education and Labor.

By Mr. SMITH of New York:

H.R. 13179. A bill to amend section 8(c) of the Federal Water Pollution Control Act to extend the reimbursement provisions for an additional year; to the Committee on Public Works.

By Mr. WALDIE:

H.R. 13180. A bill to amend title 5, United States Code, to allow credit for civil service retirement purposes for time spent by Japanese Americans in World War II internment camps; to the Committee on Post Office and Civil Service.

By Mr. WHALEN (for himself, Mrs. Dwyer, Mr. Kyros, Mr. Kastenmeier, Mr. Burton, Mr. Drinan, Mr. Forsythe, Mr. Rangel, Mr. Sarbanes, and Mr. Stokes):

H.R. 13181. A bill to authorize the President, through the temporary Vietnam Children's Care Agency, to enter into arrangements with the Government of South Vietnam to provide assistance in improving the welfare of children in South Vietnam and to facilitate the adoption of orphaned or abandoned Vietnamese children, particularly children of U.S. fathers; to the Committee on Foreign Affairs.

By Mr. YOUNG of Florida (for himself and Mr. Veysey):

H.R. 13182. A bill to amend the Communications Act of 1934 to direct the Federal Communications Commission to require the establishment nationally of an emergency telephone call referral system using the telephone No. 911 for such calls; to the Committee on Interstate and Foreign Commerce.

By Mr. ZWACH:

H.R. 13183. A bill to amend the Soil Conservation and Domestic Allotment Act, as amended, to establish an upland game conservation program; to the Committee on Agriculture.

By Mr. BROTZMAN:

H.R. 13184. A bill to modify the project for flood control below Chatfield Dam on the South Platte River, Colo., authorized by the Flood Control Act of 1950; to the Committee on Public Works.

By Mr. CELLER (for himself and Mr. McCulloch):

H.R. 13185. A bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide; to the Committee on the Judiciary.

By Mr. COTTER:

H.R. 13186. A bill to establish a Department of Peace, and for other purposes; to the Committee on Government Operations.

By Mr. FRASER:

H.R. 13187. A bill to establish a commission to investigate and study the practice of clearcutting of timber resources of the United States on Federal lands; to the Committee on Agriculture.

By Mr. GARMATZ (for himself, Mr. Clark, Mr. Pelly, and Mr. Keith):

H.R. 13188. A bill to authorize appropriations for the procurement of vessels and aircraft and construction of shore and offshore establishments, and to authorize the average annual active duty personnel strength for the Coast Guard; to the Committee on Merchant Marine and Fisheries.

By Mr. KOCH (for himself, Mr. Addabbo, Mrs. Abzug, Mr. Bingham, Mr. Burton, Mr. Carey of New York, Mrs. Chisholm, Mr. Dow, Mr. Eilberg, Mrs. Grasso, Mr. Gray, Mr. Halpern, Mr. Mazzoli, Mr. Nix, Mr. Podell, Mr. Rangel, Mr. Rosenthal, and Mr. Stokes):

H.R. 13189. A bill to amend the Child Nutrition Act of 1966 to permit the waiver of matching requirements in special and unusual circumstances; to the Committee on Education and Labor.

By Mr. KOCH:

H.R. 13190. A bill to amend title II of the Social Security Act to provide that the remarriage of a widow, widower, or parent shall not terminate his or her entitlement to widow's, widower's, or parent's insurance benefits or reduce the amount thereof; to the Committee on Ways and Means.

By Mr. KOCH (for himself and Mrs. Heckler of Massachusetts):

H.R. 13191. A bill to amend title V of the Social Security Act to extend 5 years (until June 30, 1977) the period within which certain special project grants may be made thereunder; to the Committee on Ways and Means.

By Mr. KYROS:

H.R. 13192. A bill to amend title XVIII of the Social Security Act to eliminate the monthly premium requirements for individuals covered under the supplementary medical insurance program established by part B of such title; to the Committee on Ways and Means.

By Mr. ROONEY of Pennsylvania:

H.R. 13193. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. WYMAN:

H.R. 13194. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. WYMAN (for himself, Mr. Melcher, Mr. Rhodes, Mr. Colmer, and Mrs. Hicks of Massachusetts):

H.R. 13195. A bill to amend the Federal Trade Commission Act (15 U.S.C.) 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. ARCHER:

H. Res. 815. Resolution commending the U.S. team for their admirable showing in the 1972 Winter Olympics; to the Committee on the Judiciary.

By Mr. BROTZMAN (for himself, Mr. Heinz, and Mr. Mizell):

H. Res. 816. Resolution to amend the Rules of the House of Representatives to create a standing committee to be known as the Committee on the Environment; to the Committee on Rules.

By Mr. HOWARD:

H. Res. 817. Resolution calling for peace in Northern Ireland and the establishment of a united Ireland; to the Committee on Foreign Affairs.

By Mr. ANNUNZIO:

H. Con. Res. 534. Concurrent resolution expressing the sense of the Congress that the President, acting through the U.S. Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violations in the Soviet-occupied Ukraine on the agenda of the United Nations Organization; to the Committee on Foreign Affairs.

By Mr. GALLAGHER:

H. Con. Res. 535. Concurrent resolution providing for the recognition of Bangladesh; to the Committee on Foreign Affairs.

By Mr. MONAGAN:

H. Con. Res. 536. Concurrent resolution urging review of the United Nations Charter; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

307. By the SPEAKER: Memorial of the Senate of the State of Rhode Island and Providence Plantations, relative to minimum standards for private pension plans; to the Committee on Education and Labor.

308. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to settlement of the civil strife in Northern Ireland; to the Commitee on Foreign Affairs.

309. Also, memorial of the Legislature of the Territory of Guam, commending Jesus M. Duenas and Manuel T. DeGracia for their bravery and solicitude in capturing Sgt. Shoichi Yokoi; to the Committee on Interior and Insular Affairs.

310. Also, memorial of the House of Representatives of the State of Hawaii, relative to insuring the uninterrupted flow of essential goods and commodities during regional transportation emergencies; to the Committee on Interstate and Foreign Commerce.

311. Also, memorial of the Senate of the State of Arizona, relative to Veterans Day; to the Committee on the Judiciary.

312. Also, memorial of the Senate of the State of Arizona, relative to establishment of a national cemetery in Arizona; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of Michigan:

H.R. 13196. A bill for the relief of Atma Ram Sud; to the Committee on the Judiciary.

By Mr. GUDE:

H.R. 13197. A bill to grant a Federal charter to the Crime Stoppers Club, Inc.; to the Committee on the District of Columbia.

By Mr. KOCH:

H.R. 13198. A bill for the relief of Hilda Eileen Godfrey; to the Committee on the Judiciary.

By Mr. WIDNALL:

H.R. 13199. A bill for the relief of Alfredo Federico Pizzi, Lydia Palmira Pizzi, and

Lawrence Pizzi; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

187. By the SPEAKER: Petition of the City Commission, Miami, Fla., relative to a Federal antirecession and full employment law; to the Committee on Banking and Currency.

188. Also, petition of the national convention of the Speech Communication Association, New York, N.Y., relative to the Congressional Record; to the Committee on House Administration.

189. Also, petition of the mayor and Council of the Borough of Harrington Park, N.J., relative to extending the Federal Water Pollution Control Act; to the Committee on Public Works.

190. Also, petition of mayor and Council of the Town of Index, Wash., relative to Federal-State revenue sharing; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

COMMEMORATION OF LITHUANIAN INDEPENDENCE DAY

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Wednesday, February 16, 1972

Mr. THURMOND. Mr. President, I wish to acknowledge on behalf of all Lithuanian Americans the commemoration this month of the 721st anniversary of the Lithuanian State, established in the year 1251, and the 54th anniversary of the establishment of the modern Republic of Lithuania on February 16, 1918.

It has now been nearly 32 years since the illegal incorporation of the free and independent Republic of Lithuania by the Communists into the Union of Soviet Socialist Republics, one of the brutal tragedies of all time.

Mr. President, I have recently received a statement from the Lithuanian American Community of the U.S.A. entitled "Lithuania's Seven-Century Quest for Freedom" which I feel is an excellent summary of the case for a free Lithuania, whose right of self-determination we have supported since June of 1940 when the Communist takeover of Lithuania occurred.

Mr. President, I ask unanimous consent that the statement entitled "Lithuania's Seven-Century Quest for Freedom" and the text of House Concurrent Resolution 416 supporting Lithuanian freedom, adopted by the 89th Congress on June 23, 1966, be printed in the Extensions of Remarks.

There being no objection, the items were ordered to be printed in the Record, as follows:

Lithuania's Seven-Century Quest for Freedom

(The Land of Simas Kudirka)

"I have nothing to add to what I have already said, only one wish, more specifically, a request to the supreme court and the government of the Soviet Union: I ask that you grant my homeland, Lithuania, independence."—*From appeal of Simas Kudirka during his trial.*

The Kremlin is fond of saying that Russian imperialism died with the czar. But the fate of the Baltic nations—Lithuania, Latvia and Estonia—shows this to be cruel fiction. The Communist regime did not come to power in the Baltic States by legal or democratic process. The Soviets invaded and occupied the Baltic States in June of 1940, and the Baltic peoples have been suffering in Russian-Communist slavery for more than 30 years.

700-YEAR-OLD STATE

The Lithuanians are proud people who have lived peacefully on the shores of the Baltic from time immemorial. For instance, this year marks the 721st anniversary of the formation of the Lithuanian state. Mindaugas the Great unified Lithuanian principalities into one kingdom in 1251.

The Baltic peoples have suffered for centuries from the "accident of geography." From the West they were invaded by the Teutonic Knights, from the East by the Russians. It took remarkable spiritual and ethnic strength to survive the pressures from both sides. The Lithuanians, Latvians and Estonians, it should be kept in mind, are ethnically related *neither to the Germans nor the Russians.*

After the Nazis and Soviets smashed Poland in September of 1939, the Kremlin moved troops into the Baltic republics and annexed them in June of 1940. In one of history's greatest frauds, "elections" were held under the Red army guns. The Kremlin then claimed that Lithuania, Latvia and Estonia voted for inclusion in the Soviet empire.

MOST BRUTAL OCCUPATION OF ALL TIME

Then began one of the most brutal occupations of all time. Hundreds of thousands of Balts were dragged to trains and jammed into cars without food and water. Many died from suffocation. The pitiful survivors were dumped out in the Arctic or Siberia. The Baltic peoples have never experienced such an extermination and annihilation of their people in their long history through centuries as during the last three decades. Since June 15, 1940, these three nations have lost more than one-fourth of their entire population. The genocidal operations and practices being carried out by the Soviets continue with no end in sight.

Since the very beginning of Soviet Russian occupation, however, the Balts have waged an intensive fight for freedom. During the period between 1940 and 1952 alone, some 30,000 Lithuanian freedom fighters lost their lives in an organized resistance movement against the invaders. The cessation of armed guerrilla warfare in 1952 did not spell the end of the Baltic resistance against Soviet domination. On the contrary, resistance by passive means gained a new impetus.

SUCCESSFUL REVOLT AGAINST SOVIETS

The year of 1971 marked the 30th anniversary of Lithuania's successful revolt against the Soviet Union. During the second part of June of 1941 the people of Lithuania succeeded in getting rid of the Communist regime in the country: freedom and independence were restored and a free government was re-established. This free, provisional government remained in existence for more than six weeks. At that time Lithuania was overrun by the Nazis who suppressed all the activities of this free government and the government itself.

The Government of the United States of America has refused to recognize the seizure and forced "incorporation" of Lithuania, Latvia and Estonia by the Communists into the Union of Soviet Socialist Republics. Our Government maintains diplomatic relations with the former free Governments of the Baltic States. Since June of 1940, when the Soviet Union took over Lithuania, Latvia and Estonia, all the Presidents of the United States (Franklin D. Roosevelt. Harry S. Truman, Dwight D. Eisenhower, John F. Kennedy, Lyndon B. Johnson, and Richard M. Nixon) have stated, restated and confirmed our country's nonrecognition policy of the occupation of the Baltic States by the Kremlin dictators. However, our country has done very little, if anything, to help the suffering Baltic peoples to get rid of the Communist regimes in their countries.

RESTORATION OF INDEPENDENCE TO LITHUANIA

The case of the Baltic States is not a question about the right of self-rule of Lithuana, Lativia and Estonia, since this is established beyond any reasonable doubt, but the question is how to stop the Soviet crime and restore freedom and independence to these countries. The Select Committee of the House of Representatives to investigate the Incorporation of the Baltic States into the U.S.S.R., created by the 83rd Congress, after having held 50 public hearings during which the testimony of 335 persons was taken, made a number of recommendations to our Government pertaining to the whole question of liberation of the Baltic States. According to the findings of this House committee, "no nation, including the Russian Federated Soviet Republic, has ever voluntarily adopted communism." All of them were enslaved by the use of infiltration, subversion, and force. The American foreign policy toward the Communist enslaved nations, the aforesaid House committee stated, must be guided by "the moral and political principles of the American Declaration of Independence." The present generation of Americans, this committee suggested, should recognize that the bonds which many Americans have with enslaved lands of their ancestry are a great asset to the struggle against communism and that, furthermore, the Communist danger should be abolished during the present generation. The only hope of avoiding a new world war, according to this committee, is a "bold, positive political offensive by the United States and the entire free world." The committee included a declaration of the U.S. Congress which states that the eventual liberation and self-determination of nations are "firm and unchanging parts of our policy."

RIGHT STEP IN THE RIGHT DIRECTION

The United States Congress has made a right step in the right direction by unanimously adopting H. Con. Res. 416 (89th Congress) that calls for freedom for Lithuania, Latvia and Estonia. All freedom-loving Americans should urge the President of the United States to implement this very important legislation by bringing the issue of the liberation of the Baltic States in the United Nations and requesting the Soviets withdraw from Lithuana, Latvia and Estonia. The time has come for the whole world to demand that the principle of self-determination be respected and that the nations of Lithuania, Latvia and Estonia, too, shall be free from domination and be permitted to choose their own form of government. We should have a single standard for freedom. Its denial in the whole or in part, in any place in the world, including the Soviet Union, is surely intolerable.

H. Con. Res. 416

Whereas the subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations, and is an impediment to the promotion of world peace and cooperation; and

Whereas all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social, cultural, and religious development; and

Whereas the Baltic peoples of Estonia, Latvia, and Lithuania have been forcibly deprived of these rights by the Government of the Soviet Union; and

Whereas the Government of the Soviet Union, through a program of deportations and resettlement of peoples, continues in its effort to change the ethnic character of the populations of the Baltic States; and

Whereas it has been the firm and consistent policy of the Government of the United States to support the aspirations of Baltic peoples for self-determination and national independence; and

Whereas there exist many historical, cultural, and family ties between the peoples of the Baltic States and the American people: Be it

Resolved by the House of Representatives (the Senate concurring), That the House of Representatives of the United States urge the President of the United States—

(a) to direct the attention of world opinion at the United Nations and at other appropriate international forums and by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Estonia, Latvia, and Lithuania, and

(b) to bring the force of world opinion to bear on behalf of the restoration of these rights to the Baltic peoples.

THE ADMINISTRATION'S SULFUR TAX LEGISLATION

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. ASPIN. Mr. Speaker, last week the President sent to Congress, as a part of his environmental message, his proposal to place a tax on sulfur emissions from stationary sources. Last session, 24 Members of the House joined me in co-sponsoring sulfur tax legislation which would place a 20 cents tax per pound on all sulfur emissions.

While I applaud the administration for introducing its sulfur tax proposal, I believe its proposal is woefully inadequate. I would like today to place in the RECORD a copy of a recent letter I sent to the President concerning his legislation. I also include in the RECORD a statement on the Nixon sulfur tax bill by the Coalition To Tax Pollution—a group of pollution organizations supporting strong pollution incentive legislation.

Those two items follow:

FEBRUARY 10, 1972.

President RICHARD M. NIXON,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: I was extremely pleased to see that the Administration sulfur tax bill was sent to Congress last week. I think the Administration deserves real praise for introducing the sulfur tax bill since this will serve to bring to light the advantages of pollution tax incentives. But I do not believe that the Administration's proposal accurately or adequately reflects the real advantage of pollution tax incentives.

As you know, the purpose of a pollution tax is to provide an immediate and continuing incentive for an industry to reduce its pollution as much as is technologically possible. There are two very basic things wrong with the Administration's proposal. First, there is no incentive for a polluter to reduce its sulfur emissions below the standards set by the Clean Air Act amendments. Second, one of the real advantages of tax incentive legislation is that it can be put into effect quickly, at an escalating rate, to provide an immediate incentive to the polluter to abate. By waiting until 1976, the Administration's proposal completely negates this advantage.

One of the most unfortunate aspects of the Administration's proposal is that it would have the effect of actually increasing air pollution in certain regions of the country by encouraging sulfur polluters to move to regions where there is relatively little sulfur pollution and which are likely to be well under the sulfur standards set by the Clean Air Act amendments. Thus, the basic net effect of your legislation might well be to transfer sulfur pollution rather than reduce it. This is so because, under your proposal, even if one industry is exceeding the Clean Air Act standards, if the region as a whole is below those standards, none of the industries within the region will be taxed. Conversely, if one industry has done everything possible to reduce its sulfur emissions, but its region exceeds the standards, then the industry will be taxed along with all others in the region. While this transferring of sulfur pollution from one region to others is not necessarily bad per se, it would be far better to reduce sulfur pollution in all regions—which is what pollution tax incentive legislation is designed to accomplish.

In short, I believe the Administration's proposal is inadequate, deceptive, and distorts the very purpose of using tax incentives to reduce pollution. I hope the Administration will be amenable to changes which will strengthen the legislation if, and when, it receives committee hearings.

Sincerely,

LES ASPIN,
Member of Congress.

COALITION TO TAX POLLUTION—ENVIRONMENTALISTS CRITICIZE NIXON SULFUR TAX PLAN

The Coalition to Tax Pollution, an organization of major environmental groups supporting an effective tax on sulfur emissions, notes with pleasure that the Administration has come forth with its long-awaited proposal to tax sulfur pollution. A spokesman from the Coalition expressed hope that hearings will be scheduled promptly by the House Ways and Means Committee and the Senate Finance Committee, to discuss the entire issue of the taxation of sulfur pollution, and to consider the other bills which have been introduced on the subject.

However, the Coalition expressed concern about the main features of the Administration bill, citing several weaknesses. The Coalition stated:

"The Administration's sulfur tax proposal is distressingly weak. The close meshing with the Clean Air Act involves loopholes, complications, and an open invitation to polluters to redistribute rather than reduce the sulfur pollution problem. The Administration does not seem to understand that a tax scheme and a regulatory scheme can operate complementarily without being totally interwoven—that a tax is strong precisely where the regulations are weak, and vice versa. By putting them together, they detract from the virtues of both.

The level of the tax, even in the dirtiest areas, is not high enough, and the stimulus it will provide for degradation of the many areas which presently do better than the secondary standards (in which there will be no tax whatsoever) is an important and unfortunate consequence of this proposal.

By exempting clean air regions, the concept of a tax as an effort to make polluters responsible for the social costs of pollution, by making production costs reflect those social costs, is ignored.

We support a strong sulfur tax proposal—a national tax at the rate of twenty cents per pound. We hope that in discussions of the sulfur tax, the weaknesses of the Administration's bill will be recognized, and that Congress will strive to pass an effective sulfur tax. We do not wish to see a good idea lost because of a bad proposal."

The Coalition had the following criticisms of the Nixon bill:

1. Since polluters in regions with air better than the secondary standards will pay no tax, this measure will promote the degradation of these regions. Much of this country presently has air of better quality than that defined by the secondary standards. This feature of the tax is a serious example of the Administration's abandonment of a policy of non-degradation.

2. The proposed tax levels—15 cents per pound of sulfur in the worst areas, 10 cents in those areas which are meeting primary but not secondary standards—are not high enough. Much abatement costs more than 10 cents per pound of sulfur abated, and a significant amount costs more than 15 cents as well. For example, stack gas cleaning costs about 11.4 cents per pound of sulfur abated, and fuel oil desulfurization to .3% sulfur will cost about 19 cents per pound. Thus, even the higher tax will leave a severe urban problem—sulfur pollution from building heating—virtually untouched.

3. There will be *no* tax until 1976, when, by law, the primary standards must be met anyway. The Administration is postponing the use of the incentive device until after the problem is supposed to be well on its way to being solved

4. The ambient air over a certain piece of the country does not give a true picture of the air pollution problem, because air pollution does not necessarily obey the boundaries of regions defined under the Clean Air Act. A system which taxes according to these regions ignores this fact. Sweden, in its case study for the 1972 U.N. Conference on the environment, cites severe damage from sulfur in the rain far from the source of pollution (England), and argues for reduction of total emissions, as well as control of local air concentration problems. In this country an air pollution episode in Oklahoma was traced by meteorologists to emissions in Wisconsin, Illinois, Indiana, Ohio, and West Virginia.

5. The President stated in his environmental message that the tax is "an application of the principle that the costs of pollution should be included in the price of the product." Why then is there no tax in a major part of the country? Clearly, the social cost of pollution in these areas, although they have cleaner air generally, is not zero.

The Coalition also stated that basing the tax on ambient air rather than simply on emissions creates an unfair situation. Ambient air quality depends as much on weather and the behavior of other polluters as it does on the actions of individual polluters. Yet these circumstances will determine whether the tax is levied on an individual polluter.

The Coalition supports a sulfur tax proposal which has none of the above weaknesses. It has been introduced as a bill by Senator Proxmire (S. 3057) and Congressman Aspin (H.R. 10890) It has the following features:

1. The target level of the tax is 20 cents per pound of sulfur, reached in 5-cent increments from 1972 to 1975. The phase-in period gives polluters a chance to adjust to pollution control, and make major expenditures on pollution control processes, yet it provides an incentive to do so immediately.

2. The tax is national in scope—it tolerates no degradation anywhere; it provides no stimulus to send pollution to clean air regions rather than preventing it. Pollution travels great distances (the residence time of sulfur in the air is about one week) and hence integrated control over large areas is necessary.

3 The level of the tax, 20 cents per pound of sulfur, is higher than most estimated costs of abatement, and will therefore promote a high level of abatement, and a continuing incentive to develop better and cheaper methods to control sulfur pollution.

The Coalition to Tax Pollution includes among its national cooperating organizations the following groups, as well as almost 50 groups from around the country:

Environmental Action
Federation of American Scientists
Federation of Western Outdoor Clubs
Friends of the Earth
Sierra Club
The Wilderness Society
Zero Population Growth

NEWS BULLETIN OF THE AMERICAN REVOLUTION BICENTENNIAL COMMISSION

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. WHITEHURST. Mr. Speaker, I call my colleagues' attention to the first item that appears in the February 14 edition of the ARBC news bulletin. Representatives of the bicentennial commissions of the 50 States and the territories will be in Washington for the National Bicentennial Conference. The event will be held Tuesday, February 22, and Wednesday, February 23, at the Pan American Health Organization Building.

The conference will provide information vital to the establishment and operation of State bicentennial programs. Those attending will be filling a leadership role in their States.

The American Revolution Bicentennial Commission was formed by Congress in 1966, and each Congress since that time has contributed to the Commission's operation. A word of support from Members of Congress at this critical time could be most helpful to a successful celebration in 1976 for each State and community.

I am also including a list of persons attending the conference and the States they represent. Members wishing to arrange a personal meeting with their State's delegation should contact ARBC Congressional Liaison. May I suggest this is an opportunity that should not be overlooked to express interest in the bicentennial.

I insert the news bulletin at this point in the RECORD, followed by a list of State delegates to the National Bicentennial Conference.

AMERICAN REVOLUTION BICENTENNIAL COMMISSION, FEBRUARY 14, 1972

The full ARBC Commission meeting will be held on Monday, February 21, at 9:00 a.m. in the Pan American Health Organization Building, Room B. On Tuesday, February 22. The Fifty States National Bicentennial Conference will convene at 9:00 a.m., at the Washington Hilton Hotel. Chairman Mahoney will report on the current status of the ARBC in a kickoff speech. On Wednesday, February 23, the Conference will reconvene at 9:00 a.m. and will include a keynote speech by Mr. Pat Dodson, chairman of the Florida ARBC.

ARBC Communications Chairman James Copley has announced that his committee and staff have been working with U.S. News and World Report on a special bicentennial article that will appear in the February 28 issue available on newsstands next week. The article includes a chart showing plans and projects in all Fifty States.

The House last week by a 329 to 36 vote passed the ARBC authorization, S. 1857. The bill now goes to the Senate for action.

"The bicentennial era, I am convinced, is the right time for Washington to gain a new and more expansive sense of itself and to find in its dual identity an opportunity for dual excellence unparalleled among American cities," President Nixon observed on February 4 in outlining his action plan for the Capital's 1976 commemoration, and he added: "The seat of government can excel as an exemplary living city, at the same time the home of 750,000 local residents excels as a gracious host to fellow citizens and foreign visitors who may number 40 million during 1976 alone."

The president of Bryn Mawr College in Philadelphia, Harris Wofford, has announced a bicentennial program consisting of a series of seminars, symposia and conferences covering the next five years to investigate "how our country has succeeded or failed to carry out objectives of the Declaration of Independence and the Bill of Rights." Some of the "1976 studies program" will be open to the public. A report on findings and recommendations will be made in 1976.

The Smithsonian Institution plans to open a new Hall of American Maritime Enterprise in time for the bicentennial. Funds for construction of the hall, which will cost about $1.5 million, are being sought from individual donors and maritime organizations. A highlight of the new hall, which will depict "the importance to America of the sea, the lakes and the rivers from colonial days to the present," will be a completely equipped engine room of a small steam vessel.

Last week some 5,000 boy scouts, cubs and explorers between the ages of eight and 80 participated in the Cincinnati tri-county area's "Expo '76" to acquaint the public with the wide range of activities the Boy Scouts of America has to offer. This was the third of the scout's thundercloud district's five annual programs that will culminate with the commemoration of the bicentennial.

The Iowa American Revolution Bicentennial Commission has hired Phaene Hibbs of Chariton as its first field representative. Commission chairman Robert Dillon said Mr. Hibbs will visit all Iowa communities to encourage local committees to plan bicentennial programs. Mr. Hibbs will also act as a clearinghouse for program dates and ideas on the commemoration.

The Connecticut ARBC has voted to seek a feasibility study of the establishment of a state historical museum as a permanent contribution to the National Bicentennial in Connecticut. Commission Chairman Eric Hatch stated that its two legislative members, Senator Jay Jackson and Representative Robert Orcutt would introduce legislation authorizing the feasibility study.

Texas A&M University's agricultural extension service has initiated a project dubbed "3.76 in '76." Carried out in cooperation with both public and private agricultural agencies throughout the state, it is designed to increase agricultural income by $1 billion in 1976 as well as laying down guidelines for improving food quality.

Last week the House supported unanimously a resolution to hold the 1976 Olympics in Denver.

Prologue: The Journal of the National Archives will publish a special bicentennial issue in the fall 1972 and invites interested persons to submit articles on the revolutionary period for consideration. Research for such articles would not have to be based primarily on the records of the national archives and records service. Manuscripts should be sent to Herman J. Viola, National Archives Building, Washington, D.C. 20408.

A Washington Post editorial commenting on the administration's D.C. bicentennial message stated: "In calling for a vast package of new construction projects costing some $150 million (not to mention plans already endorsed for riot-corridor renewal and completion of the Federal triangle), Mr. Nixon has hammered home the need for speed and cooperation to meet the historic—and inflexible-deadline on which everything now hinges . . . all of us who have been behind the dream of doing great things for this city in time for the Nation's 200th birthday must find renewed determination to make them happen now that we are assured of deep commitment from the White House."

Recently the Dayton (Ohio) Journal Herald reported that a private, non-profit Dayton firm, let's promote America, Inc. assisted by advice from the Ohio ARBC, is putting together a traveling exhibit that will tour the country preceding the opening of the bicentennial year.

In the first meeting of the advisory council of the Connecticut ARBC recently Governor Thomas J. Meskill told bicentennial planners: "I am sure that none of you has joined in this bicentennial effort with the idea that it will consist solely of planning and staging a big parade or something of the sort. There is widespread agreement, all over the country, that if we are going to do no more than that for the bicentennial, we may as well forget it."

Congratulations to Dr. Charles E. Perry, President of Florida International University and a member of the Florida ARBC, who was recently honored by the U.S. Jaycees as one of America's 10 outstanding young men for 1971.

STATES ARBC REPRESENTATIVES ATTENDING NATIONAL BICENTENNIAL CONFERENCE

(Arrival/departure dates appear in parentheses after names.)

(Asterisk indicates spouse will accompany.)

ALABAMA

Honorable Sage Lyons, Chairman, Alabama ARBC (21–23).

Mr. Doug Benton, Executive Director, Alabama ARBC (21–23).

ALASKA

Mr. Michael Kennedy, Director, Alaska State Museum (20–23).

ARIZONA

Mr. John H. Eversole, Chairman, Arizona ARBC (21–25).

Mrs. Mildred May, Vice Chairman, Arizona ARBC (21–25).

Mr. Maurice M. Giss, Department of Economic Planning and Development (21–25).

AMERICAN SAMOA

Mr. M. W. Bales, Office of Territories, Department of the Interior.

High Chief A. U. Fuimaono, Delegate-at-Large to Washington.

ARKANSAS

Mr. Lou Oberste, Secretary, Arkansas Bicentennial Celebration Cmte. (21–23).

Mrs. Thomas F. Dodson, Arkansas State Regent, DAR (21–23).

CALIFORNIA

Mr. Charles J. Conrad, Chairman, California ARBC (20–24).

COLORADO

Mr. Alexis McKinney (representing Chairman, Colorado 1976 Centennial-Bicentennial Commission) (21–25).

Mr. J. R. Albi, Executive Director, Colorado 1976 Centennial-Bicentennial Commission (21–24).

CONNECTICUT

Mr. Eric Hatch, Chairman, Connecticut ARBC (21-23).

Mr. William Morris, Director, Connecticut ARBC (20-23).

DELAWARE

Dr. E. A. Trabant, Chairman, Delaware ARBC (21-23).

DISTRICT OF COLUMBIA

Mr. James Gibson, Chairman, Bicentennial Commission of the District of Columbia.

Mr. G. Dewey Arnold, Vice Chairman, Bicentennial Commission of D.C.

Mrs. Patricia Mathews.

FLORIDA

Mr. Pat Dodson, Chairman, Florida Bicentennial Commission, (21-23).

Mr. E. Jones, Pres., Third Century USA, Inc., (21-24).

Mr. D. Fountain, Office of Secretary of State of Florida, (21-23).

Mr. N. E. Bill Miller, Exec. Dir., Florida Bicentennial Commission, (21-23).

Mr. W. Owens, Office of the Governor, (21-23).

Mr. J. Henry, Staff of the Lieutenant Governor, (21-23).

Mr. N. Landrum, Director, Division of Recreation & Parks, (21-23).

GEORGIA

Mr. Ernest G. Key, Jr., Chairman, Georgia Commission for the National Bicentennial Celebration, (21-23).

HAWAII

Mrs. Hazel Smith, Hawaii ARBC (21-23).

IDAHO

Honorable W. Anthony Park, Chairman, Idaho ARBC, (21-23).

ILLINOIS

Mr. Andrew McNally, III, Chairman, Illinois Bicentennial Commission, (21-23).

Mr. Samuel A. Lilly, Executive Director, Illinois Bicentennial Commission, (21-23).

INDIANA

Miss Marcelle Foote, Secretary, Indiana State Bicentennial Commission, (21-23).

IOWA

Mr. Robert W. Dillon, Chairman, Iowa ARBC, (21-23).

Mr. Kenneth R. Fulk, Secretary, Iowa ARBC, (21-23).

Mr. Phane Hibbs, Field Representative, Iowa ARBC, (21-23).

KANSAS

Mr. Morris Krouse, Chairman, Kansas ARBC, (20-24).

KENTUCKY

Mr. Clyde Webb, Chairman, Historical Events Celebration Commission, (21-23).

LOUISIANA

Mr. Ben C. Toledano (representing Chairman, Louisiana Bicentennial Commission), (21-23).

*Mr. Michael Hackett, Louisiana Tourist Development Commission, (21-23).

MAINE

*Mr. Roy A. Whitcomb, Jr., Executive Assistant to the Governor, (21-24).

Dr. Ronald Banks, Chairman, ARBC Planning Commission, (21-24).

Honorable Walter Birt, State House of Representatives, (21-24).

Mr. Robert Damm, Vice Chairman, Maine ARBC Planning Commission, (21-24).

MARYLAND

Mr. Bruce Price, Exec. Dir., Maryland Bicentennial Commission, (21-23).

MASSACHUSETTS

*Mr. Francis W. Sidlauskas, Executive Director, Revolutionary War Bicentennial Commission, (21-23).

MICHIGAN

Mr. Robert H. Sisson, Acting Chairman, Michigan ARBC, (21-23).

MINNESOTA

Mrs. Wenda Moore, Bicentennial Representative for Minnesota, (21-24).

MISSISSIPPI

*Dr. R. A. McLemore, Director, Department of Archives and History, State of Mississippi, (20-23).

MISSOURI

Mr. James Pasley, Executive Director, ARBC of Missouri, (21-23).

MONTANA

Mr. Alec Hansen, Assistant to the Governor of Montana, (21-23).

NEBRASKA

Mr. James Potter, State Archivist, State Historical Society, (21-23).

NEVADA

Mr. Fred Gale, Chairman, Nevada Bicentennial Celebration Committee, (20-24).

NEW HAMPSHIRE

Mr. Henry Monroe, Member New Hampshire ARBC, (22-24).

NEW JERSEY

Mr. John T. Cunningham, Chairman, New Jersey Historical Commission, (21-23).

Mr. Bernard Bush, Executive Director, New Jersey Historical Commission, (21-23).

Mr. Walter T. Peters, Jr., Spec. Representative of the Governor's Office, (21-23).

NEW MEXICO

*Mr. Joseph J. Mullins, Chairman, New Mexico ARBC, (19-23).

NEW YORK

Dr. Louis L. Tucker, Executive Director, New York State ARBC, (22-23).

NORTH CAROLINA

Honorable Hector MacLean, Chairman, North Carolina ARBC, (21-23).

Mr. Richard F. Gibbs, Executive Director, North Carolina ARBC, (21-23).

NORTH DAKOTA

*Mr. John Conrad, Chairman North Dakota Bicentennial Commission (19-23).

OHIO

Mr. Daniel R. Porter, Director, The Ohio Historical Society, (21-23).

OKLAHOMA

Mrs. Gladys Warren, Director, Oklahoma Bicentennial Commission, (21-23).

OREGON

Mrs. L. A. Baumhover, member ARBC of Oregon, (21-23).

PENNSYLVANIA

Mr. George H. Ebner, Executive Director, Bicentennial Commission of Pennsylvania, (21-23).

PUERTO RICO

*Mr. Charles Pasarell, Chairman, Puerto Rico Bicentennial Commission, (21-24).

RHODE ISLAND

Honorable George F. McDonald, Jr., Chairman, Rhode Island Bicentennial Commission, (21-23).

SOUTH CAROLINA

Mr. P. Bradley Morrah, Chairman, South Carolina ARBC, (21-23).

*Mr. Robert Hickman, Director, Department Parks, Recreation and Tourism (21-23).

SOUTH DAKOTA

Mr. Les Helgeland, Chairman, South Dakota ARBC (20-25).

TENNESSEE

*Mrs. H. T. Spoden, representing Tennessee ARBC, (21-23).

TEXAS

*Mr. Sam Kinch, Sr., Chairman, ARBC of Texas, (21-23).

Mrs. Gene J. Riddle, Associate Executive Director, ARBC of Texas, (21-24).

Mr. Jack Newman, Member San Antonio Bicentennial Committee, (21-23).

Mrs. Vivian Hamlin, Member San Antonio Bicentennial Committee, (21-23).

Mrs. R. V. Allen, Member ARBC, (21-23).

Mrs. W. W. McAllister, (21-23).

UTAH

Mr. Milton L. Weilenmann, Executive Director, Department of Development Services (State of Utah), (20-23).

VERMONT

Mr. Peter R. Martin, Executive Assistant to the Governor, (21-23).

VIRGINIA

Mr. Lewis A. McMurran, Jr., Chairman, Virginia Independence Bicentennial Commission, (21-23).

Mr. Parke Rouse, Jr., Acting Director, Virginia Independence Bicentennial Commission, (21-23).

VIRGIN ISLANDS

Mrs. Doris Rosas, Asst. to the Attorney General of the Virgin Islands, (21-23).

WASHINGTON

Mr. Bruce Le Roy, Chairman, Washington ARBC, (20-24).

WEST VIRGINIA

Dr. Carolyn J. Zinn, State Historian and Bicentennial Chairman, (21-24).

WISCONSIN

Mr. James Morton Smith, Director, The State Historical Society of Wisconsin, (21-24).

WYOMING

Mrs. Katherine Halverson, Wyoming State Archives and Historical Department, (21-24).

ST. LOUIS, MISSOURI

Honorable Alfonso J. Cervantes, Mayor of St. Louis.

OPPOSITION TO THE PRESIDENT'S VIETNAM PROPOSAL

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Wednesday, February 16, 1972

Mr. THURMOND. Mr. President, it is a tragic state of affairs when prominent leaders in our country immediately criticized the President's unprecedented offer for peace in Vietnam even before Hanoi had responded to U.S. concessions Hanoi demanded. In my judgment, this continuous aid to the enemy has been one of the principal factors for failure in the negotiations and the release of U.S. prisoners.

It is noted that many editorials concur with this opinion. I shall quote a significant paragraph from the January 20, 1972, issue of the Stars and Stripes—the National Tribune:

> The politicians seeking votes through using the prisoner of war issue have no more assurance than does the President that Hanoi would release these mistreated men if the United States surrendered completely and met all other demands the North Vietnamese have made through their lackeys in America.

Mr. President, I ask unanimous consent that the editorial, entitled "Aiding the Enemy" be printed in the Extensions of Remarks.

There being no objection, the article is ordered to be printed in the RECORD, as follows:

EDITORIAL—AIDING THE ENEMY

It is more than regrettable that certain politicians seeking the highest office in the land will stoop to the low level of throwing out false hopes to the relatives of prisoners held by Hanoi. Blandly, they assure voters that they would get the prisoners released by the simple expedient of pulling out every last American in uniform from Vietnam and ceasing all aid to the South Vietnamese in their battle against the aggressors in the north.

At no time has Hanoi given any definite pledge on when and under what circumstances it would release the unhappy Americans held in its stockades and cells. To get such a pledge has been a prime purpose of the Paris talks with the enemy. Nothing has come from them except tirades against the United States.

The President long back said he intended to wind down the war. The massive withdrawal of our troops gives proof that he is standing behind his promise.

The United States some years back gave up any hope of winning this war against a fifth rate power. All it seeks to do is to get out of the Southeast Asia war without witnessing the slaughter of the hapless Vietnamese who have bravely tried to take over the job of defending themselves.

The politicians seeking votes through using the prisoner of war issue have no more assurance than does the President that Hanoi would release these mistreated men if the United States surrendered completely and met all other demands the North Vietnamese have made through their lackeys in America.

Obviously, Mr. Nixon wants these prisoners released. He has concern for distraught wives and other relatives. If not thwarted in his current moves, he probably has a better chance of accomplishing release than any of the ambitious candidates who have nothing to lose themselves, but who could seal the fate of a lot of brave men languishing in Hanoi's prisons.

Immediately on the announcement of the heavy bombing raids against North Vietnam last month, "spontaneous" demonstrations sprang up in numerous major American cities. Undoubtedly, Hanoi's military situation was being hurt. Its friends over the United States lost no time in breaking out with anti-bombing demonstrations. Although not in the same camp with these Hanoi sympathizers, the candidates playing on the prisoner of war issue are working to the same end—to help the enemy.

REPUBLICAN DUPLICITY: PHASE II

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. O'HARA. Mr. Speaker, I have today come into possession of a letter being circulated on behalf of the Republican presidential candidate which reveals a cynical effort to circumvent the spirit, if not the letter, of the campaign spending law even before that legislation becomes effective as the law of the land.

This letter, bearing the signature of one Lawrence Lewis, Jr., of the Republican National Finance Committee, is addressed to the fat cats of the Republican Party, asking them to take part in a million-dollar fund-raising blitz before the new law takes effect in April.

Specifically, the letter says that it is asking Candidate Nixon's "major supporters" to make their 1972 political contributions "in the next 59 days"—in other words, before the new law becomes operative. It urges them to swell, still further, the GOP's coffers—and to do it without coming under the disclosure provisions of the Campaign Spending Law.

Let me quote one sentence from Mr. Lewis' letter which illustrates the cynical disregard which he has for the law of the land:

> The new Campaign Spending Law will require, among other things, that persons making political contributions of $100 or over must be identified and reported by election officials effective about April 8th.

Those are Mr. Lewis' own words, Mr. Speaker. In other words, Republican contributors are being told that a contribution now avoids public disclosure later. It is consistent with the stance taken by the Republican Party's candidate, who in 1970 vetoed a campaign spending measure passed by the Congress, and who last year—through his henchmen on Capitol Hill—put serious strictures on our efforts to enact broader spending reforms than we finally were able to pass.

Not satisfied even with this milder version, Candidate Nixon now is seeking to further weaken the effectiveness of this legislation by getting his supporters to bankroll the 1972 Republican campaign before April 8—so that the American people will not fully know where the millions of Nixon dollars have come from.

This is a sorry echo of the campaign of 1968, when the Nixon campaign manager, John Mitchell, openly flaunted the Corrupt Practices Act by ignoring reporting deadlines—a violation duly reported by the Clerk of the House to the Justice Department, but a violation which went unpunished because Campaign Manager Mitchell had, by that time, become Attorney General Mitchell, and exonerated himself of any wrongdoing.

It is interesting, Mr. Speaker, that Mr. Lewis addressed his letter particularly to a group of Nixon backers known as RN Associates. As the letter indicates, founding members of this select group contribute $3,000 each, while annual members contribute $1,000 each.

Mr. Lewis sent his letter to Virginia fat cat contributors. I have no doubt that members of the Republican National Finance Committee from 49 other States and the District of Columbia have sent similar letters, as part of the biggest and most cynical political fund-raising blitz in history.

The real question is whether Candidate Nixon—either by stealth or any other means—will be able to buy another presidential election. The only people who can supply that answer are the American voters—and I believe they will see through this cynical maneuver by a man whose operatives in the past had no respect for the law then on the books, and whose operatives today are trying their best to render the new law totally ineffective.

Mr. Speaker, I include the full text of Mr. Lewis' letter at this point:

RICHMOND, VA.,
February 14, 1972.

Because of the new Campaign Spending Law which goes into effect on or about April 8th of this year, I am writing to all of President Nixon's major supporters in this area—and particularly *RN Associates*—to suggest that any contributions you intend to make to the President in this crucial election year be made in the next 59 days for two very important reasons—but first, let me thank those of you who have already sent your checks to Washington and the report of which may not have reached me.

Two reasons why you should send your contributions to re-elect Richard Nixon to:

Republican National Finance Committee,
310 First Street S.E.,
Washington, D.C. 20003

1. The new Campaign Spending Law will require, among other things, that persons making political contributions of $100 or over must be identified and reported by election officials effective about April 8th.

2. Contributions received *early* in this election year are actually *more valuable* than those received late in the year because of the need *now* to build a nationwide volunteer organization and to pay for campaign literature, publicity and advertising.

Your contribution now is an investment for a Republican Victory in 1972.

RN Associates founding member, $3,000.

RN Associates annual member, $1,000.

These checks should be made payable to RN Associates.

But remember, every contribution helps and checks for lesser amounts should be made payable to Republican National Finance Committee.

It would be helpful to me if you would ask that your check be credited to Virginia.

Think about the alternatives the Democrats are offering the country—and send your check *now*. Thanks for your help.

Sincerely,

LAWRENCE LEWIS, Jr.,
Republican National Finance Committee.

ANOTHER EXAMPLE OF EQUAL OPPORTUNITIES

HON. CHARLES W. SANDMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. SANDMAN. Mr. Speaker, I am deeply moved by a letter I received from Atlantic City black contractor Joseph J. Mobley and a clipping of a newspaper article about his inspiring success story.

Joe Mobley has long been my constituent and my friend. Having recently been awarded a $4.7-million contract for a large construction project in Bridgeton, Joe Mobley is living proof, as he says it, "that it is finally possible for minorities to have equal opportunities in America."

Here is a determined man who has worked hard for the success he now enjoys. His story is best told in a recent column by Sonny Schwartz in the Atlantic City Press.

Mr. Speaker, I ask unanimous consent that the newspaper column and Mr. Mobley's excellent letter to me be inserted in the CONGRESSIONAL RECORD.

MOBLEY CONSTRUCTION CO., INC.,
GENERAL CONTRACTORS AND BUILDERS,
Atlantic City, N.J., February 7, 1972.
Hon. CHARLES SANDMAN, Jr.,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: Since you've always taken a personal interest in helping minority groups, and particularly me, in my struggle to obtain bonding for building contracts, I think you'll be pleased to know that my firm, Mobley Construction Company has been awarded a $4.7 million contract for the construction of a 200-unit townhouse and garden-apartment complex in Bridgeton, New Jersey.

The development is being financed through the New Jersey State Housing Finance Agency and is sponsored by the Bridgeton Neighborhood Improvement Association, a non-profit black organization, headed by Howard Russell, president and the Rev. Robert F. Davis, secretary, in conjunction with the St. Philip Baptist Church and Union Baptist Temple.

I would like to take this opportunity to thank you for providing me with a tremendous amount of inspiration, sincerity and motivation over the years.

Many thanks to you, Mr. Congressman.

Very truly yours,

JOSEPH J. MOBLEY.

[From the Atlantic City Press, Feb. 9, 1972]

SONNY SIDE UP: JOE'S DREAM COMES TRUE

(By Sonny Schwartz)

Joe Mobley's busy these days.

Busy writing letters.

President Nixon can expect to hear from Joe Mobley by the end of the week.

So can Gov. Bill Cahill. Rep. Charlie Sandman will receive a Mobley message. And another missive will be mailed to John P. Renna, Jr., executive director of the New Jersey Housing Finance Agency.

Mobley, a black general building contractor with offices at 725 Arctic Ave., Atlantic City, feels he owes a debt of gratitude to the President, Gov. Cahill, Congressman Sandman and Renna.

In one manner or another, Mobley believes, all four men were indirectly responsible for his obtaining a $4.7-million contract to construct a 200-unit townhouse and garden-apartment complex in Bridgeton.

Mobley views his acquisition of the contract as a significant breakthrough.

"It is a great credit to all minority groups," the soft-spoken Mobley was saying the other afternoon seated at a desk in his office.

"I think it will create a better relationship between all residents of Bridgeton and will prove to minority groups that by working together in a harmonious fashion, a dream can become a reality."

KNOWS ALL ABOUT IT

Joe Mobley knows all about dreams.

He's had more than his share during his 46 years.

Born in Tampa, Fla., Mobley at an early age aspired to a career in construction. His father was a carpenter and Mobley learned quickly about working with his hands. He also learned quickly that jobs he felt equipped to handle, were instead going to whites.

Then World War II broke out.

The 18-year-old Mobley enlisted in the Air Force in 1943 and rose to the rank of technical sergeant before his discharge in 1946.

He returned to Tampa and majored in carpentry, estimating and blueprint reading courses at Florida Trade School.

Upon graduation, he went to work for his father for several years. In 1950, Mobley decided to pull up roots and head North. He settled in Atlantic City, but soon discovered that employment for blacks in the construction field was about the same as it had been in the South.

"I found there were very few doors open to a black man in the building and trades industry," Mobley lamented.

He went into business for himself and after a series of small renovation and repair jobs, Mobley, in 1958, landed his first major contract—the construction of the Sahara Motel in Atlantic City.

CONSTANT STRUGGLE

"But as a black general contractor, I still had a constant struggle to keep my head above water," Mobley explains.

In 1968 President Nixon appointed Mobley to serve on the Small Business Administration Advisory Council. The following year, Mobley completed several SBA seminars on bookkeeping, business and finance and business administration. A short time later, he graduated from a business administration night school course at LaSalle University in Philadelphia.

Three years ago, Mobley received the first "8–A" Federal Government contract, administered through the SBA Act in New Jersey. It was for renovations at NAFEC, in Pomona and marked the first instance a black general contractor had been awarded a contract at that federal facility.

In 1970, President Nixon was in touch with Mobley again. This time the Prez presented Mobley a citation for his "community, civic and building achievements."

Still Mobley, who is current president of both the Atlantic-Cape May County Chapter of the National Business League and the Atlantic Community Housing Corporation, insists his boyhood dream really came true with the recent awarding of the Bridgeton contract.

ON MAILING LIST

The $4.7-million mortgage loan authorization for the project sponsored by the Bridgeton Neighborhood Improvement Association, a non-profit black organization, in conjunction with the St. Philip Baptist Church and Union Baptist Temple, was announced by Renna. That's why he's on Mobley's mailing list.

Gov. Cahill gets a Mobley letter for his "assistance and encouragement in this project."

When the postman arrives at Congressman Sandman's door, Charlie will learn that he's provided "a tremendous amount of inspiration, sincerity and motivation" to Mobley the past few years.

And what will the letter to President Nixon say?

"I'm just telling him that a small black contractor like Joe Mobley, who was raised in the South, appreciates the fact that it is finally possible for minorities to have equal opportunities in America."

Besides, it's Joe Mobley's turn to write the President, anyhow . . .

URBAN PLANNERS SEEK TO EXPLOIT LOUISVILLE JETPORT

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. SNYDER. Mr. Speaker, on January 19 of this year, here in the CONGRESSIONAL RECORD, I pointed out some parallels between the proposed Louisville International Jetport and the multimillion dollar "White elephant," Dulles Airport which has been constructed at taxpayers' expense outside of Washington.

I noted that Dulles' original projected cost was $40 million, but eventually rose to the astounding figure of $120 million.

I noted that airport planners had overshot their calculations and that Dulles is now handling only 20 percent of the region's air traffic.

I noted that Dulles Airport is inaccessible; that an airport should be accessible to the citizens it is supposed to serve. The Louisville proposal would be located about the same distance from Louisville as Dulles is from Washington.

I noted that Dulles, the "airport of the future" for the Nation's Capital, required 10,000 acres for its construction. Yet, despite the fact that the Washington area has over three times the population of the Louisville metropolitan area, and that Washington—as the Capital—can expect an inordinate level of traffic, the Louisville planners say they require a 35,000-acre site.

There are other dangerous parallels between the two.

But the matter assumes a different perspective when one considers that there is close cooperation between urban planners and air board officials for the purpose—not simply of building an airport—but also surrounding it with a new town—designed by the urban planners to house 80,000 to 100,000 people from Appalachia and inner-city poverty areas. This would involve wholesale relocation of all these people into the rural airport site outside Louisville.

It becomes clear that the urban planners seek to perpetuate themselves through this long-range relocation and development project—and that they are employing the guise of the jetport development to do so.

Much light has been thrown on this ruse by Mr. John M. Berry, Jr., a New Castle, Ky., lawyer who is understandably concerned that such a development would mean great inconvenience and many problems—and possibly disaster—for the area where he lives.

Mr. Berry recently delivered a speech on this subject before the New Castle Lions Club. I believe this speech is one of the most significant statements to appear in the controversy over the proposed jetport.

The speech follows:

SPEECH OF JOHN M. BERRY, JR.

On Monday, November 1, 1970, the New Castle Lions Club held its anniversary dinner. The guest speaker for the evening was Mr. Joseph Maloney, the director of the Urban Studies Center. In the absence of the Program Chairman, I was asked to introduce the speaker. Consequently, I sat at the speaker's table with Mr. Maloney and during the meal we discussed the objectives of the Urban Studies program extensively. I was told by Mr. Maloney that the Center was considering the establishment of a model city and he inquired about land values in the area of the Henry-Trimble County line. After further inquiry I learned from Mr. Maloney that the idea was for the government to purchase several thousand acres of land and to establish an independent municipal government or model city; that this city would be populated by some 80,000 to 100,000 persons from urban poverty areas and from Appalachia; that an industrial complex would be created composed of well established, financially sound domestic manufacturers who would be induced to locate their plants in the area by favorable tax rates, land costs, and the availability of labor; and that the biggest obstacle in the path of a successful realization of the plan was obtaining the necessary federal appropriation of funds and that this obstacle might be overcome by joining forces with the Louisville Air Board.

On Tuesday, April 6, 1971, my brother, Wendell, and I had a conference with James Thompson, Air Board Chairman, in Louisville. During the course of our conversation I asked Thompson if it were not true that the chances of both the Air Board and the Urban Studies Center receiving a federal appropriation would be enhanced by combining their projects. He replied that it was true.

In May, 1971, Mr. Don Williams of the Urban Studies Center spoke to the New Castle Lions Club. With him was a young lady whom he introduced as a newcomer to the Urban Studies program who was just getting acquainted with the various problems dealt with by the Center and learning how to speak to the people in communities such as ours. Throughout the speech and the ensuing discussion, we noted that the young lady was attentive and taking notes.

After Mr. Williams finished his talk, the floor was opened for discussion and Mr. Williams was asked how the construction of an airport and industrial complex could benefit our economy in light of the fact that from 80,000 to 100,000 employees would be moved into the complex from Appalachia and other poverty stricken areas to take the jobs.

He replied that there was no such plan. He was further asked if there was any collaboration between the Urban Studies Center and the Air Board in order to enhance the possibilities of a federal appropriation and he emphatically denied that there was much a plan and denied that any such statement could have been made by James Thompson or Joseph Maloney.

In June, 1971, Dr. Charles C. Schimperler, director of the Office of Planning and Research for the Louisville Air Board, spoke to the New Castle Lions Club. Throughout his talk, it was apparent that he was addressing his remarks to the arguments that we had advanced against the location of the airport in Henry, Shelby and Oldham Counties. In fact, at the close of his talk he quoted verbatim many of the questions and arguments that were advanced by Lions Club members to Mr. Williams previously. The real identification of the young lady who accompanied Mr. Williams at that meeting was thereby disclosed. She was a very competent stenographer who had been brought into our meeting by deception to stenographically record our arguments and questions. Dr. Schimperler was asked the same questions concerning collaboration between the Urban Studies Center and Air Board and the importation of residents for the model city that were asked Mr. Williams and again we received the same emphatic denial. He denied any collaboration even in the face of the fact that his presentation was based upon research at least partially done by Mr. Williams and his lady friend, both of the Urban Studies Center.

On November 26, 1971, Dr. Schimperler again appeared in Henry County. This time to speak at the request of the Farm Bureau. He advised the farmers who were present that the Air Board expected to pay from $1200.00 to $1500.00 per acre for the land to be used in the 35,000 acre airport site. This fact was printed by the Henry County Local as if it were true and without any reservation or inquiry. The fact of the matter is that any land taken for use by the airport must be taken by condemnation proceedings. The landowners will be paid the fair market value of their land. Fair market value is determined primarily by comparable sales and there is no comparable sale in Henry County, Kentucky, to justify $1500.00 per acre for farm land and a very few that would establish one half that amount.

Dr. Schimperler went on to say that the construction of the airport and the proposed industrial complex would solve the unemployment problems of Henry County. He said that there were approximately 10,000 people in the county and approximately 4,000 jobs, indicating that there was an unemployment problem. If the average family consists of four people and if an average of one and one-half persons per family are gainfully employed, then there are 3,750 available employees in Henry County to fill the more than 4,000 jobs.

It must also be considered that a large percentage of the people who live in Henry County have chosen to make it their home while working in Frankfort, Louisville nad Carrollton, Kentucky and Madison, Indiana. This simply means that, contrary to the impression that Dr. Schimperler was attempting to create, the problem in Henry County, as most farmers well know, is a shortage of labor rather than unemployment.

Keeping in mind the fact that Dr. Schimperler on at least two occasions denied that there was any collaboration between the Air Board and the Urban Studies Center and on at least one occasion denied that there was any plan to import people from poverty areas, I call your attention to the "Technical Paper" prepared by Dr. Schimperler for presenation at the American Institute of Planners in Minneapolis, Minnesota, in October of 1970:

"In the Louisville metropolitan area, two essentially independent programs are being formulated to serve current and projected regional and national needs. The Louisville and Jefferson County Air Board recently embarked upon a program of in-depth studies of feasibility for a third and major airport for the region. These studies are justified by existing traffic congestion and limited expansion potential at Standiford Field. At the same time, the Urban Studies Center of the University of Louisville has begun to define a new community and regional development relocation system to serve the needs of the rural poor, particularly those in Appalachia, and the inter-city poor, as well as the needs of other income groups.

"Both programs have progressed sufficiently to identify a basic justification for further intensive study. It is the potential to interrelate the two programs that offers great opportunity for the Louisville Region. The Air Board is proposing to acquire 30–35,000 acres for its new intercontinental airport, dedicating 12,000 acres for aeronautical purposes and reserving the rest for related activity including industrial, commercial and even selective residential usage. Simultaneously, the Urban Studies Center is seeking a 10–12,000 acre site for a prototype "new community" that would demonstrate the feasibility of bringing together jobs and jobseekers in a physically and socially supportive "new town" environment.

"The potential opportunities for linking the two projects are obvious. The related job-producing capabilities of the airport development along with the planned reservation of 10–15,000 acres for such related developments provides an almost perfect "fit" for the needs of the new community planners. Basic are the assumptions of an urban region with a new major aviation facility and a new community. The objective of the program is to define the relationship between the activity centers that will produce the most effective and positive impact on the development of each and upon the region they will serve."

It should be further noted from this paper that, although Dr. Schimperler has stated on several occasions that the land owners in the proposed area would derive the benefit from the conversion of their land from farm to industrial use by receiving a substantially greater sales price, on page 14 he says:

"Central to feasibility of a total development complex in the 30,000-plus-acre range, as evisioned here, is the marketability of a substantial part of the site as income-producing real estate."

In other words, the condemning agency will speculate on and derive the benefit from condemned land making the project more feasible.

Although Mr. Williams and Dr. Schimperler denied to the New Castle Lions Club that the Urban Studies Center proposed the relocation of some 80,000 persons in the model city, the Courier-Journal and Louisville Times on Sunday, January 16, 1972, published a map of the areas under consideration for the model city and reported that it was secured from the Urban Studies Center with the information that it contained the five sites for locating the new community for 80,000 persons. One of the sites and a portion of a second are indicated by the map to be in Henry County.

Early in 1971, I had occasion to examine a report containing the recommendations of a Louisville public relations firm to the Louisville Air Board. The report suggested numerous ways that the Louisville Air Board might undertake to sell the idea of a jetport to the people in the counties where it would be located.

The report included such things as:

"The committee should include individuals who might otherwise be outspoken critics of the airport. They need not favor the airport. But rather they would need to accept it as something likely to happen."

"By serving on the committee their advice can help make the inevitable more palatable to their fellow environmentalists and to themselves."

"Ideally, this committee could help present the airport's environmental plan at public hearings. At the very least, they should provide a sounding board—an early warning—to let us know what form of opposition we might eventually expect from organized and powerful conservationist groups."

"If there are some concessions beyond those already incorporated in the environmental plan that must be made, perhaps they can be granted behind closed doors—rather than in the heat of public debate which influences our other publics."

"Opponents of the airport are likely to try to link it to the SST or air pollution from jet exhausts or any other cause which already has some degree of unpopularity. Such debates can be at least partially side-stepped with careful attention to comments—particularly during Q and A sessions before news reporters."

"So far as good communication can prevent it, it is important that environmentalist organizations not join forces with displaced property owners."

"We are hopeful the environmental plan for the airport can be unveiled and widely publicized with the backing of the environmental advisory committee before final site selection is announced. As the first environmentally planned airport in the U.S. (possibly the second in the world) the plan could be heralded as a step forward and model for other communities."

"All the 'facts' some editors or producers might need to blast the airport concept is that some 50 to 60 square miles of rural land are about to be converted into an airport. The job of communications is to make certain as we can that no one anywhere gets news of the planned airport without simultaneously getting news of the environmental planning."

"We recommend, at some point, the Air Board consider hiring an extraordinarily articulate landscape architect who would be the principal spokesman for the environmental aspects of the plan. We would attempt to get this individual on every program around the country likely to develop widespread national or Louisville area publicity. He would talk on how Louisville's Intercontinental Airport is planned to enhance its environment."

"In summary, we must mount such an aggressive campaign to communicate these environmental planning aspects of the new airport that those who would base opposition to the airport on present concepts never have a chance to get started. We need to answer the questions of ecologists before the questions are raised, made public and turned to false rumor."

"Ideally, the environmentally planned airport concept should become entrenched in the minds of potential airport opponents before site selection is announced, before serious land speculation begins and before we have to deal with other kinds of opposition."

Shortly thereafter, and on March 15, 1971, the Courier-Journal carried an article concerning the report of the public relations firm and the results of an interview with James Thompson, Chairman of the Louisville Air Board. Thompson stated that the report was neither solicited nor authorized by the Air Board and that it was examined by the Air Board and rejected. Obviously, once the report became public, the Air Board would have to publicly disavow any knowledge of it or any intention to use it because of the extent to which it was based upon deception.

Although it was rejected by the Air Board, many, if not most, of the recommended tactics have been employed by both the Air Board and the Urban Studies Center in selling their proposal to the people of Henry, Shelby and Oldham Counties.

I have intentionally avoided a discussion of the environmental, social and economic consequences of the construction of the airport and model city. I have simply tried to point to the facts which in my opinion establish:

1. That the Louisville Air Board and the Urban Studies Center are collaborating, each hoping that the realization of its project will be enhanced by its association with the other, and,

2. That the Air Board is engaged in a large scale brainwashing campaign with the advice and assistance of the Urban Studies Center in the affected rural counties using distorted facts and deceptive practices.

Just as the Public Relations firm recommended, Dr. Schimperler, "an extraordinarily articulate landscape architect" is getting on every program that he can in an effort to sell the airport idea to the people of the locality. In doing this he begins with the assumption that we are victims of an economic disaster area whose only hope of salvation lies in the construction of the airport. He tells us that the proposed industrial complex will provide jobs while carefully avoiding the fact that the proposed project contemplates the relocation of thousands of people to fill the jobs. He tells us that it will provide a place for our children to work after college so they can return home which is saying only that, instead of our children having to go to the city and work, they will bring the city to us. Most of us live in the country by choice willing to make the resulting sacrifices. We cannot consistently choose to live in the country and at the same time choose to transform the country to a city. He tells us that we will receive fantastic prices for our farmland, prices for which there is no basis in law or fact. He tells us that we can expect to derive great benefit from the sale of land for industrial use when in fact the condemning authority will receive it.

He makes it a point to mention that 95% of the people of one of the other counties favor the project and that those who oppose it constitute a very small minority standing in the path of progress. He has been challenged to support this assertion but cannot and it is untrue. What he is saying is propaganda, very carefully prepared and delivered, and designed to brainwash the people of this three county area. The sad fact is that, with many people, it has worked and unless they are stopped and the truth made known, they will wind up with the necessary public sentiment on their side.

If they fail to corral the necessary public support or if the environmental study is unfavorable, there probably would be no airport. If there is no aiport, there probably would be no model city. Hence the Urban Studies Center is as vitally interested in the airport as the Air Board. How can such a group make an independent, objective, accurate and honest determination of the environmental consequences? This question becomes especially pertinent in light of the dishonest and deceptive methods they have utilized in corralling public support. They are a governmentally financed propaganda machine, well staffed and supported by our own tax dollars. We have neither the human nor financial resources necessary to effectively combat them. It is my hope that the federal government itself will examine what they are doing and assist us in our cause. Neither the study of urban problems nor the determination of the need for an airport are being conducted with objectivity. Both projects are tainted by the designs of contractors, engineers, architects, planners, consultants, big business and other exploiters of the environment.

It is now clear that, in addition to the grave financial reasons for being skeptical about the proposed jetport, there are other reasons as well. The taxpayers are being asked not only to finance another multimillion dollar potential "white elephant" airport, they are also being asked to go along with an immense and dubious instance of social engineering.

Mr. Berry's remarks bring us closer to a truer picture of the jetport question.

I shall have much more to say on this subject—including another pertinent comparison—tomorrow.

THE SAD STORY OF THE WABASH COUNTY HOSPITAL

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. ROUSH. Mr. Speaker, the authority that the Congress gave to the President to place controls on wages, prices, salaries, and rents, will expire on April 30, 1973, unless we extend it. While my position has been and remains that some form of control on a run-away, inflationary economy is desirable, I now seriously question the manner in which those controls are being exercised; and I felt an experience in my own State of Indiana should be shared. Perhaps Congress should begin to reevaluate that "blank check" legislation which we provided the executive in the imposition of such controls.

Wabash County, Ind., has a population in excess of 35,000 people and only one hospital—a small community, nonprofit operation which in 51 years of operation has netted $6,000, and has taken serious losses in recent years. It is the only hospital facility in the county, currently authorized to have 114 beds. Other hospital facilities in adjacent counties are from 15 to 35 miles away and have overloaded facilities now. Even if county residents find doctors in other areas and are willing to travel there for hospital care, the facilities are simply unable to absorb the medical cases coming in from Wabash County. In essence, if you get sick in Wabash County—particularly if you are inadept enough to become emergent—you wind up in the Wabash County Hospital.

Faced with crowded conditions in an unsatisfactory building built in 1920, the hospital finally was able to construct a new wing in 1971 with Hill-Burton funds and with a bond issue. Not only was the facility constructed to increase the number of beds in the hospital, but new services were planned. These included an intensive coronary care unit, something which the age of county residents, rather high, made desirable. The new wing was to be manned by an additional 25 employees, an increment in cost to the pay-as-you-go facility which, among other items, forced the hospital to plan a modest increase in prices. The new unit was ready for occupancy and the new rates set by the hospital board last August 15 when the President instituted the wage-price freeze.

Unable to pay for the additional costs, the hospital kept its new wing closed and "waited out" the freeze. Personnel hired in anticipation of the wing's opening were released. Beds were placed in the halls when the hospital exceeded capacity. This caused great consternation among residents of the community, among them a minister who contracted me unable to believe that the people he saw in beds along the corridors were really there because of a price freeze.

Then, last December 15, the hospital obtained permission from the Indianapolis Internal Revenue Service office to raise its rates, thereby allowing for the opening of the facility. On December 29, however, the Price Commission altered its regulations and reversed the approval. The hospital then applied for an exception to the normal guidelines in rate raises, following the prescribed procedure, on January 12, 1972. The State Advisory Board for hospital rate increases approved the 13-percent increase as did the Indiana Internal Revenue Service office and the IRS in Washington. However, without informing either the hospital or any of these decisionmaking bodies, the Price Commission on December 30 drew up new guidelines for information which hospitals were to be required to submit in applying for exceptions. After the application arrived at the Price Commission, the personnel there refused to review it because it was not in the "proper" form—a form which was completely proper when it was submitted. It languished there another 15 days before a meeting was held between Wabash County Hospital representatives, representatives of the Indiana Hospital Association, Blue Cross of Indiana, one of my staff members, IRS officials, and members of the Price Commission. The hospital representatives arrived with a new application, having reworked their information so that it would conform to the newly issued mandates, and the Commission agreed that it did indeed hold all of the information necessary in order to come to a decision on the request. My office was told, as were the hospital delegates, that the application would be reviewed that same week.

As of today, no final decision has been

reached. The hospital, authorized to have only 114 beds, actually has additional ones in the corridor because it refuses to turn away sick people. Not only is this medically unwise and inconvenient for persons unfortunate enough to get sick at this time—they have to ring a cow bell for help because they have no buzzers, try to sleep with hall lights in their eyes, and endure various dehumanizing procedures—but the State board of health, the hospital licensing council, the Joint Commission on Accreditation of Hospitals, the Wabash Fire Department, the Hartford Insurance Co., the Wabash County Hospital medical staff and the Comprehensive Health Planning Council of Wabash County have all protested this unsavory practice of keeping beds more than 3 feet wide in those 6-feet wide 1920 corridors. Because of the crowding, the hospital has cancelled as many as 16 surgeries in one day and averages cancellations of two or three per week. Anybody can wind up in the hallway except new-born babies and isolation cases; the hospital distributes rooms on a first-come, first-serve basis. The hospital is on the verge, on Friday, of firing its skilled personnel who were hired to man its new wing, with no promise of rehiring them. It is not as though these people were unnecessary; the hospital is well and efficiently run, planning a staff-patient ratio of 2.4 with the new wing in operation. The last available statistic for community hospitals in Indiana—the category in which Wabash County Hospital falls—from the American Hospital Association is for 1970, and at that time this type of hospital in Indiana averaged a staff-patient ratio of 2.7. Since the trend is for that figure to go up each year, it appears that Wabash is doing a heroic job in attempting to treat patients with a very lean staff. If the hospital is ever permitted to open that new wing, it will have in effect caused a 28 percent increase in capacity for its requested 13 percent price hike—hardly an example of needless, inflationary gouging.

My own efforts at securing a decision for the hospital have, as of today, met with no success. The board which promised to meet last week on this matter did not in fact meet until Monday of this week, and its decision is not final. Some other group must now convene to consider it, a procedure which was not pointed out to me earlier, and no one can tell me when that will occur. In addition, repeated phone calls from my staff to the one person who holds the power to call that meeting have gone unanswered for over 2 days.

The last report on national health strategy sent to Congress by the President contains the statement:

> It does little good . . . to increase the demand for care unless we also increase the supply.

Secretary Richardson appeared last year before the Senate Committee on Finance and reiterated that thought:

> We learned the hard way that the addition of demand for health care services without provision for increases in supply of services is seriously inflationary. . . .

Well, here we have a hospital trying its level best to do just that—increase its ability to provide health services. Yet it cannot even obtain, after months of trying, a decision on whether it will be able to cover that increased service with a modest increase in its prices. No wonder the bureaucratic bungling, broken promises, and "let them eat cake" attitude apparent in the Price Commission's actions have caused people to view the Federal Government with increased cynicism. And it is not just the citizenry of Wabash County experiencing this demise of confidence. At one point one of my own frustrated staff members, attempting futilely to obtain information as to when a decision would be reached from a man who finally admitted he had not even looked at the application, blurted out, "Well, what do you think this hospital is supposed to do?" The response to the complex situation was a remarkable clinché: "Tighten your belt and increase productivity."

The Wabash County Hospital is doing very well with its productivity output. I would prescribe that the Price Commission take a little of its own medicine.

FACTS AND FANCIES ABOUT MEDICAL CARE

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. WALDIE. Mr. Speaker, we are all aware of the gigantic scale of public concern regarding national health care and the legislation now pending in the Congress to improve the present system of delivery and care.

One of the aspects to this highly complex issue is the manpower shortage now affecting medical care systems, and the terrific burden that will be placed on the manpower now available if sweeping reforms are not forthcoming in the next few years.

Mr. Speaker, Dr. Robert Erickson, of Moraga, Calif., recently brought to my attention an excellent article on this very subject.

The article, which appeared in the American Journal of Public Health, volumn 59, No. 5, May, 1969, is by Eli Ginzberg, Ph. D.

I think it would behoove all the Members of Congress to give the comments of Dr. Ginzberg full consideration while deliberating on various health care bills.

The article follows:

Facts and Fancies About Medical Care

(By Eli Ginzberg, Ph. D.)

Every so often, it is salutary to be brought up short and forced to re-examine ideas and concepts which have been accepted for some time as valid. A rigid reappraisal is stimulating for the mind and conducive to clarifying one's thoughts. This paper by Professor Ginzberg does just that. Read it and argue with him.

These have been brave new years. But only the innocent still believe that poverty, racial discrimination, inferior education, inadequate housing, and urban blight will soon vanish from the face of the United States. The gap between promise and accomplishment is plainly visible to all. With regard to medical care, though, the situation is somewhat different. The radical new federal health legislation implementting Medicare and Medicaid is sufficiently recent that the intrinsic shortcomings of the system have not yet become apparent.

The reformers will be the first to admit that many more changes must be introduced before the system is fully reconstructed. There is need to expand group practice units, to broaden comprehensive prepayment plans. to relate ambulatory to inpatient services, to control quality. The leaders are particularly concerned about the rapid increases in costs that show no signs of abating. But they are confident that after years of frustration they have broken the back of AMA reaction, and soon additional measures will be enacted that will extend to every American the benefits of quality medical care without financial strain. Ten classic propositions that together comprise the decalogue of medical reform are here subjected to critical review and evaluation.

MEDICAL CARE IS UNIQUE—IT INVOLVES LIFE OR DEATH

This is unquestionably true—but life or death is involved in less than 1 percent of all medical services rendered. For the person who has been run down by a truck or has been shot, the speed with which he is transferred to a hospital and is operated upon may well determine whether he lives or dies. But it is a distortion of reality to see medical care primarily in this dramatic light.

An alternative formulation would be that if the newborn is healthy, as is generally the case, and if he has healthy forebears, he is likely to grow up with little attention from physicians beyond routine pediatric services. In the absence of an inflamed appendix or some trauma, he (women of child-bearing age are excepted) may have only casual contact with the health services industry until his person begins to deteriorate, at which point medical specialists may have little objective help to offer him.

Despite the substantial increases in expenditures for medical care, there has been no significant increase in male longevity during the past decade. Thus, unless man learns how to improve on the biblical standard of three score and ten (with an additional decade for the righteous), medical care will remain what it has always been, largely supportive and ameliorative.

To put it differently, disease itself is largely self-limiting. People who are ill, even seriously ill, will generally get well without the active intervention of a physician. If the medical profession is ever moved to undertake a basic self-appraisal, it would be important to study the histories of patients with similar symptoms and conditions in terms of the interventions to which they were subjected. It is just possible that those who were treated least made the best progress.

IMPROVED MEDICAL CARE—KEY TO BETTER HEALTH

This is the assumption on which rests the long-time agitation for an improved system of medical care. But we all know, though we tend to forget, that clean water and clean food and other environmental defenses have made the greatest contributions to raising levels of health and decreasing the death rate. Nevertheless, we have been unable and unwilling to build on the implications of medical history. Modern preventive medicine would force society to control automotive speeds, since motor vehicle accidents are the single most important cause of death among the young and a major source of severe disability. Serious efforts to reduce the consumption of cigarettes would be undertaken. For the first time in our history more people die prematurely because they eat too much rather than too little. Too much alcohol, too many drugs, promiscuous sexual relations also take heavy tolls. On these fronts we are making little or no headway. In fact, we are probably retrogressing. Therapeutic medicine is not relevant and effective preventive measures remain to be designed.

Admittedly people with inadequate incomes suffer from inadequate medical care, but improved nutrition and housing might contribute more to their health and longevity than easier access to physicians and hospitals. Many citizens would surely benefit from more and better medical care. But socioeconomic factors and the limitations of current scientific knowledge present real bounds to the promise of medical services for improved health.

IMPROVED MEDICAL CARE IS A PRODUCTIVE INVESTMENT

The last years have seen a reformulation of economics to include investment in human beings within the main corpus. Increased public and private expenditures for health have been said to pay off in enhanced productivity of the labor force.

But unless it can be shown how more money for medical care will minimize respiratory diseases, the major cause of absenteeism; or alcoholism, a destroyer of talent; or heart disease and cancer, the prinpical causes of death in middle life; or accidents, which take a heavy toll among youth—unless larger expenditures for medical care can reduce these causes of morbodity and mortality, they cannot be justified as effective inputs for improved productivity, however desirable they may be for humanitarian and social reasons.

GOOD MEDICAL CARE IS A RIGHT

How can one question this proposition, especially if one recalls the AMA's unyielding adherence to the contention that good medical care is a privilege? But restiveness with a theory that emphasizes the consumer's dollars as determinants of effective demand does not validate the other extreme, that quality medical care is a right inherent in citizenship. Access to emergency care should be universally and unqualifiedly available; but this is not the issue here since most medical care is not of this nature: it is more closely geared to alleviating pain and discomfort and providing reassurance and support.

Generalizations about the right of every citizen to a high quality of medical care are easy to formulate but they cannot be translated into policy until their proponents meet four preliminary tests: "cost out" the program; specify the sources of financing; present evidence that additional public efforts in this realm will yield benefits equal to or greater than if applied to other areas; and delineate how the services will in fact be provided.

OTHER COUNTRIES HAVE A MORE EFFICIENT SYSTEM OF MEDICAL CARE

With the exception of Canada, no nation in the world has achieved more than half the per capita income of the United States. Yet it is contended that with limited resources many countries, notably Great Britain, Soviet Russia, and the Scandinavian countries, have succeeded in developing systems of medical care which are superior to that of the United States. Special attention has been drawn to our rates of infant mortality and male longevity which lag substantially behind those of many other western countries.

There is no possible justification for infant mortality rates to vary by some 400 per cent within the metropolitan borough of Brooklyn. Much of the difference must be ascribed to poor medical care. But we cannot ignore additional factors such as race, age, marital status, income, housing, employment, which combine and interact to produce this shocking differential. None of the countries of western Europe is confronted with such wide differences among classes and castes, and unless we succeed in eliminating the principal causes of these differences we will not be able to accomplish much by focusing solely on improving the structure of medical care.

The reasons for the shorter life expectancy of American middle class white males remain obscure. Clearly there is more to the story than income. We suggested earlier that overeating tends to increase mortality. And the same is probably true of excessive use of cigarettes and alcohol. But consumption patterns aside, there may be something else imbedded in the quality of contemporary life in the United States. The pace at which we work, travel, and play, and the frustrations that persist even in the face of a growing affluence, may hold the clue.

Key indexes not only reveal that other countries lead the United States in national health standards, but they do so at a resources cost for medical care that is proportionately not higher than our own—and absolutely much less. In fact, it is so much less that we should be cautioned against assuming that much higher expenditures for medical care are likely to be reflected in lowered mortality.

THE COMPETITIVE MARKET IS A POOR INSTRUMENT FOR ALLOCATING MEDICAL RESOURCES AND DISTRIBUTING MEDICAL CARE

We have already acknowledged that it would be irresponsible on both humanitarian and political grounds to deny emergency services to an individual simply because he cannot pay. The regrettable fact is that occasionally we do just that although the instances are declining. Actually, we have never relied exclusively on the consumer to pay for health services.

Assuming that improved medical care is desirable and that the provision of additional good medical services requires the investment of additional scarce resources, it follows that society must rely on some rationing principle to allocate these services. Large-scale governmental financing can shift the relative position of various groups in their access to medical services, but there is little or no prospect—no matter how much money government invests—to equalize the claims of all citizens so that need, rather than income, determines the services rendered to each individual. Rationing according to need would require that government control all of the strategic resources—particularly manpower. Only if the individual physician, nurse, and technician were subject to direct control could such a system be structured.

The United States is a country of continental proportions historically committed to the doctrine of freedom of choice in work. Moreover, there are major differences in the distribution of income among regions and within regions, among families and individuals. And our heterogeneous population encompasses racial and ethnic groups that have been only partially incorporated into the dominant society. Given these overriding geographic, economic, and demographic variables, any serious proposal to establish a more equitable system of medical care within our present society has no prospect of success unless profound structural alterations occur in our free-market economy.

First, government financial inputs on behalf of the poor would have to be extremely large. Simultaneously, competitive bidding for medical services by the upper and middle income classes would have to cease or at least abate substantially. And finally, decision-making by critical producers of services, particularly physicians, with regard to locus, field, and mode of practice would have to be controlled. With none of these changes even remotely possible, augmented purchasing power in the hands of the poor cannot effect any significant redistribution of medical services.

To continue the argument a step further. If supply creates its own demand—and there is strong evidence that this is true at least for certain types of medical services—then no amount of money that government would appropriate for this purpose would eliminate the necessity of introducing some rationing system. This being the case, the most reasonable system would be one based on the principle of need. But when have human systems been known to obey the laws of logic?

Dissatisfaction with the competitive market is justified. Its worst effects can surely be mitigated by judicious interferences. But to contend that it is only a question of more federal money or the introduction of a comprehensive system of medical insurance that stands in the way of providing adequate medical care to all citizens is social fantasy.

CONSUMER SATISFACTION WITH TECHNICAL CARE

Economists have long recognized that the nub of a competitive system is one in which the consumer decides how to spend his money. He determines whether one good or service is better than another at or near the same price, and he backs his judgment with his money. To behave rationally the consumer must be competent, he must have access to market information, and be able to choose among competing products and producers.

However, this model, as many economists recognize, is not adequate to the market for medical care. Even the intelligent and the educated are unable to make discriminatory judgments about a professional service, except indirectly—that is in terms of outcome: does the patient recover? Without relevant information and criteria for evaluation the layman is in a poor position to judge the quality of medical care.

What then determines consumer behavior and satisfaction? The patient at least knows whether he likes a physician. Since, often, the care he seeks and receives is essentially reassurance and support, he can best obtain these from a physician with whom he establishes rapport. Frequently he relies on the recommendation of relatives or friends, whose assessment is based on prior experience. The more sophisticated purchaser may apply certain objective criteria: whether the physician is board-certified, his hospital affiliations, and similar stigmata.

Like any group of professionals, physicians differ. Some are concerned with optimizing their income. Others are determined to practice medicine according to the standards which they have been taught and to which they adhere. Most effect a compromise: they want a good income and they want to practice good medicine. But they know the consumer (with money to spend) chooses among physicians.

While good hospitals can effectively govern the quality of medicine and surgery practiced within their halls, there is little peer control on the outside where traditional ethics constrain physicians to maintain silence about one another's work. As a consequence, many consumers spend a great amount of money in the search for cures that cannot be found; others have unnecessary operations; and more than a few lose their life as a result of faulty diagnosis and inept intervention. Every major hospital counts among its patients a minority who are there because they have been poorly treated previously, and often seriously. Some patients never have a second opportunity.

Since this is the manner in which the system of medical care operates, the reform movement might assess again the gains that would accrue from facilitating consumer-choice of physician. Those who consider Medicaid an unalloyed boon might rethink all the implications of transferring medical care of the poor out of its traditional site—the clinics of teaching hospitals, at least in large eastern cities, and into the open market of private practice.

Without contending that physicians are greedy or that most patients are hypochondriacal, we should admit that the chief deterrents to over-treatment are the current tautness in physician supply (which enables the practitioner to reduce the number of visits per patient to a minimum at no loss of income to himself) and the fee-for-service payment system (a major consumer constraint).

A critical limitation of the consumer's ability to assess objectively the quality of the care which he receives is a function of the fact that much of the physician's efficacy rests upon his ability to develop a rapport with his patient. While psyche and soma can interact to produce subjective improvement, this is not necessarily the same as relieving the patient of the pathological causes of his symptomatology. A modern system of medical care cannot rest on consumer satisfaction any more than it can rely on the discipline of the medical profession. Here, as elsewhere, reasonable rather than optimum solutions will have to suffice.

MEDICAL MANPOWER IS IN SHORT SUPPLY

No single position is so widely or unquestioningly held at present as the assumption that the principal difficulties on the American medical scene reflect a shortage of critical types of specialized manpower, particularly physicians, nurses, and technicians.

What are the facts and how can we interpret them? Those who contend that there is a physician shortage have resorted to various desired ratios between the number of active practitioners and the total population. When these data revealed that there had been no slippage over the last quarter century and even a slight improvement (depending on the base year selected), attention shifted to the census of physicians in private practice or of those who are in general family practice, as distinct from specialists. This usually produced the looked-for statistical result.

None of the analysts has taken into account that the radical shift toward specialization must be associated with substantive improvements in the structure of medical care, and that it is a travesty to use manpower criteria based on utilization patterns of the 1930's to judge adequacy in the late 1960's. Moreover, factors contributing to enhanced utilization of physician's time, such as the decline of home visits in favor of office and hospital services, have usually been omitted from these calculations. In addition, the statisticians have paid little attention to the spectacular development of paramedical manpower which has grown much more rapidly than almost any other group in the entire economy. As a final resort, the advocates of the shortage argument have insisted that the radical expansion in per capita demand for physician services must be taken into account. A public that wants to spend more money for physicians' services either directly or through taxes is surely entitled to do so, they say, and it is the responsibility of the public and professional leadership to assure that the required personnel is educated and available. The last point has particular relevance with regard to the nursing profession, where the ratios between registered and practical nurses and nurse's aides and the population show large increases.

It has been suggested that medical care may represent an unusual situation in which the supply creates the demand. It follows that accelerating further the supply of medical manpower (in which the rate of employment from 1950–1965 has grown at about five times the rate for the nation at large) holds little promise of eliminating shortages. New criteria must be introduced to assess the number and quality of medical personnel in whose preparation and employment society should invest.

THE AMA IS RESPONSIBLE FOR MANY SHORTCOMINGS IN THE PREVAILING SYSTEM OF MEDICAL CARE

It would be difficult to find a professional or trade association that has more consistently or more vigorously supported the wrong side of every public issue in which it had a major stake than the AMA in recent years. For a long time the leaders of organized medicine obstructed the establishment of prepaid group practice units; until recently they were opposed to the expansion of medical education; to this day they have successfully resisted federal subsidization of medical education with the result that entrance into the profession is blocked for most young Americans whose parents do not have ample income. The AMA fought the passage of Medicare every step of the way, and when it capitulated it insisted that the law provide reimbursement to physicians on a fee-for-service basis, which may or may not prove to be untenable—and the former is more likely. Recently it passed resolutions opposing the innovative techniques undertaken by the Office of Economic Opportunity to bring health services to the poor. In addition to blocking practically every effort to modify the existing market structure for medical care, it has moved slowly to provide leadership in such vital areas as improving controls over the quality of medical care that the American people receive.

Despite these indictments—and the list of commissions and omissions could be extended—it is an error to contend that the present structure of American medicine would be vastly different were it not for the conservative stance of the AMA.

Every group in the United States is dedicated to advancing its own special interests; usually these are held to be consonant with the national interest. This holds for the military, business, university professors, lawyers—every group is organized. There is no reason to expect physicians to act otherwise.

Before we can conclude that the AMA alone is responsible for most of the shortcomings of the prevailing structure of medical care, let us consider some other facts. Hospitals have come to occupy an ever more important role in the provision of critical medical services and most hospitals are under the control of voluntary organizations whose lay leaders are formally and legally invested with policy-making powers. If hospitals do not operate effectively, the trustees bear the ultimate responsibility. No one familiar with the hospital scene will deny that most trustees are poorly qualified to exercise their responsibilities and, in fact, most do not.

Nor can we ignore established consumer-behavior. Many persons would be willing to forego the privilege of choosing their own physician if they had assurance that an alternative system of medical care would provide optimal attention. But there are many others to whom the free choice of physician is no shibboleth but a basic right for which they are willing to pay; even dearly. This is easily proved by the number of middle income members of various pre-payment plans who choose to go outside the plan when they must undergo surgery and pay the fees of a nonaffiliated surgeon.

Furthermore, third parties, such as government, Blue Cross, commercial insurance, and labor-management grops, are heavily involved in the purchase of medical care. Not every third party acts with fiduciary and social responsibility to see that the dollars they spend for health are used effectively.

In our social and economic system, in which each organized group operates in the interest of its members, we cannot single out the AMA as the major villain. Although the leaders of organized medicine have failed to lead, so have the leaders of hospitals (governmental and nonprofit), of health agencies, of business and trade unions that are major purchasers, and of other strategic groups, including the progressive leaders of medical education who have recently been singled out as the executors of all the unfinished business of medical reform.

BETTER PLANNING IS THE ANSWER

The growing concern with the large-scale and sustained rise in medical costs has led more and more persons, in and out of government, to look at the present system of medical care in the hope of identifying how present and prospective resources could be better deployed and more effectively utilized. As early as the 1930's experiments in regionalization were initiated. Within narrow limits we can point to some modest successes of regional planning and integration of historically autonomous services. We might even anticipate further successes in the years ahead as a result of the deeper financial involvement of government and pressure from various groups in the population who are deprived of access to quality care or who find it difficult to meet the steeply mounting costs.

But some questions arise. Agreement among voluntary and governmental agencies working in the same arena is difficult to achieve. The concern of medical schools with teaching and research are not readily reconcilable with the desire of the urban and rural poor for greater access to routine medical services. There is a chasm between public health agencies and hospitals that has seldom been bridged.

But the nub of the difficulty lies deeper than the institutional level. Effective planning in large communities comes face to face with basic economics. Why should a physician on the outside turn over "his" patient to an insider? And how can the hospital be restructured to serve as the fulcrum for an improved system of medical care unless there is a place on the hospital's staff for every physician in the community to share in its work and its income?

There are a limited number of communities in this large country where a new and improved system of relating patients to physicians and physicians to hospitals has been instituted. But the successful experiments are still few and almost every one reflects the presence of a special factor—outstanding professional leadership or financial subsidy by business or government.

The presumption is that planning will continue and that it will chalk up modest victories, but there is little prospect under the present realities of a free society and a free economy that the major participants from physicians to patients will be able to move far or fast to reshape the existing system significantly through planning. And relying on medical schools to assume effective leadership, as the reformers do, is an act of faith, not reason. Historically, no major institution has been more estranged from the community and its concerns than the university.

It has not been difficult to raise objections to the conventional wisdom about medical care and its overdue reformation. But it would be unsporting not to propose a modest alternative approach to the desideratum of improved health care. In place of an unrealistic brave new world in which all the shortcomings of the present system are to disappear in short order by new methods of planning, organization, financing, and control, a limited number of modest priority objectives have been singled out together with summary suggestions as to how they might conceivably be implemented.

The scarcity of medical services for the rural population cannot be eliminated. It can, however, be alleviated through the development of state and federal scholarships for medical students given with the proviso that upon graduation the young doctors will accept appointment for a limited period, say three years or so, in a rural area, preferably near an area hospital. Since experience with this approach has had a mixed record, we should also place reliance on a program of upgrading public health nurses to serve as a corps of primary medical screener-therapists in isolated areas. Patients with complications would be referred by these nurses to the nearest hospital with ambulatory as well as inpatient services. The charge that this would leave rural America underdoctored is admitted. The important question here is whether this approach of relying on a nurse-screener-therapist-educator offers a prospect of modest progress.

The urban poor have also encountered difficulties in obtaining proper medical attention, but their presence and pressure have stimulated the development within teaching hospitals of comprehensive outpatient departments and the expansion of emergency room services. The present tendency to deprecate these facilities is wrong. Instead, emphasis should be placed on strengthening them and and making them more efficient and effective. They hold the best promise of providing care for the urban poor.

Secondly, rather than seeking to attract private physicians into the ghetto or devising ways of enabling the poor to buy services outside of their area, it might prove more sensible to attach to each urban hospital a corps of nurses specially trained to visit families at home for the purpose of screening and referral and once again to serve as health educators.

The third approach would be to improve the diagnostic, referral, and follow-up mechanisms of school health programs in poor neighborhoods so that children with medical problems which might otherwise remain neglected can be identified and appropriate therapeutic and rehabilitative procedures initiated.

Such an approach offers the urban poor, like the rural poor, much less than the reformers have proposed, but more than they now have and even more than they are likely to have under ambitious programs such as Medicaid or with elaborate community health centers which are likely to collapse under their own weight.

Next to improving medical care for the rural and urban poor, the major challenge is to prevent middle income groups from suffering financial hardships as a result of illness or disability. The best prospect of making significant progress toward this objective would be new and improved programs of catastrophic insurance with reasonable deductibles and co-insurance. Let us be clear. Short of a compulsory system of national health insurance and probably not even then, there is no way to provide all citizens with complete prepaid coverage for all their medical needs. Nor is there any need, unless one takes seriously the claims—and these have never been adequately documented—that much ill health among lower income groups is attributable to a lack of preventive services together with the failure of these groups to seek therapeutic services because of cost. There is merit to these claims but we do not know how much.

The quality of medical care for rich and poor alike is far below what it could be if the profession and government introduced more systematic efforts to monitor the services that are provided in hospitals and in the community. The challenge, however, is to achieve greater comprehension by all parties—the public, the politicians, and the physicians—of the right laymen to such protection and the social gains that would accrue. Here is one major line of reform where the prospective costs are small, the prospective gains large. The range of instruments is wide—from statistical reporting and evaluation through continuing education for doctors and greater efforts to associate every practicing physician with a general hospital. More contentious devices such as periodic re-examination for licensure can be held in abeyance until more acceptable reforms have been instituted and evaluated.

It is generally agreed that the present utilization of medical resources is poor because of the perverse ways in which medical services are produced and distributed. To mention three outstanding shortcomings: community planning and individual hospital management are weak; hospital insurance that is limited to impatient services tends to inflate costs; and fee-for-service is the most costly method of physician reimbursement. Unless key groups, such as third parties who purchase care and hospital trustees, exercise leadership to improve planning and management, there is little prospect that total medical expenditures can be brought under control. We may be on the way to raising our total annual outlays from $50 billion to $100 billion within less than one decade, with little likelihood of getting much more or much better care than we do now.

Clearly we need innovation in insurance so that coverage can be extended to include diagnostic work performed on ambulatory patients. The minor experiments now under way need to be increased and evaluated, and if the results are favorable new policies should be forthcoming.

Finally, we have had sufficient experience in the last few years to be on guard against infusing new money into the system without exacting a return. Money is leverage and it should be used to extract concessions from the major interest groups so that the prevailing system can slowly be rationalized. Otherwise we will pour more and more money into a system that is characterized by consumer ignorance, a seller's monopoly, inefficiency, lack of accountability—all of which can lead only to further dissipation of resources.

The medical reformer may have disdain for the modest proposals set out above. He will emphasize that the major shortcomings that now characterize the medical care of American citizens will not be eliminated, not even substantially reduced, even if all of the proposals were put into effect. This is granted. But they have been put forward on the following premise: There is no way of equalizing the share of the poor in high quality, privately produced American medicine (the so-called "mainstream"), and we should therefore attempt to improve the services to which they have access. There is no way of removing the financial hurdles to quality medical care for families with modest incomes but the expansion of catastrophic insurance could help. There is no way of using additional public and private resources intelligently unless the planning, organization, and management of the system is improved; and this can come about only as the public, the politicians, and the physicians understand the issues and are willing to act. We cannot speedily devise a good system of medical care for all even if we were willing to pay the price.

There is a great deal that is wrong with the prevailing system of medical care in the United States. But this is true of every other major aspect of our national life—education, housing, employment, urban communities, race relations. Democracy means that the rate of reform is determined by the level of discontent of the majority. It does not appear that the American public is ready or nearly ready to abolish the existing system of medical care. Surely the physicians are not. And no politician is offering a radically new program. It looks as if we will be forced to muddle ahead. Even to muddle, we need to be responsive to facts, not fancies.

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A NEW CALL FOR TAX REFORM

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. ANDERSON of Illinois. Mr. Speaker, during the past 2 weeks we have witnessed much hue and cry about the need for comprehensive tax reform now. While I certainly recognize that there are numerous preferences and incentives in our tax code that probably cannot be justified either on a cost-benefit basis or on the grounds of equity, it should also be pointed out that the tax code is enormously complex, has far-reaching ramifications on the functioning of our economy and is therefore something that should not be drastically overhauled in one fell-swoop as some Members of the other party were advocating last week.

My colleague from New York (Mr. Conable), who is one of the most able and informed Members in the entire House on the question of taxation, has provided some sober and pertinent reflections on tax reform in a recent report to his constituents. He points out that "in tax reform one man's meat is another man's poison" and that the tens of billions of dollars that some of our more ardent tax reformers see slipping through "unfair loopholes" may serve important social and economic objectives. Congressman Conable also points out that the 112 tax returns with adjusted gross incomes of more than $200,000 on which no income tax was paid last year do not provide prima facie evidence that the 1969 Tax Reform Act is ineffective; these returns have not yet been audited and contain large deductions for charitable contributions and business interest payments which were not included under the minimum tax provision for obvious reasons.

Mr. Speaker, I include Congressman Conable's report at this point in the Record and urge that all of my colleagues interested in genuine tax reform take note of it:

A New Call for Tax Reform

Nobody is ever happy about the size of his taxes or the manner in which they are levied. It is therefore to be expected that the fiscal history of any country will be liberally sprinkled with recurring calls for tax reform. Since reform means different things to different people, and the harassed taxpayer always assumes that it's the other fellow who is not paying his fair share of the tax burden, calling for tax reform is also a durable political siren song.

Last week during the debate on the raising of the national debt ceiling, a large bloc of House liberals served notice that they would oppose any further debt ceiling increase unless the President first "permitted" Congress to enact comprehensive tax reforms. I hope that no one will take this ploy too seriously. As a member of the Ways and Means Committee who vigorously pressed for the Tax Reform Act of 1969, I have some acquaintance with this subject.

In tax reform one man's meat is another man's poison, and so less than comprehensive reform always raises the question of discrimination among taxpayers. Major changes were not made between 1954 and 1969, and once we undertook it, the overhauling of the income tax alone occupied our Committee daily for over seven months. One problem with quickly repeated reform efforts is that some of the last reforms we passed did not take effect immediately and are still being phased in. Another problem in a new tax reform effort is that inevitably tax reform leads to or is combined with tax relief, as in the 1969 Act. With a $38 billion federal deficit in prospect this year, the government cannot afford a further loss of revenue.

Then why are people here pushing for a new tax reform effort, if there are so many reasons working against a prompt and successful conclusion? Apart from the possible devious motivation of those who don't like to tax, only to spend, or those who don't like to borrow, only to make borrowing inevitable, the impetus behind this new agitation seems to be deriving from new disclosures that in 1970 there were 112 taxpayers with adjusted gross incomes of $200,000 or more who paid no income tax.

I am afraid this is not a very solid statistic. Almost all these returns have yet to be audited, and in many cases the taxpayer appears to be in error when he thinks he owes no tax, according to officials. But even if they are not in error, a preliminary check has shown that they are not necessarily taking advantage of unusual or invidious tax privilege.

For instance, interest on debts is the biggest deduction taken on their returns. A minimum tax is payable on some types of investment interests as opposed to business interest, but there is a gray area between the definitions of the two types of interest and so the full deductibility of interest is subject to dispute under this new minimum tax provision. Some of these people claim charitable tax deductions of 50 percent of their income, legitimate under the law, and few Americans would question the appropriateness of reasonable charitable deductions. Others paid large state income taxes on the April 15 following the year of a big taxable transaction and had this large deduction to take in a year of lower income.

The point is that the existence of the unholy 112 does not necessarily mean that further tax reform, willy-nilly, is necesary, and it would be premature to assume so. Those in Congress who draw that immediate conclusion and trumpet their dissatisfaction with the system are reaping personal publicity at the expense of the credibility of government, not furthering tax reform.

Tax reform will go forward in the years to come after we digest the reforms recently placed on the books. If the government spends more money than it takes in through taxes, the ceiling on the government debt will have to be readjusted also. But in the meantime, there is no magic relationship between the two that is not totally explained in terms of short-term manipulative politics.

OIL IMPORT RESTRICTIONS

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. WYMAN. Mr. Speaker, it is all too evident the United States' oil import control program is an unfair and ineffective method of assuring the necessary domestic petroleum reserves to meet a national emergency. As is pointed out in an article appearing in the January 17, 1972 Washington Post, the present controls on foreign oil imports cost the American consumer billions of dollars in higher fuel costs and, in addition, reduce sorely needed tax revenue by an estimated $1 billion. Of even graver concern, is the fact import controls offer no assurance the required oil reserves will be available should a national emergency arise at some time in the future.

The executive branch over the last 2 years has increased allowable oil imports to insure there will be no shortage in supply. We are left, however, with artificially inflated prices and the very real possibility of critical shortages in the event of a national emergency.

I believe the Congress must live up to its responsibilities and correct this situation. At the very least, a system of national defense petroleum reserves should be established, as provided in H.R. 9244. Once this is done import controls should be abolished and the savings passed on to over-burdened consumers.

The Post item and pertinent bills follow:

Are We Subsidizing Success, Or . . . Are Oil Quotas of Importance to National Security?

(By Morton Mintz)

The federal government has a greater direct impact on the prices of petroleum products—before, during or after price controls—than on the prices charged by any other industry.

Each of 50 million American families, for example, pays an average of $100 per year more for fuels because of the import quotas that restrict inexpensive foreign oil.

In addition to this estimated $5 billion annual cost of quotas, the Treasury grants an estimated $4 billion a year in assorted tax breaks.

Why we grant such subsidies is, clearly, an important question; and now, in three days of hearings, a Joint Economic subcommittee has explored it.

Much of the testimony concerned the quotas. By keeping out foreign oil, the theory is, they stimulate domestic exploration. This assures that the supply of oil needed by the civilian economy will continue without interruption. The national security is thereby protected, or so the argument goes. That is the key, because national security is the *only* legal reason for the quota system.

The major oil companies (through trade associations they control), the Interior Department and a pro-industry legislator all strongly urged this line of reasoning.

In contrast, subcommittee chairman William Proxmire (D-Wis.) and independent economists and lawyers generally saw the great bulk of the benefits of a $9 billion annual subsidy for success flowing only to the major oil companies, which account for seven of the 20 largest industrial corporations.

An explanation indicated by evidence produced at the hearings—and, of course, rejected by advocates of federal intrusion in oil marketing mechanism—was simply that economic power was translating into political power.

The Internal Revenue Service, to take one item, determined, in the 1960s, that major firms operating in the Persian Gulf had so inflated their "posted" prices for foreign crude as to run up a $1 billion tax deficiency; the IRS settled for half of that—and has never gotten around to investigating the domestic "posted" prices. The IRS says its rules forbid disclosure of the identities of the companies, the sums each owed and the amounts they paid.

Attorney General John N. Mitchell, it developed, had shelved a request from his Antitrust Division for the civil equivalent of subpoenas for papers on the possible anticompetitive consequences of the proposed Trans-Alaska pipeline. A recommendation by the division staff for divestiture by eight of the nine huge firms that own Colonial Pipeline hasn't been acted on, though it was made six years ago.

One witness, Rep. Silvio O. Conte (R-Mass.), was asked to comment on the lag in the Colonial case, which actually came under investigation about nine years ago.

"The oil industry," Conte told Proxmire, "is the most powerful lobby and the most powerful unit we have in the United States."

If that seems an overstatement, try to imagine a more plausible explanation for the anomalies that fairly gushed forth at the hearing (and in earlier Capitol Hill inquiries, as well), such as:

In 1958, the year before President Eisenhower set up the quota system with an Executive Order, American oil companies listed exploration expenses of $650 million in this country and $255 million abroad. In 1969, after a dozen years of quotas, spending for domestic exploration had increased $75 million (11.5 per cent), while it had gone up $255 million (63.8 per cent) in foreign countries.

In the half-dozen years ended in 1970, the cost of quotas to the public increased by at least $7.4 billion—2.3 times as much as the increase in the companies' domestic exploration expenditures, for gas as well as for oil. Obviously, as Proxmire pointed out, a straightforward, honest subsidy for domestic exploration would be a bargain.

By barring low-price imports, quotas have worked to "Drain America First," said S. David Freeman, who until September headed the White House Energy Policy Staff. But now, he said, we face "a major shortage of energy" unless we end the quotas—which the President can do with a stroke of the pen—or induce further domestic production. That, he said, would require increases so large that the cost of quotas could climb from $5 billion to $10 billion a year. And this "would be contrary to our long-term security," Freeman said, because it would mean "really draining America dry." Besides, the Phase II controls appear "to rule out the kind of price increases the oil industry feels is necessary."

Without such price increases, one major oil company has suggested, we will end up by 1985 importing half of the nation's crude primarily from Arab nations. Ironically, Freeman pointed out, large price increases and heavy future reliance on Arab oil are "the very dire consequences which industry representatives suggested would take place if the quotas were abolished."

The nation is said to have an acute shortage of natural gas. The most immediate way to relieve it is either to use more oil, or to convert oil into synthetic gas. But the import quotas, supposedly protecting national security by preventing an energy shortage, keep out the oil that could ease the shortage.

Canada has larger oil reserves than she needs for her own people. But, Freeman said, they will not be discovered, developed and brought to American markets so long as the United States maintains the quotas.

The quotas bar petrochemical feedstocks for use in a great variety of plastic and other products. "The security purpose of import controls does not apply to petrochemicals," President Nixon was told last March in a memo prepared by the Justice Department's Antitrust Division and signed by Attorney General Mitchell.

While the public, through higher prices, is "taxed" $5 billion a year to keep foreign oil out, the major companies that are the principal beneficiaries have a tax incentive to explore and produce abroad: a 1953 Internal Revenue Service ruling allowing them to credit the "royalties" they pay foreign governments against the taxes they would owe the United States. The estimated tax loss is $1 billion to $1.25 billion a year.

In the 12 years of quotas, which bar independent wholesalers from importing petroleum products, including unleaded gasoline, their number in the Midwest has declined from 88 to 15.

The most devastating attack on the quota system—because of its source—came in February, 1970, from President Nixon's own Cabinet Task Force on Oil Import Control. Of the 13 Cabinet officers and other federal officials who were members and official observers, 10 agreed that the quota program "is not adequately responsive to present and future security considerations" and "is no longer acceptable."

The task force chairman was George P. Shultz, then Secretary of Labor. The President thought enough of him to make him director of the Office of Management and Budget—but thought so little of the condemnation of quotas by Shultz and others in the majority that he did not so much as mention their recommendation of tariffs as a substitute.

Instead, Mr. Nixon called attention to the divergence of views between the majority and the minority. Then he appointed a new Oil Policy Committee which, without formal discussions or working papers, approved retention of quotas. Thus he continued a massive intervention in the free market he extols.

H.R. 9244

A bill to amend the Defense Production Act of 1950 to establish national defense petroleum reserves.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title VII of the Defense Production Act of 1950 (50 U.S.C. App. 2151 et seq.) is amended by adding at the end thereof the following new section:

"NATIONAL DEFENSE PETROLEUM RESERVES

"SEC. 720. (a) The President shall establish and maintain on the public lands of the United States, national defense petroleum reserves which shall have a petroleum-producing capacity sufficient to protect the United States against a continuous one-year interruption of the importation of petroleum from those foreign countries not contiguous to the United States which the President determines to be insecure sources. To carry out the provisions of this subsection, the President is authorized to enter into contracts and other agreements. For the purpose of this subsection the term 'public lands of the United States' means all lands to which the United States has title on the date of enactment of this section, including public lands, acquired lands, submerged lands, and lands within the area comprising the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act).

"(b) To the extent he deems it necessary or appropriate, the President may treat existing petroleum reserves established and maintained under other laws of the United States as part of the national petroleum reserves, and for this purpose, the President is authorized to acquire by purchase lands or interests in areas adjacent to such existing petroleum reserves and to enter into contracts or other agreements in order to protect or increase the capacity of such existing petroleum reserves.

"(c) Nothing in this section shall be construed to require or authorize—

"(1) the cancellation or termination of any existing lease; or

"(2) the taking or use of any lands which are, on the date of enactment of this section, within the national parks system or which are, on that date, parts of national forests, national seashores, game refuges, or any other lands which have been otherwise set aside for purposes of recreation, conservation, or public use.

"(d) Within thirty days after the close of each quarter, the President shall submit to the Joint Committee on Defense Production a report of the petroleum-producing capacity in the reserves maintained under this section during such quarter.

"(e) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section."

(b) Section 717(a) of such Act is amended by striking out "(except sections 714 and 719)" and inserting in lieu thereof "(except sections 714, 719, and 720)".

H.R. 5186

A bill to terminate the oil import control program

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended by adding at the end thereof the following new subsection:

"(e) On or after January 1, 1972, no import quota or other nontariff trade restriction shall be imposed by or pursuant to law with respect to the importation into the United States of petroleum and petroleum products."

THE ECONOMY—REALITY AND ISSUE

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. CONABLE. Mr. Speaker, in an entertaining speech before the National Press Club on February 8, Herbert Stein, Chairman of the Council of Economic Advisers, commented reflectively on the economic as well as the political realities of 1972. In discussing the possibility of realism and responsibility in a presidential election year, Mr. Stein is both humorous and informative. And, I suspect that before the year is out Mr. Stein's sense of humor will be tested by some even more blatant arguments than those he suggests.

Mr. Speaker, I know that all of my colleagues in the Congress will be interested in Mr. Stein's remarks, and I include them in the RECORD at this time:

THE ECONOMY—REALITY AND ISSUE

(Remarks by Herbert Stein, Chairman, Council of Economic Advisers)

I see by the papers that the economy is going to be a big issue in the 1972 campaign. That is good news for economists. Every candidate is going to need, along with a make-up man and a TV prop man, at least three economists. The demand is especially great for Democratic economists, because of the large number of candidates. One of the political experts in the White House Mess told me that there were so many Democratic candidates that the party was going to divide into two conferences, with a play-off to be held at a Super-Convention after the November election.

Anyway the bidding is high for Democratic economists. Senator Muskie has offered Senator McGovernor Arthur Okun and a first round draft choice from the 1972 crop of Ph.D's in exchange for Kenneth Galbraith, but McGovern says it's no deal unless Okun raises a beard. After President Nixon appointed Mrs. Whitman to the Council of Economic Advisers, Governor Wallace offered Miss Alabama the chairmanship of his Council if she could get through the Southern regional edition of Samuelson's textbook.

The demand, of course, is not so strong on the Republican side. We only have three candidates, and Mr. Ashbrook has shown no interest in economists and Mr. McCloskey has shown no interest in Republicans. However, while the demand for Republican economists is small, so is the supply.

This Administration, despite its great performance in the field of economics, operates under a certain technical handicap in dealing with the economy as a campaign issue. I suppose the people most eligible to explain the Administration's economic policy are the Secretary of the Treasury, the Director of the Office of Management and Budget and the Chairman of the Council of Economic Advisers. However, our Secretary of the Treasury is a Democrat. The Director of OMB is under the Hatch Act and not able to campaign. And in this Administration the Chairman of the CEA plays a professional, non-political role. In fact, I am under instruction not to make political speeches. So I hope the press will understand that, unlike the opposition, when we talk about the economy we do so in a non-partisan, non-political way.

While it is great fun for economists that the economy will be a big campaign issue in 1972, it is not really a blessing for the economy. The U.S. economy is strong, both at home and abroad. But the last thing it needs is to be the subject of a year of demagoguery. It does not help a revival of business or consumer confidence to have the state of the economy described groundlessly as a disaster. Neither does it help to have policies recommended which are not intended to be taken seriously but only spread anxiety in the private sector. This is not a plea for a suspension of criticism and suggestions. It is only a plea for realism and responsibility. We tried to set an example of this in our Economic Report. Many commentators in the press have referred to our Report as modest. I would go further and say that it is the most modest Economic Report ever written.

Time Magazine says that the main economic issue will be unemployment. And Time is an honorable magazine; so are they all, all honorable magazines. So let us look into unemployment a little.

I can see it now. In August and September the Republicans will be pointing to a decline of the unemployment rate. The Democrats will say the rate is still higher than when they left office. The Republicans will say that the unemployment rate would be lower now if we didn't have to unwind the consequences of the Democrat's War and the Democrat's inflation. To which the Democrats will say, "Yeah? What about Herbert Hoover?" And that will be the highest point the great debate is likely to reach.

We recognize that unemployment is a serious problem. As President Nixon said in his Economic Message, it is the great problem of 1972. Six percent unemployment is too much. We are determined to reduce it and expect to reduce it. At the same time it is a travesty to call it a disaster or to compare the situation with the Great Depression. This is especially true when it is recognized that in 1971 forty-eight percent of all unemployment was accounted for by people aged 16 to 24 and another 23 percent by females 25 years of age and over.

The unemployment situation of young people is particularly misunderstood. The fact that 15 percent of the 16 to 21 year olds are unemployed is commonly described as if 15 percent of that age group is hanging around the lamp-post. The facts are that almost half of that age group is not in the labor force at all, less than 8 percent of the total age group was unemployed in 1971, 5.5 percent was unemployed and not in school, and 4.6 percent was unemployed, not in school, and seeking full-time work.

Some politicians and journalists have recently gotten on to the fact that mothers of small children who are keeping house are not considered unemployed, even though they may occasionally mutter that they would rather be back in the nice cool office enjoying the coffee break than in the hot kitchen. The suspicion seems to be around that we have a pool of uncounted unemployed hidden in caves in Kentucky. The fact is that the proportion of the population 16 years and over employed in the three years of the Nixon Administration was exactly as high as the proportion in the best three years of the Johnson Administration and much higher than in any of the years 1961 through 1965.

The mere recital of such facts invites the charge of not caring. It's almost like saying that Mom didn't really make very good apple pie. But the issue of unemployment is not who cares the most, which can never be determined, but who has the best policy for dealing with it.

This Administration has, I believe, the most powerful, comprehensive, coherent program for dealing with unemployment that any Administration ever had. I say that after a careful review of the history. The only competitors worth mentioning are Roosevelt's program during his first 100 days, Roosevelt's program in the Spring of 1938 after the 1937 recession, and Kennedy's 1962 tax cut proposal. The first Roosevelt program I consider weaker because it included the counter-productive NRA; the second Roosevelt program and the Kennedy program had neither the price control nor the devaluation features.

I recall this history in an effort to break through the stereotype which holds that if this is a Republican program it must be a weak, passive program. This stereotype is keeping lots of people from seeing what is going on. Let me just summarize what is going on:

1. We are running the biggest budget deficit ever, except in World War II, and one of the biggest ever relative to the GNP.

2. We have the most comprehensive price-wage control system ever except during the Korean War and World War II.

3. We have suspended the convertibility of the dollar and achieved, by negotiation, a major reduction in the exchange value of the dollar.

4. We are spending this year about $10 billion for manpower programs and unemployment compensation. This is about $2,000 per unemployed person. In Fiscal 1973 the manpower programs, excluding unemployment compensation, will be 20 percent higher than in 1972 and twice as high in 1970.

So what is the issue? The issue is whether anyone has a program for dealing with unemployment that is more effective than this.

Does anyone propose a more stimulative fiscal policy if that means a bigger deficit? I have discussed this subject before two Congressional committees in the last two weeks and have yet to find anyone who wants a larger deficit. All I hear is a few people who say that if we did things their way we would get more employment bang for a budget dollar and be able to reduce unemployment more with less deficit. So far, the better ideas seem to consist of rediscovering the WPA and tax loophole closings that have been gathering dust in Congress for years.

The second element in our attack on unemployment is the price-wage control system. Many observers do not seem to regard the price-wage control system as an element in the anti-unemployment program. Some of our critics—most of whom were advocating incomes policies a year ago—now consider the price-wage control system as evidence of our excessive preoccupation with inflation. Well, we are concerned with inflation, and think that we should be. But the price-wage control system reflects our concern with unemployment as much as our concern with inflation. If we had been concerned only with inflation we could have stuck it out with the classic prescription of fiscal and monetary restraint. But as the President said in his Economic Report, it began to appear that this prescription could eradicate inflation only at the price of persistent high unemployment—"and this was a price we would not ask the American people to pay."

So the price-wage control system is an effort to control inflation in a way that will reduce not increase unemployment. The question is whether anyone in the opposition now seriously proposes a more rigorous, effective price-wage control system than the Administration has put in place.

There is a good deal of grumbling about the system. Part of it focuses on the fact that some of the Administration people involved, including me, are thought not to love the controls. But the point about the controls is not who loves them well but who does them well. And I have seen no specific suggestions for doing them better.

It seems to be obvious that a critical matter for the success of the price-wage control system—although not the only critical matter—will be effectiveness in restraining wage increases. This is especially true if the controls are considered an element in a program against unemployment. Wages are the largest part of total costs, by far, and we start from a situation in which profits are low by historic standards. The possibility of controlling prices more effectively without controlling wages more effectively is limited. And even if we could maintain a system of tight price control and loose wage control, squeezing profit margins, the result would be bad for investment, production and employment.

Does anyone believe that it will be an issue between the Republicans and the Democrats that the Democrats propose to control wages more rigorously?

The third element in our attack on the unemployment problem is the new international economic policy. The President grasped the nettle, suspended the convertibility of the dollar and brought about a reduction in the exchange rate of the dollar. This was not done primarily to expand employment, but it was helpful in giving us freedom to follow domestic expansive policies. There has been a certain amount of demagoguery putting the successors to William Jennings Bryan in the odd position of worshipping at the sacred shrine of gold. But by and large the opposition has not made an issue of international monetary policy—which is just as well.

My conclusion from this brief tour of the bases of economic policy, especially as it relates to unemployment, is that at the moment there is no issue. There is no serious, coherent policy that is an alternative to the one the Administration has initiated. There may still be an alternative program before 1972 is over. After all, there are a lot of economists on the other side. But I will not try to guess what it might be. Presumably it would depend in some part on whether the candidate is George Wallace or Shirley Chisholm.

My best guess is that there will be no alternative program. Instead we will get solemn pledges.

A pledge to reduce unemployment more and faster.

A pledge to spend more, tax less, and balance the budget.

A pledge to make the price-wage control system more rigorous but less burdensome on workers, farmers and small businesses.

A pledge to protect the American worker against imports while opening up the markets of Europe and Japan to our exports.

Well, it wouldn't be the first time. But as I heard on my television recently, that isn't good enough for 1972.

It isn't good enough for the heroes of the New Politics to campaign against Herbert Hoover.

It isn't good enough for the great innovators to rediscover the WPA.

It isn't good enough to palm off sentimentality as sincerity and platitudes as profundity.

I seem to detect a certain political note creeping into these remarks and I think that I had better stop right here.

THE 54TH ANNIVERSARY OF THE ESTABLISHMENT OF THE REPUBLIC OF LITHUANIA

HON. ALPHONSO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. BELL. Mr. Speaker, as in past years on this date, I should again like to take this opportunity to salute the 54th anniversary of the establishment of the Republic of Lithuania.

This recognition is deserved not just because I have many constituents of Lithuanian descent in my district, but also because the occasion serves to remind us of the many freedoms we enjoy in the United States, but too often take for granted.

Oppression is not new to Lithuania; because of the country's particularly vulnerable position on the Baltic, threats from the Teutonic peoples on the West and Russia on the East have been frequent. In addition, during the last three decades, Lithuania has lost more than one-fourth of her population through the continued Soviet program of deportation and resettlement.

Still, the memory that remains foremost in the minds of the American public as a classic example of discrimination and suppression of national rights by the Soviet Union is the defection attempt of Simas Kudirka. This incident constituted a tragedy for both the individual seaman and for the United States because it was in direct contradiction to our tradition of granting political asylum to the downtrodden of the world. Fortunately, since the President ordered an investigation and reiterated U.S. maintenance of its asylum policy, the State Department has issued improved instructions to all concerned agencies dealing with such cases. Hopefully, this action will preclude incidents of this kind in the future.

Finally, in view of our own cherished tradition of liberty and of the many historical, cultural, and familial ties existing between the Baltic and American peoples, it is entirely appropriate that special congressional attention be focused on the plight of Lithuania today. Bringing the force of opinion of free people everywhere, and especially in the United States, to bear on this situation will further the restoration of the fundamental right of self-determination to our Baltic brethren.

THE FREEDOM TO FISH IN SEAS THAT ARE FREE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. ANDERSON of California. Mr. Speaker, the freedom of the seas has been a part of our heritage since our inception as a nation. However, this freedom—similar to freedoms that have been guaranteed to us by the Constitution—has been eroded and is in danger.

Like the freedom of the press, the freedom of speech, and the freedom to peaceably assemble, the freedom of the seas must be protected; it must be defended, and it must be exercised.

If not, surely the freedom of the seas will wither away and no longer be ours.

Mr. Speaker, a man who served for more than 45 years in the U.S. Navy, a man who served as the commandant of the National War College, a man who is recognized as an expert on the aspects of American policy affecting national security, Vice Adm. Fitzhugh Lee has made a study of the doctrine of the freedom of the seas.

At this point, I include in the RECORD Admiral Lee's dissertation entitled "The Freedom To Fish in Seas That Are Free," and I commend this excellent article to my colleagues:

THE FREEDOM TO FISH IN SEAS THAT ARE FREE

(By Fitzhugh Lee)

Too few Americans are really aware that we are a maritime nation. Many do not realize that our ability in war to control important sea areas has a profound effect on our national security. Nor do they understand that the doctrine of the freedom of the seas in peace and war has a direct relationship to the health of our high seas fishing fleets and the ability of our Navy to do its job.

The press, the TV, and the radio convey almost no appreciation of the fact that the troubles our tuna boats are having off Ecuador and Peru are embarrassingly visible evidence of the erosion of our freedom to use the seas. Nor have the media done much to help public understanding of the role that our high seas fishing fleet can and should play as a part of our national maritime power.

America needs to know these things; needs to know they are all interrelated in complex ways involving foreign and domestic policy, foreign trade, and international law in the maintenance of national security.

Why does the United States fight for international acceptance of narrow territorial seas, while a seemingly growing number of nations are asking for as much as 200 miles and more as the limit of their territorial waters? The answer is that we, as the leader of the strongest nation of the free world, must make the most effective use of sea power—our own and that of our allies. If we don't, we will weaken our side of the world power equation. Smaller nations are grasping for more territorial waters mostly in efforts to bolster their frequently faltering economies with the money they can make from them, and with little regard for the long range consequences.

More than 90% of international commerce goes by sea. There are 19,000 cargo-carrying vessels in the world's merchant fleet. A lot of cargo that goes by air must fly over territorial seas and only with the permission of the territorial "owner". The United States and other nations on our side are critically dependent on materials from overseas for our economic well being and our national security. And the continuing freedom of much of the free world largely depends on the strength of America.

Ability to control the sea has been a major factor in deciding the outcome of war throughout history. As the free seas, and air over them, are increasingly restricted, our freedom to use maritime and air power will be correspondingly reduced. We will not, in time of stress, have full freedom to position naval forces in ways which may prevent or delay the outbreak of war. If war comes, we will be handicapped in applying force quickly in ways which can give us important advantage in the critical opening days. In the conduct of a long war the strategic mobility of our ship and aircraft would be drastically curbed in many places and in many ways.

Increasing the limits of the territorial seas from 3 to 12 miles would increase by more than a hundred the number of international straits which could be denied to us because the waters in them and the air over them would be territorial—owned by other nations.

Submarine warfare came dangerously close to gaining victory for the Germans in two world wars. The fact that submarines were not used against us gave us enormous advantages in Korea and in Viet Nam but we cannot assume we will always have this advantage. Russia has a massive and growing submarine fleet. Increasing the extent of the territorial seas potentially expands huge areas of neutral water an enemy can use clandestinely for enhancing the submarine's powers and reduces the areas which our surface and air forces can use to combat them without violating overtly the waters of neutral nations.

These are the reasons that we have sought since 1793 to preserve the 3-mile limit of the territorial sea—the band of water along a nation's coasts—and why we should continue to work for international agreement on the greatest achieveable amount of free ocean area.

Let us thumb through a bit of history. For at least two thousand years the world has argued about the freedom of all nations to use the high seas and where to draw the line between everybody's high seas and the territorial seas nations consider they own as they do their land. Until about five centuries ago it was often contended that the sea could be appropriated and was not free for use by all mankind. Large tracts were divided up and many exaggerated claims were made.

Pope Alexander in 1493 divided the entire Atlantic between Spain and Portugal. In 1624 Grotius wrote a landmark (or should we say watermark?) book to uphold the right of transit on the high seas, which the Portuguese at that time were proclaiming as their monopoly. England asserted the right to free seas in 1322 and actually enforced it for most of the 18th and 19th centuries.

One of the early actions of Thomas Jefferson, our first Secretary of State, was to proclaim that we accepted 3 miles as the limit of our territorial waters. This limit England had long upheld, and most maritime nations accepted it at that time. In fact, for about the last 300 years, 3 miles has been the only limit for the territorial sea which has been agreed to internationally and widely recognized by the majority of nations, with the remainder of the oceans constituting the "high seas"—free for all to use.

In fairly recent times measures for the control of smuggling and development of mineral and fishing resources have spawned what are called "contiguous zones" between the high seas and the territorial waters. In these zones a coastal state may exercise certain privileges such as fishing, but the state cannot restrict the free navigation—known as "innocent passage"—of the ships of other nations. Twelve miles from the coast has been widely accepted as the limit of the contiguous zones.

The great problem has been, and remains, that there is no agreed international law or covenant which says where the boundaries lie between the high seas, the contiguous zones, and the territorial seas. Even if there were, the present powers of the United Nations and its International Court of Justice are insufficient to adjudicate and enforce them.

Steps to define and set these boundaries were taken by the League of Nations in Geneva in 1930, but the required two-thirds agreement could not be reached. This, largely because of Russian intransigeance. In 1945 President Truman, in order to protect our oil interests in the Gulf of Mexico, claimed for the United States the "natural resources of the sub-soil and sea bed on all of her continental shelves". These shelves occur world-wide and are something of a geological oddity.

World-wide, the shelves cover about 11 million square miles. The land of the shelves slopes very gradually from the coast line to a depth of about 600 feet and then plunges precipitously to the deep ocean floor, which may be 7 miles deep. The shelves extend from less than a mile off shore to distances as great as 750 miles but average 40 miles in width. Off Ecuador and California the shelf is very narrow; off Nova Scotia, Alaska, and Siberia, it is very wide. Truman's grandiloquent, precedent-setting and unilateral proclamation in 1945 claimed for the United States an area three times as large as Texas. Surprisingly, no other nations protested this action which did not assert fishing rights and specifically noted that free navigation by ships of all nations in the waters above the continental shelf was not affected. Indeed, the American declaration became a precedent for similar claims by other nations in which, unfortunately, mining and fishing in contiguous zones, as well as free passage through and over and the limits of the territorial seas, were all rather indiscriminately and confusingly embroiled.

"Fishing" is a loose term and can apply to catching swimming fish as well as creatures that lie on the sea bed such as oysters and in the subsoil under the sea bed, such as clams, and those like lobsters which both swim and crawl on the bottom. Most commercial fishing is done in the shallow waters of the continental shelves, but fishing for whales and the various kinds of tuna is more often done in the deep oceans.

As fish become increasingly valuable as a food source for an exploding world population, the arguments wax over who has the exclusive right to fish where. These arguments are not likely to be solved until we can get basic international agreement on the boundaries and uses of the territorial, contiguous and high seas.

The need for agreement has long been obvious. Under United Nations auspices, Conventions were held in Geneva in 1958 and again in 1960 to try to achieve them. In 1958 some important covenants were agreed to on fishing and sea bottom rights, but no agreement could be reached on the three mile or any other limit to the territorial sea. The Soviets and others held out for 12 miles; five nations claimed 200 miles, and nine claimed all the seas on their continental shelves. The United States and 20 other nations wanted 3 miles but would compromise on a 6 mile limit for territorial waters plus another 6 miles for the contiguous zone. This failed to pass by 1 vote.

Another conference in 1960 also failed to reach agreement. At the close of both of these conferences, the United States made a policy statement worth repeating. We stated that three miles was the "sole breadth of the territorial sea on which there had ever been anything like common agreement", that claims in excess thereof "are not sanctioned by international law" and "conflict with the universally accepted principle of the freedom of the sea . . . Furthermore, we have made it clear that in our view there is no obligation on the part of the states adhering to the three-mile limit to recognize claims on the part of the other states to a greater breadth of the territorial sea. And on that we stand." And on that we still stand as the official position of the United States.

Noting that another Geneva Conference is scheduled in 1973 and that it "is urgent that the community of nations fix a proper breadth of the territorial sea", the United States now says that we will support a 12 miles territorial limit but only if a treaty can be negotiated having widespread international acceptance and which provides for freedom of navigation through and over international straits. At the same time, we said, we would attempt to accommodate the interests of coastal states in the fishery resources off their coasts.

We have mentioned that our tuna fishers are concerned with both foreign and domestic policies.

Rightly or wrongly—and many think the latter—a basic element of American foreign policy for the last three decades has been "detente" vis-a-vis our communist adversaries on the theory that their governments contain the seeds of their own destruction, that they will eventually mellow to the point of abandoning communist imperialism, and that time is on our side. Therefore we should accelerate the mellowing and prevent hostilities by "detente"—a relaxing and calming of international relations even if you have to stretch right and reason a bit. Detente is a French word. The French Ambassador to Washington in the mid-60's defined it being just nice enough to your enemies to make enemies of your friends. Staunch advocates of detente in our State Department have applied it also to the "third world," the underdeveloped nations, on the theory that they will be induced to stay neutral on our side or at least not espouse communism.

Unfortunately, in the maritime scene, the steadfast upholding of detente and the avoidance of any precedent for not doing so have seriously weakened the doctrine of maximum area of free seas thus weakening our ability to exploit sea power. This has been evident in many instances in our relations with nations adjacent to the strategic maritime bottlenecks of Gibraltar, Suez, Singapore, and Panama. Our State Department has been negotiating over several years a treaty with Panama which anti-detenters in Congress have been strongly opposing, because the terms would greatly inhibit our strategic mobility at sea.

When Russia objected to U.S. Naval ships going through the international waters of an international strait near Russia in the Arctic, we stopped the ships and turned them around. We did not permit our forces to enter the 12-mile territorial waters claimed by Red China in order to rescue a downed aviator. We side-stepped the question of high seas versus territorial waters in the PUEBLO incident although the ship was clearly captured on the high seas by our announced policies. Last December when Cuba seized a Panamanian flag ship we protested the ship capture of its American captain but not the capture of an American-owned ship under a foreign flag on the high seas—clearly a belligerent act, as are the captures off Ecuador.

Détente was the underlying factor in our supine acquiescence to the seizure in 1971 of more than fifty of our tuna boats on the high seas. The possible retaliatory confiscation of American business properties in Ecuador and Peru may also have been a factor, but the application of détente in the case of the tuna boats in Latin America obviously weakens the position America will have in the 1973 Geneva conference. This meeting will bring about agreement on reasonable and sensible limits for the territorial seas and to outlaw 200 mile claims which are patently ridiculous. If they were applied worldwide, the result would be chaos.

While most Americans deplore that our high seas fishing fleets suffer, they ignore that our national security is also suffering from a continuing failure in other areas to stand up for our rights and to carry out our proclaimed foreign policies with respect to the freedom of the seas.

In our domestic policy we have over the years failed to exploit the assets which our tuna fishery can and should bring to our country.

We have not done nearly enough in strengthening our merchant marine. Russia has a modern and expanding merchant fleet; ours is just the opposite. Because of high costs of American labor, most of America's alleged merchant fleet flies the flag of a foreign nation. The fleet's availability to us in war is dubious. Our government has far less for our high seas fishermen than it has for our merchant shipping. We require that our tuna clippers be built in America, but we deny or under-subsidize their building and their support to the point where our fishermen, too, may have to seek the economic relief furnished by a foreign flag.

Russia and Japan are our principal rivals in the commercial fishing game. The governments of both have openly, lavishly, and intimately supported their fishing fleets for decades. So have most other fishing nations. We have done the opposite. That our tuna clippers have stayed solvent is almost entirely due to their pioneering fishing techniques and what we may call an esprit de corps in the industry. But man cannot live by esprit alone; the cash register also must be fed.

The Navy has been quick to capitalize in war on the use of the tuna fleets. Today's fine tuna clippers are much superior to those the Navy commandeered in previous wars for use as patrol boats. The tuna boats will probably be used in another one if it comes.

But in time of peace the Navy has done little to advocate and exploit the potential of the tuna fishermen in speeding development in several of the ocean sciences. They could be subsidized to gather in little-traveled regions a mass of data of much value in oceanography. Finding improved techniques in the search for the tuna and the search for the submarine are both heavily dependent on more knowledge of the behavior of the thermocline. This is the boundary separating a layer of warm water above a much colder layer. It hampers in unpredictable ways the sonic or electronic search of the deeper water. The Navy has spent many millions in trying to lick the problem posed by the thermocline. A subsidized program to help the high seas fishermen to lick their problem should help both parties. And it would help to keep the fishing fleets prosperous and available for use under the American flag when and if the Navy needed them.

Summing up, in my opinion, our government, in the national interest, should be doing much more than it has in support of our superb, modern, high speed, high seas fishing fleets. It should take positive steps to insure keeping them under the American flag. It should seek out and foster ways in which the Navy and the fishing fleets could coordinate and cooperate in research in oceanography and anti-submarine warfare. It should abandon the policy of détente as it has been unrewardingly practiced over the last few years. At the very least it should abandon those aspects of détente which erode a steadfast support of the doctrine for the freedom of the seas. Surely our most visible non-support of this doctrine so important to our national security has been our pusillanimous reaction to nations molesting our ships in waters as far as 200 miles from their coasts. In the eyes of most of the free world—including most of Latin America—a shift to a strong stand by America on the doctrine of the freedom of the seas would be hailed as an intelligent and needed step toward a sensible, acceptable agreement in the 1973 Geneva Conference on the Laws of the Sea.

LITHUANIA'S BRIEF PERIOD OF FREEDOM

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. DERWINSKI. Mr. Speaker, on February 16, 1918, 54 years ago today, the Taryba or National Council declared the independence of Lithuania. This small nation on the Baltic Sea, for over 100 years, a captive of the Russian Empire, had been occupied during World War I by the armies of the German Empire.

While the end of the first global conflict saw the extinction of both the Romanoff and Hohenzollern dynasties, it did not mean that the small nations of Europe were to remain free from the tyrannies of their larger and more powerful neighbors. New evils soon emerged, one having come to power late in 1917 while the war was yet raging and the other making its appearance in 1933. Lithuania was doomed to experience the horrors of both communism and national socialism.

Its brief period of freedom came to an end during the summer of 1940. Soviet forces invaded Lithuania on June 15 and it was absorbed by the Soviet empire on August 3, following a parliamentary election with none but Communist candidates. In 1941 the Nazis invaded and occupied Lithuania, remaining in possession until the Communists returned at the end of World War II.

Over a million people of Lithuanian background live in the United States, many thousands of them in Illinois. Many of them came to America after their native land had been seized by the Soviet Union. Thousands of others fled from Lithuania to other lands and still other thousands have been sent to Siberia and elsewhere by the tyrants in the Kremlin.

As a result of migrations, deportations, and repopulation from other sections of the Soviet Union, over half of the people now living in Lithuania are unable to speak Lithuanian. What makes this so tragic is that Lithuanian is the oldest living language in all Europe.

Mr. Speaker, the facts that I have related cannot be dismissed as ancient history. They have their current parallel in the subjugation of Czechoslovakia, the persecution of the Jewish inhabitants of the Soviet Union, and the denial of freedom to the people of Lithuania.

MASSIVE BUSING: A WASTE

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. HUNGATE. Mr. Speaker, the issue of busing and the Constitution are under serious study now and the following article by William Raspberry in the Washington Post of February 16, 1972, expresses one view of the problem:

MASSIVE BUSING: A WASTE

(By William Raspberry)

If this weren't an election year, it just might be possible to do something rational about school integration and busing.

But not only is it an election year; it is also a year in which all sorts of people, in all parts of the country and of all political persuasions are expressing their strong misgivings about the prospects of massive busing for the purpose of racial integration of public schools.

And with that kind of mandate, you can count on the politicians to see their duty—and overdo it. Already presidential candidate Jackson is pushing "freedom of choice." Haven't we heard that one before?

Others are talking up constitutional amendment.

It's a bit of an embarrassment, all things considered, but I happen to agree with Vice President Agnew on this one. I agree with him that massive busing solely for purposes of racial integration is a waste. And I agree with his opposition to a constitutional amendment as the way to end the waste.

The artificial separation of people, in schools or out, based on their race is wrong. It is, for one thing, psychologically destructive of the minority members who are separated out.

But to send black children chasing to hell and gone behind white children is also wrong and psychologically destructive. It reinforces in white children whatever racial superiority feelings they may harbor, and its says to black children that they are somehow improved by the presence of white schoolmates.

My favorite nightmare is of all the white people in the country moving to Alaska, and all the black children in the country following them in an endless line of buses.

Integration is a noble goal. But there comes a time when thoughtful men wonder with Joseph Alsop: "Is it really worth it?"

If white people, either because they wish to avoid contact with black people or for any other reason, choose to move far from where most black people live, how can it make sense—in terms of education or common sense—to send black kids chasing after them?

At some point, it becomes obvious that there must be cheaper way to achieve the goal which is the education of our children.

But even the goals gets confused. Some of the advocates of massive busing, it seems to me, are being guided by the wrong ideal.

The start off with the assumption that in melting-pot America, racial integration is a good thing. But they take the melting pot metaphor altogether too literally, and it becomes their goal to make every classroom of every school (and every block of every neighborhood) an accurate cross-section of the makeup of the total population.

They would like to put us all into that metaphorical melting pot and ladle out enough portions of homogenized Americans to fill every schoolroom, work-room and living room in the country.

Well, what's so ideal about mathematically precise distribution of human beings? What's so inherently evil about a block in which all the homeowners (or a classroom in which all the pupils) happen to be black? Or white?

This is no brief for a return to the lie of separate but equal. It is an appeal for rational priorities, a plea that we make the test of a school whether it does what schools are supposed to do—educate our children.

It is both evil and illegal to say to a child: You cannot attend this school because it is a white school. But how much better is it to say: You must attend this school because it is integrated and we need you for racial balance?

The ideal is a situation in which race is irrelevant to assignment. Preoccupation with mathematical precision, unfortunately, is not the way to achieve that idea.

But no constitutional amendments, please. The effort that route would require would be bound to make too many of us feel that we were solving the problem of education in a pluralistic society. It would in fact solve nothing at all, except to return us to where we were the day before yesterday.

The Vice President was right again when he said:

"I think that there is almost a Pavlovian reaction. Whenever a subject becomes highly controversial, you must turn to a constitutional amendment. I think these things are capable of being handled within the normal statutory framework and constitutional framework of our existing Constitution."

But only if we deal with the situation and stop looking for new ways to run.

YORK COLLEGE CAMPUS IN JAMAICA, QUEENS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. ROSENTHAL. Mr. Speaker, today I introduce a bill to provide Federal funds for the construction of the York College campus in Jamaica, Queens. The need for this campus is quite overwhelming, and the veto of funds for its construction by the Governor of New York is incomprehensible.

The City University of New York is severely strained. Its tuition-free policy and open admission program will be difficult enough to maintain even with State cooperation. Now, however, as Albany has become increasingly hostile to both methods of insuring quality higher education for city students, the entire future of CUNY is in question. The most immediate problem is Governor Rockefeller's veto of funds for the CUNY 1968 master plan, which included $62.5 million for York College construction.

York College will extend higher education opportunities to over 6,000 of our students and relieves some of the overcrowding at all the other CUNY campuses. Presently, however, York College students meet in a rented warehouse—throughout the city, CUNY's per space ratio is 75 square feet per student while SUNY's is over 200 square feet per student. The State Board of Regents certified the importance of the York construction by approving it last August.

I need not detail the benefits of open admissions and tuition free higher education—increased social mobility, strong incentives for students to stay in secondary school, equally strong incentives for their parents to remain in New York City, not to mention the benefits to the entire city that educated people can bring. Charges that the open admissions program has cut enrollment at private colleges in the New York City area are at best tenuous, as a survey by the State Education Department shows.

York College, however, will not only serve as an educational institution. It will be the cornerstone of much needed redevelopment efforts in South Jamaica. York has been approved and supported community planning boards, by civic and business groups, the city planning commission, and the mayor. I certainly hope this legislation will be given a hearing and an evaluation at the earliest possible time. It is time we faced up to our responsibilities to our students and to our cities.

CLOSING THE FISCAL AND BUDGETARY INFORMATION GAP

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. BROOKS. Mr. Speaker, Congress has seen few products of executive branch efforts over the last decade to improve the acquisition, reporting, and analysis of fiscal, budgetary and program-related data.

Our Federal budget is enormous and—as evidenced by the President's presentation for fiscal 1973—enormously confusing.

That confusion will be compounded in the months ahead, as the various congressional committees seek the detailed information basic to intelligent program review and policy determination. In some instances data will be withheld, delayed, or manipulated for political reasons. In others it simply will not be available in usable form.

On March 1, the Joint Committee on Congressional Operations will begin hearings on this problem. Our primary concern will be development by the Office of Management and Budget and the Treasury Department of the Federal fiscal and budgetary data system envisioned in title II of the 1970 Legislative Reorganization Act. The intent of title II is clear: To give Congress—along with other users—ready access to meaningful fiscal, budgetary and program-related data in the executive departments and agencies.

Title II requires congressional participation, through the office of the Comptroller General, in such systems development.

Our purpose is reviewing implementation efforts over the past year is to get—

First, a clear and concise description of what the OMB-Treasury approach is;

Second, a statement of the improvements in acquisition and reporting of fiscal, budgetary, and related program data that are expected to result from it; and

Third, assurance that whatever benefits do result—for executive managers—

are not only consistent with congressional interests but applicable to congressional needs as well.

SUMMER JOBS IN AGRICULTURE

HON. FLOYD V. HICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. HICKS of Washington. Mr. Speaker, many people have a stake in harvesting our crops, particularly those which require a great deal of hand labor such as flower bulbs, berries, vegetables, and tree fruits. Participation of youth in these harvests and the payment of equitable wages for all continue to be matters of concern, not only to farmers and agricultural workers, but also to communities and the public at large. I commend to your attention the following two resolutions from the Western Washington Horticultural Association:

RESOLUTION

Whereas summer employment in agriculture is the primary source of income for many people, especially students, senior citizens and the disadvantaged; and

Whereas this employment under proper supervision and working conditions is healthful and socially beneficial—teaching self reliance, thrift, discipline and other attributes necessary for successful permanent employment; and

Whereas piece-rate payment is the only way to allow people of different abilities to work together (examples: handicapped, elderly or young people can vary widely in their physical ability and motivation); therefore

Be it resolved that the Western Washington Horticultural Association ask the Representatives and Senators from Washington State to ensure that provisions be contained in H.R. 7130 and its companion bill S. 1861 which will, (1) allow children to gain employment in agriculture, and (2) retain piece-rate payment for agricultural labor. The Association recognizes the need for education of children and agrees with the provisions in those bills that limit child employment during school hours. The Association also agrees with the establishment of minimum hourly rates provided such standards do not conflict with the principle of piece-rate wage payments where that method has customarily been used.

RESOLUTION

Whereas we believe that the employment of youth in agricultural pursuits under suitable supervision and working conditions, especially during the summer school vacation period, can be socially and economically beneficial to these young people; and

Whereas we believe that the recent survey[1] conducted by the National Committee on Education of Migrant Children under the sponsorship of the American Friends Service Committee on child labor in agriculture not only badly distorts the facts, but also failed to acknowledge the many benefits which accrue from the participation of the youth in crop harvest—flower bulbs, berries, vegetables, apples and other tree fruit crops; and

Whereas we maintain that there is a very district difference between the children of migrant laborers who move from area to area for the purpose of agricultural employment and the children of permanent residents of a community who work primarily to earn extra spending money for their own use; and

Whereas the majority of the children that help in the harvest of our crops are the children of local permanent residents; and

Whereas we feel that the recommendations made in the study referred to above, i.e. barring children from the farm labor force outright, requiring a minimum wage etc., would result in a highly detrimental environment for our youth, increased crime, lower the economic status of these youths and cause undue hardship on the producers of speciality crops that require considerable hand labor, therefore

Be it resolved that the Western Washington Horticultural Association makes the following recommendations:

1. The American Friends Service Committee, The National Committee on Education of Migrant Children and any other interested group is encouraged to extend their study of the involvement of children in agriculture—working with producers, medical and psychological experts as well as the workers themselves, and to include both children of migrant workers and those that commute daily from their permanent residence.

2. Legislators, both state and national, must carefully weigh possible effects of child labor legislation and minimum wage legislation so as to avoid economically and socially harming the very citizen that the laws are designed to protect.

3. Children should not be denied the right to work experience by agricultural and any other type of employment.

AMERICAN FOLKLIFE FOUNDATION SUPPORTED

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. MOLLOHAN. Mr. Speaker, today I am introducing legislation to establish within the Library of Congress an American Folklife Foundation to encourage research and scholarship into this Nation's diverse folk cultures with the purpose of increasing public appreciation of the music, crafts, customs, and legends that constitute the social heritage of all Americans.

It is fitting that this should be done, for at this time an ever growing number of Americans of all ages are searching for new meanings for their lives—meanings that are more enduring than the values of our shopping center and interstate highway culture of today.

And many of these Americans are developing a greater appreciation for their own and other ethnic folk cultures. Many of these rediscovered legends and songs have a greater meaning for us today than they did in the past.

Consider for a moment the legend and ballad, born in the hills of my home State of West Virginia, of John Henry. Today this legend symbolizes the oppression of the black man as well as man's struggle against the machine.

There are countless other legends, whether from Appalachia, the Old West or New England, that remain to be rediscovered and appreciated.

We have often heard it said with pride that America is a melting pot of many cultures. To me it would be a statement of greater pride to be able to add that each and every one of our folk cultures, legends, customs, and songs has not been, and will not be, forgotten.

LEGEND OF "WAVING GIRL" PERPETUATED

HON. G. ELLIOTT HAGAN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. HAGAN. Mr. Speaker, the people of Savannah, Ga., on February 5, 1972, perpetuated a legend that is worldwide in shipping circles, when they dedicated a monument to "The Waving Girl", Miss Florence Martus. Miss Martus gained international fame for her greetings to ships for more than 44 years from her home on Elba Island near the mouth of the Savannah River. She lived with her brother who was the lighthouse keeper.

The statue shows Miss Martus waving a kerchief, flanked by one of her favorite collies who was faithful to alert her when a ship approached the lighthouse. It was sculpted by Felix de Weldon, internationally famous for his sculptures of world leaders, including several kings.

Ships coming and going in the Savannah harbor have already adopted the custom of saluting the statue facing the river, with a blast from the ship's whistle.

The news story about the dedication carried in the Savannah Morning News of February 7, 1972, is as follows:

"WAVING GIRL"—FOREVER SHE'LL WAVE

Red carnations from a Danish admirer Saturday were placed at the base of the "Waving Girl" memorial at Riverside Park which was dedicated in honor of Savannah's legendary Florence Martus.

The flowers from Alex Born of Nastvard, Denmark, were sent with a card "in loving memory of a sweetslip of a girl whose unfailing greeting warmed the heart of seafaring men the world over."

Miss Martus gained international fame for her greetings to ships from her Elba Island home on the Savannah River.

For more than 44 years she waved, with a handkerchief by day and a lantern by night, to ships passing in and out of the port of Savannah.

The statue depicts her with handkerchief, lantern and one of her beloved colliedogs that alerted her whenever a ship passed.

According to mayor pro tem Frank Rossiter, Miss Martus explained her faithful greetings saying, "I was young and it was sort of lonely on the island for a girl."

Miss Martus, who never traveled beyond the boundaries of Chatham County was born Aug. 7, 1868, the daughter of a lighthouse keeper. She moved to Elba Island in 1887 where she lived with her brother, lighthouse keeper George Washington Martus until his death in 1931.

Through the years numerous legends, most of them laced with tales of romance, grew up around the "waving girl," said by her family to be "a lady of simple tastes—deeply religious."

"She waved herself into the hearts of seafarers all over the world." Rossiter said. They never forgot her, always looking for her to greet them when they passed her home, he said.

Guest speaker Rep. G. Elliott Hagan recalled childhood memories of boating trips when he saw Miss Martus waving from the terrace of her home. "The horn on the boat would blow and everyone would go out on the deck to wave at her when she came out," he said.

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[1] Child Labor in Agriculture, Summer 1970, American Friends Service Committee, 160 15th Street, Philadelphia, Penn. 19102, January 1971.

Viennese sculptor Felix de Weldon, who produced the statue, and his wife also attended the ceremonies. De Weldon said he modeled the statue on photographs of Miss Martus and attempted "to visualize her" the way he thought the sailors saw her.

Work first began in 1966 on the project spear headed by the Altrusa Club, a women's service club.

GEN. ROBERT E. WOOD: SOLDIER, PANAMA CANAL BUILDER, AND GREAT AMERICAN PRINCE, 1879–1969

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. FLOOD. Mr. Speaker, the U.S. Military Academy at West Point has produced many illustrious leaders but few have attained the stature in broad achievement as did the late Gen. Robert E. Wood, who was born in Kansas City, Mo., on June 13, 1879 and died in Lake Forrest, Ill., on November 6, 1969, at the age of 90.

As a student of Panama Canal history and problems, I long ago came to know the important contributions of General Wood to that majestic project, which he later described in his 1963 book published by the Encyclopaedia Britannica as a "Monument for the World."

General Wood arrived on the Isthmus in March 1905, at the time of a yellow fever epidemic and remained with the canal organization until May 1915, a period of 10 years that covered the era of construction.

During those years he experienced the resignation of Chief Engineer John F. Wallace, 1904–05; the arrival of Chief Engineer John F. Stevens, 1905–07, who rescued the canal from disaster and prepared the plan eventually adopted by the President and the Congress, and who Wood described as a "truly great leader;" the administration of Chief Engineer George W. Goethals, 1907–14, and the launching of the canal into the era operations under Governor Goethals, 1914–17. It was General Wood's service in the construction of the Panama Canal that later caused him to say that it formed a solid foundation of experience for his later career.

Among many fundamental works under Chief Engineer Stevens was the construction of commissaries necessary for supplying food and other essentials to employees. Years later in the mid 1920's the seeds planted in General Wood's fertile brain at Panama sprouted in the form of mass retail selling from stores with adequate automobile parking spaces near them, making him the originator of the modern shopping center.

In the summer, 1971, issue of Assembly, the quarterly magazine of the Association of Graduates of the U.S. Military Academy, there was published a notable obituary of General Wood prepared by Gen. William H. Wilbur, distinguished soldier and author, and lifelong friend. When it is read one will understand why General Wilbur concluded that General Wood's life "exemplified the tenacity, judgment, vision, and honesty of George Washington, the simplicity and deep humanity of Abraham Lincoln, and the driving, whirlwind energy of Teddy Roosevelt."

After reading General Wilbur's fine memorialization of the life and career of General Wood and recalling his own association with the latter during the construction of the Panama Canal, our distinguished former colleague, Maurice H. Thatcher of Kentucky, the sole surviving member of the Isthmian Canal Commission, wrote a splendid tribute in sonnet form, which I quote together for they should be an inspiration to the youth of our great country:

ROBERT E. WOOD: A TRIBUTE

(By Maurice H. Thatcher)

He was a man of deeds—effective, strong;
  Possessed of great integrity and force;
Instinctively he sensed the right and wrong,
  And always chose the first to guide his course.

He loved his home, his labors, and his tasks;
  In peace and war he served his country well.
Opportunity is all a brave man asks!
  His Midas-touch was wise as time will tell.

In Isthmia-land, a-many years ago
  He and I, in separate roles, gave aid
To the forging of the Link which joins the flow
  Of oceans twain—so long delayed.

His honors were outstanding. Grave on his tomb,
  "All that he did was blest with strength and bloom!"

JANUARY 31, 1972.

[From Assembly, Summer, 1971]

ROBERT ELKINGTON WOOD

(No. 3952—Class of 1900)

Died 6 November 1969 in Chicago, Illinois, aged 90 years. Interment: Lake Forest Cemetery, Lake Forest, Illinois.

General Robert E. Wood died on 6 November 1969 at his home in Lake Forest, Illinois. He was ninety years old. He is survived by his widow, Mary Hardwick Wood; a son, Robert Whitney Wood; four daughters, Mrs. William H. Mitchell, Mrs. Calvin Fentress, Mrs. A. Watson Armour III and Mrs. Hugo V. Neuhaus; fifteen grandchildren; and thirty-five great-grandchildren.

General Wood's life exemplified sturdy moral character, great courage, leadership and intelligence. It was marked by tremendous energy and initiative, and was always coupled with modesty, generosity, and great consideration for others. He achieved outstanding success in every one of the several important fields of activity that he entered. This included the active direction of the largest private business in the world for more than a quarter of a century, a highly important contribution to the building of the Panama Canal, and outstanding service as a soldier during the Philippine Insurrection and in two wars.

Robert Elkington Wood was born on 13 June 1879, the eldest child of a family in which there were five children. He was justly proud of the fact that his father and one of his grandfathers were Captains in the Union Army during the Civil War.

Young Robert entered West Point with the class of 1900 and graduated number thirteen in that class, which graduated fifty-four.

General Wood stated to the writer on several occasions, "I owe everything I am to West Point. When I entered the Military Academy I was just a careless, undisciplined kid. At first I complained a bit about the strict regulations and the constant emphasis on obedience and perfection, but it made a man of me. It taught me discipline."

Throughout his entire life General Wood was an ardent supporter of the Military Academy and of the methods of teaching and training which made it superior to all other American schools.

Second Lieutenant Wood's first duty was in command of a cavalry troop in the Philippine Islands. He spent two years engaged in tough guerrilla fighting. When Aguinaldo's insurrectos were finally subdued, Lieutenant Wood was returned to the States for duty at an isolated Army post in Montana.

Young Lieutenant Wood wanted more action than the bleak Montana plains afforded. Thus, he welcomed an opportunity to serve as an instructor at the Military Academy. At this time the question of the construction of a large ship canal through the Isthmus of Panama was the major item of public interest in our country. Young Wood resolved to be a participant in this great endeavor. His first applications for assignment appear to have been filed without great consideration, but finally his tenacity was rewarded and he was ordered to Panama.

He arrived there in the spring of 1905. At that time all the top men in the organization were civilians. (Colonel Goethals did not arrive until two years later.) The Americans had only recently taken over from the French, hence there was great disorganization. Thousands of workers were being hired; they had to be housed, fed and supervised. Wood gloried in organizing this aspect of the great undertaking.

The climate was not friendly; yellow fever, the dread killer, had not been mastered. A few weeks after Wood arrived a yellow fever epidemic spread through the American contingent. Death struck viciously and swiftly. Men who appeared in excellent health one day were dead a few days later.

In later years General Wood said, "The yellow fever epidemic was so severe that several of the top staff died; others decided to return to the States. I did not get the fever, but I was bitten by the same mosquitoes that bit my comrades."

He went on, "Anyone who stuck it out was promoted; I was promoted every month for three months, and so reached a position near the top of the organization at the very beginning of the work."

General Wood thus modestly ignored his own intelligence, leadership and capacity for everlasting drive, initiative and common sense. The record tells us that he had an amazing succession of important assignments and that he filled them all with great efficiency. These included assistant to the Chief Quartermaster, Chief of the Building Department, Chief of requisition, purchase and distribution of all supplies, Director of the Panama Railroad and Steamship Lines, and Chief of all building construction.

Something over a year after Colonel Goethals took charge, Wood was promoted to one of the most important jobs in the canal organization, i.e. Chief Quartermaster charged with all supply and commissary affairs for the project. At that time the American effort was well under way. The construction of the great concrete locks and dams had been initiated, and one of the most critical duties of the Chief Quartermaster was the maintenance of a constant flow of cement. This vital item was gulped down by the construction projects at the rate of 5,000 barrels every working day. Thus, although there were millions of dollars worth of other supplies to be procured, it may well be said that cement was the life blood of the construction job.

The maintenance of a steady flow of this essential commodity to the construction sites was difficult, as the tropical climate made it impossible to store cement on the isthmus for any appreciable length of time.

In later years General Wood enjoyed telling of the day that Colonel Goethals appointed him to be Chief Quartermaster.

When the previous Chief Quartermaster became ill and returned to the United States, everyone expected that a replacement would come from the States. But one day Colonel Goethals sent for Wood; he reported expecting to receive routine instructions. Instead Colonel Goethals with his usual bluntness said, "Wood, I am making you Chief Quartermaster. The day the supply of cement runs out, you're fired."

General Wood usually added with a twinkle, "It didn't run out."

During his ten years on the Canal, General Wood met and solved almost every possible problem of supply. He was largely responsible for the fact that the construction of the Canal, which involved the expenditure of four hundred million dollars, was successfully completed without a single taint of theft or misappropriation of government funds.

Early in the period of his service on the Canal, although he was a very busy man, Wood found time to marry Miss Mary Butler Hardwick of Augusta, Georgia. Their life together covered a period of over sixty years of love, respect and teamwork. General Wood never failed to give Mrs. Wood abundant credit and praise for her very important part in making it possible for him to live a very busy, very eventful life, one that was full of surprises, of abrupt changes, of great vision, and great achievement. He frequently expressed the idea that "the greatest success in life comes not from money, power or fame, but from a happy marriage, a happy family and a happy home."

In 1915 the Canal was completed, and Captain Wood retired under the provisions of a law which rewarded a few Army Officers who had been most responsible for the successful completion of the great task by permitting them to retire with an advance of one grade.

Major Wood's first position after retirement was with the E. I. Dupont De Nemours Co. as assistant to the Vice President. Many years later he told the writer that although he enjoyed working for Dupont and had learned much about civilian business methods, nevertheless he soon came to realize that there were a considerable number of men in top positions of the organization who were ahead of him and who were younger than he was. It looked as though he would never be able to reach the top position in the company, so he resigned. Dupont tried to keep him, told him he could name his own salary, if he would stay.

His next position was an assistant to the President of the General Asphalt Co., where he was given charge of operations in Trinidad and Venezuela in addition to supervision of manufacturing operations and mining in the United States.

Then came World War I. As soon as the United States declared war (6 April 1917), Major Wood volunteered his services to the government. The tremendous abilities and the vision that he had demonstrated in Panama were well-known. He was, therefore, assigned to an amazing succession of important, difficult jobs. The first task was to organize the Purchasing Department of the new Emergency Fleet Corporation. When this task was completed, he was promoted to Colonel of Infantry and went to France with the 42d Division (Commanded by General MacArthur). Very soon after reaching France, General Headquarters (GHQ) reached down and took him for duty on the General Staff.

Promptly thereafter he was placed in charge of the Army Transport Service. In this assignment he directed all American port, water terminal, and shipping activities in France and England.

In April of 1918 General Goethals requested Wood's services in Washington, and he was returned to the United States where he was given the dual assignment of Acting Quartermaster General of the Army and Director of Purchase and Storage. In this position his task covered the purchase and distribution of all food, clothing and personal needs for a force of over four million men.

The new position carried with it promotion to the grade of General Officer. Wood was then only thirty-nine years old—one of the youngest men ever to be promoted to that grade in the history of our modern army.

It is difficult to overestimate the enormity of the load and responsibility that the young General was expected to carry. He was charged with the task of spending hundreds of millions of dollars to procure an amazing variety of large and small items, together with the effective distribution of all these items through commissaries spread over an area larger than that of the United States. All this was expected to be accomplished under war-time demands for immediate action, with high efficiency, and total integrity. General Wood achieved all of these difficult goals and was awarded the Distinguished Service Medal.

Upon the cessation of hostilities General Wood retired a second time; he obtained a position with Montgomery Ward as a Vice President in charge of merchandising. Montgomery Ward, like Sears Roebuck, was, at that time, solely a mail order business. While operating as a highly efficient mail order executive, General Wood studied census figures, population flow, and automobile ownership, and concluded that a drastic change was about to occur in the buying habits of the nation. He was convinced that his army experience, in organizing a vast number of commissaries, fitted him to organize and operate a large number of department stores, in which articles of good quality could be sold at minimum prices by the use of mass purchasing techniques.

General Wood spent 5 years with Montgomery Ward and repeatedly urged that a large number of retail stores be established in the path of the shifting population. An essential part of his proposal included decentralized locations with ample adjacent parking areas, the modern shopping center. Montgomery Ward turned down his idea, so General Wood resigned. That was 1924.

Julius Rosenwald, then Chairman of the Board of Sears, Roebuck and Co., promptly hired General Wood as a Vice President. The atmosphere at Sears was very much to the General's liking. Mr. Rosenwald had already established a profit sharing plan, and the company was very prosperous.

It took some time for General Wood to convince Mr. Rosenwald of the feasibility of his proposal to operate retail stores, but finally Mr. Rosenwald gave his approval, this notwithstanding the fact that practically all the top men in the Sears organization were strongly opposed to it. In later years General Wood explained. "They thought it would ruin the mail order business. I was convinced that it would not."

The General applied his tremendous capacity for hard work and his amazingly keen mind to the new project. Starting with a pilot store in a corner of the Chicago mail order plant, the new project grew rapidly. By 1929 the expansion was so rapid that stores were opened at the unbelievable rate of one store every other day. By the end of 1931 Sears retail store division had surpassed the mail order division in sales volume. It was the great success story of the American business world at that time.

A highly important part of the General's business philosophy was that an organization cannot stand still; it must grow or it will decline. Applying this philosophy General Wood proposed, in the middle of the recession, that Sears establish an automobile insurance business. "It was quite a job," he said later, "to get the Board of Directors to appropriate half a million dollars, this in the middle of a serious depression, but they finally did, with many misgivings."

The result was a flourishing new department of the Sears business empire. By the time General Wood relinquished control of Sears, the Allstate Insurance Company had assets of over a billion dollars.

In January 1928 the retail store concept was flourishing, and General Wood became President of Sears, Roebuck. For the next twenty-six years he was the active head of the company. Those years were marked by healthy growth in the mail order business, by continual expansion of the retail store business in the United States, and by a daring expansion of the company into many countries in Central and South America.

Another triumph of General Wood's sagacity came in 1952 when he successfully entered Canada by means of a joint agreement with the most important retail chain in that country.

Simultaneously with the establishment of its great national retail system, General Wood put Sears into extensive manufacturing. Many of the articles which Sears sold were Sears conceived, manufactured by Sears, and sold to the retail customer in a Sears store.

In World War II General Wood promptly offered his services to the Government. He served as civilian advisor to the Chicago Ordnance district and its Chief of Purchasing. His major service in the war was to the Air Force as an inspector and advisor. He traveled tremendous distances, went round the world twice and spent much of his time at air stations all over the United States.

General Wood was a great merchant prince; he was also a great philanthropist, a great humanitarian, and a great patriot. Boys' Clubs all over the United States were tremendously benefited by his efforts and personal financial support. He contributed generously to civic endeavors of every kind.

The list of honors which were bestowed on the General is a measure of his achievements. He was named to the Boys' Club Hall of Fame. A Boys' Club in Chicago was named "The General Robert E. Wood Boys' Club" in his honor.

In 1950 this great American was presented with the Cunningham Award for "outstanding service in Inter-American relations." In 1952 his patriotism was recognized by the Illinois Chapter of the Sons of the American Revolution when they awarded him the annual Patriotic Service Award. Loyola University conferred an honorary degree of Doctor of Laws on him, and General and Mrs. Wood were honored as the Grandfather and Grandmother of the Year.

He received the Golden Keystone Award from the Boys' Clubs of America. This was presented by former President Herbert Hoover.

In 1954 General Wood was designated "Man of the Year" by the Chicago Association of Commerce and Industry. In 1955 he was elected to the Chicago Merchandise Mart Hall of Fame. He was Honorary President of the Northshore Area Council of Boy Scouts of America, a life trustee of Lake Forest Academy, as well as of the Chicago Lyric Opera. He was designated an honorary trustee of Presbyterian St. Luke's Hospital and was made a Northwestern University Associate.

General Wood was a founding member of the Business Advisory Council. He maintained an active interest in it until his death. After his resignation from the Board of Sears, Roebuck and Co., he was named Honorary Chairman of the Board, the first person to be so honored.

The list of honors and positions of responsibility which he filled goes on and on. His judgment, vision and generosity made him a valuable addition to any governing body. Hence, he served as a director of many large corporations, banks and railroads. The scope of his activity and service is indicated by the fact that he was a Director of the Cradle Society and a Trustee of the Museum of Science and Industry, as well as of the Army Distaff Foundation.

In 1968 he was designated an illustrious graduate of West Point. This was his most cherished honor.

General Wood's standing in the business world is reflected in the statement of a prominent American industrialist. He quipped, "Three of the most important influences in American business are General Motors, General Electric and General Wood."

An almost countless list of honors is reflected in the large number of laudatory plaques which were bestowed in his memory.

Sears, Roebuck, itself, is a permanent monument to his keen intellect, his courage, tenacity and leadership. It is also a monument to his philosophy of life, and a lasting demonstration that American business can be successfully conducted by honoring the truth, and by giving a high place to the interests of the employees. General Wood once said, "Many corporations have made a few top men enormously rich; we are making 150,000 very comfortable."

The profit sharing system which the General perfected was highly effective. Many thousands of Sears' employees who had served for thirty or more years at relatively simple tasks received, on retirement, Sears' stock worth anything from forty to more than a hundred thousand dollars.

Our beloved country has lost a man of outstanding statute. His life exemplified the tenacity, judgment, vision and honesty of George Washington, the simplicity and deep humanity of Abraham Lincoln, and the driving, whirlwind energy of Teddy Roosevelt. In honoring his memory we are paying our respects to a truly great American, a loyal, worthy son of West Point, a son who measured up completely to all that such a designation may mean.

WILLIAM H. WILBUR.

COMMUNISTS PUSH FOR MILITARY SUPERIORITY

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. GOLDWATER. Mr. Speaker, I want to pause for a moment to take note of the dramatic arrest of an alleged Soviet spy this week in New York. Valeriy I. Markelov was arrested by the FBI after he reportedly obtained classified documents on the United States' new F-14 fighter jet.

The 32-year-old Russian was employed as a translator in the United Nations Secretariat. He attempted to bribe an employee of the Grumman Aircraft Co. for the information on the F-14. The patriotic employee immediately informed the FBI of the request from the apparent Communist agent.

I am not contending that the Communists have launched any new international espionage effort in this country. On the contrary, it seems obvious that Soviet espionage is an ongoing effort on our shores. I do contend that this risk by the Soviets, of such an international incident, clearly demonstrates their overwhelming desire to surpass the United States militarily. Unfortunately, these incidents are all too often buried on the back pages of our Nation's newspapers.

Gentlemen, America's military superiority is, in fact, slipping. The President has said so. Many of you have said so. Last year, an already reduced defense budget was slashed even more. The significance of the arrest of this Soviet spy clearly demonstrates that unilateral disarmament—or even partial disarmament—in the face of a treacherous enemy is insanity.

WISDOM OF THE FROG

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. DINGELL. Mr. Speaker, the Christian Science Monitor commented editorially on January 20, 1972, on pending water pollution control legislation.

I would like to share the Monitor's comments with my colleagues and include the text of the editorial at this point in the RECORD.

WISDOM OF THE FROG

Scheduled to come up soon in Congress is House consideration of the water antipollution bill that passed the Senate 86 to 0 last November.

That legislation was of landmark caliber. It set up an interim goal of federal water quality standards until 1981, and a second-place goal of eliminating all dscharge of pollutants into navigable waterways by 1985. In recognition of the heavy cost burden this would impose on municipalities which have been dumping raw sewage, the Senate authorized $14 billion of federal money over the next four years. These funds would pay 70 percent of the cost of building municipal sewage treatment plants.

Industry, however, which must bear an even greater burden in cleaning up its water-polluting habits, which it has come to regard as inherent rights over the years, is fighting hard to scuttle the legislation. The House of Representatives is the scene of this battle, and the White House has come down on the side of those who would hamstring the law. (However, White House attitudes on this score may be about to change. Maurice Stans, who is about to resign as Secretary of Commerce to take over Mr. Nixon's reelection campaign funding program, has been the loudest opponent of the water bill. Rumor has it that he will be replaced by Peter Peterson, assistant to the President on international economic affairs, who may not feel the need to use environmental issues as has Mr. Stans to solidify his credentials with the business community.)

The argument, as always, centers on economics and White House officials have floated an estimate of $100 billion over the next five years. In a trillion-dollar economy, that would amount to 2 percent annually.

This figure, however, is suspect. And one source for suspecting it is none other than Dr. Paul McCracken, until recently President Nixon's chief economic adviser. Word is being leaked to a study, headed by Dr. McCracken, of the costs of going all out to clean up the national environment. His estimate is that such a program would depress the GNP by only 0.5 percent to 0.7 percent a year, between 1972 and 1976. And in the major industries studied, it would raise prices by less than 0.5 percent annually.

Doubtless there will be reams of data arguing cost estimates from both sides of this issue as the House debate wears on. The danger here is that the vital issue—that of saving the environment for the future as against exploiting it destructively for monetary gain—will be buried in numbers. As the legislators are besieged by claims and counterclaims, it is to be hoped that they might listen with their inner ear to an Indian proverb, quoted recently in this newspaper:

"The frog does not drink up the pond in which he lives."

GOVERNMENT APPEAL AGENTS

HON. ELFORD A. CEDERBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. CEDERBERG. Mr. Speaker, for some time now I have been corresponding with an attorney in my congressional district who is concerned about the decision of the Selective Service system to eliminate the position of Government appeal agent for local Draft Boards. Director Tarr ordered that this position be eliminated effective December 10, 1971.

The position of Government appeal agent has served both local boards and individual registrants well over the years and I share the concern of my constituent. The Selective Service system proposes to substitute for the services formerly provided by these agents by the establishment of the position of adviser to registrants. The difficulty here is that the adviser position is not required of the local boards, nor is the adviser required to possess any particular qualifications for his position.

Most of the Government appeal agents who served local boards were attorneys and were eminently qualified to provide the kind of technical advice consistent with the complexity of Selective Service regulations. While the Congress and the President have made great strides in streamlining the regulatory aspects of the system no one can deny that many young men still become confused and that competent assistance should be available to them.

The following is the text of a letter which I received from the Director's office in response to my inquiries regarding the proposed change:

WASHINGTON, D.C.,
January 21 1972.

Hon. ELFORD A. CEDERBERG,
House of Representatives.

DEAR CONGRESSMAN CEDERBERG: Thank you for your letter of January eighteenth, I can assure you that we abolished the position of Government Appeal Agent with a great deal of reluctance.

The main reason for doing so was the strenuous opposition of the Committee on Ethics of the American Bar Association. The committee took the view that they no longer would agree to a lawyer serving both the local board and the registrant. They felt this dual responsibility placed the lawyer in such a position of conflicting interest that he no longer could carry out his professional responsibilities.

It seemed only prudent for us to take into account this opposition. After all, without the cooperation of the American Bar Association, we would encounter difficulty staffing the position. As you point out, without someone in that position we could be criticized and perhaps face defeat in the courts, something we all must strive to avoid. Thus it seemed that the upgrading of the position to Advisor to Registrants was the appropriate alternative. This is the reason that we have acted as we have.

I appreciate very much your concern for a problem that has concerned us as well.

Sincerely,

SAMUEL R. SHAW,
Legislation and Liaison Officer.

I think that it is interesting to note that, if a conflict of interest situation truly existed, it is like throwing the baby out with the bathwater to eliminate not only the conflict but to deprive the individual registrant of his right to adequate and competent assistance in his dealings with a local board. At the very least, the new position of adviser to registrants ought to be required and the appointee should be qualified.

I submit for the consideration of my colleagues two resolutions which were brought to my attention in regard to this new regulation. I believe that the concerns expressed in these statements should be considered as we move to eliminate some of the inequities and ambiguities which characterized previous selective service law. I hope that the Director will reconsider his action and move in the direction of assuring each and every young man that adequate and impartial assistance is available to him in his dealings with local selective service boards.

The resolutions follow:

RESOLUTION

To whom it may concern:

We, the undersigned, being the Government Appeal Agents and Associate Government Appeal Agents past and present, for local Board No. 9, Bay County, Michigan, Selective Service System, do hereby express our strong opposition to the recent decision announced by the National Headquarters of the Selective Service System abolishing the positions of Government Appeal Agents and Associate Government Appeal Agents in the nationwide Selective Service Systems.

We note that no reason was given for this action which is particularly bewildering in view of statements by Arthur A. Holmes, Michigan State Director, Selective Service System, that Appeal Agents have made "important contributions" to the "effective operation of Selective Service", and expressing "the appreciation of your local board and all of our staff here at State Headquarters for your unselfish, patriotic service". Like many other Government Appeal Agents and Associate Government Appeal Agents in this country who were and are attorneys at law in private practice, we have given freely of our time, knowledge and professional ability as a gratuitous public service in assisting not only local boards but also Selective Service registrants. We believe that we, together with our fellows lawyers acting as Appeal Agents throughout our nation over the past thirty years, have provided without charge, effective advice and assistance to many thousands of Selective Service registrants who, for the most part, were unknowledgeable as to the appeal and classification rights. To deprive future registrants of this source of help is, to us, unreasonable especially since there is no cost involved to the registrant or the Federal Government.

We, therefore, jointly urge that appropriate steps be taken at once by the Federal Government to reverse this decision and to re-establish the positions of Government Appeal Agents and Associate Government Appeal Agents.

Dated at Bay City, Michigan this 8th day of December, 1971.

WENDELL G. PHILLIPS,
JOHN C. LEAMING,
SCOTT NEWCOMB,
RALPH I. SELBY,
JOHN T. MITCHELL,
GEORGE T. STERNBERG,
Attorneys at Law.

RESOLUTION OF THE BAY COUNTY BAR ASSOCIATION, BAY COUNTY, MICH.

Whereas, During the past thirty years thousands of American lawyers, by presidential appointment, have patriotically and unselfishly and without pay served as Government Appeal Agents and Associate Government Appeal Agents in the Selective Service System throughout our nation; and,

Whereas, Untold numbers of Selective Service registrants have been provided, as a public service, with free, effective legal counsel and assistance by said lawyer-appeal agents regarding classification and appeal rights including the drafting and filing of appeal briefs; and,

Whereas, Over this period of some three decades said Appeals Agents and Associate Appeal Agents have in the finest tradition of the legal profession been instrumental in safeguarding registrants' legal and constitutional rights and preventing injustice as well as assisting local Selective Service boards in protecting the interest of the United States Government, thereby making valuable and important contributions to the fair and effective operation of the Selective Service System as constituted; and,

Whereas, The National Headquarters of the Selective Service System has recently advised that the positions of Government Appeal Agent and Associate Government Appeal Agent will be abolished as of December 10, 1971 with no reason being given for this decision;

Therefore, be it resolved: That the Bay County Bar Association hereby condemns said action abolishing the positions of Government Appeal Agent and Associate Government Appeal Agent as unwise, arbitrary and detrimental not only to the effective operation of the Selective Service System but also to the proper protection of the legal rights of Selective Service registrants, and,

Be it further resolved, That the Federal Government take immediate steps to rescind said action and promptly reinstate and continue the positions of Government Appeal Agent and Associate Appeal Agent, for the reasons heretofore stated, and,

Be it further resolved, That copies of this Resolution be furnished to the White House, the National Director of the Selective Service System, United States Senators Robert Griffin and Phillip Hart, Congressman Elford A. Cederberg, the Michigan State Director of Selective Service, the President of the State Bar of Michigan and the news media.

HON. WILFRED X. JOHNSON

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. COTTER. Mr. Speaker, I wish to call to the attention of my colleagues the passing of the Honorable Wilfred Xavier Johnson on January 31. He was the first black man to be elected to the Connecticut General Assembly where he represented the people of Hartford with distinction for 8 years. During part of this legislative term he served as acting speaker of the house of representatives, again the first of his race to be honored.

Mr. Johnson's service to his community and country began during World War II as a member of the U.S. Army.

Though born in Dawson, Ga., in 1920, Mr. Johnson attended schools in Hartford, graduating from Weaver High School in 1939. He then attended Hillyer College and the American Institute of Banking.

Mr. Johnson will be missed by the many civic and political organizations to which he contributed generously of his time and talent.

But even more, he will be missed by his wife of 23 years, Gertrude Hayes Johnson, and his five children. Their loss is great and I hope that they draw some comfort from the knowledge that their devoted husband and father gave much to them and to his adopted community.

THE TENNESSEE-TOMBIGBEE WATERWAY

HON. THOMAS G. ABERNETHY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. ABERNETHY. Mr. Speaker, of all the public works projects considered throughout the history of this Nation, I am quite sure more has been recorded in the records of this body about the proposed Tennessee-Tombigbee Waterway than any similar project unless it be the St. Lawrence Seaway.

Time and time again proponents of the project have proved its worth, not only to the Tombigbee Valley area but to the entire Nation. And just as often some uninformed or biased person, or group of persons, would show up and throw a delaying barrier across the way.

After years of effort, a few of us who have been in the forefront of advancing the project finally got it moving. Backed with a strong benefit-cost ratio from the Army Corps of Engineers, we enlisted and secured the powerful support of President Nixon. The President is completely satisfied that this is a sound and desirable project and has become an enthusiastic supporter of same.

The first dollar ever budgeted by a President for construction was included by President Nixon in his budget recommendations for the fiscal year 1972. Thereafter the amount recommended by the President was approved by the Congress without the slightest objection. And then the roof again fell in.

An environmental organization located in the city of New York, with no genuine interest of any kind in the project, joined by two or three citizens in the area of Columbus, Miss., filed a suit in the Federal Court of the District of Columbia to stop the project. Quite recently this suit was moved by a wise judge of the District of Columbia Federal Court to the Federal

Court of the Northern District of Mississippi. If there was any merit at all to the suit, it should have been filed there in the first place.

As regards all of the above, an interesting editorial recently appeared in the Nashville Banner of Nashville, Tenn. I include this editorial in the Appendix of the RECORD as a part of my remarks:

IN PERSPECTIVE

Advocates of the Tennessee-Tombigee Waterway are encouraged over the decision to transfer from Washington to North Mississippi the federal court suit seeking to halt permanently the construction of the 253-mile project.

U.S. District Judge Lewis Smith of Washington ordered the Environmental Defense Fund's case moved to Aberdeen, Miss. The change was sought by the Army Corps of Engineers and the Tennessee-Tombigbee Waterway Development Authority, of which Tennessee Gov. Winfield Dunn is a member.

Waterway advocates contended the Environmental Defense Fund took its case to Washington simply because it was shopping around for a forum to its liking. Transfer of the hearing will insure a fairer study of the waterway and will make it possible for more persons affected by the project to testify.

Because it strikes to the heart of a dispute between a small band of ecologists and a development council working to upgrade a depressed economic base, the federal suit carries national implications.

The question is: Do we preserve an area's natural state, even if it means forfeiting the opportunity to inject economic vitality into communities that are dying on the vine?

Ecological zealots contend the question is simpler than that: Do we want clean air and clean water? Of course, we want clean air and clean water, just like we want apple pie and the virtues of motherhood.

But we want a lot more. And the Tennessee-Tombigbee Waterway promises to be the catalyst for major economic development in an area that needs it the worst.

The president of the Tennessee River Valley Association, Barrett C. Shelton Sr. of Decatur, Ala., was in Nashville last week and put the issue in proper perspective.

"These ecologists are losing sight of the fact that people have to have jobs first. Of course we are for clean air and clean water, but we are also for industrial opportunities. We are seeking a balance in this ecological thing," he said.

Water resource programs can and should play a major role in the nation's rural redevelopment. Water programs are uniquely suited for rural revitalization.

Since the Tennessee-Tombigbee offers so much for Mid-South area, it is fitting that the court suit determining the project's fate will be heard in this area.

THE POLICEMAN

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. WYDLER. Mr. Speaker, the man in uniform is important to the security of every citizen of our country. The value of a policeman is not truly known until one is needed and then he is indispensible.

The February issue of the Newsletter of the Nassau County Patrolmen's Benevolent Association contained a description of a policeman. It seemed to me to be right to the point and I would like to bring it to the attention of my colleagues:

THE POLICEMAN

A policeman is a composite of what all men are . . . a mingling of saint and sinner . . . dust and deity. Cold statistics wave the fan over the stinkers . . . underscore instances of dishonesty and brutality because they are news. What that really means is they are exceptional, unusual—not commonplace. Buried under the froth is the fact that less than one half of one percent of policemen misfit that uniform. And that's a better average than among clergymen.

What is a policeman made of? He of all men is at once the most needed and the most unwanted . . . a strangely nameless creature who is "sir" to his face . . . and "fuzz" behind his back.

He must be such a diplomat that he can settle differences between individuals . . . so that each will think he won . . . but . . . if the policeman is neat, he's conceited. If he's careless, he's a bum. If he's pleasant, he's a flirt. If he's not, he's a grouch.

In an instant he must make decisions which require months for a lawyer. But if he hurries, he's careless. If he's deliberate, he's lazy.

He must be first to an accident . . . infallible with a diagnosis. . . . He must be able to start breathing, stop bleeding, tie splints and above all be sure the victim goes home without a limp, or expect to be sued.

The police officer must know every gun . . . draw on the run . . . and hit where it doesn't hurt.

He must be able to whip two men his size and half his age . . . without damaging his uniform and without being brutal. If you hit him, he's a coward. If he hits you, he's a bully.

The policeman must know everything and not tell. He must know where all the sin is and not partake.

The policeman must, from a single human hair, be able to describe the crime, the weapon and the criminal . . . and tell you where the criminal is hiding. But if he catches the criminal he's lucky . . . if he doesn't, he's a dunce.

If he gets promoted he has a political pull. If he doesn't, he's a dullard.

The policeman must chase bum leads to a dead end and stake out ten nights to tag one witness who saw it happen, but refuses to remember.

He runs files and writes reports until his eyes ache to build a case against some felon who will get dealed out by a shameless shamus or an honorable who isn't.

A policeman must be a minister . . . a social worker . . . a diplomat . . . a tough guy . . . and a gentleman. And of course he will have to be a genius, for he will have to feed a family on a policeman's salary.

OLYMPIC MEDAL WINNER

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mrs. HICKS of Massachusetts. Mr. Speaker, I would like my colleagues in the House to join with me and my constituents in honoring a young athlete who performed admirably in the recent Olympic games. The Ninth Congressional District of Massachusetts is indeed beaming with tremendous pride—one of the members of the U.S. hockey squad, Robbie Ftorek, 20, of 27 Horace Street, Needham, Mass., is the recipient of the Silver Medal in the Olympic games recently held in Sapporo, Japan. The eighth medal to be won by the United States was won the final day of competition by the U.S. hockey team which featured the youngest athletes of the six teams in the round-robin tournament. The U.S. hockey squad was picked to finish last in the competition, but won three of its five games including a 5 to 1 triumph over Czechoslovakia. Coach Murray Williamson described the triumph as "Unbelievable—it was a courageous performance—every kid played to the fullest of his potential." Michael Curran, the goal tender said the victory was "a storybook ending."

I offer my congratulations and best wishes for further success to Coach Williamson and his team.

REGIONAL GOVERNMENT — THE NEW FEDERAL SOVIETS BY EXECUTIVE ORDER

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. RARICK. Mr. Speaker, the Federal bureaucracy has now become so large and cumbersome that, supposedly in keeping with his commitments to restore the workings of Government closer to the people, President Nixon on February 10, 1972, signed Executive Order No. 11647, Federal Regional Councils. This Executive order appears in the Federal Register, volume 37, No. 30, for Saturday, February 12, 1972.

We now have 50 States, but the States are managed by elected officials. So, it has become necessary to redivide the country into 10 new geographical divisions each to be headed by an appointed bureaucrat carrying the title of subcabinet status. Governors of the States are now to be insulated from the Federal hierarchy by Under Secretaries for regional councils.

In earlier remarks—CONGRESSIONAL RECORD, volume 117, part 25, pages 33523–33536—I referred to the vast powers which, without congressional approval, Executive Order 11490 placed in the hands of the President and his heads of departments and agencies over food supply, money and credit, transportation, communications, public utilities, and other facets of the lives of our people.

In a recent newsletter, commentator Don Bell in a discerning article "Executive Orders: The Broad Highway to Dictatorship" points out how through Executive orders the President can convert this Republic into a bureaucratic dictatorship.

I include Executive Order No. 11647, "Federal Regional Councils," and a portion of Mr. Bell's article following my remarks at this point:

THE PRESIDENT

EXECUTIVE ORDER 11647

Federal Regional Councils

The proper functioning of Government requires the development of closer working relationships between major Federal grantmaking agencies and State and local government and improved coordination of the categorical grant system.

I have heretofore directed the Domestic Council to:

(1) receive and develop information necessary for assessing national domestic needs and defining national domestic goals, and to develop for the President alternative proposals for reaching those goals;

(2) collaborate with the Office of Management and Budget and others in the determination of national domestic priorities for the allocation of available resources;

(3) collaborate with the Office of Management and Budget and others to assure a continuing review of ongoing programs from the standpoint of their relative contributions to national goals as compared with their use of available resources; and

(4) provide policy advice to the President on domestic issues.

Furthermore, I have assigned to the Office of Management and Budget the responsibility for assisting the President in developing efficient coordinating mechanisms to implement Government activities and to expand interagency cooperation. Three years ago I directed that the senior regional officials of certain of the grantmaking agencies convene themselves in regional councils to better coordinate their services to Governors, Mayors, and the public.

I have now determined that the measures prescribed by this Order would assure improved service to the public.

Now, therefore, by virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. *Federal Regional Councils.* (a) There is hereby established a Federal Regional Council for each of the ten standard Federal regions. Each Council shall be composed of the directors of the regional offices of the Departments of Labor, Health, Education, and Welfare, and Housing and Urban Development, the Secretarial Representative of the Department of Transportation, and the directors of the regional offices of the Office of Economic Opportunity, the Environmental Protection Agency, and the Law Enforcement Assistance Administration. The President shall designate one member of each such Council as Chairman of that Council and such Chairman shall serve at the pleasure of the President. Representatives of the Office of Management and Budget may participate in any deliberations of each Council.

(b) Each member of each Council may designate an alternate who shall serve as a member of the Council involved whenever the regular member is unable to attend any meeting of the Council.

(c) When the Chairman determines that matters which significantly affect the interests of Federal agencies which are not represented on any such Council are to be considered by that Council, he shall invite the regional director or other appropriate representative of the agency involved to participate in the deliberations of the Council.

SEC. 2. *Functions of the Councils.* Each Federal Regional Council shall be constituted as a body within which the participating agencies will, under the general policy formulation of the Under Secretaries Group, and to the maximum extent feasible, conduct their grantmaking activities in concert through:

(1) the development of short-term regional interagency strategies and mechanisms for program delivery;

(2) the development of integrated program and funding plans with Governors and local chief executives;

(3) the encouragement of joint and complementary grant applications for related programs;

(4) the expeditious resolution of interagency conflicts and coordination problems;

(5) the evaluation of programs in which two or more member agencies participate;

(6) the development of long-term regional interagency and intergovernmental strategies for resource allocations to better respond to the needs of States and local communities;

(7) the supervision of regional interagency program coordination mechanisms; and

(8) the development of administrative procedures to facilitate day-to-day interagency and intergovernmental cooperation.

SEC. 3. *Under Secretaries Group for Regional Operations.* There is hereby established an "Under Secretaries Group for Regional Operations" which shall be composed of the Under Secretaries of Labor, Health, Education, and Welfare, Housing and Urban Development, and Transportation, the Administrator of the Law Enforcement Assistance Administration, the Deputy Director of the Office of Economic Opportunity, the Deputy Administrator of the Environmental Protection Agency, and the Associate Director of the Office of Management and Budget, who shall serve as the Chairman of the Group. When the Chairman determines that matters which significantly affect the interest of Federal agencies which are not represented on the Group are to be considered by the Group, he shall invite an appropriate representative of the agency involved to participate in the deliberations of the Group. The Under Secretaries Group for Regional Operations shall, consistent with the objectives and priorities established by the President and the Domestic Council, establish policy with respect to Federal Regional Council matters, provide guidance to the Councils, respond to their initiatives, and seek to resolve policy issues referred to it by the Councils. The Under Secretaries Group, under the Chairmanship of the Associate Director of the Office of Management and Budget, shall be responsible for the proper functioning of the system established by this Order.

SEC. 4. *Construction.* Nothing in this Order shall be construed as subjecting any department, establishment, or other instrumentality of the executive branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other such agency or head or as abrogating, modifying, or restricting any such function in any manner.

RICHARD NIXON.

THE WHITE HOUSE, *February 10, 1972.*

[Don Bell Reports of Feb. 4, 1972]

EXECUTIVE ORDERS: THE BROAD HIGHWAY TO DICTATORSHIP

The Federal Register, vol. 34, No. 209, October 30, 1969, contains the full text of Executive Order 11490 "assigning emergency preparedness functions to federal departments and agencies" to be put into operation if and when the President of the United States declares a State of National Emergency.

On August 17, 1971, President Nixon did declare a State of National Emergency; but he did not order all the Federal Departments and agencies covered in his original Executive Order to go into emergency action. He did order the Office of Emergency Preparedness to set into motion a carefully prepared plan calling for what we now remember as Phase One of federal wage, price and rent controls.

By the issuance of Executive Orders he set up the machinery now know as Phase Two of the New Economic Plan.

Perhaps more important, but receiving less publicity, is the fact that Nixon, in order to make his economics dictatorship more effective and pave the way for future dictatorial plans, he divided—by Executive Order—the whole Nation into Ten Regions, to be governed from Ten Capitol Cities; Boston, New York City, Philadelphia, Atlanta, Chicago, Dallas, Kansas City, Denver. San Francisco, and Seattle.

The creation of these "Ten Provinces" has received little or no publicity; or is it generally known that if and when the President of the United States finds it expedient or necessary, he can invoke Executive Order 11490, convert this Republic into a Bureaucratic Dictatorship governed absolutely from Washington, D.C. through these Ten Regions and their Ten Capitol Cities, bypassing and ignoring all State, County, City and Local Governments!

One part of the overall plan has not yet been put into actual operation, because Congress has frowned upon the scheme and might take positive action to prevent its culmination. This has to do with the reorganization of the Executive Branch of the Federal Government at the Cabinet level. It calls for the scrapping of all Cabinet Departments having to do with domestic functions, and then creation of four new departments to take their places; these four new Departments *to be administered regionally from the four regional capitals!*

When this final reorganization plan is completed, know that total dictatorship is nigh.

SOVIET MILITARY RESEARCH AND DEVELOPMENT

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. HARRINGTON. Mr. Speaker, the problem of secrecy in Government is a constant source of bewilderment and vexation to which I have drawn attention on numerous occasions. As Senator FULBRIGHT has commented:

> Excessive secrecy tends to perpetuate mistaken policies, and undermines the democratic principles upon which this country is founded.

It stimulates the mistrust of the public toward the actions and policies of Government and elected and appointed officials. It undermines the functioning of Congress as an effective legislative institution.

There are a number of proposals currently before Congress for changing the classification system and procedures. Hopefully some concrete action will be taken this year. A report released by the Senate Foreign Relations Committee in December 1971, "Security Classification as a Problem in the Congressional Role in Foreign Policy," should be read by all who share the concern about secrecy and are searching for reform of present practices.

A recent important victory in the struggle against overclassification was achieved by the General Accounting Office in its successful effort to obtain the agreement of the intelligence community for the declassification of a previously secret GAO staff study on "Department of Defense Methodology for Assessing United States and Soviet Union Military Research and Development Efforts." At my request the GAO began last September the difficult task of processing a declassified version of their study through the labyrinth of assorted military and intelligence agencies concerned in this matter. It was a tough fight but recently the study was finally available for public distribution. The GAO is to be congratulated and encouraged to continue to strive for maximum feasible openness.

The substance of the GAO's staff study reinforces the conclusion of the GAO's report of July 23, 1971 on the comparison of military R. & D. expenditures of the United States and the Soviet Union:

> On the basis of the limited information available to us, we believe that extreme secretiveness by the Soviet Union results in data which are insufficient for a realistic measurement of its military R&D efforts. . . . Consequently, although we believe that the DOD methodology with its limited data base may be useful in indicating trends and the apparent magnitude of the Soviet Union military R&D threat, we have reservations as to its usefulness in quantifying relative efforts or spending gaps between the countries.

I was pleased to note Secretary Laird's statement in this year's posture statement that:

> There may be some debate as to whether—or how much—the Soviet Union is outspending us in Research and Development.

The possibility that the Defense Department may exaggerate the Soviet military R. & D. effort should be kept in mind in considering the fiscal 1973 defense budget now before Congress which contains a billion dollar increase for U.S. military research programs. I understand that a number of studies on comparative U.S. and Soviet military R. & D. and defense spending are currently underway within the Defense Department. One may hope that it will be possible for these studies to be released soon for open examination and that DOD has in fact substantially improved its analysis and estimates.

The declassified GAO study of estimates of Soviet military R. & D. follows:

GENERAL ACCOUNTING OFFICE STAFF STUDY FOR THE SUBCOMMITTEE ON RESEARCH AND DEVELOPMENT, COMMITTEE ON ARMED SERVICES, U.S. SENATE

(By the Comptroller General of the United States)

CHAPTER 3.—DEPARTMENT OF DEFENSE METHODOLOGY FOR ASSESSING UNITED STATES AND SOVIET UNION MILITARY RESEARCH AND DEVELOPMENT EFFORTS

This is a declassified version of part II of a General Accounting Office staff study previously issued in response to a request dated April 1, 1971, from the Chairman of the Subcommittee on Research and Development, Senate Committee on Armed Services.[1] The classified version of part II of the staff study was issued in conjunction with a report dated July 23, 1971 (B–172553), to the Chairman. At the request of Representative Michael J. Harrington, a declassified version has been prepared and is being issued to all recipients of the classified part II.

This part describes and evaluates the methodology developed and the data used by the Department of Defense (DOD) to assess the current military R&D efforts of the Soviet Union relative to those of the United States. Because of the limited time available, we have been unable to review, in detail, many judgmental factors used by DOD in developing the data and in arriving at its conclusions; however, we are presenting tentative evaluations where possible.

In general the DOD methodology is designed to quantify the Soviet Union military R&D efforts in terms of their equivalents for comparison with United States efforts. First, to accomplish this end, the intelligence community made studies of Soviet Union budgetary science data, to estimate the financial inputs into Soviet Union military R&D activities and to compare these estimates with their known United States equivalents. Second, DOD made comparative technological assessments of United States and Soviet Union weapons systems, to estimate the relative level of their technological outputs. Third, the resulting estimates of relative financial inputs and technological outputs were correlated by DOD, to test the reliability of the estimates of Soviet Union financial inputs as expressed in dollar equivalents.

On the basis of a reported correlation between the estimated financial inputs and technological outputs, the Office of the Director of Defense Research and Engineering (ODDR&E) expressed confidence in the intelligence community's estimates of Soviet Union military R&D budgets. By comparing these Soviet Union budget estimates with similar United States financial data, ODDR&E determined that the Soviet Union military R&D expenditures had been exceeding those of the United States in increasing amounts from 1968.

ODDR&E has stated that its best estimates indicate that the Soviet Union currently has an annual $3 billion spending advantage in military R&D and that, if current trends continue in likely ways, the United States technological lead of 2 to 3 years could be reduced to zero or even minus several years (a technological lag) by 1976.

The DOD methodology and its supporting data are discussed in further detail in subsequent sections.

Estimating Soviet Union military R. & D. expenditures

ODDR&E officials reported that the U.S. intelligence community had performed studies to determine the Soviet Union's military R&D expenditures in rubles from 1950 through 1970 and to translate these ruble expenditures into their dollar equivalents. We were not permitted to review the intelligence community's supporting documentation for its determinations or estimates.

As discussed below, however, we were advised that these estimates had been derived from the Soviet Union's budgets and the intelligence community's estimates of the equivalent costs of Soviet Union efforts in military and space technology. Also our study showed that the estimates had a direct and consistent relationship with the Soviet Union series of national science expenditures based on estimated budgeted outlays.

In particular ODDR&E officials informed us that the Soviet Union military-related R&D activities were funded primarily from the classified part of the so-called all-union science budget. The all-union category refers to those science activities having national significance. The classified subcategory refers to the unitemized or secret part of the all-union category.

ODDR&E officials reported that, on the basis of an assumed conversion rate of $2 for 1 ruble,[2] the classified part of the all-union science budget increased steadily from about $5 billion in 1960 to about $13 billion in 1968. The officials believed that expenditures of such amounts for R&D efforts would show impressive results. Since spectacular results were observed only in the areas of military weapons, space, and atomic energy, they concluded that the classified part of the all-union science budget had provided the funds for the high-priority and secret R&D activities in these areas. The officials also stated their belief that it would be difficult to find another place in the Soviet Union budget for military, space, and atomic energy R&D.

ODDR&E officials reported also that, after identifying the funding for military, space, and atomic energy R&D activities, the data were refined to separate out the civil space program. By using a National Aeronautics and Space Administration (NASA) formula, the Soviet Union civil space program was costed on the basis of what the United States would have to spend to duplicate the Soviet Union's civil space facilities and accomplishments. The estimates then were subtracted from the estimated funding for military, space, and atomic energy R&D activities; these activities are collectively referred to as military-related R&D. The residual is, by definition, the military R&D funds and includes R&D funding in both weapons systems and atomic energy.

Because of Soviet Union secrecy, there is presently no way to estimate R&D funding or expenditures for weapons systems under development exclusive of civil atomic energy.

ODDR&E officials acknowledged that another, more complex, analytical approach recognized the possibility that part of the Soviet Union R&D costs might be borne elsewhere in the Soviet Union budgets. They added:

"However, since most of the necessary cost does seem supportable by the All Union Science Budget, the remainder seems unlikely to amount to more than 20 to 30 percent of the total. Assuming only that the total program is 'balanced,' this remainder is likely over the years to stay at about the same percentage of the total; that is, it is likely to be portional to the All Union Science Budget portion and thus to follow the same trends. * * * The principal advantage of this more complex model is that it makes the 'justification' * * * of some kinds of expenses somewhat easier elsewhere than merely in the All Union Science Budget. Examples are pay for military support people, general-purpose support facilities on test ranges, etc."

In view of the alleged relationship between the Soviet Union's budgets and the intelligence community's estimates of R&D expenditures, we compared the latter's estimates with the published financial and budgetary data on Soviet Union science for calendar years 1960 to 1963.[3] We found that the intelligence community's estimates of total Soviet Union R&D expenditures and of the part referred to as military-related R&D had a direct and consistent relationship to the Soviet Union series of national science expenditures, as discussed below.

The outlays shown in the Soviet Union State Budget under the heading "Science" (referred to as the Soviet Union science budget) make up only 70 to 80 percent of the national science expenditures. The remaining 20 to 30 percent of expenditures are thought by many to be funded from (1) the various economic organizations' own funds, probably under contractual arrangements, and (2) other Soviet Union State Budget headings, such as "Ministry of Defense," "National economy," and "Cadre training."

As shown below the intelligence community's estimated total R&D expenditures (col. 4) are equal to total national science expenditures plus capital investments in science (col. 1 plus col. 2). The small differences may be attributed to rounding errors.

FIGURE 1.—ESTIMATED SOVIET UNION R. & D. EXPENDITURES [1]

[In billions of dollars]

Calendar year	Total science expenditures (budget and other expenditures [2] (1)	Capital investment in science [2] (2)	Col. 1 plus col. 2 (3)	Estimated total Soviet Union R. & D. expenditures in constant 1968 dollars [3] (4)
1960	$6.6	$1.0	$7.6	$8
1961	7.6	1.4	9.0	9
1962	8.6	1.8	10.4	10
1963	9.4	1.8	11.2	11
1964	10.2	2.0	12.2	12
1965	11.8	2.2	14.0	14
1966	[4]13.0	2.4	15.4	15
1967	([5])	([5])	([5])	16
1968	([5])	([5])	([5])	17

Footnotes at end of article.

[In billions of dollars]

Calendar year	Total science expenditures (budget and other expenditures [2]	Capital investment in science [2]	Col. 1 plus col. 2	Estimated total Soviet Union R. & D. expenditures in constant 1968 dollars [3]
	(1)	(2)	(3)	(4)
1969	(5)	(5)	(5)	19
1970	(5)	(5)	(5)	21

[1] Conversion rate: $2 for 1 ruble.

[2] Science Policy in the U.S.S.R., OECD, Paris: 1969, pp. 98–100.

[3] Intelligence community's estimates using the same conversion rate of $2 for 1 ruble. Estimates are rounded to nearest billion for security classification purposes.

[4] Estimated, not actual expenditures from cited reference source.

[5] Not available from cited reference source.

Our study showed that the intelligence community's estimates of military-related R&D expenditures bore practically the same relationship to total R&D expenditures as the classified part of the all-union budget outlay bore to the total Soviet Union science budget. In noting the possibility of these relationships, ODDR&E officials stated that, assuming the Soviet Union R&D program was balanced, any additional R&D expenditures outside the science category of the Soviet Union State Budget were likely to be proportional to the all-union science budget part and to follow the same trends. The relationships are illustrated below—column 2 is to column 1 what columns 5 and/or 6 are to column 4.

FIGURE 2.—RELATIONSHIP OF MILITARY-RELATED R. & D. EXPENDITURES TO PUBLISHED SOVIET SCIENCE DATA [1]

[Dollars in billions]

Calendar year	Soviet science budget [2]	Classified all-union budget: Estimated [3]	Classified all-union budget: Percent of col. 1	Total national science expenditures, including capital investment for science [4]	Col. 3 times col. 4	Estimated military-related R. & D. (military, space, and atomic energy (5)
	(1)	(2)	(3)	(4)	(5)	(6)
1960	$4.6	$3.2	70	$7.6	$5.3	$5.3
1961	5.4	3.7	69	9.0	6.2	6.3
1962	6.0	4.2	70	10.4	7.3	7.4
1963	6.9	5.0	72	11.2	8.1	8.3
1964	7.9	5.9	75	12.2	9.2	9.2
1965	8.4	6.4	76	14.0	10.6	10.5

[1] Conversion rate: $2 for 1 ruble.

[2] These budgeted expenditures for science consist of all-union expenditures and Republican expenditures.

[3] Soviet Union financial data have not shown this breakdown since 1958; consequently the intelligence community's estimates were extrapolated upwards on the basis of the 1950–57 trend. The above estimates are based on applying a consistent percentage to all-union budgeted outlays in accordance with our calculations of the trend.

[4] See fig. 1, col. 3.

[5] Intelligence community's estimates stated in constant 1968 dollars.

SIPRI [4] Analysis of Estimates

In an article entitled "U.S. Estimates of Soviet Expenditures for Military Research" in the SIPRI Yearbook of World Armaments and Disarmament 1969–70, the author surmised relationships between U.S. estimates of Soviet Union military-related R&D and published Soviet Union science data similar to those reported above. The author stated:

"* * * Dr. Foster's estimates [5] show a trend so close to the trend in the published Soviet science expenditure series that it must be assumed that Soviet science data have been used in their construction."

* * * * *

"Dr. Foster's estimates of total Soviet R&D and space expenditure can be made to equal total Soviet science expenditures (new series) if an exchange-rate of about $2 per rouble is used. (Judging from the range of exchange rates chosen by experts, this is not an unreasonable exchange rate, and does not exaggerate the dollar equivalent of Soviet science expenditure). It therefore seems possible that Dr. Foster's estimates are drawn directly from the science expenditure data, and that the estimates of military-space R&D expenditure have been obtained simply by taking a large and rising percentage of total science expenditures and converting the estimates at $2 per rouble (with some allowance for inflation). In this case, practically all capital investment, All-union and 'other' expenditures for science would be included in the estimates of military-space R&D expenditure." [6]

The author reported that experts who had made detailed studies of Soviet Union science data either had made no estimates or had made only rough order-of-magnitude estimates. Even those experts who made order-of-magnitude estimates differed among themselves by as much as 50 to 100 percent or more. The author concluded, after reviewing the available "open" literature, that "reliable estimates of Soviet military R&D expenditure cannot be inferred from Soviet science data." [7]

In commenting on the SIPRI article,[8] ODDR&E officials pointed out that the data available to the author had consisted of published budget data and unclassified statements by various officials up to mid-1970. Nevertheless ODDR&E officials stated:

"The SIPRI conclusion that valid estimates of Soviet RDT&E [research, development, test, and evaluation] are not possible (with that data base) is probably correct. Missing data includes the dollar pricing of the space program, the quantification of technological positions with time for space and military RDT&E, the manpower and facilities cross-checks, and an appreciation of the overall magnitude of the Soviet effort."

Questionable Conversion Rates

As reported previously the dollar estimates of Soviet Union expenditures represent the conversion of rubles to dollars using a consistent exchange rate of $2 for 1 ruble. There is no generally accepted rate, however, for converting rubles expended for R&D into their dollar equivalents—the dollars needed to buy a comparable R&D effort in the United States.

The SIPRI article stated:

"* * * R&D exchange rates, in current expert use, which attempt to allow for the differences in wages and other costs in the two countries, vary between $1.30 per rouble and $3.50 per rouble. The uncertainty of the appropriate exchange rate is such that most studies drawing on Soviet data * * * do not attempt to convert rouble estimates into dollars at all." [9]

Although the official exchange rate is about $1.11 for 1 ruble, authorities generally agree that use of the official rate would seriously underestimate the magnitude of the Soviet Union R&D effort. Further, many, if not most, experts believe that a reasonable conversion rate for Soviet Union military R&D work would be from $2 to $3 for 1 ruble. Consequently the use of the $2 rate may raise a question of whether it underestimates the dollar equivalent of the Soviet Union R&D effort.

ODDR&E officials, however, indicated that the exchange rate would be adjusted to match the number of identified rubles with the dollar cost estimates of observed outputs. In recognizing the possibility that Soviet Union R&D costs may be borne elsewhere than in the classified part of the all-union science budget,[10] these officials observed that the dollar-to-ruble ratio depended on ruble input because the output results remained the same.

"* * * in analytic terms, because the output results are fixed, the dollar to ruble ratio and the fractions of the All Union Science Budget for military and space RDT&E are coupled. Knowing one determines the other; * * *."

Direct Costing of Space Program

ODDR&E officials reported that direct costing of the Soviet Union space program had reduced uncertainty about the financial inputs, including the rubles-to-dollars conversion factor, for defense and space R&D. They stated that, by looking at the more open Soviet Union space program, it was possible to compare Soviet Union budgets and results with those of the United States. The officials added that:

"The analysts could reasonably calculate what it would cost the United States to do what the Russians had done in space and consequently could get a reasonably good average conversion factor from rubles to dollars for this kind of aerospace work."

We noted that, during recent congressional testimony,[11] Dr. George M. Low, the then-Acting Administrator of NASA, submitted the following comments for the record.

"First, I would like to point out that we have no easy way to compare the total R.&D. programs of the U.S. and the U.S.S.R., much less the specific elements which make them up, such as the space program; the economies of the two societies are far from parallel and we have little solid information from the Soviets about their internal program structure, objectives, on decisionmaking framework. Therefore, we have to rely on what are often subjective assessments and scattered data points for our comparisons.

"What we *can* say is that there appears to be a well defined long-term Soviet R.&D. investment policy that has been consistently followed and supported for both pragmatic and ideological reasons. An example of that policy is the trend in Soviet R.&D. expenditures over the past decade: * * * an increase of 325%. And this increase has come about through a steady, year-by-year build-up of the national resources devoted to R.&D. rather than through a single large jump in any one year or for any one program. * * *

"In terms of their total space program, both civil and military, we believe they are investing at least as much effort as is the U.S. and probably more; one measure is their record of successful space launches which first exceeded that of the U.S. in 1968 and continues to do so through the present, when they are launching two or more vehicles to every one of ours. It seems fair to say that they are maintaining and increasing their program effort and that this effort exceeds that of the U.S. * * *

"For this comparison, I am dealing with the combined civil and military space programs of both nations; to try to differentiate between civil and military activities of

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Footnotes at end of article.

the U.S.S.R. would be speculative at best."

We were not permitted to review the intelligence community's direct costing of the Soviet Union space program. Assuming, however, that the Soviet Union civil space program is sufficiently open for reliable direct costing in dollars, we do not know how the analysts were able to determine the amount of rubles in the science budget for the civil space program to establish the conversion factor for aerospace work. Also there is a question about the extent to which a conversion factor for aerospace work is applicable to the broad range of military R.&D. work. Finally, regardless of how accurate direct costing of the Soviet Union space program may be, the accuracy of the residential military R.&D. is still largely dependent on the accuracy of the total estimates for the military-related R.&D. expenditures. The residual military R.&D. cannot be directly costed. because not enough of the individual programs are visible to permit an accumulation of program costs that will yield a reliable total.

Technological assessment of outputs

In fiscal year 1970 ODDR&E initiated a study to compare the military and space technological outputs of the United States with those of the Soviet Union during the period 1960 to 1968; ODDR&E officials stated that 1968 was the last year for which reasonably firm intelligence data existed on Soviet Union weapons systems. The study involved technical comparisons of the two countries' space achievements and about 100 of their military weapons systems. According to ODDR&E officials, the study, by making the comparisons over a period of years, was able to time technological improvements and to estimate how many years it took the Soviet Union to reach given levels of United States weapons technology.

The study found that in 1960 the United States had a 2- to 3-year technological lead in military weapons system and was about even with the Soviet Union in space technology. The study found also that by 1968 the United States had established a 2- to 3-year lead in space technology but had only maintained its 2- to 3-year lead in weapons technology.

ODDR&E reasoned that technological leads were correlated with greater relative efforts. Accordingly its study concluded that, during the period 1960–68, the United States military R&D effort must have been roughly equivalent to that of the Soviet Union and that the United States space effort must have been 10 to 20 percent greater than that of the Soviet Union.

The technological-lead assessments which compared similar weapons systems were based on intelligence data, discussions with specialists, and subjective judgments of ODDR&E. Subjective judgments were used when the data were incomplete or controversial. ODDR&E officials stated, however, that differences, when they occurred, were seldom larger than plus or minus 1 year.

The assessments were presented in individual meetings to groups of DOD managers, weapons specialists, advisors, and operations employees. After comparisons of individual weapons systems were discussed, the United States technological positions relative to the Soviet Union were summarized into five major systems categories. The proposed summaries then were modified to better reflect the consensus of informed opinions.

ODDR&E officials reported that the summaries were not specific weighted averagings of the comparisons of the individual weapons systems but were consistent with them and correlated with broader impressions and experiences of informed persons. We had neither the expertise nor the time to independently test and evaluate the individual or summarized technological-lead assessments.

Correlation of inputs with outputs

ODDR&E officials reported that they were able to find a clear correlation between the results of their technological-lead assessments and the estimates of the two countries' military and space R&D expenditures for the period 1960 to 1968. (See fig. 3 [Not printed in *Congressional Record*].) Recognizing that there was some question about the ruble-to-dollar conversion ratio, they added that the rate of 0.5 ruble to $1 (or $2 for 1 ruble) could vary as much as 20 percent (shaded area in fig. 3 represents about a 10-percent variance) and that the estimated space and military expenditures still would fit the observed hardware results.

Because the United States advanced its technological lead in the space program by several years in the period 1960 to 1968, ODDR&E reasoned that the cost of the United States space effort should have been 10- to 20-percent greater than that of the Soviet Union during the same period. Using a NASA formula the intelligence community and ODDR&E produced the following expenditure data to support this reasoning.

CIVIL SPACE EXPENDITURES

[In billions of dollars]

		United States			United States over Soviet Union		
	Soviet Union	Current	GNP deflator [2]	R&D deflator	Current	GNP deflator	R&D deflator
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
1960	0.5	0.4	0.5	0.5	−0.1	-------	-------
1961	.7	.7	.9	1.0	-------	0.2	0.3
1962	1.1	1.3	1.5	1.6	.2	.4	.5
1963	1.7	2.6	2.9	3.2	.9	1.2	1.5
1964	2.8	4.2	4.7	5.0	1.4	1.9	2.2
1965	4.0	5.1	5.6	6.0	1.1	1.6	2.0
1966	5.0	5.9	6.4	6.7	.9	1.4	1.7
1967	5.5	5.4	5.6	5.8	−.1	.1	.3
1968 [3]	5.5	4.7	4.7	4.7	−.8	−.8	−.8
Total	26.8	30.3	32.8	34.5	3.5	6.0	7.7

[1] Soviet Union expenditures are on a calendar year basis, using the conversion rate of $2 for 1 ruble, and United States expenditures are on a fiscal year basis.

[2] Gross national product deflator.

[3] Base year for use of deflators.

The above schedule shows that, from 1960 through 1968, the total United States expenditures for civil space actually exceeded equivalent Soviet Union expenditures of $26.8 billion by about (1) $3.5 billion, or 13.6 percent, in current dollars, (2) $6 billion, or 22.4 percent, in constant 1968 dollars using the GNP deflator,[12] or (3) $7.7 billion, or 28.7 percent, in 1968 dollars using a special R&D deflator.[13]

ODDR&E officials stated that technological-lead assessments of about 100 weapons systems visible in 1960–68 showed that the "Soviet RDT&E produced about the same number of major weapons systems prototypes at about the same rate of improvement as the U.S." Although the technological lead changed for some individual weapons systems and even for some weapons systems categories, on the average the relative positions of the two countries were found by ODDR&E to be the same in 1968 as in 1960; over the 8- to 9-year period the United States had retained its 2- to 3-year technological lead.

Since output results indicated that both countries had expended about the same effective effort, ODDR&E officials reasoned that both countries should have expended about the same amount of equivalent funds in military R&D. As illustrated by figure 3, however, the United States is estimated to have expended about $6.5 billion, or 11 percent, more in equivalent funds for military R&D from 1960 through 1968 than the Soviet Union. If the GNP deflator is used to express the estimated United States inputs in constant 1968 dollars, figure 3 then would show United States military R&D expenditures as exceeding those of the Soviet Union by about $13 billion, or approximately 23 percent. If a special R&D deflator is used, the difference is $18.1 billion, or approximately 31 percent.[14]

ODDR&E officials stated that they believed:

"* * * their costing estimates in both civil space and military weapons * * * to be accurate to about $1 billion per year in equivalent effort. A greater difference, over an eight-year span, should have produced measurable differences in results * * * these differences do not appear to exist."

The difference of $13 billion over the 8- to 9-year period, resulting from use of the GNP deflator, represents about $1.5 billion a year. Use of the R&D deflator shows an even greater difference, amounting to about $2 billion a year.

Determining relative financial inputs since 1968

ODDR&E officials state that all the preceding analyses and comparisons "really have only one purpose: to quantify the Soviet military RDT&E effort in U.S. terms and identify it in the Soviet Budget." These officials believe that proof that this purpose has been achieved is the clear correlation between the United States' and the Soviet Union's relative financial inputs and technological outputs. Therefore these officials look to the intelligence community to estimate the Soviet Union's current military R&D funding on the basis of the latter's budgetary data.

As shown below the intelligence community's estimates of current Soviet Union military-related expenditures (col. 3) show a steady increase from about $13 billion in 1968 to $17 billion in 1972, an annual increase of 7 to 8 percent. Its estimates of Soviet Union civil space expenditures (col. 4) show a steady decrease from about $5 billion to about $4 billion. Consequently its estimates for the residual military R&D expenditures (col. 5) show a sharp increase from about $8 billion to about $13 billion, a total increase of about 60 percent during the 4 years. ODDR&E officials state that these estimates show the Soviet Union's return to allocating R&D growth to the military sector, after a period of about 6 years (1961–67) in which growth went to the space sector.

SOVIET UNION R. & D. EXPENDITURES [1] [2]

[In billions]

Calendar year	Total R. & D.	Total military-related R. & D.	Civil space [3]	Total military R. & D.
(1)	(2)	(3)	(4)	(5)
1968	$17	$13	$5	$8
1969	19	14	5	9
1970	21	16	5	11
1971	24	16	5	11
1972	24	17	4	13

[1] Conversion rate: $2 for 1 ruble.

[2] In constant 1968 dollars. Rounded off to nearest billion for for security classification purposes.

[3] Soviet Union civil space estimates are based on a NASA formula for estimating the dollar expenditures that would be required to produce similar results. Therefore these estimates are not based on identifying ruble outlays in the Soviet Union budgets or expenditure data or on the ruble-to-dollar conversion rate.

The intelligence community's estimates of U.S. R&D expenditures since 1968 are shown below.

Footnotes at end of article.

U.S. R. & D. EXPENDITURES [1]

[Dollars in billions]

Inflationary factor [2]	Fiscal year	Total R. & D.[3]	Total military related R. & D.[4]	NASA space [4]	Total military R. & D. (including military AEC) [4]
(1)	(2)	(3)	(4)	(5)	(6)
1.000	1968	$25.3	$13.2	$4.7	$8.7
1.080	1969	24.3	11.8	3.9	7.9
1.172	1970	23.3	10.1	3.2	6.9
1.267	1971	22.5	8.7	2.6	6.1
1.267	1972	(5)	[6] 9.3	[6] 2.6	[6] 6.7

[1] In constant 1968 dollars.

[2] This is the R. & D. deflator. It is used to convert current-year dollars to constant 1968 R. & D. dollars. The index basis is weighted (0.6) for changes in the cost per R. & D. scientist and (0.4) for changes in procurement costs of R. & D. hardware.

[3] Source: National Science Foundation (NSF). 1970 and 1971 data not for attribution until release by NSF.

[4] Source: Special Analysis Q, budget of United States 1970, p. 250, and Division of Military Affairs, Atomic Energy Commission (AEC); all columns converted (deflated) to constant 1968 dollars.

[5] Not available.

[6] Programed; not actual expenditures.

The intelligence community's estimates of Soviet Union military-related R&D accounted for 70 to 75 percent of total R&D expenditures, including capital investments in science.[15] By contrast, its estimates of United States military-related R&D accounted for only 52 percent of total R&D expenditures in 1968 and for only 39 percent in 1971.

As noted previously military-related estimates include R&D for military, space, and atomic energy activities. The estimates for the United States, however, do not include all R&D in the field of atomic energy but only that part related to military applications. To have included all atomic energy expenditures, as apparently was done for the Soviet Union estimates, would have added another $0.8 billion to $1 billion a year to both the United States military-related R&D and the United States military R&D. In addition, we believe that the U.S. figures are understated, as reported in chapter 2, part I.

The intelligence community, having estimated both the Soviet Union and the United States military R&D efforts in constant 1968 dollars, made the following comparisons.

MILITARY R. & D. EXPENDITURES [1]

[In billions]

	Soviet Union	United States	Soviet Union over United States
1968	$8	$9	−$1
1969	9	8	1
1970	11	7	4
1971	11	6	5

[1] In constant 1968 dollars. Rounded off to nearest billion for security classification purposes.

The above comparisons show that the crossover in military R&D spending was estimated to have occurred after 1968. The Soviet Union was estimated to be spending approximately 50 percent more in military R&D by 1970 and 92 percent more in 1971.

Using the smaller GNP deflator and a slightly different mix of expenditure categories for estimating the U.S. military R&D expenditures, ODDR&E made the following comparisons.

MILITARY R. & D. EXPENDITURES [1]

[In billions]

	Soviet Union	United States	Soviet Union over United States
1968	$8	$9	−$1
1969	9	8	1
1970	11	8	3
1971	11	7	4

[1] In constant 1968 dollars. Rounded off to nearest billion for security classification purposes.

ODDR&E officials report that the uncertainty in the rate of increase of the Soviet Union effort compared with the United States effort is due largely to the present uncertainty of how inflation affects the two countries. They report also that the ruble generally is assumed not to inflate due to the Soviet Union system of controlled prices and wages; however, they have stated that:

"* * * The choice of the deflator for the U.S. effort * * * does affect the conclusion of how much difference there probably is between the Soviet effort and the U.S. effort in 1971. * * * [Use of current-year dollars] leads to the smallest difference between the U.S. and the U.S.S.R in 1971 but is hardest to justify on economic grounds. The R&D deflator leads to the maximum difference but implies that there is no inflation in the Soviet R&D sector. The GNP deflator would seem to account for the differences in the general U.S. and Soviet economic systems and would imply no inflation in Soviet RDT&E relative to the general Soviet economy comparable to that of the U.S.

"Hence, the general conclusions * * * that the Soviet RDT&E effort in 1971 is probably (at least) $3 B [billion] more than that of the U.S."

Manpower, Facilities, and Prototypes

ODDR&E officials state that the increasing difference in the two countries' military R&D efforts should be consistent with the differences in employed manpower, facilities being used, and numbers of weapons systems brought to the prototype stage. They add that these effects are now under study but that it takes time before such differences become clear and apparent.

ODDR&E has cited the following statistics, over the past 2 years, to illustrate the developing differences in manpower between the two countries.

	Engineering and natural science graduates [1]		Full-time R. & D. scientists in 1969 [3,4]	Number of engineers and scientists employed in R. & D. in 1968 [2,4]
	1960 [3]	1970 [2]		
Soviet Union	145,000	247,000	550,000	745,000
United States	83,000	142,000	540,000	[5] 515,000

[1] Mathematics, physics, and chemistry.

[2] DOD fiscal year 1972 posture statement on R. & D.

[3] DOD fiscal year 1971 posture statement on R. & D.

[4] Apparent conflict may be due, in part, to differences between full-time equivalents and numbers employed. When used alone the term "scientists" apparently includes engineers.

[5] Reference (NSF) cited by O.D.D.R. & E. shows 565,000.

The above manpower statistics, however, need further study and analysis before they will be particularly meaningful. For example, the OECD publication of 1969 commented that:

"* * * Soviet engineering graduation figures are considerably inflated by the addition of extension-correspondence and evening school graduates, who in many years comprise over 40 percent of the engineering graduates. * * * Soviet annual engineering graduation statistics have to be viewed with a somewhat jaundiced eye."

The numbers of scientists and engineers cannot be considered separately from their (1) particular skills, (2) allocation or utilization, and (3) productivity.

In regard to productivity ODDR&E officials report that recent studies performed by the Department of the Navy and by the Department of the Air Force, Foreign Technology Division indicate that the Soviet Union is continuing to improve the quality and the quantity of its major research facilities. They report also that the United States is not making similar improvements and is not effectively using its existing R&D facilities.

As to differences in numbers of new weapons systems brought to the prototype stage, ODDR&E predicts that, starting about 1971, we can reasonably expect several technological surprises from the Soviet Union. Officials explain that Soviet Union decisions concerning the use of the additional moneys normally precede the conspicuous testing of the resulting prototypes (or their presence in the Moscow May Day Parade) by 3 to 4 years. They add that it frequently takes several more years before critical aspects of prototypes are understood enough to assess their advanced technologies.

In summary ODDR&E officials noted that the comparative manpower and facilities "data is in rather raw, unstructured form, and as a consequence has been used to support, not determine our conclusions." They explained that the data had been used as a cross-check to help answer the question of whether the Soviet Union had committed the other assets, in addition to funding, needed to produce increased military and space R&D results.

Projecting R&D Expenditures Through 1976

After estimating current R&D efforts, ODDR&E projected the military R&D funding for both countries from 1970 to 1976. For the United States ODDR&E stated that it had used simply the fiscal guidance numbers provided by the Office of the Secretary of Defense planning system. For the Soviet Union ODDR&E considered three possible alternatives.

1. Project, in a simple straight line, the trend developed over the past 20 years. This would result in annual increases due to (a) a steady 5-percent increase in GNP each year and (b) an increasing portion of GNP devoted to military R&D.

2. Peg future increases to the 3 percent of GNP that existed in 1970. This would produce annual increases resulting from the steadily growing GNP.

3. Freeze funding at the 1970 level of $10.5 billion.

ODDR&E chose to define "base line Soviet Strategy" as a $10.5 billion annual military RDT&E effort from 1970 and 1971 onward. Consequently ODDR&E believes that, if the United States stays within its fiscal guidance, the Soviet Union will be investing about $3 billion more a year in equivalent effort. Under these circumstances ODDR&E reasons that an annual Soviet Union expenditure of $10.5 billion not only is the most conservative alternative but also is both attractive and practicable to Soviet Union planners. It would allow them to assign future R&D growth to the civilian section and, according to ODDR&E, to still reach military technological supremacy by the mid-1970's.

Summary and conclusion

ODDR&E contends that the Soviet Union is exerting relatively greater efforts than the United States is in the area of military R&D. ODDR&E is convinced that this crossover occurred in 1969, the first year of a decreasing U.S. military R&D budget. To demonstrate the crossover and to communicate its mental model for comparing the two countries' past military R&D inputs with their outputs and for projecting possible future outputs on the basis of present and possible future resource inputs.

We found that extreme secretiveness by the Soviet Union resulted in data insufficient for realistic estimates of its military R&D efforts. At best, dollar valuations of Soviet Union military R&D programs are only rough guides to the Soviet Union's relative level of effort. In our opinion the general technological assessments can provide only general support for these rough guides; they cannot refine them. Consequently we believe that the usefulness of the pioneering methodology with its limited data base may be to indicate trends and the apparent magnitude of the Soviet Union military R&D threat. We have reservations, however, as to the usefulness of this methodology in quantifying relative efforts or spending gaps between the two countries.

FOOTNOTES

[1] Part I provides an introduction to the study and an analysis of U.S. military-related research and development (R&D) expenditures.

[2] Conversion rate used by the intelligence community to provide an appreciation of the physical size of the budgeted program by showing the level of effort—measured in dollars—that would be required to reproduce the Soviet Union programs in the United States. Dollar values derived in this way are expected to provide the basis for comparing United States and Soviet Union programs.

[3] *Science Policy in the U.S.S.R.*, Organization for Economic Co-operation and Development (OECD), Paris: 1969, pp. 95 to 107.

[4] Stockholm International Peace Research Institute.

[5] Dr. John S. Foster, Jr., Director of Defense Research and Engineering, estimates of military-space R&D expenditures.

[6] *SIPRI Yearbook of World Armaments and Disarmament* 1969–70, pp. 303 to 305.

[7] *Ibid.*, p. 289.

[8] Response dated May 26, 1971, to questions raised by Representative Michael J. Harrington.

[9] *Op. cit., SIPRI Yearbook of World Armaments and Disarmament* 1969–70, p. 305.

[10] See p. 4.

[11] Hearings before the Senate Committee on Aeronautical and Space Sciences on "Space Cooperation Between the United States and the Soviet Union," 92d Cong., 1st sess., March 17, 1971, p. 29.

[12] U.S. estimates in fig. 3 are stated in current dollars. A prime uncertainty in describing the U.S. level of effort over the 9-year period is the need to convert current dollars to constant dollars to avoid the effects of inflation. The GNP deflator, which uses the fiscal year 1968 dollar as its base, applies to the economy as a whole—all final goods and services produced in the Nation during a year.

[13] The R&D deflator applies to R&D hardware and services. Methodology was derived from "Defense Planning in a High Inflation Economy," a paper by J. H. Augusta and C. L. Snyder, Jr., presented at the 26th Military Operation Research Symposium, Monterey, California, November 1970.

[14] For ODDR&E officials' comments on the use of the deflators, see p. 24.

[15] Non-military-related R&D expenditures include:

a. All-union civil R&D which is the itemized portion of the all-union budgetary outlays and expenditures for science. ODDR&E officials believe that this accounts for 15 to 20 percent of the all-union expenditures or 12 to 18 percent of the total State Science Budget.

b. Republican R&D which finances research having a local, as opposed to national, significance. In 1965 the Republican budget was about 12 percent of the total State Science Budget.

c. Proportional share of capital investments in science.

THE STRANGLING OF URBAN AMERICA

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. BRASCO. Mr. Speaker, every major American city is strangling to death on the automobile. No evasion by any group of corporate apologists can deny or disprove this fact. Autos are larger than ever, more unsafe than ever and pollute more than ever. Rather than having urban conditions cater to individual citizens, our cities are being molded to suit even larger numbers of cars. As a result, the quality of urban life is appreciably deteriorating before our very eyes on an almost daily basis. I submit that this state of affairs is intolerable and must come to an end swiftly, or else we shall preside over the demise of urban America, with all its attendant consequences.

An alternative can and must be provided. Such a solution is available immediately in the form of updated mass urban transit. Other nations have turned to such a choice, with significant success, notably Japan, with her high speed trains between cities. It certainly is within our grasp to bring such systems into being.

Let us commence from one premise. Cities and States cannot afford to maintain, much less bring into being, such systems of transportation. Their cost is prohibitive. Only the Federal Government can attempt such an undertaking with any expectation of success over the long run.

Every western nation that is industrially developed has nationalized such systems. To leave them in private hands is to invite continual abuses of the sort that prevail in the Nation's Capital. A glance at the transportation chaos prevailing is enlightening. Private parking lot operators reap a harvest, while the poor and those of modest means, who are dependent upon mass transit, are milked and milked again to fill the coffers of a mismanaged and exploited enterprise. To repeat this on a national basis in a hundred major cities is to invite national calamity.

Urban mass transit, therefore, to be successful, must be federally backed and owned by other than private interests. It must take this form in order to remain within reach of the average working person. Nor should society expect it to return a profit. Visits abroad to foreign capitals yield astonishing revelations in the mass transit area.

In Moscow, the Russians put us to shame with their subway. The same is true in Paris. Montreal started from scratch and created a clean, fast, and quiet subway system we would do well to emulate. Everyone has been able to solve this problem but the United States of America.

While all this goes on abroad, here at home our cities continue to clog up. The air grows ever more polluted. Parking lots bulge. Fees go up. Commuting becomes an omnipresent and menacing nightmare for scores of millions of people. The time has come to cut the gordian knot.

A combination of high speed trains, subways, and buslines is the answer. Simultaneously, programs making it unattractive for individual commuters to bring private cars into the heart of our major cities should be developed. It is ridiculous and frustrating to allow hundreds of thousands of autos to migrate daily into the cities carrying single drivers. If the private parking lot operators find this proposal difficult to accept, then so be it.

The transit industry itself is either unable or unwilling to emerge with a solution of any sort. We cannot tolerate a system or series of systems which are, by their own admission, bringing less and less service to fewer people at an ever greater cost. Pressures build up, particularly in the inner city, because of the lack of just such an elementary service a mass transit.

How can we expect the average working American to pour upwards of $10 weekly into a fare box. It is also a well-proven fact that every time a fare rise is allowed, the result is fewer riders. In New York, the hiking of such fares will result in intolerable public reaction.

Yet every motorist and user of vehicles in the Nation contributes user taxes to the Highway Trust Fund, which is swollen with billions of dollars in surpluses. The Federal Interstate Highway System has been largely constructed with these funds. While I certainly can understand the desire and need of nonurban areas for these roads, the massive urban areas have no need for them and a growing reluctance to continue subsidy of such undertakings. This is particularly true of situations where their own tax moneys in the fund are utilized to blast speedways through established city neighborhoods, ruining living patterns and doing a special kind of violence to city dwellers.

Tapping the Highway Trust Fund for mass urban transit or setting up a similar type of fund for that same purpose is the answer. In this manner, massive, long-term funding can be arranged and guaranteed. Another method which would complement this alternative would be federally guaranteed mass transit bonds. Individual cities could float such bond issues through normal channels for undertakings of this sort, with a Federal guarantee for their payment. Major institutions utilizing urban environments for daily functions would have a vested interest in purchase of such bonds. Every major metropolitan area in the Nation would be able in such a manner to make a start toward answering its mass transit dilemma.

The Federal Government has bailed out big business in recent times. Shall we not place major cities in the same category in terms of eligibility for assistance in the form of Federal guarantees for mass urban transit financing?

In each corporate case, several hundred thousand Americans were involved and dependent upon the survival of the industry. In the situation of mass urban transit, 90 percent of the American people are involved. That is the percentage of our citizenry now concentrated on 1 percent of our land area. Suburbia rises or falls on the survival and continued economic viability of large cities. Suburbanites must hearken to the cry and plea of our cities. The two are inextricably intertwined, like two men bound together and thrown overboard. If they do not learn to swim together for mutual survival, then both will perish together. So suburbia cannot complacently stand aside, fold its collective arms and label this the crisis of the cities alone.

Today the Federal Government makes available billions of dollars in subsidies to a variety of interest groups. Everyone has a place at the Federal trough for one subsidy or another. Farm subsidies alone consume a big bite of the taxpayer's dollar. The oil industry receives privileged tax treatment. The list is virtually as long as there are interest groups plying their trade in Washington. Is not it time that the poor average man or woman who wants to get somewhere across a metropolitan or suburban area with some regularity receives a similar break?

HISTORY OF THE LITHUANIAN PEOPLE

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. BROOMFIELD. Mr. Speaker, February 16 marks a glorious day in the history of the Lithuanian people. This date marks the anniversary of the establishment of the modern Republic of Lithuania in 1918; a Republic which expresses the high qualities of becoming a modern sovereign state with the ability to govern itself as an independent nation.

But that Republic only lived 22 years. It was destroyed when the Soviet troops invaded and occupied Lithuania in June of 1940. Since then the Lithuanian people have been forcefully placed under Soviet rule.

To this day Soviet aggression against Lithuania and its subsequent illegal annexation has been condemned and recognized as invalid by many nations of the world. Nevertheless, for more than three decades the Lithuanian people have been subjected to an alien and suppressive rule, which has violated many of the universally recognized rights of men and nations: the right to national self-determination, freedom of religious worship and opinion.

For many years the violations of human rights in the Soviet Union have been hidden through the strict isolation of the Soviet people from the rest of the world. Since June of 1940, hundreds of thousands of Lithuanians have been herded into trains and forced to travel for days without water or food. The result was the death of hundreds, mostly from starvation. Those who managed to survive were left in arctic Siberia to work against unbearable odds.

The people of Lithuania had never experienced such extermination and annihilation. Since that dreadful day in June 1940, Lithuania has lost more than one-fourth of her population.

Mr. Speaker, for too long too many people throughout the world have been unaware of what really happened to the people of Lithuania. The Kremlin is fond of saying that Russian imperialism died with the czars. But the fate of Lithuania has shown this to be a cruel fiction.

The Communists did not come to power in Lithuania by a legal or democratic means. It was only after the Soviet Union with the help of Nazi Germany divided up Poland in 1939, that the Kremlin leaders decided to send troops into Lithuania. The following year Lithuania was annexed by the Soviet Government without plebiscite of the people.

In one of history's greatest frauds, elections were held under the Red Guard's supervision. The Kremlin then stated that the people of Lithuania voted to join the Soviet empire.

During the last 32 years, the Lithuanian freedom fighters have waged an intensive fight for freedom. During this time the Lithuanian people have risen time and time again to express their true feelings toward the Soviet Union. About 50,000 Lithuanian patriots have lost their lives as a result.

The hypocritical gesture shown here by the Soviet's occupation of Lithuania is further proven by a statement from the "Collected Works of Lenin":

> Any incorporation of a small and weak nation into a larger or stronger state without the definite, clear and voluntary desire to that effect of that nation . . . especially if this nation is not accorded the right to decide the problem of the form of its political existence by a free vote—implying the complete withdrawal of the troops of the incorporation is an arbitrary appropriation of a foreign country, an act of violence.

Mr. Speaker, the Lithuanians have in no sense implied a willingness to join the Soviet empire. The actions of the Lithuanian freedom fighters have proven contrary to Soviet claims. No ideology screen can hide this obvious reality.

For once the Soviet Union should abandon its double standard and start to apply their resolutions on self-determination and colonialism to the people they dominate.

At a time when the Western powers have granted freedom and independence to many nations in Africa, we must insist that the Communist colonial empire likewise extend freedom and independence to the people of Lithuania so that they may too enjoy the freedom which Western nations enjoy.

Lithuanians are proud people and it has taken remarkable spiritual and ethnic strength to survive the pressures placed on them by this Communist regime. Only the people of Lithuania know the heartaches and suffering which they have endured since they were unlawfully and illegally subjugated to the Communist dictatorship in Moscow.

Mr. Speaker, I once again urge our Government to renew greater efforts for the restoration of freedom and independence to those freedom-loving people who are looking to us for support so that they may, once again, live a life of freedom in their homeland.

The Lithuanian-American organizations deserve our support in commemorating their anniversary during this month.

In observing this anniversary, we express our concern and desire for liberty to those oppressed people of Lithuania with assurance to their descendants in America that we have not forgotten.

CBS DIGS DEEPER HOLE

HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. HÉBERT. Mr. Speaker, it has been nearly a year since the nostrils of America's television audience were choked with the stinch of the irresponsible, politically carious presentation disguised by the title, "The Selling of the Pentagon."

The odor has never faded as is witnessed by the most recent analysis published by Accuracy in Media, an independent organization which will not let the truth die.

And after 1 year of squeamish, pusillanimous explanations by the Columbia Broadcasting System, the truth continues to emerge. The following speaks for itself:

[From AIM Bulletin, Feb. 1, 1972]

CBS Replies to Critics' Questions About "The Selling of the Pentagon"

February 23 will mark the anniversary of the first showing of the CBS controversial documentary, "The Selling of the Pentagon." Claude Witze of the *Air Force Journal*, Congressman F. Edward Hébert, Chairman of the House Armed Services Committee, and Accuracy in Media were among the severest critics of this program. On March 20, 1971, AIM sent a 7-page letter to Richard S. Salant, President of CBS News, asking for his comment on many inaccuracies or questionable points in the documentary. In our letter to Mr. Salant, we said that we agreed with a statement made by Roger Mudd in the broadcast, which said: "Nothing is more essential to a democracy than the free flow of information. Misinformation, distortion, propaganda all interrupt that flow." AIM said that "The Selling of the Pentagon" contained a great deal of misinformation and distortion. We wanted CBS to clear up the disputed points as quickly as possible.

CBS PROMISES COMPREHENSIVE REPLY

On March 29, 1971, Mr. Salant replied to AIM saying that he had decided to wait for the myriad of complaints and charges to accumulate and then prepare a comprehensive analysis. He said: "When this analysis is completed and at such time as we determine its release is appropriate, I will include you on our distribution list."

Many months passed and no reply to the questions was forthcoming. AIM raised this with CBS from time to time. We urged our supporters to write to CBS to prod them into releasing the promised analysis. Finally, in December 1971, CBS informed us that we could find the long-awaited analysis in the Congressional Record for December 15 and December 17, beginning on pages E 13493 and E 13697. There was no press release, no announcement that CBS had met its critics head-on and had shown them to be wrong. No copy of the reply was sent to the principal critics. We all had to look it up in the Congressional Record, where it had been inserted by Congressman Ogden Reid, who said he obtained it from the president of the Radio-Television News Directors Association. The press has completely overlooked this latest word in the great controversy over the CBS documentary. It appeared that that was precisely what CBS wanted. The less publicity the better.

CBS ADMITS A FEW ERRORS

CBS does not claim to be infallible, but AIM's experience is that it will rarely admit an error. Mr. Salant appeared on TV on the night of March 23, 1971, to reply to the critics of "The Selling of the Pentagon." He said: "We are proud of 'The Selling of the Pentagon' and CBS News stands behind it." He said they could refute every charge of the critics who had appeared on the air—Cong. Hébert, Secretary Laird and Vice President Agnew. Nine months later, in the statement quietly slipped into the Congressional Record CBS admitted that not all of the criticisms could be refuted. For CBS that was quite an admission. That was why they sought no publicity for their statement, we believe.

CBS now actually concedes that five points of criticism were to some extent justified. It admits that the editing of one of the answers Assistant Secretary of Defense Henkin gave to a CBS question might not have conveyed accurately what Mr. Henkin actually said. CBS also admits that it was wrong in saying of defoliated areas that "nothing will grow there any more." It agrees that it should have mentioned that one of the Pentagon films it criticized was actually produced by CBS. CBS also concedes that it greatly exaggerated the number of offices in the Pentagon, and allows that it should not have used language that implied that it had to track down the Industrial War College team that was putting on a National Security Seminar in Peoria, Illinois.

In addition to these admissions of error, CBS makes *de facto* admissions of error in two other cases. In the broadcast, CBS had said that a still unpublished report of the prestigious 20th Century Fund had estimated real total spending by the Defense Department on public affairs at $190 million, compared with the budget figure of $30 million. CBS now concedes that the report of the 20th Century Fund had been published at the time the broadcast was made and that it contained no such figure. CBS tries to wriggle out of this embarrassing situation by showing that such a figure was used in some of the research done for the study. However it was also clear that the figure was not used in the published study precisely because it could not be verified and the 20th Century Fund quite properly would not accept it as valid. CBS was therefore both wrong and unethical in foisting off such a figure on its unsuspecting audience and using the prestige of the 20th Century Fund to authenticate it.

The second *de facto* admission of error relates to the CBS charge that Pentagon expenditures on public affairs in 1971 were ten times the 1959 level. CBS now admits that the 1959 figure for public affairs expenditures was not comparable to the 1971 figure because different definitions for "public affairs expenditures" were used in these two years.

ARE THE ADMITTED ERRORS SERIOUS?

Yes. Three of them are quite serious. The improper editing of the Henkin interview, which CBS now concedes, was one of the objects of the heaviest attacks of the critics of the documentary. For example, Martin Mayer in the December 1971 issue of *Harpers* magazine said this about the editing of the Henkin interview: "This episode shows at least subconscious malice, a desire by the producers of the program that the man in charge of the Pentagon selling apparatus look bad on the home screen." Reed J. Irvine, writing in the August 10, 1971 issue of *National Review*, said that in editing the Henkin interview, CBS did more than make Mr. Henkin look bad. He stated in his reply to one of CBS's questions his justification for spending public money to inform the public of the reasons why we need national defense. Since CBS was clearly out to prove that such expenditures were wasteful, the mangling of the Henkin interview was necessary to make sure the viewers were not provided with any effective counter-arguments to the point CBS wanted to make.

CBS, of course, does no go very far in admitting that it might have done better by Mr. Henkin. Discussing the transposition of answers that Mr. Henkin gave to incorporate them as parts of answers of different questions, CBS says: "Upon review, one might judge that a fuller answer could have been broadcast by including, in the composite answer, the second sentence of the 'original' answer . . ." CBS concedes that editing involves subjective judgments and that others may disagree with the judgments of CBS. It insists, however, that in editing the Henkin interview its intent was to condense and clarify, not to deceive. The admission that it might have done better by Mr. Henkin is limited and grudging, but it is a step forward from the previous insistence by CBS President Frank Stanton that the editing was completely fair.

The two errors cited above relating to the amount of money the Department of Defense spends on public affairs are serious because in the documentary CBS placed a great deal of emphasis on the amount of money being spent on these activities. It used the false $190 million figure in comparison with the combined news budgets of the three commercial television networks, showing a graph on the TV screen that told the viewer that the Department of Defense spent more to tell its story to the people than all three networks spent to bring them the news. The exaggeration of the size of the Pentagon expenditures at the beginning of the program helped establish the important nature of the subject of the documentary.

The other three admitted errors are significant in that they cast light on the bias and carelessness of CBS. The bias is clearly shown in the incorrect description of the results of defoliation in Vietnam. The truth could easily have been ascertained by CBS, but it would not have been so dramatic. The exaggeration of the number of offices in the Pentagon by a factor of 6 shows the same kind of bias, as does the implication that CBS had to "find" the Industrial War College lecturers. The criticism of the film, "Road to the Wall," would have been blunted if CBS had correctly attributed its production to CBS rather than to the Pentagon.

THE ERRORS CBS REFUSES TO ADMIT

The purpose of the CBS reply is not to admit and apologize for errors in *The Selling of the Pentagon*, although that is grudgingly done in a few cases. Rather, CBS set out to show that the critics, not CBS, had erred. Thus the reply is mainly an effort to rebut the numerous criticisms made of the documentary. In addition to the points already discussed, the CBS reply takes up the following criticisms:

(1) The editing of the remarks of Col. John MacNeil, which involved creating a synthetic statement from widely separated sentences in his speech;

(2) The circumstances surrounding the appearance of the Industrial War College lecture team in Peoria, Ill., especially whether or not the visit was arranged by Caterpillar Tractor Co.;

(3) Whether or not the IWC lecturers violated regulations in discussing foreign policy;

(4) The accuracy of the statement that the Pentagon "used" sympathetic Congressmen to interview military heroes such as Maj. James Rowe to counter anti-war reporting;

(5) The charge that CBS used false pretenses to obtain a tape of the interview of Maj. Rowe by Congressman Hébert;

(6) The charge that CBS falsely suggested that the Pentagon spent about $12 million a year on films to be shown to the public;

(7) The charge that CBS gave a misleading impression about a film narrated by Robert Stack;

(8) The charge that CBS implied that an expensive war game was staged for the benefit of a few VIP civilians;

(9) Charges that CBS selectively edited a film of a press briefing by Jerry Friedheim to make it appear that he was unresponsive to newsmen's questions;

(10) ditto for a Saigon news briefing; and

(11) Charges that CBS gave a wrong impression in saying that the U.S. had resumed bombing of North Vietnam.

CBS refuses to admit that there was merit to any of these charges, but in every case its refutation is weak and unconvincing.

(1) CBS justifies creating a synthetic statement and putting it the mouth of Col. John MacNeil on the ground that each of the sentences used was actually said by Col. MacNeil and their meaning was not altered. It admits that one of the sentences was taken out of chronological order, but it does not mention that this is contrary to the CBS Operating Standards for News and Public Affairs, which state that this kind of transposition must not be done without informing the audience. This rule was adopted in June 1971, after the controversy about The Selling of the Pentagon. But if CBS says that there was nothing wrong with this kind of transposition in *The Selling of the Pentagon*, we wonder how seriously CBS intends to enforce its new regulation.

The same point can be made about the editing of the Henkin interview, which also involved clear violations of the rules against the transposing of answers to questions without giving an indication of this to the audience. In its discussion of the editing of the Henkin interview, CBS makes no mention of the fact that the editing was clearly contrary to the rules later adopted.

These are the most obvious criticisms to be made of the CBS defense of its editing of the MacNeil speech and the Henkin interview. CBS is actually dishonest in suggesting that there was no significance to the fact that it took a sentence out of proper chronological order to begin the synthetic statement it created for Col. MacNeil. The sentence was: "Well, now we're coming to the heart of the problem, Vietnam." This was then followed by a statement the colonel had made about Thailand and two sentences that he had quoted from the Premier of Laos concerning Southeast Asia. The latter two sentences were taken so completely out of context that they were not shown as quotations at all in the CBS synthetic statement.

Why was it necessary to introduce statements about Thailand, Laos, Cambodia and other Southeast Asian countries with the statement on Vietnam which CBS took out of its proper order? CBS did this for the very good reason that it wanted to lead into Col. MacNeil's synthetic statement with this: "The Army has a regulation stating: Personnel should not speak on the foreign policy implications of U.S. involvement in Vietnam." It would appear that CBS wanted to create the impression that Col. MacNeil was speaking in violation of that regulation. The easiest way to do this was to lead off the synthetic statement created for him with a sentence taken out of order. CBS seems not to understand the meaning and importance of context. If it can still say that what it did to Col. MacNeil's statement was fair editing, then no one's words are safe with CBS.

(2) CBS described the National Security Seminar given by the Industrial War College in Peoria, Ill., this way: "The Pentagon has a team of colonels touring the country to lecture on foreign policy. We found them in Peoria, Ill., where they were invited to speak to a mixed audience of civilians and military reservists. The invitation was arranged by Peoria's Caterpillar Tractor Co., which did $39 million of business last year with the Defense Department."

Every one of these sentences was challenged by the critics. The team did not come from the Pentagon, but from the Industrial War College. In addition to colonels, it included a Navy captain and a State Department civilian. The seminars cover 33 topics, including foreign policy, and they are given each year in seven locations throughout the country, primarily for the benefit of military reservists. They were invited to Peoria by the Association of Commerce of Peoria, which shared sponsorship with the 9th Naval District.

CBS, in a lame rejoinder, justifies its phrase, "a team of colonels," by asserting that the Navy captain is equivalent to a colonel and the State Department civilian was a reserve lt. colonel. It does not explain why it called this a "Pentagon" team rather than identifying the responsibility of the Industrial War College (Industrial College of the Armed Forces), but it justifies the misleading term by saying that the military officers are all subject to the authority of the Pentagon. It admits that it should not have said it "found" them in Peoria. It admits that the team lectures on many subjects other than foreign policy, but it defends the misleading statement by saying that the broadcast did not say the team lectured *only* on foreign policy. Presumably if the listeners inferred that, that was their mistake.

CBS says it was justified in saying that Caterpillar arranged the invitation, because an official of Caterpillar was co-chairman of the committee that arranged the seminar and they were told that he and his associates were very helpful "in heading up the committee and making all the necessary arrangements." CBS would apparently have us believe that anything an employee of a company does, including civic activities, can be attributed to the firm that employs him.

(3) CBS accused the lecturers for the Industrial College of the Armed Forces of violating military regulations in discussing foreign policy implications of Vietnam. It was criticized for not pointing out that the talks given by these speakers had been cleared not only by Defense but by the State Department. The Assistant Secretary of Defense says this is all the regulations require. CBS insists that the talks violated regulations, no matter who cleared them. Since national defense and foreign policy are frequently intertwined, it would seem clear that the Departments of Defense and State are in a better position than CBS to determine whether or not a speech runs counter to government regulations and policy.

(4) CBS was charged with having falsely suggested that friendly Congressmen, specifically Cong. F. Edward Hébert, had been "used" by the Pentagon in broadcasting interviews that they had made with Maj. James Rowe. This was vigorously denied by Cong. Hébert, who denied that the interview with Maj. Rowe was produced at the suggestion of the Pentagon or that the broadcast to his home district involved the use of Pentagon funds. This could easily have been the inference drawn by those who heard the CBS statement. CBS says the program did not say that the Pentagon produced the Hébert-Rowe interview or that it was the Pentagon's idea. However, it undermines this denial by stressing that Cong. Hébert thanked the colonel who served as liaison with the House Armed Services Committee for bringing Maj. Rowe to him. They do not seem to consider that Cong. Hébert might have asked the colonel to bring Maj. Rowe, who was famous for surviving five years of captivity as a VC prisoner and who successfully escaped, to see him. While denying that it meant to imply what it implied, CBS persists in conveying the same unfair implication.

(5) Cong. Hébert charged that CBS obtained the tape of his interview with Maj. Rowe by telling his office that it wanted it in connection with a documentary it was doing on prisoners of war. CBS denies this, saying that it was public knowledge that it was doing a documentary on public information activities of the Department of Defense at the time it obtained the Hébert tape. CBS asserts that no one on its staff ever represented that the tape it wanted from Cong Hébert was to be used for a POW documentary.

On the contrary, says CBS, they said they wanted the film in connection with a documentary on Pentagon public relations activities. This is flatly contradicted by Cong. Hébert's press secretary and by the Congressman. Congressman Hébert has put into the record letters or memos from the offices of five other congressmen who assert that they were approached by the same CBS staffers who approached Congressman Hébert's office to obtain tapes of interviews with Maj. Rowe. Four of them said they were told that CBS wanted these tapes in connection with a documentary it was doing on POW's. CBS makes no mention of this evidence confirming Cong. Hébert's charge that the CBS staff sought tapes of interviews between congressmen and Maj. Rowe under the pretense that they were working on a documentary on POW's. In a delightful evasion, CBS says:

"Months after the Rowe-Hébert program was delivered to Mr. Seabrooks, Mr. Branon contacted Mr. Hébert's office and the offices of other Representatives to obtain information with respect to additional Congressional interviews with Major Rowe and other military personnel, including other former prisoners of war. It is at this point, seemingly, that the confusion began. The focus on additional Rowe interviews and other POW interviews may well have been the genesis of the misunderstanding which arose."

We are expected to believe that five Congressional offices all got the impression that CBS wanted these tapes in connection with a documentary on POW's even though they were all presumably told that CBS wanted them in connection with a documentary on Defense Department public relations activities. That is too strange a coincidence to be swallowed.

(6) CBS devoted nearly one-fourth of "The Selling of the Pentagon" to films made by the military and available to the public. It said that most of the films were made originally for troop information but a large number was later released for public showing. It said that the Pentagon spends over $12 million a year on films. Later, in criticizing anti-communist films made by the Pentagon, CBS said: "But to the filmmakers at the Pentagon, with at least $12 million a year to spend, 1946 seems to have lasted a whole generation." One could easily infer from these statements that a very large part of the $12 million goes for films that are intended for public release. The Pentagon notes that the great bulk of the films are made for troop training, research development, recruiting, medical and religious use. It charges that CBS was wrong in implying that the $12 million in films was largely used to influence the public. CBS responds that it had no intention of implying what most of the viewers probably inferred from what was said.

(7) It is charged that CBS showed Robert Stack narrating a Defense Department film in a way that suggested that he was doing a film on the use of weapons in Vietnam when, in fact, the film was about unarmed reconnaissance pilots. The brief film clip used by CBS did give the impression that Stack was going to talk about guns in Vietnam. CBS says they had no intention of implying this and that "no such implication was created." Nevertheless, the inference was created.

(8) "The Selling of the Pentagon" gave many viewers the impression that a large military training exercise called "Brass Strike" was put on for the benefit of a small group of civilian VIP's. Describing this military exercise, CBS said: "An air and land assault on enemy territory was simulated for the visitors." The Defense Department points out that the training exercise would have taken place with or without the VIP visitors and that many other observers, including military personnel saw it. The answer CBS gives is that it did not say that the exercise would not have taken place in the absence of the VIP visitors, that it was other than a training exercise and that no other observers were present. True, CBS did not say any of those things, it only created that implication.

(9) It was charged that CBS showed Assistant Secretary of Defense Jerry Friedheim declining to answer half of the questions he was asked at a press briefing when actually at that briefing he responded to 31 of the 34 questions asked. The complaint was that CBS deliberately focused on those questions that Mr. Friedheim declined to answer for security reasons to create the impression that he did not provide the press with much information. It was charged that CBS used the same technique to indicate that press briefings in Saigon were characterized by "no comment" answers to newsmens' questions.

CBS said that at the Friedheim briefing at least 56 questions were asked and Mr. Friedheim was unable to answer 11 of these completely for varying reasons. This meant that he answered 80 per cent of the questions asked completely. CBS showed six questions being asked, the first three of which Mr. Friedman declined to answer or could not answer. In the CBS portrayal, his response rate was only 50 per cent compared with the actual 80 per cent which CBS says prevailed for the entire briefing. CBS says: "This is a fair representation which does not reflect adversely on Mr. Friedheim." What CBS selected to show was clearly not typical of Mr. Friedheim's performance at the briefing. CBS appeared to be trying to make the point that the press briefings are an occasion when the press is trying, without much success, to extract information from unwilling Defense Department spokesmen.

In introducing Mr. Friedheim, CBS described him as an "adversary" of the press. The briefing was described as a "confrontation," and CBS said of Mr. Friedheim: "He does not, of course, tell all he knows; he wouldn't have his job long if he did." There followed the carefully selected segment from the briefing showing Mr. Friedheim avoiding answering reporters' questions. That is what CBS calls a "fair" representation. The same kind of treatment was given the press briefing in Saigon for exactly the same reason. CBS said the daily press briefing there was "known among newsmen in Saigon as the Five O'Clock Follies." It indicated that the most popular phrase at the briefing was "no comment."

It then illustrated this by showing a film clip of the briefer declining to answer questions. The Defense Department claims that this was not a typical scene. CBS does not deny that the sequence it showed was not typical. Instead it argues that the briefer should have been authorized to answer the particular questions that he was shown declining to answer. Arguable though that may be, it does not get CBS off the hook for presenting an atypical sequence and passing it off to the viewers as completely representative of the daily briefings.

(10) CBS was criticized for saying that the phrase "protective reaction" means that the U.S. resumed the bombing of North Vietnam. The Defense Department states that "protective reaction" means a very limited kind of bombing undertaken to protect unarmed reconnaissance flights over North Vietnam. It emphasizes that this does not mean the resumption of the widespread bombing of North Vietnam carried out prior to November 1968. CBS responds that it only said the bombing had resumed, without saying that large scale bombing had been resumed. They say that the Defense Department has made it clear that "protective reaction" bombing is different from the pre-November 1968 bombing. CBS made not the slightest distinction of this kind, and many in the audience could well have been misled into thinking that the phrase, "the U.S. resumed the bombing of North Vietnam" meant that the U.S. had resumed the kind of bombing that was being carried out in 1968.

THE QUESTION CBS DID NOT EVEN TRY TO ANSWER

Although CBS once claimed to have an answer for every one of the criticisms of "The Selling of the Pentagon," its comprehensive reply to the critics leaves many questions unanswered. AIM criticized 23 points in the CBS documentary, and CBS dealt with only 13 of these in its "comprehensive" reply. Ten points, with 35 questions attached, were completely ignored.

Among the questions CBS avoided were these: (1) was it not inaccurate and unfair to suggest that John Wayne narrated Defense Department films in return for help in making "The Green Berets?" (2) How does CBS define its phrase, "Pentagon propaganda," and would any factual description of the record of communist oppression be labeled "propaganda" by CBS? Does CBS know that Walter Cronkite has changed his mind about the aggressive nature of communism, and if not why was it implied that he had changed his views?

In analyzing Pentagon films, why did CBS focus on films on communism and then complain that they dealt with communism? How does CBS reconcile its assertion that we adopted a policy of "peaceful coexistence" prior to 1961 with the Bay of Pigs invasion, the Cuban missile crisis, the building of the Berlin Wall and the Gulf of Tonkin resolution?

Many of the questions CBS did not try to answer probed the most serious flaw in "The Selling of the Pentagon," the fact that it was fundamentally dishonest. CBS says no one has refuted the basic veracity of the documentary. That is precisely what AIM did. That is why CBS has not answered AIM's deep probing questions.

Mr. Speaker, if anyone is further interested in the type of propaganda, such as was evidenced by the "Selling of the Pentagon" program, I add this bit of information from Claude Witze's column in Air Force magazine:

[From Air Force magazine, February 1972]

In case anyone is still interested, "The Selling of the Pentagon" is available for rental. It can be obtained for a fee of $65 from American Documentary Films, a nonprofit educational organization with offices at 336 West 84th St., New York, N.Y. 10024, or from 379 Bay St., San Francisco, Calif. 94133.

American Documentary Films advertises that it circulates "Films for Agitation." In addition to the CBS masterpiece, you can select from a list that includes, for example, "79 Springtimes," described as "a brilliant impressionist biographical tribute to Ho Chi Minh." And there is "Hanoi, Martes 13," which is a "moving salute to the Vietnamese," presumably those in North Vietnam. Then there is available, "Stagolee: Bobby Seale in Prison," a film in which the Panther leader speaks out, and another picture in which Angela Davis tells it like it is, from her viewpoint in jail.

The American Documentary Film catalog does not include "Road to the Wall," a documentary produced by CBS for the Department of Defense in 1962.

SPEAKING OF PRIORITIES

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. COLLIER. Mr. Speaker, we have heard a great deal of loud talk during the last 3 years about the urgent need for an immediate reordering of our national priorities. Much of what we have heard has been critical of the tremendous amounts spent for national defense as compared with lesser sums provided for nondefense programs.

During this month of February, when we observe the birthdays of George Washington and Abraham Lincoln, we ought to remember that they, too, had to deal with problems of priorities. The former would never have become the Father of His Country if his army had lost the struggle for independence. Victory over Cornwallis and his Redcoats at Yorktown necessarily preceded the Constitutional Convention in Philadelphia.

Although millions regard Lincoln as the Great Emancipator, other millions call him the Saviour of the Union. Actually, the slaves would not have been freed if the Union had not been preserved. Negro slavery would have been perpetuated had the Confederate States been successful in securing their independence. By keeping the Union intact Lincoln made meaningful emancipation possible.

Today Richard Nixon is faced with similar problems of priorities. His critics want him to drastically curtail defense spending in order that more billions will become available for nondefense programs. Unfortunately, it is not that simple. If our defenses are curtailed to the point that our national security is jeopardized, thus encouraging attack by an enemy power, lavishly funded nondefense programs will provide small comfort.

A perusal of the budget which Mr. Nixon has submitted to the Congress for fiscal 1973 shows that the percentage allocated to national defense has declined substantially since fiscal 1970, while the percentages for such nondefense items as social security, medicare, community development and housing, and manpower training have grown annually during his administration.

As our participation in the war in Vietnam continues to deescalate, it may be possible to achieve even further economies in the Defense Establishment. Such economies must not, however, be permitted to go beyond the needs of national security. By all means, cut the fat, but not the muscle.

Mr. Speaker, I am submitting for the RECORD a tabulation which shows how spending for national defense is declining on a percentage basis while the percentage spent on many nondefense items continues either to remain steady or to increase. Some of my colleagues may feel, as they study the figures, that the percentages for some of their favorite programs are pitifully inadequate. Let them bear in mind that each 1 percent will cost the taxpayers almost $2,500,000,000. The tabulation follows:

Function or subfunction	Outlays in millions of dollars				Percentages of total			
	1970 actual	1971 actual	1972 estimate	1973 estimate	1970 actual	1971 actual	1972 estimate	1973 estimate
National defense	80,295	77,661	78,030	78,310	40.8	36.7	33.0	31.8
Social security	29,045	35,874	40,053	45,501	15.1	17.0	16.9	18.5
Interest on the public debt	19,304	20,959	21,400	22,700	9.8	9.9	9.0	9.2
Veterans benefits and services	8,677	9,776	11,127	11,745	4.4	4.6	4.7	4.8
Medicare	6,783	7,875	8,974	10,436	3.5	3.7	3.8	4.2
Public assistance	5,186	7,775	10,111	10,335	2.6	3.7	4.3	4.2
Transportation (ground, air, and water)	6,757	7,713	8,354	8,633	3.4	2.6	3.5	3.5
Education	5,531	6,063	6,526	7,009	2.8	2.9	2.8	2.8
Agriculture and rural development	6,201	5,096	7,345	6,891	3.2	2.4	3.1	2.8
Retirement programs other than social security	5,344	5,123	6,147	6,291	2.7	2.4	2.6	2.6
Unemployment insurance benefits	2,886	5,324	6,454	5,255	1.4	2.5	2.7	2.1
General revenue sharing			2,250	5,000			1.0	2.0
Community development and housing	2,965	3,357	4,039	4,844	1.5	1.6	1.7	2.0
Manpower training and aids and employment services	1,771	2,603	3,644	4,305	.9	1.2	1.5	1.7
Health other than medicare and medicaid [2]	3,398	3,226	3,649	3,976	1.7	1.5	1.5	1.6
International affairs and finance	3,570	3,095	3,960	3,844	1.8	1.5	1.7	1.6
Medicaid	2,727	3,362	4,401	3,705	1.4	1.6	1.9	1.5
Space research and technology	3,749	3,381	3,180	3,191	1.9	1.6	1.3	1.3
Natural resources and environment	2,568	2,716	4,376	2,450	1.3	1.3	1.8	1.0
Social and individual services	1,331	1,617	2,477	2,297	.7	.8	1.0	.9
General government other than law enforcement and justice and central fiscal operations [3]	1,399	1,597	2,356	2,270	.7	.8	1.0	.9
Central fiscal operations	1,271	1,414	1,652	1,718	.6	.7	.7	.7

Function or subfunction	Outlays in millions of dollars				Percentages of total			
	1970 actual	1971 actual	1972 estimate	1973 estimate	1970 actual	1971 actual	1972 estimate	1973 estimate
Law enforcement and justice	666	959	1,294	1,543	.3	.5	.5	.6
Commerce other than transportation and postal service [4]	1,043	1,414	1,575	1,508	.5	.7	.7	.6
Postal service	1,510	2,183	1,943	1,409	.8	1.0	.8	.6
Pay raises (excluding Department of Defense)			250	775			.1	.3
Contingencies			300	500			.1	.2
Interest other than on the public debt	−992	−1,350	−1,333	−1,539	−.5	−.6	−.6	−.6
Undistributed intragovernmental transactions	−6,380	−7,376	−7,877	−8,590	−3.2	−3.5	−3.3	−3.5
Miscellaneous	−17	−14	−47	−55	(5)	(5)	(5)	(5)
Total	196,588	211,425	236,610	246,257	100.0	100.0	100.0	100.0

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[1] Net of offsetting receipts.

[2] Development of health resources, prevention or control of health problems, deductions for offsetting receipts, etc.

[3] General property and records management, National Capital region, legislative and judicial functions, central personnel management (net of offsetting receipts), executive direction and management, deductions for offsetting receipts, etc.

[4] Area and regional development, advancement and regulation of business, deductions for offsetting receipts.

[5] Percentage negligible.

Note: Due to rounding, individual percentages will not add to total.

ANNUAL AUTHORIZATION BILLS: BUDGET AMOUNTS INVOLVED

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. MAHON. Mr. Speaker, as all Members know, each year we consider a number of annual authorization bills for ongoing programs under existing law for a number of departments and agencies. The list has been growing over the years. This year, for the first time, the budgets of the Department of State and the U.S. Information Agency are subject to the annual authorization bill process.

As Members also know, lateness in enactment of some of these annual authorization bills has for some years been a cause for delay in final enactment of the related annual appropriation bills, causing uncertainties and administrative problems in managing the programs. We would very much hope that the various legislative committees will move with greater expedition this year because there is a special need to do so. I believe they will.

Processing the budget is the work of many hands. Legislative committees have an opportunity in processing the annual bills to exercise fiscal restraint by holding the authorization amounts as low as reasonably possible—something sorely needed at a time when the Federal funds budget deficit is now estimated at $44.7 billion for the current fiscal year and tentatively projected in the new budget at $36.2 billion for the forthcoming fiscal year 1973.

And this projected deficit for 1973 will be vastly greater if the experience of the current fiscal year is repeated.

I am inserting a current list of the annual authorization bill amounts in the budget that call for actions by the legislative committees. Large sums are involved; the total new budget authority identified for these programs in the 1973 budget is $47,402,944,000 for fiscal 1973 and $40,700,000 for the current fiscal year 1972.

The list follows:

1973 BUDGET: RECOMMENDED AMOUNTS REQUIRING ADDITIONAL AUTHORIZING LEGISLATION

NOTE.—These amounts are recommended in the 1973 Budget, but the Congress does not generally act on these appropriation requests until after enactment of the authorizing legislation.

[In thousands of dollars]

Judiciary:	
Commission on Bankruptcy Laws of the United States	426
Executive Office of the President:	
Special Action Office for Drug Abuse	6,856
Funds appropriated to the President:	
Office of Emergency Preparedness	----------
Foreign assistance:	
International security assistance:	
Military assistance	780,000
Foreign military credit sales	527,000
Economic supporting assistance	807,400
International development assistance:	
Multilateral assistance: International organizations and programs	175,335
Bilateral assistance:	
Grants and other programs	539,358
Development loans	634,500
Contingencies	100,000
Office of Economic Opportunity:	
Economic opportunity program	758,200
Total, Funds appropriated to the President	4,321,793
Commerce:	
International activities:	
Export control	5,507
Science and technology:	
National Bureau of Standards research and technical services	8,786
National Oceanic and Atmospheric Administration:	
Research, development and facilities	900
Fishermen's protective fund	61
Ocean shipping:	
Maritime Administration:	
Ship construction	250,000
Operating-differential subsidies	232,000
Research and development	30,000
Salaries and expenses	3,900
Maritime training	7,670
State marine schools	2,290
Total, Commerce	541,114
Defense—Military:	
Military Procurement:	
Aircraft procurement, Army	134,500
Missile procurement, Army	1,153,400
Procurement of weapons and tracked combat vehicles, Army	259,500
Procurement of aircraft and missiles, Navy	3,871,200
Shipbuilding and conversion, Navy	3,564,300
Other procurement, Navy	219,900
Procurement, Marine Corps	85,200
Aircraft procurement, Air Force	2,612,700
Missile procurement, Air Force	1,772,300
Research, development, test and evaluation:	
Army	2,051,100
Navy	2,710,900
Air Force	3,178,600
Defense agencies	507,200
Emergency fund, Defense	50,000
Military construction:	
Army	969,323
Navy	490,490
Air Force	291,285
Defense agencies	46,400
Army National Guard	40,000
Air National Guard	10,600
Army Reserve	38,200
Air Force Reserve	16,000
Family housing, Defense	977,200
Operation and maintenance, civil defense	29,041
Special foreign currency programs	3,000
Total, Defense-Military	25,089,339
Department of Health, Education, and Welfare:	
Health Services and Mental Health Administration:	
Health services delivery	155,330
Preventive health services	8,500
Office of Education:	
Higher education	1,452,656
Library resources	13,000
Educational renewal (Follow Through)	62,612
Higher education facilities loan and insurance fund	3,352
Social and Rehabilitation Services:	
Social and rehabilitation services	836,243
Office of Child Development (Headstart)	393,642
Total, Health, Education, and Welfare	2,925,355
Department of Housing and Urban Development:	
Comprehensive planning	100,000
Model cities	515,000
Open space	100,000
Neighborhood facilities	40,000
Total, Housing and Urban Development	755,000
Interior:	
Water and Power Resources:	
Bureau of Reclamation:	
Construction and rehabilitation	8,840

Upper Colorado River storage project	38,185
Water Quality and Research:	
Office of Saline Water:	
Saline water conversion	26,871
Total, Interior	73,896
Labor:	
Manpower Administration:	
Salaries and expenses	61,890
Manpower training services	1,633,366
Total, labor	1,695,256
State:	
All accounts	[1] 588,852
Transportation:	
Office of the Secretary:	
Grants-in-Aid for Natural Gas Pipeline Safety	1,000
Coast Guard:	
Operating expenses	297,693
Acquisition, construction, and improvements	135,660
Reserve Training	23,529
Research, development, test, and evaluation	1,348
Federal Highway Administration:	
Highway Beautification	*60,000
Highway trust fund: Federal-aid highways	*1,550,000
Forest highways	*33,000
Public lands highways	*16,000
Highway-related safety grants (Federal and Trust)	*30,000
National Highway Traffic Safety Administration:	
Traffic and highway safety	36,900
State and community highway safety	*33,333
Highway trust fund: trust fund share of highway safety programs	*66,667
Federal Railroad Administration:	
High Speed Ground Transportation and Development	60,800
Total, Transportation	2,345,930
Atomic Energy Commission:	
Operating expenses	2,072,830
(Supplemental for 1972)	(13,300)
Plant and capital equipment	366,860
(Supplemental for 1972)	(9,000)
Total, Atomic Energy Commission	2,439,690
(Supplementals for 1972)	(22,300)

*Contract authority.

1973 BUDGET: RECOMMENDED AMOUNTS REQUIRING ADDITIONAL AUTHORIZING LEGISLATION—Continued

[In thousands of dollars]

Environmental Protection Agency:	
Waste treatment construction grants	2,000,000
Operation, research, and facilities	97,000
Total, Environmental Protection Agency	2,097,000
National Aeronautics and Space Administration:	
Research and development	2,600,900
Construction of facilities	77,300
Research and program management	700,800
Total, National Aeronautics and Space Administration	3,379,000
Other Independent Agencies:	
Action: Operating expenses	184,700
(Supplemental for 1972)	(16,000)
Arms Control and Disarmament Agency	10,000
Commission on Civil Rights	4,646
Commission on International Radio Broadcasting	38,795
Corporation for Public Broadcasting	45,000
Indian Claims Commission	1,050
National Science Foundation	653,000
American Revolution Bicentennial Commission	6,712
(Supplemental for 1972)	(2,400)
Smithsonian	275
United States Information Agency: All accounts	[1] 198,748
Water Resources Council	531
Total, Other Independent Agencies	1,143,457
(Supplemental for 1972)	(18,400)
Grand Total: 1973 budget authority	47,402,944
(Supplementals for 1972)	(40,700)

[1] The-Foreign Assistance Act of 1971 (S. 2819) contains a provision amending Section 701 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1476), to prohibit appropriations to the Department of State and the United States Information Agency in fiscal year 1973 et seq., except as authorized by legislation enacted after the date of enactment of S. 2819.

Source of table: Office of Management and Budget, Revised January, 1972.

THE CASE FOR DISCIPLINE

HON. W. C. (DAN) DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. DANIEL of Virginia. Mr. Speaker, in my lifetime, I have seen a number of new words, coined to fit our advancing technology, come into existence. I have also seen a number of words from my earlier years disappear from our vocabulary either from inappropriateness or disuse. "Discipline" is such a word. To some, it seems a quaint holdover from the days of crinolines and spats. To others—myself included—it is an admirable virtue, fallen on hard times.

It was, therefore, heartening to me to read the speech offered by Rear Adm. Earl Yates, U.S. Navy, at the graduation ceremony, Naval Recruit Training Center, Orlando, Fla., on January 21 of this year.

I was extremely impressed by the manner in which Admiral Yates stated the case for discipline, and especially for self-discipline, but could not help wonder if the young people who were, after all, the targets for his presentation, could readily accept it.

You may imagine my surprise, then, when I learned that the author of these words was a young seaman apprentice only a few weeks out of boot camp.

So long as our military services can attract young people such as Seaman Share Layne Evans, we need have few apprehensions about the future of our land.

I am inserting Seaman Evans' speech, as delivered by Admiral Yates, in the RECORD, along with a biographical note regarding the author:

REMARKS AT GRADUATION CEREMONY

Good morning, Captain Rusk, Captain Haislip, distinguished guests, and members of the graduating company of the recruit training command. It is indeed an honor and a pleasure for me to be the reviewing officer of such a fine-looking group of young men.

You will leave here today and enter the Navy during one of the most dynamic stages in its history. Never before have there been so many opportunities—such as high-quality education; interesting assignments; and pleasurable living conditions—to name just a few—as in today's Navy. You are now entering the working end of a Navy of challenge and continuous improvement where those who are diligent in the performance of their duties will reap even more rewards than ever before. It is a Navy where personal initiative and responsibility are rewarded rather than frowned upon; a Navy designed with your individual needs and desires in mind. However, this new Navy will work only if you give it something in return.

While you have been here, you have been instilled with the finest traditions of the Navy. In spite of the so-called "permissiveness" of the new Navy, you will be expected to respect these traditions. And contrary to what many might think, there is a reason for them.

Part of that reason is discipline. In order to have a highly efficient organization—whether civilian or military—the personnel within it must maintain a high degree of discipline. In organizations where this is prevalent, not only are the accomplishments of a higher quality and effectiveness, but the persons involved obtain more freedoms and responsibilities than those who simply try to "make do" with as little effort as possible. This discipline makes for a more dynamic and relevant career in the Navy. It allows more "permissiveness" because with it, standards are kept up to par.

Self-discipline is one of the ingredients of maturity, and a selfish, inconsiderate man-child will not be respected nor allowed the responsibilities and freedoms of the mature, self-disciplined individual. If for no other reason, the undisciplined individual makes things harder, not only for himself, but for all those unfortunate enough to have to work with him. His lack of discipline infringes upon the freedoms of his cohorts, and for some reason, this sort of behavior simply is not appreciated nor tolerated.

It is the policy of the Navy to treat its personnel as mature, self-disciplined individuals, and it will do so, as long as you maintain its standards of discipline and effectiveness.

I realize it is sometimes difficult to keep one's self-discipline in gear. We all have times when we want to shrug off our responsibilities for a little while. However, if you persevere in your duties, the rewards you receive will be more advantageous to you than the punishment.

In today's world, the actions of one individual increasingly influence, either directly or indirectly, another individual's life—someone he may not even know. This makes self-discipline even more important, not only as a military man, but as a private citizen. A mistake on your part because you did not feel like handling your responsibilities, just might be the reason the man down the hall is dead. We read about such incidents every day in the newspaper—some immature motorist gets angry while driving, makes a wrong move, and causes a three-car collision. This same man-child could be the one who keeps the division in turmoil, or makes a fatal move on the ship and endangers the lives of his shipmates. So you see, your decisions affect everyone, not just you. And self-discipline will aid you in making the right decision. If you develop this discipline, you will do well in the Navy and any other venture you might attempt.

The Navy is willing to help you in every way it can, but it can do so only if you are willing to cooperate with it and assist it in accomplishing its mission.

Thank you very much.

* * * * *

Gentlemen, that concludes my prepared remarks. It is the second speech in my life that I had read, and the first one was a flop. The reasons I read this one might be of interest to you, and there are two or three reasons:

First—I believe very strongly in every word that was said and my own career of over 30 years service bears testimony to the wisdom of those words.

Second—I think it represents the sort of unqualified excellence that we are getting into our Navy today. This speech and your performance here today, both of which reinforce and inspire me, are outstanding examples. You see, this speech was written by a seaman apprentice—a seaman apprentice with only a few weeks in the Navy and only recently out of boot camp.

Third—I think it is further interesting and significant that it was written by a girl seaman apprentice named Share Evans who works in my office. My only instructions in asking for its preparation were: "I would appreciate it if you would jot down some comments from which I might make a speech to the recruit training center." Well, when I saw them I thought they were so good that I didn't change a single word of them; and to make sure that I didn't, I read the speech to you.

Seaman Apprentice Share Evans is very inspired with her role in the Navy and she is making a tremendous contribution to it. I look forward to serving in the Navy of the future with outstanding people like the young WAVE who wrote this speech and with the inspirational sailors who have demonstrated here today. I think this is one of the finest parades and ceremonies I have ever seen. It is an inspiration to me. I hope it is inspirational to the people—the young people, the civilians and military—who are here with us today. I thank you very much for a very fine day.

SHARE LAYNE EVANS, JOURNALIST SEAMAN APPRENTICE, U.S. NAVY

Share Layne Evans was born on October 28, 1950 in Bluefield, West Virginia. She is the daughter of Mr. and Mrs. James R. Taylor of 315 Stowers Street, Bluefield, West Virginia.

Following graduation from Bluefield High School, Miss Evans attended Concord College in Athens, West Virginia. At Concord, she majored in English and philosophy. She was editor of the *Concordian*, the college newspaper; chairman, College Center Board; chairman, Freshman Orientation; and a member of the Student Affairs Council, the Senate, the Literary Society, and Alpha Psi Omega, the drama fraternity.

On March 17, 1971, Miss Evans enlisted in the United States Navy. She attended basic training at Recruit Training Command (Women) Bainbridge, Maryland.

Following basic training, she attended the Defense Information School at Fort Benjamin Harrison, Indiana.

Miss Evans reported to Commander Amphibious Operations Support Command, U.S. Atlantic Fleet, Naval Amphibious Base, Little Creek, Norfolk, Virginia on September 17, 1971.

She enjoys writing poetry, painting, reading, playing the guitar, classical music, and drama.

A LITTLE MORE LIGHT—PLEASE

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. ROBISON of New York. Mr. Speaker, we have just marked again, each in our own way, the anniversary of the birth of that great American, Abraham Lincoln.

There are endless anecdotes about Lincoln, some valid and some questionable as to origin. But one of the more persistent—and one of my favorites—involves a story Lincoln is supposed to have told when, during the Civil War, he was under vicious attack by hostile editorialists concerning whom he commented:

> I guess I'm like the chap who was riding along a backwoods trail and was caught in a storm. He kept plodding ahead until his horse gave out, and then it grew dark. He had only the lightning to show him the trail. The thunder was terrifying and, when one bolt seemed to crash at his feet, he fell to his knees.
>
> "Oh, Lord," he prayed, "if it's all the same to you, give us a little more light and a little less noise!"

At the current moment, amidst the developing thunder over the difficult and emotion-charged issue of school busing, and as we move toward possible consideration soon, here in this Chamber, of a constitutional amendment offered to deal somehow—though in about the most cumbersome way I can personally think of—with this issue, we could certainly all use all the objectivity and responsibility we can muster, and certainly "a little more light and a little less noise."

Today's lead editorial in the Wall Street Journal offers, I think, such light—and I include it now in the hopes my colleagues will read and consider it carefully, and that it will similarly be read and considered at the White House:

AN "ANTIBUSING" AMENDMENT?

In principle we find much to be said for a constitutional amendment outlawing the use of racial quotas in schools and elsewhere, and in the end that step may yet prove necessary. Yet we are given pause by the timing of, and in some cases the spirit behind, the anti-busing amendments now offered in Congress.

President Nixon apparently has pledged to put the administration's weight behind the movement against busing to achieve racial balance, and is now considering whether a constitutional amendment is the best method of doing so. Alternatives include supporting anti-busing legislation or directing the Justice Department to intervene in court suits on behalf of the anti-busing position.

We find it hard to fault the administration for wanting to do something to recognize the growing public opposition to busing for racial balance. Public opinion polls find the overwhelming majority of whites and about half the blacks oppose any such step. Nor, when the issue actually arises, is this a passive opposition; people are quite prepared to get excited about matters touching their children. If the courts actually do order extensive busing throughout the nation, the reaction could well be strong enough to stop the civil rights revolution in its tracks—in fact, this is the one thing we can see that might do that.

The realistic way to frame the problem is not in terms of stopping the reaction against busing, an impossible task, but in terms of channeling it in reasonably healthy directions. This means that if the administration is to take an anti-busing initiative, the important thing is to shape it in a way that is intellectually and morally respectable.

Among the distinctions this requires is a sense of what is constitutional timber and what is not. The mechanics of busing or attendance zones or school financing, these are not matters a sensible nation deals with through constitutional amendments. But underneath the "busing" debate, and underneath the court decisions requiring busing, there is an issue of truly constitutional sweep: whether government policy ought to be color-blind, or ought to require some form of racial quota.

On this issue the high ground belongs, at least as a matter of logic, to the "anti-busing" side. Certainly the higher ideal is a state where pluralistic racial and ethnic groups coexist under a law that takes no formal notice of their differences. Far higher than the "ideal"of a state that parcels out members of a racial group by quotas, with the ultimate implication that the misery of their company must be spread.

Clearly it is the pluralistic-color-blind state that we should ultimately be trying to create That's why it's possible to conceive of an entirely respectable "anti-busing" position. That is also why, if the courts actually do follow the recent drift of their logic to the conclusion that the Constitution requires at least loose racial quotas, it's possible to conceive of a constitutional amendment writing the colorblind position into the highest law.

But, yet, matters of logic do not always prevail, and in the current context it's doubtful that an anti-quota amendment could in fact claim the high ground it deserves. Much of the support for anti-busing amendments arises from segregationist sentiments, and unfortunately the administration has nothing like the kind of rapport with blacks that might offset this taint. This is of course not a very powerful argument—that we should not do the right thing because it would not *seem* to be the right thing—and the courts may yet make it necessary to set such considerations aside.

As a practical matter, though, President Nixon's appointments have created a new Supreme Court, and even without that the Supreme Court far more than lower courts has usually been sensitive to developments such as the rising public opposition to busing. Also as a practical matter, the kind of loose quotas and extensive busing used to remedy *de jure* segregation in the South have obviously been useful tools for breaking the recalcitrant resistance to integration there. It's hard to condemn them so long as they can be seen as temporary and exceptional expedients, not the permanent rule by which this nation will deal with racial division.

So perhaps the administration would be wise to wait, not necessarily long but at least for a year or two, before it lends its support to anything so drastic as a constitutional amendment. The best source of a respectable "anti-busing" rationale, one that both preserves the ideal of racial justice and avoids the impasse into which the issue seems to be headed, would be the courts themselves.

A VISION FOR PEACE

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. WALDIE. Mr. Speaker, in view of the drastic threat of a cut in the Peace Corps budget—I would like to share a vision for peace so clearly expressed by President John F. Kennedy in 1963. His words resound the spirit and envision the goal of the Peace Corps as a vital part of U.S. foreign policy. To retreat from this vision would be a tragedy for America and for the countries served by our Peace Corps. The letter follows:

LETTER TO THE PRESIDENT OF THE SENATE AND TO THE SPEAKER OF THE HOUSE TRANSMITTING BILL TO STRENGTHEN THE PEACE CORPS, JULY 4, 1963

DEAR MR. SPEAKER: I am pleased to transmit legislation which will authorize the appropriation of $108 million for the Peace Corps in Fiscal Year 1964. It is fitting that this request is made on the 187th anniversary of the Declaration of Independence. For the Peace Corps exemplifies the spirit of that revolution whose beginnings we celebrate today.

That revolution was not only a revolution for American independence and freedom. It was, as Jefferson perceived and Lincoln proclaimed, a revolution unbounded by geography, race or culture. It was a movement for the political and spiritual freedom of man.

Today, two centuries later and thousands of miles from its origin, the men and women of the Peace Corps are again affirming the university of that revolution. Whether expressed by the community development projects of Latin America, or the panchayati raj program of India, the determination of people to be free, to govern themselves, and to share in the fruits of both the industrial and democratic revolutions, is one of the most profound forces at work in the world. To this revolution Peace Corps Volunteers are giving the same qualities of energy and spirit to which the 21 year older Lafayette and his equally youthful contemporaries gave as volunteer participants in our own revolution.

In less than two years their accomplishments have already been impressive. They constitute more than one-third of all the qualified secondary teachers in Sierra Leone, Ethiopia, and Nyasaland; they have saved a three-quarter million dollar rice crop in Pakistan; they have vaccinated over 25,000 Bolivians; they are teaching in 400 Philippines schools; they have created a thriving poultry industry in the State of Punjab in India; they are teaching in every rural secondary school in Costa Rica and virtually every secondary school in British Honduras; they have contributed to the creation of a system of farm-to-market roads in Tanganyika. But these are only isolated examples; all over the world Volunteers have surveyed roads, taught students and teachers, built schools, planted forests, drilled wells, and started local industries. In their off-hours they have conducted adult education classes, organized athletic teams, and launched programs ranging from music clubs to debating teams.

As important as these achievements are, they are far less important than the contribution Peace Corps Volunteers are making in building those human relations which must exist for a happy and peaceful understanding between people. The United States and a few other fortunate nations are part of an island of prosperity in a world-wide sea of poverty. Our affluence has at times severed us from the great poverty stricken majority of the world's people. It is essential that we demonstrate that we continue to be aware of the responsibility we fortunate few have to assist the efforts of others at development and progress.

With Americans, Lord Tweedsmuir wrote, "the sense of common humanity is a warm and constant instinct and not a doctrine of the schools or a slogan of the hustings." By the careful selection and training of men and women in whom that instinct is a reality, the Peace Corps has already erased some stereotyped images of America and brought hundreds of thousands of people into contact with the first Americans they have ever known personally. "When the Peace Corps came to my country," wrote the Minister of Development of Jamaica, "they brought a breath of fresh air. They came and mixed with the people. They worked closely with the people. They closed the gap and crashed the barrier. And because they did this, they have paved the way for our own people to understand . . ."

It is no accident that Peace Corps Volunteers have won this kind of acceptance. Nor is it a coincidence that they have been greeted—as the Ethiopian *Herald* stated—"with open arms." They have been warmly received because they represent the best traditions of a free and democratic society—the kind of society which the people of Africa, Asia, and Latin America long for as the ultimate end of their own revolution.

The Communist system can never offer men optimum freedom as human beings. The people of the world's emerging nations know this. Their aspirations for a free society are being stimulated by the presence of Peace Corps Volunteers who have come not to usurp but to encourage the responsibility of local people and not to repress but to respect the individual characteristics and traditions of the local culture. "What is most remarkable about America," wrote German scholar, Philip Schaff, "is that over its confused diversity there broods a higher unity." Because Volunteers of different races and different religions nonetheless come from the same country, they represent the hope of building a community of free nations wherein each one, conscious of its rights and duties, will have regard for the welfare of all.

Already the Peace Corps idea has spread to other nations. Last week I attended the official inauguration of West Germany's own Peace Corps program. The first group of 250 young men and women will be ready for service next year and will eventually include more than a thousand young Germans working around the world. Three other European countries—the Netherlands, Denmark, and Norway—have started similar programs. Argentina and New Zealand have already established volunteer organizations. These efforts have been stimulated and assisted by the International Peace Corps Secretariat, established by the International Conference on Middle Level Manpower last fall in Puerto Rico. The bill I am transmitting would enable the United States to continue to encourage this movement.

The first American Volunteers are already returning to the United States after two years of Peace Corps service. They are bringing home important skills and experience which will greatly enhance our knowledge of the world and strengthen our role in international affairs. More than one-third of the 700 Volunteers returning this year have indicated a desire to work in international programs. Their ability and usefulness is attested to by the action of thirty-five universities in the United States which have established two hundred scholarships for returning Volunteers. One of these scholarships was created by the donations of the foreign students studying in California. I am also recommending a provision which would authorize the Peace Corps to assist these returning Volunteers to make the most of their opportunities for further usefulness to the Nation.

The funds I am requesting will enable the Peace Corps to place some 13,000 Volunteers in training or abroad by September 1964, a significant increase over the 9,000 who are expected to be enrolled before the end of this year.

Three thousand Volunteers of next year's increase are destined for service in Latin America and one thousand in Africa. In both of these areas an historic opportunity is a hand for the United States. In Latin America, the Peace Corps can, within the span of a relatively few years, write an important chapter in the history of Inter-American partnership and kindle faith in the possibilities of democratic action on the community level. In Africa the Peace Corps will concentrate its efforts on meeting a critical teacher shortage. The opportunity to teach hundreds of thousands of African students is unparalleled in our history.

It is my hope, therefore, that the Congress will enact this legislation making it possible for the Peace Corps to continue to share with the new nations of the world the experience of a democratic revolution committed to human liberty.

Sincerely,

JOHN F. KENNEDY.

THE 54TH ANNIVERSARY OF THE DECLARATION OF INDEPENDENCE OF LITHUANIA

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. GOLDWATER. Mr. Speaker, today, February 16, I would like to join with my colleagues in the observance of the 54th anniversary of the Declaration of Independence of Lithuania.

As Dr. Kazya C. Bobelis, president of the Lithuanian American Council put it—

> The only country in which they will be unable to commemorate this historical event will be in Lithuania itself, because of the continuing subjugation and oppression by the Soviet Union.
>
> Since WWII, many new and independent countries were born. The free world applauded the formation of these republics in Africa and Asia, where the principle of self-determination was honored. But how tragic that the same principle of self-determination is not honored to the countries of Eastern Europe, including Lithuania!

Again, I join with my colleagues in calling for freedom for Lithuania and the other two Baltic States, Latvia and Estonia, from Soviet oppression. I would also like to call a resolution, recently passed by the Board of Supervisors of Los Angeles County, to the attention of my colleagues. The resolution reads as follows:

RESOLUTION

On motion of Supervisor Debs, seconded by Supervisor Dorn, unanimously carried, the following resolution was adopted:

Whereas, this year marks the 721st Anniversary of the formation of the Lithuanian State when Mindaugas the Great unified all Lithuanian principalities into one kingdom in 1251 and the 54th Anniversary of the establishment of the Republic of Lithuania on February 16, 1918 commemorated by Americans of Lithuanian origin or descent and their friends in all parts of our great Nation; and

Whereas, the Communist Regime did not come to power in Lithuania, Latvia and Estonia by legal or Democratic process; and

Whereas, the Soviet Union took over Lithuania, Latvia and Estonia by force of arms; and

Whereas, the government of the United States maintains diplomatic relations with the governments of the free Baltic Republics of Lithuania, Latvia and Estonia and consistently has refused to recognize their seizure and forced incorporation into the Soviet Union; and

Whereas, the Committee of the House of Representatives, created by H. Res. 346 of the 83rd Congress to investigate the incorporation of the Baltic States into the Soviet Union, found that the incorporation of Lithuania, Latvia and Estonia was contrary to established principles of international law; and

Whereas, the House of Representatives and the United States Senate (of the 89th Congress) unanimously passed House Concurrent Resolution 416 urging the President of the United States to direct the attention of world opinion at the United Nations and at other appropriate international forums by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Lithuania, Latvia and Estonia and to bring the force of word opinion to bear on behalf of the restoration of these rights to the Baltic Peoples:

Now, therefore, be it resolved, That the Board of Supervisors of the County of Los Angeles respectfully urges the President of the United States to bring the question of liberation of the Baltic States before the United Nations and ask that body to request the Soviet Union withdraw all of its troops and release its control of Lithuania, Latvia and Estonia and return to their homes all Baltic exiles and deportees from prison camps in the Soviet Union; and

Be it further resolved, That a copy of this resolution be forwarded to the President of the United States, Secretary of State William P. Rogers, and United States Ambassador to the United Nations, George Bush.

HOUSE OF REPRESENTATIVES—*Thursday, February 17, 1972*

The House met at 12 o'clock noon.

Rev. John W. Josupait, pastor of Zion Evangelical Lutheran Lithuanian Church, Chicago, Ill., offered the following prayer:

Almighty God, "our help in ages past, our hope in years to come," we beseech You to bless this august body, the House of Representatives, with wisdom and understanding, with love for righteousness and peace, that under their leadership our country may continue to enjoy Your grace and favor.

Eternal God, regard with benign mercy the sufferings and hardships of the people of Lithuania, who are eagerly longing to be free again and grant them the privilege of freedom.

Bestow, Heavenly Father, Your Holy Spirit upon the leaders of our freedom-loving Nation to seek diligently the liberation of Lithuania and other suppressed countries to attain their independence, to insure tranquillity, and to secure the blessings of liberty. In the name of Jesus Christ, our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 524. Concurrent resolution, National Day of Prayer for cause of world peace.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3122) entitled "An act to extend sections 5(n) and 7(a) of the Federal Water Pollution Control Act, as amended, until the end of fiscal year 1972."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 596. An act to require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within 60 days after the execution thereof.

NO AMNESTY FOR DRAFT DODGERS AND DESERTERS

(Mr. ABERNETHY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ABERNETHY. Mr. Speaker, of late a few weak voices have spoken out suggesting amnesty for draft dodgers and those who have deserted our Armed Forces. Incidentally, I understand that one of those who thinks he is running for President, and possibly another, is advocating such.

Amnesty for these people is simply beyond my understanding. It is unthinkable. Except for a few scattered voices here and there, it is also beyond the understanding of the American people.

I know this has been an unpopular war. No war is popular. It is unfortunate and lamentable that we ever became involved in any war. But once we are involved, there is a duty on the part of all Americans to back the cause of our country to the limit—and at the risk of our individual lives.

During the time of every war there have always been some who desert and some who flee to sanctuaries outside the Nation to avoid duty in the Armed Forces. But thanks to the courage and patriotism instilled in the people of this great Nation, those who desert and flee are few in number.

We are a nation of laws, and laws have been on our statute books since the early days of this Republic which appropriately take care of traitors, deserters, and draft dodgers. Let the law take its course. Indeed, there should be no amnesty for those who do not measure up when our country calls.

In this connection, Mr. Speaker, I include as a part of my remarks, the full text of a letter just received by me from Indianola Post No. 2, the American Legion, Indianola, Miss., as follows:

THE AMERICAN LEGION,
INDIANOLA POST NO. 2,
Indianola, Miss., February 8, 1972.

To Our Senators and Congressmen:

At a regular meeting of the Indianola Post No. 2, American Legion, Feb. 8th 1972, the following motion was made, seconded and passed unanimously:

"The Indianola Post No. 2, American Legion, opposes amnesty for those of Our Armed Forces, who have deserted, from The Armed Forces Of The United States Of America, also, for those who are trying to avoid serving honorably, by going into other Countries.

Also, the Post Officers are requested to advise Our Senators and Congressmen of our actions hereby taken."

Sincerely,
INDIANOLA POST NO. 2, AMERICAN LEGION,
By BOB ELMORE, *Commander.*
CARL B. BETHEA, *Adjutant.*

VIOLATIONS OF RENT CONTROL GUIDELINES

(Mr. WRIGHT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WRIGHT. Mr. Speaker, yesterday I called attention to exorbitant rent increases being charged by at least one large corporate landlord in the Washington metropolitan area. Since that time, my telephone has been kept almost constantly busy with calls from people reporting similiar incidents.

In this morning's Washington Post appears a story written by Bob Woodward in which it is estimated that tenants in at least 120,000 Washington area apartment units will get rent increases of about 8 percent during the next 5 months.

This obviously is far above the 2.5-percent increase at which the rent control guidelines ostensibly were directed.

The Washington Post story is in error, however, in declaring that these unusually large increases are permitted under the regulations only for tenants on yearly leases and that tenants on a month-to-month basis are actually receiving rent increases of only about 2.5 percent.

Some of the cases which had been called to my attention earlier, and many additional ones reported to me in a very large number of telephone calls I have received since yesterday, involve month-to-month tenants who also have received notices of rent increases of approximately 8.5 percent.

Very obviously, the rent control program is being thwarted on a very wide scale, and large landlords are asking higher increases as a result of the guidelines than they were asking before the program went into effect.

Therefore, something is manifestly wrong in the guidelines and it desperately needs to be corrected if we are serious in our efforts to hold down the cost of living.

THE LATE JOHN R. MURDOCK

(Mr. UDALL asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. UDALL. Mr. Speaker, sadly I bring my colleagues' attention to the death Monday of kindly, scholarly John Murdock, former chairman of the House Interior Committee.

Programs working for America today are the direct result of Mr. Murdock's service in Congress from 1937 to 1953. He has been called the father of the U.S. desalinization research efforts. He played a major role in setting up the Indian Claims Commission. In the Southwest he is well remembered for his work to win adoption of the Navajo-Hopi rehabilitation bill and his leadership on behalf of the Wellton-Mohawk reclamation project in southwest Arizona.

In a sense, Mr. Murdock came to Congress as a candidate of youth or at least youthful memories. He was dean of students and professor of history and political science at Arizona State University when he plunged into the congressional race and defeated eight veteran politicians. They said Mr. Murdock's former students helped elect him.

He was Arizona's only House Member for his first three terms.

Two of Mr. Murdock's textbooks are still basic texts in Arizona schools—"Constitution of Arizona" and "Constitutional Development in Arizona." A study of the State constitution is a requirement for high school graduation, the culmination of an effort led by Mr. Murdock.

Many of you probably know his remarkable wife, Mrs. Myrtle Cheney Murdock, who shared her husband's devotion to history and teaching—she began teaching at age 15.

Her book on the Capitol is regarded as the most authoritative history available. She was one of the leaders in the Capitol Historical Society and was instrumental in originating the Capitol guide program.

When I came to Congress in 1961, John Murdock came quickly to counsel me. I learned much from this dedicated man, particularly in relation to my own service on the House Interior Committee.

Mr. Murdock is gone and those of us who knew him and his works deeply share the sorrow of Mrs. Murdock, their son and their daughter. We can take comfort, though, in knowing that many of his efforts on behalf of the public he served with such dedication are very much alive today.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to my colleague from Arizona.

Mr. RHODES. Mr. Speaker, I was saddened by the death on Monday of Arizona's former Congressman John R. Murdock. He was a man who served his Nation and his State well and ably during the eight terms he represented Arizona in Congress—first as Arizona's only Congressman, and later as our Member from the First District.

Mr. Murdock's interest in the problems and development of the West led him to leadership in the House Interior and Insular Affairs Committee, where he served as chairman of the Irrigation and Reclamation Subcommittee in the 81st Congress and of the entire committee in the 82d. He will be remembered for the role he played in the establishment of the desalinization research program of the Interior Department and of the Indian Claims Commission. In Arizona, he will be particularly remembered for his work in securing approval of Congress for the Wellton-Mohawk reclamation project and the Navajo-Hopi rehabilitation bill.

John Murdock is also recognized as one of Arizona's outstanding educators. He was a member of the faculty of Arizona State University for 23 years—a fine teacher and professor of history and political science, and, later, dean of students. He also taught during the summer sessions at Arizona's two other colleges—the University of Arizona and Northern Arizona University. As a result of his efforts, the Arizona constitution is now taught in the elementary and high schools of the State, and the textbooks he wrote on the Arizona constitution are still used and well known. In 1960, Mr. Murdock was made an honorary doctor of laws by Arizona State University—an honor he well deserved.

Before he returned to Arizona, Mr. Murdock remained for some years in Washington, and I was privileged to see him rather frequently. I valued our friendship and enjoyed our association. He was always generous in sharing his great knowledge. We spoke often, and I learned much, of the background of the central Arizona project, in which he was vitally interested, from these conversations.

The life which John Murdock lived in Arizona and in Washington was lovingly shared by his wife Myrtle Cheney Murdock, a woman well known in her own right for her research, writings and wide knowledge of the Capitol and Washington. To her and to their children, Rachael Murdock Ellis and John B. Murdock, Mrs. Rhodes and I extend our heartfelt sympathy in their great loss. I hope the knowledge that their grief is shared by everyone who knew John Murdock will be of help to them in their hour of need.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of my statement.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

THE POSTAL SERVICE—WHEN YOU ARE NO. 2 YOU HAVE TO TRY HARDER

(Mr. HALL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. HALL. Mr. Speaker, it is common knowledge that I am an ofttimes critic of this Nation's Postal Service. It has always been an enigma to me how it got into the confused state it finds itself. However, I think that I have now "stumbled" across a clue that will help solve the puzzle.

This past weekend, the Postal Service delivered unto me a request for a campaign contribution from the Democratic National Committee—I assume they have been forced to use the mail since their 1968 telephone bill is still unpaid.

The letter was addressed to "dear friend" and signed by Lawrence F. O'Brien. Realizing that Mr. O'Brien is a former Postmaster General, I have reached the conclusion that he must indeed be the one who placed the Postal Service in such a state of disarray. Why? Simple—

First. The letter was addressed to an office I have not occupied for 5 years.

Second. The salutation was all wrong—I certainly am no friend of Mr. O'Brien's.

Third. I never contribute to worthless charities.

Now, I realize that the Democrat Party is in desperate straits. My information is that they must pay in advance for office space, and even their poet-laureate has been unable to rhyme his way out of bills unpaid, for 4 years.

While I can offer little more than sympathy for Mr. O'Brien's dire financial position—my calculations are that the Democrat Party's debt figures out to about $1 million per candidate—the only solace that I can offer is this: when you are No. 2, you have to "try harder."

CALL OF THE HOUSE

Mr. CEDERBERG. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 43]

Abourezk
Anderson, Ill.
Baring
Bell
Betts
Blackburn
Blatnik
Boggs
Bow
Bray
Brown, Mich.
Burleson, Tex.
Caffery
Celler
Chisholm
Clark
Clausen, Don H.
Clay
Collier
Conyers
Delaney
Diggs
Dwyer
Edwards, La.
Ford, William D.
Fraser
Fulton
Galifianakis
Gallagher
Gettys
Gray
Green, Oreg.
Gubser
Harsha
Harvey
Hathaway
Holifield
Horton
Howard
Jarman
Johnson, Calif.
Jones, Tenn.
Kazen
Keith
Kemp
Kyros
Landrum
Link
Long, La.
Lujan
McCloskey
McClure
McCormack
McEwen
McKevitt
Macdonald, Mass.
Mathias, Calif.
Michel
Minish
Minshall
Mizell
Morgan
Morse
Murphy, N.Y.
Myers
Nichols
Obey
O'Konski
Patman
Pepper
Pike
Price, Tex.
Pryor, Ark.
Pucinski
Rees
Ruppe
Satterfield
Scherle
Smith, N.Y.
Stanton, J. William
Steed
Stratton
Stubblefield
Talcott
Teague, Calif.
Teague, Tex.
Thompson, Ga.
Vander Jagt
Veysey
Vigorito
Whalley
Wilson, Charles H.
Zwach

The SPEAKER. On this rollcall, 338 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ACHIEVING AND MAINTAINING PEACE

(Mr. HÉBERT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HÉBERT. Mr. Speaker, in his appearance before the House Committee on Armed Services today, Secretary of Defense Mel Laird began his presentation of the annual Defense Department report by stating:

> This 1972 Defense Report is about peace: How to achieve it and how to maintain it.

This positive approach is evident throughout the sound, balanced program Secretary Laird has presented to us. Every aspect of this program is in furtherance of President Nixon's objective of a generation of peace.

As the war in Vietnam winds down and the Defense Department moves toward an all-volunteer force, Secretary Laird speaks of total force planning to implement the strategy of realistic doctrine deterrence. He has detailed our defense requirements under the Nixon doctrine which include a force structure predicted on the total force concept—an integrated force comprised of the active military establishment, an effective Reserve and National Guard as well as the forces of our allies.

I commend Secretary Laird for his fine report, "National Security Strategy of Realistic Deterrence," and encourage all of you to study it carefully. In my opinion, it presents a completely realistic budget.

THE ECONOMIC OPPORTUNITY ACT OF 1964

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12350) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 12350, with Mr. Rooney of New York in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, the gentleman from Kentucky (Mr. Perkins) had 7 minutes remaining and the gentleman from Minnesota (Mr. Quie) had 16 minutes remaining. The Chair recognizes the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. Esch).

Mr. ESCH. Mr. Chairman, the first 5 years of a child's life are crucial in his intellectual and social development. It is now generally accepted by experts that over one-half of a person's ability to learn is already settled before he enters the traditional school system in kindergarten. This fact has obvious and far-reaching implications as we study means of equalizing educational opportunity for all students. Clearly, where a child comes from a deprived home, it is important to reach him early if he is to develop to his full capacity.

At the same time, there are increasing pressures in society for mothers to leave the home and earn a living—either through necessity to supplement the family income or through choice to continue her profession.

As a result of these two separate developments, there has been an increased realization that early child care facilities in this Nation are inadequate. Few facilities exist; many provide only physical watchcare with no attention to the developing needs of children; those which do provide educational programs are often inordinately expensive and out of the reach of working-class families.

Because of all these problems, I have long believed that an early child care program should receive the attention of the Congress and the Nation. I worked as a member of the Education and Labor Committee on child development legislation and supported the child development amendment to the OEO bill when it came to the House. That legislation was vetoed by the administration primarily for administrative reasons. I frankly felt that the pressing need for the program outweighed the slight administrative difficulties and was deeply disappointed when the veto was upheld.

Now the committee has reported new legislation—once again connecting the child care problem to the extension of the entire Office of Economic Opportunity. This time however, instead of working on the broad needs in the field of child development, the bill includes only an expansion of Headstart. While Headstart has been a useful program, it seems clear to me that to expand it will only result in further fragmentation of our early child programs and will further institutionalize its faults of duplication, excessive administrative costs, lacks of paraprofessional training and research programs, and noncoordination.

I strongly fear that the Congress will, by accepting this partial answer, ignore the broad needs which exist in the field of early childhood education. I fear that acceptance of this bill will result in yet another instance where the promise of Federal rhetoric will vastly exceed the practical results of the program and leave us, once again, with overpromise and unmet needs.

I believe that the House should delete the additional funds for Headstart programs within this OEO legislation and should then get on to the task of approving separate legislation which can truly meet the needs of the Nation and its children.

An equally important aspect of the legislation we are considering today is the question of legal services.

I support the committee action in approving title X of H.R. 12350 which creates a National Legal Services Corporation. The National Legal Services Corporation has sought to administer a program of providing comprehensive legal services to the poor through locally administered and controlled grantees. The legal services program has sought to protect the independence of its lawyers and the traditional lawyer-client relationship. The American Bar Association gave its support to the program in 1965 after it received assurance that the program and its lawyers would not be subjected to influences which would alter these traditional and important ethical considerations.

The need to protect independent advocacy combined with professional dictates to be free of outside sources of pressures resulted in the establishment of a National Advisory Committee for Legal Services. This committee would give the Director of OEO and the Association Director for Legal Services the advice and guidance necessary to develop a policy position. The committee is made up of leaders of the professional bar, and legal experts who see to it that the program is conforming to the professional dictates necessary for an organization representing citizens across the country. The program is, however, only serving about 20 percent of the need for legal counsel.

The transfer of the Legal Services Program to the Corporation was recommended by the President's Committee on Executive Organization. The implementation of the Corporation gives the program greater independence, but the need for accountability must also be considered. It is my view that the present title X creates a Corporation more accountable to these various interests than either the original bipartisan or administration bills. It provides that the President nominate all members of the Board in establishing the initial and subsequent Board of Directors, with the advice and consent of the Senate. H.R. 12350 provides for the submission of lists of possible candidates by the five national bar associations and other interested legal organizations.

The process insures that the bar, the clients, and project attorneys will be involved in the selection process, but the President has nearly complete flexibility and discretion in these 11 nominations. The delicate balance between accountability and independence has been attained with the involvement of the various constituent groups in this program.

We have within our grasp the opportunity to help those who are truly in need. The independent Legal Services Corportation in my view is a fitting and proper instrument.

Mr. QUIE. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. THOMSON).

Mr. THOMSON of Wisconsin. Mr. Chairman, I take this time to direct a question to the chairman of the committee, the gentleman from Kentucky (Mr. PERKINS). I notice in section 241 of the 1967 act, subsection (b), the following language appears:

> The Director shall establish criteria designed to achieve an equitable distribution of assistance under this title within the States between urban and rural areas.

An equitable distribution is required—but I have discovered that in the State of Wisconsin, for instance, in the great urban area of Milwaukee under this program, they receive $2.56 per capita. In southwestern Wisconsin in three community action programs covering 12 counties they receive $1.06 per capita. In all of the categories, such as unemployment, the urban area unemployment is 4.3 percent, while in the 12 counties in rural Wisconsin the unemployment runs from substantial to persistent, much greater than it is in the urban area, but the urban area gets $2.56 per capita, and the rural poor get $1.06 per capita. In the category of low income families, in the urban area such families amount to from 2 to 15 percent, but in the rural areas they amount to from 15 to 50 percent.

It seems to me if this pattern exists throughout rural areas of America, the rural poor are being badly discriminated against in the operation of this program.

My question is: What oversight is the gentleman's committee taking to assure that the policy of this act, to create an equitable distribution between urban and rural areas, is being carried out?

Mr. PERKINS. If the gentleman will yield, first let me elaborate a little on the gentleman's statement. The gentleman is, in my judgment, correct, that there has been gross and unnecessary discrimination against the rural poor and the poor people of this country. I represent a rural area and I have observed that all the departments of government are discriminating against the rural poor of America.

I do want to state that the gentleman from Minnesota, Congressman QUIE, and I have, in every bill that came before the committee tried to work out an equitable formula for the rural areas. In this bill, in the commitee bill, we have an amendment to insure equitable distribution of funds:

> Consistent with the provisions of this Act, the Director shall assure that financial assistance under this title will be distributed on an equitable basis in any community so that all significant segments of the low-income population are being served.

Over a period of years we have tried to get some assurances from the Director of the Office of Economic Opportunity that they would look with more favor on the rural poor in America, but they continue to overlook the rural poor. It is really a difficult task to try to nail down a fixed formula, that adequately protects all the poor, rural and urban.

So we have tried to cope with this problem by stating that the distribution must be made on an equitable basis in any community so that all segments of the poor involved will receive an equitable share.

Mr. QUIE. Mr. Chairman, at this time I have no requests for time.

Mr. PERKINS. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Texas (Mr. FISHER).

Mr. FISHER. Mr. Chairman, I rise in opposition to the passage of H.R. 12350, a bill which would extend the life of the Office of Economic Opportunity—OEO—for 2 years, at a total cost of $5.3 billion.

This program has from its inception been largely a failure. Experts insist that at least three-fourths of OEO expenditures have not benefited the poor. It will be recalled that 3 or 4 years ago the General Accounting Office, at the request of a congressional committee, made an in-depth study of OEO's various programs, and found very few pluses in its favor. The report, for example, found the Job Corps to have been far too expensive and the results very dubious. This program, which trains dropouts, has spent upwards of $10,000 per year on each of them.

OEO'S OBJECTIVES

It will be recalled that the so-called war on poverty was projected from its inception as a sort of panacea—a Great Society answer to welfare, crime, and the dole. When the project was created 8 years ago President Johnson said:

> In addition we can make important reductions in public assistance payments which now cost us $4 billion a year, and in the large costs of fighting crime and delinquency, disease and hunger.

It happens that I was one of those who opposed OEO then, and I have opposed each extension. Time and experience have vindicated my judgment.

What has happened since OEO was created in 1964? What about welfare rolls which the President then said would, as a result of OEO, be reduced? The record speaks for itself. Since 1964 welfare costs skyrocketed from $5.4 billion then to more than $20 billion in 1972. The relief rolls instead of being reduced have more than doubled. Only recently an HEW official, John Twiname, announced that the national welfare costs jumped 27 percent last year and relief rolls increased by 17 percent. This was for only 1 year.

It must be conceded, Mr. Chairman, that the $15 billion OEO programs have not made a dent in reducing poverty in this country.

EXAMPLES OF EXTRAVAGANCE

Mr. Chairman, there have been literally scores and scores of reported instances of OEO waste, extravagance, and even fraud, corruption, and favoritism.

As an example of irresponsible spending, let me cite the case of a $502,000 grant by OEO to the Crystal City, Tex., school system. This one school, for reasons that have never been made clear, was singled out for an experiment in spending tax money, supposedly to help the poor.

It is of interest to note that the elected president of the school board at Crystal City is one Angel Guiterrez, a well-known radical agitator and a dominant figure in the school system. Not long ago he was a joint author of a publication which included one of his speeches and a list of books and pamphlets, along with prices and the address of the publisher where they could be purchased. Here are some of the list recommended by Guiterrez:

"Those who are not Revolutionary Fighters cannot be called Communists," by Fidel Castro;

"The Youth Movement and the Alienation of Society," by Jose Revueltas;

"How To Make a Revolution in the United States," by Peter Camejo;

"Fidel Castro's Tribute to Che Guevara";

"Women and the Cuban Revolution," by Fidel Castro;

"How Cuba Uprooted Race Discrimination," by Harry Ring;

"A New Stage in the Advance of Cuban Socialism," by Fidel Castro;

"Che Guevara Speaks—Selected Speeches and Writings."

The press reported last fall that during halftime activities when Crystal City Javelins were playing an opposing football team, the juniors and seniors in the band marched and formed a clenched fist—one of Castro's favorite symbols of Communist strength. This incident occurred more than once.

Mr. Chairman, I mention this only to reval that OEO chose to subsidize this one school system in the entire Southwest—picked it from scores of others—with a whopping $502,000 grant.

When I learned of this boondoggle I lodged a protest. I called it to the attention of the chairman of the House Committee on Labor and Education. I called on OEO for an explanation. But my protests were in vain.

Scores and scores of handouts, equally as questionable, have been recorded. I recall one good one—where a sizable grant was announced by OEO to a legal service project in the State of Maine. Reporters tried in vain to locate and identify the recipient, but learned it was not in existence. A lawyer had hatched the idea, made an application for a grant which was approved before his legal agency he envisioned was given legal life. After exposure the grant was canceled.

Mr. Chairman, much of the blame for OEO's irresponsible spending is in the Congress. That agency has been given blank check authorizations to spend money and make grants for almost any conceivable purpose, with few strings or guidelines attached. There have been many indictments for fraud and malfeasance. The press has reported money in considerable amounts has disappeared, with no record of what became of it. OEO money has gone to finance the Black Panthers and other radical groups. And many instances are on record where OEO money has been contracted to organizations formed by former OEO personnel.

The time is long overdue for OEO to be eliminated. Any of its functions which are known to be beneficial and in the public interest can be transferred to other agencies. The American people are entitled to better treatment of their tax money, at the hands of the Congress.

It is time we reform welfare programs and limit assistance to those really in need who cannot help themselves. In the guise of "helping the poor" welfare has become a hodge-podge. The Senate Finance Committee recently found there are 168 different Federal programs designed to help the poor. The gentlewoman from Oregon (Mrs. GREEN) found that more than $42 billion a year, at all levels of government, are being spent to help those in need, not including social security.

What is needed is a housecleaning in the field of welfare, and a revised program which would limit welfare assistance to the really deserving. In that way those in need could be better cared for and the undeserving would be removed from the rolls.

As I see it, whether in the form of food stamps, commodities, aid for dependent children, or otherwise, welfare in this country should be strictly limited to the elderly, the infirm, the blind, the disabled, orphans, and children whose parents are disabled.

Mr. PERKINS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the committee has worked hard and long hours in trying to improve this legislation.

A 2-year simple extension of the Economic Opportunity Act plays directly into the hands of those whose ultimate goal is to disseminate and destroy the poverty program. Our responsibility is to make improvements in programs as well as to extend them. To simply extend the poverty program without the beneficial changes proposed in the committee bill continues programs, but also continues the weaknesses, and makes the Office of Economic Opportunity even more vulnerable to its critics whose aim is to destroy.

The proponents of the simple extension argue that we should not at this time expand the Headstart program as is proposed in the committee bill. Let me remind my colleagues that the proposed authorization of $500 million for fiscal year 1972 is in fact $78 million less than was authorized during the last fiscal year for Headstart programs. My colleagues should understand that the 2-year simple extension therefore represents a backward step legislatively with respect to the needy children of this country. The committee bill does not represent an expansion of authorization for fiscal year 1972. For fiscal year 1973, the proposed authorization still falls far short of the need. This was adequately demonstrated in our hearing record and during our debate on the floor yesterday.

During the last few months, there was almost a daily concern expressed here on the floor with respect to the plight of older Americans, particularly the elderly poor. Approval of a 2-year simple extension will result in no greater movement toward meeting the needs of the elderly.

To the contrary, the committee bill requires a more equitable distribution within the community of Federal assistance provided under the Economic Opportunity Act and this amendment is intended to better serve the elderly. Likewise, the committee bill proposes a new rural housing development and rehabilition program which will be of substantial assistance in alleviating housing problems of low income elderly persons in rural areas.

One of the most problematic poverty programs has been that of legal services. I remind my colleagues that a simple 2-year extension will continue that program in its present form, one which so many have found objectionable. The only reasonable way to meet this issue is to do as proposed in the committee bill and establish the Legal Services Corporation. The debate yesterday revealed that even some of those who support a simple extension agree that there are many improvements in the legal services program which will be brought about through the committee legislation. We should not allow those improvements to be lost, as will be the case with a simple 2-year extension.

As we have heard concern expressed from day to day with respect to the elderly, so too has there been widespread and deep interest in environmental problems and action to strengthen and expand environmental legislation. The committee bill but not the substitute will establish additional Federal resources for combating pollution and improving the environment.

Mr. CLAY. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 44]

Abourezk
Addabbo
Anderson, Ill.
Archer
Ashley
Baring
Bell
Bergland
Betts
Blanton
Blatnik
Bow
Bray
Brown, Mich.
Buchanan
Burleson, Tex.
Caffrey
Cederberg
Celler
Clark
Clausen, Don H.
Clawson, Del
Collier
Coughlin
Delaney
Dickinson
Diggs
Downing
Drinan
Dwyer
Edwards, La.
Evins, Tenn.
Fisher
Fraser
Frelinghuysen
Fulton
Gallagher
Gettys
Giaimo
Gray
Green, Oreg.
Gubser
Halpern
Harvey
Hastings
Hébert
Holifield
Horton
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Tenn.
Kazen
Keith
Kemp
Kyros
Landrum
Leggett
Link
Long, La.
Lujan
McCloskey
McClure
McEwen
Macdonald, Mass.
Madden
Mathias, Calif.
Michel
Minshall
Mizell
Monagan
Morgan
Morse
Myers
Nichols
Obey
O'Konski
Patman
Pepper
Pike
Price, Tex.
Pryor, Ark.
Pucinski
Roy
Satterfield
Scherle
Scott
Seiberling
Shriver
Skubitz
Smith, Calif.
Smith, N.Y.
Stanton, J. William
Stanton, James V.
Steed
Stratton
Stubblefield
Talcott
Thompson, Ga.
Vander Jagt
Veysey
Vigorito
Whalley
Wilson, Bob
Wilson, Charles H.
Winn
Zwach

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROONEY of New York, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 12350, and finding itself without a quorum, he had directed the roll to be called, when 324 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the Committee rose, the distinguished gentleman from Kentucky had 1 minute remaining.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, I wish to inquire whether the stalling is over for the afternoon; whether it is planned to proceed with the bill?

Mr. PERKINS. Let me say to my distinguished colleague that I know nothing about any stalling, but we are in the Committee of the Whole House on the State of the Union, and as far as I know we are going to proceed.

Mr. GROSS. May I substitute "reluctant" for "stalling" then?

Would that help the gentleman?

Mr. PERKINS. No. We are very eager to proceed expeditiously.

Mr. RAILSBACK. Mr. Chairman, as a cosponsor of legislation to establish a National Legal Services Corporation, I rise in favor of title X of H.R. 12350.

Equal justice under law is one of the pillars of American democracy. Access to the legal system must be available to all; discrimination on any grounds is the antithesis of our constitutional principles and cannot be accepted. For all too many years, Americans were denied legal services and access to our judicial system, because they were poor. The legal services program, established by Congress in 1966 as part of the Office of Economic Opportunity, has done much to eliminate this discrimination.

Under this program, advice, counseling, education, representation, and other legal services have been provided to individuals who would otherwise have been unable to afford them. This past year, over 1 million poor Americans were represented by approximately 2,000 legal service lawyers in 900 neighborhood law offices. This is double the caseload of just 2 years ago, and indications are the trend will continue so that we may yet see equal justice under law become a reality. The legal services program has proven its value and effectiveness. It has led the attack on one of the root causes of poverty: the inequality of opportunity which exists between the rich and poor. The program has been vital in giving poor people the hope and confidence that our legal system protects and serves each and every American. It has provided the channel through which the poor have been able to seek recourse for their grievances and in so doing has led to the development of a new body of law which is more responsive to our democratic traditions.

Despite its successes, the legal services program does need reform, most notably in removing it from the executive branch and from partisan political pressures. We are all too familiar with the controversies the OEO legal aid program has been involved in since its inception. It has, many times with good reason, raised the ire of powerful individuals and interest groups in representing its clients. It has also, however, at times been guilty of going too far into criminal litigation and representing causes rather than clients. There is widespread support for the approach adopted by this legislation, that of an independent corporation that will allow the program to continue to serve the legal needs of the poor while avoiding the inevitable political conflicts that the program has occasionally generated. As the committee report states:

> The Legal Services program will be more effective if independent from the executive branch of Government. The Committee strongly believes that a private, non-profit corporation can assure this program's independence from political attacks, the integrity of the lawyer-client relationship, and the professional independence of Legal Services attorneys.

In addition to independence, the provisions of title X provide for effective accountability to Congress, the President, and the professional bar, as well as to the primary concern of the program, the client community. The President nominates all members of the Corporation's Board of Directors and the Senate must confirm these nominations. Although the President may reject and request as submitted by the five national bar associations and the advisory committees of project attorneys and clients, the President may reject and request as many lists as he wishes. Furthermore, the bill provides for full GAO audit, independent audits, a 2-year authorization, annual appropriation authority, annual reports to both the President and Congress, and full access by the President or his representative to all records and documents of the Corporation. In addition, there are provisions requiring adherence by legal aid attorneys to the canons of ethics and code of professional responsibility of the ABA.

Title X represents a meaningful compromise. The future of legal services—its effectiveness and integrity in making the promise of equality under the law a reality for millions of Americans—is the question the Congress now faces. I therefore urge my colleagues to support the committee version of the National Legal Services Corporation.

Mr. RONCALIO. Mr. Chairman, I am happy to record my support for the bill which is before us today—H.R. 12350, the Economic Opportunity Act Amendments of 1972. It has been a long time, now, since our minds were thought to have been "permanently made up" on the issue of ridding the American people of the riddle of dire poverty in the midst of plenty. Of course, as in all matters, minds are never permanently made up, and in this case the American people have had to view the sad prospect of an unconditional war against poverty degenerating into something termed "benign neglect."

Last year, the President saw fit at last to veto the Economic Opportunity Act in toto. Since then, OEO has been forced to operate on a continuing resolution passed by Congress. This might be nothing but another minor, bureaucratic tragedy, the likes of which this Federal Government should perhaps see more, were it not for all the little people who depend for their well-being on the services of OEO.

Mr. Chairman, my mail that has been coming in from some of these people, as well as my concern that they will now begin to get a fair shake at the hands of a Government that is theirs too, compels me to speak on behalf of this measure. Surely, all of us have quibbles and qualms with some of the portions of this bill. No bill is perfect. If they all were, then the purpose of Congress might be consummated in a far shorter time each year than it is.

But the basic purpose of the OEO Amendments of 1972 is as it should be in a republic that also calls itself democratic—to raise up the weak, to give opportunity to the disadvantaged. Some things have been changed about this measure since it was last vetoed. Not only the children of the poor but also the children of the secure will receive the benefits of Headstart, and that, to my mind, is as it should be. But the feature about the bill which lies closest to my heart is that, unfortunately, which will also be most disputed—title X, which sets up a private nonprofit corporation to provide legal services to the poor.

Mr. Chairman, toward the beginning of the present administration, a great to-do was made about the formation of a private nonprofit corporation designed to handle our mail, the U.S. Postal Service. But in this country is our only criterion for progress efficiency? Do we do for the relatively well-off, who most use the mail, what we will not, shall not do for the poor?

The poor also require such a private nonprofit corporation to handle their needs. The poor must have freedom from political interference in their private affairs just as much as the rich. The poor deserve a lawyer-client relationship which entails the same "canons" of professional responsibility as is enjoyed by those with money to hire the top lawyer in this or any other town. To deny them this would not only be to deprive them, in my view, of a very basic right; it would also be to deny our whole society some of the means—the legal means—which we the people must have to progress toward orderly change.

So I support passage of this bill. It is one thing we must do for people in this country.

Mrs. GRASSO. Mr. Chairman, a recreation and sports program for disadvantaged youth is one of many valuable programs included in H.R. 12350, the Economic Opportunity Act Amendments. This legislation instructs the Secretary of Health, Education, and Welfare to make grants for programs to provide sports training and athletic competition, competent instruction, supervision, and superior facilities for underprivileged young people who could not otherwise have such a valuable experience. Participants will also receive a medical examination, a daily meal, health education, counseling in study and career opportunities, and in drug abuse prevention.

A similar program has been funded through OEO for the past 3 years and administered by HEW through the President's Council on Physical Fitness and Sports and the National Collegiate Athletic Association. In 1970, 98 projects had 45,000 participants for the summer. The contributing institutions and local authorities provided 46.6 percent of the costs in 1970.

On September 16, 1971, I introduced legislation to create a national summer youth sports program on a permanent basis within the Department of Health, Education, and Welfare. In mid-October, I reintroduced this bill with 41 cosponsors from both sides of the aisle. In the past this program has provided a useful and productive outlet for youthful energy and talent. It has also received an enthusiastic response and strong support from local authorities.

I am pleased that the provisions for a summer sports program have been included in H.R. 12350. It is my sincere hope that Congress will insure a meaningful experience for many disadvantaged youths in the years ahead.

Mr. ROSTENKOWSKI. Mr. Chairman, today the House will consider the Economic Opportunity Act Amendments of 1972. Included in the amendments is a proposed addition to title II of the act which would create, within the Office of Economic Opportunity, a youth recreation and sports program to provide disadvantaged youth with recreation and physical fitness instruction during the summer. This program would be administered by the Secretary of Health, Education, and Welfare.

For the past three summers the NCAA—national summer youth sports program, with funds supplied by the OEO, has enabled thousands of young men and women of disadvantaged communities the opportunity to engage in vigorous sports activities on many college and university campuses. In 1971, over 100 such institutions in 35 States and 66 cities participated in this excellent program. This proposed amendment to title II will not only make an extremely realistic and successful program permanent, but it will expand it, making use of "other qualified nonprofit organizations active in those fields which have access to appropriate recreational facilities."

Mr. Chairman, although I have continually spoken out against the proliferation of summer recreation programs that have caused application confusion, service duplication and administrative waste, I believe this summer sports program has proved itself to be worthy of our support. In my city of Chicago, during the summer of 1971, hundreds of disadvantaged youths participated in these NCAA-NSYS programs on four local campuses. By utilizing sports facilities and faculty expertise that would otherwise have gone untapped during the summer months, these young people were given the opportunity to enjoy a quality recreation experience—an experience that is essential to any successful recreation program.

The enactment of this legislation will hopefully once again enable many of Chicago's disadvantaged youth to participate in scheduled athletic activities this coming summer. I commend the Education and Labor Committee and its able chairman for their efforts to make this program a permanent part of our national summer recreation scheme.

Mr. CLAY. Mr. Chairman, I have some specific remarks regarding section 6(c) of this bill. I join with what is, I am sure, a majority of this body in support of attempts to involve more people in the effort to improve the quality of the environment. Given the fact that most of the Nation's poor are forced to live in the worst possible environment—where the problems of air and water pollution are compounded by garbage, rats, and filth, and where the physical surroundings are frequently old or dreary or both—it is particularly fitting that some attempt be made to assist these Americans in their efforts to make their surroundings more pleasant. What concerns me, though, is that the provision in 6(c), as it is now written, may operate to the detriment of public employees. That is certainly not the intention of the committee or its chairman, but it appears that that is the way the bill may operate in fact.

Is section 6(c) intended to provide a mechanism for replacing municipal employees or reducing the numbers of job openings in the public sector in the categories mentioned in this section?

What safeguards are there in the bill, as it is now written, to prevent State or local governments from replacing their employees with people hired under this section? Similarly, what provisions are there to insure that people so hired will be hired in addition to, not in place of, people who would otherwise have been employed in these fields?

What guarantees do people hired under this section have that they will receive the same treatment with respect to salary and benefits that is accorded to other employees in these fields? What guarantees do people already employed in these fields have that the persons hired under this section will not receive preferential treatment?

It seems to me that all of these questions need to be answered and that where the answers indicate shortcomings in the legislation, the bill should be amended to remedy these shortcomings.

Mr. CONYERS. Mr. Chairman, on December 9, President Nixon chose to veto one of the most effective pieces of poverty legislation to come along in years—the $6.3 billion 2-year Office of Economic Opportunity extension. His objection, amazingly, was based upon the inclusion of a comprehensive child development program. This legislation would have provided a broad range of educational, nutritional and health services for preschool children. Children of poor families would have been eligible for free services and children of middle-income families would have been charged a fee based on their ability to pay. Besides these many health and educational services, the child development provisions would have allowed women on welfare the opportunity to care for their children as well as free them to enter the labor force. It was landmark legislation which would have taken great strides toward eliminating poverty. The President's veto of this bill which would have dealt realistically with poverty calls into question the depth and seriousness of his commitment to eliminating "the paradox of poverty in the midst of plenty in this Nation."

The Office of Economic Opportunity is at least one example that our Government has committed itself to dealing with the very serious problems which economic deprivation has reeked on millions of our citizens. While at present levels the OEO does not adequately meet the needs of our Nation's poor, it has managed, at least, to reach 11 million of the 24 million people below the "official" poverty line. Many millions more still remain to be reached.

OEO is one of the few indicators that the Federal Government is committed to fighting poverty. Failure to continue it would remove governmental attention from the needs of the poor, a focus which is mandatory if we are to be successful in our fight.

Failure to extend the programs administered by OEO would destroy what small progress has been made in combating poverty, by providing community health centers, family planning assistance, in fighting growing drug addiction, and in embracing thousands of the aged poor, the fastest growing segment of our population. Any reduction in actual program levels—especially given the dollar reduction—would be unthinkable at a time when the number of poor is on the increase.

Failure to extend the OEO authorization would strike hard at the black community which already has a disproportionment unemployment rate. In some urban centers, in the black community, unemployment is as high as 10 percent. Some estimates indicate that nearly 42 percent of black men between the ages of 18 and 22 are out of work. These are the people who would suffer most if the OEO authorizations are not extended, the people who vitally need the manpower training and job placement services which OEO provides.

The Nation's poor are most susceptible to crime and the abuses of the judicial and penal systems. This is particularly true of the black poor. But, poverty and physical isolation from the mainstream of American life deprive them of adequate, not to mention competent, legal representation. There is an alarming need for good legal services for the poor. Failure to extend OEO would destroy a growing facility which is just beginning to expand, whose caseload is expected to double this year over 2 years ago.

I therefore urge every colleague remotely concerned with reducing poverty throughout this Nation to support this legislation on final passage. It is a modest proposal which is a step in the right direction and one which even the President should be able to support.

Mr. DONOHUE. Mr. Chairman, the measure that we are dealing with here represents an original, historical legislative effort to coordinate the resources of Federal, State, and local governments, and private agencies to progressively eliminate the causes of poverty and to extend hope and encouragement to the despairing millions of young, middle-aged and old poor people in this country.

The objectives of the legislation are unquestionably good and I think a fair examination of the record will show that the progress towards them has been steady.

From the beginning, Mr. Chairman, I think that the very great majority here realized that the war against poverty would not be won overnight and reasonably expected that some weaknesses and deficiencies would occur.

However, over the past several years, the programs have been constantly monitored and both the executive department and the Congress have exercised persistent efforts to reduce and eliminate those that have demonstrated their ineffectiveness.

I think that an impartial examination of the record would show the great measure of help and hope that has been extended to the poor in this country through the operation of such worthy programs as Headstart; the Job Corps; the Neighborhood Youth Corp; Mainstream, to particularly encourage our older citizens who urgently need it today; Legal Services; community action; drug rehabilitation; the promotion of employment opportunities for our veterans; health services; enlisting our unemployed poor to help in controlling pollution and many other wholesome activities that truly serve to help the poor to help themselves and that truly serve to renew their trust in their Government and their fellow Americans.

I would hope and urge, therefore, Mr. Chairman, that our actions on this pending measure will not result in any substantial weakening of the wholesome impact of these programs upon our more unfortunate citizens nor stifle the hope that has been kindled in their minds and hearts. On the contrary, Mr. Chairman, I would very earnestly hope that our actions here this afternoon will very clearly reflect the convictions of the great majority that these wholesome programs are more imperatively needed in this recession-inflation period than ever before and that in fact, in some areas such as Headstart and others, they should be strengthened.

I should also like to emphasize, Mr. Chairman, as I have before, that these programs are not in any sense designed or intended to initiate any system of perpetual care. Their only purpose, in origin and continuation, is to enable our poor citizens and families to progressively improve their economic status so that the programs themselves can be gradually reduced and eventually eliminated.

Over these past two and a half decades we have committed, as we are still committing, a tremendous measure of our American resources for the betterment of people in foreign lands. It would appear that we are even now on the verge of extending that commitment and to more foreign areas of our concern. However well and good and opportune that may be I still believe that our primary legislative interest and obligation is still, and ever ought to be, the development and progress of our own people and particularly our poorest people. We have the opportunity today to demonstrate the primary obligation and I earnestly hope that we will by resoundingly approving the strengthened substance of this bill.

Mr. BADILLO. Mr. Chairman, House consideration of the Economic Opportunity Amendments of 1972, which include an important and innovative legal services program, seems to me an appropriate time to comment on the issues raised by Vice President Agnew's recent intervention in the operation of a legal services program in Camden, N.J., and his implied threat to cut funds for that program.

In my view, the Vice President's unwarranted interference strengthens the argument for an independent National Legal Services Corporation, such as is authorized by the legislation before us.

The legal services program is based on the concept of equal justice under law. That concept, one of the most basic to our Nation, requires that low-income persons must have the same access to justice, enjoy the same rights and privileges, and bear the same responsibilities as those of greater affluence.

Somehow, men like Vice President Agnew and Governor Reagan see this as a threat to their political power. They deeply resent the idea that the poor should be able to bring public officials and public bodies before the bar of justice as a means of redressing grievances. The implication of this attitude is that public officials are somehow above the law, that they are accountable only through the ballot box and not through the judicial process.

This attitude is nothing more than the arrogance of power. It is but one factor in the growing alienation of millions of Americans from our system of government and it can serve only to encourage those who advocate violence.

Mr. Agnew's argument is that elected officials represent the majority and are, therefore, responsible only to that majority. This is a dangerous distortion of the basic principles on which our Nation was founded. Certainly, majority rule is a cornerstone of American democracy. But it is no more important or basic that the precept which holds the majority—and those elected by the majority—responsible for protecting the rights of the minority.

The legal services program which has been administered by the Office of Economic Opportunity is but one means we have adopted to protect minority rights—the rights of the poor and the disadvantaged to have full and fair access to our legal process. Under this program, attorneys have given quality legal representation to many thousands of individuals and families and have made great strides in clarifying the rights of these Americans under welfare, housing, education, and consumer laws.

Let us all be very clear about one essential fact: The legal services program is not a political action program. It is merely a means by which we are carrying out the principle that a poor person should have the same access to legal counsel as a person of greater means. There is no place for political interference in this program or in the lawyer-client relationships it establishes. The attorneys working in this program are not representing the Government; they are representing the interests of their clients.

The legislation before us is vital if we are to protect against the kind of political interference and manipulation attempted by the Vice President and the Governor of California. If we really believe in the Constitution and the oath of office we have taken to uphold it, we will enact this bill and the legal services provision intact.

Mrs. ABZUG. Mr. Chairman, I rise in support of H.R. 12350, which would extend for 2 years the Economic Opportunity Act of 1964, make some needed improvements in the Headstart program, and create an independent National Legal Services Corporation.

Let me state at the outset that I am sorry that we must be considering this bill today. As you all know, a bill far superior to this one, including a comprehensive child development program, was passed by the last session of Congress but was callously and senselessly vetoed by President Nixon. And so we are trying again, though this time we have in the beefing up of the Headstart program only a shadow of the promise which the child development title held.

The bill before us authorizes appropriations of $2.3 billion for the current fiscal year and $3.0 billion for the coming fiscal year. Regrettably, these sums are less than those contained in the vetoed bill and far less than the kind of funding that OEO should be getting. According to Frank Carlucci, the former Director of OEO, the agency's programs are reaching only about 11 million of the 24 million Americans which the administration admits live below the poverty line; furthermore, even those individuals who are being reached are hardly receiving adequate assistance from these underfunded and undermanned projects.

It is shocking and almost incredible to note that in the wealthiest nation in the world—a nation which is sworn to eliminate poverty within its borders—the number of poor persons actually increased 5.1 percent in the years 1969 and 1970. Just in case percentages are not impressive to you, that means that well over 1 million individuals fell into poverty during that brief period.

HEADSTART

Although the bill does not include a comprehensive child development title, it would considerably improve the existing Headstart program. At least 1.6 million children need Headstart today, but we are serving the needs of only one out of five of these children. In a national survey, the figures reveal that only 159,485 of the 782,288 eligibles are being served. In 1970, only 89,000 children took part in full day programs, at a cost of $107 million. With $500 million authorized in fiscal 1972, and a full billion for fiscal 1973, the program will reach hundreds of thousands more children if the entire amount is appropriated.

I take issue, however, with the proposed fee schedule. As it is set forth in the bill, families with incomes of $4,320 would participate in the program without charge, while families with income between $4,320 and $6,960 would be charged a maximum of $317.

The family income figures could and should be considerably increased; at a time when the "lower living standard" of the Bureau of Labor Statistics is pegged at $6,960, we should not be levying any charges on families whose income is lower than that figure.

In any event, I fervently hope that all of the money authorized will be appropriated, and that all the funds appropriated will be spent. We must be on guard to prohibit the Office of Management and Budget from withholding it.

Children are this country's most precious resource. We cannot ignore the plight of those born into low-income families. We have an affirmative responsibility to provide the tools for their growth and development. We must not fail them the way the Nixon administration has failed them.

LEGAL SERVICES

I am pleased to see that this bill retains the concept of an independent National Legal Services Corporation. More than 1,000,000 clients were served by the OEO legal services program in 1970. All of these men and women were too poor to afford hired counsel, and would have been denied "equal justice under law" had the Federal Government not addressed itself to their problem by establishing a national legal services program in 1964. No one in this country should be denied the exercise of his or her legal rights because he or she cannot afford a lawyer. Legal services lawyers are committed to seeing that justice is done, and have worked long and hard in providing aid to the poor.

However, as recent events with Mr. AGNEW in Camden have demonstrated, the legal services system as it is now constituted is at the mercy of politicians and bureaucrats who have a gross lack of understanding about the goals and mechanisms of the program. The nonprofit corporation concept alleviates the problem of political interference by severing the legal service system from the executive branch, and making it into an independent body, governed by a board of directors chosen by the President, part at large and part from lists submitted by various respected legal groups.

The Corporation will have the power to make rules and regulations to allocate the resources of the Corporation and to assure the comprehensive delivery of services to the client community.

OTHER PROGRAMS

I am sorry to see that a number of the other OEO programs have fared poorly in the revival of this bill. The authorization for OEO work and training programs, for example, has been reduced from $1.4 billion to $865 million. The emergency food and medical services program has been cut from $60 million to $20 million. Alcoholic counseling has been cut from $18 million to a mere $2 million. Vista has been cut from $45 million to $33 million.

As I stated at the outset of my remarks, we do need OEO. Even the weak, sickly form in which it comes before us today is better than nothing, and I urge the passage of this bill.

Mr. STOKES. Mr. Chairman, this bill should not require extensive discussion. I joined with a majority of my colleagues here and in the other body in supporting a very fine, well thought out OEO bill. The President's veto appalled me. It indicated a total disregard of the needs of the poor people of this Nation.

We have before us another bill minus the program which the President singled out for his severest criticism, the child development program. Despite that deletion, the gentleman from Minnesota (Mr. QUIE) and others close to the President are indicating that he will veto this bill, too.

I would like to focus on the two programs which he apparently finds objectionable. The first of these is the Headstart program. I represent a city in which 830 children are served by Headstart and thousands more cannot be served because of inadequate funds. I find an increase in funding to be imperative to meet the need which exists.

Nationally, the program provides services to only 20 percent of the 1.6 million children who need them. The increases provided in this bill should improve the situation somewhat but will in no sense be sufficient to meet the critical need.

The bill's expansion of Headstart services to the near poor is commendable. It is unfortunate, however, that the proposal will require payment of fees by families in this "near poor" category. Anyone at all familiar with the problems of the poor in this Nation is aware that true poverty begins at a far higher level of income than $4,320 where the fee for services begins under this bill.

My dissatisfaction with the Headstart provisions of this bill stem from their inadequacy. If the President continues to oppose this meager expansion of the program, he will demonstrate unmistakably his total lack of understanding and concern for the problems of needy children in this country.

The Legal Services Corporation has been the focus of the President's resistance to this measure. In vetoing the earlier bill, he expressed his objection to the manner in which the Board of Directors would be chosen. The requirement that he select 11 of the 17 Board members from lists submitted by groups vitally involved and interested in legal services was unacceptable.

The President has often reiterated his support for a strong and politically independent legal services program. His actions and those of his administration have directly contradicted his public statements. Recently, Fred Speaker became the second director of the program to resign after Nixon administration pressure over representation of clients by legal services attorneys. Vice President AGNEW's intervention in a pending lawsuit in Camden, N.J., by contacting Mr. Speaker on behalf of the Camden city officials was inexcusable. It is exactly the sort of interference which the corporation proposal is designed to obviate. When the Vice President contacts the director of legal services to attempt to negotiate a settlement with legal services attorneys and their clients, he makes a mockery of the judicial process. It amounts to pressuring an attorney to sell out his client.

Even more important than the Vice President's actions are his statements to the effect that legal services attorneys should not be permitted to sue Government agencies on behalf of their clients. He stated that a minority should not be permitted to challenge the decisions of public officials elected by the majority. He has not been heard to advocate such restrictions on the rich or the corporations involved in pollution or tax avoidance. His objection is to representation of the poor whose interests were unrepresented before the legal services program. That program's aggressiveness and effectiveness have made life uncomfortable for those who have for years trampled the rights of the minorities and the poor. The oppressors who have been confronted include landlords, creditors, and, very frequently, governments at the Federal, State, and local levels.

What the program has accomplished is to give the previously unrepresented people access to the judicial process as a means of challenging oppressive laws and administrative practices. Rather than eliminate this activity, we must protect it from political attack by Mr. AGNEW and others. The present bill will accomplish this end.

If President Nixon were genuinely interested in a politically independent legal services program he would not object to the provisions for selection of the Board. He is seeking a Board which will be subject to administration influence and, in fact, control. The proposal before us permits the input of groups vitally interested in the operation of the program including clients and the organized bar. It has been endorsed by virtually all such groups. Continued opposition by the President is completely contradictory to his expressed support for a truly politically independent program.

I urge my colleagues to join with me in voting for this bill. We should call upon the President to repudiate the statements of Vice President AGNEW and to live up to his own public statements about both child care and legal services.

Mr. RARICK. Mr. Chairman, I opposed the OEO bill, S. 2007, in the last session of Congress because of the inclusion of comprehensive child development programs in the bill. That bill contained provisions which would have permitted the Secretary of Health, Education, and Welfare to become a virtual czar over the lives of America's children by directing him to establish standards and guidelines and authorizing the Secretary to grant or withhold funds to local agencies on the basis of their compliance with such standards and guidelines.

The President explained one reason for his veto of S. 2007 with the comment that child development programs constituted a radical change which "would commit the vast moral authority of the National Government to the side of communal approaches to child rearing over against the family-centered approach." And while labeling the comprehensive child development programs as communal, the President proceeded to say:

> Such far reaching national legislation should not, must not, be enacted in the absence of a great national debate upon its merit, and broad acceptance of its principles.

In the Economic Opportunity Act Amendments of 1972, H.R. 12350, now before us for consideration, the comprehensive child development programs in the controversial title V of S. 2007 have been eliminated. The provisions of this bill, however, would provide under expanded Headstart and Follow Through programs the legal authority for many of the programs and activities contemplated under title V of S. 2007 and would allow the Federal Government to gain more control over local schools.

Section 222(a)(1) provides that Project Headstart focus upon "children who have not reached the age of compulsory school attendance." This, of course, means from birth to about age 6. Project Headstart "will provide such comprehensive health, nutritional, education, social, and other services as the Director finds will aid the children to attain their full potential."

Sec. 222(a)(2) provides that the "Follow Through" program focus "primarily upon children in kindergarten or elementary school who were previously enrolled in Headstart or similar programs. It is designed to provide comprehensive health, nutritional, educational, social, and other services which the Director finds will aid in the continued development of children to their full potential. So that funds will be available for Follow Through, Sec. 222(a)(2) provides:

> Funds for such programs shall be transferred directly from the Director to the Sec-

retary of Health, Education and Welfare. Financial assistance for such projects shall be provided by the Secretary on the basis of agreements reached with the Director directly to local educational agencies except as otherwise provided by such agreements.

While comprehensive child development programs under S. 2007 would have provided the Secretary of HEW with the legal authority to assume almost dictatorial powers over America's children, H.R. 12350 would divide the power between the Director of OEO and the Secretary of HEW.

Section 522(a) provides for day-care programs as follows:

> The Director is authorized to provide financial assistance to appropriate public agencies and private organizations to pay not to exceed 90 per centum of the cost of planning, conducting, administering, and evaluating projects under which children from low-income families or from urban and rural areas with large concentrations or proportions of low-income persons may receive day care. . . . Such day care projects shall provide health, education, social, and such other supportive services as may be needed.

Section 14 requires that all day-care projects established under the act shall comply with the comprehensive Federal interagency day-care requirements as approved by the Department of Health, Education, and Welfare, the Office of Economic Opportunity, and the Department of Labor on September 23, 1968. "Federal Interagency Day Care Requirements" sets forth requirements which day-care programs must meet if they are receiving Federal funds from any of the following programs: Title IV of the Social Security Act, Part A—Aid to Families With Dependent Children, Part B—Child Welfare Services; title I of the Economic Opportunity Act—Youth Programs; title II of the Economic Opportunity Act—Urban and Rural Community Action Programs; title III of the Economic Opportunity Act, Part B—Assistance for Migrant, and other Seasonally Employed, Farmworkers and Their Families; title V of the Economic Opportunity Act, Part B—Day Care Projects; Manpower Development and Training Act; and title I of the Elementary and Secondary Education Act.

It is pertinent to note that the "Federal Interagency Day Care Requirements" defines "Day Care Services" as follows:

> Day care services—comprehensive and coordinated sets of activities providing direct care and protection of infants, preschool and school-age children outside of their own homes during a portion of a 24-hour day. (The Office of Economic Opportunity uses 7 hours as the minimum time period for its preschool day care programs; however, most of the standards in this document are also applicable to part-day Head Start programs.) Comprehensive services include, but are not limited to, educational, social, health, and nutritional services and parent participation. Such services require provision of supporting activities including administration, coordination, admissions, training, and evaluation.

Now, most public schools receive title I funds and would seem to qualify as providing day care services under the definition set forth in "Federal Interagency Day Care Requirements." It would seem logical to conclude that under H.R. 12350 public schools would be subject to Federal interagency day-care standards.

It appears that under H.R. 12350 the Director of OEO would have control of preschool children and the Secretary of HEW would take them over at about 6 years of age. The provisions of the OEO bill carry the strong suspicion that it is trying to accomplish without so saying what was vetoed as the comprehensive child development program. Initially, all children may not be included. But if this bill with its loosely drafted delegations of power were to be enacted into law, the framework would be established for its progressive expansion into a full-bloomed comprehensive child development program.

Should this bill be passed by both Houses, a Presidential veto should be certain in view of the President's state of the Union remark:

> All of my recommendations, however, will be rooted in one fundamental principle with which there can be no compromise: Local school boards must have control over local schools.

I agree with the President as to the importance of local control of local schools and the traditional American family-centered approach to child rearing. America's future, whether it be a free society under our constitutional Republic or a totalitarian collectivistic society, depends in large measure on how our youth are trained and educated. It is imperative that the President's praiseworthy recommendation for local school boards having control over local schools be made a reality now.

To help in that direction, I cast my people's vote for local control of their schools and parental authority over their own children by voting against H.R. 12350.

Mr. QUIE. Mr. Chairman, I have no further requests for time and yield back the balance of my time.

Mr. PERKINS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Economic Opportunity Amendments of 1972".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment in the Nature of a Substitute offered by Mr. QUIE: Strike out everything after the enacting clause and insert in lieu thereof the following:
>
> That this Act may be cited as the "Economic Opportunity Amendments of 1972".
>
> SEC. 2. For the purpose of carrying out the Economic Opportunity Act of 1964 (hereinafter referred to as the "Act"), there are hereby authorized to be appropriated $2,058,500,000 for the fiscal year ending June 30, 1972, and $2,109,800,000 for the fiscal year ending June 30, 1973,
>
> SEC. 3. Sections 171, 245, 321, 408, 615, and 835 of the Act are each amended by striking out "five succeeding fiscal years" and inserting in lieu thereof "seven succeeding fiscal years". Section 523 of the Act is amended by striking out "four succeeding fiscal years" and inserting in lieu thereof six succeeding fiscal years".

Mr. QUIE. Mr. Chairman, as Members have heard, the substitute will provide for a 2-year extension of the present act, the Economic Opportunity Act, at authorizations that are the budget figures.

The budget figure is the amount recommended in the budget for 1972, which the Appropriations Committee cut 5 percent; and for 1973 it is the figure that the President recommended for that fiscal year. I put those figures in because, as Members will recall, in all of the years the Economic Opportunity Act has been in operation this Congress has never appropriated more than the administration has requested. So there is no sense in misleading anybody by putting in higher figures and raising false hopes, as I indicated yesterday.

The most important feature, I believe, which we ought to consider, is that the Legal Services Corporation as devised in this proposed legislation is not acceptable to the administration. We are in a different situation from that of last year, when we tried to work out a compromise. Now the President has stated specifically in his veto message of December why he is opposed to this version of the Legal Services Corporation. It makes no sense to send out of this body a bill which will be vetoed again.

Instead, let us not make the people who are employed by OEO wonder what is going to happen to them after June 30, the end of the appropriation. Now they are working as a result of funds appropriated without an authorization bill, which has been found to be legal. I doubt if we can do that another year without authorization.

Let us not hold this bill as a hostage in order to put through some extremely controversial amendments, to say nothing about amendments to the act the President will not accept.

I believe the issue is very clear for us today. We ought to pass this substitute. Then the Committee on Education and Labor can bring out separate legislation for a Legal Services Corporation, which many in this body favor, but who favor a different kind of one than is presented here. We can work out one that would be acceptable, that could be signed by the President.

The same thing goes for the child development or Headstart programs. If this body wants to expand the programs for Headstart or other child development programs, let us do it with separate legislation, standing by itself, not requiring the extension of the Economic Opportunity Act to carry it through. Let it stand on its own feet, and let the House work its will.

Last year the House just considered child development as an amendment to the extension of the Economic Opportunity Act and adopted it. That is where we ran into difficulty then.

Mr. WILLIAM D. FORD. Mr. Chairman, will the gentleman yield for a question?

Mr. QUIE. I yield to the gentleman from Michigan for a question.

Mr. WILLIAM D. FORD. The gentleman has asserted and reiterated over and over that the House should reject the Legal Services Corporation because the President does not like it. The gentleman is the ranking minority Member on the committee. Does the gentleman have any independent thoughts of his own he might share with us as to why we ought to reject the Legal Services Corporation?

Mr. QUIE. I am glad the gentleman has asked that question. I will tell the Members my feelings on the matter.

There is no precedent for any Government corporation, commission, or council, for a private group to select the people who the President can appoint. When we require that the appointement be from certain groups of people in existing law we only specify that the President shall give due consideration to their recommendations, and do not require that he be limited to the lists they submit to him.

For that reason I do not believe we ought to start on that new precedent.

We do have a difficulty here, I believe, with accountability. I put in the RECORD yesterday, on page H1072, the information from the Task Force of the National Legal Aid and Defender Association. I read from that report:

> It is important, for the sake of the trustees' credibility in light of their relative lack of accountability, that they consult with truly representative groups and conscientiously follow their recommendations if at all possible.

They recognize the lack of accountability. The only way one can get accountability is for the President to have a free hand, to appoint the members of the board. He is elected by the people. Then those appointments can be considered by the Senate, for them to turn down or to accept. Then he can be held responsible for his appointments, rather than be limited in his appointment by the recommendation or the list of certain private groups who are not accountable to the public.

Some of those groups even have a conflict of interest because they are clients or project attorneys.

I would again remind the House in these additional comments what the President said in his message of December 9, 1971, when he vetoed S. 2007. The President criticized the form of the Legal Services Corporation, pointing out that "it differs crucially from the proposal originally set forth by this administration." And I believe he is right.

The most crucial of those differences still exist in H.R. 12350. It is the provision which limits the power of the President in appointing members of the governing board of the Corporation to persons on lists submitted to him by various private organizations, including groups who have a vested interest in the operation of the program.

In his message, the President also said:

> Our intention was to create a legal services corporation, to aid the poor, that was independent and free of politics, yet contained built-in safeguards to assure its operation in a reasonable manner. In the Congress, however, the legislation has been substantially altered, so that the quintessential principle of accountability has been lost. In rewriting the original proposal, the door has been left wide open to abuses which have cost one anti-poverty program after another its public enthusiasm and public support.

Mr. Chairman, the legal services corporation provision in this bill leaves the door open to the same abuses, which is essentially that the members of the board would not be accountable, through the President, to the broad public interest. I placed in the record yesterday an account of a meeting convened by one of the interested groups—the National Legal Aid and Defender Association—which represents virtually a blue-print for taking over the legal services corporation even before it is formed. This would be attempted through the device of the incorporating trusteeship established under this bill, which is a wholly unnecessary provision for controlling the Corporation during the critical first 6 months of its operation.

The kind of abuses which would be possible as a result of turning the appointive process over to private organizations, including those with a vested interest, are very well known to the Members of this House. These are the very abuses complained of for so long by Members on both sides of the aisle which have threatened to discredit legal services for the poor.

Interestingly enough, the existing models we have for public defender systems, both State and Federal, would not turn the direction of the program over to interested private organizations.

One of the earliest State pulbic defender systems is that of New Jersey, which was enacted in 1967 under the administration of Governor Hughes. It has operated very well and it does not provide for appointment or control of the State public defender by any outside panel, but rather by the Governor, who, of course, in turn is responsible to the people.

In 1969–70 the National Conference of Commissioners on Uniform State Law spent a whole year in devising a Model State Public Defender Act. They carefully studied the issue of whether the public defenders should be appointed by an outside panel or by the Governor of the State, and concluded that the Governor should have that responsibility in order to preserve the principle of public accountability. This was incorporated in the model law adopted by their annual conference in August of 1970.

Not every State which has established a public defender system follows this model. In Hawaii, for example, they adopted the course of having the public defender appointed by—and therefore responsible to—an outside panel. After a year of experience with this, which proved to be extremely unhappy and counterproductive in terms of public support for the whole concept of legal services for the poor, the Hawaiian Legislature repealed the panel system and turned the authority over to Governor Burns, as recommended in the model law.

We also have a public defender system for the Federal courts established by the Criminal Justice Act of 1970, Public Law 91–447. Here the system is based upon a plan devised by each United States district court and approved by the judicial council—consisting of the U.S. circuit court of appeals judges—having jurisdiction. There is not time here to describe in detail the operation of this act, but it can be summarized by saying that the Federal defender system is under the firm control of the Federal judiciary, headed up by the Chief Justice of the U.S. Supreme Court in his role as a head of the Judicial Conference of the United States. The judicial conference is composed of the Chief Justice, the chief judge of the court of claims, the chief judge of the court of customs and patent appeals, the chief judge of each U.S. circuit court of appeals, and one U.S. district judge from each circuit who is selected by his fellow judges.

Thus the Federal public defender system, established as a part of our system of justice, is under the firm control of the Federal judiciary without any sort of intervention of outside groups. The provisions for a legal services corporation in this bill would not only mark a complete departure from the established constitutional practice of the President making appointments as the representative of all the people, subject only to the power of the Senate to advise and consent, but it would also be counter to the best experience we have in assuring responsible legal representation of the poor.

There is every reason to believe that upon close examination title X should not be acceptable to a majority of the Members of this House. Our aim is and should be to use the taxpayers' money to assure competent, aggressive legal representation of the poor without serving unwise private ends. H.R. 12350 provides no such assurances and the substitute should be adopted.

Mr. ERLENBORN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I doubt, really, that there is anything much new that can be said that has not already been covered in the general debate, but I did want to take the floor and again reiterate my support for the substitute that the gentleman from Minnesota (Mr. QUIE) has offered.

I think it makes good sense to extend the authority for the OEO for this current fiscal year and the next year so that we can then go about, in the proper legislative fashion, the creation of a Legal Services Corporation, a concept that both the administration and a majority of the Members of this House have endorsed.

However, the problems have not yet been worked out. No real attempt has been made in the committee bill before us now to resolve these questions that face us as between the President and the Members of the House and the Senate. I think a simple extension of the OEO will give us the time properly to work out these differences.

It became quite apparent when this new bill was introduced after the veto of the prior OEO authorization bill that the concept of an early childhood development program was going to be dropped now as a separate item and that the majority on our committee were going to try somehow or other to turn Headstart into an early childhood development program. This is done very inexpertly, because it does not have those elements in it that should go into that kind of a program, but because of the popularity of Headstart per se and its acceptance and the fact that it is an ongoing program, the majority has chosen to mandate spending by earmarking and expanding vastly the funds for the Headstart program. This is a very poor way, I believe, of going about the resolution of differences which appeared between the administration and the Congress in this area.

Really what I am suggesting is early childhood development should be handled in a separate bill and the creation of a Legal Services Corporation should be handled in a separate bill, also. We should not hold hostage the OEO authorization for the purposes of getting these other two rather controversial matters passed.

Mr. GERALD R. FORD. Will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to the distinguished minority leader.

Mr. GERALD R. FORD. Let me ask the gentleman from Illinois several questions.

First of all, how much is added to the Headstart program to carry out the child development aspect?

Mr. ERLENBORN. My understanding in the initial year it is $500 million.

Mr. GERALD R. FORD. And it goes up each year thereafter over and above what we have come to accept as a good Headstart program?

Mr. ERLENBORN. That is right. And it is also earmarked so that no authority to determine where the expenditure should be made is left in the OEO Director.

Mr. GERALD R. FORD. So it appears under the heading of Headstart that we now have the Headstart program, which most of us now support, and a child development program, where there are some legitimate questions raised by people in good faith?

Mr. ERLENBORN. That is right. And it was the intention of the drafters of the bill when they took the exact figures out of the conference report as to the income level below which the services would be free and then a fee schedule to $7,000. They are trying to make Headstart look like an early childhood development program.

Mr. GERALD R. FORD. The substitute offered by the gentleman from Minnesota is a legitimate, bona fide Headstart program plus other things that we put into the poverty program in the past.

Mr. ERLENBORN. It is that and it is also a reasonable authorization based upon the budget, so that we would not be holding forth false hope to those who would look at the authorization and expect us to be spending that amount, which would be the case with the committee bill where the authorization would be considerably higher than what we could anticipate would be appropriated.

Mrs. CHISHOLM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, will today mark a tragic turning point in the history of justice in America? The decision which faces this body regarding the future of the legal services program is one of constitutional importance, and it is one of great social importance for this Nation. The choice is clear: Are we to protect the fundamental right to petition for redress of grievance through the courts, the legal system, or are we to stand here today and tell untold millions of Americans that they must go back to the streets to secure their rights? I challenge those Members who would cut off this program which has provided basic legal representation for the poor to tell me who is more responsible—the Member who will vote as I do to maintain order, law, and justice through preserving this program, or the Member who invites social disorder, disobedience or unjust laws, and perhaps even violence in the streets, by voting to kill legal services for the poor.

I call upon those legislators who think they are serving the desires of the President in voting against legal services to recall his words in a message to Congress last May 5—

> The Nation has learned many lessons in these six short years. This program has not been without travail. Much of the litigation initiated by legal services has placed it in direct conflict with local and state governments. The program is concerned with social issues and is thus subject to unusually strong political pressures.
>
> Even though surrounded by controversy, this program can provide a most effective mechanism for settling differences and securing justice within the system and not on the streets. For many of our citizens, legal services has reaffirmed faith in our government of laws. However, if we are to preserve the strength of the program, we must make it immune to political pressures and make it a permanent part of our system of justice.
>
> * * * * *
>
> The Federal program of providing legal services to Americans otherwise unable to pay for them is a dramatic symbol of this nation's commitment to the concept of equal justice. It is a program both new and unparalleled by any other system of justice in the world. I urge the Congress to join with me in adopting this proposal to give it new strength for the future.

The contrast between these very fine comments by the President and the action of the Vice President in Camden 2 weeks ago makes the choice one that is clear. The Vice President said he was not satisfied with the "whole ball of wax" when it came to legal services bringing suits against governmental officials; a lot of poor people in this country are not satisfied with the "whole ball of wax" either when it comes to destruction of their homes in urban renewal projects and highways, improper relocation procedures, and denial of benefits to which they are entitled by Federal or State laws. To deny the poor man a right to legal representation in those cases is to deny the white middle class family the right to have legal counsel along when the Internal Revenue Service goes into your tax returns. The national advisory committee to the legal services program, a distinguished body make up of the leading officials of the organized bar, stated the issue quite clearly, and it bears repeating here:

> The legal services program is rooted in the concept of equal justice under law which is the conerstone of our democratic society. In terms of the rendering of legal services, this means that the economically disadvantaged must have the same access to lawyers and legal institutions as their more affluent brothers. Lawyers hold the key to the court system and the enforcement of substantive rights. Such enforcement depends upon the availability of and equal access to the institutions which determine the rights of the individual in our society. Translated into practical terms, the goal of the legal services program must continue to be making counsel available to those unable to afford legal representation, to the same extent that such representation is available to those financially able to employ their own counsel.

It escapes me how men who are lawyers could dare go on record against legal services, a program which is based on the most conservative and enduring principles of American law: the right to due process of law, the concept of accountability of public officials, and the right of every citizen to equal protection of the laws. I would hate to have to explain a vote to kill this program to the members of the influential legal profession back home and to citizens of all walks of life who believe that access to the courts is a basic tenet of the American way of life.

Why is it important to preserve this program, and why should Members of this House who are also members of the legal profession be particularly outraged by the disservice SPIRO AGNEW did to every American in attacking legal services?

First, it is a program where lawyers—who are officers of the judicial branch—have been funded through an agency of the executive branch and have, in many cases, sued the executive branch—and sued it successfully, I might add.

From the outset of the legal services program, this concern for the professional integrity of legal advocacy was viewed as having structural implications.

Because of the unique and constitutionally privileged status of legal advocacy, the organized bar insisted from the beginning that the program must be under professional direction, administered independently, and in accordance with the highest standards of the profession.

Second, this is a program whose chief political clout—at least at the beginning—came from direct involvement of the organized bar. And I do not mean simply token endorsement. I mean that the major elements of the organized bar became part of the internal policy-making structure of OEO—a partnership which is to my knowledge virtually unprecedented.

Consequently, it was with a lawyer's concern for structural guarantees of professional independence that the bar sought and obtained first from Sargent Shriver and later, from Donald Rumsfeld, guarantee of independence of the legal services program within the community action agency.

Third, the ultimate integrity of this program stems directly from the canons of ethics and the code of professional responsibility of the legal profession and more particularly from the requirement of accountability of lawyers to their clients and of the program as a whole to the client population.

Once the program received express statutory recognition, the bar insisted on a guarantee that: "projects involving legal advice and representation shall be carried on in a way that assures maintenance of a lawyer-client relationship consistent with the best standards of the legal profession."

Fourth, the program is distinctive in that equal justice under law means something special for the poor and minority groups. It means enfranchisement. It has explicitly and inherently political dimensions—and the Supreme Court has recognized this to be inherent in legal representation—in such cases as *NAACP* v. *Button*, 317 U.S. 415, 430, and *UMW* v. *Illinois Bar Association*, 389 U.S. 217.

Fifth, the program is unique in that the legal profession is 98.5 percent white and yet is still welcome in the ghetto despite the racial polarization that threatens continuously to tear this country apart.

Perhaps the most significant indication of the distinctive nature of this program is that the President's Commission on Executive Reorganization—the Ash Commission—which was bent on consolidating departments and agencies rather than proliferating—felt that this was one program which could not be incorporated in any other operating department and agency and was best spun off in an entirely new corporate entity which would at once preserve the program's professional integrity, provide continuous funding, insulate it from the kinds of controversy which had convulsed it since its inception, and maintain the same mission of representation at a time when the poor had become less fashionable as an object of governmental concern.

So in conclusion, I urge each of you to weigh carefully the implications of how you vote on this amendment today. It is not consistent with the President's wishes that legal services be terminated; it is consistent however with the apparent wishes of the Vice President. It is not consistent with time-honored principles of the adversarial system of justice to vote against legal services; but certainly a vote to kill this important program will be appreciated by the Spiro Agnews and Ronald Reagans of this country, so let each be the judge of his company.

Mr. ESCH. Mr. Chairman, I move to strike the requisite number of words.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. ESCH. I will be happy to yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I just want to say to the gentlewoman from New York that when she raises the question of whether Members support the legal services program or not, she seems to give the impression that the substitute I have offered would strike out the legal services program and that is just not accurate. What the substitute does is to continue the present act as it is and, as the gentlewoman knows, the legal services program is a part of the present act.

What the substitute would do would remove the new Legal Services Corporation, which is unacceptable to many of us. The Legal Services Corporation is one that, as you know, was so controversial that you would not accept it the way it is now in the last session of the Congress. What we really want to do is to consider that issue by itself, so that all views could be adequately considered, and my views could be adequately considered, but not to hold the Community Action Agency employees, and the employees of OEO down here as hostages. I think we need to pass a continuation of the Economic Opportunity Act as it is right now. We will then have time to consider such further amendments as may be necessary.

But bear this in mind, this does not do anything to stop the legal services program as it presently exists; it does not do anything to stop the Headstart program as it presently exists, it does not do anything to stop the program that is run by the National Collegiate Athletic Association as it is presently operating. That is what I want to make clear.

Mr. ESCH. I thank the gentleman.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. ESCH. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding to me.

I was surprised, as was the gentleman from Minnesota (Mr. QUIE) when the gentlewoman from New York (Mrs. CHISHOLM) referred to the fact that the substitute does away with the legal services program, because the substitute does not do that.

It also seems very strange to me that the gentlewoman from New York would take the well in such strong support of the new corporation as provided in this bill because, if my memory serves me correctly—and I think it does—when I offered the provision in the bill last year it was almost identical to this, and the gentlewoman from New York voted against it in committee.

Now, I think the gentlewoman from New York is trying to obfuscate the real facts because nobody is trying to do away with the legal services program. We are trying to work out a new corporation that will be acceptable. I support legal services, and I support the concept of the corporation. I just do not think that this is the vehicle in which to do it.

Mr. Chairman, I thank the gentleman for yielding.

Mr. ESCH. I appreciate the remarks of the gentleman from Illinois and the gentleman from Minnesota. In the interest of fairness I think that all views should be stated so that we have a clear understanding of the differences. Even though I do not concur with the gentleman from Illinois, and the gentleman from Minnesota on this issue, I think it is important that we should recognize that the 2-year extension does indeed include legal services.

Mr. MEEDS. Mr. Chairman, I rise in opposition to the substitute amendment.

Mr. Chairman and members of the committee, in addition to the other mischief which the substitute commits against Headstart, Neighborhood Youth Corps and a number of other fine programs in the Office of Economic Opportunity, it knocks out title X, which is the Legal Services Corporation.

We are told by the gentleman from Minnesota that we should not exercise our prerogatives as a separate and supposedly equal body of this Government, but that we should take hook, line, and sinker the administration's bill—and if we do not, the President will veto it and we will not have anything.

I would like to point out in that connection two things. First of all, this is not the bill the President vetoed. I keep trying to make this point, and the gentleman from Minnesota apparently wants to overlook it. This is not the bill the President vetoed. Indeed, we made three of the four major changes that the President suggested in his veto message.

Now I think we have gone a long way to meeting the President—we have gone three-quarters of the way. We have made three of the four major changes, and it seems to me he ought to be willing to compromise a little bit also.

We brought forth the bill which meets some of his major objections.

So from both of those standpoints, it seems to me highly unlikely that the President will veto this legislation, if we pass it.

In addition, I think we ought not to let ourselves be bludgeoned and lose our position as a separate and equal branch of this Government.

But let me point out some of the other things that this substitute amendment does. First of all, title X, the Legal Services Corporation, in addition to creating the corporation, we put some stronger strictures on that corporation than presently exists under the present legal services program.

For instance, we entirely prohibit political activity not only partisan political activity but nonpartisan political activity.

I am sure the gentleman from Minnesota will agree with me that this is stronger than present law.

Second, we entirely prohibit the representation of criminal cases. I am sure the gentleman from Minnesota will agree with me that this is stronger than the present law.

Third, we establish a very strict curb on legislative advocacy. This has been a problem with the present program that I think has been somewhat of concern to many Members of Congress. They have had situations where legal services attorneys have gotten involved before legislative bodies, advocating positions, which they ought to be able to advocate, but they do not even represent clients. They are just there on their own, so to speak, as some people think, stirring up trouble. We have in this legislation an absolute prohibition against that.

It may be done now, but we prohibit it under this act—any legal services attorney legislatively advocating, must represent a client and/or must be invited by the legislative tribunal before which he appears.

I am sure the gentleman from Minnesota will agree with me, this is much stronger in our present legislation.

Another problem is that legal services attorneys are going out, in some few instances, looking for a case to represent. There is a strict prohibition against that in this title X.

I am sure the gentleman from Minnesota would agree with me that it is much stronger in these terms because we establish a requirement for guidelines for appeal.

So on balance this bill is much stronger in protecting some of the concerns of the Members of this Congress and the administration have asserted.

So, if we vote for the substitute of the gentleman from Minnesota, we will not get the strengthening amendments in this bill.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman.

Mr. QUIE. Mr. Chairman, all during the conference last year, a lot of people were saying—Oh, the President will not veto this bill. But he did.

This is a different situation and we do not have as much room for compromise.

There was no compromise on the make up of the Board. It is the same as we find in the bill agreed on in the conference report last year.

Mr. MEEDS. That was the thing. I said we took just three out of four. That is pretty good, it seems to me.

Mr. QUIE. And the trusteeship, which many did not realize was in trouble, really was not resolved by the amendment offered by the gentleman from Wisconsin in committee which still leaves private groups in control for 6 months.

Mr. MEEDS. The gentleman can make that decision.

The CHAIRMAN. The time of the gentleman from Washington has expired.

AMENDMENT OFFERED BY MR. ICHORD TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. QUIE

Mr. ICHORD. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Minnesota (Mr. Quie).

The Clerk read as follows:

Amendment offered by Mr. Ichord to the amendment in the nature of a substitute offered by Mr. Quie: At the end of the amendment add the following:

Sec. 4. Section 222(A)(3) of the Economic Opportunity Act of 1964 is amended by striking the fourth sentence and inserting in lieu thereof the following:

"No funds or personnel made available for such programs shall be used to provide legal services with respect to any criminal proceeding; nor shall any funds or personnel made available for such programs be used to provide legal services in civil suits to persons who have been convicted of a criminal charge where the civil suit arises out of alleged acts or failures to act connected with the criminal conviction."

Mr. ICHORD. Mr. Chairman, I had originally intended to offer this amendment, the Legal Services Corporation section of H.R. 12350. However, I have drafted it so that it is in order as an amendment to the amendment offered by the gentleman from Minnesota (Mr. Quie).

The Legal Services Corporation provisions, as drawn in the bill, does contain a prohibition against the use of funds or personnel in criminal matters. The present legal services section, section 222(a), does likewise. However, it would permit criminal representation in very unusual situations.

What I do in this amendment is to extend the prohibition to civil suits arising out of criminal suits.

The amendment, I believe, is very simple. I think it is quite clear. I would hope that both sides would accept the amendment. It strikes at a problem which the gentleman from Missouri (Mr. Hungate) and I have encountered in our respective districts.

We have a rash of suits filed by persons who have been convicted of criminal offenses against prosecuting attorneys, against policemen, against judges, and even defense counsel. These proceedings have been filed under section 1983 of title 42. I do agree that probably the present guidelines would not permit the expenditure of funds and the hiring of personnel in these actions. But I can see no reason why the members of the committee would not accept such a prohibition.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Washington.

Mr. MEEDS. Are any of the actions about which you speak being brought by legal services attorneys?

Mr. ICHORD. They are not, and, as I stated, I understand they would not be permitted under the present guidelines. But there is no prohibition against extending such services. We have written a prohibition toward criminal suits in the legal corporation section. I think we should also extend it to civil suits arising out of criminal cases. I hope the members of the committee will accept the amendment.

Mr. WILLIAM D. FORD. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Michigan.

Mr. WILLIAM D. FORD. I do not quite understand. The gentleman acknowledged that the problem he has in Missouri is not a problem arising out of the expenditure of Legal Services funds, because the suits that bother him are not being brought by legal services attorneys. Is that correct?

Mr. ICHORD. That is quite true.

Mr. WILLIAM D. FORD. I fail to see, in spite of the explanation, the reason for the amendment.

Mr. ICHORD. I state to the gentleman from Michigan that I am just as sure as I am standing in this well that if there is no prohibition placed in the bill as was placed in relation to criminal suits under the Legal Services Corporation Act, there will be such legal services provided to such convicts.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Missouri.

Mr. HALL. I join the ranks of my colleague from the Eighth District and also the reference to my colleague from the Ninth Missouri District, and add that being from the hometown of the hospital for Federal defective delinquents, U.S. Department of Justice, Prison System; there have been suits brought by inmates there through legal defenders who would not be eligible under the amendment. I support the gentleman's amendment.

Mr. ICHORD. I have one county in my district where there are five such suits pending against the local prosecuting attorney.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Missouri (Mr. Hungate).

Mr. HUNGATE. I think the problem the gentleman describes is a very real and existing one in Missouri. I suspect we are not alone in that. I appreciate the amendment the gentleman offers. I can see no reason why the amendment should not be supported. If they are not doing it and do not plan to do it, I see no reason why we should not put that in the law.

Mr. WILLIAM D. FORD. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Michigan (Mr. William D. Ford).

Mr. WILLIAM D. FORD. Mr. Chairman, the reason is no one would advocate we should change the rules to do what one might suspect would be done in the future, but this amendment goes much further. In addition to possible civil suits arising out of criminal proceedings, suppose, for example, there was a question of enjoining a public board or agency to perform its duty with respect to an investigation of a demonstration, for example, to take place here in Washington. Would the gentleman prohibit that kind of action?

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. WILLIAM D. FORD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I yield to the gentleman from Missouri to answer my question.

Mr. ICHORD. Mr. Chairman, I would say to the gentleman from Michigan I have limited the amendment to convicted criminals. The added language to the prohibition the gentleman has placed in the Legal Services Corporation Act is this: "nor shall any funds or personnel made available for such programs be used to provide legal services in civil suits to persons who have been convicted of a criminal charge where the civil suit arises out of alleged acts or failures to act connected with the criminal conviction."

So the language would have only limited application. It would apply only to the convicted criminal.

Mr. WILLIAM D. FORD. If the gentleman is concerned with the possibility of legal services attorneys bringing on behalf of indigent persons suits for false arrest, he need not fear that, because we have never, never in the history of the program permitted use of legal services' funds for that purpose.

Mr. ICHORD. I would agree.

Mr. WILLIAM D. FORD. The reason for that is, it is within a class of cases we call fee generators, and just as we do not permit them to take automobile damage suits and tort cases where lawyers are normally expected to be repaid by portions of the judgments they obtain, we do not permit them to take such cases. It is very misleading for the gentleman to submit this amendment suggesting he is trying to prevent something prospectively from happening, because the implication is someone presently plans to reverse what has been the case in the 7- to 8-year history of this program.

I should not like to have people misunderstand that there is any intention to reverse this restriction we have had on legal services attorneys.

In reply to the gentleman from Missouri who said if we have no intention of having legal services attorneys represent persons in this kind of case, why do we mind the amendment, we mind the amendment because it does not apply just to restrict that type of suit. It restricts the legal services attorney from being involved in any civil suit that is in any way connected with the criminal proceeding just because a person happens to be a convicted criminal. Let me point out to the gentleman that anyone who is involved in any kind of public demonstration or even a strike and is arrested for being allegedly a disorderly person and goes to trial and is found guilty of that, is by this definition at that point a convicted criminal.

But what if this is a group of poor mothers, for example, involved in a rent strike and the legal services attorneys at the same time have filed against the public housing authority of the city of Detroit a petition asking that the housing authority reject those procedures with respect to the way it is establishing its rent?

Now, does such a mother, if she participates in the rent strike and is convicted of being a disorderly person under an ordinance of the city of Detroit, thereby become a criminal who can no longer be a party to rent litigation against the city housing authority? That is an entirely different kind of circumstance than that described by the gentleman.

I submit we should not adopt an amendment to stop something that is not happening while at the same time we endanger the entire structure of the relationship of the professional attorney and the client which exists in this program.

We ought to remember that we are not dealing with carpenters and butchers. We are dealing with professional people who are subject to the laws of the States, to the laws of the United States, to the rules of the courts in which they practice, and to the rules of the professional organizations they are required to belong to as professionals, as they conduct their practice.

There is something to all these restrictions. We should not involve ourselves in the attorney-client relationship. It seems to me that is one of the troublesome aspects of this amendment.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the gentleman from Missouri.

Mr. ICHORD. In answer to the gentleman, I do agree that the present guidelines would not permit such representation, but the gentleman would have to agree that the OEO legal services program at the present time does have that authority. If the gentleman does not believe in such representation, I cannot understand why he would object to adoption of the amendment.

Mr. GROSS. Mr. Chairman, I move to strike the next to the last word.

Mr. Chairman, I would like to have the attention of the gentleman from Kentucky (Mr. PERKINS). It is difficult, from reading the first page of the report, to ascertain exactly how much is proposed to be expended through this bill, H.R. 12350, this year and next year. Let me give the gentleman a figure or two, and see if I am correct in the unofficial information I have.

For 1972, in round figures, it is $2.3 billion; is that correct

Mr. PERKINS. That is correct.

Mr. GROSS. For fiscal year 1973, in round figures, it is $3 billion.

Mr. PERKINS. That is correct.

Mr. GROSS. And for 1972 that would be $400 million over the appropriation already made; is that correct?

Mr. PERKINS. It is hardly that much. It is about $360 million.

Mr. GROSS. About $360 million?

Mr. PERKINS. Something like that.

Mr. GROSS. With respect to figures of this kind, the gentleman would not quarrel too much over $40 million, would he?

Mr. PERKINS. No, I certainly would not.

Mr. GROSS. And for fiscal 1973, it is over the budget by $900 million?

Mr. PERKINS. Almost.

Mr. GROSS. Almost $900 million?

Mr. PERKINS. Correct.

Mr. GROSS. And the Legal Services Corp. would start with about $60 million; is that information correct?

Mr. PERKINS. That is the appropriation this year, and we provide for the transfer of what is left over to the corporation.

Mr. GROSS. And thereafter the sky could be the limit for the lawyer's WPA.

Mr. PERKINS. The gentleman well knows that the request for this year is only for $73 million.

Mr. GROSS. I said thereafter?

Mr. PERKINS. No, it is not thereafter. The corporation cannot obtain any funds whatsoever from any source except through——

Mr. GROSS. Well, it is open-ended as to money, is it not?

Mr. PERKINS. Yes, it is open-ended.

Mr. GROSS. It is absolutely open-ended thereafter?

Mr. PERKINS. Yes.

Mr. GROSS. So the sky could be the limit. Now let me ask the gentleman this question: that adds up to between $5 billion and $6 billion as a total for this bill, does it not?

Mr. PERKINS. No. It is such sums as the Committee on Appropriations may appropriate. The gentleman well knows that the Committee on Appropriations will be slow in arriving at $100 million. That is just my judgment.

Mr. GROSS. I would say to the gentleman that the Appropriations Committee can be mighty liberal on occasion. I do not know what they would do in this case, and the gentleman does not know, either, what they would appropriate.

However, the next question is——

Mr. PERKINS. But they never gave them more than $61 million. Let us put it that way.

Mr. GROSS. I do not know about that. Let me ask the gentleman where is it proposed to get the $5 billion and more to finance the entire programs called for in this bill?

Mr. PERKINS. If we authorize it here, then naturally I assume it would come out of the general revenues of the Treasury of the United States if it is appropriate.

Mr. GROSS. Are your people in Kentucky prepared to pay their share of the taxes for these bills? I can tell you they are not in the Third District of Iowa.

Mr. PERKINS. Let me say to my good friend that over and above the President's budget for the increase in Headstart for fiscal year 1973——

Mr. GROSS. I am talking about the entire bill.

Mr. PERKINS. I feel it is money well expended, and I certainly want to pay my part of it.

Mr. GROSS. The gentleman has not answered the question. Are the people of his district, the hill country of Kentucky, prepared to pay increased taxes to take care of this bill?

Mr. PERKINS. We feel Headstart——

Mr. GROSS. We are not talking about Headstart or any other one thing, such as Legal Services.

Mr. PERKINS. Let me say to the distinguished gentleman that everybody is tax conscious in this country, but it is a question here of determining priorities, and my people feel that this program deserves priority over many other programs where expenditures should be cut.

Mr. GROSS. Would the gentleman mind seeing the citizens of the 3rd district of Iowa getting as much as they do down in the gentleman's district in Kentucky so they may have some pap from the Federal Government to help pay their taxes in order to pay for this bill?

Mr. PERKINS. I think, if the gentleman from Iowa had as many poor people as the gentleman from Kentucky, he would want an equal amount of dollars.

Mr. GROSS. Of course, this business of being poor is relative, is it not? Or is it? I understand they are pretty well taken care of down in certain parts of Kentucky. I just wonder if the gentleman is ready to spread the good things of life to the rest of the country.

Mr. PERKINS. I would like to see above everything else the good things of life go to my good friend from Iowa.

Mr. GROSS. I can see the gentleman does not have a good answer as to where it is proposed to get the $5 billion which he advocates spending on this program.

Mr. HUNGATE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the situation that some of us from Missouri discuss is not a hypothetical one but is a very real one, not involving, as far as I know, prosecutors particularly, but it does involve defense counsel in many instances. In the State of Missouri we are in such a condition that appointed defense counsel are not paid. They serve free in the State of Missouri. They can find later that they are sued, and it was brought to my attention in a letter that one of these court-appointed attorneys defended a client and the man was convicted, so he sued the defense counsel for $100,000. The counsel said, "'While I was laughing at this guy someone else sued me for a $1 million." These are real situations, not hypothetical cases.

I appreciate the gentleman from Michigan's statement. These suits are not being handled through any legal aid program now. I think it is just as well that we have a statute so that they could not change their guidelines. Some of us are familiar with instances where they do change the guidelines and some cases where they violate guidelines. They might bring people to Washington and take them home urging them to write to the Congressmen offering to prepare letters for them and drawing letters up for them and even run them through the postage meter, in some instances, in order to lobby using Federal money to lobby to get more Federal money. That is against the guidelines, but it has happened more than once, and I would like to see prohibition made statutory.

While I support my colleague DICK ICHORD's amendment, I oppose the Quie substitute because of its failure to make other necessary corrections in the field of adequate legal services for citizens, now unable to afford them.

Mr. PERKINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I ask unanimous consent to proceed for an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. HALL. Mr. Chairman, reserving the right to object, I request the gentleman to make that at the end of the first 5 minutes; otherwise, I would be constrained to object.

Mr. PERKINS. All right; I shall be delighted to do that.

The CHAIRMAN. The gentleman from Kentucky is recognized for 5 minutes.

Mr. PERKINS. Mr. Chairman, first, let me state that if we adopt the substitute we will just be throwing away everything that the Committee on Education and Labor has been doing. Even admitting that the so-called poverty program has weaknesses, we will just be perpetuating those weaknesses in adopting the substitute.

Personally, I feel that this Congress does not want to proceed in any such manner.

Now, when we vote down this substitute, the gentleman from Minnesota (Mr. QUIE) will have the opportunity to offer his amendment in connection with the Headstart program, and other amendments will be in order in connection with the legal services program.

Mr. Chairman, we have strengthened the Economic Opportunity Act by amendments added in committee.

We have a provision in here on rural housing, so little has been done for the rural people of America. The regular housing programs have, by and large, bypassed the rural people in this country.

I want to state to my city friends that I have supported every bill that affects the cities and I expect to do so in the future.

But, we have tried to orient this legislation toward the rural people solely for the purpose of trying to get a fair share of the money expended in the rural areas.

Now, with reference to the environmental action program, I think if you will turn to page 19 of the committee report you will find a description of what it proposes to do. I am going to take the time to read it.

One is a new environmental action program through which low-income people will be paid for working on projects designed to combat pollution and improve the environment. This new program combines the elements of a work program with a recognition of the need to improve the environment, particularly the environment in which the poor find themselves. Projects may include a variety of kinds of activities, cleanup and sanitation activities, solid waste removal, the clearing of streams, removal of trash and automobile carcasses from creekbeds and roadways, work necessary to improve sewage collection and disposal, and projects to improve water supplies. Work on the reclamation of eroded or ecologically damaged areas, such as those affected by strip mining, will be encouraged, as well as the rehabilitation of areas damaged by other forms of natural and manmade destruction. The planting of trees and flowers, the establishment and construction of recreation areas and parks, the seeding and sodding of barren areas are contemplated.

We are trying by this amendment to remove the debris and filth from the streets and highways of this country both in the slums and in the rural sections of the country.

We felt that we could improve community action programs and those people who work in connection with the mainstream program by special emphasis programs of this type. Plans are already being made in the various communities to use these people—to clean up the environment.

I certainly would hope that this committee today would not jerk the rug completely out from under the poor people where their representatives are trying to get them started in doing something about cleaning up their own environment.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

(By unanimous consent, Mr. PERKINS was allowed to proceed for 5 additional minutes.)

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. I thank the Chairman for yielding.

I want to get a point straightened out in my mind in regard to the gentleman's bill and the so-called Quie substitute amendment.

As I understand the bill which is before us, it provides some language that assures the continuation of the very successful foster grandparents program among our Indian children out in Oklahoma, where there has been some difficulty in providing the local matching funds necessary to keep this program going.

Mr. PERKINS. That is in the committee bill, not in the Quie substitute.

In the committee bill we further provide that the matching requirements for any OEO programs cannot go above 20 percent, whereas there are proposed regulations that would increase that figure, which would eliminate many useful ongoing programs.

Mr. EDMONDSON. If I understand the Quie substitute amendment correctly, it deletes completely the language in the committee bill which makes in order a waiver of full local contributions from our Indian tribes, and our Indian community people, and that waiver is absolutely essential for continuing this program in some low-income areas.

Mr. PERKINS. The gentleman is absolutely correct. That point was given careful consideration before the committee. I am hopeful that this House will not be lulled into a sense of false security here, and accept a simple extension of this legislation. This is just one way of destroying the program, and I am surprised that anybody would offer an amendment of that type after this bill has been so carefully considered.

Now, if they want to proceed in the normal way they will have a chance to do so, but let us vote down this substitute offered by the gentleman from Minnesota.

Mr. Chairman, we have provisions in the committee bill for the employment of rehabilitated veterans who had become addicted to drugs. This is in the committee bill; it is not in the Quie substitute.

It is true that the committee bill does authorize an additional $500 million for fiscal year 1973 for the Headstart program. I want to ask the members of this committee whether we are justified in authorizing another $500 million for fiscal year 1973 for the Headstart program?

In my judgment, we are justified, when we consider that we have about 1,700,000 children within this category and are only taking care of about 20 percent presently.

They made the argument that we need to wait and to develop a comprehensive bill before we go further in connection with doing something about these youngsters who need child development services. But Mr. Chairman, the need to expand is clearly shown.

The President of the United States is not going to dare to veto this bill because we add an extra $500 million for Headstart for the fiscal year 1973 and he is not going to dare to veto this bill, because we have permitted children above the poverty level but who are in the very near poor category to come into the program by paying a reasonable fee—after his own administration suggested this very fee schedule.

I would not think any President would dare veto a bill of this type. He has the flexibility. There are none of the arguments here that existed in the child development bill—none at all.

Mr. Chairman, I am hopeful that the substitute amendment offered by the gentleman from Illinois will be defeated.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HAYS. Mr. Chairman, I rise in opposition to the substitute amendment.

Mr. Chairman, there are several things about the OEO, or the poverty program, that I do not like. I think it has several weaknesses in it and if this substitute amendment is defeated, as I hope it will be, I intend to offer at least one amendment to correct one of the things that I think is bad about it.

We put an amendment in last year which I thought was perfectly clear insofar as the intent of the House is concerned, that one-third of these local boards consist of public officials. I thought the intent was elected public officials.

I find in one of the counties in my district they have deliberately circumvented this. This director has more or less handpicked people who are from appointed boards, and who I suppose can qualify as public officials—but the electorate has no way to hold them accountable for anything.

So, if this substitute is defeated, I have an amendment prepared which I understand the chairman is perfectly agreeable to, which spells out that one-third of these boards shall be either elected Government officials or their representatives.

Then, if the elected officials choose not to exercise their right or not to appoint anyone, the board can go into other categories.

The reason for this is—I think a lot of people would support this program if there were some accountability.

But I ran into a situation just the other night when I attended this meeting—and I was reluctant to do so, a board meeting of this particular community setup where that director had called in a consultant. It turned out later that the consultant had been fired from three different OEO programs. But there was a kind of interrelated incestuous relationship there—and he paid this guy $1,900 of your money and my money for a 4-page double spaced report on how to fire the deputy director, who the director did not like. I challenged him on it. He went on television and damned me as being against the poor.

The truth of the matter is—I think that $1,900 would have been better spent on behalf of the poor than on behalf of some faker and foreflusher who came in there representing himself as a consultant.

After my intervention, this director got up very dramatically thinking to gain sympathy and said, "I resign."

And do you know what? They accepted his resignation by a vote of 14 to 12, which was a great surprise to him and a very pleasant one, I might say, to a good many other people.

I would like to see the program strengthened. I would like to see the money go to the right places. I think Headstart is probably the outstanding thing that the OEO has done, and I think that we could afford to expand that program, if necessary—and maybe the Chairman will not agree with this—if necessary, at the expense of some of the programs which have been less useful and more controversial.

But let me tell you something. I spent 4 years of my life, the first 4 years after I left the university, as a high school teacher. I got plenty of students in high school who could not read, who could not read at the fourth-grade level, and I understand this problem has exacerbated through the years, partly because they get underprivileged children in the schools who do not have the background, they get behind, and finally they get too big for the seats in the class, and they are moved to the next class. Nobody has a chance to get them caught up.

It has been my observation in my district that the Headstart program has done exactly what it was intended to do, not necessarily giving these children a head start, but giving them an even start, so that when they go into the first grade, they are on a par with the children of parents who could afford to send them to kindergarten or who could afford to have the kind of background at home conducive to learning, including the little reading books for children 2, 3, and 4 years of age. I remember that my own daughter had memorized those books by the time she was 3. I used to read to her. I would make intentional mistakes and she would correct me. A lot of poor kids have never had an opportunity to have these books.

I have visted the Headstart programs, and I can say that because of that background, the children have the advantage of a beginning which they would lack otherwise, enabling them to start in the first grade on a par with children from more privileged homes. It surely gives them a chance to get an education and graduate from high school.

In Ohio we now have a great many high schools and technical high schools. It is a growing program. It is fundamental that if a boy or girl gets to a high school or a technical high school and he or she cannot read, he or she cannot do the work required, because everything—the directions in electrical engineering, mechanical engineering, automobile mechanics, or you name it—they are all written in English and the student must have the ability to read in order to comprehend the work.

I hope the substitute will be defeated. As I said, I am going to offer an amendment, and will support amendments to correct this and if they are adopted to support the program.

The CHAIRMAN. For what purpose does the majority leader, the gentleman from Louisiana (Mr. BOGGS) rise?

Mr. BOGGS. Mr. Chairman, I rise in opposition to the substitute.

The CHAIRMAN. The gentleman is recognized for 5 minutes in opposition to the substitute.

Mr. BOGGS. Mr. Chairman and members of the Committee, it seems to me that the issues before us are simple. They are not complex. We have before us a committee bill that has been reported by the committee and which we are seeking to debate, but in place of debate of the bill section-by-section, paragraph-by-paragraph, we are confronted by a substitute, a whole substitute, which would displace the committee bill and become the legislative enactment of this body.

I submit, Mr. Chairman and members of the Committee, that if anyone has doubts about the committee bill, whether he favors expanding the program or restricting it, the only orderly way to proceed is by voting down the substitute and proceeding with the debate on the committee bill.

I was impressed by what the distinguished chairman of the committee had to say about the threat that was made here today about a veto. I have been here for a while and I just do not believe the time has come in this body when we are required to legislate on the theory that someone in the executive branch, the President, is going to veto what we do. If that is the case, then we really do not need a legislative body. All we really have to do is to find out exactly what the Executive wants and just put an OK on it and send it down there.

If, on the other hand, we are independent representatives of the people charged with the responsibility of representing our constituents, then, it seems to me, we would work our own will and send a bill over to the other body and let that body work its will and let the conferees do their job, and then send a completed legislative enactment to the Chief Executive for him to do what he pleases with it.

I know of no other legitimate way to legislate. I, for one, join in expressing resentment over the idea that we are going to legislate or fail to legislate, because we have hanging over us some threat of a veto.

I would like to see the substitute amendment defeated, so we can debate this bill. If it takes us the rest of the day and tomorrow or next week, it will still be all right.

I think this is a very important program. I do not like to believe all we can do is extend whatever happened last year and the year before and send that to the President. We can improve on it. The fact is there are many things we can improve on.

I was very impressed by what the gentleman from Ohio said about the Headstart program a little while ago. I think the legal services program with all its defects has been a very helpful program for the poor people of this country.

It is a fact that rather than having more people cross over the line from poverty to something better than poverty, last year was the first year in some time that we have had people move back over the line, back into poverty. I know in my own city last year, last summer in one of these programs providing some type of minimal employment during the hot summer months, there were 10 applicants for every available job. I have been told that a similar condition existed in most places in the country.

The point I am making is that despite all of its defects, despite all the criticism that may have been directed at some aspects of this program, it has moved into an area of our society—that of grinding poverty—that desperately needs some type of intervention on the part of the National Government. For us simply to say here now, with more people moving into poverty than are moving out, with the need for Headstart and all these other programs well established, that the best thing to do is simply to pass an extender—that is, in my opinion, an abrogation of the power and the authority of this great body.

So I reiterate, Mr. Chairman, I hope the substitute will be voted down, and I hope we will have the opportunity to work the will of the House on the committee bill.

Mr. CORMAN. Mr. Chairman, I rise in opposition to the substitute amendment, and I move to strike the requisite number of words.

Mr. Chairman, when Congress approved the Economic Opportunity Act in 1964 creating an agency within the Government to focus on and administer to the needs of the poor the United States took a giant step toward insuring equality of opportunity for all persons. Today, we have another opportunity to take still another step in that never ending journey towards equality.

The legislation we are debating today will extend the provisions of this landmark legislation for an additional 2-year term ending June 30, 1973.

Because of the President's opposition to previous amendments that were approved in November of last year, the Education and Labor Committee has reworked the provisions of this legislation to more closely coincide with the President's demands. The committee, however, has successfully been able to meet these demands and still maintain the comprehensive range of programs designed to carry out the purposes of the original 1964 legislation.

Under the provisions of these amendments we have an opportunity to expand the vital Headstart program which represents one of the best expressions of our Nation's concern for its children.

We also have an opportunity to create an independent Legal Services Corporation—a concept which has been strongly endorsed by such prestigious groups as the American Bar Association, the National Bar Association, the American Trial Lawyers Association, and a great many State and local bar associations. Placing the legal services program within the confines of a corporation would expand the scope of the program and would increase its effectiveness by removing it from the threat of political interference.

Enactment of H.R. 12350, as reported from the committee, would also enable us to continue and refine such valuable programs as the Job Corps, the Neighborhood Youth Corps, and Operation Mainstream which all address themselves to the employment problems of the disadvantaged.

Recognizing the severity of both our unemployment and environmental problems, a new special emphasis program called environmental action is included in this legislation. Environmental action has, as its primary aim, the promotion of jobs for poor people on projects which are designed to combat pollution and clean up our rapidly deteriorating environment.

It has been suggested by Mr. QUIE that we merely extend the Economic Opportunity Act for 2 years minus the perfecting amendments which the committee has recommended to strengthen the nature of the various programs. To adopt such a suggestion would be going against the commitment we made in 1964 when we took the offensive in the war on poverty. To retreat would be an injustice to the poor people for whom we have been fighting the past 8 years. In the past 8 years we have made important advancements in assisting the poor to achieve self-reliance. Success has not come easily nor quickly but our past performance has given the disadvantaged and underprivileged reason to believe that tangible improvements can be achieved so that they will not always be enslaved by their bonds of poverty.

I urge my colleagues to join with me today in supporting the bill as reported by the committee so that the faith of these people may be kept alive and so that we can continue to travel unobstructed down the road to our final destination of equality of opportunity for all.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. ICHORD) to the amendment in the nature of a substitute offered by the gentleman from Minnesota (Mr. QUIE).

The question was taken; and on a division (demanded by Mr. ICHORD) there were—ayes 60, noes 32.

So the amendment to the amendment in the nature of a substitute was agreed to.

Mr. DELLENBACK. Mr. Chairman, I rise in opposition to the substitute amendment.

Mr. Chairman, while it is usually my privilege to be arguing on the same side of questions before the House as the distinguished ranking minority member of our committee, Mr. QUIE, today I find myself in the unusual position of urging defeat of the amendment he is offering to H.R. 12350 in the nature of a substitute.

I do want to point out that I am in agreement with my colleague on the question of the expanded Headstart authorization and will support deletion of this part of the bill. But I believe it would be a serious mistake to take out title X, the establishment of the National Legal Services Corporation. In my opinion, title X as now drafted represents a reasonable and fair compromise of the different approaches which have been debated to establishing a Legal Services Corporation.

One of the major concerns throughout the debate on establishing a Legal Services Corporation has been to preserve the independence of the program. Indeed this concern was one of the major reasons the Corporation was proposed. As Edward L. Wright, distinguished president of the American Bar Association, said in testimony before our committee:

> Recurring attacks on the Legal Services program have helped shape our view that the Legal Services program should be provided a new and independent home.

At the same time the legal services program must be independent to serve its clients effectively, it must also be responsible to the Federal Government which supports it. It is not an easy task to devise a system that will preserve and protect the program's independence while insuring that it is accountable to Congress and the executive and judicial branches to the standards of the legal profession, and to whom it serves. But I believe title X included in the bill before us meets these criteria. It creates a corporation that is simultaneously independent—as a legal services program for the poor must be—and responsible.

The system by which the board will be nominated is the mechanism which insures this accountability. This system assures the balanced input of all the interests which should be involved. While the President makes selections of the 17 board members from lists submitted by the five main associations of attorneys, he can reject as many lists as he wants and ask for new lists until he is satisfied. Surely this gives him the flexibility and oversight which he should have in relation to the board of the corporation. At the same time, it insures the continued interest and involvement which the legal service program so definitely needs from the major legal associations.

I believe it is time to resolve the controversy over the transfer of the legal services program to a corporation. This move has had broad support from the administration, from Congress, from legal associations, and, in my opinion, from the interested public. There have been a number of differences in the specific approaches proposed by those who support the general concept of a National Legal Services Corporation; but I believe title X is a sound resolution of these differences. It deserves the support of the House today.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Minnesota (Mr. QUIE) as amended.

The question was taken; and the

Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. QUIE. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. QUIE. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. QUIE, MEEDS, PERKINS, and ERLENBORN.

The Committee divided, and the tellers reported that there were—ayes 159, noes 206, not voting 67, as follows:

[Roll No. 45]

[Recorded Teller Vote]

AYES—159

Abbitt
Abernethy
Andrews
Archer
Arends
Ashbrook
Aspinall
Baker
Belcher
Bevill
Blackburn
Brinkley
Broomfield
Brotzman
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Byrnes, Wis.
Byron
Cabell
Camp
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clawson, Del
Cleveland
Collins, Tex.
Colmer
Conable
Crane
Daniel, Va.
Davis, Ga.
Davis, Wis.
Dennis
Derwinski
Devine
Dickinson
Dowdy
Downing
Duncan
Edwards, Ala.
Erlenborn
Eshleman
Evins, Tenn.
Findley
Flowers
Flynt
Ford, Gerald R.
Fountain
Frelinghuysen
Frey
Fuqua
Giaimo
Goldwater
Goodling
Griffin
Gross
Grover
Hagan
Haley
Hall
Hammerschmidt
Hansen, Idaho
Harsha
Harvey
Hastings
Henderson
Hogan
Hosmer
Hunt
Hutchinson
Johnson, Pa.
Jonas
Jones, N.C.
Keating
Kemp
King
Kyl
Landgrebe
Latta
Lennon
Lent
Lloyd
McClory
McCollister
McCulloch
McDonald, Mich.
McKevitt
McMillan
Mahon
Mailliard
Mallary
Mann
Martin
Mathis, Ga.
Mayne
Miller, Ohio
Mills, Md.
Montgomery
Passman
Pelly
Pettis
Pirnie
Poage
Poff
Powell
Purcell
Quie
Quillen
Rarick
Rhodes
Roberts
Robinson, Va.
Rogers
Rousselot
Runnels
Ruth
Sandman
Saylor
Schmitz
Scott
Schneebeli
Sebelius
Shipley
Shoup
Shriver
Sikes
Skubitz
Smith, Calif.
Snyder
Spence
Springer
Steiger, Ariz.
Stuckey
Teague, Calif.
Teague, Tex.
Terry
Thone
Waggonner
Wampler
Ware
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wydler
Wylie
Wyman
Yatron
Young, Fla.
Zion

NOES—206

Abourezk
Abzug
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Anderson, Tenn.
Annunzio
Ashley
Aspin
Badillo
Barrett
Begich
Bennett
Bergland
Biaggi
Biester
Bingham
Blanton
Boggs
Boland
Bolling
Brademas
Brasco
Brooks
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Carey, N.Y.
Carney
Carter
Celler
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Curlin
Daniels, N.J.
Danielson
Davis, S.C.
de la Garza
Dellenback
Dellums
Denholm
Dent
Dingell
Donohue
Dorn
Dow
Drinan
Dulski
du Pont
Eckhardt
Edmondson
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Fascell
Fish
Flood
Foley
Ford, William D.
Forsythe
Fraser
Frenzel
Galifianakis
Garmatz
Gaydos
Gonzalez
Grasso
Gray
Green, Pa.
Griffiths
Gude
Halpern
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Hillis
Horton
Howard
Hull
Hungate
Ichord
Jacobs
Johnson, Calif.
Jones, Ala.
Karth
Kastenmeier
Kee
Kluczynski
Koch
Kyros
Leggett
Long, Md.
McCormack
McDade
McFall
McKay
McKinney
Madden
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mikva
Miller, Calif.
Mills, Ark.
Minish
Mink
Mitchell
Moorhead
Morgan
Morse
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nix
Obey
O'Hara
O'Neill
Patten
Pepper
Perkins
Peyser
Pickle
Pike
Podell
Preyer, N.C.
Price, Ill.
Railsback
Randall
Rangel
Rees
Reid
Reuss
Riegle
Robison, N.Y.
Rodino
Roe
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ryan
St Germain
Sarbanes
Scheuer
Schwengel
Seiberling
Sisk
Slack
Smith, Iowa
Staggers
Stanton, James V.
Steele
Steiger, Wis.
Stephens
Stokes
Stratton
Sullivan
Symington
Taylor
Thompson, N.J.
Thomson, Wis.
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Waldie
Whalen
Wolff
Wright
Wyatt
Yates
Young, Tex.
Zablocki

NOT VOTING—67

Anderson, Ill.
Baring
Bell
Betts
Blatnik
Bow
Bray
Brown, Mich.
Burleson, Tex.
Caffery
Clark
Clausen, Don H.
Collier
Delaney
Diggs
Dwyer
Edwards, La.
Fisher
Fulton
Gallagher
Gettys
Gibbons
Green, Oreg.
Gubser
Hébert
Holifield
Jarman
Jones, Tenn.
Kazen
Keith
Kuykendall
Landrum
Link
Long, La.
Lujan
McCloskey
McClure
McEwen
Macdonald, Mass.
Mathias, Calif.
Michel
Minshall
Mizell
Mollohan
Monagan
Myers
Nelsen
Nichols
O'Konski
Patman
Price, Tex.
Pryor, Ark.
Pucinski
Satterfield
Scherle
Smith, N.Y.
Stanton, J. William
Steed
Stubblefield
Talcott
Thompson, Ga.
Vander Jagt
Veysey
Vigorito
Whalley
Wilson, Charles H.
Zwach

Mr. BROOKS. Mr. Chairman, I ask unanimous consent, since I was in the room and asking to be recognized before the vote was announced, that I be recorded as voting "no."

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

So the amendment in the nature of a substitute, as amended, was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 2. (a) For the purpose of carrying out the Economic Opportunity Act of 1964 (hereinafter referred to as the "Act"), there are hereby authorized to be appropriated $2,304,066,000 for the fiscal year ending June 30, 1972; and $3,000,000,000 for the fiscal year ending June 30, 1973.

(b) Notwithstanding any other provision of law, unless expressly in limitation of the provisions of this section, of the amounts appropriated pursuant to subsection (a) of this section for the fiscal year ending June 30, 1972, and for the next fiscal year, the Director shall reserve and make available a sum sufficient to permit the funding of local initiative programs authorized under section 221 of the Act at a level not less than $350,000,000 each year.

(c) Of the sums authorized to be appropriated under subsection (a), $500,000,000 for the fiscal year ending June 30, 1972, and $1,000,000,000 for the fiscal year ending June 30, 1973, shall be for the purpose of carrying out the Project Headstart program described in section 222(a)(1) of the Act.

SEC. 3. Sections 171, 245, 321, 408, 615, and 835 of the Act are each amended by striking out "five succeeding fiscal years" and inserting in lieu thereof "seven succeeding fiscal years". Section 523 of the Act is amended by striking out "four succeeding fiscal years" and inserting in lieu thereof "six succeeding fiscal years".

SEC. 4. Section 222(a)(1) of the Act is amended by striking the comma and all the language following the words "make payment" and adding the following: "in accordance with an appropriate fee schedule established by the Secretary, based upon the ability of the family to pay, which payment may be made in whole or in part by a third party in behalf of such family, except that any such charges with respect to any family with an income of less than the lower living standard budget shall not exceed the sum of (i) an amount equal to 10 per centum of any family income which exceeds $4,320 but does not exceed 85 per centum of such lower living standard budget, and (ii) an amount equal to 15 per centum of any family income which exceeds 85 per centum of such lower living standard budget but does not exceed 100 per centum of such lower living standard budget, and, if more than two children from the same family are participating, additional charges may be made not to exceed the sum of the amounts calculated in accordance with clauses (i) and (ii) with respect to each additional child. No charge will be made with respect to any child who is a member of any family with an annual income equal to or less than $4,320, with appropriate adjustments in the case of families having more than two children, except to the extent that payment will be made by a third party. Funds appropriated for the purpose of carrying out this section shall be used first to continue ongoing Headstart projects, or new projects serving the children from low-income families in those areas which were being served during the preceding fiscal year. There shall be reserved for such projects from such funds an amount at least equal to the aggregate amount received by public or private agencies or organizations during the preceding fiscal year for programs under this section."

SEC. 5. Section 222(a)(4)(A)(ii) of the Act is amended by striking out "such services may be available on an emergency basis or pending a determination of eligibility to all residents of such areas" and inserting in lieu thereof "pursuant to such regulations as the Director may prescribe, persons provided assistance through programs assisted under this paragraph who are not members of low-income families may be required to make payment, or have payment made in their behalf, in whole or in part for such assistance".

SEC. 6. (a) Section 222(a)(8) of the Act is amended by striking out the last sentence thereof.

(b) Section 222(a)(9) of the Act is amended by striking out the last sentence and inserting in lieu thereof the following: "The Director is authorized to undertake special programs aimed at promoting employment opportunities for rehabilitated addicts and assisting employers in dealing with addiction and drug abuse problems among formerly hard-core unemployed so that they can be maintained in employment. In undertaking such programs, the Director shall give special priority to veterans and employers of significant numbers of veterans. The Director is further authorized to establish procedures and policies which will allow clients to complete a full course of rehabilitation even though they become non-low-income by virtue of becoming employed as a part of the rehabilitation process: *Provided, however,* That there shall be no change in income eligibility criteria for initial admission to treatment and rehabilitation programs under this Act."

(c) Section 222(a) is further amended by inserting at the end thereof the following:

"(10) An 'Environmental Action' program through which low-income persons will be paid for working on projects designed to combat pollution or to improve the environment. Projects may include, without limitation: cleanup and sanitation activities, including solid waste removal; reclamation and rehabilitation of eroded or ecologically damaged areas, including areas affected by strip mining; conservation and beautification activities, including tree planting and recreation area development; the restoration and maintenance of the environment and the improvement of the quality of life in urban and rural areas.

"(11) A program to be known as 'Rural Housing Development and Rehabilitation' designed to assist low-income families in rural areas to construct and acquire ownership of adequate housing, to rehabilitate or repair existing substandard units in such areas, and to otherwise assist families in obtaining standard housing. Financial assistance under this paragraph shall be provided to rural housing development corporations serving areas which are defined by the Farmers Home Administration as rural areas, and shall be used for, but not limited to, such purposes as administrative expenses, revolving development funds, nonrevolving land, land development, and construction writedowns, rehabilitation or repair of substandard housing, and loans to low-income families. Loans under this paragraph may be used for, but not limited to, such purposes as the purchase of new housing units, the repair, rehabilitation, and purchase of existing units, and to supplement existing Federal loan programs in order that low-income families may benefit from them. The repayment period of such loans shall not exceed thirty-three years. No loans under this paragraph shall bear an interest rate of less than 1 per centum per annum, except that if the Director, after having examined the family income of the applicant, the projected housing costs of the applicant, and such other factors as he deems appropriate, determines that the applicant would otherwise be unable to participate in this program, he may waive the interest in whole or in part and for such periods of time as he may establish: *Provided, however,* That no such waiver may be granted to an applicant whose adjusted family income (as defined by the Farmers Home Administration) is in excess of $3,700 per annum: *And provided further,* That any applicant for whom such a waiver is provided shall be required to commit at least 20 per centum of his adjusted family income toward the mortgage debt service and other housing costs. Family incomes shall be recertified annually, and monthly payments for all loans under this paragraph adjusted accordingly. There are hereby authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1972, and $15,000,000 for the fiscal year ending June 30, 1973, for the purpose of carrying out this program."

Sec. 7. (a) Notwithstanding any other provision of law, the Director of the Office of Economic Opportunity shall reserve, for the purpose of section 225(a) of the Act, not more than 4 per centum of the sums appropriated for the fiscal year ending June 30, 1972, for Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, according to their respective needs.

(b) Effective after June 30, 1972, section 225(a) of such Act is amended by striking out "Puerto Rico,".

(c) Effective after June 30, 1972, the first sentence of paragraph (1) of section 609 of such Act is amended by striking out the word "or" the second time it appears in such sentence and inserting in lieu thereof a comma and the following: "Puerto Rico, or".

Sec. 8. Section 225(c) of the Act is amended by inserting after the second sentence thereof the following new sentence: "The Director shall not require non-Federal contributions in excess of 20 per centum of the approved cost of programs or activities assisted under this Act.".

Sec. 9. After section 225 of the Act, add the following new section:

"Sec. 226. (a) In order to provide to disadvantaged youth recreation and physical fitness instruction and competition with high-quality facilities and supervision and related educational and counseling services (including instruction concerning study practices, career opportunities, job responsibilities, health and nutrition, and drug abuse education) through regular association with college instructors and athletes and exposure to college and university campuses and other recreational facilities, the Secretary of Health, Education, and Welfare shall make grants or enter into contracts for the conduct of an annual youth recreation and sports program concentrated in the summer months and with continued activities throughout the year, so as to offer disadvantaged youth living in areas of rural and urban poverty an opportunity to receive such recreation and educational instruction, information, and services and to participate in such physical fitness programs and sports competitions.

"(b) No assistance may be provided under this section unless satisfactory assurances are received that not less than 90 per centum of the youths participating in each program to be assisted under this section are from families with incomes below the poverty level, as determined by the Secretary of Health, Education, and Welfare, and that such participating youths and other neighborhood residents, through the involvement of the appropriate community action agency or otherwise, will have maximum participation in program planning and operation. The Secretary of Health, Education, and Welfare shall take such steps as are necessary to assure that at least 50 per centum of the youths and instructors participating in programs funded in whole or in part pursuant to the authority of this section are females.

"(c) Programs under this section shall be administered by the Secretary of Health, Education, and Welfare, through grants or contracts with any qualified organization of colleges and universities or such other qualified nonprofit organizations active in the field with access to appropriate recreational facilities as the Secretary of Health, Education, and Welfare shall determine in accordance with regulations which he shall prescribe. Each such grant or contract and subcontract with participating institutions of higher education or other qualified organizations active in the field shall contain provisions to assure that the program to be assisted will provide a non-Federal contribution (in cash or in kind) of no less than 20 per centum of the direct costs necessary to carry out the program. Each such grant, contract, or subcontract shall include provisions for—

"(1) providing opportunities for disadvantaged youth to engage in competitive sports and receive sports skills and physical fitness instruction and education in good health and nutrition practices;

"(2) providing such youth with instruction and information regarding study practices, career opportunities, job responsibilities, and drug abuse;

"(3) carrying out continuing related activities throughout the year;

"(4) meeting the requirements of subsection (b) of this section;

"(5) enabling the contractor and institutions of higher education or other qualified organizations active in the field located conveniently to such areas of poverty and the students and personnel of such institutions or organizations active in the field to participate more fully in the community life and in solutions of community problems; and

"(6) serving metropolitan centers of the United States and rural areas, within the limits of program resources.

(d) From the sums appropriated to carry out the provisions of this Act not more than $3,000,000 shall be allocated to carry out the purposes of this section."

Sec. 10. Section 231 of the Act is amended by adding at the end thereof the following:

"(d) If any member of a board to which section 211(b) applies files an allegation with the Director that an agency receiving assistance under this section is not observing any requirements of this Act, or any regulation, rule, or guideline promulgated by the Director under this Act, the Director shall promptly investigate such allegation and shall consider it; and, if after such investigation and consideration he finds reasonable cause to believe that the allegations are true, he shall hold a hearing, upon the conclusion of which he shall notify all interested persons of his findings. If he finds that the allegations are true, and that, after being afforded a reasonable opportunity to do so, the agency has failed to make appropriate corrections, he shall, forthwith, terminate further assistance under this title, to such agency until he has received assurances satisfactory to him that further violations will not occur."

Sec. 11. Section 244 of the Act is amended by adding at the end thereof the following:

"(8) Consistent with the provisions of this Act, the Director shall assure that financial assistance under this title will be distributed on an equitable basis in any community so that all significant segments of the low-income population are being served."

Sec. 12. Section 312(b)(3) of the Act is amended by inserting after the word "Government" the words "employment or".

Sec. 13. Section 603 of the Act is amended by adding at the end thereof the following new subsection:

"(c) No part of any funds appropriated to carry out this Act, subpart (1) of part B of title V of the Higher Education Act of 1965 as amended, or of any program administered by ACTION shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the Office of Economic Opportunity, the Teacher Corps, or ACTION, who, in his official capacity as such an officer or employee, engages in any such activity. As used in this secton, the term 'election' has the same meaning given such term by section 301(a) of the Federal Election Campaign Act of 1971, and the term 'Federal office' has the same meaning given such term by section 301(c) of such Act."

Sec. 14. Section 522(d) of the Act is amended by adding a new sentence after the words "local levels." as follows: Such standards shall be no less comprehensive than the Federal interagency day care requirements as approved by the Department of Health, Education, and Welfare, the Office of Economic Opportunity, and the Department of Labor on September 23, 1968.

Sec. 15. Section 609 of the Act is amended by adding at the end thereof the following:

"(5) the term 'lower living standard budget' means that income level (adjusted for regional and metropolitan, urban and rural differences and family size) determined annually by the Bureau of Labor Statistics of the Department of Labor and referred to by such Department as the 'lower living standard budget.'"

Sec. 16. Section 616 of the Act is amended to read as follows:

"TRANSFER OF FUNDS

"SEC. 616. Notwithstanding any limitation on appropriations for any program or activity under this Act or any Act authorizing appropriations for such program or activity, not to exceed 10 per centum of the amount appropriated or allocated from any appropriation for the purpose of enabling the Director to carry out any such program or activity under the Act may be transferred and used by the Director for the purpose of carrying out any other such program or activity under the Act; but no such transfer shall result in increasing the amounts otherwise available for any program or activity by more than 10 per centum."

SEC. 17. Part A of title VI of the Act is amended by inserting at the end thereof the following:

"PROHIBITION ON THE USE OF FUNDS

"SEC. 624. No part of any funds appropriated to carry out any program administered by the Office fo Economic Opportunity or ACTION shall be used to finance any program or activity in which students in higher education perform voluntary or community service, where, as a condition for eligibility for funds, an institution of higher education is required to award credit to students for training or experience derived from such voluntary or community service."

SEC. 18. Section 632(3) of the Act is amended by inserting at the end thereof the following: "Such plan shall be presented to the Congress no later than December 31, 1971, and documents updating such plan shall be presented to the Congress no later than December 31 of each succeeding calendar year."

SEC. 19. Part B of title VI of the Act is amended by adding at the end thereof the following new section:

"GUIDELINES

"SEC. 639. Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this Act shall be published in the Federal Register at least thirty days prior to their effective date."

SEC. 20. (a) The Act is amended by adding at the end thereof the following new title:

"TITLE IX—EVALUATION

"SEC. 901. (a) The Director shall provide for evaluations that describe and measure the impact of programs, their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services and including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. He may, for these purposes, contract or make other arrangements for independent evaluations of those programs or individual projects.

"(b) The Director shall develop and publish standards for evaluation of program effectiveness in achieving the objectives of this Act. He shall consider the extent to which such standards have been met in deciding whether to renew or supplement financial assistance authorized under any section of this Act.

"(c) The Director may require community action agencies to provide independent evaluations.

"(d) Federal agencies administering programs related to this Act shall—

"(1) cooperate with the Director in the discharge of his responsibility to plan and conduct evaluations of such poverty-related programs as he judges appropriate, to the fullest extent permitted by other applicable law; and

"(2) provide the Director with such statistical data, program reports, and other materials as they presently collect and compile on program operations, beneficiaries, and effectiveness.

"(e) In carrying out evaluations under this title, the Director shall, whenever possible, arrange to obtain the opinions of program participants about the strengths and weaknesses of the programs.

"(f) The Director shall consult, where appropriate, with State agencies, in order to provide for jointly sponsored objective evaluation studies of programs on a State basis.

"(g) The Director shall publish the results of evaluative research and evaluations of program impact and effectiveness no later than sixty days after its completion.

"(h) The Director shall take necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

"(i) The Director shall publish and summarize the results of activities carried out pursuant to this title in the report required by section 608."

(b) The following provisions of the Act are repealed:

(1) Section 113(a);

(2) Section 132 (b) and (c);

(3) Section 154;

(4) Section 233; and

(5) Section 314(b).

(c) Section 632(2) of the Act is amended by striking out "carry on a continuing evaluation of all activities under this Act, and".

(d) Sections 132 and 314 are each amended by striking out "(a)".

SEC. 21. The Act is amended by adding at the end thereof the following new title:

"TITLE X—NATIONAL LEGAL SERVICES CORPORATION

"DECLARATION OF POLICY

"SEC. 1001. The Congress hereby finds and declares that—

"(1) it is in the public interest to provide greater access to attorneys and appropriate institutions for the orderly resolution of grievances and as a means of securing orderly change, responsiveness, and reform;

"(2) many low-income persons are unable to afford the cost of legal services or of access to appropriate institutions;

"(3) access to legal services and appropriate institutions for all citizens of the United States not only is a matter of private and local concern, but also is of appropriate and important concern to the Federal Government;

"(4) the integrity of the attorney-client relationship and of the adversary system of justice in the United States requires that there be no political interference with the provision and performance of legal services;

"(5) existing legal services programs have provided economical, effective, and comprehensive legal services to the client community so as to bring about a peaceful resolution of grievances through resort to orderly means of change; and

"(6) a private nonprofit corporation should be created to encourage the availability of legal services and legal institutions to all citizens of the United States, free from extraneous interference and control.

"ESTABLISHMENT OF CORPORATION

"SEC. 1002. (a) There is established a nonprofit corporation, to be known as the National Legal Services Corporation (hereinafter referred to as the 'Corporation') which shall not be an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this title, and, to the extent consistent with this title, of the District of Columbia Nonprofit Corporation Act. The right to repeal, alter, or amend this title is expressly reserved.

"(b) No part of the net earnings of the Corporation shall inure to the benefit of any private person, and it shall be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code.

"PROCESS OF INCORPORATION AND ORGANIZATION

"SEC. 1003. (a) There shall be a transition period of six months following the date of enactment of the Economic Opportunity Amendments of 1972 for the process of incorporation and initial organization of the Corporation.

"(b) There is established an incorporating trusteeship composed of the following persons or their designees: The Attorney General of the United States, the Director of the Office of Economic Opportunity, the Associate Director for Legal Services of the Office of Economic Opportunity, the Chairman of the Executive Committee of the National Advisory Committee to Legal Services, the president of the American Bar Association, the president of the National Legal Aid and Defender Association, the president of the Association of American Law Schools, the president of the American Trial Lawyers Association and the president of the National Bar Association. The incorporating trusteeship shall meet within thirty days after the enactment of the Economic Opportunity Amendments of 1972 to carry out the provisions of this section.

"(c)(1) Not later than sixty days after the enactment of the Economic Opportunity Amendments of 1972 the incorporating trusteeship, after consulting with and receiving the recommendations of national organizations of persons eligible for assistance under this title, shall establish the initial Clients Advisory Council to be composed of eleven members selected, in accordance with procedures established by the incorporating trusteeship, from among individuals eligible for assistance under this title.

"(2) Not later than sixty days after the enactment of the Economic Opportunity Amendments of 1972, the incorporating trusteeship, after consulting with and receiving the recommendations of associations of attorneys actively engaged in conducting legal services programs, shall establish the initial Project Attorneys Advisory Council to be composed of eleven members selected, in accordance with procedures established by the incorporating trusteeship, from among attorneys who are actively engaged in providing legal services under any existing legal services program.

"(3) To assist in carrying out the provisions of this subsection, the Director of the Office of Economic Opportunity shall compile a list of all legal services programs publicly funded during the fiscal year ending June 30, 1971, and the subsequent fiscal year and furnish such list to the incorporating trusteeship. In order to carry out the provisions of this subsection, the Director of the Office of Economic Opportunity shall make available to the incorporating trusteeship such administrative services and financial and other resources as it may require.

"(d) Not later than ninety days after the enactment of the Economic Opportunity Amendments of 1972, all lists required to be submitted as provided in section 1004(a) for persons to serve on the initial board of directors shall be submitted to the President.

"(e) During the ninety-day period of incorporation of the Corporation the incorporating trusteeship shall take whatever actions are necessary to incorporate the Corporation, including the filing of articles of incorporation under the District of Columbia Nonprofit Corporation Act, and to prepare for the first meeting of the board of directors, except the selection of the executive director of the Corporation.

"(f) During the ninety-day period immediately following the period specified in subsection (e) of this section the board shall take whatever action is necessary to prepare to begin to carry out the activities of the Corporation six months after the enactment of the Economic Opportunity Amendments of 1972.

"DIRECTORS AND OFFICERS

"SEC. 1004 (a). The Corporation shall have a board of directors consisting of seventeen individuals appointed by the President, by and with the consent of the Senate, one of whom shall be elected annually by the board to serve as chairman. Members of the board shall be appointed as follows:

"(1) Six members shall be appointed from among individuals in the general public, not less than three of whom shall be members of the bar of the highest court of a State.

"(2) Two members shall be appointed from lists of nominees submitted by the Judicial Conference of the United States.

"(3) Two members shall be appointed from among individuals who are eligible for assistance under this title from lists of nominees submitted by the Clients Advisory Council.

"(4) Two members shall be appointed from among former legal services project attorneys from lists of nominees submitted by the Project Attorneys Advisory Council.

"(5) Five members shall be appointed as follows—

"(A) one member from lists of nominees submitted by the American Bar Association;

"(B) one member from lists of nominees submitted by the Association of American Law Schools;

"(C) one member from lists of nominees submitted by the National Bar Association;

"(D) one member from lists of nominees submitted by the National Legal Aid and Defender Association; and

"(E) one member from lists of nominees submitted by the American Trial Lawyers Association.

Each initial list and any susbequent list shall include at least three and not more than ten names for each position to be filled.

"(b) The directors appointed under subsection (a) shall be appointed for terms of three years except that—

"(1) the terms of the directors first taking office shall be effective on the ninety-first day after the enactment of the Economic Opportunity Amendments of 1972;

"(2) the terms of the directors first taking office shall expire, as designated by the President at the time of appointment, as follows—

"(A) in the case of directors appointed under paragraph (1) of section 1004(a), two at the end of three years, two at the end of two years, and two at the end of one year;

"(B) in the case of directors appointed under paragraph (2) of section 1004(a), one at the end of two years and one at the end one year;

"(C) in the case of directors appointed under paragraph (3) of section 1004(a), one at the end of three and one at the end of one year;

"(D) in the case of directors appointed under paragraph (4) of section 1004(a), one at the end of three years and one at the end of two years; and

"(E) in the case of directors appointed under paragraph (5) of section 1004(a), (i) the term of the director appointed under clause (A) shall expire at the end of three years, (ii) the term of the director appointed under clause (B) shall expire at the end of three years, (iii) the term of the director appointed under clause (C) shall expire at the end of two years, (iv) the term of the director appointed under clause (D) shall expire at the end of one year, and (v) the term of the director appointed under clause (E) shall expire at the end of one year; and

"(3) any director appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(c) The Corporation shall have an executive director, who shall be an attorney, and such other officers, as may be named and appointed by the board of directors at rates of compensation fixed by the board, who shall serve at the pleasure of the board. No individual shall serve as executive director of the Corporation for a period in excess of six years. The executive director shall serve as a member of the board ex officio and shall serve without a vote.

"(d) No political test or qualification shall be used in selecting, appointing, or promoting any officer, attorney, or employee of the Corporation. No officers or employees of the Corporation shall receive any salary from any source other than the Corporation during the period of employment by the Corporation.

"(e) All meetings of the board, executive committee of the board, and advisory councils shall, whenever appropriate, be open to the public, and proper notice of such meetings shall be provided to interested parties and the public a reasonable time prior to such meetings.

"(f) (1) No person who is a paid employee or consultant of the Corporation or of any grantee of the Corporation may serve on the Board of Directors.

"(2) No member of the board may participate in any decision, action, or recommendation with respect to any matter which directly benefits that member or any firm or organization with which that member is then currently associated.

"(g) Any board after the initial board shall, in consultation with the respective advisory councils, provide for rules with respect to the subsequent meetings of the Clients Advisory Council and the Project Attorneys Advisory Council.

"ADVISORY COUNCILS; EXECUTIVE COMMITTEE

SEC. 1005. (a) The board, after consulting with and receiving the recommendations of national organizations of persons eligible for assistance under this title, shall provide for the selection of a Clients Advisory Council subsequent to the first such council established under section 1003(c) (1) of this title to be composed of not more than eleven members selected in accordance with procedures established by the board, including terms of office, qualifications, and method of selection and appointment, from among individuals who are eligible for assistance under this title. Such procedures must insure that all areas of the country and significant segments of the client population are represented, and in no event may more than one representative on such council be from any one State. The Clients Advisory Council shall advise the board of directors and the executive director on policy matters relating to the needs of the client community and may act as liaison between the client community and legal services programs through such activities as it deems appropriate, including informational programs in languages other than English. The Clients Advisory Council shall submit the lists of individuals for appointment as members of the board in accordance with section 1004(a).

"(b) The board, after consulting with and receiving the recommendations of associations of attorneys actively engaged in conducting legal services programs, shall provide for the selection of a Project Attorneys Advisory Council subsequent to the first such council established under section 1003(c) (2) of this title to be composed of not more than eleven members selected in accordance with procedures established by the board, including terms of office, qualifications, and method of selection and appointment, from among attorneys who are actively engaged in providing legal services under this title. Such procedures must insure that all areas of the country are represented, and in no event may more than one representative on such council be from any one State. The Project Attorneys Advisory Council shall advise the board of directors and the executive director on policy matters relating to the furnishing of legal services to members of the client community. The Project Attorneys Advisory Council shall submit the lists of individuals for appointment as members of the board in accordance with section 1004(a).

"(c) The board shall provide for sufficient resources for each Advisory Council in order to pay such reasonable travel costs and expenses as the board may determine.

"(d) The board may establish an executive committee of not less than five members nor more than seven members which shall include the chairman of the board, at least one director appointed pursuant to paragraph (1) of section 1004(a), one director appointed pursuant to paragraph (3) or (4) of section 1004(a), and one director appointed pursuant to paragraph (5), section 1004.

"ACTIVITIES AND POWERS OF THE CORPORATION

"SEC. 1006. (a) Effective six months after the enactment of the Economic Opportunity Amendments of 1972 in order to carry out the purposes of this title, the Corporation is authorized to—

"(1) provide financial assistance to qualified programs furnishing legal services to members of the client community;

"(2) provide financial assistance to pay the costs of contracts or other agreements made pursuant to section 1003 of this title;

"(3) carry out research, training, technical assistance, experimental, legal paraprofessional, and clinical assistance programs;

"(4) through financial assistance and other means, increase opportunities for legal education among individuals who are members of a minority group or who are economically disadvantaged;

"(5) provide for the collection and dissemination of information designed to coordinate and evaluate the effectiveness of the activities and programs for legal services in various parts of the country;

"(6) offer advice and assistance to all programs providing legal services and legal assistance to the client community conducted or assisted by the Federal Government including—

"(A) reviewing all grants and contracts for the provision of legal services to the client community made under other provisions of Federal law by any agency of the Federal Government and making recommendations to the appropriate Federal agency;

"(B) reviewing and making recommendations to the President and Congress concerning any proposal, whether by legislation or executive action, to establish a federally assisted program for the provision of legal services to the client community; and

"(C) upon request of the President, providing training, technical assistance, monitoring, and evaluation services to any federally assisted legal esrvices program;

"(7) establish such procedures and take such other measures as may be necessary to assure that attorneys employed by the Corporation and attorneys paid in whole or in part from funds provided by the Corporation carry out the same duties to their clients and enjoy the same protection from interference as if such an attorney was hired directly by the client, and to assure that such attorneys adhere to the same Code of Professional Responsibility and Canons of Ethics of the American Bar Association as are applicable to other attorneys;

"(8) establish standards of eligibility for the provision of legal services to be rendered by any grantee or contractee of the Corporation with special provision for priority for members of the client community whose means are least adequate to obtain private legal services;

"(9) establish policies consistent with the best standards of the legal profession to assure the integrity, effectiveness, and professional quality of the attorneys providing legal services under this title; and

"(10) carry on such other activities as would further the purposes of this title.

"(b) In the performance of the functions set forth in subsection (a), the Corporation is authorized to—

"(1) make grants, enter into contracts, leases, cooperative agreements, or other transactions, in accordance with bylaws established by the board of directors appropriate to conduct the activities of the Corporation;

"(2) accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible, and use, sell, or otherwise dispose of such property for the purpose of carrying out its activities;

"(3) appoint such attorneys and other professional and clerical personnel as may be required and fix their compensation in accordance with the provision of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule rates;

"(4) promulgate regulations containing criteria specifying the manner of approval of applications for grants based upon the following considerations—

"(A) the most economical, effective, and comprehensive delivery of legal services to the client community in both urban and rural areas;

"(B) peaceful resolution of grievances and resort to orderly means of seeking change; and

"(C) maximum utilization of the expertise and facilities of organizations presently specializing in the delivery of legal services to the client community;

"(5) establish and maintain a law library;

"(6) establish procedures for the conduct of legal services programs assisted by the Corporation containing a requirement that the applicant will give assurances that the program will be supervised by a policymaking board on which the members of the legal profession constitute a majority (except that the Corporation may grant waivers of this requirement in the case of a legal services program which, upon the date of enactment of the Economic Opportunity Amendments of 1972, has a majority of persons who are not lawyers on its policymaking board) and members of the client community constitute at least one-third of the members of such board.

"(c) In any case in which services, otherwise authorized, are performed for the Federal Government by the Corporation, the Corporation shall be reimbursed for the cost of such services pursuant to an agreement between the executive director of the Corporation and the head of the agency of the Federal Government concerned.

"(d) The Corporation shall insure that attorneys employed full time in programs funded by the Corporation refrain from any outside practice of law unless permitted as pro bono publico activity pursuant to guidelines established by the Corporation.

"(e) The Corporation shall insure (1) that all attorneys who are not representing a client or group of clients refrain, while engaged in activities carried on by legal services programs funded by the Corporation, from undertaking to influence the passage or defeat of any legislation by the Congress or State or local legislative bodies by representations to such bodies, their members, or committees, unles such bodies, their members, or their committees request that or committees, unless such bodies, their and (2) that no funds provided by the Corporation shall be utilized for any activity which is planned and carried out to disrupt the orderly conduct of business by the Congress or State or local legislative bodies, for any demonstration, rally, or picketing aimed at the family or home of a member of a legislative body for the purpose of influencing his actions as a member of that body, and for conducting any campaign of advertising carried on through the commercial media for the purpose of influencing the passage or defeat of legislation.

"(f) The Corporation shall insure that no attorneys or other persons employed by it or employed or engaged in programs funded by the Corporation shall, in any case, solicit the client community or any member of the client community for professional employment; and no funds of the Corporation shall be expended in pursuance of any employment which results from any such solicitation. For the purpose of this subsection, solicitation does not include mere announcement or advertisement, without more, of the fact that the National Legal Services Corporation is in existence and that its services are available to the client community, and does not include any conduct or activity which is permissible under the Code of Professional Responsibility and Canons of Ethics of the American Bar Association governing solicitation and advertising.

"(g) The Corporation shall establish guidelines for consideration of possible appeals to be implemented by each grantee or contractee of the Corporation to insure the efficient utilization of resources. Such guidelines shall in no way interfere with the attorney's responsibilities and obligations under the Canons of Professional Ethics and the Code of Professional Responsibility.

"(h) At a reasonable time prior to the Corporation's approval of any grant or contract application, the Corporation shall notify the State bar association of the State in which the recipient will offer legal services. Notification shall include a reasonable description of the grant or contract application.

"(i) No funds or personnel made available by the Corporation pursuant to this title shall be used to provide legal services with respect to any criminal proceeding.

"NONPROFIT AND NONPOLITICAL NATURE OF THE CORPORATION

"SEC. 1007. (a) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(b) No part of the income or assets of the Corporation shall insure to the benefit of any director, officer, employee, or any other individual except as reasonable compensation for services.

"(c) The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

"(d) The Corporation shall insure that all employees of legal services programs assisted by the Corporation, while engaged in activities carried on by legal services programs, refrain (1) from any partisan or nonpartisan political activity associated with a candidate for public or party office, and (2) from any voter registration activity other than legal representation or any activity to provide voters or prospective voters with transportation to the polls. Employees of the Corporation or of programs assisted by the Corporation shall not at any time identify the Corporation or the program assisted by the Corporation with any partisan or nonpartisan political activity associated with a candidate for public or party office. The Board of Directors of the Corporation shall set appropriate guidelines for the private political activities of full-time employees of the Corporation or of programs assisted by the Corporation.

"ACCESS TO RECORD AND DOCUMENTS RELATED TO THE CORPORATION

"SEC. 1008. (a) Copies of all records and documents pertinent to each grant and contract made by the Corporation shall be maintained in the principal office of the Corporation in a place readily accessible and open to public inspection during ordinary working hours for a period of at least five years subsequent to the making of such grant or contract.

"(b) Copies of all reports pertinent to the evaluation, inspection, or monitoring of grantees and contractees shall be maintained for a period of at least three years in the principal office of the Corporation subsequent to such evaluation, inspection, or monitoring visit. Upon request, the substance of such reports shall be furnished to the grantee or contractee who is the subject of the evaluation, inspection, or monitoring visit.

"(c) The Corporation shall afford notice and reasonable opportunity for comment to interested parties prior to issuing regulations and guidelines, and it shall publish in the Federal Register on a timely basis all its bylaws, regulations, and guidelines.

"(d) The Corporation shall be subject to the provisions of the Freedom of Information Act.

"FINANCING OF THE CORPORATION

"SEC. 1009. In addition to any funds reserved and made available for payment to the Corporation from appropriations for carrying out the Economic Opportunity Act of 1964 for any fiscal year, there are further authorized to be appropriated for payment to the Corporation such sums as may be necessary for any fiscal year. Funds made available to the Corporation from appropriations for any fiscal year shall remain available until expended.

"RECORDS AND AUDIT OF THE CORPORATION AND THE RECIPIENTS OF ASSISTANCE

"SEC. 1010. (a) The accounts of the Corporation shall be audited annually in accordance wtih generally accepted auditing standards by any independent licensed public accountant certified or licensed by a regulatory authority of a State or political subdivision. Each such audit shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person conducting the audit, consistent with the necessity of maintaining the confidentiality required by the best standards of the legal profession, and full facilities for verifying transactions with the balance, or securities held by depositories, fiscal agents, and custodians shall be afforded to any such person. The report of each such independent audit shall be included in the annual report required under this title. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the assets and liabilities, and surplus or deficit of the Corporation, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the income and expenses of the Corporation during the year, and a statement of the sources and application of funds, together with the opinion of the independent auditor of those statements.

"(b)(1) The accounts and operations of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited annually by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States, consistent with the necessity of maintaining the confidentiality required by the best standards of the legal profession. Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representative of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or used by the Corporation pertaining to its accounts and operations, including the reports pertinent to the evaluation, inspection, or monitoring of grantees and contractors required to be maintained by section 1008(b) and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Corporation shall remain in the possession and custody of the Corporation.

"(2) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform the Congress of the operations and conditions of the Corporation, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other transaction or undertaking observed in the course of the audit, which in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the executive director and to each member of the board at the time submitted to the Congress.

"(c) (1) Each grantee or contractee, other than a recipient of a fixed price contract awarded pursuant to competitive bidding procedures, under this title shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Corporation or any of its duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent assistance received under this title. The President or any of his duly authorized representatives and the Comptroller General of the United States, or any of his duly authorized representatives shall also have access thereto for such purpose during any fiscal year for which Federal funds are available to the Corporation.

REPORTS TO CONGRESS

"SEC. 1011. The Corporation shall prepare an annual report for transmittal to the President and the Congress on or before the 30th day of January of each year, summarizing the activities of the Corporation and making such recommendations as it may deem appropriate. This report shall include findings and recommendations concerning the preservation of the attorney-client relationships and adherence to the Code of Professional Responsibility of the American Bar Association in the conduct of programs supported by the Corporation. The report shall include a comprehensive and detailed report of the operations, activities, financial condition, and accomplishments of the Corporation together with the additional views and recommendations, if any, of members of the board.

"DEFINITIONS

"SEC. 1012. As used in this title the term—

"(1) 'State' means the several States and the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(2) 'Corporation' means the National Legal Services Corporation established pursuant to this title;

"(3) 'client community' means individuals unable to obtain private legal counsel because of inadequate financial means;

"(4) 'member of the client community includes any person unable to obtain private legal counsel because of inadequate financial means;

"(5) 'legal services' includes legal advice, legal representation, legal research, education concerning legal rights and responsibilities, and similar activities (including, in areas where a significant portion of the client community speaks a language other than English as the predominant language, or is bilingual, services to those members of the client community in the appropriate language other than English);

"(6) 'legal profession' refers to that body composed of all persons admitted to practice before the highest court of at least one State of the United States; and

"(7) 'nonprofit', as applied to any foundation, corporation, or association means a foundation, corporation, or association, no part of the net earnings of which inures, or may lawfully inure to the benefit of any private shareholder or individual.

"PROHIBITION ON FEDERAL CONTROL

"SEC. 1013. Nothing contained in this title shall be deemed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the Corporation or any of its grantees or contractees or employees, or over the charter or bylaws of the Corporation, or over the attorneys providing legal services pursuant to this title, or over the members of the client community receiving legal services pursuant to this title.

"SPECIAL LIMITATIONS

"SEC. 1014. The board shall prescribe procedures to insure that—

"(1) financial assistance shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations, unless the grantee or contractee has been given reasonable notice and opportunity to show cause why such action should not be taken; and

"(2) financial assistance shall not be terminated, an application for refunding shall not be denied, and an emergency suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee or contractee has been afforded reasonable notice and opportunity for a timely, full, and fair hearing.

"COORDINATION

"SEC. 1015. The President may direct that particular support functions of the Federal Government, such as the General Services Administration, the Federal telecommunications system, and other facilities, be utilized by the Corporation or its grantees or contractees to the extent not inconsistent with other applicable law.

"TRANSFER MATTERS

"SEC. 1016. (a) Notwithstanding any other provision of law, on and after such date as may be prescribed by the Director of the Office of Management and Budget, or six months after the enactment of the Economic Opportunity Amendments of 1972, whichever is the earlier, all rights of the Office of Economic Opportunity to capital equipment in the possession of legal services programs assisted pursuant to sections 222(a)(3), 230, 232, or any other provision of the Economic Opportunity Act of 1964, shall become the property of the National Legal Services Corporation.

"(b) Effective six months after the date of enactment of the Economic Opportunity Amendments of 1972, all personnel, assets, liabilities, property, and records as determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Director under section 222 (a)(3) of this Act shall be transferred to the Corporation. Personnel transferred (except personnel under schedule A of the excepted service) under this subsection shall be transferred in accordance with applicable laws and regulations, and shall not be reduced in classification or compensation for one year after such transfer. The Director shall take whatever action is necessary and reasonable to seek suitable employment for personnel who would otherwise be transferred pursuant to this subsection who do not wish to transfer to the Corporation.

"(c) Collective-bargaining agreements in effect on the date of enactment of the Economic Opportunity Amendments of 1972 covering employees transferred pursuant to subsection (b) of this section shall continue to be recognized by the Corporation until altered or amended pursuant to law.

"(d) Effective six months after the date of enactment of this Act, section 222(a)(3) of the Economic Opportunity Act of 1964 is repealed.

"(e) Notwithstanding any other provision of law, after the enactment of this Act but prior to the enactment of appropriations to carry out the Economic Opportunity Act of 1964 for the fiscal year ending June 30, 1972, the Director of the Office of Economic Opportunity shall, out of appropriations then available to him, make funds available to assist in meeting the organizational expenses of the Corporation and in carrying out its activities.

"(f) Title VI of the Economic Opportunity Act of 1964 is amended by inserting after section 622 thereof the following new section:

" 'INDEPENDENCE OF NATIONAL LEGAL SERVICES CORPORATION

" 'SEC. 623. Nothing in this Act, except title X, and no reference to this Act unless such reference refers to title X, shall be construed to affect the powers and activities of the National Legal Services Corporation.' "

SEC. 22. (a) Section 611(a) of the Older Americans Act of 1965 (42 U.S.C. 3044(b)) is amended by adding at the end thereof the following new sentence: "The Director of ACTION may approve assistance in excess of 90 per centum of the cost of the development and operation of such projects if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this section."

(b) The amendment made by subsection (a) of this section shall be effective from the date of enactment of this section. In the case of any project with respect to which, prior to such date, a grant or contract has been made under such section or with respect to any project under the Foster Grandparent program in effect prior to September 17, 1969, contributions in cash or in kind from the Bureau of Indian Affairs, Department of the Interior, toward the cost of the project may be counted as part of the cost thereof which is met from non-Federal sources.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that the further reading of the committee amendment in the nature of a substitute be dispensed with, and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

AMENDMENT OFFERED BY MR. PEYSER

Mr. PEYSER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEYSER: On page 50, beginning on line 19, strike out the sentence, "The Secretary of Health, Education, and Welfare shall take such steps as are necessary to assure that at least 50 per centum of the youths and instructors participating in programs funded in whole or in part pursuant to the authority of this section are females."

The CHAIRMAN. The gentleman from New York (Mr. PEYSER) is recognized.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman.

Mr. PERKINS. I thank the gentleman for yielding.

I am in total and complete support of the committee effort to insure through this provision that there be equitable participation of women in the summer youth program both in terms of participants and staff. I am convinced, however, based on information brought to my attention that this very rigid limitation may severely disrupt the program, particularly that aspect of it requiring that at least 50 percent of the staff be female. Because of this, I personally support the gentleman's amendment and if there are no objections on this side, we will accept it. At the same time, I do not want this to be interpreted as any lack of interest or determination on my part that there should be equitable and fair participation of women in the program.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman.

Mr. QUIE. Is this the amendment that removes the sentence from the bill which requires that at least 50 percent of the participants and instructors are of the female sex?

Mr. PEYSER. That is correct.

Mr. QUIE. The amendment simply removes that?

I will get my time and speak in opposition to it.

Mr. PEYSER. Mr. Chairman, I appreciate the comments of the gentleman from Kentucky (Mr. PERKINS) in support of this amendment.

As I gather, the gentleman from Minnesota stated that he would be in opposition to the amendment. Is that correct?

Mr. QUIE. That is correct.

Mr. PEYSER. In that case, I would like to make clear to the balance of the Members just what this amendment does.

In the bill, as it now stands, it states that 50 percent of the participants, both as coaches and participants in the program itself—at least 50 percent must be females.

Now it is certainly not the intent to do anything to remove females from this program. As a matter of fact, in the last year of operation of this summer sports program, 38 percent of the participants in the program were girls.

The problem would be if we leave this 50-percent provision in, it would be practically impossible for this program to continue because in the bill it says that the Secretary shall not fund these programs unless 50 percent are females.

This is a program that is 3 years old. It is serving thousands and thousands of children throughout this country. It is a program that 111 colleges are taking part in by donating their facilities.

In my talk with Mr. Wilkinson, director of NCAA, he told me personally every effort is made to bring girls into this program and to bring female coaches into the program. Thirty-eight percent of the participants are now female.

Last year there was one female coach hired for every 15 girls in the program. Wherever possible the effort is made to bring just as many young girls in the program as young boys. This deals with children who are at the ages of 8 to 18 and it is a program designed for summer sports activities and the general type of counseling that athletes and athletic coaches can give to young people.

I think it would be a great disservice to the girls and boys, if we were to make this a quota system which, in effect, could take this program away from all of them. I have supported every major piece of legislation pertaining to women's rights and I believe I am still acting in the best interest of women by this amendment.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I noticed with interest that the gentleman just referred to this as a quota system. There would be a quota with a 50-percent limit. As I recall, it was Mrs. GREEN of Oregon who offered this amendment in the committee. She has been very vocal on the floor of the House in opposition to quotas in any form. I am a little bit surprised that she is not here today to defend her amendment. The way it is worded, it is not merely a quota for both sexes but only for one. This provision would allow 90 percent women in the program, with at least 50 percent. It could be as much as 90 percent; is that not correct?

Mr. PEYSER. The gentleman is perfectly correct. This obviously is a direct type quota, which I think we agreed in the House by our votes last year we did not want. I sincerely hope that the House will accept the amendment. By so doing, you will guarantee the continuance of one of the most worthwhile programs that we have for physical fitness and development that we have had in the country.

Incidentally, the bill requires that at least 90 percent of the children participating in the program must be at a poverty level or below in their family income. So we are truly reaching the people who need this help during the summer months.

I have received endorsements of the program from practically every State in the country where the program takes place, including a strong endorsement by the President himself. I hope the amendment will be adopted.

Mr. QUIE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as the gentleman from Illinois (Mr. ERLENBORN) indicated, this was an amendment offered by Mrs. GREEN in the committee, the gentlewoman from Oregon. When I offered the language of this section, which was the language accepted in conference last year, I also urged that no one raise a point of order against her offering the amendment to it then. I supported the amendment. I do not want to turn around today and vote against it. I know many Members say that this could mean that the number of women in the program could go up to 90 percent. I do not think there is any question that that would ever happen. The problem has been that there has not been the encouragement for girls to take part in the program and for women to take part in the program of instructors. That is what the gentlewoman from Oregon was recommending. I do not have all the facts and figures that she had at her disposal at that time, but rather than permitting the impression that everybody agreed here to the removal of the section, I should like to point out that the Education and Labor Committee, by a pretty substantial majority, adopted the provision, and I think we ought at least indicate that the gentlewoman still has some support for her amendment.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I am glad to yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding. Since this provision is only a protection for females and no protection for males, would not the gentleman say that this is a "female chauvinist" position?

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York, (Mr. PEYSER).

The question was taken; and on a division (demanded by Mr. PEYSER) there were—ayes 59, noes 41.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. HAYS

Mr. HAYS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAYS: Page 43, after line 20, insert the following:

SEC. 4. Section 211(b)(1) of the Act is amended to read as follows: "(1) one-third of the members of the board are elected public officials, or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, membership on the board of appointive public officials may be counted in meeting such one-third requirement,".

Mr. HAYS. Mr. Chairman, all this amendment does is to change the present law to say that the one-third who are the public officials shall be elected public officials if they are available and willing to serve. Apparently this is not clear now, and I think it should be this way, because I think we ought to have the public sector who are accountable to the people that go to the polls and vote. In some areas they have tried to get appointed public officials who have no responsibility to the people and therefore were not responsive to the way the people would like to have the program run. I think this amendment will correct that, and I do not think it will hurt the program in any way, because if elected officials do not want to serve, then they can go further along the line and get appointed public officials.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, first, let me compliment the gentleman from Ohio (Mr. HAYS) for offering this amendment.

Mr. Chairman, I personally feel this is a good amendment and will strengthen the so-called community action section of the bill and bring about more responsibility. So far as I know, there is no objection to the amendment on this of the aisle.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HAYS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PEYSER

Mr. PEYSER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. PEYSER: On page 50, line 4, strike "and" and insert in lieu thereof "and/or".

Mr. PEYSER. Mr. Chairman, I will be very brief, because we are adding just one word, but it is a very important word.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. PEYSER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CABELL

Mr. CABELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. CABELL: Page 72, after line 9, insert the following:
>
> "(9) prescribe criteria to be used in determining the level of income (considering family size and other relevant factors) which will result in a person's being unable to obtain private legal counsel because of inadequate financial means, and hence a member of the client community (as defined in section 1012(4));
>
> And renumber paragraphs (9) and (10) as (10) and (11), respectively.

Mr. CABELL. Mr. Chairman, this is not a crippling amendment by any means, but I think it is a clarifying amendment, and I hope both sides will see fit to accept it. This will merely require whoever is in charge of the administrative agency, whether a corporation or whatever, to define as the criteria a test of means for their clients' services. There presently are no such criteria. We have had extreme difficulty in many parts of the country where people of considerable means were accepted as clients of the legal services.

This amendment does not attempt to set those criteria of itself. It seeks only to let it be known that it is the will of this Congress that this not be turned into an agency providing free legal services for all people regardless of their financial condition. It requires the administrative agency handling this program that they must set up criteria as a test of means.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. CABELL. I am glad to yield to the gentleman from Washington.

Mr. MEEDS. I appreciate what the gentleman is trying to do. If it were not already done in the bill I would join him in his efforts.

If the gentleman will look at page 83, line 11, he will find "client community" is covered under the definitions terms as follows:

> "Client community" means individuals unable to obtain private legal counsel because of inadequate financial means;

All these suggestions the gentleman is making with regard to income, family size, and a number of other things are indeed to be done and are being done and will be done under the Corporation.

Mr. CABELL. I believe the gentleman will agree that that does not set forth any criteria or even acknowledge the responsibility to set criteria which can be applied uniformly. This becomes just an arbitrary thing case by case.

Mr. MEEDS. As a matter of fact, in each instance the criteria for eligibility are set up by the local committee. I do not believe the gentleman would like to have the national corporation trying to establish criteria across the Nation, because circumstances do differ.

I believe this is a thing which is much better left with the local bar committee which operates the legal services program in the area.

Mr. CABELL. It is not being done, and I do not believe it will be done on anything like a uniform basis unless they are required to publish what are their criteria.

Granted, it is thought to be the case, but we even had a case in my district just a few weeks ago, where a single man earning, and admittedly earning, from $125 to $150 a week, and still drawing supplementary unemployment compensation, was defended in a case or was the plaintiff in a case, as the case might be.

This would do what the bill does not do; that is, to have them publish and enunciate the criteria used. It does not say that there have to be uniform criteria, but at least in each area each local board would be required to have a set of guidelines that would be applied equally to all the so-called clientele.

Mr. BURTON. Mr. Chairman, will the gentleman yield?

Mr. CABELL. I am glad to yield to the gentleman from California.

Mr. BURTON. The gentleman, I gather, is not suggesting if this is adopted the same current income criteria would apply in the city of San Francisco as would apply in a small rural section?

Mr. CABELL. That is not the attempt; no.

Mr. BURTON. As I understand the gentleman, if the local public defender system or other publicly or quasi-publicly available free legal service is available, the gentleman would not contend that the restrictions here should be more restrictive than they already practice in the local communities.

Mr. CABELL. I would hope it would be somewhat more restrictive than has been practiced in my own local community, by virtue of the cases cited.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. CABELL was allowed to proceed for 3 additional minutes.)

Mr. CABELL. I yield further to the gentleman from California.

Mr. BURTON. If the gentleman will permit, I will restate my question.

If legal services are currently freely available through a public agency, such as a public defender, or a quasi-public agency, as defined in some communities, where the work is done by private practitioners, but provides an equivalent service to that provided with a public defender system, if the local community has set up current income guidelines, I would hope the gentleman in the well would concur with me that those current income guidelines should not be the income guidelines contemplated if this amendment is adopted, or would not be more restrictive than income guidelines in local communities already set up for other comparable programs.

Mr. CABELL. I m not trying to restrict in this amendment or it is not the intention to restrict in this amendment the local governing boards from setting up those criteria, but the thrust of it is to see that there are criteria set up which can be the guidelines and be their governing guidelines with reference to what clients they have.

Mr. BURTON. I might say, although I for one have great reservations about the thrust in this direction because the gentleman is proposing to use a current income test rather than an income resources test, I will not oppose the amendment.

Mr. WILLIAM D. FORD. Will the gentleman yield to me?

Mr. CABELL. I am glad to yield to the gentleman.

Mr. WILLIAM D. FORD. I am inclined to support the gentleman's amendment, because as I read it the worst that can be said about it is it is redundant, if I understand it correctly. If I can have the gentleman's assurance that I understand it correctly, I will certainly support it.

On page 72 we say the corporation is authorized to:

> "(8) establish standards of eligibility for the provision of legal services to be rendered by any grantee or contractee of the Corporation with special provision for priority for members of the client community whose means are least adequate to obtain private legal services;

Later in the bill we define the client community as being people unable to obtain private counsel.

As I understand it, the gentleman merely means to amplify that language to indicate that the corporation will provide general criteria to be applied by the local board or a bar committee, for example, the determining who would and who would not be eligible for such legal services.

Mr. CABELL. The gentleman is entirely correct.

Mr. WILLIAM D. FORD. With that assurance, I would like to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. CABELL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ICHORD:

Page 76, line 19 strike the period, insert a semicolon and add the following: "nor shall any funds or personnel made available by the Corporation pursuant to this title be used to provide legal services in civil suits to persons who have been convicted of a criminal charge where the civil suit arises out of alleged acts or failures to act connected with the criminal conviction and is brought against an officer of the court or against a law enforcement official."

Mr. ICHORD. Mr. Chairman, this is substantially the same amendment that was adopted by the House previously with the clarifying language "and is brought against an officer of the court or against a law enforcement official."

The gentleman from Michigan thought that the amendment might have application further than that intended. The gentleman from Michigan has agreed to this language.

Mr. PERKINS. Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. ICHORD).

The amendment was agreed to.

AMENDMENT OFFFERED BY MR. STEIGER OF WISCONSIN

Mr. STEIGER of Wisconsin. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEIGER of Wisconsin: Page 43, strike out lines 9 through 14, and beginning with line 21 on page 43, strike out everything through line 5 on page 45 and renumber the remaining sections accordingly.

Mr. STEIGER of Wisconsin. Mr. Chairman, as I indicated yesterday in my remarks during general debate, I intended at the time it was offered to oppose the Quie substitute and I did so. I am pleased that it was defeated.

I also made clear at that time my support for the effort to strike out the provision in this bill as reported by the Committee on Education and Labor which provides for, in my judgment, an unrealistic, and unreachable Headstart authorization of $500 million in the next fiscal year and $1 billion in the fiscal year thereafter. This amendment I have offered would strip out of the bill the add on for Headstart and the fee schedule.

Mr. Chairman, I must say in all honesty that I do this because I believe that it is not appropriate for the Committee on Education and Labor to have included this provision in the bill. There are, without question, many pluses that flow from the Headstart program. There is much to be learned from the Headstart program, but there is clearly much that we do not now know.

I think we do a serious disservice to the poverty program across the country in attempting to hold out a promise of this kind of add-on to the program, when we know very well as we are sitting and standing here today it is impossible to reach the effort to try and earmark the Headstart funds in the manner such as this bill proposes to do which may deprive the funds from the other on-going programs.

Therefore, Mr. Chairman, in order to maintain my own consistent belief in attempting to support the committee bill and in supporting an independent Legal Services Corporation, I do want to at least give the House the opportunity to strike out the add on for Headstart and the fee schedule and urge the committee to go back to its work and not try to bring this program in under this guise, but to come out with a child development program which we can support and which the President will sign.

Mr. DELLENBACK. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am glad to yield to the gentleman from Oregon.

Mr. DELLENBACK. Mr. Chairman, I commend the gentleman from Wisconsin for what he is striving to do. He, like I, is a strong supporter of sound comprehensive early childhood development legislation. I gather from the gentleman's remarks that he is not in anywise speaking against such sound development, but is merely making the point that by leaving this provision in the bill as it is at the present time, we feel that there will not be before us sound childhood development legislation.

In spite of my strong support for title X establishing the Legal Services Corporation and in spite of my conviction that we must take action to extend OEO, I must reluctantly vote against final passage of H.R. 12350 if it contains the vast expansion of the Headstart authorization included in the bill as reported by the committee. In my opinion, expanding this authorization to such an extent is dangerously misleading in two ways. First, it is misleading in terms of promising money that will most likely not be forthcoming in amounts anywhere close to the figures included in this bill. And, second, it is misleading because it is nothing more than a sham to pretend an expansion of Headstart will meet the needs of child development and care in this country.

Obviously, setting the authorization level for fiscal 1972 at $500 million is meaningless. Headstart funds have already been appropriated for this fiscal year in the amount of $376 million. We aren't deluding ourselves into thinking an additional $134 million will be appropriated if we approve this increased authorization; but we may be deluding concerned people involved with Headstart into expecting additional funds.

Furthermore, as my colleague from Minnesota pointed out yesterday, Headstart is not presently operating equitably throughout the country. Yet this bill calls for adding more of the same without taking steps to correct some of the disparities now existing. Since in my own State, only 9 percent of the eligible needy children are now being served, I can hardly see the justification of such a move.

I concur with my colleagues on the committee who signed the minority views to the Committee Report insofar as they concerned the expansion of the Headstart authorization. It is indeed erroneous to assume in any way that Headstart can meet the needs of child development or child care and development in this country, no matter if we expanded the authorization even higher. Headstart simply is not designed as a program to fill the child development gap in the Nation today.

Such an approach completely ignores all the evidence pointing to the need for coordinating the various Federal programs for early childhood development. It completely ignores the fact that public schools must be tied into any expension of Headstart or any other child development or care program. It ignores the fact that Headstart is not a perfected program by any means and, in any case, is certainly not structured to meet large-scale child development and care needs.

I believe the entire section on Headstart in H.R. 12350 is a poorly disguised attempt to pass off a massive child development program that would not begin to meet the criteria necessary. We should deal with the important question of child development programs in a separate piece of legislation, not tack it on once again to the OEO bill.

Mr. Chairman, I urge support of the gentleman's amendment.

Mr. STEIGER of Wisconsin. I appreciate very much the gentleman's contribution and I agree with the gentleman. I think it is important that we strike this out and get on with the business of the rest of the bill, pass it, and give this program a chance to do its work.

Mr. PERKINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am a little bit surprised that the gentleman from Wisconsin (Mr. STEIGER) has offered an amendment that was really just voted on and overwhelmingly rejected.

Now, for fiscal year 1972 we only authorized $124 million more than is in the President's budget. This figure for fiscal 1972 is $78 million less than we authorized in fiscal year 1971.

Now, we do add on an extra $500 million for fiscal year 1973 for Headstart and we make available and we open the doors for the near poor to be served on the basis of a fee schedule that has heretofore been agreed to by the administration and which is very reasonable.

Mr. Chairman, we are now only servicing about 20 percent of these children in the country today that need medical, dental, nutritional, and all-around child development services.

The reason that we have authorized an extra $500 million for fiscal year 1973, is because we recognize the great basis of need to expand the program. If there is any program that has been working satisfactorily among all the so-called poverty programs it is the Headstart program. Today we are only spending $376 million where we could spend and well spend $1 billion to take care of these children who need these services throughout the Nation.

I say to you in conclusion that the amendment offered by the gentleman from Wisconsin (Mr. Steiger) to strike this section certainly should be voted down. I do not think it is necessary to take any more time in opposition to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. Steiger).

The question was taken; and on a division (demanded by Mr. Steiger of Wisconsin) there were—ayes 26, noes 60.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HUNGATE

Mr. HUNGATE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hungate: Page 76, after line 19, insert the following:

(j) Anything herein to the contrary notwithstanding in the case of counties of less than 75,000 population, said Corporation shall provide payment at rates it finds reasonable to any client the court finds and certifies indigent in accordance with Corporation guidelines. When such client's indigency is certified the client may select his own attorney and if such an attorney notifies the Corporation of his employment prior to its completion, the Corporation shall pay a reasonable fee in accordance with its guidelines insofar as its assets extend. Not less than 20 per centum of said Corporation budget shall be set aside to meet the legal needs of those residing in counties with a population of less than 75,000.

Mr. HUNGATE. Mr. Chairman, the State of California and the Office of Economic Opportunity concluded negotiations, January 14, 1972, leading to the beginning of an experiment in professional legal services. It is expected to chart new ways to actively involve the private bar. They promise to insist on hard-headed administration and scientific evaluation, and hope it will lead to perfected systems of delivery of legal services to the poor, a pilot project field study of the so-called judicare concept as also studied in Wisconsin. The judicare study to be statewide and its feasibility evaluated considering not only economic factors but also the achievement of quality legal services for all citizens wherever they live, and the importance of an individual's freedom to choose the attorney he wishes even as he may choose his physician. Likewise, the desirability of ready availability of counsel shall be weighed. Since the time of taking legal action may determine whether one is a plaintiff or a defendant, and in some instances this can affect the outcome of a suit.

Some $2½ million has been committed to this study. It shall also consider the difference in rural and urban areas. Particularly the differences between rural areas of under 75,000 population to urban areas of 75,000 or more inhabitants. It may be the judicare program will be found preferable on a national or on a statewide basis in some cases. Perhaps judicare will be found a preferable method of delivering legal services to rural areas but not urban, and in any event, the pilot program has many worthwhile goals.

In the broadest sense we wish to learn whether there are effective and efficient ways to provide legal services to the poor beyond the traditional OEO funded legal services programs as they are now constituted. The best resources of the private bar have not yet been tapped in efforts to alleviate legal problems of the poor. If we are to be effective and efficient in the war against poverty, we must find means by which private attorneys can join in this effort.

Although the OEO legal services program does provide legal services to some of the Nation's poor, the number of attorneys needed to bring equal justice to the poor far exceeds the number now employed in legal services offices. Providing legal services to the poor is further complicated by the high percentage of poor people located in rural areas and small communities. John D. Robb, in his study "Alternative Legal Assistance Plans" in 14 Catholic Lawyer 127 (1968), found that "only 20 percent of OEO Legal Services funds have been used for programs in rural areas, although they contain 40 percent of the Nation's poor." Mr. Robb is chairman of the American Bar Association's Committee on Legal Aid and Indigent Defendants.

The American Bar Foundation has estimated that a total of 14 million to 20 million legal problems per year are generated by the poor.

If each attorney were to handle a maximum caseload of 500 cases per year, 40,000 lawyers would be required to provide adequate representation. There are approximately 2,000 lawyers in legal services offices and 316,856 in private practice in the United States. If equality in the halls of justice is the goal of the national legal services program, the exclusion of the private attorney from representing the poor is both illogical and impossible. There simply are not enough attorneys to stall legal services offices even if there were money to do so.

While the American Bar Association has not taken any specific position as to the composition of the board of directors, it seems clear that the organized bar's responsibility to the profession would preclude agreement to a board whose structure would not assure that the legal services corporation operates in accordance with professional standards and with an independence that characterizes the legal profession.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, as I read the amendment offered by the gentleman from Missouri (Mr. Hungate) the gentleman in his amendment is calling for a program in judicare.

Mr. HUNGATE. Yes. If I might spend just a moment here: It is an amendment identical to the one I offered previously when this bill was here. It is a so-called judicare amendment similar to the trust program followed in Wisconsin because of their concern that those in the rural areas did not have access to Legal Services or attorneys of their own choosing available to them when they needed them.

As I understand, since this time in the State of California there is a pilot program of this nature.

Mr. MEEDS. I want to point out that the bill provides on page 70 that finances can be provided by this board for the very type program that the gentleman is talking about.

In addition to that, there are presently three programs being conducted, pilot programs, to test the effectiveness under judicare. I do not know what the result will be. Some of the preliminary results indicate that the Legal Services Corporation is rendering better services for less money. But we must await the outcome of this program to get some determination.

There is presently a $2½ million program in California which, as the gentleman has suggested, is to test judicare against the Legal Services program in the various areas.

So I would suggest that this will be turned over, the legal services program presently conducted, to the Legal Services Corporation and the programs will continue to be funded.

Mr. HUNGATE. I would like to inquire if it is the gentleman's understanding, so that we will have some legislative history, I would like to inquire if we adopt the bill now proposed with the Legal Aid Corporation established—that it would have authority to continue programs of this nature, judicare programs.

Mr. MEEDS. Indeed, it does.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. I want to concur in the statement of the gentleman from Washington that in effect the Legal Services Corporation proposal, as written by the committee, does fully allow the continuation of those present demonstration projects carried on by the Office of Economic Opportunity.

Today, as you know, we have a program in Wisconsin and in California where the OEO is beginning a judicare program at a level of $2.5 million. It is about 4 percent of the Legal Services budget.

So I think it is quite clear that there is an interest on the part of those in Legal Services to try to find a way to try to effectively use the private attorneys.

There is one other point that I would like to make to the gentleman from Missouri that is:

The House of Delegates of the American Bar Association has approved the recommendation of the Board of Governors that a special subcommittee of the Board of Governors be appointed to examine the proper utilization of the private practicing lawyer in rendering legal services to the poor; this subcommittee among other things to review the American Bar Foundation Study.

Thus, Mr. Chairman, much work is being done in this field. I believe that we should await the outcome of the ABA study and the results of the OEO experiments before moving to adopt the Hungate amendment.

Clearly, the point that the gentleman is making is one well worth making and an important one.

Mr. HUNGATE. If I may understand then, the gentleman from Washington and the gentleman from Wisconsin, both members of the committee, as a part of the legislative history, their understanding is that the Legal Corporation could continue the program?

Mr. STEIGER of Wisconsin. The answer is—yes.

Mr. MEEDS. The answer is—yes.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman.

Mr. DENNIS. I would like to say that the gentleman from Missouri, I think, may have something that has a great deal of merit. For my own information, in view of all the colloquy that has gone along here, I would like very much to know exactly what the gentleman's amendment does provide.

Mr. HUNGATE. As the poet once said:

> When I wrote this, God and I knew what it meant—now only God knows.

The purpose of this is to make certain that rural areas are not treated exactly the same as cities when you try to get legal aid service wherein in a large city with 75,000 population or more you have a stable of lawyers, and all this is centralized and you can go and pick a lawyer, and if you do not like one lawyer, you can get another. If you have a case on Monday, you can sue on Monday.

The judicare program can enable him to go to any attorney. If they live in a rural area where they do not have a large legal aid office, they can go to any attorney, and the sequitur would be compensated by the judicare program.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. HUNGATE. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

AMENDMENT OFFERED BY MR. SCHEUER

Mr. SCHEUER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SCHEUER: On Page 53, after line 6, insert the following new section:

SEC. 9 Part C of Title II of the Act is amended by adding at the end thereof the following new section:

"SEC. 234. (a) The Director may contract or provide financial assistance for projects conducted by public or private agencies which are designed to serve groups of low-income individuals who are not being effectively served by other programs under this title. In administering this section the Director shall give special consideration to programs designed to assist older persons who are not being effectively served by other programs under this title.

"(b) For the purpose of carrying out this section there are hereby authorized to be appropriated (in addition to the amounts authorized by Section 2(a) of the Economic Opportunity Amendments of 1971) $50 million for the fiscal year ending June 30, 1972, and for each succeeding fiscal year such sums as may be necessary."

And renumber the following sections accordingly.

The CHAIRMAN. The gentleman from New York is recognized for 5 minutes in support of his amendment.

Mr. SCHEUER. Mr. Chairman, for almost 8 years the Office of Economic Opportunity has been the controversial cutting edge of the Federal Government's attack on the ravages of poverty. I have been a consistent defender of OEO programs throughout the 1960's, and I will continue to support their maintenance and expansion in the 1970's.

However, there is room for improvement in at least one vital area of the agency's operations; its programing for the elderly poor. I am offering an amendment to this bill which would authorize an additional $50 million for new programs to serve the poor, particularly the elderly poor, who are being underserved by the present OEO program.

The need for such an amendment became quite clear toward the close of the hearings of the Education and Labor Committee last year on the Economic Opportunity Act. First, let me review briefly the relevant history of this act.

From its inception, OEO has ignored large parts of the poverty problem. The war on poverty was directed toward eliminating poverty in specifically defined poverty communities. If you were poor, but lived outside the boundaries of these target areas, you generally could not participate in OEO programs.

This geographic definition of poverty does encompass about 80 percent of the Nation's poor, but it does not include a large portion of the elderly poor. Many of the elderly become poor only upon reaching old age, when they continue to reside in the same areas as they did prior to the sharp decline in their incomes.

These areas were never designated as areas with significant concentrations of poor to be served by the poverty program, and they are not so designated today. The various indicies used to define poverty areas, such as live births in hospital wards and juvenile delinquency rates, tend to exclude those areas where the elderly poor live. Thus, these individuals are effectively excluded from participation in the poverty program.

Even beyond this exclusion, OEO's original mandate had little emphasis on solving the problems of the elderly poor. OEO was primarily intended to help poor people change their condition—to break the shackles of the cycle of poverty—and not simply to make life below the poverty line more comfortable. As a consequence, the program has been directed at the young, with the hope of moving them out of poverty. The elderly poor have been more or less written off and condemned to live the rest of their lives on the scrap heap of poverty.

Congress sought to right this wrong in 1967 when it enacted a number of amendments to the Economic Opportunity Act designed to bring greater attention and program resources to bear on the problems of the elderly. In addition to staffing "that whenever feasible, the special problems of the elderly poor shall be considered in the development, conduct, and administration of programs under this Act," a specific program called Senior Opportunities and Services was established.

These amendments placed responsibility for addressing the problems of the elderly poor squarely on EOE's shoulders, but the agency has not met that responsibility.

Although the SOS appropriations have increased from $2 to $8 million, they have remained constant since fiscal year 1971. These SOS funds are consistently and heavily oversubscribed. Last October, 163 proposals had been approved for a total of $18.3 million, but were not funded for lack of funds. The National Council on the Aging testified before the Education and Labor Committee that more than $50 million could have been used this fiscal year in SOS programs, but were rejected due to a lack of funds and a lack of emphasis upon programs for the elderly.

While the elderly benefit to some extent from other OEO intergenerational programs in the areas of health, employment, legal services, et cetera, no one can say how much benefit they derive from these programs. Most of them are delivered primarily in the designated poverty areas, which, as I have already pointed out, do not include most of the elderly poor.

In a survey of Community Action Agencies by OEO in October 1971, only 295 of 768 agencies responding had any special elderly programs at all, even though 753 of them considered the problems of elderly persons as high priority items. The National Association for Community Development reflected this priority when it adopted a national resolution calling for additional funding for elderly persons.

The amendment I am offering will insure that at least $50 million will be earmarked for programs serving the elderly poor and others who are currently underserved by the poverty program. This earmarking is absolutely necessary if we are to reverse the low priority given to the treating of the problems of the elderly in OEO programs. It will not detract from any other OEO program, since it stands as a separate authorization above and beyond other existing programs.

Without such an authorization, the Congress will once again be forced to rely on the discretion of the administration, which has shown its support for the elderly to be more rhetorical than real in the past few years. Those who would oppose this amendment on the grounds that it wrongfully deprives the executive branch of the flexibility and discretion OEO needs to operate effectively must justify the use of that discretion in the past. OEO, as I have already shown, has been insensitive to the magnitude and scope of the needs of the elderly—they have used their programing discretion to all but ignore the problems of our senior citizens. This amendment will reserve at least a small portion of OEO's total authorization for serving the needs of the poverty population which has been largely overlooked by OEO, particularly the elderly poor.

Mr. Chairman, this is not a frivolous amendment. It is designed to significantly alter the direction and emphasis of OEO programing so that large portions of the poverty population, heretofore excluded from antipoverty programs, are included. The over 5 million elderly Americans who fall below the poverty line, nearly 100,000 more than in 1968, are the poorest of the poor. Two million elderly couples have a combined income of only $50 per week, and half of the aging Americans who live alone must do it on a total income of less than $30 per week. We cannot allow OEO to continue to commit such a tiny portion of its resources to such a massive problem.

OEO's expertise in research and development is highly relevant to the delivery of services to the elderly. The White House Conference on Aging placed great stress in its recommendations on discovering and developing new approaches to all the unique problems of the elderly in health care, housing, retirement roles and activities, transportation, legal services, and police protection.

Such imaginative programing has always been OEO's strongest point. Just one of the telegrams I have received in support of this amendment illustrates how this money might be put to use. It is from W. P. McKinney, coordinator of senior citizens activities, Bowie County Economic Advancement Corp., Texarkana, Tex. He says:

> Community Action Agencies could buy their own vehicles and establish routes for the convenience of the Aging to go to doctors, shopping, recreation and other activities; to establish vocational, technical or educational programs to teaching the aging a skill that could be used after retirement age for those who care to keep working; make grants to aging for small repairs to housing as most of the aging are not eligible for loans due to low retirement income; set up a drug bank with the assistance of local pharmacists, and cater strictly to the prescription needs of the elderly; establish centers where employees could call in jobs that could be accomplished by the aging—the centers could be manned by aging and elderly people looking for jobs could go there for applications.

Similar needs are waiting to be met in communities across the length and breadth of this country. All that is lacking is the commitment and resources to meet them. My amendment will provide those resources, and a resounding vote in support of that amendment will provide the commitment.

Mr. RANDALL. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I am happy to yield to the gentleman from Missouri (Mr. RANDALL). First, I wish to thank my colleague for his great support and his efforts in improving the bill.

Mr. RANDALL. The gentleman is talking about an amendment that I hope will be accepted, but in any event there should not be any serious opposition to it. There have been those who have been asking for some sort of equitable division between the rural areas and the urban areas. Here is a way we can do something for the rural areas and do something for our elderly poor at the same time. This is a very significant amendment.

A survey in October of 1971 revealed that out of 768 agencies, much less than half of them, only 290, had any special program of any kind for elderly Americans.

Mr. SCHEUER. Is it not true that the same survey indicated that about 98 percent of them agreed the problems of the elderly poor should have a higher priority?

Mr. RANDALL. Yes, and if the gentleman will yield further, I think the time has come for those who say they are for more programs for the aged to prove that they really mean what they say by supporting this amendment. All along the OEO has said they intend to implement this program. They have said so since 1967. Yet, if you search from one end of this bill to the other, you will not find any program to do so and, if you look at the budget, that great, big, thick book, you will find exactly $8 million for programs for the elderly poor anywhere connected with the poverty program.

Mr. SCHEUER. I thank my colleague.

Mr. PERKINS. Mr. Chairman, will the gentleman yield to me?

Mr. SCHEUER. I am happy to yield to the distinguished chairman.

Mr. PERKINS. Let me state that the gentleman in the well (Mr. SCHEUER) has always advocated more support for the elderly. I personally hope that if the amendment is adopted, the Director will utilize the funds in such a way as to make a better distribution than he has in the past, in seeing that the rural areas participate to the extent that poverty exists in rural areas. I personally have no objection to the amendment.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I have a question of the gentleman from New York. Is the administration to serve groups of low-income individuals who are not being effectively served by other programs under this title? Why does the gentleman not include those served under any other programs of the Federal Government? As long as they are served under any other program effectively, then they should not use this money on those who are being effectively served under any other programs of the Federal Government.

Mr. SCHEUER. This is a poverty program, and we are simply saying the poverty-stricken people who are not being served under any other elements of this program shall be the special focus of this rather small $50 million. They are predominantly the elderly poor.

Mr. QUIE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask the gentleman from New York a further question. I know this is a poverty program, but there are other poverty programs as well. If the older people are presently being served under other poverty programs of the Federal Government—as the gentleman knows, we are trying to upgrade the Older Americans Act, and the gentleman from Indiana (Mr. BRADEMAS) has assured us there would be hearings on that bill. It seems to me that bill would be the proper place to expand programs for senior citizens. Why does the gentleman limit it in that respect?

Mr. SCHEUER. We do not exclude younger people who receive assistance under the manpower bill from being helped under this bill. We do not exclude those people who are being helped under the Elementary and Secondary Education Act. A very small portion of this program, $50 million, is to be reserved for those whose need is not being focused on by other elements of the poverty program.

The elderly constitute 20 percent of the poor, but they are receiving only somewhere around 1 or 2 percent of the funds expended under the poverty program. I have had over 200 telegrams on this subject. I have never received such an inundation, not only from groups representing the poor, but also community action agencies and social service agencies of all kinds. I could paper this House with such telegrams.

Mr. QUIE. But the people who wrote those telegrams really did not look at the details of the gentleman's amendment. Please do not use the telegrams as support for the details of the amendment.

Mr. Chairman, there are other individuals, the nonelderly, who are served by this poverty program who do not have their authorization written in this manner. I am talking about what I think is faulty drafting of this amendment, particularly where it says "will be for those who are not taken care of elsewhere in this program." It should say "other programs of the Federal Government."

I am not in any way criticizing the gentleman's attempt to see that the Federal legislation provides additional funds or programs for those who are elderly, because they have contributed so much to our society.

Mr. SCHEUER. I am not saying there is no Federal program to help the elderly poor. Obviously many of the elderly poor are living on welfare, so if we exclude the people who are living on welfare checks of $30 a week, then this would not apply at all. What I am saying is that the people who are living on welfare are deeply rooted in poverty. Many of them have worked hard and long all their lives, and they are now among the elderly poor.

Mr. QUIE. Let me say this: Some elderly are served by Federal programs. There are others served by Federal programs who are not effectively served. But it is by other programs, not just programs under this title. For that reason it seems to me it would have been better if the gentleman had included anyone not served by Federal programs rather than restricting it to this title.

Mr. SCHEUER. If they are not in poverty they would not be eligible for help here. If they are not in the poverty income category, I say to the gentleman from Minnesota, they would not be eligible for help under this special section. It would be only if living in poverty—ipso facto, not being served by anybody, any institution public or private—they would be eligible for help.

Mr. QUIE. Does low income persons, as the gentleman has it here, mean those in poverty?

Mr. SCHEUER. Definitely.

Mr. QUIE. That clarification makes it more acceptable to me.

Mr. RANDALL. The words are "effectively served by other programs under this title." It seems to me if there are any programs that cures it. If there are not, that is what we seek to do.

Look at the sentence:

> In administering this section the Director shall give special consideration to programs designed to assist older persons who are not being effectively served by other programs under this title.

If they are being served, no one is being hurt, but if they are not being served this provides for them.

Mr. QUIE. In that sense, as the gentleman from Missouri is reading it, I would have dropped those words "under this title."

Mr. RANDALL. If the gentleman agrees, that could be done.

Mr. SCHEUER. If, no matter what other Government programs there are, they are still poor, they would be entitled to be served. If the other programs lift them out of the poverty category they would not be entitled to be served.

The **CHAIRMAN.** The question is on the amendment offered by the gentleman from New York (Mr. SCHEUER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. THOMSON OF WISCONSIN

Mr. THOMSON of Wisconsin. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. THOMSON of Wisconsin: On page 53, line 12, after the word "community" insert the following: "and within any State".

Mr. THOMSON of Wisconsin. Mr. Chairman, earlier in the general debate I had a colloquy with the gentleman from Kentucky, the chairman of the committee, who substantially agreed with me that there was some discrimination which was of a broader nature than that in a single community, the discrimination as between the allocations made in urban America and those made in rural America.

In my State of Wisconsin there are significant discriminations against rural America and the people living there. Unemployment is higher in the rural sector than it is in the urban sector. There is a much higher percentage of low-income families in the rural area than in the urban area. And there are fewer people 25 years of age who have graduated from high school in the rural communities than there are in the urban communities.

Every standard they use to distribute the money justifies greater consideration of people living in rural America. So my amendment simply says that in addition to assuring that financial assistance is distributed on an equitable basis in any community I want it to apply to the State, to assure that those rural people are going to receive equitable consideration with those in the urban areas.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. THOMSON of Wisconsin. I am pleased to yield to the chairman.

Mr. PERKINS. Mr. Chairman, the distinguished gentleman's amendment is an improvement over the committee amendment. I personally feel that we should have a more equitable distribution. I know of no objection to the amendment, and we accept the amendment.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. THOMSON of Wisconsin. I yield to the gentleman from Minnesota.

Mr. QUIE. I want to congratulate the gentleman for his perception and for his amendment. I believe the amendment truly improves this section.

Mr. THOMSON of Wisconsin. I thank the gentleman.

The **CHAIRMAN.** The question is on the amendment offered by the gentleman from Wisconsin (Mr. THOMSON).

The amendment was agreed to.

The **CHAIRMAN.** Are there any further amendments to be proposed? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The **CHAIRMAN.** Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROONEY of New York, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12350) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes, pursuant to House Resolution 811, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The **SPEAKER.** Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The **SPEAKER.** The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Speaker, I offer a motion to recommit.

The **SPEAKER.** Is the gentleman opposed to the bill?

Mr. QUIE. I am, Mr. Speaker.

The **SPEAKER.** The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. QUIE moves to recommit the bill, H.R. 12350, to the Committee on Education and Labor with instructions that it be reported forthwith back to the House with the following amendment.
>
> Strike out everything after the enacting clause and insert in lieu thereof the following:
>
> That this Act may be cited as the "Economic Opportunity Amendments of 1972".
>
> SEC. 2. For the purpose of carrying out the Economic Opportunity Act of 1964 (hereinafter referred to as the "Act"), there are hereby authorized to be appropriated $2,058,500,000 for the fiscal year ending June 30, 1972, and $2,109,800,000 for the fiscal year ending June 30, 1973.
>
> SEC. 3. Sections 171, 245, 321, 408, 615, and 835 of the Act are each amended by striking out "five succeeding fiscal years" and inserting in lieu thereof "seven succeeding fiscal years". Section 523 of the Act is amended by striking out "four succeeding fiscal years" and inserting in lieu thereof "six succeeding fiscal years".

Mr. QUIE (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the motion to recommit be dispensed with and that it be considered as read and printed in the RECORD.

The **SPEAKER.** Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The **SPEAKER.** The question is on the motion to recommit.

The motion to recommit was rejected.

The **SPEAKER.** The question is on the passage of the bill.

Mr. PERKINS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 234, nays 127, not voting 70, as follows:

[Roll No. 46]

YEAS—234

Abourezk
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Tenn.
Andrews
Annunzio
Ashley
Aspin
Aspinall
Badillo
Barrett
Begich
Bennett
Bergland
Biaggi
Biester
Bingham
Blanton
Boggs
Boland
Bolling
Brademas
Brasco
Brooks
Brown, Ohio
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Byron
Carey, N.Y.
Carney
Carter
Celler
Chamberlain
Chisholm
Clay
Cleveland
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Curlin
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Dellums
Denholm
Dent
Donohue
Dorn
Dow
Drinan
Dulski
du Pont
Eckhardt
Edmondson
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Flood
Foley
Ford, William D.
Forsythe
Fraser
Frenzel
Galifianakis
Garmatz
Gaydos
Gibbons
Gonzalez
Grasso
Gray
Green, Pa.
Gude
Halpern
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Wash.
Harrington
Harsha
Harvey
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Hillis
Horton
Howard
Hungate
Jacobs
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Karth
Kastenmeier
Keating
Kee
Kluczynski
Koch
Kyros
Leggett
Lloyd
Long, Md.
McCormack
McCulloch
McDade
McFall
McKay
McKinney
McMillan
Madden
Mailliard
Mallary
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mikva
Miller, Calif.
Mills, Ark.
Minish
Mink
Mitchell
Mollohan
Monagan
Moorhead
Morgan
Morse
Mosher

Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nix
Obey
O'Hara
O'Neill
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Podell
Powell
Preyer, N.C.
Price, Ill.
Purcell
Railsback
Randall
Rangel
Rees
Reid
Reuss
Riegle
Rodino
Roe
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ruppe
Ryan
St Germain
Sarbanes
Scheuer
Schwengel
Seiberling
Shipley
Shriver
Sisk
Skubitz
Slack
Smith, Iowa
Staggers
Stanton, James V.
Steele
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Sullivan
Symington
Taylor
Thompson, N.J.
Thomson, Wis.
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Waldie
Wampler
Whalen
White
Widnall
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Tex.
Zablocki

NAYS—127

Abbitt
Abernethy
Archer
Arends
Ashbrook
Baker
Belcher
Bevill
Blackburn
Brinkley
Broomfield
Brotzman
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Byrnes, Wis.
Cabell
Camp
Casey, Tex.
Cederberg
Chappell
Clawson, Del
Collins, Tex.
Colmer
Conable
Crane
Daniel, Va.
Davis, Wis.
Dellenback
Dennis
Derwinski
Dickinson
Dowdy
Downing
Duncan
Edwards, Ala.
Erlenborn
Eshleman
Findley
Flowers
Flynt
Ford, Gerald R.
Fountain
Frelinghuysen
Frey
Fuqua
Giaimo
Goldwater
Goodling
Griffin
Gross
Grover
Hagan
Haley
Hall
Hansen, Idaho
Hébert
Henderson
Hosmer
Hull
Hunt
Hutchinson
Jonas
Jones, N.C.
King
Kuykendall
Kyl
Landgrebe
Latta
Lennon
Lent
McClory
McCollister
McDonald, Mich.
McKevitt
Mahon
Mann
Martin
Mathis, Ga.
Mayne
Miller, Ohio
Mills, Md.
Montgomery
Nelsen
Passman
Pelly
Pike
Pirnie
Poage
Poff
Quie
Quillen
Rarick
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Rousselot
Ruth
Sandman
Satterfield
Saylor
Schmitz
Schneebeli
Scott
Sebelius
Shoup
Sikes
Smith, Calif.
Snyder
Spence
Springer
Steiger, Ariz.
Teague, Calif.
Teague, Tex.
Terry
Thone
Waggonner
Ware
Whitehurst
Whitten
Wiggins
Williams
Wilson, Bob
Young, Fla.

NOT VOTING—70

Anderson, Ill.
Baring
Bell
Betts
Blatnik
Bow
Bray
Brown, Mich.
Burleson, Tex.
Caffery
Clancy
Clark
Clausen, Don H.
Collier
Delaney
Devine
Diggs
Dingell
Dwyer
Edwards, Calif.
Edwards, La.
Fisher
Fulton
Gallagher
Gettys
Green, Oreg.
Griffiths
Gubser
Hastings
Hogan
Holifield
Ichord
Jarman
Jones, Tenn.
Kazen
Keith
Kemp
Landrum
Link
Long, La.
Lujan
McCloskey
McClure
McEwen
Macdonald, Mass.
Mathias, Calif.
Michel
Minshall
Mizell
Myers
Nichols
O'Konski
Patman
Price, Tex.
Pryor, Ark.
Pucinski
Scherle
Smith, N.Y.
Stanton, J. William
Steed
Stubblefield
Talcott
Thompson, Ga.
Vander Jagt
Veysey
Vigorito
Whalley
Wilson, Charles H.
Zion
Zwach

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Fulton for, with Mr. Burleson of Texas against.

Mr. Edwards of California for, with Mr. Nichols against.

Mr. Stubblefield for, with Mr. Baring against.

Mr. Vigorito for, with Mr. Fisher against.

Mr. Holifield for, with Mrs. Green of Oregon against.

Mr. Blatnik for, with Mr. Long of Louisiana against.

Mr. Gallagher for, with Mr. Smith of New York against.

Mr. Macdonald of Massachusetts for, with Mr. Caffery against.

Mr. Charles H. Wilson for, with Mr. Gettys against.

Mr. Edwards of Louisiana for, with Mr. Jarman against.

Mr. Diggs for, with Mr. Landrum against.

Mr. Dingell for, with Mr. Zion against.

Mr. Anderson of Illinois for, with Mr. Veysey against.

Mrs. Dwyer for, with Mr. Betts against.

Mr. McCloskey for, with Mr. Kemp against.

Mr. Keith for, with Mr. Michel against.

Mr. Clark for, with Mr. Myers against.

Mr. Link for, with Mr. Talcott against.

Mr. Kazen for, with Mr. Devine against.

Mr. Jones of Tennessee for, with Mr. McEwen against.

Mr. Delaney for, with Mr. Price of Texas against.

Mrs. Griffiths for, with Mr. Lujan against.

Mr. Pryor of Arkansas for, with Mr. Scherle against.

Mr. Pucinski for, with Mr. Hastings against.

Mr. Steed for, with Mr. Clancy against.

Mr. Patman for, with Mr. Mizell against.

Mr. Bell for, with Mr. J. William Stanton against.

Until further notice:

Mr. Ichord with Mr. Bow.

Mr. Whalley with Mr. Minshall.

Mr. O'Konski with Mr. Bray.

Mr. Thompson of Georgia with Mr. Vander Jagt.

Mr. Brown of Michigan with Mr. Collier.

Mr. Don H. Clausen with Mr. Mathias of California.

Mr. McClure with Mr. Hogan.

Mr. Gubser with Mr. Zwach.

Mr. CABELL changed his vote from "yea" to "nay."

Messrs. WYMAN and CHAMBERLAIN changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to extend their remarks on the bill just passed, H.R. 12350.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. ARENDS asked and was given permission to address the House for 1 minute.)

Mr. ARENDS. Mr. Speaker, I take this time for the purpose of asking the distinguished majority leader to kindly advise us of the program for the remainder of this week and the following week.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. ARENDS. I yield to the gentleman from Louisiana.

Mr. BOGGS. In response to the inquiry of the distinguished minority whip, we have completed the program for this week.

Monday the order is for the reading of President Washington's Farewell Address. That will be the only business.

Tuesday will be the call of the Consent Calendar and consideration of three conference reports, as follows:

S. 748, the Inter-American Development Bank;

S. 749, the Asian Development Bank; and,

S. 2010, the International Development Association.

For Wednesday and the balance of the week there are scheduled:

H.R. 12931, Rural Development Act of 1972, subject to a rule being granted; and,

H.R. 11021, Noise Control Act of 1972, subject to a rule being granted.

Conference reports may be called up at any time.

Mr. ARENDS. I thank the gentleman.

AUTHORIZING CALL OF CONSENT CALENDAR ON TUESDAY, FEBRUARY 22, 1972

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that on Tuesday, February 22, 1972, it shall be in order to consider business under clause 4, rule XIII, the Consent Calendar rule.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. GROSS. Mr. Speaker, reserving the right to object, may I ask the gentleman to restate that request?

Mr. BOGGS. Stated informally, I am asking unanimous consent to consider on Tuesday eight unanimous consent bills now on the Consent Calendar, which would normally be considered on Monday, but which are not being considered because of George Washington's Birthday.

Mr. GROSS. I thank the gentleman.

Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

ADJOURNMENT OVER TO MONDAY NEXT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next, February 21.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that the business in order under the calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORT ON H.R. 11021 UNTIL MIDNIGHT SATURDAY

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight Saturday, February 19, to file a report on H.R. 11021—the Noise Control Act of 1971.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 2097, SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 2097) to establish a Special Action Office for Drug Abuse Prevention and to concentrate the resources of the Nation against the problem of drug abuse, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, ROGERS, SATTERFIELD, KYROS, PREYER of North Carolina, SYMINGTON, ROY, SPRINGER, NELSEN, CARTER, HASTINGS, and SCHMITZ.

UNWARRANTED ATTACK ON THE HOUSEWIFE

(Mr. BADILLO asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BADILLO. Mr. Speaker, Secretary of Agriculture Earl L. Butz launched this week what I consider a totally unwarranted attack on the American housewife, accusing her of being responsible for the high price of meat.

This attack would be incredible, were it not for the consistent record of the Nixon administration for putting the blame for our economic difficulties every place except where it properly belongs.

Secretary Butz said the high price of meat was the direct result of increased purchasing power, overlooking the fact that virtually all of that increase has been eaten up by inflation.

It is long past time that this administration took steps to protect the American consumer with the same degree of devotion that it has shielded the giants of industry. If Secretary Butz' charge is the official position of the Nixon administration, then it is up to Congress to launch its own investigation into the high price of meat. I am confident that such an investigation would prove these price increases to be caused by excessive profits in the meat-packing, processing and distribution industries, and in no way the result of housewives' buying patterns.

I present for the information of my colleagues the New York Daily News account of Mr. Butz' statement:

[From the Daily News, Wednesday, Feb. 16, 1972]

BUTZ ROASTS THE HOUSEWIFE: BLAMES HER FOR HIGH MEAT PRICES

(By Jerome Cahill)

WASHINGTON, February 15—Agriculture Secretary Earl L. Butz put the blame today squarely on the American housewife for rising meat prices.

Testifying before the congressional Joint Economic Committee, Butz maintained that beef and pork have climbed to new price highs because it's a case of "Mrs. Smith bidding against Mrs. Brown" over the meat counter.

"Mrs. Housewife has so much income—supplemented with food stamps and everything else—she has created tremendous demands for meat," the agriculture secretary told the committee.

OPPOSES CONTROLS

Butz, who has been touring the restive farm belt gloating in public over the higher livestock prices, opposed placing raw agricultural products, including meat, under President Nixon's price controls. They are now exempt, but Butz said he did not know how much of the recent increases were due to this fact.

Liberalizing quotas on beef imported from Australia and New Zealand, a step the administration is considering, would have only a "negligible" effect on domestic prices, Butz said. He noted that a 10% increase in foreign meats would boost over-all United States meat supplies by only 0.5%. The impact, he said, "would be more emotional than economic."

Butz said the purchasing power of the average American family rose 4% last year and will climb 7% in 1972. This, he said, was "the primary cause" of higher food prices. He explained:

CITES RISE IN COSTS

"We've got more and more to spend. We eat out more . . . women don't bake a cake any more—they stir it up."

Butz also cited the increased cost of packaging and processing.

Repeating his determination to "fight like a wounded steer" against any meat price controls, Butz insisted that meat prices were fair. Consumers who feel otherwise, he said, can "shift from steak" to less expensive meats, "or not eat quite so much."

"These prices aren't set by farmers. They are set by consumers," he said.

Butz said the percent of disposable family income going for food this year will drop to an all-time low of 15.6%, a decline of 7% over the past 20 years.

Retail food prices probably will increase 4% or a little more this year, he said. This is substantially above the 2.5% over-all rate of price increases that is President's Nixon's No. 1 anti-inflation target.

TOWARD RESPONSIBLE PRISON REFORM

(Mr. WYMAN asked and was given permission for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WYMAN. Mr. Speaker, once again the Congress is being asked to address itself to the problem of prison reform. Last year's riots at prisons in New York, New Jersey, and elsewhere, as well as recent detailed reports of existing prison conditions, have served to focus public attention on one of the most troublesome problems in our society—what to do with the criminal, and how best to make him into a law-abiding citizen.

Almost all agree prisons should be more than cages to protect society from those who endanger it. The soaring crime rate, excessive recidivism, and shocking conditions in many of our prisons graphically demonstrate needed efforts at criminal reform.

Periodically, the public is made aware of this failure and demands action. However, other headlines, other problems replace prison reform in the public mind before meaningful steps—beyond limited stopgap efforts—are taken. We are left with a prison system that in many respects as well as physical plant, is grossly outdated and fails to meet its objectives.

I am today introducing legislation to establish a Board of Visitors to Federal Prisons which will be charged with a continuing review of all Federal correctional facilities to include programs, conditions, and administration. The board I am proposing will be an agency of the Congress, appointed by and responsible to the Congress. I believe a responsible, continuous review of our prison system, will help improve upon the present haphazard approach to prison reform, and will enable the Congress to more effectively meet its responsibilies by bringing the Nation's prisons into the 20th century.

The text of the bill follows:

H.R. 13248

A bill to establish the Board of Visitors to the Federal Prisons, and for other related purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18 of the United States Code is amended by inserting immediately after chapter 317 the following new chapter:

"Chapter 319—BOARD OF VISITORS TO FEDERAL PRISONS

"Sec.
"4341. Creation and membership.
"4342. Functions and authority.
"4343. Report.

"§ 4341. Creation and membership.

"(a) A Board of Visitors to the Federal Prisons is constituted of—

"(1) four members designated by the President of the Senate; and

"(2) five members designated by the Speaker of the House of Representatives.

"(b) The members of such Board shall not be or have been associated with prison administration and at least one member shall be a former inmate of one of the facilities to be visited under section 4342(a) of this title.

"(c) Each member of such Board, except as provided in subsection (d) of this section, shall serve for three years. If such member dies or resigns, a successor shall be designated for the unexpired portion of the term by the official who designated such member.

"(d) Each of the designating officials shall, when designating the first members of such Board, divide them as evenly as may be into three classes. Members of the second class for two years, and members of the third class for three years.

"(e) The Board of Visitors to the Federal Prisons shall designate one of its members

Chairman for a term of one year, and no such member shall serve as Chairman for more than three consecutive years.

"§ 4342. Functions and authority.

"(a) The Board of Visitors to the Federal Prisons shall from time to time visit the various facilities which are under the supervision of the Bureau of Prisons for the custody or rehabilitation of persons charged with, or convicted of, an offense against the United States.

"(b) The Board shall inquire into the conditions, the programs, and the general administration of the Federal prison system, and such other matters relating to the Federal prison system as the Board decides to consider.

"(c) While performing the duties of Board membership, each such member shall be reimbursed under Government travel regulations for his travel expenses.

"(d) The Board is authorized to appoint, without regard to the provisions of title 5 of the United States Code (relating to the appointment and classification of those serving in the competitive service), and at such salaries as it shall determine, an investigative staff, not to exceed five in number, of qualified personnel with prior investigative experience and the necessary clinical background.

"§ 4343. Report.

"The Board of Visitors to the Federal Prisons shall annually or more frequently, in its discretion, submit a report of its findings, activities, and recommendations to the President and the Congress."

SEC. 2. The tables of chapters of title 18, and of part III of title 18, of the United States Code, are each amended by inserting immediately after

"317. Institutions for women-------- 4321"

the following:

"319. Board of Visitors to the Federal Prisons -------------------- 4341".

FREE LITHUANIA RECALLED

The SPEAKER pro tempore (Mr. VANIK). Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 60 minutes.

(Mr. FLOOD asked and was given permission to revise and extend his remarks and to include extraneous matter.)

Mr. FLOOD. Mr. Speaker, again this year I take pride in being able to join with my colleagues in this Chamber in commemorating the independence of once-free Lithuania. It is with pride beyond all measure that we in this country are able to stand as free men in this great public forum and speak without fear of rebuke or retaliation. This pride is mixed with sorrow when we remember that so many friends and families of American citizens behind the Iron Curtain do not share this great privilege with us.

On this 54th anniversary date, I should like to recall two aspects of Lithuanian relative to this commemoration: Namely, free Lithuania, and Lithuanians in my own State of Pennsylvania.

On February 16, 1918, the Lithuanian peoples broke a long period of Soviet domination—1795–1915—followed by a short period of German domination, and declared themselves an independent nation. Just 21 short years later the Lithuanian people were again brought under Russian domination, and on August 3, 1940, Lithuania was declared a constituent republic of the Soviet Union—a cruel joke this country has never recognized. Briefly occupied by the Nazi troops during World War II, the Soviets reoccupied the little country in 1944 with the help of the Red Army, and to this day the Lithuanian Republic is a ward of the Kremlin colonists.

World War I cost the Lithuanian people a great deal for in 1915 they traded Russian oppression for German persecution. The Russians were finally gone, but the Lithuanian people were not free. However, within 2 years two events, as important as any in this century, led to the eventual and long-awaited freedom and independence of the Lithuanian people: the Russian Revolution and the defeat of Kaiser Germany.

With independence on the horizon 200 Lithuanian delegates formed a congress laying the groundwork for an independent Lithuania based on ethnological frontiers. Finally on February 16, 1918, Lithuania declared itself an independent state in the family of independent nations. As we all know, a declaration of any kind does not establish a condition in fact. For example, our own American Declaration of Independence was made in 1776, but we were not free from the British until the War for Independence ended in 1783, and we did not become the country we know today until 1789. Before the first year of independence had run its course, the German Army left the country, and immediately on their heels, the Soviet Army reentered the country. There obviously is more to being independent than merely saying so, for it was not until the following year the Russian Red Army was forced out of the country under the leadership of the Polish Army.

Besieged with problems at home and with that infinite patience that Communist governments seem to have, Russia decided to sign a peace treaty with Lithuania on July 12, 1920. We know that Russia made a sham of that treaty within 20 years, but we do not know the extent of that deception until we realize exactly what the treaty included. That treaty made it clear that the Soviet Union recognized "without any reserve the sovereignty and independence of the State of Lithuania," and "voluntarily and forever renounced" all sovereign rights possessed by Russia over the Lithuanian people and territory. That would have been a treaty of splendor and hope if only the Russians had not intended it to be a farce and the most degenerate of jokes.

Following the treaty of peace with Russia, the struggling, newly independent nation immediately had a dispute of long standing with Poland on its hands involving the fate of Vilnius, the designated capital of Lithuania. When the issue reached the League of Nations, the city of Vilnius was awarded to Poland due mainly to the fact that Poles were in the majority of the city's population. This dispute wrecked Lithuanian-Polish relations until 1938.

Lithuania, which was recognized by the United States on May 31, 1921, joined the League of Nations on September 22, 1921, and thus began Lithuania's brave attempt as a free and equal independent nation in the world community. As is the case with all new states who are not prepared by their colonial masters to assume self-government, there was some internal disruption and political discord. However, one cannot discount the great advances the country made during its brief tenure of independence in industrialization, farming and agriculture, social legislation, and in cultural pursuits. While the country struggled with itself, it did so with a dignity of which we can all be proud.

When war again engulfed Europe, little Lithuania was squeezed by both Germany and Russia, and during that conflict, was occupied by both countries, suffering terrible human and material losses. Since the end of World War II, Lithuania has been a colony of the Soviet Union.

I am especially proud, Mr. Speaker, that so many of these fine people who have left Lithuania for one reason or another to come to the United States, have elected to settle in my own State of Pennsylvania and particularly in my congressional district.

In the last century coal mining and railroad employment drew many to Pennsylvania as well as the steel centers around Pittsburgh and the great oil regions in the Alleghenies in northwestern Pennsylvania.

Today, we find many Lithuanians and their decendents living in Wilkes-Barre, Scranton, Shenandoah, Shamokin, Mahanoy City, and Mount Carmel, among others.

I deeply and sincerely wish along with these Americans that someday Lithuania will once again have the opportunity to govern its own affairs and destiny with dignity and human justice.

As part of my remarks today, Mr. Speaker, I would like to include a memorandum which I received from the national executive committee of Lithuanian American Community of the United States, Inc., of Delran, N.J., entitled, "Luthuania's Seven-Century Quest for Freedom," as well as a copy of House Congressional Resolution 416 which was approved by the House and the Senate in the 89th Congress:

LITHUANIA'S SEVEN-CENTURY QUEST FOR FREEDOM—THE LAND OF SIMAS KUDIRKA

"I have nothing to add to what I have already said, only one wish, more specifically, a request to the supreme court and the government of the Soviet Union: I ask that you grant my homeland, Lithuania, independence." *From appeal of Simas Kudirka during his trial.*

The Kremlin is fond of saying that Russian imperialism died with the czar. But the fate of the Baltic nations—Lithuania, Latvia and Estonia—shows this to be a cruel fiction The Communist regime did not come to power in the Baltic States by legal or democratic process. The Soviets invaded and occupied the Baltic States in June of 1940, and the Baltic peoples have been suffering in Russian-Communist slavery for more than 30 years.

700-YEAR-OLD STATE

The Lithuanians are proud people who have lived peacefully on the shores of the Baltic from time immemorial. For instance, this year marks the 721st anniversary of the formation of the Lithuanian state. Mindaugas the Great unified Lithuanian principalities into one kingdom in 1251.

The Baltic peoples have suffered for centuries from the "accident of geography." From the West they were invaded by the Teutonic Knights, from the East by the Russians. It took remarkable spiritual and ethnic strength to survive the pressures from both sides. The Lithuanians, Latvians and Estonians, it should be kept in mind, are ethnically related *neither to the Germans nor the Russians*

After the Nazis and Soviets smashed Poland in September of 1939, the Kremlin moved troops into the Baltic republics and annexed them in June of 1940. In one of history's greatest frauds, "elections" were held under the Red army guns. The Kremlin then claimed that Lithuania, Latvia and Estonia voted for inclusion in the Soviet empire.

MOST BRUTAL OCCUPATION OF ALL TIME

Then began one of the most brutal occupations of all time. Hundreds of thousands of Balts were dragged off to trains and jammed into cars without food and water. Many died from suffocation. The pitiful survivors were dumped out in the Arctic or Siberia. The Baltic peoples have never experienced such an extermination and annihilation of their people in their long history through centuries as during the last three decades. Since June 15, 1940, these three nations have lost more than one-fourth of their entire population. The genocidal operations and practices being carried out by the Soviets continue with no end in sight.

Since the very beginning of Soviet Russian occupation, however, the Balts have waged an intensive fight for freedom. During the period between 1940 and 1952 alone, some 30,000 Lithuanian freedom fighters lost their lives in an organized resistance movement against the invaders. The cessation of armed guerrilla warfare in 1952 did not spell the end of the Baltic resistance against Soviet domination. On the contrary, resistance by passive means gained a new impetus.

SUCCESSFUL REVOLT AGAINST SOVIETS

The year of 1971 marked the 30th anniversary of Lithuania's successful revolt against the Soviet Union. During the second part of June of 1941 the people of Lithuania succeeded in getting rid of the Communist regime in the country: freedom and independence were restored and a free government was re-established. This free, provisional government remained in existence for more than six weeks. At that time Lithuania was overrun by the Nazis who suppressed all the activities of this free government and the government itself.

The Government of the United States of America has refused to recognize the seizure and forced "incorporation" of Lithuania, Latvia and Estonia by the Communists into the Union of Soviet Socialist Republics. Our Government maintains diplomatic relations with the former free Governments of the Baltic States. Since June of 1940, when the Soviet Union took over Lithuania, Latvia and Estonia, all the Presidents of the United States (Franklin D. Roosevelt, Harry S. Truman, Dwight D. Eisenhower, John F. Kennedy, Lyndon B. Johnson, and Richard M. Nixon) have stated, restated and confirmed our country's nonrecognition policy of the occupation of the Baltic States by the Kremlin dictators. However, our country has done very little, if anything, to help the suffering Baltic peoples to get rid of the Communist regimes in their countries.

RESTORATION OF INDEPENDENCE TO LITHUANIA

The case of the Baltic States is not a question about the rights of self-rule of Lithuania, Latvia and Estonia, since this is established beyond any reasonable doubt, but the question is how to stop the Soviet crime and restore freedom and independence to these countries. The Select Committee of the House of Representatives to investigate the Incorporation of the Baltic States into the U.S.S.R., created by the 83rd Congress, after having held 50 public hearings during which the testimony of 335 persons was taken, made a number of recommendations to our Government pertaining to the whole question of liberation of the Baltic States. According to the findings of this House committee, "no nation, including the Russian Federated Soviet Republic, has ever voluntarily adopted communism." All of them were enslaved by the use of infiltration, subversion, and force. The American foreign policy toward the Communist enslaved nations, the aforesaid House committee stated, must be guided by "the moral and political principles of the American Declaration of Independence." The present generation of Americans, this committee suggested, should recognize that the bonds which many Americans have with enslaved lands of their ancestry are a great asset to the struggle against communism and that, furthermore, the Communist danger should be abolished during the present generation. The only hope of avoiding a new world war, according to this committee, is a "bold, positive political offensive by the United States and the entire free world." The committee included a declaration of the U.S. Congress which states that the eventual liberation and self-determination of nations are "firm and unchanging parts of our policy."

RIGHT STEP IN THE RIGHT DIRECTION

The United States Congress has made a right step in the right direction by unanimously adopting H. Con. Res. 416 (89th Congress) that calls for freedom for Lithuania, Latvia and Estonia. All freedom-loving Americans should urge the President of the United States to implement this very important legislation by bringing the issue of the liberation of the Baltic States in the United Nations and requesting the Soviets withdraw from Lithuania, Latvia and Estonia. The time has come for the whole world to demand that the principle of self-determination be respected and that the nations of Lithuania, Latvia and Estonia, too, shall be free from domination and be permitted to choose their own form of government. We should have a single standard for freedom. Its denial in the whole or in part, in any place in the world, including the Soviet Union, is surely intolerable.

H. Con. Res. 416

Whereas the subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations, and is an impediment to the promotion of world peace and cooperation; and

Whereas all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social, cultural, and religious development; and

Whereas the Baltic peoples of Estonia, Latvia, and Lithuania have been forcibly deprived of these rights by the Government of the Soviet Union; and

Whereas the Government of the Soviet Union, through a program of deportations and resettlement of peoples, continues in its effort to change the ethnic character of the populations of the Baltic States; and

Whereas it has been the firm and consistent policy of the Government of the United States to support the aspirations of Baltic peoples for self-determination and national independence; and

Whereas there exist many historical, cultural, and family ties between the peoples of the Baltic States and the American people: Be it

Resolved by the House of Representatives (the Senate concurring), That the House of Representatives of the United States urge the President of the United States—

(a) to direct the attention of world opinion at the United Nations and at other appropriate international forums and by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Estonia, Latvia, and Lithuania, and

(b) to bring the force of world opinion to bear on behalf of the restoration of these rights to the Baltic peoples.

[From the Congressional Record,
Oct. 22, 1966]

Concurrent Resolution To Request the President of the United States To Urge Certain Actions in Behalf of Lithuania, Estonia, and Latvia

Mr. Mansfield. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1573, House Concurrent Resolution 416.

The Presiding Officer. The concurrent resolution will be stated.

The Legislative Clerk. A concurrent resolution (H. Con. Res. 416) to request the President of the United States to urge certain actions in behalf of Lithuania, Estonia, and Latvia.

The Presiding Officer. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to its consideration.

Mr. Kuchel. Mr. President, I wish to say that I am delighted that this matter is being taken up. It deserves attention in this session as a mark of our continuing concern for those peoples who have been deprived of their democratic institutions and are unable to speak for themselves.

The Presiding Officer. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 416) was agreed to.

Executive Position

The position of the executive branch with respect to the concurrent resolution is outlined in the correspondence which follows:

Department of State,
Washington, June 1, 1965.

Hon. Thomas E. Morgan,
Chairman, Committee on Foreign Affairs,
House of Representatives.

Dear Mr. Chairman: I am writing in reply to your letter of May 20, 1965, to the Secretary of State, requesting the Department's comments on House Concurrent Resolution 416, which has been approved unanimously by the Subcommittee on Europe and ordered favorably reported to the full Committee on Foreign Affairs. The resolution requests the President of the United States to urge certain actions in behalf of Estonia, Latvia, and Lithuania. The language of the resolution, as formulated, is not objected to by the Department of State.

The Department has been advised by the Bureau of the Budget that from the standpoint of the administration's program there is no objection to the submission of this report.

Sincerely yours,

Douglas MacArthur II,
Assistant Secretary for Congressional Relations (For the Secretary of State).

Mr. GERALD R. FORD. Mr. Speaker, I am proud to join with my colleagues in marking the 54th anniversary of the Declaration of Independence of Lithuania.

This occasion reminds us of the tragic event of November 23, 1970, when a Lithuanian sailor, Simas Kudirka, tried to defect to an American Coast Guard cutter. That attempt, though unsuccessful, was a heroic demonstration of the fact that the Soviet Union is unable to suppress the aspirations of the Lithuanian people for freedom and the exercise of their individual rights.

Mr. Speaker, Lithuania is a captive nation—by virtue of the continuing subjugation and oppression of the Lithuanian people by the Soviet Union.

The Communist regime did not come to power in Lithuania by legal or democratic processes. The Soviets invaded and occupied Lithuania in June of 1940, and the Lithuanian people have been suffering in Russian-Communist slavery for more than 30 years.

It was on February 16, 1918, that the modern Republic of Lithuania was established.

After the Nazis and the Russians had smashed Poland in September of 1939, the Kremlin moved troops into Lithuania and annexed that Republic in June of 1940. In one of history's greatest frauds, "elections" were held under Red army guns. The Kremlin then claimed that Lithuania had voted for inclusion in the Soviet empire.

Since the very beginning of Soviet-Russian occupation, however, the Lithuanians have waged an intensive fight for freedom. During the second half of June 1941 the people of Lithuania succeeded in getting rid of the Communist regime; freedom and independence were restored and a free government was reestablished. This free, provisional government remained in existence for more than 6 weeks. At that time, Lithuania was overrun by the Nazis who suppressed all the activities of this free government and the government itself. During the period between 1940 and 1952, more than 30,000 Lithuanian freedom fighters lost their lives in an organized resistance movement against the invaders. The cessation of armed guerrilla warfare in 1952 did not spell an end to the resistance. On the contrary, resistance by passive means gained a new impetus.

The Congress took a step in the right direction by adopting House Concurrent Resolution 416, which calls for the freedom of Lithuania and the other Baltic Republics, Latvia and Estonia. All freedom-loving Americans should seek to implement this legislation. The voice of freedom can never be stilled. It will be heard in Lithuania until that gallant people once more live in liberty.

Mr. O'NEILL. Mr. Speaker, I want to take this opportunity to join my colleagues in observing the 54th anniversary of the establishment of the Republic of Lithuania. While Lithuania today remains under the domination of the Soviet Union, the people of Lithuania persevere in a spirit of self-determination and hope for freedom in the future. It is the purpose of this day to express the expectation and the fervent desire on the part of all Americans to see that hope become a reality.

America is a land of many nationalities and ethnic origins and it is with pride that we look to the many cultural contributions which the people of Lithuania have made to our society. It is, therefore, appropriate that we take note of a day which is important to those of Lithuanian descent.

The right of a people to live and work and earn a livelihood in freedom is an inalienable right, according to the Declaration of Independence, perhaps the most sacred document of American independence. But those words take on an added significance when we celebrate the anniversary of a nation which, while once free and independent, has come under foreign domination.

The loss of such freedom occasions a most difficult readjustment. As Americans must never become complacent about the loss of freedom, either their own, or someone's elses, we must continue to mark this day and remain determined to assist the people of Lithuania regain their self-determination in any way possible. Americans of every walk of life and every occupation join the people of Lithuania in commemorating this day, which Congress has set aside to "bring the force of world opinion to bear on behalf of the restoration of these rights to the Baltic peoples," in the words of House Concurrent Resolution 416.

Mr. WAGGONNER. Mr. Speaker, to many of the people of this Nation, today is Ash Wednesday, a religious holiday observed with the sanction and within the framework of a free and democratic society.

But to many Americans of Lithuanian descent, this is also the 54th Anniversary of Lithuania's Declaration of Independence which came only after a century of subjugation under Russian rule, and which has been followed by revocation not only of her independence, but of her personal liberty and dignity, as well.

With the passage of time, little Lithuania, with her cattle, hogs, and electric motors, is now one of the most prosperous and productive parts of the Soviet Union. But as she submissively contributes toward fulfillment of the Soviet goal—a 40-percent rise in national income—a 50-percent rise in industrial output—a 25-percent increase in farm production—she continues to struggle for a return to the days she had begun to work out her own system of government and develop her own economy.

Days before any army of occupation overran her—40,000 strong. Days before mock elections made a mockery of all she had tried to accomplish. Days before 50,000 of her people gave their lives in 8 years of armed, patriotic resistance. Days before the Soviet rulers deported every sixth Lithuanian to distant parts of its empire, or to the concentration camps—where many died.

And on this, the 54th Anniversary of Lithuania's Declaration of Independence, and the 721st anniversary of the formation of the Lithuanian State, the people of Lithuania continue their struggle for rights inherently theirs.

Ash Wednesday, 1972, finds the Russian State vigorously attacking religious beliefs and practices in Lithuania through antireligious propaganda—thus denying churches the freedom to propagate their faith.

Where Ash Wednesday and other religious services can be advertised in newspapers of our free society, many churches in Lithuania are denied freedom of the press for religious needs. Children who frequent the church suffer much abuse. They are taught that religious parents are backward, and are not allowed to actively participate in many parts of the service.

While bells peal throughout the Nation today, summoning the faithful to get their ashes, many of the churches in Lithuania are not allowed to ring bells, use loudspeakers or any other technical means. In fact, only two churches have been built in Lithuania since 1945—and one of these serves as a peoples' music hall. In 1970, a pastor was convicted to 1 year in prison for giving religious instructions to children—upon the requests of their parents. This despite the fact that the Constitution of the Soviet Socialistic Republic of Lithuania, guarantees—and I quote—"the freedom of all citizens to fulfill their religious cult."

These are but a few illustrations symptomatic of a repressive and alien rule. While Americans have the freedom to protest in this country, the Soviets declare protesting Lithuanians dissidents—and whisk them off to psychiatric wards

To many in this Nation and other lands throughout the world, Ash Wednesday may be somber, but it precedes another day of hope, rejoicing, a new life I salute Lithuania on this anniversary of her independence—an independence I hope she may one day resurrect.

Mr. SMITH of California. Mr. Speaker, this week marks the 54th anniversary of the establishment of the Republic of Lithuania. This enslaved nation looks once again to the freedom-loving people of the world with the hope that their right of self-determination might be restored.

They look to the United States in its conquest for peace in the world to help them regain their independence from the brutal oppression suffered under the hands of the Communist regime.

It is hoped that all freedom-loving citizens of the United States might be ever mindful of those proud nations and brave peoples—wherever they are—who are denied national dignity and the right of self-determination. Let us each resolve to do our utmost to free these oppressed peoples, and to see that they, too, like we, are privileged to determine their political status, and freely pursue their economic, social, cultural and religious development.

Mrs. HICKS of Massachusetts. Mr. Speaker, February 16 marks the anniversary of the Declaration of Independence of Lithuania, the establishment of the Republic of Lithuania and the 721st anniversary of the formation of the Lithuanian state.

This day will not be commemorated publicly in Lithuania itself which has been under Russian rule since 1940. It is indeed tragic that these brave people have been denied the freedom and national sovereignty of their native homeland and have been forced to exist under Soviet domination.

Lithuania, today, is cruelly taxed and ruthlessly ruled by Soviet Russia. Our friends in Lithuania have been subjected to suppressive policies of the Soviet state which violate human rights. Lithuanian history is a record of a long struggle against foreign domination. In 1918, that struggle culminated in the bright flame of national independence, but 22 years later the flame was extinguished when Lithuania was forcibly incorporated into the Soviet Union.

Although their independence was short lived, it was and is a monument to the pride and courage of generations of Lithuanians. Time and again Lithuanians have been called upon to resist communism and each time such invasions have been repelled.

Mr. Speaker, on behalf of my constituents of Lithuanian descent in the Ninth Congressional District, I am proud to lend my voice to honor the Lithuanian people. We should do our utmost to utilize every political and economic asset at our command to show to our friends in Lithuania that Americans stand firm in their commitment to help Lithuanians to become free, and that we Americans remain steadfast in maintaining our policy of refusing recognition of the forcefully imposed and illegal annexation of Lithuania by Russia.

National pride is the challenge of the people of Lithuania—their goal is independence.

To the proud Lithuanian-American, while this day causes pause and empathy for his fellow countryman in his home country, he should also recall the glorious history and tradition of an independent Lithuanian state which can trace its history back to the 11th century, A.D.

Today, not tomorrow, is the time to bring the issue of the liberation of the Baltic States to the United Nations.

The Americans of Lithuanian descent have done much to make the United States a land of the free and the home of the brave. As freedom-loving Americans, all of us, descendants from either immigrants or refugees should pray with them for the speedy liberation of Lithuania.

Mr. STRATTON. Mr. Speaker, I am proud to join once again in this observance in the House of the anniversary of the independence of the Republic of Lithuania. It was 54 years ago today that the proud and brave people of Lithuana proclaimed their homeland as a free and independent nation after more than a century of domination by czarist Russia.

Elections were held in Lithuania in 1918 and a democratic government was formed that was a shining example to the world of the love for liberty and justice that has always been implicit in the character of the Lithuanian people. The newly freed country quickly took her place among the modern community of nations and, after being admitted to the League of Nations, did her part to help maintain world peace.

When that peace was finally shattered, however, so was Lithuania's independence. After the Soviet invasion in 1940, thousands gave their lives in a successful 1941 bid for independence. This freedom was not long-lived however, as Hitler soon moved in his troops in the march toward Russia. The country was reoccupied by Russia toward the end of the war. Their desire for freedom undiminished. Lithuanians took to guerrilla warfare and carried on a 12-year underground struggle that cost the lives of some 30,000 freedom fighters.

That desire for freedom and relentless determination for independence is as strong as ever and it is appropriate that today, the 54th anniversary of Lithuanian Independence Day, all Americans join with Americans of Lithuanian descent, and their countrymen behind the Iron Curtain, in recognizing the proud heritage of the Lithuanian Nation.

We are reminded on this Lithuanian Independence Day of the plight of Simas Kudirka, the Lithuanian sailor who in 1970 jumped from a Soviet ship but was denied asylum aboard a U.S. Coast Guard cutter. Soviet sailors were allowed to go aboard the cutter, beat Kudirka unconscious, and drag him back to the Soviet ship—a day of shame for all Americans.

Perhaps more than he realizes, Kudirka performed a great service to his country because he once again brought to the attention of the American people and the world the plight of those trapped behind the Iron Curtain. At Kudirka's trial, at which he was sentenced to 10 years of hard labor and confiscation of all his personal property, it is reported that he made the following appeal:

> I have nothing to add to what I have already said, only one wish, more specifically, a request to the supreme court and the government of the Soviet Union: I ask that you grant my homeland, Lithuania, independence.

Words to which we can all dedicate ourselves.

As the interest builds in anticipation of President Nixon's visits to the world's two major Communist countries, let us not forget the misery and horrors that those nations have perpetrated on the once-happy people of once-free nations.

I urge the President to express to the leaders of the Republic of China and of the Soviet Union, the deep conviction of the American people that all people of all nations must be allowed to govern their own affairs and must be given the fundamental rights that belong to all humans. I call upon the President to implement the mandate of House Concurrent Resolution 416, which I strongly supported when it was passed unanimously by both Houses of Congress in 1966, and bring the force of world opinion to bear on behalf of the restoration of those rights to the people of the Baltic countries.

And, Mr. Speaker, I call upon my colleagues in the House and upon all Americans, to join in reaffirming their dedication, as I reaffirm mine, to hastening the day that the Iron Curtain will be torn down and freedom and independence reestablished in Lithuania and all those nations suffering under Communist aggression. As the saying goes in Lithuania, "Come what may, Lithuania will endure forever."

Mr. BYRNE of Pennsylvania. Mr. Speaker, this month my many Lithuanian-American friends will be marking two very important dates. February 12 was the 721st anniversary of the unification of Lithuania by King Mindaugas the Great. February 16 will be the 54th anniversary of the establishment of the modern Republic of Lithuania.

Unfortunately, while we will be celebrating these dates in the United States and in other areas of the free world, there will be no overt celebrations in Lithuania itself. We all know why.

Lithuania and her two Baltic sister States have been occupied by the Soviet Union since 1939 and officially annexed to the Soviet Union since June 1940.

What a mockery of the political process this "annexation" was. An election held under the guns of the Red Army.

Since that time the free world has said much but done very little about this intolerable situation. A most recent action was House Concurrent Resolution 416 of the 89th Congress, passed unanimously, which calls for freedom for Lithuania, Latvia, and Estonia.

This resolution has not been implemented. A concrete action of this Congress would be to call upon the President to implement that resolution by placing the case of the Baltic States before the United Nations General Assembly.

Of course, it would be useless to take this case before the Security Council; the Soviet Union would veto the issue. The Soviets believe in self-determination under international auspices for everyone but the captive nations held by the Soviet Union.

This would also give us the opportunity to determine if those Soviet supporters in the United Nations who mouth platitudes of freedom are honest or hypocritical.

I wish I could be more idealistic about this situation, but I am too much of a realist.

I live only with hopes, those same hopes of the millions of people held in captivity by the Soviet Union, such as the brave Lithuanian people, that some day the conscience of the world will set them free.

Mr. MADDEN. Mr. Speaker, last Sunday I spoke before the Lithuanian-American Society of Washington, D.C., on the occasion of the society's annual observance of Lithuanian Independence Day. The following resolutions on Lithuanian independence were unanimously adopted by the membership on that occasion:

Resolutions

Metropolitan Washington area residents, gathered on February 13, 1972 at the Washington Hotel, under the auspices of the Lithuanian American Society, to observe the Lithuanian Independence Day, extend their greetings to the freedom loving people of Lithuania, and bring the following resolutions to the attention of the President, the Secretary of State, and Members of Congress of the United States:

The drastic Soviet reprisals against the signatories of several human/civil rights appeals of the Lithuanian clergy, against unsuccessful defectors, and against religious teachers and the communicants defending them, disclose the restiveness of the post-war Lithuanian generations over the gap between promise and performance of the World War II Allies, namely: the promise of the Four Freedoms, the Atlantic Charter, United Nations Declaration and Charter, the

Declaration to Captive European Peoples—and the performance of perpetuating the division of spoils by the Ribbentrop-Molotov Pacts, that is—forcible reoccupation of the Baltic States, dismemberment of Poland, Romania and Czechoslovakia, and in addition thereto: partition of Germany, and forcible communization of central and eastern Europe.

President Nixon in his Inaugural Address noted that "peace does not come through wishing for it . . . there is no substitute for days and even years for patient and sustained diplomacy," and he pledged to devote his energies and wisdom to the cause of Peace "with opportunity for all the peoples of this earth to choose their own destiny, moving with precision and purpose from an era of confrontation to an era of negotiation."

The 50th anniversary of the American de jure recognition of the Baltic States and the 32nd anniversary of the American nonrecognition of the forcible incorporation of Lithuania, Latvia and Estonia by the Soviet Union, point up the need for an active, bold and sustained American diplomatic initiative, in direct American contacts with the USSR during the forthcoming visit of President Nixon to Moscow, at the United Nations and elsewhere, to remove the remaining stumbling block to peace and security in Europe by restoring the sovereignty of Lithuania, Latvia and Estonia.

Therefore, we urge the Administration to move from the passive policy of nonrecognition and to initiate diplomatic efforts to convince the Government of the Soviet Union that rectification of the wrong done against that country's good and peaceful neighbors—Lithuania, Latvia and Estonia—would enhance the true interests and security of the Soviet Union itself, and would promote world peace as well as respect for, and trust in, the Soviet Government and its policies, and pave the road to the European security conference.

By unanimous vote of the citizens present:

LOUISE EURKOOS,
Secretary,
Lithuanian American Society.

Mr. SMITH of New York. Mr. Speaker, this week marks the 54th anniversary of the establishment of the modern Republic of Lithuania.

A 700-year-old State, Lithuania has suffered for centuries from the "accident of geography," being invaded by both East and West. Most recently, the Baltic republics of Lithuania, Latvia, and Estonia have suffered their most cruel and brutal occupation since June of 1940: the beginning of Soviet domination. Since this time, Lithuania and her neighbors have lost more than one-fourth of their entire population through the systematic extermination and annihilation of their peoples. Not since June of 1941, when the people of Lithuania regained the power of their Government from Soviet domination, have they enjoyed a free government. At that time freedom and liberty existed in Lithuania, but only for a brief 6-week period, before the shrouded veil of Nazi domination overran Lithuania.

Let us, as citizens of these free United States, who are preparing to celebrate our own bicentennial of independence, recall the arduous task of shaking off our colonial status, much as the people of Lithuania attempt to do.

The 89th Congress of the United States, recognizing the need for the liberation of the Baltic States, unanimously adopted House Concurrent Resolution 416 calling for freedom from oppression for the Lithuanian people and their fundamental right to determine their own national destiny. These are the inalienable rights of all citizens who pursue the path of peace.

With the support of all free people today, I pray, Mr. Speaker, that we may live to see the day in which the proud people of Lithuania achieve the freedom and liberty which they have so long been denied.

Mr. COUGHLIN. Mr. Speaker, throughout the world today, freedom-loving Lithuanians are observing the 54th anniversary of the independence of Lithuania.

Lithuanians still cherish the memory of freedom and nurture the hopes for eventual liberation of their homeland despite Communist rule that has subjugated Lithuania since 1940.

Freedom, as we know from the history of our own Nation, is an ideal which is not easily erased from the minds of man. Even under tyrannical rule, freedom burns under the surface of regimentation and oppression, waiting to burst forth again with renewed vigor when the opportunity arises.

It is freedom, in this finest sense, that Lithuanians throughout the world cherish for their homeland.

As a free man who was profoundly shaken on visiting the infamous Berlin Wall and who was dismayed by the Soviet Union's invasion of Czechoslovakia in 1968, I share the hopes of free peoples everywhere that liberty once again will come to Lithuania and other captive nations. I believe they have the inalienable right to their own national identity and deserve to direct their own destiny.

I cite the Lithuanian American Council as an American civic organization which is dedicated to the ideal of peaceful restoration of freedom to these nations. I extend to the council and to all Lithuanians and Americans of Lithuanian ancestry my very best wishes in their work and the hope that they someday will succeed.

Their undaunted spirit certainly serves as an inspiration to freedom-loving peoples throughout the world.

Mr. ZWACH. Mr. Speaker, freedom is a precious ideal whose seed fails to die even under the most tyrannical oppression. It is a priceless gift, a great achievement, but all too unfortunately it is appreciated the most only after it is lost.

Today, I would like to join my colleagues in paying tribute to one of the world's most unfortunate nations, which, in the 721 years since its origin, has known freedom but for a brief span of 22 years.

In spite of that brief possession of freedom, its flame burns brightly in the hearts of the Lithuanians.

By an accident of geography and the misfortunes of war, this sad country has been the battleground time and again between warring nations who have alternately occupied it.

A nation may be conquered, but not the spirit of its people, and so the Lithuanians have remained strong and united, thirsting for the freedom and liberty they once knew.

Today is the 54th anniversary of the independence of Lithuania, an independence they no longer know.

As we salute these brave people today, I would like to call to your minds the plight of the other captive nations of the world and offer the hope that on some bright day they, as well as the Lithuanians, again may savor the heady wine of liberty and freedom under a government of their own choosing.

Mr. HICKS of Washington. Mr. Speaker, on February 16, 1972, Americans of Lithuanian descent commemorated the 54th anniversary of the establishment of the Republic of Lithuania and the 721st anniversary of the formation of the Lithuanian State.

We are reminded on this day that since June 15, 1940, the Lithuanian people have been forcefully placed under the Soviet rule. Their struggle for freedom, however, extends back into history much further than the early 1940's. For over 600 years Lithuanians have had to come to arms in defense of their national sovereignty. Then in 1918 the National Lithuanian Council proclaimed independence from Russian subjugation. And this is the date we are commemorating with the hope that the Lithuanians will regain the independence they lost at the beginning of World War II.

On this occasion the Soviet Union should be held before the free world to account for its infractions of the universally recognized rights of men and nations—the rights to self-determination and the right to fundamental freedom of religious worship. Therefore, Mr. Speaker I respectfully enter into the RECORD the concluding remarks found in a study prepared by the Lithuanian American Community, Inc., on violations of human rights in Soviet occupied Lithuania with concern to the:

A detailed study of the structure of the Soviet state reached the following conclusion:

Stripped of its ideological raiment and reduced to the essentials of geography and human resources, Soviet Russia today is not remarkably different in its constitution from Russia or Czar Nicholas II. Russia now, as then, is an empire in its traditional meaning, created through the imperial-colonial processes of contiguous expansion; it is a complex of nationalities, deriving their origins, cultures, and histories from radically different sources. As the unintended legatee of a vast imperial system extending from the borderlands of Eastern Europe to the Far East and from the Arctic to the subcontinent of Asia, the Soviet Communist elite succeeded in rebuilding a new imperial-colonial system . . .*

The Soviet Union is in obvious violation of its UN Charter obligations as well as the International Covenant on Civil and Political Rights, which in its first article guarantees all people the right of self-determination. No ideological screen can hide this obvious reality. The status of the Lithuanian people documented in this report is a case in point. Even though the Soviet Union will not submit to United Nations scrutiny its policies in respect to human rights, there are sufficient devices in the UN procedures to raise the question of Soviet imperialism and colonialism. For once the members of the United Nations should abandon the double standard and should apply their resolutions on self-determination and colonialism universally, including the Soviet Union as one among the still extant colonial powers.

The status of freedom of religion and conscience in Soviet-occupied Lithuania is accurately summarized by the President of the Belgian Senate, the Hon. Paul Struye, who spent three days in Lithuania in September of 1971. On his return home the Belgian parliamentarian wrote:

"The Communist doctrine continues to remain antagonistic to any religion. In order to realize this it is only necessary to read a small booklet, called *Lietuvos socialistine respublika* (The Socialist Republic of Lithuania). In this booklet, in the form of questions and answers, the reader finds the following sentence: "An individual with religious beliefs cannot become a member of the Communist Party because this party is based on Marxist materialism, which is in essence opposed to the idealistic philosophy and the propagation of religion." However, in the same place it is asserted that all the citizens of Lithuania have the freedom to profess or not to profess a religion. They can also engage in anti-religious propaganda. How is it possible to reconcile these two facts with freedom, how is it possible to reconcile the freedom of anti-religious propaganda and the prohibition to propagate religious truths? It is clear that under these conditions there cannot be any talk about "a genuine freedom of conscience."

The validity of such judgment has been clearly demonstrated by the evidence presented here. The Soviet regime in fact suppresses religious worship and belief in violation of the United Nations Universal Declaration on Human Rights as well as the constitution of the USSR and the constituent republics.

Mrs. GRIFFITHS. Mr. Speaker, it is a privilege and honor for me to join my colleagues in Congress in paying tribute to Lithuania and Americans of Lithuanian descent as we celebrate the 54th anniversary of the declaration of the independence of the Lithuanian people.

Fifty-four years ago, on February 16, 1918, that courageous nation proclaimed her independence of Russia. Upon achieving independence, the Lithuanian people entered upon a period of unparalleled social, economic, and political progress. For the ensuing 22 years, Lithuania was free to make great strides toward their national goals as they enjoyed a happy, free and democratic way of life. Then, in 1940, the Soviet Union forcibly annexed the young Republic of Lithuania, suppressing the freedom of the people and incorporating her along with Estonia and Latvia into the Soviet sphere. The United States recognized the independent Lithuanian Government on July 27, 1922, but it has never recognized that nation's incorporation into the Soviet Union.

It is fitting that we set aside this time today to reaffirm our stand in support of the eventual freedom of this country. I take this occasion to congratulate our Lithuanian friends for their undying courage and their unfailing determination to regain freedom and self-determination for their homeland. I hope that we soon celebrate Lithuanian Independence Day with the knowledge that freedom has been returned to this proud country.

Mr. DENT. Mr. Speaker, I would like to take this opportunity to join with my colleagues in commemorating two anniversaries in Lithuanian history. The 720th anniversary of the consolidation of the Lithuanian state and the 53d anniversary of the establishment of the Republic of Lithuania. This observance is not underlined with happiness or achievement, however, for we are reminded that Lithuania has been under the domination of the Soviet Union for more than 30 years.

For too long too many people have been apathetic to the reality of the Lithuanian condition. Contrary to popular belief, the Communist regime did not come to power in Lithuania by democratic means. Russia occupied Lithuania in June 1940, and has held a stranglehold on the country ever since. Communist occupation of Lithuania brought much hardship and suffering upon the people, and it is estimated that 45,000 Lithuanians lost their lives or were deported between June 15 and the time when Russian troops fled the onslaught of the German forces in Lithuania around June 21.

Despite the harshness of the Russian occupation of their country, Lithuanians have kept alive the struggle against the suppression of their basic rights of freedom of speech, press, and assembly. As a nation that strives to uphold the guarantee of fundamental human liberties for all peoples, it is only appropriate that our country should stand in the forefront among the free world nations in condemning the Soviet Union's oppression of Lithuania. Unfortunately, though, our country has done very little, if anything, to help rid the suffering Lithuanians of the Communist regime in their country.

The spirit of today's anniversary should not end with the day. At this point it seems appropriate for us to recall House Concurrent Resolution 416 which was unanimously adopted by the House of Representatives on June 21, 1965. This resolution calls for the Congress to urge the President of the United States to:

> Direct the attention of world opinion at the United Nations and at other appropriate international forums and by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Estonia, Latvia, and Lithuania, and to bring the force of world opinion to bear on behalf of the restoration of these rights to the Baltic peoples.

Mr. Speaker, in behalf of Lithuanians throughout the world, I will close by reminding the administration of the equity and importance of these objectives. To ignore them is to ignore the principles on which we were founded.

Mr. BRASCO. Mr. Speaker, I take pleasure in joining many of my colleagues in paying tribute to Lithuania on the occasion of the 54th anniversary of her independence.

Lithuania, in spite of efforts by persecution to eradicate her brilliant ethnic heritage, has survived as much more than a province of the Soviet Union. Its national memory and institutions remain alive in the memory of a free people. When the Soviet system came into that country and clamped its rule on that free people, innumerable Lithuanians migrated abroad to other nations, particularly the United States. The vitality of the Lithuanian communities throughout our Nation testify to the strength of that heritage and the hope for its rebirth in the land of its origin.

We live in an era when nationalism flourishes. Many people with a strong heritage are raising their voices again in a desire to reassert their peoplehood. Only those who have preserved their language, faith, institutions and ethnicity will be able to do this successfully. The Lithuanian community has so far exhibited a strong ability to do just that.

The rule of the Soviet Union has been unyielding upon the Lithuanian homeland. Stringent efforts have been made to eradicate every vestige of the Lithuanian consciousness and nationhood. Millions of people have been deported. Language study and practice of religious faith has been limited severely. A program of Russification has been imposed in the Baltic area from the early days of Stalin. The successors to the rule of the Kremlin have not relaxed these efforts in the slightest.

Although the worst excesses of early Communist rule have been allowed to pass into history, substitutes almost as bad have replaced them. It is difficult in the extreme for these people to stress their individuality as Lithuanians. In the face of the force the regime can bring to bear it is an especially courageous man or woman who will stand up and be counted. Yet there has been no lack of such brave souls.

No amount of repression or the threat of exile has sufficed to stifle them. No amount of propaganda has been enough to convince them to abandon their heritage. And their brothers and sisters in the Western World have not abandoned faith with them. No finer example of the truth of this exists than the kinship felt by Americans of Lithuanian extraction with their brethren in the lands of the Soviet Union, who are not allowed to be what they do desperately want to be—free Lithuanian people.

Under all the occupations of foreigners, the light of Lithuanian nationality has never gone out. The Lithuanian people have vigorously and stubbornly resisted Russification and absorption into the Greater Soviet Empire. They have done this as successfully today as they did in the days of the czars. No military occupation, no matter how inclusive, has been able to make them yield their heritage, culture and beliefs.

This was shown vividly not so long ago in the case of the sailor, Simas Kudirka, who took the ultimate step of attempting to escape to freedom. It was to our shame that we allowed him to be handed back to the Soviets, who treated him in their typical manner.

This man, all by himself, has come to symbolize to many of the inextinguishable flame of Lithuanian peoplehood. He lifted the hearts of millions of these people, both abroad and in the national homeland of the Lithuanian people. And in the Kremlin, even though he was taken back, the publicity attendant upon his attempted rush to freedom has acted in an inhibiting manner upon the Soviet leadership. They know the fire of freedom burns bright, and that there are thousands more like Simas Kudirka.

Our reaffirmation here of our sympathy and empathy with them is a message that can travel across any distance. It can cross any wall erected by any dictatorship, particularly that which dominates the Kremlin today.

It is certain that our expressions of sympathy will eventually reach them in Russia, informing them that they are not alone in these times of trial and stress. It will give the people of Lithuania a new lease on hope. They will know again that the spark of freedom will not go out, no matter how hard the forces of repression seek to extinguish it. In this expression of hope and help, I join fully.

Mr. CONABLE. Mr. Speaker, Americans of Lithuanian origin or descent now living in this country are marking the 54th anniversary of the establishment of the Republic of Lithuania on February 16, 1918. The Rochester Chapter of the Lithuanian American Council is participating in these activities. Lithuania and her Baltic neighbors experienced a short-lived independence of 22 years; the Soviet Union invaded them in June 1940 and those people remain subjugated to Soviet rule today.

Because the Baltic people have not willingly accepted the domination of the Soviet Union, they have been removed from their homeland in an effort to destroy their unity and identity. More than one-fourth of the population has been moved, with many dying in the process. Baltic leaders have called this action by the Soviet Union the most oppressive in their long history. Nevertheless, the Lithuanians and other Baltic people continue to resist Russian domination and to seek their own independence and freedom.

Self-determination remains the keystone of U.S. foreign policy, and it has been firmly restated by this administration. I continue to support that policy for Lithuania and her Baltic neighbors. I hope we will implement the provisions of House Concurrent Resolution 416 to further these efforts.

Mr. PATTEN. Mr. Speaker, last year I addressed this Congress on February 18 to commemorate the 53d anniversary of Lithuanian independence. It is for this same reason that I again address the Congress today. My wish was that this year I would have been able to extend to you the good news that this tiny nation was no longer under occupation. Unfortunately, this is not the fact.

Throughout their stormy history these people have always tried to retain their identity and preserve their freedom. Lithuania was one of the first countries to experience the aggression of both Hitler and the Soviet Union. When the outbreak of the Second World War seemed imminent, Lithuania attempted to maintain a policy of absolute neutrality, but was gradually engulfed, nevertheless. When the tide of the war turned against Germany, Lithuania returned not to independence, but to Soviet domination.

Mr. Speaker, the ideals of these people are similar to the ideals of the great men who freed our own country.

An editorial in the New York Times on the 1959 anniversary of Lithuanian Independence Day stated:

> In the Baltic countries the path to a better future is still dark, but it is not lost and will not be. The day of the overlords will not last forever. The time will come when the three lost little nations will be able to come out and join us. They are as aware as the rest of us that such freedom can exist only in a world of freedom.

I am sorry that this was written 13 years ago and that it has not yet been realized. But I am not sorry for what it says. I say to the 1 million Americans of Lithuanian descent and more importantly to the people still living in Lithuania that I stand for the freedom of these too-long-oppressed human beings.

Since June of 1940, when the Soviet Union took over Lithuania, all the Presidents of the United States have stated, restated and confirmed our country's nonrecognition policy of the occupation of the Baltic States by the Kremlin dictators. However, our country has done very little, if anything, to help the suffering Baltic peoples to rid their countries of the Communist regimes.

The U.S. Congress has made a right step in the right direction by unanimously adopting House Concurrent Resolution 416 that calls for freedom for Lithuania. All freedom-loving Americans should urge the President of the United States to implement this very important legislation by bringing the issue of the liberation of the Baltic States in the United Nations and requesting the Soviets withdraw from Lithuania.

Within this country there is virtual unanimity of opinion that the aggression and tyranny of which the Baltic states are the victims is the direct opposite of the freedom for which the United States stands. And as I conclude this message, I add only my deepest hope that next year as we commemorate this day we may be able to send a message to the people of Lithuania and share with them in this celebration of freedom.

Mr. ANNUNZIO. Mr. Speaker, February 16, 1972, marks the 54th anniversary of the establishment of the modern Republic of Lithuania. It also marks the 721st anniversary of the formation of the Lithuanian State when Mindaugas the Great unified all the Lithuanian principalities into one kingdom.

Across our Nation tens of thousands of Lithuanian Americans are commemorating these two historical events, and I am pleased to join my colleagues in the Congress in observing these important anniversaries in the history of the Lithuanian people.

Fifty-four years ago, when the Lithuanians regained their independence at the conclusion of World War I, they began rebuilding their devastated country, reestablished democratic institutions there, and did all that they could to protect and safeguard their newly won freedom. The Lithuanians are an industrious and proud people and at long last they began enjoying the rewards of their own efforts and the feeling of security that comes from having the right of self-determination and having a democratic form of government.

However, these benefits were short-lived, for with the advent of World War II, Lithuania was invaded by the Red Army and the courageous Lithuanians were once again robbed of their hard-won freedom. Those who resisted were tragically executed, or were deported under inhuman conditions to slave labor camps in Siberia.

Today the Lithuanians are still prisoners in their own homeland, and although they continue to resist Soviet rule in a continuing struggle for freedom, nonetheless, the dream of liberty which lives in the hearts and minds of the Lithuanians has not yet been realized. Today we honor the dauntless spirit of the Lithuanian people which once before helped make that country free and independent and which we know will not be extinguished until Lithuania once again joins the family of free nations in the world community.

Mr. Speaker, the denial of religious freedom, self-determination and human rights to the Lithuanian people is a matter of grave concern not only to the United States but to all free countries. I was one of the sponsors in the Congress of House Concurrent Resolution 416 which was passed by the House of Representatives in 1965 and subsequently adopted unanimously in 1966 by the Senate. That resolution urged the President to use the forum of the United Nations Organization and any other appropriate means to bring to bear the force of world opinion on behalf of restoration of religious, national, and human rights to the Baltic peoples. I urge that the President do all in his power to implement the provisions of this resolution in order that Lithuania, as well as the other Baltic nations, may once again be free from domination and may be permitted to choose their own form of government.

The United States has never recognized the forced incorporation of Lithuania into the Soviet Union. We have always sympathized with the Lithuanian desire for independence. In behalf of the thousands of Lithuanian Americans residing in Illinois and across our Nation, I commend the great courage of the Lithuanian people in resisting the oppression and tyranny of Soviet domination, and I join my colleagues in expressing the hope that the Lithuanian nation will soon be successful in regaining its independence.

Mr. MORGAN. Mr. Speaker, I am pleased to join many of my colleagues who are taking this opportunity today to commemorate the 54th anniversary of the declaration of independence of the Republic of Lithuania. It is fitting, indeed, that this date—February 16—falls almost midway between the birthdates of two great Americans, whose names and lives are irrevocably linked with our own struggle for independence and national unity.

In paying tribute to Americans of Lithuanian descent, together with Lithuanians throughout the world, I note with pride that my distinguished colleague and fellow Pennsylvanian, the Honorable DANIEL J. FLOOD, was instrumental in establishing the tradition in this body of according annual recognition to Lithuanian Independence Day. It is, in fact, one of the ironies of history that during an era of national independence movements, when many former colonies and dependencies are emerging as new "republics," a number of former republics remain under alien subjugation. This is a time for all Americans to recognize that many of the rights we take for granted, including the right of religious freedom and political "dissent," are by no means universally enjoyed.

No contemporary discussion of Lithuanian aspirations can be complete without at least a passing reference to the tragic case of Simas Kudirka, the Lithuanian seaman whose attempted defection to the United States was aborted in the fall of 1970 as a consequence of bureaucratic bungling and an apparent lack of coordination among various agencies of our Government. This unhappy incident has, however, produced at least one beneficial result; that is, the issuance of new guidelines by the executive branch on procedures for handling requests for temporary refuge and asylum. As chairman of the Committee on Foreign Affairs, I wish to commend my friend and colleague, the gentleman from Ohio (Mr. HAYS), for the exhaustive hearings he held in the subcommittee he chairs on State Department Organization and Foreign Operations. I believe that the subcommittee's efforts to ascertain the facts in this case served not only to bring an unfortunate episode to public attention, but also to stimulate the executive branch, under the personal direction of the President, to take corrective action.

Mr. Speaker, this Nation has long been committed to the principle of government by consent of the governed. The continuing plight of Lithuania and Lithuanians is a reminder that for many people on this planet, the concept represents a hope instead of a reality.

Mr. PEYSER. Mr. Speaker, February 16, is a day of great significance to all men who love freedom. Fifty-four years ago today, in 1918, the free and independent nation of Lithuania was established. This nation and its people became a shining example for all who sought liberty, and a definite proof of what free men can accomplish. Although the Republic's existence was a short and trouble filled one, it became and still is a great symbol of freedom to all men.

It is tragic that the efforts of these people were unable to resist the double-edged sword of Nazi and Soviet totalitarianism, but let no man think that this beacon of freedom has been permanently extinguished. The brave people of the Republic of Lithuania will once again emerge from their enslavement to take their place among the free and humane nations of the world.

I am proud to have had this opportunity to help perpetuate the memory of and the hope for a free and independent Republic of Lithuania.

Mr. GREEN of Pennsylvania. Mr. Speaker, the gallant Lithuanians have had their greatness and glory in the distant past, but in the late 18th century their destiny was placed in the hands of Russia's autocratic czars. In 1917 when the oppressive regime of the czar was overthrown, the Lithuanians had the chance of attaining their centuries-old national dream. Early in 1918 they proclaimed their independence and established their own democratic form of government. Then, under multiple handicaps and hardships, they worked their way out of misery and chaos. Their independence was recognized by other sovereign states, Lithuania was admitted to the League of Nations, and thus once again it became part of the free world community of nations.

For about two decades, during the interwar years, hard-working, industrious, sturdy, and stouthearted Lithuanians enjoyed their well-earned freedom. In time Lithuania became one of the most prosperous and progressive democracies in northeastern Europe. But the turn of international events over which they had no control threatened their independence and their existence as free people. In 1940, their worst apprehensions proved to be correct when they were forced to agree to have Red army forces stationed in their country. In mid-June of that year the Red army overran and occupied the whole country. Then the country was incorporated into the Soviet Union, thus putting an end to Lithuanian independence.

During the last war Lithuanians changed their unwanted masters more than once. First for more than 2 years they suffered under the Nazis. Then toward the end of the war the Nazis were evicted and their place was again taken by the Communists, who have been there ever since. Today they rule over Lithuania with an iron hand. There is no freedom of speech or of expression. Every act of the Lithuanian citizen is planned and pushed by the Communists. In many ways unhappy Lithuanians are sealed off from the free world. In recent years, however, there have been some relaxations in the methods of government; some select group of Lithuanians are now allowed to travel abroad, and certain groups of tourists from abroad are allowed to visit the country. And the reports these tourists bring are somewhat encouraging. The people there still suffer under totalitarian tyranny, but they have not given up hope for their freedom and independence.

On the 54th anniversary of their independence day there may be assured of our wholehearted sympathy. Although under present circumstances we cannot do much for them directly, we pay high tribute to their tenacity and courage, and hope that they will soon have their just reward in freedom and peace.

Mr. RODINO. Mr. Speaker, on February 9, I expressed my strong support for the restoration of self-determination to the people of the Baltic states. At that time, I emphasized how the rich artistic expressions of Russia's distinctive national groups served to increase my understanding of the thoughts and feelings of the men and women continually struggling to preserve the cultural and historical identity of their people.

As a "friend of Lithuania," I especially share in their goals, aims, and hopes. Although they have borne the heavy yoke of Russian domination for more than a quarter of a century, the Lithuanian spirit of national survival and their firm belief in the rebirth of a future of freedom is vibrant and growing.

In commemoration of the 721st anniversary of the formation of the Lithuanian state when Mindaugas the Great unified all Lithuanian principalities into one kingdom in 1251 and in honor of the 54th anniversary of the establishment of the modern Republic of Lithuania on February 16, 1918, a mass meeting of the Americans of Lithuanian origin or descent and their friends, living in the State of New Jersey, was held on Saturday, February 12, 1972. I wish to commend Mr. Valentinas Melinas, president of the Lithuanian Council of New Jersey, Mr. Kazys Jenkunas, president of the Lithuanian American Community of New Jersey and Mr. Albin S. Treciokas, executive secretary of the United Committee of Lithuanian-Americans for their dedicated efforts in voicing the ideals and rights of the Lithuanian people, for their strong leadership and direction, and for their sponsorship of the following resolution:

Whereas the Communist regime did not come to power in Lithuania by legal or democratic process; and

Whereas the Soviet Union took over Lithuania by force of arms in June of 1940; and

Whereas the Lithuanian People are strongly opposed to foreign domination and are determined to restore their freedom and sovereignty which they rightly and deservedly enjoyed for more than seven centuries in the past; and

Whereas the Soviets have deported or killed over twenty-five percent of the Lithuanian population since June 15, 1940; and

Whereas the Government of the United States maintains diplomatic relations with government of the free Republic of Lithuania and consistently has refused to recognize the seizure of Lithuania and forced incorporation of this freedom-loving country into the Soviet Union; and

Whereas the Committee of the House of Representatives, created by *H. Res. 346* of the Eighty-third Congress to investigate the incorporation of the Baltic States into the Soviet Union, found that the incorporation of Lithuania, Latvia, and Estonia was contrary to established principles of international law; and

Whereas the House of Representatives and the United States Senate (of the 89th Congress) unanimously passed *House Concurrent Resolution 416* urging the President of the United States to direct the attention of world opinion at the United Nations and at other appropriate international forums and by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Lithuania, Latvia, and Estonia, and to bring the force of world opinion to bear on behalf of the restoration of these rights to the Baltic peoples; now, therefore be it

Resolved, That we, Americans of Lithuanian origin or descent, reaffirm our adherence to American democratic principles of government and pledge our support to our President and our Congress to achieve lasting peace, freedom and justice in the world; and be it further

Resolved, That the President of the United States carries out the expression of the U.S. Congress contained in *H. Con. Res. 416* by bringing up the Baltic States question in the United Nations and demanding the Soviets to withdraw from Lithuania, Latvia, and Estonia; and be it finally

Resolved, That copies of this resolution be forwarded this day to the President of the United States, Secretary of States William P. Rogers, United States Ambassador to the United Nations George Bush, United States Senators from New Jersey, Members of the U.S. Congress from New Jersey, Democratic and Republican leaders in the U.S. Congress, Lithuanian Minister in Washington D.C. and Lithuanian Consuls in New

York City, Chicago, Illinois, Los Angeles, California and the press.

The United Committee of Lithuanian Americans unanimously adopted the above statement during their meeting of last Saturday. I wish to add my name to their list of signatures and to once again, emphasize my support in behalf of the just cause of the Lithuanian people.

Mr. BUCHANAN. Mr. Speaker, one of the most courageous stories in the world today is the struggle for human rights, freedom and self-determination being waged in many lands against the oppressive policies of the Soviet Union.

It is most fitting that we pay tribute to the people of Lithuania today on the 54th anniversary of the creation of the Republic of Lithuania because it is here that the efforts toward the attainment of freedom continue undaunted.

The people of Lithuania are all too familiar with oppressive forms of government. In 1918 after more than 100 years under the subjugation of the Russian Empire, Lithuania proclaimed its independence and progressed as the free Republic of Lithuania for more than 2 decades.

But, in 1940, they again came under the yoke of domination through invasion and occupation by the Soviet Union. Elections were held under the barrel of Soviet guns and Lithuania was proclaimed a state of the Soviet Union.

The following year, the Lithuanians were able to overthrow the Communist regime, but their victory was short lived because they again came under despotic rule, this time by the Nazis on the move during World War II.

The departure of the Nazis unfortunately did not signify the return of freedom, but marked the return of Soviet rule.

The desire of the Lithuanian people for self-determination did not, however, succumb to the continued assault on their freedoms by the forces of oppression.

Their determination and spirit is evidenced by their prosperity and progress against odds which would have disheartened a lesser people.

But under this facade of prosperity lies the reality of a people crying to be free. We, in the United States, heard these cries more clearly late in 1970 when a Lithuanian seaman jumped ship and attempted to defect to the United States.

His battle for true freedom cost him the little liberty he was permitted to know as a Lithuanian citizen and his trial and subsequent imprisonment reflected but another phase of the denial of rights in that country.

The plight of the Lithuanians and of Latvians and Estonians who share a similar fate was again brought closer to home through discussions last year in the United Nations over the rights of self-determination for all countries. Hopefully this focusing of world attention on the lack of freedom in such countries will help alleviate some of the suffering borne so long by these people.

The Lithuanian people have a long and courageous history, dating back more than 700 years. In the past century they have known only brief periods of real freedom. The spirit of freedom remains, however, and we can but hope and pray that self-determination and the precious human rights which we in the United States hold so dear can again be realized by the brave people of the Republic of Lithuania.

Mr. MADDEN. Mr. Speaker, I wish to join in commemorating the Lithuanian-American people for their outstanding continuous fight toward some day regaining freedom for its native land—Lithuania. Today is the 54th anniversary of Lithuanian independence after World War I. For centuries past, Lithuania has at different intervals enjoyed liberty and self-government. This nation has been unfortunate by reason of its geographical location and close proximity to powerful neighbor nations who at various times in history subjected Lithuania to aggression and enslavement.

For over 120 years during Lithuania's existence, it has been under the tyrannical yoke of Russian tyranny. The spirit of freedom and self-government for Lithuania has at no time during its long history disappeared from the minds and hearts of its people. During the century and one-quarter of Russian tyranny against terrific odds, the Lithuanian people launched five major revolts against their conqueror.

On February 16, 1918, the Council of Lithuania patriots formally declared Lithuania a free and independent republic. Beginning on that day, the people of Lithuania started to build and create a modern democracy with the hope that its citizens would, for all time to come, enjoy the privilege of its own free and independent government.

No nation has ever demonstrated its capacity and ability for self-government more than Lithuania. Its civic leaders brought about long-needed land reformation, created and expanded its industry and manufacturing, established an adequate and modern transportation system, enacted social legislation and an educational policy which could well be copied by other nations throughout the world. This great progress as a free nation continued up until World War II when Lithuania again became the victim of a powerful aggressor nation who succeeded in enslaving its people.

Communist Soviet Russia disregarded all former treaties and agreements with Lithuania, suppressed and forcibly violated the political and territorial liberties of Lithuania. Lithuania and her neighbors were attacked and destroyed by murder, exile, and imprisonment in concentration camps.

The true Lithuanian who lives within the borders of the motherland or in the free United States or other lands throughout the globe will never allow his national heritage to be forgotten but will continue to fight and pray that some day, and we hope in the not far distant future, Lithuania will again become a free and independent nation.

In 1953, during the 83d Congress, I was selected by the Speaker of the House as a member of the special congressional committee to investigate Communist aggression in Lithuania along with other Baltic States. Our committee held hearings in Washington, New York, Chicago, and also in Europe. The committee took the testimony of over 300 witnesses and recorded several hundred exhibits at these hearings. We did a major service in aiding captive nations by exposing to the world the unlawful methods used by Stalin and Khrushchev and other Soviet leaders in enslaving Lithuania and other nations surrounding its borders.

The Soviet Pravda and its satellite newspapers, radio, and television denounced our committee many times during our hearings in Europe. It was the first time the Communist propaganda machine was placed on the defensive. They were without an answer to the exposition of the malicious criminal methods they used to enslave free people. Our Nation, as the leader of the free world, has made great contributions through financial sacrifice and also on the battlefield to stop the aggressive march of the Communist tyrants in their conspiracy to enslave other free nations throughout the world.

If it had not been for these sacrifices during the years since World War II three-fourths of the world might be under Communist enslavement today. The Soviet and Chinese Communist economy has been a failure. Discontent is rampant among many unemployed and starving people in Russia, China, and most of the Communist countries. The Soviet and Chinese agricultural programs have been a complete failure under their system of working for the state.

Their educational system has been completely disorganized and in most universities only reserved for the Communist leaders and their favorite satellite families. The Communist populace has completely submerged intelligence and if any individual or group of individuals assert independence from the Communist hierarchy they are arrested and confined to institutions, slave labor camps or, in flagrant cases, execution.

At no time in the centuries of civilization has any tyrannical government existed permanently with the whiplash of human slavery.

From the very first days of the Soviet occupation, Lithuanians have fiercely opposed foreign domination. Active armed resistance lasted up to 1950, and took more than 30,000 lives. Stubborn passive resistance continues. The Lithuanian nation emphatically rejects the finality of the present situation created by the Soviet aggression. The struggle will continue until freedom is restored to Lithuania. The United States and most of the free world governments condemned and refuse to recognize the Soviet annexation of Lithuania.

Mr. O'HARA. Mr. Speaker, I am pleased to join today with many of my colleagues in the House of Representatives in pausing to reflect on an especially significant occasion.

Yesterday marked the 54th anniversary of the declaration of independence by the people of Lithuania. It is one of the tragedies of our times that this anniversary is marked in memory, only—because that Baltic State exists today as one of the "captive nations" of the Soviet Union.

Captivity seems to have been the lot of the people of Lithuania for centuries. Throughout all of the 19th century, the Lithuanian people were under the harsh and unremitting domination of the Russian czars. Throughout World War I, this valiant country was under the brutal occupation of the German Armies of Kaiser Wilhelm.

On February 16, 1918, the Lithuanian nation declared its independence—and for two decades, its people were a free people, and Lithuania was a sovereign state, and an active partner in the League of Nations—man's first attempt to create a world family of nations in pursuit of peace.

In 1940, when the holocaust of World War II raged across the European continent, Lithuanian independence came to a harsh and bitter end. This Baltic State came under Soviet domination, when the U.S.S.R. unilaterally declared Lithuania to be a "constituent republic" of the Soviet, and the Red Army took control of this tiny nation.

History repeated itself in Lithuania in World War II, for when the two great dictatorships on the European continent—Nazi Germany and Soviet Russia—went to war, the armies of Germany again swept over Lithuania, and as it had been two decades earlier, Lithuania was occupied by the Germans. Tragically, the end of World War II was not accompanied by the restoration of freedom to Lithuania. Instead that independent State was reoccupied by the Soviet Army in 1944, and since then Lithuania has been considered by the Soviet Union as a component republic.

The people of Lithuania do not consider themselves as part of the Soviet Union. Those Americans of Lithuanian ancestry do not consider their homeland to be a part of the Soviet Union. Nor has the United States ever recognized the Soviet annexation of Lithuania. Quite the contrary. Our Government continues to maintain diplomatic relations with the representative of the former independent Government of Lithuania, which has a legation in Washington.

For those of us who embrace the ideals of freedom—for those of us who still set store by the principle of the protection of human rights—today is a special day, indeed. We must never forget the fight waged by the Lithuanian people to reestablish their complete independence. As Americans, we enjoy the blessing of freedom—and we must continue to strive for the same blessings for all men.

I extend my warmest wishes to our fellow countrymen who proudly point to their Lithuanian heritage, Mr. Speaker, and I join with them in the wish that the day will come soon again when their friends and families in Lithuania can be, as we are, free men.

Mr. ZABLOCKI. Mr. Speaker, it is indeed an honor and privilege to join my colleagues in commemorating Lithuanian Independence Day. It is a date with double significance both for the brave people of Lithuania and for world history.

First, it is the 721st anniversary of the formation of the Lithuanian State in 1251 when all Lithuanian principalities were unified into one kingdom beginning a glorious tradition of nationhood. And second, it is the 54th anniversary of the establishment of the modern Republic of Lithuania on February 16, 1918.

Our commemoration of this people's history of independence is meant not only to affirm Lithuanians' desire for freedom, but also to affirm our commitment to preserve hard-earned freedoms everywhere including our own. It is for this reason that it is very fitting that we pause today in our legislative deliberations to pay tribute to the indomitable spirit of the people of Lithuania, a people whose courageous deeds give shining testimony of their devotion to liberty and freedom.

The history of Lithuania has periodically been marred with occupations by suppressive intruders. However, with each invading force the valiant Lithuanians have resisted all attempts to convert them to the Communist outlook and way of life. The Lithuanian people continue to hope and work, looking forward to the day when liberty and national independence will be restored to them. Their determination and dedication is of the same intensity which can be credited as a force which has affected the course of history.

Therefore, as we commemorate these anniversaries today, let us join our hopes and prayers with the Lithuanian people in their quest for freedom so that their goal may be realized. May this valiant country soon once again take its rightful place in the ranks of the free nations of the world.

Mr. DINGELL. Mr. Speaker, today I am pleased to join with Americans of Lithuanian descent and freedom-loving people throughout the world in observing the 54th anniversary of the Declaration of Independence of Lithuania.

It is a tragic fact that the people of Lithuania itself will be unable to publicly commemorate this historic event because of the continuing subjugation and oppression imposed upon them by the Soviet Union.

On this day it is proper that we remember that the Baltic nations—Lithuania, Latvia, and Estonia—are the victims of Russian imperialism. The Soviet regime did not gain power in these nations on the basis of self determination. Rather, after the Nazis and the Communists smashed Poland in September 1939, the Soviet Union sent its military forces into the three nations in June of 1940 and occupied them by force of arms.

The Soviet occupation forces brutalized the peoples of the Baltic nations and sent hundreds of thousands to their deaths and into detention in the Arctic or Siberia. Since June 15, 1940, these three nations have lost more than a quarter of their populations. The heavy hand of Soviet occupation continues on to this day.

However, the Baltic peoples have not accepted the Soviet occupation without strong protest. During the period from 1940 to 1952, some 30,000 Lithuanian freedom fighters lost their lives in organized resistance. While armed guerrilla war ended in 1952, a passive resistance movement continues.

The 89th Congress adopted a resolution (H. Con. Res. 416) calling for freedom for Lithuania, Latvia, and Estonia. On this the 54th anniversary of the declaration of independence of Lithuania, it is most appropriate to urge the President of the United States to implement the will of Congress by bringing the issue of the liberation of the Baltic States before the United Nations and by requesting that the Soviet Union withdraw its forces of subjugation from Lithuania, Latvia, and Estonia.

Mr. KEMP. Mr. Speaker, today I join with Americans of Lithuanian ancestry and with freedom-loving individuals everywhere in commemorating the 54th anniversary of the establishment of the Republic of Lithuania and the 721st anniversary of the formation of the Lithuanian State.

I am privileged to represent many Americans of Lithuanian descent in the 39th District of New York State and I am proud of their accomplishments and the numerous contributions which they have made to our community and our country.

The Lithuanian American Community of the United States of America, Inc., and the Lithuanian American Council, Inc., are to be commended for once again bringing these two very important anniversaries to the attention of Congress and the American people.

Each year members of Congress commemorate these anniversaries but unfortunately no concrete action has been taken by our Government to help restore self-determination to Lithuania and other captive nations.

I urge the President to instruct our Ambassador to the United Nations to demand that the Soviet Union be required to live up to charter obligations concerning self-determination for all nations.

I also hope that the President will raise the question of self-determination for Lithuania and the other captive nations during his trips to Peking and Moscow.

As an expression of support for the brave Lithuanian people and for the other nations which will struggle to obtain freedom, I include in the RECORD at this time House Concurrent Resolution 416, which was unanimously passed by the House and the Senate—89th Congress—and an essay, "Lithuania's Seven Century Quest for Freedom," which was supplied to me by the Lithuanian American Community of the United States of America, Inc.:

H. CON. RES. 416

Whereas the subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations, and is an impediment to the promotion of world peace and cooperation; and

Whereas all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social, cultural, and religious development; and

Whereas the Baltic peoples of Estonia, Latvia, and Lithuania have been forcibly deprived of these rights by the Government of the Soviet Union; and

Whereas the Government of the Soviet Union, through a program of deportations and resettlement of peoples, continues in its effort to change the ethnic character of the populations of the Baltic States; and

Whereas it has been the firm and consistent policy of the Government of the United States to support the aspirations of Baltic peoples for self-determination and national independence; and

Whereas there exist many historical, cultural, and family ties between the peoples of the Baltic States and the American people: Be it

Resolved by the House of Representatives (the Senate concurring), That the House of Representatives of the United States urge the President of the United States—

(a) to direct the attention of world opinion at the United Nations and at other appropriate international forums and by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Estonia, Latvia, and Lithuania, and

(b) to bring the force of world opinion to bear on behalf of the restoration of these rights to the Baltic peoples.

[From the Congressional Record, Oct. 22, 1966]

Concurrent Resolution To Request the President of the United States To Urge Certain Actions in Behalf of Lithuania, Estonia, and Latvia

Mr. Mansfield. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1573, House Concurrent Resolution 416.

The Presiding Officer. The concurrent resolution will be stated.

The Legislative Clerk. A concurrent resolution (H. Con. Res. 416) to request the President of the United States to urge certain actions in behalf of Lithuania, Estonia, and Latvia.

The Presiding Officer. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to its consideration.

Mr. Kuchel. Mr. President, I wish to say that I am delighted that this matter is being taken up. It deserves attention in this session as a mark of our continuing concern for those peoples who have been deprived of their democratic institutions and are unable to speak for themselves.

The Presiding Officer. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 416) was agreed to.

EXECUTIVE POSITION

The position of the executive branch with respect to the concurrent resolution is outlined in the correspondence which follows:

Department of State,
Washington, June 1, 1965.

Hon. Thomas E. Morgan,
Chairman, Committee on Foreign Affairs,
House of Representatives.

Dear Mr. Chairman: I am writing in reply to your letter of May 20, 1965, to the Secretary of State, requesting the Department's comments on House Concurrent Resolution 416, which has been approved unanimously by the Subcommittee on Europe and ordered favorably reported to the full Committee on Foreign Affairs. The resolution requests the President of the United States to urge certain actions in behalf of Estonia, Latvia, and Lithuania. The language of the resolution, as formulated, is not objected to by the Department of State.

The Department has been advised by the Bureau of the Budget that from the standpoint of the administration's program there is no objection to the submission of this report.

Sincerely yours,
Douglas MacArthur II,
Assistant Secretary for
Congressional Relations.
(For the Secretary of State).

Lithuania's Seven-Century Quest for Freedom (The Land of Simas Kudirka)

"I have nothing to add to what I have already said, only one wish, more specifically, a request to the supreme court and the government of the Soviet Union: I ask that you grant my homeland, Lithuania, independence." *From appeal of Simas Kudirka during his trial.*

The Kremlin is fond of saying that Russian imperialism died with the czar. But the fate of the Baltic nations—Lithuania, Latvia and Estonia—shows this to be a cruel fiction. The Communist regime did not come to power in the Baltic States by legal or democratic proces. The Soviets invaded and occupied the Baltic States in June of 1940, and the Baltic peoples have been suffering in Russian-Communist slavery for more than 30 years.

700-YEAR-OLD STATE

The Lithuanians are proud people who have lived peacefully on the shores of the Baltic from time immemorial. For instance, this year marks the 721st anniversary of the formation of the Lithuanian state. Mindaugas the Great unified Lithuanian principalities into one kingdom in 1251.

The Baltic peoples have suffered for centuries from the "accident of geography." From the West they were invaded by the Teutonic Knights, from the East by the Russians. It took remarkable spiritual and ethnic strength to survive the pressures from both sides. The Lithuanians, Latvians and Estonians, it should be kept in mind, are ethnically related *neither to the Germans nor the Russians.*

After the Nazis and Soviets smashed Poland in September of 1939, the Kremlin moved troops into the Baltic republics and annexed them in June of 1940. In one of history's greatest frauds, "elections" were held under the Red army guns. The Kremlin then claimed that Lithuania, Latvia and Estonia voted for inclusion in the Soviet empire.

MOST BRUTAL OCCUPATION OF ALL TIME

Then began one of the most brutal occupations of all time. Hundreds of thousands of Balts were dragged off to trains and jammed into cars without food and water. Many died from suffocation. The pitiful survivors were dumped out in the Arctic or Siberia. The Baltic peoples have never experienced such an extermination and annihilation of their people in their long history through centuries as during the last three decades. Since June 15, 1940, these three nations have lost more than one-fourth of their entire population. The genocidal operations and practices being carried out by the Soviets continue with no end in sight.

Since the very beginning of Soviet Russian occupation, however, the Balts have waged an intensive fight for freedom. During the period between 1940 and 1952 alone, some 30,000 Lithuanian freedom fighters lost their lives in an organized resistance movement against the invaders. The cessation of armed guerrilla warfare in 1952 did not spell the end of the Baltic resistance against Soviet domination. On the contrary, resistance by passive means gained a new impetus.

SUCCESSFUL REVOLT AGAINST SOVIETS

The year of 1971 marked the 30th anniversary of Lithuania's successful revolt against the Soviet Union. During the second part of June of 1941 the people of Lithuania succeeded in getting rid of the Communist regime in the country: freedom and independence were restored and a free government was re-established. This free, provisional government remained in existence for more than six weeks. At that time Lithuania was overrun by the Nazis who suppressed all the activities of this free government and the government itself.

The Government of the United States of America has refused to recognize the seizure and forced "incorporation" of Lithuania, Latvia and Estonia by the Communists into the Union of Soviet Socialist Republics. Our Government maintains diplomatic relations with the former free Governments of the Baltic States. Since June of 1940, when the Soviet Union took over Lithuania, Latvia and Estonia, all the Presidents of the United States (Franklin D. Roosevelt, Harry S. Truman, Dwight D. Eisenhower, John F. Kennedy, Lyndon B. Johnson, and Richard M. Nixon) have stated, restated and confirmed our country's nonrecognition policy of the occupation of the Baltic States by the Kremlin dictators. However, our country has done very little, if anything, to help the suffering Baltic peoples to get rid of the Communist regimes in their countries.

RESTORATION OF INDEPENDENCE TO LITHUANIA

The case of the Baltic States is not a question about the rights of self-rule of Lithuania, Latvia and Estonia, since this is established beyond any reasonable doubt, but the question is how to stop the Soviet crime and restore freedom and independence to these countries. The Select Committee of the House of Representatives to investigate the Incorporation of the Baltic States into the U.S.S.R., created by the 83rd Congress, after having held 50 public hearings during which the testimony of 335 persons was taken, made a number of recommendations to our Government pertaining to the whole question of liberation of the Baltic States. According to the findings of this House committee, "no nation, including the Russian Federated Soviet Republic, has ever voluntarily adopted communism." All of them were enslaved by the use of infiltration, subversion, and force. The American foreign policy toward the Communist enslaved nations, the aforesaid House committee stated, must be guided by "the moral and political principles of the American Declaration of Independence." The present generation of Americans, this committee suggested, should recognize that the bonds which many Americans have with enslaved lands of their ancestry are a great asset to the struggle against communism and that, furthermore, the Communist danger should be abolished during the present generation. The only hope of avoiding a new world war, according to this committee, is a "bold, positive political offensive by the United States and the entire free world." The committee included a declaration of the U.S. Congress which states that the eventual liberation and self-determination of nations are "firm and unchanging parts of our policy."

RIGHT STEP IN THE RIGHT DIRECTION

The United States Congress has made a right step in the right direction by unanimously adopting *H. Con. Res. 416* (89th Congress) that calls for freedom for Lithuania, Latvia and Estonia. All freedom-loving Americans should urge the President of the United States to implement this very important legislation by bringing the issue of the liberation of the Baltic States in the United Nations and requesting the Soviets withdraw from Lithuania, Latvia and Estonia. The time has come for the whole world to demand that the principle of self-determination be respected and that the nations of Lithuania, Latvia and Estonia, too, shall be free from domination and be permitted to choose their own form of government. We should have a single standard for freedom. Its denial in the whole or in part, in any place in the world, including the Soviet Union, is surely intolerable.

Mr. HOGAN. Mr. Speaker, I join with Lithuanians all over the world in commemorating two very important anniversaries this week. This is the 721st anniversary of the formation of the Lithuanian State and this is also, happily and sadly, the 54th anniversary of the establishment of the modern republic of Lithuania on February 16, 1918. I say happily because the Lithuanian people are celebrating their independence and sadly because this year marks the 31st year that this independence has been betrayed by the Soviets.

Celebrating Lithuanian Independence Day is rather like celebrating someone's birthday in which the celebrant is not allowed to come to his own birthday party. For, ever since June 15, 1940, when Soviet armies, following a deal with Nazi Germany, marched into and forcibly took over Lithuania and two other Baltic republics, the Lithuanian peoples have been unable to publicly commemorate, or exercise, their independence.

The native Lithuanians are commemorating their independence right now, not by jubilant bonfires of celebration, but by small candles which burn in secret, not by exciting public fireworks displays, but with that inner spark of freedom which no amount of Soviet subjugation can extinguish. This celebration is sad also in a very real, human sense. Since the occupation by the Soviets of Lithuania, Latvia, and Estonia in 1940, these peoples have actually lost one-fourth of their population to Soviet labor camps, Siberian concentration camps, and outright annihilation. In the place of a joyful Independence Day celebration, we find in many cases only the painful sorrow of the memory of departed family members, taken not by disease, not by pestilence, not by war, but by the policy of the Government of the Soviet Union.

Mr. Speaker, I am happy to report that the Government of the United States has never recognized the legitimacy of Soviet domination over the Baltic States of Lithuania, Latvia, and Estonia. Yet, I also am aware that nothing has been done to change the plight of these peoples in the last 31 years. I submit that this Baltic tragedy is a prime subject for consideration on the agenda of the United Nations. The United Nations supposedly exists for the purpose of righting international wrongs, of settling international disputes, of checking international imperialism. In the case of these Baltic States, the world has witnessed a very grievous wrong, a continuing dispute, and one of the world's worst examples of imperialism. I urge President Nixon, through the Ambassador to the United Nations, Hon. George Bush, to focus the eyes of the world upon this Baltic tragedy, so that, hopefully, we may some day bring true joy and liberation to the celebration of Lithuanian independence.

Mr. YATRON. Mr. Speaker, Americans of Lithuanian origin or descent and their friends in all parts of the United States will commemorate two very important anniversaries this month. First, they will observe the 721st anniversary of the formation of the Lithuanian State when Mindaugas the Great unified all Lithuanian principalities in 1251. Second, and perhaps most important, they will mark the 54th anniversary of the establishment of the modern Republic of Lithuania on February 16, 1918.

As most Americans know, Communist dictatorship began in the Soviet Union on November 7, 1917. What must be emphasized, however, is that the spread of communism not only began during those dark days of 1917, but also continued through World Wars I and II and progresses even today.

The Communist regime did not come to power in Lithuania, or the two other Baltic States of Latvia and Estonia, by legal or democratic processes. The Soviets invaded and occupied the Baltic States in June of 1940, and the Baltic peoples have been suffering ever since. Regrettably, the Balts have had to suffer oppression for centuries due to "the accident of geography." From the west, they were invaded by Teutonic Knights, and from the east by the Russians. Accordingly, it has taken remarkable spiritual and ethnic strength to survive these pressures from both sides.

Just as the Balts resisted invasions throughout the centuries, they have waged an intensive fight for freedom since the very beginning of Soviet occupation. During the period between 1940 and 1952 alone, approximately 30,000 Lithuanian freedom fighters lost their lives in an organized resistance movement. The cessation of armed guerrilla warfare in 1952, however, did not spell the end of Baltic resistance against Soviet domination. On the contrary, resistance by passive means gained new impetus.

Such passive resistance has also been exhibited by the U.S. Government since we have refused to recognize the seizure and forced "incorporation" of Lithuania, Latvia, and Estonia by the Communists into the Union of Soviet Socialist Republics. Our Government maintains diplomatic relations only with the former free governments of the Baltic States and not the Soviet dominated puppet governments in existence today.

Since June of 1940, when the Soviet Union took over Lithuania, Latvia, and Estonia, all the Presidents of the United States have stated, restated, and confirmed our policy of nonrecognition of the occupied Baltic States. Hopefully, the present generation of Americans will continue to recognize that the bonds which many U.S. citizens have with enslaved lands of their ancestry are a great asset to the struggle against communism.

The U.S. Congress has made a step in the right direction by unanimously adopting House Concurrent Resolution 416 which calls for freedom for the Baltic States. It is my hope that all freedom-loving Americans will urge the President to implement this very important legislation by bringing the issue of the liberation of the Baltic States to the United Nations to request that the Soviets withdraw from Lithuania, Latvia, and Estonia.

Certainly, the time has come for everyone to demand that the principle of self-determination be respected and that the nations of Lithuania, Latvia, and Estonia be free to choose their own form of government. We should have a single standard for freedom. Its denial in whole or in part, anywhere in the world—including the Soviet Union—is surely intolerable.

Mr. MINISH. Mr. Speaker, I rise to pay tribute to the people and the spirit of Lithuania. This week marks the 54th anniversary of the establishment of the modern Republic of Lithuania on February 16, 1918.

During the time of Lithuanian independence, agricultural techniques improved, land reform programs were instituted, and Lithuania became a proud nation of small farmers. Industrialization, however, also made great headway. Labor control laws were enacted and other significant social measures were introduced. In addition, Lithuanian literature, opera, and music abounded.

Since 1940, the brave people of Lithuania have been subject to domination and exploitation by the Soviet Government. They have been forcibly deprived of their freedom and independence and they have been the victims of a brutal campaign to destroy all vestiges of Lithuanian cultural identity.

Despite the oppressive nature of their captors, the Lithuanians have persevered in their determination to be the masters of their own destiny.

Mr. Speaker, as long as the United States maintains its belief in the universal principles of independence, personal liberty, and human dignity, we must never forget Lithuania and its gallant struggle for self determination.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and to include extraneous matter on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

HIGH FOOD COSTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SEBELIUS) is recognized for 10 minutes.

Mr. SEBELIUS. Mr. Speaker, for some time now, consumer storm clouds have been brewing up a protest regarding high food costs. Yet, despite these warnings, I must admit I have been amazed at the outpouring of blame and criticism directed at farmers and cattlemen regarding meat prices. We have seen a virtual "consumer blitz" attacking farmers and cattlemen for high food costs.

Of course, the consumer is understandably concerned and upset over high food prices. And, where there is a well of concern, one can always find those who are willing to pump it dry. However, I submit those who are doing the "pumping" are doing so without justification and fact regarding farmers and cattlemen.

Consumer advocates have been publicizing and lobbying for price controls on agricultural products and a significant increase in meat imports. Despite the easy-answer and "quick-logic" appeal of these proposals, neither approach would be in the best interests of farmers and consumers.

Price controls on agricultural products would require yet another commission and bureaucracy to supervise and would be impossible to administer. Price controls would not achieve the desired results and would be most unfair and inequitable in that the market price to farmers would be frozen while "middleman costs" would remain untouched. Most important from the standpoint of the farmer, controls would freeze farm prices at unfair and depressed levels in relation to the rest of our economy.

Confronted with this "blitz," the livestock producer and representatives in the Congress who are keenly interested in this vital national and world industry are in somewhat of a dilemma. There is no question we are outnumbered. Most of the publicity given to high food costs does not take into account the farmer's side of the story.

I am hopeful, however, we can apply the philosophy of the old story about two frogs in a milk can. We may be small in number, but we can make a powerful racket.

Let us consider some pertinent facts. True, beef prices have reached a 20-year high—and it is about time. The farmer is just now receiving a fair price at the marketplace, or what was considered fair 20 years ago. How many wage earners or professional men would settle for a 1951 family income in 1972? The significant point is that the cattle prices are not responsible for the 22.4-percent increase in consumer beef prices. The costs of labor, inspection, processing, packaging, transportation, et cetera, have all gone up. These "middleman costs" have gone up in part because the consumer will not buy meat from the grocer's shelves unless it is inspected, packaged and a high quality product. I am sure the consumer would not want it any other way.

These costs remain hidden to the consumer and would not be affected by any price freeze or decision regarding meat imports. I have yet to hear any consumer advocate propose controls that would freeze the cost of each step involved in bringing beef products to the consumer. A price freeze in order to be fair would not only freeze cattle prices, but would also freeze the cost of labor, inspection, processing, packaging, transportation, et cetera. Of course, this kind of inverse "value added price freezing" would be impossible.

I would also like to point out the American consumer is eating more beef compared to 1951. Beef consumption was only 56 pounds per person in 1951 compared to 114 pounds per person today—and the housewife is getting a better bargain. In 1951, 23 percent of her income dollar went for food. Today, that figure is 16 percent. The consumer, in fact, is getting a higher quality product for less cost and a product designed specifically to meet consumer demands.

Mr. Speaker, Secretary of Agriculture Earl Butz put it very succinctly and made a great deal of common sense when he summed up housewife concern over high food costs and said:

> The housewife may spend more on her week's trip to the supermarket, but when she gets home and complains about food prices, she takes pantyhose, detergent, mouthwash and floor wax out of the shopping bag.

It is time we put food costs in perspective. During the last 20 years, personal income per person increased 254 percent, wages increased 128 percent, the consumer price index increased 56 percent, the cost of services increased 108 percent, and transportation costs increased 64 percent. Food costs have risen 43 percent and beef prices only 22.4 percent. Yet the farmer and the cattleman have been singled out for attack.

If anyone should be complaining, it is the cattleman, not the consumer. The beef producer's costs have increased 48 percent since 1951 and he still receives the same price for his product. Those who have managed to stay in business have done so through remarkable efficiency and productivity. This efficiency and productivity have meant significant consumer savings. Nowhere else in the world can the consumer buy a higher quality meat at such a bargain price. I might add efficiency and productivity gains are topics we seldom hear today in connection with demands for increased wages. These are the demands that result in higher consumer costs, not those of the cattleman.

The American beef producer is only asking what every farmer deserves—a fair price at the marketplace. Drastic measures such as a price freeze on agricultural products or an increase in meat imports will not answer the food cost problem. In fact, they would cripple the livestock industry and endanger the one source of farm income considered "adequate" in our entire agriculture economy. They would also endanger the livestock industry's capacity to satisfy future consumer demands for quality beef at a reasonable price. Finally, drastic measures of this type do not take into account that $1 of beef cattle production generates almost $6 in our overall economy.

Mr. Speaker, I submit to my colleagues who are waging this "consumer blitz" that they should redirect their efforts. Those who are advocating an increase in meat imports are in truth advocating an inferior product with no decrease in price— and they are doing so at the farmer, the consumer and the Nation's expense.

I have written Secretary of Agriculture Butz expressing my full support for his efforts in opposing controls on agricultural prices and to negotiate a voluntary meat import restraint program at the lowest possible level. I have also written the President in this regard and urge my colleagues to do the same. We have already witnessed a "psychological drop" in the cattle market and it should be clear that the drop in price has not affected the price of meat in the grocery store one whit.

LEGISLATION TO ESTABLISH FLOOD-PLAIN POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BLACKBURN) is recognized for 15 minutes.

Mr. BLACKBURN. Mr. Speaker, today I am introducing a bill to establish a national flood-plain policy and to authorize the Secretary of the Interior, in cooperation with Federal agencies and the States, to encourage the dedication of the Nation's flood plains as natural floodways, to protect, conserve, and restore their natural functions and resources, and for other purposes.

The flood plains of the Nation's rivers and streams naturally serve functions of floodwater detention and regulation, water conservation including groundwater replenishment, soil conservation, bottomland hardwood timber production, and fish and wildlife production. In conserving soil and reducing sediment production, they lengthen the life of downstream reservoirs, channels, harbors, and estuarine areas. Additionally, they provide open space, areas of scenic and other outdoor recreational attractions, and sites for scientific and educational ecological purposes. These functions and values deserve full recognition in the planning and development of the Nation's lands and waters which are not presently provided because of imperatives of economic development.

The proposed bill would find and declare that flood plains have the above values to the Nation; would direct Federal agencies constructing, sanctioning, or assisting the construction of water and land development works which affect flood plains to give priority consideration to their preservation, would authorize such agencies to acquire, support, and encourage the acquisition of estates in flood plains at Federal cost, with administration optionally vested in the States; would require perpetual use of such acquired lands for such purposes as are compatible with purposes of the bill, including fish and wildlife habitat, outdoor recreation, timber production, natural area preservation, and the like, as well as established conforming economic uses.

The bill would require Federal planning and construction agencies to conduct public hearings and to obtain and publish the views of the Secretary of the Interior prior to implementing plans in the Nation's flood plains. It would insure consistency of administration of the bill's provisions with other acts through development of guidelines by the Water Resources Council. Use of eminent domain would be limited where valid and effective land-use regulations are in effect.

The objective of the bill is to encourage selection of nonstructural alternatives by Federal flood control and flood prevention planners in the interest of natural area preservation and maintenance of environmental quality. Planners would be clearly provided the option of analyzing the benefits and costs of flood-plain acquisition as an alternative to channelization or other flood protection and prevention measures. Where this alternative demonstrated a competitive or better benefit-cost ratio, agencies would be encouraged to seek its authorization.

The proposal is in harmony with the declarations and purposes of the National Environmental Policy Act of 1969 (83 Stat. 852), the Fish and Wildlife Coordination Act (48 Stat. 401), as amended, the National Flood Insurance Act of 1968 (82 Stat. 572), and the Wild and Scenic Rivers Act (82 Stat. 906), as well as a number of other acts.

It would supplement and round out existing water development planning authorities. It would be a logical corollary

of the Fish and Wildlife Coordination Act which provides that fish and wildlife shall be equally considered with other features in water resource development planning. In many cases, fish and wildlife, as well as outdoor recreation and flood control, could be best served at lowest cost by outright acquisition of flood hazard areas. Further, the bill compliments the provisions of section 103 of the National Environmental Policy Act of 1969 which requires review of present statutory authority, regulations, policies, and procedures which prohibit full compliance with purposes and provisions of that act followed by the proposal of corrective, conforming measures.

Since the proposal anticipates least-cost solution of flood management with coincident natural area and environmental quality preservation, savings in flood control and flood prevention costs as well as in social costs are expected.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's pioneers of progress and in so doing renew our faith and confidence in ourselves as individuals and as a nation. The elevator was invented by American Elisha Otis in **1854.**

PRESIDENT'S JOURNEY FOR PEACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Florida. Mr. Speaker, earlier today I returned from the South Lawn of the White House where the President of the United States boarded his helicopter for the first leg of his historic journey for peace to Communist China.

Standing there in the cold and light snow, as President Nixon made his parting comments, the hushed mood of the crowd became more and more evident to me—it was almost as though every one realized that despite the many, many months of preparation by man, the success or failure of this mission is really in the hands of God.

As the President streaks closer to his destination, I asked the people of my congressional district in Florida to join me in wishing President Nixon Godspeed. And, I hope that my colleagues and their constituents will join my prayers and those of the citizens of my district in asking God's guidance to be with the President for these next 10 days as he seeks a way for the people of America and the rest of the world to experience a full generation of peace.

UNEMPLOYMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 62 minutes.

Mr. DENT. Mr. Speaker, I take the floor today to discuss, in a very limited time, what I think is the most serious problem facing this country and the world.

My first observation is to note again for the record, that another group of Americans have lost their jobs; and, according to their employers, the jobs have been exported to foreign countries. At this time I will read into the record correspondence from the Westinghouse Corp., noting the Westinghouse Corp.'s announcement of the closing down of one of its facilities in my area.

WESTINGHOUSE ELECTRIC CORP.,
Blairsville, Pa., January 20, 1972.

The Honorable JOHN H. DENT,
House of Representatives,
Washington, D.C.

DEAR MR. DENT: It is with profound regret that I advise you of the close-down of the Wrought Products Department of the Specialty Metals Division of Westinghouse Electric Corporation in Derry Township, Westmoreland County, Pennsylvania. Our Wrought Products Department was basically in the specialty steels business which has simply become impossible to continue due to intense foreign low priced competition.

We are including with this letter three pieces of correspondence that will give you more information on this subject. This decision unfortunately affects approximately 250 of our 560 people employed at this plant.

As you are undoubtedly aware, the quota type system for limiting steel imports into the United States has dealt a severe blow to the specialty steel producers. It is only natural that a foreign producer would be more interested in filling his quota with high value specialty steels rather than with low cent per pound ordinary grades. We in the specialty steels business have found ourselves under even more attack and pressure than the rest of the steel industry.

I regret having to send you this communication but look forward to having the honor and pleasure of meeting you in the future.

Very truly yours,
L. A. MEIERKORD, Jr.,
General Manager.

WESTINGHOUSE ELECTRIC CORP.,
Blairsville, Pa., January 20, 1972.

FELLOW EMPLOYE: As you all know, the market for our Wrought Products is severely depressed and for several years we have faced very fierce domestic and foreign competition. Since the middle of 1971 we have been studying the Wrought Products operation. In previous letters to you, I have discussed our efforts to find solutions to the problems faced by this Department. Our basic concern was how we might be able to successfully stay in the business and continue to provide jobs.

As we studied the problems, a number of possible solutions were explored in depth. I mentioned several of these to you in my letter of October 28, 1971. Reluctantly, we have come to the conclusion that there is no reasonable way we can stay in this business.

Today I have the unenviable task of announcing that our Wrought Products Department is to be phased out of operation. We are getting out of the business completely . . . selling, if possible, work in process, scrapping remaining raw materials and putting all machinery and equipment up for sale. Our customers—both inside and outside Westinghouse—will have to find other suppliers.

This decision will result in a reduction in force of approximately 250 of our present total employment, which is currently 560.

The first employes to be affected by the phase-out will probably receive reduction-in-force notices before the end of this month, and we anticipate being out of the Wrought Products business within a few months. I cannot give you any firm schedule because the final decision on this action was only made this week.

We are willing to sit down with union leaders to try to work out the best possible procedures under the circumstances, giving full consideration to the length of service of our employes.

You can be certain that the Division and the Company will make every effort to find new jobs for all those who are up for disposition as a result of us phasing-out our Wrought Products Department.

For example, we are going to run advertisements in the local newspapers and the Pittsburgh newspapers to advise potential employers of the skills and availability of Blairsville employes.

We are going to invite potential employers to interview available employes right here in our plant.

I am asking local community leaders to let me know if they know of the availability of any jobs in the immediate area.

We will try to get the State Employment Service representatives to come to the plant, if practical.

All employes affected will get full and complete information on available benefits, including such things as Layoff Income and Vacation Eligibility.

You may ask what is going to happen to the manufacturing space now occupied by Wrought Products. Although details are incomplete, we plan to renovate this manufacturing space. Hopefully, this renovation will begin soon and eventually lead to new or expanded manufacturing operations related to the growing market for our tubular products.

Making this announcement is an extremely difficult task for me. I find little consolation in the hard, cold fact that the Division and the Company can no longer stay in the Wrought Products business.

This Division faces an extremely difficult time in the weeks and months ahead. However, I am counting on the cooperation of every employe to assure the success of the operations that will continue here at Blairsville.

Very truly yours,
L. A. MEIERKORD, Jr.,
General Manager.

WESTINGHOUSE ELECTRIC CORP.,
SPECIALTY METALS DIVISION,
Blairsville, Pa., January 21, 1972.

TO OUR FRIENDS IN THE COMMUNITIES SURROUNDING BLAIRSVILLE: I am sorry to announce that the Westinghouse Specialty Metals Division is phasing out our Wrought Products Department. As you can see by the attached copy of the letter I have sent to all employes, we cannot reasonably stay in the wrought products business in face of the depressed economic condition of our markets and the intense competition we have faced from foreign suppliers of similar products.

One of the biggest concerns I have about the decision we have been forced to make is the economic impact this decision will have on the communities where affected employes live. However, we had to face up to facts and make a decision based on those facts. We explored every possible alternative and came up with nothing except the fact that we could no longer stay in this business.

Our tubular products operation will continue at our Blairsville plant, and the outlook for this end of our business is reasonably good. In fact, we are planning to renovate the manufacturing space now occupied by our Wrought Products Department and devote this space to increased production of tubular products and related activities.

As I said originally, I am sorry to have to give you this information. We are going to make every effort we can to find jobs for any of our employes who may be affected by this decision. If you know of any jobs that might be available for any of our employes I would appreciate hearing from you, or if you have any questions about what we are doing I would be glad to have you call me.

Very truly yours,
L. A. MEIERKORD, Jr.,
General Manager.

My reply to Mr. Meierkord follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 9, 1972.
Mr. L. A. MEIERKORD,
Specialty Metals Division,
Blairsville, Pa.

MY DEAR MR. MEIERKORD: I hesitated to answer your letter of the 20th dealing with the closing down of the specialty metals division of your Derry plant. I have known the problems of specialty metals and specialty steel industries since I started to look into the impact of imports on American industries back in 1959. At that time we could almost pin-point the individual companies and products that were going to be selected as targets by the import crowd. However, today they do not bother to take sight and aim at a specific target, but instead they use a scatter gun approach and are successfully shooting down any and all of our production facilities in almost every line of product.

It does not do any good to say "I told you so", nor does it do any good to make any one or any group, or any business entity a "whipping boy".

It is a collective calamity and one that may not have enough time remaining, for a final gasp of breath, to make a turn around the whole policy, philosophy and practices in our foreign trade legislation.

Just recently I received information that while the voluntary steel agreements had expired formally that informally the Japanese and other nations said they would restrict their exports to the United States by the terms of the voluntary agreement. Just like everything else, our trading partners tell us, it was just "words"; and, as usual the promise was not kept. The agreement allowed 14 million tons of imports (giving up 84,000 steel jobs, plus 252,000 supporting jobs). We imported 18 million tons in 1971. Our unemployment was 24,000 direct and 72,000 indirect higher than the year before.

The real cancer that is destroying this nation and its peoples is the expanded power of the State Department, over the very life and death of the economic body of this country.

In my 12 or 13 years of observation and investigation, hearings and in-depth studies of our international trade I have watched how thoroughly the export-import groups have manipulated Congress, the Administration, labor leaders, businessmen, public and semi-public associations and groups, industries and above all the news media into a dilemma which apparently has no solution.

We find one group of labor supporting free trade since it just so happens that they are making a product using machine tools or war goods and food stuffs. Then there is another group who feels the pinch of imported products and knows that the imports are destroying our job opportunities. In the same predicament or even worse, in some cases, we find industry. Some corporations will have certain divisions that are in the import business and others that are being strangled out of existence because of imports. Incidently, Westinghouse has this dilemma. It is an impossible and unbelievable situation. Corporate paychecks are going to two, three, or more different sets of public relations men, and every one is being paid by the same paymaster but each public relations man is negating the work of the others.

The answer to trade is simple, in fact it is so simple that no one believes it's the answer! The answer is to de-escalate imports over the same amount of time that they escalated. In doing so, our economy would start to pick up and since the de-escalation would take place over a period of time the other countries that trade with us would have ample time to produce products for which they have a market or to make markets for their products in their own country by raising purchasing power in direct ratio to the required purchasing power needed to buy their production.

Legislation has been ready and is ready now for introduction that follows the lines I have mentioned. I will be very happy to meet with you and representatives from any other group that is interested in this type of legislation. Any time you are ready just let me know.

With kindest personal regards, I am
Sincerely yours,
JOHN H. DENT,
Member of Congress.

P.S.—There are only two outs for this Nation: either we de-escalate foreign products or we freeze them by boycotting at the consumer level. We will fall, harder and further than the Roman Empire, in our generation, if we do not.

This is not an isolated incident, it has happened all too often; and, most recently when the glass plant in Arnold closed down completely, the aluminum plant in New Kensington is being phased out, Braeburn Steel in the last month closed its doors and Latrobe Steel, one of the great specialty steelmakers in the country is gasping for breath. Some of us, with our ears tuned to the welfare of our districts, can hear the death rattle of other production facilities. too.

The answer, of course, is in the hands and consciences of the Congress. At this point, Mr. Speaker, allow me to introduce a letter from the American Chamber of Commerce in Thailand.

THE AMERICAN CHAMBER OF COMMERCE IN THAILAND,
Bangkok, Thailand, January 24, 1972.
Hon. JOHN H. DENT,
House of Representatives,
Washington, D.C.

DEAR MR. DENT: For more than a quarter century, the United States has advocated free trade. Now—because our government's burdens abroad are domestically unpopular and because we have been slow to demand that other developed nations pursue equally free trade policies—American labor leaders cry for protection against the "export of jobs" and uncompetitive manufacturers beg for import quotas and higher tariffs. Instead of acting to cure basic problems, you are moving to treat the symptoms.

As President of the American Chamber of Commerce in Thailand and on behalf of its 200 U.S. businessmen members, I write to protest both the content and the philosophy of Senate Bill 2592, the "Foreign Trade and Investment Act of 1972."

In commerce, finance and industry here in Thailand, we Americans find it increasingly difficult to compete with Japanese businessmen, who come here armed with every advantage their government can provide—personal and corporate tax incentives, long term subsidized financing, preferential shipping rates, technical assistance and support grants etc. Unencumbered by antitrust legislation, Japanese firms collaborate among themselves to set prices and divide markets, quite effectively excluding competitors from America. Thus the Japanese have captured much of the market America once enjoyed here for consumer goods, autos and trucks, steel products, marine motors and pumps, construction services, office equipment, chemicals, synthetic fibers and many more products, projects and services.

With only 37 million people, the majority of them poor, Thailand's market is not vital to American exporters. But the competition here is typical of what other American businessmen face all around the world. Until we can match it and recapture for the U.S. a reasonable share of the total market, our trade imbalances will continue. The Japanese will continue to undersell us until our own technology advances and our own efforts to modernize production facilities and to control other key cost factors, including wages and benefits to workers, make it possible for us to match them. Your proposed S. 2592 will retard progress in these directions should it pass.

Nor can our trade imbalance be resolved by limiting imports and precluding exports of U.S. technology. It best can be resolved by more effective competition in international markets, which cannot be achieved through protective policies.

Observing the American scene from abroad, we expatriate U.S. businessmen note the inordinate power of organized labor. The long dock strikes have further undermined the confidence of foregn buyers in our ability to deliver the U.S. goods we offer for sale. Labor leaders' demands for ever-higher wages and benefits, totally unrelated to increased productivity of labor, have forced American producers to increase prices, thus causing government to increase either its taxes or its deficits. Since goods are overpriced, sales decrease at home and abroad, and foreign goods at reasonable prices flow in to capture markets, domestic and foreign. This causes unemployed and makes prices rise even higher because of the smaller quantities over which fixed costs can be spread.

On September 28, Senator Hartke said of S. 2592, "In this bill the key word is production." Certainly more U.S. production is needed—but at lower, not higher, cost. Behind the quota and tariff barriers he proposes to erect, U.S. prices will climb still further. He also said the bill can end the "giveaway" of American jobs, and that technology transfers by U.S. firms would cease. We deny that American jobs have been exported: they have been forfeited due to U.S. labor leaders' demands for more compensation than workers have earned. Technology transfers might be legally frozen by your bill, but this would only encourage our foreign competitors to greater research efforts of their own. It also could cause a reverse "brain drain" should U.S. scientists choose to work where their efforts would be better subsidized and rewarded than at home. Unless you are prepared to deny to certain Americans the right to live and work where they choose, you cannot erect a wall to lock U.S. technology in. You probably will only create a barrier to preclude rapidly-advancing foreign technology from coming to the aid of hard-presed American production facilities.

Senator Hartke's remarks prefacing his bill in the Congressional Record of September 28 effectively tell late developing countries such as Thailand to look to Japan or Germany for aid, technology, engineering services, atomic power plants, etc.—all of which they require in growing quantities in years just ahead. By co-sponsoring this bill, you are saying that close and friendly relations with the United States and with U.S. business no longer are important to us. You are inviting leaders of such nations to reciprocate directly against American firms and investors already located within their control. Such investments, in the last few years, have begun contributing significantly to the favorable side of the U.S. trade and payments ledgers, but they easily can be "held to ransom" by foreign governments if America now abdicates its long-standing and progressive trade policies.

Few Americans working abroad will disagree that the U.S. must continue to produce a wide variety of goods within its own borders in order to remain industrially self sufficient. But control of the inordinate demands of labor's leaders, further modernization of production facilities, greater investments in basic and applied research, new progress in marketing and transportation methods would provide a more effective route to self sufficiency than will denial of principles America has advocated in world trade. Once given arbitrary authority to establish quotas on now unregulated imports, the new government agency you propose could act, upon request from any manufacturer or labor leader, to erect import barriers against almost anything, to support uncompetitive U.S. producers and shelter unproductive American workers. Such a risk seems more dangerous than the presumed benefits warrant.

Consider, please, the thousands of Americans serving overseas for the multinational corporations you propose to regulate. How many will lose jobs or find themselves working for the same firms under different flags once these corporations are driven by your policies to flee America? Tighter regulation imposed unilaterally by the U.S. will not solve the problems you attribute to multinational corporations. Rather, it will increase the strength in world markets of similar firms based elsewhere. America's balance of trade and payments will become worse, not better, and her chances of exporting goods and services will be further reduced. The proposed bill obviously is self-defeating.

We of the American Chamber of Commerce in Thailand, in concert with fellow U.S. businessmen throughout the Asian Pacific region, will watch closely the actions taken by you and your colleagues on the S. 592 proposals, whether as a package or piecemeal. We are alerting our home offices, our friends and others in America to the dangers we see in the proposals. We will do all we can to muster the American electorate—including the more sensible members of the organized labor movement—to react at the polls at the earliest opportunity against members of Congress who support any of the reactionary trade legislation you are co-sponsoring.

Sincerely yours,

J. M. AHRENS, *President*.

I will only comment on the last paragraph of the chamber's letter, which is, without a doubt, the boldest expression of selfish interest that I have read in a long time. The audacity of a foreign-based American to threaten Members of Congress, who in good conscience believe their duty is to the American people, should give all of us a moment of pause to reflect upon what manner of beast is this, that is so foreign to the problems and the needs of our people here at home that he would attempt to destroy the body politic that allows him to enjoy the benefits of a citizen without the obligations of a citizen. The primary obligation I speak of is namely, to pay his share for the unemployment that is slowly, but surely, destroying the source of his own welfare. So, Mr. Speaker, I put aside the personal threat, and the threat to my colleagues because the matter of our election to this body is of little note; and, the only important thing is the survival of our Nation and the welfare of our people.

My answer to Mr. Ahrens follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 9, 1972.

Mr. J. M. AHRENS,
President, the American Chamber of Commerce in Thailand, Bangkok, Thailand.

MY DEAR MR. AHRENS: I appreciate your long letter and explanation of your views on free trade. Incidentally, these same arguments could be made for the American economy.

Your arguments are those of exporting nations in the main. You complain about my own sponsorship and others for legislation which is aimed at limiting importation of some products into this nation, or raising the tariffs on those goods coming into the country. It has probably never struck you or any other American ex-patriate that the mighty might of this nation was not created by free trade, but through job opportunity. The so-called "free trade" concept now in vogue is contrary to the needs of our country. What no one seems to realize is that when our industries are impacted by imports and our workers lose their jobs there is no market for American goods or, in fact, any goods. Without jobs there are no wages and with wages there is no buying power for anyone's goods. We cannot forever borrow money to buy our products and certainly not Foreign products.

In your letter, among other opinions and views, is a political threat, and I quote back to you what you have said, "We will do all we can to muster the American electorate—including the more sensible members of the organized labor movement—to react at the polls at the earliest opportunity against Members of Congress who support any of the reactionary trade legislation you are co-sponsoring". Now in order that you and I understand each other let me just send you a copy of a letter from the Westinghouse Electric Corporation, which is similar to hundreds already in my files on the impact of imports.

Also, you might be interested in the latest editorial of the Christian Science Monitor dealing with foreign cars. The brand new Chrysler plant in my District has just announced that they will have no operational money this year, therefore there will be no cars produced from that plant. No cars, no work; no work, no wages; no wages, no buying power for anyone's goods. The editorial shows why this new plant will not have any operational money.

I am, also, enclosing two more letters from industries in my district who are suffering from excessive imports. The first is part of a letter from Braeburn Steel (and my reply to them); the second, is from Bethlehem Steel Corporation. I have had Braeburn Steel in my district for as long as I can remember but now they have finally absorbed all they could from imports.

The Alcoa Wearever plant, in my younger days, employed thousands of workers. They manufactured household utensils and thrived even though our population was only about ¼ of today's consuming population. Now, however, they can not compete and have been forced to close down. They could not compete with low-waged countries who pay their employees only a fraction of what they had to pay theirs. Their employees paychecks are eaten up by taxes of 50–60% of their gross incomes. These taxes, direct or indirect, were used to make it possible for you and other ex-patriates to establish businesses and enterprises overseas. You as a representative of that great group, who are go-betweens for the export of American jobs by the importation of foreign products, have had a great deal to do with the downfall of the American economy and the need for compulsory tariff barriers and import limitations.

You cannot gain my sympathy for your loss of business because of Japanese competition, because the United States has had this problem for years and not just with Japan. We have had foreign competition from other Asiatic and other low-waged nations who do not want to compete on a fair basis. Slowly, but surely, we are being strangled economically and the lifeblood of the American economic well-being is being drained.

If you represented a district, as I do, that has lost three steel plants in the last two years, has between 30–60% unemployment in the remaining specialty steel plants, lost the Alcoa plant, the Braeburn plant, watched the largest glass plant under one roof (in Jeannette) practically close, saw our hand made glass plants close down (leaving only 2 in existence), watched the coal mines go out of business because of imported oil (and now they can't reopen because they became flooded and it is not economical to reactivate them), saw the tennis ball industry go out the window because of imports, and watched as the Pennsylvania mushroom industry, the largest in the United States, fell off 40–50%; and, not to be forgotten, is the large BOF plant, Pittsburgh Steel, which had to turn out its fires not long ago, and the tool steel industry, that never missed paying a dividend until last year, has found its stocks, originally valued at about $40, down to as low as $6.50. You watch all this happen and then see if you could criticize me for being a "protectionist". Would you then blame me for trying to help my people keep their jobs?

I came to Congress an adamant free trader until I was assigned a select subcommittee to study the impact of imports on American employment, in the late 1950's. I gained an education from these studies and became a protectionist. You may have a copy of the damaging testimony, which is now in short supply. Many Americans are now realizing that we have a major unemployment problem in the United States because of excessive trade caused by foreign aid, unemployment, war, welfare and related expenditures. If you wish a copy let me know and I will try to obtain one for you.

At the time of my committee investigation many plants and industries warned of the danger from imports and American overseas production facilities, that shipped their product back to the United States. The public did not believe it until now, when plants are closing and businesses are going bankrupt daily.

I need not tell you, since you are a businessman, that every time an American worker losses his job, two or three service and supporting employees lose their jobs. The unemployed can only buy less goods, ours and yours.

Last Christmas I bought my staff and a few friends radios labeled "Westinghouse". They were very small but good radios with a battery recharger, flashlight, cigarette lighter and cost about $20.00 each. It wasn't until I opened the case to replace a bad battery that I found the product came from Thailand. There was no indication that Thailand was the country of origin except inside the case.

I know that by your standards, it is a rather selfish concept to fight for American jobs and to believe that lowering tariffs will create unemployment and adversely affect our economy, but from what I have seen over these many years I can not help believing we are in serious trouble.

When you can prove to me that lowering tariffs and encouraging more imports will create prosperity and jobs, I will re-consider my position. If lowering tariffs and lifting trade barriers would help economy, then why don't Thailand and other trading nations do the same thing, and why are all of you so "eager" to help our economy and not your own?

When trading countries pay our wage base and live by our social structure and have basically the same tax structure, then and only then will I consent to "free trade". (We also have a $90 billion defense budget which no other country has.)

If you can assure the Congress of the United States that once we get into this free trade position there will be no more Vietnams, Koreas, or Middle East crises, and that we will have a long and prosperous peace, I assure you I will change sides on this issue. Also, Congress should receive assurance that there will be no more welfare, and unemployment, treasury aid for industries who have suffered from imports. Congress should be assured of these conditions before allowing free trade, because as Members of Congress their number one duty is to the people of the United States.

I now believe we understand each other.

Sincerely yours,

JOHN H. DENT,
Member of Congress.

P.S.—I have spent 40 years of my life as an elected official in public service, and if you can defeat me go ahead—I am ready for retirement anyway.

Incidentally, I found in my travels abroad that ex-patriate Americans don't usually vote and seldom pay taxes in the United States.

Lots of luck.

I have just received, Mr. Speaker, the latest piece of literature driving for free trade from a Japanese-financed organization here in Washington, D.C. It deals with so-called $2 billion Japanese agricultural products imports to the United States. Mr. Speaker, are we so naive to believe that this Nation can survive as an exporter of subsidized agricultural products? Why do we not recognize that the only reason that we can sell agricultural exports is because they are subsidized. Every pound of wheat and every pound of cotton is partially paid for out of the taxes charged to the American people.

Export-oriented subsidies only widen the gap between the U.S. production costs and foreign imports.

The President and diehard, mistaken free traders will finally have to come to the inevitable conclusion that the United States cannot compete as a free enterprise economy in world trade with modern international cost inequities.

Fearful of the truth, the proposal to subsidize U.S. export industries creates another step in the direction of industrial oblivion.

Subsidies cost money, money comes from taxes, taxes come from wages and incomes and profits. The more subsidies, the higher the taxes; the higher the costs of production, the less we can sell in our own markets in competition with cheap imports; the more unemployment, the higher the taxes to pay for relief and the more industries will have to be subsidized. Finally, the more and more we lie to ourselves about the import crisis, the worse it will get.

No nation can have subsidized production of competitive products without import restrictions for these products. The history of subsidized sugar, wheat, cotton and other farm products proves this point and shows the fallacy of competitive equality through subsidy alone.

Every farm subsidized product enjoys import restrictions up to and including virtual embargoes. We cannot meet world prices without subsidy unless we put barriers against imports. The cotton story is a graphic example. We subsidize cotton to sell in the world market at worldwide prices arrived at by international agreements which operate in a form of a selling price cartel.

However, when we subsidize exports, we put a higher burden on our own textile manufacturers who must pay a domestic price much higher than their world price competitors. To relieve the pressure on our manufacturers and to try to stem the unemployment in the textile industry, we pass legislation giving our textile manufacturers an allowance on each bale of cotton equal to the subsidy paid the farmer for world cotton. This means higher taxes on American wages, incomes, and manufacturers' profits to pay the subsidies.

Higher taxes increase the cost of living, which in turn trigger higher wages and higher prices for U.S. goods, again widening the gap between imports and exports.

The history of textiles ought to convince Congress, the administration and above all, the American people that it is like a dog chasing its tail. It runs in a circle and if it catches its tail and tries to hold on to it, it has to run in a permanent circle. If it lets go, it has lost the race to catch up. Chasing foreign trade is just as fruitless.

The unemployment in textiles has been caused by even greater imports, despite international cotton agreements. Subsidies to farmers and manufacturers will be an even greater source of unemployment, many of our textile mills are making more agreements to have textiles produced in Japan, Hong Kong, Taiwan and other countries for sale under the U.S. trade names here in the U.S. markets.

With the wage levels paid in the United States, there is no excuse for U.S. consumers demanding cheaper foreign goods which contribute nothing; instead they take from every American citizen and community funds needed for our own welfare and sound economy.

The 10-percent surcharge was in reality a horrible example of Government doubletalk. It was only a stalking horse to get foreign exporting nations to help us save our floundering dollar. In fact, the import duty on foreign cars dropped from 3½ to 3 percent after the surcharge fiasco.

Anybody can raise millions of dollars for campaigns from foreign exporters—they are the persons who have the cash for the barrelhead.

Time does not allow me to cover the whole field of trade problems. When I think over the years of the exploitation of the American people by the Congress, which must take the full blame, for the benefit of foreign countries I cannot help but worry about the future of our country.

The President is leaving tomorrow for a trip to China. Already the promise has been made that we will enter into agreements with China and will call upon the American people to open our, already ravished, consumer market to Chinese products; and, with the aid of American dollars and know-how we will build the Chinese industries. With their labor cost they will not only destroy more of the American market for us, but this will also create serious conditions in the countries that export to the United States, who have a higher wage standard and production cost than the Chinese. If this was the end of the exploitation of the American economy we could probably survive if we lived another 100 years, but think of the many countries around the world, such as Asia and Africa, that we will have to build up after we are through with the Chinese.

Trade domestically and internationally is a commercial venture. Its only reason for being is profit. The inexact science of diplomacy blended with the exact science of commercial trade can only result in chaos and destruction of our way of life.

For the record, Mr. Speaker, allow me to now present to the House the figures from the Department of Commerce, from 1960–1971, of our so-called trade balance and balance of payments.

	Trade balance on census basis	Balance of payments
1960	$4,579,000,000	$4,906,000,000
1961	5,467,000,000	5,588,000,000
1962	4,533,000,000	4,561,000,000
1963	5,262,000,000	5,241,000,000
1964	7,082,000,000	6,831,000,000
1965	5,222,000,000	4,942,000,000
1966	3,872,000,000	3,927,000,000
1967	4,141,000,000	3,859,000,000
1968	837,000,000	624,000,000
1969	1,289,000,000	660,000,000
1970	2,699,000,000	2,110,000,000
1971	[1] 2,047,000,000	[1] 2,906,000,000
1971 [2]		

[1] Deficit.

[2] Only deficit figure.

And, now let me just read to you the figures I gave to the Congress for 1960–63, which are somewhat lower than the figures contained in a recent book entitled, "America, Inc." I said the deficit for 1960–62 was approximately $7 billion, and the author of the book says that from 1960–63 the deficit in trade and the balance of payments was $10,600,000,000. I have been told, not more than 2 months ago, by the President's spokesman, Mr. Peterson, that at that point we were still in the black and that we were selling far more than what we were buying. In addition to that, he said that more jobs were created by exports coming into the United States than we lost domestically. That was a few weeks before the President made a liar out of Mr. Peterson and announced his great so-called surcharge on imports because we were in a deficit trade position.

The figures from the Department of Commerce are false and I have told the Congress for 11 years that they were false. The figures are a deliberate lie and if anyone in America would keep their business books in the same way the Department of Commerce does they would be put in jail.

Mr. Speaker, if we were, indeed, in a favorable trade balance for the last 10 years—prior to 1971—why do we owe foreign nations $63 billion as of the middle of this past January? Of the $63 billion $60 billion is collectable on demand. Foreign countries owe us $27 billion and not 1 cent is collectable on demand, or can it be used as an offset against our own trade balance. That is why, Mr. Speaker, for the first time in my life I voted against authorizations for foreign aid, foreign development, and import-export legislation.

Somehow, or another, I am convinced that there must be a secret alcove somewhere where somebody sits and draws plans for the demise of our democracy, because no one or no one group could make the mistakes we are making without a blueprint.

I hope you will allow me, Mr. Speaker, to expand upon this import subject in the weeks to come.

Mr. CARNEY. Mr. Speaker, once again concerned Members of Congress have come together to discuss the problem of foreign imports. I share the concern of my colleagues over the excessive amounts of foreign-produced steel which has been allowed to come into this country.

For far too long the pleas and exhortations of Members of Congress for reasonable protection of the American steel industry have been ignored by the Nixon Administration. American steel companies and steelworkers have waited in vain for some indication that this administration is aware of the grave problems confronting their industry. Instead, the administration's response to the growing crisis in the domestic steel industry has been the same as its response to many of our other pressing problems; namely, benign neglect.

Regrettably, the Nixon administration seems more concerned about the feelings of the Japanese and Europeans than it does about the feelings of American workers who have lost their jobs and American steel companies that have gone bankrupt because of the flood of foreign imports.

We have heard a great deal of scare talk recently about isolationism, and a trade war. We have constantly been reminded of the need to maintain free trade with other nations. I am as in favor of free trade with other nations as anyone. But, I am vehemently opposed to the kind of free trade that opens U.S. markets to foreign steel producers but excludes American steel producers from foregin markets. Free trade must be a two-way street.

To add insult to injury, our Government has all too frequently bypassed American steel producers to buy foreign-produced steel. The American people will not tolerate Government policies which favor foreign companies and foreign workers over American companies and American workers.

The Nixon administration continues to place its hopes in voluntary limitation agreements despite the fact that past voluntary agreements have been deliberately and systematically violated. American companies, particularly those involved in specialty steel production, have suffered the most from these violations.

Mr. Speaker, it is clear that the voluntary agreements have been ineffective. Congress must act now to impose steel import quotas by law before it is too late. If we fail to act, we may soon witness the destruction of the domestic steel industry. America cannot afford to let this happen.

Mr. BOLAND. Mr. Speaker, I want to join my colleagues in expressing alarm about the torrent of foreign imports now entering the United States. I have spoken here many times—as you well know, Mr. Speaker—about the threat this poses to the American working man and woman. The import rate, already dizzyingly high, grows still higher week by week—jeopardizing scores of U.S. industries and millions of jobs. Foreign products ranging all the way from steel to minkskins, from ceramics to shoes, take up a larger share of our markets each year.

What is cruelly ironic about this trend is that some sections of American industry are willingly taking part in it, shifting operations abroad to take advantage of the cheap labor markets and inviting tax advantages there.

Plants throughout the United States are closing down.

Jobs are vanishing.

The unemployment rate in January—the most recent month for which the Labor Department has figures—was a disquieting 6 percent nationwide. The rate has climbed to 15 percent, even 20 percent, in those sections of the country with the most threadbare economies. Fully 8.2 percent of the work force in the Springfield-Chicopee-Holyoke region, largely within my congressional district, has been idled.

Our remarks today will help dramatize the workingman's plight, Mr. Speaker, but talk is not enough.

What we need is major new legislation—legislation that will restrict imports and discourage American industries from relocating abroad.

I intend to continue exhausting every means available to me in an effort to enact such legislation.

The livelihood of this country's workers may hinge on it.

GENERAL LEAVE

Mr. DENHOLM. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks and include extraneous matter on the subject of the special order today of the gentleman from Pennsylvania (Mr. Dent).

The SPEAKER pro tempore (Mr. Vanik). Without objection, it is so ordered.

There was no objection.

THE SOCIAL SECURITY "PASS THROUGH"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. Fraser) is recognized for 5 minutes.

Mr. FRASER. Mr. Speaker, on July 1, 27 million Americans will receive a 5-percent increase in social security benefits if title I of H.R. 1 is enacted into law. For a special group of recipients, however, this increase will be purely illusory.

Two and a half million elderly, blind, and disabled recipients who also receive public assistance are likely to find that their welfare grants have been cut back dollar for dollar to compensate for the rise in their social security benefits.

In order to protect the 5-percent increase for this group of beneficiaries, 65 House Members are today introducing legislation to prevent States from wiping away the social security increase through cuts in public assistance grants. Our bill requires States to guarantee these people at least $4 a month in added income, or roughly the minimum monthly OASDHI increase, when title I of H.R. 1 takes effect. Similar legislation is being introduced in the other body by Senator Ribicoff.

States could pass on the 5 percent in added OASDHI benefits under our bill either by raising assistance payments $4 a month, or by disregarding an equivalent amount when determining the monthly needs standard for public assistance recipients.

The following chart shows the number of old age assistance recipients in each State affected by this legislation. A similar State-by-State breakdown is not available for the blind and the disabled:

TABLE 1.—*Persons aged 65 or over receiving both old age assistance payments and social security—OASHDI—cash benefits, February 1971*

(Prepared by Social and Rehabilitation Service, U.S. Department of Health, Education, and Welfare)

Alabama	74, 300
Alaska	1, 000
Arizona	6, 900
Arkansas	36, 000
California	229, 000
Colorado	28, 200
Connecticut	4, 800
Delaware	1, 800
District of Columbia	1, 800
Florida	37, 700
Georgia	48, 600
Hawaii	1, 600
Idaho	2, 200
Illinois	17, 000
Indiana	11, 200
Iowa	14, 000
Kansas	6, 900
Kentucky	37, 300
Louisiana	74, 100
Maine	7, 900
Maryland	4, 300
Massachusetts	38, 300
Michigan	23, 900
Minnesota	12, 500
Mississippi	46, 100
Missouri	64, 300
Montana	2, 100
Nebraska	4, 600
Nevada	2, 400
New Hampshire	3, 500
New Jersey	11, 600
New Mexico	4, 200
New York	68, 600
North Carolina	16, 200
North Dakota	2, 300
Ohio	30, 800
Oklahoma	40, 500
Oregon	5, 000
Pennsylvania	29, 200
Puerto Rico	260
Rhode Island	3, 200
South Carolina	5, 700
South Dakota	2, 300
Tennessee	27, 400
Texas	142, 000
Utah	1, 400
Vermont	3, 300
Virgin Islands	17
Virginia	6, 600
Washington	14, 700
West Virginia	4, 900
Wisconsin	11, 200
Wyoming	1, 100
Total	1, 277, 000

A similar $4 "pass through" was added to the 15-percent social security increase approved by Congress in 1969 as part of Public Law 91–172. However, the subsequent 10-percent increase voted in 1971, Public Law 92–5, did not contain the "pass through" requirement. As a result, only 13 States acted on their own in 1971 to make sure that OASDHI recipients receiving public assistance benefited from the 10-percent increase. In the 37 other States most participants in both programs found that their public assistance grants were cut to compensate for the higher OASDHI benefits provided in Public Law 92–5.

Few States again this year are likely to increase public assistance grants on their own. Thus, the $4 a month "pass through" will be the only increased income available in 1972 to millions of elderly, blind, and disabled people who are already facing severe financial hardships.

A list of the cosponsors and a copy of the bill follow:

List of Cosponsors

Donald M. Fraser, Jonathan B. Bingham, Charles B. Rangel, Robert O. Tiernan, Edward A. Garmatz, John R. Rarick, Julia Butler Hansen, Lester L. Wolff, Michael Harrington, Thomas M. Rees, William J. Green, Glenn M. Anderson, Bertram L. Podell, Melvin Price, Parren J. Mitchell, and C. W. Bill Young.

Fred Schwengel, Robert L. Leggett, William S. Moorhead, Henry Helstoski, John G. Dow, John M. Murphy, F. Bradford Morse, Don Edwards, John B. Anderson, Lloyd Meeds, John C. Culver, John Conyers, Jr., James J. Howard, Jerome R. Waldie, George P. Miller, Seymour Halpern, John Dowdy, Edward P. Boland, Fernand J. St Germain, Abner J. Mikva, James H. Scheuer, Robert F. Drinan, John E. Moss, Nick Begich, and Ray J. Madden.

Cornelius E. Gallagher, Edwin B. Forsythe, James G. O'Hara, George E. Danielson, John F. Seiberling, Bob Bergland, Herman Badillo, Alvin E. O'Konski, Floyd V. Hicks, Louis Stokes, Lucien N. Nedzi, John Melcher, Robert H. Mollohan, Henry S. Reuss, Benjamin Rosenthal, Frank Thompson, Jr., Ronald V. Dellums, Edward I. Koch, Donald W. Riegle, William R. Roy, Romano L. Mazzoli, Peter W. Rodino, Jr., Bella S. Abzug, and Paul S. Sarbanes.

H.R. 13213

A bill to require that an additional $4 per month (reflecting post-1970 across-the-board increases in social security and railroad retirement benefits) be passed along to the public assistance recipients, either by disregarding such amount in determining their need or otherwise

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1007 of the Social Security Amendments of 1969 is amended—

(1) by striking out "March 1970" where it first appears and inserting in lieu thereof "December 1971";

(2) by striking out "as in effect for March 1970" in paragraph (1) and inserting in lieu thereof "as in effect for December 1971 (after the application of this section as in effect in December 1971)";

(3) by striking out "in March 1970 without regard to the other provisions of this title plus $4" in paragraph (1)(A) and inserting in lieu thereof "for such month without regard to the benefit increase provided by section 201 of the Act of March 17, 1971 (Public Law 92–5), plus $4";

(4) by striking out "in March 1970 under the provisions of this title" in paragraph (1)(B) and inserting in lieu thereof "for such month, taking such benefit increase into account";

(5) by striking out "as in effect for March 1970" in paragraph (2) and inserting in lieu thereof "as in effect for December 1971 (after the application of this section as in effect for December 1971)";

(6) by striking out "in March 1970" and all that follows in paragraph (2)(A) and inserting in lieu thereof "for such month without regard to the annuity and pension increases provided by the Act of July 2, 1971 (Public Law 92–46), plus $4, or"; and

(7) by striking out "in March 1970, taking into account the provisions of such Act (if any)" in paragraph (2)(B) and inserting in lieu thereof "for such month, taking such annuity and pension increases into account".

Sec. 2. The amendments made by the first section of this Act shall apply only with respect to amounts payable (as said, benefits, annuities, or pensions) for months after June 1972.

LONG ISLAND RESTAURANT AND CATERERS ASSOCIATION ACT TO CURB HEROIN IMPORTATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Addabbo) is recognized for 10 minutes.

Mr. ADDABBO. Mr. Speaker, the problem of drug addiction has caused great concern among all Americans and there is mounting grassroots support for increased national efforts to control heroin at its source. In recent months the Congress has shown indications of broad based support for action to cut off foreign assistance to any nation which does not cooperate with the United States in curbing heroin importation.

I bring to the attention of my colleagues a most interesting and sincere effort on the part of the Long Island Restaurant and Caterers Association to boycott the sale of all imported French wines, liquors, and brandies until the French Government indicates its willingness to stop the illegal activities of French processors and exporters of heroin.

The resolution adopted by the Long Island Restaurant and Caterers Association is placed in the Record at this point for the information of my colleagues:

Proclamation

Whereas: The Long Island Restaurant & Catering Association, representing 120 of the outstanding restaurants and caterers on Long Island and in cooperation with and appeal to 30,000 restaurants in the State of New York and,

Whereas: it is necessary to take drastic steps to protect our youth from the use of heroin, the most damaging and insidious of all drugs and

Whereas: the main source of supply of the world heroin cache is imported from Turkey and processed in Marsailles, France and then illegally distributed throughout the world, and

Whereas: this insidious plague of moral and physical destruction is eventually sold at enormous profits by criminal elements to our youth in the United States, and

Whereas: the illegal profits from the sale of heroin is used by organized crime to further their inroads into the very foundation of the American way of life, and

Whereas: many appeals to the French Government to seriously crack down on the importers, processors and exporters of heroin for foreign consumption have gone unanswered and

Whereas: it is necessary, for the future of our youth, that the restaurant industry take the initial step, even though it may mean financial loss of income, to impress the French Government that we will take a strong stand against their apathy in dealing with this problem,

Be it therefore resolved: That the Long Island Restaurant and Caterers Association recommends to its members, to members of the State Restaurant Association of New York, and to the National Restaurant Association, and to the General Public of the United States, that in order to make same effective, the sale of all imported French wines, liquors and brandies, be boycotted and other imported and domestic wines be suggested in all our restaurants, until evidence of positive action by the French Government is shown to curtail the illegal activities of French heroin processors and exporters becomes evident to the American people.

Frank Antun,
Chairman of the Board.
Warren R. Spellman,
President.

It is expected that the general public will give this boycott its support because of the seriousness of the heroin drug traffic in this country, and all the complications as far as the criminal activity which develops. It is known that approximately 50 to 60 tons of heroin are smuggled into this country annually.

One ton of heroin has a street value of $350,000,000.

These tremendous amounts of money, withdrawn from the economy by these criminal activities, has to have an adverse effect on the economic structure of our country, not taking into consideration the impact made on the youth of America, the infiltration into legitimate business, corruption of public officials, and providing a bankroll for other activities.

We feel if we can reduce the importation and sale of heroin by even 1 ton, we have removed from the criminal market $350 million of income, and possibly reduce much of the other criminal activities generated in this manner.

We hope we can see positive action by the French Government in the very near future, so that this boycott could be kept to a minimum. However, should no action be taken, we are prepared to carry on this boycott indefinitely, possibly expanding it to include other products currently imported from France.

DRAMATIC INCREASES IN DEFENSE SPENDING IN THE OFFING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Aspin) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, Secretary of Defense Laird and the Chairman of the Joint Chiefs of Staff, Admiral Moore, have presented their annual Posture Statements to the House Armed Services Committee. Their posture statements and the President's fiscal 1973 budget call for the dramatic increase in defense spending totaling $6.3 billion.

The actual amount of spending has caused a great deal of confusion among the American people. Actual spending for fiscal 1973 will increase $700 million compared to fiscal year 1972 spending totaling $76.5 billion. The Congress in the budget is being asked to provide total budgetary authority for $83.3 billion. Claiming the defense spending is only increasing by $700 million, I believe is a cheap deception of the American people. The facts are the President is asking Congress to commit the Nation to a $6.3 billion increase, spread over the next several years. This confusion and double talk only discredits our mammoth defense establishment.

As my colleagues know, during the last session of Congress I offered amendments to place a ceiling both on defense authorization and defense appropriation. Such a ceiling, I believe, is still needed because our defense budget is full of unneeded and costly programs.

This year's budget includes $299 million in long lead items for a new nuclear aircraft carrier. The carrier will eventually cost approximately $1 billion. It is my contention that the aircraft is of limited military value in the nuclear age. The Navy readily concedes that the carrier is useless in the event of an all-out nuclear war. Many knowledgeable strategists assert, and I believe quite correctly, that the aircraft carrier would be extremely vulnerable in case of an all-out conventional war particularly with the Soviet Union. No one questions that an unchallenged aircraft carrier operating offshore can be extremely useful in the event of limited war. It is also widely accepted that the aircraft carrier serves the function of displaying presence in times of crisis around the world. The limited capabilities of a nuclear aircraft carrier in the modern age however do not justify the expenditure of $1 billion.

The United States maintains an arsenal of 1,054 ICBM's and 656 missiles on our Polaris submarines. This nuclear force, I believe, constitutes the realistic deterence. Yet, the Defense Department insists on going ahead with research and development on a new bomber which I believe is unwarranted. The new bomber—B-1—would be of limited value in a nuclear exchange, and it is my contention that the expenditure of $445 million is not justified.

AWACS is another major component of the Defense budget that I believe is unjustified. This early warning system would be useless in the event of a nuclear attack, but this House has asked to provide $470 million for continued research and development and the acquisition of a limited number of prototypes.

Not only does this defense budget contain a number of unneeded programs, but a number of necessary programs that simply cost too much. Our reliable Phantom—F-4—jets cost approximately $4 million apiece, but the new F-14 will probably cost $20 million for one airplane once the lengthy renegotiation with Grumman Aircraft is completed. It will cost the United States approximately $30 billion to replace the 1,500 Phantom jet aircraft that we now have in operation. It appears that the Pentagon is attempting to force the American people to choose between bankrupting the Treasury to pay for defense or unilaterally disarming. The American people cannot accept that choice. The only solution is to cut out the waste now. These programs that are needed should be eliminated. Every effort should be made to cut costs dramatically on those necessary programs whose price tags have skyrocketed.

After studying public statements by some of the distinguished colleagues in the other body—Mr. Stennis and Mr. Goldwater—I am hopeful that the Congress will make some cuts in this mammoth new defense budget. Unless cuts in the neighborhood of $6 to $7 billion are made, I am sure that the defense budget will still be too large. Waste and mismanagement on the part of the Department of Defense are well known by the American people. The latest Gallup poll indicates that 50 percent of the American people think we spend too much on defense. We in the Congress have a responsibility to scrutinize each and every one of these programs and to make an extra effort this year to assure that the defense budget is as lean as possible.

LOWER FOOD PRICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. Cotter) is recognized for 10 minutes.

Mr. COTTER. Mr. Speaker, just last week, I informed my colleagues of my efforts to lower food prices. Simultaneously, the Department of Agriculture announced that food prices would increase at least 4 percent. I wrote to the President and the Cost of Living Council, which oversees wage-price machinery, urging action to lower food prices.

I am gratified by the response of the average working men and women to my efforts. Below are samples of the responses that I have received. They indicate that the administration must act decisively to lower food prices.

February 10, 1972.

Dear Representative Cotter: Just read this morning that you want an investigation of food costs. It is high time someone with authority does this. This food price mess is ridiculous and getting more so fast.

My husband's wages are set, yet through the ineffectual "Price Commission" we can only buy eggs, cheese (on sale), and mostly hamburgers (mostly fat) and at an intolerable price. Steak prices are too high even on sale (round, that is).

I urge you to obtain a copy of the Feb. 10 "The Machinist," and read Sidney Margolius' column. It should be read by everyone and made a matter of public record.

I must commend you for your stand. I use red ink today because Nixon has us all in the red—we medium income and tax weary struggling Americans.

Very truly yours,

——— ———.

Belvedere, Ill.

Pleasant Valley, Conn.,
February 12, 1972.

Dear Congressman Cotter: When ny husband & I are not on welfare nor receiving food stamps we do consider ourselves low income tax payers. I, therefore, have been placd on a strict food budget which demands limited spending in this area.

I have been ardently watching reports in the paper on your attempts to investigate the drastic rise in food prices. I must say I applaud your efforts and encourage your every effort to help the consumer afford these necessities of life.

It seems to me that people are taken in by enough gimmicks such as food coupons, stamps and bargains that a full investigation is warranted.

In conclusion I wish to say that I support you 100% and hope that you continue in every way to assist other families with the same complaint.

Sincerely yours,

——— ———.

Southington, Conn.,
February 13, 1972.

Dear Congressman Cotter: When my husmuch in support of your proposal to investigate food price increases.

It is apparent that the grocery chains are not about to do their share of sacrificing for the national interest even though strict controls have been applied to wage earners.

As an example over the past two weeks at Shop Rite Stores the following changes have occurred:

Orange Juice Homogenized ½ gal. .80–.75; milk, .53–.49; butter, .87–.85.

Produce prices are also very high.

Other prices have increased proportionately. Your interest in these increases is most appreciated.

Truly yours,

——— ———.

Bristol, Conn.,
February 11, 1972.

Dear Sir: I see in the Hartford Courant this morning that you are demanding an investigation of food prices in this state.

I had an experience yesterday. I sent my husband to Motts Chain Store to get me 4 small cans of mushrooms (2 oz. each) which I had purchased the week before for 2 for 41¢. Yesterday they were 2 for 57¢. I intend to return them and get them elsewhere, or at that price do without.

Honey bought for 79¢ 2 wks. ago was marked on the top with 2 prices 83¢–85¢. Of course they charged 85¢.

I do hope you can do something for us—we are elderly people—retired and it seems it costs us more to live all the time. Thank you.

Sincerely,

——— ———.

Chaplin, Conn.,
February 10, 1792.

Dear Sir: I read in our paper about you trying to see about prices in our stores. I shop in 3 stores, and I find that all prices aren't the same. Like coffee—1st store $1.79, 2nd store $1.59, 3rd store $1.85—all Nescafe coffee.

This is not right to sell like this. Hope you can help us poor people in Conn. Thanking you so much for looking out for our welfare. Hope you will have luck on this problem. Thank you.

——— ———.

Bristol, Conn.,
February 10, 1972.

Representative William R. Cotter: I read your article in today's Hartford Courant and I too am concerned with the high & Increased prices on Food and also agree that the 'Cost of Living Council' conduct an investigation of food prices in the state and I do strongly want the administration to do something about this. Please consider my vote towards an investigation! I thank you.

——— ———.

TEXAS CONSUMER ASSOCIATION,
Austin, Tex., February 10, 1972.
Hon. WILLIAM COTTER,
Member of Congress, Cannon House Office Building, Washington, D.C.

DEAR MR. COTTER: I was pleased to note your demand for a full-scale investigation of food costs by the Cost of Living Council, and wish to add my endorsement to your statement as described in the news.

The continual rise in the price of food has prompted Texas Consumer Association to begin a state-wide price survey and the first one is in progress now, and our first "grocery list" is enclosed for your inspection.

In addition to steadily rising prices, we note such wide-spread price differential between one store and another, and between one city and another as to make pricing practices suspect. For example, 30¢ difference in regular prices of the same size jar of instant coffee, 30¢ difference in a six-pack of dog food, and substantial differences in prices of canned food, frozen dinners, and baby food. Six cans of liquid baby formula may vary as much as a dollar or more between stores. These are items that remain relatively steady at one store, but vary widely from one store to another, and from city to city.

Fresh produce varies widely and frequently, of course, and is sometimes priced beyond reason, even for a longer lasting produce item like potatoes and sweet potatoes.

It doesn't take much investigation to learn that the biggest price of food is not the farmers price, but to the commercial food industry—the bakers, canners, cereal manufacturers, etc. The wheat farmer, for example, gets no more for the wheat in a loaf of bread than he did twenty or thirty years ago when bread was 15¢ per loaf, so there is no reason for bread to be exempt from price controls on the ground that farm prices vary.

Bread manufacturers, according to a local grocer friend, anticipated a possible price freeze, however, and raised their prices a year or so before the controls, which I understand did not affect them. The same grocer pointed out how bread makers had frozen their price "high" by adding a pre-printed price to their loaf, and had cut down the grocer's share of the revenue through changes in exchange of bread and arrangements for providing bread racks for stores, etc. And, although food prices in my home town of Center, Texas are generally higher than in Shreveport, Louisiana or most neighboring Texas cities, certain baked items manufactured in Shreveport cost a nickel less in Center than they do in Shreveport where they are made. Can you figure that one out when transportation costs are involved to Center?

Milk prices are out of reason, and I do not believe this reflects prices at the dairy farm either. The biggest part of the price of milk goes to the commercial milk companies, and is sustained at continually rising prices by U.S.D.A. practices. For example: milk in the school lunch program is bought by the school from milk companies at regular retail prices, of 10–15 cents per carton, then reimbursed by the federal government for all the price above 3 cents. This is probably done under the guise of "helping the dairy farmer" but its an outright subsidy to the commercial milk industry, and the farmer probably gets little benefit, while the tax payers money is used to shove retail milk prices upward! This warrants direct investigation by congress as we'l as the price commission.

I think USDA policies are aimed strictly toward helping the commercial food industry without regard to either the farmer or the consumer, and the "price of food" items used to sometimes show "food prices declined 4%" are unrealistic and not typical of an average grocery list, even when confined to strictly food items. People use more frozen and canned food, mixes, coffee, etc., than reflected in USDA price quotes which seem to assume that we all still bake our own bread, cook fresh vegetables, eat salad without dressing, and choose meat wisely for best economy.

But for all practical purposes, when we're considering "grocery prices" which is more realistic than "food prices," we need to consider other indispensable items usually bought in grocery stores such as toilet tissue, laundry detergent, bath soap, etc., since these may vary from store-to-store also in the same store where the housewife shops for food.

To illustrate the point above about the USDA, within an hour or two after UPI moved your story about food prices on the wire, another story moved quoting Secretary of Agriculture Earl Butz, saying he "rejected suggestions that food costs should be clamped under President Nixon's anti-inflation program" and quoting USDA economists as saying "The share of the average consumer's pay check spent on food this year will drop to a record low of under 16 percent."

This proves, in my opinion, that USDA is trying to cover up price increases rather than hold them down.

Let's look at this "average consumer's pay check" statement: Salaries are considerably higher in Houston, Texas than they are in Center, Texas where I live, but food prices are much higher in Center than in Houston, so that statement is rather meaningless.

This "average pay check" is also meaningless in low income areas, and to people on welfare, on social security, on private retirement or fixed salaries.

I believe Congress should take a close look at the USDA, and should also take another look at the exemptions for the food industry from present anti-trust laws.

Although "transportation costs" are often used to excuse high food prices, I live within a mile of a feed mill, a hatchery, broiler poultry houses, egg laying houses, and one of the largest poultry plants in the United States and poultry prices are as high here as they are anywhere I know of.

Your call for food price investigation represents the sentiments of the entire nation.

Yours truly,

——— ———.

MIDDLEBURY, CONN.,
February 12, 1972.
Representative COTTER,
State Capitol,
Hartford, Conn.

DEAR MR. COTTER: This morning I did my grocery shopping and I also listened to the radio. I heard that you are more than interested in overhauling food prices. So am I!

Each time I go to any of the markets the prices have inched upward another few cents. It is becoming increasingly difficult to keep a balanced budget and feed the family adequately.

This is a great country and we should be able to afford the everyday food items which are so abundantly available to us. I feel the luxuries can wait but the meat, vegetables, and fruit should be within our reach.

A nation is only as great as its people and people are only as great as their health. To be healthy and mentally alert we have to be well fed. By prices being so ever increasingly higher we are cutting corners here and there in food items and as a result we are not as well nourished as we could be.

Let prices go up on television, flashy cars, tape recorders, etc. but for goodness sake let's draw the line with food prices. What can the average housewife do to help? I have reported food price violations during the freeze but somehow there seems to be an explanation for the price hike or no reply at all.

We can do without new dresses and the like but we need food. I am not extravagant but there are things that we cannot afford to buy that should be within our food budget reach.

Fish used to be something that we could buy to help cut down on the meat bill and now it is sky high.

Where can we start? What can we do? I have glaucoma and cannot use my eyes for more than an hour a day but I can talk to people, certainly not as a group, but individually at least.

How can we gain enough notice or gain enough strength as mere housewives to stop or even roll back this high price outrage?

How can we support you? Tell us how we can help. Please.

Just an average American housewife who is very upset over rising food prices in a land of plenty which is forcing us to be eating our meals in a land of longing.

——— ———.

Representative COTTER: You are to be congratulated on your efforts to investigate "rising" soaring food prices. As an unemployed taxpayer the 30%-40% increase of the last 3 weeks by the larger so-called Discount Supermarkets, constitutes gouging and a willful violation of the law. The Stop & Shop Markets and Motts Supermarkets, I find, along with A&P, Finest and Grand Union Stores are the most flagrant violators, especially chuck steak and roasts, pot oven roasts, "ground beef" almost 50-60% fat, bacon, eggs, steaks, chops and now milk; go get 'em.

DISGUSTED FAMILY MAN.

NEW YORK, N.Y., *February 10, 1972.*

DEAR REPRESENTATIVE COTTER: I am a registered Democrat. Re the article in today's Wall Street Journal about rising food prices will you please do all within your power to investigate the unlawful increase in food prices. The Cost of Living Council is a joke as is the Stabilization Board. Why should the farmers and meat bloc of our country be singled out for such preferred and outrageous incomes at the expense of the middle-income group and those on fixed incomes. Thank you very much for any help you are able to give. You have my support.

——— ———.

FEBRUARY 10, 1971.

DEAR REPRESENTATIVE COTTER: Thank goodness someone is going to attempt to correct the situation of spiraling food costs. One gallon of wesson oil purchased at the First National Store on Blue Hills in Hartford, cost $2.49, 4 months ago. It now costs $2.75 in the same store. Conco's in Bloomfield charges $2.99. We are tired of only being able to afford chicken, hamburg and fish. Good luck in your efforts.

Sincerely,

——— ———.

SEATTLE, WASH.

Seattle, Wash., Safeway, Puget Sound area, have raised bulk bags (10 lb.) of culled bananas from 10 cents to 12 cents to 14 cents or more. Where is the added cost lately? By whimsy only!

REPRESENTATIVE MOORHEAD SAYS RUSSIA READY TO TALK ABOUT REPAYMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MOORHEAD) is recognized for 3 minutes.

Mr. MOORHEAD. Mr. Speaker, the Department of State today reported to me in my capacity as chairman of the House Foreign Operations and Government Information Subcommittee, a major breakthrough in the improvement of Soviet-American relations. The Soviet Union has agreed after a 12-year suspension in diplomatic talks to reopen the question of a debt settlement with the United States on the lend-lease aid we gave them as allies during and after World War II. The Russians say they are ready to meet in Washington with our Government to discuss this issue, which has been a major impediment to better relations for more than a decade. Deputy Assistant Secretary of State Sidney Weintraub intends to formally notify the subcommittee of this important development at a public hearing at 10 a.m. tomorrow morning and hopefully, will provide other details.

This good news comes after more than a year's effort by our subcommittee to bring about the collection of delinquent international debts owed to the United States by many foreign nations, including the Soviet Union. I feel this move has come about as a direct result of the bipartisan work of our subcommittee and the intense interest of the Congress in this problem. All due credit, of course, must go to our Ambassadors and other diplomatic personnel overseas pressing for collection of delinquent debts owed to our country.

In the case of the Soviet Union, I feel a speedy debt settlement could lead to other new understandings and an improvement in our relations which ultimately will result in a more peaceful world.

ASSESSMENT OF OUR NATION'S DEFENSES

(Mr. ARENDS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ARENDS. Mr. Speaker, this morning, Secretary of Defense Melvin R. Laird presented to the House Committee on Armed Services his annual Defense Department report for the 1973 fiscal year. I commend Secretary Laird for another complete, comprehensive report—each of you has been furnished a copy—I urge you to read it.

In providing the Congress an assessment of our Nation's defenses, Secretary Laird has detailed the goals of the Nixon doctrine and the strategy for peace, presented in meaningful terms the threats to the security of the free world, and described the defense posture required both today and in the future to insure the success of the strategy of realistic deterrence.

The Defense report shows how successful the Vietnamization program has been and the Secretary indicates that "U.S. involvement in the war is coming to an end." I feel it is most significant that he further states "we are now planning for the period beyond Vietnam." In this, he and his staff are utilizing a new approach to planning and assessment methodology in which the three planning tools of net assessment, total force, and long-range planning are being put to work for a generation of peace.

For those who have insisted that Secretary Laird overstated the case with respect to the Soviet threat in his report last year, I would ask them to carefully study that portion of his current report which treats net assessment and the threat. It is indeed sobering and begs complete support of the Secretary's program. He has my unqualified support and I ask each of you to give him yours. The President's goal, a generation of peace, is a lofty one. I want to be able to say that I played a part in its realization.

HANDICAPPED CHILDREN DENIED AN EDUCATION

(Mr. VANIK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. VANIK. Mr. Speaker it has recently come to my attention that an estimated 4¼ million handicapped children of school age are excluded from public schools in America. This shocking figure represents approximately 60 percent of all school-aged handicapped children in the entire United States. State and Federal authorities were able to identify, counsel, and place in educational facilities only 40 percent of the handicapped children under 21 years of age.

These handicapped children are ignored, unidentified, and untreated. Parents seek medical care for their children, and receive none. The alternative is care of such poor quality that the child's problems are frequently improperly diagnosed and disabilities are aggravated.

Parents who seek counseling for these children are placed on long waiting lists. The child seeks an education, and is denied access to a public education or is virtually barred from private schools due to prohibitive tuition rates.

For too long a time we have ignored the parent's plea for special education systems. We have ignored the children medically and educationally. While parents seek medical care for their children, State and local governments lack funds and facilities. Handicapped children of low-income families seek tuition funding, but State and local governments favor the higher income families, often providing funds only as they are matched by the parents.

The handicapped child is excluded from schools because the States are either unable to define and deal with his illness, or care is so shoddy that the problems are multiplied. When the handicapped child is accepted in the classroom he is shunted until be becomes a failure or a dropout. Then he is declared to be untrainable, to spend his life without training, stimulation or care.

Exclusion of handicapped children is illegal in some States, but the States plead lack of funds. At the same time there is no public motivation to develop programs. Statistics concerning State care of the handicapped child are shocking. They range from the California rate of providing service for 54 percent of the handicapped children in the State, to Vermont's rate of approximately 22 percent.

The following statistics concern the numbers of handicapped children served and the numbers not served by the 50 States. It must be kept in mind that the children mentioned in the served column are those who received any sort of care or placement by their States. It does not mention the quality of that care—generally poor—or the extent in terms of school years that those children received.

The following statistics can only serve to remind us that we have failed in the area of care of our handicapped children:

ESTIMATED NUMBER OF HANDICAPPED CHILDREN SERVED AND UNSERVED 1971-72 (AGED 0 TO 21 YEARS)

State	Total served	Total unserved	Grand total
1. Alabama	22,384	88,765	111,149
2. Alaska	1,875	3,175	5,050
3. Arizona	12.678	27,318	40,059
4. Arkansas	12,492	109,173	121,665
5. California	321,765	219,320	541,085
6. Colorado	37,566	38,289	75,855
7. Connecticut	35,544	54,322	89,866
8. Delaware	8,351	7,371	15,722
9. District of Columbia	9,568	12,334	21,907
10. Florida	105,021	34,822	139,843
11. Georgia	65,061	64,803	129,864
12. Hawaii	9,106	10,484	19,590
13. Idaho	8,395	28,166	36,561
14. Illinois	180,877	74,504	255,381
15. Indiana	86,599	58,492	145,091
16. Iowa	36,521	58,210	94,731
17. Kansas	27,713	26,853	54,566
18. Kentucky	24,336	54,050	78,386
19. Louisiana	45,056	77,288	122,344
20. Maine	6,758	23,985	30,743
21. Maryland	66,259	57,380	123,639
22. Massachusetts	63,460	45,152	108,612
23. Michigan	165,018	123,279	288,297
24. Minnesota	70,423	52,242	122,665
25. Mississippi	16,587	99,479	116,066
26. Missouri	65,110	156,468	221,578
27. Montana	5,358	18,242	23,600
28. Nebraska	23,734	69,834	93,568
29. Nevada	6,300	7,340	13,640
30. New Hampshire	6,070	13,304	19,374
31. New Jersey	99,189	131,866	231,055
32. New Mexico	8,655	44,471	53,126
33. New York	221,219	151,592	372,811
34. North Carolina	73,739	98,841	172,580
35. North Dakota	89,470	38,268	47,215
36. Ohio	175,300	160,578	335,898
37. Oklahoma	23,746	120,840	144,586
38. Oregon	26,274	21,770	48,044
39. Pennsylvania	156,830	108,619	265,449
40. Rhode Island	13,475	26,000	39,475
41. South Carolina	38,275	68,230	106,505
42. South Dakota	4,414	13,381	17,795
43. Tennessee	49,173	82,730	131,903
44. Texas	175,622	602.069	777,731
45. Utah	27,079	17,100	44,179
46. Vermont	4,612	16,019	20,631
47. Virginia	44,768	101,980	146,748
48. Washington	64,223	15,071	79,294
49. West Virginia	15,161	65,400	80,561
50. Wisconsin	66,230	89,583	155,813
51. Wyoming	5,665	12,810	18,475

According to figures of the Department of Education, my own State of Ohio is denying special education services to 160,578 handicapped students.

Even though Ohio serves only 50 percent of our impaired children, we still have a much better record than most States. While the State serves 50 percent of the handicapped children overall, individual counties, in some instances, performed worse.

Brown County—serves only 115 children out of a possible 8,264.

Portage County—serves only 825 children out of a possible 3,940.

Trumbull County—serves only 2,167 children out of a possible 16,665.

Every county in Ohio provides classes for the educable mentally retarded, but 44 counties—50 percent—do not have classrooms for the hard of hearing, deaf, crippled, visually handicapped, neurologically handicapped, or emotional disturbed child.

The Ohio Federation for the Council

of Exceptional Children labels the earlier mentioned figure of 160,578 unserved children as conservative. Of these children, 49,711 are the educable mentally retarded. These children, educable in academic, social, and occupational areas will need, generally, moderate supervision throughout their lives. Those 15,860 Ohio children will require a sheltered environment and major supervision throughout their lives. The trainable mentally retarded are not being served by the Department of Education in my State.

The educable mentally retarded child in Ohio is capable of working, utilizing a skill, and paying taxes. Over 32,000 students in Ohio participated in the work study program for the educable mentally retarded. In 1970, they paid an estimated $282,000 in Federal income tax. They paid an estimated $50,303 in State sale taxes. Of the 1,522 graduates of this program in 1969–70, 82 percent or 1,230 are currently employed full time.

Many of these citizens pay taxes and do not receive an education. Although some of the handicapped are working in State programs, paying taxes, and receiving an education, many others are working—out of desperation—in underpaid, menial jobs, paying Federal and State taxes, and receiving no education or upgrading of job skills.

Many of the parents of the mentally retarded and physically handicapped youngsters pay taxes for an education that their children do not receive. The present situation not only limits the growth of the handicapped and denies them their civil rights in the area of education and employment, but also discriminates against the tax paying parents of those handicapped children.

Families with handicapped children gravitate toward the big cities or the special programs unavailable in lesser populated areas. But it is disappointing that the services in cities like Boston fall short of the needs of the people.

Boston is in flagrant violation of the Massachusetts State law in its virtual exclusion of the handicapped children from the public school system. The State law—chapter 71, section 46A—makes four points clear: First, it is the responsibility of the school system to insure the education of the handicapped child; second, the school committee is to determine each year the number of school age children who are handicapped and who live in that district; third, all physically handicapped children must go to school, excepting those unable to attend; and fourth, for those children who are unable to attend school the school system is responsible for teaching them at home.

In general, crippled children in Boston are not allowed to attend school. And, except for isolated instances, they are prevented from attending school altogether. No one seems to know what happens to crippled children in Boston. No person, no agency knows how many crippled children there are, where they are, or what happens to them once they are rejected from the Boston school system. Not only does Boston exclude handicapped children from the public schools, but also does not follow up on the placement or nonplacement of the children. Lack of funds, the attitudes of school administrators, architectural barriers, lack of transportation, inadequate diagnostic and guidance services are all problems that the disabled must face at all levels of education in Boston and other areas of the country.

The Easter Seal Society of Massachusetts reports that the responsibility placed upon the Boston school system is not being carried out. The school system excludes almost all of the crippled children rather than those unable to attend. It fails to provide special classes for those who are in need of them as the law states, and does not annually ascertain the number of handicapped children in the city, but simply lists those brought to its attention.

The Boston school system's abdication of responsibility in this area has created an educational vacuum which no institution or agency is able to fill. A high cost in human suffering is being paid for the failure to provide educational services for these children. The greatest suffering is being borne by the children themselves.

The solution of the exclusion of children in Boston involves more than enforcement of regulations and directives from the department of education in Boston. It involves control of factors involving attendance in the schools including medical and rehabilitation services, transportation, architectural barriers, parental attitudes, and social attitudes.

Boston reflects most cities with inadequate programs for the handicapped child. The apathy of the school systems leaves mentally and physically handicapped children at home, on the streets, or in the wrong school facilities.

The Boston school system has a department of special classes for mentally retarded children. This department, operating on an annual budget of $2 million, has already 3,000 children in special classes. In addition to these 3,000 children, over 1,000 children have been identified as retarded but have not had education provided for them.

Recent information provided by professionals has called into question the function and operation of the department. Experts in the field of mental retardation know that a public school system the size of Boston is expected to have about 1,500 children who need special educational services due to impaired mental abilities. Yet the number identified by the department approaches 4,000, or more than twice the expected number. It appears that a lot of the children included in this 4,000 figure are not retarded at all. Boston has taken children with a lot of different problems and lumped them all together in these special classes. As a result the classes and programs for these children are often ineffective and misdirected.

The problems of handicapped children in most of the States are misdiagnosed. These children are diagnosed as orthopedically handicapped, emotionally disturbed, neurologically impaired, or mentally retarded, and are frequently victims of early deprivation of educational services.

Children, at times, are diagnosed as having a communication problem when they are unable to understand English. This circumstance is particularly prevalent with the children of migrant workers. The child is excluded from schools because he is unable to respond appropriately to psychological tests administered in English. For those children who are excluded from school the first year, there is little hope that their intellectual progress will improve by remaining home; or that non-English-speaking children will better understand the language working in the fields with other non-English-speaking children. Some of these children will never be enrolled in a formal educational program.

The handicapped child in this country constitutes another minority group and as such should be protected against discrimination because of their physical or mental handicaps. I introduced legislation on December 9, 1972, H.R. 12154, to amend the Civil Rights Act of 1964 to specifically include the handicapped. This bill would make it illegal to discriminate against any handicapped individual or to deny him access to federally assisted programs, unless there is a bona fide qualification reasonably necessary to the normal operation of the particular program.

It is my hope that this legislation which has also been introduced in the Senate, will receive early hearings and the support of my colleagues. This endeavor to protect our less fortunate citizens deserves the support of all Americans.

JOHN D. ROCKEFELLER, JR. MEMORIAL PARKWAY

(Mr. SAYLOR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SAYLOR. Mr. Speaker, I am today introducing for myself and for Mr. HOSMER, Mr. SKUBITZ, Mr. KYL, Mr. DON H. CLAUSEN, Mr. RUPPE, Mr. SEBELIUS, and Mr. CÓRDOVA a bill to authorize the Secretary of the Interior to establish the John D. Rockefeller, Jr. Memorial Parkway, and for other purposes.

This proposal has been made by the Department of the Interior and the National Park Service. The parkway will link the Grand Teton and Yellowstone National Parks—two of our most heavily used parks—by a 6-mile-square corridor consisting of lands and roads already owned by the Federal Government. The Department of Agriculture will transfer approximately 23,700 acres of the Teton National Forest to the Department of the Interior for the purposes of the parkway. The bill also provides for the use of existing roads and highways within the corridor which the Secretary of the Interior will designate as parkway roads.

In connection with this proposal, the Secretary of Agriculture and the U.S. Forest Service is considering gaining wilderness status for those national forest lands remaining between the proposed eastern boundary of the memorial parkway and the present eastern boundary of the existing Teton wilderness.

This 23,000-acre area between the two existing national parks has become the focus of increased recreational use over the last 10 years. The majority of visitors to the two parks travel between the parks—often camping overnight—in the proposed parkway corridor. The National Forest Service has estimated that over 1,500,000 persons traveled through the area in 1970, with over 14,600 total visitor days spent within the corridor. The developed recreation capacity in the area now is for about 1,935 people. Considerable off-road camping occurs in undesignated sites along the parkway. Obviously, unified and controlled management of the lands and roads along the parkway road route is desirable—especially in view of the increased pressures for camping and lodging resulting from limitations on expanded overnight facilities in the two parks. Recreational development of the corridor should relieve that pressure. Unified management should achieve economy of resources.

The only grazing remaining in the corridor is for recreation horse use by outfitters. There is little mineral development within the corridor. The bill provides authority to acquire mineral interests. It is doubtful that the area will ever be considered available for normal timber harvest. The area has been closed to oil and gas development since 1947. Adverse environmental impact of designating the existing area as a parkway will be negligible and are far outweighed by the desirable effects that will result from designating the area as a national parkway. The area will be administered under National Park Service National Recreation Area policies. Based on current estimates, development costs will total $3,092,000, all of which are anticipated to be programed for the first 5 years after establishment.

Designation of the corridor and existing roads as the John D. Rockefeller, Jr. Memorial Parkway would be a fitting tribute to that great conservationist and philanthropist. It will provide a symbolic and very desirable physical connection between the world's first National Park—Yellowstone—and the Grand Teton National Park which Mr. Rockefeller did so much to help create.

The text of H.R. 13201 is as follows:

H.R. 13201

A bill to authorize the Secretary of the Interior to establish the John D. Rockefeller, Jr. Memorial Parkway, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (a) That for the purpose of commemorating the many significant contributions to the cause of conservation in the United States, which have been made by John D. Rockefeller, Jr., and to provide both a symbolic and desirable physical connection between the World's first national park, Yellowstone, and the Grand Teton National Park, which was made possible through the efforts and generosity of this distinguished citizen, the Secretary of the Interior (hereinafter referred to as the Secretary) is authorized to establish the John D. Rockefeller, Jr., Memorial Parkway (hereinafter referred to as the "Parkway") to consist of those lands and interests in lands, in Teton County, Wyoming, as generally depicted on a drawing entitled "Boundary Map, John D. Rockefeller, Jr., Memorial Parkway, Wyoming", numbered PKY–JDRM–20,000, and dated August 1971, a copy of which shall be on file and available for inspection in the Offices of the National Park Service, Department of the Interior. The Secretary shall establish the Parkway by publication of a notice to that effect in the Federal Register, at such time as he deems advisable. The Secretary may make minor revisions in the boundary of the Parkway from time to time, with the concurrence of the Secretary of Agriculture where National Forest lands are involved, by publication of a revised drawing or other boundary description in the Federal Register.

(b) The Secretary shall also take such action as he may deem necessary and appropriate to designate and identify as "Rockefeller Parkway" the existing and future connecting roadways within the Parkway, and between West Thumb in Yellowstone National Park, and the South Entrance of Grand Teton National Park: *Provided,* That notwithstanding such designation, such roads within the Yellowstone and Grand Teton National Parks shall continue to be managed in accordance with the statutes and policies applicable to these parks.

SEC. 2. Within the boundaries of the Parkway, the Secretary may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from another Federal agency. Lands and interests in lands owned by the State of Wyoming or a political subdivision thereof may be acquired only by donation. Lands under the jurisdiction of another Federal agency shall, upon request of the Secretary, be transferred without consideration to the jurisdiction of the Secretary for the purposes of the Parkway.

SEC. 3. (a) The Secretary shall administer the Parkway as a unit of the National Park System in accordance with the authority contained in the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented.

(b) The lands within the Parkway, subject to valid existing rights, are hereby withdrawn from location, entry and patent under the United States mining laws.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

THE ENERGY CRISIS

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASPINALL. Mr. Speaker, Great Britain today faces what may be the greatest threat to its security since World War II. The threat is not enemy bombers, but peacetime chaos caused by widespread power shortages.

Britain's plight illustrates what can happen to any industrialized nation when there is a break in the fuel and energy supply lines. It also illustrates what could happen to the United States if we fail to understand the severity of the energy crisis in our own country.

Only 5 weeks into the strike by coal miners, Britain is experiencing massive dislocations throughout its economy. Heavy industry's use of electricity has been cut in half. Transportation has been slowed. Homes, offices, shops and restaurants are without heat and light. The irreversible disruption to people's lives is incalculable. The Government estimates that before long Britain's entire labor force of some 20 million people could be out of work.

Fortunately, there is a solution to the British crisis: an end to the present labor dispute. But the solution to the energy crisis in the United States is not that simple, because the problem is much deeper and more complex.

In this country we are faced not with a labor strike, but with broader, more fundamental difficulties. As a recent analysis by the Department of Interior points out, "There are serious resource adequacy and supply problems associated with all the primary energy fuels" in the United States.

Shortages of gas are most urgent. In the Nation's capital, the Washington Gas Light Co. is having trouble meeting demand. In Chicago, the People's Gas Light & Coke Co. can meet only 30 percent of demand for new service.

Electricity shortages are commonplace. In New York State, according to the Public Service Commission:

> Summer reserves are so low as to be critical in the whole 1970–75 period, and the situation appears to be deteriorating instead of improving.

If we are to fill this developing gap between supply and demand, we will have to rely more and more on foreign sources of supply, particularly the Middle East for oil. But it will be costly. The Organization of Petroleum Exporting Countries already is dictating prices to consumer nations, including the United States, and it would be folly to expect their prices to do anything but increase in the future.

Nuclear energy—especially the fast-breeder reactor—may well be the best hope for the future, but right now it is an unhatched egg as far as this Nation is concerned. And our energy crisis is not going to evaporate while we wait for it to hatch.

If we are to survive the short term and not foreclose solutions for the long term, we need a better understanding of our total fuels and energy situation. We need to understand the complex interrelationships between our various energy sources. We need the best possible projections of what these resources are and what the demands on them are going to be. The House Committee on Interior and Insular Affairs is working on these questions because we need this information not only for the year 2000, but for this year and the next 15 years as well.

And finally, we need to consider the consequences of an inadequate or unstable supply of fuels and energy, and in this connection the British case is most instructive.

Mr. Speaker, today's Washington Post carries the following release:

> MILLIONS JOBLESS IN BRITISH POWER CRISIS
>
> LONDON, Feb. 16.—Britain's power famine sent the total of unemployed to more than 2.5 million today and increased the blackout period for homes across the nation.
>
> Electricity boards warned the situation is likely to be still worse by Friday.
>
> Homes already blacked out for nine hours a day were warned to expect an additional three-hour power cutoff. The cuts are for rationing fuel at coal-fired electric power stations, nearly starved of supplies by a six-week coal miners' strike.
>
> Weathermen predicted a coming cold spell to add to the misery.
>
> A government-named inquiry, which heard the miners' case Tuesday, took testimony

from the state-run Coal Board today. It hopes to recommend a pay settlement Friday.

The Trades Union Congress rejected a back-to-work appeal by Prime Minister Edward Heath.

The miners are demanding a raise of $15.50 over their current basic pay of $49.50 a week. The coal board has offered them half this amount.

William Hamilton, vehemently anti-royalist member of Parliament, caused a stir in the House of Commons when he compared the miners' wages with the income of Prince Charles, heir to the throne.

Hamilton said it was indefensible that two miners would have to work 50 years underground to earn "as much as we give this young twerp in a year."

Hamilton added: "If the monarchy is such a uniting force in our society, let this young man who has trained in the air force, and is now training in the navy, to go and spend the next three months in the coal mines."

Rebel Tories Warned Government May Fall

London, Feb. 16—Prime Minister Heath today dangled the threat of his government's fall and a parliamentary general election over the heads of Conservative Party anti-Common Market rebels, political sources said.

He did so in a bid to whip as many dissident Conservatives as possible into line for a vote Thursday evening on Britain's entry into the six-nation European Economic Community.

The clear implication, the sources said, was that in elections coming in the immediate wake of the present national power crisis, the Conservatives would risk a crushing defeat and the return of the Labor Party to power.

EDITORIAL SUPPORT FOR NATIONAL BLOOD BANK ACT

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, on January 27, 1972, I introduced H.R. 12715, National Blood Bank Act of 1972, to establish a Federal program to encourage the voluntary donation of pure and safe blood, to require licensing and inspection of all blood banks, and to establish a national registry of blood donors.

This proposed legislation has received widespread support from many sources since its introduction. In addition to establishing minimum regulations and licensing requirements for all blood banks an essential element of the bill provides for the creation of a $9 million national program to encourage the voluntary donation of blood. Such a program would reduce our reliance upon paid donors to supplement the available blood supply. The proposed legislation would also create a national registry of blood donors which would enable commercial and volunteer blood banks to effectively prevent the blood of hepatitis carriers from being made available to the public.

The February 14, 1972, edition of the Waterbury Republican contained the following editorial entitled "More Bloodmobile Support" which supports the National Blood Bank Act of 1972 and the increased recruitment of voluntary donors:

More Bloodmobile Support

Certainly there should be little need to proclaim the benefits of the Red Cross blood bank system for residents of Connecticut at this time. But for those who continue to doubt, the actions of U.S. Rep. John S. Monagan should make it clear that there is no better porgram for meeting emergency needs of the people.

Monagan has introduced legislation which would regulate all blood banks. His bill is aimed basically at the commercial blood banks which are common in many states. Connecticut uses the all-volunteer program.

Commercial blood banks pay donors for blood. Monagan reported experts estimate that the incidence of serum hepatitis is 10 times greater when blood is obtained from a commercial blood bank than a voluntary one. The reason is that the paid donor is much more likely to lie about his background than a volunteer because of the money paid to him.

Regulation of blood banks should be required. As far as Connecticut is concerned, the best way to insure protection prior to the adoption of federal legislation is to donate sufficient blood so there will be no need to seek blood from commercial sources.

If the danger of infection is one-tenth that of commercial blood bank supplies, how can anyone question the value of the Red Cross voluntary program? It deserves the full support of everyone. It costs nothing, and it saves lives.

TRADE DEFICIT COMES TO LIGHT

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, many of us were not surprised when the $2 billion trade deficit for 1971 was announced. The weak state of our competitive standing in the world of trade had been well concealed over the past decade by the basis on which our official export and import statistics have been presented to the public.

We valued our imports, not on what they actually cost us laid down in our ports, but on their value at the foreign point of shipment. This resulted in an underevaluation in the magnitude of some 10 percent. Second, we include in our exports shipments that do not represent our competitiveness, but our foreign aid and other governmentally assisted exports, such as food for peace. Thus we overvalued our exports by some $2.5 billion.

With 1971 imports at $45 billion the underevaluation was about $4.5 billion. Added to $2.5 billion of exports that did not reflect competitive prowess, the statistics were off by about $7 billion in terms of showing our weak competitive position.

In 1971, we turned up a calendar year deficit, the first time since 1888.

This deficit surfaced even under our current method of recording our imports and exports. The concealment finally failed, but the public has not yet been made aware that the deficit is three times as serious as the publicized deficit would make it appear.

Mr. Speaker, it is imperative that we give early attention to trade legislation. The hope that the deficit will go away as a result of currency realinement represents excessive optimism. Our economy is faced with a unique situation in competition from abroad. Recently Mr. O. R. Strackbein of the Nationwide Committee on Import-Export Policy participated in a seminar at the University of Bridgeport with the Connecticut Development Commission. He presented a paper which throws light on our present weak competitive position and its genesis.

In the belief that what Mr. Strackbein says in his speech is worth our study, I offer it at this point for inclusion in the Record:

U.S. Foreign Trade Dilemma

The export trade posture of the United States has the appearance of a top-heavy leaning tower of Pisa. During the first ten months of 1971 nearly half (45%) of our total Non-Defense exports consisted of "machinery and transport equipment," or $16.20 billion of a ten-month total exports of $35.74 billion.

There is very little public awareness of this heavy concentration of exports. This $16 billion in exports of machinery and transport equipment in ten months was 2½ times as high during the same period as our total agricultural exports, which amounted to $6.29 billion. It was well over twice as high as our total exports *of all other manufactured products.*

The "machinery" category includes both electrical and non-electrical machinery, such as agricultural and construction equipment, electric power apparatus, machine tools, radio and telecommunications equipment, office machinery, including computers, and household electrical appliances.

"Transportation equipment" consists of automobiles and other road vehicles and parts, railroad vehicles and parts, aircraft and parts, and ships and boats.

EXPORT SURPLUS

The surplus in exports of machinery and transportation equipment over imports during the first ten months of 1971 was $4.82 billion. There was an actual deficit, however, in the trade in automobiles and parts, amounting to $1.27 billion; but this was more than balanced by our surplus of $2.58 billion in the exportation of aircraft and parts.

Aside from "machinery and transport equipment" we also enjoyed an export surplus in chemicals. This amounted to $1.89 billion for the Jan.-Oct. period of 1971. The general classification of "chemicals" includes raw materials, semi-manufactures, such as plastics, and finished products such as pharmaceuticals, medicinals and fertilizers.

TRADE DEFICIT

The trade deficit during the ten month period in other Manufactured Goods was $7.76 billion. This was nearly $3 billion greater than our surplus in machinery and transport equipment. If the surplus of $1.89 billion in chemical exports were included, the deficit would be reduced to a little over $1 billion.

The deficit items covered a wide range of manufactured goods. Among them the principal ones were textiles and wearing apparel, showing a deficit of $1.726 billion; iron and steel with a deficit of $1.689 billion; automobiles and parts, one of $1.273 billion; paper, paperboard and manufactures, $351 million, musical instruments $249 million, toys, sporting goods, etc. $213 million; footwear, some $600 million, watches, clocks, etc. about $100 million.

COMPETITIVE REALITIES

The configuration of these surplusages and deficits reflects the competitive realities that face our industries *vis a vis* their foreign counterparts.

The great surge in our exports of machinery in recent years was not accidental, nor did it reflect a permanent competitive advantage. In the past ten years the ratio of our exports to imports of machinery (exclusive of transport equipment) has indeed declined sharply. In 1960 the ratio was 4.7 to 1; in 1965 it had shrunk to 2.4 to 1 and in 1970 it had contracted still further to the point where it exceeded imports by a ratio of only 1.6 to 1. In other words the surplus has been narrowing ominously, not, indeed from a decline in exports, which continued very high, but because of faster rising imports.

This trend is understandable from the very nature of the racing export growth itself. The surge in machinery exports was a natural phenomenon reflecting the interest of our industries in direct foreign investment. The process of outshipment of machinery fed on itself.

A brief backward glance is desirable here. At the outset the Marshall Plan was responsible for the vast improvement of foreign production and technological achievement that occurred in the post war era. The industrial superiority of this country had so amply proved itself during the war years that no salesmanship was needed to persuade other countries to rebuild and equip their bombed-out and worn-out plants with American machinery and apparatus.

The prevailing wage levels in these countries were relics of obsolete economics, both British and continental, where the dependence of mass production on mass consumer purchasing power had not yet been accepted or perhaps even perceived. We on the other hand had passed that milestone years before and legislated it into operative reality after the Great Depression.

After the War's end we invited and guided thousands of foreign productivity teams through our vast factories many of which were wonderlands of humming mechanical creations scarcely touched by human hands. The visitors soon decided that this was something they wanted for themselves. We lent them a generous hand with funds, blue prints and finished products.

SURGE IN FOREIGN PRODUCTIVITY

Before many years the productivity of the newly equipped foreign assembly lines and semi-automated systems rivaled our own. Inevitably that output reached surplus proportions in relation to the still-small purchasing power of their consumers which was still tethered to low wages. The overspill soon reached our shores, with price tags that reflected both the newly-reached, much higher output per man-hour and the lagging wage levels. Our imports rose while our exports of products other than machinery (and chemicals) began to lag. Our industries responded by investing ever more heavily in foreign producing facilities; and this process itself stimulated further our export of machinery and plant equipment, while at the same time shrinking our export markets for other products. This export euphoria induced by lively machinery exports helped to conceal the disappointing performance of our nonmachinery exports, including those of agricultural products. This concealment was helped by the self-deluding practice of our Commerce Department in tabulating our foreign aid and similar governmentally stimulated shipments as exports, as if such shipments reflected our competitive strength, while valuing our imports on their foreign (f.o.b.) value rather than their landed value (c.i.f.). This double deception which concealed our generally weak competitive position justified the further tariff reductions under the so-called Kennedy Round, thus increasing our exposure. So far as private competitive trade is concerned we have been in a deficit position the past six or seven years.

The continuing heavy exports of machinery also contributed to the advancement of technology abroad and therefore to the further outward movement of American private capital. The higher output abroad created surpluses that needed greater export outlets. This hand-over-hand stimulation of machinery exports and foreign productivity and the rising foreign competitive advantage and need for more exports continued until the results finally produced the crisis that was at long last recognized by this country in August 1971.

One of the effects of the combination of our rising foreign investment and the accompanying rise in foreign productivity and lagging foreign wages, was the deterioration of the investment climate in this country. To grasp this cause-and-effect relation it is necessary to probe a little into the make-up of our 20th century competitive position in the world of trade.

THE UNIQUE AMERICAN ECONOMY

A fair balance in imports and exports tends to distribute the benefits and drawbacks quite equally through the economy. However, when the deficit reaches a level of 10% or more, in terms of competitive goods, and if exports are concentrated in a few sectors while imports rake a very broad front with fire in the form of low-cost foreign advantages the effect is very different.

The American economy until very recently was unique in the world. It built itself on principles that were native to this soil and not generally accepted abroad. Among the principles were (1) fair competition and antimonopoly, thus assuring passage on to consumers of the cost reductions flowing from mass production and technological innovation and development; (2) a consumer purchasing power adequate to sustain the rising volume of goods made possible by mass production; (3) a national free-trade area assuring the basis for a mass market, and (4) wage levels that in reflecting rising productivity provided the necessary effective market demand that cleared the shelves.

The very matrix of the system of production that soon led the world was dedication to production of goods that were nonessential but pleasing, comfortable and ego-lifting to possess and for which the demand was elastic: in other words that would be bought in ever increasing quantity as the consumer price came down. This explains the success of our mass-production system. We have but to reflect on the automobile and $5 per day wage example instituted by Henry Ford, as an earnest fee of growing consumer buying power, to appreciate the formula. There followed a vast array of consumer goods that catered to tens of millions of waiting customers who, armed with good wages, assured a market if the new or revolutionized product met consumer expectations. Radio, television, household appliances of all kinds, recreational, athletic and sporting goods, the low toll telephone, nickel or two-cent metropolitan newspapers, moving pictures, etc., are examples.

Indeed we depend on the innovations and radical cost reductions to employ the oncoming additional workers from population growth and those displaced by the very innovations themselves. This absorption could be largely successful because the new or added market was our own. Usually the new products enjoyed patent protection for a period long enough to develop them and to bring down the cost within reach of the popular pocketbook. If a product was wholly new the addition to employment was net. If it was a substitute that was superior and cheaper it reabsorbed those displaced and soon created additional jobs.

THE BOOMERANG

Today we face an altered situation. The unit-cost advantage enjoyed by other countries opens our market to them immediately if our patent-owners license foreign production or if they themselves produce abroad for this as well as other markets. The investment capital that formerly was forthcoming and indeed eager to venture into developing new products or radically lower-priced existing ones, began hesitating in recent years because of the gloomy prospects. Good examples are found in radio and television receiving sets, recorders, record players, etc.

We have lost the very dynamism in our economy that in one or two generations brought us world industrial leadership, to a development of our own gestation, which is to say to the diffusion of our technology abroad.

A ready illustration of our difficulty may be found in the small automobile. Certainly in the early years of Henry Ford we had the small and low-cost vehicle with which Ford filled the country. The quarrel with the automobile industry in recent years has been its failure to provide a vehicle that could be sold at less than $2,000 to the public, either to one-car owners or to actual or potential multiple car owners.

It represents a misreading of the motivation of American industry to conclude that the automobile companies were indifferent to this great potential market. General Motors has no haughty objection to production of products that sell at only a few hundred dollars to consumers, as note household refrigerators; nor does Ford, as note its marketing of television sets.

It was simply a question of technology, productivity, wage levels and profits. We did not have the productivity per man-hour, in conjunction with prevailing wage levels and profit requirements that made it possible to produce a vehicle that could be sold at less than $2,000. In Europe, especially in West Germany it was possible to do so. After a while it was also possible to do so in Japan. The Volkswagen manufacturers contemplated manufacturing in this country and entered into an option on a plant site, but after studying U.S. production costs decided against the venture.

Were our wages too high? Was our automotive technology stagnating? Had our automobile producers lost enterprise and motivation? None of these questions can be answered in the affirmative. In relation to our technology *our costs were too high compared to the foreign technology and the lower wage levels* to which it had ready access. Had our foreign competitors had a similar advantage in the early days of Henry Ford his enterprise could not have been launched as it was. Our whole unique system of mass-production enterprise could not have prospered had it faced the foreign competitive challenge such as our enterprise faces today.

American manufacturers could easily produce a car today that could be bought for less than $2,000 if they could pay wages as low as those prevailing in Germany; and probably a car to sell for less than $1,500 if our wage levels were as low as in Japan.

On the other hand, had foreign entrepreneurs come along with us sixty and seventy years ago; had they appreciated the connection between mass-production and mass-consumption (as the market) and looked upon employee compensation as the greatly predominant element of mass purchasing power, and raised their wages accordingly, we would not be in our present predicament; but they did not do so. However, after World War II in a matter of a decade or two they confronted us with a *fait accompli* on the technological side while allowing wages to trail. The unfairness of competitive advantages derived abroad from high productivity and low wages when our producers are inescapably tied to high and rising wage levels that at least have the virtue of providing the necessary purchasing power to absorb our massive product output, is not yet fully appreciated.

THE COST GAP

Quite ironically our industry has in recent years indeed been charged with inefficiency. Comparisons are made with the expansion and rising productivity of Japan, West Germany and Italy. This comparison pictures American industry as the tortoise alongside the foreign hare. The comparison is, of course, inept. The percentage rise in other countries is measured from a much lower base than our own. Since the other countries were catching up through the feverish installation of modern machinery and equipment they should have been expected to show a very handsome percentage achievement compared with us. *Output per man-hour for all manufacturing employees* increased from 1960–70 by 190% in Japan, 74% in West Germany and 180% in Italy. In this country the increase was 34%. In Japan manufacturing employment increased 57.3%; in the United States, 15.4%.

The very fact that our industries (now including even machinery) were confronted with low-cost-laden imports perforce dampened their enthusiasm for expansion, particularly since the Kennedy Round confronted them with five years of further tariff reduction. The degree of blindness induced by our college-and press-inculcated free trade philosophy can be measured quite convincingly by our incapacity as a nation to see what should have been clear to any competent observer.

American industry, it was bruited about, had lost its will, it was complacent, or, worse, decadent! The indictment was extremely superficial, indeed suicidally so. The greater efficiency demanded of our industry could only be achieved by worker displacement since employee compensation in this country represents approximately 80% of all corporate production costs in the absence of monopoly.

"Very well", it is said "we made our way up the economic ladder by development of labor-saving devices": and that is true; but there is a wide difference between that process and what we face today. We then had our own market before us, *uncontested* by low-cost-advantaged foreign competitors such as we face today. The latter can take the enlarged market to which we previously looked, as we progressively reduced our costs, away from us before our very eyes; indeed before we can reach it. *This difference is crucial and compelling and has confronted us with our unhappy dilemma.* Today when we strive for greater efficiency through higher technology, i.e., worker displacement, we are left with the remains in the form of greater unemployment, higher welfare rolls and bitterness, while the higher employment we previously looked to with confidence, takes place abroad. Foreign producers, including our own factories abroad, reap the dividend that underwrote our former driving enterprise! It is not a matter of our losing confidence but one of simple arithmetic.

The injury inflicted by imports is therefore not properly measured by the simple displacement of steel workers, textile workers or vegetable growers, but much more significantly by the jobs that are prevented from opening; and these we need by the millions in the oncoming years if we aspire to anything approaching full employment.

In order to overcome the structural difference that puts our cost level alongside the vari-leveled foreign nether abutments we must restore the conditions under which we developed our unique economy in the first place. The conditions of trade must be controlled, not to the detriment of a high volume of commerce, but with an eye to withdrawing from imports their power to unravel the motivation that impelled American enterprise to perform its sustaining miracles of production. This, let us keep in mind, demands real competition but not of a variety that can breathe a blight on the buds of new and hopeful ventures, withering and dropping them to the earth before they can reach maturity.

According to Secretary of Commerce Maurice Stans, in 1970 Japanese labor costs, including fringe benefits, were still only 26% of ours, the British 37%, the French 39% and the West German 54%.

If these differentials in unit costs are even approximately correct, the realignment of currencies now under way will not be sufficient to restore our economy to its pristine vigor.

The most effective and reasonable remedy would lie in the establishment of import ceilings that would set aside a reasonable portion of the domestic market to be supplied by imports. Flexibility could be assured both by permitting imports to grow as our market for any particular product might increase and by revising the ceilings every five years, taking into account changed conditions here and abroad.

Such ceilings would once more open the way for new products and radical improvement and cost-reduction of existing ones and thus restore the now punctured and deflated motivation that led to the building of our uniquely productive system in the first instance.

CITIZEN ANTICRIME PATROL ASSISTANCE ACT

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, today, joined by 14 of my House colleagues, I am introducing the Citizen Anticrime Patrol Assistance Act, which would provide direct Federal assistance to responsible citizen groups organized to serve the community and halt the escalation of crime in their neighborhoods—this bill is a perfected version of H.R. 12262, which I introduced on December 13, 1971.

In New York, and many other communities around the Nation, citizen patrols have proved responsible and effective in reducing and preventing crime. As indicated in an article by Mr. Robert Garrett in the New York Post for February 10, 1972, which appears below, unarmed citizens patrolling their streets have had a remarkable success in reducing crime.

While the wealthy can afford to hire private security guards, low- and middle-income citizens must provide extra protection for themselves without compensation or help of any kind in meeting the costs. Many patrols have floundered for lack of financial assistance. This fact is revealed in a letter to me from Benjamin Ward, deputy commissioner for community affairs of the New York City Police Department.

Last November, I discussed with Mr. Ward and New York City Police Commissioner Patrick V. Murphy, the need for involving responsible citizens in the fight against crime and how best to accomplish this goal. Since then, Mr. Ward has endorsed my proposal and has stressed the value of anticrime patrols.

The following is the text of Mr. Ward's letter:

POLICE DEPARTMENT,
CITY OF NEW YORK,
New York, N.Y., February 1, 1972.

Hon. Congressman JONATHAN B. BINGHAM,
Congress of the United States,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BINGHAM: Obviously, you are a man of action and a man of your word. When I last met with you and Police Commissioner Patrick V. Murphy, you indicated support for our Auxiliary Police Force and Citizen Anticrime Patrols. I did not expect you to get a Bill in support of financial assistance into the hopper so quickly.

I support your proposal and am willing to assist you in obtaining support for the Bill. My staff has identified and contacted over 150 citizen anticrime patrol organizations in the city at this time. The ones most needed, tend to quickly flounder for want of financial assistance and sufficient police department encouragement. I am hard at work on both aspects of the problem, with some limited success. For example, both East Flatbush and Spanish Harlem (East Harlem) have recently activated enthusiastic Citizen Anticrime Patrols to protect their communities. My staff has devised guidelines and identification cards for their use. When used as an adjunct to the regular police force, I find such patrols to be a valuable asset. They encourage people to return to the streets. The street criminal abhors people on the street in significant numbers. But, the streets belong to the people and it is time Washington helped in a campaign to support concerned citizens, *Join In A Walk On Crime.*

The old bugaboo of vigilante will be raised in opposition to the Bill. There are no vigilantes in New York City and I find that concerned citizens, acting together in self protection efforts, in cooperation and as an adjunct to the regular police discourage vigilantes—not encourage such lawlessness.

When your Bill comes up before the committee, feel free to call upon me to testify on behalf of the Bill if you feel it will help.

Sincerely,

BENJAMIN WARD,
Deputy Commissioner,
Community Affairs.

In my estimation, it is clear that the Federal Government should begin now to assist responsible citizen projects and reward active community protectors.

Under my bill, grants would be available to neighborhood "residents' organizations" formed to serve the community. To receive assistance, groups would be required to provide plans for "crime watch services' and meet special requirements, such as first, demonstrating a need for assistance, second, consulting with local police in developing the plan, and third, establishing that the plan would not infringe upon constitutional liberties.

Funds could be used to cover the cost of training and equipping residents and to provide small stipends to active resident's organization members. However, there is a specific prohibition against the use of "any firearm, chemical agent or other weapon" by members. Also, funds could not be used to purchase, rent, lease or maintain any motor vehicle.

The act provides for special authorizations of $50 million in 1973, $75 million in 1974, and $100 million in 1975, to be disbursed by the Law Enforcement Assistance Administration directly to qualified residents' organizations.

Following is a list of cosponsors of the Citizens Anticrime Patrol Assistance Act:

Les Aspin, Democrat of Wisconsin.
Ronald V. Dellums, Democrat of California.
Joshua Eilberg, Democrat of Pennsylvania.
Seymour Halpern, Republican of New York.
Henry Helstoski, Democrat of New Jersey.
Spark Matsunaga, Democrat of Hawaii.
Ralph H. Metcalfe, Democrat of Illinois.
Parren J. Mitchell, Democrat of Maryland.
Brad F. Morse, Republican of Massachusetts.
Robert N. C. Nix, Democrat of Pennsylvania.

Claude Pepper, Democrat of Florida.

Benjamin S. Rosenthal, Democrat of New York.

William F. Ryan, Democrat of New York.

James H. Scheuer, Democrat of New York.

The following is Mr. Garrett's article:

[From the New York Post, Feb. 10, 1972]

Tenant Patrols Curbing Stuyvesant Town Crime

(By Robert Garrett)

The Stuyvesant Town crime rate has been dropping "dramatically" since tenants a year ago began patrolling in strength their own tree-lined courtyards, according to community leaders and local police.

And despite four of five residents stopped recently on a chilly, wind-swept street who said they knew nothing about increased protection, their homes and families are more secure now than in the past several years, according to police and community leaders.

Increased protection for residents in scores of 14-story brick buildings set amid mildly rolling hills north of E. 14th St., began last February, when police and community leaders began a massive drive to convince residents their hope lay not in more police, but in more active citizens.

The recruitment drive for a citizen's patrol was spurred in the summer by an article in Town and Village, a community newspaper, which encouraged 18 to 55-year-olds to volunteer two evenings weekly. Readers also contributed almost $6000 to buy uniforms, nightsticks and other police equipment.

"PEOPLE WERE TERRIFIED"

Said publisher Charles Hagedorn: "People were terrified. The crime rate—murder, rape, robbery, stabbings—was up almost 400 per cent, and extra police assigned to the area were quickly re-assigned." Dozens of crimes had been occurring weekly, according to authorities.

Over 50 people offered their time, attended special Police Dept. classes, and were sworn into the Auxiliary Police Force, a group of several thousand men throughout the city working from local precinct houses to supplement the cop on the beat.

The 13th Precinct, which encompasses Stuyvesant Town, had accepted volunteers for nine years, but never before had such numbers asked for the right to patrol their own neighborhoods.

The auxiliaries receive no pay and, as they are not policemen, are not allowed to carry guns. Yet the presence of uniforms on the streets, according to members, is a great deterrent. (Their uniforms are almost identical to the familiar blue police outfit, but the badge is a star not a shield, and the caps are less elaborate.)

In the past three weeks, with the added help of a handful of Tactical Patrol Force men, not one violent crime has been reported in the area. The patrol now down to 33 men, is hoping to keep the legwork up and the crime down.

Mr. Speaker, decentralization of municipal services is currently a fashionable approach to city problems. A distinguished New Yorker, Dr. E. S. Savas, who is presently first deputy city administrator in the office of the mayor of New York City, has written a most interesting article making the case for decentralization of municipal services and the takeover by citizens groups of some of those services. While I do not agree with all of Dr. Savas' arguments and recommendations, the legislation I am introducing today directly relevant to his conclusions in that it would encourage the very kind of citizen action in cooperation with the police that he specifically recommends. His article, from the December 1971 issue of Harper's magazine, also makes a number of other interesting suggestions, and I therefore insert it at this point in the Record.

Municipal Monopoly: Uncivil Servants: There Are No Culprits, Only Scapegoats

(By E. S. Savas)

Our cities are not working well. Sanitation, safety, transportation, housing, education—even electricity and telephones—all seem to be failing. The taxpayer complains about waste, inefficiency, and mismanagement, and blames his public servants.

In part, the problems derive from the fragile nature of modern society, which is so variously complex and interconnected. Just think of all the different people—from farmer to supermarket clerk—whose efforts must mesh in order for a slice of bread to reach your table. Any one participant could break the chain, including the man whose guild card authorizes him (and only him) to pump gas into the baker's delivery van. Nevertheless, we manage to get our daily bread after all. That's because there are many sources of flour and numerous individual bakeries: no one has an effective monopoly. Furthermore, products can be stockpiled, and so there's always fertilizer, wheat, flour, and even bread and frozen rolls, stored at various points in the system.

The city, however, is uniquely vulnerable to service shutdowns—and it doesn't have the options of moving to the South, starting a branch in Hong Kong, or going out of business. After all, a principal function of government is to provide, or at least regulate, those services that by their very nature are monopolies; and so the city furnishes public sanitation, police, and fire services, while the state government regulates the private power and telephone companies. These are all monopolies of a crucial sort, for their services—unlike flour—cannot be stockpiled or imported.

Therein lies a key problem of American cities: monopolies, whether public or private, are inefficient. Since most city agencies are monopolies, their staffs are automatically tempted to exercise that monopoly power for their own parochial advantage—and efficiency is rarely seen as an advantage. When a municipal monopoly no longer serves any interest but its own, the citizenry is left quivering with frustration and rage. The inefficiency of municipal services is not due to bad commissioners, mayors, managers, workers, unions, or labor leaders; it is a natural consequence of a monopoly system. *The public has created the monopoly, the monopoly behaves in predictable fashion, and there are no culprits, only scapegoats.*

Monopoly systems are also inherently unreliable because of their vulnerability to strikes and slowdowns. Legislators who do not seem to understand the fundamental workings of the system continue to demand that public employees behave as though they did *not* possess monopoly power. The New York State legislature, for example, persists in drafting futile no-strike edicts, and is now hailing compulsory arbitration as the latest cure. That's like King Canute asking the sea to pretend it's a pond and telling the tides they must cease and desist. The U.S. Congress did much the same thing—and achieved equally spectacular failures—in its naive dealings with monopolies such as the Postal Service and the railroads.

Employee groups favored with a monopoly carefully contrived absenteeism to achieve the effect of a strike, while getting around no-strike laws and avoiding prosecution. The government is then left with trying to prove there was a conspiracy when a tenth or a third of the work force suddenly took ill or started diligently following some obscure, trivial, but time-consuming work-safety rule.

In this situation, the urban public often lacks even the most basic defenses of a community: when much of the municipal work force lives outside the city proper, they and their families do not feel the effects of strikes and slowdowns at first hand, and are not subjected to social pressure from their friends and neighbors to resume their duty of providing vital services.

Evidence of malfunctioning municipal monopolies is all around us, and although the specific examples here are drawn from New York, the picture is, or soon will be, similar in other cities across the country.

Over the past ninety years, for instance, New York has constructed an elaborate organization called the Department of Sanitation and given it a monopoly over the collection of household refuse. Unlike most municipal monopolies, however, there is here a standard for comparison—the regulated (and unionized) private cartmen who collect refuse from stores, restaurants, and other commercial establishments. The comparison is instructive: it costs Sanitation almost three times as much to collect a ton of garbage as it costs the private entrepreneur. Furthermore, the average Sanitation truck is out of commission more than 30 per cent of the time; the private truck is out only about 5 per cent of the time. The explanation is obvious: if you own a mere one or two trucks, as most cartmen do, and your livelihood depends on them, you make sure they stay in working order.

An explanation of the threefold difference in collection costs is also simple, and derives from such embarrassingly old-fashioned concepts as close supervision and good management, motivated by the lure of profits. The more refuse a private cartman picks up in a day, the more money he makes. In the municipal monopoly, there is absolutely no connection between the two.

Household refuse collection is not the only monopoly granted to the Department of Sanitation; it also has exclusive responsibility for snow removal. Here, too, the dead hand of monopoly is evident. In an eleven-hour work shift, only about six hours of actual plowing is done. The rest of the time is consumed in roll call, starting up, lunch breaks, coffee breaks, warm-up breaks, fueling breaks, driving to and from the plow routes, and washing up.

Nowhere does the inexorable inefficiency of municipal monopolies come through more clearly than in the following incredible statistic: between 1940 and 1965, the number of policemen in New York City increased by 50 per cent (from 16,000 to 24,000), but the *total* number of hours worked by the entire force in 1965 was actually *less* than in 1940. The increase in manpower was completely eaten up by a shorter work week, a longer lunch break, more vacation days, more holidays, and more sick leave. By comparison, during the same period, the length of the average work week throughout the U.S. declined by only 8 per cent.

The monopoly nature of police, fire, and sanitation services has produced work schedules totally unrelated to public needs. Until Mayor Lindsay succesfully persuaded the state legislature to pass the "fourth platoon" bill—and it required a major effort on his part—state law called for an equal number of policemen working on each tour of duty. Small wonder that there was "cooping," or sleeping on the job; there simply wasn't much work to be done at 4:00 a.m. But neither the Mayor nor the Police Commissioner could reduce the graveyard shift and switch men to other tours of duty. "If you want more police available at 8:00 p.m., hire more police," was the legally sanctioned reply.

The most absurdly run New York City monopoly is mass transit. Seventy per cent of all mass transit rides occur during rush hours. But just try to push through any efficient "split-shift" scheduling of manpower.

Instead, some bus drivers for the state-operated Metropolitan Transit Authority work *eight* hours a day but are paid for *fourteen*. They are compensated handsomely for the "hardship" of taking a paid four-hour Mediterranean-style break in the middle of their eight-hour work-day. Imagine where baseball would be if the hot-dog vendors insisted on being paid for a forty-hour week, fifty-two weeks a year.

Of course, no rundown of the municipal monopolies would be complete without mentioning education. It is enough to point out that a 50 per cent increase in the number of teachers, and the addition of one paraprofessional for every two teachers, has produced only a slight reduction in class size. The teachers have simply reduced their work hours and passed on some of their duties. Parents can judge for themselves whether the result has been better teacher preparation and better education for their children.

A different example of a malfunctioning municipal system is one invisible to the average citizen. Over the past century, the city has constructed an elaborate, time-consuming, costly bureaucratic system of checks and balances designed to assure that the government gets fair value in its purchases and to protect against corruption in contracting for supplies and equipment. However, the consequence is a long delay in securing bids, ordering goods, and paying bills. Requests are prepared and submitted to bidders on an approved list. Sealed bids are received and opened ceremoniously, contracts are awarded, purchase orders are prepared and issued, goods are received, several different agencies check to see that the right goods were delivered in good condition to the right place at the right time, payment is authorized after a proper invoice is received and cross-checked, and finally a check for payment is grudgingly issued by the city treasury months later.

The result of all this red tape is that many potential vendors refuse to do business with the city, while those who do charge higher prices to make up for their additional costs and trouble. Thus, a strategy intended to *increase* competition and *reduce* the cost of goods has precisely the opposite effect of *reducing* competition and *increasing* cost.

Much of the malfunctioning of municipal monopolies can be attributed to the fact that the civil service system itself is defective. The system was originally designed to promote quality in public service by providing security for the individual employee and freedom from external influences. Unfortunately, this has come to mean freedom to be unresponsive to the changing needs of society. The problem shows up all over the country in the form of uncivil servants going through preprogrammed motions while awaiting their pensions. Too often the result is mindless bureaucracies that, to the embittered taxpayer, appear to function solely for the convenience of their staffs rather than the public whom they are supposed to serve.

In civil service there is virtually no connection between an employee's performance and his reward; raises are automatic, and an employee cannot be dismissed without an extraordinary and time-consuming effort. Instead of a merit system there is a seniority system. Promotions occur incestuously from within, based on examinations that attempt—but fail—to measure performance. The Civil Service Commission in New York recently severed one of the last vestigial links between performance and reward when it abolished a rule requiring a favorable appraisal of an employee in his current job before he could be promoted. In the meantime, the able and devoted civil servant—and there are many—is often no better rewarded than the incompetent slacker and finds himself vilified by the public for the negligence and lethargy of his colleagues.

It is not only rank-and-file employees who are tempted to abuse their monopoly power; monopoly agencies tend to develop their own separate goals and values. Thus, in a paradoxical and unintended way, it turns out that a severe housing crisis can actually be *good* for a housing agency, in the same odd sense that dirty streets are *good* for a street-cleaning department, high crime is *good* for police, a drought is *good* for a water department, traffic congestion is *good* for a traffic department, and an epidemic is *good* for doctors and hospitals. No one wills it that way, but the system rewards the crisis area with money, growth, visibility, and prestige—the chance to be a hero. This can lead to brinkmanship, an appealing tactic that is readily available to a monopoly.

Of course, all the remarks about the publicly operated municipal monopolies apply equally well to the privately operated municipal monopolies. Brinkmanship is being exercised when a local electric utility warns that its equipment will (be allowed to?) deteriorate unless its demands for higher rates are met. Or when it predicts (threatens?) a blackout unless it is permitted to build a dam, power station, or transmission line at a particularly scenic spot.

REFUSE-COLLECTION VOUCHERS

So much for this brief but depressing catalogue of runaway municipal monopolies, both public and private. What can be done about this state of affairs? How can the inefficiencies of our public services be corrected?

There are three major strategies for relaxing the stranglehold of the municipal monopolies:

Increase the supply of organizations and people authorized to provide the services.

Reduce the demand for these services.

Break up the monopolies into smaller pieces.

The first approach—increasing the supply of organizations and people who are authorized to provide municipal services—is an obvious remedy in the area of refuse collection. Under competitive bidding a city could contract with private carting firms to collect refuse from certain routes or in certain areas. This is the way it's done in Boston and it was the practice until 1929 in parts of New York, where the idea is now being examined anew.

A more drastic approach would be to issue a refuse-collection voucher to a property owner when he pays his property tax. He would then have the choice of using his voucher to purchase service from either his sanitation department or a private firm. Competition for his voucher would be based on the quality and quantity of service—convenience, cleanliness, quietness and frequency of service, and the amount picked up. Of course, the competition ought to work both ways. A store owner should also have the option of buying *his* service from a sanitation department; in most cities at present he can be serviced only by private industry.

The voucher system is also being used experimentally in some cities to provide competition to the education monopoly. Under this system, a family receives a voucher good for one year's worth of grade-school education, for example, and can use the voucher to enroll the child in any certified private or public school. The school subsequently converts the voucher to cash by turning it in to the public agency that issued it.

One might argue that a completely competitive system of education could lead to such diversity in curriculum and achievement that students transferring or being promoted to other schools would be badly served. There is no reason for anguish; higher education in the United States is a good example of a competitive system, with both private and public colleges in many different state systems, yet these problems do not arise in any serious form. Regulation of all schools would continue to be exercised by government boards, which would prescribe general standards for curriculum and reading achievement, for example, while leaving the pedagogical details to the individual schools. The function of the state would be to inspect, measure, and report on the performance of the different schools.

Certainly, competition is not practical for all municipal services. In particular, it is difficult to see how the dangerous duties of police and fire departments could be performed competitively. However, some activities other than catching criminals and putting out fires do lend themselves to competition, even though the competition would come from other public servants. Civilians could perform more of the work currently assigned to uniformed patrolmen and firemen that doesn't require their special skills. An obvious area is traffic control. Meter maids in New York's Traffic Department could direct traffic, but there is predictable pressure from the police to prevent this from happening. Even in parking enforcement, the Traffic Department's agents do not have authority to issue tickets for "no parking" violations; that remains the private preserve of the police—and incidentally guarantees the latter the extralegal fringe benefit of parking with impunity in no-parking zones.

The second major strategy for relaxing the stranglehold of the municipal monopolies is to reduce the demand for their services. There are three possible ways to accomplish this:

Shrink the monopolies.

Change our consumption habits for these services.

"Do it yourself."

Shrinking the refuse-collection monopoly means reducing the number of eligible customers. For example, a city could drop its traditional "free" service to tax-exempt properties and to institutions such as schools, hospitals, and large apartment buildings. These customers would then arrange for their own pickups, using commercial services.

The scope of the traditional education monopoly is shrinking—albeit on a minute scale—as students drop out of high school and subsequently enroll in privately financed street academies and high-school-equivalency programs in the armed forces and in the business world; surely such programs ought to be encouraged. In the same vein, junior colleges throughout the country are stressing remedial programs whose net effect is to provide the high-school education that was not provided by the high schools. Perhaps this responsibility should be formally transferred, by permitting students to enter junior college after two or three years of high school. As for vocational high schools, it is likely that they could be replaced by modern industrial unions or corporations that have a vested interest in training skilled workers to fill expected job openings. Shrinkage may also occur at the lower end of the educational spectrum, if day-care centers expand to assume the functions of kindergartens.

In the field of electric power, one way to shrink the scope of the monopoly is to separate power generation from power distribution. Legislation should make it possible for a city to buy power from any appropriate generating plant, and to reply on the local utility only for the use of the distribution network.

Another way to limit the demand for certain monopoly services is to change the public's consumption habits for such services. For example, in order to reduce a city's vulnerability to power blackouts and brownouts, it would be helpful to reduce the peak demand for power. One way to achieve this is by a pricing policy that would make people pay more for the power they draw during peak periods and give them a bargain on the electricity they use during low-demand periods. This would require some technical changes in electric meters, but it can be done; in fact, such a system is in effect in France.

Finally, the "do it yourself" philosophy makes sense for some municipal services. For example, the Association for a Better New York, out of exasperation and at its own expense, has started cleaning the streets (in addition to the sidewalks) in the front of its member buildings. One way to reduce the need for more preventive police patrol is to encourage more citizen patrols, tenant patrols, auxiliary police and the like to work in cooperation with the police. Already in many urban neighborhoods residents are, in effect, levying a special tax on themselves and purchasing guard services or volunteering for guard duty for their block or building—and thereby buying protection at a much lower cost than the municipal monopoly could provide.

So far we have discussed various ways to increase the supply and reduce the demand for monopoly services. Together these two strategies would reduce the number of failure-prone parts in our vulnerable city systems.

In addition, there is a third strategy. These public systems could be made more reliable by breaking them up into smaller geographical pieces. That way, if a little system breaks down in a Bronx neighborhood, maybe it won't affect Harlem; a street-cleaning slowdown in Brooklyn Heights could still mean clean streets in the financial district. Neighborhood government, a concept much in vogue, offers precisely this opportunity. One doesn't even have to invoke the ideals of "participatory democracy" or "power to the people." Neighborhood government makes sense even on such prosaic grounds as potential reliability, efficiency, and effectiveness.

Suppose that a neighborhood were to receive a modest supplemental budget that could be expended at the direction of some sort of neighborhood government council. One could then imagine the following dialogue between the neighborhood body and the city's street-cleaning department:

Citizens: We would like to spend $100,000 more this year for cleaner streets. What will that buy us?

Department: (thumbing through the city's official rate book) Umm, let's see now . . . oh, yeah. For $100,000 you get one truck, three men, and a broom.

Citizens: What? For $100,000 all we get is one lousy truck, three men, and a broom? Forget it. We can get a better deal by setting up our own local Municipal Services Corporation!

But there is a more drastic and far-reaching way to break up the monopoly and to restructure the public service in a manner that simultaneously builds up the neighborhood concept and takes advantage of the dawning "do it yourself" awareness in urban communities.

Before describing it, however, it is useful to step back and view urban problems in the following way: the urban dweller is dissatisfied because he feels that he cannot influence the quality of his immediate environment—he cannot effectively influence the safety of his family, the education of his children, the behavior of his neighbors, the appearance of his physical surroundings, the cleanliness of his block, the purity of his air, or the adequacy of local transportation.

The problem arose when the Industrial Revolution brought about a separation between the place of residence and the place of work. As more and more people started working at sites distant from where they lived, they could no longer pay attention to the immediate environment around their homes and had less reason to interact and cooperate with their neighbors. They started paying people to educate their children, police their streets, protect their property, pick up their litter, and so forth. In other words, we've been "contracting out" for our local needs, but we've done it without writing very good specifications for the work to be done and without establishing very good systems for measuring the performance of the contractors who are doing the work on our behalf.

With that view in mind, consider these two facts and translate them for any city in the nation:

New York City has about 400,000 employees.

New York City has about 60,000 residential blocks.

Then start speculating about converting one-seventh of this work force into block workers. Imagine the effects of one full-time worker on each block whose job would be to monitor services, organize a block association for self-help, and generally work to improve life on that block. I'm not suggesting a Red Guard commune, where everybody on the block falls out for calisthenics at 6:00 A.M. and afterwards marches into the community mess hall for breakfast, but think of the possibilities.

Crime could be reduced by a voluntary escort service and by informal street and building patrols whose members would not be too embarrassed or too uninvolved to help a woman screaming for her life. Block parties and other functions organized by the block worker would increase the street movement, creates a sense of community, and otherwise make the block a safer place. Drug pushers would look for more hospitable hangouts. Social pressure on litterers, superintendents, tenants, homeowners, merchants, illegal parkers, and cleaning personnel would produce cleaner streets and sidewalks. Fire-prevention programs and even fire drills could be carried out on blocks subject to the daily threat of fires, and this might also reduce the number of false alarms. Parents' associations and local school boards would have a good mechanism at their disposal to build an informed constituency and increase their influence over the remaining education monopoly. In tenement areas, the block worker could organize tenant groups to improve housing conditions and to work with landlords and the police to improve building security. Ad hoc recreation activities, after-school learning centers, and volunteer day-care facilities would inevitably be started. Merchants using predatory practices would be more likely to be exposed than they are today. Repairs to streets, sidewalks, hydrants, lights, signs, and even public telephones could be ordered promptly by the block worker and followed up to make sure they were done.

All this could be accomplished with nothing more sophisticated than lists of tenants and phone numbers, access to a mimeographing machine, and Scotch tape for posters. Right now we've got police, sanitation, fire, education, housing, recreation, social services, consumer affairs, highways, traffic, and other departments whose job it is to produce these results. Proportional reductions in these agencies, and switching to block workers, might accomplish a lot more, in the final analysis, where it really counts: in the taxpayer's daily life.

The cost of such a program could be further offset by assigning the block worker to perform minor departmental inspections and to read water meters. The local utility company might pay to have him read its utility meters on that block. And here is a far-out approach to federal revenue sharing that Wilbur Mills hasn't mentioned: the worker could be paid by the Postal Service to pick up mail at the post office and deliver it to the residents on that block.

The block worker would emerge as a sort of concierge, a benign busybody with formal active responsibility for improving the "livability" of the block. The block has lacked such a person ever since modern technology eliminated the lamplighter and the watchman on foot; now no one (except the postman—a very specialized service employee from a distant government) has a daily duty to perform on the block.

A skeptic might point out that this is nothing but a return to the ward-heeler style of government, and would be disastrous. Nonsense. In the first place, to reduce the potential for conventional political activity, the job could be restricted to qualified people who live outside the immediate political district where they work, and they could be made subject to a local version of the Hatch Act. In the second place, the danger of a local thug somehow taking command in an area is no different from the similar danger today, or the danger of corrupt local public servants and officials. In the third place, the excesses of the inefficient ward heelers of a century ago required reform in the way of centralization, professionalization, and a merit-based civil service. Now that we have carried out those reforms—and are left victimized by monopolistic, unresponsive, meritless systems—it's time for a change.

If these changes are made, no doubt the time will come again, in another half-century or century, when the disadvantages of the block-level system advocated here will outweigh its advantages. At such time in the distant future, a change toward a new system—a system that meets the needs of those new conditions—will again be in order, for there is no such thing as a manmade system that works well for all eternity.

NATO IN NORTHERN IRELAND

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, the presence of British troops in Northern Ireland, and the policy of internment being carried out by those troops, continue to fan hostilities there, increasing the tragedy and violence. The British are making the same mistakes in Northern Ireland today that they made in the American Colonies two centuries ago. Five colonists were killed in the famous Boston massacre of 1770. By contrast, 13 Irishmen were killed in the recent massacre in Derry. That incident, and others like it, are deeply distressing to Americans whose own ancestors suffered under ill-conceived British occupation. What is even more appalling is the reaction of the British Government: no sign of grief or shame, only more troops and a determined campaign to choke off protest demonstrations. But hopefully the result of British mistakes in Northern Ireland will be the same as their mistakes in the American Colonies: freedom and unity for a brave people.

It has recently been charged that the British troops stationed in Northern Ireland are also NATO troops. There is mounting evidence that this is the case. In checking on the charge, I have received informal confirmation from State Department sources that the troops do, in fact, use NATO equipment and that some have come to Northern Ireland from duty in West Germany where they were under NATO command. I have therefore sent the following urgent letter to the Secretary of Defense requesting a detailed investigation and report on this matter:

Hon. MELVIN LAIRD,
Secretary of Defense, the Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: Charges continue to be made that British military troops currently assigned to Northern Ireland are "NATO troops." To help shed light on this controversy, please provide me with a detailed report on the following points as soon as possible:

Specifically what British military units are currently stationed or operating in Northern Ireland?

What is the record of each of these units during and prior to their assignment to Northern Ireland with regard to *training* under the auspices or command of the North Atlantic Treaty Organization?

What is the record of each of these units during and prior to their assignment to Northern Ireland with regard to *participation in military exercises* conducted or sponsored by the North Atlantic Treaty Organization?

To what extent does each of these units utilize equipment designed or produced under NATO cooperative guidelines?

To what extent do these units utilize equipment that is identical to equipment utilized by troops of other NATO member countries?

What is the record of the command of these units during and prior to their assignment to Northern Ireland with regard to participation or membership in the NATO command?

Are there any any other indications that British troops currently assigned or operating of Northern Ireland might be regarded as NATO troops? If so, what are those indications?

Sincerely,
JONATHAN B. BINGHAM.

The British have consistently claimed that the situation in Northern Ireland is an internal matter, not an international one. The Nixon administration has apparently accepted that argument and has pussyfooted rather than tell the British of our deep concern and doubt about their policies. But I have argued, along with others, that the British position is a sham. The apparent involvement of NATO in Northern Ireland further illustrates the absurdity of Britain's claim.

If the detailed inquiry I have initiated with the Secretary of Defense confirms, as I expect it will, significant involvement by these British units in NATO, the United States should certainly take appropriate action within NATO through our Ambassador to convey our deep concern over the situation in Northern Ireland and British policy there, and to press the British to withdraw its military forces from Northern Ireland so that they may be replaced, if necessary, by international peace-keeping forces.

Article 4 of the NATO treaty provides that member countries:

> Will consult together whenever, in the opinion of any of them, the territorial integrity, political independence, or security of any of the Parties is threatened.

Certainly continued violence bordering on civil war in Northern Ireland is a matter which is not only tragic for those involved but also weakens the defense, and hence, the security of the United Kingdom and of the countries, including the United States, which are committed to the defense of the United Kingdom through NATO. So far as I am aware, our Ambassador and permanent representatives in NATO have failed to make full and appropriate use of that organization and our considerable influence in it on behalf of ending the Ulster crisis by pressing the British to change their disastrous policy. I certainly intend, on the basis of this investigation, to seek such action by our Government within the NATO alliance.

DR. FRANK PORTER GRAHAM

(Mr. RYAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RYAN. Mr. Speaker, it is with great sadness that I note the passing of Dr. Frank Porter Graham, who died yesterday in his home State of North Carolina.

Frank Graham's career was as distinguished as it was long, reaching from educator to U.S. Senator, from civil libertarian to peacemaker. A humanitarian in the truest sense of that word, he dedicated his life to the quest for justice and equality for all of our citizens. His concern for the human condition was well reflected in his stanch defense of civil rights, his striving for international peace, and his protection of the rights of labor.

Born in Fayetteville, N.C., in 1886, Frank Graham began his career as a high school teacher shortly before World War I. In 1930, he was named first president of the Consolidated University of North Carolina. In 1949, he was appointed by the Governor of North Carolina to serve the remainder of the term of the late Senator J. Melville Broughton. In 1951, he accepted an appointment to the United Nations, where he conscientiously worked in behalf of a settlement of the Kashmir dispute between India and Pakistan.

In 1961, he was presented the World Peace Award of the Freedom Association for his valiant efforts at the U.N.

Dr. Graham was a man of unusual kindness and humanity, who possessed absolute courage in his convictions. No area of human endeavor, if it served the cause of freedom, escaped some measure of Frank Graham's attention.

He lived out the prophecy made by one of his admirers many years ago:

> He'll speak for all mankind. He is a citizen of the universe.

Frank Porter Graham did speak for all mankind. His voice will be sorely missed.

At this point, I include in the RECORD a tribute to Dr. Graham which appeared in the New York Times on February 17, 1972:

DR. FRANK GRAHAM DIES AT 85; CIVIL RIGHTS LEADER IN THE SOUTH; HEADED UNIVERSITY OF NORTH CAROLINA—SERVED AS U.N. MEDIATOR IN THE KASHMIR DISPUTE

CHAPEL HILL, N.C., February 16.—Dr. Frank Porter Graham, formerly president of the University of North Carolina, a United States Senator and a United Nations mediator, died today in North Carolina Memorial Hospital. His age was 85. He had suffered a heart attack Friday.

CHAMPIONED MANY CAUSES

Among the many causes Dr. Graham espoused—from the teacher's rostrum, at the executive's desk and as a public figure and private citizen—were academic freedom, better education, civil rights, disarmament and peace.

His efforts earned him such labels as distinguished educator, ardent liberal, Communist and "traitor to the South." But even his most bitter opponents would have conceded the remarkable and lengthy consistency of his views.

In 1966 thirty-four years after Dr. Graham, as president of the Consolidated University of North Carolina, had defended the right of students to invite Norman Thomas, the Socialist candidate for President to speak at Chapel Hill, he was found again on the same campus, defending student rights in a similar case.

This time his title was United Nations Representative for India and Pakistan in their dispute over the Kashmir, but he saw no reason why his position should bar him for voicing his support for the students, who were suing the administration over the right to hear speakers of their choice.

PRAISED BLACK SIT-IN

"These students who have brought the court suit," he said that October day, "are not against the university but are for the hopes and heritage of freedom in keeping with the American Bill of Rights."

To Dr. Graham, the students fighting the ban were spiritual kin to the black students who had initiated a sit-in movement in January, 1960, at a department store lunch counter in Greensboro. Dr. Graham was on their side, too, and recalling a speech he had made at Bennett College, a school for black women, he related:

"I said that those Negroes sitting down were standing up for the American Bill of Rights. In their hearts they were not breaking the law, but testing it in order to fulfill the higher law of the Bill of Rights."

These liberal views had already put him at odds with many conservative elements in his own state years before.

In 1949, Dr. Graham was appointed to the Senate to fill the vacancy created by the death of J. Melville Broughton. But the following year, he was defeated for the Democratic nomination to a full term after a bitter campaign in which his opponents pictured him as a traitor to the South for having signed the controversial report of the President's Committee on Civil Rights during the Truman Administration.

Although Dr. Graham described himself as a man who had always opposed "Communism and all totalitarian dictatorships," there were also repeated attempts to brand him as a Communist or Communist sympathizer.

The attacks were based chiefly on the fact that he had been the first chairman of the Southern Conference on Human Welfare—an organization that was later declared a Communist front by the House Committee on Un-American Activities, although the committee specifically exempted Dr. Graham from the Communist charge.

MARINE OFFICER IN WAR

He was born in Fayetteville, N.C., on Oct. 14, 1886, and began his long academic career as a teacher at Raleigh High School before World War I. During the war, he rose from private to lieutenant in the Marines.

Afterward, he became a professor of history at the University of North Carolina, and in 1930 was named first president of the Consolidated University of North Carolina. This included the school in Chapel Hill, North Carolina State University in Raleigh and the Woman's College in Greensboro, now the University of North Carolina in Greensboro.

Dr. Graham was prominent in the Roosevelt Administration, serving as vice chairman of the National Consumers Advisory Board and as a leading member of the President's Advisory Council on Social Security, which drafted the framework of the social security system.

During World War II, he was appointed to the President's National Defense Mediation

Board, participating in hundreds of decisions seeking to avert strikes in war plants. President Roosevelt publicly refused to accept Dr. Graham's resignation when he tendered it in 1944.

In 1951, Dr. Graham took up his post as representative for India and Pakistan, and for the next 16 years he sought diligently but in vain to resolve the dispute between the two nations over Kashmir that had existed since their partition in 1947.

In 1961, the Freedom Association presented to him its World Peace Award for his work with the United Nations.

Failing health forced him to give up his United Nations post in 1967, and he and Mrs. Graham, the former Marian Drane, retired to Chapel Hill.

Mrs. Graham died that year. The couple had no children.

A funeral service will be held at 11 A.M. Friday at the University Presbyterian Church in Chapel Hill. A memorial service at 2 P.M. will take place in Memorial Hall on the university campus.

THE TALK OF THE TOWN

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, the current February 19 edition of the New Yorker magazine discusses the pressure brought on by environmentalists and their supporters which is going to result in the removal and disposal of a million and a half gallons of the defoliant Agent Orange, used on the South Vietnamese countryside and its people.

I commend the Department of Defense, though, I suspect this action was hastened by the concerned efforts of a Senate subcommittee investigation headed by Senator Philip A. Hart.

The article follows:

The Talk of the Town

NOTES AND COMMENT

The Department of Defense, not because its leaders wished to do so but because they were apprehensive about the political consequences of not doing so, has decided to withdraw from Vietnam its stockpile of a million and a half gallons of the defoliant Agent Orange—consisting of an equal mixture of the herbicides 2,4–D and 2,4,5–T—which it was about to hand over to the South Vietnamese authorities last fall to spray on their own countryside and people. As far back as 1966—when the Americans had already been waging herbicidal warfare in Vietnam for five years—samples of 2,4,5-T studied under government contract by Bionetics Research Laboratories, of Bethesda, Maryland, were shown to exert teratogenic, or fetus-deforming, effects on experimental animals. But it was not until about two years ago—after protracted delays, successive evasive maneuvers, and downright distortion of the facts by the Department of Agriculture and the Department of Defense, and even the concealment of important data about the potential hazards of 2,4,5–T by a former science adviser to President Nixon—the pressure, resulting from a Senate subcommittee investigation headed by Senator Philip Hart, obliged the Administration to place restrictions or prohibitions on certain uses of 2,4,5–T in this county. Since then, the herbicide has been shown to be inevitably contaminated with a dioxin known as TCDD, one of the most toxic substances known to man; even in as purified a form as science has been able to achieve, 2,4,5–T, in large doses, has been shown to have teratogenic effects on experimental animals. Confronted with these facts, the Department of Defense, in 1970, was forced to suspend its use in defoliation operations in Vietnam. As late as this past August, however, the Department was attempting to propagate the fiction that although the American military had stopped its own use of 2,4,5–T in Vietnam, it had no power to prevent the South Vietnamese authorities from using the million and a half gallons of Agent Orange remaining in Vietnam as they saw fit in defoliation operations conducted by the Army of the Republic of Vietnam. But further pressure, from responsible biologists and representatives of environmental groups in this country who are aware of the damage the use of this defoliant in Vietnam has already done, has now made it too difficult for the Department of Defense to hand over the stock of 2,4,5–T under the subterfuge that it no longer owns the stuff.

Currently, the United States Air Force, after considering various alternatives for the disposal of its stockpiles of Agent Orange in this country and in Vietnam—one was to sell the herbicide to some foreign country—has made tentative plans to attempt to render the stockpiles harmless by burning them in a commercial incineration plant here, with preference apparently given to a plant, with a smokestack a hundred feet high, that occupies a two-hundred-acre site just southeast of Houston. The amount of Agent Orange to be brought back here from Vietnam and the stockpiles of Agent Orange already in this country total 2,338,900 gallons. The Air Force plan calls for the burning of the herbicide at the rate of five thousand gallons a day for four hundred and sixty-eight days, with the incineration process, which results in the formation of hydrochloric acid and carbon dioxide, going on day and night. The drums in which the herbicide is now stored would, according to this plan, be flushed with an alkaline detergent solution, then mechanically crushed, and buried in a deep pit. An Air Force report estimates that the temperatures involved in the incineration process would decompose the herbicide and its dioxin contaminant, but in order to make sure that this decomposition would indeed take place the Air Force proposes to study the problem with the Department of Agriculture. However, since the Department of Agriculture has consistently argued in the past that 2,4,5-T, potent contaminant and all, is innocuous and benign, one can hardly feel sanguine about the reliability of whatever assurances the Department of Agriculture and the Air Force may come up with as a result of their joint study.

While agencies of the United States government are pondering the best ways of rendering the remaining stocks of Agent Orange harmless, others can ponder what the American military has wrought so far in its program of hebicidal warfare in Vietnam. In the last ten years, it has sprayed or dumped upon the Vietnamese countryside and the Vietnamese people approximately fifty thousand tons of herbicides. In order to hurt the Vietcong and to turn inhabitants of Vietcong-controlled areas into refugees, it has carried on a huge campaign of crop destruction, but that is not all. In the course of the herbicidal warfare in Vietnam, the Americans have defoliated a seventh of the land, ruined a large part of the timber resources that in the postwar period would have to be considered South Vietnam's principal potential export, and caused other grave ecological damage, some of which—like the infestation of certain defoliated areas by ineradicable bamboo—cannot be reversed for many generations. All this has been carried out to the accompaniment of repeated claims by the American military, and by the State Department as well, that the herbicides used are "not dangerous to man or animal life." A couple of years ago, a spokesman for the Department of Defense claimed as one of the benefits of the defoliation campaign in Vietnam that charcoal burners could easily move in on the defoliated hardwoods and could sell the resultant charcoal in the Vietnamese towns. The Air Force now appears to be happy that it has found a hundred-foot tower in this country to carry off the combustion products of the herbicide, with its potent dioxin. But the Vietnamese people have no such towers. Many Vietnamese women cook family meals over charcoal obtained from trees killed by the 2,4,5-T herbicidal spray. If the charcoal these women use still contains traces of the dioxin contaminant—or if, as some scientists have reported, the burning of 2,4,5-T can itself produce dioxin—they are running a risk of ingesting quantities, though small, of one of the most poisonous and teratogenic substances known. As long ago as 1967, a confidential memorandum from an American official connected with the herbicidal program in Vietnam reported that "no American program is more bitterly resented by the Vietnamese peasant than defoliation and crop-destruction operations." And now the Vietnamese people may be breathing the results of this American folly.

It would be unwise to conclude that the return of the remaining stocks of Agent Orange to this country means the end of herbicidal warfare in Vietnam. The American military provided the South Vietnamese authorities with several hundred thousand gallons of two additional herbicidal agents it has been using in Vietnam. They are Agent White, which is a mixture of 2,4-D and picloram (the latter is the most persistent of all herbicides), and Agent Blue, which is fifty-three per cent arsenic. Now these agents are being sprayed around fire bases and on the Vietnamese countryside by the South Vietnamese military. When will this destruction be brought to an end? Hasn't fifty thousand tons of herbicide been enough? We think that the proposed withdrawal, at least, of the remaining stocks of Agent Orange from Vietnam, having in effect knocked the props out from under the rationalizations of the American military about the harmlessness and humaneness of herbicidal warfare, should enable the United States Senate to ratify the Geneva Protocol of 1925, outlawing chemical and biological warfare. The Geneva Protocol has not been ratified by the United States, partly because the President, almost alone among the leaders of civilized nations who have expressed themselves on the question, is unwilling to recognize herbicidal warfare as one of the forms of warfare that the Protocol was intended to outlaw forever.

THE RIGHTS OF THE VICTIMS

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, legislation has been introduced in Congress, which I support, to provide for compensation for the victims of crime, particularly those who are hospitalized as the result of a criminal attack.

The rights of victims of crime was the subject of an address by Dr. Sidney Hook, professor of philosophy of New York University, at the December 11 commencement convocation of the University of Florida.

Dr. Hook's address discusses our criminal laws as they pertain to the accused, and suggests that changes in the law to give protection and comfort for victims of crime is long overdue.

Dr. Hook's address follows:

The Rights of the Victims

One of the great paradoxes of our time is that as the danger of major international wars recedes and the standards of living rises, the level of domestic violence and crime increases at a frightening rate. We need not rehearse the statistics that confirm the observations and experiences of concerned and intelligent citizens throughout the nation, especially of those who live in or visit our chief metropolitan centers.

Accompanying this increase in violence and crimes of violence has been an impressive, sympathetic concern—some have unfairly called it a preoccupation—with the human and civil rights of criminals and of those accused of crime. Judicial opinions as well as academic treaties on criminology reveal a growing and thoughtful sensitivity to the possibilty that the procedures by which defendants in criminal cases are booked and tried, and the evidence against them evaluated, may lead to the miscarriage of justice. Legal practices that were once accepted without any qualms and doubts at a time when the Bill of Rights was adopted to safeguard the basic liberties of the people against possible tyranny of the state, practices that endured far into the 20th century, have been discarded in recent years in consequence of new, ostensibly more enlightened readings or interpretations of our constitutional rights.

There are those who maintain that the alarming increase in crimes of violence is a direct consequence of the liberal modifications of our arrest and indictment procedures, of Supreme Court decisions that allegedly have shackled the law enforcement authorities and resulted in an ever larger number of recidivists or repeaters among criminal defendants. However, such an inference may be a case of *post hoc porpter hoc*. Casual questions in human affairs are notoriously difficult to resolve because of the number of variable involved. Striking correlations are not always evidence of the casual connections. For the purposes of our analysis, it is not necessary either to reject or accept the view—asserted by some with great confidence—concerning the influence of court decisions on criminal behavior. We suspend judgment about the *causes* of the increase in crimes of violence. We take our point of departure only from the indisputable fact that the marked and alarming increase in domestic violence has occurred.

What I propose to do is to raise some fundamental questions about the basic ethical and jurisprudential issues involved. Why should we as citizens be concerned with the human and legal rights of persons accused of breaking the law? Why should we seek to liberalize the processes of law enforcement by raising protective hedges around such persons by making their conviction more difficult?

The answers summarize a library of literature. First, over and above any considerations of humanitarianism, we wish to avoid the danger of convicting the accused on the basis of plausible evidence, who in ultimate fact may be innocent. Second, even if we do not make the presumption of innocence, there is a good reason why we should want to defend and extend the rights of those accused of crime. For hard as it may be for us to imagine, someday we ourselves may be in the dock facing criminal charges of one kind or another. The quirks of fate or hazard of fortune or the hidden purpose of providence—call it what you will!—have caught up even the most straitlaced and proper individuals in tragic and violent situations, as bizarre as they were unexpected. And not all of them have been crimes of passion. There is a perennial and humbling wisdom in the Puritan admonition to his son witnessing a wretch being dragged to the gallows. "There but for the Grace of God go I"! Both Goethe and Tolstoy have acknowledged that there is no crime in the calendar of human folly and beastiality which in some situation they could not conceive themselves committing. And if we pride ourselves on our own immunity from temptation, it may testify not so much to our incorruptibility, as to our lack of imaginative power.

This is the case for the rights of the criminal or the person accused of crime—and a powerful case it is. But before we bring in judgment we must perform an act of imaginative identification much simpler and more natural, and that is with ourselves as victims of crimes of violence. Granted that I am a potential criminal, I am also a potential victim of crime. The statistics of mounting violence show that cases of murder, nonnegligent manslaughter and forcible rape have skyrocketed. It has been estimated that in large metropolitan centers, the risk of becoming the victim of a serious crime has more than doubled in the last decade. Since many crimes of violence are committed by repeaters, the likelihood of my becoming a victim of crime is much greater than the likelihood of my becoming a criminal. Therefore, the protection of my legitimate rights not to be mugged, assaulted or murdered looms much larger in my mind than my legitimate rights as a criminal defendant.

Let us be clear about some things that have become obscure in virtue of our legitimate concern with the rights of criminals and those accused of crime. The potential victim has at least just as much a human right not to be violently molested, interfered with and outraged as the person accused of such crimes has to a fair trial and a skillful defense. As a citizen, most of the rights guaranteed me under the Bill of Rights become nugatory if I am hopelessly crippled by violence, and all of them become extinguished if I am killed. The rights of victims are recognized in some legal jurisdictions which compensate them for disasters in which they become involved through no fault of their own. In England, it has been suggested that the assets of apprehended criminals who have committed capital crimes be distributed to the dependents of their victims. But my point here is that this emerging legal right of the victim is dependent upon the prior recognition of his moral right not to be victimized by the lawbreaker.

No matter how we seek to escape from acknowledging it, there is a direct conflict between the rights of the criminal and of persons accused of crime and the rights of their past and potential victims. In some classes of cases it is clear that the greater the right of the person accused of crime, the less the right of his future victim. For example, the right of a person out on bail for a crime of violence, to receive bail when he is charged with committing the same type of violent offense, and to be granted bail even when he is charged with committing the offense a third time,—a right which he legitimately claims since he has not yet been found guilty of the first offense—conflicts head on with the rights of his victims who can legitimately claim that they suffered this violence because the person at bar enjoyed his constitutional right to be free on bail. Those who fail to see this do not understand the nature of moral decision. A moral decision is not a choice between good and bad, right and wrong—this represents no moral choice but summarizes the completed moral judgment!—but between good and good, right and right, good and right. They also fail to see that this conflict of rights is expressed in our very Bill of Rights in which the free exercise of religion conflicts with the principle of separation of state and church, and in which the right to a free press conflicts with the right to a fair trial. They therefore fail to understand the law-making powers of the Supreme Court, some of whose Justices in the past deceived themselves with the absurd view that the rights of the Bill of Rights are absolute and cannot be abridged under any circumstances. If rights conflict they obviously cannot all be absolute!

Why has this conflict between the rights of the potential criminals and the rights of potential victims not been previously recognized? Among the reasons undoubtedly has been the fact that in all periods when the rights of criminals and those accused of crime were being recognized the incidence of violent crime was relative to preceding periods, declining. Where crime was rife, the human rights of those accused of crime were hardly recognized or ruthlessly sacrificed on the altar of law and order. The recognition and appreciation of the human rights of criminals and those accused of crimes go back a long way, as the right of sanctuary in Biblical times indicates. When crime became a mass phenomenon, however, these rights were honored more in the breach than in the observance.

How, then, should we resolve the conflict between the rights of the criminally accused and the rights of the potential victims? I submit that at the present juncture of events because our cities have become more dangerous to life and limb than the darkest jungle we must give priority to the rights of potential victims. I am prepared to weaken the guarantees and privileges to which I am entitled as a potential criminal or as a defendant in order to strengthen my rights and safeguards as a potential victim. Purely on the basis of probabilities, I am convinced that I run a greater danger of suffering disaster as a potential victim than as a potential criminal or defendant. It is these probabilities, that shift from one historical period to another, that must be the guide to wise, prudent and just administration of the law.

Actually, although the protection of the rights in the Bill of Rights has been extended by the court to state jursdictions of criminal law, originally they were intended to curb primarily the violation of political rights by the Federal government. The judicial legislation that reinterpreted and extended these guarantees to hold for criminal defendants in state courts was in large measure certainly justified because of changes in social needs and the development of more humane attitudes. But today, a humane concern for the increasing number of victims of violent crimes requires a reinterpretation, another emphasis. When we read that preventive detention at the discretion of the judge by denial of bail to repeated offenders charged with extremely violent crimes is denounced by ritualistic liberals as a betrayal of elementary justice, as smacking of the concentration camps of Hitler and Stalin; when we read that a person jailed for the death of 12 persons is freed from jail and the case against him dismissed because the prosecution's only evidence against him was a voluntary confession to the police who had failed to inform him of his rights; when we read that a man who murdered one of three hostages he had taken had a record of 25 arrests ranging from armed robbery to aggravated assult and battery and that at the time of his arrest was free on bail awaiting grand jury action on charges in five separate cases in a two-month period preceding the murder; when we read that a man whose speeding car had been stopped by a motorcycle policeman who without a search warrant forced him to open his trunk that contained the corpses of a woman two children, walks out of court scot-free because the evidence is ruled inadmissible—we can only conclude that the law is an ass. The true wisdom of the law consists in recognizing the conflict of rights and adjudicating the conflict by a decision that strengthens the whole structure of rights in the community. At a time when crime is rife, if the proof of a grave crime like murder is incontestable on the basis of evidence that may be tainted because the law enforcement officers disregarded the niceties of procedure, then legal action should be taken against these officers by the state or the defendant rather than giving in effect a grant of immunity to a murderer.

We wish to reduce the role of violence in human affairs without sacrificing the principles of justice. The extension of the privileges against self-incrimination to absurd lengths by justices who abandoned common sense in a desire to establish a reputation for liberalism has no parallel in any other national legal jurisdiction. To elicit relevant testimony it has required legislation that has enabled some criminal defendants to purchase an undeserved immunity from punishment for very serious crimes. The statistics of violent crimes show that our situation is much too serious to indulge in sentimentalism at the expense of our fellow citizens. When crimes of violence are rare and infrequent we may justifiably lean over backwards to protect those accused of serious crime from a possible miscarriage of justice. But it is not justice but only compassion that leads us to say that it is better than nine or ninety-nine guilty men escape punishment for their crime than that one innocent man be convicted. For that is certainly not doing justice either to the nine or ninety-nine guilty or to their potential victims. When crime is rampant as it is today, those who invoke this dictum to justify strengthening the rights of those accused of violent crime at the expense of the rights of the potential victims of violent crimes, are not even entitled to the self-righteous claim that they are moved by compassion. Compassion, if it is a virtue, must itself be balanced and equitable. Where, we ask, is their compassion for the myriad victims of violent crime? At what point, we ask, do the victims come into the ethical reckoning?

There are no easy answers. What I am proposing is a reconsideration of some of our basic jurisprudential assumptions in this age of growing violent crime. In times of crises we suspend certain traditional guarantees. We can avoid such crises and the panic response to them by reflective action—measured, firm and humane. This requires a rethinking of our first principles in the ethics of law and punishment, a more pragmatic consideration of the historical context, and a greater awareness of social needs.

Liberalism in social life may be defined as devotion to human freedom pursued and tested by the arts of intelligence. But not all who call themselves liberal understand either themselves or the doctrines they profess. In other contexts, I have referred to "ritualistic liberals" as those who think they can be liberal without being intelligent. A particularly conspicuous species of the genus of ritualistic liberal is found among those writers on crime and law enforcement for whom the victims of crime are only incidental rather than central to the problem of crime prevention. Such writers in their mournful asessment of tragic encounters between law breakers and law officers tend to equate with a fine moral impartiality those who are slain with those who lose their life preventing it. Both kinds of fatality are deplored but strangely enough as if there were no moral distinction between them.

A similar absurd equation is being drawn today by those who proclaim that "the *fear* of crime is almost as serious a problem as the crime problem itself"—the implication being that the fear of crime is almost as great a threat to society as crime. Such a judgment is as bizarre as it is irresponsible. Where crime exists, especially violent crime of unusual magnitude, fear of crime is natural and reasonable, and not a form of hysteria or paranoia. Only in the absence of genuine persecution can a person be called a victim of a persecution complex. Only in the absence of widespread crime is the fear of crime a likely sign of hysteria.

In a dangerous world, the human race might not survive unless there were intelligent fear. That is why, e.g., intelligent fear of nuclear warfare, of large scale global pollution, and of the grim effects of the population explosion is justified. Only a sociological mad-hatter would say that the fear of a nuclear holocaust is almost as serious a problem as the threat of one, or the fear of the population explosion as dangerous as the pressure of unrestricted growth.

Let us have done with extremists who would mindlessly substitute either toughness or permissiveness for intelligence in their simplistic response to the mounting crime wave. A fruitful way to begin the quest for intelligent solutions is to reorient our thinking in the current period to the right of the potential victims of crime, and to the task of reducing their number and suffering. In this way we can best serve the interests both of justice and compassion.

SIR MALCOLM STODDART-SCOTT HONORED

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, it has been a great privilege for my wife and me for many years to enjoy the warm friendship of a distinguished member of the British House of Commons, Sir Malcolm Stoddart-Scott, his lovely wife, Lady Stoddart-Scott, his able son, John, and his charming daughter, Carolyn. We have exchanged visits over the years and my wife and I have found the friendship of Sir Malcolm and Lady Stoddart-Scott and their family to be a great source of delight.

Sir Malcolm has had a distinguished professional career as a physician, as a colonel in the British Army during World War II, as an outstanding business and civic leader, and now, for more than 26 years, as an eminent and highly esteemed member of the British House of Commons as a member of the Conservative Party. Sir Malcolm for many years headed the British Inter-Parliamentary Union delegation and performed distinguished service for his country and for the free parliamentary system in the world. He was only recently asked by the Speaker of the House of Commons to chair a British delegation making an extended tour of Africa. On April 14, 1971, Sir Malcolm was awarded the Freedom of the City of Ripon, an ancient and honored city in his constituency in that part of England in the vicinity of the great cities of York and Leeds, among others. On the occasion of being given the Freedom of the City of Ripon, Sir Malcolm delivered a very learned and memorable address upon the great and honorable history of Ripon; its contribution toward British leadership and life.

It is fascinating to review in Sir Malcolm's magnificent address the long history of Ripon, the distinguished achievements of so many of its citizens, and the important role that Ripon has played in the life of Great Britain. Sir Malcolm, with great honor and eminence, carries on the illustrious role of leadership in British national life which members of the House of Commons from Ripon have so long discharged. We all recognize that a part of the glory and greatness of the British people is to be found in the deep and ancient roots of their cities and institutions, and the richness which derives from such long continuity.

Sir Malcolm and Lady Stoddart-Scott have visited many times in Washington and their friends here will share Mrs. Pepper's and my delight upon Sir Malcolm's being awarded the freedom of the great city of Ripon and they and, I am sure, all of my colleagues will be immensely inspired to read the fascinating address in which Sir Malcolm responded so fittingly to the bestowal of this high honor. I, therefore, Mr. Speaker, include Sir Malcolm's able address in the body of the Record at this point following my remarks:

Speech Made by Colonel Sir Malcolm Stoddart-Scott

Mr. Mayor, Members of the Ripon City Council, My Lords, Ladies and Gentlemen:

I beg you to accept my sincere acknowledgement and grateful thanks for the kind expression of congratulation and goodwill which you have conveyed to me. I cannot hide from you the fact that the Freedom of your City which you have bestowed upon me this afternoon gives me the greatest possible pleasure. To be a Freeman of this famous, ancient and unique city is a privilege which has only rarely been conferred upon individuals and is, therefore, an enormous honour of which I am most appreciative and grateful.

This ancient city clustered around the Mother Church of Ripon, whose power and influence was effective from the 7th Century, is one of the most ancient ecclesiastic districts in England. It is not inappropriate to remind ourselves that Ripon was one of the first English cities to which a Civic Institution was granted. In the whole country, only York can claim to be older and senior to Ripon. For many centuries you have possessed the institutions and organisations by which men and women have been trained to discharge the great and important duties of public life. Such a past has imposed upon very many individuals great responsibilities, many sacrifices and much devoted service. For to govern is to serve.

Ripon city was first incorporated in the 14th year of the ever memorable King Alfred the Great—in the year 886, many years before the Norman Conquest. It is said about King Alfred that "he changed the whole face of the Kingdom into better form; dividing the provinces into counties and the counties into Tythings and Parishes".

Out of Local Government Institutions there grew here in Ripon, as elsewhere in Britain, the right to Parliamentary Representation. It was Edward 1st who availed himself of the fruitful conceptions of that great man Simon de Montfort. He called to the Council of the Nation, meeting in London, representatives from the cities and boroughs of England. To the first Parliament, Ripon was asked to send two members, and in most Parliaments since 1295, Ripon has had 1, 2 or 3 Members.

Parliamentary representation in early times was considered more of a burden than a privilege or an honour. Those who sent the Representatives to Parliament were obliged to maintain them. Representatives had little say in making or amending laws. The main cause for summoning Parliament was to give consent to taxes proposed, or to taxes which had already been imposed. Over the past 7 centuries, over 90 individuals have served this City in Parliament: and we are honoured, Mr. Mayor, to have with us to-day, descendants of more than a dozen of my predecessors. Many of the Members for Ripon have traversed the corridors of power and some have found an abode in the Hall of Fame.

Before the Reform Bill of 1832, there was no thought about democracy in the return of M.P.s for Ripon. Up to Elizabethan times, Members were nominated by the Archbishop of York and the Lord President of the Council in the North. In the 18th century, the right of nomination for the 2 M.P.s for Ripon lay in the hands of the 146 tenants of the Aislabie family who lived at Studley. This family controlled the representation with the result that there was no contested election for 118 years between 1714–1832. In spite of this undemocratic method of selection, Ripon was frequently represented by distinguished, courageous and notable Members of Parliament.

Members of Parliament for Ripon have filled all the important offices of State, including Foreign Secretaries, Colonial Secretaries, Home Secretaries, Secretaries of State for War, for India; a President of the Board of Trade, an Attorney General, a Lord Chancellor of Ireland, 2 Lord Chancellors of Great Britain, 5 Chancellors of the Exchequer, 2 Viceroys of India, and a Prime Minister.

The Hon. George Gosham represented the City 1880–1885; he was a great decliner of offices. He declined to be Secretary of State for War. He declined an invitation to be Speaker of the House of Commons, he declined an even greater honour—to be Viceroy of India, but ultimately, he replaced Lord Randolph Churchill as Chancellor of the Exchequer. In 1880 at the general election, he defeated Francis Darwin, who was squire of Creskeld in the Parish of Arthington. After his defeat, Mr. Darwin devoted himself to the work of the newly formed West Riding County Council, and played a much larger part in local affairs than the present overworked, inadequate and retiring Squire of Creskeld has been able to do.

Thomas Pemberton represented Ripon at Westminster from 1835 to 1843, he too, was noted for his refusal to accept honours and appointments. In 1843 he declined Sir Robert Peel's offer of the Solicitor Generalship. He also declined an invitation from the Lord Chancellor to become a Judge. Four successive Governments offered him a peerage. Lord Derby pressed him to become Lord Chancellor. It was said about him that 'For 20 years without ever receiving or desiring a shilling of public money, he rendered to the public unnoticed services of the highest imperial value'.

Sir Charles Wood a distinguished Statesman who ultimately became Viscount Halifax in 1865 became M.P. for Ripon after having represented Grimsby and Halifax in previous Parliaments. He filled the offices of Secretary of State for India, President of the Board of Trade, first Lord of the Admiralty, Lord Privy Seal and Chancellor of the Exchequer. He is said to have been a good administrator, a man of sound judgement, and his weight in the House of Commons was due to his knowledge and public affairs.

Hon. Edward Wood a grandson of Sir Charles Wood, represented Ripon for 15 years, and was in the unusual position in this century of being returned unopposed at 4 general elections. He filled many important posts between the two World Wars and during the last war. He was Secretary of State for War, Foreign Secretary, our Ambassador in Washington and a Member of Mr. Churchill's War Cabinet. In 1924 he was created Lord Irwin and became Viceroy of India, where he is still remembered as 'the great Christian Viceroy'.

To sit in Parliament in the 16, 17 and 18th centuries, called for courage, fortitude and a spirit of adventure, which is not demanded of Parliamentarians today. Sir John Mallory was the son and grandson of Members of Parliament for Ripon, as well as being M.P. for Ripon himself. He was also Governor of Skipton Castle and commanded a Regiment of Dragoons. In 1643 he distinguished himself by surprising the Parliamentary Troops holding Ripon and succeeded in capturing his Constituency in the name of the King. Three years later in 1646, Ripon returned Sir John Bourchier who was in the opposite camp of Sir John Mallory. Sir John Bourchier was one of the Judges when Charles I stood for trial in Westminster Hall. He, along with Oliver Cromwell and 58 other M.P.s signed King Charles' death warrant, an act which demanded courage, determination and fortitude. After the Restoration, the Speaker acquainted the House of Commons of his surrender in 1660. He died shortly afterwards, asserting to the last 'the justice of the King's condemnation'. Those were truly trying times for Parliamentarians.

The South Sea Bubble was a tragedy at the beginning of the 18th century of Rolls Royce proportions. The South Sea Company, by Act of Parliament, obtained a monopoly of trading in the Pacific Ocean and on the East Coast of South America. In 1720 the Company made an offer to pay off the whole of the National Debt for certain exclusive commercial privileges. The Public became inflamed by the brilliant prospects of the gold and silver Eldorados awaiting exploitation in South America; they crowded in the rush to purchase shares. A £100 share sold at £1000. Ultimately, the eyes of the public were opened to the recklessness of this scheme, and the shares that had cost £1000 slumped to £135. Many people were ruined, and the failure assumed proportions of a gigantic financial disaster. At that time John Aislabie was the M.P. for Ripon. He became Chancellor of the Exchequer in 1718 and was the chief promoter of the South Sea Company. The Company crashed in 1720, Aislabie resigned his office early in 1721. In March that year, the House of Commons found him guilty of the 'most notorious, dangerous and infamous corruption'. He was expelled from the House of Commons and committed to the Tower. It was largely thanks to Robert Walpole that he was released and was allowed to retain all the property he possessed before he became Chancellor of the Exchequer in 1718. So he fared much better than most of his colleagues. On his release, he devoted himself to his Yorkshire estate at Studley and local affairs. He was twice Mayor of Ripon and applied himself to the elegant and delightful art of landscape gardening. The lakes, fountains, the terraces and statues, the temples, the shady walks and the velvet lawns at Studley were his creation.

John Aislabie's son *William* on attaining his majority, took his Father's place in the House of Commons and sat in every Parliament until his death at the age of 81, having been M.P. for Ripon for 60 years. Only one M.P. has exceeded William Aislabie in his length of service in Parliament—Charles Pelham Villers, who was an M.P. for 63 years. Like his father, William Aislabie was twice Mayor of Ripon. It is said about him 'that the contemplation of the beauties of nature and rural occupations proved his chief and unceasing delight'. He had the delicity of adding to his vast possessions, the magnificent remains of Fountains Abbey, one of the most renowned structures which enrich the beauty of the valleys of England. Every man and woman who has eyes to see and a heart to feel is indebted to William Aislabie for the preservation from further decay, of this famous Abbey, which was described in 1733 by the poet Thomas Gent as 'That noble work in ruinous perfection'.

Ripon was represented at Westminster from 1807–1827 by Frederick John Robinson who was widely known as Prosperity Robinson. He held many public offices, Secretary State for the Colonies, Lord Privy Seal, but he owed his nickname to his success as Chancellor of the Exchequer. In his first budget in 1823, he had a large surplus. He was able to reduce the National Debt and lower taxation. He halved the window tax. His budget speech was greeted 'With demonstrations of applause more loud and more general than ever before greeted a Ministerial statement on finance'. He gave £40,000 towards building the British Museum. He spent £57,000 on purchasing the Angerstein collection of pictures which formed the basis of the National Gallery. In his second budget in 1824 he again reduced taxation and paid off more of the National Debt. He spent £500,000 on building churches, and £300,000 on restoring Windsor Castle. In his third budget in 1825, he congratulated the House of Commons on the prosperity of the country and reduced duties on iron, hemp, coffee, sugar, wine, spirits and cider. On the death of Canning in 1827, Mr. Prosperity Robinson was invited by the King to become Prime Minister and form an administration. He was also created Viscount Goderich. Alas, he was P.M. for 112 days only. He was unable to preserve unity among his Cabinet colleagues, so handed in his seal of office to King George 4th and wept bitter tears on the King's shoulder. He was succeeded in office by the Duke of Wellington. It is said that Viscount Goderich was probably the weakest P.M. who ever held office in this country and was the only one who never faced Parliament in this capacity. Whilst Viscount Goderich was spending those barren, sterile and abortive days at 10 Downing Street, Lady Goderich found her stay in this famous house more fruitful and productive. On Oct. 24th, 1827 she gave birth to a son, George Frederick Samuel Robinson, probably the only child of a serving P.M. to be born at 10 Downing St.

George Robinson became M.P. for Hull, Huddersfield and the West Riding. He was Secretary of State for War, Secretary of State for India, Lord President of the Council, First Lord of the Admiralty. He succeeded to his father's titles in 1859. He had also been created the Earl of Ripon. The new Earl of Ripon became the Marquess of Ripon for his services in successfully negotiating the Washington Treaty. In 1880 he became Viceroy of India. After 4 years in India, he returned to Ripon and took a very active part in local affairs. Like his father, he became Mayor of Ripon and in 1888 he was elected the first chairman of the newly formed West Riding County Council, on which he represented Ripon for 6 years.

As the oak of the forest grows slowly but surely, so self government in Britain has grown and expanded slowly, until it has become a dominant power. So a system of municipal rule as well as Government rule has evolved. Our system has proved to be the freest and most equitable that the world has yet seen. Detailed records are available of the work your Councils have done in the last 600 years or more. Up to 1604 your Council was presided over by a Wakeman, since that date many distinguished and public spirited men and women have been Aldermen and Councillors of your City. More than a dozen of those who have served as Mayor have also served your City in Parliament. Now we live in times of great change in local government, there are to be changes in boundaries, changes in powers, and changes in the financing of local authorities. No one at this moment can foresee with accuracy the outcome of the imminent reorganization.

It would be a thousand pities if the hundreds of years of history of local government in Ripon was lost, or the enormous part the Mother Church played in creating and administering this ancient city, was not recorded. I have sketched only briefly a very small fraction of your distinguished Parliamentary history. Your city has an industrial story which should be told—the textile industry, the paint and varnish industry. Your city was famed for the best and most curious spurs in England, from whence came the proverbial saying to express a man's honesty and fidelity "That such a person is as true as Ripon spurs." There is also a military history which should be recorded. Your free Grammar School (and may it always remain free) incorporated by Queen Mary in 1555, and your College of Education, now more than 110 years old, have many records, achievements and struggles, which must not get lost in the dust and must of time. May I be forgiven Mr. Mayor for making a suggestion. In order that there shall be an even closer contact between these educational establishments and your city, your Council might consider appointing an Honorary Historian from the Staffs, in order that the history, achievements and the records of every aspect of your city life can be preserved, recorded for all time, and made known.

It is right to cherish memories of the past, but we who live now have to labour manfully and wisely to fulfill the duties that lie in our hands today and try to foresee and face the vast problems of tomorrow. I believe we must speak with reverence of the past, as it is the mother of our present and a guide to the future. Someone must be given the task of telling us of the achievements, the mistakes and the lessons from the past and to help us in the days ahead. I have, this afternoon, dealt almost entirely with the past. May I be forgiven if for two minutes I speak briefly of the two great overwhelming problems which I see facing our nation, our countryside, our towns, our institutions, and indeed, the world. I note that through the centuries your City Council has foreseen these problems and taken action. The two overwhelming problems which must be dealt with immediately are pollution and over population. Your city through the ages has frequently taken steps to remove pollution from your streets and your river.

As far back as 1466 (over 500 years ago) a man was fined 3/4d. for putting lime skins into the water of the Skell. In 1507 Robert Kettlewell and John Middleton were chosen as Inspectors of the watercourse of the Nether Skell "for the conservation of the purity of the same". In 1509 a bye law was renewed that prevented beast bags, entrails being washed with the water of the Skell or next to it. Two men were also fined for having led a waggon of dung drawn by oxen through the Skell. In 1702 another order was remade by your Council to punish people who suffered dung hills to lie in the street. In 1786 your Council decided that the Street Cryer should give information against people who defaced, damaged or destroyed guide posts and rubbish posts and should impound pigs going about the streets or highways. Immediately after the passing of the Nuisance Removal Act in 1855, your Council appointed John Hall as the first Sanitary Inspector at a salary of £10 per year. Over population is a more difficult problem, but somehow Ripon has found the solution; in spite of the fact that Robert Ogiby who died in 1768 at the age of 114 having been married for 73 years, left behind, 25 children, 12 boys and 13 girls. In spite of the fact that Mrs. Lupton of Stammer Gate who died in 1718 at the age of 74 was mother, grandmother and great grandmother of 150 children. In spite of Mrs. Brown who died in 1840 having been confined 14 times, and giving birth to four sets of twins. In spite of these remarkable feats of productivity and fruitfulness, Ripon's population has not even doubled in the last 100 years, whilst the rest of the country has increased sixfold. Now we are told, the world's population will double in the next 35 years, from 3600m. to 7200m. If true, then starvation and pollution of the earth, air and water is inevitable.

Mankind is now faced with the greatest challenge in the world's history. A challenge, which in the past, Ripon seems somehow to have met and overcome. May you continue to deal with this threat to mankind, and especially to our island, which is already the most thickly populated part of this small world.

I hope, Mr. Mayor, you will permit me to express my sincere wishes for the prosperity of your City, and to add my hope that we may be enabled each in our respective ways, to promote the success and welfare of this City.

The granting of the Freedom of your ancient, unique and charming City, is a signal honour which I and my family will always be proud of and cherish.

I am most grateful to you Sir, and your Council for this great honour. I only hope I am worthy of it.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Nichols (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Bow (at the request of Mr. Gerald R. Ford), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Moorhead, for 3 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. McCollister), to revise and extend their remarks, and to include extraneous matter:)

Mr. Sebelius, today, for 10 minutes.
Mr. Blackburn, today, for 15 minutes.
Mr. Miller of Ohio, today, for 5 minutes.
Mr. Kemp, on February 22, 1972, for 30 minutes.
Mr. Young of Florida, today, for 5 minutes.

(The following Members (at the request of Mr. Denholm) and to revise and extend their remarks and include extraneous matter:)

Mr. Dent, for 60 minutes, today.
Mr. Gonzalez, for 10 minutes, today.
Mr. Fraser, for 5 minutes, today.
Mr. Addabbo, for 10 minutes, today.
Mr. Aspin, for 10 minutes, today.
Mr. Cotter, for 10 minutes, today.
Mr. Aspin, for 10 minutes, on Monday, February 21.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Aspinall and to include extraneous matter.

(The following Members (at the request of Mr. McCollister) and to include extraneous matter:)

Mr. Zion.
Mr. Scherle in 10 instances.
Mr. Price of Texas in three instances.
Mr. Derwinski in three instances.
Mr. Devine.
Mr. Wyman in two instances.
Mrs. Heckler of Massachusetts in two instances.
Mr. McClory.
Mr. Morse.
Mr. Snyder.
Mr. McCollister in three instances.
Mr. Conable.
Mr. Pettis.
Mr. Dellenback in two instances.
Mr. Hastings in two instances.
Mr. Winn.
Mr. Findley.
Mr. Hansen of Idaho.
Mr. Terry.
Mr. Arends.
Mr. Rhodes in five instances.
Mr. Minshall.
Mr. Mills of Maryland in two instances.
Mr. McDonald of Michigan.
Mr. Railsback.
Mr. Schmitz in two instances.
Mr. McKinney.
Mr. Baker.
Mr. Gross.
Mr. Duncan in two instances.

(The following Members (at the request of Mr. Denholm) and to include extraneous matter:)

Mr. Rarick in three instances.
Mr. Gonzalez in two instances.
Mr. Hagan in three instances.
Mr. Rogers in six instances.
Mr. Steed.
Mr. Fountain in two instances.
Mr. Kluczynski in three instances.
Mr. Howard.
Mr. Matsunaga in three instances.
Mr. Clay in six instances.
Mr. Garmatz.
Mr. Harrington in three instances.
Mrs. Hicks of Massachusetts in two instances.
Mr. Fisher in three instances.
Mr. Purcell.
Mr. Griffin.
Mr. Rangel in four instances.
Mr. Stokes in three instances.
Mr. Brasco in two instances.
Mr. Carney in two instances.
Mr. Carey of New York in two instances.
Mr. Roybal in 10 instances.
Mr. Burton in two instances.
Mr. Dorn in two instances.
Mr. Barrett.
Mr. Roe in two instances.
Mr. Patten.
Mr. Bingham in three instances.
Mrs. Sullivan.
Mr. O'Neill in six instances.
Mr. Minish.
Mr. Cotter.
Mr. Brooks.
Mr. Hungate in two instances.
Mr. Waldie in six instances.
Mr. Slack.
Mr. James V. Stanton.
Mr. Jacobs in five instances.
Mr. Hamilton in two instances.
Mr. Pepper in three instances.
Mr. Roncalio in six instances.
Mr. Price of Illinois.
Mr. Fraser in five instances.
Mr. Moorhead in two instances.
Mr. Ryan in three instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 596. An act to require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within 60 days after the execution thereof; to the Committee on Foreign Affairs.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3122. An act to extend certain provisions of the Federal Water Pollution Control Act through June 30, 1972, and others through April 30, 1972.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 43 minutes p.m.), under its previous order, the House adjourned until Monday, February 21, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1627. A letter from the Secretary of the Navy, transmitting a report of the number of officers in the Navy and Marine Corps above the grade of lieutenant commander or major who are entitled to flight incentive pay, and the average monthly incentive pay authorized for the 6 months ended November 30, 1971, pursuant to 37 U.S.C. 301(g); to the Committee on Armed Services.

1628. A letter from the Assistant Secretary of State for Congressional Relations, transmitting the semiannual report of third country transfers of U.S. origin defense articles to which consent has been granted under the provisions of section 3(a)(2) of the Foreign Military Sales Act and section 505(a) of the Foreign Assistance Act of 1961, as amended, covering the period ended December 31, 1971; to the Committee on Foreign Affairs.

1629. A letter from the Secretary of the Interior, transmitting the Annual Report of the Office of Coal Research for 1972, pursuant to Public Law 86–599; to the Committee on Interior and Insular Affairs.

1630. A letter from the Attorney General, transmitting a draft of proposed legislation to implement the Convention on the Prevention and Punishment of the Crime of Genocide; to the Committee on the Judiciary.

1631. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to promote the care and treatment of veterans in State veterans' homes; to the Committee on Veterans' Affairs.

RECEIVED FROM THE COMPTROLLER GENERAL

1632. A letter from the Comptroller General of the United States, transmitting a report that greater conservation benefits could be attained under the rural environmental assistance program administered by the Agricultural Stabilization and Conservation Service, Department of Agriculture; to the Committee on Government Operations.

1633. A letter from the Comptroller General of the United States, transmitting a report on more specific policies and procedures needed for determining royalties on oil from leased Federal lands, under the supervision of the Geological Survey of the Department of the Interior; to the Committee on Government Operations.

1634. A letter from the Comptroller General of the United States, transmitting a report on problems being experienced in the dependent shelter program administered by the Department of Defense in the Republic of Vietnam; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALPERN: Committee on Foreign Affairs. Report on the international narcotics trade and its relation to the United States; with amendment (Rept. 92–836). Referred to the Committee of the Whole House on the State of the Union.

Mr. WALDIE: Committee on Post Office and Civil Service. H.R. 7060. A bill to include firefighters within the provisions of section 8336(c) of title 5, United States Code, relating to the retirement of Government employees engaged in certain hazardous occupations; with amendment (Rept. 92–840). Referred to the Committee of the Whole House on the State of the Union.

Mr. WALDIE: Committee on Post Office and Civil Service. H.R. 12202. A bill to increase the contribution of the Federal Government to the costs of health benefits, and for other purposes; with amendment (Rept. 92–841). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DENNIS: Committee on the Judiciary. H.R. 4050. A bill for the relief of Maria Manuela da Jesus Gambino; with amendments (Rept. 92–837). Referred to the Committee of the Whole House.

Mr. McKEVITT: Committee on the Judiciary. H.R. 6504. A bill for the relief of Margarida Aldora Correia dos Reis; with amendment (Rept. 92–838). Referred to the Committee of the Whole House.

Mr. HOGAN: Committee on the Judiciary. H.R. 10142. A bill for the relief of Emilia Ruffolo; with amendment (Rept. 92–839). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROOKS:

H.R. 13200. A bill to amend the Federal Property and Administrative Services Act of 1949 to improve the quality of information available to Federal policymaking officials in matters involving data processing technology, and for other purposes; to the Committee on Government Operations.

By Mr. SAYLOR (for himself, Mr. Hosmer, Mr. Skubitz, Mr. Kyl, Mr. Don H. Clausen, Mr. Ruppe, Mr. Sebelius, and Mr. Córdova):

H.R. 13201. A bill to authorize the Secretary of the Interior to establish the John D. Rockefeller, Jr. Memorial Parkway, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ASHBROOK:

H.R. 13202. A bill to extinguish Federal court jurisdiction to require attendance at a particular school of any student because of race, color, creed, or sex; to the Committee on the Judiciary.

By Mr. BINGHAM:

H.R. 13203. A bill to ban the usage of diethylstilbestrol (DES) as a growth promotant; to the Committee on Interstate and Foreign Commerce.

By Mr. BINGHAM (for himself, Mr. Burton, Mr. Carey of New York, Mr. Harrington, Mr. Hathaway, Mr. Sarbanes, and Mr. Matsunaga):

H.R. 13204. A bill to authorize the Secretary of State to furnish assistance for the resettlement of Soviet Jewish refugees in Israel; to the Committee on Foreign Affairs.

By Mr. BINGHAM (for himself, Mr. Aspin, Mr. Dellums, Mr. Eilberg, Mr. Halpern, Mr. Helstoski, Mr. Matsunaga, Mr. Metcalfe, Mr. Mitchell, Mr. Morse, Mr. Nix, Mr. Pepper, Mr. Rosenthal, Mr. Ryan, and Mr. Scheuer):

H.R. 13205. A bill to provide Federal citizen anticrime patrol assistance grants to residents' organizations; to the Committee on the Judiciary.

By Mr. BLACKBURN:

H.R. 13206. A bill to establish a national flood-plain policy and to authorize the Secretary of the Interior, in cooperation with Federal agencies and the States, to encourage the dedication of the Nation's flood plains as natural floodways, to protect, conserve, and restore their natural functions and resources, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 13207. A bill to authorize the Secretary of the Interior to further develop a program for the designation and protection of additional natural areas throughout the Nation, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 13208. A bill to amend the Uniform Time Act of 1966 to advance to the last Sunday, before the first Monday in September the conclusion of the daylight savings time period of the year; to the Committee on Interstate and Foreign Commerce.

By Mr. CHAPPELL:

H.R. 13209. A bill to authorize the Attorney General to exchange criminal record information with certain State and local agencies; to the Committee on the Judiciary.

By Mr. DANIELS of New Jersey:

H.R. 13210. A bill to amend the Education of the Handicapped Act to provide tutorial and related instructional services for homebound children through the employment of college students, particularly veterans and other students who themselves are handicapped; to the Committee on Education and Labor.

By Mr. DINGELL:

H.R. 13211. A bill to amend the Clean Air Act to authorize the Administrator of the Environmental Protection Agency to establish emission standards for motor vehicles in actual use and to require States to establish programs for inspection and testing of such vehicles to enforce compliance with such standards; to the Committee on Interstate and Foreign Commerce.

By Mr. EDWARDS of Alabama:

H.R. 13212. A bill to amend the National Trails System Act to authorize a feasibility study relating to the Bartram Trail in Alabama; to the Committee on Interior and Insular Affairs.

By Mr. FRASER (for himself, Mr. Drinan, Mr. Rodino, Mr. Moss, Mr. Anderson of Illinois, Mr. Hicks of Washington, Mrs. Abzug, Mr. Harrington, Mr. Rees, Mr. Rangel, Mr. Green of Pennsylvania, Mr. Tiernan, Mr. Anderson of California, Mr. Garmatz, Mr. Podell, Mr. Price of Illinois, Mrs. Hansen of Washington, Mr. Mitchell, Mr. Schwengel, Mr. Gallagher, Mr. Leggett, Mr. Forsythe, Mr. Mazzoli, Mr. Moorhead, and Mr. Helstoski):

H.R. 13213. A bill to require that an addition $4 per month (reflecting post-1970 across-the-board increases in social security and railroad retirement benefits) be passed along to public assistance recipients, either by disregarding such amount in determining their need or otherwise; to the Committee on Ways and Means.

By Mr. FRASER (for himself, Mr. Badillo, Mr. Edwards of California, Mr. O'Konski, Mr. Conyers, Mr. Melcher, Mr. Howard, Mr. Reuss, Mr. Mollohan, Mr. Waldie, Mr. Bolling, Mr. Miller of California, Mr. Rosenthal, Mr. Rarick, Mr. Halpern, Mr. Thompson of New Jersey, Mr. Dowdy, Mr. Dellums, Mr. O'Hara, Mr. Boland, Mr. Koch, Mr. Riegle, Mr. Mikva, Mr. Roy, and Mr. Scheuer):

H.R. 13214. A bill to require that an additional $4 per month (reflecting post-1970 across-the-board increases in social security and railroad retirement benefits) be passed along to public assistance recipients, either by disregarding such amount in determining their need or otherwise; to the Committee on Ways and Means.

By Mr. FRASER (for himself, Mr. Danielson, Mr. Dow, Mr. Murphy of New York, Mr. Seiberling, Mr. Bergland, Mr. Morse, Mr. Nedzi, Mr. St Germain, Mr. Meeds, Mr. Begich, Mr. Stokes, Mr. Bingham, Mr. Sarbanes, and Mr. Culver):

H.R. 13215. A bill to require that an additional $4 per month (reflecting post-1970 across-the-board increases in social security and railroad retirement benefits) be passed along to public assistance recipients, either by disregarding such amount in determining their need or otherwise; to the Committee on Ways and Means.

By Mr. GAYDOS:

H.R. 13216. A bill to establish a Federal program to encourage the voluntary donation of pure and safe blood, to require licensing and inspection of all blood banks, and to establish a national registry of blood donors; to the Committee on Interstate and Foreign Commerce.

H.R. 13217. A bill to provide for orderly trade in antifriction ball and roller bearings and parts thereof; to the Committee on Ways and Means.

By Mr. GRIFFIN:

H.R. 13218. A bill to authorize the Secretary of the Army to investigate, plan, and construct projects for the control of streambank erosion; to the Committee on Public Works.

By Mr. HASTINGS:

H.R. 13219. A bill to amend the Public Health Service Act so as to provide for the prevention and control of venereal disease; to the Committee on Interstate and Foreign Commerce.

By Mr. HEINZ:

H.R. 13220. A bill to provide financial assistance for the construction and operation of senior citizens' community centers, and for other purposes; to the Committee on Education and Labor.

By Mr. HELSTOSKI:

H.R. 13221. A bill to amend section 217(c) of the Interstate Commerce Act to require common carriers by motor vehicle engaged in the transportation of passengers to file and post notice of any proposed tariff change at least 60 days before such change becomes effective, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 13222. A bill to require the National Railroad Passenger Corp. to provide free or reduced-rate railroad transportation to retired railroad employees and their dependents on the same basis that such transportation was available to such employees and dependents on the date of enactment of the Rail Passenger Service Act of 1970; to the Committee on Interstate and Foreign Commerce.

By Mr. JOHNSON of Pennsylvania:

H.R. 13223. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. KOCH (for himself, Mr. Celler, Mrs. Abzug, Mr. Biaggi, Mr. Brasco, Mr. Delaney, and Mr. Dulski):

H.R. 13224. A bill to amend chapter 3 of title 3, United States Code, to provide for the protection of foreign diplomatic missions; to the Committee on Public Works.

By Mr. McDADE:

H.R. 13225. A bill to authorize an increase in land acquisition funds for Delaware Water Gap National Recreation Area, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 13226. A bill to assure protection of environmental values while facilitating construction of needed electric power supply facilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 13227. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. MELCHER:

H.R. 13228. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

H.R. 13229. A bill to amend chapter 15 of title 38, United States Code, to provide for the payment of pensions to World War I veterans and their widows, subject to $3,000 and $4,200 annual income limitations; to provide for such veterans a certain priority in entitlement to hospitalization and medical care; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MIKVA:

H.R. 13230. A bill to reform parole procedures for adult and youthful offenders; to the Committee on the Judiciary.

By Mr. MILLS of Maryland:

H.R. 13231. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. NIX:

H.R. 13232. A bill to promote international cooperation in United Nations efforts to protect the world's oceans and atmosphere; to the Committee on Foreign Affairs.

H.R. 13233. A bill to authorize the Secretary of State to furnish assistance for the resettlement of Soviet Jewish refugees in Israel; to the Committee on Foreign Affairs.

By Mr. PATTEN:

H.R. 13234. A bill to amend title XVII of the Social Security Act to provide financial assistance to individuals suffering from chronic kidney disease who are unable to pay the costs of necessary treatment, and to authorize project grants to increase the availability and effectiveness of such treatment; to the Committee on Ways and Means.

By Mr. PRYOR of Arkansas:

H.R. 13235. A bill to amend the Federal Trade Commission Act to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. QUILLEN:

H.R. 13236. A bill to amend title 38 of the United States Code to increase the pension payable to Spanish-American War veterans and the widows and children of such veterans; to the Committee on Veterans' Affairs.

By Mr. ST GERMAIN:

H.R. 13237. A bill to promote development and expansion of community schools throughout the United States; to the Committee on Education and Labor.

By Mr. SPRINGER:

H.R. 13238. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. STEELE (for himself, Mr. Halpern, Mrs. Grasso, Mr. Madden, Mr. Thone, Mr. McDade, Mr. Pike, Mrs. Hicks of Massachusetts, Mr. Nichols, Mrs. Abzug, Mr. Harrington, Mr. Morse, Mr. Bingham, Mr. Dow, Mr. Peyser, Mr. Hastings, Mr. Heinz, Mr. Howard, Mr. Alexander, and Mr. Lent):

H.R. 13239. A bill to provide for the creation of the National Fire Academy, and for other purposes; to the Committee on Science and Astronautics.

By Mr. STEELE (for himself, Mr. Halpern, Mrs. Grasso, Mr. Madden, Mr. Thone Mr. McDade, Mr. Pike, Mrs. Hicks of Massachusetts, Mr. Nichols, Mrs. Abzug, Mr. Harrington, Mr. Morse, Mr. Bingham, Mr. Dow, Mr. Peyser, Mr. Hastings, Mr. Heinz, Mr. Howard, Mr. Alexander, and Mr. Kyros):

H.R. 13240. A bill to provide the Secretary of Commerce with the authority to make grants to States, counties, and local communities to pay for up to one-half of the costs of training programs for firemen; to the Committee on Science and Astronautics.

By Mr. STEELE (for himself, Mr. Halpern, Mrs. Grasso, Mr. Madden, Mr. Thone, Mr. McDade, Mr. Pike, Mrs. Hicks of Massachusetts, Mr. Nichols, Mrs. Abzug, Mr. Harrington, Mr. Morse, Mr. Bingham, Mr. Dow, Mr. Peyser, Mr. Hastings, Mr. Heinz, Mr. Howard, Mr. Alexander, Mr. Kyros, and Mr. Lent):

H.R. 13241. A bill to provide the Secretary of Commerce with the authority to make grants to accredited institutions of higher education to pay for up to one-half of the costs of fire science programs; to the Committee on Sciences and Astronautics.

By Mr. STEELE (for himself, Mr. Halpern, Mrs. Grasso, Mr. Madden, Mr. Thone, Mr. McDade, Mr. Pike, Mrs. Hicks of Massachusetts, Mr. Nichols, Mrs. Abzug, Mr. Harrington, Mr. Morse, Mr. Bingham, Mr. Dow, Mr. Peyser, Mr. Hastings, Mr. Heinz, Mr. Howard, Mr. Alexander, Mr. Kyros, Mr. McCormack, Mr. Long of Maryland, and Mr. Lent):

H.R. 13242. A bill to provide financial aid to local fire departments in the purchase of advanced firefighting equipment; to the Committee on Science and Astronautics.

By Mr. STEELE (for himself, Mr. Halpern, Mrs. Grasso, Mr. Madden, Mr. Thone, Mr. McDade, Mr. Pike, Mrs. Hicks of Massachusetts, Mr. Nichols, Mrs. Abzug, Mr. Harrington, Mr. Morse, Mr. Bingham, Mr. Dow, Mr. Peyser, Mr. Hastings, Mr. Heinz, Mr. Howard, Mr. Alexander, Mr. McCormack, Mr. Long of Maryland, and Mr. Lent):

H.R. 13243. A bill to provide financial aid for local fire departments in the purchase of firefighting suits and self-contained breathing apparatus; to the Committee on Science and Astronautics.

By Mr. STEELE (for himself, Mr. Halpern, Mrs. Grasso, Mr. Madden, Mr. Thone, Mr. McDade, Mr. Pike, Mrs. Hicks of Massachusetts, Mr. Nichols, Mrs. Abzug, Mr. Harrington, Mr. Morse, Mr. Bingham, Mr. Dow, Mr. Peyser, Mr. Hastings, Mr. Heinz, Mr. Howard, Mr. Alexander, Mr. McCormack, and Mr. Long of Maryland):

H.R. 13244. A bill to extend for 3 years the authority of the Secretary of Commerce to carry out fire research and safety programs; to the Committee on Science and Astronautics.

By Mr. STEELE (for himself, Mr. Halpern, Mrs. Grasso, Mr. Madden, Mr. Thone, Mr. McDade, Mr. Pike, Mrs. Hicks of Massachusetts, Mr. Nichols, Mrs. Abzug, Mr. Harrington, Mr. Morse, Mr. Bingham, Mr. Dow, Mr. Peyser, Mr. Hastings, Mr. Heinz, Mr. Howard, and Mr. McCormack):

H.R. 13245. A bill to establish a National Fire Data and Information Clearinghouse, and for other purposes; to the Committee on Science and Astronautics.

By Mr. STEELE (for himself, Mr. Halpern, Mrs. Grasso, Mr. Madden, Mr. Thone, Mr. McDade, Mr. Pike, Mrs. Hicks of Massachusetts, Mr. Nichols, Mrs. Abzug, Mr. Harrington, Mr. Morse, Mr. Bingham, Mr. Dow, Mr. Peyser, Mr. Hastings, Mr. Heinz, Mr. Howard, Mr. McCormack, and Mr. Long of Maryland):

H.R. 13246. A bill to amend the Flammable Fabrics Act to extend the provisions of that act to construction materials used in the interiors of homes, offices, and other places of assembly or accommodation, and to authorize the establishment of toxicity standards; to the Committee on Interstate and Foreign Commerce.

By Mr. STEELE (for himself, Mr. Halpern, Mrs. Grasso, Mr. Madden, Mr. Thone, Mr. McDade, Mr. Pike, Mrs. Hicks of Massachusetts, Mr. Nichols, Mrs. Abzug, Mr. Harrington, Mr. Morse, Mr. Bingham, Mr. Dow, Mr. Peyser, Mr. Hastings, Mr. Heinz, Mr. Howard, and Mr. McCormack, and Mr. Lent):

H.R. 13247. A bill to amend the Hazardous Materials Transportation Control Act of 1970 to require the Secretary of Transportation to issue regulations providing for the placarding of certain vehicles transporting hazardous materials in interstate and foreign commerce, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WYMAN:

H.R. 13248. A bill to establish the Board of Visitors to the Federal Prisons, and for other related purposes; to the Committee on the Judiciary.

By Mr. BIAGGI:

H.R. 13249. A bill to amend the Flammable Fabrics Act to extend the provisions of that act to construction materials used in the interiors of homes, offices, and other places of assembly or accommodation, and to authorize the establishment of toxicity standards; to the Committee on Interstate and Foreign Commerce.

H.R. 13250. A bill to amend the Hazardous Materials Transportation Control Act of 1970 to require the Secretary of Transportation to issue regulations providing for the placarding of certain vehicles transporting hazardous materials in interstate and foreign commerce, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 13251. A bill to provide for the creation of the National Fire Academy, and for other purposes; to the Committee on Science and Astronautics.

H.R. 13252. A bill to provide the Secretary of Commerce with the authority to make grants to States, counties, and local communities to pay for up to one-half of the costs of training programs for firemen; to the Committee on Science and Astronautics.

H.R. 13253. A bill to provide financial aid to local fire departments in the purchase of advanced firefighting equipment; to the Committee on Science and Astronautics.

H.R. 13254. A bill to provide financial aid for local fire departments in the purchase of firefighting suits and self-contained breathing apparatus; to the Committee on Science and Astronautics.

H.R. 13255. A bill to establish a National Fire Data and Information Clearinghouse, and for other purposes; to the Committee on Science and Astronautics.

H.R. 13256. A bill to extend for 3 years the authority of the Secretary of Commerce to carry out fire research and safety programs; to the Committee on Science and Astronautics.

H.R. 13257. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mr. EVINS of Tennessee:

H.R. 13258. A bill to amend the Vocational Education Act of 1963 to provide for the establishment and operation of a vocational school in every county of the United States; to the Committee on Education and Labor.

By Mr. FRASER (for himself, Mr. Wolff, Mr. Young of Florida, and Mr. Ryan):

H.R. 13259. A bill to require that an additional $4 per month (reflecting post-1970 across-the-board increases in social security and railroad retirement benefits) be passed along to public assistance recipients, either by disregarding such amount in determining their need or otherwise; to the Committee on Ways and Means.

By Mr. LANDGREBE:

H.R. 13260. A bill to amend the Communications Act of 1934 to provide that broadcast licenses shall be granted for an unlimited term; to the Committee on Interstate and Foreign Commerce.

By Mr. McCLOSKEY:

H.R. 13261. A bill to authorize the Secretary of the Interior to assist the States in controlling damage caused by predatory animals; to establish a program of research concerning the control and conservation of predatory animals; to restrict the use of toxic chemicals as a method of predator control; and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. McFALL:

H.R. 13262. A bill to assist local educational agencies to provide quality education programs in elementary and secondary schools; to the Committee on Education and Labor.

By Mr. ROE:

H.R. 13263. A bill to amend title 38, United States Code, to increase the amount of veterans' benefits for burial and funeral expense allowance from the present $250 to $750; to the Committee on Veterans' Affairs.

By Mr. ROY:

H.R. 13264. A bill to retain November 11 as Veterans Day; to the Committee on the Judiciary.

By Mr. JOHNSON of Pennsylvania:

H.J. Res. 1068. Joint resolution to authorize the President to designate the period beginning March 26, 1972, as "National Week of Concern for Prisoners of War/Missing in Action"; to the Committee on the Judiciary.

By Mr. PRICE of Texas:

H.J. Res. 1069. Joint resolution proposing an amendment to the Constitution of the United States with respect to the attendance of Senators and Representatives at sessions of the Congress; to the Committee on the Judiciary.

By Mr. ROGERS (for himself, Mr. Satterfield, Mr. Kyros, Mr. Preyer of North Carolina, Mr. Symington, Mr. Roy, Mr. Nelsen, Mr. Carter, Mr. Hastings, and Mr. Schmitz):

H.J. Res. 1070. Joint resolution relating to sudden infant death syndrome; to the Committee on Interstate and Foreign Commerce.

By Mr. HELSTOSKI (for himself, Mr. Forsythe, Mrs. Abzug, Mr. Ashley, Mr. Badillo, Mr. Burton, Mr. Carey of New York, Mr. Dellums, Mr. Dow, Mr. Drinan, Mr. Edwards of California, Mr. Flowers, Mr. Fraser, Mr. Halpern, Mr. Harrington, Mrs. Heckler of Massachusetts, Mr. Kastenmeier, Mr. Leggett, Mr. Mitchell, Mr. Rangel, Mr. Rees, Mr. Riegle, Mr. Rosenthal, Mr. Ryan, and Mr. Tiernan):

H. Con. Res. 537. Concurrent reoslution providing for the recognition of Bangladesh; to the Committee on Foreign Affairs.

By Mr. MINISH:

H. Con. Res. 538. Concurrent resolution expressing the sense of the Congress with respect to the current situation in Northern Ireland; to the Committee on Foreign Affairs.

By Mr. MURPHY of Illinois:

H. Con. Res. 539. Concurrent resolution expressing the sense of the Congress with respect to the current situation in Northern Ireland; to the Committee on Foreign Affairs.

By Mr. NIX:

H. Con. Res. 540. Concurrent resolution requesting the President of the United States to take affirmative action to persuade the Soviet Union to revise its official policies concerning the rights of Soviet Jewry; to the Committee on Foreign Affairs.

By Mr. EDMONDSON:

H. Res. 818. Resolution congratulating Pawhuska, Okla., on being the home of the first Boy Scout Troop organized in the United States of America; to the Committee on the Judiciary.

By Mr. O'NEILL:

H. Res. 819. Resolution to create a special committee to investigate campaign expenditures; to the Committee on Rules.

By Mr. SEIBERLING (for himself, Mrs. Abzug, Mr. Bingham, Mr. Burton, Mr. Danielson, Mr. Dow, Mr. Drinan, Mr. Edwards of California, Mr. Fraser, Mrs. Grasso, Mr. Gude, Mr. Halpern, Mr. Harrington, Mr. Kyros, Mr. Leggett, Mr. McCloskey, Mr. Matsunaga, Mr. Metcalfe, Mr. Mitchell, Mr. Moorhead, Mr. Rangel, Mr. Rees, Mr. Reid, Mr. Rosenthal, and Mr. Ryan):

H. Res. 820. Resolution expressing the sense of the House that the United States should recognize Bangladesh; to the Committee on Foreign Affairs.

By Mr. SEIBERLING (for himself, Mr. Scheuer, Mr. Schwengel, Mr. Sisk, Mr. Steele, Mr. Vanik, and Mr. Charles H. Wilson):

H. Res. 821. Resolution expressing the sense of the House that the United States should recognize Bangladesh; to the Committee on Foreign Affairs.

By Mr. THOMPSON of New Jersey:

H. Res. 822. Resolution to provide funds for the Committee on the Judiciary; to the Committee on House Administration.

H. Res. 823. Resolution providing for expenses of conducting studies and investigation authorized by House Resolution 109; to the Committee on House Administration.

H. Res. 824. Resolution to provide funds for the expenses of the investigations and studies authorized by House Resolution 243; to the Committee on House Administration.

H. Res. 825. Resolution to provide funds for the expenses of the investigations and studies authorized by House Resolution 5 and House Resolution 19; to the Committee on House Administration.

H. Res. 826. Resolution to provide funds for the second session, Ninety-second Congress, for the expenses of the investigations and studies authorized by House Resolution 217; to the Committee on House Administration.

H. Res. 827. Resolution to provide funds for the expenses of the investigations and studies authorized by House Resolution 18; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

313. The SPEAKER presented a memorial of the Legislature of the State of Wisconsin, relative to procedures for calling constitutional conventions; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DUNCAN:

H.R. 13265. A bill for the relief of Dell Sin-Cheung Lau and his wife, Cheung Goo Yar Lau; to the Committee on the Judiciary.

By Mr. STEIGER of Arizona:

H.R. 13266. A bill for the relief of Maurice Marchbanks; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

191. By the SPEAKER: Petition of Bui Phuong Quan, Saigon, Vietnam, relative to a concession contract in Vietnam; to the Committee on Armed Services.

192. Also petition of the mayor and council of the Borough of Haworth, N.J., relative to the expansion of the Bergen County Sewer Authority plant; to the Committee on Public Works.

SENATE—*Thursday, February 17, 1972*

The Senate met at 12 o'clock meridian and was called to order by Hon. GAYLORD NELSON, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, the source of our strength and the guide of our destiny, grant journeying mercies to the President of the United States. Endue him with a measure of Thy grace that he may be both wise and strong. Impart to all who confer and to all who advise the spirit of conciliation and friendship and good will. Hold all consultations under the light of truth and the vision of peace with justice and liberty. May the leaders of all nations concert their best efforts for that understanding and concord which leads to the promised era when men study war no more and all their ways are the peaceable ways of Thy kingdom.

While others labor abroad, keep us diligent and faithful in our tasks at home. And to Thee shall be the everlasting praise and thanksgiving. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 17, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. GAYLORD NELSON, a Senator from the State of Wisconsin, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. NELSON thereupon took the chair as Acting President pro tempore.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS AND JOINT RESOLUTIONS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that the President had approved and signed the following acts and joint resolutions:

On February 15, 1972:

S. 959. An act to designate the Pine Mountain Wilderness, Prescott and Tonto National Forest, in the State of Arizona;

S. 1838. An act to amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities;

S. 2672. An act to permanently exempt potatoes for processing from marketing orders;

S.J. Res. 196. Joint resolution extending the date for transmission to the Congress of the report of the Joint Economic Committee.

On February 17, 1972:

S.J. Res. 153. Joint resolution to designate the week which begins on the first Sunday in March 1972, as "National Beta Club Week".

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. NELSON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, February 16, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the executive calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the executive calendar will be stated.

U.S. DISTRICT COURTS

The second assistant legislative clerk read the nomination of Wilbur D. Owens, Jr., of Georgia, to be a U.S. district judge for the middle district of Georgia.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nominations in the Department of Justice, as follows:

Wilbur H. Dillahunty, of Arkansas, to be U.S. attorney for the eastern district of Arkansas for the term of 4 years.

William D. Keller, of California, to be U.S. attorney for the central district of California for the term of 4 years.

Harold Hill Titus, Jr., of Washington, D.C., to be U.S. attorney for the District of Columbia for the term of 4 years.

Ermen J. Pallanck, of Connecticut, to be U.S. marshal for the district of Connecticut for the term of 4 years.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Illinois (Mr. PERCY) is now recognized for not to exceed 15 minutes.

ANNIVERSARY OF LITHUANIAN INDEPENDENCE

Mr. PERCY. Mr. President, today we commemorate the anniversary of Lithuanian independence, recalling how short-lived that independence was and how it was ended so abruptly by the aggression of the Soviet Union in 1940.

We recall, too, the courage of the Lithuanian people in sustaining their religious life, their cultural traditions, and their hopes for freedom during two decades of systematic repression. Together with the peoples of Latvia and Estonia, they continue to persevere under the most difficult circumstances.

I can say from firsthand evidence that the attempt to stamp out their culture over a period of years has been absolutely unsuccessful. I have noticed evidence not only of resilience and a desire on the part of the people to maintain their culture but also a recognition by the Soviet Union that this spirit will prevail.

In honor of the Lithuanian people, and of the Americans of Lithuanian heritage, I suggest that we take this opportunity to speak out for freedom, freedom for the peoples of Eastern Europe whose national lives have been so severely circumscribed by the authorities now in power.

The determination of Lithuanians to be free was dramatically shown to the world over a year ago when Simas Kudirka sought to defect to the United States. Free men pray for Simas Kudirka's well-being and ultimate freedom, for in his suffering we all suffer. Because I am convinced that we can be helpful to Simas Kudirka by bringing broad public attention to his plight, I called on Mayor Daley and the city council of Chicago last November 16 to rename a major street in Chicago in Kudirka's honor. At that time I wrote:

> The conscience of the free world was shocked by the harsh and inhuman treatment administered by the Soviets when Simas Kudirka was unjustifiably returned to their jurisdiction. Simas Kudirka has recently been sentenced to 10 years of hard labor by a Soviet court in total disregard for human rights, international law, and the pleas of millions of concerned individuals around the globe.

The mayor acknowledged my letter and an alderman introduced the suggestion in the city council where it was referred to committee. Since then, the suggestion has lingered in committee. In the name of the thousands of Chicagoans to whom the tragedy of Simas Kudirka is a personal tragedy, in the name of Simas Kudirka whose very life and future may depend on international public opinion which can only be sustained by such efforts, I call on the city council to act on this suggestion now.

Today we remember Simas Kudirka and his countrymen who continue to live within a system where they are politically, religiously, and culturally restricted. When I visited Lithuania a few years ago, I was greatly impressed with the undaunted spirit of the people. It is my fervent prayer that one day freedom will return to the Lithuanian people.

Mr. SCOTT. Mr. President. this is a glorious anniversary, yet a time of sorrow; 54 years ago yesterday, on February 16, 1918, Lithuania declared its independence, but those days of freedom were very short-lived. All the people of the Baltic States including Latvia and Estonia have been plagued by conquest and persecution.

This sad story is not any different today.

Any nation in our world community should have the right to have a free government if it so desires. The Lithuanians since 1940 have struggled to bring that right to reality. Thousands of these people have been exiled to cool the voice of dissent. However, that voice is still heard and it is stronger than ever.

This cry of freedom is heard today from priests in Lithuania who have been accused of such "crimes" as teaching catechism to young children. These courageous priests certainly deserve the hopes and prayers of all free peoples.

The people of the United States along with all Lithuanian-Americans will continue the belief that one day Lithuania will be free. With God's help and persistence, faith and courage of Lithuanians everywhere, freedom in the Baltics will come fifty-four years ago the light of freedom burned in Lithuania, this accentuates the fact that here in the United States where Lady Liberty holds her torch high, she cannot allow that light to die.

Mr. FANNIN. Mr. President, I wish to join my colleague from Illinois (Mr. PERCY) and others in this Chamber who are commemorating two very important anniversaries in the history of Lithuania. It was 721 years ago that Lithuania became a unified country, and it was 54 years ago that the modern Republic of Lithuania was established.

For seven centuries the people of this small but proud Baltic nation have been buffeted by the brutal forces of history. None of these forces have been more brutal than the Soviet suppression which began in 1940. Extermination and annihilation of the Lithuanian people have been a part of the Soviet policy in maintaining control of Lithuania.

Tens of thousands of Lithuanian freedom fighters have died while trying to restore the independence of their nation.

Although the tactics have changed, the fight for independence and freedom continues both inside of the Baltic nations and in other countries.

People of Lithuanian origin who have escaped from the Soviet-domination are not content to simply enjoy the fruits of freedom in the United States. These people are dedicated to focusing world attention on the plight of their countrymen and former countrymen still in Lithuania. They have the faith and determination to carry on this struggle for as long as it may take.

It was my privilege to be a Member of the 89th Congress which unanimously adopted House Concurrent Resolution 416. This resolution reasserted our belief that the people of Lithuania, Estonia, and Latvia are entitled to the right of self determination.

This resolution is as valid today as it was when we adopted it in 1966. The pity is that we have seen nothing in the past 6 years since it was adopted to indicate that the Soviet Union has altered its policy of enslaving the once-free neighboring countries.

Mr. President, our faith in the cause of freedom has not waivered. We will continue to protest, to point out to the world just how the Communist regimes operate to suppress free peoples. Lithuania, Estonia, and Latvia are small nations, but their cause is of the greatest importance.

Mr. ALLOTT. Mr. President, today is the anniversary of Lithuanian independence. As such it is a melancholy day, combining sadness and hope.

It is sad that we in this free Republic cannot share our freedom with the oppressed peoples of Eastern Europe. But the very fact that these peoples are so vigilant in keeping alive the spirit of liberty while suffering despotism is proof that the Soviet tyranny has not achieved any success in dimming the determination of the Lithuanians and others that they shall be free one day.

It is my hope that one day it will dawn on the dense Soviet leaders that their despotism has failed—failed miserably—to dampen the spirit of liberty, and of national identity, that has made the Lithuanian people a proud example of freedom-loving people everywhere. Then Lithuanian independence will again be a fact, and not just a glowing aspiration.

Mr. SCHWEIKER. Mr. President, it is an honor for me to join my colleagues in tribute of Lithuanian Independence Day.

February 16 marks the 54th anniversary of the founding of the modern Republic of Lithuania in 1918. At this time, we also commemorate the bringing together of all Lithuanian persons into one unified country in 1251 by their great leader Mindaugas the Great.

The Baltic people have a rich heritage and Lithuanian-Americans throughout our country have contributed to their respective communities by keeping the spirit of their independence alive, and by actively maintaining their traditions. I have been in close contact with many Lithuanian-Americans from my own State of Pennsylvania, and it is a privilege to honor them in the Senate today.

Mr. President, as the sponsor of S. 23, the Ethnic Heritage Studies Centers Act of 1971, I have seen first-hand the deep respect that all ethnic and minority groups in this diverse country have for their backgrounds. This respect and pride adds a measure of dignity and depth to the lives of all our citizens, and it has encouraged me to work even harder to press for programs to assist these groups in the study and understanding of their ethnic heritages.

The commemoration of Lithuanian Independence this week, here in the Senate and across the nation, is an example of how the spirit of ethnic pride can be a positive force which brings constructive cooperation to our communities.

The knowledge of the hard work and national pride which led to the formation of the nation of Lithuania brings a sense of respect and personal pride even today for all Baltic people, and it is a personal pleasure to join in commemoration of that day, and in tribute to all Lithuanians, both here in America and abroad.

Mr. HRUSKA. Mr. President, it is time once again to take proper note of an auspicious event in the history of freedom-loving nations—the establishment of the Republic of Lithuania 54 years ago.

The anniversary is noteworthy because the independence of that and other Latvian nations was so short-lived. A few short years after they were established, their proud and fiercely independent peoples were swept into slavery by the Soviet Union. That slavery has endured now for more than 30 years but it has nevertheless failed to extinguish the spark of freedom which still lights the hopes of these valiant people.

The spark burns on, as it does in Czechoslovakia, Poland and all of the other European countries who struggle under the yoke of Communist oppression, cruelly meted out through the cynical charade of puppet governments.

The Lithuanians, like their neighboring states, are a proud people, a peaceful people. They had lived at peace for many years. Their language is the oldest in Europe.

It was into this peaceful land that the Communist aggressors struck in their now-familiar imperialistic fashion, eliminating those who dared oppose them and establishing a puppet government through a typical bogus election.

The Soviet domination over these lands for more than three decades belies its pious talk of human rights and its empty endorsement of international covenants designed to preserve such rights. The Communists know nothing of and care less for human rights. They have made a practice for all of these decades of extinguishing and denying human rights among all the people who have had the misfortune to fall under their domain.

Freedom is systematically and cynically denied behind the Iron Curtain.

All appeals for decent and humane treatment for their captive peoples are turned blithely aside by the Soviets who will not be deterred by humanity and reason on their march to world domination.

We in this body and all freedom-loving people throughout the United States must pause from time to time and reflect on the fate of the people of Lithuania, Estonia, and all of the other countries which suffer under Communist tyranny.

Those people have not given up their hopes and striving for a return of freedom. They will never give up until their goal is achieved. They merit our support in every possible way.

To them we say that our hopes and prayers are with their struggle. We pledge our support for their cause and trust that the day will ultimately come when they and all nations of the world will be truly free.

(The remarks Mr. Percy made at this point on the introduction of S. 3185 are printed in the Record under Statements on Introduced Bills and Joint Resolutions.)

HUGE WESTON ATOM SMASHER PASSES ITS FINAL MAJOR TEST

Mr. PERCY. Mr. President, I would like to give the Senate a very brief report on a scientific device which is a major accomplishment and was the subject of a great deal of debate on the Senate floor as to where the world's largest atom smasher was to be constructed.

I would merely like to ask these questions and try to answer them.

Was the site selected by the Congress of the United States the right site?

The site is in Weston, Ill., an area some 30 miles from the center of downtown Chicago. I feel that the site was properly chosen. The community has warmly accepted the project and has given every cooperation. The site is near O'Hare Field where scientists from all over the world can very easily visit the world's largest atom smasher.

Question was raised in the debate on the floor of the Senate as to whether it would be possible in the State of Illinois to have full compliance with equal opportunities for all workers regardless of race, color, or creed.

There has been no question about the fact that the very large staff at Weston has been assembled on the basis of scientific accomplishments and on the individual's ability to contribute to the project. There has been no discrimination of any kind that has been charged against this project that I know of.

The third question is whether the atom smasher could be completed on schedule.

A major effort of this kind required the expenditure of some $250 million. It was estimated that the schedule would call for the atom smasher to get under way by July of this year. I am pleased to report to the Senate that the completion of this scientific instrument is so far ahead of schedule that just last Friday it actually accomplished a final major test and successfully accelerated a beam of protons of 100 billion atom particles.

The tremendous power of the test beam far exceeds the power of any other accelerator ever built. This is the largest scientific instrument ever conceived and built by man. Its completion makes the Chicago area the world's center for high energy physics research effort.

Until now Russia held the lead in high energy accelerators.

The scientific team under the able and inspired leadership of Dr. Robert R. Wilson, National Accelerator Laboratory Director, has achieved a level of competence now on the atom smasher itself which indicates that we are not only well ahead of the schedule, but that we will achieve results far in excess of those originally envisioned for the project. We have met the test of reliability. It has been constructed in accordance with national policy and it is on schedule. I am very happy to report that it will not only be constructed within the cost of the estimate that had been given to Congress, but it appears that it will achieve another world's record. It is actually going to be constructed, I believe, at a cost somewhat less than the original estimate.

For this I certainly pay tribute to Dr. Wilson and his entire team who have accomplished this and to the AEC and other agencies that have fully supported and backed it.

Mr. President, I ask unanimous consent that an article entitled "Weston A-Smasher Passes Big Test," written by Ronald Kotulak and published in the Chicago Tribune, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Weston A-Smasher Passes Big Test

(By Ronald Kotulak)

The world's largest atom smasher, which has been under construction 30 miles west of Chicago since 1969, has passed its final major test by successfully accelerating a beam of protons to 100 billion electron volts.

The tremendous power of the test beam far exceeds the power of any other accelerator ever built. The test, which occurred last Friday, means the accelerator may be boosted up to its designed power of 200 B.E.V. within a few weeks, said Dr. Edwin L. Goldwasser, deputy director of the National Accelerator Laboratory.

"We feel that there are no more serious problems that remain and we now expect that the instrument will work as designed," he said.

The facility is the largest scientific instrument ever conceived and built. Its main feature is a main ring, 1.25 miles in diameter, around which subatomic particles travel at near the speed of light [186,200 miles per second].

Scientists are eagerly awaiting the full operation of the machine, which is expected in June, because they anticipate it will open up a new era in man's quest to understand the atom.

Completion of the instrument will also make the Chicago area the world's center for high energy physics research.

WORLD'S MOST POWERFUL

Even at a power of 100 B.E.V., the machine ranks as the most powerful accelerator in the world. The biggest atom smasher in America is the 33 B.E.V. instrument at the Brookhaven National Laboratory on Long Island.

Until now, Russia held the lead in high energy accelerators with its 76 B. E. V. accelerator located at Serpukhov.

Led by Dr. Robert R. Wison, National Accelerator Laboratory director, scientists, and engineers on the project incorporated a number of innovations at no additional cost which may enable the accelerator to more than double its designed power.

Dr. Goldwasser said that when special cooling equipment is hooked up, the instrument may attain a power of 500 B. E. V.

HEAD OF SCHEDULE

The first startup of the proton beam was not expected until July. But the construction schedule had been pushed so far ahead of schedule that at one time it was hoped to start the machine last July.

However, unexpected trouble occurred last summer when some 300 of the main 1,000 magnet rings developed short circuits and had to be repaired. The short circuits were caused when microscopic cracks developed in the protective coating over the magnet coils, allowing moisture to seep in.

The $250 million accelerator is located on a 6,800-acre site near Batavia. It works this way:

Protons, the elementary particles that exist in the nuclei of atoms, are injected into the big accelerator by a series of three smaller booster accelerators.

SPEEDS ARE FANTASTIC

The particles travel at fantastic speed around the four-mile in circumference ring, making 70,000 revolutions in 1.6 seconds. When they reach their maximum speed, they are diverted into a target area where they smash into target atoms.

The target atoms are broken into smaller particles which physicists study to learn more about the elementary building blocks of nature.

One of the first experiments scheduled on the big machine is a search for the quark, believed by some scientists to be the fundamental particle from which all other particles are made.

Other experiments will seek the magnetic monopole, the lost chord of electricity, and others will attempt to study the properties of the neutrino, a mysterious particle that theoretically exists everywhere.

PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. In accordance with the previous order, the Senate will now proceed to the transaction of routine morning business for not to exceed 30 minutes, with a 3-minute limitation on each Senator. Is there morning business?

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Hackney, one of the reading clerks, announced that the speaker had affixed his signature to the enrolled bill (S. 3122) to extend certain provisions of the Federal Water Pollution Control Act through June 30, 1972, and others through April 30, 1972.

The ACTING PRESIDENT pro tempore. The Senator from Maryland is recognized.

(The remarks Mr. Beall made when he introduced S. 3186 are printed in the Record under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the 3 minutes to which I am entitled in the morning hour be allotted to the Senator from Illinois.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Illinois is recognized.

ILLINOIS OLYMPIC CHAMPIONS

Mr. PERCY. Mr. President, I express deep gratitude to my distinguished colleague, the Senator from Arizona (Mr. Goldwater), who is also deeply interested in the accomplishments of young people, who is admired and respected by young people, and who is, I am sure, deeply interested in the accomplishments of our olympic team abroad.

I address the Senate today to bring to the attention of my colleagues the fact that all Americans are proud of the accomplishments of the young Americans who represented this country at the Winter Olympics in Sapporo, Japan. We thrilled at their skill and grace as we watched the telecasts from halfway around the world.

Those of us in Illinois were particularly proud of the fact that three young ladies from our State brought home to the United States five of the eight medals won by this country. I want my fellow Senators to know of Illinois' pride in her champions.

Half of the U.S. medals were won by two young speed skaters from Northbrook, Ill., a town of 27,000 citizens which lies on the outskirts of Chicago. As this week's issue of Time magazine points out, Northbrook might well be called the Speed-Skating Capitol of the World thanks to the achievements of Anne Henning and Diane Holum.

Miss Henning won a gold medal for her prowess in the 500-meter race, then went on to capture a bronze medal for her performance in the 1,000 meters.

Her friend and teammate, Diane Holum, also of Northbrook, set an Olympic record in the 1,500-meter competition. If that performance were not enough for one young lady, Diane then won a silver medal in the 3,000-meter competition.

I should like to point out, Mr. President, that these young constituents of mine, from a town of 27,000 people, earned half the medals won by a country of over 200 million people. That is surely reason enough to make the citizens of Northbrook proud of the effort they have made to turn their town into a home of champions.

The fifth Illinois medal—in this case a bronze—was won by Janet Lynn, of Rockford, for her dazzling performance in the figure skating competition. As the Chicago Tribune said so accurately, "Our Cinderella girl was some pumpkins" as she turned in an exhibition of such grace and beauty that it had the Japanese audience standing and cheering. Although she was not among the top three skaters in the school figures, Janet's performance in the free-skating phase went unmatched by any of her competitors.

Along with the more than 11 million other citizens of Illinois, I wish to congratulate Diane, Anne, and Janet for their triumphs at the Olympics. My special admiration for these girls is enhanced by the fact that, from my own minor attempts on the ski slopes, I have an idea just how difficult it must be to make oneself into a winter sports champion. I think all Americans realize and are grateful for the years of sacrifice and discipline these young ladies have devoted to making themselves champions. They have made this a proud time for Illinois and the whole country.

Their accomplishments could not have been achieved without the support of their very able coach, Ed Rudolph, without the support of the citizens who backed them and supported the skating rink through bond issues, without the teachers who helped them make up their school work, and without the support and encouragement of their classmates.

Mr. President, I ask unanimous consent to have printed in the Record the article published in Time magazine entitled "Northbrook, Ill., Speed-Skating Capital."

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Time magazine, Feb. 21, 1972]

Northbrook, Ill., Speed-Skating Capital

To the casual visitor, Northbrook, Ill., is just another quiet bedroom community on the outskirts of Chicago. To the 27,000 citizens who live there, it has always been the busy, bristling "Speed-Skating Capital of America." Until recently there may have been some doubters of that heady claim. Not now. Not after two of the town's favorite daughters, Anne Henning and Dianne Holum, skated off with gold medals in the 1972 Winter Games. Indeed, the local Chamber of Commerce has already begun to engrave its stationery with a new slogan: "Speed-Skating Capital of the World."

Why Northbrook? For one thing, there is Ed Rudolph, 60, a onetime high school skating champion who has devoted nearly 20 years to training Northbrook youngsters in his sport. A landscape contractor who also serves as the Northbrook park commissioner, Rudolph began his program by designing baseball diamonds that could be frozen over in the winter for skating. With strong financial and moral support from the townspeople, he has since been instrumental in adding a modern indoor facility that is in operation 24 hours a day throughout the weekends.

Beginning each May, Rudolph's charges spend five months in "dry training": calisthenics, running and bicycling. Then they hit the road for West Allis, Wis., and the only Olympic-sized artificial rink in the U.S. Traveling in a car pool run by their parents, they visit the bleak Wisconsin state fairgrounds every day for six straight months, spending three hours a day on the ice and three hours in transit.

Anne Henning, a cheery, curly-haired blonde who never travels without her lucky Snoopy button and a large supply of peanut butter, does not miss the social life that is ruled out by her training regimen. Says she: "There are lots of boys in the training group too, you know." Dianne Holum, a fiercely dedicated competitor who worked as a waitress last year to help finance a three-month training stint in The Netherlands, adds: "I don't mind the sacrifices. An Olympic gold medal is a life's ambition come true." Even so, the demands are such that many young skaters have to drop out of school and study with a tutor. To pay the $1,000 to $2,000 a year that it takes for the care and feeding of a skater, some Northbrook mothers take parttime jobs. Is it worth it? Anne's father, Bill Henning, thinks so. "The U.S. is the only country in the Northern Hemisphere where speed skating is not a major sport," he explains. "Our hope is to make it one."

ORDER FOR ADJOURNMENT TO 11 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 11 a.m. tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM TOMORROW TO MONDAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow it stand in adjournment until 12 o'clock meridian on Monday next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PEARSON AND SENATOR MONDALE TOMORROW—ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR UNFINISHED BUSINESS TO BE LAID BEFORE SENATE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the remarks of the distinguished Senator from Florida (Mr. CHILES) tomorrow, the distinguished Senator from Kansas (Mr. PEARSON) be recognized for not to exceed 15 minutes, that he be followed by the distinguished Senator from Minnesota (Mr. MONDALE) for not to exceed 15 minutes, at the conclusion of which there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE ABM DEBATE

Mr. HART. Mr. President, in November 1969, the Operations Research Society of America appointed an ad hoc committee to explore "the professional conduct of the debate" over deployment of the Safeguard antiballistic missile system.

The study was undertaken at the suggestion of one of the non-Government proponents of deploying Safeguard. In making his suggestion, the proponent also brought to the society's attention a statement in a report by a Senate Armed Services Subcommittee.

Prof. Robert E. Machol, president of the society, said the society interpreted the subcommittee's statement "to constitute a rather plaintive request to scientists to set their own houses in order."

The ORSA ad hoc committee published its findings in the September 1971 edition of the society's journal, Operations Research.

Among its several sections the report lists guidelines for professional practice for ORSA members.

As a layman I have no competence to judge the suggested standards.

However, another part of the report—the section which reviewed a small part of the public debate over Safeguard deployment—is of concern to me.

In this section, the ad hoc committee reported that it reached "the disturbing conclusion that when prominent experts outside the administration supported their opinion on Safeguard deployment with arguments or results of an operations-research nature these analyses were often inappropriate, misleading or factually in error."

That language is broad, and indeed has been used by some supporters of Safeguard, including one White House official, to attack or question, directly or indirectly, the credibility of the entire debate against deployment.

Let me add at this point that a careful reading of the full report makes clear that the study was sharply limited to two of the many questions involved, that the study did not take a position on the question of deploying Safeguard and that the committee did not have jurisdiction to act as a tribunal over participants in the debate.

Unhappily, the broad language of the conclusions, quoted in part above, does not indicate those limitations, and quite predictably, I think, the conclusions have been used as a general criticism of the overall anti-Safeguard debate.

Perhaps it is only a little facetious to suggest that the operations research analysts who wrote the report should have consulted some public relations analysts on writing their conclusion.

If they had, they might not have released the report, or might have at least drastically rewritten their findings.

To be fair to the ad hoc committee, I will quote what Professor Machol, in a letter to Senator Cooper, Senator Symington and me, wrote:

> Let me state for the record that I find the article by Alsop, which praises the report, as disturbing as I find some of the distorted articles which attack it, such as those in the Boston Globe.

Professor Machol goes on to write:

> I should think, however, that all Senators would unite behind the principal objective of the report, namely to insure that the Senate of the United States obtains a more adequate basis for its decisions on technical matters.

To the extent that the guidelines suggested in the report can accomplish that goal, I support the objective of the report with a caveat pointed out with grace and humor by a distinguished professor of chemistry:

> University faculties, if they are alive, are rife with doctrinal disputes. By long experience they have learned that their existence, their freedom and their usefulness depends on limiting their self-investigation to the most elementary and obvious forms of "grave misconduct". Professional societies should limit themselves in the same way. Of all professional groups only the church pretends competence in settling doctrinal disputes and even then with the expectations of divine guidance and, it would seem, with mixed results.

I must admit to serious reservations about whether such a limited study whether it was adequately done, and whether it serves the goal of giving Congress a better basis on which to make decisions on such questions as deploying Safeguard.

Despite the disclaimers included in the committee's report, I find that I must not only react to the report itself, but also to the way it has been used by others—an entirely predictable use, I repeat for emphasis.

I believe I should react for several reasons.

First, the scientists criticized in the report joined the debate at the requests of Senators, including me, who opposed deployment of the Safeguard.

Second, I was interested to learn if the report would weaken any of the assumptions I made in reaching my conclusion to oppose deployment.

Third, given the wide publicity the report received, I was interested to determine, if I could, whether the study was adequately done.

And finally, as one who believes strongly that the debate on Safeguard, insofar as it opened up to public discussion what theretofore had been private decisions of Pentagon planners, was an important experience for Congress, I was concerned that the report might inhibit rather than encourage non-Government scientists from entering public debate in the future.

Before attempting to comment on the report, Senator COOPER, Senator SYMINGTON and I asked a number of scientists to respond to a series of questions about the study.

Rather than attempt to summarize their answers, which range from specific responses to the questions to broader tions and each of the replies be printed at the end of our remarks.

Also, rather than attempt to comment on the technical competency of the study, as far as it went, I think it would be fair and more revealing to let the readers make their own judgments based on the correspondence we received in response to our questions.

However, whether one supports or opposes deployment of Safeguard, whether one agrees with the nature of the questions we asked, I think the letters merit close reading by anyone who believes it is important that questions of armaments, nuclear weapons, and Pentagon spending receive close public scrutiny.

And now to my own reactions.

The ad hoc committee limited its study to two questions:

> 1. Vulnerability of minutemen and bombers without additional protection, and
>
> 2. The operational feasibility of certain defensive tactics.

The time frame of the study was also limited, from January, 1969 through September, 1969.

The general limits were suggested in the proponent's letter proposing the study.

If the society felt it important to conduct a study of the debate, and if the committee felt inclined to adopt limits suggested by one of the protagonists, would not fairness dictate at least a review of a portion of the debate suggested by an opponent of deployment?

Equally important, in selecting a limited time frame the committee was necessarily precluded from considering new information developed and new rationales offered by the administration as it sought Senate approval of the decision to deploy.

These shortcomings should have been obvious.

If the opponents of deployment named in the study were not interested in proposing other areas to review, the committee could have approached other opponents for suggestions.

If the committee were not prepared to undertake a broad-based study of the entire question, it should have questioned seriously both the fairness of a partial review and the uses to which such a partial review might be put.

An overall review of the debate would have pointed up, I believe, shifts in arguments used to support deployment.

This overall view is particularly important in considering the question of the vulnerability of our land-based nuclear deterrents.

That vulnerability is based on the degree of accuracy attributed to the Soviet ICBMs.

The manner in which the administration chose to release or declassify data forced opponents to make use of ball park figures.

To suggest that opponents of deployment should not make their case because they lack or cannot use all the information possessed by the Pentagon is to argue that in many cases no opposition should be made at all.

Similarly, to criticize from an operations research point of view the performance of opponents under those conditions also is to suggest that Pentagon decisions should be accepted without question.

And frankly, as a layman, I question whether an operations research critique of the debate is greatly relevant. As one of the scientists who responded to our questions observed, weapons operations research, even when based on information gathered under combat conditions, is still more art than science. In view of the many assumptions and unknowns involved, the Safeguard debate moves even further into the area of art. Remember, the greatest unknown—whether Safeguard would work under nuclear attack—can never be fully answered.

Therefore, it is perhaps too much to ask scientists "to put their house in order" on such questions.

In reviewing the report and the interim debate, I remain convinced that the case deploying Safeguard is yet to be made.

In brief, I do not believe the credibility of this Nation's nuclear deterrent is threatened; if our deterrent is threatened, I do not believe that Safeguard as designed will provide a credible defense; and finally, even if Safeguard works as advertised, it could be overcome.

And as is noted in some of the letters we received, at least some proponents of deployment now agree with the conclusion we can get a better defense than Safeguard for our land-based deterrent.

However, more important is the question of the effect the committee's report might have on discouraging scientists from participating in such debates in the future.

As I said previously, to suggest that scientists should refrain from debate unless they have or can use all the data available to Government scientists is to leave those who might oppose a Government project—military or nonmilitary—at the mercy of Government decisions on how, when, and what information is released.

The dependence, under present procedures, would be a most dangerous concept, far more dangerous to the common good than any error made in presenting assumptions which question a decision.

In this regard, I would like to quote a letter to use from Professor Harvey Brooks, of Harvard. Professor Brooks wrote:

> In every field of American politics experience has taught us over and over again that political asymmetry eventually leads to conflict and political irresponsibility.
>
> Thus, in my opinion, the administration itself has a stake in insuring that responsible opposition to its technological programs has adequate access to analytical resources and military-technological data so that it can make its case in the political arena.

Professor Brooks' letter is among those to be printed at the conclusion of our remarks.

In 1969, Professor Brooks was chairman of a Committee of the National Academy of Sciences which issued a report entitled, "Technology: Processes of Assessment and Choice."

The following paragraph from that report is pertinent to this discussion.

> One would wish to incorporate more institutionalized criticism into the decisionmaking process for military technology—criticism designed deliberately to broaden the criteria of technology assessment well beyond the strictly military context. Unless this is done, there is a real danger either of great social or environmental damage, or, conversely, of a broad public reaction against all forms of military technology, which might endanger the security position of the United States.

Certainly, this is a proposal which should receive serious consideration by Congress, but until we have found a way to incorporate more institutionalized criticisms in our system, we must and should rely on experts from outside of Government.

We should encourage rather than discourage their participation in the decisionmaking process.

If the ad hoc Committee of the Operations Research Society has discouraged such participation, it is regrettable that the study was undertaken. In any case, its findings should have been more precisely described and limited.

To the extent that the performance of opponents of Safeguard encourages other scientists to come forward on other questions in the future, I welcome their very real contributions, not only to Safeguard debate, but to the broader question of correcting the political asymmetry which exists in the area of Governmental technological decisions.

Mr. President, I ask unanimous consent to have printed in the Record a statement on this subject by the Senator from Kentucky (Mr. Cooper) who is absent on official business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Statement by Senator Cooper

The September 1971 issue of *Operations Research*, the Journal of the Operations Research Society (ORSA), set forth for its members guidelines for the practice of operations research. In an appendix to this issue, appendix three, criticisms were made concerning the quality of the testimony made by several distinguished scientists who appeared before the Senate Armed Services Committee during 1969 on the question of the ABM.

I have no fault to find with ORSA's objectives. The stated intentions of the report seem to have been to establish for the future guidelines for its members and an outline of procedures to follow when dealing with a question of operations research. I am concerned, however, that the ORSA report has been unfortunately used to cast doubt on the integrity of witnesses who appeared before the Senate on the issue of the ABM who were not members of ORSA and who testified two years before any guidelines has developed. Based upon the ORSA critique, some newspaper reports and other commentators have made it seem that the testimony of some scientists misled Senate Committees and the Senate during its consideration of the ABM issue.

In particular, the testimony of Professor George Rathjens of MIT, formerly an ACDA official, and the writings of Dr. Jerome Wiesner, now President of MIT and formerly Science Advisor to President Kennedy, were called into question. The testimony and articles by other scientists were also brought under criticism.

Senator Hart, Senator Symington and I were concerned that if these personally harmful critical reports were permitted to stand unexamined that they might have an adverse and inhibiting effect upon the willingness of scientists to appear in public testimony or to engage in public debates on important matters of public policy raised by questions of science and technology. Many witnesses were called to testify at very short notice and had to contend with the very difficult problem of testifying in public testimony without being able to discuss classified information. As became clear in classified sessions, some secret material was open to very serious doubt as to its correctness. In no way do I believe the witnesses attempted to deceive or mislead and there is nothing upon which even an implication can be based. They advocated certain positions pro and con but we requested that they express their views, as well as explain the facts contained in certain problems raised by the Senate.

Because of our concern, that the ORSA report might cause scientists to be reluctant to testify in the future because of fear of reprisal, Senator Hart, Senator Symington and I wrote to a representative group of scientists, all of whom were involved in the ABM debate between 1968 and the present and asked them to study the ORSA report, respond to certain questions we posed concerning that report and to express their views of the matter. Our purpose in requesting this information was to provide a basis of judgment for our own view of the ORSA report. I believe the Senate will be interested in their replies, because not only do these replies place the ORSA report in a larger perspective but these replies also provide further information concerning the inadequacy of the Safeguard ABM system for the purpose of missile site defense.

To my knowledge, no one in the Senate is a member of the Operations Research Society. I do not wish to criticize the Society in any way except insofar as the impact of the ORSA Report reflects upon the Senate and its responsibilities. I do believe it necessary to call attention to some aspects of the ABM debate that those who wrote the ORSA Report neglected to address in their Report.

First, Dr. Rathjens testified before the Armed Services Committee and the Foreign Relations Committee at the request of Senator Hart, Senator Symington and myself.

In addition, Dr. Wiesner was called upon for his view and advice as were dozens of other scientists. Dr. Wiesner and Dr. Rathjens and many other distinguished scientists responded to our call and agreed to give their views, to help inform the Senate as fully as possible about a very crucial and complex subject, the ABM issue. We invited the scientific community to go public, so to speak, to discuss the issue not only from the point of view of technological problems, but on the basis of their experience as public officials and as individual citizens. I think it correct to say that the debate on the ABM over the past four years has been of a very high order. It helped raise the level of understanding of the main issues for the Senate, the Congress and the country and it confirmed our view that it is necessary to insure that scientists will continue to respond to what is a very obvious need—to inform the public of implications for public policy of new technology.

It should be noted that formal testimony before the Armed Services Committees and the Foreign Relations Committees accounted for only a small portion of the contributions made by the scientists who responded to the Senate's call for their expert advice and counsel. These scientists who were for the most part opposed to deployment of the Sentinel/Safeguard ABM system for the purpose of missile site defense, as well as those scientists who argued for such a deployment, took considerable time from their busy schedules to meet on a great many occasions with Senators and their staffs. These meetings took place over a period of four years and ranged over the whole spectrum of issues contained in the ABM debate.

In view of the fact that the scientists who testified before the Armed Services Committee came at our request, and in addition, conferred both privately and through various Committee auspices over a period of four years, we are somewhat at a loss to understand why those who wrote the ORSA Report did not inquire what purposes the Senate had in mind in holding Hearings on the ABM or what our impressions were of the quality of the information and advice given by various witnesses who were called upon.

Senator Margaret Chase Smith of Maine, the ranking Republican member of the Armed Services Committee, remarked following the testimony of Dr. Panofsky, Dr. York, Dr. McMillan, Mr. Paul Nitze, Dr. Seitz, Dr. Wohlstetter, Dr. Rathjens and Professor Chayes as follows:

"Mr. Chairman, it has been my privilege to serve in the Congress for nearly 29 years. Most of that time, to serve on the Armed Services Committees of the Senate and House. During that time, I have never been more proud to be a member of any committee than I was yesterday to be a member of this Committee.

"Never have I seen a more constructive and productive committee hearing and meeting where the witnesses were outstanding in their responsiveness and any extremely valuable information they gave, on the deadly serious subject before us on which we must vote, and I think today's hearings seem to be starting out on the same tone.

"To me the sessions yesterday epitomized our way of democracy at its very best. Dissent expressed and accord, intellect projects positively rather than negatively, constructively rather than destructively, in which dedicated American leaders demonstrated their ability to disagree agreeably and criticize constructively."

Following the testimony of Dr. Wohlstetter and Dr. Rathjens, the Chairman of the Armed Services Committee, Senator Stennis was moved to say,

"You have made a great contribution to the Senate, to the Congress, to the people of the nation, in reaching a decision about this whole important matter. I know you have helped me greatly. I am sure you have helped each member of the Committee."

I think the comments by these two distinguished Senators reflected the attitude of sincere gratitude of the Senate as a whole for the service rendered by the scientific community no matter what their point of view.

Because of the great contribution to the understanding of the issue made by the scientific community including those criticized in the ORSA Report, we find the criticism to be disproportionate to the positive contributions made. In short, I find these criticisms something of a tempest in a teapot. For example, I find it difficult to understand why such a narrow set of questions were addressed, or why only part of one year's debate of a four year debate that continues, was chosen. I agree that questions addressed by the ORSA Report were important, but on these questions we were not in any way misled because of any individual testimony or private consultation. We came to our position on the ABM issue after consideration of all the evidence we could obtain, pro and con, provided over a period of years.

Further, in my view, there were many other questions of greater importance that the authors of the ORSA Report did not address. The ORSA critique concentrated upon the arguments pro and con about when a threat would constitute a danger to the United States ICBM force. A more important technological issue was whether Safeguard would provide effective defense whenever that threat developed.

The ABM was not simply a technological issue. If it were, the Safeguard ABM probably would have been scrapped for the reasons stated by opponents of the ABM in 1968, 1969, 1970 and last year, now accepted as generally correct even by the Pentagon. But the ABM issue was not only a question of whether a particular system of machines would work well enough to meet certain ranges of probable threats. It was and still is a far more complex issue encompassing foreign policy, overall defense strategy, national priorities, national values and institutions as well as international relationships and institutions.

Among the many issues considered, we in the Senate were interested in the nature of the Chinese threat and Chinese nuclear capabilities as well as Soviet capabilities and actual deployments. We examined the various assumptions about possible Chinese and Soviet threats in the coming decade as well as various assumption about how the United States could meet such threats including the deployment of other systems both offensive and defensive. In view of available deployment alternatives, the Safeguard ABM was a very poor choice in our view.

All of these considerations, coalescent in the question of how the SALT talks might affect any proposed deployment. The main issue at SALT is to determine whether attempts at numerical superiority are now recognized as futile by the two great superpowers and whether a system of nuclear parity can be made into a pattern of international agreement and order. It now seems probable that the initial outcome of the SALT talks will support the contention of those that opposed widespread deployment of the ABM on the grounds that it would be a destabilizing factor and would only contribute to the escalation of the arms race.

I think it fair to say that the Senate, through its several committees, examined a greater range of questions than contained in the ORSA Report. And because of this, in my view, the ORSA critique was limited in usefulness because it did not have a broad enough scope nor did it determine what the full scope of Senate inquiry was during the period 1968 to the present time.

It is in the spirit of admiration and gratitude that I want to take this opportunity to praise once again those scientists who contributed so much to enlightening the Congress and the people about a subject that was once the sole province of a small cabal.

A democratic society such as ours can meet the challenges of an increasingly complex technological world if we are enabled to understand the main issues raised by scientific progress. It is necessary to understand in order for the Congress and the Executive to make rational decisions required to control the progress of technology for the benefit of mankind rather than to unknowingly contribute to his annihilation—and it is upon the scientific community that the task of educating the country's leaders falls.

This country owes much to the courage and integrity of the many distinguished scientists who responded to requests of the Senate and the country to explain the issues in the strategic debate about the ABM and other nuclear weapons system. Their learning and public concern about the implications of the awesome decisions now before the country concerning nuclear weapons is worthy of our gratitude. Such men as Dr. Wolfgang Panofsky, Dr. George Kistiakosky, Dr. Hans Bethe, Dr. Richard Garwin, Dr. Donald Hornig, Dr. James Killian, Dr. Herbert York, Dr. Jerome Wiesner, Dr. Edward Teller, Dr. George Rathjens, and Dr. Albert Wohlstetter, to name only a few, have faithfully served this country in positions of the highest responsibility; they are the men who helped invent and develop the nuclear weapons now in our arsenal and they are the men who perhaps better than anyone else, know the awesome destructive forces of the weapons they have created.

But in the face of that experience, they have established an important precedent for the Congress and the country. They have given the Congress and the country the benefit of their knowledge, and they have presented their views with intelligence, integrity and conviction. That there should be differences of opinion and differences in assumptions and different recommendations for strategic policies to be followed is not surprising. But for those of us who must judge, it is essential to have all sides of a question. I think it fair to say that in the ABM debate, for the first time in an issue concerning nuclear weapons, we have had the benefit of full, informed and detailed debate from many points of view. The country has benefited by the service that these men have rendered and I am confident that this practice of encouraging full testimony in both public and executive sessions on such vital matters of public policy will remain the rule. Our nation can only be strengthened by following such a rational course.

THE ABM—LET US NOT STIFLE DISSENT

Mr. SYMINGTON. Mr. President, I join my colleagues, Senator HART and Senator COOPER, in inserting in the RECORD replies received from scientists in answer to our request for comments about the extraordinary and unfortunate report issued last fall by the Operations Research Society of America with respect to the debate on the antiballistic missile system—ABM.

This so-called study attempted to pass judgment on the quality of testimony that was presented to the Congress by various scientists. It charged that much of said testimony offered by those who were in opposition to the Sentinel/Safeguard ABM system was misleading.

Shortly after this report was issued I stated on the floor that it was regrettable an attack of this character had been launched against scientists who have given so much of their time and knowledge in effort to present the facts as they see them about this ABM system.

The benefit of outside expert opinion, particularly on matters of such technical complexity as this ABM system, is of substantial value in the promotion of full debate and understanding of such issues when they come before the Congress; and it would indeed be detrimental to the decisionmaking process if these experts were intimidated in making their views known, in giving the Congress and the public the benefit of their specific expertise.

Many of the replies we have received echo this concern about the future effect of this ORSA attack.

Dr. G. B. Kistiakowsky writes:

> In the ABM debate the participation of experts provided the Congress and the publice with an almost unprecedented exposure to the many facets of a major defense policy. Its formative process was especially enriched by the non-Government experts who are not restricted in their public views by the official government positions.

In addition, Dr. Wolfgang Panofsky stated that he considered this ORSA report an unfortunate precedent in that it might be interpreted as a mechanism of intimidating witnesses requested to testify before the Congress.

Those of us who participated in hearings and floor debates on the ABM over recent years welcomed, encouraged, technical advice from objective knowledgeable scientists on the complexities of this and various other defense systems. These men gave unstintingly of their time and knowledge both in public sessions and in private consultations. They made a significant contribution to one of the more important debates incident to the security of the United States.

As many of the letters received point out, however, a major shortcoming of the ORSA report is the fact it places primary emphasis on but a small portion of the technical issues, and ignores the other inputs in the decisionmaking process. As Dr. Harold Agnew expressed in his letter:

> The important inputs are determined by people and politics, not by scientific facts.

Even if the disgraceful ORSA charge that many of the outstanding scientists who were involved in the ABM debate misled Members of Congress and the public were accurate—which those of us who know these men know also is not the truth—it is clear that the votes in the Senate as to whether or not the ABM system should be deployed were based primarily on a number of nontechnical considerations.

As Prof. Abram Chayes pointed out:

> One of the major achievements of the ABM debate was that it broke the stranglehold of technical experts, usually Defense Department controlled, on issues of major military policy and weapons deployment. The teaching of that experience is that these are central issues of public policy capable of being understood and evaluated by the members of the Congress and by the informed citizenry. The principal considerations are not technical and scientific but have to do with values, priorities and judgment.

Let us hope that the Congress will be able to continue to have the benefit of unintimidated outside experts, technical and nontechnical on matters of such vital importance to the security of this Nation. We should all be grateful to these objective scientists who have contributed their knowledge with sincerity over recent years to this ABM debate. I would also thank those who took the time to answer our questions about this ORSA report; and would hope all Senators would read the full text of these replies which are being inserted in the RECORD today.

Mr. HART. Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the letter which we jointly addressed to a number of scientists, a copy of the questions we submitted to them, and the replies we have received to date.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U. S. SENATE,
Washington, D.C., November 4, 1971.

DEAR ———: A copy of the September 1971 issue of a journal entitled "Operations Research" has been brought to our attention. It is critical of the testimony of certain scientists who testified, at our request, about the ABM.

We would appreciate your reading this report, and thereupon giving us a candid analysis of its findings, including your judgment with respect to the validity of its assertions and charges.

To us this type and character of report is a serious matter. Before commenting upon its findings, however, we would appreciate the benefit of your views. Answers to the enclosed questions would be helpful, as well as any other observations you may consider important. We would be grateful if you could send your response to this request by November 15.

With kind regards,

Sincerely,

PHILIP A. HART,
STUART SYMINGTON,
JOHN SHERMAN COOPER.

SOME QUESTIONS CONCERNING THE REPORT OF THE ORSA AD HOC COMMITTEE OF PROFESSIONAL STANDARDS ENTITLED "GUIDELINES FOR THE PRACTICE OF OPERATIONS RESEARCH" CONTAINED IN OPERATIONS RESEARCH, VOLUME 19, NO. 5, SEPTEMBER 1971.

1. Was the technical scope of the Ad Hoc Committee report sufficiently broad to be able to evaluate the fundamental questions before the Congress: whether there was a need for deployment of the Safeguard ABM system at this time; its value as a protection of Minuteman against probable Soviet threats; and whether Safeguard was as good a system for protection of Minuteman as alternatives to the Safeguard ABM system such as "Hardsite?"

2. Was it possible to make a meaningful judgment considering the narrowness of the inquiry?

3. In projecting the vulnerability of Minuteman, much was believed to depend upon whether one considered reprogramming of Soviet missiles for failure and simultaneous attack on U.S. missiles and bombers through "pindown" to be plausible Soviet tactics. Is the plausibility of these tactics a question of operations research or was it one of strategic analysis more broadly requiring consideration of many other factors? All things considered, do you believe that "reprogramming" and "pindown" were plausible Soviet tactics for the mid-seventies?

4. Was the Administration misleading in choosing a particular level of threat against Safeguard; and not considering larger or smaller threats? Is it correct that Safeguard's effectiveness is only evident against a very narrow band of threats?

5. Do you believe that the proponents of Safeguard have now conceded that the opponents were right in insisting that smaller, cheaper, and less vulnerable radars be developed?

6. Did the Ad Hoc Panel make full use of all the information available to the responsible Committees—the Armed Services and Foreign Relations Committees—both classified and unclassified, concerning the Soviet threat and Safeguard AMB performance capabilities against a range of Soviet threats?

7. Was the inquiry by the Ad Hoc Panel technically correct and competent in its findings?

8. Should the inquiry by the Ad Hoc Panel have evaluated the testimony and statements of *all* witnesses pro and con who were called before the two Committees? Should the Ad Hoc Panel have made use of such studies as the Report of the Ad Hoc group on Safeguard for FY 1971 (the O'Neill Report) submitted to the Secretary of Defense on January 27, 1970?

9. Did the ORSA Panel apply the same standard of judgment to all witnesses who testified, both pro and con?

UNIVERSITY OF CALIFORNIA,
LOS ALAMOS, N. MEX.,
November 9, 1971.

Senator PHILIP A. HART,
Senator STUART SYMINGTON,
Senator JOHN SHERMAN COOPER,
U.S. Senate,
Washington, D.C.

DEAR SENATORS HART, SYMINGTON, and COOPER: Before I attempt to answer the questions sent to me in your letter of November 5, 1971, please allow me to express my own personal prejudices against or for operations research.

Let me begin by stating that in my opinion operations analysts are very competent individuals who are many times used to work problems backwards. That is, you tell them the results you want or they decide the results they desire and they then, using the very latest computers, mathematics, logic and selection of necessary data, obtain the desired answer. The same people, using the same techniques but with a different selection of input data, could also in a "scientific" and scholarly manner obtain exactly the opposite results. In effect, done properly, operations research or analysis in this context is a form of debate using mathematics.

Matters such as ABM are really very subjective basic issues. If one believes that we need a credible strategic deterrent, and this can also be debated, but assuming that we do, one can then examine how best to achieve it. One can build more offensive systems, or improve what one has by improving their penetration capability over the target area, increasing their prelaunch survivability by either passive or active defense, increasing their yield, etc. Choose the course you wish to follow and your operations analyst, given the proper support, will "prove" your case in his opinion and in your opinion. But he won't convince his counterpart who just "proved" the opposite. I read the conclusions and recommendations of the "Guidelines for the Practice of OR" paragraph (4) to say just this. Present your backer's case in the best light for him. Lawyers do this all the time in both civil and criminal suits. They only bring out or use the facts they want brought out. As you probably have gathered by now, I firmly believe that basic gut issues such as does one attack or retreat or does one build an ABM or not, should be decided by common sense. Sometimes one will be correct, sometimes one will be wrong; the ratio determines how good a leader one is. Operations research shouldn't be used in this context because it is so input dependent and the important inputs are determined by people and politics, not by scientific facts.

I don't mean to damn all analysis. As with "neutral lawyers" (which means they have no client), operations analysts can and do perform highly objective analyses when there is the freedom to chose between alternatives. Quantitative "truth" in such cases may narrow the range of choices—but a final choice is still often highly subjective in a political environment. Such objective analysts will *not* be called to testify unless their conclusions unequivocally support the beliefs of the individual who is in the position of extending the invitation to testify.

For example, the very excellent article by Bethe and Garwin in the March 1968 Scientific American gave all the facts on why an area defense was not practical. This was written in an honest and objective fashion but the objective was actually two-fold and never spelled out. The authors were first against any ABM deployment at this time. This was their "gut" feeling—their main objective. They used as their target area defense and they made what I believe to have been a very sound case against ABM for area defense. However, they did not mention the feasibility of protecting our strategic deterrent with a "Hardsite" system. On corresponding with these colleagues, for whom I have the highest personal respect with regard to their integrity and ability, they readily admitted Hardsite was feasible and could be done and their arguments did not apply to it. However, they didn't believe such protection was required "at this time."

Question. Were they dishonest? I don't think so. Just as lawyers trying a case presented the facts they needed to prove their case. By implication, however, they certainly misled a lot of people into believing no ABM could be effective against anything. Should they have been critized for their tactics? I leave you to decide. I suspect those for ABM would say yes and those against would say no. People on issues of basic philosophy such as this are simply not objective.

Now to freely admit that I am also not without prejudice, let me give a condensation of my ideas on ABM.

I have always been an advocate of an ABM system. So having made that "gut" decision one asks what kind of ABM? I have always said I would only field a system which is now vaguely called Hardsite and into which we hopefully are backing. Senator Symington might say, "Harold, Why the hell did you defend Safeguard if you believe in Hardsite?" My answer remains that I believe in ABM and a cobbled up Safeguard is the only hardware the DoD can provide today. I believe that if we kill Safeguard we kill ABM and that I believe would be wrong. Safeguard has some components of a Hardsite system and could complement a real Hardsite system. It is clearly not the best way to do Hardsite but it will be better than nothing. The cold facts are that for reasons I won't attempt to explain and probably couldn't anyway our "scientific leaders" made a very bad blunder some years ago and have been redoubling their efforts thru every means possible to make their decision appear to be correct. We can't simply damn the DDR&E because when the Secretary of Defense stated he wanted to provide protection for our strategic deterrent, and against a low level Chinese attack, and against an accidental launch, he prescribed that a "camel" be constructed. The "emperor" of that time didn't have any clothes on and yet his operations analysts could consistently prove that he did and still are trying to prove that he did.

My basic problem with ABM and even our strategic offensive forces is that if we ever have to use either we have failed. What good does it do me to actually respond to a Soviet, or Chinese, or *n*th Nation first strike? All we are trying to do is to prevent such an exchange. I believe an ABM system can be part of the deterrent. Clearly the "better" the system the better chance of achieving the deterrent and stability. An effective ABM introduces an uncertainty into the planning of a potential aggressor. This uncertainty is to me part of the overall deterrent. I certainly have to agree with Senator Symington, however, that if one only has a few radars or missiles it doesn't introduce much of an uncertainty. That's why I like what is now called "Hardsite" with redundant radars and lots of local defender missiles. See enclosed, "What's Wrong with Sentinel." This monograph caused the DoD a great deal of heartburn when I sent it to Secretary Resor and the JCAE.

With this rambling prelude allow me to attempt to answer your questions which, although I'm sure you believe to be objective questions, are to me (again a subjective reaction on my part) formulated by your staff in such a manner as to make it difficult to get answers not desired. I watch "Perry Mason" and he does it all the time and wins. One must keep in mind that the purpose of the report was not to analyze the effectiveness of ABM, but to examine the professional tactics and efforts of the named individuals.

1. Question 2 clearly answers question 1 in the minds of the questioners, however, I'll try. First that wasn't the objective of the Ad Hoc Committee report as I understood it. The question of need to me is political not technical. If you had said "assumed" Soviet threats rather than "probable," I'd say yes, otherwise no. One doesn't need all the high power logic, etc., to prove Hardsite is and will always be better for the defense of Minuteman but remember the other two objectives imposed upon the system by a past DoD official.

2. One is using operational analyses for the wrong purpose. The purpose of the Ad Hoc report was a response to a request by Dr. Wohlstetter to review what he termed "professional conduct" relative to the ABM debate. I personally believe he was off base to request the ORSA to do this and they should have refused. It would have been better to have had someone do a thesis or review paper on the events rather than a pseudo "Kangaroo Court." I happen to be in accord with Wohlstetter's philosophy on ABM but agree with Rathjens, Weinberg, and Wiesner position, that they don't come under ORSA's jurisdiction.

3. They are plausible but you are correct in stating they are not proper subjects for operational research. These are the "gut" decisions which a good strategist makes correctly and wins.

4. I don't know what they had in mind. Had they spent enough money they could in principle have handled any threat. In the end they would have relied on the SPRINTS and lots of MSRs, which is a form of Hardsite. Full implementation of Safeguard could handle the objectives prescribed by the DoD.

5. I don't know. I only hope so. This again is a have you quit beating your wife question. For defense of only our land based strategic deterrent, Hardsite is appropriate. The Safeguard designers had a task imposed on them other than Minuteman defense. It was a mistake in my opinion but the manner in which this question is phrased doesn't allow this to be explained properly.

6. I don't know. Again I don't believe this was their task. As I understood it they were to determine if Rathjens, Weinberg, Wiesner, and Wohlsetter behaved in a "professional manner".

7. As far as I can tell. However, I really don't believe their task was an appropriate one for the ORSA.

8. Not as I understand their task. Their task was only to review the methods and conduct of the aforementioned individuals as professionals.

9. I don't know. But I suspect that when in doubt they leaned toward a member of their clan.

Sincerely,

H. M. Agnew,
Director.

Harvard University,
Cambridge, Mass., November 19, 1971.
Senator Philip A. Hart,
Senate Office Building,
Washington, D.C.

Dear Senator Hart: This is in reply to your letter, signed also by Senator Symington and Senator Cooper, asking for comments on a recent article in "Operations Research," the journal published by the Operations Research Society of America, on the ABM question.

As you perhaps know, I was in close contact with the ABM problem through my position as vice president of Bell Telephone Laboratories, responsible for military systems, until I retired from there somewhat over four years ago. Since then I have been out of touch with the field, and have in fact tried to stay apart from the controversy which has surrounded it in recent years. Under the special circumstances represented by your letter, however, I will try to comment as well as I can. You will note that I am commenting without up to date special knowledge of the Safeguard system itself. (When I retired, the ABM project was still called "Nike X".) In particular, I have no access to recent intelligence information about the strategic posture of the USSR vis-a-vis the U.S., which should be critical in evaluating the urgency of a Safeguard development.

The attached sheets give responses to the specific questions raised in your letter. In addition to the Operations Research article itself, I have had available to me a rebuttal memorandum written by Dr. Rathjens. I assume you are familiar with it. You will note that while my answers do not in all respects quite support the position adopted in the OR paper, they do say that on the whole the contentions of the paper have enough validity to be taken seriously. I assume that this is really the question at issue here.

This by-passes a number of questions which one might raise. These include, for example, the competence of the OR organization itself and the appropriateness of its action in entering this controversy. These issues seem to me to be unimportant. I am not myself a member of the OR Society, nor am I acquainted with many of its members, including any of the ad hoc group. However, they carry the reputation of being a competent, well established society, and I saw nothing in the report itself to the contrary. In any event, the central question for you must be whether the responsible senatorial committees—which I take to be the Armed Services and Foreign Relations—did or did not get the best possible advice.

I suspect, judging from my own experience in weapons systems analysis, that the major factors impeding the committees' work were probably failure to estimate the true intellectual size of the ABM problem and failure to break it down as much as possible into identifiable sub-problems with, in particular, a sharp line between technical and political or policy questions. It is difficult for a layman to appreciate the scale of the analytic work which must go into a project like the ABM. Major contractors like Bell Laboratories have substantial groups doing nothing else, and there are, of course, still other groups in the Department of Defense proper. An individual without such support has a very hard task. (This is one of several reasons why I felt I should not express opinions about the ABM after leaving Bell Labs.) Even the problem of digging up and validating primary data as a starting point for some particular study may be a major effort. I gather from the ORSA report that Wholstetter received substantial help from DoD in gathering such primary data, whereas Rathjens had to make do with less. This by itself is probably enough to explain why the ORSA group came down so hard on Wohlstetter's side. It is not necessary to raise any questions of inherent competence.

The sheer size of the analytic problem sharply limits what can reasonably be hoped for from "outsiders" like most of the opponents of Safeguard. Obviously most of the work must come from DoD and its contractors. An outside group should be chary about trying to introduce full scale competitive analytic structures of its own. Not only is this likely to be non-feasible but it is almost sure to lead to acrimony. The national interests will be best served if the work is done in a more cooperative, harmonious atmosphere.

This still leaves a great deal for an outside group to do. It can, for example, challenge a DoD analysis on the basis that it is incomplete,—that it does not cover important contingencies. It can also concentrate on the points at which critical decisions on technical or operational feasibility were made. It is really these judgments, and not the mere "arithmetic" so to speak, of the situation which determines the validity of an analysis. These are also likely to be issues which relate most closely to basic science and engineering, and thus be those on which an outside group would be most competent to speak. Thus one would expect much of the contributions of such a group to be simply a call for a more thorough study of certain critical points. Ironically it seems to have happened just the other way around in the Safeguard hearings. Much of the thrust of the ORSA critique is to the effect that the anti-Safeguard position involved too many hasty or inadequately studied assumptions about what might or might not be feasible.

The ORSA report is in a sense "pro-Safeguard," but I don't think it should be regarded inevitably as an argument for the deployment of Safeguard. As a matter of fact, if I were a prudent Soviet planner—as prudent as Soviet planners are supposed to be—the uncertainties it discloses might well cause me to reject the notion of a preemptive attack whether or not there was a Safeguard system. In any case, a decision on our part to go ahead with Safeguard would have to come later, after a review of our overall nuclear position and of possible alternative courses of action indicated that this was the wisest course.

What the report does do is to make a strong plea for orderly logical procedures, with maximum distinction between technical and policy issues. As we all know, the controversy over Safeguard has been bitter. Much of it involves a mixture of technical and political, or policy, arguments. Many opponents of Safeguard feel very deeply that the nuclear path is the wrong one for the world to take, and that the introduction of a new nuclear weapons system, like Safeguard, must therefore be regarded without further ado, as a mistake. Thus a technical review of the system degenerates into a search for arguments to prove that the system won't work—or maybe won't work. For a presumably scientific discussion, there is a surprising amount of opinion as opposed to demonstrable fact. Opposition to the ABM becomes a crusade. To a perhaps lesser degree, a similar statement could of course be made on the pro-ABM side.

All of this seems to me to be very unfortunate. It almost forecloses any rational understanding of the technical problem. Moreover, it tends to draw the scientific community into active political partisanship on basic questions affecting the country's future. Thus in the public eye scientists seem to be in the position of claiming to be wiser than most men, not only on technical issues but on fundamental national values. I cannot believe that this will not boomerang disastrously on the scientific community as a whole as soon as the country begins to notice.

The ORSA group's report helps us retrieve this situation by its emphasis on a systematic logical approach. I think it is a salutary step.

Sincerely yours,

HENDRIK W. BODE.

RESPONSES TO NUMBERED QUESTIONS

1. In a very broad sense the questions before the Congress involved the place of Safeguard in our total nuclear armament as a reflection of our long-term national goals and problems. Any satisfactory discussion of these problems would naturally involve classified intelligence reports on the enemy's immediate strategic armament and apparent potentialities, and intentions for the future, *n*th country possibilities, and classified information on the state of our own military establishment generally.

It is obvious that the ORSA report did not cover all this ground, nor was it intended to. I may say that I found this in fact one of the strong points of the report. One of the disappointing features of the Safeguard controversy, to my eyes, has been the fact that so much of it was a hodge-podge of technical arguments, emotion-laden policy discussion, and pure politics that nothing came out with any clarity. By limiting itself to factual issues, the report lays a foundation on the basis of which one can go further if he wishes.

2. On the other hand, the restricted scope of the inquiry did not prevent the committee from coming to a meaningful judgment on the most primary question involving the use of Safeguard. That is, if we do nothing at all, is there any possibility that the enemy can execute a preemptive strike which will eliminate Minuteman as a component of our posture of assured deterrence? Uncertainties in such a discussion must, of course, be resolved in Safeguard's favor, since it is *assured* deterrence with which we are concerned. I think the OR report did come to a meaningful conclusion here. On the other hand, one must remember that the primary job of the committee was to evaluate the professional level of earlier studies and not to come to new factual determination of its own.

3. "Shoot-look-shoot" and pin-down tactics generally seem to me to be plausible tactics for the Soviet to pursue. I thought that the treatment of this problem by the OR committee was quite convincing. I particularly noticed the completeness with which they demolished the assertion from some of your advisors that the attack would necessarily come in waves, allowing intervals for launching. Although some physical uncertainties may remain, there seems no reason to doubt that the question is basically accessible to an operations research approach.

I find myself in fact quite astonished that the "shoot-look-shoot" question should even come up at this late date. We regarded shoot-look-shoot and pin-down tactics as accepted possibilities at least five or six years ago when I was still active in the ABM field. On the other hand, I was also surprised that the discussion did not touch on other possible sources of uncertainty. For example, in the absence of a program of full scale above-ground tests, it is hard to believe that we can really have reliable estimates of the vulnerability of a Minute Man silo to a nearby high yield nuclear blast.

4. It doesn't seem to me that the word "misleading" is quite appropriate here. In view of the complexity of the whole situation, the clarity which comes from specific numbers seems to me to be a natural goal to aim for. In principle, of course, a wider range of computations would be advantageous.

However, I see no physical reason why the effectiveness of Safeguard should be sharply reduced by modest departures from the reference case, although it might be important to reproportion the system somewhat. As a simple mental exercise, suppose that the enemy's offensive missiles and our own Minuteman and Safeguard were all doubled, would not one expect a doubling in the number of our surviving deterrent missiles also?

5. Since I have been out of contact with the controversy, I don't know what the proponents of Safeguard "now concede" or have conceded in the past. I do on the other hand feel that the language of this question is misleading. It sounds too much like a trial, and in any case puts a false light in the actual technological history. A better perspective would be the following: Technically, the radars and associated data processing equipment have always been the heart of the ABM problem. They control the system in all sorts of ways,—traffic handling capacity, precision of intercept, vulnerability,—and also its cost. In the mid-1960's, after great effort, we made several revolutionary, I thought, advances in this field. They allowed us for the first time to think seriously about an actual ABM defense against heavy and skillful enemy attack. Since I left the field soon thereafter, I don't know the subsequent history, but to have what I would still suppose the most sophisticated and advanced parts of the system referred to in such bleak terms comes as quite a shock. It makes me wonder whether your committees could possibly have had adequate inputs on the engineering aspects of the system.

Since the radar and data processing equipment are so critical, there is an excellent a priori case for continued research, at some level, in these fields, and I assume that this is a part of the long term plan for Safeguard. On the other hand, the difficulty of the field means that progress may be slow and uncertain, and immediate systems decisions at any stage should obviously be based on technology which is already fairly well in hand.

Normal military planning frequently starts with a minimum viable system to be augmented later as needed to counter a growing enemy threat. In Safeguard, such augmentation might, I suppose, take the form of more defensive missiles or more radar equipment to provide greater traffic handling capacity or more survivability through internetting and redundancy. The most expedient step at any time, however, will naturally depend on a judgment of what seems to be technically within reach.

6. Of course I have no idea what information was available to the responsible committees.

7. Yes, I think so. I thought their discussion of budgetary questions, including ways in which the various parts of the Safeguard development might be charged was weak, but I don't think this was central to the inquiry. As a taxpayer, I know it all comes out of my pocket in the end.

8. See answer to No 6. I have never seen the O'Neill Report and I have no idea what all the witnesses before the two Senate committees may have said. However, in principle I believe that the answer must be negative. What we are concerned with here is not an evaluation of ORSA's own procedures and certainly not their judgment on the overall Safeguard deployment question, but merely their contention that the competence of the operations research activities in a purely professional sense and the reliability of the testimony received by the Senate committees in consequence left something to be desired. To establish this, they didn't need to review everything that went on,—only enough cases to prove their point—and there was obvious wisdom in choosing material with a distinctive operations research flavor.

9. Possibly not. I did not read the material with this particular question in mind. To repeat the point made under No. 8, the nub of the question is not ORSA's "fairness" but whether there is substance to their charge that the two committees did not receive operational research assistance measuring up to professional standards.

HENDRIK W. BODE.

LEXINGTON, MASS.,
November 29, 1971.
Hon. PHILIP A. HART,
Hon. STUART SYMINGTON,
Hon. JOHN SHERMAN COOPER,
U.S. Senate,
Washington, D.C.

GENTLEMEN: This is in reply to your letter of November 15, 1971, requesting comments on "Guidelines for the Practice of Operations Research" published in the September 1971 issue of Operations Research.

The undersigned are members of the ORSA Council who took exception to the publication of the critique of the 1969 ABM debate appearing as Appendix III of this report. The basis of our dissent is described in our Minority Statement, which appears as Appendix IV–H, copy attached. Briefly, we feel that the Society, as a Society, should not engage in quasi-judicial investigations of this type. We believe that critiques of professional practice should be published by the Society in its journal as authored, refereed papers according to the usual scientific practice.

We wish to say, in defense of the report, that Appendix III was in no way intended to be an evaluation of the Safeguard system. This is clearly stated in the report (page 1175). Furthermore, we completely believe that Appendix III was in no way politically motivated and was unquestionably produced out of a concern for the quality of public debate on scientific issues. At the time of the decision to publish the report we pointed out some of the possibilities of misinterpretation to our colleagues. Subsequent events have more than justified our concern.

Appendix III is the work of its six authors. It would be a grave error to assume that the Society as a whole endorses it. An even more serious error would be to assume that a majority of the membership agrees with Mr. Wohlstetter's position on the ABM.

With respect to the specific questions in your letter, most of them deal with highly technical issues related to the ABM. We are not knowledgeable in these matters.

However, in response to your first two questions, we would say that the narrow scope of the critique does not permit a reasonable evaluation of the professional behavior or competence of the protagonists on either side of the ABM issue; further, it completely precludes any appraisal of the merits of ABM.

Sincerely yours,
DAVID M. BOODMAN.
JOHN D. C. LITTLE.
GEORGE L. NEMHAUSER.
THOMAS E. OBERBECK.
ROBERT M. OLIVER.

A MINORITY STATEMENT ON APPENDIX III—TREATMENT OF OPERATIONS-RESEARCH QUESTIONS IN THE 1969 SAFEGUARD DEBATE

The undersigned ORSA Council members feel that the Society itself should not take on the quasi-judicial function of investigating and reporting on professional behavior of individuals. Furthermore, we believe that, although critiques of professional work have a place and should be encouraged, they should be performed by individual authors or groups of authors as regular signed articles and should go through the normal refereeing process.

It seems to us that the traditional scientific publication process, in which scientists report, criticize, and rebut under their own names, is adequate to monitor professional standards. If the Society through its committee and Council enters into formal investigations, it takes on a judicial function with a much stricter and more demanding set of ground rules than is normally required of individual authors. Great impartiality and access to all sides of the issues are immediate prerequisites, particularly when the Society evaluates the conduct of nonmembers.

These prerequisites are extremely difficult to meet, especially in complex situations like that of the 1969 ABM debate. For example, when classified material is involved, both sides of a debate may be constrained into awkward circumlocutions about data and sources.

Perhaps the greatest obstacle to performing a judicial function, however, is full access to relevant documents, events, and people. A court of law solves this problem by subpoena, an action that is impossible for a scientific society. An impartial investigation is handicapped if it lacks the cooperation of the relevant individuals to clear up questions about methodology and data. Such participation may be difficult or impossible to obtain, particularly if the study or debate includes nonmembers of the Society who do not wish to cooperate. Refusals are possible and, in fact, have occurred in the present case (see Appendix IV–D). As a result, the investigating committee may be denied crucial information for its role as impartial judge.

The second major concern we have had about Appendix III relates to refereeing. The committee who wrote the report worked extremely hard to prepare it in a way they feel to be beneficial to the Society. However, as their own guidelines say, "The careful refereeing of scientific literature prior to publication is an essential part of this [the scientific] process." It seems remarkable, therefore, that the document has not been given a formal independent critical review. The major reasons advanced for not doing so are first, that the committee's report, because of its special nature, is not subject to the normal refereeing process and second, that the review has essentially been done by Council members, some of whom have submitted extensive comments.

With respect to the report not being subjected to normal refereeing, we can only say that the document is a serious, controversial technical paper and we feel that there is all the more need for review. With respect to its already having been done, we feel that this view misses certain important characteristics of the refereeing process. In the first place, the content is outside the technical competence of many of the ORSA Council. Secondly, a referee accepts responsibility for doing a specific job, which is a task quite different from that of a person who has been sent a 123-page manuscript and invited to comment. Finally, a referee has the protection of anonymity and reports to an editor who has the authority to accept, reject, or recommend changes prior to publication. In the present case, the report had already been accepted for publication by the Council before the question of refereeing came under discussion.

In summary, we feel strongly that the natural give and take of scientific publication with independent review serves the need tion with independent review serves the needs of the profession for appraising and criticizing technical work. We do not feel the Society should conduct time consuming judicial investigations of the type represented by Appendix III.

DAVID M. BOODMAN.
JOHN D. C. LITTLE.
GEORGE L. NEMHAUSER.
THOMAS E. OVERBECK.
ROBERT M. OLIVER.

HARVARD UNIVERSITY,
Cambridge, Mass., December 13, 1971.
Hon. PHILIP A. HART,
Hon. STUART SYMINGTON,
Hon. JOHN SHERMAN COOPER,
U.S. Senate, Committee on Foreign Relations, Washington, D.C.

DEAR SENATORS HART, SYMINGTON, and COOPER: I am happy to respond to your inquiry of December 3 regarding the issues raised by the ORSA report. I do not feel as well qualified to reply as most of your respondents. I have not been directly involved in the ABM debate. I have not studied the ORSA report, and have seen only the 26-page reply by Wiesner et al. to it and the replies of Professor Rathjens and Professor Bode to your questions. I have also seen a memorandum from Professor Rathjens analyzing what he considers to have been his own errors in the debate. I should add that I have in the past been a participant in PSAC discussions on the ABM and on civil defense, but not since about five years ago. I am also a director of a company that has a major responsibility for one of the ABM subsystems, although I do not feel this connection influences my views of the merits of the controversy, especially since I am opposed to deployment of the present ABM system on both technical and political grounds. The majority of my personal associations have been with ABM opponents, which may somewhat have influenced my views.

In one sense I have almost nothing to add to the answers to your questions as forwarded by Professor Rathjens on December 7. I find myself in considerably closer agreement with his views than with those of my own colleague Professor Bode, although both are in my opinion fully responsible and entitled to serious respect.

Before replying specifically to your questions I would like to make some general comments on the debate, although I must confess at the outset I have not read the testimony before committee in detail. I think the debate raises a very serious political problem for our democracy. The proponents of ABM within the Administration had enormous resources of information and analysis available to them. They were, in fact, in a position to use this information selectively to substantiate their position. I say this without intending to imply that they actually did so. Most of the people involved in this analysis at the working level were in effect under Administration discipline. Congress did not have direct access to their work, but could view it only through the filter of official Administration spokesmen. Even the views of the President's Science Advisory Committee were not directly accessible because of executive privilege. Most of the opponents of ABM who testified were individuals having extensive background in military-strategic analysis and in the technology most relevant to the ABM. Nevertheless, they were mostly out of first-hand association with military planning. Their expertise was, potentially at least, somewhat obsolete. They had very little time, and virtually no analytical resources, to prepare their testimony. What is surprising to me, therefore, is that they made so few erros, and the Administration witnesses made such a poor case. That is, however, perhaps only a fortunate accident. The asymmetry of the resources brought to bear in this debate represents a serious potential threat to democratic decisionmaking. This threat may manifest itself in two ways. On the other hand, the fact that the Administration has all the cards in terms of analytical resources gives it an *a priori* advantage in selling its case to Congress and the public. However, it seems to me equally likely that the very one-sidedness of the debate will tend in the long run to call forth irresponsible and uniformed opposition which might in some future setting seriously jeopardize the national security of the United States. A loyal opposition without adequate resources will eventually be replaced by an irresponsible, and perhaps disloyal, opposition which makes its case by demagoguery and appeals to unreason, because there is no loyal opposition to produce facts and reasoning. In every field of American politics experience has taught us over and over again that political asymmetry eventually leads to conflict and political irresponsibility. Thus, in my opinion, the Administration itself has a stake in insuring that responsible opposition to its technological programs has adequate access to analytical resources and military-technological data so that it can make its case in the political arena. The present public disenchantment with science and technology owes its origins in part to the fact that there have been inadequate channels through which the pros and cons of major technological issues could be presented to the public and responsible Congressional leadership in a balanced and comprehensible manner. Your committee made a noble try in this direction in the case of the ABM, but could not be wholly successful, given the present organization and habits of the Executive Branch.

Over two years ago I chaired a committee of the National Academy of Sciences which, under contract with the House Science and Astronautics Committee, prepared a report entitled, "Technology: Processes of Assessment and Choice." I would call your particular attention to the section entitled "Military Technology," pp. 111–114. This advocates the creation of a specific mechanism for independent assessment of decisions in the area of military technology. I quote from the last two sentences:

"One would wish to incorporate more institutionalized criticism into the decision-making process for military technology—criticism designed deliberately to broaden the criteria of technology assessment well beyond the strictly military context. Unless this is done, there is a real danger either of great social or environmental damage, or, conversely, of a broad public reaction against all forms of military technology, which might endanger the security position of the United States."

The only such institutionalized criticism now lies in the Congress, but without adequate analytical resources the value of this forum is seriously jeopardized. It seems to me that your committee might perform a great public service by inquiring into this general issue.

Let me now address myself to your specific questions.

1. I do not believe the technical scope of the Ad Hoc Committee was sufficiently broad to permit evaluation of the fundamental questions before Congress. While it might be argued, as some have done, that it was sufficient for the proponents of ABM to show that there existed plausible assumptions that would lead to unacceptable survival of Minuteman in the absence of Safeguard, I cannot agree. This argument simply overlooks the enormous military risk involved in an only partially successful first strike. I should think they would require a very high level assurance of nearly total destruction under a wide variety of conceivable assumptions, not just one plausible case. Indeed, it is exactly this sort of conservatism, which demands safety under all circumstances, that guarantees the perpetuation of the arms race. Each side bases its planning on the worst possible case from its viewpoint. It is sometimes difficult to keep in mind we are not talking about a current situation but about a projection of technological capabilities and intentions on both sides some six years or more into the future. Furthermore, the tendency has been to focus on a particular date, such as 1976 or 1977, failing to take into account the dynamic evolution of military development and deployment on both sides. Indeed I feel that even the issues mentioned in your question 1 are too restricted from the standpoint of the decisions which were under scrutiny.

2. It was possible to make a meaningful judgment on the particular issues covered by the ORSA report. If they had restricted their final conclusions to these issues, few of us would have had any quarrel with the outcome. The difficulty is that at the end they appear to have slipped from a judgment on the narrow issues to a much more sweeping conclusion, a proceeding which could be characterized as either consciously or unconsciously dishonest.

3. The questions of reprogramming and pindown certainly involve more than operations research, especially since there is absolutely no operational experience to go on. It would appear to me that an enemy would have to be pretty desperate to rely on reprogramming for an assured first strike capability. The question is not whether reprogramming is feasible, but whether its feasibility could be established with sufficient confidence in advance to persuade enemy leaders to proceed with a first strike. The ABM opponents were, perhaps, too negative on this point as to feasibility, but I do not think this changes the basic situation.

4. I am persuaded that the Rathjens analysis on this particular point is valid. It is really a question of underlying approach. The Administration apparently assumed that it was only necessary to prove that there existed a particular band of threats against which Safeguard would be effective. I do not think this was so much deliberately misleading as based on a particular military philosophy. Apparently the idea was that it was worthwhile to deploy against any plausible threat, and that later the system could be expanded or modified to meet a broader and broader range of threats as the technology evolved. They assigned great importance to "getting a foot in the door" in this new technology even though its initial capability might be extremely limited. There is some plausibility to such an argument, although it seems to have been implicit rather than explicit in the Administration's presentation. It also seems to involve the assumption that the threat is a "given," a static situation independent of our own deployments.

5. The answer depends upon what you mean by "conceded." They have not conceded anything publicly, but certainly all current planning and analysis of which I am aware starts from the implicit assumption that the opponents were essentially correct in their original criticisms. Indeed it is rather ironic that most of the technological improvements in ABM, starting from the original Nike-Zeus, have been essentially invented by its opponents.

6. I am not sufficiently familiar with the details of the debate to comment responsibly on this question.

7. I subscribe to Professor Rathjens' comment on this question and cannot improve upon his judgment.

8. The Ad Hoc panel was really at liberty to use any ground rules it wished. However, if it was honestly intent on evaluating the technical competence of all the testimony, then I can see no excuse for its omitting discussion of the pro-ABM testimony. The problem is that the conclusions were by implication based on an evaluation of *all* the testimony, whereas only that of the opponents was evaluated in detail, apparently with the implicit assumption that the burden of proof lay with them and them alone.

9. No.

I regret that I am unable to provide you with a more comprehensive analysis of the ABM debate. I fear my contact with the problem has just been too limited.

Sincerely yours,

HARVEY BROOKS.

LAW SCHOOL OF HARVARD UNIVERSITY,
Cambridge, Mass., December 6, 1971.

Senator PHILIP A. HART,
Senator STUART SYMINGTON,
Senator JOHN SHERMAN COOPER,
U.S. Senate, Washington, D.C.

GENTLEMEN: This is in response to your letter of November 15, 1971 relating to the Operations Research Society of America's review of testimony in the ABM debate. *Treatment of Operations-Research Questions in the 1969 Safeguard Debate,* 19 Operations Research 1175 (1971). It is proper that you should take an interest in this matter, because I think the ORSA report raises grave questions both as to the substance of the results and the propriety of the study.

I have not answered directly each of the questions you put, because I am not an expert in operations research. Instead, I will point out a few glaring instances where the Report or Dr. Wohlstetter seem guilty, even to the uninitiate of the same kinds of misfeasance with which ORSA charges others. Thereafter, I shall address some of the broader questions raised by the Report as to the proper role and function of professional societies like ORSA and as to the relation of technical and scientific evidence to public issues like the ABM debate.

I

The ORSA report charges the opponents of ABM with misleading statements, failure adequately to disclose assumptions, and failure to relate data and assumptions to appropriate time periods. Each of these failures appears in the ORSA Report itself and in testimony or argument attributed by it to Dr. Wohlstetter; and it doesn't take much expertise to discover them. Let me point briefly to some of the most significant:

1. An example of misleading argument is the Report's presentation of its material on "Vulnerability of Land Based Missiles without Additional Protection." The discussion proceeds as though the opponents of Safeguard argued that the Minuteman force was relatively invulnerable over an indefinite period.

In fact, one of the principal elements of the opponents position was that a fixed land based missile force would inevitably become obsolete over the coming decade, *with or without* an ABM defense, given the increasing accuracies that could be expected for offensive missiles. The most Safeguard could do, even if it worked as planned, was to extend the period of obsolescence by a matter of at most a year or so. The opponents argued that this was not enough to justify the money and other costs of ABM deployment.

This issue is never suggested in the Report although it was much more important and more fundamental than the exact year in which obsolescence might occur with or with out Safeguard—which must in any case be a matter of conjecture within broad limits. The question here addressed is another version of the one you raise in your letter: Was the Administration misleading in choosing a particular level of threat against Safeguard, and not considering larger or smaller threats. The answer is that it obviously was: A significantly smaller Soviet missile force could not have successfully attacked Minuteman, even on the administration's and Dr. Wohlstetter's calculations, which specify a necessary minimum of about 500 SS-9's. A significantly larger force—i.e. the result of a deployment at the assumed rates for a somewhat longer period—could have overwhelmed Safeguard, in either Phase I or Phase II, especially given the softness of the radars. This set of questions, is hardly limited at in the ORSA Report although they are central on the issue of vulnerability and much more subject to confident judgment than the exact CEP the Soviets may be expected to achieve by a date six or seven years in the future.

2. Next, consider an example of an insufficiently developed and thus misleading assumption of Dr. Wohlstetter. In calculating the hypothetical number of Minutemen that might survive a hypothetical attack, Wohlstetter includes the assumption of "Methods that are familiar to us for using extensive and timely information as to which missiles have failed so that others can replace them, the techniques known as shoot-look-shoot." And again he said "There are very familiar, well known methods of arranging it so that

you can reprogram missiles to replace a very large proportion of your failures . . ." Rathjens replied: "There is no basis that I am aware of for believing the Soviet Union employs such a technique, and I do not believe we do." The ORSA Report agrees, but says Wohlstetter "does not claim that either we or the Soviets have such techniques now."

This may be true as a matter of literal parsing of Wohlstetter's language. But I submit that the ordinary citizen or even Senator would not gather from Wohlstetter's testimony that these "very familiar and well-known methods" have never been tried out in practice anywhere and that the United States, after study, rejected the techniques for its own forces. The Report devotes a number of pages to trying to demonstrate that it would not be hard to get an operational reprogramming system with the necessary reliability, without, I must say, convincing me. (Moreover, the Report does not even address the issue of the necessary level of confidence that would have to be achieved before such a technique could become, in any sense, an available option for political leaders). And it asserts, without citation of authority that the United States rejected the system on grounds not related to feasibility or cost. This may be true. But Wohlstetter did not canvass these issues fully in the ABM debate; in fact he chose language that seems calculated to obscure them. As such, he seems to me guilty of the offense of using not fully articulated assumptions in a way that was likely to mislead the Congressional and public audience.

3. For a final example, there is the stress placed in the Report on the need for "careful attention to the time in the future for which the calculations are made." But Wohlstetters' calculations of Minuteman vulnerability use 1969 values for the hardness of the missiles. In other words, Wohlstetter attributes continuous gains in MIRV capability and missile accuracy to the Soviet force over the period until the mid or late 1970's, while holding the United States constant at late 1960's vulnerabilities. Indeed, the whole argument about "kill probability" to which the Report devotes so much time and on which most of its charges are based, turns out to be an argument about how hard United States silos were in 1969. As such, it is almost irrelevant to the question of vulnerability in the mid to late 1970's, because the degree of hardness could be substantially increased. This was indeed one of the alternative options for the defense of Minuteman put forward by the Safeguard opponents and I believe it has been adopted by the Department of Defense since then. These ramifications are not even suggested, much less analyzed fully in the ORSA Report.

Incidentally, the issues covered in the Report boil down in large part to a difference in assumptions as to SS-9 performance in the relevant time period. The Report seems to think the more pessemistic assumptions of Dr. Wohlstetter were sounder than the more moderate assumptions of the opponents. Newspaper accounts have appeared of a special study of SS-9 performance for the Department of Defense and CIA by Thomson-Ramo-Woolridge that seems to substantiate the opponent's assumptions rather than those put forward by Dr. Wohlstetter and generally endorsed by the ORSA Report. I do not know whether this study was available to the ORSA Committee. In any case, it seems to me that the appropriate Congressional Committees might well wish to examine into the TRW study.

From these rather gross deficiencies, as they appear to me, in the Report itself, I should like to turn to an issue that seems to me much more fundamental: the role and function of professional organizations in matters of this kind. The ORSA Report disclaims any intention to examine into the ethics or motivations of persons in the ABM debate. But the Committee ends up making far-reaching charges of professional misconduct against some of them—primarily those who opposed ABM deployment. So far as I know, none of the persons so charged is even a member of ORSA, which raises a preliminary question of the jurisdiction of the Society in the premises. But even as to members, I think it is unprecedented for a society like ORSA, through one of its committees, to make and decide officially charges of unprofessional conduct. In these circumstances, the vehemence of the charges and their concentration on ABM opponents—all of whom are distinguished scientists having long experience and familiarity with theoretical and practical problems of weapons systems—cannot help but give rise to the suspicion that the entire inquiry was politically motivated.

Of course, statements and arguments of ABM opponents are not sacrosanct. They are subject to comment, analysis and criticism by all the usual channels of scientific, professional and public debate. And there could be little objection to the Society appointing a panel to evaluate the validity and accuracy of the methods used. But this is a far different thing from hearing and deciding charges of unprofessional conduct.

A charge of that kind is a very grave matter. Most professional societies are not empowered to consider such questions. Although I have not examined the ORSA constitution, I would be very surprised if it granted express authority for this kind of action.

So far as I know, medicine and the law are the only professions that exercise disciplinary powers over their own members. Both of these, it will be observed, are publicly regulated and involve intimate fiduciary relationships, so that maintenance of professional standards is presumably of high moment. Yet, as to the legal profession, with which I am somewhat familiar, no bar association, so far as I know would presume to exercise authority to decide on charges that an individual has engaged in unprofessional conduct except under authority granted by statute or by rule of court. Even then, charges are heard under the strictest procedural safeguards, and are subject to court review. So far as I know, few if any of the elements of fair procedure summed up in the notion of due process of law were employed in the ORSA study.

III

Finally you should consider the broader implications of the ORSA Report and the premises on which it was based for the process of public decision making in a democracy. One of the major achievements of the ABM debate was that it broke the stranglehold of technical experts, usually Defense Department controlled, on issues of major military policy and weapons deployment. The teaching of that experience is that these are central issues of public policy capable of being understood and evaluated by the members of the Congress and by the informed citizenry. The principal considerations are not technical and scientific but have to do with values, priorities and judgment.

Even as to questions of high scientific or technical content, the techniques of operations research are not particularly significant. None of the weapons discussed in the ABM debate had ever operated as a system even under test conditions much less in anything approaching the conditions that would prevail in an actual nuclear war. Assertions about the performance of these systems under those circumstances are unavoidably extrapolations and even analogies from fragmentary and sometimes only remotely relevant experience. Such conclusion are far more matters of judgment than of numerical calculation. In fact, unless very carefully used, operations research techniques can be more misleading than helpful on these fundamental questions of policy. For operations research tends to give fictitious significance to quantitative values than can, in the nature of things, be little more than educated guesses. And it tends to magnify the importance of those considerations that are susceptible of quantitative statement, while diverting attention from those factors, usually far more important to the decision, that cannot be quantified.

In my view the ORSA ABM Report, about which you inquired, stands as an object lesson of these deficiencies.

Sincerely,

Abram Chayes,
Professor of Law.

Stanford University
Stanford, Calif., November 24, 1971.

Hon. John Sherman Cooper,
Hon. Philip A. Hart,
Hon. Stuart Symington,
U.S. Senate, Washington, D.C.

Dear Senators Cooper, Hart, and Symington: I am responding to your request for my comments on the analysis * by the Ad Hoc Panel of ORSA of the testimony during the 1969 ABM debate by some of the scientists who were invited by the Congress. Before answering your list of specific questions, I would like to make one general point: The report of the Ad Hoc Panel focuses primarily on the question of whether or not the Minuteman force will survive in the face of a growing Soviet missile threat. However the report has little to do with the Safeguard system since it ignores the central and most important issue during the ABM debate; that is, will Safeguard be effective in protecting Minuteman?

The vulnerability of Minuteman is primarily a matter of judgment, not of operations research, in projecting the Soviet threat—its growing size, its improved accuracy, and in what ways it might be extensively MIRV'd. There was no disagreement during the testimony before Congress that the U.S. land-based retaliatory force could be vulnerable in the future. What was in dispute was whether Safeguard could effectively defend Minuteman. The main criticism of the anti-ABM scientists was that Safeguard would be effective against only a very narrow band of threats. This criticism was in fact substantiated in a study commissioned by and submitted to the Secretary of Defense on January 27, 1970 (the so-called O'Neill Report entitled "Report of the Ad Hoc Group on Safeguard for FY '71"). This report concluded: "If the only purpose of Safeguard is defined to be to protect Minuteman, Phase IIA as defined in March 1969 should not proceed."

The ORSA report, in keeping with its own "Guidelines for Professional Practice," should have focused on this more important issue of whether Safeguard will do the job asked of it rather than arguing at so great a length on the range of projections for the growing threat. On page 1128 the ORSA study says that an operations analyst in dealing with the problem posed by an operating organization should "become thoroughly familiar with all aspects of the organization's operations *relevant to the problem*." (Italic added for emphasis.) On page 1129, the report goes on to say that the analyst should "take great care in formulating the problem of issue to be addressed *keeping in mind the client's needs*." (Italic added for emphasis.)

If the ORSA Ad Hoc Panel had followed its own guidelines, the target of its criticism for practicing poor operations research should have been the DOD officials and technical staff and the scientists testifying in support of Safeguard. It is they who proposed and endorsed a system for defending Minuteman that is so poorly designed from a technical viewpoint, a system so mismatched to this mission that, in the last analysis, technical arguments in support were withdrawn, conceded, or muted before the Congress and the system was sold primarily as a "bargaining chip" for SALT as its only redeeming virtue. I believe that a strong U.S. with a credible defense establishment is vital for peace and stability in the world. I am therefore particularly distressed at this performance by the technical branch of DOD!

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*"Guidelines for the Practice of Operations Research" published in the September 1971 issue of "Operations Research."

I will now address directly the list of questions you raised concerning this report:

1. Was the technical scope of the Ad Hoc Committee report sufficiently broad to be able to evaluate the fundamental questions before the Congress: whether there was a need for deployment of the Safeguard ABM system at this time; its value as a protection of Minuteman against probable Soviet threats; and whether Safeguard was as good a system for protection of Minuteman as alternatives to the Safeguard ABM system such as "Hardsite?"

My answer is "no" because the ORSA report ignored the basic technical and operations research question—i.e., would Safeguard protect the Minuteman system against probable Soviet threats? I think this was the crucial issue of the 1969 debate. The projected rate of growth of the Soviet threat—its improvement in accuracy and the increase in numbers of warheads that can destroy hardened Minuteman silos—is a matter of judgment, not of hard analysis; and in making such projections, one cannot ignore how each side by its own actions and weapons programs may very well alter the plans of the other. However, the ABM debate showed convincingly that Safeguard with its one vulnerable, large, and very expensive radar (the MSR) for controlling the entire engagement at each Minuteman field of 150–200 missiles could defend Minuteman against only a very narrow band of threats. Moreover the MSR radar could be destroyed and consequently the entire defense blinded by the smaller, cheaper, and less accurate Soviet SS–11 missiles that pose no threat to the U.S. missile silos themselves. Therefore, independent of whether one projects the threat against Minuteman following the calculations and arguments of Dr. Wohlstetter or Dr. Rathjens, Safeguard with its own vulnerabilities and limitations is poorly designed for the mission of defending the U.S. retaliatory missiles; and it was just this mission that was emphasized in the testimony of DOD spokesmen. Therein lies the real failure of operations research in the ABM debate. Judgments of whether the Soviet Union in a first-strike role could confidently plan to count on accurately reprograming its missiles and plan to pin-down the entire U.S. force of 1,000 missiles were not the central issues in this debate because they in no way affect the conclusion that the Safeguard will be effective against only a very narrow band of threats. The issue is whether or not the U.S. can design an effective missile defense should it need one in the face of the growing Soviet ICBM force. Present intense efforts by the DOD to come up, albeit belatedly, with a properly designed system for this—called "Hardsite"—is evidence of the correctness of the ABM critics on this score.

2. Was it possible to make a meaningful judgment considering the narrowness of the inquiry?

No, for reasons discussed above.

3. In projecting the vulnerability of Minuteman, much was believed to depend upon whether one considered "reprogramming of Soviet missiles for failure" and simultaneous attack on U.S. missiles and bombers through "pindown" to be plausible Soviet tactics. Is the plausibility of these tactics a question of operations research or was it one of strategic analysis more broadly requiring consideration of many other factors? All things considered, do you believe that "reprogramming" and "pindown" were plausible Soviet tactics for the mid-seventies?

This is certainly an issue that transcends operations research alone—it involves extensive strategic analysis, and projections of presumed vulnerabilities of U.S. strategic forces. My answer is "No."

On page 1185 of Appendix III, which is the heart of the technical criticism by the ORSA report, Dr. Wohlstetter speaks of the "quite likely tactics" of the shoot-look-shoot tactic postulated for the Soviet attack. I wonder what basis of fact he has for speaking of the "quite likely tactic" since shoot-look-shoot requires immediate real-time changes of targets within the missiles at launch time, with no delays beyond a few seconds. This is a very sophisticated requirement for the computer and guidance system. Furthermore the Soviets would have to reprogram for failures not only of the boost stage but also for failures in the guidance and warhead separation stages of the bus for a force that is deploying MIRV's as assumed in this analysis. Such a tactic would require extensive tests in salvo firings of missiles before the confidence levels of 95% single warhead kill probabilities quoted by Dr. Wohlstetter could be achieved—if ever, which I seriously doubt. Has ORSA considered whether Dr. Wohlstetter has made a plausible case for this scenario in the same way as it criticized anti-ABM scientists for not making a "plausible case" against the pin-down attack?

With respect to the pin-down tactic, there is no valid reason for the U.S. to find itself in such a position in the late 1970's that our entire missile force is in fact so completely vulnerable to the pin-down tactics as the ABM supporters have made it out to be. The essence of the pin-down problem is this: how many warheads must be delivered and how well coordinated a pattern both in time and position is required if this tactic is to be relied on *with confidence* in a first strike to destroy U.S. missile and bomber forces simultaneously? The Soviets would have to have hard information of U.S. missile design to use this tactic and, unless the U.S. force is designed with a ridiculous and unnecessary vulnerability, the yield and precision requirements will be exorbitant. On page 1217 the report says "The Committee does not feel that discussion by Panofsky on the infeasibility of coordinated strikes against U.S. bombers and missiles satisfactorily refutes Foster's claim." One of the problems of responding to that claim is that one has to enter into some sensitive classified matters about the U.S. missile force and whether or not it is vulnerable to pin-down. I wonder what wisdom the ORSA Committee had in making this judgment. I believe that if the U.S. finds itself with a gross pin-down vulnerability in the time frame of the initial Safeguard system deployment, then our DOD would be guilty of dereliction of duty. This is a serious issue, above and beyond poor operations research. Moreover, I for one do not believe that the U.S. planners and defense officials can be justly accused of dereliction of duty on this score and therefore I think the ORSA criticism is off target in its criticsm of anti-ABM scientists for poor operations research.

4. Was the Administration misleading in choosing a particular level of threat against Safeguard; and not considering larger or smaller threats? Is it correct that Safeguard's effectiveness is only evident against a very narrow band of threats?

Yes, it is correct (see answer to Question 1) that Safeguard is effective against only a very narrow band of threats. Since this is the central issue of the ABM debate it should have been more heavily stressed by its supporters during the debate as it was by the ABM opponents. Referring to the CRSA report on this subject, in Appendix II the letter and statement of Dr. Wohlstetter has to be recognized as an enormous projection from present Soviet offensive capabilities. It is quite correct that all reasonable assumptions as to possible accuracies and reprogramming should be included in evaluating Minuteman survivability. Nevertheless, the central point is that the Soviet Union continues to deploy larger numbers of vastly improved missiles they can at their choosing make the U.S. Minuteman force vulnerable: *and Safeguard can do very little about it.* Moreover, when you consider the cost of the Safeguard system with its few vulnerable radar eyes which can be destroyed by the cheaper, less sophisticated SS–11 missiles you see that Safeguard is an all-around bad investment.

5. Do you believe that the proponents of Safeguard have now conceded that the opponents were right in insisting that smaller, cheaper, and less vulnerable radars be developed?

In effect, yes. The U.S. is now proceeding with research and development work on such a system for defending our retaliatory missiles. This is explicit recognition of the fact that Safeguard can do only a very limited job and that the U.S. will have to deploy a new type of "Hardsite" system designed specifically to defend the hardened Minuteman silos if such a defense is deemed necessary and is authorized in the face of a growing Soviet offensive threat. Although it has been argued that Safeguard has the value of providing a nucleus around which to build a mixed Hardsite-Safeguard defense of Minuteman, I view that as an accommodation to the deficiencies of our present program rather than one of its virtues based on any hard analysis. Moreover I reject as unfounded the claim frequently made that we had to start in 1969 with Safeguard because it would take longer to develop and deploy a system for defending Minuteman missiles. Against a limited technology threat of the type that we might face in the mid-to-late 1970's other more suitable systems were available.

6. Did the Ad Hoc Panel make full use of all the information available to the responsible Committees—the Armed Services and Foreign Relations Committees—both classified and unclassified concerning the Soviet threat and Safeguard ABM performance capabilities against a range of Soviet threats?

No. The classified DOD analysis of the Safeguard draw-down—i.e., how many additional Soviet missiles are required to destroy the U. S. Minuteman force if Safeguard is deployed relative to the number required without Safeguard seems to have not been used. It is this curve that leads to the central conclusion that Safeguard is effective against only a very narrow band of threats.

7. Was the inquiry by the Ad Hoc Panel technically correct and competent in its findings?

My quarrels with the report are over its emphasis and major omissions as described in the above responses.

8. Should the inquiry by the Ad Hoc Panel have evaluated the testimony and statements of *all* witnesses pro and con who were called before the two committees? Should the Ad Hoc Panel have made use of such studies as the Report of the Ad Hoc group on Safeguard for FY 1971 (the O'Neill Report) submitted to the Secretary of Defense on January 27, 1970?

Yes. The Ad Hoc Panel report covers only the 1969 ABM testimony before the Congress. However this report was accepted by the ORSA Council at its meeting of May 5–6, 1971, which means that there was almost a full year after the 1970 ABM discussions which could also have been reviewed for new information and further evidence—such as in the O'Neill report that I referred to earlier.

9. Did the ORSA Panel apply the same standard of judgment to all witnesses who testified, both pro and con?

No.

In conclusion I would like to add that I opposed and continue to oppose the Safeguard system for three reasons:

(1) I judge it to be ineffective for defending Minuteman;

(2) It is built of the wrong type of hardware. In particular with its very large phased array radars that are properly components of a nationwide city defense ABM system, it will further complicate the arms race that President Nixon and this Administration have devoted such intense efforts to terminate at SALT; and

(3) I fear it will give a misleading assessment of the U.S. strategic power to those who actually believe in its efficacy.

Since the Safeguard system has now become a mere "bargaining chip" to the Administration in its defense of the program and to the Congress in its support of it, who indeed failed in meeting professional standards of operations research?

I believe the most important contribution of the ORSA report lies in the Ad Hoc Panel's discussion on page 1134 of the need for an improved competence within the Legislative Branch of the U.S. Government "to initiate, conduct, and evaluate operations research and systems-analysis studies of its own choosing." The report points out that such analysts could provide Congress with competent objective advice on the testimony presented to the Congress by experts from other agencies or from individual citizens. I hope that the experience of the ABM debate, as well as other recent debates, viz. the SST program, in which a difficult and vital technical component enters, will help persuade Congress of the need to create in the Legislative Branch a parallel to the advisory boards (such as the President's Science Advisory Committee) that have served the White House and the Executive Branch so effectively.

I hope these comments will be helpful to you.

Very truly yours,
SIDNEY D. DRELL,
Professor and Deputy Director.

INSTITUTE FOR DEFENSE ANALYSES,
Arlington, Va., December 6, 1971.
Hon. PHILIP A. HART,
Hon. STUART SYMINGTON,
Hon. JOHN SHERMAN COOPER,
Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR SENATORS HART, SYMINGTON, AND COOPER: this is in reply to your letter of November 16, 1971 requesting my comments on the report in the September 1971 issue of "Operations Research" and related matters.

I believe that it would not be appropriate for me to offer comments on the propriety or validity of the report since, first, I have not had available to me all of the correspondence and other documents (such as the O'Neill report) which are referred to in the report. Second, the controversy raised by the report has evolved into an exchange of personally-directed charges and countercharges among individuals with whom I have had, and in most cases still have, personal and professional relationships, so that any opinions and judgments I might offer could be influenced or thought to be influenced by such relationships.

I am not a member of the Operations Research Society of America and had no knowledge of the activities leading to its report prior to publication. However, I have long been concerned with the problems of providing competent, objective, and useful analyses to support government decision-making. My own general views on the proper standards of objectivity and full disclosure of facts and assumptions in analyses in support of government decision-making are contained in a speech on "The Value and Limitations of Analysis in Government Decision-Making," which was presented at a meeting of the Military Operations Research Society on November 19, 1969. The most pertinent sections of this speech are marked and underlined on pages 10, 12 and 15. They may be of interest in connection with your current inquiries.

With best regards,
Sincerely,
ALEXANDER H. FLAX.

THE VALUE AND LIMITATIONS OF ANALYSIS IN GOVERNMENT DECISION-MAKING

(By Alexander H. Flax)

It is a great pleasure to have been invited to address the Military Operations Research Society at this meeting. I would like to discuss this evening the value and limitations of studies and analyses directed to the senior government decision-makers. Note that, with respect to analyses, I do not use the term "abuses," but only limitations—this is because I am speaking of decision-making and it is only the decision-maker who can allow abuses to occur. He has the same responsibility for assessing the validity of analyses which are presented to him as bases for decisions as he has for accepting, rejecting, or modifying other judgments and recommendations submitted to him for this purpose, however these judgments and recommendations may have been arrived at.

I am very much impressed by the diversity of talent and experience in various disciplines relevant to the analysis of military problems which is represented here. However, having just spent six years near the center of the DOD decision-making process prior to the demise of the last Administration and being now associated with an organization whose stock-in-trade is analyses, I think it may not be regarded as presumptuous for me to address this subject even to so knowledgeable and sophisticated an audience as this.

I will be concerned here with analyses which are intended to influence decision-making at the national level—analyses aimed, directly or indirectly, at the President, Congress, BOB, DOD, and the Military Departments. Most of the problems and concerns at this level have a considerable orientation to the future rather than to current problems of operations. These problems and concerns most often deal with future systems, future forces, future programs, and future environments. Current problems of operations with equipment in being, in situations which are more or less known, may be the area in which operations research has its most obvious payoff, but that is not what I am going to talk about tonight—your sessions these past two days have dealt with many problems of this kind.

If any of you have a system of classification and definition which clearly differentiates among operations research, operations analysis and systems analysis, what I say tonight may frustrate or even infuriate you. Nevertheless, for most senior government decision-makers no such distinction is apparent and since I want to discuss the subject from the decision-maker's standpoint, I will make no distinction.

The idea that the powers of logical analysis might be of utility in managing the affairs of state goes back to antiquity. The famous text from Plato runs: "Until kings are philosophers or philosophers are kings, cities will never cease from ill." But this idea has hardly found acceptance until the 20th Century. At our own Federal Constitutional Convention, John Dickenson, delegate from Delaware, enunciated a healthy skepticism of logical analysis applied to government when he said: "Experience must be our only guide. Reason may mislead us."

Benjamin Jowett, eminent Victorian, Master of Balliol College at Oxford and translator of Plato (once humorously described as "the last man to know all knowledge") says: [1] "Plato does not propose for his future legislators any study of finance or law or military tactics but only of abstract mathematics. We cannot understand how Plato's legislators or guardians are to be fitted for their work of statesmen by the study of the five mathematical sciences. We vainly search in Plato's own writings for any explanation of this seeming absurdity."

And as all students of formal logic and a good many others know, reason itself can tell us nothing about people, things, and institutions without data derived from the external world. Reason alone can lead only to tautologies. In the words of Bertrand Russell (whose authority in formal logic is as unimpeachable as his authority in politics, ethics and morals is not): "Tautologies are primarily relations between properties, not between the things that have the properties." Going on to cite an example, Russell says: "Pentagonality is a property of which polygonality is a constituent; it may be defined as polygonality plus quintuplicity." This statement, I hasten to add, is from a book published in 1948,[2] before Russell declared war on the U.S., so I doubt that in using pentagonality as an example of a property, he intended a double meaning to, in effect, accuse our Defense Department of something of greater enormity than duplicity.

What has changed in the 20th Century? Why do we now increasingly look to analyses to provide a basis for practical decision-making? What has changed is that this is the century of the Scientific Revolution. The demonstrated success of the so-called "scientific method" has impressed everyone, no less so (and perhaps more so) those who have very little knowledge of what it is all about.

Insofar as most people are concerned, this demonstrated success is the success of the natural sciences applied to technology and medicine. Of course, there is the broad generic definition of science as "any body of organized knowledge," and this is a cause of some confusion because, in this sense, any system of classification or organization of knowledge may then also be equated to natural science. The success of natural science does not flow primarily from any new principles of formal logic or reason. It comes from the utilization of data derived from observation and experiment expressed in more or less precisely defined and measurable form.

The attempt by other disciplines to appear as much like natural science as possible has been called scientism. Jacques Barzun, former Dean of the Faculties at Columbia, has said: [3] "Of this superb work of the Intellect, scientism tries to carry over as much as it can into other subject matters," and he cites examples of scientism in fields ranging from sociology to literary criticism.

Now the perhaps shocking question I want to pose to you is whether a good deal of systems analysis, operations analysis, and operations research as it is now being practiced for use at the decision-making level is not verging on scientism. Let me make it clear that I am not opening another discussion of judgment versus analysis. This argument is in my view almost devoid of content, since in any reasonable and practical analysis of a complex problem, a considerable amount of judgment enters.

I will set aside at the outset that branch of applied (and sometimes pure) mathematics which, to confuse matters, is called operations research. This branch of applied mathematics includes aspects of such subjects as probability and statistics, renewal theory, queing theory, linear programming, and game theory. This discipline is all very fine in its own right and to the extent that any actual operation (in military problems—usually transportation or logistic supply and maintenance) fits the mathematics, it is very useful. However, all too often we see attempts to force real problems into the Procrustean bed of a set mathematical model. We also see instances in which the real-life processes being analyzed by these mathematical techniques might very well fit the models, but for which the absolute values and functional relations describing the so-called "constants" have never been established.

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[1] *Works of Plato*, Tudor Publishing Co., New York.

[2] *Human Knowledge, Its Scope and Limits*, Simon and Schuster Inc., New York, 1948.

[3] *The House of the Intellect*, Harper and Bros., New York, 1959.

I will here turn away from consideration of mathematical formalisms to the consideration of what analysis purports to give to decision-makers. First, it is claimed that analysis is a "scientific method" or "scientific approach" or "scientific tool" to aid the decision-maker. For example, P.M.S. Blackett[4] quoting "Scientists at the Operational Level" (a paper he wrote in 1941) said:

"The object of having scientists in close touch with operations is to enable operational staffs to obtain scientific advice on those matters which are not handled by the service technical establishments.

"Operational staffs provide the scientists with the operational outlook and data. The scientists apply scientific methods of analysis to these data, and are thus able to give useful advice.

"The main field of their activity is clearly the analysis of actual operations, using as data the material to be found in an operation room, e.g. all signals, track charts, combat reports, meteorological information, etc."

Alain Enthoven in a 1963 speech to the Naval War College said:

"I would like to say that the art of weapons systems analysis, like the art of medicine, should be based on scientific method, using that term in its broadest sense. . . .

"What are the relevant characteristics of scientific method as applied to the problem of choosing strategies and selecting weapon systems? There are several. First, the method of science is an open, explicit, verifiable, self-correcting process. It combines logic and empirical evidence. The method and tradition of science require that scientific results be openly arrived at in such a way that any other scientist can retrace the same steps and get the same result. Applying this to weapon systems and to strategy would require that all calculations, assumptions, empirical data, and judgments be described in the analysis in such a way that they can be subjected to checking, testing, criticism, debate, discussion, and possible refutation.". . . .

Blackett regarded operations research as primarily an empirical discipline, as indeed did most of the World War II practitioners. In discussing anti-submarine warfare carried on by aircraft, after enumerating some twenty or so variables which could influence the problem, he said: "to attempt an a priori solution of this problem is clearly absurd. But if past operations are studied to give actual values of the yield, reasonably accurate predictions may be possible by the variational method."

Yet, I am sure many of you have observed the multitude of analyses over the past decade (on ASW and other subjects) which purport to do just what Blackett considered absurd. In fact, there are far more of these than there are studies based on "past operations."

Enthoven, on the other hand, also refers to experimental data and empiricism in systems analysis, but hardly any examples are offered or are easily found. We are really being asked to consider systems analysis scientific enough because it involves (at least in its ideal form) a clear statement of assumptions or premises and the logical deduction of conclusions from assumptions. In fact, it is primarily logic rather than experiment on which it relies.

It is interesting to note that by 1968, Dr. Enthoven, in defining what systems analysis is to a hostile House Armed Services Committee, had dropped all claim to be applying the "scientific method" to military problems. The words "science" or "scientific" do not appear in his statements to that Committee. Systems analysis by then had become a management tool or technique which no longer claimed the authority of "science," perhaps such a claim could not be sustained in the light of what had transpired between 1963 and 1968.

Let us look at the history of the physical sciences to see what logic may lead to when the premises from which the logic starts have no basis in empirical data and the conclusions are not tested against empirical data.

Aristotle's formal logic was not particularly faulty even by modern standards, at least for the purposes for which he used it. His physics was inferior to Newton's not because it was less logical, but rather because his experimental or observational basis was woefully lacking in comparison to Newton's. In more recent times the Raleigh-Jeans law for the spectral distribution of black-body radiation was certainly more logical (i.e.: derivable in mathematically rigorous form from then-accepted fundamental principles) than Planck's law derived from the quantum hypothesis—Planck's law just happened to check experiments. And again the concept that parity was not conserved in physical processes could not be justified because it was more logical than the principle of conservation of parity; in fact, conservation of parity could be regarded as intellectually and aesthetically more satisfying. (Why should the universe be either "right-handed" or "left-handed"?) Experiment alone could establish that parity was not conserved in all cases.

In military analyses, strategic systems became, after World War II, the main focus of attention. These systems, particularly at the time when ballistic missiles became the main components of the opposing forces, and ballistic missile defense did not need to be taken into account, lent themselves to rather simple quantitative analyses. The necessary input data—warhead yield, circular probable error and range—were explicitly given in equipment specifications and could be verified by engineering-type tests.

Much has been made of the use of computers for such analyses but actually, as you are all aware, the essential results of a ballistic missile exchange under standard assumptions as to strategy (first strike or assured destruction) can be obtained from calculations on the back of an envelope or two. Unfortunately, the sometimes overdramatized accounts of the accuracy of computer calculations of strategic nuclear-exchange has led many intelligent but not very well-informed individuals to assume that military analysis has now been reduced to an exact science.

I am sure that it would astound many of them, if they were told that the decision-makers in the Defense Department had never been exposed to a meaningful quantitative analysis of realistic military operations involving diverse ground and air operations with conventional weapons and that even the data and methadology for a reasonably acceptable analysis of this type did not exist anywhere.

The difficulty of quantifying military operations (or any other activities for that matter) increases radically with increase in the number of elements granted some latitude for independent decision and action and with increase in the number of sequential steps in the operation in which such independent decision and action may be exercised. The stylized strategic missile exchange is a game in which there is virtually no latitude for independnt decision and action except at the top and even there the options are very limited, as are the number of sequential steps. Ground force operations with a multitude of small units are at virtually the opposite extreme. The nature of the problem suggests statistical approaches, but unfortunately that results in losing a good bit of the information the decision-maker wants. The statistics of large numbers (the central limit thereon, for example) tend to average to almost every question a dull gray rather than black and white.

Perhaps in complex situations such statistical results are closer to the "truth" (however, it may be defined) than the results of more deterministic analyses but, if so, analysts have much more to learn about how to present such results and decision-makers have a great deal still to learn about how to use them. This is an important point to which I shall return shortly.

As one who has been exposed to a virtual deluge of operations research, operations analysis and system analysis reports over the past several years, I can tell you that, at the national level, such studies and analyses have many shortcomings which make them far less useful and less influential than they ought to be. Rarely are the specific quantitative results or specific conclusions of such studies of real value. Nevertheless, aside from the fact that the now-accepted rituals for obtaining program approval or solving a major problem demand submittal of a study, the study reports do often provide a structured format for enumerating the factors of importance to the decision and they do usually contain in convenient form a collection of raw and half-digested factual data essential to consideration of the question. For example, such analyses typically contain an "Instant Expert's Table" in which an effort is made to tabulate in one or a few tables all relevant quantitative data bearing on the problem under consideration. This kind of tabulation permits all sorts of people who have no real knowledge or understanding of the matter under consideration to get the feeling that they are dealing with the fundamental questions in a "quantitative" way. However, when reviewed and commented on by the "experts," the tables also serve the very useful purpose of flushing out fundamental differences in the way in which proponents and opponents of the various alternatives choose to present their data.

One of the greatest drawbacks encountered by decision-makers in using reports of analyses is the failure of the authors to follow the rule of full disclosure (in the SEC sense). Contrary to what is usually claimed, assumptions, particularly secondary assumptions which may have an important effect upon the results of the analysis, are not made clear in any prominent position in either the summary or in qualifying the conclusions. More often, key assumptions are to be found buried deep in the text together with such commentary as may be given to the degree of certainty or uncertainty connected with those assumptions. Computer programs now most often serve as devices which may unobtrusively plant assumptions in analyses. Of course, if the assumptions being hidden so transparently make the analysis invalid that they would be immediately recognized by the reader if they were clearly pointed out, nothing much is lost by the author in hiding the assumptions—nothing, that is, except possibly the confidence of the decision-maker to whom the report is addressed. Because when it becomes apparent that important assumptions having a major influence on the answer are hidden, the reader must assume either that the author was not being candid or that he lacked the competence to recognize the significance of his assumptions. In either case, he does not come off very well when the hidden assumptions are discovered.

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[4] *Studies of War*, Hill and Wang, New York. 1962.

So the first thing wrong with most analyses for decision-makers is that reports and briefings of analytical studies do not clearly show the relationships of the assumptions and data to the conclusions, in spite of all claims to the contrary. Closely related to this deficiency is the fact that most analyses for decision-makers ought to be based on a calculus of uncertainties not certainties. Great lip-service has been paid in the past twenty years to the notion that all analyses should be done with clear indications of the sensitivity of the analyses to variations in the input assumptions and data. Again, I must say that there are few good examples of this kind of analysis to be found. I do not mean by this that analyses are not often conducted in which input parameters are varied over a wide range; but just varying the parameters over a range is really not sufficient, the more so, if conclusions are stated based on only the chosen point values of the input parameters.

The decision-maker must know how much confidence he can have in the results of the analysis. Such a question often shakes analysts who usually reply that quantitative statistical confidence levels can be only stated for phenomena which can be described by certain classes of statistical distribution functions and the analysis that they have just completed doesn't fall into that category. Nevertheless, if the analysis is to be useful in decision-making, it is important for the user to have some feeling for the extent to which it can be relied on. There are, of course, many ways of indicating the degree of confidence a decision-maker can have in an analysis; the extent to which such analyses or closely related ones have been conducted before and verified by empirical results is certainly one factor; the extent to which input data are certain; sensitivity analyses, referred to above, properly presented; the formal statistical theory confidence levels, to the extent that it can be applied to the data; and direct comparisons of alternative means of computing the desired results from basically different data and methodologies.

All of these constitute ways in which the decision-maker can be made aware of the strengths and weaknesses of analyses and most of them are never found in reports reaching the senior management levels in the Pentagon. As you may have gathered, there is an undercurrent in what I have said above which bears on the question of objectivity. Advocacy is an ancient and honorable art—among lawyers. I see no reason why operations analysts cannot be advocates if they want to be. I do think that when they are advocates there should be some way of announcing it, of saying that a particular systems analysis or operations analysis report is being prepared to make the best possible case for some particular position. This can almost always be done in a straightforward way by choosing the most favorable extreme values of uncertain factors entering the analysis. Also, opponents of a position should be allowed to write devil's advocates reports, provided only that they state explicitly what position they are trying to tear down or what contrary position they are trying to defend. Professional standards should demand that all other analytical reports be as objective as the authors know how to make them and present all sides of the question under study.

Let me give a simple example of an analysis which strains one's credulity. One report which I was exposed to in the Pentagon purported to show that supersonic combat aircraft cost between 1.5 and 2 times as much as subsonic combat aircraft for the same weight empty. In order to prove this, aircraft of the late forties and early fifties such as the F–84, the F–86, and the F–89, which were subsonic, were compared with the aircraft of the late fifties and early sixties, such as the F–102, 104, 105, and 106, which were supersonic. Anybody who knows anything about the evolution of military aircraft development, and particularly the application of avionics to aircraft, over the past twenty years is well aware that such a comparison is specious. Furthermore, it was unnecessary to compare aircraft drawn from the two different eras, since there were in production at the same time the F–5 which was supersonic and the A–4 which was subsonic, both at approximately the same empty weight, (also the A–6 and the F–4), and therefore more valid data could easily be adduced. Apparently it did not appeal to the analysts to make such comparisons, but if they had, they would have found that the cost factor of 1.5 was not borne out by recent experience.

A general practice in the cost area that one frequently encounters in studies presented at the decision-making level involves comparison of the cost of equipment which has been developed and is in the inventory with the promised cost of new equipment of higher performance, which has yet to be developed. Substantial cost or at least cost-effectiveness advantages can almost always be shown for the new equipment. The only realistic approach would seem to be to state the price of the new equipment in terms of a range of costs rather than a specific estimated cost. Yet, again, very few analyses do this.

Analyses prepared by protagonists on the two sides of a question often provide decision-makers with some indication of the ranges of uncertainty. One of the striking recent examples of analyses concerned with advocacy may have come to the attention of some of you (some of it appeared in the newspapers). As a matter of fact the analyses in question are now well beyond their first generation. But in first generation analyses, done separately by the Navy and the Air Force, comparisons were made of the relative cost-effectiveness of land-based and carrier-based air power. They were done by reputable organizations and reputable people and they were passed up through all the official channels to the very top of the Department of Defense. I could leave you to guess how the conclusions differed but I will state the obvious. The Navy analysis showed an overwhelming advantage for carrier-based air power on a cost-effectiveness basis while the Air Force analysis, to no one's surprise, showed the contrary. Needless to say the reports of both these analyses embodied deep in their interior all sorts of auxiliary assumptions which were favorable to one side or the other. Finally, neither analysis presented much in the way of empirical data. These analyses epitomized much of what is wrong with analyses being handed to decision-makers today and reflect on the problem of professional standards for the practitioners of the art of analysis for decision-makers.

Having criticized and cast doubt on the validity of many of the analyses offered up as advice and assistance to senior decision-makers, I would like to try to restore my standing with this group and with my own associates by saying that in this complex society of ours, no decision-maker should be without all the help he can possibly get from analysis. What we need to do, however, is to improve the validity and utility of analysis and to restore it as an empirical discipline whenever possible. In my opinion we have gone downhill to a considerable degree since the heyday of operations research in World War II; the validity and utility of the analyses in the solution of major national problems has gone down—at least in a relative sense. Although there are many difficulties, some of which I have alluded to above, many of them would be considerably alleviated if greater emphasis were placed on the use of empirical data and the enunciation of clear statements of the degree of uncertainty in analyses. We should return once more to making, to the maximum degree possible, analysis for decision-making an empirically-based discipline. This means (because of the future orientation of much important analysis) learning how to extrapolate empirical data by simulation or other means, and developing better ways for stating bounds of uncertainties.

Moreover, the statement of uncertainties in analyses arising from shortcomings in input data, methodology, or definition of objectives in quantitative form should extend, when appropriate, to outright admission that the uncertainties are so large that no meaningful qualitative conclusion can or should be drawn from the analysis. There is no God-given law to the effect that every question of interest to mankind is susceptible of solution by logical and quantitative analysis. As Hans Reichenbach, speaking of philosophic doctrines, has said: [5] "Yet it is an unfortunate matter of fact that human beings are inclined to give answers even when they do not have the means to find correct answers," and also, "The history of speculative philosophy is the story of the errors of men who asked questions they were unable to answer; the answers they nonetheless gave can be explained only from psychological motives."

It may be that organizations such as this should set about establishing professional standards for full disclosure, objectivity, and ways and means for presenting the degree of uncertainty in analyses. The categorization of studies and analyses as advocacy, devil's advocacy, and objective efforts might help decisionmakers a great deal. Actions to improve the validity and objectivity of analyses could prove to be mutually reinforcing. For example in highlighting the uncertainties which afflict a given study, emphasis could be placed on the operational experiments, simulations, or data gathering which would help to alleviate these uncertainties. Full disclosure of all the important factors which influenced the results of a given study would help to highlight the important uncertainties. Clear identification of all these shortcomings might well help provide incentives for analysts to improve their ways of doing business overall.

It is important that we get on with a fundamental restructuring of ways in which analyses for decision-makers are done and presented. What was once a problem only in big military programs, systems and strategies is now becoming a much more widespread problem in government.

The recent moves toward application of Planning, Programming and Budgeting techniques by the civil agencies of government, at the federal, state, and local levels, along with a parallel movement by these agencies toward wider application of operations research techniques to problems of current operations, has resulted in a number of important, and often easy, victories for analytical techniques. This parallels the early situation in military operations research and has led to some rather optimistic appraisals of the extent to which existing techniques of analysis can be applied to solve a broad spectrum of technological, social, economic and political problems in the civil sphere.

However, we are increasingly faced with problems that require policymaking, action, and often funding, at the national level rather than by private enterprise and local governments alone. Generally, these new problems of non-military nature, tend to be much more complex and much more difficult to analyze than those we have heretofore faced. Most often in the civilian sphere the values and utilities are multiple and incommensurable; they cannot be clearly enunciated in simple terms and there are no simply-stated "requirements" in the military sense, unsatisfactory as these often are. Experimental or observational data are very difficult to come by and there is a significant "indeterminancy principle" attached to the conduct of social, economic, or political experiments, in that the experiment almost always causes significant, and not always definable, changes in the system being experimented on while the data gathering is in process, so that the data obtained relate to an undetermined state of the system.

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[5] *The Rise of Scientific Philosophy*, University of California Press, Berkeley, 1951.

At the same time the pressure is on the military establishment to reduce costs and increase effectiveness in order to make money available for needed civil programs. Military budgets and analyses for decision-making in military programs are being questioned at every turn by the Executive Branch, Congress, and the public.

In both military and civilian problems, the demands which are being made on analyses are great. Will the response be adequate? New and innovative approaches are necessary in both the form and substance of analytical studies. The challenge is yours to meet.

Director of Defense Research
and Engineering,
Washington, D.C., November 29, 1971.

Hon. John Sherman Cooper,
U.S. Senate,
Washington, D.C.

Dear Senator Cooper: This is in reply to your letter of November 15 signed jointly with Senators Hart and Symington. I have read the report of the Operations Research Society of America and agree that it does merit continued study. It covers an important and serious matter.

However, because this report has become a matter of controversy between a respected professional society and other professionals, I believe it would be inappropriate for me to comment on the details of the ORSA Ad Hoc Committee or on the facts pertaining to the controversy.

After reviewing the ORSA report I continue to believe that the statements and analyses presented by the DOD with respect to the threat and the Safeguard ABM system were valid and correct.

In particular, the reprogramming of missiles for failure and the "pindown" concept are technically feasible and obvious military tactics. Whether or not the Soviets would adopt them we, of course, cannot know.

Sincerely,

John S. Foster, Jr.

Yorktown Heights, N.Y.,
December 10, 1971.

Hon. John Sherman Cooper,
Hon. Philip A. Hart,
Hon. Stuart Symington,
U.S. Senate,
Washington, D.C.

Dear Senators Cooper, Hart, and Symington: This letter responds to your request of November 15, 1971, for my analysis of the findings of the September 1971 issue of Operations Research. On November 12, 1971, Senator Symington placed in the Congressional Record (S–18320 to S–18323) a letter which I wrote to the Editor of Operations Research, presenting my views on the volume "Guidelines for the Practice of Operations Research." Since my views have already been made clear in this (unanticipated) way in the public record, I shall reply only briefly to your specific questions.

To summarize, however, I found "Guidelines . . ." to have serious inadequacies while not making that major contribution which could have been contributed by a broad, unbiased, and technically competent review of a major question which was before Congress, namely the necessity for and the adequacy of Safeguard for defense of Minuteman. On this score, there is a nugget of gold in "Guidelines . . .", namely page 1236:

"Except for Foster's statements in his May 12 speech, the Administration appears to have avoided addressing the basic issue in the analysis of defense—how easily can they be countered and what must we do if the opponent attempts to do so?

"A particularly important interaction that has not been treated properly in this debate is the problem of the amount of defense of Minuteman believed adequate to preserve, in combination with other survivors of a Soviet first strike, a believable surviving U.S. second-strike force.

"It has been argued that the credibility of the U.S. deterrent policy is built upon making it apparent to the Soviet Union that enough of the total U.S. strike force (in all its components; bombers, ICBMs and sea-launched ballistic missiles) can survive any conceivable Soviet first strike, so as to retain an ability to inflict unacceptable damage to the Soviet homeland.

"If this principle is accepted, an argument that Minuteman must be defended (by Safeguard or any other defensive system) against a heavy Soviet SS–9 attack cannot be conclusive, unless, as a minimum, it shows that:

"(i) The undefended Minuteman survivors as well as all other surviving U.S. strike forces will not suffice to present a believable and adequate second-strike force, and,

"(ii) When Minuteman is defended, the total surviving U.S. strike force is sufficient to inflict unacceptable damage on the Soviets."

I consider it unproductive to have an ever-widening debate solely confined to criticism of the latest criticism of the original testimony. I am glad to see that your questions do not confine the comments simply to the merits of the ORSA Committee Report, and I shall comment on Safeguard itself when it is relevant to my reply. Now for the questions:

1. Was the technical scope of the Ad Hoc Committee report sufficiently broad to be able to evaluate the fundamental questions before the Congress: whether there was a need for deployment of the Safeguard ABM system at this time; its value as a protection of Minuteman against probable Soviet threats; and whether Safeguard was as good a system for protection of Minuteman as alternatives to the Safeguard ABM system such as "Hardsite?"

"Guidelines . . ." itself in the paragraphs quoted above shows the fundamental lack in the proponents' case for Safeguard. In the context of the overall deterrent, they did not demonstrate the need for deployment; they specifically avoided technically adequate analyses of its worth in protecting Minuteman against probable Soviet threats, to the extent of holding classified the number of interceptors which were to be deployed—a critical element in system effectiveness. By avoiding detailed considerations of effectiveness, and by excessively optimistic estimates of deployment date, the Administration denied the Congress the option of considering more effective Minuteman defense systems, simultaneously losing valuable time toward the realization of these systems.

In concentrating on Minuteman vulnerability, the Ad Hoc Committee report admittedly is too narrow to evaluate the fundamental question.

2. Was it possible to make a meaningful judgment considering the narrowness of the inquiry?

It was certainly not possible for the Ad Hoc Committee, within their narrow scope, to make a meaningful judgment on the worth of Safeguard, nor did they claim to do so. Nor does it seem to me possible for the Committee to make a meaningful judgment on the vulnerability of Minuteman, without a far more skeptical and probing attitude toward the basic facts released by the Defense Department. One does not use one's finest saw to cut rough lumber containing nails; the Ad Hoc Committee could well have asked whether the quality of the operations research was well matched to the accuracy and adequacy of the facts available, rather than whether it was of the highest absolute caliber.

3. In projecting the vulnerability of Minuteman, which was believed to depend upon whether one considered "reprogramming of Soviet missiles for failure" and simultaneous attack on U.S. missiles and bombers through "pindown" to be plausible Soviet tactics. Is the plausibility of these tactics a question of operations research or was it one of strategic analysis more broadly requiring consideration of many other factors? All things considered, do you believe that "reprogramming" and "pindown" were plausible Soviet tactics for the mid-seventies?

These questions of "reprogramming'" and "pindown" are clearly not decidable by operations research. They have a very high engineering content. I discuss in my referenced comments the question of reprogramming and pindown. Here I would like to point out once again why Safeguard would not be of significant value in preserving the bombers. Thus, my position is that simultaneous attack by submarine-launched ballistic missiles on air bases and pindown of Minuteman is not a credible threat, but that Safeguard would not help significantly if it were:

DDR&E and those who support Safeguard for defending bomber bases apparently credit the Soviet Union with the technology for a true MIRV, for very high reliability, for rapid computation and recomputation of trajectories (reprogramming of offensive missiles), and with highly reliable submarine-launched ballistic missiles in large numbers. The ORSA Ad Hoc Committee appeared to concur. Clearly, missile attack on a Minuteman silo is very different from missile attack on an airfield, in that a missile warhead must come within a few thousand feet of the silo to produce enough blast pressure to damage it, while airplanes on the ground can be destroyed by a burst several miles away, and in particular at several miles altitude. In the proposed Safeguard system, Sprint could not have been used to defend bombers. Thus, in the planned deployment, it would be Spartan which intercepted the submarine-launched ballistic missiles outside the atmosphere. *But does the Defense Department maintain that the Soviet Union, in 1976 or later, will not have effective exo-atmospheric penetration aids on its SLBM's?* Each real warhead could be accompanied by 10 or more decoys, vastly overwhelming any Spartan defense discussed thus far. The solution to the bomber vulnerability problem is that which the Air Force has taken, to reduce the time required to get the B–52's off the ground in response to warning of submarine missile launch; to improve our capability to obtain this warning; and to re-base the bombers farther from our shores.

4. Was the Administration misleading in choosing a particular level of threat against Safeguard; and not considering larger or smaller threats? Is it correct that Safeguard's effectiveness is only evident against a very narrow band of threats?

The DOD assumptions put Safeguard in its best possible light for Minuteman defense. That light was still not good enough, for even granting the qualitative nature of the Soviet threat it was apparent to all that a threat just slightly smaller than the one assumed would not require Minuteman defense, while one either slightly more numerous or using a small fraction of the SS–11s against the MSR's would completely negate Safeguard.

5. Do you believe that the proponents of Safeguard have now conceded that the opponents were right in insisting that smaller, cheaper, and less vulnerable radars be developed?

Certainly the Defense Department agrees, as Mr. Laird has testified, that a growing threat will require smaller, cheaper, and less vulnerable radars. Many of the proponents of Safeguard did not really distinguish sufficiently precisely between the Safeguard system offered for deployment and any other ABM system. They might include these radars as part of the Safeguard system which they advocated, although they certainly were not either in the program or in the stated budget.

6. Did the Ad Hoc Panel make full use of all the information available to the responsible Committees—the Armed Services and Foreign Relations Committees—both classified and unclassified, concerning the Soviet threat and Safeguard ABM performance capabilities against a range of Soviet threats?

Many facts and observations were considered both by proponents and opponents of Safeguard in preparing their statements to the cognizant Committees. Much of this background material was not explicitly discussed, at least in part to avoid submerging in details the important questions. A competent review of the positions of proponents and opponents, therefore, would have had to go beyond the material actually presented. The Committee implies that it reviewed other material but does not specify its sources. Examples of the Ad Hoc Committee report analysis show a serious lack of consideration for the classified material which I believe was available to at least one of the members of the ORSA Committee.

7. Was the inquiry by the Ad Hoc Panel technically correct and competent in its findings?

I do not believe that one can characterize the Ad Hoc Panel report as "technically correct and competent in its findings." I have given above an example of the neglect of the devastating possibility that the USSR might use exo-atmospheric penetration aids (devastating to the case for Safeguard). In my other comments, I note that the report did not treat at all properly two possibilities it criticized under the title "Suggestion of Impractical Alternatives"—the proposal to launch Minuteman on warning, and the proposal to disperse B–52s widely to airports including those commercial airports near large cities.

Considering the time available to the ORSA Committee, the number of members and the experience of the Committee, and the amount of review the report is said to have undergone, I find it it seriously flawed.

8. Should the inquiry by the Ad Hoc Panel have evaluated the testimony and statements of all witnesses pro and con who were called before the two Committees? Should the Ad Hoc Panel have made use of such studies as the Report of the Ad Hoc group on Safeguard for FY 1971 (the O'Neill Report) submitted to the Secretary of Defense on January 27, 1971?

If the O'Neill Report was available to the Ad Hoc Panel, it should surely have made use of it, inasmuch as the ORSA Committee report states (page 1176), "Additional relevant information and analyses performed by individuals or groups both inside and outside the government were obtained to aid in this review."

I do not believe that the Ad Hoc ORSA Panel should have conducted such an "analysis of the methodologies employed and publicly displayed by the participants in that debate" (page 1175) without going more deeply into the substance of the question. Given the decision to undertake that study, the Committee should certainly have reported more fully on the adequacy of the case presented by the Administration, who were, after all, the chief supporters of Safeguard during the hearings. I confess to at least as great an interest in the adequacy of the investigations and arguments of John Foster as in those of George Rathjens, but my interest is not satisfied by the ORSA Report.

Practically, I suppose that the Ad Hoc Committee could not have evaluated the testimony and statements of *all* witnesses. They should certainly have had a more objective procedure in choosing which statements and which witnesses to investigate.

9. Did the ORSA Panel apply the same standard of judgment to all witnesses who testified, both pro and con?

I do not believe that the ORSA Committee used the same standard of judgment for all witnesses. I don't even think that it used the same standards for its own report as for the analyses above, the ORSA Report alludes to unspecified "additional relevant information and analyses performed by individuals or groups both inside and outside. . . ." Furthermore, Rathjens Weinberg, and Wiesner were not contesting with Mr. Wohlstetter. They were presenting arguments and analyses concerning the case which was made by the Defense Department. Perhaps the Ad Hoc Committee, in inviting the opponents to participate in the study, expected them to provide a specific list of topics on which they felt the Administration operation analyses were deficient, and the Ad Hoc Committee would have been willing to analyze those on an evenhanded basis. When the opponents did not choose to participate, had the Committee intended to be evenhanded, they could have gone to great lengths to have someone act in the position of public defender, to provide the Committee with such a supplementary list of topics.

Neither the procedure nor the result leads me to believe that the same standard of judgment was applied to all witnesses.

This concludes my replies to the questions. I hope that this discussion will help to clarify the utility and limitations not only of operations research, but also of our present procedures for deciding important questions and programs.

Sincerely yours,

RICHARD L. GARWIN.

PRINCETON UNIVERSITY,
Princeton, N.J., November 24, 1971.

Senator PHILIP A. HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: I am responding to the letter from you and Senators Symington and Cooper. I shall take up your specific questions simply because I do not have time to write a discursive opinion of the ORSA report.

1. Since I had never heard of any of the members of the Committee, with the exception of the ubiquitous Mr. Wohlstetter, I am not sure how technically able they might be. The very fact that I have been in the business for fifteen years and had never heard of these people makes me very skeptical. Capable or not, they essentially failed to address the questions you pose.

2. The narrowness of the inquiry was such that it had little bearing on the true issues raised by the Safeguard ABM deployment.

3. The plausibility of the reprogramming and pindown tactics is a difficult and complex problem which is not addressed in the report. They obviously are questions of broad strategic analysis involving high technical matters. All things considered, I believe the reprogramming and pindown tactics are completely implausible ones for a Soviet first strike.

4. The answer to both questions is a resounding "Yes".

5. I think it is quite clear that no reasonable defense of the Safeguard system from a technical standpoint, could ever have been nor ever really was made. The responsible people in the Pentagon have always recognized the need for smaller and more numerous missile site radars.

6. No opinion.

7. Since the panel considered such utterly trivial aspects of the whole ABM question, it is likely they got the correct answers to the simple questions they posed.

8. & 9. The whole panel study and its method of reporting was, in my opinion, entirely inappropriate and unfair. It was an exceedingly one-sided study and surely paid little attention to the very large amount of testimony supporting the conclusions of Rathjens, et al. The whole thing was a very bad show.

Sincerely,

M. L. GOLDBERGER,
Chairman.

THE BROOKINGS INSTITUTION,
Washington, D.C., January 3, 1972.

Mr. PHILIP A. HART,
Mr. STUART SYMINGTON,
JOHN SHERMAN COOPER,
U.S. Senate,
Washington, D.C.

GENTLEMEN: In response to your letter of November 5th, I am enclosing an analysis of the ORSA committee report on the ABM. It seems to me to be most useful to prepare a general memorandum rather than specific answers to the questions posed. I have, however, indicated my views on each question in the body of the memorandum.

I regret the delay in answering your letter and hope that my response will still be of use. If I can be of any further help, please do not hestitate to call on me.

Sincerely yours,

MORTON H. HALPERIN.

COMMENT ON APPENDIX III "TREATMENT OF OPERATIONS RESEARCH QUESTIONS IN THE 1969 SAFEGUARD DEBATE" OF REPORT OF THE ORSA AD HOC COMMITTEE ON PROFESSIONAL STANDARDS

For reasons not explained in the appendix, the ORSA committee chose to concentrate its analysis on a single question relating to the damage which could be done to the American Minuteman force by one hypothetical Soviet force. This was not the only operations research question of relevance to the ABM debate; there were others of much greater importance such as the alternative means available to the United States to assure that a specified number of Minutemen could survive a given Soviet attack and the sensitivity of alternate American force postures to different Soviet threats. If the committee had chosen to examine these issues, its report would have been of some value. However, no study of the ABM debate limited to questions of "operations research" could have been of major significance since the major issues involved systems analysis and political-military calculations far beyond the scope of systems analysis.

This memorandum discusses briefly the major ABM issues before turning to an analysis of the issue which the committee did examine and an effort to explain its triviality.

THE MAJOR ABM ISSUES

The major issues, as I see them, are three:

1. How likely was it that the Soviets would develop the capability to destroy a large fraction of the Minuteman force soon enough that one had to go forward with Safeguard in 1969?

This question receives no attention at all in the ORSA report where the threat is taken as an assumption. In order to threaten Minuteman, the Soviets had to develop a MIRV for the SS–9 and provide it with a far greater accuracy than they have yet demonstrated for a single warhead. The administration extrapolated from the Soviet testing of a multiple warhead (not a MIRV) for the SS–9 and predicted that the threat would materialize. In fact it has not. According to the information officially released by the Pentagon or otherwise reported in the press, the Soviets, several years later, have still not tested a MIRV or begun the series of tests necessary to develop great accuracy. Indeed the administration no longer even claims that Safeguard must proceed on its planned schedule or the Minuteman force would be vulnerable. It has rested its case entirely on the "negotiating chip" argument.

On this key issue the opponents have been proven correct: we did not need in 1969 to go forward with an ABM defense of Minuteman.

2. How wide a range of threats could Safeguard handle?

Critics of Safeguard charged that it could handle only a very narrow range of Soviet threats—a lesser threat and it was not needed and more of a threat and it would be easily overwhelmed. The administration made this proposition difficult to argue by refusing to make public the number of launchers which will be built. (This number would be known to the Soviets long before the system was completed.) The ORSA committee, by not discussing the question of Safeguard's effectiveness, ignored this issue completely.

Within a year, Secretary Laird was conceeding this argument, noting that the Soviets could easily build a force which would overwhelm Safeguard. On this important issue too the opponents have proven correct.

3. Could a more effective and cheaper system be developed?

Given that the threat was not imminent and that Safeguard would be effective against only a narrow range of threats, opponents argued that a more effective system with a cheaper radar could be developed. Indeed at least some critics of Safeguard were, and are, prepared to support a hard point defense provided that: (1) a cost-effective system was developed; (2) the threat appeared likely; and (3) it was consistent with a SALT agreement. What they objected to was early deployment of the wrong system which the Soviets were likely to view as the first step toward a system designed to take away their deterrent.

It would indeed have been a miracle of serendipity if components designed to protect American cities against a large Soviet attack would have also been optimal to defend cities against a small Chinese attack and to defend missile sites.

The administration has now conceded this argument as well as is pushing the development of the dedicated hard point system.

The Issue Examined: Would Minuteman be at risk?

The question on which the committee focused concerned the calculations offered by Wohlstetter and Rathjens on the number of Minutemen which would survive a specified Soviet threat. The committee did not consider whether the threat was a likely one nor did it discuss what significance the difference in calculations had. What can be said about the committee's conclusion that Rathjens behaved inappropriately?

The administration faced a difficult problem in conjuring up the threat which would justify going forward with Safeguard in 1969. The Soviet force posture had to meet three criteria:

1. it had to be one which the intelligence community would not judge to be completely implausible in the given time frame;

2. it had to be capable of destroying a large fraction of the Minuteman force; and

3. it had to be a force against which Safeguard would be effective.

These criteria were so constraining that the administration's effort to specify such a threat failed the first time around. Rathjens' calculations (even as corrected and then accepted by Wohlstetter showed that 16% of the Minuteman force would survive.[1]

Given these calculations the administration faced a dilemma. It had to increase the threat without giving the Soviets a force which could overwhelm Safeguard. The threat could have been increased either by giving the Soviets more SS–9s or more MIRVs per missile but either of these forces would have been too large for Safeguard to handle. Indeed Wohlstetter shows that by attributing to the SS–9 what he calls the "number of 1–MT MIRV warheads the SS–9 is capable of carrying" the percentage of Minutemen surviving is reduced to 7.3 without reprogramming. While the ORSA report condemns Rathjens for not using this number, it does not note that the administration and Wohlstetter rejected it because the force could overwhelm Safeguard. Since the ORSA panel did not look at all at Safeguard effectiveness it missed the significance of the alternative Soviet threats.

Faced with this dilemma Wohlstetter and later the administration decided to give the Soviets a reprogramming capability. Nowhere did the administration, ORSA, or Wohlstetter explain why the Soviets would go this route rather than following the more straight forward and reliable path of adding more warheads or building more missiles. The Soviets could rely on reprogramming instead of adding more missiles or warheads only if they had the same aim as the administration and Wohlstetter—namely to design a force which threatened Minutemen but could be handled by Safeguard. To state the point is to show the absurdity of the assumption. With 5 years of lead time before Safeguard would be operational the Soviets would have to be insane to rely on reprogramming which enhanced the value of Safeguard rather than enlarging the total force by adding warheads and/or missiles thus rendering Safeguard useless.

Moreover, the ORSA committee going beyond the bounds of operations analysis assumes that the Soviets would be prepared to rely on reprogramming. Wohlstetter describes reprogramming as involving "methods familiar to us." He did not inform his listeners that we had no such system nor was there any evidence that the Soviets had such a system or were developing it. In my judgment, no Soviet planner attempting to build a first-strike force which he hoped would be credible to the politburo would rely on reprogramming. Rather he would build a force large enough for the purpose without reprogramming.[2]

Finally, one must ask about the significance of the range of calculations offered by Wohlstetter and Rathjens. The lowest surviving percentage suggested by Wohlstetter is 5. Using standard techniques of operations research one can calculate that this means that 50 Minutemen would survive.[3]

By 1975 most of the Minuteman force will be MIRVed; thus each surviving missile would carry either a single 1 Megaton warhead or 3 warheads of lesser yield. In either case the force could easily destroy at least 15 of the largest Soviet cities. The question of whether such destruction is not sufficient for deterrence, when it serves only to reenforce the bomber force and 41 Polaris submarines, is not addressed in the report.

How Trivial is the Question on which the ORSA Panel focused?

As has already been suggested it is difficult to overestimate the triviality of the issue upon which the ORSA panel focused. Since it may be difficult for readers unfamiliar with the details of the ABM debate to grasp this point an analogy may be useful.

Suppose that an opponent of the Vietnam war had in 1966 offered the following critique:

The Vietnam war is immoral. The United States has no vital interests which require it to fight in Indo-China. The Saigon government is corrupt, inefficient and unworthy of support. The bombing of North Vietnam is not only immoral, it is ineffective since it cannot prevent Hanoi from moving enough supplies down the Ho-Chi-Minh trail to provide what its forces in the South need. This is so because it is difficult to prevent movement down the trail and because Hanoi will start enough on the trail to insure that what it needs will arrive at the other end. This is easy to do since the forces in the South need only 2.5 tons/day which can be carried in 15 trucks.

A critic of this position objects that the author has not provided the data to replicate the calculations leading to the 25 tons/day and 15 trucks. When provided with this information he shows that using alternative assumptions about enemy needs and truck capacity the correct numbers are 40 tons and 20 trucks.

Five years later an ORSA panel appointed to look into criticisms of the Vietnam war looks primarily at the ton/truck issue, concludes that 40 and 20 are the correct numbers and condemns the critics.

What the ORSA panel has done is equally absurd and the absurdity is equally clear, I believe, to any fair-minded observer familiar with the ABM debate.

One must then reluctantly ask why the committee chose to focus on this question.

The answer is clear but evidently one about which the committee is ashamed. As the report does indicate its inquiry arose from a letter by Wohlstetter to ORSA. In its 135 page report the committee prints part of this Wohlstetter letter and the full text of each of the letters it exchanged with Rathjens. The excerpts of the Wohlstetter letter are intriguing. They contain this sentence: "For this purpose it is enough to consider how participants in the debate handle the important issue I have described." What that issue is cannot be determined by readers of the ORSA report since the committee has left out the middle paragraphs of Wohlstetter's letter. These paragraphs, in fact, spell out in detail the controversy over how many Minutemen would survive and explain Rathjens' errors. That Wohlstetter was interested in having this one question examined is understandable. He is, in general, careful of the calculations he makes public, and was confident that in this instance he had shown himself to be better at arithmetic and simple calculations than Rathjens had been.

That the ORSA panel permitted Wohlstetter to define its agenda—and then chose to hide that fact—is inexcusable, totally unprofessional, and in complete violation of the standards it sets in the body of its report on criteria for reviewing a study (pages 1130–31). The committee failed to evaluate the statements by the administration or its supporters. It examined only a few of the issues raised by critics—those specified by Wohlstetter in his letter.

The report is useless in seeking to evaluate the analysis presented by the administrators, its supporters, or its critics. It is equally useless in seeking to assess, even with hindsight, whether initiating Safeguard in 1969 was indeed vital to American security.

MORTON H. HALPERIN.

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[1] Rathjens' calculations showed 25% surviving because he assumed four 1-megaton warheads in each SS–9 (before the administration specified three 5-Megaton warheads as the standard threat), and because he apparently made an optimistic assumption about how blast-resistant the Minuteman force is. (See the Wohlstetter chart reproduced on page 1191 of the ORSA report.) It was this error that occupied most of the attention of the ORSA committee.

[2] Nor would he, in my view, rely on pin-down, a technique which the committee on the basis of a very superficial look at a question far beyond its competence, describes as reliable.

[3] To permit replication:
1000 (unclassified number of Minutemen)
x 5% (Wohlstetter's number, see page 1191)
50 Minutemen surviving.

Cambridge, Mass., *November 15, 1971.*
Hon. Philip A. Hart,
Hon. Stuart Symington,
Hon. John Sherman Cooper,
U.S. Senate,
Washington, D.C.

Gentlemen: This is in response to your request that I comment on the report of the ORSA Ad Hoc Committee on Professional Standards entitled "Guidelines for the Practice of Operations Research" contained in *Operations Research*, Vol. 19, No. 5, September, 1971.

A professional society that elects to judge the credibility and integrity of professional people who are not among its members is under profound obligation to employ rigorously every judicial safeguard, including having its own findings reviewed by a competent group external to the society to insure fairness and freedom from bias. After reviewing the ORSA report, I can only conclude that it does not accord with what I conceive to be the professional standards which should characterize so serious an inquiry of this kind. It is further my feeling that the ORSA report is inadequate in that it deals with very narrow aspects of the debate while neglecting the broad strategic questions, quite beyond the boundaries of operations analysis, that were of such fundamental importance. I have not always concurred in the views and judgment expressed by those scientists whose statements the ORSA report seeks to question, but I have never doubted the high purpose and great usefulness of their contributions to the national debate on the ABM issues. I hold the same view of those who testified in favor of the ABM. It is of the utmost importance that such complex issues as the ABM be thoroughly debated pro and con and that proponents and opponents, including those who constructively dissent from governmental views, be heard and feel free and encouraged to express their dissent without fear of subsequent attacks on their integrity.

If the nation is to reach sound conclusions about great technical issues, it is vital that we have meticulously prepared and rigorously objective testimony (including explicit statements about any limitations in data or assumptions) from scientists and engineers when they speak in their professional capacity and that they carefully distinguish their technical analyses from their personal or political views. At the same time it is important to understand that there are technical issues about which technical experts of equal competence, objectivity, and integrity may reach differing conclusions, especially when there are strategic and policy elements involved with the issues.

With all these considerations in mind I can only respond to your inquiry by expressing my view that the ORSA report is hurtful rather than helpful in seeking to uphold the high standards of professional participation in national debates in which there is a high content of both science and trans-science elements.

Yours sincerely,

J. R. Killian, Jr.

Harvard University,
Department of Chemistry,
Cambridge, Mass., November 11, 1971.
Hon. Philip A. Hart,
U.S. Senate,
Washington, D.C.

Dear Senator Hart: I am in receipt of a letter signed by you and by Senators Symington and Cooper concerning the report of an Ad Hoc Committee of the Operations Research Society. I am familiar with that Report and the reply to it prepared by Messrs. Rathjens, Wiesner and others.

As regards your specific questions my answers are as follows:

1. Q. Was the technical scope of the Ad Hoc Committee Report etc.

A. No, it was not.

2. Q. Was it possible to make a meaningful judgment considering the narrowness of the inquiry?

A. Not an objective one.

3. Q. In projecting the vulnerability of Minuteman, etc.

A. In my view the plausibility is doubtful.

4. Q. Was the Administration misleading, etc.

A. It would appear to be an arbitrary choice helpful to the proponents of ABM.

5. Q. Do you believe that the proponents of Safeguard etc.

A. They seem to have done so.

6. Q. Did the Ad Hoc Panel make full use of all the information etc.

A. No, it did not.

7. Q. Was the inquiry by the Ad Hoc Panel technically correct and competent in its findings?

A. It appears to have been biased.

8. Q. Should the inquiry by the Ad Hoc Panel have evaluated etc.

A. This would have been the more correct procedure.

I should like to use this opportunity to comment in a more general way on the ORSA Committee Report and the vigorous efforts to give it wide publicity.

The ORSA Committee Report, unfairly I believe, raised questions about the credibility and even the integrity of several individuals who were active in the ABM debate. The Report specifically questioned their calculations and assumptions regarding future vulnerability of our Minuteman forces to SS-9 missiles of the Soviet Union. These calculations required projections of the SS-9 threat in numbers, accuracy, reliability, damage effectiveness, etc., etc. It is reasonable and in fact unavoidable that independent experts would determine such projections somewhat differently and hence would have different views on the magnitude and imminence of the Soviet missile threat, as well as on the performance of the Safeguard System in protecting Minuteman missiles, particularly when compared in effectiveness, cost and availability with alternative systems. The ORSA Committee Report did not address itself to these major questions, but only to a narrow segment of the debate chosen by a protagonist in the ABM debate; the Report concentrated on small issues, and largely on a few individuals who disagreed with that protagonist. Whether ORSA's specific criticisms are partially valid or not, is of small consequence when viewed in the context of broad technical issues ably discussed in their ABM testimony and writings by the criticised people, especially Drs. Panofsky, Rathjens and Wiesner, who have made many other valuable contributions to public policy regarding technical aspects of defense over a period of many years.

In the ABM debate the participation of experts provided the Congress and the public with an almost unprecedented exposure to the many facets of a major defense policy. Its formative process was especially enriched by the non-Government experts who are not restricted in their public views by the official government positions. In assessing these contributions one must bear in mind that in such debates the independent citizen-experts opposing the Administration view are at a grave disadvantage because they usually do not have the same access to intelligence and other classified information as Government experts and if they have such access are not assisted by a timely official release of selected items of classified information.

Because experts are human some unfounded assertions can always be detected on all sides, especially when the time available to prepare statements is short. What is of real importance is that Drs. Panofsky, Rathjens, Wiesner and others did contribute greatly to the quality of public debate on ABM and deserve not criticism in the publicity following the ORSA Committee Report but approbation for their public service.

Sincerely yours,

G. B. Kistiakowsky.

Operations Research Society of America,
November 23, 1971.
Senator John Sherman Cooper,
Senator Stuart Symington,
Senator Philip A. Hart,
U.S. Senate, Washington, D.C.

Gentlemen: A copy of your letter requesting opinions on ORSA's Ad Hoc Committee Report has been sent to me. While you did not request my own answers to these questions, I am enclosing such answers. You will find that my answers to many of the questions are the same as those of people who have criticized the report. It seems to me that raising such questions as if they were subject to partisan interpretation implies a misunderstanding of the report and its purpose. I know you are all very busy men, but I would appreciate it if you would each take the time to read the report in its entirety.

The immediate stimulus for the report was a letter from Dr. Albert Wohlstetter (and while he is a member of the Society, and I believe endorses our report, we do not necessarily endorse Dr. Wohlstetter's opinions or writings except as specifically stated in the report). However, the document that convinced us that we should make this study (p. 1151) was written by one of your colleagues, Senator Jackson; it appeared to us to constitute a rather plaintive request to scientists to set their own house in order. We believe that Senators have a right to expect from technical experts a clear-cut exposition of matters within their area of expertise, and that within those highly restricted areas of the ABM debate which we chose to study, they had not received this.

Let me state once again that the Society which I represent does not favor the ABM (neither does it oppose it). It is clear that some people will use this report for their own ends (just as "The devil can cite Scripture for his purpose"). Let me state for the record that I find the article by Alsop, which praises the report, as disturbing as I find some of the distorted articles which attack it, such as those in the Boston Globe. I should think, however, that all Senators would unite behind the principal objective of the report; namely, to ensure that the Senate of the United States obtains a more adequate basis for its decisions on technical matters.

Sincerely yours,

Robert E. Machol.

Answers to Questions

1. "Was the technical scope of the Ad Hoc Committee report sufficiently broad to be able to evaluate the fundamental questions before the Congress." The answer is a resounding "No"; it was never intended to be. This is stated several times in the report (for example, page 1175) and was stated by me again very strongly in the Foreword (page 1123).

2. Assuming that the question means "was it possible to make a meaningful judgment on the desirability of Safeguard from the ORSA study considering the narrowness of its inquiry," the answer is no.

3. Some reprogramming (for example, for launch failures) is plausible. Other reprogramming (for example, for warhead failures) is not plausible. Operations Research is pertinent to making these distinctions. The original debate was obfuscated by failure to make these distinctions.

4. Safeguard, like any other defensive system, is effective only against a restricted band of threats. The exact width of this band was unfortunately not well illuminated by either side of the 1969 debate.

5. I have not kept up with the post-1969

debate. I believe that both sides considered the radars vulnerable. However, the failure to describe this vulnerability and its consequences adequately was one of the shortcomings of the debate.

6. Within the restricted area which it chose to study, the panel did make full use of all such information.

7. As a reviewer of this document my answer must be obvious: yes, it was technically correct and competent.

8. The inquiry of the Ad Hoc Panel should not have gone beyond the topics which it covered. It restricted its inquiry to those aspects of the 1969 debate on the ABM which were in the public domain and on which scientists gave conflicting testimony. To have gone beyond this would have been to investigate the political question of paragraph (1) above.

9. Again, since I was a reviewer for the report, it is clear that my answer to this question is "Yes."

MASSACHUSETTS INSTITUTE OF TECHNOLOGY,
Cambridge, Mass., November 23, 1971.
Hon. PHILIP A. HART,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR HART: Yes, I have read most of the September, 1971, issue of "Operations Research." More than a year ago I was asked to be Chairman of the Committee which was to write that Report. I refused to have anything to do with it, and strongly advised against setting up the Committee. When the Report nevertheless came out, I protested both to the present officers of the Society and to the press, as indicated in the enclosed exchange of letters. The Publication of the Report was only just approved by the Council of the Operations Research Society, the vote being 6 to 5, with the President of ORSA breaking the tie. The statement of the Minority of the Council, which is enclosed, may be of interest to you.

I could endeavor to answer each of the nine questions you raise, though I have not been in close touch with the details of the ABM studies and have not had access to classified reports regarding the subject. For example, my answer to your questions 1 and 2 would be No.

However, my reaction is much broader than the minutia which fill the Report. My criticism has to do with the dangers inherent in ascribing reality to the results of a mathematical analysis of a situation, without first examining carefully the assumptions on which it is based. It also has to do with the way purely technical reports can be used for non-technical purposes.

The basis of my criticism lies in my experience in operations research, which goes back to the beginning of World War II. I was Director of the U.S. Navy Operations Research Group then. We learned from hard experience that the results of mathematical analyses could be of immense value in tactics, *only* when we were reasonably certain as to the behavior of our own weapons *and* of the tactics and weapons of our enemy. During a war there are tough but necessary ways of gathering data on these two points, data from the battle itself. And if the data-gathering is *scientifically* done and efficiently processed, one can hope to obtain accurate-enough parameters for the analyses, so that correct tactics can be initiated before the enemy catches on. (A few examples are outlined in "Combat Scientists" by L. R. Thiesmeyer and J. E. Burchard, Little, Brown and Co., 1947, Chapter 7, and in "The Battle of the Atlantic," by S. E. Morison, Little, Brown and Co., 1947, pages 217 to 224, and the principles are discussed in "Methods of Operations Research," by P. M. Morse and G. E. Kimball, John Wiley and Sons, 1950, Chapter I).

We soon learned that the estimates of effectiveness of our weapons, given us by the designers of the weapons, were nearly always over-optimistic, compared with their effectiveness when used by soldiers in wartime conditions. In fact the discrepancy usually turned out to be a factor of three in degradation of effectiveness. We also learned, the hard way, that estimates of enemy intentions and capabilities, obtained from "intelligence," could be just as badly off, unless tested in battle or checked against past experience of enemy behavior. Until these uncertainties in *assumptions* could be narrowed by operational data, the predictions of our beautifully accurate *analyses* could be wrong by a factor of as much as ten. Only by applying the pessimism of experience could we arrive at *safe* predictions, to apply before operational data were available to check our assumptions (and the important goal was to get this operational data as quickly and cheaply as possible).

But in peace time these operational data are not at hand, happily for the country but unhappily in regard to predictions of weapons effectivenes. This I learned (again the hard way) when I was first Deputy Director of the U. S. Joint Chiefs' Weapons Systems Evaluation Group (WSEG) in 1949 (this was before the Group was split into a purely military group and a purely civilian group under the Institute of Defense Analyses; I supervised the work of the military as well as the civilians, under General Hull, Director). When we were trying to predict the effectiveness of the B36, we were given the optimistic estimates of the B36 designers and the "intelligence" estimates of enemy capabilities, which varied widely from month to month. Our first task was to reduce these guesses to some set of realistic *assumptions*, to put into our calculations to predict operational losses and successes. Luckily, at the time, we had enough officers and civilians with war-time experience so we could get agreement on the degree of operational degradation we had to apply to these guesses, and could come up with realistic assumptions. And I believe our resulting predictions of the inadequacies of the B36 were eventually agreed to by everyone (including General LeMay!).

By now a new generation of officers and analysts has come on the scene, many of whom have never had the sobering experience of seeing their optimistic predictions disproved by deaths on the battlefield. They too often are willing to take the assumptions given them by designers and by "intelligence" as gospel truth, and to base their calculations on them without adding any correction factors for "the fog of war." This is why I believe the arguments regarding details of the analysis of ABM effectiveness are beside the point. Strategy is still an art, not a science. Science can help in many ways, but final decisions must be based on experience and judgment.

At one point in the ABM hearings I understand one senator asked how it happened that scientists, who were supposed to know "the truth," could so convincingly come out with such widely different predictions. To this sensible question I can offer two suggestions—perhaps answers. The first is that the scientific method is dual, the use of both experiment and theory to predict future phenomena. The experimental data result in parameters (assumptions) to be inserted in the theory (analysis) to produce the predictions. The immensely complex calculations needed to land the Apollo missions accurately would have been useless without precise values of the experimentally determined data on the gravitational fields of the earth and the moon. Anyone who argues about a possible 5 or 25 percent error in the calculation of missile vulnerability without first making sure of the input parameters, or *realistic* values of our weapon capabilities and the potential of our enemy (to at least that same accuracy) is not arguing scientifically. And, in the present circumstances (thank God) we have no means of experimentally determining those input parameters to that accuracy.

Therefore the argument must be based on experience and judgment, as to the most likely value of these input parameters. I, for one, would rather place my bets on the judgment of those who have had broad experience in strategic weapons evaluation, such as a presidential science advisor, rather than on the opinions of an analytic specialist or a protagonist of some new weapon. The argument here is not about the truth or falsity of some scientific law, it is about the plausibility of the assumptions on which the calculations are based. And I submit that Congressmen are as capable of judging the experience and realism of the protagonists as are any technical expert. These are *not* questions of science, they are matters of judgment, based on experience. Anyone who tries to argue his case for the ABM on the grounds of the accuracy of his analyses is either scientifically naive, or else he thinks it doesn't matter, that the time will never come when hard reality will provide a check on his assumptions.

My second suggestion is more tentative. There is a whole gamut of "sciences," from the "hard sciences" to the "soft sciences," which can be graded in regard to the ease or difficulty of determination of their assumptions. To a physicist or chemist the experimental determination of the theoretical assumptions, the basic parameters, is as important to him as is the mathematics of the theory which uses the parameters: it is all a part of his science. The economist or the sociologist has a much harder task in verifying his assumptions quantitatively. In many cases agreement on assumptions must as yet be based on polemic or on philosophical arguments rather than on verifiable, quantitative experiment. Unfortunately, when studying military strategy or pollution or energy needs for the country, when both "hard" and "soft" scientists participate, this distinction between assumptions based on measurement and assumptions based on judgment are often forgotten, or misunderstood. And at times a non-experimentally-verifiable assumption, or the results of analyses based on such an assumption, is presented as a scientific conclusion. In such cases you of course will find scientists reaching widely varying conclusions, depending on the assumptions they have made; the differences are not in the science but in the experience and judgment of the protagonists.

This is of course not to say that science is of no help in cases where assumptions cannot be verified experimentally, under realistic conditions. Analysis can work out the consequences of the assumptions, and often can work out ways whereby some assumptions can be verified with minimum effort and disruption. But both scientists and Congressmen must distinguish between the verifiable, scientific part of the study and the "unscientific," as yet unverifiable assumptions, which must be decided, hopefully, by the best judgment available. That best judgment may be that of an experienced scientist or it may be that of a Congressman or a general; it shouldn't be called science.

I hope this general discussion will answer some of the questions behind your questions. As I said at the beginning, I am not an expert on ABM's, but I have had experience in many similar problems, both military and non-military, and I am sensitized to the crucial importance of distinguishing between science and assumptions based on judgment. I am not ashamed, as a scientist, to disagree violently with a fellow scientist on matters based on experimentally unverifiable assumptions. I might not think much of my opponent's judgment, but I certainly would not say he was unscientific.

Sincerely,

Philip M. Morse,
Director Emeritus.

New York, N.Y., *January 12, 1972.*

Hon. John Sherman Cooper,
Hon. Philip A. Hart,
Hon. Stuart Symington,
U.S. Senate, Old Senate Office Building, Washington, D.C.

Dear Senators Cooper, Hart, and Symington: I apologize for being so late in replying to your request for comments on the ORSA report about the 1969 ABM debate. As I mentioned in my earlier reply, I have been very busy traveling on business in recent weeks. A more important cause of delay, however, has been the difficulty I have experienced in composing a reply that addressed the issue I believe underlies your request: whether the Congress, and the people, can obtain expert opinions on a subject on which we are divided without having those opinions shaped in part by the political rather than the professional attitudes of the experts. I have concluded that I cannot do this without distorting my actual views if I adhere to the format for reply you suggested.

I am certain it is not necessary to stress that in the end a Senator or Congressman must make up his mind on an issue, even a "scientific" one, using his own best resources of character and judgment to sort out the authoritative things he has heard from those that merely reflect, however strongly and admirably, the political, social and strategic opinions of a scientific expert. In the case of the ABM debate, the contradictions among the opinions of scientific witnesses were especially stark. I do not believe this resulted from dishonesty or irresponsibility of the witnesses. Fundamentally, the trouble with the ABM debate's scientific testimony is that the issue itself is not very scientific. Practically, the trouble is that open hearings or debates before a lay audience tend to confuse technical and non-technical opinions and to emphasize differences rather than matters of agreement even on scientific questions.

That the ABM issue is not very scientific seems to me clear. There is not very much of a range of opoinion about either the physical phenomena that impinge materially upon ABM or even the technology used to exploit or otherwise deal with those physical phenomena. All scientific witnesses who participated in the debate believe the same fundamental things about how radars work, missiles accelerate, and nuclear explosions corrupt the environment. They differ on such issues as the severity of the technical challenge involved in dealing with such phenomena, on the merits of certain technical system implementations versus alternatives, and, in the end, the extent to which an ABM system will do the job expected of it.

They differ, as reasonable people will inevitably differ I believe, on a complicated matter. We have never and, God willing, never will fight a nuclear ballistic missile war. We have no means beyond the most careful thought and interpretation of data gathered in ways other than war to judge how a system will function in the conditions of war. We do not even know with high certainty what kind of attack we might face. We have intelligence data, data that I believe give reason for very serious concern, but we do not and cannot know in precise detail the characteristics (e.g., accuracy) of an enemy's weapons, the way he would use them, and the way he would relate the use of his ICBM's to the use of his other weapons. However, scientific experts can present to the Congress a well-done set of assessments about ABM system capabilities, based on the use of certain data and judgments. The sources and estimated quality of data used can and should be stated. The sources and bases of judgments should also be stated.

The forum of open hearing or debate has two properties which work against the purposes of the Congress and the public if these purposes are primarily to identify which scientific issues are agreed upon among the experts and which are matters of genuine technical dispute, and only secondarily to solicit the non-technical opinions of the experts. The first counter-productive property, as pointed out by the ORSA group, is that the forum is an adversary proceeding. This tempts, if not encourages, each witness to "display only the part (of his analysis-that appears strong, holding back the vulnerable part," because the witnesses "attempt to influence . . . decisions through the presentation of their cases" and because "those presentations are designed to indicate the reasons why the decision should be made favorable" to the witness. (Quotes from ORSA report, pp. 1132f.) The second counter productive property of the open hearing or debate is its conduct before a lay audience. This makes possible the presentation of statements of questionable technical quality and can lead to confusion of technical and non-technical statements. In addition, it places a rebutting witness in the position of introducing apparently petty, abstract or narrowly technical objections into a proceeding which is being conducted in far broader terms than the scientific—terms familiar to the lay audience and indeed appropriate to the interests and responsibilities of that audience. This can be so even if the narrow technical objection bears crucially on the validity of an argument whose technical value is presumably the primary reason for open hearing of its proponent in the first place.

The ORSA group focused on the difficulties occasioned by the adversary process and recommended an exchange of written technical analyses for review, appraisal and analysis by the organization to which testimony is offered and by recognized and competent adversaries. This written exchange would precede oral testimony and provide background against which testimony urging a course of action could be weighed.

In my judgment, and with particular reference to the ABM debate, the Senate could have obtained better information than it did by arranging to have scientists who were well informed about the physics and technology embodied in various ABM systems meet privately and deliver to the Senate (or the appropriate committee) a report on their private debate. The report should, of course, describe the range of opinions held, who held them, and why. ABM is a subject of great importance, complexity, and subtlety. In my opinion, on it or and similarly complicated and controversial subject, the Senate is quite unlikely to receive much less diversity of view from scientists than it does from laymen. However, the discipline inherent in a debate among peers, preceding a formal report to the Senate could serve to sharpen arguments, to clarify agreements and differences, and generally to allow each Senator (and Congressman) to judge better the utility or irrelevance of scientific argument to the issue before him.

There is another related matter that concerns me very deeply. I refer to the tendency that I believe exists to "downgrade" the opinions of scientific witnesses from the Executive Branch because they are presumed to be pressing a view that conforms to Executive policy rather than to the necessary implications of science and technology. In some cases this tendency has been extended to question the veracity of those, like me, who earn their livings outside of Government employment by working on technical material related to that which is under debate. It is, in my opinion, important to realize that such people are likely to be the best technically informed ones we have. I think a Senator is justified in estimating the extent to which a scientific witness's views are affected consciously or unconsciously by his own interests. But I do not think a witness should be disqualified as a source of information and opinion because he works in a field and under a sponsor involved in the debate. To do that would leave to Congress only those witnesses whose information is old or who have never performed sustained, pertinent work.

I appreciate your inquiring about my views on this matter. I would be happy to visit you, if you wish me to do so, to offer any information or judgments I have that might be helpful to you.

Sincerely,

Lawrence H. O'Neill.

Stanford University,
Stanford, Calif., November 10, 1971.

Senator Philip A. Hart,
Senator Stuart Symington,
Senator John Sherman Cooper,
U.S. Senate,
Washington, D.C.

Dear Senator Hart, Senator Symington, and Senator Cooper: Thank you very much for your letter of November 5, 1971 asking me for comments on the ORSA Report, published in the September 1971 issue of their journal, entitled "Operations Research."

To be blunt I consider the type of appraisal undertaken by the ORSA subcommittee as an outrageous practice to be sponsored, even indirectly, by a professional society. I feel that more valid complaints about the professional standards of those preparing the document can be made than the report does about those it purports to investigate. However, this is not the main point. A more valid question is whether a specialized professional society should take it upon itself to analyze a controversy involving views in which many disciplines—physical sciences, operations research, social sciences, computer science, and many branches of engineering—are clearly involved. We are dealing with a subject where judgment based on technical knowledge and experience, rather than pedantic calculations based on ill-founded assumptions, are frequently most essential.

My most severe criticism is that the report deals only with the less important part of the ABM question: That is, how to forecast the prospective threat to the U.S. Minuteman deterrent. By their very nature such projections are subject to great uncertainty since neither technical performance, strategic intent, nor rate of buildup of Soviet weaponry can be predicted with confidence. The much more important question is whether the Safeguard system can deal with the threat, should it continue to evolve; it is this point which drew most of the valid criticism. The Safeguard system, even if it performs fully as specified, can deal only with a very narrow band of threats. The ORSA Report does not deal with this much more basic question at all; it is that problem which has to be faced by the Congress in deciding whether the Safeguard system is a justifiable investment for the shrinking defense dollar.

I consider the ORSA Report to be an unfortunate precedent in that it might be interpreted as a mechanism of intimidating witnesses requested to testify before the Congress; I am glad, therefore, that you are giving it some critical attention. I am attaching to this letter answers to your specific questions.

Sincerely yours,

Wolfgang K. H. Panofsky,
Director.

Replies to Questions Transmitted by Senators Hart, Symington, and Cooper Through Their Letter of November 5, 1971, Entitled "Some Questions Concerning the Report of the ORSA Ad Hoc Committee of Professional Standards Entitled "Guidelines for the Practice of Operations Research" Contained in Operations Research, Volume 19, No. 5, September 1971

1. Was the technical scope of the Ad Hoc Committee report sufficiently broad to be able to evaluate the fundamental questions before the Congress: whether there was a need for deployment of the Safeguard ABM system at this time; its value as a protection of Minuteman against probable Soviet threats; and whether Safeguard was as good a system for protection of Minuteman as alternatives to the Safeguard ABM system such as "Hardsite?"

Answer: The technical scope of the Ad Hoc Committee report is definitely much too narrow to evaluate the fundamental questions regarding Safeguard ABM before the Congress. The ORSA Report dealt primarily with points of disagreement among Drs. Wohlstetter, Rathjens and others concerning the projection of the threat to Minuteman. Naturally such projections will depend on the assumptions made. However the principal point, namely whether the Safeguard ABM offers any significant protection to the Minuteman force, even if it worked perfectly, was not addressed at all in the report. It is this point which deserves the brunt of the criticism. It is clear that Safeguard is not as good a system for the protection of Minuteman as a "dedicated" system such as "Hardsite."

2. Was it possible to make a meaningful judgment considering the narrowness of the inquiry?

Answer: No. The ORSA Report Demonstrates the limitations of attacking a broadly based problem by a narrow inquiry based on operations research methods only, without examining the latitude of the underlying technical assumptions.

3. In projecting the vulnerability of Minuteman, much was believed to depend upon whether one considered "reprogramming of Soviet missiles for failure" and simultaneous attack on U.S. missiles and bombers through "pindown" to be plausible Soviet tactics. Is the plausibility of these tactics a question of operations research or was it one of strategic analysis more broadly requiring consideration of many other factors? All things considered, do you believe that "reprogramming" and "pindown" were plausible Soviet tactics for the mid-seventies:

Answer: In order to claim that Minuteman and the bomber force can both become vulnerable to a conjectured Soviet first strike attack two assumptions were made in the ORSA report: One is that Soviet missiles could be reprogrammed in case of failure, and secondly, that simultaneous attack on U.S. missiles and bombers through pindown was feasible. Both are highly questionable assumptions. The first question—that of reprogramming—is less critical to the analysis. It would simply control the missile inventory the Soviets would have to possess before a valid threat to Minuteman might be assumed. The DOD previously rejected the option of reprogramming of U.S. missiles in case of failure as being too cumbersome and also as being vulnerable in that the enemy might jam or spoof the reprogramming commands. Reprogramming is particularly difficult from the engineering point of view if a MIRV'd force is considered; reprogramming might be feasible to compensate for launch failures but if it is even more difficult if one considers reprogramming to compensate for failures in MIRV'd separation from the "bus." Also, very little time would be available if the latter tactic were used. I consider reprogramming to be a very unlikely tactic for the Soviets to use, considering that a first strike attack would have to be executed with high confidence.

Pindown of the Minuteman force requires an enormous number of carefully timed nuclear explosions. In Congressional testimony both this fact and the very difficult reliability problems which a first strike attacker would face in manning such an attack was pointed out. The only comment the ORSA report gave was "The Committee does not feel that discussions by Panofsky on the infeasibility of coordinated strikes against U.S. bombers and missiles satisfactorily refute Foster's claims." The report gives no analysis of any kind and does not substantiate its criticism. The ORSA report also assumes that if the Soviets would adopt such a tactic then the U.S. would simply not launch the Minuteman force while the pindown is in progress and thereby wait for SS-9 or other Soviet counterforce missiles to arrive to destroy the Minuteman missiles in their silos This would be a nonsensical tactic for the U.S. Even if pindown were attempted by an enemy force it would clearly be sensible to launch Minuteman missiles through the pindown barrage with the expectation that some of the missiles would get through anyhow. Under this tactic the reliability the Soviets would have to assume for their pindown forces would be excessive to give any confidence to the Soviet planners in their success.

Considering all this combination of circumstances I consider pindown tactics to be totally implausible Soviet tactics for the mid-seventies. I might add that my judgment which was attacked in the ORSA report as "not being proven" was confirmed by testimony by Lt. General Glaser during his testimony before the House Armed Services Committee at the FY 1972 Hearing, page 4523. General Glaser reiterated in detail the same timing sequence which had been given in my testimony documenting the infeasibility of coordinating strikes and thereby dismisses the feasibility of a pindown attack by implication.

4. Was the Administration misleading in choosing a particular level of threat against Safeguard; and not considering larger or smaller threats? Is it correct that Safeguard's effectiveness is only evident against a very narrow band of threats?

Answer: I consider the Administration's justification for Safeguard to be totally misleading in pinpointing a particular level of threat against which Safeguard would have some effectiveness. If the threat were less than that projected, Safeguard would not be needed; if it were larger the effectiveness of Safeguard could easily be nullified. Uncontroverted evidence introduced into Senate testimony made it evident that Safeguard would be effective only against a very narrow band of threats. The matter has never been brought to proper public attention because the total fire power (number of interceptor missiles) which the Nation is asked to buy for Safeguard is still classified.

5. Do you believe that the proponents of Safeguard have now conceded that the opponents were right in insisting that smaller, cheaper, and less vulnerable radars be developed?

Answer: It is my belief that the technical offices within the Defense Department who proposed the Safeguard system have now conceded *de facto* that the opponents are right in insisting that the MSR is the "Achilles Heel" of the Safeguard system and that therefore less vulnerable Safeguard radars should be developed. The increasing insistence on the "Hardsite" development bears witness to the fact. Hopefully progress at SALT will make this an academic question.

6. Did the Ad Hoc Panel make full use of all the information available to the responsible committees—the Armed Services and Foreign Relations Committees—both classified and unclassified, concerning the Soviet threat and Safeguard ABM performance capabilities against a range of Soviet threats?

Answer: I conclude that the Ad Hoc Panel was highly restricted in its inquiries. It did not make full use of all information available to all committees of the Congress, in particular it ignored testimony or criticism of Safeguard performance.

7. Was the inquiry by the Ad Hoc Panel technically correct and competent in its findings?

Answer: The Ad Hoc Panel ignored technical factors, in particular those relating to the engineering of the Safeguard system and therefore the competence in arriving at its findings could be seriously questioned.

8. Should the inquiry by the Ad Hoc Panel have evaluated the testimony and statements of *all* witnesses pro and con who were called before the two Committees? Should the Ad Hoc Panel have made use of such studies as the Report of the Ad Hoc Group on Safeguard for FY 1971 (the O'Neill Report) submitted to the Secretary of Defense on January 27, 1970?

Answer: The Ad Hoc Panel was highly selective in the choice of witnesses investigated. Specifically, the Ad Hoc Panel ignored the testimony given by most of the non-government, pro-ABM witnesses testifying before the Congress, in particular that given by Seitz, Teller, Wigner, Nitze, Brennan, Fink, O'Neill, W. McMillan, Herzfeld and Wheeler. Most of these pro-ABM witnesses showed a great deal of ignorance about the actual engineering features of the Safeguard system. The Ad Hoc Panel also did not reference the evaluation contained in the O'Neill Report, submitted to the Secretary of Defense on January 2, 1970, which concluded that if defense of Minuteman were the only mission of Safeguard then deployment would not be recommended.

9. Did the ORSA Panel apply the same standard of judgment to all witnesses who testified, both pro and con?

Answer: The ORSA Panel clearly did not apply the same standard of judgment to the pro and con witnesses. As an example the ORSA Panel failed to reveal any criticism against the analysis of Wohlstetter, Herzfeld, Libby and McMillan, submitted to Senator Henry M. Jackson on August 10, 1970 which claimed that deployment of Safeguard would increase the price of admission to the Soviets for attack against the Minuteman force by 800 (!) additional re-entry vehicles. Moreover, as stated in my reply to question 8 above, the ORSA Panel omitted any judgment of those witnesses testifying for the ABM which might have been subject to considerably more valid criticism than those treated by the report.

Massachusetts Institute
of Technology,
Cambridge, Mass., November 26, 1971.
Hon. John Sherman Cooper,
Hon. Philip A. Hart,
Hon. Stuart Symington,
U.S. Senate,
Washington, D.C.

Dear Senators Cooper, Hart, and Symington: Distasteful as the whole ORSA episode has been to me, I nevertheless welcome your invitation to comment on the Report. You will, I am sure, appreciate that, as I am one of those most severely criticized, my comments are hardly those of a dispassionate or objective observer.

I shall try first to respond to your specific questions, and will then offer some more general comments. I would also call your attention to comments, a copy enclosed, prepared some time ago by Steven Weinberg, Jerome Wiesner and myself.

All of my comments really apply primarily to Appendix III of the ORSA Report. The Report proper I found generally innocuous and noncontroversial. There is no discernable relationship between it and Appendix III.

Responses to questions

1. Was the technical scope of the Ad Hoc Committee report sufficiently broad to be able to evaluate the fundamental questions before the Congress: whether there was a need for deployment of the Safeguard ABM system at this time; its value as a protection of Minuteman against probable Soviet threats; and whether Safeguard was as good a system for protection of Minuteman as alternatives to the Safeguard ABM system such as "Hardsite?"

It is clear that the scope of the ORSA inquiry was not adequate to permit an evaluation of the need for Safeguard, its effectiveness nor whether other alternatives for protection of Minuteman might be preferable. In fairness it must be said that the authors made no claim for such breadth. On the contrary, they explicitly denied any intent to examine all of the issues involved in the Safeguard debate. However, notwithstanding the denial of intent and the failure to look into the many issues, the Committee seemed quite willing to draw conclusions, which were predictably emphasized by the press, and not denied by ORSA, that can be construed to be far more sweeping than the ambit of its inquiry. A quotation from page 1217 of the Report will illustrate the point.

"It must be noted . . . that the analytical arguments presented by spokesmen for Safeguard within the Administration were *carefully examined* (*emphasis* added). While shortcomings were found as documented below, they nowhere equalled the cumulative mass of inadequacies compiled by the opposition."

There is no qualification as to the facets of the debate to which this judgment is meant to apply and the paragraph immediately preceding the quotation suggests it is appropriate to the whole debate. Neither is there evidence to justify the statement that the Administration's arguments were carefully examined. Certainly there is nothing in the report to suggest that the Committee looked in depth into the question of the overall vulnerability of U.S. relatiatory capabilities, much less into the effectiveness of Safeguard or alternatives.

2. Was it possible to make a meaningful judgment considering the narrowness of the inquiry?

The ORSA inqiury, even had it dealt competently with the issues it purported to be addressing, was of such narrow scope that it would not have permitted valid conclusions about the quality of the Safeguard debate as a whole nor about the need for, or utility of, Safeguard.

Notwithstanding the narrowness of the inquiry, some interesting conclusions can, however, be drawn from the Report. These relate not so much to either the Safeguard question or the character of the debate as to the competence and judgment of the ORSA Committee and perhaps by extension to ORSA as a society and to the community of operations analysts. (This is discussed further under *General Comments.*)

3. In projecting the vulnerability of Minuteman, much was believed to depend upon whether one considered "reprogramming of Soviet missiles for failure" and simultaneous attack on U.S. missiles and bombers through "pindown" to be plausible Soviet tactics. Is the plausibility of these tactics a question of operations research or was it one of strategic analysis more broadly requiring consideration of many other factors? All things considered, do you believe that "reprogramming" and "pindown" were plausible Soviet tactics for the mid-seventies?

The plausibility of "missile reprogramming", and to an even greater extent, "pindown" are definitely *not* just questions of operations research.

In judging whether reprogramming would be a feasible Soviet tactic the following considerations would be important: the nature of the Soviet command and control system including the extent of usage of computers and their quality, the nature of the guidance system for Soviet missiles, the reliabilities and accuracies to be expected, the time and mechanisms for separation of multiple warheads, the size of the Soviet force compared with the target system to be attacked, the response time and doctrine of the U.S. command and control systems, the vulnerability of U.S. missiles. There is little information available, at least to the American Defense community, about the issues relating to Soviet capabilities and practices, and indeed there is probably considerable uncertainty even regarding the vulnerability of U.S. missiles and the U.S. response capabilities. Accordingly, whether or not reprogramming would be a feasible or desirable Soviet tactic is uncertain. It is a matter of judgment. My belief is that some degree of reprogramming would probably be technically feasible, e.g. that which could compensate for missiles not in alert status, for failures during countdown, and probably for launch failures. I am dubious about the feasibility of compensating for failures during rocket staging and particularly for those involved in MRV or MIRV separation. However, even the degree of reprogramming which I would regard as technically feasible would offer little advantage unless there were a high expectation that a single delivered Soviet warhead could destroy its target. Considering the yield-accuracy combinations that might be expected for Soviet MRV or MIRV warheads in, say, 1975, I would not envisage the Soviet Union going very far with reprogramming by that time.

The assumptions made by DoD spokesmen, by Albert Wohlstetter, and by the ORSA Committee seem to me unrealistic in this regard. Even were the Soviet Union to achieve the high yield-accuracy combinations assumed by them, which I believe unlikely, there would remain the fact that the Soviet leadership would almost certainly not have the confidence in the *reliability* of its missiles that would be required to make an attack involving less than two warheads per U.S. target a realistic option. They would need high confidence that there would be no, or only very limited numbers of, missile failures for which reprogramming could not compensate. This would require tests of Soviet missiles in numbers that seem unrealistic in the time frame under consideration.

I consider a "pindown" to be a low-confidence tactic which one might employ if one had adequate resources and had, on the basis of other considerations, decided to attack. However, it is *not* a tactic on which one would care to base the fate of a nation. Note in this connection that proponents have hypothesized Soviet SLBM attacks "pinning down" U.S. missiles for a period of perhaps 15 minutes prior to arrival over U.S. targets of Soviet ICBM warheads. There are many possibilities of failure in such an attack; e.g. a submarine being sunk at the last minute, one not executing its launch order, the possibility that the vulnerability of U.S. missiles during the boost phase may have been overestimated, or that U.S. aircraft with weapons might be put in the air based on the concentration of submarines or a communications intercept. Thus, even aside from the question of SLBM force requirements, such an attack would seem to be too fraught with risks for the would-be attacker to be considered a realistic possibility.

The feasibility of "pindown" is then, too, a matter of judgment. As regards both "pindown" and "reprogramming" there is little room for operations research considerations to come into play directly, there having been no directly relevant operations on which to do research. Experience with the operation of other complex systems can, and should, of course influence judgments. Many scientists, engineers and military people probably have at least as much relevant experience as operations researchers in this regard.

4. Was the Administration misleading in choosing a particular level of threat against Safeguard; and not considering larger or smaller threats? Is it correct that Safeguard's effectiveness is only evident against a very narrow band of threats?

Safeguard, as presently planned, would have utility for defense of Minuteman only over a very narrow range of threats. Moreover, this will continue to be the case unless there is a *drastic* change in the plan—the introduction of redundant radars, large increases in the numbers of interceptors, or both.

The Administration's use of a threat of 420 SS–9's to build its case for an ABM defense seems clearly to have been designed to put Safeguard in its best light. Using the same assumptions made by the Administration regarding Soviet missile performance and tactics, one notes that, without defense, the number of Minuteman missiles that could be expected to survive a Soviet attack would increase by almost a factor of three (from 50 to 138) if the Soviet threat were only 10% less than hypothesized. Thus, the case for Safeguard would be very much weakened. Similarly, modest increases in the threat would make the case for Safeguard very weak because it could be so easily overwhelmed.

5. Do you believe that the proponents of Safeguard have now conceded that the opponents were right in insisting that smaller, cheaper, and less vulnerable radars be developed?

The existence of an active program to develop a so-called "hard-site" defense employing smaller, cheaper, less vulnerable radars clearly demonstrates that the Administration now recognizes that its opponents were correct in identifying the MSR as the Archilles' heel of Safeguard. (Whether the positions of many of the Safeguard proponents outside of the Administration have changed as did that of the Administration is not clear.)

6. Did the Ad Hoc Panel make full use of all the information available to the responsible Committees—the Armed Services and Foreign Relations Committees—both classified and unclassified, concerning the Soviet threat and Safeguard ABM performance capabilities against a range of Soviet threats?

The Ad Hoc Committee did not claim it used all available information regarding the threat to Minuteman or the performance of Safeguard nor did it do so. On the contrary, it generally accepted Administration assumptions without questions, and otherwise was selective in its use of inputs to its study, generally rejecting those inputs which would have thrown doubt on its conclusions.

7. Was the inquiry by the Ad Hoc Panel technically correct and competent in its findings?

The work of the Ad Hoc Committee is of poor quality, particularly when it is recognized that it took some 21 months. This is true on an absolute scale and also when one measures it against the statements of either proponents or opponents of Safeguard, all of whom were, in the 1969 debate, responding on time scales measured in days or weeks.

Two examples, to which I have already referred, will demonstrate that the report of the Ad Hoc Committee is incompetent even if measured within the narrow framework in which it chose to work and even if one restricts one's consideration to matters of operations research.

In considering the attack against the U.S. Minuteman force hypothesized by the Administration, a critical issue is the confidence the Soviet leadership would have to have that there would be few missile failures of a kind for which reprogramming could not compensate. In the real world this is a very difficult problem because one never knows just how much degradation in performance is to be expected when one goes from the test range to the execution of an operational plan. But putting that aside for the moment, there is a simple problem in statistics which would seem to be the operations analysts' meat. That is, the determination of the kind of Soviet missile test program that would be required to make the Wohlstetter-DoD assumptions regarding reprogramming realistic *even assuming no operational degradation*. Consideration of this problem would have demonstrated the unrealism of at least the DoD assumptions if not also Wohlstetter's. Yet, the ORSA Committee, despite its leisurely time scale, preoccupation with the reprogramming question and sensitivity to the costs of missile testing,[1] did not bother to consider it.

Perhaps a more serious indictment is the failure of the Committee to comment on the sensitivity of the Administration's case for Safeguard to its use of the 420 SS–9 missile threat to Minuteman.[2] If there is a single "first commandment" for operations analysts it is perhaps "test the sensitivity of your conclusions to your assumptions". The Committee simply failed to do this despite its claim to have examined the Administration's analytical arguments closely. Had it, in fact, done so, the results would have been devastating as regards the Administration's case.

8. Should the inquiry by the Ad Hoc Panel have evaluated the testimony and statements of *all* witnesses pro and con who were called before the two committees? Should the Ad Hoc Panel have made use of such studies as the Report of the Ad Hoc group on Safeguard for FY 1971 (the O'Neill Report) submitted to the Secretary of Defense on January 27, 1970?

Any balanced inquiry regarding the ABM debate would presumably have looked into the statements of all witnesses and all relevant documents, or alternatively into some subset of them selected on the basis of objective ground rules. The first, more exhaustive, kind of inquiry would seem to have been indicated for the ORSA Committee considering the kinds of sweeping judgments it chose to draw regarding the debate.

The Committee, of course, chose neither of these alternatives. Rather it permitted the specification of charges and the identification of source materials and persons to be investigated to be determined almost entirely by one of the participants, Albert Wohlstetter, into whose behavior it was to inquire. Indeed, Appendix III of the ORSA report reads very much like an elaboration of an outline provided for it in Mr. Wohlstetter's instigating letter. (Note, although the Committee included Mr. Wohlstetter's letter as item A of Appendix IV to its report, it excised those paragraphs to which the above comment refers.)

9. Did the ORSA Panel apply the same standard of judgment to all witnesses who testified, both pro and con?

Manifestly the ORSA Committee did not apply the same standards of judgment to all witnesses as a few examples will illustrate.

(a) It criticised me for using a cube root scaling relationship between weapons yield and blast effects [3] while not commenting on the use of the same relationship in statements by Messrs. Laird and Packard in the same debate.[4]

(b) It repeatedly criticised opponents for what it termed inadequate documentation of assumptions, citation of sources, etc. while never commenting on the similar inadequacies of DoD spokesmen.

(c) It simply failed to take note of the many technical errors by Administration spokesmen, e.g. Secretary Laird's statement regarding the coverage to be provided by Safeguard for the Minuteman force.[5]

(d) It apparently looked at (or at least paid attention only to) that private correspondence which it felt it could use to favor Wohlstetter's case, avoiding that which would not.

(e) It criticised opponents for making what it regarded as unrealistic assumptions regarding lead times for deployment of offensive systems but failed to criticise Administration spokesmen for making equally optimistic assumptions regarding deployment of Safeguard.[6]

(f) It did not comment on a paper by Messrs. Wohlstetter, Herzfeld, Libby and McMillan in which they compared Soviet requirements to destroy 70% of the undefended Minuteman force with requirements to destroy 95% of the defended force but in which they did not explain the extent to which the increase in force requirements was due to Safeguard and the extent to which it was due to the change in the ground rules regarding the level of destruction to be achieved.[7]

(g) It changed a statement in its preliminary draft criticising Mr. Wohlstetter for incorrect interpretation regarding my work to one in the final daft indicating he had difficulty in interpreting my results,[8] thereby attempting to obscure where the burden of error lay.

(h) It applied different ground rules in judging whether participants in the debate had an obligation to respond to points raised by others. I, and I believe the other opponents, felt no more obligation to respond to Mr. Wohlstetter's (or ORSA's) every comment than Administration spokesmen apparently did to ours. Yet, the Committee criticized the opponents, me particularly in some detail,[9] for not acknowledging and responding to some of Mr. Wohlstetter's calculations and comments while not similarly criticising Messrs. Laird, Packard and Foster for not responding to arguments, calculations, or questions raised by outside opponents or even Senators. (While the opponents felt their differences were primarily with the Administration, somehow the Committee labored under the delusion that they wished, and were obligated, to quarrel with Mr. Wohlstetter just because he wished to do so with them!)

(i) Finally, the selectivity of issues to be investigated by the Committee raises a broader question of standards of judgment. Any look at the ABM debate as a whole would have found the DoD case regarding the effectiveness and utility of Safeguard very much wanting. Mr. Wohlstetter's performance would have had to have been judged still more harshly since he avoided discussing that question even though it was the central issue in the debate. Thus, by permitting him to specify the terms of its study, the Committee avoided inquiring into those facets of the debate that would have been most embarassing as regards his performance, and to lesser degree, the DoD's.

GENERAL COMMENTS ON OPERATIONS RESEARCH AND ITS RELATIONSHIP TO THE SAFEGUARD AND SIMILAR QUESTIONS

The ORSA report, and Albert Wohlstetter's letter which instigated it, emphasize the relevance of operations research to the Safeguard debate. Indeed, Mr. Wohlstetter made a particular point of the superior qualifications of operations researchers and the lack of qualifications of others to deal with some of the issues involved.

". . . many of the issues in the ABM debate plainly involved operations research and systems analytic questions of a familiar kind: problems of coordination of military operations, the probability of destroying targets of specified hardness by missiles with specified performance characteristics. Some of the men speaking on these issues used an authority acquired in other fields than operational research to gain credence for dicta about such matters as the supposed impossibility of jointly attacking both bombers and missiles. However, experience in high energy physics, electrical engineering, etc. is not enough on these matters. Familiarity with various pindown tactics in military operational research is quite relevant." [10]

Actually, operations research, narrowly construed, was almost irrelevant to the ABM debate. We have had no experience involving the operational use of either ballistic missiles with nuclear warheads or ABM systems on which to do research. *No one* is really familiar with pindown tactics, at least not with those involving nuclear explosions to prevent missile launch.

There was a case for *systems analysis* in connection with the Safeguard question and a great deal was done. However, this is a very different thing than true operations research and the distinction is not trivial in this instance. In the case of operations research, such as might occur in a war-time military campaign or in peace time in running an air line, one will hopefully have hard, and rather directly relevant, empirical data as a basis for analysis. It may be sufficiently precise to justify a considerable expenditure of effort in modeling operations in order to draw inferences as to how to conduct them with greater effectiveness. The operations research community and presumably ORSA have made contributions to facilitate dealing with such problems.

But in the case of the analysis of systems not yet built, and which may never be used operationally, the problems are different. In some cases inferences can be drawn about the likely feasibility, performance and operational degradation of one system by considering others of similar complexity that may have operated in similar environments. However, very often the similarities will not be great, and when that is the case expertise in operations research and the use of its analytical techniques may well be less useful than broad experience with complex systems, military operations and human behavior, and knowledge of physics and engineering.

In such circumstances excessive attention to numerical detail, mathematical manipulation, and documentation may be quite unwarranted. Indeed, in Congressional testimony and in many other circumstances, such detail could convey a misleading impression of confidence in quantitative analysis and of certainty in conclusions with respect to a problem actually dominated by uncertainty—uncertainty as regards future technology and adversary capabilities and perhaps, above all, by the uncertainties relating to the degradation in performance to be expected of operational systems the first time they are actually used. Uncertainties of the last kind merit special attention in consideration of nuclear war. Yet, they are hardly discussed in the ORSA Report, and indeed were little discussed in the ABM debate.

I would suggest that this was a less serious omission in the case of the opponents than in that of the proponents. The former to a substantial degree, sought to demonstrate the lack of need the ineffectiveness of Safeguard or both, putting aside considerations of operational degradation. This seems reasonable in that consideration of operational degradation in either Soviet offensive, or U.S. defensive, capabilities would make the case for a defense even weaker. On the other hand, arguing *for* Safeguard without considering the uncertainties inherent in a "first-strike" and the unrealism of expecting political leaders to initiate such a strike without near-

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Footnotes at end of article.

perfect confidence of its effectiveness hardly seems sound. Yet, that is largely what the Safeguard proponents did, at least up to the point where they came around to basing their case largely on the bargaining chip argument rather than on military need or utility.

The report of the ORSA Committee reflects an acceptance of the approach generally used by Safeguard proponents. Emphasizing the relevance of operations research to the problem, it simply failed to consider problems of operational degradation, accepted Administration assumptions about both Soviet capabilities and expected Safeguard performance with apparently no attempt at understanding of their basis, and then treated these assumptions as facts,[11] apparently judging that others should have too. Not only does the Report reflect these unfortunate qualities, it also illustrates another that one associates with the worst of operations research and systems analysis: this is, an all-too-often-seen willingness of practitioners to be most shamefully used—in this case, coupled apparently with such a capacity for self-deception that it is very likely that the authors actually believed they were engaged in a legitimate scientific endeavor in the public interest.

The acceptance of the Report by the ORSA Council, its publication, the failure of the Society's membership to repudiate it, and the fact that the Ad Hoc Committee was composed of men who have held high office in ORSA and similar organizations may lead parts of the broader scientific community and the general public to conclude that the majority of the Society's membership and perhaps of the operations research community find the approach of the Committee a congenial one.

Although the Report and the events relating to it have certainly diminished my respect for ORSA, I have seen too many excellent studies and have known enough men of integrity and good sense who have engaged in such work that I would not wish to judge the majority of the Society, much less of the operations research/systems analysis community by it.

The ABM debate reinforced my conviction that in matters of technological assessment, particularly where one cannot rely on the reproducibility of experimental data, there is great merit in the use of adversary proceedings. The incompetence and bias of the ORSA analysis provides further support for that thesis.

I sincerely hope that the negative judgments of the ORSA Ad Hoc Committee about the performance of the opponents in the ABM debate will not be construed as a persuasive argument against the utility of the adversary process and that the Congress will continue to feel it useful to call on outside technical experts when it is confronted with major questions of public policy where technical considerations are of some importance.

Sincerely yours,

G. W. RATHJENS.

FOOTNOTES

[1] The Report, page 1236.

[2] The Committee's mild criticism of John Foster's analysis (the Report, page 1200) does *not* meet this point.

[3] The Report, page 1188 and page 1192.

[4] Senate Armed Services, FY 70, page 127 and page 161.

[5] Senate Foreign Relations Disarmament Sub-committee—1969, page 180.

[6] In criticising the Safeguard opponents, the Committee argued that it would take 5 or 6 years before the first deployment of an operational ICBM, or 3 or 4 even on a crash basis (page 1234 of the Report) even though no R & D would be required. It failed to comment on the claims by Secretary Packard (Senate Foreign Relations Disarmament Sub-committee—1969, page 276) that two Safeguard sites would be operational in early 1974—"late 1973 if we accelerate it", even though R & D was far from complete.

[7] Statement on the Effectiveness of the Safeguard ABM System, submitted to Senator Henry M. Jackson, August 10, 1970. The Committee's rejoinder to this critcism might be that it was considering only, or primarily, the 1969 debate. However, such a response would seem unwarranted considering its use of other materials from the 1970 debate when they served the Committee's purposes. See, for example, the Report, page 1216.

[8] Conclusion e5, page III–27 in the preliminary draft; page 1193 in the final report.

[9] The Report, pages 1190, 1191, and 1192.

[10] Page 2 of his letter of November 8, 1969, to Thomas Caywood, then President of ORSA.

[11] ORSA's treatment of reprogramming is particularly impressive in this regard. It includes assumptions that have no basis whatever in observations of Soviet technology. For example, in its exemplary calculation it assumes true MIRV's capable of 50 mile dispersion. (The Report, page 1207).

MASSACHUSETTS INSTITUTE OF TECHNOLOGY,
Cambridge, Mass., December 15, 1971.
Hon. JOHN SHERMAN COOPER,
Hon. PHILIP A. HART,
Hon. STUART SYMINGTON,
U.S. Senate,
Washington, D.C.

DEAR SENATORS COOPER, HART, and SYMINGTON: This is in reply to your letter of November fifteenth requesting my views of the recent ORSA report regarding certain ABM testimony.

I would like to state my perspectives on the ABM debate before commenting on the contents of the ORSA report, since it seems to me that the report can only be viewed in the total context of the debate.

The decision on whether or not to deploy Safeguard for Minuteman defense seems to me to have required that the following questions be addressed in logical order.

1. Was our Minuteman force soon to become vulnerable to almost total destruction by a Soviet nuclear attack?
2. If so, how dangerous was this to U.S. security? Might Minuteman vulnerability tempt the Soviet Union to a "first strike" in a period of crisis in spite of our other retaliatory weapons?
3. Would the Safeguard system offer adequate protection for our Minuteman force, if indeed Minuteman warranted protection?
4. How does Safeguard compare to alternatives that may be available for responding to the threat?
5. Even if technical and military considerations do not justify Safeguard, are there political and diplomatic reasons for deployment?

Each of the experts who testified for or against Safeguard had his own individual set of reasons for his position but it seems to me that it is possible to summarize the main pro and con arguments as follows:

The pro-Safeguard witnesses argued that Minuteman could soon be in danger, that our national security demanded retention of a full "triad" of "invulnerable" strategic forces and that Safeguard was our natural and ready response to the growing Soviet SS–9 force which was endangering Minuteman. Alternative responses (i.e. a new Hardsite ABM system, new launching doctrines for our missile force, etc.) were either unattractive or too long in coming. The main thrust of these arguments was focused on Minuteman vulnerability and relatively little time or analysis was devoted to the technical merits of Safeguard per se.

The anti-Safeguard technical witnesses argued that Minuteman might or might not become vulnerable to destruction by the Soviet missile force but from their knowledge (in 1969 and 1970) of the Soviet buildup (i.e. number of SS–9s, multiple warheads and RV accuracy) they estimated that such vulnerability would not develop before the late 1970's. They argued that even if Minuteman were to be vulnerable to a Soviet missile attack, this would hardly be equivalent to a Soviet *first strike* capability since our remaining Minuteman force (however small) plus our sub-launched missile force plus strategic bombers plus naval and European-based nuclear forces could devastate the Soviet Union and that we, they, and the rest of the world knew this. They also believed that if an active defense of Minuteman was warranted it would be better to develop and deploy a system specifically designed for that purpose rather than to deploy Safeguard. Safeguard components were designed for a different purpose and offer a woefully inadequate defense for Minuteman.

In good part, the pro and con Safeguard witnesses talked past each other—one concentrating on the vulnerability of Minuteman, or the need for Safeguard for other than Minuteman protection, the other concentrating on the inadequacy of Safeguard to protect Minuteman. Ultimately, the decision about Safeguard deployment at the highest political levels was made primarily for its presumed political and diplomatic benefits and not because of military need and technical performance.

Now to return to the ORSA report . . . ORSA undertook to examine the merits of *some* of the public arguments of *some* of the Safeguard witnesses, as stated in the report at the urging of Albert Wohlstetter, a member of ORSA and an active and important Safeguard advocate.

Dr. Wohlstetter was particularly perturbed about what he considered erroneous calculations by Dr. Rathjens. Dr. Wohlstetter's own calculations suggested that our Minuteman force might be more vulnerable in the mid-seventies to the Soviet SS–9 force than Dr. Rathjens' calculations indicated it might be.

The Operations Research Society formed an ad hoc committee to investigate and apparently believed that they would perform a valuable public service even though their investigation focused almost entirely on the issues and people suggested by Dr. Wohlstetter rather than on an independent formulation of the issues by the Committee. ORSA, naively, either discounted or ignored the political implication that their findings would have. I find it hard to understand how ORSA could have assumed that it could criticize (or support) a few arguments of any important witness in a major public issue without implying that his whole case should be discounted (or supported).

A reasonable evaluation of the ABM debate would have to consider the whole Safeguard question, including all arguments for and against deployment. As we now see, a partial examination would be interpreted by the public as an examination of all the issues, regardless of what disclaimers are included in the report. But since the issues involved in the Safeguard debate involve far more than operations research methodology, a complete analysis would clearly be outside of the purview of ORSA. In fact, the operations research issues involved in the debate were all of a rather elementary character.

The key technical judgments that had to be made in considering Safeguard deployment related to the evidence that the Soviets were or were not developing a MIRV system, the rate of SS–9 deployment, size of Soviet warheads, the accuracy of Soviet RVs, the confidence the Soviets could have in their total missile force capability when many of their missiles would have to be launched from silos that were never used before and by crews that never launched an operational missile, etc. Operations research has little to do with intelligent judgments on any of these questions. Hindsight makes it rather clear that even the anti-Safeguard witnesses in 1969 over-estimated the Soviet SS–9 capability to destroy our Minuteman force. Recent public statements by some of our defense leaders suggest that the Soviets are far from having a deployed, accurate MIRV system. The Soviet SS–9 force may not be capable of destroying as much as 80–90% of our Minuteman force until about 1980, if ever. This is not to say that we can rely on Minuteman forever. Surely the Soviets will someday develop and equip their missile force with an accurate MIRV. But the ominous 1969 calculations of what the SS–9 threat might be in the mid-seventies seem terribly exaggerated now.

I have always failed to see how a limited Safeguard deployment around Minuteman sites would be a militarily useful response to the Soviet strategic buildup. The technical inadequacies of Safeguard are becoming apparent to everyone. It is amazing to me that ORSA would issue a politically "hot" report about ABM without discussing the very heart of the issue, that is the technical and operational merits of the ABM system in question.

My answers to your specific questions follow:

1. Was the technical scope of the Ad Hoc Committee report sufficiently broad to be able to evaluate the fundamental questions before the Congress: whether there was a need for deployment of the Safeguard ABM system at this time; its value as a protection of Minuteman against probable Soviet threats; and whether Safeguard was as good a system for protection of Minuteman as alternatives to the Safeguard ABM system such as "Hardsite?"

No. The Report focused in most part on some calculations that related to Minuteman vulnerability. The calculations themselves are based primarily on judgments of the Soviet SS–9 threat in the mid-1970's and these have little to do with operations research per se. Questions relating to the merit of deploying Safeguard involve serious technical, military and political judgments and hardly rest at all on the elementary analysis which preoccupied the ORSA Ad Hoc committee.

2. Was it possible to make a meaningful judgment considering the narrowness of the inquiry?

Certainly no judgment regarding the need or adequacy of Safeguard would come from the narrow issues examined by ORSA.

3. In projecting the vulnerability of Minuteman, much was believed to depend upon whether one considered reprogramming of Soviet missiles for failure and simultaneous attack on U.S. missiles and bombers through "pindown" to be plausible Soviet tactics. Is the plausibility of these tactics a question of operations research or was it one of strategic analysis more broadly requiring consideration of many other factors? All things considered, do you believe that "reprogramming" and "pindown" are plausible Soviet tactics for the midseventies?

The feasibility of pin-down and shoot-look-shoot tactics is not a matter of operations research. Operations analysts can calculate the effectiveness of such tactics if they are given the ground rules for doing their calculations. Effectiveness of pin-down depends on the details of our missile hardware and on the launching doctrine that may be used by the Soviets. There are ways of minimizing our strategic force vulnerability to pin-down. To assume that the Soviets may use such a perilous tactic (a tactic that can not be really tested) with any confidence, seems very far fetched to me. The Soviet leaders may indeed go mad some day and launch a nuclear attack on the U.S. but any analysis of possible Soviet leadership lunacy is also not a matter of operations research.

Reprogramming missiles, that is, the use of a shoot-look-shoot tactic can in principle be done. It complicates missile hardware, but it promises more efficient use of a given missile force. To assess the degree we need worry about Soviet use of such a tactic in a "first strike", we must first evaluate what we know about Soviet technical developments. We must also make judgments about the degree to which the added hardware reduces missile reliability, judgments about the fraction of missile failures that can be observed and can therefore be reprogrammed, judgments on how much confidence Soviet military leaders can have in a shoot-look-shoot tactic when it is only tested in a limited way, etc. None of these judgments and assessments have much to do with operations research.

In my judgment, we need not fear Soviet use of either a missile reprogramming tactic or pin-down as part of a first strike for the middle or late 1970's.

4. Was the Administration misleading in choosing a particular level of threat against Safeguard; and not considering larger or smaller threats? Is it correct that Safeguard's effectiveness is only evident against a very narrow band of threats?

I believe that Safeguard's effectiveness is limited to a very narrow range of threats, but I believe that the main supporting arguments for Safeguard had little to do with its military role but were based on political and other non-technical considerations.

5. Do you believe that the proponents of Safeguard have now conceded that the opponents were right in insisting that smaller, cheaper, and less vulnerable radars be developed?

I don't believe that the government technical experts were ever convinced of the great technical merits of Safeguard for Minuteman defense. The only difference between the government and anti-Safeguard witnesses may have been whether the several year time lag between Safeguard deployment and the earliest deployment date of any new system that might be developed to defend Minuteman, was sufficiently critical to warrant Safeguard deployment in spite of its technical deficiencies.

6. Did the Ad Hoc Panel make full use of all the information available to the responsible Committees—the Armed Services and Foreign Relations Committees—both classified and unclassified, concerning the Soviet threat and Safeguard ABM performance capabilities against a range of Soviet threats?

The ORSA Ad Hoc Committee investigations were highly limited in scope and therefore couldn't possibly make full use of all of the information available regarding Safeguard.

7. Was the inquiry by the Ad Hoc Panel technically correct and competent in its findings?

Some, but not all, of the findings were technically correct in a narrow sense, but the inquiry was nevertheless not competent. The choice of issues investigated, the method of investigation, the method of presentation and the total lack of perspective displayed by the ORSA Committee demonstrated to my mind a totally inadequate treatment of an important and controversial subject.

8. Should the inquiry by the Ad Hoc Panel have evaluated the testimony and statements of *all* witnesses pro and con who were called before the two Committees? Should the Ad Hoc Panel have made use of such studies as the Report of the Ad Hoc group on Safeguard for FY 1971 (the O'Neill Report) submitted to the Secretary of Defense on January 27, 1970?

To evaluate and assess the ABM debate, ORSA should certainly have looked at all the testimony of all the expert witnesses. But, as I mentioned, the essence of the ABM debate did not rest on operations analysis questions. Examining only the operations research aspects of the debate could only be misleading.

9. Did the ORSA Panel apply the same standard of judgment to all witnesses who testified, both pro and con?

No, since ORSA applied no judgment whatsoever to the testimony of many of the witnesses, particularly the supporters of Safeguard. A rather trivial example is of following: on page 1188 of the ORSA Report the Ad Hoc Committee chastises Rathjens for using cube root scaling in calculating kill probabilities, but on March 20 1969, Secretary Laird in his testimony states explicitly that the relationship is generally a cube root relationship. Most witnesses accept the validity, for first order calculations, of the cube root scaling, but ORSA makes no mention of this fact when criticizing Rathjens. But I want to make it very clear that the whole question of whether one does or does not use cube root scaling is of very minor importance in comparison to the other factors and assumptions that enter into the calculations.

Sincerely yours,

J. P. RUINA,
Professor of Electrical Engineering.

MCLEAN, VA., *November 15, 1971.*

Senator PHILIP A. HART,
Senator STUART SYMINGTON,
Senator JOHN SHERMAN COOPER,
Old Senate Office Building,
Washington, D.C.

DEAR SENATORS: I share the concern expressed in your letter of November 5th about the report of the Ad Hoc Committee on Standards of the Operations Research Society of America (ORSA). Charges of the kind made in this report should never be treated lightly for they not only reflect on the integrity of the individuals involved, but also on the entire hearing process which is essential to the informed functioning of the Congress of the United States.

I was very disturbed therefore when I read the report which was so obviously narrow in its approach and biased in its analysis. In fact, one can only reach the conclusion that the Ad Hoc Panel was unduly influenced by one of the protagonists in the debate, the only one who was a member of the ORSA, and the man who requested the investigation in the first place. For a group, under the auspices of a supposed scientific society, to publish a study of this nature is almost unbelievable nad raises questions as to its independence from the military-industrial complex. The propriety of this ORSA action was indeed questioned in a minority report of five members of its Council.

I have attempted to express my views in more detail by answering the specific questions on which you requested comments. I am also forwarding at the same time a copy of a letter on this same subject which my colleagues, Drs. Kistiakowsky and York, and I sent to several newspapers following an article by Joseph Alsop referring to the ORSA Report.

I commend you for your efforts to shed some more light on this very serious matter.

With kind regards,

HERBERT SCOVILLE, Jr.

ANSWERS TO QUESTIONS RE ORSA AD HOC COMMITTEE

ANSWER TO NO. 1

The technical scope of the ORSA Ad Hoc Committee Report was so narrow that it failed completely to address the fundamental issues which were before the Congress. Virtually the entire analysis was directed toward the vulnerability of Minuteman to a postulated Soviet threat, and the basic questions of whether the Safeguard ABM was necessary to preserve the US deterrent or would provide any defense of Minuteman were completely ignored. Since the primary purpose of the hearings was to determine the Safeguard ABM budget, and the need and usefulness of the Safeguard defense of Minuteman, it would seem that the ORSA study avoided analysis of the central testimony. Rather, it appears to have selected only those subissues which were called to its attention by one of the protagonists in the debate, an individual whose standards, in theory, it was investigating. This action would appear to be highly unethical and contrary to the fundmental standards of operations research in which the organization purports to have such an interest. That the Ad Hoc Committee was probably sensitive to this selection is demonstrated by their excising from Professor Wohlstetter's letter asking for the ORSA study, those paragraphs which recommended the specific issues he wished covered.

ANSWER TO. NO. 2

As mentioned above, the narrowness of the inquiry entirely foreclosed the possibility of the Ad Hoc Committee making a meaningful judgment on the professional standards of the participants in the ABM debate. This narrowness was not only limited to the subject matter covered, but also to the material studied, and individual views taken into consideration. How could the Committee judge the standards when it restricted its attention solely to the subjects raised by one of the protagonists in the debate. The Ad Hoc Committee would have appeared to fail to follow its own standards of objectivity. In its guideline for the practice of operations research, ORSA frequently refers to the operation research analyst as an adversary. In this case the ORSA Committee is just another adversary in the continuing ABM debate, but they have not followed their own guideline "to explore *all* facets of a situation objectively and dispassionately."

ANSWER TO NO. 3

A key, and perhaps overriding, element in the Ad Hoc Committee analysis was the question of whether certain individuals took into consideration the possibility for "reprogramming of Soviet missiles for failure." The three witnesses who questioned the value of the Safeguard ABM were accused of neglecting this tactic which the administration itself did not use until the debate was half over and it was having difficulty in justifying its estimate of the Minuteman vulnerability. Professor Wohlstetter was commended for having taken this tactic into consideration. While there is considerable question as to whether the plausibility of such a tactic is a question of operations research and not one of strategic analysis, there is no question of that the ORSA Ad Hoc Committee failed completely to substantiate the validity of the non-reprogrammable failure rate values used by Professor Wohlstetter. Without any questioning they assumed that the value of 5% selected by administration proponents of Safeguard and by Dr. Wohlstetter were correct.

If the ORSA group can question the failure to include reprogramming in a calculation, they certainly should question the selection of the values used, since this value turns out to be fundamental to the end result. A change in this value from the 5% selected would correspondingly change the value of 5% surviving Minuteman which Dr. Wohlstetter derived as his basis for justifying the need for Safeguard. No justification was ever given for this value. It would seem very strange that out of the total of 20% failures only 5% should be ascribed to failures in the MIRV dispensing and guidance systems, the very complicated and most advanced technological aspects of the entire missile delivery system, while 15% are ascribed to failures in the fundamental missile launching system which the Soviets have tested over and over again. It would appear rather that Dr. Wohlstetter and the Defense Department Safeguard proponents selected 5% since this number was required in order to reach the conclusion that only 5% would survive. Had they selected a 0% non-reprogrammable failure rate, they would have concluded that virtually no Minuteman would have survived, patently absurd for an attack of the size postulated. If they had selected 15%, then about 15% would have survived and the Soviet threat proven a mirage. If the ORSA Committee were truly acting as competent operations researchers, they would have raised and evaluated this fact in any discussion of reprogramming.

A second element emphasized in the Committee analysis was the failure of the ABM opponents to take into consideration that the Soviets might use a "pin down" tactic to simultaneously destroy ICBMs and bombers, this tactic which calls for maintaining a barrage of submarine launched missiles in the air above Minuteman sites to deter their being launched but not to destroy them, is a doubtful tactic at best. ORSA accepts such a tactic without question and, even more strangely, without giving any consideration to the numbers of submarines missles which would be required to make it effective. It is not clear on what basis the ORSA Committee feels it can criticize individuals who have had broad experience in strategic analysis for discounting such a fantastic tactic when this is certainly not an operations research matter. Does the ORSA Committee feel that an appropriate operations research standard is to accept as gospel any judgment made by Dr. John Foster, DDR&E?

ANSWER TO NO. 4

The administration selected in its analyses a Soviet threat of 430–500 SS–9s, each equipped with 3 MIRVs with sufficient accuracies to have a high single shot kill probability against Minuteman. Had they selected a smaller threat, no one could have claimed that the Minuteman deterrent was in any danger. Had they postulated a larger threat such as 6 MIRVs per SS–9, which was well within the Soviet technical capability, then Safeguard would have been completely inadequate. This was recognized by Secretary Laird a year later in his Posture Statement when he said that if the Soviets continued to display SS–9s with accurate MIRVs, we would be faced with a threat much too large to be handled by the level or defense envisioned in the Safeguard system. The postulated threat was tailored to make the proposed Safeguard system look useful. None of the elements of this threat have actually materialized. In actual fact, it now appears, some two years later, that the Soviet threat is much less than was postulated in 1969. The Soviets have slowed the rate of their SS–9 launcher construction and have not even tested a MIRV which can threaten Minuteman. This was confirmed by testimony by General Ryan in March 1971. Despite these facts, the ORSA Report criticizes the AMB opponents for not using the same assumptions as the administration in its calculations.

ANSWER TO NO. 5

The proponents of Safeguard have now virtually conceded that it was not a system designed for defense of hard targets such as Minuteman missile sites. The single large and expensive radar and limited number of interceptor missiles at each site made Safeguard ineffective and easily overwhelmed. This could even have been accomplished by the Soviets primarily using their 220 obsolete ICBMs, leaving the entire SS–9 force to attack Minuteman launchers. The opponents recommended that instead more but cheaper and less vulnerable radars be installed and a year later this was recognized by the administration when they instituted development on the "hard site" ABM defense. Secretary Laird in February 1970 admitted that if "the Soviets deploy a MIRV on the SS–9, improve their ICBM accurary, and do not stop building ICBMs at this time, but continue building them at their present rate. We would then be faced in the mid-70s with a threat which is much too large to be handled by the level of defense envisioned in the Safeguard system without substantial improvement and modification."

ANSWER TO NO. 6

There is no evidence from a reading of the Ad Hoc Panel Report that it made full use of all the information available. In fact, the Report would clearly indicate that the Panel had restricted its attention primarily to material presented by one protagonist in the debate, Professor Albert Wohlstetter. It directed its entire attention to a single threat postulated by the administration and Dr. Wohlstetter and completely ignored other alternatives. Now, two years later, it appears that in almost every case, the proposed threat did not materialize. For example, the Soviets have not even tested a MIRV which can threaten Minuteman although DOD witnesses in 1969 were claiming that the Russian triplet multiple warhead system had a footprint which threatened Minuteman; the accuracy of the SS–9 is inadequate, and its guidance system and reentry vehicle would have to be redesigned to threaten Minuteman. This was publicly admitted by General Ryan in testimony to the House in March of this year although the evidence was available in 1969. Furthermore, the SS–9 program is lagging far behind that predicted in 1969. These are only a few of the myriad of examples where the Ad Hoc Panel selected data designed to bias the results of its investigation. It is hard to understand how the Panel could have censured certain witnesses for failing to have used the administration assumptions in their calculations when, in retrospect, the administration assumptions were later proven, by their own admission, to be false. There is no evidence anywhere in the Report that the Panel analyzed the usefulness of Safeguard in light of the number of its radars and interceptors (a number which the administration has kept classified to avoid its becoming obvious that the system could be easily overwhelmed).

ANSWER TO NO. 7

The Ad Hoc Panel inquiry was demonstrably incompetent. It failed to address the critical issues in the ABM debate and selected for its attention only those by one protagonist, Professor Wohlstetter. Such an action would appear to be unethical at the very least. Why did the ORSA Report excise from its published version of Professor Wohlstetter's letter the sections directing their attention to these issues if they were not sensitive to this apparent impartiality? It accepted as fact the assumptions of the protagonists of the ABM without question, and yet censured those who opposed Safeguard for failing to adopt these assumptions lock, stock and barrel even though these were later proven false; it made judgments on the usefulness of strategic tactics without any analysis or justification for such judgments. It failed entirely to live up to its own standards of objectivity and impartiality in selecting data and assumptions.

ANSWER TO NO. 8

Clearly the inquiry should have evaluated the testimony of all of the key witnesses—pro and con—who testified before the Armed Services and Foreign Relations Committees in the ABM debate. To have selected out for attention primarily those who were against the ABM and to have virtually neglected entirely the testimony of the administration seems only to indicate an initial bias on the part of the Panel. The administration had all of the information at its disposal, and thereby controlled the framework for the debate; yet, nowhere in the Panel Report is there any analysis of the shifting rationales that were used during its course. There is no analysis of how well the assumptions used by the administration witnesses have stood up with time. Not only have their predictions of the threat been proven false and probably not even in accord with the best information available at that time, but the administration also admitted that the usefulness of the original Safeguard system was very limited and that radical improvements would be required if it were to be able to cope with threats which could have a high probability of destroying the Minuteman deterrent.

ANSWER TO NO. 9

The ORSA Panel did not apply the same standards of judgment to all witnesses who testified, both pro and con. As mentioned above, they did not even analyze the testimony of many witnesses in favor of Safeguard. The assumptions of the pro ABM witnesses were almost always taken as a matter of fact while those against the ABM were censured for not having used the same assumptions.

University of California,
Livermore, Calif., November 27, 1971.

Hon. Philip A. Hart,
Stuart Symington, and
John Sherman Cooper,
U.S. Senate, Washington, D.C.

Gentlemen: Thank you for your inquiry of the 15th of November. I include my answers to the queries. These answers have been given after thorough consideration and as rapidly as possible.

For the sake of clarity I repeat the questions you have posed and give the relevant answer following each question.

Permit me please to make a few general remarks.

It is the nature of questionnaires that brief answers are of necessity strongly influenced by the manner in which the questions are formulated. This fact has forced me to answer at somewhat gerater length. I hope that in the process I have gained rather than lost in clarity. I ask for your patience in reading my detailed responses.

As stated in one of my responses, operational research is more of an art than it is a science. This fact is painfully obvious when predictions are required, when an adversary proceeding is involved, and when secrecy intervenes. One of the lessons to be learned from the ABM debate in 1969 is that as long as we try to apply the present rigorous standards of secrecy, important public debates on defense have a limited value. I should particularly urge that we should not try to protect Russian secrets more rigidly than we are protecting our own.

The Ad Hoc Committee of ORSA went out of its way to discuss the role of the adversary proceedings in operational analysis. One value of this type of proceeding is that a declared proponent and a declared opponent will not lay claim to complete scientific objectivity. In past debates such claims have occurred more frequently than is justified or desirable.

Because of the great public interest of the questions you raised, I am sending copies of this letter and of my answers to a number of recipients who have an obvious "need to know." I hope that this will meet with your approval.

Thanking you for addressing these important questions to myself,

Sincerely yours,

Edward Teller.

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1. Was the technical scope of the Ad Hoc Committee report sufficiently broad to be able to evaluate the fundamental questions before the Congress: whether there was a need for deployment of the Safeguard ABM system at this time, its value as a protection of Minuteman against probable Soviet threats; and whether Safeguard was as good a system for protection of Minuteman as alternatives to the Safeguard ABM system such as "Hardsite?"

Answer: The clearly stated purpose of the report of the Ad Hoc Committee was *not* to evaluate the fundamental questions before the Congress. The Ad Hoc Committee was careful to point out that it did not intend to obtain answers to these questions, but rather to investigate the propriety of the practices followed by the participants in the debate which was addressed to the problem of Safeguard.

2. Was it possible to make a meaningful judgment considering the narrowness of the inquiry?

Answer: A meaningful judgment was obtained concerning the propriety of the approach that was used to evaluate the Safeguard ABM proposal.

3. In projecting the vulnerability of Minuteman, much was believed to depend upon whether one considered "reprogramming of Soviet missiles for failure" and simultaneous attack on U.S. missiles and bombers through "pindown" to be plausible Soviet tactics. Is the plausibility of these tactics a question of operations research or was it one of the strategic analysis more broadly requiring consideration of many other factors? All things considered, do you believe that "reprogramming" and "pindown" were plausible Soviet tactics for the mid-seventies?

Answer: "Reprogramming of Soviet missiles for failure" and "pindown" tactics are essential elements of the discussion. Operations research becomes a meaningful exercise only after one has enumerated the reasonable operations that are and should be under discussion. In my opinion, "reprogramming of Soviet missiles for failure" and "pindown" are both plausible and essential elements. One may claim that disregarding the Queen and the Rook in a chess game is an unreasonable as disregarding "reprogramming" and "pindown" in the discussion of ABM.

4. Was the Administration misleading in choosing a particular level of threat against Safeguard; and not considering larger or smaller threats? Is it correct that Safeguard's effectiveness is only evident against a very narrow band of threats?

Answer: It is true that the Administration chose for the sake of discussion a limited and hypothetical band of threats. The resulting discussion was meaningful at least for illustrative purposes. The debate would have been much more meaningful if it had not been limited by our rules of secrecy. It is particularly noteworthy that the Russians in deploying an ABM against a limited band of American threats forced us into expensive countermeasures. At the same time we were also forced to reduce the megatonnage of our retaliatory explosives. There is also evidence that ABM starting from an effectiveness against a limited band of threats may develop into a more generally applicable system. If intelligence concerning Russian operations were less severe this claim could be better substantiated. It is in the nature of ABM that it must start from relatively modest beginnings. Whether or not it can develop into a truly potent component of defense remains unsettled to this day. In my opinion, one of the serious mistakes committed in the ABM debate was that neither side admitted to a sufficient extent the uncertainties in the situation. This fact was emphasized by the ORSA report.

5. Do you believe that the proponents of Safeguard have now conceded that the opponents were right in insisting that smaller, cheaper, and less vulnerable radars be developed?

Answer: Our modest deployment of Safeguard (which actually amounted to a pilot operation) did lead to smaller, cheaper and less vulnerable radars. The need for such radars was correctly emphasized by one of the opponents of ABM, Dr. Panofsky. In a television debate with him I predicted correctly that this suggestion will indeed be adopted if deployment is encouraged. In general the difference between opponents and proponents of the ABM was dramatized to a greater extent than would appear justified by the actual facts of the situation.

6. Did the Ad Hoc Panel make full use of all the information available to the responsible Committees—the Armed Services and Foreign Relations Committees—both classified and unclassified, concerning the Soviet threat and Safeguard ABM performance capabilities against a range of Soviet threats?

Answer: The Ad Hoc Panel made ample use of the available information. It is impossible for me to tell with the amount of effort I can possibly spare whether the Ad Hoc Panel made use of *all* the information. It would seem improbable that anybody could take all information into account.

7. Was the inquiry by the Ad Hoc Panel technically correct and competent in its findings?

Answer: In my opinion, operational analysis is more an art than a science. This is particularly true when it is applied to predictive purposes and if, therefore, full operational verifications are not available at the time of the analysis. In view of the inherent restrictions of Operations Analysis the Ad Hoc Panel has put out a document that is remarkable for its competence and objectivity.

8. Should the inquiry by the Ad Hoc Panel have evaluated the testimony and statements of *all* witnesses pro and con who were called before the two Committees? Should the Ad Hoc Panel have made use of such studies as the Report of the Ad Hoc group on Safeguard for FY 1971 (the O'Neill Report) submitted to the Secretary of Detense on January 27, 1970?

Answer: I have participated in the debate on Safeguard in 1969. Having studied the ORSA report I find that they have made extensive and reasonable use of the testimonies known to me. I am not competent to answer the question whether there have been any omissions, very particularly in regard to testimony that was submitted in 1970.

9. Did the ORSA Panel apply the same standard of judgment to all witnesses who testified, both pro and con?

Answer: The Ad Hoc Committee went out of its way to criticize both proponents and opponents of Safeguard. As far as I can judge, the same standards were applied to all witnesses. It should be borne in mind, however, that complete objectivity is an ideal that never can be reached.

Watertown, Mass.,
January 11, 1972.

Hon. John Sherman Cooper,
Hon. Philip A. Hart,
Hon. Stuart Symington,
U.S. Senate,
Washington, D.C.

Dear Senators Cooper, Hart, and Symington: Thank you for asking me to comment on the report of the ORSA Ad Hoc Committee on Professional Standards regarding the ABM debate. I had not intended to become involved in the continuing discussion of the report because I was one of the individuals singled out for criticism and so believed that anything that I would say could be interpreted as a biased response. But it has become evident to me that the document is being used as the basis for a widespread campaign whose intent appears to be to generate a widespread public suspicion of congressional testimony critical of D.O.D. proposals so that in the future, large proposals for new and costly systems will not be exposed to the same kind of critical review before Congress and the public that the ABM faced. Recent articles by Mr. Joseph Alsop and Senator Barry Goldwater illustrate this point. I welcome the opportunity to set the record straight before your group.

I will not answer your specific questions about the ORSA report because my colleagues, Drs. Rathjens and Weinberg, have done so and I agree with their answers. I would like to direct attention to some issues that I regard to be especially important. I am particularly concerned about the inappropriateness of a professional society becoming involved in a political undertaking, as ORSA has done, and by the presentation of the Ad Hoc Panel report as an impartial study based on sound operational research methods and standards, which it is not, as I will show. In addition, I believe that operational research techniques have limited usefulness in resolving an issue such as the value of the ABM because the sound application of those techniques requires that it be possible to acquire data on the actual performance of the systems under investigation. When that can be done, their performance under other conditions may be predicted with considerable confidence. Operational research methods have been adapted to provide means for making estimates about non-tested and even non-existent systems but the work should probably not be given false validity, as is the custom, by being called, "operational research." Because operational data did not exist for either the Safeguard system or the Soviet offensive missiles, the principal task in trying to evaluate the performance of Safeguard in a battle situation was that of estimating the probable performance of the weapon systems involved. This is more than a task for an operational analyst. The analytical part of such an exercise is straightforward. The important aspect of the problem can only be handled properly—and then possibly inadequately—by persons with actual knowledge and judgment about the real-life performance of complex systems. Yet the ORSA report propagates the myth that operational research experts are somehow better qualified to deal with such questions than electrical engineers and physicists, who have knowledge of the hardware involved and actual experience with sophisticated military systems, as some of us who participated in the ABM debate had.

It is troublesome that a professional society dedicated to "the advancement of operational research through exchange of information, the establishment and maintenance of professional standards of competence for work known as operations research, the improvement of the methods and techniques of operations research, and encouragement and development of students of operations research," as stated in its Constitution and reported in the introduction to its Ad Hoc Committee report, would ignore or play down the important issues involved in the ABM deployment question and concentrate mostly on some peripheral points, as has been done in the report. The following questions were really basic to the entire debate—though ignored to a disturbing degree by the ABM proponents—and yet were barely considered by the Ad Hoc study:

(1) Will the U.S. 'deterrent actually be in jeopardy if the D.O.D. projections of Soviet missile deployment become a reality?

(2) Is it necessary to protect the Minuteman missile at all if the objective is to maintain an adequate deterrent?

(3) Why the changing rationale for Safeguard?

(4) Why should the Safeguard ABM system or the Russian offensive missile system be expected to be so much more reliable—as the Safeguard proponents claimed—than any similar system previously produced?

The ORSA report actually deals briefly with the failure of the Safeguard proponents to face the fundamental strategic question raised above and comes to the following conclusion, which was not highlighted and which was ignored by the press in reporting the study, "The failure of this public exchange of views to deal with this question, whether in conformity with the wishes of the executive or legislative branches of the government, is a basic failure to deal with a most fundamental issue"* This conclusion, it seems to me, should have been featured as the report's most important finding rather than being buried at the end of the report. Why was it not even in the summary of findings?

Equally important to a rational deployment decision were the technical questions regarding the possibility of the system working under the postulated conditions, and the technical reliability of the Safeguard system, neither of which were ever answered satisfactorily by the proponents. Though it was undoubtedly beyond the professional competence of the ORSA Panel to deal with the technical issues involved in these questions, its failure to highlight the ABM proponents' almost complete failure to answer them satisfactorily is a second major shortcoming of the review.

Instead of considering the quality of the discussion of the major issues of the ABM question the report, as my colleagues have shown, concentrates on and often misrepresents minor incidents during the debate.

In some instances the Ad Hoc Committee seems to speak with two voices. For example, on page 1221 the report cites as a misuse of source material by me of data published in Science and Technology Magazine by Dr. Daniel J. Fink. The Ad Hoc Committee's reference to this incident has been featured in the newspaper stories about the report. Because there was no operational data available about the reliability of the Safeguard missiles, I used data concerning the reliability of certain offensive missiles published by Fink in the above article. I justified this on the grounds that though very different in purpose and size, the two systems were not unlike in concept and complexity. I stated that in my judgment Safeguard missiles were probably more complicated than the Minuteman missiles. This was a personal judgment. Dr. Fink objected to my view and said so in a long letter to Senator Gore. Among the major reasons that led me to conclude that the Safeguard missile was more complicated and likely to be even less reliable than the Minuteman missile were its dependence upon a ground-based computer coupled through a radio-communication link, and the difficult conditions under which they would be expected to operate. The ORSA Ad Hoc Committee quotes the following statement from Dr. Fink's letter, "Finally, Dr. Wiesner states that the ABM interceptors are more complicated than ICBMs and thus could be expected to be less reliable. Probably the reverse is true. ICBMs are self-contained; that is, each missile has its own guidance and computer system. In an ABM system, the computer and most of the guidance equipment is on the ground and thus can be maintained to a higher order of reliability.

"I apologize for taking so long to respond to one paragraph in Wiesner's letter. I found it so misleading, however, as to warrant a more thoughtful reply."

The ORSA report then says,

"It is true, on the other hand that the radar required for guidance of the ABM system is a particularly vulnerable and 'soft' target. Also, the ABM interceptor flight requirements (to bring the ABM missile to a point in space where the explosion of the ABM warhead can damage the RV so that the RV will not damage its target) are quite stringent. The performance of the entire system can be adversely affected by near misses, or by detonations of atomic warheads in the atmosphere in the vicinity of the ABM guidance radar. Thus while Fink has refuted Wiesner's statement that an ABM interceptor is more complicated than an ICBM, he has not addressed the question of the reliability of the ABM interceptor functioning as part of a system under attack. (See the discussion on page 1208 ff.)"

As far as I am concerned, the communications link is an essential part of the interceptor. Its receiver and decoder is built into the missile and the interceptor cannot be controlled without the ground computer and the communication link being operational. The Ad Hoc Committee actually makes a stronger argument than I do, yet they start by asserting that Weinberg, Rathjens and myself have misused Fink's material. It is just not so. Fink may not like the conclusions I draw from his data but they are my judgments to which I am entitled and which, as I have shown, the Ad Hoc Committee in its confused way actually supports.

The Ad Hoc Committee is critical of my complaint about the shifting ground rules, intelligence and numbers made before the Gore Committee on May 14. Though I was specifically responding to a speech given by Dr. John Foster, Director of Defense Research and Engineering before the Aviation/Space Writers Association meeting in Dayton, Ohio, on May 12 and reported in *The New York Times* the following day, I was attempting to point out the great difficulty of participating in a discussion that was a moving target in time and space as well as substance. I was not able to obtain a copy of the Foster speech until I arrived in Washington on May 14 to appear before the Gore Committee.

In the introduction to their report, the Ad Hoc Committee provides guidelines for the use of operations research in the adversary process which begin:

"If an analyst is called upon or volunteers to advocate or support the advocacy of a position, a documented analysis by which he reaches his conclusions should be available for independent and objective appraisal. A write-up of his analysis should be made available in advance, for thorough analysis by the staff of the organization to which he is offering testimony (such analysis by the organization receiving the testimony cannot be accomplished unless it has access to its own staff competent to evaluate the analysis) and by recognized and competent adversaries. Subsequent oral testimony or position papers urging a course of action may be weighed against the analytical background (submitted earlier) from which they sprang."

In preparing the book, *ABM—An Evaluation of the Decision to Deploy an Antiballistic Missile System,* my co-authors and I were trying to do just what is recommended, to provide in one place a coherent and complete presentation for our opposition to the ABM. The proponents never did supply an equivalent presentation and yet the only comments by the Ad Hoc Committee regarding our books were detailed and critical comments of specific points. If their purpose was as stated—to examine the quality of the adversary process—they should have given us high marks for making the effort to document our case, even if they did not like the quality of our work, and seriously censored the proponents who, in spite of their infinitely greater resources, failed—as the Ad Hoc Panel report itself implies—to document their case and who, when provided with criticism of the Safeguard system, often responded with a public speech, hard to get and sometimes hard to understand.

The Ad Hoc Committee made many criticisms of our book in which we tried to bring all of the arguments regarding the ABM deployment into one document, but ignored the shotgun nature of the D.O.D.'s dissemination of its information which made dealing with the subject in a coherent fashion extremely difficult. In the talk referred to above, Foster criticized Minuteman survival numbers given in *ABM—An Evaluation of the Decision to Deploy an Antiballistic Missile System* and predicted much lower survival rates based on a highly reliable Soviet-in-flight retargeting capability and something like a reliable MIRV capability. I objected to these assumptions and said essentially that they represented a change from earlier D.O.D. testimony about the Soviet threat. I also objected to Foster's reliability assumptions.

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*Operations Research V19 Number 5, September 1971, p. 1237.

The Ad Hoc Committee agreed with my objection about the reliability but supported Foster's use of an in-flight retargeting doctrine, a doctrine incidentally that apparently required not only retargeting a second round of missiles for initial failures, but also a third round for second round failures; and the Committee actually presented some calculations to show how useful a retargeting capability could be. These calculations also make the assumption which I still challenge, that so complicated a system could be made to work reliably in its first large-scale use or that any military strategist would be willing to employ it as a first-strike weapon. Here again we are dealing with matter of judgment and I still believe I am correct.

On one point concerning this exchange—the report is correct. I should not have criticized Foster's change of available SS9's from 500 to 600 as I did because he did indicate that he was talking about a later year. I just missed that point in my hasty reading of his full text.

The ORSA group objects to my consideration of a fire-on-warning doctrine. I actually do not propose this as a strategy but indicate that it is a option open to the United States which an attacker would have to consider and which could provide additional security for the deterrent force if it was needed. The group insists on taking a conservative position in regard to Soviet retargeting capability when it suits their argument, saying, "Hence it is imprudent to ignore the possibility of reprogramming in assessing Soviet first-strike capabilities." But they refused to believe that a Soviet planner would have to take a similar view regarding a launch-on-warning strategy in planning an attack on the Minuteman force.

Incidentally, the logic employed by the Ad Hoc Panel, that we must respond with weapon systems to any imagined Soviet deployment that can't be proved impossible, must bear much of the responsibility for the arms race and the deteriorating security posture of the United States. We don't have the resources to deal with the fantasies of the most frightened analysis.

Finally, I would like to close with a warning. Operational research as frequently employed to make judgments about future systems or events should be regarded as a most uncertain instrument.

Many people, in response to your questions, have already observed that results of operational research can be no better than the questions asked, the models postulated or the data fed in. In the hands of a careful analyst whose judgment is sound and who has long experience to guide him, operations research techniques can be of tremendous help in the making of difficult decisions. But, too many times in my 25 years' involvement with national security matters, I have seen operational analysis lead to disastrously wrong conclusions because of wrong assumptions. During my term as Special Assistant to President Kennedy, I observed very questionable recommendations regarding Minuteman deployment presented to him. Their character was determined by the assumptions on which they were based. I helped reverse a serious wrong recommendation of operations analysts in the Office of the Secretary of Defense, regarding analysis of the fighter aircraft procurement, wrong because of incorrect assumptions about radar performance. At stake was the possibility of several billion dollars of aircraft production. President Kennedy had to contend with overly optimistic analysis supporting the deployment of the Nike Zeus ABM system, now regarded by everyone as a totally useless system. During that period, too, I saw the results of inadequate operational analysis lead to the selection of a conventional aircraft carrier when a nuclear carrier was clearly more desirable. I could add to this list, but this collection is probably sufficient to make my point. I was frequently drawn to the sad conclusion that the analysis was carried out to support a decision already made for other reasons, but in no case was it actually possible to judge whether the misleading results were due to incompetence or deliberate intent.

The great danger is that unsuspecting laymen—civilian and military—will accept the results of operational research because they are impressed or awed by the methodology, not realizing how often the complex analysis obscures faulty assumptions and bad judgments. Operational research is not a substitute for experience, judgment or common sense in any human endeavor.

Sincerely yours,

JEROME B. WIESNER.

UNIVERSITY OF CALIFORNIA, SAN DIEGO,
La Jolla, Calif., November 10, 1971.

Senator JOHN SHERMAN COOPER,
Senator PHILIP A. HART,
Senator STUART SYMINGTON,
U.S. Senate,
Washington, D.C.

Gentlemen: Below are my answers to the questions contained in your November 5th letter. I regret that they are so short and terse, but pressure of other business and shortness of time makes any more detailed analysis impossible at this time. I hope, even so, that you will find them useful.

1. No.
2. No.
3. Operations research can be of use in a study of such matters as "reprogramming" and "pindown" but by no means could the final judgments as to the value or lack of value of these tactics be derived solely from operations research. Personally, I regard as completely implausible the notion that the Soviets might seriously consider using such tactics against us in the mid-seventies.
4. I believe that the action of the administration in choosing a relatively narrow band of threats in most of their Safeguard testimony was misleading and that the Senate and public would have been better able to understand the issues had the administration been more complete in its descriptions of the various possible threats. Safeguard is effective against only a very narrow band of threats even in theory to say nothing of practice.
5. I believe it is true that many of the proponents of Safeguard have by now conceded that the opponents of Safeguard were right in insisting that if any deployments were to be made, they should make use of smaller, cheaper and less vulnerable radars. However, I don't know whether all proponents of Safeguard agree with this or not.
6. I have not made a sufficiently thorough review of the Ad Hoc Panel study to be able to give a firm answer to this question.
7. I do not believe so.
8. If you grant that it was proper for the Ad Hoc Panel to engage in evaluation of anyone's testimony, then indeed they should have evaluated the testimony and statements of all witnesses both pro and con, and they certainly should have made use of such studies as the O'Neill report. However, my personal view is that the Ad Hoc Panel had no business evaluating the testimony and statements of any witnesses.
9. It would appear that they did not.

Sincerely yours,

HERBERT F. YORK.

To Senators COOPER, HART, and SYMINGTON:

THE ASSESSMENT AND IMPROVEMENT OF SCIENTIFIC ADVICE TO CONGRESS: THE CASE OF THE ABM

(By Dr. Paul Doty, Professor of Chemistry, Harvard University, Cambridge, Mass.)

(The following statement is taken in large part from an article being submitted to MINERVA for publication.)

It is not possible to assess the ORSA Report[1] without recognizing that the portion of the testimony that it treats was only part of a wider and more complex policy debate that had been going on for nearly a decade. The part that occurred in the Senate hearings and debate in 1968–69 centered on the issue of whether or not to fund the deployment those stages of the Safeguard ABM system that were directed to the defense of our ICBM force. Reaching a responsible position on this issue working through several groups of questions in order. It is useful to spell these out since they also correspond to the different levels at which the debate proceeded.

I. Assessment of need.—Here one had to ask if the United States' land based ICBM force (1,000 Minutemen and 54 Titans) would become vulnerable to almost total destruction in the foreseeable future of roughly 5 to 10 years. Clearly the answer depends on the outcome of several subsidiary questions. First, what different estimates or assumptions of the growth of Soviet forces, both in numbers of missiles and payload capability, should be considered for the next decade? Second, What will be the vulnerability of our force to each of the assumed growth patterns of the Soviet force? Third, To what extent would the bomber and submarine parts of our deterrent force become vlunerable and to what extent would our tripartite deterrent force remain capable of launching a retaliatory strike of unacceptable intensity?

II. Assessment of the Adequacy of the Solution.—If the protection of some or all of the land based missiles and some or all of the bombers is shown to be necessary, one must then ask if the proposed solution, in this case Safeguard, is adequate. The reply to this question requires careful analysis of the effectiveness of the composite system against the variety of attack options and tactics available to the Soviet Union. Such analysis must include the degradation in performance that may be produced by the environment of a nuclear attack, the special vulnerability of the radars, probability of maintaining the system in a state of instant readiness indefinitely and the ability of the attacker to exhaust the defense. After defining as well as possible the range of threat for which Safeguard may be effective, the cost must be estimated and compared with alternative proposals for maintaining roughly equivalent deterrent force.

III. Assessment of the Political Values in Buying the Solution.—This level of questioning is largely political rather than technological and aims at estimating the net benefits of the solution in terms of national security, diplomatic advantage and domestic needs and pressures. In the context of the ABM decision this meant, will having Safeguard help attain a political goal that is worth the price and risk? This question remains valid in all circumstances short of a decisive negative answer to questions of both Type I and Type II. The less affirmative the answers to questions of Type I and II are, the greater the burden that is placed on the political perception of the decision maker and the more he risks turning diplomacy and military posture into bluff.

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Viewing the ABM debate retrospectively in this framework one cannot avoid observing that the pro-ABM scientists concentrated on questions of Type I (need) while the anti-ABM scientists focused on questions of Type II (adequacy of the solution). Meanwhile, the Administration was not seriously challenged on its political decision (Type III question) whose only articulated basis was the need of Safeguard as a "bargaining chip" in SALT.

The pro-ABM scientists argued that our ICBMs could soon be in danger, that our

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Footnotes at end of article.

security demanded the retention of all three components of our deterrent (ICBMs, submarines and bombers) and that Safeguard was the only available response to the growing Soviet SS-9 force that was endangering our ICBMs. By concentrating the force of their arguments on Minuteman vulnerability they left the technical merits and shortcomings of Safeguard essentially unexamined.

The anti-ABM scientists argued that a linear projection of the SS-9 buildup, coupled with increased accuracy and MIRVing, would ultimately lead to the obsolescence of Minuteman, perhaps in a decade. But they insisted that this would not be equivalent to a first strike capability since the other parts of our deterrent could not be simultaneously attacked: that enough was certain to survive to devastate the Soviet Union. More importantly, however, they concentrated their fire on the ineffectiveness of Safeguard in providing significant protection to Minutemen, even if it performed optimally.

Turning now to the ORSA Report, and particularly to Appendix III which makes up the bulk of the Report, we find that the investigation does not deal with all these three levels of the debate but is limited almost exclusively to Type I questions. Even its treatment of Type I questions is incomplete for it does not examine the adequacy of the tripartite deterrent when one part fails. This limitation of scope not only imposes severe restrictions on what is being examined but biases the outcome because it cuts out most of the ground on which anti-ABM arguments were made and gives undue emphasis to the narrow terrain on which most pro-ABM arguments rest.

Although it is not our purpose to examine the many findings of the Committee that would seem to be open to questions, two of them are sufficient to illustrate what appears to be a lack of impartiality and comprehensiveness in the investigation. Perhaps the most dramatic finding was the difference in the numbers of ICBMs calculated to survive a Soviet first strike attack using the 420 to 500 SS-9 missiles it was then predicted they may have in 1975. Clearly such a calculation depends on the assumptions one makes about the number of reentry vehicles per missile, their accuracy, their megatonnage, the tactics employed by the attacker and the hardness assigned to the ICBMs attacked.

Since the range of reasonable choice for these variables is considerable it is understandable that no great weight should be attached to any particular set or the result that is derived therefrom. That two different assessments should produce figures as different as 5 and 25% surviving ICBMs is not surprising. If the assumptions had been the same the calculated results would have been the same: high school mathematics is sufficient for the calculation. Dr. Wholstetter considered the difference a matter of high principle: Dr. Rathjens looked upon it as a "back-of-the-envelope" calculation. After identifying the assumptions used and some small errors made by Dr. Rathjens the Report praises Wholstetter for doing his homework correctly and criticizes Rathjens rather severely for his errors and the bias they find in some of his assumptions.

By treating this incident in so much detail it assumes the importance of a pivotal point in the debate. Yet the Committee fails in its obligation to put the calculation in perspective. They do not suggest that the choice of 500 missiles makes the best possible case for Safeguard effectiveness.[2] A significantly smaller number would leave too many ICBMs surviving and any significantly larger number would so overwhelm the Safeguard system that it would be useless. The critically of the choice of 500 goes even further. Since the effectiveness of Safeguard is sharply peaked at this number, then it is clear that an adversary could overwhelm it by waiting until he has a larger striking force. The main point is that in an environment of constantly growing forces, Safeguard offers *at best* a brief period of marginal effectiveness. Whether this period would occur about 1975 or in some later year is very uncertain. This is a situation that occurs repeatedly in technically based policy decision-making. The fine tuning of a calculation involving a number of parameters having substantial uncertainties is seldom justified, particularly if it obscures larger issues. Yet Dr. Rathjens is taken to task for being inattentive to small details while a testimony that consciously avoids the main point—that Safeguard can be effective against only a very narrow band of transient threats—is praised.

An indication of dual standards can be seen in many other places. An interesting example is the Report's treatment of two tactical options that might possibly be used by the Soviets if they were planning a first strike. One of these involves reprogramming—the retargeting of some missiles to replace those that failed to function in the original salvo firing. The inclusion of such a tactic improves the hypothetical destructiveness of a Soviet first strike when large weapons are used. Since it supports the point Dr. Wholstetter was making the inclusion of this tactic in his assumptions is understandable, although comparable choices by Dr. Rathjens are criticized. But consider the justification that Wholstetter uses for assuming that the Soviet force has this capability. In this testimony he states, "There are very familiar, well known methods of arranging it so that you can reprogram missiles to replace a very large proportion of your failures . . . "Dr Rathjens replied "There is no basis that I am aware of for believing the Soviet Union employs such a technique, and I do not believe we do."

The Report agrees, but allows the assumption since Wholstetter "does not claim that either we or the Soviets have such techniques now." The standards which Wholstetter must meet could hardly be lower. To help him the Report devotes nine pages to suggestions of how reprogramming might be done. Yet it does not admit the central point: that this "quite likely tactic" requires selection of standby missiles, the switching of their targeting instructions, and possible internal readjustments all within seconds. This very heavy additional burden for communications, computer and guidance systems would require extensive tests in salvo firings before the confidence level of 95% single warhead kill probability assumed by Dr. Wholstetter could be achieved. It is the great cost and the near impossibility of achieving and maintaining high reliability for this tactic that makes it so unlikely; the necessary but insufficient numerical criteria elaborated in the report to legitimize this assumption miss the point. It is good judgment, not operations research, that is needed.

Compare, now, the way that this assumption was handled with the treatment given to Dr. Panofsky who had argued that it was unreasonable to assume that in a first strike the Soviets could force us to hold Minutemen in their silos while bomber bases were being attacked by exploding submarine launched warheads over our Minuteman fields. Dr. Panofsky concludes his argument in this way, "(Such an attack) . . . would require an enormous increase in the numbers of Soviet missiles, their accuracy, and in the confidence the Soviets would have to have in their system. Moreover, the SAC fleet would have to remain on the ground as 'sitting ducks' even in times of stress, that is, they would have to be not on airbourne alert; moreover the SAC airfields would have to be within reach of the Soviet's SLBMs (Submarine Launched Ballistic Missiles) a fact that we are presently changing. . . . We are giving the Soviets credit for a degree of performance and reliability of military systems which we could not dream of achieving ourselves."

The Committee was unimpressed and formulated the unrealistically high standard that Dr. Panofsky (and Dr. Wiesner) should have met: "Those who wish to challenge the possibility of a pin-down attack by the Soviets must treat *all* reasonable tactics that might lead to pin-down, and demonstrate that *none* of them will succeed." Just as ABM systems can always be exhausted by being presented with more incoming warheads than they can handle, so can scientific witnesses if they accept the charge to evaluate all kinds of "contrived threat which totally ignore the kind of realities the Soviet planner would have to face."

The gap between the capability the Soviets would have to have to employ this tactic with confidence and that which they are estimated to have in the foreseeable future is very great. Only arguments using classified data could spell this out, but one can be confident that the Department of Defense is not so derelict in its duty as to have allowed this kind of vulnerability to develop. This attitude of allowing maximum capability on their side and minimum capability on ours, like the asymmetry between capability and intent, permeates all strategic debates and is probably unresolvable by any professional committee. Being unresolved it offers a tool, perhaps unconsciously used, to impose an unacceptable discrimination on technical witnesses.

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Let us now turn to the propriety of the ORSA investigation and examine the extent to which this effort might affect the conduct of public policy debates and the technical advice that they require. It is evident upon examining Appendix III that what took place resembled in some ways a court proceeding. The findings read like a judgment and the potential impact on the careers of those "found guilty" could be substantial. Yet this was carried out without any prior communication of rules, without a prior limitation of jurisdiction and without any provision of safeguards. These features are considered necessary in a court and even more so in an *ad hoc* proceeding where the reputation of individuals is at risk. Even if one argued that justice was done in this case, the precedent is set for other investigations of this kind any of which may bring substantial harm to individuals whose conduct and hence whose ethics, since ethics are the complex of rules that govern conduct, are publicly judged by a group to which they do not belong and to which they never conferred such prerogatives. Only the State with its judicial apparatus can claim such powers.

The authority which the Society and its Ad Hoc Committee presume to have in this investigation derives solely from self appointment. None of the six persons[3] whose conduct was found at fault were members of the Society; Dr. Wholstetter was. None of the six considers himself to be engaged in operations research. More importantly, almost none of the individual points investigated involved matters obviously within the domain of operations research. Instead, the questions which led to the severest judgment dealt with how a graph was read or misread, or whether this data or that were employed. Distinctions such as that between 500 and 600 are not matters requiring an expertise in operations research. Nowhere except in the ten page section shoring up Dr. Wholstetter's assumption on reprogramming can one see any requirement of the professional discipline. Hence one must ask, why is a group who are not members of an operations research society investigated by a group that are, on matters that do not require an expertise in operations research. This amounts

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Footnotes at end of article.

to one group taking action against another without going to the police or the courts. To condone this is to deny constitutional rights.

Many, perhaps most, professional societies have faced the problem of propagating a standard of professional behavior, particularly with regard to the professional-client relationship. The "Guidelines" which are set forth in the first 10 pages of this Report—the rest consists of appendices—appear to be sound statement of standards of procedure and conduct for operation researchers doing contracted work and serving a client as advocate. If the appendices dealt with the application of these in typical situations the result would be professionally useful and conform to the practice of other professional societies. Instead, as we have seen, Appendix III is of quite a different nature. And, further, it represents a departure that appears to be unique. The closest approach would seem to be in medicine and law where licensing and censure or disbarment, are standardized procedures. Yet no medical or bar association would assume authority to judge on professional misconduct except under authority granted by statute or the courts. Such acts as are examined are those of the most obvious misconduct, the taking of bribes or the injury of a patient through malpractice. Even then, the charges are heard under strict safeguards, and are subject to court review. Thus the ORSA investigation is seen as a radical departure from the traditional roles of professional societies. If this kind of procedure is repeated and extended it will surely come into conflict with due process.

These considerations lead me to conclude that it is unlikely that quality and effectiveness of scientific advice to the government will be improved by ORSA type investigations although some persons may indeed do their sums more carefully as a consequence. Even if such procedures were modified so as to avoid legal redress they would be harmful to the process of advising and debate because they empower a professional group no matter how narrowly constituted to inject their particular standards into issues that are almost certain to be very much larger. Yet, the general respect that professional societies still evoke from the public is such that the condemnations resulting from such procedures would be widely accepted and the people who would be willing to be judged publicly by such standards would become fewer.

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How, then, can the technical input into such important policy debates be made more responsible? How can conflicting conclusions involving scientific concepts and analyses be fairly resolved or understood in time to be useful? And, how can one insure that a reasonable balance of attention be given to both the arguments that depend on detail and the wider issues that depend on experience, judgment and perception of the political context? Let us consider only those few major issues such as the ABM in which the debate becomes extensive and the technical component is substantial. The SST debate is in this category. Likewise the debates of the early 1960s over a nuclear test ban and their predictable recurrence in the near future when a complete test ban will be considered serve as other examples.

Ideally such conflicts should be resolved and some approach to a concensus reached before Congressional hearings begin. The mechanisms for achieving this are the Agency bureaucracies and the scientific advisory committees and their interplay. When properly appointed these communities form a "parallel communication network within the federal government which to a very considerable extent circumvents the customary bureaucratic channels. In science and engineering no level of the bureaucracy has a monopoly on new ideas, and the loose nature of the advisory system provides one means by which ideas originating at a low level in the bureaucratic structure can be brought directly to the point of decision without going through regular channels, and new ideas from outside the federal structure (or its contractors) can be introduced quickly into governmental operations."[4]

When this system fails the Administration generally recommends its choice among the alternatives to Congress and the debate develops in hearings before the appropriate Committee(s). The content and value of the hearings is then shaped by the work of the staff and the choice of witnesses invited to testify. While experienced and competent staff can develop very useful hearings on many bills within their normal range of work, the transcending issues of large scope, such as ABM, involve matters, especially technical matters, with which they cannot adequately deal. The selection of witnesses can be done in a way to bring out the important differences and often to aid in finding compromises. But in issues that are already highly polarized and politicized the choice of witnesses is likely to be strongly influenced by those members of the Committee who are acknowledged exponents of the two polarized points of view. This allows little opportunity for introducing less aligned testimony, it polarizes the debate further and converts the taking of testimony into an adversary proceeding. Obviously it was this kind of structured atmosphere, and the inevitable haste, that contributed to much of the unnecessary misunderstanding in the ABM hearings.

Since the hearings in such cases are so close to adversary proceedings in spirit there are recurring suggestions to go all the way and introduce the actual procedures of a court of law. The attractiveness of this pales, however, when one appreciates that this would require the Senate Committee to immerse itself in the technical details as a judge does. Given the work load and schedule requirements such a process would be ludicrously cumbersome and would paralyze decision-making. Moreover, any reform of existing procedures should encourage convergence rather than intensify the polarization of viewpoints.

Perhaps the most practical way of improving the advisory process at this stage is to build on the process that keeps scientists honest and relevant in their professional lives. That is, a means should be found to have witnesses confront peers of equal competence. To be specific, Senate Committees after being formed in each (two-year) Congress and assessing the major issues that are likely to come before them could, with adequate advice, engage a balanced group of consultants of acknowledged technical competence and reputation for the remainder of the Congressional Session. As consultants they would agree not to engage in public discussion or serve on existing advisory committees in areas where hearings may be expected or to which they may be specifically assigned.

In actual operation a consultants panel would be selected for a given set of hearings. They would advise the staff on witnesses, organization and schedules. They could suggest the most useful form of testimony and specific questions that should be addressed. At the hearing itself they would be able to question each witness and require written answers to questions that could not be dealt with within the hearing. In cases of continued conflicting testimony they could recommend additional sessions and the questions which should be taken up. After the hearings they could meet with the Committee in both open and executive session to discuss their evaluation of the presentations and provide a written summary.

Of course, the success of such a course depends decisively on choosing and enlisting as consultant scientists of considerable experience and stature so that the witnesses will feel that they are being judged by their peers. In some circumstances it may be possible for the panel of consultants to meet with witnesses prior to testifying to resolve issues that are obviously due to misunderstanding or insufficient data and thereby avoid wasting time in the hearings proper.

Another device that might prove useful and builds on peer judgment is one by which a House or Senate Committee Chairman requests an external organization, such as the National Academy of Sciences, to provide an advisory report in an area of potential Committee concern. This was done in 1965 and 1967 by the House Committee on Science and Astronautics when they requested such reports on *Basic Research and National Goals* and *Applied Science and Technological Progress*[5]. In both cases the panels were chosen to represent a balance of views. Individual members were asked to prepare papers outlining their own views on specific topics but were then required to present and defend them *in camera* before the whole Panel. As a consequence there was considerable revision of papers as a result of this peer confrontation. The conclusions prepared by the staff and the chairman clearly reflected the quality and conviction displayed by individuals before the whole Panel. These recommendations eventually became the basis of legislation reorganizing the National Science Foundation. Although the subjects in these instances allowed a more leisurely paced approach than issues such as the ABM might, the usefulness of such a procedure and the balanced and tested quality of advice which it can produce justifies its being tried on other major issues.

For example, one can anticipate that a decision on a complete nuclear test ban may come before Congress in the next session. As before, an enormous amount of seismological and other data will be involved and used in Administrative proposals. Early in the next Congressional Session the Appropriate Committees could request an examination of this problem in the form just outlined. The Panel that carried out this task, or a part of it, could then also serve as consultants on hearings dealing with Administration proposals. Properly orchestrated such a procedure could be much more effective and much less abrasive in dealing with an issue that may have the emotional potential of the ABM.

Both of these proposals have the additional virtue of increasing the contact between Congressmen and the science and technology community. Moreover, they do so in a manner that reveals the workings of this community since they use peer judgments in much the same way as within science itself. A scientist recognizes that his influence in science rests on the degree to which his research is verified by subsequent events and provides results that others can build on. A scientific advisor will function best if his influence in government rests on the degree to which his advice is vindicated by subsequent events and provides results that others can build on.

We can now return briefly to the questions of Type III, referred to earlier. It was suggested that the ultimate form of the political decision in this case was: Will having Safeguard help attain a political goal that is worth the price and risk? And it was further remarked that technical considerations would only affect this decision if such arguments decisively showed a lack of need (Type I) and an inability to do the job (Type II). In my view this was indeed the situation until late 1967 when the invention of defense

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against a small Chinese attack so lowered the system requirements that Secretary McNamara could say, "There are marginal grounds for concluding that a light development of U.S. ABMs against this probability is prudent."

Until this time the Soviet position had been firmly against any limitation of ABM, arguing that they were solely defensive and could not produce the serious destabilizing effects which many American strategists claimed. Ironically, it was just at this time that Soviet opinion began to shift, greatly aided, I believe, by private discussions that had taken place over several years. By the Spring of 1968 the possibility of negotiations on limiting ABM and offensive missiles seemed to have become possible. Plans to do so were upset by the Soviet intervention in Czechoslovakia in August 1968: negotiations did not actually begin until November 1969.

While it is far too early to render events since that time in perspective a subjective interim assessment may be of some interest. For simplicity consider what each side has to its credit. Those advisors who favored ABM can point to the deployment of Safeguard at two sites and the authorization for two more sites. If a SALT agreement is reached it will probably permit the retention of some of the Safeguard system. If a SALT agreement is not reached, pro-ABM advisors will be able to recommend an improved system (hard site defense) that would be more cost-effective in the protection of land based missiles. And the option of returning to the advocacy of countrywide defense and a heavy urban defense will remain.

Those advisors who have opposed ABM have nevertheless won important contests. They played a major role in causing the country-wide defense to be abandoned. The first step was in its downgrading from a major role in the Sentinel System to a lesser role in the original Safeguard System. The second step came in the revival of the ABM debate prior to the 1970 Senate vote on funding. Here Senator Stennis was persuaded of the shortcomings of the area defense and took the lead in cutting out that part of the program. Beyond these specific successes is the change in climate in the Congress with respect to Administration proposals for new complex systems mentioned in the quotation from Newsweek at the beginning of this article. Indeed, the defeat of the supersonic transport in 1970 is claimed by many to be a consequence of the new sensitivity of Congress to the adequacy of the technological assessment of new complex systems—military or civilian.

But in the long run, those who have opposed investing in ABM in principle have further grounds for satisfaction. The consequences of deploying a heavy ABM system on either—and then ultimately on both sides—are widely appreciated and accepted throughout the world now, whereas five years ago they were not. Although initial SALT agreements may preserve more ABM capability than existed when the talks began it will still be a relatively small part of what might have been built eventually. And if SALT fails it is likely that these more realistic views will cause similar limits to be self imposed. If this interpretation is correct the ABM debate has contributed to the precious store of world sanity. Those who invest their energies in such arcane pursuits can expect no more, regardless of their individual positions.

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In closing it may be useful to try to look beyond the possible improvements in the means of scientific advising to the more fundamental limitations which will keep it imperfect no matter how adequate the means or how honest the advisors.

Operations research was born and came of age in World War II. Its techniques were based on gathering operational data under battle conditions, using these data to narrow the uncertainties of assumptions or parameters so that an analysis of how a system or tactic was operating could be used to make militarily useful predictions.

These techniques were soon developed into a methodology [6] that found wide utility in many diverse ways in both civilian and military problems where extensive operational data was available. But the transfer of this methodology to strategic problems in the nuclear age has been another story. Nuclear weapons have not been delivered and exploded between nuclear powers. As a result there is no operational data from which to narrow the uncertainties of assumptions or parameters. This applies to the effectiveness of the other sides' strategic forces, since intelligence is never complete; to the effectiveness of our own, because they have never been used in a nuclear war environment.

Without "battle tested" data, such as the space and time distribution of bombs falling in a given target area in World War II, the methodology of operations research could not be applied in the traditional ways. The alternative that developed, often under the same name, was the use of assumptions instead of operational data. The mathematical analyses could proceed, increasing in complexity with each successive generation of computers, to highly quantified answers. The uncertainties in the assumptions increase again in analyses such as the ABM because of the range of tactics the attacker can use to defeat the defense. Ultimately, the question must be faced as to how useful are the quantitative calculations with the widely uncertain assumptions. As an aid in design, in planning tactics and in giving some guidance to estimates of capability, they do have value. But in the hard decisions—to build or not build the system—judgment based on experience and exercised without bias must be the final arbiter for rational and responsible men.

Yet, if all this were agreed there would remain unresolvable differences in judgment. It is an inseparable part of the human condition that men are conservative or liberal, hawk or dove, hopeful or pessimistic, confident or suspicious. In this deeper, human sense, the contest to which the ORSA Report contributes has been played before and will be played again. In the late 1950s Dr. Wohlstetter was a leader in the discovery of our new "vulnerability", arguing this with great persuasiveness in a paper [7] entitled "The Delicate Balance of Terror". One of his main points was that ". . . it takes great ingenuity at any level of nuclear technology to devise a stable equilibrium". P. M. S. Blackett [8] among others set about to demolish this "delicacy" thesis and ended his essay with these words. "More important is the possibility that the arguments which have been, in my view, falsely used to prove the balance unstable in recent years may be used in the future to prove it again unstable, in spite of the expected improvements of weapons. So the truth or falsehood of the delicacy thesis will remain for many years of vital importance."

It was the rehabilitation of the delicacy of the balance argument and the newly perceived vulnerability of Minuteman that fired much of the pro ABM thrust. In this context I am lead to conclude that despite its concentration on matters of detail and its avoidance of the larger and decisive issues, the ORSA Report, consciously or unconsciously, addresses a doctrinal dispute in the guise of a preoccupation with quantitative methodology premised on quite uncertain assumptions. The doctrinal dispute cannot be settled by a contest over explicitness of the uncertain assumptions. To have done this *consciously* imputes political motives to the Ad Hoc Committee and the Society and a willingness on their part to misuse the prestige of the Society—and in effect the prestige of professional societies in general. To have done this *unconsciously*, assuming that its few disclaimers would prevent this from putting ORSA officially behind the Administration and the Pentagon on ABM in the public's eye, is to be politically naive.

University faculties, if they are alive, are rife with doctrinal disputes. By long experience they have learned that their existence, their freedom and their usefulness depends on limiting their self-investigation of the most elementary and obvious forms of "grave misconduct". Professional societies should limit themselves in the same way. Of all professional groups only the Church pretends competence in settling doctrinal disputes and even then with the expectations of divine guidance and, it would seem, with mixed results.

FOOTNOTES

[1] Guidelines for the Practice of Operational Research, The ORSA Ad Hoc Committee on Professional Standards, Minerva, *10*, 107–157 (1971).

[2] The "Guidelines" in the body of the Report recommends that analysts should "check the sensitivity of the results to variations in assumptions and inputs. . . ."

[3] At least one of the six, Professor Panofsky, received no notification of the investigation until he was sent the Report.

[4] H. Brooks, *The Government of Science*, Massachusetts Institute of Technology Press, Cambridge, Mass. 1968, p. 82.

[5] Reports to the Committee on Science and Astronautics, U.S. House of Representatives, by the National Academy of Sciences, 1965. Ibid, 1967.

[6] P. M. Morse and G. E. Kimball, *Methods of Operations Research*, J. Wiley, New York 1950.

[7] A. Wholstetter, Foreign Affairs, January 1959.

[8] P. M. S. Blackett, Encounter, April 1961, pp 9–17.

Mr. HART. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDERS FOR RECOGNITION OF SENATOR BENTSEN TO READ WASHINGTON'S FAREWELL ADDRESS ON MONDAY, FEBRUARY 21, AND FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND LAYING BEFORE THE SENATE THE UNFINISHED BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday next, following the two leaders under the standing order, the distinguished Senator from Texas (Mr. BENTSEN) be recognized for the purpose of delivering the Farewell Address of the first President of our country, George Washington; and that, upon completion of the reading of George Washington's Farewell Address, the Senate proceed to the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEAVE OF ABSENCE

Mr. BYRD of West Virginia. Mr. President, in accordance with paragraph 1 of rule V of the Standing Rules of the Senate, I ask unanimous consent that the distinguished Senator from Tennessee (Mr. BAKER) be granted leave of absence from the Senate during the meeting of the Senate on Monday next and on Tuesday next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM MONDAY, FEBRUARY 21, UNTIL TUESDAY NEXT AT 10:30 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday next, it stand in adjournment until 10:30 a.m. on Tuesday next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR PERIOD OF TRANSACTION OF ROUTINE MORNING BUSINESS ON TUESDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that after the two leaders have been recognized on Tuesday next, there be a period for the transaction of routine morning business, not to extend beyond 11:15 a.m., with statements limited therein to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, are we still in the morning hour?

The ACTING PRESIDENT pro tempore. We are still in the morning hour.

The Senator from New York is recognized.

(The remarks Mr. JAVITS made at this point when he introduced S. 3187 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

THE PROPOSED ANTIBUSING AMENDMENTS

Mr. ALLEN. Mr. President, last Monday I commended the President of the United States for his statement in which he renewed his oft-declared opposition to the forced busing of public school students. I commended him for his consideration of a constitutional amendment that would provide for banning massive forced busing. However, I pointed out that a constitutional amendment, if one could be achieved, would probably require some 2 years before it could possibly be ratified by 38 States. I said then and I say again while we are waiting for the passage of a constitutional amendment, there are other avenues through which this problem can be reached, attacked, and solved.

I refer specifically to the possibility of passing amendments to the Higher Education Act, which will be before the Senate in the next few days. Too, I recommend that the Department of Health, Education, and Welfare stop submitting desegregation plans that call for massive forced busing. And I would like to see a changed attitude on the part of the Federal judiciary, all the way up to and including the Supreme Court.

The President on Monday appointed a Cabinet level commission or committee to consider this problem and to make recommendations for affirmative action. The committee consists of the Secretary of Health, Education, and Welfare, Mr. Richardson, the Attorney General, Mr. Mitchell, and Dr. Schultz, the head of the Office of Budget and Management. Already the Secretary of Health, Education, and Welfare has prejudged the matter. I ask unanimous consent that an article entitled "Busing Solution Pressed, HEW Chief Is Opposed to Amendments," written by Eric Wentworth, and published in this morning's Washington Post, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLEN. This article states that the HEW chief is opposed to the amendments. He was appointed, it seems, on Monday to investigate and advise the President on the President's return from China, and here on Thursday morning he has already decided the question. These amendments are not advisable, in the opinion of the HEW Secretary.

What kind of advice is that to give the President of the United States on this complex problem? I submit, Mr. President, that the Secretary of Health, Education, and Welfare, in 4 days' time, has outlived his usefulness on this committee, and should resign, because he has prejudged the matter.

Another of the appointees is the Attorney General. I am not sure whether the President intended that the person occupying the position of Attorney General should be on the committee, or whether the Honorable John N. Mitchell individually should be on the committee. He has resigned, I believe, effective March 1, to manage the President's reelection campaign and at that time, unless his successor has been confirmed by the Senate, there will be no Attorney General.

So what kind of committee does the President have? I suggest, Mr. President, that the President take a long, close look at the composition of his committee.

Mr. President, I say again that the President needs to look at the composition of this committee. He needs to ask Mr. Richardson to resign from the committee, because he has already prejudged the matter—he is opposed to the amendments, and has so stated—and get himself a committee that will give him some sound advice. He has been President of the United States for more than 3 years, and at this late date he has not decided yet the method of attacking this problem. So it is past the time just to have committees consider the problem; it is high time for action by the Congress of the United States, and it is time for affirmative action by the President—action, not words.

Mr. President, I yield the floor.

EXHIBIT 1

BUSING SOLUTION PRESSED—HEW CHIEF IS OPPOSED TO AMENDMENTS

(By Eric Wentworth)

Busing requirements have gone too far in some school-desegregation cases, but constitutional amendments offered to date would be poor remedies, Health, Education and Welfare Secretary Elliot L. Richardson said yesterday.

The HEW chief said in a press conference that he wanted to explore possible legislative guidelines for the courts concerning when busing reaches the point of offsetting the educational benefits of desegregation.

In Georgia, meanwhile, Gov. Jimmy Carter said he might support a statewide one-day school boycott to protest court-ordered busing. Carter criticized a new busing plan imposed Monday in Augusta, where white parents demonstrated and some sought yesterday to block trucks transferring textbooks.

Richardson, a member of the cabinet-level committee which President Nixon has assigned to study all anti-busing avenues and recommendations, declined to rule out a constitutional amendment.

But constitutional amendments, he said, tend to be worded in such general terms that they allow conflicting interpretations.

Richardson cited the amendment offered by Rep. Norman F. Lent (R-N.Y.) and Sen. William E. Brock III (R-Tenn.), among others, which states: "No public school student shall, because of his race, creed or color, be assigned to or required to attend a particular school."

This, he said, could be read as supporting the 1954 Supreme Court decision against segregated schools which touched off the long parade of modern-day civil rights actions.

But it could also, Richardson added, "have the effect of actually undercutting and rolling back the measures that have been taken to dismantle dual school systems" even without massive busing. He doubted that the administration wanted that result.

As to setting general limits on busing through legislation, Richardson indicated the difficulties when he declined to define "excessive busing" specifically at this time or to offer any actual examples. He did say, however, "I think that the requirements in some situations go beyond what would seem to me desirable limits."

The basic problem, as the HEW chief saw it, was to assure that children gained educational benefits regardless of what steps were taken to desegregate a dual school system.

Asked about anti-busing amendments which Southern senators are expected to offer to a combined higher education-school desegregation bill when it reaches the Senate floor soon, Richardson said:

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the time for the transaction of routine morning business has expired.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the period be extended for an additional 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE ANTIBUSING PROPOSALS

Mr. ERVIN. Mr. President, when the President of the United States was a candidate for the presidency, he held a news conference in Charlotte, N.C., in the fall of 1968, in which he stated two propositions.

The first proposition was that he was opposed to the busing of schoolchildren for the purpose of integrating the public schools, and the second proposition was that he was in favor of the neighborhood school—that is, the right of a child to go to the school nearest his home, available to children of his age and educational standard.

The President received the electoral vote of North Carolina. As a citizen of North Carolina who has lived in that State all his life and who is familiar with the thinking of the North Carolina people, I am convinced that the President owes in large measure his receipt of the electoral votes of North Carolina to those two statements made in Charlotte in 1968.

In the election of 1970, the President returned to North Carolina and made a public speech to approximately 10,000 or more people in Asheville. In this public speech, the President reiterated his previous statements that he was opposed to the busing of schoolchildren for the purpose of integrating schools and that he believed that children should have the right to attend their neighborhood schools—that is, the schools nearest to their homes, operated for the education of children of their ages and educational standards.

It does seem to me that the President of the United States, who is a man of brilliant intellect and who has announced publicly that he is opposed to busing and is in favor of the neighborhood schools, would not have to appoint a committee, almost 3½ years after he took that position, to determine how he is going to end or how Congress should put an end to this monstrous tyranny being practiced by Federal courts and the Department of Health, Education, and Welfare in respect to little, helpless school children of America.

I would think that the best way to deal with this perhaps would be to take both routes.

They tell the story in North Carolina about a man who thought his mother-in-law was a rather cantankerous woman. On one occasion, when he was absent from home, he received a telegram from an undertaker stating:

> Your mother-in-law died today. Shall we cremate or bury?

He wired back to the undertaker:

> Take no chances. Cremate and bury.

I have always had the conception that it is the duty of Government to put an end to tyranny. I know of no more monstrous tyranny than that which takes little children, denies them the right to go to their neighborhood school, and compels them to ride in buses to schools in distant areas, not for the purpose of enlightening their minds but merely for the purpose of integrating their bodies.

So I say that Congress should immediately pass a statute to put an end to that sort of tyranny. I also say that Congress should then submit a constitutional amendment to the States to make certain—if the States ratify such amendment—that such tyranny shall never hereafter be practiced upon helpless little children.

The truth is that under any correct interpretation of the equal protection clause of the 14th amendment, the busing of children at the instance of Federal courts or at the instance of HEW constitutes a clear violation of the equal protection clause.

The equal protection clause is not a complicated constitutional provision. It is probably the simplest provision in the Constitution. It reads:

> No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

What it means is simply this, and nothing more: No State shall treat in a different manner persons similarly situated. When a Federal court orders a school board to deny a child the right to attend his neighborhood school and permits other children residing in the same school district or in the same attendance zone to attend the neighborhood school, the court compels the school board to violate the equal protection clause, because it compels the school board to treat in a different manner children similarly situated.

When a court orders a school board to bus children away from their neighborhoods in order to integrate schools elsewhere, it violates the equal protection clause as interpreted in the Brown case, because it takes such action in order either to decrease the number of children of that race in the neighborhood schools or to increase the number of children of that race in the schools elsewhere. Oceans and oceans of judicial sophistry cannot wash out the plain fact that such an interpretation denies the children who are bused admission to the neighborhood school on the basis of their race and nothing else. Hence, it is a violation of the interpretation placed upon the equal protection clause in the case of Brown against Board of Education of Topeka.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Nelson) laid before the Senate the following letters, which were referred as indicated:

Report on Flight Incentive Pay

A letter from the Secretary of the Navy, reporting, pursuant to law, on flight incentive pay, for the 6-month period ended November 30, 1971; to the Committee on Armed Services.

Publication Entitled "Statistics of Privately Owned Electric Utilities, 1970"

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a publication entitled "Statistics of Privately Owned Electric Utilities, 1970" (with an accompanying document); to the Committee on Commerce.

Report on Grants Financed Wholly With Federal Funds

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report concerning grants approved which are financed wholly with Federal funds, for the period October 1, 1971, to December 31, 1971 (with an accompanying report); to the Committee on Finance.

Reports of the Comptroller General

A letter from the Comptroller General of the United States, transmitting pursuant to law, a report entitled "More Specific Policies And Procedures Needed for Determining Royalties on Oil From Leased Federal Lands," Geological Survey, Department of the Interior, dated February 17, 1972 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Problems Associated With Converting Defense Research Facilities to Meet Different Needs: The Case of Ft. Detrick," Department of Defense, dated February 16, 1972 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Greater Conservation Benefits Could Be Attained Under the Rural Environmental Assistance Program," Agricultural Stabilization and Conservation Service, Department of Agriculture, dated February 16, 1972 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Problems Being Experienced in the Dependent Shelter Program in the Republic of Vietnam," Department of Defense, dated February 17, 1972 (with an accompanying report); to the Committee on Government Operations.

Proposed Implementation of the Convention on the Prevention and Punishment of the Crime of Genocide

A letter from the Attorney General, transmitting a draft of proposed legislation to implement the Convention on the Prevention and Punishment of the Crime of Genocide (with accompanying papers); to the Committee on the Judiciary.

Reports Relating to Third Preference and Sixth Preference for Certain Aliens

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports relating to third preference and sixth preference for certain aliens (with accompanying papers); to the Committee on the Judiciary.

Proposed Additional Appropriations Under Economic Opportunity Act of 1964

A letter from the Director, ACTION, transmitting a draft of proposed legislation to provide additional authorization of appropriations under title VIII of the Economic Opportunity Act of 1964, and for other purposes (with an accompanying paper); to the Committee on Labor and Public Welfare.

Care and Treatment of Veterans

A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to promote the care and treatment of veterans in State veterans' homes (with accompanying papers); to the Committee on Veterans' Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Nelson):

Resolutions of the Legislature of the Commonwealth of Massachusetts; to the Committee on Foreign Relations:

"Resolutions Protesting the Present Political Division of Ireland

"Whereas, The present political division of Ireland is not in keeping with the principles of self-determination and is not based on the racial, economic or historical background of the people of Ireland; and

"Whereas, The Republic of Ireland should embrace the entire territory unless a clear majority of the people of Ireland in a free plebiscite determine and declare to the contrary; and

"Whereas, This approach to the problem of a united Ireland is entirely in keeping with the free democratic ideals and principles of our own democracy and all free nations of the world; and

"Whereas, Ireland from the very beginning of our own beloved country through tremendous hardships and adversity has always been a staunch and unflinching friend of America; and

"Whereas, The current Northern Ireland movement is aimed at securing equality for all in local government, voting and public housing, at ending property ownership requirements to vote and at terminating discrimination in public housing allocation by local officials; therefore be it

"Resolved, That the Massachusetts House of Representatives hereby urges the United States Government to use its good graces and attempt to assist in bringing about a peaceful solution to the Northern Ireland problem presently plaguing the Irish people and thereby lay the foundation for uniting this great nation under one flag; and be it further

"Resolved, That copies of these resolutions be sent forthwith by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress, to the members thereof from the Commonwealth and to the Secretary of State."

"Resolutions Urging the Withdrawal of British Troops From Northern Ireland

"Whereas, The presence of British troops in Northern Ireland has increased the tension which has existed therein for many years; and

"Whereas, Riots and bloodshed resulting from the presence of such troops have become an almost daily occurrence; and

"Whereas, On Sunday, January 30, 1972, British soldiers fired at Irish Catholic sympathizers thereby killing thirteen persons; and

"Whereas, The continued presence of British troops in Northern Ireland will result in further riots, bloodshed and deaths; therefore be it

"Resolved, That the Massachusetts House of Representatives urges the President of the Unitel States to use the full weight of his office to effect the immediate withdrawal of British troops from Northern Ireland; and be it further

"Resolved, That a copy of these resolutions be sent by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress, to the members thereof from the Commonwealth and to the British Consul."

"Resolutions Urging the United Nations To Consider the Issue of Northern Ireland

"Whereas, The Massachusetts House of Representatives deplores the violence and bloodshed, which has occurred in Northern Ireland; and

"Whereas, Continuance of violence in Northern Ireland affects not only that country but much of the civilized world; and

"Whereas, It appears unlikely that peace will be restored in Northern Ireland unless British troops are removed therefrom and unless the parties involved in such violence negotiate in good faith to restore peace; and

"Whereas, The United Nations presents an ideal and readily available agency through which such negotiations may be conducted; therefore be it

"Resolved, That the United Nations be requested to immediately consider the situation in Northern Ireland with a view to effecting the elimination of violence and a political solution to the problems of Northern Ireland by negotiation of the parties involved; and be it further

"Resolved, That a copy of these resolutions be sent by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress, to the members thereof from the Commonwealth and to the Secretary General of the United Nations."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 2275. A bill for the relief of Wolfgang Kutter (Rept. No. 92–620);

H.R. 2714. An act for the relief of Mrs. Kayo N. Carvell (Rept. No. 92–621);

H.R. 2792. An act for the relief of Juanita Savedia Varela (Rept. No. 92–622);

H.R. 3093. An act for the relief of Mrs. Crescencia Lyra Serna and her minor children, Maria Minde Fe Serna, Sally Garoza Serna, Gonzalo Garoza Serna, and James Garoza Serna (Rept. No. 92–623);

H.R. 4319. An act for the relief of Josephine Dumpit (Rept. No. 92–624);

H.R. 5179. An act for the relief of Soo Yong Kwak (Rept. No. 92–625);

H.R. 6506. An act for the relief of Mrs. Hind Nicholas Chaber, Georgette Hanna Chaber, Jeanette Hanna Chaber, and Violette Hanna Chaber (Rept. No. 92–626);

H.R. 6912. An act for the relief of William Lucas (also known as Vasilios Loukatis) (Rept. No. 92–627);

H.R. 7316. An act for the relief of Mrs. Norma McLeish (Rept. No. 92–628); and

H.R. 8540. An act for the relief of Eleonora G. Mpolakis (Rept. No. 92–629).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S. Res. 259. Resolution commemorating the Girl Scouts of America on their 60th anniversary, March 12 (Rept. No. 92–630).

By Mr. SCHWEIKER, from the Committee on Armed Services, without amendment:

H.R. 11738. An act to amend title 10, United States Code, to authorize the Secretary of Defense to lend certain equipment and to provide transportation and other services to the Boy Scouts of America in connection with Boy Scout Jamborees, and for other purposes (Rept. No. 92–631).

By Mr. FULBRIGHT, from the Committee on Foreign Relations, with amendments:

S. Res. 214. Resolution relative to the submission of any Portuguese base agreement as a treaty (Rept. No. 92–632).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs:

I. H. Hammerman II, of Maryland, to be a member of the Board of Directors of the National Corporation for Housing Partnerships;

Henry W. Meers, of Illinois, to be a Director of the Securities Investor Protection Corporation;

Marina von Neuman Whitman, of Pennsylvania, to be a member of the Council of Economic Advisers; and

William B. Camp, of Maryland, to be Comptroller of the Currency.

Mr. STENNIS. Mr. President, from the Committee on Armed Services I report favorably the nominations of 83 flag and general officers in the Navy, Marine Corps, and Air Force. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered placed on the Executive Calendar, are as follows:

Rear Adm. William W. Behrens, Jr., U.S. Navy, for appointment to the grade of vice admiral, for the duration of his service in duties determined by the President;

Col. Solomon E. Lifton, Regular Air Force, and sundry other officers, for temporary promotion in the Regular Air Force;

Richard Mulberry, Jr., Marine Corps Reserve, for temporary appointment to the grade of major general;

Robert E. Friederich, and Paul E. Godfrey, Marine Corps Reserve, for temporary appointment to the grade of brigadier general;

Adm. Horacio Rivero, Jr., U.S. Navy, for appointment to the grade of admiral on the retired list;

Vice Adm. Richard G. Colbert, U.S. Navy, for commands and other duties of great importance and responsibility; for appointment to the grade of admiral while so serving; and

Rear Adm. Jullen J. Le Bourgeois, U.S. Navy, for commands and other duties of great importance, for appointment to the grade of vice admiral while so serving.

Mr. STENNIS. Mr. President, in addition I report favorably 2,164 appointments in the Army in grade of major and below; 2,244 promotions in the Navy in grade of commander and below; and 189 appointments in the Marine Corps in grade of first lieutenant. Since these names have already appeared in the Congressional Record, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Joseph L. Perry, and sundry other persons, for appointment in the Regular Army of the United States;

Bobby E. Bogard, and sundry other persons, for appointment in the Regular Army of the United States;

Max N. Akers, and sundry other officers, for promotion in the U.S. Navy;

Seth E. Anderson, Jr., and sundry other officers, for temporary promotion in the U.S. Navy; and

Jesse W. Addison, and sundry other officers, for promotion in the Marine Corps.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. SCOTT (for himself and Mr. Schweiker):

S. 3184. A bill to amend the Federal Property and Administrative Services Act of 1949 to permit the disposal of certain surplus property for court and law enforcement purposes. Referred to the Committee on Government Operations.

By Mr. PERCY:

S. 3185. A bill to promote more effective operations and management of the Federal corrections system by reorganizing certain functions and creating new organizations, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. BEALL (for himself and Mr. Mathias):

S. 3186. A bill to amend chapter 383, title 18, United States Code, to provide for the commitment of certain individuals acquitted of offenses against the United States solely on the ground of insanity. Referred to the Committee on the Judiciary.

By Mr. JAVITS (for himself, Mr. Kennedy, Mr. Williams, Mr. Dominick, Mr. Brooke, Mr. Cranston, Mr. Beall, Mr. Cannon, Mr. Case, Mr. Eagleton, Mr. Gurney, Mr. Harris, Mr. Hart, Mr. Hollings, Mr. Hughes, Mr. Humphrey, Mr. McGee, Mr. McGovern, Mr. Mondale, Mr. Moss, Mr. Nelson, Mr. Pastore, Mr. Percy, Mr. Randolph, Mr. Ribicoff, Mr. Stafford, Mr. Stevens, Mr. Stevenson, Mr. Taft, Mr. Tower, Mr. Tunney, and Mr. Young):

S. 3187. A bill to amend the Public Health Service Act so as to provide for the prevention and control of venereal disease. Referred to the Committee on Labor and Public Welfare.

By Mr. GOLDWATER:

S. 3188. A bill to amend section 203 of title 37, United States Code, to provide additional pay for permanent professors at the U.S. Military Academy and the U.S. Air Force Academy. Referred to the Committee on Armed Services.

By Mr. GURNEY:

S. 3189. A bill to establish the Chassahowitzka National Wilderness Area in the State of Florida; and

S. 3190. A bill to establish the St. Marks National Wilderness Area in the State of Florida. Referred to the Committee on Interior and Insular Affairs.

By Mr. ALLEN:

S. 3191. A bill to authorize the Secretary of the Interior to conduct a study with respect to the feasibility of establishing the Bartram Trails, Ala., as a national scenic trail. Referred to the Committee on Interior and Insular Affairs.

By Mr. RIBICOFF:

S. 3192. A bill for the relief of Trevor Keith Devon and Diane Eva Devon. Referred to the Committee on the Judiciary.

By Mr. NELSON (for himself, Mr. Mondale, Mr. Cranston, Mr. Hughes, Mr. Kennedy, Mr. Pell, Mr. Randolph, Mr. Stevenson, Mr. Williams, Mr. Bayh, Mr. Hartke, Mr. Humphrey, Mr. McGovern, and Mr. Tunney):

S. 3193. A bill to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

By Mr. MONDALE (for himself, Mr. Kennedy, Mr. Beall, Mr. Cranston, Mr. Hughes, Mr. Javits, Mr. Magnuson, Mr. Nelson, Mr. Packwood, Mr. Pell, Mr. Randolph, Mr. Schweiker, Mr. Stevenson, Mr. Weicker, Mr. Williams and Mr. Eagleton):

S.J. Res. 206. A joint resolution relating to sudden infant death syndrome. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCOTT (for himself and Mr. Schweiker):

S. 3184. A bill to amend the Federal Property and Administrative Services Act of 1949 to permit the disposal of certain surplus property for court and law enforcement purposes. Referred to the Committee on Government Operations.

Mr. SCOTT. Mr. President, I am today introducing for appropriate reference, a bill to permit the disposal of certain surplus property for court and law enforcement purposes. Essentially, this legislation would enable local authorities to acquire old Federal court facilities at little or no cost, under the same authority as local bodies are now allowed to acquire parkland, educational buildings, housing, and the like.

Although this legislation would have applicability all over the Nation, the situation in Philadelphia is particularly critical. Some time ago, D. Donald Jamieson, president judge of Philadelphia's Court of Common Pleas, spoke with Robert L. Kunzig, the former administrator of the Federal General Services Administration, about need for additional courtroom space. Judge Jamieson and Mr. Kunzig, the latter now a judge on the U.S. court of claims, discussed the possibility of acquiring the soon-to-be vacant old Federal Court House at Ninth and Chestnut Streets for the Court of Common Pleas when the Federal judges move into the new Federal Court House.

The pressing need for additional courtroom space for persons who administer justice is evident. If the Federal Government can make some of this space available, it would free the States and local governments to use some of their money to appoint additional judges. The idea of turning over excess Federal court house space to lower courts is consistent with President Nixon's desire to help those court systems. In addition, it seems to make eminent good sense in terms of economical use of the taxpayers' money.

The physical improvement of courts and other law enforcement facilities should be given priority attention. My bill, which is being offered as an amendment to the Federal Property and Administrative Services Act of 1949, would give lower courts this priority attention. The bill specifies that space would be made available for lease or purchase at prices which "take into consideration any benefit which has accrued or may accrue to the United States from the use of such property by any such State, political subdivision, instrumentality, or municipality."

Mr. President, this is a good bill and it merits the close attention of my Committee on the Judiciary as well as the Committee on Government Operations. I hope that hearings are scheduled promptly to insure enactment this year.

By Mr. PERCY:

S. 3185. A bill to promote more effective operations and management of the Federal corrections system by reorganizing certain functions and creating new organizations, and for other purposes. Referred to the Committee on the Judiciary.

FEDERAL CORRECTIONS REORGANIZATION ACT

Mr. PERCY. Mr. President, I invite the attention of Senators to a malady which has been spreading its infectious poison throughout our society until it is now reaching epidemic proportions. Worse, it is an epidemic we are helping to spread at a cost of $1.5 billion a year.

I refer, Mr. President, to the fact that our prisons are critically incapable of performing the important duties for which they have been established—that is, to assist those who enter them eventually to return to society as useful, law-abiding citizens.

It is a fact that 98 percent of all those sentenced to prison eventually will be released. A basic premise of our system of criminal justice has been that the purpose of prison is not only punishment, but rehabilitation—to provide the inmate with the wherewithal—emotional, physical, educational—to turn away from crime.

To this end, we pour in massive amounts of money, but still the job is not being done. Richard Velde, Associate Administrator of the Law Enforcement Assistance Administration, estimates that, of the 21,000 inmates now in Federal prisons, 3,150, or 15 percent, need psychiatric help, and an additional 5 percent are seriously mentally ill.

Yet, according to Mr. Velde, the Federal Bureau of Prisons employs only 50 full-time psychiatrists and psychologists, or about one for every 400 prisoners. The typical Federal prisoner has only a 6th-grade educational level, yet we have but one teacher for 1,330 prisoners. There is one vocational teacher for 1,031 prisoners, and only one social worker for 846 prisoners.

The result is that our prisons are little better than human warehouses, and each year thousands of men and women complete their sentences or are paroled to leave prison equipped only to return to crime—and the virtual certainty of winding up behind bars again.

This grim situation has been recognized by officials at all levels of our Government, including President Nixon, who has said that—

> No institution within our society has a record which presents such a conclusive case of failure as does our prison system.

In my view, no one can seriously dispute this assessment.

Experts familiar with the situation estimate that 65 percent of all those who serve a prison term will return, convicted of second and third crimes. Eighty percent of our crimes are committed by someone who has been in prison. Is it any wonder that our prisons are often referred to as "finishing schools for crime"?

Yet, we continue to pay ever higher subsidies for these so-called schools which nobody wants. We spend $1.5 billion annually to support the 26 facilities administered by the Federal Bureau of Prisons, and the likelihood is that, at all levels of government, we will pay more and more to achieve even poorer results.

In my own State of Illinois, for example, when a maximum-security institution was built near Marion in 1960, the cost was $10 million. Today, it would cost $17 million, or nearly double, to replace that facility. Construction costs for prisons are usually stated on a "per bed" basis. Today, the unit cost of correctional facilities is estimated to range from $25,000 to $35,000 a bed. Quite often, there will be two prisoners in a single cell, which can cost from $50,000 to $70,000. Yet the end products are, in the words of Howard Gill, former superintendent of prisons in Washington, D.C., "massive, medieval, monolithic, monkey cage monstrosities."

The problem does not stem from lack of dedication and effort among those who toil in this frustrating field. Men like Peter Bensinger, director of the Illinois Department of Corrections, and Norman Carlson, Director of our Federal Bureau of Prisons, do their utmost to make the system work. They are as much the victims of its failures as those who return as second and third offenders. The failure is in the system itself—or, rather, in the lack of a coordinated system for following every offender, from arrest through trial, sentencing, and prison assignment, to that moment when the prison doors swing open, and he is free again.

As matters stand today, questions on setting bail, on such pretrial procedures as whether a defendant should be permitted to plead guilty to a lesser charge, presentencing investigations, tests and evaluations to determine prison assignments, and eligibility for parole are all determined by separate agencies, with little or no coordination among them. These individual agencies are often undermanned and overworked.

The U.S. Board of Parole, for example, with eight members, plus an additional eight hearing examiners, is responsible for 21,000 inmates in 26 Federal institutions. The board holds nearly 12,000 hearings a year—an average of 480 per working day. This means a prisoner gets about 5 or 10 minutes with the Parole Board representative who will determine that prisoner's future.

The effect of this uncoordinated, haphazard activity is that the prisoner is shunted from agency to office to department to board, minimizing the effectiveness of each body and reducing the possibility for rehabilitation. He is hurried through a parole hearing, to wait as much as 6 months to know the results. If rejected for parole, he may never learn why. Need we ask why prisoners often come out even "harder" than when they entered?

Clearly, Mr. President, simply adding more money will not improve this system. A complete reorganization is needed, and that is why I am offering today "The Federal Corrections Reorganization Act."

This bill would establish a single agency to provide continuous assessment and evaluation of a prisoner from the time a charge is filed until the time he is released from the jurisdiction of our prison system. It would discard those elements of the present system which have failed us, while retaining and strengthening those that are worthwhile. It would establish new procedures to benefit both society and the offender. At the same time, many of the provisions I shall describe are directly in line with the recommendations of the President's Commission on Law Enforcement and the Administration of Justice.

The bill consists of three main parts. First, it would establish a Federal Circuit Offender Disposition Board, composed of 11 members representing a wide variety of professional disciplines. This board, appointed by the President, with the advice and consent of the Senate, would be responsible for formulating national guidelines and standards for sentencing, probation, and parole. Each board member would represent one of the 11 Federal circuit courts.

Second, my bill would create 90 district court disposition boards, one for each of our Federal district courts, to function under the Circuit Board. Each of these 90 boards would consist of not less than five members representing a variety of disciplines. They would be responsible for providing a continuous line of service, instead of the fragmented system now operating among a number of separate agencies.

The duties of these boards would range from making recommendations on bail, and whether an offender should stand trial or be diverted into a job placement or training program, to whether, upon conviction, he should be placed on probation or sentenced to prison.

If probation were recommended and accepted by the court, the offender would report to a probation officer responsible to the board. If prison were recommended and accepted, the board then would be responsible for determining the offender's eligibility for parole and the offender would know what society expected of him. And, once paroled, the offender would be in the custody of a parole officer who also would be under the jurisdiction of the board.

Thus, the same body would be responsible for guiding the progress of an offender through our prison system. The same men who recommended bail and sentencing at the outset would recommend probation or parole at the end. The same panel would recommend whether the offender should enter the pipeline that could lead to prison, or whether he should be diverted to jobs or training.

For example, we know that prison will not help an alcoholic. And, because more than a third of all arrests are related to intoxication, diverting these kinds of offenders into more appropriate programs will relieve the courts of a heavy burden. The success of the concept of diversion has been amply demonstrated by the Manhattan court employment project, where the rate of rearrests among participants during the first quarter of fiscal 1972 was less than one-half of 1 percent.

Mr. President, the third part of the reorganization bill would establish a Federal Corrections Advisory Council, consisting of a broad cross section of people concerned with problems of crime and prisons. It would include law enforcement officials, ex-offenders, social scientists, attorneys, and other public-spirited citizens.

The council would recommend standards and guidelines for States, serve as a clearinghouse for information, conduct seminars to evaluate new ideas and articulate problems in the field of corrections, and submit annual reports to the Congress, the Executive, and the courts, advising appropriate steps each could take to improve our system of criminal justice.

Mr. President, passage of this bill would represent a significant departure from the practices we have followed to date. But, I, for one, am not satisfied with a system which virtually assures the return of prisoners to lives of crime. I am not satisfied when we are subsidizing a penal system that produces more criminals. The bill I am introducing today will help to reverse this process. Mr. President, I ask unanimous consent that the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3185

A bill to promote more effective operations and management of the Federal corrections system by reorganizing certain functions and creating new organizations, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Federal Corrections Reorganization Act".

(b) (1) The Congress hereby declares that a reorganization of the Federal departments and agencies dealing with parole, probation, and other activities relating to the disposition of Federal offenders is necessary to insure a unified and coordinated approach to the rehabilitation of such offenders, and the protection of society.

(2) The Congress further declares that the Federal Government has primary responsibility for formulating coordinated Federal corrections policies with regard to prison construction, the appointment and training of corrections personnel, pre-trial and post-trial release programs, alternatives to incarceration, the establishment of a national clearinghouse and study center for corrections, and other such activities.

(3) The Congress further declares that the Federal Government has a responsibility in recommending standards and guidelines to States for the operation of programs concerning State correctional facilities, and the treatment of State offenders.

TITLE I—FEDERAL CORRECTIONS ADVISORY COUNCIL ESTABLISHMENT; COMPOSITION

SEC. 101. (a) There is hereby established the Federal Corrections Advisory Council (hereinafter referred to in this Act as the "Council") which shall consist of the following members:

(1) Two members who shall be former inmates of Federal Correction Institutions;

(2) Two members who shall be criminologists;

(3) One member who shall be an attorney;

(4) One member who shall be a former or retired judge of a Federal court;

(5) Two members who shall be involved in law enforcement;

(6) Two members who shall be sociologists;

(7) Two members who shall be psychologists;

(8) One member who shall be appointed on the basis of his knowledge and interest in the field of corrections;

(9) One member representing the communications media;

(10) Director of the Federal Bureau of Prisons (ex-officio member);

(11) Administrator of Law Enforcement Assistance Administration (ex-officio member);

(12) Attorney General of the United States (ex-officio member);

(13) Associate Justice of the Supreme Court (ex-officio member), who shall be designated by the Chief Justice of the United States;

(14) Secretary of Health, Education and Welfare (ex-officio member);

(15) Secretary of Labor (ex-officio member);

(16) Director of the Office of Management and Budget (ex-officio member); and

(17) Chairman of the Federal Circuit Offender Disposition Board (ex-officio member).

(b) The Council shall elect, from among its members, one member to serve as Chairman. The Council may appoint and fix the compensation of a Director (who shall be responsible for the administrative duties of the Council) and such other staff personnel as it deems necessary.

(c) Members of the Council designated in clauses (1) through (9) of subsection (a) of this section shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve for terms of five years, except that of such members first appointed, two shall serve for terms of one year, two shall serve for terms of two years, two shall serve for terms of three years, two shall serve for terms of four years, and one shall serve for a term of five years, as designated by the President at the time such appointments are made. Members shall be eligible for reappointment.

(d) (1) Members of the Council designated in clauses (1) through (9) of subsection (a) of this section shall receive compensation at the rate of $100 for each day on which they are engaged in the performance of duties of the council, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses reasonably incurred in the performance of the duties of the Council.

(2) Members of the Council serving ex-officio shall serve as members of the Council without additional compensation, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses reasonably incurred in the performance of the duties of the Council.

(e) The first meeting of the Council shall be called by the Attorney General of the United States.

PURPOSE OF COUNCIL

SEC. 102. It shall be the purpose of the Council—

(1) to exercise an investigative and advisory role in the oversight and direction of the Federal corrections system;

(2) to recommend standards and guidelines for States to meet before being eligible to receive grants under any Federal program involving State law enforcement and correction agencies; and

(3) to serve as a clearinghouse for study, planning and dissemination of information in the field of corrections.

FUNCTIONS OF COUNCIL

SEC. 103. (a) The Council shall recommend to the courts of the United States and other appropriate Federal instrumentalities and officers, guidelines and standards for—

(1) the training and appointment of correctional employees within the Federal system;

(2) the design of the physical plan and facilities of Federal prisons and the replacement of existing Federal correctional institutions;

(3) the operations of all Federal correctional institutions;

(4) pre-trial and post-trial release programs;

(5) the operation of the Bureau of Prisons; and

(6) States to meet as a condition of eligibility for Federal grants which may be made by the Law Enforcement Assistance Administration, or any other Federal instrumentality when such grant has a substantial relationship to corrections, pre-trial release, post-trial release, or alternatives to incarceration.

(b) The Council shall establish an information and study center for—

(1) the collection, evaluation, and dissemination to appropriate Federal, State or private organizations of information relating to corrections and corrections reform;

(2) the training of personnel in the field of Federal and State corrections, including parole and probation personnel;

(3) conducting seminars for attorneys, judges, administrators, Federal and State correctional officials, ex-offenders, and students of the correctional system;

(4) the study, analysis and encouragement of plans and projects relating to corrections submitted or recommended by private organizations;

(5) the development of a plan which, if adopted, would reorganize the Federal corrections system in a manner which, within the five-year period following the date of the enactment of this Act, would give the Federal courts maximum flexibility in deciding upon the disposition and treatment of Federal offenders, and which would give the District Court Disposition Boards and Federal prison authorities maximum flexibility with respect to disposition and treatment; and

(6) the study of plans and petitions from Federal prisoners and ex-offenders.

(c) The Council shall submit annually to the President of the United States, the Chief Justice of the United States, and the Congress (through the Committees on Government Operations, Appropriations, and Judiciary of the Senate and House of Representatives) a public report which shall—

(1) examine the effectiveness of the various Federal programs and activities relating to the field of corrections;

(2) review and assess other programs in the field of corrections which are unique or otherwise of national significance;

(3) recommend legislative action to the Congress, and recommend to the President and the Chief Justice administrative actions which could be taken by the executive and judicial branches, to improve the system of corrections;

(4) comment specifically on the implementation of the recommendations of the so-called Wickersham Commission (The National Commission on Law Observance and Enforcement—1931), and the report of the President's Commission on Law Enforcement and Administration of Justice—"The Challenge of Crime in a Free Society"; and

(5) comment specifically on the introduction of legislation to establish academies for correctional officers training on either a national or regional basis.

(d) In carrying out its functions under this Act, the Council shall insure the coordination and integration of policies and programs respecting the disposition, treatment, and rehabilitation of offenders on the Federal and State levels.

(e) The Council shall assist in the development of funding requests for all Federal instrumentalities which participate in or contribute to the areas of correction and the rehabilitation of offenders, and shall, upon request, be available to advise the Congress on matters involving the allocation of Federal resources in such areas.

(f) Any vacancy in the membership of the Council shall not affect its powers and shall be filled in the same manner as the original appointment was made.

(g) The Council may establish such temporary task forces as it may deem necessary.

(h) The Council is authorized to enter into contracts or other arrangements for goods or services, with public or private profit organizations, to assist it in carrying out its duties and functions under this Act.

TITLE II—FEDERAL CIRCUIT OFFENDER DISPOSITION BOARD ESTABLISHMENT; COMPOSITION

SEC. 201. (a) There is hereby established the Federal Circuit Offender Disposition Board (hereinafter referred to in this Act as the "Circuit Board"), which shall be composed of eleven members appointed by the President of the United States, by and with the advice and consent of the Senate, and who shall represent diverse backgrounds, including, but not limited to, the fields of correction, psychiatry, psychology, sociology, law, medicine, education and vocational training. Such members shall serve for terms of four years, except that, of the members first appointed, three shall serve for terms of one year, three shall serve for terms of two years, three shall serve for terms of three years, and two shall serve for terms of four years, as designated by the President at the time of their appointment, each member shall be designated by the President to represent a specific judicial circuit. The Attorney General shall call the first meeting of the Circuit Board within six months of enactment.

(b) The Circuit Board shall elect, from among its members, one member to serve as Chairman. The Chairman shall represent the Circuit Board on the Council. The Circuit Board is authorized to appoint and fix the compensation of such employees as it determines necessary to carry out its duties under this Act.

(c) Members of the Board shall receive compensation at the rate of $100 for each day on which they are engaged in the performance of the duties of the Board, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses reasonably incurred in the performance of the duties of the Board.

(d) The Circuit Board is authorized to enter into contracts or other arrangements for goods or services, with public or private profit organizations, to assist it in carrying out its duties and functions under this Act.

FUNCTIONS

SEC. 202. It shall be the function of the Circuit Board to formulate, promulgate, and oversee a national policy on the treatment of offenders under the jurisdiction of any court of the United States on the basis of a charge of having violated any of the laws of the United States. In carrying out such function, the Circuit Board shall, among other things—

(1) establish and recommend sentencing guidelines and standards for the United States courts, and provide periodic review thereof;

(2) establish guidelines and standards for the United States courts in probation, parole, or other forms of release of offenders;

(3) hear appeals by offenders denied parole on the sole ground that a District Board deviated from the established national guidelines and standards established pursuant to clause (2) of this section;

(4) assist and advise the Council in determining overall Federal correction policy;

(5) assign to each member of the Board the responsibility of overseeing the direction and operation of the various District Boards within the circuit which such member represents; and

(6) assign each member of the Board the responsibility of notifying the President of the United States of any vacancy on the various District Boards within the circuit which such member represents.

REPORTS

SEC. 203. The Board shall, not less than annually, make a written report to the Attorney General concerning the carrying out of its functions and duties under this Act.

TITLE III—DISTRICT COURT DISPOSITION BOARDS ESTABLISHMENT; COMPOSITION

SEC. 301. (a) There is hereby established in each judicial district a District Court Disposition Board (hereinafter referred to in this Act as the "District Board"), which shall be composed of not less than five members appointed by the President of the United States, by and with the advice and consent of the Senate, and representing diverse backgrounds, including, but not limited to, the fields of correction, psychiatry, psychology, sociology, law, medicine, education, and vocational training. Such members shall serve terms of six years, and shall be eligible for reappointment. The Board shall elect, from among its members one member to serve as Chairman. The Board may appoint and fix the compensation of such employees as it determines are necessary to carry out its duties under this Act. The Attorney General shall call the first meeting of each District Board.

(b) Each member of a District Board shall be compensated in an amount equal to $—— per annum, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses reasonably incurred in the performance of the duties of the Board.

(c) Each District Board may establish such units as it determines necessary, which may include an investigation unit, a pretrial evaluation unit, a pre-sentence unit, a youthful offender unit, and a narcotics and alcohol unit. Each unit shall consist of such members as shall be determined by the Board. Each unit, with the approval of the Board, shall be authorized to appoint and fix the compensation of such employees as it determines are necessary to carry out its duties.

(d) Immediately following the arraignment of a person charged with a Federal offense, the case shall be assigned to the District Board, which shall—

(1) investigate the defendant's background, family ties, relationship with the community, employment history, and the circumstance surrounding the alleged offense, and other information which it deems pertinent;

(2) recommend, if indicated, mental observation, or medical observation for problems such as alcoholism, drug addiction or other mental or physical disabilities; and

(3) submit, within thirty days of arraignment, a written report to the counsel of record for such defendant, and the office of the United States attorney having jurisdiction over the case.

(e) The report shall set forth the findings and conclusions of the District Board, including its conclusions as to any physical, mental, social, economic or other problems of the defendant and shall recommend whether and what type of diversion of the defendant from the criminal justice system of prosecution is desirable. The report shall be made part of the permanent record of the defendant's case.

(f) The report shall be the basis for discussion between the United States Attorney and Counsel of record for the defendant at a formal Pre-Charge Conference, during which the report and alternatives to prosecution shall be considered. If the United States Attorney and Counsel for the defendant agree that diversion of the defendant from the criminal prosecution system would be desirable, and an appropriate authorized diversion program exists, then the charges against the defendant shall be suspended for up to twelve calendar months, subject to the defendant agreeing to participate in that program. The Board shall file with the court a statement of the date the defendant has commenced participation in the program. The United States Attorney shall make periodic reviews as to the progress of the defendant while participating in the program. If the United States Attorney is not satisfied with the defendant's progress, he may resume prosecution of the charges by filing, within one year after the defendant commenced participation in the program, a statement of intention to resume prosecution, which shall include the reasons for resumption of prosecution. If the United States Attorney does not file a timely statement of intention to resume prosecution of the charges against the defendant, the charges shall be permanently dismissed. The statement of intention by the United States Attorney to resume prosecution shall be included in the case.

(g) If a defendant is prosecuted for, and convicted of, a Federal offense, the court shall refer the record of the case to the appropriate District Board for review and consideration prior to sentencing. The Board shall examine and review the record, the pretrial evaluation report and other pertinent information concerning the case, including the recommendations of counsel for the defendant. Within thirty days after receiving the record, the Board shall file a written report with the court, the counsel for the defendant, and the United States Attorney, such report shall include—

(1) the sentence recommended by the Board, which may be a suspended sentence, probation, imprisonment, or any alternative authorized by law to imprisonment;

(2) the reasons for the sentence recommended; and

(3) if imprisonment is recommended—

(A) the reason imprisonment is recommended (such as for reasons of punishment, deterrence or rehabilitation) and what alternatives were considered as inapplicable, and the reasons therefor;

(B) the term of imprisonment recommended and the institution or facility in which the imprisonment is recommended to be carried out; and

(C) the goals for the offender to attain while so imprisoned which, when attained, should entitle him to parole, but the goals may, from time to time, be revised by the District Board.

(h) If the court determines not to follow the recommendations of the District Board, it shall so state in writing along with the reasons therefor, and the purposes and goals of its sentence.

(i) The District Board shall carry out, with respect to a defendant who has been sentenced, the functions relating to probation, parole, or other form of release (as the case may be) transferred to the Board pursuant to section 401 of this Act. In carrying out those functions, the District Board shall hold an annual hearing with respect to each offender who has been sentenced to imprisonment. In the hearing, all pertinent information concerning the offender shall be reviewed with a view to determining the progress of the offender in attaining the goals established for him by the District Board. At the hearing the offender shall have the right to be represented by counsel, to submit evidence, and to cross examine witnesses. Within fourteen days following the conclusion of the hearing, the Board shall make its determination as to whether the offender should be released on parole or other authorized alternative action taken. A determination by the Board to authorize release on parole of an offender eligible for parole shall be accompanied by a statement of the condition of parole. If the Board determines that an offender who is not eligible for parole should be released on parole, it shall recommend to the appropriate court that the sentence of the offender be reduced so that the offender may be so released, or that an authorized alternative disposition be made. Within fourteen days after the determination, the District Board shall submit to the offender and to the appropriate court a written report containing the decision of the Board and the reasons therefor, including the views of the Board with respect to the goals the offender has attained and the goals he has not yet attained.

(j) A quorum for any hearing held pursuant to subsection (i) shall be not less than three members of the District Board.

(k) The decision of the District Board may be appealed to the Circuit Board by the offender affected by the decision solely on the basis that the District Board, in conducting the hearing, failed to follow the standards and guidelines established by the Circuit Board pursuant to section 202 (2) of this Act. Nothing in this section shall be construed as abridging the right of an offender to appeal a sentence to the Federal courts.

(l) The District Boards are authorized to enter into contracts or other arrangements for goods or services, with public or private profit organization to assist them in carrying out its duties and functions under this Act.

TITLE IV—TRANSFER OF FUNCTIONS PAROLE; PROBATION

SEC. 401. There are hereby transferred to the District Boards established by this Act all functions which were carried out immediately before the effective date of this section—

(1) by the Federal Board of Parole;

(2) by any United States court relating to the appointment and supervision of probation officers;

(3) by the Attorney General relating to the prescribing of duties of probation officers; and

(4) by the Director of the Administration Office of the United States Courts relating to probation officers and the operation of the probation system in the United States courts.

SEC. 402. (a) With respect to any function transferred by this title and exercised after the effective date of this section, reference in any other Federal law, rule or regulation to any Federal instrumentality or officer from which or whose functions are transferred by this Act shall be deemed to mean the instrumentality or officer in which or whom such function is vested by this Act.

(b) In the exercise of any function transferred by this Act, the appropriate officer of the District Board to which such functions were so transferred shall have the same authority as that vested in the officer exercising such function immediately preceding its transfer, and such officer's actions in exercising such functions shall have the same force and effect as when exercised by such officer having such function prior to its transfer by this title.

(c) All personnel (other than the mem-

bers of the Board of Parole), assets, liabilities, property and records as are determined by the Director of the Office of Management and Budget to be employed, held or used primarily in connection with any function transferred by this title are hereby transferred to the District Boards in such manner and to such extent as the said Director shall prescribe. Such personnel shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(d) Effective on the effective date of section 401 of this Act, the Board of Parole shall lapse.

(e) As used in this Act, the term "function" includes powers and duties.

EFFECTIVE DATE

SEC. 403. Sections 102, 103, 202, subsections (d), (e), (f), (g), (h), (i), (j) and (k) of section 301, and sections 401 and 402 of this Act shall take effect upon the expiration of the one hundred and twenty-day period following the date of the enactment of this Act. All other provisions of this Act shall take effect upon the date of its enactment.

DEFINITION

SEC. 404. As used in this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and Guam.

AUTHORIZATIONS

SEC. 405. (a) On and after the date of the enactment of this Act, all moneys received by any court of the United States as fines, penalties, forfeitures and otherwise shall be deposited in the Treasury to the credit of Federal Circuit Offender Disposition Board and shall be available for carrying out the purposes of this Act.

(b) There are authorized to be appropriated such sums as may be necessary in addition to those available pursuant to subsection (a) of this section to carry out the provisions of this Act.

By Mr. BEALL (for himself and Mr. MATHIAS):

S. 3186. A bill to amend chapter 383, title 18, United States Code, to provide for the commitment of certain individuals acquitted of offenses against the United States solely on the ground of insanity. Referred to the Committee on the Judiciary.

Mr. BEALL. Mr. President, I am today introducing legislation which is designed to close a loophole now existing in criminal cases where the defense of insanity is raised. My colleague from Maryland (Mr. MATHIAS) joins in cosponsoring this legislation.

Court officials in the Federal courts of Maryland inform me that an accused person who is acquitted by reason of insanity can now walk free from the courtroom no matter how heinous the offense. In most State courts, procedures have been established to allow for a thorough examination in such cases and violators judged to be dangerous can be restrained. I believe it is obvious that the Federal courts need new authority to detain for examination those whom the court feels may be a danger to society. Our bill would provide for such a procedure.

Under this legislation, a verdict of "not guilty by reason of insanity" would be specifically established and a procedure provided to determine the state of the acquitted person's mental condition at the time of acquittal.

When a verdict of not guilty by reason of insanity is returned, either the U.S. attorney or the judge who heard the case could institute commitment proceedings if they felt them to be appropriate. Under such proceedings a hearing would be held to determine whether the person is dangerous to himself or others, because of his mental condition.

Prior to this hearing the court is given the power to commit the individual for a period not to exceed 60 days. During this period the person can be psychiatrically observed so that some expert advice on his condition will be available at the hearing on his present condition.

Such a prehearing commitment is discretionary so that the court can take into consideration all existing circumstances.

At the hearing, the court may find the acquitted person to be dangerous and commit him to the custody of the attorney general for appropriate hospitalization.

The person's rights are protected throughout by the right of habeas corpus, and then by requiring periodic reports from the institution when committed. These reports allow the court to release an individual who is judged to be no longer dangerous to the community.

Mr. President, I am convinced that a procedure of this nature is most needed in our Federal courts. I know that prior legislation on this point has been submitted on several occasions, without enactment. To delay further would be detrimental to society. I hope for swift consideration of this bill.

Mr. MATHIAS. Mr. President, Federal courts as well as all State courts allow an individual to offer the defense of insanity to a criminal act. This is a well established criminal procedure. The procedure in the Federal courts, unlike most State courts, requires a criminal defendant to limit his plea to "guilty" or "not guilty." He may after pleading "not guilty" raise insanity as a defense to the charge and then proceed to present evidence of his mental condition at the time of the alleged criminal act in order to sustain the defense. If he proves some evidence of insanity, the burden then switches to the Government to prove that the defendant was sane during the commission of the act. If a guilty verdict is returned, the insanity defense is obviously rejected and the individual defendant will be subject to the sentencing and adjudication jurisdiction of the court.

The problem, however, is when a "not guilty" verdict is returned. This verdict gives no indication whether, first, the trier of fact decided that the person was insane and thus not guilty—or, in other terms, that the Government failed to meet its burden of proving that the defendant was sane—or second, whether the trier of fact thought that the State did not meet the traditional burden of proving the guilt of the defendant beyond a reasonable doubt. The distinction becomes important when the person is found not guilty, because of his mental condition. At present, Federal criminal procedure fails to provide any guarantee that one who has successfully raised the insanity defense will be treated and his mental condition improved before he is returned to society. In essence, there is no Federal commitment procedure available to restrain one who successfully raises the defense of insanity. This void in Federal procedure is in contrast to the procedure of most States.

I find this omission a grave error for it disarms the courts from fully protecting the public from those who should not be returned to society. It is not enough to merely give the courts the power to decide the guilt or innocence of an individual if they are to truly protect the public and afford defendants the fullest protection under law. They must also be given the necessary tools to commit the individual who is dangerous both to society and to himself.

What is needed, I believe, is a Federal verdict of "not guilty by reason of insanity." This judgment would clearly indicate the reasons for an acquittal and enable the courts to deal with the individual rather than granting an unsupervised release with the possibility of the person committing more crimes and insane acts.

Today, Senator BEALL and I are introducing a bill which will amend the Federal criminal procedures to accomplish these objectives.

Under the legislation, upon the return of a verdict of "not guilty by reason of insanity" commitment proceedings against the person could be instituted by either the prosecuting U.S. attorney or the district judge who heard the criminal case. If such proceedings are brought, a hearing would be held to determine whether the person acquitted, because of insanity at the time of the alleged act is at the time of the hearing dangerous either to himself or to others because of his mental condition.

Prior to the commitment hearing, the district court is given the discretionary power by the bill to commit the person for psychiatric observation for a period not to exceed 60 days. This prehearing commitment is framed in discretionary rather than mandatory terms, because in most cases where the insanity defense has been raised the person's mental condition will have been subjected to a good deal of scrutiny at the trial of the criminal charges. In these cases, the criminals defendant may have undergone extensive examination and may even have been subjected to lengthy pretrial commitment either for examination or to insure that he was competent to assist his counsel in the defense of his case and thus competent to stand trial. Reported cases show as much as 33 months treatment between arrest and trial.

The discretionary prehearing commitment will allow psychiatric observation where the court believes there has not been sufficient scrutiny of a person's present mental condition prior to and during the criminal trial. It will also allow the district judge to have the benefit of a thorough examination of the person's mental condition immediately before the hearing to determine the present danger of the individual.

The bill further provides that if, after a hearing at which the person shall have the assistance of counsel, the court determines that, because of his insanity, the person would constitute a present danger to himself or others if released from custody, the court shall commit the person to the custody of the Attorney General who shall hospitalize him for treatment in a suitable mental institution.

Commitment, it could be argued, should be to the Surgeon General, but remission to the custody of the Attorney General is patterned after provisions of existing law. Today, the Attorney General is charged with the custody of persons subjected to pretrial commitment, as well as with the custody of those Federal prisoners who suffer mental illness during the term of their sentences. The Attorney General is authorized by the bill to contract with State and private institutions for the hospitalization and care of persons committed under the bill where Federal institutionalization may not be desirable.

The bill also insures that a person committed under its provisions will not be held beyond the time when he is a threat to society or to himself because of mental illness. This is accomplished by preserving the right of habeas corpus and by requiring the mental institution in which the person is maintained to make an annual report on the condition of the person committed to the court that ordered the commitment. These reports will allow the court to observe the progress of the person and to order his release if it concludes that the danger to the community or to himself has been sufficiently arrested. The annual reports will make the committing court aware of the gravity of such commitment and provide a basis for future consideration of the need for and value of continued commitment.

The committed person may obtain release from the hospital only after obtaining a Federal judicial decree predicated upon a certification of the hospital superintendent that he will not constitute a danger to himself or to others. If the superintendent believes that outright release is not in the best interests of society or the individual, the person may be conditionally released by the court under such partial restraints as are appropriate. These restraints might include periodic examinations or daytime release.

The bill attempts to fill the void that now exists in Federal criminal procedure and to strike an appropriate balance between the interests of society and the rights of the individual defendant.

I think it is important to give credit to former Senator Joseph Tydings, of Maryland who pioneered this legislative proposal at a time when the Judicial Improvements Subcommittee of the Committee on the Judiciary was under his distinguished leadership.

Mr. President, I ask unanimous consent that the complete text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3136

A bill to amend chapter 313, title 18, United States Code, to provide for the commitment of certain individuals acquitted of offenses against the United States solely on the ground of insanity

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 313, title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 4249. Commitment of certain individuals acquitted of offenses against the United States on the ground of insanity

"(a) Whenever the issue of insanity at the time of the commission of an offense against the United States is raised by the pleadings or evidence, the court shall find or, in the event of a jury trial, shall instruct that the verdict shall be one of the following: (1) guilty, (2) not guilty, or (3) not guilty by reason of insanity at the time of the commission of the offense. The judgment shall so state.

"(b) Whenever any person charged with an offense against the United States is acquitted solely on the ground that he was insane at the time of its commission, the United States attorney, if he has reasonable cause to believe that such person so acquitted may be presently insane and that, because of his insanity, his release would constitute a danger to himself or others, shall file a motion for a judicial determination of the mental condition of such person, setting forth the grounds for such belief, in the trial court in which the proceedings which resulted in his acquittal were conducted. Upon the filing of such a motion or upon its own motion, the court shall, after notice, hold a hearing within a reasonable time to determine whether the person acquitted of an offense against the United States on the ground that he was insane at the time of its commission, would, because of his insanity, constitute a present danger to himself or others. Such person shall be entitled to be represented by counsel at such hearings, and, if such person is indigent, counsel shall be provided for him at the expense of the Government.

"(c) After the filing of a motion to determine the mental condition of a person found not guilty of an offense against the United States solely because he was insane at the time of its commission, or upon its own motion, the court may order such person to be examined by at least two qualified psychiatrists designated by the court. The psychiatrists so designated shall, within sixty days thereafter, file their reports with the court setting forth their findings with respect to such examination, including their conclusions as to the mental condition of such person and whether the release of such person would constitute a danger to himself or others. For the purpose of examination the court may order the person committed for such reasonable period as it may determine, not to exceed sixty days, to the custody of the Attorney General who shall hospitalize such person in a suitable mental institution or other facility designated by the court.

"(d) If, after the hearing provided in (b), the court shall determine that the person, because of his insanity, would constitute a present danger to himself or others if released from custody, the court shall commit the person so acquitted to the custody of the Attorney General, who shall hospitalize such person in a suitable mental institution or other facility.

"(e) Whenever a person shall be committed to the custody of the Attorney General or his representative pursuant to subsection (d) of this section, his commitment shall run until his mental condition is so improved that his release would not constitute a danger to himself or others.

"(f) Where any person has been confined by the Attorney General in a mental institution or other facility pursuant to subsection (d) of this section and the superintendent of any such mental institution or the head of any such facility certifies that, in his opinion, the release of such person will not in the reasonable future constitute a danger to himself or others and that the person is entitled to his unconditional release from such mental institution or facility, and such certificate is filed with the clerk of the court in which the person was tried, and a copy thereof served on the United States attorney, such certificate shall be sufficient to authorize the court to order the unconditional release of the person so confined.

"(g) Where, in the judgment of the superintendent of such hospital, a person committed under subsection (d) above is not in such condition as to warrant his unconditional release, but is in a condition to be conditionally released under supervision, and such certificate is filed with the clerk of the court in which the person was tried, and a copy thereof served on the United States attorney, such certificate shall be sufficient to authorize the court to order the release of such person under such conditions as the court shall impose at the expiration of fifteen days from the time such certificate is filed and served pursuant to this section.

"(h) Nothing contained in this section shall preclude a person committed under the authority of subsection (d) of this section from establishing by a writ of habeas corpus his eligibility for release under the provisions of this section.

"(i) The superintendent of any mental institution or the head of any facility in which any person is confined by the Attorney General pursuant to subsection (d) of this section shall annually, during the hospitalization of that person, submit to the court a written report with respect to the mental condition of such person, together with the recommendations of such superintendent or head concerning the continued hospitalization of such person. Upon the receipt thereof, the court shall consider such report and recommendations and, if it determines that his release will not in the reasonable future constitute a danger to himself or others, the court shall order his immediate release. Such reports and recommendations shall be made available to counsel in any judicial proceeding challenging the continued hospitalization of a person committed under the provisions of subsection (d).

"(j) The Attorney General is authorized to enter into contracts with the several States (including political subdivisions thereof) and private agencies under which appropriate institutions and other facilities of such States or agencies will be made available, on a reimbursable basis, for the confinement, hospitalization, care, and treatment of persons committed to the custody of the Attorney General pursuant to subsections (c) and (d) of this section.

"(k) The provisions of this section shall not be applicable to the District of Columbia."

(b) The chapter analysis of chapter 313, title 18, United States Code, is amended by adding at the end thereof the following new item:

"4249. Commitment of certain individuals acquitted of offenses against the United States on the ground of insanity."

By Mr. JAVITS (for himself, Mr. Kennedy, Mr. Williams, Mr. Dominick, Mr. Brooke, Mr. Cranston, Mr. Beall, Mr. Cannon, Mr. Case, Mr. Eagleton, Mr. Gurney, Mr. Harris, Mr. Hart, Mr. Hollings, Mr. Hughes, Mr. Humphrey, Mr. McGee, Mr. McGovern, Mr. Mondale, Mr. Moss, Mr. Nelson, Mr. Pastore, Mr. Percy, Mr. Randolph, Mr. Ribicoff, Mr. Stafford, Mr. Stevens, Mr. Stevenson, Mr. Taft, Mr. Tower, Mr. Tunney, and Mr. Young):

S. 3187. A bill to amend the Public Health Service Act so as to provide for the prevention and control of venereal disease. Referred to the Committee on Labor and Public Welfare.

NATIONAL VENEREAL DISEASE PREVENTION AND CONTROL ACT

Mr. JAVITS. Mr. President, I introduce for myself and a group of more than 30 Senators, including the Senator from New Jersey (Mr. Williams), the chairman of the Labor and Public Welfare Committee, of which I am the ranking Republican member, a bill for the prevention and control of venereal disease.

Joining Senator Williams and me in introducing this proposed legislation are Senator Kennedy, Senator Dominick, Senator Brooke, Senator Cranston, Senator Beall, Senator Cannon, Senator Case, Senator Eagleton, Senator Gurney, Senator Harris, Senator Hart, Senator Hollings, Senator Hughes, Senator Humphrey, Senator McGee, Senator McGovern, Senator Mondale, Senator Moss, Senator Nelson, Senator Pastore, Senator Percy, Senator Randolph, Senator Ribicoff, Senator Stafford, Senator Stevens, Senator Stevenson, Senator Taft, Senator Tower, Senator Tunney, and Senator Young.

I know that the Senator from California (Mr. Cranston), who is a prime sponsor of this bill, wanted very much to be here today to make a statement as the bill is introduced. Unfortunately, a scheduling conflict prevented him from being here, but I know he plans to speak on this measure shortly after he returns next week.

Mr. President, a companion measure is being introduced in the House of Representatives by Representative James Hastings of New York.

Mr. President, this bill has the support of the American Social Hygiene Association, the Association of State and Territorial Health Officers, the American Nurses Association, and the American Pediatric Association.

We have a real crisis in the country, to which the measure which I introduce today seeks to respond.

The measure, which is called the National Venereal Disease Prevention and Control Act, would provide:

First. An authorization of $15 million annually for research, demonstration, or training programs in venereal disease prevention and control. To establish these programs, technical assistance and grants would be made available to universities, hospitals, and other public or private nonprofit entities.

Second. The establishment of comprehensive State venereal disease diagnosis and treatment programs, for which formula grants in the amount of $25 million annually would be authorized. The allocation, with a minimum of $50,000 per State, would be based upon incidence of venereal disease and population; each State would be required to submit a plan for the establishment and maintenance of adequate public health programs in this area, including provisions for statewide laboratory diagnostic services.

Third. Project grants of $30 million authorized annually to States and political subdivisions for venereal disease prevention and control programs which require: disease-surveillance activities, including reporting, screening, and following up; case finding and followup activities; and professional and public venereal disease education activities.

The funding levels provided for in this bill follow the recommendations of the American Social Health Association, as set forth in "Today's VD Control Problem—1971."

The history of our Nation's syphilis-control measures is a mix of successes and failures. In the years following World War II, a massive venereal disease control program based on widespread use of penicillin resulted in dramatic decreases in the incidence of syphilis. Then, as the number of cases went down, so did national interest; complacency set in and programs were curtailed. By the early 1960's the annual increase in the number of syphilis cases was threatening to wipe out the gains of postwar years. In 1961, at the request of Congress, the Surgeon General of the Public Health Service developed a strategy for the eradication of syphilis. The program recommended by that group of experts was implemented and syphilis declined. However, Federal support stabilized at the 1965 level, and erosion of programs set in as a result of cost-of-living increases.

The greatest tragedy, therefore, occurred when the number of venereal disease cases began to decline—giving us a great opportunity to once and for all eradicate the strain of infectious bacteria, an opportunity we unfortunately failed to seize at the Federal level. Rather than stepping up our preventive and treatment programs, the Federal Government drastically slashed venereal disease funding. As a result, in 1969, the rate of venereal disease infection increased more rapidly than ever before. State and local public health authorities were left to fight the drastic rise with less money than they had had previously.

I previously noted my concern that as funding is reduced, venereal disease increases. In 1970, the number of cases of syphilis in New York State was 40 percent higher than it was in 1969. In 1971, we saw an additional increase of about 15 percent. One obvious question that arises is why are we not doing as well now as we were in the mid-1950's. The answer is that New York, like most other States, relies very heavily on Federal support for VD control. New York State during the early 1950's received a considerable amount of Federal support for syphilis control activities, but toward the end of the 1950's, this support was drastically reduced with a consequent rise in the number of cases of syphilis. Federal support was again increased in 1962–63 and there then resulted a striking decline in the number of cases. In the last 2 years, our Federal support has been declining once again and we are now seeing the result of this lack of support. Thus, the direct correlation between the incidence of syphilis and the level of support can be readily seen.

It is most important that we all understand that when we speak about venereal disease—an epidemic of unparalleled proportions—no level of society is immune. The sad statistics are that venereal disease strikes our affluent suburbs as well as our inner cities. It is also important to understand that when we speak about venereal disease, we can no longer point the finger of blame at the prostitute. As a recent magazine article pointed out:

> Prostitution is not where it's at with VD today. It's Johnny next door and Susie down the street.

The cost-benefit ratio of an increased Federal commitment to research, treatment, diagnosis, prevention, and control of venereal disease, measured against institutionalized syphilitic patient care, is well established. An HEW publication, "VD Fact Sheet—1970," indicates that in 1968—the most recent year for which data is available—the annual economic cost of maintaining patients with syphilitic psychoses and syphilitic blindness in public hospitals and mental institutions was more than $45.1 million.

Mr. President, there are two major points. First, we have an absolutely phenomenal, absolutely shocking increase in venereal disease cases in the United States. With approximately 650,000 new cases reported in the United States in 1971, it is estimated by the U.S. Public Health Service that there are really about 2 million, because people tend not to report cases of venereal disease. What they do not realize is the absolutely terrible toll of this tragically debilitating disease: blindness, paralysis, insanity, and death, as far as its victims are concerned. Venereal disease has reached epidemic proportions in the Nation and threatens the health and welfare of a generation of unborn children. It must be combatted.

Second, Mr. President, the record clearly shows that only when there is a drive such as the one this bill would be responsible for, is the rate reduced; and in the absence of such a drive, the rate increases.

Mr. President, the tragic and alarming increase in venereal disease was reported in the New York Times magazine section of November 7, 1971, in an article entitled "The Venereal Disease Panic" by Cokie and Steven V. Robert, and then in a Newsweek cover story on January 24, 1972, entitled "VD: The Epidemic." I commend both articles to the attention of my colleagues, and I ask unanimous consent to have these articles and the article entitled "Costs of Uncontrolled Syphilis," appearing in the HEW booklet, "VD Fact Sheet—1970," printed in the Record at this point.

There being no objection, the articles were ordered to be printed in the Record, as follows:

The Venereal Disease Pandemic

(By Cokie and Steven V. Roberts)

Los Angeles.—The Los Angeles Free Clinic is a small, rather shabby building wedged between a Chicken Delight ("We Deliver") and an appliance store ("Quality Merchandise—Best Service") across Fairfax Avenue from the West Coast headquarters of C.B.S. At about 5:30 the young people start crowding into a narrow alley alongside the clinic, waiting to sign in for treatment. They include well-scrubbed college students and scruffy street kids, both sexes, all colors, as young as 15 and as old as 35. Despite their diversity, they have two things in common. They need medical help, and they can't or won't get it elsewhere. Many just cannot afford a private doctor; others cannot afford to have their parents find out what's wrong with them. What's wrong with them could be almost anything—pregnancy, hepatitis, various infections and fears, tired blood and tired brains, maybe just the flu or a bad cold—but more than 25 per cent have V.D., venereal disease.

What passes for interior decoration at the Free Clinic is a bright mixture of the psychedelic and the scientific. One poster shows two bodies whirling in a sea of purple; another gives the symptoms for V.D. and advises women: "If a guy you balled has it, come for treatment. If not treated, germs will spread up, causing great pain and inability to have kids." One night recently, two boys and a girl from a local high school were exchanging typical teen-age chatter ("I had him for chemistry. . . . I used to go to a lot of dances at . . .) in a corner of the cramped waiting room. The girl, who wore her name on a gold chain around her neck, wanted birth-control pills. She was getting anxious about the time, for she did not want her parents to start wondering where she was. "Have you ever tried being honest with them?" gibed one of the boys. "Yes," she answered, a little grimly, "it doesn't work." The second fellow was tall, curly-haired, radiating what used to be called "boyish charm." Had he ever had V.D.? "I'm in the process." Had he been concerned about getting it? "No, I never really thought about it. I got it, and I'll take care of it. It's a big pain, but I'll make sure it doesn't go too far." Was he surprised? "This thing shocked me," he admitted. "I knew the people I was with pretty well, and I didn't think they had it. I really can't figure out who I got it from. I guess I had a bad stereotype of the person who had V.D.—that's why I was shocked. I thought the only one who got it was a girl or a guy who balled an awful lot without any real feeling about it—someone who didn't take care of his body. I guess if I can get it anybody can."

That is hardly overstating the case. Anybody can get V.D., and more and more people *are* getting it. The United States is in the midst of a monstrous epidemic. Within the last year, according to the American Social Health Association, a private organization that studies such matters, there has been a V.D. "pandemic," an epidemic of "unusual extent and severity." The association says V.D. has reached such proportions only twice before in the last 53 years, after World War I and toward the end of World War II, before penicillin came into wide use. Robert R. Lugar, an adviser to the Los Angeles County Health Department, described the situation this way:

"If you pose the question, 'Where is V.D.?' the answer is: 'Everywhere.' My God, if there's anything in this world today we can't stop it's V.D. It's no more possible to restrict the spread of venereal disease than it is to keep the flies in one room of your house."

The phrase "venereal disease" comes from Venus, the goddess of love, and refers to maladies that are virtually always transmitted by sexual contact. (Some infections, such as vaginitis, can be caught in a variety of ways, including sexual intercourse, but they are not included here.) Of at least five known types of V.D., only two, gonorrhea and syphilis, are important. Gonorrhea, commonly known as "the clap," is milder but much more prevalent. In the fiscal year ending last June, 624,000 cases of gonorrhea were reported nationwide, a jump of 9 per cent over the previous year and 130 per cent over 1963. There were 23,500 reported cases of syphilis last year, an increase of 15.6 per cent over the previous year. These figures indicate that reported cases of gonorrhea outnumber those of all other communicable diseases combined. Between June 1969, and June 1970, for example, California reported about 105,000 cases of gonorrhea. In the same period it had only about 10,000 cases of hepatitis, 6,000 of mumps and 4,000 of tuberculosis. A random sampling of 164,000 women revealed that 1 in 10 had gonorrhea, though most of those infected did not know they were ill.

But such statistics represent merely the tip of the iceberg. About four cases are treated for every one reported to public-health authorities, and other victims simply do not seek treatment. The estimates are that about four million Americans contracted venereal disease last year, and at least 500,000 people have undiagnosed cases of syphilis.

Does it matter? Public Health officials say yes. Most cases of V.D. do not cause long-term complications. But if 10 to 12 per cent do, as the American Social Health Association estimates, that is still a lot of people. When it goes untreated, syphilis can cause insanity, paralysis, blindness, heart disease, sterility and death. The National Communicable Disease Center in Atlanta reports that 9,000 patients were hospitalized with syphilitic insanity in 1968 at a cost to the taxpayers of $41 million. Unchecked gonorrhea causes more sterility in both sexes than any other disease, and also produces a painful form of arthritis. In women, it can lead to such problems as pelvic infection and tubular pregnancy, which occurs when the Fallopian tubes are blocked by scar tissue and the fertilized egg cannot reach the uterus. In men, untreated gonorrhea or repeated cases, even if they're cured, can scar the urethra, making urination painful and difficult.

Venereal disease, although it is concentrated in larger cities and industrial states, is a national problem. Alaska and Georgia have the highest rates of gonorrhea. California is third, just ahead of Illinois, and makes a good case study. California agencies, particularly the Los Angeles County Health Department, have made special efforts to control the diseases, and their experiences tell a lot about the problems involved. It should be stressed, however, that V.D. is not just another kooky California phenomenon. The city with the highest V.D. rate is San Francisco, but the top 10 include Atlanta; Washington, D.C.; Newark; Cleveland, and Chicago.

About half the cases of gonorrhea nationally and almost 70 per cent in California occur in people under 25. Los Angeles officials estimate that 1 in every 10 of the city's teenagers will get V.D. this year, and 1 in 5 will have had it by the time they leave high school. If present trends continue, half of Los Angeles' high school graduates in 1980 will have had V.D.

The Free Clinic is a good place to find these youngsters, for there they will talk openly about a disease that often causes as much embarrassment as pain. One clinic patient was Bushy, an 18-year-old runaway from Kansas City and the proud possessor of his third case of gonorrhea. "I'm one of the experts," he declared. "I get it about once a year; it's one of the chances you have to take these days."

Jeff, 24, was suffering his first case since coming back from Vietnam five years ago, and he was angry: "I've been pretty careful, I thought I was smart. I try to trust my judgment on who I bed down with, but sometimes it doesn't work out. I guess I'm mad mainly at myself, though. Whoever I play around with I expect to be playing around, too—I'm one of the boys like she's one of the girls. This is the first time in five years. I guess that's not too bad."

Carol squeezed onto a crowded couch, trying to read a magazine. She was 22, very pretty and a little uneasy. "Things haven't been normal, so I'm playing it safe," she said. "I'm not really worried, though. I've always been going with one guy." Suppose the guy had gotten it somewhere else and given it to her? "I never thought about that one," she said.

The cause and the cures of the V.D. epidemic are varied and complex. They involve behavior patterns, scientific problems and—probably most important—public attitudes. For even now, despite our self-proclaimed and well publicized "liberation" in sexual matters, venereal disease remains clouded in myth and taboo. Dr. Theodor Rosebury, in his new book, "Microbes and Morals," put it this way: "V.D. is shameful. . . . Nice People don't talk about the whole subject, or if they do, it is with mincing and blushing or with a phony solicitude under which finger-shaking is more plainly visible than the Nice People can imagine." Or as the Los Angeles Health Department said in a recent publication: "One of the reasons for the continued existence of gonorrhea and syphilis is the widespread belief that decent people don't acquire the disease, decent people don't talk about the disease and decent people shouldn't do anything about those who do become infected."

Syphilis and gonorrhea present somewhat different problems, but both are apparently being spread by the "sexual revolution." Some researchers do not think anything more is happening now than 30 years ago, but most doctors who treat V.D. feel that increased sexual activity, particularly "indiscriminate" activity, contributes to the epidemic. One of the favorite examples among V.D. people is the San Francisco man who recently contracted gonorrhea after a brief liaison with a stewardess in the bathroom of a jetliner 30,000 feet above Kansas. Dr. Geoffrey Simmons, who works in several V.D. clinics, also cites the "new morality":

"I think it exists, and I think it is significant. Girls are coming and getting birth-control pills who are 14, 15, 16 years old. These girls aren't taking them for menstrual cramps, they're taking them to ball—and they admit it freely. When I went to high school, which was not that long ago, talk about sex was not that common. Most females I went to high school with, unless I was sheltered, didn't engage for fear of pregnancy. But when you have the pill you're not afraid of becoming pregnant. The fact that you can get an abortion now adds on to this new morality. It's quite open, it's just like eating a meal to them. They want to screw, they want to have fun. They're upset when they have V.D., not so much because they have V.D., but because they have to abstain for two or four weeks."

Sex is probably most "indiscriminate" among homosexuals, and about 40 percent of the new syphilis cases come from homosexual encounters; the gonorrhea figure is much lower. Treatment is still hampered by the reluctance of some homosexuals to name their "contacts," and many doctors just do not remember to check for infection of the anus, a common homosexual malady. But partly as a result of educational campaigns by homosexual groups, more are seeking help. One of the patients at the Free Clinic was a male hustler named Gerry who shrugged off his infection as an "occupational hazard."

The birth-control pill is a major cause of the epidemic, for in addition to ending the fear of pregnancy, it replaces that traditional if inconvenient means of contraception, the condom, or "rubber." Condoms were originally designed to prevent V.D., and remain the most effective prophylactic method—90 per cent sure against syphilis, close to 100 per cent against gonorrhea. Moreover, many doctors believe that the pill actually changes the chemical "milieu" of the vaginal area from acidic, which tends to kill germs, to alkaline, which does not. According to one estimate, about 20 to 30 per cent of the women who are exposed to gonorrhea and are not on the pill actually catch it. Among women who take the pill and are exposed to the disease, the infection rate is over 90 per cent.

When you talk about scientific and technical causes, there are important differences between syphilis and gonorrhea. Syphilis is carried by tiny organisms called spirochetes, and is virtually always transmitted by sexual contact. The old canard about toilet seats and door handles is a convenient but untenable excuse. The disease first appears as a lesion or sore where the spirochete entered the body. This is usually in the genital area, but could also be around the mouth, for example. The lesion is painless, appears between 10 and 90 days after infection and goes away without treatment. Two to six months later the second stage appears in the form of a rash, sores, falling hair or fever. These signs, too, disappear without treatment. But years later, the spirochetes can invade and destroy vital organs, causing severe disability or death.

Thus it is quite possible to have syphilis and not know it, which is one reason why there are a half-million undiagnosed cases. This "silent" character of the disease is a major obstacle in controlling it. Fortunately, there is an accurate blood test for syphilis, and many cases are detected that way. In addition, since the disease has such a long incubation period, public-health authorities are able to use the "case-finding" method of control—tracing all known sexual partners of an infected person and getting them treated before they spread the disease to others.

Gonorrhea, which is caused by the gonococcus germ, is also transmitted by sexual contact, but there the similarities end. In the male the symptoms are usually obvious: a burning pain when urinating and a discharge of pus. But 10 percent of the males and 80 percent of the females who get gonorrhea have no visible symptoms. As a result, there is a huge "reservoir" of infected women, an estimated 60,000 in Los Angeles County alone, who spread the disease without knowing it. "If you could sum up our problem in one word it would be 'female,'" said Robert Lugar. "How great that reservoir is is only now beginning to come to light."

Moreover, there is no screening process comparable to the blood test for syphilis. Taking a vaginal smear and growing a culture from it is time-consuming, expensive and only about 60 to 80 percent accurate. Even if you could detect gonorrhea easily, the incubation period is so short—about three days—that the case-finding method is all but useless. "Tracing gonorrhea," lamented one doctor, "is like trying to trace the common cold."

If that isn't enough, some strains of V.D. are developing considerable resistance to the drugs usually used for treatment, particularly penicillin. The dosage given today is 43 times what doctors prescribed 20 years ago, and a certain number of cases still defy normal treatment. The resistance problem seems to be aggravated by the importation of new and hardier strains from Southeast Asia. Indeed, V.D. must rank close to heroin addiction on Vietnam's list of exports.

There is a debate raging over the proper treatment of V.D. Some physicians, including Dr. Walter Smartt, head of V.D. control in Los Angeles County, have abandoned penicillin, which is injected, in favor of orally administered drugs, particularly tetracyclines. Dr. Smartt contends that he gets a 10 percent higher "cure rate" with Vibramycine, the drug used in Los Angeles. But the United States Public Health Service still maintains that penicillin is the "drug of choice." In fact, Dr. Robert J. Brown, until recently chief of the V.D. branch of the Center for Disease Control, blames the oral drugs for contributing to the epidemic. "Practicing physicians," insists Dr. Brown, "are not giving adequate amounts of antibiotics to cure the disease and are not properly informed as to the best method of managing gonorrhea." With oral drugs, the level of "patient error" is high—patients lose pills, forget to take them, give them to friends. They think they are cured but are not, and the infection spreads. The real point is that even the professionals do not agree. Not enough is known about the diseases to resolve the squabbles, and no one is willing to spend money to find out.

This raises the question of public attitudes. There is still a widespread belief that V.D. is caused by sex itself, not by an organism, and that anybody who contracts it "gets what he deserves."

Most physicians agree that we could solve the syphilis problem if we really wanted to, but apparently we don't really want to. Syphilis was a scourge until penicillin was discovered. The rates dropped swiftly after that, and in the mid-fifties health authorities relaxed, thinking the disease was headed for extinction. But the rates jumped again as soon as control efforts eased. In 1962, after the Surgeon General called attention to the renewed problem, the Federal Government put about $7-million a year into syphilis control, most of it to pay case finders. In the last two years, Federal funds have held steady and dropped in some cases; in a time of inflation, this has produced havoc. At the peak, Washington was financing more than 600 case finders; today it pays only about 450. A few years ago, health authorities were tracking down 98 per cent of the syphilis cases; today they can reach only about 50 per cent. Thus, after a steady decline, syphilis rates leaped 8 per cent in fiscal 1970 and 15.6 per cent last year. Scott Winders, a drug-company executive who heads the California V.D. Task Force, spoke for many when he said: "We've had a copout by the Federal Government, and, frankly, if they don't get off the dime we're going to have syphilis in epidemic proportions." The states are no better. Each one gets a block Federal grant for health services, and few rank V.D. higher than hangnails in setting their priorities. "V.D. is just not a popular disease, it never has been," explained Dr. Warren A. Ketterer, head of V.D. control for California. "A tremendous number of people moralize about it. They think that if you stop sex, you'll stop V.D. That's true, but you never think of stopping TB by stopping breathing. . . . We could have controlled V.D. 50 years ago if we tried. But we never had a President with V.D. who said, 'Let's go on a V.D. campaign.' It's not an honor to have V.D. People don't realize what it costs society. If they realized it cost $1-billion a year to treat V.D. they might do something."

When it comes to setting health priorities, V.D. just cannot compete with cancer, say, or heart disease. In most cases that are diagnosed, cure is relatively simple, and fatalities are rare, though doctors love to speculate on how many "heart failures" are really syphilis. Yet as one doctor said, "It is the only disease I know of where we have a known cure and yet still have an increasing incidence."

Government money is not the only victim of public ignorance and indifference. There is also education. Only two-thirds of the nation's schools teach anything at all about V.D., and much of the information they dispense is incomplete or inaccurate. The subject makes parents and educators so nervous that many textbook publishers just omit it from standard health texts, though the rate of infection is rising faster in the 15-to-19-year-old group than in any other.

California is probably the best example of timidity triumphant. Two years ago, the Legislature passed a bill sponsored by John Schmitz, a member of the John Birch Society and now a Congressman. The bill declared that before a school could offer a course on sex education, parents had to be notified and given a chance to withdraw their children from the class. The procedure was so costly and confused that many schools dropped the whole thing. Despite the pleas of health authorities that V.D. should be discussed under disease, not sex, school officials were "running scared," according to Mrs. Mabel S. Rickett, a specialist in V.D. education. "Teachers now feel they can't talk about sexual organs, and therefore they can't talk about V.D. Everyone's afraid the kids will ask embarrassing questions or the teachers will be quoted out of context," Mrs. Rickett explained.

In schools that do offer sex education, only about 2 percent of the parents take their kids out of class, but that small minority wields enormous power. This year, the Legislature passed a bill that clarified the distinction between sex education and V.D. education so schools would feel free to talk about the disease. But Governor Reagan, bowing to conservative pressures, vetoed the bill.

The subject is so sensitive that even in schools where V.D. is discussed in health classes, instructors are not allowed to talk about prevention. The same is true in county health clinics. Some parents are petrified that if their kids know how to prevent V.D. they will have one less reason to avoid sex.

Statistics indicate, however, that Junior is having plenty of sex even without adequate information, and conversations at the Free Clinic suggest that if youngsters know something about V.D. they tend to be more selective in choosing sex partners, not less. Even Bushy, the 18-year-old runaway, said, "If someone's really funky, I'm not going to chance it."

But reason often crumbles in the face of righteous indignation, fear and confusion. It is not easy being a parent at a time when 15-year-old girls are chunking down birth-control pills like One-a-Day Vitamins. And if the reaction to V.D. in some quarters is indignation, among doctors in private practice it is disinterest. Dr. Smartt describes the attitude this way:

"The medical profession sees V.D. as no problem. . . . The private physician feels that since he has good treatment this disease has been eliminated. You schedule a meeting on V.D. for private physicians, they won't come. They figure, "I know how to treat that disease, what do I want to go listen to that nut in the Health Department for?' Private medicine isn't interested, it couldn't care less, it doesn't give a damn."

A lot of the people who get V.D. don't give a damn, either. At the Free Clinic Dr. Michael Talbot, who is not much older than some of his patients, said: "There are people who we find have had the disease many times. People aren't afraid of it anymore; it's like a cold. It's not that serious, it can be treated. They view it as a part of living, a part of growing up."

"It's terrifying," said one clinic nurse, "to realize that we see the more intelligent ones; we don't know what's out on the street." Bushy, one of the intelligent ones, says: "Nobody really sweats it. Just about everybody I know has had it; it's a big joke with us." Tom, 29, was at the Free Clinic with his girl friend, Susan. "If you know what to do about it, you don't worry, like anything else," he said. "You just go get it fixed." Susan, a gentle girl of 22, wasn't worried, either. "Truthfully," she said, "I wouldn't ball anybody I didn't know was clean. I don't ball anybody but him and my friends." But since even "friends" sometimes don't know they have V.D., the waiting room was full of people who were confident they could never catch it.

Given these attitudes, can anything be done to control V.D.? If the money were available, researchers could probably find a cheap and easy screening test for gonorrhea; some progress, in fact, has already been made. Better drugs could be produced that don't build up resistance in the V.D. organisms. Doctors could learn more about why some patients suffer long-term complications and others don't. More case finders could be hired. But as everyone in the field agrees, "You don't treat a disease out of existence." Walter Smartt fumes: "All we're doing is treating, treating, treating, and we cannot gett rid of the epidemic that way. If this epidemic is ever reduced it'll be because somebody has guts enough to do what we did for pregnancy."

In other words, the answer is prevention. There are ways to prevent V.D. now. The best, of course, is abstinence, but that is hardly a likely possibility. Washing before and after intercourse and urinating as soon as possible both help kill the germs. Then there are prophylactic devices. A vaginal gel called Progonasyl has been around for years but never fully tested. (A group of prostitutes in Nevada are trying the substance now as part of a study by the State Bureau of Preventive Medicine.) The "pro kit" used by the armed forces during World War II—a device used to inject a disinfectant—is probably too annoying and inconvenient. Some doctors place their hope in the condom, but others think that is unrealistic. Mr. Lugar, the health adviser here, insisted: "It's been demonstrated over and over again that the promiscuous individual will not use a condom. When it comes to such a mechanical approach, sex just loses its flavor." Out of dozens of youngsters we interviewed, not more than one or two would consider using a prophylactic. "It kind of takes the fun out of it," said Bushy. "It's a little awkward at times, you know." Awkward and, these days, insulting. If a girl is on the pill, the only reason to use a condom is to prevent V.D., and some people are likely to resent the implication, no matter which partner makes the suggestion.

Two possibilities remain. One is a vaccine. The scientific and financial obstacles are enormous, but Dr. James N. Miller of the University of California at Los Angeles, a leading researcher in the field, predicts a syphilis vaccine within five years. A gonorrhea vaccine, on the other hand, seems almost impossible at this point. And, of course, if people won't allow their kids to read about V.D. will they allow them to be inoculated against it?

The other possibility is a pill taken regularly to suppress infection. In a recent study, Dr. Smartt gave a group of highly promiscuous individuals Vibramycine pills. In more than 5,000 sexual contacts, he reports, only two cases of V.D. were contracted. The procedure is expensive and dangerous, however. Some people are allergic to antibiotics, and widespread use of any drug would cause a certain number of adverse reactions. Moreover, no one knows what the regular ingestion of antibiotics would do to the body's normal defense system against disease.

The outlook, then, is not very promising, particularly for gonorrhea. There is not enough public support for treatment, research or education. Though we spend $41-million a year just to care for syphilitic insanity, and the total cost of V.D., from absenteeism, lost income and the like, might reach $1-billion annually, according to one estimate, the total Federal outlay comes to less than $10-million. The cost in human suffering is also rising: more sterility, more blindness, more babies born deformed from congenital syphilis. One thing is certain: V.D. will continue to spread as long as it is considered dirty and shameful, something nice people don't talk about, a "just punishment" instead of a crippling disease.

VD: The Epidemic

The coach was baffled. After a succession of winning seasons, his Los Angeles high-school football team had suddenly gone sour. During practice, the players barely limped through their wind sprints and the tackling dummy gave out more punishment than it got. Saturday after Saturday, linemen failed to open holes, and when they did, the backs had trouble finding them; pass receivers were chronically late getting downfield and tended to zig when they should have zagged. At midseason, the team had lost three games in a row.

The reason for the squad's mysterious deterioration didn't emerge from locker room chalk talks, but from some dramatic medical detective work. One player, complaining of swollen testicles, went to a public-health clinic. The diagnosis: gonorrhea. Soon, investigators found that 48 boys and girls—including nine members of the team—had contracted the disease. All were quickly cured by penicillin and the team came out of its slump and started winning again.

Unlike the coach, public-health doctors in Los Angeles find little to cheer about in the happy conclusion of the case. If venereal disease keeps climbing at the present rate, fully one in five of the city's high schoolers will have contracted gonorrhea or syphilis by the time they graduate. And what's happening in Los Angeles is happening almost everywhere. For the fact is that the entire nation is in the grip of a VD epidemic of unparalleled proportions—and no one at any level of society is immune.

"This is by no means a class phenomenon," says Dr. John Grover, a Harvard gynecologist who is actively involved in the VD campaign. "We have treated doctor's wives, bank president's wives, the daughter of the professor as well as the daughter of the milkman." Even some clergymen have been afflicted, and in San Francisco, Michael R., a young lawyer and discreet man about town, found out the hard way that VD has come a long way from the ghetto. "VD doesn't have anything to do with being 'nice' any more," he says. "The girl I got the —— from is a lovely person—she was sleeping with one other guy and figures he gave it to her."

As infectious diseases, syphilis and gonorrhea are outranked in incidence only by the common cold; and VD is now first among the so-called reportable communicable diseases, for the number of cases each year exceeds those of strep throat, scarlet fever, measles, mumps, hepatitis and tuberculosis combined. This year, 624,000 new cases of gonorrhea will be reported. But an estimated four cases occur for everyone reported, so the real figure is more than 2 million.

For syphilis—which untreated can lead to insanity and death—the figures are even more disturbing. There are half a million Americans with untreated syphilis today, and this year their ranks will be joined by 85,000 new cases. The number of new syphilis cases currently being reported represents an increase of 16 per cent over last year, the biggest jump in two decades.

VD, not surprisingly, strikes hardest in the cities. While there are 12 cases of syphilis for every 100,000 persons nationwide, Newark ranks first among cities with 124, followed by Atlanta and San Francisco. For gonorrhea, the national case rate is 308 per 100,000 population.[1] But in the Atlanta area the incidence is an astronomical 2,510 and in San Francisco, 2,067. Fully 6 per cent of the women having babies at one major hospital in Los Angeles had gonorrhea.

FROM CITY TO SUBURBS

And VD is moving rapidly from the inner city to outer suburbs. Mike Moy, a 27-year-old investigator for the Oakland County (Mich.) Health Department, has his hands full tracking down gonorrhea and syphilis in the affluent Detroit suburbs of Bloomfield Hills, Birmingham and Southfield. "This area," he notes, "has as big a problem as anyplace else." The gonorrhea rate quadrupled between 1969 and 1970 in Arlington, Va. In Prince George's County, Md., a major bedroom suburb of Washington, D.C., it has increased fivefold in the last decade.

VD is particularly rampant among young Americans. At least one in five persons with gonorrhea is under 20. Last year, more than 5,000 cases were found among youngsters between 10 and 14, and 2,000 among children under 9. "The probability that a person will acquire VD by the time he's 25," says Dr. Walter Smartt, chief of the Los Angeles County Venereal Disease Control Division, "is about 50 per cent."

What makes this horrendous state of affairs hard to comprehend is the simple fact that both syphilis and gonorrhea can be cured with penicillin and other antibiotics. After 1947, the number of cases dropped steadily for a decade through the use of these drugs. Then a vast blanket of complacency settled down over government, the medical profession and the public. Funds for VD control dropped off, and VD began its stealthy climb up the statistical ladder. "They provide money when the statistics are high, when you're getting a lot of syphilis for your money." Myron Arnold, a District of Columbia VD-control adviser, notes wryly. "When the cases begin to drop, they cut out the funds instead of seeing it through to completion."

NO WORSE THAN A COLD

The complacency is shared by the VD victims themselves. "It's no worse than having a cold," says a Hollywood 19-year-old, in an unconscious echo of an old street cliché. "You just lay off balling until it goes away." Another youth shrugged off the advice of doctors at the Fairfax Clinic, a Los Angeles public health unit that ministers to more than 2,000 VD victims a year, on ways to prevent recurrences. "I'm usually too stoned to care," he said. VD victims who don't follow doctor's orders become repeaters. One youth who had been to the Fairfax Clinic on three occasions kept taking only half the antibiotic pills he was given and selling the other half in order to spare his friends the trouble of a clinic visit. As a result of the inadequate dosage, no one was cured.

Nowadays, the old B-girl-meets-lonely-sailor picture of how VD is spread is as passé as an album by the Andrews Sisters. In fact, most public-health experts credit prostitutes with being unusually conscientious about avoiding VD and seeking treatment if they do contract it. Only 2 per cent of the VD patients treated in St. Louis clinics are prostitutes. "Prostitution is not where it's at with VD today," says Robert M. Nellis, an investigator with the San Francisco City Clinic. "It's Johnny next door and Susie up the street."

Public attitudes toward VD range from ostrich-like ignorance to downright repugnance and help make the current epidemic worse. "We even have doctors who don't want to treat or have anything to do with VD," says Phillip Wactor, director of VD control for the Illinois Health Department.

To a good many public-health officials, the root causes of the VD epidemic can be crisply summarized by the "three P's—the Pill, promiscuity and permissiveness." By virtually removing the fear of pregnancy, so the argument goes, the Pill has encouraged greater sexual activity—particularly among the young. At the same time, it has reduced the use of condoms, one of the most efficacious barriers to the transmission of VD. Moreover, researchers note, the hormones in the Pill increase the alkalinity and moisture of the female genital tract, favoring the rapid growth of gonorrhea bacteria. According to one estimate, the risk of contracting gonorrhea for a woman engaging in a single act of unprotected intercourse with an infected partner is 40 per cent; for a woman taking the Pill, it is almost 100 per cent.

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[1] Though the VD epidemic is worldwide, the gonorrhea rate in the U.S., according to latest figures, is markedly higher than in such Western European nations as Britain (118 per 100,000) and France (30 per 100,000). But in the comparatively more permissive Scandinavia, the national average is much higher than in the United States. Denmark, for instance, reports a rate of 319 per 100,000 and in Sweden the rate is an astonishing 514 per 100,000—higher even than it is in California. Only in Communist China is the VD rate down appreciably. There, thanks perhaps in some measure to Chairman Mao Tse-tung's puritanical thoughts on promiscuity and prostitution, VD seems to have been all but eliminated.

Whether promiscuity is too strong a word, the life-style of large numbers of young people includes plenty of sex and lots of mobility—just what it takes to keep a VD epidemic going. "Let's face it," says Dr. Joshua Seigel of the Hollywood-Wilshire Clinic, "if you walk across a freeway once, you're less likely to get hit than if you walk across it ten times." "One day they're in San Francisco, the next week L.A., then on to Denver, notes Jan Cobble of the Bay Area Venereal Disease Association.

SHE GOT IT FROM A FRIEND

A case in point is Donald, the bearded 25-year-old resident of a Sonoma Valley commune, holding his eleven-month-old daughter on his hip as he waited his turn in the San Francisco City Clinic. He readily admits he contracted gonorrhea from his wife who had brought it back from a trip to New York. "She got it from a friend of mine she was staying with," says Donald, matter-of-factly. "He wrote and suggested she get a checkup; she's coming in for shots, too." At free clinics set up to serve the subculture, like the Ark in Chicago or the Medivan that patrols the streets of Boston and Cambridge, the clientele is young, and VD is high on the list of complaints. "Health pollution has become an accepted way of life for a certain number of young people," says Dr. John R. Pate, chief of the District of Columbia's VD-control division. "You take the good along with the bad." Health pollution includes many disease problems. The San Francisco City Clinic concentrates on treating VD because most of the city's smaller clinics are overburdened with drug users. "I go to the Haight clinic when I want to rap or when I'm strung out," says a pretty brunette in a peasant skirt and boots, "and I come here when I have VD."

VENEREAL DISEASE RATES: A BREAKDOWN BY STATES

[Reported case rates per 100,000 of population]

State	Gonorrhea	Syphilis
Alabama	258.3	4.8
Alaska	913.7	8.5
Arizona	255.7	14.0
Arkansas	400.3	17.0
California	500.3	14.1
Colorado	227.6	2.7
Connecticut	213.8	7.2
Delaware	283.9	11.8
Florida	391.1	24.4
Georgia	599.7	32.4
Hawaii	200.3	3.2
Idaho	208.5	.6
Illinois	440.2	8.8
Indiana	154.9	6.7
Iowa	199.4	.5
Kansas	283.1	3.0
Kentucky	183.4	9.4
Louisiana	337.0	20.7
Maine	111.8	1.0
Maryland	372.5	12.5
Massachusetts	151.6	5.5
Michigan	229.3	7.6
Minnesota	127.4	1.6
Mississippi	387.9	13.0
Missouri	324.0	5.7
Montana	134.4	.7
Nebraska	267.0	1.6
Nevada	351.8	31.3
New Hampshire	72.7	.8
New Jersey	143.5	14.8
New Mexico	273.7	14.1
New York	277.6	24.3
North Carolina	366.6	8.6
North Dakota	97.7	1.2
Ohio	270.9	4.1
Oklahoma	256.1	4.4
Oregon	359.0	1.2
Pennsylvania	135.6	3.2
Rhode Island	96.7	4.9
South Carolina	513.2	12.2
South Dakota	214.8	2.1
Tennessee	468.3	6.5
Texas	423.1	26.1
Utah	94.1	3.9
Vermont	102.7	.7
Virginia	345.3	7.5
Washington	261.4	3.5
West Virginia	105.0	2.0
Wisconsin	181.5	1.5
Wyoming	74.2	1.5

Source: American Social Health Association.

Promiscuity has certainly played a part in the rising VD rate among the burgeoning homosexual population, male and female. Up to 40 per cent of new cases of syphilis occur among male homosexuals, according to some experts. "It's not unusual," says Nellis, "for some of them to have 50 to 60 contacts a month."

Venereal disease, of course, has plagued man for centuries. The first recorded epidemic of syphilis swept Europe in the late fifteenth century, giving rise to the still-popular notion that Columbus's voyagers had brought the disease back with them from the New World. But in his new book, "Microbes and Morals," bacteriologist Theodor Rosebury argues that many cases of leprosy described in the Bible were, in fact, syphilis. Gonorrhea has also been traced to ancient times. And throughout history, VD germs have been known to move freely among the high-born as well as the poor. Henry VIII, Cellini, Napoleon and Goethe are only a few of the great who paid for their indiscretions with syphilis or gonorrhea.

TWO DISEASES IN ONE

Venereal disease (a term derived from Venus, the Roman goddess of love) includes several disorders transmitted largely through sexual contact. But syphilis and gonorrhea are the most serious by far. Each has its way of attacking the body, and each presents special problems of cure and control. Syphilis is caused by a corkscrew-shaped germ, or spirochete, called Treponema pallidum (Latin for "pale corkscrew"). It thrives in the moist environment of the mucous membranes lining of the genital tract, rectum and mouth, but expires quickly outside its human host. For this reason, the disease is never transmitted by contaminated toilet seats. Inside the body, the syphilis spirochetes multiply rapidly and cause an insidious infection that is really two diseases in one.

The first stage of infection, called "primary" syphilis, occurs from two weeks to three months after exposure, usually in the form of a hard chancre, or open sore, on the penis or in the vagina, cervix or rectum. Lymph nodes in the genital areas may also be enlarged. Diagnosis can be made by examination of fluid from the chancre under a special "dark field" microscope that reveals the organisms. About a month after the chancre appears, a blood test for antibody-like substances produced in response to the spirochete can also be used to detect the disease.

If untreated, syphilis proceeds to a "secondary" stage in which the spirochetes spread through the blood stream. The original chancre may disappear, but a rash usually spreads over the entire body. At the same time, further ulcerations may occur in the mucous membranes or skin.

The secondary stage may disappear after a matter of days or months. For years, the disease may remain latent, with no symptoms, and detectable only by a blood test. The syphilis victim may experience no further trouble. But in one in four cases, the disease will emerge again in a particularly vicious fashion. The spirochetes may attack the brain, causing a form of insanity called general paresis; the spinal cord, resulting in a type of paralysis known as locomotor ataxia; the blood vessels, particularly the body's main artery, the aorta, or the optic nerve, causing blindness.

Syphilis can be transmitted only during the primary stage and after an incubation period of some ten to 90 days; the patient with latent syphilis is no longer infectious through sexual contact. But the mother, even in the latent stage, can infect her unborn child, causing death or severe deformities of the bones and teeth. Of particular concern to public-health officials is the sharp increase in congenital syphilis last year—400 cases, compared with 300 in 1970

Although less lethal than syphilis, gonorrhea is far more prevalent and harder to control. The disease is spread by a gonococcus which also thrives in the moisture of mucous membranes. The first signs of infection usually appear within a few days. In males the bad news usually comes in the form of pain while urinating and a discharge of pus from the penis. Unless treated, the gonococci may spread through the reproductive system, inflamming the prostate gland, seminal vesicles and testicles, possibly causing sterility. Another problem that makes gonorrhea hard to control is the fact that there are a number of genital infections, loosely classified as non-specific urethritis, whose symptoms in the early stages closely resemble those of gonorrhea, but which are not necessarily spread by sexual contact; some can be picked up just the way colds are. In women, gonorrhea may produce no painful symptoms; in fact, some 800,000 female carriers are at large today, unknowingly transmitting the disease to their sexual partners. In active cases, the disease may spread through the reproductive tract causing painful pelvic inflammatory disease. It also scars the Fallopian tubes—a condition that is a major cause of infertility in American women

CONTROL BY DETECTION

A major problem in the treatment of gonorrhea is that the gonococci—like the staph organisms that plague US hospitals—have become increasingly resistant to penicillin. The standard dose needed to effect a cure has increased during the last 25 years from 150,000 units to 2.4 million units. Contrary to rumor, however, no '"killer" strains of gonorrhea are being brought back to the U.S. from Southeast Asia. "They are all treatable." says Col. Jerome H. Greenberg of the Army Surgeon General's office, "though some are more resistant than U.S. strains." And importation of VD from Vietnam is not a major contributor to the current epidemic, Greenberg adds. Only 65 cases are introduced by returning GI's each week, compared with 40,000 arising among U.S. civilians.

The major means of trying to control the VD epidemic is by detecting cases and tracking down contacts. For gonorrhea, the task is far more formidable than it is for syphilis. There is as yet no simple blood test for screening patients with gonorrhea; detection depends on locating the organisms in fluid from the genitals, and in the case of women, this requires time-consuming cultures that are far from 100 per cent reliable. Since the disease has a short incubation period, it can rapidly outdistance investigators tracking it down through case findings.

Because of its relatively long incubation period, syphilis is easier to keep in check. When a syphilis victim names a sexual contact, investigators have some weeks to find him and treat him before he has infected someone else. A classic example of contact tracking was Syphilis Mary, a blond waitress at a Riverside, Calif., truck stop who worked as a prostitute in her off hours. Investigator Nellis of San Francisco learned about her from a Nebraska truck driver who had come down with syphilis. Once he found her, she turned out to be an investigator's dream—she had meticulously jotted down the names and addresses of all her clients, a total of 311 potential carriers. Fanning out over 34 states, investigators located seven persons diagnosed as having syphilis and treated another 88 who were given preventive penicillin shots because the incubation period after contact hadn't expired. Unfortunately, some 86 contacts couldn't be located. Nonetheless, Nellis estimated that at least 1,000 cases of syphilis were prevented by the case-finding effort.

AN INFECTIOUS LOVER

A less demanding, but more typical case, Nellis recalls wryly, involved a 35-year-old businessman with syphilis who admitted that he had been cheating on his wife. He listed four women who might have given him the disease but insisted that his wife couldn't have been the source. As it turned out, the extramarital contacts proved healthy, but the wife had syphilis and, to her husband's chagrin, a lover who had infected her.

Sleuthing out syphilis can be frustrating work. "In the ghetto, they avoid you like the bill collector," says Dick Howard, a Federal VD investigator at the Hollywood-Wilshire Clinic. "In Beverly Hills, the people feel they're too important to deal with you and want to handle it themselves." Private physicians, it is frequently charged, often refuse to let investigators interview their patients. The free clinics frequented by members of the youthful subculture also tend to protect their patients by failing to report new cases or aid in case finding. "But we've never been on them about it," says Smartt. "There's an epidemic and we need all the help we can get."

With enough concentrated effort, gonorrhea can sometimes be curbed by screening for new cases and tracking down potential carriers. Since 1968, Chicago health officials have carried out routine cultures of the genital area among persons coming to city clinics and hospitals for various reasons other than VD. In all, 56,587 persons were checked last year and 9 per cent turned out to have gonorrhea. Most important, the effort sharply increased the number of cases found among female carriers who showed no symptoms. Health officials also applied group tracing, in which associates of gonorrhea victim not initially named as sex contacts are also tracked down and tested. The result for Chicago has been an 11 per cent decrease in the number of gonorrhea cases in the first nine months of last year while the national incidence has risen 9 per cent.

Many experts believe that syphilis, at least could be brought under control by case finding. The trouble is, the Federal government hasn't been willing to spend the money in the effort. Since 1962, when the U.S. Surgeon General created a major stir about the mounting incidence of syphilis, some $6.3 million has been dispensed annually, largely to pay case finders. But because the constant expenditure hasn't kept pace with inflation, the number of investigators has been trimmed from 800 in 1964 to about 500 today. This, many observers insist, is one reason why syphilis cases rose 8 per cent in 1970 and 16 per cent in 1971, the largest case load in the two decades since penicillin came into general use.

A LACK OF KNOWLEDGE

Some VD experts place their hopes on a vaccine. "No communicable disease," says Smartt, "has ever been eradicated unless there was a preventive vaccine to do so." So far, however, the picture isn't very bright. Researchers have as yet been unable to grow the syphilis spirochete in cultures. There's no reason, in the mind of some researchers, why this can't be accomplished, given the research support. "You could possibly develop a vaccine in five years," says Dr. John Knox of Houston's Baylor College of Medicine, "but at the rate they're putting money into it now, it could be 105."

The outlook for gonorrhea control through vaccines or other research developments is even gloomier. "Our basic lack of knowledge is incredible," says Dr. Leslie Norins, chief of the Venereal Disease Research Laboratory at the National Communicable Disease Center in Atlanta. "There is a crying need for fundamental research."

Gonorrhea research has been hampered in the past by the fact that there was no experimental animal that could be infected with the disease for laboratory study. But within the last year, VDRL researchers have been able to induce gonorrhea in chimpanzees and study its transmission between males and females. Investigators have also found that women infected with gonorrhea produce antibodies in the genital tract against the gonococcus that may explain why many don't develop symptoms but remain carriers of the disease. Conceivably, these findings could help toward the development of a gonorrhea vaccine. More promising has been recent work at VDRL and New York's Rockefeller University toward devising a simple blood test for gonorrhea.

Because of the stigma of VD, efforts to educate the public about syphilis and gonorrhea have lagged about as badly as research. In several cities, community groups have established telephone hotlines to provide worried callers with advice on the symptoms of VD and where to go for treatment. But most agree that the educational effort should be made in the schools—and with the earliest feasible age group. "We almost have to beat puberty," says the District of Columbia's Pate, "because they are coming into the clinics so young." He cites, in this connection, a 9-year-old girl who contracted VD from a boy friend aged 13.

A NEED FOR FUNDS

A major problem is that many teachers are uncomfortable with such subject matter. In many school districts, VD is dealt with, if at all, in moralistic tones more suitable to a Chautauqua meeting than to a health class. "When a child learns that diphtheria exists and yellow fever exists," says Smartt, "he ought to learn that gonorrhea exists, too." In California last year, Gov. Ronald Regan vetoed a bill that would have exempted VD instruction from a state law requiring schools giving sex education courses to notify parents and give them a chance to review the study materials used. The law had, in effect, crippled sex education in the state, and the amendment would have encouraged VD instruction as part of health courses.

Washington, D.C., has instituted one of the more realistic school VD programs, one that even includes instruction in the use of condoms. "Our purpose," says District VD adviser Myron Arnold, "is to teach the student something he'll remember on a Saturday night, not necessarily on an examination."

Obviously, what is needed most of all to bring about the final control of the national VD epidemic is the same kind of doorbell-ringing, mother-marching concern that led to the development of polio vaccines and puts vast sums of money into efforts to conquer cancer and curb heart disease. "If men started getting pregnant or a dozen senators came down with paresis," sums up C. S. Buchanan, director of the Georgia VD-control program, "we would have all the funds we needed."

COSTS OF UNCONTROLLED SYPHILIS

The statistics presented in Table 1 (below) indicate part of the toll imposed by syphilis upon the manpower and economy of the country.

The estimate of man-years of disability for institutionalization of the syphilitic insane is based on the total number of patients in mental institutions and upon the proportion of those diagnosed as having syphilitic psychoses. Patients in State, county, and Veterans Administration hospitals for the permanent care of the insane are included.

The cost of maintenance is based upon the number of patients with syphilitic psychoses in tax supported institutions and upon the average per patient maintenance cost. Approximately three percent of patients with syphilitic psychoses are maintained in private institutions and these have not been included in this report.

While disabilities and deaths from syphilis have been diminishing in recent years, costs and losses per case have been rising. As a result, total costs and losses from syphilitic disabilities and deaths remain high compared to previous estimates.

On the basis of findings of research conducted in Macon County, Alabama, it has been estimated that the life expectancy of a Negro male between the ages of 25 and 60 years, infected with syphilis and receiving no appreciable treatment for his infection, is reduced by about 17 percent.[2]

TABLE 1.—*Estimated annual costs of uncontrolled syphilis, United States, 1968*[1]

Man-years of syphilis disability per year:	
Institutionalization for syphilitic insanity	9,626
Disability from syphilitic blindness	4,000
Economic costs of syphilitic psychoses and syphilitic blindness per year:	
Maintenance of patients with syphilitic psychoses	$40,703,000
Compensation to syphilitic blind	4,400,000

[1] Estimates based on most recent year (1968) for which data is available.

Mr. JAVITS. Mr. President, statements on this subject have appeared in the press throughout the Nation and over radio and television. A further measure of the seriousness of the emergency here involved is that so large a group of cosponsors would get together in a relatively short time—including, incidentally, the present occupant of the Chair, the Senator from Wisconsin (Mr. NELSON)—to back this legislation.

This is not a pleasant subject. It used to be not even a polite subject. But this is a very real problem for our country, striking directly at our young people, and striking at the most respectable elements of the community and their children. It is something we must deal with, and deal with quickly, because it is really getting away from us. History has shown that when we do get after it, as the bill contemplates, the reduction is marked; but when we do not finance the effort, the result is a runaway situation, made even worse by the social conditions surrounding us today.

I am grateful to the chairman of the committee, the Senator from New Jersey (Mr. WILLIAMS), for his cosponsorship of this measure. I think the country owes him and all the other cosponsors a debt of gratitude. This is a real emergency measure, and I hope that within the next few weeks we may have action on this critical emergency, about which the Federal Government, as shown by our previous history, can be most effective.

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[2] Shafer, J. K.; Usilton, Lida J.; Gleeson, Geraldine A.; Untreated Syphilis in the Male Negro: A prospective study of the effect on life expectancy. *Public Health Reports*, 69:684–690, July 1954. Milbank Memorial Fund Quarterly, 32:262–274, July 1954.

I ask unanimous consent that the text of the bill be printed in the RECORD.

I would also like to commend Jay Cutler, minority counsel to the Health Subcommittee, and Cathy Sulzberger, research assistant, for their initiative and efforts in regard to this legislation.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3187.

A bill to amend the Public Health Service Act so as to provide for the prevention and control of venereal disease

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Venereal Disease Prevention and Control Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the number of reported cases of venereal disease has reached epidemic proportions in the United States;

(2) the number of patients with venereal disease reported to public health authorities is only a fraction of those treated by physicians;

(3) the incidence of venereal disease is particularly high among individuals in the 20–24 age group, and in metropolitan areas;

(4) venereal disease accounts for needless deaths and leads to such severe disabilities as sterility, insanity, blindness, and crippling conditions;

(5) the number of cases of congenital syphilis, a preventable disease, in infants under one year of age increased by 33⅓ per centum between 1970 and 1971;

(6) health education programs in schools and through the mass media may prevent a substantial portion of the venereal disease problem; and

(7) medical authorities have no successful vaccine for syphilis or gonorrhea and no blood test for the detection of gonorrhea among the large reservoir of asymptomatic females.

(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act to establish a national program for the prevention and control of venereal disease.

AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 3. (a) Part B of title III of the Public Health Service Act is amended by adding immediately after section 317 thereof the following new section:

"PROJECTS AND PROGRAMS FOR THE PREVENTION AND CONTROL OF VENEREAL DISEASE

"SEC. 318. (a) The Secretary is authorized to conduct, and render assistance to appropriate public authorities and scientific institutions in the conduct of research, training, and public health programs relating to the prevention and control of venereal disease.

"(b)(1) The Secretary is authorized to make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit private institutions, agencies, institutions, or organizations, for projects for the conduct of research, demonstrations, or training for the prevention or control of venereal disease.

"(2) For the purpose of carrying out this subsection, there is authorized to be appropriated the sum of $15,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"(c)(1) There is authorized to be appropriated the sum of $25,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years, to enable the Secretary to make grants to State health authorities to assist the States in establishing and maintaining adequate public health programs for the diagnosis and treatment of venereal disease. The sums so appropriated shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for the provision of public health services for the diagnosis and treatment of venereal disease.

"(2) In order to be approved under this subsection, a State plan for the provision of public health services for the diagnosis and treatment of venereal disease must—

"(A) provide for the administration or supervision of administration by the State health authority;

"(B) set forth the policies and procedures to be followed in the expenditure of the funds paid to the State under this subsection;

"(C) provide that the public health services furnished under the plan will include the provision of statewide laboratory services which include Darkfield microscopes for the diagnosis of both gonorrhea and syphilis, and will otherwise be in accordance with standards prescribed by regulations, including standards as to the scope and quality of such services;

"(D) contain or be supported by assurances satisfactory to the Secretary that (i) the funds paid to the State under this subsection will be used to make a significant contribution toward providing and strengthening public health services for the diagnosis and treatment of venereal disease in the various political subdivisions in order to improve the health of the people; (ii) such funds will be used to supplement and, to the extent practical, to increase the level of funds that would otherwise be made available for the purposes for which the Federal funds are provided and not to supplant any non-Federal funds which would otherwise be available for such purpose; and (iii) the plan is compatible with the total health program of the State;

"(E) provide that the State health authority will from time to time, but not less often than annually, review and evaluate its State plan approved under this subsection, and submit to the Secretary appropriate modifications thereof;

"(F) provide that the State health authority will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

"(G) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this subsection; and

"(H) contain such additional information and assurances as the Secretary may find necessary to carry out the purposes of this subsection.

"(3) From the sums appropriated to carry out the provisions of this subsection, the several States shall be entitled for each fiscal year to allotments determined, in accordance with regulations, on the basis of the incidence of venereal disease in, and the population of, the respective States; except that no State's allotment shall be less than $50,000 for any fiscal year.

"(4)(A) From each State's allotment under this subsection for a fiscal year, the State shall be paid a Federal share of the expenditures incurred during such year under its State plan approved under this subsection. Such payments shall be made from time to time in advance on the basis of estimates by the Secretary or by way of reimbursement, with necessary adjustments on account of previous underpayments or overpayments.

"(B) The Federal share for any State shall be such per centum (not in excess of 90 per centum) of the expenditures of such State (referred to in subparagraph (A)) as shall be established by such State.

"(C) 'State' means each of the several States of the United States, the District of Columbia, the Virgin Islands, Guam, American Samoa, Trust Territory of the Pacific Islands, and the Commonwealth of Puerto Rico.

"(D) Any amount so allotted to a State during any such fiscal year (other than the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Commonwealth of Puerto Rico) and remaining unobligated at the end of such year shall remain available to such State, for the purposes for which made, for the next fiscal year (and for such year only) and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that any such amount remaining unobligated at the end of the sixth month following the end of such year for which it was allotted which the Secretary determines will remain unobligated by the close of such next fiscal year may be reallotted by the Secretary, to be available for the purposes for which made until the close of such next fiscal year, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this subsection, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the States for the same period. Any amount allotted under this subsection of this section to the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, or the Commonwealth of Puerto Rico for a fiscal year and remaining unobligated at the end of such year shall remain available to it for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such next two years, which the Secretary determines will remain unobligated at the close of the second of such next two years, may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to any other of such named States which have need thereto, on such basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallotted to any such named State shall be in addition to any other amounts allotted and available to it for the same period.

"(d)(1) The Secretary is authorized to make project grants to States and, with the approval of the State health authority, to political subdivisions of States, for the conduct of venereal disease prevention and control programs.

"(2) For purposes of this subsection, the term 'venereal disease prevention and control program' means a program which includes—

"(A) disease surveillance activities, including the reporting, screening, and followup of diagnostic tests and diagnosed cases of venereal disease;

"(B) casefinding and case followup activities, including contact tracing of infectious cases;

"(C) interstate epidemiologic referral and followup activities;

"(D) professional and public venereal disease education activities; and

"(E) such special studies or demonstrations to evaluate or test venereal disease control as may be prescribed by the Secretary.

"(e) Grants made under subsection (b) or (d) of this section shall be made on such terms and conditions as the Secretary finds necessary to carry out the purposes of such subsection, and payments under any such grants shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary.

"(f) Nothing in this section shall be construed to limit or otherwise restrict the use or availability of funds which are granted to a State or to a political subdivision of a State under other provisions of this Act or any other Federal law and which are available for the conduct of venereal disease programs from being used in connection with programs assisted through grants under this section.

"(g) For the purpose of carrying out this subsection, there is authorized to be appropriated the sum of $30,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"(h) Each recipient of assistance under this section shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(i) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the assistance received under this section.

"(j) The Secretary, at the request of a recipient of a grant under this section, may reduce such grant by the fair market value of any supplies, or equipment furnished to such recipient and by the amount of pay, allowances, traveling expenses, and any other costs in connection with the detail of an officer or employee to the recipient when the furnishing of such supplies or equipment, or the detail of such officer or employee (as the case may be), is for the convenience of and at the request of such recipient and for the purpose of carrying out the program with respect to which the grant under this section is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies, equipment, or personal services on which the reduction of such grant is based, but such amount shall be deemed a part of the grant to such recipient and shall, for the purposes of this section, be deemed to have been paid to such agency."

(b) Section 314(d)(2) of the Public Health Service Act is amended—

(1) by striking out ", and" at the end of clause (K) and inserting in lieu thereof ";";

(2) by striking out the period at the end of clause (L) and inserting in lieu of such period "; and"; and

(3) adding after clause (L) the following new clause:

"(M) effective July 1, 1973, provide for services for the prevention and control of venereal disease.".

Mr. BEALL. Mr. President, I am pleased today to join in the introduction of the "National Venereal Disease Prevention and Control Act." Only outranked in incidence by the common cold, venereal disease has spread to unparalleled epidemic proportions in the United States. It is estimated that during 1972 there will be 624,000 new cases of gonorrhea reported. This is alarming in itself; however, it must be pointed out that for every reported case, there are approximately four cases that go unreported. The rates of syphilis and gonorrhea are thus increasing at an alarming rate, and my own State of Maryland is not exempt from this major epidemic. During the past year Maryland had 372.5 reported cases of gonorrhea per 100,000 of population and 12.5 cases of syphilis per 100,000 of population. It should be noted that the reported case rate of gonorrhea in Maryland is only exceeded by that of six other States. Particularly dismaying is that in Prince Georges County, Md., the gonorrhea rate has increased five times during the last 10 years and since 1969 the number of reported cases of gonorrhea in Baltimore increased from 8,612 to 10,538, or up 22.4 percent.

Following the outbreak of other communicable diseases such as diphtheria there is immediately a public outcry which in turn leads to action by the public, the Government, and members of the medical profession. However, because of the stigma surrounding venereal disease, the lag between public concern and organized action is much greater. I strongly believe that the time to make strides to lessen this lag is now and that is why I am pleased to join my distinguished colleagues in the sponsorship of this legislation.

For too long we have ignored, or politely turned our heads away from this problem which has plagued man for centuries. The legislation we are today introducing would authorize $15 million annually for technical assistance and project grants for research demonstration and training programs. In addition, the measure establishes State comprehensive venereal disease diagnosis and treatment programs, formula grants of $25 million, and would provide project grants of $30 million annually for VD prevention and control programs which meet certain standards.

The time has come for us to bring a focus to this disease, not only through a change in public attitudes and education, but also by more positive action. Certainly Federal leadership is essential at this point to further define the problem and bring all levels of public health, private medicine, and volunteer sources into a concerted drive against this major health hazard.

By Mr. GOLDWATER:

S. 3188. A bill to amend section 203 of title 37, United States Code, to provide additional pay for permanent professors at the U.S. Military Academy and the U.S. Air Force Academy. Referred to the Committee on Armed Services.

STEP PAY INCREASES LONG OVERDUE FOR MILITARY ACADEMY PROFESSORS

Mr. GOLDWATER. Mr. President, I am today introducing legislation providing for an increase in the compensation of permanent professors at the U.S. Military Academy and at the U.S. Air Force Academy. Mr. President, not many people know this, but a permanent professor who serves at one of these two academies does not receive any increase in pay from the time of his 26th year of service until the completion of his 36th year of service, a long 10-year gap. The trouble lies in the fact that existing law provides that military professors are excluded from the regular promotion lists.

Clearly, the present law imposes a grave inequity on the dedicated and competent individuals who are serving their country so well as instructors of our Nation's future career military leaders. Furthermore, it must be noted that professors at these two academies, who have responsibilities fully comparable to tenure professors in civilian colleges and universities, actually receive salaries which are far less than the pay of their civilian counterparts, who receive a number of very considerable fringe benefits in the bargain.

Accordingly, Mr. President, I am offering a bill today which will provide an additional $250 pay per month for professors at West Point and at the Air Force Academy after completion of 31 years of service. The bill does not cover the faculty at the Naval Academy because those professors are all civilians. My bill also will authorize use of this additional pay in computing the future retired pay of these permanent professors. The entire cost of implementing the changes on an annual basis will be no more than $27,000 in the initial years. Therefore, the Department of Defense assures me that the enactment of this legislation would not result in any increase of the budget sought by the Department.

Mr. President, the implementation of this proposal is demanded out of a sense of human fairness. The bill is needed on grounds of equity, and it is needed as a means of providing some mark of national recognition for the professors of a kind to which they are entitled. For it must be realized that each permanent professor at the Military Academy is a highly qualified professional person who, at the time of his appointment by the President, already has achieved a great stature and reputation of his own. He could with assurance look forward to higher compensation and advancement if he chose to remain in the regular line of his military service instead of accepting a professorship at a service academy.

Not only should recognition be given to this very real measure of self-sacrifice on the part of an officer who becomes a professor at one of these two academies, but it also should be observed that the responsibilities falling upon them has increased greatly in the past decade due to a tremendous enlargement in the size of the student bodies of academies and due to the increased complexity and sophistication of the curriculum of studies. In fact, the number of courses offered at West Point over the last 10 years has grown from 72 to more than 250.

Thus, Mr. President, there is no question that the officers holding professorships at the academies would enjoy very substantial opportunities for advancement by remaining in the line and staff of the regular service establishment outside of the Academy. There is no question that these gentlemen are equal to the very best professionals in their field. And there is no doubt that their counterparts in civilian life can command salaries and benefits much greater than those which attach to a military professorship status.

Accordingly, I introduce this bill, which will authorize commencement of an additional $250 pay per month for military professors after completion of 31 years of service. My proposal is consistent with the formal recommendations made to the President regarding the pay of professors by eight out of the nine previous boards of visitors at the U.S. Military Academy. The enactment of my proposal will provide these professors with evidence that their country recognizes and is satisfied with their contributions through their present positions. Though at some future time the discrepancy in pay and benefits between military and civilian professors could pose a problem in the retention of permanent professors, this is not an immediate situation which my bill is aimed at reaching. Instead, the legislation openly proclaims that officers who are permanent professors deserve a step pay increase at the completion of 31 years of service in view of their outstanding capacities and devotion to serve their country. In short, it is my belief the present law, which does not allow for an increase in the pay of these professors for an entire 10-year period, is arbitrary and unfair and must be changed without delay.

Mr. President, I ask unanimous consent that a copy of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203(b) of title 37, United States Code, is amended to read as follows:

"(b) While serving as a permanent professor at the United States Military Academy or the United States Air Force Academy, an officer who has over 31 years of service computed under section 205 of this title is, in addition to the pay and allowances to which he is otherwise entitled under this title, entitled to additional pay in the amount of $250 a month. An officer while serving as a permanent professor under this section, who has over 36 years of service, is entitled to total additional pay in the amount of $500 a month. The additional pay provided by this section shall be used in the computation of retired pay."

By Mr. GURNEY:

S. 3189. A bill to establish the Chassahowitzka National Wilderness Area in the State of Florida; and

S. 3190. A bill to establish the St. Marks National Wilderness Area in the State of Florida. Referred to the Committee on Interior and Insular Affairs.

Mr. GURNEY. Mr. President, I am today introducing two bills that would provide for the preservation—as wildernesses—of appropriate sections of the St. Marks Wildlife Refuge and the Chassahowitzka Wildlife Refuge.

The Wilderness Act of 1964—Public Law 88-577—set forth procedures for studying all roadless areas, within the national refuge system, of at least 5,000 contiguous acres in order to determine if they might be included within the national wilderness preservation system. Such studies have been completed at both the St. Marks and the Chassahowitzka Wildlife Refuges, hearings have been held, and the residents and organizations in the areas concerned are overwhelmingly in favor of preserving these areas as natural wildernesses. All that is needed now, to insure that these areas remain preserved in their natural state, is for Congress to pass the enabling legislation.

The St. Marks area, in addition to having a lengthy historical heritage, is one of great natural beauty. As early as 1791, while the Spanish still controlled the area, conservationist William Bartram was writing about the abundant wildlife along the gulf coast. He, and another conversationist, Charles J. Pennock, who wrote from 1887 to 1889, told of alligators, panthers, the now extinct Carolina parakeet, turkeys, deer, bears, the rare ivory billed woodpecker, marsh and wading birds, and many other birds and animals that abounded along the gulf coast. After the Civil War, much of the surrounding area, which had been in crops and cotton, was allowed to revert to forest land, thus adding to the natural seclusion of the area. In 1931, some 64,000 of federally owned land along the gulf coast about 20 miles south of Tallahassee, was established as the St. Marks Wildlife Refuge. Since then, the area has been in a semiprotected state, open to boating and hunting, but, in places, still beautiful, untouched wilderness.

It was the purpose of the 1964 Wilderness Act to secure for the American people of present and future generations, the benfits of an enduring source of wilderness. Wilderness areas are fast disappearing in this country and unless we protect those left, they will be lost forever—for enjoyment and for study. Within a 100-mile radius of the St. Marks Wildlife Refuge, there are over 800,000 people and by the year 2000, the population is expected to reach 2,000,000. Unless steps are taken to seal off the natural wilderness area from the relentless advance of hunters, boaters, and developers that inevitably go along with population expansion, this wilderness will be artificially changed and will lose its natural wild quality.

To prevent such a loss, I am introducing this bill which would designate 17,746 acres of the St. Marks Wildlife Refuge as wilderness. Passage of this bill would prevent cars, motorboats, hunters, and commercial fishermen from using the area. In addition, wilderness designation would provide additional protection for the natural marsh upon which wildlife and the shallow Apalachee Bay waters depend. Also, the economy of the area would be stimulated by the preservation of natural wilderness; such wilderness would be a tourist attraction that would provide additional recreational benefits as well as assuring an adequate supply of valuable nutrient sources for estuaries. Combining these advantages with those derived from continuation of the wildlife management program being carried out on other parts of the refuge should serve not only to protect and enhance wildlife in the area, but also should allow them to live and be seen in their natural habitat.

Numerous organizations have come out in support of the wilderness proposal for St. Marks. In addition to the favorable recommendation of the Department of the Interior, the proposal has been endorsed by the Governor of Florida, the Florida Game and Fresh Water Fish Commission, the U.S. Department of Agriculture, the U.S. Bureau of Mines and the U.S. Bureau of Outdoor Recreation among others. Twenty-six of the 82 organizations making statements at the hearing supported the wilderness proposal. Of the total 274 oral or written statements submitted, 249 favored the idea unequivocally, and 10 more expressed support with reservations. In fact, it was as a result of the sentiment expressed that almost 6,600 additional acres were added to the original proposal.

The Chassahowitzka National Wildlife Refuge, located some 70 miles north of Tampa, consists of another 30,514 acres of terrain featuring needlerush marsh, swampland, salt water bays and the clean, clear waters of the Homosassa and Chassahowitzke Rivers. Chassahowitzka is home for 20,000 ducks, 30,000 coots, 500 white pelicans and numerous other birds and animals—some of them rare.

At the present time commercial fishing, hunting, and cattle grazing is permitted within the existing refuge. Powerboats are extensively used in the area, a product of long term practice. All of these activities—while they might be of some short term economic benefit—disturb the natural, wild environment and pose an ever increasing threat to its unspoiled character. As is the case with St. Marks, the wilderness area at Chassahowitzka will likely fall prey to developers unless it is more adequately protected. If the area remains wilderness, the wide assortment of birds, fish, and animals will continue to be a source of enjoyment to future generations of Americans.

Mail from my constituents is running very strongly in favor of including this area in the national wilderness preservation system. At the hearing on the wilderness proposal, held recently, the idea received strong support from individuals and groups alike. There is little enough wilderness land left for this area to be omitted from the wilderness system. Given its close proximity to the cities of Tampa and St. Petersburg, the area would be a tremendous educational attraction to many people who could easily benefit from the enjoyment of a true wilderness experience.

The time has long since come to put special emphasis on protecting what is left of our natural environment. The best way that can be done is to make them accessible to man on only a temporary, nonmotorized, basis. The best way to do this is to designate both the Chassahowitzka National Wildlife Refuge and the St. Marks National Wildlife Refuge as wilderness and place them under the protective umbrella of the 1964 Wilderness Act. To fail to do this would be to cheat future generations of Americans from the opportunity of serving America in its truly natural state. Wilderness, like wildlife, animals, and historic landmarks, is an integral part of our natural heritage, and should be protected.

By Mr. NELSON (for himself, Mr. MONDALE, Mr. CRANSTON, Mr. HUGHES, Mr. KENNEDY, Mr. PELL, Mr. RANDOLPH, Mr. STEVENSON, Mr. WILLIAMS, Mr. BAYH, Mr. HARTKE, Mr. HUMPHREY, Mr. MCGOVERN, and Mr. TUNNEY):

S. 3193. A bill to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1972

Mr. NELSON. Mr. President, I am today introducing the proposed "Economic Opportunity Amendments of 1972." This bill would extend the authorization for the Economic Opportunity Act for 2 years through June of 1973.

The most significant feature of this legislation is a new title V to establish a program of child-care centers and services. The bill also contains the Legal Services Corporation and substantially the same provisions as the Economic Opportunity Amendments passed by the last Congress.

The child-care program has been redrafted in several respects in the hopes of reaching an acceptable compromise which a bipartisan majority of both houses of Congress could agree upon and the President could sign.

The Congress during the last session labored long and hard in the development of legislation to extend the Economic Opportunity Act. The Senate Subcommittee on Employment, Manpower, and Poverty, of which I am chairman, held 18 days of hearings between March 23 and June 16. The bill passed the Senate on September 9 by a vote of 49 to 12. I am proud that the Senate has time and time again shown its confidence in the Economic Opportunity programs. Last year, by substantial majority votes, the Senate supported the child-care program which was subsequently vetoed by the President.

The conference between the Senate and the House on poverty legislation last fall was particularly long and difficult. We met in sessions all through October and November. We sought the views of the administration as to what would be acceptable child-care legislation. We thought we had reached workable agreements with all parties concerned. In fact, the Secretary of Health, Education, and Welfare stated that he was satisfied, although after the conference had completed its work he sent a letter expressing some misgivings on the delivery system. The veto of the Economic Opportunity Amendments last December 10 came as a particular shock and disappointment.

With 5 million children of working mothers in the country and only 700,000 child-care places, the need for an adequate network of child-care facilities is just as great today as it was in December when the President vetoed the child development program as part of the Economic Opportunity Act extension legislation.

The Federal commitment to the early years of life must not be tied to the welfare rolls. Most of the poor are not on welfare. The Headstart program carries no welfare requirement nor welfare stigma.

It would be tragic if an expanded Federal commitment to the early years of life should turn out to be a program that requires a mother to sign up for welfare so that her child may be helped.

Our proposed legislation would build on the successful Headstart experience, extending it to the children of modest-income working mothers as well as the children of the poor.

In this compromise measure we have tried to meet the President's objections. I hope that we will be able to work out acceptable legislation in the interest of the Nation's children.

The veto message on last year's bill objected to the system of prime sponsorship contained in the legislation. That system would have authorized any jurisdiction of 5,000 or more persons to be a prime sponsor—that is, to run its own child-care program contracting directly with the Secretary of HEW.

To meet the objections of the President we have compromised substantially from last year's position and propose a greatly enhanced role for States in the administration of a child-care system, while at the same time seeking to protect the interest of parents and local control. In the legislation we are introducing today, only cities and counties of 25,000 or more persons would have the right to be prime sponsors. In the balance of the State, the State would assume administrative responsibility for child-care programs. A State would submit a plan to the Secretary of Health, Education, and Welfare, providing for a State child-care council consisting 50 percent of parents and 50 percent of public representatives appointed by the Governor, which would be responsible for the planning and coordination of child-care services in the State. The State plan would also provide for designating local program areas covering geographical areas of the State having not more than 50,000 population.

Within those areas, local policy councils would be established and parents of children in the programs would make up 50 percent of the membership of those councils. Through these arrangements, we believe it will be possible to both meet the concerns about administrative feasibility while preserving the principle of parent control of child-care programs.

Let me emphasize that throughout the bill are provisions designed to insure that the child-care program is family centered. Parents must request the child-care services.

Parents compose half of the membership of the policymaking councils. Priority is given to Headstart-type programs which have emphasized parent participation through the years. The Statement of Findings and Purpose sets forth the congressional intent that:

> (1) Child care programs must build upon the role of the family as the primary and most fundamental influence on the development of children and will be available only to children whose parents or legal guardians request them.

We have attempted to focus more sharply the bill's priorities: First, funds are available for programs for preschool children, particularly for Headstart-type programs to prepare children to benefit from their school experience. These programs are not limited to children of working mothers, although, of course, where there is no parent at home during the day, full-day care is necessary whereas part-day Headstart programs may be used by children with a parent at home during the day.

In addition to the priority on Headstart-type projects for preschool children, the bill places priority on day-care programs for economically disadvantaged children of working mothers. For these children, after-school care is needed until the parents return home in the evening. Summer day care is also a necessity. One of the real problems facing working parents is that so often their children must be left alone while they are at work. These latchkey children are both a family and all too often a social problem for the community.

The bill I am introducing today reduces the overall authorization for child-care programs from $2 billion to $1.5 billion.

Fiscal year 1973 would be a planning year and the program would be fully authorized in fiscal year 1974. We have also included in the child-care legislation the fee schedule negotiated between the Secretary of Health, Education, and Welfare and the members of the Senate-House conference on last year's child development legislation. While the child-care provisions of the vetoed bill received more than their share of criticism, I believe all parties are agreed that the fee schedule in that legislation is a fair one. It provides free child-care services to children in families earning up to $4,320 and it provides reasonable fees on a sliding scale basis for child care up to the Bureau of Labor Statistics low, adequate budget level of $6,960—for an urban family of four.

Mr. President, the bill I am introducing today also contains the Legal Services Corporation language from the conference report. Recent developments have served to underline the need to remove the legal services program from political influence as this Corporation proposal would do.

And finally, we have included in this bill those provisions contained in last year's bill on the activities of the Office of Economic Opportunity itself. The bill contains the prohibition against further spin-off of Office of Economic Opportunity programs without congressional approval, and provisions for earmarking of OEO funds previously approved by the Congress.

The bill also contains the new title VII providing for community economic development programs.

Mr. President, I ask unanimous consent that a summary of the new legislation be printed in the RECORD at the conclusion of my remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF NELSON-MONDALE CHILD CARE PROGRAM

1. A new title V entitled "Child Care Centers and Services" would be added to the Economic Opportunity Act.

2. This new child care legislation would provide a substantially increased role for the States.

(a) States would be designated as prime sponsors except for localities having a population of 25,000 persons or more which apply for local prime sponsorship designation and which the Secretary determines have the capability of effectively carrying out child care programs.

(b) State child care councils would have a planning and coordinating role and would monitor all child care programs in the State pursuant to approved State plans.

3. Priority would be given to Headstart-type preschool programs and to economically disadvantaged children of working mothers. Full subsidies would be limited to the poor and partial subsidies on a sliding-scale basis would be available to the near-poor (up to $6,960 for a family of four in an urban area).

4. Child Care Councils and local policy councils consisting half of parents and half of representatives appointed by public officials would have policy-making responsibilities concerning child care projects.

5. The legislation would provide for a planning period of one full year (fiscal year 1973) and then the child care program would be fully operational in fiscal year 1974. (One year later than last year's vetoed bill.)

6. Appropriations would be authorized at $1.5 billion level for fiscal year 1974—a reduction of $500 million from last year's vetoed child development legislation.

Mr. MONDALE. Mr. President, today I am privileged to introduce, with the distinguished junior Senator from Wisconsin (Mr. NELSON), a bill to establish a comprehensive child-care program. This measure represents a revision of the child-development bill I introduced last session, which was subsequently adopted by the Congress and vetoed by the President.

PURPOSE

Our bill seeks to better meet the need for quality, family-oriented, preschool programs among millions of young children whose mothers are working, or who, because of poverty, are denied adequate health care, nutrition, or educational opportunity.

It recognizes and specifically provides that child-care programs must be totally voluntary, and must build upon and strengthen the role of the family as the primary and fundamental influence on the development of the child.

It assures that parents will have the opportunity to choose among the greatest possible variety of family-supporting services including part-day programs like Headstart, after school or full day developmental day care for children of working mothers, in-the-home tutoring and child-development classes for parents and prospective parents.

Finally, by clarifying and modifying the vetoed bill with respect to the President's concerns about the administrative delivery system, the State role, the cost, and the relationship of these programs to the family, the measure we introduce today is designed to gain not only passage by the Congress, but also the cooperation and support of the administration.

These are the elements of our compromise.

Under our new bill, parents retain a full voice in decisions concerning curriculum, policy, and program funding.

We have increased our priority on strengthening family life by making full day care available only to children whose parents are already out of the home all day. Services for children whose mothers are at home are limited to part-day programs or in-the-home tutoring that builds on the mother-child relationship.

We have increased the role of the States by reducing by over two-thirds the number of localities that will be eligible to administer their own programs and deal directly with Washington.

We have reduced by 25 percent the funds authorized for these programs.

And we have postponed for 1 year the effective date of this bill.

We believe, and we hope, that with these changes which I will describe more fully later in my statement—and with the retention of our priorities on parental involvement, quality programs, services for both poor and middle-income children, local initiatives, protection for existing Headstart programs and other elements—we can enact this bill into law and begin better meeting the needs of parents and children.

THE NEED

The critical effect of the first 5 years of life has been well documented. We know that the beginning years of life are the most important for a child's intellectual growth, and for his social, emotional, physical, and motivational development. These early years are the formative years—they are the years in which permanent foundations are laid for a child's feelings of self-worth, his sense of self-respect, his motivation, his initiative, and his ability to learn and achieve.

We know that a child's intelligence is not fixed, once and for all, at birth. We have learned that his intelligence is shaped by his experiences, and that his mental development is heavily determined by the conditions and the environment he encounters in the first few years of life.

We know that children are most eager and often most able to learn during their early childhood years. As Dr. Benjamin Bloom concluded in "Stability and Change in Human Characteristics":

> As time goes on—more and more powerful changes are required to produce a given amount of change in a child's intelligence—and the emotional cost it exacts is increasingly severe.
>
> To a very great extent, a child's experiences at the beginning are critical determinants of his entire future life.

Yet we have never adequately provided for these early childhood years; and we have particularly neglected many of the children with the greatest economic and social need.

Today, there are over 3 million preschool children whose families have incomes below the poverty level, and probably an equal number from families living in near poverty. In spite of the love and attention these children receive from their families, many are growing up without adequate nutrition and health care and without the kind of intellectual stimulation during their early years that is necessary for success in an increasingly technical society.

Recent findings by the Mississippi Medicaid Commission indicate the magnitude of health needs alone. The extent of undetected and untreated health problems among poor children examined by that commission—and their implications for child development—are frightening. The commission found 1,301 medical abnormalities in the 1,178 children it examined, including: 305 cases of multiple cavities; 97 cases of faulty vision; 217 cases of enlarged tonsils; 57 cases of hernia; 48 cases of intestinal parasites—mostly hookworm; 53 cases of poor hearing; and 32 other medical conditions requiring immediate treatment.

Many poor children—Mexican Americans, Indians, Eskimos, Puerto Ricans, and members of their minority groups—grow up learning English as a second language, or not at all. Besides being burdened with possible nutritional and intellectual deprivation in their early years, they are confronted with an alien language and an alien culture when they begin school.

And we have neglected as well the needs of an increasing number of preschool children whose mothers are working. Some of these children are receiving healthful and stimulating care while their parents work, but many are not. Many are left in purely custodial and unlicensed day-care centers, and others—the so-called latchkey children—are left alone to look after themselves. Consider these facts:

In 1971, 43 percent of the Nation's mothers worked outside the home, compared to only 18 percent in 1948.

One out of every three mothers with preschool children is working today, compared to one out of eight in 1948.

In 1971, 1.3 million mothers of children under 6 were single parents bringing up children without a husband, and half of these mothers worked.

Yet, there are fewer than 700,000 spaces in licensed day-care centers to serve the over 5 million preschool children whose mothers work.

And although some existing Federal programs, such as title IV of the Social Security Act, help provide day care for these children, much of it is inadequate. Dr. Edward Zigler, Director of HEW's Office of Child Development, has estimated that only about 20 percent of these day-care programs are developmental, or comprehensive—and that in "many instances we are paying for service that is harmful to children."

Thus, it comes as no surprise that one chapter in a recent OEO publication entitled "Day Care: Resources for Decisions" concluded:

> Over 90 percent of all full-day centers in the United States are privately operated for profit.
>
> Most are custodial programs because that's all that most working mothers can afford . . . Day care in America is a scattered phenomena; largely private, cursorily supervised, growing and shrinking in response to national adult crises, largely unrelated to children's needs . . .

The need for quality day-care opportunities among families near but above the poverty line can hardly be overemphasized. There are 1 million children of working mothers in families with incomes between $4,000 and $7,000—incomes which are just a little too high to qualify for most federally assisted day-care programs, such as those under Headstart and title IV of the Social Security Act, and too low to afford quality day care in private programs. Indeed, these families living in near poverty have perhaps the greatest unmet need for quality day care.

Some people would like us to believe that the day-care needs of the near poor and working parents have been adequately met by the recently enacted liberalization of income tax deductions for child care. In fact, the President suggested as much in his veto message of the child-development bill, but the facts do not support this optimism.

In response to my inquiry concerning the tax savings under this new income tax deduction, the Treasury has provided the following information:

A family of four with an income of $5,000 which spends $500 for child care would realize no tax savings;

A family of four with a $7,000 income which spends $700 for child care would realize a savings of only $77;

A family of four with a $10,000 income which spends $1,000 for child care would realize only $190 tax savings;

A family of four with an income of $18,000 and child-care expenses of $1,000 would save $250 in taxes.

Mr. President, I ask unanimous consent that copies of my correspondence with the Treasury Department be included at the close of my remarks.

The PRESIDING OFFICER (Mr. WEICKER). Without objection, it is so ordered.

(See exhibit 1.)

Mr. MONDALE. Mr. President, this correspondence makes it quite evident that income tax deductions for child care provide practically no assistance to families with incomes between $4,000 and $8,000. In fact, as with most income-tax deductions, these child-care deductions offer more assistance to the upper middle class than the near poor.

Thus quality preschool and child care in this country is a privilege for the very rich, and, to the limited extent that public programs are currently provided, for the very poor.

By providing services only at the socioeconomic extremes, we are neglecting the majority of our children and, in a very real sense, we are assigning poor children to a "track" system even before they enter the public schools. Perhaps most tragically we are ignoring the enormous opportunity for children to learn from one another.

That is precisely why the bill we are introducing today retains the fee schedule from last year's conference report which provides free services for families with incomes up to $4,320, modest fees for families with incomes between $4,320 and $6,960, and a sliding scale of fees above that level.

INCREASING NATIONAL AWARENESS

This need for developmental child care and preschool education was recognized by President Nixon shortly after he took office. In his February 1969 economic opportunity message to the Congress, the President stated:

> So crucial is the matter of early growth that we must make a national commitment to providing all American children an opportunity for healthful and stimulating development during the first 5 years of life.

Later that same year, when he created the Office of Child Development in HEW to serve as the focal point for this effort, the President gave an eloquent summary of the need many poor children, in particular, have for developmental child care and preschool educational opportunities. He said:

> We have learned, first of all, that the process of learning how to learn begins very, very early in the life of the infant child. Children begin this process in the very earliest months of life, long before they are anywhere near a first grade class, or even kindergarten, or play school group. We have also learned that for the children of the poor this ability to learn can begin to deteriorate very early in life, so that the youth begins school well behind his contemporaries and seemingly rarely catches up. He is handicapped as surely as a child crippled by polio is handicapped; and he bears the burden of that handicap through all his life. It is elemental that, even as in the case of polio, the effects of prevention are far better than the effects of cure.
>
> Increasingly we know something about how this can be done. With each passing year—almost with each passing month, such is the pace of new developments in this field of knowledge—research workers in the United States and elsewhere in the world are learning more about the way in which an improverished environment can develop a "learned helplessness" in children. When there is little stimulus for the mind, and especially when there is little interaction between parent and child, the child suffers lasting disabilities, particularly with respect to the development of a sense of control of his environment. None of this follows from the simple fact of being poor, but it is now fully established that an environment that does not stimulate learning is closely associated in the real world with poverty in its traditional forms. As much as any one thing it is this factor that leads to the transmission of poverty from one generation to the next. It is no longer possible to deny that the process is all too evidently at work in the slums of America's cities, and that is a most ominous aspect of the urban crisis.
>
> It is just as certain that we shall have to invent new social institutions to respond to this new knowledge.

Congressional interest in this problem increased at the same time. In 1969 several of us introduced legislation and we began hearings and investigations. Encouraged by the success of Headstart, and responsive to the expressed needs of poor and working families throughout the Nation, the Congress had devoted increasingly greater attention to child-care needs during each of the last 3 years.

Since the original bills were introduced, they have been the subject of over 30 days of congressional hearings, during which more than 200 witnesses have presented their suggestions concerning this legislation. After debate and discussion on the floor of each House, last year's bill was adopted in final form, by bipartisan votes of 63 to 17 in the Senate and 210 to 186 in the House of Representatives.

The 1970 White House Conference on Children focused more public attention on these needs. In a unique weighted vote, the delegates to that conference identified as their top priority the provision of "comprehensive family-oriented child development programs including health services, day care, and early childhood education." Specifically, the White House Conference said:

> We recommend that the Federal Government fund comprehensive child care programs, which will be family centered, locally controlled, and universally available, with initial priority to those whose needs are greatest. These programs should provide for active participation of family members in the development and implementation of the program. These programs—including health, early childhood education and social services—should have sufficient variety to insure that families can select the options most appropriate to their needs. A major educational program should also be provided to inform the public about the elements essential for quality in child care services, about the inadequacies of custodial care, and the nature of the importance of child care services as a supplement, not a substitute, for the family as the primary agent for the child's development as a human being.

In addition, numerous national organizations have identified comprehensive child care and preschool education as a top priority, including the education commission of the States; the chief State school officers, and the coalition of over 20 national organizations which was closely consulted in the development of the vetoed bill, composed of Amalgamated Clothing Workers; AFL–CIO; Americans for Democratic Action; Americans for Indian Opportunity Action Council; Black Child Development Institute; Committee for Community Affairs; Common Cause; Day Care and Child Development Council of America, Inc.; Friends Committee on National Legislation; Interstate Research Associates; International Ladies Garment Workers Union; League of Women Voters; Leadership Conference on Civil Rights; National Council of Churches; National Council of Negro Women; National Education Association; National League of Cities and U.S. Conference of Mayors; National Organization of Women, president and vice president for legislation; National Welfare Rights Organization; United Auto Workers; U.S. Catholic Conference; Family Life Division; and Washington Research Project Action Council.

Following the veto many of these organizations and others met, agreed to continue working for comprehensive child-care legislation, and drew up a list of principles any bill should include. Our bill supports and reflects those principles. I ask unanimous consent that this list, and the organizations associated with it, may be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

FEDERAL ROLE IN CHILD CARE

Mr. MONDALE. Mr. President, a great deal of concern has been expressed about the proper role of the Federal Government in the provision of comprehensive child care and preschool education. This is a legitimate concern and we have a responsibility to deal with it directly. I would like to try to set the record straight.

First—although some would have us believe otherwise—the question is not whether the Federal Government should become involved in the provision of child care services. The Federal Government is, and has for some time been involved in providing child care services. This involvement dates back to day care under the Lanham Act during World War II. It includes, at present, the highly successful Headstart program, preschool programs supported under the Elementary and Secondary Education Act and day care for welfare recipients funded under the Social Security Act.

Second—although at times this fact is sometimes overlooked—there is no disagreement between the administration and the sponsors of comprehensive child care legislation about whether the Federal Government should expand its support for child care programs. The administration is requesting a $750 million, one year, increase in child care under FAP—while the bill vetoed last December authorized only $1.6 billion increase over 2 years.

Thus, the question before us again this year is not whether we are going to have Federal support for increased child care, but rather how it is going to be structured, who will be served, how much parental control will be included and what kinds of services will be provided to these children and their families.

THE COMPREHENSIVE CHILD CARE BILL

Mr. President, the bill we are introducing today contains the following elements which I believe are essential to the provision of quality services to families and children. As I suggested earlier, some of these elements have been revised and clarified in an effort to resolve the concerns expressed in the veto message.

FIRST: PARENTAL CONTROL AND FAMILY INVOLVEMENT

This bill, as the previous bill, is designed to maximize parental control and strengthen family life.

Unlike child care under the administration's welfare reform proposal (H.R. 1), child care under our bill is totally voluntary. It specifically requires—as did the vetoed bill—that programs and services shall be available only to children whose parents or legal guardians request them.

Parents whose children are served under this act compose at least 50 percent of the governing boards in our bill—which decide what services will be offered, which programs will be funded, and what curriculums, policies and personnel shall be approved.

Our bill provides opportunities for parents and other family members to become involved as volunteers or paid personnel with opportunities for inservice training and career advancement.

Finally, and again unlike the child care under the welfare reform proposal, mothers are not required to get out of the house and leave their children for the full day in order for a family to be eligible for services under this bill. Our bill specifically authorizes a wide variety of services—including full day child care, part day child care such as Headstart, or in the home services to children and their families who request them—that are designed to build on the family and parental involvement that already exists. We don't want to break up families or diminish parental involvement with their children. In fact, full-day services under this bill are available only to children whose parents are already out of the home in work or training all day, or children such as the handicapped who may in some cases have special needs for full-day service. For children whose mothers are in the home, eligibility is limited to a wide variety of part-day preschool education. Services are available—such as half-day nursery school programs several days a week—that are designed to build on and strengthen family life.

SECOND: QUALITY

Our bill assures that child care programs contain comprehensive nutritional, educational, health, and social services. Child care programs must be designed to help prepare children who are poor, or whose parents are working to take full advantage of school—not simply to provide mind-numbing custodial care while parents work—and our bill is drafted to assure that.

THIRD: EFFICIENT AND RESPONSIVE ADMINISTRATIVE STRUCTURE

Our bill contains major modifications with respect to the delivery system. In order to meet the administration's concerns that the locally based administrative structure in the vetoed bill was unworkable, we reduced by over two-thirds the number of localities eligible to administer their own program and deal directly with Washington—by raising the population criteria for prime sponsorship from 5,000 to 25,000. Thus, in order to be eligible to administer child care programs, a locality or combination of localities must have a population in excess of 25,000. This one modification has the effect of reducing the number of localities potentially eligible to be prime sponsors from almost 7,000 under the previous bill to about 2,100. And our new bill clarifies the responsibility of the HEW Secretary to determine whether an eligible prime sponsor applicant has the capability of effectively carrying out child care programs.

Although we continue to believe that localities which run their own schools are capable of running their own child care programs, this population modification represents our best judgment about how to balance the needs for local flexibility, local control and responsiveness to parents with the interests of simplified administration and enhanced State involvement. In order to retain local initiative and involvement in areas where the State will be prime sponsor, our bill provides for the establishment of program areas—not to exceed 50,000 in population—with councils composed of parents and representatives of the localities to participate in the approval of the child care plan and projects for that area.

FOURTH: PRIORITIES FOR ECONOMICALLY DISADVANTAGED

Priority will be given to children from families with an annual income below the lower living standard budget determined by the Bureau of Labor Statistics—currently $6,900 for an urban family of four—by reserving 65 percent of all Federal funds for such children. In addition, our bill retains the fee schedule agreed to by the administration which provides free services to children from families with incomes up to $4,320 and a fee limitation of $316 on an urban family of four earning $6,900.

FIFTH: SOCIOECONOMIC DIVERSITY

To the extent possible, each program will include children from a broad range of socioeconomic backgrounds. Up to 35 percent of the available funds may be spent to include children whose families have an income above the lower living standard budget, with fees charged on a sliding scale according to ability to pay. Priority within this group will be given to those with the greatest need, especially children of working mothers and single parents.

SIXTH: FUNDING AND COSTS

In order to meet criticisms about cost, the effective date has been postponed 1 year and the authorization for the first program year has been cut by 25 percent from the previous bill. Thus, $100 million is authorized for planning, training, and technical assistance in fiscal year 1973 and $1.5 billion—which includes the existing $500 million authorization for Headstart—for program operation beginning fiscal year 1974.

Federal funds would pay 90 percent of program costs, with 100 percent funding for programs serving migrant and Indian children.

SEVENTH: NEEDS OF MINORITY, INDIAN, MIGRANT, AND BILINGUAL CHILDREN

Funds are provided for year-round programs for migrant children, and for programs on Indian reservations. In addition, each local program must provide equitably for the needs of all minority group, Indian, and migrant children in the area served, with particular emphasis on the needs of children from bilingual families for the development of skills in English and the other language spoken in the home.

EIGHTH: PROTECTION OF CURRENT HEADSTART PROGRAMS

Our bill builds heavily on the experience with comprehensive programs under Headstart. To assure coordination and efficient administration of all child development programs, Headstart will be incorporated into the comprehensive legislation. However, funds will be set aside to assure continuation of such programs for the Headstart target group at no less than the 1972 level, and the first $500 million of the fiscal year 1974 authorization is reserved for programs serving poor children, with priority to continued financial assistance for Headstart projects. In addition, community action and Headstart agencies will be given an opportunity to comment on the comprehensive child development plan in their area before it is approved by the Secretary.

NINTH: TRAINING AND TECHNICAL ASSISTANCE

Assistance is provided for local community groups and governmental agencies to develop comprehensive child development programs and to train the professional and paraprofessional personnel, especially members of the community necessary to conduct quality programs.

THE CHALLENGE

Mr. President, the Forum on Development Child Care Services of the 1970 White House Conference on Children identified the challenge before us:

> There are two clear issues in developmental child care for American children: the comprehensiveness and quality of care which all children deserve; and the responsiveness and flexibility of social institutions to the changing needs and desire of American parents. The best care, with stimulating and nurturing personnel, will be wasted if offered in programs which will not be used by families as they adjust their own special, economic, and personal needs. Simply keeping the child during parents' working hours without applying our utmost expertise and common sense for his sound development is as cruel and absurd as feeding him only minimal nutrition required to sustain life and expecting a vigorous and healthy body. We need not just day care centers so mothers can work, nor just preschools. Rather, we must respond as a nation to the changes that we as individuals are living, changes in our views of family roles and in the needs of our families with children. Our lives are changing more rapidly than our institutions. We must develop a network of voluntary supplementary child care, flexible enough to be part of family life, able to promote the full development of our children, and readily available to all families with children. We must commit our heads, our hearts, and our pocketbooks.

The comprehensive child care bill which we are introducing today, provides the mechanism and the resources to begin meeting that challenge.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3193

A bill to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Economic Opportunity Amendments of 1972".

EXTENSION OF ECONOMIC OPPORTUNITY ACT

SEC. 2. (a) Sections 171, 245, 321, 408, 615, and 835 of the Economic Opportunity Act of 1964, as amended, are each amended by striking out "five succeeding fiscal years" and inserting in lieu thereof "seven succeeding fiscal years".

(b) Section 523 of such Act is amended by striking out "four succeeding fiscal years" and inserting in lieu thereof "six succeeding fiscal years".

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. (a) (1) For the purpose of carrying out parts A, B, and E of title I (relating to work and training) of the Economic Opportunity Act of 1964, there are authorized to be appropriated $900,000,000 for the fiscal year ending June 30, 1972, and such amounts as the Congress may determine to be necessary for the fiscal year ending June 30, 1973.

(2) For the purpose of carrying out Neighborhood Youth Corps programs under paragraphs (1) and (2) of section 123(a) of such Act, there is further authorized to be appropriated $500,000,000 for the fiscal year ending June 30, 1972. No State shall receive less than $3,000,000 of the amounts appropriated pursuant to this paragraph or six-tenths of 1 per centum of the amounts so appropriated, whichever is less.

(b) For the purposes of carrying out the Project Headstart program described in section 222(a) (1) of the Economic Opportunity Act of 1964 and the Follow Through program described in section 222(a) (2) of such Act, there are authorized to be appropriated $500,000,000 for the fiscal year ending June 30, 1972, and $1,000,000,000 for the fiscal year ending June 30, 1973.

(c) (1) For the purpose of carrying out titles II, III, VI, VII, VIII, IX, and X of the Economic Opportunity Act of 1964, there are authorized to be appropriated $950,000,000 each for the fiscal year ending June 30, 1972, and for the succeeding fiscal year.

(2) Notwithstanding any other provision of law, unless expressly in limitation of the provisions of this section, of the amounts appropriated pursuant to paragraph (1) of this subsection for each fiscal year, the Director of the Office of Economic Opportunity shall for each such fiscal year reserve and make available not less than $328,900,000 for programs under sections 221, 226, and 227 of the Economic Opportunity Act of 1964 and not less than $61,000,000 for Legal Services programs under section 222(a) (3) and title IX of such Act, and the remainder of such amounts shall be allocated and made available, subject to the provisions of section 616 of such Act, in such a manner that for each such fiscal year—

(A) $378,900,000 shall be for the purpose of carrying out title II of which $114,000,000 shall be for the purpose of carrying out the Comprehensive Health Services program described in section 222(a) (4), $62,500,000 shall be for the purpose of carrying out the Emergency Food and Medical Services program described in section 222(a) (5), $25,000,000 shall be for the purpose of carrying out the Family Planning program described in section 222(a) (6), $8,800,000 shall be for the purpose of carrying out the Senior Opportunities and Services program described in section 222(a) (7), $18,000,000 shall be for the purpose of carrying out the Alcoholic Counseling and Recovery program described in section 222(a) (8), $18,000,000 shall be for the purpose of carrying out the Drug Rehabilitation program described in section 222(a) (9), $5,000,000 shall be for the purpose of carrying out the Environmental Action program described in section 222(a) (10), $10,000,000 shall be for the purpose of carrying out the Rural Housing Development and Rehabilitation program described in section 222(a) (11), and $117,600,000 shall be for the purpose of carrying out programs and activities authorized under sections 230, 231, 232, and 233 of such title;

(B) $38,000,000 shall be for the purpose of carrying out part B of title II (relating to assistance for migrant and seasonal farmworkers);

(C) $18,000,000 shall be for the purpose of carrying out title VI (relating to administration and coordination) and title X (relating to evaluation);

(D) $58,000,000 shall be for the purpose of carrying out title VII (relating to community economic development); and

(E) $45,000,000 shall be for the purpose of carrying out part A of title VIII (relating to VISTA).

If the amounts appropriated pursuant to paragraph (1) of this subsection for any fiscal year are not sufficient to assure that the full amount specified for each of the purposes set forth in clauses (A) through (E) of this paragraph will be provided for each such fiscal year, then the amounts specified for each such purpose in each such clause (after deducting from any amount so specified any amount otherwise specifically provided for such purpose by an appropriation Act for that fiscal year) shall be prorated to determine the allocation required for each such purpose.

(3) In addition to the amounts authorized to be appropriated and allocated pursuant to paragraphs (1) and (2) of this subsection, there are further authorized to be appropriated for carrying out the Economic Opportunity Act of 1964 the following sums:

(A) $2,000,000 for the fiscal year ending June 30, 1972, and $62,000,000 for the fiscal year ending June 30, 1973, to be used for the Community Economic Development program under title VII;

(B) $79,000,000 for the fiscal year ending June 30, 1972, and $109,000,000 for the fiscal year ending June 3, 1973, to be used for the Legal Services program under title IX;

(C) $5,000,000 for the fiscal year ending June 30, 1973, to be used for the Rural Housing Development and Rehabilitation program described in section 222(a) (11);

(D) $8,000,000 each for the fiscal year ending June 30, 1972, and for the fiscal year ending June 30, 1973, to be used for Domestic Volunteer Service programs under title VIII.

TRANSFER OF FUNDS

SEC. 4. (a) Section 616 of the Economic Opportunity Act of 1964 is amended by inserting: "for the fiscal year ending June 30, 1971, and not to exceed 25 per centum" immediately before the words "for fiscal years ending thereafter".

(b) Section 616 of such Act is further amended by striking out the semicolon the first time it appears therein and all matter thereafter through "$10,000,000" the second time it appears in such section.

COMPREHENSIVE HEALTH SERVICES CHARGES

SEC. 5. Section 222(a) (4) (A) (ii) of the Economic Opportunity Act of 1964 is amended by striking out "such services may be available on an emergency basis or pending a determination of eligibility to all residents of such areas" and inserting in lieu thereof "pursuant to such regulations as the Director may prescribe, persons provided assistance through programs assisted under this paragraph who are not members of low-income families may be required to make payment, or have payment made in their behalf, in whole or in part for such assistance."

DRUG REHABILITATION PROGRAM

SEC. 6. (a) Section 222(a) (8) of the Act is amended by striking out the last sentence thereof.

(b) Section 222(a) (9) of the Act is amended by striking out the last sentence and inserting in lieu thereof the following: "The Director is authorized to undertake special programs aimed at promoting employment opportunities for rehabilitated addicts enrolled and participating in methadone maintenance treatment or therapeutic programs, and assisting employers in dealing with addiction and drug abuse and dependency problems among formerly hard-core unemployed so that they can be maintained in employment. In undertaking such programs, the Director shall give special priority to veterans and employers of significant numbers of veterans, with priority to those areas within the States having the highest percentages of addicts. The Director is further authorized to establish procedures and policies which will allow clients to complete a full course of rehabilitation even though they become nonlow income by virtue of becoming employed as a part of the rehabilitation process.

NEW SPECIAL EMPHASIS PROGRAMS

SEC. 7. Section 222(a) of the Economic Opportunity Act of 1964 is further amended by inserting at the end thereof the following:

"(10) An 'Environmental Action' program through which low-income persons will be paid for working on projects designed to combat pollution or to improve the environment. Projects may include, without limitation: cleanup and sanitation activities, including solid waste removal; reclamation and rehabilitation of eroded or ecologically damaged areas, including areas affected by strip mining; conservation and beautification activities, including tree planting and recreation area development; the restoration and maintenance of the environment; and the improvement of the quality of life in urban and rural areas.

"(11) A program to be known as 'Rural Housing Development and Rehabilitation' designed to assist low-income families in rural areas to construct and acquire ownership of adequate housing, to rehabilitate or repair existing substandard units in such areas, and to otherwise assist families in obtaining standard housing. Financial assistance under this paragraph shall be provided to rural housing development corporations and cooperatives serving areas which are defined by the Farmers Home Administration as rural areas, and shall be used for, but not limited to, such purposes as administrative expenses; revolving development funds; nonrevolving land, land development and construction writedowns; rehabilitation or repair of substandard housing; and loans to low-income families. Loans under this paragraph may be used for, but not limited to, such purposes as the purchase of new housing units, the repair, rehabilitation and purchase of existing units, and to supplement existing Federal loan programs in order that low-income families may benefit from them. The repayment period of such loans shall not exceed thirty-three years. No loans under this paragraph shall bear an interest rate of less than 1 per centum per annum, except that if the Director, after having examined the family income of the applicant, the projected housing costs of the applicant, and such other factors as he deems appropriate, determines that the applicant would otherwise be unable to participate in this program, he may waive the interest in whole or in part and for such periods of time as he may establish except that (1) no such waiver may be granted to an applicant whose adjusted family income (as defined by the Farmers Home Administration) is in excess of $3,700 per annum and (2) any applicant for whom such a waiver is provided shall be required to commit at least 20 per centum of his adjusted family income toward the mortgage debt service and other housing costs. Family incomes shall be recertified annually, and monthly payments for all loans under this paragraph adjusted accordingly.

COMMUNITY ACTION BOARDS

SEC. 8. The last sentence of section 211(b) of the Economic Opportunity Act of 1964 is amended by striking out "three" and inserting in lieu thereof "six" and by striking out "six" and inserting in lieu thereof "twelve".

NON-FEDERAL CONTRIBUTION CEILING

SEC. 9. Section 225(c) of the Economic Opportunity Act of 1964 is amended by inserting after the second sentence thereof the following new sentence: "The Director shall not require non-Federal contributions in excess of 20 per centum of the approved cost of programs or activities assisted under this Act."

TERMINATION OF ASSISTANCE

SEC. 10. Section 231 of the Economic Opportunity Act of 1964 is amended by adding at the end thereof the following:

"(d) If any member of a board to which section 211(b) applies files an allegation with the Director that an agency receiving assistance under this section is not observing any requirement of this Act, or any regulation, rule, or guideline promulgated by the Director under this Act, the Director shall promptly investigate such allegation and shall consider it; and, if after such investigation and consideration he finds reasonable cause to believe that the allegations are true, he shall hold a hearing, upon the conclusion of which he shall notify all interested persons of his findings. If he finds that the allegations are true, and that, after being afforded a reasonable opportunity to do so, the agency has failed to make appropriate corrections, he shall, forthwith, terminate further assistance under this title, to such agency until he has received assurances satisfactory to him that further violations will not occur."

DISTRIBUTION OF FINANCIAL ASSISTANCE

SEC. 11. Section 244 of the Economic Opportunity Act of 1964 is amended by adding at the end thereof the following:

"(8) Consistent with the provisions of this Act, the Director shall assure that financial assistance under this title will be distributed on an equitable basis in any community so that all significant segments of the low-income population are being served."

AMENDMENT TO MIGRANT FARMWORKERS PROGRAM

SEC. 12. Section 312(b)(3) of the Economic Opportunity Act of 1964 is amended by inserting after the word "Government" the words "employment or".

PLAN REPORTING DATE

SEC. 13. Paragraph (3) of section 632 of the Economic Opportunity Act of 1964 is amended by inserting at the end thereof the following: "Such plan shall be presented to the Congress no later than August 1, 1972, and the documents updating such plan shall be presented to the Congress no later than January 31 of each succeeding calendar year."

GUIDELINES

SEC. 14. Part B of title VI of the Economic Opportunity Act of 1964 is amended by adding at the end thereof the following new section:

"GUIDELINES

"SEC. 639. All rules, regulations, instructions, and application forms published or promulgated pursuant to this Act shall be published in the Federal Register at least thirty days prior to their effective date."

COMPREHENSIVE CHILD CARE

SEC. 15. (a) Title V of the Economic Opportunity Act of 1964 is amended to read as follows:

"TITLE V—CHILD CARE CENTERS AND SERVICES

"STATEMENT OF FINDINGS AND PURPOSE

"SEC. 501. (a) The Congress finds that—

"(1) child care programs must build upon the role of the family as the primary and most fundamental influence on the development of children and must be provided only to children whose parents or legal guardians request them;

"(2) many of the over three million children of preschool age living in poverty do not receive adequate health care, nutrition, and educational opportunities;

"(3) there are over five million preschool children and twenty million school-age children whose mothers are working full or part time but there are fewer than seven hundred thousand openings in licensed day care facilities to serve them;

"(4) comprehensive family-oriented child care programs, including a full range of health, education, and social services, can enhance the opportunity for children to attain their full potential;

"(5) children with special needs must receive full and special consideration in planning any child care programs with priority to preschool children with the greatest economic and social need;

"(6) while no mother should be forced to work outside the home as a condition for using child care programs, such programs are essential to many parents who undertake or continue full- or part-time employment, training, or education;

"(7) comprehensive child care programs not only provide a means of delivering a full range of essential services to children, but can also furnish meaningful employment opportunities for many individuals including older persons, parents, young persons, and volunteers from the community; and

"(8) it is essential that the planning and operation of such programs be undertaken as a partnership of parents, community, and State and local government with appropriate assistance from the Federal Government.

"(b) It is the purpose of this title (1) to provide child care centers and services of high quality to children whose parents request them, with priority for those children who need them most, (2) to recognize and build upon the experience and success gained through the Headstart program and other child care programs, (3) to provide quality child care services with emphasis on programs for children of preschool age regardless of economic, social, and family background and full day care services for children of working mothers and single parent families, (4) to provide that decisions on the nature and funding of such programs be made at the local level with the full involvement of parents and other individuals and organizations interested in child care, and (5) to establish the legislative framework for comprehensive child care services.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 502. (a) For the purpose of carrying out this title, there is authorized to be appropriated $1,500,000,000 for the fiscal year ending June 30, 1974. Any amounts appropriated for such fiscal year which are not obligated at the end of such fiscal year may be obligated in the succeeding fiscal year.

"(b) For the purpose of providing training, technical assistance, planning, and such other activities as the Secretary deems necessary and appropriate to prepare for the implementation of this title, there is authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973.

"ALLOCATION OF FUNDS

"SEC. 503. (a) The amounts appropriated for carrying out this title for any fiscal year after June 30, 1973, shall be made available in the following manner:

"(1) $500,000,000 shall first be used for the purpose of providing assistance under parts A, B, and E of this title for child care programs focused upon young children from low-income families, giving priority to continued financial assistance for Headstart projects;

"(2) not to exceed 10 per centum of the remaining amounts so appropriated shall be used for the purpose of carrying out parts B, C, D, and E of this title, as the Secretary deems appropriate; and

"(3) the remainder of such amounts shall be used for the purpose of carrying out part A of this title.

"(b)(1) From the amounts available for carrying out comprehensive child care programs under part A of this title, the Secretary shall reserve the following:

"(A) not less than that proportion of the total amount available for carrying out such part A as is equivalent to that proportion which the total number of children of migrant agricultural workers bears to the total number of economically disadvantaged children in the United States, which shall be apportioned among programs serving children of migrant agricultural workers on an equitable basis, and to the extent practicable in proportion to the relative numbers of children served in each such program;

"(B) not less than that proportion of the total amount available for carrying out such part A as is equivalent to that proportion which the total number of children in Indian tribal organizations bears to the total number of economically disadvantaged children in the United States, which shall be apportioned among programs serving children in Indian tribal organizations on an equitable basis, and to the extent practicable in proportion to the relative numbers of children in each such program;

"(C) not less than 10 per centum of the total amount available for carrying out such part A, which shall be made available for the purposes of section 512(2)(H) of such part (relating to special activities for handicapped children);

"(D) not to exceed 5 per centum of the total amount available for carrying out such part A, which shall be made available under section 514(f)(3) of such part (relating to model programs).

"(2) The Secretary shall allocate the remainder of the amounts available for part A of this title (except for funds made available under paragraphs (1) and (3) of this subsection) among the States, and within the States among local areas, so as to provide, to the extent practicable, for the geographical distribution of such remainder in such a manner that—

"(A) 50 per centum thereof shall be apportioned among the States, and within each such State among local areas, in proportion to the relative numbers of children through age five in each such State and local area, respectively; and

"(B) 50 per centum thereof shall be apportioned among the States, and within each such State among local areas, in proportion to the relative numbers of economically disadvantaged children of working mothers and single parents in each such State and local area, respectively.

For the purposes of clauses (A) and (B) of this paragraph, there shall be excluded those children who are counted under clauses (A) and (B) of subsection (b)(1) of this section.

"(3) Not to exceed 5 per centum of the total funds allotted for use within a State pursuant to paragraph (2) shall be made available to enable States to carry out the provisions of section 513(a) of this title.

"(c) Any portion of any apportionment under subsection (b) for a fiscal year which the Secretary determines will not be required, for the period for which such apportionment is available, for carrying out programs under this part shall be available for reapportionment from time to time, on such dates during such period as the Secretary shall fix, to other States or local areas on an equitable basis, taking into account the original apportionments to the States and local areas. Any amount reapportioned to a State or local area under this subsection during a year shall be deemed part of its apportionment under subsection (b) for such year.

"(d) In determining the numbers of children for purposes of allocating and apportioning funds under this section, the Secretary shall use the most recent satisfactory data available to him.

"(e) As soon as practicable after funds are appropriated to carry out this title for any fiscal year, the Secretary shall publish in the Federal Register the allocations and apportionments required by this section.

"Part A—Comprehensive Child Care Programs

"PROGRAMS ASSISTED

"Sec. 511. The Secretary of Health, Education, and Welfare shall provide financial assistance to prime sponsors and to other public and private agencies and organizations pursuant to plans and applications approved in accordance with the provisions of this part for the purpose of carrying out child care programs for children whose parents or legal guardians request them, including—

"(1) preschool programs providing full-day services and activities for children when there is no parent at home to provide care;

"(2) preschool programs providing part-day services and activities designed to prepare children for school in the years before they enter the elementary school grades;

"(3) in-home services and consultation to assist families with children of preschool age in providing for the healthy growth and development of each child's full potential;

"(4) day care programs providing services and activities (including recreation and tutoring programs) for school-age children at times when school is not in session and there is no parent at home to provide care, including after-school and, where necessary, before-school hours and during summer and other vacation periods;

"(5) parent and child centers, special programs for children with identified needs (including but not limited to handicapped children), and follow-through and other supplementary services and activities, involving the participation of parents.

"USES OF FUNDS

"Sec. 512. Funds available for this part may be used (in accordance with approved applications) for programs including the following services and activities:

"(1) planning and developing child care programs, including the operation of pilot programs to test the effectiveness of new concepts, programs, and delivery systems;

"(2) establishing, maintaining, and operating child care programs, which may include—

"(A) comprehensive health, nutritional, education, social, and other services to assist children in attaining their full potential and to prepare children for school;

"(B) full-day and part-day child care services (including after-school and summer programs), with appropriate health, nutritional, education, social, and other services;

"(C) food and nutritional services;

"(D) rental, lease or lease-purchase, mortgage amortization payments, remodeling, renovation, alteration, construction, or acquisition of facilities, including mobile facilities, and the acquisition of necessary equipment and supplies;

"(E) programs designed (i) to meet the special needs of minority group, Indian, and migrant children with particular emphasis on the needs of children from bilingual families for the development of skills in English and the other language spoken in the home, and (ii) to meet the needs of all children to understand the history and cultural backgrounds of minority groups which belong to their communities;

"(F) medical, dental, psychological, educational, and other appropriate diagnosis, identification, and treatment of visual, hearing, speech, nutritional, and other physical, mental, and emotional problems;

"(G) prenatal and other medical services to expectant mothers who cannot afford such services, designed to help reduce malnutrition. infant and maternal mortality, and the incidence of mental retardation and other handicapping conditions, and postpartum and other medical services (including family planning information) to such recent mothers;

"(H) incorporation within child care programs of special activities designed to identify and ameliorate physical, mental, and emotional handicaps and special learning disabilities and, where necessary because of the severity of such handicaps, establishing, maintaining, and operating separate child care programs designed primarily to meet the needs of handicapped children including emotionally disturbed children;

"(I) preservice an inservice educational and other training designed to prepare professional and paraprofessional personnel and parents and other family members to provide child care and related services;

"(J) dissemination of information in the functional language of those to be served to assure that parents are well informed of child care programs available to them and may become directly involved in such programs;

"(K) services, including in-home services, and training in the fundamentals of child care, for parents, older family members, and others functioning in the capacity of parents, youth, and prospective parents;

"(L) programs designed to extend comprehensive prekindergarten early childhood education techniques and gains (particularly parent participation) into kindergarten and early primary grades (one through three), in cooperation with local educational agencies;

"(M) such other services and activities as the Secretary deems appropriate in furtherance of the purposes of this part; and

"(3) staff and other administrative expenses of Child Care Councils established and operated in accordance with this part.

"STATE PLAN

"Sec. 513. (a) The Secretary shall approve a plan submitted by any State which sets forth satisfactory provisions for establishing and maintaining a State Child Care Council which meets the requirements of section 515 and which sets forth provisions for carrying out activities under the supervision of such Council for the purposes of—

"(1) identifying child care goals and needs within the State;

"(2) assisting prime sponsors other than the State in the establishment of Child Care Councils and strengthening the capability of such Councils to effectively plan, supervise, coordinate, monitor, and evaluate child care programs;

"(3) providing for the cooperation and participation of State agencies providing child care and related services, including health, family planning, mental health, education, nutrition, and family, social, and rehabilitative services, in the development and implementation of the comprehensive child care plan of the State and where requested by any local prime sponsor;

"(4) encouraging the full utilization of resources and facilities for child care programs within the State;

"(5) disseminating the results of research on child care programs;

"(6) conducting programs for the exchange of personnel involved in child care programs within the State;

"(7) assisting public and private agencies and organizations in the acquisition or improvement of facilities for child care programs;

"(8) monitoring and evaluating federally-assisted child care programs and projects within the State;

"(9) assessing State and local licensing codes as they relate to child care programs within the State; and

"(10) developing information useful in reviewing prime sponsorship plans under section 514(g) and comprehensive child care plans under section 516(b)(3).

"(b) A State applying for designation as prime sponsor for geographical areas within the State which are not otherwise served by a local prime sponsor shall, in addition to the provisions required to be included in its prime sponsorship plan in accordance with section 514, set forth in its State plan adequate provisions—

"(1) for designating local program areas each of which shall serve a geographical area covered by (A) a unit of general local government, or (B) units of general local government serving a total population of not more than fifty thousand persons;

"(2) for establishing and maintaining with respect to each local program area a local policy council composed so that (A) not less than half of the members of each such council shall be parent members who shall be chosen initially by the parent member of Headstart policy committees where they exist, and at the earliest practicable time by the parent members of project policy committees established pursuant to section 517(a)(2) of this part, and (B) the remainder shall be public members appointed by the chief executive officers or the governing bodies, as appropriate, of the units of general local government within the local program area;

"(3) to assure that project applications shall be approved by the Child Care Council only if previously approved by the local policy council for the appropriate local program area;

"(4) to assure that contracts for the operation of programs through public or private agencies or organizations shall be entered into only if previously approved by the local policy council for the appropriate local program area; and

"(5) for the development and preparation with full participation and approval of the appropriate local policy council of that portion of the comprehensive child development plan to be submitted by the State which affects each local program area.

"PRIME SPONSORS OF CHILD CARE PROGRAMS

"SEC. 514 (a) In accordance with the provisions of this section, a State, unit or combination of units of general local government, Indian tribal organization, or public or private nonprofit agency or organization, meeting the requirements of this part may be designated by the Secretary as a prime sponsor for the purpose of entering into arrangements to carry out child care programs under this part, if the Secretary determines that any such applicant for prime sponsorship designation has the capability of effectively carrying out child care programs under this part and has submitted a satisfactory prime sponsorship plan which—

"(1) describes the prime sponsorship area to be served;

"(2) sets forth satisfactory provisions for establishing and maintaining a Child Care Council which meets the requirements of section 515;

"(3) provides that such Council will be responsible for developing and preparing a comprehensive child care plan for each fiscal year and any modifications thereof;

"(4) sets forth arrangements under which such Council will be responsible for planning, supervising, conducting, coordinating, monitoring, and evaluating child care programs in the prime sponsorship area;

"(5) in the case of an applicant which is a State or a unit or combination of units of general local government, provides for the operation of programs under this part through contracts with public or private agencies or organizations, including but not limited to community action agencies, single-purpose Headstart agencies, local public and private educational agencies and institutions, community development corporations, parent cooperatives, organizations of Indians, and employer and employee organizations, which will serve children in a community or neighborhood or other area possessing a commonality of interest; and

"(6) sets forth satisfactory provisions for coordination with educational agencies and providers of educational services;

"(7) provides assurances that such Council will, by contract or other arrangement with State, local, or other public or private nonprofit agencies or organizations, provide, where available—

"(A) child-related family, social, and rehabilitative services;

"(B) health (including family planning) and mental health services;

"(C) nutrition services; and

"(D) training of professional and paraprofessional personnel.

"(b) The Secretary shall approve a prime sponsorship plan submitted by a State if he determines that the plan so submitted meets the requirements of subsection (a) of this section and sets forth adequate arrangements for serving all geographical areas under its jurisdiction except for areas with respect to which local prime sponsors are designated under this section.

"(c)(1) The Secretary shall approve a prime sponsorship plan submitted by a unit of general local government which is (A) a city having a population of twenty-five thousand or more persons, or (B) a county or other unit of general local government having a population of twenty-five thousand or more persons (excluding the number of such persons included within the population of any city which is designated as a prime sponsor under clause (A) of this paragraph), if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child care programs in the area covered by such unit of general local government.

"(2) In the event that the area under the jurisdiction of a unit of general local government described in clause (A) or (B) of paragraph (1) of this subsection includes any common geographical area with that covered by another such unit of general local government, the Secretary shall designate to serve such area the unit of general local government which he determines has the capability of more effectively carrying out the purposes of this part with respect to such area and which has submitted a plan which meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child care programs in such area.

"(d) The Secretary shall approve a prime sponsorship plan submitted by a combination of units of general local government having a total population of twenty-five thousand or more persons (excluding the number of such persons included within the population of any city which is designated as a prime sponsor under clause (A) of subsection (c)(1)), if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child care programs in the area covered by the combination of such units of general local government.

"(e) The Secretary shall approve a prime sponsorship plan submitted by an Indian tribal organization if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child care programs in the area to be served.

"(f) The Secretary may approve a prime sponsorship plan submitted by a unit or combination of units of general local government regardless of population size or by a public or private nonprofit agency, including but not limited to a community action agency, single-purpose Headstart agency, public or private educational agency or institution, community development corporation, parent cooperative, organization of migrant agricultural workers, organization of Indians, employer organization, labor union, or employee or labor-management organization, if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes provisions setting forth—

"(1) arrangements for serving children in a community or neighborhood or other urban or rural area possessing a commonality of interest in any area (A) with respect to which there is no prime sponsorship designation in effect, or (B) with respect to any portion of an area where a designated prime sponsor is found not to be satisfactorily implementing child care programs which adequately meet the purposes of this part, or (C) for making available special services, in accordance with criteria established by the Secretary, designed to meet the needs of economically disadvantaged or preschool children or children of working mothers or single parents; or

"(2) arrangements for providing comprehensive child care programs on a year-round basis to children of migrant agricultural workers and their families; or

"(3) arrangements for carrying out model programs especially designed to be responsive to the needs of economically disadvantaged, minority group, bilingual, or preschool children.

"(g) The Governor shall be given not less than thirty nor more than sixty days to review applications for prime sponsorship designation submitted by any applicant other than the State, to offer recommendations to the applicant, and to submit comments to the Secretary.

"(h) A prime sponsorship plan submitted under this section may be disapproved or a prior designation of a prime sponsor may be withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided (1) written notice of intention to disapprove such plan, including a statement of the reasons therefor, (2) a reasonable time in which to submit corrective amendments to such plan or undertake other necessary corrective action, and (3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

"(i)(1) If any party is dissatisfied with the Secretary's final action under subsection (h) with respect to the disapproval of its plan submitted under this section or the withdrawal of its prime sponsorship designation, such party may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such party is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(j) When any unit or combination of units of general government or other prime sponsor is maintaining a pattern and practice of discrimination against minority group persons, the Secretary shall approve the application for prime sponsorship of an alternative unit of government or public or private nonprofit agency or organization in the area which will equitably serve minority and economically disadvantaged persons.

"(k) In the event that a State, a unit or combination of units of general local government, or an Indian tribal organization has not submitted a comprehensive child care plan under section 516 or the Secretary has not approved a plan so submitted, or where the Secretary has not designated or has withdrawn designation of prime sponsorship under this section, or where the needs of migrants, preschool-age children, or the children of working mothers or single parents, minority groups, or the economically disadvantaged are not being served, the Secretary may directly fund projects, including those in rural areas without regard to population, that he deems necessary in order to serve the children of the particular area.

"CHILD CARE COUNCILS

"SEC. 515. (a) Every State and other prime sponsor designated under section 514 shall establish and maintain a Child Care Council composed of not less than 10 members as follows—

"(1) not less than half of the members of such Council shall be parents of children served in child care programs under this part; and

"(2) the remaining members shall be appointed by the prime sponsor to represent the public, but (A) not less than half of such members shall be persons who are broadly representative of the general public, including government agencies, public and private agencies and organizations in such fields as economic opportunity, health, education, welfare, employment and training, business or financial organizations or institutions, labor unions, and employers, and (B) the remaining members, the number of which shall be either equal to or one less than the number of members appointed under clause (A), shall be persons who are particularly skilled by virtue of training or experience in child development, child health, child welfare, or other child care services, except that the Secretary may waive or reduce the requirement of this clause (B) to the extent that he determines, in accordance with regulations which he shall prescribe, that such persons are not available to the area to be served.

At least one-third of the total membership of the Child Care Council shall be parents who are economically disadvantaged. Each Council shall select its own chairman.

"(b) In accordance with procedures which the Secretary shall establish pursuant to regulations, every State and other prime sponsor designated under section 514 shall provide, with respect to its Child Care Council—

"(1) in the case of the Child Care Council of a State, (A) that the parent members described in paragraph (1) of subsection (a) of this section shall be chosen by the parent members of local policy councils established pursuant to section 513 of this part, and (B) that the public members described in paragraph (2) of subsection (a) of this section shall be appointed by the Governor of the State;

"(2) in the case of the Child Care Council of a prime sponsor other than a State, (A) that the parent members described in paragraph (1) of subsection (a) of this section shall be chosen initially by the parent members of Headstart policy committees where they exist, and at the earliest practicable time by the parent members of project policy committees established pursuant to section 517(a)(2) of this part, and (B) that the public members described in paragraph (2) of subsection (a) of this section shall be appointed by the chief executive officer or the governing body, whichever is appropriate, of the prime sponsor;

"(3) for such terms of office and other policies and procedures of an organizational nature, including nomination and election procedures, as are appropriate in accordance with the purposes of this part;

"(4) that such Council shall have responsibility for approving basic goals, policies, actions, and procedures for the prime sponsor, and for planning, general supervision and oversight, overall coordination, personnel, budgeting, funding of projects, and monitoring and evaluation of projects each year according to criteria established by the Secretary; and

"(5) that such Council shall, upon its own initiative or upon request of a project applicant or any other party in interest, conduct public hearings before acting upon applications for financial assistance submitted by project applicants under this part.

"COMPREHENSIVE CHILD CARE PLANS

"SEC. 516. (a) Financial assistance under this part may be provided by the Secretary for any fiscal year to a State or other prime sponsor designated under section 514 only pursuant to a comprehensive child care plan which is submitted by such prime sponsor and approved by the Secretary in accordance with the provisions of this part. Any such plan shall set forth a comprehensive program for providing child care services in the prime sponsorship area which—

"(1) provides that programs or services under this title shall be provided only for children whose parents or legal guardians request them;

"(2) identifies child care needs and goals within the area and describes the purposes for which the financial assistance will be used;

"(3) meets the needs of children in the prime sponsorship area, to the extent that available funds can be reasonably expected to have an effective impact with priority to children who have not attained six years of age;

"(4)(A) provides that funds received under section 503(a)(1) will be used for child care programs and services focused upon young children from low-income families, giving priority to continued financial assistance for Headstart projects by reserving for such projects from such funds in any fiscal year an amount at least equal to the aggregate amount received by public or private agencies and organizations within the prime sponsorship area for programs during the fiscal year ending June 30, 1973, under section 222(a)(1) of the Economic Opportunity Act of 1964, and (B) provides that programs receiving funds under section 503(d) will give priority to providing services for economically disadvantaged children by reserving not less than 65 per centum of the cost of programs receiving such funds for the purpose of serving children of families having an annual income below the lower living standard budget as determined under paragraph (5) of section 571;

"(5) gives priority thereafter to providing child care programs and services to children of working mothers and single parents not covered under paragraph (4);

"(6) provides procedures for the approval of project applications submitted in accordance with section 517;

"(7) provides, in the case of a prime sponsor located within or adjacent to a metropolitan area, for coordination with other prime sponsors located within such metropolitan area, and arrangements for cooperative funding where appropriate, and particularly for such coordination where appropriate to meet the needs for child care services of children of parents working or participating in training or otherwise occupied during the day within a prime sponsorship area other than that in which they reside;

"(8) provides that, to the extent feasible, each program within the prime sponsorship area will include children from a range of socioeconomic backgrounds;

"(9) provides comprehensive services (A) to meet the special needs of minority group children and children of migrant agricultural workers with particular emphasis on the needs of children from bilingual families for development of skills in English and in the other language spoken in the home, and (B) to meet the needs of all children to understand the history and cultural background of minority groups which belong to the communities;

"(10) provides equitably for the child care needs of children from each minority group and significant segment of the economically disadvantaged residing within the area served;

"(11) provides, insofar as possible, for coordination of child care programs with other social programs (including but not limited to those relating to employment and manpower) so as to keep family units intact or in close proximity during the day;

"(12) provides for direct parent participation in the conduct, overall direction, and evaluation of programs;

"(13) includes to the extent feasible a career development plan for paraprofessional and professional training, education, and advancement on a career ladder;

"(14) provides that, insofar as possible, persons residing in communities being served by such projects will receive jobs, including in-home and part-time jobs and opportunities for training in programs under part B of this title, with special consideration for career opportunities for low-income persons;

"(15) provides for the regular and frequent dissemination of information in the functional language of those to be served, to assure that parents and interested persons in the community are fully informed of the activities of the Child Care Council and of delegate agencies;

"(16) assures that procedures and mechanisms for coordination have been developed in cooperation with agencies and organizations carrying out preschool programs and administrators of local educational agencies and nonpublic schools, at the local level, to provide continuity between programs for preschool and elementary school children and to coordinate programs conducted under this part and programs conducted pursuant to section 222(a)(2) of the Economic Opportunity Act of 1964 and the Elementary and Secondary Education Act of 1965;

"(17) establishes arrangements in the area served for the coordination of programs conducted under the auspices of or with the support of business or financial institutions or organizations, industry, labor, employee and labor-management organizations, and other community groups;

"(18) sets forth provisions describing any arrangements for the delegation, under the supervision of the Child Care Council, to public or private agencies, institutions, or organizations, of responsibilities for the delivery of programs, services, and activities for which financial assistance is provided under this part or for planning or evaluation services to be made available with respect to programs under this part;

"(19) contains plans for regularly conducting surveys and analyses of needs for child care programs in the prime sponsorship area and for submitting to the Secretary a comprehensive annual report and evaluation in such form and containing such information as the Secretary shall require by regulation;

"(20) provides that services for handicapped children, at both the State and local levels, will be used wherever available in programs approved under the plan;

"(21) provides assurances satisfactory to the Secretary that the non-Federal share requirements will be met;

"(22) provides for such fiscal control and funding accounting procedures as the Secretary may prescribe to assure proper disbursement of and accounting for Federal funds paid to the prime sponsor;

"(23) provides that special consideration will be given to project applications submitted by public and private nonprofit agencies and organizations with ongoing programs; and

"(24) provides assurance that in developing plans for any facilities due consideration will be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

"(b) No comprehensive child care plan or modification thereof submitted by a prime sponsor under this section shall be approved by the Secretary unless he determines, in accordance with regulations which the Secretary shall prescribe, that—

"(1) each community action agency or single-purpose Headstart agency in the area to be served previously responsible for the administration of programs under this part or under section 222(a)(1) of the Economic Opportunity Act of 1964 has had an opportunity to submit comments to the prime sponsor and to the Secretary;

"(2) the local educational agency for the area to be served and other appropriate educational and training agencies and institutions have had an opportunity to submit comments to the prime sponsor and to the Secretary; and

"(3) in the case of a plan submitted by a prime sponsor other than the State, the State Child Care Council has had an opportunity to submit comments to the prime sponsor and to the Secretary.

"(c) A comprehensive child care plan submitted under this section may be disapproved or a prior approval withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided (1) written notice of intention to disapprove such plan, including a statement of the reasons therefor, (2) a reasonable time to submit corrective amendments to such plan or undertake other necessary corrective action, and (3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

"(d) In order to contribute to the effective administration of this title, the Secretary shall establish appropriate procedures to permit prime sponsors to submit jointly a single comprehensive child care plan for the areas served by such prime sponsors.

"PROJECT APPLICATIONS

"SEC. 517. (a) Financial assistance under this part may be provided to a project applicant for any fiscal year only pursuant to a project application which is submitted by a public or private agency and which provides—

"(1) that funds will be provided for carrying out any child care program under this part only to a qualified public or private agency or organization, including but not limited to a community action agency, single-purpose Headstart agency, public or private educational agency or institution, community development corporation, parent cooperative, organization of migrant agricultural workers, organization of Indians, private organization interested in child development, employer or business organization, labor union, or employee or labor-management organization;

"(2) for establishing and maintaining project policy committees composed of not less than 10 members as follows—

"(A) not less than half of the members of each such committee shall be parents of children served by such a project, and

"(B) the remaining members of each such committee shall consist of (i) persons who are representative of the community and who are approved by the parent members, and (ii) one person who is particularly skilled by virtue of training or experience in child development, child health, child welfare, or other child care services, except that the Secretary may waive the requirement of this clause (ii) where he determines, in accordance with regulations which he shall prescribe, that such person is not available to the area to be served;

"(3) for direct participation of such project policy committees in the development and preparation of project applications under this part;

"(4) that adequate provision will be made for training and other administrative expenses of such project policy committees (including necessary expenses to enable low-income members to participate in council or committee meetings);

"(5) that project policy committees shall have responsibility for approving basic goals, policies, actions, and procedures for the project applicant, and for planning, overall conduct, personnel, budgeting, location of centers and facilities, and direction and evaluation of projects;

"(6) that programs assisted under this part will provide for such comprehensive health, nutritional, education, social, and other services, as are necessary for the full development of each participating child;

"(7) that adequate provision will be made for the regular and frequent dissemination of information in the functional language of those to be served, to assure that parents and interested persons are fully informed of project activities;

"(8) that with respect to child care services provided by programs assisted under this part—

(A) no charge will be made with respect to any child who is a member of any family with an annual income equal to or less than $4,320 with appropriate adjustments in the case of families having more than two children, except to the extent that payment will be made by a third party (including a public agency); and

"(B) such charges as the Secretary may provide will be made with respect to any child of any other family, in accordance with an appropriate fee schedule established by him, based upon the ability of the family to pay, which payment may be made in whole or in part by a third party in behalf of such family, except that any such charges with respect to any family with an income of less than the lower living standard budget (as determined in accordance with paragraph (5) of section 571) shall not exceed the sum of (i) an amount equal to 10 per centum of any family income which exceeds the highest income level at which no charges would be made with respect to children of such family under subparagraph (A) but does not exceed 85 per centum of such lower living standard budget, and (ii) an amount equal to 15 per centum of any family income which exceeds 85 per centum of such lower living standard budget but does not exceed 100 per centum of such lower living standard budget, and, if more than two children from the same family are participating, additional charges may be made not to exceed the sum of the amounts calculated in accordance with clauses (i) and (ii) with respect to each such additional child;

"(9) that children will in no case be excluded from the programs operated pursuant to this part because of their participation in nonpublic preschool or school programs or because of the intention of their parents to enroll them in nonpublic schools when they attain school age;

"(10) that programs will, to the extent appropriate, employ paraprofessional aides and volunteers, especially parents, older children, students, older persons, and persons preparing for careers in child care programs;

"(11) that no person will be denied employment in any program solely on the ground that he fails to meet State or local teacher certification standards;

"(12) that programs assisted under this part will provide for the utilization of personnel, including paraprofessional and volunteer personnel, adequate to meet the needs of each participating child;

"(13) that there are assurances satisfactory to the Secretary that the non-Federal share requirements will be met; and

"(14) that provision will be made for such fiscal control and fund accounting procedures as the Secretary shall prescribe to assure proper disbursement of and accounting for Federal funds.

"(b) A project application may be approved by a prime sponsor upon its determination that such application meets the requirements of this section and that the programs provided for therein will otherwise further the objectives and satisfy the appropriate provisions of the prime sponsor's comprehensive child care plan as approved pursuant to section 516.

"(c) A project application from a public or private nonprofit agency which is also a prime sponsor under section 513(f) shall be submitted directly to the Secretary together with the comprehensive child care plan.

"(d) A prime sponsor may disapprove a project application only if it provides to the project applicant a written statement of the reasons therefor. Such project applicant may submit an appeal to the Secretary requesting the direct approval of such application or modification thereof. Any such appeal shall include such comments, including the project applicant's response to the prime sponsor's statement of reasons for disapproval, as the project applicant may deem appropriate or as the Secretary may require.

"(e) A project application submitted directly to the Secretary may be approved by the Secretary upon his determination that it meets the requirements of subsection (a) of this section.

"ADDITIONAL CONDITIONS FOR PROGRAMS INCLUDING CONSTRUCTION

"SEC. 518. (a) Applications for financial assistance for projects including construction may be approved only if the Secretary determines that construction of such facilities is essential to the provision of adequate child care services, and that rental, lease or lease-purchase, remodeling, or renovation of adequate facilities is not practicable.

"(b) If any facility assisted under this part shall cease to be used for the purposes for which it was constructed, the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds unless the Secretary determines in accordance with regulations that there is good cause for releasing the applicant or other owner from the obligation to do so. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

"(c) All laborers and mechanics employed by contractors or subcontractors on all construction, remodeling, renovation, or alteration projects assisted under this part shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"(d) In the case of loans for construction, the Secretary shall prescribe the interest rate and the period within which such loan shall be repaid, but such interest rates shall not be less than 3 per centum per annum and the period within which such loan is to be repaid shall not be more than twenty-five years.

"(e) The Federal assistance for construction may be in the form of grants or loans, provided that total Federal funds to be paid to other than public or private nonprofit agencies and organizations will not exceed 50 per centum of the construction cost, and will be in the form of loans. Repayment of loans shall, to the extent required by the

Secretary, be returned to the prime sponsor from whose financial assistance the loan was made, or used for additional loans or grants under this title. Not more than 15 per centum of the total financial assistance provided to a prime sponsor under this part shall be used for construction of facilities, with no more than 7½ per centum of such assistance usable for grants for construction.

"(f) In the case of a project for the construction of facilities and in the development of plans for such facilities due consideration shall be given to excellence of architecture and design and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

"USE OF PUBLIC FACILITIES FOR CHILD DEVELOPMENT PROGRAMS

"Sec. 519. (a) The Secretary, after consultation with other appropriate officials of the Federal Government, shall within eighteen months after enactment of this title report to the Congress with respect to the extent to which facilities owned or leased by Federal departments agencies, and independent authorities could be made available to public and private nonprofit agencies and organizations, through appropriate arrangements, for use as facilities for child care programs under this title during times and periods when not utilized fully for their usual purposes, together with his recommendations (including recommendations for changes in legislation) or proposed actions for such use.

"(b) The Secretary may require, as a condition to the receipt of assistance under this part, that any prime sponsor under this part agree to conduct a review and provide the Secretary with a report as to the extent to which facilities owned or leased by such prime sponsor, or by other agencies in the prime sponsorship area, could be made available, through appropriate arrangements, for use as facilities for child care programs under this title during times and periods when not utilized fully for their usual purposes, together with the prime sponsor's proposed actions for such use.

"PAYMENTS

"Sec. 520. (a) In accordance with this section, the Secretary shall pay from the applicable allocation or apportionment under section 503 the Federal share of the costs of programs, services, and activities, in accordance with plans or applications which have been approved as provided in this part. In making such payment to any prime sponsor, the Secretary shall include in such costs an amount for staff and other administrative expenses for the Child Care Council not to exceed an amount which is reasonable when compared with such costs for other prime sponsors.

"(b)(1) Except as provided in paragraphs (2) and (3) of this subsection, the Secretary shall pay an amount not in excess of 90 per centum of the cost of carrying out programs, services, and activities under this part. The Secretary may, in accordance with such regulations as he shall prescribe, approve assistance in excess of such percentage if he determines that such action is required to provide adequately for the child care needs of economically disadvantaged children.

"(2) The Secretary shall pay an amount equal to 100 per centum of the costs of providing child care programs for children of migrant agricultural workers and their families under this part.

"(3) The Secretary shall pay an amount equal to 100 per centum of the costs of providing child care programs for children in Indian tribal organizations under this part.

"(c) The non-Federal share of the costs of programs assisted under this part may be provided through public or private funds and may be in the form of cash, goods, services, or facilities (or portions thereof that are used for program purposes), reasonably evaluated, or union or employer contributions. Fees collected for services provided pursuant to section 517(a)(8) shall not be used to make up the non-Federal share, but shall be used by the project applicant for the same purposes as payments under this section, except that, in the case of projects assisted under a comprehensive child care plan, such fees shall be turned over to the appropriate prime sponsor for distribution in the same manner as the prime sponsor's allocation under section 516 (a)(4).

"(d) If, with respect to any fiscal year, a prime sponsor or project applicant provides non-Federal contributions for any program, service, or activity exceeding its requirements, such excess may be applied toward meeting the requirements for such contributions for the subsequent fiscal year under this part.

"(e) No State or unit of general local government shall reduce its expenditures for child care programs by reason of assistance under this part.

"Part B—Training, Technical Assistance, Planning, and Evaluation

"PRESERVICE AND INSERVICE TRAINING

"Sec. 531. The Secretary is authorized to make payments to provide financial assistance to enable individuals employed or preparing for employment in child care programs assisted under this title, including volunteers, to participate in programs of preservice training for professional and nonprofessional personnel, to be conducted by any agency carrying out a child care program, or any institution of higher education, including a community college, or by any combination thereof.

"TECHNICAL ASSISTANCE AND PLANNING

"Sec. 532. The Secretary shall, directly or through grant or contract, make technical assistance available to prime sponsors and to project applicants participating or seeking to participate in programs assisted under this title on a continuing basis to assist them in planning, developing, and carrying out child care programs.

"EVALUATION

"Sec. 533. (a) The Secretary shall, through the Office of Child Development unless the Secretary determines otherwise, make an evaluation of Federal involvement in child care activities and services, which shall include—

"(1) enumeration and description of all Federal activities which affect child care;

"(2) analysis of expenditures of Federal funds for such activities and services;

"(3) determination of the effectiveness of such activities and services;

"(4) the extent to which preschool, minority group, and economically disadvantaged children and their parents have participated in programs under this title; and

"(5) such recommendations to the Congress as the Secretary may deem appropriate.

"(b) The results of the evaluation required by subsection (a) of this section shall be reported to the Congress not later than eighteen months after the date of enactment of this title.

"(c) The Secretary shall establish such procedures as may be necessary to conduct an annual evaluation of Federal involvement in child care programs, and shall report the results of each such evaluation to Congress.

"(d) Prime sponsors and project applicants assisted under this title and departments and agencies of the Federal Government shall, upon request by the Secretary, make available, consistent with other provisions of law, such information as the Secretary determines is necessary for purposes of making the evaluation required under subsection (c) of this section.

"(e) The Secretary may enter into contracts with public or private agencies, organizations, or individuals to carry out the provisions of this section.

"(f) The Secretary shall reserve for the purposes of this section not less than 1 per centum, and may reserve for such purposes not more than 2 per centum, of the amounts available under paragraphs (2) and (3) of section 503(a) of this title for any fiscal year.

"FEDERAL STANDARDS FOR CHILD CARE SERVICES

"Sec. 534. (a) Within six months after the enactment of the Economic Opportunity Amendments of 1971, the Secretary shall, after consultation with other Federal agencies and with the Committee established pursuant to subsection (c) of this section, promulgate a common set of program standards which shall be applicable to all programs providing child care services with Federal assistance under this title, to be known as the Federal Standards for Child Care Services. If the Secretary disapproves the Committee's recommendations, he shall state the reasons therefor.

"(b) The Federal Interagency Day Care Requirements, as approved by the Department of Health, Education, and Welfare, the Office of Economic Opportunity, and the Department of Labor on September 23, 1968, shall be applicable to all programs providing child care services with Federal assistance under this title.

"(c) The Secretary shall, within sixty days after enactment of this title, appoint a Special Committee on Federal Standards for Child Care Services, which shall include parents of children enrolled in child care programs, representatives of public and private agencies and organizations administering child care programs, and specialists and others interested in the care and development of children. Not less than one-half of the membership of the Committee shall consist of parents of children participating in programs conducted under section 222(a)(1) of this Act and title IV of the Social Security Act and part A of this title. Such Committee shall participate in the development of Federal Standards for Child Care Services and modifications thereof as provided in subsection (a).

"DEVELOPMENT OF UNIFORM MINIMUM CODE FOR FACILITIES

"Sec. 535. (a) The Secretary shall, within sixty days after enactment of the Economic Opportunity Amendments of 1971, appoint a special committee to develop a uniform minimum code for facilities, to be used in licensing child development facilities. Such standards shall deal principally with those matters essential to the health, safety, and physical comfort of the children and the relationship of such matters to the Federal Standards for Child Care Services under section 534.

"(b) The special committee appointed under this section shall include parents of children participating in child care programs and representatives of State and local licensing agencies, public health officials, fire prevention officials, the construction industry and unions, public and private agencies or organizations administering child care programs, and national agencies or organizations interested in the care and development of children. Not less than one-half of the membership of the committee shall consist of parents of children enrolled in programs conducted under section 222(a)(1) of this Act and title IV of the Social Security Act and part A of this title.

"(c) Within one year after its appointment, the special committee shall complete a proposed uniform minimum code for facilities and shall hold public hearings on the proposed code prior to submitting its final recommendation to the Secretary for his approval.

"(d) After considering the recommendations submitted by the special committee in accordance with subsection (c), the Secretary shall promulgate standards which shall be applicable to all facilities receiving Federal financial assistance under this title or in which programs receiving Federal financial assistance under this title are operated. If the Secretary disapproves the committee's recommendations, he shall state the reasons therefor. The Secretary shall also distribute such standards and urge their adoption by States and local governments. The Secretary may from time to time modify the uniform code for facilities in accordance with procedures set forth in this section.

"PART C—FACILITIES FOR CHILD CARE PROGRAMS

"MORTGAGE INSURANCE FOR CHILD CARE FACILITIES

"SEC. 541. (a) It is the purpose of this part to assist and encourage the provision of urgently needed facilities for child care programs.

"(b) For the purpose of this part—

"(1) The term 'child care facility' means a facility of a public or private profit or nonprofit agency or organization, licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located), for the provision of child care programs.

"(2) The terms 'mortgage', 'mortgagor', 'mortgagee', 'maturity date', and 'State' shall have the meanings respectively set forth in section 207 of the National Housing Act.

"(c) The Secretary of Health, Education, and Welfare is authorized to insure any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

"(d) In order to carry out the purpose of this section, the Secretary of Health, Education, and Welfare is authorized to insure any mortgage which covers a new child care facility, including equipment to be used in its operation, subject to the following conditions:

"(1) The mortgage shall be executed by a mortgagor, approved by the Secretary of Health, Education, and Welfare, who demonstrate ability successfully to operate one of more child care programs. The Secretary of Health, Education, and Welfare may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary of Health, Education, and Welfare may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Child Care Facility Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary of Health, Education, and Welfare under the insurance.

"(2) The mortgage shall involve a principal obligation in an amount not to exceed $250,000 and not to exceed 90 per centum of the estimated replacement cost of the property or project, including equipment to be used in the operation of the child care facility, when the proposed improvements are completed and the equipment is installed.

"(3) The mortgage shall—

"(A) provide for complete amortization by periodic payments within such term as the Secretary of Health, Education, and Welfare shall prescribe, and

"(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at any time as the Secretary of Health, Education, and Welfare finds necessary to meet the mortgage market.

"(4) The Secretary of Health, Education, and Welfare shall not insure any mortgage under this section unless he has determined that the child care facility to be covered by the mortgage will be in compliance with the Uniform Minimum Code for Facilities approved by the Secretary pursuant to section 535.

"(5) The Secretary of Health, Education, and Welfare shall not insure any mortgage under this section unless he has also received from the prime sponsor designated under part A of this title comments concerning the consistency of the facility with the prime sponsor's comprehensive child care plan.

"(6) In the plans for such child care facility, due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

"(e) The Secretary of Health, Education, and Welfare shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Child Care Facility Insurance Fund (established by subsection (h)) issued at par plus accrued interest. In the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any one time, without taking into account delinquent payments or prepayments. In addition to the premium charge herein provided for, the Secretary of Health, Education, and Welfare is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during construction; but such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

"(f) The Secretary of Health, Education, and Welfare may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

"(g)(1) The Secretary of Health, Education, and Welfare shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgages under title II of the National Housing Act.

"(2) The provisions of subsections (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 of the National Housing Act shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Child Care Facility Insurance Fund, and all references in such provisions to 'Secretary' shall be deemed to refer to the Secretary of Health, Education, and Welfare.

"(h)(1) There is hereby created a Child Care Facility Insurance Fund which shall be used by the Secretary of Health, Education, and Welfare as a revolving fund for carrying out all the insurance provisions of this section. All mortgages insured under this section shall be insured under and be the obligation of the Child Care Facility Insurance Fund.

"(2) The general expenses of the operations of the Department of Health, Education, and Welfare relating to mortgages insured under this section may be charged to the Child Care Facility Insurance Fund.

"(3) Moneys in the Child Care Facility Insurance Fund not needed for the current operations of the Department of Health, Education, and Welfare with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such Fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Secretary of Health, Education, and Welfare may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Child Care Facility Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

"(4) Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary of Health, Education, and Welfare in connection therewith, and all earnings on the assets of the Fund, shall be credited to the Child Care Facility Insurance Fund. The principal or, and interest paid and to be paid on, debentures which are the obligation of such Fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages insured under this section, shall be charged to such Fund.

"(5) In order to provide initial capital for the Child Care Facility Insurance Fund and to assure the soundness of such Fund thereafter, there are authorized to be appropriated such sums as may be necessary, in addition to any amounts which may be made available by the Secretary pursuant to section 503(a)(2) of this title.

"PART D—FEDERAL GOVERNMENT CHILD CARE PROGRAMS

"PROGRAM AUTHORIZED

"SEC. 546. (a) The Secretary is authorized to provide financial assistance for the purpose of establishing and operating child care programs (including the lease, rental, or construction of necessary facilities and the acquisition of necessary equipment and supplies) for the children of employees of the Federal Government.

"(b) Employees of any Federal agency or group of such agencies employing eighty or more working parents of young children who desire to participate in a program under this part shall—

"(1) designate or create for the purpose an agency child care committee, the membership of which shall be broadly representative of the working parents employed by the agency or agencies; and

"(2) submit to the Secretary a plan approved by the official in charge of such agency or agenices, which—

"(A) provides that the child care program shall be administered under the direction of the agency child care committee;

"(B) provides that the program will meet the Federal Standards for Child Care Services promulgated under section 534 of this title;

"(C) provides a means of determining priority of eligibility among parents wishing to use the services of the program;

"(D) provides for a scale of fees based upon the parents' financial status; and

"(E) provides for competent management, staffing, and facilities for such program.

"(c) The Secretary shall not make payments under this section unless he has received approval of the plan from the official in charge of the agency whose employees will be served by the child care program.

"PAYMENTS

"SEC. 547. (a) Not more than 80 per centum of the total cost of child care programs under this part shall be paid from Federal funds available under this title.

"(b) The share of the total cost not available under paragraph (a) may be provided through public or private funds and may be in the form of cash, goods, services, or facilities (or portions thereof that are used for program purposes), reasonably evaluated, fees collected from parents, or union or employer contributions.

"(c) If, in any fiscal year, a program under this part provides non-Federal contributions exceeding its requirements under this section, such excess may be used to meet the requirements for such contributions for the succeeding fiscal year.

"(d) In providing financial assistance under this part, the Secretary shall, insofar as feasible, distribute funds among the States according to the same ratio as the number of Federal employees in that State bears to the total number of Federal employees in the United States.

"PART E—RESEARCH AND DEMONSTRATION

"DECLARATION OF PURPOSES

"SEC. 551. The purposes of this part are to focus national research efforts to attain a fuller understanding of the processes of child development and the effects of organized programs upon these processes; to develop effective programs for research into child development; and to assure that the result of research and development efforts are reflected in the conduct of programs affecting children through the improvement and expansion of child care and related programs.

"RESEARCH AND DEMONSTRATION PROJECTS

"SEC. 552. (a) In order to further the purposes of this part, the Secretary shall carry out a program of research and demonstration projects, which shall include but not be limited to—

"(1) research to determine the nature of child development processes and the impact of various influences upon them, to develop techniques to measure and evaluate child development, to develop standards to evaluate professional and paraprofessional child care personnel, and to determine how child care and related programs conducted in either home or institutional settings affect child development processes;

"(2) research to test alternative methods of providing child care and related services, and to develop and test innovative approaches to achieve maximum development of children;

"(3) evaluation of research findings and the development of these findings and the effective application thereof;

"(4) dissemination and application of research and development efforts and demonstration projects to child care and related programs and early childhood education, using regional demonstration centers and advisory services where feasible;

"(5) production of informational systems and other resources necessary to support the activities authorized by this part; and

"(6) integration of national child development research efforts into a focused national research program, including the coordination of research and development conducted by other agencies, organizations, and individuals.

"(b) In order to carry out the program provided for in subsection (a), the Secretary is authorized to make grants to or enter into contracts or other arrangements with public or private nonprofit agencies (including other Government agencies), organizations, and institutions, and to enter into contracts with private agencies, organizations, institutions, and individuals.

"COORDINATION OF RESEARCH

"SEC. 553. (a) Funds available to any Federal department or agency for the purposes stated in section 551 or the activities stated in section 552(a) shall be available for transfer, with the approval of the head of the department or agency involved, in whole or in part, to the Secretary for such use as is consistent with the purposes for which such funds were provided, and the funds so transferred shall be expendable by the Secretary for the purposes for which the transfer was made.

"(b) The Secretary shall coordinate, through the Office of Child Development established under section 572 of this title, all child development research, training, and development efforts conducted within the Department of Health, Education, and Welfare and, to the extent feasible, by other agencies, organizations, and individuals.

"(c) A Child Care and Development Research Council, consisting of a representative of the Office of Child Development established under section 572 of this title (who shall serve as chairman), and representatives from the Federal agencies administering the Social Security Act and the Elementary and Secondary Education Act of 1965 and from the National Institute of Mental Health, the National Institute of Child Health and Human Development, the Office of Economic Opportunity, the Department of Labor, and other appropriate agencies, shall meet at least annually and at such more frequent times as they may deem necessary, in order to assure coordination of child care and development and related activities under their respective jurisdictions and to carry out the provisions of this part so as to assure—

"(1) maximum utilization of available resources through the prevention of duplication of activities;

"(2) a division of labor, insofar as is compatible with the purposes of each of the agencies or authorities specified in this paragraph, to assure maximum progress toward the achievement of the purposes of this part; and

"(3) recommendation of priorities for federally funded research and development activities related to the purposes of this part and those stated in section 501.

"ANNUAL REPORT

"SEC. 554. The Secretary shall make an annual report to Congress summarizing his activities and accomplishments during the preceding year under this part; the grants, contracts, or other arrangements entered into during the preceding year under this part, and making such recommendations as he may deem appropriate.

"PART F—GENERAL PROVISIONS

"DEFINITIONS

"SEC. 571. As used in this title, the term—

"(1) 'Secretary' means the Secretary of Health, Education, and Welfare;

"(2) 'State' means the several States and the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(3) 'child care programs' means programs provided on a full-day or part-day basis which provide the educational, nutritional, social, medical, phychological, and physical services needed for children to attain their full potential;

"(4) 'children' means individuals who have not attained the age of fifteen;

"(5) 'economically disadvantaged children' means any children of a family having an annual income below the lower living standard budget (adjusted for regional and metropolitan, urban, and rural differences, and family size), as determined annually by the Bureau of Labor Statistics of the Department of Labor;

"(6) 'handicapped children' includes mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children or children with specific learning disabilities who by reason thereof require special education and related services;

"(7) 'program' includes, but is not limited to, any program, service, or activity, which is conducted full or part time, in child care facilities, in schools, in neighborhood centers, or in homes, and includes child care services for children whose parents are working or receiving education or training;

"(8) 'parent' means any person who has day-to-day parental responsibility for any child;

"(9) 'single parent' means any person who has sole day-to-day responsibility for any child;

"(10) 'working mother' means any mother who requires child care services in order to undertake or continue full- or part-time work training, or education outside her home;

'(11) 'minority group' includes, but is not limited to, persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, or Oriental, and, as determined by the Secretary, children who are from environments in which a dominant language is other than English and who, as a result of language barriers, do not have an equal educational opportunity, and, for the purpose of this paragraph, Spanish-surnamed Americans include persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry;

"(12) 'bilingual' includes, but is not limited to, persons who are Spanish-surnamed, American Indian, Oriental, Portuguese, or others who have learned during childhood to speak the language of the minority group of which they are members and who, as a result of language barriers, do not have an equal educational opportunity;

"(13) 'local educational agency' means any such agency as defined in section 801(f) of the Elementary and Secondary Education Act of 1965;

"(14) 'institution of higher education' means any such institution as defined in section 1201(a) of the Higher Education Act of 1965.

"OFFICE OF CHILD DEVELOPMENT

"SEC. 572. The Secretary shall take all necessary action to coordinate child care programs under his jurisdiction. To this end, he shall establish within the Department of Health, Education, and Welfare an Office of Child Development, administered by a Director, which shall be the principal agency of the Department for the administration of this title and for the coordination of programs and other activities relating to child care.

"NUTRITION SERVICES

"SEC. 573. In accordance with the purposes of this title, the Secretary of Health, Education, and Welfare shall establish procedures to assure that adequate nutrition services will be provided in child care programs under this title. Such services shall make use of the Special Food Service Program for children as defined under section 13 of the National School Lunch Act of 1946 and the Child Nutrition Act of 1966, to the fullest extent appropriate and consistent with the provisions of such Acts.

"SPECIAL PROVISIONS

"SEC. 574. (a) The Secretary may make such grants, contracts, or agreements, establish such procedures, policies, rules, and regulations, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this title, as he may deem necessary to carry out the provisions of this title, including necessary adjustments in payments on account of overpayments or underpayments. Subject to the provisions of section 575, the Secretary may also withhold funds otherwise payable under this title in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this title or any term or condition of assistance under this title.

"(b) The Secretary shall prescribe regulations to assure that programs under this title have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

"(c) The Secretary shall not provide financial assistance for any program, service, or activity under this title unless he determines that persons employed thereunder, other than persons who serve without compensation, shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 206), if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar occupations by the same employer.

"(d) The Secretary shall not provide financial assistance for any program under this title which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be engaged, in any way or to any extent, in the conduct of political activities in contravention of section 603 of this Act.

"(e) The Secretary shall not provide financial assistance for any program under this title unless he determines that no funds will be used for and no person will be employed under the program on the construction of so much of any facility as is for use for sectarian instruction or as a place for religious worship or on the operation or maintenance of any facility other than in connection with the use of such facility for child care programs.

"(f) A child participating in a program assisted under this title shall not be required to undergo medical or psychological examination (except to the extent related to learning ability), immunization (except to the extent necessary to protect the public from epidemics of contagious diseases), or treatment, if his parent or guardian objects thereto in writing on religious grounds.

"WITHHOLDING OF GRANTS

"Sec. 575. Whenever the Secretary, after reasonable notice and opportunity for a hearing for any prime sponsor or project applicant, finds—

"(1) that there has been a failure to comply substantially with any requirement set forth in the plan of any such prime sponsor approved under section 516; or

"(2) that there has been a failure to comply substantially with any requirement set forth in the application of any such project applicant approved pursuant to section 517; or

"(3) that in the operation of any program or project carried out by any such prime sponsor or project applicant under this title there is a failure to comply substantially with any applicable provision of this title or regulation promulgated thereunder;

the Secretary shall notify such prime sponsor or project applicant of his findings and that no further payment may be made to such sponsor or applicant under this title (or in his discretion that any such prime sponsor shall not make further payments under this title to specified project applicants affected by the failure) until he is satisfied that there is no longer any such failure to comply, or the noncompliance will be promptly corrected. The Secretary may authorize the continuation of payments with respect to any project assisted under this title which is being carried out pursuant to such plan or application and which is not involved in the noncompliance.

"ADVANCE FUNDING

"Sec. 576. (a) For the purpose of affording adequate notice of funding available under this title, such funding for grants, contracts, or other payments under this title is authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year for which they are available for obligation.

"(b) In order to effect a transition to the advance funding method of timing appropriation action, subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

"PUBLIC INFORMATION

"Sec. 577. Applications for designation as prime sponsors, comprehensive child care plans, project applications, and all written material pertaining thereto shall be made readily available without charge to the public by the prime sponsor, the applicant, and the Secretary.

"FEDERAL CONTROL NOT AUTHORIZED

"Sec. 578. No department, agency, officer, or employee of the United States shall, under authority of this title, exercise any direction, supervision, or control over, or impose any requirements or conditions with respect to, the personnel, curriculum, methods of instruction, or administration of any educational institution.

"NONDISCRIMINATION PROVISIONS

"Sec. 579. (a) The Secretary shall not provide financial assistance for any program under this title unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

"(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this title. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if on the ground of sex that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any program or activity receiving assistance under this title.

"LIMITATION ON RESEARCH AND EXPERIMENTATION

"Sec. 580. The Secretary is directed to establish appropriate procedures to ensure that no child shall be the subject of any research or experimentation under this title other than routine testing and normal program evaluation unless the parent or guardian of such child is informed of such research or experimentation and is given an opportunity as of right to except such child therefrom.

"PARENTAL RESPONSIBILITY

"Sec. 581. Nothing in this title shall be construed or applied in such manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, or physical development of their children. Nor shall any section of this title be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal remedies for any such invasion which are otherwise provided by law."

(b) In order to achieve, to the greatest degree feasible, the consolidation and coordination of programs providing child care services, while assuring continuity of existing programs during transition to the programs authorized under this title, the Economic Opportunity Act of 1964 is amended, effective July 1, 1974, as follows:

(1) Section 222(a)(1) of such Act is repealed.

(2) Section 162(b) of such Act is amended by inserting after "day care for children" the following: "(wherever feasible, through child care programs under title V of this Act)".

(3) Section 123(a)(6) of such Act is amended by inserting after "day care for children" the following: "(wherever feasible, through child care programs under title V of this Act)".

(4) Section 312(b)(1) of such Act is amended by inserting after "day care for children" the following: "(wherever feasible, through child care programs under title V of this Act)".

(c) The Director of the Office of Economic Opportunity and the Secretary of Health, Education, and Welfare shall take all necessary steps to coordinate programs under their jurisdictions which provide day care, with a view to establishing, insofar as possible, a common set of program standards and regulations, and mechanisms for coordination at the State and local levels.

(d) (1) Section 203(j)(1) of the Federal Property and Administrative Services Act of 1949 is amended by striking out "or civil defense" and inserting in lieu thereof "civil defense, or the operation of child care facilities".

(2) Section 203(j)(3) of such Act is amended—

(A) by striking out, in the first sentence, "or public health" and inserting in lieu thereof "public health, or the operation of child care facilities",

(B) by inserting after "handicapped," in clause (A) and clause (B) of the first sentence the following: "child care facilities,", and

(C) by inserting after "public health purposes" in the second sentence the following: ", or for the operation of child care facilities,".

(3) Section 203(j) of such Act is amended by adding at the end thereof the following new paragraph:

"(8) The term 'child care facility' means any such facility as defined in 541(b)(1) of the Economic Opportunity Act of 1964."

COMMUNITY ECONOMIC DEVELOPMENT

Sec. 16. (a) The Economic Opportunity Act is amended by inserting immediately after title VI the following new title:

"TITLE VII—COMMUNITY ECONOMIC DEVELOPMENT

"STATEMENT OF PURPOSE

"Sec. 701. The purpose of this title is to encourage the development of special programs by which the residents of urban and rural low-income areas may, through self-help and mobilization of the community at large, with appropriate Federal assistance, improve the quality of their economic and social participation in community life in such a way as to contribute to the elimination of poverty and the establishment of permanent economic and social benefits.

"Part A—Special Impact Programs

"STATEMENT OF PURPOSE

"Sec. 711. The purpose of this part is to establish special programs of assistance to private locally initiated community corporations and related nonprofit agencies, including cooperatives, or organizations conducting activities which (1) are directed to the solution of the critical problems existing in particular communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) within those urban and rural areas having concentrations or substantial numbers of low-income persons; (2) are of sufficient size, scope, and duration to have an appreciable impact in such communities, neighborhoods, and rural areas in arresting tendencies toward dependency, chronic unemployment, and community deterioration, and (3) hold forth the prospect of continuing to have such impact after the termination of financial assistance under this title.

"ESTABLISHMENT OF PROGRAMS

"SEC. 712. (a) The Director is authorized to provide financial assistance to community development corporations and to cooperatives and other nonprofit agencies in conjunction with qualifying community development corporations for the payment of all or part of the costs of programs which are designed to carry out the purposes of this part. Such programs shall be restricted in number so that each is of sufficient size, scope, and duration to have an appreciable impact on the area served. Such programs may include—

"(1) economic and business development programs, including programs which provide financial and other assistance (including equity capital) to start, expand, or locate businesses in or near the areas served so as to provide employment and ownership opportunities for residents of such areas, and programs including those described in title IV of this Act for small businesses in or owned by residents of such areas;

"(2) community development and housing activities which create new training, employment, and ownership opportunities and which contribute to an improved living environment; and

"(3) manpower training programs for unemployed or low-income persons which support and complement economic, business, housing, and community development programs, including without limitation activities such as those described in part B of title I of this Act.

"(b) The Director shall conduct programs assisted under this part so as to contribute, on an equitable basis between urban and rural areas, to the elimination of poverty and the establishment of permanent economic and social benefits in such areas.

"REQUIREMENTS FOR FINANCIAL ASSISTANCE

"SEC. 713. (a) The Director, under such regulations as he may establish, shall not provide financial assistance for any program or component project under this part unless he determines that—

"(1) such community development corporation is responsive to residents of the area under guidelines established by the Director;

"(2) all projects and related facilities will, to the maximum feasible extent, be located in the area served;

"(3) projects will, where feasible, promote the development of entrepreneurial and management skills and the ownership or participation in ownership of assisted businesses and housing, cooperatively or otherwise, by residents of the area served;

"(4) projects will be planned and carried out with the maximum participation of local businessmen and financial institutions and organizations by their inclusion on program boards of directors, advisory councils, or through other appropriate means;

"(5) the program will be appropriately coordinated with local planning under this Act, the Demonstration Cities and Metropolitan Development Act of 1966, and with other relevant planning for physical and human resources of the areas served;

"(6) the requirements of subsections 122 (e) and 124(a) of this Act have been met;

"(7) preference will be given to low income or economically disadvantaged residents of the areas served in filing jobs and training opportunities; and

"(8) training programs carried out in connection with projects financed under this part shall be designed wherever feasible to provide those persons who successfully complete such training with skills which are also in demand in communities, neighborhoods, or rural areas, other than those for which programs are established under this part.

"(b) Financial assistance under this section shall not be extended to assist in the relocation of establishments from one location to another if such relocation would result in an increase in unemployment in the area of original location.

"(c) The level of financial assistance for related purposes under this Act to the area served by a special impact program shall not be diminished in order to substitute funds authorized by this part.

"APPLICATION OF OTHER FEDERAL RESOURCES

"SEC. 714. (a) SMALL BUSINESS ADMINISTRATION PROGRAMS.—

"(1) Funds granted under this part which are invested, directly or indirectly, in a small business investment company or a local development company shall be included as 'private paid-in capital and paid-in surplus,' 'combined paid-in capital and paid-in surplus,' and 'paid-in capital' for purposes of sections 302, 303, and 502, respectively, of the Small Business Investment Act of 1958.

"(2) Within ninety days of the enactment of the Economic Opportunity Amendments of 1971, the Administrator of the Small Business Administration, after consultation with the Director, shall prescribe such regulations as may be necessary and appropriate to insure the availability to community development corporations of such programs as shall further the purposes of this part.

"(b) ECONOMIC DEVELOPMENT ADMINISTRATION PROGRAMS.—

"(1) Areas selected for assistance under this part shall be deemed 'redevelopment areas' within the meaning of section 401 of the Public Works and Economic Development Act of 1965, and shall qualify for assistance under the provisions of title I and title II of that Act and shall be deemed to fulfill the overall economic development planning requirements of section 202(b)(10) thereof.

"(2) Within ninety days of the enactment of the Economic Opportunity Amendments of 1971, the Secretary of Commerce, after consultation with the Director, shall prescribe such regulations as may be necessary and appropriate to insure the availability to community development corporations of such programs as shall further the purposes of this part.

"(c) PROGRAMS OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—The Secretary of Housing and Urban Development, after consultation with the Director shall take all necessary steps (1) to assure that community development corporations assisted under this part or their subsidiaries, shall qualify as sponsors under section 106 of the Housing and Urban Development Act of 1968, and sections 221, 235, and 236 of the National Housing Act of 1949; (2) to assure that land for housing and business location and expansion is made available under title I of the Housing Act of 1949 as may be necessary to carry out the purposes of this part; and (3) to assure that funds are available under section 701(b) of the Housing Act of 1954 to community development corporations assisted under this part.

"(d) COORDINATION AND COOPERATION.—The Director shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, so that contracts, subcontracts, and deposits made by the Federal Government or in connection with programs aided with Federal funds are placed in such a way as to further the purposes of this part.

"(e) REPORTING ON OTHER FEDERAL RESOURCES.—On or before six months after the date of enactment of the Economic Opportunity Amendments of 1971, and annually thereafter, the Director shall submit to the Congress a detailed report setting forth a description of all Federal agency programs which he finds relevant to achieving the purposes of this part and the extent to which such programs have been made available to community development corporations receiving financial assistance under this part including specifically the availability and effectiveness of programs referred to in subsections (a), (b), and (c) of this section. Where appropriate, the report required under this subsection also shall contain recommendations for the more effective utilization of Federal agency programs for carrying out the purposes of this part.

"FEDERAL SHARE

"SEC. 715. Federal grants to any program carried out pursuant to this part, including grants used by community development corporations for capital investments, shall (1) not exceed 90 per centum of the cost of such program including costs of administration unless the Director determines that assistance in excess of such percentage is required in furtherance of the purposes of this part, and (2) be made available for deposit to the grantee, under conditions which the Director deems appropriate, within thirty days following approval by the Director and the local community development corporation of the grant agreement. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services. Capital investments made with funds granted as a result of the Federal share of the costs of programs carried out under this part, and the proceeds from such capital investments, shall not be considered Federal property.

"PART B—RURAL PROGRAMS

"STATEMENT OF PURPOSE

"SEC. 721. It is the purpose of this part to meet the special economic needs of rural communities or areas with concentrations or substantial numbers of low-income persons by providing support to self-help programs which promote economic development and independence. Such programs should encourage low-income families to pool their talents and resources so as to create and expand rural economic enterprise.

"FINANCIAL ASSISTANCE

"SEC. 722. (a) The Director is authorized to provide financial assistance, including loans having a maximum maturity of 15 years and in amounts not resulting in an aggregate principal indebtedness of more than $3,500 at any one time, to any low-income rural family where, in the judgment of the Director, such financial assistance has a reasonable possibility of effecting a permanent increase in the income of such families, or will contribute to the improvement of their living or housing conditions, by assisting or permitting them to—

"(1) acquire or improve real estate or reduce encumbrances or erect improvements thereon;

"(2) operate or improve the operation of farms not larger than family sized, including but not limited to the purchase of feed, seed, fertilizer, livestock, poultry, and equipment; or

"(3) participate in cooperative associations, or to finance nonagricultural enterprises which will enable such families to supplement their income.

"(b) The Director is authorized to provide financial assistance to local cooperative associations in rural areas containing concentrations or substantial numbers of low-income persons for the purpose of defraying all or part of the costs of establishing and operating cooperative programs for farming, purchasing, marketing, processing, and to improve their income as producers and their purchasing power as consumers, and to provide such essentials as credit and health services. Costs which may be defrayed shall include but not be limited to—

"(1) administrative costs of staff and overhead;

"(2) costs of planning and developing new enterprises;

"(3) costs of acquiring technical assistance; and

"(4) initial capital where it is determined by the Director that the poverty of the families participating in the program and the social conditions of the rural area require such assistance.

"LIMITATIONS ON ASSISTANCE

"SEC. 723. (a) No financial assistance shall be provided under this part unless the Director determines that—

"(1) any cooperative association receiving assistance has a minimum of fifteen active members, a majority of which are low-income rural persons;

"(2) adequate technical assistance is made available and committed to the programs being supported;

"(3) such financial assistance will materially further the purposes of this part; and

"(4) the applicant is fulfilling or will fulfill a need for services, supplies, or facilities which is otherwise not being met.

"(b) The level of financial assistance for related purposes under this Act to the area served by a program under this part shall not be diminished in order to substitute funds authorized by this part.

"PART C—SUPPORT PROGRAMS

"TRAINING AND TECHNICAL ASSISTANCE

"SEC. 731. (a) The Director shall provide directly or through grants, contracts, or other arrangements such technical assistance and training of personnel as may be required to effectively implement the purposes of this title. No financial assistance shall be provided to any public or private organization under this section unless the Director provides the beneficiaries of these services with opportunity to participate in the selection of and to review the quality and utility of the services furnished them by such organization.

"(b) Technical assistance to community development corporations and both urban and rural cooperatives may include planning, management, legal, preparation of feasibility studies, product development, marketing, and the provision of stipends to encourage skilled professionals to engage in full-time activities under the direction of a community organization financially assisted under this title.

"(c) Training for employees of community development corporations and for employees and members of urban and rural cooperatives shall include, but not be limited to, on-the-job training, classroom instruction, and scholarships to assist them in development, managerial, entrepreneurial, planning, and other technical and organizational skills which will contribute to the effectiveness of programs assisted under this title.

"DEVELOPMENT LOAN FUND

"SEC. 732. (a) The Director is authorized to make or guarantee loans (either directly or in cooperation with banks or other organizations through agreements to participate on an immediate or deferred basis) to community development corporations and to cooperatives eligible for financial assistance under section 712 of this title, to families under section 722(a), and to local cooperatives eligible for financial assistance under section 722(b) for business, housing, and community development projects who the Director determines will carry out the purposes of this title. No loans, guarantees, or other financial assistance shall be provided under this section unless the Director determines that—

"(1) there is reasonable assurance of repayment of the loan;

"(2) a loan is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs; and

"(3) the amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made. Loans made by the Director pursuant to this section shall bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus such additional charge, if any, toward covering other costs of the program as the Director may determine to be consistent with its purposes except that, for the five years following the date on which funds are initially available to the borrower, the rate of interest shall be set at a rate considered appropriate by the Director in light of the particular needs of the borrower, which rate shall not be lower than 1 per centum. All such loans shall be repayable within a period of not more than thirty years.

"(b) The Director is authorized to adjust interest rates, grant moratoriums on repayment of principal and interest, collect or compromise any obligations held by him, and to take such other actions in respect to such loans as he shall determine to be necessary or appropriate, consistent with the purposes of this section.

"(c)(1) To carry out the lending and guaranty functions authorized under this part, there shall be established a Development Loan Fund consisting of two separate accounts, one of which shall be a revolving fund called the Rural Development Loan Fund and the other of which shall be a revolving fund called the Community Development Loan Fund. The capital of each such revolving fund shall remain available until expended.

"(2) The Rural Development Loan Fund shall consist of (A) repayments of principal and interest and other receipts from the lending and guaranty operations of such revolving fund and the revolving fund previously established under section 306 of this Act, the assets and liabilities of which shall be transferred to the Rural Development Loan Fund, effective July 1, 1972, and (B) such amounts as may be deposited in such Fund by the Director out of funds made available from appropriations for the purposes of carrying out this title.

"(3) The Community Development Loan Fund shall consist of (A) repayments of principal and interest and other receipts from the lending and guaranty operations of such revolving fund, and (B) such amounts as may be deposited in such fund by the Director out of funds made available from appropriations for the purpose of carrying out this title. The Secretary may make deposits in the Community Development Loan Fund in any fiscal year in which he has made available for grants to community development corporations not less than $60,000,000 out of funds made available from appropriations for the purpose of carrying out this title.

"EVALUATION AND RESEARCH

"SEC. 733. (a) Each program for which grants are made under this title shall provide for a thorough evaluation of the effectiveness of the program in achieving its purposes, which evaluation shall be conducted by such public or private organizations as the Director may designate, and all or part of the costs of evaluation may be paid from funds appropriated to carry out this part. The results of such evaluations, together with the Director's findings and recommendations concerning the program, shall be included in the report required by section 608 of this Act.

"(b) The Director shall conduct, either directly or through grants or other arrangements, research designed to suggest new programs and policies to achieve the purposes of this title in such ways as to provide opportunities for employment, ownership, and a better quality of life for low-income residents. The Director shall particularly investigate the feasibility and most appropriate manner of establishing development banks and similar institutions and shall report to the Congress on his research findings and recommendations not later than June 30, 1973.

"PART D—GENERAL

"PROGRAM DURATION AND AUTHORITY

"SEC. 741. The Director shall carry out programs provided for in this title during the fiscal year ending June 30, 1972, and for the two succeeding fiscal years. For each fiscal year only such sums may be appropriated as the Congress may authorize by law."

(b) Part D of title I of the Economic Opportunity Act of 1964 is repealed.

(c) Effective after June 30, 1972, part A of title III of the Economic Opportunity Act of 1964 is repealed.

LEGAL SERVICES PROGRAM AND EVALUATION OF PROGRAMS

SEC. 17. (a) The Economic Opportunity Act of 1964 is amended by adding at the end thereof the following new titles:

"TITLE IX—NATIONAL LEGAL SERVICES CORPORATION

"DECLARATION OF POLICY

"SEC. 901. The Congress hereby finds and declares that—

"(1) it is in the public interest to provide greater access to attorneys and appropriate institutions for the orderly resolution of grievances and as a means of securing orderly change, responsiveness, and reform;

"(2) many low-income persons are unable to afford the cost of legal services or of access to appropriate institutions;

"(3) access to legal services and appropriate institutions for all citizens of the United States not only is a matter of private and local concern, but also is of appropriate and important concern to the Federal Government;

"(4) the integrity of the attorney-client relationship and of the adversary system of justice in the United States require that there be no political interference with the provision and performance of legal services;

"(5) existing legal services programs have provided economical, effective, and comprehensive legal services to the client community so as to bring about a peaceful resolution of grievances through resort to orderly means of change; and

"(6) a private nonprofit corporation should be created to encourage the availability of legal services and legal institutions to all citizens of the United States, free from extraneous interference and control.

"ESTABLISHMENT OF CORPORATION

"SEC. 902. (a) There is established a nonprofit corporation, to be known as the 'National Legal Services Corporation' (hereinafter referred to as the 'Corporation') which shall not be an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this title, and, to the extent consistent with this title, to the District of Columbia Nonprofit Corporation Act. The right to repeal, alter, or amend this title is expressly reserved.

"(b) No part of the net earnings of the Corporation shall inure to the benefit of any private person, and it shall be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code.

"PROCESS OF INCORPORATION AND ORGANIZATION

"SEC. 903. (a) There shall be a transition period of six months following the date of enactment of the Economic Opportunity Amendments of 1972 for the process of incorporation and initial organization of the Corporation.

"(b) There is established an incorporating trusteeship composed of the following persons or their designees: the president of the American Bar Association, the president of the National Legal Aid and Defender Association, the president of the Association of

American Law Schools, the president of the American Trial Lawyers Association, and the president of the National Bar Association. The incorporating trusteeship shall meet within thirty days after the enactment of the Economic Opportunity Amendments of 1972 to carry out the provisions of this section.

"(c) (1) Not later than sixty days after the enactment of the Economic Opportunity Amendments of 1972, the incorporating trusteeship, after consulting with and receiving the recommendations of national organizations of persons eligible for assistance under this title, shall establish the initial Clients Advisory Council to be composed of eleven members selected, in accordance with procedures established by the incorporating trusteeship, from among individuals eligible for assistance under this title.

"(2) Not later than sixty days after the enactment of the Economic Opportunity Amendments of 1972, the incorporating trusteeship, after consulting with and receiving the recommendations of associations of attorneys actively engaged in conducting legal services programs, shall establish the initial Project Attorneys Advisory Council to be composed of eleven members selected in accordance with procedures established by the incorporating trusteeship, from among attorneys who are actively engaged in providing legal services under any existing legal services program.

"(3) To assist in carrying out the provisions of this subsection, the Director of the Office of Economic Opportunity shall compile a list of all legal services programs publicly funded during the fiscal year ending June 30, 1972, and the subsequent fiscal year and furnish such list to the incorporating trusteeship. In order to carry out the provisions of this subsection, the Director of the Office of Economic Opportunity shall make available to the incorporating trusteeship such administrative services and financial and other resources as it may require.

"(d) Not later than ninety days after the enactment of the Economic Opportunity Amendments of 1972, all lists required to be submitted as provided in section 904(a) for persons to serve on the initial board of directors shall be submitted to the President.

"(e) During the ninety-day period of incorporation of the Corporation the incorporating trusteeship shall take whatever actions are necessary to incorporate the Corporation, including the filing of articles of incorporation under the District of Columbia Nonprofit Corporation Act, and to prepare for the first meeting of the board of directors, except the selection of the executive director of the Corporation.

"(f) During the ninety-day period immediately following the period specified in subsection (e) of this section the board shall take whatever action is necessary to prepare to begin to carry out the activities of the Corporation six months after the enactment of the Economic Opportunity Amendments of 1972.

"DIRECTORS AND OFFICERS

"SEC. 904. (a) The Corporation shall have a board of directors consisting of seventeen individuals appointed by the President, by and with the consent of the Senate, one of whom shall be elected annually by the board to serve as chairman. Members of the board shall be appointed as follows:

"(1) Six members shall be appointed from among individuals in the general public, not less than three of whom shall be members of the bar of the highest court of a State.

"(2) Two members shall be appointed from lists of nominees submitted by the Judicial Conference of the United States.

"(3) Two members shall be appointed from among individuals who are eligible for assistance under this title from lists of nominees submitted by the Clients Advisory Council.

"(4) Two members shall be appointed from among former legal services project attorneys from lists of nominees submitted by the Project Attorneys Advisory Council.

"(5) Five members shall be appointed as follows—

"(A) one member from lists of nominees submitted by the American Bar Association;

"(B) one member from lists of nominees submitted by the Association of American Law Schools;

"(C) one member from lists of nominees submitted by the National Bar Association;

"(D) one member from lists of nominees submitted by the National Legal Aid and Defender Association; and

"(E) one member from lists of nominees submitted by the American Trial Lawyers Association. Each initial list and any subsequent list shall include at least three and not more than ten names for each position to be filled.

"(b) The directors appointed under subsection (a) shall be appointed for terms of three years except that—

"(1) the terms of the directors first taking office shall be effective on the ninety-first day after the enactment of the Economic Opportunity Amendments of 1972;

"(2) the terms of the directors first taking office shall expire, as designated by the President at the time of appointment, as follows—

"(A) in the case of directors appointed under paragraph (1) of section 904(a), two at the end of three years, two at the end of two years, and two at the end of one year;

"(B) in the case of directors appointed under paragraph (2) of section 904(a), one at the end of two years, and one at the end of one year;

"(C) in the case of directors appointed under paragraph (3) of section 904(a), one at the end of three years and one at the end of one year;

"(D) in the case of directors appointed under paragraph (4) of section 904(a), one at the end of three years and one at the end of two years; and

"(E) in the case of directors appointed under paragraph (5) of section 904(a), (i) the term of the director appointed under clause (A) shall expire at the end of three years, (ii) the term of the director appointed under clause (B) shall expire at the end of three years, (iii) the term of the director appointed under clause (C) shall expire at the end of two years, (iv) the term of the director appointed under clause (D) shall expire at the end of one year, and (v) the term of the director appointed under clause (E) shall expire at the end of one year; and

"(3) any director appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(c) The Corporation shall have an executive director, who shall be an attorney, and such other officers, as may be named and appointed by the board of directors at rates of compensation fixed by the board, who shall serve at the pleasure of the board. No individual shall serve as executive director of the Corporation for a period in excess of six years. The executive director shall serve as a member of the board ex officio and shall serve without a vote.

"(d) No political test or qualification shall be used in selecting, appointing, or promoting any officer, attorney, or employee of the Corporation. No officers or employees of the Corporation shall receive any salary from any source other than the Corporation during the period of employment by the Corporation.

"(e) All meetings of the board, executive committee of the board, and advisory councils shall, whenever appropriate, be open to the public, and proper notice of such meetings shall be provided to interested parties and the public a reasonable time prior to such meetings.

"(f) No member of the board may participate in any decision, action, or recommendation with respect to any matter which directly benefits that member or any firm or organization with which that member is then currently associated.

"(g) Any board after the initial board shall, in consultation with the respective advisory councils, provide for rules with respect to the subsequent meetings of the Clients Advisory Council and the Project Attorneys Advisory Council.

"ADVISORY COUNCILS; EXECUTIVE COMMITTEE

"SEC. 905. (a) The board, after consulting with and receiving the recommendations of national organizations of persons eligible for assistance under this title, shall provide for the selection of a Clients Advisory Council subsequent to the first such council established under section 903(c)(1) of this title to be composed of not more than eleven members selected in accordance with procedures established by the board, including terms of office, qualifications, and method of selection and appointment, from among individuals who are eligible for assistance under this title. Such procedures must insure that all areas of the country and significant segments of the client population are represented, and in no event may more than one representative on such council be from any one State. The Clients Advisory Council shall advise the board of directors and the executive director on policy matters relating to the needs of the client community and may act as liaison between the client community and legal services programs through such activities as it deems appropriate, including informational programs in languages other than English. The Clients Advisory Council shall submit the lists of individuals for appointment as members of the board in accordance with section 904(a).

"(b) The board, after consulting with and receiving the recommendations of associations of attorneys actively engaged in conducting legal services programs, shall provide for the selection of a Project Attorneys Advisory Council subsequent to the first such council established under section 903(c)(2) of this title to be composed of not more than eleven members selected in accordance with procedures established by the board, including terms of office, qualifications, and method of selection and appointment, from among attorneys who are actively engaged in providing legal services under this title. Such procedures must ensure that all areas of the country are represented, and in no event may more than one representative on such council be from any one State. The Project Attorneys Advisory Council shall advise the board of directors and the executive director on policy matters relating to the furnishing of legal services to members of the client community. The Project Attorneys Advisory Council shall submit the lists of individuals for appointment as members of the board in accordance with section 904(a).

"(c) The board shall provide for sufficient resources for each Advisory Council in order to pay such reasonable travel costs and expenses as the board may determine.

"(d) The board may establish an executive committee of not less than five members nor more than seven members which shall include the chairman of the board, at least one director appointed pursuant to paragraph (1) of section 904(a), one director appointed pursuant to paragraph (3) or (4) of section 904(a), and one director appointed pursuant to paragraph (5) of section 904.

"ACTIVITIES AND POWERS OF THE CORPORATION

"SEC. 906. (a) Effective six months after the enactment of the Economic Opportunity Amendments of 1972, in order to carry out the purposes of this title, the Corporation is authorized to—

"(1) provide financial assistance to qualified programs furnishing legal services to members of the client community;

"(2) provide financial assistance to pay the costs of contracts or other agreements made pursuant to section 903 of this title;

"(3) carry out research, training, technical assistance, experimental, legal paraprofessional and clinical assistance programs;

"(4) through financial assistance and other means, increase opportunities for legal education among individuals who are members of a minority group or who are economically disadvantaged;

"(5) provide for the collection and dissemination of information designed to coordinate and evaluate the effectiveness of the activities and programs for legal services in various parts of the country;

"(6) offer advice and assistance to all programs providing legal services and legal assistance to the client community conducted or assisted by the Federal Government including—

"(A) reviewing all grants and contracts for the provision of legal services to the client community made under other provisions of Federal law by any agency of the Federal Government and making recommendations to the appropriate Federal agency;

"(B) reviewing and making recommendations to the President and Congress concerning any proposal whether by legislation or executive action, to establish a federally assisted program for the provision of legal services to the client community; and

"(C) upon request of the President, providing training, technical assistance, monitoring and evaluation services to any federally assisted legal services program;

"(7) establish such procedures and take such other measures as may be necessary to assure that attorneys employed by the Corporation and attorneys paid in whole or in part from funds provided by the Corporation carry out the same duties to their clients and enjoy the same protection from interference as if such an attorney was hired directly by the client, and to assure that such attorneys adhere to the same Code of Professional Responsibility and Canons of Ethics of the American Bar Association as are applicable to other attorneys;

"(8) establish standards of eligibility for the provision of legal services to be rendered by any grantee or contractee of the Corporation with special provision for priority for members of the client community whose means are least adequate to obtain private legal services;

"(9) establish policies consistent with the best standards of the legal profession to assure the integrity, effectiveness, and professional quality of the attorneys providing legal services under this title; and

"(10) carry on such other activities as would further the purposes of this title.

"(b) In the performance of the functions set forth in subsection (a), the Corporation is authorized to—

"(1) make grants, enter into contracts, leases, cooperative agreements, or other transactions, in accordance with bylaws established by the board of directors appropriate to conduct the activities of the Corporation;

"(2) accept unconditional gifts or donations of services, money, or property, real, personal, or mixed. tangible or intangible, and use, sell, or otherwise dispose of such property for the purpose of carrying out its activities;

"(3) appoint such attorneys and other professional and clerical personnel as may be required and fix their compensation in accordance with the provision of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule rates;

"(4) promulgate regulations containing criteria specifying the manner of approval of applications for grants based upon the following considerations—

"(A) the most economical, effective, and comprehensive delivery of legal services to the client community in both urban and rural areas;

"(B) peaceful resolution of grievances and resort to orderly means of seeking change; and

"(C) maximum utilization of the expertise and facilities of organizations presently specializing in the delivery of legal services to the client community;

"(5) establish and maintain a law library;

"(6) establish procedures for the conduct of legal services programs assisted by the Corporation containing a requirement that the applicant will give assurances that the program will be supervised by a policymaking board on which the members of the legal profession constitute a majority (except that the Corporation may grant waivers of this requirement in the case of a legal services program which, upon the date of enactment of the Economic Opportunity Amendments of 1972, has a majority of persons who are not lawyers on its policymaking board) and members of the client community constitute at least one-third of the members of such board.

"(c) In any case in which services, otherwise authorized, are performed for the Federal Government by the Corporation, the Corporation shall be reimbursed for the cost of such services pursuant to an agreement between the executive director of the Corporation and the head of the agency of the Federal Government concerned.

"(d) The Corporation shall ensure that attorneys employed full time in programs funded by the Corporation refrain from any outside practice of law unless permitted as pro bono publico activity pursuant to guidelines established by the Corporation.

"(e) The Corporation shall insure (1) that all attorneys who are not representing a client or group of clients refrain, while engaged in activities carried on by legal services programs funded by the Corporation, from undertaking to influence the passage or defeat of any legislation by the Congress or State or local legislative bodies by representations to such bodies, their members, or committees, unless such bodies, their members, or their committees request that the attorney make representation to them, and (2) that no funds provided by the Corporation shall be utilized for any activity which is planned and carried out to disrupt the orderly conduct of business by the Congress or State or local legislative bodies, for any demonstration, rally, or picketing aimed at the family or home of a member of a legislative body for the purpose of influencing his actions as a member of that body, and for conducting any campaign of advertising carried on through the commerical media for the purpose of influencing the passage or defeat of legislation.

"(f) The Corporation shall insure that no attorneys or other persons employed by it or employed or engaged in programs funded by the Corporation shall, in any case, solicit the client community or any member of the client community for professional employment; and no funds of the Corporation shall be expanded in pursuance of any employment which results from any such solicitation. For the purpose of this subsection, solicitation does not include mere announcement or advertisement, without more, of the fact that the National Legal Services Corporation is in existence and that its services are available to the client community, and does not include any conduct or activity which is permissible under the Code of Professional Responsibility and Canons of Ethics of the American Bar Association governing solicitation and advertising.

"(g) The Corporation shall establish guidelines for consideration of possible appeals to be implemented by each grantee or contractee of the Corporation to insure the efficient utilization of resources. Such guidelines shall in no way interfere with the attorney's responsibilities and obligations under the Canons of Professional Ethics and the Code of Professional Responsibility.

"(h) At a reasonable time prior to the Corporation's approval of any grant or contract application, the Corporation shall notify the State bar association of the State in which the recipient will offer legal services. Notification shall include a reasonable description of the grant or contract application.

"(i) No funds or personnel made available by the Corporation pursuant to this title shall be used to provide legal services with respect to any criminal proceeding.

"NONPROFIT AND NONPOLITICAL NATURE OF THE CORPORATION

"SEC. 907. (a) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

"(b) No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as reasonable compensation for services.

"(c) The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

"(d) The Corporation shall insure that all employees of legal services programs assisted by the Corporation, while engaged in activities carried on by legal services programs, refrain (1) from any partisan or nonpartisan political activity associated with a candidate of public or party office, and (2) from any voter registration activity other than legal representation or any activity to provide voters or prospective voters with transportation to the polls. Employees of the Corporation or of programs assisted by the Corporation shall not at any time identify the Corporation or the program assisted by the Corporation with any partisan or nonpartisan political activity associated with a candidate for public or party office. The Board of Directors of the Corporation shall set appropriate guidelines for the private political activities of full-time employees of the Corporation or of programs assisted by the Corporation.

"ACCESS TO RECORDS AND DOCUMENTS RELATED TO THE CORPORATION

"SEC. 908. (a) Copies of all records and documents pertinent to each grant and contract made by the Corporation shall be maintained in the principal office of the Corporation in a place readily accessible and open to public inspection during ordinary working hours for a period of at least five years subsequent to the making of such grant or contract.

"(b) Copies of all reports pertinent to the evaluation, inspection, or monitoring of grantees and contractees shall be maintained for a period of at least three years in the principal office of the Corporation subsequent to such evaluation, inspection, or monitoring visit. Upon request, the substance of such reports shall be furnished to the grantee or contractee who is the subject of the evaluation, inspection, or monitoring visit.

"(c) The Corporation shall afford notice and reasonable opportunity for comment to interested parties prior to issuing regulations and guidelines, and it shall publish in the Federal Register on a timely basis all its bylaws, regulations, and guidelines.

"(d) The Corporation shall be subject to the provisions of the Freedom of Information Act.

"FINANCING OF THE CORPORATION

"SEC. 909. In addition to any funds reserved and made available for payment to the Corporation from appropriations for carrying out the Economic Opportunity Act of 1964 for any fiscal year, there are further authorized to be appropriated for payment to the Corporation such sums as may be necessary for any fiscal year. Funds made available to the Corporation from appropriations for any fiscal year shall remain available until expended.

"RECORDS AND AUDIT OF THE CORPORATION AND THE RECIPIENTS OF ASSISTANCE

"SEC. 910. (a) The accounts of the Corporation shall be audited annually in accordance with generally accepted auditing standards by any independent licensed public accountant certified or licensed by a regulatory authority of a State or political subdivision. Each such audit shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person conducting the audit, consistent with the necessity of maintaining the confidentiality required by the best standards of the legal profession, and full facilities for verifying transactions with the balance, or securities held by depositories fiscal agents, and custodians shall be afforded to any such person. The report of each such independent audit shall be included in the annual report required under this title. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the assets and liabilities, and surplus or deficit of the Corporation, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the income and expenses of the Corporation during the year, and a statement of the sources and application of funds, together with the opinion of the independent auditor of those statements.

"(b)(1) The accounts and operations of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited annually by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States, consistent with the necessity of maintaining the confidentiality required by the best standards of the legal profession. Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representative of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or used by the Corporation pertaining to its accounts and operations, including the reports pertinent to the evaluation, inspection, or monitoring of grantees and contractors required to be maintained by section 908(b) and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Corporation shall remain in the possession and custody of the Corporation.

"(2) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform the Congress of the operations and conditions of the Corporation, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other transaction or undertaking observed in the course of the audit, which in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the executive director and to each member of the board at the time submitted to the Congress.

"(c)(1) Each grantee or contractee, other than a recipient of a fixed price contract awarded pursuant to competitive bidding procedures, under this title shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Corporation or any of its duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers and records of the recipient that are pertinent to assistance received under this title. The Comptroller General of the United States, or any of his duly authorized representatives shall also have access thereto for such purpose during any fiscal year for which Federal funds are available to the Corporation.

"REPORTS TO CONGRESS

"SEC. 911. The Corporation shall prepare an annual report for transmittal to the President and the Congress on or before the 30th day of January of each year, summarizing the activities of the Corporation and making such recommendations as it may deem appropriate. This report shall include finding and recommendations concerning the preservation of the attorney-client relationships and adherence to the Code of Professional Responsibility of the American Bar Association in the conduct of programs supported by the Corporation. The report shall include a comprehensive and detailed report of the operations, activities, financial condition, and accomplishments of the Corporation, together with the additional views and recommendations, if any, of members of the board.

"DEFINITIONS

"SEC. 912. As used in this title, the term—

"(1) 'State' means the several States and the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(2) 'Corporation' means the National Legal Services Corporation established pursuant to this title;

"(3) 'client community' means individuals unable to obtain private legal counsel because of inadequate financial means;

"(4) 'member of the client community' includes any person unable to obtain private legal counsel because of inadequate financial means;

"(5) 'legal services' includes legal advice, legal representation, legal research, education concerning legal rights and responsibilities, and similar activities (including, in areas where a significant portion of the client community speaks a language other than English as the predominant language, or is bilingual, services to those members of the client community in the appropriate language other than English);

"(6) 'legal profession' refers to that body composed of all persons admitted to practice before the highest court of at least one State of the United States; and

"(7) 'nonprofit', as applied to any foundation, corporation, or association means a foundation, corporation, or association, no part of the net earnings of which inures, or may lawfully inure to the benefit of any private shareholder or individual.

"PROHIBITION ON FEDERAL CONTROL

"SEC. 913. Nothing contained in this title shall be deemed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the Corporation or any of its grantees or contractees or employees, or over the charter or bylaws of the Corporation, or over the attorneys providing legal services pursuant to this title, or over the members of the client community receiving legal services pursuant to this title.

"SPECIAL LIMITATIONS

"SEC. 914. The board shall prescribe procedures to ensure that—

"(1) financial assistance shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations, unless the grantee or contractee has been given reasonable notice and opportunity to show cause why such action should not be taken; and

"(2) financial assistance shall not be terminated, an application for refunding shall not be denied, and an emergency suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee or contractee has been afforded reasonable notice and opportunity for a timely, full, and fair hearing.

"COORDINATION

"SEC. 915. The President may direct that particular support functions of the Federal Government, such as the General Services Administration, the Federal telecommunications system, and other facilities, be utilized by the Corporation or its grantees or contractees to the extent not inconsistent with other applicable law.

"TRANSFER MATTERS

"SEC. 916. (a) Notwithstanding any other provision of law, on and after such date as may be prescribed by the Director of the Office of Management and Budget, or six months after the enactmentof the Economic Opportunity Amendments of 1972, whichever is the earlier, all rights of the Office of Economic Opportunity to capital equipment in the possession of legal services programs assisted pursuant to sections 222(a)(3), 230, 232, or any other provision of the Economic Opportunity Act of 1964, shall become the property of the National Legal Services Corporation.

"(b) Effective six months after the date of enactment of the Economic Opportunity Amendments of 1972, all personnel, assets, liabilities, property, and records as determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Director under section 222(a)(3) of this Act shall be transferred to the Corporation. Personnel transferred (except personnel under schedule A of the excepted service) under this subsection shall be transferred in accordance with applicable laws and regulations, and shall not be reduced in classification or compensation for one year after such transfer. The Director shall take whatever action is necessary and reasonable to seek suitable employment for personnel who would otherwise be transferred pursuant to this subsection who do not wish to transfer to the Corporation.

"(c) Collective bargaining agreements in effect on the date of enactment of the Economic Opportunity Amendments of 1972 covering employees transferred pursuant to subsection (b) of this section shall continue to be recognized by the Corporation until altered or amended pursuant to law.

"TITLE X—EVALUATION

"COMPREHENSIVE EVALUATION OF PROGRAM

"SEC. 1001. (a) The Director shall provide for evaluations that describe and measure with appropriate means and to the extent feasible, the impact of programs, their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services and including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. He may, for these purposes, contract or make other arrangements for independent evaluations of those programs or individual projects.

"(b) The Director shall to the extent feasible develop and publish standards for evaluation of program effectiveness in achieving the objectives of this Act.

"(c) The Director may require community action agencies to provide independent evaluations.

"(d) Federal agencies administering programs related to this Act shall—

"(1) cooperate with the Director in the discharge of his responsibility to plan and conduct evaluations of such poverty-related programs as he judges appropriate to the fullest extent permitted by other applicable law; and

"(2) provide the Director with such statistical data, program reports, and other materials as they presently collect and compile on program operations, beneficiaries, and effectiveness.

"(e) In carrying out evaluations under this title, the Director shall, whenever possible, arrange to obtain the opinions of program participants about the strengths and weaknesses of the programs.

"(f) The Director may consult, when appropriate, with State agencies, in order to provide for jointly sponsored objective evaluation studies of programs on a State basis.

"(g) The Director shall publish summaries of the results of evaluative research and evaluations of program impact and effectiveness no later than sixty days after its completion.

"(h) The Director shall take necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

"(i) The Director shall publish summaries of the results of activities carried out pursuant to this title in the report required by section 608."

(b) (1) The Director of the Office of Economic Opportunity shall take such action as may be necessary, in cooperation with the executive director of the National Legal Services Corporation, to arrange for the orderly continuation by such corporation of financial assistance to legal services programs assisted pursuant to sections 222(a) (2), 230, 232, or any other provision of the Economic Opportunity Act of 1964. Whenever the Director of the Office of Economic Opportunity determines that an obligation to provide financial assistance pursuant to any contract or grant agreement for such legal services will extend beyond six months after the date of enactment of this Act, he shall include in any such contract or agreement provisions to assure that the obligation to provide such financial assistance may be assumed by the National Legal Services Corporation, subject to such modifications of the terms and conditions of that contract or grant agreement as the Corporation determines to be necessary.

(2) Effective six months after the date of enactment of this Act, section 222(a) (3) of the Economic Opportunity Act of 1964 is repealed.

(3) Notwithstanding any other provision of law, after the enactment of this Act but prior to the enactment of appropriations to carry out this title, the Director of the Office of Economic Opportunity shall, out of appropriations then available to him, make funds available to assist in meeting the organizational expenses of the National Legal Services Corporation and in carrying out its activities.

(4) Title VI of the Economic Opportunity Act of 1964 is amended by inserting after section 622 thereof the following new section:

"INDEPENDENCE OF NATIONAL LEGAL SERVICES CORPORATION

"SEC. 623. Nothing in this Act, except title IX, and no reference to this Act unless such reference refers to title IX, shall be construed to affect the powers and activities of the National Legal Services Corporation."

(c) (1) Subsection (a) of section 113, subsections (b) and (c) of section 132, section 154, section 233, and section 314(b) of the Economic Opportunity Act of 1964 are repealed.

(2) Section 632(2) of such Economic Opportunity Act of 1964 is amended by striking out "carry on a continuing evaluation of all activities under this Act, and".

(3) Sections 132 and 314 of such Act are each amended by striking out "(a)".

SPECIAL PROGRAMS AUTHORIZED

SEC. 18. Part B of title II of the Economic Opportunity Act of 1964 is amended by adding at the end thereof the following new sections:

"DESIGN AND PLANNING ASSISTANCE GRANTS

"SEC. 226. (a) The Director shall make grants or enter into contracts to provide financial assistance for the operating expenses of programs conducted by community-based design and planning organizations to provide technical assistance and professional architectural and related services relating to housing, neighborhood facilities, transportation and other aspects of community planning and development to persons and community organizations or groups not otherwise able to afford such assistance. Such programs shall be conducted with maximum use of the voluntary services of professional and community personnel. In providing assistance under this section, the Director shall afford priority to persons in urban or rural poverty areas with substandard housing, substandard public service facilities, and generally blighted conditions. Design and planning services to be provided by such organizations shall include—

"(1) comprehensive community or area planning and development;

"(2) specific projects for the priority planning and development needs of the community; and

"(3) educational programs directed to local residents emphasizing their role in the planning and development process in the community.

"(b) No assistance may be provided under this section unless such design and planning organization—

"(1) is a nonprofit organization located in the neighborhood or area to be served with a majority of the governing body of such organization comprised of residents of that neighborhood or area;

"(2) has as a primary function the goal of bringing about, through the involvement of the appropriate community action agency or otherwise, maximum possible participation of local residents, especially low-income residents, in the planning and decision-making regarding the development of their community; and

"(3) will carry out its design and planning services principally through the voluntary participation of professional and community personnel (including, where available, VISTA volunteers).

"(c) Design and planning organizations receiving assistance under this section shall not subcontract with any profitmaking organization or pay fees for architectural or other professional services.

"(d) The Director shall make whatever arrangements are necessary to continue pilot or demonstration projects of demonstrated effectiveness of the type described in this section receiving assistance under section 232 of this Act during the fiscal year ending June 30, 1971.

"YOUTH RECREATION AND SPORTS PROGRAM

"SEC. 227. (a) In order to provide to disadvantaged youth recreation and physical fitness instruction and competition with high-quality facilities and supervision and related educational and counseling services (including instruction concerning study practices, career opportunities, job responsibilities, health and nutrition, and drug abuse education) through regular association with college instructors and athletes and exposure to college and university campuses and other recreational facilities, the Director shall make grants or enter into contracts for the conduct of an annual youth recreation and sports program concentrated in the summer months and with continued activities throughout the year, so as to offer disadvantaged youth living in areas of rural and urban poverty and opportunity to receive such recreation and educational instruction, information, and services and to participate in such physical fitness programs and sports competitions.

"(b) No assistance may be provided under this section unless satisfactory assurances are received that not less than 90 per centum of the youths participating in each program to be assisted under this section are from families with incomes below the poverty level, as determined by the Director, and that such participating youths and other neighborhood residents, through the involvement of the appropriate community action agency or otherwise, will have maximum participation in program planning and operation.

"(c) Programs under this section shall be administered by the Director, through grants or contracts with any qualified organization of colleges and universities or such other qualified nonprofit organizations active in the field with access to appropriate recreational facilities as the Director shall determine in accordance with regulations which he shall prescribe. Each such grant or contract and subcontract with participating institutions of higher education or other qualified organizations active in the field shall contain provisions to assure that the program to be assisted will provide a non-Federal contribution (in cash or in-kind) of no less than 20 per centum of the direct costs necessary to carry out the program. Each such grant, contract, or subcontract shall include provisions for—

"(1) providing opportunities for disadvantaged youth to engage in competitive sports and receive sports skills and physical fitness instruction and education in good health and nutrition practices;

"(2) providing such youth with instruction and information regarding study practices, career opportunities, job responsibilities, and drug abuse;

"(3) carrying out continuing related activities throughout the year;

"(4) meeting the requirements of subsection (b) of this section;

"(5) enabling the contractor and institutions of higher education or other qualified organizations active in the field located conveniently to such areas of poverty and the students and personnel of such institutions or organizations active in the field to participate more fully in the community life and in solutions of community problems; and

"(6) serving metropolitan centers of the United States and rural areas, within the limits of program resources."

FUNCTIONS OF DIRECTOR

SEC. 19. Notwithstanding any other provision of law, unless enacted hereafter in limitation of the provisions of this section, no new transfers or delegations of programs administered by the Director of the Office of Economic Opportunity under titles II, III, VI, VII, and X of the Economic Opportunity Act of 1964, as amended, shall be made to the head of any other agency, during the fiscal year ending June 30, 1972, and the succeeding fiscal year.

PUERTO RICO

SEC. 20. (a) Notwithstanding any other provision of law, the Director of the Office of Economic Opportunity shall reserve, for the purpose of section 225(a) of the Economic Opportunity Act of 1964, not more than 4 per centum of the appropriated sums for the fiscal year ending June 30, 1972, for Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, according to their respective needs.

(b) Effective after June 30, 1972, section 225(a) of such Act is amended by striking out "Puerto Rico,".

(c) Effective after June 30, 1972, the first sentence of paragraph (1) of section 609 of such Act is amended by striking out the word "or" the second time it appears in such sentence and inserting in lieu thereof a comma and the following: "Puerto Rico, or".

TECHNICAL PROVISIONS

SEC. 21. (a) The application of the formula prescribed by section 225(a) of the Economic Opportunity Act of 1964 for the allotment of funds among the States may be waived by the Director to the extent he deems necessary to prevent hardship in the allotment of funds for programs under title II of such Act resulting from the discontinuance of the authorization for section 222(a)(1) of such title by this Act.

(b) The Director may extend assistance under sections 221 and 222(a) of the Economic Opportunity Act of 1964 to a community action agency or other agency which is in excess of the maximum prescribed in section 225(c) of such Act, if he determines, in accordance with such regulations as he shall prescribe, that the ability of such agency to provide its share of the program costs pursuant to such section 225(c) has been impaired by virtue of the discontinuance of the authorization for section 222(a)(1) of such Act to an extent which justifies such additional assistance.

AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

SEC. 22. (a) Section 611(a) of the Older Americans Act of 1965 (42 U.S.C. 3044(b)) is amended by adding at the end thereof the following new sentence: "The Director of ACTION may approve assistance in excess of 90 per centum of the cost of the development and operation of such projects if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this section."

(b) The amendment made by subsection (a) of this section shall be effective from the date of enactment of this section. In the case of any project with respect to which, prior to such date, a grant or contract has been made under such section or with respect to any project under the Foster Grandparent program in effect prior to September 17, 1969, contributions in cash or in kind from the Bureau of Indian Affairs, Department of the Interior, toward the cost of the project may be counted as part of the cost thereof which is met from non-Federal sources.

EXHIBIT 1

DECEMBER 17, 1971.

Hon. JOHN CONNALLY,
Secretary, Department of Treasury,
Washington, D.C.

DEAR SECRETARY CONNALLY: I would appreciate your aid in assessing the potential usage of the child care deduction from income taxes approved by Congress recently.

Would you please outline for me the effects—in terms of dollars saved—of this deduction for families in the categories listed on the enclosed sheet.

In assessing these individual situations, would you please indicate your assumptions about usage of the standard deductions vs. itemizing by taxpayers in the various income level groups?

If you have any questions, Ellen Hoffman of my staff will be glad to assist you. She can be reached on 225-8701.

I would appreciate receiving this information by the close of business on Thursday, December 30.

Thank you for your cooperation in this matter.

Sincerely,

WALTER F. MONDALE.

DEPARTMENT OF THE TREASURY,
Washington, D.C., January 25, 1972.

Hon. WALTER F. MONDALE,
U.S. Senate, Washington, D.C.

DEAR SENATOR MONDALE: Your letter of December 17, 1971 to Secretary Connally, requesting information as to the tax savings which will result from the child care deduction for families in various circumstances has been referred to this office for reply. A table is enclosed, based on the outline accompanying your letter, showing the amount of tax saving which would result from the child care deduction for the cases you described.

In computing the tax savings certain assumptions were made. It was assumed that each family had deductible expenses, exclusive of the child care deduction equal to 15 percent of its adjusted gross income, which is probably fairly typical. Thus lower income families would normally use the $1,300 minimum standard deduction and would benefit from this provision only if their child care expenses are rather substantial. It was also assumed that the families had no dependents other than children under 15. This assumption has only a marginal effect on the tax savings shown, except in the lower income classes where extra exemptions may make the family nontaxable. Some additional assumptions are contained in footnotes to the table.

I hope this information will be helpful to you.

Sincerely,

JOEL SEGALL,
Deputy Assistant Secretary.

TAX SAVING FROM THE CHILD CARE DEDUCTION BY INCOME CLASS, TYPE AND SIZE OF FAMILY, AND AMOUNT EXPENDED FOR CHILD CARE, UNDER REVENUE ACT OF 1971 [1]

Adjusted gross income [2]	Number of parents [3]	Number of children [4]	Child care expenditure [5]	Tax saving [6]
1. $4,000:				
A	2	1	$400	0
B	1	1	400	0
2. $5,000:				
A	2	1	500	0
B	1	1	500	0
C	2	2	1,000	63
3. $6,000:				
A	2	1	600	32
B	1	1	600	36
C	2	1	300	0
D	1	1	300	0
4. $7,000:				
A	2	1	700	77
B	1	1	700	83
5. $8,000:				
A	2	1	400	57
	2	1	1,600	264
B	1	1	400	57
	1	1	1,600	282
C	2	2	800	119
D	1	2	800	131
6. $10,000:				
A	2	1	500	95
B	1	1	500	110
C	2	1	1,000	190
	2	1	1,600	304
	2	1	2,400	453
D	1	1	1,000	220
	1	1	1,600	334
	1	1	2,400	486
7. $15,000:				
A	2	1	500	110
B	1	1	500	125
C	2	1	1,000	220
	2	1	1,600	352
	2	1	2,400	528
	2	1	3,600	759
D	1	1	1,000	250
	1	1	1,600	393
	1	1	2,400	577
	1	1	3,600	850
8. $18,000:				
A	2	1	600	150
	2	1	1,000	250
	2	1	1,600	384
B	2	2	1,000	229
	2	2	1,600	361
	2	2	3,200	713
C	1	2	1,000	270
	1	2	1,600	421
	1	2	3,200	818
D	2	3	2,400	528
	2	3	3,600	790
	2	3	4,800	1,018
E	1	3	2,400	605
	1	3	3,600	880
	1	3	4,800	1,151
9. $25,000:				
A	2	1	1,000	0
	2	1	1,600	0
	2	1	2,000	0
B	1	2	1,000	0
	1	2	1,600	0
	1	2	2,000	0
C	2	2	2,000	0
	2	2	3,600	28
	2	2	4,800	364
D	1	2	2,400	0
	1	2	3,600	32
	1	2	4,800	413
E	2	3	2,400	0
	2	3	3,600	28
	2	3	4,800	364
F	1	3	2,400	0
	1	3	3,600	32
	1	3	4,800	405

[1] Each family is assumed to have itemizable deductions equal to 15 percent of adjusted gross income, exclusive of the amount paid for child care. Thus they would normally use the $1,300 minimum standard deduction if their incomes were less than $8,667 and they had no child care expenses. The families with $6,000 or less adjusted gross income and no tax saving are cases where the child care deduction is not large enough to make it profitable to itemize. The 15-percent deduction is a standard deduction up to $13,333, above this level it represents itemized deductions other than child care.

[2] In most cases adjusted gross income will equal or closely approximate gross income.

[3] Where there are 2 parents, a joint return is assumed. In the case of a single parent, head of household treatment is assumed.

[4] In this table all children are assumed to be under 15. Therefore the total number of personal exemptions allowed is the sum of the number of parents and the number of children indicated.

[5] It is assumed that where child care expenditures exceed $200 a month for 1 child or $300 a month for 2 children a domestic servant is involved, so no cutback in allowable deduction occurs as a result of these limits on care outside the household.

[6] Above $18,000 adjusted gross income the deduction otherwise allowable is reduced by 50 percent of income in excess of this amount. Thus at the $25,000 level only child care expenses in excess of $3,500 are deductible.

Source: Office of the Secretary of the Treasury, Office of Tax Analysis.

EXHIBIT 2

STATEMENT OF PRINCIPLES

In rejecting the Comprehensive Child Development Act which Congress passed last year, the President rejected American children and their families. What is more, he established a double standard for poor children, whom he would condemn to custodial day care while he forces their parents to work under the guise of "welfare reform."

Nothing is more critical to the future of this country than that every child have the opportunity to fully develop his physical, intellectual, and social potential as a human being. This nation must be prepared to commit its resources to help families realize this potential in their children, when they seek such support outside the home.

We reject the President's contention in his veto message that public support for child development programs is not necessary, or that it would in some way destroy the family. On the contrary, as the President's own White House Conference on Children emphasized, such programs are urgently needed and, when properly developed, they will strengthen families.

The undersigned organizations are committed to certain principles which were embodied in the legislation which was passed by bipartisan majorities of both houses of Congress last year. We reaffirm those principles as follows:

1 that programs must be of high quality, comprehensive, and developmental, oriented to the needs of children and available to all children;

2 that parents must be directly involved in policy decisions affecting their own children;

3 that programs must be locally controlled and flexible enough to meet individual community needs;

4 that programs must be designed to include children with a variety of socioeconomic backgrounds;

5 that adequate protections must be provided to assure that the needs of minority group and economically disadvantaged children are met; and

6 that this nation must make a substantiol commitment of new public funds to begin to meet the compelling and immediate need for these services.

Amalgamated Clothing Workers.
AFL–CIO.
Americans for Democratic Action.
Americans for Indian Opportunity Action Council.
Black Child Development Institute.
Center for Community Change.
Child Welfare League of America.
Children's Foundation.
Common Cause.
Friends Committee on National Legislation.
Health and Welfare Council of the National Capital Area.
International Ladies Garment Workers Union.
Interstate Research Associates.
Leadership Conference on Civil Rights.
League of Women Voters.
National Board of the Young Women's Christian Association of the U.S.A.
National Council of Churches.
National Council of Jewish Women.
National Council of Negro Women.
National Council on Hunger and Malnutrition.
National Education Association.
National Urban Coalition.
National Urban League.
National Welfare Rights Organization.
United Auto Workers.
Thelma C. Adair, Coordination of Education Strategy, United Presbyterian Board of National Missions.
Mary Jane Patterson, United Presbyterian Church of the U.S.A., Washington Office.
Women's International League for Peace and Freedom.
Washington Research Project Action Council.

COMPREHENSIVE CHILD CARE

SEC. 15. (a) Title V of the Economic Opportunity Act of 1964 is amended to read as follows:

"TITLE V—CHILD CARE CENTERS AND SERVICES

"STATEMENT OF FINDINGS AND PURPOSE

'SEC. 501. (a) The Congress finds that—

"(1) child care programs must build upon the role of the family as the primary and most fundamental influence on the development of children and must be provided only to children whose parents or legal guardians request them;

"(2) many of the over three million children of preschool age living in poverty do not receive adequate health care, nutrition, and educational opportunities;

"(3) there are over five million preschool children and twenty million school-age children whose mothers are working full or part time but there are fewer than seven hundred thousand openings in licensed day care facilities to serve them:

"(4) comprehensive family-oriented child care programs, including a full range of health, education, and social services, can enhance the opportunity for children to attain their full potential;

"(5) children with special needs must receive full and special consideration in planning any child care programs with priority to preschool children with the greatest economic and social need;

"(6) while no mother should be forced to work outside the home as a condition for using child care programs, such programs are essential to many parents who undertake or continue full- or part-time employment, training, or education;

"(7) comprehensive child care programs not only provide a means of delivering a full range of essential services to children, but can also furnish meaningful employment opportunities for many individuals including older persons, parents, young persons, and volunteers from the community; and

"(8) it is essential that the planning and operation of such programs be undertaken as a partnership of parents, community, and State and local government with appropriate assistance from the Federal Government.

"(b) It is the purpose of this title (1) to provide child care centers and services of high quality to children whose parents request them, with priority for those children who need them most, (2) to recognize and build upon the experience and success gained through the Headstart program and other child care programs, (3) to provide quality child care services, with emphasis on programs for children of preschool age regardless of economic, social, and family background and full day care services for children of working mothers and single parent families, (4) to provide that decisions on the nature and funding of such programs be made at the local level with the full involvement of parents and other individuals and organizations interested in child care, and (5) to establish the legislative framework for comprehensive child care services.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 502. (a) For the purpose of carrying out this title, there is authorized to be appropriated $1,500,000,000 for the fiscal year ending June 30, 1974. Any amounts appropriated for such fiscal year which are not obligated at the end of such fiscal year may be obligated in the succeeding fiscal year.

"(b) For the purpose of providing training, technical assistance, planning, and such other activities as the Secretary deems necessary and appropriate to prepare for the implementation of this title, there is authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973.

"ALLOCATION OF FUNDS

"SEC. 503. (a) The amounts appropriated for carrying out this title for any fiscal year after June 30, 1973, shall be made available in the following manner:

"(1) $500,000,000 shall first be used for the purpose of providing assistance under parts A, B, and E of this title for child care programs focused upon young children from low-income families, giving priority to continued financial assistance for Headstart projects;

"(2) not to exceed 10 per centum of the remaining amounts so appropriated shall be used for the purpose of carrying out parts B, C, D, and E of this title, as the Secretary deems appropriate; and

"(3) the remainder of such amounts shall be used for the purpose of carrying out part A of this title.

"(b)(1) From the amounts available for carrying out comprehensive child care programs under part A of this title, the Secretary shall reserve the following:

"(A) not less than that proportion of the total amount available for carrying out such part A as is equivalent to that proportion which the total number of children of migrant agricultural workers bears to the total number of economically disadvantaged children in the United States, which shall be apportioned among programs serving children of migrant agricultural workers on an equitable basis, and to the extent practicable in proportion to the relative numbers of children served in each such program;

"(B) not less than that proportion of the total amount available for carrying out such part A as is equivalent to that proportion which the total number of children in Indian tribal organizations bears to the total number of economically disadvantaged children in the United States, which shall be apportioned among programs serving children in Indian tribal organizations on an equitable basis, and to the extent practicable in proportion to the relative numbers of children in each such program;

"(C) not less than 10 per centum of the total amount available for carrying out such part A, which shall be made available for the purposes of section 512(2)(H) of such part (relating to special activities for handicapped children);

"(D) not to exceed 5 per centum of the total amount available for carrying out such part A, which shall be made available under section 514(f)(3) of such part (relating to model programs).

"(2) The Secretary shall allocate the remainder of the amounts available for part A of this title (except for funds made available under pargaraphs (1) and (3) of this subsection) among the States, and within the States among local areas, so as to provide, to the extent practicable, for the geographical distribution of such remainder in such a manner that—

"(A) 50 per centum thereof shall be apportioned among the States, and within each such State among local areas, in proportion to the relative numbers of children through age five in each such State and local area, respectively; and

"(B) 50 per centum thereof shall be apportioned among the States, and within each such State among local areas, in proportion to the relative numbers of economically disadvantaged children of working mothers and single parents in each such State and local area, respectively.

For the purposes of clauses (A) and (B) of this pargaraph, there shall be excluded those children who are counted under clauses (A) and (B) of subsection (b)(1) of this section.

"(3) Not to exceed 5 per centum of the total funds allotted for use within a State pursuant to paragraph (2) shall be made available to enable States to carry out the provisions of section 513(a) of this title.

"(c) Any portion of any apportionment under subsection (b) for a fiscal year which the Secretary determines will not be required, for the period for which such apportionment is available, for carrying out programs under this part shall be available for reapportionment from time to time, on such dates during such period as the Secretary shall fix, to other States or local areas on an equitable basis, taking into account the original apportionments to the States and local areas. Any amount reapportioned to a State or local area under this subsection during a year shall be deemed part of its apportionment under subsection (b) for such year.

"(d) In determining the numbers of children for purposes of allocating and apportioning funds under this section, the Secretary shall use the most recent satisfactory data available to him.

"(e) As soon as practicable after funds are appropriated to carry out this title for any fiscal year, the Secretary shall publish in the Federal Register the allocations and apportionments required by this section.

"PART A—COMPREHENSIVE CHILD CARE PROGRAMS

"PROGRAMS ASSISTED

"SEC. 511. The Secretary of Health, Education, and Welfare shall provide financial assistance to prime sponsors and to other public and private agencies and ogranizations pursuant to plans and applications approved in accordance with the provisions of this part for the purpose of carrying out child care programs for children whose parents or legal guardians request them, including—

"(1) preschool programs providing full-day services and activities for children when there is no parent at home to provide care;

"(2) preschool programs providing part-day services and activities designed to prepare children for school in the years before they enter the elementary school grades;

"(3) in-home services and consultation to assist families with children of preschool age in providing for the healthy growth and development of each child's full potential;

"(4) day care programs providing services and activities (including recreation and tutoring programs) for school-age children at times when school is not in session and there is no parent at home to provide care, including after-school and, where necessary, before-school hours and during summer and other vacation periods;

"(5) parent and child centers, special programs for children with identified needs (including but not limited to handicapped children), and follow-through and other supplementary services and activities, involving the participation of parents.

"USES OF FUNDS

"SEC. 512. Funds available for this part may be used (in accordance with approved applications) for programs including the following services and activities:

"(1) planning and developing child care programs, including the operation of pilot programs to test the effectiveness of new concepts, programs, and delivery systems;

"(2) establishing, maintaining, and operating child care programs, which may include—

"(A) comprehensive health, nutritional, education, social, and other services to assist children in attaining their full potential and to prepare children for school;

"(B) full-day and part-day child care services (including after-school and summer programs), with appropriate health, nutritional, education, social, and other services;

"(C) food and nutritional services;

"(D) rental, lease or lease-purchase, mortgage amortization payments, remodeling, renovation, alteration, construction, or acquisition of facilities, including mobile facilities, and the acquisition of necessary equipment and supplies;

"(E) programs designed (i) to meet the special needs of minority group, Indian, and migrant children with particular emphasis on the needs of children from bilingual families for the development of skills in English and the other language spoken in the home, and (ii) to meet the needs of all children to understand the history and cultural backgrounds of minority groups which belong to their communities;

"(F) medical, dental, psychological, educational, and other appropriate diagnosis, identification, and treatment of visual, hearing, speech, nutritional, and other physical, mental, and emotional problems;

"(G) prenatal and other medical services to expectant mothers who cannot afford such services, designed to help reduce malnutrition, infant and maternal mortality, and the incidence of mental retardation and other handicapping conditions, and postpartum and other medical services (including family planning information) to such recent mothers;

"(H) incorporation within child care programs of special activities designed to identify and ameliorate physical, mental, and emotional handicaps and special learning disabilities and, where necessary because of the severity of such handicaps, establishing, maintaining, and operating separate child care programs designed primarily to meet the needs of handicapped children including emotionally disturbed children;

"(I) preservice and inservice education and other training designed to prepare professional and paraprofessional personnel and parents and other family members to provide child care and related services;

"(J) dissemination of information in the functional language of those to be served to assure that parents are well informed of child care programs available to them and may become directly involved in such programs;

"(K) sevices, including in-home services, and training in the fundamentals of child care, for parents, older family members, and others functioning in the capacity of parents, youth, and prospective parents;

"(L) programs designed to extend comprehensive prekindergarten early childhood education techniques and gains (particularly parent participation) into kindergarten and early primary grades (one through three), in cooperation with local educational agencies;

"(M) such other services and activities as the Secretary deems appropriate in furtherance of the purposes of this part; and

"(3) staff and other administrative expenses of Child Care Councils established and operated in accordance with this part.

"STATE PLAN

"SEC. 513. (a) The Secretary shall approve a plan submitted by any State which sets forth satisfactory provisions for establishing and maintaining a State Child Care Council which meets the requirements of section 515 and which sets forth provisions for carrying out activities under the supervision of such Council for the purposes of—

"(1) identifying child care goals and needs within the State;

"(2) assisting prime sponsors other than the State in the establishment of Child Care Councils and strengthening the capability of such Councils to effectively plan, supervise, coordinate, monitor, and evaluate child care programs;

"(3) providing for the cooperation and participation of State agencies providing child care and related services, including health, family planning, mental health, education, nutrition, and family, social, and rehabilitative services, in the development and implementation of the comprehensive child care plan of the State and where requested by any local prime sponsor;

"(4) encouraging the full utilization of resources and facilities for child care programs within the State;

"(5) disseminating the results of research on child care programs;

"(6) conducting programs for the exchange of personnel involved in child care programs within the State;

"(7) assisting public and private agencies and organizations in the acquisition or improvement of facilities for child care programs;

"(8) monitoring and evaluating federally-assisted child care programs and projects within the State;

"(9) assessing State and local licensing codes as they relate to child care programs within the State; and

"(10) developing information useful in reviewing prime sponsorship plans under section 514(g) and comprehensive child care plans under section 516(b)(3).

"(b) A State applying for designation as prime sponsor for geographical areas within the State which are not otherwise served by a local prime sponsor shall, in addition to the provisions required to be included in its prime sponsorship plan in accordance with section 514, set forth in its State plan adequate provisions—

"(1) for designating local program areas each of which shall serve a geographical area covered by (A) a unit of general local government, or (B) units of general local government serving a total population of not more than fifty thousand persons;

"(2) for establishing and maintaining with respect to each local program area a local policy council composed so that (A) not less than half of the members of each such council shall be parent members who shall be chosen initially by the parent member of Headstart policy committees where they exist, and at the earliest practicable time by the parent members of project policy committees established pursuant to section 517(a)(2) of this part, and (B) the remainder shall be public members appointed by the chief executive officers or the governing bodies, as appropriate, of the units of general local government within the local program area;

"(3) to assure that project applications shall be approved by the Child Care Council only if previously approved by the local policy council for the appropriate local program area;

"(4) to assure that contracts for the operation of programs through public or private agencies or organizations shall be entered into only if previously approved by the local policy council for the appropriate local program area; and

"(5) for the development and preparation with full participation and approval of the appropriate local policy council of that portion of the comprehensive child development plan to be submitted by the State which affects each local program area.

"PRIME SPONSORS OF CHILD CARE PROGRAMS

"SEC. 514. (a) In accordance with the provisions of this section, a State, unit or combination of units of general local government, Indian tribal organization, or public or private nonprofit agency or organization, meeting the requirements of this part may be designated by the Secretary as a prime sponsor for the purpose of entering into arrangements to carry out child care programs under this part, if the Secretary determines that any such applicant for prime sponsorship designation has the capability of effectively carrying out child care programs under this part and has submitted a satisfactory prime sponsorship plan which—

"(1) describes the prime sponsorship area to be served;

"(2) sets forth satisfactory provision for establishing and maintaining a Child Care Council which meets the requirements of section 515;

"(3) provides that such Council will be responsible for developing and preparing a comprehensive child care plan for each fiscal year and any modifications thereof;

"(4) sets forth arrangements under which such Council will be responsible for planning, supervising, conducting, coordinating, monitoring and evaluating child care programs in the prime sponsorship area;

"(5) in the case of an applicant which is a State or a unit or combination of units of general local government, provides for the operation of programs under this part through contracts with public or private agencies or organizations, including but not limited to community action agencies, single-purpose Headstart agencies, local public and private educational agencies and institutions, community development corporations, parent cooperatives, organizations of Indians, and employer and employee organizations, which will serve children in a community or neighborhood or other area possessing a commonality of interest; and

"(6) sets forth satisfactory provisions for coordination with educational agencies and providers of educational services;

"(7) provides assurances that such Council will, by contract or other arrangement with State, local, or other public or private nonprofit agencies or organizations, provide, where available—

"(A) child-related family, social, and rehabilitative services;

"(B) health (including family planning) and mental health services;

"(C) nutrition services; and

"(D) training of professional and paraprofessional personnel.

"(b) The Secretary shall approve a prime sponsorship plan submitted by a State if he determines that the plan so submitted meets the requirements of subsection (a) of this section and sets forth adequate arrangements for serving all geographical areas under its jurisdiction except for areas with respect to which local prime sponsors are designated under this section.

"(c)(1) The Secretary shall approve a prime sponsorship plan submitted by a unit of general local government which is (A) a city having a population of twenty-five thousand or more persons, or (B) a county or other unit of general local government having a population of twenty-five thousand or more persons (excluding the number of such persons included within the population of any city which is designated as a prime sponsor under clause (A) of this paragraph), if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child care programs in the area covered by such unit of general local government.

"(2) In the event that the area under the jurisdiction of a unit of general local government described in clause (A) or (B) of paragraph (1) of this subsection includes any common geographical area with that covered by another such unit of general local government, the Secretary shall designate to serve such area the unit of general local government which he determines has the capability of more effectively carrying out the purposes of this part with respect to such area and which has submitted a plan which meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child care programs in such area.

"(d) The Secretary shall approve a prime sponsorship plan submitted by a combination of units of general local government having a total population of twenty-five thousand or more persons (excluding the number of such persons included within the population of any city which is designated as a prime sponsor under clause (A) of subsection (c)(1)), if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child care programs in the area covered by the combination of such units of general local government.

"(e) The Secretary shall approve a prime sponsorship plan submitted by an Indian tribal organization if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child care programs in the area to be served.

"(f) The Secretary may approve a prime sponsorship plan submitted by a unit or combination of units of general local governments regardless of population size or by a public or private nonprofit agency, including but not limited to a community action agency, single-purpose Headstart agency, public or private educational agency or institution, community development corporation, parent cooperative, organization of migrant agricultural workers, organization of Indians, employer organization, labor union, or employee or labor-management organization, if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes provisions setting forth—

"(1) arrangements for serving children in a community or neighborhood or other urban or rural area possessing a commonality of interest in any area (A) with respect to which there is no prime sponsorship designation in effect, or (B) with respect to any portion of an area where a designated prime sponsor is found not to be satisfactorily implementing child care programs which adequately to meet the purposes of this part, or (C) for making available special services, in accordance with criteria established by the Secretary, designed to meet the needs of economically disadvantaged or preschool children or children of working mothers or single parents; or

"(2) arrangements for providing comprehensive child care programs on a year-round basis to children of migrant agricultural workers and their families; or

"(3) arrangements for carrying out model programs especially designed to be responsive to the needs of economically disadvantaged, minority group, bilingual, or preschool children.

"(g) The Governor shall be given not less than thirty nor more than sixty days to review applications for prime sponsorship designation submitted by any applicant other than the State, to offer recommendations to the applicant, and to submit comments to the Secretary.

"(h) A prime sponsorship plan submitted under this section may be disapproved or a prior designation of a prime sponsor may be withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided (1) written notice of intention to disapprove such plan, including a statement of the reasons therefor, (2) a reasonable time in which to submit corrective amendments to such plan or undertake other necessary corrective action, and (3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

"(i)(1) If any party is dissatisfied with the Secretary's final action under subsection (h) with respect to the disapproval of its plan submitted under this section or the withdrawal of its prime sponsorship designation, such party may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such party is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(j) When any unit or combination of units of general government or other prime sponsor is maintaining a pattern and practice of discrimination against minority group persons, the Secretary shall approve the application for prime sponsorship of an alternative unit of government or public or private nonprofit agency or organization in the area which will equitably serve minority and economically disadvantaged persons.

"(k) In the event that a State, a unit or combination of units of general local government, or an Indian tribal organization has not submitted a comprehensive child care plan under section 516 or the Secretary has not approved a plan so submitted, or where the Secretary has not designated or has withdrawn designation of prime sponsorship under this section, or where the needs of migrants, preschool-age children, or the children of working mothers or single parents, minority groups, or the economically disadvantaged are not being served, the Secretary may directly fund projects, including those in rural areas without regard to population, that he deems necessary in order to serve the children of the particular area.

"CHILD CARE COUNCILS

"SEC. 515. (a) Every State and other prime sponsor designated under section 514 shall establish and maintain a Child Care Council composed of not less than 10 members as follows—

"(1) not less than half of the members of such Council shall be parents of children served in child care programs under this part; and

"(2) the remaining members shall be appointed by the prime sponsor to represent the public, but (A) not less than half of such members shall be persons who are broadly representative of the general public, including government agencies, public and private agencies and organizations in such fields as economic opportunity, health, education, welfare, employment and training, business or financial organizations or institutions, labor unions, and employers, and (B) the remaining members, the number of which shall be either equal to or one less than the number of members appointed under clause (A), shall be persons who are particularly skilled by virtue of training or experience in child development, child health, child welfare, or other child care services, except that the Secretary may waive or reduce the requirement of this clause (B) to the extent that he determines, in accordance with regulations which he shall prescribe that such persons are not available to the area to be served.

At least one-third of the total membership of the Child Care Council shall be parents who are economically disadvantaged. Each Council shall select its own chairman.

"(b) In accordance with procedures which the Secretary shall establish pursuant to regulations, every State and other prime sponsor designated under section 514 shall provide, with respect to its Child Care Council—

"(1) in the case of the Child Care Council of a State, (A) that the parent members described in paragraph (1) of subsection (a) of this section shall be chosen by the parent members of local policy councils established pursuant to section 513 of this part, and (B) that the public members described in paragraph (2) of subsection (a) of this section shall be appointed by the Governor of the State;

"(2) in the case of the Child Care Council of a prime sponsor other than a State, (A) that the parent members described in paragraph (1) of subsection (a) of this section shall be chosen initially by the parent members of Headstart policy committees where they exist, and at the earliest practicable time by the parent members of project policy committees established pursuant to section 517(a)(2) of this part, and (B) that the public members described in paragraph (2) of subsection (a) of this section shall be appointed by the chief executive officer or the governing body, whichever is appropriate, of the prime sponsor;

"(3) for such terms of office and other policies and procedures of an organizational nature, including nomination and election procedures, as are appropriate in accordance with the purposes of this part;

"(4) that such Council shall have responsibility for approving basic goals, policies, actions, and procedures for the prime sponsor, and for planning, general supervision and oversight, overall coordination, personnel, budgeting, funding of projects, and monitoring and evaluation of projects each year according to criteria established by the Secretary; and

"(5) that such Council shall, upon its own initiative or upon request of a project applicant or any other party in interest, conduct public hearings before acting upon applications for financial assistance submitted by project applicants under this part.

"COMPREHENSIVE CHILD CARE PLANS

"Sec. 516. (a) Financial assistance under this part may be provided by the Secretary for any fiscal year to a State or other prime sponsor designated under section 514 only pursuant to a comprehensive child care plan which is submitted by such prime sponsor and approved by the Secretary in accordance with the provisions of this part. Any such plan shall set forth a comprehensive program for providing child care services in the prime sponsorship area which—

"(1) provides that programs or services under this title shall be provided only for children whose parents or legal guardiance request them;

"(2) identifies child care needs and goals within the area and describes the purposes for which the financial assistance will be used;

"(3) meets the needs of children in the prime sponsorship area, to the extent that available funds can be reasonably expected to have an effective impact, with priority to children who have not attained six years of age;

"(4) (A) provides that funds received under section 503(a)(1) will be used for child care programs and services focused upon young children from low-income families, giving priority to continued financial assistance for Headstart projects by reserving for such projects from such funds in any fiscal year an amount at least equal to the aggregate amount received by public or private agencies and organizations within the prime sponsorship area for programs during the fiscal year ending June 30, 1973, under section 222(a)(1) of the Economic Opportunity Act of 1964, and (B) provides that programs receiving funds under section 503(d) will give priority to providing services for economically disadvantaged children by reserving not less than 65 per centum of the cost of programs receiving such funds for the purpose of serving children of families having an annual income below the lower living standard budget as determined under paragraph (5) of section 571;

"(5) gives priority thereafter to providing child care programs and services to children of working mothers and single parents not covered under paragraph (4);

"(6) provides procedures for the approval of project applications submitted in accordance with section 517;

"(7) provides, in the case of a prime sponsor located within or adjacent to a metropolitan area, for coordination with other prime sponsors located within such metropolitan area, and arrangements for cooperative funding where appropriate, and particularly for such coordination where appropriate to meet the needs for child care services of children of parents working or participating in training or otherwise occupied during the day within a prime sponsorship area other than that in which they reside;

"(8) provides that, to the extent feasible, each program within the prime sponsorship area will include children from a range of socioeconomic backgrounds;

"(9) provides comprehensive services (A) to meet the special needs of minority group children and children of migrant agricultural workers with particular emphasis on the needs of children from bilingual families for development of skills in English and in the other language spoken in the home, and (B) to meet the needs of all children to understand the history and cultural background of minority groups which belong to the communities;

"(10) provides equitably for the child care needs of children from each minority group and significant segment of the economically disadvantaged residing within the area served;

"(11) provides, insofar as possible, for coordination of child care programs with other social programs (including but not limited to those relating to employment and manpower) so as to keep family units intact or in close proximity during the day;

"(12) provides for direct parent participation in the conduct, overall direction, and evaluation of programs;

"(13) includes to the extent feasible a career development plan for paraprofessional and professional training, education, and advancement on a career ladder;

"(14) provides that, insofar as possible, persons residing in communities being served by such projects will receive jobs, including in-home and part-time jobs and opportunities for training in programs under part B of this title, with special consideration for career opportunities for low-income persons;

"(15) provides for the regular and frequent dissemination of information in the functional language of those to be served, to assure that parents and interested persons in the community are fully informed of the activities of the Child Care Council and of delegate agencies;

"(16) assures that procedures and mechanisms for coordination have been developed in cooperation with agencies and organizations carrying out preschool programs and administrators of local educational agencies and nonpublic schools, at the local level, to provide continuity between programs for preschool and elementary school children and to coordinate programs conducted under this part and programs conducted pursuant to section 222(a)(2) of the Economic Opportunity Act of 1964 and the Elementary and Secondary Education Act of 1965;

"(17) establishes arrangements in the area served for the coordination of programs conducted under the auspices of or with the support of business or financial institutions or organizations, industry, labor, employee and labor-management organizations, and other community groups;

"(18) sets forth provisions describing any arrangements for the delegation, under the supervision of the Child Care Council, to public or private agencies, institutions, or organizations, of responsibilities for the delivery of programs, services, and activities for which financial assistance is provided under this part or for planning or evaluation services to be made available with respect to programs under this part;

"(19) contains plans for regularly conducting surveys and analyses of needs for child care programs in the prime sponsorship area and for submitting to the Secretary a comprehensive annual report and evaluation in such form and containing such information as the Secretary shall require by regulation;

"(20) provides that services for handicapped children, at both the State and local levels, will be used wherever available in programs approved under the plan;

"(21) provides assurances satisfactory to the Secretary that the non-Federal share requirements will be met;

"(22) provides for such fiscal control and funding accounting procedures as the Secretary may prescribe to assure proper disbursement of and accounting for Federal funds paid to the prime sponsor;

"(23) provides that special consideration will be given to project applications submitted by public and private nonprofit agencies and organizations with on-going programs; and

"(24) provides assurance that in developing plans for any facilities due consideration will be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

"(b) No comprehensive child care plan or modification thereof submitted by a prime sponsor under this section shall be approved by the Secretary unless he determines, in accordance with regulations which the Secretary shall prescribe, that—

"(1) each community action agency or single-purpose Headstart agency in the area to be served previously responsible for the administration of programs under this part or under section 222(a)(1) of the Economic Opportunity Act of 1964 has had an opportunity to submit comments to the prime sponsor and to the Secretary;

"(2) the local educational agency for the area to be served and other appropriate educational and training agencies and institutions have had an opportunity to submit comments to the prime sponsor and to the Secretary; and

"(3) in the case of a plan submitted by a prime sponsor other than the State, the State Child Care Council has had an opportunity to submit comments to the prime sponsor and to the Secretary.

"(c) A comprehensive child care plan submitted under this section may be disapproved or a prior approval withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided (1) written notice of intention to disapprove such plan, including a statement of the reasons therefor, (2) a reasonable time to submit corrective amendments to such plan or undertake other necessary corrective action, and (3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

"(d) In order to contribute to the effective administration of this title, the Secretary shall establish appropriate procedures to permit prime sponsors to submit jointly a single comprehensive child care plan for the areas served by such prime sponsors.

"PROJECT APPLICATIONS

"Sec. 517. (a) Financial assistance under this part may be provided to a project applicant for any fiscal year only pursuant to a project application which is submitted by a public or private agency and which provides—

"(1) that funds will be provided for carrying out any child care program under this part only to a qualified public or private agency or organization, including but not limited to a community action agency, single-purpose Headstart agency, public or private educational agency or institution, community development corporation, parent cooperative, organization of migrant agricultural workers, organization of Indians, private organization interested in child development, employer or business organization, labor union, or employee or labor-management organization;

"(2) for establishing and maintaining project policy committees composed of not less than 10 members as follows—

"(A) not less than half of the members of each such committee shall be parents of children served by such project, and

"(B) the remaining members of each such committee shall consist of (i) persons who are representative of the community and who are approved by the parent members, and (ii) one person who is particularly skilled by virtue of training or experience in child development, child health, child welfare, or other child care services, except that the Secretary may waive the requirement of this clause (ii) where he determines, in accordance with regulations which he shall prescribe, that such person is not available to the area to be served;

"(3) for direct participation of such project policy committees in the development and preparation of project applications under this part;

"(4) that adequate provision will be made for training and other administrative expenses of such project policy committees (including necessary expenses to enable low-income members to participate in council or committee meetings);

"(5) that project policy committees shall have responsibility for approving basic goals, policies, actions, and procedures for the project applicant, and for planning, overall conduct, personnel, budgeting, location of centers and facilities, and direction and evaluation of projects;

"(6) that programs assisted under this part will provide for such comprehensive health, nutritional, education, social, and other services, as are necessary for the full development of each participating child;

"(7) that adequate provision will be made for the regular and frequent dissemination of information in the functional language of those to be served, to assure that parents and interested persons are fully informed of project activities;

"(8) that with respect to child care services provided by programs assisted under this part—

"(A) no charge will be made with respect to any child who is a member of any family with an annual income equal to or less than $4,320 with appropriate adjustments in the case of families having more than two children, except to the extent that payment will be made by a third party (including a public agency); and

"(B) such charges as the Secretary may provide will be made with respect to any child of any other family, in accordance with an appropriate fee schedule established by him, based upon the ability of the family to pay, which payment may be made in whole or in part by a third party in behalf of such family, except that any such charges with respect to any family with an income of less than the lower living standard budget (as determined in accordance with paragraph (5) of section 571) shall not exceed the sum of (i) an amount equal to 10 per centum of any family income which exceeds the highest income level at which no charges would be made with respect to children of such family under subparagraph (A) but does not exceed 85 per centum of such lower living standard budget, and (ii) an amount equal to 15 per centum of any family income which exceeds 85 per centum of such lower living standard budget but does not exceed 100 per centum of such lower living standard budget, and if more than two children from the same family are participating, additional charges may be made not to exceed the sum of the amounts calculated in accordance with clauses (i) and (ii) with respect to each such additional child;

"(9) that children will in no case be excluded from the programs operated pursuant to this part because of their participation in nonpublic preschool or school programs or because of the intention of their parents to enroll them in nonpublic schools when they attain school age;

"(10) that programs will, to the extent appropriate, employ paraprofessional aides and volunteers, especially parents, older children, students, older persons, and persons preparing for careers in child care programs;

"(11) that no person will be denied employment in any program solely on the ground that he fails to meet State or local teacher certification standards;

"(12) that programs assisted under this part will provide for the utilization of personnel, including paraprofessional and volunteer personnel, adequate to meet the needs of each participating child;

"(13) that there are assurances satisfactory to the Secretary that the non-Federal share requirements will be met; and

"(14) that provision will be made for such fiscal control and fund accounting procedures as the Secretary shall prescribe to assure proper disbursement of and accounting for Federal funds.

"(b) A project application may be approved by a prime sponsor upon its determination that such application meets the requirements of this section and that the programs provided for therein will otherwise further the objectives and satisfy the appropriate provisions of the prime sponsor's comprehensive child care plan as approved pursuant to section 516.

"(c) A project application from a public or private nonprofit agency which is also a prime sponsor under section 513(f) shall be submitted directly to the Secretary, together with the comprehensive child care plan.

"(d) A prime sponsor may disapprove a project application only if it provides to the project applicant a written statement of the reasons therefor. Such project applicant may submit an appeal to the Secretary requesting the direct approval of such application or modification thereof. Any such appeal shall include such comments, including the project applicant's response to the prime sponsor's statement of reasons for disapproval, as the project applicant may deem appropriate or as the Secretary may require.

"(e) A project application submitted directly to the Secretary may be approved by the Secretary upon his determination that it meets the requirements of subsection (a) of this section.

"ADDITIONAL CONDITIONS FOR PROGRAMS INCLUDING CONSTRUCTION

"SEC. 518. (a) Applications for financial assistance for projects including construction may be approved only if the Secretary determines that construction of such facilities is essential to the provision of adequate child care services, and that rental, lease or lease-purchase, remodeling, or renovation of adequate facilities is not practicable.

"(b) If any facility assisted under this part shall cease to be used for the purposes for which it was constructed, the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds unless the Secretary determines in accordance with regulations that there is good cause for releasing the applicant or other owner from the obligation to do so. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

"(c) All laborers and mechanics employed by contractors or subcontractors on all construction, remodeling, renovation, or alteration projects assisted under this part shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"(d) In the case of loans for construction, the Secretary shall prescribe the interest rate and the period within which such loan shall be repaid, but such interest rates shall not be less than 3 per centum per annum and the period within which such loan is to be repaid shall not be more than twenty-five years.

"(e) The Federal assistance for construction may be in the form of grants or loans, provided that total Federal funds to be paid to other than public or private nonprofit agencies and organizations will not exceed 50 per centum of the construction cost, and will be in the form of loans. Repayment of loans shall, to the extent required by the Secretary, be returned to the prime sponsor from whose financial assistance the loan was made, or used for additional loans or grants under this title. Not more than 15 per centum of the total financial assistance provided to a prime sponsor under this part shall be used for construction of facilities with no more than 7½ per centum of such assistance usable for grants for construction.

"(f) In the case of a project for the construction of facilities and in the development of plans for such facilities due consideration shall be given to excellence of architecture and design and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

"USE OF PUBLIC FACILITIES FOR CHILD DEVELOPMENT PROGRAMS

"SEC. 519. (a) The Secretary, after consultation with other appropriate officials of the Federal Government, shall within eighteen months after enactment of this title report to the Congress with respect to the extent to which facilities owned or leased by Federal departments, agencies, and independent authorities could be made available to public and private nonprofit agencies and organizations, through appropriate arrangements, for use as facilities for child care programs under this title during times and periods when not utilized fully for their usual purposes, together with his recommendations (including recommendations for changes in legislation) or proposed actions for such use.

"(b) The Secretary may require, as a condition to the receipt of assistance under this part, that any prime sponsor under this part agree to conduct a review and provide the Secretary with a report as to the extent to which facilities owned or leased by such prime sponsor, or by other agencies in the prime sponsorship area, could be made available, through appropriate arrangements, for use as facilities for child care programs under this title during times and periods when not utilized fully for their usual purposes, together with the prime sponsor's proposed actions for such use.

"PAYMENTS

"SEC. 520. (a) In accordance with this section, the Secretary shall pay from the applicable allocation or apportionment under section 503 the Federal share of the costs of programs, services, and activities, in accordance with plans or applications which have been approved as provided in this part. In making such payment to any prime sponsor, the Secretary shall include in such costs an amount for staff and other administrative expenses for the Child Care Council not to exceed an amount which is reasonable when compared with such costs for other prime sponsors.

"(b)(1) Except as provided in paragraphs (2) and (3) of this subsection, the Secretary shall pay an amount not in excess of 90 per centum of the cost of carrying out programs, services, and activities under this part. The Secretary may, in accordance with such regulations as he shall prescribe, approve assistance in excess of such percentage if he determines that such action is required to provide adequately for the child care needs of economically disadvantaged children.

"(2) The Secretary shall pay an amount equal to 100 per centum of the costs of providing child care programs for children of migrant agricultural workers and their families under this part.

"(3) The Secretary shall pay an amount equal to 100 per centum of the costs of providing child care programs for children in Indian tribal organizations under this part.

"(c) The non-Federal share of the costs of programs assisted under this part may be provided through public or private funds and may be in the form of cash, goods, services, or facilities (or portions thereof that are used for program purposes), reasonably evaluated, or union or employer contributions. Fees collected for services provided pursuant to section 517(a)(8) shall not be used to make up the non-Federal share, but shall be used by the project applicant for the same purposes as payments under this section, except that, in the case of projects assisted under a comprehensive child care plan, such fees shall be turned over to the appropriate prime sponsor for distribution in the same manner as the prime sponsor's allocation under section 516(a)(4).

"(d) If, with respect to any fiscal year, a prime sponsor or project applicant provides non-Federal contributions for any program, service, or activity exceeding its requirements, such excess may be applied toward meeting the requirements for such contributions for the subsequent fiscal year under this part.

"(e) No State or unit of local government shall reduce its expenditures for child care programs by reason of assistance under this part.

"Part B—Training, Technical Assistance, Planning, and Evaluation

"PRESERVICE AND INSERVICE TRAINING

"Sec. 531. The Secretary is authorized to make payments to provide financial assistance to enable individuals employed or preparing for employment in child care programs assisted under this title, including volunteers, to participate in programs of preservice or inservice training for professional and nonprofessional personnel, to be conducted by any agency carrying out a child care program, or any institution of higher education, including a community college, or by any combination thereof.

"TECHNICAL ASSISTANCE AND PLANNING

"Sec. 532. The Secretary shall, directly or through grant or contract, make technical assistance available to prime sponsors and to project applicants participating or seeking to participate in programs assisted under this title on a continuing basis to assist them in planning, developing, and carrying out child care programs.

"EVALUATION

"Sec. 533. (a) The Secretary shall, through the Office of Child Development unless the Secretary determines otherwise, make an evaluation of Federal involvement in child care activities and services, which shall include—

"(1) enumeration and description of all Federal activities which affect child care;

"(2) analysis of expenditures of Federal funds for such activities and services;

"(3) determination of the effectiveness of such activities and services;

"(4) the extent to which preschool, minority group, and economically disadvantaged children and their parents have participated in programs under this title; and

"(5) such recommendations to the Congress as the Secretary may deem appropriate.

"(b) The results of the evaluation required by subsection (a) of this section shall be reported to the Congress not later than eighteen months after the date of enactment of this title.

"(c) The Secretary shall establish such procedures as may be necessary to conduct an annual evaluation of Federal involvement in child care programs, and shall report the results of each such evaluation to Congress.

"(d) Prime sponsors and projects applicants assisted under this title and departments and agencies of the Federal Government shall, upon request by the Secretary, make available, consistent with other provisions of law, such information as the Secretary determines is necessary for purposes of making the evaluation required under subsection (c) of this section.

"(e) The Secretary may enter into contracts with public or private agencies, organizations, or individuals to carry out the provisions of this section.

"(f) The Secretary shall reserve for the purposes of this section not less than 1 per centum, and may reserve for such purposes not more than 2 per centum, of the amounts available under paragraphs (2) and (3) of section 503(a) of this title for any fiscal year.

"FEDERAL STANDARDS FOR CHILD CARE SERVICES

"Sec. 534. (a) Within six months after the enactment of the Economic Opportunity Amendments of 1971, the Secretary shall, after consultation with other Federal agencies and with the Committee established pursuant to subsection (c) of this section, promulgate a common set of program standards which shall be applicable to all programs providing child care services with Federal assistance under this title, to be known as the Federal Standards for Child Care Services. If the Secretary disapproves the Committee's recommendations, he shall state the reasons therefor.

"(b) The Federal Interagency Day Care Requirements, as approved by the Department of Health, Education, and Welfare, the Office of Economic Opportunity, and the Department of Labor on September 23, 1968, shall be applicable to all programs providing child care services with Federal assistance under this title.

"(c) The Secretary shall, within sixty days after enactment of this title, appoint a Special Committee on Federal Standards for Child Care Services, which shall include parents of children enrolled in child care programs, representatives of public and private agencies and organizations administering child care programs, and specialists and others interested in the care and development of children. Not less than one-half of the membership of the Committee shall consist of parents of children participating in programs conducted under section 222(a)(1) of this Act and title IV of the Social Security Act and part A of this title. Such Committee shall participate in the development of Federal Standards for Child Care Services and modifications thereof as provided in subsection (a).

"DEVELOPMENT OF UNIFORM MINIMUM CODE FOR FACILITIES

"Sec. 535. (a) The Secretary shall, within sixty days after enactment of the Economic Opportunity Amendments of 1971, appoint a special committee to develop a uniform minimum code for facilities, to be used in licensing child development facilities. Such standards shall deal principally with those matters essential to the health, safety, and physical comfort of the children and the relationship of such matters to the Federal Standards for Child Care Services under section 534.

"(b) The special committee appointed under this section shall include parents of children participating in child care programs and representatives of State and local licensing agencies, public health officials, fire prevention officials, the construction industry and unions, public and private agencies or organizations administering child care programs, and national agencies or organizations interested in the care and development of children. Not less than one-half of the membership of the committee shall consist of parents of children enrolled in programs conducted under section 222(a)(1) of this Act and title IV of the Social Security Act and part A of this title.

"(c) Within one year after its appointment, the special committee shall complete a proposed uniform minimum code for facilities and shall hold public hearings on the proposed code prior to submitting its final recommendation to the Secretary for his approval.

"(d) After considering the recommendations submitted by the special committee in accordance with subsection (c), the Secretary shall promulgate standards which shall be applicable to all facilities receiving Federal financial assistance under this title or in which programs receiving Federal financial assistance under this title are operated. If the Secretary disapproves the committee's recommendations, he shall state the reasons therefor. The Secretary shall also distribute such standards and urge their adoption by States and local governments. The Secretary may from time to time modify the uniform code for facilities in accordance with procedures set forth in this section.

"Part C—Facilities for Child Care Programs

"MORTGAGE INSURANCE FOR CHILD CARE FACILITIES

"Sec. 541. (a) It is the purpose of this part to assist and encourage the provision of urgently needed facilities for child care programs.

"(b) For the purpose of this part—

"(1) The term 'child care facility' means a facility of a public or private profit or nonprofit agency or organization, licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located), for the provision of child care programs.

"(2) The terms 'mortgage', 'mortgagor', 'mortgagee', 'maturity date', and 'State' shall have the meanings respectively set forth in section 207 of the National Housing Act.

"(c) The Secretary of Health, Education, and Welfare is authorized to insure any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

"(d) In order to carry out the purpose of this section, the Secretary of Health, Education, and Welfare is authorized to insure any mortgage which covers a new child care facility, including equipment to be used in its operation, subject to the following conditions:

"(1) The mortgage shall be executed by a mortgagor, approved by the Secretary of Health, Education, and Welfare, who demonstrate ability succesfully to operate one or more child care programs. The Secretary of Health, Education, and Welfare may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary of Health, Education, and Welfare may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Child Care Facility Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary of Health, Education, and Welfare under the insurance.

"(2) The mortgage shall involve a principal obligation in an amount not to exceed $250,000 and not to exceed 90 per centum of the estimated replacement cost of the property or project, including equipment to be used in the operation of the child care facility, when the proposed improvements are completed and the equipment is installed.

"(3) The mortgage shall—

"(A) provide for complete amortization by periodic payments within such term as the Secretary of Health, Education, and Welfare shall prescribe, and

"(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at any time as the Secretary of Health, Education, and Welfare finds necessary to meet the mortgage market.

"(4) The Secretary of Health, Education, and Welfare shall not insure any mortgage under this section unless he has determined that the child care facility to be covered by the mortgage will be in compliance with the Uniform Minimum Code for Facilities approved by the Secretary pursuant to section 535.

"(5) The Secretary of Health, Education, and Welfare shall not insure any mortgage under this section unless he has also received from the prime sponsor designated under part A of this title comments concerning the consistency of the facility with the prime sponsor's comprehensive child care plan.

"(6) In the plans for such child care facility, due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

"(e) The Secretary of Health, Education, and Welfare shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Child Care Facility Insurance Fund (established by subsection (h)) issued at par plus accrued interest. In the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any one time, without taking into account delinquent payments or prepayments. In addition to the premium charge herein provided for, the Secretary of Health, Education, and Welfare is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during construction; but such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

"(f) The Secretary of Health, Education, and Welfare may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

"(g)(1) The Secretary of Health, Education, and Welfare shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgages under title II of the National Housing Act.

"(2) The provisions of subsections (e), (g), (h), (j), (k), (l), and (n) of section 207 of the National Housing Act shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Child Care Facility Insurance Fund, and all references in such provisions to 'Secretary' shall be deemed to refer to the Secretary of Health, Education, and Welfare.

"(h)(1) There is hereby created a Child Care Facility Insurance Fund which shall be used by the Secretary of Health, Education, and Welfare as a revolving fund for carrying out all the insurance provisions of this section. All mortgages insured under this section shall be insured under and be the obligation of the Child Care Facility Insurance Fund.

"(2) The general expenses of the operations of the Department of Health, Education, and Welfare relating to mortgages insured under this section may be charged to the Child Care Facility Insurance Fund.

"(3) Moneys in the Child Care Facility Insurance Fund not needed for the current operations of the Department of Health, Education, and Welfare with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such Fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Secretary of Health, Education, and Welfare may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Child Care Facility Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

"(4) Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary of Health, Education, and Welfare in connection therewith, and all earnings on the assets of the Fund, shall be credited to the Child Care Facility Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such Fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages insured under this section, shall be charged to such Fund.

"(5) In order to provide initial capital for the Child Care Facility Insurance Fund and to assure the soundness of such Fund thereafter, there are authorized to be appropriated such sums as may be necessary, in addition to any amounts which may be made available by the Secretary pursuant to section 503(a)(2) of this title.

"PART D—FEDERAL GOVERNMENT CHILD CARE PROGRAMS

"PROGRAM AUTHORIZED

"SEC. 546. (a) The Secretary is authorized to provide financial assistance for the purpose of establishing and operating child care programs (including the lease, rental, or construction of necessary facilities and the acquisition of necessary equipment and supplies) for the children of employees of the Federal Government.

"(b) Employees of any Federal agency or group of such agencies employing eighty or more working parents of young children who desire to participate in a program under this part shall—

"(1) designate or create for the purpose an agency child care committee, the membership of which shall be broadly representative of the working parents employed by the agency or agencies; and

"(2) submit to the Secretary a plan approved by the official in charge of such agency or agencies, which—

"(A) provides that the child care program shall be administered under the direction of the agency child care committee;

"(B) provides that the program will meet the Federal Standards for Child Care Services promulgated under section 534 of this title;

"(C) provides a means of determining priority of eligibility among parents wishing to use the services of the program;

"(D) provides for a scale of fees based upon the parents' financial status; and

"(E) provides for competent management, staffing, and facilities for such program.

"(c) The Secretary shall not make payments under this section unless he has received approval of the plan from the official in charge of the agency whose employees will be served by the child care program.

"PAYMENTS

"SEC. 547. (a) Not more than 80 per centum of the total cost of child care programs under this part shall be paid from Federal funds available under this title.

"(B) The share of the total cost not available under paragraph (a) may be provided through public or private funds and may be in the form of cash, goods, services, or facilities (or portions thereof that are used for program purposes), reasonably evaluated, fees collected from parents, or union or employer contributions.

"(c) If, in any fiscal year, a program under this part provides non-Federal contributions exceeding its requirements under this section, such excess may be used to meet the requirements for such contributions for the succeeding fiscal year.

"(d) In providing financial assistance under this part, the Secretary shall, insofar as feasible, distribute funds among the States according to the same ratio as the number of Federal employees in that State bears to the total number of Federal employees in the United States.

"PART E—RESEARCH AND DEMONSTRATION

"DECLARATION OF PURPOSES

"SEC. 551. The purposes of this part are to focus national research efforts to attain a fuller understanding of the processes of child development and the effect of organized programs upon these processes; to develop effective programs for research into child development; and to assure that the result of research and development efforts are reflected in the conduct of programs affecting children through the improvement and expansion of child care and related programs.

"RESEARCH AND DEMONSTRATION PROJECTS

"SEC. 552. (a) In order to further the purposes of this part, the Secretary shall carry out a program of research and demonstration projects, which shall include but not be limited to—

"(1) research to determine the nature of child development processes and the impact of various influences upon them, to develop techniques to measure and evaluate child development, to develop standards to evaluate professional and paraprofessional child care personnel, and to determine how child care and related programs conducted in either home or institutional settings affect child development processes;

"(2) research to test alternative methods of providing child care and related services, and to develop and test innovative approaches to achieve maximum development of children;

"(3) evaluation of research findings and the development of these findings and the effective application thereof;

"(4) dissemination and application of research and development efforts and demonstration projects to child care and related programs and early childhood education, using regional demonstration centers and advisory services where feasible;

"(5) production of informational systems and other resources necessary to support the activities authorized by this part; and

"(6) integration of national child development research efforts into a focused national research program, including the coordination of research and development conducted by other agencies, organizations, and individuals.

"(b) In order to carry out the program provided for in subsection (a), the Secretary is authorized to make grants to or enter into contracts or other arrangements with public or private nonprofit agencies (including other Government agencies), organizations, and institutions, and to enter into contracts with private agencies, organizations, institutions, and individuals.

"COORDINATION OF RESEARCH

"SEC. 553. (a) Funds available to any Federal department or agency for the purposes stated in section 551 or the activities stated in section 552(a) shall be available for transfer, with the approval of the head of the department or agency involved, in whole or in part, to the Secretary for such use as is consistent with the purposes for which such funds were provided, and the funds so transferred shall be expendable by the Secretary for the purposes for which the transfer was made.

"(b) The Secretary shall coordinate, through the Office of Child Development established under section 572 of this title, all child development research, training, and development efforts conducted within the Department of Health, Education, and Welfare and, to the extent feasible, by other agencies, organizations, and individuals.

"(c) A Child Care and Development Research Council, consisting of a representative of the Office of Child Development established under section 572 of this title (who shall serve as chairman), and representatives from the Federal agencies administering the Social Security Act and the Elementary and Secondary Education Act of 1965 and from the National Institute of Mental Health, the National Institute of Child Health and Human Development, the Office of Economic Opportunity, the Department of Labor, and other appropriate agencies, shall meet at least annually and at such more frequent times as they may deem necessary, in order to assure coordination of child care and development and related activities under their respective jurisdictions and to carry out the provisions of this part so as to assure—

"(1) maximum utilization of available resources through the prevention of duplication of activities;

"(2) a division of labor, insofar as is compatible with the purposes of each of the agencies or authorities specified in this paragraph, to assure maximum progress toward the achievement of the purposes of this part; and

"(3) recommendation of priorities for federally funded research and development activities related to the purposes of this part and those stated in section 501.

"ANNUAL REPORT

"SEC. 554. The Secretary shall make an annual report to Congress summarizing his activities and accomplishments during the preceding year under this part; the grants, contracts, or other arrangements entered into during the preceding year under this part, and making such recommendations as he may deem appropriate.

"PART F—GENERAL PROVISIONS

"DEFINITIONS

"SEC. 571. As used in this title, the term—

"(1) 'Secretary' means the Secretary of Health, Education, and Welfare;

"(2) 'State' means the several States and the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(3) 'child care programs' means programs provided on a full-day or part-day basis which provide the educational, nutritional, social, medical, psychological, and physical services needed for children to attain their full potential;

"(4) 'children' means individuals who have not attained the age of fifteen;

"(5) 'economically disadvantaged children' means any children of a family having an annual income below the lower living standard budget (adjusted for regional and metropolitan, urban, and rural differences, and family size), as determined annually by the Bureau of Labor Statistics of the Department of Labor;

"(6) 'handicapped children' includes mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children or children with specific learning disabilities who by reason thereof require special education and related services;

"(7) 'program' includes, but is not limited to, any program, service, or activity, which is conducted full or part time, in child care facilities, in schools, in neighborhood centers, or in homes, and includes child care services for children whose parents are working or receiving education or training;

"(8) 'parent' means any person who has day-to-day parental responsibility for any child;

"(9) 'single parent' means any person who has sole day-to-day responsibility for any child;

"(10) 'working mother' means any mother who requires child care services in order to undertake or continue full- or part-time work, training, or education, outside her home;

"(11) 'minority group' includes, but is not limited to, persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, or Oriental, and, as determined by the Secretary, children who are from environments in which a dominant language is other than English and who, as a result of language barriers, do not have an equal educational opportunity, and, for the purpose of this paragraph, Spanish-surnamed Americans include persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry;

"(12) 'bilingual' includes, but is not limited to, persons who are Spanish surnamed, American Indian, Oriental, Portuguese, or others who have learned during childhood to speak the language of the minority group of which they are members and who, as a result of language barriers, do not have an equal educational opportunity;

"(13) 'local educational agency' means any such agency as defined in section 801(f) of the Elementary and Secondary Education Act of 1965;

"(14) 'institution of higher education' means any such institution as defined in section 1201(a) of the Higher Education Act of 1965.

"OFFICE OF CHILD DEVELOPMENT

"SEC. 572. The Secretary shall take all necessary action to coordinate child care programs under his jurisdiction. To this end, he shall establish within the Department of Health, Education, and Welfare an Office of Child Development, administered by a Director, which shall be the principal agency of the Department for the administration of this title and for the coordination of programs and other activities relating to child care.

"NUTRITION SERVICES

"SEC. 573. In accordance with the purposes of this title, the Secretary of Health, Education, and Welfare shall establish procedures to assure that adequate nutrition services will be provided in child care programs under this title. Such services shall make use of the Special Food Service Program for children as defined under section 13 of the National School Lunch Act of 1946 and the Child Nutrition Act of 1966, to the fullest extent appropriate and consistent with the provisions of such Acts.

"SPECIAL PROVISIONS

"SEC. 574. (a) The Secretary may make such grants, contracts, or agreements, establish such procedures, policies, rules, and regulations, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this title, as he may deem necessary to carry out the provisions of this title, including necessary adjustments in payments on account of overpayments or underpayments. Subject to the provisions of section 575, the Secretary may also withhold funds otherwise payable under this title in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this title or any term or condition of assistance under this title.

"(b) The Secretary shall prescribe regulations to assure that programs under this title have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

"(c) The Secretary shall not provide financial assistance for any program, service, or activity under this title unless he determines that persons employed thereunder, other than persons who serve without compensation, shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 206), if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar occupations by the same employer.

"(d) The Secretary shall not provide financial assistance for any program under this title which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be engaged, in any way or to any extent, in the conduct of political activities in contravention of section 603 of this Act.

"(e) The Secretary shall not provide financial assistance for any program under this title unless he determines that no funds will be used for and no person will be employed under the program on the construction of so much of any facility as is for use for sectarian instruction or as a place for religious worship or on the operation or maintenance of any facility other than in connection with the use of such facility for child care programs.

"(f) A child participating in a program assisted under this title shall not be required to undergo medical or psychological examination (except to the extent related to learning ability), immunization (except to the extent necessary to protect the public from epidemics of contagious diseases), or treatment, if his parent or guardian objects thereto in writing on religious grounds.

"WITHHOLDING OF GRANTS

"SEC. 575. Whenever the Secretary, after reasonable notice and opportunity for a hearing for any prime sponsor or project applicant, finds—

"(1) that there has been a failure to comply substantially with any requirement set forth in the plan of any such prime sponsor approved under section 516; or

"(2) that there has been a failure to comply substantially with any requirement set forth in the application of any such project applicant approved pursuant to section 517; or

"(3) that in the operation of any program or project carried out by any such prime sponsor or project applicant under this title there is a failure to comply substantially with any applicable provision of this title or regulation promulgated thereunder;

the Secretary shall notify such prime sponsor or project applicant of his findings and that no further payments may be made to such sponsor or applicant under this title (or in his discretion that any such prime sponsor shall not make further payments under this title to specified project applicants affected by the failure) until he is satisfied that there is no longer any such failure to comply, or the noncompliance will be promptly corrected. The Secretary may authorize the continuation of payments with respect to any project assisted under this title which is being carried out pursuant to such plan or application and which is not involved in the non-compliance.

"ADVANCE FUNDING

"Sec. 576. (a) For the purpose of affording adequate notice of funding available under this title, such funding for grants, contracts, or other payments under this title is authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year for which they are available for obligation.

"(b) In order to effect a transition to the advance funding method of timing appropriation action, subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the current fiscal year and one for the succeeding fiscal year.

"PUBLIC INFORMATION

"Sec. 577. Applications for designation as prime sponsors, comprehensive child care plans, project applications, and all written material pertaining thereto shall be made readily available without charge to the public by the prime sponsor, the applicant, and the Secretary.

"FEDERAL CONTROL NOT AUTHORIZED

"Sec. 578. No department, agency, officer, or employee of the United States shall, under authority of this title, exercise any direction, supervision, or control over, or impose any requirements or conditions with respect to, the personnel, curriculum, methods of instruction, or administration of any educational institution.

"NONDISCRIMINATION PROVISIONS

"Sec. 579. (a) The Secretary shall not provide financial assistance for any program under this title unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

"(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this title. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if on the ground of sex that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any program or activity receiving assistance under this title.

"LIMITATION ON RESEARCH AND EXPERIMENTATION

"Sec. 580. The Secretary is directed to establish appropriate procedures to ensure that no child shall be the subject of any research or experimentation under this title other than routine testing and normal program evaluation unless the parent or guardian of such child is informed of such research or experimentation and is given an opportunity as of right to except such child therefrom.

"PARENTAL RESPONSIBILITY

"Sec. 581. Nothing in this title shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, or physical development of their children. Nor shall any section of this title be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal remedies for any such invasion which are otherwise provided by law."

(b) In order to achieve, to the greatest degree feasible, the consolidation and coordination of programs providing child care services, while assuring continuity of existing programs during transition to the programs authorized under this title, the Economic Opportunity Act of 1964 is amended, effective July 1, 1974, as follows:

(1) Section 222(a)(1) of such Act is repealed.

(2) Section 162(b) of such Act is amended by inserting after "day care for children" the following: "(wherever feasible, through child care programs under title V of this Act)".

(3) Section 123(a)(6) of such Act is amended by inserting after "day care for children" the following: "(wherever feasible, through child care programs under title V of this Act)".

(4) Section 312(b)(1) of such Act is amended by inserting after "day care for children" the following: "(wherever feasible, through child care programs under title V of this Act)".

(c) The Director of the Office of Economic Opportunity and the Secretary of Health, Education, and Welfare shall take all necessary steps to coordinate programs under their jurisdictions which provide day care, with a view to establishing, insofar as possible, a common set of program standards and regulations, and mechanisms for coordination at the State and local levels.

(d)(1) Section 203(j)(1) of the Federal Property and Administrative Services Act of 1949 is amended by striking out "or civil defense" and inserting in lieu thereof "civil defense, or the operation of child care facilities".

(2) Section 203(j)(3) of such Act is amended—

(A) by striking out, in the first sentence, "or public health" and inserting in lieu thereof "public health, or the operation of child care facilities",

(B) by inserting after "handicapped," in clause (A) and clause (B) of the first sentence the following: "child care facilities,", and

(C) by inserting after "public health purposes" in the second sentence the following: ", or for the operation of child care facilities,".

(3) Section 203(j) of such Act is amended by adding at the end thereof the following new paragraph:

"(8) The term 'child care facility' means any such facility as defined in 541(b)(1) of the Economic Opportunity Act of 1964."

By Mr. MONDALE (for himself, Mr. Kennedy, Mr. Beall, Mr. Cranston, Mr. Hughes, Mr. Javits, Mr. Magnuson, Mr. Nelson, Mr. Packwood, Mr. Pell, Mr. Randolph, Mr. Schweiker, Mr. Stevenson, Mr. Weicker, Mr. Williams, and Mr. Eagleton):

S.J. Res. 206. A joint resolution relating to sudden infant death syndrome. Referred to the Committee on Labor and Public Welfare.

Mr. MONDALE. Mr. President, I am pleased to introduce today with Mr. Kennedy, Mr. Beall, Mr. Cranston, Mr. Hughes, Mr. Javits, Mr. Magnuson, Mr. Nelson, Mr. Packwood, Mr. Pell, Mr. Randolph, Mr. Schweiker, Mr. Stevenson, Mr. Weicker, and Mr. Williams a resolution which I hope will stimulate a major initiative to solve one of the most tragic and perplexing problems that threaten American families—crib death or sudden infant death syndrome.

Crib death takes the lives of an estimated 10,000 infants in this country each year. It is the leading cause of death of infants between 1 month and 1 year old, striking three out of every 1,000 children born in this country.

The families of the innocent children who die of SIDS suffer not only the heartbreak associated with the death of any loved one; but also the anguish of accepting a death with no known cause and explaining it to their relatives, friends and the public officials who question them about it.

On January 25th, the Subcommittee on Children and Youth, which I have the privilege to chair, held a hearing on SIDS. I was shocked and ashamed to learn that the Federal Government's concern about this major killer of infants is so low that experts cannot even agree on its incidence.

I listened to the stories of parents who had lost children to SIDS; who could not at first help blaming themselves for the death of their child; and who were even accused by public officials of negligence or criminal behavior. And then I was told by official of HEW that currently only one medical research grant—in the amount of $46,258—is directed specifically to discovering the cause of SIDS.

The testimony at the hearing convinced me that we must marshal all the available resources of medical technology and expertise to seek the cause and cure of SIDS. We must actively encourage researchers to work in this field, and train qualified researchers if an adequate number is not available.

But medical research can be a slow and painstaking process, and meanwhile we know that thousands of families who have already lost children or who will lose children to SIDS will continue to suffer.

We also have an obligation to relieve their suffering by making available information about SIDS; by educating professionals who come in contact with SIDS cases about the needs of stricken families. Until the day when we can offer families the consolation of an explanation of why their child died, we must make a special effort to humanize the procedures surrounding the death.

Mr. BEALL. Mr. President, I am pleased today to join the Senator from Minnesota (Senator Mondale) and other Senators in the introduction of legislation to concentrate our Nation's resources into medical research on sudden infant death syndrome.

Death is indeed tragic for any family, however when the death occurs to a robust, healthy and obviously well cared for infant, put to bed only a few hours earlier, it is particularly tragic. This mysterious killer, sudden infant death syndrome—SIDS—more commonly called crib or cot death is especially tragic because of the psychological effects on the parents, faced by a sudden, unexpected death, tormented by guilt feelings.

The hearings held by our Subcommittee on Children and Youth on Tuesday, January 25 revealed that research has begun, theories have been advanced, however, very little is still known. It is for that reason that I rise in support of this legislation, not only to bring a focus to this disease, but also to encourage a concerted effort into research and education of the public on sudden infant death syndrome.

Mr. PACKWOOD. Mr. President, I rise today with my distinguished colleague from Minnesota (Mr. MONDALE) as a cosponsor of Senate Joint Resolution 206 to express the sense of the Congress that high priority attention be given to the tragic and unexplained sudden infant death syndrome, frequently referred to as crib death.

My personal interest in this mysterious killer began years ago when close friends lost a dearly loved infant to sudden infant death syndrome—SIDS. At that time, I became aware of the lack of information and research about SIDS, and the need for counseling services and community understanding of this unique tragedy. I sponsored the first legislation to provide earmarked funds for SIDS research at the University of Oregon Medical School. This in spite of the fact that even then SIDS was causing hundreds of deaths per year in Oregon.

The Senate took a large and important step forward on January 25 when the Children and Youth Subcommittee, chaired by my distinguished colleague from Minnesota, and on which I am honored to serve, held a hearing on sudden infant death syndrome. Too few realize that SIDS is the single largest killer of infants after the first week of life, and is second only to accidents as the cause of death in children up to age 15. As I indicated on January 25, the heavy burden of sudden infant death is one which has for too long been carried by the parents alone, with little or no understanding from friends or doctors, and frequently with actual suspicion from the community. The burden of losing a child to unknown causes has been a particularly lonely and tragic experience.

This terrible killer of children, whatever it is—virus, environmental factor, respiratory reaction to cold, or some other physiological factor—has apparently been with us since antiquity but we have failed to recognize the real extent of its danger. One of the major difficulties in coping with SIDS is its mysterious nature. In fact, the deaths of children from this syndrome are so mysterious that many physicians and medico-legal personnel fail to recognize the syndrome at all and this ignorance adds immeasurably to the tragedy of the deaths.

Typically, a child is left asleep in a warm, comfortable crib and when the parents return, either during the night to check on the child as all parents do or on arising in the morning to begin the days activities, the child is discovered dead in its crib. Usually no outcry is heard, no whimper or calls to signal distress of any kind or to alert the parents to a difficulty. The child dies mysteriously and swiftly. The misplaced remorse and self-generated guilt which too frequently occur in the parents of these children often are a severe and persistent aftermath of the death.

The attempts to study this disease have followed a pattern with which we are becoming all too familiar. In the absence of public—and professional—recognition of the extent of these sudden infant deaths and the resulting failure to develop widespread interest in the problem, research has been limited to the efforts of a small but devoted group of men and women. Two symposia have been held to exchange ideas on SIDS. However, one can hardly refer to these symposia as major events since so few research workers are aware that they were held and what is even more dismaying—the symposia were held 5 years apart. Progress has been so slow that it has not even been possible for research workers to join together to exchange new information any more frequently than twice in the last 8 years. Let me hasten to add that it is not to the discredit of the researchers involved that so little progress was made or that the vitally needed exchange of information was limited to these distantly separated instances. The problem has been one of an inadequate allocation of resources and resource manpower to a real and continuing problem.

It is always difficult to try and reduce our concern with public health problems to an impersonal evaluation of priorities but we almost invariably find ourselves led to this type of consideration. In this instance, we should be aware that SIDS causes the death of more than 10,000 apparently normal and healthy infants each year. Some estimates place the total much higher, but our information is so poor in terms of the actual identification of the incidence of the disease that 10,000 deaths has been offered as a conservative estimate. When we consider that SIDS causes a total number of deaths greater than one-sixth of all infant mortalities each year we begin to realize the enormity of this toll. It is apparently because of the mysterious and unexpected nature of these infant deaths that we have failed to appreciate the real significance of the problem.

The death of a small child or infant is always an extremely traumatic experience for the parents. Many of us have some familiarity with or can imagine this type of sad experience from events in our own circle of relatives or from our associations with friends and neighbors. In the case of SIDS, however, it is a particularly shocking fact to learn that, in many instances, the parents who lose a child to SIDS also may be subjected to proceedings normally associated with suspected criminal behavior. We have learned only recently, during hearings before our Subcommittee on Children and Youth, that it is not at all uncommon for parents who have lost a child to SIDS to be subjected to police investigation and the harrowing experience of a coroner's jury. Too often, the reaction of law enforcement personnel, and even physicians, is one which adds to the burden of guilt confronting the parent. Social scientists tell us that when a child dies under unexpected and mysterious circumstances a natural reaction of the parents is to blame themselves. When no satisfactory explanation for the death is available, and a police investigation is involved, many parents frequently find it very difficult to absolve themselves of guilt. This feeling of guilt when added to the emotional burden produced by the loss of an infant is often unbearable and leads to a need for kind and intelligent counseling. Tragically, guidance and comfort, and a careful explanation of the sequence of events associated with SIDS, are frequently not available in any form.

It is apparent to me that we are faced with a serious and unexplained disease of environmental factor which is producing an unusually large number of infant deaths. Associated with these deaths is the psychiatric toll which the parents of these children suffer. It is also obvious that information about these deaths is not being made available to the public to the extent required to alleviate the social problems associated with the deaths.

The resolution which I am cosponsoring today with my distinguished colleague from Minnesota (Mr. MONDALE) would support the commitment of our medical research establishment to the definite and immediate objective of finding the cause of SIDS and a method of preventing these deaths. This commitment would be given a high priority and the resources to procure a truly meaningful effort. Additionally, the resolution would provide for the wide dissemination of information concerning SIDS so that all medical, emergency service, law enforcement, and medico-legal personnel would become familiar with the disease and thus be able to provide the needed support to families subjected to the loss. And finally, we need to acknowledge the needs of families and provide help in the form of social services for guidance and counseling as necessary to help them adjust to their loss. Although there is no way of preventing the infant deaths at the moment, it is known that social counseling can alleviate and often prevent many of the emotional problems which frequently affect the parents as well as other members of the family and the surrounding community.

Mr. President, this joint resolution is

intended to focus attention upon and provide for the solution of SIDS, and I truly hope it will be given immediate and unanimous support by the Senate.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2345

At the request of Mr. HATFIELD, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 2345, a bill to amend the Internal Revenue Code of 1954 to allow an income tax deduction for donations of blood.

S. 1819

At the request of Mr. BROCK, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 1819, to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

S. 2956

At the request of Mr. JAVITS, the Senator from Maryland (Mr. MATHIAS) and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 2956, the War Powers Act.

S. 3127

At the request of Mr. MONDALE, the Senator from Oklahoma (Mr. HARRIS), the Senator from California (Mr. CRANSTON), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), the Senator from Illinois (Mr. PERCY), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Rhode Island (Mr. PASTORE), were added as cosponsors of S. 3127, a bill to amend title XVIII of the Social Security Act to eliminate the monthly premium requirements for individuals covered under the supplementary medical insurance program established by part B of such title.

SENATE JOINT RESOLUTION 8

At the request of Mr. BAYH, the Senator from Delaware (Mr. ROTH) was added as a cosponsor of Senate Joint Resolution 8, proposing an amendment to the Constitution providing for equal rights for men and women.

SENATE JOINT RESOLUTION 171

At the request of Mr. MATHIAS, the Senator from Pennsylvania (Mr. SCOTT), the Senator from Texas (Mr. TOWER), the Senator from Idaho (Mr. CHURCH), the Senator from New Jersey (Mr. CASE), and the Senator from California (Mr. CRANSTON) were added as cosponsors of Senate Joint Resolution 171, designating March 1972 as "Exceptional Children's Month."

SOCIAL SECURITY AMENDMENTS OF 1971—AMENDMENT

AMENDMENT NO. 895

(Ordered to be printed and referred to the Committee on Finance.)

Mr. PEARSON. Mr. President, on behalf of the Senator from Missouri (Mr. EAGLETON) and myself, I offer today an amendment to H.R. 1, providing persons 65 or older a phased annual tax credit of up to $300 for property taxes or rent paid on their residence.

Mr. President, the 3,500 delegates who participated in the recently concluded White House Conference on Aging have placed the ball in our court. Congress must now consider the many thoughtful and well-defined proposals which the Conference offered in behalf of the Nation's 20 million senior citizens.

Among these recommendations are those which could provide older Americans assistance in lessening tax burdens, including a specific provision for property tax relief. Such a proposal is highly desirable, for one of the most acute problems facing many older Americans upon retirement is whether they will be allowed to keep and properly maintain their homes. Statistics have shown that approximately two-thirds of all citizens over 65 own their homes and pay property taxes to the State in which they reside, including over 80 percent of the elderly in my own State of Kansas. Further statistics reveal that the costs of homeownership amount to well over 30 percent of a retired couple's budget, making many senior citizens "house poor."

Yet, Mr. President, statistics can never fully describe the tragedy and the heartbreak which can result when retired homeowners of moderate or low income, who have labored for years to purchase and pay for their property, are forced to use their savings or go into debt to meet rising property taxes. Nor can any amount of statistics convince the elderly of the equity in a tax system so demanding that the only alternative to rising property taxes and other household expenses may be a quick sale of a home to those better able to afford it.

Congress should act to correct this matter of great concern to senior citizens. This amendment can help end this problem, and I urge its favorable consideration.

Our amendment is similar to a bill I offered earlier in the 92d Congress. It is identical to an amendment which Senator EAGLETON, myself, and others offered to the Revenue Act of 1971. The Senate approved this proposal by a convincing margin, but it was later deleted in conference due to a technicality. If adopted, this measure would provide the homeowner over 65 up to $300 tax credit for property taxes paid on his residence. Additionally, renters would be allowed to apply for a credit of up to 25 percent of the rent they pay each year. Full eligibility for the credit would be limited to homeowners earning less than an annual gross income of $6,500 per year, or $3,250 per year for an individual filing a separate return. Eligibility beyond the limitation would be reduced by an amount equal to earnings in excess of the limitation, thereby excluding an elderly couple making over $6,800 per year from the provisions of this amendment.

Mr. President, older Americans deserve the privilege of living their retirement years in the peace and security of their own homes. Yet there is no more ominous threat to their future as homeowners than the ever rising, inequitable, and increasingly unjustifiable property tax. I hope that Congress can approve this amendment to H.R. 1 as a step toward easing this crushing burden on the backs of this Nation's older Americans.

Mr. EAGLETON. Mr. President, on May 6, 1971, I introduced a bill (S. 1960) to provide a property tax credit for the elderly.

On November 20, the Senate, by a vote of 65 to 19, adopted my proposal as an amendment to H.R. 10947, the Revenue Act of 1971. My amendment was cosponsored by 15 Senators, including the Senator from Kansas (Mr. PEARSON).

Despite statements of concern about the property tax burden on older Americans, the administration did not support my amendment, and it was dropped from the bill by the conference committee.

I am pleased today to join with the Senator from Kansas in submitting this property tax credit proposal as an amendment to H.R. 1, the Social Security Amendments of 1971.

Obviously, this proposal is not a total answer to the property tax burden. But those ultimate answers—new methods of financing public education and reform of property tax systems—will not be realized tomorrow or the day after tomorrow. And, while we work toward those basic reforms, the elderly will continue to receive their property tax bills.

The Pearson-Eagleton amendment would provide approximately $225 million next year to ease the property tax burden on those elderly persons of moderate means who pay a Federal income tax.

This would be accomplished by means of a tax credit of up to $300 against property taxes paid on an owner-occupied residence or against 25 percent of rent paid on a personal residence. The tax credit would be available to those 65 or over who have adjusted gross incomes of $6,500 or less.

The people who would benefit from this tax credit have been paying taxes—Federal, State, and local—for more than 40 years. I believe the Federal Government can afford to give them this measure of relief from the burden of taxation on their homes during their later years.

Mr. President, I join with the Senator from Kansas in urging that the Senate again evidence its commitment to property tax relief for the elderly by the adoption of this amendment.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971—AMENDMENTS

AMENDMENTS NOS. 896 THROUGH 902

(Ordered to be printed and to lie on the table.)

Mr. WILLIAMS (for himself and Mr. JAVITS) submitted seven amendments intended to be proposed by them jointly to the bill (S. 2515) to further promote equal employment opportunities for American workers.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENTS NOS. 800 AND 801

At the request of Mr. EAGLETON, the Senator from California (Mr. CRANSTON) was added as a cosponsor of Amendments Nos. 800 and 801 intended to be proposed to the bill (H.R. 1), the Social Security Amendments of 1971.

AMENDMENT NO. 874

At the request of Mr. BAYH, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Maine (Mr. MUSKIE) were added as cosponsors of Amendment No. 874 intended to be proposed to S. 659, the Education Amendments of 1971.

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 180

At the request of Mr. RIBICOFF, the Senator from Indiana (Mr. HARTKE) was added as a cosponsor of Senate Resolution 180, calling for an end to the violence and bloodshed in Northern Ireland.

SENATE RESOLUTION 202

At the request of Mr. MATHIAS, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of Senate Resolution 202 relating to NATO.

SENATE RESOLUTION 232

At the request of Mr. CHILES, the Senator from South Carolina (Mr. THURMOND) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of Senate Resolution 232, expressing the sense of the Senate that the remainder of the amount appropriated for the rural electrification program for fiscal 1972 be released immediately by the Office of Management and Budget.

NOTICE OF HEARINGS ON CONTINUATION OF AUTHORITY FOR REGULATION OF EXPORTS

Mr. MONDALE. Mr. President, I wish to announce that the Subcommittee on International Finance of the Committee on Banking, Housing and Urban Affairs will hold hearings on S. 1487, a bill to provide for continuation of authority for regulation of exports.

Hearings will be held on Monday and Tuesday, March 13 and 14, 1972, and will commence at 10 a.m. each day in room 5302, New Senate Office Building.

Persons wishing to testify or to submit written statements for the record on this legislation should contact Mr. Paul A. London, room 5300, New Senate Office Building, Washington, D.C. 20510; telephone 225-7391.

ADDITIONAL STATEMENTS

COMMITTEE ON PUBLIC WORKS HAD A PRODUCTIVE YEAR IN 1971

Mr. RANDOLPH. Mr. President, over the years the legislative and oversight responsibilities of the Committee on Public Works have grown considerably in both scope and magnitude. At one time our responsibilities, important as they were, were relatively limited. The development of the American society and the changes in its character, however, have contributed to the growing workload of this and all other congressional committees.

As a result, the Committee on Public Works is today active in a number of diverse fields, all of which have a direct bearing on the lives of our citizens.

During 1971, the committee experienced one of its busiest and most productive legislative years. We developed major legislation relating to economic development, water resource development, and disaster relief, all of which have become law. In addition, the committee developed important new legislation to combat water pollution, which was passed by the Senate and is now pending in the House of Representatives. Preliminary work was carried forward in preparation of new legislative proposals to be considered in 1972.

In the course of its activities last year, the Committee on Public Works conducted 72 days of hearings, both in Washington, D.C. and in various other locations throughout the United States. Throughout all of our work, I was gratified by the diligence and seriousness of purpose by members of the committee. I am particularly gratified by the interest and involvement of Senators who first joined the Committee on Public Works in 1971. They and our more experienced members all contributed significantly to the committee's accomplishments during the first session of the 92d Congress.

The support provided by the committee staff was of high quality and enabled members to carry out their duties in an effective manner.

Mr. President, I now discuss in detail the work of the Committee on Public Works during 1971, by subcommittee and by other committee activities:

SUBCOMMITTEE ON FLOOD CONTROL—RIVERS AND HARBORS

The major legislative activities of the Subcommittee on Flood Control—Rivers and Harbors was the development of a river basin monetary authorizations and miscellaneous civil works bill. This bill, S. 2887, became law on December 23—Public Law 92-222.

This act authorized the appropriation of $628 million for the initiation and continuation of construction of previously approved water resource projects and programs. It also approved a number of modifications and additions to existing river and harbor law and procedures, and authorized construction of the Whiteoak Creek, Ohio, flood control project, a unit in the recommended plan for development of the water resources of Appalachia, at an estimated Federal cost of $40 million.

In other action during 1971, the subcommittee approved for construction by the Corps of Engineers, under the provisions of section 201 of the 1965 Flood Control Act, nine water resource projects having a total estimated Federal cost of $25 million.

Thirteen watershed projects having a total estimated Federal cost of $32 million were approved for construction by the Soil Conservation Service under the provisions of Public Law 83-566.

The subcommittee adopted 39 resolutions directing the Chief of Engineers to investigate various flood control, navigation, and beach erosion problems, brought to the committee's attention by Members of the Senate, and to report back to the committee with recommendations concerning the advisability of authorizing works of improvement.

On July 27, the subcommittee held a hearing on the effect of channelization on the environment. Testimony was received from the Federal agencies engaged in the improvement of streams and waterways in the interest of flood control and allied purposes, as well as from environmental groups. The effects of dredging and stream modification on man's environment were discussed. The information developed and the material included in the public record on this important and timely subject will be helpful, not only to the committee, but to other interested groups and individuals as well.

SUBCOMMITTEE ON AIR AND WATER POLLUTION

A major responsibility of the Committee on Public Works concerns air, water, and land pollution. The committee is increasingly involved in legislative efforts to clean up pollution and to protect air, water, and land resources from further damage.

During 1971, the committee continued to press for legislation to control existing sources of pollution and to develop a broader policy for use of air, water, and land. In these efforts, initial responsibility rested with the Subcommittee on Air and Water Pollution.

The most urgent problem facing the subcommittee as the Congress convened was the Federal water pollution control program. Authority under the Clean Water Restoration Act of 1966 was to expire on June 30, 1971.

In addition, the Federal program authority and personnel had been transferred by reorganization plan No. 3 from the Department of the Interior to the newly created Environmental Protection Agency on December 2, 1970.

Consequently, the subcommittee began its work in early February with 3 days of oversight hearings into the status of the Federal program. The occasion marked the first appearance before the subcommittee of William D. Ruckelshaus as the EPA Administrator.

On March 15, the subcommittee opened a series of public hearings in Washington, D.C., on 18 Senate bills concerning water pollution control. These hearings extended from March 15 through March 19 and continued on March 22 and March 23.

During April, May, and June of 1970, the subcommittee has devoted 14 days of public hearings to 12 Senate water pollution bills. A busy schedule for clean air and solid waste legislation had prevented development of a water pollution bill for Senate action.

The subcommittee next held field hearings March 26 at Rehoboth Beach, Del., on problems of ocean dumping; April 2 at Kansas City, Mo., on problems of agricultural runoff, and April 5 at New

Orleans, La., on problems of petrochemical wastes and deepwell disposal.

The study of particular problems in water pollution control was continued on May 13 and 14 when the subcommittee's panel on science and technology held public hearings in Washington, D.C., on the technology of waste water treatment and related issues.

The subcommittee concluded its 1971 series of water pollution control hearings on June 16 in Washington, D.C. Dr. Jacques Piccard, the Swiss oceanographer, was the sole witness at a special hearing on problems of ocean dumping.

The results of nearly 18 months of study and public hearings began to take shape during the summer months. On August 5, the subcommittee reported to the Committee on Public Works a clean bill proposing major changes in the controls and funding of the Federal program.

The subcommittee's bill was amended and improved by the committee, then ordered reported to the Senate floor on October 19, 1971. The Senate approved S. 2770, the Federal Water Pollution Control Act Amendments of 1971 by a vote of 86 to 0 on November 2, 1971.

The Senate bill, now pending in the House Committee on Public Works, was based upon 33 days of hearings, the testimony of 171 witnesses, 470 written statements, 6,400 pages of testimony, and 45 executive sessions of the subcommittee and committee.

In other action during 1971, the subcommittee took up two other problems associated with air, water, and land pollution. The first of these is the lack of adequate research and data on environmental pollution. The other is the possibility of economic dislocation resulting from environmental control orders.

On March 4, 1971, several members of the committee introduced S. 1113, the National Environmental Laboratory Act of 1971. The bill was designed to establish a national system of environmental laboratories which would provide the needed research and data on environmental pollution. In all, 34 Senators sponsored the bill.

Public Hearings were held in Washington, D.C., on April 28 and 29 and on May 3 through May 6. The bill, retitled the National Environmental Centers Act of 1971, was passed by the Senate on December 7, 1971, and is pending in the House Committee on Science and Astronautics.

The possibility of economic dislocation resulting from environmental control orders was first brought to the subcommittee's attention in mid-January 1971. The subcommittee held a series of preliminary public hearings on May 17 and 18 and June 28. No legislation on this topic is pending in the committee.

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT

The subcommittee developed legislation during 1971 to continue two existing programs, the Appalachian regional development program and the activities conducted under the Public Works and Economic Development Act. It also held extensive hearings and carried out preliminary work in preparation for the introduction of legislation to establish a national economic development program.

A bill, (S. 575) to extend the Appalachian program was introduced on February 3, and reported to the Senate on March 9. It was passed by the Senate after the adoption of amendments to extend the Public Works and Economic Development Act of 1965, as amended, for 1 year.

During consideration by the House of Representatives, an additional title was included to reactivate the Public Works Acceleration Act of 1962 by authorizing $2 billion to carry out its provisions. This program was intended to alleviate persistent unemployment by providing funds for needed public works projects that could be started in a relatively short time.

The new title was accepted by the Senate conferees and concurred in by the full Senate. It was, however, the basis of a Presidential veto of S. 575, which the Senate sustained by a narrow margin. The legislation was subsequently passed by the Congress as S. 2317 without the public works acceleration provisions.

This measure was signed by the President on August 5—Public Law 92–65. The act, as passed, provides: Additional authorization for the Economic Development Administration to use on public works projects to reduce unemployment; continuation of the non-transportation portions of the Appalachian program for 4 years, through fiscal year 1975, with a total new authorization of $571 million; extension of the Appalachian development highway program for 5 years, through fiscal year 1978, with an additional authorization of $925 million, raising the total highway authorization to $2,090 million. The legislation also authorizes a special $40 million program to improve the safety of airports in the Appalachian region.

Activities under the Public Works and Economic Development Act, including the title V Regional Commissions, were continued for 2 years, through fiscal year 1973, and spending was authorized at the level of $800 million for each of these years for public works grants and $305 million for the title V commissions for 2 years.

Based on 6 years of experience with the Appalachian and Economic Development Administration program, the subcommittee concluded that similar programs are needed in sections of the United States not eligible for participation in existing programs. It was felt that a permanent, long range program was necessary to ease violent economic fluctuations and to promote orderly community, State, and regional development.

Hearings were conducted in Washington, D.C.; Raleigh, N.C.; Memphis, Tenn.; Topeka, Kans.; Los Angeles, Calif.; Santa Fe and Albuquerque, N. Mex.; Seattle, Wash.; Anchorage, Fairbanks, Bethel and Nome, Alaska. Substantial information was obtained on the needs of communities, and a number of recommendations were made on how best to foster sustained healthy development.

Prior to conference with the House on S. 575, the committee conducted a hearing on a proposed alternative to the accelerated public works program included in the bill by the House. It was at this hearing that the concept of economic disaster areas was first enunciated and explored in depth. This proposal was offered during the conference, but was not included in the conference report on S. 575.

During the hearings, the subcommittee became acutely aware of the need for interim assistance by individuals and communities that have been the victims of sudden and substantial increases in unemployment.

Subsequently, the Economic Disaster Area Relief Act of 1972 was introduced to provide the type of relief needed under these circumstances. The bill (S. 2393) was passed on August 5 and is now pending in the House of Representatives.

SUBCOMMITTEE ON ROADS

The Federal-Aid highway program generally is authorized on a 2-year basis. The last such authorization was in 1970, and the subcommittee will consider major new highway legislation in 1972.

During 1971 the Subcommittee on Roads was primarily concerned with carrying out its oversight function to determine how existing statutes are implemented and their effectiveness in meeting current needs. The subcommittee also began consideration of legislation relative to the width of buses permitted to operate on the interstate highway system.

Oversight hearings on the highway safety program were held on May 10–14. Testimony was received from more than 50 witnesses representing Federal, State and local government as well as private associations and organizations. Statements and material were submitted for the record by another 25 persons. Among the items considered by the Subcommittee in its examination of the program were the recommendations of the President's Task Force on Highway Safety, the operation of uniform highway safety standards, implementation of highway safety sections of the Federal-Aid Highways Act of 1970, the sufficiency of Federal financial assistance to help combat traffic accidents, the role of alcohol in highway accidents and the value of spot improvement and Traffic Operations Program to Improve Capacity and Safety—TOPICS—programs.

On December 13 and 14 the subcommittee held hearings on H.R. 4354, as passed by the House of Representatives. This proposal would authorize States to permit buses not more than 102 inches wide to operate on segments of the Interstate System within their borders. Such operation is now legal in nine States under a grandfather clause in the Federal-Aid Highway Act of 1956. Other States have adopted similar legislation which would become effective if H.R. 4354 becomes law.

Eleven witnesses, both favoring and opposing the bill, were heard at the December hearings. On February 14, representatives of the Department of Transportation, Federal Highway Administration, National Transportation Safety Board, National Highway Traffic Safety

Administration, and several State agencies will testify.

Preparation for development of the Federal-Aid Highway Act of 1972 was begun during the year with a series of meetings with the House Committee on Public Works and officials of concerned agencies and groups.

During the summer, staff members concerned with roads legislation participated in a series of briefings with officials of the Federal Highway Administration.

SUBCOMMITTEE ON BUILDINGS AND GROUNDS

During calendar year 1971, the Subcommittee on Buildings and Grounds of the Public Works Committee held 7 days of hearings as follows:

One day on the bombing of the U.S. Capitol;

One day on the demolition of the old Post Office Building, and other landmark buildings in the District of Columbia;

One day on the need for off-street parking for Senate employees;

Two days on the Consolidated Federal Law Enforcement Training Center at Beltsville, Md.;

One day on S. 1736 and S. 2479, bills to amend the Public Buildings Act of 1959, as amended; and

One day on S. 2900, a bill to amend the John F. Kennedy Center Act to authorize funds for operation and maintenance of the nonperforming arts function of that center.

During the first session the Public Works Committee ordered reported the following bills which were subsequently passed by the Senate and are now pending in the House of Representatives:

S. 861, a bill to designate the Federal office building and U.S. courthouse to be constructed in Atlanta, Ga., as the "Richard B. Russell Federal Building";

S. 2687, a bill to authorize the acquisition of certain real property in square 724 in the District of Columbia; and

S. 1736, a bill to amend the Public Buildings Act of 1959, as amended, to provide for financing, acquisition, construction, alteration, maintenance, operation and protection of public buildings, and for other purposes.

The committee, also during the first session of the 92d Congress, considered and approved 34 public buildings projects with a total estimated construction cost of $231,139,500.

DISASTER RELIEF

The Special Subcommittee on Disaster Relief functioned during the 91st Congress and developed major legislation to provide a proper Federal response to conditions resulting from natural disasters.

This special subcommittee was not continued for the 92d Congress. Its chairman, however, presided over hearings of the full committee called to review the Federal response to the earthquake that occurred in February 1971 in the area of Los Angeles, Calif. Hearings were held on June 10 to 12 in San Fernando, Calif.

As a result of information developed at these hearings, legislation was introduced (S. 1237) to amend the Disaster Relief Act of 1970 so that Federal grants could be authorized for the repair, reconstruction, or replacement of damaged or destroyed nonprofit medical facilities. This measure became law—Public Law 92-209—on December 18.

In addition to the hearings, there were frequent consultations and on-site visits to evaluate the effectiveness of Federal, State, and local agencies in dealing with the aftermath of natural disasters.

COMMITTEE FILM PROGRAM

For several years the committee has made films on air and water pollution available, free of charge, for showing by schools, civic organizations, and similar groups. The committee now has 15 films on water pollution entitled "Troubled Waters" and 11 films on air pollution entitled "Ill Winds on a Sunny Day."

During the past year—1971—the two films were shown a total of 1,606 times and were seen by 58,613 people. Because of the limited number of films, 855 requests could not be filled.

THE STRAUSS ALTERNATIVE TO THE BRANDT TREATIES

Mr. THURMOND. Mr. President, Americans are watching closely the debate now in progress in West Germany concerning Chancellor Willy Brandt's proposed treaties with the Soviet Union and Poland. Mr. Brandt's Eastern policy is not a matter which concerns West Germany alone; the interests of the United States, and indeed, of the whole Western world will be significantly shaped by the outcome. The four-power agreement on Berlin has been explicitly tied to the outcome of the Brandt treaties, and the future viability of the NATO alliance is almost certainly at stake.

In my judgment, the treaties provide a shaky foundation for the future relationship between east and west, and set a precedent that makes it very difficult for the United States to maintain the proper safeguards in its own negotiations with Moscow. As Mr. Brandt's opposition, led by Dr. Rainer Barzel and Dr. Franz Josef Strauss, have been pointing out, the Soviets have not by any means renounced the right to intervene in West Germany with military force. This creates a constant threat to West Germany—indeed, a form of implicit blackmail.

In such a situation, it is plain that the treaties will have a demoralizing effect upon West Germany, and a destabilizing influence upon the Western Alliance in Europe. It is a blatantly one-sided agreement which is going to create significant problems for the Western Alliance if it is ratified in its present form by West Germany.

Fortunately, there is a good chance that it will not be ratified. The upper house of the West German Parliament, the Bundesrat, has already rejected the treaties in a preliminary vote. The lower house, the Bundestag, may also uphold this rejection; however, it is hoped its members, including those in the ruling coalition, will consider the impact of the treaties in the broader and long-range international situation.

It is true that the U.S. Government has given some lipservice to the Brandt negotiations. But in an international community of free nations, is there anything else that the President of the United States can do? When dealing on the formal diplomatic level, the President has to be coldly correct in allowing our allies to make their own initiatives in foreign policy. It is not up to the President of the United States to dictate policy to a friendly nation.

Fortunately, in debate in the U.S. Senate, we are not bound by formal diplomatic conventions. We are free to discuss the policies of other countries insofar as they affect the common interests of free nations. When West Germany proposes to make unilateral concessions that will undermine the common Western interest, we are free to point it out.

Actually, it is not surprising that the Brandt negotiations resulted in such a lopsided agreement. West Germany is a powerful nation; but standing alone against the Soviet Union and its bloc, it is not one of the superpowers and can hardly withstand the negotiative steamroller tactics of the Soviets. Without the complete and constant support and backing of the United States, West Germany is no match for the Soviet Union. The Brandt negotiations were carried on with only the sketchiest consultations with the U.S. Government and other allies. Indeed, the Chancellor's celebrated summit meeting with Soviet General Secretary Brezhnev in the Crimea was apparently 5 months in the making, yet we were notified only days before the event took place.

Contrast this with the summit statesmanship of President Nixon. He arranged full, personal and public consultations with our major allies several months before his summit meetings. Chancellor Brandt was invited for consultations with the President. The press noted that there was a marked coolness between the two leaders. Many observers interpreted the President's earlier remarks stressing the importance of free allies having consultations before important initiatives in foreign policy as an implied rebuke to the West German Chancellor.

Fortunately, there is a sensible alternative to the treaties which has already been laid before the German people. Dr. Franz Josef Strauss, the distinguished Chairman of the CSU, has proposed a draft treaty which, carrying on the earlier work of the CDU/CSU for peace, outlines a program which would really bring stability to Europe. As Dr. Strauss said at a press conference introducing the draft treaty:

> We feel that peace in Europe can only be maintained in the principles of international law, of equality of rights, of the rights of nations to self-determination, of the non-intervention in the internal affairs of other states, as well as the respect of human rights and fundamental freedoms, especially the right to free movement of persons and ideas are respected by all European States.

To get the Soviet Union to agree to such principles would require tough negotiating of the sort which the Brandt government has apparently renounced.

But it is not an impossible task, if it is done in coordination with the Western Allies. The Strauss draft treaty may never be the subject of negotiation as long as Brandt is in power, but by its positive and unambiguous statements it makes a clean contrast pointing up the deficiencies of the Moscow and Warsaw agreements under consideration.

Mr. President, I ask unanimous consent that the alternative proposal presented by Dr. Strauss, including both his remarks at the news conference and the draft text, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ALTERNATIVE PROPOSAL TO THE GERMAN-SOVIET TREATY PRESENTED BY THE CHAIRMAN OF THE CHRISTIAN SOCIAL UNION, FRANZ JOSEF STRAUSS

On Monday, January 31, 1972, the Bureau of the Christian Social Union has adopted unanimously the alternative proposal put forward by the CSU—and presented by the Chairman of the CSU Franz Josef Strauss and the Chairman of the CSU-Landesgruppe (Parliamentarians) in the German Bundestag Richard Stücklen—to the German-Soviet Treaty of August 12, 1970. The text of the draft treaty, which you will find enclosed, has been explained by the CSU-Chairman at a press conference. He said:

1. Konrad Adenauer had laid the basis of a policy of durable peace and freedom in security. He had accomplished the approach to the West and initiated the normalization of the relations between the Federal Republic and the Soviet Union without renouncing thereby fundamental German rights and positions.

Ludwig Erhard had continued this policy by his peace-note of May 1966 and the establishment of trade missions in Eastern European countries.

Kurt Georg Kiesinger had made this the basis of his policy and had offered Moscow and the other members of the Warsaw Pact negotiations on a comprehensive renunciation of the use of force and negotiations on a modus vivendi in order to solve urgent technical questions as regards the particular German problems and to facilitate human relations without renouncing fundamental rights. The Soviet Union was willing to take up these negotiations because she could not but be interested in settling the problems in connection with the Western border of her sphere of influence.

Both the American change of attitude towards the People's Republic of China and the Soviet preparedness to enter into peace negotiations with Japan prove this and moreover confirm the opinion of the CDU/CSU that the German Ostpolitik should have been put in the global context of world evolution and that its promoters should not have acted alone. Then the Soviet Union had waited for the outcome of the elections to the Bundestag in 1969, but before she had invited politicians of the SPD and the FDP in order to explore whether it would be possible to reach a settlement more favourable to her with another Federal Government. The new Federal Government formed by the SPD and the FDP had already declared before coming to power, that it would start from the existence of two German States. It thus has offered by unilateral advanced concessions the Soviet Union the desired result without receiving any counter-performances deteriorating thereby the course of the German Ostpolitik in a fatal way.

2. Both the CSU and the CDU have always been pursuing a policy of peace for Europe. Moreover, the present Federal Government continues stressing the fact, that this policy of peace of the CDU/CSU is the indispensable basis of any conceivable policy of understanding with the East. We have laid down what a non-aggression treaty with the Soviet Union worth its name should look like in our opinion.

3. The CDU/CSU has always been a partisan of a policy of the renunciation of the use of force. In 1954 the Federal Government headed by Konrad Adenauer had by acceding to the Treaties of Paris undertaken to pursue a policy of non-aggression—also and especially with regard to the East—in accordance with the principles laid down in the UN-Charta and with the objectives embodied in the Statutes of the Council of Europe. However, as the German-Soviet Treaty of the Brandt/Scheel Government—contrary to the original objectives of the present Federal Government—may not even be called any longer a "treaty on the renunciation of the use of force" as the Soviet Union does not renounce therein her right of intervention, we feel, that German policy should make any effort to reach a true treaty on the renunciation of the use of force.

We have laid down in our draft treaty the ideas to be represented by a German Foreign policy built on the continuity of Konrad Adenauer's peace policy. The Brandt/Scheel Government has left this line of continuity.

4. In accordance with the NATO-Communiqué of December 1971 we want to reach détente by "Removing the causes of tension" (Art. 1 (1) Draft Treaty).

5. We want to develop peaceful relations between the European States by speeding up cooperation in the economic, scientific and cultural fields as well as by opening all frontiers to an unimpeded traffic.

6. Our draft treaty notes that a politically united and independent Europe shall contribute to peaceful cooperation with all the other nations of the world.

7. We feel, that peace in Europe can only be maintained if the Principles of international law, of equality of rights, of the rights of nations to self-determination, of the nonintervention in the internal affairs of other states, as well as the respect of the human rights and fundamental freedoms, especially the right to free movement of persons and ideas are respected by all European States.

8. A definitive settlement of the German Question including the German boundaries should be reserved for a peace treaty with Germany as a whole. Moreover, this continues to be valid German treaty law.

9. We do not expect the Federal Government to approve this draft treaty, because its own intentions to conclude a true nonaggression treaty were denounced by its renunciation of German interests when negotiating in Moscow. There is no more significant sign of that fact, that the Brandt/Scheel Government does no longer stick to the tradition of German peace policy.

10. Nor do we expect the Soviet Union to immediately accept such a draft. Tough negotiations will be necessary to achieve this. But it must be of interest to the Soviet Union to pursue a policy of understanding, cooperation, peace, and non-aggression with regard to her Western neighbours. We do know, that only a wearisome process can lead to this objective.

An example of this is the tough wrestling of the Austrian Federal Government under Raab/Figl. It was only after wearisome negotiations that the Soviet Union approved in 1955 the re-establishment of the Austrian unity in freedom.

Recently we have seen another proof of the fact, that a policy of patience and the indispensable representation of national interests can lead to success. For 27 years Japan has been waiting for a peace treaty to be concluded with the Soviet Union. Having already concluded the peace treaty of San Francisco with the Western Powers in 1951, Moscow up to now has constantly refused to enter into peace negotiations with Tokyo. But Japan continues to require the restitution of the Southern Kuriles to Japan, which the Soviet Union had occupied in 1945 after her surprise attack on Japan. As Japan is beginning to normalize her relations with the People's Republic of China, the Soviet Foreign Minister Gromyko has visited Japan and has declared himself willing to take up peace negotiations with Japan still within the course of this year.

11. The CSU continues to pursue in the future as well as in the past a policy of securing peace and freedom but also of maintaining the pre-conditions of German unity. In the official German-Soviet Treaty concluded by the Federal Government the CSU does not see any progress which facilitates détente and makes peace more secure, but the source of new antagonisms, the support of the Soviet power politics and the compromise of European unity. In its 20 years of government, the CDU/CSU has succeeded in securing peace and freedom as equal objectives. It will try by all means to avoid a policy which in the last resort is bound to compromise freedom, to make peace less secure and to enable the Soviet party to the treaty to make the world believe in the renunciation by the Germans of their right to self-determination despite all contrary affirmations by the Federal Government. By these treaties the Federal Government has made more difficult any true Ostpolitik. But the CSU leaves no doubt, that it pursues the conclusion of a treaty with the Soviet Union and the other Warsaw Pact States, which is to settle the renunciation of the use of force and the willingness to cooperate. The present draft treaty contains the opinion of the CDU and of the CSU which will both secure the continuity of the German Ostpolitik and represent its further development in contractual terms and not impose any unreasonable demands on either party.

[Draft proposed by the Christian Social Union in Bavaria—Unofficial translation from the German text]

TREATY ON THE RENUNCIATION OF THE USE OF FORCE BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE UNIONS OF SOVIET SOCIALIST REPUBLICS

The High Contracting Parties—

Anxious to contribute to strengthening peace and security in Europe and the world,

Convinced that peaceful cooperation in all of Europe complies with the ardent desire of nations and the general interests of international peace,

Appreciating the fact, that the measures agreed previously, in particular the conclusion of the agreement of September 13, 1955 on the Establishment of Diplomatic Relations, have created a basis for further developing and strengthening their mutual relations;

Noting, that the declared exclusion of the use of force contributes to creating a political climate favourable for an ulterior settlement of contentious questions and questions interpreted in a different way and leads to the realization of the right to self-determination of the divided German nation,

Desiring to lend expression in the form of a treaty to their determination to improve and extend cooperation between them,

have agreed as follows:

ARTICLE 1

1) The Federal Republic of Germany and the Union of Soviet Socialist Republics consider it an important objective of their policies to maintain international peace and achieve détente by removing the causes of tension;

2) they undertake to settle all contentious questions including those affecting frontiers and demarcation lines, only by peaceful means and to refrain in their relations from the threat of the use of force;

3) they affirm their endeavour to further the development of peaceful relations between the European States by speeding up the cooperation in the economic, scientific, and cultural fields as well as by opening all frontiers to an unimpeded traffic.

ARTICLE 2

1) The Federal Republic of Germany and the Union of Soviet Socialist Republics shall in their mutual relations as well as in matters of ensuring European and international security be guided by the purposes and principles embodied in the Charter of the United Nations.

2) The Union of Soviet Socialist Republics declares not to claim any unilateral right of intervention with regard to the Federal Republic of Germany pursuant to Art. 107 and 53 of the Charta of the United Nations.

3) The Federal Republic of Germany declares—

That its policy of creating a politically united Europe is not directed against anybody. A politically united and independent Europe shall serve the peaceful cooperation with all other nations of the world.

That by the conclusion of the present treaty it has not undertaken any obligation to renounce or to restrict in future the right it represents and exercises to pursue by peaceful means the self-determination and unity of the German nation as an objective of its policy.

ARTICLE 3

The Federal Republic of Germany and the Union of Soviet Socialist Republics share the realization that peace in Europe can only be maintained if the Principles of International Law, of the Equality of Rights, of the Rights of Nations to self-determination, of the Non-Intervention as well as the respect of Human Rights and Fundamental Freedoms, in particular the Right to Free Movement of persons and ideas are respected everywhere.

ARTICLE 4

A definitive settlement of the German Question including the German frontiers is reserved to a peace treaty with Germany as a whole.

ARTICLE 5

The present treaty between the Federal Republic of Germany and the Union of Soviet Socialist Republics shall not encroach the validity of any bilateral or multilateral treaties or arrangements previously concluded by them.

ARTICLE 6

The present Treaty is subject to ratification and shall enter into force on the date of exchange of the instruments of ratification which shall take place in ———.

Done at ——— on ——— in two originals, each in German and Russian languages, both texts being equally authentic.

ROLE OF CONGRESS IN FUTURE POLICYMAKING

Mr. MANSFIELD. Mr. President, on February 3, the distinguished Senator from Idaho (Mr. Church) delivered a most thoughtful address as a part of the Christian Herter lecture series of Johns Hopkins University. In it he discussed the role of Congress in the future of foreign policymaking. As Senator Church has set forth so clearly with this address, the role of Congress must be reasserted and restored if this branch of Government—and particularly the institution of the Senate—is to act responsibly and indeed if it is to perform at all its constitutional function.

I commend the address by Senator Church to the entire membership. In my judgment, no individual is more qualified to address himself to this particular subject—one which concerns me just as deeply, I must say, as it does the Senator from Idaho.

I ask unanimous consent that Senator Church's address at Johns Hopkins University, entitled "American Foreign Policy in Transition: Who Will Shape It?" be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

American Foreign Policy in Transition: Who Will Shape It? The Role of Congress

(An Address by Senator Frank Church)

As this is a time of transition in American Foreign policy, so is it a time of transition in the role of Congress in shaping that policy. We are passing through a tidal change of both substance and procedure. Congress is becoming more self-assertive, more mindful of its constitutional rights and prerogatives, more independent of the Executive Branch. This is the way the Founding Fathers intended it.

The process began with the emergence in Congress, especially in the Senate, of a serious dissent against the Johnson Administration's war policy in Vietnam, but it has long since moved far beyond that single question and has become a struggle to shift significant constitutional powers back from the Executive to the Legislative Branch of the Government.

This has predictably set up two sets of tensions between Congress and the Executive Branch. There is, first, the basic question over what foreign policy goals should be. The Administration has shown few signs of recognizing how deep this argument runs. It has little to do with particular policies, but relates instead to the nature of our national interests abroad and our role in the world generally. Then there is, second, the disagreement over how foreign policy should be made. This, too, is more profound than it might appear from superficial examination. It is certainly more than a petty power fight within the government; it stems, rather, from fundamental interpretations of the Constitution.

These two sets of tensions exist principally between Congress and the Executive Branch, but the disagreements which give rise to them exist also within Congress—which, to put it mildly, is far from a monolithic body. There are important elements in Congress, especially in the House, which condone the most extreme and exclusive use of Presidential power in the conduct of our Foreign Relations. Yet I think the trend is toward Congressional insistence on playing a larger role and on exercising anew powers which long since have fallen into disuse or slipped away to the Executive Branch.

The fact that these powers shifted to the Executive Branch in the first place may have less to do with usurpation by a succession of Presidents than to abandonment by a succession of Congresses. This abandonment has come about in two ways: (1) the failure to use powers vested in Congress by the Constitution, and (2) the use of power in such a routine fashion that Congressional acquiescence has come to be taken for granted. In both cases, the explanation for such Congressional behavior is usually to be found in Congressional agreement with the President's policy or the course of action proposed by the Executive Branch. Most members of Congress approved of the extra-legal actions which President Roosevelt took to help the British prior to Pearl Harbor. Most members of Congress agreed with President Truman's decision to intervene in Korea. In neither case did Congress insist on its right to participate in the decisions. In consequence, both cases were added to a long line of precedents strengthening Executive power at the expense of Congressional power.

Routine Congressional assent can be as erosive a force as outright Congressional abdication. This is clearly seen in an examination of the record relating to the use of the two foreign policy powers explicitly vested in the Senate by the Constitution—the power to confirm nominations and to advise and consent to the ratification of treaties.

A search of the Senate's Executive Journal by the Congressional Research Service of the Library of Congress reveals that the last time the Senate formally rejected a Presidential nomination in the field of foreign affairs was April 8, 1914, when, by a vote of 24 to 26, it turned thumbs down on President Wilson's nomination of one James C. McNally to be consul in Nuremberg. The last time the Senate rejected a treaty was May 26, 1960, when, by a vote of 49 yeas to 30 nays, it refused to give its advice and consent to ratification of a protocol on compulsory settlement of certain law-of-the-sea disputes. According to a compilation by the Office of the Legal Adviser of the Department of State, out of 1,479 treaties submitted to the Senate from 1789 through 1971, only 16 were rejected.

In all truth, it must be admitted that the Senate rubber stamps most nominations and gives only the most perfunctory consideration to most treaties. A very strong presumption has grown in favor of confirming nominations—much stronger, even, than the presumption in favor of approving treaties without changes which would require renegotiation.

The Constitution itself carefully distinguishes between the Senate's power with respect to appointments and its power with respect to treaties. The pertinent provision (Article II, Section 2, paragraph 2) says:

"He (the President) shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, judges of the Supreme Court, and all other Officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by Law . . ."

Thus, the President and the Senate share the power to make treaties. They share the power to make appointments. But only the President has the power to nominate. The practical effect of this is that the Senate has a much stronger claim to prior consultation in the treaty-making process than in making appointments. This is the way it has worked.

A startling example of how the Senate has allowed its power over nominations to wither away is seen in the fact that the last nomination it rejected was to the position of consul. Consuls are one of four specific groups of public officers mentioned in the Constitution whose appointments require the advice and consent of the Senate. Yet not in recent times has a President sought the advice and consent of the Senate with respect to a consular appointment. Rather, the practice has been that the Senate confirms and individual (almost invariably a career officer) to act as a consual and leaves his specific assignment up to the President or, as a practical matter, the Department of State. Yet sometimes a consular officer—for example, the Consul General in Hong Kong—has more important responsibilities than a good many Ambassadors.

Further, if it is constitutional for the Senate to confirm an individual in the rank and function of consul, why would it not be equally constitutional for the Senate to confirm an individual in the rank and function of Ambassador, and then leave it to the President to decide whether he should be assigned to Great Britain or Paraguay? The fear that we may be approaching such a state of affairs is one of the things behind the recent reluctance of the Senate Foreign Relations Committee to confirm nominations to the ranks of Career Ambassador and Career Minister in the Foreign Service.

However routinely the Senate may approve nominations and most treaties, the bare record I have cited tends to understate the Senate's role. The Senate can produce the same effect as rejection simply by not acting at all, and this is a much more frequent occurrence. Once a treaty is sent to the Senate, it remains technically pending until it is either acted upon or returned to the President. Of the 19 treaties currently before the Senate, three have been there since 1949. A nomination, however, lapses when the Senate adjourns for more than 30 days. This fate befell a number of nominations when the Senate adjourned in December, 1971. In some cases, the inaction was due to the fact that the nominations were submitted too late in the session. In other cases, the inaction was deliberate. The most notable of these, perhaps, were the nominations of General Earle G. Wheeler, former chairman of the Joint Chiefs of Staff, and of John A. McCone, former director of the Central Intelligence Agency, to be members of the General Advisory Committee of the Arms Control and Disarmament Agency. The feeling in the Foreign Relations Committee was that these individuals were too committed to large arms expenditures by the United States to give useful advice with respect to arms control and disarmament.

Sometimes, also, opposition to a nomination in the Senate or in the Foreign Relations Committee leads the President to withdraw the nomination rather than risk rejection, and sometimes senatorial opinion leads a President to modify a treaty during the process of negotiation.

It is very rare that the Senate holds up a foreign affairs nomination on purely personal grounds. The presumption that the President is entitled to have appointees of his own choosing, becomes stronger the more directly the position is in the presidential chain of command and the more intimate is its relationship to the White House. (It is significant that the only two nominations rejected by the 91st Congress—out of the staggering grand total of 134,464 submitted—were not in the Executive Branch at all, but to the Supreme Court.)

Indeed, the most influential foreign policy maker in the government, except for the President himself, is not subject to Senate confirmation at all, refuses to appear before congressional committees, and is quite inaccessible to Congress except rarely and informally at times and places of his own choosing. I refer, of course, to the President's Assistant for National Security Affairs, a post currently held by Dr. Henry Kissinger.

Other officials in positions of great foreign policy importance also escape Senate scrutiny. The various heads of the U.S. delegation at the seemingly interminable Paris negotiations on Vietnam have all been given the rank of Ambassador, by presidential designation, but have not been subject to Senate confirmation. It is a measure of how far we have come from the original intent of the Constitution when we recall that not only did the early Presidents seek Senate confirmation of envoys to negotiate treaties but also asked the advice and consent of the Senate with respect to their instructions.

The greater role of the Senate in the treaty-making process, including the requirement of a two-thirds vote, means that ordinarily it behooves the Executive Branch to be reasonably sure of its ground before sending a treaty to the Senate. It means also that foreign powers must be more heedful of senatorial opinion than would otherwise be the case. During the long negotiations which culminated in 1963 in the Nuclear Test Ban Treaty, one of the more difficult sticking points had to do with the number of on-site inspections which would be provided for should the treaty take the form of a comprehensive test ban.

The question arose of whether two thirds of the Senate could be persuaded to approve a treaty without more on-site inspections than the Russians were willing to allow. I recall, during this period, that the Soviet Ambassador met informally with some members of the Foreign Relations Committee. Although, at first, he seemed skeptical of the Senate's powers, I have often wondered if these meetings did not contribute to the switch in the Soviet position from insisting on a comprehensive test ban with a very small number of on-site inspections to accepting a limited test ban in which it was possible to avoid the problem.

Although in certain instances, including a number of the first importance, the treaty-making process has continued to work as the Founding Fathers contemplated, its integrity has been seriously and increasingly threatened, especially since World War II, by the growing use of executive agreements as a device to bypass the Senate.

There is, of course, a place for executive agreements; indeed, one can scarcely imagine the conduct of our foreign relations without them. I would even venture to say that most of the thousands of executive agreements to which the United States is a party raise no serious question of constitutional propriety. These are the agreements which are made in pursuance of programs which have been duly authorized and those which deal with essentially routine day-to-day operations. Examples of the first class would be trade agreements made pursuant to authority contained in the Reciprocal Trade Act, or agreements implementing the Food for Peace program or the foreign assistance program. Examples of the second class would be agreements relating to such matters as visas, status of diplomatic personnel, cooperation overflight privileges, certain aspects of the in customs matters, etc.

I do not suppose it will ever be possible to draw a universally acceptable line between treaties and executive agreements. An effort to do so would be likely to deteriorate into an exercise in legal quibbling and hair-splitting. It would be like arguing over twilight when all but the blind can tell the difference between night and day. My point is that the Executive Branch has steadily broadened the area which it deems appropriate for executive agreements and has thereby steadily encroached on the area reserved for treaties.

It is easier this way. There is no need to go through the inconvenience and delay of a Senate debate with the attendant risk of rejection. The Senate, it must be admitted, has acquiesced in the process entirely too often and in some cases has even invited it through overly broad delegations of authority and discretion to the President in such laws as those pertaining to foreign assistance and foreign military sales.

The legal ingenuity available in the Executive Branch has used this authority, plus the President's constitutional power as Commander-in-Chief, plus the dubious doctrine of "inherent powers," to stretch the President's reach far beyond anything which would be recognizable by the Founding Fathers.

Two current examples come readily to mind—the recently negotiated base rights agreements for the Azores and Bahrain. The first of these involves more than $400 million in loans from the Export-Import Bank and other assistance, as well as a political identification with Portugal and the consequent alienation of black Africa.

The President has apparently decided that United States policy should "tilt"—as Dr. Kissinger put it in another context—toward Portugal. Given our unerring ability to ally ourselves with the past against the future, this comes as no surprise, though it is a little startling to see it come without so much as a nod to the Senate—and this from a President who in other circumstances loses no opportunity to proclaim his devotion to a strict construction of the Constitution.

The Bahrain agreement is similar in all fundamental respects. The immediate cost is not yet a matter of public record, and we can only speculate as to what the ultimate cost will be. Through this agreement, we acquire, in essence, the rights to a base which the British are abandoning and which we have long used, through arrangement with the British, to support our flotilla in the area of the Persian Gulf. Naturally, what was adequate for anybody else will not be adequate for Americans; so we feel called upon to expand the shore facilities and to enlarge the fleet which uses them. All of this, no doubt, is to replace the British presence in the Persian Gulf; otherwise, the argument runs, the British withdrawal would leave a vacuum which might be filled by the Russians. This insures that it will be we, and not the Russians, who will create friction with the countries of the area. And all of it, again, is presented to Congress as a fait accompli.

One does not have to accept my skeptical view of the policy involved, either with respect to Portugal or the Persian Gulf, to be disturbed over the procedure. The trouble with the procedure—as it has been also in the cases of the Spanish bases, the secret contingency plan with Thailand, the secret commitment to Korea, and others—is that it involves the United States in new and potentially dangerous commitments which are not exposed to public scrutiny until it is far too late to change them easily. It may be—though I doubt it—that upon examination the Azores and Bahrain agreements will be seen to further the national interests of the United States. But let this be determined in the Senate.

A salutary first step toward correcting this situation is the bill sponsored by Senator Case of New Jersey to require all executive agreements, secret or not, to be reported to Congress. This would at least enable the Congress, and to a degree the public, to know what we are getting ourselves into. The bill has been approved by the Foreign Relations Committee and is pending on the Senate calendar where I hope it will receive early and favorable attention.

II

So far, I have been talking about areas in which the foreign policy powers of the President and the Senate are shared. The erosion of the Senate's role has occurred because succeeding Presidents have by-passed the Senate through the appointment of important officials not subject to confirmation and through the use of executive agreements. In all of this, I repeat, Congress has acquiesced at least tacitly by providing implementing legislation and/or funds.

We come now to even more difficult questions which fall within the traditional concept, not of shared power, but of the separation of power. I want to deal particularly with two of these—first, the conflict between the President's power as Comamnder-in-Chief and Congress' power to declare war, and second, the use of appropriations to affect foreign policy.

In no area has the President's power been more augmented at the expense of Congress, than in respect to his function as Commander-in-Chief. It is sadly instructive to read the message to Congress of December 8, 1801, by President Jefferson on the capture of an American frigate by the Barbary pirates:

> ". . . Unauthorized by the Constitution, without the sanction of Congress, to go beyond the line of defense, the vessel, being dis-

abled from committing further hostilities, was liberated with its crew. The Legislature will doubtless consider whether, by authorizing measures of offense also, they will place our force on an equal footing with that of its adversaries."

Now hear the testimony of Under Secretary of State Nicholas de B. Katzenbach before the Senate Foreign Relations Committee, on August 17, 1967:

"A declaration of war would not, I think, correctly reflect the very limited objectives of the United States with respect to Vietnam. It would not correctly reflect our efforts there, what we are trying to do, the reasons why we are there, to use an outmoded phraseology, to declare war."

At this point, Chairman Fulbright interjected to ask, "You think it is outmoded to declare war?" Mr. Katzenbach replied:

"In this kind of context I think the expression of declaring war is one that has become outmoded in the international arena."

And he was talking about a conflict which has cost 50,000 American lives!

The distance between Jefferson and the second Johnson was traversed, like the journeys of the Chinese, a step at a time, slowly during the 19th Century and then with dizzying acceleration in the 20th, beginning with the first Roosevelt's big stick. There thus accumulated a body of precedents for the President to send the Armed Forces outside the United States during peace-time and even to involve them in foreign hostilities. The State Department professed to find 125 such instances as long ago as 1951, and I have not had the heart to count the later ones. Presidents have gotten by with this because the Armed Forces, being well-disciplined, will carry out the President's orders, regardless of their illegality, and because, until recently, no challenge has been heard in Congress.

That challenge has now been sounded on two fronts—the so-called war powers bill, of which Senator Javits of New York is the principal sponsor, and a series of amendments, in which I have had a part along with Senator Cooper of Kentucky and others, to limit the amount of funds available and the purposes for which they can be used.

The war powers bill, which was approved by the Foreign Relations Committee in December by a vote of 13–0, is a landmark piece of legislation. Significantly, it is cosponsored by Senator Stennis of Mississippi, the Chairman of the Armed Services Committee. It represents the first effort, so far as I know, to spell out the respective powers of the President and Congress over the use of the Armed Forces in hostilities or in situations where, in the language of the bill, "imminent involvement in hostilities is clearly indicated by the circumstances."

In general, the bill provides that this may be done, in the absence of a declaration of war by Congress, only to respond to armed attacks, to evacuate American citizens whose lives are in danger, or pursuant to specific statutory authorization. In any case, the President is to report his action promptly to Congress. The use of the Armed Forces for the purposes indicated cannot be sustained longer than 30 days without specific Congressional authorization, and Congress can, if it so desires, terminate the action in less than 30 days. The bill would not apply to current hostilities.

Congressional efforts to shape foreign policy through limitations on appropriations have taken a variety of forms, and we may be sure that new ones will be invented, for we are dealing here with the ultimate Congressional power—the power of the purse. About the only thing Congress cannot do in the exercise of this power is to cut the salary of th President during his term of office. This is a very potent weapon indeed—so potent that Congress, like a doctor experimenting with a new wonder drug, has been reluctant to use it in large doses. However, this reluctance is diminishing with experience, especially as that experience proves the difficulty of legislating foreign policy without resort to the power of the purse.

Two examples of this difficulty are to be found in the Mansfield amendment to fix a date for withdrawal from Vietnam and in repeated attempts over a number of years to write foreign policy into the Foreign Assistance Act. The Mansfield Amendment, in modified form, was finally enacted into law last year. But even as President Nixon signed the bill to which the amendment was affixed, he dismissed the amendment as having no binding effect. Lacking built-in sanctions, limiting the use of funds, the President felt free to disregard it.

Senator Cooper and I tried to provide the sanctions in an amendment of our own to the unlamented foreign aid bill last year. It would have limited the use of funds by U.S. forces in Indochina to the purpose of withdrawal, except for actions necessary to protect the troops against imminent danger as they withdrew. This amendment failed in the Senate by a single vote. You may be sure that it, or something like it, will be revived. Congress has, however, enacted into law other Cooper-Church amendments prohibiting the use of *any* money to finance the introduction of United States ground combat troops into Cambodia, Laos, or Thailand, or in providing United States advisers to or for Cambodian military forces in Cambodia. Since they invoke the use of the purse-strings, these amendments have been observed.

One can see the same pattern in connection with the foreign aid program. For years, for example, the Senate Foreign Relations Committee urged the Administration to put more emphasis on multilateral aid programs and less on bilateral. For years, successive foreign assistance acts provided authority to transfer bilateral aid funds to multilateral agencies, but this authority has always been negated through prohibitions subsequently inserted in appropriation acts—an instance of Congress being deeply divided within itself. Gradually, however, it dawned on the proponents of multi-lateralism that the only way to accomplish this shift was to cut bilateral aid so much that there would be no viable alternative. (I am not suggesting that this motivated all those who voted to cut bilateral aid last year. I am suggesting that it is of more than passing significance that, the week before the Senate defeated the original bilateral aid bill, it approved three multilateral bills, authorizing upwards of $2 billion.)

One sees the effort to use funding restrictions to shape policy also in Congressional action with respect to military assistance. Given the huge deficit in the Federal budget and the mounting pressures for domestic expenditures, there is a powerful argument to be made against costly military assistance on budgetary grounds. But Congressional funding cuts have usually been made on policy grounds, in an effort to give some direction to the program for political rather than budgetary reasons. Thus, Congress has not only cut back the funds for military assistance in general, but has put specific geographic ceilings on the grant programs for Latin America and Africa. It has decreed personnel cuts in the Military Assistance Advisory Groups abroad, more to lower our profile than our expenditures. It has even limited our foreign military sales, where perhaps a budgetary reason could be found for expanding them.

I expect—and hope—that this trend will continue, not only with respect to limitations on funds but also with respect to limitations on the number of countries receiving aid. One can also anticipate—and I welcome it—tighter limitations with respect to specified countries.

It is over issues such as this that we shall see played out the debate which will eventually clarify and set the limits on the Nixon Doctrine. This Doctrine, in its simplest terms, postulates the substitution of American aid for American troops. It is an attractive concept when aid is viewed as an alternative for troops, and the pressures which have already been generated to make this switch are tremendous. But the Nixon Doctrine does not squarely face the question of whether the United States national interest requires either aid or troops, nor has the question been fully answered of how much aid the Doctrine implies.

III

There is one further aspect of Congressional participation in foreign policy-making which deserves our attention and this is its relationship to public opinion. A viable foreign policy has to have broad public support which can come, over the long term, only as the result of informed public debate. One of the important functions of Congress is not only to reflect public opinion, but to take the lead, along with the President and other opinion-molders, in forming it. This role used to be played mainly through debate, especially in the Senate. In recent years, for a variety of reasons, the level of debate has declined, and the function of committee hearings has become more important.

In many respects, committee hearings provide a more desirable forum for the discussion of public issues. They provide a means for questioning officials of the Executive Branch (assuming those officials are willing to appear), and they also make it possible to draw upon the expertise and insights of private citizens. They are open to coverage by television and radio and are therefore subject to wider dissemination. Finally, they can concern themselves with questions of broad policy which may not be readily susceptible to legislative solutions.

The hearings which the Foreign Relations Committee held on Vietnam beginning in 1966 had, I think, a profound impact on public opinion. The hearings which the Committee held on China policy in the summer of 1971 contributed, I think, to improving the climate for the President's forthcoming trip to Peking.

IV

If the Congress is to play a constructive role in foreign policy, it needs to equip itself properly for the job. Time does not permit a detailed discussion of Congressional organization and procedures, but I would like to discuss one point which seems to me the most important of all. This is information. One does not need to know everything about a subject to make an intelligent judgment on it (indeed, the effort to learn everything may well impede the process of arriving at an intelligent judgment), but Congress does, I think, need to organize its own sources of information more systematically, and it must have access to more of the information available to the Executive Branch. There are several aspects of the problem.

First, there is the matter of Congress' own sources. If Congress is to behave as an independent arm of the government, as the Constitution clearly intends, it must have independent sources of information. These may range all the way from the daily press and other publications through hearings with nongovernmental witnesses to the use of Congressional staff abroad. In recent years, the Senate Foreign Relations Committee has made increasing use of its staff to conduct on-the-scene investigations abroad. These have provided the Committee with a useful check on what its members are reading in the press and being told by the Executive

Branch. They have also, at times, provided the basis for subsequent detailed hearings and discussions with Executive Branch officials.

Aside from acquiring information through staff travel and reports, Congress needs better methods for assimilating the information it already has. Congressional committee files have not been exempt from the data explosion which threatens to bury us all in paper. Yet Congress has been hesitant in developing for its own use the new techniques, including computers, for information systems and for data storage and retrieval.

Although it is frequently amazing how much one can learn about a situation without reference to the Executive Branch, certain kinds of information are available only from the Executive Departments. This is information which has to do with the activities of the Executive Branch itself. I must say, in all candor, that the record of the Executive Branch in supplying this information has been inexcusably bad in recent years. In the argument that has ensued, a great deal of confusion has been scattered about concerning classified information and the doctrine of Executive privilege.

In the first place, there is a great deal of classified information which ought to be public. But this is a separable issue from the question of Congressional access to information which is properly classified. To say a document is Top Secret is no excuse for withholding it from an authorized Congressional committee whose staff has been properly cleared and whose members have been elected by the American people to protect their interests. The Foreign Relations Committee first learned of the existence of the U.S. secret agreement with Korea concerning the Vietnam war *from a Korean,* and then spent months trying to persuade the State Department to let us look at it. Nor is it any excuse to say that Congress cannot keep secrets. The record of Congress on this score, over the long terms, is certainly no worse than that of the Executive Branch and, in the last year, has been a good deal better.

This question is also separable from that of Executive privilege. I know of no one in Congress who quarrels with the doctrine of Executive privilege, narrowly construed, but one of the alarming trends I see in the Executive Branch is a tendency to broaden this doctrine, or the circumstances in which it might be applied, beyond all reason. Let me elaborate.

The doctrine of Executive privilege is based on the sound proposition that the President is entitled to have the private counsel of his advisers. The memoranda which his advisers prepare for this purpose and the records of their discussions are, so far as I am concerned, inviolate; and I would no more dream of asking for them than I would dream of acceding to a Presidential request for the records of the private meetings of the Foreign Relations Committee, or of the Committee's internal memoranda from its staff.

This definition of Executive privilege, which most Presidents, including President Nixon, have implicitly accepted at one time or another, is quite limited and contemplates that it will be applied to only a few people. After all, there are not many officials of the Executive Branch who have this kind of intimate relationship with the President.

What has happened in recent years, which worries me, is the proliferation of functionaries who are arbitrarily *said* to have this relationship to the Preisdent when in fact no such relationship exists. This has come about mainly through the growth of the National Security Council staff which, because of its location in the Executive Office of the President, is argued to be beyond Congressional scrutiny. Accompanying this growth, I detect a trend to vest in the NSC staff more and more of the studies and policy papers which used to be lodged in the Department of State or elsewhere.

In practice, Congressional access to all of these documents has not been cut off, but the option now rests, not with Congress, but with the Executive. And on the occasions when Congress has been given access, it has been like pulling eye teeth. A single example will suffice, and it is worth relating in some detail.

During hearings last May before the Subcommittee on Western Hemisphere Affairs of the Foreign Relations Committee, I asked for a copy of a study on Brazil made for the National Security Council. On June 28, Assistant Secretary of State David Abshire wrote to me that the study was "an internal working paper" and that "we would prefer to refer you to the equally full factual information on Brazil, provided to the Subcommittee both heretofore and in the course of these hearings."

On June 30, I wrote to Mr. Abshire that his letter was not responsive and asked that he either "transmit the NSC study or assert a claim of Executive privilege."

On July 21, Mr. Abshire wrote that my request "requires review at higher levels in the Executive branch." He added that he would write again as soon as the review was completed.

On September 20, I wrote to Mr. Abshire noting the lapse of time and expressing the hope that the review might be expedited.

On November 10, not having heard from Mr. Abshire in the interim, I wrote again, saying that I would very much appreciate a determination.

On December 10, still without an answer, I sent a further letter, pointing out that "this protracted delay has the effect of denying information to the Congress without formally refusing the Congressional request," and that "this is totally unacceptable and displays contempt for Congress in the literal, if not legal, sense of the term."

On December 14, Mr. William E. Timmons, Assistant to the President, wrote to me that he was "unable to provide" the document, but that "we should be pleased to provide a full briefing on the findings of the study . . . at your convenience."

On December 28, a member of the staff of the Subcommittee was given access to the document in the Executive Offices in a manner which wholly met the requirements of the Subcommittee.

Other, similar examples could be cited. Instances of this kind neither protect the prerogatives of the Executive Branch nor respond to the needs of Congress. They have the effect only of making the work of Congress more difficult and of exasperating the people who are trying to do that work. It is a matter which I am happy to say is being looked at by Senator Ervin's Subcommittee of the Judiciary Committee with a view to writing some ground rules for the exercise of the doctrine of Executive privilege.

V

This discussion has unavoidably mixed both the substance of policy and the procedure of policy-making. It could not be otherwise. If Members of Congress agree with the substance of a policy proposed by the President, they are under an almost irresistible temptation to acquiesce in the procedure followed by the President, even though this procedure is derogatory of their own proper constitutional prerogatives. This is the fundamental reason for the near atrophy of Congressional foreign policy powers in the period 1940–65. And disagreement with policies followed by the President is the fundamental reason for the renaissance of Congressional powers since 1965.

None of this is to say that the full performance of the Congressional role would be a guarantee against mistakes. Congress is no more a source of ultimate wisdom than is the Presidency. But the two of them, acting together, are less likely to be mistaken at the same time on the same question than either acting alone. When the Constitution functions as it was intended, if they do not act together, neither can act separately. We might as well face the fact that this requirement sometimes leads to stalemate. Indeed, the theory of the system of checks and balances is that mistakes of the theory of the system of checks and balances is that mistakes of omission are likely to be less serious than mistakes of commission.

Since the development of long-range delivery systems for nuclear weapons, a pernicious doctrine has grown up that this theory is outmoded. This is nonsense. Nobody has ever argued that the President cannot respond instantly to an attack, or an obvious and imminent threat of attack, on the United States. On the other hand, I can think of many instances in recent years when we would have been better off if we had followed that wise old adage, "Don't just do something, for Heaven's sake; stand there!"

We still have a long way to go to restore what I would regard as a proper balance between the Executive Branch and Congress. As Dean Wilcox has well pointed out in his perceptive book, "Congress, the Executive, and Foreign Policy"—

"The American system of government is such that executive-legislative relationships tend to be negative and often of an adversary nature. Either branch can frustrate the other, but it is very difficult for either to control the other."

No one intends that Congress should conduct foreign policy; it obviously could not do so in any event. However, there is an important distinction, often lost sight of, between *conducting* foreign policy and *making* it. It is with respect to the latter function that Congress does have an important role to play, not only as a check on arbitrary presidential action, but also in formulating policies that command the broad public support without which no policy, no matter how brilliantly conceived, can long endure. This Congressional role is clearly intended by the Constitution; but even if it were not in the Constitution, it would still have to be performed as the only barrier on the road which otherwise leads to caesardom.

BILL RIORDAN, "MR. TENNIS," SALISBURY, MD.

Mr. BEALL. Mr. President, the greatest assets that our country has are the people who are motivating forces behind creative activities.

Bill Riordan of Salisbury, Md., is such a man. Through his efforts he has placed Salisbury on the international sports map, and has upgraded American tennis before the world.

Not a native Marylander, Bill settled in Salisbury in 1954 after a successful merchandising career in New York City.

In 1962 he started to organize tennis tournaments at Salisbury's newly constructed civic center, and in 2 years time U.S. Lawn Tennis Association awarded Salisbury and Bill Riordan the National Indoor Championship.

Since then Salisbury has been the home of this national sports event. Bill Riordan is a valuable asset to the community of Salisbury as well as to American tennis.

Mr. President, I ask unanimous consent that the profile "Meet Bill Riordan: Mr. Tennis," written by Bill Tanton, and published in the magazine supplement of the Baltimore Sunday Sun be printed in full.

There being no objection, the article as ordered to be printed in the Record, as follows:

[From the Sun magazine, Feb. 13, 1972]

Meet Bill Riordan: Mr. Tennis

(By Bill Tanton)

It is high noon on a bright sunny winter day in Salisbury and Bill Riordan strides briskly up to the front door of the handsome offices of Dresser Industries on the bank of the Wicomico River, about a mile downstream from the Riordan home, which is also on the bank of the winding Wicomico.

"I'm calling on Mr. Byrd," Riordan tells the receptionist. She recognizes Riordan. Everybody in Salisbury recognizes Riordan. In a very real sense, Riordan has made that Eastern Shore city of 20,000 known all over the world.

Riordan is taking Dan Byrd out to lunch. He is always taking people like Dan Byrd out to lunch. Dan Byrd is the handsome and personable young president of Dresser Industries and Riordan is a promoter and fund raiser. Company presidents and board chairmen are his meat.

Dan Byrd comes out of his office and greets Riordan. Would the visitor, Dan Byrd wants to know, like to go downstairs first to view the company's exhibit of ultra-modern gas pumps in a dozen spiffy colors, the printing on their faces in a half dozen languages, and with self service gadgets abounding, for that—self service—is the wave of the future in gas pumps the world over?

Of course, Mr. Riordan would love to see Mr. Byrd's gas pumps. What handsome colors! Marvelous! And you mean that this one is connected electronically to a cashier at a check-out gate, something like the supermarket? Fascinating! How interesting that 70 per cent of the gas stations in Sweden are already automated.

Dan Byrd is happy. Riordan likes his gas pumps.

Now they jump in Riordan's Pontiac and drive off to Woolston's seafood house for a luncheon of fried clams, washed down with a beer by Dan Byrd and a Coke by Riordan, who does not drink. Before their meeting is over Dan Byrd is almost sure to commit Dresser Industries as a sponsor or contributor to one of the tennis tournaments Riordan runs.

William F. Riordan, 51, is the chairman of the United States National Indoor Open Tennis Championships, which he stole away from New York and brought to Salisbury nine years ago. The tournament opens today in the Wicomico Youth and Civic Center and continues through next Sunday.

Like most things Bill Riordan touches, the tournament has become an immense success. It was sold out every year, and the demand for tickets is greater than ever this year. It's carried live on TV coast to coast by 209 public broadcasting stations.

Riordan is the director of the 14-city U.S. Indoor Circuit, which is not really a U.S. circuit any more since London has been added this year. The circuit opened last month in Baltimore at Towson State College and the three-day event grossed nearly $50,000, a record for an eight-man draw.

"They offered me the chairmanship of the whole thing, indoor and outdoor, a couple months ago," Riordan says in a rather offhanded way, "but I turned it down. I didn't like the way it was set up."

By now most people know of the job Riordan has done in Salisbury. He has put that city on the international sports map. Tennis players from Australia to Romania know about Salisbury and play in the tournament there. Many of them have played on Riordan's private court in his backyard.

"That's the one extravagance I have allowed myself—that tennis court," Riordan says. "I paid too much money for it, but what are you going to do when people like Chuck McKinley and Rod Laver come to your home and play? You can't ask them to play on some cracked old thing with weeds growing through it."

What people generally do not know is that the Salisbury tournament is only one of Riordan's many successes.

He entered World War II as an Army private and came out a major. Stationed at the Pentagon, where he was chief of medical supply, he met and was fascinated with a Trinity College sophomore named Terry Anderson. Bill and Terry recently celebrated their 25th wedding anniversary. They have a 23-year-old daughter, Mary, who is a graduate student in journalism at Boston University, and a son, Billy, 18, who is a student at Georgetown Prep and hopes to enroll in September at the University of Utah, which is known for its tennis teams.

Bill Riordan grew up in Forest Hills, N.Y., which accounts for his interest in tennis. He played the game in high school and when he was a student at Georgetown, but he was never a champion or nationally ranked.

Making money has never been a problem for Riordan. After he married Terry he went to work for Stern Brothers department store in New York and promptly became a vice president.

"When I was 31 years old," he recalls, "I was making $55,000 a year—and I had to borrow money to pay my income tax every year. I was entertaining customers so much that I became jaded. Out every night in expensive restaurants. So one night I came home and said to Terry, 'What in the world are we doing? I'm making all this money and we can't even enjoy it. This is a rat race we're in, Let's get out of it.' "

He was flying back to New York in 1954 on a business trip when his plane was grounded by bad weather in Washington. While there he heard about a dress shop that was for sale in a place called Salisbury. He got a map to find out where it was, and then rented a car and drove there. He liked the city and he bought the store.

When he left Stern Brothers 300 people attended a going away party for him at the Stork Club. They didn't think he'd be going away for long. They couldn't believe this dynamo could be fulfilled in a little town on Maryland's Eastern Shore.

"You'll be back in two years," they said. But he's been in Salisbury for 18 and he's never been tempted to return to New York, where he goes often anyway on tennis matters.

"Bill's never in Salisbury for too long," Terry says. "He's on the go so much—or wherever the tennis meetings and tournaments are—that he doesn't have a chance to become bored with living in a small city."

It was not always thus. In his first few years in Salisbury, he worked hard to build up his fashion shop business. By 1962 he was getting restless and he organized a small tournament. After all, Salisbury had just built a nice, new, 3,000 seat Civic Center at a cost of $600,000. Why not hold a tennis tournament?

His tournament that year and the one the year after were so well done that the U.S. Lawn Tennis Association awarded Riordan and Salisbury the national indoor championships in 1964. They have become a fixture.

"When I first started promoting tennis," he says, "I experienced a strange sensation. I had been working in the store for years and when I went out to call on the president of a corporation in Wilmington, trying to sell him on the idea of becoming one of our sponsors, I suddenly became nervous. I was perspiring and my vocal chords tightened up. I'd been out of circulation for too long. Talking to big shots used to be duck soup for me when I was working in New York, but I had lost my touch."

He quickly regained it, though, as the record shows.

Nowadays Riordan spends almost no time in his store. He works out of his home, night and day, seven days a week, but almost exclusively on tennis. His phone number is almost impossible to reach. You can depend on getting a busy signal. If you call a hotel operator when Riordan is on the road, you are likely to be told, "Mr. Riordan has a call and there are two others ahead of you waiting."

Bill is the player chairman for the USLTA, which means he is in charge of all the world's top players except for the 32 controlled by Lamar Hunt's World Championship Tennis. Hunt, the Texas multimillionaire who also owns the pro football Kansas City Chiefs, would not send his contract pros to Salisbury. It didn't bother Riordan.

"Our guys, the independent pros, are much more attractive to the fans than Hunt's group," Riordan says. "Watching a bunch of Australians who've been playing one another for 15 or 20 years is like having a warmed over dinner.

"We have new, exciting players from 20 different countries, players like Ilie Nastase, who won in Baltimore last month, and young Jimmy Connors, who lost to Nastase in the finals. The people would rather see them than Fred Stolle and Roy Emerson. Besides, our players have been beating Hunt's people. Nastase is driving them crazy. We've exploded the myth of the superiority of the contract pros."

It may seem a little incredible that Riordan, is, after all, only a small businessman, should be pitted head-to-head against Hunt and his vast fortune. It is no mismatch, though,

"For every player Hunt signs," Riordan says, "we've got 10 good kids coming up. My package is salable. Hunt's is too expensive.

"And something outsiders fail to realize is the USLTA has an army of volunteers like Frank Roberts and Ed Griepenkerl in Baltimore who will knock themselves out for us because the profits go either to charity or into junior development. These same people wouldn't lift a finger to make a dollar for Hunt."

Riordan loves tennis for the sport's sake and junior development is one of his passions. When he came to Salisbury the city had four rundown courts in the public park. Two years ago Riordan donated as a family gift to Salisbury the $100,000 Michael F. Riordan Memorial Tennis Center. The center, which has 10 courts, is in memory of Bill's younger brother, Mike, who was crushed to death in his home in a mudslide in Los Angeles in January, 1969. The tragedy was a blow to Bill, who was close to his brother and had been talking with him on the phone minutes before it happened. But it did not keep Bill from conducting another highly successful National Indoor Open the following month. Bill has another younger bother, a lawyer in South Pasadena, Calif., and four sisters living in Detroit, Akron, Orlando and Denver.

This year Riordan is involved in a new project that takes him to Washington at least two days each week. The last tournament on his 10-week, $375,000 indoor circuit will be played March 6-12 at Georgetown University. The proceeds will go to the Vincent T. Lombardi Cancer Research Center at the Georgetown University Medical Center.

"The response to this Lombardi thing has been fantastic," Bill was saying recently. "President Nixon has agreed to be our honorary director and we just sold our 13th $1,000 box. We ought to gross around $100,000 and turn over about $50,000 to the Lombardi Research Center.

Such is life for the man who left New York to get out of the rat race. His frenetic lifestyle would be rat race to an ordinary person, but he is no ordinary person and tennis and charity work have provided a perfect outlet for his energy. Some say he'll wind up becoming the first commissioner of all tennis. One thing is sure, he's going to keep tackling new and bigger challenges. He's running faster now than he ever did in the rat race, but he loves it.

LITHUANIA REMEMBERED

Mr. PASTORE. Mr. President, with their land's recorded history of centuries—with a golden lore of literature, learning, poetry and song—the hearts of the sons and daughters of Lithuania everywhere are dwelling these February days on this half century, particularly on the 54th anniversary of Lithuania's declaration of independence as a republic.

But it behooves all lovers of freedom—whatever their race, or wherever they dwell—to pause at this time to ponder on Lithuania's tragedy of liberties lost—of independence trampled into earth—of a nationhood achieved in costly sacrifice and then sabotaged by a Red Russia in the fiction of Lithuania's adoption into the Soviets.

It is almost unbelievable history for us of America—the massacres—the starvation—the forced exile into slavery—of a brave people whom we measure by the Lithuanian Americans we treasure as neighbors in the State we call "home."

Yet the people of Lithuania have confidence in the conscience of mankind. These victims of violence believe that they can achieve peaceful liberation based on international law. They believe—and we believe—that peace through freedom is the premise and the promise of moral soundness and political realism—the keystone of security and sanity in a world grown too small for savagery or slavery.

If these millions of Europeans in these captive nations cannot have confidence in the triumph of justice through the tribunals of free nations, then how certain can any free nation be that it will continue to be free in this challenging nuclear age that could invite the extinction of civilization.

What insurance is there for any of us—yes, even for America—if nations cannot live together, labor together, and legislate together for a world of equity and tranquillity.

The institutions of mankind are on trial as we memorialize the misery of Lithuania.

May the night of darkness for that brave land soon vanish in the dawn of real freedom.

NORTHWESTERN UNIVERSITY PSYCHIATRIC INSTITUTE

Mr. PERCY. Mr. President, I invite the attention of Senators to a major program in the field of community mental health which is being initiated in Chicago.

On January 18, officials of Northwestern University announced plans for the construction of a $6.1 million psychiatric institute and community mental health center in the near North Side. The institute will provide clinical, ambulatory, and inpatient care, and serve as a medical school, teaching, and research center. It will be Northwestern's first medical school.

The institute will cooperate with approximately 35 community agencies and health providers to supply mental health services to adults and children in both the wealthy and poverty sections of the North Side. The target areas to be served are the Loop, the Gold Coast, Cabrini-Green public housing complex, Near North, West Lincoln Park, and East Lincoln Park.

Special programs will deal with the particular problem of alcoholism, drug abuse, and the aged. Many of the institute's services will be available at night and on an ambulatory basis so that patients can maintain their jobs and contacts with their families and community.

Northwestern University is the first medical school in Illinois to take on the responsibility for serving a community area for mental health. This is a commendable undertaking and one which may well serve as a national prototype. Dr. Roscoe Miller, Northwestern University chancellor; Dr. James Eckenhoff, dean of the NU-McGaw Medical Center; Ray E. Brown, executive vice president of McGaw; and Dr. Harold Visotsky, chairman of the psychiatry department, have created a progressive, dramatic approach to both psychiatric education and care. It will be a tremendous asset to the North Side community and to the city of Chicago.

Mr. President, I ask unanimous consent that an article detailing plans for the Northwestern University Psychiatric Institute, as published in the Chicago Sun-Times, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NU PSYCHIATRIC INSTITUTE FOR POOR, RICH

(By Patricia O'Brien Koval)

Northwestern University on Tuesday announced plans to build a $6.1-million psychiatric institute and community mental health center on the Near North Side.

Construction will begin in April with an initial $1.3-million grant from the U.S. Department of Health, Education and Welfare.

The Institute of Psychiatry will be built on a site next to Passavant Memorial Hospital in the 300 block of E. Huron. It is scheduled to be completed in two years.

Plans for the new facility were announced at a press conference by Dr. J. Roscoe Miller, NU chancellor; Dr. James E. Eckenhoff, dean of the NU McGaw Medical Center; Ray E. Brown, executive vice president of McGaw, and Dr. Harold M. Visotsky, chairman and professor of the university's psychiatry department, Visotsky will direct the new institute.

"The difference between this institute and any other is that we will try to provide a one-class system of health care for rich and poor in the community," Visotsky said.

The community programs will be run jointly by Northwestern and the Citizens Health Organization, a community group representing 35 agencies. It is directed by Obed Lopez, head of the Latin-American Defense Organization.

"The power to run them, (and) decisions on funding and hiring will be shared," Visotsky said.

The area to be served by the institute will encompass the Loop, the Gold Coast, Cabrini-Green public housing complex, the Near North and West and East Lincoln Park.

Other functions of the institute will include hospital care for up to 120 patients, clinical programs for drug abusers and alcoholics and programs for the aged.

In addition it will house the medical school's department of psychiatry, research facilities and doctors' offices. Medical students will be trained on the job, both at the hospital and in the community agencies.

The psychiatric units at Passavant and at nearby Wesley Memorial Hospital will be incorporated into the institute.

Initial funds of $1,309,000 for the project came from the HEW under the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963. The total cost is estimated at $6,100,781.

Northwestern University will underwrite $3 million and the state will provide $700,000 in matching funds.

The rest of the cost will be raised from private sources such as individuals, corporations and associations, and from operating revenues, Miller said at the press conference in the university's Wieboldt Hall, 339 E. Chicago.

"The Institute of Psychiatry of Northwestern will be one of the few facilities in the nation in which teaching, research, patient care, and community programs will have been brought under one roof " Miller said.

The various institute services will be in partial operation immediately. using the facilities of the co-operating hospitals and agencies.

Visotsky said the need for mental health care in the area the institute will serve—bounded by Diversey on the north, Roosevelt on the south, the lake on the east and the river on the west—is greater than most persons realize.

It encompasses some of the richest and poorest people in Chicago, he said.

Of the 143,000 residents in the area, "each year between 800 and 1,000 . . . are admitted to state hospitals, usually Chicago State Hospital (at Irving Park and Narragansett)," Visotsky said.

"Drug problems are rampant in the area, yet there is no comprehensive network of drug abuse programs. The communities also lack a suicide prevention system or an effective 24-hour psychiatric emergency system."

Some 2,700 alcoholics live in the area, and more than 1,000 persons who have been in state mental hospitals are living in half-way houses there, he said.

WAR POWERS

Mr. TAFT. Mr. President, on June 15, 1970, the distinguished Senator from New York (Mr. JAVITS), introduced in the Senate the first war-powers bill. Since that time he has exerted strong leadership in this critically important endeavor to give definition to the respective powers of the President and of Congress in the war powers area. The fact that the Committee on Foreign Relations has now reported S. 2956 is in no small part due to the energy, the dedication, and the leadership which the Senator from New York has shown.

On February 14, 1972, the New York Times published an article entitled "The Balance in the War-Powers Bill," written by Senator JAVITS. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE BALANCE IN THE WAR-POWERS BILL

(By JACOB K. JAVITS)

WASHINGTON.—A national debate has begun on "the War Powers Act."

The bill was the subject of intensive, year-long hearings before the Senate Foreign Relations Committee.

There has been criticism of the bill from Secretary Rogers, as well as from such former Kennedy and Johnson advisers as George Ball, Eugene Rostow and Arthur Schlesinger Jr., and from Senator Goldwater. These critics have largely presented their objections to the bill from the perspective of "President's men." But I do not believe that they have grasped the real reason for the bill, nor do they give sufficient weight to the constitutional and legislative imperatives arising from our national experience of the past several decades.

The United States emerged from World War II as the dominant world power—a role quite alien to all our previous national experience. The unique challenges arising from this new role were such that we slipped into a practice which ran counter to the genius of our Constitution and the underlying structure of our political institutions. This practice tended to concentrate the essential power of war and foreign policy in the institution of the Presidency and to leave to the Congress only an appropriations or confirmatory role. This practice has proved to be a most costly failure which has dangerously strained the fabric of our whole society.

The War Powers Act corrects the basic flaw of the postwar practice by restoring to the Congress and to the people a meaningful role on the question of war or peace.

Critics of the War Powers Act have alleged most frequently that the provisions of the bill are too rigid; that the bill does not and cannot foresee all the "unforseeable" contingencies which might face the nation at some future time. Such criticism is wide of the mark. The bill provides four categories of situations in which the President may take emergency military action in the absence of a declaration of war: first, to repel or forestall an attack—or imminent threat of an attack—upon the United States; second, to repel or forestall an attack upon the armed forces of the United States located outside of the country; third, to rescue endangered U.S. citizens abroad in defined circumstances, and fourth, "pursuant to specific statutory authorization."

This last category is designed specifically to enable the President and the Congress *together* to meet any contingency the nation might face.

Over the last twenty-five years the Congress on a number of occasions has passed so-called "area resolutions" at the President's request—most famous the ill-begotten Tonkin Gulf Resolution. The "fourth category" of the War Powers Act envisages replacement of the old, loosely-worded "area resolution" with precisely worded, new resolutions—as needed—which establish a national policy, jointly constructed by the President and Congress, respecting developing crises or threats which could involve use of the armed forces. A Congress and a nation so badly burned by Vietnam and the Tonkin Gulf Resolution can be expected to exercise more appropriate caution, prudence and precision.

The War Powers Act makes ample provision for emergency action by the President. Its unique feature is that, in doing so, it builds in a "trip-wire" necessitating affirmative Congressional action within thirty days. If the President takes emergency action putting the armed forces into hostilities, he must immediately make a full report of the circumstances, authority for, and expected scope and duration of, the military measures he has initiated. If the President is unable to obtain the concurrence of Congress to extend his authority, he must terminate his actions at the end of thirty days. The bill has strict provisions to prevent filibuster or other delays.

The War Powers Act cannot create national wisdom where there is none. But it can insure that the collective wisdom of the President and the Congress will be brought to bear on the life and death questions of war and peace. The Pentagon papers and the Anderson papers have shown us how dissenting and questioning viewpoints are screened out or excluded altogether from the present Presidential decision-making process. The real danger to our security today is not that the Congress might hamstring the President. The real danger is that Presidents can—and do—shoot from the hip. If the collective judgment of the President and Congress is required to go to war, it will call for responsible action by the Congress for which each member must answer individually and for restraint by both the Congress and the President.

CHILDREN STILL FINISH LAST

Mr. MONTOYA. Mr. President, in recent weeks I have held forth on the floor of this Chamber regarding the nonenforcement by the Food and Drug Administration of the Poison Prevention Packaging of 1970. In recent days there have been several developments which call for further comment.

First, however, it is worth noting that the law in question was placed on our statute books almost 14 months ago. It requires that childproof safety closures be placed on all products which are found to be potentially harmful to young children.

No such closures are being sold anywhere today in this country as a result of direct FDA enforcement of the act. No hazardous product that I am aware of is presently equipped with such closures as a result of FDA activity. As a result, in the past 14 months, hundreds of American children under age 5 have died. Hundreds have been crippled. Hundreds of thousands have been rushed to the emergency rooms of hospitals to have their stomachs pumped out.

This is not a new experience for the American public. The Food and Drug Administration has never fully lived up to its responsibilities under a variety of laws. The Safe Toy Act has not been vigorously enforced. Laws governing the cosmetic industry also come to mind. FDA's portion of the responsibility for enforcing the Flammable Fabrics Act is a dead letter. In recent weeks we have read horror stories about synthetic hormones, red dye, saccharin, hexachloraphene, feminine deoderant sprays, and lead tinsel for Christmas trees. For each tale of disaster mentioned, another one is left out.

In response to these accusations, FDA argues death statistics. If one critic says 500 children died because FDA has not enforced one law, FDA indignantly responds with a different death figure. In effect, they are saying that there are no grounds for criticism because only 250 children died by their count. In one case, the figures of their own director of poison-prevention control were the source of information on child deaths. His agency refuted his earlier claim. That is consistency for you, Mr. President. What emerges is a picture of a frightened agency, the captive of the interests it is charged with policing for the public good. In every case, public safety comes second to industry profits. Some FDA personnel are so blatant about this line of behavior as to raise even more serious questions.

The Poison Prevention Packaging Act of 1970 is a perfect example. Under growing public criticism and exposure, the agency decided to move 1 inch forward under the law.

Four times, previously, FDA announced preliminary childproofing regulations for products in four categories—aspirin, furniture polish, oil of wintergreen solutions exceeding 5 percent, and controlled drugs. Each time, a postponement has been granted for each category, and no final orders issued.

The testing protocol was finally placed in the Federal Register 11 months after the law was signed. A 60-day extension was earlier granted the four categories of products, contingent upon publication of the protocol. That extension expired January 19, 1972. On February 15, almost 1 extra month later, FDA finally held the aspirin manufacturers feet to the fire of compliance.

The 6-month clause of the law was brought into operation. By publication in the Register, these companies have 180 days to equip their products with childproof containers meeting requirements of the law and previous published rules. This means that unless the Secretary of Health, Education, and Welfare exercises his option of escalating the time of compliance, the closures will be available commercially by August 15 of this year, 19½ months after the President signed the measure into law.

Our friends in FDA have no reason either to claim any credit or to relax. I term this entire state of affairs degrading to the Government, insulting to Congress, and contemptuous of the consuming public. It is a public scandal as well as a confession of inability and unwillingness to perform on the public behalf by an agency strictly charged with public health and safety.

Proof is readily available. The state of the art, as far as childproof safety closures are concerned, has matured significantly. Some companies are prepared immediately to product closures in quantity exceeding any and all FDA regulations. I ask unanimous consent to have printed in the RECORD a story entitled "Food and Drug Packaging," published in a highly respected organ of the packaging industry on February 3, 1972. It indicates how far technology has advanced. Let us also assume that the companies competing with the featured concern are not exactly asleep on the job. I have blanked out the name of the company, its officers, and product name in order not to publicize it through the Senate and CONGRESSIONAL RECORD. Any Senator who wishes the actual names will be provided with the factual information.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REDESIGNS SAFETY CLOSURE TO EXCEED FDA STANDARDS

Kids will find tougher to open —— Corp's —— closure, as a result of a design change undertaken "to meet or exceed" the FDA's Poison Prevention Packaging Act standards.

The new design involved changing the tab and well of the original snap closure. Now, a downward force must be exerted at the indicated spot on the closure to release the pull tab. The tab is then pulled to remove the closure. The original model required only the lifting and pulling of the tab.

"The design change," notes —— president of —— Corp.," makes the closure more difficult for children to open because the flush construction of the tab does not permit prying open with teeth. In addition, testing has demonstrated that small children lack the skill and strength to drepress the tab sufficiently to release it."

The new closure has enabled —— to exceed the standards set forth in the FDA protocol. During testing, conducted by Associated Testing Laboratories, Inc., the —— was found to be 98.5% effective before a demonstration and 93.5% effective after. Based on matched pairs of 200 children as stipulated by the FDA, these percentages were well above federal standards set in the protocol (85% before; 80% after). Adults were able to open and replace the closure 95% of the time. And, after a single demonstration, they were 100% successful.

While more difficult to open as a result of the new design, the latest ——, —— points out, "is still an inexpensive, one-piece construction that has been featured in past designs of the closure." Size and application conditions for vial containers have remained the same he adds.

The design for this new —— closure had been on the design boards for several years when the protocol was first proposed. Since it requires that children be told they can use their teeth to open the closure, the decision was made to produce the more complicated closure. —— has, in the past five months, revamped both its 26 and 28 mm. production cap molds to comply with the protocol finalized by the FDA.

—— now has a production capacity of 60 million per year for both the 26 and 28 mm. vial closures. In addition, the company can produce 200 million 4, 7, 9, and 11-dram vials to complement the closures.

"Further production capabilities," —— explains, "are largely dependent on the emergence of a market for the closure. Within four months, the —— could reach a volume of 800–900 million per year."

Important in the design change was the choice of material for the closure. "The plastic," says ——, vice president of —— and designer of the new closure, "had to have good flexing and hinging abilities and had to be flexible enough to allow depression of the indicated spot to spring the tab up." For these reasons, he chose Tenite polyallomer grade 5B20A supplied by Eastman Chemical Products, Inc., "This material" he says, "is amazingly adaptable for our design. Its ability to conform to irregularities in both glass and plastic containers as well as its good sealing and easy molding properties were crucial to our decision."

Polyallomer was also found to have better hinging qualities than either polyethylene, which would tear after a certain amount of wear or polypropylene, which was found to be a bit too rigid for the application.

—— has adapted its new design for use on aerosol cans and detergent-type paperboard cartons. The closure, —— Corp officials report, can be added to cartons and aerosol cans without extensive changes in existing high-speed packaging and wrapping machinery. Aerosol closures will be produced in 202 and 211 sizes.

"The original version of ——, adaptable for aerosol and carton closures, was inserted into an undercut installed in the top of the aerosol cap or carton," —— explains. "The design change was such that only the tab and well of the closure were changed so that caps still fit into cartons and aerosol caps existing before the alteration in design."

Currently being developed as an addition to the —— line of safety closures is a permanent-type liquid dispensing closure for squeeze bottles. The design for this closure incorporates the —— principle in that a designated area must be depressed to free the tab. Once the tab is released on this model, liquid can be spirted out. To seal the top cap, the tab need only be lowered to lock in place.

The company has in-house facilities geared toward design and manufacture of new closures. —— estimates the company can bring a product from design to prototype production within 30 days. —— is thus equipped to demonstrate, on a limited basis, the handling of closures from start to finish to provide packagers with the total idea as to costs and practical operation of switching to the —— safety package.

"Today we are concerned with approaching relatively small industries," reports Mr. ——. Large drug companies, he says, have already learned of the —— and several are now considering use of the safety closure. "We see —— on a variety of packages and containers from aerosol hairspray cans to safety caps for detergent boxes and aspirin bottles," Mr. —— says.

"Costs involved in producing —— have set competitive prices," according to Mr. ——. "This combined with the fact that the closure does not necessitate extensive tooling and production changes for manufacturers makes switching to the closure feasible for many industries," he adds. Closure prices for medicine vials range from $5.50 to $7 per thousand. The estimated price for aerosol can caps will be $17.50 per thousand. And, for detergent box closures, the cost is approximately $9.00 per thousand.

"Although providing safety closures on packages does involved increased costs for the manufacturer, it is essential to start the prevention of the large number of accidental poisonings that occur each year," says ——.

Mr. MONTOYA. Mr. President, this information shows that industry is ready to comply effectively with the law in question.

On another front, consumer protection groups are moving into court, seeking through class action suits to require enforcement of this child protection law. In the same issue of the magazine, front page coverage is devoted to just such an undertaking. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CLASS SUITS SEEK USE OF SAFETY CAPS

WASHINGTON.—Class action suits have been filed here and in Los Angeles seeking injunctions to prevent drug retailers from selling sleeping pills, barbiturates and tranquilizers not packed in containers topped with safety closures.

The suit filed here by Levine and Scanlon on behalf of residents in the area names as defendants Dart Drug Corp., Peoples Drug Store, Inc., Drug Fair, Inc. and all other Washington drug retailers.

The complaint states "that ingestion of any such (hazardous) drug in the quantity in which it is customarily packaged and dispensed or in any quantity exceeding the single dose prescribed by a physician, by any such class may cause death or serious illness, and frequently will cause permanent physical impairment to the child who swallows such drug."

The action charges the defendants with selling these drugs in containers with "dangerous caps"—defined as screw-top or lift-off caps, even though safety closures are available to them at a very small additional cost which is usually passed on to the consumer.

"Unless restrained by order of this Court, defendants and each of them will continue to package, sell and deliver to the public, including parents, pursuant to prescription, hazardous drugs packaged in dangerous containers," according to the complaint statement.

The complaint filed in Los Angeles by Butler, Jefferson & Fry against drug retailers in that area also seeks temporary and permanent injunctions to prevent the selling of sleeping pills and tranquilizer type drugs not packed in containers secured with safety closures.

Both Aaron Levine of Levine & Scanlon and Robert Fry of Butler, Jefferson & Fry cite the Food & Drug Administration's purported inaction in getting the Poison Prevention Packaging Act of 1970 enforced as the primary reason for the court actions.

"Faced with at least an eighteen month delay by many estimates, and three hundred kids a year dying and millions having their stomachs pumped, I think that it's time for drug retailers to use safety closures," Mr. Fry tells Food & Drug Packaging.

Reaction to the suits from the pharmacists have been mixed. According to a spokesman for the Pharmaceutical Manufacturers Assn., the suits are well meant but a bit premature.

"We are inclined to think that they (safety closures) should be used if there is a reasonable chance that they might have some effect. It's a question of whether, in fact, something suitable and of demonstrated usefullness is available," adds the PMA spokesman.

William Patton, secretary of Peoples Drug Store, Inc., one of the defendants in the suit in Washington, believes that the purpose behind the court action is meritorious but states that making safety closures mandatory is not the way.

NOTES OPPOSITION

"We voluntarily tried them on a mandatory basis but we received many, many customer complaints," says Mr. Patton. He adds that his company has been selling prescription drugs with safety closures to anybody who requests them for about three years.

"It's nothing but a nuisance," says John McHugh, director of professional services for Peoples Drug Store. He states that his company has even mounted an advertising campaign in newspapers and on TV urging parents to request safety closures and even showing how they are opened.

"Within a matter of a month or two, we will have to use them on all controlled drugs. It makes this totally incompatible with the suit," says Mr. McHugh adding that his firm would rather go along with what the FDA says on the use of safety closures. Presently, Peoples Drug Store sells prescription drugs capped with the Owens-Illinois Screw-Loc closure on request.

"We feel child-resistant prescription vials are the best method to prevent life-saving medicine from becoming potential poison," says Michael L. Barnd, registered pharmacist, director of professional services, for Walgreen Co. The company has offered Palm 'n Turne safety closures with all prescriptions except liquids since 1968. The closure is made by the Med-A-Safe div. of Hayes-Albion Corp.

"We feel that if these containers save the life of one child, they are more than worth it," says Mr. Barnd.

Mr. MONTOYA. Mr. President, the FDA official in charge of collecting statistics on child poisonings is Mr. Henry Verhulst. The March 1968, issue of the Journal of the American Medical Association contains an article written by him entitled "Childhood Poisoning Accidents." The co-author was John J. Crotty, M.D. I quote from the first paragraph of the article.

> From 500,000 to two million American children accidentally ingest potentially toxic materials every year, and approximately 500 children under 5 years of age die as a result.

Four years ago this situation was recognized and spotlighted by the very people responsible for enforcement of this law today. Is this man and his coworkers actively promoting enforcement of the law? Where are the figures?

It is a fact that the FDA identified and listed dangerous products in the home for years before this law took effect. FDA's procedure for testing childproof containers was worked out long before. Tests at Madigan General Hospital speak for themselves. Certainly this same Mr. Verhulst knew about them when he advised industry to take advantage of their pioneer work. Is not the public entitled to the same courtesy? Or is it only for big business? If FDA knew of these tests, why did it take them 11 months to make public ground rules for testing closures?

Since the Poison Prevention Packaging Act of 1970 went on the books, FDA has four times announced in the Federal Register preliminary childproofing regulations for products in four categories. Now that aspirin has been given final orders, what does FDA propose to do about the other three categories? When will final orders be published in the Federal Register on them?

It is my understanding that such orders have been cleared out of the FDA's Bureau of Product Safety and are only awaiting Dr. Edwards' signature and final approval. Why does FDA not move forthwith? Where are these final orders?

And what of new childproofing regulations for the literally hundreds of other menaces now being peddled in a hundred thousand retail outlets around the country? What about pesticides? Caustic detergents? Liquid lye bowl cleaners? Silver polishes? Ad infinitum. Ad nauseum.

Technical advisory committees are not appointed for fun. Not any more, at least. Nor are they going to operate anonymously, behind closed doors and without scrutiny by Congress, consumer groups, and the media. The PPPA technical advisory committee has a vital responsibility and it must discharge it without delay. If not, then they bear a part of the responsibility for child deaths and injuries which will occur.

Certainly this grudging action by FDA has landed in industry ranks like a bombshell. We can safely state that it was totally unexpected. Why? Because in the past consumer protection legislation was treated as some joke. Congress could pass a law, but FDA was in charge of enforcement. And FDA could and did delay such enforcement until the law became a dead letter, as dead as the consumers it was designed to protect.

Industry's cozy relationship with FDA has been an ongoing semipermanent phenomenon. Industry executives and FDA people were at times interchangeable. A cursory glance at many top FDA executives today reveals significant numbers of former top industry figures. With such interchangeability, what chance did a good law have for enforcement? Little, if any. Let it be known to these companies that the good old days are gone. Sunlight is the best disinfectant, and many doors are going to be thrown open for good.

It is also bruited about that a lawsuit by several companies is being seriously considered against the aspirin final order. So be it. Let these diehards go to court to prevent America's youngsters from being protected by childproof safety closures. The public might find it enlightening, particularly when it is spread out for them to note on the floor of the Senate.

The old industry-FDA relationship will never be the same again. A precedent is going to be set of enforcement of a good, sound consumer and child protection measure. From now on, such relationships as I have described are going to be audited, with vigor, stubbornness, and determination. Up to now, politics came first and children finished last. Up to now, this agency has written a record of shame. Under-the-table deals with makers of lead tinsel speak for themselves. So do junkets to Boca Raton with industries the agency is supposed to regulate. Such activities are a stench in the nostrils of honest men and women, and they are most assuredly going to come to an end.

JOINT RESOLUTION NO. 3 OF LEGISLATURE OF STATE OF NEW YORK

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the Record, Joint Resolution No. 3 of the legislature of the State of New York memorializing Congress to meet its responsibilities with regard to the environment.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

Joint Resolution No. 3

(Joint Resolution of the Legislature of the State of New York memorializing Congress to meet its responsibility with regard to the environment and to provide the funds necessary to carry forth essential environmental programs and to adopt a resolution continuing the construction grants authority of the Clean Water Restoration Act of 1966 and providing for reimbursement to the State of New York and its municipalities of the amounts committed for prefinancing the federal share of the cost of construction of sewage treatment works and to request the Attorney General, if necessary, to take appropriate action to ascertain and protect the interests of the State of New York)

IN SENATE

By Messrs. Brydges, Zaretzki, B. C. Smith, Rolison, Anderson, Barclay, Caemmerer, Calandra, Conklin, Day, Donovan, Dunne, Flynn, Gioffre, Giuffreda, Goodman, Gordon, Hudson, Hughes, Knorr, Langley, Laverne, Levy, Lombardi, Marchi, Marino, McGowan, Murphy, Niles, Present, Schermerhorn, W. T. Smith, Stafford, Halperin, Griffin, Bloom, Meyerson, Lewis, Giordano, Bookson, Lentol, Santucci, Glinski, Bernstein, Powers, Ferraro and Gold.

IN ASSEMBLY

By Messrs. Duryea, Kingston, Steingut, Battista, Beckman, Bell, Berle, Bersani, Betros, Blumenthal, Brewer, R. A. Brown, Buckley, F. A. Carroll, V. S. Carroll, Chananau, D. W. Cook, Cooperman, Crawford, DelliBovi, DiCarlo, Droms, Emery, Farrell, Field, Finley, Flack, Gilman, Griffin, Harris, Hausbeck, Henderson, Herbst, Hogan, Jerebek, Jonas, Kinsella, Lane, Levy, Margiotta, Marshall, J. G. McCarthy, McFarland, H. M. Miller, Mitchell, H. A. Posner, Rosenberg, Russell, Sears, Tills, Walkley and Wertz.

Whereas, The Federal Government has recognized a basic responsibility regarding the environment and environmental standards have been set by the state and approved by the Federal Government which are considered realistic in the light of available technology and the funding that the Congress has heretofore indicated that it would appropriate for this purpose; and

Whereas, The Clean Water Restoration Act of nineteen hundred sixty-six provides financial assistance for construction of sewage treatment works through June, nineteen hundred seventy-one and further assured the state and its municipalities that if they prefinanced the Federal share that the Congress would make timely reimbursement; and

Whereas, The subsequent congressional resolutions have failed to provide assurance the Congress will reimburse in order to continue the program; and

Whereas, Since nineteen hundred sixty-six the state and its municipalities have prefinanced in excess of $1.3 billion of the Federal share of the cost of sewage treatment works without Federal reimbursement; and

Whereas, The Congress has not appropriated the promised funds to finance its share of anti-pollution programs that it has enimbursed; and

Whereas, In reliance the State of New York has advanced its funds to its localities which funds the Federal Government has not reimbused; and

Whereas, The State of New York has met all its responsibilities under the Clean Water Restoration Act of nineteen hundred sixty-six; and

Whereas, In reliance upon the previous representations of the Congress, New York State has entered into grant agreements with various municipalities of this State to accomplish the objectives of the Clean Water Restoration Act of nineteen hundred sixty-six, pursuant to which agreements millions of dollars have been expended by State and municipalities for planning and design and construction of sewage treatment facilities; and

Whereas, In most cases it is not financially possible to proceed further with these anti-pollution projects in the absence of federal funding of this program; and

Whereas, It is imperative to protect the health and welfare of the people of this State that these projects be implemented without delay; and

Whereas, The Congress must now meet its responsibility for the environment and reimburse the State for the prefinancial federal share expended subsequent to nineteen hundred sixty-six and by resolution continue the Clean Water Restoration Act; now, therefore, be it

Resolved, That the Legislature of the State of New York hereby memorialize Congress to adopt a resolution continuing the Clean Water Restoration Act of nineteen hundred sixty-six sewage treatment works grant program so as to provide full funding of federal sewage treatment works grants including insurance of reimbursement to a state or municipality if the state of municipality prefinances the federal share of the cost of such sewage treatment works and further that any amendments to the Clean Water

Restoration Act of nineteen hundred sixty-six should provide authorization for full reimbursement to the state or municipality for amounts prefinanced subsequent to nineteen hundred sixty-six; and be it further

Resolved, That a copy of this resolution be transmitted to the President of the United States, the Secretary of the Senate, the Clerk of the House of Representatives, and to each member of Congress elected from the State of New York and that they be urged to devote their best efforts to the task of accomplishing the purpose of this resolution; and be it further

Resolved, That the Attorney General of the State of New York be and he hereby is requested to take appropriate action, if necessary, to ascertain and protect the interests of the State of New York with respect to having the United States of America fulfill its obligations to the State of New York under the aforementioned programs.

THE VALUE-ADDED TAX

Mr. MILLER. Mr. President, the October 1971, issue of Taxes—the Tax magazine, published by Commerce Clearing House, contains an excellent analysis of the value added tax, written by Mr. Eugene Bogan, of Washington, D.C., one of the country's foremost tax authorities.

Because of the current interest in the value added tax, I believe it would be helpful to Senators to read Mr. Bogan's carefully researched comments which bring to light a number of aspects of the VAT which are often overlooked.

I asked unanimous consent to have printed in the RECORD the article, without the footnotes, entitled: "A Federal Tax on Value Added—What's Wrong With It? Plenty."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A FEDERAL TAX ON VALUE ADDED—WHAT'S WRONG WITH IT? PLENTY!

(By Eugene F. Bogan)

The author demonstrates some of the basic objections to the consideration by this country of imposing a federal value added tax.

The general thrust of proponents of a value added tax is that it is a perfect substitute for a business income tax and also has a number of other plus factors when used as a major source of national revenues.

THE CASE FOR VAT PROPONENTS

The value added tax is said to have two principal advantages over income taxes on business. It is neutral in that it falls equally on labor-intensive and capital-intensive processes of production, on companies financed by debt and those financed by equity capital, and on efficient and inefficient producers. It is said to spread that part of the cost of government imposed on business over all business in proportion to their use of resources with no penalties or favors on the basis of the type of resources or the efficiency with which they are used.

Furthermore, VATs are regularly rebated on exports with equivalent countervailing charges imposed on imports. Existing international agreements not only permit border tax adjustments, but assume that the tax costs imposed by VATs will be rebated on exports to make them competitive in foreign markets, and imposed on imports to prevent foreign producers from having a tax advantage over domestic producers in the domestic market. Countries whose tax systems do not permit border tax adjustments of this sort are at an international disadvantage in both their export trade and the protection of their domestic markets from foreign producers who receive tax rebates on their exports.

The tax can produce a huge revenue yield—depending entirely on the tax rate. In spite of these apparent advantages, a VAT definitely has a number of undesirable attributes.

VAT DISADVANTAGES

A VAT is, as the name implies, based on the difference between net sales and purchases. This spread between purchases and sales represents the value added by any taxpayer. A tax on the sales price of an article taxes the value added to the article by the seller. Value added may be thought of, alternately, as the sum of wages, profits, interest, rents, and any other payments to factors of production other than to suppliers which are themselves subject to the VAT. Or a VAT may also be thought of as a turnover tax, with an allowance for taxes paid at previous stages of production to avoid any tax discrimination in favor of vertically integrated producers.

Administratively, the tax must be shown on sales invoices, as the tax is a percentage of the selling price. Each taxpayer making sales pays a tax equal to the sum of the taxes shown on its sales invoices less the taxes included on its purchase invoices. There is thus a self-policing process because each successive buyer wishes to have evidence of the tax paid by its suppliers to offset against the taxes due on his own sales.

Proponents of a VAT contend that the tax does not have to be shown on retail invoices—and that it is usually not so shown. This is inconceivable. The tax is a turnover tax on consumption and every person making a sale in the chain that begins with the first raw material stage (manufacturing, converting, jobbing, wholesaling, etc.) up to final sale to the consumer must account to the tax collector for this tax. Purchase invoices showing tax passed on to the particular seller in his purchases are necessary so the seller can secure credit for tax passed on to him against his own tax liability on his sale. Sales invoices showing tax billed to the seller's customer are necessary (a) to establish the seller's tax liability to the tax collector, and (b) so that the purchaser will know his own tax position.

To dismiss the need of showing the tax separately on the sales invoice is to dismiss two facts of life.

The first has just been mentioned—the seller's tax accounting problem with the tax collector. If the tax is 10 per cent and the sales price is $1.00, the invoice can show either "Price $1.00; VAT 10c" or it can show simply "$1.10." In the latter eventuality, the seller has invited the tax collector to claim a sales price of $1.10 and a tax liability of 11c instead of 10c.

The second consideration is the difficulty at the time of any sale of ascertaining whether it is the last sale for consumption. A simple example (of many) is that many people buy gasoline both for personal consumption and for business purposes and will want the tax stated separately for purposes of securing credit against their own VAT liability for tax passed on to them. This same situation obviously applies to innumerable sales of all kinds of articles and of sales of services.

State retail sales taxes are today very generally stated separately on sales slips. One reason is that there is a widespread customer insistence of this for purposes of the income tax deduction. Why VAT proponents insist that the case will be different as to a much more burdensome VAT (even though it will not likely be an income tax deduction) is difficult to understand.

It is generally presumed that a VAT will be passed on to customers, and in general it is inevitable that it is shifted forward. The tax is too substantial a percentage of the sales price for the seller to absorb it. Some proponents contend that the process of shifting does not occur universally or promptly, even if the tax is shown as a separate item added to the quoted price. The VAT is a universal, identifiable item of cost and hence may be expected to be reflected in prices charged. But depending on elasticities of demand and supply for a particular product and for alternatives to it, a change in even the most universal cost items may, under competitive pressures, be partially absorbed by a producer by lowering his pre-tax price. Nonetheless, the VAT is correctly regarded as, by and large, shifted forward to final consumers.

A VAT is a tax on consumption—paid by the consumer. At levels below the retail level it operates exactly like a manufacturer's or wholesaler's sales tax. At the retail level it is precisely and clearly a retail sales tax. At the retail sales level the full burden of the impact of the VAT appears—all VAT that was imposed and paid at every intermediate sales stage, prior to the retail sale, has been credited off—and the consumer buying the article for final consumption at the retail level picks up and pays 100 per cent of the VAT price tag.

There seems to be the very definite possibility that a VAT (certainly at a high rate) can seriously handicap the formation and buildup of new businesses. Unlike the income tax loss carryover system, which reflects a new business's problems of start-up costs and high cost initial products, the VAT in this regard is probably merciless. Under a VAT a new business, particularly a small new business, could, it would seem, have major problems of ever getting off the ground in competition with large, highly efficient existing companies.

One argument strongly advanced by VAT proponents is that such a tax encourages the efficient and economic use of national resources, whereas the corporate income tax is said to work in exactly the opposite direction. This is debatable and would not appear to be a major consideration on whether a choice should be made between a VAT and an income tax on business. To many, it is rather difficult to accept a position that an inefficient business that pays very little income tax because it is inefficient, yet enjoys the benefits of all the national services, is a basic fault with, and a reason for the abandonment of, the federal income tax on business. There seems little difference between this situation and that of the ne'er-do-well, on public relief, who pays no individual income tax at all. Or that of the marginal business which is a proprietorship and subject to the individual rather than the corporate income tax. These situations would hardly be accepted as a basic justification for abandonment of the federal individual income tax.

Parallel bills of indictment of the separate items of economic and administrative imperfections of the corporate income tax and of a VAT would each be quite long. By the time a tax bill creating a federal VAT has gone through the legislative process, the "classification" and exemption rules written into it, plus the inherent imperfections of any VAT would probably make the corporation income tax indictment look rather abbreviated.

A harsh fact is that most taxes are inefficient and are a burden and cause economic dislocations. But an equally harsh fact is that a state must have revenue to survive and to furnish the services the public demands. Economic perfection and perfection of concept are impossible in any system of taxation and this the lessons of history teach.

Historically, the United States has, for many years, depended largely on the income tax, individual and corporate, as a principal source of revenue.

It has also maintained for many years a series of consumption taxes—excises. These include taxes on tobacco, alcohol, gasoline, transportation, automobiles, etc. With the exception of the transportation tax, these federal consumption excises have been relatively simple to administer and have not been a major source of administrative problems to the Internal Revenue Service and taxpayers. Their revenue yields are very large; around $14 billion and nearly 10 per cent of total federal revenues.

In the early 1930s when, because of the Depression, the federal income tax yields were falling, the government did resort to a fairly broad program of consumption taxes: selective manufacturers' and retail sales taxes. For World War II revenue programs, temporary selective retail sales taxes were imposed, such as those on jewelry, furs and cosmetics, and some selective manufacturers' sales taxes were also imposed. In 1965, the federal government initiated an intended basic withdrawal from the sales tax field except for a few such as alcohol, tobacco, and gasoline which were simple to administer and produced substantial amounts of revenue. As is known, because of later national revenue needs, this intended withdrawal has not been successful.

The federal government has not in modern times imposed anything as far-reaching as general sales taxes—either a general manufacturer's sales tax or a general retail sales tax. The thinking seems to have been that sales taxes should be largely left to the states as a prime source of needed state revenue and most states now have a pattern of retail sales taxes as well as state income taxes. State revenue needs are constantly increasing and the impact of both state and federal taxes on the public is a matter of serious national concern.

For the federal government to seriously consider utilizing the VAT would be to consider a major far-reaching sales tax affecting every sale in the United States of goods, from the first raw material sale through all of the processing and distribution levels and on through to the final sale for final consumption. If European concepts were to be followed, such a VAT would include a sales tax on all forms of services (legal, accounting, etc.) and all acquisitions of capital goods to be utilized in industry.

ADMINISTRATIVE PROBLEMS

Since it would have to be recognized broadly at the outset that many types of exemptions from a VAT would have to be written into the law, and that these exemptions would cover both articles the sale of which was to be exempt and also exemption of some types of businesses, a VAT would present many serious administrative problems to both government administration *and* to the taxpaying public.

On a national basis, VAT administration would require an extremely large field staff, including field headquarters' personnel, and a substantial increase in IRS National Office personnel in Washington. The personnel required for the administration of such a tax would be in addition to that required under the present federal tax structure.

Advance tax payment by depositary receipts would be necessary several times a month for the same urgent revenue flow needs of the Treasury that are present in existing federal taxes. VAT tax returns would probably have to be required monthly from all taxpayers, both for the necessity of early tax accounting and also because the taxpayers must clearly know their tax position at an early date because they must recover their tax as they invoice their sales to their customers. A VAT rate of 5 per cent or 10 per cent or 15 per cent represents a very substantial amount of money as to each sales invoice. Taxpayers accounting periodically to the federal government for their tax liabilities would include every person selling goods at each point beginning with the raw material stage through manufacturing, processing, wholesaling and ending up with the retailer, including all of those rendering taxable services.

CLASSIFICATION ISSUES

In any sales tax of the breadth of a VAT, exemptions as to particular items or particular types of persons create difficult "classification" issues and many twilight zone issues as to whether an article or person falls within or without an exemption. Experience shows that this always imposes on federal personnel and the courts difficult questions for ruling or judicial determination. Federal excise tax experience of the last 40 years shows that many sales tax classification disputes can take one to five years to resolve.

Of perhaps greater importance than government administrative burden and expense are the business uncertainties on the part of taxpayers that will be created by these "classification" and "exemption" problems. One needs only look at tax liability uncertainties in past years in the case of some of the federal manufacturer's sales taxes.

Since it must be expected that any federal VAT would have multiple rates (including a zero rate for some items and zero itself is a "rate") the classification problems would be compounded. Among other things a zero rate (exemption) would frequently, to be effective, have to include not only exempt items but an exempt type of consumption of an item which would have been in the VAT tax stream up to the consumption point.

RATE STRUCTURE PROBLEMS

One must, from federal tax history, assume that the United States Congress would certainly outdo any European country in devising a multiple rate structure for a federal VAT. A look at a rough summary of rate structure of the Belgian VAT which started January 1, 1971, plus a bit of reflection on obvious administrative and classification problems and a long look at item (d) should at least raise ones' eyebrows.

(a) 6 per cent rate on necessities and services of a social character, such as food items, most beverages, soap, pharmaceuticals, newspapers and books, art, passenger transportation services, travel agency service, restaurants, hotels, recreation, etc.

(b) 14 per cent rate on goods currently consumed and representing special economic, social, or cultural interests, such as combustibles, electricity, heating and cooling, many oils, most textile products, shoes, most repair work and maintenance, construction, architecture, engineering, parking, use of garages, supervision or leasing of real property, telecommunications.

(c) 25 per cent rate on luxury items such as automobiles, pleasure boats, jewelry, planes, watches, weapons, thermometers, radios and televisions, perfumes, cosmetics, alcoholic beverages, photographic equipment.

(d) 18 per cent rate on goods and services to which none of the above rates apply.

Queries: where would one fit medical, legal, accounting and hospital services? Would a federal VAT dare to impose anything but a zero rate on sales by farmers?

A single rate federal VAT would not raise insurmountable classification problems. But a single rate VAT, which included a zero rate as to exempt items or uses, obviously would.

VAT administration in this country under what might be called the "American habit pattern" would, no doubt, have its administrative burdens increased by "unjust enrichment" considerations which have been built into some federal sales taxes for many years. A person claiming refund for an overpayment of VAT will, no doubt, be required to prove he has not included this VAT in his own invoices or that, if he has, he will refund it to his customer who may have included it in his own invoices to his customer who will have to consent to the refund, but the second customer removed may have done the same thing, etc. through third, fourth and fifth customers removed. Confusion like this will inevitably be compounded by multiple rates, which would include a zero rate.

One of the many VAT administrative problems to the taxpayer will be "financing" his federal tax payments. Assuming a business purchasing $1,000,000 worth of goods during a month having sales of $1,500,000 a month, it would, at a 10 per cent VAT rate, have $100,000 passed on to it in its incoming invoices, and would collect $150,000 from customers on its own invoices. The tax law would allow him to credit on his current VAT liability of $150,000 the $100,000 shifted to him, but until he has been paid by his own customers he has to seek a source of funds to pay to the government that additional $50,000. Accepting present federal tax collection practices as a norm, the federal government will expect its tax payment from *every* seller in the orbit of a federal VAT in a matter of weeks via the depository receipt procedures.

In the case of a seasonal inventory business, a "fall goods" inventory would have been invoiced to it in, say September—but the sale of that inventory (and payment by customers) would take a period of some months. In such a case, the business has also to find a way to finance the tax passed on to it in its purchase invoices covering this inventory. Customarily, it has used bank financing to carry the inventory—so the problem is the willingness of the bank to add to its financing commitment the additional funds needed because of the VAT amount contained in the purchase invoices covering the inventory. The additional interest cost of the additional financing will, assumedly, find its way into cost of goods sold.

MATTER OF INVOICES

Included in administrative considerations is the matter of invoices. Under the European VAT pattern, despite claims to the contrary, it would seem that the tax must be shown on all invoices. A seller will accumulate the credits for the tax passed on to him on his income invoices, and will show the amount of tax he has passed on on his own invoices, and will take credit against the tax liability shown on his own invoices for the amount of tax he had paid on his incoming invoices.

This will make every invoice in the extraordinarily complex American business cycle a very valuable and precious community, the loss, theft or destruction of which would be a taxpayer's disaster. It would also suggest that there will be serious administrative problems respecting forged invoices and inaccurate invoices, and, to the extent that the tax statute creates exemptions (as it certainly will) either as to certain types of taxpayers or certain types of goods, that the usual administrative problems inherent in "bootlegging," and "blackmarketing" will arise. To such problems will be added those stemming from tax-exempt goods and services competing with taxable goods and services.

The serious and massive administrative problems of this tax to both the government and the taxpaying public are not in themselves an argument against adoption of such a tax—if it is mandatorily necessarily and if the public will accept it. The problems do suggest strongly that the imposition of a federal level VAT in the United States is not a matter to be considered lightly, but only in circumstances where there is a mandatory need for the revenue the tax will yield and it is impossible to raise this revenue from other taxes now in existence and that do have public acceptance and experience.

IMPACT OF VAT ON COST OF LIVING

Substantial increases in the corporate income tax rate above 50 per cent are seldom proposed seriously by any group. Tax rates above that level are almost intuitively recognized as having perverse effects on both management decisions and equity capital financing, whether from retained earnings or new stock issues. There is, thus, little room for large amounts of additional revenue from the corporate income tax beyond the sums which may come over the years from an expanding economy.

Recent legislative consideration of the individual income tax shows that it is unrealistic to expect to secure much more revenue from the income group which receives the great bulk of the nation's income. High marginal rates on large incomes have left little room for additional tax revenue; they are in fact destructive and self-defeating. Successive Revenue Acts have raised the level at which the income tax becomes applicable by increasing the minimum deduction and shifting the distributon of the burden to higher incomes. This process seems irreversible in the absence of a major crisis in national affairs.

The basic economics of a VAT are those of any other sales tax—they are consumption taxes and are, as noted above, largely passed on to purchasers of goods and services. As consumption taxes, they fall most heavily in terms of per cent of income expenditures on the lower income levels of the population. History has shown repeatedly that consumption taxes on goods and services are regressive and are usually passed on to the consumer of the goods or utilizer of the services. A federal VAT in the last taxable transaction, the sale to the ultimate consumer, will have the same economic impact on him as a general federal retail sales tax.

Considering the American pattern of steadily rising price and wage structures over a period of many, many years, and at a very accelerated pace currently and during the last several years, a decision to adopt a federal level VAT requires first an acceptance of the probability of an inevitable major increase in the level of prices in this country. This, in turn, requires acceptance of successful pressures to raise wage levels to meet the price level increases. To the extent that wage levels are increased, there will be the usual pressures to increase price levels, followed by further pressures for appropriate increases in wage levels.

That this is a real consideration, not to be dismissed lightly, is shown rather effectively in a newspaper report of the impact of VAT on the cost of living in the Netherlands. The VAT began in the Netherlands on January 1, 1969. Tax rates are 4 per cent on "essentials" and 12 per cent on "nonessentials" (increased from 1 per cent and 6 per cent). By the end of the first month, the report states that the "cost of living soared 3.5 per cent," and that a "typical household's grocery costs had jumped 16.5 per cent." The report notes the Netherlands government "managed to stem the rise in April by decreeing maximum amounts by which prices could rise." But the report noted further: "By August, however, prices were rising again despite a valiant government enforcement campaign."

Significant in the report is this statement: "By year-end, government economists concede, prices will have advanced 7.5% from pre-VAT days, or more than five times more than the original forecast." The article also notes, as to wages, that the increase so far this year already has hit 8.8%."

The same newspaper article noted the following interesting item: "In neighboring Belgium, fears of duplicating Holland's price spiral have prompted Brussels officials to postpone imposing a VAT for another year, until January 1, 1971. . . . Officials cautiously concluded the Belgian franc just couldn't stand the buffeting of such an inflationary spurt."

CONTRASTING POSITION OF COMMON MARKET COUNTRIES

It has been argued with some persuasiveness that if the Common Market countries, and their taxpayers, can accept and utilize VATs and their administrative and economic facets, the same situation could prevail in the United States. There are, it would seem, several much more persuasive considerations bearing on this:

(a) The Common Market countries, prior to their adoption of a VAT, each had forms of cascading "turnover" taxes, involving compounding of the tax on each sales transaction. In substituting a VAT no one country was, broadly speaking, compounding to any substantial extent, its sales tax administrative and economic problems.

The United States at the federal level does not now have general turnover sales taxes. Hence, a federal VAT would be entirely new to the United States.

(b) The size, geographical proximity and attempted mutual economic integration considerations, that exist respecting the Common Market countries, as arguments for a VAT as to each of such countries, do not exist in the case of the United States.

(c) In contrast to the latter considerations, the federal government must respect and live with the separate and increasing revenue needs and the tax systems of the 50 states and their political subdivisions. Most states of the Union have sales taxes—at the retail level. A federal VAT would be in addition to, and operate alongside of, nationwide state sales tax structures. The state sales taxes are major parts of each state's revenue structure—and would have to continue even if a federal level VAT were imposed. It would seem that only an extreme national emergency would justify imposing a federal level VAT which would operate on a national basis alongside the numerous (and varying) state sales tax systems. Absent such an emergency, it seems inconceivable that the public, including the some 15 to 20 million people who would have to do the tax return accounting to the tax collector, would accept a federal VAT tax burden.

SUBSTITUTE FOR CORPORATE TAX?

Proponents of a federal VAT in the United States have usually taken the position that it should be substituted for part or all of the federal corporate income tax. By this it is assumed they mean to include both the corporate income tax and the individual income tax to the extent the latter is imposed on business. There are in the United States, subject to federal individual income tax, perhaps 1½ million businesses conducted in proprietorship and not corporate form.

The federal income tax has been a part of the American revenue structure since March 1, 1913. Even before that date, there was a predecessor form of federal corporate income taxation (although called an excise tax). The country is "tuned" to the income tax on business and, as is known, this tax has "shaped" the economics of many industries because of differentials in income tax treatment. It is a major source of federal revenues. To abruptly discard the income tax on business in favor of an untried, as to the United States, VAT regime of consumption taxes would seem very certainly to cause a major economic upheaval for a period of years until both business and consumers adjusted themselves to the transition. Considering the present economic problems in this country, not the least of which is that of inflation, the possibility of such a substitution seems out of the question for many years in the future. As a matter of fact, such a substitution could probably only be considered in a period of massive depression (such as that of the early 1930s) with its major deflation of national price and wage structures and major unemployment.

A "partial substitution" of VAT for the business income tax seems to be equally out of the question as a practical matter. All the claimed inequities of the business income tax, including the tax accounting problems, would continue to exist. On top of this would be superimposed the massive tax and business accounting, and economic and inflationary problems of a major national consumption tax effective on every turnover of goods and services from the earliest raw material stage until the final sale of the product to the ultimate consumer. It would seem very clear that only in the case of a serious national emergency could there be any hope of public and political acceptance of VAT as an added form of federal taxation.

A principal argument by VAT proponents is that VAT helps the export position of a country by making possible "neutral" border tax adjustments. If VAT is the only, or the principal, tax ingredient affecting the cost of goods, the fact is that it can be removed when goods leave the country, and imposed when goods arrive in a country. This, it is argued, would enable the products of the country to compete tax free in international commerce.

Since it seems clearly impossible in this country in the foreseeable future to contemplate substituting a VAT wholly, or partially, for an income tax on business, this means of removing the federal tax ingredients from the cost of goods sold abroad is not practicable as to the United States. In particular is this true as to a VAT as a partial substitute for the business income tax. Currently, the federal corporate income tax has an annual revenue yield of roughly $37 billion. If corporate income tax rates were reduced enough to cut this yield by 50 per cent, the corporate rate would have to be roughly 25 per cent. The VAT substitute rate to raise approximately $18 or $19 billion would have to be in the neighborhood of at least 5 per cent—making rough assumptions of the inevitable and unavoidable torrent of statutory exemptions as to particular items and particular businesses. Relieving exports at the border of this partial VAT could obviously have little helpful plus impact on the United States export position.

The need for "border tax adjustments" is, admittedly, very real because of the competitive impact of relatively tax-free Common Market exports on basically fully taxed American exports.

REVIEW OF GATT

The use of a federal VAT as the device for meeting this problem is not, for the reasons noted, the basic cure needed for the problem. The problem stems from the General Agreement on Tariffs and Trade (GATT), which is considered to have a meaning to the effect that it is illegal to remove from the cost of exports business income tax ingredients that are buried in those costs.

Considering that the "border tax adjustment" problem as to United States exports is a serious one, and considering what seem to be compelling reasons why a federal level VAT cannot in the United States be substituted for state and federal income taxes on business, the obvious simple solution for the United States is a necessary review and recasting of GATT. The latter possibly could be along the lines of looking to formulas allowing border tax adjustment for assumed income tax burdens buried in the cost of goods sold. This can be done without reconciling in any specific detail the dispute that has existed for many years as to what extent, if any, business income taxes are passed on to consumers in the price of goods.

One recognizes the frequently stated position that a revision of GATT in this respect is not practicable. But a very positive reality seems to be this: in the present situation and foreseeable future, it seems inconceivable that the American public will accept the following position: Since GATT is considered sacred and inviolate, the American public must accept the bitter medicine of VAT as a substitute for the business income tax as the only way open to secure border tax adjustments and remove tax costs from American goods competing in foreign markets.

The fact that the Common Market countries, utilizing the GATT umbrella, are using the VAT device to give their export shipments a competitive advantage tax-wise does not mean that the only alternative left to the United States is a VAT. It would seem that what has been negotiated once—in different terms of reference tax-wise than those that exist today—can be renegotiated. If GATT is inviolate and cannot be renegotiated to secure reflection of the business income tax ingredient in cost of goods sold, there is certainly enough ingenuity to devise unilateral steps on the part of this country which will achieve the same effect as a renegotiation.

In the case of domestic competition with imported goods as to which the foreign shipper's cost-of-goods-sold has been reduced by rebate of foreign value added tax, there is admittedly a pricing problem stemming from the grant of foreign tax immunity (by border adjustment rebate) on goods shipped into the United States. But a federal level VAT as the solution is, for the several considerations discussed above, a very high, a very unwieldy, a very expensive and a very burdensome price to pay for meeting this problem.

USE OF "COMPENSATING" TAXES

There must be a number of simpler and more direct solutions. To illustrate that VAT is not the only answer, one possibility is "compensating" internal taxes administered in the case of imported goods like duties. Such "compensating" taxes have been used in the past by the United States, very notably in the case of the federal taxes imposed in the mid 1930s on the processing of agricultural commodities such as cotton, wheat, corn, sugar and others.

At that time "compensating" taxes, collected at ports of entry like duties, balancing the United States internal taxes, were imposed on imports. A simple illustration of a present day sample is found in Internal Revenue Code Section 4504, the manufacturer's tax on sugar. The domestic manufacturing tax is balanced by a compensating tax on imported sugar.

This existing United States "compensating" tax pattern would seem to exactly duplicate the VAT pattern in the Common Market countries. The VAT of these countries is imposed at the border on imported goods (to match the internal VAT tax) just as it is rebated at the border on exports from these countries.

Such an approach, no doubt, would require treaty negotiations plus studies to appraise an average business income tax ingredient in cost-of-goods-sold, or to devise some sort of average "compensating" rate of tax in the case of imported goods.

The "compensating" tax pattern is not mentioned here as a recommendation, but as an illustration of the point that VAT is not the only answer—there are certainly others that can be devised and studied.

A further consideration that VAT proponents have never adequately answered may best be framed as a question: Give the proponents of VAT their major premise of abolishing the corporation income tax (assumedly also the application of the individual income tax to one and a half million proprietorship businesses). How do proponents propose to secure an appropriate tax contribution to government needs from such businesses as banking (and all of its facets), insurance and the many other types of businesses not involved in the manufacture or distribution of goods, or the servicing of this part of the economy? These businesses are certainly not seeking a general tax immunity, and, obviously, neither the public nor government would tolerate one.

A related question is whether proponents of a substitution of VAT for the business income tax are willing to grant a federal tax immunity to the overseas businesses of the so-called "multi national" American companies? These overseas businesses, whether foreign branch offices or subsidiary corporations, today make a major income tax contribution to the Federal Treasury on the various forms of income they generate, including income tax revenues on direct profits of branches and on dividends, royalties and service fees from foreign subsidiaries. Replacement of the business income tax with a VAT would give this segment of American business an unasked for federal tax immunity since a federal VAT could hardly have extra territorial application. What foreign taxes, including foreign VAT, they pay would flow into foreign treasuries.

CONCLUSION AND SUMMARY

If a major new source of federal revenue must be tried because the revenue yields of the individual and corporate income tax and present federal consumption taxes become hopelessly inadequate, a federal VAT is not the answer.

True, in the situation hypothesized, the one remaining source of major revenue yield that the government can turn to is a general consumption tax. But that can be accomplished by a general federal retail sales tax which is not the administrative monstrosity of a VAT. It is not a pleasant happy tax, but it is much simpler in structure and has fewer "taxpayers" for the government to police—those who sell at retail.

Under a VAT every retailer in the United States will be a taxpayer, as well as every other business entity that lies behind the retailers in the entire production chain from raw material to consumer products.

Every retailer will be passing on, under a VAT, the full burden of that tax to his customers—both the VAT included in the retailer's purchase invoices and the VAT included in the difference between his purcrase and his selling price.

In a federal retail sales tax these same retailers will be passing on the same tax burden to their customers: a separately identified federal tax as a percentage of the retail sales price.

A curious argument made by VAT proponents is that it is difficult to collect tax from retailers; hence VAT is better than a retail sales tax. This is sort of a non sequitur, since on any retail mark-up under a VAT the retailer must pay VAT on that as his "value added." It is true that if the retailer sells at a loss (less than his purchase price), he pays no VAT, but that is certainly the exceptional situation which should not be allowed to establish the rule.

Since the state sales taxes certainly must continue in operation, it would seem much easier to devise a general federal retail sales tax that would harmonize closely with the most usual pattern of state sales taxes. It would also seem logical to assume that if necessity forced the federal government to enact a general retail sales tax, within a period of a few years most state sales taxes would have been changed to harmonize with the controlling federal pattern.

A summary of the foregoing rather broad and general discussion is:

(1) A federal level VAT should not be considered for the United States as a substitute, in whole or in part, for the income tax on business because:

(a) Such a tax will be an expensive administrative monstrosity both to the government and to the taxpaying public.

(b) Such a tax invades an area which should be reserved to states for their revenue needs—retail sales taxes.

(c) Such a tax will be inflationary.

(d) As a consumption tax, its burden will fall more heavily on lower income people; it will not go nearly as far as the income tax does in recognizing "ability to pay." It is regressive.

(e) The American public should not be burdened with, and very likely will never accept, a major national consumption tax as well as the individual income tax.

(2) Such a tax should be considered by the federal government only as a supplement to the present federal tax structure and then only in a period of major national emergency and a major failure of the present federal tax structure to meet federal revenue needs.

Even then, a general federal retail sales tax would be much preferable to a federal VAT.

(3) As an aid to the United States export position, and as an aid to domestic competition with imports that have benefited by rebate of foreign VAT, a VAT is not the answer.

There must be simpler and less burdensome (to the American public) ways to meet these two problems of price competition as affected by tax immunities granted by foreign governments. VAT as the cure is, as stated, a very bitter medicine which the American public will never accept.

THE NEED TO INCREASE EXPORTS

Mr. JAVITS. Mr. President, in a recent speech before the National Council of Jewish Women, I made a proposal that would have the effect of generating increased exports for the United States and such increased exports in turn would generate American jobs and help our balance of payments. Under Secretary Volcker, who accompanied Secretary Connally in his recent testimony before the Joint Economic Committee, has testified that every $1 billion in increased exports would create approximately 50,000 jobs.

My proposal is very simple although it is often phrased in unnecessary complex terms. It proposes an alternate method of special drawing rights distribution so that a greater portion of special drawing rights would be channeled to the developing world. These special drawing rights, which are recognized as official reserves, could then be used by the developing world to purchase real goods and services from developed countries such as the United States.

In making this proposal, I give recognition to the fact that 12 eminent economists have made a similar proposal in their well-known study on "Reshaping the International Economic Order."

I ask unanimous consent that the names of these 12 economists be printed in the RECORD, along with my speech, to be followed by the recommendations of the economists as they concern the "link".

There being no objection, the items were ordered to be printed in the RECORD, as follows:

RESHAPING THE INTERNATIONAL ECONOMIC ORDER

A tripartite report by twelve economists from North America:

C. Fred Bergsten, Council on Foreign Relations.

Richard N. Cooper, Yale University.

Edward R. Fried, Brookings Institution.

Fritz Machlup, New York University; Professor Emeritus, Princeton University.

Roy A. Matthews, Private Planning Association of Canada.

The European Community:

Sir Alex Cairncross, Master of St. Peter's College, Oxford; former British Government official.

Jean-Claude Casanova, University of Paris.

Don Guido Colonna di Paliano, President of La Rinascente; former member of the Commission of the European Economic Community.

Norbert Kloten, University of Tübingen; chairman of the German Council of Economic Experts.

And Japan:

Motoo Kaji, Tokyo University.

Saburo Okita, Japan Economic Research Center.

Kiichi Saeki, Nomura Research Institute of Technology and Economics.

Narrowing the Gap Between the Developed and Developing Worlds

(By Senator Javits)

As is widely recognized, the President's speech of August 15 signaled the end of an era in our domestic and foreign economic policy. What is often not recognized, however, is that this decisive policy speech also laid the groundwork for the Senate defeat of the foreign aid bill since the President—by saying "I have ordered a 10 percent cut in foreign *economic* aid,"—made it clear that aid was one of the more expendable items in our budget.

For a program which already suffered from waning popular and political support—unwise as that was—these words gave the anti-aid forces all the ammunition they needed momentarily to scuttle the aid program. The program was soon revived, and the Congress passed authorization legislation running through FY 1973, which was recently signed into law by the President. The conference committee on the FY 1972 appropriations bill will soon be convened to reconcile the differences in the appropriations bills passed by the Senate and the House and by the summer, the FY 1973 aid appropriation bill will be before the Congress.

However, it is my view that it would be naive to view this reprieve as more than temporary—I would expect that fundamental changes will be demanded by the Congress and should be made when the next authorization bill is written. What will emerge is exceedingly conjectural at the moment, primarily because the Senate increasingly gives evidence of being disenchanted with bilateral economic assistance while the House does not seem to be convinced of the virtues of multilateral aid. It seems clear that this dichotomy of opinion may not be resolved over the short term; the subsequent destructive cross fire may continue, and, if so, probably result in lower funding levels for both bilateral and multilateral aid.

Because of these factors, it will be more difficult for the United States to meet the one percent of the Gross National Product target that has been adopted by the U.S. and the main nations of the world as set forth in the International Development Strategy for the Second United Nations Development Decade. In my view, this will have the effect of making it more difficult to bridge the gap between the have and have-not nations, and over time, this will not work to our own best interests, including those of our national security. In this regard, we would do well to recall the words of Machiavelli—"in the poverty of the people lies the destruction of the princes"—and then substitute the words "developing world" for "people" and "industrialized states" for "princes."

For those who would respond that I am ringing the alarm too soon, I would remind them of the extraordinary and growing vulnerability of the world's industrial states to the loss of the energy resources located in the developing nations. The United States is not immune to this growing dependency—and the developing world knows it.

As to the future, there are some inadequately explored avenues which show great promise. The Administration has proposed reforms in the operating structure of our foreign aid programs that make sense and which deserve the serious consideration of the Congress, but it is my view that structural reforms alone are not a completely adequate response to the increasing public and Congressional mood. In turn, advocacy of structural reforms without firm Presidential leadership and a strong Presidential commitment to foreign economic development and assistance is likely to prove abortive once again.

But, let me explore one of the avenues which deserves the priority attention of our Government as well as the governments of the other developed countries of the world.

I refer to the linking of development objectives to the future creation of Special Drawing Rights (SDRs) issued by the International Monetary Fund (IMF), thereby tying the upcoming world monetary reform to an increase of the real resources available to the poorer countries.

Let me provide you with some background. Approximately two years ago, the IMF began creating something akin to international money in large amounts—over $3-billion a year. This international money—Special Drawings Rights (SDRs)—is being used by governments as part of their reserves. The U.S. New Economic Policy of August 15, 1971, will have the effect of making the dollar less desirable as official reserves, and a consensus seems to be emerging that these SDRs will become an increasingly important reserve component.

In deciding on how SDRs should be distributed, the decision was made to distribute SDRs in accordance with the member country's original contribution or quota in the IMF. Thus, the members which set up the IMF and subscribed the largest quotas will get the most SDRs. It works out that the 25 so-called developed countries have received nearly 73 percent of SDR created to date while the remaining 86 less-developed countries that participate in the SDR scheme receive the remaining 27 percent. Thus, in creating "mannah from heaven," the developed countries of the world have efficiently insured that said "mannah" is being showered primarily on them.

Does this distribution formula, as it applies to future SDR creation, best serve the interests of the world community? And, even more narrowly, does it best serve the interests of the U.S.? In my opinion, it does not serve our best interests; rather it helps to widen the already dangerous political and economic gaps between the have and the have-not nations.

Let us make the hypothetical assumption that the distribution formula were reversed and that the developing world were to receive 73 percent of SDR creation while the developed world were to receive 27 percent—or in some such order of magnitude. What would be the beneficial effects?

First and foremost, this new distribution would afford better integration of the developing world into the world's monetary and trading system. At a time when the nations of the developing world are groaning under an enormous debt burden, it would give them the resources to buy more goods and services; thusly used, SDRs would be smoothly integrated into the world's monetary reserves, thereby helping to insure adequate world liquidity.

In turn, as the developing countries of the world use SDRs to buy real goods and services (primarily from the developed world, it should be added), exports from developed countries to the developing world would increase, and the United States would share in this increase. This would have a positive effect on our trade balance and the trade balance of other developed countries. Indeed, looking down the road, I don't see how the United States is going to regain its trade surplus position unless sales to the developing world are significantly increased.

As the developing world increasingly uses its SDRs to buy real goods and services from the developed world, there will be a positive effect on job creation in the developed world, and again, the developed countries need the jobs. The long-standing six percent unemployment rate in the United States is ample testimony that our society is not creating enough jobs fast enough.

It is argued that the use of SDRs for this development purpose is a gimmick and that it gets around the normal Congressional authorization and budgetary process since the Congress does not have to authorize SDR creation. My response would be that increased exports and increased jobs are no gimmick, that increased exports and jobs will contribute to greater harmony between the developed and developing world, and that other arguments against the SDR creation—development "link", and there are many, can be similarly answered.

If this is not incentive enough to persuade our policy level officials to seriously consider this idea, it seems clear that the "link" may emerge as a major issue at the upcoming world trade and development conference which will open in Santiago this April. It would seem to be in our national interest to put forward a "link" type proposal either formally or informally to help convince the developing world that there is more than rhetoric in our concern for economic development. To date, outside the rhetoric, the performance level with the developing world is weak—be it on the 1 percent aid target or on trade matters such as generalized preferences. I repeat the word of President Nixon in his recently released State of the World Message—

"The failure of this, the world's richest nation, to assist adequately the world's poor nations in their development efforts today and in the decade ahead would be one of the great human tragedies of history."

Assistance To Developing Countries

Discussion about reshaping international monetary arrangements has centered almost exclusively on relations among the industrial countries. This is a serious deficiency, because the developing countries have obvious interests in how the system is changed, and also because the process of making changes afford a unique opportunity for the industrial countries to improve their performance in providing development assistance to the poor countries.

While the total flow of capital to developing countries continues to rise moderately, official development assistance over the past five years has been relatively flat in nominal terms and has been declining in real terms. As a consequence, there has been a steady erosion in the grant element of development assistance and a piling up of debt servicing problems. To this bleak prospect should be added the substantial costs of developing countries that continue to be inherent in aid tying.

The recent deterioration in aid flows is principally a consequence of U.S. performance, but it is worth noting that, as far as official development assistance is concerned, none of the donor countries are able to show a particularly outstanding record. In 1970 this category of foreign aid amounted to only one-third of 1 percent of gross national product(GNP) in the Development Assistance Committee countries as a whole. The simple truth is that all donor governments face difficulties in getting appropriations for untied loans at low interest and long maturities.

New monetary arrangements could be used to revive the flagging foreign aid effort in several ways.

First, a new monetary system would remove current balance-of-payments constraints on the amount of aid appropriations and on providing aid in untied form. At the least, the agreement on a new set of exchange parities should be used as the occasion to resume the currently stalled negotiations aimed at having donor countries act together to untie bilateral lending.

This has an importance far beyond the capital flows that will eventually take place within the EC, for it will pose for the Community an increasing acute problem if these restrictions are abandoned only on investment inside the Community and retained in full force on other investment. It is not easy to see how the national controls now in operation can survive. There is therefore a prospect of greater freedom internationally, and not only in Europe.

This outcome will lead to direct investment cross-flows on a fairly specialized basis, much as seems to have happened to international trade flows. The possibilities for fitting U.S. technical and management features into certain sectors of the Western European and Japanese economies probably still would be quite compelling; and Western European countries and Japan might expand their investment footholds in the United States. If this were the direction of events, the political disabilities of direct foreign investment would doubtless be further reduced.

While the prospect of increased two-way investment may remove some of the political objections to direct investment, such investment—particularly in the form of takeovers—nonetheless calls for close collective surveillance by governments to prevent the diminution of competition and the substitution of private barriers to trade for those that have been removed through joint official action.

The international community also needs to examine the influence on capital movements of differing tax rates or systems, direct subsidy arrangements, or support for local enterprises against possible foreign competitors. All of these may be a source of distortion in the flow of capital into investment, or of diminution in the flow below what would be desirable. The tax and other incentives held out to foreign investors should also be the subject of international review to ensure that they conform to agreed rules and are not designed merely to outdo offers made by other countries.

Direct investment in the less developed countries, while of considerable significance in the development process, can raise acute political problems, which may prompt the less developed countries to introduce obstacles to inward investment or to impose conditions on the form it takes. These countries may need advice and guidance from some reputable international body such as the World Bank on the conditions that would both serve them best and prove internationally acceptable. The developing countries may also be helped to acquire advanced technical knowledge in ways that do not involve foreign ownership of their industries. But they will not necessarily be helped by industrial countries' efforts to interfere in the process, even if such interference takes the form of subsidies—investment guarantees or other special system would be little affected. Further, the amounts involved would be relatively small and the effects little different from those that would obtain if countries had continued to bring new gold production into reserves. It is also worth pointing out that under conditions of less than full employment, the link to development assistance could provide a useful economic stimulus. These concerns, then, come down to a political judgment about the ability of the international community to run its affairs soberly and might apply equally to other aspects of monetary reform.

These arguments pro and con should be put into the larger context of how relations between poor and rich countries are to be managed. A sizable flow of untied, long-term, grantlike, multilateral aid mobilized through these kinds of links would promote a more rapid internationalization of the world aid and development effort, and this could be a key element in building effective cooperation between rich and poor countries in this area.

CARL HAYDEN

Mr. TUNNEY. Mr. President, the Nation, the West, and Arizona have lost a great man. Carl Hayden was truly a man of the American West. He descended from pioneer stock that first settled what is now Tempe, Ariz. He was a frontier sheriff. Elected to the Congress in the year Arizona was first admitted to the Union, he served his country and his State for 57 years. His tireless devotion helped to bring prosperity and unparalleled growth to his State and the Southwest.

Two things stand out in my mind about Carl Hayden. The first concerns his feelings for his country. Although he served in Congress longer than any other man and was in his nineties when he retired, Carl Hayden never opposed progressive legislation if he felt it was for the good of the country. He was never heard to say, "That's not the way we used to do it in the good old days." He always favored new ideas. A perfect example of this was his senatorial staff. One would think that a man of his age and power in the Senate would surround himself with his cronies. But that was not Carl Hayden's way. He always had a young staff—usually a third his age—with young ideas, and he listened to what they had to say.

The second is a story I heard about this great man that shows the kind of stuff he was made of. A woman walked into the Senator's office one day and told him she had been deserted by her husband and stranded in Washington with their small child. The woman said she was originally from northern Arizona, and she felt Senator Hayden was the only one she could turn to for help. She had spent her last money on her child, and she finished her story with the simple words, "Senator, I'm hungry." Senator Hayden rose from behind his desk, took the woman by the arm, and led her to the Senate cafeteria where he bought her lunch. He then got her a job on a committee staff, and was rewarded by the fact that she held that job until she had put her child through college and had become a grandmother. All that Senator Hayden had to say about the incident was that he knew she was a good woman, and he knew she would do a good job.

This is the kind of man that builds nations. Quietly, industriously, he works in the service of his country. But while he is nationbuilding he never loses touch with the people he serves. This is the kind of man Carl Hayden was.

MASSACHUSETTS HOUSE OF REPRESENTATIVES RESOLUTIONS ON NORTHERN IRELAND

Mr. BROOKE. Mr. President, on February 14, the Massachusetts House of Representatives adopted two resolutions regarding the situation in Northern Ireland.

I view the resolutions as a sincere expression of the deep concern with which the American people view the continuing strife in Northern Ireland. The appeal expressed in the first resolution that the U.S. Government "use its good graces and attempt to assist in bringing about a peaceful solution to the Northern Ireland problem" represents a point of view which I have previously expressed in this body, and with which I believe the majority of Americans concur.

I ask unanimous consent that the text of both resolutions be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTIONS PROTESTING THE PRESENT POLITICAL DIVISION OF IRELAND

Whereas, The present political division of Ireland is not in keeping with the principles of self-determination and is not based on the racial, economic or historical background of the people of Ireland; and

Whereas, The Republic of Ireland should embrace the entire territory unless a clear majority of the people of Ireland in a free plebiscite determine and declare to the contrary; and

Whereas, This approach to the problem of a united Ireland is entirely in keeping with the free democratic ideals and principles of our own democracy and all free nations of the world; and

Whereas, Ireland from the very beginning of our own beloved country through tremendous hardships and adversity has always been a staunch and unflinching friend of America; and

Whereas, The current Northern Ireland movement is aimed at securing equality for all in local government, voting and public housing, at ending property ownership requirements to vote and at terminating discrimination in public housing allocation by local officials; therefore be it

Resolved, That the Massachusetts House of Representatives hereby urges the United States Government to use its good graces and attempt to assist in bringing about a peaceful solution to the Northern Ireland problem presently plaguing the Irish people and thereby lay the foundation for uniting this great nation under one flag; and be it further

Resolved, That copies of these resolutions be sent forthwith by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress, to the members thereof from the Commonwealth and to the Secretary of State.

RESOLUTIONS URGING THE WITHDRAWAL OF BRITISH TROOPS FROM NORTHERN IRELAND

Whereas, The presence of British troops in Northern Ireland has increased the tension which has existed therein for many years; and

Whereas, Riots and bloodshed resulting from the presence of such troops have become an almost daily occurrence; and

Whereas, On Sunday, January 30, 1972, British soldiers fired at Irish Catholic sympathizers thereby killing thirteen persons; and

Whereas, The continued presence of British troops in Northern Ireland will result in further riots, bloodshed and deaths; therefore be it

Resolved, That the Massachusetts House of Representatives urges the President of the United States to use the full weight and power of his office to effect the immediate withdrawal of British troops from Northern Ireland; and be it further

Resolved, That a copy of these resolutions be sent by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress, to the members thereof from the Commonwealth and to the British Consul.

DAMAGE CAUSED BY WEST COAST DOCK STRIKE

Mr. FANNIN. Mr. President, the American economy suffered extensive and in many cases irreparable damage during the west coast dock strike.

Longshoremen alone lost an estimated $45 million in wages and fringe benefits.

Most of the damage, however, was suffered by innocent people—businessmen, workers in export industries, and farmers.

American companies lost foreign customers which may never come back to U.S.-made goods. Our chances of rebounding from last year's $2.05 billion trade deficit have been seriously impaired.

Thousands of American jobs may well be lost permanently as a result of this strike.

The Department of Agriculture estimates that American farmers lost $1 billion as a result of labor disputes in American ports in 1971–72.

Mr. President, when we have a strike like the west coast dock strike, only one man wins—and in this case it was Harry Bridges. This was the man who arrogantly defied this Congress and then walked away in the national spotlight.

Strikes in the transportation industry, and in other key industries, cause harm to millions of persons. The disastrous effects linger long after the inconvenience has ended.

Now that the west coast crisis has subsided, I suppose that Congress will again retreat inside its shell and pretend that all is well.

The fact is, Mr. President, that Congress has an unbelievably dismal record when it comes to protecting the rights of the American public from the danger of irresponsible labor stoppages.

If there is any right which should be fundamental in a free society, it is the right of a man to work or to carry on commerce. It is wrong that a vast number of people should be made to suffer, or that the national economy should be severely damaged, just because a relatively small group of people want higher wages.

Mr. President, a number of informative articles were written during and immediately following the dock strike.

The Washington Evening Star carried an editorial on February 2 under the headline "Labor Stalemate." The editorial concludes:

> **The legislators eventually must face the fact that the nation cannot continue paying the costs of frequent failures of the collective bargaining system, when these affect indispensable segments of the economy on which we all depend.**

The Phoenix Gazette on February 9 commented on "Harry Bridges' Frightening Power." It concluded:

> Power concentrated is the worst enemy of the American way, and Harry Bridges has enough power that he can inflict hardship on thousands, as witness his arrogant threat to close down the foreign commerce of the United States.

Mr. President, the Wall Street Journal of February 10 listed a few of the ill effects of the west coast strike under the heading, "Many Firms in West Fear Lasting Impact Despite Tentative Accord in Dock Strike." The magazine the Great Plainsman for January–February has an article entitled "Dock Strikes Cost Farmers $1 Billion, Threaten Future Agricultural Exports."

Mr. President, I ask unanimous consent to have printed in the Record the two editorials and the two articles that I have mentioned.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the Washington Evening Star, Feb. 2, 1972]

Labor Stalemate

Congressional inaction on the administration's call for emergency legislation in the West Coast dock strike is in line with the legislators' generally sorry record on saving the nation from damaging labor stoppages.

The dispute that closed the Pacific ports for 100 days last year and, after expiration of a Taft-Hartley injunction, shut them down again on January 17, is the kind for which the law should provide a method of fair and certain solution. While many shippers have made alternate arrangements, and port activity was speeded during the cooling-off period in anticipation of a resumption of the walkout, a prolongation of the current disruption would pose a substantial threat of economic harm. With the nation struggling to recover from the first trade deficit in more than 80 years, important agricultural exports have been curtailed. The West Coast ports could lose business permanently to rivals in Canada and Mexico. Hawaii's major channel for supplies from the continent has been cut.

Though the difference between union and employers have been narrowed, the uncertainty of an early settlement has left the administration with little choice but to seek ad hoc legislation, in this case requiring a return to work and binding arbitration. As the House and Senate Labor Committees drag their feet on the administration request, it is clear that the legislative need has run afoul of election-year politics. Congressmen, particularly Democratic members dependent on labor support, do not want to offend powerful unions by embracing compulsory arbitration.

The Congress is even less likely, as labor girds for the attempt to hold President Nixon to one term, to act now on the two-year-old administration proposal for broader legislation to prevent costly strikes in the transportation industry. Such legislation is needed—covering other economically vital industries as well—because of the lack of legal tools to require settlements after exhaustion of delays under the Taft-Hartley and Railway Labor Acts.

The administration proposal would give the President a set of options—including possible imposition of the last offer of either side—for ending transportation labor disputes. The plan has merit, as do broader suggestions for adjudication of otherwise insoluble disputes through labor courts or some other binding mechanism.

As it is, Congress repeatedly in the last couple of years has had to legislate specific settlements ending nationwide rail strikes—cases in wihch national paralysis was so obvious that action could not be avoided. Labor law should not have to be made on a case-by-case basis, but only Congress' failure to approve more comprehensive solutions has made this necessary, as in the West Coast dock crisis.

The legislators eventually must face the fact that the nation cannot continue paying the costs of frequent failures of the collective bargaining system, when these affect indispensable segments of the economy on which we all depend.

[From the Phoenix Gazette]

Harry Bridges' Frightening Power

By threatening a worldwide shipping tie-up in retaliation for any congressional action to end the west coast dock strike, labor boss Harry Bridges displayed such an alarming disregard for the law and the welfare of the nation that Congress should consider broad legislation to break the stranglehold Bridges and a few others like him have on America.

Bridges may not have enough muscle to cut America off entirely from the rest of the world, but when he said that he could call on "friends in other countries" to prevent ships from making ports of call in the United States, he wasn't making an idle threat.

Once described by a federal judge as "one of the most potent figures in the Communist Party in America," Bridges doubtless enjoys considerable influence among dock bosses overseas who share his strong list to the left. Significantly, Canadian longshoremen did cooperate.

If a foreign power threatened to blockade America's ports and cut its trade lines to other countries, the United States might begin mobilizing for war. Yet Bridges may very well be able to isolate America more effectively than any naval power.

The fact that a labor-management agreement promises to end the strike doesn't make Bridges' threat any less frightening. The settlement, a victory for Bridges, has served to extend his power. If he decides to shut the docks down again, he'll have no difficulty finding an excuse. He still could make good on his threat.

Bridges' strike has cost innocents hundreds of millions of dollars, left workers unemployed all over the country, put companies into financial difficulties from which they may not recover, aggravated America's balance of trade problems and damaged the economy generally.

Power concentrated is the worst enemy of the American way, and Harry Bridges has enough power that he can inflict hardship on thousands, as witness his arrogant threat to close down the foreign commerce of the United States. Congress should do something to dilute his frightening power.

[From the Wall Street Journal, Feb. 10, 1972]

A Loss of Markets: Many Firms in West Fear Lasting Impact Despite Tentative Accord in Dock Strike

(By James Carberry and James E. Bylin)

Most West Coast businessmen may be sighing with relief at the apparent settlement of the prolonged Western dock strike, which has been costing the California economy alone about $17 million a day.

But a number of companies that ship through West Coast ports now are worrying about a serious and long-lasting problem created by the strike—the permanent loss of business and markets it had taken years to cultivate.

"It's as simple as this—some customers who leave don't come back, or don't come back immediately," says Donald Martin, an official with San Francisco-based California & Hawaiian Sugar Co., an association of 22 Hawaiian sugar companies that markets all of that state's sugar. C&H refines its sugar in

Crockett, Calif., which means raw sugar must be shipped from the islands. "Some of our competitors haven't been affected at all, namely the beet sugar producers" (which produce in the contiguous U.S.), he says.

C&H, which lost about $6 million of business during the strike, plans "to try to recapture the share of the market we had," Mr. Martin says. But he acknowledges some market losses might be permanent.

TOYS, WIGS, AND FRUIT

"There's no question: Some highly-competitive markets outside the U.S. (like certain agricultural products) will be lost to foreign competition," says Gordon Larkin, a California state official who has been compiling data on the strike's economic impact.

West Coast longshoremen went on strike July 1 but were ordered back to work Oct. 6 under an 80-day "cooling off" period of a Taft-Hartley injunction. The strike was renewed Jan. 17 after negotiators failed to agree on various issues. Tentative agreement was reached Monday.

While longshoremen are preparing to return to work, businesses are assessing the damage on their profit and loss statements. Mattel Inc., the toy manufacturer, has said it expects to report a loss for the fourth fiscal quarter ended Jan. 31, because of the strike. For the nine months ended Oct. 30, Mattel previously reported a loss of $4 million, as compared with a profit of $14.5 million, or 93 cents a share, a year earlier. Brentwood Industries Inc., Los Angeles, a wig maker whose main plant is in Hong Kong, figures it spent $1 million to import its product by air freight during the initial 100 days of the strike—nearly five times what it would ordinarily have cost.

RICE AND MAZDAS

California Valley Exports, the overseas marketing arm for two major producers of canned fruit, estimates sales for the crop year begun July 1, 1971, are running 40% less than a year ago because of the strike. Because California Valley couldn't meet delivery schedules, many customers have turned to other sources, says Percy Rideout, managing director. And there is "no guarantee" the company can win them back, he says.

Even those companies that didn't lose markets as a result of the strike paid dearly to keep them. Robert Freeland, executive vice president of the Rice Growers Association of California, says rice normally is shipped directly from Sacramento to Puerto Rico—the association's major market. But during the strike it was routed by rail to Houston and by ship to Puerto Rico; that proved "very expensive" to the association, which absorbed the extra costs, says Mr. Freeland.

Mazda Motors of America, headquartered near Los Angeles, absorbed about $1.4 million in extra handling charges to bring its cars through alternate ports during the initial 100 days of the strike, reports C. R. Brown, general manager. The strike hit last summer just as the company launched an advertising campaign to introduce its car in California, "but at the time we didn't have enough cars to meet the demand," says Mr. Brown. To make matters worse, a shipload of Mazdas had arrived in port the night before the strike began, and "it took us about eight weeks to get that ship unloaded."

For a few companies, however, the strike was an unexpected bonanza. Flying Tiger Line Inc., the cargo carrier, says its traffic increased substantially as a result of the strike. An official of Seattle-based Airborne Freight Corp., an air freight forwarder, says "we expect to keep" most of the 10% to 15% extra business picked up during the most recent walkout. And the California Beet Growers Association reports that during the strike its 3,000 members have supplied 70% to 75% of all sugar sold in the state, up from a normal 65%. "We've had a windfall from it (the dock strike), there's no question," says Malcolm Young, executive director.

A few companies, like Amfac Inc., a diversified, Honolulu-based concern, figure they can spring back fairly quickly. Amfac figures that its earnings would have been five to seven cents a share higher last year if the dock strike hadn't added to costs. The company reported 1971 earnings of $1.92 a share, up from a restated $1.73 a year earlier. But "there won't be any permanent effect on Amfac" because of the strike, says Henry A. Walker Jr., president. And the national forest products association says the wood-products industry lost about $1 million daily in exports of logs and wood mill residues in Japan, but it expects to recover that market once the strike officially is over.

[From the Great Plainsman]

LEGISLATION SOUGHT—DOCK STRIKES COST FARMERS $1 BILLION, THREATEN FUTURE AGRICULTURAL EXPORTS

January 18.—Labor disputes at U.S. ports in 1971–72 have already cost American farmers one billion dollars in gross income according to the USDA. And, since the dock strike problem began on the West Coast on July 1 the USDA estimates that the dollar value of wheat and flour exports has fallen 100 million dollars, compared with the same period last year.

These losses to farmers and the U.S. economy have been immediate and irretrievable, but the most damaging effects are perhaps only beginning to be felt. The total long-range damages are inestimable.

LONG-TERM EFFECTS CITED

The most damaging effect of any dock strike or threat of a strike on U.S. agricultural exports is the weakening of our ability to assure a continuous supply of agricultural commodities to foreign customers. Foreign buyers can, and quickly do, turn to other sources when supplies from a traditional supplying country are cut off. As GPW's Executive Vice President Joseph Halow pointed out in a recent letter to Senator Harrison Williams, Chairman of the Senate Committee on Labor and Public Welfare, "Foreign consumers will not stop eating bread, and foreign mills will not stop milling wheat because they don't have available supplies from the United States. They will obviously and understandably turn to other suppliers, and lost business in the short run is multiplied many fold in long-term losses which may never be recovered."

The USDA estimates that one-fourth of all U.S. agricultural production must be exported. The percentage is much greater for wheat, since exports roughly equal total domestic consumption of wheat for food and feed. Any interruption in the flow of wheat into export markets is a serious disruption in the U.S. wheat economy.

A second costly effect of maritime industry work stoppages is the weakening of producers' self-help market development work. Great Plains Wheat and other similar organizations have spent years and large sums of money, which have come directly from levies against crop production in the U.S. and through funds contracted from the USDA, to develop markets for U.S. agriculture. Foreign markets developed and maintained in this manner can be lost overnight when buyers lose confidence in the U.S. as a reliable supplier.

The world's millers are particularly accustomed to using certain wheat qualities. While they are reluctant to switch wheats, they do switch when traditional supplies are cut off. By the same token, millers are also reluctant to return to the traditional supplier when the circumstances forcing the change no longer exist. For this reason, Great Plains wheat producers are fearful of long-term losses in foreign markets.

GPW APPEALS FOR LEGISLATION

Since mid-summer, Great Plains Wheat has repeatedly appealed to government leaders in the Administration and the Congress for relief for producers from the recurring transportation labor dispute problem. The GPW Board of Directors, in an effort they believe is the one realistic hope of relief, voted to actively support legislation which would help bring the current dock strikes to a close or at least assure work continuation during negotiations. GPW reaffirmed its position to key Congressmen—in December after the International Longshoremen's and Warehousemen's Union refused management's "last" offer, acceptance of which could have settled the West Coast dock strike—and in mid-January after the West Coast dock strike resumed and the Congress returned to session.

In his letter to Congressmen on behalf of Great Plains wheat producers Joseph Halow pointed out that "During the January–March period, based on previous years experience, we would expect to be exporting around $100 million worth of wheat off the West Coast. Most of this wheat is destined for Far Eastern countries, which will buy from other sources if they cannot be assured of shipment from the West Coast during this period of time. These sales will now easily be lost."

"We cannot be indifferent," Halow said, "nor do we feel the Congress can be indifferent to the frustration of the U.S. agricultural producer in his efforts to help himself. The United States is again building up commodity surpluses, at a time when other wheat exporting countries are enjoying a very good export year. It can be no coincidence that the United States is the only one of these countries now hampered in its sales efforts by a dock strike which could now not produce any benefits to the longshoremen which could offset the losses already incurred in export sales."

Halow pointed out that Great Plains Wheat is "not against action by any one segment of the working population in an attempt to receive better work benefits or conditions. Strikes such as those at the docks go beyond this and seriously prejudice the interests of large segments of the population. There must be a point at which the government decides that the strikes cannot produce any benefits which would offset the harm being done. There must be some form of effective government mediation which would bring all parties together in a solution acceptable to all."

Halow also noted that "the point at which govenrment intervention is necessary must be left to the discretion of those individuals in whom the citizens have placed their trust, as demonstrated by their election to office. Considering the length and already unbearable cost of the current strike, which could not have come at a worse time for our economy," Halow concluded, "it would appear that the time for action has come."

OTHERS SUFFER, TOO!

In his statement before the Senate Subcommittee on Agricultural Exports on November 5, Kenneth Frick, Administrator, ASCS, pointed out that the impact of the dock strikes were not limited to one part of the economy. He said, "There are many other segments of our economy which are dependent upon agriculture and which are also suffering economic losses. The small-town businessman who is dependent upon the cash flow from agriculture, the trucker who is dependent upon seasonal business, and many others are sharing the farmers' pain. The dock workers themselves are a vital part of the system and are also dependent for their livelihood on export sales of agricultural products. At a time when we are desperately trying to get our Nation's economic house in order, we all need to work together instead of pulling apart, in order that we may all benefit from a strong economy and a unified nation. It is for this reason that the Department of Agriculture urges an immediate end to the dock strikes and their threat to the agricultural economy."

THE GENOCIDE CONVENTION BLOCKED BY ABA

Mr. PROXMIRE. Mr. President, I have taken the opportunity to make a statement concerning the Genocide Convention and to urge its ratification each day that the Senate is in session. The need for approval is well known yet still no action is taken. One reason for this is the powerful opposition it has met from certain interest groups. The following is a forthright statement made by the Milwaukee Journal, which clearly recognizes the opposition of one group in particular.

Foot Dragging on Genocide

As if the American image in world affairs were not tarnished enough by events, a nonevent continues to make it appear thoroughly disreputable. That is the 23 year history of Senate refusal to ratify the U.N. treaty by which 75 more self-respecting nations have formally renounced genocide (systematic extermination of an ethnic class of people as national policy). Finally last March the Senate Foreign Relations Committee approved it, 10–4, and sent it to the floor, but there it still lies untouched.

The stumbling block always was and still is the American Bar Association, where a fear has prevailed that overinterpretation might intrude upon purely domestic sovereignty. Repeated disproof of any reason to prolong that resistance has pervaded every pertinent ABA section and committee, however, leaving only the House of Delegates to be tipped over. And the current ABA Journal gives space to a thorough, conclusive case for quick ratification at this time, by Arthur Goldberg, former Supreme Court justice and UN ambassador, and Richard Gardner, the distinguished Columbia professor of international law.

That should do it. How can the United States longer retain its dignity in a posture of refusal to renounce the unspeakable crime, leaving a distrustful world to infer that the U.S. wants to keep this option open for itself?

SENATOR CARL HAYDEN WAS A GOOD MAN AND A DEARLY LOVED CITIZEN

Mr. RANDOLPH. Mr. President, the Nation lost a good and dearly loved citizen in the passing of Carl Hayden. His service to his State of Arizona in the Congress of the United States spans two generations. Those of us who were privileged to know and work with Carl Hayden in both the House and Senate, until he voluntarily retired 2 years ago, miss his wise counsel. As chairman of the Appropriations Committee for many years, he served the Nation well. As President pro tempore of the Senate for the last 12 years, he gave great strength and dignity to the legislative process. In the history of the Nation, there have been many individuals who have gained respect and admiration through long and dedicated service. Carl Hayden stands in the front ranks of those truly great Americans who have earned the lasting gratitude of our citizens. I join with my colleagues in mourning the recent death of this distinguished man who was my cherished friend. The State of Arizona and the Republic shared his unparalleled abilities.

DYNAMIC LEADERSHIP OF SECRETARY BUTZ

Mr. ALLOTT. Mr. President, since assuming the leadership of the Department of Agriculture only 2 short months ago, Secretary Earl L. Butz has shown dynamic leadership. I have for years known that our farmers are not receiving a fair return on their investment and labors. Perhaps coming from a rural community, it gives me a greater insight into this fact which possibly explains my awareness.

Secretary Butz is assuming a position of spokesman for our Nation's farmers. He has filled a void—a need—to enlighten Americans on the plight of rural America. Mr. President, I ask unanimous consent that an address by Secretary of Agriculture Earl L. Butz before the National Livestock Feeders Association in Omaha, Nebr., be printed in the Record at the conclusion of my remarks. I commend him for assuming the position of spokesman for rural America and wish to add my endorsement—my "amen"—to that portion of the Secretary's speech in which he says:

> City people want a fair wage, and they should get it. Businessmen want a fair return on their investment, and they should get it. And everyone should realize that farmers want a fair return for their work and investment—and they should get it.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address by Secretary of Agriculture Earl L. Butz

If someone asked me for a title of my remarks today, I would say, "Battles That Farmers Must Fight."

When President Nixon put up my name for Secretary of Agriculture three months ago, I told him I intend to speak on behalf of farmers as loud as I could. I've been doing that, and we are beginning to see some results.

Actions have to go with the words—the willingness to get into things and do some hard fighting if farmers are to keep control of farming and get higher prices and better net incomes.

From where I look at the agricultural situation, quite a few battles lie before us to be waged and won so that we can reach the day when farmers earn enough return on their labor and investments to match, at least, what city people are making. That's my goal.

Speaking on behalf of farmers, and acting on their behalf, is a major part of my job. I intend to go into these battles hammer and tongs. These are *your* battles. They are battles that farmers must fight, just as much as Earl Butz. I need all the help you can give me.

Let's take a look at some of these fights—some in progress now, others that we can see shaping up for the future.

We must fight to move our harvests to market.

I doubt if anybody can even begin to size up the harm that transportation strikes have done, and are continuing to do, to American agriculture. We need to put a stop to this insanity.

Time after time, shipments of commodities to markets have either been blocked or threatened with paralysis as the result of labor disputes in which farmers have no part and no vote. Almost invariably, this sort of trouble breaks out just at harvest time, when many products have to be moved immediately.

The dock strike situation is the latest example of this problem, of course. It started last July. I wish we could say we've seen the end of it. First the West Coast longshoremen, then Atlantic and Gulf Coast dock workers and elevator employees in Chicago, marched off their jobs—just when farmers were harvesting the greatest crops of wheat, food grain, and soybeans in history.

The latest word is that the West Coast dispute is close to some kind of settlement. The 80-day Taft-Hartley cooling off period expires next Monday for the East and Gulf ports, and the unions in those areas are reported to be working for a settlement.

But for seven months, the dock tie-ups have caused America's farmers hundreds of millions of dollars in lost sales, depressed prices, reduced incomes, and the long-range loss of potential future markets overseas. Farmers simply cannot tolerate a recurrence of this kind of situation, and we must fight to end it for once and for all. If we don't do it now, we'll be in trouble again and again.

Two years ago this month, the President proposed legislation that would overhaul the present weak safeguards against crippling strikes in all key transportation areas. It's high time this legislation is adopted.

The way things stand now, we operate on a crisis-to-crisis basis whenever a major labor dispute hits the Nation. When that happens, farmers are usually the ones who are victimized the most. We need legislation to more adequately deal with these transportation tie-ups. You can help. You can demand action. This is your fight—and the stakes for agriculture are great because, more and more, exports offer the greatest growth opportunities for American farmers. Now let's look at another battle on our hands.

We must fight to get fair prices for farm products.

Recently beef prices hit the highest level in 20 years. And the outlook for the rest of the year is promising. But, as this is happening, it is bringing a rash of articles quoting someone about "high meat prices," and it is spurring considerable agitation among the uninformed for "price controls" on food.

I say, isn't it about time that beef prices got up to levels of 20 years ago? After all, farmers' costs are 50 percent higher than 20 years ago. Compared with 20 years ago, average hourly wages in the United States have more than doubled. So, isn't it about time that beef got up to levels of 20 years ago?

We can invite a searching look at agriculture by any open-minded person. In that 20-year period, the economy has expanded tremendously. Let's take a look at some of the increases in the amount of money going to different groups. Money paid to wage earners in this country is 3.4 times larger than 20 years ago; money paid to service industry workers is 4.9 times more; money for wage supplements and fringe benefits has gone up 7-fold; total money paid to Government employees is 4.3 times higher; dividends are up 3 times from 20 years ago; and, business and professional income has doubled. And yet total net farm income to the Nation's farmers has stayed almost the same—a bare 3 percent increase in 20 years. Isn't it about time that farmers did a little better?

Twenty years ago, people spent $7½ billion more for services than they did for food and beverages. Now, people are spending $146 billion a year more for services than they are for food and beverages. So why talk about food prices?

Total expenditures for food and beverages are 2.3 times higher than 20 years ago—but total expenditures for furniture and household equipment are 2.7 times higher; and, expenditures for automobiles and parts are 4 times higher than 20 years ago.

Food prices at the store have increased 43 percent over 20 years ago—but rent is 57 percent higher, and medical care, 128 percent higher. Actually, whereas people 20 years ago were spending 23 percent of their take-home pay for food, they are now spending only 15.5 percent of their take-home pay for food that is of better quality, of wider diversity, better packaged, and the safest in the world.

By any measurement you want to make, agriculture stands out. Farmers are producing enough beef to provide twice as much beef per person as 20 years ago.

The gain in overall productivity among farmers is almost twice as great as in our manufacturing industries. The output per man hour in manufacturing has increased 1.7 times in the last 20 years—but output per man hour of farmers is 3.3 times higher than 20 years.

In our fight to get fair prices for farmers, I think it's urgent that you and I get across the true story of food prices. The housewive may spend more on her week's trip to the store, and when she gets home she complains about food prices as she takes the panty hose, detergent, mouth wash, and floor wax out of her shopping bag. The burgeoning labor costs at packing houses and retail stores, transportation expenses, parking and overhead facilities, convenience packaging—these all contribute to the higher retail prices for food.

Among the rank and file of wage-earning Americans who have received their regular pay increases over the years, it has not been their practice to complain very much when their fellow workers also received pay boosts. I hope they can see the justice in fair treatment for farmers, especially when the record shows that farmers are making only three-fourths as much income per person as non-farm people.

We must fight for more freedom for farmers to manage their own business.

This is another vital battle—a fight against going back to rigid controls over farming. The whole idea of the set-aside approach to major crop programs is for farmers to have more freedom, more options, in what they plant and how they operate their farms for greatest efficiency and for the most advantageous market opportunities.

We are trying to move away from production quotas, penalties for over-planting, cross-compliance requirements, and other kinds of Government interference. And in the process, we are seeing some significant changes taking place in cropping patterns. The shifts involve more than 60 million acres—a healthy realignment in production is taking place.

This is why I thought the recent proposal of a 25 percent increase in loan levels and creation of an excessive, inflexible Government grain reserve was not in farmers' best interests. I stand squarely against going back to tight production controls on farmers. I am against Government-owned reserves that hang like a deadweight over markets, putting a ceiling on farmers' prices and opportunities. I can recall the charges of "dumping" made against every administration whenever Government supplies were finally sold off.

The short-term effect of the strategic reserve proposal might have been good for some farmers who had not sold their 1971 grain. But what of the year after next, with more corn and wheat than we could use, with exports diminishing, with other countries working to take our markets, and with a huge reserve piling up in Government hands? On top of all that, the chief beneficiaries of the plan would have been the middleman and agribusiness interests and speculators, who would have been handed a quarter-billion-dollar windfall bonanza.

Livestock as well as crops would have felt the effects of the proposal, because it would have increased the cost of production for beef, hog, dairy, and poultry farmers. Livestock products represent the greatest area of potential expansion of food use, and the fastest growing portion of farmers' income. I did not want to see the Government put squarely between the grain producer and livestock producer, stifling livestock output and reducing grain consumption while the production of corn and wheat shot up.

Any price support or reserve proposal has to be looked at with the most careful and critical eye. The way I see it, our fight for greater farm prosperity must be based on a determination to make the present new programs succeed. The recently announced plan for voluntary diversion of additional wheat and corn-sorghum acreages are aimed at that goal.

This is a pivotal year for wheat. Growers have important decisions to make in using the freedom they have in the 1970 Act in a rational manner, to make production adjustments essential to their future. There are attractive incentives for those adjustments. I have authorized an additional voluntary set aside of wheat cropland equivalent up to 75 percent of a farm's domestic allotment. This year's wheat payments could run up to $200 million higher than the 1971 level.

I hope wheat growers are seriously considering the incentive which will put money in their pockets while cutting back on production. The National Association of Wheat Growers is directing an appeal to all wheat growers to use the extra set aside feature this year. Producers should give serious thought about the impact that overproduction will have not only on this year's market but for many years to come.

You may be sure I'll be keeping a close eye on the sign-up now in progress and farmers' planting intentions. I'm strong for rewarding those farmers who help work down our grain supplies so that output can be brought into better balance with market outlets. That's what will get agriculture back on the right track, with better prices and better incomes for farmers.

We must wage a constant fight for better farm income.

This is the biggest campaign at all. There are other battles under way—for better rural living, for greater economic and job opportunities in the countryside, for the protection and growth of family farms. They are all part of this major effort in which I hope you and I can join forces.

We are all pleased that farmers' prospects for 1972 are looking better. Farm prices in January were 13 percent higher than a year ago; and the prices you had to pay were up about 5 percent, so that was a net gain.

Chances are that livestock farmers this year will gross $1¾ billion to $2 billion more than in 1972. Overall, the Nation's farmers should take in $3 billion to $3½ billion more gross income than last year. Even better news is that farm costs are likely to increase less than in recent years. Phase II of the Administration's economic program is slowing the inflationary rise in costs.

That means, as prospects now shape up, that farmers should have $1½ billion to $2 billion more realized net income from farming in 1972 than in 1971. That would be a 10 percent to 12 percent increase over 1971. And isn't it about time?

We are making some progress with increasing our levels of farm income. If 1972 turns out the way it now appears that it will, farmers' realized net will average $16.4 billion for the four years, 1969 through 1972—compared with an average of $13.8 billion from 1961 through 1968. That's a 19 percent increase, and it's progress—but it's still not good enough.

It's not good enough, because the average disposable income of farm people is still only three-fourths, 75 percent, as much as the average income for non-farm people. That 75 percent average over the last three years is 10 percent better than the 68 percent average of the preceding eight years. But, I won't be happy until the average income of farm people is at least as high as that of non-farm people. Even that won't satisfy me.

Considering the hours farmers work; the marvelous record of farmers in increasing their productivity per man hour; the high investments that farmers have in their land and equipment that must be recapitalized; and, taking into account the risks of farming, and the high tax burden on farmers—well, considering all this, I know you agree that the average income of farm people should be considerably higher than the average non-farm income. And I'm going to do everything I can to see that farmers get it. It's only fair, and I think anyone will agree with that when they know all the facts.

One of the responsibilities that I am taking on is to travel this country from one end of the land to the other to tell those facts about the Nation's farmers to the American people.

In 1972, the average income per farm from farming will be the highest on record—somewhat over $6,000 per farm, or more than $600 higher than in 1971. That will mean that the income per farm from farming for the four years, 1969–72, will average somewhat more than $5,650—an increase of about 40 percent over the average of $4,079 for the previous eight years.

Still, this is not good enough. Farmers are a long way from getting the average factory wage for their labor and the average business percentage return on their farm investment.

City people want a fair wage, and they should get it. Businessmen want a fair return on their investment, and they should get it. And everyone should realize that farmers want a fair return for their work and investment—and they should get it. I intend to do all that I can to see that farmers make progress toward that goal.

We would like to see farmers do better so that they will find more opportunity to stay in agriculture. That's good for farmers, good for farm communities, good for the rural countryside, and good for the Nation.

We are making some progress in this regard, too. The average decline in the number of farms during the last thee years has been 47,000 a year. That's considerably better than the average loss of 106,000 farms a year during the preceding eight years of 1961 through 1968. But we want to do still better.

That's why the Department of Agriculture and this Administration are taking a two-pronged approach to improving farm and rural opportunity. Our first is the battle to improve farm income. Our second is the effort to improve economic opportunities in the non-metropolitan areas, with a countryside growth program that will increase economic activity and job opportunities in rural communities.

We want more of the future economic expansion of this Nation to be invested in rural America, so that farm and rural people can find more and better jobs in their home areas and won't have to move off to some far-away city that is already overcrowded and congested. We want more off-farm work opportunities nearby for those farmers and members of farm families who want to earn off-farm money.

During the past year, funds for rural credit advanced by the Department of Agriculture amounted to a record-breaking high of more than $2.5 billion in supplementary financial assistance made available to rural people for housing, family farms, and community facilities. In addition to that, the President has asked Congress to adopt a program which would give the States new money resources to spark economic activity in the countryside.

We want more job opportunities in rural areas for farm and rural young people so that they can enjoy a good life nearby if that is what they seek. We also want more recreational opportunities in rural America for young people, and old.

In short, we want a better life for farm and rural people. Not only because it's about time they had a better life. Not only because they are due for something better. But because I am convinced that the road to national prosperity starts on the farms and in the countryside of America. Let's fight to keep that road open.

CONQUEST OF ALCOHOLISM

Mr. JAVITS. Mr. President, with the Senator from Utah (Mr. Moss), we pioneered the struggle to establish a national commitment for the conquest of alcoholism. Thereafter, Senator Hughes of Iowa took on a guest role in the battle against alcoholism—the Nation's fourth most serious health problem—which culminated in the enactment into law of the comprehensive "Alcoholism Prevention, Treatment and Rehabilitation Act of 1970"—Public Law 91–16, which Senator Hughes and I introduced with the cosponsorship of over half of the Senate. I invite the attention of Senators to a special report on alcoholism, published in American Medical News of February 7, 1972. The article is entitled "Alcoholics Face a 'Therapy Gap'" and describes in the words of one of the Nation's leading authorities, Dr. Morris E. Chafetz, Director of the Division of Alcohol Abuse and Alcoholism of the National Institute of Mental Health, how alcoholism has become "the most treatable untreated illness." He blames much of the problem on the "negligent attitude of physicians toward alcoholic patients."

The American Medical Association is to be commended, as this report published in their weekly newspaper not only focuses attention on alcoholism as a disease, but also forthrightly puts the responsibility for much of the problem on physicians' attitudes.

It is rare indeed when a professional publication admits to such fault of attitude among its professionals.

I ask unanimous consent that the complete text of "Alcoholics Face a 'Therapy Gap'" and the American Medical News editorial entitled "Treating the Alcoholic" be printed in the Record at the conclusion of my remarks.

One solution to the problems of stimulating medical school interest in alcoholism as a disease, which is highlighted in this report, will, I hope be found in the amendment by Senator Hughes and me to the Comprehensive Health Manpower Training Act of 1971—Public Law 91–157—which provides incentives to medical schools, through special project grants, for the development of programs in the prevention, diagnosis, treatment, and rehabilitation of alcoholics and the assessment of the efficacy of various therapeutic regimens.

There being no objection, the items were ordered to be printed in the Record, as follows:

ALCOHOLICS FACE A "THERAPY GAP"

"Alcoholism is the most treatable untreated illness in the United States today."

Morris E. Chafetz, MD, author of that remark, says that in his 20 years in the field, "the only part of alcoholism I found untreatable is the negative attitude of physicians toward the problem."

Dr. Chafetz, director of the Division of Alcohol Abuse and Alcoholism of the National Institute of Mental Health and a member of the American Medical Association's Committee on Alcoholism and Drug Dependence, has considerable support.

Most physicians active in the treatment of alcoholics, for example, tend to agree with him. They point out that many doctors shy from this problem because of the frustrations involved in such treatment, or because they may have an alcoholic problem of their own; that many hospitals refuse to accept patients specifically for the treatment of alcoholism; and that the nation's medical schools devote little, if any, of their curricula to this subject.

Marvin A. Block, MD, Buffalo, N.Y., a member of the AMA Committee on Alcoholism and Drug Abuse and a physician who has limited his practice to the area of alcoholism and drugs, says:

"It is one of the great public health problems of our time and our profession has neglected it."

Robert Straus, PhD, director of the Dept. of Behavioral Science at the U. of Kentucky College of Medicine who also is a member of the AMA committee, adds:

"The health professions, although long involved in treating alcoholics suffering from cirrhosis of the liver, nutritional deficiency, and other specific diseases or injuries, still try to avoid responsibility for treating alcoholism."

Just as guilty, Dr. Straus says, are the nation's general hospitals which "resist or forbid accepting patients specifically for the treatment of alcoholism."

Samuel Nieder, MD, Chicago, director of the Alcoholic Treatment Center at the city's Martha Washington Hospital, charges:

"We need to stimulate the medical profession. We have to get the doctors to get off their butts to help these people."

Part of the problem falls on the nation's medical schools. William F. Jessee, a senior at the U. of California San Diego School of Medicine, reflects the feelings of many students. He says:

"Most of us are appalled at how little is being taught on this problem at our medical schools. It is pitiful that students are not being adequately trained in a subject in which some 20% of their patients will be involved."

Jessee admits there are problems in establishing courses on alcoholism in medical school curricula. Among other things, he cites a shortage of capable teachers, the lack of funds, and the attitude problems (e.g. getting the student to understand, not only the alcoholic, but his own "hang-ups" in the treatment of such patients).

Dr. Chafetz, interviewed by *American Medical News* (Oct. 18, 1971) says:

"We are trying—through the activities of the Institute and its relationship with organizations such as the AMA, the American Psychiatric Assn., the National Council on Alcoholism, the North American Assn. of Alcoholism Programs, the Assn. of American Medical Colleges, and a variety of other important national organizations—to mobilize support to have such education a part of the medical curriculum and in a meaningful way.

"We are working in conjunction with the President's Special Action Office on Drug Abuse Prevention and the Division of Narcotics in NIMH. In this regard, we have established a competitive program to create scholarships in medical schools for persons taking leadership roles in problems involving drugs and alcoholism."

Stirred by student critics and some involved practitioners, medical schools are making greater efforts to institute alcoholism studies into their curricula. But it's the opinion of many, including Frank A. Seixas, MD, that much more remains to be done.

Dr. Seixas, medical director of the National Council for Alcoholism and assistant clinical professor of medicine at the Cornell U. Medical School, declares:

"In the past, the medical schools got what we consider an anti-education in alcoholism. Students were told that nothing could be done about the behavioral aspects of the alcoholic; that he could be treated only for his organic-related problems. Once these attitudes were engendered by a medical school, it was very difficult to change them in postgraduate education."

Dr. Seixas says "the expertise and techniques of teaching necessary to make a course in alcoholism a part of a medical school curriculum aren't readily available, but it is absolutely imperative that health professionals know what to do when confronted with the alcohol problem."

What is needed in his opinion is to "change the teaching parts of the staff and coordinate the various aspects of the program using educational means and abilities present in every medical school community.

"We need," he says, "to give the medical student what he has never felt before—the confidence and hope in dealing with the alcoholic patient.

"This effort needs to be carried through rapidly throughout the United States. We have models in various medical schools such as the U. of Maryland, Howard U., Harvard, and Johns Hopkins. But, for the most part, we have just bits and pieces of the kind of education we need. The urgency of the problem cannot be underestimated. The time has come when the medical schools need to pull this into an appropriate setting."

Joseph B. Kendis, MD, St. Louis internist, thinks both professional and public education are necessary. Dr. Kendis, active in the field of alcoholism for 30 years and medical director of the St. Louis Detoxification and Diagnostic Evaluation Center, says:

"I think medical education, where alcoholism is concerned, is sorely lacking. More about this should be taught to our medical students, interns, and residents—especially where therapy is concerned—how to approach the alcoholic and how to treat him.

"In addition, we have to continue with the education of the general public. We should start with the primary levels in our schools and work on up. First, we need to teach the teachers. Then, the teaching of alcoholism can be brought into all our schools on up through the college level. Adult education also should be pursued through special night school courses and through our various communications media."

Dr. Straus finds medical education today "in ferment," with most schools revising curricula. He doesn't believe, at least at this time, that any set format for alcoholism education can be established; and feels that curricula "should be sufficiently flexible so that students can study the use and abuse of alcohol with varying degrees of intensity and personal involvement."

As for postgraduate courses on alcoholism, Dr. Block believes that there are "many around the country which adequately prepare physicians."

Dr. Block, who annually teaches several such courses, says the "trouble is many doctors want simple answers and there are none."

Dr. Block, whose practice involves patients in the upper- to middle-upper income class, says this group "constitutes the bulk of our alcoholism population. But this is a group," he says, "where alcoholics are extremely hard to detect. Excessive drinking in this group is acceptable in our social behavior, and many of these people drink all day and are not aware of their alcoholism problem until some physiological changes begin to occur."

It is Dr. Block's opinion that "most doctors, especially the general practitioners, are capable of handling problems of alcoholism. But they don't like to take the time that this involves, are afraid to handle these people because they are frustrating and not easy to get along with, and because some of these doctors have drinking problems themselves and it's difficult to label someone else an alcoholic when you, yourself, might be one."

Contending that alcoholism is "one of the most communicable of all diseases (it can be learned from parents by children)," Dr. Block says a certain number of people—"perhaps 10%"—become alcoholics with their very first drink.

"An alcoholic," he says, "is psychologically dependent on the drug and he must be made to realize he is using a drug when he drinks to produce certain effects. If he reaches that stage and has any intelligence at all, he will recognize he is hooked on a drug."

H. Thomas McGuire, MD, New Castle, Del., who was vice president of the AMA in 1970–71, is one of the growing number of physicians in industrial medicine who is deeply involved in the problem of alcoholism.

As medical director of the Eastern Division of the Getty Oil Co., he initiated a control program. "It took some real missionary work," he says. "We had to get management to recognize the problem of alcoholism within its ranks."

Dr. McGuire suggests "industry is not enlightened to the extent it should be. Management doesn't want to admit such a problem exists because often it involves top people.

"There are many alcoholics in industry who are not identified early enough. What we are trying to do here is make this early identification. This requires an educational process that starts with me and works down through management to the employee level. It must be made clear that early identification of alcoholics is important if they are to be treated successfully."

Once an alcoholic is identified, Dr. McGuire says it becomes "my job to discuss his problem with him, his family, and his family doctor. I have to try to coordinate all of the involved people, but it is especially important that I make the alcoholic aware of how his problem affects his lifestyle."

Dr. McGuire emphasizes that although "there is so much that needs to be done, the greatest need as I see it is for the medical profession to assume more responsibility."

Three doctors extensively involved in day-to-day treatment of alcoholics are MDs Nieder, Kendis, and Ronold J. Catanzaro. The latter is a psychiatrist and director of the Palm Beach (Fla.) Institute.

"We have some new things going here," says Dr. Catanzaro, "that we are quite elated about. We have private inpatient facilities in what we call a family residential center where we treat alcoholism, drug abuse, and emotional hang-ups in all the same program."

The patients, ranging from 14–82, form, in a sense, a "treatment family" The therapy includes "family" sessions, "group" sessions (where only persons with a specific problem are involved), and individual psychotherapy.

The Institute, according to Dr. Catanzaro, treats 30 patients at a time, usually has a waiting list, and has an average patient stay of eight or more weeks. About 40% of the patients are alcoholics.

Another unusual aspect of the program, according to Dr. Catanzaro, is that the Institute routinely admits a key family member or members (sometimes two or three family members) as copatients so that they can participate in the treatment and see for themselves some of the problems that are involved.

He says the Institute has "drug rap groups, alcoholics anonymous, hang-up groups, and a multi-disciplinary treatment team consisting of a psychiatrist, psychologist, social worker, recovered alcoholic, and ex-drug addict."

What is the private physician's role toward alcoholic patients? Dr. Catanzaro says:

"Individual physicians need to learn more about the illness of alcoholism but it's difficult to get them interested in this. For many years (as director of the Florida State Alcoholism Program and as director of the Missouri State Alcoholism-Drug Program) I conducted seminars for private physicians on this. As a rule, the attendance at these meetings was quite low."

It is Dr. Catanzaro's opinion that "the only promising places to generate interest are at the county medical society level or in the medical schools where you have a captive audience.

"There never will be any quick cure-all for the problem," asserts Dr. Catanzaro. "It's usually caused by emotional or personality troubles and is part of a person's problem of having an unhealthy living pattern."

Dr. Kendis says his detoxification center involves alcoholics who "come mostly from the bottom of the social ladder. Many people," he noted, "say there's nothing you can do for alcoholics in this category. But we're proving this wrong. We're doing something for these people everyday."

As Dr. Kendis views it, "The medical profession should avail itself of the many opportunities that are offered to learn more about the treatment of alcoholism. And the learning isn't as difficult as some physicians think. On the contrary, it is relatively simple.

"Unfortunately, most hospital administrators, and doctors, too, for that matter, think of the alcoholic as some kind of an uncontrollably wild person who runs up and down the halls, has the shakes, and tears up buildings. This is no more true of an alcoholic than for any other person."

Dr. Kendis believes the treatment of alcoholics "should be largely in the hands of the family practitioner or the internist. I know," he says, "that such physicians are busy people and that such treatment takes considerable time. But this is a public health problem of such immense proportions that it becomes their problem, too.

"The disease of alcoholism not only affects the patient but his entire family. The whole family needs treatment in these cases, and who better to carry out this treatment than the family doctor?"

Dr. Kendis suggests, "We had better make great progress in treating these people or the problem will get one hell of a lot worse than it already is. We'd better find more people who are willing to look into things like this, and who will do something about it."

"I probably see more alcoholics in the city of Chicago in one day than any other doctor," claims Dr. Nieder in pointing out the need to get more private physicians involved.

"I don't think the physicians of today have any interest in this area," he says, "because there is no specific treatment for this disease and because physicians so often have such hard luck in treating these patients. Just when you think you have achieved a cure, a patient falls off the wagon, and this is very frustrating to some doctors.

"Frustration of this sort doesn't bother me," says Dr. Nieder. "What does bother me is there is no permanent cure. I'm sure it will come some day. After all, we've cured polio and some other supposedly incurable diseases and we have many medications to treat illnesses once thought to be hopeless. So, I see a permanent treatment for this in the not too distant future."

The Martha Washington Alcoholic Treatment Center is the oldest in Chicago (established in 1863). As far as Dr. Nieder knows, it is the only center in the entire Chicago area devoting its attention to the acutely alcoholic ill.

The patients, who enter the hospital voluntarily, are 20–88 years of age (average is 40–50), and represent a cross-section of society. The center is almost always at full capacity (26 maximum in detoxification and 14 in the hospitals' extended treatment program), and has about three male patients to every female.

The average patient is in the detoxification program about five days before being discharged, but this phase can be as long as five months if complications occur. The extended treatment program is a minimum of 30 days, but can take as long as a physician thinks is necessary.

The center, according to Dr. Nieder, averages eight to 12 admissions a day and treats 1,500 patients a year.

Dr. Nieder, who assumed the center's directorship on a "one month trial basis seven years ago," says, "I think the general practitioner is the one most qualified to handle such patients but they're the ones who seem to be the least involved.

"We've got to stimulate the entire medical profession and get the doctor off his butt to help these people. But frankly, I don't know how to do it. I wish someone had the answer."

TREATING THE ALCOHOLIC

The alcoholic patient continues to be a major problem for the medical profession. Morris E. Chafetz, MD, one of the leading authorities in the field, has pointed out that alcoholism is the nation's "most treatable untreated illness," blaming much of the problem on "the negative attitude of physicians" toward such patients.

As the special report on alcoholism on pages 8–11 indicates, most physicians who are actively involved in treating alcoholics are in agreement.

Fortunately, the report also shows that steps are being taken to alleviate the problem, although much remains to be done. The unequivocal statement on alcoholism adopted last December by the American Medical Association hopefully will add more impetus to the search for solutions. In identifying alcoholism as a complex disease and recognizing "medicine's responsibility in behalf of affected persons," the Association has reiterated the importance of the problem to all physicians, not just those who specialize in treating this widespread illness.

THE FUTURE OF THE PEACE CORPS

Mr. HARTKE. Mr. President, sometime this week the Senate and House conferees will meet to discuss the foreign aid appropriation bill. I urge the conferees to give serious consideration to the need for maintaining the Senate's recommendation for funding of the Peace Corps. The continued existence of the Peace Corps is currently jeopardized by the possibility of congressional restriction of their funding.

The Peace Corps is faced with the critical effects on its programs, if not the total dismantling, that a further budget cut would impose on it. At the onset of fiscal year 1972, the Peace Corps was authorized $77.2 million, significantly lower than the 82.2 million requested. The Peace Corps therefore undertook massive reductions in staff, in volunteer trainees, and in country operating budgets. The Peace Corps obviously cannot effectively function with an appropriation of less than $77.2 million, and yet in December Congress established a ceiling of $72 million in a continuing resolution which expires February 22, 1972.

According to Corps Director Joseph Blatchford, such a cut in the middle of the fiscal year would force the Peace Corps to adopt a contingency plan. This plan would recall 4,000 volunteers from the field, withdraw the Peace Corps from 15 countries, cancel training plans for 2,400 volunteers, and reduce considerably the staff at home and abroad.

Ironically, this possible budget reduction comes at a time when both domestic and international public opinion supports the Peace Corps more than ever. The Peace Corps should not be permitted to die as a result of the general disenchantment with the necessity and advisability of foreign aid. The Peace Corps represents this Nation's most credible evidence of its concern for the people of other countries.

Mr. President, I ask unanimous consent that a letter written by Mr. Blatchford to Peace Corps volunteers, outlining the grave crisis facing the Peace Corps, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PEACE CORPS,
Washington, D.C., January 11, 1972.

DEAR PEACE CORPS VOLUNTEER: The Peace Corps faces a moment of truth, a point of decision second to none in its history. Press reports about cutbacks in the Peace Corps have suggested the critical nature of the present situation, but they have left many members of the Peace Corps' large family confused and concerned. Thus, I am taking this moment to write to you, to explain the gravity of the days ahead and to outline the steps we have taken to preserve the Peace Corps idea.

As a result of unexpected budget pressures by the Congress, the Peace Corps must prepare a contingency plan in the event Congress fails to properly fund our activities. These include:

To recall nearly 4,000 of the 8,000 volunteers now in service before their terms can be completed;

To withdraw from 15 or more of the present 55 countries;

To cancel the training plans and postpone or cancel the projects of the 2,400 volunteers scheduled to enter the Peace Corps between now and the end of June;

And to reduce staff both at home and abroad for the second time this year—having just absorbed a 15% reduction.

Oddly, these measures are threatened at a time of particular popularity and support for the Peace Corps. President Nixon has expressed his support for the Peace Corps personally to me, and in his public statements and speeches.

In spite of austere economic conditions in the nation, the President requested an $82.2 million budget for fiscal 1972.[1] His confidence in the important mission of the Peace Corps was illustrated, too, when he indicated that the success of the Peace Corps lent promise to his plans for ACTION, the new Federal citizen service idea inaugurated on July 1, 1971.

Foreign leaders have joined their people in renewed enthusiasm and interest. Many countries of the world have initiated domestic volunteer corps' of their own, and at the same time requested more and more volunteers from the U.S. Peace Corps.

Americans, too, have continued to demonstrate their belief in the Peace Corps: 26,564 applied last year, and applications in recent months have arrived at the highest level in five years. When the Peace Corps held a poster contest celebrating its Tenth Anniversary, over 1500 entries arrived; one of the designs will become a U.S. postage stamp early next month.

But in spite of these signs of obvious health, the Peace Corps is in crisis. Here, then, is the history. Last year, fiscal 1971, the Peace Corps spent $85 million and placed approximately 5000 new volunteers into the field. This year, fiscal 1972, we sought ways of saving in line with the President's attempt to reduce Federal expenditures. In planning this year's programs, the Peace Corps found that it was able to increase the numbers of volunteers and trainees from last year and still operate on a lower budget of $82.2 million. During fiscal 1972, it was planned, the Peace Corps would grow to 8,500 volunteers, and enroll 5,800 trainees. But the Congress, instead of passing the Peace Corps bill as requested, responded to these efficiencies by cutting the Peace Corps budget.

After hearings, the Congress passed the authorization bill,[2] setting a ceiling of $77.2 million. In order to operate within this budget, instead of the $82.2 million, we were forced to do rigorous cost-cutting. Heavy reductions were made in staff and two of the four operating regions were combined. We reluctantly decided to invite 800 less into training. Additionally, Washington and country budgets were cut to barest operating minimums. Finally, we even reviewed each training program to reduce the normal training time and effect cost savings.

If we are to keep the Peace Corps operative—as it now stands—to avoid massive cutbacks on the present volunteer and staff strength—$77.2 million is rock bottom. This means that the Congress must pass an appropriation bill equal to the authorized $77.2 million. As of this date—over six months into the fiscal year—the Congress has not passed an appropriations bill for the Peace Corps. Since the 1st of July, we have been operating on a series of continuing resolutions, acts of Congress which permit continued spending in lieu of specific appropriations bills. As indicated, we had found ways to continue effectively under the $77.2 million ceiling. But in December, unexpectedly, the Congress set a new ceiling of $72 million on its most recent continuing resolution, which expires on February 22nd.

To meet the present crisis of having to operate the Peace Corps at $72 million, I have issued instructions to prepare the contingency plans outlined at the beginning of this letter.

This, then, is the issue: If at this late stage in the fiscal year, the Congress votes only an appropriation of $72 million, the drastic action of recalling volunteers, cancelling training projects, and cutting staff further will be necessary. If $77.2 million is approved, we will survive. The difference may seem small, but it is a vital difference when the full year's expenditures are taken into account. Having started the year spending at the rate of the $82 million the President requested, then cutting costs down to $77.2 million when the authorization was passed, the Peace Corps now will be forced to cut back at a disproportionate rate for the remainder of the year, if the budget is cut now. In actual terms, this means that no more than $19 million would be available for the period following February 22, or the date that the continuing resolution expires. Because the volunteers' allowances are small, a large number must be brought home in order to curb expenditures significantly. And since efforts we can make to save money are in themselves costly—airfare for returning volunteers and staff, severance pay, costs of breaking leases and terminating contracts, etc.—these will further compound the strains on Peace Corps funding.

So we are in the painful, and paradoxical, situation of having today to begin to bring about a significant reduction in the Peace Corps activities—in spite of rising levels of support for the Peace Corps both at home and abroad—in order to avoid having to dismantle it completely in the very near future.

The fate of the final Peace Corps appropriation is still in doubt. The Congress must take up this bill when it returns. Obviously, the consequences of an appropriation of $72 million are so severe that we are very hopeful that the Congress will appropriate the amount authorized: $77.2 million.

By the time the issue is resolved, Peace Corps projects around the world will have been done irreparable harm. We are struggling to keep the very idea of the Peace Corps alive. It has always been the Peace Corps philosophy that if things must be cut back to meet spending limitations, the volunteers must be kept in the field as long as possible. We are adhering to that philosophy, and yet recalling volunteers and cancelling projects may still prove necessary. These are indeed moments of truth for the Peace Corps.

As you can see, we are fighting as hard as we can to keep the Peace Corps alive: we are redoubling our efforts to explain to the Congress what the Peace Corps has done, and can do; we are attempting to place before them a clear picture of the critical moments ahead.

We must win. The moment has not yet arrived when the United States will allow the Peace Corps to die out because small amounts of money are not made available to support all the benefits to mankind the Peace Corps can and does deliver. I expect the Peace Corps will emerge from this fight stronger, and even more importantly, that it will emerge from the fight with renewed commitment of support from both the American people and their representatives in Congress.

Sincerely,

JOSEPH H. BLATCHFORD.

THE STATE OF OUR POLITICAL PARTIES

Mr. BENTSEN. Mr. President, I ask unanimous consent to have printed in the RECORD the very fine address on the state of our political parties and structure given by our assistant majority leader, the distinguished Senator from West Virginia (Mr. BYRD), before the political forum at Texas A. & M. University on February 10, 1972.

This enlightening address describes the challenge which both major parties face in the changing politics of the 1970's. These are words which need to be weighed and heeded both because of their wisdom and their source. The Senator from West Virginia is as keen a practitioner and observer of the political process as I have had the privilege of knowing.

His skill and hard work in the legislative process have earned him an unrivaled reputation for knowledge and diligence, both within this body and in his home State of West Virginia. The huge majority given him in his last election certainly attests to the high regard in which his constituents hold him. Consequently, his thoughtful and perceptive views of our political processes today will certainly be of broad interest.

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[1] The 1972 fiscal year runs from July 1, 1971 to June 30, 1972.

[2] The Congress goes through two steps in setting the Peace Corps budget. It first passes an authorization bill which authorizes us to spend at a certain level; it then passes an appropriation bill which actually appropriates the money.

When a man has worked as successfully within the political and legislative areas as has the Senator from West Virginia, it is certainly not surprising to find such depth and comprehension throughout his remarks. I found the remarks most enlightening, just as I have found his friendship and counsel enlightening and helpful.

We are all in his debt for the hours he has spent and the skill he has brought to the Senate. Texas A. & M. University is in his debt for taking the time from his busy schedule to give this excellent address.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH FOR THE POLITICAL FORUM, TEXAS A. & M. UNIVERSITY, COLLEGE STATION, TEX., THURSDAY, FEBRUARY 10, 1972

Mr. Chairman, Ladies and Gentlemen: Allow me to express my pleasure at being at Texas A&M University. A mountaineer from West Virginia feels at home so close to the Texas hill country, and, despite the propaganda put out by a *former* football power some hundred miles to the southwest, I am well aware of the proud history of scholastic and athletic achievement associated with this excellent school. I am also aware of your reputation for fostering a spirit of loyalty, discipline, and good behavior in the student body. I have never had the pleasure of attending an A&M-versus-Texas game in Kyle Field, but I am led to understand by Congressman Tiger Teague that when you sing "The Aggie War Hymn", the orange turns pale and the white assumes a deathly pallor.

When your Program Chairman suggested the subject of this address—"Political Parties and the New Politics"—I must confess I was apprehensive as to whether such an all-encompassing subject could be intelligently discussed in the relatively brief time we have at our disposal.

Over the years, there has been a conventional and widely-accepted definition of "Political Parties". What they have been—and, to some extent, what they are now—has been familiar to the American voter. The second part of the program title—"The New Politics"—is almost beyond definition. It is not unlikely that six different people would apply six different definitions, because, in the final analysis, the "New Politics" is really what one reads into it.

I can imagine, for instance, that William Buckley might use the definition, "The Politics of Revolution". Gloria Steinem might use "The Politics of Equality"; and John Kenneth Galbraith might use "The Politics of Change and Progress". There is, no doubt, an element of justifiability in each of these definitions, though none of them is wholly justifiable or sufficient of itself.

To be truthful, I doubt whether "New Politics" *can* be clearly defined. It is really a media catch-phrase in the same category as "Credibility Gap".

At the risk of over-simplifying, "new politics" might be described as a disenchantment with the political process in the United States which the new politicians characterize as having a cynical attitude toward the people and an irrelevance to, and disinterest in, a host of critical problems facing the nation.

In addition, these proponents of the *new* politics proclaim, polls and television have so revolutionized the political process that the traditional concept of parties no longer applies to the American scene. While I cannot deny that polls and television are making their mark, it is not just their existence, but also how they are used or abused and how they are controlled that will decide whether the new politics will oust the old or merely be absorbed into an existing structure that has been refined or reformed by advanced communications technology.

I said earlier that the political parties were familiar to and understood by the American voter, and they still are; but despite this, their former clear definition is now more complicated by new attitudes and new ideas being bred within them. In modern times, we have narrowed the parties down to two. True, we have had the emergence from time to time of the Socialist Party, under the zealous optimism of Norman Thomas, and the American Independent Party, under the belligerent banner of George Wallace—plus several "splinter" parties too insignificant to mention. For practical purposes, however, the American electorate has had the choice of two philosophers for more than a century.

The new breed say, of course, that there is no real difference between Democrats and Republicans—that there is nothing fundamentally different in their approach to national problems. But, broadly speaking, the Democrats have been synonymous with liberal thought; and the G.O.P., with conservative tenets. President Franklin D. Roosevelt, in his "Public Papers and Addresses", published in 1941, wrote: "One great difference which has characterized the division between the liberal and the conservative parties has been that the liberal party—no matter what its particular name was at the time—believed in the wisdom and efficacy of the will of the great majority of the people, as distinguished from the judgment of a small minority. The other great difference between the parties has been this: the liberal party is a party which believes that, as new conditions and problems arise beyond the power of men and women to meet as individuals, it becomes the duty of the government itself to find new remedies with which to meet them. The liberal party insists that the government has the definite duty to use all its power and resources to meet new social problems with new social controls . . ."

This was written thirty years ago. At that time, there were similar verities in American political behavior. Democrats voted down the line for Democrats, and Republicans voted down the line for Republicans. Except for times of great stress, maverick voters—or ticket-splitters—were a curiosity and a very insignificant minority. Until the late 1940's, something like 80% of the electorate could be counted on to vote a straight ticket. But in the election of 1968, according to the best statistics available, only a little more than half of the voters went down the line for their party.

That there is considerably less party loyalty today is evidenced by the incidence of party switching by prominent political figures. Witness the recent switch to the majority party by Mayor John Lindsay.

Once upon a time, it was considered almost disgraceful for a man to change from the party of his fathers. But in more recent times, this has not been so. In the 1970 general election, Virginia's highly respected U.S. Senator Harry F. Byrd, Jr., gave a boost to all who think of themselves as "independent" by cutting himself loose from the Democratic party in which his father and family had been leaders for generations, and Senator Byrd independently won a significant election victory.

If I may be forgiven a personal reference in this connection, I, myself, had some experience with the softening of party distinctions in the same 1970 election. After I had been nominated by the West Virginia Democrats for a third term in the Senate, a number of Republican newspapers and Republican leaders publicly urged that I also be nominated by the West Virginia Republicans. (I mention this not to be boastful, but merely to emphasize that party regularity and identification seem to be far less important today than they were a few years ago.)

There is a theory prevalent—and, indeed, espoused by so prestigious an institution as the University of Michigan Survey Research Center—that the independent voter who feels no strong loyalty to either party is poorly informed, uninterested in politics, and rarely, if ever, involved in political action. This theory has had no little adherence by political managers, who concluded that these "swing" voters could best be appealed to emotionally and were natural targets for slick television spots and highly-charged campaigns conceived and born in the copy rooms and production studios of Madison Avenue and other flossy advertising complexes throughout the country. In other words, the political experts concluded that the "swing", "Maverick", or uncommitted voters—call them what you will—could be sold a platform, a party, or a candidate as easily as they can be sold a deodorant or a particular brand of cornflakes.

Now, there is no doubt in my mind that the medium of television is by far the most influential tool that has ever been available to a politician—certainly on the national scene. No candidate even if he has vast funds, hundreds of advance men, and thousands of campaign workers—can ever possibly hope to reach the number of people by conventional campaigning that he can reach by a single television appearance.

If we assume, as most knowledgable analysts do, that approximately 70% of the electorate will cast their votes for the Democrats or the Republicans, and roughly 30% will make up the so-called uninterested, politically uneducated, "swing" voter, it does not take a mathematical genius to understand how vitally important is this 30% to the parties or to the candidates. This is an arithmetical problem that even I could work out.

Because these so-called independent voters—who comprise 30% of the electorate—are so vital in the winning or losing of an election today, I believe it is imperative that a true reading of their political sophistication be made; and I have a feeling that, the University of Michigan notwithstanding, these uncommitted Americans, far from being uninterested or politically uneducated, are exactly the opposite! The voter who picks his or her way through a ballot, choosing a Democrat for Senator, say, and a Republican for Governor, is apt to be better educated and much more politically aware than the voter who pulls a single lever.

If I may cite one example. In the gubernatorial campaign in Michigan in 1970, it was discovered through polling that television advertising per se had little or no effect on the uncommitted voters. Their strongest impressions were received through television newscasts, documentaries, newspaper stories, and editorials. The official Republican party apparatus, furthermore had virtually no influence, ranking below the influence of radio spots in importance. In that campaign, therefore, selling Governor Milliken to the important uncommitted segment of the Michigan voters became a process of portraying him in serious "on-the-job" roles through regular news events. Getting him on the evening news shows behaving in a way concerned people think a Governor should behave became the basic campaign strategy—and it worked! I am aware that Michigan is only one State, but it has strong contrasts between its heavily industrialized urban centers, its wealthy suburbs and extensive agricultural and rural areas, and it represents as good a cross-section of the American electorate as can be found.

It may seem too easy an equation to accept, that perhaps two-thirds of those who vote in November of this year will vote Democratic or Republican, and approximately one-third will vote either way according to their acceptance or rejection of the candidates or the issues. But because acceptance of these percentages may seem to be too tempting is no reason to abjure them. Important changes are taking place in the voting habits of the American people, and both the old and the new politicians must heed them or suffer the consequences.

I do not claim for a moment that the habits, customs, and modus operandi of the political parties have been, or are, all good. Nor do I accept the contentions of the disciples of the new politics that *their* desired innovations would all be good. As a matter of fact, I sometimes think that the original Messiah of the new politics, whoever he actually was, was an avid reader of Shelley, who wrote in his poem "Queen Mab":

> "Power, like a desolating pestilence,
> Pollutes whate'er it touches; and obedience,
> Bane of all genius, virtue, freedom, truth,
> Makes slaves of men, and, of the human frame,
> A mechanized automation."

These lines might have had validity in the days of Tammany Hall, Boss Crump, or Boss Hague. Their minions in New York City, Memphis, or Jersey City might well have been described as "a mechanized automation." But these men and their methods have been dead these many years, and the ruthless excesses of the machines they controlled have disappeared from the political scene. It is true that there are still faint vestiges of the old-time machines around the country, but their influence is negligible. This has evolved because the voter ignorance that nurtured their power has been superseded by varying degrees of political awareness. It is interesting to note that this awareness has taken place within the framework of the traditional parties and was born before any rays of light were shed by the new politics.

What the proponents of the new politics are asking for, really, is the opening up of what they consider to be the closed-shop character of the party machinery. This may have some merit, but the great danger lies in the possibility that too much flexibility would create a mess of splinter parties, the special interests of which would render them not stronger, but weaker, as the power became dispersed.

The power in representative, democratic government comes from people working together, not at cross-purposes or for selfish interest. There is a real danger that the divisiveness inherent in the new politics would cause such political fragmentation that cohesive government, which has served America well for two hundred years, would be impossible. I hope that day never comes, for if the new politics ever succeeds in destroying the party structure, it would make even easier the domination of American political life by those whom the new politics most distrusts. The veneer might appear to be "participatory democracy", but the substance would be government by special interest as never before.

Perhaps the resolution of whtaever conflict there seems to be between the new politics and the major parties lies in a re-examination by the new politicians of the opportunities within the political parties' organization, for the advancement of their views. This assumes, of course, that they have a realization that effectively working within any group is conditional on the acceptance of the maxim that compromise on some issues is necessary in order to achieve success in others.

I mentioned earlier that some of the more hidebound customs of the traditional parties were eliminated long before the new politics came on the scene, and even more obvious responses are evident today. The national Democratic party has adopted guidelines for the selection of delegates to the national convention. These guidelines insure—or are, at least, supposed to insure—that the delegation-selection process in 1972 will furnish greater opportunities than ever before for rank-and-file participation in the presidential selection process.

At least three-fourths of every state's delegation will be chosen at a level no higher than the congressional district, thus allowing greater direct control over delegates by the lower echelons; all meetings at all levels of the Democratic Party are to be open; provision has been made for the adequate representation of minority political views at each stage in the delegate-selection process; and publicizing the times, places, and rules for all public meetings of the Party has been made mandatory. These guidelines have been agreed to and passed. Still others have been proposed.

An interesting example of the new look in the parties is in the State of Illinois, where a new primary law sharply curtails the power held for many years by Mayor Richard Daley. Formerly, the 170 Illinois delegates to the Democratic National Convention were hand-picked by Mayor Daley, and their motto was "What Daley wants, Daley gets." Now, however, all but 10 of the delegates will be elected in the primary of March 21. In addition, prospective delegates can now run committed to national candidates. Prior to the new law, they could run only as uncommitted delegates—a rule which enabled Mayor Daley's powerful organization to exercise total control. It is true that Illinois and Richard Daley represent only one segment of the country, but no-one will argue that the Cook County organization, under the benevolent despotism of Mr. Daley, has been for years the most powerful and effective political mechanism in the nation. It has been a feature of Democratic conventions that, at a suitable dramatic moment, Mayor Daley would deliver his large bloc of delegates to the Presidential nominee of his choice. As the Kennedy camp said in 1960: "Daley is the ball game!"

What all these changes really mean is that the political parties, much-maligned as they are, are not only amenable to innovation and suggestion, but have already started the metamorphosis on their own.

It might surprise some of the more fanatical devotees of the new politics to discover this, but within the ranks of the old guard there are a remarkable number of men and women who are intelligent, competent, politically flexible, and dedicated to building the best possible future for all Americans. They are eminently capable of seeing the urbanization/suburbanization of our society. They realize the impact of organized minorities. They can see the influx of youth into our electorate, and the implications of the 18-year-old franchise. They are profoundly aware of the social and political changes that have been going on for several generations, and they are not blind to the confluence of the many and varied forces that surfaced in the presidential election of 1968.

They know that American politics will be substantially different in the next several decades from what has been the norm since the birth of the Republic.

They also know, through experience, that the great American public is basically more interested in government than in politics, and that the public will support the politics that promise the best government regardless of the party or of any confluence of new forces that seek to eliminate the parties.

In the glory days of the British Empire, it was a matter of pride—if not always of absolute truth—that the soldiers of Britain never retreated. They merely withdrew to previously prepared positions. Perhaps there is an analogy in the political parties in America today. I certainly disagree with the doomsday pronouncement of Marshall McLuhan, who wrote: "The day of political democracy as we know it is finished . . . voting in the traditional sense is through as we leave the age of political parties, political issues and political goals and enter an age where the iconic image of the tribal chieftain is the over-riding political reality."

McLuhan's theory is obviously based on the belief that the American voter no longer has a need to *know*, but has only a need to *experience*, perhaps vicariously, through the information media developed by our vast technology—principally the color television set. McLuhan thinks that the process is at hand whereby awareness and judgment of political communications by the voter is displaced by experiential reactions, and he obviously feels that this spells the doom of democracy. In my opinion, this theory—this cornerstone of the new political thought—is substantially hallucigenic.

The clear synonym for McLuhan's "tribal chieftain" is *dictator;* and I just cannot accept the contention that the American people will sit still for this kind of insidious imposition if an intelligent, workable alternative—to wit, restructured, forward-oriented political parties—is available to them. George Romney claimed he was brainwashed in Vietnam, and possibly he was; but I cannot accept the vision of any "tribal chieftain"—however handsome, attractive, or ingratiating—brainwashing the electorate into accepting a form of government wholly foreign to the American milieu and the American tradition.

I am strongly convinced that the party structures will continue to absorb the pressures for change, will make the necessary future adjustments, and will continue to be the operative forces in the body politic of our nation. They will have to effect changes, but I am confident that the people who hold the reins, at least in the Democratic party, are fully capable of carrying out what common sense dictates has to be done.

Lest you think that compromise for overall improvement in our political process is incumbent only on the established parties, I think it fair to point out that the supporters of the new politics also have their responsibilities. I am convinced that their ambitions and objectives are doomed to failure if they seek to attain them through confrontation and violence and the advocation of special interests only. The new politics must be *more* than the politics of stating issues; it should also be the politics of seeking intelligent solutions. It must be *more* than the politics of demanding rights; it must also be the politics of accepting responsibilities.

The new politics should *not* be the politics of emphasizing and exacerbating the things that divide the American people; it should veer *more* toward what unites the American people. It should *not* be the politics of tearing us apart; it *must* be the politics of bringing us together. It *must*, in the final analysis, be the politics which recognizes differences and includes many shades of opinion—for that is what this country is all about.

The same ideal must guide us as we seek to compromise our differences: the most good for the greatest number. With all our shortcomings and inequities, I submit that America, through its political system, has done more to benefit more people than has any other nation in history. That is what the new politics should seek above all else to continue. As the old country farmer used to say: "Any durn fool can tear down a barn: it takes a good man to build one."

I think we all realize that the campaign amphitheater is more so in the voter's home today than it is in the convention hall or the city auditorium. I think we are all aware that the days of the string tie, the stovepipe hat, and the stump speech are over. Intelligent politicians—and believe it or not, intelligent ones are in the majority—know the meaning of the words "Mene, Mene, Tekel, Upharsin"; and they have no desire to see the handwriting on *their* wall.

Just as the messiah of the new politics knew his Shelley, the old guard knew their Tennyson, who wrote in "Morte D'Arthur":

> "And slowly answered Arthur from the barge,
> The old order changeth, yielding place to new,
> And God fulfills himself in many ways,
> Lest one good custom should corrupt the world."

URGENCY OF CONFERENCE ON FOREIGN ASSISTANCE APPROPRIATION BILL

Mr. PROXMIRE. Mr. President, many weeks ago I stated that I would not follow the House's lead in reporting a foreign assistance appropriation bill in the absence of an authorizing bill. I did, however, make a commitment to report a bill just as soon as possible after the authorizing bill was agreed upon.

This commitment was honored when the Senate Committee reported the bill on January 24—2 days after House passage of the authorizing bill—and the Senate passed this bill on February 4.

Immediately after passage of the bill, the Senate requested a conference with the House, and I informally relayed a message to the Chairman of the House Subcommittee on Foreign Operations that I was ready to meet at the earliest possible date. No request was forthcoming from the House, whose conferees were not appointed until February 9. I had earlier suggested 2:30 p.m., February 8, as a possible time which would be mutually convenient. On Monday, February 7, I was advised that the House had not named its conferees, and that a meeting could not be held on the date which I had suggested. Informal conversations with House conferees since that time have failed to produce an indication as to when the House conferees might be willing to meet.

The Senate conferees have been willing to meet at any time since the Senate passed the foreign assistance and related programs appropriation bill on February 4.

The continuing resolution under which these programs are funded will expire on February 22, and the President will be in China beginning Monday, February 21, thus compounding the problems of having the bill signed into law.

Clearly, the responsible thing to do is to set a conference, resolve the differences between the Senate and the House, and pass a bill. This I will do, but I will not be forced into a conditional conference, nor will I be forced into a continuing resolution when one is so patently unnecessary.

RUN FOR THE MIDDLE GROUND

Mr. BROCK. Mr. President, the high-powered politicians of Washington have severely underestimated the American peoples' resistance to massive busing.

Recent developments show that the overwhelming majority of Americans, both black and white, have united in their opposition to allowing their children to be used as pawns in games of social manipulation. Early busing proponents are now back-peddling in high gear from their former positions of advocating racial balance at any price. Assuming that black parents were more interested in integration than education and predominantly black schools are inferior, busing advocates raced to court the voters of the black community and were met with icy glares.

This reaction touched off what is now documented as the run to the middle ground. Whatever arguments are used by these hopscotching politicians to explain their midair reversals, questions are sure to be raised about where they will stand when they finally come down to terra firma.

An article written recently by Sam Shaffer, of Newsweek magazine, illustrates the pervasive influence of this "Most Explosive Issue."

I ask unanimous consent that the article be printed in the RECORD. I hope that the Senate will soon recognize the futility of forced busing and will work for quality education for all of America's children.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SCHOOL BUSING: 1972'S MOST EXPLOSIVE ISSUE

(By Samuel Shaffer)

"I've been a Democrat all my life," says an Ohio housewife, "but I'll tell you this: if the Democratic candidate for President says he's for busing, and Nixon says he's against it, I'm going to vote Republican."

"With me it's a matter of principle," adds a Western laborer. "Sure, the economy's an important issue; so's the Vietnam war. But any man I'm going to vote for will have to tell me he's not going to let some judge play God with my children."

It is still eight months until the Presidential election of 1972. Not one state primary has yet been held. But it is already clear that one of the hottest, most significant—and most confusing—issues of this election year will be the busing of school children to achieve racial balance.

Even now, according to an aide to one Democratic candidate, busing has become a "scare issue, which may well be the 'law-and-order' issue of the '72 campaign."

In theory, the bitter debate about busing should divide along fairly distinct ideological lines because it has always been regarded as a policy favored by liberals anxious to speed school desegregation and opposed by conservatives anxious to slow it down.

In fact, however, busing has transcended all established lines and threatens to throw the campaign into an ideological muddle.

It might be predictable that President Nixon would oppose busing, and he has. But as Alabama Gov. George Wallace has noted, "more busing has happened under the Nixon Administration than any Administration in the history of the United States."

It might be logical to assume that Dr. Benjamin Spock, the liberal, politically active pediatrician who is running for President on the People's Party ticket, would be vociferously in favor of busing. Instead, in late January Dr. Spock came out flatly against it.

Aspirants to the Democratic nomination have been waffling, trying to find a middle ground on which they can seem to stand for racial equality and civil rights and, at the same, against busing to achieve that equality and guarantee those rights.

Sen. Henry Jackson of Washington has been fairly consistent. "I am opposed to busing purely to achieve racial balance," he says. And in mid-February he became the first Presidential aspirant to sponsor a constitutional amendment against busing.

Sen. Hubert Humphrey of Minnesota is still searching for stable ground. On one recent occasion, he said, "Busing to help improve education, yes. Compulsory busing . . . just because you think it is going to solve all your problems, I say no."

But he has also been heard to say, "I'd be less than frank . . . if I didn't add that I don't think busing is the answer."

Sen. George McGovern of South Dakota has been reported to be reconsidering his long-time advocacy of busing—though his campaign staff, which includes many former assistants to the late Sen. Robert Kennedy, has taken pains to deny all such reports.

Several months ago, Sen. Edmund Muskie of Maine told an audience in Chattanooga, Tenn., that while compulsory busing "might not be comfortable," it is a necessary tool to achieve the total goal of "freedom of mobility" through education for people of all races.

The next morning, one Chattanooga paper ran the headline: "Muskie Stand for Busing Ruins Him with State Party."

Conversely, politicians up for re-election to the House or Senate have, in many cases, all but guaranteed their victories by coming out against busing. Tennessee Sen. Howard Baker, for instance, has supported a constitutional amendment that would end compulsory attendance at any school because of race, color or creed, and he is now considered a shoo-in for re-election in November.

"People are not as concerned by the philosophy of compulsory busing as they are by the absurdity of the things required of the children," Baker explains. "Nashville is the most liberal town in Tennessee and now 75 per cent of the people there are vehement on the subject. I have a hunch that everybody will end up against busing before it's over. If I ever saw an issue in my whole career where everyone is trying to find a way to decently oppose it, this is it. It's really ferocious."

If polls are to be believed, nearly everybody in the country is already against busing. As far back as April 1970, a Gallup poll showed that 86 per cent of the population were against it, while only 11 per cent favored busing.

To many, especially adamant segregationists, busing is simply an insidious means of accomplishing an undesirable end.

But the vast majority of busing's opponents agree with Baker that the worst thing about busing is that it does precious little to help the children involved, be they black or white.

Parents complain that children who are forced to spend up to two hours a day in buses have no time for the extracurricular activities that are an essential part of a well-rounded education; that the schools their children attend are so far away from home that parents can't ever involve themselves in school-related activities; that bused children never get to know their neighborhood peers, and that exposing children to long bus trips is exhausting and dangerous.

But there are also several glaring ironies in the opposition. Most of the 19.6 million children who travel to and from school in the country's 256,000 school buses do it because they have to: they live too far from their schools to get there any other way. Busing for the express purpose of achieving racial balance, thus, accounts for only a tiny fraction of the actual busing that goes on. The moral importance attached to compulsory busing is completely disproportionate to its practical effect.

Furthermore, some of the most vociferous opponents of busing are those who are supposed to be its beneficiaries: blacks and other minority groups.

In San Francisco, for instance, some Chinese parents sued to stop busing because they claimed neighborhood schools were critical to the continuation of Chinese culture in America.

Black mothers march alongside white mothers, demanding that their children be allowed to attend neighborhood schools.

Why, then, does busing continue to exist at all?

For one thing, the U.S. Supreme Court has declared that it is a proper and constitutional tool for desegregation, and there is no question that de facto segregation continues to exist in countless Northern and Southern states and municipalities.

State and local officials have been stymied in their efforts to comply with court orders calling for desegregation, and they have found that busing is the only workable recourse.

But there is a good chance that compulsory busing—at least as it exists today—will be legislated out of existence before long.

The Congressional hopper is packed with proposals to end or limit busing; they range from constitutional amendments that would ban it altogether to suggestions that Federal busing funds be cut off and that the Justice Department and the Department of Health, Education, and Welfare be forbidden to do anything to encourage busing.

And legislators, be they liberal or conservative, are being swamped with angry communications from their home districts informing them that their political survival will be determined by their stance on busing.

Nothing more delights the opponents of busing. "God must not like busing," says Irene McCabe, an anti-busing militant in Pontiac, Mich., "because he let it happen at a time when we have national elections coming up."

THE OSTPOLITIK OF THE BRANDT REGIME

Mr. ALLOTT. Mr. President, although Americans—and especially the American news media—are preoccupied with the subject of China, a momentous event is about to begin in Germany. This event, which may be as significant as the trip to China, is the debate which begins next week in the Bundestag. The subject of the debate is the Ostpolitik of the Brandt regime. The immediate focus of the debate is the German-Russian treaty signed in Moscow on August 12, 1970.

There is in America today so little understanding of European affairs—because there is so little attention given them in any of the news media—that those few Americans who remember the considerable publicity attending the Moscow signing of this treaty might be forgiven for assuming that the treaty is already in effect. It is not.

This misconception is understandable. Indeed, it is in part the product of assiduous cultivation of those—within Germany and without—who favor bringing that treaty into effect.

There is a similarity between the status of the Ostpolitik and the status of the British entry into the Common Market.

Last autumn the British House of Commons in a basically party-line vote, approved in principle the terms under which the government of Prime Minister Heath was seeking to enter the Common Market. The press reporting of this event, and of the recent treaty-signing ceremony in Brussels, fostered the public impression that Britain has "entered Europe." That impression is incorrect.

Britain has not entered Europe, and will not until Parliament passes enabling legislation. This legislation is very controversial, and some seasoned observers of British politics consider it possible—if not yet probable—that the legislation will not pass and British entry into the Common Market will become the nonevent of the decade.

Similarly, Mr. President, it is just possible that Chancellor Willy Brandt's Ostpolitik may become another famous nonevent. Without the Moscow Treaty, the Ostpolitik is a bundle of abortive gestures. And the Moscow treaty is no treaty until it has been ratified by the Bundestag. Such ratification may not be forthcoming, and that might be a good thing.

Last week the upper chamber of the German parliament, the Bundesrat, adopted a resolution proposed by the opposition party, the Christian Democrats, rejecting one first reading the so-called nonaggression treaties concluded in 1970 between the Bundesrepublic and the Soviet Union and the Soviet's client government in Poland.

Defeat in the Bundestag will mean defeat for the important Moscow treaty. The Brandt government has a slender majority in the Bundestag and if the Social Democrats are sufficiently draconian in imposing strict party discipline, the treaty will pass.

Perhaps the Brandt government has something to learn from the statesmanlike approach taken by the government of Prime Minister Heath. When the question of giving approval in principle to Common Market entry came to a vote last autumn, the Conservative Party allowed its members to vote their individual consciences. A significant number of Tory members voted against entering the Common Market. But approval for the principle of entry was won anyway, and the fact that it was won without draconian party discipline enhanced the force of the vote.

Prime Minister Heath was confident in the wisdom of his course, and was willing to trust argument, rather than blind party discipline, to carry his position. One wonders if Chancellor Brandt has similar confidence in the wisdom of his Ostpolitik.

One wonders how the majority in the Bundestag will form if Chancellor Brandt allows all members to vote their consciences unimpeded. This is a particularly intriguing possibility now that the Christian Democrats have formulated a convincing alternative to the substance of the Brandt Ospolitik. By offering a constructive alternative, the Christian Democrats have done a great service to the cause of rational debate about the future of secure freedom in Western Europe.

It is my hope that all Americans, and all persons in all countries vitally concerned with the fate of central and Western Europe, will give careful attention to the alternative treaty proposal advanced by the Christian Democrats.

By drafting this careful and prudent document, the Christian Democrats have laid to rest the charge that criticism of the Brandt approach is only negative. The Christian Democrats have decisively refuted the demagogic notion that opposition to the Brandt Ostpolitik is equivalent to support for bellicosity. The Christian Democrats' alternative makes it clear that prudent men of good will can object to the Brandt approach while still favoring a constructive and creative diplomacy with regard to the Soviet bloc.

Now perhaps it is time for the Brandt government to demonstrate that it will allow all members of the Bundestag to freely vote their conscience in choosing between the alternative approaches to treaties with the Soviet Union.

Mr. President, so that all Senators can examine the Christian Democrat alternative, I ask unanimous consent that it be printed in the Record, along with an introduction by Herr Franz Josef Strauss.

In addition, Mr. President, I ask unanimous consent to have printed in the Record an article explaining why some people find the Brandt versions of the Moscow treaty inadequate. The article was published in the January issue of the magazine Central Europe. The article includes a synoptic account of the stages of development of the Moscow treaty.

There being no objection, the items were ordered to be printed in the Record, as follows:

Alternative Proposal to the German-Soviet Treaty Presented by the Chairman of the Christian Social Union, Franz Josef Strauss

On Monday, January 31, 1972, the Bureau of the Christian Social Union has adopted unanimously the alternative proposal put forward by the CSU—and presented by the Chairman of the CSU Franz Josef Strauss and the Chairman of the CSU-Landesgruppe (Parlamentarians) in the German Bundestag Richard Stücklen—to the German-Soviet Treaty of August 12, 1970. The text of the draft treaty, which you will find enclosed, has been explained by the CSU-Chairman at a press conference. He said:

1. Konrad Adenauer had laid the basis of a policy of durable peace and freedom in security. He had accomplished the approach to the West and initiated the normalization of the relations between the Federal Republic and the Soviet Union without renouncing thereby fundamental German rights and positions.

Ludwig Erhard had continued this policy by his peace-note of May 1966 and the establishment of trade missions in Eastern European countries.

Kurt Georg Kiesinger had made this the basis of his policy and had offered Moscow and the other members of the Warsaw Pact negotiations on a comprehensive renunciation of the use of force and negotiations on a modus vivendi in order to solve urgent technical questions as regards the particular German problems and to facilitate human relations without renouncing fundamental rights. The Soviet Union was willing to take up these negotiations because she could not but be interested in settling the problems in connection with the Western border of her sphere of influence.

Both the American change of attitude towards the People's Republic of China and the Soviet preparedness to enter into peace negotiations with Japan prove this and moreover confirm the opinion of the CDU/CSU that the German Ostpolitik should have been put in the global context of world evolution and that its promotors should not have acted alone. Then the Soviet Union had waited for the outcome of the elections to the Bundestag in 1969, but before she had invited politicians of the SPD and the FDP in order to explore whether it would be possible to reach a settlement more favourable to her with another Federal Government. The new Federal Government formed by the SPD and the FDP had already declared before coming to power, that it would start from the existence of two German States. It thus has offered by unilateral advanced concessions the Soviet Union the desired result without receiving any counter-performances deteriorating thereby the course of the German Ostpolitik in a fatal way.

2. Both the CSU and the CDU have always been pursuing a policy of peace for Europe. Moreover, the present Federal Government continues stressing the fact, that this policy of peace of the CDU/CSU is the indispensable basis of any conceivable policy of understanding with the East. We have laid down what a non-aggression treaty with the Soviet Union worth its name should look like in our opinion.

3. The CDU/CSU has always been a partisan of a policy of the renunciation of the use of force. In 1954 the Federal Government headed by Konrad Adenauer had by acceding to the Treaties of Paris undertaken to pursue a policy of non-aggression—also and especially with regard to the East—in accordance with the principles laid down in the UN-Charta and with the objectives embodied in the Statutes of the Council of Europe. However, as the German-Soviet Treaty of the Brandt/Scheel Government—contrary to the original objectives of the present Federal Government—may not even be called any longer a "treaty on the renunciation of the use of force" as the Soviet Union does not renounce therein her right of intervention, we feel, that German policy should make any effort to reach a true treaty on the renunciation of the use of force.

We have laid down in our draft treaty the ideas to be represented by a German Foreign policy built on the continuity of Konrad Adenauer's peace policy. The Brandt/Scheel Government has left this line of continuity.

4. In accordance with the NATO-Communiqué of December 1971 we want to reach détente by "Removing the causes of tension" (Art. 1 (1) Draft Treaty).

5. We want to develop peaceful relations between the European States by speeding up cooperation in the economic, scientific and cultural fields as well as by opening all frontiers to an unimpeded traffic.

6. Our draft treaty notes that a politically united and independent Europe shall contribute to peaceful cooperation with all the other nations of the world.

7. We feel, that peace in Europe can only be maintained if the Principles of international law, of equality of rights, of the rights of nations to self-determination, of the nonintervention in the internal affairs of other states, as well as the respect of the human rights and fundamental freedoms, especially the right to free movement of persons and ideas are respected by all European States.

8. A definitive settlement of the German Question including the German boundaries should be reserved for a peace treaty with Germany as a whole. Moreover, this continues to be valid German treaty law.

9. We do not expect the Federal Government to approve this draft treaty, because its own intentions to conclude a true non-aggression treaty were denounced by its renunciation of German interests when negotiating in Moscow. There is no more significant sign of that fact, that the Brandt/Scheel Government does no longer stick to the tradition of German peace policy.

10. Nor do we expect the Soviet Union to immediately accept such a draft. Tough negotiations will be necessary to achieve this. But it must be of interest to the Soviet Union to pursue a policy of understanding, cooperation, peace and non-aggression with regard to her Western neighbours. We do know, that only a wearisome process can lead to this objective.

An example of this is the tough wrestling of the Austrian Federal Government under Raab/Figl. It was only after wearisome negotiations that the Soviet Union approved in 1955 the re-establishment of the Austrian unity in freedom.

Recently we have seen another proof of the fact, that a policy of patience and the indispensable representation of national interests can lead to success. For 27 years Japan has been waiting for a peace treaty to be concluded with the Soviet Union. Having already concluded the peace treaty of San Francisco with the Western Powers in 1951, Moscow up to now has constantly refused to enter into peace negotiations with Tokyo. But Japan continues to require the restitution of the Southern Kuriles to Japan, which the Soviet Union had occupied in 1945 after her surprise attack on Japan. As Japan is beginning to normalize her relations with the People's Republic of China, the Soviet Foreign Minister Gromyko has visited Japan and has declared himself willing to take up peace negotiations with Japan still within the course of this year.

11. The CSU continues to pursue in the future as well as in the past a policy of securing peace and freedom but also of maintaining the pre-conditions of German unity. In the official German-Soviet Treaty concluded by the Federal Government the CSU does not see any progress which facilitates detente and makes peace more secure, but the source of new antagonisms, the support of the Soviet power politics and the compromise of European unity. In its 20 years of government, the CDU/CSU had succeeded in securing peace and freedom as equal objectives. It will try by all means to avoid a policy which in the last resort is bound to compromise freedom, to make peace less secure and to enable the Soviet party to the treaty to make the world believe in the renunciation by the Germans of their right to self-determination despite all contrary affirmations by the Federal Government. By these treaties the Federal Government has made more difficult any true Ostpolitik. But the CSU leaves no doubt, that it pursues the conclusion of a treaty with the Soviet Union and the other Warsaw Pact States, which is to settle to renunciation of the use of force and the willingness to cooperate. The present draft treaty contains the opinion of the CDU and of the CSU which will both secure the continuity of the German Ostpolitik and represent its further development in contractual terms and not impose any unreasonable demands on either party.

TREATY ON THE RENUNCIATION OF THE USE OF FORCE BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE UNION OF SOVIET SOCIALIST REPUBLICS

The High Contracting Parties anxious to contribute to strengthening peace and security in Europe and the world,

Convinced that peaceful cooperation in all of Europe complies with the ardent desire of nationals and the general interests of international peace,

Appreciating the fact, that the measures agreed previously, in particular the conclusion of the agreement of September 13, 1955 on the Establishment of Diplomatic Relations, have created a basis for further developing and strengthening their mutual relations,

Noting, that the declared exclusion of the use of force contributes to creating a political climate favourable for an ulterior settlement of contentious questions and questions interpreted in a different way and leads to the realization of the right to self-determination of the divided German nation,

Desiring to lend expression in the form of a treaty to their determination to improve and extend cooperation between them, have agreed as follows:

ARTICLE 1

(1) The Federal Republic of Germany and the Union of Soviet Socialist Republics consider it an important objective of their policies to maintain international peace and achieve détente by removing the causes of tension;

(2) they undertake to settle all contentious questions including those affecting frontiers and demarcation lines, only by peaceful means and to refrain in their relations from the threat of the use of force;

(3) they affirm their endeavor to further the development of peaceful relations between the European States by speeding up the cooperation in the economic, scientific, and cultural fields as well as by opening all frontiers to an unimpeded traffic.

ARTICLE 2

(1) The Federal Republic of Germany and the Union of Soviet Socialist Republics shall in their mutual relations as well as in matters of ensuring European and international security be guided by the purposes and principles embodied in the Charter of the United Nations.

(2) The Union of Soviet Socialist Republics declares not to claim any unilateral right of intervention with regard to the Federal Republic of Germany pursuant to Art. 107 and 53 of the Charta of the United Nations.

(3) The Federal Republic of Germany declares:

That its policy of creating a politically united Europe is not directed against anybody. A politically united and independent Europe shall serve the peaceful cooperation with all other nations of the world.

That by the conclusion of the present treaty it has not undertaken any obligation to renounce or to restrict in future the right it represents and exercises to pursue by peaceful means the self-determination and unity of the German nation as an objective of its policy.

ARTICLE 3

The Federal Republic of Germany and the Union of Soviet Socialist Republics share the realization that peace in Europe can only be maintained if the Principles of International Law, of the Equality of Rights, of the Rights of Nations to self-determination, of the Non-Intervention as well as the respect of Human Rights and Fundamental Freedoms, in particular the Right to Free Movement of persons and ideas are respected everywhere.

ARTICLE 4

A definitive settlement of the German Question including the German frontiers is reserved to a peace treaty with Germany as a whole.

ARTICLE 5

The present treaty between the Federal Republic of Germany and the Union of Soviet Socialist Republics shall not encroach the validity of any bilateral or multilateral treaties or arrangements previously concluded by them.

ARTICLE 6

The present Treaty is subject to ratification and shall enter into force on the date of exchange of the instruments of ratification which shall take place in ———. Done at ———, on ———, in two originals, each in German and Russian languages, both texts being equally authentic.

THE MOSCOW TREATY

(By Hans Count Huyn)

(NOTE.—The author was born in 1930 in Warsaw where his father was Press Attaché in the German Embassy until he voluntarily quit on Hitler's rise to power. Hans Count Huyn was in the German Diplomatic Service from 1955 until 1965 and is now a senior civil servant in Cologne. He is known as a political publicist with his own opinions. The following contribution is taken in abbreviated form by kind permission of the author from his book "Ostpolitik im Kreuzfeuer" (Seewald Verlag, Stuttgart). The accompanying chart with a synoptic account of the stages of development of the Moscow Treaty may be regarded as documentation.)

The German-Russian treaty signed in Moscow on August 12, 1970, is a milestone in Russia's Western expansionist policy. It legalises Stalin's war booty. This is not just a malicious imputation, but a stated conviction of Brezhnev, explained by him at Alma Ata on August 28, 1970, in these words: "As far as the Soviet Union is concerned this agreement is the result of a consequent policy of our party, the result of long-lasting efforts of the Soviet state and of the socialist countries allied with it, the result of our policy aimed at the removal of the remnants of the Second World War in Europe, and at firmly establishing the result of the heroic fight of the Russian people in the Great Patriotic War and the successes and gains of the anti-fascist struggle for liberation by the nations of Europe." In contrast Brandt stated on the day of the signing of the treaty in his television address from Moscow to Germany: "This agreement with the Soviet Union is a success of German post-war policy."

The discussion on the German-Soviet treaty is being conducted in German public life mostly under false aspects: It is not a question of yesterday's frontiers, but of Europe's freedom tomorrow. The German-Soviet agreement not only legalizes existing wrong, but its main danger is in its effect upon our future.

The Kremlin's aim in its Western policy is to extract Bonn from its alliances with the West. By means of Article 3 of the treaty Moscow has placed its foot in the West European door: Bonn therein accepts the obligation to consider "the frontiers of all countries in Europe as inviolable now and in the future". The resolution of the executive committee of the SPD for the Federal Republic of September 14, 1970, has approved Moscow's right to participate in matters concerning Western Europe thus: "The nature of the frontiers in Germany, and in Europe as a whole, may only be changed by negotiation and agreement. The participation of the Soviet Union herein is indispensable."

On February 24, 1970, Brandt stated at Hamburg his foreign policy is "not only Western European, but in the interest of Europe as a whole."

In making this statement, Brandt is meeting the ideas of Moscow, which is striving for a "Greater Europe" under its domination and attempting to prevent any consolidation of free Europe. For this purpose the Kremlin is using the plan of a European "security conference," already produced in 1954, as an additional way of preventing the union of free Europe.

On February 22, 1971, the official Russian news agency TASS reported: "At present the idea of calling a forum representative of all Europe to deal with problems of security and co-operation receives ever growing support. The meeting of such a forum would undoubtedly contribute to an improvement in the political climate and open up far-reaching possibilities for co-operation on an equal basis by all countries. Such a development, however, is undeniably opposed by a policy aimed at the fortification of closed political-economic blocs, like the EEC. This is more particularly so, if certain forces intend to convert this bloc into a political-military federation of some kind."

A further impetus of the German-Soviet agreement is aimed at the presence of the United States in Europe. Here, too, is demonstrated, how dangerous and provincial it is to see the treaty only under the Bonn aspect of German Eastern policy, whose anxious stare towards Moscow and East Berlin is confined to vague hopes for alleviations inter-German and Berlin relations. In fact, the treaty represents a decisive move in Moscow's Western policy within the scope of a world-wide struggle for hegemony, both with Washington and also with Peking. The treaty is to confirm to Moscow, which is not making any concessions, the division of Europe achieved at Yalta, and is to create the prerequisite for covering its rear in the confrontation with China. As a Soviet foundation stone for "the normalisation of the European situation" (Art. 1) the treaty is aimed at pushing the United States out of Europe, thereby achieving Moscow's hegemony in a Europe reaching from the Urals to the Atlantic, via the European "security conference" planned by Moscow and "welcomed" by Bonn. Already on August 28, 1970 Brezhnev stated at Alma Ata, the treaty is "the result of our policy of removing the remnants of the Second World War in Europe." The European "security conference" then is to put its seal on it for good. Moscow's further intentions were stated openly by the counsellor of the Soviet legation at Bonn, Michael Boronin, and for this thanks are due to him. He said: "The presence of American troops in Europe we consider as legitimate, until the situation caused by the Second World War in Europe has been remedied, but thereafter it will no longer be so."

The agreement is a decisive step for Moscow, leading via the "Finlandization" of Central Europe finally to a "renversement des alliances", a reversal of the existing alliances, with the intention of drawing the whole of Germany into Moscow's camp. Germany is beginning to break out of its firmly cemented place in the free world, attained by Adenauer. The world will have to deal once more with the "restive" and "incalculable" Germans.

It is wrong and dangerous to see in the German-Soviet treaty merely a static recognition of "realities". In fact, the agreement serves Moscow not only for the purpose of its power-political expansion, but also as an instrument of ideological dynamics. "The status quo according to the Russians" writes Manlio Brosio—"is not static or purely defensive. Moreover, it is changeable and politically even aggressive." Moscow has an entirely different interpretation than the West of "peaceful relations" (Art. 1 of the Moscow agreement) and for "peaceful coexistence". Brezhnev stated in regard to this on October 1, 1970: "The conclusion of the treaty between the Soviet Union and the Federal Republic of Germany in August last has been a great success for the foreign policy of our country . . . The actual international role of this document will be seen in its full effect only then, when it has been ratified and becomes effective. But already now the signing of such a treaty undoubtedly has a certain political influence upon the situation in Europe. I have in mind the consolidation of the tendencies, for the principles of peaceful coexistence to prevail even more strongly than before."

What is meant by these principles in particular could be read a week later in a contribution, published in *Pravda* by instruction of the Soviet Communist Party on "Lenin's principle of peaceful co-existence and its opponents"—"The policy of peaceful coexistence contributes to the development of the class struggle on the national and international plane . . . The bourgeois Liberals and Pacifists have a different idea of the nature of peaceful co-existence. Many of them consider for instance the 'reconciliation of ideologies' as an important pre-requisite of peaceful co-existence. Even the idea of the nature of peace and war is different for Marxist-Leninists and the representatives of bourgeois ideology . . . 'Our attitude towards war', Lenin wrote, 'is basically different from that of the bourgeois pacifists (the friends of peace and preachers of peace) and of the anarchists . . . From the former we distinguish ourselves by our understanding of the unchangeable correlation between wars and the internal class struggle in a country . . ., also that we fully recognise the justice, progressiveness and necessity of civil wars, of wars by the suppressed class against the suppressing class . . . The Marxist-Leninist conception of peaceful co-existence by no means includes the pacifist propagation of peace . . . Peaceful coexistence presumes mobilization for the active struggle . . . and the use of the full power of Socialism."—Thus far *Pravda*.

No-one has been able to show convincingly and conclusively, what concrete return by the Soviets for the unquestionable performance on the part of the Germans is contained in the Moscow treaty. Sometimes it is alleged, the fact that the Soviet Union has renounced the use of force, represents an equivalent. But this allegation is not borne out by the wording of the treaty. It is a fact that the Soviet Government presumes for itself by reason of Art. 107 and 53 of the Charter of the United Nations a unilateral right of intervention towards Germany. Of this it has officially informed the Federal Government by its Memorandum of November 21, 1967 and it has confirmed it on July 5, 1968, once more in the following words: "The provisions of the UN Charter on forcible measures in the event of a renewed policy of aggression, referred to by the Government of the Federal Republic, remain fully and completely valid in the case of the Federal Republic". To underline its right of intervention at any time the Soviet government stated at the same time: The Federal Republic, as pointed out, "carries on a policy threatening peace".

The Soviet Union has not renounced this illegal presumption to intervene, derived from Art. 107 and 53 of the UN Charter in the Moscow treaty. In Art. 2 of the Moscow agreement is stated: "Bonn and Moscow assume the obligation, according to Art. 2 of the Charter of the United Nations, in their mutual relations to abstain from any threat of force or from any application of force." However, this does not remove the Soviet claim to be able to intervene, because Art. 107 of the UN Charter permits such an intervention: "Measures taken or sanctioned by any government, brought about by reason of the Second World War, in respect of a country, which during the war has been an enemy of a signatory of this Charter, are neither abrogated nor prohibited by this Charter."

The Moscow treaty, therefore, does not contain a renunciation of intervention by the Soviets. But even if Moscow should have expressly renounced its presumption to intervene by reason of Art. 107 and 53 of the UN Charter, it would still be without any practical significance, because the First Secretary of the Soviet Embassy in Bonn, A. G. Popov, stated on September 9, 1970, a Soviet right of intervention is derived already from the Potsdam Agreement, and this could only be altered by a peace treaty; the Moscow treaty has no connection with Art. 53 and 107 of the UN Charter. The Soviet Ambassador at Bonn, Falin, also stated already in Moscow, before taking up his post at Bonn, the provisions relating to enemy states had not been invalidated in principle, they might perhaps be "overlapping" only. Falin and Popov stated, in like fashion, if nothing happened in the Federal Republic to endanger peace and if the Moscow treaty would be complied with, the Soviet Union would not intervene.

It has to be asked, what worth has a solemn renunciation of force by the Soviets. The Soviet invasion of Czechoslovakia took place, although the Soviet Union has solemnly signed the Statutes of the United Nations, whose Article 2 imposes the renunciation of force. And what use is a renunciation of force, if the shooting at the Berlin wall, the Zonal frontier and along the Iron Curtain continues?

The concessions made to Moscow remind us in a painful way of Chamberlain's policy of appeasement towards Hitler. The success can be anticipated. The dictator is made stronger and remains implacable.

The Moscow treaty is a perfect example indeed of patience and perseverance lacking in negotiations, if compared with the tough conduct of negotiations by the Austrians resulting in the Vienna State treaty, or with the stern attitude of Japan vis-à-vis Moscow when dealing with the problem of the Kurile islands, occupied by the Soviet Union in 1945.

Soviet pressure started immediately: Ambassador Zarapkin stated in fall 1970 to a member of the Federal Parliament in Bonn: "You have to ratify the treaty, because we have the power!" And Soviet party boss Leonid Brezhnev, in his opening speech to the 24th Party Congress of the Soviet Communist Party on March 30, 1971, in Moscow, urged the speedy ratification of the treaty by Bonn. A delay, Brezhnev declared, would provoke a new crisis of confidence in the policy of the Federal Republic in general, the political climate in Europe and the prospects of an international reduction of tension would deteriorate."

Should the treaty be ratified, it can be anticipated already now that Soviet pressure against the Federal Republic would increase even more.

The members of the Federal Parliament, who will vote for the treaty, must be aware that by the ratification of the Moscow treaty in its present form they would, according to the Kremlin's intentions, at the same time turn the first sod in digging the grave for the freedom of Germany and of Europe.

THE STAGES OF DEVELOPMENT OF THE MOSCOW TREATY

Walter Ulbricht: New Year's address—Dec. 31, 1966	Carlsbad Declaration: By 24 Communist Parties—Apr. 26, 1967	Walter Ulbricht: Speech to the Peoples Chamber on the Constitution of G.D.R.—Jan. 31, 1968	Gromyko Paper—Mar. 6, 1970	Bahr Paper—May 22, 1970	German-Soviet Treaty (incl. part approved of Bahr Paper)—Aug. 12, 1970	Walter Ulbricht: Address at 25th anniversary of foundation of S.E.D.—Dec. 17, 1970
The Governments of both German states will conclude a treaty, embodying the renunciation of force in their mutual relations.	Conclusion of a treaty between all European states renouncing the application or threat of force.	Agreements between all European states including the G.D.R. on renunciation of force.	Obligation to abstain from threat of force or application of force.	Obligation to abstain from threat of force of application of force.	Obligation to abstain from threat of force or application of force.	Wherein is to be seen the historic significance of the treaty between the Soviet Union and the G.F.R.? In this treaty important achievements of the victory of the anti-Hitler coalition over the Hitler-Fascism have been formulated internationally. By the obligation . . .
The Governments of both German states recognize . . . The existing frontiers in Europe.	Recognition of the inviolability of the existing frontiers and in particular . . . between both German states.	Recognition of the existing frontiers including the frontiers of the G.D.R.	The U.S.S.R. and the G.F.R. accept and will accept that the frontiers, existing on Jan. 1, 1970, of the countries in Europe including . . . the frontiers between the G.D.R. and the G.F.R. are final.	They consider the frontiers of all European states, as they exist on the date of the signing of this Agreement, as inviolable now and for the future, including . . . the frontier between the G.F.R. and the G.D.R.	They consider the frontiers of all European states, as they exist on the date of the signing of this Agreement, as inviolable now and for the future, including . . . the frontier between the G.F.R. and the G.D.R.	. . . to recognize the existing frontiers . . .
The Governments of both German states will agree to resume normal relations with each other.	Normalization of the relations . . . between the 2 German states.	Establishment of normal relations between both German states.	The G.F.R. . . . expresses its readiness to develop its relations with the G.D.R. upon the basis of the principle of full equality, nondiscrimination and noninterference in internal affairs . . .	The Government of the G.F.R. will . . . place its relations with the G.D.R. upon the footing of full equality, nondiscrimination, respect the sovereignty and independence of each of the 2 states.	The Government of the G.F.R. will . . . place its relations with the G.D.R. upon the footing of full equality, nondiscrimination, respect of the sovereignty and independence of each state.	. . . to that effect to establish normal relations between the G.F.R. and the G.D.R. . . .
The Governments of both German states will . . . promote the establishment of diplomatic relations by all European states with both German states.	Normalization of relations between all states and the G.D.R.	European security requires the establishment of diplomatic relations by all European states with both German states and vice versa.	. . . these principles extend also to the relations of the G.F.R. and the G.D.R. with other states.	The Government of the G.F.R. assumes that relations between the G.D.R. and the G.F.R. and other states will develop upon this basis, that is to say that neither of the 2 states can represent the other abroad or act in its name.	The Government of the G.F.R. assumes that relations between the G.D.R. and the G.F.R. and other states will develop upon this basis, that is to say that neither of the 2 states can represent the other abroad or act in its name.	. . . to establish normal relations with all European states . . .
		Both German states to join the organization of the United Nations.	The U.S.S.R. and the G.F.R. will take steps, according to their position, to promote the joining by the G.F.R. and by the G.D.R. of the organization of the United Nations and of its special organizations.	The Governments of the G.F.R. and of the U.S.S.R. express their willingness . . . to take steps . . . to promote the joining by the G.F.R. and by the G.D.R. of the organization of the United Nations and of its special organizations.	The Governments of the G.F.R. and of the U.S.S.R. express their willingness to take steps . . . to promote the joining by the G.F.R. and by the G.D.R. of the organization of the United Nations and of its special organizations.	. . . to promote the membership in the U.N.O. of all states, particularly also that of the G.F.R. and of the G.D.R. . . .
	Acknowledgment that the Munich agreement is void ex tunc.	Declaration of invalidity of the Munich agreement ex tunc.	It is agreed that the problem of the invalidity of the Munich agreement ex tunc will be suitably settled between the G.F.R. and the C.S.S.R.	Between the Governments of the G.F.R. and the U.S.S.R. is full accord that the problems relating to the invalidity of the Munich agreement shall be settled by negotiation between the G.F.R. and the C.S.S.R. in a way acceptable to both parties.	Between the Governments of the G.F.R. and the U.S.S.R. is full accord that the problems relating to the invalidity of of the Munich agreement shall be settled by negotiation between the G.F.R. and the C.S.S.R. in a way acceptable to both parties.	the S.E.D. has fulfilled its program . . .

THE IMPACT OF AN ENERGY CRISIS

Mr. HANSEN. Mr. President, in England today a great many people are eating by candlelight, but those meals are not romantic interludes. London and the rest of England are suffering a "blackout. The current energy crisis in England is a dramatic example of the consequences of a fuel shortage. The interruption of the supply of fuel and energy has brought tragedy and disaster to a powerful nation.

There is a vitally important lesson for America presented in the current hardships being suffered in England. And it is a simple lesson: No modern nation can survive if its lifeline of energy is severed. Without fuel there is no energy—no power to light and heat our homes, to cook our food—no power to run the multitude of machines needed to keep our factories in operation. Any serious disruption of vital fuel supplies simply means disaster.

Many extreme environmentalists ignore the problems created by inhibiting energy production efforts. This is a mistake. These individuals, of all people, should be concerned over the ecological disaster which would occur as the result of the breakdown in energy production. After all, it is our ability to provide gas and electricity to homes, offices, and factories that has done away with the open coal or wood fire in the fireplace, the coal stove. It is this same power source that provides for the operation of waste treatment plants and other efforts to keep our air and waters clean. It is the same energy source which powers the mass transit systems needed to help our great cities function.

In any event, I am sure that responsible Government officials will not fail to heed the dramatic warning that is poignantly presented in England today.

The pictures of people living by candlelight, of elderly persons breaking up their furniture to burn for fuel, the reports of closed factories and thousands idled by the loss of power—all direct our attention in this country to the need to develop sound policies that will result in a secure, dependable supply of energy for the American people. We must not neglect this essential task. We cannot afford to drift along continuously reducing incentives that encourage energy production, placing roadblocks in the way of its delivery, and relying more and more on foreign supplies which can be turned off like a spigot by a foreign power. We must not wait until our own people find themselves in candlelight, burning their furniture for fuel, and laid off because of plants that are closed because there is no power.

The penalties of a national power shortage, as England is learning today, are much more severe than the inconveniences of a brief blackout like that experienced one night in November 1965, in New York.

Britain has ordered a 3-day workweek and thousands of workers have been laid off during the emergency. There is an absolute ban on the use of electricity for heating offices, shops, public halls, theaters and all places used for recreation and sport. The British Government is appealing to domestic users to heat one room only and to use no more lights than absolutely necessary. The Central Electricity Board, experiencing a number of temporary blackouts, has warned that the situation is worsening and that the board might not be able to meet even the reduced demand.

John Davies, Secretary of Trade and Industry, has reported that—

> Within two weeks or so at the present rate of rundown, virtually all domestic and industrial supplies will be cut off more or less the whole time. We would be moving into a situation where we couldn't be sure of maintaining even the essential services. We could not be sure of keeping all hospitals open and some water and sewage treatment plants would have to close.

It has been estimated that if the British coal mines went back into operation today it would still be a matter of months before stockpiles could be accumulated which would support normal conditions in England. This important factor of leadtime—the time between the commencement of exploration or research and use of the fuel in our homes and factories—is often overlooked. National power supplies are not developed overnight. Billions of dollars and many years of effort have been devoted to the development of nuclear power and we still have a long time to go. It takes anywhere from 3 to 10 years from the time of geological investigation of a promising area to the time of delivery of natural gas from the area to the market.

The suffering of the British people during the coal crisis which Britain is presently experiencing is tragic. However, this is an internal situation. The British people and their government do have some control over the circumstances.

My great fear is that the United States will neglect its domestic energy resources and rely on foreign resources to the extent that a foreign political power will be able to create an energy crisis in the United States similar to the one which the people of Britain are experiencing today. It would be one of the greatest blunders of all time if this Nation, so rich in natural resources, allows foreign political entities to grasp the power to cause pain and suffering to the American people and bring our Nation to a grinding halt.

The current energy gap which is developing here shows that we are rapidly running out of our leadtime. Let us be certain that in this country we will not be "too little and too late" with fuel and energy.

SENATOR WILLIS ROBERTSON

Mr. BIBLE. Mr. President, it is a sad duty but also a privilege to join in honoring the memory of Senator Willis Robertson. I claim no distinction when I call Willis Robertson a close personal friend. For he was a man of lasting friendships, and all of us in the Senate shared a warm, personal relationship with him. He was truly a distinguished gentleman, and I use those words in the truest sense of their meaning.

Willis Robertson's fine career in Congress spanned nearly 34 years, and those were years of dedicated service to his beloved State and Nation.

I knew Willis Robertson as both a trusted ally and a respected adversary. We worked closely together in the area of natural resource conservation and wildlife preservation, and we found ourselves as opponents on the silver policy issue. In each case he was a tough, skillful battler for what he believed in, but he tempered this with a warmth of human understanding. I know from personal experience that it was best to have him on your side.

The fine record Willis Robertson wrote as chairman of the Senate Banking and Currency Committee speaks for itself, as does his entire public career. There was a private side, though, that only his friends were privileged to experience. That was his deep love for the great outdoors, particularly the woods and fields and the lakes and streams of Virginia. He was always eager to show others the beauty of Virginia, and he was a genial and generous host. Some of my fondest memories are of my visits to the Robertson home and of the hunting, fishing and hiking he loved so much.

Willis Robertson was the First Gentleman of the Senate, and his spirit remains with us. For his visionary leadership and his fierce love of the unspoiled wilds, Virginia and the Nation owe him a debt that could never be repaid.

It is with sadness and pride that I pay him this final tribute.

PRACTICAL RETURNS FROM SPACE PROGRAM

Mr. ALLOTT. Mr. President, last December, the House Committee on Science and Astronautics issued a report, entitled "For the Benefit of All Mankind," which examines some of the practical returns from our space program. I commend it to Senators as edifying reading.

The report is extremely informative, and I believe that it is especially noteworthy in light of recent denunciations of our space investment by those who have attacked the space program as nonproductive in terms of current needs, and would in its stead fund more efficaceous programs.

Mr. President, the U.S. primary objective in the space program—the exploration of space, the increase of scientific knowledge, the development of new technology and its applications, and the maintenance of a strong position of leadership among nations—is justification enough for the money already expended on space research. In fiscal year 1972, the appropriation for NASA was $3.3 billion which is only 1.4 percent of our national budget and only one-third of 1 percent of our gross national product. NASA's budget projections reveal that this $3-billion figure will not be surpassed in the 1970's even with the development of the space shuttle. However, to those who, in spite of the direct benefits from the program would sacrifice funding for our space effort, I assert that the U.S. space program is paying for itself through the numerous tangible and end-result dividends beyond those of its primary objectives.

Mr. President, in July of 1970, I rose to highlight for my colleagues the dramatic space-stimulated technological progress that has evolved since initiation of the space program. President Nixon has decided to move ahead with the development of the space shuttle. As we, in the Congress, commence to review this decision, I think it wise to review the often overlooked benefits we are enjoying today, as a result of our endeavors in space.

These "space spin-off's," sometimes unplanned and often unforeseen, can be found in virtually every field of human endeavor—communications, business and industry, medicine, agriculture, management, education, weather forecasting, the environment, aeronautics, and consumer products.

Many of these spin-off's take the form of complicated adaptations of space technology to industrial uses. Such mechanisms as servo-accelorometers and very low pressure control systems have been adapted to well drilling and turret lathe operations.

The field of petroleum exploration alone has benefited from at least nine specific advances directly attributable to space explorations. In the automotive industry, the technology used to dampen vibration in rocket engines has been incorporated into the manufacture of heavy duty clutches for trucks. And, the University of Denver, is currently adapting the "frangible tube energy absorber," developed by the NASA scientists, to automobile bumpers, hopefully making them more effective.

Numerous applications of space technology have come from the extremely intricate instrumentation developed by NASA for the continuous monitorization of the astronaut's physical condition in space.

Cardiotachometers for the accurate measure of fetal heart rates, a new electrode for use in relieving anginal pain, and a special transducer which was developed to measure pressure over small models in wind tunnels has been licensed as a cardiac catheter which is so small, it can be inserted with a standard hypodermic needle.

Other benefits in the health industry include inflatible vests for rapid EKG measurement, motorized wheel chairs controlled by the eye, a computer produced movie isolating specific malfunctions of the heart, contamination free assembly, hospital clean room techniques, and inspection procedures.

These are just a few of the technical applications of space research, however, even broader benefits have accrued to this Nation and to the entire community of nations. Intelsat, the global telecommunications system serves over 35 countries through some 60 antennas. This system has become the most efficient and economic means of communication between nations, businesses, and individuals.

We all recently watched live television coverage of the Olympics via satellite.

Business efficiency has been immeasurably increased by Intelsat's ability to provide cheaper and more reliable long-range communication. Through the Intelsat system the number of transoceanic telephone circuits have increased from 500 to 5,000 since 1963. Comsat, which operates Intelsat, recently filed for a 25 percent rate reduction—its second in the short history of his program.

Our international space program has obvious direct benefits to the United States and its cooperating partners. It also produces an equally important indirect and less tangible benefit through the fostering of good will and mutual understanding among nations.

Mr. President, these are just a few of the more than 100 examples cited in the House Space Committee's report. They do give empirical evidence of tangible returns on our space investment.

However, they only hint at the prospects of returns which can be expected from our continued support of the space program. It is exceedingly important that we realize the program's potential for solving many of the problems which are allegedly abnegated by space supporters.

Space research is essential to the control and protection of our environment. For earth is a part of a much larger environment and knowledge is the key to understanding and protecting both.

The meteorological satellites, which have increased dramatically the accuracy of short term weather forecasting have led to the development of the earth resources technology satellite, the first of which is scheduled for launch this spring. These satellites, like the Metsats, which study our atmosphere, will use highly advanced remote sensors to gather a wide variety of data from the earth's surface and subsurface.

The first experiments will study feasibilities and gather data on such things as: vegetation damage from highway construction in Maine; the color of the ocean for the improvement of commercial fishing off the coast of Oregon; the grazing of wild and domestic animals on the public lands in the West; protection of the sea coast and tidal marshes in New Jersey; land use in the megalopolis extending from Boston to Washington, D.C.; extent of snow cover for rivers and flood forecasting in the Sierra Nevada Mountains; an inventory of the timber resources in all the major types of forests in the United States; and the analysis of the haze over Los Angeles.

Mr. President, the U.S. space program is one of the broadest and most rapidly progressing technological undertaking of all time. This endeavor, so broad in scope, yet so minutely exact has brought together thousands of individual efforts into a cohesive and successful program for the benefit of all mankind.

This is perhaps one of the most important and promising benefits developed by our space program. The capability derived from this unified effort could hold the solutions to the overwhelming problems facing the world today.

JOHN BYRNES, A FINE REPRESENTATIVE

Mr. PROXMIRE. Mr. President, Congress is losing a remarkable Representative at the end of this year in the retirement of John Byrnes, of Green Bay.

John Byrnes has been the ranking Republican on the House Ways and Means Committee, and as such he has done a magnificient job.

As we know, the Ways and Means Committee is where all tax legislation must originate. More than any other congressional committee, it determines the equity, the justice, the effectiveness of our tax laws.

As anyone who has been in politics very long can attest, here is where the special interests are the most persistent and the most influential in tailoring federal legislation to suit their financial interests.

Representative Wilbur Mills, chairman of the Ways and Means Committee, and Representative John Byrnes, its ranking member, have stood at the pass against the special inerests for many years, now, and through a raft of history making tax bills. They have fought against the give-aways, the special treatment in what is often a lonely, frustrating, unrewarding fight. They have made many enemies in the process but they have both served their country nobly.

Representative Byrnes' job has been especially difficult, because without the power, prerogatives, or recognition of the chairmanship, he has had to assume about the same degree of responsibility.

As a Democratic Senator from Wisconsin, I of course am sensitive to the considerable partisan political appeal of John Byrnes. We have sent some excellent candidates out to do him in, but John Byrnes has beaten every one for more elections than I care to count.

As a devoted Wisconsin Democrat, I have consistently opposed John Byrnes, and I recall that in 1957 we engaged in a red-hot television debate. But I will miss him; the State will miss him; and it is no exaggeration to say this country will miss him. He has been a great Representative, of whom Green Bay and all Wisconsin can be mighty proud. I ask unanimous consent that a recent editorial tribute to Representative Byrnes, published in the Washington Star, be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Some Last Hurrahs

An inordinate number of veteran congressmen are packing it in this year, having decided not to run for re-election. More than a dozen House members have announced their plans to step down, and several others may do so soon. Also retiring are four senators in their seventies—Clinton Anderson of New Mexico, John Sherman Cooper of Kentucky, Len Jordan of Idaho and Karl Mundt of South Dakota.

Their reasons vary. Some are purely personal, or relate to illness. Another factor is the wholesale redistricting that would force many members to mount extra efforts to become known and liked by the voters. Sharply higher pensions (now above $20,000 for legislators with 20 years of service) could have been influential in a few cases.

The impact of these retirements on the next Congress could be striking in one respect. Because many of the House members bowing out are ranking Republicans on key committees, next session could find diminished GOP influence and substantial changes, perhaps for the worse, in the flow and complexion of work in these committees.

Conspicuous among the retirees are Representatives John W. Byrnes of Wisconsin and Jackson Betts of Ohio, the first and second ranking Republicans on the Ways and Means Committee; and Representatives William M. McCulloch of Ohio and Richard H. Poff of Virginia, the first and second ranking Republicans on the Judiciary Committee. And of these distinguished veterans, Byrnes deserves special mention.

The popular image of the Ways and Means Committee wholly dominated by Wilbur Mills is false. It has been more a tandem operation, Mills and Byrnes, two seasoned, energetic pros working together over the years to shape an enormous amount of legislation on taxes, international trade, Social Security, health, welfare and, lately, revenue sharing. One committee member summed it up rather neatly: "The two together are 80 percent of the committee. Thirty percent will be missing when John is gone."

Byrnes personifies so many of the qualities a congressman should have. He is immensely hard-working and knowledgeable, tough-minded yet compassionate where the problems of the average citizen are at stake. And he has been a thoroughly independent thinker, willing to depart from GOP orthodoxy, as he did, to support the administration's Family Assistance Plan, or to refuse, as he did, to support Mr. Nixon's revenue sharing concept.

Chairman Mills, the committee, the House and the public interest all will feel the loss when he is gone.

MATHIAS URGES ACTION ON VETERANS EDUCATION BILLS

Mr. MATHIAS. Mr. President, in June, I introduced the Vietnam Veterans Act of 1971, S. 2163, which would provide up to $1,000 per academic year in assistance to eligible veterans for tuition, books, fees, and related supplies in direct payment from the Veterans' Administration to the educational institution where the veteran is enrolled on a half-time or more basis. My bill would also provide a $175-per-month subsistence allowance directly to the veteran with a sliding scale based on the number of dependents. I am pleased that my bill has received the cosponsorship of Senators Bible, Case, Church, Cooper, Hollings, Humphrey, Inouye, Kennedy, Moss, Pearson, Pell, and RIBICOFF, and at this time, I ask unanimous consent to have Senators PERCY and SAXBE added as cosponsors.

There are now nine veterans educational assistance measures pending before the Senate Committee on Veterans' Affairs and it is my understanding that no definite date has been set for hearings on these very important pieces of legislation. A subcommittee of the House Committee on Veterans' Affairs has already reported a bill to the full committee for action while we in the Senate have yet to act.

I firmly believe that veterans educational assistance benefits must be improved. The current program levels are inadequate to meet rising educational costs at both public and private schools. It is for this reason that I believe that the Congress should adopt the World War II GI bill payment plan whereby the Veterans' Administration pays the cost of tuition and fees directly to the educational institution so that the veteran may use his monthly allotment for other necessities.

Even though my bill would provide a direct payment of up to $1,000 per academic year, with a $175 per month subsistence allowance, it is possible to alter these figures without diminishing the aid. I would not object to a modification of this concept, for example, even down to a $500 direct payment, if the monthly assistance allotment was raised to at least $220. In this way direct payment could still be utilized to defray costs of tuition, books, or supplies, without reducing the overall total benefit allotment to the point that education could no longer be the veteran's chief concern.

The necessity for speedy action on veterans educational assistance is evident when we look at recent figures from the Veterans' Administration on the numbers of participants in the GI bill program. Since the Korean conflict, approximately 1,800,000 persons have participated in the program. As of November of last year, 200,000 persons on active duty were participating which brings the overall participation to approximately 2 million persons. When we consider that there are over 5½ million Vietnam era veterans, and with the Veterans' Administration projection that up to 50 percent of persons discharged from the armed services will utilize the program, it is possible that over 2 million veterans will participate in the program in the future which is more than the total of all participants since the Korean conflict.

I feel that it is paramount that action be taken on the various educational assistance measures now pending in the Veterans' Affairs Committee. Our Vietnam veterans are not only facing the problem of unemployment in a tight economy, but are also finding that the rising costs of education is making obtaining or continuing their education to be an added hurdle.

As an example, in my State of Maryland, based on figures of the National Council of Independent Colleges and Universities, the total number of veterans enrolled in independent colleges and universities in Maryland has decreased by approximately 900 in the 1971–72 school year as compared with the 1947–48 post-World War II enrollment level. In the 1947–48 year there were approximately 2,070 enrolled veterans in such schools in Maryland, while in the current academic year, there are approximately 1,100 veterans. Furthermore, while the number of enrolled veterans has decreased in such institutions, there has been a fourfold multiple cost increase.

If we can increase the educational benefit levels, and provide greater benefits as outlined in my bill, or through a combination of my bill and the other proposals, I am sure that our veterans will appreciate the effort. We can delay no longer.

CARL HAYDEN

Mr. RIBICOFF. Mr. President, Senator Carl Hayden built a record of public service to his State and country which may never be equaled.

Born in 1877 in Tempe, Ariz., a small town founded by his parents, Carl was elected when he was 25 to the Tempe City Council and 2 years later became the Maricopa County treasurer. From 1907 to 1911, he served as the sheriff of the county.

In 1911 it became clear that Arizona was soon to become a State, and Carl ran for the State's first seat in the House of Representatives. He won, and began a 57-year stay in the Nation's Capitol, first as a Representative and later as a Senator.

No one is more closely identified with the history of his own State than Carl Hayden was with Arizona. His public life began in a frontier territory. When he returned to Arizona in 1969, it had become one of the most prosperous and fastest growing States in the Union, in large part as a result of his years of faithful service.

Memories of Carl Hayden will be treasured by those, such as myself, who had the honor to serve with him.

BROADCAST LICENSE RENEWAL

Mr. BAKER. Mr. President, although it is clear that under the Communications Act and subsequent court decisions there is no property right in a broadcast license, until recently a broadcast licensee could rely on the fact that if he had substantially met or served the public interest, he would be given controlling preference over a new applicant for the broadcast channel. However, the FCC in the WHDH case ousted an incumbent licensee in favor of a competing group, without giving weight to the licensee's performance over the years, finding the incumbent licensee's record to be no more or less than average. This decision introduced a new standard to be met by a licensee. The broadcast industry now had to define what the Commission thought to be an above average performance. Numerous groups looked upon WHDH as a precedent which would allow them to challenge licensees throughout the country. The ensuing instability in the industry persuaded many in the Congress that the effects of the WHDH decision were contrary to the public interest and consideration was given to legislation that would provide assurance to the broadcasters that if they were serving the public interest, their licenses would be renewed.

In January 1970, the FCC issued a policy statement on license renewals, restating the law and giving weight to past performance. This policy statement was intended to stabilize the industry by providing that a licensee who had rendered substantial service during the course of his license periods without "serious deficiencies," would be preferred in the event of a competing application for his license. Only if the FCC were unable to find that the incumbent had rendered substantial service would the competing application be considered.

In June 1971, however, the U.S. Court of Appeals for the District of Columbia struck down the renewal policy statement as violating the hearing requirements of the communications Act. The court maintained that competing applicants were entitled to a comparative hearing under the terms of the act and the policy statement eliminated that hearing. The court's decision once again cast licensees into a state of extreme uncertainty, and broadcasters are now again in doubt as to the criteria they must meet in order to secure renewal of their licenses. The public interest suffers as a consequence.

At present, a competing group is encouraged to make "paper promises," that will put the broadcaster to the great administrative and financial burden of extensive hearings. Far worse is the fact that again he has no assurance that his service over the years will count for much in the face of what often are irresponsible challenges.

Stable license renewal procedures benefit the public as well as broadcasters. To build a station that can serve the community with a strong news department and local service, the broadcaster must invest considerable time, talent, and money. To do this, he must have a reasonable expectation that his investments will not be jeopardized at renewal time by an adverse decision based on nothing more than "paper promises."

Legislation is clearly necessary if the industry is to have the stability the public interest requires. If a licensee has not served the public interest that should be the end of it.

But a statutory license renewal policy is needed, and I will continue to work with the Senator from Rhode Island (Mr. PASTORE), chairman of the Communications Subcommittee, to achieve that goal. It is, however, of paramount importance that the individual broadcaster, forcefully and personally, inform his Representatives and Senators of the need for license-renewal legislation.

PRISON INMATES PROTESTS

Mr. BROCK. Mr. President, today's prisons are producing a wave of inmate protests through civil petitions. Where your average prisoner 10 years ago could barely scratch out his name, today's prisoner on the whole is a more articulate and better educated individual.

Also, we are seeing judges who seem more in tune with the nature of punishment. Some are dropping traditional policies toward prisoners and taking a more responsible attitude for the nature of the punishment they order.

These two factors have brought a "breath of fresh air" into the whole penal system. It has brought an awareness to the general public that changes must occur, reform of this medieval, archaic system must take place in order to bring meaningful rehabilitation to correctional institutions.

Mr. Ben Bagdikian, in his seventh of a series of eight articles, elaborates on the subject in an in-depth study of personalities and basic problems.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

The Drive for Inmates' Rights

(By Ben H. Bagdikian)

"It used to be that the favorite recreational activity of prisoners was playing baseball. Now it's filing lawsuits," says Evelle J. Younger, attorney general of California.

Is there a new kind of person behind bars in the 1970s? More interested in politics than athletics? More militant, organized and rebellious?

Younger is right about the growth of lawsuits. There is a swelling tide of civil petitions flowing out of prison cells into courtrooms. These are not the traditional jailhouse appeals on criminal cases, which continue. The new phenomenon is civil petitions suing prison administrators for allegedly violating human and civil rights.

In 1938, federal courts received only 625 such petitions from prisoners, less than 2 per cent of all federal civil suits that year.

Last year there were 12,266. By now, one of every six civil suits in a federal district court is from an American prisoner claiming that his treatment inside a penal institution is illegal.

Evelle Younger is wrong about this being "recreational activity." Prisoners are dead serious.

Judges have been just as serious. Judges all over the country, horrified when they see conditions to which they have condemned defendants, are dropping their traditional "hands off" policy toward prisons and are taking responsibility for the nature of the punishment they order.

This is forcing the freshest air into the American prison since its invention in 1790.

Judges have called some prisons unconstitutional—for example, Holmesburg, Pa., and the entire Arkansas State system. In Florida, West Virginia, Virginia, Illinois, California and Maryland, judges have declared particular prisons unconstitutional, usually for cruel and unusual punishment or administering serious punishment without due process.

Robert N. C. Nix Jr., presiding judge in the Holmesburg, Pa., case said, "Prisons aren't supposed to be torture chambers. The separation from society is supposed to be enough.

Judge Israel Augustine of New Orleans District Court said that unless the local jails ceased being "medieval and archaic" he would resign rather than send prisoners to them.

There is reason to think that American prisoners are no worse today than they used to be. Except for overcrowding, they probably are better. But increasingly inhumane conditions are no longer being tolerated, for reasons including a change in the attitudes of prisoners and of society:

1. Nonwhites in America—blacks, Mexican-Americans, Puerto Ricans, Indians—are 12.5 percent of the total population, but they are from 40 percent to 50 percent of all persons in prisons. The entire criminal justice system—police, prosecution, Judges, jails and prisons—is largely whiterun. Ninety-five percent of prison guards are white. Nonwhites are rebelling against their depressed status in the outside world.

2. Many impoverished white prisoners, though unsupported by organized ethnic lobbies, are newly activiated by the realization that prisons are essentially places for punishment of the poor. Though there is severe tension between black and white inmates, and though many prisons do not discourage this enmity since it helps the staff maintain control over a divided population, when it comes to protest against the institution there is usually racial unity.

3. During this period of heightened sense of injustice in the criminal justice system, penalties have become harsher, increasing bitterness behind the walls.

4. Though the vast majority of prisoners are poor, there is a new, small insertion of affluent middleclass prisoners from cases involving drugs, the draft and civil protest, and this has mobilized much of the previously uninterested middle class to examine their prisons.

5. A new cadre of prison administrators is sufficiently sophisticated in sociology, psychology and statistics to be sensitive to the self-defeating nature of most prison punishment. Many wardens agree privately, and some publicly, with the reform demands of their inmates and feel inhibited by lack of money, political pressures and an unsympathetic public.

The most noticeable new kind of prisoner in the United States is the black militant. He sometimes appears as a member of the Muslims, the disciplined and puritanical followers of Elijah Muhammed. Their influence goes far beyond their membership, establishing codes of conduct and attitude for many non-Muslims. Because Muslims will not eat pork, for example, many non-Muslim blacks also refuse to eat it and many prisons now serve pork substitutes.

Black militants (and some others) frequently refer to themselves as "political prisoners." It is a term that sets wardens' teeth on edge. "We don't have any political prisoners here," says Noah Alldredge, warden of Lewisburg Federal Penitentiary, "only men who broke the law." Dr. Norval Morris, a leading American penologist, says, "What happens is that the inmate invests ordinary criminal activity with the idea that he is a part of political change. That way, you end up with the absurdity that killing a policeman or robbing a store is somehow a political act."

Blacks sometimes use "political prisoner" to refer to their depressed economic and social status, conditions that produce crime and therefore an inevitable product of "the system." At other times they use it to describe official harassment and punishment of special styles of life. Where they use it to describe their systematic unfair treatment within the criminal justice system, there is more than rhetoric supporting the complaint.

The criminal justice system screens out the affluent and makes special selection of blacks. All social classes commit significant amounts of crime. In 1947 James Wallenstein and Clement J. Wylie listed 49 serious crimes with a minimum sentence of two years; of 1,698 responses from a cross-section of New York inhabitants weighted toward the more affluent, 91 per cent admitted to one or more crimes without ever being arrested. Average for all men was 18 crimes each. There are not enough American blacks alive to account for unreported and untried crime.

Austin Porterfield compared criminal offenses of college students with 2,000 boys who had been sent to juvenile court; 100 per cent of male and female students had committed at least one of the offenses for which the 2,000 other boys had been sent to court.

So of 1,000 crimes committed in the United States, only 80 are ever reported to the police. Of those 80 reported, only 18 result in an arrest, which is the first point of special selection of blacks.

Entry into the criminal justice system usually depends on the decision of a policeman. It first depends importantly on where a policeman is.

Poor black neighborhoods are high crime areas, at least in reported crime, so they tend to be watched more closely. The closer they are watched the higher percentage of persons will be arrested.

Entry into the justice system can depend on the discretion of the policeman: Whether to make an arrest, and if so, on what charge, or to let the person go as innocent or with too weak evidence to prosecute. It is an important decision for the citizen because once he is perceived as potentially criminal by the authorities and once he has been picked up or booked, thereafter the odds go up that he will continue to be considered crime-prone.

It then becomes significant that surveys of urban policemen show overwhelming prejudice against blacks, 72 per cent according to a survey by the President's Crime Commission. Even where there is no conscious bias, there may be unconscious bias, an example of the self-feeding, self-fulfilling prophecy of guilt: Since blacks are so obvious within the criminal justice system and because they are distinctive by their color, law enforcement officials with no personal racial bias may believe that blackness is related to a higher probability of criminal activity. The result is that blacks enter the first, crucial step toward guilt in disproportionate numbers.

A study of 10,000 Philadelphia males between the ages of 10 and 17 showed that one-third of all whites had been taken into custody at some point but more than half of all blacks.

Dr. Nathan Goldman found that of all children picked up by police, twice as many black children as white had afterward been charged with a crime and sent to court.

This association of blackness with crime is not limited to policemen. In Florida, a judge placing a guilty person on probation may do so with the usual finding of "guilty" on his record or, if he thinks the person is a good prospect for probation success because he is a first offender or for other similar reasons, he can send him on probation with no guilt finding on his record. Three social scientists analyzed 2,419 such decisions by Florida judges and found that when cases had similar backgrounds, from 40 per cent to 60 per cent more blacks were sent out with the "guilty" label than whites.

So where the system selects citizens for surveillance, for picking up by the police, for booking on charge and taking to trial, it selects a disproportionate number of blacks.

Of the original 1,000 crimes committed, 14 result in court appearances and 9 are found guilty. Practically all studies show that when persons are tried on the same charges, blacks more often than whites are found guilty. A study in Stamford, Conn., for example, found that guilty findings per 100,000 ethnic inhabitants was eight times higher for black defendants than white.

Of nine Americans found guilty in a court, fewer than four actually serve time in a prison. Here, too, whites more often get probation or suspended sentences. In the Stamford study, the rate of commitment to prison per capita for each racial group was ten times more for guilty blacks than for guilty whites.

Once in prison, blacks stay there longer, partly because they get longer sentences and partly because they get from 10 per cent to 14 per cent fewer paroles. On burglary charges in Los Angeles, the longer sentences went to blacks: sentences of four months or less, 45 per cent white, 27 per cent black; sentences of 4 to 9 months, 42 per cent whites, 47 per cent blacks; 10 to 20 months, 13 per cent whites, 27 per cent blacks. Median time served for all white prisoners in the United States is 20 months; for blacks, it is 23.5 months.

Death sentences and executions are most plainly biased against blacks. Between 1930 and 1966, when blacks were about 10 per cent of the total population, 3,857 persons were legally killed in the United States; 53.5 per cent of them were black.

This was not because only blacks committed capital crimes. Between 1940 and 1964 in Florida, 285 men were found guilty of rape. Of the 133 white men, less than 5 per cent received the death penalty. Of the 152 black men, 35 per cent received the death penalty.

Similar bias against color appears in statistics for Mexican-Americans, Puerto Ricans, and other non-whites. In addition, Spanish-speaking people suffer serious communication problems because most prisons still censor all prisoner mail and will permit only English-language letters.

The reasons for malevolence of the criminal justice system toward * * * a society of growing complexity there are more laws against certain acts than ever before; about one-third of what we call crimes today were not called crimes in 1900. This conglomeration of laws is selectively enforced. Lack of money is clearly a major factor—poorly dressed people often "look" more "criminal" and when picked up lack lawyers to defend them vigorously at every stage, including the crucial time when law enforcement officials decide how serious an offense to select.

Lack of money for bail while awaiting trial is a serious detriment to equal justice. A man in jail cannot prepare as sound a defense as a man out of jail. A study of New York prisoners by the New York City Rand Institute showed that for those of comparable cases men out on bail before a trial are less often found guilty. The poor lack good legal help for appeals and applications for parole and this affects their treatment while in prison: Prisons are more careful with prisoners who have outside connections.

Inevitably, rebels against prison find a quick response among prisoners and always will. But this has special meaning now when so many blacks are conscious of the nature of their unfair treatment. George Jackson, one of the "Soledad Brothers" recently killed in a shooting in San Quentin prison, and Angela Davis, a Communist professor charged with complicity in a fatal shootout in a California courtroom both black, are the two photographs most often found in cells of black prisoners in prisons where individual decoration of cells is permitted.

The issue of prisons has become a public one from a non-racial source—the introduction of middle-class convicts. A decade ago a high-income inmate was an exotic, a rare murderer or an unlucky embezzler.

But because of drugs and civil protest, the middle classes of America are now getting an authoritative view of the inside of prisons.

During civil rights demonstrations of the 1960s hundreds of college-educated white Americans found themselves herded into southern city and county jails and occasionally into a state prison. When protests against the war in Vietnam occurred in the North, it spread this knowledge from Southern jails to Northern jails. The resulting shock of discovery contributed to the examination of all prisons now current in the country.

The expansion of drug use into middle-class America also sent more affluent citizens behind bars. An estimated 12 million persons use marijuana and in some places the penalties are severe. Even when there is no prison sentence, the intensive law-enforcement searching for marijuana, especially routine stop-and-frisk routines of police, have helped make a large proportion of American youth anti-police and anti-criminal justice. It contributed to the conclusion of much of the middle class that jails and prisons were not just places for others.

Added to this are draft cases—evasion of Selective Service or conscientious objection—which has sent 2,600 young men into prison in the last five years, most of them affluent and from college-background families earnest about social causes.

Middle-class Americans have high standards of personal relations. They expect to be treated civilly and justly. When confronted with primitive prison conditions, cruelty and capricious handling, they are not so likely as a ghetto veteran to accept it as the inevitable harshness of a hard world. The middle-class prisoner often is skilled in the arts of communication, has affluent parents and has access to influential lawyers and friends. Consequently, prison brutality and unfairness has been recorded and transmitted to the outside world as never before.

Some of the middle-class prisoners are committed to varying degrees of social reform or revolution, and have been willing while still incarcerated to dramatize prison conditions with strikes, fasts and passive resistance. Peace inside a prison is fragile, relations between staff and inmates always tenuous, and disturbances in any prison creates shock waves in all others. So even prisoner protests far short of riots have caused correction administrators to examine their operations.

Wardens generally dismiss the influence of the protesting inmate. "They have very little influence with the regular inmates," Noah Alldredge, warden of Lewisburg Federal Penitentiary, said recently. But in Allenwood, an associated minimum security colony of Lewisburg, when one prisoner serving time for burning draft records in Catonsville, Md., was being transferred to maximum security, about 115 inmates, half the population of the camp, stood in silent protest in the yard. "That was an exception," Warden Alldredge said. At Alderson, W. Va., Federal Reformatory for Women, Warden Virginia McLaughlin similarly dismissed the impact of "political prisoners." She said, "The other women pay no attention to them." But after Attica, such prisoners led a sympathy strike of about 130 minutes, with enough large-scale involvement to require importing of guards from other prisons.

On the other hand, the political fervor of prisoners can be exaggerated. Frank Callahan, 21, a former broadcast journalist, served a year in Lewisburg for destroying draft records in Rochester, N.Y. He described his imprisonment with inmates in for conventional crimes:

"You know, we would start talking about the war and it seemed so artificial and distant from the situation at hand . . . after awhile I just stopped dealing with that. It was a thousand years away to talk about Vietnam. If a guy was a bank robber, he'd tell us about the jobs he had done, or we'd talk about the movies we'd seen. You know, just fairly average conversations. When things got political, they were political in the sense that here we are getting screwed . . ."

Groups tended to stick to their own but, Callahan says, they banded together if inmate interests within the prison conflicted with policies of the prison administration, on pragmatic treatment rather than ideological commitment.

In dozens of prisons across the country, inmates have formed unions, councils and associations to obtain personal protection against violation of "rights." It has raised the question of what rights a prisoner has, if any.

The answer is murky. American law for convicts has evolved mainly from feudal England and some of it is applied today in apparent contradiction to reason, logic and the U.S. Constitution.

"Civil death," for example, was spelled out in feudal society. Lower-class convicts were killed or mutilated. An upper-class person might escape death by permanent banishment to a distant place or by becoming a monk. In either case, he was no longer a part of the feudal community, he was declared "civilly dead" and his property was distributed to his heirs as though he were physically dead. Since he could never return, "civil death" was logical.

To this day, American convicts suffer some of the same feudal punishments: Thirteen states have "civil death" statutes.

In 17 states "civil death" is imposed if a man gets a life sentence. His property is redistributed, his marriage is dissolved and his children become subject for adoption, even though most life sentences end in parole.

A "civilly dead" prisoner is nevertheless still obligated to support his wife and children.

In most states, imprisonment is automatic grounds for divorce, though most prisoners are in for less than two years.

The best-known loss of rights is the right to vote. This loss probably had its origins in the Greek statute for persons convicted of "infamy." In three-quarters of the states, felons lose the right to vote by statute and in most of the remainder by administrative policy of local boards of election. It is defended as protecting the honesty of the ballot box from disreputable persons and as denying influence over laws and lawmakers against the law. It is criticized as adding no protection to the society and inhibiting the integration of the ex-prisoner into normal life.

Prisoners lose other rights and opportunities by law, varying from state to state. Some private and much public employment is denied them. Prisoners cannot sue others but others can sue them.

Three states (North Dakota, Virginia, Washington) prohibit marriage of offenders with three felony convictions to a woman under the age of 45 (presumably to prevent birth of children with the felon's "corrupted" blood). Seven states authorize sterilization of "habitual criminals." In at least three states, the law provides for complete or partial forfeiture of a convict's property.

All of these originate with another feudal English concept, that of "corruption of blood." Article III, Section 3 of the United States Constitution specifically forbids forfeiture and corruption of blood except during the lifetime of a person convicted of treason.

Most "prisoner's rights" moves are directed to his treatment inside prison. The assumption is that there are some punishments so cruel as to be prohibited in any case—like driving a man insane—and that others are so severe that they constitute a serious punishment that ought to be imposed only with due process to prevent its being done unjustly and without independent review.

The movement toward prisoners rights represents hope on the part of inmates, since these rights focus or the need for a prisoner to accept relations with society. But they also represent explosive tensions. All institutions in society are being re-examined for their goals and the ineffectiveness in attaining those goals. Failures are no longer as quietly accepted as in the past. The prisoner who universally hears he is being "rehabilitated" no longer passively accepts cruel and capricious treatment. Ninety-seven per cent of prison inmates return to society, and each prisoner emerging gauges his future relations with society.

A very unpolitical young man, emerging from five years in a state prison said:

"All the time I was in, I remembered what they called out at my trial: 'The People versus . . .' and then by name. The people against me. I'm not sure whether they're still against me."

DEATH OF DR. FRANK GRAHAM, FORMER SENATOR

Mr. FULBRIGHT. Mr. President, we have just heard the sad news about the death of Dr. Frank Graham, one of the outstanding educators and public servants of our generation. A number of us in this body remember him with fondness and great respect during his regrettably short service here as a U.S. Senator from North Carolina in 1949 and 1950.

I cannot help but think that the very qualities which made him such a valuable colleague also contributed to prevent his remaining in the Senate. For he was a man of strong convictions, who never flinched from speaking out to defend the values in which be believed so deeply. He was an idealist and a liberal, in the classical sense of the word, and he could not diminish the clarity of his statements in order to gain any politican advantage. And yet, since he was a man of many parts, the ending of his service here merely meant the resumption of his career of activities on behalf of the United Nations.

My colleagues from North Carolina can express far better than I, the contributions which Frank Graham made to the advancement of education in that State. But I must at least touch upon his notable career at the University of North Carolina. As a teacher of history, he was an inspiration to a host of students who flocked to his classes in the knowledge that their professor was a man who could make the subject come alive as few others could. As a totally open and approachable friend, he was a beloved figure on campus. As president of the university, he attracted and kept some of the finest academic talent available and did much to give the State university at Chapel Hill both a national and an international reputation for excellence.

Indeed, his talents were too great and too varied to permit him to devote all his time to the university. He was called to Washington with increasing frequency and given an ever greater range of tasks as this country marshalled its resources to fight the Second World War. He was Chairman of the National Advisory Council on Social Security, as well as a member of the President's Advisory Committee on Education, of the National Defense Mediation Board, and of the War Labor Board. His reputation as a mediator led to further services in the field of national labor-management relations. Then—after the creation of the United Nations—these talents were brought into the international arena.

Dr. Graham was the U.S. Representative on the Good Offices Committee on Indonesia of the United Nations Security Council, and later became the Special Adviser on Indonesian Affairs to the U.S. Secretary of State. His success in those activities led to his appointment as the United Nations mediator for India and Pakistan in relation to the dispute over Kashmir. He devoted the remainder of his career to that task, and no one could have worked harder and longer to promote a settlement. The fact that many years later the issue is still unresolved certainly is no reason to underestimate the contribution made by Dr. Graham. No one could have done better, and few could have done as well, in that heartbreaking assignment.

Mr. President, Frank P. Graham was a man of small physical stature, but one of great intellectual and moral stature. While he served his home State with great ability, he gave equal service to the Nation and to the cause of international peace. He was an international public servant in the highest sense of the phrase, and men of goodwill throughout the world have reason for sorrow over his passing.

NATIONAL VOLUNTEER BLOOD DONOR MONTH

Mr. EAGLETON. Mr. President, in recent years many far-reaching advances have been made in the technical fields of medicine. New operating techniques can arrest disease and lengthen life. Open heart surgery and organ transplants give new hope to people who might otherwise succumb to a premature death.

Despite these technical advances, the one ingredient necessary for successful recovery in many cases is the vital living tissue, blood. We often forget that science cannot reproduce blood. Even today, those in need of blood must depend on individual blood donors to provide this life-giving substance.

About 100 million persons in the United States are physically able to donate blood. Unfortunately, only 3 percent of this number do so. The rest of the blood needed is the so-called commercial blood, or blood donated for money.

Too often, this commercial blood carries with it disease which is transmitted to the patient. A recent survey revealed the risk of serum hepatitis is 12 times greater when a patient receives blood from commercial rather than from voluntary donations. Clearly, we must encourage more people voluntarily to donate blood.

That is why each year I sponsor the National Volunteer Blood Donor Month Resolution. In 1970 and 1971 the Senate passed this resolution. It is my hope that we will act on Senate Joint Resolution 126 in this session so that January 1973, will be declared officially National Volunteer Blood Donor Month.

Mr. President, I ask unanimous consent that the statement issued by President Nixon in January 1972, in tribute to volunteer donors, and an editorial published January 16, 1972, in the Vallejo, Calif., Times-Herald be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington.

NATIONAL VOLUNTEER BLOOD DONOR MONTH, JANUARY 1972

It gives me special pleasure to pay tribute to the generosity, compassion and selfless humaintarian service of those who have freely given blood to save another's life.

Theirs is an offering for which there is no substitute, and which annually helps restore to good health countless fellow citizens.

As I commend those who by their contribution have enriched the well-being of our society, I also encourage other citizens to follow their inspiring example.

RICHARD NIXON.

NEED FOR BLOOD DONATIONS IS UNCEASING—PLEASE GIVE

January is National Volunteer Blood Donor Month. Our hospitals in the United States now need 7,000,000 pints of blood a year for surgery and therapy.

It is important for reasons of safety, as well as medical costs that this blood come from voluntary unpaid donors who have no reason to misrepresent their medical histories.

And at least 80 per cent of the blood stored in blood banks throughout the nation is given voluntarily and without charge. These gifts of life represent a monetary saving to the American people of $100,000,000 a year in medical expenses, and this happy fact is all the more remarkable when it is considered that only three per cent of those qualified by age and health to give blood actually do so.

Anybody may need blood at any time. This truism is demonstrated dramatically every day and every hour.

If you are between 18 and 66 and in good health, you can salute National Volunteer Blood Donor Month by giving a pint of blood. Call the North Bay Blood Center in Vallejo, (643–2163), for an appointment. It will be painless and will require only a few minutes. You may save somebody's life.

Our member blood banks work unceasingly to conserve available blood supplies. Through the National Clearinghouse Program of the American Association of Blood Banks, more than 1,000,000 pints of blood have been borrowed and loaned between banks to provide blood of the right types, in the right amounts at the right place and time for those who need it.

Yet with all these measures, some commercialism does exist, but in America it does not dominate the field.

Inasmuch as blood is living tissue, and blood transfusions were the first human tissue transplants, blood should not be paid for by cash or by insurance.

If we allow such a system to prevail, we will subsequently see a price tag placed on human organs such as hearts and kidneys. The providing of blood is a service and it is tremendously important that this principle be preserved through voluntary blood donations, lest we see the human body "bartered and sold" to the highest bidder.

Money which now is being spent to buy blood or to pay donors should be channeled into research and improved services to patients.

Blood donors, beyond any doubt, hold the ultimate answer to the quality and quantity of our nation's blood lifelines.

Of 200 million Americans, more than half are eligible to be blood donors.

Thus there is no question that these 100 million and more can easily supply the 7,000,000 pints of blood we need annually. (A donor may give blood up to five times a year, and indeed, if many did not our blood reserves would be in even more perilous condition than they now are.)

To meet the increasing demand for blood, the volunteer donor concept can and must be preserved. This will be achieved only if we reach out further and convince more people of the importance of their being blood donors.

To accomplish this, we need a concerted nationwide effort of individuals and organizations involved in blood banking, as well as the cooperation of business, industry, labor unions, health professionals and the government.

Above all, blood banks must have continual and emphatic support from the communications media—and by and large they have been getting just that kind of support.

Over the years, millions of people have willingly given themselves to help others by making voluntary blood donations. Through their acts of giving blood, for patients close to them or for strangers in need, in war and peacetime, they have demonstrated in a very personal way a love for their fellow man.

Right now, the need for blood in hospitals is reaching toward record highs, while the number of persons able or willing to donate blood traditionally declines.

A great amount of elective surgery, often requiring many units of blood for transfusions is delayed each year until after the holiday season. At the same time, winter vacations and seasonal ills tend to reduce the number of potential donors.

Irwin Memorial Blood Bank which serves the North Bay area is urging all regular donors to attempt to make a blood donation in January and to help recruit new donors for their communities by encouraging a friend or neighbor to come along and give blood, too.

The friend or neighbor will find, as the donor did on that first occasion, that giving blood IS PAINLESS, and can be accomplished with an absolute minimum of discomfort.

Then the new donor can experience the joy of helping to save a life. And if a member of his family needs an emergency transfusion, he will be happy in the knowledge the blood is there because he had the foresight and the generosity to help.

Presindent Nixon has described blood donation as "among the noblest acts of personal generosity" and "a contribution to life and health for which there is no substitute."

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The period for the transaction of morning business has expired.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business, which will be stated.

The legislative clerk read as follows:

> A bill (S. 2515) to further promote equal employment opportunities for American workers.

The Senate proceeded to consider the bill.

The ACTING PRESIDENT pro tempore. The pending amendment is No. 888, by the Senator from North Carolina (Mr. ERVIN), on which there is a time limitation of 2 hours, with 20 minutes on any amendment to that amendment, motions, points of order, or appeals.

Who yields time?

QUORUM CALLS—YEAS AND NAYS ORDERED

Mr. JAVITS. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, with the time to be charged equally against each side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TUNNEY). Without objection it is so ordered.

Mr. ERVIN. Mr. President, I ask for the yeas and nays on amendment No. 888.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, with the same understanding as governed the previous quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WEICKER). Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I yield myself 20 minutes.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 20 minutes.

Mr. ERVIN. Mr. President, the distinguished Senator from Alabama and I have introduced an amendment which provides that the term "employee" as set forth in the original act of 1964 and as modified by the pending bill shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such person to advise him in respect to the exercise of the constitutional or legal powers of his office.

The Constitution was written to create a federal system of government. It was designed to allot to the Federal Government certain enumerated powers which would enable it to exercise the necessary functions of a central government for all the States and to reserve to the States all the powers of government. And certainly one of the powers of government that was reserved to the States by the 10th amendment was the power of a State to select its own officers and its own employees, because if the Federal judiciary could tell the State whom it can have for its officers and whom it can have for its employees, the Federal judiciary becomes the real ruler of the people of the State and really, in the ultimate analysis, imposes its will upon the State and its people.

Title VII of the Civil Rights Act of 1964 defines an employee as any person employed by an employer. That is the gist of the definition of "employee" in the original act, which is not disturbed in this particular respect by the bill.

The bill, by amending the definition of "employer" as set forth in the Civil Rights Act of 1964, declares that a State and the political subdivisions of a State shall constitute employers within the meaning of the act.

The definition of an employer is that an employer is an individual or concern which employs some individual to do something, usually for a salary or wages. And the definition of an employee under the act is an individual who is employed by an employer.

Manifestly the Governor of a State or the duly elected State officials, including the members of the State legislature, are employees of the State within the meaning of this bill in its present state. And the clerk of court of a county and the board of commissioners of a county, where they have a system of county government such as we have in North Carolina, and the sheriff of a county are the employees of the county, which is a political subdivision of the State.

In my mind it is a monstrous proposal that Federal judges should have to lay aside their judicial knitting in order to embark upon a course of action which is essentially supervising who shall be the officers and the employees of a State or of the political subdivision of a State.

Chief Justice Salmon P. Chase declared in the celebrated case of Texas against White that the Constitution and all of its provisions look to an indestructible Union composed of indestructible States. And I know of no way in which Congress can more effectively destroy the States than for Congress to vest in the Federal judiciary or in any other Federal department or agency, the power to select the officers and employees of the State and its political subdivisions.

In that case Chief Justice Chase defined what a State is. I think it might enable us to understand what is raised by this amendment by his definition of a State. In the case of Texas against White, Chief Justice Chase gave this definition as the definition of what a State is:

> A state, in the ordinary sense of the Constitution, is a political community of free citizens, occupying a territory of defined boundaries, and organized under a government sanctioned and limited by a written constitution, and established by the consent of the governed. It is the union of such states, under a common constitution, which forms the distinct and greater political unit, which that Constitution designates as the United States, and makes of the people and states which compose it one people and one country.

The salient part of the definition is that a State is a community of free citizens. I would have to say that if Congress takes away from the community of free citizens the right to elect their own officials and select their own employees that those citizens cease to be free and become subjected to the control of the Federal Government.

I would not have been concerned so much about the question raised by this amendment had it not been for some recent decisions of the Supreme Court of the United States.

The Constitution expressly provides that Congress shall pass no bill of attainder and that the Federal Government, acting through any of its three departments, shall not deprive any person of his life, liberty, or property without due process of law.

Now, when the Federal Government deprives any people or any group of people of the right to elect their own officials and select their own employees, it is clearly depriving them of liberty within the purview of the due process clause.

We have had what to my mind constitute two monstrous decisions by the Supreme Court of the United States during these last years, in which the Supreme Court upheld provisions of the Voting Rights Act of 1965. That act was clearly a bill of attainder because it convicted States and their officials and their people of violating the 15th amendment without giving them any judicial trial; in other words, it was a congressional condemnation of guilt on the part of the State and its officials and its people. On that basis Congress suspended the undoubted constitutional powers of the State and its officials and its people to prescribe a literacy test as a qualification for voting.

Now, what is a bill of attainder? In this case it is a legislative declaration of guilt which inflicts punishment or denies rights to any designated individual or any individuals which can be identified. So we have here an exercise of what I have said illustrates how we have lost a substantial part of our national sanity because of the constant agitation about racial balance in this country.

Congress passed a bill of attainder condemning the States, which necessarily acted through their elected officials, of violating the 15th amendment. When the case of South Carolina against Katzenbach raised that point we had what I conceive to be a monstrous decision, namely, that the provision of the Constitution which forbids Congress to pass a bill of attainder does not apply to States, and since States can only act through their officers, and since States are nothing in the world but a community of individuals, this amounted to a holding that Congress can condemn all State officials and all the people of a State of violating the Constitution without affording them a judicial trial to determine their guilt.

To my mind, the men who drafted and ratified the provision of the Constitution which states Congress shall pass no bill of attainder intended to protect against bills of attainder all States and all human beings within the borders of the States, and all individuals which exercise governmental power on the part of States.

When Congress passed the Voting Rights Act of 1965, it convicted the States and their election officials of violating the 15th amendment by a formula which was cleverly designed to deprive of their constitutional rights seven Southern States, either in whole or in part, and to exclude from its coverage every other State of this Union. It did this by a formula of what they call the triggering device. It said that every State would be adjudged guilty of violating the 15th amendment if less than 50 percent of the people of voting age had failed to vote for a presidential candidate in the 1964 general election.

I respectfully submit that that provision, which raised a presumption, violated the due process clause of the fifth amendment. I say this because it has been held times without number that a legislative body violates the due process clause when it creates a presumption under which the fact presumed has no reasonable or rational relationship to the fact proved.

Now, mind you, this triggering device or formula by which this bill of attainder was inflicted upon the States and their people and their officials did not require that it be shown that the people who did not vote belonged to any particular race. It was on that basis that the Congress convicted these seven Southern States and parts of States of violating the 15th amendment, which provides that the right of any person to vote shall not be abridged or denied on account of race——

The **PRESIDING OFFICER**. The Senator's time has expired.

Mr. **ERVIN**. Mr. President, I yield myself 10 more minutes.

As far as the statute was concerned, every person who failed to vote could have been a white man, and yet it was passed on the theory that it showed that black people had been denied the right to vote in those States on account of their race. So there was no rational relationship between the facts certified by the Bureau of the Census and the certificate of the Attorney General, which, incidentally, where not reviewable in the courts, and the fact presumed.

If it had been applied to any individual—and it was applied to election officials and it was applied to all the people of the States as a basis for denying them their constitutional rights—it clearly would have been a violation of the due process clause of the fifth amendment.

Then, there is another principle of law under the due process clause of the fifth amendment, and that is, it violates that clause for the Congress to raise a presumption of guilt on the basis of facts for which the person presumed or the State presumed guilty was not responsible.

I say that those States were convicted by judicial declaration of guilt because in those particular States it was certified by the Bureau of the Census that less than 50 percent of the persons of voting age residing in those States had failed to vote for a presidential candidate in 1964. They were not found guilty on the basis of a certificate of the Attorney General or a finding of the Bureau of the Census that less than 50 percent of the persons of voting age residing in them were not registered.

Manifestly, under our system of government a State can register every person of voting age within its borders, but it has no way, under our laws, to compel him to go out and vote on election day. And so this presumption, for that reason, based on the certificates showing only that less than 50 percent of the persons of voting age in those seven States had not voted, constituted another violation of the due process clause.

That was called to the attention of the Supreme Court of the United States in South Carolina against Katzenbach. Mind you, the people affected by that act were the State election officials, who certainly were human beings, because we do not have robots for election officials in any of the States, and the people who were deprived of the power to exercise their constitutional rights under that bill were the people of the communities which constituted the States. The States themselves are comprised of individuals. A State does not exist apart from its individuals and its officials. All of its officials and all of its citizens are human beings and are persons. Yet the Supreme Court, in South Carolina against Katzenbach, laid down the monstrous position that the facts presumed had no rational relationship to the facts proved was not a protection to the States or the people or the election officials of those States because a State is not a person within the meaning of the due process clause of the fifth amendment.

That is a monstrous decision, because if that were true, Congress could pass a law, any day it wished to, abolishing the States, or condemning the officials of the State by a bill of attainder and sentencing them to death without trial and without an opportunity to be heard, without an opportunity to say a mumbling word in their behalf.

Oh, people say, Congress would not act in such an arbitrary manner as that. Well, I think the Congress acted in a very arbitrary manner when it passed the Voting Rights Act of 1965. I think it acted in an even more arbitrary manner when it amended that act and provided that those seven States or portions of the States should remain condemned by the judicial declaration of guilt, notwithstanding there had been an intervening presidential election and notwithstanding that they would have been freed from the operation of the act if the same formula had been applied to the election in 1968 as had been applied to the election in 1964.

In other words, Congress said to the seven Southern States, "Though you seek repentance, you cannot repent unless you continue to be something in the nature of a conquered province, which cannot exercise its constitutional rights and which cannot even pass a law having the remotest relationship to an election without first getting the permission of a Federal official, the Attorney General, or getting a decree from the one court on the face of the earth, the District Court of the District of Columbia, where they always have a panel of judges which would not acquit a Southern State of anything in a case having racial overtones, as has been proved in the case of the county of Gaston in my State, where everyone in North Carolina knows that there has been no discrimination against voting on account of race within the memory of any living human being.

There is another thing handed down in this decision of South Carolina against Katzenbach which I think is abhorrent to any federal system of government. The Supreme Court of the United States has held, in the case of Coyle, that every State in the Union is entitled to stand on equality with every other State of the Union, that the rights and the powers of all the States of the Union are equal. So when the contention was made by South Carolina, quite rightly, that the Voting Rights Act of 1965 made two different classes of States in this Union, and reduced the seven Southern States or portions of the seven Southern States to an inferior status and denied them the right to exercise constitutional powers which all the other States were permitted to exercise, the Supreme Court handed down another ruling which can only be described as monstrous. It held that the doctrine of the equality of the States applied only at the precise moment when a State was admitted to the Union, and that thereafter States could be made unequal in respect to their legal and constitutional rights and obligations.

The **PRESIDING OFFICER**. The Senator's additional 10 minutes have expired.

Mr. **ERVIN**. I yield myself 5 more minutes.

In other words, the Constitution, as interpreted in the case of South Carolina against Katzenbach, is adjudged, in effect, to provide that Congress has the right to make as many different varieties of States as there are varieties of anxious people.

Well, I thought that decision was pretty bad, but that same act contained a provision that outlawed the literacy test of the State of New York, which required that any person, to be qualified to vote in any election, Federal or State, in New York, shoud be literate in the English language, and so, to enfranchise people who spoke Spanish who had come from Puerto Rico, Congress put an amendment in the Voting Rights Act of 1965 which nullified the State literacy test of New York, which had been adjudged valid by the courts, and which was shown by the case of Lassiter against Board of Electors of Northampton County, N.C., to be in perfect compliance with the equal protection clause of the 14th amendment.

Congress not only did that, but it established another law in place of the New York literacy test, which New York clearly had the right to establish under the equal protection clause of the 14th amendment because it applied in like manner to all the people in New York. The court held that Congress not only could nullify a valid law of the State, but that it could pass a law to take its place, which Congress was forbidden to pass by the second section of the first article, the first section of the second article, and the 17th amendment.

That was going pretty far. It takes a certain amount of judicial and intellectual gymnastics to reach such an absurd conclusion as that. The majority of the Court, however, reached it, and they reached it by a process of reasoning without parallel in the decisions of the Supreme Court, which was inconsistent with scores and scores of other Supreme Court decisions.

The Court reached the strange conclusion that when Congress undertook to exercise its power under section 5 of the 14th amendment to prevent a State from denying any person within its borders the equal protection of the laws, the Court lost its power—the Supreme Court of the United States lost its power—to determine whether the State law annulled by the act of Congress was a valid law within the purview of the equal protection clause of the 14th amendment, and that the only thing that the Supreme Court could do in that kind of a situation was to determine whether the act of Congress—whether consistent or inconsistent with the equal protection clause, whether or not forbidden by three other sections of the Constitution——

The PRESIDING OFFICER. The Senator's 5 additional minutes have expired.

Mr. ERVIN. I yield myself 5 more minutes. Would have the effect, in the future, or preventing the State affected from violating the equal protection clause.

There was not a scintilla of testimony that Spanish-speaking people had been discriminated against intentionally under this law, but the court held that regardless of whether or not the New York literacy test was a valid law under the first section of the 14th amendment, the court would have to uphold that law because this would give the Puerto Ricans political power, and their political power would enable them to keep New York State thereafter from depriving them of the equal protection of the laws.

There are some very caustic comments on this decision by one of the greatest constitutional scholars in this country, Alexander M. Bickel, of Yale Law School. These remarks are set forth in the Supreme Court Review for 1966, on pages 95 through 101.

In referring to this decision of the Supreme Court, which was a decision by a divided court, Professor Bickel pointed out the fallacy of the argument that this would prevent New York from violating the equal protection clause in the future—the political power they gave to the Puerto Ricans, in violation of what had always been the correct interpretation of the equal protection clause of the 14th amendment. He says:

> The argument is superficially attractive. But suppose Congress decided that aliens or eighteen-year-olds or residents of New Jersey are being discriminated against in New York. The decision would be as plausible as the one concerning Spanish-speaking Puerto Ricans. Could Congress give these groups the vote? If Congress may freely bestow the vote as a means of curing other discriminations, which it fears may be practiced against groups deprived of the vote, essentially because of this deprivation and on the basis of no other evidence, then there is nothing left of state autonomy in setting qualifications for voting. The argument proves too much. The Court relied on Marshall's famous pronouncement: "Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional." The Court duly emphasized appropriateness, and adaptation to a given end, but it de-emphasized altogether too much Marshall's caveat that the means chosen must also not be prohibited, and must "consist with the letter and spirit of the constitution."

Here, the Supreme Court used a quotation from John Marshall, and its use of this quotation from John Marshall's opinion must have caused John Marshall to turn over in his grave. I say this because John Marshall's judgment said the end must be legitimate. It was not legitimate for Congress to prescribe a literacy test in New York. He said:

> Not only must it be legitimate, but also, it must be within the scope of the Constitution.

What Congress did in outlawing the New York literacy test was outside the scope of the Constitution.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ERVIN. I yield myself 3 additional minutes.

Marshall said, in the third place, that the means chosen must not be prohibited. Yet, the means chosen by Congress in outlawing the literacy test did not come within the meaning of Chief Justice Marshall's statement, which was cited to uphold it, in three respects: The end was not legitimate, it was not within the scope of the Constitution, and it was forbidden by three separate provisions of the Constitution.

Why do I lay emphasis upon these decisions? If bills of attainder can be passed against States, if States can be deprived of their people and their officials of their constitutional rights without due process of law, then any kind of bill Congress passes about States is perfectly valid. So Congress now can pass a bill like this one, that says that a Federal judge can remove a Governor from office—this is not what it says expressly, but what it means—or other elected official of a State or county from office, if that Federal judge finds that the voters of that State elected that Governor because they preferred a man of his race or a man of his religion or a man of his national origin or a person of his sex, rather than a person of some other race or religion or national origin or sex.

Having seen some of the decisions of some Federal judges in latter days—such as the decision of Judge Robert Merhige in Richmond, Va., a short time ago—I have lost my capacity to be surprised by a decision of a Federal judge.

For that reason, I offer this amendment, in collaboration with my good friend, the distinguished Senator from Alabama, to make certain that Federal judges cannot remove elected State and county officials from office or tell them whom they have to have as their selections to advise them with respect to their constitutional and legal responsibilities. To my mind, it would be intolerable for a Federal judge to say to the Governor of a State or to a board of county commissioners that they had to take a legal adviser selected by a Federal judge rather than one selected by themselves.

Mr. President, I ask unanimous consent that the discussion in the Supreme Court review of 1966 on the case of Katzenbach against Morgan and the dissenting opinion in that case be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[No. 847. Argued April 18, 1966.—Decided June 13, 1966.*]

KATZENBACH, ATTORNEY GENERAL, ET AL. *v.* MORGAN ET UX.

APPEAL FROM THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Appellees, registered voters in New York City, brought this suit to challenge the constitutionality of § 4(e) of the Voting Rights Act of 1965 to the extent that the provision prohibits enforcement of the statutory requirement for literacy in English as applied to numerous New York City residents from Puerto Rico who, because of that requirement, had previously been denied the right to vote. Section 4(e) provides that no person who has completed the sixth grade in a public school, or an accredited private school, in Puerto Rico in which the language of instruction was other than English shall be disfranchised for inability to read or write English. A three-judge District Court granted appellees declaratory and injunctive relief, holding that in enacting § 4(e) Congress had exceeded its powers. *Held:* Section 4(e) is a proper exercise of the powers under § 5 of the Fourteenth Amendment, and by virtue of the Supremacy Clause, New York's English literacy requirement cannot be enforced to the extent it conflicts with § 4(e). Pp. 646–658.

Footnotes at end of article.

(a) Though the States have power to fix voting qualifications, they cannot do so contrary to the Fourteenth Amendment or any other constitutional provision. P. 647.

(b) Congress' power under § 5 of the Fourteenth Amendment to enact legislation prohibiting enforcement of a state law is not limited to situations where the state law has been adjudged to violate the provisions of the Amendment which Congress sought to enforce. It is therefore the Court's task here to determine, not whether New York's English literacy requirement as applied violates the Equal Protection Clause, but whether § 4(e)'s prohibition against that requirement is "appropriate legislation" to enforce the Clause. *Lassiter* v. *Northampton Election Bd.*, 360 U.S. 45, distinguished. Pp. 648–650.

(c) Section 5 of the Fourteenth Amendment is a positive grant of legislative power authorizing Congress to exercise its discretion in determining the need for and nature of legislation to secure Fourteenth Amendment guarantees. The test of *McCulloch* v. *Maryland*, 4 Wheat. 316, 421, is to be applied to determine whether a congressional enactment is "appropriate legislation" under § 5 of the Fourteenth Amendment. Pp. 650–651.

(d) Section 4(e) was enacted to enforce the Equal Protection Clause as a measure to secure nondiscriminatory treatment by government for numerous Puerto Ricans residing in New York, both in the imposition of voting qualifications and the provision or administration of governmental services. Pp. 652–653.

(e) Congress had an adequate basis for deciding that § 4(e) was plainly adapted to that end. Pp. 653–656.

(f) Section 4(e) does not itself invidiously discriminate in violation of the Fifth Amendment for failure to extend relief to those educated in non-American flag schools. A reform measure such as § 4(e) is not invalid because Congress might have gone further than it did and did not eliminate all the evils at the same time. Pp. 656–658.

247 F. Supp. 196, reversed.

Solicitor General Marshall argued the cause for appellants in No. 847. With him on the brief were *Assistant Attorney General Doar, Ralph S. Spritzer, Louis F. Claiborne, St. John Barrett* and *Louis M. Kauder*.

J. Ree Rankin argued the cause for appellant in No. 877. With him on the brief were *Norman Redlich* and *Seymour B. Quel*.

Alfred Avins argued the cause and filed a brief for appellees in both cases.

Rafael Hernandez Colon, Attorney General, argued the cause and filed a brief for the Commonwealth of Puerto Rico, as *amicus curiae*, urging reversal.

Jean M. Coon, Assistant Attorney General, argued the cause for the State of New York, as *amicus curiae*, urging affirmance. With her on the brief were *Louis J. Lefkowitz*, Attorney General, and *Ruth Kessler Toch*, Acting Solicitor General.

MR. JUSTICE BRENNAN delivered the opinion of the Court.

These cases concern the constitutionality of § 4(e) of the Voting Rights Act of 1965.[1] That law, in the respects pertinent in these cases, provides that no person who has successfully completed the sixth primary grade in a public school in, or a private school accredited by, the Commonwealth of Puerto Rico in which the language of instruction was other than English shall be denied the right to vote in any election because of his inability to read or write English. Appellees, registered voters in New York City, brought this suit to challenge the constitutionality of § 4(e) insofar as it *pro tanto* prohibits the enforcement of the election laws of New York[2] requiring an ability to read and write English as a condition of voting. Under these laws many of the several hundred thousand New York City residents who have migrated there from the Commonwealth of Puerto Rico had previously been denied the right to vote, and appellees attack § 4(e) insofar as it would enable many of these citizens to vote.[3] Pursuant to § 14(b) of the Voting Rights Act of 1965, appellees commenced this proceeding in the District Court for the District of Columbia seeking a declaration that § 4(e) is invalid and an injunction prohibiting appellants, the Attorney General of the United States and the New York City Board of Elections, from either enforcing or complying with § 4(e).[4] A three-judge district court was designated. 28 U.S.C. §§ 2282, 2284 (1964 ed.). Upon cross motions for summary judgment, that court, one judge dissenting, granted the declaratory and injunctive relief appellees sought. The court held that in enacting § 4(e) Congress exceeded the powers granted to it by the Constitution and therefore usurped powers reserved to the States by the Tenth Amendment. 247 F. Supp. 196. Appeals were taken directly to this Court, 28 U.S.C. §§ 1252, 1253 (1964 ed.), and we noted probable jurisdiction. 382 U.S. 1007. We reverse. We hold that, in the application challenged in these cases, § 4(e) is a proper exercise of the powers granted to Congress by § 5 of the Fourteenth Amendment[5] and that by force of the Supremacy Clause, Article VI, the New York English literacy requirement cannot be enforced to the extent that it is inconsistent with § 4(e).

Under the distribution of powers effected by the Constitution, the States establish qualifications for voting for state officers, and the qualifications established by the States for voting for members of the most numerous branch of the state legislature also determine who may vote for United States Representatives and Senators, Art. I, § 2; Seventeenth Amendment; *Ex parte Yarbrough*, 110 U.S. 651, 663. But, of course, the States have no power to grant or withhold the franchise on conditions that are forbidden by the Fourteenth Amendment, or any other provision of the Constitution. Such exercises of state power are no more immune to the limitations of the Fourteenth Amendment than any other state action. The Equal Protection Clause itself has been held to forbid some state laws that restrict the right to vote.[6]

The Attorney General of the State of New York argues that an exercise of congressional power under § 5 of the Fourteenth Amendment that prohibits the enforcement of a state law can only be sustained if the judicial branch determines that the state law is prohibited by the provisions of the Amendment that Congress sought to enforce. More specifically, he urges that § 4(e) cannot be sustained as appropriate legislation to enforce the Equal Protection Clause unless the judiciary decides—even with the guidance of a congressional judgment—that the application of the English literacy requirement prohibited by § 4(e) is forbidden by the Equal Protection Clause itself. We disagree. Neither the language nor history of § 5 supports such a construction.[7] As was said with regard to § 5 in *Ex parte Virginia*, 100 U.S. 339, 345, "It is the power of Congress which has been enlarged. Congress is authorized to *enforce* the prohibitions by appropriate legislation. Some legislation is contemplated to make the amendments fully effective." A construction of § 5 that would require a judicial determination that the enforcement of the state law precluded by Congress violated the Amendment, as a condition of sustaining the congressional enactment, would depreciate both congressional resourcefulness and congressional responsibility for implementing the Amendment.[8] It would confine the legislative power in this context to the insignificant role of abrogating only those state laws that the judicial branch was prepared to adjudge unconstitutional, or of merely informing the judgment of the judiciary by particularizing the "majestic generalities" of § 1 of the Amendment. See *Fay* v. *New York*, 332 U.S. 261, 282–284.

Thus our task in this case is not to determine whether the New York English literacy requirement as applied to deny the right to vote to a person who successfully completed the sixth grade in a Puerto Rican school violates the Equal Protection Clause. Accordingly, our decision in *Lassiter* v. *Northampton Election Bd.*, 360 U.S. 45, sustaining the North Carolina English literacy requirement as not in all circumstances prohibited by the first sections of the Fourteenth and Fifteenth Amendments, is inapposite. Compare also *Guinn* v. *United States*, 238 U.S. 347, 366; *Camacho* v. *Doe*, 31 Misc. 2d 692, 221 N. Y. S. 2d 262 (1958), aff'd 7 N. Y. 2d 762, 163 N. E. 2d 140 (1959); *Camacho* v. *Rogers*, 199 F. Supp. 155 (D. C. S. D. N. Y. 1961). *Lassiter* did not present the question before us here: Without regard to whether the judiciary would find that the Equal Protection Clause itself nullifies New York's English literacy requirement as so applied, could Congress prohibit the enforcement of the state law by legislating under § 5 of the Fourteenth Amendment? In answering this question, our task is limited to determining whether such legislation is, as required by §5, appropriate legislation to enforce the Equal Protection Clause.

By including § 5 the draftsmen sought to grant to Congress, by a specific provision applicable to the Fourteenth Amendment, the same broad powers expressed in the Necessary and Proper Clause, Art. I, § 8, cl. 18.[9] The classic formulation of the reach of those powers was established by Chief Justice Marshall in *McCulloch* v. *Maryland*, 4 Wheat. 316, 421:

"Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional."

Ex parte Virginia, 100 U.S. at 345–346, decided 12 years after the adoption of the Fourteenth Amendment, held that congressional power under § 5 had this same broad scope:

"Whatever legislation is appropriate, that is, adapted to carry out the objects the amendments have in view, whatever tends to enforce submission to the prohibitions they contain, and to secure to all persons the enjoyment of perfect equality of civil rights and the equal protection of the laws against State denial or invasion, if not prohibtied, is brought within the domain of congressional power." *Strauder* v. *West Virginia*, 100 U.S. 303, 311; *Virginia* v. *Rives*, 100 U.S. 313, 318. Section 2 of the Fifteenth Amendment grants Congress a similar power to enforce by "appropriate legislation" the provisions of that amendment; and we recently held in *South Carolina* v. *Katzenbach*, 383 U.S. 301, 326, that "[t]he basic test to be applied in a case involving § 2 of the Fifteenth Amendment is the same as in all cases concerning the express powers of Congress with relation to the reserved powers of the States." That test was identified as the one formulated in *McCulloch* v. *Maryland*. See also *James Everard's Breweries* v. *Day*, 265 U.S. 545, 558–559 (Eighteenth Amendment). Thus the *McCulloch* v. *Maryland* standard is the measure of what constitutes "appropriate legislation" under § 5 of the Fourteenth Amendment. Correctly viewed, § 5 is a positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment.

We therefore proceed to the consideration whether § 4(e) is "appropriate legislation" to enforce the Equal Protection Clause, that

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Footnotes at end of article.

is, under the *McCulloch* v. *Maryland* standard, whether § 4(e) may be regarded as an enactment to enforce the Equal Protection Clause, whether it is "plainly adapted to that end" and whether it is not prohibited by but is consistent with "the letter and spirit of the constitution."[10]

There can be no doubt that § 4(e) may be regarded as an enactment to enforce the Equal Protection Clause. Congress explicitly declared that it enacted § 4(e) "to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English." The persons referred to include those who have migrated from the Commonwealth of Puerto Rico to New York and who have been denied the right to vote because of their inability to read and write English, and the Fourteenth Amendment rights referred to include those emanating from the Equal Protection Clause. More specifically, § 4(e) may be viewed as a measure to secure for the Puerto Rican community residing in New York non-discriminatory treatment by government—both in the imposition of voting qualifications and the provision or administration of governmental services, such as public schools, public housing and law enforcement.

Section 4(e) may be readily seen as "plainly adapted" to furthering these aims of the Equal Protection Clause. The practical effect of § 4(e) is to prohibit New York from denying the right to vote to large segments of its Puerto Rican community. Congress has thus prohibited the State from denying to that community the right that is "preservative of all rights." *Yick Wo* v. *Hopkins,* 118 U. S. 356, 370. This enhanced political power will be helpful in gaining nondiscriminatory treatment in public services for the entire Puerto Rican community.[11] Section 4(e) thereby enables the Puerto Rican minority better to obtain "perfect equality of civil rights and the equal protection of the laws." It was well within congressional authority to say that this need of the Puerto Rican minority for the vote warranted federal intrusion upon any state interests served by the English literacy requirement. It was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations—the risk or pervasiveness of the discrimination in governmental services, the effectiveness of eliminating the state restriction on the right to vote as a means of dealing with the evil, the adequacy or availability of alternative remedies, and the nature and significance of the state interests that would be affected by the nullification of the English literacy requirement as applied to residents who have successfully completed the sixth grade in a Puerto Rican school. It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did. There plainly was such a basis to support § 4(e) in the application in question in this case. Any contrary conclusion would require us to be blind to the realities familiar to the legislators.[12]

The result is no different if we confine our inquiry to the question whether § 4(e) was merely legislation aimed at the elimination of an invidious discrimination in establishing voter qualifications. We are told that New York's English literacy requirement originated in the desire to provide an incentive for non-English speaking immigrants to learn the English language and in order to assure the intelligent exercise of the franchise. Yet Congress might well have questioned, in light of the many exemptions provided,[13] and some evidence suggesting that prejudice played a prominent role in the enactment of the requirement,[14] whether these were actually the interests being served. Congress might have also questioned whether denial of a right deemed so precious and fundamental in our society was a necessary or appropriate means of encouraging persons to learn English, or of furthering the goal of an intelligent exercise of the franchise.[15] Finally, Congress might well have concluded that as a means of furthering the intelligent exercise of the franchise, an ability to read or understand Spanish is as effective as ability to read English for those to whom Spanish-language newspapers and Spanish-language radio and television programs are available to inform them of election issues and governmental affairs.[16] Since Congress undertook to legislate so as to preclude the enforcement of the state law, and did so in the context of a general appraisal of literacy requirements for voting, see *South Carolina v. Katzenbach, supra,* to which it brought a specially informed legislative competence,[17] it was Congress' prerogative to weigh these competing considerations. Here again, it is enough that we perceive a basis upon which Congress might predicate a judgment that the application of New York's English literacy requirement to deny the right to vote to a person with a sixth grade education in Puerto Rican schools in which the language of instruction was other than English constituted an invidious discrimination in violation of the Equal Protection Clause.

Footnotes at end of article.

There remains the question whether the congressional remedies adopted in § 4(e) constitute means which are not prohibited by, but are consistent "with the letter and spirit of the constitution." The only respect in which appellees contend that § 4(e) fails in this regard is that the section itself works an invidious discrimination in violation of the Fifth Amendment by prohibiting the enforcement of the English literacy requirement only for those educated in American-flag schools (schools located within United States jurisdiction) in which the language of instruction was other than English, and not for those educated in schools beyond the territorial limits of the United States in which the language of instruction was also other than English. This is not a complaint that Congress, in enacting § 4(e), has unconstitutionally denied or diluted anyone's right to vote but rather that Congress violated the Constitution by not extending the relief effected in § 4(e) to those educated in non-American-flag schools. We need not pause to determine whether appellees have a sufficient personal interest to have § 4(e) invalidated on this ground, see generally *United States* v. *Raines,* 362 U.S. 17, since the argument, in our view, falls on the merits.

Section 4(e) does not restrict or deny the franchise but in effect extends the franchise to persons who otherwise would be denied it by state law. Thus we need not decide whether a state literacy law conditioning the right to vote on achieving a certain level of education in an American-flag school (regardless of the language of instruction) discriminates invidiously against those educated in non-American-flag schools. We need only decide whether the challenged limitation on the relief effected in § 4(e) was permissible. In deciding that question, the principle that calls for the closest scrutiny of distinctions in laws *denying* fundamental rights, see n. 15, *supra,* is inapplicable; for the distinction challenged by appellees is presented only as a limitation on a reform measure aimed at eliminating an existing barrier to the exercise of the franchise. Rather, in deciding the constitutional propriety of the limitations in such a reform measure we are guided by the familiar principles that a "statute is not invalid under the Constitution because it might have gone farther than it did," *Roschen* v. *Ward,* 279 U.S. 337, 339, that a legislature need not "strike at all evils at the same time," *Semler* v. *Dental Examiners,* 294 U.S. 608, 610, and that "reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind," *Williamson* v. *Lee Optical Co.,* 348 U.S. 483, 489.

Guided by these principles, we are satisfied that appellees' challenge to this limitation in § 4(e) is without merit. In the context of the case before us, the congressional choice to limit the relief effected in § 4(e) may, for example, reflect Congress' greater familiarity with the quality of instruction in American-flag schools,[18] a recognition of the unique historic relationship between the Congress and the Commonwealth of Puerto Rico,[19] an awareness of the Federal Government's acceptance of the desirability of the use of Spanish as the language of instruction in Commonwealth schools,[20] and the fact that Congress has fostered policies encouraging migration from the Commonwealth to the States.[21] We have no occasion to determine in this case whether such factors would justify a similar distinction embodied in a voting-qualification law that denied the franchise to persons educated in non-American-flag schools. We hold only that the limitation on relief effected in § 4(e) does not constitute a forbidden discrimination since these factors might well have been the basis for the decision of Congress to go "no farther than it did."

We therefore conclude that § 4(e), in the application challenged in this case, is appropriate legislation to enforce the Equal Protection Clause and that the judgment of the District Court must be and hereby is

Reversed.

Mr. JUSTICE DOUGLAS joins the Court's opinion except for the discussion, at pp. 656–658, of the question whether the congressional remedies adopted in § 4(e) constitute means which are not prohibited by, but are consistent with "the letter and spirit of the constitution." On that question, he reserves judgment until such time as it is presented by a member of the class against which that particular discrimination is directed.

MR. JUSTICE HARLAN, whom MR. JUSTICE STEWART joins, dissenting.*

Worthy as its purposes may be thought by many, I do not see how § 4(e) of the Voting Rights Act of 1965, 79 Stat. 439, 42 U.S.C. § 1973b(e) (1964 ed. Supp. I), can be sustained except at the sacrifice of fundamentals in the American constitutional system—the separation between the legislative and judicial function and the boundaries between federal and state political authority. By the same token I think that the validity of New York's literacy test, a question which the Court considers only in the context of the federal statute, must be upheld. It will conduce to analytical clarity if I discuss the second issue first.

FOOTNOTES

*Together with No. 877, *New York City Board of Elections* v. *Morgan et ux.,* also on appeal from the same court.

[1] The full text of § 4(e) is as follows:

"(1) Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language.

"(2) No person who demonstrates that he has successfully completed the sixth primary grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language, except that in States in which State law provides that a different level of education is presumptive of literacy, he shall demonstrate that he has successfully completed an equivalent level of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English." 79 Stat. 439, 42 U.S.C. § 1937b(e) (1964 ed., Supp. I).

[2] Article II, § 1, of the New York Constitution provides, in pertinent part:

"Notwithstanding the foregoing provisions, after January first, one thousand nine hundred twenty-two, no person shall become entitled to vote by attaining majority, by naturalization or otherwise, unless such person is also able, except for physical disability, to read and write English."

Section 150 of the New York Election Law provides, in pertinent part:

". . . In the case of a person who became entitled to vote in this state by attaining majority, by naturalizatiton or otherwise after January first, nineteen hundred twenty-two, such person must, in addition to the foregoing provisions, be able, except for physical disability, to read and write English. A 'new voter,' within the meaning of this article, is a person who, if he is entitled to vote in this state, shall have become so entitled on or after January first, nineteen hundred twenty-two, and who has not already voted at a general election in the state of New York after making proof of ability to read and write English, in the manner provided in section one hundred sixty-eight."

Section 168 of the New York Election Law provides, in pertinent part:

"1. The board of regents of the state of New York shall make provisions for the giving of literacy tests.

"2. . . . But a new voter may present as evidence of literacy a certificate or diploma showing that he has completed the work up to and including the sixth grade of an approved elementary school or of an approved higher school is which English is the language of instruction or a certificate or diploma showing that he has completed the work up to and including the sixth grade in a public school or a private school accredited by the Commonwealth of Puerto Rico in which school instruction is carried on predominantly in the English language or a matriculation card issued by a college or university to a student then at such institution or a certificate or a letter signed by an official of the university or college certifying to such attendance."

Section 168 of the Election Law as it now reads was enacted while § 4(e) was under consideration in Congress. See 111 Cong. Rec. 19376–19377. The prior law required the successful completion of the eighth rather than the sixth grade in a school in which the language of instruction was English.

[3] This limitation on appellees' challenge to § 4(e), and thus on the scope of our inquiry, does not distort the primary intent of § 4(e). The measure was sponsored in the Senate by Senators Javits and Kennedy and in the House by Representatives Gilbert and Ryan, all of New York, for the explicit purpose of dealing with the disenfranchisement of large segments of the Puerto Rican population in New York. Throughout the congressional debate it was repeatedly acknowledged that § 4(e) had particular reference to the Puerto Rican population in New York. That situation was the almost exclusive subject of discussion. See 111 Cong. Rec. 11028, 11060–11074, 15666, 16235–16245, 16282–16283, 19192–19201, 19375–19378; see also Voting Rights, Hearings before Subcommittee No. 5 of the House Committee on the Judiciary on H.R. 6400, 89th Cong., 1st Sess., 100–101, 420–421, 508–517 (1965). The Solicitor General informs us in his brief to this Court, that in all probability the practical effort of § 4(e) will be limited to enfranchising those educated in Puerto Rican schools. He advises us that, aside from the schools in the Commonwealth of Puerto Rico, there are no public or parochial schools in the territorial limits of the United States in which the predominant language of instruction is other than English and which would have generally been attended by persons who are otherwise qualified to vote save for their lack of literacy in English.

[4] Section 14(b) provides, in pertinent part:

"No court other than the District Court for the District of Columbia . . . shall have jurisdiction to issue . . . any restraining order or temporary or permanent injunction against the . . . enforcement of any provision of this Act or any action of any Federal officer or employee pursuant hereto." 79 Stat. 445, 42 U.S.C. § 1973l(b) (1964 ed., Supp. I).

The Attorney General of the United States was initially named as the sole defendant. The New York City Board of Elections was joined as a defendant after it publicly announced its intention to comply with § 4(e); it has taken the position in these proceedings that § 4(e) is a proper exercise of congressional power. The Attorney General of the State of New York has participated as *amicus curiae* in the proceedings below and in this Court, urging § 4(e) be declared unconstitutional. The United States was granted leave to intervene as a defendant, 28 U.S.C. § 2403 (1964 ed.); Fed. Rule Civ. Proc. 24(a).

[5] "SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

It is therefore unnecessary for us to consider whether § 4(e) could be sustained as an exercise of power under the Territorial Clause, Art. IV, § 3; see dissenting opinion of Judge McGowan below, 247 F. Supp., at 204; or as a measure to discharge certain treaty obligations of the United States, see Treaty of Paris of 1898, 30 Stat. 1754, 1759; United Nations Charter, Articles 55 and 56; Art. I, § 8, cl. 18. Nor need we consider whether § 4 (e) could be sustained insofar as it relates to the election of federal officers as an exercise of congressional power under Art. I, § 4, see *Minor* v. *Happersett*, 21 Wall. 162, 171; *United States* v. *Classic*, 313 U.S. 299, 315; Literacy Tests and Voter Requirements in Federal and State Elections, Hearings before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary on S. 480, S. 2750, and S. 2979, 87th Cong., 2d Sess., 302, 306–311 (1962) (brief of the Attorney General); nor whether § 4(e) could be sustained, insofar as it relates to the election of state officers, as an exercise of congressional power to enforce the clause guaranteeing to each State a republican form of government, Art. IV, § 4; Art. I, § 8, cl. 18.

[6] *Harper* v. *Virginia Board of Elections*, 383 U.S. 663; *Carrington* v. *Rash*, 380 U. S. 89. See also *United States* v. *Mississippi*, 380 U. S. 128; *Louisiana* v. *United States*, 380 U. S. 145, 151; *Lassiter* v. *Northampton Election Bd.*, 360 U. S. 45; *Pope* v. *Williams*, 193 U. S. 621, 632–634; *Minor* v. *Happersett*, 21 Wall. 162; cf. *Burns* v. *Richardson*, *ante*, p. 73, at 92; *Reynolds* v. *Sims*, 377 U. S. 533.

[7] For the historical evidence suggesting that the sponsors and supporters of the Amendment were primarily interested in augmenting the power of Congress, rather than the judiciary, see generally Frantz, Congressional Power to Enforce the Fourteenth Amendment Against Private Acts, 73 Yale L. J. 1353, 1356–1357; Harris, The Quest for Equality, 33–56 (1960); tenBroek, The Antislavery Origins of the Fourteenth Amendment 187–217 (1951).

[8] Senator Howard, in introducing the proposed Amendment to the Senate, described § 5 as "a direct affirmative delegation of power to Congress," and added:

"It casts upon Congress the responsibility of seeing to it, for the future, that all the sections of the amendment are carried out in good faith, and that no State infringes the rights of persons or property. I look upon this clause as indispensable for the reason that it thus imposes upon Congress this power and this duty. It enables Congress, in case the States shall enact laws in conflict with the principles of the amendment, to correct that legislation by a formal congressional enactment." Cong. Globe, 39th Cong., 1st Sess., 2766, 2768 (1866).

This statement of § 5's purpose was not questioned by anyone in the course of the debate. Flack, The Adoption of the Fourteenth Amendment 138 (1908).

[9] In fact, earlier drafts of the proposed Amendment employed the "necessary and proper" terminology to describe the scope of congressional power under the Amendment. See tenBroek, The Antislavery Origins of the Fourteenth Amendment 187–190 (1951). The substitution of the "appropriate legislation" formula was never thought to have the effect of diminishing the scope of this congressional power. See, *e. g.*, Cong. Globe, 42d Cong., 1st Sess., App. 83 (Representative Bingham, a principal draftsman of the Amendment and the earlier proposals).

[10] Contrary to the suggestion of the dissent, *post*, p. 668, § 5 does not grant Congress power to exercise discretion in the other direction and to enact "statutes so as in effect to dilute equal protection and due process decisions of this Court." We emphasize that Congress' power under § 5 is limited to adopting measures to enforce the guarantees to the Amendment; § 5 grants Congress no power to restrict, abrogate, or dilute these guarantees. Thus, for example, an enactment authorizing the States to establish racially segregated systems of education would not be—as required by § 5—a measure "to enforce" the Equal Protection Clause since that clause of its own force prohibits such state laws.

[11] Cf. *James Everard's Breweries* v. *Day*, *supra*, which held that, under the Enforcement Clause of the Eighteenth Amendment, Congress could prohibit the prescription of intoxicating malt liquor for medicinal purposes even though the Amendment itself only prohibited the manufacture and sale of intoxicating liquors for beverage purposes. Cf. also the settled principle applied in the *Shreveport Case* (*Houston, E. & W. T. R. Co.* v. *United States*, 234 U.S. 342), and expressed in *United States* v. *Darby*, 312 U.S. 100, 118, that the power of Congress to regulate interstate commerce "extends to those activities intrastate which so affect interstate commerce or the exercise of the power of Congress over it as to make regulation of them appropriate means to the attainment of a legitimate end . . . ." Accord, *Atlanta Motel* v. *United States*, 379 U.S. 241, 258.

[12] See, *e. g.*, 111 Cong. Rec. 11061–11062, 11065–11066, 16240; Literacy Tests and Voter Requirements in Federal and State Elections, Senate Hearings, n. 5, *supra*, 507–508.

[13] The principal exemption complained of is that for persons who had been eligible to vote before January 1, 1922. See n. 2, *supra*.

[14] This evidence consists in part of statements made in the Constitutional Convention first considering the English literacy requirement, such as the following made by the sponsor of the measure: "More precious even than the forms of government are the mental qualities of our race. While those stand unimpaired, all is safe. They are exposed to a single danger, and that is that by constantly changing our voting citizenship through the wholesale, but valuable and necessary infusion of Southern and Eastern European races. . . . The danger has begun. . . . We should check it." III New York State Constitutional Convention 3012 (Rev. Record 1916).

See also *id.*, at 3015–3017, 3021–3055. This evidence was reinforced by an understanding of the cultural milieu at the time of proposal and enactment, spanning a period from 1915 to 1921—not one of the enlightened eras of our history. See generally Chafee, Free Speech in the United States 102, 237, 269–282 (1954 ed.). Congress was aware of this evidence. See, *e.g.*, Literacy Tests and Voter Requirements in Federal and State Elections, Senate Hearings, n. 5, *supra*, 507–513; Voting Rights, House Hearings, n. 3, *supra*, 508–513.

[15] Other States have found ways of assuring an intelligent exercise of the franchise short of total disenfranchisement of persons not literate in English. For example, in Hawaii, where literacy in either English or Hawaiian suffices, candidates' names may be printed in both languages, Hawaii Rev. Laws § 11–38 (1963 Supp.); New York itself already provides assistance for those exempt from the literacy requirement and are literate in no language, N.Y. Election Law § 169; and, of course, the problem of assuring the intelligent exercise of the franchise has been met by those States, more than 30 in number, that have no literacy requirement at all, see *e.g.*, Fla. Stat. Ann. §§ 97.061, 101.061 (1960) (form of personal assistance); New Mexico Stat. Ann. §§ 3–2–11, 3–3–13 (personal assistance for those literate in no language), §§ 3–3–7, 3–3–12, 3–2–41 (1953) (ballots and instructions authorized to be printed in English or Spanish). Section 4(e) does not preclude resort to these alternative methods of assuring the intelligent exercise of the franchise. True, the statute precludes, for a certain class, disenfranchisement and thus limits the States' choice of means of satisfying a purported state interest. But our cases have held that the States can be required to tailor carefully the means of satisfying a legitimate state interest when fundamental liberties and rights are threatened, see, *e.g.*, *Carrington* v. *Rash*, 380 U.S. 89, 96; *Harper* v. *Virginia Board of Elections*, 383 U.S. 663, 670; *Thomas* v. *Collins*, 323 U.S. 516, 529–530; *Thornhill* v. *Alabama*, 310 U.S. 88, 95–96; *United States* v. *Carolene Products Co.*, 304 U.S. 144, 152–153, n. 4; *Meyer* v. *Nebraska*, 262 U.S. 390; and Congress is free to apply the same principle in the exercise of its powers.

[16] See, *e.g.*, 111 Cong. Rec. 11060–11061, 15666, 16235. The record in this case includes affidavits describing the nature of New York's two major Spanish-language newspapers, one daily and one weekly, and its three full-time Spanish-language radio stations and affidavits from those who have campaigned in Spanish-speaking areas.

[17] See, *e.g.*, 111 Cong. Rec. 11061 (Senator Long of Louisiana and Senator Young), 11064 (Senator Holland), drawing on their experience with voters literate in a language other than English. See also an affidavit from Representative Willis of Louisiana expressing the view that on the basis of his thirty years' personal experience in politics he has "formed a definite opinion that French-speaking voters who are illiterate in English generally have as clear a grasp of the issues and understanding of the candidates, as do people who read and write the English language."

[18] See, *e.g.*, 111 Cong. Rec. 11060–11061.

[19] See Magruder, The Commonwealth Status of Puerto Rico, 15 U. Pitt. L. Rev. 1 (1953).

[20] See, *e.g.*, 111 Cong. Rec. 11060–11061, 11066, 11073, 16235. See Osuna, A History of Education in Puerto Rico (1949).

[21] See, *e.g.*, 111 Cong. Rec. 16235; Voting Rights, House Hearings, n. 3, *supra*, 362. See also Jones Act of 1917, 39 Stat. 953, conferring United States citizenship on all citizens of Puerto Rico.

THE CARDONA CASE (No. 673)

This case presents a straightforward Equal Protection problem. Appellant, a resident and citizen of New York, sought to register to vote but was refused registration because she failed to meet the New York English literacy qualification respecting eligibility for the franchise.[1] She maintained that although she could not read or write English, she had been born and educated in Puerto Rico and was literate in Spanish. She alleges that New York's statute requiring satisfaction of an English literacy test is an arbitrary and irrational classification that violates the Equal Protection Clause at least as applied to someone who, like herself, is literate in Spanish.

Any analysis of this problem must begin with the established rule of law that the franchise is essentially a matter of state concern, *Minor* v. *Happersett*, 21 Wall. 162; *Lassiter* v. *Northampton Election Bd.*, 360 U.S. 45, subject only to the overriding requirements of various federal constitutional provisions dealing with the franchise, *e.g.*, the Fifteenth, Seventeenth, Nineteenth, and Twenty-fourth Amendments,[2] and, as more recently decided, to the general principles of the Fourteenth Amendment. *Reynolds* v. *Sims*, 377 U.S. 533; *Carrington* v. *Rash*, 380 U.S. 89.

The Equal Protection Clause of the Fourteenth Amendment, which alone concerns us here, forbids a State from arbitrarily discriminating among different classes of persons. Of course it has always been recognized that nearly all legislation involves some sort of classification, and the equal protection test applied by this Court is a narrow one: a state enactment or practice may be struck down under the clause only if it cannot be justified as founded upon a rational and permissible state policy. See, *e.g.*, *Powell* v. *Pennsylvania*, 127 U.S. 678; *Lindsley* v. *Natural Carbonic Gas Co.*, 220 U.S. 61; *Walters* v. *City of St. Louis*, 347 U.S. 231.

It is suggested that a different and broader equal protection standard applies in cases where "fundamental liberties and rights are threatened," see *ante*, p. 655, note 16; dissenting opinion of DOUGLAS, J., in *Cardona*, *post*, pp. 676–677, which would require a State to show a need greater than mere rational policy to justify classifications in this area. No such dual-level test has ever been articulated by this Court, and I do not believe that any such approach is consistent with the purposes of the Equal Protection Clause, with the overwhelming weight of authority, or with well-established principles of federalism which underlie the Equal Protection Clause.

Thus for me, applying the basic equal protection standard, the issue in this case is whether New York has shown that its English-language literacy test is reasonably designed to serve a legitimate state interest. I think that it has.

In 1959, in *Lassiter* v. *Northampton Election Bd.*, *supra*, this Court dealt with substantially the same question and resolved it unanimously in favor of the legitimacy of a state literacy qualification. There a North Carolina English literacy test was challenged. We held that there was "wide scope" for State qualifications of this sort. 360 U.S., at 51. Dealing with literacy tests generally, the Court there held:

"The ability to read and write . . . has some relation to standards designed to promote intelligent use of the ballot. . . . Literacy and intelligence are obviously not synonymous. Illiterate people may be intelligent voters. Yet in our society where newspapers, periodicals, books, and other printed matter canvass and debate campaign issues, a State might conclude that only those who are literate should exercise the franchise. . . . It was said last century in Massachusetts that a literacy test was designed to insure an 'independent and intelligent' exercise of the right of suffrage. *Stone* v. *Smith*, 159 Mass. 413–414, 34 N. E. 521. North Carolina agrees. We do not sit in judgment on the wisdom of that policy. We cannot say, however, that it is not an allowable one measured by constitutional standards." 360 U.S., at 51–53.

I believe the same interests recounted in *Lassiter* indubitably point toward upholding the rationality of the New York voting test. It is true that the issue here is not so simply drawn between literacy *per se* and illiteracy. Appellant alleges that she is literate in Spanish, and that she studied American history and government in United States Spanish-speaking schools in Puerto Rico. She alleges further that she is "a regular reader of the New York City Spanish-language daily newspapers and other periodicals, which . . . provide proportionately more coverage of government and politics than do most English-language newspapers," and that she listens to Spanish-language radio broadcasts in New York which provide full treatment of governmental and political news. It is thus maintained that whatever may be the validity of literacy tests *per se* as a condition of voting, application of such a test to one literate in Spanish, in the context of the large and politically significant Spanish-speaking community in New York, serves no legitimate state interest, and is thus an arbitrary classification that violates the Equal Protection Clause.

Although to be sure there is a difference between a totally illiterate person and one who is literate in a foreign tongue, I do not believe that this added factor vitiates the constitutionality of the New York statute. Accepting appellant's allegations as true, it is nevertheless also true that the range of material available to a resident of New York literate only in Spanish is much more limited than what is available to an English-speaking resident, that the business of national, state, and local government is conducted in English, and that propositions, amendments, and offices for which candidates are running listed on the ballot are likewise in English. It is also true that most candidates, certainly those campaigning on a national or statewide level, make their speeches in English. New York may justifiably want its voters to be able to understand candidates directly, rather than through imprecise translations or summaries reported in a limited number of Spanish news media. It is noteworthy that the Federal Government requires literacy in English as a prerequisite to naturalization, 66 State. 239, 8 U.S.C. § 1423 (1964 ed.), attesting to the national view of its importance as a prerequisite to full integration into the American political community. Relevant too is the fact that the New York English test is not complex,[3] that it is fairly administered,[4] and that New York maintains free adult education classes which appellant and members of her class are encouraged to attend.[5] Given the State's legitimate concern with promoting and safeguarding the intelligent use of the ballot, and given also New York's long experience with the process of integrating non-English-speaking residents into the mainstream of American life, I do not see how it can be said that this qualification for suffrage is unconstitutional. I would uphold the validity of the New York statute, unless the federal statute prevents that result, the question to which I now turn.

II

THE MORGAN CASES (NOS. 847 AND 877)

These cases involve the same New York suffrage restriction discussed above, but the challenge here comes not in the form of a suit to enjoin enforcement of the state statute, but in a test of the constitutionality of a federal enactment which declares that "to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from

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Footnotes at end of article.

conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language." Section 4(e) of the Voting Rights Act of 1965. Section 4(e) declares that anyone who has successfully completed six grades of schooling in an "American-flag" school, in which the primary language is not English, shall not be denied the right to vote because of an inability to satisfy an English literacy test.[6] Although the statute is framed in general terms, so far as has been shown it applies in actual effect only to citizens of Puerto Rican background, and the Court so treats it.

The pivotal question in this instance is what effect the added factor of a congressional enactment has on the straight equal protection argument dealt with above. The Court declares that since § 5 of the Fourteenth Amendment[7] gives to the Congress power to "enforce" the prohibitions of the Amendment by "appropriate" legislation, the test for judicial review of any congressional determination in this area is simply one of rationality; that is, in effect, was Congress acting rationally in declaring that the New York statute is irrational? Although § 5 most certainly does give to the Congress wide powers in the field of devising remedial legislation to effectuate the Amendment's prohibition on arbitrary state action, *Ex parte Virginia*, 100 U. S. 339, I believe the Court has confused the issue of how much enforcement power Congress possesses under § 5 with the distinct issue of what questions are appropriate for congressional determination and what questions are essentially judicial in nature.

When recognized state violations of federal constitutional standards have occurred, Congress i of course empowered by § 5 to take appropriate remedial measures to redress and prevent the wrongs. See *Strauder* v. *West Virginia*, 100 U.S. 303, 310. But it is a judicial question whether the condition with which Congress has thus sought to deal is in truth an infringement of the Constitution, something that is the necessary prerequisite to bringing the § 5 power into play at all. Thus, in *Ex parte Virginia, supra,* involving a federal statute making it a federal crime to disqualify anyone from jury service because of race, the Court first held as a matter of constitutional law that "the Fourteenth Amendment secures, among other civil rights, to colored men, when charged with criminal offences against a State, an impartial jury trial, by jurors indifferently selected or chosen without discrimination against such jurors because of their color." 100 U.S., at 345. Only then did the Court hold that to enforce this prohibition upon state discrimination, Congress could enact a criminal statute of the type under consideration. See also *Clyatt* v. *United States,* 197 U.S. 207, sustaining the constitutionality of the antipeonage laws, 14 Stat. 546, now 42 U.S.C. § 1994 (1964 ed.) under the Enforcement Clause of the Thirteenth Amendment.

A more recent Fifteenth Amendment case also serves to illustrate this distinction. In *South Carolina* v. *Katzenbach,* 383 U.S. 301, decided earlier this Term, we held certain remedial sections of this Voting Rights Act of 1965 constitutional under the Fifteenth Amendment, which is directed against deprivations of the right to vote on account of race. In enacting those sections of the Voting Rights Act the Congress made a detailed investigation of various state practices that had been used to deprive Negroes of the franchise. See 383 U.S., at 308–315. In passing upon the remedial provisions, we reviewed first the "voluminous legislative history" as well as judicial precedents supporting the basic congressional finding that the clear commands of the Fifteenth Amendment had been infringed by various state subterfuges. See 393 U.S., at 309, 329–330, 333–334. Given the existence of the evil, we held the remedial steps taken by the legislature under the Enforcment Clause of the Fifteenth Amendment to be a justifiable exercise of congressional initiative.

Section 4(e), however, presents a significantly different type of congressional enactment. The question here is not whether the statute is appropriate remedial legislation to cure an established violation of a constitutional command, but whether there has in fact been an infringement of that constitutional command, that is, whether a particular state practice or, as here, a statute is so arbitrary or irrational as to offend the command of the Equal Protection Clause of the Fourteenth Amendment. That question is one for the judicial branch ultimately to determine. Were the rule otherwise, Congress would be able to qualify this Court's constitutional decisions under the fourteenth and Fifteenth Amendments, let alone those under other provisions of the Constitution, by resorting to congressional power under the Necessary and Proper Clause. In view of this Court's holding in *Lassiter, supra,* that an English literacy test is a permissible exercise of state supervision over its franchise, I do not think it is open to Congress to limit the effect of that decision as it has undertaken to do by § 4(e). In effect the Court reads § 5 of the Fourteenth Amendment as giving Congress the power to define the *substantive* scope of the Amendment. If that indeed be the true reach of § 5, then I do not see why Congress should not be able as well to exercise its § 5 "discretion" by enacting statutes so as in effect to dilute equal protection and due process decisions of this Court. In all such cases there is room for reasonable men to differ as to whether or not a denial of equal protection or due process has occurred, and the final decision is one of judgment. Until today this judgment has always been one for the judiciary to resolve.

I do not mean to suggest in what has been said that a legislative judgment of the type incorporated in § 4(e) is without any force whatsoever. Decisions on questions of equal protection and due process are based not on abstract logic, but on empirical foundations. To the extent "legislative facts" are relevant to a judicial determination, Congress is well equipped to investigate them, and such determinations are of course entitled to due respect.[8] In *South Carolina* v. *Katzenbach, supra,* such legislative findings were made to show that racial discrimination in voting was actually occurring. Similarly, in *Heart of Atlanta Motel, Inc.* v. *United States,* 379 U.S. 241, and *Katzenbach* v. *McClung,* 379 U.S. 294, this Court upheld Title II of the Civil Rights Act of 1964 under the Commerce Clause. There again the congressional determination that racial discrimination in a clearly defined group of public accommodations did effectively impede interstate commerce was based on "voluminous testimony," 379 U.S., at 253, which had been put before the Congress and in the context of which it passed remedial legislation.

But no such factual data provide a legislative record supporting § 4(e)[9] by way of showing that Spanish-speaking citizens are fully as capable of making informed decisions in a New York election as are English-speaking citizens. Nor was there any showing whatever to support the Court's alternative argument that § 4(e) should be viewed as but a remedial measure designed to cure or assure against unconstitutional discrimination of other varieties, *e.g.*, in "public schools, public housing and law enforcement," *ante,* p. 652, to which Puerto Rican minorities might be subject in such communities as New York. There is simply no legislative record supporting such hypothesized discrimination of the sort we have hitherto insisted upon when congressional power is brought to bear on constitutionally reserved state concerns. See *Heart of Atlanta Motel, supra; South Carolina* v. *Katzenbach, supra.*

Thus, we have here not a matter of giving deference to a congressional estimate, based on its determination of legislative facts, bearing upon the validity *vel non* of a statute, but rather what can at most be called a legislative announcement that Congress believes a state law to entail an unconstitutional deprivation of equal protection. Although this kind of declaration is of course entitled to the most respectful consideration, coming as it does from a concurrent branch and one that is knowledgeable in matters of popular political participation, I do not believe it lessens our responsibility to decide the fundamental issue of whether in fact the state enactment violates federal constitutional rights.

In assessing the deference we should give to this kind of congressional expression of policy, it is relevant that the judiciary has always given to congressional enactments a presumption of validity. *The Propeller Genesee Chief* v. *Fitzhugh,* 12 How. 443, 457–458. However, it is also a canon of judicial review that state statutes are given a similar presumption, *Butler* v. *Commonwealth,* 10 How. 402, 415. Whichever way this case is decided, one statute will be rendered inoperative in whole or in part, and although it has been suggested that this Court should give somewhat more deference to Congress than to a state legislature,[10] such a simple weighing of presumptions is hardly a satisfying way of resolving a matter that touches the distribution of state and federal power in an area so sensitive as that of the regulation of the franchise. Rather it should be recognized that while the Fourteenth Amendment is a "brooding omnipresence" over all state legislation, the substantive matters which it touches are all within the primary legislative competence of the States, Federal authority, legislative no less than judicial, does not intrude unless there has been a denial by state action of Fourteenth Amendment limitations, in this instance a denial of equal protection. At least in the area of primary state concern a state statute that passes constitutional muster under the judicial standard of rationality should not be permitted to be set at naught by a mere contrary congressional pronouncement unsupported by a legislative record justifying that conclusion.

To deny the effectiveness of this congressional enactment is not of course to disparage Congress' exertion of authority in the field of civil rights; it is simply to recognize that the Legislative Branch like the other branches of federal authority is subject to the governmental boundaries set by the Constitution. To hold, on this record, that § 4(e) overrides the New York literacy requirement seems to me tantamount to allowing the Fourteenth Amendment to swallow the State's constitutionally ordained primary authority in this field. For if Congress by what, as here, amounts to more *ipse dixit* can set that otherwise permissible requirement partially at naught I see no reason why it could not also substitute its judgment for that of the States in other fields of their exclusive primary competence as well.

I would affirm the judgments in each of these cases.[11]

FOOTNOTES

*[This opinion applies also to *Cardona* v. *Power, post,* p. 672.]

[1] The pertinent portions of the New York Constitution, Art. II, § 1, and statutory provisions are reproduced in the Court's opinion, *ante,* pp. 644–645, n. 2.

[2] The Fifteenth Amendment forbids denial or abridgment of the franchise "on account of race, color, or previous condition of servitude"; the Seventeenth deals with popular election of members of the Senate; the Nineteenth provides for equal suffrage for women; the Twenty-fourth outlaws the poll tax as a qualification for participation in federal elections.

[3] The test is described in McGovney, The American Suffrage Medley 63 (1949) as fol-

lows: "The examination is based upon prose compositions of about ten lines each, prepared by the personnel of the State Department of Education, designed to be of the level of reading in the sixth grade. . . . These are uniform for any single examination throughout the state. The examination is given by school authorities and graded by school superintendents or teachers under careful instructions from the central authority, to secure uniformity of grading as nearly as is possible." The 1943 test, submitted by the Attorney General of New York as representative, is reproduced below:

NEW YORK STATE REGENTS LITERACY TEST

(To be filled in by the candidate in ink)

Write your name here------------------
First name Middle initial Last name
Write your address here------------------
Write the date here----------------------
Month Day Year

Read this and then write the answers to the questions.

Read it as many times as you need to.

The legislative branch of the National Government is called the Congress of the United States. Congress makes the laws of the Nation. Congress is composed of two houses. The upper house is called the Senate and its members are called Senators. There are 96 Senators in the upper house, two from each State. Each United States Senator is elected for a term of six years. The lower house of Congress is known as the House of Representatives. The number of Representatives from each state is determined by the population of that state. At present there are 435 members of the House of Representatives. Each Representative is elected for a term of two years. Congress meets in the Capitol at Washington.

The answers to the following questions are to be taken from the above paragraph.

1 How many houses are there in Congress?
2. What does Congress do?
3 What is the lower house of Congress called?
4 How many members are there in the lower house?
5 How long is the term of office of a United States Senator?
6 How many Senators are there from each state?
7 For how long a period are members of the House of Representatives elected?
8 In what city does Congress meet?

[4] There is no allegation of discriminatory enforcement, and the method of examination, see n. 3, *supra*, makes unequal application virtually impossible. McGovney has noted, *op. cit. supra*, at 62, that "New York is the only state in the Union that both has a reasonable reading requirement and administers it in a manner that secures uniformity of application throughout the state and precludes discrimination, so far as is humanly possible." See *Camacho* v. *Rogers*, 199 F. Supp. 155, 159–160.

[5] See McKinney's Consolidated Laws of New York Ann., Education Law § 4605. See generally Handbook of Adult Education in the United States 455–465 (Knowles ed. 1960).

[6] The statute makes an exception to its sixth-grade rule so that where state law "provides that a different level of education is presumptive of literacy," the applicant must show that he has completed "an equivalent level of education" in the foreign-language United States school.

[7] Section 5 of the Fourteenth Amendment states that "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

[8] See generally Karst, Legislative Facts in Constitutional Litigation, 1960 The Supreme Court Review 75 (Kurland ed.); Alfange, The Relevance of Legislative Facts in Constitutional Law, 114 U. Pa. L. Rev. 637 (1966).

[9] There were no committee hearings or reports referring to this section, which was introduced from the floor during debate on the full Voting Rights Act. See 111 Cong. Rec. 11027, 15666, 16234.

[10] See Thayer, The Origin and Scope of the American Doctrine of Constitutional Law, 7 Harv. L. Rev. 129, 154–155 (1893).

[11] A number of other arguments have been suggested to sustain the constitutionality of § 4(e). These are referred to in the Court's opinion, *ante*, pp. 646–647, n. 5. Since all of such arguments are rendered superfluous by the Court's decision and none of them is considered by the majority, I deem it unnecessary to deal with them save to say that in my opinion none of those contentions provides an adequate constitutional basis for sustaining the statute.

III. KATZENBACH V. MORGAN

The third case of the term to pass on the Voting Rights Act of 1965, *Katzenbach v. Morgan*,[70] upheld § 4(e), giving the right to vote to Spanish-speaking Puerto Ricans in New York. It was decided together with a companion case, *Cardona v. Power*,[71] which had arisen and been disposed of in the New York courts before the enactment of the Voting Rights Act of 1965. The Supreme Court vacated and remanded the *Cardona* case, without deciding the constitutionality under the Fourteenth Amendment of the requirement of the New York law that voters be literate in English. (Justices Douglas and Fortas, dissenting, would have held it unconstitutional.) [72] So § 4(e) of the Voting Rights Act, which forbids a state to condition the vote of a person educated in an American-flag school on his ability to read and understand the English language, came to judgment on the assumption that the constitutionality of literacy in English as a condition on the right to vote is an open question under the Fourteenth Amendment.

The Court, Mr. Justice Brennan writing, began by restating a point made in *South Carolina v. Katzenbach*, namely, that Congress is empowered by § 2 of the Fifteen Amendment and § 5 of the Fourteenth to enact legislation appropriate to those constitutional provisions. Such legislation may reach into the affairs of the states further and differently than the Amendments themselves, applied by the courts without the aid of implementing legislation, would necessarily do.[73] This much is obvious enough. But in enacting appropriate legislation, is it up to Congress to define the substance of what the legislation must be appropriate to? If something is not an action of a state denying or abridging the right of citizens of the United States to vote, on account of race, color, or previous condition of servitude, may Congress say that it is, and thus reach it by legislation? If something is not an irrational classification by a state, may Congress say that it is and that it violates the Equal Protection Clause, and thus reach it by legislation? Of course, Congress may amass evidence and add the weight of its views, and thus affect, and affect powerfully, the Court's judgment of the applicability of the Fifteenth and Fourteenth Amendments. But may Congress under those Amendments, any more than under, for example, the Commerce Clause, determine the allocation of functions between federal and state governments, and the extent of its own powers? May it determine, not what means are appropriate to the enforcement of the Fourteenth and Fifteenth Amendments, or to the discharge of the function conferred by the Commerce Clause, but the content of the Amendments and of that clause?

Footnotes at end of article.

These questions did not arise in *South Carolina v. Katzenbach*, where only the appropriateness of the means chosen by Congress was at issue. But in *Katzenbach v. Morgan* the Court did answer these questions. For it rested its conclusion that § 4(e) is constitutional at least in part on a holding that § 5 of the Fourteenth Amendment empowered Congress to act, whether or not, in the judgment of the Court, the requirement of literacy in English may be regarded as a discrimination forbidden by the Equal Protection Clause. It was urged, said the Court, "that § 4(e) cannot be sustained as appropriate legislation to enforce the Equal Protection Clause unless the judiciary decides—even with the guidance of a congressional judgment—that the application of the English literacy requirement prohibited by § 4(e) is forbidden by the Equal Protection Clause itself. We disagree." [74] To the extent that the Court, in this branch of its decision, purported to rely on evidence of the intent of the framers of the Fourteenth Amendment, the sufficient reply that can be made is James A. Garfield's to John A. Bingham in the House, nearly a century ago. My colleague, said Garfield, "can make but he cannot unmake history." [75] Nothing is clearer about the history of the Fourteenth Amendment than that its framers rejected the option of an open-ended grant of power to Congress to meddle with conditions within the states so as to render them equal in accordance with its own notions. Rather the framers chose to write an amendment empowering Congress only to rectify inequalities put into effect by the states. Hence the power of Congress comes into play only when the precondition of a denial of equal protection of the laws by a state has been met. Congress' view that the precondition has been met should be persuasive, but it cannot be decisive. That is the history of the matter.[76] But perhaps the Court meant to override history in order to bring § 5 of the Fourteenth Amendment into harmony with some general premise of our constitutional system.

Yet, while Congress must be allowed the widest choice of means in the discharge of its function, the general premise of *Marbury v. Madison*,[77] and of *M'Culloch v. Maryland* [78] also, is that Congress does not define the limits of its own powers. It belongs, rather, to the Court, exercising the function of judicial review, to do so. When it applies the dormant Commerce Clause to the states, or when it protects federal instrumentalities from taxation by the states, the Court acts as a surrogate of Congress, and Congress, therefore, has the last word.[79] In a few other areas—taxation and spending for the general welfare is one; exclusion of aliens has been thought to be another—the Court, finding no standards to guide the exercise of judicial review, has abandoned the function. But the function has not yet been abandoned across the board. Whatever, then, could be the reasons for abdicating judicial review in this area of the Fourteenth Amendment, where it has been traditionally dominant? Certainly no general presumption of our constitutional system counsels any such abdication.

There is a second branch to the Court's decision in *Katzenbach v. Morgan*, which is subtler and more interesting. Congress, said the Court, may not have considered the New York requirement of literacy in English as itself a violation of the Fourteenth Amendment. Rather Congress may have been concerned with evidence of discriminatory treatment of the Puerto Rican community at the hands of New York public agencies. The Court was able to adduce no evidence of such discrimination, either out of the materials that were before Congress or independently of those materials.[80] But perhaps, with some stretching, the presumption of constitutionality should make up for this lack of evidence.[81] The argument then proceeds in this fashion. Instead of directly attacking the discrimination practiced against the Puerto Ricans, as it could plainly have done under the Fourteenth Amendment, Congress decided to reach it indirectly. It secured the vote for the Puerto Rican community, in the belief that its political power would then enable that community to ensure non-discriminatory treatment for itself. The vote is thus seen as a means of enforcing the Fourteenth Amendment, not as itself the end of the congressional action, and Congress is not in the position of having undertaken to determine the substance of Fourteenth Amendment rights. Congress is merely presumed to have established facts showing that those rights, as judicially defined, have been or may be denied, and of choosing a suitable remedy: [82]

"It was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations—the risk or pervasiveness of the discrimination in governmental services, the effectiveness of eliminating the state restriction on the right to vote as a means of dealing with the evil, the adequacy or availability of alternative remedies, and the nature and significance of the state interests that would be affected by the nullification of the English literacy requirement as applied to residents who have successfully completed the sixth grade in a Puerto Rican school. It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did."

The argument is superficially attractive. But suppose Congress decided that aliens or eighteen-year-olds or residents of New Jersey are being discriminated against in New York. The decision would be as plausible as the one concerning Spanish-speaking Puerto Ricans. Could Congress give these groups the vote? If Congress may freely bestow the vote as a means of curing other discriminations, which it fears may be practiced against groups deprived of the vote, essentially because of this deprivation and on the basis of no other evidence, then there is nothing left of state autonomy in setting qualifications for voting. The argument proves too much. The Court relied on Marshall's famous pronouncement: Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional." [83] The Court duly emphasized appropriateness, and adaptation to a given end, but it de-emphasized altogether too much Marshall's caveat that the means chosen must also not be prohibited, and must consist with the letter and spirit of the constitution." [84]

FOOTNOTES

[70] 384 U.S. 641 (1966).

[71] 384 U.S. 672 (1966).

[72] *Id.* at 675.

[73] See 383 U.S. at 325–27.

[74] 384 U.S. at 648.

[75] Quoted in Bickel, *The Original Understanding and the Segregation Decision,* 69 HARV. L. REV. 1, 60, n. 115 (1955).

[76] See *id.* at 32–40; HARRIS, THE QUEST FOR EQUALITY 34–50 (1960). The argument in Frantz, *Congressional Power To Enforce the Fourteenth Amendment against Private Acts,* 73 YALE L.J. 1353 (1964), is not really to the contrary. See 73 YALE L.J. at 1358–59.

[77] 1 Cranch 137 (1803).

[78] 4 Wheat, 316 (1819).

[79] See Brown, *The Open Economy: Justice Frankfurter and the Position of the Judiciary,* 67 YALE L.J. 219, 221 (1957); FREUND, THE SUPREME COURT OF THE UNITED STATES, 92, 93 (1961). But in a letter to Senator Robert F. Kennedy, dated May 17, 1965, which the Senator relied on in the course of debate on § 4(e), Professor Freund wrote: "It would be agreed, for example, that if a State were to deny the franchise to Catholics or to a group of Protestants, the classification could be struck down by Congress or the courts under the 14th amendment's guarantee of equal protection of the laws. The courts do not have sole responsibility in this area. Just as Congress may give a lead to the courts under the Commerce Clause in prohibiting certain kinds of state regulation or taxation, and just as Congress may expressly prohibit certain forms of taxation of Federal instrumentalities, whether or not the courts have done so of their own acocrd, so in implementing the 14th and 15th amendments Congress may legislate through a declaration that certain forms of classification are unreasonable for purposes of the voting franchise." 111 CONG. REC. 11062, 89th Cong., 1st Sess. (May 20, 1965). But surely the analogy between the respective functions of the Court and the Congress in the areas of state taxation and regulation of interstate commerce and of state taxation of federal instrumentalities, on the one hand, and the area of the Fourteenth Amendment, on the other, is too readily drawn by Professor Freund in this letter.

[80] The only item of relevant evidence cited (but not quoted, or seven paraphrased) by the Court is the following letter received in 1962 by the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, and incorporated in the record of hearings the subcommittee held in the course of that year on literacy tests and other voter qualifications. The letter, dated at New York, April 16, 1962, is signed, Gene Crescenzi. It is short, and the gist of it needs to be quoted in full:

"The fact of disfranchisement of these citizens [Puerto Ricans in New York] operates to make them subject to all kinds of abuses and denials of the equal protection of the law. More serious than this, a fifth column type of activity has arisen in our governmental agencies and among elected public officials in respect to the disfranchised Puerto Ricans.

"In the week of January 2 to 9, 1962, the employees of Flower Hospital went on strike, they are mostly Puerto Ricans earning $35 to $40 per week, approximately 35 of these people were beaten and arrested. In this same week, the mayor of New York raised his wages $10,000. On January 17th the General Sessions Court announced that it would require probationers who don't speak English to learn English, as the lack of English was the cause of their problems. I could write volumes on the cruelty, brutality, murder, mayhem and general abuse delivered upon the disfranchised Spanish-speaking citizens in New York by the various agencies of our Government, all of which is directly due to their disfranchisement. Having no vote, they have no representation and no means of redress.

"The English literacy requirement is an instrument of racist policies of the State of New York, and it is used to circumvent the U.S. Constitution. It is more vicious in its application in the State of New York because it has driven its racist politicians underground, than in Southern States where segregation has long been a way of life and may be fought in the open in the American way." Literacy Tests and Voter Requirements in Federal and State Elections, Hearings before the Subcommittee on Constitutional Rights of the Committee on the Judiciary on S. 480, S. 2750, and S. 2979, 87th Cong., 2d Sess. 507–08 (1962).

A statement in 1965 to a subcommittee of the House Committee on the Judiciary by Herman Badillo, a leading Puerto Rican politician and now Borough President of The Bronx, pleaded for passage of what was to become § 4(e), but nowhere charged discrimination in public services or by any public agencies in New York against Puerto Ricans. See Voting Rights, Hearings before Subcommittee No. 5 of the Committee on the Judiciary on H.R. 6400, House of Representatives, 89th Cong., 1st Sess. 508–17 (1965).

[81] The stretching, however, would be considerable. It would amount, to change the figure somewhat, to a leap from a presumption buttressed by data, even if data "offered not for the truth of the facts asserted *but* only to establish that responsible persons have made the assertion and hold the opinions which are disclosed," FREUND, ON UNDERSTANDING THE SUPREME COURT 88, *and* see also 87–89 (1951), to a presumption that makes up for the lack of any data at all—a presumption that, in a case such as the present one, puts the party attacking constitutionality to the task of proving a negative.

[82] 384 U.S. at 653.

[83] 4 Wheat. at 421.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ERVIN. I yield the floor.

Mr. WILLIAMS. Mr. President I suggest the absence of a quorum, on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. WILLIAMS. I yield myself 5 minutes.

Mr. President, my understanding of the amendment offered by the Senator from North Carolina leads me to the conclusion that it has merit. As I understand it, I am certain it will be acceptable, but I would like to have it clarified to make sure that my understanding is accurate. First, State and local governments are now included under the bill as employers. The amendment would provide, for the purposes of the bill and for the basic law, that an elected individual is not an employee and, threfore, the law could not cover him. The next point is that the elected official would, in his position as an employer, not be covered and would be exempt in the employment of certain individuals.

Now we get to the inquiry of the Senator from New York (Mr. JAVITS) yesterday as the ambit of that employment by the elected official. But let me back up here to say that I certainly subscribe, and for many reasons, to the exclusion of the elected official at the State and local governing level. His test comes at the polls rather than under a law of this nature. I think that is certainly sufficient test as to propriety in the undertaking of his office, in view of the people that have the opportunity to select him for elected office. For another reason, I would think he should not be in a position to have unwarranted and irresponsible charges made against him. Again, his test would be at the polls.

The second degree relates to other people who are covered. That is basically the purpose of the amendment, to exempt from coverage those who are chosen by the Governor or the mayor or the county supervisor, whatever the elected official is, and who are in a close personal relationship and an immediate relationship with him. Those who are his first line of advisers. Is that basically the purpose of the Senator's amendment?

Mr. ERVIN. I would say to my good friend from New Jersey that that is the purpose of the amendment. I feel that those elected officials who are legal advisers or who are personal assistants or legal advisers, as to how he should exercise his constitutional, legal rights and responsibilities, should also be exempt. That is the purpose of the amendment, yes.

Mr. WILLIAMS. That is my understanding. As to the degree, certainly it would cover those who are in a Governor's cabinet, his cabinet officers. They would be included in the group of personal assistants; is that not correct?

Mr. ERVIN. That is what is intended by this amendment, plus his immediate legal advisers, because no Governor today can get along and discharge the many duties imposed upon him by his office without having someone to lean on for advice, counsel, and so forth.

Mr. WILLIAMS. But it is not the intention of the Senator's amendment to go to the employees of the personal advisers to the elected officials; is that not correct?

Mr. ERVIN. This amendment would not do that. That is not its intention. I would like to do that, but I do not think I could persuade the Senate to adopt an exclusion of that kind. It is not its purpose to go to the employees of the personal assistants or to the legal advisers.

Mr. WILLIAMS. Well, I am happy to hear that that is the intention. I accept that in principle and feel it would not be at variance with or in violation of the thrust, the scope, or the purposes of this legislation.

I shall yield in a moment to the Senator from New York (Mr. Javits), but first would like to say to the Senator from North Carolina, in order to make crystal clear what we have been discussing, that I would like to offer an amendment to do exactly what we have just been discussing, as an amendment to the Senator's amendment.

Mr. ERVIN. The Senator from New York has shown me what he proposes to do, and I would like to modify my amendment to include his suggestion, provided I can get unanimous consent to do so, since the yeas and nays on the amendment have already been ordered.

I would propose to accept the suggestion offered by the Senator from New Jersey and the Senator from New York for a change in the phraseology of my amendment so that the amendment would read as follows:

On page 33, insert the following between line 10 and line 11:

"(5) In subsection (f), change the period at the end of the subsection to a colon, and add thereafter the following words:

"'*Provided, however,* That the term "employee" shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be a personal assistant, or an immediate adviser in respect to the exercise of the constitutional or legal powers of the office.'"

Renumber section (5) as (6).

If that is agreeable to the Senator from New Jersey and the Senator from New York, I should like to modify my amendment accordingly.

Mr. JAVITS. Mr. President, I trust that it will be satisfactory and I join with the Senator from New Jersey (Mr. Williams) in the proposal. However, I want to be sure that we have no difference of opinion as to what it means.

I might tell the distinguished Senator from North Carolina (Mr. Ervin) that I was not troubled by the word "constitutional" but by "legal powers,". He would be, as a lawyer, too. Because all that means is appertaining to the functions of his office—and all his powers are legal, of course, so we wanted to be sure of the ambit of "... any person chosen to be a personal assistant, or an immediate adviser. . . ."

If the Senator will bear with me for a moment, I should like to say, as we understand those difficulties, that I hope I will not be construed as being didactic. I do not mean that at all. That is, eight persons only, and not one more person—anything like that. We are talking about the order of magnitude. I have no desire to argue about the fine points of some particular appointment, but generally speaking we consider a personal assistant as being a secretary or, as I have, an administrative assistant, a legislative aide, and then a mayor may have four assistants.

So that is what we would understand a personal assistant to be. "A secretary," of course, is an accurate designation. He may have two or three secretaries. Important people have more than one.

The other thing, the immediate advisers, I was thinking more in terms of a cabinet, of a Governor who would call his commissioners a cabinet, or he may have a cabinet composed of three or four executive officials, or five or six, who would do the main and important things. That is what I would define those things expressly to mean.

What troubled me yesterday was the idea of getting down to the "nitty-gritty," as I explained to the Senator the "many assistants." When I was Attorney General, I employed 500 people. Of those 500 persons, perhaps on the outside 20 would be personal assistants or immediate advisers, but the other 480 would be persons who might be assistants in charge of a particular function, or something like that.

So, if we understand each other on that score, this is entirely satisfactory to me. Do I understand correctly, then, that we agree on this?

Mr. ERVIN. Yes. In other words, I think that the change that has been made makes it clear. I recognize that language sometimes is difficult to write, so that it may properly express the ideas intended to be expressed. However, the suggested change would, I think, express our objective in accordance with what the Senator would expect.

Mr. JAVITS. I thank the Senator.

Mr. ERVIN. Mr. President, I ask unanimous consent that the Senator from Alabama and I be permitted to modify my amendment so as to conform with the change.

The PRESIDING OFFICER. Without objection, the amendment is accordingly modified.

Mr. ERVIN. Mr. President, I thank the Senator from New York and the Senator from New Jersey. I think this improves the bill.

Mr. WILLIAMS. Mr. President, I am glad that we have arrived at this harmonious and fair understanding of the matter.

Mr. President, I ask unanimous consent that the two sections following the amendment be renumbered to conform to the numbers that would follow.

The PRESIDING OFFICER. Does the Senator from New Jersey also ask unanimous consent that line 12 "Renumber section (5) as (6)", be deleted?

Mr. WILLIAMS. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I have no further comments. I yield back the remainder of my time.

Mr. ERVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded and yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment, as modified, of the Senator from North Carolina and the Senator from Alabama. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from California (Mr. Cranston), the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Iowa (Mr. Hughes), the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), the Senator from South Dakota (Mr. McGovern), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Georgia (Mr. Gambrell) are necessarily absent.

I further announce that the Senator from Idaho (Mr. Church), the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), the Senator from Virginia (Mr. Spong), and the Senator from Georgia (Mr. Talmadge) are absent on official business.

I further announce that, if present and voting, the Senator from South Dakota (Mr. McGovern) would vote "nay."

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson), the Senator from Minnesota (Mr. Humphrey), the Senator from Iowa (Mr. Hughes), and the Senator from Georgia (Mr. Gambrell), would each vote "yea."

Mr. SCOTT. I announce that the Senators from Vermont (Mr. Aiken and Mr. Stafford), the Senators from Kentucky

(Mr. COOK and Mr. COOPER) and the Senator from Alaska (Mr. STEVENS) are absent to attend the meetings of the Canadian Interparliamentary Union.

The Senator from Oklahoma (Mr. BELLMON), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. PACKWOOD) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. DOMINICK), and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The result was announced—yeas 69, nays 2, as follows:

[No. 49 Leg.]

YEAS—69

Allen
Allott
Baker
Bayh
Beall
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Cotton
Curtis
Dole
Eagleton
Eastland
Ellender
Ervin
Fannin
Fulbright
Goldwater
Gurney
Hansen
Hatfield
Hruska
Inouye
Javits
Jordan, N.C.
Jordan, Idaho
Long
Mansfield
Mathias
McClellan
McGee
McIntyre
Metcalf
Miller
Mondale
Montoya
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Sparkman
Stennis
Stevenson
Symington
Taft
Tower
Tunney
Weicker
Williams
Young

NAYS—2

Hart
Magnuson

NOT VOTING—29

Aiken
Anderson
Bellmon
Church
Cook
Cooper
Cranston
Dominick
Fong
Gambrell
Gravel
Griffin
Harris
Hartke
Hollings
Hughes
Humphrey
Jackson
Kennedy
McGovern
Moss
Mundt
Muskie
Packwood
Spong
Stafford
Stevens
Talmadge
Thurmond

So the Ervin-Allen amendment (No. 888), as modified, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 890

Mr. ALLEN. Mr. President, I call up amendment No. 890, which is offered by the distinguished Senator from North Carolina (Mr. ERVIN) and me, and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 66, insert the following new section between lines 13 and 14:

"SEC. 13. The amendments made by this Act to title VII of the Civil Rights Act of 1964 shall not be applicable to the employees of States or the political subdivisions of States as long as Congress exempts its employees and the employees of its Members from them"

Renumber SEC. 13 as SEC. 14.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the understanding that the Senator from Alabama does not lose his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, with the approval of the sponsor of the amendment and the manager of the bill, I ask unanimous consent that there be a time limitation of 2 hours on the pending amendment, the time to be equally divided, 1 hour each to the distinguished Senator from Alabama (Mr. ALLEN) and the distinguished chairman of the committee, the Senator from New Jersey (Mr. WILLIAMS).

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. And on any amendment or motion thereto, a limitation of 20 minutes, the time to be equally divided in the same fashion.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ALLEN. Mr. President——

The PRESIDING OFFICER. Will the Senator from Alabama inform the Chair as to how much time he yields himself?

Mr. ALLEN. I yield myself such time as I may require.

The purpose of this amendment is to provide that the provisions of the bill, insofar as they affect the employees of States or political subdivisions of the States, shall not become applicable until the law is made to apply alike to Members of Congress and the employees of Members of Congress.

Under the existing law, the EEOC does not have jurisdiction over the employees of States, counties, cities, and the agencies of the States, counties, and cities; but under the bill as it now stands, the coverage by EEOC is to be extended to some 10 million employees of States, counties, and city governments.

However, the authors and proponents of the bill have seen fit to provide that in the provisions of the present bill, jurisdiction by the EEOC shall not extend to the employees of the Congress or to the employees of the Members of the House of Representatives or to the employees of the Members of the Senate.

Mr. President, it occurs to the junior Senator from Alabama that we should not put the employees of States, counties, and cities under the EEOC without at the same time making the provisions of the law applicable also to the employees of both Houses of Congress and the various offices of both Houses of Congress and the employees of the Members of both Houses.

If it so good for the States, why should it not be equally good for the employees of the Senate, employees of the House of Representatives, employees of the Members of the Senate, and employees of the Members of the House?

Mr. President, I do not feel that the law should be applicable to States, counties, and cities, and I feel that this is just another instance of the further encroachment by the Federal Government on the powers of local government.

If it is to be extended to States, counties, and cities, why should it not also be made applicable to all of us and the employees of both bodies? There must be some merit in the bill, since it is apparently supported by a majority of the Members of the Senate, as the votes on the various amendments would indicate.

So the purpose of this amendment would be to provide that so long as the employees of the House and Senate and of the Members of the two bodies are not covered by the bill, then the employees of States, counties, and cities shall not be covered. It puts them all on the same basis. It treats the Federal employees to which I have alluded on the same basis as State, county, and city employees.

So it would seem to the junior Senator from Alabama that this would indeed be an equitable amendment. It would be an amendment that would improve the bill. It still would not take it a good bill.

This agency was created in 1964 as an agency of conciliation, an agency that would seek to investigate and conciliate charges of discriminatory employment practices of various employers. I believe when it was originally enacted into law it provided that it would be applicable only to employers employing as many as 100 people. That number has gone down, under the provisions of the law, progressively to 75, then I believe to 50, and presently to 25.

Of course, the bill seeks to carry on with the creeping—or galloping, if you please—onward march of Federal bureaucracy, so that by now, under the provisions of the bill as it now stands, it provides coverage by the law of all employers in this country who employ as many as 15 persons.

So, Mr. President, it is going to bring many small businesses under the punitive provisions of this law for the first time. There are tens of thousands—in fact, millions—of employees who would be brought under the coverage of the law for the first time, if this bill should become law.

A company that employs as few as 15 employees is not one of the mammoth companies that many Members of Congress are seeking further to regulate from time to time.

They are small businesses. And, Mr. President, I submit that small businesses in this country are literally being driven to the wall by Federal bureaucracy red-tape, by heavy taxes, by investigations, and by harassment, and I predict that there will be hundreds of small businesses that will close their doors and cease to engage in business as a result of the activities and the harassment by the so-called Equal Employment Opportunity Commission.

It has been indicated by the proponents of the bill that this is a bill that would end or outlaw discrimination. That is hardly correct. It is already against the law to discriminate in employment practices. This measure does not change the basic law one bit. It does not make any action by an employer—or, if the bill should pass, a State, county, or city—a discriminatory practice unless it is already a discriminatory practice. It does not add to the definition of what is a discriminatory employment practice.

That law remains the same. It merely makes tens of millions of additional people subject to the provisions of this law. It brings in for the first time every educational institution in this country—every college, every university, every private school, every church-supported school. I assume every high school and every elementary school would be covered for the first time under the provisions of this bill if it should become a law. There are literally millions of such employees.

Mr. President, I would hate to turn the employment practices of a church-related school, or any school for that matter, over to the EEOC, to let them take over the employment practices of a college or a university. Where is academic freedom? If the EEOC is going to control the employment practices of our schools, how are such institutions to survive?

Mr. President, some effort is made to make an exception in the case of religious educational institutions insofar as such an institution is carrying on its religious activities. But, Mr. President, all activities of a church-supported school are not necessarily of a religious nature. They teach mathematics, philosophy, history, English, literature, science. But, Mr. President, under this bill, if the bill becomes law—and I hope it does not—the EEOC could control the selection by a church-related school of any person with regard to instruction in these other areas.

A church-supported school might like to have all of its faculty members of one religious denomination. That would not be permitted under the terms of the bill now pending before the Senate. It would be possible, as the distinguished Senator from North Carolina has pointed out, for the EEOC to require a Presbyterian church-related school to employ a Mohammedan for the purpose of teaching any subject other than religion. That would certainly be unfair to such a church-supported school. I point this out merely as one illustration of the hardships, the injustices, that would be possible under the act.

Mr. President, the Senate has been discussing the provisions of this bill for some days. I submit that some good has come out of the discussion. I do not know to what extent Members of the Senate have been informed, because there have not been too many present to hear the debate. I assume most Senators read the CONGRESSIONAL RECORD at the end of each day to see what did take place and what was said on the floor of the Senate.

But the discussion has been constructive. As the bill was originally introduced, it provided that the EEOC would have cease-and-desist powers. What does that mean? It means that in addition to being a conciliation agency, in addition to receiving complaints, investigating complaints, filing charges on those complaints with itself, trying those charges, and reaching decisions, it could then issue an order which would be enforceable, so that one Federal bureau would have the power to be the judge, the jury, the prosecutor, and I assume the enforcement officer, all rolled into one.

Several votes were taken on an amendment which would change that provision and require the EEOC, after receiving the complaints, investigating them I assume, and seeking to conciliate them, to go into the Federal court to prove its charges. The Senate on more than one occasion voted down that principle; but, Mr. President, the debate continued.

The purpose of any extended debate, I assume, is not merely to hold up the proceedings for the purpose of obstructionism. Far from it. The purpose of an extended debate that is worth engaging in is to alert the country about what is going on in the Senate, what is under consideration in the Senate, what the Senate is about to do, and to say, "Stop. You must not do that until the country is heard from." That is what happened with this debate. When the country began to be heard from, the amendment providing for court enforcement of decisions with regard to alleged discriminatory employment practices was adopted.

On two occasions, the Senate, in its wisdom, saw fit to vote down cloture motions which were filed for the purpose of ending the extended debate in the Senate; so the debate has continued. Mr. President, it is interesting to note the timing of a cloture motion. A cloture motion is always voted on, as Senators know, not the next day after filing, but the next day plus one, as the rule provides. By having that knowledge, the proponents of the cloture effort can control the time at which the cloture motion is voted on.

The last time we voted on cloture, the would-be Presidents in the Senate—and there are quite a number—were all absent but one. So this time it has been announced that the cloture motion is going to be filed not today, not yesterday, but tomorrow. What is the significance of that? The significance is that, not meeting Saturday, we would not vote Monday but would vote Tuesday. That will give the various presidential candidates, all of whom favor cutting off free debate in the Senate—every single one of them—an opportunity to be here in force on next Tuesday. Mark my words.

So, Mr. President, I am hopeful that cloture will be voted down next Tuesday. I commend the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), for his attitude with regard to this debate and commend him for his policies as he guides the Senate, because there could not be a fairer leader of the Senate than the distinguished Senator from Montana (Mr. MANSFIELD). He is going to vote for cloture the next time it comes up for a vote. But he announced that the next cloture vote is going to be the last cloture vote, and if cloture is not invoked, this bill is dead.

Mr. President, why take up the time of the Senate in conferring power on an agency that has not had this power for more than 7 years? It did not have that power when it was brought into being. It has never had that power. With as much as the U.S. Senate has to do why should we spend all that time discussing the measure? They already have some 32,000 cases on their docket. They estimate that they are going to have 45,000 more cases filed the next year, and they are falling behind all the time. Yet, they are reaching out to get more power and more jurisdiction. Although their original function was to seek to conciliate, it is now being turned into enforcement. Throw conciliation out the window. Let us enforce our will on those subject to our jurisdiction.

Mr. President, I am not surprised at this agency seeking more power. The distinguished Senator from New Jersey (Mr. WILLIAMS) said, in answer to a question I propounded to him some days ago, that within the next 2 or 3 years it is anticipated that the employees of the EEOC will double in number from the present 1,000 employees to 2,000.

I would hazard the opinion that that is probably a conservative estimate, that they are going to double in size in the next 2 or 3 years.

Here is an agency seeking to double in size, seeking to become more important, seeking to have more jurisdiction, seeking to have more power over the lives of our people; but here is an opportunity on the part of the Members of the U.S. Senate to call a halt at least one effort to double the size of a Federal agency. People complain to each of us, I am sure, about the high cost of government, about the fact that its administration exceeds its requests, and the debt limit is raised to $480 billion, that we will soon go up to that, that we operated for the past 3 years with a total deficit of around $83 billion. But here we have an opportunity to stop at least one Federal agency in its tracks, to stop the mushrooming of one agency. We do not get that opportunity very often. These agencies just expand, expand, and expand and become a law unto themselves. They enjoy an autonomy of their own seemingly beyond the power even of the highest in the executive departments.

So, Mr. President, we must stand firm when this Commission comes before the Senate again. We will not be taking any power away from the EEOC but will be leaving it where it has been for the past 7 years. I assume they feel they have been doing a good job, because they have never failed to come in each year to ask for appropriations to carry on their work—more money each time, of course.

So, Mr. President, if we can hold firm on the next cloture motion vote, we can defeat the bill and leave the EEOC where it has always been, as a conciliation agency as between employers and employees in covered lines of business and industry.

Mr. President, I ask unanimous consent that I may yield the floor at this time to the distinguished Senator from Arkansas (Mr. FULBRIGHT) for not to exceed 30 minutes and that that time not be charged against the time that has been allotted to me on this amendment.

The PRESIDING OFFICER (Mr. WEICKER). Is there objection to the request of the Senator from Alabama?

Mr. BYRD of West Virginia. Mr. President, reserving the right to object—and I do not intend to object—I believe I understand correctly that the distinguished manager of the bill will yield time to the Senator from Arkansas (Mr. FULBRIGHT).

Mr. WILLIAMS. Mr. President, I know the importance of the statement the Senator from Arkansas (Mr. FULBRIGHT) is about to make. I believe it is important that it be made and I am yielding such time as he needs from the time remaining to me on this amendment now pending before the Senate.

Mr. ALLEN. I thank the Senator from New Jersey.

Mr. FULBRIGHT. I thank the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from Arkansas (Mr. FULBRIGHT) is recognized for 30 minutes.

BUSING

Mr. FULBRIGHT. Mr. President, the article published in the Washington Post of February 16 by Mr. William Raspberry, entitled "Massive Busing: A Waste," is one of the most thoughtful and perceptive comments about this very troublesome problem that I have seen. There is no one better qualified to discuss this subject than Mr. Raspberry, and I commend his comments to all my colleagues and ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MASSIVE BUSING: A WASTE

(By William Raspberry)

If this weren't an election year, it just might be possible to do something rational about school integration and busing.

But not only is it an election year; it is also a year in which all sorts of people, in all parts of the country and of all political persuasions are expressing their strong misgivings about the prospects of massive busing for the purpose of racial integration of public schools.

And with that kind of mandate, you can count on the politicians to see their duty—and overdo it. Already presidential candidate Jackson is pushing "freedom of choice." Haven't we heard that one before?

Others are talking up constitutional amendment.

It's a bit of an embarrassment, all things considered, but I happen to agree with Vice President Agnew on this one. I agree with him that massive busing solely for purposes of racial integration is a waste. And I agree with his opposition to a constitutional amendment as the way to end the waste.

The artificial separation of people, in schools or out, based on their race is wrong. It is, for one thing, psychologically destructive of the minority members who are separated out.

But to send black children chasing to hell and gone behind white children is also wrong and psychologically destructive. It reinforces in white children whatever racial superiority feelings they may harbor, and it says to black children that they are somehow improved by the presence of white schoolmates.

My favorite nightmare is of all the white people in the country moving to Alaska, and all the black children in the country following them in an endless line of buses.

Integration is a noble goal. But there comes a time when thoughtful men wonder with Joseph Alsop: "Is it really worth it?"

If white people, either because they wish to avoid contact with black people or for any other reason, choose to move far from where most black people live, how can it make sense—in terms of education or common sense—to send black kids chasing after them?

At some point, it becomes obvious that there must be a cheaper way to achieve the goal which is the education of our children.

But even the goal gets confused. Some of the advocates of massive busing, it seems to me, are being guided by the wrong ideal.

They start off with the assumption that in melting-pot America, racial integration is a good thing. But they take the melting pot metaphor altogether too literally, and it becomes their goal to make every classroom of every school (and every block of every neighborhood) an accurate cross-section of the makeup of the total population.

They would like to put us all into that metaphorical melting pot and ladle out enough portions of homogenized American to fill every schoolroom, workroom and living room in the country.

Well, what's so ideal about mathematically precise distribution of human beings? What's so inherently evil about a block in which all the homeowners (or a classroom in which all the pupils) happen to be black? Or white?

This is no brief for a return to the lie of separate but equal. It is an appeal for rational priorities, a plea that we make the test of a school whether it does what schools are supposed to do—educate our children.

It is both evil and illegal to say to a child: You cannot attend this school because it is a white school. But how much better is it to say: You must attend this school because it is integrated and we need you for racial balance?

The ideal is a situation in which race is irrelevant to assignment. Preoccupation with mathematical precision, unfortunately, is not the way to achieve that idea.

But no constitutional amendments, please. The effort that route would require would be bound to make too many of us feel that we were solving the problem of education in a pluralistic society. It would in fact solve nothing at all, except to return us to where we were the day before yesterday.

The Vice President was right again when he said:

"I think that there is almost a Pavlovian reaction. Whenever a subject becomes highly controversial, you must turn to a constitutional amendment. I think these things are capable of being handled within the normal statutory framework and constitutional framework of our existing Constitution."

But only if we deal with the situation and stop looking for new ways to run.

RADIO FREE EUROPE AND RADIO LIBERTY

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to have printed in the RECORD an article published in this morning's Washington Post, written by Rowland Evans and Robert Novak, entitled, "Fulbright the Jammer."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FULBRIGHT THE JAMMER

(By Rowland Evans and Robert Novak)

The inexorable campaign of Sen. J. W. Fulbright to cast U.S. foreign policy in his own image has almost strangled the broadcasts beamed into Communist Eastern Europe by Radio Free Europe and Radio Liberty.

Operating from his power base as chairman of the Senate Foreign Relations Committee, Fulbright is within days of cutting off, at least temporarily, vital U.S. government subsidies for the two programs. Unless Congress acts before next Tuesday, Feb. 22, the money stops.

Congressional sentiment for the broadcasts is so overwhelming that it seems improbable Fulbright will ultimately succeed. But he has come perilously close to doing what two decades of Moscow's electronic jamming could not do: End nongovernmental communications between the United States and some 200 million residents of the Soviet Union and 100 million in five other Communist countries.

But the two programs, ostensibly financed with individual American contributions, have been secretly subsidized by the Central Intelligence Agency. Even after this was disclosed in 1967, the Johnson administration and then the Nixon administration dawdled about changing this clumsy arrangement.

Finally, a year ago, Sen. Clifford Case of New Jersey forced action by demanding an end to the CIA subsidy. Belatedly, the administration proposed overt government financing. Since then, Fulbright has doggedly slowed down legislation. For instance, last summer he urged delay until the Library of Congress Congressional Research Service could study whether "it is in the public interest to provide additional tax dollars for the two radios."

Despite Fulbright's efforts, the Senate and House by the end of November had passed separate bills financing the programs (at between $35 million and $38 million a year.) But a Jan. 26 Senate-House conference to resolve the two bills—its first and only session—met icy opposition from Fulbright.

By Jan. 26, the Library of Congress draft reports were available. Fulbright was not pleased. They warmly praised the two programs and recommended continued U.S. financing. Fulbright's staffers asked the Library of Congress researchers to rework their papers. Meanwhile, other members of the Senate-House conference were unaware of the favorable reports.

Those voluminous reports explain precisely why Eastern Europe experts are concerned by Fulbright's action. Radio Free Europe, says one report, "contributes substantially to preserve the reservoir of good will toward the U.S." by the Eastern Europeans. "In some cases, regimes have grudgingly adopted some features desired by their publics and supported by Radio Free Europe."

The other Library of Congress report suggests "Radio Liberty encourages detente, amelioration of international differences through negotiations, strengthening of the United Nations as an instrument of peace and creation of a world system based on the rule of law."

But both reports agree (in language eagerly underlined by Fulbright's staffers) that the broadcasts are deeply resented by the Communist governments concerned. To Fulbright and his allies, East-West detente is a matter for government-to-government negotiation, not for a non-government information service directed to Eastern Europe's masses.

Accordingly, if the programs are continued, Fulbright wants them under tight State Department regulation (though this is criticized in the Library of Congress reports). But he would really prefer their death. A compromise proposed by House and Senate staffers, putting the two programs provisionally under State Department control, has been ignored by Fulbright.

Whether Fulbright can kill the broadcasts may depend on the two other Senate Democratic conferees: Frank Church of Idaho and Stuart Symington of Missouri. Church is

> adamant against Radio Free Europe but friendly toward Radio Liberty (because, mainly, of its concern for Soviet Jews). Symington tends to agree with Fulbright but adds he has an open mind. Neither, however, was informed about or has been aware of the favorable Library of Congress reports. Chairman Fulbright the jammer has seen to that.

Mr. FULBRIGHT. Mr. President, in view of this Evans-Novak column, I wish to make the following points preliminary to my prepared statement.

First, the column helps maintain the deception that Radio Free Europe and Radio Liberty provide "nongovernmental communications" between the United States and Eastern Europe and the Soviet Union. The fact is that these Radios are first and foremost an instrument of U.S. foreign policy, an instrument which has been funded covertly to the tune of almost half a billion dollars. Current Government funding for the Radios approximates the total annual expenditure on each of the following programs: The "Voice of America," the "Educational and Cultural Exchange" program, and the Public Broadcasting Corporation.

Second, if the Radios are as important as the column claims, why are not our NATO allies interested in putting up some of the money to support them? On the other hand, some of our Western European "friends" make substantial profits from these radios. Spain, for example, gets about $285,000 annually in licensing fees. If these radio operations are continued, Portugal will get approximately $700,000 in licensing fees over the next 10 years.

Congress knew nothing about these arrangements, so far as I know. I did not know about them and I do not believe any of the members of the Foreign Relations Committee knew about them.

Three, the contention that the draft studies prepared by the Library of Congress were withheld just does not hold water. The availability of the studies was made known to all the Senate conferees on January 21 about a week before the conference or about 1 month ago. Also, the staff people from the House were briefed before the conference by the Library of Congress researchers.

Four, on this same point, the columnists themselves were certainly less than candid, because Mr. Novak was given access to the studies by the committee staff—that is, the staff of the Committee on Foreign Relations—and he spent about an hour going over them in one of the committee offices. This point clearly undermines his contention of any effort to withhold the studies.

The column simply represents an effort by the administration and some of its friends in the House to keep this old cold war program on the books, despite the fact that neither the American public nor the Governments of Western Europe are willing to support such a continuation.

Mr. President, I also invite attention to a part of the report on the bill, S. 18, reported from the Committee on Foreign Relations last year and later enacted into law, regarding some of the aspects of how the financing of Radio Free Europe is handled.

When I asked for information about the private contributors to Radio Free Europe, I received a letter dated July 16, 1971, signed by Mr. William P. Durkee, president of Free Europe, Inc.—this is on page 11 of the committee report, calendar 313, No. 92-319, July 30, 1971—and in that letter the last sentence reads as follows:

> While I hope the above information satisfies your request, I am prepared to show you on a confidential basis the actual list of corporate contributors for FY 1970 and so far in FY 1971.
>
> Yours sincerely,
>
> WILLIAM P. DURKEE.

It is quite interesting, this aspect of the so-called private program of broadcasting of the truth to Eastern Europe, because it indicates that the managers of the program are not willing to come clean with the American public.

Mr. President, one of the more troublesome issues which the Committee on Foreign Relations has wrestled with during the past year is the question of public funding for Radio Free Europe and Radio Liberty. As a result of the committee's consideration of this issue, I have developed some very decided views on the Radios and their activities, and I would like to share these views with my colleagues.

Senators will recall that these were the Radios financed by "dimes from schoolchildren" or so we were told over the years. As it turned out, however, the "dimes," amounting to hundreds of millions of dollars, really came from the Central Intelligence Agency and were part of a fraud to dupe the taxpayers of the United States as well as the people of Eastern Europe into believing that the Radios were private organizations, dependent solely on private contributions.

Mr. President, the history of these radios, particularly the covert funding and policy direction of them, provides, I think, an example—a good example—of how and why people lose faith in their Government and their elected officials. Fundamentally, this is a matter of credibility and the public's expectations that its Government is so structured that the "big lie" cannot be perpetuated indefinitely; that the separation of powers is a real safeguard, if not an immediate one; and that our system of checks and balances does, over a period of time at least, work much as the Founding Fathers said it would.

The case of Radio Free Europe and Radio Liberty indicates, I suppose, that given a long enough perod of time, the checks and balances are there; the separation of powers does exist; and the "big lie" can be exposed.

While this case "proves" all of these things, I cannot help but think that it has, nevertheless, taken an exceptionally heavy toll in the people's faith and credibility in their Government—a faith and credibility already overtaxed by U-2 flights that we did not know anything about; by an invasion at the Bay of Pigs that we were not involved in; by Tonkin Gulf incidents that we were innocent of; and the list goes on and on: In South Vietnam we have learned about Korean soldiers being paid by the U.S. Government at much higher rates than U.S. soldiers; in Laos we have learned about CIA personnel dressed up in AID clothing; and in Cambodia we have learned about U.S. military advisers being transformed into "military equipment delivery teams."

But through all of this—through all of the deception and the falsehoods heaped on the American public—there was Radio Free Europe, keeping the "truth alive behind the Iron Curtain." Yes, despite the numbing realization of having been led down the primrose path on any number of major public issues—the American public was told that it could point with pride to Radio Free Europe as a bastion of truth and freedom—a symbol, although perhaps a fading one, of America's dedication to the dictum: "Know the truth and it shall make you free." And even if it was becoming more and more difficult to get the truth from our own Government here in the United States, the American public was assured that Radio Free Europe was at the ramparts fighting the deception and half-truths foisted upon the captive peoples of Eastern Europe by their governments. If we could not keep truth alive here, then at least we could keep it alive and well over there.

Who could ask for a nobler gesture.

Here was the American public, itself, fighting a rear guard action but willing, nevertheless, according to the public appeals, to take on the additional burden of making sure that Radio Free Europe broadcasts continued to penetrate the Iron Curtain with truth, freedom, and justice.

And then, like awaking from an Orwellian dream, we learned one fine day that Radio Free Europe has also failed us; that it, too, was a product of the Government's arcane imagination; that it, too, was a product of the U-2, Bay of Pigs, and Tonkin Gulf mentality; and that it, too, was a product of the Government's willingness to deceive the American public.

In other words Radio Free Europe and Radio Liberty were simply part of a pattern—a pattern of falsehood and deception; a pattern of fraud and deceit; a pattern of conspiracy to mislead not only the American people but anybody else who was willing to listen and follow.

But like most sordid episodes this, too, has a bright spot: The American public—the man in the street, the one who was proselytized year after year to support Radio Free Europe—he was never persuaded of the value or virtue of these Radio operations. With some of the information that has now come to light, we know that private contributions, which, in fact, were mostly from our giant corporations, provided only a fraction—about 15 percent—of the amount needed to fund Radio Free Europe's operations.

Mr. President, if I might digress a moment, this is obviously the reason why the organization running Radio Free Europe refused to supply for the public record the list of contributors, the larger contributors, the corporate contributors to this activity.

I cannot imagine any valid reason for keeping such information confidential or secret. But, as I have read to the Senate from the letter in the committee's report, the President of Free Europe, Inc., declined to give it to me except on a classified or secret basis.

This genuine lack of popular interest and support indicates that the public, in its collective wisdom, knew that the promises made by the Radios were really beyond their scope and power; that despite their best intentions and noble causes, truth and freedom are indigenous and subjective issues and cannot be transferred from one people to another no matter how righteous the motivation, no matter how unselfish the purpose.

But, Mr. President, despite the public's "benign neglect" of the Radios or because of it, one administration after another—Democratic and Republican alike—have over the last 20 years funded the Radios to the tune of almost one-half billion dollars. The covert funding has, in turn, been accompanied by policy controls and monitoring arrangements so as to insure compliance with official policy guidelines.

All of this indicates, beyond question, that the Radios still constitute an integral part of our foreign policy toward Eastern Europe and the Soviet Union. And if the amount spent annually on this program is any guide to its importance—then this is the most important program conducted by the U.S. Government in its relations with these nations. Indeed, the $36.2 million requested for this fiscal year is not far below the total Voice of America budget of $44 million, and it approximates the entire educational and cultural exchange program of $40 million.

But unlike these other programs, Radio Free Europe and Radio Liberty are never joined in the administration's discussion of its policy toward Eastern Europe and the Soviet Union. The reason is fairly straightforward and it really boils down to this: The administration wants an unofficial voice of the U.S. Government broadcasting within officially established guidelines to these Communist countries. The reason for this is as Assistant Secretary of State Hillenbrand told the committee on May 24, 1971:

> Official government radios must take care to avoid the charge of interference in the internal affairs of other nations.

The implication, of course, is that "unofficial" radios, like Radio Free Europe and Radio Liberty, are not subject to the same diplomatic considerations or limitations; that they can do the "kind of job" that a VOA or BBC cannot do; that they can broadcast what the government wants to say unofficially without being held officially responsible for it.

Regardless of the label attached to the Radios, the fact is this activity, even if it entails nothing more than "straight news reporting," raises a number of foreign policy issues not the least of which is the extent of our meddling in the internal political affairs of other countries by means of directing and supporting broadcasting activities in behalf of political refugees.

If this activity is based on a viable policy, then perhaps some consideration ought to be given to establishing a "Radio Free Greece," or a "Radio Free China" or perhaps a "Radio Free Brazil." The governments of these countries enjoy a rather dubious reputation of strict censorship—as do any number of other countries. And, yet, so far as I am aware, the executive branch does not fund similar broadcasting arrangements geared to "getting the truth through" to the citizens of these countries. In these cases, the administration is content with Voice of America broadcasts.

If this is so, then why is the administration not content with VOA broadcasts to Eastern Europe and the Soviet Union? Why the additional need for Radio Free Europe and Radio Liberty—a need which costs the taxpayers more than $35 million per year?

Mr. President, if the need for these Radio operations is as clear cut as administration officials claim, why is there not some recognition of it on the part of our NATO allies, who after all, are much closer to the situation than we are? Being so much closer to the "firing line," one would think they would be eager to support both Radio Free Europe and Radio Liberty. But, of course, they are not; nor is there any indication that they can be talked into putting up some money to support these Radios.

Such an attitude on the part of our Western European allies ought to tell us something about our own policy; namely, that the Radios are an anachronism and that we ought to have the courage to recognize they have outlived any usefulness they may have once had. The American public recognizes this; so do the Western Europeans. The time has come for our Government to recognize it too.

Mr. President, I submit these Radios should be given an opportunity to take their rightful place in the graveyard of cold war relics.

Mr. President, this morning along with a number of other Members of this body and the other body I was briefed by the President of the United States just prior to his departure for a visit to Peking, a visit which I certainly hope will be fruitful, of which I approve, and which I think is fully justified by current conditions in the world at large.

The President plans to go to Moscow, I believe, in May of this year. It would seem to me that any reasonable interpretation of both of these trips is that the President hopes to be able to normalize or improve, if I may describe it as such, our relations with both of these large and powerful countries.

On the other hand, it seems to me that activities such as Radio Liberty and Radio Free Europe are contrary to the President's purposes in making both of these trips. This reminds me a bit of the trip that President Eisenhower took to Paris to meet with the head of the Russian Government at the time, Mr. Khrushchev, a trip which not only anticipated a cordial meeting and conference in Paris but also a subsequent visit to Moscow by President Eisenhower.

Unfortunately, the U-2 incident occurred at that time and it broke up the conference in Paris and nullified plans for the trip to Moscow. As a result, I think that our relations with Russia were set back a number of years.

It was commonly believed then that there was a lack of coordination within the executive branch itself; in other words, while the President was aware of the general program of surveillance, he did not anticipate that this particular flight would take place at that particular time and expose him to the possibility of such a failure.

In this case it seems to me that continuation of these radio programs should be coordinated with the President's other programs of making these trips and his efforts at improving our relations in general with the Communist nations.

There are other aspects of our policy that I might mention in passing. One of my objections to the establishment of a base in Bahrein is that it, too, could well be interpreted by the Russians as a move which is inconsistent with efforts to improve relations. We do not have a naval base in the Indian Ocean; if we put one there undoubtedly the Russians will feel that they will have to match it and put in a similar base or perhaps one that is larger, so the escalation starts all over again.

We are presently negotiating with the Russians in what are called the SALT talks, which have been going on for 3 years. We had a briefing yesterday by the Director of the Arms Control Agency. He is hopeful something can be worked out. There has been no agreement so far but they are still hopeful that one can be reached.

It seems to me that we ought to give some consideration to how these matters look from the other side. While we profess to be ready, willing, and anxious, desirous at least, of making an agreement to stop this outrageous, expensive escalation of our arms, at the same time we are doing other things which indicate we are escalating our efforts, as in the Bahrein case, and I may say, in some other places. We recently recommended a vast commitment of funds for a base in the Azores. I do not know that there is any significance in this connection, but it was a base created during World War II, primarily for military purposes. I think it is an obsolete base now. But it is one little incident that does not quite add up to being consistent with a genuine effort, a genuine desire to effectuate better relations with Russia, particularly, and only incidentally to China.

I would think that continuation of Radio Free Europe and Radio Liberty would be interpreted by the other side, by the people we are negotiating with in SALT, as inconsistent with our desire for agreement. This is simple, human psychology. If on the one hand, Mr. President, you profess that you wish to improve relations, and on the other hand you do a thing inconsistent with improving relations, I think it raises doubt about the sincerity of your effort with regard to negotiations and improving relations.

Any one of these cases may not be sufficiently important to break up negotiations, but accumulatively, if they are all put together I submit they can make a pretty good case of justifying a certain skepticism, at least about our intentions.

Finally, in view of the enormous deficit in the Federal budget of over $40 billion this year, it is an inexcusable waste of money to keep pouring this kind of money into these radio programs. These programs were started at the height of the cold war when Stalin was in power and when, as we have subsequently warned, he was quite unreasonable with his own people. I could see that at that time and under those conditions there may have been some justification for this kind of program, but that time is passed. And I think of the difference in attitude of our own President between what his public statements indicated in 1951 and 1953 and what he has been saying recently; what he said this morning, and what he probably will be saying in the next 2 weeks. He has changed his attitude. I congratulate him for it. I approve it.

In view of this, is there any reason to insist upon continuing these activities which I believe to be fundamentally inconsistent with the purposes of the President?

I think it would help the position of the President in whatever his negotiations may be with the Russians if this one irritant to our relations were removed. It certainly could not hurt, and the least one could say would be that it would save the American taxpayers at least $35 million a year, which is no small amount. I very much hope this program can be stopped.

I will end by saying the situation is that this program is now operating under a continuing resolution. I for one, and some of my colleagues, have not been willing to give it a new lease on life. I hope it will come to an end; I feel it should come to an end—it should be liquidated—if an authorization is not enacted. It is possible that a continuing resolution will be approved. I shall oppose such an extension. If the program is to continue, just for this fiscal year, it ought to be done according to authorizing legislation enacted into law.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time will the quorum call be taken?

Mr. FULBRIGHT. Mr. President, I was yielded such time as I needed by the Senator from New Jersey. May I not ask for a quorum call on the time he yielded to me?

The PRESIDING OFFICER. The Senator has 2 minutes remaining under the time yielded.

Mr. FULBRIGHT. It was my understanding the Senator from New Jersey would yield me such time as I desired up to the remaining time on the pending amendment.

The PRESIDING OFFICER. The Senator yields that time for the purpose of a quorum call?

Mr. FULBRIGHT. Yes.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515), a bill to further promote equal employment opportunities for American workers.

Mr. WILLIAMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS. What is the time remaining?

The PRESIDING OFFICER. The Senator from New Jersey has 20 minutes remaining, and the Senator from Alabama has 27 minutes.

Mr. WILLIAMS. Mr. President, I note that a great deal of the time in debate used by the Senator from Alabama following the calling up of this amendment has dealt with his broad general disagreement with the legislation before us, and then, in greater detail, with specific parts of the legislation that is before us and has been before us here in the Senate for the entire period since the Senate reconvened for this session of Congress.

As I heard the Senator's statement, a great deal of it dealt with the inclusion within the provisions of this bill of employers of 15 or more, or labor unions with 15 or more members. This, of course, was a figure arrived at after debate, after discussion, after conciliation, and indeed after negotiation which raised the number from 8 to 15. The figure 8 was in the bill as it was brought to the Senate, and after this period of debate and conciliation, we arrived at the figure of 15, which was overwhelmingly approved by the Senate.

The other part of the legislation the Senator dealt with was the coverage of State and local government employees. There is no need to revisit that debate now, because that, too, was fully debated and an amendment offered, and agreed to, and again by an overwhelming vote in the Senate the coverage of employees of State and local governments was retained.

I say the vote was overwhelming. It was overwhelming in a great degree. The vote as 59 to 16 to resist the effort to delete that coverage from the bill before us. But this debate thus far has been a revisitation of the bill generally and these areas specifically.

I think perhaps there is some suggestion in the amendment of the Senator from Alabama—though he did not deal with this to any degree—of seeking comparability between the Federal Government and the State governments. I would point out to the distinguished Senator from Alabama that we do cover State employees and municipal employees, and we in this legislation do cover Federal employees.

There are exemptions. If we are looking towards comparability, I would just say to the Senator from Alabama that by action here this afternoon, and in the clearest way, on an amendment offered by the Senator from North Carolina, joined in, I believe, by the Senator from Alabama, which was debated and discussed, in agreement on the purposes, the Senator from New York and I offered an acceptable amendment to that amendment, and as a result of that, we have agreed that the elected State Senators in all of the States from Alabama to Wyoming are not covered in their selection of their personal advisers.

I suggest that what the Senator is saying is that what has been applied to the State Senators in Alabama should not apply to the U.S. Senator from Alabama. For the life of me, I cannot see why this inconsistency is built into the proffered amendment of the Senator from Alabama.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WILLIAMS. I have been reminded that my time is running short, and I am happy to yield to the Senator from New York.

Mr. JAVITS. I thank my colleague. I shall not take very long.

Mr. President, there are two reasons why this amendment should be defeated. The first is that we voted on the question of exempting or retaining under this bill employees of State and local governments, and the Senate, by a vote, I believe, of 59 to 16, voted to keep them in the bill. At that time, the condition of the bill was exactly what it is now with respect to congressional employees. So that is the first reason. The Senate has decisively passed upon that issue.

Second, Mr. President, and very importantly, we have just agreed to an amendment which would exempt personal assistants or immediate advisers of State legislators, and we went to great pains to define that. In general, the employment of assistants to Members of Congress or Members of the Senate would fall, in the main, perhaps not entirely but in the main, within this kind of definition.

Under those circumstances, Mr. President, it would be anomalous to now turn the clock back and reverse our earlier vote.

For those reasons, Mr. President, we believe this is just another way of trying to reargue the issue which has already been decided so decisively by the Senate, to wit, the inclusion of employees of State and local units of government, and that therefore the amendment should be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, yielding myself just 1 more minute, just to make one point clear, it is to be noted that those employees of Congress or congressional agencies, in the competitive service, as it is called, which would include employees of the General Accounting Office and the Printing Office, and perhaps some other housekeeping employees, are included within the ambit of the bill as it now stands.

So it seems to me that the network of issues now has been worked out entirely through the amendment last decided, that of Senator ERVIN, and through the decision of the Senate to keep in the State and local employees.

For those reasons, the amendment should be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. I yield 5 minutes to the distinguished Senator from North Carolina.

Mr. ERVIN. Mr. President, this amendment is entirely different from the amendment which has just been adopted. Amendment No. 888, which has been adopted, applies only to the elected officials of States and political subdivisions of States and to their personal advisers. This amendment applies to Members of Congress. This would provide that the provisions of these amendments shall not apply to any State or local employees as long as Congress exempts employees of Congress and the employees of Members of Congress from the coverage of this bill.

I mentioned several days ago, with great reluctance, that I find, as I travel to and fro across the country, that people are losing a great deal of confidence—I use that word for lack of a better word—in Congress, because Congress passes laws that apply to other men but will not make the laws applicable to themselves.

Under this bill, the Congress of the United States would be exempt from the coverage of this bill. When Congress persists in exempting itself from the coverage of this bill, it is emulating the doctor who prescribed medicine for his patients but would not take it himself. This amendment would say that what is sauce for the State goose is sauce for congressional gander. It would say that no State employees at any level shall be brought under the coverage of this bill until "Doctor" Congress takes the same medicine that he is trying to prescribe for the States and local subdivisions of government.

I think the Senate should adopt this amendment and show that what it thinks is good for the State goose is also good for the congressional gander.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

Mr. ALLEN. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Alabama. On this question the yeas and the nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from Indiana (Mr. Bayh), the Senator from California (Mr. Cranston), the Senator from Mississippi (Mr. Eastland), the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Michigan (Mr. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Iowa (Mr. Hughes), the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), the Senator from North Carolina (Mr. Jordan), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Metcalf), the Senator from Utah (Mr. Moss), and the Senator from Maine (Mr. Muskie) are necessarily absent.

I further announce that the Senator from Virginia (Mr. Spong), the Senator from Georgia (Mr. Talmadge), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Carolina (Mr. Hollings), and the Senator from Idaho (Mr. Church) are absent on official business.

I further announce that, if present and voting, the Senator from South Dakota (Mr. McGovern) and the Senator from Washington (Mr. Jackson) would each vote "nay."

Mr. SCOTT. I announce that the Senators from Vermont (Mr. Aiken and Mr. Stafford), the Senators from Kentucky (Mr. Cook and Mr. Cooper), and the Senator from Alaska (Mr. Stevens) are absent to attend the meetings of the Canadian Interparliamentary Union.

The Senator from Oklahoma (Mr. Bellmon), the Senator from New York (Mr. Buckley), the Senator from Colorado (Mr. Dominick), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Oregon (Mr. Packwood), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

On this vote, the Senator from South Carolina (Mr. Thurmond) is paired with the Senator from Colorado (Mr. Dominick). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Colorado would vote "nay."

The result was announced—yeas 21, nays 44, as follows:

[No. 50 Leg.]

YEAS—21

Allen
Baker
Bennett
Brock
Byrd, Va.
Cotton
Curtis
Ellender
Ervin
Fannin
Fulbright
Gambrell
Gurney
Hansen
Hruska
Long
McClellan
Sparkman
Stennis
Tower
Young

NAYS—44

Allott
Beall
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd, W. Va.
Cannon
Case
Chiles
Dole
Eagleton
Hatfield
Inouye
Javits
Jordan, Idaho
Magnuson
Mansfield
Mathias
McGee
McIntyre
Miller
Mondale
Montoya
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NOT VOTING—35

Aiken
Anderson
Bayh
Bellmon
Buckley
Church
Cook
Cooper
Cranston
Dominick
Eastland
Fong
Goldwater
Gravel
Griffin
Harris
Hart
Hartke
Hollings
Hughes
Humphrey
Jackson
Jordan, N.C.
Kennedy
McGovern
Metcalf
Moss
Mundt
Muskie
Packwood
Spong
Stafford
Stevens
Talmadge
Thurmond

So Mr. Allen's amendment (No. 890) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. Fannin). The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, I yield to the Senator from Virginia (Mr. Byrd), except that before I yield, I would like to observe that the last vote was very interesting. It shows that Dr. Congress is not willing to take the medicine which Dr. Congress prescribes to the people of this Nation. In other words, what is sauce for the State and local officials is not sauce for the congressional gander.

DEMONSTRATION BY CITIZENS OF RICHMOND AND HENRICO AND CHESTERFIELD COUNTIES AGAINST BUSING

Mr. BYRD of Virginia. Mr. President, I invite the attention of the Senate to a very unusual action today—3,261 automobiles left the Richmond, Va. fairgrounds for Washington.

The figure I cite, of 3,261 automobiles, was given to my office by the Henrico County police, who state that each car had 3 or 4 persons in it. That means more than 10,000 individuals from Richmond and Chesterfield and Henrico Counties came to Washington through the snowstorm today as a peaceful means of communicating to their Government their deep concern for compulsory busing that has been inflicted on their schoolchildren.

Just think of that—3,261 cars left Richmond this morning and drove to Washington. There was no disturbance. They drove through the city with a relatively small sign on the car with one word written on the sign. There was a photograph, a picture, or a drawing of a school and the one word, "Help."

All of those people wanted some help from their Government in Washington. Some 140 to 160 of these approximately 10,000 people met in the House of Representatives.

They also went individually in smaller groups to call on Members of the House of Representatives to try to acquaint them with the very grave and very serious situation which afflicts the people of Henrico and Chesterfield Counties and the city of Richmond.

I made a brief talk to this group in the House Caucus Room. They are outstanding citizens of the Richmond area. The entire matter was handled with restraint. All of these people with whom I came in contact are responsible citizens—most of them parents—who are deeply concerned that a Federal court decision is forcing the compulsory busing of children from the city of Richmond into the counties of Henrico and Chesterfield and the compulsory busing of children from the counties of Henrico and Chesterfield into the city of Richmond.

Those are large areas. They are large geographically. They are large in population. Henrico County has a population of 180,000. Chesterfield County has a population of 120,000. The city of Richmond has a population of 260,000.

A Federal judge, with one stroke of the pen, cut across the lines of two independent counties and one independent city. By a decree this judge established one school board for those three communities and directed that there be a vast amount of busing, affecting 78,000 schoolchildren, for one purpose and one purpose alone—to achieve an artificial racial balance.

Mr. President, leaving the busing question aside, this decision of the Federal district judge, Judge Merhige, seems to me to strike a severe blow at local government.

A Federal court has set itself up as a super school board and a super legislature.

If that decision stands, most certainly there will be demands from the same groups that other county and city lines be struck down, and the next step would be the crossing of State lines.

I feel that this action on the part of the 10,000 people of the city of Richmond, the county of Henrico, and the county of Chesterfield who came to Washington today is democracy in action. I am proud that I have the responsibility to represent those people and I am proud of the way they handled themselves, with dignity and restraint.

All they seek is to have Congress realize the gravity of the problem and what is being done to the school systems and to the young people of our country by these extremely unreasonable actions and demands on the part of a few Federal judges.

Yes, Mr. President, I am convinced that this action by the 10,000 people of the city of Richmond, and the counties of Henrico and Chesterfield is democracy in action. I hope they set an example for people all over the United States, for those people who feel it is unreasonable to take children away from their own home communities and bus those children across vast areas merely for the sake of achieving so-called artificial racial balance.

I submit that is not in the best interest of anyone. It is not in the best interest of any race, it is not in the best interest of the children, and it is not in the best interest of the country.

As I see it, what we want to do in this country is to build up everybody. We want quality education. We want a good education for all of our people. I submit they are not going to get a good education when we have the extremes to which many Federal judges all over the Nation are going.

I think Congress and the President, acting together, can settle this problem. I was pleased yesterday when both the Republican leader and the Democratic leader said the Senate should face up to this grave question. I hope the Senate will face up to this grave question.

It could be done by legislation, and that would be the best way; but with the temper of the courts, and with so many courts refusing to pay any attention to legislation passed by Congress, I feel the only effective way is to develop and pass an effective constitutional amendment, whereby the people themselves will be speaking.

I submit that such a constitutional amendment can be passed. It can be passed if the President will get strongly and firmly behind it, and if the leaders in Congress will get strongly behind it. The best way to assure passage of such an amendment to the Constitution is for the people themselves, the individual citizens, to come to Washington and make their views known on this great question.

I commend the people of Henrico County, Chesterfield County, and the city of Richmond for practicing democracy in action by coming to Washington and petitioning their Government to give some consideration to our educational processes and to the children of our Nation.

Mr. ERVIN. Mr. President, will the Senator yield for questions?

Mr. BYRD of Virginia. I yield to the Senator from North Carolina.

Mr. ERVIN. Does it not require the outlay of vast amounts of money merely to transport 78,000 children to and fro in the area covered by the judge's order?

Mr. BYRD of Virginia. It will cost a great deal of money. I do not have the exact figure but it will cost a great deal of money. The city of Norfolk is faced with the same prospect now. There is no money for mass transportation of students and I do not know how they are going to adjust the tax rates between these two counties and the one city, all of which are independent entities.

The Senator is correct; it is going to cost a great deal of money and that will come away from paying schoolteachers and running an efficient, high quality school system.

Mr. ERVIN. So here we have a Federal judge who has no power under the Constitution of the United States to impose taxes upon the people of the city of Richmond and the counties of Chesterfield and Henrico, entering an order which would require for its consummation the levying of vast amounts of taxes.

Mr. BYRD of Virginia. The Senator is correct. The three communities have entirely different tax scales. I am sorry I do not have the figures in my mind. I am taking this from memory, and I may be slightly incorrect, but I believe in one county the true tax rate is about 95 cents per $100, the true tax rate in another community is about $1.88, and the third area is somewhere in between.

Mr. President, what are you going to do now? Are you going to say to the one community with a tax rate of 95 cents that they have to double their taxes or are you going to tell the community with the tax rate of $1.88 that they must halve the amount of money?

It seems to me we are getting into all sorts of problems and it seems to me that those problems do not belong in the hands of a judge but in the hands of the local people.

Mr. ERVIN. I would say to the Senator from Virginia from a lifetime of studying law, and especially constitutional law, that in my judgment there is no principle in the Constitution which gives a Federal district judge the power to wipe out county and city lines established by one of the sovereign States of America, and no power to create school districts.

I assure the Senator from Virginia that the Senator from North Carolina admires the fact that the Senator from Virginia always acts to protect the freedom of his constituents, and the Senator from North Carolina will join him in every possible effort to see that the school children of Richmond and Henrico County and Chesterfield County are freed from this unspeakable judicial tyranny.

Mr. BYRD of Virginia. I am very grateful to the Senator from North Carolina. I wish to ask a question of the Senator from North Carolina. I wish to add that the Senate generally recognizes the Senator from North Carolina as being the ablest and most learned constitutional lawyer in Congress.

Has there been any other court decision in the Senator's recollection where a Federal judge has cut through independent county lines, independent cities and counties, and by the stroke of a pen merged the school systems into one gigantic system?

Mr. ERVIN. I am happy to say that thus far I have heard of no decision which is in any way comparable to the decision imposed upon the city of Richmond and the counties of Henrico and Chesterfield in Virginia.

I do not believe a Federal judge has the right to overrule the decision of a sovereign American State and make laws altering the boundaries of political subdivisions of a State.

Mr. BYRD of Virginia. So this is a landmark decision, one which is far-reaching and one which the Senator from North Carolina and the Senator from Virginia, at least, think is a dangerous one in its potentialities, and one which, if not reversed, could lead, it seems to me, to a greater erosion—we have already had a great erosion—of the liberties of the individual citizen and continue to a greater extent the erosion of the rights and responsibilities of the localities.

Mr. ERVIN. There is no doubt in my mind that Congress has the absolute power to take from all district judges in the United States the capacity to exercise such unbridled power as was exercised in this particular case.

The third article to the Constitution provides that Congress may establish courts inferior to the Supreme Court. There is a multitude of decisions of the Supreme Court which lay down the sound doctrine that Congress has complete jurisdiction of all courts inferior to the Supreme Court and can define their jurisdiction and can limit their jurisdiction and can take jurisdiction away from them.

Furthermore, the Constitution gives the Supreme Court some original jurisdiction of a very small extent. Section 2 of article III of the Constitution says in part:

> In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned—

That is, in all cases in which jurisdiction could possibly be given to a Federal court—

> the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

I believe that the men who drafted and ratified this great instrument put those words in the Constitution for the purpose of enabling Congress to keep the Federal courts within the constitutional field.

Undoubtedly, under the Constitution the Supreme Court can prevent violations of the Constitution by the Congress or by the President. And Congress and the President are not the only ones who violate the Constitution. The courts violate the Constitution, and I know of no case where they have violated the Constitution more flagrantly than in the equal protection clause of the 14th amendment, under which this tyrannical order was entered.

That clause states that:

> No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.

It is very simple. It merely means that no State shall treat in a different manner persons similarly situated. All of these children were similarly situated with respect to their neighborhood schools. This order says, in effect, that the children in each one of the two counties and the city of Richmond in each school district must be divided into two classes. One class will be allowed to attend their neighborhood schools, and the other will be denied the right to attend their neighborhood schools.

That is an obvious violation of the equal protection clause, because the court order requires the school authorities of the city of Richmond and of the two counties concerned to treat in a different manner children similarly situated.

So that is one violation of the equal protection clause.

The other violation is that the Supreme Court held, in the case of Brown versus Board of Education of Topeka, the famous school desegregation case, that the equal protection clause forbids a State to exclude a child from any school on account of his color.

When the court ordered the school boards of Richmond and the two counties to divide the children into two classes and deny one class of children the right to attend neighborhood schools, it told the school boards that they must bus some of these children to schools in other areas merely because of their race. That is nothing in the world but requiring the local school authorities to violate the equal protection clause by denying, on account of their race, the children who are ordered to be bused the right to attend their neighborhood schools.

We have some monstrous decisions of the courts. I respect court decisions when they are respectable, but court decisions that do not conform to the Constitution are not respectable and are not worthy of respect.

We have the decision of the Supreme Court in the Swann case which holds, in substance, that when a school board violates the equal protection clause of the 14th amendment, the Federal court would require the school board not only to continue to violate the equal protection clause but to violate the equal protection clause in a more massive manner by assigning every child in the school system solely by virtue of the child's race. That is a contradiction of the equal protection clause.

Mr. BYRD of Virginia. It certainly looks that way to the Senator from Virginia.

Mr. ERVIN. I would say the Supreme Court has held many times that the Congress has the undoubted power to limit in any manner it seems fit the jurisdiction of inferior courts, which includes the district courts. Also, it has held in innumerable cases that it has the power to regulate as it sees fit the appellate jurisdiction of the Supreme Court.

I, for one, expect to support a constitutional amendment to put an end to these unspeakable bureaucratic and judicial tyrannies, and also to support a statute which will give immediate relief by taking away the jurisdiction of the courts and of the Federal Government to order busing children merely to integrate their bodies, and not for the purpose of enlightening their minds.

Mr. BYRD of Virginia. I shall follow the leadership of the distinguished Senator from North Carolina in that regard.

Mr. President, a very thoughtful letter, addressed to the President of the United States, was brought to Washington today from Richmond and Henrico and Chesterfield Counties. It was signed by Ryland Y. Bailey, president of the George Wythe High School PTA, chairman, Richmond Federation of Concerned Citizens and Parents.

I ask unanimous consent that the text of the letter by the president of the George Wythe High School PTA be published at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

For the Personal Attention of the President of the United States of America, the Honorable Richard M. Nixon

February 17, 1972.

Mr. President: As residents and parents living in the City of Richmond we ask your help in ending the ridiculous disruptive conditions which exist in Richmond Public Schools as a result of Federal Court orders which now require the "forced busing" of approximately 21,000 students in a system with a 43,000 enrollment.

In August 1970 middle and high school students were required to be "forced bused" to and from opposite sides of the city from satellite zones and other ridiculous gerrymandered areas to meet certain racial percentages in each school. However, these percentages were not achieved because last year approximately 3,500 students left the Richmond public school system. Throughout the year there was chaos and disruption in the schools. Armed school guards were employed to monitor hallways and school grounds for the first time in the history of the Richmond system.

This school year first graders and above were required to be bused as far as seven miles across town during the busy traffic hour so that certain racial percentages could be achieved in each elementary school but these percentages have not been achieved either because an additional 4,500 students left the public school system in 1971.

So far this year incidents are continuing, along with resentments and frustrations. Now it is obvious that the quality of education has suffered drastic deterioration. I have talked with numerous teachers and administrators who are heartsick over existing conditions. Many of the best teachers have taken early retirement, others are anxiously waiting until they can qualify for it.

The health, happiness and safety of untold numbers of people has been affected by "forced busing" in Richmond. Many have been forced to seek medical help in overcoming worry and frustration, as well as aid for injuries. Numerous families have moved to different neighborhoods outside the city. Others have moved out of the metropolitan area and a few families have moved to other countries. We think the existing conditions impose an intorerable oppression upon Richmond people. The proposed consolidated system which has been ordered would impose an even more intolerable oppression upon many Richmond people, especially black people because thousands of them would be bused long distances out of the city.

Freedom to choose certainly is recognized as being an inherent right granted by the national Constitution. Under a freedom-of-choice plan the Richmond Public School System was recognized as being one of the best public school systems in the nation. Under Freedom-of-choice any student could go to any school of his choice but he did have to provide his own transportation to get there. Under freedom-of-choice there were predominantly white schools but no all white schools. There were some all black schools, but the overall system was rated among the best in the nation.

To restore order and justice and the application of common sense in the operation of the Richmond Public School System and to regain the quality and the standard of education which we have lost in Richmond, we specifically ask your support of a constitutional amendment (H. J. Res. 620) which will neutralize this oppressive order so that the free will of all the people may prevail. We also ask your support of Senator Byrd's proposed constitutional amendment which would require regular review of all Federal Judges and Supreme Court Justices.

There is no easy solution to problems which exist; however, we believe the neighborhood school concept is a key factor. Under freedom-of-choice we know that most people chose to send their children to the closest neighborhood school. We also believe there will always be a relatively few persons who will want their children to go to school away from their neighborhood. For these children we think this choice should be permitted and methods developed for providing reasonable transportation.

Also, if there are neighborhood schools where certain educational problems exist, we think qualified teachers should be recruited at a premium salary, if necessary, to meet this challenge and deal with it in the school.

One elementary school teacher who taught in a white or predominantly white classroom for many years, but in a predominantly black classroom in 1970–71 told me in the late spring of 1971 that she felt she had spent a successful teaching year; much more so than she would have if her class had been racially balanced.

The point of all this being Mr. President that in our opinion "forced busing" and racial balance is not necessary to achieve quality education or good human relations. In fact our experience so far indicates the opposite is true; however, a good public school system must have strong public support to continue providing quality education. To retain strong public support, we think a public school system must be operated under a neighborhood school concept with a program of quality education for every child and a freedom-of-choice option for those children who want to go to school away from their neighborhood.

Please give us all the help you can in correcting the very unpleasant school situation which exists in our city as a result of Federal Court orders.

RYLAND Y. BAILEY,
President, George Wythe High School P.T.A. Chairman, Richmond Federation of Concerned Citizens & Parents.

Mr. MANSFIELD. Mr. President, will the Senator from North Carolina yield to me without losing his right to the floor?

Mr. ERVIN. I yield.

DESIGNATION OF CERTAIN WILDERNESS AREA, WYOMING

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 166.

The PRESIDING OFFICER (Mr. FANNIN) laid before the Senate the amendment of the House of Representatives to the bill (S. 166) to designate the Stratified Primitive Area as a part of the Washakie wilderness, heretofore known as the South Absaroka wilderness, Shoshone National Forest, in the State of Wyoming, and for other purposes, which was to strike out all after the enacting clause and insert:

That, in accordance with subsection 3(b) of the Wilderness Act of September 3, 1964 (78 Stat. 891), the area classified as the Stratified Primitive Area, with the proposed additions thereto and deletions therefrom, comprising an area of approximately two hundred and thirty-eight thousand acres as generally depicted on a map entitled "Washakie Wilderness—Proposed," dated June 15, 1967, revised October 1, 1971, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, is hereby designated for addition to and as part of the area heretofore known as the South Absaroka Wilderness, which is hereby renamed as the Washakie Wilderness.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Washakie Wilderness with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The Stratified Primitive Area addition to the Washakie Wilderness shall be administered as a part of the Washakie Wilderness by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. The previous classification of the Stratified Primitive Area is hereby abolished.

Mr. MANSFIELD. Mr. President, I move that the Senate disagree to the amendment of the House of Representatives and request a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BIBLE, Mr. CHURCH, Mr. METCALF, Mr. HANSEN, and Mr. HATFIELD conferees on the part of the Senate.

LEAVE OF ABSENCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may be granted official leave by the Senate for tomorrow to attend a funeral.

The PRESIDING OFFICER. Without objection, it is so ordered.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate resumed the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

AMENDMENT NO. 809

Mr. ERVIN. Mr. President, on behalf of the distinguished Senator from Alabama and myself, I call up amendment No. 809.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 33, line 24, strike out the word "religious".

Mr. ERVIN. This amendment would make section 702 of the Civil Rights Act of 1964, as amended at the bottom of page 33 of this bill, read as follows:

SEC. 702. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

In other words, the amendment would exempt religious corporations, associations, and societies from the application of this act insofar as the right to employ people of any religion they see fit is concerned. That is the only effect of this amendment.

In other words, this amendment is to take the political hands of Caesar off of the institutions of God, where they have no place to be.

I do not care to debate this amendment this afternoon. I thought perhaps, since it is snowing so hard and it will be difficult for employees of the Senate and others to get home, if the majority leader will pardon the suggestion, that this would be an appropriate time to quit for the day.

Mr. MANSFIELD. Mr. President, I agree with the distinguished Senator. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR MOSS ON MONDAY, FEBRUARY 21, 1972

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday next, following the reading of George Washington's Farewell Address, the distinguished Senator from Utah (Mr. MOSS) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF UNFINISHED BUSINESS ON TUESDAY

Mr. BYRD of West Virginia. Mr President, I ask unanimous consent that on Tuesday next, at the conclusion of the period for the transaction of routine morning business, the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. I assume this will be the final quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, I shall state the program for tomorrow.

The Senate will convene at 11 a.m. After the two leaders, or their designees, have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Senators CHILES, PEARSON, and MONDALE.

At the conclusion of the unanimous-consent orders recognizing Senators, there will be a period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business.

The pending questions at that time will be on the adoption of the amendment offered by the distinguished senior Senator from North Carolina (Mr. ERVIN), amendment No. 809. There is no time limitation agreement thereon. The yeas and nays have not been ordered thereon. It is highly unlikely that any rollcall vote will occur on tomorrow.

The distinguished manager of the bill, the Senator from New Jersey (Mr. Williams), intends tomorrow to present a motion to invoke cloture on the pending bill.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 a.m. tomorrow.

The motion was agreed to; and at 4:51 p.m. the Senate adjourned until tomorrow, Friday, February 18, 1972, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate February 17, 1972:

Department of Justice

William K. Schaphorst, of Nebraska, to be U.S. attorney for the district of Nebraska for the term of 4 years vice Richard A. Dier, resigned.

Farm Credit Administration

The following named persons to be members of the Federal Farm Credit Board, Farm Credit Administration, for terms expiring March 31, 1978:

Melvin E. Sims, of Illinois, vice R. D. Pennewell, term expiring.

E. Riddell Lage, of Oregon, vice A. Lars Nelson, deceased.

In the Marine Corps

The following named (Naval Reserve Officers' Training Corps) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Adkins, Arthur A.
Arndt, Gary A.
Armstrong, Brain S.
Ashley, William G.
Bailey, Gilbert W., II
Behal, Eugene F.
Blackiston, Dallas O. II
Blackledge, Matthew W.
Blice, Anthony D.
Borgert, Gregory D.
Brothers, Bruce H.
Brown, Franz K.
Brown, Patrick J.
Buettner, John M.
Bussiere, James A.
Canetti, Christopher S.
Carter, Wilfred
Case, Stephen A.
Carmichael, David L.
Chinn, Wendell C.
Conway, Kevin J.
Cooper, Michael
Covert, David C.
Creech, Walter M.
Culler, William S.
Cygan, Michael T.
Denison, Alan G.
Dunsmore, Billy D.
Efird, William P.
Ehler, Thomas C.
Endres, Alex
Engelen, Richard L.
Farley, Peter B.
Finley, Riley P.
Foursha, Sammy L.
Gale, Michael L.
Gallagher, Patrick F.
Garrett, Patrick M.
Gido, Paul A.
Giles, Lawrence J.
Gion, Clifford J.
Graber, Patrick M.
Graham, Gerold W.
Griffin, Harry P., Jr.
Haffey, William J.
Hamil, David C.
Hammil, William
Hamner, Philip L.
Harrington, Robert J.
Hawkes, Kenneth G.
Hedin, Michael
Heine, Joseph P.
Heldenbrand, Martin L.
Hodson, Douglas D.
Hoffman, James C.
Hinkle, David E.
Holton, Thomas A.
Hoover, Paul C.
Huff, William T.
Hutchinson, Michael J.
Jorgens, William J.
Kline, Gerald J.
Krout, Wayne E.
Leather, Ramsey B.
Lenke, Thomas C.
MacInnis, James
Mack, Stephen
MacKenzie-Graham, Donald B.
Mather, Michael W.
Marzullo, Gary B.
Mizell, Donald
Murray, Thomas W. Jr.
Nelson, Ronald F.
Norman, Dennis E.
O'Brien, Daniel L.
O'Brien, Philip J.
O'Boyle, Michael W.
O'Boyle, Patrick D.
Odekerken, Joseph H.
Orlando, James V., III
Pennington, Troy D.
Peterson, Christopher D.
Rambow, William E.
Regan, Joseph S.
Reid, Charles D.
Richardson, Edmond T.
Richardson, Mark D.
Russell, Gregory
Routson, Samuel J.
Schneider, Robert L.
Schutt, Jerry O.
Sigler, William M., III
Skaggs, Robert W.
Smith, Stanley R.
Spurgeon, Marca
Steel, John E.
Stevens, Roland E.
Strautman, Randolph B.
Strong, John E.
Sudholt, Michael G.
Sundkist, Terrance C.
Tarrant, Kenneth W.
Thiem, Carl W.
Turcich, John A.
Twardy, Ronald D.
Vargas, Frank A., III
Vincent, Kenneth A.
Waters, Charles R.
West, Randall B.
Wester, John A., Jr.
Wheeler, James R.
Williams, Herlis A.
Wilson, Gregory V.
Woodson, Michael S.
Zeimetz, Joseph M.
Zinn, Andrew D.
Zhookoff, George E.

The following-named U.S. Naval Academy graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Accursi, Leo L.
Barr, Michael J.
Besaw, Gary A.
Blair, Lawrence J., Jr.
Bodine, Barry L.
Borderud, Scott R.
Brandon, Robert A.
Burnette, Edwin A.
Butler, Dean E.
Byers, Michael J.
Byrd, Robert S.
Caldwell, William B., Jr.
Cardi, Cesare
Carl, David H.
Chard, Steven D.
Clark, Michael J.
Cooper, Whylen G.
Crump, Walter L., Jr.
Curtis, Robert C.
Davis, Calvin R.
Daymude, John R.
Decker, Raymond J., Jr.
Delbridge, Robert W., Jr.
Donohue, Paul F.
Edinger, Arthur E.
Edwards, William R.
Fanning, Larry G.
Fayle, Patrick A.
Fisher, Stephen T.
Fox, Robert C.
Frawley, Richard J.
Frazier, Douglas N.
Gaumer, John R., Jr.
George, Charles E.
Gibson, Frank L.
Glover, Joe H.
Groves, William L.
Guilliams, Ronald G.
Haden, Gerald L.
Hawthorne, Daniel G.
Henry, Patrick T.
Hickey, James T.
Howard, Arthur J., Jr.
Jatho, Edgard W., Jr.
Johnson, Dallas, W.
Johnson, Johnnie
Johnston, John J.
Jones, Nelson M.
Jones, Thomas D.
Keaser, Lloyd W.
Kenney, Robert E.
Klein, Edward M.
Knapp, William L.
Konopa, Steven J.
Kratochvil, David A.
Lamberth, Gregory D.
Lee, Robert E.
Lewis, Donald C.
Linhart, Richard J., Jr.
Lundblad, Michael T.
Marshall, Robert A.
Martin, Paul W.
Mason, Matthew T., II
McClowry, Thomas P.
McFarland, John S.
McLaughlin, Steven M.
McLeod, John W.
McMillan, Julius A.
Meserve, Richard P.
Mitchell, Thomas P.
Mooney, John T.
Moore, William J., Jr.
Morrell, Richard W., II
Moss, Scott F.
Mu, Richard A.
Murray, David W.
Newhart, Harold P.
Nichols, Frank W.
Norris, Sheldon J.
Noto, Clayton W.
Nugent, John A.
Padden, Thomas J., III
Perrott, Edward J.
Peterson, George L.
Petrusch, Charles E., II
Phillips, Joe D.
Polly, Richard K.
Popper, Michael K.
Porterfield, Richard B.
Rucks, Charles H.
Schaub, Kenneth E.
Schickner, Mark C.
Schuler, Thomas M.
Schultz, Randolph L.
Sessa, Vincent A.
Sexton, John L.
Seybert, Jerry M.
Shoger, Thomas C.
Sluder, James M., III
Smith, Brad S.
Smith, Edward M.
Smith, Gary E.
Smith, Randall E.
Solecki, Peter K.
Stefek, Thomas G.
Stephens, Blake R.
Stevens, Scott H.
Summers, Steven D.
Taylor, John R., III
Thorne, Lloyd M.
Thornton, John D.
Tindall, Julius S.
Upton, John G.
Vizzier, Joseph M.
Walther, Larry E.
Wehrle, Robert A. W.
Wheeler, Michael J.
Wilkerson, John A.
Wry, Steven C.
Zimmerman, Robert R.

The following named (Navy enlisted scientific education program) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Dvoskin, Stanley F.
Horn, James A., Jr.
Keislake, Keith L.
Miller, Charles W.
Myers, Richard M.
Stephens, Cortez D.
Thornton, John M.
Tucker, George T.
Watkins, Ray F.
Webber, Alfred W.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 17, 1972:

U.S. District Courts

Wilbur D. Owens, Jr., of Georgia, to be a U.S. district judge for the Middle District of Georgia.

Department of Justice

Wilbur H. Dillahunty, of Arkansas, to be U.S. attorney for the eastern district of Arkansas for the term of 4 years.

William D. Keller, of California, to be U.S. attorney for the Central District of California for the term of 4 years.

Harold Hill Titus, Jr., of Washington, D.C., to be U.S. attorney for the District of Columbia for the term of 4 years.

Ermen J. Pallanck, of Connecticut, to be U.S. marshal for the District of Connecticut for the term of 4 years.

EXTENSIONS OF REMARKS

THE BAY IS DYING

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. WALDIE. Mr. Speaker, we in the Congress are all aware of the tremendous pressures to absolve the Nation of one of its principal problems—water pollution. The legislation about to be reported out of the House Committee on Public Works is a monument to that concern.

It is vital to the best interests of the Nation that the Congress gives to the President a bill that is realistic, tough, and enforceable.

I would think that the bill we act on in the next few weeks will have all those qualities.

Mr. Speaker, one of the greatest bodies of water in the Nation, San Francisco Bay, will be a direct beneficiary of that bill. I call the attention of my colleagues to a recent newspaper article written by Jeanne Peak in the Valley Pioneer, Danville, Calif., in which the threats to San Francisco Bay are described and one program designed to prevent that destruction is outlined:

THE BAY IS DYING

(By Jeanne Peak)

It's foggy and cold as the 31 students from the San Ramon High School Oceanography class file out of the bus. They are about to go on an adventure few have been on before. Each one in turn, catches their first glimpse of the ship they will board and the excitement grows. "It's a big boat man. Must be at least 85 feet long." The question of the day is, "When do we get on her?"

I can sense the anticipation that's been growing since the beginning of school. Everybody knew that this was the class to be in. After all, you got to go on a ship and actually be an oceanographer for the day. Wow! No English!

Now we were here looking at "The Inland Seas," the ship that was once an Air Sea Rescue boat with powerful engines that could reach 42 knots. Sometime in her past she was converted to a research vessel and the Marine Ecological Institute took her and gave her a new lease on life. Now she would take us out on the bay and together we would search the water for life, probing, testing and learning about the problems that beseech the bay.

Bob Miller, the captain, signals us to come aboard and with a mighty thrust of her engines, we pull away from the dock and head north while the class listens to Bob Cook, the program director, explain what lies ahead in the mission. He doesn't neglect telling us where the labs are located and where we will find the heads (bathrooms) either. Very thorough fellow.

Above the steady hum of the engines comes the words, "ecology," safety," station."

Then the anchor goes over the side, the lecture ends and there is movement everywhere on board, as four groups head for their respective labs, etc. Eventually, everyone gets to their destination and the instructors put them to work.

"Okay, we're going to throw the nets over and drag the bottom for fish. Hang on to these ropes, watch your footing. Ready? Heave! Good!" The nets are out and the crowd is anxious. All eyes are on the stern. What, if anything, will the nets yield?

"Pull 'em up, pull, pull." A cry of disappointment goes up as the students realize that there are no fish. No Fish! The instructor quietly tells his crew to go down below and look at the things they used to catch, carefully preserved in bottles.

Meanwhile in the main cabin, maps are everywhere with eager people scanning the bottom of the bay. "Only 11 feet of water under us right now and we're pretty far from shore. The bay is shrinking. See the land fill areas? Did you realize that it takes 18 months for the bay to flush out? Cities around her shores are emptying their sewage into these waters, the oxygen is low, the chlorine high. The bay is dying! Let's take a sample core of the bottom. Maybe it will tell us something."

Somebody tossed the Van Doren overboard. It's okay in this instance because it is used to measure the oxygen content in the water. The chemistry students are busy with that one. Some others are fooling around with an Eckman Meter measuring the currents. "It seems to be moving about 1½ miles per hour sir."

Everyone is busy learning about this leading science, oceanography, so I steal down to the main cabin to learn more about the Marine Institute and its function. On the wall I found a neatly typed paper called The Institute's Mission. It answered my questions quite well so I will quote it verbatim. It reads as follows:

Education for better informed citizenry as to the interactions between living organisms including humans and their physical and chemical environment.

Research gathering data about biology, water quality and bottom sediments.

Information services provide relevant objective data for scientists, engineers and planners who manage agencies and services which use or influence our natural resources.

The only thing they left out was the undeterminable amount of time and effort given to the young people on board this ship, in the hopes that the seed of awareness and the strength of knowledge will bring another scientist who will make a contribution to society and help solve the problems witnessed here today.

The engines have started up again and we are moving away, heading home. It is time to go below and relax. Time to talk about the day's experiences. Serious faces gather around and it is quiet for the first time today. The reflections of those faces say they're tired, cold, hungry and worried. The bay is dying, they've seen it first hand and it sticks in their throats. The bay is dying—We must all do our part to stop it before it is too late?

PRACTICAL APPLICATIONS OF AEROSPACE TECHNOLOGY

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. GOLDWATER. Mr. Speaker, all of us are aware of the attempt to dismantle the aerospace industry. I believe it is critical that America remain first in aerospace and aviation and I am pleased with the agreement of this opinion demonstrated by many private citizens and businesses. One of those in agreement is the Derus Media Services in Chicago.

Bill Derus, the founder of the firm, and his associate, Mr. Al Vinikour, have done an excellent job of explaining the vital role of aerospace and aviation technology through the distribution of their national publication called Pace. The magazine provides information to over 6,000 newspapers across the country.

Recently, Mr. Vinikour delivered an excellent talk on the practical applications of aerospace technology. I wish to present his speech at this time for the consideration of my colleagues.

The speech follows:

PRACTICAL APPLICATIONS OF AEROSPACE TECHNOLOGY

(By A. D. Vinikour)

Much has been spoken about the massive costs of our space program and of aerospace research and development. Aerospace technology, and particularly our space program, has been looked upon as a boon to rock collectors and the epitome of sophistications in toys for "overgrown children."

One should not be mislead by the sight of Alan Shepard playing golf on the moon. This is a serious business and vital to the welfare of man. The space program was never intended to benefit the man on the moon, nor to aid the populations of Venus and Mars. With each new innovation in aerospace technology, scientists and technicians immediately try to determine what practical applications can be made to benefit mankind here on Earth.

Aerospace technology touches each of our lives daily, from weather forecasts to the simple frying of bacon and eggs.

I do not intend to go into many controversial areas of the space and aerospace program, such as employment, tax dollars and the current very real threat to the United States as a leader among the world's major powers. This is too general and would take away from the benefits that I want to highlight. Also, I will not be going into the technical aspects of each innovation. That is not my field.

The reason for my mentioning the company's name along with the development is for the purpose of showing that application of aerospace technology is industry-wide, and not restricted to a few companies.

My sole purpose is to try to present an honest picture of the aerospace industry. Historically, the industry has been hesitant to talk to the public. Its philosophy used to be, "We're too busy, talk to the Department of Defense." This thinking does not apply any more. When plans were recently announced for the space shuttle by the White House, the industry immediately gave several examples of what the space agency hopes to accomplish with the use of the shuttle, the major one being eventual harnessing of the Sun's energy as a source of pollution-free power. Let's look at a few developments in several categories:

URBAN AFFAIRS

General Dynamics devised a system to analyze speech habits, behavioral patterns and radio conversations of policemen. This would give an indication of stresses brought on by various facets of police work. Testing is underway in Rochester, New York.

Modular construction concepts, new machinery and technical assistance by *Rohr Corporation* are playing a major role in the development of cabin-type dwellings for migrant farm workers in Fresno County, California.

Practically all aerospace-engaged companies have training programs for the hardcore unemployed, undereducated, handicapped and non-skilled. Emphasis is on technical training with obvious intentions.

Lockheed Aircraft Corporation, under the direction of the California State Department of Compensatory Education, assisted in an intensive study of school-community relations in urban poverty areas. Aerospace skills were employed to design questions for more than 250 teachers in poverty areas and to analyze their answers. Findings showed the success or failure of schools to educate youngsters with ethnic, cultural or economic handicaps could be a major contributor to either contentment or unrest in the modern city.

Aerojet-General Corporation applied aerospace systems analysis techniques to solve social problems in two important areas: In 1965, *Aerojet* performed a systems analysis study of the problems of crime and delinquency in the state of California. Results of the six-month effort demonstrated the practicality of using aerospace techniques to gain new insight into crime prevention and control procedures. Of particular significance was the stimulation of the criminal justice system on a computer. This mathematical model enabled systems engineers to determine how well the system functioned, and how changes would affect its functioning. This provided information on the operation of a criminal justice system years before it could have been acquired by analyzing daily records and events.

In 1966, *Aerojet* did a systems analysis of California's social system. The study took a new approach to social welfare, differing from the relief concept of the 1930s when most of today's programs were devised. It marked the first application of advanced research techniques of the aerospace industry to the problems of combatting and preventing dependency.

Aerojet-General also developed an extremely fascinating crime detection technique. "Nuclear fingerprints" have been advanced as a most useful method of comparing clues found at the scene of a crime with similar samples taken from a suspect. This "neutron activation analysis" can be used, for example, in comparing tire marks, hair samples and marijuana. Matching probabilities are said to be 99.999 percent. The use of chemistry has been cited as a method for marking and tracking. For example, it could be possible to "sniff" around a house to determine if narcotics are inside without ever entering the house. Special chemical markings on vehicles would allow police officers to follow a suspected car, chemically.

LTV Aerospace, using a high intensity lighting system for nighttime military operations, has developed a system designed for use during civil disaster, blackouts, rescue operations on land or water, or in other instances where night lighting from an airborne vehicle is required. This system produces a circle of light 3,500 feet across at 3,000 feet altitude, and the light is six times brighter than full moonlight. The system is designed for quick installation and removal and can be mounted in fixed or rotary-wing aircraft.

LTV also developed an 1,800 watt speaker system to provide fixed and rotary-wing aircraft with an air-to-ground voice communications capability at altitudes to 10,000 feet. This system has many applications, including air search and rescue operations, riot control, air-borne traffic control, and many other applications where it is desired to project voice or sound over high ambient noise levels, or where extensive distances and large outdoor areas are involved.

MEDICAL APPLICATIONS

Northrop Corporation is involved in a program to provide advanced cardiac information on emergency patients. The system provides for EKG instrumentation of the patient immediately after pickup by the ambulance and for the radio transmission of the electrocardiogram to the emergency ward for the pre-arrival evaluation by the on-duty physician.

The Boeing Company has developed a personal health monitoring system now in use at a Miami hospital's intensive care unit. Battery-powered devices about the size of a cigaret package are strapped to a patient's arm or leg. They transmit physiological information, including temperature and blood pressure, from as many as 64 patients to a single nurse seated at a monitoring console.

A dry immersion bed for hospital patients with severe skin burns or ulcers was developed from experiments of simulated weightless conditions of astronauts. The *Convair Division* of *General Dynamics* designed the bed for use in research on metabolic rates under space conditions. Patients using the bed lie on a waterproof sheet and remain dry while "floating" in water heated to body temperature. Because the patient is buoyantly supported, there is an infinite number of "pressure" points and minimum pressure on any single part of the body. The bed is used for patients in long-term bed confinement cases, such as resulting from neurological damage, to prevent and to treat pressure-produced skin ulcers and to treat massive skin burns.

United Aircraft's Hamilton Standard Division has developed a spacesuit-like garment for heart attack victims for the National Heart Institute. Blending aerospace engineering and medicine, *Hamilton's* interest in the biomedical field grew out of work on space life support systems. The heart suit was designed to be placed on a prostrate patient in less than five minutes. The patient's head and torso actually are encased in a pressure suit of the same laminated nylon material *Hamilton Standard* has used in fabricating experimental space suits. The pressure, however, is slight. The suit's arms and legs consist of a series of rubber-bladder-lined cuffs that can be inflated like the cuff a doctor uses to take blood pressure. In use, the suit is, in effect, a series of blood pressure cuffs rapidly inflating and deflating in sequence. A computer controls the pneumatic system to program the suit's operation precisely to the patient's heart beat by reading his electrocardiogram from leads taped to the chest.

Utilizing the same kind of polymer chemistry which goes into formulation of solid rocket propellants, *Aerojet-General Corporation chemists* are experimentally producing an improved plastic membrane for use in filtering and purifying human blood as part of an artificial kidney machine.

Scientists and engineers of *McDonnell Douglas Astronautics Company* are investigating whether computer technology can be used in detecting the onset of an epileptic seizure. Goal of the initial phase of the study is to verify the hypothesis that subtle changes in brain activity can be detected and utilized to predict the onset of an epileptic attack. If the study proves successful, the researchers will attempt to design and develop a miniature, automated device which could warn an epileptic of an impending seizure.

A gas-driven "baloon pump" that can be easily inserted into the main artery to give immediate aid to heart failure victims is being perfected by *Avco Everett Research Laboratory* for the National Heart Institute. The object of the Intra-aortic Pump, as the new device is known, is to lessen the heart's work load by lowering the arterial pressure against which the heart must eject its volume.

Hercules, Inc. is investigating the potential application to medical uses of several materials technology and analytical techniques developed in solid propellant rocket programs. Hollow cellulose fibers give promise of successful use in compact, inexpensive and efficient artificial kidneys for patient's use at home. Development of a cannula that will allow the application of closed chest cardiac bypass treatment for patients suffering self repairable heart damage is being investigated in cooperation with the University of Utah. The cannula is produced using techniques developed in work on filament wound Spiralloy rocket cases and employs a patented technique for surface treatment so that the structural materials will not induce clotting of the blood. The application of instrumental analytical chemical analysis techniques developed in association with rocket propellant research programs is being investigated for possible uses in blood analysis and other medical purposes.

Sophisticated instrumentation and computer techniques are employed in an *Aerojet-General Corporation* system that greatly reduces the time required to train anesthesiology students. It features a life size computer-controlled manikin which realistically simulates such human patient symptoms under anesthesia as reaction to drugs, coughing, twitching, regurgitation, changes in pulse and respiration, and many others.

The serious problem of the short "life" of whole blood is being reduced dramatically by systems technology developed by the *Lockheed Aircraft Corporation. Lockheed* designed a computer-based inventory control system adaptable to any blood bank. Each day, reports on daily blood turnover, complete with details about type and age, are transmitted to *Lockheed's* Sunnyvale, California, computer center from the Los Angeles-Orange Counties Blood Bank—largest in the world—the Alameda-Contra Costa Counties Blood Bank in the San Francisco Bay Area, and the Sacramento County Blood Bank. Overnight, a *Lockheed* computer analyzes the blood turnover data and prepares reports on the location of each pint of blood in each bank, according to age. (Blood can be used in transfusions and other important processes until it is 21 days old. Beyond that point, it is useful only in plasma and similar minor roles.) Next morning, blood bank administrators find the reports on their desks, then begin deciding which supplies should be tapped next. The *Lockheed* system has cut waste of whole blood to as little as four percent in the California institutions.

A cross-spectral analysis computer program created by *North American Rockwell's Rocketdyne Division* for use in solving a variety of rocket engine vibration, ignition and combustion problems has been found applicable to medical research and brain studies. In-depth studies of the heart are presently being performed in Australia using this cross-spectral analysis concept. The technique may logically be applied by medical science in the diagnosis of human abnormalities and diseases. Its use is seen in the automotive, chemical and construction industries, oceanology and, possibly, it could be used to forecast more accurately the product of systems as complex as the stock market.

ENVIRONMENT

TRW, Inc. is conducting a complete systems analysis of national and regional air pollution as a basis for a National Air Pollution Information Control System. The product will be a variety of national and regional air pollution models which can be applied to specific geographic, atmospheric-polluting situations with both physical and economic considerations included.

Hercules, Inc. is developing an advanced design cellulose acetate hollow fiber reverse osmosis membrane and a porous filament-wound reverse osmosis membrane support tube which can be used as a means of desalting brackish water and sea water at significant cost savings, as well as providing an economical technique for reclamation of waste water. Under company sponsorship, aerospace technologies have been utilized to evolve new, improved techniques for combatting water pollution which can significantly reduce treatment plant size. The company also is surveying the potential application of aerospace technologies to the recovery and up-grading of materials from solid waste.

Acid, stream-polluting mine drainage wastes will be converted into pure water when construction is completed by *Westinghouse Electric Corporation* of the world's first such facility near Wilkes-Barre, Pennsylvania. The plant will be capable of treating five million gallons of acid water now flowing daily into the Susquehanna River.

General Electric's Re-entry Systems Division at Philadelphia, is developing a prototype waste treatment system which can be tested aboard ship. This is an effort toward eliminating a source of pollution in harbors and waterways where it is not uncommon for ships to dump raw sewage overboard.

Stress cells of the kind used by *Aerojet-General Corporation* for measuring the thrust of rockets are now being utilized in large dams to monitor internal static and dynamic stresses. Thus, these cells can provide early warning in case of seismic disturbances or any ominous shifting in the dam's structure.

The feasibility of monitoring snowpacks with satellite-borne microwave radiometers currently is being evaluated on Mt. Rainier, Washington. Such a capability would enable electric power companies to make highly accurate forecasts of hydroelectric power to be derived from runoffs as the snowpacks melt.

To help relieve the world shortage of useable, fresh water, *Westinghouse* has 73 water desalting units in operation or on order. Key West, Florida, a city of 47,000, became the first city in America to fill its total water needs from the sea with a water desalting plant built by Westinghouse. The unit produces about 2.6 million gallons of fresh water daily at a cost of about 85¢ per thousand gallons.

A system that reconditions sewer water for industrial and irrigation uses and simultaneously converts waste food into poultry mash has been developed by *North American Rockwell Corporation. Rockwell* also has developed a laser beam system to detect and measure minute movements of the Earth's surface as a means of predicting earthquakes.

The Bay Area Rapid Transit, known as BART, San Francisco's mass transit system is making extensive use of advanced systems and manufacturing technique developed by the *Rohr Corporation.*

And, of course, teflon is a spin-off of the space program. It is derived from material used in coating nose cones for re-entry into the earth's atmosphere.

For the sports enthusiast, it is now possible to watch events being played in Hawaii, Europe, or anywhere in the world on home television because of the efficiency and reliability of satellite communications developed by the aerospace industry.

The same holds true for telephone calls and communications between points on the other side of the world from each other.

The use of weather satellites enables many hours, and in some cases, days of warning against tropical storms. It has been judged that the death toll from Hurricane Camille in the Mexican Gulf Sector would have been terrible had it not been for accurate early warnings made possible by survey satellites.

Time does not permit me to list dozens—hundreds—of other aerospace developments that are contributing to better, more comfortable and longer life for mankind. The full list of practical applications really is endless. I only hope that the relatively few examples that I have mentioned will give you a better idea of how, eventually, the money spent on aerospace is returned in benefits to all humanity.

I am convinced that the basic message for all of us is that continued aggressive research and development all across the high-technology spectrum is absolutely essential if we are to survive economically as a major nation, and if we are to achieve the social goals—housing, education, health, transportation, pollution control, conservation, safety—that are so important to all of us.

Thank you.

HOW MA BELL DISCRIMINATES

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mrs. CHISHOLM. Mr. Speaker, during my career in public office I have spent a great deal of time trying to create a better awareness and understanding of the discrimination which women and minorities experience in employment.

Very often when I describe some experience of my own or tell an anecdote to illustrate a point, someone will say "but that's only one incident," or, "but if somebody really wants a better job they can get it." There seems to be a reluctance to admit that racism or sexism is as prevalant as it is in our country.

I have a healthy skepticism as to the value of commissions and reports. They always seem to me to document the obvious. And too often they are undertaken as an alternative to action, an attempt to defuse an issue. However, sometimes reports can be useful in proving one's case to the doubting Thomas and can lay the groundwork for change and improvement. I certainly hope that this will be the case with regard to the very excellent and comprehensive EEOC study of the discriminatory practices of the Bell Telephone System which I am inserting into the CONGRESSIONAL RECORD today.

The Bell study is especially important because the Bell System is the largest privately owned business in this country, and because it reaches into every geographic sector of the Nation. It is for these reasons that I feel the investigation of this company is an excellent case study mirroring national trends.

The vast majority of the 200,000 men in management personnel hired each year by Bell are unskilled workers. Therefore, the company has developed extensive and thorough training programs. But in spite of this extensive training capability there is little upward mobility at Bell. Women, blacks, and Spanish surnamed Americans are locked in to entry level jobs.

Many jobs are officially segregated. For example, women are explicitly excluded from the higher paying craft jobs. In other instances, recruitment and promotion policies work to exclude minorities and women from all but the lowest paying jobs. In the case of the Spanish surnamed, they are sometimes excluded altogether because recruitment matrials are not printed in Spanish or circulated in the Mexican-American, Puerto Rican, Cuban, and Spanish-American communities.

The report is replete with examples and rather than continue to recite statistics and evidence, I invite all of you to read the report yourself. It may help to answer the questions I hear so often, "what are they so upset about? What do they want now?"

My colleagues, I give you: "A unique competence," a study of equal employment opportunity in the Bell System:

"A UNIQUE COMPETENCE": A STUDY OF EQUAL EMPLOYMENT OPPORTUNITY IN THE BELL SYSTEM

(NOTE.—Charts and illustrations not included in the RECORD.)

PREFACE

This paper is an attempt to summarize in a manageable form the results of an intensive investigation of the employment practices of the Bell System operating companies. The investigation was undertaken by the Equal Employment Commission pursuant to a Petition filed with the Federal Communications Commission, Docket No. 19143, alleging nationwide patterns of employment discrimination by the Bell System companies on the basis of sex, national origin, and race.

The paper is a distillation of only the most salient features of the patterns of employment discrimination revealed by the EEOC investigation and the policies and practices which are responsible for those patterns. It is intended to facilitate examination of the bulk of evidentiary materials which have been submitted to the FCC.

This paper was written and prepared primarily by David Copus, Lawrence Gartner, Randall Speck, William Wallace, Marjanette Feagan and Katherine Mazzaferri.

CHAPTER 1.—THE BELL SYSTEM

In America, the name Bell System is virtually synonymous with the telephone industry. The organization which Alexander Graham Bell founded in 1877 to market his invention has now grown into one of the largest privately-owned businesses in the world, one which dominates the telephone communications industry in the United States. The Bell companies account for at least 94 percent of all telephones, capital assets, and operating revenues of all telephone companies in the United States.[1]

This chapter will provide a brief overview of the Bell System, its major departments, major jobs and their functions, wage rates, and characteristics. Against this background of the general employment structure, the position of women and minorities will be described in the following chapters.

The "federal" system. At the head of the nation's huge telephone communications system is the American Telephone and Telegraph Company. However, the actual provision of telephone services is accomplished through 22 subsidiary companies, also known as licensee, associated, or operating companies which are shown in Figure 1.

AT&T has potentially absolute legal control over these operating companies through its ownership of at least a majority of the capital stock in all of them and 100% of the stock in 16 of them. Thus, while each operating company on a day-to-day basis exercises autonomy in dealing with local telephone matters, it is acknowledged that "there are nonetheless a great many matters in which AT&T much exert guidance and control."[2]

Since, under this "federal" system, the operating companies provide the actual telephone services while AT&T provides general policy guidelines and supportive services, the operating companies employ virtually all of the Bell System workforce. At the end of 1970, for example, the operating companies employed a total of 732,450 persons, more than half of whom were concentrated in urban and surrounding areas.[3] Consequently, it is the employment practices of the operating companies, primarily in urban areas, which is the subject matter of this report.

Thirty SMSA's. Thirty of these urban areas have been selected for detailed analysis. The commonly used unit for measuring economic, employment, labor market and population trends of urban areas is the Standard Metropolitan Statistical Area (SMSA). The geographic limits of each SMSA have been established by the Bureau of the Budget.[4]

The 30 SMSA's chosen for study are those with the largest numbers of minorities and are listed in Table 1.[5] Collectively, these SMSA's contain about half of the nation's entire workforce, half of the total black population, and half of the total Spanish-surnamed American population. At the end of 1970, the Bell workforce in these 30 SMSA's totaled 374,190, more than half of all persons employed by the operating companies.[6]

Each operating company is almost identical in structure, with the employees divided into five basic departments, each of which plays a particular role in the provision and maintenance of the telephone communications system. The distribution of employees in the 30 SMSA's within the five major departments is shown in Chart 1.

Plant department

The largest number of Bell employees are in the Plant Department, the function of which is to install, maintain, and operate the mechanical and electronic equipment which transmits telephone calls. As shown in Chart 1, the Plant Departments in the 30 selected SMSA's employed at the end of 1970 a total of 153,003 persons, or 40.9 percent of the total Bell operating company employment in those SMSA's.

Non-craft jobs. Plant employees are divided into craft and non-craft workers. The latter group consists of a very small number of service workers, who perform

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Footnotes at end of article.

maintenance and service functions, and a larger number of clerical workers, who keep records concerning Plant Department activities such as installation of new telephones. The few service worker jobs, such as Janitor and Porter, are by definition unskilled and are the lowest paying jobs in the operating companies.

TABLE 1.—*Bell employment in 30 SMSA's on December 31, 1970*

Standard metropolitan statistical area:	*Bell employment*
New York	82,380
Los Angeles	35,344
Chicago	34,380
San Francisco	26,903
Philadelphia	19,844
Detroit	18,946
Washington, D.C.	17,046
Newark	12,818
Cleveland	11,081
St. Louis	10,015
Atlanta	10,010
Miami	9,458
Baltimore	8,867
Houston	8,147
Denver	8,129
Dallas	7,795
San Diego	7,358
Indianapolis	6,007
Phoenix	5,792
New Orleans	5,133
Kansas City	4,988
Birmingham	4,409
Richmond	4,008
Jacksonville	3,678
San Antonio	3,249
Norfolk	2,261
Memphis	2,135
Greensboro-Winston-Salem	1,759
Mobile	1,192
El Paso	1,058
Total (30 SMSA's)	374,190

Source: EEOC C–661—EEOC C–690.

On December 31, 1970, clerical workers constituted approximately 15% of all Plant employees in the 30 SMSA's.[7] Characteristic Plant clerical jobs are Repair Clerk and Plant Reports Clerk whose maximum annual salaries average about $6000 in the 30 SMSA's.[8]

Craft jobs. However, most of the employees in the Plant Department—over 60 percent in fact—are in the much higher-paying craft jobs. At the end of 1970, more than 93,000 craft workers were employed in the 30 SMSA's, constituting 25% of all Bell System employees in those areas.[9] These craft employees are essentially divided by function, those who work "inside" the physical plant, where the mechanical and electronic equipment for routing telephone calls is located, and those who work "outside" the physical plant, installing and maintaining telephones, cables, and telephone lines.

At the lowest level of both "inside" and "outside" craft jobs are the entry positions, into which persons are generally hired off-the-street and then trained. The major entry-level job for "inside" craft work is that of *Frameman.* All telephones in an area are connected by wire to routing equipment in central plant locations, and the Frameman's job is to change the connections of these individual telephone wires with the central routing equipment to reflect changes in service. Maximum annual wages for Frameman vary, of course, from SMSA to SMSA, but generally fall between $7,500 and $8,500, considerably higher than Plant clerical rates.[10]

For "outside" craft work, there are three major entry-level jobs: *Lineman, Cable Splicer's Helper,* and *Installer-Repairman.* The job of the Lineman is to place the lines and cables connecting the individual customer's telephone to the central plant routing or switching equipment. In doing so, the Lineman may raise or climb telephone poles or lay underground cables. The function of the Cable Splicer's Helper is to aid in making and changing individual wire connections within cables and sealing and insulating cable joints. The Installer-Repairman installs and maintains individual telephones located at a customer's premises.

The Cable Splicer's Helper is usually paid at the same rate as a Frameman, while maximum annual wages for Lineman and Installer-Repairman generally are about $1,000 higher, ranging from $8,500 to $9,500.[11]

Top crafts. In addition to these entry-level craft positions, there are four major top-rated craft jobs which encompass more complicated functions and which are filled almost exclusively through internal promotion from the lower-rated craft jobs. Two top craft jobs, *Switchman* (also known as Central Office Repairman) and *Test Boardman* (also known as Toll Test Deskman), are "inside" craft positions. The task of the Switchman is to maintain and repair the routing and switching equipment located at the central plant. Switchmen check switches and relays with special tools and repair trouble on customers' lines that occur in the central plant equipment. Test Boardmen sit at special switchboards comprised of electrical testing instruments and test for, locate, and analyze reported trouble in the telephone lines. They also make periodic checks of lines in order to prevent breakdowns.

The two top-rated "outside" craft positions are *Cable Splicer* and *PBX Installer-Repairman.* The Cable Splicer makes and changes individual wire connections within cables and seals and maintains cable joints. PBX Installer-Repairmen install and maintain private switching systems, known as Private Branch Exchanges, used by large businesses and hotels. They may also install and repair radio and television broadcasting equipment, mobile radio telephones, and teletypewriter equipment. These four top-rated craft jobs are generally paid at the same rate, usually between $9,000 and $10,000 a year maximum.[12] They are the highest paying non-management jobs in the system.

Traffic Department

The second largest department is Traffic, whose purpose is to assist the flow of calls between telephones. As shown in Chart 1, as of December 31, 1970, over 28% of all employees in the 30 SMSA's were in this department. Most Traffic employees are *Operators,* who assist customers in placing calls, provide directory information, and record data for billing purposes. More persons are employed in the job of Operator than in any other single job in the Bell System. As of December 31, 1970, 73,333 Operators were employed in the 30 SMSA's, a figure which represented nearly 20% of *all* Bell employees in those SMSA's.[13]

Although roughly one out of every five Bell employees is an Operator, this is one of the least desirable jobs in terms of both pay and working conditions. The maximum annual salary for Operators in the 30 SMSA's at the end of 1970 ranged between $5,000 and $6,000,[14] slightly less than the salary paid to Plant clericals and considerably less than even the lowest Plant craft wages. Chart 2 shows the dramatic difference in maximum wage rates in the Plant and Traffic Departments in the 30 SMSA's. Clearly, the wages in the Plant Department, boosted by the high pay in craft work, are considerably greater than in the Traffic Department, where the wage level is depressed by the low Operator salary.

Working conditions. The low pay is not, however, the only undesirable feature of the Operator job. Working conditions, apparently, are virtually intolerable. The job itself is "highly routine," and nothing but a "structured and repetitive task.[15] A study prepared for Southwestern Bell by Dr. George Robinson of the Graduate School of Business, Washington University, concluded as follows:[16]

"There is a fairly general feeling among the operators, both those remaining and those resigning, that their job is dull and uninteresting. The most typical comment was that the job is highly regimented, affording little opportunity for self-expression or self-fulfillment."

In addition, the Bell System rigidly enforces "formal rules covering every aspect" of the Operator's job.[17] There are stringent rules governing dress, conversation at the switchboard, phraseology, and clerical accuracy; but the most abrasive and particularly inflexible rules are those governing absenteeism and tardiness. A report prepared in August, 1970, by the Southwest Research Institute in Houston declared that, "Concern over attendance has grown beyond all proportion within the system. Attendance is so important that the Company has lost its perspective."[18]

The "authoritarian manner" in which the attendance and tardiness rules are enforced is exacerbated by the fact that low seniority Operators are required to work divided shifts, "unenviable schedules involving an early morning shift and a late evening shift, separated by a period long enough to require a return home in the middle of the working day."[19] Moreover, most Operators are required to work staggered schedules, including many weekends.

The impact of all of these undesirable features of the Operator's job is cumulative. The 1970 Southwestern Research Institute report described the overall results as follows:[20]

"[Operators are quick to describe] the noxious demands of work that is too highly structured, their loss of personal identity, their lack of freedom to rely on their own judgement, their difficulty in becoming part of a cohesive social group, and the absence of any reasonable hope for future advancement. . . . They are necessary parts of a system designed by genuises for execution by idiots."

Turnover. Under such circumstances, it is hardly surprising that turnover among Operators is very high. Chart 3 illustrates the staggering difference in turnover among Operators and Plant Department craft workers, another indication that craft jobs are considerably more attractive than Operator jobs. High as the turnover of Operators appears, Chart 3 significantly understates the problem. A much higher rate of turnover exists in large SMSA's among Operators with less than six months' service.

A 1969 AT&T report indicated that in 19 major metropolitan areas, turnover among Operators with less than six months' service had increased from 80% in 1964 to 120% in 1968.[21] In fact, in many districts turnover among short-term Operators had reached 200% in 1968.[22]

Commercial Department

After Plant and Traffic, the next largest department in the operating companies is the Commercial Department, which is the business contact between the customer and the telephone company for all private residence service and most business service. Chart 1 shows that at the end of 1970 in the 30 selected SMSA's, 9.4 percent of total employment was in the Commercial Department.

The primary job in this department is that of *Service Representative.* Nearly half of all Commercial Department employees in the 30 selected SMSA's at the end of 1970 were Service Representatives.[23] They handle billing and payment problems, schedule repair work, and sell ordinary telephone equipment and services. Basic to this job is a thorough understanding of Bell System billing practices, rate structures, service policies, and repair functions. Along with Operator and Installer-Repairman, the Service Representa-

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tive is one of the jobs most highly associated by the public with the telephone company. As a widely-used Bell System recruiting brochure points out, "to most of our customers, [the Service Representative] is the telephone company." [24] At the end of 1970, the maximum yearly salary varied roughly between $6,000 and $7,000 in the 30 SMSA's, making the job higher paying than Operator or Plant clerical but lower paying than all craft jobs.[25]

While the Service Representative handles customer inquiries and problems exclusively by phone without ever leaving the telephone company business office, customer contacts made outside the business office are the responsibility of the *Commercial Representative* (also known as the Business Representative). The number of Commercial Representatives employed by the Bell companies is small compared to the number of Service Representatives, but the maximum pay is much better, averaging about $2,500 a year more than Service Representative.[26] Thus, Commercial Representatives earn almost as much as top-rated craft workers.

Marketing Department

Closely associated with the Commercial Department is the Marketing Department, whose function is to analyze the need for and sell complex telecommunications equipment to business organizations. Chart 1 indicates its relatively small size. Where selling involves direct, outside contact with the business customer, it is handled by a *Commercial Representative,* whose maximum annual salary varies around $10,000, or by a *Communications Consultant,* whose maximum annual salary varies around $14,000.[27] There are also a variety of inside salespersons whose function is to handle contacts with customers by telephone and to sell communications services to medium-sized businesses. The maximum annual pay rate of these inside positions average about half that of the two outside selling jobs.

Accounting Department

The fifth major department in the Bell companies, containing seven percent of all employees in the 30 SMSA's, is the Accounting Department, whose functions are to prepare and issue bills to the company's customers, to prepare payrolls, keep the company's books, and prepare necessary financial statements. Aside from managers and professionals, almost all of the employees in this department perform various types of clerical functions and are paid rates comparable to plant clericals.

Low Skill Requirements

Significance for equal employment opportunity. Most, if not all, of the over 200,000 non-management persons hired by the Bell System each year have little or no job-related skills when hired.[28] Telephone communications in the United States is for all practical purposes a monopoly which requires certain specialized skills not generally required by other industries. Thus, very few persons learn the skills of Framemen, Cable Splicers, Installer-Repairmen, Operators or Service Representatives before working for the telephone company.

As a result, each Bell company "has developed thorough training programs for most jobs. Because telephone work is specialized, it is necessary to train new employees before they can become fully proficient. For this reason previous business experience is not a requisite for most telephone employment." [29]

The fact that the Bell System hires primarily unskilled workers has important implications. The impact that Bell System hiring practices could have on female and minority employment opportunities is readily apparent and has been repeatedly acknowledged at the highest levels in the Bell System.

AT&T Vice President Walter Straley succinctly stated the proposition this way in 1968: [30]

"We think our experience as an employer hiring some 200,000 persons each year, provides us with a unique competence to play a leading role in the improvement of employment opportunity."

Therefore, as will be emphasized throughout this report, any substantial underrepresentation of women or minorities in certain job categories manifestly cannot be attributed to their lack of skill. Absent discrimination, one would expect a nearly random distribution of women and minorities in all jobs.

Cost of recruiting and hiring. Another direct result of the large number of inexperienced new hires is the very high cost of recruiting, screening and training so many persons. Projections to 1980 indicate that the Bell System plans to increase its total employment by 280 thousand employees. But due to fantastic turnover the System will have to hire, during the next ten years, more than 2½ million people, about half of whom will be Operators.[31] To recruit, screen, and train so many employees will cost $3 billion.[32]

In October, 1969, AT&T Vice President Walter Straley estimated that a mere one percent reduction in turnover among Operators would save the System $2 million a year.[33] Comparable reduction in turnover among craft workers and Service Representatives would save the Bell System an additional $3 million a year.[34]

TABLE 2.—SUMMARY OF MAJOR JOBS AND DEPARTMENTS

Department and job classification	Estimated number of persons in 30 SMSA's	Maximum salary range (thousands)
Plant	153,000	
Craft workers	93,000	
Inside Crafts	38,000	
Switchman (central office repairman)		$9 to $10.
Test boardman (toll test deskman)		$9 to $10.
Entry level: Frameman		$7.5 to $8.5.
Outside crafts	55,000	
Cable splicer		$9 to $10.
PBX installer-repairman		$9 to $10.
Entry level:		
Cable splicer's helper		$7.5 to $8.5.
Installer-repairman		$8.5 to $9.5.
Lineman		$8.5 to $9.5.
Clerical workers		$6.
Service workers		$5.5.
Traffic	105,000	
Operator		$5 to $6.
Clerical workers		$6.
Commercial	35,000	
Service representative		$6 to $7.
Commercial representative		$8.5 to $9.5.
Marketing	20,000	
Communications representative and consultant		$10 to $14.
Inside sales		$6.
Accounting	27,000	

Management

The discussion above has been concerned with non-management jobs. As shown in Table 3, 23% of all Bell employees in the 30 SMSA's are in management positions. These jobs are stratified into six levels, levels one and two being primarily concerned with direct supervision of non-management employees and routine staff functions, and levels three (District Manager level) and above with the formulation and implementation of company policy.

TABLE 3.—TOTAL DISTRIBUTION OF EMPLOYEES IN 30 SMSA'S

	Amount	Percent
Nonmanagement	287,575	76.9
Total management	86,601	23.1
1st level	59,318	15.9
2d level	19,277	5.2
3d level	5,353	1.4
Above 3d level	2,653	.7

Source: EEOC C-661—EEOC C-690, as annotated.

Management employees are not evenly distributed through all departments, however, and a major difference exists between the two largest departments. In the 30 SMSA's, one out of every five Plant Department employees is in management while only one in ten Traffic Department employees holds a management job.[35] In terms of chances for advancement, therefore the Plant Department is *twice* as attractive as Traffic.

Up from the ranks. This two to one difference in the percentage of employees who are managers actually underestimates the management opportunities for Plant employees. Approximately 50% of all managers at the third level (District level) and above in *all* departments have been promoted from non-management jobs, primarily from craft jobs in the Plant Department.[36] In other words, many of the third level and above managers in the Traffic Department were actually promoted up through the craft jobs in the Plant Department.

College graduates. The other prime source of middle and upper management personnel is college graduates. For many years, the Bell System has had three management programs for college graduates. One, a very small program, hired specialists for certain highly technical staff jobs—lawyers, doctors, etc.[37] A second program, the Initial Management Development Program (IMDP), hired college graduates who were not specialists in any field but who were to be trained for general middle and upper level management jobs in an accelerated, highly structured program.[38] The third program, also fairly large, was not nearly as ambitious as the IMDP. Its participants were hired into first level management jobs and were not given any special training to assist them to progress to District Level.[39]

It is also worth noting that many of the first level management jobs in the Bell System are positions either not normally associated with management or paid at rates unusually low for management jobs. Included as management, for example, is the job of Secretary, which is paid at a maximum annual rate varying from $8,900 in El Paso to $10,750 in New York City.[40] Other jobs in New York City, for example, that are rated first level management include: Administrative Clerk, paid a maximum annual salary of $8,470; Clerical Supervisor at a rate of $8,470; Employment Representative at $7,830; Passenger Car Chauffeur at $9,920; Secretarial Stenographer at $7,230; and Supervisory Assistant at $9,170.[41] Thus, many first level management positions pay no better than, or even less than, typical craft pay rates.

Summary

The foregoing distillation of the Bell System's employment structure has highlighted several salient points:

The Bell System is the largest private em-

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ployer in the world with over half its work force located in 30 major SMSA's.

Bell employees are divided into five major departments, the largest of which are Plant and Traffic. More than two-thirds of all Bell employees are in these two departments.

There are four major types of non-management jobs in the Bell System: (1) craft workers in the Plant Department; (2) clerical workers in the Plant and Accounting Departments; (3) Operators in the Traffic Department; and (4) Service Representatives in the Commercial Department.

Operator is the lowest paying major job in the Bell System, closely followed by the clerical positions. Service Representatives are moderately well paid, but the highest paying non-management jobs are craft jobs in the Plant Department. In fact, craft wages exceed the pay of many first level management jobs.

The Operator's job is the least desirable major job in the System, largely because of the extremely undesirable working conditions. Consequently, turnover rates among Operators are quite high.

Virtually all of the 200,000 persons hired each year possess little or no skills and are completely trained within the System. The high turnover significantly magnifies recruiting and training costs.

Nearly one-fourth of all Bell employees are classified as management. A very large share of these are in the Plant Department.

Management personnel for third level and above in all departments are drawn primarily from craft employees or from college graduates hired into the IMDP program. Other college graduates are hired into first level management jobs.

Each of these factors has relevance to the employment opportunities of women and minorities in the Bell System. How each of them affects those opportunities is the subject of the following chapters.

CHAPTER 2.—WOMEN IN THE BELL SYSTEM: A STUDY IN SEX SEGREGATION

Introduction

Not only is the Bell System the nation's largest private employer, it is far and away the largest employer of women. Females, moreover, are employed in the Bell System at a much greater rate than industry in general.[1] It has become a cliche that the telephone company is "a good place" for a young girl to get a job.[2]

In this chapter we will see the total sex segregation of the telephone company jobs and the resulting lower pay, poor working conditions, and fewer opportunities afforded to females. The next chapter will elaborate on the company policies and rationalizations which have produced and continue to perpetuate this sexist structure.

In 1968, when AT&T Vice President Walter Straley spoke of the Bell System's "unique competence to play a leading role in the improvement of employment opportunity," he referred, myoptically, only to "disadvantaged minorities."[3] If such a unique competence did in fact exist, it ought to apply with even greater force to women. But in 1971 it must be said that the System has failed to meet the challenge; the Bell companies must be characterized as uniquely *in*competent. Although women continue to be employed in very large numbers, they are confined to the most stifling and repetitive jobs. Their compensation is so meager as to make them doubt their own self worth. Their prospects for promotion are in the distant future, if at all. It is little wonder, therefore, that many women flee from telephone jobs almost as quickly as they are attracted to them.

Emma Nutt to the Present—Not a very long way

The infant Bell companies, like most of their contemporaries in the 19th century, employed only males. Male operators, however, were considered to be "noisy, boisterous and often rude to subscribers." As a bold experiment, the Telephone Dispatch Company (the predecessor of New England Tel.) employed Emma Nutt as the first female Operator in September, 1878.[4]

The experiment proved to be quite a "success." Women very quickly took over the Operator's job and began to expand their areas of interest into what were then considered strictly male jobs. Female secretaries were employed "because girls would work for a third of the going $30-a-week salary for a male secretary."[5] Ms. Nutt, having pioneered in the Operator's job, set the pace for telephone women by advancing to Chief Operator, the first supervisory job for women, in 1883, and retiring after 33 years of service.[6]

The number of female employees grew with the rapid expansion of the telephone industry in the 20th century. They were limited, however, to a narrow spectrum of positions in the male dominated world of work. The jobs available to women remained those which were opened experimentally over 90 years ago. Operator and clerical jobs, together with their immediate supervisors, came to be reserved exclusively for females. Whole sections of the Bell System became the women's domain, "where men are managers, customers or husbands."[7] By 1971 more than 400,000 women worked in the Bell System, thus constituting more than half of all operating company employees.[8]

The segregation of jobs

By way of introduction to sex segregation in the Bell System, it is instructive to examine the myriad of official company documents which deal with employment and employees. A total sex segregation of jobs is reflected in virtually all such Bell System documents. Through pictures of males or females, pronoun reference or through straightforward identification, all jobs are strictly classified as either male or female.

This sex denotation of jobs is carried consistently throughout company personnel manuals,[9] collective bargaining agreements,[10] job descriptions,[11] company publications,[12] general company advertisements,[13] requisitions for employees,[14] forms relating to employment,[15] memoranda and letters,[16] speeches,[17] bill inserts,[18] turn-over studies,[19] testing studies,[20] orientation materials,[21] interviewer's aids,[22] training manuals,[23] community wage studies,[24] award programs,[25] annual reports,[26] and even reports on affirmative action efforts to improve employment of minorities.[27]

These documents unequivocally identify the following jobs as female: Operator, Plant and Accounting Department clerical jobs, Service Representative, inside sales jobs in the Commercial and Marketing Departments, and first level management jobs in the Traffic and Commercial Departments. Craft jobs, outside sales jobs, and middle and upper level management jobs are always identified as male jobs.

Public image. The rigid differentiation between the sexes in employment at Bell has become a trade mark of the System.[28] The Operator's job in particular has come to be recognized by almost everyone as especially suited to women. The telephone company has been described in the press as "the great historical bastion of feminine employment"[29] and the Operator's job as "a female stronghold" of long standing.[30] A newspaper article in February, 1971, reported that, "The idea that Telephone Operators are—must be—women is firmly planted into the public mind."[31] Similarly, the public conceives of all craft workers and all managers as being male.[32] The public's close identification of females with Operators and males with craft workers and management is no accident. It is the direct result of a calculated Systemwide sex segregation.

Only when one sex is totally unavailable for work has Bell resorted to "opposite sex" employment.[33] During World War II women replaced men on most inside craft jobs, particularly Frameman.[34] During strikes and service emergencies men have staffed the Operator's switchboards.[35] These instances were certainly the exceptions, however, and as soon as the crisis had passed, the "normal" sex again took over the job.

A uniform picture

Perhaps the most striking feature of the Bell System's sex segregation is its absolute uniformity. All the operating companies are apparently subject to an immutable law of sex segregation in almost all jobs. The same jobs are allocated to the same sex in every company with the same result—women are consistently locked into the lowest paying jobs with practically no prospect for upward mobility, regardless of their skill or ambition. Every city, irrespective of its size or geographical location, reflects the same segregation. Minor variations only serve to highlight the pervasive pattern throughout the Bell System.

This consistency is most apparent in the degree to which the major jobs are sex segregated in the operating companies. For the purposes of this report, any major job (a job employing 20 or more persons) that is 90% one sex or the other will be considered to be sexually identifiable and segregated. In the 30 SMSA's, 92.4% of all employees in major job classifications are in sex-segregated jobs.[36] (See Table 4.) There are no cities which may be categorized as "good" on this index. In New York City, the city with the least segregation, 86.0% of all employees are in classifications in which one sex is 90% predominant. An even more distressing statistic is the fact that in the 30 SMSA's, 54% of all employees in major job classifications are in *100%* sex-segregated jobs. In seven of the 30 SMSA's *all* of the 25 largest jobs are readily identifiable as belonging to one sex or the other.[37] At least 21 of the 25 largest jobs are segregated in every one of the SMSA's.

TABLE 4.—SEX SEGREGATION OF JOBS WITH 20 OR MORE EMPLOYEES, BY SMSA, DEC. 31, 1970

Standard metropolitan statistical area	Percent of all employees in 100-percent sex segregated jobs	Percent of all employees in 90-percent sex segregated jobs
Atlanta	79.8	92.7
Baltimore	61.9	96.3
Birmingham	91.7	92.7
Chicago	36.9	90.0
Cleveland	57.3	95.9
Dallas	81.0	99.2
Denver	58.6	94.4
Detroit	75.1	97.7
El Paso	96.0	100.0
Greensboro	97.7	97.7
Houston	83.1	97.9
Indianapolis	79.4	95.3
Jacksonville	83.6	96.3
Kansas City	87.1	99.3
Los Angeles	27.3	94.7
Memphis	82.2	93.9
Miami	72.0	92.2
Mobile	100.0	100.0
New Orleans	95.2	96.6
New York	38.6	86.7
Newark	74.6	88.7
Norfolk	91.4	100.0
Philadelphia	84.2	95.0
Phoenix	73.9	95.3
Richmond	50.5	91.8
St. Louis	77.1	95.3
San Antonio	96.3	100.0
San Diego	54.1	96.0
San Francisco	37.9	92.5
Washington	58.4	92.9
Total (30 SMSA's)	53.9	92.4

Source: EEOC C-661—EEOC C-690.

Footnotes at end of article.

Departmental segregation. Because virtually all jobs are sex segregated, whole departments may be designated as male or female in all the companies. Almost half of all females employed in the 30 SMSA's are in the Traffic Department while less than two percent of all males are assigned to that Department. The Traffic Department has been appropriately described by Bell officials as a "nunnery." In contrast, three-fourths of all males are employed in the Plant Department, but only one-eighth of all females. (See Chart 4.) Graphic and statistical presentations of the sex composition of all departments for each of the 30 SMSA's have been prepared and can be found in Exhibit 1, pp. 4–64. Those data very clearly show the sex-segregated nature of all major departments in every location.

The concentration of females in Traffic and males in Plant has two immediate implications. First, because the wages in the Plant Department are much higher than in the Traffic Department, males make more money. Second, the opportunities for promotion within non-management, into management and within management are infinitely better in Plan and, therefore, for males. Later sections will quantify both the wage and promotional disadvantage suffered by women in the Bell System. First, however, a detailed examination will be made of the specific jobs which are sex segregated.

The major female non-management jobs

Nationwide, eight out of ten female employees are in three major groups of jobs: Operator (40% of all female employees), Service Representative (8% of all female employees), and clerical and stenographic (32% of all female employees).[38] For almost a century the Bell companies have considered these jobs to be reserved for females.

Operator. At the end of 1970, the operating companies employed over 165,000 Operators, but only 224 (0.1%) were male. Were it not for the token effort of Pacific Tel. there would be almost none. Twelve companies have no male Operators.[39]

Service Representative. Bell's recruitment literature says of the Service Representative, "She is the telephone Company."[40] This is a particularly apt description since 99% of all Service Representatives are females. Five companies have *no* male Service Representatives. In only two companies and four of the surveyed SMSA's does the percentage of male Service Representatives exceed on percent. (See EEOC Exhibit 1, pp. 447, 448.)

Clerical. The third major "female" job group is clerical. In the operating companies 93% of these low paying jobs are held by women. Although seven percent of these jobs are held by men, it should not be assumed that these are the same clerical jobs held by females. Consistent with the over all pattern, most companies reserve a certain few clerical jobs—Utility Clerk, Construction Clerk, etc.—for males. These classifications are usually paid more than "female" clerical jobs. In every SMSA almost all clerical jobs continue to be identifiable as "women's" jobs.

Inside sales. A fourth "female" job group, somewhat smaller than the three discussed above, illustrates the Bell System's segregation of even functionally-related jobs. As observed in Chapter 1, there are two basic categories of sales jobs—inside sales which handles smaller equipment and advertising orders and outside sales which contracts for major customer purchases. Despite the functional relationship between the jobs, they continue to be distinguishable by the sex of the incumbents. Of 1369 inside sales workers in the 30 SMSA's, 95.2% are females; of 4000 outside sales workers, only 8.1% are females. (See EEOC Exhibit 1, p. 451.) In 1971 Southwestern Bell continues to designate its inside sales workers "Telephone Saleswomen."[41]

In short, in 1971 almost every major low-paying job in the Bell System is a "female" job. The introductory description of low-paying jobs (Operator, clerical jobs in Plant and Accounting, Service Representative and inside sales jobs) is also a perfect description of jobs which are almost totally female. The fact that exactly the same jobs are female in city after city and company after company is obviously the result of System policy. The fact that these jobs are also the lowest paying jobs everywhere in the System is also no accident. The contrary situation exists, of course, with respect to the jobs which the Bell System has allocated to males. The jobs are discussed below.

The major male non-management jobs

One-fourth of the operating company employees are in telephone craft positions.[42] Except for the upper level management jobs, these classifications are the most desirable in the System. Not only is the pay a great deal higher and the opportunity for promotion much greater, the job itself is much more challenging and satisfying than the Operator and clerical jobs.

These more attractive craft jobs have never been open to females on the same basis as males. Prior to the effective date of Title VII of the Civil Rights Act of 1964, there were virtually no females in any of the telephone crafts. In 1966 *only three companies* (New England Tel., Ohio Bell and Michigan Bell) employed *any* females in craft jobs.[43]

The passage of Title VII has not, however, been a significant spur to the utilization of females in the telephone crafts. In 1971, although all the companies had at least one female craft worker, in only five companies did the proportion of female craft workers exceed one percent.[44]

Two observations make this gross underutilization particularly distressing. First, it should be recalled that since the Bell System trains for every job,[45] the absence of female craft workers cannot possibly be explained by the lack of "qualified applicants."

Second, each Bell company employed females in craft jobs at a rate far below that of other companies in its area. (See Chart 5.) In 1971, only Michigan Bell managed to employ female craft workers at a rate greater than area employers. In most of the operating companies, females are employed in the crafts at a rate only 10–15% of the area all-industries rate.

Of 190,000 telephone craft workers in the operating companies at the end of 1970, 99% were male.[46] The "outside" crafts (Linemen, Installer-Repairman, PBX Installer-Repairman and Cable Splicer) were virtually 100% male. In the 30 surveyed SMSA's there were only nine females in outside crafts (three Repairmen, one Installer-Repairman, one Transmission Man, one Installer, two Station Installers and one Cable Splicer). (See EEOC Exhibit 1, p. 450.)

The Bell System's employment of women in the "inside" crafts (Frameman, Switchman and Test Deskman) is hardly better; all are substantially sex segregated. (See EEOC Exhibit 1, pp. 449–450.)

Michigan Frameworkers. The Frameman classification is a particularly interesting case study of the Bell System's penchant for classifying *every* job by sex. Prior to 1965 only one company, Michigan Bell, employed women in Framework. At Michigan Bell this classification, titled Switchroom Helper, was *totally* female and had been so for at least 20 years.[47] The job was treated in every respect as a "female" *clerical*-type job. The "female" (clerical) test battery was administered to applicant;[48] applicants were required to be between 5'3" and 5'10" tall;[49] the rate of pay was within the clerical range rather than the craft range;[50] promotional opportunities were into lateral clerical jobs rather than to higher-rated crafts or management.[51] The Switchroom Helper's job, though craft in function and identical to the all-male Frameman's job in other companies, was typed in every way as a female classification by Michigan Bell.

After 1965, some companies (though by no means all) realized that females could no longer be excluded from the Frameman's job. (See the discussion of BFOQ in Chapter 3.) Southern Bell and South Central Bell, to a limited extent, began what amounts to a conversion of a "male" job into a "female" job.

By the end of 1970, over 60% of the Framemen in Atlanta, Birmingham and Greensboro/Winston-Salem were "Framedames."[52] The evidence also tends to show that the rate of pay for Framework relative to other crafts also began to reflect its "female" designation in these companies.[53]

In January, 1970, Illinois Bell gave serious consideration to "an all female Frame force similar to Michigan Bell." They concluded, however, that their "hiring problems [among males] were not so critical that they should break toward an all female Frame force." Illinois Bell observed, nevertheless, that, "The Michigan people do still believe this is the way to go."[54]

Most other companies, despite the examples in Michigan Bell and Southern Bell, continued to defend the male craft fortress. At the end of 1970, there were no female Framemen in six SMSA's, and less than five percent of all Framemen were female in eight other SMSA's. Despite the fact that Framemen in some cities were all female, only 12% of all Framemen in the 30 SMSA's were female.[55]

The other major inside craft jobs continue to be exclusively male with little indication of any female participation to date. The Switchman classification was only 0.6% female at the end of 1970. Eleven of the 30 SMSA's had no female Switchmen. Females were similarly excluded from the Test Deskman's position, comprising only 1.7% of all employees in that position. In New York, for instance, of 1600 Deskmen, none were female.[56]

In summary, on December 31, 1970, virtually all craft jobs in the Bell System were held by males. Outside craft positions were exclusively male. Females had entered only one inside craft job, Framemen, and that only very selectively. As noted before, males held 92% of the outside sales jobs.

Thus, the description of the sex composition of major Bell System non-management jobs comes full circle. All low-paying, high-turnover, dead-end jobs are female. High-paying, desirable jobs with substantial chances for promotion to middle and upper management are male. It is no surprise, therefore, to find very few females in management jobs above the first level. The following section describes this exclusion from management.

Females and Males in Management

The exclusion of females from Plant craft positions and their concentration in the Traffic Operator's job has serious implications for their respective opportunities for promotion into management. As shown above, the chance for promotion into management within the Plant Department is twice as great as the chance for promotion to management in the Traffic Department. In the operating companies a woman's chances of reaching management are approximately one in eight while a man's chances are one in three. (See Chart 6.) The chances for a male to reach management are thus consistently two or three times the chances for a female.

Even these statistics, however, exaggerate a female's potential for achieving positions of responsibility and commensurate compensation. Of all male managers in the 30

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SMSA's, 45% are in management level two or above; a meager 6.3% of all female managers have progressed above the initial plateau of management. (See Chart 7.) Even fewer females make it to the highest levels. Of 2650 employees above third level management in the 30 SMSA's, only 31 (1.2%) were female.

Most staggering are the departmental management figures. It has already been observed that most middle and upper level Bell System managers in all departments are either promoted up from craft jobs in the Plant Department or hired directly into management through the IMDP. Chart 7 records the effect of this Bell System policy on the chances of women being promoted to middle management. It is almost inconceivable that in the 30 SMSA's, 99.6% of all non-management employees in Traffic are females, 92.4% of all first level managers in Traffic are female, but only 25.3% of all managers in levels two through five are female. Equally staggering disparities exist in the Commercial and Accounting Departments.[57] It is now clear that in Traffic, Commercial, and Accounting, "men are managers, customers, or husbands." Females fill virtually all low-level jobs but are shut out of management jobs above the first level. For women, the Bell System's fabled "up from the ranks" promotion policy is the height of hypocrisy.

Even the law has not been a significant stimulus to promotion of women within management levels at the Bell System. After examining the distribution of women in management levels for the period between 1966 and 1969, AT&T's task force on women concluded in August, 1970, that,

Movement during this four year period has been quite slow; for all practical purposes, the only change has been a slight increase in second level jobs held by women.[58]

Staff roles. Moreover, within management levels, females find themselves confined to staff positions and not in the mainstream of management. For instance, 9.1% of all females in management (as defined by the operating companies) are classified as Secretaries,[59] a position that would not be considered management in almost any other context.

Those females in more traditional management jobs are still confined to advisory, support positions. Of the 31 females above District level in the surveyed cities, only three are located in the operating departments. The others fill legal, medical or other specialized support roles.[60] This same finding was emphasized in the report of the AT&T task force on women.

Only a few of the District and above women managers are *functioning* in line management jobs. The job titles of the vast majority of these managers, regardless of department, indicate either a specialist assignment or a staff role. The few women that do progress in management, do not move into the general management mainstream.[61]

The Bell System's failure to promote females must be classed as one of the most monumental inequities in private industry. Even so, AT&T Chairman of the Board, H. I. Romnes, on December 11, 1970, labeling as "outrageous" the EEOC's charges of "pervasive, system-wide" discrimination against women, stated that the Bell System "recruits, hires, assigns and promotes without discrimination." Romnes reported that females make up 33.5% of the System's managers and professionals.[62] The hollowness of these statements is self-evident.

Female and male wages

Although by 1971 all the operating companies had ceased to officially label wage schedules as male or female,[63] the total segregation of jobs had the same inevitable effect. This is not a case of unequal pay for equal work. Females are paid less because they are excluded from all jobs classified at a higher wage.

In the 30 SMSA's, 80% of all female employees are in classifications whose maximum basic annual wage is less than $7000; only four percent of all males are in such classifications. (See Chart 8.)

At the more lucrative end of the scale the differences are equally disparate. While 34% of all males are in classifications with a maximum annual salary of at least $13,000, only three percent of all females are so situated. The chance that a female will earn over $13,000 per year is less than one-tenth that of her male counterpart.

Furthermore, males begin at higher wages than females and continue to maintain a greater wage throughout their tenure in the Bell System. The average maximum wage for males in entry level jobs in the 30 SMSA's was $8,613; the average maximum wage for beginning females was $6,114 or only 71% of the male wage.[64] A female in first level management averages $11,194. Should she compare herself to a male in first level management, she would discover that her wage is only 79% of his.[65] When measured in terms of total "occupational position," females' wages were only 75% of the average wage for all employees and only 60% of the average wage of male employees. Graphic displays of the male/female wage distribution and occupational position have been prepared for each SMSA and can be found in EEOC Exhibit 1, pp. 128–188 and pp. 238–299.

By any standard, the exclusion of females from craft jobs and middle and upper management positions is tragic. The psychological toll is incalculable. The toll in turnover is fantastic. The loss in wages is astronomical. The conclusion is inescapable that, in terms of providing equality of opportunity for females, the Bell System has been uniquely *in*competent.

Summary

While the majority of the employees in the Bell System are female, almost all jobs in the company are sex segregated.

The Bell System originated and encourages the common conception of certain jobs as male or female.

The sex segregation is uniform from company to company.

The Operator, Service Representative, and clerical classifications are almost exclusively female and contain 80% of all females in the System.

Nearly all craft jobs and middle and upper level management jobs are held by males.

"Male" jobs invariably pay more, are more rewarding, and provide greater promotional opportunities than "female" jobs.

TABLE 5.—SUMMARY OF FEMALE PARTICIPATION IN THE BELL SYSTEM, DEC. 31, 1970

	Total employment	Female employment	Percent female
Officials and managers	88, 301	36, 295	41. 1
Professionals	58, 756	12, 051	20. 5
Technicians	4, 791	3, 052	63. 7
Sales workers	12, 113	3, 168	26. 2
Management	5, 814	661	11. 4
Nonmanagement	6, 299	2, 507	39. 8
Office and clerical	359, 119	348, 071	96. 9
Secretaries (management)	4, 929	4. 919	99. 8
Clerical and stenographers	141, 394	131, 677	93. 1
Telephone operators	165, 372	165, 148	99. 9
Supervisors/services assistants	13, 440	13, 437	100. 0
Service representatives	33, 093	32, 740	98. 9
Other business office employees	891	150	16. 8
Craft workers	192, 328	2, 120	1. 1
Operatives	7, 437	119	1. 6
Service workers	9, 605	4, 648	48. 4
Total	732, 450	409, 524	55. 9

Source: EEOC W-659.

CHAPTER 3.—REACTION TO THE SEX PROVISIONS OF TITLE VII

In 1965 Bell System officials, oblivious to sex discrimination, defined equal employment as equal opportunities for minorities. They were, therefore, rather complacent about the newly passed Civil Rights Act. Many of the companies had been members of the Plans for Progress for several years and felt that their obligations had been fulfilled.[1] The sex provisions of Title VII, when they were considered at all, were not taken seriously and certainly were not of the same import as the race provisions. In 1965 none of the operating companies had any affirmative action commitments relating to sex,[2] and most did not consider sex discrimination to be a serious problem. "Not much thought had been devoted to possible discrimination based on sex." [3]

As the effective date of the Act approached, Bell officials counseled caution and adopted a "go slow" attitude.[4] In a conference on the implications of Title VII held in April, 1965, for example, Mr. E. D. Maloney, Pacific Tel. Vice President, said.

"The Company does not want to do anything at this time which would affect the reasonable and efficient operation of our business. For sure, we don't intend to go off half-cocked; once we do, then we are stuck. If and when we are challenged, then we can take a different approach." [5]

This chapter will examine the reasons offered by the operating companies for their continued exclusion of the "opposite sex" from sex-segregated jobs after the passage of the Civil Rights Act of 1964. The most common rationalizations were the use of state "protective" laws restricting women's work and claims of Bona Fide Occupational Qualification (BFOQ).

Panic to protect against contamination

Certainly no affirmative action was contemplated by any of the operating companies in 1965. Many, however, realized the clear implication in Title VII that ". . . the mere fact that women [or men] have traditionally been excluded from certain jobs will not, of itself, be an acceptable reason for continued exclusion." [6] The companies, therefore, began the process of justifying their traditional sex segregation in terms of Title VII.

Initially, the operating companies suggested a Bona Fide Occupational Qualification (BFOQ) for all jobs which were sexually segregated.[7] Section 703(e)(1) of Title VII allows an employer to exclude women or men from jobs "in those certain instances" where sex is a "bona fide occupational qualification."

In December, 1965, the EEOC promulgated Guidelines on Discrimination Because of Sex which defined the BFOQ exception.[8] According to the EEOC Guidelines, women could not be excluded from jobs because of "assumptions of the comparative employment characteristics of women in general." Nor could employers justify a BFOQ on "stereotyped characterization of the sexes," such as "men are less capable of assembling intricate equipment" or "women are less capable of aggressive salesmanship."

Some in the Bell System, however, argued that males should be excluded from clerical jobs because "the work and wage rates are not generally attractive to men" and "few men have the academic clerical training to qualify for this work." [9] Others argued that entry craft jobs, though not justifying a BFOQ based on their job content, should be restricted to men because women could not fill higher-rated jobs in the craft progression.[10]

Throughout the Bell System there was an underlying fear of the "contamination of male job classifications by the females."[11] As position papers were circulated by AT&T, some of the most bizarre BFOQ claims began to be abandoned. For some classifications no argument could be contrived to

Footnotes at end of article.

justify continued exclusion. There were some jobs for which no company claimed a BFOQ. There were other jobs for which all companies claimed a BFOQ. And there were certain jobs for which some companies claimed a BFOQ while other companies did not.

The following sections describe the welter of conflicting positions taken within the Bell System since 1965. Only one confident generalization can be made from this material: no matter what a particular company *claimed* regarding BFOQ, *in practice*, the result was always the same. Females were consistently excluded from "male" jobs and males were excluded from "female" jobs, irrespective of whether or not the company claimed a BFOQ. The immutable law of sex segregation proved to be considerably hardier than the law of Title VII.

Jobs for which no BFOQ was claimed: Clerical and service representative jobs

As early as 1965, AT&T corporate headquarters conceded in a letter to all operating companies that there was no legitimate reason for excluding males from clerical jobs in the Plant and Accounting Departments and Service Representative jobs in the Commercial Department.[12] An exhaustive search of company documents revealed that not a single company claimed that males could lawfully be excluded from either clerical or Service Representative jobs.

The absence of an official company claim of BFOQ was, however, irrelevant. The Bell System was unalterably opposed to the mingling of the sexes. A memorandum which refers *specifically* to clerical and Service Representative positions, exemplifies what actually occurred throughout the Bell System:

"We are not anxious to place men in jobs that are normally held by women or women in jobs normally held by men. No individual should be hired into a job normally held by the opposite sex unless approval is received."[13]

To say that the operating companies were "not anxious" to place males in clerical and Service Representative jobs is a considerable understatement. As long ago as 1965, the System affirmatively recognized the unlawfulness of continued exclusion of males, and yet the exclusion has continued for at least six years. Data already presented conclusively showed that as of December 31, 1970, these jobs were still virtually all-female.[14] The fact that the companies never officially even *claimed* a legitimate reason for excluding males from clerical and Service Representative jobs did not prevent the companies from excluding males *in practice*. These jobs were just as staunchly "female" in 1971 as the job of Operator, for which the Bell System has valiantly attempted to justify a claim of BFOQ. Under these circumstances, the conclusion, harsh though it may be, is inescapable. The Bell System has deliberately flouted the law. This conclusion is reinforced by the openness, discussed in the next chapter, with which these violations of the law were accomplished.

BFOQ for operator: A lost cause even in 1965

In 1965 there was a great debate within the Bell System over the continued segregation of the Operator classification. In California, at least one independent telephone company had begun to hire male Operators in 1966, and their limited efforts seemed to be quite successful.[15] Many Bell operating company officials felt the Operator's job could not lawfully be limited to females.[16]

Some Pacific Tel. officials even suggested the hiring of male Operators as an experiment in an effort to solve their turn-over problem.[17] The following disadvantages of such a policy were expressed by other Pacific Tel. executives: (1) the Company already had a significant investment in the image of the Operators as the "voice with the smile" which would be lost, were males hired; (2) if males were in Operators' jobs there might be some pressure to equalize the Operator's pay with plant craft pay since men would then be serving in both positions.[18] These observations are probably reflective of the *real* reasons for the Bell System's unflagging attachment to female Operators. However decisive these economic factors may have been in reality, they were never formally articulated as being lawful reasons for exclusion.

Rationale for BFOQ. Despite the early confusion over the Operator job, all operating companies toed the line after AT&T corporate headquarters circulated a position paper in January, 1966. The paper, entitled "Application of Title VII of Civil Rights Act to Traffic Operating Jobs in the Telephone Industry," awkwardly attempted to rationalize the exclusion of males. Three basic rationales were proposed. First, the paper argued that men were by nature unsuited to the Operator's job. The initial telephone company experience with rambunctious males was cited and the specter of deteriorating service was raised. "The present high level of service," AT&T contended, "is largely due to the employment of women as telephone operators." [19]

Second, the close nature of the work necessitated a segregated work force.

Many times operators' knees, elbows, hands and arms brush their neighbors' bodies. To have men and women (even those with the best intentions and good will) working side by side under these conditions would create an intolerable situation.[20]

The possibility of segregating men and women at the switchboards was rejected as "possibly a violation of Title VII". [21]

Third, the Operators' chairs, switchboards, lounge and rest room facilities were designed for women, and the expense of accommodating males would be "too much for any management to consider or the public to pay for." [22]

Thirteen of the operating companies formally adopted the AT&T rationale and officially excluded males from the Operator's job (and associated Traffic Department jobs) on the basis of a female BFOQ.[23] It is assumed that the remaining companies also claimed a BFOQ for Operator although such evidence was not furnished in response to the EEOC's Request for Documents. In any case, these companies also excluded males from the job.

Fallacies of the argument. The bankruptcy of this position is quite apparent. First, AT&T's 1966 position paper admitted that at least 25% of all males possessed the specific "nurturant" personality qualities which Bell claimed it sought in its Operators and 20% of all women are as "aggressive" as the average man.[24]

Moreover, and this is critical, AT&T has *never* used *any* selection technique designed to measure personality qualities.[25] In as much as at least 20% of women do not possess the personality qualities "sought" by AT&T, the failure of the System to adopt selection techniques to screen out those women vividly testifies to the make-weight nature of this argument. On the other hand if personality factors are so critical to service, the failure of the Bell System to adopt professionally developed selection techniques designed to measure personality factors stands as a monumental example of corporate mismanagement, especially in view of the well-known and wide-spread deterioration of service in recent years.

In any event, AT&T obviously cannot simultaneously claim that personality factors are so important as to justify exclusion of all males from the Operator job and yet so insignificant that the System need not use selection techniques to measure those qualities.

The second argument advanced by AT&T—that the close nature of the work justified complete segregation—is so specious as to warrant summary rejection. Moreover, it has been reasonably surmised by Bell officials that the extremely acute problems of turnover could be substantially reduced by sexually integrating the Traffic Department nunnery.[26] Further, the notorious claustrophobic conditions in the Traffic Department have been repeatedly condemned as being a major factor contributing to Operator unrest.[27]

Another major fallacy in Bell's argument for exclusion of males from the Operator job can be found in the experience of other telephone companies. General Telephone Company, for example, had been successfully hiring males as Operators since October, 1966,[28] a fact which must have been well-known in the Bell System.[29] Nevertheless, AT&T blindly persisted in its attempt to preserve the all-female composition of the Operator's job.

Finally, it must be emphasized that AT&T's claim of a female BFOQ for Operator was based squarely on "stereotyped characterizations of the sexes," a rationale explicitly rejected by the EEOC as early as December, 1965.

It is quite obvious that the Bell System made a conscious decision to retain the female image of the Operator's job and to avoid hiring males. The position which AT&T adopted was irrational and uneconomic. Because of the system's predilection for female Operators, they were forced to adopt an incredibly strained and feeble argument to achieve a semblance of legality.

Abandoning the female BFOQ. AT&T continued in this premise long after the operating companies had realized its futility. In April, 1970, AT&T let it be known that it was still opposed to the hiring of male Operators but that the decision should be made by the individual operating company presidents.[30] All of the companies, with some reluctance, officially abandoned their BFOQ claims for Operators during the first six months of 1970.[31]

There has been no change in the actual composition of the Operator's classification following the revocation of the ban on males. Although thousands upon thousands of Operators have been hired since the change in policy, as of December 31, 1970, in the entire Bell System there were only 224 male Operators, 90% of whom were in California. Twelve Bell companies still had no males at all.

No Company has taken any affirmative action to seek out male Operators, and most have actively discouraged such applicants. South Central Bell's accommodation to the new mandatory policy in April, 1970, is perhaps typical.

Henceforth, it is the company's policy that the female sex should not be asserted as a BFOQ for any job. However, it is not the Company's policy to seek out or encourage the placing of males in these titles. On the contrary, diligent efforts (short of asserting a female BFOQ) should be made to dissuade males from applying for or taking these jobs. Their interest should be steered, if possible, toward Plant craft or some other more suitable work. If such males are insistent on being considered for jobs normally filled by women, they should be processed in the regular manner for males. . . .[32]

The Bell System couched sex segregation of Operators in terms of Title VII until that tactic was totally debunked. Stripped of these trappings, it became blatant discrimination.

Male BFOQ—Introduction

The concern over the "contamination" of male jobs elicited a much more intricate justification for male BFOQ's. The same disagreement which surrounded the formulation of female BFOQ's characterized the attempted legitimation of "male" jobs. This confusion and contradiction only highlights the inability of any employer to make gen-

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eralizations which would justify the exclusion of all females, absolutely, from a particular category of jobs. The difficulties inherent in making categorical generalizations about individuals based solely on their sex was certainly recognized by many in the Bell System. Officials in some companies determined that it was "probably impossible, or at least very difficult, to make blanket restrictions" for any individual job title.[33] But in order to rationalize the continued exclusion of females from male jobs, most companies attempted the "impossible" and concocted numerous reasons for continued sex segregation.

The Bell companies used two major arguments to justify their exclusion of females from various outside sales, craft and management jobs. First, they contended that the placement of females in jobs which required overtime or lifting of heavy weights would contravene state protective legislation. Second, they claimed that women as a class were unable or unwilling to meet some of the rigors associated with traditionally male jobs. As will be shown below, these distinctions have had little actual effect on the sex composition of the job. All jobs remain sex segregated whether a BFOQ was claimed or not.

Male BFOQ: Outside Sales Jobs

By letter dated May 12, 1965, AT&T Assistant Vice President William Mercer notified all operating companies that "there would appear to be no general basis for excluding women" from outsides sales jobs.[34] At least fourteen companies apparently have never claimed a BFOQ for outside sales jobs.[35] On December 31, 1970, the 22 SMSA's in these companies employed over 2,500 outside sales workers, of whom 92% were male. Those same SMSA's employed 444 inside sales workers, of whom 93% were female.[36]

Five and one-half years after the effective date of the Civil Rights Act, these fourteen companies continue to sex segregate their sales jobs without even a *claim* of legitimacy. The remaining companies justified their exclusion of females from outside sales jobs primarily upon the existence of various state protective laws limiting the number of hours women can work. Claims based on such laws will be dealt with more generally below.

The implications of the System's treatment of outside salesworkers, however, are quite clear. Only a handful of companies asserted a BFOQ claim for outside sales jobs. The absence of such a claim has not, however, meant that females have been afforded equal opportunity. Sales jobs still remain sexually segregated in all companies.

Craft jobs: State protective legislation

A fever of paternalism in the first half of the 20th century produced legislation in a number of states limiting the hours a woman could work and the weight that she could lift. In 1965 most of these laws remained in force.[37] Because *arguably* certain craft jobs required the working of hours and/or lifting of weight in excess of the limit permitted women under these laws, several Bell companies were faced in 1965 with a potential conflict between the state protective law and the federal Civil Rights Act, a conflict which was immediately recognized by all in the Bell System.[38]

Pacific Tel., in particular, raised the possibility that the state laws might be challenged by the federal government as restrictive of females' employment opportunities.[39]

Before discussing BFOQ claims based on these state laws, it should be emphasized that not all companies could rely on such laws as justification for their traditional exclusion of females from craft jobs (or outside sales jobs, for that matter), either because their respective states had no protective legislation or such legislation did not apply to the telephone company. Eight companies—C&P (Md.), C&P (Va.), Indiana Bell, New Jersey Bell, C&P (W. Va.), Southwestern Bell, New York Tel., and Northwestern Bell—have never claimed that their exclusion of females from craft jobs could be excused because of state protective legislation.[40] The rationalizations these companies adopted will be discussed in the next section.

Twelve companies, however, *did* assert a BFOQ for some craft jobs based on state protective legislation.[41] These claims were not uniform, and the inconsistencies are sufficient to cast considerable doubt about the companies' good faith in asserting them.

Challenging state laws. There were four major reactions to the apparent conflict between state and federal law. First, Mountain Bell and Illinois Bell made a frontal attack on the state law's validity, but only after they had been found in violation of either state or federal civil rights laws.

In December, 1966, Mountain Bell challenged the Arizona protective law as "archaic" and in conflict with state and federal anti-discrimination laws.[42] In June, 1968, the offending Arizona statute was revised to eliminate the conflict with Title VII.[43] Similar laws existed in Utah, Montana, New Mexico and Texas, but the Company made no effort to have them removed by the courts. Quite to the contrary, Mountain Bell continued to assert a BFOQ based on these "archaic" laws until March 1971.[44] Moreover, despite the absence of any state protective law in Arizona since 1968, Mountain Bell in Phoenix has continued to sex segregate the craft jobs. On December 31, 1970, in Phoenix, the Company employed 1405 telephone craft workers, of whom only 21 (1.5%) were female.[45]

In March, 1970 (almost five years after the effective date of Title VII) Illinois Bell also challenged the state's protective laws in federal court, contending that they were neither realistic nor relevant to the needs of women in modern society. The court ruled the state law invalid in August, 1970.[46] No other Bell companies have made such challenges of state laws.[47]

Exemptions from state law. A second alternative was pursued by Bell of Pa., which sought exemptions from the state law for the classifications of Facilities Assigner and Frameman.[48] The exemption was granted by the Pennsylvania Bureau of Labor Standards in March, 1968, for *all jobs* in Philadelphia and not just those for which exemption was sought.[49] Unaccountably, the Company continued to rely on the state law. Even though they had a legal exemption, they continued to exclude women from other inside and outside crafts until January, 1970.[50]

Similar exemptions were allowed in other states, but they were not applied for by the Bell companies.[51] Not that exemptions would make much difference. Although unrestricted in its ability to employ females as craft workers, Bell of Pa. employed 4418 craft workers in Philadelphia on December 31, 1970. Only 11 (.02%) were female.[52] Clearly, the state protective law has not been the operative factor in excluding females from craft work at Bell of Pa.

Restriction of overtime. A third major policy toward state protective laws was adopted by Southwestern Bell, Pacific Tel. (Frameman only) Ohio Bell (Frameman only) and Wisconsin Tel. These companies allowed women into certain craft positions but restricted their overtime.[53] Wisconsin Tel. presents a particularly compelling example. After initially excluding women from all craft jobs on the basis of the state law, the Company revised its position in 1968 to "allow" women into these jobs but to restrict the overtime they could work.[54] The effect of this change in policy has been negligible. On December 31, 1970, Wisconsin Tel. employed 2864 craft workers, of whom 99.4% were male.[55]

Southwestern Bell adopted a similar position relative to the Texas state protective laws. They restricted no jobs to men based on the state statute but limited females' overtime when they held those jobs.[56] Based on the same statutes, however, Mountain Bell in El Paso restricted all inside craft jobs to males.[57] These conflicting policies illustrate the contrived and artificial nature of claims of BFOQ based on state protective laws. Further demonstration of the absurdity of BFOQ claims can be found by examining the employment of female craft workers in Texas, where, as noted above, Southwestern Bell states it has never denied females entry into craft jobs based on the state protective law but has restricted only the hours women could work.

Of 4813 craft workers employed in Dallas, Houston and San Antonio on December 31, 1970, 98.5% were males.[58] Whether or not Southwestern Bell claimed a BFOQ based on Texas state law, the fact remains that craft jobs are the exclusive domain of men.

The following companies spurned all of the above alternatives and excluded women from most traditionally male classifications based on state protective legislation: C&P (D.C.), Michigan Bell, New England Tel., Pacific Northwest Bell, and South Central Bell.[59]

A summary of the various companies' policies concerning exclusion of females from craft jobs based on state protective laws is obviously difficult since so many inconsistent claims were being made within the System. Two conclusions can be reached with some confidence, however. First, if the operating companies had truly desired to place females in craft jobs, they could have. The companies could have attacked the state law; they could have sought exemptions from the laws; or they could have placed women in the jobs but restricted their overtime. All of these alternatives are viable as indicated by the fact that some companies claimed to use them. It appears reasonable to conclude that the failure of most companies to pursue these alternatives vigorously can be attributed to their continued desire to sex segregate craft jobs.

This observation is reinforced by the second conclusion which can be confidently made. The fact that some companies attacked state laws, obtained exemptions, or "allowed" females into craft jobs but restricted their overtime made virtually no difference in actual practices. All companies continued to exclude females from craft positions. Bell System sex stereotypes, ingrained by a century of corporate policy, continued to thrive.

Craft jobs: Sex stereotypes

The second major justification for a male BFOQ rested on presumed differences between the abilities and disabilities of the sexes. Five liabilities were attributed to women which would prevent them from holding "male" jobs: (1) women who work on customer premises are subject to special hazards unique to their sex;[60] (2) women may not work under hazardous conditions inherent in working aloft or underground;[61] (3) women may not lift excessive weight or expend an equivalent amount of energy;[62] (4) because women cannot participate in the above activities, they may not hold jobs which require such experience;[63] (5) women would not be expected to complete the training period required for certain jobs.[64]

It should be recalled that as early as 1965 some companies openly acknowledged that it was probably impossible, or at least very difficult, to make blanket restrictions for any particular job or classes of jobs and the EEOC had specifically rejected the use of such stereotypes. In fact in 1965 AT&T conceded in a letter to all operating companies that there was no legitimate reason for excluding women from any inside craft job.[65]

Footnotes at end of article.

Nevertheless, many companies claimed a male BFOQ for inside craft jobs based on one or another of the reasons listed above.[66] The EEOC has consistently opposed such BFOQ designations in its decisions. Eleven times since 1967 the Commission has rejected a BFOQ claim for Frameman or Switchman.[67] In the leading judicial interpretation of BFOQ, the Court of Appeals for the Fifth Circuit rejected Southern Bell's claim of BFOQ for Switchman.[68] These decisions have been largely ignored.[69]

The injustice of the Bell position was articulated by Southern Bell's only female Switchman in South Carolina in December, 1970.

"I think everybody felt that [women] couldn't do the job because of the way they hold their screwdriver or something. No one wants to be prejudged and have someone say you can't do it because you're a woman or because you're black or something." [70]

Yet that is precisely what the Bell System has uniformly done since 1965. They have asserted that all or substantially all women could not lift a particular weight or would not stay on the job long enough to justify training or would not be able to work safely in hazardous situations while all males could or would do these things.

Fallacy of the argument. The fallaciousness of this argument is apparent and, indeed, the operating companies have recognized it since 1965. In 1966, Mountain Bell acknowledged that employment decisions could not be made "on the basis of assumptions of the comparative employment characteristics of women in general or stereotyped characteristics of the sexes. . . ." [71] Yet the Company claimed a BFOQ until March, 1971. for all jobs which require the lifting of "substantial weight or equivalent expenditure of energy." [72]

In February, 1966, a New Jersey Bell memorandum was even more accurate in its interpretation of Title VII:

"Individuals must be considered on the basis of individual capacities and not on the basis of any characteristics generally attributed to a group such as men not being able to assemble intricate equipment or women not being able to lift heavy weights." [73]

Despite this realization, New Jersey Bell asserted a BFOQ for outside craft and building and motor vehicle classifications until 1971.

AT&T Vice President William C. Mercer reached an obvious conclusion in January, 1971, when he observed that—

"There are no real differences between women and men, other than those enforced by culture. I can't speak for all of society, but in business—and very importantly to me in the Telephone Company—we believe this to be true." [74]

The effect of BFOQ claims

The Bell System's BFOQ claims over the last five years have been a sham; not only have they been tortured, contrived and contradictory, but they have had no substantial effect on the sex composition of jobs in the operating companies. They have served as a legal rationalization for the exclusionary policies that the Bell System has practiced for a century. Whether a BFOQ was claimed or not, most jobs have remained sex segregated.

A few examples betray the hypocrisy of the Bell System's BFOQ assertions. In 1965 all the operating companies agreed that the Service Representative job did "not require close enough contact to qualify for . . . a BFOQ." [75] Yet in 1971 this classification remains almost totally female, no more integrated than the Operator classification which the companies staunchly defended as inexorably female.[76]

It makes no difference that a company claimed a BFOQ on the basis of state protective legislation. Mountain Bell, for instance, limited craft jobs in El Paso to males in conformity with state protective laws. Southwestern Bell made no such claim for its San Antonio craft workers. Yet In 1971 only 4% of the Framemen in El Paso were female, and none were female in San Antonio; there were no female Switchmen, Deskmen, or outside craft workers in either SMSA.[77]

Companies that claimed no restrictive state protective laws in their operating areas (Indiana Bell, New Jersey Bell, New York Tel., Northwestern Bell and Southwestern Bell) nevertheless asserted a BFOQ for most craft jobs. State protective laws were a convenient peg on which the companies could hang their continued exclusion. They were not a necessary peg.

New Jersey Bell presents a particularly dramatic case of exclusion without regard to BFOQ claims. In 1965 the Company made three admirable decisions. First, it determined that there were no state protective laws applicable to the Company's female employees.[78] Second, it recognized that under the law females must be judged on an individual performance basis.[79] Third, it specifically denied the applicability of the BFOQ exceptions to the classification of Frameman or Switchman.[80] The Company's action, however, belied its commitments. Of 206 Framemen and 477 Switchmen in Newark in 1971, none were female.[81]

Such a pattern is typical of the Bell System. Though New York Tel. abandoned its BFOQ claims for Frameman in 1966, less than 1 percent of their Framemen were female in 1971.[82] Similarly, Pacific Tel. dropped the legal trappings of its requirement that Framemen be male in 1967,[83] but no females were employed until 1969,[84] and less than 6 percent of all Framemen were female in 1971.[85] Ohio Bell removed its restrictions on placing females in the job of Framemen in February, 1969.[86] Two years later, only 2 percent of the Framemen in Cleveland were women.[87]

Finally, although only two companies dared to claim that their Initial Management Development Program (IMDP) should be exclusively male based on a BFOQ,[88] *all* operating companies actually sex segregated their college graduate management training programs until at least 1970.[89]

Since the presence or absence of a BFOQ claim has made little difference in terms of job integration, there was scant cause for rejoicing when all the companies dropped these claims en masse during the first six months of 1970.[90] As pointed out above, the new position was accepted by most companies under duress, and there was no intention to embark on "affirmative action." "Diligent efforts" were to be made to preserve the sex-segregated status quo. The Bell System's 1965 position with regard to sex discrimination remained essentially unchanged. The companies had been stripped of their legal crutch, but they retained the underpinnings of a sexist system.

Summary

No BFOQ was ever claimed for clerical and Service Representative jobs, but they were still "female" jobs in 1971.

Early and awkward attempts (later abandoned) were made to claim a BFOQ for the Operator's job which remained 99 percent female in 1971.

Some companies claimed a BFOQ for outside sales jobs and some did not. All companies employed almost all males in these jobs in 1971.

Some companies claimed a BFOQ for some craft jobs based on state protective legislation. Some challenged the state laws. Some requested exemptions from the law in some areas but not in others and some restricted women's overtime hours while ostensibly allowing women into craft jobs. Some companies did none of these. In no company, however did women hold any significant number of craft jobs in 1971.

Some companies simply argued, among other things, that women could not lift heavy weights or work in hazardous areas. Whether or not such arguments were made, no company employed female craft workers in substantial numbers.

In sum, whatever the rationalizations might be—whether or not rationalizations were offered at all—there were no real differences among the companies in the sex composition of the jobs in the Bell System. All were just about as segregated in 1971 as they were in 1965.

CHAPTER 4.—THE SEXIST SYSTEM

The previous chapters have graphically demonstrated the extensive sex segregation of the Bell System. Virtually all jobs, from Janitress and Janitor to Saleswoman and Salesman to Chief Operator and Traffic Manager, have a distinctly female or male cast. It is preposterous to think that these distinctions between males and females could have occurred by chance. The disparities are so egregious and the corporate explanations are so feeble and contradictory that the segregation of males and females must be ascribed to a deliberately sexist policy. This chapter will analyze those deliberate policies of recruitment, hiring and promotion which have created and perpetuate this total sex segregation.

Recruitment methods

The Bell System has a staggering need for applicants. Because of the incredible turnover among short term employees (particularly Operators) and because only about one of every ten applicants is deemed suitable for Bell,[1] the applicant flow must exceed two million each year in order to supply the 200,000 new hires needed.[2] The pressure to recruit from every available source is, therefore, intense.

Bell traditionally maintained dual recruitment systems for females and males and saw no reason to change following the passage of Title VII. In October, 1965, a Bell of Pa. Assistant Vice President said:

"For jobs in which males have heretofore been predominant, we will continue to seek males primarily, but we will consider qualified females except where there is a BFOQ. For jobs in which females have heretofore been predominant, we will continue to seek females but qualified males will be considered except where there is a BFOQ." [3]

The same recruitment methods which produced segregation were, according to Bell's reasoning, sufficient even after such segregation was made unlawful. Systemwide, the primary recruitment techniques for non-management employees in 1965 and 1971 were (1) referrals from current employees, (2) formalized high school recruiting and (3) classified advertisements. Within Bell's current employment context, these methods will inevitably produce a sex-segregated applicant flow.

Employee referral. Employee recruitment has for some years been Bell's preferred method of attracting new employees.[4] The operating companies continually extol their employee recruiting programs, apparently oblivious to its malign effects. In 1969 Bell of Pa. said:

"We put thumbs down on the old 'opposites attract' theory. We're pretty well convinced telephone people take to people like themselves. That's why employee recruiting just has to be the best way to get prospects." [5]

According to an AT&T recruiting manual, "Employees, perhaps unknowingly, do a preliminary screening job because they tend to refer applicants much like themselves." [6]

This method of recruitment has produced a disproportionate share of new hires. In 1971 Pacific Tel. found that—

"We hire one out of every seven employee referred applicants. Of applicants from other

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Footnotes at end of article.

source we hire only about one out of 12. Friends and relatives of employees are often the best qualified applicants and are usually good employees. *They know what to expect,* and were sold on the Company before they appeared in Employment."[7]

This presumed advantage is the operative factor in its discriminating effect. A Northwestern Bell personnel manual unconsciously identified the sinister nature of employee recruiting:

"Recruiting through employees is one of our best sources of desirable applicants. Our employees are already familiar with many of the advantages of working for our Company. They know something about the various kinds of work and jobs that might be available and they frequently are acquainted with people who can qualify for these jobs and who are interested in working for us."[8]

The implication is only too apparent. Females, traditionally confined to "female" jobs, will have limited familiarity with "male" jobs. They will be unaware of vacancies in craft jobs and will be able to offer no encouragement to their female friends and relatives in this area. This is especially true when, as in the operating companies, employee recruiting is conducted on a departmental basis.[9] Employee recruiting, the major Bell System recruitment technique, can have only one result. Females will continue to flow into "female" jobs and males into "male" jobs.

High school recruiting. The second major recruitment method is a concentrated effort to attract graduating high school seniors. High school recruitment is particularly appropriate at Bell since almost all nonmanagement jobs require no specific skills. Most of the operating companies, therefore, maintain a close liaison with high school guidance counselors, providing them with films and handbooks describing the jobs available to their students at Bell. Virtually all of these handbooks openly describe "opportunities for young women in the telephone business"[10] or "beginning entry jobs for men."[11]

Dr. Judith Long Laws, Assistant Professor of Sociology and Psychology at Cornell University, has identified the regular "tendency of high school counselors to counsel women away from 'men's' fields" as one of the major "structural obstacles which a sexist society put in women's way."[12] Bell is certainly a willing accomplice to this obstruction.

Recruiting materials. The most prodigious effort to attract high school students is through a barrage of brochures hawking telephone company jobs. Several years ago an AT&T Assistant Vice President warned each of the operating companies in a corporate position paper of the potential for discrimination in such publication:

"Employment literature should be reviewed to identify content that could be inferred to be in conflict with Title VII. This would include such items as recruiting booklets and other recruiting literature, vocational counselor's handbooks and employment office practices. Appropriate revisions should be made."[13]

Pacific Northwest Bell, in consultation with AT&T officials, further determined that under Title VII employers should not "have limitations or show preference in advertising for applicants," and that, "A picture of a man or woman would be considered a show of preference."[14]

Once again, the Bell companies maintained the status quo despite these warnings of its unlawfulness. In 1971, after ample time to make the needed revisions,[15] all of the Bell System brochures continue to be blatantly sex segregated.

AT&T can hardly claim that its corporate hands are clean. In April, 1969, they launched a nationwide campaign, including full color ads in women's magazines, to recruit Service Representatives. In a letter to all General Commercial Managers in the operating companies, AT&T Assistant Vice President Lee Tait described the program as follows:

"It provides an excellent vehicle for selling the Service Representative job to young women in today's tight labor market. . . . Many think that the only job opportunities for women in the telephone company are clerical or switchboard operators."[16]

There can be no possible justification for such a disregard of the law. Pamphlets describing Operator,[17] Service Representative[18] and clerical positions[19] openly follow the dictum of a C&P(Va.) personnel manual that recruitment literature should be "fresh, feminine and applicant-centered."[20] Two major brochures ("The Modern Telephone Operator"[21] and "But She Doesn't Look Like a Telephone Company"[22]), prepared by AT&T and used by every operating company, are illustrative. Both picture only females as Operators and Service Representatives and both use only the feminine gender to describe these employees. "Male" brochures used in 1971 ask, "Do you have jobs for young men?" and answer resoundingly, "Yes. . . ."[23] Of the hundreds of brochures used in the 30 surveyed SMSA's only one or two picture females or males in "opposite sex" jobs.[24] Films, talks and slides used in high school recruitment parrot the same sexist theme.[25]

Impact of sex-biased advertising. The impact of such biased advertising was demonstrated in a 1971 study conducted by Drs. Sandra and Daryl Bem in Palo Alto, California.[26] The subject sample consisted of high school seniors, most of whom planned to seek a job upon graduation. They were given a booklet of actual and simulated recruiting advertisements and were asked to indicate their interest in applying for the jobs of Operator, Service Representative, Lineworker and Frameworker in the Bell System.

The results, presented in Chart 9, show the dramatic change for both males and females when the traditional sex designations are eliminated or reversed. Though almost no females expressed an interest in Frame or Line work while these jobs carried the male stigma, one-fourth of the women would apply for this work when recruited through neutral advertisements. One-half of the surveyed women would seek these traditionally male jobs if the sex designation of the advertisements were reversed. A similarly dramatic pattern occurred for males by simply eliminating the feminine connotations of the Operator and Service Representative advertisements. These findings clearly demonstrate that dual recruitment brochures for males and females create an overwhelming reluctance to seek non-traditional jobs. Such reluctance can, however, be substantially overcome if the sexual biases of the brochures are eliminated or reversed.

Classified advertisements. The third major recruitment technique is classified advertising, used by most companies as a source of last resort since it is not as "selective" as employee or high school recruitment.[27] Once again, AT&T realized the potential for discrimination in this form of recruitment and in 1965 advised all of the operating companies that placement of ads in help wanted-male or help wanted-female columns would be an indication of preference for one sex or the other.[28]

Such warnings went almost totally unheeded. In May, 1965, Illinois Bell determined that—

"Advertisements for applicants will have to be sufficiently descriptive in the case of Service Representative, Frameman, clerk and certain other jobs for which no BFOQ was claimed if we are not to stimulate a large number of the 'opposite' sex to apply."[29]

In July of that year Illinois Bell formulated the following policy with regard to help wanted advertisements:

"The ads will be inserted under the heading 'Help Wanted-Men' or 'Help Wanted-Females' depending on which sex would generally be most interested. For example, ads for Operators, Stenographers and typists would be classified under 'Help Wanted-Women' as women generally fill these positions. Ads for sales trainees would be classified under 'Help Wanted-Men' as sales people are more commonly thought of as men."[30]

Their circular reasoning apparently was as follows: "Since women are interested only in Operator and clerical jobs, we will attempt to interest only women in these jobs.

Economical, productive alternatives were available and were used by a few companies on a highly selective basis. For instance, Bell of Pa. placed advertisements for Service Consultants under both male and female headings in 1971. They persisted, however, to advertise for Operators and Service Representatives in the help wanted-female column and for craft jobs in the help wanted-male column.[31] Such a callous disregard for alternative, nondiscriminatory forms of advertising is unconscionable.

Another study by Drs. Bem and Bem confirms the expected disparate effect of such advertisements. The placement of ads under sex-typed headings is sufficient to dissuade females for applying for male jobs and vice versa.[32] Similarly, a Pacific Tel. study in September, 1970, discovered that recruiting for Operators in either the help wanted-male/female column or in both the male and female columns produced an applicant flow that was 50% male and 50% female.[33]

The conclusion is inescapable. The Bell System has consciously and intentionally sought to segregate its applicant flow through its recruitment techniques. Far from taking affirmative action to reverse the traditional sex composition of jobs (nine companies have made absolutely no changes in their recruitment practices for women since 1965),[34] they have become further entrenched in the very techniques which produced the segregation. The operating companies' reliance on employee recruiting, their continued use of recruiting brochures which blatantly sex-type all jobs and the placement of advertisements under segregated classified headings illustrate once again their complete indifference to sex discrimination and their continued defense of the past.

Hiring

Bell's recruitment efforts and its general reputation as a large employer stimulate a steady stream of applicants. The operating companies are, however, highly selective in deciding whom they shall employ, and that process of selection is quite expensive. In 1970 Pacific Tel. hired only one in ten applicants and spent over $7.5 million in operating its employment offices.[35]

This process, like all others dealing with employment, is designed to funnel males and females into sexually "appropriate" jobs.

In 1966 New Jersey Bell described its employment procedures as follows:

"While many of our jobs have been traditionally filled by one sex or the other, this structure has been due to the unique specialties in our business and not due to conscious effort to discriminate. In the hiring programs, most male employees have been hired for craft work and the prescribed entrance requirements have historically measured the applicant's future potential. Similarly, most female applicants have been measured in terms of stenographic-clerical skills."[36]

This section will show that such distinctions based on sex are the primary consideration in the hiring and placement of applicants in the Bell System. The skills or interests of the applicant are considered only within that framework. Male and female

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Footnotes at end of article.

applicants follow a totally different path from the moment they enter the employment office until they are placed in a segregated job. Company disclaimers to the contrary, there is no doubt of the Bell System's conscious effort to discriminate between males and females.

The applicant. Like New Jersey Bell, all the operating companies have explained the disparate distribution of females and males in terms of the different interests of the sexes. In 1970 a New York Tel. Assistant Vice President explained the hiring process as follows:

"Many people walk into our employment offices and say 'I want to be an operator' or 'I want to be a clerk,' or 'I want to be an installer.' We take that into account because we feel if they are coming and asking for a job they would like, and they can do it, they should be considered."[37]

Three factors, however, mitigate against this explanation of disparities in placement. First, Bell has predetermined the job interests of its applicants through its recruiting, as was pointed out in the preceding section. Second, "applicants often apply for any available job and are placed in the job that best meets their qualifications, aspirations and convenience."[38] In these cases the employment office, not the applicant, determines where she or he will be placed.[39] Third, the operating companies force all applicants into one of two stereotyped molds. For instance, a 1967 New Jersey Bell personnel guide indicates that, "In most Traffic employment bureaus, it will be taken for granted that the applicant is applying for the position of Operator."[40] Northwestern Bell mapped the entire career of its female and male applicants as follows:

"Men will probably be interested in outside construction, in skilled inside and outside Plant occupations, truck driving, sales and so forth. Most of them will think in terms of starting long range career employment. Women will probably be interested principally in secretarial, stenographic, receptionist, clerical, switchboard operation or in-plant selling types of work. Starting long range careers will probably be secondary.[41]

The type casting of applicants extends to one of their most important job requirements—the salary. A 1971 Southwestern Bell "School Talk" defines the interests of boys and girls as follows:

"Most of our entrance jobs that girls are normally interested in have a starting salary of $67.50 per week. The ones that boys are normally interested in start at $78.50 per week."[42]

The Bell companies have never been overly concerned with the job interests of applicants except when they coincided with their sexual stereotypes. Males seeking Operator's jobs have had to apply repeatedly before they are taken seriously.[43] The smoke screen of applicant interest is only a ruse, in the same category as the BFOQ claims for Operator.

Two universes. Until the late 1960's, the employment functions in the operating companies were decentralized. Departments often did their own hiring and set up appropriate hiring offices.[44] Because of the highly segregated nature of the non-management employment in most departments, these departmental hiring offices soon became dual processing centers limited to women or men. In 1965 all the companies maintained separate hiring offices for women and men, and AT&T advised them that, "It is believed that separate employment offices for men and women could continue to operate for the present, but we cannot depend on this in the future."[45] Any change in that procedure would, according to Pacific Tel., cause "considerable difficulty."[46] There was a total unconcern for the difficulty and disadvantage which this policy caused for female and male applicants. Though some companies have converted to centralized employment offices in 1971 many continue to maintain two separate offices for females and males, each hiring for a different category of jobs.[47]

Even in centralized offices, however, the processing of females and males follows divergent paths. In 1965 Pacific Tel. admitted that, "Employment office procedures are truly discriminatory at the present time. Men are tested separately from women and take a completely different battery of tests."[48] The recognition of this unlawful practice did not, however, stimulate the Company to change. In March, 1969, four years later, the Department of Defense determined that Pacific Tel. had a "present practice" of processing male and female applicants through separate employment channels with separate employment criteria for each.[49] Pacific Tel. is hardly unique. All of the companies continue routinely to process females and males in radically different ways with sex segregation the final goal.

Employment procedures. Bell's standard employment procedure is outlined in Chart 10. The applicant, either by telephone or in person, is first interviewed in a "gross prescreen." This brief interview is intended to discourage those persons whose work requirements (salary, location, type of work) are inconsistent with the company's available jobs. No applicant who wishes to proceed, however, is rejected at this stage. The applicant is then given one or more of several batteries of tests based on the interviewer's evaluation of her or his interests and experience. If the test is completed successfully, a detailed application is filled out and an intensive interview is conducted. If the applicant's abilities and interests (as determined by the tests and the interview) "match" the company's job opening and the applicant passes security, reference and physical checks, a job is offered.[50] Each of these stages may be defined in terms of gender and each contributes to the funneling of females and males into different jobs.

First, as a concomitant to segregated employment offices, the Bell System has traditionally maintained segregated interviewers, females interviewing female applicants for Operator, Service Representative and clerical jobs and males interviewing applicants for craft and management positions. Six years after the effective date of Title VII, many companies continue this practice *in toto*.[51] Almost all continue to segregate management and non-management interviewers.[52]

Testing procedures. Second, although male and female applicants are indistinguishable in terms of age, education and experience,[53] there are dual criteria for judging the sexes, beginning with the tests they are given. Sex is, without doubt, the most important criteria for determining which test will be administered to the applicant. The Operator, clerical and Service Representative test batteries are consistently referred to by Bell officials as the "female test battery,"[54] and the craft tests are similarly referred to as the "male test battery."[55] This testing practice creates two separate universes, thus foreordaining the sexes' disparate careers.

The dual employment criteria then proliferate. Females are asked about their child care arrangements (even though Bell's own studies indicate that turnover for females with children is not substantially different from those without children),[56] their plans for marriage,[57] their families' attitude toward their work,[58] their husbands' permanency,[59] and whether they are pregnant.[60] Females may also be in the subject of a "home visit" to acquaint the parents or family with the requirements of the job and determine the applicant's employability.[61]

Males, on the other hand, are required to meet an entirely different set of standards. They must have a valid driver's license and a good driving record,[62] must have the physical ability and willingness to do craft work,[63] and must pass a security clearance,[64] none of which are required of females. Further, while female college graduates are recruited and employed in non-management position,[65] there has been, at least through 1970, a "well-known" Bell System policy of not hiring male college graduates into non-management jobs.[66]

A particularly incisive example of dual hiring criteria is found in the high school reference check forms used by New England Tel. in 1971. The form for females (headed "Miss") asks for grades in English, math, bookkeeping, typing, stenography, business machines and art.[67] The comparable form for males (headed "Mr.") asks for the applicant's grades in English, algebra, plane geometry, solid geometry, trigonometry, physics, mechanical drawing, shop courses and languages.[68] Once more, individuality is smothered by Bell's sex stereotypes.

"Neutral" criteria. In addition to these openly disparate hiring criteria, Bell uses "neutral" criteria which have a disadvantageous effect on females. At least one company, until 1971, disqualified the parents of illegitimate children from employment. But since the brunt of the responsibility for these children falls on the mother, women are, in practice, the only ones affected by such a rule.[69]

Another such "neutral" standard is the minimum height requirement set by most operating companies for craft jobs.[70] The companies have never demonstrated, however, that such requirements are compelled by business necessity. Quite to the contrary, their internal contradictions cast doubt on the relevancy of these standards. For instance, the minimum height for Frameworkers in Michigan Bell and South Central Bell, where there are substantial numbers of females, is 5'3'' and 5'2'', respectively.[71] In Southwestern Bell, however, the minimum height for Framemen is 5'6''.[72] The disparate impact of this standard is obvious; many more males fall within the required range than females.

This dual hiring system, characterized by sexually disparate criteria and by neutral criteria with a disparate effect, when superimposed upon Bell's segregated recruitment techniques, assures the creation of two distinct universes. The brave souls who can resist the pressures to conform to this monolithic system are rare. Most either succumb to the stereotype or (like a male applicant for Operator in Birmingham who was refused consideration)[73] they rebel and are thus rejected. The effect of the dual hiring procedures has been amply demonstrated throughout this report. Placement in segregated jobs is assured by funneling applicants through separate employment offices, through segregated interviewers and by applying disparate hiring standards. The system is designed to assimilate only those who are willing to accept the Bell stereotype of their sex; all others are marked as rejects for their audacity to be individuals.

Promotion

The Bell System has always boasted that it is an "up from the ranks" company. "An Introduction to the Bell System," prepared by AT&T, explains this policy as follows:

"Bell System policy is quite clear in this respect: promotions are made almost entirely from within the System, and all promotions are on the basis of merit. In the Bell System it is possible for any person, no matter how humble his starting position, to rise to any position within the System, provided only that his performance justifies it. Because of this, the Bell System has been called a 'pure meritocracy.'"[74]

One of the primary selling points for telephone company employment has been its career opportunities. A new employee adopted into the Bell family is, according to their recruitment literature, expected to stay with the Company until retirement and

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Footnotes at end of article.

progress through the ranks of non-management and into management. Regrettably, this expectation is a myth for women. The "pure meritocracy" applies only to the privileged male class.

The most realistic expectation for women is a career that begins and ends in the Operator job. Women with 20, 30 or even 50 years of Bell System service are often still in the entry-level position of Operator.[75] A Southwestern Bell study of turnover untenable. He suggested that female Operators, chances for advancement are remote."[76]

A large portion of the blame for the intolerable turnover among Operators and other female employees must be laid to the absence of promotional opportunities. In June, 1970, New England Tel.'s General Operations Supervisor described the following casual relationship between turnover and promotional opportunities.

Each year all departments lose a large number of people either because they are attracted by higher wages offered in other companies or they see no opportunity for advancement in their present position. This is particularly true of clerical personnel as well as other initial assignments such as Telephone Operator. We are sure many of these people could be retained in the Company if they had some indication that there would be a definite opportunity for progress sometime in the future.[77]

His solution to this problem is, however, untenable. He suggested that female Operators and clericals be allowed to transfer to Service Representative, "the highest paying non-management position [for women] in the Company."[78] This simply ameliorates the problem by transferring it from one female job to another. Dissatisfaction with promotional opportunities is almost as intense among Service Representatives as among Operators.

A 1970 turnover study conducted by C&P (D.C.) indicated that 69% of all terminating Service Representatives were not satisfied with their chances for promotion. Typical comments were, "There is no real chance for advancement in the Company;" "I would not have terminated my employment with the Company if I felt I would have advanced within a year;" "I was impressed with the fact that women are discriminated against."[79]

Structural obstacles. The concentration of females in the lowest job categories confirms their lack of promotional opportunities. There are five basic obstacles to females' progress in Bell's promotion system: (1) obscure, informal procedures, (2) sex-segregated lines of progression, (3) departmental seniority, (4) restricted transfer to entry-level jobs and (5) unreachable standards for promotion to "male" jobs.

The procedures for obtaining promotion in most Bell companies are a mystery to both females and males.[80] For females, however, the right to transfer to a "male" job is a closely guarded secret to which only male supervisors are privy.[81] In 1966 the C&P companies agreed to consider women for framework but attached the following proviso:

> It is not intended that employees will be encouraged to request such reassignments or that publicity will be given to the fact that such employee requests will be accepted or encouraged.[82]

A female Southern Bell Frameman said in June, 1970, that, "The kind of woman who usually applies for the [Frame] job is one who has worked with the Company for many years and so knows its ways."[83]

One of the prime factors frustrating women's complete knowledge of and involvement in the promotion process is the almost total absence of bidding systems common in other industries. Only two companies, Southern Bell and South Central Bell, have bidding procedures.[84] In the other companies an employee may request a promotion, either formally or informally, and may be considered if a vacancy should occur.[85] Employees are not formally informed of vacancies or of the disposition of their promotion requests.[86] Females, often confined to an isolated work area, would have little opportunity to learn of craft vacancies in such a disjointed system.

It is a cruel irony that when the companies began to "allow" women to enter higher-paying jobs, the route of those jobs continued to be an enigma.

Segregated lines of progression. The second major barrier to female promotion is the segregation of lines of progression. The operating companies uniformly contend that there are no fixed promotion ladders in the sense that one job is an absolute prerequisite for another.[87] The companies' practice of training for all jobs following a promotion makes it unnecessary to have had work experience in a specific area prior to assignment to the job.[88] Company job descriptions, personnel manuals and recruitment brochures do, however, describe lines of progression in non-management jobs. These are *inevitably* sex-segregated. Charts 11 and 12 show the basic progression in the female and male lines, respectively. Although promotions often occur between departments, only in abnormal cases do promotions occur between "male" and "female" jobs.

A particularly apt example of promotion channels based on sex occurs at Michigan Bell. As indicated in Chapter 2, the Switchroom Helper's job (Frameman in other companies) is an all-female craft job in Michigan. As outlined in Chart 12, the normal promotion for Frameman or Switchroom Helper would be to Installer-Repairman, Lineman or Switchman. In Michigan Bell, however, the normal progression for female Switchroom Helpers is gerrymandered to require promotion to Installation Order Clerk, a clerical job with a top rate of slightly less than Switchroom Helper.[91] One's career is virtually predestined by the line of progression into which she or he is hired.

Seniority. The third structural impediment to females' promotion involves the application of contractual seniority provisions. In no company is seniority the controlling factor in determining who shall be promoted. The typical collective bargaining agreement provides that seniority shall be applicable only when two or more employees being considered are equally qualified as determined by the company.[92] This relatively weak seniority standard gives the company almost unrestricted latitude in filling vacancies.[93]

The definition of seniority varies from company to company, but the most common definition is "net credited Bell System service" or the total amount of time employed within the Bell System.[94] In eight companies (Illinois Bell, Indiana Bell, Michigan Bell, New England Tel., New Jersey Bell, Ohio Bell, Pacific Tel. and Southwestern Bell), however, the application of seniority is on a departmental basis or employees within a depart-
all other applicants.bv-vr
ment are given preferential consideration over all other applicants.[95] Such a preference, imposed upon a structure of segregated departments, becomes a very substantial obstacle to females' progression.

For instance, should a female Operator, realizing the paucity of promotional potential in the Traffic Department, seek a craft job, she will be at a substantial competitive disadvantage with all Plant Department employees—the vast majority of whom are male. Females in Traffic may be considered for promotion only when there are no qualified persons within the Plant Department seeking the job.

The operating companies were not unaware of the discriminatory effect of such a departmental seniority system. In October, 1968, Illinois Bell's Legal Department determined that: Seniority groups set out in the contract . . . would be considered to be discriminatory since they establish separate groups for those wage groups which have been traditionally male jobs and those which have been female jobs. Therefore, if a Wage Group 14 [female] employee requests or is being considered for promotion, segregated seniority groupings should not have a bearing on the decision.[96]

Their analysis of the law was totally accurate, but their ingrained prejudices brushed the law aside. In 1971 they stated unabashedly that "seniority within the department takes precedence over seniority from another department."[97]

Such a system of departmental preferences perpetuates and intensifies the disadvantage suffered by females when they were hired. They are effectively locked into the lowest paying jobs and prevented from competing on an equal basis with males.

Hiring v. transfer. A fourth structural impediment of the upward mobility of females has been the operating companies' predilection for filling entry craft jobs with new hires rather than lower-level employees wishing to transfer. Such promotions are quite attractive to females since virtually all male jobs pay more than virtually all female jobs. Yet until late 1970 all of the companies routinely preferred new hires over applicants for transfer.[98] Southwestern Bell's callous position in 1967 was that, "The Company has the right to hire new employees into the Frameman title no matter how many employees already on the payroll want the job."[99]

The justifications for this policy were twofold. First, the operating companies had a consuming desire to maintain entry-level craft jobs as stepping stones to higher non-management and management positions.[100] But because of Bell policies, women would not or could not be promoted out of entry craft jobs and would, therefore, create a bottleneck. Second, Bell reasoned that training costs would be doubled if females were allowed to transfer to entry crafts since both a new craftworker and a new Operator/clerical would have to be trained.[101] According to this reasoning, a female would be forever indentured to her entry job, a slave to Bell's stereotypes.

Although all companies retain the unfettered right to hire into entry level, and all continue to fill most entry vacancies with new hires, most companies have now made paper provisions for *equal* consideration of employees wishing to transfer.[102] Even this policy, if adhered to, gives the employee no credit for general experience with the company. It is a grim paradox that women who have proved their worth to the company over many years are treated as fledglings.

Promotion standards. The standards by which transfer applicants are judged present a fifth impediment to female promotion. Three general qualifications are paramount: (1) successful completion of the craft ("male") test battery, (2) craft experience and (3) satisfactory or above average performance in one's present job.

Bell's strict segregation of males and females at the time of pre-employment testing has a profound effect on their careers. The point was made quite graphically in a 1966 arbitration award involving New Jersey Bell:

> Succinctly, the pre-employment tests created two universes; the test given to females resulted in their being thereafter restricted from consideration for promotion to the universe of "male" jobs; even if they can qualify for a particular job in the male universe, they cannot be considered because their pre-employment test did not test their overall capabilities for all the vocational jobs.[103]

With only two exceptions, females are consistently required to meet the same craft test standard as male craft hires.[104] These exceptions, however, illustrate the fallacy of the entire requirement. First, Michigan Bell

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has for 20 years evaluated Switchroom Helpers (Framemen) on the basis of the "female" clerical test battery.[105] The "necessary requirement" that females be measured in terms of craft aptitude seems to have been quite unnecessary in that instance. The second exception occurred in 1968 at Illinois Bell. After using females in Frame work during a Plant strike, Illinois Bell magnanimously decreed that those females would not be required to take the craft test battery to continue work on that job.[106] Apparently, in such a service emergency the companies can choose qualified females for promotion without testing them. Further, C&P(D.C.) has allowed females to transfer between "female" jobs without meeting pre-employment test standards in recognition of the "value of previous experience and background." [107] No company, however, has allowed such credit for females who move to craft jobs.

The disparity of this policy is particularly acute for females with long telephone company service. In many cases, their male contemporaries were hired into the crafts before the institution of the present tests and, therefore, have never been required to pass the current pre-employment tests battery.[108] Now, females who were excluded from the crafts at the time of their hire must hurdle an obstacle never placed before their male counterparts.

Prior experience. A second necessary requirement for promotion to certain craft jobs (Switchman, Deskman and others) is experience in a prior craft job.[109] (A similar requirement of ouside sales experience is made in some companies for promotion to higher outside sales jobs.)[110] This requirement is a classic example of "Catch 22"—females may not enter craft jobs because they have no craft experience, and they may not get craft experience because they are excluded from the crafts! In October, 1968, Illinois Bell indicated that its Legal Department . . . does not know of any ground on which we can make satisfactory job performance on another craft job an absolute prerequisite for promotion to Plant Assigner or any job to which an employee might request transfer or promotion.[111]

Far from adopting this position, most companies continued to require craft experience. Southern Bell presents the most extreme example. In 1971 the Company indicated that "knowledge of the proposed job" was a major criterion in selecting an employee to fill a vacancy. Such knowledge, according to the Company, is generally acquired as a result of formal training or performing in the job on a relief basis.[112] Yet since 1965 Southern Bell has refused to allow female Framemen to relieve as Switchmen even though this is a normal practice for males.[113] The Bell Companies have asked women to meet a standard which is absolutely impossible for them to attain.

The third standard for promotion which operates to eliminate females is the universal requirement that an employee have satisfactory or above-average performance on her or his present job.[114] Such a policy has an adverse effect on females in at least two ways. First, by requiring "above average" performance on the present job, half of the all females are automatically disqualified from consideration, regardless of their ability relative to males.

Second, and much more importantly, the nature of the jobs to which females are confined reduces the probability of their satisfactory performance. Dr. Laws explains the effects of discrimination on females' motivation in terms of "Expectancy-Value theory."

> Under this model we can see that an individual can desire a goal greatly, but if she does not believe that she has a good chance of attaining it, her effort will be small.[115]

Applying this model to the Bell System, she has concluded that, "the overall effect would be to depress the work motivation of Bell's women employees." [116]

It is completely consistent with the above model to assume that Operators, Service Representatives and clerks, whose expectation for promotion is slim, would be less interested in maintaining a high level of performance and, therefore, may be deemed "unsatisfactory" by their supervisors. Further, the extreme regimentation of the Operator's job, "beyond all proportion within the System," [117] may contribute blots to her record that would not affect her performance in a craft job. Promotion to a more invigorating environment where initiative and ability are rewarded rather than suppressed may cause a flowering which would go unrecognized in the oppressive Traffic Department. By requiring satisfactory performance in dissatisfying jobs to qualify for promotion, the Bell System is undoubtedly losing a significant wealth of talented women.

The Bell companies have been oblivious to the structural difficulties inherent in their system which prohibit females' promotions. They have instead explained females' failure to be promoted with the stale argument that women just don't want craft jobs.[118] This is simply not true.[119] Given the same opportunities as men, women seek the same jobs for basically the same reasons—better pay and more interesting work.[120] Most often, however, a woman's interest in a male job is frustrated or ignored by her male supervisor.

The grotesque exaggeration of the arduous duties associated with craft jobs has undoubtedly slaked feminine interest. A C&P (W.Va.) supervisor explained the Frameman's job to female clerks as follows:

> Girls, if you are serious about the Frame job, if you have examined the job requirements and are willing to climb around platforms and ladders, if you realize you are going to have rough hands with short or broken fingernails, if you think you can handle the tools and keep them in proper condition and do everything a man can do and in the same amount—then the company is willing to consider your request.[121]

Surely this is not the same explanation given by Michigan Bell where all Frameworkers are female:

Arbitrator's awards in 1966 and 1967 rejected Southwestern Bell's similarly hackneyed contentions of arduousness for the Plant Assigner and Framemen jobs as "completely without merit," "not supported by any evidence whatever," and a "relatively minor part of the jobs." [122] Bell's distorted descriptions of craft jobs have been further rebutted by the experience of females.[123] They nevertheless serve as a significant discouragement to women seeking advancement.

Absence of role models. An additional factor which minimizes feminine interest in male jobs is the absence of role models in these jobs. Women (and men) are often quite reluctant to be the first pioneer in a new field. A Pacific Tel. Frameman said, "I knew there were several Framewomen so the idea of being the only girl didn't concern me." [124] That concern, unfortunately, is quite real in most of the operating companies.

It is not at all surprising that few women have been willing to take on the entire male hierarchy of the Bell System. Most women who have advanced to "male" jobs have done so only after a lengthy struggle. Lorena Weeks, just such a woman, encountered all the might of Southern Bell when she bid on a Switchman's vacancy in March, 1966. It was to be five years before she would be awarded the job. Her story epitomizes women's collective struggle for promotion:

> In March, 1966, a job was put up for bid for Switchman in the Louisville and Wadley exchanges. Since a Switchman's work is inside and involved equipment, some of which I had become familiar with as a telephone operator, I decided to bid on the job. . . . My bid for the Switchman's job in Wadley was returned. The only reason the Company gave for not letting me have the job was that I am a woman. The job went to the only other bidder, a man with less seniority than me.[125]

Ms. Weeks then took her case to court and finally, in November, 1970, Southern Bell was ordered to place her on the Job of Switchman.

> Every day I thought the Company would tell me to report for work in Wadley. Time drug on all through Christmas and the Holidays. Each day I hoped to be placed on my new job. Nothing happened—finally my attorney was able to get another hearing before Judge Bell in March, 1971. I told him how pressed we were for funds to keep our now three children in college . . . . He told me that before I left his chambers that day that he would issue an order and put me on the job the next day. He did and I went to work on March 3, 1971. . . .
>
> I am enjoying my work and am happier than I have ever been since working with the Telephone Company.
>
> During the time I was waiting for a final decision I was criticized by both males and females. They seemed to think I was trying to take something from 'the breadwinner' while I was only trying to prove that all men aren't breadwinners and that a loaf of bread costs a woman as much at it does a man.[126]

It is little wonder that many women are discouraged from seeking "male" jobs by such examples.

Wage treatment. The disadvantage accorded to females in the promotion process does not end once she receives the promotion. The computation of wages following the promotion has the effect of perpetuating the inequities attributable to her sex. In April, 1965, Pacific Tel. determined that its union contracts might be in conflict with Title VII because . . . the rules governing computation of wage rates when changing wage schedules vary between men and women. Length of service is used for men and whereas amount of money is used for women.[127]

Despite this realization, Pacific Tel. negotiated a "Wage Administrative Practice" in 1968 (and revised in 1970) which continues the same distinctions.[128] An example from the Pacific Tel. collective bargaining agreement in effect on January 1, 1971,[129] is illustrative of the wage treatment procedures in all the companies following promotion.[130] (See Chart 13.) A male with 72 months service as a Frameman who is promoted to Station Installer will receive an increase from $152.50 per week to $156.50 per week. Should a female Operator with identical service be promoted to the same job and perform the same duties, her new wage will be only $124.00. Her wage, relative to the male Framemen with whom she was hired, has increased only slightly.

This same disparity continues through a hypothetical promotion to PBX Installer after 18 months. In this example, it will take the female four and one-half years to achieve parity with her male counterpart, and during that time she will have lost $6500 when compared to a male in the same classification and with the same company seniority.

This issue was treated in a 1967 arbitration award involving Southwestern Bell. The subject was broached following an Arbitrator's order to place a female clerk in a Plant craft job with appropriate back pay. The union subsequently grieved when the female was paid at a rate of only $95.50 per week rather than the $136.00 per week paid to her male predecessor. The Arbitrator held as follows:

> The Company, in calculating the back pay for Bernita Brock, has not complied with the existing award in this case. It should accept the award as determining that women in the situation of [clerks promoted to craft jobs] are qualified for the positions the Arbitra-

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tors awarded them. Miss Brock's wage rate should be calculated on that basis.[131]

This final inequity typifies the Bell's System's utter recalcitrance in promoting women through the non-management ranks. Their skills and ambitions are denigrated; avenues of promotion, when open to all, remain a secret; duel lines of progression, restrictive seniority systems and unreachable standards continue to prohibit females' promotion. As a final insult, the woman who achieves a higher position is paid less than comparably situated men in her job. In light of this closed promotional system, one is amazed that *all* Bell's women employees do not become turnover statistics.

Maternity Leave

The sexist, paternalistic attitudes of the Bell System extend beyond the recruitment, hiring and promotion of female employees. Rules and regulations regarding maternity further restrict women's employment opportunities in three ways: (1) requirements that mothers-to-be take a leave of absence at a particular time, (2) suspension of benefits normally given for other sickness disabilities and (3) failure to provide equitable reemployment guarantees.

Timing of leave. In 1971, eight companies (Indiana Bell, Michigan Bell, New England Tel., New Jersey Bell, Northwestern Bell, Ohio Bell, South Central Bell and Southern Bell) continued to require pregnant females either to resign or take leave of absence at the end of the sixth or seventh month.[132] Not only is such a policy contrary to the medical requirement considered to be appropriate by leading gynecologists,[133] but it is, according to Pacific Tel., detrimental to the company's interests:

From the Company's standpoint, it is important that there be no arbitrary rule requiring pregnant employees to leave their job at a specified time in the pregnancy period. Such a rule would be detrimental to the Company's interests in failing to utilize the services of experienced employees for as long as they meet the requirements of the job. Such a rule would also be detrimental to the employee's interest since it would not permit consideration of individual desires or economic needs. . . .[134]

Just as in all other matters dealing with employment, the employee must be treated as an individual, not as a member of a stereotyped racial, ethnic or sexual class. The timing of maternity leave should be contingent on the ability of the woman to do the job safely and not on the presuppositions of Bell's pseudo-physician managers.

Two other limitations on maternity leaves restrict females' employment. First, four companies (Mountain Bell, New England Tel., New Jersey Bell and Northwestern Bell) limit maternity leave to married females.[135] Second, New Jersey Bell and Pacific Tel. require females to have at least nine months service before they may take maternity leave.[136]

Suspension of benefits. The second major disadvantage accruing to females because of maternity is the suspension of benefits which are given during other sickness disabilities. Maternity leave is treated as a special leave, granted through the companies' largess, and not as an employee right. Thus, privileges granted during sickness are suspended during maternity leave.[137]

Reemployment. The third disadvantage occurs at the end of maternity leave. Only Mountain Bell and South Central Bell confer guaranteed reemployment rights to a female taking leave.[138] All other companies provide for reemployment only when there is a vacancy suitable to the employee's abilities.[139] In New York the returning mother loses all promotions she may have earned prior to her pregnancy.

Operating employees will not be returned to duty [following maternity leave] as other than an Operator thus losing any other title held at the time the leave is granted. . . . Non-overtime employees will be returned to duty (provided there is work available) in the lowest clerical grade available in the unit.[140]

No other class of employees suffering a sickness disability is treated in such a manner. In all other instances the employee is welcomed back with no diminution of rights or benefits. As usual, only women are treated differently.

Summary

In order to maintain the sex segregation of the jobs throughout the System, the Bell companies use a variety of techniques that extend through the entire gamut of recruitment, hiring and promotion procedures.

Recruitment is largely through employee referral, high school presentations, and various forms of advertising. In all cases, the designation of each job as "male" or "female" is actively encouraged.

In the hiring process, from the time a potential application makes the first contact with the company until she or he is finally hired or rejected, one is treated in entirely different ways depending on the sex of the applicant. This dual processing includes different interviewers, different interview questions, different test batteries, and the use of different hiring criteria.

Promotion from "female" jobs to "male" jobs or vice versa is severely inhibited by a number of obstacles including the deliberate obfuscation of opportunities and procedures, the maintenance of sex-segregated lines of progression, departmental seniority (which is tantamount to sex-group seniority), provisions restricting transfers, and unreachable promotion standards.

Arguments about female "job interest" or "arduousness" have been shown to be meritless.

The lack of appropriate role models and inequitable wage treatment following promotion discourage females' transfer to "male" jobs.

Unreasonable and discriminatory maternity leave provisions further restrict the opportunities of female employees.

The Bell System was perfectly aware that recruitment brochures picturing only females were unlawful, that segregated employment offices would deny females access to craft jobs and that departmental seniority had a disparate impact on women. But the overriding consideration was to prevent female "contamination" of "male" jobs.

The "pure meritocracy" claimed by Bell exists only for males. For females, competition and its rewards are limited to the feminine sphere. While telephone employment can be a rewarding vocation for men, it can be no more than a way station for women, a mockery of their career aspirations.

CHAPTER 5.—WOMEN IN MANAGEMENT

The achievement of management status and subsequent progression through management ranks has been a traditional index of success. At Bell, where one of every four employees is "management," this goal ought to be quite realistic. As one would expect, however, the participation of women is restricted to certain familiar roles—staff functions and the supervision of other women.[1] The same conclusions reached regarding women in non-management positions must be extended to management. Women are in the lowest paying, least desirable, "terminal" management positions.

Although one-third of all managers in the Bell System are females, the vast majority of them (94%) are in the lowest level of the managerial ranks. For male managers, half of whom are second level or above, the beginning management jobs are only stepping stones to better positions with greater responsibility. For women, the initial and ultimate positions are identical. This chapter will analyze the two methods for entrance into management—promotion from non-management and hiring into management training programs—and their relationships to progression within management.

Entrance into management: Up from the ranks

From its infancy Bell has adopted a policy of training and grooming its best non-management employees for supervisory positions.[2] Through the first century of Bell's operation, the large majority of first line supervisors began as Installers, Linemen, Framemen or Operators, and many went on to more responsible positions in the operating companies. In a very real sense, the first level management at Bell is an extension of the non-management lines of progression discussed in Chapter 4. As was also noted in Chapter 2, the probability for promotion into management in the "female" Traffic Department is substantially less than in the "male" Plant Department.

Like the non-management promotion ladders, the management progression is rigidly sex segregated. (See Charts 14 and 15.) Men in the Plant Department move into Foreman jobs relating to their particular skills while women Operators and clericals move into "female" supervisory positions in the Traffic, Accounting and Commercial Departments. The rigid differentiation between the sexes at the non-management level leads inexorably to the same type of segregation at the first level of management.

The primary justification for this situation rests on the assumption that the supervisor must have had experience in the job being supervised. This tenet was so firmly fixed that in 1965 several operating companies claimed a BFOQ for male and female supervisory jobs.[5] Pacific Tel.'s reasoning was typical:

"It would be very difficult for a woman to qualify for many of [the supervisory craft jobs] because she is restricted from doing craft work supervised by a given title."[6]

Such a view was still held in 1970 according to AT&T's study of women management.

"There are many management jobs not presently available to women. This is particularly true at lower levels of management where job related experience is overemphasized at the expense of management skills,"[7]

As long ago as 1959, however, AT&T had recognized the fact that new *male* managers could acquire sufficient craft knowledge without having actual craft experience.[8] Certainly Bell has never required its Traffic Managers (all males) to have experience as Operators. The superfluous requirement of craft experience for Plant Department supervision is a subterfuge for the exclusion of women.

In addition to the segregated routes into management for each sex, females have been evaluated, until very recently, on a different basis than men for promotion to management. All companies have maintained a formal Management Assessment Program which was limited to men until the late 1960's.[9] Females were evaluated informally for promotion within their own area while males were formally considered for promotions to a wide spectrum of management jobs. Yet, when women began to be evaluated through the same formal channels as men, they continued to be segregated. In October, 1970, Mountain Bell indicated that its "Personnel Review Program" was now open to women, but females and males would continue to be segregated: "The reasoning behind this is that men and women are generally not considered for the same first level assignments."[10]

The pattern is quite clear. Women enter management with relative ease, but they are confined to the lowest category of jobs within that group. By the companies' own admission, such segregation is not required by business reasons. It is, rather, based on the segrega-

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tion of the pool of non-management jobs from which managers are drawn, the erroneous belief that females must have craft experience to supervise in that field, and the failure to assess females on the same basis as males.

Entrance into management: College recruiting

In the last decade AT&T has come to rely on college graduates for a large portion of its entering managers,[11] particularly those that are expected to progress to the upper levels of management. Specific training programs have been designed for these managers, and they are inevitably sex segregated.

The most ambitious program is the Initial Management Development Program (IMDP). This program was developed in the early 1960's after AT&T realized that—

"Most college recruits were not put on assignments which challenged them or which allowed the companies to evaluate their potential. The expectations and goals of new college hires declined during their early years with the Company. This was especially true of those on restricted jobs and unsatisfying training programs."[12]

The IMDP was designed, therefore, to provide immediate supervisory experience to the outstanding college graduate. He (never she) was hired with the understanding that continued employment after the first year was conditioned on his performance. If, after one year, he did not evidence the potential to progress to District level (third level) within five years, his employment would be terminated.[13]

This high risk/high gain program was, as one would expect, limited to men. AT&T Assistant Vice President William C. Mercer defined the Company's position unequivocally in a 1965 letter to the operating companies.

"It is felt that entrance into our initial management training program should continue to be limited to male college graduates. Such graduates are employed with the expectation of their reaching the district level and for those who survive the training which is extensive, coverage on a career basis is presumed. Because of the increased likelihood of career interruption of women, as compared to men, and the consequent additional expense involved, the assignment of college women to such a program upon employment would not appear to be justified."[14]

The spuriousness of this argument was amply demonstrated by AT&T's 1970 study of women in management.

"Turnover data for both men and women college graduates hired directly into management . . . seems quite similar. In view of the limited progress afforded to the female college graduate and the nature of her early assignments as compared to men, one would expect a higher turnover ratio. The fact that it is almost comparable to men indicates a staying power that should be tapped."[15]

In spite of this fact, all the companies adopted the American Company view and proceeded to limit their recruitment for this program to males.[16]

Although Bell would not consider women for its most ambitious management program, they were willing, according to Assistant Vice President Mercer, to consider them for lesser programs.

"College women should continue to be employed in training programs with lesser occupational objectives, where the training program is shorter and where the requirement for career coverage is not so acute."[17]

Thus, parallel "women's IMDP" programs were established, and women were actively recruited.[18] The experience of the Assistant Placement Director at Simmons College for women in Boston is undoubtedly typical of Bell's segregated college recruiting.

"The following facts about New England Telephone Company's recruiting program at Simmons College are evident: (1) Simmons women are not informed about the management training program. . . . (2) The [recruiting] literature is geared to women only. (3) In the literature describing positions available to college women, promotional opportunities are not discussed in broad terms. (4) Based on reports of positions accepted by Simmons graduates, New England Telephone has not employed women for positions which lead into management."[19]

There was no question that the women employed in these "lesser" programs were as well qualified according to Bell standards as their male counterparts. A study of the SCAT test scores for male and female college graduates in Pacific Tel. indicated no differences.[20] Scholastic and motivational qualities are also equal according to Pacific Tel.

"There have been past instances where females have had the same basic qualifications required for MAP [IMDP] but were hired as non-CEP [College Employment Program] at lower starting salary rates. These people were placed in job assignments similar to MAP people."[21]

The lesser program may have pacified the conscience of Bell managers, but it was no favor to college women. They were treated as second class employees, paid less and challenged less, solely because of their sex.

Women entering management are faced with the same types of discrimination that face nonmanagement women. They are recruited differently, trained differently and paid differently. Again, sex, not ability or motivation, is the determining factor.

Promotion within management

Females have been promoted into management in relatively large numbers; they have not moved up within management, however. AT&T's task force on women in management observed that:

"Promotional opportunities beyond first level [management] are not equal for men and women despite the fact that there are essentially the same number of male and female first level managers. For example, the chance that a given male first level manager will reach district level sometime in his career (all other things being equal) is about one in four or five. For an incumbent female first level manager, the odds become less than one in 300."[22]

The fact of females' exclusion from management above second level is irrefutable. The primary question is "Why?" Three factors prevent females from taking positions of greater leadership: (1) the types of assignments given to women and men in first level management, (2) the lack of role models for women in upper level management and (3) male stereotypes of the female's role in management.

As pointed out in the previous section, women managers are heavily concentrated in the Traffic, Commercial and Accounting Departments, and they usually hold staff positions or supervise female clericals. This limitation has two major consequences. First, because these female jobs offer no challenge to the ambitious female and because promotions are quite slow,[23] their performance is often below capacity. An employee tends to produce what the company expects.[24] A 1965 Bell System study of male managers found that,

"Young managers who are given highly challenging jobs in the early stages of their careers will tend to internalize high standards of performance and positive job attitudes. The result will be a relatively high level of performance in subsequent years. . . . Young managers who are not challenged at the early stages of their careers will be severely handicapped inasmuch as the lower performance standards they internalize will tend to persist even if they are placed in more challenging jobs later in their careers."[25]

The stodgy atmosphere of the Traffic and Commercial Department is precisely the kind of handicapping experience described. Few talented women will be able to survive this misuse of their abilities.[26]

Dr. Laws has also analyzed Bell's employment of women in management in terms of work motivation theory and concludes as follows:

"It is no exaggeration to say that for the female employee, Bell is an integrated system of negative incentives for work performance and satisfaction. The forms of sex discrimination practiced at Bell correspond almost perfectly with the categories of predictors of work performance. In terms of selection and placement, rate of compensation, and promotion possibilities, women encounter systematic discrimination which is clearly linked to their sex. Any *one* of these features of the employment situation is capable of feeding back upon motivation in a destructive way."[27]

Another impediment resulting from the initial management assignment is structural rather than attitudinal. AT&T's task force on women indicated that, "Opportunity factors clearly favor the talented male manager at the expense of the talented female manager."[28] The two "essential opportunity factors" which are denied to women are (1) special schools or training programs and (2) rotational assignments. According to this 1970 study, "most management jobs filled by women are viewed as terminal hire or staff assignments."[29]

Men readily transfer between management jobs in the several operating departments, gaining experience which will be valuable in higher assignments. Women are confined to single departments, often in a staff role. They are definitely outside the mainstream of management at Bell.[30]

The second factor preventing women from attaining positions of greater leadership is the lack of viable role models. Very simply, because women see no females in the upper levels of management, they unconsciously assume that they could not reach that level.[31] The comments of women who have gotten above first level are indicative.

"At first I hesitated to take this job because I'd always thought it needed a man's view-point. I don't know why. Because I was used to seeing a man here, I suppose."[32]

"[District level management] wasn't a goal—because it would have seemed unattainable."[33]

"I never consciously aspired to district level. I just tried to do what I was assigned the very best I could."[34]

When asked when a woman would be appointed to Division (fourth) level one female manager said, "We have to be reasonable."[35] This attitudinal barrier can be breached only by convincing women that they can and should aspire to upper management and that these jobs are not the exclusive domain of men.[36]

The third major factor limiting female advancement in management is the Bell stereotype of women's role in management. (See Table 6.) Bell's men have decided what its women can and cannot do and what they want or do not want. Women are rarely consulted, as their fates are settled by men.[37] The same prejudices which led Bell to claim a BFOQ for many non-management jobs leads it to exclude females from the more lucrative management jobs.

TABLE 6.—BELL MANAGERS' ATTITUDES TOWARD WOMEN IN MANAGEMENT

Women in management are specialists.

The best women leave before a management job is available to them.

Women are not as mobile as men.

Women in management can't compete with IMDP men.

Footnotes at end of article.

Women in management are a threat to men.

Women are not as competent as men.

In order to manage, a woman must have "masculine characteristics".

Men cannot consider women as equals.

Women just don't want to manage.

Women cannot supervise men in the field.

Women prefer staff jobs.

Women are too emotional.

Men will not want a management job which women hold.

Women should subscribe to a passive, domestic image.

Men and women should not work together too closely.

Source: EEOC R-1289, pp. 12-13.

Summary

Women are virtually excluded from all middle and upper management levels and even their first level assignments are limited to staff roles or the supervision of other women.

The management progression is sex segregated, an extension of the non-management promotion ladder.

Bell has restricted supervisory craft jobs to men based on the requirement of experience in the job to be supervised. Yet, Bell has recognized the superfluousness of this requirement for management trainees and has had no qualms about placing men in the upper levels of the Traffic Department.

Females have been evaluated and recruited based on stereotypes that have been shown to be false.

Promotional opportunities for women have been retarded by the nature of their management assignments; the lack of role models, and the imposition of the prejudices of the male-dominated management.

Bell has at long last recognized the extent of the discrimination it practices against women in management and the "definite urgency regarding change in this area." [38] But a concerted and dramatic effort is required.[39] Recognition of the problem is insufficient unless that recognition bears fruit in immediate action.

CHAPTER 6.—CONCLUDING COMMENTS REGARDING SEX DISCRIMINATION

The Bell monolith is, without doubt, the largest oppressor of women workers in the United States. This harsh conclusion is inescapable in light of the discussion in the previous chapters. Bell's women are forced either to adjust their ambitions downward to conform to the company's restrictive expectations or to seek more rewarding work with another employer.

Bell's policies toward women are morally and ethically indefensible and since July 2, 1965, they have been against the law. Nevertheless, the discrimination continues.

It is difficult to quantify all of the effects of this discrimination. Statistical measures omit the *real, human* tragedies testified to by Ms. Weeks and Ms. Roig.[1] Sterile, economic measures cannot be ignored, however, for if they indicate enormous financial deprivation, surely the intangible consequences of discrimination are severe.

The magnitude of the discrimination. By every standard females at Bell are disadvantaged, but the most dramatic measure is in terms of lost wages. Because women in the 30 SMSA's are not distributed equitably through the whole range of available jobs, they loose $422 million every year. (See Chart 16.) Nationwide in the Bell System women loose $950 million annually.[2]

Dr. Ronald Oaxaca, an economist at the University of Western Ontario, has calculated that, if differences in the personal characteristics (i.e., age, education, etc.) of females and males are taken into consideration, "the effects of discrimination account for roughly 55% of the observed male-female wage differential in the telephone industry." [3] Thus, Bell's incumbent female employees, given their age, education and experience, are paid an aggregate of $500 million per year less than males with comparable personal characteristics.

Effect on Rates. Other economists have estimated that this differential attributable to discrimination could have a significant effect on telephone rates. If AT&T had operated to minimize labor costs (i.e. employed workers at the lowest possible wage, regardless of sex), they would have employed large numbers of women in all job categories. The total effect of this savings would have been an annual reduction of 2% to 4% in overall telephone rates.[4]

There can be no plausible rationalization for the vast disparities between females and males detailed in this report. Bell's culpability is virtually absolute. First, Bell has consciously, overtly and intentionally excluded females from the more remunerative jobs. The barriers to women's entrance into, and progression within, the Bell hierarchy are legion and virtually insurmountable.

Second, the segregation of the sexes practiced by Bell is far more extensive and intensive than that practiced by the society at large. The diverse skills and aspirations of women have been recognized by more progressive employers for some time. While sex segregation is not peculiar to the Bell System, Bell is certainly the archtype.

Third, despite Bell's presumed "unique competence" to improve the status of the female worker, they have been incredibly timid and reactionary. The telephone company, through its nationwide advertisements, repeated contacts with the public and civic leadership in the communities it serves, has a special opportunity to influence public opinion. They have, however, rejected this role in favor of an active stimulation of the societal impediments to the employment of females and males on an equal basis.

An affirmative obligation. A century of discrimination against women will not be reversed by passive dictums that women will now be "allowed" to enter previously male jobs. Bell's history is replete with examples of conscious, calculated action to discourage interest in "opposite sex" jobs. Their affirmative obligation to eliminate these pervasive inequities is now overwhelming.

CHAPTER 7.—BLACKS IN THE BELL SYSTEM

HISTORICAL EXCLUSION AND SEGREGATION

In 1963, Frederick Kappel, AT&T Chairman of the Board, stated that, "The question of how Negro and White people shall live, go to school, and work as fellow citizens demands good solutions in every part of the nation. . . . A fundamental social change is underway. What has been in the past is no longer going to be in the future." [1] Unfortunately, what had been in the past at the Bell System was the relative exclusion of black workers from employment in the Bell operating companies except in the lowest paying and most undesirable blue collar jobs.

Even today there are blacks who toil in service worker or laborer jobs who were not able to obtain any better positions when hired by Bell decades ago. More importantly, the present gross underrepresentation of black workers in desirable craft and management jobs is directly attributable to their past exclusion from most entry-level positions. Finally, many of the institutional practices which contributed to the exclusion in the past are still being used.

This chapter describes the historical exclusion of the black worker from the Bell System. Following the historical analysis, a thorough examination of the black employment patterns existing on December 31, 1970, is presented. A third chapter explains how these patterns are fostered by Bell System practices.

1930–1940

From the earliest times, black workers were almost completely excluded from employment in the telecommunications industry.[2] In 1930, when blacks constituted 9.7 percent of the total population in the United States,[3] they represented only 0.7 percent of the workers in the telecommunications industry and were exclusively concentrated in the few service worker (Porter and Janitor) and laborer jobs.[4] Between 1930 and 1940, the lot of blacks in the telephone industry did not improve appreciably. In 1940, blacks still represented only 0.7% of all telephone industry employees, and, as before, this small percentage was confined to service worker and laborer jobs.[5]

This traditional restriction of blacks to Janitor, Porter, and laborer jobs is highlighted by the fact that in the Spring of 1971, Southwestern Bell employed black service workers whose dates of hire go back to at least 1926.[6] Other early hire dates for blacks still employed as service workers in 1971 are as follows: South Central Bell (1928); C&P (1928); Southern Bell (1929); Illinois Bell (1933); Pacific Tel. (1933); Michigan Bell (1937); and Ohio Bell (1937).[7]

The pattern of exclusion which existed throughout the telephone industry in the 1930's is further underscored by the fact that Southern Bell in Columbus, Georgia, for example, in December, 1969, employed only six blacks with dates of hire prior to the passage of the 1964 Civil Rights Act, and all six were service workers or laborers with over 26 years average seniority.[8]

1940–1950

During and after World War II, employment in the telephone industry expanded dramatically, adding nearly 280,000 new employees.[9] Although black employment did increase somewhat during this period, the increase was not very signficant. By 1950, black workers still represented only 1.3 percent of all telephone employees,[10] while they represented 10 percent of the national population.[11]

The 1940's, however, witnessed a breakthrough; blacks began to be hired into jobs above the service worker and laborer level. Most of those hired were females in the job of Operator, marking the beginning of an important new trend in black employment in the telephone companies. Between 1940 and 1950, the number of black female Operators increased tenfold, while the number of black male employees merely doubled.[12] As Illinois Bell's General Personnel Supervisor recently said, "A really significant step was taken in 1947—we hired our first Negro telephone operator." [13]

This new pattern of hiring black females for the Operator job was to develop rapidly into the *single most significant pattern of black employment in the Bell System.* By the end of 1970, 43.9 percent of all black workers employed by the Bell operating companies were Operators.[14]

However, the absolute number of black Operators hired during the 1940's was still very small. Consequently, by 1950, less than 1.0 percent of all females in the telephone communications industry were black.[15] Moreover, this modest increase in black employment as Operators during the 1940's was almost certainly due to economic factors.[16] Not only did this trend begin long before the modern civil rights movement, but, more importantly, it came at a time when the Bell System was rapidly expanding and in the job in which turnover had always been the greatest. Furthermore, job opportunities for females in general vastly increased during this wartime period, and the Bell System experienced greater difficulties attracting white females for the Operator job.[17]

Footnotes at end of article.

1950–1960

By 1960, black employment in the telephone industry had inched up to 2.5 percent of the total industry employment.[18] In that same year, blacks comprised 10.5 percent of the national population.[19] The increase in black employment during the 1950's, reflecting the trend begun a decade earlier, was concentrated primarily in the job of Operator.[20] But rather then being evenly distributed throughout the nation, the increase in the number of black Operators during the 1950's was heavily concentrated in areas outside the South with large urban populations: the five states of New York, Pennsylvania, Illinois, Michigan and Ohio, and the five SMSA's of New York, Philadelphia, Chicago, Detroit, and Los Angeles.[21] This increase, like that of the 1940's, was dictated in large part by labor market conditions in major urban industrial areas.[22]

Decline in the South. In contrast to this geographically-concentrated increase in black employment, the 1950's also saw a *reduction* in the percentage of jobs held by blacks in most Southern states. Black male employment was particularly affected.[23]

The decline in the percentage of black employment in Southern Bell (now Southern Bell and South Central Bell), Southwestern Bell, and C&P (Va.) was the result of the large increase in telephone company employment combined with the continued restriction of blacks in those companies to the very few service workers and laborer jobs.[24] This geographical pattern thus constitutes the *second major trend in black employment in the Bell System*: while Bell companies in the North, particularly in areas with major urban populations, began to hire blacks in increasing numbers for entry-level jobs above service worker and laborer largely for economic reasons, the Bell companies in the South continued the racially exclusionary policies of the past.

Hereford's case. A poignant example of this blatant racial exclusion of blacks involved an attempt in 1954 by a black Garageman named Hereford at Southwestern Bell in Texas to transfer to the all-white job of Stockman. The Company denied him transfer, and the CWA filed a grievance on his behalf, taking the case all the way to arbitration. While the Arbitrator ruled for the Company on the basis of an interpretation of the collective bargaining agreement, he concluded as follows: [25]

"The one real question to be answered is that of race qualification. In our society can a colored man take a position with a company which has always been filled by a white man. . . . The fact of his race permeated the whole hearing— The officials high-up in administration of the Company's affairs were not worried about Hereford's education, they were worried about his race."

The job of Stockman in Texas remained all-white until 1961.[26]

In short, the years between 1950 and 1960 saw a small but significant increase in black employment in the Bell companies. This increase was not evenly distributed, either occupationally or geographically, but was concentrated primarily in the job of Operator and centered in a handful of Eastern and Northern SMSA's. In the South, the continuation of the traditional exclusionary policies caused an actual drop in black employment.

1960–1970

During the 1960's, black employment in the Bell System as a whole increased steadily, reaching 4.0% of the work force in 1963,[27] 4.6% in 1966,[28] and 9.8% in 1970.[29] This increase continued to follow the earlier pattern of heavy concentration in a few industrial centers outside the South and in the job of Operator. Also during this decade, a *third major pattern of black employment in the Bell System* began to emerge. Even in those areas where blacks had been hired in increasing numbers since the 1940's, they did not penetrate into management positions in any significant numbers.

Geographic pattern during the 1960's. As late as 1966, nearly two years after passage of the Civil Rights Act, black employment in the Bell System nationwide was still relatively low. Indeed, when the employment of blacks by Bell operating companies in 1966 is measured against the percentage of blacks employed at that time by all major employers in the respective Bell operating areas (the area all-industry average), only two Bell companies, New York Tel. and C&P (W. Va.), had black employment greater than or even equal to the all-industry averages in their areas. (See Chart 17.) Among the remaining companies, only Northwestern Bell was close to the area average.

Even those companies which had begun to hire blacks as Operators decades earlier compared unfavorably to other companies in their areas. Thus, as shown in Chart 17, Ohio Bell's employment of blacks in 1966, for example, was only 80 percent of the all-industry average in its operating area. Black employment rates in 1966 for other Bell companies outside the South as compared to the respective all-industry averages were even worse: Bell of Pa., 78 percent of the area average; Pacific Tel., 69 percent of the area average; Michigan Bell, 65 percent of the area average; and Illinois Bell, 62 percent of the area average. These companies, while professing to be *leaders,* were, in fact, *well below average* in 1966.

SMSA's. This same conclusion is reached when Bell employment is examined on an SMSA basis one year later. (See Chart 18.) As noted before, the increased Bell System employment of blacks during the 1950's had been concentrated in five SMSA's: New York, Philadelphia, Chicago, Detroit, and Los Angeles. By 1967, however, only one of those SMSA's, New York, employed blacks at a higher rate than the all-industry average for that SMSA. In addition to these five areas, the following SMSA's had also made significant gains in over-all black employment by 1967: Washington, D.C., San Francisco, Newark, and Cleveland.[30]

However, despite these gains, the fact remains that in 1967, Bell companies in only four of the thirty SMSA's—New York, Los Angeles, Detroit, and Washington, D.C.—exceeded or even came close to the all-industry average for black employment in their respective areas. The low rates of black employment in the other 26 SMSA's, including Philadelphia and Chicago which had been hiring blacks for nearly a generation, are particularly disturbing in view of the low skill requirements for all major entry-level jobs in the Bell System. Thus, although Bell companies each year hired approximately 200,000 unskilled workers (mostly in urban areas having a large concentration of blacks), black employment in 1966 had not reached even the area average in any Bell company except New York Tel. and C&P (W. Va.) and had approached or exceeded the area average in 1967 in only four SMSA's.

The Southern pattern: official exclusion. While the employment of blacks in the Bell System nationwide in 1966 and 1967 was poor, the increasing lag of the Bell companies in the South was a disaster. As seen in Charts 17 and 18, the highest black employment rates (as compared to area rates) were clearly in the major industrial urban centers in the North and West, while the lowest rates were in the South. In 1966, Southern Bell, C&P (Va.), and Southwestern Bell all employed blacks at less than 30 percent of the rate of all major employers in their operating areas.

This astonishingly low level of black employment in the Southern operating companies as late as 1967 was the direct result of a *policy* of blatant racial exclusion. Southern Bell, for example, at least up to the effective date of the Civil Rights Act, openly advertised in racially designated newspaper help-wanted columns [31] and maintained racially segregated restrooms and other comfort facilities.[32] Indeed, Southern Bell admits that, prior to 1963, it hired blacks only for laborer and service worker jobs.[33] Moreover, the EEOC had found that even after July 2, 1965, Southern Bell excluded blacks in certain areas as a matter of company policy.[34]

A tell-tale vestige of this very recent era of overt racial discrimination can still be found in the South Central Bell job description for Janitress used in Birmingham. Revised in 1968 and *still* used in 1971, the job description states that the supervisor of Janitresses is to be "male (white)." [35]

Such overt racial discrimination was also practiced by Southwestern Bell, as seen in the 1954 Texas arbitration case noted before. The EEOC concluded in November, 1967, after an extensive investigation of Southwestern Bell's employment practices in Dallas, that the Company had "a long history of racial discrimination against Negroes. . . ." [36] The U.S. Court of Appeals for the Eight Circut also concluded that, at least until January, 1967, Southwestern Bell in Arkansas maintained a racially restrictive hiring policy which excluded blacks from all but the least attractive jobs.[37]

These and many more examples show that Southern Bell and Southwestern Bell maintained a blatant pattern of overt racial discrimination until the mid-1960's. Their employment of blacks above service worker and laborer did not begin until some twenty years after that breakthrough had already been achieved in Bell companies elsewhere.

Occupational distribution of increased black employment during the 1960's. As noted above, the period between 1960 and 1967 saw a dramatic increase in black employment in the New York SMSA and smaller, yet significant, gains in other SMSA's.

However, an overwhelming proportion of the black workers in these SMSA's were still in one job: Operator. Although specific data on the number of black Operators in 1967 is unavailable, EEO-1 reports filed annually with the EEOC by Bell companies (and all other large employers) provide a rough index of the concentration of blacks in the Operator's job and their virtual exclusion from craft jobs in 1967.

Other substantial documentary material supports the conclusion that *Southern Bell and Southwestern Bell officially excluded blacks from all the lowest jobs well into the 1960's.*[38] Among the highlights of this material are the following facts: In the entire state of Mississippi, Southern Bell employed no blacks in any entry-level jobs above service worker or laborer until June, 1965.[39] In New Orleans, Southern Bell hired its first black above service worker or laborer in November, 1963, and its first black Operator one year later.[40] The Company hired its first black Operator in Florida in March, 1964; [41] and in South Carolina in July, 1964.[42] Southwestern Bell hired its first black Operator anywhere in Kansas in 1963.[43] The first black Installer employed anywhere in Kansas was hired in June, 1969.[44] No black above service worker or laborer was hired in Arkansas until 1964.[45] The first black Operator in Oklahoma was hired March, 1964.[46]

Footnotes at end of article.

TABLE 7.—1967 BLACK EMPLOYMENT IN SELECTED EEO-1 CATEGORIES, BY SMSA

[In percent]

	Jobs held by blacks	
	Office and clerical	Craft
New York	26.2	2.1
Newark	14.1	1.8
Philadelphia	15.2	3.6
Cleveland	11.5	4.7
Chicago	15.5	2.6
Detroit	23.3	9.9
Los Angeles	10.8	3.7
San Francisco	9.3	3.9
Washington, D.C.	28.7	7.3

Source: EEO-1 data.

Table 7 shows that in each of the above SMSA's in 1967, black employment in the "office and clerical" jobs *far* exceeded black employment in craft jobs. Charts and other Tables in Exhibit 1 indicate that an identical pattern existed in *all* the 30 SMSA's.[47] Since the Bell System includes Operators in the "office and clerical" category, the concentration of blacks in the Operator job shows up in the statistics as a high percentage of blacks in the "office and clerical" category.

Craft exclusion. Here, as elsewhere, AT&T's claim of leadership in hiring blacks can be easily tested by comparing the percentage of black *craft* workers in the Bell System with the percentage of black craft workers in other companies. Table 8 tells the unfortunate story. Blacks, notoriously excluded from craft jobs in general, found it even more difficult to obtain a craft job (*with no skill requirement*) in the Bell System. The exclusion of blacks from craft jobs in 1967 was particularly severe in New York, Newark, Philadelphia, Chicago, and Washington, D.C. Table 8 also clearly demonstrates that when compared to other employers, the Southern SMSA's employed black craft workers at an outrageously low level. (See also EEOC Exhibit 1, pp. 206–209.)

TABLE 8.—*Bell system black employment in craft jobs compared to all industry black employment in craft jobs, for selected SMSA's 1967*

Standard Metropolitan Statistical Areas	*Bell craft employment as a percent of all-industry level*
Detroit	186.8
San Francisco	88.6
Cleveland	83.9
Los Angeles	75.5
Washington, D.C.	57.0
Philadelphia	42.4
New York	31.8
Chicago	31.7
Newark	24.6
Birmingham	21.3
Dallas	16.7
Mobile	15.3
Atlanta	14.1
New Orleans	13.7
Greensboro-Winston Salem	12.0
Norfolk	10.9
Miami	10.2
Memphis	6.4
Jacksonville	0.0

Source: EEO-1 Data.

The evidence is overwhelming that those areas which had made significant strides in employing blacks had done so by placing most of them in office and clerical jobs rather than craft jobs. It is tragically ironic that blacks, first excluded from *all* jobs above service worker and laborer, had progressed only *one* step up the ladder by 1967. Blacks had moved up to Operator but still could obtain only a miniscule number of craft jobs. What *had* been in the past continued.

Sex composition. Another measure, albeit approximate, of the occupational concentration of blacks into the Operator job is the sex composition of black employment in the various companies and SMSA's. Table 9 shows that in all SMSA's with a relatively high black employment, a vastly disproportionate percentage of these black workers were female in 1967.[48] In New York, for example, 92% of all black employees were female while only 50% of all whites were female.

TABLE 9.—PROPORTION OF ANGLOS WHO WERE FEMALE COMPARED TO PROPORTION OF BLACKS WHO WERE FEMALE, BY SMSA, IN 1967

[In percent]

	Anglos	Blacks
New York	50	92
Newark	56	88
Philadelphia	61	82
Cleveland	48	72
Chicago	50	82
Detroit	52	81
Los Angeles	57	84
San Francisco	50	81
Washington, D.C	53	81

Between 1967 and 1969, all Bell companies increased their percentage of black new hires, and most of these continued to be black females.[49] All the operating companies with substantial numbers of new black hires registered this imbalance of black females. This same new-hire pattern existed in the Southern companies as elsewhere. Although lagging far behind the rest of the Bell System in their total black employment, the Southern companies by 1969 were following the same pattern as the other companies with respect to the few blacks hired. Most were female.

Thus, the evidence demonstrates that the occupational distribution of black employees in the Bell System followed a uniform pattern, regardless of the total employment figures for blacks in any particular company. Whether in the West, North, East or South, in the 1960's black employees at Bell companies were primarily females classified as "office and clerical" employees. The pattern of black occupational distribution which first emerged in the 1940's in the East was, by 1969, evident in all areas. *Somehow,* black employment was being concentrated in the lowest-paying, least-desirable, dead-end jobs in the Bell System. Blacks still had not obtained a significant number of high-paying craft jobs in any area. This fact emphasizes the futility of the employment advances made by blacks in the Bell System since 1930.

Economic factors affecting black employment. As noted before, the chief chronicle of black employment at the Bell System, Dr. Bernard Anderson, has concluded that labor market conditions in the North and East were a major, if not primary, force contributing to the increased employment of blacks as Operators during the 1950's.[50] Other evidence, not available to Dr. Anderson, demonstrates conclusively that the same economic forces at work during the 1950's continued in the 1960's to push up the employment of blacks in the Operator job, especially in large SMSA's with sizable black populations. In the last 10 years turn-over among Operators has continued to escalate, reaching astounding levels in major urban areas. It is these areas that are becoming increasingly black and in which the Operator's wage is no longer attractive to whites. The combination of these factors is rapidly converting the Traffic Department from simply a "nunnery" into a "ghetto nunnery."

This conclusion has been reached repeatedly by persons at the highest levels within the Bell System itself. In October, 1969, an extremely important "Report on Force Loss and the Urban Labor Market" was presented by AT&T Vice President Walter Straley to the assembled Presidents of all Bell companies.[51] According to the report, "What a telephone company needs to know about its labor market [is] who is available for work paying as little as $4,000 to $5,000 a year."[52] According to Straley's remarks, two out of three persons available at that wage were black: "It is therefore just a plain fact that in today's world, telephone company wages are more in line with black expectations—and the tighter the labor market the more this is true."[53] The report continues:[54]

"Population and labor force projections are not at all encouraging. The kind of people we need are going to be in very short supply. . . . Most of our new hires go into entry level jobs which means we must have access to an ample supply of people who will work at comparatively low rates of pay. That means city people more so than suburbanites. That means lots of black people.

"There are not enough white, middle class, success-oriented men and women in the labor force—or at least that portion of the labor force available to the telephone companies—to supply our requirements for craft and occupational people. And from now on, the number of such people who are available will grow smaller even as our need becomes greater. It is therefore perfectly plain that we need nonwhite employees. Not because we are good citizens. Or because it is the law as well as a national goal to give them employment. We need them because we have so many jobs to fill and they will take them."

Vice President Straley's findings were repeated in the 1970 Annual Report of AT&T's Department of Environmental Affairs:[55]

"The tight labor market in many large cities has created shortages of qualified employees in many job categories. Prominent among these are shortages of qualified applicants for traffic operators, clerical and service representative workers. Shortages are created by high force losses as well as by the scarcity of qualified persons looking for telephone work. . . . In a few central city employment pockets among Eastern and mid-Western cities, our applicants are 90% black"

In the same vein, in December, 1969, the President of Pacific Tel. stated that, "We are experiencing greater difficulty in hiring and maintaining the quality and quantity of people to do the job we have to do. . . . The problem . . . is even more acute in our metropolitan areas, where our wage levels have become less competitive over the years. . . ."[56]

To recapitulate, the increased black employment during the 1960's was dictated by labor market conditions which forced the Bell System to hire black females as Operators. Similar economic factors did not apply to Plant craft jobs and consequently few black males were hired. It is reasonable, therefore, to conclude that the Bell System hired blacks only when there were no economically viable alternatives.

Underrepresentation of blacks in management during the 1960's. By 1969, a generation had passed since the first breakthrough by blacks in Operator jobs in the East and North. With a twenty-five year history of ever-increasing black employment, the companies in these areas had had substantial opportunity to place blacks in management. But figures for 1970 show a bleak picture.

Footnotes at end of article.

As noted before, of all Bell operating companies, New York Tel. alone had surpassed the area-wide all-industry level of black employment by 1966. Indeed, in that year New York Tel. already exceeded the area rate by 34 percent. And yet, as of December 31, 1969, only 4.4% of all New York Tel. black employees were in management, while 27.2% of the Company's white employees held management jobs. Analysis of the management statistics for other major long-term Bell employers of blacks reveals the same picture. (See Table 10.) Unfortunately, by 1970 only a small fraction of blacks had found their way into management, even in companies with the best hiring records.[57]

TABLE 10.—BELL SYSTEM EMPLOYMENT OF BLACKS IN MANAGEMENT, DEC. 31, 1969

Company	Percent of employees in management	
	White	Black
New York	26.3	4.4
Ohio	23.8	6.6
Bell of Pennsylvania	23.3	4.1
Pacific Telephone	24.5	5.0
Michigan Bell	22.1	5.0
Illinois Bell	27.6	6.8

Source: EEOC R-1224.

In need hardly be stressed that Southern Bell, South Central Bell, and Southwestern Bell had virtually no blacks in management. On December 31, 1969, 0.7% of the blacks at South Central Bell, 0.6% of the blacks at Southern Bell, and 0.9% of the blacks at Southwestern Bell were in management.[58]

If the management employment pattern of blacks in the South follows the pace set earlier in the North and East (as has happened in the case of Operators), the outlook for Southern black managers is dismal. Twenty-five years of black employment in New York Tel., Illinois Bell, Michigan Bell, Ohio Bell, Bell of Pa., and Pacific Tel. have not produced substantial numbers of black managers. This failure of the Bell System to provide blacks with significant management opportunities is the *third*, and final, *major component of the black employment pattern in the Bell System.*

Summary

Black employment in the Bell System increased steadily from the virtual exclusion of the 1930's and 1940's to an all-time high at the end of the 1960's. Yet, even at that time, most Bell companies had still not reached the average level of black employment for all major companies in their respective operating areas.

Most of the increase in black employment from the 1940's to the end of the 1960's came in a low-paying, dead-end, and otherwise highly undesirable job, that of Operator. Very few blacks obtained jobs as craft workers.

Even this increase has not been uniform throughout the System; the Southern companies—Southern Bell, South Central Bell, Southwestern Bell, and C&P (Va.)—continued their exclusionist policies up to the mid-1960's and consequently lagged far behind the rest of the System.

Even the companies with the best and most sustained efforts of black employment (New York Tel., Ohio Bell, Bell of Pa., Michigan Bell, Illinois Bell, and Pacific Tel.) did not, after decades of hiring blacks, have a significant number of black workers in management.

Far from being leaders in the field of equal employment, despite their "unique competence," the Bell companies were still just trying to catch up. Moreover, the Bell System's poor record of black employment is particularly disturbing in view of the fact that each year large numbers of persons are hired in major urban areas for jobs requiring little, if any, skills.

CHAPTER 8.—BELL'S EMPLOYMENT OF BLACKS ON DECEMBER 31, 1970

This chapter analyzes the black employment situation in the Bell System at one particular point in time: December 31, 1970. Its conclusion that blacks are systematically denied equal employment opportunities in the Bell System is shocking, but should not be surprising in view of the three major historical trends discussed above. The picture of black employment in the Bell System at the end of 1970 shows Bell's claim of "unique competence to play a leading role in the improvement of employment opportunity" to be hollow, at best.

Black employment relative to population. One can assume that, absent employer discrimination, the percentage of minority employees in a company's workforce should roughly approximate the percentage of that minority in the relevant population, especially if the jobs the employer has to offer require no particular skills. As Jerome W. Hull, Pacific Tel. President, stated on March 15, 1971:[1]

"... our current goal with respect to minorities is to achieve a racial composition in our employee body which is in direct relationship to that of the communities we serve. And not just in total number of people in our business, but at every level of our non-management and management structure."

By this criteria, it is clear that something is wrong at the Bell System. Of the 30 SMSA's analyzed, only four employed blacks at the end of 1970 at a rate equal to or above the proportion of blacks in the respective SMSA population. (See Chart 19.) In the remaining 26 SMSA's, Bell companies would have to increase their black employment by more than one-third in order to achieve parity with the population.[2]

Thus, at the end of 1970, black employment in the Bell System was still staggeringly imbalanced, with a large concentration of black workers in a few major urban areas. Indeed, the three SMSA's of New York, Cleveland, and Los Angeles accounted for 46 percent of all blacks employed by Bell in the 30 SMSA's while representing only 34 percent of Bell's total employment in those SMSA's.[3] The large concentration of blacks in these SMSA's is not surprising. New York, Cleveland, and Los Angeles were among the SMSA's in which jobs above the level of service worker and laborer were first opened to blacks in the 1940's.

The Southern picture. Of the 26 SMSA's which in 1970 had not achieved parity with the population in their employment of blacks, the worst, predictably, were those located in the South. As shown in Chart 19, the 13 SMSA's with the lowest black penetration ratios are all located in companies in the South: The C&P companies, Southern Bell, South Central Bell, and Southwestern Bell.[4] South Central Bell in Mobile, the SMSA with the lowest black penetration ratio, employed blacks at the end of 1970 at a rate only 20 percent of the black population in that area.[5] In order for the Company to achieve parity with the black population in the Mobile SMSA, black employment would have to be increased by 400 percent.[6]

Taken as a whole, Bell's Southern companies at the end of 1970 would have to increase their black employment in the 17 Southern SMSA's by 57 percent in order to match the black population. (See Table 11.) South Central Bell would have to increase its black employment in four SMSA's by 166% and C&P (Va.) its black employment in two SMSA's by 195%.

Even in entry-level jobs requiring little, if any, skills, Bell companies in six Southern SMSA's (Birmingham, Jacksonville, Memphis, Mobile, New Orleans, and Norfolk) failed to match the relevant black population in 1971.[7] The companies in these six SMSA's would have to increase black employment in entry-level jobs alone by 43 percent to equal the percentage of blacks in the population.[8] In Mobile, South Central Bell would have to increase black employment in the entry-level jobs by 170 percent to achieve parity.[9]

In short, in the overwhelming number of SMSA's analyzed, Bell companies failed to employ blacks in percentages equal to the black portion of the population. These deficits were most critical in the South where blacks had been virtually excluded as a class until the mid-1960's, but were still bad in most northern cities where blacks had for years been employed in jobs above service worker and laborer.

Black employment relative to other employers. The Bell System has claimed to be a leader in the field of employment opportunity for blacks for many years. Yet, at the end of 1970, twelve of the twenty Bell operating companies still failed to employ blacks in the same proportion as all major employers in their respective areas.[10] (See Chart 17, above.) Moreover, only New York Tel., Ohio Bell, Pacific Tel., and Bell of Pa. substantially exceeded their respective all-industry area averages for black employment. Not surprisingly, on the other hand, all the Southern companies fell *well below* the average employment of blacks in their operating areas. Eight years after Frederick Kappel's pious statement, the black penetration rate in Southern Bell, South Central Bell and C&P (va.) was less than 46 percent of the penetration rate for other employers in their areas.

TABLE 11.—BLACK RECRUITMENT OPPORTUNITIES IN 26 SMSA'S, DEC. 31, 1970

Standard metropolitan statistical areas	Ratio of black employment percentage to black population percentage	Percent by which current black employment must be increased to equal population
26 SMSA's with recruitment opportunities	0.7432	34.6
17 SMSA's in southern companies	.6367	57.1
5 SMSA's in Southwestern Bell	.7300	37.0
4 SMSA's in Southern Bell	.5892	69.7
4 SMSA's in South Central Bell	.3763	165.7
2 SMSA's in C. & P. (Virginia)	.3385	195.4
9 SMSA's outside the South	.8612	16.1

Source: EEOC C-661, EEOC C-690, and census data.

Black occupational standing. Despite considerable variations between companies and SMSA's in terms of the *number* of black workers employed in the Bell System, those who *are* employed are universally concentrated in the lower-paying and least desirable jobs. At the end of 1970, the average wage of all Bell operating company employees in the 30 SMSA's was $9,080 per year, while the average wage for Bell's black employees in the 30 SMSA's was only $6,817.[11] To quantify the concentration of blacks in low-paying jobs, an "occupational position" measure has been developed which compares the wages of black employees to the average wage for all workers. Graphic

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Footnotes at end of article.

representations of the occupational position of blacks in each of 30 SMSA's can be found in EEOC Exhibit 1, pp. 238–299. (See also EEOC MAP 2.)

This data definitely shows that the occupational position of blacks is virtually the same in every SMSA. For example, blacks were employed in the New York SMSA at the end of 1970 at a rate one and one-half times the black population in that SMSA, while in the Mobile SMSA, they were employed at a rate only one-fifth the black population.[12] Yet in both SMSA's the average wage for black employee was only about 75 percent of the wage for all employees.[13]

The graphic illustrations for each of the 30 SMSA's noted above combine the black penetration rate and the black occupational standing. (See EEOC Exhibit 1, pp. 238–299). Chart 20, which reproduces the data for New York and Mobile, clearly shows that the occupational standing of blacks in New York is no better than in Mobile. In other words, in both cities blacks are in the lowest-paying jobs. The only difference is, New York has filled more of its low-paying jobs with blacks than has Mobile. Neither employment of blacks over a long period of time, nor a professed policy of equal employment seems to have had much impact on the low occupational standing of blacks.

A second example further illustrates this conclusion. In 1962 a Pacific Tel. Vice President said that the recently adopted plan for Progress.

"... does not constitute a new policy on our part. But it does serve to reemphasize our continuing policy to ensure that all telephone people, including members of minority groups, are regards recruiting, placement, transfers, promotion, training and use of facilities.[14]

Yet, nine years later in the Los Angeles SMSA, a black employee had an average annual wage of only $7040 as opposed to an average wage for all employees of $8848.[15]

TABLE 12.—PROPORTION OF ANGLOS WHO ARE FEMALE COMPARED TO PROPORTION OF BLACKS WHO ARE FEMALE, DEC. 31, 1970

Company	Percent black who are female	Percent Anglos who are female
Bell of Pennsylvania	76.6	52.5
C. & P. (all)	77.4	51.4
Indiana Bell	65.0	52.1
Illinois Bell	73.1	49.2
Michigan Bell	82.1	50.3
Mountain Bell	73.2	54.3
New England Telephone	75.3	54.4
New Jersey Bell	82.0	51.4
New York Telephone	80.6	46.4
Northwestern Bell	68.0	55.8
Ohio Bell	75.0	49.8
Pacific Northwest Bell	73.0	53.9
Pacific Telephone	81.0	55.4
South Central Bell	77.4	57.6
Southern Bell	84.1	56.5
Southwestern Bell	78.4	55.7
Wisconsin Telephone	77.9	53.4
Total	78.9	53.0

Source: EEOC w-659.

Thus, there is no correlation between the penetration rate of blacks in the Bell System and their occupational position; whether a company employs many or few black workers, those workers are concentrated in the lowest paying jobs. This phenomenon is largely attributable to the fact that the blacks in *all* Bell companies are disproportionately employed as Operators.

These findings are frightening. No Bell company has yet provided blacks with true equality. New York Tel. and Pacific Tel. may hire thousands of blacks, but they are no better off than the few blacks in Mobile. They are all locked into low paying jobs.

Overrepresentation of black females. The previous chapter noted that one way to measure the discrimination against blacks in the Bell System was to examine the disproportionate number of blacks who were female or conversely, the relative exclusion of black males. At the end of 1970, every Bell company had a substantial overrepresentation of females in its black work force in contrast to its white force.[16] As shown in Table 12 of 72,000 blacks employed in the System at that time, 79 percent were female, while only 53 percent of the white employees were female. In no company were more than 57.6 percent of the white employees female, while in five companies (Michigan Bell, New Jersey Bell, New York Tel., Pacific Tel., and Southern Bell) at least 80 percent of the black workers were female.

This should not, by any stretch of the imagination, be taken to mean that black females are well employed. As noted before, they have the lowest-paying major job in the System. Since "female" jobs are appropriately identical to low-paying jobs, it is no surprise that when blacks entered the System in substantial numbers, they would be black females. "Male" jobs are higher-paying and more rewarding. Just as white females have been kept out of this preserve, so also have all blacks, male *and* female.

The fact that most blacks in the Bell System are female has two important implications. First, *all* companies have a long way to go in terms of affording equal opportunity to black males. Second, most blacks in the Bell system suffer a double handicap of *race* and sex.

The myriad Bell System policies which discriminate against females because of their sex also clearly affect blacks much more than whites.

Black overrepresentation in "clerical" jobs. A second comparison points to the disproportionate representation of blacks in "office and clerical" jobs. The 1967 pattern remained unchanged three years later. In every operating company the proportion of blacks in office and clerical jobs is much greater than the proportion of blacks in craft jobs. (See EEOC Exhibit 1, pp. 230–237.) In the companies and SMSA's with the largest black employment, this disparity is most acute.

This is not a typical pattern of employment for companies outside the Bell System.[17] In most areas, black participation in crafts is higher than in office and clerical. There can be no doubt that AT&T has developed a very unique employment pattern. The System has a very large, low-paying "female" job which has been allocated to blacks. The concentration of blacks into the office and clerical category clearly dominates all employment statistics of the Bell System.

Concentration of blacks in the Traffic Department. Since most Traffic employees are in the low-paying Operator job and most Plant workers are in higher-paying craft jobs, the impact of concentrating blacks in the Operator category and excluding them from craft jobs shows up in the distribution of blacks by department. As shown in Table 13, the black penetration rate in the Traffic Department in the 30 SMSA's at the end of 1970 was more than twice that of the Accounting or Commercial Departments and more than three times that of the Marketing, Plant, or all other departments. In only one of the 30 SMSA's (Los Angeles) did the penetration rate for blacks in another major department exceed that of the Traffic Department.[18]

TABLE 13.—*Black penetration rate in 30 SMSA's by department*

Department	*Black penetration rate in Department*
Traffic	28.6
Accounting	13.9
Commercial	12.3
Marketing	9.7
Plant	9.2
All Others	9.3

Source: EEOC C–661—EEOC C–690

The heavy concentration of blacks in the Traffic Department has not gone unnoticed in the Bell System. A 1968 Southern Bell memorandum, for example, recommended direct involvement of management in departments other than Traffic as "an absolute must to improving Negro female representation in other departments.[19] Yet, in 1971, 70.3 percent of all blacks in the four Southern Bell SMSA's were in the Traffic Department, while only 25.7 percent of all whites were in that department.[20]

Compared with Plant, the largest department in the operating companies, the concentration of blacks in the Traffic Department is striking. In the 30 SMSA's, 52.4 percent of all black employees were in the Traffic Dept., while only 23.4 percent of all Anglo employees held jobs in that department. Almost exactly the opposite pattern existed in the Plant Dept.; 24.6 percent of all blacks were in Plant jobs, while 44.0 percent of all Anglos were in these jobs.[21]

Black service workers. As noted above, until the 1940's service worker jobs were the only ones available to blacks in any Bell company. This restriction prevailed in the Southern companies until the mid-1960's, and in 1971 these classifications still seemed to be almost reserved for blacks, especially in the South. (See Table 14.) Although nationwide blacks comprised only 9.8 percent of all employees in the operating companies in 1971, they made up 37.3 percent of all service workers.[22] Thus, the chance that a black employee will be a service worker is still five and one-half times greater than for a white employee. In the South there are still virtually no white service workers.

Black Operators. When blacks were first hired into jobs other than service worker or laborer, they were almost immediately concentrated in the Operator's job. By the end of 1970, the Operator's job in some SMSA's had become a "black job." In the 30 selected SMSA's at the end of 1970, a black employee was almost three times as likely to be an Operator as was a white employee. While 43.2 percent of all blacks were Operators, only 14.9 percent of all whites were Operators.[23]

TABLE 14.—BLACK SERVICE WORKERS IN THE SOUTH

[In percent]

Company	Employees	Service workers
C. & P. (all)	14.7	82.0
Southern	8.2	93.8
South Central	7.4	96.6
Southwestern	7.8	66.7

Few black Service Representatives. The overrepresentation of blacks in the low-paying Operator job contrasts dramatically with the underrepresentation of blacks in the higher paying Service Representative and craft classifications. Although 34% of the Operators in the 30 SMSA's were black, only 13.1% of the Service Representatives were black. Thus, the chance that an Operator will be black is 2.6 times greater than the chance that a Service Representative will be black.[24]

As with over-all black employment, a regional pattern is discernible in this underutilization of blacks in the Service Representative job. Some South Central Bell and Southwestern Bell districts had, in the Spring of 1971, never employed a black Service Representative.[25] Eleven of the twelve cities with the greatest disparities between the percentage of blacks who are Service Representatives and those who are Operators were in the South.[26] But in *every* SMSA, the percentage of black Operators

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Footnotes at end of article.

was higher than the percentage of black Service Representatives.[27]

Blacks in crafts. Black participation in the telephone crafts, the highest-paying non-management positions in the companies, was also quite low when measured by almost any standard. Using even the most lenient criterion, the employment of blacks in crafts by all employers in the area, the Bell System's performance is deficient. Thirteen of the twenty operating companies employed blacks at a rate below the employers in their areas. (See Chart 21.) The Southern companies, of course, present the most appaling picture. C&P (Va.), C&P (Md.), Southern Bell and South Central Bell employ blacks in the crafts at less than one-third the rate of area employers. But perhaps more appalling is the record of some Northern and Western companies that have employed blacks for three decades.

New Jersey Bell, Pacific Tel. and Illinois Bell also fail to meet the black craft penetration rate of area employers. In fact, New Jersey Bell employed black craft workers at no greater rate relative to the area than did Southwestern Bell, a company which officially excluded blacks from craft jobs until the mid-1960's.

On an SMSA basis, the Dec. 31, 1970 data show that 22 cities were below the area average. (See Chart 22.) The list of worst SMSA's reads like a Rogues Gallery: Norfolk, Greensboro-Winston Salem, Memphis, New Orleans, Dallas, Mobile, Birmingham, Atlanta, Richmond, Washington, D.C., and Jacksonville. Nationally, in the 30 SMSAs, 11.3% of all blacks were in telephone craft jobs while 26.8% of all whites were in those jobs.[28] The chance, therefore, that a white employee will be in the telephone crafts is 2.4 times greater than a black employee.

In the South, a black craft employee is quite extraordinary. In January, 1970, a Southern black craft employee reported, "I've had several instances where whites will ask me if I'm sure I'm a telephone man." [29] A number of South Central,[30] Southern,[31] and Southwestern Bell [32] districts have never employed blacks in some entry-level craft jobs. Twelve of the thirteen SMSA's with the highest concentration of whites in the telephone crafts are in the Southern companies.[33]

Of perhaps even more significance is the fact that several major SMSA's which had a long history of hiring blacks as Operators still did not employ black craft workers at even the average rate achieved by all area employers; Newark, San Francisco, Chicago, Cleveland and Philadelphia were all below the average on Dec. 31, 1970.

Blacks in craft jobs compared to population. When measured against the stricter standard of population, Bell System's employment of blacks in craft jobs is a catastrophe. On December 31, 1970, no SMSA came even remotely close to employing blacks as craft workers in proportion to the percentage of blacks in the population. Twenty-two SMSA's employed blacks at rates less than 50% of their numbers in the relevant population. (See Chart 23.)

Comparison with the Operator classification makes the underutilization in the crafts even more graphic. While 34.2% of all Operators were black, only 11.3% of all *entry-*SMSA's were black.[34] In other words, the *level* telephone craft employees in the 30 SMSA's were black.[34] In other words, the chance that an Operator would be black was three times greater than that an entry-level craft employee would be black. When compared with *all* craft employees, the chance that an Operator would be black was almost five times greater.[35] New York is, again, the classic example of the failure of the Bell companies to utilize blacks equally in all classifications. Although 54.9% of all Operators were black, only 12.0% of all *entry-level* craft employees were black.[36]

Exclusion from top crafts. Not only are blacks generally underrepresented in the telephone crafts, they are almost totally excluded from the top craft jobs of Switchman, Cable Splicer, PBX Installer-Repairman, etc. Of approximately 82,000 white telephone craft employees in the 30 SMSA's, 60.2% were in top craft jobs.[37] Of 6,450 black craft employees, only 34.9% were in top craft jobs. The chance, therefore, that a white craft employee would be in a top craft position was 1.7 times greater than that of a black craft employee. In *every* SMSA there were proportionately more white craft employees in top craft jobs than black craft employees in top craft positions. Again, the Southern SMSA's were the worst. Of 246 top craft employees in Greensboro, for instance, none were black; [38] the population of Greensboro is 19.6% black.[39]

Blacks in management. Finally, blacks were grossly underrepresented in management in *all* the companies.[40] (See Table 15.) Nationwide, about one in every four whites are in management. The chance that a white employee will reach management is 4.7 times greater than the chance that a black employee will reach management.

TABLE 15.—DISTRIBUTION OF ANGLOS AND BLACKS IN MANAGEMENT, DEC. 31, 1970

Company (1)	Percent of all Anglos who are in management (2)	Percent of all blacks who are in management (3)	Concentration ratio (2)÷(3) (4)
1. Southern Bell	19.3	0.8	24.1
2. South Central Bell	20.4	1.1	18.5
3. Southwestern Bell	19.7	1.6	12.3
4. C. & P. (4 units)	24.6	4.4	5.6
5. Bell of Pennsylvania	24.4	4.7	5.2
6. New Jersey Bell	25.1	5.2	4.8
7. New York Telephone	28.5	5.9	4.8
8. Wisconsin Telephone	22.9	4.8	4.8
9. Mountain States Bell	22.8	4.9	4.7
10. Pacific Telephone	26.1	6.0	4.4
11. Illinois Bell	28.4	7.9	3.6
12. Michigan Bell	22.8	6.5	3.5
13. New England Telephone	21.2	6.2	3.4
14. Indiana Bell	25.9	7.8	3.3
15. Ohio Bell	24.9	7.9	3.2
16. Pacific Northwest	21.8	7.6	2.9
17. Northwestern Bell	21.6	7.7	2.8

Source: EEOC W-659.

Consistent with the established pattern in nonmanagement classifications, the Southern companies have the lowest representation of blacks in management. In even the "best" companies, however, the chance that a white will reach management is three times that of blacks. As noted in Chapter 7, the lack of black managers in companies like New York Tel., New Jersey Bell, Michigan Bell, Ohio Bell, Bell of Pa., and Pacific Tel. cannot reasonably be explained by the claim that "these things take time." Those companies have been hiring blacks for decades.

Salaries disparities. The concentration of blacks in the low-paying Operator and service worker jobs, their underrepresentation in the Service Representative and craft jobs, and their virtual exclusion from top craft and management positions is shown quite dramatically when average salaries for blacks and Anglos are compared. In the 30 SMSA's at the end of 1970, 78.7 percent of all black employees were in jobs paying a maximum basic annual wage of $7,000 or less; only 39.5 percent of all white employees were in jobs having such a low salary.[41] Thus, the chance that a black employee will have a salary of $7,000 or less is roughly twice as great as that of a white employee.

Even more staggering is the disparity in jobs paying $10,000 or more. While 28.2 percent of all whites are in jobs with a maximum basic annual salary of $10,000 or more, only 5.6 percent of all black employees had jobs with such wages.[42] In two Southern SMSAs Greensboro and Mobile *no* blacks held jobs which pay over $10,000, while 355 white employees held such jobs.[43] In each of the 30 SMSAs, inclulding those in which blacks have been employed for more than a generation, the chance for a white employee to reach a job paying $10,000 or more is at least four times greater than for a black employee.

Conclusion

The evidence for December 31, 1970, demonstrates the inexorable effect of the occupational trends discussed in the historical section. The early relegation of blacks to laborer and service worker jobs is reflected in the fact that a black is still 5½ times more likely to wind up a Janitor than is a white. A black is also 3 times more likely to be an Operator. But the high-paying craft jobs are an entirely different story. A black has less than half a chance that a white has of obtaining one of those jobs. Thus, it is absolutely clear that blacks are not randomly distributed in all jobs. The concentration of blacks in the least desirable jobs and the relative exclusion of blacks from the best jobs certainly does not support Bell's claim of leadership. On the contrary, the evidence would support exactly the opposite conclusion.

Summary

Thirty years after the Bell System first began to desegregate and six and one-half years after equal employment became the law of the land, Bell companies in most of the 30 SMSA's still employed blacks at a rate less than that of the population or lower even than the average of all major employers.

—The companies in the South had failed by large measure to match even the minimal efforts of the rest of the System.

—Those black workers that have been employed in the Bell System have been largely relegated to the lowest paying, least desirable jobs in the companies.

—The black worker does not have an equal chance to be hired, and, if hired, he or she does not have an equal chance to get the best jobs.

—Most blacks in the Bell System are female and thus suffer from a dual handicap of both race and sex.

TABLE 16.—SUMMARY OF BLACK PARTICIPATION IN THE BELL SYSTEM, DEC. 31, 1970

	Total employment	Black employment	Percent black
Officials and managers	88,301	2,493	2.8
Professionals	58,756	950	1.6
Technicians	4,791	269	5.6
Sales workers	12,113	404	3.3
Management	5,814	114	2.0
Nonmanagement	6,299	290	4.6
Office and clerical	359,119	53,765	15.0
Secretaries (management)	4,929	139	2.8
Clerical and stenographic	141,394	17,309	12.2
Telephone operators	165,372	31,638	19.1
Supervisors/service assistants	13,440	2,031	15.1
Service representatives	33,093	2,583	7.8
Other business office employees	891	65	7.3
Craftsmen	192,328	8,823	4.6
Operatives	7,437	1,851	24.9
Service workers	9,605	3,585	37.3
Total	732,450	72,140	9.8

Source: EEOC W-659.

Footnotes at end of article.

CHAPTER 9.—BELL SYSTEM PRACTICES AS THEY AFFECT BLACKS

This chapter will examine the hiring and promotion practices which screen out blacks from the better jobs, creating the picture of black employment that has been described in the previous Chapter.

As has been repeatedly emphasized, the low overall participation rate of blacks in most Bell System companies, relative both to the area all-industry average or the population, is quite surprising for three reasons. First, due to extraordinarily high turnover among non-management employees, the Bell System hires approximately two hundred thousand persons every year. Second, Bell System employment is concentrated in SMSA's which contain the bulk of the black population in the United States. Third, virtually all of the new employees hired by Bell System companies each year possess minimal job skills.

The conflux of these elements would lead one to expect that in almost every SMSA the black participation rate would have long ago surpassed the all-industry average. But, of course, this did not happen. The low utilization of blacks in the South is easily explained by deliberate racially discriminatory hiring practices. Elsewhere, the lag in reaching the all-industry average is largely explained by Bell System pre-employment criteria which tend to *screen out blacks* and *screen in whites*. Two criteria—paper credentials and test scores—are of paramount importance and will be examined below. Following a general discussion of educational and testing policies of the Bell System, an analysis of labor market forces will show how the Bell System's educational and testing policies have capitalized on those economic forces to concentrate blacks into the job of Operator.

Paper Credentials for Hiring

Diploma requirement. Historically, every operating company in the Bell System required *at least* a high school diploma for every entry-level non-management job above service worker and laborer.[1] The impact of this requirement is obvious. Since a much greater proportion of whites graduate from high school than do blacks, a much greater proportion of the white labor market is presumed "qualified" to work in the Bell System. Nationwide in 1970, for example, 77.0% of all whites between the ages of 18 and 24 had completed high school; only 58.2% of blacks in the same age group were high school graduates.[2] As noted by a 1970 Southwestern Bell publication, "twice as many Negroes drop out [of high school] as do whites. In the ghetto schools the dropout rate often tops 70 percent of any given class." [3]

The fact that Bell companies traditionally required an applicant to possess a diploma as evidence that he or she did not drop out of high school has meant that a disproportionate number of blacks were being shut out of the Bell System, and this fact goes a long way to explain the slow progress blacks have made in most Bell companies.

Preference for diploma. While historically a high school diploma was required for all jobs in the Bell System, it is also very important to observe that the high school diploma requirement has been widely attacked because of its irrelevance in selecting good employees and its differential impact on blacks.[4] It no longer has the same status that it once did, even in the Bell System. For the economic reasons discussed below, the high school diploma requirement was generally abandoned for the operator job many years ago.[5]

The requirement as to craft jobs is an entirely different story, however. The idea that all craft applicants have to be high school graduates is dying hard. All companies continued to *require* a high school diploma for craft jobs long after that requirement had been discarded for Operator.[6] At least three companies, Illinois Bell, Ohio Bell and Southwestern Bell, used recruiting brochures in 1971 which indicate that the requirement still existed for craft jobs.[7] Even those companies which no longer *require* a diploma to become a craft worker nevertheless grant a *preference* to high school graduates. This preference is communicated through advertisement in school newspapers and annuals, regular classified advertisements, requisition to employment agencies, and voluminous recruiting literature.[8]

A policy which prefers high school graduates will also, inevitably, prefer whites over blacks. The white advantage inherent in the high school diploma preference policy is particularly disturbing in the South. C&P (Va.), Southern, South Central and Southwestern Bell all have a long, long way to go in employing black craft workers. Under such circumstances, the continued use of the preference for high school graduates can be justified only if there is persuasive evidence that the possession of a high school diploma has some substantial relationship to actual job performance.

The Bell System has never undertaken any study, however, to validate its preference for a high school diploma and blindly grants the preference without *any* empirical evidence that a high school diploma is related to successful job performance. The Bell System is thus in no better position than the Duke Power Company whose use of a high school diploma requirement was declared unlawful by the Supreme Court.[9]

Educational requirements for Service Representatives. Finally, it should also be noted that while a high school diploma was the minimum requirement for employment in the Bell System, it did not qualify an applicant for all non-management jobs. Significantly, all Bell companies have required or strongly preferred some college for Service Representative and all sales jobs in the Marketing and/or Directory Department.[10] Even in 1971, virtually all companies continued to *require at least* a high school diploma for Service Representative and sales jobs and most companies gave a preference to applicants with some college.[11]

Obviously, due to the substantially lower educational levels which prevail among blacks, a policy which prefers some college gives a very decided advantage to white applicants. Nationwide in 1970, 31.6% of all whites in the 18 to 24 age bracket had 1 or more years of college, but only 20.0% of blacks of similar ages had at least 1 year of college.[12] Translated into employment terms, the Bell System policy of preferring applicants with some college for Service Representative or sales jobs gives whites a substantial advantage over blacks.

The Bell System appears never to have undertaken any study to determine if college training is at all related to being a good Service Representative or sales worker. Indeed, AT&T has never thoroughly analyzed either job to see what characteristics a satisfactory employee should have and has instead adopted blanket educational requirements to fill the void.[13] This is not only very poor personnel management, but it is also very poor equal employment policy.

No employer can lawfully utilize hiring criteria which systematically reject a disparate number of blacks without any evidence that the criteria are valid predictors of job success. And yet, the nation's largest private employer does just that.

In summary, part of the explanation for the below-average black participation rate in most Bell companies lies in the educational requirements imposed by company policy. These educational requirements have had and continue to have a disparate impact on blacks and suppress black employment to a level considerably lower than it otherwise would be. The preference which Bell System paper credential requirements give to whites has been reduced over time, but significant impediments to black employment in craft, Service Representative and sales jobs still exist. No evidence has ever been presented that these paper credential requirements reliably relate to job performance.

Test score requirements for hiring

Although paper credential requirements are a serious obstacle to black employment in the Bell System, test score requirements imposed by AT&T are an even greater barrier to black applicants. As was observed in the discussion concerning sexually differentiated testing policies, Bell companies give two basic test batteries—one for craft jobs and another for Operator, clerical, and Service Representative jobs. Both of these test batteries reject a vastly disproportionate number of black applicants and hence give white applicants an appreciably better chance of getting a job in the Bell System.

Craft test battery. The specific tests which compose the craft battery have changed periodically, but the impact on blacks has remained essentially the same, irrespective of the name of the test given. In 1964, the two primary tests in the craft battery were the Wonderlic Test and the Bennett Mechanical Comprehension Test.[14] This particular combination of tests has been widely used in industry and was the same set of tests which the Supreme Court rejected as being unrelated to job performance in the seminal case of *Griggs* v. *Duke Power Co.*[15]

BSQT I. In the Fall of 1964, AT&T dropped the much-maligned Wonderlic Test from the craft battery and substituted another general intelligence test published by the Educational Testing Service.[16] This test is now known throughout the Bell System as BSQT I (Bell System Qualification Test I). The Bennett Test was retained until 1967 and became known as BSQT II.[17] Both the BSQT I and BSQT II rejected a very lop-sided proportion of black applicants.

In one study conducted by AT&T at five Bell companies in 1965, 40% of white applicants but only 15% of black applicant scored high enough on BSQT I to qualify for craft jobs.[18] Thus, a white applicant had more than two and one-half times better chance of getting a craft job than did a black. In a study of the BSQT II, 58% of all white applicants qualified but only 20% of all black applicants passed.[19] In other words, a black had only ⅓ the chance of passing the BSQT II as did a white. These same disparaties in qualifying rates for blacks and white on BSQT I and BSQT II are consistently reported.[20]

In 1968 the craft battery was changed again; BSQT II was eliminated and replaced by a test of abstract reasoning, now known as BSQT IV. This new combination of tests, BSQT I and BSQT II and BSQT IV, has the same disproportionate impact on blacks, and whites continue to obtain a substantial advantage in qualifying for craft jobs solely on the basis of test scores.[21] The disadvantage blacks suffer because of low "intelligence test" scores far outweighs the disadvantage inflicted by the System's educational prerequisites.

Operator battery. Similarly, blacks score substantially lower than whites on the Operator/clerical/Service Representative battery (referred to hereafter as the Operator battery). In 1964, the Operator battery consisted of the Wonderlic Test and several very short tests such as Number Transcription, Number Comparison, Spelling and Filing.[22] The main test, however, was the Wonderlic, and it had a devastating impact upon black applicants. Approximately 70% of white applicants *passed* the Wonderlic Test while 80% of the black applicants *failed*.[23]

Gradually, between 1965 and 1968, Bell companies dropped the Wonderlic Test from

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Footnotes at end of article.

the Operator battery and substituted a short version of the BSQT I, appropriately known as BSQT I—Short Form.[24] The impact on blacks remained unchanged, however, and 70% of white applicants *passed* BSQT I—Short Form while 80% of the blacks *failed*.[25]

In a study in Michigan involving 43,000 applicants, using a revised scoring technique, 69.9% of all white applicants were fully test-qualified on the Operator battery while only 29.4% of the blacks were so qualified.[26]

Thus, the Bell System testing practices constitute a major barrier to increased black employment in the Bell System. Under these circumstances, continued use of such tests can be justified only if they validly predict who will and who will not perform satisfactorily on the job. Although the Bell System has conducted at least 27 studies of its test batteries, these studies contain virtually no evidence that the tests accurately predict job performance.[27] In the absence of substantial empirical evidence of job-related validity, the Bell System's test batteries cannot lawfully be used to screen out blacks.

Conclusion. Considering the very great advantage obtained by whites solely on the basis of the Bell System's paper and pencil tests, it is small wonder that the Bell System has lagged substantially behind other industries in employing blacks. Although Bell System companies have hired approximately two million unskilled workers in the last decade, most of them in SMSA's with massive black populations, paper credential prerequisites and test score requirements have acted to keep blacks from obtaining a proportionate share of telephone company jobs. The fact that by 1971 many SMSA's had finally equaled the all-industry average for over-all black participation by employing blacks as Operators is almost exclusively a function of the labor market conditions discussed below.

Bell System practices which cause concentration of black females in Operator job

The Bell System responded to its desperate need to find enough Operator applicants by eliminating the high school educational requirement for the job and virtually ignoring the test standards which had been established for Operator applicants. Most Bell companies were forced to hire large numbers of non-high school graduates and large numbers of persons who were marginally test-qualified or actually "unqualified" based on test scores.[28] At the same time, because turn-over was much less in craft jobs and the pay and working conditions were substantially more attractive, Bell companies for the most part were able to maintain their traditional requirements for craft jobs.[29]

Similarly, Bell Companies skimmed the cream off the flow of female applicants and placed them in the job of Service Representative.[30] Thus, the traditionally high requirements which screened out most blacks were maintained for craft jobs and Service Representative; applicants failing to meet those criteria, mostly blacks, were put in the Operator job.

In Chicago, for example, between July, 1969, and June, 1970, 71.3% of all Operators hired were black; 33.6% of all craft workers hired were black; and 29.7% of all Service Representatives hired were black.[31] An AT&T study of those figures concluded that the disparities were directly attributable to the labor market conditions discussed above.[32] A second example further illustrates the point: During a three month period in 1970, new hire data for C&P (D.C.) indicate that 92.2% of the Operators hired were black; 39.7% of the Service Representatives hired were black; and 32.9% of new craft hires were black.[33]

Viewed from any angle, all available evidence leads to the conclusion that the concentration of blacks into the Operator job is no accident. It is the direct result of deliberate company policies adopted in response to the compelling problems created by the high turnover among Operators and the low wages offered to attract applicants to the job. There is no doubt that AT&T is attempting to solve this problem by maintaining the low wages and hiring blacks who will work for a wage which whites shun.[34]

Bell system practices which frustrate the movement of blacks out of the Operator's job

Most blacks in the Bell System suffer from a double handicap—they are at once both *black* and *female* and the Bell companies have never been overly generous in their treatment of either group. As the Bell companies move into the 1970's, black females continue to pour *into* and *out of* the job of Operator.

Because Operator has, since the days of Emma Nutt, been a female job, it has been cut off from the mainstream of movement upward within the System. The consistent high turn-over among Operators has reinforced AT&T's natural inclination not to transfer or promote Operators to better jobs. AT&T obviously decided that vacancies due to "dismissals" and resignations were numerous enough without creating additional vacancies by promotion and transfer.[35]

The evidence surely indicates that System policy continues to follow this circular pattern. The Operator job is, quite pointedly, a *horrendous* job. No greater testimony to this fact exists than the unbelievably high rate at which employees bolt from the job. The Bell System's response is amazing: rather than restructure the job, improve the wages, and provide important new avenues for promotion and transfer—changes which even common sense would suggest—AT&T has decided to keep the wages depressed and simply hire more and more black females.

The inevitable effects of these policy decisions are all too ominous. Most of the blacks in the Bell System will never have a real chance at a good job. The economic realities of the labor market will force large numbers of blacks to apply for Operator jobs. After all, *any* job is better than no job; any job except Operator. The realities of the Operator job will thus force blacks to quit as fast as they are forced to apply. They will never stay long enough to get a promotion or a transfer, *even if* such opportunities existed. This sad situation appears to be AT&T's major answer to the cries for equal opportunity.

Bell System practices which cause low utilization of blacks in management jobs

As previously demonstrated, black workers in the Bell System hold only a very small number of management jobs. As of December 31, 1970, for example, blacks held 2.3 percent of management jobs in the System nationwide although they constituted 11.5 percent of the national population.[36] Moveover, only one in 20 black employees was in management while one in four white employees was a manager.[37]

The immediate temptation is to explain these disparities by claiming that "promotion to management takes time." The fact that promotion does take time and few blacks have been in the Bell System long enough to reach management is indeed part of the problem. But careful analysis shows that it is only a *small* part. The primary reason for the dearth of black managers in the Bell System are four: (1) most black employees are females and, being women, their chances of promotion are slim; (2) most black females are Operators in the Traffic Department, the department with the lowest percentage of managers; (3) few blacks have been hired as craft workers in the Plant Department, where the number of managers is large and which provides middle and upper management personnel for all other departments; and (4) approximately 50% of all Bell System middle and upper-level managers are college graduate hires, and black college graduates are in relatively short supply. These four factors interact so that few blacks ever make management.

Black females. First, a substantially disproportionate number of blacks in the Bell System are female. Data presented earlier show that nationwide in 1971, 79% of black employees were female.[38] Other material showed that females have much less opportunity to reach management than males. It is clear, therefore, that simply because a disproportionate number of blacks are female, they do not have nearly the same chance of reaching management as do whites in the Bell System.

Black Operators. Second, compounding the problem, a disproportionate number of black females are Operators in the Traffic Department where the chances of promotion are slimmest. Table 12 presented earlier, shows that in 1971 in the 30 SMSA's, the percentage of black employees in the Traffic Department is more than twice as great as in any other department. Moreover, as shown earlier, a black employee is three times more likely to be an Operator than a white employee.[39] Combine these facts with data which shows that the Traffic Department has far and away the lowest percentage of management employees, and it is easy to see why there are so few black managers. Most blacks "just happen" to be employed in jobs which provide the least chance for advancement.

Black craft workers. Third, looking at black employment from the other side of the coin, relatively few blacks have been hired into craft jobs where chances of promotion are greatest.

Over-all in 1971 in the 30 SMSA's, blacks were 9.2% of Plant Department employees. This figure contrasts sharply with the 28.6% of the Traffic Department which was black. In other words, relatively few blacks are in the Plant Department. Management figures presented earlier at p. 26 show that 1 out of 5 Plant Department employees are in Management, twice the percentage of the Traffic Department.[40] Moreover, craft employees move up through the Plant Department into middle and upper management ranks of other departments, increasing the likelihood that craft workers will make management. But because blacks have not been employed in craft jobs in very large numbers, blacks have not obtained a very large number of management jobs.

Blacks in middle management. Fourth, approximately 50% of Bell System upper and middle level managers are college graduates who have been hired directly into management.[41] The number of black college graduates is relatively small, of course, so that the chances of blacks being hired directly into management are remote. Census data show that in 1969, in the age group 18 to 24, 6.6% of all whites were college graduates but only 1.7% of blacks had a college degree.[42] It is not surprising, therefore, to discover that the number of blacks hired directly into management by Bell companies is comparatively small. Nationwide in 1969, the Bell System hired over 4,000 college graduates, of whom only 4.1% were black.[43] This figure contrasts dramatically with the fact that blacks constituted more than 22% of non-management hires in the same year.[44]

The "time lag" argument. Putting all this together yields the following picture. There are two main avenues to management in the Bell System. One path leads up through the craft jobs and the other leads through college. Since blacks hold disproportionately few craft jobs or college degrees, few blacks have made it to the management ranks in the Bell System. The fact that it "takes time" to be promoted to management hardly explains the low number of black managers in the Bell System. A more accurate explana-

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Footnotes at end of article.

tion lies in the Bell System practices which have concentrated blacks into the jobs from which there is virtually no hope of being promoted into middle or upper management while simultaneously hiring large numbers of whites into craft jobs and large numbers of white college graduates directly into management. Until these practices are changed, there is scant hope that blacks will ever find proportional representation in Bell System management.

The experience of New York Tel. aptly illustrates this conclusion. New York Tel. has been the pioneer in black employment within the Bell System for thirty years. As of December 31, 1970, of all blacks employed in the 30 SMSA's, over one-third were employed in New York.[45] New York was the first SMSA to employ blacks in the same proportion as all industries in its area and was the first SMSA to employ blacks in excess of their percentage in the population. By December 31, 1970, blacks represented more than 24% of all employees.[46] Nevertheless, despite decades of hiring blacks, only 6% of all managers in the New York SMSA were black.[47]

This small number of black managers is directly attributable to the factors discussed earlier. 80.6% of the black employees in New York were female,[48] and a New York female had only slightly better than half the chance of making management as did a New York male.[49] As of the same date, 54.4% of the black females were Operators in the Traffic Department.[50] Only one in ten Traffic employees was a manager. While 54.9% of the Operators were black, only 10.5% of the craft workers in the Plant Department were black.[51] One in five Plant employees was a manager, twice the ratio of Traffic. In addition, only 7.7% of the college graduates hired into management programs in New York in 1970 were black.[52] In short, New York Tel. had few black managers because New York Tel.'s policies have concentrated blacks in dead-end jobs in the Traffic Department while hiring large numbers of whites into craft jobs and directly into mangement. Thus, it is no mere fortuity that blacks have held few management jobs in New York. The Company's policies thwart movement of blacks into management at every turn.

Summary

The requirement of a high school diploma has a disparate impact upon blacks, artificially reducing the proportion of qualified applicants who are black. Even the softer position of "preferring" a high school diploma has the same impact.

The test batteries, both "male" and "female", reject a greatly disproportionate number of blacks, and changing the content of the test batteries has not significantly changed the rate at which blacks are disqualified.

There is no reason to believe the Bell System test batteries reliably predict job performance, and their continued use is indefensible.

The urgent need to fill and re-fill the Operator vacancies has compelled the System virtually to abandon its test requirements in order to get enough blacks to fill the job at wages which are unattractive to whites.

The dearth of black managers is due to the fact that most black employees are female Operators in the Traffic Department, the major employment group with the least chance of getting into management. Half of the middle and upper level managers are college graduates, a requirement with a greatly disparate impact on blacks.

CHAPTER 10.—CONCLUDING COMMENTS ON BLACKS IN THE BELL SYSTEM

An overview of the history of black employment in the Bell System leads to one very hard fact: in no Bell company are blacks on an equal footing with whites. Throughout the South, the lingering effects of deliberate racial discrimination are readily apparent in both the small number and types of jobs blacks hold. Elsewhere, progress in black employment has meant the hiring of large numbers of black females as Operators. There are relatively few black craft workers or black managers anywhere in the System.

This pattern of black employment is the result of many factors, including a heritage of overt exclusion, labor market conditions, and irrelevant and artificially high educational and testing requirements. For whatever reason, however, the failure of the Bell System to provide real equality of opportunity for blacks must be considered a national tragedy.

In dollar terms alone, the discrimination against blacks takes a heavy toll. Because blacks are not employed in numbers proportional to their percentage in the population and because those that are employed work in low-paying jobs, each year blacks in the 30 SMSA's loose over $225 million. (See Chart 24.)

It would be a mistake, however, to calculate the effects of discrimination in terms of lost wages alone. Judge Gewin, of the United States Court of Appeals for the Fifth Circuit, has eloquently described the intangible results of racially discriminatory employment practices.[1]

Those who love their work may sometimes forget that a successful human community requires the performance of many vapid and colorless tasks. Even the most tedious physical labor is endurable and in a sense enjoyable, however, when the laborer knows that his work will be appreciated and his work rewarded. "Work without hope," said Coleridge, "draws nectar in a sieve, and hope without an object cannot live." the ethic which permeates the American dream is that a person may advance as far as his talents and his merit will carry him. And it is unthinkable that a citizen of this great country should be relegated to unremitting toil with never a glimmer of light in the midnight of it all.

CHAPTER 11.—THE INVISIBLE MINORITY

Spanish-surnamed Americans have been described as "the invisible minority," and in the Bell System this is quite literally true. Although there are significant concentrations of Spanish-surnamed Americans in the barrios and ghettos of the nation's major urban centers, and many large employers utilize them extensively in their workforce very few are employed by the Bell System. The current Bell System underutilization of Spanish-speaking minorities resembles the position of blacks in the early 1960's before the legal, economic and social pressures to provide equal opportunity began to be felt.

Every statistical measure points to the exclusion of Spanish-surnamed Americans from the System's work force, particularly at the higher levels. The same pernicious system which has blocked the progress of blacks also serves as an obstacle to Spanish-surnamed Americans. Compounding this disadvantage, however, is the Bell System's persistent neglect of Spanish-surnamed Americans.

Twelve SMSA's—A pattern of exclusion

There is really only one pattern in Bell's employment of Spanish-surnamed Americans: exclusion. For them, the statements of Pacific Tel. President Jerome W. Hull must have a particularly hollow ring.

"We never followed a policy of discrimination in employment. And for many years we have conducted programs to make our overall employment profile reflect the population characteristics of the state we serve." [1]

Such pious statements of intent bear no relationship to the operating companies' consistently poor performance. In none of the twelve SMSA's surveyed (each of which has a substantial Spanish-surnamed American population) does Bell's total employment of Spanish-surnamed Americans approach their proportion in the population. (See Table 17.)

In those twelve SMSA's, Spanish-surnamed Americans are employed by Bell companies at a rate only 40% of their proportion in the population. Bell would have to increase its current Spanish-surnamed employment by over 140% in order to achieve parity with the population. These statistics alone describe a pervasive pattern of discrimination.

TABLE 17.—BELL UTILIZATION OF SPANISH-SURNAMED AMERICANS RELATIVE TO THE POPULATION, 12 SMSA'S DEC. 31, 1970

SMSA	Spanish-surnamed Americans penetration ratio	Percent Spanish-surnamed [1]
Chicago	0.19	430.6
Dallas	.35	188.7
Denver	.56	78.9
El Paso	.32	210.2
Houston	.58	71.8
Los Angeles	.56	79.2
Miami	.25	294.1
New York	.36	180.3
Phoenix	.27	266.6
San Antonio	.46	115.6
San Diego	.53	88.1
San Francisco	.46	116.6

[1] Americans employment would have to increase to match population.

Source: EEOC exhibit 1, pp. 247. 251, 253, 257, 261 269, 273, 279, 286, 293, 295, and 297.

Other indexes make the pattern conclusive. In none of the twelve selected SMSA's does Bell's employment of Spanish-surnamed Americans even approach that of other employers in their area. (See Chart 22.) Similarly, none of the three companies (Pacific Tel., Mountain Bell and Southwestern Bell) with major Spanish-surnamed populations in their operating areas employ Spanish-surnamed Americans at a rate comparable to area employers. (See Chart 21 at p. 231 above.) These Bell companies' utilization of Spanish-surnamed Americans is, in fact, quite comparable to the utilization of blacks in South Central Bell, Southern Bell and C&P (Va.).

Such a low level of Spanish-surnamed American employment, five and one-half years after the effective date of Title VII, destroys any pretentious claims of leadership in the field. It points instead to company policies which operate effectively to exclude Spanish-surnamed Americans.

The occupational position of Spanish-surnamed Americans

The few Spanish-surnamed Americans who survive Bell's hiring juggernaut are, like women and blacks, confined to the lowest non-management jobs and excluded from management almost altogether. The average Spanish-surnamed employee in the 30 SMSA's can expect to earn only 78% as much as her or his Anglo counterpart.[2] The most striking differences occur at the wage extremes. Although only 45% of all employees (including blacks) are paid a rate of less than $7000 per year, 64% of all Spanish-surnamed Americans are in this lowest bracket. Conversely, while over one-fourth of all employees earn more than $10,000 per year, only 8% of all Spanish-surnamed Americans have reached this level. (Chart 25.)

As might be expected, pitifully few Spanish-surnamed Americans within the Bell System have reached management. As noted earlier, over one-fourth of Bell's Anglo employees are managers; yet only a paltry 6% of all Spanish-surnamed employees are managers.[3] Consistent with the pattern for women and blacks, almost all (90.5%)

Footnotes at end of article.

Spanish-surnamed managers are in the first level while one-third of all Anglos have progressed to more responsible and more remunerative positions.[4]

By any measure, the discrimination against Spanish-surnamed Americans is both intensive and extensive. All rationalizations for these disparities must be rejected because (1) other employers have been able to employ Spanish-surnamed Americans in much greater numbers than the Bell operating companies, and (2) Bell's employment policies inevitably lock out those of Spanish ancestry.

The policies which exclude Spanish-surnamed Americans

It is axiomatic that the same recruitment, hiring and promotion policies which screen out blacks will have a similarly disparate effect on Spanish-surnamed Americans, perhaps to an even greater degree. These factors cannot, however, account for all of the difference in participation between blacks and Spanish-surnamed Americans in cities like New York and Los Angeles. The conclusion is inescapable that while some Bell companies have made minimal efforts to employ blacks, albeit in the lowest classifications, no attempt has been made to eliminate ingrained discrimination against Spanish-surnamed Americans. Thus the patterns, cemented through years of tradition, continue unabated into the 1970's with little prospect of change.

Recruitment. Bell has never been fully cognizant of the Spanish-surnamed population in its extensive recruitment efforts. In 1971 none of the 12 SMSA's used any recruitment brochures which were printed in Spanish. In fact, in five of the SMSA's surveyed there were no brochures which even contained pictures of Spanish-surnamed employees.[5] Bell has long recognized the need to let blacks know that they will be welcome in the company,[6] but no such need has been felt with regard to the Spanish community.

In 1971 Pacific Tel. recognized its responsibility under the law to bring its employment picture into equality with the ethnic composition of the community.

"This isn't an easy balance to keep since often the people of the needed ethnic groups don't walk in the door. . . . If they don't come to us—and they usually don't—we're obligated to find ways to bring them in."[7]

Bell has hardly fulfilled its "obligation" to find ways to bring Spanish-surnamed Americans into the System. This callous indifference to the employment of Spanish-surnamed Americans is analagous to the Southern companies' reticence in the employment of blacks, and the result has been the same.

The interview. Spanish-surnamed interviewers are a particular rarity in Bell's central employment office. Three of the twelve surveyed SMSA's have no Spanish-surnamed interviewers and four SMSA's have only one.[8] Dr. Felix Lopez has determined that Bell's employment interview process itself ". . . is bound to be hard on minority group applicants, particularly those who come from disadvantaged backgrounds. . . . The interviewer's cultural biases and past Company practices are bound to assert themselves in an attempt to discourage the applicant and to seek reasons for disqualifying him or her."[9]

Bell has made no systematic effort to determine whether Spanish-surnamed Americans are disproportionately rejected during the employment interview. All of the available data indicate, however, that the lack of Spanish-surnamed interviewers and the opportunity for prejudice inherent in Bell's interview process combine to screen this minority out.[10]

Hiring Standards. The hiring standards used by the Bell System have a particularly devastating effect on the Spanish-surnamed. The paper credential requirement (or preference) of a high school or college diploma screens out a much greater proportion of the Spanish-surnamed than Anglos.[11] While less than half of the Spanish-surnamed Americans in the country in the 25–34 year age bracket have completed high school, almost three-fourths of the non-Spanish-surnamed population has completed high school. Among those with some college education, the disparity is even greater. Only 15% of all Spanish-surnamed Americans have completed at least one year of college compared to 30% for all other national origins.[12] This preference for paper credentials, which is *unrelated to ability or performance*, eliminates a sizeable portion of the Spanish-surnamed population.

The testing requirements, discussed in detail above, screen out another large segment of Spanish-surnamed Americans. The evidence of the few studies conducted indicates clearly that Spanish-surnamed Americans score significantly lower on the average than Anglos on Bell's current test batteries. Typically, AT&T has paid little attention to the effect of its tests on those of Spanish descent. There has been at least one effort (by New Jersey Bell) to accommodate Spanish-surnamed Americans by translating the debunked Wonderlic Test into Spanish.[13] The incongruity of an intelligence test based on the Anglo culture translated into Spanish is obvious. In fact, New Jersey Bell recognized that "there appears to be justification for concern that the phraseology of the test questions are not readily understandable or familiar to natives of Puerto Rico, Cuba or South America."[14] No other attempt has been made to translate the current tests into Spanish or to produce a culturally fair test for Spanish-surnamed applicants.

In as much as these test batteries have never been shown to be predictive of job performance for Chicanos, Puerto Ricans, Cubans, or others of Spanish descent, the *only demonstrated function* of these tests is to exclude Spanish-surnamed Americans. Continued use of the Bell System test batteries, without empirical evidence of their relationship to job performance, is incompatible with the System's obligation to provide equal opportunity to the Spanish-surnamed.

Besides these barriers, common to both Spanish-surnamed and black applicants, there are two unique obstacles to Spanish-surnamed employment. First, the often extraneous requirement that almost perfect English be spoken is a substantial barrier to many Spanish-surnamed Americans. Only one company, New Jersey Bell, has made specific efforts to identify those jobs for which written or spoken English is not a requirement.[15] On the contrary, Pacific Tel. and Southwestern Bell continue to advertise for Installers who can speak good English.[16] One wonders whether Installers in these companies are required to speak good Spanish when working in the barrio. Moreover, no studies have been made to determine the level of English proficiency, if any, which is required for any job.

A second hiring standard which works to the particular disadvantage of Spanish-surnamed Americans is the height requirement for certain jobs. Because they are significantly shorter than Anglos, fewer of their number will be able to meet these height standards. As pointed out in Chapter 4, these requirements are contradictory between companies and have not been shown to be necessary for performance on the job. Until such a showing, this requirement must also be rejected because of its disproportionate impact on the Spanish-surnamed.

Summary

Spanish-surnamed Americans are employed by Bell at a rate significantly lower than their proportion in the population or their proportion in the work force of area employers.

The Spanish-surnamed Americans who have found employment at Bell are in the lowest paying classifications and are virtually excluded from management.

Bell's current employment pattern with regard to Spanish-surnamed Americans is analagous to the position of blacks in the Southern companies during the 1960's.

Bell's recruitment and hiring policies which restrict black employment have an even greater impact on Spanish-surnamed Americans. Irrelevant language and height requirements further impede Spanish-surnamed employment.

Bell has made no substantial effort to improve the employment status of Spanish-surnamed Americans.

Conclusion

As with women and blacks, the most telling index of discrimination against Spanish-surnamed Americans is the annual loss of wages. Because they are denied employment at Bell and because they are confined to the lowest-paying jobs, Spanish-surnamed Americans lose over $137 million annually. (See Chart 26.)

This figure dramatizes Bell's total unresponsiveness to the plight of the Spanish-surnamed American. This "invesible minority" has been pushed aside and ignored. The resulting deprivation is eloquently described in a poem by Rodolfo Gonzales.

I am Joaquin,
Lost in a world of confusion
Caught up in the whirl of an Anglo society,
Confused by the rules,
Scorned by attitudes,
Suppressed by manipulations,
And destroyed by modern society.
My fathers have lost the economic battle,
And won the fight for cultural survival.

In a country that has wiped out all my history, stifled all my pride.
In a country that has placed a different indignity upon my ancient burdens.
Inferiority is the new load. . . .[17]

Conclusion

The foregoing Prehearing Analysis and Summary of Evidence and EEOC Exhibits 1–6 are respectfully submitted,

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Footnotes at end of article.

FOOTNOTES

Chapter 1.—The Bell System

[1] EEOC E–11, pp. 50–51.

[2] EEOC Z–1929, p. 12–3.

[3] EEOC W–659, pp. 65–87.

[4] See *Standard Metropolitan Statistical Areas*, Office of Statistical Standards, Bureau of the Budget, 1967.

[5] The method by which these SMSA's were selected is described in EEOC Exhibit 1, pp. 474–476.

[6] EEOC C–661—EEOC C–690.

[7] *Ibid.*

[8] *Ibid*, as annotated. For a description of the annotation process, see EEOC Exhibit 1, pp. 477–480.

[9] *Ibid.*

[10] *Ibid*, as annotated.

[11] *Ibid*, as annotated.

[12] *Ibid*, as annotated.

[13] *Ibid.*

[14] *Ibid*, as annotated.

[15] EEOC R–798, p. 6. This document is particularly important and can be found in EEOC Exhibit 5.

[16] EEOC R–799, p. 5.

[17] EEOC R–798, p. 7.

[18] *Ibid*, p. 26.

[19] *Ibid*, p. 8.

[20] *Ibid*, p. 12.

[21] EEOC C–1540, p. 9. This document is particularly important and can be found in EEOC Exhibit 5. See generally, EEOC Findings nos. 1735–1751, 1735–1751.

[22] *Ibid*, p. 10.

[23] EEOC C–661—EEOC C–690.

[24] EEOC Z–686, p. 2. This document is particularly important and can be found in EEOC Exhibit 5.

[25] EEOC C–661—EEOC C–690, as annotated.

[26] *Ibid*.

[27] *Ibid*.

[28] See EEOC Findings nos. 1752–1819.

[29] EEOC Finding no. 1776.

[30] EEOC Finding no. 3618.

[31] EEOC C–1540, p. 3.

[32] *Ibid*.

[33] *Ibid*, p. 7.

[34] *Ibid*.

[35] EEOC C–661—EEOC C–690, as annotated.

[36] EEOC Finding no. 4670. This finding relates solely to Pacific Tel., but it is assumed to be typical of all Bell operating companies.

[37] See generally EEOC C–1542—EEOC C–1546.

[38] *Ibid*. See also EEOC Findings nos. 4636, 4644, 4655, 4660, 4670, 4685, and 4691.

[39] See generally EEOC C–1542—EEOC C–1546. This program is generally limited to females and is discussed in Chapter 5 of this report.

[40] EEOC C–661—EEOC C–690, as annotated.

[41] *Ibid*.

Chapter 2.—Women in the Bell System: A study in sex segregation

[1] EEOC Exhibit 1, Charts 209 and 211.

[2] EEOC Finding no. 31.

[3] EEOC Finding no. 3618.

[4] EEOC Finding no. 68. See also EEOC Finding nos. 193 and 1236.

[5] EEOC Finding no. 2464.

[6] EEOC Z–420, p. 3.

[7] EEOC Finding no. 562. See also EEOC Finding no. 537.

[8] EEOC W–659.

[9] See the following EEOC Finding nos. for identification of "female" job classifications: 101, 102, 146, 150, 152, 155, 176, 182–185, 190, 202, 205, 206, 208, 209, 215, 216, 219, 220, 237, 240, 241, 243, 244, 245, 246, 247, 252, 254, 258, 263, 264, 304, 310, 323–326, 338, 356, 376, 379–381, 407, 415, 418, 419, 426, 431–434, 436, 438, 445–447, 456, 463–466, 478, 479, 491, 532, 542, 543, 554, 558–560, 563, 571, 580–584, 629, 631–635, 638, 639, 643, 650, 694, 695, 697, 739–742, 743–745, 756, 758, 759, 763, 764, 765, 769–771, 876, 877, 897, 934, 935, 982, 988, 991, 993, 996, 997, 1003, 1020, 1021, 1022, 1031, 1037, 1038, 1041, 1042–1046, 1141 and 1143.

See the following EEOC Finding nos. for identification of "male" job classifications: 160, 165, 166, 288, 289, 291, 304, 310, 333, 335, 336, 338–340, 398, 399, 400, 407, 420, 465, 466, 518, 520, 532, 597, 598, 602, 609, 610, 612, 663, 665, 674, 675, 677, 818, 849, 876, 877, 1063, 1064, 1065, 1106, 1107 and 1108.

[10] See the following EEOC Finding nos. for identification of "female" job classifications: 120, 129, 140–142, 174, 175, 179–181, 203, 231, 238, 239, 319, 320, 353–355, 368, 369–374, 405, 410, 411, 412, 424, 437, 448, 476, 477, 494, 495, 528, 535, 539, 619, 627, 628, 680, 682–684, 733, 734, 735–738, 861–863, 929, 986, 987, 1018, 1019, 1033, 1048, 1130, 1141 and 1144.

See the following EEOC Finding nos. for identification of "male" job classifications: 129, 161, 162, 173, 231, 276, 389–397, 406, 417, 424, 455, 522–528, 619, 651, 652–658, 666–673, 676, 680, 681, 683, 818–824, 861–863, 901, 1070, 1072 and 1131.

[11] See the following EEOC Finding nos. for identification of "female" job classifications: 123, 169, 233, 256, 257, 259, 300, 305, 306, 308, 312, 327, 328, 348, 364, 367, 413, 488–490, 540, 553, 564, 566–568, 584, 586, 616, 696, 731, 780, 894, 899, 916, 917, 925, 930, 931, 959, 994, 999–1000, 1119 and 1121.

See the following EEOC Finding nos. for identification of "male" job classifications: 171, 233, 277, 300, 306, 312, 460, 599, 600, 616, 809–812, 916, 937–940, 1068, 1091, 1095, 1096. 1103, 1119 and 1121.

[12] See the following EEOC Finding nos. for identification of "female" job classifications: 73–75, 78–80, 103, 108, 127, 154, 171, 242, 262, 322, 363, 409, 481, 482, 557, 562, 647, 711, 714, 716, 717, 718, 719, 869, 870, 885, 893, 898, 960, 981, 1140 and 1146.

See the following EEOC Finding nos. for identification of "male" job classifications: 83–85, 93, 95, 105, 106, 108, 171, 279, 330, 332, 409, 423, 506, 516, 517, 831–833, 869–870, 905, 906, 907 and 1061.

[13] See the following EEOC Finding nos. for identification of "female" job classifications: 69–72, 81, 82, 119, 428, 440, 461, 487, 617, 702 and 902.

See the following EEOC Finding nos. for identification of "male" job classifications: 128, 138, 452, 453, 461, 617, 814, 842, 902, 903, 949, 1071, 1089, 1090 and 1109.

[14] See the following EEOC Finding nos. for identification of "female" job classificitions: 427, 541, 556, 573, 574, 1001 and 1122.

See the following EEOC Finding nos. for identification of "female" job classifications: 301, 307, 337, 403, 404, 451, 605, 1122, and 1999.

[15] See the following EEOC Finding nos. for identification of "female" job classifications: 199–200, 204, 210, 221, 230, 255, 329, 342, 343, 345, 375, 416 (see also 417), 435, 442, 444, 492, 534, 536, 538, 555, 565, 573, 575, 578, 579, 618, 630, 636, 637, 640–642, 644, 645, 646, 649, 747–754, 757, 772, 779, 786, 787, 867, 890, 896, 961, 990, 993, 1007, 1008, 1010, 1012, 1013, 1017, 1030, 1034, 1040, 1123, 1131 and 1153.

See the following EEOC Finding nos. for identification of "male" job classifications: 225, 230, 290, 309, 334, 375, 417 (see also 416), 547, 548, 549, 572, 591, 611, 613, 618, 649, 664, 678, 679, 815, 834, 867, 904, 940, 961, 1092–1094, 1104, 1110, 1123, 1131, 1132 and 1153.

[16] See the following EEOC Finding nos. for identification of "female" job classifications: 443, 483, 489, 570, 730, 926, 927, 963 and 1145.

See the following EEOC Finding nos. for identification of "male" job classifications: 90, 104, 172, 273, 510, 512, 587–589, 603, 606, 607, 608, 614 and 936.

[17] See the following EEOC Finding nos. for identification of "female" job classifications: 96, 467 and 472.

See the following EEOC Finding nos. for identification of "male" job classifications: 88 and 96.

[18] See the following EEOC Finding nos. for identification of "female" job classifications: 615, 700, 701, 703 and 884.

See the following EEOC Finding no. for identification of "male" job classifications: 615.

[19] See the following EEOC Finding nos. for identification of "female" job classifications: 153, 186–189, 698, 699, 755, 762, 980, 995 and 1002.

See the following EEOC Finding nos. for identification of "male" job classifications: 507 and 995.

[20] See the following EEOC Finding nos. for identification of "female" job classifications: 124–126, 268–271, 346, 349, 351–354, 533, 864 and 918.

See the following EEOC Finding nos. for identification of "male" job classifications: 91, 92, 134, 272, 592 and 864.

[21] See the following EEOC Finding nos. for identification of "female" job classifications: 250, 302, 303, 311, 430, 704, 706, 715, 746, 760, 761, 767, 777, 874, 882, 921, 923, 983, 984, 1009, 1124 and 1127.

See the following EEOC Finding nos. for identification of "male" job classifications: 311, 816, 874, 1124 and 1127.

[22] EEOC Finding nos. 843, 920 and 928.

[23] EEOC Finding nos. 480, 531, 707, 732 and 773.

[24] EEOC Finding no. 785.

[25] EEOC Finding no. 469.

[26] See the following EEOC Finding nos. for identification of "female" job classifications: 97, 98, 402, 705, 706 and 1126.

See the following EEOC Finding nos. for identification of "male" job classifications: 97, 98, 402, 508, 705, 706 and 1126.

[27] See the following EEOC Finding nos. for identification of "female" job classifications: 708–710, 1028, 1029, 1133, 1134, 1140 and 1152.

See the following EEOC Finding nos. for identification of "male" job classifications: 828, 829, 830, 1074–1076, 1133, 1134, 1149, 1152.

[28] See the following EEOC Finding nos. for identification of "female" job classifications: 31–33, 35–39, 41, 44, 45, 49, 50, 54. 56, 76, 222, 362, 441, 468, 493, 494, 625, 626, 729 and 977.

See the following EEOC Finding nos. for identification of "male" job classifications: 42, 43, 48, 53, 57, 58, 60, 87, 441, 458 and 499.

[29] EEOC Fnding no. 47.

[30] EEOC Finding no. 46.

[31] EEOC Finding no. 34.

[32] EEOC Finding no. 40.

[33] EEOC Finding no. 686.

[34] EEOC Finding nos. 497, 1049 and 1147.

[35] EEOC Finding no. 43.

[36] EEOC Exhibit 1, Table 437.

[37] EEOC Exhibit 1, Table 444.

[38] EEOC W–659.

[39] EEOC W–659. See also EEOC Exhibit 1, Table 448.

[40] EEOC Finding no. 1171. See also EEOC Z–686, EEOC Exhibit 5.

[41] EEOC Finding no. 1122.

[42] EEOC W–659.

[43] EEO–1 Reports, 1966.

[44] EEO–1 Reports, 1971.

[45] EEOC Finding nos. 1752–1819.

[46] EEOC W–659.

[47] EEOC Finding no. 1147 and EEOC C–665.

[48] EEOC Finding nos. 1917 and 1918.

[49] EEOC Finding no. 1924.

[50] EEOC C–102.

[51] EEOC Finding nos. 347 and 2676.

[52] EEOC C–676, EEOC C–679 and EEOC C–689.

[53] EEOC R–1123.

[54] EEOC Finding no. 2623.

[55] EEOC Exhibit 1, Table 449.

[56] EEOC Exhibit 1, Table 450.

[57] See also Exhibit 1, pp. 66–127.

[58] EEOC Finding no. 3321.

[59] EEOC W–659.

[60] EEOC C–661—EEOC C–690.

[61] EEOC Finding no. 3322.

[62] *New York Times*, December 12, 1970.

[63] EEOC R–1016, p. 2; EEOC R–1022, p. 8.

[64] Exhibit 1, Table 428.

[65] Exhibit 1, Table 439.

Chapter 3.—Reaction to the sex provisions of title VII

[1] EEOC R–1014, p. 1; EEOC R–1022, p. 2.

[2] EEOC Finding Nos. 1–30.

[3] EEOC R–1054, p. 1. This document is particularly important and may be found in EEOC Exhibit 5.

[4] See especially EEOC Finding Nos. 18–20 and 3354.

[5] EEOC Finding No. 19.

[6] EEOC Finding No. 100.

[7] See especially EEOC Finding No. 2293. See also EEOC Finding Nos. 299 and 315.

[8] 30 Fed. Reg. 14926.

[9] See especially EEOC Finding Nos. 687–690. See also EEOC Finding No. 349.

[10] EEOC Finding Nos. 687, 1015 and 3354.

[11] EEOC Finding No. 691.

[12] EEOC Finding No. 2288. See also EEOC Finding Nos. 425, 900, 2290, 2300, 2311 and 2343.

[13] EEOC Finding No. 2352. See especially EEOC Finding Nos. 2038–2042.

[14] See especially EEOC Finding Nos. 450, 2307, 2311 and 2369. See also EEOC Finding Nos. 900, 2619 and 2659.

[15] EEOC R–1290.

[16] See especially EEOC Finding No. 2355. See also EEOC Finding Nos. 1538, 2300, 2301, 2347 and 2356.

[17] EEOC Finding No. 2357.

[18] EEOC Finding No. 2363.

[19] EEOC R–1025, p. 3. This document is particularly important and may be found in EEOC Exhibit 5. See also EEOC Finding No. 89.

[20] EEOC R–1025, pp. 4–5. See also EEOC Finding Nos. 2043, 2290 and 2382.

[21] EEOC Finding No. 2291.

[22] EEOC R–1025, pp. 6–7. See also EEOC Finding Nos. 65, 316 and 2306.

[23] EEOC Finding No. 3609.

[24] EEOC Finding No. 2292.

[25] EEOC E–12, *passim;* EEOC E–1, pp. 48–50.

[26] EEOC Finding No. 2363.

[27] EEOC R–799, p. 11; EEOC R–792, p. 6.

[28] EEOC R–1290.

[29] EEOC C–1540, pp. 46–47. This document is particularly important and may be found in EEOC Exhibit 5.

[30] EEOC Finding No. 2418.

[31] EEOC Finding No. 3609.

[32] EEOC Finding No. 2384. See also EEOC Finding Nos. 1497, 1498, 1538, 2345 and 2355.

[33] EEOC Finding No. 2342. See especially EEOC Finding Nos. 2316, 2326. See also EEOC Finding Nos. 2015, 2361, 2362 and 2383.

[34] EEOC Finding No. 2288.

[35] EEOC Finding No. 3610.

[36] EEOC Exhibit 1, pp. 451 and 452.

[37] EEOC Finding No. 3606.

[38] EEOC Finding No. 2200.

[39] EEOC Finding No. 2246. See also EEOC Finding Nos. 2204 and 2212.

[40] EEOC Finding No. 3606.

[41] EEOC Finding No. 3606. See also EEOC Finding Nos. 2201–2208, 2211, 2214, 2218, 2219, 2221, 2225–2227, 2229, 2238, 2240, 2242, 2243, 2251, 2255, 2256, 2260, 2264, 2267, 2269, 2271, 2272, 2275, 2276, and 3015.

[42] EEOC Finding No. 2217.

[43] EEOC Finding No. 2218.

[44] EEOC Finding No. 2219.

[45] EEOC C–685.

[46] EEOC Finding No. 2209. See also EEOC Finding No. 2625.

[47] EEOC Finding No. 2270.

[48] EEOC Finding No. 2201.

[49] EEOC R–1291; EEOC R–1292; EEOC R–1293.

[50] EEOC Finding No. 2201.

[51] EEOC Finding No. 2265.

[52] EEOC C–664.

[53] See especially EEOC Finding Nos. 2228 and 2273. See also EEOC Finding Nos. 2210, 2232, 2237, 2248, 2253, 2254, 2263 and 2625.

[54] EEOC Finding Nos. 2285 and 2287.

[55] EEOC W–659.

[56] EEOC Finding Nos. 2277 and 2279–2283.

[57] EEOC Finding No. 2219.

[58] EEOC C–669, EEOC C–670, EEOC C–677.

[59] EEOC Finding No. 3606.

[60] EEOC Finding Nos. 2289, 2317, 2335, 2342, 2348 and 2422.

[61] EEOC Finding Nos. 2304, 2310, 2322, 2342 and 2389.

[62] EEOC Finding Nos. 2294, 2304, 2315, 2317, 2322, 2327, 2335, 2336, 2340, 2342, 2348, 2389 and 2422.

[63] EEOC Finding Nos. 2335, 2342, 2353, and 2354. See also EEOC Finding No. 2337.

[64] EEOC Finding Nos. 2317 and 2333.

[65] EEOC Finding No. 2288.

[66] EEOC Finding No. 3610.

[67] EEOC Finding Nos. 2374–2378, 2402–2404, 2406, 2409 and 2423.

[68] *Weeks* v. *Southern Bell,* 408 F. 2d 221 (5th Cir., 1969).

[69] EEOC Finding No. 2412.

[70] EEOC Finding No. 2421.

[71] EEOC Finding No. 2316. See also EEOC Finding Nos. 2015, 2339.

[72] EEOC Finding No. 2317.

[73] EEOC R–1054, p. 2.

[74] EEOC Finding No. 2297.

[75] EEOC Finding No. 2290.

[76] Exhibit 1, p. 447.

[77] EEOC C–669; EEOC C–680.

[78] EEOC Finding No. 2325.

[79] EEOC R–1054, p. 2.

[80] EEOC Finding No. 459. See also EEOC Finding No. 451.

[81] EEOC C–672.

[82] EEOC Finding No. 2328.

[83] EEOC Finding No. 789.

[84] EEOC Finding No. 791.

[85] EEOC Finding No. 2368.

[86] EEOC Finding No. 2227.

[87] EEOC C–674. See also EEOC Finding Nos. 546, 1015, 2312, 2313, 2334, 2338, 2349, 2351, 2366, 2372 and 2373.

[88] EEOC Finding Nos. 2317 and 2333.

[89] See Footnote 16 in Chapter 5 below.

[90] EEOC Finding No. 3610.

Chapter 4.—The sexist system

[1] EEOC Finding nos. 1849 and 2020.

[2] EEOC Finding no. 3618.

[3] EEOC Finding no. 1168.

[4] See especially EEOC Finding nos. 1282, 1295, 1621 and 4185 and EEOC E–17. See also EEOC Finding nos. 1159, 1160, 1161, 1217, 1228, 1281, 1352, 1411, 1412, 1470, 1481–1483, 1494, 1495, 1562, 1564, 1569, 1575, 1577, 1578, 1582, 1583, 1585, 1593, 1627, 1651, 1653, 1654, 1707, 1710, 1717–1719, 1732, 1733, 4117, 4118, 4120, 4158, 4174, 4180, 4181, 4182, 4184, 4203, 4208–4210, 4234, 4235, 4250, 4280, 4301, 4302, 4306 and 4307.

[5] EEOC Finding no. 1188. See also EEOC Finding nos. 1472, 4135, 4155, 4156, 4176 and 4303.

[6] EEOC Finding no. 1212.

[7] EEOC Finding no. 1551.

[8] EEOC Finding no. 4195. See especially EEOC Finding nos. 1251, 1351, 1473, 1475, 1709 and 4153. See also EEOC Finding nos. 603, 974, 1278, 1288, 1289, 1409, 1410, 1474, 1477, 1493, 1555, 1578, 1622, 1623, 1624, 1626, 1716, 1734, 4162, 4198, 4232, 4239, 4243, 4247 4276–4279 and 4308.

[9] See especially document no. EEOC M–5, p. 6. See also EEOC Finding nos. 974, 1213–1215, 1247, 1278–1280, 1282, 1288, 1289, 1294, 1409, 1410, 1419, 1471, 1478–1480, 1483, 1493, 1552–1554, 1556–1561, 1565–1568, 1570–1574, 1576, 1579–1581, 1584, 1586, 1587, 1590, 1591, 1592, 1619–1623, 1625, 1626, 1650, 1652, 1653, 1708, 1711–1715, 1730, 1731, 4115, 4116, 4118, 4138, 4145, 4146, 4157, 4175, 4202, 4205–4207, 4211–4214, 4233, 4235–4239, 4244–4246, 4248, 4249, 4276 and 4277.

[10] EEOC Finding no. 1315. See also EEOC Finding nos. 1014, 1032, 1250, 1316, 1317, 1378, 1386, 1413, 1442–1444, 1447, 1451, 1532, 1606, 1679 and 1680.

[11] EEOC Finding no. 1319. See also EEOC Finding nos. 1413, 1453–1455, 1532, 1606, 1638 and 1693.

[12] EEOC E–1, p. 30.

[13] EEOC Finding nos. 1154. See especially EEOC Fnding nos. 1298 and 1539.

[14] EEOC Finding no. 1487. See especially EEOC Finding nos. 1155, 1366, 1500, 1501, 1629, 1656, 1657 and 1721.

[15] EEOC Finding no. 1298.

[16] EEOC Finding no 1156.

[17] See especially EEOC Finding no. 1656. See also EEOC Finding nos. 194, 195, 237, 251, 260, 401, 470, 471, 494, 783, 873, 883, 887, 892–894, 978, 979, 1024–1027, 1169, 1196, 1219, 1225, 1234–1236, 1259, 1260–1262, 1264, 1300–1302, 1306, 1331, 1332, 1339, 1367, 1369, 1370, 1374, 1375, 1402, 1403, 1422, 1424, 1437–1441, 1502–1505, 1507, 1595, 1598–1602, 1633, 1639, 1663, 1664, 1667, 1676–1678, 1681–1684, 1722, 1723 and 1725.

[18] EEOC Finding nos. 148–151, 260, 401, 438, 439, 485, 493, 873, 892, 913, 915, 1005, 1025–1027, 1157, 1197, 1219, 1261, 1262, 1264, 1302–1305, 1331, 1332, 1374–1376, 1396, 1425, 1427–1429, 1437, 1439, 1502, 1505, 1507, 1601, 1630, 1665, 1676–1679, and 1723.

[19] EEOC Findings nos. 201, 251, 253, 529, 783, 784, 873, 913–915, 1023–1027, 1125, 1219, 1222–1225, 1262, 1307, 1331, 1332, 1374, 1375, 1437, 1503, 1505, 1507, 1598, 1599, 1603, 1639, 1667, 1676, 1686, 1687, 1695, 1723, 1725, 3006, and 4128.

[20] EEOC Finding no. 1233. See also EEOC Finding nos. 1305, 1318, 1430 and 1506.

[21] Exhibit 5 EEOC Z–679. See also EEOC Finding nos. 886, 975, 976, 1170, 1196, 1220, 1237, 1259a, 1285, 1299, 1339, 1369, 1395, 1423, 1509, 1594, 1618, 1636 and 1659–1662.

[22] Exhibits 5, EEOC Z–686. See also EEOC Finding nos. 1171, 1220, 1286, 1371, 1379, 1397, 1426, 1508 and 1637.

[23] EEOC Finding no. 1639. See also EEOC Finding nos. 211, 214, 274, 278, 384, 401, 462, 529, 873, 913, 914, 915, 1062, 1066, 1067, 1174, 1175, 1198, 1200, 1223, 1224, 1225, 1264–1267, 1287, 1306, 1307, 1308, 1310, 1311, 1331, 1333, 1334, 1368, 1377, 1394, 1398–1401, 1431–1441, 1512–1517, 1522, 1598–1602, 1631, 1666, 1688–1692, 1695, 1723, 1725, 3006 and 4133.

[24] EEOC Finding no. 1530.

[25] See especially EEOC Finding nos. 1641 and 1696. See also EEOC Finding nos. 462, 937, 938, 1000, 1006, 1242, 1255, 1314, 1320–1322, 1341–1344, 1445, 1446, 1448–1452, 1456–1460, 1467, 1527, 1531, 1534, 1604 and 1720.

[26] EEOC E–2.

[27] EEOC Finding no. 1491.

[28] EEOC Finding no. 1155. See also EEOC Finding no. 1416.

[29] EEOC Finding no. 1271.

[30] EEOC Finding no. 1272. See especially EEOC Finding nos. 1158, 1179, 1210, 1211, 1227, 1246, 1253, 1276, 1292, 1293, 1345, 1380, 1383a, 1406, 1418, 1469, 1492, 1540, 1547, 1548, 1609, 1648, and 1729.

See the following EEOC Finding nos. for placement of advertisements in the "female" column: 1180–1185, 1191, 1208, 1273–1275, 1277, 1290, 1291, 1324, 1325, 1346, 1347, 1381–1383, 1404, 1407, 1417, 1465–1467, 1468, 1541, 1542, 1544, 1545, 1610–1613, 1616, 1642–1650 and 1652.

See the following EEOC Finding nos. for placement of advertisement in the "male" column: 1185, 1191, 1207, 1209, 1226, 1244, 1273–1275, 1290, 1291, 1324, 1382, 1383, 1408, 1417, 1467, 1468, 1541, 1542, 1544, 1545, 1612, 1643–1646 and 1701.

[31] EEOC Finding no. 1185.

[32] EEOC E–2.

[33] EEOC Finding no. 1550.

[34] EEOC Finding nos. 1189, 1192, 1229, 1254, 1299, 1330, 1388, 1486, 1628 and 1655.

[35] EEOC Finding no. 2020. See also EEOC Finding no. 2019.

[36] EEOC Finding no. 1954. See also EEOC Finding nos. 1909 and 1967.

[37] EEOC Finding no. 1968. See especially EEOC finding nos. 774, 1886, 1942, 2035, 2092 and 2109. See also EEOC Finding nos. 1874, 1887, 1888, 1969, 1970, 1971 and 2036.

[38] See especially EEOC Finding nos. 892, 1828 and 1885. See also EEOC Finding nos. 1863, 1875 and 2108.

[39] See especially EEOC Finding nos. 892, 1842, 2000, 2027 and 2031. See also EEOC Finding nos. 143, 694, 695, 697, 843, 928, 1824, 1905 and 1933. See also EEOC E–17.

[40] EEOC Finding no. 1952.

[41] EEOC Finding no. 544. See also EEOC Finding no. 2037.

[42] EEOC Finding no. 1696.

[43] See especially EEOC Finding nos. 2047 and 2092. See also EEOC Finding nos. 2040 and 2041.

[44] EEOC Finding no. 1982.

[45] EEOC Finding no. 1821.

[46] EEOC Finding no. 2021.

[47] See especially EEOC Finding no. 1833. See also EEOC Finding nos. 177, 342, 575, 576, 1309, 1421, 1834, 1838, 1878, 1879, 1914, 1943–1947, 1949, 1965 and 1986–1989.

[48] EEOC Finding no. 2032.

[49] EEOC Finding no. 2022.

[50] EEOC R–1169, *passim.* See also EEOC Finding no. 2066.

[51] EEOC Finding nos. 1835, 1840, 1841, 1850, 1861, 1862, 1873, 1880–1882, 1904, 1915, 1916, 1951, 1993, 1996–1998, 2025, 2087, 2105, 2106, 2133, 2134, 4114, 4142, and 4192–4194.

[52] EEOC Finding nos. 1256, 1861, 1881, 1906, 1915, 1931, 1932, 1966, 2023–2025, 2086–2089, 2104–2107, 2135, 4129, 4165, 4194, 4264–4266, 4268, 4291–4294 and 4318.

[53] EEOC Finding nos. 1898, 2048–2051, 2083 and 2148. See also EEOC E–9.

[54] See especially EEOC Finding no. 1822 and

1953. See also EEOC Finding nos. 125, 268–271, 349–352, 366, 442, 483, 533, 592, 864, 866, 896, 926, 927, 1153, 1836, 1864, 1889, 1891, 1907, 1908, 1918, 1935, 2028, 2030, 2034, 2111–2113, 2115, 2137, 2139–2141 and 2817.

[55] EEOC Finding nos. 134, 164, 272, 547, 588, 592, 864, 865, 936, 1153, 1836, 1864, 1889, 1907, 1908, 1917, 1935, 1950, 1953, 1955, 2002, 2025, 2030, 2034, 2110, 2114, 2138–2141, 2576, 2632, 2761, 2817 and 3150.

[56] See especially EEOC Finding nos. 1972, 1973, 2064, 2120 and 2146. See also EEOC Finding nos. 1825, 1826, 1853–1859, 1866, 1868, 1912, 1957, 2057, 2058, 2060–2062 and 2097.

[57] EEOC Finding nos. 152, 1857, 1859 and 1912.

[58] EEOC Finding nos. 1825, 1866, 1870 and 2097.

[59] EEOC Finding nos. 152, 1825, 1868, 1912, 1933, 1957 and 2098.

[60] EEOC Finding nos. 1844, 1896, 1911, 1926, 1937, 1958, 2052, 2121, 2122, 3406, 3410, 3419, 3420, 3424, 3447, 3448, 3449, 3472, 3487, 3524, 3525, 3532 and 3533.

[61] EEOC Finding nos. 155, 197, 204, 221, 538, 632, 637, 1017, 1839, 1855, 1869, 1870, 1873, 1877, 1882 and 2016.

[62] See especially EEOC Finding nos. 1829 and 1830. See also EEOC Finding nos. 139, 163, 336, 1845, 1846, 1895, 1962, 2004, 2059–2062 and 2073.

[63] See especially EEOC Finding no. 341. See also EEOC Finding nos. 139, 587, 1894, 1956, 1959, 1960, 1974, 1984, 2054, 2144, 2632, 2765 and 2969.

[64] EEOC Finding nos. 1892, 1893, 1961, 1976, 2055, 2099 and 2126.

[65] EEOC E–3, p. 5. See also EEOC Finding nos. 1373, 2052, 3192, 4669 and 4676.

[66] See especially EEOC Finding nos. 2066 and 2070. See also EEOC Finding nos. 2065, 2067, 2068, 2069, 2071 and 2127.

[67] EEOC Finding no. 416. See also EEOC Finding nos. 196, 198, 200, 343, 536, 555, 618, 649, 993, 1007, 1008, 1871 and 1876.

[68] EEOC Finding no. 417. See especially EEOC Finding no. 230. See also EEOC Finding nos. 618, 649 and 1876.

[69] EEOC Finding nos. 4693–4695, 2094–2096 and 2116.

[70] EEOC Finding nos. 212, 1852, 1872, 1897, 1914, 1921, 1922, 1924, 1938, 1939, 2005–2012, 2017, 2123 and 2124.

[71] EEOC Finding nos. 1923 and 2100.

[72] EEOC Finding no. 2142.

[73] EEOC Finding no. 2098.

[74] EEOC Z–1929. See also EEOC Finding nos. 2593, 2616, 2669 and 3032.

[75] EEOC Finding no. 2887.

[76] EEOC Finding no. 3125.

[77] EEOC Finding no. 2727. See especially EEOC Finding no. 2875.

[78] EEOC Finding no. 2727.

[79] EEOC Finding no. 2516. See also EEOC Finding nos. 2553, 2622a, 2954–2958, and 3125–3127.

[80] See especially EEOC Finding nos. 2608, 2609 and 2921. See also EEOC Finding nos. 2519, 2550, 2610, 2776, 2908, 3037 and 3100.

[81] See especially EEOC Finding nos. 2828, 2829, 2952, 3097 and 3099. See also EEOC Finding nos. 2922–2924.

[82] EEOC Finding no. 2531.

[83] EEOC Finding no. 3044.

[84] EEOC Finding nos. 2896 and 30324.

[85] See especially EEOC Finding nos. 2607, 2752, 2802 and 3099. See also EEOC Finding nos. 2909 and 3085.

[86] EEOC Finding nos. 2608 and 2921.

[87] EEOC Finding nos. 2509, 2563 and 2702.

[88] EEOC Finding nos. 1752–1819.

[89] See especially EEOC Finding nos. 2499, 2509, 2565, 2566 and 2787. See also EEOC Finding nos. 109, 2498, 2500, 2505, 2511, 2514, 2515, 2539, 2551, 2552, 2561, 2567, 2568, 2571, 2618, 2647–2651, 2671–2675, 2701, 2713, 2728, 2737–2740, 2777–2786, 2755, 2756, 2817, 2833–2845, 2885, 2905, 2925–2939, 2947, 2948, 2997–3007, 3010, 3037a–3041, 3101–3113 and 3181.

[90] See especially EEOC Finding nos. 590, 2509, 2565 and 2905. See also EEOC Finding nos. 1062, 2490, 2498, 2500, 2505, 2527, 2539, 2561, 2567, 2569, 2570, 2572, 2615, 2616, 2652–2655, 2677, 2693–2701, 2741, 2787–2790, 2792, 2757, 2846–2858, 2883, 2940–2948, 3008–3010, 3041–3043, 3106 and 3114–3122.

[91] EEOC Finding nos. 347 and 2676.

[92] EEOC Finding nos. 2520, 2542, 2548, 2555, 2587–2592, 2594–2596, 2642, 2666, 2668, 2685, 2728, 2732, 2771–2773, 2813–2815, 2876–2878, 2880, 2894–2896, 2898–2900, 2914, 2916, 2986. 3024, 3025, 3077–3079, 3081, 3082 and 3179.

[93] EEOC Finding nos. 2770, 2800, 2986, 3024, 3084, 3176 and 3177.

[94] EEOC Finding nos. 2520, 2542, 2685, 2771, 2876, 2878 and 2895.

[95] See especially EEOC Finding nos. 2823, 2912, 2960, 3084 and 3132. See also EEOC Finding nos. 314, 2506, 2544, 2568, 2597–2605, 2642–2645, 2670, 2729, 2734, 2750, 2819, 2825, 2826, 2865, 2913, 2914, 3079, 3083, 3151, 3154 and 3161.

[96] EEOC Finding no. 2606.

[97] EEOC Finding no. 2600.

[98] EEOC Finding nos. 2560, 2775, 2990–2992, 2996, 3029–3031, 3033–3036, 3086–3090 and 3092–3096.

[99] EEOC Finding no. 3091.

[100] EEOC Finding no. 2353.

[101] EEOC Finding nos. 2996 and 3155.

[102] See especially EEOC Finding nos. 2491, 2562, 2704, 2736, 2915, 2990 and 3036a. See also EEOC Finding nos. 2522, 2532, 2736, 2774, 2884 and 2915.

[103] EEOC Finding no. 2761.

[104] See especially EEOC Finding nos. 2796 and 3056. See also EEOC Finding nos. 2527, 2528, 2530, 2545, 2575, 2576, 2579–2582, 2629, 2630, 2632–2637, 2680, 2707–2710, 2760, 2762–2764, 2809, 2862, 2864, 2865, 2888, 2960, 2966–2968, 3051, 3053–3055, 3137–3141 and 3150.

[105] EEOC Finding no. 1918.

[106] EEOC Finding no. 2628. See also EEOC Finding no. 2759.

[107] EEOC Finding no. 2529.

[108] EEOC Finding nos. 2579–2581.

[109] See especially EEOC Finding nos. 3129, 3143–3145 and 3150. See also EEOC Finding nos. 2576, 2599, 2626, 2627, 2734, 2860, 2865, 2960–2963, 3014, 3051, 3057, 3142, 3146, 3147, 3153 and 3157.

[110] EEOC Finding no. 2861.

[111] EEOC Finding no. 2628. See also EEOC Finding no. 2759.

[112] EEOC Finding no. 3058.

[113] EEOC Finding no. 3060.

[114] See especially EEOC Finding nos. 2518, 2524, 2549 and 2791. See also EEOC Finding nos. 2525, 2526, 2556, 2558, 2648, 2679, 2680, 2975 and 3132.

[115] EEOC E–1, p. 19.

[116] *Ibid.*

[117] EEOC R–798, p. 26. This document is of special importance and may be found in EEOC Exhibit 5.

[118] EEOC Finding nos. 2517, 2573 and 2797.

[119] EEOC Finding nos. 2953 and 3135. See also EEOC E–17.

[120] EEOC Finding nos. 2742, 2743, 2807, 2977, 3011, 3012, 3013, 3045–3048 and 3136.

[121] EEOC Finding no. 2575. See especially EEOC Finding nos. 2530 and 2574. See also EEOC Finding nos. 2534, 2573, 2576, 2577, 2638, 3049 and 3130.

[122] EEOC Finding nos. 3129 and 3131.

[123] EEOC Finding nos. 2387, 2388 and 2421.

[124] EEOC Finding no. 2949.

[125] EEOC E–4, p. 2.

[126] EEOC E–4, pp. 5–7.

[127] EEOC Finding no. 2985.

[128] EEOC C–55.

[129] EEOC C–52; EEOC R–56.

[130] See especially EEOC Finding nos. 2681, 2810, 2980, 2981 and 3019. See also EEOC Finding nos. 2501, 2502, 2507, 2534–2538, 2540, 2546, 2547, 2554, 2583–2586, 2639–2641, 2660–2663, 2682–2684, 2711, 2712, 2714–2726, 2746–2749, 2798, 2768, 2769, 2811, 2812, 2870–2874, 2890–2892, 2982–2985, 3020–3023, 3073, 3172, 3173 and 3174.

[131] EEOC Finding no. 3175.

[132] See the following EEOC Finding nos. for companies which require maternity leave at the end of the sixth month: 3417, 3418, 3421, 3422, 3425, 3439, 3441, 3442, 3444, 3459, 3473, 3474, 3476 and 3480–3484.

See the following EEOC Finding nos. for companies which require maternity leave at the end of the seventh month: 3403, 3407–3409, 3413, 3414, 3426, 3452–3455, 3457, 3492, 3523 and 3526–3528.

[133] EEOC E–7 and EEOC E–8.

[134] EEOC Finding no. 3516. See also EEOC Finding nos. 3401, 3402, 3404, 3411, 3412, 3430, 3460, 3506–3508, 3510, 3511–3515, 3517–3520, 3530 and 3535.

[135] EEOC Finding nos. 3432–3437, 3439, 3446, 3456, 3477 and 3478.

[136] EEOC Finding nos. 3450, 3502–3505. See also footnote no. 58 above.

[137] EEOC Finding nos. 3408, 3416, 3428, 3438, 3496, 3499, 3521 and 3522.

[138] EEOC Finding nos. 3430 and 3523.

[139] EEOC Finding nos. 3401–3403, 3411, 3415, 3416, 3418, 3421, 3439, 3440, 3443, 3459, 3472, 3476, 3479, 3488, 3495, 3527 and 3530.

[140] EEOC Finding no. 3461.

Chapter 5.—Women in management

[1] See especially EEOC Finding Nos. 332 and 3323. See also EEOC Finding Nos. 3250, 3280 and 3303.

[2] EEOC Finding Nos. 3204, 3206 and 3239.

[3] EEOC Finding Nos. 109, 1062, 2654, 2655, 2700, 2791, 2847–2851.

[4] EEOC Finding Nos. 109, 2777 and 2778.

[5] EEOC Finding Nos. 2310 and 2335.

[6] EEOC Finding No. 3267. See especially EEOC Finding Nos. 3236 and 3332. See also EEOC Finding Nos. 3225 and 3345.

[7] EEOC Finding No. 3615.

[8] EEOC Finding No. 3187.

[9] EEOC Finding Nos. 3194, 3197, 3200, 3208, 3225, 3226 and 3262.

[10] EEOC Finding No. 3225. See also EEOC Finding Nos. 3207 and 3209.

[11] EEOC Finding No. 4670.

[12] EEOC Finding No. 3315. See also EEOC Finding Nos. 3187 and 3367.

[13] EEOC Finding Nos. 3115 and 4670.

[14] EEOC R–1033. This document is of special importance and may be found in EEOC Exhibit 5.

[15] EEOC Finding No. 3599. See also EEOC Finding No. 1163.

[16] See especially EEOC Findings Nos. 2018, 2079, 2080 and 3329. See also EEOC Finding Nos. 167, 859, 1069, 1112, 1113–1115, 1162, 1176, 1177, 1205, 1525, 1526, 1640, 1668, 1674, 1728, 1940, 1941, 1986, 2078, 3192, 3263, 3907–3911, 3919–3922, 3924–3927, 3935, 3951, 3954–3958, 3975, 3976, 3987–3990, 3994–4002, 4073–4081 and 401–4096.

See also documents EEOC Z–924 and EEOC Z–954.

See the following EEOC Findings Nos. for recruitment for other "male" management positions: 1047, 1178, 1203, 1204, 1206, 1225, 1240, 1269, 1335, 1336, 1518–1520, 1523, 1596, 1597, 1607, 1669–1672 and 1673.

[17] EEOC R–1033, p. 2.

[18] See especially EEOC Findings Nos. 107, 157, 218, 857, 1150, 1283, 1392, 1489, 1526, 1528, 1728, 2077 and 3592. See also EEOC Findings Nos. 218, 248, 621, 773, 1172, 1173, 1201, 1202, 1239–1241, 1257, 1263, 1312, 1313, 1390, 1391, 1393, 1488, 1510, 1511, 1726, 1727, 1927–1930, 2081, 3907–3911, 3935, 3951, 3992, 3993, 4637, 4641, and documents Nos. EEOC Z–924—EEOC Z–954.

[19] EEOC E–3, p. 6.

[20] EEOC Finding No. 2083.

[21] EEOC Finding No. 2082. See also Findings Nos. 218, 1524, 4637 and 4641.

[22] EEOC Finding No. 3320. See also EEOC Findings Nos. 3336 and 3377. See also EEOC Exhibit 1, pp. 66–127.

[23] See especially EEOC Findings Nos. 3338, 3358, 3360 and 3361. See also EEOC Findings Nos. 3240, 3293, 3294, 3353–3355, 3387 and 3388.

[24] EEOC Finding No. 3316.

[25] EEOC Finding No. 3317. See especially EEOC Finding Nos. 3315 and 3318.

[26] EEOC Finding No. 3325. See also EEOC E–1, p. 12.

[27] EEOC E–1, p. 24.

[28] EEOC Finding No. 3327.

[29] EEOC Finding No. 3329.

[30] EEOC Finding Nos. 3323 and 3328.

[31] EEOC E–1, p. 42.

[32] EEOC Finding No. 3249.

[33] EEOC Finding No. 3349.

[34] *Ibid.*

[35] EEOC Finding No. 3350.

[36] EEOC E–1, p. 44.

[37] EEOC Finding No. 2495.

[38] EEOC Finding No. 3339.

[39] EEOC Finding No. 3382.

Chapter 6.—Concluding comments regarding sex discrimination

[1] EEOC E–4 and EEOC E–5.

[2] Exhibit 1, Table 456.

[3] EEOC E–9, p. 13.

[4] EEOC E–11.

Chapter 7.—Blacks in the Bell System: Historical exclusion and segregation

[1] Quoted in the Sixteenth Annual National Forum on Trucking Industrial Relations, *Applying Equal Employment in Trucking,* (1967), p. 78.

[2] See generally, EEOC–11, pp. 75–81.

[3] Harry A. Ploski and Roscoe C. Brown, Jr. (Eds.), *The Negro Almanac,* New York: Bellwether (1967).

[4] EEOC E–11, pp. 76–77.

[5] *Ibid*, p. 76.

[6] EEOC Finding No. 3883.

[7] EEOC Findings No. 3769, 3650, 3836, 3662, 3754, 3682, 3732. See also EEOC Findings No. 3645, 3651, 3652, 3653, 3655, 3663, 3666, 3688–3690, 3700, 3703, 3757, 3758, 3766–3768, 3837–3840, and 3883–3887.

[8] EEOC Finding No. 3824.

[9] EEOC E–11, pp. 76–77.

[10] *Ibid,* p. 70.

[11] Ploski and Brown, *op. cit.*

[12] EEOC E–11, p. 80.

[13] EEOC Finding No. 3656.

[14] EEOC W–659.

[15] EEOC E–11, p. 80.

[16] *Ibid,* p. 80.

[17] *Ibid,* p. 80.

[18] *Ibid,* p. 76.

[19] Ploski and Brown, *op. cit.*

[20] EEOC E–11, pp. 76–77, 82–101.

[21] *Ibid,* pp. 82–101.

[22] *Ibid,* pp. 101–107.

[23] *Ibid,* pp. 93–95.

[24] *Ibid,* pp. 82–101.

[25] EEOC Finding No. 3841.

[26] EEOC Finding No. 3844.

[27] EEOC Finding No. 3637.

[28] EEO–1 Data.

[29] EEOC W–659.

[30] San Diego had also made significant gains by 1967 but is omitted from the text because of the relatively small number of blacks (in absolute terms) involved.

[31] EEOC Finding No. 4273.

[32] EEOC Findings No. 4836 and 4838.

[33] EEOC Finding No. 3810.

[34] EEOC Findings No. 3784, 3795–3797, 3804, 3817 and 3820.

[35] EEOC Finding No. 3770.

[36] EEOC Finding No. 3847. See also EEOC Finding No. 3874.

[37] *Parham* v. *Southwestern Bell Telephone Co.*, 433 F.2d 421 (8th Cir. 1970).

[38] See generally EEOC Findings No. 3760–3887.

[39] EEOC Finding No. 3760.

[40] EEOC Finding No. 3793.

[41] EEOC Findings No. 3811 and 3812. *Cf.* EEOC Finding No. 3813.

[42] EEOC Finding No. 3815.

[43] EEOC Finding No. 3853.

[44] EEOC Finding No. 3852.

[45] EEOC Finding No. 3857.

[46] EEOC Finding No. 3863.

[47] EEOC Exhibit 1, pp. 202–208, 466, and 477. See also EEOC Findings No. 3647, 3649, 3668–3678, 3683, 3705, 3706, 3709, 3716, 3717, 3720–3724, 3726, 3728–3731, 3740, 3742–3750, 3822, 3826, and 3851.

[48] EEOC Exhibit 1, pp. 457–458. See also EEOC Findings No. 3643, 3646, 3660, 3664, 3679, 3685, 3693, 3695, 3697, 3701, 3714, 3718, 3719, 3725, 3727, 3733, 3734, 3737, 3739, 3806, 3834, 3849, 3881 and 3888.

[49] See EEOC Findings No. 3890, 3913, 3953, 3980, 3986, 4013–4034, 4051, 4053, 4067, and 4083. For the occupational distribution of black new hires see EEOC Findings No. 3915–3918, 3939–3941, 3963, 3964, 3968, 3972, 4057, and 4072.

[50] EEOC E–11, 101–107.

[51] EEOC C–1540. This report can be found in EEOC Exhibit 5.

[52] *Ibid*, pp. 21–22.

[53] *Ibid*, p. 32.

[54] *Ibid*, pp. 37–38, 50.

[55] EEOC Finding No. 3898.

[56] EEOC Finding No. 4047. See also EEOC Findings No. 3892–3897 and 3901.

[57] See EEOC Findings No. 3644, 3661, 3665, 3680, 3681, 3698, 3708, 3701–3713, 3715, 3720, 3728–3731, 3738, 3741, 3752, 3753, and 3889.

[58] EEOC R–1224.

Chapter 8

[1] EEOC Finding No. 4050. See also EEOC Findings No. 3759, 3948, 3949, 4048, and 4049.

[2] See Table 11, *infra*. See also EEOC Exhibit 1, pp. 222–225.

[3] EEOC C–661—EEOC C–690.

[4] EEOC Exhibit 1, pp. 222–225.

[5] *Ibid*. See also EEOC Exhibit 1, pp. 274–275.

[6] *Ibid.*

[7] EEOC C–679, EEOC C–690, EEOC C–678, EEOC C–681, EEOC C–675, and EEOC C–682, as annotated.

[8] *Ibid.*

[9] EEOC C–681, as annotated.

[10] See also Chart 13, supra. For more detailed information see EEOC Exhibit 1, pp. 194–197.

[11] EEOC Exhibit 1, p. 440. See also EEOC Exhibit 1, pp. 300–360.

[12] EEOC Exhibit 1, pp. 274–275 and 278–279.

[13] *Ibid.*

[14] EEOC Finding No. 3736.

[15] EEOC Exhibit 1, pp. 269 and 448.

[16] EEOC Exhibit 1, pp. 433–436.

[17] EEOC Exhibit 1, pp. 230–237.

[18] EEOC C–661—EEOC C–690. See also EEOC Exhibit 1, pp. 4–64 and 459.

[19] EEOC Finding No. 4298.

[20] EEOC C–673, EEOC C–676, EEOC C–689, and EEOC C–690. See also, EEOC Exhibit 1. pp. 5, 6, 23, 24, 29, 30, 37, and 38.

[21] EEOC Exhibit 1, p. 459.

[22] EEOC Exhibit 1, p. 468.

[23] EEOC W–659. See also EEOC Exhibit 1, p. 460.

[24] EEOC Exhibit 1, p. 461.

[25] EEOC Findings Nos. 3792, 3800–3802, and 3865.

[26] EEOC Exhibit 1, p. 461.

[27] *Ibid.*

[28] EEOC W–659.

[29] EEOC Finding No. 3842. See also EEOC Finding No. 4300.

[30] EEOC Findings Nos. 3772, 3773, 3786, 3788, 3792 and 3800.

[31] EEOC Findings Nos. 3816 and 3831.

[32] EEOC Findings Nos. 3864 and 4097.

[33] EEOC Exhibit 1, p. 464.

[34] EEOC Exhibit 1, p. 463.

[35] ECCO Exhibit 1, p. 462.

[36] EEOC Exhibit 1, p. 463.

[37] EEOC Exhibit 1, p. 465.

[38] *Ibid.*

[39] Census data.

[40] EEOC Exhibit 1, p. 469.

[41] EEOC Exhibit 1, p. 472. See also EEOC Exhibit 1, pp. 128–188.

[42] EEOC Exhibit 1, p. 471. See also EEOC Exhibit 1, pp. 128–188.

[43] EEOC Exhibit 1, p. 471. See also Exhibit 1, pp. 147, 148, 163 and 164.

Chapter 9.—Bell System practices as they affect blacks

[1] EEOC Findings Nos. 4506–4508, 4510, 4511, 4514, 4518, 4520, 4524, 4525, 4534–4540, 4543, 4544, 4555, 4566, 4567, 4582, 4584–4587, 4591, 4592, 4595, 4597, 4601–4603, 4605–4609, 4615, 4616, 4619, and 4620.

[2] U.S. Dept. of Commerce, Bureau of the Census, *Current Population Report,* Series P–20, No. 207, Table 1.

[3] EEOC Finding No. 4624. See also EEOC Findings Nos. 4625–4628.

[4] See EEOC E–12, p. 45.

[5] Compare EEOC Findings Nos. 4523, 4550, 4551, 4569, 4573, 4576, 4585, 4594, 4596, 4600, and 4603 with EEOC Findings Nos. 4509, 4513, 4514, 4520, 4534, 4545, 4549, 4559–4561, 4566, 4584, and 4613.

[6] EEOC Findings Nos. 4512, 4515, 4516, 4520–4522, 4527–4529, 4546, 4547, 4571, 4572, 4576, 4603, 4604, 4609, 4611 and 4618.

[7] EEOC Findings Nos. 4529, 4572, and 4609.

[8] Compare EEOC Findings Nos. 4517, 4533, 4535, 4536, 4552, 4556–4559, 4562–4565, 4581, 4583, 4593, 4599, 4612, and 4623 with EEOC Findings Nos. 4509, 4513, 4514, 4526, 4531, 4534, 4535, 4546, 4559, 4560, 4566, 4584, 4589, 4590, 4597, 4598, 4603, 4613, and 4622.

[9] *Griggs v. Duke Power Co.*—U.S.—, 91 S. Ct. 849 (1971). See EEOC Findings Nos. 4629–4631.

[10] EEOC Findings Nos. 4646, 4647, 4669, 4638, 4642, 4645, 4653, 4658, 4659, 4663–4665, 4668, 4669, 4676, 4680, 4681, 4684, 4686, 4692, 4645, 4648, 4650, 4661, 4666, 4679, 4546, 4638, 4649, 4654. 4667. 4677–4684, 4687, 4689, and 4690.

[11] *Ibid.*

[12] U.S. Dept. of Commerce, Bureau of the Census, *Current Population Report,* Series P–20, No. 207, Table 1.

[13] EEOC E–12, pp. 65–66.

[14] EEOC Findings Nos. 4352 and 4369.

[15] *Griggs v. Duke Power Co., supra.*

[16] EEOC Finding No. 4352.

[17] EEOC Finding No. 4369.

[18] EEOC Finding No. 4368.

[19] EEOC Finding No. 4381.

[20] EEOC Finding No. 4455.

[21] See generally EEOC Findings Nos. 4370 and 4371. See also EEOC E–14, pp. 9–10.

[22] EEOC Findings Nos. 4352 and 4353.

[23] EEOC Findings No. 4356. See also EEOC Findings Nos. 4416–4419, 4468, 4486, and 4487.

[24] EEOC Findings Nos. 4355 and 4357–4359.

[25] EEOC Findings Nos. 4355 and 4356.

[26] EEOC Findings Nos. 4416–4419.

[27] See EEOC E–12, EEOC E–13, and EEOC E–14.

[28] EEOC Findings Nos. 4362, 4390, 4394, 4396, 4398, 4399, 4445, 4447, 4483, 4485, 4489, and 4490.

[29] See EEOC Findings Nos. 4371, 4396, 4400, 4404, 4405. 4411. 4413, and 4492.

[30] See EEOC Findings Nos. 4354, 4380, 4400, 4401, 4416–4419, 4426, 4430, 4431, 4446, 4460, 4461 and EEOC Findings Nos. 4389, 4396, and 4402.

[31] EEOC Finding No. 3939.

[32] EEOC Finding No. 3942.

[33] EEOC Finding No. 3917.

[34] See discussion pp. 203–206 above. See generally EEOC C–1540 reproduced in EEOC Exhibit 5.

[35] EEOC Findings Nos. 2735 and 2907. See also EEOC E–5, p. 70–72.

[36] EEOC W–659.

[37] *Ibid.*

[38] EEOC Exhibit 1, pp. 433–434.

[39] EEOC Exhibit 1, p. 460. See also EEOC Exhibit 7, p. 459.

[40] EEOC C–661—EEOC C–690.

[41] EEOC Finding No. 4670. This finding relates only to Pacific Tel. but it is assumed to be representative of most companies.

[42] U.S. Dept. of Commerce, Bureau of the Census, *Current Population Report,* Series P. 20, No. 194 Feb. 19, 1970, Table 1.

[43] EEOC Finding No. 3891.

[44] EEOC R–1224.

[45] EEOC C–661—EEOC C–690.

[46] EEOC C–661.

[47] *Ibid.*

[48] *Ibid.*

[49] *Ibid.*

[50] *Ibid.*

[51] *Ibid.*

[52] EEOC Z–924.

Chapter 10.—Concluding comments on blacks in the Bell System

[1] *Miller v. International Paper Co.*, 408 F. 2d 283, 294 (5th Cir. 1969).

Chapter 11.—The invisible minority

[1] EEOC Finding no. 3759. See also EEOC Finding nos. 1496 and 3736.

[2] EEOC Exhibit 1, pp. 246, 247, 250, 251, 252, 253, 256, 257, 260, 261, 268, 269, 272, 273, 278, 279, 292–297, 439, 440.

[3] EEOC Exhibit 1, pp. 393–423.

[4] *Ibid.*

[5] EEOC Finding nos. 4890–4892 and Responses to EEOC Document Request 8 for 12 surveyed SMSA's.

[6] EEOC Finding nos. 1190 and 4201.

[7] EEOC Finding no. 1496.

[8] EEOC Finding nos. 4165, 4166, 4191, 4294, 4317, 4319 and 4893.

[9] EEOC E–12, p. 111. See also p. 116.

[10] EEOC Finding nos. 4929–4931.

[11] EEOC Finding nos. 4625 and 4627. See also EEOC Finding nos. 4505–4623.

[12] Bureau of the Census Report, Series P–20, No. 213, "Persons of Spanish Origin in the United States, November, 1969, p. 20.

[13] EEOC Finding nos. 4914, 4915 and 4918.

[14] EEOC Finding no. 4916.

[15] EEOC Finding no. 4854.

[16] EEOC Finding no. 4898. This document is of special importance and may be found in EEOC Exhibit 5. See also EEOC Finding no. 4900.

[17] Rodolfo Gonzales, "I am Joaquin," quoted by Stan Steiner, *La Raza: The Mexican American* (New York, Harper and Row), 1969, pp. 240–241.

POWER FOR THE PEOPLE?

HON. HASTINGS KEITH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. KEITH. Mr. Speaker, I would like to submit for the RECORD an article entitled, "Do we really need all those kilowatts?" which appeared in Edmund Faltermayer's monthly column "Eye on the Environment" in Life magazine on February 11, 1972. I believe it points up what is becoming one of the major dilemmas our country will face in the last third of the 20th century—namely, how much power do we really need, where will it come from and how is it going to be used.

At a recent Sierra Club Conference on Electrical Power attended by environmentalists and utility representatives, I found that nearly everyone agreed that the trend of United States demand for energy to double every 10 years must be halted. But the different ways proposed to change that trend and to supply sufficient energy all will involve expense—fiscal and environmental. Who pays for it and how is at the crux of any discussion about future power use.

It is my feeling that unless some fundamental changes are made in current patterns of life, the United States in the late 1970's will face an energy crisis whose impact will be comparable to that of the 1960's preoccupation with the Vietnam war.

The era of seemingly unlimited supplies of energy is at an end. We can, as Mr. Faltermayer indicates, no longer afford to be an "electricity glutton."

The article follows:

DO WE REALLY NEED ALL THOSE KILOWATTS?

The U.S. has become an electricity glutton. We use 1.6 trillion kilowatt-hours a year, ten times as much as in 1940. Only now, amid power shortages and the new ecological worries, are we getting around to wondering how long the feast can go on. Those who took pride a few years ago in the "clean, flameless" heat of their all-electric homes are beginning to realize that most electricity is clean only at the consumer's end of the wire, and that the fuel burned to generate it can run out, just like everything else.

Of course we aren't going all the way back to candles. We all like the living standard that electric lights and motors make possible. Furthermore, we can look forward to the *increased* use of electricity in some very important environmental tasks—grinding up old cars for recycling, powering new rapid transit systems, and lighting dark streets to deter muggers. But if we must consume more electricity for essential purposes, we have a special obligation to make each kilowatt-hour as nonpolluting as we can. And we must stop wasting electricity as if it were free.

Unfortunately, only one electric power company, New York City's Con Edison with its "Save a Watt" buttons, has joined the war on electrical waste. The rest of the utility industry is still encouraging prodigality, at least in the sense of doing little to discourage it. Most utility executives come from an earlier era. "When I joined the industry," says Chairman Charles E. Luce of Con Edison, who has reservations about unlimited growth, "our faith was that the best society used the most electric energy per capita." The industry as a whole seems to keep this faith, and expects that consumption will keep on doubling every ten years or so, reaching a stupefying 8.5 trillion kilowatt-hours by the end of the century.

I find myself doubting the country's very ability to turn out so much electricity. For one thing, the forecasts count a lot of chickens that haven't hatched. They assume that half the power in the year 2000 will come from atomic generators. These now supply only 1% of the country's needs, and the expansion program is behind schedule. They further assume that much of the nuclear power will come from a new type of facility, the fast-breeder reactor, and this may turn out to be too temperamental. Even if fast breeders play as big a role as the industry hopes, in order to fill out the projected demand the country will need to burn far more coal and oil than at present—perhaps three times as much coal.

But will we really *need* all that electricity? The forecast assumes that each American alive in the year 2000 will be using more than 20 times as many kilowatt-hours as his counterpart did in 1940. But it's quite possible that the growth curve may soon start to flatten a bit. The manufacturing sector of the industrial economy, which uses a lot of electricity, is growing much more slowly than the services sector, which uses relatively little. And in the home the changeover to major electrical appliances may have already peaked.

The fact remains, however, that we *will* be using more electricity than we do now, and to make sure we have it, we should begin at once to spend more research money on better ways to generate it. Solar and geothermal power, which are nonpolluting, offer some promise. Hydroelectric power, on the other hand, doesn't; the best sites have already been used, and dams are now recognized as possible ecological disasters. Pumped-storage projects, which make power available at periods of peak demand, create no new electricity themselves and have also come under attack from environmentalists. Thermonuclear power is the Holy Grail of both environmentalists and industry: it would be abundant and free of serious radiation hazards. A workable system is not yet in sight.

We must also clean up the existing electric power system. Estimates of the impact of such a cleanup on monthly electric bills vary wildly, since a whole range of things must be done. Strip miners will have to carry out better reclamation than is now required by any state. Air pollution caused by generating plants must be curbed drastically, and cooling towers must be installed where necessary to protect aquatic life from thermal pollution. Electricity's aesthetic damage needs plenty of attention. Those tangled overhead distribution lines that mar commercial arteries and residential neighborhoods belong underground.

Electric rates are already creeping upward because of higher fuel costs. When the expense of the stepped-up environmental cleanup is figured in, says David Freeman, until recently a White House adviser on energy policy, a 50% increase in rates over the next five years becomes a "real possibility." That would be far from calamitous. Electricity has been getting cheaper during most of this century. In fact, it is *too* cheap, because the price doesn't include the cost of avoiding the environmental damage. Even if rates went up 50%, one kilowatt-hour would cost far less than it did when Coolidge was President.

With a modest price increase, we might start to use electricity more intelligently. It's possible right now to make a refrigerator that would cost one-eighth more to buy, but would consume only half as much electricity as a current model of the same size. Perhaps a "truth-in-kilowatts" law, requiring manufacturers to post the annual power requirements, is needed to spur the sale of energy-saving appliances. Meanwhile, we can improve on the standard incandescent bulb that converts 90% of its energy to heat and only 10% to light. We need to revive the ancient practice of designing cities and buildings to take advantage of trees and prevailing breezes, if only to lessen the construction, on unshaded tracts, of low-ceilinged, poorly ventilated houses that require virtually continuous air-conditioning in the warm months.

In most homes, higher-priced electricity would bring few real sacrifices. Some of my conservationist friends would like to ban "frivolous" appliances such as electric carving knives and tooth-brushes, but these draw only minuscule amounts of current. Similarly, the family dishwasher, like most of the other labor-saving devices, is well down the list of kilowatt eaters. But even a slight rise in electric rates could make electric home heating prohibitively expensive in most of the country. Utility men are relying heavily on a switchover to electric heating to meet their growth forecasts. I think we should discourage this until we have environmentally safe power to spare. Electric heating is a remarkably wasteful process, with two-thirds of the energy in the fuel lost as "waste heat" at the generating plant, whereas oil and gas furnaces in the home are 70% efficient.

This country may one day be forced to cut back on its use of electricity and other forms of energy. In the meantime it makes sense to press on with the search for nonpolluting power and a general cleanup. Electricity will be costlier, but that should encourage us to put our limited kilowatts where they are really needed. The era of gluttony can pass, unlamented, into history.

FREE THINGS TO DO IN NEW YORK CITY

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. HALPERN. Mr. Speaker, New York City has long been the holder of a legacy unique in the United States and the world. Just as our country has expanded and conquered new frontiers, New York City has been a leader in political, social, and cultural events for centuries. Recently, however, with the plight of America's urban centers taking precedence over the advantages they have to offer, there has been a minimal accounting taken of the brighter aspects of places such as New York.

It is necessary to set this record straight. I have recently received from the New York Convention and Visitors Bureau a list of 20 free things to do in New York City. There may be those who scoff at the significance of anything free in today's society. Yet, who can slight the importance of the United Nations, the Metropolitan Museum of Art, and the Rockefeller Center—institutions which all can be enjoyed in New York free of charge.

Mr. Speaker, I could go on with a lengthy list. However, for brevity and conciseness, I would like to here submit for the Record the list of the New York Convention and Visitors Bureau which says succinctly that which has too long been overlooked.

Following is the list:

Twenty Free Things To Do in New York City

1. The United Nations.—Admission to official meetings is free. (Tickets at UN Information Desk.) See the fascinating gift, souvenir, stamp and book shops—and the unique post office.

2. The great museums.—You've heard of the Metropolitan (including The Cloisters) but don't overlook the fabulous Brooklyn Museum, the Frick Collection, the American Museum of Natural History, the Museum of the City of New York, the New York Historical Society and the Hall of Science in Flushing Meadow Park, Queens. The Modern, the Guggenheim and the Whitney charge a small fee, but it costs nothing to look at their stunning architecture. A beguiling new museum/shop is the Astro Gallery of Minerals and Gems. (The Met has a new voluntary admissions policy: pay what you wish.)

3. Walking tours.—The Parks Department has started a new program of selfguided walking tours through the city's historic neighborhoods. The first is Chelsea, and the way is marked with 33 red, white and blue signs. (Pick up the first at the old Siegel-Cooper Department Store, Sixth Ave. and 18th St.)

4. The new buildings.—New exhibits: Eastman Kodak's exciting and spacious Gallery and Photo Information Center (1133 Sixth Ave.) and "The Mill" at Burlington House (1345 Sixth Ave.). Other recent arrivals: the Ford Foundation (free tours), General Motors, Madison Square Garden Center and Chase Manhattan's skyscraper headquarters in the Wall Street area. Free exhibits at Lever House and Union Carbide. On the lower West Side, sidewalk-superintend the vast World Trade Center construction project. When completed in 1971, each of its twin towers will rise 110 stories!

5. Rockefeller Center.—Enjoy the beautiful Channel Gardens. Listen to the summertime band or watch the wintertime ice skaters. Lavish decorations at Christmas, including a giant tree. Window-shop the Center's great stores. Catch the free exhibit at the Chase Manhattan Money Museum.

6. Famous sights.—Hop a bus or subway down to Battery Park at the tip of lower Manhattan, where you'll have a fine view of the harbor and the Statue of Liberty. Walk up Broadway to beautiful City Hall. In midtown, look up (1,472 feet!) to the top of the Empire State Building, which is celebrating its 40th anniversary (May 1). Further north, you'll find Grant's Tomb and, in the Bronx, the Hall of Fame.

7. The New York and American Stock Exchanges.—Free tours at both places, including visitors galleries and multi-screen film shows. Free post cards, booklets . . . plus multilingual guides and your name on the ticker tape! (Note: The AMEX is celebrating the 50th anniversary—June 21—of its move indoors from the original curb exchange.)

8. Exotic neighborhoods. — Chinatown, Greenwich Village, Yorkville, the Lower East Side, Little Italy—see the "small towns" that make up Big Town. Lucky you if you're here for one of the street festivals: Chinese New Year (February), La Festa di San Antonio (June), La Festa di San Gennaro (September). In the Fulton Fish Market area, drop by the South Street Seaport Museum with its historic old ships.

9. Paley Park.—A charming vest-pocket park in the heart of Manhattan, complete with feathery honey locust trees and a unique "waterwall." (Just east of Fifth Ave. on 53rd St.)

10. Times Square — "The Great White Way."—Don't miss the bright lights! Stroll up to Lincoln Center for a look at the handsome buildings that play host to the greatest names in opera, music, dance and theatre.

11. Park concerts and plays in summer.—The New York Philharmonic, the Metropolitan Opera, the Shakespeare Festival, the Goldman-Guggenheim Band, the Harlem Cultural Festival and many other "happenings" are featured in the parks of all five boroughs. Watch—or join!—the informal fashion parade at Central Park's Bethesda Fountain, where groovy New Yorkers do their thing.

12. TV shows and plays.—Free TV tickets offered on a day-to-day, first-come, first-served basis at the Visitors Bureau. Also ask about the free plays at New Theatre Workshop and at Joseph Papp's The Other Stage.

13. Flower shows.—Bronx Botanical Garden and the Brooklyn Botanic Garden.

14. The zoos.—The Bronx Zoo (free on Tuesdays, Wednesdays and Thursdays), Barrett Park Zoo (Staten Island), Prospect Park Zoo (Brooklyn), Central Park Zoo (Manhattan) and Flushing Meadow Park Zoo (Queens).

15. Richmondtown, Staten Island.—Restoration of an American village. The famous Staten Island ferry (with its superb views of New York's magnificent harbor and the Statue of Liberty) is still only a nickel each way.

16. Religious landmarks. Food for the soul and impressive works of art and architecture at St. Patrick's, St. John the Divine, Temple Emanu-El, the Abyssinian Baptist Church in Harlem, Trinity Church and St. Paul's Chapel in lower Manhattan.

17. Outdoor art.—See "Sylvette" (Picasso's latest colossal outdoor sculpture) in Greenwich Village, Bernard Rosenthal's giant black cube in Astor Place, or Isamu Noguchi's giant red cube at the Marine Midland Building (140 Broadway). The Washington Square-Greenwich Village outdoor art exhibit runs from mid-May to early June and from late August to mid-September. And look for the giant "wall murals" and "environmental sculptures" all over town.

18. Fireworks.—In the summer at Coney Island and Rockaway Beach (check times).

19. Window shopping.—Treasure-hunt along Fifth Avenue, Herald Square—34th, 57th and 59th Streets. Browse the antique shops and swinging bontiques along the upper East Side and down in Greenwich Village. See the bargains on colorful Orchard and Delancy Streets, and in Union Square.

20. Off-beat tours.—Department stores, historic houses, financial and educational institutions—even ships—offer free tours if arranged in advance. For details ask the Visitors Bureau, which also offers free calendars of events; maps and guides; listings of hotels, restaurants, shops, sightseeing attractions, exhibits and conventions.

Note.—Are you a student, teacher, journalist, government employee or a member of a group? Always ask hotels, museums, sightseeing attractions, restaurants or clubs if they offer special, group, seasonal or weekend rates. Students should check the calendars of New York City's famous colleges and universities for a host of free activities.

NEED LEGISLATION BENEFITING VETERANS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. DERWINSKI. Mr. Speaker, the Star-Sentinel newspapers is an independent publication serving west suburban Cook County, and one of its features is a column by Paul D. Coffman.

In a very succinct and persuasive commentary in the Thursday, February 3, edition, Mr. Coffman calls our attention to the need for legislation benefiting our veterans, and properly makes the point that Congress must give this matter early attention.

The article follows:

The Veteran Deserves a Chance

By Paul D. Coffman

This being an election year there has been a lot of talk about granting amnesty to armed forces deserters and other who have fled to Canada or other countries throughout the world to avoid serving in Vietnam, or for that matter, in any branch of the service.

I suppose that eventually something will have to be done about giving these young men an opportunity to return to their homeland, providing they are willing to accept some sort of punishment for not accepting their responsibility to their country, but what concerns me most of all right now is: What are we going to do about providing gainful employment to the hundreds of thousands of young men who are returning home after completing their military obligation in either Vietnam or other countries where we are providing peace keeping forces?

Many of these youngsters were taken into service before they could complete their education, while others were taken from their jobs only to return home to find that their old jobs are not now available.

Thousands of others either have or will return home injured to the point that they will not be able to accept gainful employment unless industry can make a place for them through the hiring of the handicapped.

Congress has done a lot of talking, but in my opinion although our congressmen are talking, they're not really saying very much and even putting less into action.

I doubt that any of our fighting men went to war because they wanted to, so the least we can do now that they have given up a portion of their lives on our behalf is to see that they get the proper training that will outfit them for a place in business or industry.

We can always find millions to send to other countries for foreign aid for which we receive very few thanks, so why not cut out a few million of these funds which I consider wasted and put them to work here at home where they can benefit our servicemen.

Let's get Congress off dead center, put in some worthwhile training programs for our returning fighting men and make a concentrated effort among our business and industrial firms to hire the veterans wherever and whenever possible.

In my book we cannot weigh the sacrifices of our returning servicemen in dollars and cents, we must give them a chance to enjoy some of the benefits we've had coming our way while they were away.

TRIBUTE TO VERY REV. VINCENT A. McQUADE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. HARRINGTON. Mr. Speaker, when the Very Rev. Vincent A. McQuade died last year, he left behind a college which is young but unique in the distance it has traveled in achieving educational excellence for so short a time. For in the college's 25 years of existence, it has grown physically to create a campus which is architecturally striking, and a stimulating environment in which to learn. A college, though, is more than walls and Merrimack College certainly provides the education Father McQuade hoped it would.

Father McQuade's successor, the Very Rev. John R. Aherne, spoke eloquently of the guidance Father McQuade gave to Merrimack College at a recent mass held in his memory. At this time, I wish to insert this tribute into the RECORD.

It was but yesterday, though the calendar says 25 years ago, when the farm at Wilson's Corner was land-in-waiting. How could the man who was to sow an institution have known what harvest there might be? The swift days went by, turned into swift years. And the land blossomed into buildings, roads, paths. It was just a matter of adding one day to another, of stringing them together on the thread of a dream. But one man had to have the dream and the hope of its fulfillment and the courage to fashion it. It was not enough to be the architect of a campus; he had to be the architect of the purposes of a college.

Others have spoken, fittingly of the springtime when a tract of farmland hid the future design of an institution of higher learning. And here with what some would call rashness but all would call courage he "pledged his hidden wheat." Spring mellowed into summer and the burgeoning. And then autumn with its fruit of so many and such arduous labors. To all of this many have paid deserved tribute.

But I speak of winter when the woods lie dark and the land is flowerless and no birds singe. If the leader and builder is a man of action he is also a man of thought and feeling. Underlying the real accomplishment are the hours of wrestling with problems, of hopes dashed and fears engendered. It has been said that "we are not our own." How painfully true the statement for the chief administrator of a college who must give his attention to all who lay claim upon it.

In the struggle to achieve great things, there is a hidden battle to be waged—the fight against discouragement, against what seem the terrible odds against success, the effort to make the dream the reality. For every man the gap between ideal and fulfillment constitutes "the winter of our discontent." But for the true leader the time of wind and rain, of cold and dark, can elicit only the cry of Robert Browning "I was ever a fighter—so one fight more."

Alma mater must be more than a stone mother, must enclose with human softness her children. The man knew that a college was above all, people—frail, aspiring, disappointing, heroic, mystery laden people. And so he sought to give them a regimen which would encompass intellectual development and provide as well for the heart and the soul. The land and the buildings are rooted in one place but the harvest of people scatters and carries the seed of Merrimack to far away regions.

It was but yesterday that the man put hand to the plough and drove the first furrow. Now fields are heavy with the fruits of that planting and a grateful academic community pays tribute to the husbandry which saw from springtime the golden harvest of this autumn. And sees ahead all the autumns to come in which the names of Merrimack College and the Very Reverend Vincent A. McQuade will be entwined.

Whatever his record on the surface every man is an unknown soldier—his interior struggle known only to God. I can say only that in the reckoning which at last will measure truly all our labors I hope I may look to my Creator as confident of the divine accolade "well done" as our departed brother, Father Vincent McQuade.

And now on the first anniversary of his death we pray God to bring him to a place of refreshment, light, and peace.

PULASKI HIGH SCHOOL

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mrs. GRASSO. Mr. Speaker, February 2 was a great day for Connecticut, most especially at Pulaski High School in New Britain, Conn. The alumni and home city of the high school named in honor of a great man had cause for rejoicing. On that special Tuesday, New Britain, Conn., residents were filled with excitement at the announcement that two former star football players at Pulaski High School had been selected in the National Football League draft by the New Orleans Saints football team.

All-Americans Willis "Sonny" Hall of the University of Southern California and Tommy Myers of Syracuse University, both of whom played spectacular football at their respective colleges, thrilled many New Britain football fans with a dazzling display of athletic ability and poise during their year together as seniors on the Pulaski team. These champions from the Hardware City awed and delighted fans across the country; but with special pride and interest, family, relatives, and friends from their hometown and throughout the Sixth District eagerly followed the expoits of Sonny and Tommy.

The great courage, confidence, energy and skill of these two young men will be appropriately recognized at a banquet to be held in their honor in New Britain on March 3. This tribute to the personal strength and dynamic athletic prowess of these former Pulaski High School stars is indeed well deserved. All of us in the Sixth District are very proud.

For the interest of my colleagues, two recent newspaper articles about Sonny Hall and Tommy Myers—one from the New Britain Herald and the other from the Hartford Courant—follow:

EX-GENERALS NOW SAINTS—TO BE FETED HERE MARCH 3

(By Bart Fisher)

It was a great day for Patulski and Pulaski.

This year's National Football League draft is history, but football fans in the New Britain area are still happily shaking their heads in disbelief.

Huge Walt Patulski of Notre Dame was picked first by the Buffalo Bills but the big news is that both of this city's all-American grid standout, Willis "Sonny" Hall of Southern Cal and Tommy Myers of Syracuse were chosen early by the up and coming New Orleans Saints.

"It's great, unbelievable, just fantastic" have been typical reactions to the Herald from sports fans from all over the area.

The Herald talked with Sonny Hall at his Los Angeles apartment this morning and the quiet 220 pound linebacker expressed just about the same sentiments himself.

"I'm very happy to be picked to play on the same team as Tommy," he said "It's a very good feeling."

Both he and Myers starred on the 1967 Pulaski High team that won nine and lost one.

Sonny said the Saints sent him a telegram yesterday but that he has not yet spoken about contract details with anyone. Asked if he was surprised at being tabbed by New Orleans Hall said he was "just happy to be picked early."

Myers, reached at his Syracuse address, was "just thrilled, really, really, thrilled."

He talked with Frank Cuomo and Bruce Wearne, a pair of ex-Pulaski teammates who are planning a huge banquet in honor of the grid greats March 3 at the VFW Hall.

The pair also had an opportunity to personally extend their good wishes to Hall this morning as they dropped by the Herald in time to share in a long distance phone call to California.

"This will be great for the dinner," said Cuomo, who feels "the odds against two guys who played for the same high school both making All-American at opposite ends of the country and then both being picked by the same pro team must be incredible."

New Britain is probably the only town in the country that can claim such a distinction and a great wave of pride swept larger issues like the war in Vietnam and Welfare reform right out of the way as people everywhere talked about nothing else but Tommy and Sonny.

As for the dinner next month, both Cuomo and Wearne expect that over 500 men and women will fill the VFW Hall to capacity on the big night.

Remembering the glory days of 1967, the dinner co-chairmen recalled today that time and time again Sonny and Tommy came up with the "big plays won the games for us."

They remembered a 27–24 win over Staples that came as the result of Myers intercepting a pass and running it back 85 yards for the winning score.

Another big win in that memorable year came against Archbishop Williams of Braintree, then, the reigning Massachusetts' state champs.

Featuring an All-American running back and a huge line, the Bay State school roared into Willow Brook Park on a Friday night as prohibitive favorites against the Generals.

Hall and Myers and mates had other ideas.

Two way performers under John Liljestrand Sonny and Tommy put on a dazzling two man show in beating the visitors 54–22.

Cuonmo and Wearne remember that Tommy scored two touchdowns and so did Sonny and Sonny did a fantastic job on All-American Bob Morrisey, who was at the time, one of the most sought after schoolboys in the country.

John Liljestrand told the Herald, "It's like a dream come true for me. I just can't find the words to say how happy I really am for both of the guys."

Principal William G. Marsh expressed "great delight" at the news when informed yesterday.

In another sidelight to the big news, a good friend of Myers, Bob Kuziel, out of the University of Pittsburgh, also a former Connecticut schoolboy star at North Haven, was a high choice, too.

You guessed it. He went to the New Orleans Saints.

SAINTS SELECT PULASKI PAIR IN PRO DRAFT

(By Tom Hine)

A pair of Pulaski High School graduates who played their final year of scholastic football together in New Britain were reunited Tuesday in the National Football League college draft in New York when the New Orleans Saints selected both Willie Hall and Tom Myers in early rounds.

Hall, linebacker at Southern California, was picked by the Saints in round two and Myers, safety at Syracuse, in round three. Both were All-American selections last fall.

Hall, 6-foot-three, 235-pounds, was the second selection of the day by the Saints and the fifth pick of the second round. After New Orleans used their third draft pick on Pittsburgh center Bob Kuziel it named Myers as its fourth choice, the 22nd selection of round three.

Four other New Englanders were picked through Tuesday's first seven rounds. Boston College running back Bill Thomas was the first round choice of the Dallas Cowboys, the Pittsburgh Steelers named Rhode Island defensive end Steve Furnes in round five, AIC's running back Bruse Laird was selected by the Baltimore Colts in round six, and Miami grabbed guard Bill Adams of Holy Cross in round seven.

Myers, 6-foot-1, 180-pounder, was quoted by wire services as being "very happy, delighted. I always wanted to play down South, to get out and see other parts of the country. I had hoped to myself that I would be picked somewhere in the first five rounds."

Myers plans to play spring lacrosse so he will neither negotiate nor sign a contract until the end of the season.

INTERCEPTION MARKS

Myers set season and career pass interception records during his brilliant defensive performance at Syracuse, grabbing eight this past fall to give him a three-year total of 18. The New Britain native also returned 21 punts for 265 yards in 1971.

Hall and Myers played together as seniors at Pulaski in 1967, John Liljestrand's first year as head coach. Liljestrand, who has coached at Pulaski every one of its ten years, served earlier as an assistant to Bill Eaton, now at the Loomis School in Windsor.

Liljestrand knew of Hall's selection, but had not heard of the draft of Myers when contacted at his home Tuesday night. "Oh boy, that's terrific," he said. "I had figured Kansas City or Atlanta would pick Tommy and thought Willie would go to one of the California teams who had seen him play."

Liljestrand left little doubt that he thought they'd both succeed as professionals. "I think they both will do very well," he said. "Willie is big and strong and though Myers is not as big he can really play defensive back."

Hall, called Sonny by his friends in Connecticut, gained national fame as a javelin hurler for Pulaski track coach Harold "Red" Lawson. Neither Liljestrang or Lawson ever missed watching Hall when Southern Cal played on national TV.

ONCE BEATEN IN 1967

Myers, who attended Pulaski in only his senior year, played defensive safety for the Generals, who finished a 9–1 campaign in 1967.

Hall, "only" 210 pounds in high school, played both halfback and fullback at Pulaski. "We never used him defensively," said Liljestrand, "and didn't know he wanted to until he expressed an interest at Arizona Western where he played defensive end and linebacker for two years." Hall also played both positions during his two years with the Trojans at Southern Cal, though used mostly at linebacker this past fall.

Long before the draft selection were announced Tuesday, plans were in the making to honor Hall and Myers back home. The City of New Britain has scheduled a testimonial for them both on March 3rd at the V.F.W. Hall.

NEW YORK.—Walt Patulski, the huge Notre Dame defensive end, was tapped by the Buffalo Bills as the No. 1 selection in the National League draft Tuesday and immediately opened his campaign for a contract similar to the $300,000 pact the club gave O. J. Simpson.

Asked after his selection what he was looking for in the way of a contract, the 6-foot-6, 260-pounder pulled no punches, saying frankly:

"A big one!"

He left it up to his attorney, Bob Woolf, to let the Bills know how big.

"I'd like to think in terms of the same thing as O. J. because Patulski is as valuable to the team in his position as O. J. is in his," Woolf said. "Although he is a defensive end and, within the structure of pro football, quarterbacks, running backs and receivers are the glamor stars, the lineman is just as important.

SAME COMPENSATION

"I think he should be compensated the same way. In all fairness, he should be paid for his proficiency as an athlete, not the position he plays. I don't see why a lineman should be paid less."

Simpson, the Bills' No. 1 pick four years ago, signed a four-year contract at that time for $50,000 a year plus a $100,000 loan for investment purposes.

While Patulski was the focal point on the first day of the draft in which the 26 pro teams will eventually select 442 players, there were these other major developments:

The New York Giants, pulling off their second major trade in less than a week, dispatched discontented defensive end Fred Dryer to the New England Patriots for three draft choices, including a No. 1 this year.

Neither Heisman Trophy-winning quarterback Pat Sullivan of Auburn nor runner-up Ed Marinaro, the record-setting Cornell running back, was selected on the opening round.

Linemen were the chief commodity on the first round with nine drafted, including the first three picks—Patulski, California defensive end Sherman White by Cincinnati and Southern Illinois offensive tackle Lionel Antoine by Chicago.

The Giants, who last week traded quarterback Fran Tarkenton to Minnesota in a transaction in which they acquired three players and the Vikings' No. 1 pick, sent Dryer to the Patriots for another No. 1, plus a No. 6 draft choice this year and a No. 2 next year.

GET SMALL, JACOBSON

When they used the two first-round choices to get help for their beleagured defensive unit, selecting Eldridge Small of Texas A&I, a wide receiver in college, as a cornerback and tackle Larry Jackson of Nebraska, whom they expect to play end.

The Bears, who used a No. 1 draft choice acquired from the Giants to select Antione, used their own to add defensive back Craig Clemons of Iowa to their first-round harvest.

Two other teams also had a pair of first-round picks, Green Bay selecting defensive back Willie Buchanon of San Diego State and quarterback Jerry Tagge of Nebraska and the New York Jets picking Jackson State wide receiver Jerome Barkum and Michigan linebacker Mike Taylor.

Four teams did not have a No. 1 pick—Los Angeles, New England, San Diego and Washington.

Tagge was the first quarterback selected in the draft, but Florida passer John Reaves also was tapped on the first round by Philadelphia. Sullivan had to wait until the second round when he was picked by Atlanta as the 40th player in the draft.

WAY, WAY DOWN

Marinaro, however, may have been the most embarrassed of the ballyhooed pre-draft favorites. By the time he was selected by Minneosta as the 50th player in the draft on the second round, seven other running backs had been picked.

Four went on the first round. Oregon's Bobby Moore, who may wind up as a wide receiver in the pros, was selected by St. Louis as the No. 4 pick and the first nonlineman to be selected.

Pittsburgh took Franco Harris of Penn State, Kansas City tapped Jeff Kinney of Nebraska and the Super Bowl champion Dallas Cowboys closed out the first round by adding another Thomas to their roster with the selection of Bill Thomas of Boston College.

Of the other heralded pre-draft favorites to go No. 1, Houston tight end Riley Odoms went to Denver, Georgia guard Royce Smith to New Orleans, Notre Dame defensive back Clarence Ellis to Atlanta, Auburn wide received Terry Beasley to San Francisco and Notre Dame defensive tackle Mike Kadish to Miami.

Oakland traded its No. 2 and No. 3 picks to New Orleans for the Saints' No. 2 selection in order to draft defensive tackle Kelvin Korver of Northwestern College in Iowa.

WE HONOR A BRAVE PEOPLE

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. FORSYTHE. Mr. Speaker, the people of Lithuania, who have been suffering in Russian-Communist slavery for more than 30 years, today celebrate the 54th anniversary of the independence of their nation.

Commemoration of this historic event has special significance for all Americans, as President Nixon is embarking on his mission of peace abroad.

The Lithuanians, Mr. Speaker, are proud people who have lived peacefully on the shores of the Baltic from time immemorial. This year, for instance, marks the 721st anniversary of the formation of the Lithuanian state.

For centuries, the Baltic peoples have been the prey of foreign aggression. From the West they were invaded by the Teutonic Knights, from the East by the Russians.

After the Nazis and Soviets smashed Poland in September 1939, the Kremlin moved troops into the Baltic Republics and annexed them in June 1940.

This ended two decades of freedom that resulted in 1918 when Lithuanian patriots declared their state an independent nation.

During those 22 years of freedom, Lithuanian leaders had brought about land reform, expanded the nation's industry, built a transportation system, provided for a national education program and enacted social legislation.

Now, Lithuanians living in their homeland are subject to the same abuses as their neighboring Latvians and Estonians as the U.S.S.R. attempts to destroy the culture, heritage and even the language of their nation.

It is my hope that as President Nixon's travels take him to Moscow, he will be able to express his concern and the concern of America over the plight of these brave people, and that he will raise the question of self-determination for Lithuania and other Baltic countries.

In 1966, the Congress approved House Concurrent Resolution 416 calling for freedom for Lithuania, Estonia, and Latvia. The purpose of this important measure still stands today. I am therefore inserting the text of House Concurrent Resolution 416 in the RECORD at this point:

H. CON. RES. 416

CONCURRENT RESOLUTION

Whereas the subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations, and is an impediment to the promotion of world peace and cooperation; and

Whereas all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social, cultural, and religious development; and

Whereas the Baltic peoples of Estonia, Latvia, and Lithuania have been forcibly deprived of these rights by the Government of the Soviet Union; and

Whereas the Government of the Soviet Union, through a program of deportations and resettlement of peoples, continues in its effort to change the ethnic character of the populations of the Baltic States; and

Whereas it has been the firm and consistent policy of the Government of the United States to support the aspirations of Baltic peoples for self-determination and national independence; and

Whereas there exist many historical, cultural, and family ties between the peoples of the Baltic States and the American people: Be it

Resolved by the House of Representatives (the Senate concurring), That the House of Representatives of the United States urge the President of the United States—

(a) to direct the attention of world opinion at the United Nations and at other appropriate international forums and by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Estonia, Latvia, and Lithuania, and

(b) to bring the force of world opinion to bear on behalf of the restoration of these rights to the Baltic peoples.

Passed the House of Representatives June 21, 1965.

House Concurrent Resolution 416 was adopted by the House of Representatives by a record vote of 298 yeas to no nays on June 21, 1965, and unanimously passed by the United States Senate on October 22, 1966.

SENATE

Concurrent resolution to request the President of the United States to urge certain actions in behalf of Lithuania, Estonia, and Latvia.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1573, House Concurrent Resolution 416.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The LEGISLATIVE CLERK. A concurrent resolution (H. Con. Res. 416) to request the President of the United States to urge certain actions in behalf of Lithuania, Estonia, and Latvia.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to its consideration.

Mr. KUCHEL. Mr. President, I wish to say that I am delighted that this matter is being taken up. It deserves attention in this session as a mark of our continuing concern for those peoples who have been deprived of their democratic institutions and are unable to speak for themselves.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 416) was agreed to.

EXECUTIVE POSITION

The position of the executive branch with respect to the concurrent resolution is outlined in the correspondence which follows:

DEPARTMENT OF STATE,
Washington, June 1, 1965.

Hon. THOMAS E. MORGAN,
Chairman, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: I am writing in reply to your letter of May 20, 1965, to the Secretary of State, requesting the Department's comments on House Concurrent Resolution 416, which has been approved unanimously by the Subcommittee on Europe and ordered favorably reported to the full Committee on Foreign Affairs. The resolution requests the President of the United States to urge certain actions in behalf of Estonia, Latvia, and Lithuania. The language of the resolution, as formulated, is not objected to by the Department of State.

The Department has been advised by the Bureau of the Budget that from the standpoint of the administration's program there is no objection to the submission of this report.

Sincerely yours,
DOUGLAS MACARTHUR, II,
Assistant Secretary for Congressional Relations
(For the Secretary of State).

ETHNIC AMERICA AND THE DEMOCRATIC PARTY

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. O'NEILL. Mr. Speaker, I am submitting for the record the remarks of the Honorable Robert F. Wagner, former mayor of the City of New York and national chairman of the All Americans Council of the Democratic National Committee, and a highly esteemed and distinguished member of the Democratic Party. This address was delivered at the opening hearing of the Democratic Policy Council and the All Americans Council and presents a compelling and forthright evaluation of the contributions which Democratic administrations have made to this Nation over the years, with particular emphasis on the participation of the countries many ethnic minorities. I respectfully suggest that all interested members read the address.

REMARKS BY HONORABLE ROBERT F. WAGNER

On behalf of the All Americans Council of the Democratic National Committee, I am privileged to open this hearing on policy and platform issues.

This hearing is sponsored jointly by the All Americans Council of the Democratic National Committee, and the Ad Hoc Planning Group of the Democratic Policy Council. I am glad to extend my personal welcome and greeting here today to Congresswoman Ella Grasso who is co-chairman of the Policy Planning Group which is co-sponsoring this hearing today and to Reverend Joseph Duffey, co-chairman of the same Policy Planning Group.

I extend a warm welcome to everybody present and to all who will be with us during the course of this day.

The sponsoring groups today are those arms and branches of the Democratic Party and the Democratic National Committee which are particularly concerned with the interests, hopes, aspirations and purposes of the ethnic groups in this country.

Our presence here is an outgrowth of that powerful bond which has developed between ethnic America and the Democratic Party. There really can be no effective Democratic Party without the participation and support of the millions of Americans of foreign tongue, birth or descent.

The purpose of these meetings is two-fold: first, to learn of the specific problems that ethnics face in a variety of areas from housing to senior citizen services; and second, to develop recommendations for the remedy of these problems.

At this point let me emphasize that our party has long had clear principles in world as well as in domestic affairs. But as far as the specifics of our party's national platform for 1972 is concerned, the door is wide open for contributions to the party platform through such proceedings as this hearing today. A summary will be made of these proceedings and the views expressed will be weighed by those who will select and fashion the platform of the party guiding the next Democratic Administration scheduled to begin on January 20th, 1973.

The last three years have provided us with a soil sadly enriched with Republican mismanagement and callousness from which have sprung a variety of new ills to match the old ones that beset us. Since Richard Nixon came to the presidency, we have seen an Administration marked by grave inequities, frequent indecision, unbelievable ineptitude. And ethnic America has harvested a bitter burden: unemployment, poverty, mistreatment of the aged and ill, and declining educational facilities. The rich diversity of America's ethnics has come to be viewed not as an asset, but as a simple census configuration to be ignored wherever possible and politically exploited wherever profitable.

We are approaching the season of good cheer, festival and hope.

Among our hopes and resolves, as we approach the new year, must be for a new regime in Washington. That would be a great gift for the American people to find in the Christmas stocking . . . a kind of gift certificate, redeemable in January, 1973, promising us a new deal, a fair deal and an America which can and will get moving again, forward.

The elephant is said to be an animal that remembers. Well, the Nixon Administration has dropped the elephant. The elephant remembers too well.

The Nixon Administration doesn't care to remember. It changes colors, principles and policies with the speed of lightning and with not the faintest hint of a blush of shame.

I remember when the most sacred principle of the Republican Party was the balanced budget and the sound dollar. Well, where is that good old balanced budget? Mr. Nixon, among others, denounced the Democrats from every housetop for unbalancing the budget in order to feed the hungry and give jobs to the jobless, but there is nothing wrong with unbalancing the budget to subsidize business or to give tax rebates to corporate enterprise.

But why the Democratic Party? What can the people expect from *our* party?

There was a governor of New York State, the unsuccessful Democratic candidate for president against Herbert Hoover in 1928—Al Smith was his name—who used to say "let's look at the record." So, let's look at the record.

The record of the Democratic Party is a proud one, a record of creative initiative and bold action which, across the years has moved the nation and the world forward.

What was the political party of that national administration which first articulated and advocated the principle of self-determination?

What was the political party of that national administration which conceived and created the United Nations Organization?

What was the political party of that national administration which recognized the independence of Israel?

What was the political party of that national administration which advocated and provided military aid to Greece and Turkey and saved them from being subjected to communist rule?

What was the political party of that national administration which originally conceived, enacted and expanded Social Security?

What was the political party of that national administration which conceived Medicare and Medicaid?

What was the political party of that national administration which took the first historic steps toward fair employment practices?

What was the political party of that national administration which made the first comprehensive definition of civil rights as a national goal and purpose and did something about advancing toward that goal and fulfilling that purpose?

The answer in each case to each of these questions is: The Democrtic Party!

That is the record of the past, and the past is the best promise of the future . . . for a national administration which not only believes but works for the future of and for America. A national administration that helps men and women to live with the dignity and security to which all are entitled is the only government that will capture the allegience of Americans.

The Republican party discovered the rich diversity of America's ethnic groups too late. Since discovering it, they have done too little on its behalf.

The Nixon Administration seems not yet to have learned what most Americans already know: that political freedom is not possible without economic opportunity. Nor is it possible for Americans to be truly free so long as the right to freedom from oppression and self-determination are denied to others.

The Democratic Party is committed and must commit itself anew to programs which will advance the cause of justice and freedom everywhere and which will give new thrust, meaning and power to the leadership of the United States in the cause of peace . . . a just peace and a lasting peace . . . a peace of understanding and compassion which will advance the practice of freedom and social and economic justice for all peoples everywhere.

I trust that the proceedings today will result in a package of ideas that may soon be translated into action. I am certain that we shall leave at the end of the afternoon with fresh insights and fertile plans for the months ahead. With the vision to see the problems that beset us, with the honesty to detail what we see, and with the wit to cope with these adversities, we shall surely overcome.

NEED FOR SAFETY REGULATIONS OF SCHOOLBUSES

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. BROOMFIELD. Mr. Speaker, last year more than 4,000 schoolchildren were reported to have received injuries while riding to and from their homes in buses. This is at best a minimum figure because many injuries are never reported.

I am convinced that many of those injuries could have been avoided easily. Studies show that too often children are victims of the structural design of schoolbuses as well as the lack of basic safety features such as seat belts.

We can remedy that situation. I am today introducing legislation to make sure that schoolbuses are as safe as possible. The welfare of our children deserves no less than the best protection that we can provide.

My measure directs the Secretary of Transportation to set safety standards which would require the installation of lap seat belts for every passenger.

Presently, no State requires the use of seat belts in schoolbuses. That stands as a glaring inconsistency when compared with the mandatory installation of seat belts in all private automobiles. If the motivating factor behind legislating their use in cars was the desire to promote safety, and surely it was, then why have we ignored schoolbuses which carry millions of our children each day.

There is no logical explanation for this oversight. I know of no rationalization for the failure to require seat belts in buses.

Clearly seat belts, in and of themselves, are not a panacea for the several thousand injuries received annually by school children. Nonetheless they are a beginning, a very positive, preventive step toward reducing the number and the intensity of many needless injuries.

Mr. Speaker, this legislation goes beyond seat belts to insure that the size and design of bus seats are such as to minimize the chances of injury.

A recent report by the American Society of Oral Surgeons illlustrates just how important the design of seats is for the safety of passengers. During the past year over 1,300 children were injured when they were thrown against the seat in front of them. Often they were slammed against the metal bar which frames each seat. These bars pose an especially dangerous threat to our children.

Without seat belts, there is nothing to prevent young children from being hurled forward against the metal barriers whenever the driver has to apply the brakes suddenly. Thus my measure would stipulate that seats be of sufficient height and padded to an extent so as to minimize injuries.

By this simple change in the interior design of school buses over 1,300 injuries would be eliminated. Mr. Speaker, until we act, each of those accidents will remain tragic and senseless for it is within our power to prevent them.

I might add, Mr. Speaker, these proposed safety regulations are no more or no less than we presently require for commercial vehicles. I could not imagine anyone buying a car with metal bars rimming the passenger seats. They are obviously a threat to safety.

These are only two areas where improvement is most obviously needed. In order to insure that buses are continually maintained with and equipped with the latest safety features available, this bill would authorize the Secretary of Transportation to conduct research and testing on schoolbuses.

Furthermore, the safety regulations ordered by this legislation and any additional regulations prescribed by the Department of Transportation shall be required for all schoolbuses built after July 1, 1972.

As for those buses now in operation, seat belts and improved design would become necessary by law after July 1, 1973. Realizing that these structural changes may be a burden for some school districts, the Transportation Department will be entrusted with the necessary funds to pay in part or full for these required improvements.

Mr. Speaker, if enacted into law, my bill would prevent many and possibly most of the injuries received each year by schoolchildren on their way to and from school. We know that more than 25 percent of these accidents are the direct result of poor seat design. There is no way one can accurately estimate the number of accidents the use of seat belts would prevent. However, there is no disputing the fact that the number would be substantial.

It is the knowledge that so many of these injuries can be prevented through the application of existing basic safety technology that makes many of these accidents the tragedies that they are. This bill will effectively reduce these needless tragedies and for that reason alone it is deserving of the earliest and careful consideration of the House.

COMMUNITY FACILITIES AND SERVICES NEEDED

HON. NICK BEGICH

OF ALASKA

IN THE SENATE OF THE UNITED STATES

Wednesday, February 16, 1972

Mr. BEGICH. Mr. Speaker, I have received copies of resolutions passed at the 59th Annual Grand Camp Convention of the Alaska Native Brotherhood and Alaska Native Sisterhood, which express concerns about the lack of certain community facilities and services.

The problems and concerns faced by the citizens of Angoon, Alaska, include the need for additional post office space, increased mail and air services and harbor facilities and ferry services. These problems are well expressed by the three resolutions that I wish to share with my colleagues by inserting them in the RECORD.

The resolutions follow:

RESOLUTION NO. 59-100-71—HARBOR FACILITIES SURVEY PRELIMINARY TO NEW BOAT HARBOR CONSTRUCTION AND FERRY SERVICE TO ANGOON

Whereas: Angoon is a 4th class city of 500-plus population, one elementary school housing 126 pupils three churches; two active native organizations, one existing store with another in the construction stage, is located on Admirality Island, S.S.W. of Juneau and N.E. of Sitka, and

Whereas: Angoon is the heart of the fishing industry in southeast Alaska namely near villages of Kake and Tenakee, and the canneries at Chatam and Hawk Inlet, and

Whereas: Salmon seiners, trollers, halibut fishermen, blackcod fishermen, pleasure-seeking outboard boats and cabin cruisers pass by and through Angoon, and

Whereas: Angoon is situated on the ferry route from Juneau to Sitka, boats seek shelter, gas, water and supplies enroute to Juneau from Sitka and between other nearby communities. The City of Angoon harbors a resident fleet of 20 salmon seiners, 6 salmon trollers, 18 cabin cruisers, 25 open boats and 20 seiner power skips all valued at some $850,000. The home fleet of Angoon is adequately accommodated at the existing boat harbor, from the standpoints of location and physical facilities. Visiting boats find themselves in an awkward position in tying up to boats already overcrowded. The community of Angoon would greatly benefit by visits of the Alaska ferries which would result in lower shipping rates for large items and would provide increased reasonable passenger service to Sitka and Juneau. Visitors in turn would appreciate the chance to stop in one of the more scenic hospitable areas in southeastern Alaska abundant in sport fish and wild game and tlingit lore and customs, and

Whereas: All of the foregoing factors can favorably influence the economic development of the Angoon areas such as establishment of a cold storage plant, hand pack cannery, boat shop, etc.

Therefore: Be it resolved, that the Grand Camp does hereby submit an additional request of the *U.S. Army Corps of Engineers* for a boat harbor, wharf, ferry landing survey so that Angoon may benefit from the large volume of ferry and boat traffic in the area; and

Therefore: Be it further resolved that the Honorable William A. Egan, Governor of Alaska, be respectfully requested to review and report plans of the *State Department of Public Works* as soon as possible to possible ferry stops in Angoon and for the construction of new harbor facilities.

Therefore: Be it further resolved, that copies of this be sent to the State Department of Public Works, U.S. Army Corps of Engineers, Office of Local Affairs, Congressmen Stevens, Gravel, Begich, State Senator Meland, Tlingit & Haida Central Council, Town Council and Seacap.

Adopted by the 59th Grand Camp Convention, Alaska Native Brotherhood, and Alaska Native Sisterhood this 13th day of November, 1971, Sitka, Alaska.

RESOLUTION NO. 59-102-71—ADDITIONAL POST OFFICE SPACE, ANGOON, ALASKA

Whereas: The existing post office in Agoon is not large enough or structured so as to accommodate the mail which passes through it, resulting in parcels being stacked on floors behind the postmistress counter, catalogs stacked in the outer area in front of the counter. And insufficient work space for the postmistress when handling mail, and

Whereas: Most of the people of Angoon would prefer having mail boxes so they may get their mail without having to stand in a long line on mail days, and at their own convenience;

Therefore: Be it resolved that the Grand Camp hereby requests the U.S. Post Office Department to program additional postal facilities for the City of Angoon, to include storage space, work space for personnel and individual rental mail boxes in addition to the regular delivery window.

Therefore: Be it further resolved that copies of this be sent to the Postmaster General, Congressmen Stevens, Gravel and Begich, Office of the Governor, Local Affairs Agency, State Senator Meland, Postmistress Ramona Kookesh, Central Council Tlingit and Haidas, Town Council and Seacap.

Adopted by the 59th Grand Camp Convention, Alaska Native Brotherhood, and Alaska Native Sisterhood this 13th day of November, 1971, Sitka, Alaska.

RESOLUTION NO. 59-101-71—INCREASED MAIL AND PASSENGER PLANE SERVICE TO ANGOON

Whereas: Angoon, a 4th class city of 500-plus population, one elementary school, housing 126 pupils, three churches, two active native organizations, and one existing store with another in the construction stage, receives mail service three times weekly, and

Whereas: It takes from one to two weeks to receive an answer to a business letter, making the village unduly dependent on mail service in the ordinary conduct of its business, and

Whereas: It is necessary for villagers to pay more than twice the cost of air fare in times of emergency when they need to charter into Sitka or Juneau for medical or other reasons, placing a burden on those persons least able to pay, and

Whereas: Angoon does not have easy, reasonable access to radio, TV and newspaper communications which, coupled with limited mail plane service, virtually cuts the village off from state and national affairs, and

Whereas: The mail plane makes extra runs on mail days to carry mail and passengers;

Therefore: Be it resolved, That the Grand Camp hereby requests the U.S. Post Office to immediately investigate the postal service to Angoon and to increase mail service if an increase may be justified now or in the near future.

Therefore: Be it further resolved, That copies of this be sent to the Postmaster General, Congressmen Stevens, Gravel, and Begich, Office of the Governor, Local Affairs Agency, State Senator Meland, Postmistress Ramona Kookesh, Central Council Tlingit and Haida, Town Council and SEACAP.

Adopted by the 59th Grand Camp Convention Alaska Native Brotherhood and Alaska Native Sisterhood this 13th day of November, 1971, Sitka, Alaska.

ENACT MAKES EARTH DAY A YEAR ROUND THING

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. ESCH. Mr. Speaker, concern for the environment has become an "in" thing. Here in the Congress and throughout the Nation, one hears a great deal of rhetoric about the need for everyone to take part in preventing pollution and cleaning up the environment. "Earth Day" each year draws huge crowds at programs around the Nation and special clean up projects which last for 1 day or 1 weekend have become popular programs for community groups.

In Ann Arbor, Mich., however, there is a group for whom the environment is more than a 1 day or 1 weekend thing. The Ecology Center and ENACT are groups of dedicated amateur environmentalists who have worked consistently and effectively over a 2-year period to improve the environment. Their activities have ranged from the first "teach-in on the environment" held at the University of Michigan which attracted more than 35,000 participants to recycling campaigns to a demonstration organic garden.

These dedicated citizens can serve as an excellent example to all of us in following up our rhetoric with action. I am proud of their record of accomplishments and know that other Members of Congress will join me in applauding their dedication. The January issue of American Education ran an excellent story on the accomplishments of ENACT and the Ecology Center and I include that article at this point in the RECORD:

"EARTH DAY" YEAR AROUND

(By Judith Serrin)

When shadows fell on Earth Day 1970, thousands of people doubtless picked up their "Give Earth a Chance" placards and their souvenir packets of organic wheat germ and went home, there to pop open a nonreturnable can and wonder when somebody would do something.

Not so in Ann Arbor, Michigan, where a dedicated group of amateur ecologists really are giving Earth a chance. By now they have logged nearly two years of "earth days" which they measure in thousands of glass bottles and hundreds of pounds of newspapers collected for recycling, and in piles of tomatoes, onions, and pumpkins grown without the help of chemical fertilizers and insecticides.

The group is the Ecology Center, Inc., and it has won the reputation of being an effective, hard-working environmentalist organization in this charming, wooded town, home of the prestigious University of Michigan, 40 miles west of Detroit.

"A lot of people will do something once for the fun of it," says a somewhat surprised resident of the city, "but these have stayed at it week after week. By now the fun must have worn off. And still they're at it."

Make no mistake, the Ecology Center is a business now, complete with slick annual report, a paid staff, and operating expenses of $3,000 a month. The business is survival.

"In a sense it can be said that the interest in ecology and the environment is dying down," says Mike Schectman, the center's engaging young director. "The glamor is gone now. The flag-waving is ended. It's now time for hard work, and in many ways it's time also for a new point of view.

"A lot of people who are interested in this kind of thing have a casual lifestyle and they want to do things that way. As much as I might agree with the lifestyle"—and he looks the part, with sandals, bluejeans, and mustache—"the job to be done has got to come first."

The center is a spinoff of a group called ENACT (Environmental Action for Survival), which organized in September 1969 and six months later staged a highly successful environmental teach in—the first in the Nation—at the University of Michigan. More than 35,000 people attended a series of lectures, "hearings," and workshops.

Rather than quit after one shot, ENACT

continued to bring in environmental speakers, sponsored a cleanup of the Huron River, which runs through Ann Arbor, worked with companies urging antipollution and recycling efforts, and supported State and local environmental legislation. The Ecology Center was founded in May 1970 to concentrate on coordinating the educational (and therefore tax-exempt) aspects of environmental issues.

Come to the organic garden for down-to-earth proof that environmentally sound action does work.

Come fairly early on a fall morning, say at eight o'clock, before the dew wears off, and you'll see a slender coed sprinkling flour on the leaves of the zinnia plants. When the sun comes out stronger, the bugs trapped in the flour will be baked and eliminated.

Later in the day a housewife will stop by to spread some grass clippings as a mulch, taking time off from a community organic garden she herself started at the apartment complex where she lives. A dairyman from outside Ann Arbor regularly hauls in manure. A retired farmer, now living in town, stops by to share his experience and know-how. Patients from the nearby Veterans Administration hospital come over, for the sun and the conversation and just for something to do. A class of restless school children is shepherded through the garden by a determined teacher who encourages the youngsters to go home and tell their parents to "stop using DDT."

About a hundred persons a day come to the garden, some just to look, some to work, some willing to help out. Many seem to gain a sense of renewal. "On those days when things are going poorly," says one graduate student, "I go out to the organic garden and dig some holes."

The concept of community gardens, and organic ones at that, is not new; after all, the Pilgrims had one at Plymouth Rock when the Indian chief Squanto clued them to drop an alewife—a food fish of the herring family—into each hill with their kernels of corn. But in the 1970's the gardens serve a new purpose—environmental education. The emphasis is not on what you plant, or even on how much you reap, but on how, exactly, does your garden grow.

Armed with a U.S. Office of Education community environmental education grant of nearly $10,000 under the Environmental Education Act of 1970, the Ecology Center is using the garden as the prime means of spreading its secrets of living with the earth—the message of a flower in every pot, a compost pile in every back yard.

The University of Michigan donated the use of seven acres of land—part of its biological gardens—for three years, with the promise that the arrangement could be continued if the project proved successful. The UM Institute of Environmental Quality provided a $5,000 grant, which went for tools, seeds, fences, and a shelter. Most seeds were donated by dealers; the bees came from a local beekeeper, manure from area farms.

A community dig-in got the garden under way. The initial planting included several hundred kinds of flowers, many fruits, about 30 kinds of vegetables, and several herbs. The goal is to raise everything that can possibly grow in Michigan. More plants will be added next year, and mushrooms will be grown in a root cellar.

During the growing season the garden is open from 8 a.m. to 6 p.m. daily, with either the garden manager, John Remsberg, or an assistant on hand to lead tours or simply give information to the visitors. "Many people who visit the garden can't even recognize a tomato, let alone zucchini," says Remsberg.

During the approaching season he plans to stress the educational aspects of the garden, through pamphlets, displays, and better signs to identify the plants, the mulches, and the antipest processes being used.

"There's no skill or knowledge involved in throwing on pesticides," says Remsberg, "but if you're going to get along without them you have to get a pretty good handle on the process of nature."

The first rule of organic gardening, according to Remsberg, is that no chemical pesticides of any kind can be used, a kind of open invitation to the almost innumerable insects and diseases that pervade the plant kingdom. "We often had to resort to the most simple methods of insect control," he says, "like picking them off." In time the center's gardeners learned how to bake bugs in flour and how to crush garlic and spray it on leaves to eliminate the aphids.

They have also explored the more sophisticated process of making the garden uninviting to touring pests—dipping extensively, Remsberg says, into "the area of old wives' tales."

Beans were planted next to potatoes, the beans somehow repelling the potato bug and the potatoes in turn repelling the Mexican bean beetle. In the same way, asparagus was paired with tomatoes and potatoes with marigolds.

A far more subtle and complex solution to the pest problem involves altering the ecological balance of the garden. This approach calls for introducing a plant that is a natural host for the kind of bug that preys on the kind of bug that eats, for instance, carrots. The process is complicated, Remsberg says, a true tampering with nature and not to be used lightly for it can backfire.

It was from this same kind of reasoning, to cite one example, that jackrabbits were introduced into Australia in 1788 to curb a rampantly spreading cactus growth. The rabbits devoured the cacti all right. Trouble was that they prospered so mightily that their increased numbers became a menace to Australia's valuable commercial crops and plants.

A second rule in the organic garden is a prohibition against chemical fertilizers—their place being taken by grass clippings, pine needles, wood chips, and manure.

A third rule is proper planting, which in turn involves proper planning. Tall plants should be located in such a way that they don't block out the sun for the shorter ones. Other plants should be arranged to provide shelter from the wind. Plants that mature quickly should be placed where a second crop can grow in the same space.

William Kopper, the first director of the Ecology Center and now program coordinator of the community environmental education project, is seeking to extend these concepts into the community at large, with an emphasis on many small gardens in different neighborhood sites. Tenants in the Pontiac Heights housing complex started such a garden last summer (with something less than complete success, since organic gardening is not a simple business), and several school sites are planned.

Kopper quit the job of the centers' director to take his new post because, he says, "It seemed to me I was spending all my time just doing administrative work. I was getting worn out attending meetings."

First there was the problem of stirring up public interest—and action. Then came the challenge of trying to impose a sense of discipline and instill understanding of the center's purposes and also its limitations. For a time many people seemed to regard the center's office, an old brick building near downtown Ann Arbor, as a kind of dump, and the front steps soon became littered with bottles, cans, and garbage. The more fundamental problem is money. "I think that's naturally assumed," says Kopper. The center sells books, bumper stickers, and buttons, and holds fund-raising walkathons, but the income just doesn't seem to have the staying power of the outgo.

The earliest, most successful, and most profitable venture of the center is its recycling efforts, which have now expanded from glass bottles to include cans, newspapers, compter paper, and computer cards. Thousands of people have hauled their cast-offs to shopping center pickup points, some driving as far as 60 miles, bringing in more than 30 tons of glass a week.

In a six-week pilot garbage-collection project, the center asked residents in two sections in Ann Arbor to put recyclable trash out for pickup a day before their regular garbage day. Collecting it proved to be no problem, since fewer than 30 percent of the householders cooperated. Still, the center staff feels that with more drum beating the level of cooperation could be raised to the point that such an enterprise might even make money for the city.

In any case, on the whole the Ecology Center must be counted a success, and director Schectman mentions three basic factors in its achievements. One is its location. As a university community. Ann Arbor has an unusually large number of well-educated people who are aware of the environmental crisis confronting the world and anxious to do something about it. Says Schectman, "There are a lot of people, especially students, who want something to show for their efforts. And there's something very concrete about 10,000 pounds of glass recycled each day."

A second important move—and Schectman suggests that other interested in launching a similar ecology operation follow suit—was to form an alliance with such established environment-oriented organizations as the Sierra Club and Zero Population Growth. The Ecology Center Communications Council in Washington, D.C., can provide information about other groups across the country.

Kopper says a third requirement is the development of innovative, educational activities that serve clear and substantial purposes. "I suppose that the biggest problem in a center such as ours," he says "is that of maintaining people's interest and that means getting them involved." Thus the Ecology Center sponsors a "Living with the Earth" seminar series that regularly draws 200 people a lecture; it publishes brochures on organic gardening and other environmental topics, stages environmental film festivals, and produces a radio show called "Earth Watch."

And so, day in and day out, the Ecology Center goes about its business. Schectman and Kopper hope that other people in other cities will form similar enterprises. As they and their colleagues say in the center's guide to citizen action:

"We all must act, even if the action is only in our own back yards."

BILL TO AUTHORIZE THE LITTLETON FLOODPLAIN PARK

HON. DONALD G. BROTZMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. BROTZMAN. Mr. Speaker, I am today introducing legislation which would allow the Army Corps of Engineers to participate with the city of Littleton, Colo., in developing a floodplain park in connection with the Chatfield Dam and Reservoir project now under construction. It is my hope that the authorization contained in this bill can be included in omnibus flood control legislation now under consideration in the Public Works Committee.

There is existing authorization for the construction of a relatively straight and deep channel to carry high discharges down the South Platte River following the closure of Chatfield Dam in late 1973. Under my bill, the corps would be able to utilize channelization funds for the acquisition of lands necessary to make the floodplain park a reality. The area—which encompasses some 475 acres and the first two miles of the proposed 6.4 mile channelization—would be retained in a wild state as a natural park. During periods of high water, the park simply would be closed and the South Platte River could spread out of its current channel with little or no damage.

Last November, Mr. Speaker, the people of the city of Littleton evidenced their overwhelming support of the proposal by approving a $400,000 bond issue for a local match in the development of the park. This amount, incidentally, obligates Littleton to the limit of its legal indebtedness.

Virtually every conservation organization in the State of Colorado has endorsed this project. Also, the State's water and conservation officials support it. In fact, the Littleton plan, which has been developed with great care and thought by local officials, embodies a very futuristic concept of floodplain management, providing both protection from flood damage and a precious heritage of relaxation and recreation for the people of not only Littleton, but the entire metropolitan Denver area.

It seems appropriate that Congress should, through this relatively small change in the Chatfield authorization, facilitate the building of the Littleton floodplain park. I would point out that time is short, inasmuch as the land for the park should, if at all possible, be acquired prior to the closure date for the Chatfield Dam. Either the channel or the floodplain park should be regarded as part and parcel of the overall Chatfield project.

Last month, I assisted Littleton city officials in presenting their plan to the Corps of Engineers and the Office of Management and Budget. I was pleased to note the agencies' general sympathy with the philosophies inherent in the Littleton plan. However, questions were raised about the legality of utilizing the existing authorization—which narrowly defines the corps role below the Chatfield Dam—for the floodplain park. The bill I am today introducing, Mr. Speaker, resolves those questions in a way consistent with the needs and desires of the people most directly affected by the Chatfield flood control project. I urge either its passage or its inclusion in the omnibus flood control bill.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

BLACK HISTORY WEEK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. ANDERSON of California. Mr. Speaker, the black man's history in the United States, although often neglected in our history books, is one of great achievement and accomplishment. The record shows that black men and women have been in the forefront of our progress as a Nation. Whatever our history has been; whatever our future brings; the black man has made outstanding contributions toward making this world a better place to live.

This week, February 13 through February 19, is Black History Week—an occasion which has been observed in Los Angeles for a number of years. In view of this observance, I would like to take a few moments to recount just a few of the accomplishments of these Americans whose participation in our Nation's development began in 1619.

Due to the publicity and public adulation received by sports heroes and celebrities, the accomplishments of black athletes, musicians, and singers have often overshadowed the accomplishments of black scientists, inventors, educators, businessmen, and religious leaders.

However, throughout the history of the United States, the black American has made his mark and helped determine the outcome of events. Thus, any history of America must include black Americans.

Jean Baptiste Point DuSable, a black pioneer, founded the settlement of Chicago. Another black pioneer, Matthew Henson, was with Adm. Robert E. Perry when he discovered the North Pole in 1907.

Some 5,000 Negroes served in the Continental Army and Navy during the American Revolution. The first American to die in the cause of freedom was Crispus Attucks, a black man shot by the British at the "Boston Massacre" in 1770.

Nearly a quarter of a million black soldiers and sailors served in the Union forces during the Civil War. Twenty of these men were recognized for valor and received the Nation's highest medal for heroism—the Congressional Medal of Honor.

There were more than 5,000 black cowboys in the Old West. A black man, Bill Pickett, invented the art of "bulldogging." James P. Beckworth was a black frontiersman who excelled in trapping and hunting.

The first black physician in America was James Derham, who established a prosperous medical practice in Philadelphia. The first doctor to perform open heart surgery was black—Dr. Daniel Hale Williams.

Dr. Charles Drew, a black surgeon, invented the blood bank and became the world's greatest authority on blood plasma.

The achievements of Booker T. Washington and George Washington Carver are well known to students, but how many Americans have read the works of Alexander Dumas, the author of "The Count of Monte Cristo," and realized that he was of African descent, as was Samuel Coleridge-Taylor, and Alexander Jushkin. Black Americans such as Paul Laurence Dunbar and Charles Waddell Chestnutt have left their mark in the literary annuals of America.

Black men have prospered in the field of business. C. C. Spaulding developed an insurance company that had assets worth $33 million when he died. S. B. Fuller set up a firm in Chicago that manufactures toiletries and cosmetics and distributes them by door-to-door salespeople. The Fuller Products Co. is one of the largest black-owned businesses in America.

Leaders in the movement for civil rights have admired such leaders as Frederick Douglass, and, of course, the outstanding leader, the late Martin Luther King, Jr.

The residents of Los Angeles know the fine architecture of Paul Williams, who designed the Beverly Wilshire Hotel, a Saks Fifth Avenue store, office buildings, and mansions. He ranks high among architects of the world.

The list of accomplishments by black men and women in the sports and entertainment field is endless.

The steps that have been taken toward the goals and the quality of life which we all seek have been made by Americans of all races. Let us never forget those giant steps made by black men and women, and let us take pride in the rich heritage which has been left to us and to future generations by the black pioneers.

NATIONAL BEAUTY SALON WEEK

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. ROUSH. Mr. Speaker, today we are in the middle of National Beauty Salon Week, which is being celebrated by more than 60,000 members of the National Hairdressers' and Cosmetologists' Association, Inc.

I would like to congratulate the members on this commemorative week.

I would also like to bring National Beauty Salon Week to the attention of my colleagues.

February 13–19 marks the 22d celebration of National Beauty Salon Week.

A number of activities are scheduled throughout the week in communities across the Nation. The theme for this year is "Fashion—1972." In addition to hundreds of fashion presentations, radio, and television programs, queen contests, parades, and special events, NHCA members will take this opportunity to provide personal beauty services to the many institutionalized women throughout the country. This special community service has long been a tradition during National Beauty Salon Week.

The creative efforts of the more than 1,100 affiliates participating in NBSW programs across the country will be judged as part of the annual NBSW national awards program. Winning entries will be announced during the NHCA National Convention, July 22–26, in Palm Springs, Calif.

The Indiana Hairdressers' and Cosmetologists Association, Inc., has brought this week to my attention and I would like to wish them the best of success in their activities during this week.

NATIONAL COUNCIL OF CHURCHES TO LOBBY FOR FORCED BUSING

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. RARICK. Mr. Speaker, approval of forced busing of schoolchildren to achieve racial balance by the National Council of Churches at its meeting in Charlotte, N.C., last weekend was strengthened by their statement that they would lobby their position with the President and the Congress to oppose moves to stop the busing.

This political action by a tax-exempt so-called religious foundation should serve as further proof to the Internal Revenue Service that the National Council of Churches is more oriented toward the political, racial, and revolutionary aspects of society than to the religious. The quality of mercy is indeed strained to continue to grant such an organization tax-exempt status on religious grounds.

I include related newsclippings, documentation on the National Council by Research Associates, and excerpts of the Year Book of American Churches listing the International Council of Religious Education membership—which was taken over by the Division of Christian Education of the National Council of Churches in 1950—the list of the officers of the National Council of Churches in 1952, and a report of the founding of the National Council of Churches from the National Council Outlook of January 1951 to follow at this point:

[From the Washington Star, Feb. 2, 1972]

BUSING AMENDMENT BACKERS, PRESIDENT COMPARING VIEWS

Congressional sponsors of a constitutional amendment designed to halt busing to achieve racial balance in the schools hope to win President Nixon's support at a White House meeting today.

Nixon arranged the meeting last week and at the same time disclosed he is looking for some method to bring the federal courts' busing decisions into line with his views.

His longstanding opposition to busing for the purpose of racial balance is being undercut by the courts, he said, and since they are acting on constitutional grounds, a constitutional amendment to curb such rulings might be the answer.

In contrast, the National Council of Churches, meeting in Charlotte, N.C., last night asked Nixon and the Congress to oppose all attempts to amend the Constitution to prohibit busing.

ONLY TWO "NO" VOTES

There were only two dissenting votes out of about 105 board members who voted on the resolution, Star staff writer William Willoughby reported from Charlotte.

Dr. Cynthia Wedel of Alexandria, Va., president of the council, sent a telegram to Nixon saying that the basic issue is not busing, but providing a means to desegregation and quality education for all students that is at stake.

There are about 28 different constitutional amendments pending in the House and Senate which seek to halt busing to achieve racial balance. The four senators and three representatives Nixon invited to the White House for today—two of them Virginians—are backing one that would make it unconstitutional to assign a public school student to a particular school because of his race.

It seeks to use the logic of the Supreme Court's original 1954 desegregation decision, which outlawed assignments to a particular school on the basis of race as a means of achieving segregation, to prevent assignments outside a neighborhood school district for the purpose of integration.

A presidential endorsement of the amendment, if forthcoming, would give a strong boost to a move that began in the House last fall to bring it to a quick vote by getting 218 members to sign a petition. After an early rush of support the effort has been lagging, and the petition now has 142 signatures.

* * * * *

CHURCHES' STAND

The Council of Churches resolution said the anti-busing measures "can serve only to hamper desegregation, debase the quality of education at the human level, and delay the attainment of equal educational opportunities for all children in this country."

The resolution was presented by Dr. Carl W. Tiller of Washington, one-time president of the American Baptist Convention. The council is composed of 33 Protestant, Anglican and Eastern Orthodox communions.

Tiller's resolution said that the absence of integrated education "not only deprives all children of a rich and rewarding educational experience but works psychological damage children." This, the item maintained, precludes quality education for all involved.

Dr. Wedel said the councils action was not an indiscriminate endorsement of busing as a mandatory policy everywhere in the United States, "but we don't want it to be a situation where busing to obtain balance and quality education is prohibited."

A United Methodist board member from Shreveport, La., who voted against the resolution, said a majority of blacks in that city oppose busing because they prefer their own neighborhood schools.

A Negro board member stood to his feet and retorted. "We've got a lot of backward, ignorant and honkified black people, but that doesn't mean that a majority of us are going to sit back and accept poor education."

[From the Washington Star, Feb. 13, 1972]

IRS ATTACKED BY COUNCIL OF CHURCHES

(By William Willoughby)

CHARLOTTE, N.C.—The National Council of Churches, the subject of recent probes by the Internal Revenue Service because of its political and social activities, yesterday denounced government interference in religious activities.

A resolution passed by the general board of the council, which represents 33 Protestant, Anglican and Eastern Orthodox churches, said churches should not have to pay the price of silence in national affairs to be eligible to qualify for tax exemption.

A report to the board by Dean M. Kelley, the NCC's expert on governmental relations, said there were about 15 known instances in the last 18 months where the IRS subpoenaed the books of church agencies or denominations, including those of the NCC. In each case the IRS indicated the problem was that the groups were using tax exempt funds for political activity.

TAX STATUS THREATENED

The IRS threatened the Episcopal Church that it would lose its tax exampt status if funds it voted for students on American campuses actually were used for political purposes. Some organizations, not churches but predominantly religious in their outreach, lost their tax-exempt status.

The NCC resolution affirmed that "speaking out on public issues can be and for us is, part of the 'free exercise of religion' protected by the 1st Amendment."

The resolution said that when the government grants tax exemptions to church bodies which are silent on public issues, while denying or threatening to deny such exemption to those which are not silent, it is discriminating for the former and against the latter in violation of the prohibition against "an establishment" of religion.

IRS INTIMIDATION ALLEGED

One church spokesman, James Christison, executive secretary of the American Baptist Missionary Society, said that when the IRS agents came to his office recently and demanded that the mission's books be turned over to them he refused, "under threat of imprisonment."

Kelley's report indicated that it might be an invalid conclusion to say that there is a government conspiracy against the activist-oriented churches and their agencies.

He said it appears more to be "a spontaneous confluence of many concurrent impulses on the part of middle-echelon officials to clamp down on all assorted deviations and impertinences, whatever their sources."

But he blamed the churches themselves for allowing the probes to go as far as they have. He said that many officials kept silent about the IRS practices at first for fear that the good name of the churches might be jeopardized because the public would think the churches were acting improperly. Many thought the audit was something happening to them alone.

PROBLEM SUMMED UP

Kelley said tax exemption is an increasingly troublesome church-state problem. He asked:

"Can the government under our Constitution prohibit, burden, regulate or penalize the efforts of the churches to carry out their mission if it takes them into the arena which the government considers political?"

The resolution pointed to what the NCC and many of its members considered to be an anomaly in the American civic situation. "It is ironic that the Internal Revenue Code has . . . become a bar to effective collective action by these groups (churches) most likely to serve the public interest while great corporations organized for profit, in determining their taxable income, can deduct as 'cost of doing business' the expense their extensive lobbying efforts, which are usually designed to advance their own private interests.

"Labor and trade associations, too, can mount vigorous lobbying efforts without the loss of tax exemption, financed largely by dues (which are tax-deductible) rather than by contributions (which, in their case, are not)."

CHURCH GROUP ASKS RHODESIA EFFORT

AUCKLAND, NEW ZEALAND.—The executive committee of the World Council of Churches has recommended that Britain begin new negotiations with Rhodesia, with blacks participating, in the event the proposed settlement between the two countries proves unacceptable to a majority of Rhodesians.

The committee adopted a resolution yesterday calling on Rhodesia to release nationalist leaders who were arrested for their opposition to the proposed settlement, and calling on Britain to declare its responsibility for Rhodesia until all Rhodesians achieve full political rights.

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE UNITED STATES OF AMERICA

The Constituting Convention held in Cleveland, Ohio, November 28, 29, 30 and December 1, 1950, which set up the National Council of the Churches of Christ in the United States of America was a monstrous hoax; the biggest fraud ever perpetrated upon any civilization.

The massive networks of the long discredited Federal Council of the Churches of Christ in America, and TICORE, The International Council of Religious Education maneuvered the hoax. The pomp, parading, and praying decoyed and deceived many good Christians to accept the "front" for TICORE which had been planned and plotted since 1938.

TICORE emerged as The Int'l Sunday School Council of Religious Education from the Int'l S. S. Association and the Sunday School Evangelicals in 1922. Its first General Secretary was Hugh G. Magill, LL.D., a field secretary of the National Education Association of the United States. J. L. Kraft of Illinois, Rev. Arlo A. Brown and Dr. Luther A. Weigle participated.

Dr. Luther A. Weigle was chairman of the Planning Committee for the National Council of Churches which grew out of a Joint Committee (1940) representing TICORE and the Federal Council of Churches and some interrelated agencies of TICORE.

When the NCC was set up in 1950, the administrative frame-work of TICORE and the FCC moved into the policy and propaganda positions. To be sure there were some minor changes but the top echelon of the NCC consisted of 98% of the "old guard" of TICORE and the Federal Council of Churches.

For example, Dr. Samuel McCrea Cavert, General Secretary of FCC was General Secretary of NCC. Roy G. Ross, Gen. Sec'y of TICORE became Associate General Secretary of NCC. Earl F. Adams, executive secretary of the Planning Committee for NCC became administrative secretary of NCC. The Division of Home Missions, NCC, was made up of members of the Home Missions Council of America, a related agency of TICORE and an inter-council agency of FCC. The Division of Christian Education of NCC was 90% TICORE Staff.

Among the participants of TICORE, 1950, who had left-liberal-radical affiliations were Robert J. Havichurst, G. Bromley Oxnam, Dr. Arlo Ayres Brown and Bishop William J. Walls. Havighurst was included in the "List of Most Typical Sponsors of Front Organizations," Senate Document 117, 84th Congress, 2d Session, page 94.

Of the nearly 815 denominational elected representatives to the Convention, less than 180 were selected to serve on the Convention and Council committees or staff. In fact the controlling clique of the Constituting Convention and the so-called National Council of Churches consisted of less than 400 individuals. The NCC's General Board of 95 denominational appointments was represented by only 33 of its members in appointed or elected positions at the Constituting Convention.

Dr. Weigle, Bishop Oxnam, E. Fay Campbell, Gardiner M. Day, Harold Fey[*], Walter M. Horton and Charles Clayton Morrison, listed as participants in the Constituting Convention were members of the National Committee of the National Religion and Labor Foundation, 1933, which was organized in 1928 ". . . to propagandize the New Social Order (socialism and communism) within the Catholic, non-Catholic and Hebrew Churches," Calif. Senate Investigating Committee on Education, 14th Report, 1956, p. 159. A. J. Muste, a member of the executive Committee on NRLF, 1933, was a "visiting delegate" at the 1950 NCC Convention.

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African Methodist Episcopal Zion Church: Christian Education Department, 128 East 58th St., Chicago 37, Ill., Sec., Dr. James W. Eichelberger.

American Lutheran Church: Board of Parish Education, 57 E. Main St., Columbus 15, O.; Dir. of Parish Ed., Rev. R. A. Vogeley.

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Baptist Federation of Canada: 223 Church Street, Toronto 2, Ontario, Canada, Chmn., Rev. Leland A. Gregory.

Church of the Brethren: Board of Christian Education, 22 S. State St., Elgin, Ill., Sec. and Dir. of Adult Work, Dr. C. E. Davis.

Church of Christ (Holiness), United States of America: National Publishing Board, 2914 Paris Avenue, Indianapolis, Ind., Rev. Andrew White.

Church of England in Canada: General Board of Religious Education, Church House, 604 Jarvis Street, Toronto 5, Ontario, Canada, Gen. Sec., Dr. R. A. Hiltz.

Church of God: Board of Christian Education, E. Fifth and Chestnut Sts., Anderson, Ind., Gen. Sec., Rev. T. Franklin Miller.

Church of the Nazarene: 2923 Troost Avenue, Box 527, Kansas City 10, Mo., Exec. Sec. Dept of Ch. Schs., Dr. Albert F. Harper.

Churches of God in North America (General Eldership): Board of Education, 13th and Walnut Sts., Harrisburg, Pa., Sec., Rev. Roy Schreiner.

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Cumberland Presbyterian Church: Board of Christian Education, McKenzie, Tenn., Gen. Sec., Rev. Clark Williamson.

Danish Evangelical Lutheran Church in America: Council of Elementary Religious Education, Grand View College, Des Moines 16, Iowa, Rev. A. E. Farstrup.

Disciples of Christ: United Christian Missionary Society, Division of Christian Education, Missions Bldg., Indianapolis 7, Ind., Exec. Sec., Rev. George Oliver Taylor.

Evangelical and Reformed Church: Board of Christian Education and Publication, 1505 Race Street, Philadelphia 2, Pa., Exec. Sec., Dr. Franklin I. Sheeder, Jr.

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Five Years Meeting of Friends in America: Board on Christian Education, 101 S. 8th St., Richmond, Ind., Sec., Rev. Charles F. Thomas.

Free Methodist Church of North America: Winona Lake, Ind., Gen. Sec., Rev. A. L. Brown.

Methodist Church: The Board of Education, 810 Broadway, Nashville 2, Tenn., Exec. Sec., Dr. John Q. Schisler.

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National Baptist Convention of America: Department of Education, 523 2nd Ave., N., Nashville 3, Tenn., Sec., Rev. Henry A. Boyd.

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Northern Baptist Convention: The Board of Education and Publication, 1701–1703 Chestnut St., Philadelphia 3, Pa., Exec. Sec., Dr. Luther Wesley Smith.

Presbyterian Church in Canada: Board of Sabbath Schools and Young People's Societies, Rooms 801–09, 100 Adelaide St. W., Toronto 1, Ont., Can., Gen. Sec., Rev. James S. Clarke.

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United Lutheran Church in America: The Parish and Church School Board, 1228 Spruce St. Philadelphia 7, Pa., Exec. Sec., Dr. S. White Rhyne.

United Missionary Church: Winona Lake,

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[*] Fey did not attend the convention.

Indiana, Ed. of Bethel Series of Sunday Sch. Literature, Dr. J. A. Huffman.

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African Methodist Episcopal Zion: Presiding Bishop of District, Bishop W. J. Walls, 4736 South Parkway, Chicago 15, Ill.

American Baptist Convention: Pres., John A. Dawson, 1 No. LaSalle St., Chicago 2, Ill.; Gen. Sec., Dr. Reuben E. Nelson, 152 Madison Ave., New York 16, N.Y.

Augustana Evangelical Lutheran: Pres. Dr. Oscar A. Benson, 2445 Park Ave., Minneapolis 4, Minn.; Sec., Rev. D. Verner Swanson, 328 Hamilton St., Geneva, Ill.

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The cooperative work of the churches in states, cities, and counties has representation as provided in the Constitution (Article IV:2) of the National Council.

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Office: 450 Park Avenue, New York 22, N.Y.

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[From the National Council Outlook, January 1951]

CHRISTIAN FAITH IN ACTION

It was a great moment in religious history as a representative of each of 25 major Protestant and four Eastern Orthodox churches signed constituting documents, and then heard the presiding officer, Dr. Franklin Clark Fry of New York, formally declare the National Council "officially constituted."

The capstone in the arch of cooperative Christianity in America was erected in a memorable ceremony in snow-bound Cleveland's public auditorium Wednesday morning November 29. Against the backdrop of the banners of the 29 constituent denominations the eight merging agencies signified that they now were united in an interchurch enterprise linking 3,000,000 Christians in 150,000 churches across the land.

There were 4,000 delegates present as the plan for one great interdenominational agency became a reality. At one table near the front sat a group with a special interest in the moment. It was the planning committee of 48 men and women—six from each of the merging agencies—who in large measure were the architects of the National Council. Most of them had been at Atlantic City in 1941 when the blueprint for such an organization was first conceived. Now they were witnessing the harvest of their years of arduous and intensive efforts.

Under the Constitution approved by the 600 official representatives of the constituting communions, the National Council began operations January 1, embracing the major interdenominational enterprises of Christian activity developed over more than a half-century. Centered in four major divisions and more than 20 other units will be evangelism, education, stewardship, foreign and home missions, family life, overseas aid and many others. In addition to strengthening united action in many areas of Christian concern, such as human rights, world order and economic justice, the National Council, through general departments of united church men and united church women, represents a step forward in creating new opportunities for greater and more effective participation of the laity in all areas of church life.

Every step necessary to enable the National Council to start operations was taken during the historic four-day meeting—the first general assembly, as well as the constituting convention, of the new council of churches. The delegates chose as the first president a distinguished clergyman—Rt. Rev. Henry Knox Sherrill of Greenwich, Conn., the presiding bishop of the Protestant Episcopal Church, and named as the chief administrative officer of a staff of more than 400 Dr. Samuel McCrea Cavert, general secretary of the Federal Council of Churches. Dr. Cavert was elected general secretary and Dr. Roy G. Ross, general secretary of the International Council of Religious Education, associate general secretary.

A budget that will exceed $4,435,000 was presented and the interim policy making body—a 100-member General Board—was formally constituted and held two sessions.

The weather and the sobering challenge of a world on the brink of war had their effect upon the constituting convention. Cleveland's worst snowstorm in 37 years—a 20-inch fall—stopped all traffic, forced stores and newspapers to cease operations temporarily. Thousands were marooned in their homes by drifts six to eight feet high. Early arrivals for the convention trudged through drifts carrying their own luggage, from the station to their hotels. Alarmed by reports, scores of anxious delegates from all over the country telephoned convention headquarters. They were assured that the convention would proceed on schedule and it did. The convention bureau reported advance room reservations for 5,200; the registration approximated 4,000. Virtually every state, as well as Alaska and Hawaii, was represented by visiting delegates, including hundreds of lay men and women.

The hardening rift between the communist and free nations of the world tended to dampen the joy of church leaders witnessing the birth of a new organization they felt was destined to give new strength to Christ's Church in a sorely troubled world. As the crisis facing the nation and the world was emphasized by the newspaper headlines, the mood of the delegates readily became apparent.

The constituting convention, acting upon the suggestion of Methodist bishop G. Bromley Oxnam of New York, American president of the World Council of Churches, quickly framed and adopted messages to both President Truman and Secretary General Trygve Lie of the United Nations.

To President Truman the convention said: "May the God who holds the nations in the palm of His hand and from Whom, in times past, our fathers sought wisdom and understanding, guide you and your advisers to the end that peace may be vouch-safed to the peoples of the earth. The responsibilities which are yours can be borne only with the aid that comes from God and to Him we commend you in our prayers."

To Mr. Lie the delegates expressed the fervent hope that the United Nations "assured of the full participation of our country, may act under God, to secure with justice the enduring welfare of mankind." The delegates, he was told, "offered special prayer to Almighty God that the United Nations may find just and effective procedures for containing and resolving the conflict in Korea."

Earlier the delegates had received from the President of the United States a message of greeting in which he termed the National Council a step that will "enable the American churches to exert a greater influence in the strengthening of the spiritual foundation of our national life at a time when a materialistic philosophy is rampant." He had been invited to address the convention but declined because the national emergency required his presence in Washington.

Secretary Acheson, invited to speak in place of President Truman, was scheduled to address the public meeting Wednesday night. Twenty-four hours before he was expected in Cleveland, he regretfully changed his plans. He spoke to the convention by telephone and to the nation over five national networks.

The delegates gave close attention to the words of the Secretary of State as he spoke in a voice clearly heard throughout the convention hall. He said he had intended to discuss basic problems of foreign policy before the National Council because "I know from the long record of intelligent and responsible participation which your separate organizations had in foreign policy matters that you have given much serious thought to these issues."

Instead, because of the serious situation that has arisen which holds "grave danger for the peace of the world," Secretary Acheson made a major policy address in which he outlined the new crisis confronting the United States and the United Nations.

He arraigned Communist China "before the bar of judgment of mankind" on charges of "shocking aggression, endangering the peace of the world." He expressed confidence that the United Nations "will not be found lacking in firmness of spirit or determination in responding to this new aggression," and then added:

"The United Nations cannot be intimidated by this new challenge to its authority into shaking off its responsibilities to the people of Korea."

Dr. O. Frederick Nolde, substituting on 24-hours notice for British Ambassador Sir Oliver Franks, delivered Thursday night an address that seemed to reflect not only his own opinion of the Christian approach to the world crisis, but that of a majority of the delegates.

"So long as there remains even a marginal possibility," he declared, "of averting total global war, we must utilize every means which will not betray conviction or offend conscience."

"In this process, and even if war should come, we must penetrate the artificial curtains by which we are momentarily separated and experience the bonds of humanity and faith which unite men of different nations and races."

"The struggle for peace must go forward unremittingly and men must be driven by the conviction that the peace can yet be won. In these trying days, and always, we pray God, through Jesus Christ our Lord, for the faith which will enable us to stand in the face of principalities and powers of darkness. From Him alone can come strength to make the expression of our faith adequate to the needs of our day."

Dr. Nolde is the director of the Commission of the Churches on International Affairs constituted jointly by the World Council of Churches and the International Missionary Council. As he concluded his address there was prolonged applause by delegates who rose to their feet and a long line formed on the stage to congratulate him. Later a resolution was approved to send copies of his speech to the Secretary of State, and to the members of the Senate and House committees on foreign relations.

A message "to the people of the nation" drafted by a committee representative of all 29 communions and headed by Dr. Douglas Horton, New York, minister and secretary of the General Council of the Congregational Christian Churches, also reflected the delegates' concern for the present crisis.

Terming the time "big with peril and with opportunity," the message called on the people, as well as the leaders, of the country, to play an effective role in preserving world peace.

"The call of Christ to us all seems clear, that we play it with calmness, self-control, courage and high purpose, as becomes those whose lives are in the hands of God. Without hysteria, without hatred, without pride, without undue impatience, without making national interest our chief end, but shaping our own policies in the light of the aims of the United Nations, without relaxing our positive services to the other peoples of the world, and in complete repudiation of the lying dogma that war is inevitable, let us live and, if need be, die as loyal members of the world community to which Christ summons us and to which we of the Council are dedicated."

The convention quickly elected officers for the 1951–1952 biennium, approving by voice vote the nominating committee slate headed by Bishop Sherrill.

The constitution calls for two associate general secretaries—one a woman. The woman's post was left vacant and is expected to be filled by the General Board.

The Public Hall was beautifully decorated. The stage and the lower floor of the Arena presented an inspiring sight. Across the proscenium, in letters of glittering silver several feet high, hung the words of the convention theme, "This Nation Under God." It stood out against the black and orange back drop. In the center of the stage was a high white altar on which rested an open Bible, and directly above it was a huge cross of gold. On either side of the altar stood the flags of all the United Nations.

On the stage and on the floor of the Arena the color scheme was red, white and blue. The cross was repeated in an arrangement of white-covered tables surrounded by red tables. At these sat the official representatives. In the rear were blue tables for consultants and alternates. Around the balcony hung banners bearing the Council emblem, separated by American, United Nations and Christian flags.

In this setting the convention opened Tuesday night with a service of worship and thanksgiving.

The National Council, said Dr. Ralph W. Sockman, noted radio speaker and New York Methodist minister, is a product of a "spirit of unity which long has been growing, and the seed for a harvest which only God can forecast." It is, he added, "the greatest forward step toward religious unity which America has yet seen, and it may well prove epochal."

The convention worship services, bringing to the pulpit some of America's leading preachers, provided a deep spiritual note. The congregational singing was led by Mrs. Rosa Page Welch. Vincent Percy was the organist.

The formal ceremony Wednesday morning which officially constituted the Council was marked with a rich symbolism of greater cooperation among the communions.

As the audience waited expectantly, the start of the procession was heralded by the sound of four trumpets. As the organ played hymns sung by two choirs, the leaders of the 29 communions, dressed in multi-colored vestments and gowns, led the procession into the hall. At the head was the crucifer, followed by a blue-and-white-garbed male choir from Christ Church of Shaker Heights, Ohio, and boys carrying the American and Christian flags. Next was a group of church leaders, each designated by his denomination to participate in the act of constituting the Council, the heads of the eight merging agencies and the representative of the state and local councils of churches, Dr. Hugh Chamberlin Burr of Rochester, N.Y. Following were other dignitaries who participated in the morning session.

An open Bible, a gift of the American Bible Society, was carried by a student delegate, Grover Wilson of Yale Divinity School, one of many divinity students at the constituting convention. Next came the girls' choir of Schauffler College, robed in red and white, and the 48-member planning committee. Absent was its chairman, Dr. Luther A. Weigle, former dean of Yale Divinity School, who was unable to attend because of a recent illness.

Finally, came the denominational delegates, led by the African Methodist Episcopal Church with the other 28 communions following in alphabetical order. Each denominational delegation was preceded by a white banner trimmed in maroon, bearing the emblem of the Council and the name of the communion. The bearers of the emblems, carried aloft on staffs, were in maroon vestments.

At the start of the meeting the delegates observed a moment of silent prayer for "the United Nations, our nation and those in the great struggle." Bishop John S. Stamm, of Harrisburg, Pa., president of the Federal Council of Churches, who led prayers, noted that the convention met at an hour of "great crisis."

The bearers brought the denominational banners to the stage as the act of constituting itself began. The chairman, Dr. Fry, president of the United Lutheran Church in America, called upon the voting representatives of the denominations to rise and asked whether they had agreed to become members and authorized their representatives to sign the official documents. "We do," they replied in unison.

Dr. Fry then called the roll of the constituting communions. The representatives rose one by one, stepped forward to a table in the center of the stage, and affixed their signatures to the constituting documents. When they had finished, Dr. Fry placed the documents on the altar and declared the Council officially constituted.

"Let us now dedicate it to the glory of God and to the service of mankind," he declared. It was the signal for the 4,000 delegates, alternates, consultants and visitors to rise to their feet for the climax of the ceremony.

"And now," they intoned in unison, "as a fellowship of Christian churches, in the communion of the saints, in love and goodwill toward all . . . we invoke the blessing of God upon this National Council of the Churches of Christ in the United States of America and dedicate the Council to His Glory and the service of mankind, in the name of the Father, and of the Son and of the Holy Spirit." With a fervent "amen" the audience then joined in singing the Doxology . . . "Praise God from whom all blessing flows . . ."

The chairman turned to representatives of the eight interchurch agencies. They came forward and placed in his hands documents signalizing the transfer of their functions and programs to the Council.

In the group were representatives of the Federal Council of the Churches of Christ in America, Foreign Missions Conference of North America, Home Missions Council, International Council of Religious Education, Missionary Education Movement of the U.S. and Canada, National Protestant Council on Higher Education, United Council of Church Women and United Stewardship Council.

Dr. Burr, president of the Association of Council Secretaries offered a prayer of "thankfulness for this hour of achievement and promise." He asked God to "lead us into new experiences of unity, new paths of service and new areas of victory."

Herbert J. Lambacher, president of the Cleveland Church Federation, welcomed the delegates. He was chairman of the local committee on arrangements which worked closely with Dr. J. Quinter Miller of New York, chairman of the national committee on arrangements, and Dr. Samuel McCrea Cavert, chairman of the committee on program and procedures, in setting up the convention. Working behind the scenes was Dr. Earl Adams of New York who far two years served as executive secretary of the Planning Committee.

The presentation of plans for the National Council was made by Dr. Hermann N. Morse as acting chairman of the planning committee.

A debate over the location of the Council's headquarters was precipitated by those wishing to have the headquarters in the middle west on the grounds that it should be nearer the center of Protestant strength. This was opposed by those who felt either that the headquarters should be in the East where many communions are located, or that no restriction should be placed upon the General Board to whom power to decide the matter was originally delegated. Finally the General Assembly passed a resolution requesting the General Board to appoint a special committee geographically and denominationally representative, to submit its recommendations to the General Board. The latter was asked to weigh carefully the advantage and possibility of establishing such headquarters in an area reasonably adjacent to the population center of the United States.

Temporarily the National Council's offices will be decentralized in several buildings in New York, and the ICRE building in Chicago. The administrative offices will be at 29 Fourth Avenue, New York. Some leases will expire before the next general assembly in 1952, thus requiring action in the interim.

Dr. Earl Moreland, college president of Ashland, Va., and a Methodist, headed the nominating committee. Chairmen of the other convention committees included: Dr. Hermann N. Morse, New York, business; Dr. James E. Hoffman, New York, Reformed Church in America, registration and credentials; Dr. P. O. Bersell, Minneapolis, Augustana Lutheran, resolution of courtesy, and Dr. Douglas Horton, New York, Congregational Christian, Message.

"The Nations Under God"—theme of Thursday night's session—developed into one of the most interesting. The platform was shared by Dr. Nolde and Dr. W. A. Visser 't Hooft, general secretary of the World Council of Churches, Geneva, and a frequent visitor to this country. In addition the delegates heard short-wave messages from the Archbishop of York and Christian leaders of other countries. The messages were broadcast over a national network of 155 stations (as part of "We the People").

The afternoons were filled with meetings. Visiting delegates heard Francis B. Sayre, U.S. representative to the United Nations Trusteeship Council and many other prominent Christian laymen and preachers. Sayre asserted that Christian principles applied to international affairs offer the surest road to peace.

At the same time the four divisions and other units of the Council held organization meetings.

One of the most significant was the initial gathering of the general department of united church men at which Mr. Lem T. Jones, of Kansas City, president of the National Council of Presbyterian Men, was elected chairman.

Dr. Luther Wesley Smith, Philadelphia, executive secretary of the Baptist Board of Education and Publication, was the speaker and Dr. Harold E. Stassen, president of the University of Pennsylvania, presided.

"We have opened the way for laymen to come to the front in the life of the Church today," declared Dr. Smith.

The United Council of Church Women, which now becomes a general department of the National Council, has become a vital force in the Christian life of the nation. There has been no similar interdenominational laymen's organization. The steps taken at Cleveland toward achieving a full partnership of laymen with the clergy suggested to many leaders that the development might prove one of the most important undertaken by the National Council.

The convention closed Friday night on a note of dedication. Solemn promises to administer their several offices "to the glory of God and the advancement of His Kingdom" were made before the altar by the Council's newly-designated leadership. With Dr. Hermann Morse presiding, Bishop Sherrill, the other officers, the general board and the staff of more than 125 men and women, many with long years of service in the merging agencies, moved forward in turn to take their pledges of "constant fidelity to the constitution."

Clerical and academic garb mingled with the street clothes of lay men and lay women in the processional that opened the service of installation and consecration. It was led by the Messiah Chorus, composed of 275 Clevelanders. The officers were seated on the stage, the general board around the white tables forming a cross, with the staff at red tables, surrounding the general board.

The speaking on the closing night was shared by Bishop Sherrill, in the vestments of a bishop of the Episcopal Church, and by Rev. Eugene Carson Blake, pastor of the Presbyterian Church of Pasadena, Calif.

The long-range significance of the National Council, said Dr. Blake, can be "measured by the quality and persistence of the individual Christian discipleship of the leaders of our churches."

Calling for the end of religious competition, Dr. Blake said that the words of the convention would be insincere unless they mean "that no longer are we going to continue in the old paths of denominational rivalries."

"Free churches in America," he added, "are stronger, and will remain stronger than any religious rivals, not by attacking others, but by increased devotion to their own tasks and to Him who leads them."

In his presidential address, Bishop Sherrill characterized the formation of the National Council as, "a promise of high hope for the future."

"The churches here represented are determined without compromise," he added, "to cooperate wholeheartedly in those great fields of endeavor in which we are essentially one."

Calling the times "stern" and labeling the forces of evil "powerful and relentless" the newly-elected president condemned *"laissez faire* Christianity, without dynamic force" as inadequate.

"Only a Church of deep conviction and spiritual experience," he emphasized, "can meet the necessities of our times.

"The real problem which confronts the churches is not the strength of the enemy without, but the quality of the spiritual life within. The council can only be as strong as the churches are strong."

On this note and a benediction by the bishop, the convention ended.

[From the Washington Post, Feb. 17, 1972]

CHURCH ROLE URGED IN CONSUMER ACTION

CHARLOTTE, N.C., February 16.—The policy-making General Board of the National Council of Churches has recommended governmental and private action to strengthen the consumer.

The policy statement, adopted Monday night, recommended that churches use their power as investors and stockholders to encourage corporate responsibility and consumer protection.

NORTONVILLE

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. WALDIE. Mr. Speaker, there is a tremendous grassroots effort being conducted in my district to preserve a unique area from being lost to the profoundly destructive effects of a silica sand stripmining operation.

This endangered area is the Nortonville mines site. Many years ago this was a coal mining center of the west coast and provided jobs for hundreds of miners, principally Welsh, who labored there until the coal mining became unprofitable and unproductive.

The old mine shafts still remain. The graveyards of the miners also remain. Many residents of the area hope that it can be preserved by a local park district so that the heritage of Nortonville can be enjoyed by many thousands of visitors from the San Francisco Bay area.

One of the leaders of this preservation effort is Mrs. Joann Johnson, of Antioch, Calif.

Mr. Speaker, Mrs. Johnson recently sent me a copy of a poem she wrote about the Nortonville area. Her words and her images do justice to the area we all want so desperately to save:

NORTONVILLE—JANUARY 12, 1972

(By Joann Johnson)

Grey misty fog drifts up through the clay colored canyons and then disappears into a sea of clouds above the earth. Below the summit is all hidden by the cold, gloom of the ever moving mist.

The long, barren stems of grass are brown and lifeless, but soon to be replaced with the green of the new growth that carpets the earth beneath the fragile stalks that have lived their summer.

An oak, with a crown of mistletoe, stands majestic in its nakedness as the wind gently touches the leafless limbs.

The silence of the rolling hills greets the voiceless fog as it envelops the solitary manzanita in a hidden veil of moving dew.

Then in the distance the faint song of the meadow lark echoes over the land, giving reassurance of the continuity of life. Only the sound of an airplane, in a flight to somewhere, signals man's intrusion and presence into an otherwise undisturbed universe.

In the sloping canyon a battle ensues between the wind and the fog, with the wind moving the wet mist back to the valley of retreat.

There is peace in nature's world, as one element gives way to another, and the sun caresses the planet earth with finger of warmth and encouragement.

SCHOOL PARTNERSHIP PROGRAM

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. BEGICH. Mr. Speaker, recently, I have been reminded of one of the finest projects associated with education. The school partnership program, now under the overall direction of Action, is sponsored by the Federal Government and is executed at a minimal cost to the taxpayers. It has won the appreciation of many people around the world.

At a time when our assistance to people in foreign nations is being seriously questioned, it was my feeling that my personal knowledge of this program might be helpful as a source of information to others who might be interested in it. In addition, I would like to win the support of many schools throughout the country which might find inspiration for sponsorship of projects of this type.

As a former superintendent of schools in Alaska, it was my pleasure to work with the students of Arcturus Junior High School in an effort to develop a project which would generate continuing interest and participation by the student body. At our request, the school partnership program provided information to the Arcturus student body after inquiries indicated that Central Junior High School in Anchorage had donated $235 in September of 1966 to assist a school in El Salvador.

After much correspondence in May of 1968, the decision for Arcturus to participate in this valuable program was discussed and approved by representatives of the seventh-, eighth-, and ninth-grade classes in the school. The students donated $1,000 to build a one-room primary school on the beach of Pitangueira, on the northeast end of the island of Jaguanum. The island is located in the Bay of Sepetiba, about 50 miles southwest of Rio de Janeiro, Brazil.

While the student body was discussing the project, they began a series of fund-raising events to help finance the project through the 1967–68 school year. When the project was finally decided upon, the spirit of the school and the activity to reach the goal they had set for themselves intensified. It was a remarkable year in many respects. The parents actively participated by sponsoring and directing some of the projects, and the faculty of the school also assisted in a remarkable way. The real credit, however, goes to the students themselves. This project provided one of the finest examples I have seen, before or since, of a coordinated school activity which brought about the total involvement of every segment of the student body.

Throughout the last half of the school year, the school received reports from an amazing couple, Christine and Edward Dreyfus. They had originally proposed the project and kept the school informed on every aspect of the proposal. Each new report was eagerly awaited by the students at Arcturus.

The village of Ilha de Jaguanum has approximately 400 people, whose principal livelihood is fishing. All reports concerning the cost of building the school for the 26 school-age children indicated that it would cost a total of $1,750, with $1,300 requested by the school partnership program. The village would contribute the labor to build the school. Additional funds obtained for the project to meet the total commitment of $1,300 came from Mechanicsburg High School in Ohio, Abraham Lincoln High School in Colorado, and York Community High School in Illinois. Arcturus, because of its commitment to the program was selected as the "partner" school and received all correspondence pertaining to this project.

Because of the interest other schools may have in this type of project, I felt that several pieces of correspondence might be helpful in disseminating this information so they might obtain a more intimate knowledge of how the program works. First is the proposal submitted to the school outlining the entire history of the area, the geography, the background information, a map of the area, correspondence with the government of the country where the school was proposed, and even a comprehensive list of the materials which would be needed in the construction and the cost of these materials. The proposal was as follows:

PROPOSAL

We propose to build a one room primary school on the beach of Pitangueira, on the northeast end of the island of Jaguanum, located in the Bay of Sepetiba, about 50 miles southwest of Rio de Janeiro, Brasil. The island, nearly three miles long, consists of dense impassable jungle, running from high hills down to the water, and small patches of sandy beaches where the population of about 400, nearly all fishermen, live. On Pitangueira and nearby beaches, there are 17 families living in mud and bamboo houses thatched with straw, without electricity, water or toilets of any kind, and earning a meagre living fishing large dug-out canoes, few of which are motorized. Conditions are primitive even though the people live only a few hours from modern civilization. Because of their isolation and their low incomes from the sale of fish in the mainland town of Itacuruca, (the nearest village six miles across the bay), the people are extremely deprived. We hesitate to use the word "community" since there is no defined leadership structure, nor do the people customarily cooperate in joint activities beyond the efforts of extended families. There is no central meeting place, nor are there stores of any kind on the entire island.

Several of the fishermen can write their names and read a few simple words, but the great majority are completely illiterate. One mother told us that her children did not even know what a school was. The effects of this combination of intense isolation and illiteracy are overwhelming.

On the far southwest end of the island, about 2½ miles away, where we live, there has been a school for about 15 years. It has one classroom and living quarters for the teacher, much the same as we propose but larger and more luxurious. We are convinced that it is too far away to serve the children at the far end. Ted and one of the fishermen walked from our school to Pitangueira on a clear day. They were armed with a rifle and sticks and took one hour up hills, across rocks, all thick with jungle growth, to reach the proposed school site. Some of the children live ½ hour to the other side. Few people hazard the trail, and even if it were cleared, during rainy weather it would still be impassable. The overwhelming opinion of the inhabitants is that the trail is too hazardous for children. During the mornings the fishermen are out fishing, so there is no chance for boating the children. Frequent rains and strong winds would also make boat passage unreliable.

There is a startling difference in the standard of living between our side of the island with the school and the other, and we believe there is a direct relation between the two, especially since the only recognized leader on the entire island, a Sr. Alvaro, with whom we are living, credits his most advanced innovations directly to an outstanding teacher who lived and taught here for five years.

In our house to house survey of the area, we found 44 children aged 15 and below, 26 of whom now are of school age, (between 6 and 15). Within the next three years the number of school-aged children will reach 40.

The need or a school is urgent. Besides the direct academic benefits, the school with its resident teacher, would serve as a means to sever the existing isolation, to bring the children out of their families and into group activities, and hopefully to bring some order and discipline into their lives. Just having toilets would serve as a practical learning process in teaching health and sanitation. The school would also qualify for Merenda and would bring milk and nutrition into their heavily starch-based diets. None of these children receive milk at home.

Because of the primitive conditions and already overcrowded houses on the beaches, it is essential that the proposed school building have living and working quarters for the teacher. It would be impossible for her to commute from the mainland daily, since the trip takes between 30 and 45 minutes by motorized canoe and there is no regular transportation available. Often weather makes the passage impossible. The fishermen traverse these waters only to take their catches to market and to make purchases in Itacuruca. Most of the women are afraid of the sea, and leave the island only in emergencies. A resident teacher could also have adult classes at night, something for which several fishermen have already shown interest, and for which there is growing general interest in all of Brasil. The teacher's kitchen would also serve for the all-important function of preparing Merenda. Most mothers know about the school lunch program from our school, and are anxious to send their children for this reason. The teacher's living room would double as her office. In short, we feel that the school itself would be the first step in bringing people together to form the base for community action in the next generations.

We have spoken with each of the families, and almost everyone recognizes the extreme need for a school. In fact, some families have sent their children to live with relatives in order to attend school. Most of these children would come back to their families if a school were built. (These children were not, however, counted in our survey.)

All of the men agreed to help with the labour in constructing the school. Since they are fishermen, it would be necessary to employ one professional bricklayer-constructor to direct the work and do the technical parts. We have spoken to a professional bricklayer in Itacuruca, whose work we know is excellent and rapid, and who would undertake the job and live on the site during the entire construction. One of the fishermen has promised to make up a schedule for helpers and to oversee their part of the contribution. Our host, Sr. Alvaro can and wants to serve as local leader. He has lived on Jaguanum for 20 years since migrating here from the northeast of Brasil. Although he is not a fisherman himself, he is an intimate friend of all the fishermen and is recognized as the most advanced denizen and only leader. Sr. Alvaro has long been convinced of the need for a school. In addition to having considerable construction experience, he is beginning to understand what we mean by community involvement and group action. A perfectionist, he was startled when Ted told him that from our point of view, the group contribution of the fishermen was ultimately more important than the perfection of the construction itself. This simple statement has opened up a whole new dimension in his thinking and will hopefully enhance his natural leadership qualities. Sr. Alvaro has already spoken eloquently with the fishermen about their part of the project. Once undertaken, we have no doubts that his perseverence will carry the project to its conclusion.

Neither the state nor the municipio could promise us to build a new school now. A state school, because its costs include state-hired labor, would cost more than twice what we are proposing. The addition of impossible living conditions for the workers and transportation of materials make it impossible for this number of children. However, because of the SPP and the absolute inability of the fishermen to contribute financially, the State has promised to supply us with the lacking 25%, will pay for the hired professional bricklayer, and has promised to send a teacher. (See accompanying letter from the Secretary of Interior and Justice for the State of Rio). The fishermen will transport all of the materials from the mainland to Pitangueira. They will also supply the sand and chip the rock for the foundation.

The Captain of the Ports in Itacuruca spoke with the owner of the land and she agreed to give enough for the school. We wrote a follow-up letter (copy also enclosed), which was delivered by the Captain and transferred to the owner's lawyer. The State will carry on from this point.

Our target is to have the school complete well before the beginning of next year's term in March. We have two teachers this year at the school on our end of the island. They have both shown interest in the school and have offered their services to begin instruction as soon as the school is completed.

We can guarantee that we will enthusiastically maintain contact with our sponsor school during our stay, through November 1969. We both have cameras and are planning to record the progress with photos and slides. Realistically, we cannot promise anything after we leave. No one on Jaguanum speaks or writes English and our only hope would be that the resident teacher would write enough English to continue correspondence. We are not counting on any American students having knowledge of Portuguese.

In summary, we can only say that we have studied both the SPP and our situation carefully and see the many ways our situation does not fit the program's structure. However, we are convinced of the desperate need and sincerely want to see as much effort and sacrifice on the part of the fishermen as they can reasonably support. We have worked hard in getting the state engineer's department to draw up a special plan to fit our needs, have cut costs to a minimum and have incorporated as much help from local sources in the planning and getting of the land, promise of funds, teacher and labor, as possible. Morale is high and we hope our proposals will not result in just one more disappointment for these fishermen and their families.

MAY 8, 1968.

Three other letters might also prove of interest. One, dated May 17, 1968, from Frances Ruddick, assistant director of the school partnership program, outlined the additional material which might be provided by the school and informed Arcturus of the assignment to the project. Another, dated June 9, 1968, from Ted Dreyfus, was the first report the school received from the actual area and discussed some preliminary plans for the school. A final letter from Chris Dreyfus, dated August 28, 1968, is a progress report and was the basis for an introduction of the project to new students at Arcturus that school year and as an up-to-date accounting to returning students of the school. Thus, another school year was begun with this school partnership program as a continuing and unifying project for the student body. These letters are most informative and are included to indicate how well-informed the "partner" school is through the school partnership program:

MAY 17, 1968.

I am very happy to inform you that your $1,000.00 contribution has been assigned to the Ilha de Jaguanum project in Brazil. Since the total amount requested for the school, was $1,300.00 additional funds were earmarked from Mechanicsburg High School, Ohio ($200), Abraham Lincoln High School, Colorado ($65.84) and York Community High School, Illinois ($50.00). However, being the primary sponsor, you will receive all correspondence and reports, and are the "partner" school.

Shortly you will be hearing from the Peace Corps Director in Brazil, Robert Avery and from Edward and Christine Dreyfus, the Volunteers working at the site. You may write Ed and Chris at the following address: c/o Mr. Robert Avery, Peace Corps Director, c/o American Embassy, Rio de Janeiro, Brazil.

In your first letter to Ed, Chris and the community, you may wish to include something about your school, the fund-raising campaign and pertinent newspaper clippings and photographs if available. Suggestions for further correspondence are enclosed, along with information on the project and community and some background materials on the country.

We wish you the very best for the establishment of a mutually rewarding and educational partnership.

Sincerely,

FRANCES RUDDICK,
Assistant Director,
School Partnership Program.

JUNE 9, 1968.

We are so happy to have received word of your sponsorship of our school-to-school project. Chris and I send our very warm thanks to you and the students of Arcturus Junior High for your great interest and contribution. We're very sorry that we didn't receive word of your participation before the end of the school year in order to send word directly to the students involved in the fund-raising campaign. We hope to maintain close contact with you throughout the building project and would appreciate any suggestions as to how this may best be done considering that you're having summer vacation. We have started taking pictures of the school site and local people and will send you the initial shots soon.

The prefeito (mayor) of the municipio (county) visited the school site the day before yesterday, the first time he had ever been to Jaguanum, and talked with the fishermen about the construction. We plan to start land clearing and rock breaking for the foundation tomorrow. Next week we will begin the foundation itself and on its completion we'll transport all the building material out to the island at one time using a launch and barge the prefeito is arranging for us.

As we stated in our initial proposal, one professional bricklayer will work on the project helped by two or three fishermen each day. By rotating the fishermen's labour days we hope to minimize the number of fishing days lost as well as to build the school as quickly as possible. We aim to complete the project in three months, but perhaps this is too optimistic a projection. It is pouring rain today, the first time in weeks, and if this continues it'll bog down our whole operation.

During the course of our correspondence we hope to acquaint you with the people and life on Jaguanum as well as with the progress of your partner school. We are only two hours by bus away from the modern city of Rio de Janeiro, but life here is in many ways very primitive. Chris is from New Jersey and I am from New York so living here in the jungle often strikes as being as foreign as it must seem to you and your students in Alaska. We live in a little one-room house without water, bathroom, or electricity. The first two we use at the house of our neighbor Sr. Alvaro, with whom we share a kitchen and who is the local leader for the school project. We have a small boat with a very weak eight horse power motor which takes an hour to reach the mainland of Itacuruca. Often the motor doesn't work, as for example the other day when the prefeito visited the school site, and Chris, Sr. Alvaro, and I rowed his dugout canoe to Praia (beach) de Pitangueira, the school site.

We are here as Peace Corps Volunteers at the invitation of the Brasilian Superintendency for the Development of Fishing (SUDEIE) in order to stimulate the organization of fishing cooperatives. We have been in Brasil six months now and I have been working away trying to interest the fishermen in the advantages of cooperativism (which, by the way, I knew very little about before arriving here and I now believe really does have a great deal to offer.) Although we are meeting with strong opposition from the entrenched fish buyers, we are going ahead and plan to have our first meeting to discuss the coop in two weeks. Because the fishermen live spread out all over this bay on small islands and small fishing seems to lead to isolation and suspicion of group activities anyway, most fishermen are complete strangers to group cooperation beyond the extended family. But we're planning to have our meeting and will see what comes of it.

We are hoping that the process of building the school will serve as one way of showing the fishermen how cooperation can work for everyone's benefit. Of course, this assumes that the fishermen do actually come through with their promised contribution of labour which may need continual encouragement from Sr. Alvaro and us. However, we are enthusiastic and hopeful about the project which you have made possible and send our warmest thanks to you all for joining this partnership program.

Sincerely yours,

TED DREYFUS.

AUGUST 28, 1968.

I have just been checking our school-to-school folder and found that you already had begun first term. We hope this letter reaches you and the students. Ted wrote June 9th to your Massachusetts address, but we assume, since we did not hear from you, that it went astray.

Work is going very well on the school after an initial delay because the mayor failed to send the professional bricklayer on the date he promised. The bricklayer comes on Monday morning, stays on the site until Friday afternoon and goes home for the weekend. The fishermen have been good about arranging transportation and lodging for him, and have been working on a regular schedule. Of course there are several who have not contributed anything and spread rumors that we are making a huge profit on the school, but the majority are trusting us. We tried to make a point of having the books open for all to see, but unfortunately there are very few who can read enough to understand facts and figures. We have told everyone that the money was earned by American school students, and they accept this, but really have no idea what it means. If your students could do something to make themselves real and known to our people, both we and they would be most grateful. We would like very much to have some communications between Arcturus Junior High and the fishermen of Jaguanum.

The school site is magnificent. It is just above a white sandy beach and in the middle of a bamboo grove. The school will look out on a bay dotted with jungle islands. It was a tremendous job to tear out the roots of the bamboo which go deep into the ground. After burning the torn out roots, work moved to the beach and the breaking of huge rocks into large pieces and then into tiny ones for the foundation. After this was done, we ordered most of the materials to be delivered to the dock in Itacuruca—3,500 bricks, 1,700 roof tiles, 70 sacks of cement, miles of wood, etc. It came at 8:00 am, and was met by a rented boat which had picked up all the fishermen at 7:00. But there were two banana boats unloading at the dock, and the boat had to wait until almost noon. From noon until 9:30 pm, everyone worked unloading the truck into the boat, and from the boat into canoes, from the canoes on to the beach and the beach to the site. When we reached Jaguanum, it was already dark, and the women and children came down with kerosene torches and helped cart the bricks. It was an amazing day—lots of hard work, but done with wonderful spirit. Following this came the delay from the mayor, and everyone, including us began to wonder if this would end up being another pile of unused materials, a common situation in an undeveloped country.

When the bricklayer finally came, we had to go around drumming up interest again. It was only 3 weeks, but we had had cooperation and a schedule which was broken by the delay. Now things seem to be going smoothly, the walls are almost completed and next week we will be ready for a carpenter to begin the roof.

The owner of the property we are using, gave us the land and asked that the school be named for her husband. The mayor came to visit the site the week that Bobby Kennedy was killed, and he suggested that we name the classroom for him. We have no say in the naming of the school, but the naming of the classroom is for your students. We would appreciate a decision on their part.

We are very proud to be the on-the-spot agents for Arcturus Junior High's real and tangible contribution to the developments of Brasil as a whole, and to the children of Jaguanum in particular. We anxiously await word from you and hope that we may in some way facilitate communications between Americans and Brasilians.

Best wishes for a properous school year.

Sincerely,

CHRIS DREYFUS.

Since both the principal of Arcturus and I have not been in the school system for this entire school year, we have lost contact with some of the followup information which the school was provided. My intent in providing this information is to make many schools aware of what can be done with the proper concern and effort by a group of students who, with dedication and purpose, can bring about miracles in more remote areas of the world. Indeed, 3 years later the Denali School in Fairbanks did even better by providing the sum of $1,150 to build a "partner school" in Togo.

The school partnership program certainly deserves the support of schools throughout the country, and it is my purpose to keep the schools of Alaska informed of what can be done when a unified effort is made toward a great goal. Of course, the students at Arcturus Junior High School at Fort Richardson, Alaska, are the real heroes of this project, for it was they who kindled the idea, perfected the goal, exerted the effort, and performed the miracle of this small, but important, effort in responsible world partnership.

LITHUANIAN INDEPENDENCE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. ASPIN. Mr. Speaker, today we are celebrating the 54th anniversary of the establishment of the Republic of Lithuania and the 721st anniversay of the formation of the Lithuanian state, events which should cause us to reflect on the many contributions made by Americans of Lithuanian descent. I think, too, that we should reflect on the aspirations of the Lithuanian people for their freedom, which have been so long and tragically ignored by the Soviet Union.

I am proud that my constituents include a number of citizens of Lithuanian background, and I am pleased to join in commemorating this important event.

ALL THE NEWS THAT'S FIT TO PRINT

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. WYMAN. Mr. Speaker, the motto of the New York Times implies a degree of selectivity, understandably so in this age of communications. But as is pointed out in the following article by Richard Wilson, selectivity can be carried to the point of interfering with the public's understanding of the great issues facing this Nation today.

For a newspaper which has gone to great lengths to report America's involvement in Southeast Asia as completely as possible, including unlawful and probably criminal publication of classified material, it would seem that a formal response from Hanoi giving its terms for a peace settlement and the release of American prisoners of war would be news fit to print. Publication of the North Vietnamese response would have clearly shown Hanoi's intrasigence at a time when there was speculation over a possible moderation of their position. Withholding publication denied the public the opportunity to adequately evaluate North Vietnamese policy.

The article follows:

PERPETUATING THE DECEPTION ON THE POW ISSUE

(By Richard Wilson)

A cruel deception is being perpetuated by heedless men that all President Nixon need do to secure the release of prisoners of war held in North Vietnam is to declare a specific date for complete withdrawal of all American forces.

The depth of this deception is emphasized in a response to questions submitted to the Hanoi government by the New York Times which the newspaper decided not to publish. The reasons leading to this decision are curious.

On Page 10 of its Friday edition under a headline saying "Hanoi's Cable to Times Cites Peace Aim," the Times gave this main reason for not publishing Hanoi's response to the questions submitted by its managing editor:

The response was no different than previous positions stated at the Paris peace negotiations by Hanoi's representatives and published at the time in the Times.

This excuse for not publishing Hanoi's response can be questioned for several reasons. First, the cable was an official statement direct from Hanoi and not filtered through the North Vietnamese delegation in Paris. Second, the Times, in an interview earlier with the head of the Communist delegation, had spread the impression that releasing prisoners of war could be separated from other issues at the Paris conference.

And, third, the Hanoi response might have helped to clear the minds of those who cultivate the deception that the prisoner of war question can be separated from North Vietnam's insistence that all troops must be withdrawn, all support to the Thieu government be withdrawn and the policy of Vietnamization be abandoned. The Times has often published, and makes a special point of publishing, important public documents. It confined itself in this case to publishing merely a summary of the exclusive statement it received from Hanoi, and did not relate this response to the questions it had asked except to say that none had been answered directly.

Nor, it was indicated, would the Times have done this much had it not been for the fact that the foreign broadcast information service of the Central Intelligence Agency had published in its weekly report the substance of the exchange in its regular function of monitoring Hanoi's public communications. The exchange between Hanoi and the Times managing editor thus became known to reporters covering the State Department.

Furthermore, a good many readers would conclude that the Hanoi response confirmed beyond any shadow of doubt the Nixon administration's claim that North Vietnam has flatly turned down a prisoner release in exchange for a firm withdrawal date. Sen. George McGovern, a candidate for president, has, in effect, called Nixon a liar for making that claim.

Aside from revealing the hazards of a newspaper trying to conduct, or at least influence, foreign affairs, the incident of this unpublished document from Hanoi nails down hard what the Communist government will settle for. It will settle for the humiliation of the United States, complete renunciation of the Thieu government, and an end to all support for the elected government of South Vietnam. Then—maybe—it will release American prisoners of war.

The Times could have placed these facts in high relief by publishing its questions and Hanoi's cabled response, but it did not do so.

McGovern, and more recently Sen. Mike Mansfield, persist in the notion that it is all simple. Just announce a complete withdrawal and Hanoi will interpret that as letting the Thieu government go down the drain and promptly release the prisoners. The war will then be over.

Hanoi's cable makes it a lot clearer: President Nixon must pull totally out of Vietnam, stop backing the Nguyen Van Thieu bellicose clique and conform to all seven points of Hanoi's peace proposal, which would accomplish the complete humiliation of Nixon in his attempt to achieve a constructive end to the war.

Nixon tried, in his recent television interview, to open the door a little wider by intimating that the last troops would be withdrawn when the prisoners had been released, or concurrently. That little crack in the door might have widened to permit a view of compromises on both Hanoi's unaltered seven points and Nixon's commitment to Vietnamization and to the Thieu government.

But the door was slammed shut by Hanoi with a resounding whack loud enough, certainly, to be heard by all who pursue the simplification of prisoner repatriation in exchange for setting a final and total withdrawal date.

BLACK HISTORIAN IS SHOOTING DOWN MYTHS

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mrs. GRASSO. Mr. Speaker, the contributions of black Americans have given substance and strength to our Nation's heritage. As we celebrate National Negro History Week, the foresight of Carter G. Woodson, the ex-coal miner and schoolteacher who initiated Negro History Week in 1926, has been proven through our growing recognition of the achievements of black men and women throughout history.

It is a great source of pride and pleasure to cite the scholarly accomplishments of a Connecticut man who has dedicated his life to the study of his people. Dr. John Rogers, consultant to the black studies program at the University of Hartford, is a self-educated black historian and lecturer. For 30 years Dr. Rogers studied and traveled throughout the world, while employed as a postal clerk and later a postmaster in West Hartford. He has added new knowledge and insight to the compendium of data which has made him outstanding among our scholars.

Now retired from the postal service, Dr. Rogers spends most of his time teaching, writing, lecturing, and consulting on his first love—black history. His reputation as an authority on black history has grown beyond his native State. I heartily applaud his commitment and the gifts he has given to us.

This semester Dr. Rogers is teaching a course at the University of Hartford on the history of slavery. For the interest of my colleagues, an article which appeared in a recent issue of the Catholic Transcript about Dr. Rogers and his views on the slavery issue follows:

BLACK HISTORIAN IS SHOOTING DOWN MYTHS

(By Joan M. Piergrossi)

A poster with a black and a white hand clasped tightly together was framed prominently on the wall behind him as Dr. John Rogers, black historian and lecturer, spoke about slavery and its effects on his people.

"There are many misconceptions about the whole institution of slavery and they account for some of the factors in racial attitudes nowadays," the self-educated scholar said in an interview in his office at the University of Hartford.

Dr. Rogers will be teaching a new course at the university during the spring semester. Part of the black studies program introduced this fall, it is called "Special Issues in Black Experience: History of Slavery in the Western World."

It will examine slavery from America's colonial days to its end during the Civil War.

According to Dr. Rogers, the new course will attempt to "disclose the origins of the fears that contribute to yesterday's and today's prejudices and racial tensions. It will explore old myths and restore some important omissions."

A studious man who has read innumerable texts on black history, Dr. Rogers went through the Hartford school system and worked for many years as a postal clerk in Hartford. He was postmaster of the Bishop's Corner, West Hartford, post office until 1968.

After he retired, he was asked by the State Board of Education to help with the formation of black studies programs in area school systems. He accepted with enthusiasm and until this past June served as an adviser with the Capitol Region Education Council.

Dr. Rogers' reputation as an authority on black history grew as a result of his many lectures to clubs and organizations during the 30 years he has devoted to this study. He has traveled extensively throughout Europe and Africa to observe the black situation on those continents first-hand.

Holder of an honorary degree of Doctor of Humane Letters from the University of Hartford, Dr. Rogers came to the university this past fall as a consultant to the black studies program. He also teaches a course at Greater Hartford Community College.

AUTHOR

The busy student of black history and culture and father of five grown children will soon have a book entitled *The Negro in Connecticut* published.

His smile barely concealing the deep concern in his eyes, Dr. Rogers believes that "black history should be used to lift both black and white men up, because both groups have so many misconceptions about one another."

A course such as the one he will teach "is so very important because most of our knowledge of slavery has come from movies and comic strips. These have formed American preconceptions."

"Americans," he continued, leaning over to speak in a hushed tone of voice, "are used to viewing African blacks as savages. Many feel that they actually helped the black by bringing him away from the ignorance and barbarism of Africa to the enlightened Christianity of America. But, the truth of the matter is that Christianity was prevalent in Africa all along."

The cheerful teacher added that he would also attempt to compare American slavery from the English viewpoint, both in the northern and southern United States, with French and Spanish slavery in Louisiana, in relation to European slave backgrounds.

COMPLICATED

"Many people think of slavery only in terms of the United States," Dr. Rogers pointed out, pulling thoughtfully on his tufted white beard, "but actually the whole concept of slavery is much more complicated than that."

The first slaves to come to this country, the affable historian said, were Spanish blacks who arrived in Jamestown in 1619. A dual system of servitude evolved in the New World, he said, with an indenture system for white men and slavery for the black man.

The white immigrants who were indentured, Dr. Rogers explained, committed themselves to work for a given length of time for an employer in the new colony. The slaves, however, bound in most cases to lifelong servitude.

"The white indentured men came to feel that the black slaves were hurting them economically. By the 1800's blacks were being trained to take over industries in the South," he said.

"The white immigrants did not want the slaves freed, however," he continued. "If they could threaten them as slaves what would they do as free men?"

FAMILY

Slavery itself, Dr. Rogers maintained is "rooted in an economic struggle. And its worst aspect was the destruction of the family."

The hardest years for blacks were not, in fact, the time of slavery, he stressed, but the years from 1890–1920 when the effects of emancipation were the greatest.

He does not think "philosophies of fear" expounded by black militant groups are worthwhile.

"We are not going to help ourselves by generating fear. We must produce blacks with qualifications to dispel fear. People need education on both sides," he said.

He believes that if the force behind the militant movement can be put into constructive channels, "then blacks and whites will come closer together."

Dr. Rogers would like to see "a little less fear on the part of the power structure and more emphasis on helping, not exploiting" blacks in a community such as Hartford.

"We can't build a city and exploit its people at the same time," he believes. "We must get the black man ready to move up and then judge him on his merit.

"Unfortunately, in the past there have been reactions against letting blacks rise," the Hartford historian pointed out, "but hopefully in the future all men will be able to rise to the heights of their ability."

PRESIDENT PLANS TO LIMIT CLEAR CUTTING IN NATIONAL FORESTS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. DINGELL. Mr. Speaker, the Nixon administration talks a good game of environmental quality but when it comes down to calling the signals the quarterback all too often changes the game plan after receiving instructions from the sidelines.

A case in point is the administration's program for managing our national forests.

The New York Times of January 11, 1972, carried a news item under the headline "President Plans To Limit Clear Cutting in National Forests; Timber Men Are Disturbed."

Yes, the timber men were disturbed and their instructions were obeyed. This fact was documented in another New York Times news item which appeared in its January 14, 1972, edition under the double headline: "Limit on Cutting Timber Dropped," "Nixon's Aides Switch After Opposition by Industry."

In an editorial under the heading "A Too Clear-Cut Decision," the New York Times on January 18, 1972, gives an indication of where the Nixon signals are coming from insofar as timbering practices are concerned.

Lest it be charged that the New York Times is alone in its concern about this latest sellout on the part of the Nixon administration, I note that the Washington Evening Star of February 3, 1972, also commented on the White House decision in an editorial under the heading "Clear-Cut Cave-In."

So that my colleagues may be aware of the administration's game plan with regard to our national forest resources, I insert the text of each of the news items and editorial cited above at this point in the CONGRESSIONAL RECORD:

[From the New York Times, Jan. 11, 1972]

PRESIDENT PLANS TO LIMIT CLEAR-CUTTING IN NATIONAL FORESTS; TIMBER MEN ARE DISTURBED

(By E. W. Kenworthy)

WASHINGTON, January 10.—The White House is planning to issue an Executive order limiting clear-cutting—the wholesale cutting of trees in the national forests.

The timber industry is so concerned about the prospective order that representatives of the National Forest Products Association protested against its projected issuance at a meeting today with high Administration officials. The meeting was held in the office of the Secretary of Agriculture.

The proposed Executive order reportedly would apply about 10 criteria to the practice of clear-cutting and the chief objection of the industry spokesmen was one that would take into consideration the effects on "areas of great natural beauty."

One industry representative suggested later in an interview that the industry thought Mr. Nixon would be acting against his interests to issue such an order in an election year.

Clear-cutting is the practice of cutting down all trees, regardless of kind and age, in an area ranging from a few acres to several square miles so as to make space for the regeneration of timber stands, particularly those preferred for lumber.

The practice is defended by the timber industry and many foresters as efficient management of resources. It is condemned by some foresters and most conservationists as wasteful of resources and destructive of the environment.

ORDER WOULD SET CRITERIA

After the meeting today, James R. Turnbull, executive vice president of the National Forests Products Association, said that the proposal for an Executive order limiting clear-cutting and setting criteria for it had originated in the White House Council on Environmental Quality. The council chairman is Russell E. Train.

Mr. Turnbull said in an interview that industry representatives had told Administration officials that such an order would drastically reduce the Forest Service's ability to sell timber from the national forests at a time when those sales are already "seriously impaired."

Mr. Turnbull also said that, in response to questions put by John C. Whitaker, the Presidents' special assistant for environmental affairs, both Secretary of Agriculture Earl L. Butz and Harrison Loesch, Assistant Secretary of the Interior for Public Land Management, agreed that restriction of clear-cutting would adversely affect timber sales from the national forests.

However, Mr. Turnbull said, Mr. Loesch thought the impact would not be so great as the industry feared. The Forest Service operates under the Secretary of Agriculture.

Other officials at the meeting were Mr. Train; Alvin Alm, economist for the Council on Environmental Quality; Edward P. Cliff, chief of the Forest Service, and John R. McGuire, his deputy.

Having laid the industry's case before these officials Mr. Turnbull said:

"We are going to try our best to get to the President's advisers to put out that if our projections are right, we face another lumber-plywood, price and supply crunch when the peak building season starts this spring.

"Since housing and construction are still expected to carry the economy to higher levels in an election year, this is not necessarily the best tactics."

Mr. Turnbull said that at today's meeting Mr. Train and Mr. Whitaker insisted that the order, as now drafted, "only reaffirmed existing management policies which the Forest Service was supposed to be following anyway."

INDUSTRY DUBIOUS

But Mr. Turnbull said that the industry was inclined to be dubious about his reassurance since "the order is drafted in the context of correcting abuses."

As drafted, he said, the planned order sets "about 10 criteria that have to be followed before a sale of timber to be harvested by clear-cutting can be made by the Forest Service" and bans such clear-cutting along the shores of lakes and streams.

Among the criteria, Mr. Turnbull said, are soil conditions, the kind of roads that would have to be built, the impact of the cutting and road construction on sedimentary pollution of streams and lakes, and the effect on "areas of great natural beauty."

"The dangerous one," Mr. Turnbull said, "is the subjective judgment in the natural beauty area, because if this is published as a Presidential Executive order, we visualize that that one element alone is an open invitation to litigation, protests and related activities which would serve to handcuff the Forest Service."

He added, "Personally, I think that all national forests are beautiful and I suspect there are a lot of people in my shoes."

McGee Bill Cited

Mr. Turnbull said he thought one factor behind the proposed order, was a bill offered by Senator Gale W. McGee, Democrat of Wyoming, to impose a two-year moratorium on clear-cutting.

As a prelude to drafting an order, Mr. Turnbull said, the Council on Environmental Quality had named the deans of five schools of forestry to conduct a study and make recommendations.

The deans are Charles W. Ralston of Duke; Wilber W. Ward of Penn State; Robert E. Dils of Colorado State; James S. Bethel of the University of Washington, and Lee M. James of Michigan State.

The National Forest Products Association, Mr. Turnbull said, has never been able to obtain the deans' reports although it had asked for it.

He said that at the meeting today he told Mr. Train that "it was our understanding that the reports were unanimously favorable [to clear-cutting] and regarded it as one of the most valuable practices to maintain vitality and productivity of the resource."

ASSURANCE REPORTED

Mr. Turnbull said that representatives of the Council on Environmental Quality, when pressed, acknowledged today that the report had been shown to representatives of the Sierra Club, a leading conservationist group, and then assured Mr. Turnbull that he would also be permitted to see it.

Mr. Turnbull said that, with the fiscal year half over, the Forest Service had put up for sale only 25 per cent of the allowable cut on the national forests for fiscal 1972. The service, he said, believes that by the end of the fiscal year next June 30 it will have sold half the allowable cut, but the industry doubts it.

The sales program is lagging, Mr. Turnbull said, because of litigation by environmental groups, protests by these groups—or by individual citizens—that had to be dealt with in slow administrative proceedings, and a 10 per cent reduction in requested Forest Service personnel as a result of the President's economy program.

According to the American Plywood Association, the contemplated order would reduce timber cutting by 50 per cent in Oregon and Washington.

[From the New York Times, Jan. 14, 1972]

Limit on Cutting Timber Dropped; Nixon's Aides Switch After Opposition by Industry

(By E. W. Kenworthy)

Washington, January 13.—The Nixon Administration has jettisoned its plan to issue an Executive order restricting "clear-cutting"—the wholesale cutting of trees—in Federal forests, a White House officials said today.

William Lake, an official on the White House Council on Environmental Quality, said that the decision against issuing a Presidential order was reached jointly in the last 24 hours by Russell E. Train, chairman of the Council, the Secretary of Agriculture, Earl L. Butz, and the Secretary of the Interior, Rogers C. B. Morton.

The plan for a Presidential order that would set a firm policy on the practice of clear-cutting and also establish criteria for it had originated in the environmental council and had the solid backing of Mr. Train.

Environmental organizations were dubious that the order would ever be published because of the campaign that the timber industry was mounting against it.

When the timber industry learned a week ago that the order was in the draft stage, it vigorously protested, first to Edward P. Cliff, chief of the Forest Service, last weekend, and then last Monday to Secretary Butz, Mr. Train and White House officials in a meeting in Mr. Butz' office.

Clear-cutting is the practice of cutting down all trees, regardless of age or kind, in an area ranging from a few acres to many hundreds of acres.

The timber industry defends the practice as the most efficient management of timber resources, particularly of Western softwoods. It contends that these trees will not regenerate without open spaces that the sun can reach, and that clear-cutting results in even-age replacement stands that produce more lumber.

Conservation organizations have long attacked the practice as wasteful of resources and damaging to the environment, particularly on steep slopes and along river banks. They contend that with proper selective cutting of older trees, the forest will regenerate and the environment will be protected.

The news that the Administration was planning to issue a Presidential order restricting clear-cutting had been welcomed by the conservation organizations, although some of their leaders predicted that the Administration would pull back under the mounting pressure from the industry.

Last Monday in an interview, James R. Turnbull, executive vice president of the National Forest Products Association, said that at the meeting in Mr. Butz's office, Mr. Train and John C. Whitaker, White House assistant on environmental affairs, had tried to reassure the industry by saying that the order would simply reaffirm at the highest level the management policies the Forest Service was supposed to be following when it negotiated a sale of timber on Federal lands.

Mr. Turnbull said that industry representatives had not been persuaded by this argument because the order was drafted in the context of correcting abuses in clear-cutting.

[From the New York Times, Jan. 18, 1972]

A Too Clear-Cut Decision

A laudable effort by the Council on Environmental Quality to curb clear-cutting in the national forests has suffered an embarrassingly quick death. Three days after it became known that the C.E.Q. had proposed an Executive order laying down certain limitations on the practice of clear-cutting, that agency itself was obliged to announce that the proposal had been dropped.

Led by the National Forest Products Association, the lumber industry had evidently driven home a point made by one of its lobby top officials. Further limitations on clear-cutting, he suggested, would force a "price and supply crunch" in the spring building season. With construction "expected to carry the economy to higher levels in an election year, this is not necessarily the best tactics."

The veiled threat and the general uproar over the proposed order served to obscure its import. This practice of chopping down all trees in a given area, regardless of age or species, is in some circumstances a sound method of harvesting and scientifically preferable to selective cutting, as the C.E.Q. and conservation groups readily concede. But at least as often, it is shortsighted, crassly commercial and devastating to the environment.

In recent years clear-cutting has made alarming inroads where it ought never to have been allowed, and the Forest Service seems unable to arrest abuse of the practice which, with its approval, has spread so widely and dangerously. Among the results are hideously denuded mountainsides in Montana's Bitteroot National Forest, similar defacement of West Virginia's Monongahela National Forest and in these and other timber areas across the country disrupted drainage systems, serious erosion and the siltation of streams.

In its own executive reorganization plan the Nixon Administration appears to concede the necessity for some changes in forest management, perhaps in feeble response to the stinging reproach of Representative Dingell of Michigan that "the Forest Service is a wholly-owned subsidiary of the timber industry."

Apart from a flat ban on the practice along the shores of lakes and streams the C.E.Q. would have made sanction for this type of harvesting expressly dependent on soil conditions, the appropriate type of logging roads, the extent of sedimentary pollution it would cause in nearby waters and the effect it might have on "areas of great natural beauty."

Theoretically, such criteria have existed right along, but they have been sporadically applied at best. If President Nixon wanted the kind of compliance that the C.E.Q., on expert evidence, thinks necessary, he had only to sign the Executive order it proposed. Its swift extinction, instead, suggests that the logging industry was more persuasive with the President than his own environmental advisers.

[From the Washington Star, Feb. 3, 1972]

Clear-Cut Cave-In

Let us all hope that the latest White House decision on clear-cutting U.S. forest lands does not truly represent the administration's courage under fire in the arena of environmental protection. Otherwise, the nation is in for a bad time.

The issue is one that has been building up for years. The timber industry has found that it can maximize production and profits through clear-cutting, which means cutting down all the trees in an area rather than selectively cutting only the trees that have matured. Gradually, the U.S. Forest Service has acceded to the practice. And it continues to lean toward industry's position despite the accumulation of public protest and plenty of evidence of abuse—widespread devastation of forest land with consequent bad effects on wildlife, soil stability and scenery.

The President's Council on Environmental Quality had drafted a set of restraints in the form of an executive order it hoped President Nixon would include in his 1972 environment message. But the timber industry's lobbyists reacted quickly. After meeting with CEQ Chairman Train, Agriculture Secretary Butz (the Forest Service is part of Agriculture), and Interior Secretary Morton, they got their way. The executive order was shelved.

Although the administration now is arguing that Agriculture and Interior have adequate safeguards coming along, what happened seems fairly clear. The administration caved in primarily because of the political influence the timber companies can bring to bear in the states of the Far West. This is, if nothing else, a very political year.

In saying all this, we do not put ourselves on the side of the wilderness purists who would lock the forest industry out of the public forests. Logging these forests is essential if the nation's needs for wood products, largely in the home building industry, are to be met. Moreover, in some kinds of forests, notably the Douglas fir, there is even a case to be made for judicious clear-cutting.

At the same time, the timber industry's constant cry of timber famine would go down a lot better if it did not also insist on exporting its products or if it had not compiled such a dreary record of mismanagement in so many public and private forests, down through the years.

The public forests are there for use, including commercial use, but only at a level that will never result in their being used up. The Forest Service, and eventually the White House, bear the burden of protecting those lands for the benefit of all Americans. At this point, it appears they could use more backbone.

GLAMORIZING MILITANTS IS INTERNATIONAL PRESS SPORT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. DERWINSKI. Mr. Speaker, one of the most timely, and certainly objective, commentaries on the distortion that so often prevails in international press coverage was carried in the Star-Tribune of Thursday, February 10.

Keeping in mind that news concerning America is automatically the subject of worldwide interest, this article is certainly a sound analysis of media coverage.

The article follows:

Glamorizing Militants Is International Press Sport

The American press and television have been guilty of glamorizing militant radicals so often involved in action these days because many newsmen, trained to scent for action like hounds, have fallen for the many confrontations, gimmicks and publicity stagings as news.

The result has been to build a following for some radical militants and to give the false impression that the country is almost overrun with them. The truth is that they make up a small and declining segment of the population. Unfortunately, the gullible, impressionable and ignorant often don't know this.

Since 1968, when the war in Viet Nam was fanning the flames of dissension, when militants, revolutionaries and a few Communists were leading student riots on various college campuses and when whole sections of the nation's largest cities were being burned down, the situation has greatly improved. But, we tend to forget that, because there are always enough protestors or militants to make headlines in one way or another.

One side affect of the press coverage of militants in the United States media is the coverage the United States is receiving in some foreign countries. An article in TV guide magazine this week reports, that Swedish television has the strongest anti-American programming in Europe outside the Iron Curtain.

The United States is depicted as "an evil place run by evil men with evil intent," said Lars Winburg, a Swedish business man who occasionally visits America. "News from America, bad enough usually in its original form, is edited to make it appear worse," writes Editor Merrill Panitt, who recently surveyed TV news in five European countries.

"Thus, film footage on the Selma, Ala., march was edited to show only blacks walking and whites jeering from the sidelines. There were no pictures of the whites who joined in the march. In coverage of our last national election, only anti-Administration candidates were interviewed," Panitt writes.

Most Swedes are under the impression from television that the Black Panthers are the most dominant representatives of the blacks in the U.S. Ralph Abernathy, head of the Southern Christian Leadership Conference was called an "Uncle Tom" when he arrived. The death of Whitney Young, head of the Urban League, went almost unnoticed on Swedish TV.

We're not too sure that Swedes visiting this country wouldn't get the same impressions from viewing American television. The press and television in this country must soberly assess their role and responsibility in glamorizing militants, revolutionaries and those set against democratic law and order processes in this republic. The national and international interests, and the interests of the news media themselves, call for a more rational approach to this continuing problem.

SUPPORT GROWING FOR CREATION OF EMERGENCY MEDICAL SERVICES ADMINISTRATION

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. MOLLOHAN. Mr. Speaker, since my colleague, the Honorable Howard W. Robison, and I introduced H.R. 12787, the Emergency Medical Services Act, on January 31, support has been growing for a Federal effort to save the lives of thousands of highway and accident victims by upgrading the quality of ambulance and hospital emergency room care.

We will be reintroducing this legislation on February 24, and so far we have over 20 cosponsors, as well as the valuable assistance of Senator George McGovern, who will be sponsoring the legislation in the Senate.

Senator McGovern has done considerable research in this field and I would like to submit for the Record his recent comment on emergency medical care and his position paper on this matter. I would also like to include two newspaper articles, one showing how an advanced ambulance service can save the lives of heart attack patients, and the other showing how my hometown of Fairmont and its Junior League have rallied to the support of a volunteer rescue squad that, I am confident, will soon be filling the vacuum in emergency health care with quality service.

Senator George McGovern called today for a substantial reorganization of the Federal effort to achieve adequate emergency health care for all American citizens.

At a press conference in Boston, McGovern deplored the shockingly inadequate emergency health care facilities in every part of the country. "The problem," said McGovern, "is largely one of inattention, mismanagement, and, too frequently, simple neglect. The Federal Government has been almost totally wholly ineffective in confronting the emergency medical services program."

McGovern said that less than 10 percent of ambulances are equipped to administer oxygen; less than 15 percent are equipped with splints; only 1 percent can administer intravenous fluids; less than 2 percent can communicate directly with hospitals; and less than 5 percent of ambulance attendants are adequately trained.

Senator McGovern proposed the following seven-part program which could save as many as 100,000 lives per year:

First. All ambulance attendants should be trained up to the minimal standard set by the National Academy of Science.

Second. The Federal Government should supply matching funds to assure that the entire population has access to emergency vehicles designed according to Federal standards.

Third. The Federal Government should set up a minimum of five complete area-wide demonstration systems in different settings and in different areas of the country.

Fourth. Federal funds should be available through the National Institutes of Health to support residencies in emergency medicine in medical centers.

Fifth. Community health facilities should be expanded through the release of at least 1,500 civil defense prepackaged health units and through recruitment of personnel, including paramedical manpower trained in Vietnam.

Sixth. The nationwide implementation of "911" as the uniform emergency telephone number.

Seventh. The posting of clearly frequent and clearly visible signs on all major roads, identifying distance and direction to nearest emergency facility.

The cost of this program can be accomplished at maximum Federal outlays of $200 to $300 million per year and almost entirely through the use of existing techniques and technology long since developed.

A complete copy of Senator McGovern's program is attached.

Emergency Medical Services—Proposal by Senator George McGovern, February 9, 1972

Among people under 38 years of age in the United States, more people die from accidents than from any other cause.

Accidents cause a greater loss in productive man-days than heart disease, cancer or stroke. They cause more bed-days of hospitalization than heart disease, and more than four times as many as cancer. And they cause upwards of 100,000 deaths each year.

Many of those lives could be saved.

The leading cause of death for people over 40 is the heart attack. Again, many of those deaths are needless.

One of the essential elements of a prudent program to treat these major killers is virtually ignored. Emergency medical services remain the forgotten step-child of both medicine and government.

Victims of accidents and heart attacks are not, of course, the only ones who need effective emergency care. Persons suffering respiratory distress, burns, and other acute illnesses need prompt first aid, rapid transportation to a hospital, and good care in an emergency room in order to save their lives, reduce their suffering, or limit their disability.

But most Americans do not have those emergency services. Many rural areas are hundreds of miles from the nearest ambulance or doctor and really have no emergency services at all. Major problems persist even in the big cities. The capabilities of hospital emergency rooms are usually unknown, so that critically ill patients may be brought to hospitals not equipped to handle them. Virtually all emergency rooms are overcrowded with non-emergency patients. Ambulances are often poorly designed, and their crews inadequately trained.

Less than 10 percent of ambulances nationwide are equipped to administer oxygen. Less than 15 percent are equipped with splints that are necessary to safely move patients with broken backs and some other injuries. Only one percent can administer intravenous fluids needed to treat shock. Fewer than 2 percent can communicate directly with hospital emergency rooms. And less than 5 percent of ambulance attendants are properly trained.

Yet it has been estimated that emergency vehicles with the necessary equipment could prevent as many as 60,000 deaths each year from cardiac arrests and other cardio-pulmonary afflictions. At least 10 percent of accident victims could be saved, and effects of non-fatal injuries and attacks could be sharply reduced as well.

There is no significant technological barrier to better emergency care. An official of the American College of Surgeons has estimated that if the knowledge available now were applied to proper treatment and transportation of accident victims, "more lives could be saved than in any other area of medicine."

Nor is the problem one of costs. Compared to other major health problems, emergency services can be made available at relatively low expense, for remarkably high returns in saved lives and improved health among the American people.

Instead the problem is largely one of inattention, mismanagement and, too frequently, simple neglect.

The federal government has been almost wholly ineffective in confronting the emergency medical services problem. A 1968 report by the Secretary of Health, Education and Welfare's Advisory Committee on Traffic Safety recommended that DHEW should work together with the Department of Transportation "to establish prototypical model emergency medical response systems in selected cities and counties throughout the Nation." But three years have passed, and this work is not even underway.

What little work is done by the Department of Health, Education and Welfare is scattered among the many programs of its Health Services and Mental Health Administration. But there is no focus, no coherent plan, and little money in the effort.

The one bright spot in the federal establishment has been the National Highway Traffic Safety Administration of the Department of Transportation. It has been actively trying to administer the Highway Safety Act of 1966, which requires each state to plan and implement a statewide emergency services system. But, again, NHTSA has been hampered by a small staff, by inadequate funding, and by a lack of cooperation from the states.

Only a handful of states are actively and effectively implementing the Highway Safety Act standard, and a number of plans, due at the end of 1968, still have not been filed. Statewide or regional coordination is essential, since localities are generally too small to be self-sufficient. And the Highway Safety Act applies only to transportation and communications systems, exempting emergency rooms where a major part of the problem exists.

RECOMMENDED PROGRAM

A realistic effort to fill current gaps in emergency health care must begin with a firm federal decision to establish a network of emergency medical systems throughout the country, to assure that every citizen has access to adequate services when needed.

Services must be organized and coordinated on an area-wide basis. Rapid communications should be available between the public and the system and between emergency rooms and vehicles. Vehicles should be designed and equipped for treatment as well as transportation, which means that they should have vertical height sufficient for intravenous injections and for an attendant to work standing up, and that they should carry basic equipment required to treat trauma, shock and other most frequent emergency conditions. Special vehicles, including helicopters, should be available to reach remote areas. In hospitals, non-emergency patients should be diverted from emergency rooms to avoid unnecessary clogging of the system.

Achievement of these goals will require a substantial reorganization of the federal effort. The focus should be placed in the Comprehensive Planning Agencies created under the Partnership for Health Act. Those agencies are now mostly operational and so far they cover about 80 percent of the population. The size of the areas under those agencies is usually most appropriate for a workable emergency system, and this approach assures that emergency care will be considered as a part of the total health delivery system.

Each of these area-wide agencies should be given a clearly defined mandate to develop an emergency medical services system for its area. But beyond that, they must be given the authortiy to see that the plans are implemented once developed. All federal funding which bears on emergency services should be channeled through the regional agencies on a "one door" funding basis, both to avoid the existing long and complex multiple review process which large projects must now follow and to permit use of funds as a firm incentive to implement adequate emergency programs.

In the context of this reorganization and consolidation of the Federal effort, the following steps should be initiated immediately:

1. All ambulance attendants should be trained up to the minimal 80-hour emergency medical technician course recommended by the National Academy of Sciences. The total cost, to be borne by the federal government, would be about $36 million a year for a two-year period.

2. The federal government should supply matching funds to the extent required to assure that the entire population has access to adequate emergency vehicles, designed according to clear federal standards.

3. The federal government should set up a minimum of five complete area-wide demonstration systems in different settings (urban and rural) and in different parts of the country. Along with the provision of emergency services, these systems would be designed to collect data and to evaluate new techniques, and their experience would be used as guidance to area-wide agencies covering the remainder of the country.

4. Federal funds should be available through the National Institute of Health to support residencies in emergency medicine in medical centers, to produce better qualified physicians to staff emergency rooms.

5. Community health facilities should be expanded through release of at least 1500 of the prepackaged health units now in storage under the civil defense program, and through recruitment of personnel, including paramedical manpower trained for Vietnam. While meeting urgent community health needs, this step would also alleviate overcrowding of emergency rooms in hospitals and clinics by giving non-emergency patients a practical alternative.

6. Through a combination of FCC regulation and federal financial incentives, the nationwide implementation of "911" as the uniform emergency number should be made mandatory within two years, for all telephone systems.

7. The highway safety program should incorporate the posting of frequent and clearly visible signs along all major roads identifying the direction and distance to the nearest emergency facility.

[From the Parkersburg (W. Va.) Sentinel, Nov. 25, 1971]

IT'S A RAPID RESPONSE SYSTEM—"MEDIC 1" COMBAT HEART CRISIS

(By Eldon Barrett)

SEATTLE.—Approximately 70 per cent of the more than 600,000 persons who die of coronary heart disease in the United States never reach the hospital. In Seattle something is being done to alleviate that situation. It is called Medic 1.

Medic 1 is a rapid response mobile intensive coronary care system, coupled with a public awareness of the importance of directly contacting help without delay in the event of a heart attack.

The pre-hospital coronary care system was initiated in Seattle in June, 1969, by Dr. Leonard A. Cobb, a cardiologist, and Fire Chief Gordon F. Vickery. The concept was first introduced in the Soviet Union about 10 years ago.

Funds from the Washington-Alaska regional medical program, the Washington State Heart Association and the State Department of Health help finance the Medic 1 program.

The Seattle Fire Department with 10 first aid cars was used as a base and supplemented with paramedical training of firemen adding a hospital-based intensive coronary care unit.

Records for the first year of Medic 1 show that 44 lives were saved. Ventricular fibrillation—the uncoordinated fluttering of individual muscle fibers in the heart, resulting in the loss of an effective heartbeat—was found in 225 patients. Seventy-six of those were resucitated with 31 of them subsequently being discharged from hospitals, none with evidence of severe brain damage.

All of the 14 Seattle hospital coronary care units participate in the Medic 1 program and have cooperated in eliminating two other areas of major delay: the emergency room and the admitting office. Resuscitated patients are admitted directly to the hospital's coronary care unit upon arrival. The availability of a bed is confirmed in advance. However the main delay usually is at the start.

"Immediate and proper resuscitative measures can mean the difference between life and death, but studies have shown that the major delay in receiving proper emergency care is between the time the patient developed symptoms and when he decided to do something about it," said Dr. Werner Samson, Seattle cardiologist.

"The first few minutes are critical and while our aid cars are so located as to reach a patient within two to five minutes after dispatch, it is absolutely essential that there be a minimum of delay in calling for emergency care whether by the patient, a physician or another person.

Samson said that studies show that nearly 30 per cent of those who die from coronary heart disease had seen their physician within one week prior to death, and, consequently, probably were aware that something was wrong.

The firemen who run the aid cars undergoes an intensive training course after which they are expected to recognize an acute cardiac emergency and make a reasonable diagnosis.

"The fireman is expected to perform critical examinations as related to the cardiovascular, respiratory and central nervous systems and should be able to begin resuscitation, if appropriate, using accepted techniques," Sampson said.

[From the Fairmont (W. Va.) Times-West Virginian, Feb. 13, 1972]

JUNIOR LEAGUE VOLUNTEERS AID RESCUE SQUAD

Members of the Junior League of Fairmont have been assisting the Marion County Rescue Squad in numerous ways. Assistance has been provided in the areas of telephoning, film scheduling and distribution, typing and publicity. Future volunteer activities of the Junior League will be determined by the needs of the rescue squad.

Members of the Junior League community research committee who initially researched the project in the fall of 1971 include Mrs.

James Hales, chairman; Mrs. Peale Davidson, Mrs. Harry A. Dodge, Mrs. Gary Morgan, and Mrs. Charles Sinsel with the assistance of Mrs. Paul E. Parker Jr., president of the Junior League.

Mrs. Robert Thompson, placement chairman, has helped to set up the Junior League Task Force for the Marion County Rescue Squad which is composed of the members of the community research committee and other league volunteers. The task force concept insures continuity of effort through the early stages of research and in implementing the project and seeing it through to a conclusion.

Other Junior League volunteers involved in the project are Mrs. Thomas Eddy, Mrs. Robert Phipps, Mrs. David Brown, Mrs. Ronald Cook, Mrs. John Turner, Miss Jean Lambert, Mrs. John Paul Jones, Mrs. Thomas Smell, Mrs. William McLaughlin II, Mrs. David Ridgeway, Mrs. William Hartwig, Mrs. Fred Fox, Mrs. John Coyner, Mrs. Edward C. Jones III, Mrs. Homer C. Bell, Mrs. William Mullett, Mrs. Paul Kidd, Mrs. Charles Lawler, Mrs. W. D. Roberts, and Mrs. George Zundell.

Mrs. Emil Poshadel is the Junior League representative of the Marion County Rescue Squad board and is also the squad treasurer. The Junior League volunteers will function in a support role while the actual rescue squad work will be carried out by the Marion County Rescue Squad volunteers currently undergoing extensive training.

The Junior League contribution of $3,000 to the Marion County Rescue Squad was made possible through the proceeds of the Bargain Counter and the annual charity ball. All money derived from these sources is put into the Community Trust Fund to be used for projects which benefit the community.

TO SAVE A LIFE

'To Save A Life' is the object of the Marion County Rescue Squad and around the clock emergency services will be available to all of Marion County. The size and scope of the project can be put into perspective by noting that Harrison County has six vehicles, and a volunteer corps of more than 200 with an annual operating budget of $35,000. Marion County will initially begin with 100 trained volunteers, a rescue vehicle, for which $10,500 of the needed $12,000 has been raised.

The Rescue Squad will require a yearly operating budget of approximately $20,000. The broad scope of this project encompasses many supporting services such as personnel training, scheduling or volunteers, accounting, soliciting, laundering, and general planning.

The Junior League of Fairmont, recognizing the need for emergency services in the county, is confident that the rescue squad will realize its goal with the continued support of the community.

SESSION SIX

Session six of the Emergency Medical Technician Course conducted by Dr. E. F. Hyde, will discuss bleeding, shock, and practice on airway care, preliminary resuscitation and cardio-pulmonary resuscitation. This session teaches how to recognize and control bleeding using pressure dressings: explains limited use of tourniquet; gives measures to overcome shock, including intravenous fluids; and conducts general discussion and demonstration.

Additional contributors are as follows:

Eleanor Wallace, Interstate Engineers and Constructors, Inc., Phyllis Ayers, Christian Women's Fellowship of the Worthington Christian Church, James A. Ford, George M. Stevens, Pitcher Homemakers, Mrs. Draper L. Gump, Caroline Ola May, Lee Equipment and repair, Bronzel Constructors, E. F. Riggs, Lillain A. Mead.

THE U.S. NAVY

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. HARRINGTON. Mr. Speaker, a fundamental question facing the Congress and the U.S. Military Establishment is "Where Does the Navy Go From Here?" It is particularly important that this question be addressed carefully now because there seems to be underway a massive effort to vastly increase funding for the Navy. Incipient buildup of the U.S. Navy is illustrated by the fact the fiscal 1973 defense budget proposes to increase Navy funding by about $1.5 billion over 1972 while both the Army and the Air Force receive slight decreases. And this at a time also when the costs of the Indochina war may be expected to continue to decline substantially.

Dr. Arnold M. Kuzmack of the Brookings Institution has examined the question "Where Does the Navy Go From Here?" in an article published in the February 1972 Military Review. Dr. Kuzmack, a former Deputy Director of the Naval Forces Division, Office of the Assistant Secretary of Defense—Systems Analysis—states that:

> It is not generally realized, least of all by the Navy itself, but the Navy has been doing fantastically well in the annual competition for the budget dollar.

His analysis leads him to the conclusion that "since the budget for non-Vietnam naval forces increased, in real terms during both the Vietnam war buildup and its winding down, there is no evidence, contrary to popular opinion, that the non-Vietnam portion of the Navy budget was reduced below prewar levels during the war." I should also be pointed out that Dr. Kuzmack's article was written before the fiscal 1973 defense budget was known.

In addition to the $942 million for acceleration of the LMS submarine program, the fiscal 1973 budget contains $299 million as a downpayment on the billion dollar CVAN-70 nuclear aircraft carrier, Dr. Kuzmack devotes the bulk of his paper to an examination of carrier vulnerability and performance. Whether Dr. Kuzmack's analysis and the conclusions that may be drawn from it are correct or not, it should be given thoughtful consideration. It is a valuable contribution to the most necessary debate over U.S. military policy and the role of the Navy in the future. The material follows:

WHERE DOES THE NAVY GO FROM HERE?

(By Arnold M. Kuzmack)

It is not generally realized, least of all by the Navy itself, but the Navy has been doing fantastically well in the annual competition for budget dollars. At a time when the total defense budget has been going down, particularly after allowing for inflation and pay raises, the Navy budget has been increasing.

Let us look at the figures. Consider, first, the period when the Vietnam war was building up to its peak, say, from Fiscal Year 1965 through Fiscal Year 1969. During this period, of course, the defense budget and the budgets of all the services rose substantially. However, when we remove those costs that would not have been incurred without the war (the "incremental cost" of the war) and consider only the non-Vietnam portions of the service budgets, an interesting pattern develops.

Figure 1 shows these calculations, based on official Defense Department estimates of the incremental cost of the war in Vietnam. The figure shows that the Navy's outlays, excluding the Marine Corps, for its non-Vietnam forces increased 36 percent from Fiscal Year 1965 to Fiscal Year 1969, substantially more than the other services and substantially more than inflation and pay raises would account for (which would be about 19 percent). Thus, it is not true that spending for the Navy's non-Vietnam programs was reduced below prewar levels during the Vietnam buildup. In fact, in real terms, it increased about 13 percent.

FIGURE 1.—CHANGES IN NON-VIETNAM OUTLAYS BY SERVICE, FISCAL YEAR 1965-69

[Current dollar amounts in billions]

	Fiscal year 1965	Fiscal year 1969		Percent change, non-Vietnam
		Vietnam	Non-Vietnam	
Army	$11.6	$11.3	$13.8	+19
Navy (excluding Marine Corps)	13.4	4.5	18.0	+34
	(12.3)	(3.1)	(16.7)	(+36)
Air Force	18.2	5.6	20.3	+12
Other	3.0	0.1	4.4	
Total	46.2	21.5	56.5	+22

Looking at the period of "winding down" the war in Vietnam, we find an equally striking pattern. Figure 2 compares the total service budgets for Fiscal Years 1969 and 1972. Since we do not have official estimates of the cost of the war in Fiscal Year 1972, we cannot determine the non-Vietnam portion of the budget as we did for the earlier period. We do know, however, that the Navy has been ahead of the other services in Vietnamizing its operation in Vietnam, so the remaining incremental war costs in the Navy's Fiscal Year 1972 budget are quite small probably less than one billion dollars.

Figure 2 shows that, as the Navy's involvement in the Vietnam war has decreased, its total budget, excluding the Marine Corps, has increased 13 percent, while the budgets of the other services have decreased by substantial amounts. In his March 1971 testimony before the Senate Armed Services Committee, the Chief of Naval Operations, Admiral Elmo R. Zumwalt, Jr., stated that the Navy total obligational authority, not counting the Marine Corps, has increased 16 percent in real terms, after allowing for pay and price increases, between Fiscal Years 1964 and 1972. This figure understates the increase in the Navy budget for general purpose forces since funding for Navy strategic nuclear forces in Fiscal Year 1964 was very high because of the *Polaris* buildup.

Another conclusion can be drawn from this budget data. Since the budget for non-Vietnam naval forces increased, in real terms, during both the Vietnam war buildup and its winding down, there is no evidence, contrary to popular opinion, that the non-Vietnam portion of the Navy budget was reduced below prewar levels during the war.

In spite of the Navy's success in recent years in increasing its budget, there are several large clouds on the horizon. First, chances are that the Navy budget will not continue to increase, in real terms, as it has in the past. Continuing demands for new domestic programs make it likely that future defense budgets will be roughly constant in actual purchasing power. Admiral Zumwalt, in the testimony cited above, refers to "the austere outlook for the future" and emphasizes the need for reducing costs and increasing efficiency.

Second, a constant, or even moderately increased, real budget level will exacerbate the Navy's problems in trying to maintain its force levels and, at the same time, to modernize with highly sophisticated and expensive ships and aircraft. Consider, for example, the *F–14* fighter. In the Fiscal Year 1972 budget, *F–14's* will cost 17 million dollars each, not counting research and development costs, compared to four million dollars for the *F–4's*.

Although the Navy is counting on a reduced unit price as production proceeds, when the *F–111* was at the stage of development that the *F–14* is at now, it appeared to be the greatest aircraft ever. One need not predict a comparable disaster to believe that the Navy will be lucky if it can, in fact, achieve the 17-million-dollar unit price for the production run. At this price, the 722 aircraft planned for procurement will cost over 12 billion dollars, and operating costs will also be correspondingly higher.

FIGURE 2.—CHANGES IN TOTAL OBLIGATIONAL AUTHORITY BY SERVICE, FISCAL YEAR 1969–72

[In millions of current dollars]

	Fiscal year 1969	Fiscal year 1972 [1]	Percent change
Army	$26,180	$21,468	−18
Navy	21,795	23,347	+7
(Excluding Marine Corps)	(19,120)	(21,534)	(+13)
Air Force	26,126	22,827	−13
Other	4,642	6,586	
Total	78,743	74,228	−6

[1] Excludes January 1971 and January 1972 pay raises.

Figure 2 presents the budget in terms of total obligational authority (TOA) rather than actual outlays. TOA represents, roughly speaking, the rate at which the Government commits itself to additional expenditures even though the money may not actually be paid out for several years, and is, therefore, a better measure of the size of our effort. Figure 1 shows outlays because the data on incremental war costs are presented in those terms.

Moreover, much the same story could be told about carriers, destroyers, submarines, antisubmarine warfare aircraft, and even support ships. Something will have to give—force levels, the rate of modernization, or the level of sophistication of new weapons systems. An omen for the future may be seen in the fact that the Fiscal Year 1972 buy of *F–14's* is only 48 aircraft, half the "baseline" number in the contract and the lowest number allowed without renegotiation of the contract.

FORCE LEVELS DOWN

Third, although the budget for general purpose naval forces has been going up, force levels have been going down. Between Fiscal Years 1964 and 1972, the number of active ships in the Navy has dropped from 917 to 658. During the same period, the number of aircraft carriers (*CVA* and *CVS*) decreased from 24 to 16, and the number of tactical air wings from 15 to 11.

Fourth, it is almost certain that carrier force levels will be reduced further over the next decade. By 1978, the force of 16 total carriers will include three nuclear-powered carriers, eight conventionally powered carriers of post-World War II design, and five overage World War II carriers.

Since it takes about six years from the decision to start a carrier before it is completed, maintaining the Fiscal Year 1972 force level of 16 past 1980 would require starting five new carriers in Fiscal Years 1972–74, at a probable cost of more than four billion dollars. There is every indication that the administration is not willing to make a commitment of this magnitude. In fact, the 1972 budget, as submitted to Congress, does not provide for starting a fourth nuclear-powered carrier, the *CVAN 70*, which has been rejected twice by Congress. The Secretary of Defense has stated that U.S. responsibilities:

> . . . *will require construction of an additional nuclear powered carrier for the Navy to insure adequate attack carrier capabilities for the 1980s and beyond.*[1]

This will provide 12 post-World War II aircraft carriers by 1980.

NAVY POLICY PROBLEMS

Since the Navy will be facing many hard choices over the next several years, a review of some of the basic assumptions of naval force planning seems to be in order. The discussion which follows will center around the role of the aircraft carrier since so much of the Navy's operations and its budget revolves around the carriers, their aircraft, and the forces and activities needed to defend and supply them.

Some historical perspective may be helpful. During World War II, we discovered that the aircraft carrier, rather than the battleship, was the key to defeating the enemy's surface fleet. In the aftermath of the war, the Navy found itself in the position where no potential enemy had a surface fleet close to ours in size or capability. The Navy, and particularly the aircraft carriers, had lost their principal mission. What was left was attack of land targets, and it required great effort for the Navy to establish this as one of its roles and missions. This change has substantial implications for our present subject. Most important, it makes carrier-based aircraft much more directly competitive with land-based tactical aircraft.

AIRCRAFT CARRIER VULNERABILITY

In the period since World War II, carriers have seen extensive combat in Korea and Vietnam. They have also been used on numerous occasions to "show the flag," provide air cover for evacuation of US civilians, and the like. In none of these situations have the carriers been attacked by enemy submarines, aircraft, or surface ships. Although our experience has been in more limited wars, US defense planning continues to be dominated, and rightfully so, by large-scale conventional wars in which the Soviet Union is heavily involved. It is, therefore, crucial that we evaluate the vulnerability of aircraft carriers in such wars, both in absolute terms and relative to land-based tactical aircraft which perform many of the same missions.

Perhaps the most important disadvantage of the aircraft carrier is its greater vulnerability to air and submarine attack than the land-based air wing. On the one hand, we have learned, in recent years, how to build aircraft shelters, how to protect fuel and maintenance facilities, and how to repair runways rapidly so that losses of aircraft on the ground to air attack using conventional weapons can be reduced to very low levels and disruption of operations can be minimized.

On the other hand, technology and other developments have made the aircraft carriers more, rather than less, vulnerable. First, the development by the Soviet Union of large air-to-surface missiles with conventional warheads and terminal guidance has made it possible to launch the equivalent of World War II *kamikaze* attacks without sacrificing pilots and aircraft.

RECONNAISSANCE DEVELOPMENT

Second, the development of satellite and long-range aircraft reconnaissance has radically reduced the ability of naval task forces to hide in the broad expanses of the oceans. Further, because the carriers will generally be involved in strikes against land targets, they will have to remain in the same general area for long periods of time to have much effect.

Third, these developments, as well as more sensitive submarine sonars and higher speed submarines, make it much easier for submarines to find and attack the carriers. Finally, both antiair and antisubmarine defense, while they can exact high attrition over a long period of time, remain so unreliable in any particular engagement that they cannot guarantee that no more than a few attackers will penetrate. As a result of these developments, a strong case can be made that the carriers could not remain on station in any situation where the Soviets could concentrate their land-based aircraft or their submarines against them.

Although it is difficult to sink an aircraft carrier—and to no modern carrier (*Essex* class or later) was sunk in World War II—it is much easier to damage it enough that flight operations are impossible and to force it to return to port for an extended period of time for repairs. Particularly in the context of current planning for a conventional war with the Soviets lasting not much longer than 90 days, forcing the carrier out of action for three months are more is almost as good, from the the enemy's point of view, as sinking it.

FIGURE 3.—RESULTS OF WORLD WAR II KAMIKAZE ATTACKS ON AIRCRAFT CARRIERS

Number of hits	Number of cases	Number forced to return to port
All aircraft carriers:		
1	10	6
2 or more	4	4
Essex class or later:		
1	8	5
2 or more	3	3

Source: Samuel E. Morison, "History of the United States Naval Operations in World War 2," Little, Brown & Co., Boston, Mass., 1958–62, vol. 12 to 15, passim.

Figure 3 summarizes the results of *kamikaze* attacks on US carriers (*CV's*) in World War II. We can see that 60 percent of those taking one hit by a *kamikaze*, and all those taking more than one hit, were forced to return to port for repairs and that the improved damage control features of the *Essex* class and later carriers did not improve these figures.

Based on this evidence and making ample allowance for improvements in damage control since World War II, it appears that four or five hits by Soviet air-to-surface missiles would be enough to force a carrier to retire. Similarly, four or five hits on the carrier's screws by submarine-launched acoustic homing torpedoes can reasonably be expected to cause enough loss of propulsion power to make normal flight operations impossible and to reduce greatly the carrier's ability to avoid further damage.

Because there would only be a small number of carriers deployed, perhaps 10 or 12, and because only a few hits on each, whether by air-to-surface missiles or torpedoes, are needed to force it to retire, it seems unlikely that the carriers could be successfully defended against a concentrated attack by sophisticated land-based aircraft or submarines, regardless of foreseeable technological advances and regardless of the funds, within reasonable limits, devoted to defenses.

No feasible defense will be able to prevent four or five air-to-surface missiles or torpedoes from getting through and hitting the carrier. In fact, both air defenses and antisubmarine defenses typically have a low probability of success on any given engagement, so that, if the enemy needs only a few successful penetrations to accomplish his objective, he will be able to do so.

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[1] *Statement of Secretary of Defense Melvin R. Laird Before the House Armed Services Committee on the Fiscal Year 1972–1976 Program and the 1972 Defense Budget*, 9 March 1971, "Toward a National Security Strategy of Realistic Deterrence," Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 1971, pp. 95–96.

Some purely illustrative calculations using a simplified model will elucidate the structure of the problem. Suppose the Soviets are willing to lose 25 bombers, each capable of carrying one air-to-surface missile, and perhaps their fighter escorts, to disable a carrier. This is not unreasonable since the Soviets have some 300 air-to-surface missile-capable bombers in their naval aviation force. We assume the air-to-surface missiles have 80-percent reliability and, optimistically, that our fighter defense would have a 40-percent chance of shooting down a given bomber in a single engagement, that all of the bomber losses occur prior to air-to-surface missile launch, and that our surface-to-air missile systems have an 80-percent probability of shooting down an incoming air-to-surface missile.

ELECTRONIC DEVICES

With these assumptions, the bombers would get six hits on the carrier, more than enough to force it to retire. If we are less optimistic and assume that the fighters have a 20-percent kill probability and the missile defenses a 60-percent kill probability, then the expected number of hits would be 32, and a much smaller bomber force would be enough. Thus, even with optimistic assumptions, the carrier cannot be successfully defended against air attack. If the performance of defensive systems does not reach these high expectations, then the level of damage increases rapidly.

Of course, it is possible that some kind of electronic countermeasure—jamming, decoys, or others—will make the enemy air-to-surface missiles largely ineffective. While it appears sensible to devote substantial resources to developing and testing such devices, there is no way of knowing in advance of their use in actual combat whether the enemy has a successful counter-countermeasure. Electronic countermeasure devices, therefore, do not isgnificantly increase our level of confidence that we could defend the carrier. Similar arguments to the above apply to defense of the carrier against concentrated submarine attack.

LAND TARGETS

The conclusion of the above arguments is that we should not plan to use our aircraft carriers for strikes against land targets in situations where the Soviets can concentrate their land-based aircraft or their submarines against them. Thus, any use of the aircraft carriers for strikes against land targets, where they would be constrained by aircraft range to operate in a restricted area, seems unsustainable in any war in which the Soviets are fully involved.

On the other hand, the Soviets are the only potential enemy with the large and sophisticated air and submarine forces needed to mount an intensive attack on the aircraft carriers. China does not have such forces, nor do the smaller powers against whom we might intervene. Against such smaller forces, it should be possible to defend adequately the carriers although the possibility of substantial damage even here cannot be ruled out. Of course, there are many contingencies in which the carriers would be able to operate from sanctuaries.

There is also a spectrum of other issues which have implications for carrier force levels. These deal with the particular advantages and disadvantages of putting larger or smaller portions of our tactical air forces on sea bases (carriers) rather than land bases and with the unique characteristics of each. The particular advantages of sea basing include the ability to provide a U.S. presence without commitment, to operate where land bases are not available, and to attack surface ships at sea beyond the range of land-based aircraft. Its disadvantages include greater cost and greater vulnerability than a comparable land-based air wing.

UNIQUE CAPABILITIES

Aircraft carriers, and naval forces more generally, have the unique and the useful property that they can be deployed to a crisis area and held offshore in international waters, thus signaling out ability and perhaps intention to intervene, without actually committing us and without the need for political clearances to land troops or even for overflight rights. Neither Army nor Air Force units can do this. Similarly, continuous deployment of naval forces in potential crisis areas provides continuous evidence of our ability to intervene.

The second unique capability of aircraft carriers is their ability to operate without the use of nearby land bases. Of course, this does not have much significance in areas like central Europe where we have numerous prepared bases, but, in other areas it could be extremely important.

During a crisis, or the resulting fighting, we cannot count on being able to use existing nearby airbases if the host country is not directly involved and if it wishes to remain neutral. For example, existing land bases in Greece and Turkey would probably be available in case of a war in NATO Europe, but probably not in case of US involvement in an Arab-Israeli conflict. Similarly, if we decided to intervene in an area where we had not previously made plans for it, the carriers would be able to begin flight operations as soon as they reach the area.

The Air Force has developed a "bare-base kit" which is designed to enable land-based aircraft to deploy to an unprepared airport—of which there appears to be an ample number—and begin operations in a short time. However, this is as yet an unproved capability and adds considerably to required airlift forces. In addition, in some situations, the necessary airfields might have been overrun by enemy ground troops. Thus, deployability without prepared land bases remains a substantial advantage of the sea-based tactical air forces.

Aircraft carriers can also attack enemy surface ships that are farther from shore than the range of land-based tactical aircraft—for instance, 600 nautical miles or more. This was, in fact, the major use of attack aircraft carriers during World War II. A further discussion of this mission is deferred until the threat of the Soviet surface fleet is considered.

DISADVANTAGES

Among the disadvantages of aircraft carriers, we consider, in addition to vulnerability, greater cost than a comparable land-based air wing. A valid cost comparison is difficult to construct since it is not obvious just what costs should be charged against the two alternatives, which costs are fixed and which are variable, and how to define comparable air wings. No such cost comparison is available in detail on the public record. Nevertheless, it would be surprising if the sea-based air wing did not pay a premium for its mobility and relative freedom from land bases, for its expensive movable airbase, for its sea-based logistic support, and for its need for protection against submarines.

FIGURE 4.—COMPARISON OF ANNUAL COST OF AVERAGE NAVY AND AIR FORCE AIR WINGS, FISCAL YEAR 1964

[Total obligational authority in millions of current dollars]

	Fiscal year—		
	1963	1964	1965
Navy:			
Carriers and aircraft [1]	3,070	2,620	3,030
Antiair warfare escort ships	790	890	610
60 percent of antisubmarine warfare escort ships [2]		1,050	1,180
70 percent of logistic and support ships [2]	630	670	850
Total	5,390	5,230	5,670
Number of air wings	15	15	15
Average cost per air wing	360	350	380
Air Force:			
Tactical air costs	4,400	4,200	5,000
Additional overhead allocation [3]	1,470	1,600	1,980
Total	5,870	5,800	6,980
Number of air wings	20	21	22
Average cost per air wing	290	280	317

[1] Excludes Marine Corps costs.

[2] Percentages are those associated with carriers in Adm. Thomas H. Moorer's statement.

[3] Air Force mission breakout did not allocate all overhead.

Sources: "Abstract, Analysis of the Relative Cost of Sea-Based and Land-Based Tactical Air" in CVAN-70 Aircraft Carrier, joint hearings before the Joint Senate-House Armed Services Subcommittee of the Senate and House Armed Services Committees on CVAN-70 aircraft carrier, 91st Congress, 2d sess., 1970, pp. 41–46: Statement of Adm. Thomas H. Moorer in authorization for military procurement, research and development, fiscal year 1970, and reserve strength, hearings before the Senate Armed Services Committee, 91st Cong., 1st sess., 1969, p. 667.

A rough attempt to judge the size of the premium is shown in Figure 4 which compares the average cost per air wing for the Navy and Air Force in Fiscal Year 1963–65 as derived by the author from publishing analyses of their budgets by mission. It is necessary to go back that far in time to eliminate the distorting effect of the war in Vietnam. The figure indicates that the average sea-based wing, which is about the same size as the land-based wing, costs about 20 to 25 percent more.

We also know that classified studies by analysts in the Office of the Secretary of Defense derived a premium of 40 percent for the sea-based wing.[2] This premium might be well worth paying, but it is substantial, so that we should tend to emphasize land-based tactical aircraft except in cases where the particular advantages of the carriers, as discussed above, seem to be controlling.

Until recently, the Soviet Fleet of surface warships did not play a large role in US defense planning. Their surface fleet was much smaller than ours and did not have any aircraft carriers, so it was assumed that it could easily be destroyed by carrier-based aircraft. However, after the sinking of an Israeli destroyer in 1967 by an Egyptian Soviet-built patrol boat with surface-to-surface cruise missiles, the realization has spread that these ships with their surface-to-surface cruise missiles could pose a substantial offensive threat to the US Fleet.

The Soviets have some 18 cruisers and destroyers, 150 patrol boats, and 47 submarines which can fire surface-to-surface cruise missiles, and have given substantial numbers of the surface-to-surface cruise missile patrol boats to their allies.

When we consider ways in which the Soviet surface fleet might be used against the US Fleet, and particularly the aircraft carrier task forces, one of the first that comes to mind is a situation in which the United States and Soviet Fleets are in contiguous contact during a crisis leading to war, as they would be in the Mediterranean, for example. If the Soviets struck first, they could launch a coordinated volley of surface-to-surface cruise missiles with no tactical warning. By assumption, we would not be able to take any action against the enemy launching platforms—the ships—until their missiles had been launched.

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[2] *CVAN–70 Aircraft Carrier*, Joint Hearings Before the Joint Senate-House Armed Services Subcommittee of the Senate and House Armed Services Committees on *CVAN–70* Aircraft Carrier, 91st Congress, Second Session, 1970, p. 630.

The Navy is working on several programs and tactics to improve its ability to deal with this situation, including development of its own surface-to-surface cruise missile (*Harpoon*), helicopters to improve warning, and increased emphasis on jamming and other electronic countermeasures to deflect the incoming missiles.[3] However, none of these can prevent the initial volley of missiles from being launched, and only a handful of missiles for a large, coordinated attack need penetrate the defenses to do a great deal of damage. Therefore, the threat of a Soviet first strike against the US Fleet is not likely to be eliminated in the foreseeable future.

If the US carrier task forces survive the initial attack, or if the war develops in such a way that such an attack does not occur, then the outcome depends strongly on whether the Soviet surface ships have land-based air cover. If the Soviets do not have air cover, then the US aircraft carriers could remain outside missile range of the Soviet surface fleet and still attack it with carrier-based aircraft. Although some US aircraft would be lost, there is little doubt that most of the Soviet surface ships would be sunk.

DIFFERENT SITUATION

On the other hand, if the battle occurs in an area where the Soviet surface fleet does have air cover, then the situation is quite different. The Soviet land-based aircraft could be used in two ways: to provide an area defense for their ships or to attack the carriers directly. As we have seen above, if they attack the aircraft carriers directly, they can probably force them to retire from the battle area although they might have to expand a substantial number of aircraft to do so.

From our point of view, we would not be able to operate our carriers in these areas if the Soviets were directly involved, even without their surface fleet because of the air and submarine threat. In this sense, their surface fleet is not, in this situation, an additional threat.

The Soviet surface fleet might also be used against merchant ship convoys carrying logistic support for our armies overseas and economic goods required by our allies' economies. The surface ships involved would be their cruisers and destroyers since their surface-to-surface cruise missile patrol boats would not have the range, endurance, and sea-keeping ability to engage in these operations.

In such operations, the Soviet surface ships would be operating outside land-based air cover and would, therefore, be vulnerable to strikes by carrier-based aircraft, while the carriers themselves remained outside missile range. The carriers would face Soviet submarine opposition, but would be less vulnerable than when launching strikes against land targets—the situation described earlier—since they would not be constrained to operate in a restricted area. They could, therefore, use their speed and mobility to limit the ability of enemy submarines to get close enough to attack.

The carriers would have a reasonable chance of being able to carry out this mission. If not, we could stop shipping, while antisubmarine warfare aircraft wear down the deployed enemy submarine force or use our own attack submarines against the Soviet surface ships. The implications of this mission for aircraft carrier force levels will be discussed later.

In summary, the Soviet surface fleet reinforces their ability to deny us the use of our aircraft carriers for strikes against land targets in any war in which they are heavily involved, but they would be able to do so even without it. They could use their surface fleet against merchant ship convoys, but this use could be countered.

ADEQUACY OF FORCES

An evaluation of the ability of planned antisubmarine warfare forces to defeat the Soviet submarine force would be subject to considerable uncertainty. Nevertheless, some important qualitative observations can be made.

First, if we accept the arguments above that aircraft carriers used against land targets cannot be adequately protected against concentrations of Soviet submarines at reasonable cost, then the need for antisubmarine warfare forces is greatly reduced. It is inherently harder to protect a small number of high-value targets than a large number of low-value targets, as in the protection of merchant shipping.

If one or two submarines penetrate a carrier's defenses and get, say, five hits on the carrier's screws, they will disable the task force. The same submarines penetrating a convoy would damage perhaps five to 10 merchant ships. In order to have an effect on the land war by sinking merchant ships, the Soviet submarines must sink a large number of them which is easier to prevent than the small number of successful attacks necessary to force aircraft carriers to withdraw.

SUBSTANTIAL INVESTMENT

Second, we have a substantial investment in antisubmarine warfare platforms—ships, aircraft, and submarines—which are expensive to procure and operate. There would appear to be a much greater payoff for measures which would improve the performance of existing forces than for increases in force levels. Such measures would include not only development of new and more effective sensors—such as sonars and sonobuoys—and weapons—such as torpedoes and mines—but also improvements in the operator proficiency and maintenance provided in the operating forces. Similarly, at a time when budgets are being reduced, these measures should be protected at the expense, if need be, of force levels.

In considering the implications of these arguments for force levels, we take, as a starting point, the validity of the argument that aircraft carriers are useful for providing a presence during peacetime or during a crisis. The requirements of this function set a minimum for carrier force levels. This minimum level is taken here as nine carriers.

Using the rule of thumb that three carriers are needed in the force to maintain one carrier continuously deployed in a forward area, the force level of nine would make possible one carrier continuously on station in the Mediterranean and two in the western Pacific or vice versa, depending on one's political judgment. Each of the deployed carriers could be reinforced during a crisis by one or two more, making possible a display of willingness to commit ourselves.

ROTATION POLICIES

In addition, Secretary of Defense Melvin R. Laird has stated that, if we again become involved in a war as large as Vietnam, we would have to rely on mobilization and a callup of the Reserves which suggests that wartime rotation policies should be assumed. A force of nine carriers could then provide four or five on station for the war—particulalry during the early period when land-based aircraft might not be fully operational—and also one or two on station elsewhere for presence and crisis control, with six carriers on station and with two out of three deployed forward instead of one out of three in peacetime.

The question is, then, how many additional carriers, over and above these nine, we should have. Here, three alternative answers are outlined.

The first alternative takes, at face value, the arguments that the carriers would be vulnerable in any war with the Soviets if used for strikes against land targets. Therefore, no carriers are bought for this purpose, and land-based aircarft are relied on for our tactical air needs in such wars.

In a major war in Asia with the Chinese, but not the Soviets involved, carriers would be used in addition to land-based aircraft, but the nine provided should be adequate for this purpose. Since these nine would not be used against land targets in a war with the Soviets, they would be available for use against the Soviet surface fleet in the event the latter were used against merchant ship convoys in the open ocean. Considering the small number of surface-to-surface missile cruisers and destroyers that the Soviets have, the nine carriers should be enough to handle them although several might be severely damaged by Soviet submarines.

Substantial antisubmarine warfare forces would have to be maintained under this alternative, but sizable reductions could be made because we no longer attempt to use the aircraft carriers under the conditions where they would be most vulnerable.

IMPROVE PERFORMANCE

Efforts to improve the performance of existing antisubmarine warfare forces would be maintained with high priority. The new *F-14* fighter is designed to protect the carriers from an advanced Soviet air threat and would lose its *raison d'etre*. A replacement for the existing *F-4* fighter, probably a much less expensive design than the *F-14*, might still be needed. The air and cruise missile defenses we provide the carriers should be designed for high reliability against a threat of low or medium sophistication which would be presented by potential enemies other than the Soviets.

A variation of this approach may be attractive over the long term. An aircraft carrier task force designed for more limited wars would probably have a much lighter escort ship screen. The carrier itself might be smaller and less expensive, and its aircraft might be designed against a less sophisticated threat and more with a close air-support mission in mind.

If these changes are made, the cost advantage of land-based aircraft would be greatly reduced, if not eliminated, and additional carriers might be attractive to meet our needs for tactical air in situations where the Soviets are not involved, including a Chinese and North Korean attack on the Republic of Korea.

PARTIAL ACCEPTANCE

The second alternative approach might be characterized as a partial acceptance of the argument on carrier vulnerability. It neither counts on the carriers for airstrikes in a major war with the Soviets nor writes them off in this situation. It recognizes that it may well be impossible to maintain carriers in the eastern Mediterranean during such a war, but it argues that some combination of improved defenses, successful electronic countermeasures, enemy mistakes, and luck may make the survival of the carriers sufficiently likely that it is worth gambling on. We would, therefore, be willing to operate a greater number of aircraft carriers than the minimum of nine.

At the same time, they would be less attractive than we had previously thought, so a reduction, perhaps to about 12, from the force level of 15 maintained in recent years would seem to be in order. Because of the need to defend the aircraft carriers against enemy submarines, any reduction in antisubmarine warfare forces would be small at most. Measures for defense against cruise missiles would be emphasized, including electronic countermeasures, the new *Harpoon* antiship missile, and helicopter-borne early warning sensors.

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[3] "CNO Zumwalt Presses to Retain 15 Carriers, Plans to Reorder Navy Mission Priorities," *Armed Forces Journal*, 7 December 1970, pp 26–27; Brooke Nihart, "Harpoon: Navy's Answer to Soviet Missile Boats," *Armed Forces Journal*, 16 November 1970, pp. 22–23.

According to this view, the Soviet surface fleet is a disturbing threat to our carriers and might make a crucial difference in our ability to maintain them on station, in contrast to the first approach which saw the Soviet surface fleet as simply reinforcing the Soviets' ability to deny us such use of our carriers. Actions to counter it are particularly important in the second approach.

The third approach described here rejects the arguments concerning carrier vulnerability and cost. With respect to vulnerability, this view was expressed by Admiral Thomas H. Moorer, then Chief of Naval Operations and now Chairman of the Joint Chiefs of Staff, as follows:

> *I certainly don't accept the allegations that the carrier is vulnerable to the degree that often has been mentioned . . . I don't believe surface ships are vulnerable. I believe in the next war we will perhaps suffer greater losses than we have in the past, but I am confident that we can stay out there and operate.*[4]

This approach would essentially continue the force levels maintained in Fiscal Year 1971. The current relative priorities in and among tactical air, antisubmarine warfare, and other forces would also be maintained. In particular, defense against the Soviet surface fleet would be considered important, but it would not have the same degree of urgency as under the second approach.

The Navy would do well to confront the issues raised here and to sort them out collectively and come to some tentative conclusions about them. There is a bureaucratic incentive to do so since the issues have been and will continue to be raised by many outside the Navy. Congressional opposition to construction of new aircraft carriers has been successful, for example. More important, however, national security is best served by realistic estimates of our military capabilities. If the arguments presented here are anywhere near the mark, our reliance on aircraft carriers must be reevaluated in the light of the changed conditions we now face.

Writing of such changes, and of our reluctance to recognize them, Admiral Alfred T. Mahan observed:

> *It can be remedied only by a candid recognition of each change, by careful study of the powers and limitations of the new ship or weapon, and by a consequent adaptation of the method of using it to the qualities it possesses, which will constitute its tactics. History shows that it is vain to hope that military men generally will be at pains to do this, but that the one who does will go into battle with a great advantage . . .*[5]

Efforts to overcome this tendency now seem to be required.

PRESIDENT NIXON IS KEEPING HIS WORD

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. McCLORY. Mr. Speaker, last week the President of the United States withdrew an additional 2,500 soldiers from Vietnam.

On January 20, 1969, there were 532,500 Americans enduring the perils of an Asian war. Today, there are 131,200 Americans in Vietnam who are planning to come home.

Mr. Speaker, President Nixon is keeping his word.

GOOD CITIZENSHIP AWARD

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. WHITEHURST. Mr. Speaker, there is a cry today from people of all ages for "involvement" by young people—involvement to make America a better place in which to live.

To recognize such involvement, and to encourage those young people who give of themselves to help others in their communities, I am conducting a Good Citizenship Award competition in the high schools of Norfolk and Portsmouth, Va.

The award, open to highschool seniors, is given in cooperation with Norfolk School Superintendent E. L. Lamberth and Portsmouth Superintendent M. E. Alford and the offices of the mayors of both cities.

Winners of the award are selected by a faculty committee in each high school. After this first elimination, the final winners are selected by a mayor's committee in each city, based on volunteer work, leadership or participation in community-service projects—such as church, scout, civic or political organizations—and leadership or participation in school activities.

The two winning good citizens receive an expenses-paid day in Washington as my guests. They will be "Congressmen for a day."

Such a Good Citizenship Award, I believe, will encourage young people to take an interest in the operation and perfection of the American system—not only the political system, but also other facets of our social environment. It is with this hope that I am sponsoring this award in my district for the third year.

Last year, Rodney Davis of Maury High School was selected from Norfolk, and Stephen Foster of Woodrow Wilson High represented Portsmouth. Foster had worked in the March of Dimes and City Council Clean-up Committee and was president of his school's Student Cooperative Association. Davis had worked in Red Cross blood drives and the POW-MIA signature drive, as well as in political campaigns.

There are many students, like Foster and Davis, who are now working to make our Nation a better place for all its citizens. They deserve recognition, and I believe the Good Citizenship Award helps provide that.

LITHUANIAN INDEPENDENCE

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. RHODES. Mr. Speaker, this month Lithuanians are observing the 54th anniversary of the Declaration of Independence of Lithuania.

It would be natural to see the annual independence celebration as synonymous with celebration and savored traditions. But, for Americans of Lithuanian descent and for free Lithuanians throughout the world the anniversary is a sad reminder that the nation where they were born, or where their parents were born, is again captive. They know that they who fled Communist tyranny are the only Lithuanians who are allowed to celebrate their anniversary of freedom.

Lithuania languishes in repression, condemned to live as part of the Soviet colonial empire. Freedom and independence were grabbed away as a young Lithuania struggled to establish itself.

The occupation has been cruel. Nevertheless, these people are determined and still carry a hope that they someday will share in the freedoms we enjoy.

May we remember our blessings and see Lithuania as a daily reminder of the Soviet Union's tradition of oppression.

TRIBUTE TO JANET LYNN

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. ANDERSON of Illinois. Mr. Speaker, during the past week, we have all had the opportunity to witness many of the truly remarkable athletic performances that have been given at the winter Olympics currently being held in Sapporo, Japan. Some 1,300 athletes from 35 nations are competing in 35 events and are displaying the physical dexterity and good sportsmanship that have always marked these quadrennial competitions.

We can be proud of all the American athletes participating in these Olympics, but I would like to pay special tribute to Janet Lynn from my hometown of Rockford, Ill., the 18-year-old figure skater who brought the United States its second bronze medal. Janet literally dazzled the crowds with her technical skill and grace. After an unfortunate fall that many believe kept her from winning the silver medal, she continued her performance and saw it through to a flawless finish.

The Olympics climax years of hard work for Janet for she built up to Monday's winning performance with a grueling 5-hour-a-day practice schedule. Her determination enabled her to come from fourth place in the compulsories to third place winner and we want her to know how proud we are that she is one of those representing us at this international event. And in recognition of her outstanding ability, Janet's picture is on the cover of the February 14 issue of Newsweek magazine which contains an extensive story on the winter Olympics.

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[4] *Authorization for Military Procurement, Research and Development, Fiscal Year 1971, and Reserve Strength,* Hearings Before the Senate Armed Services Committee, 91st Congress, Second Session, Part 2, 1970, p. 1,308.

[5] Admiral Alfred T. Mahan, *The Influence of Seapower Upon History,* Hill & Wang, N.Y., 1957, p. 8.

SENATE—*Friday, February 18, 1972*

The Senate met at 11 a.m. and was called to order by Hon. DAVID H. GAMBRELL, a Senator from the State of Georgia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God who hast "made of one blood all nations to dwell upon the face of the earth," keep ever before us the vision of a better world when all sovereignties are submissive to Thy sovereignty. Lead us to the promised day of one world and one people under divine direction, where freedom is assured and human values are supreme. Spare us from false reliance upon supernatural intervention instead of hard thought and strenuous labor for peace with justice and liberty. Make us to recover the sense of national purpose bequeathed by the Founding Fathers which is worthy of the apostles of freedom. To our daily duties here, may we bring alert minds, serene spirits, and implicit faith in Thee. Lead us to the peaceable ways of Thy kingdom, the law of which is love and the ruler of which is God.

In Thy holy name we pray. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 18, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DAVID H. GAMBRELL, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. GAMBRELL thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, February 17, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House insists upon its amendment to the bill (S. 2097) to establish a Special Action Office for Drug Abuse Prevention and to concentrate the resources of the Nation against the problem of drug abuse, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. ROGERS, Mr. SATTERFIELD, Mr. KYROS, Mr. PREYER of North Carolina, Mr. SYMINGTON, Mr. ROY, Mr. SPRINGER, Mr. NELSEN, Mr. CARTER, Mr. HASTINGS, and Mr. SCHMITZ were appointed managers on the part of the House at the conference.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of measures on the calendar to which there is no objection, beginning with Calendar No. 579 and continuing in consecution through Calendar No. 587.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WILLARD O. BROWN

The Senate proceeded to consider the bill (S. 2359) for the relief of Willard O. Brown which had been reported from the Committee on Foreign Relations with amendments on page 1, line 3, after the word "of", strike out "Austin" and insert "Abilene"; in line 7, after the word "May", strike out "1" and insert "13"; in line 8, after the word "May", strike out "1" and insert "13"; in line 10, after "class 1;" strike out "and"; in line 12, after the word "class", strike out "1." and insert "1; and"; at the top of page 2, insert:

(4) to have had in effect for the period from May 13, 1966, through April 30, 1970, that amount of group life insurance, and an equal amount of group accidental death and dismemberment insurance (purchased by the Civil Service Commission) to which he would have been entitled as a Foreign Service officer of class 1 during such period.

In line 14, after the word "class", strike out "1;" and insert "1, less an amount equal to the difference between the amount actually paid by the said Willard O. Brown in group life and accidental death and dismemberment insurance premiums and the amount of such premiums he would have paid for the coverage of such insurance during that period had he been a Foreign Service officer of class 1;"; and, on page 3, line 5, after the word "May", strike out "1" and insert "13"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Willard O. Brown, of Abilene, Texas, shall be held and considered—

(1) to have been appointed as a Foreign Service officer of class 1 under sections 511 and 621 of the Foreign Service Act of 1946, on May 13, 1966;

(2) to have served, during the period from May 13, 1966, through April 30, 1970, as a Foreign Service officer of class 1;

(3) to have retired on April 30, 1970, as a Foreign Service officer of class 1; and

(4) to have had in effect for the period from May 13, 1966, through April 30, 1970, that amount of group life insurance, and an equal amount of group accidental death and dismemberment insurance (purchased by the Civil Service Commission) to which he would have been entitled as a Foreign Service officer of class 1 during such period.

(b) The Secretary of State shall determine—

(1) the amount of salary (including increases in salary under section 625 of the Foreign Service Act of 1946) to which the said Willard O. Brown would have been entitled during the period from May 13, 1966, through April 30, 1970, as a Foreign Service officer of class 1, less an amount equal to the difference between the amount actually paid by the said Willard O. Brown in group life and accidental death and dismemberment insurance premiums and the amount of such premiums he would have paid for the coverage of such insurance during that period had he been a Foreign Service officer of class 1;

(2) the amount of any lump-sum payment to which the said Willard O. Brown would have been entitled under section 5551 of title 5, United States Code (relating to accumulated and accrued leave), upon his retirement on April 30, 1970, as a Foreign Service officer of class 1; and

(3) the amount of annuity to which the said Willard O. Brown would have been entitled under section 821 of the Foreign Service Act of 1946 from May 13, 1970, through the day prior to the date of enactment of this Act had such annuity been computed on the basis of the amount of salary referred to in clause (1) of this subsection and the service referred to in subsection (a) of this section.

(c) Each amount determined by the Secretary under subsection (b) of this section shall be (1) reduced by any amount paid to the said Willard O. Brown as salary during the period referred to in clause (1) of such subsection, as a lump-sum payment upon such retirement, or as an annuity, as the case may be, and (2) as so reduced, paid by the Secretary out of funds available for the payment of salaries of foreign service officers, lump-sum payments, or annuities to such officers, as appropriate.

(d) In the administration of section 821 of the Foreign Service Act of 1946, as amended, the said Willard O. Brown shall be entitled to be paid an annuity as recomputed on the basis of the provisions of subsection (a) of this section.

SEC. 2. No part of any payment authorized in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–611) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

This principal purpose of S. 2359, as amended, is to appoint Mr. William O. Brown retroactively as a Foreign Service Officer of class 1, effective May 13, 1966, and to authorize payments for back salary, unused annual leave, and annuity increases. The total amount involved, as calculated by the Department of State, is approximately $16,265.00. Pursuant to the terms of the amendments recommended by the State Department and approved by the Committee, this amount will be reduced to cover back payments for the costs of increased insurance and annuity benefits arising out of Mr. Brown's retroactive appointment.

BACKGROUND

Mr. Willard O. Brown's personnel file was misplaced in the Department of State for a period of 16 months (October, 1964–February, 1966) and thus was not available for review by the Selection Boards which met in 1965. As a result, Mr. Brown, who was then a class 2 Foreign Service Officer, was passed over for promotion and was subsequently forced to retire for time in grade. In spite of the fact that the State Department concluded that Mr. Brown was the victim of an inequity which should be remedied, it maintained that in the absence of appropriate legislation nothing could be done to rectify the situation. Accordingly, on July 28, 1971, Senator John Tower introduced a private bill designed to obtain redress for Mr. Brown.

A more detailed, chronological background relating to this case is contained in a letter from the Department of State and Mr. Brown's reply thereto which are reprinted in the appendix to this report.

COMMITTEE ACTION

On January 17, 1972, in reply to the Committee's request for comments of August 3, 1971, the State Department wrote that it "supports the enactment of S. 2359." Such being the case, the Foreign Relations Committee considered the bill in executive session on February 9, and ordered it favorably reported to the Senate, with amendments.

On the basis of evidence presented to the Commitee, Mr. Willard O. Brown was the victim of a series of errors in the personnel evaluation and promotion system in the Department of State which had the direct effect of depriving him of an opportunity for further advancement at a critical stage in his career. In view of the obvious—indeed, admitted—injustice which was done him in the past, the time for adequate redress is long overdue. The Committee strongly recommends, therefore, that the Senate take early and favorable action on S. 2359.

AMENDMENT OF THE BANKRUPTCY ACT IN REGARD TO SALARIES AND EXPENSES

The Senate proceeded to consider the bill (S. 1394) to amend the Bankruptcy Act to abolish the referees' salary and expense fund, to provide that fees and charges collected by the clerk of a court of bankruptcy in bankruptcy proceedings be paid into the general fund of the Treasury of the United States, to provide salaries and expenses of referees be paid from the general fund of the Treasury, and to eliminate the statutory criteria presently required to be considered by the Judicial Conference in fixing salaries of full-time referees which had been reported from the Committee on the Judiciary with an amendment on page 3, line 6, after the word "that", strike out "term: *And provided further*, That no salary fixed under the provisions of this section for a full-time referee shall be changed more often than once in any two years or in an amount of less than $250." and insert "term."; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the title of section 40 of the Bankruptcy Act (11 U.S.C. 68) is amended to read as follows:

"§ 40. Compensation of referees and retirement of referees"

(b) Subdivision a. of such section is amended to read as follows:

"a. Referees shall receive as full compensation for their services, salaries to be fixed by the conference, in the light of the recommendations of the councils, made after advising with the district judges of their respective circuits, and of the Director, at rates not more than $36,000 per annum for full-time referees and not more than $18,000 per annum for part-time referees. In fixing the amount of salary to be paid to a part-time referee, and in determining whether a position shall be part time or full time, consideration shall be given to the average number and the types of and the average amount of gross assets realized from, cases closed and pending in the territory which the referee is to serve, during the last preceding period of ten years, and to such other factors as may be material. Disbursement of such salaries shall be made monthly by or pursuant to the order of the Director."

(c) Subdivision b. of such section is amended to read as follows:

"b. The conference, in the light of the recommendations of the councils, made after advising with the district judges of the respective circuits, and of the Director, may increase or decrease any salary, within the limits and in the manner prescribed in subdivision a. of this section: *Provided, however*, That during the tenure of any full-time referee his salary shall not be reduced below that at which he was originally appointed under this amendatory Act, and during any term of any such referee his salary shall not be reduced below the salary fixed for him at the beginning of that term.

(d) Subdivision c. (1) of such section is amended to read as follows:

"c. (1) Except as otherwise provided in this Act, there shall be deposited with the clerk, at the time the petition is filed in each case, and at the time an ancillary proceeding is instituted, a filing fee of $40 for each estate: *Provided, however*, That in cases of voluntary bankruptcy such fee, as well as the fee of the trustee, may be paid in installments, if so authorized by general order of the Supreme Court of the United States."

(e) Subdivision c. (2) of such section is amended to read as follows:

"(2) Additional fees shall be charged, in accordance with the schedule fixed by the conference (a) against each estate wholly or partially liquidated in a bankruptcy proceeding, and be computed upon the net proceeds realized; (b) against each case in an arrangement confirmed under chapter XI of this Act, and be computed upon the amount to be paid to the unsecured creditors upon confirmation of the arrangement and thereafter, pursuant to the terms of the arrangement, and where under the arrangement any part of the consideration to be distributed is other than money, upon the amount of the fair value of such consideration; and (c) against each case in a wage earner plan confirmed under chapter XIII of this Act, and be computed upon the payments actually made by or for a debtor under the plan. Such schedule of fees may be revised by the Director, with the approval of the conference. The Director, with the approval of the conference, may make, and from time to time amend, rules and regulations prescribing methods for determining net proceeds realized in asset cases, fair values of considerations, other than money, distributable in arrangement cases, and payments actually made by or for a debtor under the plan in wage earner cases; prescribing the procedure for collection by the clerk of fees and allowances; and providing for the effective administration of the provisions of this paragraph (2)."

(f) Subdivision c. (3) of such section is amended to read as follows:

"(3) Charges for the expense of special services relating to or in connection with proceedings before referees shall be made and collected by the references in accordance with regulations to be prescribed by the Director, with the approval of the conference, and the proceeds shall be paid by the referees to the Clerk for transmission to the Treasury of the United States."

(g) Subdivision c. (4) of such section is amended to read as follows:

"(4) The amounts of the various fees and allowances collected by the clerks for the services of referees, and for their expenses, including the fees, allowances, and charges for their services and expenses as conciliation commissioners and as special masters under this Act, shall be covered into the Treasury of the United States. The salaries of the referees in active service and the expenses of the referees including the salaries of their clerical assistants, shall be paid out of annual appropriations from the general of the Treasury of the United States."

(h) Subdivision c. (5) of such section is amended by deleting from the second sentence thereof the following language: ", to be deposited to the credit of the salary and expense fund" and by deleting from the third sentences thereof the following language: "salary and expense".

SEC. 2. (a) Clause (1) of section 51 of the Bankruptcy Act (11 U.S.C. 79) is amended to read as follows:

"(1) account for, as for other fees received by them, the filing fees paid in each case and such other fees as may be received for certified copies of records which may be prepared for persons other than officers;"

(b) Clause (2) of such section is amended to read as follows:

"(2) collect the filing fees, including the face of the trustee in each case instituted before filing the petition, except where installment payments may be authorized pursuant to section 40 of this Act, and collect the various other fees, allowances, and charges for the services of referees and for their expenses, including their services and expenses as conciliation and as special masters under this Act;"

(c) Clause (3) of such section is amended to read as follows:

"(3) collect the filing fee in each ancillary proceeding before filing the petition whereby the ancillary proceeding is instituted;"

(d) Clause (5) of such section is amended to read as follows:

"(5) Pay to the trustee, within ten days after the case has been closed, the fee collected for him at the time of filing the petition, and pay into the Treasury of the United States all other fees and allowances and charges collected pursuant to this Act."

SEC. 3. Section 52 of the Bankruptcy Act (11 U.S.C. 80) is amended to read as follows:

"§ 52. Compensation of marshals

"Marshals shall charge the estate where an adjudication in bankruptcy is made, except as herein otherwise provided, for the performance of their services in proceedings in bankruptcy, the same fees, and account for them in the same way, as they are entitled to charge for the performance of the same or similar services in other cases in accordance with laws in force on July 1, 1898, or such as may be thereafter enacted, fixing the compensation of marshals."

SEC. 4. Clause (1) of subdivision a. of section 64 of the Bankruptcy Act (11 U.S.C. 104) is amended to repeal the words "the fees for the referees' salary and expense fund" from the phrase following the first semicolon and to enact in their place the words "all fees required under this Act to be paid into the Treasury of the United States".

SEC. 5. The second paragraph of section 72 of the Bankruptcy Act (11 U.S.C. 112) is amended to read as follows:

"No referee shall receive any compensation for his services under this Act other than his salary; and allowances made to a referee for compensation or expense while acting as a conciliation commissioner under section 75, or as a referee or special master under any chapter or section of this Act, shall be paid to the clerk, and by him transmitted to the Treasury of the United States."

SEC. 6. Paragraph (2) of section 624 of the Bankruptcy Act is amended to read as follows:

"(2) where a petition is filed under section 622 of this Act, by payment to the clerk of $15 to be paid to the Treasury of the United States in lieu of the fee of $40 prescribed in section 40 of this Act: *Provided, however*, That such fee may be paid in installments, if so authorized by general order of the Supreme Court of the United States."

SEC. 7. Paragraph (2) of section 633 of the Bankruptcy Act (11 U.S.C. 1033(2)) is amended to read as follows:

"(2) the debtor shall submit his plan, and deposit with the clerk, for payment into the Treasury of the United States a fee not to exceed $15, to be graduated and charged in the manner outlined in paragraph (2) of subdivision c. of section 40 of this Act: *Provided, however*, That such fee may be paid in installments, if so authorized by general order of the Supreme Court of the United States;"

SEC. 8. Paragraphs (1) and (3) of section 659 of the Bankruptcy Act (11 U.S.C. 1059) are amended to read as follows:

"(1) the fee specified in paragraph (2) of section 633;"

"(3) an additional fee for the Treasury of the United States, to be graduated and charged in the manner outlined in paragraph (2) of subdivision c. of section 40 of this Act, and to be computed upon the amount of the payments actually made by or for a debtor under the plan; and commissions to the trustee of not more than 5 per centum to be computed upon and payable out of the payments actually made by or for a debtor under the plan;"

SEC. 9. This amendatory Act shall take effect on the first day of the month following the day of enactment, and any funds appropriated for the salaries and expenses of referees as of that date, shall be chargeable to the general fund of the Treasury of the United States; any balance in the referees' salary and expense fund shall be transferred into the general fund of the Treasury.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-612) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE AMENDMENT

The purpose of the amendment is to eliminate the language "that no salary fixed under the provisions of this section for a full-time referee shall be changed more often than once in any two years or in an amount of less than $250.00." which might have the unintended effect of barring referees from receiving increases which they would otherwise receive as a result of the actions of the Judicial Conference of the United States and the Presidential Salary Commission.

PURPOSE OF THE BILL

The purpose of the bill is to amend the Bankruptcy Act to abolish the criteria for fixing the salaries of full-time referees and thus permit the Judicial Conference of the United States to fix the salaries of all full-time referees at the same level and to abolish the referees' salary and expense fund.

STATEMENT

In introducing the proposed legislation, the Honorable Quentin N. Burdick said on the floor of the Senate:

"Mr. President, a bill relating to the administration of the Bankruptcy Act is S. 1394 which I have introduced today, in order to require that the fees in bankruptcy proceedings, which now are paid into a special fund used for defraying the salaries and expenses of referees, be paid in the general fund and that the salaries and expenses of referees be paid out of the general fund.

"The Judicial Conference at its March 16–17, 1970, meeting, upon the recommendation of its Committee on Bankruptcy Administration, authorized the Director of the Administrative Office to prepare a draft of an amendment to section 40 of the Bankruptcy Act (II U.S.C. 68), and related sections, to abolish the self-supporting bankruptcy system in accordance with the policy adopted by the Conference at its October 31–November 1, 1969, session—Conference report, page 76. In that report the action of the Conference on matter is reported as follows:

"'COMPENSATION FOR FULL-TIME REFEREES

"'Judge Weinfeld stated that a subcommittee which he had appointed reported to the full committee on the criteria and method of fixing the salaries of full-time referees. The subcommittee emphasized the statement of policy approved by the Judicial Conference at the March 1969 session to the effect that the maintenance of a self-supporting bankruptcy system, as contemplated by section 40 of the Bankruptcy Act, is no longer possible without placing an inordinate financial burden upon bankrupts and the assets of bankrupts. Pursuant to the subcommittee's report, the committee recommended to the Conference and the Conference approved a statement of policy that the present criteria for fixing salaries of full-time referees should be eliminated from the Bankruptcy Act and all full-time referees should be paid at the same rate within the limit upon such salaries established by the President's Salary Commission.'

"The salaries of full-time referees and part-time referees were increased respectively from maximums of $22,500 and $11,000 per annum to the present maximums of $36,000 and $18,000 per annum, commencing February 14, 1969, upon the recommendation of the President of the United States, pursuant to Public Law 90–206. See section 40a of the Bankruptcy Act (11 U.S.C. 68).

"As authorized by the Judicial Conference, the Bankruptcy Division of the Administrative Office prepared a draft of amendments to section 40 of the Bankruptcy Act (11 U.S.C. 68) and related sections, to abolish the self-supporting bankruptcy system and to eliminate the present criteria for fixing salaries of full-time referees. The Committee on Bankruptcy Administration of the Judicial Conference considered the draft at its July 8, 1970, meeting and recommended that the conference approve it and authorized the Director to seek its introduction in the Congress. The conference approved this recommendation at its October 29–30, 1970, meeting.

"The proposed bill makes only two substantive amendments in the existing law. The others are conforming and perfecting changes. The substantive changes are:

"First Section 1(b) of the proposed bill would amend the second sentence of subdivision a. of section 40 of the Bankruptcy Act to eliminate the statutory criteria now required to be considered by the conference in fixing the amount of salary to be paid a full-time referee. The existing criteria would continue to be applicable in the fixing of the salary of a part-time referee and in determining whether a position shall be part-time or full-time.

"Second. Section 1(g) of the bill would amend subdivision c.(4) of section 40 of the Bankruptcy Act to abolish the referees salary and expense fund established in the Treasury of the United States and provide that all fees and charges collected by the clerks in bankruptcy proceedings be paid into the general fund of the Treasury of the United States instead of the account of the referees salary and expense fund. The salaries and expenses of referees would be paid from funds appropriated from the general fund of the Treasury.

"Section 9 of the proposed bill provides that the amendatory act shall take effect on the first day of the month following the day of enactment. It also provides that any funds appropriated for the salaries and expenses of referees as of the effective date, shall be chargeable to the general fund of Treasury of the United States, and that any balance in the referees' salary and expense fund shall be transferred into the general fund of the Treasury.

"Salaries of referees are fixed by the Judicial Conference of the United States within the maximum limitation authorized by the Bankruptcy Act. At the close of business June 30, 1970, there were 218 authorized referee positions and of these 184 were full-time of which seven received a salary of $25,000 per annum and the remaining 177 received a salary of $30,000 each. Of the 218 referee positions, 34 were part-time referees and four of these received $18,000 per annum and the salaries of the remaining 30 ranged from $10,000 to $15,000 per annum.

"The clerical staffs of referees' offices, including full-time, part-time, and temporary employees, totaled 855 at the end of fiscal year 1970. The salaries of the members of the clerical staffs are fixed by the Director of the Administrative Office of the U.S. Courts.

"The salaries and expenses of the bankruptcy courts are paid out of the special fund, Referees Salary and Expense Fund, in the U.S. Treasury which is made up from a portion of the filing fees in bankruptcy proceedings and certain other charges against the assets of bankrupt estates. The table below shows the annual payments into the obligations against the fund from July 1, 1960, to June 30, 1970, as well as the accumulated surplus in the fund as of June 30, 1970:

REFEREES' SALARY AND EXPENSE FUND

Fiscal year	Receipts	Obligations	Surplus
1961	$6,694,264	$5,737,526	$956,738
1962	7,339,837	6,605,714	734,123
1963	7,849,219	7,381,413	467,806
1964	8,890,400	7,798,844	1,091,556
1965	9,840,697	9,828,677	12,020
1966	9,926,676	10,673,577	—746,901
1967	10,578,782	11,241,727	—662,945
1968	10,881,669	11,879,379	—997,710
1969	11,173,176	13,440,000	−2,266,824
1970	11,041,534	15,573,000	[1] −4,531,460

[1] Subject to adjustment.

Note: Accumulated surplus June 30, 1969: $7,470,467; accumulated surplus as of June 30, 1970: $1,526,864.

"It will be observed that obligations have exceeded receipts into the referees' salary and expense fund beginning fiscal year 1966. Recognizing this situation, the Bankruptcy Committee of the Judicial Conference of the United States proposed amendments to the schedules of fees and charges in asset, nominal-asset and arrangement cases to provide increased payments into the fund. These amendments were approved by the Judicial Conference to be effective July 1, 1969—pages 22 to 24, report of March 1969 session.

"A further increase in the schedules of fees and charges in asset, nominal-asset and arrangement cases was proposed and approved by the Judicial Conference of the United States at the March 1970 session to be effective July 1, 1970—pages 24 to 25, report of March 1970 session.

"Inasmuch as these fees and charges are not normally paid until the final stages of administration of the cases, the increased payments will not be reflected in receipts into the fund until fiscal year 1971 and thereafter. Receipts in 1971 and thereafter will also reflect the increased volume of bankruptcy business in 1970, particularly in the classifications of business cases and chapter XI—arrangement—cases.

"The Judicial Conference recognizes, however, that the increased payments into the referees' salary and expense fund resulting from these changes in the schedules of fees and charges will fall short of raising the total payments into the fund to the level of annual obligations against it. Additional increases in the schedules would place an inordinate burden upon bankrupts and the assets of bankrupt estates.

"The Judicial Conference concluded at its March 1969 session—pages 23 to 24 of the report—that the principle of a self-supporting bankruptcy system is outmoded and should be abandoned. Pursuant to this policy statement, the Director was authorized—page 25, report of March 1970 session—to draft an amendment to section 40 of the Bankruptcy Act (11 U.S.C. 68) and related sections to abolish the self-supporting bankruptcy system. This bill was approved at the October 1970 session of the Judicial Conference and is submitted herewith for introduction in the 92d Congress."

COMMITTEE AMENDMENT

Section 40 of the Bankruptcy Act deals with the salaries of referees in bankruptcy. It provides that such salaries are to be set by the Judicial Conference of the United States within the statutory limits prescribed by Congress in this section.

When Congress enacted section 40 in 1945, it added a proviso designed to protect referees from frequent small changes in their salaries. This proviso, which appears at the end of section 40b, is as follows: "* * * no salary fixed under the provisions of this section for a full-time referee shall be changed more often than once in any two years or in an amount of less than $250.00."

Experience with the Bankruptcy Act since 1945 indicates that the fears which prompted enactment of this proviso are no longer justified. Furthermore, this proviso may now have the totally unintended effect of barring the referees from receiving increases which they would otherwise receive as a result of the actions of the Judicial Conference of the United States and the Presidential Salary Commission.

Under the circumstances, therefore, it would appear that retention of this proviso is no longer justified, that it creates an undue hardship upon the referees and that it should be repealed.

RECOMMENDATION

The committee believes that the bill, as amended, is meritorious and recommends it favorably.

AMENDMENT OF THE BANKRUPTCY ACT IN REGARD TO COMPENSATION ALLOWABLE TO RECEIVERS AND TRUSTEES

The Senate proceeded to consider the bill (S. 1395) to amend section 48 of the Bankruptcy Act (11 U.S.C. 76) to increase the maximum compensation allowable to receivers and trustees.

Mr. BYRD of West Virginia. Mr. President, on behalf of the committee, I offer an amendment to S. 1395 and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read the amendment as follows:

On page 2, in line 5, strike "Section 28a." and insert in lieu thereof "Section 48a."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 48a. (1) of the Bankruptcy Act (11 U.S.C. 76a. (1)) is amended to read as follows:

"a. (1) As Custodians.—Receiver appointed pursuant to clause (3) of section 2 of this Act who serve as mere custodians shall receive such amount as may be allowed by the court, but in no event to exceed 3 per centum of the first $2,500 or less, and one-half of 1 per centum on all above $2,500 on moneys disbursed by them or turned over by them to any persons, including lienholders, and also upon moneys turned over by them to the trustee and on moneys subsequently realized from property turned over by them in kind to the trustee."

(b) Section 48a. (2) of the Bankruptcy Act (11 U.S.C. 76a. (2)) is amended to read as follows:

"a. (2) With full powers-receivers appointed pursuant to clause (3) of section 2 of this Act who serve otherwise than as mere custodians shall receive compensation by way of commissions upon the moneys disbursed or turned over to any person, including lienholders, by them and also upon the moneys turned over by them or afterward realized by the trustees from property turned over in kind by them to the trustees, such amount as the court may allow, but in no event to exceed 10 per centum of the first $500 or less, 6 per centum on all in excess of $500 but not more than $1,500, 3 per centum on all above $1,500 and not more than $10,000, 2 per centum on all above $10,000 and not more than $25,000, and 1 per centum on all above $25,000: *Provided, however,* That in any case, after the trustee has paid all expenses of administration and has realized upon all available assets, where the maximum allowable to the receiver hereunder for serving as receiver with full powers does not exceed $150, the court may of its own motion allow the receiver, who serves otherwise than as mere custodian, a fee which with the commissions, if any, paid or to be paid him shall not exceed $150."

(c) Section 48c. (1) of the Bankruptcy Act (11 U.S.C. 76c. (1)) is amended to read as follows:

"c. (1) Normal Administration.—When the trustee does not conduct the business of the bankrupt, such sum as the court may allow, but in no event to exceed 10 per centum of the first $500 or less, 6 per centum on moneys in excess of $500 and not more than $10,000, 3 per centum on moneys in excess of $10,000 and not more than $25,000, 2 per centum on moneys in excess of $25,000 and not more than $50,000, and 1 per centum on moneys in excess of $50,000, upon all moneys disbursed or turned over by them to any persons, including lienholders: *Provided, however,* That in any case, after the trustee has paid all expenses of administration and has realized upon all available assets, the minimum compensation allowable to him hereunder does not exceed $250, the court may of its own motion allow the trustee a fee which with the commissions, if any, paid or to be paid him shall not exceed $250."

Sec. 2. The provisions of this Act shall apply only to those cases in which the petition initiating the proceeding under the Bankruptcy Act is filed subsequent to the date of the enactment of this Act.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–613), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the bill is to amend the Bankruptcy Act to increase the maximum compensation allowable to receivers and trustees.

STATEMENT

In introducing the proposed legislation, the Honorable Quentin N. Burdick said:

"Mr. President, I am introducing today S. 1395 which will facilitate the administration of the estates of bankrupts under the Bankruptcy Act.

"It is increasingly difficult to obtain qualified persons to serve as receivers and trustees, because of the limited compensation payable for necessary services rendered by such officers.

"There have been no increases in the statutory maximum allowances provided for receivers since they were first enacted in 1910 and there have been no increases in trustees' rates since 1956. In the meantime costs have increased and salaries of others have increased.

"The proposed legislation would permit the court to make discretionary allowances not to exceed $150 for a receiver and $250 for a trustee in those cases where the distribution is too small to provide an adequate basis for computing a reasonable allowance for the necessary services rendered.

"Under this proposed legislation, the maximum allowances which are at present permitted for a trustee will be applicable to receivers. This will represent an increase in the percentage rates for receivers and also have the effect of increasing, for receivers, the range of the application of the higher rates to the medium and larger distributions.

"The maximum allowances for trustees have been increased, with this proposal, by increasing the range in which the rates for a trustee are applicable.

"The proposed increase in the custodial rate would make it unnecesary for the referee to enlarge the duties of the receiver in order to fairly compensate him for his services.

"The proposed increases would apply only in bankruptcy cases initiated subsequent to the enactment of the proposed legislation.

"The above bill was approved by the Judicial Conference of the United States at its October 1970 session."

RECOMMENDATION

The committee believes that the bill is meritorious and recommends it favorably.

AMENDMENT OF THE BANKRUPTCY ACT TO PERMIT FULL-TIME REFEREES IN BANKRUPTCY TO PERFORM THE DUTIES OF A U.S. MAGISTRATE

The bill (S. 1396) to amend section 35 of the Bankruptcy Act (11 U.S.C. 63) and sections 631 and 634 of title 28, United States Code, to permit full-time referees in bankruptcy to perform the duties of a U.S. magistrate was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1396

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 35 of the Bankruptcy Act (11 U.S.C. 63) is amended (1) by inserting in the proviso to clause (2) thereof, immediately preceding the words "part-time referees", the words "full-time and part-time referees may, with the approval of the conference, serve as United States magistrates and" and (2) by striking the words "United States commissioners," from the proviso.

SEC. 2. Section 631(c) of title 28, United States Code, is amended by striking out wherever they appear therein the words "part-time referee in bankruptcy" and inserting in lieu thereof the words "referee in bankruptcy".

SEC. 3. The first sentence of section 634(a) of title 28, United States Code, is amended to read as follows: "Officers appointed under this chapter shall receive as full compensation for their services salaries to be fixed by the conference pursuant to section 633 of this title, at rates not more than $22,500 per annum for full-time United States magistrates, and not more than $11,000 per annum nor less than $100 per annum for part-time United States magistrates: *Provided, however,* That the salary of a full-time referee in bankruptcy, who is also serving as a part-time magistrate, may be fixed at an aggregate amount which does not exceed the maximum salary payable to a full-time referee in bankruptcy under section 40 of the Bankruptcy Act.".

SEC. 4. Section 631(e) of title 28, United States Code, is amended by adding at the end thereof the following new sentence: "In the case of an individual appointed to serve both as a referee in bankruptcy and a magistrate, his term of appointment as magistrate shall expire upon the expiration of his term as referee in bankruptcy.".

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD on excerpt from the report (No. 92–614) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purope of the bill is to amend the Bankruptcy Act to permit a full-time referee in bankruptcy to perform the duties of a U.S. magistrate.

STATEMENT

The proposed leigslation has been requested by the Administrative Office of the U.S. Courts on behalf of the Judicial Conference of the United States in order to facilitate the implementation of the new system of U.S. magistrates.

In introducing the proposed legislation, the Honorable Quentin N. Burdick said on the floor of the Senate:

"Mr. President, I introduce for appropriate reference S. 1396, to amend the Bankruptcy Act to permit full-time referees in bankruptcy to perform the duties of a U.S. magistrate.

"The Federal Magistrates Act, approved October 17, 1968, 82 Stat. 1107, provides that with the approval of the Judicial Conference of the United States 'a part-time referee in bankruptcy . . . may be appointed to serve as a part-time magistrate,' and authorizes the Conference to 'fix the aggregate amount of compensation to be received for performing the duties of part-time magistrate and part-time referee in bankruptcy' 28 U.S.C. 634. The act, however, does not authorize a full-time referee in bankruptcy to perform the duties of a part-time U.S. magistrate. In addition, section 35 of the Bankruptcy Act, pertaining to qualifications for referees in bankruptcy, provides in part that an individual shall not be eligible for appointment as a referee unless he is 'not holding any office of profit or emolument under the laws of the United States or of any State or subdivision thereof other than conciliation commissioner or special master under this title.' Exceptions to this provision are made only in the case of a part-time referee in bankruptcy.

"In the design and organization of the new system of U.S. magistrates two difficulties have arisen which would be ameliorated in part if a full-time referee in bankruptcy were authorized to perform the duties of a U.S. magistrate. First, there is the problem of a "backup" for a magistrate who is ill, or temporarily away from his station on business or vacation. Some courts have requested authority to appoint a second part-time magistrate at some locations at a nominal salary to arraign defendants and set bail in the absence of the regular magistrate—a function which a full-time referee in bankruptcy might well perform. Second, certain language in the Magistrates Act and in the Bankruptcy Act seems to prohibit a court from combining a position of part-time referee in bankruptcy with a position of part-time magistrate, in order that it may have one full-time officer rather than two part-time officers. It is the view of the Judicial Conference of the United States and its Committee on Bankruptcy Administration and the Implementation of the Federal Magistrates Act that it would be in the interest of good judicial administration to permit full-time referees in bankruptcy to perform magistrate duties and to authorize a full-time combination position of referee in bankruptcy."

RECOMMENDATION

The committee believes that the bill is meritorious and recommends it favorably.

Attached and made a part of this report is a letter from the Administrative Office of the U.S. Courts transmitting a draft of the proposed legislation with a recommendation that it be enacted.

EXTENSION OF THE COMMISSION ON BANKRUPTCY LAWS

The joint resolution (S.J. Res. 190) to provide for an extension of the term of the Commission on the Bankruptcy Laws of the United States, and for other purposes was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

SENATE JOINT RESOLUTION 190

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution entitled "Joint resolution to create a commission to study the bankruptcy laws of the United States", approved July 24, 1970 (84 Stat. 468), is amended—

(1) in subsection (c) of the first section, by striking out "within two years after the date of enactment of the joint resolution" and inserting in lieu thereof the following: "prior to June 30, 1973"; and

(2) in section 6, by striking out "$600,000" and inserting in lieu thereof "$826,000".

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–615) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the resolution is to extend the Commission on the Bankruptcy Laws from July 24, 1972, to June 30, 1973, and to increase the limit on appropriations to the Commission from $600,000 to $826,000.

STATEMENT

In a letter to the chairman of the Committee on the Judiciary, Harold Marsh, Jr., Chairman of the Commission on the Bankruptcy Laws of the United States, has written:

"Senate Joint Resolution 190, introduced by Senators Quentin Burdick and Marlow Cook on January 28, 1972, would extend the term of the Commission on Bankruptcy Laws of the United States from July 24, 1972, to June 30, 1973, and would increase the limitation on appropriations to the Commission from $600,000 to $826,000. House Joint Resolution 1006 was introduced in the House of Representatives for the same purposes on December 13, 1971, and a hearing was held by Subcommittee No. 4 of the Committee on the Judiciary of the House on January 31, 1972.

"The Commission on Bankruptcy Laws was established by Public Law 91–354 (84 Stat. 468) on July 24, 1970, and was intended to do its work and make its report within two years from that date. The process of appointing the members, however, required nearly ten months after the date of the enactment of the law, and it was impossible for a staff to be recruited, an office to be established, and the work to be commenced until June 1, 1971, after almost half of the statutory term of the Commission had elapsed. Meanwhile the reasons for creating the Commission as disclosed in Senate and House Committee hearings and in the House Report accompanying Public Law 91–354 (House Rep. No. 91–927) have been confirmed by subsequent developments, and the need for a comprehensive study, report, and recommendations for reform of the bankruptcy laws of the country is even more plainly evident.

"The additional time authorized by Senate Joint Resolution 190 is substantially what the Commission would have had if it had been duly constituted and enabled to commence its work without delay. The additional funds requested will permit the Commission to authorize studies necessary for the preparation of an informed and comprehensive report on the bankruptcy laws, including recommended changes in both the substantive law and the system for administering the law. In particular the Commission needs additional time and money for carrying out the mandate of Public Law 91–354 to consider the applicability of advanced management techniques to achieve economies in the administration of the Act, to analyze the causes of bankruptcy, and to study and make recommendations respecting alternatives to the present system of bankruptcy administration.

"The Commission and its staff have been making good progress on the statutory assignment given the Commission, particularly on the problems connected with the incresing number of personal bankruptcies. It is clear, however, that the Commission cannot provide to Congress, the President, and the Chief Justice the comprehensive report on bankruptcy, reorganization, and all the other aspects of the operation of the bankruptcy laws as contemplated by Public Law 91–354 within the time and fund limitations imposed by that law and the appropriation made thereunder. The members of the Commission are willing and anxious to carry out their full responsibility for making the study, evaluation, and recommendations delineated in Public Law 91–354 and hope that the Senate Committee on the Judiciary will report favorably on Senate Joint Resolution 190."

RECOMMENDATION

The committee believes that the resolution is meritorious and recommends it favorably.

PROVIDING AN ADMINISTRATIVE ASSISTANT TO THE CHIEF JUSTICE OF THE UNITED STATES

The bill (H.R. 8699) to provide an administrative assistant to the Chief Justice of the United States was considered, ordered to a third reading, read the third time, and passed.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-616), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 8699, is to add a new section 677 to title 28, United States Code, creating the Office of administrative assistant to the Chief Justice of the United States.

STATEMENT

Unlike some European countries where the head of the highest court of the land by tradition merely casts a tie-breaking vote in the decision-making process, the Chief Justice of the United States carries a full caseload as one of the nine Justices on the Supreme Court. Each of the nine Justices has three law clerks and two secretaries as a staff to assist in handling the workload of the Supreme Court, which in recent years has grown to an annual volume in excess of 4,000 cases. The Chief Justice, as presiding Justice of the Supreme Court, is responsible for administration of the judicial work involved in processing these cases and in this he is aided by one senior law clerk who acts as coordinator of all cases coming into the Office of the Chief Justice. Thus, the Chief Justice's responsibilities in the judicial work of the Court are a full-time job, as are the responsibilities of each of the eight Associate Justices.

In addition, the Chief Justice has numerous administrative and nonadjudicative responsibilities which require a considerable amount of his time and energy. With a brief description these may be enumerated as follows:

1. Administration, Supreme Court work.—The Chief Justice is charged with the primary responsibility for administration of the daily operation of the Supreme Court staff and personnel. Title 28, United States Code, authorizes four officers for the Court: Clerk, Marshal, Reporter of Decisions, and Librarian. Each of the officers has traditionally reported directly to the Chief Justice.

2. The Judicial Conference of the United States.—As Chairman of the Judicial Conference of the United States, the Chief Justice must plan and prepare for two meetings a year of the Conference, and interim meetings of the executive committee of the Conference. Each Conference in the fall and spring of the year is at least 2 days' duration, but preceding the Conference are many weeks of preparation including meetings with members of the Conference, chairmen of conference committees, and personnel from the Administrative Office of the U.S. Courts and the Federal Judicial Center relating to problems to be presented to the Conference.

3. The Federal Judicial Center.—As Chairman of the Board of Directors of the Federal Judicial Center, the Chief Justice meets with the Board four to six times a year for 1 or 2 days each meeting. As with the Judicial Conference, much preparation and planning must precede these meetings; frequent meetings are held with the directors of each of these groups and chairmen of its committees.

4. Relations with Chief Judges on administration.—In addition to the personal meetings mentioned above, the Chief Justice is in regular contact with Chief Judges of the 11 circuits and many of the 93 Federal districts on a wide range of problems facing the judiciary today, from the security of courtrooms and buildings, to programs for better utilization of juries, cooperation with State judges, and myriad problems many of which did not exist even 5 to 10 years ago.

5. Temporary assignment of judges to other courts.—Under chapter 13 of title 28 United States Code, the Chief Justice has the authority to assign judges from one circuit to another. Both active and retired judges may be so assigned. This is an important aspect of our Federal judiciary and gives the system a greater flexibility in meeting the exigencies brought about by illness, vacancies, variable caseloads in the several courts, and protracted trials.

6. Public responsibilities.—The Chief Justice of the United States is also the chief officer of a coordinate branch of the Federal Government. He is the titular head of our judicial system, both State and Federal, and as such he has leadership responsibilities not only to the Bench and bar, but to law schools, other colleges and universities, and to the national community in general. As part of these public responsibilities, Congress has seen fit, in the past, to designate him as Chairman of the Board of the Smithsonian Institute and of the National Gallery of Art. He is also Chairman of the Oliver Wendell Holmes Devise Committee.

These administrative and nonadjudicative responsibilities generate a mail volume of as many as 200 to 500 letters per day. While secretaries can process much of this mail, the Chief Justice personally sees all mail from members of committees of Congress or from Federal or State judges. In addition there are numerous daily contacts, in person or by phone, in connection with these responsibilities of the office. Testimony at the hearing held by the House Judiciary Committee indicated that to perform all these functions, the Chief Justice regularly puts in a 6½-day week, with rare and limited vacations.

An administrative assistant to the Chief Justice, as would be authorized by this bill, would relieve the Chief Justice of many of the time-consuming details involved in the nonadjudicative responsibilities. The administrative assistant's relationship to the Chief Justice would be a close one involving constant and personal contact, some of it of a confidential nature. The administrative assistant would handle the routine administrative matters not requiring the Chief Justice's personal attention, and, alternatively, he could prepare and process some of those matters on which final approval of the Chief Justice is necessary. This would include not only the day-to-day contact with all Officers of the Supreme Court, but also many of the administrative matters originating outside the Supreme Court. He would also act as liaison with the Director and staff of the Federal Judicial Center, the Director and staff of the Administrative Office of the U.S. Courts, the Judicial Conference of the United States, and with the chief judges of the various circuits and district courts. Thus, the Chief Justice's role of ultimate responsibility for sound judicial administration of our Federal court system would be enhanced by the new position authorized by this bill.

It is proposed that the person selected for this position should be primarily a person with high administrative and managerial talents. He should also have a legal background with experience in and knowledge of the Federal court system. In order to attract and retain such a qualified individual, it is proposed that the salary shall not exceed the salary of the Director of the Administrative Office of the U.S. Courts which is $40,000 per annum. The retirement benefits would also correspond to those afforded the Director.

The administrative assistant will be expected to attend many of the seminars and conferences held by the Federal Judicial Center for members of the Federal judiciary and he will also represent the Chief Justice at many meetings and conferences held in the 11 circuits. Therefore, it is also proposed that there be authorized a legal assistant, grade 14, as a "backup" for the administrative assistant.

As indicated by the attached letter of March 26, 1971, the concept of an administrative assistant to the Chief Justice was recommended by the Judicial Conference of the United States. H.R. 6953 and S. 2054, were introduced in this session of Congress embodying this concept. Hearings were held by the House Judiciary Committee on May 6, 1971, and the concept was supported by Mr. Justice Potter Stewart, Mr. Justice (retired) Tom C. Clark, and by Rowland F. Kirks, Director, Administrative Office of the U.S. Courts. The bill reported herewith, H.R. 8699, is a clear bill recommended by the House committee and passed by the House on July 13, 1971.

Each Member of Congress is authorized an administrative assistant. Under Public Law 91-647 each chief judge of a U.S. court of appeals is authorized to obtain the services of a court executive to assist in the discharge of administrative duties in relation to the courts within the judicial circuit. The President, by necessity, has much assistance in the administration of our laws.

The committee is of the opinion that the Chief Justice of the United States deserves the help of an assistant in carrying out his administrative and nonadjudicative responsibilities as enumerated in this report. Therefore, the committee recommend favorable consideration of H.R. 8699, without amendment.

COST

The committee adopts the following cost estimate as prepared by the Administrative Office of the U.S. Courts:

Personnel compensation:	
Administrative assistant, ungraded	$40,000
Secretary, grade 10	12,669
Legal assistant, grade 14	22,897
Total compensation (three positions)	75,566
Personnel benefits:	
Government contribtuions for retirement, insurance, etc	5,934
Travel	3,100
Miscellaneous expenses	2,000
Furniture and equipment	8,000
Total First-year cost	94,700
Less nonrecurring expenses	−8,100
Recurring annual cost	86,600

Of this estimated cost $38,000 is presently included in the State, Justice, Commerce, and Judiciary Appropriation Act, 1972 (Publice Law 92–77) as salary and benefits for the office of administrative assistant to the Chief Justice.

SECTIONAL ANALYSIS

H.R. 8699, adds a new section 677 to title 28, United States Code.

Subsection (a) authorizes the Chief Justice to select and appoint an administrative assistant. He shall perform such duties as may be assigned to him and he serves at the pleasure of the Chief Justice. The salary of the office is fixed by the appointing authority but shall not exceed the salary paid to the

Director of the Administrative Office of the U.S. Courts which is presently authorized at $40,000 per annum. Subsection (a) also authorizes the administrative assistant to elect the same retirement program as the Director, namely, eligibility at age 65, with 15 years of service, at 80 percent of salary.

Subsection (b) authorizes the administrative assistant, with the approval of the Chief Justice, to appoint and fix the compensation of necessary employees. As indicated by the cost analysis it is contemplated that this additional staff will be one secretary and one legal assistant. The budget of the Supreme Court as presented to and considered by the House Committee on Appropriations on March 1, 1971, included a requested appropriation for these positions.

Section 2 merely amends the sectional analysis of chapter 45, title 28, United States Code, by adding the new section 677.

TEMPORARY ASSIGNMENT OF U.S. MAGISTRATES

The bill (H.R. 9180) to provide for the temporary assignment of a U.S. magistrate from one judicial district to another was considered, ordered to a third reading, read the third time, and passed.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–617), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of H.R. 9180 is to add a new subsection to section 636 of title 28, United States Code, to permit the temporary assignment of U.S. magistrates from one judicial district to another in emergency situations and only upon the concurrence of the chief judges of the districts involved.

STATEMENT

One means of increasing the efficiency of a judicial system and of reducing the cost of operation is to provide for a degree of flexibility in the use of the personnel employed in the system. For many years, the chief judge of a circuit and the Chief Justice of the United States have been authorized to assign district judges to sit in other districts, or upon the court of appeals, or to assign a circuit judge from one circuit to sit in another circuit (28 U.S.C., secs. 291 and 292). A similar authority has existed with respect to the assignment of retired judges to temporary duty in the Federal courts (title 28 U.S.C., sec. 294). While these are temporary assignments, the system is benefited to the extent that a degree of flexibility is provided which permits a judge from a court with a light workload to be used in a court with a heavy workload, the use of able retired judges as extra judicial manpower and the employment of all judges in order to cover situations involving illness or temporary disability. This system for the temporary assignment of justices has worked well in the Federal system and also in certain State court systems which have been authorized to use the same practice.

H.R. 9180 would permit the same practice to be followed with respect to the position of U.S. magistrate. This matter was overlooked when the magistrate office was created by Public Law 90–578 to replace the commissioner system. Under the proposal contained in H.R. 9180, a magistrate assigned to another district would not receive extra compensation but would be reimbursed for expenses incurred in the performance of his duties.

Hearings were held by the House Judiciary Committee on September 7, 1971. H.R. 9180 was passed by the House on November 1, 1971. Having considered the matter, the Committee on the Judiciary adopts as its own the following further explanation from the Report of the House Committee on the Judiciary (Rept. 92–582):

"Under the act of October 17, 1968 (Public Law 90–578) a U.S. magistrate is authorized to perform official duties only within the territorial jurisdiction to which he is appointed. He may not be assigned temporarily to another district.

"The bill would authorize temporary assignment of magistrates from one district to another in an emergency and only upon the concurrence of the chief judge of the districts involved. A magistrate assigned temporarily to another district would not receive extra compensation, but from reduced detention time for prisoners and the reduction of part-time magistrates which would result from the additional flexibility of full-time magistrates. The committee concurs in the estimate of the administrative office and believes that legislation will result in a net saving to the Government."

LAW DAY, MAY 1, 1972

The joint resolution (S.J. Res. 169) to pay tribute to law enforcement officers of this country on Law Day, May 1, 1972, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

Whereas the first day of May of each year was designated as Law Day, U.S.A. and was set aside as a special day of celebration by the American people in appreciation of their liberties and in reaffirmation of their loyalty to the United States of America; and of their rededication to the ideals of equality and justice under laws in their relations with each other as well as with other nations; and for the cultivation of that respect for law that is so vital to the democratic way of life: Be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in the celebration of Law Day, May 1, 1972, special emphasis be given by a grateful people to the law enforcement officers of the United States of America for their unflinching and devoted service in helping to preserve the domestic tranquility and guaranteeing to the individual his rights under the law.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–618), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the resolution is to pay tribute to law enforcement officers of the United States on Law Day, May 1, 1972.

STATEMENT

The law-enforcement officers of this Nation face formidable challenges in protecting our rights and property. They are charged with the duty of upholding and enforcing our laws, and they meet this difficult and dangerous obligation with courage and dedication. They have earned our praise and our appreciation.

In 1961 Congress designated each May 1 as Law Day, and for the past 10 years this program has been marked by various programs centered on national freedom and rights under the law. This seems to be a particularly appropriate occasion to reflect upon the debt of gratitude we owe to the law-enforcement personnel whose efforts guarantee this national freedom and rights under the law. Accordingly this joint resolution asks that on May 1, 1972, special emphasis be given by us to the law-enforcement officers whose devoted service has helped to preserve and guarantee our individual rights under the law.

The committee is of the opinion that this resolution has a meritorious purpose and accordingly recommends favorable consideration of Senate Joint Resolution 169, without amendment.

NATIONAL WEEK OF CONCERN FOR PRISONERS OF WAR/MISSING IN ACTION

The joint resolution (S.J. Res. 189) to authorize the President to designate the period beginning March 26, 1972, as "National Week of Concern for Prisoners of War/Missing in Action" and to designate Sunday, March 26, 1972, as a national day of prayer for these Americans was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That to demonstrate the support and concern of the people of the United States, for the more than one thousand five hundred Americans listed as prisoners of war or missing in action in Southeast Asia, and to forcefully protest the inhumane treatment these men are receiving at the hands of the North Vietnamese, in violation of the Geneva Convention, the President is hereby authorized and requested to issue a proclamation (1) designating the period beginning March 26, 1972, and ending April 1, 1972, as "National Week of Concern for Prisoners of War/Missing in Action", (2) designating Sunday, March 26, 1972, as a national day of prayer for the lives and safety of these men, and (3) calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–619), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the resolution is to authorize the President to designate the period beginning March 26, 1972, as National Week of Concern for Prisoners of War/Missing in Action and to designate March 26, 1972, as a national day of prayer for these Americans.

STATEMENT

There are more than 1,500 American servicemen listed as prisoners of war or missing in action in Southeast Asia, some of whom have been held captive since early 1964, almost 8 years ago. Many families have remained long years in anxiety without knowing the fate of their loved ones.

Despite repeated demands for compliance with the Geneva Convention regarding prisoners of war by the United States, the United Nations, the International Red Cross, and many others, the North Vietnamese Government persists in its refusal to permit the free flow of mail to and from prisoners, to repatriate the sick and wounded, to permit the inspection of prisoner facilities by an impartial observer, and to provide for repatriation or internment in a neutral country of those who have endured an extended period of captivity. These basic considerations spring from fundamental human decency and go beyond politics or philosophy. Members of the U.S. Congress have on prior occasions reaffirmed their support for the principles asserted in the Geneva Convention of 1949. Whatever the many and varied perceptions of the conflict have been, the Members have concurred vigorously in the humane precepts of this Geneva Convention.

Favorable consideration of this resolution would demonstrate support and concern for those American listed as prisoners of war or missing in action in Southeast Asia and would forcibly register the protest of Members of the U.S. Congress over the inhumane treatment these Americans are receiving at the hands of the North Vietnamese in violation of the Geneva Convention.

Senate Joint Resolution 189 would therefore authorize and request the President of the United States to issue a proclamation designating the period beginning March 26, 1972, as "National Week of Concern for Prisoners of War/Missing in Action," and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The resolution would also designate Sunday, March 26, 1972, as a national day of prayer for the lives and safety of these Americans.

RECOMMENDATION

The committee is of the opinion that this resolution has a meritorious purpose and accordingly recommends favorable consideration of Senate Joint Resolution 189, without amendment.

Mr. BROCK. Mr. President, I wish to express my humble and sincere gratitude for today's heartwarming Senate action on our prisoners of war and missing in action by asking for a second national week of concern for these men.

Less than 2 weeks after Senate Joint Resolution 189 was introduced, it was reported favorably by the Judiciary Committee, whose chairman, and most of whose members joined the more than 70 cosponsors. Small though this gesture may seem, it means a great deal to the wives, parents, and children of these men to be reassured that they are not and will not be forgotten by those of us for whom they have suffered and sacrificed so much.

I believe I speak for every Member of this body when I assure the National League of Families that Congress, the President, and the United States today remain constant in concern that our men be speedily returned to their loved ones and that there be no need for another national week of concern.

I ask unanimous consent that a letter from the chairman of the board of the National League of Families, Mrs. Carole Hanson, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL LEAGUE OF FAMILIES OF AMERICAN PRISONERS AND MISSING IN SOUTHEAST ASIA,
Washington, D.C., February 4, 1972.

Senator BILL BROCK,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BROCK: Last year we so very much appreciated your support by introducing and so-sponsoring a National Week of Concern for the POW/MIA's held captive in Southeast Asia. Once again you are introducing such legislation and we would like to convey to you our wholehearted gratitude.

This type of non-partisan, humanitarian effort has a twofold effect. It keeps the American and worldwide public aware of the plight of these men and it boosts the morale of those of us who are personally involved in the issue.

Our loved ones cannot be forgotten. Your endeavors and those of your colleagues will aid us in obtaining our objectives.

Thank you for your continuing concern and support.

Sincerely,

MRS. CAROLE HANSON,
Chairman of the Board.

EXECUTIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

The legislative clerk read the nomination of I. H. Hammerman II, of Maryland, to be a member of the Board of Directors of the National Corporation for Housing Partnerships for the term expiring October 27, 1974.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

SECURITIES INVESTOR PROTECTION CORPORATION

The legislative clerk read the nomination of Henry W. Meers, of Illinois, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1974.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

COUNCIL OF ECONOMIC ADVISERS

The legislative clerk read the nomination of Marina von Neumann Whitman, of Pennsylvania, to be a member of the Council of Economic Advisers.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

COMPTROLLER OF THE CURRENCY

The legislative clerk read the nomination of William B. Camp, of Maryland, to be Comptroller of the Currency.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. AIR FORCE

The legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. NAVY

The legislative clerk proceeded to read sundry nominations in the U.S. Navy.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. MARINE CORPS

The legislative clerk proceeded to read sundry nominations in the U.S. Marine Corps.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the nominations be considered en block.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en block.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE ARMY, IN THE NAVY, AND IN THE MARINE CORPS

The legislative clerk proceeded to read sundry nominations in the Army, in the Navy, and in the Marine Corps which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. SCOTT. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. SCOTT. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

WENDELL WILLKIE'S ONE WORLD

Mr. SCOTT. Mr. President, this morning, we observed, as we did last year, the anniversary of the death of that American who was never elected to public office but who may have had the greatest influence on his times and on our times in this country; namely, Wendell Willkie.

Wendell Willkie's unswerving dedication to principle and to the causes in which he believed were exemplified in his use of a phrase which has become common in our language "one world."

A conference resulting from his candidacy, held in New York, I believe contributed to the conversion of the great Senator Vandenberg to an internationalist posture, to the commitment that the United States, indeed, has recognized in the second chapter of Genesis that, in some ways, we are our brother's keeper.

Wendell Willkie, in that conference, attended by such persons as the then Senators from Vermont, Mr. Austin and Mr. Flanders, and many others, turned the Republican Party around.

He began the conquest of the disease

of isolationism which for so long had retarded and hampered the country. He opened the country's eyes to the opportunities of a new world.

Next week while the President of the United States is opening a dialog with the largest number of people in the world, some 800 million people on mainland China, one of the causes espoused by Wendell Willkie will come to pass. For, to us, the Chinese have been ranked throughout the world at the very bottom. To some people they are on the bottom and we are on the top. To some people they are on the top and we are on the bottom.

Our objective is that we shall be side by side for peace and that our hearts, our minds, and our intentions shall be in tune.

I believe that the Republican Party was exemplified in that way. Also, if we recall, other Republicans have said that our dedication should be to peace.

I can still hear Wendell Willkie's hoarse and fading voice as from one place in the country to the other he traveled tirelessly saying:

> Only the productive can be strong, and only the strong can be free.

Then we had a leader in Thomas Dewey, who exemplified another of our problems when he said:

> It must not take a war to make jobs.

Then with Eisenhower we had a promise, "I will go to Korea." And he did. We know that as a result of that an armistice arose and a more peaceful condition occurred.

President Nixon has now advocated a generation of peace and has said:

> I will go to China, and I will go to Russia, and will go to those places in the world where what we do, exemplifying the United States, may promote this great cause of all of us, of all parties, for a generation of peace.

In this way, we may live in peace and tranquillity and ease with our neighbor and hope that we do beat our swords into plowshares and that we will no longer look to the heaven with terror, but rather in the hope that the still undiscovered secrets of the universe may be further revealed to us.

When the Republican Party speaks of peace, when it rushes to achieve it, when it emphasizes productivity, when it emphasizes that we live in the same world and must live in harmony with our neighbors, those in China and those in other parts of the world, those are the hours that commend the party.

An when we dissent—as both parties do with petty bickering and weighing the short-term gains as against the long-term responsibilities—we not only weaken ourselves but also lower the regard of the people for us.

There is temptation. There is a joy in battle and an excitement in confrontation. We would not be human if we were to reject these lustrous temptations. But overall and in the long view, we have got to reject them. The Democrats, independents, and Republicans alike have got to make their primary objective the achievement of peace and then in peace for all mankind, as the Bible says:

> To follow after the ways that lead to peace.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Florida (Mr. CHILES) is recognized for not to exceed 15 minutes.

Mr. CHILES. Mr. President, I yield to the distinguished Senator from Virginia.

CANCELLATION OF SCHEDULED COMMITTEE MEETINGS

Mr. BYRD of Virginia. Mr. President, while the distinguished minority leader is present, I would like to invite attention to the fact that several days ago the distiguished minority leader informed the Senate of the need for speedy action on the administration's request to increase the debt ceiling.

The distinguished chairman of the Finance Committee phoned the Senator from Virginia yesterday and asked whether it would be satisfactory and convenient to have a meeting of the committee on Monday to consider the debt ceiling. He knew that the Senator from Virginia had three engagements in Virginia this weekend, one in Richmond, one in Newport News, and one in Henrico County.

I told the chairman of the committee that Senate business came first and that I would make it convenient and would be here.

I note by the paper that this meeting has been canceled because the administration witnesses were not able to be present. I am sure that it is for good cause, and it is perfectly all right with me. I am in no hurry.

However, I do want the RECORD to show that I will object to any unanimous-consent request in regard to the debt ceiling legislation. I think this legislation should be considered in the normal procedures of the Senate and that adequate time should be taken to understand the great financial problems facing our Nation.

I hope that the majority leader and the minority leader would protect the Senator from Virginia on any unanimous-consent request. I will not support any proposal to rush this legislation through the Senate.

I emphasize that I offer no criticism for the canceling of Monday's meeting but I do not want the delay to be an excuse for hurried Senate action.

Mr. SCOTT. Mr. President, will the Senator from Virginia yield?

Mr. BYRD of Virginia. I yield

Mr. SCOTT. Mr. President, I think the Senator is quite right. If the administration witnesses will not appear, while their reasons may be good, it is unfortunate. I have given notice to the administration that they must at all times cooperate in an effort to expedite the procedures of the Senate.

I will inquire as to why they will not be present and urge that they be here at the earliest possible moment that will suit the convenience of the committee.

It is most important that they be present.

We are plagued with absenteeism in this body. We should by no means be tolerant of any delay on the part of the administration in furnishing the committee with material which they need. I will certainly cooperate in this endeavor.

I regret that the Senator from Virginia canceled his engagements. I attended a committee meeting at which there was at least an understanding that we would vote on constitutional amendments. A number of Senators canceled engagements to be there. Then we arrived to find that there was not to be any vote.

I was unable to hear a discussion on the SALT talks by the Ambassador to the United Nations.

I am going to urge that when a committee meeting is announced, they live up to it and get to a vote.

Mr. CHILES. Mr. President, does the Senator from Virginia feel that he has adequately covered this subject?

Mr. BYRD of Virginia. Yes.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

(The remarks Mr. CHILES made at this point on the introduction of S. 3194 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kansas (Mr. PEARSON) is reconized for not to exceed 15 minutes.

THE PROPOSED VALUE-ADDED TAX

Mr. PEARSON. Mr. President, each Member of this body is aware that the Federal, State, and local governments are in the midst of a financial crisis and we understand that this crisis is most acute in our public schools. Tragically, schools have had to close in districts across the country while many more barely keep their doors open to overcrowded classrooms in inadequate buildings with underequipped libraries and laboratories.

In an attempt to meet this crisis, there is some examination of the merits of a so-called value-added tax to provide an additional $16 to $18 billion in tax revenue. Mr. President, the value added tax is only a fancy term for a national sales tax. It is not a new idea; a similar tax has been used in Europe for about two decades and for many years our States have relied on the sales tax as a basic source of revenue.

Mr. President, even though the final form of this tax may not be known for many months, we already know enough about its principles to raise fundamental questions about its desirability.

We know, Mr. President, what a national sales tax would mean to each consumer in this country: he would pay more for each item. He would pay more whether he is rich or poor, whether he is buying food, clothing, medicine, or luxuries. He would pay, not according to his ability to pay, but in proportion to his need to buy. And the question quite naturally arises: Can our Nation, in the middle of a national effort to control inflation, impose a tax which would raise the price of almost every item consumed?

While an objective of the imposition of a national sales tax would be to relieve property taxes, one must remember that no one has said that the property tax will be eliminated. If this national sales tax is imposed, American taxpayers would be burdened with two regressive taxes, the property tax and the national sales tax, instead of only one. Would this really relieve the heavy tax burden?

Mr. President, proponents of a national sales tax make a number of claims concerning its virtues. I ask that we examine these assertions most carefully.

National sales tax proponents claim that it is a hidden tax. They say that it is effective because people do not realize that they are paying the tax as they make each purchase. I submit, Mr. President, that it is fundamentally dishonest to attempt to hide a tax from those who pay it. Each American has a right to know exactly how much he pays to support his Government. To hide one tax from him while claiming to relieve the burden of another is nothing short of fiscal charlatanism.

Furthermore, Mr. President, I do not believe that we can hide a tax from the American people, and certainly not this tax. Each consumer will know that he is paying the national sales tax, and low and middle income people will know it much better than the rich. They will know that their dollars for food, medicine, and other necessities will not go as far. This tax will not be hidden from the elderly; they, especially, will feel the burdens of this latest form of Government-generated inflation. This tax will not even be hidden from the governments themselves because they will have to pay more for each item purchased, and so we are back to the taxpayer who will bear a heavier tax load to support increased costs of Government operations.

Proponents of a national sales tax say that U.S. exports would increase if we could follow the European practice of remitting taxes on goods sold abroad and that a national sales tax would enable us to do this. A number of tax experts dispute these claims. The issue is murky, at best.

I, however, have a more fundamental question about foreign trade advantages of a national sales tax. We have been told that the devaluation of the dollar would provide the impetus we needed to expand exports and reduce imports. Are we now asked to believe that an even greater advantage is necessary to correct our balance-of-payments deficit? Do proponents of a national sales tax really think that foreign nations would stand idly by while American goods gained further trade advantages. All of the rules of GATT notwithstanding, I find it hard to believe that they would.

Mr. President, even if our exporters needed a greater competitive advantage, at what cost to the American people should it be granted? Should, Mr. President, Americans pay higher prices for food and medicine so that an exporter can sell a few more widgets abroad? Important as foreign sales are to the American economy, I do not believe that American consumers should be taxed so that exporters can make higher profits.

Turning from international trade, Mr. President, have the proponents of a national sales tax examined its impact on the finances of State governments? If a national sales tax is levied, this would preempt a major source of State revenue. Could consumers bear a new national sales tax and continue to pay State sales taxes at present levels? A national sales tax would create the possibility that the States, with their tax bases preempted, may reduce their share of funds for public schools. We would gain little by increasing Federal aid to education while at the same time causing reductions of State aid. This is simply taking funds from the schools and returning them endowed with the holy name of Federal aid.

Mr. President, I do not understand why it is necessary to create this new tax. We do not add a new Federal tax each time we institute a new Federal program. We do not have a space program tax, nor do we have an antipoverty tax. Why then do we need an education tax? If we must increase taxes to pay for new programs, we have an adequate Federal tax structure to raise additional revenues. I do not believe, however, that we must raise taxes in order to increase Federal aid to education. We can, instead, begin to fulfill our rhetorical promises to reorder priorities by increasing Federal aid to education and decreasing outlays for less important items in our budget of which there are many.

In conclusion, Mr. President, we recognize that the Federal Government must help to alleviate the financial crisis which threatens our public schools and in doing so relieve some of the heavy burden of property taxes. But in my judgment, Mr. President, a national sales tax is neither an equitable nor an effective means to accomplish these objectives.

I yield back the remainder of my time.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Minnesota (Mr. MONDALE) is recognized for not to exceed 15 minutes.

THE EDUCATION AMENDMENTS OF 1971

Mr. MONDALE. Mr. President, next week the Senate will consider S. 659, the Education Amendments of 1971. We are told this will be an antibusing debate. It should not be.

S. 659 represents a historic effort to meet the growing educational needs of this Nation.

S. 659 would provide a dramatic and badly needed new program of assistance to students and institutions of higher education. It would provide a new program of aid for the education of American Indian children attending public schools. And it contains the provisions of S. 1557, the Emergency School Aid and Quality Integrated Education Act, to provide financial help, on a completely voluntary basis, to school districts desegregating under Federal court order, under title VI of the Civil Rights Act of 1964, under State law, or as a matter of wholly voluntary local education policy.

These programs all have passed the Senate before by overwhelming margins. They do not require any school district to bus a single student. They do not require any school district to desegregate a single school.

Title VI of the bill, the Emergency School Aid Act, does offer to help local school districts meet the additional cost—including the cost of transportation—of educationally successful integration. But funds for transportation will be available only upon request of local school districts, and only where the transportation is required under the Constitution or State law, or adopted as a voluntary local educational decision.

School desegregation is a fact of American educational life. The law of the land is clear, and it will not change. Officially imposed school segregation—whether the result of State law or covert policy—must be overcome.

A unanimous Supreme Court resolved any lingering doubts last April with Chief Justice Burger's landmark decision in Swann against Charlotte-Mecklenburg. A racial balance is not required. All-white or all-black schools may remain after all reasonable steps have been taken. But every reasonable effort must be made to overcome the results of officially approved school segregation—whether the result of State law or official policy:

> School authorities should make every effort to achieve the greatest possible degree of actual desegregation. . . .

And reasonable transportation will be required where necessary to defeat the results of racially discriminatory student assignment policies. In the words of the Court:

> We find no basis for holding that the local school authorities may not be required to employ bus transportation as one tool of school desegregation. Desegregation plans cannot be limited to the walk-in school.

Nothing we do here next week will reverse 18 years of unanimous rulings by the Supreme Court, or alter 14th amendment requirements.

The Senate has faced this test before. Almost every year since the Civil Rights Act passed the Congress in 1964, we have confronted at least one major effort to cripple Federal support for school desegregation.

In addition, this year we may be asked to vote on a constitutional amendment designed to virtually repeal the 14th amendment and end school integration. I have opposed all such efforts in the past. I oppose any such constitutional amendment, and I will continue to oppose any legislative effort which is designed to impede compliance with the Constitution or deny school districts the resources necessary to carry out the mandates of the Federal courts.

I have opposed such legislation in the past because I believe we cannot permit continuation of officially imposed school segregation—whether sanctioned by State law, or by the express or covert policies of school districts or other public agencies.

I have opposed such efforts because I believe that quality integrated education—sensibly achieved, and with community support—is one of the best hopes for the education of our children, and the future of divided communities throughout this Nation.

Now we are asked to fight those same battles all over again. And we are hearing the same arguments about thousands of children riding buses for long distances, about the disruption of public education, about what the Supreme Court has said or has not said, about what polls show is popular or unpopular, about the need to concentrate on quality education instead of desegregation.

We have also heard legitimate and concerned criticism regarding the process of school desegregation.

Some court orders have at times been arbitrary.

Some student transportation has in a few cases worked unnecessary hardships.

Some Federal administrators have been overbearing and rigid. And there are other equally legitimate criticisms which we have heard less often:

Thousands of qualified black teachers and administrators have been demoted or dismissed.

Too often black children have been subjected to abuse by fellow students, by teachers and by school administrators.

Too often the wealthy have fled to suburbs or placed their children in private schools, so that desegregation has affected only the poor.

And confusion exists as to some of the legal issues involved.

But we will not answer these criticisms by refusing the Federal support needed to make school desegregation educationally successful, or by withdrawing the Federal Government from enforcement of the 14th amendment.

Mr. President, we do have a choice to make—not only for ourselves, but for our children and for future generations of Americans. That choice is not between blind acceptance of massive busing for racial balance or total rejection of support for any transportation to achieve school desegregation.

Busing is the means—and at times the only means—by which segregation in public education can be reduced. But in itself, busing can be either helpful or harmful.

It can be the safest, most reasonable way for children to reach integrated schools of high quality. Or it can be used to uproot stable communities, and destroy the one chance that parents have to provide the best for their children.

Like the President, I do not support unnecessary transportation to achieve an arbitrary racial balance. None of the hundreds of educators with whom I have talked in the past 2 years supports this kind of effort. And the Supreme Court has made it crystal clear that busing will be required only where it is reasonable and does not place undue burdens on schoolchildren. In the words of the Court:

> Busing will not be allowed to significantly impinge on the educational process.

Nor do I believe that educationally advantaged students should be bused to schools where they will be overwhelmed by a majority of students from the poorest and most disadvantaged backgrounds. All the evidence we have collected indicates that this kind of desegregation helps no one at all.

But if we bar the use of reasonable transportation as one tool for achieving desegregation, we will set in concrete much school segregation which is the clear and direct product of intentional Government policy—segregation which would not exist if racially neutral policies had been followed in the first place.

In South Holland, Ill., for example, a U.S. district court found public agencies deeply involved in fostering school segregation.

First, schools were located in the center rather than at the boundaries of segregated residential areas in order to achieve school segregation.

Second, school assignment policies were adopted under which black children living nearer to white schools attended black schools, and white children living nearer to black schools attended white schools.

Third, schoolbuses were used to transport students out of their neighborhoods in order to achieve segregation.

Fourth, teachers were assigned on a racial basis.

All of these practices contributed to the growth of segregated schools within segregated residential areas in South Holland. And if transportation to achieve desegregation is prohibited, public school segregation in South Holland will continue—because the location of schools to achieve segregation has both exploited and fostered residential segregation so that effective desegregation cannot be achieved by any other means.

The courts have found virtually identical conditions in Norfolk, Va.; Pasadena, Calif.; Charlotte, N.C.; Denver, Colo.; and countless other communities.

And contrary to popular impression, courts just have not generally ordered excessive busing or engaged in indiscriminate racial balancing. The proportion of children riding buses to school in the Deep South is less than 3 percent above the national average, and barely 7 percent above the average for the Northern and Western States. And recent HEW studies show that aggregate busing has not increased as a result of desegregation. In Louisiana and Florida, although the total number of students bused has increased, the average distance traveled has decreased substantially.

And in the South's 25 largest school districts this year, 33 percent of the total black enrollment attend virtually all-black schools. This hardly indicates overzealous racial balancing.

Mr. President, the question before us is whether we are going to try to understand and deal realistically with the legitimate concerns—and the irrational fears—which surround this explosive issue, or whether we will abandon the courts and countless school districts to their own resources.

We have only two choices. We can assume our share of the burden. We can begin to ask the right questions—not whether we should resist school desegregation, but how we can best work to assure that school integration is conducted in a sensible, educationally beneficial manner. We can fulfill the commitment to equality of opportunity which we have made in the past. We can build on the hopeful examples of successful integration, help the courts avoid educational mistakes, and make school desegregation work.

Or we can stand in the schoolhouse door. We can resist the rulings of the Supreme Court and the advice of educators. We can abandon all the efforts of the past 17 years to eliminate discrimination and end racism—in pursuit of a policy of national resistance toward what the Constitution requires and what each of us knows to be morally right.

If we refuse to help, the results are predictable—more disruption of public education, more racial bitterness, and a continuing loss of respect for ourselves and for the integrity of our Government.

Mr. President, for nearly 2 years, I have served the Senate as Chairman of the Select Committee on Equal Educational Opportunity. It has been a painful 2 years for me, and I believe for other members of the committee as well. We have heard almost 300 witnesses on the issues which the Senate confronts today. And we have learned a great deal about success and failure in American public education.

We have tried to look deeply into the workings of public education in all parts of this country. We have not concentrated on the South by any means.

And, I am left with a deep conviction—that American education is failing children who are born black, brown, or simply poor.

In Hartford, Conn., the median I.Q. level of black elementary school students is perilously close to eligibility for special schools for the mentally retarded.

In rural Appalachia, fewer than 50 of every 100 fifth graders graduates from high school.

In New York City, the dropout rate of Puerto Rican children between grades 10 and 12 is 56.7 percent.

Fifty percent of American Indian students never complete high school.

And we cannot ignore the findings of Charles Silberman, Kenneth Clark, and others—that in many instances the public schools are damaging rather than encouraging the intellectual growth of even our most privileged children. And that the gap between the realities of American life and the principle of racial justice—for which we fought a bitter and terribly divisive civil war—is contributing in major part to the growth of a generation marked with a profoundly cynical distrust in the decency of our Government.

There are those who urge us to abandon school integration. They say all our energies should be devoted to improving the quality of education in racially and economically isolated schools.

They rightly point out that thousands of children attend schools that will not be integrated—racially or economically—in the next decade.

Ways must be found to provide better education in schools serving only the disadvantaged. But we have not found those ways. With few exceptions, an annual Federal investment of $1.5 billion in compensatory education has little perceptible impact on mounting educational disadvantage. We must increase our efforts, but success is far from certain. We cannot afford to abandon other hopeful approaches.

And it has been demonstrated that integrated education—sensitively conducted and with community support—can be better education for all children, white as well as black, and rich as well as poor.

President Nixon recognized this in his March 24, 1970, message on elementary and secondary school desegregation:

> We also know that desegregation is vital to quality education—not only from the standpoint of raising the achievement levels of the disadvantaged, but also from the standpoint of helping all children achieve a broad-based human understanding that increasingly is essential in today's world.

And Elliot Richardson, Secretary of Health, Education, and Welfare, testified before the Education Subcommittee:

> Every major report or research project dealing with educational problems, indeed of the disadvantaged children, has concluded that educational development, that is, learning, is greatly hindered by homogeneous learning environment. Children learn more from each other than from any other resource of the education environment.

The fact is that integrated education—sensitively conducted and with community support—has been tried, and it is working in countless communities in every section of this Nation. It can and does result in better education for all children, white as well as black, rich as well as poor.

Thousands of black and brown and white students are in classes together in communities like Berkeley and Riverside, Calif.; Raeford, N.C.; White Plains and Niagara Falls, N.Y.; Gulfport and New Albany, Miss.; and Baldwin, Mich. These communities quietly desegregated their school systems—without fanfair, without incident, voluntarily and without coercion or Federal intervention. They did it not because the Constitution requires it but because it is morally and educationally right for all their students.

Other communities have been required under court order to desegregate their schools to correct past discrimination. Some have fought school desegregation every inch of the way—with open resistance, even violence or with years of legal maneuvering and subtle avoidance. But in many communities—Atlanta, Charlotte, Miami, Savannah, and Pasadena—school superintendents, teachers, principals, parents and students are quietly going about the business of education in integrated schools.

Both research and experience show that disadvantaged and minority group children do better in integrated schools, particularly when their classrooms contain a majority of advantaged children.

The massive Federal study, "Equality of Educational Opportunity," known as the Coleman report, found that the average 6th grade black student in 1965 was 2 years behind the average white student in the 6th grade, 2.6 years behind in the 9th grade and 3.3 years behind in the 12th grade. The report indicates that this gap was substantially reduced by racial and economic integration. Black students in all-black classes were achieving one whole grade level behind black students in classes with a majority of white students, and for 9th grade black students who attended integrated schools in metropolitan areas of the northeast throughout most of their careers, the achievement gap was cut in half.

These findings are supported by the study, "Racial and Social Class Isolation in the Schools" conducted by the New York State Board of Regents.

And integrated education is a demonstrated success in communities throughout the Nation.

Nearly 1,000 minority group students, selected on a random basis, are bused each day from the Hartford, Conn., ghetto to suburban schools, as part of Project Concern. Extensive testing of these children since the inception of Project Concern in 1966 shows that time spent in the suburban schools has a dramatic impact on achievement. Fifth grade students who have been in the program 2 years, are 5 months ahead of those who have been in the project for only 1 year. Those who have spent 3 years in the project in turn, scored another 4 months ahead of the 2-year group or a full academic year ahead of the first group. The chances for a significant gain in basic reading and arithmetic skills have been increased threefold for Project Concern children.

In Berkeley, Calif.—where a major effort has been made to record the educational impact of integration—average achievement of black students increased by 60 percent while the achievement rate for white students also rose.

Although relatively few integrated districts have undertaken comprehensive testing programs, similar results emerge from less comprehensive testing programs in Sacramento, Calif., and White Plains and Rochester, N.Y.

School superintendents from these and other communities have told the committee of their impressions of integrated education. Some are undertaking it voluntarily. Others were compelled by court order. None would turn the clock back to separate school systems. Listen to the words of just a few:

Dr. Elbert Brooks, the superintendent in Nashville, Tenn.:

> I cannot accept the argument which many give that we are ruining our school system by integration. I think that there are many factors in favor from an educational standpoint and from a social standpoint of integrating schools.

Dr. David H. Porter, Harrisburg, Pa.:

> You had to witness firsthand the fact that 2 years ago students and teachers were merely accepting a certain methodical, dullness about education. Students went to school not really to learn and teachers not really to teach. It was merely a place you were supposed to be for 5 days a week . . .
>
> We probably would not have admitted to any failure because we probably would not have recognized it.
>
> It's strange the way a school system can die before your very eyes as you mistake the death rattle for the sound of children learning. The cycle had to be broken . . .
>
> The mandate from the State Human Relations Commission to eliminate de facto segregation, though castigated by many, may well have been precisely the right thing at the right time. Not only did it wake us up to our responsibilities in race relations but it made us aware of the educational and administrative flaws that were permeating our entire system.
>
> The change has been dramatic. Walk into an early childhood center or an elementary school and look at the faces, hear the sounds, watch the kids at work and play. You can't show it on paper yet, but down inside, you know it's working.

Dr. Wayne Carle from Dayton, Ohio:

> The sins of the school are partly those of society but they are also those of educators, school boards, and legislatures that have failed to correct inequity and injustice. We must confess the devastating results of racial and economic isolation in the schools. We can no longer kid you that compensatory education will overcome the effects of putting poor children in poor schools with poor programs and poor results. Nor can we say that affluent students in affluent schools with college prep courses are being saved from drugs or being prepared for life in a multi-ethnic society.
>
> If the Members of Congress care about the cost of alienation and delinquency, if they care about the costs of dropouts and dependency if they care about the costs of failure and illiteracy—they will fund this bill promptly, and they will give schools every tool they need—including transportation—to put the issue of race behind us and create schools designed for the success of every parent's children.

Dr. E. Ray Berry, Riverside, Calif., superintendent:

> I see desegregation as an important element. I think it is quite possible to adequately educate minority children in a segregated situation academically, there are fine ways to turn them on, take the lid off, create the attitude about education, but I really believe it is far easier in an integrated situation, and ultimately I think it is the only answer in terms of if we really believe in an integrated society. I don't see any other way to do it.

Dr. Berry told how the parents feel about integrated education. He presented the results of a questionnaire:

> Over 80 percent of the parents believed that the quality of education was as good or better in integrated schools than before integration.
>
> Approximately 90 percent of the parents said that their children liked school and seldom or never wished to go to another school.
>
> After three years of integration, over 90 percent of the parents were opposed to the idea of separate schools. The responses were not significantly different when the three ethnic groups were compared with each other.

And success can be measured in human terms as well.

Hoke County is a small rural community of 18,000 in eastern North Carolina. Its schools serve 4,850 children: 50 percent black, 35 percent white, and 15 percent Lumbee Indian. Hoke County had a triple school system—separate schools and classes for each group—and a triple transportation system.

In 1968 and 1969, Hoke County eliminated its triple system and established a unitary system under which each school reflected the countywide population distribution. They didn't just mix the children together and forget them once they entered the schoolhouse door. They tested every child to determine his level of achievement and took account of the low-achieving students' special needs. They made sure that no teachers or principals were displaced or demoted—in fact, Indian and black personnel were promoted. They talked with fearful parents and counseled apprehensive students; they integrated all extracurricular activities so that every school-sponsored organization had representatives of all races in both its membership and its leadership.

Here is a school system which is 65 percent minority and it is making integration work. How did it do so? Simply by being human about it and by focusing on what happens at the end of the bus ride.

Donald Abernethy, Hoke County's school superintendent, described the results:

> When we first integrated you would see in the lunchroom for example, tables of black kids, tables of red kids, and tables of white kids. They were not mixed up.
>
> You would see them standing around in clusters on the campus. This was at first. Now you see very little of this. The children have learned to get along with each other. They respect one another. They vote for each other in elections . . .
>
> Students also had fears and concerns. An example of a fear is best expressed by the Indian student who, after attending the integrated high school several weeks, was talking with his former principal who asked how the student was liking the new school. "I like it," the Indian reported. "You know, Mr. Oxendine, some of those white boys are not as smart as I am." Of course, the remark revealed a feeling of inferiority that had been imposed upon the Indian by the segregated system. For the first time, he had realized that he could perform as well as some of his white counterparts.

And there has been academic improvement as well. Before integration, white sixth graders were a year ahead of their Indian and black counterparts. By 12th grade the gap was 2 full years. In other words the black and Indian students were achieving at the rate of about 8/10th of a year per year. At the end of the first year of integration, white students continued to progress as before. Black students gained a year and a half; their rate of achievement was more than 50 percent better as a result of integrated schooling.

Could this have happened without integration? The superintendent thought not:

> I don't think it would ever happen,

He said—

> if we kept the schools segregated and kept pouring in money for compensator education in segregated schools. But I believe in an integrated system that we will eventually work it out.

Just two final comments on Hoke County:

The children ride to school on buses—15 fewer minutes each day to integrated schools than they did under the segregated school system.

The five member local school board which provided the kind of positive leadership necessary to make integration successful and which, as Mr. Abernethy told us, never reneged, publicly or privately on its commitment to integration was reelected—and one candidate who thought the system moved too fast toward integration finished last in a field of nine candidates.

Hoke County is not unique. Nor is Berkeley, Calif., the largest city in the Nation to integrate its entire schooll system voluntarily. Berkeley is 45 percent white, 44 percent black and 11 percent Asian and Spanish-surnamed. Berkeley's schools were integrated more than 3 years ago. And they are building a quality, integrated education system, because everyone is involved.

Every group—every interested community organization, parents, teachers, students, school administrators—got together, tried to understand each others' problems and aspirations. Together they worked out a desegregation plan, with crosstown busing and balanced distribution of all minorities in every school. Together they went to work on the schools themselves to improve the quality of education in integrated classrooms.

Education is improving in Berkeley—for both black and Anglo students. Anglo youngster's achievement rates are accellerating and those that are growing the fastest are students who have been in integrated classes longest. White third graders, for example, who have been in integrated classes for 2 years gained 4 months over those third graders in integrated classes for 1 year. At the same time, black student achievement has increased as a result of integrated education from half to eight-tenths of a year's growth per year.

But the Berkeley experience is important not only for its academic success. It is important because others can learn, as I learned listening to parents, teachers and students, what made it successful.

Mrs. Amanda Williams, mother of four, told the fears of parents and how they were met:

> The time is critical for leadership that will deal with the educational issues and the myths being created by this hereditary fear that is the root of today's climate, parental fear, and it is real fear. We as parents dealt with these in Berkeley. White parents have fears that their children will be physically assaulted or that their learning will be downgraded. Black parents are concerned about their children being bused across town and what would happen in the event a child becomes ill and needs to come home, the kind of humiliation he might receive having gone into a foreign neighborhood. These are examples of a few expressed fears.
>
> In Berkeley, we had house meetings with parents coming together and counselors were hired in the school district at the elementary and intermediate schools, which proved helpful in all instant feedback to parents' problems and concerns. The superintendent and his team of school administrators went into homes to listen and offer solutions to problems. I feel leadership both of the school district and staff is the primary cause for success. You have to have an administration that will listen to all concerns and problems and deal with them so that confidence will be built where parents feel they are wanted and needed. I believe that has been one of the things that has made Berkeley's integration in school work.
>
> There is something to be learned in Berkeley. The Berkeley experience is a multiple achievement, in which the parents whose children are bused have played a key role. We seek to express and expose the fantasies and to share the realities in our experience of integrating the school district. We want to tell the parents and each individual school its constituency met and dealt with the very real problems that an integration program presents. Most important we want to tell you that Berkeley is getting on with the educational issues that every urban school faces which Berkeley now confronts to make our schools responsive to community needs.

Integration has not solved all of the problems of the Berkeley school system, or of any other. But it has increased the quality of education for all students, and deeply involved all segments of the community in the search for educational excellence.

Berkeley is a university town with a high tax base. It is well above average in per pupil expenditure.

Baldwin, Mich. is dirt poor and it needs Federal help. It has a low tax base, a low per pupil expenditure, a school operating budget deficit of $100,000 a year and dismally low achievement levels. Its schools are the second worst academically in the State of Michigan. Twelve percent of its working force is unemployed; 40 percent of its families have incomes under $3,000 per year; 53 percent of its people have less than 9 years of formal education. Baldwin has its problems.

But busing and racial balance are not among them. Every child in the Baldwin school system is in an integrated class. More than 80 percent of its 1,041 students are bused to school. Some students board their buses as early as 7 a.m. and travel 60 miles to arrive at school at 8:20. The shortest one way bus ride in this 370 square mile school district is 20 miles.

As the superintendent told the select committee:

> With 370 square miles they could not get there otherwise. . . . We have been busing for years.

He went on to say:

> I think we have gotten the children together. I think we have a lot of good things going. The really hard problem that I see is how we are going to finance the kind of programs we need to get these children through our schools so they are in a competitive position with other segments of society.
>
> I am talking about our black children and our white children because they are all trapped in the same area . . . we are trying to work with the community, with the staff, with the students, in a very positive way to pull things together to make Baldwin a place we can be proud of.
>
> We are proud of the fact that we are an integrated school system. In fact this year during our football season we came up with a little pin that really exemplifies what we are talking about. I would like to leave this with you. It says, "Baldwin has Soul".

I asked the Baldwin School superintendent whether there was any opposition to busing in his Michigan school district. He said:

> Our neighbors in Cadillac, Luddington, Big Rapids, etc., are pretty shook up over there. They think we are going to bus some of our black children over to their schools. So busing is an issue in Baldwin only as far as our neighbors are concerned.

Mr. President, the case for integrated education has been made in thousands of pages of testimony over the past 2 years before the Select Committee on Equal Educational Opportunity. I have cited only three examples. I could have cited many more. Integration was not easy for any of these districts, but they made it work. They have created a climate of understanding, they have calmed the fears of parents, and they are trying very hard to provide the best education they can for each child.

Public support has been the key to success in these communities and in countless others which have gone about the business of desegregation without the national attention that resistance brings.

But public support on the local level cannot often be realized if the Congress and the administration fail to exercise leadership at the national level.

Last March, the Senate provided that leadership. The integration bill, which we are now debating again, would supply financial help to support the best quality education in desegregating school districts. All desegregating districts—whether under court order, State law, title VI plan, or voluntary plan—would be eligible for financial assistance. And help would be available for all costs of successful desegregation including the cost of getting children to school.

I might add at this point, Mr. President, that at the time that bill was before the Senate, it enjoyed the support of the administration.

A version of that bill was added as title XXI to S. 659, the education amendments of 1971 in the House on November 4, 1971.

But before title XXI was adopted three senseless and divisive amendments were added. With these amendments, the Emergency School Aid Act is no longer a bill to support quality education in desegregating school systems. As amended, the House bill represents the Federal abandonment of every desegregating school district in the country in midcareer.

The so-called Ashbrook amendment would prohibit use of any Federal funds to support transportation to achieve racial desegregation. This amendment would apply not only to funds provided under the Emergency School Assistance Act, but to all Federal education funds. It would prohibit using Federal funds to support transportation of students where required by court order, or under title VI plan, under State law or even where school districts decide to desegregate on a wholly voluntary basis.

The so-called Green amendment would prohibit all agencies of the Federal Government from urging, persuading, including, or requiring school districts to use their own funds or State funds for these purposes. In effect, the Green amendment both repeals title VI of the Civil Rights Act of 1964 and prohibits the Department of Justice from enforcing the Constitution in court actions.

A third amendment—the so-called Broomfield amendment—would remove from Federal district courts any discretion to enter desegregation orders effective pending appeal, if these orders involve use of any transportation. This amendment would flood the Federal courts with frivolous appeals.

The anti-integration message of these amendments is more important than the dollars the bill might provide.

Let us just be candid with ourselves and with the American people for once on this issue of school desegregation.

Busing is the way the overwhelming majority of school children outside our central cities get to school. Twenty million elementary and secondary school children are bused. They rode 256,000 yellow buses 2,200 million miles last year. The annual cost of busing last year was $2½ billion. And 40 percent of our schoolchildren—65 percent when those riding public transportation are included—ride to school every day for reasons that have nothing at all to do with school desegregation.

The issue is not busing or racial balance. The issue is whether we will build on hopeful examples of successful integration to make school desegregation work—or endorse segregation on principle; whether we will help the courts to avoid educational mistakes—or leave them to face the complexities of school desegregation alone.

But beyond that, the issue was, and is, racism. The issue is whether we are going to have as the Kerner Commission warned two societies, one white, and one for the rest of us.

What the House did was to turn a hopeful equal education opportunity bill into a school segregation bill. A bill that says to every school district, "If you want to integrate, do not come to us for help; we will neither tell you how to make it successful, nor provide the funds." A bill which assures that many school districts under court order will have to slash their budgets to supply funds needed for transportation. And this at a time when many school systems are on the brink of bankruptcy.

Court-ordered desegregation is costing Pontiac, Mich., $700,000—the cost of new transportation each year. Pontiac has had to cut educational programs to meet these costs. The superintendent said:

> The school district programs are impoverished this year as compared with last year . . . the quality of things available is less and I cannot argue that that doesn't affect the quality of [education in the school district].

The superintendent and chairman of the school board in Dade County, Fla., testified before the House Education Committee last June:

> The financial impact of desegregation is placing severe demands and burdens on the affected school systems.

Dade County has a $250 million school budget. School desegregation cost an additional $1.5 million in just 6 months. Additional transportation is costing $670,000 per year. The chairman of the school board testified:

> If we are to survive as a county or as a school system, we are going to have to lick the battle of desegregation, regardless of where it is located or what type of desegregation it is . . . this is a massive thing. We are trying to change attitudes that have been building up for 200 or 300 years, and we are not going to change them overnight unless we have some help.
>
> I think the initial step, though, has to come from us. We have to offer the leadership . . . so that is our responsibility. But once we take that responsibility, we have to have some financial help because these problems are monumental.

Pasadena, Calif., is using $300,000 in Federal aid for impacted areas which would otherwise be used for instructional programs. Pasadena is implementing a Federal court order. It needs help.

Harrisburg, Pa., is desegregating under State administrative procedures. Additional transportation expenses are more than $500,000 a year. Harrisburg has had to cut additional programs to pay for busing. The superintendent testified:

> We need help. We need it badly. If we are going to see a rekindling of pride and enthusiasm for the American way of life, we have got to make education work . . . hopefully we are not too late.

Dr. Raymond Shelton, superintendent of schools of Tampa, Fla., testified:

> When demands are placed upon school systems without accompanying means to satisfy those demands, something must give. In our case it has been our kindergarten program, teacher salaries, capital construction and most other parts of our educational program.

In Nashville, Tenn., because of an inadequate number of school buses, opening times for schools have been staggered so that some children start school as early as 7 a.m., and others arrive home after dark. The inconvenience this has caused threatens public support for education in Nashville. As Superintendent Elbert Brooks testified:

> . . . neither those who support integration, nor those who tolerate integration will accept for long their children's continued exposure to hardship and danger brought about by inadequate transportation services.

The cause of the hardship to the children of Nashville and Tampa—and children of many other communities—is not the Federal courts, or the State laws, which ordered desegregation. The real culprit is the Department of Health, Education, and Welfare which refused to allow expenditures of any of the $65 million in emergency desegregation funds appropriated by Congress this year to support transportation expenses.

And yet, the House acted to extend this indefensible ruling to the $1.5 billion School Assistance Act.

Busing children to achieve integration is unpopular but in many areas sensible transportation of children is the only way for this generation to achieve some school integration. Busing will continue to be required by the courts. That issue was decided once and for all by the Supreme Court earlier this year in Swann against Charlotte-Mecklenberg and is companion cases. And local communities trying to provide better education for students of all races will want to use buses as well.

Mr. President, there are roughly 11 million children attending approximately

1,500 desegregating school districts throughout the Nation.

We cannot change the law.

But if the Senate accepts the amendments proposed by the House—or if we adopt others today which have the same effect—we will sacrifice the education of those 11 million children on the altar of political expedience.

No one is suggesting that every school can—or should—be integrated tomorrow. And no one is requiring this. Segregated schools remain in Atlanta under Federal court order; segregated schools will continue in the great urban centers of the North despite our best efforts; and districts which have not practiced discrimination in assigning students will choose themselves whether and how quickly they will achieve that goal.

But if we abandon support for school integration where it can be accomplished—if we refuse to support an essential remedy, and if we destroy the public good will necessary to make desegregation successful once it has taken place—we will work tragic harm.

Black children, and their parents, know that the real issue is not massive busing to achieve an arbitrary racial balance. They know that the real issue is our willingness to accept integrated schools. White children know this, too. And the health and stability of our society over the next 50 years will reflect the lessons which we teach our children today.

The President has said this as well as anyone:

> Few issues facing us as a nation are of such transcendant importance; important because of the vital role that our public schools play in the nation's life and in its future; because the welfare of our children is at stake; because our national conscience is at stake; and because it presents us a test of our capacity to live together in one nation, in brotherhood and understanding.

This country is at a crossroads. School desegregation in the South is largely completed.

But we from the North are now beginning to feel the pressure—which our colleagues from the South have felt for so many years—to abandon the course set by the 14th amendment.

If we do, we will deal a blow to public education, in the North and in the South, from which it may never recover. We will prove true those who have said the North favors racial equality only below the Mason-Dixon line—and those who have said that the South cares more about winning the battle over school desegregation than it cares for the future of its children.

Eric Erikson has said:

> The most deadly of all sin is the mutilation of a child's spirit.

I hope the Senate will demonstrate its ability to rise above the politics of the moment, and to exercise the kind of leadership which our children have the right to expect.

Mr. JAVITS. Mr. President, the Senator from Minnesota has addressed himself, as we are all addressing ourselves right now, especially those of us who will have the responsibility for the higher education bill when it is on the floor—Senator WILLIAMS, the chairman of the committee, and I, as its ranking member, will share the responsibility with Senator PELL, the chairman of the Education Subcommittee, and Senator DOMINICK, who is the ranking minority member of the subcommittee—to the question of busing and the misnomer which is now—I think happily—being abandoned of "involuntary busing."

The ultimate issue is going to be between those who want a constitutional amendment and those who do not. I am opposed to a constitutional amendment, because I believe that it would implant into our basic law principles bound to cancel, change, or adversely affect the 14th amendment, the fundamental charter of equal opportunity for every American, gained after oceans of blood and mountains of treasure were expended in the Civil War.

Mr. President, I hope we will not be guilty of that error with its vast and very deep consequences of social divisiveness, of which we have seen enough already.

I think the Senator from Minnesota has given us some indication of what will occur, when he says in his speech that 11 million children are attending 1,500 schools throughout the Nation in the process of desegregating now in compliance with the 14th amendment; that is an enormous boat to rock.

Mr. President, that does not mean that great changes, great reforms, great acknowledgements of what is troubling our people, cannot be legislated, and I hope to deal with that upon another occasion. But it does deal with the proposition that a fundamental change in the basic and organic constitution of the country would be most ill advised and would be exactly what calmer heads must avoid at a moment when a constitutional amendment seems so easy a solution. The public, because of its legitimate concerns about a situation of adjustment to the desegregation of schools everywhere in the country for many, many reasons, should not be led into a basic change in the government of our country, in the institution of government of our country, which would be so adverse to our people and so socially divisive.

I believe that that is going to be the issue—not what law we shall pass on busing. I am confident that we will be able to work out something on that. But, shall we change the organic law of the United States? Senator MONDALE says no, and I say decidedly no. I am sure that in the days ahead we will be debating that issue, but I deeply believe that the moment has come for Senators to express themselves on that fundamental issue of principle and policy, which I herewith do. As I have said, that is going to be the dividing line in this whole fight between those who want to change the United States basically and organically and repeal in some fashion the 14th amendment and those who do not, and I aline myself with the latter.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to exceed 30 minutes, with a limitation of 3 minutes on each Senator being recognized.

PRESIDENT NIXON'S JOURNEY FOR PEACE

Mr. BYRD of West Virginia. Mr. President, as I speak, the President of the United States is en route to the People's Republic of China to meet with the leaders of the most populous nation in the world.

I applaud the President's decision to make this journey for peace after a hiatus of almost a quarter of a century when communication between the two countries has been virtually cut off. President Nixon has cautioned us not to expect miracles from a week of dialog and has made it clear that his primary purpose is to assure the 800 million people of the People's Republic and their leaders that the United States seeks only peace and mutual cooperation in the western Pacific. If the President is successful in establishing a mutuality of interest, if nothing else, his mission will have been of the utmost importance for the future security of the United States and the world.

Most of us in this chamber can recall the bitter and emotional controversy that raged throughout America when Chiang Kai-shek's Kuomintang and Mao Tse-tung's Communist forces were battling for control of China during and after World War II. It may still be too early to pass judgment on who was right or who was wrong, but American policy toward mainland China and toward Taiwan has been implacable for close to 25 years. President Nixon and his advisers have decided that this rigidity might well be tempered with intelligent flexibility, and pragmatism would seem to indicate that this decision has merit.

We may or may not know for some time to come whether success has attended President Nixon's efforts. There are so many imponderables attached to a dialog that is being resumed after so many years of distrust and so much ignorance of each other's way of life that even conjecture is imprudent. We can express the hope, however, that when the President leaves Peking to return to the United States, both he and the leaders of the People's Republic of China will have a better understanding of each other and of the nations for whose future peace and security they have the present responsibility. I wish our President well in his historic mission.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GAMBRELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

FORCED SCHOOL BUSING

Mr. GAMBRELL. Mr. President, I have prepared a statement for the Record which would extend beyond the 3 minutes allowed if I were to read it in full. I will say that it deals with the matter that has been referred to by the Senator from Minnesota (Mr. Mondale) and the Senator from New York (Mr. Javits). I am interested to hear that they recognize that we are finally to face up to the question of forced school busing, whether by constitutional amendment, legislative amendment, or otherwise.

The substance of my comments is that we have reached this crisis as a result of a failure of leadership. Last year we had an opportunity during the debate on the desegregation bill to deal with the question of forced school-busing, but we passed it by.

Last September I called on President Nixon to adopt a policy to deal with and to avoid a crisis which was about to arise on this subject.

I can only say that blindness to the arising crisis by those in authority in Washington has led us to the point where we can no longer avoid dealing with the question on a constitutional basis. Those members of the Democratic Party who are now campaigning in Florida have had an opportunity to face up directly to the problem, and we see that they are no longer insulated from the very substantial impact that is now taking place.

Mr. President, on Wednesday I heard the joint leadership engage in a colloquy between themselves and with the senior Senator from Florida (Mr. Gurney) regarding their position on various antibusing proposals, and the intentions of the joint leadership with regard to the consideration of such legislation on the floor of the Senate. Both leaders expressed opposition to a constitutional amendment on the subject, calling for committee consideration thereof, and expressed preference for dealing with antibusing sentiment through statutes.

May I state at this time, with all due respect for the two Senators who are the joint leadership, that I must agree with the Senator from Florida that this Congress needs immediately to consider on the floor of both Houses, constitutional amendments, as well as statutes on this subject.

If such consideration is deemed to be outside of the orderly bounds of the legislative process, I can only say that the national leadership here in Washington has permitted this crisis to arise. The American people have already digested the matter, are way ahead of the leadership, and are ready for action.

In my own State, our public school systems are almost 100 percent desegregated pursuant to court order, and four of our largest cities are under massive busing orders, along with a number of smaller communities. In Augusta, as has previously occurred in Atlanta, Macon, Columbus, Savannah and elsewhere, citizens are outraged, and are demonstrating in the streets.

A boycott of the public schools is planned, and the whole process of education in Georgia is in disarray. Other Members of this body are faced with situations similar to that we now face in Georgia.

What bothers me, and I am sure what bothers the senior Senator from Florida, is the tendency of the leadership, both here in the Senate, and in the White House, to continually defer consideration of this question, and in fact to sweep it under the rug.

In a statement which I issued Wednesday, I stated that President Nixon is stalling consideration of this issue for political purposes. I ask unanimous consent to have that statement printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GAMBRELL. Mr. President, on last September 13, on the Senate floor, after President Nixon had announced his alleged opposition to forced school busing, I called upon him "to exercise some degree of leadership in order to avoid a national crisis." It has now been 6 months, and all he has done is to hold another meeting. He still has exercised no leadership.

I will say that the President has shown a vague awareness of the problem which has not been displayed until recently on the floor of this Senate.

Insofar as committee hearings are concerned, on November 8, 1971, I wrote the chairman of the Senate Subcommittee on Education, the Senator from Rhode Island (Mr. Pell) asking for an opportunity for orderly legislative consideration of a package of legislation which I have offered on this subject. I even offered to appear before his committee to present my views. Copies of this were sent to the joint leadership, including the majority and minority leaders of both parties.

I have received no response from that request.

I ask unanimous consent that the text of my November 8 letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., November 8, 1971.

Hon. Claiborne Pell,
Chairman, Subcommittee on Education, U.S. Senate, Washington, D.C.

Dear Senator Pell: This will confirm my understanding with you that I will be notified prior to any request, motion or other Senate action with respect to S. 659 (the Higher Education Bill with amendments) as passed last Thursday evening or Friday morning by the House of Representatives. You indicated that no decision had been reached on what procedure to follow in reference to that matter, and I would appreciate having a fair opportunity to adapt my own position to whatever action your Committee, or the leadership proposes.

This request has also been communicated to the Assistant Majority Leader, Mr. Robert Byrd.

I am making this request because a number of the amendments to the Higher Education Bill are ones that I have supported, including the Emergency School Aid Act, and the amendments relative to forced school busing. As you may know, I have introduced an amendment to the EEOC Bill proposing restrictions on forced school busing.

In some cases, the House amendments go beyond what I proposed, and in some respects they fall short.

Your consideration in agreeing to permit me an opportunity to take a position on these matters is greatly appreciated. Should the Committee consider it of value to have the opinion of Senators not on the Committee, I would be happy to appear for this purpose.

Sincerely,

——— ———.

Mr. GAMBRELL. Mr. President, frankly, I have drawn the conclusion that the leaders of the Labor and Public Education Committee have hoped that the busing issue would go away by being ignored. The report of that committee accompanying S. 659, at page 11 deals with "Federal Funds for Transportation" as if the availability of Federal funds is what the busing debate was all about. I ask unanimous consent to have printed in the Record at the conclusion of my remarks that section of the committee report.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. GAMBRELL. Mr. President, that is why the people of this country need a constitutional amendment. Apparently nothing short of a legislative blockbuster will get across to the leaders in the executive, legislative, and judicial branches of this Government what the people want on this issue.

Regrettably, after all this procrastination, the problem is almost out of hand. The possibility of achieving a reasonable solution to the matter has all but escaped our grasp. I lay the blame at the door of executive and legislative leadership in Washington. I have done all within my power to bring about a reasonable adjustment of this outrageous situation.

Hardly anyone directly involved in this matter, including myself, is any longer willing to settle for the moderate adjustments of the matter which I proposed back in September. Maybe that is for the better, and maybe that is what leadership is for—to catch the floodtide at its crest and be carried comfortably to the distant shore. I just hope no innocent victims drown in the process.

Exhibit 1

After studying the outcome of President Nixon's White House meeting on Monday, I can only conclude that the President is playing a political shell game with the busing issue. In August last year, he claimed to be opposed to forced busing of school children after a widely-heralded meeting with HEW Secretary Elliott Richardson. Immediately thereafter, in a speech on the Senate Floor, I urged him to put action behind his words on this issue which is destroying the public school systems of many Georgia communities. I also personally contacted Secretary Richardson and demanded action on this subject.

For seven months, seven long months, nothing more has been heard from President Nixon, in spite of vigorous efforts by myself and other members of Congress, including every member of the Georgia delegation, to put a stop to the practice of busing.

Then on Monday, February 14, after more

busing disasters in Richmond, Virginia, Richmond County, Georgia and elsewhere, another widely-publicized White House meeting was held on busing.

Was any action taken? None—absolutely none. The President says he will appoint a committee, including Secretary Richardson, to study the matter.

Congressman Norman Lent (R–N.Y.), the principal Republican spokesman in the Congress on the subject of busing stated after the White House conference that "we will not know what the answer is until well after the President returns from China."

The only possible reason for further procrastination after more than seven months of delay, is that early action on this issue might prevent President Nixon, and other Republican candidates from exploiting it to the fullest political advantage.

The President has decided to let it smolder a little longer, while Georgia schools are destroyed, and Georgia's parents and children suffer.

I express the utmost sympathy for the parents and children of the Richmond County public schools in their demonstration of concern, while they await action from the White House. They now join hundreds of thousands of parents and children in Savannah, Columbus, Cordele and other communities in Georgia, as well as throughout the Nation, in suffering through this agony.

I hope that their well justified protest will be peaceful, and will not be used for political exploitation. I am sure that they know that the main battles on this issue are here in Washington. Richmond County citizens may be assured that their Congressman, Bob Stephens, as well as Senator Talmadge and myself are expending every effort to bring this matter to a successful conclusion.

There is some reason to hope that positive action will be taken within the next fortnight on legislation which I have introduced in the Senate to put an end to forced busing for integration purposes. I would like to see it on the President's desk when he gets home from Peking. However, my guess is that his leaders in Congress will stall it so that he can enjoy another round or two of public acclaim on this issue, on which nearly 90% of Americans agree.

I say that President Nixon is stalling for political purposes, and call on his Republican apologists in Georgia to prove otherwise. Better they should be leading anti-busing rallies outside the White House in Washington, instead of outside the school houses in Richmond County.

EXHIBIT 2

THE USE OF FEDERAL FUNDS FOR TRANSPORTATION

The House Amendment to S. 659 contains several provisions relating to the transportation of, or the assignment of, students in connection with desegregation plans or plans to achieve racial balance. A number of amendments to S. 659 were introduced in the Senate which relate to these same matters. The Committee gave careful consideration to the question of transportation as an educational tool under present law and under the provisions of the Committee substitute for the amendment of the House.

Under present law, Federal funds may be used for transportation services as such, if the recipient local educational agency so desires, only under the impacted areas program (Public Law 874, 81st Congress). In addition, if transportation services are found necessary to carry out an otherwise fundable project, Federal funds may be used for such services under titles I (special projects for educationally deprived children), II (supplementary centers and services), and VII (bilingual education) of the Elementary and Secondary Education Act of 1965, and under the Education of the Handicapped Act. To the extent that the Committee has been able to determine, the only Federal education funds which could be used for transportation solely for the purpose of altering the racial composition of the enrollment of schools are those available under the impacted areas program, and then only because Federal funds are comingled with State and local funds. Only if the local educational agency decides to use its own pool of funds for transportation would the Federal funds be used.

To the extent consistent with law, the Committee believes that the question of transportation should be decided at the local level. Therefore, in order to clarify Federal policy on this subject, the Committee recommends that the Senate amendment contain the following provision, "no provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance".

This language makes clear that in no way does the Committee amendment require the assignment or the transportation of any student or teacher in order to overcome racial imbalance or achieve desegregation. The Committee amendment would provide financial support for school desegregation, including, where necessary transportation services, undertaken pursuant to desegregation plans under a Federal Court order, the Civil Rights Act of 1964, State law or court orders, or a voluntary plan initiated by the local educational agency.

Transportation to achieve desegregation has been undertaken in communities throughout the nation—as a matter of wholly voluntary local education policy, or under Federal court or administrative order to remedy unconstitutional discrimination, or under State law. Although title VII does not require the transportation of students, funds under title VII could be used at the request of local school officials to assist in paying the cost of desegregation-related transportation.

The Committee believes that a prohibition against Federal assistance to meet the cost of desegregation-related transportation at the request of local school authorities would result in additional tax levies at the local level, or cutbacks in vital education services in many of these communities.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Chiles). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Gambrell):

A joint resolution of the Legislature of the State of New York; to the Committee on Public Works:

"Joint Resolution No. 3

"Joint resolution of the Legislature of the State of New York memorializing Congress to meet its responsibility with regard to the environment and to provide the funds necessary to carry forth essential environmental programs and to adopt a resolution continuing the construction grants authority of the Clean Water Restoration Act of nineteen hundred sixty-six and providing for reimbursement to the State of New York and its municipalities of the amounts committed for prefinancing the federal share of the cost of construction of sewage treatment works and to request the Attorney General, if necessary, to take appropriate action to ascertain and protect the interests of the State of New York

"Whereas, The Federal Government has recognized a basic responsibility regarding the environment and environmental standards have been set by the state and approved by the Federal Government which are considered realistic in the light of available technology and the funding that the Congress has heretofore indicated that it would appropriate for this purpose; and

"Whereas, The Clean Water Restoration Act of nineteen hundred sixty-six provides financial assistance for construction of sewage treatment works through June, nineteen hundred seventy-one and further assured the state and its municipalities that if they prefinanced the Federal share that the Congress would make timely reimbursement; and

"Whereas, The subsequent congressional resolutions have failed to provide assurance the Congress will reimburse in order to continue the program; and

"Whereas, Since nineteen hundred sixty-six the state and its municipalities have prefinanced in excess of $1.3 billion of the Federal share of the cost of sewage treatment works without Federal reimbursement; and

"Whereas, The Congress has not appropriated the promised funds to finance its share of anti-pollution programs that it has enacted; and

"Whereas, In reliance the State of New York has advanced its funds to its localities which funds the Federal Government has not reimbursed; and

"Whereas, The State of New York has met all its responsibilities under the Clean Water Restoration Act of nineteen hundred sixty-six; and

"Whereas, In reliance upon the previous representations of the Congress, New York State has entered into grant agreements with various municipalities of this State to accomplish the objectives of the Clean Water Restoration Act of nineteen hundred sixty-six, pursuant to which agreements millions of dollars have been expended by State and municipalities for planning and design and construction of sewage treatment facilities; and

"Whereas, In most cases it is not financially possible to proceed further with these anti-pollution projects in the absence of federal funding of this program; and

"Whereas, It is imperative to protect the health and welfare of the people of this State that these projects be implemented without delay; and

"Whereas, The Congress must now meet its responsibility for the environment and reimburse the State for the prefinanced federal share expended subsequent to nineteen hundred sixty-six and by resolution continue the Clean Water Restoration Act; now, therefore, be it

"*Resolved*, That the Legislature of the State of New York hereby memorialize Congress to adopt a resolution continuing the Clean Water Restoration Act of nineteen hundred sixty-six sewage treatment works grant program so as to provide full funding of federal sewage treatment works grants including insurance of reimbursement to a state or municipality if the state or municipality prefinances the federal share of the cost of such sewage treatment works and further that any amendments to the Clean Water Restoration Act of nineteen hundred sixty-six should provide authorization for full reimbursement to the state or municipality for amounts prefinanced subsequent to nineteen hundred sixty-six; and be it further

"*Resolved*, That a copy of this resolution be transmitted to the President of the United States, the Secretary of the Senate, the Clerk of the House of Representatives, and to each member of Congress elected from the State of New York and that they be urged to devote their best efforts to the task of accomplishing the purpose of this resolution; and be it further

"*Resolved*, That the Attorney General of the State of New York be and he hereby is requested to take appropriate action, if necessary, to ascertain and protect the interests of the State of New York with respect to having the United States of America fulfill its obligations to the State of New York under the aforementioned programs."

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs:

S. 3197. An original bill to increase the dollar limitation on the cost for construction of Federal Reserve bank branch buildings (Rept. No. 92–633).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. MAGNUSON, from the Committee on Commerce:

Peter G. Peterson, of Illinois, to be Secretary of Commerce.

Mr. MAGNUSON. Mr. President, I also report favorably sundry nominations in the U.S. Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Andrew F. Durkee, Jr., and sundry other officers, for promotion in the Coast Guard;

Roderick M. White, of the permanent commissioned teaching staff of the Coast Guard Academy, for promotion to the grade of captain;

Jules A. Peebles, and Gordon T. Tooley, Reserve officers, to be permanent commissioned officers in the Coast Guard;

Bienveni D. Abiles, and sundry other graduates of the Coast Guard Academy, to be permanent commissioned officers in the Coast Guard; and

Ronald E. Meeker, and sundry other Reserve officers, to be permanent commissioned officers of the Coast Guard.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CHILES:

S. 3194. A bill to provide financial assistance to local educational agencies in each State in order to strengthen the neighborhood schools of such agencies and to increase the use of such schools as community cultural and educational centers, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. MONDALE (for himself, Mr. HUMPHREY, Mr. HARTKE, Mr. PROXMIRE, and Mr. BURDICK):

S. 3195. A bill to provide price support for milk at not less than 90 percent of the parity price therefor. Referred to the Committee on Agriculture and Forestry.

By Mr. BENTSEN:

S. 3196. A bill to amend the Library Services and Construction Act to provide for a public library services program for older persons. Referred to the Committee on Labor and Public Welfare.

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs:

S. 3197. An original bill to increase the dollar limitation on the cost for construction of Federal Reserve bank branch buildings. Ordered to be placed on the calendar.

By Mr. BROCK:

S. 3198. A bill to authorize and direct the Secretary of the Army to convey to the Andrew Jackson Lodge No. 5, Fraternal Order of Police, of Nashville, Tenn., certain lands of the United States of America at the Old Hickory lock and dam project, Cumberland River, Tenn. Referred to the Committee on Armed Services.

By Mr. HATFIELD:

S. 3199. A bill to provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife that are threatened with extinction or likely within the foreseeable future to become threatened with extinction; and for other purposes. Referred to the Committee on Commerce.

By Mr. FULBRIGHT (by request):

S. 3200. A bill to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations. Referred to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHILES:

S. 3194. A bill to provide financial assistance to local educational agencies in each State in order to strengthen the neighborhood schools of such agencies and to increase the use of such schools as community cultural and educational centers, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. CHILES. Mr. President, on September 14, 1971, I introduced a bill, S. 2508, to protect the concept of the neighborhood schools. In my statement that day I pointed out that few issues dominated the thinking of the people in my State of Florida more than the assault on the neighborhood school, which traditionally has been the bulwark of our public educational system for over a hundred years. S. 2508 would define the neighborhood school concept. This legislation would say no student would be denied the right to attend his neighborhood school on the basis or race, color, religion, or national origin. At the same time this legislation would guarantee a student the absolute right to transfer and be provided transportation out of his neighborhood school when he is a member of a minority race and his race constitutes a majority of his neighborhood school.

We know that while we have had the neighborhood system in the past it has not been an equal school system. There have been disadvantaged children who have had to go to schools that were not equal. When any of us talk about the neighborhood school system, we do not want to go backward or to provide education of a lesser quality, but we want provided the best neighborhood school system. While allowing anyone who wished to do so the right to transfer, if a student elected not to transfer, he should not be held at a disadvantage.

In many cases where there were all black schools, the school board or the courts, rather than trying to bus white children into these schools, took the easier solution of closing the schools completely. In Gainesville, Fla., for example, a formerly all-black high school is standing empty while the students who would ordinarily attend it are transported to a formerly white high school that is forced, by its greatly increased enrollment, to go on triple sessions. In my statement last September I remarked that the closing of a disadvantaged school was not the long lasting solution. The primary effect a closing has is to shutout and close not only the school, but a community center as well. I believe Congress needs to face the problem of providing Federal funds that allow a lower pupil-teacher ratio and provide additional funds for guidance counselors, vocational-technical education and recreational equipment in disadvantaged schools. I am today introducing legislation to key in on the disadvantaged schools and make prize schools out of them. This would allow children in a deprived neighborhood a chance to "catch up." It would attempt to meet the child's needs where they are, raise educational requirements, and provide for a center for the community, giving a point of pride from which to build the neighborhood and develop leadership.

My bill zeroes in on the worst schools to give them the financial aid that is one of the important ingredients needed to make a prize school. It offers financial aid and provides that neighborhood schools be used as community cultural and educational centers. I think it is a plan which would be a beginning toward making the neighborhood school a real point of pride for the community.

Title VII of the Education Amendments of 1972, as outlined in the Senate committee report provides funds to upgrade educational quality in school districts which have adopted a comprehensive districtwide plan for the elimination of minority group isolation to the maximum extent possible in all its schools. The point of the eligibility requirements controlling these funds seems to be to eliminate, reduce, and prevent minority group isolation from occurring. My bill is a financial assist to help protect the concept of neighborhood schools. I cannot support a neighborhood school system if the kind of education that neighborhood school offers is far below standard. If we are going to protect this traditional concept of our public education system, we must improve it. We must be able to offer the children in these areas a real choice—S. 2508 would allow students the right to transfer and be provided transportation out of their neighborhood school if they are members of a minority race and that race constitutes a majority in the neighborhood school. But no student would be denied school on the basis of race, color, religion or national origin.

The assistance this bill offers would be used in meeting the special needs of educationally disadvantaged children. This disadvantaged school is further defined as one where not less than 40 percent of the children enrolled are in families with an annual income less than $4,000. My bill would provide that schools considered disadvantaged would receive a Federal payment equal to the amount of 65 percent of the average per pupil expenditure in the State or in the United States, which ever is higher, times the enrollment of students in the particular school. These special funds are to be used only in disadvantaged schools, only for programs and projects designed to meet the special educational needs of educationally deprived children and for new or innovative school and community educational recreational programs. The program builds upon the assumption that money poured into schools has some relationship between the two. Disadvantaged children attend disadvantaged schools where there is often neither sufficient funds for equipment and facilities and little or no funds for recreational and cultural "extras," which help turn the school into a "prize" school that has the possibility of serving as a true center for the community—a vehicle for drawing people together because they are proud of what they have, rather than something to be ashamed of and something that divides the community.

One of my primary reasons for introducing this bill is to provide for a means of strengthening community involvement in a more effective use of the neighborhood schools. Particularly in disadvantaged neighborhoods, school facilities are in use a mere 6 or 7 hours a day. The buildings, as well as equipment in the school—if it is prosperly equipped—remain dormant for much of the day—in fact, much of the year. Schools are unused at night or on weekends, basketball courts remain dark and unused at night; library doors are closed. The money my bill provides in especially directed toward remedial and other services to meet the special needs of the educationally disadvantaged children. It would allow the hiring of additional professional or other staff personnel with special emphasis on recruiting parents and other local community members to assist in achieving the educational goals of such schools.

For example, there is in Washington, D.C., a group called PEER—Parents Enhancing Education Readiness. It is, basically, a program to increase the readiness of children entering school, and seeks to accomplish this by increasing the knowledge and skills of the pupil personnel staff so that they, in turn, may help parents of preschool children become more aware and more competent teachers of their own children in the home. The group conducts workshops in child development and facilitative techniques including demonstrations, films, discussions, field trips and workshops on human reproduction, readiness as it relates to developmental maturation, demonstrations of teaching and training techniques. The pupil personnel staff tutors the children going into homes for an hour per session to talk to, play with, read to children, and to model behavior for the parent, helping parents to understand how to teach their children in the home some of the basic skills necessary for successful school life. The preliminary sessions of the PEER program would be only one example of the kind of activity that could go on at a school "after hours" and on weekends if more funds were available where they were needed the most.

Funds provided in my bill would be available for comprehensive guidance, counseling, and other personal services for educationally disadvantaged children, development and employment of new instructional techniques, career education programs, and school-community educational recreational programs designed to stimulate further community interest and involvement with the education process. It would also include provisions for professional staff home consultations with parents and students where necessary, special administrative activities, and evaluation programs.

Funds provided through this proposal would be expended only in disadvantaged schools for the programs and activities for which such assistance is sought. I have tried to build in provisions to assure that such funds will not be mixed with State funds and will be used as intended that is to increase the level of money that would be available for the purposes I have just described. The Commissioner of Education will be authorized to see that good evaluation is made annually to assure the effectiveness of programs and activities encouraged through the program. The Commissioner could terminate further payments if he finds that the program or activity for which the grant was made has been changed as to no longer comply with the act's provisions.

Mr. President, we are faced today with a situation in which many children choose to attend a school a good distance from home, because the level of instruction, the quality of education offered at his neighborhood school is low.

The bill I am introducing today is designed to meet the child's needs where they are. The parent and child and teacher could remain closer to each other, the child would not have to spend so much time getting to and from school, leaving more time for his homework and extracurricular activities; and most of all children would be allowed to attend their neighborhood school if they chose to. That choice would be made more real, more practical by the upgrading of that disadvantaged neighborhood school.

Mr. President, I send the bill to the desk for appropriate reference.

By Mr. MONDALE (for himself, Mr. HUMPHREY, Mr. HARTKE, Mr. PROXMIRE, and Mr. BURDICK):

S. 3195. A bill to provide price support for milk at not less than 90 percent of the parity price thereof. Referred to the Committee on Agriculture and Forestry.

THE NEEDS OF DAIRY FARMERS

Mr. MONDALE. Mr. President, today I am sponsoring, with my colleague Senator HUMPHREY and other Senators, a bill to provide a price support of not less than 90 percent of parity for milk.

This renews my position on the needs of dairy farmers for a reasonable income. Throughout my career I have felt that the price of milk should be raised to 90 percent of parity.

There are others who argue that by raising prices to a more reasonable level, we would bring about increases in milk production. I do not believe that low prices are an appropriate tool for controlling the production of any farm commodity.

Mr. President, dairy farming is a very demanding type of work. It requires a tremendous amount of labor every day throughout the year. Capital investment requirements to continue producing a nutritious and wholesome food in abundance are increasing at a rapid rate and so are taxes. It is only fair that the income be raised to a level in line with both the social and economic requirements of dairy farm families.

To most of the dairy farm families of this Nation, milk is the end product of all their labor. Cattle must be housed, carefully handled and fed for 2 years before they come into production. The entire growing season is spent producing grain and forage to be fed to the cattle. The only return the dairy farm family receives for all this labor is the money they are paid for milk. The net income which is left after all the capital expenses and interest is paid averages several thousand dollars a year less than that received by the average wage earner in the city. In many cases it is less than that of welfare recipients in the major cities.

The Commissioner of Agriculture in Minnesota recently issued statistics showing that the average Minnesota farm family earns only about $0.84 an hour for their labor. That is shocking, especially in view of the fact that these people are more productive than any other businessmen in the world.

Dairy farmers deserve a better return for their labor and investment. I urge other Senators to support our efforts to establish it for them.

The increase in consumer milk prices, in any at all, would be only pennies a gallon. But to many milk producers, this additional income would decide whether or not they stay on their farms. To Minnesota producers, it would amount to $60 million of added income. It would mean equal or bigger increases for several other dairy States.

Mr. President, I ask unanimous consent that a statment by Senator HUMPHREY on this measure be printed in the RECORD at this point, together with a letter and certain tables which were sent to Secretary of Agriculture Butz on yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR HUMPHREY

Mr. President, I am introducing today, a bill for myself, Senators MONDALE, HARTKE, PROXMIRE, and BURDICK, to require an increase in the dairy price support level to 90% of parity beginning on April 1, 1972. Although the current support level of $4.93 per cwt established was set at 85% of parity last April, it has since dropped to 80% and will likely fall below that level by April 1 of this year due to increases in production costs and other inflationary pressures.

The bill I am introducing today would prevent such deterioration in the future because it provides for recalculating the support rate at the beginning of each quarter throughout the marketing year. It would automatically adjust the per hundred pound price to reflect any increase in production costs. It would be very similar to the cost of living clauses found in many labor contracts.

Dairy producers simply cannot earn a decent living at current price levels when their costs, capital outlays and labor requirements continue to escalate upward.

Furthermore, I believe we need to stimulate dairy production in order to maintain a more adequate supply of dairy products to meet both primary and secondary market demands. Production last year increased very little over the year before and was actually less than total production of only a few years earlier. Government-held dairy stocks are the lowest it has been in several years, with small amounts of cheese available to move into feeding programs for the needy and schools lunches. I should also like to call attention to the sharp drop in the number of dairy farms. In just the last ten years, the number of dairy farms dropped from over one million to less than 400,000 today. Unless these producers can expect a fair return on their investments and labor, many thousands more will quit this business and move to our already overcrowded and overburdened cities.

Although this increase in the support rate for dairy products may mean a very small, if any, increase to the consumer, it will bring needed income relief to our nation's dairy farmers. To the housewife, it should mean no more than a 1½ cent increase in a quart of milk. But to the dairy producers, the added income gained by this increase in support level will mean whether many of them remain or leave the dairy business. To Minnesota producers, it would mean an added $60 million in milk income. To the producers of Wisconsin and Pennsylvania, it would mean an added $122 million and $58 million in income respectively.

Mr. President, yesterday several Senators joined me in a letter to Secretary Butz requesting that he employ the authority he now has to increase the 1972 dairy support rate to the 90 percent level which is the maximum now permitted by law. And, I hope that he takes this action. However, in the event that he doesn't, I will urge the Congress to act upon the bill I am introducing today.

S. 3195

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) section 202 of the Agricultural Act of 1970 is amended by striking out the language preceding paragraph (a) and inserting in lieu thereof the following: "Effective beginning April 1, 1972 and on the first day of each calendar quarter thereafter—"

(b) Paragraph (b) of such section 202 is amended to read as follows:

"(b) Paragraph (c) of section 201 of the Agricultural Act of 1949, as amended (7 U.S.C. 1446(c)), is amended to read as follows:

"(c) The price of milk shall be supported at such level not less than 90 per centum of the parity price therefor as the Secretary determines necessary to assure an adequate supply. Such price support shall be provided through purchases of milk and the products of milk."

U.S. SENATE,
Washington, D.C., February 16, 1972.

Hon. EARL L. BUTZ,
Secretary, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: We urge you to establish 1972 dairy price supports at 90% of parity on April 1. There are several reasons for you to take this action and we are pleased to document them in this letter.

Present indications are that on April 1 the current dairy price support of $4.93 per cwt. will be less than 80% of parity, a catastrophic drop from the 85% level established a year ago. A re-establishment of the 85% level is so obviously apparent that it is not worthy of our comment when we believe there are so many compelling reasons to go beyond this—to the 90% maximum permitted by law.

Milk production, though up in 1971, has not increased as much as had been anticipated and is far less than the total production of only a few years ago. To assure an adequate supply of dairy products, in the light of this lowered production, increases in dairy price supports are needed. As I believe you stated yourself recently, "we are only a swallow away from a shortage of milk.

As evidence that there is not an over-abundance of dairy products it is pointed out that the aggregate total of government-held stocks is the lowest in recent years. Our latest figures (January 15) show these to be 31.6 million lbs. of butter, 6.8 million lbs. of cheese and only 1.5 million lbs. of non-fat dry milk.

Both butter and non-fat dry milk inventories are the lowest we have seen in the past five years. Of particular note is the fact that non-fat dry milk, though absorbing the biggest share of recent price increases, has a virtually non-existent government inventory. The overseas butter sales program has been a key factor in lowering butter stocks.

The small amounts of cheese in storage tend to move quickly into feeding programs for needy families and for school lunches. In fact, these programs could use much more than the present totals if such stocks were available.

Though support prices were increased last April 1 the total cost of the dairy price support program this year will be *less* than it was a year ago.

In projecting dairy production we are alarmed at the drop in dairy farm numbers. From over a million in 1959, your Department has estimated a drop to about 400,000 in 1969, ten years later, and this trend has continued. There are many other factors to be considered in retaining the dairy farms, but an increase in price supports will tend to slow this exodus.

As you know, dairy farming is among the most demanding of agricultural enterprises, especially in terms of substantial capital and labor requirements. Failure of dairy farmers to earn a fair return on these investments will force many of them off the farm into our already crowded cities.

Therefore, the increase in support level we are requesting would appear completely in line with both the social and economic requirements of these producers. Also, we believe the above arguments, based solely on the dairy situation, overwhelmingly state the case for increasing dairy price supports to 90% of parity.

Sincerely,

WALTER F. MONDALE,
HUBERT H. HUMPHREY,
WILLIAM PROXMIRE,
QUENTIN BURDICK,
VANCE HARTKE,
GAYLORD NELSON.

MILK PRODUCTION

Year:	Billion pounds
1964	127.0
1965	124.2
1966	119.9
1967	118.9
1968	117.2
1969	116.3
1970	117.4
1971	118.6

PRICE-SUPPORT LEVEL

Marketing year	Percent parity equivalent[1]	Support level per hundredweight	Increase (cents)
1967-68	87	$4.00	0
1968-69	89	4.28	+.28
1969-70	83	4.28	0
1970-71	85	4.66	+.38
1971-72	85	4.93	+.27

[1] Beginning of marketing year.

DAIRY PRODUCT PURCHASES

[In millions of pounds]

Marketing year	Butter	Cheese	Nonfat dry milk
1967-68	246.6	175.4	633.6
1968-69	186.4	69.0	555.9
1969-70	182.3	31.0	357.6
1970-71	305.4	56.8	452.3
1970-71 (April-December)	187.3	42.9	369.0
1971-72 (April-December)	175.7	76.8	372.9

GOVERNMENT PURCHASE PRICES FOR DAIRY PRODUCTS

[In cents per pound]

Marketing year	Butter	Cheese	Nonfat dry milk
1967-68	66.442	43.75	19.85
1968-69	66.394	47.0	23.35
1969-70	67.596	48.0	23.35
1970-71	69.784	52.0	27.2
1971-72	67.784	54.75	31.7

GOVERNMENT STOCKS OF DAIRY PRODUCTS

[In millions of pounds]

Marketing year	Butter	Cheese	Nonfat dry milk
1967-68	128.2	53.8	306.3
1968-69	72.9	27.7	201.9
1969-70	44.6	----------	91.7
1970-71	166.7	8.5	20.7
1970-71 (April-January 15)	48.0	1.3	21.8
1971-72 (April-January 15)	31.6	6.8	1.5

COST OF PRICE SUPPORT PURCHASES

Year beginning July 1:	Net support purchases (millions)
1967-68	$357.1
1968-69	268.8
1969-70	168.6
1970-71	315.4

PRICE PROJECTIONS

USDA estimates that the parity equivalent price for manufacturing milk as of the beginning of the 1972–73 marketing year (Apr. 1, 1972) will be $6.23 per 100 pounds. Based on this, the following are their estimates of certain parity price percentages:

Percent of parity:	Estimated price
80	$4.98
85	5.30
90	5.61

By Mr. BENTSEN:

S. 3196. A bill to amend the Library Services and Construction Act to provide for a public library services program for older persons. Referred to the Committee on Labor and Public Welfare.

Mr. BENTSEN. Mr. President, I introduce for appropriate reference a bill which would amend the Library Services and Construction Act to provide public library services for older Americans.

In a speech before the Senate on January 25 of this year, I said:

> The public library, because of its neighborhood character, offers an excellent opportunity as a community learning resource for the elderly.

I also announced my intention to introduce legislation on this subject during this session of the Congress.

Mr. President, the White House Conference on the Aging made a specific recommendation that a title be added to the Library Services and Construction Act which would focus directly on bringing library services to older citizens. The legislation I introduce today is a response to that recommendation and an effort to bring the resources of our public libraries to thousands of older Americans who do not now have the opportunity to take advantage of them.

During the past several years, we have witnessed an accelerated interest by older Americans in continuing their education. Thousands of older men and women have recognized that education is a continuing process, not confined to any age group.

Yet education programs for older Americans have received relatively little attention from the Federal Government or the States. A recent report of the Senate Select Committee on Aging notes that:

> Education . . . is seldom mentioned when reviewing available resources which would be of use in meeting challenges of old age.

The White House Conference on Aging took note of the neglect of education programs for the elderly and then proclaimed:

> Education is a basic right for all persons of all age groups. It is continuous and one of the ways of enabling older people to have a full and meaningful life.

I believe, Mr. President, that we should explore a wide variety of education programs for the elderly and in particular those which do not proceed in formal educational institutions. Informal education, in libraries, churches, and other public or private organizations, can often be more effective and indeed more inviting to the person of advanced years who may be reluctant to enter a formal educational setting.

The harsh truth is that few libraries have established special programs for the elderly. This is, in large measure, the result of financial strictures which have not allowed them to do so. It is, in part, the result of inadequate administration budget requests for library programs, which frequently are the first to be cut back in times of financial stress.

Whatever the cause, the statistics are not encouraging; a recent survey of public libraries revealed that a majority give lowest priority to the aging, with less than 0.5 percent of all funds being budgeted for programs in this special field.

Statistics compiled by the Cleveland Public Library reveal that State libraries also give the lowest program development priority to the aging, with less than $400,000 being allocated for these purposes from the State from 1960 to 1971. Federal funds traceable to library programs and services to the aging are estimated to total less than $2 million since 1967.

Mr. President, in my view we are neglecting a valuable social and learning resource by not utilizing our libraries to benefit the elderly. The few programs which have been estabilshed have been singularly effective. The Detroit Public Library, for example, has provided direct service to many nursing homes within the city, bringing the magic of books and films to elderly individuals who are confined to their quarters. The San Francisco Public Library provides services to the aging within the central city through deposit collections, bookmobile services, and special programs. Unfortunately, these programs have proved to be the exception rather than the rule.

For the elderly man or woman confined to a nursing home or confronted with a daily routine lacking in emotional or intellectual stimulation, the delivery of books or other library materials and the visit of a librarian can be a window to the outside world. For the elderly who have some mobility, special library programs provided by public libraries can be an equally valuable experience.

In brief, Mr. President, library programs for the elderly can help to overcome the intellectual and social isolation that is a major burden for older Americans.

The bill I introduce today would earmark approximately $36 million over the next 3 fiscal years in grants to States specifically for programs for the elderly, including: first, the training of librarians to work with the elderly; second, special library programs for the aged; third, purchasing special library materials for use by older persons; fourth, paying salaries for older persons who wish to work on library programs for the elderly; fifth, in-home visits by librarians and other library personnel to homebound elderly; sixth, outreach programs to notify the aging of programs available; and seventh, transportation to enable the elderly to have access to library services.

This legislation is a comprehensive measure directed at the specific library needs of homebound older Americans as well as those who have access to local libraries. Moreover, it offers older Americans the opportunity for productive work in library programs established for the benefit of others in their same age group.

In my view, the special characteristics of our aging population require legislation directed specifically at their needs. Many older Americans, in order to receive the benefits of library materials and programs, have to rely on special devices which enable them to participate; these may include page turners, prism glasses, large print materials, and a variety of services for the homebound, whose world is often narrowed to the dimension of a bed or a room.

In fact, President Nixon, on June 25, 1971, in pointing out the unique characteristics of our aging population, said:

> The generation over 65 is a very special group which faces very special problems—it deserves very special attention. That is why we have been moving to insure that our older citizens get that special attention that they deserve.

Mr. President, this bill recognizes one of the special problems to which the President alluded.

I strongly urge the Senate Labor and Public Welfare Committee, which will be considering a variety of measures affecting older Americans, to give careful consideration to the programs set forth in this bill.

Mr. President, I ask unanimous consent to have printed at this point the text of the "Older Readers Services Act of 1972" in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3196

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Older Readers Services Act of 1972".

DECLARATION OF POLICY

SEC. 2. Because public libraries serve to support the cultural, informational, and recreational aspirations of all residents in many communities, and because older persons are increasingly participating in life-time education, it is the purpose of this Act to assist the States in the extension and improvement of public library services for older persons.

PROGRAM AUTHORIZED

SEC. 3. (a) Section 4(a) of the Library Services and Construction Act is amended by adding at the end thereof the following new paragraph:

"(4) For the purpose of making grants to States to enable them to carry out public library service programs for older persons authorized by title IV, there are authorized to be appropriated $11,700,000 for the fiscal year ending June 30, 1973, $12,300,000 for the fiscal year ending June 30, 1974, $12,900,000 for the fiscal year ending June 30, 1975, and $13,700,000 for the fiscal year ending June 30, 1976."

(b)(1) Section 5(a)(1) of such Act is amended by striking out "or (3)" and inserting in lieu thereof "(3), or (4)".

(2) Section 5(a)(2) of such Act is amended by striking out "or (3)" and inserting in lieu thereof "(3), or (4)".

(3) Section 5(a)(3) of such Act is amended by striking out the word "and" at the end of such paragraph (B) thereof, by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon and the word "and", and by inserting after paragraph (C) thereof the following:

"(D) with respect to appropriations for the purposes of title IV, $40,000 for each State, except that it shall be $10,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands."

(4) The last sentence of section 5(a) (3) of such Act is amended by striking out "or (3)" and inserting in lieu thereof "(3), or (4)".

(5) Section 5(b) of such Act is amended by striking out "or (3)" and inserting in lieu thereof "(3), or (4)".

(c) Section 6(a) of such Act is amended by striking out "and III" and inserting in lieu thereof "III and IV".

(d) (1) Section 7(a) of such Act is amended by striking out "or (3)" and inserting in lieu thereof "(3) or (4)".

(2) Section 7(b) (1) of such Act is amended by inserting "and title IV" after "title III".

(e) Such Act is further amended by adding after title III, the following new title:

"TITLE IV—OLDER READERS SERVICES

"GRANTS TO STATES FOR OLDER READERS SERVICES

"SEC. 401. The Commissioner shall carry out a program of making grants to States which have an approved basic State plan under section 6 and have submitted a long-range program and an annual program under section 403 for library services for older persons.

"USES OF FEDERAL FUNDS

"SEC. 402. (a) Funds appropriated pursuant to paragraph (4) of section 4(a) shall be available for grants to States from allotments under section 5(a) for the purpose of carrying out the Federal share of the cost of carrying out State plans submitted and approved under section 303. Such grants shall be used for (1) the training of librarians to work with the elderly; (2) the conduct of special library programs for the elderly; (3) the purchase of special library materials for use by the elderly; (4) the payment of salaries for elderly persons who wish to work in libraries as assistants on programs for the elderly; (5) the provision of in-home visits by librarians and other library personnel to the elderly; (6) the establishment of outreach programs to notify the elderly of library services available to them; and (7) the furnishing of transportation to enable the elderly to have access to library services.

"(b) For the purposes of this title, the Federal share shall be 100 per centum of the cost of carrying out the State plan.

"STATE ANNUAL PROGRAM FOR LIBRARY SERVICES FOR THE ELDERLY

"SEC. 403. Any State desiring to receive a grant from its allotment for the purposes of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 6, submit for that fiscal year an annual program for library services for older persons. Such program shall be submitted at such time, in such form, and contain such information as the Commissioner may require by regulation and shall—

"(1) set forth a program for the year submitted under which funds paid to the State from appropriations pursuant to paragraph (4) of section 4(a) will be used, consistent with its long-range program for the purposes set forth in section 302, and

"(2) include an extension of the long-range program taking into consideration the results of evaluations."

EFFECTIVE DATE

SEC. 3. The amendments made by section 2 of this Act shall be effective after June 30, 1972.

By Mr. HATFIELD:

S. 3199. A bill to provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife that are threatened with extinction or likely within the foreseeable future to become threatened with extinction, and for other purposes. Referred to the Committee on Commerce.

ENDANGERED SPECIES CONSERVATION ACT OF 1972

Mr. HATFIELD. Mr. President, in the past 150 years, more than 200 species of birds, fish, and mammals have become extinct. According to the Department of the Interior, the United States accounted for 48 of those species. Simply stated, that means short of a new creation of the world, these birds, fish, mammals will never exist again. Exotic animals such as Steller's sea cow or the dodo may not seem such a loss—although the diminishing of nature in any of its parts diminishes it totally in ways we are only just beginning to understand—but man is now threatening the less exotic wolf, whale, kangaroo, tiger, to name just a few. Will we read Jack London to remind ourselves of the timber wolf or Herman Melville for a glimpse of the whale? Will William Blake's "Tiger, Tiger" burn brightly only in imagination and the kangaroo in folk song? It is not impossible.

In 1969, under the provisions of the Endangered Species Act, the Department of the Interior listed 78 species requiring special protection just to survive. Today, 4 years later, almost 400 species are on that list. The dimensions of this problem, its ramifications, and its time frame have made it apparent that steps must be taken to strengthen the protection afforded endangered species. I am, therefore, pleased to put before the Senate legislation entitled "The Endangered Species Conservation Act of 1972" which is designed to greatly strengthen the existing program.

An important provision of this legislation would enlarge the definition of endangered species in the 1969 act to include those animals presently endangered and those likely to be extinct because of foreseeable actions. This would place a healthy stress on prevention, rather than reaction. After all, we have accomplished little when we preserve a species, such as the buffalo, in such limited numbers, under special conditions, and thereby rob them, and us, of their role in nature. It is preferable to forestall these artificial measures and to keep nature in balance.

Additionally, the legislation would prohibit the unauthorized import, export, taking and interstate transportation by any person of any species listed as threatened with extinction. Civil penalties can be levied against offenders. A further aid to protecting wildlife would be the removal of the ceiling on acquisition of habitats.

Man's lack of respect and moral insensitivity to life in all its forms is a constant source of amazement to me. Since we seem perpetually immune to the waste of human life cheaply spent in wars and street crime and disease, perhaps I should not be surprised that we sacrifice animal life for transmission fluid, dog food, lipstick, fur coats, belts or simply in a primitive thrill of killing. I should not be, but I am. I am glad to introduce this legislation and believe it adds significantly to existing statutes.

Mr. President, I ask that the full text of the Endangered Species Conservation Act of 1972 be printed at the end of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Endangered Species Conservation Act of 1972".

SEC. 2. (a) The Congress finds and declares that one of the unfortunate consequences of growth and development in the United States and elsewhere has been the extermination of some species or subspecies of fish and wildlife; that serious losses in other species of wild animals with educational, historical, recreational, and scientific value have occurred and are occurring; that the United States has pledged itself, pursuant to migratory bird treaties with Canada and Mexico and the Convention on Nature Protection and Wildlife Preservation in the West Hemisphere, the International Convention for the Northwest Atlantic Fisheries, the International Convention for the High Seas Fisheries of the North Pacific Ocean, and other international agreements, to conserve and protect, where practicable, the various species of fish and wildlife, including game and nongame migratory birds, that are threatened with extinction; and that the conservation, protection, restoration, and propagation of such species will inure to the benefit of all citizens. The purposes of this Act are to provide a program for the conservation, protection, restoration, and propagation of selected species and subspecies of fish and wildlife, including migratory birds, that are threatened with extinction, or are likely within the foreseeable future to become threatened with extinction.

(b) It is further declared to be the policy of Congress that all Federal departments and agencies shall seek to protect species or subspecies of fish and wildlife, including migratory birds, that are threatened with extinction or are likely within the foreseeable future to become threatened with extinction, and, insofar as is practicable and consistent with the primary purposes of such bureaus, agencies, and services, shall utilize their authorities in furtherance of the purpose of this Act.

(c) (1) A species or subspecies of fish or wildlife shall be regarded as an endangered species whenever, in his discretion, the Secretary determines, based on the best scientific and commercial data available to him and after consultation, as appropriate, with the affected States, and, in cooperation with the Secretary of State, the country or countries in which such fish and wildlife are normally found or whose citizens harvest the same on the high seas, and to the extent practicable, with interested persons and organizations, and other interested Federal agencies, that the continued existence of such species or subspecies of fish or wildlife, in the judgment of the Secretary, is either presently threatened with extinction or will likely within the foreseeable future become threatened with extinction, throughout all or a significant portion of its range, due to any of the following factors: (i) the destruction, drastic modification, or severe curtailment or the threatened destruction, drastic modification, or severe curtailment of its habitat; or (ii) is overutilization for commercial, sporting, scientific, or educational purposes; or (iii) the effect on it of disease or predation; or (iv) the inadequacy of existing regulatory mechanisms; or (v) other natural or man-made factors affecting its continued existence.

(2) After making such determination, the Secretary shall publish in the Federal Register and from time to time he may revise, by regulation, a list, by scientific and com-

mon name or names of such endangered species, indicating as to each species so listed whether such species is threatened with extinction or is likely within the foreseeable future to become threatened with extinction and, in either case, over what portion of the range of such species this condition exists. The endangered species lists which are effective as of the date of enactment shall be republished to conform to the provisions of this Act: *Provided, however,* that until such republication nothing herein shall be deemed to invalidate such endangered species lists. The provisions of section 553 of title 5, United States Code, shall aply to any regulation issued under this subsection. The Secretary shall, upon the petition of an interested person under subsection 553(e) of title 5, United States Code, also conducts a review of any lised or unlisted species or subspecies of fish or wildlife proposed to be removed from or added to the list, but only when he finds and publishes his finding that, to his satisfaction, such person has presented substantial evidence to warrant such a review.

(d) For the purposes of this Act, the term—

(1) "fish and/or wildlife" means any wild mammal, fish, wild bird, amphibian, reptile, mollusk or crustacean, or any part, products, egg, or offspring thereof, or the dead body or parts thereof;

(2) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam;

(3) "person" means any individual, firm, corporation, association, or partnership subject to the jurisdiction of the United States;

(4) "take" means to pursue, hunt, shoot, capture, collect, kill, or attempt to pursue, hunt, shoot, capture, collect, or kill;

(5) "Secretary" means the Secretary of the Interior or the Secretary of Commerce as program responsibilities are vested pursuant to the provisions of Reorganization Plan No. 4 of 1970;

(6) "import" includes commerce with a foreign country, entry into a foreign trade zone, and transshipment through any portion of the United States without customs entry.

Sec. 3. (a) The Secretary shall utilize the land acquisition and other authorities of the Migratory Bird Conservation Act, as amended, the Fish and Wildlife Act of 1956, as amended, and the Fish and Wildlife Coordination Act, as appropriate, to carry out a program in the United States of conserving, protecting, restoring, and propagating those species and subspecies of fish and wildlife that he lists as endangered species pursuant to section 2 of this Act.

(b) In addition to the land acquisition authorities otherwise available to him, the Secretary is hereby authorized to acquire by purchase, donation, or otherwise, lands or interests therein needed to carry out the purpose of this Act relating to the conservation, protection, restoration, and propagation of those species or subspecies of fish and wildlife that he lists as endangered species pursuant to section 2 of this Act.

(c) Funds made available pursuant to the Land and Water Conservation Fund Act of 1965 may be used for the purpose of acquiring lands, waters, or interests therein pursuant to this section that are needed for the purpose of conserving, protecting, restoring, and propagating those species or subspecies of fish and wildlife, including migratory birds, that he lists as endangered species pursuant to section 2 of this Act.

(d) The Secretary shall review other programs administered by him and, to the extent practicable, utilize such programs in furtherance of the purpose of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize, where practicable, their authorities in furtherance of the purpose of this Act by carrying out programs for the protection of endangered species and by taking such action as may be necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of endangered species.

Sec. 4. (a) In carrying out the program authorized by this Act, the Secretary shall cooperate to the maximum extent practicable with the several States. Such cooperation shall include consultation before the acquisition of any land for the purpose of conserving, protecting, restoring, or propagating any endangered species.

(b) The Secretary may enter into agreements with the States for the administration and management of any area established for the conservation, protection, restoration, and propagation of endangered species. Any revenues derived from the administration of such areas under these agreements shall be subject to the provisions of section 401 of the Act of June 15, 1935 (49 Stat. 383), as amended (16 U.S.C. 715s).

Sec. 5. (a) (1) Notwithstanding any other Act of Congress or regulation issued pursuant thereto, and except as hereinafter provided, any person who—

(i) imports into or exports from the United States, receives, or causes to be so imported, received, or exported; or

(ii) takes or causes to be taken within the United States, the territorial sea of the United States, or upon the high seas; or

(iii) ships, carries, or receives by any means in interstate commerce, any species or subspecies of fish or wildlife which the Secretary has listed as an endangered species threatened with extinction pursuant to section 2 of this Act, shall be punished in accordance with the provisions of section 7 of this Act.

(2) The prohibitions contained in this section shall not apply to American Indians, Aleuts, or Eskimos who take endangered species for their own consumption or ritual purposes in accordance with a treaty or pursuant to Executive Order or Federal statute.

(3) In order to minimize undue economic hardship to any person importing, exporting, taking, or transporting in interstate commerce any species or subspecies of fish or wildlife which is listed as an endangered species threatened with extinction pursuant to section 2 of this Act under any contract entered into prior to the date of original publication of such listing in the Federal Register, the Secretary, upon such person filing an application with him and upon filing such information as the Secretary may require showing, to his satisfaction, such hardship, may permit such person to import, export, take or transport such species or subspecies in such quantities and for such periods, not to exceed one year, as he determines to be appropriate.

(b) Whenever the Secretary, pursuant to section 2 of this Act, lists a species or subspecies as an endangered species which is likely within the foreseeable future to become threatened with extinction, he shall issue such regulations as he deem necessary or advisable to provide for the conservation, protection, restoration and propagation of such species or subspecies, including regulations subjecting to punishment in accordance with section 7 of this Act any person who—

(1) imports into or exports from the United States, receives, or causes to be so imported, received, or exported; or

(2) takes or causes to be taken within the United States, the territorial sea of the United States, or upon the high seas; or

(3) ships, carries, or receives by any means in interstate commerce, any such species or subspecies of fish or wildlife likely within the foreseeable future to become threatened with extinction.

Sec. 6. (a) The Secretary may permit, under such terms and conditions as he may prescribe, the importation, taking, or the transportation in interstate commerce of any species or subspecies of fish or wildlife listed as an endangered species threatened with extinction for zoological, educational, and scientific purposes, and for the propagation of such fish and wildlife in captivity for preservation purposes, but only if he finds that such importation, taking, or transportation in interstate commerce will not adversely affect the regenerative capacity of such species in a significant portion of its range or otherwise affect the survival of the wild population of such species.

(b) The Secretary may, by regulation, delegate to a State the authority to regulate the taking by any person of an endangered species when he determines, in his discretion, that such State maintains an active program to manage and protect such endangered species in accordance with criteria issued by the Secretary.

(c) Any action taken by the Secretary under this section shall be subject to his periodic and continual review at no greater than annual intervals. Such review shall include the consideration of comment received from interested persons.

Sec. 7. (a) (1) Any person who violates any provision of section 5 or 6 of this Act or any regulation or permit issued thereunder, or any regulation issued under subsection (d) or (e) of this section, other than a person who commits a violation the penalty for which is prescribed by subsection (b) of this section, shall be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed under this paragraph, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found or resides or transacts business to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. In the case of Guam such actions may be brought in the district court of Guam, in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands, and in the case of American Samoa such actions may be brought in the District Court of the United States for the district of Hawaii and such courts shall have jurisdiction of such actions. In hearing such action, the court shall sustain the Secretary's action if supported by substantial evidence.

(2) Whenever any property is seized pursuant to subsection (c) of this section, the Secretary shall move to dispose of the civil penalty proceedings pursuant to paragraph (1) of this subsection as expeditiously as possible. Upon the assessment of a civil penalty pursuant to paragraph (1) of this subsection, any property so seized may be proceeded against in any court of competent jurisdiction and forfeited. Fish or wildlife so forfeited shall be conveyed to the Secretary for disposition by him in such a manner as he deems appropriate. If, with respect to any such property so seized, no compromise forfeiture has been achieved or no action is commenced to obtain the forfeiture of such fish, wildlife, property, or item within 30 days following the completion of proceedings involving an assessment of a civil penalty, such property shall be immediately returned to the owner or the consignee in accordance with regulations promulgated by the Secretary.

(b) Any person who knowingly violates any provision of section 5 or 6 of this Act, or any regulation or permit issued thereunder, or any regulation issued under subsection (d) or (e) of this section shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than one year, or both, and any Federal hunting or fishing licenses, permits, or stamps may be revoked or withheld for a period of up to 5 years. Upon conviction, (1) any fish or wildlife seized shall be forfeited to the Secretary for disposal by him in such manner as he deems appropriate, and (2) any other property seized pursuant to subsection (c) of this section may, in the discretion of the court, commissioner, or magistrate, be forfeited to the United States or otherwise disposed of. If no conviction results from any such alleged violation, such property so seized in connection therewith shall be immediately returned to the owner or consignee in accordance with regulations promulgated by the Secretary, unless the Secretary, within 30 days following the final disposition of the case involving such violation, commences proceedings under subsection (a) of this section.

(c) (1) The provisions of sections 5 and 6 of this Act and any regulations or permits issued pursuant thereto, or pursuant to subsection (d) or (e) of this section, shall be enforced by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, or all such Secretaries. Each such Secretary may utilize, by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency.

(2) Any authorized agent of the Department of the Interior, the Department of Commerce, or the Department of the Treasury may, without a warrant, arrest any person who such agent has probable cause to believe is knowingly violating, in his presence or view, section 5 or 6 of this Act, or any regulation or permit issued thereunder, the penalty for which is provided under subsection (b) of this section. An agent who has made an arrest of a person in connection with any such willful violation may search such person at the time of his arrest and seize any property taken, used, or possessed in connection with any such violation.

(3) Any authorized agent of the Department of the Interior or the Department of Commerce or officer of the Customs shall have authority to search and seize without a warrant, as provided by the Customs laws and by the law relating to search and seizure. Said officer or agent is authorized to execute warrants to search for and seize any property, including, for the purposes of this section, any fish, wildlife, aircraft, boat, or other conveyance, weapon, business records, shipping documents, or other items which have been taken, used, or possessed in connection with the violation of any section, regulation, or permit with respect to which a civil or criminal penalty may be assessed, pursuant to subsection (a) or (b) of this section. The several judges of the courts established under the laws of the United States and the several States, and United States magistrates, may, within their respective jurisdictions, upon proper oath and affirmation showing probable cause, issue warrants and subpoenas under the Federal Rules of Criminal Procedure to enforce subsections (a) and (b) of this section. Any property seized pursuant to this section shall be held by any agent authorized by the Secretary or the Secretary of the Treasury, or by a United States Marshal, pending disposition of proceedings under subsection (a) or (b) of this section; except that either Secretary may, in lieu of holding such property, either (1) permit a bond or other satisfactory surety to be posted, or (2) place the fish or wildlife in the custody of such person as he shall designate. Upon the imposition of a civil or criminal penalty, or a forfeiture, the costs to the Government of transfer, board, and handling, including the cost of investigations at a non-designated port of entry, shall be payable to the account of the Secretary. The owner or consignee of any property so seized shall, as soon as practicable following such seizure, be notified of the fact in accordance with regulations established by the Secretary.

(d) For the purposes of facilitating enforcement of sections 5 and 6 of this Act and reducing the costs thereof, the Secretary, with the approval of the Secretary of the Treasury, shall, after notice and an opportunity for a public hearing, from time to time designate, by regulation, any port or ports in the United States for the importation of fish and wildlife, other than shellfish and fishery products imported for commercial purposes, into the United States. The importation of such fish or wildlife into any port in the United States, except those so designated, shall be prohibited after the effective date of such designations; except that the Secretary, under such terms and conditions as he may prescribe, may permit importation at non-designated ports in the interest of the health or safety of the fish or wildlife. Such regulations may provide other exceptions to such prohibition if the Secretary, in his discretion, deems it appropriate and consistent with the purposes of this subsection.

(e) The Secretary is authorized to promulgate such regulations as may be appropriate to carry out the purposes of this Act, and the Secretaries of the Treasury and the Department in which the Coast Guard is operating are authorized to promulgate such regulations as may be appropriate to the exercise of responsibilities under subsection 7(c) (1) of this Act.

SEC. 8. (a) In carrying out the provisions of this Act, the Secretary, through the Secretary of State, shall encourage foreign countries to provide protection to species or subspecies of fish and wildlife threatened with extinction, to take measures to prevent any fish or wildlife from becoming threatened with extinction, and shall cooperate with such countries in providing technical assistance in developing and carrying out programs to provide such protection, and shall, through the Secretary of State, encourage bilateral and multilateral agreements with such countries for the protection, conservation, and propagation of fish and wildlife. The Secretary shall also encourage persons, taking directly or indirectly fish or wildlife in foreign countries or on the high seas for importation into the United States for commercial or other purposes, to develop and carry out, with such assistance as he may provide under any authority available to him, conservation practices designed to enhance such fish or wildlife and their habitat. The Secretary of State, in consultation with the Secretary, shall take appropriate measures to encourage the development of adequate measures, including, if appropriate, international agreements, to prevent such fish or wildlife from becoming threatened with extinction.

(b) The Secretary of Agriculture and the Secretary shall provide for appropriate coordination of the administration of this Act and amendments made by this Act, with the administration of the animal quarantine laws (19 U.S.C. 1306; 21 U.S.C. 101–105, 111–135b, and 612–614) and the Tariff Act of 1930, as amended (section 1306 of Title 19). Nothing in this Act or any amendment made by this Act, shall be construed as superseding or limiting in any manner the functions of the Secretary of Agriculture under any other law relating to prohibited or restricted importations of animals and other articles and no proceeding or determintion under this Act shall preclude any proceeding or be considered determinative of any issue of fact or law in any proceeding under any Act administered by the Secretary of Agriculture.

(c) Nothing in this Act, or any amendment made by this Act, shall be construed as superseding or limiting in any manner the functions and responsibilities of the Secretary of the Treasury under the Tariff Act of 1930, as amended, including, without limitation, section 1527 of Title 19 relating to the importation of wildlife taken, killed, possessed or exported to the United States in violation of the laws or regulations of a foreign country.

SEC. 9. (a) Subsection 4(c) of the Act of October 15, 1966 (80 Stat. 928), as amended (16 U.S.C. 668dd(c)), is further amended by revising the second sentence thereof to read as follows:

"With the exception of endangered species listed by the Secretary pursuant to section 2 of the Endangered Species Conservation Act of 1972, nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of resident fish and wildlife on lands not within the system."

(b) Subsection 10(a) of the Migratory Bird Conservation Act (45 Stat. 1224), as amended (16 U.S.C. 715 i(a)), is further amended by inserting "on likely within the foreseeable future to become threatened with" between the words "with" and "extinction".

(c) Subsection 401(a) of the Act of June 15, 1935 (49 Stat. 383) as amended (16 U.S.C. 715s (a)), is further amended by inserting "or likely within the foreseeable future to become threatened with" between the words "with" and extinction" in the last sentence thereof.

(d) Subsection 6(a) (1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903), as amended (16 U.S.C. 460 1–9(a) (1)), is further amended by inserting "or likely within the foreseeable future to be come threatened with" between the words "with" and "extinction".

SEC. 10. (a) Sections 1 through 3 of the Act of October 15, 1966 (80 Stat. 926, 927), as amended (16 U.S.C. 668aa–668cc), are hereby repealed in their entirety.

(b) Sections 1 through 6 of the Act of December 5, 1969 (83 Stat. 275–279; 16 U.S.C. 668cc–1 through 668cc–6) are hereby repealed in their entirety.

By Mr. FULBRIGHT (by request):

S. 3200. A bill to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations.

The sum requested is $22,000,000 for fiscal years 1973 and 1974. This contrasts with the amount of $17,500,000 authorized for fiscal years 1971 and 1972, an increase of $4,500,000.

The bill has been requested by the President of the United States and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the President dated February 10, 1972, to the Vice President.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of section 49(a) of the Arms Control and Disarmament Act, as amended (22 U.S.C. 2589(a)), is amended by inserting immediately after $17,500,000", the following: ", and for the two fiscal years 1973 and 1974, the sum of $22,000,000,".

THE WHITE HOUSE,
Washington, D.C., February 10, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate,
U.S. Capitol.

DEAR MR. PRESIDENT: As I have often said, the work of the Arms Control and Disarmament Agency is among the most significant work undertaken by our Government. Intelligently directed arms control and disarmament efforts are an important element of our foreign policy and are essential to our national security.

Carefully designed arms control arrangements offer the prospect of halting an arms race especially in the strategic arms field—that could both drain the resources and decrease the relative security of all participants. The quest for reliable ways of controlling armaments in a manner that will bring a greater measure of security than we can obtain from arms alone deserves the very best we can muster in the way of brains, experience, knowledge, and negotiating skill as well as strong public and Congressional support.

It is my conviction that the Arms Control and Disarmament Agency has done much to assist in attaining this objective through the Strategic Arms Limitations Talks, as well as through the work of the Conference of the Committee on Disarmament at Geneva. The work of this Agency is vital to future progress in these difficult areas and I anticipate that it will be faced with new, additional responsibilities in the future.

Accordingly, I am forwarding herewith draft legislation to authorize appropriations for the Arms Control and Disarmament Agency for another two years after the current authorization expires on this coming June 30. I urge the Congress to give this bill its prompt and favorable consideration.

Sincerely,

RICHARD M. NIXON.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 936

At the request of Mr. MONTOYA, the Senator from Arkansas (Mr. FULBRIGHT) was added as a cosponsor of S. 936, a bill to extend medicare coverage for out-of-hospital prescription drugs.

S. 963

At the request of Mr. MONTOYA, the Senator from West Virginia (Mr. BYRD) and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of S. 963, a bill to authorize the Secretary of Agriculture to cooperate with and furnish financial and other assistance to States and other public bodies and organizations in establishing a system for the prevention, control, and suppression of fires in rural areas, and for other purposes.

S. 1928

At the request of Mr. MONDALE, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 1928, to designate the Lower St. Croix River as a component of the National Wild and Scenic Rivers System.

S. 2040

At the request of Mr. BOGGS, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 2040, a bill to make the provisions of the Vocational Education Act of 1963 applicable to individuals preparing to be volunteer firemen.

S. 3067

At the request of Mr. JAVITS, the Senator from Massachusetts (Mr. BROOKE) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 3067, a bill to eliminate racketeering in the sale and distribution of cigarettes and for other purposes.

S. 3152

At the request of Mr. CHILES, the Senator from New York (Mr. BUCKLEY) and the Senator from Georgia (Mr. GAMBRELL) were added as cosponsors of S. 3152, a bill to amend the Internal Revenue Code of 1954 to provide that no interest shall be payable by a person to whom an erroneous refund is made if the erroneous refund is made due to error by an officer or employee of the United States.

S. 3182

At the request of Mr. SCOTT, the Senator from Wisconsin (Mr. PROXMIRE) was added as a cosponsor of S. 3182, a bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide.

EDUCATION AMENDMENTS OF 1971—AMENDMENTS

AMENDMENT NO. 903

(Ordered to be printed and to lie on the table.)

Mr. ERVIN (for himself, Mr. BAKER, Mr. BENNETT, Mr. BROCK, Mr. BYRD of Virginia, Mr. EASTLAND, Mr. ELLENDER, Mr. GAMBRELL, Mr. GURNEY, Mr. HOLLINGS, Mr. JORDAN of North Carolina, Mr. LONG, Mr. MCCLELLAN, Mr. SPARKMAN, Mr. STENNIS, Mr. TALMADGE, Mr. THURMOND, and Mr. TOWER) submitted an amendment intended to be proposed by them jointly to the committee amendment in the nature of a substitute for the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

AMENDMENT NO. 904

(Ordered to be printed and to lie on the table.)

Mr. ERVIN submitted an amendment intended to be proposed by him to the committee amendment in the nature of a substitute for the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Educational Act of 1963, and related acts, and for other purposes.

SOCIAL SECURITY AMENDMENTS OF 1971—AMENDMENT

AMENDMENT NO. 905

(Ordered to be printed and referred to the Committee on Finance.)

ADULT CATEGORIES OF WELFARE AND SOCIAL SECURITY

Mr. RIBICOFF. Mr. President, today I am introducing an amendment to H.R. 1 to assure that no recipient of Federal payments under old-age assistance, aid to the blind, or aid to the permanently disabled receives less under title III of H.R. 1 than he or she is now receiving. My proposal would also assure that payments made under these so-called adult assistance categories are not reduced when social security benefits are raised.

The debate over welfare reform has focused primarily on the provisions of title IV or H.R. 1 which covers welfare reform for families. The problems of the aged, blind, and disabled are often overlooked, even though title III of H.R. 1 contains major changes in the programs of public assistance for those in the "adult categories."

Under current law each State determines the level of assistance it will provide to needy aged, blind or disabled persons. Title III of H.R. 1 would establish a Federal program for these people with nationally uniform levels of assistance—up to $150 a month for an individual and $200 a month for a couple.

Unfortunately, these amounts are less than many States now pay and there is no requirement in title III of H.R. 1 that States must make supplemental payments where necessary to maintain present benefit levels. My amendment would assure that recipients receive no less adequate benefits under title III of H.R. 1 than they are now receiving, by requiring States to make supplemental payments. These payments would have to include the bonus value of food stamps as well as an amount necessary to bring adult assistance payments up to the levels paid under the present system. This amendment is similar to the one I have already introduced as part of my proposal for improving title IV or H.R. 1.

The second part of my proposal establishes a pass-through mechanism to assure that adult assistance payments are not reduced when social security benefits are raised.

At present most States require cutbacks in welfare payments when social security benefits are raised, under the assumption that higher social security payments decrease the need for welfare assistance. Unfortunately, social security payments do not provide benefits adequate to obviate the need for welfare. One million two hundred thousand aged Americans must rely on old age assistance—welfare—as well as social security. In order to offset these welfare cutbacks which are triggered by social security changes, my proposal would require the supplemental payment made by a State to include an additional $4 monthly per individual—$6 monthly per couple. This amount is roughly equivalent to the 5-percent social security benefit increase provided for in H.R. 1. To provide a measure of equity to those not on social security and thus not ordinarily affected by the social security triggering mechanism, my proposal would also provide this additional $4—$6 for couples—to those persons not covered by the social security system.

Under the terms of my emergency welfare fiscal relief bill, the costs of these proposals, less than $100 million, would be borne by the Federal Government once a State reached its fiscal 1971 cash public assistance outlays level.

AMENDMENT NO. 906

(Ordered to be printed and referred to the Committee on Finance.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

NOTICE OF HEARINGS ON SETTLEMENT COSTS

Mr. SPARKMAN. Mr. President, for some time now the Housing and Urban Affairs Subcommittee, of which I have the honor to be chairman, has been concerned with the costs of settlement inherent to home mortgages. Because of this concern and, because this is a deeply involved subject—in some instances crossing State jurisdictions as well as involving areas over which the Congress has no legislative jurisdiction—at my suggestion, we included in the Emergency Home Finance Act of 1970—specifically section 701 of Public Law 91-351, approved July 24, 1970—a provision which directed the Secretary of the Department of Housing and Urban Development and the Administrator of the Veterans' Administration to undertake a study and make recommendations to the Congress as to legislative and administrative actions which could be taken to reduce and to standardize settlement costs. Section 701 of the act further directed that this report be sent to the Congress no later than 1 year after enactment of the Emergency Home Finance Act of 1970 or, in other words, by July 24, 1971.

A preliminary report on the subject of "settlement costs" was sent to Congress on July 24, 1971, and, from that time onward, we have anticipated, from one day to the next, receiving the final report. On the one hand, we could perhaps condemn and criticize the administration—the Department of Housing and Urban Development and the Veterans' Administration—for the delay in getting this report to us. On the other hand, I, at least, am very much aware of the difficulties and complications which were involved in this deeply complex subject and understand that the administration needed the time it has taken to get this report to us.

I am pleased to announce that the final report was received on yesterday, February 17, 1972. In accordance with my original plans, I wish now to announce that the Housing and Urban Affairs Subcommittee of the Banking, Housing and Urban Affairs Committee will commence hearings on the issues contained in the settlement costs report, as well as any bills and other proposals relating to this matter, on March 1, 1972, in room 5302, New Senate Office Building. Persons wishing to testify on the subject of "settlement costs" should contact Mrs. Othella C. Pompier, room 5226, New Senate Office Building, 225-6348.

ADDITIONAL STATEMENTS

BUILDING FOR 1972 AND BEYOND

Mr. HANSEN. Mr. President, the December 1971, issue of Railway Age contains an article that is most encouraging to those of us throughout the United States who believe that the Nation's railroads have a significant role in our future.

The article, entitled "Building for '72 and Beyond," leads off with an interview with the president of the Union Pacific, the railroad that spans Wyoming from east to west, and from west to east, with a double track.

President John C. Kenefick makes it clear that the UP does not take lightly its responsibilities as a prime mover of America's goods. He also outlines some of the evidence that UP planners are not looking just at the years immediately ahead in their research and development, but decades ahead.

The interview is followed by the article entitled: "Union Pacific: Efficiency and Service."

Mr. President, I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD. as follows:

JOHN C. KENEFICK AND UNION PACIFIC: BUILDING FOR '72 AND BEYOND

Q. In many respects, 1971 has been a peculiar year for the railroad industry. How does it add up for Union Pacific?

A. We haven't had a bad year, by any means. At the same time, 1971 certainly wasn't as good as we hoped it would be. The UTU strike hurt, and hurt plenty—not just for the 18 days we were shut down but for the next month, because it took that long for traffic to build back to pre-strike levels. The West Coast dock strike created problems. So did the coal strike, although it didn't hit us as hard as it hit some railroads. And, frankly, in October business generally seemed to be slumping.

Q. Against that backdrop, how do you view 1972?

A. Again, we hope we're going to have a good year—certainly a better year than we've had in 1971. But it's hard to predict business levels under any circumstances—and we have the continuing effect of the wage/price freeze to consider.

Q. Under these conditions, what are you planning for 1972 equipment and property improvements?

A. Traditionally, about 75% of our capital budget has gone for equipment, and we expect that ratio to hold up in 1972. Of course, expected business levels have an effect on our planning. Our proposed total budget is about the same as our 1971 expenditure, or approximately $100 million.

Q. How about planning for improvements beyond 1972?

A. So far as equipment is concerned, we don't see any dramatic changes coming. We've had heavy equipment expenditures in recent years—365 new locomotives and more than 31,000 freight cars in the past six years. In general, our fleet is in good shape. We will have a replacement program, plus whatever is needed to meet hoped-for increases in volume. If our coal business increases as we expect it to, for example, we'll be acquiring more open-top cars than we have in the past.

Q. And on motive power. . . .

A. For the past several years, we've been buying super-power, to the point where we have pretty well saturated the service in which these high-horsepower locomotives are useful. Now, we will be concentrating on units of less horsepower, with nothing bigger than 3,000 hp in our 1972 program.

Q. Inevitably, there is the question of electrification. . . .

A. We're making studies, in cooperation with electric utilities and General Electric, of mainline electrification from North Platte, Neb., to Green River, Wyo., or perhaps to Ogden. This is not outside the realm of possibility. We're serious about looking into it. There isn't any set timetable for completing the studies, and frankly the amount of money involved scares me just a bit. But that doesn't mean that we won't go ahead with this, because it does not look unattractive.

Q. UP has also been spending a considerable amount on fixed-plant improvements. . .

A. We've built Bailey Yard at North Platte and we've improved our East Los Angeles Yard. We should be doing something in the Pacific Northwest, but we haven't quite decided what. We've completed our new diesel facility at North Platte, and we have improvements under way on the locomotive department at Omaha. We've been making improvements at Pocatello, Idaho, and we're planning changes at our Salt Lake City diesel facility. We have studies in progress on installation of rip tracks at various points, and we also have to improve our facilities for heavy repair of freight cars. We're extending sidings, particularly on the Kansas Division. And I hope we can go along each year with $1 million to $2 million for line improvements, principally curvature reductions.

Q. UP is known as an operating man's railroad—a railroad of super-power and heavy trains. Is this a totally accurate image?

A. Are we committed to the big train? Sure, we are—but that doesn't mean we always run the big trains. If the demands of the service can be met only by running a light train, then we'll run a light train. But if we can provide the services the customer requires and get good equipment utilization with the big train, then we'll run the big train. I don't think there's anything unusual about that. If we were in the trucking business, we'd be plugging for triple-bottoms instead of double-bottoms. If we were in the tanker business, we'd be building bigger and bigger tankers. If we were in the airline business, we'd be buying 747s. But for some reason, in the railroad business it seems to be a sin to want to run freight trains like the airlines run 747s. Certainly, the bigger the train you run the lower the cost. But you don't see the airlines putting a 747 on every run, and we don't do everything on the big-train scale.

Q. Would there be potential, for UP in the kind of operation represented by a "Super C" or a minitrain?

A. As I understand it, these operations are designed to meet specific requirements that couldn't really be met in any other way. In a congested area, for example, a minitrain can eliminate delay, and of course this is good. But our operation doesn't really lend itself to much service of this kind.

Q. What if you could run mainline trains with smaller crews? Would this lend to a significant increase in the number of trains operated?

A. Maybe, but what do you gain by that? Put it another way: If we have 150 cars to move from Omaha to Ogden, 1,000 miles, and we can pull them with one crew and get there just as fast, I don't see any reson why we should pull them with two crews.

Q. In this operating context, will UP get substantial benefit from work-rule changes negotiated with the UTU and the Brotherhood of Locomotive Engineers?

A. It depends on what you mean by substantial. Will we save a lot of money? No, not a great deal. But to the extent that we can have a more flexible operation, certainly we will benefit by being able to give a better service. I'm thinking now of the road/yard and interchange provisions that were agreed to and interdivisional runs. You know, we're not bashful about spending a half-million dollars to take out a couple of curves and save five or 10 minutes on every train that goes over that route. So if we can get similar time-savings in the terminals, and on interdivisional runs, it's worthwhile. Perhaps the benefits are rather intangible, but that doesn't mean that they aren't real.

Q. Some of these benefits will be a long time showing up. In the meantime, costs keep going up. What can you do in this situation?

A. We know we have to keep even, even if we have to give wage increases that work out to about 1% per month. So we do a number of things. We lengthen sidings so that we can operate fewer but longer trains and still move traffic efficiently. We modernize our servicing and repair facilities. Hopeful, we can further mechanize our mainteinance-of-way-and-structures activity. We simply must have improved equipment and/or improved methods and procedures to improve productivity. I would say that the workrules agreements are a very small first step in the same direction, toward improving productivity.

What about this matter of improved equipment? Are you satisfied with the extent of the research-and-development work that is being done?

A. I think we could do a lot better. For instance, we're still working with the same basic freight car we had 50 years ago. I don't say that improvements have not been made. They have been. But we are not moving fast enough toward building the kind of equipment that can give better service and be cheaper to maintain.

Q. Will DOT's R&D effort at Pueblo help?

A. My impression is that this, so far, is pretty much passenger-oriented—and we aren't.

Where should R&D work be concentrated? Railroads? Suppliers? The AAR?

A. It's difficult for individual railroads to go very far in this area. Their resources may be limited or their applications may be limited. I don't know that the big burden should rest on the supply industry—though the man who builds a better mousetrap can be pretty sure he'll have a market for it. I do think that a lot more of this kind of work could be done through the AAR—and I'm glad that the AAR research department is being beefed up, with a substantial increase in its 1972 budget. There is, of course, another area where valuable R&D might be done—and that by the Federal government. When you consider what government spends on research involving aircraft and highway construction, well . . .

Q. Does this reflect the need for better understanding of railroads on the part of government?

A. Perhaps it does. I guess we may still be considered as a stodgy industry. But I'll guarantee you that we're a lot less so than we were 20 or 15 or 10 or even five years ago.

Q. If there is an educational job to be done in government, how about the one that remains to be done in the industry itself—the recruiting, training and retaining process to keep the executive pipeline filled?

A. If I had one single, major worry in my job, it would be in doing what you refer to—keeping the executive pipeline filled. I suppose if there's any single job a president should do that's more important than all the rest, that's it. But, to answer the question: We are recruiting, and we're having reasonable success. We're trying to get a handle on the training problem. I'm not satisfied that we have been doing all that we should have been doing in this area.

Q. What directions will training programs take?

A. I've been grappling with these problems for the past 10 or 15 years. I wish I had the answers. College and university graduates can be rather easily blended into an organization in marketing areas, finance, law, accounting. But the operating side is the big one, when we talk about personnel infusion. And it's tough, bringing these graduates into the kind of training program that you need in order to develop operating officers.

Q. It sometimes takes a rare breed. . .

A. It sure does. And yet, I don't know how you become a good superintendent without having been a trainmaster, or how you become a good general manager without having been a superintendent. I'm not rigid on this concept—but the problem is there and it has to be recognized.

Q. One area where the school/work transition is a little easier might be the computer room. What do you want computers to be doing for you five years from now?

A. In one word, more.

Q. Specifically?

A. We hope to get a much better handle on car utilization and distribution. We hope to get much better information on costs, on a current basis, for control applications. And we hope to get more and better information about our traffic—where we're getting business, where we're losing it, where we should be getting business and aren't, how our profitability works out, how our sales effort stacks up in terms of effectiveness.

Q. On this matter of profitability. UP has recently set up its TOFC/COFC operation on a profit-center basis. . .

A. We have, and we think this is working out well. Let's be modest, though, and say that there's nothing really new about this: The New York Central did it about 10 years ago, and the systems are about the same.

Q. Why pick TOFC/COFC as a starter?

A. First, we thought it was possible to get a good fix on figures. Second, we knew that there were enough variables to make changes significant—changes that can be made and controlled by our managers. In other words, with TOFC/COFC you can't say "Well, I made money yesterday and I'll make money the same way tomorrow."

Q. How about setting up other profit centers?

A. We may. But this depends on where you need the concept and how you use it. Take the coal business. Very soon, the bulk of our coal business will be moving in unit trains. When unit trains are set up, you have a certain standard set of conditions, as to volume, speed, frequency of service, and so forth. There's a price attached to the service. So long as all the standards are met, your profit isn't going to change much. There just isn't much you can do about it. But with TOFC/COFC, you have all kinds of variables—traffic balance, flow of empties, terminal costs. These things can vary all over the lot. You could discover that you made money yesterday on piggy-back, and that would be no indication whatever that you would be making money tomorrow. So, we assigned all TOFC/COFC revenues to the profit center. Then we assigend all the expense that could be specifically attributed and controlled—trucking expense, equipment expense, including a per diem on cars regardless of who happens to own them. We charge the center with a rate per car-mile, loaded or empty, which is close to the system average revenue per car-mile, loaded or empty.

Q. What does this give you?

A. Well, what happens on the bottom line is not necessarily an indication of absolute profitability, but it does give us a base for comparisons. Since we've been using this system, that bottom figure on the TOFC/COFC has turned from a deficit to a profit. Now, I'm not sure in absolute terms that we had a deficit in the beginning. I'm pretty sure we don't have one now, because, if anything, we're charging the profit center a bit too much on line-haul. Where did the improvement come from? Our people say it has come largely from improved equipment utilization. When you put their feet to the fire, they're more careful about cross-hauling empties, things like that.

Q. Is this to a point where the profitability of individual moves can be judged?

A. We want to get it to that point. There are too many areas now where you know you have a can of worms—but you can't find and isolate the worm that's causing the problems. We're getting into responsibility accounting, on a railroad system basis, and the aim of this is somewhat similar. We have to know where the specific problems are.

Q. Is this also a complicating factor—isolation of cost and profitability—in rate-increase situations?

A. There's no question but that some in the industry haven't done either their cost homework or their marketing homework. There's no question, either, about future rate increases. If the scheduled wage increases go into effect, obviously there will have to be rate increases. There's no other way for the industry to stay solvent. Oh, UP might last a little longer than some, but . . .

Q. Do we see more across-the-board increases—or is there a chance for selective adjustments?

A. To begin with, we estimate the cumulative effect of across-the-board freight-rate increases at 38% since 1960, with most of that coming since 1967. In the same period, the consumer price index has gone up by 38.8%—and the cumulative effect of railroad wage-rate increases adds up to 79.1%.

As to how we make increases, if we could sit here and make rates without worrying about anything but UP local rates, I don't think we'd ever go for an across-the-board increase. There are just too many factors that should be taken into account to handle a price increase in this fashion. Competition—intermodal and in the customers' market—is one factor. You also have to consider the sensitivity of some commodities and movements. For instance, we have situations where we're making a decent profit on traffic and where we'll continue to make a good profit as things stand. But the rate is at a level where if we go any higher, we're going to lose the business. The problem, or one of them, is that railroads have not been able to agree. And when we consider the time-lag involved in ICC rate proceedings plus the immediate need for more revenue, we tend to get desperate and go for the across-the-board increase, to avoid any further delays in arguing among ourselves. Then, we make the holddowns or roll-backs wherever they seem most needed.

Union Pacific: Efficiency—And Service

If you think of Union Pacific as a transportation machine, an operating man's railroad, a prime example of what efficiency can do, you are right. But if you think of UP only in those terms, you are missing half the story. UP is also coming into its own as a market-oriented railroad with a healthier-than-ever regard for customer needs. And its performance in recent years is evidence of both operations and service orientation:

UP takes a train and runs it. Its average length of haul is 640 miles, or about 140 miles greater than the industry average. Over the past five years, however, UP has been able to hold its freight train-miles constant while gross ton-miles have increased substantially. Tons-per-train are up by more than 16%. Ton-miles per employee are up from a 1,268-to-1 ratio to 1,620-to-1.

Capital-spending programs have created a transportation capability which UP regards as second to none. In the 1966–70 period. UP expenditures added up to more than $738 million, and 1971 programs will boost that figure by about $100 million. UP and its customers have gotten quite a bit for the money—including 365 new locomotives, 31,399 new freight cars, the $20-million-plus Bailey Yard at North Platte, Neb., with its $10-million diesel facility, and a $2.8-million yard improvement at East Los Angeles. The average age of UP's 71,000-car fleet is 11.3 years; well under the industry average of 14.4 years. And on a basis of equipment-investment-per-revenue dollar, UP spending in the past five years has run 18 cents per dollar, more than twice the industry average.

Operating men, marketing men: Traditionally, the route to the top at UP's Omaha headquarters has been through the operating department. It still is—but with a couple of differences. For one, John C. Kenefick has been more of a boomer than most recent UP presidents—with a service record that includes Rio Grande. New York Central and Penn Central (in addition to a post-war, five-year hitch with Union Pacific). For another, both Kenefick, and UP's vice president-operations, William J. Fox, talk and act as much like marketing men as like operating specialists.

Bill Fox, for instance, will begin a conversation with the observation that "service has to be our first consideration"—and he means it. He is openly critical of railroads generally (and historically) for being "too rigid about schedules." It is with a certain pride that he notes UP "has no qualms about changing or adding schedules, if that's what the service requires."

Fox knows costs. He is well aware that "you always get in trouble if you over-train in any direction," and he goes down the line with UP's emphasis on the big train. But it was also UP that set in motion new schedules from North Platte to the West Coast—4,000-ton-or-under, high-speed schedules that get runthrough traffic off in a hurry and may pick up a full day on delivery of late-arriving business from connections.

Fox shrugs: "We know we suffer on costs when we run trains of 4,000 tons. But we realize that our connections may encounter problems such as weather, or any other conditions that may affect on-time operations. Our objective is to accomplish on-time delivery and we will increase horsepower and reduce tonnage, if necessary, to do so. We'll adjust schedules for as short a period as 30 or 60 days under certain conditions to do this. We don't advertise it—we just do it. The traffic may originate on a connecting line, but we still regard it as our obligation to get it on-time."

Rising to the occasion, UP style: In effect, that is one more challenge for an operating group that is used to challenges. Ever since Gold Spike days, a century and more ago, UP has had a tough and hardy breed in the operating department—and it is not surprising, since UP offers just about every operating condition on its 9,500-mile system, including plains railroading, mountain railroading, railroading at sea level and up to about 8,000 feet, railroading where the temperature goes to 120 above and 40 below.

Last summer, however, UP's operating people experienced something new, even for them—railroading without regular crews, when the United Transportation Union called the walkout that eventually stretched over 18 days. It was a trying time—but a time in which UP proved something to itself.

Union Pacific did not just fold up. When the strike began, supervisory crews were assigned to clean up the railroad, and on the second day of the strike more than 60 trains operated. Other roads took UP deliveries and, despite its own situation, UP said it would accept deliveries when connecting lines were later faced with the spreading UTU walkout. UP also found the opportunity to experiment with a real runthrough—flying a supervisory crew into Los Angeles to bring a train all the way to North Platte, with only the required rest stops, meal stops and servicing inspection stops.

This ability to maintain a degree of train operations, however, was not the only success that Fox and his people were able to record. Again using supervisory personnel, UP was able to do "a tremendous amount of work" at the new North Platte diesel facility—and the diesel fleet was in great shape from an availability standpoint when the strike ended. Meanwhile, mainline rail relay programs proceeded almost as if there were no strike. On one particular project—raillaying on the approaches and through a tunnel—UP estimates it saved about 50% of the normal labor cost: With traffic at such reduced levels, Fox recalls, "We zipped right through."

Costs—and benefits: UP's vice president-operations is cautious, but hopeful, on the benefits that may come from work-rule changes now negotiated. Obviously, there will be expenses involved in implementing the changes—for example, in working out interdivisional runs through home terminals. On the plus side, however, Fox sees gains in the provision under which a crew making a delivery need not fill one track before doubling to another track. He likes the provision by which a road crew may deliver its train intact to a connecting line: "On a runthrough, we've all had to use a yard crew on the yard-to-yard move. Say the crew just came on duty. They have eight hours to work—and maybe they're not really in a hurry to get that train delivered. But if the road crew goes through to the receiving line's yard? Well, the road crew wants to get the job done and go home."

Fox is also optimistic about the service improvement that may be possible with longer road-crew runs: "Maybe you save only a few minutes on the change of crews itself. But when you consider the time involved in slowing a heavy train and then starting it up again, you have something like 20 minutes on every crew change. Add up the number of changes on a through train, and you come up with a considerable time savings."

Service improvement is not just the responsibility of the transportation people in Fox's department. Service improvement is also what it is all about for Chief Mechanical Officer F. D. Acord and Chief Engineer R. M. Brown. And the programs which they have under way and planned for 1972 reflect this.

Mechanical improvements: Frank Acord, for example, is well along with a multi-phase upgrading of UP's locomotive servicing and repair facilities, a project that began with construction of the North Platte shop and is continuing with conversion of the locomotive department of Omaha Shops to component rebuild. UP is also looking closely at the possibilities to converting aging GP9 units in-house. Like a number of other roads, UP will be needing replacement power in the low-to-midhorsepower range, 1,750-to-2,000-hp, for yard, road-switch and local-service use. And if the decision is to convert rather than by new, UP could get started as early as next spring with perhaps as many as 50 units scheduled.

Meanwhile, UP will be acquiring 70 road units in '72, all 3,000 hp, with 50 coming from EMD and 20 from GE. Several considerations entered into the decision to go for what, compared with the 6,600-hp Centennial units, is light power. One prime factor: The development of runthrough operations, and the fact that some connecting lines just cannot handle UP's biggest power.

Runthroughs, Acord notes, are also having their effect in another area—standardization. And, while transportation officers have asked for more uniformity in control-stand equipment and the AAR has adopted a standard for new power, UP's CMO is more concerned with standardization of electrical wiring: In the past, he will concede, UP itself has been a major offender in this respect—but that does not keep him from declaring that today "there are just too many different schematics to have to contend with."

Like mechanical-department officers everywhere, Acord chips in with a tart comment on product quality as it affects both locomotives and freight cars. But he is optimistic about quality-control improvements on power—and he puts a good share of the blame on the railroads themselves for whatever shortcomings there are on cars: "Railroads have a habit of trying to beat the price down—in effect, sacrificing quality for quantity. What we ought to want is a beefing-up of car material so the car will last, and so that a lot of maintenance problems can be designed-out."

As for basic car design, both Fox and Acord can come up with a number of proposals—involving such things as improved truck suspension for high-speed operation, air brake hose connections that won't part when long cars negotiate curves, and brake shoes that promise longer life.

Engineers plan for '72: On the engineering side of the operating department, a number of projects on tap for '72 will also be aimed at providing the plant that makes better service possible—projects that include extensive lengthening of sidings, easing of restrictive curves and imporvement of signal systems, in addition to the normal, heavy UP programs in welded-rail installation, tie renewal and surfacing.

The ability to operate at higher speeds and with greater operating efficiency should be the result. Fox points, for example, to substantial operating benefits (in good weather and bad) stemming from installation of CTC on the heavy-traffic, double-track Salt Lake City/Ogden line. He notes that siding extensions in several areas are, in effect, creating long stretches of double-track. As for operating efficiency, both engineering and mechanical improvements are enabling UP to make a highly-effective showing with remote-controlled mid-train motive power. In one particular operation in the Northwest, this kind of powering has made it possible to handle with three trains traffic that used to require five—and handle it well. Thus far, UP's operating people have not used the mid-train units in coal or ore unit-train service—but Fox is looking forward to the opportunity. It will present, he feels, just one more way of moving business better.

Bob Brown, UP's chief engineer, says next year's rail, crosstie and surfacing programs will be comparable to last year's. Plans call for slightly more than 200 track miles of new rail, almost all of it in continuous welded rail. Another 36 miles of new rail will be laid in curves and approximately 140 miles of track will be relaid with heavier second-hand rail. Nearly 700,000 new crossties will be installed as replacements and 900 miles of out-of-face track surfacing and lining work is in the schedule.

Union Pacific will press forward on its long range curve elimination program concentrating on the hottest part of the railroad—the

Wyoming division. There, wherever possible, curves are being eliminated entirely, or realigned to a maximum of one degree, 20 minutes, complete with high-speed spirals. When the program is completed UP will be able to run its long, super-powered trains across Wyoming with the throttles wide open.

Brown's engineers are also tackling another challenge presented by UP's long trains on its heavy-traffic line leading from the Kansas City gateway to North Platte. Many existing sidings on the single track line are too short; delays result. Solution: Lengthen sidings to handle today's mile-and-a-half-long trains.

Brown also has some well-reasoned thoughts on the effects of recently announced FRA track standards. He doesn't like them, as he feels that many of these costly standards are more demanding than necessary for safety of operation.

UP engineers are now conducting a mile-by-mile system survey to determine the initial cost and additional annual maintenance cost to comply with the FRA standards. Under the preliminary standards proposed by the FRA last June, UP estimated their cost would be as high as $15 million to comply and $5 million annually to maintain.

Although the final FRA standards are not as rigid as those originally proposed, the cost involved to comply and maintain is still going to be extremely high. These are costs, Brown points out, for a railroad with a reputation for being one of the best, if not the best maintained in the industry. (UP has consistently ranked number one of the major roads in the nation in FRA's own records for the fewest derailments caused by track deficiencies.)

Hardest hit by the new standards will be switching terminals and secondary branch lines where tracks are now maintained for an operating speed of 15 mph. Under FRA's track classifications, the railroads must choose between upgrading all such tracks to 25 mph track standards or reduce the allowable operating speeds to 10 mph. The result, says Brown, will be either a greatly slowed operation in the face of increasing competition and reductions in the hours of service laws, or costs of upgrading which would turn many marginal branch lines from marginal to deficit operations.

Selling the service: How much business will UP be handling in 1972? Vice President Traffic R. F. Pettigrew and Vice President—Sales and Service W. P. Barrett are confident that traffic will be up—like most salesmen, they are optimistic—but they are also being careful not to go overboard on their forecasts.

At this point, several specific commodity areas seem to be strong. With three major producers planning to expand their operations in 1972, UP should have a significant increase in soda ash movements. Lumber looks good, as the housing market picks up. Canned goods traffic should show increases. Movements of automobiles and auto parts may be on the upside, as UP tries to improve its market penetration. And just about everybody at UP is looking for a boom in coal traffic. Coal reserves in UP territory can only be described as tremendous—and with the demand for low-sulphur coal growing stronger each year, all that is really needed is a quickening of the pace of mining operations.

In the past, UP traffic people have done a remarkable job with their revenue forecasts, usually coming within 1% of actual. And, while it may be hard to improve on that record, UP will be trying. For one thing, Pettigrew's department is developing a stronger commodity-oriented approach to traffic-building. For another, the sales organization has been revamped, with the appointment of eastern and western super-region general traffic managers to whom regional sales and service people report.

One other point of sales emphasis has been in the Pacific. The road opened an office in Japan in 1966, went into Taiwan the next year. Each year the effort was expanded and now UP has traffic representation in nine countries on the far side of the Pacific. An office in Alaska was opened in 1969. Within the U.S. there are nine international trade departments from coast to coast.

Improving management: Controlling a traffic operation the size of UP's is a major task in itself—with over 900 people in the department. But Bob Pettigrew and Walter Barrett are convinced that changes being made will result in improved traffic management and tighter control on revenue production and expenses.

Essentially, UP is moving toward a setup in which each region will have its own revenue and expense goals and budgets. Basic corporate goals on profitability are, of course, set at the top, and the traffic department develops its goals accordingly with three specific objectives—profit, growth and leadership in market penetration. Once these targets are set, then it becomes a matter of planning strategy as to how each region can hit them.

In looking at 1972, UP is cautious, Bob Pettigrew admits to certain reservations about the state of the economy. Some customers, he notes, "are just not overly optimistic."

Walter Barrett comes to similar conclusions: A number of economic indicators seem to be pointing to an upturn—but feedback from UP's far-flung sales force "doesn't give us as rosy a projection as the charts would lead us to expect. So far as the economy is concerned, there seems to be a difference between public utterances from the experts and private conversations with our customers."

A kind of basic conservatism shows through, too, in several other areas. On TOFC/COFC, for example, UP can afford to be enthusiastic. It is outperforming the national averages, it is still doing well in transcontinental Plan 1 piggyback, it maintains a substantial volume of forwarder traffic, and it has seen significant growth in import/export containerization. Studying UP's territory, an outsider might assume that there is good potential for Plan 5 operations.

But the UP looks at Plan 5 proposals very carefully—for economic reasons, of course, but also because UP is concerned about the over-all, long-range effects of such proposals.

Then, there is the matter of rate-making and regulation. With proposals being advanced, through DOT, to tinker with the established committee approach to rate-making and with other proposals calling for abolition of the ICC or its merger with other agencies, UP remains cool. Pettigrew, for one, can generate very little enthusiasm for a system that would turn each railroad loose to go its own way on rate-making. The committee format, he points out, provides for individual action if a railroad feels so inclined—but at the same time it helps to maintain stability in pricing practices. Barrett agrees—observing that "there's nothing to stop anybody from acting on his own, if he has the knowledge and the courage to do it." As Barrett sees it, the most important contribution of the rate-bureau setups may be that "it serves as a forum for the exchange of views on rate proposals." But he will also agree that "perhaps the bureaus have not been used as effectively as possible. Perhaps they haven't really lived up to their potential. And, while the failure of a committee to approve a proposal is not all that inhibiting, disapproval is probably sometimes used as a shield or as an excuse."

Still another area in which UP has been slowly building is that area called training—but this may change, and in a big way. UP has been working with Cambridge Research Institute on departmental studies, and the railroad's own personnel department is thinking in terms of a considerable setup in training programs with an emphasis on the traffic operation.

Target: Growth: Also getting a stepup is UP's marketing and costing function, the bailiwick of Dr. R. C. Pretti, vice president-marketing. With one element of his group concerned with market investgiation and another involved in broad costing programs, Reno Pretti runs a busy team—and his approach is both realistic and optimistic: "As a railroad, we're part of a mature industry, and there are certain relationships we're more-or-less locked into. So it's possible that we may not have growth much exceeding the growth in GNP. But we're sure going to try for it."

Neither the market work nor the cost work is markedly different from what a number of other roads are doing. On the market side, for instance, a dozen commodity areas have been set up to cover about 95% of the traffic most important to UP. The significant thing may be that there is follow-through. As Dr. Pretti puts it, "For the first time, we're getting a real grasp of alternatives. We're getting a cost/profiit orientation into the sales effort. We're doing post-audit on descision-making. Too many decisions, you know, are made and then forgotten. But if we make a move, we want to know if volume and profitability are up to expectations—and we want a quick reading, so we can make whatever changes might be necessary."

In their work, Dr. Pretti's people are looking at everything from coal to TOFC/COFC, and from the rapidly changing import/export market to problem-traffic that does not yield an adequate return. They are also involved in equipment budgeting, studying data on utilization and profitability of specific types of equipment, making cash flow and yield analyses, and probing the future with market projections over the 15-to-20-year life of the equipment being considered.

UP's vice president-marketing tends to get just a bit impatient with some of the industry's traditions—including the one that says a railroad should wait for a market to develop and then see how, or if, it can be served. His instant case-in-point: The market in modular housing. "This could be big," Dr. Pretti argues, "and now's the time to be innovative in transportation service. The modular-home builders right now are debating how they're going to operate, whether they're going to go for centralized plants to maximize transportation. Sure, this is no big market today. But how about tomorrow? This is a situation in which railroad thinking has to be geared to what's not there—yet."

Moving ahead with MIS: If there is one job which has its finger in the whole pie at UP, it would have to be J. L. Jorgensen, director-managment information services. Jorgensen operates in a kind of solitary splendor, in the 12-story, $5.5-million modern architecture addition to the massive brick general office building that has served UP in Omaha since 1911. But while he and his staff may be physically removed from the rest of GHQ, while other departments are moving in, what the MIS department is doing will be touching just about every function on the railroad.

In the railroad management-information field, Jorgensen notes a couple of trends. The obvious one is that the old system of cyclical reports is giving way to a more management-oriented system in which the basic accounting requirements are satisfied while management is given a data base from which it can draw what it needs. The second trend may be less obvious—but Jorgensen's studies of other systems show a tendency to emphasize one aspect at a time, and it is this trend that UP is going against. On UP, three principal systems are being progressed simultaneously—COIN, for complete operating information; FICS, for financial information and control; and a comprehensive traffic information system.

The whole development, however, is being advanced in phases. Implementation commitments are made on a six-to-12-month basis. Planners are looking down the line, years ahead, to determine what will be needed and how to get it. At the same time, an interim-results approach is being used in which each step has to show results before the next step is taken.

COIN, for example, incorporates the standard on-line data collection, tracing capability and message-switching capability of similar systems. It is being expanded, to provide for more field input with greater data integrity to satisfy the demands of the operating department for better information. Next summer, UP will be implementing a terminal information system. A joint effort with operating and accounting, the terminal system will integrate operating functions and the clerical functions of the yard and agent. Waybill preparation will also provide for the basic input data to the information system. PICL will be put on the computer too in the UP's Phases I and II.

FICS is also a multi-phase project being developed jointly with accounting and requiring participation from all levels of management. Data collection has been going on for a couple of years—but it is now being tailored more to management needs, as an ICC-accounting orientation is being changed to a management-accounting orientation. With FICS, a number of things will become possible. Answers that are hard to come by today will be made much more easily available. UP wants to be able, for just one example, to pin down unit costs, marry this with other operating data and come up with an exact output on the profitability of a certain train or the profitability of a certain customer's traffic.

NEEDED: BETTER COST DATA

Much the same story could be told about the traffic information system now being devised with the traffic department. UP's file covers five years of waybill data, and all kinds of route and patron and commodity information can be pulled. But, says Jorgensen, the weakness now is in the cost base: "It's not as precise as it should be." What UP hopes to develop is a far more reliable cost base interfaced with revenue accounting information and supported by an operating data base—which would provide almost unlimited data-retrieval capability for decision-making purposes.

Tow TOPS fits in: Like several other roads—including Burlington Northern and Missouri Pacific—Union Pacific has Southern Pacific's TOPS package and is building onto it. And, while Jorgensen has nothing but praise for the basic design logic of TOPS, he also has no qualms about making the adaptations which UP believes it needs. TOPS, he will note, was designed specifically for SP—and "while there are common functions, things get different down at the nitty-gritty level. On the application side, you do have to recognize problems created by different operating environments."

Is this going to be a handicap to the eventual development of comprehensive inter-road data exchange? Not at all, Jorgensen contends: "You can't prevent individual railroads from going their own way. Needs differ, and the state of the art is constantly changing. You also get involved with basic management policies—for instance, should or should not you set up to permit a shipper to have direct access to your computer? The important thing is that you maintain a common data base so that information can be exchanged without having to go through all kinds of complicated processes. We're going to maintain this common data base, and I think it's safe to say that all roads working with TOPS are trying to do the same thing."

Jorgensen will also point out that UP has a top-level steering committee working on the over-all goals of management-information systems—a committee consisting of Bill Fox, Bob Pettigrew, Controller J. P. Deasey and Jorgensen. "Rapport," Jorgensen says, "is the key. Without the support of these men and Mr. Kenefick, nothing we have discussed would be possible."

And rapport, these days, seems to be the key to a lot of things at Union Pacific. Most of the top-management people at Omaha today came into their present spots within the past several years—and it has been a happy blending, starting at the top with John Kenefick (who left UP in 1952 as an assistant trainmaster and returned 16 years later as vice president-operation) and extending through a veteran, career-UP management team.

Put this kind of cooperative effort to work, stir in UP's dedication to maintaining power and equipment and plant in Class A shape, add the vitality of UP territory—and you've got yourself quite a railroad.

A CHRISTMAS EDITORIAL BY VIRGINIA WELDON KELLY

Mr. ERVIN. Mr. President, on Christmas Eve the Long Beach, Calif., Press-Telegram carried a Christmas editorial entitled "Be Ye Kind One to Another, written by one of the Nation's most gifted journalists, Virginia Weldon Kelly, of Washington, D.C., who reports and comments on the national scene for some of the leading newspapers of the Nation.

The editorial expresses Mrs. Kelly's faith that man and the universe are not the haphazard products of blind atoms wandering aimlessly about in chaos, but, on the contrary, are the creations of God. As a consequence, the editorial merits the widest possible dissemination. I therefore ask that it be printed in the body of the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD as follows:

BE YE KIND ONE TO ANOTHER

(By Virginia Weldon Kelly)

Christmas celebrates the birth of Jesus who understood the human heart. One evening when He crossed the Sea of Gallilee, there was a storm. He asked his friends, "Why are ye fearful, O ye of little faith?" The question and reproof revealed that faith is the cure for fear.

The Psalm affirmation "God is my light and salvation; whom shall I fear?" has been proved by oppressed Christians and Jews in our century.

French bio-chemist Jacques Monod, Nobel laureate, has no faith in God. In his best seller "Chance and Necessity" he states that man is an accident based on chance perpetuated by the necessity of chemical reactions.

He declares that religions and philosophies from Plato to Marx are based on mistaken assumptions. Monod asserts that the only correct philosophy is scientific objectivity, the condition of "true knowledge."

Einstein did not accept the quantum theory's "principle of uncertainty" as a necessary concept. Many modern physicists disagree with Monod.

He does not reveal why scientific objectivity is superior to faith in God or how the two can be equated.

St. Paul said "Faith is the substance of things hoped for, the evidence of things not seen."

No one can disprove the omnipotence of God, the "persistent energy of all things," who is still creating the universe, who reveals Himself as man is able to comprehend Him. For Christians, Jesus Christ is the mountain top of revelation.

If we love and praise God in good and sorrowful times, if we believe God is always in charge, if we see the Christ Spirit in all men, and struggle to express this radiance in our lives, if we believe God was with us at birth and will be with us when we enter a new life in eternity, we aspire to Christian faith.

Our Christmas wish is that all Christians will remember Jesus' words:

"God loved the world so much that He gave His only son, that everyone who has faith in Him may not die but have eternal life."

JAY RANDOLPH, SPORTS DIRECTOR AT KSD, ST. LOUIS, MO.

Mr. BEALL. Mr. President, all of us in this body are keenly aware of the superior oratorical ability possessed by the distinguished senior Senator from West Virginia (Mr. RANDOLPH). In his outstanding legislative career, he has articulately espoused countless causes that have contributed much to his State and the Nation.

Few of us realized, however, that his eloquence had been inherited in such fine fashion by his son. But such is the case. Jay Randolph, an announcer with National Broadcasting Co., has catapaulted into prominence with his fine analysis of the just-completed XI Winter Olympics held at Sapporo, Japan. Senator RANDOLPH's son, formerly the "voice of West Virginia University sports," and more recently sports director at KSD–TV and radio, was tapped by NBC for this prestigious event because of his excellent record behind the microphone in such sports as golf, basketball, soccer, hockey, baseball, and football. Jay more than lived up to his impressive credentials with this crisp, informative, and enjoyable description of the Olympic action.

I ask unanimous consent that the relevant section of J. Suter Kegg's fine column, "Tapping the Keg" which appeared in the February 13, 1972, Cumberland Sunday Times, be printed in the RECORD, so that Senators might read of the accomplishments of Jay Randolph, and share the pride of his illustrious father, Senator JENNINGS RANDOLPH.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TAPPING THE KEG: JENNINGS RANDOLPH, OLYMPIC TV FAN

(By J. Suter Kegg)

Jennings Randolph, West Virginia's senior senator, has long been interested in athletics but he has a special reason for not wanting to miss any of the winter Olympic action on TV. It's not that he's wrapped up in winter sports to the extent he knows everything about the contestants. He's more interested in hanging on every word uttered by one of the commentators.

Sen. Randolph not only likes the sound of this certain announcer's voice; he thinks he's the type of man he'd be proud to call his son. In fact, that's exactly what he calls him

Jay Randolph, who served as the Voice of West Virginia University sports for a couple of years in the 1960s, hit the big time after leaving Morgantown and was tapped for one of the Olympic announcing jobs in Japan by NBC. His cohorts are Curt Gowdy, Jim Simpson and Al Michaels, Former Olympians Peggy Fleming, Billy Kidd, Terry McDermott and Art Devlin are the color commentators.

Jay, who resembles his father, was scrubbed from two big golf tournaments by NBC in order to make the coveted trip to Sapporo. He had been scheduled to do the Dean Martin Open and Bob Hope Desert Classic.

Doing the golf telecasts is fun for Jay because he loves the game so much. In fact, he might have been on the tour as a player had not his father put the clamps on him as a 20-year-old and insisted on him finishing school. Jay got his degree at Salem College, the Senator's alma mater.

Jay was a scratch player and made the amateur tour. He was a collegiate conference champ and won the European Air Force title but it was in Cairo where he made his biggest splash, copping the Egyptian Amateur in 1956

Eddie Barrett, who was director of sports information at WVU when Randolph was doing the play-by-play of the Mountaineer football and basketball games, writes from Huntington, W. Va. to say, "We can enjoy Jay's success now." Barrett, one of the most capable collegiate sports publicists ever to come down the pike, is now general manager of the Pepsi-Cola Bottling Company in Huntington.

Randolph, now 37, did Southern Methodist basketball and Dallas Cowboy football before going to St. Louis in 1966 with WMOX. Two years later he moved to KSD radio and KSD-TV in St. Louis where he now serves as sports director.

Jay has also aired St. Louis University basketball, pro soccer, the St. Louis Blues in the National Hockey League and during the baseball season he travels to join the Cardinals for pre-game and post-game shows. In addition, he does major college basketball tournaments for NBC, plus weekly football in the American Conference of the NFL.

Jay's success behind the mike has pleased many people in this area where father's friends are legion. During his long service in Congress (House and Senate), Sen. Randolph has been a big help in legislation affecting Western Maryland The Senator's wife is the former Mary Kay Babb of Keyser.

FARMERS HOME ADMINISTRATION—ONE OF THE BEST

Mr. SPARKMAN. Mr. President, I consider the Farmers Home Administration to be one of the very best Government agencies. I have followed it and its work for the smaller and lower income farmers generally of the Nation with great interest from the time it was started as the Farm Security Administration on down through its years under the new name of Farmers Home Administration. I have had the opportunity to observe it closely, and I commend it for the tremendous job it has done and is doing.

A few days ago, the American Banker gave some interesting facts and statistics that I believe will be of interest to every Member of the Senate. Accordingly, I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

FHA Loaned Record $2.58 Billion in 1971

Washington.—The Farmers Home Administration loaned a record $2.58 billion during 1971, the agency reported this week.

Its previous record, for the 1970 calendar year was $1.95 billion.

The agency estimates that its loans during 1971 served 3.7 million rural people, compared to 2.2 million during 1970.

Its rural housing loans, by far the biggest part of its program, totaled $1.45 billion in 1971, compared to $1.1 billion in 1970.

The Agriculture Department agency's farm loans totaled $754 million, up nearly 20% from the $630 million the FHA loaned to farmers in 1970.

Its loans and grants for rural community water and sewer systems were $376 million in 1971, up 70% from the $216 million in 1970.

FHA administrator James V. Smith reported that more than 75% of his agency's lending in 1971 was in insured loans rather than from Congressional appropriations.

Such loans are made from revolving funds, insured by the government, and sold to investors. During 1971 the FHA sold $750 million of insured loans through securities dealers and $1 million directly to investors.

The agency's housing loans to individual families of low-to-moderate income, which account for nearly all of the FHA's housing lending, totaled $1.41 billion, up 17.6% over the previous year. They provided new or improved housing for 111,097 rural families, the agency said.

The FHA made 41,300 farm operating loans totaling $287 million in 1971, compared to 45,500 loans for $281 million in 1970. It made 12,404 farm ownership loans totaling $317 million in 1971, compared to 9,946 loans for $238 million in 1970.

The agency made 19,486 emergency loans totaling $130 million to farmers hit by natural disasters in 1971, compared to 13,839 loans totaling $97 million in 1970.

According to the FHA, its water and sewer loans served 2.7 million people in 1970. Its farm loans served 245,000 and its housing loans 500,000.

During the year, Congress increased the top limit on FHA farm real estate loans from $60,000 to $100,000. The agency also was authorized to subordinate its interest in farm mortgages to commercial banks and other lenders, making joint loans possible.

It also received authority to make housing loans in towns of up to 10,000 population. The previous top limit, 5,500, still applies to the FHA's other lending.

SAVE OUR OCEAN MAMMALS

Mr. MATHIAS. Mr. President, I am happy to be a cosponsor of what I believe will be historic legislation protecting ocean mammals from many of the dangers which now threaten their existence.

The bill S. 2579, the Ocean Mammal Protection Act of 1971, is currently before the Oceans and Atmosphere Subcommittee of the Committee on Commerce. Recently the Senator from Oklahoma (Mr. Harris) testified eloquently before that subcommittee on the urgency of the proposed legislation.

I ask unanimous consent that the testimony of Senator Harris be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Testimony of Senator Fred R. Harris, Democrat of Oklahoma, on S. 2579

Mr. Chairman, if I told you that our State Department, Commerce Department and Interior Department were running a hand-out program at taxpayers' expense for the super-rich—the people with fleets of yachts and fancy cars—you and your Committee members would be incredulous. If I told you that these Departments were conspiring with commercial interests to destroy our natural heritage for the unnecessary pleasure of a very privileged few, we all would be outraged.

Yet this is precisely what I believe is happening. The policy of our Federal Government is to provide full support at taxpayers' expense to those special interests who are slaughtering our ocean mammals so that in generations to come the only way we can see them will be to visit the Smithsonian or some other museum. These agencies are doing this although the people who have the money to purchase a $1000 sealskin coat or to rent a helicopter to hunt down a helpless polar bear clearly do not need these pleasures at taxpayers' expense to lead the "good life."

People from this nation and other nations all over the world have come to realize this. And they have reacted with indignation in an unprecedented flow of letters, to legislators such as ourselves, numbering in the hundreds of thousands, all demanding an end to the killing. I personally have received over 15,000 pieces of correspondence, and I'm sure the members of this distinguished Committee recognize the public interest in this matter.

Mr. Chairman, last year the Subcommittee on Fisheries and Wildlife Conservation of the House Merchant Marine and Fisheries Committee held hearings on the subject of ocean mammal legislation, and reported out a bill euphemistically called the Marine Mammal Protection Act of 1971. I use the word "euphemistically", Mr. Chairman, because that bill is a marine mammal protection bill in name only. In reality, it simply puts the official stamp of government approval on the killing of ocean mammals by allowing the Secretaries of Interior and Commerce to issue permits for the "taking" of these animals. This is all to be done in the name of "management."

Mr. Chairman, we have been managing these animals for a long time. And you can see what kind of mess that has gotten us into. It's because of management that we're holding these hearings today. Let's look at where management has brought us.

Of all the mammals of the sea, perhaps the most gravely threatened are the great whales. Since the decade between 1930–40, blue whales, the largest and perhaps the most intelligent animals ever to inhabit the earth, have decreased by a factor of about 99 percent. Their worldwide population, which stood at 100,000 about 35 years ago, is now estimated to be between 600 and 3,000, and that's a very liberal estimate, Mr. Chairman. Many respected scientists now predict that these almost legendary animals are on the road to extinction because there simply aren't enough of them to find mates to keep breeding. Finback whales have gone from 400,000 to 100,000—a depletion of 75 percent. The humpback whale, whose magnificent song we are just now beginning to appreciate, has gone from 100,000 to 2,000. Gray whales now number at most 10,000; and the worldwide total of right and bowhead whales is between 20 and 250 each. All of this has been done under the "management" of the International Whaling Commission. And when legislation was before the House of Representatives this past summer to place a 10-year moratorium on all whaling, the U.S. State Department incredibly opposed this measure on the grounds that to do so would be a rejection of the Commission, that model of management.

Polar bears are also in imminent danger of extinction; the species may already, in fact, be doomed. With from 10,000–15,000 at most remaining worldwide, about 1,500 a year are being killed. U.S. trophy hunters are responsible for legally killing about 300 a year in Alaska, a state that prides itself on its excellent "management" of these animals. The illegal take may amount to a similar figure, although Alaska admits that no reliable statistics are available. What is certain, however, is that the bears killed in Alaska are each year found to be younger, and this is a reliable danger signal that a species is in serious trouble. It's quite likely that the polar bear no longer dens in Alaska, that we have killed all of ours, and that the bears found and shot in Alaska are migrating from the Soviet Union, where they have been completely protected since 1957.

The world's seal population has also declined significantly. The Alaskan fur seal, killed by the tens of thousands each year by Native employees of the U.S. Commerce Department, has been reduced to 20 percent of its natural size of over 5 million. It is true that the herd has been brought back from the brink of extinction when, in 1911, it numbered only about 200,000. This is no reason, however, to continue the persecution of these animals and keep the herd at a size far smaller than its former numbers. I will return to the international treaty—often cited as a model of management and conservation—that governs the annual harvest of these seals at a later point in my testimony.

The harp seals that are killed by the hundreds of thousands each year off Canada have been reduced in the last 25 years by about 80 percent. This year's kill quota was 245,000 seals, most of which were babies killed in the presence of their helpless and terrified mothers. Eminent scientists, among them Judson Vandevere of Stanford fear that this overkill of the harp seal is leading toward their extinction. And although United States' nationals do not participate in this hunt, we are a party to the International Convention for the Northwest Atlantic Fisheries which provides for the "protection and conservation" of harp seals. Furthermore, our own Government defends the killings of these baby seals and resists any efforts to stop or reduce the slaughter. In official letters sent out in response to public inquiries, Philip Roedel, head of the Commerce Department's National Marine Fisheries Service, describes the Canadian hunt as efficient and humane. The State Department official responsible for oceanic matters, Ambassador Donald McKerman, also defends the killing as being under the strict and proper supervision of the International Convention on North Atlantic Fisheries. And John Larson, Assistant Secretary of the Interior Department, describes these defenseless baby seals as "a significant renewable resource" which must be "harvested" when necessary "to prevent overpopulation."

Yet a study just completed and made public by the Canadian Government states unequivocably that the herd is threatened with extinction and will shortly disappear if the killing continues.

Mr. Chairman, I have with me a brief film clip of this "efficient and humane" baby seal hunt which I'd like to show.

The sea otter, whose luxurious pelt is highly prized, has been saved from extinction at the last moment, but it, too, is now becoming a victim of "management" concepts. Although it is still rare or nonexistent in most of its former range on the Pacific Coast, about 40,000 are found in the waters off Alaska. Under the guise of "population control," several hundred otters are killed each year and their valuable pelts sold. We must stop this sea otter "harvest" before commercial pressures build up and the sea otter fur industry is reinstated, and this animal too becomes a victim of "management" and commercial exploitation.

The walrus population in U.S. waters has been seriously depleted, despite the fact that these animals are being "managed" by the State of Alaska and the Interior Department under the Wildlife Act of 1956. Probably less than a hundred thousand remain, and they are continuing to be killed by commercial hunters, "sportsmen" seeking trophies, and natives of Alaska at the rate of almost 12,000 a year. It is estimated that half of those killed sink and are lost in the water.

Mr. Chairman, the above figures give some indication as to what state and federal "management" programs have done for ocean mammals until now. I've heard a lot of talk during the debate on this issue that ocean mammal protection is a subject for objective, scientific management experts; that the well-intentioned but overly emotional and therefore biased proponents of the Harris-Pryor bill don't know what they're talking about. Mr. Chairman, I'd like to submit that it's the wildlife "managers" that are too biased to see this issue clearly. What we're talking about is a "management complex" that includes the federal and state bureaucracies, the industries which profit from the killing of ocean mammals, and the hunting lobby.

The Federal Government now has three Departments—Commerce, Interior and State—which are intimately tied to groups with a vested interest in the killing of ocean mammals. Nowhere is this more evident than in the Commerce Department, which has always been interested in the exploitation of a resource, not its protection. Given the fact, for example, that 42 bureaucrats are employed year-round in Seattle and another 50 or so full or part-time in Washington, D.C., whose salaries are supposed to be paid from the sale of sealskins, it's not difficult to understand why the Department so assiduously pursues the Pribilof seal harvest. The Commerce Department does its job so well, in fact, Mr. Chairman, that it subsidizes the one processor of sealskins in this country, the Fouke Fur Company.

The Fouke Fur Company obviously doesn't want to see the killing of ocean mammals stopped, because it has a profitable arrangement with the Commerce Department and the United States taxpayer. We provide the labor to kill the seals, we store the skins, we pay for their transportation from Alaska to South Carolina, we pay for their advertising, and the Fouke Fur Company gets around 50% of the gross proceeds of their sale. According to Commerce Department figures, the Fouke Fur Company has taken in over $12 million in the last 11 years from this operation. I might add, Mr. Chairman, that the figures on page 280 of the House hearings on ocean mammal legislation appear to show almost a half million dollar loss to the United States in 1970 from this same program.

The National Oceanic and Atmospheric Administration of the Commerce Department runs the Pribilof fur seal harvest. When Mr. Howard W. Pollock, the Deputy Administrator of NOAA, was asked by Representative Dingell at the House hearings where the Department got the authority to advertise sealskins, he replied as follows:

"We think we have it under the general authority . . . to the extent that we increase the amount of money that we get into the fund from the sale proceeds . . ."

I quote from Mr. Pollock simply to demonstrate the commercial pressure for more and more sealskins which dominates Commerce Department policy toward the Alaskan fur seal. And with this commercial pressure you would think that it would be very difficult for the Commerce Department to exercise any "objective, scientific management" of the Alaskan fur seal. This is precisely what has happened, because the Commerce Department's thinking is anything but objective. The Department continuously emphasizes that the size of the Pribilof seal herd has risen from 200,000 seals in 1911 to approximately 1.3 million today. They also claim that a larger herd would result in overpopulation and death to many seals from disease and starvation. Our Government's own figures prove these claims to be false. According to an official account, the natural size of the herd is over 5 million (Encyclopedia American, Volume 24, pp. 480–85, article by Seton Thompson, Chief, Division of Alaska Fisheries, U.S. Fish and Wildlife). As late as 1948, it numbered about 4 million and was in a quite healthy state. Hence, the size of the herd has decreased—not increased—by a factor of almost 75 percent. "Management" of the Pribilof fur seal herd has been applied not to allow the herd to reach the greatest population its environment will support, but to keep them at, and I quote Secretary of Commerce Maurice Stans, "their maximum productive level." (*Commerce Today*, July 26, 1971) That's the maximum productive level for more sealskins, Mr. Chairman.

The need to defend the Pribilof fur seal harvest in the face of criticism has also led Commerce Secretary Stans to state, and I'm quoting from the same publication as above, that "Only surplus bachelor seals are harvested." That's simply not true. First of all, in this once vast herd, now reduced to a fraction of its former size, there are, of course, no "surplus" seals. Moreover, mother and baby seals are killed by the tens of thousands. According to Victor Scheffer, the Interior Department biologist who used to supervise the hunt (in his popular book *The Year Of The Seal*, p. 108) "In a recent decade, 250,000 females of breeding age were killed on the Pribilofs." Scheffer refers to this, by the way, as "intensive fur seal management." Moreover, in 1968, in order to fill the quotas, over 11,000 female seals were killed in the breeding rookeries. When a nursing mother seal is killed, its baby dies a death of slow starvation. Hence, in our own "model" seal hunt, both mother and baby seals are killed, contrary to anything you have heard in the past or will hear again in testimony before this Committee. Once again, the justification for this "scientific management" is not the protection of the fur seal but the protection of the fur industry's desire for "maximum sustainable yield."

I might also point out that in this seal hunt which the Commerce Department describes as a model of conservation, it is not the old and diseased seals that are killed, as nature allows for in its law of survival. Rather the largest, strongest, and healthiest seals are killed, those whose pelts will make the most attractive sealskin coats.

While I'm on the subject of the Pribilof seal harvest, I'd like to mention a "Marine Mammal Newsletter" that was sent out this month, obviously in time for these hearings. The newsletter was sent out by the Marine Mammal Program, Department of Vertebrate Zoology, Smithsonian's Museum of Natural History, headed by Dr. Carleton Ray who testified at the House hearings against my bill. Mr. Chairman, these men are supposed to be "objective, scientific management" experts. Yet this newsletter claims, in a gross falsification, that the Harris-Pryor bill would "terminate" the Alaska Fur Seal Treaty. Mr. Chairman, five months ago Congressman Pryor and I reintroduced our bill for the express purpose of meeting the criticism concerning this treaty. While it is true that under the terms of this treaty we are required to give 15 percent each of the annual kill to Japan and Canada, we could without abrogating the treaty, do as my bill proposes and forego the killing of the 70 percent which are killed for the U.S. fur market—specifically the Fouke Fur Company.

The Ocean Mammal Protection Act specifically states that the present treaty should not be allowed to expire unless a more protective international agreement can be negotiated.

I say that the Congress can strengthen the hand of our negotiators in the State Department by giving them the legislation I have introduced. They can then say to the world not, "if you will, I will . . . but we have quit killing ocean mammals, will you join us?"

Yet a publication sent out by supposedly eminent scientists states that the Harris-Pryor bill would terminate the treaty, suggesting that we must favor a return to pelagic sealing. I might also mention that the newsletter incorrectly lists the Sierra Club and the Friends of the Earth with such "conservation" groups as the National Rifle Association that support the Anderson Marine Mammal Protection Act. In fact, the Sierra Club and Friends of the Earth do not support that bill. Mr. Chairman, I suspect that a lot of these "scientific management" experts favor the Marine Mammal Protection Act because that bill makes quite a few provisions for the "scientific managers." In fact, it creates an entire new bureaucracy of managers—The Marine Mammal Commission and a Committee of Scientific Advisers on Marine Mammals. I think quite a few of these gentlemen plan to sit on that Commission or that Committee. Mr. Chairman, we don't need a new corps of GS–18's to tell us that ocean mammals are in trouble, and to watch while that trouble gets worse. We simply need to stop the killing. What would make this new Commission or Committee any different from any other Commission, such as the International Whaling Commission, which seems to have a vested interest in continuing the killing of marine mammals?

Let me cite an example of how pure science, when it is in any way connected with commercial exploitation, becomes applied science subordinate to commercial interests. In 1966, the Scientific Committee of the International Whaling Commission recommended "that the taking of gray whales under special permit for scientific research be encouraged." Three hundred fourteen of these supposedly protected whales were taken under this permit by the Del Monte Company of Richmond, California. The Sperm Whale Committee of the Whaling Committee also recommended that permits be issued to take sperm whales, an endangered species. Between 1966 and 1969, permits were issued for 300 of these whales, 159 were taken. After "scientific information" had been obtained, the whales were processed by Del Monte into dog food.

The following is the Commerce Department's justification of this killing for scientific research:

"This dearth of biological data would have handicapped any efforts at rational regulation if the International Whaling Commission should permit a resumption of commercial exploitation."

In other words, the research was not done to increase our knowledge of the whales, but rather to determine if more whaling could take place. Mr. Chairman, that kind of scientific collusion with commercial interests is a national disgrace, and it ought not to be tolerated.

In California, the Department of Fish and Game is supported entirely by sport and commercial license revenues. The pressures on these men, when the purse strings are held by those who want to see ocean mammals killed, must be enormous. The International Association of Game, Fish, and Conservation Commissioners—share a common Washington lobbyist with the Fouke Fur Company! I don't think I've ever seen a worse case of leaving the fox to guard the chicken coop.

Mr. Chairman, I think the people of this country have the right to know that management is not always a conservation technique dedicated to protecting ocean mammals and often means assuring the commercial interests and the hunting lobby a constant source of animals for their purposes. People ought to know that.

One serious problem that I haven't touched on yet is the danger faced by dolphins, Mr. Chairman. It's estimated that over 250,000 of these magnificent animals are being killed each year in just one area of the East Pacific because of the U.S. tuna fleets use the purse seine net. An ocean mammal protection bill must provide no exemption for this "incidental" killing. The tuna lobby, including such giant corporations as Ralston-Purina, the canner of Chicken-of-the-Sea Tuna, has already won several such exemptions.

One example of this is the resolution calling for a ten year moratorium on the killing of all species of whales—including dolphins—which last year passed the Senate by a unanimous vote and was then badly crippled in the House. Ralston-Purina's lobbyists succeeded in convincing the House Foreign Affairs Committee to refer in its Concurrent Resolution only to the "intentional" killing of whales for commercial use.

Furthermore, the Marine Mammal "Protection" Act (H.R. 10420) reported out of the House Merchant Marine and Fisheries Committee contains provisions which allow and encourage the Secretary of Commerce to issue blanket permits to the tuna fleet for the unlimited "taking" of dolphins incidental to tuna netting operations.

We've got to stop this slaughter of the dolphin before it goes any further. According to scientists who are working on this problem some species of dolphins and porpoises may soon face the same danger of extinction as the larger whales, since they can be used as a substitute for traditional whale meet in dog and cat food instead of being thrown away after being caught and killed in tuna fishing nets. We've got to make it illegal right now for the tuna industry to kill dolphins before we allow them to establish an economic justification for the killing. The prospect for this isn't so remote, especially when you've got a giant corporation such as Ralston-Purina which not only is part of the tuna industry, but also produces massive amounts of cat and dog food.

For this can of pet food, Mr. Chairman, we've allowed the slaughter of the whale, one of the most intelligent animals ever to inhabit the earth. I hope we don't have the same fate in store for the dolphin.

Mr. Chairman, before I finish I'd like to refute two specific points made by the Commerce Department with respect to the Pribilof fur seal, not only because they are false, but also because they illustrate the distortion of language and reality on the part of those who favor the continued slaughter of these animals.

First, the Commerce Department claims that clubbing these seals to death is the most "humane" way of killing them. To use the word "humane" in this way is, as I said before, a distortion of language and reality, but I do not wish to argue now over how the seals are killed. The point is that there is no justification for killing these helpless but intelligent creatures—sealskin coats, advertised by the U.S. Government in Harper's and Vogue magazines for the wealthy ladies of high society—are hardly a necessity to our society.

Commerce also claims, and again I quote Secretary Stans (In *Commerce Today*, July 26, 1971) that to "deprive the Aleuts of the seal harvest would deprive them of the *dignity of gainful employment* and make them totally dependent upon the government." (emphasis added) Mr. Chairman, the use of the Native Aleuts to justify this seal harvest is a form of exploitation. We have been wrong to link their only means of survival to this inhumane seal harvest. It lasts only 6–9 weeks a year. These people need some other way to make a living, but the richest and most powerful nation in the world apparently hasn't been able to find anything better for them. Sections 406 and 407 of my bill provide that the Pribiloff Islands be changed from a place of killing to a nature preserve under the Department of Interior. The native Aleuts will be trained and employed for any jobs thus created, and an effort will be made to promote tourism, and develop an alternative economy on the Island.

Mr. Chairman, I would appreciate it if an analysis of my bill could be printed at the end of my statement. I am naturally open to suggestions on ways to improve S. 2579. But I strongly believe that we must have a bill which at a minimum incorporates these provisions of my bill: (1) a ban on the import of all products from ocean mammals so as to dry up the economic incentive for nations to continue killing; (2) a complete prohibition on our own citizens from the taking or killing of any of the ocean mammals except for nonwasteful Native hunting and treaty obligations; and (3) a directive to the State Department to begin negotiating immediately with foreign governments for international treaties which would completely protect these ocean mammals from slaughter and extinction.

Now is the time to act—before it is too late. I urge your approval of this historic piece of legislation.

STATEMENT OF ANDREW HEISKELL BEFORE SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS

Mr. **ERVIN.** Mr. President, in the course of the hearings on the state of freedom of the press conducted over the last 6 months by the Senate Subcommittee on Constitutional Rights, the subcommittee has heard many outstanding citizens discuss various problems concerning the relationship between Government and the press. Among these was Mr. Andrew Heiskell, chairman of the board of Time, Inc., publishers of Time, Life, Fortune, and Sports Illustrated magazines.

Mr. Heiskell called the subcommittee's attention to the first amendment implications of what he regards as the excessively-high postal rates recently adopted by the U.S. Postal Service. He pointed out that—

> For magazines the only feasible means of distribution is the postal system. Magazines depend on government for the provision of their means of distribution as surely and as completely as the broadcast media depend on the government to provide a clear frequency or channel for their use. If the cost of this distribution system becomes prohibitive, their magazines will disappear.

Mr. Heiskell's testimony raises serious questions about the extent to which postal rate decisionmaking takes into account the important role of magazines and newspapers in a free society. I agree with Mr. Heiskell that:

> Magazines contributing richness and diversity to the life of the average citizen are essential to the good health of our system.

In my opinion, neither the Congress nor the Postal Rate Service has given sufficient consideration to the first amendment implications of postal rate decisions. Mr. President, I ask unanimous consent that Mr. Heiskell's statement before the subcommittee be printed in the RECORD.

There being no objection, the statment was ordered to be printed in the RECORD, as follows:

STATEMENT OF ANDREW HEISKELL

Mr. Chairman, Members of the Subcommittee:

My name is Andrew Heiskell. I am Chairman of the Board of Time Inc., publishers of Time, Life, Fortune, and Sports Illustrated magazines.

Let me first say that this Subcommittee and its Chairman are performing an important service to all Americans in examining the present state of the freedom of the press. One frequently hears that a free press is "guaranteed" by the First Amendment to our Constitution. However, the framers of the Constitution and of the Bill of Rights were more realistic, for they recognized that no generation can guarantee freedom of the press for those which follow.

The Constitution had empowered Congress to levy and collect taxes, to regulate commerce, to establish post offices and post roads, and to promote the progress of science and useful arts. Congress was further empowered to make all laws which should be necessary and proper for carrying out these and other powers. The First Amendment restricted the exercise of these powers by providing that "Congress shall make no law . . . abridging the freedom . . . of the press. . . ."

The framers of the Constitution and of the Bill of Rights knew, as this Subcommittee is freshly reminding us, that a free press requires an environment of free inquiry and the encouragement of dissent; and this requires the affirmative commitment of our people and their government to an open society.

This, your Chairman properly identifies as the "more general and more serious issue" what he characterized as "the growing deterioration of the relationship between press and government." Given the complex society in which we live, an effective free press requires much more than the absence of government interference. It must have the active and continuing cooperation of government to function effectively. Similarly, a free government cannot endure without a strong and independent press.

One clear example of dependence of a free press upon government is illustrated today by the broadcast media—radio and television. Networks, news services, individual stations may collect news, analyze it, form opinion about it—but all this is futile unless they can transmit it to the public. This cannot occur without a license from government, but it also cannot occur without an extensive system of government regulation to allocate frequencies, prevent interference, control monopoly, and this ultimately to insure access and diversity.

My purpose in coming here is to remind the Committee of the role of magazines in a free press and to underline the extent to which they too are dependent upon wise public policy and constructive goverment support.

Of course, the American press today consists of four major elements—newspapers, magazines, radio, and television. An effective national press must be a composite of these media, for each performs a distinct service and no one of them could substitute for any other. Magazines and network broadcasting, particularly television, speak to a national audience, while both newspapers and radio tend to be more local in their coverage.

Although television journalism is national in scope, it cannot offer the detail, the depth of analysis, or the precision of reporting which are furnished by a good magazine. Only magazines and good newspapers offer an opportunity for their reader to study at his leisure, to compare, to review, and to retain information, analysis, and opinion. Moreover, the national magazines of general circulation provide continuing public education in areas as diverse as art, religion, geography, economics, and politics. Magazines also offer the best national outlet for investigative journalism, for photographic essays, for new arts and letters, for analysis of public issues, and for statements by public figures. If magazines as we know them today were to disappear, the variety and depth of reporting which are critical to a free society would be lost, and I know of no way to replace them. Our political and social structure would be seriously weakened, and our national objective of enlarging educational opportunity significantly more difficult to attain.

Like every other element of a free press, magazines must enjoy certain rights and protections to go about their job. They must be permitted to collect news, information, and opinion, and this is often dependent on the attitude of government. They must be free to develop and present news, information, and opinion free from harassment or retribution by government. Magazines must be free to publish, but they also must be able to marshall the financial resources which permit them to publish and to maintain the enormous manpower and facilities which are required to collect, to edit, and to print. Finally, they must have the ability to distribute their product.

Everyone would recognize that a free press could be destroyed if conditions are created or allowed to develop in which a free press cannot function—cannot collect, cannot edit, cannot publish, or cannot distribute its output. All would quickly condemn, as contrary to our Constitution and contrary to our national interest, the exercise of the licensing power to prohibit broadcasting, to limit the scope or content of its news coverage, or to force broadcasters to espouse a particular political philosophy. All of us would recognize the unconstitutionality of confiscatory taxation which levied prohibitive fees on publication. However, we have not yet recognized that magazines can be killed by government just as surely by denying them the revenues which they require to exist or by making it impossible for them to distribute their product.

For magazines the only feasible means of distribution is the postal system. Congress has traditionally set special rates for newspapers and magazines because it has recognized the importance of the post office in binding the nation together. The philosophy which underlies that historic tradition was perhaps best expressed by a special commission appointed by the Congress in 1844 to study the purpose and value of the post office. That commission reported:

"The United States postal service was created to render the citizen worthy, by proper knowledge and enlightenment, of his important privileges as a sovereign constituent of his government; to diffuse enlightenment and social improvement and national fellowship; elevating our people in the scale of civilization and bringing them together in patriotic affection."

Magazines depend on government for the provision of their means of distribution as surely and as completely as the broadcast media depend on government to provide a clear frequency or channel for their use. If the cost of this distribution system becomes prohibitive, then magazines will disappear.

The United States Postal Service has proposed a 142% increase in second-class mail rates for magazines over the next five years. At Time Inc., the proposed increase would raise our mailing costs by $27 million over the five-year period, based on 1970 circulation levels. The profits of our magazines before taxes in 1970, the last year for which figures are presently available, totaled $11 million—slightly more than a third of the proposed increase in rates. The financial situation of the magazine industry as a whole is even worse. Pre-tax earnings of all magazines last year were about $50 million. Under the present proposal magazine would pay $130 million more for mail service by 1976. One of the great national magazines, *Look*, has suspended publication, in large part because they saw no hope of economic survival in the face of such an enormous increase in postal rates.

Newspapers which depend on the mails would also be hard hit by the proposed increases. Those papers—mostly smaller weeklies—distributed within the county of publication and, therefore, eligible for the so-called in-county rates, face increases that could amount to as much as 500% over the next ten years. For most, the increase is likely to be somewhere between 100% and 200%—a substantial burden for any business large or small. Other papers, of course, are subject to the same rates and would be subject to the same increases as magazines.

The amounts which the government proposes to charge us to distribute the output of a free press—charges over which we have no control—will soon prevent the distribution of some national magazines. We face these rising costs at a time when advertising revenues are seriously imperiled. Not only does television command an increasing share of advertising expenditures, but advertising itself is under persistent and pervasive assault by government. The city of New York has proposed to tax it. The Federal Trade Commission is increasingly attempting to restrict it. Many have proposed that advertising of a wide variety of products be banned entirely. Regardless of the purpose of the government action, if it has the effect of reducing the amount of money spent on advertising it then has the further effect of worsening the financial plight of the nation's magazines.

I do not suggest and I do not believe that any of this is the result of a great conspiracy by government to destroy an essential element of a free press. I do suggest that no one has faced the basic questions of public policy: How much is a free press worth in a free society? Is a free press not one of the most important assets to the survival and growth of free institutions? What is more urgent than the creation of an environment in which a free and independent press is economically viable?

Some of our critics have suggested that national magazines have an easy out as costs rise, as postal rates triple, as advertising revenues decline—we can simply raise our price per copy or per subscription. They argue that the people who want magazines should pay for them—whatever the cost. The newsstands today are full of specialized magazines, appealing to a limited audience, and priced at $1.00 or $1.25 or $1.50 or $2.00 per copy. We publish one of the oldest and one of the most expensive. *Fortune* magazine, devoted to in-depth reporting on business, sells for $2.00 a copy and a subscription costs $16.00 per year. But *Fortune*, like other specialized magazines, reaches only 600,000 buyers, obviously of very high income.

Even if some subscribers would pay this kind of price for every magazine of general interest and national circulation—and experience shows that few will—the nature of a free press would be radically altered. At a time when it is critical that all of our people share more equally in the benefits of our society, nothing would be more tragic than to have our national journals speak to and be available to only the well-to-do. On what political or social theory does such a suggestion rest? It is assumed that only the well-to-do desire or deserve to be informed? Is it assumed that only the well-to-do desire or deserve to know what is happening in science, religion, art, literature, and politics in America and in the world? Is it assumed that only the well-off and the comfortable need to be involved in the political and social dialogues of our time?

Surely there is a compelling argument that magazines contributing richness and diversity to the life of the average citizen are essential to the good health of our system. It would be tragic if what remained of the industry were either just specialized magazines for the few or general magazines concerned with sex, scandal, and the sale of gadgets.

I would make one final observation as to the public stake in the survival of magazines and newspapers, as opposed to the regulated broadcast media. In their political role the printed media are largely proof against the manipulations of the demagogue. The magazine in particular is a vehicle for political sense, for the thoughtful discussion of public issues. This is because it depends on neither the whims of various governmental decisions nor the support of a few advertisers. The broader the range of advertising support the more likely the press is to remain free. Of all of the times in the nation's history, we can now least afford to lose this quality of independence.

The Congress has effectively demonstrated its concern about the attrition rate among daily newspapers and the growth in the number of "one-newspaper cities." Through partial suspension of the antitrust laws, under the "Failing Newspaper Act," competing newspapers have been permitted to use joint printing facilities and to combine certain of their commercial operations. But despite this unprecedented aid, more and more communities are becoming dependent upon the views of a single newspaper for editorial comment and the selection and analysis of newsworthy events. For a large segment of the American public, national magazines provide the only other source of editorial views and analysis of national and international developments.

Without competition in the news field, the quality of the product will inevitably suffer as it does in any other field or enterprise. Giving the daily newspaper a virtual news monopoly can promote neither a free press nor an informed public. Yet this is the inevitable result if access to the United States mails, the sole means of distribution available to the national magazine, is priced beyond reach.

Clearly, freedom of the press is not a private right. On the contrary, it is a public right. In the final analysis what is at stake is the public's right to know, which depends, in turn, on a free press. As the Supreme Court put it in Time Inc. v. Hill: "Those guarantees are not for the benefit of the press so much as for the benefit of all of us. A broadly defined freedom of the press assures the maintenance of our political system and an open society."

My plea is that this Committee go beyond condemnation of government interference with a free press, and commit itself to the creation of an environment in which a free press can grow and flourish and expand. It is time that a major objective of public policy be to promote affirmatively the financial health, the multiplicity, the vigor, and the independence of every organ of opinion, of news, of analysis, and of continuing education which our people are capable of creating.

Benjamin Franklin no longer sits in the councils which guide our country's destiny; but his spirit needs to be revived. Government needs to return to that spirit. In its prosecution of crime, its regulation of commerce, its provision of a postal service, its every function—it should simultaneously weigh the consequences of its actions in terms of their impact on the viability of the press.

The intent of the First Amendment that "Congress shall make no law . . . abridging the freedom . . . of the press" needs once again to be forcefully brought to the attention of the many governmental entities of this nation.

THE GERMAN TREATIES

Mr. ALLOTT. Mr. President, on behalf of the distinguished Senator from Florida (Mr. GURNEY), I ask unanimous consent to have printed in the RECORD a statement by him relative to the German treaties.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR GURNEY

Next week, debate will begin in the West German Bundestag over the ratification of two important treaties, one between West Germany and the Soviet Union and the other between West Germany and Poland. Upon the outcome of the vote on these treaties hinges the fate of a third item—the quadripartite Berlin agreement negotiated last fall. Since the Berlin agreement directly involves the United States and since Russo-German diplomacy has made the ratification of this agreement dependent upon ratification of the West German-Soviet and the West German-Polish treaties, the result of the upcoming debate has important consequences for the United States.

Perhaps the most salient factor in post-World War II European history has been the Russian effort to expand communism into Western Europe. Much of this effort has focused upon Germany. However, standing in the way of Russian ambitions has been the NATO Alliance, created in the wake of the first major crisis over Berlin in 1948, and dependent to a large extent upon the active support of the people of West Germany. History shows that NATO has stood firm in the face of the Communist menace: that it has done so is due, in large measure, to the great amount of West German support given. The people of West Germany have been our firm friends and strong supporters for 25 years; their contribution to the peace and stability of Europe has been significant indeed.

Thus, it is only natural that, when treaties are discussed that relate to the future of West Germany and to its relationship to the Communist bloc, we feel a natural concern—a concern for the future of the freedom-loving peoples of Germany and a concern for the stability of all of Western Europe. It would seem to me that the treaties about to be debated bring all these crucial concerns into question: their passage would seem to have implications too far-reaching to be taken lightly.

By way of background, on August 12, 1970, West Germany and the Soviet Union agreed upon a treaty the stated purpose of which was to renounce the use of force in settling their disputes. Existing boundaries, including the Oder-Neisse line—between Poland and East Germany—and those delimiting present-day East Germany, were declared inviolate. A similar treaty with Poland was signed on November 20, 1970. However, German Chancellor Willy Brandt then told the Soviet Union that these treaties would not be submitted to the German Parliament until an agreement on Berlin was reached.

On September 3, 1971, the so-called Berlin agreement was initially signed by the United States, France, Great Britain, and the Soviet Union. As you know, this agreement ostensibly sought to relieve problems of access, visitation, traffic, and communication affecting the lives of West Berliners. It also provided for such things as: Consular representation for the Soviet Union in Berlin, implementation of the idea that Berlin is not an integral part of West Germany, consular rights for West Berliners, and official recognition, by the Soviet Union, of West Germany's right to represent West Berlin abroad. The agreement makes no mention of, and in no way applies to, East Berlin or the rights of East Berliners.

This agreement was originally signed with the understanding that representatives of East and West Germany would get together and work out the procedural details and, after these were resolved, the ambassadors of the four powers would then sign the final draft. But, before the East and West Germans reached agreement (which they did in late December, 1971), the Soviet Union announced it would not sign the Berlin agreement until the two 1970 draft treaties mentioned earlier were ratified by the German Parliament. Not surprisingly, the treaties, now up for ratification, are now a matter of great controversy and concern in West Germany.

The reasons for this concern are deep-rooted and should be understood by all Americans. First, the renunciation of force provisions included in the treaty with the Soviet Union are one-sided indeed. The treaty states that the U.N. charter shall be used as a guide in the peaceful settlement of disputes and it prohibits threats or use of force, but it does not render ineffective articles 53 and 107 of the U.N. charter which specifically give the Soviet Union the right to intervene by force in Germany. In essence, the West Germans are being asked to renounce the use of force while the U.S.S.R. retains its prerogative to use it against Germany when it sees fit.

Second, the aforementioned treaty mentions East Germany by its Communist name, the "German Democratic Republic"—the first time that name has ever been used in a treaty—and provides that the boundaries of East Germany shall be considered inviolate. This goes contrary to the allied goal of reunification of Germany within the context of a peace treaty which would apply to all of Germany. Britain, France, the United States, and West Germany have been pursuing such a reunification for almost thirty years; it has been the Soviet Union that has obstinately prevented it. Yet, under terms of this treaty, East Germany would, for all practical purposes, be recognized as a sovereign state. Its continuance as a separate Communist nation would be effectively insured and its prestige and bargaining position enhanced considerably.

Third, the Berlin agreement applies to only West Berlin. It does nothing to bridge the infamous Berlin wall; its travel, access, visitation, and communication privileges do not apply to East Berliners. In fact, the allies, by neglecting to mention their legal claims to partial jurisdiction over the status of East Berlin, may further weaken those claims.

Fourth, the Berlin agreement mentions East Germany by the name "German Democratic Republic" no less than seven times. Such frequent mention simply strengthens East Germany's claim to recognition. Since the 1970 treaties and the Berlin agreement are now interdependent, due to the diplomatic maneuvering, this factor takes on added significance.

Fifth, the concessions granted by the Soviet Union constitute, for the most part, official recognition of rights that West Germany and West Berlin are entitled to already. What the Soviets get in return—things such as consular privileges, the admission that West Berlin is not part of West Germany, and cessation of acts of official West German business within West Berlin—constitute net gains for them. In short, it appears that, for the most part, the West Germans gain concessions of form while the Soviets and the East German Communists get concessions of substance.

Cast alone, the Berlin agreement is questionable enough. Tied as it is to acceptance of the 1970 treaties, it takes on a much wider significance because it brings the whole policy of West German *Ostpolitik* into question.

We should know from previous experience that dealing with the Soviet Union is tricky business indeed. Past concessions to Communism in return for future promises of security and reduction of tensions have always turned out to be in the best interests of the communists. In this situation there is much that the communists can gain through negotiations. Most importantly, they hope to break up the emerging economic and political unity of Western Europe and, in so doing, reduce the influence of the United States in the area. History should indicate that the Soviet Union will never allow German reunification on any other terms but its own. That they should be so agreeable to signing treaties and agreements that affect the ultimate outcome of reunification is cause for suspicion. Any policy dedicated toward cultivating such negotiations is fraught with danger, not only to the freedom of West Germany but to the security of

Western Europe and the United States as well.

Due to these dangers, all parties involved should carefully weigh the risks against the possible advantages. Those of us in the United States should be particularly concerned about the implications of these treaties upon our relationship with West Germany, upon NATO, and upon the general stability of the area. As I have noted, West Germany has long been our strongest friend and ally in all of Western Europe. Over the last twenty years they have contributed more bases, more money, and more men to the struggle to contain communism than any other nation in the region. In addition, West Germany has contributed immensly to the political stability and economic growth of Western Europe. Such contributions in behalf of so many worthwhile causes are not soon to be forgotten.

Due to these ties of friendship and respect, I am especially concerned that treaties and agreements concerning German reunification not interfere with the goals that the United States and West Germany have for so long shared. If a treaty or agreement is to be fair to the signatories involved, it must include an equal amount of meaningful give and take on all sides. However, insofar as the two treaties coming up for discussion in the German Bundestag are concerned, careful analysis reveals a pattern of definite concessions of substance to the communists without reciprocal concessions of substance to West Germany. There is nothing in them to convince me that these treaties in any way depart from the normal pattern of Soviet treaty making—something useful for Russia but nothing for the other party.

The overriding interest of this Senator in these treaties is that they will have two direct effects upon the interests of the United States. The first effect involves the question of peace in Western Europe. The second concerns changes in the status of West Berlin. In both cases, the U.S. is concerned that the course of peace and freedom in these areas be upheld as it has been in the past.

It is my view that none of these treaties or agreements, which give concessions to the communists but return nothing of substance to the West Germans or her allies in West Berlin, enhance the cause of peace in Western Europe or offer adequate safeguards against future communist aggression. It is my belief that, if effective treaties or agreements are to be reached, they must contain elements of meaningful compromise on the part of the Soviet Union.

PROF. PAUL FREUND SAYS EQUAL RIGHTS AMENDMENT IS UNNECESSARY

Mr. ERVIN. Mr. President, this term the U.S. Supreme Court, in a unanimous decision, gave a strong indication that they would find all unreasonable sex-based classifications to be in violation of the equal protection clause of the 14th amendment. In the case of *Reed* v. *Reed*, 40 L.W. 4013 (1971), the Court found unconstitutional an Idaho statute requiring preference of male relatives over female relatives for appointment as administrators of an intestate's estate. The Court applied the conventional test of reasonableness and found an "arbitrary preference established in favor of males."

I firmly believe that the lack of Supreme Court activity in the area of women's rights can be ascribed primarily to the failure of women's groups to challenge forms of discrimination in the courts. I also believe that most of the goals which the advocates of the equal rights amendment would be accomplished if they would bring a series of selected test cases to challenge discrimination against them.

Of course, lawsuits will have to be brought to enforce the proposed equal rights amendment so why do not the women begin in earnest by instituting lawsuits under the 14th amendment now rather than wait to do the same thing under an ill-advised constitutional amendment.

Prof. Paul Freund of the Harvard Law School agrees with me on the significance of the Supreme Court decision in Reed against Reed. Professor Freund stated:

> The equal protection guarantee, together with the ample legislative powers of Congress, is the best avenue to achieve meaningful equality of the sexes under law.

Professor Freund also supports the substitute constitutional amendment which I have introduced as being preferable to the House-passed equal rights amendment because he says that the House-passed amendment "would force all the manifold legal relationships of men and women, from coverage under selective service to the obligation of family support, into a mold of mechanical unity."

Mr. President, I ask unanimous consent that a letter to me from Professor Freund of December 7, 1971, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Law School of Harvard University,
Cambridge, Mass., December 7, 1971.

Hon. Sam J. Ervin, Jr.,
U.S. Senate,
Washington, D.C.

Dear Senator Ervin: Thank you for your letter inviting my views on your proposed amendment to H.J. Res. 208, and the significance of the Supreme Court's decision in Reed v. Reed.

Your amendment, containing the clause "unless such distinction is based on physiological or functional differences between them", seems to me the most appropriate language suggested so far if the Equal Rights Amendment is to be pursued. In view of the Reed decision, however, I believe more strongly than ever that the subject should be left to be worked out under the equal protection clause, as are other questions of group classification. The equal protection guarantee, together with the ample legislative powers of Congress, is the best avenue to achieve meaningful equality of the sexes under law. This approach is greatly to be preferred to one that would force all the manifold legal relationships of men and women, from coverage under selective service to the obligation of family support, into a mold of mechanical unity.

With kindest regards,
Sincerely yours,
Paul A. Freund.

LITHUANIAN INDEPENDENCE

Mr. MATHIAS. Mr. President, the month of February holds special meaning for Americans of Lithuanian and Estonian origin and their friends throughout the country, for February 16 and 24, respectively, mark the 54th anniversary of the establishment of the Republics of Lithuania and Estonia in 1918.

For 22 years, until 1940, the freedom-loving people of these proud Baltic States enjoyed an interval of independence which saw long-needed social and economic reforms. However, this hard-won progress was cruelly halted in 1940 when Lithuania and Estonia were forcibly brought under the domination of the Soviet Union.

Since that time, the courageous people of Lithuania and Estonia have clung to the memory of their brief period of freedom and have not given up the struggle for independence. I am pleased to join them today in recalling their proud history by commemorating the anniversary of their independence. I add my voice to their appeal for the right of self-determination for their homeland and extend my warmest wishes that they will again see the day when Lithuanians and Estonians are free men.

EQUAL RIGHTS AMENDMENT

Mr. JAVITS. Mr. President, I feel certain that Senators would want to be advised of the latest action of the association of the bar of the city of New York on the equal rights amendment.

On February 17, the association of the bar adopted the report of its civil rights committee and committee on sex and law, urging the adoption of the amendment as its official position. This is particularly important in light of the fact that 2 years ago the Federal legislation committee of the association issued a report favoring the elimination of discrimination on account of sex by means of Federal legislation under the 14th amendment rather than by the equal rights amendment. Opponents of the amendment have used this earlier and now outdated report as evidence of legal opinion against the proposal. The new joint committee report, which now represents the position of this prestigious bar association, therefore, should be of interest to all Senators.

I ask unanimous consent that the report be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

Report on the Equal Rights Amendment by the Association of the Bar of the City of New York by its Committee on Civil Rights and Special Committee on Sex and Law

INTRODUCTION

The widespread and pervasive laws and practices which discriminate against women are not only irrational, but are also directly and seriously injurious to a substantial part of our society. Unsupported assumptions of inferiority, which are often expressed in terms of protecting women from onerous situations, are as difficult to eradicate as comparable assumptions based on religion or race. The question, therefore, is not whether women are equal but what means should be adopted to secure their rights.

A new amendment to the Constitution, which would establish a fundamental national commitment to elimination of discrimination based on sex, fulfills the crucial function of creating a presumption of invalidity as to all sex-based legislation. Proponents of such legislation would then be required to demonstrate its relation to characteristics which are present in all of one sex and none of the other, in order to justify the distinction.

The present form of the amendment, as approved by the House and submitted to the Senate, is as follows:

Sec. 1. Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

Sec. 2. Congress shall have the power to enforce by appropriate legislation the provisions of this Article.

Sec. 3. This Amendment shall take effect two years after the date of ratification.

Substantially the same Amendment has been introduced in every Congress since 1923, and was seriously considered and debated in 1946, 1950, 1953 and 1970.

We urge adoption of the Amendment as the best means of establishing equality before the law, and effecting a comprehensive and constant review of the whole body of legislation which treats men and women differently on the basis of their membership in a sexual class.

Judicial enforcement based upon the equal protection clause of the fourteenth amendment

The position has been advanced that a new amendment to the Constitution is unnecessary, because judicial interpretation of the Equal Protection Clause of the Fourteenth Amendment will be sufficient to eliminate sex discrimination. However, prior decisions under the Equal Protection Clause dealing with sex-based statutes and the present standards of review utilized by the Supreme Court in deciding equal protection challenges to such legislation, do not support this position.

Until the recent case of *Reed v. Reed*,[1] discussed below, the Supreme Court had never held a sex-based legislative classification to be violative of the equal protection clause and to date has never examined critically the stereotypes with respect to women which are embodied in such laws. Its approach has been characterized by two features: (1) a vague but strong belief that women necessarily occupy a separate place from men in society and therefore can be treated differently[2] and (2) an "extraordinary methodological casualness in reviewing state legislation based on stereotyped views of women."[3]

The landmark Fourteenth Amendment case of *Muller v. Oregon*,[4] where the Court approved laws which created maximum working hours for women only, based its holding on the inferior physical capabilities of woman and her social role as a procreator which place her "in a class by herself." The Court did not even consider the question of whether women have equal rights to employment. Its doctrine became an open-ended invitation to state legislators to begin carving out a body of laws which treated women as a separate class. Moreover, *Muller* has been the oftcited precedent for a myriad of lower court decisions which have upheld separate treatment for women.[5]

More than fifty years later, the Supreme Court depended on the assumptions prevailing in *Muller* in ruling in effect that a State may assert that it is an unnecessary burden to require a woman to take on the civic responsibility of occasional jury duty (*Hoyt v. Florida*),[6] and that women may be precluded from acting as bartenders unless they are wives or daughters of a male owner (*Goesaert v. Cleary*).[7]

The 1971 *Reed* case indicated no substantial change in judicial attitude. The statute at issue directed that where both a man and a woman were equally entitled to be appointed administrator of the estate of an intestate, the man should in every case be appointed. The Court refused to consider plaintiff's argument that a presumption of illegality attaches to any sex-based classification. Instead, it ruled on the particular facts of the case, holding that the statute utilized an arbitrary method of achieving its goal, which was to eliminate hearings and thus conserve time for probate courts.

Thus, the Supreme Court's interpretations of the 14th Amendment in sex equality cases does not provide any realistic basis for reliance on existing constitutional provisions to effect any fundamental change in sex-role determinism.[8] Even where the Equal Protection Clause is utilized, the decision of the Court may be so narrow and the facts so unusual that the impact of the case is uncertain, resulting in no necessary revisions in existing laws and practices.

Passage of a new equal protection amendment

A new equal protection amendment specifically directed to women's rights has also been suggested. Its proponents concede that it would be construed in the same manner as the equal protection clause of the 14th Amendment, but argue that this is an advantage because it avoids "vagueness" and "inflexibility."

Analysis of the tests utilized in 14th Amendment cases demonstrates that far more vagueness and confusion would result from the equal protection route than from the Equal Rights Amendment. *Reed*, *Goesaert*, and *Hoyt* applied the "reasonable classification" standard which allows the states substantial discretion in their treatment of civil rights for women.[9] Even if the stricter tests of "fundamental interest" or "suspect classification" were applied, thereby placing a greater burden on legislatures to justify sex classifications, the Court has disagreed about what kinds of rights and interests come within the scope of "fundamental".[10] Therefore, the test might not be used in many situations where women are treated differently from men, e.g. access to certain types of employment, the right to work, overtime, access to all forms of education and the right to control one's body.

Similarly, the "suspect classification" test merely requires the state to propound a compelling interest in retaining a law; some sex-based classifications might therefore remain and a proliferation of inconsistent standards based upon judicial definitions of "compelling" could result.

The Equal Rights Amendment, however, would permit sex-based distinctions only when they are grounded upon physical characteristics unique to one sex. This provides a readily ascertainable, consistent and objective standard.

As to the "flexibility" of the equal protection approach, this argument appears to be based on the view that some laws which discriminate on grounds of sex should remain, even if these laws are unrelated to physical attributes present only in one sex. Thus, this approach fails to treat the complex scope and nature of sex discrimination.

The efficacy of Federal legislation

Section 5 of the Fourteenth Amendment, which empowers Congress to enforce the provisions of that Amendment "by appropriate legislation" would probably be the basis for federal legislation in the equal rights area, although civil rights enactments have also been based on the Commerce Clause.

It has been suggested that an Act of Congress pursuant to Section 5 would be preferable to the Equal Rights Amendment, because it would be more "specific" and therefore lead to less litigation. That such a statute might be more specific and therefore limited to particular areas (for example, employment), hardly recommends it as a vehicle for eliminating sex role determinism which pervades all areas.

Moreover, a federal statute would lead to more litigation than the Amendment, not less. First, it is indisputable that challenges to its constitutionality could be made. Second, passage of a statute would lead to the customary search for exceptions to the rule, which the breadth of a constitutional amendment avoids.

The Section 5 approach is less suitable than the Amendment for the further reason that sex-based laws involve many areas of traditional state concern, such as property and divorce laws. A state-based concurrence to the commitment to equal rights is therefore of particular importance to insure implementation.

Doubt as to the feasibility of the statutory route has also arisen because the Supreme Court has recently held in *Oregon* v. *Mitchell*[11] that Congress had no power under Section 5 of the 14th Amendment to pass legislation lowering the voting age in state elections to 18. This decision suggests that Section 5 may not authorize legislation in areas traditionally reserved to the states in their regulation of conduct, unless specifically directed to the elimination of racial discrimination. We note that the Federal Legislation Committee of this Association issued a report favoring the elimination of discrimination on account of sex by means of federal legislation under the Fourteenth Amendment. That report was issued prior to the Supreme Court's decisions in *Reed* and *Oregon* v. *Mitchell*.

Possible conflict with tne 14th Amendment

A few critics have raised the theoretical problem of a potential conflict between the 14th Amendment and the Equal Rights Amendment. However, the legislative history of the Equal Rights Amendment can and should indicate that there is no Congressional intention to modify the application of the 14th Amendment to sex-based discrimination. Moreover, governmental acts, statutes and practices have been held to violate more than one constitutional provision at the same time.[12] The equal protection clause has not affected the "integrity" of the due process clause.

Breadth of the equal rights amendment

The permanence of constitutional doctrine and its application to future societal problems demands the broad language employed by the Equal Rights Amendment. It is unrealistic to expect that every problem be resolved in advance, although the enabling clause provided in the Amendment and the process of passing the Amendment itself can suggest solutions to particular problems within the overall constitutional premise.

The existence of the Amendment will not alone preclude the necessity of litigation, and supplementary federal and state legislation is desirable. Nevertheless, it establishes a solid and permanent constitutional basis, without which other efforts remain piecemeal and limited.

The time required to pass the Amendment and the two-year grace period presently provided in the Amendment will allow a coordinated and comprehensive review to occur which will substantially mitigate the problems involved in any transitional period. However, change will occur at a more desirable pace than if the process were left to legislatures and courts without the impetus of the Amendment. Moreover, the fact that all fifty States and the federal government will be engaged in conforming their laws at the same time will provide momentum and guidance to legislatures as they learn and profit from each other's actions.[13]

Sex as a prohibited classification under the amendment

The Amendment reflects the fundamental but obvious proposition that "women vary as individuals in their body structure, physical strength, intellectual and emotional capacities, aspirations and expectations just as men do."[14] The Amendment will require that

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Footnotes at end of article.

legal classifications of persons where necessary for legislation be made on the basis of traits found in both sexes, such as intelligence, or on a functional basis related to types of activity (e.g., employment, jury service, driving a motor vehicle). Even though members of one sex may appear to perform a function not performed as frequently by the other sex, laws cannot be justified which fix legal rights on the basis of membership in one sex or the other. The law will have an obligation to treat people as individuals rather than as statistics.[15]

The only permissible sex-based distinctions under the Amendment are distinctions based upon a physical characteristic unique to one sex.[16] Thus, laws pertaining to sperm banks, for example, would necessarily apply only to men. Likewise, laws relating to childbearing would apply only to women. "Scientific" data relating to emotional or psychological differences between men and women may be unreliable, since it may reflect attitudes resulting from society's past and present disparate treatment of the sexes. Moreover, "inherent psychological differences," purport to describe an average man or woman. There are always individuals to whom the average does not apply, and it is these individuals the Amendment is designed to protect.[17]

We envision a society in which there may well be differences in the societal position of men and women, but in which these differences will reflect free choice rather than social compulsion or legal restraints based solely on sex.

Some particular effects of the amendment

The Equal Rights Amendment will provide a framework whereby laws presently discriminating against women will be struck down, and will establish as fundamental policy the desirability of equality between the sexes. Passage of the Amendment will therefore necessitate a review of the laws governing, among other areas: education, domestic relations, crime, jury duty, the military draft, labor, and property ownership and management. Some of these laws have been cited as conferring special privileges or benefits on women.[18] While it is not possible to make reference in a report to every anticipated effect of the Amendment, a few specific issues which have been the subject of particular public inquiry are discussed below.[19]

1. Labor laws

It has been suggested that the Equal Rights Amendment will adversely affect protective labor legislation which puts women in a special category. Such "special" legislation was, as previously shown, the subject of *Muller v. Oregon*. Basically, these labor laws may be grouped into three general types (1) those conferring supposed benefits such as rest periods; (2) those excluding women from certain jobs such as bartending or mining; or from employment before and after childbirth; (3) those restricting the conditions of employment, such as working at night or overtime.

However, it has become increasingly clear in recent years that these laws for women provide little genuine protection, and that in fact their impact has been to place women at a severe disadvantage in the labor market, in lower paying jobs, or out of the labor force altogether.[20] Moreover, any sex-based law necessarily has a discriminatory effect, because a large number of women do not fit the stereotypes on which the law is premised. And, to the extent that any of these provisions embody actual protections, men are discriminatorily denied benefits.

As to the first category above, laws such as those requiring a rest period have discriminated against women in that they have provided a justification for paying women less and limiting them to certain positions. They have also operated unfairly in depriving men of such rest periods. Most of such laws may be extended to both sexes without burden or disruption.

As to the second category, laws excluding women from certain occupations impose a burden on some women without aiding the others. Women who do not want to be bartenders would presumably not apply for such jobs, while those who wish to work in the cited occupations (some of which are very lucrative) are excluded solely because of their sex.

Compulsory maternity leave regulations, which require pregnant employees to go on leave for a specified period without providing job security or retention of accrued benefits, are similarly exclusionary. A sex-neutral rule, permitting any temporarily disabled worker and his or her doctor to determine the commencement and duration of leave, would provide a non-discriminatory and rational regulation.

The third category above particularly demonstrates the inappropriateness of using sex as a criterion in labor legislation. Night work is often better paid and more convenient for some women who go to school in the daytime, or whose husbands could care for children at night. On the other hand some employees, both women and men, would prefer exemption from night assignments. Overtime is also well-paid and desirable for many male and female workers; a sex-neutral rule would forbid employers to fire those who refuse over-time, but would permit over-time for those who wish it.

Thus, the effect of the Equal Rights Amendment on labor legislation would be to provide an incentive to the states to enact statutes which would genuinely protect workers of both sexes.

2. Interspousal Support

At present, all states make husbands primarily liable for the support of their wives. Only where a husband is incapacitated or indigent do many states make his wife liable for his support. The erroneous idea that the Equal Rights Amendment will summarily do away with a husband's duty to support his wife has caused many people, especially wives who are totally dependent upon men for support, to oppose the Amendment. On the other hand, many men, particularly those ex-husbands burdened with heavy alimony payments, find this aspect of the Amendment, as they perceive it, especially appealing.[21] However, there are judicial methods of reconciling existing support laws with the Amendment that would avoid drastic impact on this area. The duty of spousal support will, however, have to be apportioned in a more equitable manner between husband and wife.

It must first be noted that under present law in most jurisdictions, the husband's duty to support the wife while they are living together is enforced only to a minimal extent. In fact, most courts refuse to enter a support decree in favor of the wife where the marriage is an ongoing one. Thus, as long as a husband provides for his wife with the barest necessities, he is free to determine how much or how little of his property he wishes to bestow upon her.[22]

Only when the marriage is dissolved do non-support laws, both criminal and civil, come into play. Most states have criminal statutes which penalize a man's desertion of his wife. Courts, of course, can penalize a husband for contempt by imposing a jail sentence where he fails to pay alimony pursuant to a valid support decree. Such laws are entirely ineffective in providing needed support and under the Amendment, courts would probably strike down criminal non-support laws which apply only to men, rather than extending them to cover women.[23]

With regard to civil enforcement of support laws, courts could extend them to cover wives as well as husbands rather than striking them down. The Amendment would bar a state from imposing a greater liability on one spouse than on the other merely because of sex. It is clear that the Amendment would not require both a husband and wife to contribute identical amounts of money to a marriage. The support obligation of each spouse would be defined in functional terms based, for example, on each spouse's earning power, current resources and non-monetary contributions to the family welfare. Thus, if spouses have equal resources and earning capacities, each would be equally liable for the support of the other—or in practical effect, neither would be required to support the other. On the other hand, where one spouse is the primary wage earner and the other runs the home, the wage earner would have a duty to support the spouse who stays at home in compensation for the performance of her or his duties.

Although courts still probably would be reluctant to interfere in the allocation of support between husband and wife in an ongoing marriage, upon the dissolution of marriage, both husbands and wives would be entitled to fairer treatment on the basis of individual circumstances rather than sex. Thus, alimony laws could be drafted to take into consideration the spouse who had been out of the labor market for a period of years in order to make a non-compensated contribution to the family in the form of domestic tasks and/or child care.[24]

3. THE MILITARY

The Equal Rights Amendment will require that military institutions base their rules, benefits, and requirements on individual skills and capacity rather than sex.

At present, most women in the Army are members of Women's Army Corps (WAC) or the Army Nurse Corps. While women are assigned to the Nurse Corps on the basis of function, they are assigned to WAC—which is limited to two percent of the full strength of the services [25]—solely because they are female. Until recently, only unmarried women were generally allowed to serve, and when married women were permitted, their dependents received none of the benefits that men's families received.[26] Women take different intelligence tests for enlistment.[27]

All men who are drafted are eligible for combat duty, and receive four to six months of basic training. In each unit, those men who have a primary non-combat military operating specialty (for example, clerk, cook, supplies), still have a secondary specialty in the event of combat (such as infantry). This is true also of reserves and occupation forces; the only exception would be non-combat units such as medical or chaplain corps. The Amendment [28] would require that if these organizational principles continue to apply to men, they would also apply to women.

Objections to requiring women to be combat-ready have been two-fold: 1) the assumption that women lack the requisite physical capability 2) the possibility of disciplinary problems. As to the first point, there is no basis in fact to conclude that women lack the physical capabilities necessary to perform many jobs involved in combat, such as piloting an airplane, or driving a truck. In most ground combat, the effectiveness of the modern-day soldier is due to skills, training and equipment rather than physical strength.

It must be remembered that there are many men, too, who are incapable of performing the tasks required of a combat soldier. Thus, the Army would have to apply a test which would screen out those of both sexes who would be incapable of performing strenuous combat duties, just as it presently does with minimum height and weight requirements. At times, soldiers may be required to carry loads weighing from 40 to 50 pounds, and most American women meeting the minimum height and weight requirements are capable of doing so.[29]

Footnotes at end of article.

As to disciplinary problems, men and women have worked together in combat conditions in the army of the Soviet Union and under most military conditions in the army of Israel; their participation is evidence that no serious disciplinary difficulties need be expected in an integrated army. It should also be pointed out that there is no basis for the supposition that women are less responsible than men when faced with emergency or danger.

Separate quarters for men and women would be provided under the constitutional right of privacy,[30] even though this may involve building more toilet and sleeping facilities.

Under the Amendment, deferments and exemptions from military service would be sex neutral. Women ministers, conscientious objectors and state legislators would be treated as men in such categories now are. Hardship and "sole support" deferment categories [31] would also have to be extended to apply to both sexes.

Although some consider the present exemption of women from military service to be advantageous for women, others have pointed out that such an exemption deprives women of the training and benefits provided to men who serve in the armed forces. Such benefits include vocational training, medical care and benefits for dependents. In addition, veterans receive educational scholarships and loans, preference in government employment, pensions, insurance, and medical treatment. [32]

While some percentage of those who serve in the military risk loss of life, military assignments should be made on the basis of capacity rather than sex. Only those able to perform the necessary services will be required to do so.

Women's equal involvement in the military will also increase their interest in and knowledge of the political process. It also may be anticipated that elimination of the present discriminatory regulations against women volunteers will result in a greater number of enlisted women; thus, the proportion of the army consisting of volunteers will be larger, and the number of persons subject to involuntary draft would be reduced.

4. Compensatory Aid for Women

Many women, because of past discrimination, lack the necessary education, training and skills which would enable them to compete in the marketplace on an equal basis with men. The solution to this problem lies not, as one commentator has suggested, in opposing passage of the Amendment,[33] or in approving laws which ostensibly "protect" women as a group from the harsh realities of modern life. The solution instead lies in supporting the passage of the Amendment, which could allow compensatory treatment for women in much the same way that certain compensatory treatment has been allowed for blacks.

In the area of race relations two methods have been employed for taking affirmative steps to assure actual, and not merely theoretical, equality between blacks and whites. One is the "benign quota" used in the housing, education and employment fields; the other is compensatory aid in the form of special education or training assistance to help put blacks on an equal footing with whites. The Supreme Court has yet to pass upon the constitutionality of these devices, but if their constitutionality is upheld, there is no reason why such affirmative steps should not also be taken to assure that women enjoy actual equality with men.[34]

Another method to secure actual equality for women, and one which is not constitutionally uncertain, would be for courts, in deciding particular cases under the Amendment, to frame their decrees to embody affirmative relief.[35] As in racial desegregation cases, such decrees could provide remedies for past denial of equal rights which take into account sex factors and special treatment to the group discriminated against.[36]

On the federal level, Congress could enact legislation under the enforcement provision of the Amendment dealing with the various economic and social conditions which underlie our present system of sex inequality. States could enact similar legislation under their general police powers. Additionally, legislatures could make use of various functional classifications which generally include members of one sex (but which also would include disadvantaged members of the other sex), to enact statutes having the effect of undoing past discrimination, in much the same way that courts might judicially extend laws which presently confer a benefit exclusively upon one sex to include the other sex.[37]

5. Other Constitutional Rights Not Jeopardized

Opponents of the Amendment have attempted to block its passage by raising the "bathroom argument." [38] This criticism is dealt with here only because the idea that men and women might be required to use the same bathrooms has generated an entirely unwarranted concern. The constitutional right of privacy could be used to sanction separate male and female facilities for activities which involve disrobing, sleeping and personal bodily functions.[39]

CONCLUSION

The Equal Rights Amendment will result in a fundamental restructuring of the present treatment of women. This has caused some to criticize the Amendment as going too far. It is submitted that proponents of this view are not committed to the concept of equality between the sexes, and that their very assertion that vast changes will be made in American life as a result of the Amendment's passage constitutes an implicit admission that sex discrimination is widespread.[40]

Other critics argue that the Amendment does not go far enough because it does not reach private discrimination.[41] The same argument could of course have been used to oppose passage of the Fourteenth Amendment. Although the Equal Rights Amendment will not directly affect sex-based discrimination in the private sector, once the Amendment is ratified and states have adopted its broad policy of sex equality, they can enact their own legislation [42] pursuant to their police powers encompassing prohibitions in areas such as housing and public accommodations, for example. The concept of "state action," utilized under the First and Fourteenth Amendments, will apply here. The federal government will also be able to enact legislation, pursuant to other clauses of the Constitution, which would reach areas not governed directly by the Amendment.

This Amendment, as passed by the House, should be adopted by the Senate and presented to the States for ratification. As shown above, alternative methods such as passage of a federal statute alone, or reliance solely on judicial interpretation of the Equal Protection Clause of the Fourteenth Amendment, would at most commence a piecemeal and inadequate approach which would fail to accomplish the purposes of an effective Equal Rights Amendment.[43]

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FOOTNOTES

*Mr. Chandler dissents. His dissenting views follow the report.

[1] The equal protection argument has only been ruled upon in *Reed* v. *Reed* — U.S. —, 30 L.Ed. 225, *Hoyt* v. *Florida*, 368 U.S. 57 (1961) and *Goesaert* v. *Cleary*, 335 U.S. 464 (1948). Further, the Court has never found sex-based legislation to be impermissible under other sections of the 14th Amendment; privileges and immunities—*In re Lockwood*, 154 U.S. 116 (1894); *inor* v. *Happersett*, 88 U.S. (21 Wall.) 162 (1874); *Bradwell* v. *Illinois*, 83 U.S. (16 Wall.) 130 (1872); due process: *West Coast Hotel* v. *Parrish*, 300 U.S. 379 (1937); *Radice* v. *New York*, 264 U.S. 292 (1924); *Muller* v. *Oregon*, 208 U.S. 412 (1908). All the above cases evidence the strong belief by the Supreme Court that women have a separate place in society. *Arguendo*, *Lockwood*, *Bradwell*, and *Minor* have now been effectively overturned. Yet the disastrous effects of these early decisions cannot be underestimated. Moreover, the 19th century cases are historical underpinnings to the attitudes about women expressed by the Court in later decisions: *Muller*, *Goesaert*, *Hoyt*.

[2] At the turn of the twentieth century, women were denied by the Court the Constitutional guarantee of certain basic rights—voting: *Minor* v. *Hapersett*, 88 U.S. (21 Wall.) 162 (1874); practicing law: *In re Lockwood*, 154 U.S. (16 Wall.) 116 (1894); *Bradwell* v. *Illinois*, 83 U.S. (16 Wall.) 130 (1872); jury service: *Strauder* v. *West Virginia*, 100 U.S. 303, 310 (1880) (dictum).

[3] The authors of this Report acknowledge their particular debt to Brown, Emerson, Falk & Freedman, *The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women*, 80 *Yale L. J.* 871 (1971) [hereinafter cited as Yale L.J.] See discussion of the Supreme Court's review of sex-based legislation at 876.

A good example of this "methodological casualness" is the statement of Justice Frankfurter in *Goesaert*, *supra* at n.1. He noted that as to the equal protection issue, "[b]eguiling as the subject is, it need not detain us long," and that "Michigan could *beyond all question*, forbid all women from working behind a bar" (emphasis added. 335 U.S. at 465.)

[4] 208 U.S. 412 (1908). *Muller* was dedicated only three years after *Lochner* v. *New York*, 198 U.S. 45 (1905) wherein the Court struck down as violative of due process state legislation which set maximum working hours for bakery workers. Thus, *Muller* squarely conflicted with the Court's holding in *Lochner*. Although *Muller* was hailed at the time as a breakthrough in development of the due process doctrine, the case now stands as

a paradigm of traditional judicial philosophy regarding the nature and role of women.

[5] There are over 90 cases reported in Shepard's Citations which cite *Muller* as a basis for taking judicial notice of "female physical characteristics" to support separate treatment for women.

Only recently have lower courts begun to discredit the verbiage in *Muller* about the innate differences and inferior characteristics which the Supreme Court found peculiar to women. See, e.g., *Sail'er Inn, Inc.* v. *Kirby*, 5 Cal. 3d 1, 485 P.2d 529 (1971); *Mengelkoch* v. *Industrial Welfare Commission*, 437 F. 2d 563 (9th Cir. 1971); *rev'g in part* 284 F. Supp. 950 (C.D. Cal. 1968).

[6] 368 U.S. 57 (1961). The assumption about woman's place in *Hoyt* is merely a restatement of the 19th century view expressed by the Court in *Bradwell*: "Man is, or should be, woman's protector and defender. *The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life.* The constitution of the family organization, which is founded in the divine ordinance, as well as in the nature of things, indicates *the domestic sphere as that which properly belongs to the domain and functions of womanhood.*" *Bradwell* v. *Illinois*, at 141 (emphasis added).

[7] 335 U.S. 464(1948). Unlike the *Muller* Court, the Supreme Court in *Goesaert* showed some awareness of the central issue, equal right to employment, but rejected its importance, noting that "we cannot give ear to the suggestion that the real impulse behind this legislation was an unchivalrous desire of male bartenders to try to monopolize the calling." 335 U.S. at 467.

[8] *Goesaert* v. *Cleary, supra, Hoyt* v. *Florida, supra, U.S.* v. *Yazell*, 382 U.S. 341(1966) all contain dissenting opinions, yet none of the dissenting Justices focused upon the need for a new judicial approach to sex-based legislation, or on the need for reassessment of legal inequalities suffered by women. The only decision preceding *Reed* which could be considered a harbinger for equality was *United States* v. *Dege*, 364 U.S. 65 (1960) where Justice Frankfurter openly discarded the medieval view of women and overturned the common law doctrine of conspiracy (i.e., that a husband and wife, being one, are incapable of conspiracy). Yet, *Hoyt*, which followed the *Dege* decision, reinstated the traditional view of women. In *Williams* v. *McNair*, 401 U.S. 951 (1971) the Supreme Court affirmed without opinion and without hearing argument, a lower court's dismissal of a suit brought by three male plaintiffs who challenged a state school system which segregated the sexes.

As to judicial attitude, the transcript of oral argument of a 1970 Title VII employment discrimination case, *Phillips* v. *Martin Marietta Corporation*, 397 U.S. 960 (1970), is a stark and dismal portrayal of the facetious responses and derisive attitudes of the Justices when the issue of sex discrimination is presented. See Women's Rights L. Rep., Vol. 1 No. 1, pp. 11–20 (1971).

[9] The presumption of reasonableness of state legislation had already been discarded as to other groups in our society: see, e.g., *Brown* v. *Board of Education*, 347 U.S. 483 (1954); *Korematsu* v. *U.S.*, 323 U.S. 214 (1944); *Skinner* v. *Oklahoma ex rel. Williamson*, 316 U.S. 535 (1942).

[10] See e.g., *Wyman* v. *James*, 400 U.S. 309 (1971), *id* at 338 (Marshall, J., dissenting); *Dandridge* v. *Williams*, 397 U.S. 471 (1970), *id* at 508 (Marshall J., dissenting); *Kramer* v. *Union Freed School District*, 395 U.S. 621 (1969), *id.* at 634 (Stewart J., dissenting); *Shapiro* v. *Thompson*, 394 U.S. 618 (1969), *id*, at 655 (Harlan J., dissenting).

[11] *Oregon* v. *Mitchell*, 400 U.S. 112 (1970).

[12] *United States* v. *Wade*, 388 U.S. 218 (1966).

[13] Yale L. J. at 910. The authors note that all the states successfully carried out enactment of unemployment compensation statutes and establishment of complex administration systems in less than eighteen months, pursuant to the Social Security Act, Ch. 531, 49 Stat. 620 (codified in scattered sections of 42 U.S.C.) passed in 1935. Also, many states have revised their commercial laws through adoption of the Uniform Commercial Code. Such revision appears to have been accomplished without undue confusion.

[14] Murray, *The Negro Woman's Stake in the Equal Rights Amendment*, 6 *Harv. Civ. Rights Civ. Lib. L. Rev.* 253, 255 (1971).

[15] Yale L. J. at 889–90.

[16] *Id.* at 894–96. The authors suggest that courts should apply a "strict scrutiny" test and consider the following six factors:

(1) the proportion of one sex which actually possesses the characteristic;

(2) the relationship between the characteristic and the problem the legislation purports to solve;

(3) the proportion of the problem attributable to the unique physical characteristic;

(4) the proportion of the problem eliminated by the solution;

(5) the availability of less drastic alternatives; and

(6) the importance of the problem ostensibly being solved.

The authors use as an example a hypothetical regulation aimed at reducing absenteeism at policy-making levels by barring women from certain jobs. The regulation ostensibly would be based on the physical characteristic of potential pregnancy (which would be unique to women) and the consequent necessity for leaves of absence for childbearing. Judicial consideration of the six factors mentioned above would result in a court's striking down this regulation.

[17] *Id.* at 893–94.

[18] *Kurland, The Equal Rights Amendment: Some Problems of Construction*, 6 Harv. Civ. Lib. L. Rev. 243, 247 (1971) [hereinafter cited as Kurland]. See also Barrett & Lee, *Women's Rights*, 1971/72 Ann Survey Am. Law. (not yet published). The authors point out that laws, such as New York's statute (N.Y. Judiciary Law § 507(7) (McKinney 1968) which provide an automatic exemption from jury duty for women, in many cases turn out to have a punitive effect. Many working women, who might wish to serve on juries, feel that they must bow to employer pressure to claim their automatic exemption. For many non-working married women who may in fact have children to care for, the net economic loss to many families, especially those in lower income strata, is greater when their husbands must take time off from work to serve than it would be if they simply used part of the stipend received for jury service to pay for temporary child care. See also, Gold, S., "Female Juveniles" (unpublished), wherein the author points out that paternalistic state statutes governing female juveniles actually result in harsher treatment for girls than for boys for the commission of the same crimes and provide a greater range of non-criminal behavior for which girls may be punished than for boys.

[19] See *Yale* L. J. at 922 (protective labor legislation); *Id.* at 936 (domestic relations law); *Id.* at 954 (criminal law); Id at 967 (the military). See also, Dorsen & Ross, *The Necessity of a Constitutional Amendment*, 6 *Harv. Civ. Rights Civ. Lib. L. Rev.* 216, 221–23 (1971) [hereinafter cited as Dorsen & Ross].

[20] Yale L.J. at 922–936; Ross, *Sex Discrimination and "Protective" Labor Legislation*, 1970 Hearings before Senate Judiciary Committee on the Equal Rights Amendment at 210. See also *Cheatwood* v. *South Central Bell Tel. & Tel. Co.*, 303 F. Supp. 754 (M.D. Ala. 1969) and *Bowe* v. *Colgate-Palmolive Co.*, 416 F. 2d 711 (7th Cir 1969) (weight lifting restrictions); *Mengelkoch* v. *Industrial Welfare Commission*, 437 F. 563 (9th Cir. 1971), *rev'g in part* 284 F. Supp. 950 (C.D. Cal., 1968) (maximum hours legislation)

[21] Approximately two-thirds of the states permit divorce courts to grant alimony awards to the wife only. The remaining one third permit alimony awards to either spouse. *Yale L.J.* at 952–53 & n. 192.

[22] H. Clark. *Domestic Relations* 195–96 (1968).

[23] *See, e.g., Model Penal Code* § 230.5 (Proposed Official Draft, 1962).

[24] *See, e.g., Uniform Marriage and Divorce* Act §§ 308 (a) and (b).

[25] 10 U.S.C. § 3209(b) (Supp. IV., 1967); 32 C.F.R. § 580 (1971).

[26] Yale L. J. at 969.

[27] 32 C.F.R. § 888.2(f) (1970).

[28] However, in 1950 and 1953, the Equal Rights Amendment was passed by the Senate with a clause permitting reasonable classifications to protect women (which was intended to apply to the draft). In 1970, Senator Ervin proposed a specific draft exception and in July, 1971, the House Judiciary Committee reported out the Equal Rights Amendment with a similar provision.

[29] *See, e.g., Cheatwood* v. *South Central Bell Tel. & Co., op. cit. supra* at n. 20, at 758–59.

[30] See discussion in Yale L. J. at 900–02. The Supreme Court recognized the constitutional right of privacy in *Griswold* v. *Connecticut*, 381 U.S. 479 (1965). See also *York* v. *Story*, 324 F. 2d 450 (9th Cir. 1963), *cert. denied*, 376 U.S. 939 (1964) wherein the Court applied the constitutional right of privacy to the situation where police conduct searches involving the removal of clothing.

[31] 50 U.S.C. App. § 456 (h) (2) Supp. V. (1969).

[32] Yale L. J. at 968 & n. 252.

[33] Kurland at 250.

[34] *Yale L.J.* at 903–04. See also, Fiss, *Racial Imbalance in the Public Schools: The Constitutional Concepts*, 78 *Harv. L. Rev.* 564 (1965); Kaplan, *Equal Justice in an Unequal World: Equality for the Negro—The Problem of Equal Treatment*, 61 *Nw. U.L. Rev.* 363 (1966); *Developments in the Law—Equal Protection*, 82 *Harv. L. Rev.* 1065, 1105–20 (1969).

[35] *See Swann* v. *Charlotte-Mecklenburg Bd. of Educ.*, -- U.S. --, 91 S. Ct. 1267 (1971).

[36] *Yale L.J.* at 904.

[37] *Id.* at 904–05.

[38] Freund, *The Equal Rights Amendment is Not the Way*, 6 Harv. Civ. Rights Civ. L.b.L. Rev. 234, 240 (1971), [hereinafter cited as Freund]. The number of times that bathroom facilities have been used to justify sex-based discrimination is very surprising. To cite only a few examples: Last year one Senator opposed confirmation of the appointments of female pages to the Senate because they would not be able to deliver messages to Senators in the men's rest room. The EEOC guideline explicitly state that the lack of restroom facilities for female employees is no excuse not to hire them; thus presumably the argument has been raised many times by employers. See, *e.g., Cheatwood, supra*. Female high school students have been barred from competition in varsity sports such as tennis and swimming because the teams are all male and no locker room facilities were provided for females.

[39] See footnote 30.

[40] Emerson, *In Support of the Equal Rights Amendment*, 6 *Harv. Civ. Rights Civ. Lib. L. Rev.* 225, 232 (1971).

[41] Freund at 234.

[42] Doren & Ross at 220. *See, e.g., United States* v. *Guest*, 383 U.S. 747, 761, 774 (1966) (opinions of Clark and Brennan, J. J.); 18 U.S.C. § 241 (1964); 42 U.S.C. § 1985 (1964).

[43] The undue burden of mathematical precision which proponents of women's rights must shoulder each time legislation is pending is eliminated once a national moral com-

mitment to sex equality is unequivocally stated. With a national expression of equality it will not be necessary to prove again and again, in each state, that women are, for example, as intelligent or as "business-minded" as men.

Dissenting Views of Porter R. Chandler

The first sentence of the Committee report says:

"The widespread and pervasive laws and practices which discriminate against women are not only irrational. but also directly and seriously injurious to a substantial part of our society."

This might have been true in 1772. It might have been partially true in 1872. But as of 1972 it seems to me to be a wild exaggeration. Many of the examples given in the report (e.g. laws forbidding women in a few states to work in mines or as bartenders, or exluding them from the dubious honor of being drafted into the armed forces) seem rather far-fetched, if not ridiculous.

Nor as I convinced that the far-reaching and shot-gun type of remedy proposed—a Constitutional amendment—is either necessary or appropriate. Such abuses as may exist are susceptible to correction either through legislative channels or through the existing Equal Protection Clause of the Fourteenth Amendment. The report dismisses these alternatives by saying in effect that they would take too long.

The broad reach of the proposed Constitutional amendment, as interpreted by the authors of the Committee report, can best be realized by a careful reading of the section of the report headed "The Military." The report unequivocally states that one of its purposes is to ensure that women be not only permitted but required to be treated on an exact parity with men for all purposes of military service. If men are drafted for combat duty in the infantry, or as truck drivers, women must be similarly drafted. If men are assignable to the boiler room of a destroyer, women must be similarly assignable. Somewhat grudgingly, the report concedes that "separate quarters for men and women would be provided under the constitutional right of privacy, even though this may involve building more toilet and sleeping facilities." How this is to be accomplished without rebuilding all our destroyers, or whether segregated pup tents and foxholes for the infantry will be constitutionally mandated, are not elucidated in the report.

I respectfully dissent and recommend that the Committee report be rejected. In this connection I note that the Committee on Federal Legislation of this Association has submitted a report adverse to the proposed Constitutional Amendment.

SOVIET STRATEGIC WEAPONS BUILDUP

Mr. FULBRIGHT. Mr. President, each year about this time, for as long as I can remember, the Senate along with the rest of the country has been afflicted with disclosures about new strategic threats which have, or will soon have materialized. This year the situation is both similar and different. It is similar in that we hear the traditional refrain of Soviet strategic weapons buildup. We are told as always that the buildup has exceeded all expectations. We are told that we are falling behind.

These statements are, of course, questionable. Just to give one example, the defense posture statement shows that U.S. "total offensive force loadings" have gone—or will go—up from 4,700 to 5,700 from November 1, 1971, to mid-1972. Meanwhile, Soviet force loadings have risen only from 2,100 to 2,500. Thus, as the posture statement itself indicates, we are adding 1,000 weapons and they only 400.

At this time of year it may be appropriate to stop and see what became of some old threats. I wonder if my colleagues remember the Soviet multiple warheads, the threat which was used to frighten us into approving the ABM? On page 56 of the defense posture statement we learn that the Soviet Union has not even had a test of an MRV warhead—that is, multiple warheads without independent guidance since late 1970—more than a year ago. We began to flight test independently guided reentry vehicles in August 1968, and deployed them about 2 years later. In other words, we now find that we are more than 3 years ahead in MIRV technology.

The new aspect of this year's posture statement is that we are being asked to invent new weapons systems for international political purposes. This is, of course, a logical extension of the bargaining chip argument, and it represents a dangerous and expensive trend in defense planning. The initial billion dollar installment proposed for a ULMS submarine system which could ultimately cost $30 billion is a good illustration.

The posture statement does not make a serious case that our Polaris submarines are threatened. The case for a new sea-based missile force is based simply on the need to show the Soviet Union that we too can spend money on sea-based systems, if they are unwilling to halt building submarines. The defense posture statement explains ULMS this way:

> The continuing Soviet strategic offensive force buildup, with its long-term implications, convinced us that we need to undertake a major new strategic initiative. This step must signal to the Soviets and our allies that we have the will and the resources to maintain sufficient strategic forces in the face of a growing Soviet threat.

Secretary Laird went on to say that he had "carefully reviewed all alternatives for new strategic initiative" and had chosen ULMS since it had the "best long-term prospect" for survivability.

This is an unusual approach to military analysis. We decide that we need to signal the Soviet Union politically with some strategic initiative. So we look around for some weapon systems that seem likely to survive. While I am no expert on such matters, I would have thought that our military planners first looked to find some military vulnerability in our defenses and then proposed military systems to protect them.

This kind of "political signaling" with strategic military systems does not seem to make sense militarily, and it is certainly inconsistent with our stated objectives at SALT and with our supposed entry into an era of negotiations rather than confrontations. So many of our actions are at variance with the objective of coming to a political settlement with the U.S.S.R.—we increase ULMS, we go ahead with a B-1 bomber, we stall entering into MBFR negotiations, we expand U.S. bases in Greece, we take the first step toward arms races in the Indian Ocean and the Persian Gulf, and Radio Free Europe continues undisturbed.

Even more startling is the Secretary of Defense's attitude toward China, which is hardly consistent with normalization of relations. The flimsy anti-Chinese rationalizations for continuing deployment of Safeguard is repeated, and the irrational fear of a Chinese strategic "threat" to this country is raised, entirely oblivious of the political realities of the relations between the two countries.

America should buy military weapons for military purposes. If weapons are to be built for political purposes, perhaps they should be reviewed by the Foreign Relations Committee, as well as the Armed Services Committee.

The ABM bargaining chip has already cost several billion dollars—for what? The time has come to buy only what we need. Our problem is to keep our own deterrent strong and to meet the needs of our own people here at home, not to match the waste of the Soviets in whatever ways they choose to waste. We will always be ahead in some ways, and they in others. We ought not let the traditional alarums of the appropriations season cloud our perception of these basic considerations.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The PRESIDING OFFICER. Under the previous order the Chair lays before the Senate for its consideration the unfinished business which will be stated.

The assistant legislative clerk read as follows:

> Calendar No. 412, S. 2515, a bill to further promote equal employment opportunities for American workers.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question before the Senate is amendment No. 809 to S. 2515.

CLOTURE MOTION

Mr. WILLIAMS. Mr. President, on behalf of myself and 50 other Senators I will in a moment offer a motion pursuant to rule XXII to invoke cloture on S. 2515 that is presently the pending business in this body. The leadership on both sides supports this motion. A constitutional majority of the Senate signed the motion.

We are now in the fifth week of debate on this measure. We have had more than

30 rollcall votes on amendments to this bill. We debated the enforcement procedure for 4 weeks and finally resolved that issue on Tuesday last.

I think that it is clear from the desultory tone of the debates since last Tuesday that the Senate is merely marking time until we can bring an end to debate on this bill. I know that a large majority of the Senate wants this bill passed.

This motion for cloture will be voted on next Tuesday afternoon. I believe that it is incumbent upon each and every one of the Members of the Senate who believes in the cause of equal employment opportunity to be present and to vote on this measure. It will be, I hope, a historic demonstration to our minorities and women that effective assistance can be provided to end job discrimination in our society.

Mr. President, this issue has been fully and completely debated. I urge all of my colleagues to join with me on Tuesday to end this debate and pass S. 2515.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WILLIAMS. I am happy to yield.

Mr. JAVITS. Mr. President, the Senator from New Jersey (Mr. Williams) and I are presenting this cloture motion to the Senate with the feeling that every conceivable area in respect of this measure has now been explored. The amendments have been dealt with in substance, not once but more than once in most instances, and the time has now come to vote. If our constitutional system cannot under these circumstances gear itself up to acting instead of talking further then, indeed, we are in some constitutional crisis.

Also, Mr. President, we have gone very far in the number of Senators who have signed the cloture motion. Only 16 Senators are required for a cloture motion. Designedly the Senator from New Jersey and I set out to get 51 signatures of Senators, a constitutional majority.

I know I express our joint gratitude to all who joined with us because we wanted to demonstrate how conclusively is this sentiment on the part of the Senate, the constitutional majority, that the time has come to vote.

Even now no amendment will be cut off. Any amendment at the desk would be qualified by a suitable unanimous consent up to the vote, and thereafter Members will have an opportunity to have amendments voted on, every Member having an hour.

I regret the form the bill has now, but nonetheless it is the will of the Senate and if we wish the will of the Senate to be expressed in voting on this matter we must be willing to accept it after full and fair debate, as it is. I am fully cognizant of that and on other occasions I have defended vigorously the will of the Senate in conference, even though I might have voted the other way. I have no doubt that the Senator from New Jersey (Mr. Williams) feels the same way I do.

I do not use this expression in any invidious sense, but I wish to say that we accept the watering down of the enforcement power. We did it in the broader interest of getting a bill to deal with the worst of all discrimination, denial of jobs or the opportunity for jobs on the grounds of race, religion, color, national origin, or sex.

We are satisfied there is a measurable improvement over what we have had up to now and that it will result in materially cutting down the backlog of equal employment opportunity cases and giving a much better opportunity to protect constitutional guarantees.

This cloture motion contains the highest number of signers in any civil rights bill. There was a measure in 1926 that had more signers that involved a branch banking bill, but this is the largest number of signers on a bill involving civil rights.

I join the Senator from New Jersey in expressing great satisfaction in working with him in an extremely difficult debate. I doubt any more difficult matter has been carried out in this Chamber.

Mr. WILLIAMS. The feeling is certainly mutual in that respect.

Mr. President, I submit the cloture motion under rule XXII of the Standing Rules of the Senate to bring to a close debate on S. 2515.

The PRESIDING OFFICER (Mr. Chiles). The cloture motion having been requested under rule XXII, the Chair, without objection, directs the clerk to state the motion.

The assistant legislative clerk read the cloture motion, as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 2515), a bill to further promote equal employment opportunities for American workers.

1. Mike Mansfield
2. Robert Griffin
3. Robert C. Byrd
4. Abraham Ribicoff.
5. Thomas J. McIntyre
6. Jennings Randolph
7. Harold E. Hughes
8. Gaylord Nelson
9. Thomas F. Eagleton
10. Adlai Stevenson
11. Walter F. Mondale
12. Lee Metcalf
13. Frank E. Moss
14. Len B. Jordan
15. John O. Pastore
16. Robert T. Stafford
17. Mark O. Hatfield
18. Robert Taft, Jr.
19. Harrison Williams
20. Richard S. Schweiker
21. Hugh Scott
22. Jacob K. Javits
23. J. Caleb Boggs
24. Charles H. Percy
25. James B. Pearson
26. Edward W. Brooke.
27. Gordon Allott
28. Lowell P. Weicker
29. Clifford P. Case
30. Marlow W. Cook
31. Charles McC. Mathias, Jr.
32. Robert Dole.
33. Henry Bellmon
34. Bob Packwood
35. Ted Stevens
36. J. Glenn Beall
37. Vance Hartke
38. George McGovern
39. Frank Church
40. Alan Cranston
41. Claiborne Pell
42. Daniel K. Inouye
43. John V. Tunney
44. Gale W. McGee
45. Joseph M. Montoya
46. Philip A. Hart
47. Stuart Symington
48. Lloyd Bentsen
49. William Proxmire
50. Birch Bayh
51. Fred R. Harris

Subsequently, by unanimous consent, the names of the following Senators were added to the cloture motion.

52. Lawton Chiles
53. Warren G. Magnuson

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. WILLIAMS. I am happy to yield.

Mr. BYRD of West Virginia. Mr. President, I want to take this occasion to commend the distinguished manager of the bill (Mr. Williams), the distinguished ranking minority member (Mr. Javits), as well as the distinguished senior Senator from North Carolina (Mr. Ervin), and the distinguished junior Senator from Alabama (Mr. Allen) on the diligence with which they have all given their talents and their strength to the debate and to the improvement of this major piece of legislation. I think it is a tremendous credit to those on both sides of this question and on both sides of the aisle, who have been here hour after hour, day after day, and week after week in the pursuit of a piece of legislation which would be feasible and workable, and I believe that their efforts will, at last, have been fruitful to this end.

I have marveled at the stamina and skill of the manager of the bill, as I told him yesterday in private. He has stood on this floor day after day to defend the bill and he has done a tremendously effective job. I have marveled just as much at the same kind of diligence and display of great ability on the part of the ranking minority member, the distinguished Senator from New York (Mr. Javits). These men have displayed the attributes of the finest kind of legislative team as they have worked on this legislation and fought for it, and are now on the threshold of victory, I believe, next Tuesday when the vote to invoke cloture will be had.

The manager of the bill has, at all times during the debate, displayed a thorough knowledge and easy command of the subject matter of the legislation, and his floor work has been superb and worthy of admiration and commendation.

By the same token I can say with just as great enthusiasm and sincerity that I have admired the tenacity, the persistence, the determination, and the equally great ability and dedication on the part of the Senator from North Carolina (Mr. Ervin) and the Senator from Alabama (Mr. Allen). I think that through their efforts this bill has been made a much better bill. Of course, I am speaking subjectively in this regard, and as I personally view the bill. I believe their efforts have not been dilatory or delaying tactics but have been in the interest, rather, of improving, refining, and bringing about a much improved bill—if any bill is to be enacted into law—than in their view this bill was in the beginning. Speaking for the leadership, I commend and thank all sides for their courtesy, their patience, and their fine cooperation.

I believe cloture will be invoked next Tuesday. For the first time, I have signed a cloture motion on a bill of this kind, and it is only the second time I have ever signed a cloture motion. I was the first Senator to sign this particular cloture motion, although not on the first line of the petition. I thought that the commendable efforts on the part of those who wanted to refine and improve this bill had been largely accomplished, and that the time had come to get onto other business.

While there may be some aspects of the bill that I would still like personally to see changed, I think the time has come to pass the bill and get it eventually into conference, where, if other refinements are to be worked out, it can be done there.

I think that on the whole this is a good piece of legislation. I want, therefore, once again to compliment those Members on both sides of the question through whose efforts and through whose talents the Senate will soon be able to pass a landmark piece of legislation.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. WILLIAMS. Certainly I personally want to express my gratitude for the most generous statement of the distinguished assistant majority leader which dealt with this Senator. I will say that the debate that has occupied this time in the Senate without disharmony, in a spirit of earnest cooperation on all sides, in large part was made possible by the Senator from West Virginia, whose full cooperation we have felt day in and day out. I am most grateful to him.

Before I yield to the Senator from New York, I ask unanimous consent that the distinguished present Presiding Officer of the Senate, the Senator from Florida (Mr. CHILES), be added as a cosponsor of the cloture motion.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

Mr. WILLIAMS. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, first, I, too, would like to express gratitude to the Senator for his management on the floor during this arduous debate and to thank the Senator for supporting the cloture motion. I note that this is a major policy decision for him. I thank him for his gracious references to me.

I know he would want to include in the nice things he has said—because I feel as a proponent we must be generous to those who oppose us—the Senator from Colorado (Mr. DOMINICK), even though we do not agree, who fought very hard for his amendment. I thoroughly disagree with it. We fought it just as hard as we could, but he finally prevailed in a different version. I think in giving thanks to those who have put in a lot of time and effort, he should be mentioned.

Mr. BYRD of West Virginia. Mr. President, if the Senator will yield, I want to thank the distinguished Senator for calling my attention to an inexcusable inadvertence on my part. The amendment by the Senator from Colorado (Mr. DOMINICK), I think in very great measure, improved the bill to the point of acceptability, at least from my standpoint, and certainly the Senator from Colorado should be highly commended for his perspicacity and determination and efforts which went a long way toward insuring a favorable vote on the motion to invoke cloture next Tuesday. Without that amendment's having been adopted, I personally doubt that cloture would ever have been invoked.

Mr. JAVITS. Whatever the answer may be to that, the Senator from Colorado should certainly be included among those who worked hard on this bill.

Mr. BYRD of West Virginia. Mr. President, may I ask the distinguished Senator from North Carolina if he intends to talk about the pending amendment?

Mr. ERVIN. Mr. President, I think, in view of the remarks that have been made, I can speak on the pending amendment. Then I would like to talk about the nongermane matter, simply owing to the limitation of time there will be, on the antibusing amendment. I would like to have an opportunity to present my views with respect to that.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, if ever the freedoms of American citizens are finally totally destroyed, it will be by the tyranny of a majority over a minority.

Rule XXII was undoubtedly adopted by the Senate to make it certain that a minority should have an opportunity to present, if not to the Senate, then to the Nation, its views and to suggest changes in a pending legislative proposal.

When this bill was originally presented to the Senate, it represented the most monstrous grab for power on the part of a nonelected Federal agency that this country has witnessed since George Washington took his first oath of office as President of the United States.

As the majority leader has stated on a number of occasions, the Senate, during the session thus far, has been plagued by the problem of the absenteeism of Senators. The Senator from North Carolina would like to have been absent on several occasions since the Senate reconvened to fulfill speaking engagements, but the Senator from North Carolina has the view that his primary obligation is to the Senate, and the Senator from North Carolina has canceled speaking engagements when they would tend to prevent his attendance in the Senate.

It is very difficult to present the views of a minority in respect to legislation which is backed by a pressure group. This legislation is backed by a pressure group which has tremendous political power in the Congress of the United States and, unfortunately—I say this without intending to be critical—all too many Members of Congress will listen to the requests of a pressure group for the support of legislation and fail to avail themselves of an opportunity to ascertain whether the proposed legislation contains iniquitous provisions.

If it had not been for rule XXII, this bill would undoubtedly have passed in its original form. As the Senator from West Virginia has so well stated, the bill has been, I would not say improved, but rendered much less obnoxious. For example, for years we have had an agency of the Federal Government, elected by nobody, and virtually responsible to nobody—the Office of Federal Contract Compliance in the Department of Labor—which has been practicing economic tyranny in the highest degree over American industry. This office has no jurisdiction except to see that its own concepts of fair employment practices are incorporated in contracts which have already been made subject to that condition by the departments and agencies of the Federal Government having original jurisdiction in the field covered by the contract.

I have been informed time and time again by American businessmen who sought Federal contracts that the Office of Federal Contract Compliance would not inform them in writing what it required of them in respect to employment practices; that they would have an oral conversation with the officials of the Office of Federal Contract Compliance and would then undertake to incorporate provisions in the proposed contract conforming to the views expressed to them orally by the Office of Federal Contract Compliance who would not put in writing what they required.

Mr. President, in ancient days in Rome there was an emperor named Caligula, and Caligula wrote his laws in small letters and hung them up so high on the wall that people could not read them and know what the laws were.

But as compared with the practices of the Office of Federal Contract Compliance, Caligula was a most enlightened legislator and administrator, because if a person got a ladder long enough and a magnifying glass big enough, he could have climbed up and read Caligula's laws. But one cannot read the constantly changing minds of the officials of the Office of Federal Contract Compliance in the Department of Labor. I have been told time and time again by businessmen, who had had contracts made with the respective agencies and departments having jurisdiction, that they would file what they thought were proposals conforming to the ideas of the officials of the Office of Federal Contract Compliance, based on oral conversations they had had with those officials, and that the Office of Federal Contract Compliance would never rule on the matter.

As a result of the fact that some of us were willing to stand up here and fight to protect American business from economic tyranny at the hands of nonelective officials, we did get an amendment in this bill that provides some protection to businessmen who seek contracts with the Government. Under that amendment, they have the right to go into court, for the first time, and vindicate the fact that they have offered to do all that the law requires, and their efforts to get legal protection will not be denied on the theory that they have no standing to sue, because they have no contract.

We also have in that amendment a

provision that requires the Office of Federal Contract Compliance to accept or reject within a reasonable time the proposal of a businessman seeking a contract with the Government, and depriving it of the power to reject or annul proposals dealing with employment practices, which it had previously made a habit of annulling.

So as a result of our fight, we have an amendment that, to a limited degree, will prevent the rampant economic tyranny which the Office of Federal Contract Compliance of the Department of Labor has been practicing upon American industries which are dependent for their success upon Government contracts.

When this bill originally came before this body, it constituted a rank prostitution of the judicial process. It provided expressly that the EEOC should investigate complaints, should prefer charges, should prosecute charges, and should have the judicial duty to pass on the validity of the charges which it itself made and prosecuted. To be perfectly frank, that is bastardizing due process of law, and flies right in the face of the ancient principle of the common law that no man shall be a judge in his own case. It took about five rollcall votes to take that awesome and tyrannous power away from the EEOC, but we did it.

Mr. President, I ask unanimous consent that I may yield briefly to the distinguished Senator from Washington (Mr. MAGNUSON), with the understanding that I shall not lose my right to the floor by so doing, and with the further understanding that any remarks he may make will be printed in the RECORD immediately after I cease to talk.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that my signature may be added to the cloture motion.

The PRESIDING OFFICER. Without objection, the Senator will be permitted to sign the motion.

Mr. MAGNUSON. I thank the Chair.

Mr. ERVIN. So, Mr. President, there was another rank prostitution of the judicial process removed from this bill as a result of our fight. The bill as reported not only combined the powers of investigator, prosecutor, and judge in the agency, but it also made it impossible for anyone to go into court to seek redress for injustices perpetrated by the agency, to obtain relief in the courts. I say that because it provided, in its original form, that the findings of fact of the Commission would be binding upon the courts if they were supported by what is called "substantial evidence," which the courts have defined as anything more than a scintilla of evidence, and which is far less than the measure of evidence required for a factual finding in any of the courts of law or equity.

In other words, what that meant, in plain English, was that the findings of fact of the Commission would have to be accepted by the judges in the Federal courts, even though the judges in the Federal courts believed that the findings of fact of the Commission were probably not true on the basis of the evidence taken before the Commission.

As a result of about five separate rollcall votes and many days of debate, some Senators, who on the first votes apparently had no concept of what a rank prostitution of the judicial process this bill was, joined those of us who were opposed to making the agency a judge in its own case, and we adopted the Dominick amendment, which frees Americans involved in controversies with the EEOC from having the EEOC be the prosecutor, the judge, and I might add the executioner. Now they are assured of being able to get a hearing according to the rules of procedure and evidence by which the rights of all other persons are judged in the courts of our land, and before impartial judges rather than biased crusaders.

We have been impliedly criticized for taking advantage of the Senate rules giving us the right to debate. But it was only yesterday that we were able to secure the adoption of an amendment which makes it certain that the elected officials of States and political subdivisions of States could not be denied their offices, to which they were chosen by the people, by the EEOC. I assert, without fear of successful contradiction, that this bill in its original form would have empowered the EEOC to have denied public office to men and women, elected by the people, on account of the subjective judgment—not the objective judgment—of the EEOC; people who have been elected by the electorate, because they prefer a person of the race, religion, national origin, or sex of the people who have been chosen for public office. I know of no measure that would have come nearer to destroying the federal system of government.

We still have an amendment, which has not yet been voted upon, which would take the political hands of Caesar off religious institutions and permit those religious institutions to hire people of their own religious persuasion rather than to have people selected by the EEOC. To my mind, no more tyrannous proposal has ever been made in the Senate than the proposal that the EEOC could compel a Christian denomination to employ an atheist or an agnostic in preference to a Christian. I hope that that amendment will be adopted on Monday.

Mr. President, the American people are very solicitous about the rights of minorities. They are so solicitous about the rights of minorities that they have come to the conclusion that the rights of the minorities should be made superior to the rights of majorities and that the rights of majorities should be subordinated to the rights of the minorities. That is precisely what underlies this bill.

I happen to believe that in a free society, any individual has an inherent right—and should have a legal right—when he invests his resources or his talents in a private business enterprise, to select for himself the employees whom he deems are most likely to enable him to make his private enterprise a success rather than a failure. This bill in its original form conferred upon the EEOC jurisdiction over all the educational institutions of the country in respect to their hiring practices and gave the EEOC the power to determine who is competent to teach such abstruse subjects as anthropology, philosophy, chemistry, and physics. There never has been a man on the EEOC and never will be a man on the EEOC who has sufficient competency to pass upon these questions. Yet, we subject the right of institutions of learning to select the persons they think most capable of instructing the youth of our Nation to the nomination of EEOC.

I have no apology to make to anyone for resisting this bill. I am proud of the fact that, as a result of the amendments thus far made, the American people are going to be a little freer for at least a reasonable time in the future than they would have been if this bill in its original form had been foisted upon them by Congress.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. BYRD of West Virginia. Mr. President, not only does the Senator need have no apologies; he also can take great pride in the fact that he has stood steadfast and supported the Constitution, as he reads it and so well understands it.

There are those in this country who are so blinded by their own preachments with respect to intolerance that they are not tolerant themselves. There are those who in their zeal to fight age-old prejudices have eyes which cannot see and ears which cannot hear. Yet, the Senator from North Carolina, in his supreme dedication to the Constitution of the United States, is always willing to stand in the midst of the storm and speak out against the passions of the moment which threaten to sweep over all opposition to the maintenance of constitutional principles dedicated to the preservation of liberty for the majority as well as the minority.

The Senator is to be commended. I need not say that he is highly respected by every Member of the Senate. Whether Senators agree or disagree with the distinguished senior Senator from North Carolina on a given issue and at a given time, every Member of this body accords to the Senator from North Carolina the highest respect, in the knowledge that the Senator from North Carolina deserves that respect and has proved himself worthy of the high regard that his colleagues hold for him.

The Senator from North Carolina has rendered great service to his country; to the Constitution of the United States in the way he always reveres it and seeks to uphold and defend it; and to the Senate. He has made me all the more proud of the Senate as an institution where controversial matters can be discussed and where they can be molded and shaped on the anvil of argument and debate.

I am all the more thankful that we do have rules in the Senate, developed through decades of experience, which assure that even a minority in the Senate can speak its viewpoint and can be effective in improving the legislation we enact into law.

I salute the able Senator for his ability, his dedication, and his courage.

Mr. ERVIN. Mr. President, I express my deep gratitude to the distinguished Senator from West Virginia for his most generous remarks. There is no one in the Senate for whom I entertain more affection and more admiration than the Senator from West Virginia.

ORDER OF BUSINESS

Mr. ERVIN. Mr. President, I wish to talk on a nongermane matter briefly because I fear that, owing to a limitation agreement with respect to the higher education bill, I may not have an adequate opportunity to present my views at that time.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, under the circumstances, the Pastore rule with respect to germaneness be considered as having run its course for today and that there be a resumption of the period for the transaction of routine morning business, with statements therein limited to 15 minutes, with the exception of the statement which the distinguished Senator from North Carolina (Mr. ERVIN) is about to make; and I ask unanimous consent further that there be a limitation on that statement of 30 minutes.

The PRESIDING OFFICER (Mr. CHILES). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ERVIN. I thank the distinguished Senator from West Virginia.

HIGHER EDUCATION

Mr. ERVIN. Mr. President, on behalf of Mr. BAKER, Mr. BENNETT, Mr. BROCK, Mr. BYRD of Virginia, Mr. EASTLAND, Mr. ELLENDER, Mr. GAMBRELL, Mr. GURNEY, Mr. HOLLINGS, Mr. JORDAN of North Carolina, Mr. LONG, Mr. MCCLELLAN, Mr. SPARKMAN, Mr. STENNIS, Mr. TALMADGE, Mr. THURMOND, Mr. TOWER, and myself, I have sent to the desk today for printing an amendment which we will propose at the appropriate time to the committee amendment offered as a substitute for the House amendment to S. 659, a bill to amend the Higher Education Act of 1965 and the Vocational Act of 1963 and related acts, and for other purposes.

This amendment, if adopted, would add a new title to the committee amendment prohibiting the transportation of students for purposes of racial integration and protecting the rights of students to attend their neighborhood schools.

It consists of three sections:

The first section provides that no court, department, agency, or office of the United States shall have jurisdiction or power to alter or require by any means whatever the authorities controlling or operating any public or private school in any State, district, territory, commonwealth, or possession of the United States, to transport any student from one school to another school, or from one school district to another school district, or from one place to another place, to alter the racial composition of the student body at any school.

The second section of the amendment, if adopted, would provide that no court, department, agency, or office of the United States shall have jurisdiction or power to order or require by any means whatever the authorities controlling or operating any public or private school in any State, district, territory, commonwealth, or possession of the United States, to deny any student admission to a public or private school nearest his home which is operated by such authorities for the education of students of his age and ability.

The first section would provide, if the amendment is adopted, that if any provision of this title or application thereof to any person or circumstances is held invalid, the remaining provisions of this title or application of such provisions to other persons or circumstances shall not be affected thereby.

The third section is the standard separability clause.

Mr. President, this bill is perfectly constitutional. Congress has complete power, under article III of the Constitution, to regulate the appellate jurisdiction of the Supreme Court and to regulate all of the jurisdictions of all courts inferior to the Supreme Court—that is, the U.S. courts of appeal and the U.S. district courts.

The men who drafted our Constitution recognized that all human beings are fallible and that no man or set of men can be safely trusted with unlimited governmental power, so they put checks and balances into the Constitution to guard the people of this Nation against improper and unconstitutional conduct or unwise conduct on the part of any of their officials whether those officials are Members of Congress, the President of the United States, or members of the courts.

For example, the Constitution makes the President the Commander in Chief of the Armed Forces, but to keep him from using that power to establish a dictatorship, it gives Congress the power of the purse and even limits the power of Congress to provide appropriations for the support of the Armed Forces to a limited period of time.

The Constitution gives Congress all the legislative powers of the Federal Government, but to keep Congress from abusing its legislative power, it gives the President the power to veto an act of Congress. Unless that veto is overridden by two-thirds majority of both Houses of Congress, that act will not become law.

The men who wrote the Constitution knew that Supreme Court Justices are no more angels than Members of Congress or Presidents, so they wrote the third article of the Constitution in such a way as to give Congress the power to prevent the courts, including the Supreme Court and courts inferior to the Supreme Court, from going on a constitutional binge.

Mr. President, I invite the attention of the Senate to the third article of the Constitution. It is fortunate that the men who drew up the Constitution wrote this third article in such a way, because otherwise we would be under the autocratic power of Federal judges.

Federal judges are nearer to monarchs than any other officials in this Nation. They are given office for life. They are given a compensation which cannot be decreased during their continuance in office. There is no power on earth which can keep them within the limits of their constitutional power except Congress, by regulating their jurisdiction.

Section 1 of article 3 of the Constitution states in part:

> The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.

Section 2 of article 3 states in part:

> In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the Supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

Under the first provision which I have just read, Congress was given the discretionary power to establish Federal courts inferior to the Supreme Court. It could have refused to have done so and left everyone to seek his legal remedies in the courts of the States. But it had been held in multitudes of cases that under this provision of the Constitution, Congress can limit the jurisdiction of all of the Federal courts inferior to the Supreme Court which it has established.

Mr. President, this is a power that Congress has not been niggardly in establishing. This very bill contained a provision in its original form that the EEOC could make a decision in respect to certain matters and that that decision could not be reviewable anywhere. This was nothing but a curtailment of the jurisdiction of the Federal court.

Every Member of the Congress has voted for bills to deny jurisdiction to Federal courts. When they passed the Civil Rights Act of 1965, Congress provided that certain certificates of the Bureau of the Census and of the Attorney General would be binding on everyone in this country and could not be subject to judicial review. Also, when they passed that law, Congress nailed shut the door of every courthouse in this Nation except one—the courthouse here in the District of Columbia.

We have a provision in the Constitution that Congress can give the Federal courts jurisdiction of cases where a diversity of citizenship exists between the litigants. And Congress could have provided that the courts have jurisdiction in those cases and in cases arising under the Constitution and laws of the United States generally, no matter how small the value of the matter in dispute might be. However, Congress passed a law that ordinarily said the courts will not have jurisdiction in these cases unless the matter in dispute exceeds the value of $10,000. That is nothing more or less than limiting the jurisdiction of the Federal courts.

A few years ago we had in this country what was called government by injunction in the field of labor controversies. Federal judges issued injunctions on all kinds of labor controversies and then placed in jail, under the contempt power, men who violated the provisions of those injunctions, which were nothing more or less than manmade law.

Congress passed the Norris-LaGuardia Act to prevent this kind of abuse of judicial authority by the Federal courts in providing under that act that Federal courts would not ordinarily have the power to issue any injunction whatever in a labor controversy.

Mr. President, that stripped the Federal courts of the major part of their equitable jurisdiction in those cases, because the most outstanding power that a court of equity has is to issue injunctions.

Congress did that because the Federal courts, by the injunctive process, were practicing tyranny upon the Americans who labor for their livelihood in American industries.

There is another group of Americans who are now entitled to protection against the abuses of Federal power, and they are the little children of America of all races. And I respectfully submit that no greater tyranny has ever been practiced upon any segment of the American population than the tyranny practiced upon the Chinese children of San Francisco who were denied the right to attend their neighborhood schools and were ordered to be bused to schools elsewhere for the peculiar purpose of integrating the bodies of the children of different races rather than enlightening their minds.

Within the last few weeks we have seen an exhibition of an unmitigated and intemperate kind of judicial tyranny. Judge Robert Merhige of the Federal district court in Richmond, Va., issued an order which struck down, for the purposes of school administration, the boundaries of three independent, political subdivisions of the State of Virginia—which had been legally, constitutionally created by the State of Virginia—and denied, according to some reports, as many as 87,000 schoolchildren residing in those three political subdivisions the right to attend their neighborhood schools and ordered them to be bused to and fro over that area for the purpose of integrating their bodies rather than enlightening their minds.

If press reports be true, the judge who visited this unspeakable judicial tyranny upon approximately 87,000 black and white schoolchildren had taken particular pains to make certain that his own children would not be subjected to any such judicial tyranny by sending his own children to private schools. Thus, he added the vice of judicial hypocrisy to the sin of judicial tyranny.

Those children are entitled to protection against such arbitrary judicial action.

All of these judicial tyrannies are being practiced on the basis—so their authors say—of the equal protection clause of the 14th amendment. The equal protection clause is very short. It says in substance that no State shall deny to any person within its jurisdiction the equal protection of the laws.

I read press reports where a Federal judge wrote an opinion 300 pages long to explain what these few words meant. I think that any judge that would take 300 pages to explain what these few words mean does not understand what these few words mean.

The meaning of these words is very simple. These words forbid a State to treat in a different manner persons similarly situated. And I say that oceans of judicial sophistry cannot wash out the plain truth that when a Federal court compels a school board to deny schoolchildren the right to attend their neighborhood schools and compels the transportation of children to integrated schools, it requires a school board to violate the equal protection clause. This is true for two reasons. When a Federal judge enters an order of that kind he compels the school board to divide the children in a geographic zone or district into two classes. He says that the school board may permit one of those classes to attend the neighborhood schools, but must deny the other class of children the right to attend their neighborhood schools. That is a clear violation of the equal protection clause because the order of the district judge in a case of that kind requires the school board to treat in a different manner children similarly situated.

Then, such an order of a Federal district judge violates the equal protection clause in a second way. When he denied the right to attend neighborhood schools and compelled them to be bused elsewhere in order to either decrease the number of children of their race in the neighborhood schools or increase the number of children of their race in the schools elsewhere, he denied the children who are bused the right to attend their neighborhood schools on account of their race.

That constitutes a direct violation of the equal protection clause as interpreted in Brown against Board of Education of Topeka, where the court declared that the equal protection clause forbids a school board from denying any child admission to any school on account of the child's race. Yet we have decisions which sustain this violation of the equal protection clause and which lay down the principle that where a school board violates the equal protection clause by failing to ignore race in assigning students to schools, a Federal judge can compel it by decree to continue to violate the equal protection clause in a more massive manner by assigning virtually all the children within its jurisdiction to schools solely on the basis of race.

Mr. President, I wish to read again the first part of section 2 of article III. This section states the kinds of cases that Congress can place within the jurisdiction of the Federal courts. Section 2 of article III states:

> In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

Mr. President, that makes it as plain as the noonday sun in a cloudless sky that the Congress of the United States can regulate and except from appellate jurisdiction of the Supreme Court any of the cases enumerated, except those falling within the original jurisdiction of the court. There is no question about that.

Some people try to pretend, because they do not like that provision, that it does not mean what it states, but the Supreme Court has held many times that it does mean what it says.

During Reconstruction days, while the Reconstruction Act was in effect, all of the Southern States except Tennessee were garrisoned by Federal troops. The acts provided that the military commander could have civilians tried by military commissions rather than by civilian courts. That was attempted in a State outside the South, Indiana, where a civilian who had no connection with the Army was tried, convicted, and sentenced to death by a military commission.

Fortunately, that man had one of the greatest lawyers this Nation has ever known as his counsel, Jeremiah Black, who carried his case to the Supreme Court. The case was Ex parte Milligan. The Supreme Court held in that case that the Constitution did not permit a military commission to try a civilian, and that the civilian was entitled to his constitutional right to be indicated by a grand jury if he was to be tried for a felony, before being placed on trial, and his constitutional right to be tried by a petit jury before he could be convicted. That decision is the most courageous and most intelligent decision the Supreme Court has ever handed down.

A few years later, when Mississippi was under military occupation, they had a courageous editor of a newspaper named McCardle. McCardle simply exercised the right to freedom of the press as guaranteed to him by the first amendment. He criticized the military occupation of his State. He was arrested by the military authorities and the military authorities undertook to try him before a military commission rather than in a civilian court, despite the decision that had been handed just a year or so prior in Ex parte Milligan. So there was a statute that gave the Supreme Court appellate jurisdiction, for application for writs of habeas corpus where the writ was denied.

McCardle applied to the local Federal court in Mississippi for a writ of habeas corpus alleging, and alleging quite correctly, that he was being prosecuted for exercising the right of freedom of the press guaranteed to him by the first amendment and also for being held by authorities that had no power to hold him; that is, military authorities, for trial before a commission that had no power to try him, that is, a military commission.

The local Federal court sitting in Mississippi conducted a hearing and denied McCardle his freedom and McCardle appealed to the Supreme Court.

The intemperate—and I use that word

advisedly—radicals who then dominated the Congress suffered what we in North Carolina call a "conniption fit" when McCardle proceeded under the rights which Ex parte Milligan gave him. So the first thing they had the Department of Justice do was to go into the Supreme Court and make a motion to dismiss the appeal from the circuit court from the District of Mississippi which had denied McCardle his freedom. McCardle was also represented in this case by the same Jeremiah Black who had represented Milligan. Well, the Supreme Court, quite rightly, denied the Government's motion.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ERVIN. Mr. President, I ask unanimous consent that I may have 10 minutes more.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I shall not read this opinion on the motion to dismiss the appeal from the circuit court from the District of Mississippi because the ruling is well stated in the headnote, which says "Under the Act of February 5, 1867 (14 Stat. at Large, 385), to amend the Judiciary Act of 1789, an appeal lies to this court on judgments in habeas corpus cases rendered by Circuit Courts in the exercise of original jurisdiction." So the court refused to grant the motion of the Government dismissing the appeal. They only had power under the Act of Congress to entertain the appeal.

I ask unanimous consent that a copy of the ruling of the Supreme Court on the motion to dismiss McCardle's appeal be printed at this point in the body of the RECORD.

There being no objection, the ruling was ordered to be printed in the RECORD, as follows:

EX PARTE MCCARDLE.

(MOTION).

Under the act of February 5th, 1867 (14 Stat. at Large, 385), to amend the Judiciary Act of 1789, an appeal lies to this court on judgments in *habeas corpus* cases rendered by Circuit Courts in the exercise of original jurisdiction.

MOTION to dismiss an appeal from the Circuit Court for the District of Mississippi; the case being thus:

Statement of the case

The Judiciary Act of 1789,[1] enacts:

"That either of the justices of the Supreme Court as well as judges of the District Courts, shall have power to grant writs of *habeas corpus*, for the purpose of an inquiry into the cause of commitment; *Provided,* That writs of *habeas corpus*, shall in no case extend to prisoners in jail, unless where they are in custody under or by color of the authority of the United States, or are committed for trial before some court of the same, or are necessary to be brought into court to testify."

A subsequent act, one of February 5th, 1867,[2] to amend the Judiciary Act of 1789, enacts:

"SEC. 1. That the several courts of the United States, and the several justices and judges of such courts, within their respective jurisdiction, *in addition to the authority already conferred by law*, shall have power to grant writs of *habeas corpus* in all cases where any person may be restrained of his or her liberty in violation of the Constitution, or of any treaty or law of the United States."

After providing for the awarding, direction, serving and return of the writ, and for the hearing, &c., the act proceeds:

"From the final decision of any judge, justice, or court *inferior to the Circuit Court*, appeal may be taken *to the Circuit Court* of the United States for the district in which said cause is heard, and *from the judgment of said Circuit Court to the Supreme Court of the United States.*"

"And pending such proceedings or appeal, and until final judgment be rendered therein, and after final judgment of discharge in the same, any proceeding against such person so alleged to be restrained of his or her liberty in any *State* court, or under the authority of any *State*, for any matter or thing so heard and determined, or in process of being heard and determined, under and by virtue of such writ of *habeas corpus*, shall be deemed null and void."

The act further declares:

"SEC. 2. . . . This act shall not apply to any person who is or may be held in the custody of the military authorities of the United States, charged with any military offense."

In this state of statutory law, a writ of *habeas corpus* was issued from the Circuit Court of the United States for the District of Mississippi, on the 12th of November, 1867, upon the petition of William H. McCardle, directed to Alvin C. Gillem and E. O. C. Ord, requiring them to produce the body of the petitioner, together with the cause of his imprisonment, and to abide the order of the court in respect to the legality of such imprisonment.

At the time of issuing the writ, E. O. C. Ord was brevet Major-General commanding the Fourth Military District, and Alvin C. Gillem was brevet Major-General commanding the sub-district of Mississippi, under the Reconstruction Acts of Congress.

In obedience to the writ, Major-General Gillem, on the 21st of November, made a return of the cause of imprisonment, from which it appeared that McCardle had been arrested, and was held in custody for trial by a military commission, under the alleged authority of the Reconstruction Acts, for charges, (1) of disturbance of the public peace; (2) of inciting to insurrection, disorder, and violence; (3) of libel; and (4) of impeding reconstruction.

On making this return Major-General Gillem surrendered McCardle to the court, and he was ordered into custody of the marshal.

Subsequently, on the 25th of November, 1867, the Circuit Court adjudged that the petitioner be remanded to the custody of Major-General Gillem, from which judgment the petitioner prayed an appeal to this court, which was allowed, and a bond for costs given according to the order of the court.

On the same 25th of November, on the motion of the petitioner, he was admitted to bail on his own recognizance, with sufficient sureties, in the sum of one thousand dollars, conditioned for his appearance to abide by and perform the final judgment of this court.

The legal consequence of this admission to bail was the discharge of the prisoner, both from the custody of the marshal and of Major-General Gillem, with a continuing liability, however, under the recognizance, to be returned, first to the civil court, and then to military custody, in case of affirmance by this court of the judgment of the Circuit Court.

The ground assigned for the motion to dismiss the appeal was a want of jurisdiction in this court to take cognizance of it.

Argument in support of the motion

Mr. Trumbull (with whom was Mr. Hughes), in support of the motion:

1. Unless Congress have given appellate jurisdiction to this court, it will be conceded that none can exist.[3] Under the Judiciary Act of 1789 assuredly no appeal lies, for none was given then or since.[4] Until now, eighty years since the government was formed, no such thing as an *appeal* or writ of error in a case like this has been known.

To determine whether the appeal lies, it is first necessary to ascertain whether the Circuit Court of Mississippi took jurisdiction of the case under the act of 1789, or 1867; if under the former, then, as we have said, and as will be admitted, no appeal lies.

Under the act of 1789, power was given to issue writs of *habeas corpus* for the relief of persons in custody "under or by color of the authority of the United States." McCardle was in prison exactly under such authority. Here, then, is a case coming within the very terms of the act of 1789, authorizing the issuing of the writ of *habeas corpus*, and not expected from its provisions by the proviso. Had the act of February 5th, 1867, never been passed, the Circuit Court of Mississippi had authority to issue the writ of *habeas corpus* in this case.

On the other hand the act of 1867 does not properly apply to this case. What was the purpose of that act? We all know. It is a matter of legislative, nay, of public history. It was to relieve persons from a deprivation of their liberty under State laws; to protect loyal men in the rebel States from oppression under color of State laws administered by rebel officers; to protect especially those who had formerly been slaves, and who, under color of vagrant and apprentice laws in some of the States, were being reduced to a bondage more intolerable than that from which they had been recently delivered. It was to protect such persons and for such a purpose that the law of 1867 was passed, and not to relieve any one from imprisonment under laws of the United States, a matter which had already been provided for by the act of 1789.

This is apparent from the terms of the act of 1867 itself. Observe the opening part of its first section. The sole object, as declared, is to confer *additional authority* on the United States courts and judges to issue writs of *habeas corpus;* and it would be absurd to say that a grant to the courts of what they already possessed was giving them something additional.

The concluding part of the same section is equally expressive. It is all aimed at *State* action.

2. That the Circuit Court of Mississippi had no jurisdiction of this case under the act of February 5th, 1867, is futher apparent from the second paragraph of the act.

That McCardle was in the custody of the military authorities of the United States his petition admits, and the record shows that he was charged with disturbance of the public peace, with inciting insurrection, disorder, and violence, in violation of the laws of Congress, known as the Reconstruction Acts.

The State of Mississippi, where McCardle was arrested, was at the time under military control; General Ord, was, as appears by the record, in *command* of the military district embracing Mississippi, and McCardle was arrested by him, charged with being a disturber of the public peace, and with inciting "insurrection, disorder, and violence," which was clearly a military offence. If so, this court has no jurisdiction of this case, because it gets its jurisdiction, if at all, by appeal under the act of February 5th, 1867, and that act expressly exempts from its operation persons in the custody of the military authority charged with a military offence.

3. But if it were admitted that the Circuit Court properly took jurisdiction of this case under the act of February 5th, 1867, still no appeal from its decision would be to this court, for the reason that it was an original proceeding in the Circuit Court, and no appeal is given in such cases. The jurisdiction

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Footnotes at end of article.

exists only when an appeal comes from the Circuit Court, itself acting as an appellate court, and from the decision of any judge, justice, or court, "*inferior*" to it.

The language of the statute is plain. Of Course, this being an original case in the Circuit Court, and not one taken to that court by appeal from an inferior tribunal, is not within the statute. A rule for appeals "being provided, this court cannot depart from it."

Argument in favor of jurisdiction

Messrs. Black and Sharkey, contra, contended that the statute of 1867 was a remedial one, and should therefore receive a liberal construction; that the clause which gave an appeal from the District Court to the Circuit Court, and from the Circuit Court to the Supreme Court of the United States, did not intend to confine the appeal to the Supreme Court to cases which merely commenced in the District Court, but to give the appeal to cases which commenced originally in the District or Circuit Court; that the language of the opening part of the first section was most comprehensive; that there was no reason for Congress to make the distinction between the two cases. The exception in the second section, as to persons charged with military offences, did not apply to the case, for no military offence was charged against the party. The offences charged were all civil offences. By putting the district under military rule they did not become military offences any more than they would have been ecclesiastical offences if the same district had been put under the government of a body of clergy. The offences had a specific well-known nature; and so tested, they were civil offences.

Opinion of the court

The Chief Justice delivered the opinion of the court.

The motion to dismiss the appeal has been thoroughly argued, and we are now to dispose of it.

The ground assigned for the motion is want of jurisdiction, in this court, of appeals from the judgments of inferior courts in cases of *habeas corpus.*

Whether this objection is sound or otherwise depends upon the construction of the act of 1867.

Prior to the passage of that act this court exercised appellate jurisdiction over the action of inferior courts by *habeas corpus.* In the case of *Burford*[5] this court, by *habeas corpus,* aided by a writ of *certiorari,* reviewed and reversed the judgment of the Circuit Court of the District of Columbia. In that case a prisoner brought before the Circuit Court by the writ had been remanded, but was discharged upon the *habeas corpus* issued out of this court.

By the writ of *habeas corpus* also, aided by a *certiorari,* this court, in the case of *Bollman and Swartwout,*[6] again revised a commitment of the Circuit Court of the District. The prisoners had been committed on a charge of treason by order of the Circuit Court, and on their petition this court issued the two writs, and, the prisoners having been produced, it was ordered that they should be discharged on the ground that the commitment of the Circuit Court was not warranted in law.

But, though the exercise of appellate jurisdiction over judgments of inferior tribunals was not known to the practice of this court before the act of 1867, it was attended by some inconvenience and embarrassment. It was necessary to use the writ of *certiorari* in addition to the writ of *habeas corpus,* and there was no regulated and established practice for the guidance of parties invoking the jurisdiction.

This inconvenience and embarrassment was remedied in a small class of cases arising from commitments for acts done or omitted under alleged authority of foreign governments, by the act of August 29th, 1842[7] which authorized a direct appeal from any judgment upon *habeas corpus* of a justice of this court or judge of a District Court to the Circuit Court of the proper district, and from the judgment of the Circuit Court to this court.

This provision for appeal was transferred, with some modification, from the act of 1842 to the act of 1867; and the first question we are to consider, upon the construction of that act, is whether this right of appeal extends to all cases of *habeas corpus,* or only to a particular class.

It was insisted on argument that appeals to this court are given by the act only from the judgments of the Circuit Court rendered upon appeals to that court from decisions of a single judge, or of a District Court.

The words of the act are these: "From the final decision of any judge, justice, or court inferior to the Circuit Court, an appeal may be taken to the Circuit Courts of the United States for the district in which said cause is heard, and from the judgment of said Circuit Court to the Supreme Court of the United States."

These words, considered without reference to the other provisions of the act, are not unsusceptible of the construction put upon them at the bar; but that construction can hardly be reconciled with other parts of the act.

The first section gives to the several courts of the United States, and the several justices and judges of such courts within their respective jurisdictions, in additon to the authority already conferred by law, power to grant writs of *habeas corpus* in all cases where any person may be restrained of liberty in violation of the Constitution, or of any treaty or law of the United States.

This legislation is of the most comprehensive character. It brings within the *habeas corpus* jurisdiction of every court and of every judge every possible case of privation of liberty contrary to the National Constitution, treaties, or laws. It is impossible to widen this jurisdiction.

And it is to this jurisdiction that the system of appeals is applied. From decisions of a judge or of a District Court appeals lie to the Circuit Court, and from the judgment of the Circuit Court to this court. But each Circuit Court, as well as each District Court, and each judge, may exercise the original jurisdiction; and no satisfactory reason can be assigned for giving appeals to this court from the judgments of the Circuit Court rendered on appeal, and not giving like appeals from judgments of Circuit Courts rendered in the exercise of original jurisdiction. If any class of cases was to be excluded from the right of appeal, the exclusion would naturally apply to cases brought into the Circuit Court by appeal rather than to cases originating there. In the former description of cases the petitioner for the writ, without appeal to this court, would have the advantage of at least two hearings, while in the latter, upon the hypothesis of no appeal, the petitioner could have but one.

These considerations seem to require the construction that the right of appeal attaches equally to all judgments of the Circuit Court, unless there be something in the clause defining the appellate jurisdiction which demands the restricted interpretation. The mere words of that clause may admit either, but the spirit and purpose of the law can only be satisfied by the former.

We entertain no doubt, therefore, that an appeal lies to this court from the judgment of the Circuit Court in the case before us.

Another objection to the jurisdiction of this court on appeal was drawn from the clause of the first section, which declares that the jurisdiction defined by it is "in addition to the authority already conferred by law."

This objection seems to be an objection to the jurisdiction of the Circuit Court over the cause rather than to the jurisdiction of this court on appeal.

The latter jurisdiction, as has just been shown, is coextensive with the former. Every question of substance which the Circuit Court could decide upon the return of the *habeas corpus,* including the question of its own jurisdiction, may be revised here on appeal from its final judgment.

But an inquiry on this motion into the jurisdiction of the Circuit Court would be premature. It would extend to the merits of the cause in that court; while the question before us upon this motion to dismiss must be necessarily limited to our jurisdiction on appeal.

The same observations apply to the argument of counsel that the acts of McCardle constituted a military offense, for which he might be tried under the Reconstruction Acts by military commission. This argument, if intended to convince us that the Circuit Court had no jurisdiction of the cause, applies to the main question which might arise upon the hearing of the appeal. If intended to convince us that this court has no appellate jurisdiction of the cause, it is only necessary to refer to the considerations already adduced on this point.

We are satisfied, as we have already said, that we have such jurisdiction under the act of 1867, and the motion to dismiss must therefore be

DENIED.

FOOTNOTES

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[1] § 14; 1 Stat. at Large, 82.

[2] 14 Id. 385.

[3] Wiscart *v.* Dauchy, 3 Dallas, 321; Ex parte Kearney, 7 Wheaton 38.

[4] In the matter of Metzger, 5 Howard, 188.

[5] 3 Cranch, 440, 453. See also Ex parte Dugan, 2 Wallace 134.

[6] Cranch, 75.

[7] 5 Stat. at Large, 539.

Mr. ERVIN. Having denied the motion to dismiss the appeal, the Supreme Court proceeded to hear the appeal on its merits. The appeal was argued before the Supreme Court by counsel for the Government and by counsel for McCardle, and the Supreme Court took the appeal under advisement with a view to rendering a decision in respect to the constitutional rights invoked by McCardle.

Thereupon, the radicals that controlled the Congress rushed through an act repealing the statute which the Supreme Court had held gave McCardle a right to have his appeal heard before it, and then this repealing statute was passed after the Supreme Court had heard arguments in the case and had taken the case under advisement for the purpose of writing an opinion, and before the opinion was written.

Then the Supreme Court handed down the decision in its December 1868 term, holding it could no longer pass upon the merits of McCardles' appeal because its jurisdiction to do so had been repealed by Act of Congress, and that Congress had undoubted power to define the appellate jurisdiction of the Supreme Court.

I am going to read extracts from the opinion of Chief Justice Chase in that case.

> The first question necessarily is that of jurisdiction; for, if the act of March, 1868, takes away the jurisdiction defined by the act of February, 1867, it is useless, if not improper, to enter into any discussion of other questions.

It is quite true, as was argued by the counsel for the petitioner, that the appellate jurisdiction of this court is not derived from acts of Congress. It is, strictly speaking, conferred by the Constitution. But it is conferred "with such exceptions and under such regulations as Congress shall make."

The Chief Justice then pointed out that the exception to the appellate jurisdiction in the case before it is not an inference from the affirmation of other appellate jurisdiction.

He said this:

It is made in terms. The provision of the act of 1867, affirming the appellate jurisdiction of this court in cases of habeas corpus is expressly repealed. It is hardly possible to imagine a plainer instance of positive exception.

We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words.

What, then, is the effect of the repealing act upon the case before us? We cannot doubt as to this. Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause. And this is not less clear upon authority than upon principle.

Several cases were cited by the counsel for the petitioner in support of the position that jurisdiction of this case is not affected by the repealing act. But none of them, in our judgment, afford any support to it. They are all cases of the exercise of judicial power by the legislature, or of legislative interference with courts in the exercising of continuing jurisdiction.

On the other hand, the general rule, supported by the best elementary writers, is, that "when an act of the legislature is repealed, it must be considered, except as to transactions past and closed, as if it never existed." And the effect of repealing acts upon suits under acts repealed, has been determined by the adjudications of this court. The subject was fully considered in *Norris* v. *Crocker*, and more recently in *Insurance Company* v. *Ritchie*. In both of these cases it was held that no judgment could be rendered in a suit after the repeal of the act under which it was brought and prosecuted.

It is quite clear, therefore, that this court cannot proceed to pronounce judgment in this case, for it has no longer jurisdiction of the appeal; and judicial duty is not less fitly performed by declining ungranted jurisdiction than in exercising firmly that which the Constitution and the laws confer.

Mr. President, I ask unanimous consent that the entire opinion in this case be printed at this point in the body of the Record.

There being no objection, the opinion was ordered to be printed in the Record, as follows:

Ex parte McCardle

Statement of the Case

1. The appellate jurisdiction of this court is conferred by the Constitution, and not derived from acts of Congress; but is conferred "with such exceptions, and under such regulations, as Congress may make"; and, therefore, acts of Congress affirming such jurisdiction, have always been construed as excepting from it all cases not expressly described and provided for.

2. When, therefore, Congress enacts that this court shall have appellate jurisdiction over final decisions of the Circuit Courts, in certain cases, the act operates as a negation or exception of such jurisdiction in other cases; and the repeal of the act necessarily negatives jurisdiction under it of these cases also.

3. The repeal of such an act, pending an appeal provided for by it, is not an exercise of judicial power by the legislature, no matter whether the repeal takes effect before or after argument of the appeal.

4. The act of 27th of March, 1868, repealing that provision of the act of 5th of February, 1867, to amend the Judicial Act of 1789, which authorized appeals to this court from the decisions of the Circuit Courts, in cases of *habeas corpus*, does not except from the appellate jurisdiction of this court any cases but appeals under the act of 1867. It does not affect the appellate jurisdiction which was previously exercised in cases of *habeas corpus*.

Appeal from the Circuit Court for the Southern District of Mississippi.

The case was this:

The Constitution of the United States ordains as follows:

"§ 1. The judicial power of the United States shall be vested *in one Supreme Court*, and in such inferior courts as the Congress may from time to time ordain and establish."

"§ 2. The judicial power shall extend to all cases in law or equity arising *under this Constitution, the laws of the United States*," &c.

And in these last cases the Constitution ordains that,

"The Supreme Court shall have appellate jurisdiction, both as to law and fact, *with such exceptions, and under such regulations, as the Congress shall make*."

With these constitutional provisions in existence, Congress, on the 5th February, 1867, by "An act to amend an act to establish the judicial courts of the United States, approved September 24, 1789," provided that the several courts of the United States, and the several justices and judges of such courts, within their respective jurisdiction, in addition to the authority already conferred by law, should have power to grant writs of *habeas corpus* in all cases where any person may be restrained of his or her liberty in violation of the Constitution, or of any treaty or law of the United States. And that, from the final decision of any judge, justice, or court inferior to the Circuit Court, appeal might be taken to the Circuit Court of the United States for the district in which the cause was heard, and *from the judgment of the said Circuit Court to the Supreme Court of the United States*.

This statute being in force, one McCardle, alleging unlawful restraint by military force, preferred a petition in the court below, for the writ of *habeas corpus*.

The writ was issued, and a return was made by the military commander, admitting the restraint, but denying that it was unlawful.

It appeared that the petitioner was not in the military service of the United States, but was held in custody by military authority for trial before a military commission, upon charges founded upon the libellous, in a newspaper of which he was editor. The custody was alleged to be under the authority of certain acts of Congress.

Upon the hearing, the petitioner was remanded to the military custody; but, upon his prayer, an appeal was allowed him to this court, and upon filing the usual appeal-bond, for costs, he was admitted to bail upon recognizance, with sureties, conditioned for his future appearance in the Circuit Court, to abide by and perform the final judgment of this court. The appeal was taken under the above-mentioned act of February 5, 1867.

A motion to dismiss this appeal was made at the last term, and, after argument, was denied.[1]

Subsequently, on the 2d, 3d, 4th, and 9th of March, the case was argued very thoroughly and ably upon the merits, and was taken under advisement. While it was thus held, and before conference in regard to the decision proper to be made, an act was passed by Congress,[2] returned with objections by the President, and, on the 27th March, repassed by the constitutional majority, the second section of which was as follows:

"*And be it further enacted*, That so much of the act approved February 5, 1867, entitled 'An act to amend an act to establish the judicial courts of the United States, approved September 24, 1789,' as authorized an appeal from the judgment of the Circuit Court to the Supreme Court of the United States, or the exercise of any such jurisdiction by said Supreme Court, on appeals which have been, or may hereafter be taken, be, and the same is hereby repealed."

The attention of the court was directed to this statute at the last term, but counsel having expressed a desire to be heard in argument upon its effect, and the Chief Justice being detained from his place here, by his duties in the Court of Impeachment, the cause was continued under advisement. Argument was now heard upon the effect of the repealing act.

Mr. Sharkey, for the appellant:

The prisoner alleged an illegal imprisonment. The imprisonment was justified under certain acts of Congress. The question then presents a case arising under "the laws of the United States;" and by the very words of the Constitution the judicial power of the United States extends to it. By words of the Constitution, equally plain, that judicial power is vested in one Supreme Court. This court, then, has its jurisdiction directly from the Constitution, not from Congress. The jurisdiction being vested by the Constitution alone, Congress cannot abridge or take it away. The argument which would look to Congressional legislation as a necessity to enable this court to exercise "the judicial power" (any and every judicial power), "of the United States," renders a power, expressly given by the Constitution, liable to be made of no effect by the inaction of Congress. Suppose that Congress never made any exceptions or any regulations in the matter. What, under a supposition that Congress must define when, and where, and how, the Supreme Court shall exercise it, becomes of this "judicial power of the United States," so expressly, by the Constitution, given to this court? It would cease to exist. But this court is coexistent and co-ordinate with Congress, and must be able to exercise the whole judicial power of the United States, though Congress passed no act on the subject. The Judiciary Act of 1789 has been frequently changed. Suppose it were repealed. Would the court lose, wholly or at all, the power to pass on every case to which the judicial power of the United States extended? This act of March 27th, 1868, does take away the whole appellate power of this court in cases of *habeas corpus*. Can such results be produced? We submit that they cannot, and this court, then, we further submit, may still go on and pronounce judgment on the merits, as it would have done, had not the act of 27th March been passed.

But however these general positions may be, the case may be rested on more special grounds. This case had been argued in this court, fully. Passing then from the domain of the bar, it was delivered into the sacred hands of the judges; and was in the custody of the court. For aught that was known by Congress, it was passed upon and decided by them. Then comes, on the 27th of March, this act of Congress. Its language is general, but, as was universally known, its purpose was specific. If Congress had specifically enacted 'that the Supreme Court of the United States shall never publicly give judgment in the case of McCardle, already argued, and on which we

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Footnotes at end of article.

anticipate that it will soon deliver judgment, contrary to the views of the majority in Congress, of what it ought to decide,' its purpose to interfere specifically with and prevent the judgment in this very case would not have been more real or, as a fact, more universally known.

Now, can Congress thus interfere with cases on which this high tribunal has passed, or is passing, judgment? Is not legislation like this an exercise by the Congress of judicial power? *Lanier* v. *Gallatas*[3] is much in point. There a motion was made to dismiss an appeal, because by law the return day was the 4th Monday in February, while in the case before the court the transcript had been filed before that time. On the 15th of March, and *while the case was under advisement,* the legislature passed an act making the 20th of March a return day for the case; and a motion was now made to reinstate the case and hear it. The court say:

"The case had been submitted to us before the passage of that act, and was beyond the legislative control. Our respect for the General Assembly and Executive forbids the inference that they intended to instruct this court what to do or not to do whilst passing on the legal rights of parties in a special case already under advisement. The utmost that we can suppose is," &c.

In *De Chastellux* v. *Fairchild,*[4] the legislature of Pennsylvania directed that a new trial should be granted in a case already decided. Gibson, C. J., in behalf of the court, resented the interference strongly. He said:

"It has become the duty of the court to temporize no longer. The power to order new trials is judicial. But the power of the legislature is not judicial."

In *The State* v. *Fleming,*[5] where the legislature of Tennessee directed two persons under indictment to be discharged, the Supreme Court of the State, declaring that "the legislature has no power to interfere with the administration of justice in the courts," treated the direction as void. In *Lewis* v. *Webb,*[6] the Supreme Court of Maine declare that the legislature cannot dispense with any general law in favor of a particular case.

Messrs. L. Trumbull and M. H. Carpenter, contra:

1. The Constitution gives to this court appellate jurisdiction in any case like the present one was, only with such exceptions and under such regulations as Congress makes.

2. It is clear, then, that this court had no jurisdiction of this proceeding—*an appeal from the Circuit Court*—except under the act of February 5th, 1867; and so this court held on the motion to dismiss made by us at the last term.[7]

3. The act conferring the jurisdiction having been repealed, the jurisdiction ceased; and the court had thereafter no authority to pronounce any opinion or render any judgment in this cause. No court can do any act in any case, without jurisdiction of the subject-matter. It can make no difference at what point, in the progress of a cause, the jurisdiction ceases. After it has ceased, no judicial act can be performed. In *Insurance Company* v. *Ritchie,*[8] the Chief Justice, delivering the opinion of the court, says:

"It is clear, that when the jurisdiction of a cause depends upon the statute, the repeal of the statute takes away the jurisdiction."

And in that case the repealing statute, which was passed during the pendency of the cause, was held to deprive the court of all further jurisdiction. The causes which were pending in this court against States, were all dismissed by the amendment of the Constitution denying the jurisdiction; and no further proceedings were had in those causes.[9] In *Norris* v. *Crocker,*[10] this court affirmed and acted upon the same principle; and the exhaustive argument of the present Chief Justice, then at the bar, reported in that case, and the numerous authorities there cited, render any further argument or citation of cases unnecessary.[11]

4. The assumption that the act of March, 1868, was aimed specially at this case, is gratuitous and unwarrantable. Certainly the language of the act embraces all cases in all time; and its effect is just as broad as its language.

The question of merits cannot now, therefore, be passed upon. The case must fall.

The Chief Justice delivered the opinion of the court.

The first question necessarily is that of jurisdiction; for, if the act of March, 1868, takes away the jurisdiction defined by the act of February, 1867, it is useless, if not improper, to enter into any discussion of other questions.

It is quite true, as was argued by the counsel for the petitioner, that the appellate jurisdiction of this court is not derived from acts of Congress. It is, strictly speaking, conferred by the Constitution. But it is conferred "with such exceptions and under such regulations as Congress shall make."

It is unnecessary to consider whether, if Congress had made no exceptions and no regulations, this court might not have exercised generally appellate jurisdiction under rules prescribed by itself. For among the earliest acts of the first Congress, at its first session, was the act of September 24th, 1789, to establish the judicial courts of the United States. That act provided for the organization of this court, and prescribed regulations for the exercise of its jurisdiction.

The source of that jurisdiction, and the limitations of it by the Constitution and by statute, have been on several occasions subjects of consideration here. In the case of *Durousseau* v. *The United States,*[12] particularly, the whole matter was carefully examined, and the court held, that while "the appellate powers of this court are not given by the judicial act, but are given by the Constitution," they are, nevertheless, "limited and regulated by that act, and by such other acts as have been passed on the subject." The court said, further, that the judicial act was an exercise of the power given by the Constitution to Congress "of making exceptions to the appellate jurisdiction of the Supreme Court." "They have described affirmatively," said the court, "its jurisdiction, and this affirmative description has been understood to imply a negation of the exercise of such appellate power as is not comprehended within it."

The principle that the affirmation of appellate jurisdiction implies the negation of all such jurisdiction not affirmed having been thus established, it was an almost necessary consequence that acts of Congress, providing for the exercise of jurisdiction, should come to be spoken of as acts granting jurisdiction, and not as acts making exceptions to the constitutional grant of it.

The exception to appellate jurisdiction in the case before us, however, is not an inference from the affirmation of other appellate jurisdiction. It is made in terms. The provision of the act of 1867, affirming the appellate jurisdiction of this court in cases of *habeas corpus* is expressly repealed. It is hardly possible to imagine a plainer instance of positive exception.

We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words.

What, then, is the effect of the repealing act upon the case before us? We cannot doubt as to this. Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause. And this is not less clear upon authority than upon principle.

Several cases were cited by the counsel for the petitioner in support of the position that jurisdiction of this case is not affected by the repealing act. But none of them, in our judgment, afford any support to it. They are all cases of the exercise of judicial power by the legislature, or of legislative interference with courts in the exercising of continuing jurisdiction.[13]

On the other hand, the general rule, supported by the best elementary writers,[14] is, that "when an act of the legislature is repealed, it must be considered, except as to transactions past and closed, as if it never existed." And the effect of repealing acts upon suits under acts repealed, has been determined by the adjudications of this court. The subject was fully considered in *Norris* v. *Crocker,*[15] and more recently in *Insurance Company* v. *Ritchie.*[16] In both of these cases it was held that no judgment could be rendered in a suit after the repeal of the act under which it was brought and prosecuted.

It is quite clear, therefore, that this court cannot proceed to pronounce judgment in this case, for it has no longer jurisdiction of the appeal; and judicial duty is not less fitly performed by declining ungranted jurisdiction than in exercising firmly that which the Constitution and the laws confer.

Counsel seem to have supported, if effect be given to the repealing act in question, that the whole appellate power of the court, in cases of *habeas corpus,* is denied. But this is an error. The act of 1868 does not except from that jurisdiction any cases but appeals from Circuit Courts under the act of 1867. It does not affect the jurisdiction which was previously evercised.[17]

The appeal of the petitioner in this case must be dismissed for want of jurisdtion.

FOOTNOTES

[1] See Ex parte McCardle, 6 Wallace, 318.

[2] Act of March 27, 1868, 15 Stat. at Large, 44.

[3] 13 Louisiana Annual, 175.

[4] 15 Pennsylvania State, 18.

[5] 7 Humphreys, 152.

[6] 3 Greenleaf, 326.

[7] 6 Wallace, 318.

[8] 5 Wallace, 544.

[9] Hollingsworth *v.* Virginia, 3 Dallas, 378.

[10] 13 Howard, 429.

[11] Rex. *v.* Justices of London, 3 Burrow, 1456; Yeaton *v.* United States, 5 Cranch, 281; Schooner Rachel *v.* United States, 6 Id. 329; United States *v.* Preston, 3 Peters, 57; Conn. *v.* Marshall, 11 Pickering, 350.

[12] 6 Cranch, 312; Wiscart *v.* Dauchy, 3 Dallas, 321. Vol. VII.

[13] Lanier *v.* Gallatas, 13 Louisiana Annual, 175; De Chastellux *v.* Fairchild, 15 Pennsylvania State, 18; The State *v.* Fleming, 7 Humphreys, 152; Lewis *v.* Webb, 3 Greenleaf, 326.

[14] Dwarris on Statutes, 538.

[15] 13 Howard, 429.

[16] 5 Wallace, 541.

[17] Ex parte McCardle, 6 Wallace, 324.

Mr. ERVIN. Mr. President, every Member of the Senate has in his possession a book on the Constitution of the United States, which was most recently revised, if my recollection is right, in 1963. This book annotates the Constitution and discloses the interpretation which has been placed by the Supreme Court upon the various provisions of the Constitution. It was compiled and edited by one of the greatest constitutional scholars America has ever known, Edward S. Corwin, of Princeton University, and it discusses this question beginning on page 696 and ending on page 705. I would commend to every Senator the reading of those pages from the book.

Professor Corwin states quite correctly that under section 1 of article 3 of the Constitution, Congress has complete power over the jurisdiction of the Federal courts inferior to the Supreme Court, can abolish those courts if it sees fit, and can curtail the jurisdiction of those courts as it pleases. He also makes it clear that Congress has plenary power to control the appellate jurisdiction of the Supreme Court.

There are multitudes of cases which sustain both of these propositions. I shall not detain the Senate to read what Professor Corwin says on this subject or to cite the innumerable cases which sustain the proposition that Congress has absolute control over the jurisdiction of all Federal courts inferior to the Supreme Court, and has complete jurisdiction to prescribe exceptions and regulations governing the appellate jurisdiction of the Supreme Court itself. Consequently, Congress can take away appellate jurisdiction from the Supreme Court, as it did in the McCardle case.

Mr. President, I ask unanimous consent that the pages from the book on the Constitution which I have mentioned be printed in the Record at htis point.

There being no objection, the pages were ordered to be printed in the Record, as follows:

* * * * *

THE ORIGINAL JURISDICTION OF THE SUPREME COURT

An autonomous jurisdiction

Acting on the assumption that its existence is derived directly from the Constitution, the Supreme Court has held since 1792 that its original jurisdiction flows directly from the Constitution and is therefore self-executing without further action by the Congress. In the famous case of Chisholm *v.* Georgia,[16] the Supreme Court entertained an action of assumpsit against Georgia by a citizen of another State. Although the 13th section of the Judiciary Act of 1789 invested the Supreme Court with original jurisdiction in suits between a State and citizens of another State, it did not authorize actions of assumpsit in such cases, nor did it prescribe forms of process for the Court in the exercise of original jurisdiction. Over the dissent of Justice Iredell, the Court in opinions by Chief Justice Jay and Justices Blair, Wilson, and Cushing, sustained its jurisdiction and its power, in the absence of congressional enactments, to provide forms of process and rules of procedure. So strong were the States' rights sentiments of the times that Georgia refused to appear as a party litigant, and other States were so disturbed that the Eleventh Amendment was proposed forthwith and ratified. This amendment, however, did not affect the direct flow of original jurisdiction to the Court, which continued to take jurisdiction of cases to which a State was party plaintiff and of suits between States without specific provision by Congress for forms of process. By 1861 Chief Justice Taney could enunciate with confidence, after review of the precedents, that in all cases where original jurisdiction is given by the Constitution, the Supreme Court has authority "to exercise it without further act of Congress to regulate its powers or confer jurisdiction, and that the Court may regulate and mould the process it uses in such manner as in its judgment will best promote the purposes of justice." [17]

Cannot be enlarged: Marbury v. Madison

Since the original jurisdiction is derived directly from the Constitution, it follows logically that Congress can neither restrict it nor, as was held in the great case of Marbury *v.* Madison,[18] enlarge it. In holding void the 13th section of the Judiciary Act of 1789, which was interpreted as giving the Court power to issue a writ of mandamus in an original proceeding, Chief Justice Marshall declared that "a negative or exclusive sense" had to be given to the affirmative enunciation of the cases to which original jurisdiction extends.[19] While the rule that the Supreme Court is vested with original jurisdiction by the Constitution and that this jurisdiction cannot be extended or restricted deprives Congress of any power to define it, it allows a considerable latitude of interpretation to the Court itself. In some cases, as in Missouri *v.* Holland,[20] the Court has manifested a tendency toward a liberal construction of original jurisdiction; in others, as in Massachusetts *v.* Mellon,[21] it has placed a narrow construction upon the grant through the device of a restrictive interpretation of cases and controversies; and in still other cases, as in California *v.* Southern Pacific Co.,[22] it has stated that its original jurisdiction "is limited and manifestly to be sparingly exercised, and should not be expanded by construction."

Concurrent jurisdiction of the lower federal courts.—Although Congress can neither enlarge nor restrict the original jurisdiction of the Supreme Court, it may vest concurrent jurisdiction in the lower federal courts in cases over which the Supreme Court has original jurisdiction.[23] Thus among the grounds given for the decision in Wisconsin *v.* Pelican Ins. Co.,[24] that the Court had no original jurisdiction of an action by a State to enforce a judgment for a pecuniary penalty awarded by one of its own courts, was the provision of the 13th section of the Judiciary Act of 1789 [25] that "the Supreme Court shall have exclusive jurisdiction of controversies of a civil nature, where a State is a party, except between a State and its citizens; and except also between a State and citizens of other States, or aliens, in which latter case it shall have original but not exclusive jurisdiction." Speaking of that act with particular reference to this section, Justice Gray declared that it "was passed by the first Congress assembled under the Constitution, many of whose members had taken part in framing that instrument, and is contemporaneous and weighty evidence of its true meaning." [26] In cases affecting consuls, moreover, the original jurisdiction of the Supreme Court is shared concurrently with State courts unless Congress by positive action makes such jurisdiction exclusive.[27]

THE APPELLATE JURISDICTION OF THE SUPREME COURT

Subject to limitation by Congress

Unlike its original jurisdiction, the appellate jurisdiction of the Supreme Court is subject to control by Congress in the exercise of the broadest discretion. Although the provisions of Article III seem, superficially at least, to imply that its appellate jurisdiction would flow directly from the Constitution until Congress should by positive enactment make exceptions to it, rulings of the Court since 1796 establish the contrary rule. Consequently, before the Supreme Court can exercise appellate jurisdiction, an act of Congress must have bestowed it, and affirmative bestowals of jurisdiction are interpreted as exclusive in nature so as to constitute an exception to all other cases. This rule was first applied in Wiscart *v.* Dauchy [28] where the Court held that in the absence of a statute prescribing a rule for appellate proceedings, the Court lacked jurisdiction. It was further stated that if a rule were prescribed, the Court could not depart from it. Fourteen years later Chief Justice Marshall observed for the Court that its appellate jurisdiction is derived from the Constitution, but proceeded nevertheless to hold that an affirmative bestowal of appellate jurisdiction by Congress, which made no express exceptions to it, implied a denial of all others.[29]

The McCardle case.—The power of Congress to make exceptions to the court's appellate jurisdiction has thus become, in effect, a plenary power to bestow, withhold, and withdraw appellate jurisdiction, even to the point of its abolition. And this power extends to the withdrawal of appellate jurisdiction even in pending cases. In the notable case of Ex parte McCardle,[30] a Mississippi newspaper editor who was being held in custody by the military authorities acting under the authority of the Reconstruction Acts filed a petition for a writ of *habeas corpus* in the Circuit Court for Southern Mississippi. He alleged unlawful restraint and challenged the validity of the Reconstruction statutes. The writ was issued, but after a hearing the prisoner was remanded to the custody of the military authorities. McCardle then appealed to the Supreme Court which denied a motion to dismiss the appeal, heard arguments on the merits of the case, and took it under advisement. Before a conference could be held, Congress, fearful of a test of the Reconstruction Acts, enacted a statute withdrawing appellate jurisdiction from the Court in certain *habeas corpus proceedings.*[31] The Court then proceeded to dismiss the appeal for want of jurisdiction. Chief Justice Chase, speaking for the Court said: "Without jurisdiction the Court cannot proceed at all in any cause. Jurisdiction is the power to declare the law and when it ceases to exist, the only function remaining to the Court is that of announcing the fact and dismissing the cause." [32]

Although the McCardle case goes to the ultimate in sustaining congressional power over the Court's appellate jurisdiction and although it was born of the stresses and tensions of the Reconstruction period, it has been frequently reaffirmed and approved.[33] The result is to vest an unrestrained discretion in Congress to curtail and even abolish the appellate jurisdiction of the Supreme Court, and to prescribe the manner and forms in which it may be exercised. This principle is well expressed in The "Francis Wright" [34] where the Court sustained the validity of an act of Congress which limited the Court's review in admiralty cases to questions of law appearing on the record. A portion of the opinion is worthy of quotation: "Authority to limit the jurisdiction necessarily carries with it authority to limit the use of the jurisdiction. Not only may whole classes of cases be kept out of the jurisdiction altogether, but particular classes of questions may be subjected to reexamination and review, while others are not. To our minds it is no more unconstitutional to provide that issues of fact shall not be retried in any case, than that neither issues of law nor fact shall be retried in cases where the value of the matter in dispute is less than $5,000. The general power to regulate implies the power to regulate in all things. The whole of a civil appeal may be given, or a part. The constitutional requirements are all satisfied if one opportunity is had for the trial of all parts of a case. Everything beyond that is a matter of legislative discretion." [35]

THE POWER OF CONGRESS TO REGULATE THE JURISDICTION OF THE LOWER FEDERAL COURTS

Martin v. Hunter's lessee

The power of Congress to vest, withdraw, and regulate the judisdiction of the lower federal courts is derived from the power to create tribunals under Article I, the necessary and proper clause, and the clause in Article III, vesting the judicial power in the Supreme Court and such inferior courts as "the Congress may from time to time ordain and establish." Balancing these provisions, however, are the phrases in Article III to the effect that the judicial power "shall be vested" in courts and "shall extend" to nine classes of cases and controversies and the question of what is the force of the word "shall." In Martin *v.* Hunter's Lessee,[36] Jus-

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Footnotes at end of article.

tice Story declared obiter that it was imperative upon Congress to create inferior federal courts and vest in them all the jursdiction they were capable of receiving. This dictum was criticized by Justice Johnson in his dissent, in which he contended that the word "shall" was used "in the future sense," and had "nothing imperative in it." [37] And for that matter, in another portion of his opinion, Justice Story expressly recognized that Congress may create inferior courts and "parcel out such jurisdiction among such courts, from time to time at their own pleasure"; [38] and in his *Commentaries* he took a broad view of the power of Congress to regulate jurisdiction.[39]

Plenary power of Congress over jurisdiction

Neither legislative construction nor judicial interpretation has sustained Justice Story's position in Martin *v.* Hunter's Lessee. The Judiciary Act of 1789, which was a contemporaneous interpretation of the Constitution by the Congress, rests on the assumption of a broad discretion on the part of Congress to create courts and to grant jurisdiction to and withhold it from them. This act conferred original jurisdiction upon the district and circuit courts in certain cases, but by no means all they were capable of receiving. Thus suits at the common law to which the United States was a party were limited by the amount in controversy. Except for offenses against the United States, seizures and forfeitures made under the imposts, navigation, or trade laws of the United States, and suits by aliens under International Law or treaties, that whole group of cases involving the Constitution, laws, and treaties of the United States was withheld from the jurisdiction of the district and circuit courts,[40] with the result that original jurisdiction in these cases was exercised by the State courts subject to appeal to the Supreme Court under section 25. Jurisdiction was vested in the district courts over admiralty and maritime matters and in the circuit courts over suits between citizens of different States where the amount exceeded $500, or suits to which an alien was a party.[41] The act of 1789 empowered the courts to issue writs, to require parties to produce testimony to punish contempts, to make rules, and to grant stays of execution.[42] Finally, equity jurisdiction was limited to those cases where a "plain, adequate, and complete remedy" could not be had at law.[43]

This care for detail in conferring jurisdiction upon the inferior courts and vesting them with ancillary powers in order to render such jurisdiction effective is of the utmost significance in the later development of the law pertaining to congressional regulation of jurisdiction, inasmuch as it demonstrates conclusively that a majority of the members of the first Congress regarded positive action on the part of Congress to be necessary before jurisdiction and judicial powers could be exercised by courts of its own creation. Ten years later this practical construction of Article III was accepted by the Supreme Court in Turner *v.* Bank of North America.[44] The case involved an attempt to recover on a promissory note in a diversity case contrary to § 11 of the act of 1789 which forbade diversity suits involving assignments unless the suit was brought before the assignment was made. Counsel for the bank argued that the circuit courts were not inferior courts and that the grant of judicial power by the Constitution was a direct grant of jurisdiction. This argument evoked questions from Chief Justice Ellsworth and the following statement from Justice Chase: "The notion has been frequently entertained, that the federal courts derive their power immediately from the Constitution; but the political truth is, that the judicial power (except in a few specified instances) belongs to Congress. If Congress has given the power to this Court, we possess it, not otherwise; and if Congress has not given the power to us, or to any other court, it still remains at the legislative disposal. Besides, Congress is not bound, and it would, perhaps, be inexpedient, to enlarge the jurisdiction of the federal courts, to every subject, in every form, which the Constitution might warrant." [45] The Court applied § 11 of the Judiciary Act and ruled that the circuit court lacked jurisdiction.

Eight years later Chief Justice Marshall in distinguishing between common law and statutory courts declared that "courts which are created by written law, and whose jurisdiction is defined by written law, cannot transcend that jurisdiction."[46] This rule was reaffirmed in the famous case of U. States *v.* Hudson & Goodwin [47] on the assumption that the power of Congress to create inferior courts necessarily implies "the power to limit the jurisdiction of those Courts to particular objects." [48] After pointing to the original jurisdiction which flows immediately from the Constitution, Justice Johnson asserted: "All other Courts created by the Government possess no jurisdiction but what is given them by the power that creates them, and can be vested with none but what the power ceded to the general Government will authorize them to confer." [49] To the same affect is Rhode Island *v.* Massachusetts,[50] where Justice Baldwin declared that "the distribution and appropriate exercise of the judicial power must therefore be made by laws passed by Congress and cannot be assumed by any other department * * *."

A more sweeping assertion of congressional power over jurisdiction was made by the Supreme Court in Cary *v.* Curtis,[51] which bears more directly upon the issue than some of the earlier cases. Here counsel had argued that a statute which made final the decisions of the Secretary of the Treasury in tax disputes was unconstitutional in that it deprived the federal courts of the judicial power vested in them by the Constitution. In reply to this argument the Court speaking through Justice Daniel declared: "The judicial power of the United States * * * is (except in enumerated instances, applicable exclusively to this court) dependent for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress, who possess the sole power of creating the tribunals (inferior to the Supreme Court) * * * and of investing them with jurisdiction, either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good." Continuing, Justice Daniel said: "It follows then that courts created by statute, must look to the statute as the warrant for their authority; certainly they cannot go beyond the statute, and assert an authority with which they may not be invested by it, or which may clearly be denied to them."[52]

The principles of Cary *v.* Curtis were reiterated five years later in Sheldon *v.* Sill [53] where the validity of § 11 of the Judiciary Act of 1789 was directly questioned. The assignee of a negotiable instrument filed a suit in a circuit court even though no diversity of citizenship existed as between the original parties to the mortgage. The circuit court entertained jurisdiction in spite of the prohibition against such suits in § 11 and ordered a sale of the property in question. On appeal to the Supreme Court, counsel for the assignee contended that § 11 was void because the right of a citizen of any State to sue citizens of another in the federal courts flowed directly from Article III and Congress could not restrict that right. The Supreme Court unanimously rejected these contentions and held that since the Constitution had not established the inferior courts or distributed to them their respective powers, and since Congress had the authority to establish such courts, it could define their jurisdiction and withhold from any court of its own creation jurisdiction of any of the enumerated cases and controversies in Atricle III [54] Sheldon *v.* Sill has been cited, quoted, and reaffirmed many times.[55] Its effect and that of the cases following it is that as regards the jurisdiction of the lower federal courts two elements are necessary to confer jurisdiction: first, the Constitution must have given the courts the capacity to receive it, and second, an act of Congress must have conferred it. The manner in which the inferior federal courts acquire jurisdiction, its character, the mode of its exercise, and the objects of its operation are remitted without check or limitation to the wisdom of the legislature.[56]

FOOTNOTES

[16] 2 Dall. 419 (1793). For an earlier case where the point of jurisdiction was not raised, *see* Georgia *v.* Brailsford, 2 Dall. 402 (1792). For subsequent cases prior to 1861, *see* Rhode Island *v.* Massachusetts, 12 Pet. 657 (1838); Florida *v.* Georgia, 17 How. 478 (1855).

[17] Kentucky *v.* Dennison, 24 How. 66, 98 (1861).

[18] 1 Cr. 137 (1803).

[19] Ibid. 174. *See also* Wiscart *v.* Dauchy, 3 Dall. 321 (1796). This exclusive interpretation of Article III posed temporary difficulties for Marshall in Cohens *v.* Virginia, 6 Wheat. 264 (1821), where he gave a contrary interpretation to other provisions of the Article. The exclusive interpretation as applied to original jurisdiction of the Supreme Court has been followed in Ex parte Bollman, 4 Cr. 75 (1807); New Jersey *v.* New York, 5 Pet. 284 (1831); Ex parte Barry, 2 How 65 (1844); Ex parte Vallandigham, 1 Wall. 243, 252 (1864); and Ex parte Yerger, 8 Wall. 85, 98 (1869). In the curious case of Ex parte Levitt, 302 U.S. 633 (1937), the Court was asked to purge itself of Justice Black on the ground that his appointment to it violated the second clause of section 6 of Article I. Although it rejected petitioner's application, it refrained from pointing out that it was being asked to assume original jurisdiction contrary to the holding in Marbury *v.* Madison.

[20] 252 U.S. 416 (1920).

[21] 262 U.S. 447 (1923).

[22] 157 U.S. 229, 261 (1895). Here the Court refused to take jurisdiction on the ground that the City of Oakland and the Oakland Water Company, a citizen of California, were so situated that they would have to be brought into the case, which would make it then a suit between a State and citizens of another State and its own citizens. The same rule was followed in New Mexico *v.* Lane, 243 U.S. 52, 58 (1917); and in Louisiana *v.* Cummins, 314 U.S. 577 (1941). *See also* Texas *v.* Interstate Com. Comm., 258 U.S. 158, 163 (1922); New Jersey *v.* New York, 345 U.S. 369, 372–373 (1953). For the original jurisdiction of the Supreme Court in specific classes of cases, *see* the discussion of suits affecting ambassadors and suits between States, *supra*, pp. 571, 591–593.

[23] Ames *v.* Kansas, 111 U.S. 449 (1884).

[24] 127 U.S. 265 (1888).

[25] 1 Stat. 73, 80. The current statutory provision, 28 U.S.C. 1251(b)(2), reconciles the content thereof with Amendment 11.

[26] 127 U.S. 265, 297. *Note also* the dictum in Cohens *v.* Virginia, 6 Wheat. 264, 398–399 (1821) to the effect that "* * * the original jurisdiction of the Supreme Court, in cases where a State is a party, refers to those cases in which, according to the grant of power made in the preceding clause, jurisdiction might be exercised in consequence of the character of the party, and an original suit might be instituted in any of the federal courts; not to those cases in which an original suit might not be instituted in a federal court. Of the last description, is every case between a State and its citizens, and, perhaps every case in which a State is enforcing its penal laws. In such cases, therefore, the Supreme Court cannot take original jurisdiction."

Footnotes at end of article.

[27] Popovici *v.* Agler, 280 U.S. 379 (1930).

[28] 3 Dall. 321 (1796). Justice Wilson dissented from this holding and contended that the appellate jurisdiction, as being derived from the Constitution, could be exercised without an act of Congress or until Congress made exceptions to it.

[29] Durousseau *v.* United States, 6 Cr. 307 (1810).

[30] 6 Wall. 318 (1868); 7 Wall. 506 (1869).

[31] 15 Stat. 44 (1968).

[32] 7 Wall. 506, 514. The Court also took occasion to reiterate the rule that an affirmation of appellate jurisdiction is a negative of all other and stated that as a result acts of Congress providing for the exercise of jurisdiction had "come to be spoken of as acts granting jurisdiction, and not as acts making exceptions to * * * it." It continued grandly: * * * judicial duty is not less fitly performed by declining ungranted jurisdiction than in exercising firmly that which the Constitution and the laws confer." Ibid 513, 515.

[33] *See* especially the parallel case of Ex parte Yerger, 8 Wall. 85 (1869). For cases following Ex parte McCardle, *see* Railroad Co. *v.* Grant, 98 U.S. 398, 401 (1878); Kurtz *v.* Moffitt, 115 U.S. 487, 497 (1885); Cross *v.* Burke, 146 U.S. 82, 86 (1892); Missouri *v.* Pac. Ry. Co., 292 U.S. 13, 15 (1934); Stephan v United States, 319 U.S. 423, 426 (1943). *See also* United States *v.* Bitty, 208 U.S. 393, 399–400 (1908), where it was held that there is no right to appeal to the Supreme Court except as an act of Congress confers it.

[34] 105 U.S. 381 (1882).

[35] Ibid. 386. *See also* Barry *v.* Mercein, 5 How. 103, 119 (1847); National Bank of Baltimore v. Peters, 144 U.S. 570 (1892); Amer. Const. Co. *v.* Jacksonville Railway Co., 148 U.S. 372 (1893); Colorado Central Mining Co. *v.* Turck, 150 U.S. 138 (1893); St. Louis & Iron Mountain Ry. *v.* Taylor, 210 U.S. 281 (1908); Luckenbach S.S. Co. *v.* United States, 272 U.S. 533 (1926).

[36] 1 Wheat, 304 (1816).

[37] Ibid. 374.

[38] Ibid. 331. This recognition, however, is followed by the statement that "the whole judicial power of the United States should be at all times, vested either in an original or appellate form, in some courts created under its authority."

[39] 2 *Commentaries*, §§ 1590–1595.

[40] 1 Stat. 73, §§ 9–11.

[41] Ibid.

[42] Ibid. §§ 14, 15, 17, 18.

[43] Ibid. § 16.

[44] 4 Dall. 8 (1799).

[45] Ibid. 9.

[46] Ex parte Bollman, 4 Cr. 75, 93 (1807). Two years later Chief Justice Marshall in Bank of the United States *v.* Deveaux, 5 Cr. 61 (1809), held for the Court that the right to sue does not imply a right to sue in a federal court unless conferred expressly by an act of Congress.

[47] 7 Cr. 32 (1812).

[48] Ibid. 33.

[49] Ibid.

[50] 12 Pet. 657, 721–722 (1838).

[51] 3 How. 236 (1845).

[52] Ibid. 244–245. To these sweeping assertions of legislative supremacy Justices Story and McLean took vigorous exception. They denied the authority of Congress to deprive the courts of power and vest it in an executive official because "the right to construe the laws in all matters of controversy is of the very essence of judicial power." In their view the act as interpreted violated the principle of the separation of powers, impaired the independence of the judiciary, and merged the executive and judicial department. Dissent of Justice McLean, pp. 264 and following.

[53] 8 How. 441 (1850).

[54] Ibid. 449.

[55] Rice *v.* Railroad Company, 1 Bl. 358, 374 (1862); The Mayor *v.* Cooper, 6 Wall. 247, 251–252 (1868); United States *v.* Eckford, 6 Wall. 484, 488 (1868); Ex parte Yerger, 8 Wall. 85, 104 (1869); Case of The Sewing Machine Companies, 18 Wall. 553, 557–558 (1874); Morgan *v.* Gay, 19 Wall. 81, 83 (1874); Gaines *v.* Fuentes, 92 U.S. 10, 18 (1876); Jones *v.* United States, 137 U.S. 202, 211 (1890); Holmes *v.* Goldsmith, 147 U.S. 150, 158 (1893); Johnson Company *v.* Wharton, 152 U.S. 252, 260 (1894). Plaquemines Fruit Company *v.* Henderson, 170 U.S. 511, 513–521 (1898); Stevenson *v.* Fain, 195 U.S. 165, 167 (1904); Kentucky *v.* Powers, 201 U.S. 1, 24 (1906); Venner *v.* Great Northern Railway, 209 U.S. 24, 35 (1908); Ladew *v.* Tennessee Copper Co., 218 U.S. 357, 358 (1910); Kline *v.* Burke Constr. Co., 260 U.S. 226, 233, 234 (1922). *See also* Lauf *v.* E. G. Shinner & Co., 303 U.S. 323 (1938); Fed. Power Comm'n. *v.* Pacific Co., 307 U.S. 156 (1939).

[56] The Mayor *v.* Cooper, 6 Wall. 247, 251–252 (1868). The rule of Cary *v.* Curtis and Sheldon *v.* Sill was restated with emphasis many years later in Kline *v.* Burke Constr. Co., 260 U.S. 226, 233–234 (1922), where Justice Sutherland, speaking for the Court, proceeded to say as to Article III, §§ 1 and 2: "The effect of these provisions is not to vest jurisdiction in the inferior courts over the designated cases and controversies but to delimit those in respect of which Congress may confer jurisdiction upon such courts as it creates. Only the original jurisdiction of the Supreme Court is derived directly from the Constitution. Every other court created by the general government derives its jurisdiction wholly from the authority of Congress. That body may give, withhold or restrict such jurisdiction at its discretion, provided it be not extended beyond the boundaries fixed by the Constitution. * * * The Constitution simply gives to the inferior courts the capacity to take jurisdiction in the enumerated cases, but it requires an act of Congress to confer it. * * * And the jurisdiction having been conferred may, at the will of Congress, be taken away in whole or in part; and if withdrawn without a saving clause all pending cases though cogniadble hen commenced must fall."

See also Carroll *v.* United States, 354 U.S. 394, 406 (1957), wherein it was held that inasmuch as clear statutory mandate, as distinguished from colorable authority, is the basis for appellate jurisdiction in a given case, the Court of Appeals for the District of Columbia lacked jurisdiction, either under nationwide jurisdictional statutes or under statutory provisions peculiar to the District of Columbia, to review an interlocutory appeal by the Government from an order granting suppression of evidence in a pending criminal case. "* * * [I]n a limited sense, form is substance with respect to ascertaining the existence of appellate jurisdiction."

Mr. ERVIN. The reason the Founding Fathers put these provisions in the Constitution giving Congress control over the jurisdiction of all Federal courts inferior to the Supreme Court and giv- Congress control over the appellate jurisdiction of the Supreme Court itself seem plain to me. As I stated earlier, the founders recognized that Supreme Court Justices and Federal judges are human beings like the rest of us, and that some human beings hunger and thirst for more power than the Constitution and the laws give them. I suggest, with complete confidence in the soundness of my suggestion, that the founders put the words that I have discussed in article III of the Constitution so that Congress could prevent the Federal courts from usurping and exercising powers denied to them by the Constitution itself. It is the only restrictive method which is created by the Constitution to prevent Federal judges from straying far beyond the bounds of their constitutional powers.

Mr. President, it is high time that Congress show that it has as much respect for the rights of little children as it had for the right of labor when it passed the Norris-La Guardia Act giving the Federal courts power to issue injunctions in labor controversies. It is high time that Congress put an end to the unspeakable tyrannies which in recent years have been practiced upon the little children of this country—white, black, yellow, and brown.

So, at the proper time, I shall appeal to Congress to adopt these amendments, which I propose on behalf of a number of other Senators and myself, to the Higher Education Act.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

THE IMPORTED MEAT THREAT

Mr. CURTIS. Mr. President, I have been greatly chagrined for two reasons with regard to recent news media reports that an increase in meat imports is under consideration because of the recent rise in domestic livestock prices.

As the representative of one of the Nation's largest livestock producing States, I am well aware of the economics of meat production and of the fact that our farmers and ranchers are entitled to every cent they receive for their livestock.

Second, every consumer is assured that all the domestically produced meat he buys will be wholesome and safe to eat. Unfortunately, the same cannot be said for all imported meats.

There is reason to believe that Australia is trying to take advantage of our present situation in order to increase its meat exports to the United States.

Australians are our friends, but in this case they are wrong. It may be the American investors in Australia who are applying the pressure for a greater share of our market here.

Increased meat imports would be detrimental to our entire economy. They would be detrimental to ranchers and livestock feeders, and also to grain farmers. Every time there is a pound of meat placed on our tables, it represents 16 or 17 pounds or more of grain consumption. We have many problems in the farm program. The taxpayers are called upon to provide considerable sums to carry out the program. We can ill afford to turn any more of our agricultural production over to a foreign country.

Too much has been said about the present price of cattle. This price is better than it has been, but it has only reached the price level of 20 years ago. Not many segments of our economy would be satisfied with a price level of 20 years ago.

It must also be borne in mind that American consumers are getting the best food in the world for a very small portion of their income. The average American industrial worker can provide his family with high quality and nutritious food for about 16½ percent of his disposable income. No place else in the world can this be done. In an underdeveloped country it takes almost all that someone can earn to buy food for himself and his family. Even in the other highly developed nations of the world it takes nearly twice as great a percentage of the worker's income to buy food as it does in the United States.

The consumers of America have reason to be very concerned over the wholesomeness of the foreign meat coming into this country. The sanitation requirements and the meat inspection programs that are actually carried out in Australia and other important suppliers of foreign meat would be quite shocking to the American housewives. This situation is so serious that one of the subcommittees of the Committee on Agriculture and Forestry of the U.S. Senate held some hearings on it in the summer of 1970.

I call attention to a portion of that testimony wherein the distinguished Senator from Oklahoma (Mr. BELLMON) asked certain questions of Mr. John G. Mohay, executive vice president of the National Independent Meat Packers Association:

Senator BELLMON. Mr. Chairman, I would like to thank Mr. Mohay for his statement and his support of the Concurrent Resolution 73 which is under consideration.

I have a couple of questions I would like to ask him.

Mr. Mohay, you perhaps heard me read this section from the Australian Meat Regulations, section 53 on page 20. I will read it again:

"When an officer considers that vermin are likely to come into contact with meat at an export establishment, the officer 'may'—and I emphasize the word 'may'—by notice in writing served on the occupier of the establishment require the occupier to cause to be taken effective measure for the purpose of destroying the vermin."

How does that regulation compare with the regulation under which your plants operate?

Mr. MOHAY. Well, there is no comparison, Senator. There is no such thing as "may" in Federal regulations, to begin with. If there is the possibility of vermin coming in contact with meat in a Federal or State-inspected plant, there is no written notification made; the area in which the potential contamination can happen is immediately tagged. This has been our experience, to my knowledge, for the last several years.

Senator BELLMON. When you say "tagged," what is the effect of that?

Mr. MOHAY. They seal off that area. You cannot move a product in or out of that area. And if the plant itself is in an area where there is a potential contamination, the plant is closed until they clean up the area surrounding the plant and the plant itself.

Senator BELLMON. What about meat that comes in contact with vermin; what would happen to meat in one of your plants?

Mr. MOHAY. It is condemned, denaturized, and destroyed. It is not permitted for human consumption, in essence.

Senator BELLMON. So there would appear to be a rather double standard here in these plants in Australia where vermin are likely to come into contact, they continue to operate and the officer may tell them to put out some poison; but in your plants they would immediately be closed down.

Mr. MOHAY. It is quite a double standard. And to carry that point further, you mentioned about putting out poison. That is not permitted under Federal regulations, to the best of my knowledge, because there is a possibility the poison may get picked up, too. You have to use other sources there for elimination.

Senator BELLMON. Also in this same book of regulations, paragraph 51 says: When an officer has examined a carcass and is of the opinion that the carcass is not fit for export but is fit for human consumption, the officer shall mark the carcass as unfit for export with a knife or by an approved method, but in so marking the carcass, shall not mutilate it, the carcass.

How does that compare with the regulation under which you operate in case you find a carcass which is of questionable quality?

Mr. MOHAY. Well, sir, we have inspection for human consumption or not for human consumption. We do not have such things as "It is good enough for export but not good enough for domestic," or vice versa. Either it is adequate for human consumption or else it is condemned.

Senator BELLMON. There are many others of these that are interesting. I think perhaps I should ask you, are you allowed to slaughter horses in your plant here?

Mr. MOHAY. No, sir. Such an operation would have to be physically separated. But that not only includes horses, but deer, wildlife of any kind. It has to be completely physically separated from products destined for human consumption through the marketplace.

The statement of Senator BELLMON which was submitted in those hearings is so important that I think that it merits a place in this discussion. Here is what Senator BELLMON said:

The assurance that consumers in the United States may purchase wholesome meat and meat products is a matter of great concern to me. They must have this assurance regardless of where the meat comes from or the state of preparation in which it reaches the consumer.

It was for this reason that I recently participated in a visit to a meat processing plant near Canberra, Australia, where I obtained a copy of the export meat regulations used by the Commonwealth of Australia. There appear to be many differences between these regulations and regulations enforced by the U.S. Department of Agriculture in federally and state-inspected meat plants in the United States.

For instance, the definition of meat in the Australian regulations is "the flesh of cattle (including buffaloes), horses, calves, sheep, lambs, pigs, goats, rabbits, hares or poultry intended for human consumption."

Another example is this regulation:

"Where an officer considers that vermin are likely to come into contact with meat at an export establishment the officer may, by notice in writing served on the occupier of the establishment, require that occupier to cause to be taken effective measures for the purpose of destroying the vermin."

I particularly emphasize the phrase "the officer may." It is obvious this is a considerably less stringent regulation than that enforced in domestic meat plants. I question whether American consumers' health is properly safeguarded under this tax regulation. There are many other apparently less restrictive regulations in the Australian system as compared to the American system.

There are at least five significant differences between the Australian regulations and those applied to state and federally-inspected meat plants in the United States:

1. Australia permits "domestic meat" to be in the same establishment with export meat, which domestic meat would not be considered as being on a par with meat plants in this country.

2. Australia permits the passage, for food, of some conditions such as parasites and tuberculosis for domestic meat, although they do not permit the existence of such conditions in export meat.

3. Australia requires that all meat animals for export must receive anti-mortem and post-portem inspection, but by the way the regulations are written inspectors are not required to be present when domestic meat is produced.

4. Australia permits wild rabbits destroyed on ranches to be brought to their meat establishments to be prepared for export without inspection. In this country rabbits would not be allowed within the establishment.

5. Australia only eliminates vermin if they feel they are contaminating the meat and if the inspector so desires to control them. In this country, we feel that vermin is a serious health factor since they may transmit such diseases as rat bubonic plague, and vermin eradication practices are followed at all times.

A study of these regulations offers evidence that Australia meat inspection is not equal to state and federal inspection requirements in the United States, yet Australia has the same privilege of exporting meat to the United States and the meat is then transported intrastate with the same privilege as that granted to meat inspected under our Federal meat inspection system. Australia meat may enter any federally-inspected establishment for use in that establishment, but meat produced in a state in this country is not permitted entry into any federally inspected house in that state and would be treated as uninspected meat.

I wish to make it abundantly clear that my comments relate to Australia only because of my recent visit to that country. It is highly probable that Australian regulations are far superior to those of any other country that exports to the United States. This fact only further emphasizes the need for a thorough-on-the-spot check by members of Congress into the regulations and administration of sanitary rules in foreign plants which slaughter for export to the United States.

Mr. Chairman, Senate Concurrent Resolution 73 provides for the establishment of a committee composed of three members of the Senate and three members of the House of Representatives. The committee would be charged with the responsibility for personally visiting plants in foreign countries which prepare meat for export to the United States and with making recommendations following such inspections to Congress as to a method of assuring the wholesomeness of imported meat.

The committee would further be charged with the responsibility of visiting domestic meat packing and processing plants to determine the effectiveness of federal and state inspection systems and the wholesomeness of meat from these plants.

There are some who favor the purpose of S. 3942 and S. 3987, but I question whether the simple directive by Congress to the Secretary of Agriculture to establish a system of thorough examination of meat is adequate at this time. Until Congress knows of the deficiencies in the meat inspection system used in foreign countries. I question our ability to require appropriate action by the Secretary of Agriculture to provide the required funding for an adequate federal meat inspection service to assure wholesome meat for American consumers and to judge whether or not needed and expected improvements are made.

In testimony before a subcommittee of the Senate Committee on Agriculture and Forestry last year, Senator JAMES PEARSON of Kansas noted:

Federal controls over the the manufacture, distribution, and use of agricultural chemicals and drugs should protect consumers of farm products grown and processed in the United States. If regulations are issued after full consideration of the farmer's requirements, I am confident American agriculture will continue to produce more efficiently than any overseas competitor.

Nevertheless, it is important to protect American consumers of foreign meat from the hazards of harmful residues. More than

> 1.7 billion pounds of foreign meat and meat products are imported for distribution and sale within the United States each year. These products originate in 42 foreign nations and are processed in more than 1,100 certified foreign slaughterhouses.
>
> The Consumer and Marketing Service of the U.S. Department of Agriculture has implemented a sampling program to monitor biological residue levels, including drug and pesticide residue levels, in imported meat products. The program conducted on imported meat is comparable to the sampling program to which domestic meat is subjected. During calendar year 1968, the Service took 1,269 samples of foreign meat for chemical analysis and discovered 178 violations of FDA established tolerance levels. In 1969, there were 30 violations; in 1970 there were 10 violations; and during the first 6 months of this year the sampling program revealed 12 violations of standards imposed to protect human health.
>
> The sampling program is necessarily fragmentary. Approximately 4 million pounds of foreign meat enters the U.S. market for each sample taken for chemical analysis. Clearly, no comprehensive or adequate program of consumer protection against harmful residues can depend solely upon random-sampling, especially when the product flows into commerce from more than 40 countries with widely varying local conditions and methods of production and processing.

Senator PEARSON was testifying on his bill which would apply the same criteria for foreign meats as for domestic meats with regard to the exposure of livestock to economic poisons or drugs which might leave a residue which would be harmful to any one consuming the meat.

The Senator pointed out in his testimony that 1 month after the introduction of his bill, a cable went to all American Embassies in countries from which the U.S. imports meat or meat products. This cable enumerated those criteria for determining the adequacy of foreign biological residue programs.

It is interesting to note that no criteria were established regarding the use of certain economic poisons and drugs in exporting countries, when the use of those chemicals is banned or restricted in the United States.

Senator PEARSON went on to point out:

> If controls on U.S. producers are necessary to protect human health and safety, then comparable controls on the use of economic poisons and drugs in raising and processing foreign meat for U.S. consumption should be equally necessary. There is evidence to suggest that foreign producers of beef are not, in fact, subjected to comparable controls. The Queensland County Life, for example, publishes advertisements for pesticides which are banned or restricted in the United States.

At that subcommittee hearing last September, Mr. Don Magdanz, executive secretary-treasurer of the National Livestock Feeders Association, made a very cogent statement:

> It is entirely reasonable to prohibit the importation of any carcass, part of a carcass, or meat or meat food product of any animal capable of use as human food from countries where the unrestricted use of economic poisons would likely pose a threat to the public health, safety, or welfare of the people of the United States.
>
> In fact, to do less constitutes a dereliction of duty to the U.S. consumer who, rightfully, takes for granted that any meat or meat food product offered for sale in legitimate sales channels—and, particularly, bearing U.S. Meat Inspection Stamp ("U.S. Inspected and Passed")—is indeed safe and wholesome.

Mr. Magdanz added further in his testimony:

> The U.S. Department of Agriculture has contended that the proposed legislation is unnecessary because the current spot inspection of the products being imported and the periodic reviews of the inspection programs in foreign countries are adequate to guard against the possibility of residues or contaminants in the meat which is imported.
>
> If this is true, then similar procedures should be adequate, likewise for domestically produced meat and meat products. Yet, such limited inspection and control procedures have been ruled out in the U.S. as being inadequate to assure contamination-free and residue-free domestically produced products.
>
> Not only are domestically-produced, Federally-Inspected meat and meat products subject to rigid inspection (including ante mortem, post mortem, product inspection and reinspection, and residue monitoring) but, also, U.S. producers are faced with pesticide registration and use controls (state and federal), and rigid restrictions on the use of certain feed additives and drugs. Since such regulation is being enforced in the name of essential consumer protection, it is equally as essential with respect to products of foreign oirgin which are offered to U.S. consumers.

I might point out that the Department of Agriculture recommended against enactment of this legislation for the following reasons:

> Regulations made under the Federal Meat Inspection Act require foreign countries which export meat into the United States to maintain meat inspection systems in their exporting plants equal to those of American packing and processing plants.
>
> Continuing monitoring of inspection systems in foreign countries is carried on to make sure that these systems maintain equivalent programs to protect the health, safety, and welfare of consumers in the United States. This includes inspection for cleanliness, disease, adulteration, injurious additives, and illegal biological residues.
>
> In addition, meat and meat products coming into the United States from abroad are again inspected at ports of entry. Statistically selected samples are subjected to laboratory analysis, which includes tests for pesticides and drug residues.

The Department also noted the international problem in trying to get foreign countries to ban the same poisons and drugs as we do. A fear was expressed that enactment of this legislation would result in the elimination of some of our exports of beef and other agricultural commodities.

The president of the American National Cattlemen's Association noted, however, that once beef clears the U.S. port of entry, it losses its identity as having been produced in a foreign country.

> We can have the most stringent regulations affecting all chemical use in the United States on domestically produced products to protect the wholesomeness of our food supply. There could be residues of an unauthorized chemical in foreign-produced beef, even after having passed all of the presently required U.S. inspection. It is considered "U.S. inspected" beef yet it could be unwholesome by U S. standards.
>
> Random sampling of retail food items by Government agencies might show unauthorized residues of chemicals in that item. It is feasible that the portion of the product originating in the United States was free of unauthorized residues or well within tolerance limits established by the Food and Drug Administration. The foreign portion of that product could be the culprit but it would be the domestic producer who would suffer the consequences because the total product is considered to be "U.S. federally inspected."

Additional views of a licensed veterinarian who hapepns to be a member of the House Committee on Agriculture, appeared in that Committee's report on the Federal Insecticide Act of 1971. It was his conclusion that:

> With the everwidening use of chemicals in food production, there is increasing need to protect the wholesomeness of dairy, fruit, vegetable, cereal, or meat products by avoiding application of chemicals that would leave residues injurious to health. It is fraudulent to tolerate a double standard between imported and domestic food supplies. Chemical pesticides or herbicides banned for use on domestic food products because their residue would be injurious to consumers, should not be allowed on imported foodstuffs. In most cases, there is no way for the consumer to know which products are imported and which are of domestic origin. But in neither case should we take the chance with the health of our consuming public.
>
> Testimony before the Committee from Food and Drug Administration officials outlining surveillance for harmful residues was not reassuring. The testing of chemical residues on ready-to-eat meats, poultry, and fish was haphazard and raised doubts as to any effective control on residues on imported foods. As a result, the Committee approved a section in the bill requiring producers of imported foods to follow the same procedures as we do in this country to avoid contamination with toxic chemicals.
>
> The State Department objected saying it would interfere with good relations with countries that export foods to us. The Department of Agriculture objected, stating it would interfere with agricultural trade. The Environmental Protection Agency, in sympathy with these two Cabinet Departments, also objected. But obviously the health of our consumers should be paramount to the speculation conjured by the two Departments which have little basis for their arguments. Their pale objections based on anemic judgments should not be allowed to jeopardize the health of American consumers. Exporting countries are interested in the health of their own consumers as well as the health of their customers abroad; and when our scientists determine that a chemical leaves a harmful residue in foodstuffs, this fact should be noted and observed by all countries. It is of mutual beneficial interest which is on a level higher than mundane trade policy or profits.

My colleague from Nebraska, Senator HRUSKA, has long been active in attempting to protect American consumers against unsanitary meat being imported from foreign nations. He noted in the hearings on S. 571:

> Our meat inspection laws requires that importers meet equivalent standards in meat inspection, but the problem of harmful residues of economic poisons, drugs and metals is a weak link in our foreign inspection system. While requiring strict controls over the use of economic poisons and drugs in our own country, we have an inadequate knowledge and control of foreign laws and regulations and enforcement procedures to insure that residues are kept at the level required of our domestic producers. The Department of Agriculture and Secretary

Hardin should be commended for their efforts in recent months to improve the import sampling program. Residue sampling has been undertaken on a selective basis on products of certain countries where serious residue problems have been discovered during routine sampling. In these instances the Service has required pre-testing and certification of all meats entering the United States market from countries such as Argentina and Brazil.

Although the sampling program to monitor biological residue levels, including drug and pesticide residue levels in imported meat products, has been implemented. I feel it is important to strengthen this aspect of foreign meat inspection by the provisions included in S. 571.

I do not cast aspersions upon any other nation and their meat inspection systems. I believe it is worthwhile to note, however, that the U.S. Department of Agriculture has only seven foreign review officers and 11 doctors of veterinary medicine to monitor meat inspection in more than 1,000 plants in 42 countries. It would seem to be almost impossible for these men, or twice their number, to maintain adequate inspection of additional imports. For this reason, I hope that everyone involved will think twice before increasing meat imports.

Mr. President, any material or significant increase in the meat imports into this country would be a disservice to the United States. It would be a disservice to our consumers, to the Government itself, as well as to our farmers, ranchers, and cattle feeders. This is a decision that should be made by Americans. It is improper for any foreign country to be meddling in it and it should be stopped.

Mr. HRUSKA. Mr. President, will my colleague yield for an observation or two and one or two questions?

Mr. CURTIS. I am happy to yield, and in doing so the record should show the great amount of work over a long period of time that my colleague, Mr. HRUSKA, has rendered in this field. He has been most diligent in trying to improve foreign meat inspection. He has been most diligent in looking out for the interests of our domestic industry.

Mr. HRUSKA. Mr. President, my colleague is to be commended for bringing to the attention of the Senate, and others, this situation and the prospect of action in increasing beef import quotas. We hope that will not come about. I know of no Member of this body who is more closely allied with, associated with, and informed upon the general agricultural picture than my colleague, Mr. CURTIS, serving as he does on the agricultural legislative committee.

Being a close student of the problems of the States, he realizes that the cattle and livestock business in our native State of Nebraska accounts for two-thirds of farm income. It is for those reasons, as well as others, that he interests himself in making the kind of information available to us that he has been giving during these past few minutes.

Now, Mr. President, I should like to direct a question to my colleague in regard to the general level of cattle prices in the market over the past 20 years. Is it not true that the price reached by live cattle—that is, fat choice cattle—in the Omaha market, which is the largest livestock market in the world, stands at about $35.63 for the month of January of this year?

Mr. CURTIS. I think that is correct.

Mr. HRUSKA. That is wisely heralded to be the highest price for the past 20 years. The average was $34.92 in the year 1951.

Mr. CURTIS. That is correct. Some people viewed with alarm the fact that cattle prices had gone up. Anyone who has any knowledge of farming rejoiced over it, because prices were down so low that after some increases, the price has now reached a point that was attained 20 years ago. I do not think that we could conduct the business of Government if we paid the officers and employees of Government the same rate we paid them 20 years ago.

Mr. HRUSKA. Mr. President, is there any commodity of any substantial portion of which the Senator knows that sells for the same amount of money today that it did 20 years ago, in terms of dollars in each instance?

Mr. CURTIS. There is not, and the consumers in this country should realize the great bargain they are getting in food. As I mentioned awhile ago, the average American industrial worker spends 16.5 percent of his disposable income for food. If he were living in an undeveloped country, it would take all he could earn to buy food. In a highly developed country, such as ours, it takes far less percentagewise for food.

Mr. President, in connection with the price of meat, we must not lose sight of the fact that there has been a general price increase throughout our country and that for so long a time and so often the price of farm products stood still or went backward, that perhaps there are people in this country who expect that this should be done and that it is right.

It is not right, and it is not proper. I hope that there could be a further increase in the price the farmers receive for their products, not only livestock, but other products as well.

Mr. HRUSKA. Mr. President, the fact is that while the price for fat cattle was $34.92 a hundredweight 20 years ago, it is $35.63 per hundredweight today, 20 years later.

The further fact is that the cost of producing that particular steer quadrupled in that time. Since 1952 the net return to the farmer after paying for his production is substantially less; is that not correct?

Mr. CURTIS. That is quite true. The cost of machinery and equipment has skyrocketed in that period of time.

The amount one must pay for property taxes, including real estate, has gone up and up. We hear a great deal said about the burden of property taxes. Farmers and ranchers and feeders must pay a very substantial amount in property taxes, because the land is theirs. Their livestock is in being. It can be seen, as is true with machinery and everything else. The tremendous increase in property tax alone is a significant factor in the increased cost to the farmer. However, we must add to that not only the machinery and equipment, but also the fertilizers, pesticides, tractor fuel, and expenses that many of them must pay in these days to comply with the environmental laws and regulations. All of these things have made the costs to the farmers increase a great deal.

Mr. HRUSKA. Mr. President, this problem is complicated a good deal and thrown into false focus, because of the retail price of meat at the counter. Is it not true that the farmers and ranchers do not sell T-bones, sirloins, shoulder steaks, or hamburger meat? Is it not true that he sells cattle on the hoof? Therefore, we find the situation that cattle 20 years ago sold for about $35 a hundredweight when the average retail price was 87 cents per pound. Today, when the price for fat cattle is about the same, in the range of $35, the retail price is no longer 87 cents, but is $1.04 per pound.

Does it not follow that something happens to the cost of processing and the selling or distribution of that meat, none of which increased price finds its way into the farmer's pocket?

Mr. CURTIS. That is so true. I know of no one who has stated it in more understandable terms than my colleague. Farmers and ranchers do not sell meat. They sell livestock. It was my colleague who coined that phrase, and it is so true.

It is not for me to defend or condemn anyone in the business world. However, we should take note of the fact that there are many things that go into the cost the consumer pays. Congress continues to increase payroll taxes. Various segments of the business community have their costs increased. The Federal Government approves increases in freight rates. And all of these increases have an accumulative effect. But the consumer must not blame the wrong person. The consumer has an obligation to be fair, just as every other citizen must be fair and recognize the fact that the farmer still must be paid, and certainly there is nothing wrong with that when the market price of a product reaches the level of 20 years ago.

Mr. HRUSKA. Mr. President, would it be wise to emphasize the fact that the average wage rates in the Nation today are 2.4 times greater than they were 20 years ago?

Mr. CURTIS. Mr. President, I thank my colleague. I think that is a very significant comparison.

Mr. HRUSKA. Mr. President, would it not be well also to consider the fact that in 1951, 1 hour of labor and the pay for that hour of labor brought a wage earner 1.7 pounds of beef. Today, in 1971—and I do not have the figures for 1972 as yet—the pay for that same hour of labor buys almost twice as much beef. It buys 3.3 pounds of beef, almost twice as much as for the same hour of labor 20 years ago, and we must couple that with the fact that the farm people are receiving 75 percent of the income received per capita by the nonfarming people in the Nation. Yet, in spite of that fact, we find people getting very alarmed about the idea that for the first time in that period from 1951 to 1972, the price is the same as 20 years ago. In all of these intervening years, it was selling for less than now. As soon as we reach a restoration of the price of 20 years ago, people are all excited about it and say, "For goodness sake. Let some more imports in of questionable quality and unnecessary quantity." The beef industry can furnish all the beef that this Nation wants, and quality beef.

Mr. CURTIS. I agree. I think it behooves all of us, in order to be fair to the agriculturalists of our country, to realize the other factors that go into the cost of running a household.

At the present time most areas of the country are served by large supermarkets. They sell clothing, drugs, cosmetics, and brooms; they sell almost everything. So the total amount that the customer pays out at the checkout counter is no measure by which to make critical remarks about agriculture or the prices farmers are paid for their products.

Also, we should keep in mind that our consumers are able to buy nutritious food plus a great deal of service. It has been a long time since the American people bought potatoes by the bushel or by the peck; so many people buy them now, not by a few pounds but already peeled, already cooked, and ready to warm up to place on the table. I am delighted they have all those conveniences. I am delighted that the person who is busy at another job can make instant mashed potatoes or instant something else. But that service they buy should be considered as a separate item and not as part of the cost of food, as represented by that small amount of money that goes to the farmer who produces it.

The PRESIDING OFFICER. The time requested by the Senator has expired.

Mr. HRUSKA. Mr. President, I ask unanimous consent that on my time I may be recognized for 15 minutes for the purpose of continuing the colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. A further factor that made itself known with respect to the price of $35 per hundredweight for a fat steer, is a fact I regretfully report. We have to be realistic in recognizing it is not going to last long at that level. The proof is in the fact that live cattle future prices, April through December 1972, for the rest of the year, are $2 to $4 per hundredweight lower than the present live prices. So it will not be long that instead of having a level on the market for this choice fat steer of $35 or $35.50, it will be back to the $30 level, or the level of $30 and $31.

If, in the meantime, we undertake to interfere with that well reasoned beef import quota on the basis of a short duration increase in price of cattle on the hoof, things will be worse than in 1964 when we had that very disastrous collapse of the cattle market which resulted in numerous instances of bankruptcy and dislocation in the cattle industry.

Mr. CURTIS. Very likely it appears something like that is likely to happen. Those prices may go down. I hope predictions are wrong, because it would be an injustice to go through that, but it is well that we mention it because I believe we are confronted with a situation where thoughtless and uninformed politicians, in order to cater to an area of the country that knows nothing of the production of food, not realizing the great injustice involved, and not realizing the hazard to the health of the American people, are tempted to take the action referred to, and at the same time foreign countries are here with their propaganda attempting to take advantage of the situation and get their quota increase. I hope every official of our Government will stand firm and will not yield to this pressure to increase foreign meat importation into this country.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. HRUSKA. The Senator performs a great service for a lot of people in raising this subject. There are 35 States that have a million or more head of cattle in them. Some of them reach as high as 10 million, which would be the range of the Lone Star State of Texas; then come the States of Iowa, Kansas, and Nebraska in that upper range. But 35 States in number have a million or more head of cattle in them. We have 83 million people on payrolls these days. They are the consumers and they are getting the best bargain in value of protein and beef ever available at the rate of 16 percent of their take-home pay.

It is a widespread problem. As I stated, 35 States have a total of a million head of cattle or more, which demonstrates that the entire Nation is a beef consuming Nation.

Again, I express appreciation to the Senator for bringing this matter up.

Mr. CURTIS. I thank the Senator. We also must keep in mind the vast army of men and women who make their living in the meat industry in the United States. They work in the various packing plants and the processing plants. They are engaged in transporting meat, they are engaged in services and in industries that slaughter and process meat.

We can ill afford to export those jobs to some foreign country and discontinue them here.

Again I repeat, Mr. President, that to increase the importation of foreign meats into the United States would be a disservice to our country and to our economy as a whole, to the consumer, and most certainly to all of our agriculture interests, as well as that great number of people engaged in processing and handling agricultural products.

Mr. President, I yield the floor.

Mr. HRUSKA. Mr. President, following the very fine analysis and recital of facts of my colleague with reference to an effort to increase the volume of beef imports into this country, I should like to indulge in a few remarks which I feel will be pertinent to that same issue.

It is fallacious and highly unwise to base an increase of beef imports on the present cattle and beef prices in the market.

Much of the concerted drive generated for more imports of ground beef is based on recent increases in beef cattle on the market.

Average prices for choice fat cattle in Omaha—which is the largest livestock market—for the month of January 1972, came to $35.63 per hundredweight. This was widely heralded as the highest price for cattle in 20 years.

And so it was. In 1971 that average price for such cattle in the Omaha market was $34.92.

That comes to about 70 cents per hundredweight, less than a penny a pound increase.

Mr. President, there are many reasons why such an increase in the beef cattle market should not alarm or excite anyone—either the housewife, the consumer, the retailer, or even the ground beef importer or any of his high-priced publicity or public relations agencies or his superlevel lobbyist.

They are superlevel, if we want to get into that subject of determining what price is being charged for these lobbying efforts.

Each of the reasons I recite will be persuasive in itself. Taken collectively, they are irrefutable.

First. The farmer or rancher does not sell processed beef or beef cuts—he sells cattle on the hoof.

Second. The price of beef cattle on the market reached a level of about $35 in 1951, but ever since that time has been at a lower level until recent weeks. Can anyone cite a price of any other commodity or product which is selling for the same price it was 20 years ago?

Third. Food is increasingly a better buy now than 20 years ago. In 1951 people paid 23 percent of their take-home pay for food. In 1972 they are expected to spend less than 16 percent for food.

Fourth. Average wage rates per hour in the Nation are 2.4 times higher than 20 years ago. Fat cattle prices have finally worked their way up to their 1951–52 level, with a tremendously sharp and disastrous valley between then and now.

Fifth. During the years between 1951 and 1971, cattle prices have been below the 1951 price.

Sixth. The cost of production of choice grade beef is nearly four times higher now than it was 20 years ago.

Seventh. Per capita income of farm people is only 75 percent as much as the per capita income of nonfarm people. The farm people have to rely on off-the-farm income for half of their net income, but even so, this brings farm folks' income to only three-fourths of the per capita income of nonfarm people, and there are those who seem to envy them that status, and would like to keep it there, or reduce it even further.

Eighth. Domestic beef is the Nation's best buy. First, as to cost: In 1951, 1 hour's pay for labor bought 1.7 pounds of beef. Twenty years later, in 1971, it bought 3.3 pounds—almost twice as much. As to quality: Domestic beef is the Nation's best buy, because the quality is the best, and it is the most reliable in the world.

Production of best grade beef is nearly four times larger than it was 20 years ago. One-third of our beef was well-fed, best grade beef in 1951. Now 60 percent of our beef produced is well-fed, best grade. Thus the total production of best beef is 3.94 times greater than 20 years ago—almost four times as great, Mr. President.

Ninth. This next reason, Mr. President I state regretfully, because it has to do with the futures market of today. The futures market is governed by the joint business judgment of economists and people who are familiar with the economics of the cattle industry, as would be the case in any other industry for which futures are computed and graded.

Live cattle futures prices from April through December for the rest of the year are $2 to $4 per hundredweight lower than the present live prices. This does not bring cheer to the hearts of those who produce, but nevertheless it is a fact. Yet there are those who would seek to take this present temporary increase in livestock prices of cattle on the hoof and predicate thereon a request for an increase in the import quotas, in order to lower the prices. And it might be said parenthetically that the admission of that much imported beef would not lower prices. Those prices are fixed by other factors besides imports.

Tenth. There is a further factor, and that is that the prices received by farmers for food are not inflationary. Farm food prices are up only 7 percent from 20 years ago. Wholesale food prices are up 22 percent from 20 years ago—three times as high. Retail food prices are up 44 percent from 20 years ago, and that figures out to more than six times as great a percentage rate of increase as in farm food prices.

Eleventh. The next reason has to do with the spread between the retail prices of beef and the average retail price of beef 20 years ago and the spread between that retail price and the net farm value for the same pound of meat sold over the counter. The figures I give will be in cents per retail pound.

The average retail price of meat selling over the counter was 87.3 cents in 1951. That retail price in 1971, 20 years later, was $1.04.

The fact must be borne in mind, Mr. President, that the live fat stock still sold for about the same in 1951 as it did 20 years later, and yet there was an increase of from 87.3 cents to 104.3 cents—an increase of substantial character and in substantial degree, none of which went to the farmer or rancher, because he does not sell meat at retail, he sells it on the hoof.

What was the net farm value of that pound of meat? In 1951, the net farm value of that pound of meat was 67 cents. In 1971, the net farm value was 67.9 cents—just about a penny more than it was 20 years earlier. Almost everyone is familiar with the way that a 1,000-pound steer dresses down to about 620 pounds in carcass form, and when the retail dealer gets through with it, it dresses to about 450 pounds. But with all that taken into consideration, the net farm value of that pound of meat was 67 cents in 1951, and 20 years later was 67.9 cents, less than a penny increase, and here we have an increase in retail prices during that period of time from 87.3 cents to 104.3 cents.

For all those reasons, Mr. President, it would certainly seem to me that those in authority would have every reason to analyze these figures, and any one of the reasons would be sufficient in itself to say, "This is no time to make a change in the import quotas. This is no time to complain about the price of cattle. This is no time even to complain about the greatly increased retail price of meat as compared with 20 years ago. It is still the best bargain. It is still the best quality product, and the beef industry should be allowed to go forward on the basis of the present import quotas, with the hope that farm prices in this field will go up. They should go up, with the farm population getting only 75 percent of the per capita income received by nonfarm people."

Mr. President, this is not the fight of only one section of the country. It is not the fight of only the beef industry or the cattle industry. It is the fight of 35 States which have a big stake in this business of letting down the bars on the importation of beef.

Thirty-five States have a million or more head of cattle, and that means that the problem is that widespread. It means there is that great a demand for the products of the cattle industry, and thank goodness there is, because it means an expanding population and a fitter one, with the nutritional food that quality beef can supply.

Mr. President, at a later time within the next few days I shall undertake a little more extended and more documented, by way of statistics, set of remarks on this subject. In the meantime, it is our hope that these facts and figures will cause those in authority to look at the full picture and the full impact that would be wrought upon this Nation and a very important segment thereof if any inconsiderate, premature, and ill-advised action is taken.

Mr. DOLE. Mr. President, Kansas is rapidly increasing the number of cattle it produces each year. Livestock production is now the largest single industry in the State and among the many letters and telegrams I have received protesting the many stories that are appearing daily about high cattle prices is the telegram which I would like to submit for inclusion in the Record. Kansas farmers have invested millions of dollars in feedlots and equipment to feed and produce meat for the people of the Nation, and deserve to receive a fair return on the investment. Figures recently released by the Department of Agriculture indicate we spend less than 17 percent of our disposable income on food. No other nation on earth has such a bargain.

There being no objection, the telegram was ordered to be printed in the Record, as follows:

Topeka, Kans.,
February 16, 1972.

Senator Robert Dole,
New Senate Office Building,
Washington, D.C.:

Are current beef prices really inflationary? Would an increase in foreign meat import quotas, a "roll back" of live cattle prices or a freeze on current beef prices accomplish either current or long range objectives in providing a high quality, reasonably priced food source for the American consumer? We understand that these are current options under consideration in Washington. Let us examine a few statistics to find out if beef prices have been inflationary or if in fact they have been one of the major deterents to the spiraling cost of living.

1. This year the American housewife will spend 16.2% of her disposable income to feed her family. This is a smaller percent spent for food than ever before in the history of this or any other country. In 1960 expenditures for food accounted for 20% of disposable income, in 1940 the figure was 22% and in 1930 it was 24%.

2. Live cattle prices to the producer are just now getting back to where they were twenty years ago. It is a fact that farmers today are receiving the same price for their cattle as they were back in 1952.

3. Prices of other commodities have increased much more than the price of food. Since 1950 rents have risen 50%, health care costs have increased 136%. Wages in manufacturing industries have climbed 122% since 1950. That's about 2½ times as much as the cost of food has increased.

4. Beef production has doubled since 1960. Beef cow numbers have been on the increase for many years. In Kansas alone feedlot capacity has increased 197% since 1965.

5. Today one average hour of factory work will purchase about 2½ pounds of round steak, in 1950 the same hour of work would only purchase about half that amount.

6. Livestock production is a billion dollar business in Kansas. This does not automatically imply profitability and continued growth. If the livestock industry continues to grow and prosper so does the State of Kansas. The livestock industry is the single most positive force for economic and rural development in our State. The multiplier effect for the beef business is 5.5. This means that for every dollar that turns over in the beef business 5.5 dollars turn over elsewhere in the State's economy.

7. An increase in meat import quotas would have little if any effect on the current retail meat prices but would definitely have a detrimental effect on the live beef cattle prices.

8. The obvious strong demand for beef which reflects the rising disposable income of the consuming public has increased consumption of beef from about 69 pounds per capita twenty years ago to 114 pounds today.

9. The quality of beef is vastly improved over that of twenty years ago. In 1950 only about one half of all market cattle were grain fed. Today 80% of all market cattle have been grain fed. Grain feeding to choice grade is what makes a quality product.

Beef cow numbers have been on the increase for many years with a dramatic six percent increase in heifers for beef cow replacements in the nation this year. The best way to continue this increase in cow numbers and insure an adequate supply of beef to the consuming public is to have a healthy and prosperous livestock production industry. To "roll-back" the live beef price or increase meat imports would actually be a deterrent to any increase in livestock production in the United States. This does have long range detrimental affects on the beef supply to the American consumer.

It is not in the best interest of the consuming public to place artificial price restraints on beef thereby curtailing the present trend to increase beef production.

Sincerely,
Kalo A. Hineman,
President,
Kansas Livestock Association.

Mr. HANSEN. Mr. President, I commend the junior Senator from Nebraska on his very fine statement. I too am concerned over the possibility that meat import quotas might be increased without a full appreciation of the facts of life as they relate to the livestock producer.

Today, I have written to the Honorable Donald Rumsfeld, Chairman of the Cost of Living Council, on this subject, and I ask unanimous consent that the letter be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., February 18, 1972.
Hon. Donald Rumsfeld,
Counselor to the President,
The White House, Washington, D.C.

Dear Don: I read with interest the reports of your press conference on Friday, February 11. You stated at that time that an increase in the meat import quota for 1972 is "among the more likely possibilities" for action by the Administration to keep food prices down.

The livestock industry has never asked the government to provide supports for livestock. The industry has experienced some very tough times, but it is willing to endure the hard years, provided it receives the benefits when prices are higher. Most operators are able to set aside enough to get them through the leaner years.

During the past decade the return on total capital investment realized by the livestock industry has been extremely low. It is difficult to find another industry with a lower return. The significance of this fact for the nation is that young people are finding it increasingly difficult to make a living in the livestock industry. States such as Wyoming whose economies are based on agriculture are finding that their young people are forced to leave the State. This migration from rural areas continues to contribute to the problems being experienced in the nation's cities.

In 1971, the prices to beef producers reached the 1951 price level for the first time. Prices paid for meat products reflect many factors beyond production costs such as processing and convenience packaging. Many of these services have been demanded by the consumers themselves.

The Administration should consider these facts and the consequences of future actions on livestock producers before resorting to an increase in meat import quotas or the imposition of price controls.

Certainly the import quota is one tool which can be used by the Administration for controlling meat prices. The fee schedule for grazing on public lands is another tool within the power of the Administration. It is important to note that the Nixon Administration has increased the average fee for cattle grazing on Bureau of Land Management alministered lands from $.33 to $.66 in the last three years.

This action does have a significant impact on livestock producers in my own state of Wyoming and other public lands states in the West. Marginal operations, usually family owned and run, in these states find that their ability to survive is greatly impaired by these fee increases. If these livestock producers are forced out of business, not only will the local economies suffer, but the decreased supply of livestock will put increased pressure on meat prices.

The President and the Cost of Living Council should be aware of this situation. I have written to the President and his appointees on this subject in the past. It is my hope that the Cost of Living Council will take a very close look at the problem of grazing fees and make its views known to the Department of the Interior, the Department of Agriculture and the Office of Management and Budget. Timely attention to this problem is needed since the grazing fees are scheduled to be increased again next January.

Sincerely,

Clifford P. Hansen,
U.S. Senator.

THE DEBT CEILING AND H.R. 1

Mr. LONG. Mr. President, as chairman of the Senate Committee on Finance, the junior Senator from Louisiana has been doing everything within his power to move along the administration-supported measure, H.R. 1, involving social security and public welfare, including the controversial family assistance plan.

I regret to report that, notwithstanding the very diligent efforts of some members of the committee. including the distinguished occupant of the Chair (Mr. Jordan of Idaho), on some occasions we just have not been able to move, because of a lack of a quorum. That was the occasion on yesterday, and it was also the situation that existed this morning. We would have had a meeting today except that a poll of the Members indicated that it would not be possible to have a quorum of the Senate Finance Committee to have a meeting today.

I had set Monday, which will be a holiday, because of George Washington's Birthday, to call a meeting of the committee to hear the Secretary of the Treasury and the Director of the Budget testify for an increase in the Nation's debt limit. Unfortunately, the Secretary of the Treasury and the Director of the Budget will not be available to us on Monday and, therefore, in view of the importance of that measure, it seems to the Senator from Louisiana that we should postpone that hearing until such time as the Secretary and the Director of the Budget can be present.

We will, of course, find some time between now and March to conduct that hearing, and we will set it with less than a week's notice, if need be, in order to accommodate the administration. We do not feel—I know the junior Senator from Louisiana does not feel—that a financial crisis of that sort should be handled without hearing from those whom we vote on and confirm to positions held in the administration, and having them explain to us the necessity of a further increase in the Nation's debt limit.

I regret that we could not hold such a meeting on Monday, because Senators had canceled other engagements and had made plans to be there. We would have had a quorum to hear the Secretary of the Treasury and the Director of the Budget, but, unfortunately, they were not available to us on that occasion, and we were unable, therefore, to schedule a meeting.

It is not too easy to try to fly north and then turn around in midair and suddenly fly south, with busy Senators who have plans to attend other meetings and who have other commitments. Therefore, the regular meeting of the committee will be held on Tuesday, and we will proceed with H.R. 1 and make such progress as we can on that occasion. I believe we will have a quorum there and I am hopeful we will. I would urge Senators who are particularly enthusiastic about certain aspects of that measure to be present. I will help expedite and move ahead on activities of the committee if they will arrange their plans to be there.

I know the junior Senator from Louisiana has been present at every meeting, so far as he can recall, since we brought this matter up, and has been trying to press, morning and afternoon, to move these matters to a conclusion.

QUORUM CALL

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PEACE CORPS

Mr. BYRD of West Virginia. Mr. President, at the request of the distinguished junior Senator from Nevada (Mr. Cannon), I ask unanimous consent to have printed in the Record a statement by him.

The PRESIDING OFFICER. Without objection, it is so ordered:

Statement by Senator Cannon

The future effectiveness of the Peace Corps may depend largely upon the amount of money this Congress appropriates for the present fiscal year.

Since the conception of Peace Corps, the United States has attempted for the first time a large-scale world-wide movement to establish peace, friendship and brotherhood around the globe. Peace, friendship and brotherhood are not established on a foundation of lonely green-back paper dollars or sophisticated weapons, rather the basis for these concepts must come from person to person relationships and this is the level which our Peace Corps works every hour of the day.

There are presently 8,000 volunteers in 55 countries with each volunteer faithfully serving our country as well as the host country. It is not easy to work and make friends while living and experiencing the problems which many underdeveloped countries are faced with today, and one should hesitate when calling these volunteers useless and a burden to the taxpayer; these men and women are *volunteers* residing in a country whose government has specifically requested their presence and services. These services whether they be technical (mechanics, plumbers, carpenters), professional (teachers, nurses, public administrators), or specialist (agiculture, forestry, planning) are performed at the level most important, person to person. Thus evolves an understanding of one's world with another's, an opening of the lines for communication, an interchanging of ideas, and a peaceful coexistence.

President Nixon had asked for $82 million for the continuing and expanding work of this organization overseas. Congress has not forgotten the needs of the people here in the United States which should be and continues to be our top priority, but in a projected budget of $229 billion for fiscal year 71–72, the present $77.2 million figure is a relatively small price to pay for the benefits that our country and the world have received from these dedicated volunteers. The United States foreign investment in the Peace Corps has been the kindling for that flickering light in the darkness and let us continue to add the fuel for brighter and more peaceful days to come in a world besieged with problems.

Recent editorials in the *Washington Post*, the *Evening Star*, and the *Los Angeles Times* strongly back the bare minimum figure of $77.2 million and express disappointment that it is not more. But the never ending flow of letters, telegrams and conversation from volunteers in the field, ex-volunteers, parents, concerned citizens, as well as host nationalists, strongly indicate that irreparable damage to our nation and other countries would result from an appropriation below the $77.2 million figure.

I submit a statement from Peace Corps Chief in the Office of Evaluation, Curt Jones, which I believe will help clarify some of the misunderstanding surrounding the request for Peace Corps funds for FY 72.

TRAINEE INPUTS AND THE PEACE CORPS BUDGET

Mr. Passman has presented the correct numbers for fiscal 1971 and 1972. Some background may help in interpreting those figures.

The Peace Corps is a broker matching up applications by Americans for volunteer service with requests by foreign governments for volunteers. The amount of money requested is a function of the expected number of situations where the skills, family status, and geographical preferences of the volunteer applications will match the requests.

In fiscal 1971, the Office of Management and Budget was not confident of the Peace Corps estimates of new volunteer inputs. It released $80,000,000 of the $90,000,000 appropriated by Congress. In the middle of the fiscal year, OMB recognized that the volunteer input rate was higher and released an additional $5,000,000 to the agency. At that time, the decision was made to hold to the $85,000,000 for the full fiscal year.

In the development of the FY '72 budget, the Office of Management and Budget was not convinced by the Peace Corps' estimate of 5800 trainees to be started in that year. The President requested a budget of $71.2 million, sufficient to finance 4000 new volunteers. By April of 1971, when it had become clear that both applications and requests were running high enough to allow more volunteers, the President revised the request upwards to $82.2 million to cover 5800 trainees. When the Congress authorized only $77.2 million, the Peace Corps was forced to revise its target to 5000 new volunteers.

SUBSTITUTION OF SENATOR STENNIS FOR SENATOR McCLELLAN AS A CONFEREE ON H.R. 12067, THE FOREIGN ASSISTANCE APPROPRIATION BILL

Mr. BYRD of West Virginia. Mr. President, at the request of the distinguished chairman of the Committee on Appropriations, I ask unanimous consent that the Senator from Mississippi (Mr. STENNIS) be substituted for the Senator from Arkansas (Mr. McCLELLAN) as a conferee on H.R. 12067, the foreign assistance appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR SCHWEIKER ON MONDAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday next, at the conclusion of the remarks of the distinguished Senator from Utah (Mr. MOSS), the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for Monday is as follows:

The Senate will convene at 12 o'clock meridian. Following the remarks of the two leaders under the standing order, the distinguished junior Senator from Texas (Mr. BENTSEN) will deliver a reading of George Washington's Farewell Address, after which the distinguished Senator from Utah (Mr. MOSS) will be recognized for not to exceed 15 minutes. He will be followed by the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business.

The pending question at that time will be on the adoption of the amendment by the distinguished Senator from North Carolina (Mr. ERVIN). There is no time limitation on that amendment. Whether or not there will be rollcall votes on Monday, I am unable to say. The Senate will be transacting business. Senators may offer amendments and motions to table, and other motions can be made which could require rollcall votes. So I cannot say that there will be rollcall votes on Monday, nor can I say that there will not be rollcall votes on Monday.

It is much like seeing "through a glass darkly."

ADJOURNMENT UNTIL MONDAY, FEBRUARY 21, 1972

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock meridian on Monday next.

The motion was agreed to; and (at 2:53 p.m.) the Senate adjourned until Monday, February 21, 1972, at 12 meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 18, 1972:

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

I. H. Hammerman II, of Maryland, to be a member of the Board of Directors of the National Corporation for Housing Partnerships for the term expiring October 27, 1974.

SECURITIES INVESTOR PROTECTION CORPORATION

Henry W. Meers, of Illinois, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1974.

COUNCIL OF ECONOMIC ADVISERS

Marina von Neumann Whitman, of Pennsylvania, to be a member of the Council of Economic Advisers.

COMPTROLLER OF THE CURRENCY

William B. Camp, of Maryland, to be Comptroller of the Currency.

IN THE AIR FORCE

The following-named officers for temporary appointment in the U.S. Air Force, under the provisions of chapter 839, title 10, of the United States Code:

To be brigadier general

Co. Solomon E. Lifton [redacted] FR, Regular Air Force, Medical.

Col. Stanley H. Bear, [redacted] FR, Regular Air Force, Medical.

Col. George E. Reynolds, [redacted] FR, Regular Air Force, Medical.

Col. Paul Krause, [redacted] FR, Regular Air Force.

Col. Howard E. McCormick, [redacted] FR, Regular Air Force.

Col. Hilding L. Jacobson, Jr., [redacted] FR, Regular Air Force.

Col. William H. Fairbrother, [redacted] FR, Regular Air Force.

Col. Leslie J. Campbell, Jr., [redacted] FR, Regular Air Force.

Col. Paul W. Myers, [redacted] FR, Regular Air Force, Medical.

Col. John R. Kelly, Jr [redacted] FR, Regular Air Force.

Col. Frank O. House, [redacted] FR, Regular Air Force.

Col. William B. Yancey, Jr., [redacted] FR, Regular Air Force.

Col. William F. Georgi [redacted] FR, Regular Air Force.

Col. John G. Albert, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Charles L. Wilson [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Clyde R. Denniston, Jr., [redacted] FR, Regular Air Force.

Col. Timothy I. Ahern [redacted] FR, Regular Air Force.

Col. Harold E. Confer [redacted] FR, Regular Air Force.

Col. Robert L. Moeller [redacted] FR, Regular Air Force.

Col. Ethel A. Hoefly, [redacted] FR, Regular Air Force, Nurse.

Col. Glenn R. Sullivan [redacted] FR, Regular Air Force.

Col. William A. Temple, [redacted] FR, Regular Air Force.

Col. David D. Bradburn, [redacted] FR, Regular Air Force.

Col. Ranald T. Adams, Jr., [redacted] FR, Regular Air Force.

Col. John W. Burkhart [redacted] FR, Regular Air Force.

Col. Carl G. Schneider [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Richard C. Henry [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Raymond L. Haupt [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Lucius Theus, [redacted] FR, Regular Air Force.

Col. Robert C. Thompson, [redacted] FR, Regular Air Force.

Col. John M. Rose, Jr., [redacted] FR, Regular Air Force.

Col. Kenneth E. Allery [redacted] FR, Regular Air Force.

Col. Lawrence N. Gordon, [redacted] FR, Regular Air Force.

Col. Guy E. Hairston, Jr. [redacted] FR, Regular Air Force.

Col. Louis W. La Salle [redacted] FR, Regular Air Force.

Col. John R. Spalding, Jr. [redacted] FR, Regular Air Force.

Col. Benton K. Partin [redacted] FR, (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Mervin M. Taylor [redacted] FR, Regular Air Force.

Col. Walter F. Daniel [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Robert S. Berg [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Lloyd R. Leavitt, Jr., [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Ralph J. Maglione, Jr., [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Eugene B. Sterling, [redacted] FR, Regular Air Force.

Col Lyle E. Mann, [redacted] FR, Regular Air Force.

Col. Robert E. Sadler, [redacted] FR, Regular Air Force.

Col. James S. Murphy, [redacted] FR, Regular Air Force.

Col. William H. Ginn, Jr. [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Bennie L. Davis, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. James A. Young, [redacted] FR, Regular Air Force.

Col. Charles G. Cleveland, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Charles A. Gabriel, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Winfield W. Scott, Jr., [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Thomas P. Stafford, [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. Richard M. Baughn, [redacted] FR, Regular Air Force.

Col. Richard H. Schoeneman, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Robert F. Titus, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Thomas M. Sadler [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Kenneth P. Miles, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Fred A. Treyz, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. David E. Rippetoe, Jr., [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Freddie L. Poston, [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. Lovic P. Hodnette, Jr., [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Hoyt S. Vandenberg, Jr., [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. Billy F. Rogers [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. Richard L. Lawson, [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. Walter D. Druen, Jr., [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. James R. Brickel, [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. James O. Putnam [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. Leland C. Shepard, Jr., [redacted] FR, Regular Air Force.

Col. Rupert H. Burris, [redacted] FR, Regular Air Force.

Col. George M. Wentsch, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. John C. Toomay, [redacted] FR, Regular Air Force.

Col. James R. Hildreth [redacted] FR (major, Regular Air Force) U.S. Air Force

Col. Louis G. Leiser, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. John F. Barnes, [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. Henry J. Meade, [redacted] FR (major, Regular Air Force), U.S. Air Force, Chaplain.

U.S. NAVY

Rear Adm. William W. Behrens, Jr., U.S. Navy, for appointment to the grade of vice admiral for the duration of his service in duties determined by the President to be of importance and responsibility within the contemplation of subsection (a), title 10, United States Code, section 5231.

Adm. Horacio Rivero, Jr., U.S. Navy, for appointment to the grade of admiral on the retired list pursuant to title 10, United States Code, section 5233.

Vice Adm. Richard G. Colbert, U.S. Navy, having been designated for commands and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of admiral while so serving.

Rear Adm. Julien J. Le Bourgeois, U.S. Navy, having been designated for commands and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

U.S. MARINE CORPS

The following-named officer of the Marine Corps Reserve for temporary appointment to the grade of major general:

Richard Mulberry, Jr.

The following-named officers of the Marine Corps Reserve for temporary appointment to the grade of brigadier general:

Robert E. Friederich
Paul E. Godfrey

IN THE ARMY

The nominations beginning Joseph L. Perry, to be major, and ending Steven A. Zurian, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 31, 1972; and

The nominations beginning Bobby E. Bogard, to be major, and ending James H. Zetti, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 31, 1972.

IN THE NAVY

The nominations beginning Max N. Akers, to be commander, and ending William L. Wood, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 31, 1972; and

The nominations beginning Seth E. Anderson, Jr., to be commander, and ending Richard A. McGonigal, to be a permanent lieutenant commander and temporary commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 7, 1972.

IN THE MARINE CORPS

The nominations beginning Jesse W. Addison, to be first lieutenant, and ending Robert A. Yaskovic, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 7, 1972.

EXTENSIONS OF REMARKS

NATIONAL NEW IDEA DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. RODINO. Mr. Speaker, this morning, I received a short note from an old friend reminding me that February 16 had been declared "National New Idea Day" in Chases' Calendar of Annual Events for 1972.

> There's nothing as fleeting or fragile—or as powerful—as a good idea. But it has to be put into action; it has to be shared.

Andrew Ettinger's reminder has remained in my thoughts throughout the day and the more I reflected upon his suggestion, the more enthusiastic I have become. How many of us, he asks, have set aside 15 minutes a day to utilize our individual ability to think and to judge by creating, formulating and expressing ideas of our own?

The Latin, Greek, and French languages in unison construct the word "idea" from the root "to see." The connection between ideas and seeing further reinforces Mr. Ettinger's suggestion. Each of us possess the gift of sight and through this gift we distinctly and individually view our society, its purposes and our location in this entire complex scheme. If each man. therefore, sees settings and situations in his own unique way, why should he not carry through his perceptions into the form of concrete and clearly defined ideas. Perhaps if we set aside these 15 minutes to be employed in this specific manner, meanings would become less clouded, reasons more clear, understanding a little easier and communication more beneficial.

Mr. Ettinger, director of Montclair New Jersey's Marketing Directions Group, has established the following format for practically implementing his suggestion:

> To help in switching on the thinking cells to full power, MDG developed a short, mind-jogging checklist of idea-generating techniques. The list, they say, can be applied to any problem or situation:
>
> 1. Isolate the problem so you can visualize it clearly. Get it down on paper with a short, simple sentence, a drawing or a doodle. Think of the problem as a unit; then as separate parts. Think of each part as one of a set of children's building blocks. Mentally regroup them into different combinations.
>
> 2. Be an optimist. Be confident that there is a solution. Don't discard partial solutions. The full answer may have to develop in stages.
>
> 3. Make language work for you, not against you. Rename the parts of the problem to avoid getting hung up on traditional terminology. Try substituting numbers or symbols for words.
>
> 4. Let your experience be your take-off point, not your cage. Don't be hemmed in by conformity. If one approach doesn't succeed, completely reverse direction. Try another point of view—look at the problem from a different angle.
>
> 5. If the problem has physical dimensions, think of it in different shapes, sizes, weights, colors or textures. Think of a new use for it, however outrageous or unrelated to its present function. Don't be afraid to be laughed at.
>
> 6. Don't let mistakes or set-backs stop you. Even if some of your discoveries prove not to be new (that's called re-inventing the wheel), each can be as exciting to you as it was to the first one who conceived it. Keep charging the barriers of habit to gain that important "fresh" vantage point.

It must be stressed that this format may only be successful if the attitude is stressed that all ideas are to be seriously considered and sincerely applied. The seventh point of Mr. Ettinger's format was that once the ideas were formulated, they must be shared. I have taken his suggestion in sharing his ideas with you at this time. I hope that each of us in our own ways will take advantage of this format and apply the concepts behind "National New Idea Day" through the remaining days of this and every calendar year.

CONSTITUTIONAL SCHOLARS' COMMENT ON BUSING AMENDMENT TO THE CONSTITUTION

HON. EMANUEL CELLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. CELLER. Mr. Speaker, in order to assist Members of the House in assessing the many facets to the issue of pupil assignment and transportation in the context of a proposed amendment to the Constitution, I insert in the RECORD letters from six outstanding constitutional law authorities who comment on House Joint Resolution 620. The authors of these communications include:

Prof. Archibald Cox, Harvard Law School.

Prof. Alexander M. Bickel, Yale Law School.

Prof. Charles L. Black, Jr., Yale Law School.

Prof. Anthony G. Amsterdam, Stanford Law School.

Prof. Harold W. Horowitz, University of California Law School.

Prof. William Van Alstyne, Duke University Law School.

The letters follow:

CAMBRIDGE, MASS.,
January 27, 1972.

Re H.J. Res. 620.
Congressman EMANUEL CELLER,
Chairman, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN CELLER: In response to your inquiry of January 6 I am glad to record my opposition to H.J. Res. 620 proposing a Constitutional amendment prohibiting the assignment of a public school student to a particular school because of his race, creed, or color.

One fundamental objection to the proposal is the very great danger inherent in adopting specific constitutional amendments to a specific question of immediate public and political interest. One of the prime values of our Constitutional system is the fact that the Constitution speaks in fundamental principles having an enduring generality. This characteristic, coupled with the power of the Supreme Court to project the great fundamental issues upon particular occasions, gives our political ideals a permanence not subject to alteration by violent short-run surges of public feeling or the desire of office holders for political advantage.

H.J. Res. 620 is wholly inconsistent with this tradition. It seeks to deal in short-range terms with an immediate problem upon which public opinion might hold one view today and another tomorrow. A single departure from our wise constitutional tradition could scarcely spell disaster, but it would set dangerous precedent which others would come under pressure to follow.

In my view, the rule embodied in H.J. Res. 620 is thoroughly unsound. It would prevent local school boards as well as the federal courts from taking effective steps to remedy past violation of the Fourteenth Amendment guarantee against official racial discrimination. It would prevent any state or local school board from attempting to achieve racial balance in the schools. While racial balance seems to me to be a goal of paramount importance, I recognize that there is room from exercise of judgment in determining how far other desiderata should be sacrificed to achieve this purpose. Perhaps the greatest vice in the proposed amendment is that, if adopted, it would bar any and every practical effort to achieve this objective.

I should point out that the proposed amendment is totally inconsistent with any form of states rights or local responsibility for education. Its effect is to prohibit either a state or local school board from rendering any independent judgment in this regard.

Finally, no argument is necessary to make it plain that the proposed amendment would symbolize a measurable step backward in progress toward racial equality.

Sincerely,

ARCHIBALD COX.

NEW HAVEN, CONN.,
January 18, 1972.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of January 6 asking for my comments on House Joint Resolution 620, proposing an amendment to the Constitution concerning neighborhood schools.

I wish to express in the strongest terms I can my opposition to this proposal. I think it altogether ill-advised.

As my writings and my testimony on two occasions before the Senate Select Committee on Educational Opportunity will amply show, I am, to use the shorthand now commonly employed, no advocate of large scale busing. But H.J. Res. 620 strikes at much more than busing. Unless I totally mistake its import, the effect of it would be to roll back the desegregation of schools in areas in which legally enforced segregation prevailed before 1954 all the way to the stage of pupil placement statutes. This would mean regression not to tokenism, but to the stage before tokenism. This seems to me utterly destructive and unacceptable.

Even an anti-busing constitutional amendment more carefully framed than this one would seem to me highly objectionable on at least two grounds. First, it trivializes the Constitution to deal by constitutional amendment with a subject enmeshed in so many variables and so local in nature. A constitutional amendment dealing with busing would be preposterously out of place in comparison with the momentous structural and substantive provisions with which the rest of our Constitution, after a fashion proper to a constitution, was written to deal. Nor do any of the amendments so far made to the Constitution, saving only prohibition and its repeal, fail to deal with subjects of the proper magnitude. We must not set our foot on the road to converting our Constitution into a code of detailed regulation, dealing with myriad passing grievances, after the fashion of so many state constitutions, which are then every so often scrapped whenever it seems advisable to make a fresh start. We must never forget, said John Marshall, that it is *a constitution* we are expounding, and whenever it considers proposing amendments, Congress should never forget that it is a constitution it is rewriting, not a common code of laws subject to change from time to time.

Secondly, the enormous symbolic significance of such an amendment, or even of Congress proposing such an amendment, must be kept in mind. H.J. Res. 620 would justly be read as repudiating *Brown* v. *Board of Education*, since to all intents and purposes it does so. Even a more closely drafted amendment could not fail to be so read. Courts that order busing purport to be implementing the *Brown* case, and a constitutional amendment that attempted to forbid busing would be viewed as a renunciation of it. That is not anything to be lightly done. So to dash the hopes and expectations, previously raised by the Federal Government, of millions of people would be an inexcusable act.

Faithfully yours,

ALEXANDER M. BICKEL.

NEW HAVEN, CONN.,
January 19, 1972.

Hon. EMANUEL CELLER,
House of Representatives, Washington, D.C.

MY DEAR CONGRESSMAN CELLER: This letter constitutes a fulfillment of my promise to comment on H.J. Res. 620, in compliance with your request contained in your letter of January 6, 1972. I shall be glad of any use you make of this letter, either for inclusion in the Record, or for duplication and dissemination by other means amongst other members of Congress.

When I reach the text of the Resolution, I find myself genuinely bewildered, because I think it impossible that it should mean the same thing to any two laymen or to any two lawyers.

It could, for example, sound like a Congressional ratification of the Brown case. Obviously, that is not what its sponsors intend, but I must say that the use of such misleading language, for purposes which are in general the reverse of those which would appear to the casual reader, comes (to say the least) very close to deserving the charge of disingenuousness. The proposal of a so-worded Resolution for the purpose of halting or curtailing school integration is not, with respect, the kind of thing one has a right to look for in public men.

The Brown case, of course, needs no ratification by Congress, and has in any event already been ratified by Congress, and by the Presidency, in several civil rights statutes. It has been the standing law of the land for seventeen years, and whatever may happen on the present Court, there is no prospect whatever of its being overruled in its central holding. This is conclusively demonstrated by unanimous decisions since the accession of two Justices appointed by Mr. Nixon. Anybody who votes for this Resolution under the theory that he is ratifying the Brown case is, therefore, being misled, whether deliberately or not.

When one reaches the question, or rather the illimitable set of questions, as to what this Amendment can in fact possibly mean, two general difficulties stand out before one approaches particulars.

First, the usual aid to the interpretation of delphic language much as this—"legislative history" in Congress—is hardly available to its full extent in the case of constitutional amendments. The final coming into force of an amendment is the result, not of the notion of Congress, but of the actions of thirty-eight separate state legislatures, many of which do not even keep a record of their debates. A consonance of understanding amongst these thirty-eight legislatures, as to language such as this, is not to be looked for. The processes of proposal and ratification, therefore, could not help very much in the final interpretation of this language.

Secondly, both because of the multiple ambiguity of the language used and because of the futility of the expectation of help from the processes of proposal and ratification, it is certain that a very great deal of wasteful and dilatory relitigation of settled questions will have to take place, whatever the outcome in each case. It could be contended, for example, that in a small town of two school districts, the intentional drawing of the line in such a way as to produce integration, where it could also be drawn in such a way as to produce segregation, constitutes a sending of public school students to one school rather than another on the basis of their "race, creed, or color." I believe this contention would be without merit, and would almost certainly be rejected by the courts, but meanwhile we will have had to go through all over again a part of the litigation process which it has taken seventeen years to complete. This is tendered only as an example; almost every question about the merits of steps taken to effect integration would have to be relitigated, because somebody could always contend that *any* such step was taken, in some sense, because of the "race" of the pupils concerned, and that therefore some of them were being forced into some school because of their race.

It seems to me that, in adverting to these possibilities of litigation, I have, in effect, done about all that one can do on the general merits of the proposal, because, looked at from another angle, what I have implicitly said is that there is a danger that this language may produce some measure of retrogression in the thorough-going use of judicial power to implement the Brown decision in all its implications. I am sure that the Supreme Court would not interpret this Amendment in the extreme way which I have used as an illustration of an example of possible litigation. But it is all too likely that, feeling an obligation to give some meaning to the Amendment, the Court would find it to command some cutback in desegregation measures. Such a cutback, whatever its dimensions, or whatever the precise lines reached, is the only possible result of this Amendment. When one has said that, I think one has said that the Amendment is highly undesirable.

It might, for example, be held that the Amendment forbids the busing of children to schools specifically designed to be interracial, even though that busing was no more extensive than busing which had in past years taken place for the purpose of maintaining segregation, and even though the segregation pattern was one that had been created and fostered by the past actions of the state or local governments concerned. Nobody would dare come out in the open at this time and suggest that such retrogression would be a proper step. But I think there is a real danger that it might take place if this misleading language is thrown to the Supreme Court for interpretation. In such a case as the one I have just sketched (and, of course, it is far from an unimaginable case) it would be true, in a fairly normal sense of the word, that some pupils, both white and black, were being sent to particular schools "because of . . . race". Yet in such a case such assignment is entirely benign, results in no more busing than took place before, and quite clearly aims at the correction of a situation produced by public authority itself. It would be very foolish to run the risk of such an interpretation—unless that is what one really wants, though one dares not say so in plain words.

If we come to the practice which may be the principal one aimed at by the proponents of the Amendment, and which is, in any case, the one opposition to which would be the principal component in public opinion in support of such an amendment—the long-distance busing of ghetto children out and suburban children in for purposes of integration—then one is indeed faced with a question which I think anyone of common sense must regard as a troublesome one. I am not a full-throated and thoroughly happy advocate of that type of busing, because I am sure that it is not an optimal solution to the problem, and because it does, of course, produce a substantial inconvenience to all concerned, and a good deal of understandable resentment. After much reading and thought and conversation on the subject, I have concluded that it is the lesser of two evils, since the alternative is simply to leave the ghetto schools segregated, with no motivation on the part of the white majority to improve them, and thus to freeze in being a two-race school system, with only rare exceptions. I think we must support this least desirable form of busing, not because we like it, but because we dislike it less than we dislike its alternative.

This question could be and has been argued at great length. It is not an easy question. The point about this Amendment is that it does not address itself with any specificity whatever to this question, but disguises any intent which it may have to deal with this question behind the facade of scattergun language that might be interpreted in ways of which nobody with a minimally sincere desire to solve the racial problem could possibly approve. If an amendment were to be drawn prohibiting this one type of bussing, which so many people quite erroneously regard as the only type of bussing in issue, a great deal of light could be shed on the question, and a decision could be made. I would oppose such an amendment, both for the reason I have given, and because I think this remedial issue is not of dimensions suitable for constitutional amendment, but can more fittingly be dealt with from time to time by the good sense of the courts and by such action as Congress might take under Section 5 of the Fourteenth Amendment.

But the essential point is that this proposal does not address itself to this question with any specificity. It might be construed to prohibit all bussing motivated by a desire for integration even though no incidental inconvenience to anyone results. It might be construed to prohibit the redrawing of school district lines in such a manner as to produce greater integration. It might indeed be construed to prohibit every step that could possibly be taken to further integration, however harmless such a step might be, because any step taken in aid of integration inevitably does, in some sense, involve the assignment of pupils to schools on the basis of race.

To summarize, the Amendment is misleading because, on first perusal, it seems to do no more than ratify the Brown case, which is both unnecessary and the exact opposite of what its proponents want. It is unintelligible because it literally prohibits assignment on the basis of race in situations where it could not possibly be intended by two-thirds of both Houses of Congress and three-quarters of the state legislatures that steps taken in integration should be prohibited, and yet it gives us no aid in its text to determine which of these situations shall be covered, and which shall not. Since it is unintelligible, it will inevitably be productive of an enormous volume of litigation, traveling over the same ground which has been so painfully traversed in the last seventeen years. Since it is unintelligible, moreover, and since it is literally interpretable as forbidding every step taken in integration, it is extremely dangerous, because no one can say how far the Supreme Court might feel it is obliged to follow this possible literal meaning of the words of the Amendment.

This Amendment is bad law, therefore, on multiple grounds. I hope that you and your Committee will act unfavorably on it.

If I can be of any further assistance, please do not hesitate to call on me.

Very sincerely,

CHARLES L. BLACK, JR.,
Luce Professor of Jurisprudence.

STANFORD, CALIF., *January 28, 1972.*

Representative EMANUEL CELLER,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE CELLER: Thank you for your letter of January 6, inviting my observations on H.J. Res. 620. Please forgive the delay in my reply. I have been out of town.

H.J. Res. 620 proposes a constitutional amendment providing that no public school student shall be assigned to or required to attend a particular school because of his race. In my judgment, the proposal is extremely ill-conceived for two reasons.

First, the deceptively simple language of the proposed amendment is in fact susceptible of four quite different interpretations:

(1) The amendment specifically ratifies the desegregation decisions of the Supreme Court from *Brown* v. *Board of Education,* 347 U.S. 483 (1954), through *Swann* v. *Charlotte-Mecklenburg Board of Education,* 402 U.S. 1 (1971), and immunizes those decisions against any overruling or erosion which might otherwise occur as a result of change of personnel on the Supreme Court. In terms, of course, the amendment says exactly what the Supreme Court has said in these cases: that the assignment of a child to a particular school "because of race" is unconstitutional.

(2) The amendment goes beyond the Supreme Court decisions and outlaws *de facto* segregation. Notice that, unlike the Fourteenth Amendment, the proposed amendment contains no "state action" requirement.

(3) The amendment forbids any racial assignment of pupils except insofar as required by the Equal Protection Clause of the Fourteenth Amendment. Such a reading would harmonize the Fourteenth Amendment and the proposed amendment. As you know, it is a commonplace of constitutional adjudication to construe statutes and constitutional provisions in such a way as to reconcile them if at all possible; and I tend to think that the courts, confronted with the unprecedented situation of two possibly inconsistent constitutional provisions, would take the same approach and construe the new amendment harmoniously with the Fourteenth.

(4) The proposed amendment *pro tanto* repeals the Equal Protection Clause, and forbids even such racially-conscious assignments as are necessary to effect the final abolition of the segregated school systems condemned by *Brown.* I use the term "repeal" literally, for the Supreme Court has now clearly held that the Fourteenth Amendment not merely forbids racial discrimination in public education, but also requires school boards (and, in their default, courts) to take "steps adequate to abolish [the] . . . dual, segregated system" of public education that had grown up in the Southern States during many years prior to *Brown* and was perpetuated by various devices during the fifteen years after *Brown.* See *Green* v. *County School Board,* 391 U.S. 430, 437 (1968). For reasons which I shall come to shortly, the abolition of immemorially segregated school systems may require racially-conscious assignment of pupils, see *Swann* v. *Charlotte-Mecklenburg Board of Education, supra;* cf. *Brooks* v. *Beto,* 366 F. 2d 1, 21–26 (5th Cir. 1966), and therefore "an absolute prohibition against transportation of students assigned on the basis of race" is inconsistent with the Fourteenth Amendment. *North Carolina State Board of Education* v. *Swann,* 402 U.S. 43, 46 (1971).

I hardly need to underline the political and legal irresponsibility of promulgating a proposed constitutional amendment that is subject to such diverse and mutually contradictory interpretations. Those who are called to vote upon its ratification may approve it upon entirely different understandings of its meaning. In this manner, for example, persons who have altogether legitimate concerns about the inordinate bussing of children, not required to effect desegregation of segregated school systems, can be made the dupes of others who have continued by every devious means to preserve segregation since the Supreme Court declared it unlawful. (H.J. Res. 620, of course, deals with pupil assignment, not transportation; and to the exact extent that it would forbid bussing, it would also forbid other methods of school desegergation not involving the transportation of children.) But in the end, it is unclear whether the dupes or the dupers will win out, since no one can comfortably predict how the courts will construe this ambiguous amendment.

Second, even if the amendment unambiguously did what I suspect it is devised to do—that is, to work a *pro tanto* repealer of the Fourteenth Amendment in favor of the "neighborhood school concept—it would seem to me tragically unwise. *Brown* v. *Board of Education* marked an historic moment in the evolution of the conscience of this Nation. But the promise of a desegregated education which it held out to hundreds of thousands of black children went largely unfulfilled for fifteen years. Finally, after a generation of procrastination, the Supreme Court ordered that *Brown* be effectively enforced. *Alexander* v. *Holmes County Board of Education*, 396 U.S. 19 (1969); *Carter* v. *West Feliciana Parish School Board*, 396 U.S. 226 (1969), 396 U.S. 290 (1970); *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971). One year later, we are offered a constitutional amendment by which—just as *Brown's* meaningful implementation begins—*Brown* is to be nullified.

That this would be the effect of the amendment (assuming, as I now am, that it is clarified to subordinate the Fourteenth Amendment to the "neighborhood school" system) is perfectly plain. Whatever may be the case outside the South, southern "neighborhood" schools are the products and the perpetuators of the racial segregation that *Brown* sought to end. To understand why this is so, one needs only recognize the obvious fact that "neighborhoods" are shaped by the social conditions in which they grow and change. The "neighborhoods" of "neighborhood schools" do not come into being independently of the schools; rather the "neighborhood schools" significantly mold their own "neighborhoods."

Governmental decisions as to school location and school size necessarily define the "neighborhood" of any school; and, once those decisions have been made, people decide where they will live (to the extent that social patterns allow) in consideration of the placement of the schools. Throughout generations prior to *Brown* and one generation after, all of these decisions were made in a manner that accepted, reinforced, and frequently affirmatively promoted, racial segregation. The resultant "neighborhoods" could only become, as they now are, bastions of segregation.

School location, school construction, school size, grade structure, road patterns, highway design, and other physical planning in the South have always been—as they are everywhere—designed to foster the public convenience. In the southern states where segregation was accepted as the way of life, they were designed to foster the convenience of segregated schooling. Southern geographic convenience was thoroughly linked to segregation; and to say, now, "we will stop segregating and start assigning pupils to schools on the basis of geographic convenience," is to stop nothing but candor and to start nothing new except hypocrisy. The same kids go to the same schools; they go there because of the color of their skins; they are just as segregated as they ever were, and by the same devices.

So, to cast the "neighborhood school" concept in the form of an inflexible constitutional amendment which supersedes *Brown* is, in the South, to repudiate *Brown* itself. It is to make *Brown* a fifteen-year promise without substance; then, when substance comes near, to break the promise. It is to deal a terrible blow not only to our black citizens but also to the institutions of American government and the sincerity of our commitment through those institutions to preserve and protect the legitimate rights of all minority groups.

American government is based fundamentally upon the principle of majority rule with decent respect for minorities. That respect is partially assured by our constitutional guarantees of individual rights, including the right of racial equality, which no majority may abridge. Of course, the Constitution is amendable; those guarantees may be taken away in whole or in part; and so, if a minority is small enough, its rights are ultimately subject to the majority's will. But it is to America's credit—it is a source of America's unity, its strength, its relative freedom from agonizing dissention—that none of our constitutional guarantees of individual rights has throughout history been taken away, in whole or in part, by the amending process. This tradition of restraint in the use of the amending process is another large part of the constitutional heritage that expresses our decent respect for minorities. It is an indispensable part; for, without such restraint, only the rights of very large minorities would be safe for long.

To break with the tradition of restraint on this occasion, at this time, upon this issue, would be a national calamity. To amend the Constitution precipitously—in response to very recent judicial decisions whose boundaries the courts are still thrashing out and whose consequences we have plainly had insufficient time to consider maturely—would set the worst kind of precedent for the use of the amending process. And to achieve what worthy purpose? To put what all the world will see as an Apartheid Amendment on the Constitution of the United States. I devoutly hope not.

Yours sincerely,
ANTHONY G. AMSTERDAM,
Professor of Law.

LOS ANGELES, CALIF.,
January 26, 1972.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN CELLER: I am pleased to respond to your letter requesting my comments on H.J. Res. 620. I write in my individual capacity, and not as a representative of the University of California.

This proposed constitutional amendment is described as "relative to neighborhood schools." Presumably the proposal is designed to require adherence by school districts to the neighborhood school principle. But the proposal does so only with respect to prohibiting assignment of children outside a neighborhood zone on grounds of "race, creed, or color." Any other departure from a neighborhood school principle is not prohibited by the proposed amendment. The proposal is, then, designed to preserve neighborhood schools only where neighborhood schools are threatened by efforts to ameliorate racial segregation. I am opposed to the proposal for several reasons.

(1) There may be cases where current racially segregated school populations are the product of present or past compulsory racial segregation by a school district. The proposed amendment would apparently prohibit assigning children to schools on the basis of race where such assignments would be an essential mechanism by which to undo "de jure" segregation. The amendment might, in such cases, make unavailable a necessary means to remedy a denial of equal protection of the laws under section one of the Fourteenth Amendment.

(2) The proposed amendment would establish a Constitutional principle on an issue which the United States Supreme Court has yet to decide: the scope of the obligation of school districts to take steps to ameliorate what is misleadingly referred to as "de facto" segregation. I believe that the Equal Protection Clause should be held to require that school districts make use of all means reasonably available to lessen such segregation. I shall not here develop my reasons for this conclusion. This issue has been litigated in a number of courts, and the Supreme Court will soon decide the issue. I, therefore, of course oppose a constitutional amendment which would produce the contrary result.

(3) The proposed amendment would not just establish that a school district does not have an obligation to lessen "de facto segregation"—it would go further, and prohibit school districts from deciding to take such action even though they were not constitutionally obligated to do so. I do not think it wise to prohibit such action by states and school districts. Even if there is no constitutional obligation to lessen "de facto" segregation, I believe that, as a minimum, state and local governments should be permitted to choose what their responses will be to this issue. It is, to say the least, not unreasonable for a school district to decide that, in order to provide equality of educational opportunity and to encourage the development of constructive race relations in a community, efforts should be made to lessen racial separation in the public schools. It is far from clear that there should be one single national principle on this question, prohibiting local determination and diversity.

For these reasons I believe that it would be contrary to the national interest to adopt the amendment proposed in H.J. Res. 620.

Sincerely,
HAROLD W. HOROWITZ,
Professor of Law.

DURHAM, N.C.,
January 17, 1972.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN CELLER: In response to your request of January 6, 1972, I am submitting the following comments on H.J. Res. 620 which proposes to amend the Constitution by adding the following sections:

Section 1. No public school student shall, because of his race, creed, or color, be assigned to or required to attend a particular school.

Section 2. Congress shall have the power to enforce this article by appropriate legislation.

As no hearings have yet been held, the intention and proper construction of this proposed amendment are necessarily uncertain. As I mean to indicate in detail, moreover, the language of the proposed amendment is readily susceptible to widely differing interpretations, any one of which might be finally rendered by the Supreme Court, with consequences very different from those imagined by some members of Congress

Nevertheless, as the proposed amendment has been introduced within a year of the Supreme Court's unanimous affirmance of *Swann* v. *Mecklenburg County*, and as it has been proposed in a time of considerable public unease regarding the judicial enforcement of equal protection derived from the Court's earlier unanimous Opinion in *Brown* v. *Board of Education*. its principal objective may be that of establishing a constitutional exception of the means which Federal courts have held to constitute an appropriate remedy to redress systematic racial discrimination by Government against the equal rights of Negro school children. Specifically, I suppose that it is meant to forbid Federal courts to consider the race or color of any student in fashioning a judicial order affecting school attendance, whether or not that order is otherwise determined by the court to be required as an essential means of assuring school children equal educational opportunities previously denied them in violation of the fourteenth amendment.

Respectfully, I believe that the proposed amendment is uniquely ill-advised. First, its disingenuous coloration, *i.e.*, the manner in which it is worded, is systematically misleading. Second, and closely connected with the manner in which the proposal has been framed, its capacity for radically different kinds of judicial interpretation is so enormous as to leave utterly uncertain its ultimate practical consequences. For reasons more fully explained hereafter, moreover, the amendment as proposed is in fact exceedingly unlikely to have any effect upon the authority of a Federal court to require pupil assignments to schools other than those within their neighborhoods. In short, one of the least likely consequences of the amendment is that of insulating the assignment of children to neighborhood schools from judicial review and revision. My reasons for these conclusions are set forth in the three following sections.

I. PLAUSIBLE CONSTRUCTIONS OF THE PROPOSED AMENDMENTS WHOLLY IN ACCORD WITH SWANN

From one point of view, the proposed amendment might well be interpreted as nothing more or less than the explicit constitutionalizing of federal court decisions previously derived from the more general provisions of the fourteenth amendment. Wholly consistent with its language, it can be construed to provide that no department of government, including of course a local school board, may structure any public educational system to achieve racial apartheid or to relate the assignment of students to any standard which would result in his attendance of a school racially segregated as the consequence of prior governmental racial discrimination involving that standard. The use of any standard compelling a student to attend a particular school, where the standard itself is one involving prior governmental discrimination based on race, would thus be declared invalid as a violation of this explicit amendment.

Far from prohibiting busing, and far from insulating neighborhood school assignments from judicial review and modification, however, the amendment as thus construed would have no effect on either of these other than to confirm their correctness. The only question in each such case would be for the court to determine whether a student has been assigned to a school according to some standard which reflects either current or past governmental racial discrimination, so that his attendance in that racially segregated school must in fact be seen as segregation "because of his race."

That this explicit provision in the Constitution, as thus construed, would not at all "constitutionalize" the neighborhood school basis for requiring attendance at a particular school can readily be seen. Indeed, that it would forbid such basis for assigning attendance is also apparent in every instance where the student's "choice" of neighborhood was itself dictated by governmental action based on race. That there has been such action which has had a continuing effect in many communities, North as well as South, is not difficult to establish.

To select only the most obvious and demonstrable examples, it is well known that government at all levels, federal as well as state and local, has in the past utilized its power to compel racial segregation by neighborhood. Such action includes the explicit policies of the VA, FHA, and FNMA which continued into the 1950s to limit the availability of federal insurance on home loans to persons of the same race as that which predominated in the neighborhood in which they sought to purchase a home. It includes as well the actions of state governments in enforcing racially-restrictive convenants limiting the choice of housing available to Negroes and excluding them from entire neighborhoods solely because of their race. It includes also the myriad decisions of local school boards and other departments of state government in school site selections, the particular selection having been made to maintain a deliberate racial predominance or exclusivity of students assignable to that school because of the location thus selected.

Against the background of these and other deliberate governmental actions, the subsequent assignment of students thus restricted to a given neighborhood because of their race could not be made to the neighborhood school. Consistent with the language of the proposed amendment, the courts would be called upon to enjoin any such assignment as one requiring attendance of the particular school "because of the race" of the student so assigned.

In suggesting this surprising construction of the proposed amendment, I should note in passing that it has ample precedent and analogy, as well as that it is of course the concrete constitutionalizing of *Swann* and subsequent decisions which have applied it generously. On the same kind of analysis exactly, the Supreme Court has already found that the use of an apparently nonracial standard is forbidden to government when in fact it is specifically identifiable to past governmental racial discrimination immediately related to that standard. Thus, in the *Gaston County* case, the Supreme Court quite properly found that persons otherwise eligible to register to vote could not be disqualified by the use of a literacy test which was not racially discriminatory on its face or in the manner of its administration. Rather, use of that standard was forbidden in a county with a prior history of racial discrimination in public education which itself significantly contributed to the lower incidence of literacy of those victimized by that discrimination. In this sense, the use of a literacy test contained within itself "built in" discrimination against Negroes which resulted in their inability to vote "because of race" as discriminatorily utilized by prior governmental action. Their disqualification attributable to that action was tnus itself disqualification "because of their race" as employed by government. Identically, the assignment of Negro children to a racially segregated school which they are compelled to attend because of the combination of "neighborhood" assignment plus prior governmental action restricting them to that neighborhood because of their race, is forbidden.

The unexceptional nature of this construction and analysis is older still. Even in 1866, as the fourteenth amendment was then under formulation, the House Majority Leader recognized that as it would be racially discriminatory to disqualify a Negro from voting explicitly because of his race, so it would be equally racially discriminatory to disqualify him for lack of sufficient property *if, at the same time, governmental action barred him from acquiring property*:

Mr. Farnsworth. Suppose the State of South Carolina should provide by law that no Negro should hold real estate.

Mr. Stevens. Then the amendment operates.

(Cong. Globe, 39th Cong., 1 Sess. p. 376.)

Exactly in the same manner, school assignments based on neighborhood, where government itself has previously assigned that neighborhood on the basis of race or where it has located schools to perpetuate neighborhoods on the basis of race, are clearly forbidden. To the extent that the proposed amendment would explicitly affirm this determination, I see little basis for taking exception to it. Given that construction of section 1, the compatible construction of section 2 of the proposed amendment would follow a similar course: to establish in Congress the authority to "enforce" this effect of section 1 by "appropriate" legislation, *i.e.*, to repose in Congress a useful authority to complement the judicial administration of section 1 by furnishing additional remedies (and, possibly, an even more generous affirmative scope of protection) to those remedies otherwise within the judicial power of the courts. Cf. *South Carolina* v. *Katzenbach*, 303 U.S. 301 (1966); *Katzenbach* v. *Morgan* 384 U.S. 641 (1966); *Bivens* v. *Six FBI Agents*, U.S. (1971).

II. THE PROBABLE IRRELEVANCE OF THE PROPOSED AMENDMENT TO EXISTING FEDERAL COURT ENFORCEMENT OF THE EQUAL PROTECTION CLAUSE

I have not meant to be artful in setting forth the possible interpretation of H.J. Res. 620 that I have suggested in the preceding discussion. Rather, I have meant to show only how innocent, correct, and well-intentioned it can plausibly be construed by a Court in aid, rather than in derogation of its decision in *Brown* and *Swann*.

Even so, I do not take the proposal to be offered in this spirit of authenticating the obligation of our federal courts to grant relief to children required to attend segregated schools because of the discriminatory actions of government. It may, indeed, intend to accomplish nearly the opposite result: to forbid effective relief to persons captured in racially segregated neighborhood schools as a consequence of government's own complicity in related actions of racial discrimination. That it could conceivably be given this construction and this consequence can readily be seen, I suppose, even though it is difficult for me to imagine why any member of Congress would think it appropriate to enact such an appalling proposition into the fundamental law of this nation.

This possible consequence of the proposed amendment, so to perpetuate governmentally-imposed school segregation, can be seen by interpreting it to bar a federal court from issuing the only kind of order which may, in a given case, be indispensable to relieve Negro children from that racial segregation which government has imposed upon them through its combination of neighborhood school assignment plus prior racial discrimination in restricting neighborhoods and in locating its schools. In frankness, however, I do not think that this interpretation of the proposed amendment is truly supportable consistent with its current phrasing. The reasons that make this an implausible construction of its terms can best be understood by a brief review of the rationale of several busing cases.

We have already noted the several respects in which the rigid and unyielding assignment of students strictly on the basis of residential proximity to the closest school at hand may indefinitely perpetuate state-imposed racial segregation as clearly as though the state had physically confined Negroes to certain areas by a single statute, rather than by the wider combination of state and federal actions which were identically discriminatory: the enforcement of racially-restrictive covenants, the restriction of federal assistance to purchasers of property in racially homogeneous areas, the location of schools to assure racially homogeneous student bodies, etc. As the right to equal protection is personal, and as it is the duty of the federal courts to grant relief accordingly, *i.e.*, to each person thus discriminated against, it is not strange that the relief to be ordered in each such case necessarily must provide the plaintiff's child with effective access to a different school—a school not necessarily within the immediate neighborhood of where its family has been made to live.

That the child should merely be freed from attending the school erected in the immediate neighborhood is clearly inadequate in these circumstances to grant him *equal* protection: by itself, such an order makes no provisions for him to be admitted to any other school, or to overcome the governmentally-imposed greater expense that he must bear to reach that school. To the extent that his family, because of its race, has been restricted by the prior actions of government to a residence farther from that other school than other children must travel at their own expense, it is very clear that government must now restore that equal access by furnishing the means of getting there with no more hazard or expense than other families are made to endure. Thus the provision for *busing,* the usual means for transporting students to school.

This, writ very small, is the essence of the unanimous decision in *Swann* and its subsequent application in other cases, North as well as South: judicially compelled relief from that denial of equal protection arising from deliberate government actions placing Negroes in particular neighborhoods because of their race, and placing schools in particular places because of race, necessarily requires that government must now provide effective access to other schools. Access which is effective on *equal* terms with that enjoyed by all other children required to attend that school is not assured, moreover, unless those entitled to such relief as a whole class are subjected to no greater inconvenience, delay, and hazards of transportation than all others within the district. Thus, buses may be made to move in *both* directions, assuring that Negro children need not travel farther than white children to attend a school free of that racial apartheid previously sponsored by government itself.

Even though it should now be clear that the resulting order of the court respecting school attendance is entered not "because of race," but rather because it is plainly required to assure the children of Negro plaintiffs that equal protection which the fourteenth amendment has been held to guarantee them, it may be that the purpose of the proposed amendment is to forbid our federal courts from granting that relief. If so, however, then that purpose and effect need to be more clearly stated in the proposed amendment because its current phrasing is simply inadequate to assure that end. Its inadequacy in this respect can be seen by comparing its wording with the actual manner in which the federal courts currently review school district plans.

What the amendment provides is that no public school student shall be required to attend a particular school "because of race." The rationale of a school attendance plan approved by a federal court as part of that relief to which the plaintiffs were found to be entitled, however, is not that any particular assignment is made because of the race of any particular student; rather, it is that the attendance plan reflects the school board's best determination of cost, convenience, efficiency, and safety in assigning students to various schools, *consistent with the constitutional right of the plaintiffs to be free from racial discrimination.* To put the matter differently, each student is assigned to a particular school because of considerations of cost, convenience, and educational policy as determined without respect to each student's race. To be sure, the alternative plans open to the school board on these bases, broad and numerous as they are, are appropriately limited by judicial decree to make certain that they do not operate directly or indirectly to impose unequal burdens upon Negro children because of *their* race. The proposed amendment does not on its face forbid such a limitation, however, and thus, given its present wording, it may in fact have no effect whatever upon this authority of the federal courts.

III. THE REAL DECISION BEFORE THE CONGRESS

What I have attempted to explain here is essentially that the proposed amendment is the victim of its own disingenuousness. Its ulterior objective has been so thoroughly disguised in the innocence of its language as to have been utterly compromised by that disguise. Indeed, the most that can be said of it in its current form is the suggestion I ventured at the beginning: its capacity for radically different kinds of judicial interpretation is so enormous as to leave utterly uncertain its ultimate practical consequences.

Nevertheless, there is of course a means by which that uncertainty can be eliminated, namely, to rephrase the proposed amendment so to make perfectly clear the real decision of the Congress. Specifically, uncertainty would be dispelled and the ulterior purpose made clear beyond peradventure of judicial mis-construction if the proposal were candidly reformulated as follows:

"The assignment of public school students to the particular school closest to their respective homes shall not be deemed to deny them any constitutional right whether or not that school is racially segregated and whether or not that racial segregation is the result of governmental action which has itself been based on race."

This amendment would, indeed, be adequate to accomplish its "purpose," *i.e.,* the plain and terrible determination to perpetuate racial apartheid in public education. It would freeze our courts from providing meaningful relief to those who have been denied equal protection, and it would signal that the promise of *Brown* v. *Board of Education* is a lie, a commitment we no longer mean to keep. Respectfully, however, it might be far better that Congress should most carefully consider whether it truly desires to do this.

Sincerely,

William Van Alstyne.

IN MEMORY OF DR. MARTIN LUTHER KING, JR.

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. WALDIE. Mr. Speaker, the late Dr. Martin Luther King, Jr., was one of the most dedicated, sincere fighters for the rights of all men of all colors. As a tribute to the memory of Dr. King, Miss Blanche Malankowski's sixth grade class at the Verde Elementary School in Richmond, Calif., read a story entitled "Our Feet Hurt." The story concerned Mrs. Rosa Parks' part in initiating the Montgomery bus boycott of 1956.

One of Miss Malankowski's students, Zelda Douglas, was inspired to write a charming and moving poetical narrative about the bus boycott. The poem was entered in the Dr. Martin Luther King, Jr., poetry contest sponsored by the Oakland, Calif., Black Caucus. It won first prize.

Mr. Speaker, I share Zelda Douglas' thoughts with my colleagues by printing the text of the poem as follows:

Our Feet Hurt

Dr. Martin Luther King,
He wanted to do his thing;
He wanted the black people to have the same
rights on the buses in the city,
But the white people had no pity.
So the black people began to walk,
And the white started to talk;
The buses began to slack,
Because there was no black;
So Dr. Martin Luther King
Did his thing.

NEW, $50 MILLION PROGRAM TO SERVE THE POOR

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. SCHEUER. Mr. Speaker, when the OEO bill comes before the House I intend to offer an amendment authorizing an additional $50 million for new programs to serve the poor, particularly the elderly poor, who are being underserved by present OEO programs.

OEO was originally designed to break the cycle of poverty by targeting its resources only at the worst concentrations of poverty. This design has meant an emphasis on youth and on specific geographic target areas, with little attention given to the elderly poor who generally live in areas of less concentrated, but still significant, poverty. A long-intended expansion of OEO programs into these areas has not occurred.

The 1967 amendments to the Economic Opportunity Act which directed OEO to assume a responsibility for the elderly poor have had little effect. While those 65 and older constitute 20 percent of all the poor and are progressively becoming a larger proportion of the total universe of poverty, OEO targets only $8 million from its $700 million budget specifically to programs for the aged. The National Council on the Aging has testified that proposed projects totaling at least $50 million should have been funded by OEO in this fiscal year, but were rejected due to a lack of funds and a lack of emphasis upon programs for the elderly.

My amendment would require OEO to bring its expertise in imaginative and innovative programing to bear upon the economic, social and health problems of the underserved poor, particularly the elderly, and help them to lead useful, productive lives. The White House Conference on the Aging called special attention to the crying need for such wide-ranging research and development in programs for the elderly, which is clearly OEO's primary responsibility.

When I announced a similar amendment in September of last year, telegrams and letters of support poured in from all over the country. I include a list of some of these at this point in my remarks:

Lawrence Barreras, Chaves Co. Comm. Action Prog., Roswell, N.M.

Richardsville Senior Citizens of the Tri Co. Senior Citizens, Dubuque, Iowa.

James M. Hughtes, S. E. Arkansas Comm. Action, Warren, Ark.

Harold P. Cooper, McDowell Co. CAP, Welch, W. Va.

Ernest Lopez, Scout Advisory Board, Watsonville, Calif.

Nelson Wurgler, Board of Directors, Hospitality House, Las Cruces, N.M.

L. Sharpe, Project Bravo Alameda Center, El Paso, Texas.

William Pothier, San Francisco Senior Center.

Len Hansmier, Waukon Senior Citizens, Waukon, Iowa.

William Medcalf, Lval Chapter, Amer. Assn. of Retired Persons, Las Cruces, N.M.

Foster Grandparents Program, Austin State School, Austin, Texas.

Facundo R. Rodriguez, Econ. Opportunity Board, Albuquerque, N.M.

Rudolph Cubiciotti, Contra Costa Co. Comm. on Aging, Martinez, Calif.

Bill Sanson, Comm. Action Prog. for Central Ark., Conway, Ark.

Hawaii County Econ. Opportunity Council, Hilo, Hawaii.

Mrs. Luetta Klosterman, Edgewood Iowa Senior Citizens Club, Dubuque.

W. P. McKinney, Sen. Citizens Activity, Boise Econ. Adv. Corp. Texarkana, Texas.

Carl Smith, Delta Community Action Assn. and I. Rosenzweig, Delta Senior Citizens Program.

Samuel L. Price, Harris Co. Community Action Prog., Houston, Texas.

Bill Joe Watson, Governing Board, SEA Community Action Corp., Warren, Ark.

Eugene Rodriquez Jr. Econ. Opportunities Dev. Corp., San Antonio, Texas.

Marie Brooks, Seniors of Ohio, Inc., Cleveland.

Northern Arizona Dev. Council, OEO programs, Apache, Navajo, Coconino, Mohave and Yavapai Counties.

Senior Citizens Coalition of St. Paul, Minn.

Peter Vallot Jr., CAA for Acadia, St. Landry and Vermillion Parish, La.

Ulster Co. Senior Citizens Alliance Inc., Joseph Lorenzo and Elsie Lorenzo.

Philip D. Standley, CAA Director, Okfuskee Co. Community Action Foundation, Okemah, Okla.

David Joseph Cache, N.Y. State Wide Senior Action Council, Liberty, N.Y.

Rachel Kohlman, Senior Citizens Group, Inc., Waverly, Iowa.

Sageville Tri County Seniors, Dubuque, Iowa.

Leora Reinberger, Ames, Iowa.

Mrs. Faya Lane, Missouri Valley Iowa Senior Citizens Club.

Charles Stoen, Decorah Senior Citizens, Decorah, Iowa.

Bluff View Senior Center, Gering, Nebraska.

Morrill Manor Senior Center, Gering, Nebraska.

Minatare Senior Center, Minatare, Nebraska.

Bayard Senior Center, Bayard, Nebraska.

Kenneth Gordon, Mayor, Meriden, Iowa.

The Senior Citizens of Bridgeport, Nebraska.

Mrs. L. C. Mangler, Senior Citizens Club, Sabula, Iowa.

Francisco G. Zarate, Community Action Council of Star County, Rio Grande City, Texas.

Howard Borlan, Dundee, Iowa Senior Citizens, Manchester, Iowa.

Floyd Massy, Council of Econ. Opportunity, Hot Springs, Ark.

Albert Keebler, Ryan, Iowa Jolly Senior Citizens.

Ambrose Holtz, Manchester Iowa Senior Citizens Club.

Mrs. Naomi Mettler, Hopkintown Iowa Senior Citizens.

Nora Bricker, Senior Citizens, Tama, Iowa.

Henry C. Tomlinson, Senior Citizens Action Council of Missouri, Kansas City, Mo.

Jemroetta Toller, Aula McDonald and Mary Dahl, Over 60 Club of the Jane Boyd Community House, Cedar Rapids, Iowa.

Mildred Jeffrey, Ann Huber and Cleo Dillon, Jolly 60 Club, Cedar Rapids, Iowa.

Ray Lanning, Delhi Iowa Senior Citizens, Manchester, Iowa.

Agatha Funke, Tri County Senior Citizens Corp., Manchester, Iowa.

M. F. Brickler, Senior Citizens Center, Williamsburg, Iowa.

Angus Thompson, Community Action Corp., Wichita Falls, Texas.

Cornelius F. Ryan, Senior Action Council of Islip Bay, Plainview, N.Y.

The Senior Citizens Club of St. Charles, Va., Ella Burgin.

Greater Chester Movement, Frank Tyler, Chester, Pennsylvania.

W. B. Harrison, Mississippi Co., Ark. Econ. Opportunity Comm., Inc.

Margaret Staub, Mid Delta Co. OED, Helena, Ark.

Bobby J. Yopp, Crowley's Ridge Dev. Council, Inc. Jonesboro, Ark.

Earl Smith, Tri County, CAA, Center, Texas.

Bob Cannon, Comanche Co. Improvement Foundation, Lawton, Okla.

Mercer Co. Branch NAACP, Bluefield, W. Va.

Dan Reyna, CAP Agency, Cameron-Willacy Counties, Brownsville, Texas.

W. D. Goldsby EOA, Pulaski County, Little Rock, Ark.

EODC, Frio-La Salle-McMullen Counties, Cotulla, Texas.

D. W. Froe, Mercer Co. Senior Citizens Program, Bluefield, W. Va.

Mrs. Ellen Laun, Washington, Pennsylvania.

Harold Foulk, Council for Aging of Santa Clara Co., San Jose, Calif.

Rev. Horacio Rios, Phoenix, Arizona.

Community Action Agency of Dona Ana County, N.M. Las Cruces.

Henry V. Trujillo, Santa Fe Senior Citizens Center for Santa Fe Co., Delegate to White House Conf. on Aging.

Edward A. Gardner, Econ. Opportunity Council, San Juan Co., Farmington, N.M.

Maria M. Mendez, Las Cruces Neighborhood Assn. Las Cruces, N.M.

Mrs. Mary Ruth, Brabec Senior Citizen Outreach Aid, Blue Valley Community Action, Crete, Nebraska.

Wallace E. Smith, Northwest Arkansas EOA, Rogers, Ark.

Senior Citizens of Bluefield, W. Va.

Marjorie Hanson, Senior Citizen Supvr., Omaha, Nebraska.

Jessy Garza, Community Council Bee Co., West Corpus Christi, Texas.

Ada Bissell, Greeley Iowa Senior Citizens Club.

Sharon Flippen, Val Verde Community Action Agency, Del Rio, Texas.

Bob Adkison, ARVAC, Inc. County Community Action Agency, Dardanelle, Ark.

Margaret Sutton, Delaware Iowa Senior Citizens.

Gusta Thompkins, Senior Citizens of Colesburg, Iowa.

Mrs. Helen Felten, Maquoketa Iowa Senior Citizens Club.

Mrs. Earl Miller, Jolly Forty Nine'ers Senior Citizens Group, Lime Springs, Iowa.

John F. Bunn, Mayor, Marcus, Iowa.

Roy Nash, CAC of Victoria, Texas.

Jack D. Hays, Community Council of Southwest, Texas, Brackettville, Texas.

T. J. Graham, Mayor, City of Las Cruces, N.M.

Kent Collins, Director, Northeast Missouri Opportunities, Inc., Kirksville, Mo.

Service of the Aged, Maricopa County, Mesa, Arizona.

Fred Nebel, Earlville Iowa Senior Citizens.

Pioneers Recreation Center, Hebron, Nebraska.

Benton County, Missouri Senior Citizens Congress, Jessie Riffle.

Lawrence Barreras, Chavez County CAP, Roswell, N.M.

Velma S. Adkins, Washington, Pennsylvania.

Omaha Mayors Commission on Aging, Robt. Gibson, Nebraska.

Geniva Scott, Aging, Inc., Montgall-Kansas City, Mo.

Gonzalo Chapa, Jr., Kleberg Counties, Alice, Texas Community Action, Inc.

Sam Yuen, Self Help for the Elderly, San Francisco, Calif.

Mr. and Mrs. Paul Edwards, Washington Conference of the Aging, Washington, Pennsylvania.

Doris E. Adams, Scott County Senior Citizens Program, Top Gate City, Virginia.

Ida M. Wells, Project Saga and Model Cities Senior Citizens Center, Baltimore, Md.

Terry Bond and Jim Vermillion, Rural Action, Butler, Mo.

Effie Sutton, Bates Co., Mo., Senior Citizens.

Henry County Missouri Senior Citizens Congress, Allie McMahan, Butler, Missouri.

Eunice Sime, Johnson County, Missouri, Senior Citizens Congress, Butler, Mo.

Ethel McMiliam, Morgan County, Mo., Senior Citizens Congress, Versailles, Mo.

Goldie Jenkins, Vernon-Cedar County Missouri Senior Citizens.

Neomia Smith, Cass County, Mo., Senior Congress.

Harry Neptune, Senior Citizens Senate, Metz, Mo.

Enda Jairal, St. Clair Co., Mo., Senior Citizens.

M. B. Steltzmiller, Golden Circles Senior Citizens Club, Oelwin, Iowa.

Charles A. Tarsi, Progress on Wheels. Belvidere, N.J.

Danny Richardson, Jefferson Co. Econ. Opportunity Comm., Inc., Beaumont, Texas.

John B. Clark, East Central Arkansas Economic Opportunity Corp., Forest City, Ark.

Jules Eshner, Retirement Jobs, Inc., San Jose, Calif.

Bob Yokoyama, AK HEW, Kahului, Maui, Hawaii.

John Lydon, Santa Clara Co. Senior Adults Forum, San Jose, Calif.

Richard C. Mastbrook, Loaves and Fishes, Inc., Portland, Oregon.

A. E. Lamb, CAP, Central Texas Opportunities, Inc., Coleman, Texas.

Linda Schallmann, Neighborhood Service Center Specialists, Natchitoches Area Action Assn., Natchitoches, La.

Steve Zozaya, League of United Latin American Citizens in the State of Arizona, Phoenix, Arizona.

Kenneth R. Deckard, Community Action Program, Inc., Abilene, Texas.

Rev. William A. Von Arx, Econ. Opportunity Corp., Andrew Co., Savannah, Mo.

Cicel Davis, Green Hills Senior Citizens Council, Trenton, Mo.

Charles A. Johnson, Econ. Opportunity Agency, Fayetteville, Ark.

Louis Saegert, Community Council of South Central Texas, Braunfels, Texas.

South Central Community Action Authority, Camden, Ark.

Cy Phillips, Econ. Opportunity Commission of Naussau Co., Garden City, N.Y.

A. W. Brehme, Alliance of Southside Senior Citizens, St. Louis, Mo.

Library Group of Senior Citizens, Washington, Pennsylvania.

Fannie S. Jefferson, Senior Citizens of Washington Area Senior Citizen Center, Washington, Pennsylvania.

Council D. Lawrence Rose, Long Beach Housing Authority and Sol Scher of Long Beach Housing Auth., Long Beach, N.Y.

Lucy K. Lemmer, Services to Senior Citizens, County of Suffolk, Hauppauge, N.Y.

Tom Green, County Community Action Council, San Angelo, Texas.

R. J. Galles, Kingsley, Iowa.

Charles W. Doremus, Econom Opportunities, Waco, Texas.

Henry M. Britt, Hot Springs, Ark.

Guy E. Robins, Council of Econ. Opportunity, Garland Co., Hot Springs, Ark.

Diane Feinstein, Board of Supervisors, San Francisco City and County, Calif.

Abraham Ramirez, LULAC, Houston, Texas.

Conrado Cruz, Jr., Laredo Webb Co., Community Action Agency, Texas.

Dr. Jim Berryman, Central Ark. Dev. Council, Inc., Benton, Ark.

Fabens Catholic Church and Community, Fabens, Texas.

Joseph Maggiore, Jefferson Paris Community Action Agency, New Orleans, La.

Mrs. Mary Myers, Residents Club Ascension Seniors, Philadelphia, Pa.

ETNA Senior Citizens Center, William Conway, New York, N.Y.

Farley Epworth Senior Citizens Club, Dubuque, Iowa.

Argus A. Burnett, Texas Panhandle Community Action Corp., Amarillo, Texas.

F. G. Wittenburg, Jr., Hill Country Community Action Assn., San Saba, Texas.

Roy T. Nishida, C.I.D. Coordinator, Maui Econ. Opportunity, Inc., Kahului, Maui, Hawaii (petition).

Mr. Speaker, this is an important amendment. It is a chance for all of us to show that we are committed to providing real programs rather than rhetoric to deal with the problems of the elderly.

IRAN AND THE PERSIAN GULF

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. HAMILTON. Mr. Speaker, it is becoming increasingly apparent that Iran plans to play some policing role in the Persian Gulf and be a dominant force in that area's future. The United States close military and political relations with Iran mean that we must pay attention to what happens in this oil-rich area. John Cooley's recent series of three articles in the Christian Science Monitor—February 4, 7, and 16—describe Iran's new role in the Persian Gulf, and I would like to bring them to my colleagues' attention. The articles follow:

[From the Christian Science Monitor, Feb. 4, 1972]

IRANIANS WATCH OVER PERSIAN GULF

(By John K. Cooley)

ABOARD THE MILANIAN.—Crack ships like this Texas-made Imperial Iranian Naval frigate have taken over the watch in the Persian Gulf, once kept by the British Navy.

"Since the Indo-Pakistani war, the Soviet Union and India may rate as the strongest sea powers in the Indian Ocean," said one high-ranking Iranian officer as we put to sea from the naval base at Kharg Island. "But the story is very different here."

Soviet warships make only occasional port calls in Iraq, while one or two American destroyers and auxiliary ships have berthing rights in Bahrain.

But, "Soviet merchantmen are everyday travelers in the gulf now," said the Milanian's Capt. Hushang Sepasi. He was watching one of his junior officers check out the registry of a passing oil tanker, a Soviet merchantman probably bound for Iraq.

The gulf's usually blue skies were screened by gray rain clouds as Kharg Island the largest marine oil terminal in the world, dropped behind in the mist.

ISLANDS OCCUPIED

Before the cruise began, Lt. (senior grade) Sharia Shafik, commanding officer at Kharg and nephew of Muhammad Reza Shah Pahlavi, briefed us on the Iranian Navy's ships, men, and missions.

The most publicized of these missions to date was the occupation at the end of November of three tiny but strategic gulf islands—Abu Musa—by agreement with the late ruler of the Arab Emirate of Sharjah, and Big and Little Tunb after a 15-minute skirmish on Big Tunb with forces of the ruler of another emirate, Ras al-Khaimah.

"There were no Arab warships anywhere around to challenge us," said one officer aboard the Milanian. He had sailed aboard the command ship of the task force, the ex-British destroyer Artemis, which joined the Iranian fleet as its flagship in July, 1970.

The Artemis carries both guns and surface-to-air missiles.

The Milanian, a trim litle ship carrying about 130 officers and men, was built especially for Iran by the Levingston Ship Company in Orange, Texas, and commissioned in 1968. Its armament includes a three-inch cannon, light guns, and hedge-hog-type antisubmarine charges.

The ship has participated in several maneuvers with British, American, and Pakistani ships in the Sea of Oman. It navigates both with British admiralty charts of the gulf and those produced by the Iranian Navy's own map and chart service.

Under the dim red lamps burning over the work tables on the Milanian's bridge at night, the charts show the gulf to be speckled with islands, shoals, and the offshore rigs and platforms of a dozen Western oil companies.

DATA TRANSMITTED

Stationary radar blips on the Milanian's new U.S.-made radar gear are compared with fixed objects on the charts. Moving ones are quickly identified as to type and nationality of ship or plane and the information, if not routine, is transmitted to Iranian naval headquarters.

Three old United States destroyers are being refitted for Iran. At least four new frigates are on order from Britain's Yarrow Shipbuilders Company of Scotland. These will carry British-made Sea Cat, short-range, antiaircraft missiles.

In the gulf, Iran also operates a squadron of coastal minesweepers and a group of patrol boats.

Its Kharg Island-based, aero-naval strike force includes three squadrons of helicopters, some of them armed as gunships; the largest force of British-made Wellington and SRN hovercraft used by any navy; marine commando and frogman units, and landing craft and supply ships.

One company each of the marine commandos are now stationed as permanent forces on Abu Musa and Big Tunb, where the Milanian was bound on a routine visit.

[From the Christian Science Monitor, Feb. 7, 1972]

IRANIAN PORT GAINS STRATEGIC POWER POSITION

(By John K. Cooley)

BANDAR ABBAS, IRAN.—Big-power naval politics, in the wake of the Indo-Pakistani war and Britain's withdrawal from the Persian Gulf, have moved this subtropical port into the spotlight of strategy.

Iran's 15,000-man Navy—already the strongest in the gulf and now building a strike force of destroyers, frigates, and hovercraft—will shortly move its main headquarters here from Khorramshahr, 1,500 miles to the north on the Shatt al-Arab river boundary with Iraq.

Up to now these subordinate naval headquarters have kept watch on the gulf islands and on the area beyond in the Gulf of Oman, adjoining Pakistan.

The impending move of the main Iranian naval headquarters here from Khorramshahr, where it is within rifle shot of Iraqi territory, reflects more than just the perennial and recently sharpened Iraq-Iran tensions.

CLEARLY A SHIFT

It is clearly a shift in the entire center of gravity of Iranian Shah Muhammad Reza Pahlavi's defense effort southward toward the Strait of Hormuz—through which more than half the Western world's oil supplies must pass—and toward the Indian Ocean, where large American and Soviet fleets have been watching one another since December's Indo-Pakistani war.

Observers here believe the next Iranian port to be developed will be the excellent natural harbor of Shah Bahr on the Arabian Sea about a hundred miles from the Pakistan border.

Iranian officers in this booming city of 70,000—where Iran is using its huge oil revenues to build an air and naval base, low-cost housing for the growing labor force, and will soon begin a naval dockyard—are well aware of the new emphasis.

But there seems to be no feeling here of an impending Arab-Iranian clash or of any other emergency in the Persian Gulf area.

"We are not particularly worried just now about an enemy getting control of Oman," said one officer.

ISLANDS OCCUPIED

One reason for Iranian self-confidence is recent Iranian possession of the islands of Abu Musa and Big and Little Tunb, west of here. Iranian marines occupied Abu Musa and Big Tunb despite a wave of Arab protest and Iraqi diplomatic action.

"This," explained one senior Iranian official, "changes the whole navigation picture in the gulf. Formerly, our 12-mile territorial waters extended outward from our coastline and our inner gulf islands, such as Lavancma, Farur, and Hindarabi.

"Now, the channel between Qeshm Island and the outer islands, Abu Musa and the two Tunbs, has become indisputably Iranian territorial waters.

"Of course, the right of innocent passage by all ships through these waters is recognized. But this does not include warships, for which there have to be special clearances and arrangements."

STATEMENTS STUDIED

The Shah's government has been carefully studying U.S. and Bahraini statements about U.S. naval rights in Bahrain. In an exchange of letters, the Sheikh of Bahrain agreed with Washington to continue port facilities extended to U.S. naval units during the last 25 years, while Bahrain was under British protection. Bahrain denies that it granted the U.S. any new base rights since it became independent last year.

U.S. officials repeatedly have been assuring Iran and Arab governments that Washington has no wish to take over Britain's former senior naval and political role here.

These assurances were given formally by the U.S. deputy assistant secretary of State for the Near East and South Asia, Roger Davies, during a gulf tour in December, shortly after Iran's occupation of the three outer islands.

SETTLEMENT URGED

Diplomatic sources say he urged a discreet diplomatic settlement of the disputed three outer islands. U.S. overtures were made to Iran and, through Saudi Arabia, to the Emirate of Ras al-Khaimah, which claims the Tunb islands.

Washington also reportedly proposed its good offices in settling an old dispute over the Buraimi oasis area, which is partitioned between Oman and Abu Dhabi, but also claimed by Saudi Arabia.

Sultan Qabbus of Oman visited King Faisal of Saudi Arabia in late December. They announced agreement in principle on Buraimi. But the United States is reportedly replacing the British in representing Abu Dhabi in detailed talks to follow, to the annoyance of Saudi Arabia.

The senior U.S. diplomatic mission in the gulf area is the Embassy in Kuwait. A new Embassy in Bahrain is headed by U.S. chargé d'affaires John Tatch. The U.S. Embassy to the new six-state Federation of Arab Emirates will be in its capital, Abu Dhabi, and a consulate general is soon to be opened in Muscat, the capital city of Oman.

[From the Christian Science Monitor, Feb. 16, 1972]

ABU MUSA: POWER KEY FOR IRAN

(By John K. Cooley)

ABU MUSA ISLAND, PERSIAN GULF.—This desert island of sand and red hummocks has become one of the keys to Iran's new power position in the Persian Gulf.

The island rose from the waterscape of the gulf like a startling mirage as the Iranian Navy frigate Milanian, one of the ships covering the original Iranian landing here, reenacted its approach of the night of last Nov. 30 and dropped anchor about a mile off shore.

We went ashore, first in an Arab dhow of the sort used to smuggle gold from the gulf ports to India, then in one of the Milanian's rubber boats propelled by an outboard motor.

A jeep of the Iranian Navy's Marine Commando Company stationed on Abu Musa bounced over the beach of pulverized white coral toward the Iranian camp at the island's hilly end.

CANDY MOUNTAIN

Jabal Halwa, or Candy Mountain—which British Admiralty sea pilot's guidebook to the Persian Gulf lists as a "prominent hill of light pinkish color 384 feet high"—looked more as though it belonged in the Sahara Desert.

The neat tent camp near its base was pitched behind parapets of pink Abu Musa earth and sandbags.

On the hill, topped by one light antiaircraft gun, waved Iran's red, white, and green flag.

We drove across a few miles of desert to Abu Musa Village, on the island's opposite end. The flag of Sharjah, a red square in a white field, flew over the municipal building—just a few feet higher than television aerials on the neat stone houses ranged in nearby rows.

VILLAGERS GATHER

A few of the 500 Arab villagers clustered around us, eager to talk. In the village general store, the shopkeeper and several Arabic-speaking strangers were delighted to chat with strangers.

Most of Abu Musa's villagers are fishermen. They are aware that Sharjah's ruler has made an agreement with Iran to receive an annual subsidy of about $3 million until nearby offshore oil-prospecting by Buttes Oil Company of the United States yields petroleum in commercial quantities.

REPUBLIC OF LITHUANIA

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. BEGICH. Mr. Speaker, today, Americans of Lithuanian descent commemorate the 54th anniversary of the establishment of the Republic of Lithuania. This anniversary serves as a reminder of the priceless freedoms we have in the United States and of the tragedy that the people of Lithuania cannot share these freedoms.

Under forced Soviet rule since June 15, 1940, the Lithuanian people have continued to struggle against the oppression and have aspired to attain the basic rights of national self-determination, religious freedom and the rights of human dignity.

I know all people in the free world join with me and my colleagues in the sincere hope that Lithuania soon will again be free.

SUPPORT FOR VETERANS DAY BILL CONTINUES TO GROW

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. YOUNG of Florida. Mr. Speaker, support continues to grow for the joint resolution I introduced on November 11th to return the Nation's official commemoration of Veteran's Day to November 11th. I have received hundreds of letters from across the Nation from individual citizens and organizations that voice strong support of this legislation. They, too, want to have this historic commemorative holiday returned to its rightful place on the calendar, not moved around at random for the sake of another 3-day weekend.

Although November 11th was chosen by Congress over 50 years ago as the most appropriate day to honor all veterans whose great sacrifices over the years have made it possible for us to enjoy the freedoms we have today, the new Monday Holiday Act chose to disregard this tradition. Veterans Day is now celebrated arbitrarily on the third Monday in October making it simply the tail-end of a 3-day weekend.

One of the many organizations that expressed their support of my resolution was the Retired Officers Club in my home district of Clearwater, Fla. This organization is an affiliate of the Retired Officers Association and boasts a membership of over 450 officers. In an effort to show their support, they adopted a resolution concerning the changing of the date of Veterans Day. I feel the opinion of men such as these who have served our country so well merits the attention of my colleagues:

RESOLUTION OF RETIRED OFFICERS CLUB OF CLEARWATER

Whereas, historically and traditionally, November 11 is the date upon which the Armistice ending hostilities in World War I was signed, and,

Whereas, Memorial Day has traditionally been observed on May 30th each year, as a tribute to those who have died in the service of their country, and,

Whereas, these historically and traditionally established dates were eliminated by enactment of Section 6103 of Title 5 of the United States Code, as the dates for the observance of Veterans Day and Memorial Day, and,

Whereas, the observance of Veterans Day and Memorial Day on other than November 11 and May 30, respectively, lessens the significance to all citizens and particularly to Veterans themselves.

Be it resolved that the Retired Officers Club of Clearwater, Florida urges the Congress of the United States to amend Title 5 of the United State Code to provide for the designation of the 11th day of November each year as Veterans Day, and May 30th of each year as Memorial Day.

Adopted unaminously by the membership of the Retired Officers Club of Clearwater, Florida, in its regularly scheduled meeting on December 15, 1971.

HONORS SUSAN B. ANTHONY—GREAT PATRIOT

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mrs. GRASSO. Mr. Speaker, yesterday was the anniversary of the birth of Susan B. Anthony, one of America's foremost leaders in the cause of freedom and equality.

Born on February 15, 1820, to Quaker parents in Adams, Mass., Susan B. Anthony was brought up in the Quaker tradition of speaking out against moral injustice. Miss Anthony first became interested in the fight for women's suffrage through participation in the abolition and temperance movements of her day. It was while she was attending a temperance convention in Syracuse, N.Y., in 1851, that she decided to visit Amelia Bloomer, an old friend, in Seneca Falls, N.Y. Elizabeth Cady Stanton had also taken that opportunity to visit Amelia Bloomer, and it was over tea in the Bloomer parlor that the lifetime friendship of Elizabeth Cady Stanton and Susan B. Anthony began.

Mrs. Stanton, the foremost feminist of her day, was perhaps the strongest influence on Susan B. Anthony's life's work. The combined influence of Miss Anthony and Mrs. Stanton in the cause of women's rights is gratefully acknowledged today by all who have been involved in the continuing effort for this vital cause.

Progress has been made since the days when Susan Anthony was arrested, tried, and convicted for simply exercising a citizen's constitutional right to vote—and at that by a judge who refused to allow the jury to retire to deliberate a verdict.

Indeed, progress has been made since the days when Susan B. Anthony was considered audacious to rise and speak at a conference totally dominated by men, though the majority of those present were women. At one point during the meeting, Miss Anthony rose to answer a question and was told:

The sisters are not invited here to speak but to listen and learn.

It is a tragic footnote to history that Susan B. Anthony did not live to see her goal achieved. Not until 14 years after her death—in 1920—was the 19th amendment to the Constitution finally adopted giving American women the right to vote.

Women must today, as always, fully utilize their talents, whatever they may be, and continue Susan B. Anthony's struggle for the fullest possible participation in every area of American society. Susan B. Anthony was truly a great American and a great patriot. It is with pride that I salute the anniversary of her birth. In honoring her we honor all who contributed. All were brave.

VIOLATIONS OF HUMAN RIGHTS IN SOVIET-OCCUPIED LITHUANIA

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. RARICK. Mr. Speaker, today marks the 54th anniversary of the establishment of the Republic of Lithuania and the 721st anniversary of the formation of the Lithuanian state.

It is fitting that the Congress pauses at this time to commemorate this anniversary and point out again to the world the violations of human rights occurring in this Soviet-occupied territory and, in particular, the denial of self-determination to the Lithuanian people.

The case of Simas Kudirka, a Lithuanian seaman of a Soviet ship, is indicative of the denial of self-determination to the Lithuanian people and points out quite clearly the violations of human rights practiced by the Soviets to maintain their tyranny.

I insert related material from the publication "The Violations of Human Rights in Soviet Occupied Lithuania, prepared by the Lithuanian American Community, in the RECORD at this point, followed by House Joint Resolution 271, "to rename the United States Coast Guard cutter Vigilant the Simas Kudirka," and the text of my bill House Congressional Resolution 61, calling on the President "to place the question of human rights violations, including genocide, in the Soviet-occupied Lithuania on the agenda of the United Nations."

The case of Simas Kudirka, a Lithuanian seaman of a Soviet ship, is indicative of the denial of self-determination to the Lithuanian people. The motives for the attempted defection to the United States by Simas Kudirka, as they are revealed in the record of his trial, were discrimination and suppression of national rights.

On November 27, 1970, the U.S. Coast Guard Cutter *Vigilant* moored alongside the mothership of the Soviet fishing fleet in the Atlantic *Sovetskaya Litva*, for the purpose of holding a joint meeting between the representatives of fishing industries and the governments of the United States and the Soviet Union.[1] The conference involved the cooperation of the two countries in the solution of the depleting stocks of certain fish (yellow tail flounder) in the North Atlantic area. The ships were moored in U.S. territorial waters off Gay Head, Martha's Vineyard, Mass. While the conference on fishing problems was proceeding on the *Sovetskaya Litva*, Simas Kudirka jumped unto the *Vigilant* and asked for political asylum.

The United States has recognized the right of political asylum in its rich heritage of accepting the downtrodden of the world as well as in its constitutional guarantees of personal liberty and due process of law. In addition, the United States has signed the UN Covenant on the Status of Refugees and is obliged by its No. 33 to accept a refugee whose life or liberty might be threatened for racial, religious, national, or political reasons.

Regrettably, these commitments of the United States were not realized in the Kudirka case. The subsequent investigations of the case disclosed that clear instructions on handling cases of political asylum were lacking, that the Coast Guard officers involved failed to understand the situation and committed serious errors of command, and the State Department failed to take proper action to safeguard the rights of Kudirka. After complex communications among the various parties involved, the commanding officer of the *Vigilant* was ordered to surrender Simas Kudirka back to the Soviets, as was demanded by the captain of *Sovetskaya Litva*. Since Kudirka would not return to the Soviet ship voluntarily, six Soviet seamen were admitted unto the *Vigilant* to forcefully remove Kudirka. In the course of the action, Kudirka was cornered by the Soviet seamen and beaten to unconsciousness. Helpless, he was transferred back to *Sovetskaya Litva* on a U.S. Coast Guard lifeboat.

The tragedy of Kudirka was a shock to the American people. The President ordered an investigation and assured that the United States is not abandoning its policy of granting asylum to political refugees. Subsequently the State Department has issued improved instructions to all concerned agencies on dealing with such cases.

The significant aspect of the Kudirka case is not the circumstances of the unsuccessful attempt to seek political asylum nor the pangs of conscience experienced by the American people, but rather the conditions that explain why Simas Kudirka gambled with his life and endangered his wife and children in seeking freedom in the United States.

Simas Kudirka was brought back to Vilnius and was tried for treason (Article 62 of the Penal Code) on May 18 and 19, 1971, by the Supreme Court of the Lithuanian SSR. The trial was presided by Misiunas, the prosecutor was Petkevicius. The defense counsel assigned was Gauronskis, but Kudirka declined him on grounds that he could not defend him truthfully without jeopardizing his life and position. Kudirka was convicted to 10 years of labor in a strict regime camp and confiscation of personal property.

Excerpts from the proceedings were made available in the west by Kudirka's friends. Although the complete text was not available, the numerous citations from the proceedings of the trial reveal clearly the motivations of Kudirka in attempting to flee the Soviet state.

FROM A REPORT OF THE PROCEEDINGS IN THE TRIAL OF SIMAS KUDIRKA[2]

PARIS.—"I do not consider myself guilty since I did not betray my homeland, Lithuania. I do not consider Russia, called the Soviet Union today, as my homeland."

So spoke Simas Kudirka at his trial in May for attempting to defect from a Soviet ship to a US Coast Guard cutter off Massachusetts last fall. Kudirka was sentenced to 10 years at forced labor. A summary of his trial, prepared by friends in the Soviet Union, reached the West last week.

"The ordinary Americans received me very well," said Kudirka of the sailors aboard the Vigilant who were ordered to return him to the Soviet fishing trawler after eight hours.

"Seeing that I was cold, they gave me warm clothing, while the Russian sailors afterwards beat me until I was unconscious, and they crippled my knee when I lay in prison for several months. I don't consider (the Americans) turning me back as a great tragedy. By the decisions of the Teheran, Yalta and Potsdam conferences, whole nations found themselves in slavery. In the eyes of the American military administration, I, as a Lithuanian, was the legal property of Brezhnev, the heir to Stalin, and should be returned to him."

On May 18, during the cross-examination of the witnesses, sailors acknowledged that they had beaten Kudirka.

The chairman asked the second witness, who knew Kudirka well, why he had sought to flee the Soviet Union. When the witness answered that Kudirka was driven to it, the chairman immediately stopped him from continuing.

A political commissar of his ship; the Sovietskaya Litva, asked Kudirka whether he would have sought asylum in the United States if he had known that "you wouldn't find work there, and if you did, it would have been cleaning toilets?"

Kurdirka replied: "The job isn't important. There is no dishonorable work, and if I had cleaned toilets, it would have been with a clear conscience, which is not the way you carry out your work. Your party membership card is only a ration card."

In explaining why he attempted to defect, Kudirka spoke for more than four hours. He said he had grown up in a very poor family and was familiar with social injustice. In 1940, when the Red Army occupied Lithuania, Kudirka said, social injustice increased because national injustice was added to it.

He recalled that in June 1941 people were sent to Siberia, whom he considered the most conscious Lithuanians, including the majority of the nationalist teachers whom Soviet propaganda branded as "bourgeois."

In 1941, German occupation replaced Soviet rule. In 1944, before the return of the Red Army, Kudirka said, rumors began that the Soviet system had changed. But it hadn't.

He again saw how people he considered innocent were sent to Siberia. He also witnessed mass killings. Many of his comrades joined anti-Communist partisans: Almost all of them died. He didn't have the courage to follow their example, Kudirka told the court. He tried to continue his studies in Vilnius, finishing the 8th grade, and then decided to become a sailor.

"My grandfather was a sailor," Kudirka told the court, "and I've been drawn to faraway countries. There was the wish to see the world, and besides, I thought that at sea I would forget the tragedy of my people. I wanted to flee from the strange scene: Not a week went by that in various Lithuanian towns the disfigured bodies of Lithuanian partisans weren't stacked up in the marketplace. I wanted to flee the hunger which reigned in the Kolkhozes (collective farms) at that time, the total lack of rights . . . reminiscent of the serfdom in Lithuania 100 years ago.

It's a shame, but even in the fleet I found this kind of injustice and national discrimination.

In the (Soviet) press I read about the great Lithuanian fleet, but in reality there is no Lithuanian fleet: It's Lithuanian only in so far as the ordinary sailors are Lithuanian. Lithuanians command this fleet only in exceptional cases: The majority don't even know the Lithuanian language. The top leadership of the so-called Lithuanian fleet lives in Moscow and doesn't trust us Lithuanians. Permission to sail abroad and go ashore is, in general, not granted to Lithuanians . . ."

On May 19, the prosecution made his final plea, expressing indignation with Kudirka's treachery. He demanded as punishment 15 years in a strict regime labor camp as well as the confiscation of all personal belongings.

Kudrika spoke in his own defense, citing Herzen, Marx and Lenin to explain the difference between socialist theory and practice in Lithuania. In Kudrika's view, socialism does not exist in Lithuania, but there does exist an almost inexplicable type of "parody" of socialism.

"From the standpoint of international law," Kudrika said, "I am not a criminal. My decision to go abroad does not contradict the United Nations Declaration of Human Rights or even the Soviet constitution. Therefore I consider myself completely innocent. However, I know very well that my

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Footnotes at end of article.

fate has already been decided by the security organs."

Kudrika described how Senior Lieutenant Urbonas, director of the investigatory section Kisman, KGB (secret police) Major General Petkevicius and many other secret police officials, some of whom had come especially from Moscow, had tried to re-educate him while he was in prison. They had suggested that he condemn "bourgeois nationalism" in Lithuania and abroad, which had ideologically prepared his treachery, hinting at a lighter sentence if he cooperated. But Kudirka stated that he was relinquishing his own personal freedom for the sake of his real homeland Lithuania. Six months in solitary confinement had given him sufficient time for deep reflection.

Kudirka continued: "I remember that when I studied in Vilnius, instead of the two prisons which were there under the Germans, there were seven under Soviet rule, in which there were about 20,000 prisoners. They were overfilled until 1955. Already in 1950, waves of Lithuanians with their young went to the concentration camps . . . the death of Stalin saved my people from physical extermination. However, the essence of the policy remained the same.

"Now," Kudirka said, "we are destined to die a much slower death—assimilation. However, we don't want to die. For 10 years our 'brothers in the woods' (the Lithuanian partisans) fought, believing that in the west our struggle was known and supported, even if only morally. Those who died in battle or in the concentration camps believed it as well. (Even the state security officials admit that 50,000 Lithuanian partisans died.) The Atlantic Charter, which promised the enslaved nations freedom, was an empty promise, costing my people 50,000 dead and 400,000 deported, of whom 150,000 found their graves in the earth of Siberia. . . .

"The bravest and most resolute patriots of Lithuania were physically annihilated. But a new young generation has grown up which intends to go the road of their fathers. When I refused to fulfill the wish of the state security organs, they threatened me with the death sentence. I believe that this promise will be fulfilled.

"I am a devout Catholic. Therefore, if the supreme court sentences me to death, I would request it to invite a priest to give me the last rites of the Catholic church."

At this point the chairman interrupted Kudirka and said: "I don't understand, what you are talking about."

Kudirka: "I ask the supreme court not to persecute my mother, my wife and my children. I ask you not to harm them."

Chairman: "Your own conduct brings hardship to your family." Kudirka: "Not me, but you. I hoped from America to help my family more than with the slave wages I receive here. Besides I hoped to bring them abroad."

The chairman read from a newspaper: "In the US a committee has been created for aiding the Kudirka family." From another newspaper: "The US intends to help the family of Kudirka, although many American families whose breadwinners have died in Vietnam are left to the mercy of fate."

Kudirka remarked: "Evidently this committee is in the hands of those who are on the side of peace."

Before sentencing on May 20, Kudirka said: "I have nothing to add to what I have already said, only one wish, more specifically, a request both to the supreme court and the government of the Soviet Union: I ask that you grant my homeland, Lithuania, independence."

Chairman: "How do you picture an independent Lithuania?"

Kudirka: "An independent Lithuania, in my opinion, has a sovereign government and is not occupied by any army. The government has a national administration, its own legal system, and a free democratic system of elections. The laws of other countries are not binding on this government, as the laws of Russia are here today. An independent Lithuania wouldn't be dominated by the Russian language as it is today. I would like there to be no more trials such as mine in Lithuania."

Chairman: "Are you perhaps saying that the present court was not democratic and was illegal?"

Kudirka: "Of course, inasmuch as it takes place behind carefully screened windows and closed doors with Russians on guard. In a democratic trial, anyone who wished would be permitted to attend. If I betrayed my homeland, then why are you afraid to show the public a traitor. Let the public itself judge me. Unfortunately, the courtroom is empty. Besides my wife and a few Chekists (security police), I see no one. There are also a few guards, but they don't know the Lithuanian language and don't know what we are arguing about."

After a short consultation, the chairman pronounced the sentence: "Ten years labor in a strict regime camp with confiscation of personal property."

When he heard the sentence, Kudirka couldn't conceal his pleasure. He had thought he would be shot.

Soon after the trial, state security employees took from his apartment a set of "Kaunas" furniture, a rug and a radio set, amounting in value to some 700 rubles ($770 at the official rate of exchange).

The compilers of the summary of Kudirka's trial conclude their report with the following postscript:

"To this day, Kudirka does not know that he had been living under the menace of internment in a psychiatric hospital. However, his relatives and acquaintances refused to yield to the threats of the Chekists (security police) and sign statements that he was psychologically abnormal. Doctors of the city of Vilnius, headed by the chief psychiatrist Gutman, also resisted Chekist pressure. They pronounced Simas Kudirka completely healthy."

Kudirka was sent to the Potma camp complex of the Mordvinian Republic, about 200 miles southeast of Moscow. However, his spirit of protest against a suppressive system has not been broken. He was one of the nine prisoners of the camp who signed an appeal to the International Red Cross to help improve the conditions in the camp.[3] The letter to the Red Cross disclosed not only the starvation diet and other beastialities of the camp, but also gave an account of a three day hunger strike by prisoners in protest of the conditions in the camp and the commemoration of Human Rights Day on December 10, 1971. The case of Kudirka, like those of many others who asserted the basic human rights, continues . . .

FOOTNOTES

[1] The Kudirka case has been widely reported in world press. A detailed record of the case will be found in the following publication: U.S. Congress, House of Representatives, Subcommittee on State Department Organization and Operations of the Committee on Foreign Affairs, *Hearings: Attempted Defection by Lithuanian Seaman Simas Kudirka*, 91st Cong., 2nd Ses., Washington, 1971.

[2] The report printed here is by Anatole Shub of the *Washington Post*, as published in *The Boston Globe*, August 7, 1971. A much briefer but similar account of the proceedings in Kudirka's trial is also published in *Khronika Tekushtshikh Sobytii*, No. 20, July 2, 1971.

[3] As reported by Theodore Shabad in the *New York Times*, December 31, 1971.

H.J. RES. 271

Joint resolution to rename the United States Coast Guard cutter Vigilant the Simas Kudirka

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the tragic lack of guidance and initiative surounding the forcible return of the Lithuanian sailor, Simas Kudirka, to a Soviet ship from the American Coast Guard cutter Vigilant on November 23, 1970, should serve as a perpetual reminder to all Americans of the need for an understanding of the obligations of liberty.

That static leadership, unclear authority, and a woeful absence of basic compassion resulted in Soviet naval personnel being permitted to board an American ship in American waters for the express purpose of capturing and subduing Simas Kudirka and denying him the sanctuary to which he was entitled.

That this tragedy and this man must not be forgotten by the free world.

That the Congress of the United States therefore urges the President to adopt the suggestion of the Lithuanian American Congress and rename the Coast Guard cutter Vigilant the Simas Kudirka in memory of the right of all men to individual liberty and as a constant reminder to all American ships at sea that this tragedy shall never be repeated.

H. CON. RES. 61

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President, acting through the United States Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violations, including genocide, in the Soviet-occupied Lithuania on the agenda of the United Nations Organization.

SOVIET INJUSTICE IN THE UKRAINE

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. CARNEY. Mr. Speaker, recently we have all become more aware of the suppression of human rights within the Soviet Union, yet very little has been written about the persecution and repression of intellectuals in the Ukraine. Soviet domination of the Ukraine has tragically become a stark reality, yet writers and intellectuals reflecting Ukrainian ethnic individualism and nationalism are continually resisting political and cultural repression.

Valentyn Moroz, a young Ukrainian historian in November 1970 was given the harshest known sentence for political dissent in the Soviet Union since the Stalin era—14 years. The charge was unspecified, yet was generally covered by "anti-Soviet propaganda and agitation." In early September 1965, Ivan Dzyuba was detained in Kiev under the pretext of having sent to the West a diary of the deceased young poet, Vasyl Symonenka. Reportedly 100 individuals were arrested in Kiev and L'vov at that time and secretly brought to trial. Many were sentence to hard labor in Siberia for "their struggle against the Soviet state system."

The denial of justice and basic human rights as represented in these secret trials was criticized by a young journalist, V. M. Chornovil, who was subsequently brought to trial for subversive actions. The list of other young Ukrainian intellectuals arrested and sentenced on false charges is endless. Although the

Soviet Union boasts loudly of adhering to the spirit of the Universal Declaration of Human Rights, it has continued to respond to the challenge by extending police repression and its utilization of prison camps. It is clear that the oppression of Ukrainian intellectuals by Moscow is directed by the overall policy of the Kremlin to stifle all opposition in the Ukraine. However, these men are but speaking out against the forcible russification of the Ukraine and the continued destruction of its culture.

We, as members of a free society, must continue to speak out against these injustices and support the demands of these freedom-loving individuals in the hope that freedom and justice will once again become a reality for the people of the Ukraine.

SILVER BAYONET AWARD TO WIN CURRIER

HON. GEORGE P. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. MILLER of California. Mr. Speaker, there are many fine newspapers and editors in my congressional district, and one of the best is Mr. Win Currier, editor of the San Leandro, Calif. Morning News.

His assistance to the Army in its recruiting program was recently recognized when Col. Philip S. Day, Jr. commanding officer, 6th U.S. Army Recruiting District, presented him with the Silver Bayonet Award.

The following article describes this occasion.

ARMY AWARD M–N EDITOR

SAN LEANDRO.—Recent recipient of the Silver Bayonet Award in ceremonies here was Win Currier, editor of the Morning News.

The presentation was made by Col. Philip S. Day Jr., commanding officer, Sixth U.S. Army Recruiting District, Presidio of San Francisco.

The Silver Bayonet, a rarely given award, has only been presented five times in one year in the 6th Army District, an area encompassing Alaska, Hawaii, Guam, California, Oregon, Washington, Nevada, Arizona, Utah, Idaho and Montana.

The award is presented if a recruiter achieves at least 100 per cent of his recruiting objective for one year.

The certificate accompanying the award states: "Mr. Win Currier has continuously rendered support to Army Recruiting far above that normally expected of the editor of a daily newspaper. As editor of the Morning News, San Leandro, California, a large circulation daily paper, Mr. Currier has been directly responsible for the publication of hundreds of column inches of Army Recruiting news releases concerning enlistment options and men and women enlisting in the Army. Virtually every release delivered to Mr. Currier has been printed promptly and usually in its entirety. He has cheerfully dispatched reporters and photographers to cover newsworthy events such as open houses at the Hayward and San Leandro recruiting stations whenever requested. Mr. Currier's continued and enthusiastic support has materially aided the Army Recruiting Service in its mission of establishing a Modern Volunteer Army." Signed; Philip S. Day Jr. Colonel, Infantry, Commanding.

AMERICA HAS THE ANSWERS—LET'S START USING THEM

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. EILBERG. Mr. Speaker, today I am proud to bring to the attention of my distinguished colleagues a very good friend of mine and a hard-working, involved citizen, Mr. Sam Spizer.

Anyone who knows Sam knows what an active, interested, participating citizen he is. His retirement 4 years ago after a 39-year career as a physical education teacher in Philadelphia special schools, did not terminate his energetic involvement in bettering his community and the plight of his fellowman.

Sam, always eager to serve his community, has never hesitated to advise me concerning civic projects which would benefit the citizens of Philadelphia and our nation. I have always valued his counsel and continue to do so.

Now Sam Spizer is writing a very fine book entitled "America Has The Answers . . . Let's Start Using Them."

One particular chapter of this excellent book instantly drew my attention and admiration.

As we all know, abandoned housing has been growing at an astronomical rate—and it is a loss to everyone. Not only do the landlord and tenant incur a loss, but everyone in the city is denied the additional or improved services for which the property tax would pay.

In his book, Sam presents a well-thought-out and workable solution for reclaiming and renewing abandoned housing.

Since this is a nationwide problem and demands the special attention of all the members from large metropolitan areas, I take this opportunity to enter the chapter of his book which deals with abandoned housing into the RECORD:

Let's Change Thousands of Abandoned Houses Into Thousands of "Rays of Hope" in Philadelphia

(By Sam Spizer)

Poor Black people are demanding better housing!

Poor Black people are demanding better education!

Poor Black people are demanding better jobs!

Can we help them achieve these objectives, and do it soon?

Fortunately, there is a program in Rochester, New York, probably unknown to most Americans, which I believe can play an important part in making some progress toward all three objectives, not only for Blacks, but also for poor Whites, Puerto Ricans and other minority groups.

The program is of especial interest to those young adults, 16 to 20, who have either dropped out of High School, or who appear to have lost interest in school and are potential dropouts.

It is the kind of program that can help everybody in the community, directly or indirectly.

Because of this, it will pay all of us to become acquainted with it and to study it carefully.

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"ROCHESTER TO USE PUPILS TO FIX UP HOUSES"

This heading, on a tiny 2½ inch story, hidden on the inside of the Philadelphia Bulletin, and dated September 25, 1970, attracted my attention.

The short story told us that Rochester, N.Y. high school pupils would rehabilitate 60 inner-city houses this year, under a federally funded program. About 100 pupils would work on this project, and get $1.85 an hour, for four hours, on the housing job. They also would go to high school for four hours a day in order to work for their diplomas.

If Rochester, New York, can do it, I thought, why can't Philadelphia and other cities in the United States? So, in order to learn more about it, I arranged to visit Rochester on October 21, 1970.

I was greatly encouraged by what I saw and learned. I now have the feeling that nearly every dilapidated, or deteriorating, abandoned house, anywhere in the United States, can be transformed from a sad and hopeless situation into a great opportunity.

It appears to me that we now have a wonderful chance to accomplish a number of good things, simultaneously. . . . in one project. We can motivate Young Adults into getting a more relevant and better education. . . . and at the same time help them pick up many work skills that can later be of use in getting them better jobs. By Rehabilitating Old Houses, that are decaying, we will give poor people better housing. And lastly, eliminating dilapidated houses can save whole neighborhoods from possible ruination and destruction. This helps everyone.

When I came home from my trip on October 25, 1970, I picked up the Sunday Philadelphia Inquirer, from my doorstep, and the first story my eyes fell on, had this headline across the whole top of the page. . . . 20,000 Abandoned Houses—and Problem's Growing.

In the long and well written article that followed, James B. Steele, Urban Affairs writer, tells us that "Abandoned housing is spreading like an incurable disease, infecting the good with the bad." In Philadelphia, he estimates, there are 20,000 abandoned houses. The same disease prevails in hundreds of cities in America.

Steele's discussions with numerous local and national leaders in housing doesn't seem to give a tiny bit of encouragement toward solving the problem. "Most people believe that abandonment will get worse, before it gets better," he writes.

Many people don't seem to realize it, but abandoned houses hurt everybody in a city. The first ones hit are the landlord and the tenant. The landlord loses every dollar he invested in the house. The tenant can't live long in a house that the landlord has abandoned, because in most cases it probably has many defects such as a broken heater, leaking plumbing or a leaking roof. So he is forced to look for another house, usually at a much higher rental, because rents are going up continuously. Lastly, the City loses millions of dollars in real estate taxes that stop coming in when owners abandon their houses. This loss of tax revenue affects everybody in the city.

The trouble doesn't stop here. Unfortunately, an abandoned house often becomes a hangout for alcoholics, dope addicts, sex parties, and vandals who start tearing away the plumbing, the electric fixtures, the wiring, the doors, the floor boards, window frames, shrubs and almost anything that can be torn apart and sold or used elsewhere.

Within a short time it is such a disgusting situation that people living on either side often move away. Before long, these two houses become abandoned also because no one will move into such dilapidated houses. This Housing Cancer sometimes goes on until an entire block of houses are contaminated and ruined by abandonment. If unchecked, adjoining streets and neighborhoods become degraded and unfit for habitation. They often become cesspools for crime. Not only do people fear walking in these neighborhoods, but it costs double and triple to try to police them. Police, incidentally, are expensive. For every 100 extra policeman hired, Philadelphia taxpayers are paying $1,000,000 a year.

To make matters worse, Philadelphia, like most of the cities suffering with huge numbers of abandoned houses, is building less of new houses for the poor, than the number of houses being abandoned. This makes a tragic situation for poor people who need housing desperately.

Can this situation be reserved?

Is there a way out of this miserable situation?

I think there is!

Rochester, New York, showed me very plainly, that we can Rehabilitate Houses, and at the same time, Rehabilitate people and Neighborhoods.

Yes, we can actually change the 20,000 abandoned houses into 20,000 'Rays of Hope' in Philadelphia! The same can be done all over America!

All we need, is the will and determination to do it!

We also have to learn the skills of organizing the people or our nation, so that we will get effective action . . . at once!

* * * * *

Every good project requires someone to give it a push . . . a start. In Rochester, Eastman Kodak Company was looking for some project to help "Young Adults" who had either dropped out of High School or gave signs that they would become Dropouts.

One of their personnel assistants in the Engineering Construction Division, Robert Lee, 26, (and a co-worker, Dick Pignataro) came up with the idea for a Housing Renovation program. Lee, a very friendly fellow and an excellent leader, was put in charge.

Kodak started the housing project by pledging up to $110,000 early in 1970, underwriting a six-month program. They were assisted in starting the program by the School District of Rochester and the Metropolitan Rochester Foundation. The project was placed under the direction of Rochester Jobs Incorporated.

Kodak provided a training co-ordinator, several instructors on a full-time basis, drafting and architectural help, purchasing and technical consultation and tools and equipment.

To get things moving, Kodak purchased a run-down and dilapidated meat market, which was ready for demolition, and donated it to the program. Because of it's vandalized and broken down condition, it became a good Training Center from the very first day that the students appeared for the program. The first group of students, incidentally, were selected from seven High Schools in Rochester. They consisted of eight black, nine white, two Puerto Rican and one American Indian, students.

Supervisor Bob Lee, selects the youngsters by working with school vocational guidance personnel and with local job referral agencies.

Under this work-study program, the students attend regular school classes for half a day and spend the other half receiving training in industrial skills and applying these skills to the renovation of houses for eventual ownership by low-income families. Houses will sell mostly in the $8,000 to $12,000 price range.

The training stresses work procedures, emphasizes proper attitudes, work habits, attendance, safety, and care and maintenance of equipment and machinery.

The 'Young Adults' are paid $1.85 an hour for the 20 hours a week they are on the training program. By attending a half day in High School, they are encouraged to study for their graduation diplomas. Going to school half a day is a condition for being hired for the Housing Job.

* * * * *

As the program developed, more and more people became involved and soon it had broad community support. It is a good example of how expertise from a variety of community resources can be stitched together to efficiently reach a common goal.

For example:

A. Trainees are hired by Rochester Jobs Incorporated in co-operation with school guidance counsellors . . . the Youth Opportunity Center of the New York State Employment Service . . . and Various Job referral agencies.

B. Vocational and academic instruction is conducted under a subcontract to the City School District.

C. Local trade and craft unions are assigning full-time technical advisors to the training program.

D. Several Rochester industries have loaned personnel to the program, either on a part-time basis or for extended service as full-time experts in their field.

E. Many of the 90 firms supplying housing materials to the project are also providing training lectures in the proper use of their products. For example, the dealer supplying kitchen cabinets is training the trainees in the best method of hanging them on the kitchen walls.

F. The Real Estate Board of Rochester is assisting the Metropolitan Rochester Foundation in the purchases of old houses.

G. The Council of Social Agencies is handling the financial paperwork for prospective home buyers.

H. The member banks of the Rochester Clearinghouse Association is providing the mortgages under FHA guarantee programs.

I. Finally, Rochester Jobs, Incorporated, helps trainees find full-time career employment after their graduation.

All in all . . . it is a beautiful picture of various elements of a city . . . working together . . . for a common purpose . . . a better city.

* * * * *

The six-month Kodak developed Housing Project, which started in January 1970, quickly showed excellent possibilities. As a result, the United States Department of Labor gave Rochester a grant of $1,000,000 for training 350 youths in various work skills. About 100 will work on rehabilitating houses. The others will get training in various industries, including Kodak.

According to Robert Lee, Supervisor of the program, they expect to rebuild and rehabilitate 50 to 60 houses in one year.

When all expenses are added together, it is estimated that the costs will run from $8,000 to $12,000 per house, depending on size and facilities.

The houses are to be sold at cost, and are intended only for families in the low-income group.

* * * * *

Under the Rochester Housing Program, 100 Trainees are expected to renovate over 50 houses a year.

On this basis, 1,000 Trainees could hopefully renovate 500 houses a year.

And 4,000 Trainees could possibly renovate 2,000 houses a year.

2,000 houses happens to be the number of houses in Rochester that deteriorate annually.

Even at this early date (December 1970) in the Rochester Housing Demonstration Program, it seems to me that all of us, all over America, could start copying their method of operation. If we organize our programs properly, I believe that it would be a healthy start of a successful antidote to America's "abandoned" housing problem, which "is spreading like an incurable disease, infecting the good and the bad."

The experts have been saying that "abandonment will get worse before it gets better!"

This may be true if we just continue to drift along in our seemingly hypnotized and panic-stricken state of mind.

Rochester has given us proof that it does not have to be that way . . . in Rochester . . . or in any city of America.

Philadelphia, New York City, Detroit, Newark, Chester, Chicago, Boston and several hundred other cities can learn a lot from Rochester.

One of the nice things we learn from the Rochester program is that the program does not require continuous huge grants, year in and year out, from the Federal government. However, it does require a sufficient amount of 'seed money' for a few years, to get the program firmly established.

The 'seed money' actually becomes a revolving fund that keeps financing the project over and over again, continuously.

Let's see how the revolving fund works.

Let's say that the cost of renovating a house, runs an average of $10,000. Thus the management needs $10,000 to renovate the first house. When it is finished, they sell it at cost for $10,000 and thereby receive $10,000 that can be used to pay the expenses of a second house. When they sell it, they receive $10,000 which can be used to finance renovating a third house, etc.

The project thus becomes self-sustaining and can continue this way, taking care of renovating 50 houses a year, with very little financial help from the Federal government.

As a matter of fact, the Rochester people are already thinking that by August 1972, they may be financially able to manage the program without Federal aid. They hope that the techniques and program that they have developed by then, will fit into the regular school budget.

This sounds encouraging. However, there is one question I am raising. If the program can run on its own after a year or two of Federal 'seed money' help, why not expand the program to solve the whole problem of deteriorating houses in Rochester?

For example, if Rochester has an estimated 2,000 houses deteriorating annually, why not get enough 'seed money' to renovate 2,000 houses annually? The 'seed money' for this project would probably run about $10,000,000. This is less than the cost of one F-111 fighter-bomber. Incidentally, a news item in the New York Times dated December 19, 1970 tell us that a Senate unit calls the F-111 a Fiscal Blunder that will cost taxpayers almost 8 billion dollars.

Let's look at what renovating 2,000 houses in Rochester would do to the City. Let's look at what it would do to the people . . . to their hopes . . . their attitudes . . . their pride. Let's look at how much business would be generated in supplying materials and supplies for the building program. Let's look at what it would do to 4,000 potential dropouts and despairing dropouts in saving them from a life of anger, welfarism and possible crime, and at the same time motivating them to get their High School Diplomas.

Look at all the taxes these Trainees would start paying both to the City, State and Federal government. And the real-estate taxes the new home owners would start paying on houses that previously paid nothing as abandoned houses.

Rochester would take on a new lease on life . . . and so would its people.

The Federal investment of $10,000,000 in 'seed money' for Rochester would be a beautiful investment . . . for it would bring beauty to the city . . . and beauty to its people.

And at the same time, it would act as a beacon of hope and optimism to assure all Americans that the housing renovation problem can be licked successfully and completely.

* * * * *

Now, let's see how the project works and how the 'Young Adults' fit into the program.

As we mentioned earlier, the Trainees are fellows who dropped out of school, but are willing to go back to the schoolwork program (half day at school and half day at work) and try to get their diplomas.

Trainees also include students in the High Schools who have little interest in school and who are potential dropouts. Trainees are between 16 and 20 years of age.

50 of them attend the Housing Program in the morning and then go back to school for the afternoon. Another 50 attend school in the morning and work on Housing in the afternoon, 1 to 5 P.M.

It is a 2 year program. During the first year, several months are spent learning such things as proper attitudes toward work, proper attitudes toward their fellow Trainees, proper handling and care of materials and tools, and proper safety measures in such activities as climbing ladders, fixing roofs, fixing windows and dozens of other jobs in the Housing Construction industry.

During the first year, each trainee is exposed to a number of crafts such as carpentry, masonry, painting, sheet metal, electrical, plumbing, roofing, cementing, landscape gardening and other skills that may come up in rebuilding a house.

By exposure, I don't mean that a Trainee merely looks at a craftsman working. He actually assists or does the real work. In my visits to four places, I saw Trainees working in all of them.

In his 2nd year, the Trainee will have a chance to specialize in the trade of his choice.

The Young Adults work together on one house, in units of 10 fellows, plus a Team Leader. Leaders are generally experienced craftsmen in the building trade who act as instructors and leaders of their teams. A leader is selected first for his ability to understand and work with 'Young Adults.' Without this special ability to lead, he would not be appointed regardless of his building skills. It is important that he has 'rapport' with the Trainees and can act as a Counsellor to them, whenever necessary.

The 'trainee' receives his pay weekly. He gets $1.85 an hour for 20 hours a week. From his pay is deducted all the taxes that the average adult worker would pay, who is employed in industry. He is encouraged to have a small amount deducted for his savings account. In addition, one dollar a week is deducted to pay for his tool chest, until he has paid $40.000, which is payment in full for all his tools.

Having his own tool chest gives the 'Trainee' a feeling of importance, that he really is a mechanic. It also makes him take better care of his tools, not to break them or lose them. He is told that this is the way he will be treated in industry, so he may as well get used to it now.

If the Trainee's work is satisfactory and his attendance and teamwork is good, he will get a pay raise of 10c an hour ($2.00 a week) every six months.

If he becomes an assistant team-leader, his pay will go up to $2.50 an hour. This goes to Trainees who are extra good.

The houses that 'Trainees' are helping to renovate are selected by the Rochester Real Estate Board. I got the impression that at the present they select individual run-down or dilapidated houses on the 'fringe' of a slum area. Their philosophy seems to be that if one house in a block becomes abandoned, the best policy is to renovate that house and thus encourage the neighbors to remain in that Block. Fixing up the abandoned house, also has been a stimulant to motivate next door neighbors, to paint and fix-up their houses too.

* * * * *

Now let's get back to the 'Young Adults' on the job.

I was quite lucky to have Robert Lee, the Supervisor of the entire Rochester Housing Project, take me around to the various housing projects. It was easy to see that this young and interested 26 year old fellow is excited about his job. I also like his philosophy of trying to run the project just as it would be run by a private construction company.

It was a real thrill coming to one job, where six of the fellows were nailing shingles on the slanting roof. The other four were working on the first floor, fixing windows, and doing some siding on the walls of the house.

As I looked up, I noticed that the fellows on the roof had built a platform on which their feet rested. Their bodies were almost lying flat on the sloping roof as they banged nails into the shingles. Everyone of these fellows was serious and industrious. There was 'no fooling around' and very little talking, if any.

While looking at them, I mentioned to Robert Lee that this made a beautiful picture. Look at the young men seriously working, trying to 'build a new roof' for a renovated house. Without this program some of these dropouts or potential dropouts might be tearing houses apart . . . instead of putting together. Robert Lee agreed. I gently ribbed him about not taking pictures of this scene. Incidentally, talking about pictures, Lee had told me earlier that Look Magazine had taken a great many pictures of the Housing Project and were planning to show some of them in a story they were planning to run in a future issue. This story came through in the December 29, 1970, issue of Look.

"Incidentally, Bob," I asked, "Are you able to get insurance on these Trainees?" He answered that in New York State youth over 16 can get insurance on these work-study programs and that all Trainees in the project are covered with insurance.

"How about the Unions? Do you have any problem there?" Lee told me that they have two full-time Union Consultants on the job and discuss all work with them in order to try to avoid misunderstandings. Considering how all elements of Rochester are working together on this Housing Renovation Project, it appears to me that this type of project should be grabbed up by every city in America that has the problem of 'Abandonment.'

* * * * *

When people usually talk about Training or Vocational Centers or Schools, they generally thing of huge buildings costing millions of dollars and expensive in their upkeep.

It was different in this project.

As I recall, the broken-down meat store that Kodak bought and donated to the project was about the size of three ordinary houses. Yet, it didn't have to be larger, because there are only 50 Trainees in the A.M. session and 50 in the P.M. session, with most of the Trainees sent out on renovation jobs throughout the city after putting in their two months training period in the Training Center.

Incidentially, from the very first moment that the first group of Trainees walked into the dirty and broken-down store, it became a valuable Training Center for them.

During the first week or two the students learned a very important skill . . . how to clean up a vandalized place . . . removing all the scrap and debris . . . so that renovation could start. Then under supervision of master craftsmen, they learned how to help in reinforcing sagging floors . . . how to fix doors taken off the hinges . . . fix broken windows and window frames . . . how to patch up holes in plaster . . . fix holes in the brick walls . . . make new closets . . . make acoustical ceilings . . . fix the roof . . . hang new electric fixtures . . . install new bathrooms . . . and paint inside and out.

They learned how to rip out the old equipment and how to help in the fixing of the heating system . . . the plumbing system . . . the electrical system . . . and other systems necessary to make this formerly worthless and decaying eyesore of a store . . . to become a well constructed and pleasant building which, beside uplifting the morale and spirit of neighbors, now has very pleasant and efficient offices for the administration and their employees . . . and also a workshop and classroom where Trainees can learn new techniques.

When I walked into the Training Center, they were in the process of building locker and shower rooms for use by the students, and also a Recreation room for them.

They were turning this building into a fine Training Center and Headquarters for the Administration.

It is now a fine asset to a fine program!

Why can't we do the same all over America?

* * * * *

In going to Rochester, one of my main objectives was to learn how they changed the mental outlook of the Trainees from their previous "defeatist" attitude of Dropping Out . . . to one of serious interest and confidence in their ability to rehabilitate broken-down houses.

How did they talk to the Trainees . . . what did they say . . . and what procedures did they use in tackling the work on the job?

This, after all, is important in a project where "Young Adults" are asked to rehabilitate broken-down houses and at the same time be encouraged and guided in rehabilitating themselves.

To get help on this question I asked many questions of Bob Lee, the program Director, the Team-Leaders, and the Trainees. And, here is the general picture I got of their procedure when they started actual work on the houses.

The Team-Leader would get his 10 Trainees together in the dilapidated house and say something like this:

"Fellows, I realize that some of you are wondering how a broken-down and filthy and vandalized house like this can be fixed up properly so someone will decide to buy it and live in it.

"If you have such doubts, let me show you this picture of a beautiful house at 39 Day Place. It's not far from here. If you wish, you can see it on your way home.

"This house was fixed recently and when we started working on it, it didn't look any better than this place, right here. So, you know it can be done, and I feel confident that you fellows can do it.

"Now here is our Plan. Come over here, a little closer, and watch this pointer on the blueprint. Over here, we will build a bathroom. Over here, we will put in a closet. Here we will tear out this wall and enlarge the kitchen.

"We will have to repair this torn-up floor, and fix the electric wiring. We might have to rip out the old wiring and put in new. We may have to do the same with the plumbing and heating. You see those breaks in the ceiling and the walls? Well, we will fix them with plaster. On the outside, we will put on new siding on the walls, and it looks like we may have to put new shingles on the slanting roof.

"After that, comes installing new kitchen fixtures and electric fixtures, and after that we will paint the whole house, inside and out.

"The last job will be repairing the cement work in the basement . . . . repairing of sidewalks and driveway . . . . landscaping and planting flowers and bushes . . . . and then a nice clean-up of the house, inside and out.

"Any questions?" After they are answered, the Team Leader may ask Trainees if anyone knows what will be the first job. Someone yells, 'clean the place up.' Right.

"Now fellows, if you were working for a private company, there would be a schedule of work. We too have a schedule.

"Here it is:

"A. We expect to have this place cleaned up in one week.

"B. We expect to have the place completely renovated in eight weeks. At that time, if it is completely finished, the Federal Housing Authority (FHA) will send a man down to appraise the house. That means, he will decide how much the house can be sold for, and then he will recommend the size of a loan (a mortgage) to the person buying the house.

"When we get to that point, I know you fellows will be very proud of yourselves and your work. Every time you pass this house you will feel real good, because you helped create it. And, people in the neighborhood, and your family, will be proud of you.

"In fact, since the Look Magazine wrote a story and showed pictures of our work here in Rochester, millions of its readers all over America, are undoubtedly proud of us and our housing renovation job in Rochester.

"So fellows, let's get started on Schedule #1, the Cleanup.

"OK? Let's go!"

* * * * *

As soon as the cleaning job has been finished, work starts on fixing the house.

The ten Trainees are exposed to every type of work all over the house. Besides watching and helping the Team Leader, they get extra valuable training and advice from many of the 90 companies that supply materials for the house.

For example, the firm that sells Kitchen Cabinets sends an expert down to explain and demonstrate in detail how to properly hang cabinets on the wall. Doing it exactly right is very important. In addition to the cabinet's own weight, several hundred pounds of dishes, pots and pans may be put into the cabinets by the family that moves into this house.

If the cabinets are not firmly and properly attached to the wall, the weight could cause the cabinets to topple down and seriously hurt someone standing nearby.

This specialized help from the Kitchen Cabinet Suppliers, is repeated over and over again by many of the other suppliers. Thus, the Trainees, and perhaps the Team Leaders too, get a lot of specialized help that could take many years to learn, if they did not have such assistance from their suppliers.

This is nice teamwork. Incidentally the "Young Adults" are coached on ways of helping each other on the job. If anyone needs help, Trainees are advised to offer their help at once. This can build friendships. It can also often prevent accidents.

This very beautiful teamwork, by suppliers, by local agencies, and by the Trainees, helping each other, is helping to build beautiful homes that are not only bringing joy to those buying them, but also is helping to ease the city's chronic housing shortage.

Why not copy it all over America?

* * * * *

Sometimes, the spontaneous remarks or reactions of people connected directly or indirectly with a local project over a project of many months, often describe or portray the project much sharper and clearer than an outsider, like myself, who spent such a very short time in Rochester.

So let's hear some of their reactions.

One Trainee said, "My first reaction on the first day I walked into the dilapidated Training Center was 'What a dope I am. What was I getting myself into.'" Now, after the renovation job was completed, he said, "I can't believe it. I never thought we could do it. For the first time in my life I've been involved in something worthwhile."

A second Trainee who lived around the corner from one of the renovated houses said, "Before that place was fixed up, I hated that house. It was a real eyesore. But now this place is something special. The whole neighborhood is looking up to us Trainees now."

A third Trainee, who told his family about his delight and joy of accomplishment in putting in a new linoleum floor in the kitchen of one of the houses, said "When I got done explaining how we did the work, my mother asked me if I would do the same for our kitchen. She explained that she couldn't afford to hire anyone to do it. Naturally, I was glad to do it. Now, I'm going to do a lot of painting, fixing and gardening around my house in my spare time."

A fourth Trainee said, "When I came home one day, I found that the kitchen sink needed repairs. Luckily, I had just learned how to fix kitchen sinks on the renovation job."

A fifth Trainee said, "I would have been out of school by now. Probably working in a car wash and maybe working there for the rest of my life. Now, I've got a chance to be somebody. That's what this program did for me."

A neighbor said to Supervisor Bob Lee, "You're not going to show me up," and started fixing up his house and grounds, and even planted grass seed.

A second neighbor said, "I guess I've got some pride. With this renovated house so pretty. I'm going to paint my house and I haven't done it in twelve years.

A steady stream of neighbors come visiting as the house is being renovated. "There's no doubt," Bob Lee says, "that the program has had an uplifting effect on every neighborhood in which we've been renovating houses."

"The Trainees," Bob says, "look upon the Training Center as their second home. They've told us so and we guess it is because of all the hard work they put into it."

Dr. Louis K. Eilers, Kodak Chairman of the Board, said, "This program will improve the opportunities for young people, who, by failing to do well in school, might have been at a disadvantage for the rest of their lives. The program will give then education, training, money in their pockets, and an understanding of what is required of them in the world of work.

"It is doubly encouraging that the training involves housing rehabilitation. The pride of these Trainees who have gained meaningful work experience and of those people who live in or near the rehabilitated houses should help change our city for the better.

"Further, it is another example of Rochester's broad based, community-wide approach to the solution of its problems as well as an example of how business and the schools can work together on behalf of the community."

Herman R. Goldberg, Superintendent of the Rochester Schools, said, "This program has important direction for students who may not feel that school has meaning for whatever aspirations they may have, and who might be challenged to advance themselves in a school setting and learning opportunity other than our present program."

John A. Dale, President, Metropolitan Rochester Foundation, said, "This program adds a new dimension to our continuing efforts to supply critically needed housing in our city. And, it is all the more important because it has the added benefit of providing needed training to some of the city's young people."

Edward S. Croft, Executive Director, Rochester Jobs Incorporated, said, "This is a great opportunity for students to learn first-hand what an employer expects from an employee without having to leave school to do it. Thanks to the co-operation of industry, labor and school officials, we have a very exciting program package that should help to provide new educational ideas, techniques and approaches for those young people we are attempting to reach."

And lastly, a mother has said, "I honestly didn't believe he had it in him," when she saw the beautiful house her son had helped to create. She was bubbling over with pride over her son, who only a year ago, had given her much sadness, when he had dropped out of high school.

* * * * *

It's a beautiful feeling, isn't it?

Why can't this happen all over America . . . . starting tomorrow morning?

* * * * *

It would make a nice ending to the Rochester Housing Renovation story, to say . . . they found the solution to their problems . . . and they lived happily ever after.

Unfortunately, we can't use this Fairyland ending to our story . . . . because the story is a much bigger one and is not ended merely by fixing 50 houses a year.

The big story is that in Rochester, 2000 houses become deteriorated every year. If you fix 50 houses a year, can you catch up with 2000?

It will take approximately $10,000,000 a year (mostly seed-money) to tackle 2000 deteriorating houses a year, for a few years, in Rochestser.

In Philadelphia, the Inquirer newspaper (October 25, 1970) said there may be more than 20,000 abandoned dwelling units. Several months later (December 1970) I saw new figures from the city's new data processing system showing 28,000 abandoned houses and 15,000 abandoned lots. To get things moving would take around $100,000,000 a year (in seed-money) for several years, in Philadelphia.

The same condition, more or less, is true in several hundred cities throughout the country. In New York City, for example, the condition appears to be greater and uglier. It is estimated that 200,000 apartment units have been abandoned in the last 10 years. Recently, it is getting worse. Latest estimates are that 40,000 housing units are being abandoned annually.

It will take Billions to save American Cities!

The only place that has this kind of money is the Federal government!

With a Gross National Product of One Trillion Dollars a year (reached on December 15, 1970), the Federal government can afford to invest 10 or 20 Billion dollars a year, in seed-money, to help stop the cancer of abandoned housing units and the cancer of crime, fear, and hopelessness, which follow abandoned houses, all over America!

Let's Wake Up Out Of Our Stupor! And Get Into Some Real Fast Action!

America Has The Answers! Let's Start Using Them!

EASTERN MARKET IN DISTRICT OF COLUMBIA

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. GUDE. Mr. Speaker, the District of Columbia budget approved by Congress in the last session did not include a capital improvement item for the Eastern Market a few blocks from here—an unfortunate omission from the standpoint of persons interested in preserving some of the old delights of urban life.

My colleagues and their families might enjoy seeing this market and trying some of the delightful foods, some of which may bring back memories of family kitchens and shopping trips in the days before the domination of supermarkets.

As background for such a visit—and for support of the market's renovation—here is some material developed at the time the market was given a plaque marking the 100th anniversary last April of the acquisition of the property on which it was built:

> Eastern Market is a rectangular structure located in Southeast Washington bounded by North Carolina Avenue on the north, Seventh Street on the east and C Street on the south. It was completed in 1873. An addition to the north part of the Market was built in 1908.
>
> Initially there were 85 stalls which rented for $3.75 a month each. In later years, the addition was closed and the space used for storage by the D.C. Department of Highways and Traffic.
>
> In 1963, occupancy of the Market changed when fifteen merchants, forced to relocate from the Center City Fish Market at Fifth and K Streets, N.W., formed the Cen-East Cooperative and moved to Eastern Market. Now almost all available space in the Market has been leased with the exception of about 2,000 square feet which is used for storage purposes.
>
> Historic Eastern Market stall owners on April 27, 1971, participated in a plaquing ceremony sponsored by the Capitol Hill Restoration Society on the 100th anniversary of the acquisition of the land on which Eastern Market was erected in 1873.
>
> Making remarks were Mayor-Commissioner Walter Washington, who has bought meat and vegetables at the Market for years; Rep. Gilbert Gude, R-Md., whose father and uncle had sold flowers there years ago; Richard Westbrook, Landmark Coordinator, National Capital Planning Commission with introductions by Lawrence A. Monaco, Jr., President of the CHRS, Robert Cantrell, Executive Assistant to Mayor Washington, and Jessie Stearns Buscher, Chairman of the historic event who strived for years to preserve the Market.
>
> The U.S. Marine Band provided the music.
>
> A framed paper plaque was hung near Mrs. Boone's famous lunch room at the north end of the Market. A bronze plaque will be placed in the outside wall when renovation takes place.
>
> The wording:
>
> THE EASTERN MARKET
>
> In Commemoration of the One Hundredth Anniversary of the Acquisition of the Land on which The Market was erected And the Continued Use of the Market As a building serving and benefiting Capitol Hill and the Washington, D.C. Metropolitan Area. Capitol Hill Restoration Society, April 27, 1971.

PRESIDENT ANDREW JACKSON INITIATED REVENUE SHARING—OF SURPLUS, NOT DEFICIT

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. EVINS of Tennessee. Mr. Speaker, with revenue sharing a prime topic of conversation and consideration these days, it is interesting to note in the current isue of the Hermitage, published by the Ladies Hermitage Association, Hermitage, Tenn., that President Andrew Jackson initiated revenue sharing more than a century ago.

In this connection the Hermitage article commented:

> Jackson became President with the following set of principles:
>
> "The Federal Government must be obeyed, states rights preserved, our national debt must be paid, direct taxes and loans avoided, and the Federal Union preserved. These are the objects I have in view, and regardless of all consequences will carry into effect."
>
> These policies Jackson proceeded to carry out. He did pay off the national debt, and the national government accumulated a surplus of $35,000,000 during the last years of his administration. This surplus was distributed to the various states, giving Andrew Jackson a record of fiscal achievement unparalleled in the history of the United States.

It is important to note, Mr. Speaker, that President Jackson distributed Federal revenues from a substantial surplus—and did not borrow funds to finance a "deficit-sharing" program.

While I favor the principle of revenue sharing and have cosponsored a revenue-sharing bill, I am concerned that any such revenue sharing will result in further deficit financing.

The estimated total deficit for fiscal 1970–73 is more than $90 billion for the 4-year period—including an estimated deficit this year of more than $38 billion. This is the highest period of peacetime deficits in history.

Our esteemed colleague, Chairman WILBUR MILLS of the Committee on Ways and Means, in a recent speech with reference to the deficit for the past 3 years said:

> We are on a collision course with chaos.

Chairman MILLS said that his bill for providing States with additional revenues, soon to be considered in the House, provides for $5.3 billion in new Federal aid to the States.

With the national debt in excess of $450 billion it is interesting to review the example of President Andrew Jackson on revenue sharing—which he implemented when the Government had a surplus of funds rather than a huge deficit.

AMERICA MUST NOT BETRAY LAOS

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. SCHMITZ. Mr. Speaker, we have all been hearing a great deal these past few years from those who heatedly object to any course of action which might lead to a decisive American victory against the Communists in Southeast Asia. A year ago this month, shortly after the South Vietnamese counterattack into Laos, I stated that the South Vietnamese thrust into areas of Laos under Communist control was one of the major breakthroughs in the allied effort to halt North Vietnamese aggression. I pointed out that we had finally realized that limiting active opposition to enemy advances to just those areas in which the enemy preferred to fight, while also allowing him a privileged sanctuary in those areas he must control to prolong the war, were not sound military methods of coping with an enemy invasion.

It has long been obvious that the North Vietnamese Communists, heavily supplied by the U.S.S.R. and Red China, could have been stopped in their protracted campaign to capture and control all of Southeast Asia by merely cutting the enemy's lines of supply in Laos. This, the South Vietnamese have attempted to do while the United States has attempted to use diplomatic channels to deny the North Vietnamese staging areas and resupply routes in Laos. Those diplomatic approaches to the problem, calling on help from Soviet Premier Kosygin and Prime Minister Wilson of Great Britain, as cochairmen of the 1962 Geneva accords which guaranteed the neutrality of Laos, have predictably failed. And the North Vietnamese have continued to violate these accords, as they have since 1954, not only using Laotian territory as a base and conduit for operations against their neighbors in South Vietnam and Cambodia, but also by mounting military campaigns against the neutralist government of Laos.

Today, this Communist attack on Laos continues, as does the attack on South Vietnam by the Vietcong even though a 4-day "cease-fire" has been proclaimed by the aggressors in observance of the Tet, the principal Vietnamese holiday. Indeed, the Communists, as in the past, broke the cease-fire within hours of their proclamation by assassinating a hamlet chief and a soldier in South Vietnam. Tuesday morning, the joint United States-South Vietnamese command had tallied at least 35 "enemy-initiated incidents," in which eight Vietnamese were killed, most of them in a Communist attack along the coast of Binhdinh province. By the end of this year's "cease-fire" there will undoubtedly be many other deaths added to the grim toll of South Vietnamese, Laotians, Cambodians, and Americans killed by the Communists during the past decade.

I insert at this point in the RECORD an article which appeared in the February 24, 1971 issue of the Review of The News entitled "America Must Not Betray Laos." Written a year ago as an eyewitness account of the Communist aggression in Laos by former Green Beret R. D. Patrick Mahoney, the information in that article is still timely and of great importance:

> AMERICA MUST NOT BETRAY LAOS
>
> (By R. D. Patrick Mahoney)
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> The project was classified Top Secret. But when the first contingent of United States Special Forces advisors arrived in Laos, Land of a Million Elephants, the first broadcast any of them heard was Radio Hanoi blaring: "*Les Americains sont arrivés dans Laos pour commençer la guerre*"—the Americans have arrived in Laos to begin the war. It would not be the last time that the clandestine American military operation in Laos was compromised from Stateside.
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> Your correspondent was serving with our Armed Forces in Southeast Asia in 1968 when he first began noticing Top Secret code words, correctly relating to Top Secret operations, appearing in *Newsweek* magazine. I was not surprised when at a Special Forces camp in Saigon I learned that a *Newsweek* reporter, of French citizenship, was in the

camp as a guest of the Special Forces Group commander. That commander was responsible for all routine and clandestine personnel involved in Special Forces Operations in Southeast Asia. His Sergeant-Major sold watches; what the commander sold, if anything, can only be a matter of conjecture. What is not conjecture is that his successor, Green Beret Colonel Robert H. Rheault, was relieved for daring to *protect* our clandestine operations in Southeast Asia. Today Rheault's predecessor is a brigadier general; Colonel Rheault was brutalized in the "Liberal" press, relieved of command, and retired into oblivion.

Such ugly lessons are not lost on Vietnam commanders. Top Secret operations continued to be betrayed in the American press. Consider. *Newsweek* for March 23, 1970, declared of the week's casualty figures:

"The figures were imprecise. And they did not take into account the many Americans who have met death in Laos while on secret missions across the border from either Thailand or South Vietnam . . . . Most, if not all, of these incursions are run by the U.S. Studies and Observation Group (SOG), which has its headquarters in a heavily guarded and rarely visited building in downtown Saigon . . . . Reporters are strictly non grata, and *Newsweek* correspondents were sternly warned last week that detailed reporting on U.S. operations across the border into Laos would be in contravention of 'Ground Rule 5.' . . . This military regulation forbids the press to report on specific 'intelligence activities, methods of operations or specific locations.'"

It read like an enemy intelligence report. And, a sentence or two later in the same *Newsweek* article, Senators Mansfield and Fulbright were cited as confirming the report by declaring: "We are up to our necks in Laos."

The leaking of classified information in such journals as *Newsweek,* coupled with the accompanying confirmation from the U.S. Senate, produced precisely the effect the enemy must have desired. Little wonder that our cross-border operations were so often caught in murderous crossfire. Little wonder that casualties mounted so fast. How fast is attested to by the long rows of brass plates now to be seen in every Special Forces headquarters . . . hundreds of them . . . marked "Killed In Action—Classified."

Such Long Range Recon operations had been maintained in secret to find out what kind of a force the enemy might be planning to send against American and South Vietnamese conventional forces back across the border in South Vietnam. For Senator Fulbright and his Senate Vietcong now to deny knowledge of these operations, when a year ago they imposed restrictions on them *by public decree,* is the ugliest sort of hypocrisy. For them now to attack the outcome of operations in Laos, which they personally betrayed over a year ago, plumbs new depths of depravity.

Senators Fulbright and Mansfield know very well that those hammer-and-sickle murderers who maintain terror in South Vietnamese villages by publicly disemboweling mothers, fathers, and infant children—and worse—*don't* come across the Demilitarized Zone. When the tongue of a man who teaches the word of God is cut from his mouth so he can never speak of the Savior again; and when bamboo stakes are driven through the ear drums of eleven children to whom he cited passages from the Bible, so they can never hear the word of God again—when these things happen—they are not done by the South Vietnamese. These are the acts of Communist terrorists, of political cadres, brought down from North Vietnam through the Mughia, Ban Nape, and Ban Karai passes—*through southern Laos!*

As I write, South Vietnamese troops are heading from Khe Sanh via Route 9 to Tcepone in southern Laos to cut the Ho chi Minh Trail by which these invaders continue to come. Since the Lon Nol Government took over in Cambodia, the port of Sihanoukville (now Kompong Cham) has been closed to Communist ships. That leaves only the Ho chi Minh Trail to act as the invasion and supply route for *all* Communist forces in Cambodia, Laos, and South Vietnam. Plans for the incursion into Laos to cut off the Ho chi Minh Trail should therefore have been one of the major secrets of the war. They were not. For days before the operation began the American press kept up a steady warning to the enemy that the South Vietnamese were coming.*

The fact is that there has long been a war going on in Laos. The hawks know it and the doves know it. And every time it looks like North Vietnamese aggression there might be checked, Moscow screams to Tokyo, it is heard in Washington, and the seance in the Senate Foreign Relations Committee begins again. In the meantime, the American press starts leaking troop movements, the enemy starts evacuating, and by the time the seance is over the green light goes on and the South Vietnamese are sent into some vacated area to skirmish over a few bags of rice. This time it was a major operation. But a thousand-man bugle corps playing *Charge* non-stop for a month in advance couldn't have provided a better warning.

Why bother even to go through the motions? Father Matthew Menger of San Antonio knows why. Having spent fourteen years in Laos he told *Pacific Stars And Stripes* for March 29, 1970:

"North Vietnamese troops are camped in the jungle throughout Laos and can take Vientiane, its capital, whenever they choose. The only thing holding them back is fear of U.S. bombings and fear of the Thai Army. Thai troops are tigers, and they could defeat the Communists in Laos if they were not held back by American fears of escalating the war. And Thailand cannot be saved if Laos is lost."

So much for why Mr. Nixon let the South Vietnamese move into southern Laos. They are there because, if he hadn't let them go, the Thais might have gone in—with or without our approval. And the Thais might not be so easily thwarted from Washington.

Up in northern Laos it is a different war. Yet the enemy there also gets advance warning. On April 13, 1970, *Newsweek* announced: "CIA agents in Saigon are actively recruiting both American and non-American civilians there—construction men, U.S. Government employees, men who have left the Army but can't quite bring themselves to leave the war—to lead raiding parties of Meo tribesmen against the North Vietnamese in Laos." On March 9, 1970, *Time* reported that one of its stringers (Timothy Allman), a *Life* correspondent, and a French reporter had paid an unauthorized visit to northern Laos. *Time* said they had successfully reached a Top Secret Royal Laotian operating base at Long Tieng, the Meo base under the command of Major General Vang Pao. What Allman found at Long Tieng is not germaine. What is germaine is the fact that Allman is Senator Fulbright's eyes and ears in Southeast Asia. And, as such, he was reporting details in *Time* magazine of vital interest to the enemy.

You see, there is another pass on the Ho chi Minh Trail in northern Laos. This pass, at Barthelemy in the heartland of the Meo tribesmen, is the Communist invasion route into northern Laos. The operations of the anti-Communist Meos there are a major threat to this route. Those who know of the success our Special Forces have had with the Montagnards, the Chinese Nungs, and the Khemir Seri Cambodians, will have an inkling of the fidelity, bravery, and integrity of our Meo allies. These people are all of that, multiplied by ten. There is no major crime, no corruption, and almost no trafficking in opium among them. Led by Major General Vang Pao, they are the most dedicated Asian allies imaginable. It is their base which Senator Fulbright's man betrayed in *Time.*

The situation in this part of Laos developed just as it did in South Vietnam. In late 1966, the Vietcong's National Liberation Front was finished. Had we not allowed Ho to send 375,000 North Vietnamese down the Trial, the war of insurgency in South Vietnam would have been over. The same is true of Laos. The Meo heartland used to extend all the way to the border with North Vietnam at Sam Neua. No more. Sam Neua is now the Laotian headquarters of the North Vietnamese, with a sprinkling of Communist Pathet Lao to keep the stronghold "off limits" to Laotian and American bombers. It happened suddenly. On February 16, 1965, the wire services reported that "Hua Muong, 30 miles northwest of the town of Sam Neua, fell Sunday to a strong Communist force. . . . The government forces, consisting mainly of Meo tribesmen, have withdrawn to the surrounding hills." The North Vietnamese had invaded. The Pathet Lao had not captured Sam Neua, mind you; it was the North Vietnamese. Like the Vietcong, the Pathet Lao were and are nothing.

One month later, on March 25, 1965, the New York Times tried to salve the situation, announcing: "The Meos, a freedom-loving group of tribes, have long resisted Communist inroads. Today they are better equipped to do so than in the past. Instead of ancient flintlocks and World War I rifles, they carry modern U.S. carbines. Many also have camouflage army uniforms." It was a dispatch designed to ease mounting concern about the North Vietnamese invasion. Contrast it with a report from Dr. Charles T. Weldon, a Louisiana country doctor, who with his doctor wife has spent years living and working with the Meos:

"They aren't fighting for us, they aren't fighting for the free world or any of that stuff. They're fighting for themselves and their survival. The bad guys didn't like this. In 1965, the North Vietnamese Army decided to wrap up the mountain areas in one enclave. We had 5,000 [Meo] people guarded by 250 [Meo] soldiers. The NVA (North Vietnamese Army) hit with three battalions. The bulk of the people fled. They kept walking because they knew the enemy intended to destroy them. They walked for four days, and finally they stopped on a mountain top to rest. The bad guys surrounded them and opened up with mortars and automatic weapons. The people panicked and started running. The bad guys thought they could stop them because they had all the escape routes covered. But the people kept going. The bad guys kept after them. They picked up babies and bashed their heads in against the rocks. . . . But still the people kept going. . . . They walked 12 days before it was over. When they finally stopped the Communists had killed 1,200 of them."

But what of that *New York Times* report that the Meos carry modern U.S. carbines. Edgar "Pop" Buell has spent ten years working with the Meos. Everyone who knows Laos, where this former Hoosier farmer is a living legend, knows and respects "Pop" Buell. Here he talks of witnessing 1,000 Meo refugees pour into Sam Thong from the Sam Neua province:

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*If this long-overdue operation is being run by Americans behind the scene, we have much to fear. It will be another fiasco like Mr. Nixon's 21.6-mile propaganda drive into Cambodia. Our press tipped off the enemy then, too, and President Nixon gave him a timetable. Three days before the operation began the enemy pulled back beyond the specified 21.6 miles, taking along all American and South Vietnamese Prisoners of War in the area.

"They were fleeing advancing North Vietnamese Communists who have systematically wiped out every remaining Meo enclave in Sam Neua. The fiercely independent Meos have waged relentless guerrilla warfare against the Communists for the last six years. Now the North Vietnamese are having their revenge. They have sent 50 battalions of disciplined, well armed regulars into Northern Laos to wage what amounts to a war of extermination against the Meos. . . . We organized them. We gave them a bunch of surplus World War II weapons. Now they're up against people armed with a whole new family of weapons: AK-47 machine guns, bazookas, rockets and artillery. People tell me we're staging 250 strikes a day against the Ho chi Minh Trail, but do you think we can get an air strike for our people? Hell, No."

Meanwhile, Senator Kennedy was holding Hearings on this "refugee problem," raising the roof that "the Meos have been moved eighteen times." On September 26, 1970, he concluded: "They are lost to us: Let's leave them alone and not trigger actions that will worsen their lot and/or have them added to our refugee problem." The Hero of Chappaquiddick made no mention of a North Vietnamese invasion, nor of the Communist efforts to liquidate systematically an entire people on their own land. No, said Senator Kennedy, who has never been there: *"Let's leave them alone."* Perhaps the Senator is the sort of man who can walk off and leave the helpless to sink or swim. But General Vang Pao and his brave Meo people will not die quietly, and without attention. If Senator Kennedy leads *their* abandonment, there will not be enough public relations experts in all America to clean the mud and bilge from his name.

Meanwhile, General Vang Pao watches with a hope beyond hope as his people and the Royal Kingdom of Laos are every day further reduced by America's failure to commit firmly to their rescue. Recently added to the North Vietnamese arsenal were Russian-made PT-76 tanks, which overran one of Vang Pao's key garrisons at Muong Soui on February 3, 1971. His back is to the wall, yet still he has faith in America.

The courageous little Meo General wears that faith like a shield, and burnishes it with valor. It was almost a year and a half ago that Vang Pao was leading a major offensive in northeastern Laos. Because he lacked the necessary equipment to prevent it, he was forced to watch one day as two F-105 Thunderchiefs supporting his troops were shot from the sky, killing their American pilots. Vang Pao took it personally. It was not long afterward that his brave little Meo soldiers captured the 37-millimeter gun which had downed those American aircraft. Within hours that gun was enroute to Takhli Air Base in Thailand at the direction of General Vang Pao. It was a gift to honor his fallen American comrades—to be displayed in front of the 355th Tactical Fighter Wing Headquarters at Takhli. Van Pao's right arm, that Fighter Wing has since been withdrawn from Thailand on orders from President Nixon.

As the situation continues to deteriorate, General Vang Pao looks to the west, to the city of Luang Prabang. There is the home of his beloved King, Sri Savang Vatthana. The imperial capital is being assaulted daily by the enemy, and the survival of the Monarch of the Lao people is in grave doubt. Above Luang Prabang, the General knows, is the road that comes in from Dien Bien Phu in North Vietnam, through Muong Sai, where it is met by a road out of Meng La in China's Yunnan Province. At Muong Sai these roads join to extend southward along an old French logging trail running all the way to Pak Beng—to within five kilometers of the mighty Mekong River. This is an all-weather road, guarded by wall-to-wall guns. It is, in fact, the Chinese invasion route to Thailand.

Vang Pao knows all about it. And he knows of the Chinese soldiers who now foray into Lao villages along that road, murdering and pillaging. He knows, too, that to the south in Vientiane the Prime Minister, Prince Souvanna Phouma, is doing his best to rally support to halt the Communist advance. The Prince has warned again and again that "North Vietnam bears principal responsibility for the war in Laos." He has for years been begging for help from the United States. It has come in dribs and drabs—always too little, too late. American pilots die for the Laotians, and then their Fighter Wing is pulled out of Thailand. Or, after a thousand or two of Vang Pao's Meos have been killed as a result of inferior arms, we send up a few crates of M-16s. *Now* he can have an automatic weapon or two—to use against tanks. Too little, too late.

Each morning, before the haze has lifted at Long Tieng, the solitary figure of Vang Pao walks the roof of his simple home. His bronze body is covered with scars from wounds suffered at the hands of the Communists over many years. He is a small man, with more honor and courage and manhood in his little finger than the myth-makers of the Underground Press could manufacture for a hundred Senator Fulbrights. He knows all about our Fulbrights, yet he believes America will not betray him!

There is a motto displayed at General Vang Pao's headquarters at Long Tieng. It is there by his choice, and it reads: "To be born a free man is an accident; to live one, a responsibility; to die one, an obligation." He bears daily witness to the terrible price of what freedom remains in northern Laos. His people are being killed—butchered—by both the Chinese and North Vietnamese. Yet he knows his enemies have the backing of our Fulbrights and Kennedys, who provide the excuse for our Nixons and Kissingers to withhold the arms and tactical air strikes his people need just to survive genocide. The little General gives what armed support he can to the evacuation of refugees. He occasionally renders a superb counter-attack and sets the enemy off balance, saving northern Laos for another month, and another. How long he can continue, God only knows.

Time is running out for Vang Pao, and for his brave Meo people. He knows it. But he will fight another day, another and another, knowing that he is out-flanked and out-numbered and out-gunned. The word *surrender* is not in the Meo vocabulary.

How could this happen? How could we abandon Vang Pao and his valiant Meos, fighting as they are for the very survival of their race? Father Matthew Menger knows the score in Laos. He knows the people. And he knows how Laos has been betrayed. Here are his words:

"All of the Asian members of S.E.A.T.O. have wanted to send troops into Laos to fight the Communists. As you recall in 1954-55 when S.E.A.T.O. was established, Laos was not a member nation of S.E.A.T.O. But they said, 'We will put Laos under the protection of the umbrella. . . . ' If the Communists attack Laos, although Laos is not a member, they will come to its rescue. We made one mistake. When the Communists attacked Laos, we forgot to open the umbrella . . . .

"All of the Asian members namely Thailand, Vietnam, Philippines, New Zealand, and France did not. The Asian nations said, 'Okay, we don't need England and France, but we do need a few officers from the United States military forces.' They said, 'Let us Asians fight the Asian Communists. We will stop them; all we need are a few leaders, American leaders,' and the United States said No. They would not even let the Asians fight."

The Reverend Matt Menger, missionary and former parish priest to the late Tom Dooley, has spent years in Laos. He knows what betrayal like this means. Anybody who has ever read Tom Dooley's books about Southeast Asia, or talked to "Pop" Buell or Father Menger or Vang Pao—anybody who has ever seen the Communists in action—must know that betrayal of these brave people amounts to a sin against God and everything for which America has ever stood as a nation. If Long Tieng and the Bolovens Plateau fall to the Communists the betrayal will be complete.

Whatever happens, General Vang Pao and his people will fight on and on. If that means a long and deadly march to Thailand to help neutralize Communist tribesmen in the Thai northwest, I suspect he will try it. The Thais, like Vang Pao, know the Communists and what they are doing. And they know the betrayers from Vientiane to Saigon and Washington. Certainly the Thai Ambassador to Laos knows the score. It was he who remarked to *American Opinion* correspondent Hilaire du Berrier in late 1970: "I was offered Madrid, but I asked the Foreign Minister to send me to Vientiane, because the fate of Thailand is going to be decided in Laos."

Developments seem to point to a repeat in Laos of the Lattimore solution to China: Let them fall, but let's not make it look as if they were pushed. The invaders are now pressing at Long Tieng. Vang Pao has been to Bangkok and to Vientiane to plead for his people. He has been turned down, flat, by the American State Department. And, in the meantime, a Soviet Ambassador has visited Luang Prabang to tell the King that "Laos is in great danger because of South Vietnam's invasion of the Ho chi Minh Trail." Something reeks to high heaven, and it isn't mackerel.

It is becoming all too obvious what is happening. The price of President Nixon's deescalation in Vietnam will be the loss of northern Laos and a guarantee of the security of the Chinese road to Thailand. Whether Mr. Nixon will pay that price remains to be seen. But let there be no doubt: the Communists are already on the move toward Thailand. And all that is in their way is Vang Pao, the little Meo general who until this week never even considered the possibility that America would betray him.

It is the sixteenth of February now at Long Tieng. The man who has fought for the whole northern tier of Laos has been refused the major air strike he needs to prevent his stronghold from becoming another Dien Bien Phu. Only token assistance is sent—and, when it is, an F-4 Phantom drops a cluster of bombs on the fortress at Long Tieng. It is called an accident. Vang Pao must wonder. He knows his F-105s out of Thailand have been withdrawn on orders of President Nixon. They could help him now. Their pilots knew the love and trust Vang Pao had for America. Had *they* made the strike there would have been no "accident."

What air support the little General gets is too little, too late! And in the wind is the repeated whisper of Owen Lattimore's message: Let them fall, but let's not make it look as if they were pushed.

Tonight Vang Pao returns to his headquarters at Long Tieng. Our government, which used him to tie up fifty Communist battalions in northern Laos so they couldn't be sent to kill Americans in South Vietnam, has deserted him. More of the enemy's strength is now being used to attack his stronghold than is being sent against all the other areas of Laos combined. Yet still he will not waver; still, in his heart, he believes that America will not betray him.

Vang Pao will stop this day, as always, and visit the hospitals and the refugee camps. He will talk to the American who donated his entire year's salary to help build a hospital at Long Tieng. He will visit the relatives of those who gave their lives today, that the Meo people might have another day of freedom.

As he walks to his quarters, two A-1 Skyraiders, en route home, will swoop low over his headquarters and tip their wings in salute. And Vang Pao will remember the countless times that his Meo soldiers rushed to surround and hold off the enemy while just such an American pilot was rescued from just such a plane. *Surely* America will not betray him! He eats a quiet dinner, and retires early. He knows, as MacArthur did at Corregidor in another Asian war, that the enemy is knocking at the gates. And Vang Pao knows also that he will never surrender.

Across the globe this evening, those of us who have known and loved this man and his people, who have helped him in that silent war in Laos, are thinking of the motto we adopted from "The Raven" to suit our mood at Long Tieng. Solemnly we raise our glasses in toast: "Never . . . More," someone says, "Until Tomorrow." As my own glass touches my lips I look down at my hand—at Vang Pao's ring, bearing his personal crest, still where he put it as a pledge of comradeship from one soldier to another. Since World War II, I think to myself, I have fought proudly for my country wherever she has sent me. Never before have I felt *shame* for America. There is no reason to hide the fact that there are tears in my eyes.

RECIPE FOR CARROT CAKE

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mrs. GRASSO. Mr. Speaker, the scope and talents of Connecticut cookery reflects not only the colonial tradition of the region but the variety and richness of a myriad of cultures that have added spice and flavor to our culinary fare.

The dilemma of choosing from among such an abundance of riches acquired new significance when as Representative from the Sixth District of Connecticut I was invited by the U.S. Bi-Centennial Cookbook Committee to submit a favorite recipe for the Bi-Centennial Commemorative Cookbook.

The choice from among the recipes borrowed and tried through the years was not easy, but since I was limited to a single item, it was my pleasure to submit a recipe for Carrot Cake—a special favorite of booths at the wonderful country fairs of my district as well as a popular item at the constant cake sales by which we raise money for a variety of worthy causes.

I was tempted to call it the Harwinton Fair Cake because of happy memories of a chilly Sunday afternoon made bright by a visit to the fair, and an armful of goodies, as well as the warmth of the greeting at this annual event. But to single out Harwinton would be unfair to the outstanding contributions on other town greens and fairgrounds. Accordingly, the recipe has been labeled Country Fair Carrot Cake and it is submitted with special pride for a most worthy endeavor:

COUNTRY FAIR CARROT CAKE

3 cups of grated carrots
4 eggs
1¼ cups of liquid vegetable oil
2 cups of sugar
2 cups of self-rising flour
1 cup black walnuts, chopped
1 tsp. of vanilla
¼ tsp. of black walnut extract
1 tsp. cinnamon (scant)

Place all ingredients in a bowl. Blend well. Pour mixture into 10 inch greased tube pan. Bake 1½ hours in a 350° oven. Remove from oven and glaze cake while still hot.

BUTTERMILK GLAZE

½ cup buttermilk
1 cup of sugar
½ tsp. baking soda
1 tbsp. white corn syrup

Place ingredients in bowl. Blend well. Pour over top of hot cake. Let cake cool before removing from tube pan.

FORGED RX'S ARE PASSPORTS TO PERILOUS DRUGS

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. HALPERN. Mr. Speaker, I would like to draw the attention of this body to a problem that has reached critical proportions. This is the sale of dangerous drugs on the basis of forged, illegal prescriptions.

The New York Daily News of February 14 vividly points out the ease with which one can obtain such dangerous drugs as benzedrine, nembutal, and desbutal. With the cooperation of the Manhattan District Attorney's Office, investigative reporters for this newspaper were not only able to obtain 1,000 prescription blanks under false pretenses, but also used them to buy amphetamine and barbiturate drugs.

The drug traffic which is ransacking our streets today will never be wholly eliminated unless such practices as those outlined in this article are brought to a halt. I would like to submit this valuable article for the RECORD and in doing so, commend the New York Daily News for its attitude of public concern and its exposition of an area which is sorely in need of tighter regulation.

The article follows:

FORGED RX'S ARE PASSPORT TO PERILOUS DRUGS

(By Richard Oliver)

The system for dispensing dangerous drugs to the public is so loose, so shoddy that anyone with a little knowledge, a lot of nerve and a ball point pen can buy amphetamines and barbiturates through forged prescriptions.

The News demonstrated this on a single day last week when reporters from this newspaper presented bogus prescriptions and purchased dangerous, supposedly controlled, drugs with no difficulty at 16 pharmacies in various parts of Manhattan.

The investigation was conducted with the permission and active cooperation of Manhattan District Attorney Frank Hogan. State Attorney General Louis Lefkowitz also was apprised of the probe.

ALL TURNED OVER

All the drugs and receipts, along with nearly 1,000 unused prescription blanks, were turned over to Hogan's office for investigation into possible violations of federal and state laws.

This inquiry is being conducted with the cooperation also of Sal Rubino, president of the State Pharmaceutical Society, who met with Hogan's aides last week.

To the credit of the profession, it should be noted that a substantial number of pharmacists would not or could not fill the phony prescriptions. Thirty-two said they did not have the requested drug in stock, while 14 demanded a federal narcotics registry number, which purposely was omitted from all the phony prescriptions.

MANY HAVE SUSPECTED

As Rubino said it is quite possible that some of those who said they were out of the drugs did so because of the missing number or because they suspected the prescriptions were bogus.

Nevertheless, the investigation did show conclusively that it was not difficult to find pharmacies that will fill authentic-looking prescriptions for dangerous drugs even if the required federal number is missing.

Drug abuse experts regard the forged prescription problem as epidemic. Dr. Richard Koeppel of the city's Addiction Services Agency described as "frequent" the use of stolen prescriptions, and said that in many cases youths print or have printed prescription blanks, purchase "ups" or "downs" over the counter and then peddle them on the streets to youthful drug abusers at fantastic profits.

PROMPTED BY TIP

In fact, The News investigation was prompted by a tip from an anonymous letter writer who actually enclosed a phony prescription blank. Hogan's office subsequently approved the newspaper's probe.

Two weeks ago, a reporter opened the Yellow Pages and chose a professional printer at random. Using an assumed name, that of a physician, the reporter ordered 1,000 prescription blanks.

The first printer apparently smelled a rat and demanded the physician's federal narcotics registry number. A second printer, again chosen at random from the telephone book, took the order, no questions asked.

A typewritten sample was sent to the printer on Jan. 31 by a youthful messenger who left a $5 deposit. Four days later, another messenger picked up the blanks. Total cost: $13.38.

BOGUS M.D.

The blanks bore the name of a "doctor" D. M. Sugob, which, spelled backward, reads Bogus M.D. The address on the blanks was 36 W. 34th St., which is the office of the Federation Against Drug Addiction, Inc. A telephone number was established as a control to determine whether pharmacists called to check up on Dr. Sugob.

With the advice of Chief Assistant District Attorney Alfred Scotti and Assistant DA John Fine, five dangerous drugs popular with drug abusers were selected for the survey:

Bamadex (Lederle), a dextroamphetamine; used for obesity, as a short-term regimen of weight reduction; improperly used, the drug has produced extreme psychological dependence. On the streets and in schoolyards it is known as an up.

Desbutal (Abbott), methamphetamine hydrochloride and sodium pentobarbital, which, according to, the manufacturer, "should be used with extreme caution and only for limited periods of time in weight reduction programs." This is an up.

ANOTHER UP

Benzedrine (Smith Kline & French), amphetamine sulfate, a powerful drug which, incidentally, many druggists refuse to stock to be used "only for limited periods" in weight reduction. An up.

Nembutal (Abbott), sodium pentobarbital; produces sedation or hypnosis; may be habit forming. Known as a down.

Seconal Sodium (Lilly), sodium secobarbital, a quick and short-acting sedative and hypnotic; may be habit forming. A down.

Under federal law in effect since October, prescriptions calling for controlled drugs, including the above, are required to carry a special number issued to physicians by the

U.S. Bureau of Narcotics and Dangerous Drugs. Without the number these drugs may not be legally sold.

IT'S A SAFEGUARD

A spokesman for the bureau here said the regulation was put into effect in part to attack the forged prescription problem. "Prescription pads are not tightly controlled," he said. "This is an additional safeguard to assure that the prescription is proper."

In THE NEWS investigation, by design, no such numbers appeared on the prescriptions and no such numbers were given out to those pharmacists who took the trouble to reach Dr. Sugob, whose answering service reported him "out of the office" when anyone called.

A total of 25 prescriptions were made out by a reporter, a relatively easy process since anyone can obtain Rx signs and symbols in most dictionaries and almanacs.

For instance, this information appears at page 1670 of the "Random House Dictionary of the English Language" (unabridged, ed., 1971), and, for that matter, on page 55 of "The World Almanac and Book of Facts 1971."

Five reporters, each with five Rx's, went to different sections of Manhattan, where pharmacies were selected at random. The results:

Jean Perry, who covered Harlem and northern Manhattan, purchased four drugs. In all, she visited 13 pharmacies, eight which were out or said they were out of the particular drug requested, and one which demanded the missing federal number.

Preston Layton, who covered the upper West Side, returned with all five prescriptions filled. He visited 10 stores, five of which said they did not have the requested drugs.

Meriemil Rodriguez, who was assigned to the upper East Side, had three prescriptions filled. She went to 15 pharmacies, eight which said they didn't have the drug called for, and four which demanded numbers.

Fred Loetterle, who covered lower Manhattan, came back with two drugs. He visited 15 pharmacies, nine which said they did not have the drugs requested, and four which demanded numbers.

Another reporter, who covered midtown, had two of five prescriptions filled of a total of nine stores visited. Five requested numbers, two said they didn't have the drug.

An interesting sidelight to the probe came as a result of a serious medical mistake made by the reporter, alias Dr. Sugob, in filling out the Rx's calling for Bamadex, a strong stimulant that should be taken in the morning, according to the manufacturer.

By accident, the prescriptions were made out to call for one at bedtime—an absurd direction, akin to say, taking sleeping pills upon awakening—which an alert pharmacist should have spotted easily.

Four of five Bamadex prescriptions were filled. Of the four, one pharmacist marked the label "one capsule as directed," and told the customer to check with his doctor; two caught the error but filled the Rx's anyway; one made no mention of it.

CHEAP HANDGUNS

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. GUDE. Mr. Speaker, Congress should be responsive to the needs of citizens and businessmen for greater safety from punks who become killers because of the easy availability of cheap handguns.

A recent letter to me from Peter H. Plamondon, group vice president of the Marriott Corp. at 5161 River Road, Bethesda, Md., illustrated the problem. Here is a pertinent section of that letter:

> Our business has been plagued by the so-called "90 lb. punk who becomes a giant with a gun" almost on a monthly basis. One of our assistant managers very nearly lost his life because of one of these characters just a few months ago. In addition, we have lost thousands of dollars through robberies of our individual operating units this past year. Every one of these incidents has involved a firearm.
>
> Our employees, young men and women, are extremely concerned for their safety and it would appear to us that a concentrated effort by the legislature must be undertaken to properly thwart the efforts of well organized, well financed, proponents of "no gun control."

INDEPENDENCE OF UKRAINE—54th ANNIVERSARY

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. RHODES. Mr. Speaker, it is clear that 1917 was an important year in world history. However, often forgotten among the many events of that third year of World War I, is the fact that the Ukrainian State was reborn against the background of great social revolution in Russia.

As the tsarist regime crumbled and Russia was torn by internal forces, the non-Russian areas of the empire such as Ukraine were afire with a struggle not only to attain social freedom but national independence as well.

Amid the complex events of the day the Ukrainian masses created a powerful movement which led to the emergence of the Ukrainian National Republic.

Seizing on the opportunity to escape long suppression by foreign powers the Ukrainian press reappeared to meet the demand for Ukrainian books. Educational committees were organized to put together textbooks in the Ukrainian language. In Kiev and the provinces courses for retraining teachers were set up and intensive educational reorganization took place.

An All-Ukrainian National Congress elected the Central Rada as the standing Ukrainian representative assembly. And then, on November 20, 1917, the Central Rada announced the creation of the Ukrains'ka Narodnia Respublika—Ukrainian National Republic.

The new government soon proclaimed democratic principles, among them were: The freedoms of speech, press, religion, assembly; the freedom for unions to organize; the security of the individual and his property; the right of non-Ukrainians to use their own language in relations with state institutions. Other principles declared included the abolition of the death penalty, new and proper administration of the courts, an 8-hour working day, and the right of national minorities to manage their national and cultural affairs by means of their own representative and administrative institutions.

These principles were then developed and enacted into laws, and the authority of years of suppression was abrogated.

However, as the new nation was hard at work establishing itself, its freedoms and independence were snatched away. In 1922, the Bolsheviks disregarded boundaries and seized Ukraine, clamping despotism over this nation of beauty, vast resources, and 50 million people.

Although Ukrainian independence was short it remains a symbol to Ukrainians everywhere. It serves as a sign of hope for a people who have suffered oppression for centuries.

That the culture and heritage of Ukraine lives on is a tribute to determination of a strong-willed people. They have lived by the words of their great poet and national hero Taras Shevchenko:

> Wretched is the fettered captive,
> Dying, and a slave;
> But more wretch he that, living,
> Sleeps, as in a grave,
> Till he falls asleep for ever,
> Leaving not a sign
> That there faded into darkness
> Something once divine.

I salute all Ukrainians on the 54th anniversary of the Independence of Ukraine.

YOUTH FOR UNDERSTANDING EXCHANGE PROGRAM

HON. JOHN Y. McCOLLISTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 2, 1972

Mr. McCOLLISTER. Mr. Speaker, I am pleased to join in saluting the Youth for Understanding teenage exchange program for more than 20 years of contributions to the cause of friendship among young people of the United States, Europe, and South America.

The expansion of this program from a local project in Michigan to a nationwide effort has given thousands of high school students the opportunity to live and travel in a foreign country with a host family. In addition, it has provided a family situation for foreign students coming to the United States.

More than 250 Nebraska homes have welcomed young people from other nations through YFU, and as the program has grown, more than 100 teenagers from my State have gone abroad as ambassadors for the Midwest. Their glowing reports of new friends and broadened understanding of world problems have inspired many others to apply. Support in local communities for sponsoring these students has grown tremendously in the last few years.

I congratulate the officials of YFU for their competent management and enthusiastic promotion of this worthwhile program and wish them continued success in furthering world understanding.

WHEN GOVERNMENT LIES

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. ROSENTHAL. Mr. Speaker, one of the saddest facts of life we Americans have learned in recent years is that our Government cannot always be trusted to tell us the truth.

Sometimes we are misled by what is not said, other times because we are given only partial information and on occasion we are deliberately lied to.

It takes courage to expose the lies, especially during those periods when an administration with precious little respect for the truth would subvert the intent of the first amendment to its own political ambitions.

The revelation of the Pentagon Papers and the Anderson Papers were acts of great courage and patriotism. These documents have revealed how the making of great decisions and national policy have been concealed from the American public and how the people were misled and lied to in the process.

We have seen the Government vehemently object to the publication of these documents—not because the papers were inaccurate but because they were too accurate.

There are those in Government who, rubberstamp in hand, are of the belief that all information is born classified and must be concealed from the public. Few things could be more dangerous to the existence of a free society than such an attitude.

The latest issue of Parade magazine makes a very cogent observation:

> When a government consistently conceals its true motives from the people, it risks their mounting skepticism. It is regrettable but true that neither the Johnson Administration nor the Nixon Administration has inspired the American public with trust and faith in their government.
>
> After eight years of mounting doubt there is a great danger that the people's confidence in their government's credibility will eventually vanish.

I am inserting in the RECORD at this point the article from which this statement was taken plus another article from the same magazine written by Jack Anderson, "Why I Blew the Whistle":

THE DANGER OF LYING

(By Lloyd Shearer)

When the U.S. Government decides to withhold information from the people, it employs two main methods (1) it declares all the documents pertaining to the information, top secret, secret-sensitive, or confidential, or (2) it simply lies to the people.

The Pentagon Papers is an example of the first method, the government's explanation of why it sent the Enterprise and a destroyer escort into the Bay of Bengal during the India-Pakistani war is an example of the second.

The case of the Pentagon Papers in which some 48 volumes were needlessly overclassified is too well-known to bear repetition.

The announcement covering the Enterprise is less well-known. The reason given to the public last December for ordering a portion of the U.S. Seventh Fleet to the Bay of Bengal was to evacuate U.S. citizens from Dacca in East Pakistan.

That was a most unimaginative cover story. Following the evacuation of 114 Americans from Dacca by British RAF transport planes, there were at the time, according to the Indian government, only 47 Americans remaining in Dacca—17 U.S. Officials and the other 30 mostly missionaries. All 47 could have been flown out in one plane. They did not need to be rescued by a nuclear-powered aircraft carrier.

The true reasons for ordering the Enterprise and its destroyer escort from Vietnamese waters into the Bay of Bengal were:

(1) A show of force against the Soviet navy also cruising the Indian Ocean.

(2) The diversion of Indian aircraft from the Pakistan fronts.

(3) Possible diversion of the Indian aircraft carrier Vikrani from blockade and air strike missions against East Pakistan.

(4) Possible evacuation of Pakistani troops from the port of Chittagong.

(5) A demonstration of solidarity with the People's Republic of China which also sided with Pakistan against India.

Why the U.S. Government felt that the people should not be told these truths is difficult to determine. Perhaps the Administration felt that a war-weary public ought not be informed of a possible confrontation of U.S. and Soviet naval forces in the Indian Ocean.

When a government consistently conceals its true motives from the people, it risks their mounting skepticism. It is regrettable but true that neither the Johnson Adminisration nor the Nixon Administration has inspired the American public with trust and faith in their government.

After eight years of mounting doubt there is a great danger that the people's confidence in their government's credibility will eventually vanish.

Surely, in the past eight years the public has been more generously informed by its press than by its government.

WHY I BLEW THE WHISTLE

(By Jack Anderson)

WASHINGTON, D.C.—Do you feel as an American citizen that you have the right to know about an impending war?

This question is pointed up by the secret documents I got out of the White House. They tell a chilling story. While Americans sang of peace on earth last December, grim men sat in guarded rooms in Washington, Moscow and Peking making life-and-death decisions. The world might have awakened on Christmas morning, not to jingle bells, but to the roar of nuclear warfare.

When I became aware of the developing confrontation, I was determined to inform the American people. The only way this could be accomplished was to rip the secrecy labels off the details. For the dangerous drift toward Armageddon, during the second week of December 1971, was classified top secret.

Two third-class powers, India and Pakistan, were fighting over the fate of East Pakistan. Just offstage, the world's three great powers—China, Russia and the United States—began making moves in a far more dangerous game.

On Dec. 7—30 years to the day after the Japanese attack on Pearl Harbor—a message was received in the situation room in the basement of the White House. It was stamped "Top Secret Umbra." Umbra means the darkest part of a shadow. In U.S. intelligence circles, it is the symbol for the darkest of secrets.

This cable warned that three Soviet ships—a destroyer armed with missiles, a seagoing minesweeper and a tanker—had passed eastward through the Strait of Malacca to join other Soviet warships in the Bay of Bengal.

CHINA RUMBLINGS

Intelligence reports brought into the White House other evidence that the Soviets were supporting the Indian thrust into East Pakistan. There were simultaneous rumblings out of China that the Chinese might intervene on the side of Pakistan.

It was a situation that the U.S. was better equipped to observe than to alter.

On Dec. 8, Henry Kissinger, the President's foreign policy czar, told a strategy meeting grimly: "We may be witnessing a state [India], backed by the Soviet Union, turning half of Pakistan into an impotent state and the other half into a vassal." He warned the assembled policymakers that they must consider the long-range consequences.

They began planning at once to counteract the Soviet ploy. On Dec. 10, a decision was made to send an American flotilla, led by the carrier Enterprise, into the Bay of Bengal. The ships, called Task Force 74, were to make "a show of force." It was suggested the flotilla would divert Indian ships and planes from the war with Pakistan and, thereby, relieve the pressure on President Yahya Khan's beleaguered forces.

FORCES ALERTED

The risks were apparent. On Dec. 10, the commander of the Seventh Fleet flashed the secret word that the "primary air threat would be from IAF (Indian Air Forces) aircraft . . ." The next day, Washington warned Task Force 74 that it "must be alert to the possibility of provocative and irrational acts by hostile forces."

Adm. John McCain, the Pacific commander, asked for and received permission to maintain aerial surveillance of the Russian squadron.

Not long afterward, a new Soviet squadron, including two guided-missile destroyers and a pair of submarines, set sail from Vladivostok for the troubled waters.

The scene was set for another Gulf of Tonkin incident. In the secret documents, the parallels are frequent and frightening.

Meanwhile, other moves were taking place on the ground. The White House situation room learned the Chinese were gathering weather reports along the China-India border, an unusual move indicative of military interest.

The Chinese were a worry to the Russians. In remote Kathmandu, Nepal, in the Himalayas, the Soviet military attaché warned the Chinese attaché that Chinese intervention to aid Pakistan would be met with massive Russian force.

The same day, U.S. intelligence reported: "According to a reliable clandestine source, President Yahya Khan claimed . . . today that the Chinese Ambassador in Islamabad had assured him that within 72 hours the Chinese army will move towards the [Indian] border."

CIA HEARS MRS. GANDHI

Back in New Delhi, the Central Intelligence Agency picked up a remark by Prime Minister Indira Gandhi "that she had some indications that the Chinese intend to intervene along India's northern border . . ."

Soviet forces, meanwhile, had been massed for months on the border of China's remote Sinkiang Province, where the nuclear test range is located. The Soviets might welcome an excuse to drive into Sinkiang and destroy China's nuclear works.

There was a hint of this in an ominous, secret intelligence cable from New Delhi on Dec. 13. The Russian Ambassador to India, Nikolai M. Pegov, was quoted as assuring Indian officials "that a Soviet fleet is now in the Indian Ocean and that the Soviet Union will not allow the U.S. Seventh Fleet to intervene. If China should decide to intervene, said Pegov, the Soviet Union would open a diversionary action in Sinkiang."

As it happened, the Pakistan army crumbled, and the brief war came to an end. But for a few days, the world stood on the edge of another world war and the American people were never told about it.

Through my sources, I had followed the developments. I felt someone should blow a warning whistle. So I sought documentary evidence, available only in secret papers, of what was going on. It seemed a matter of peace or war, of life and death. Certainly, the public had a right to know.

Too often in the past, the price of secrecy has been bloodshed. Lyndon Johnson campaigned on a peace platform in 1964, saying he did not intend "to send American boys to do what Asian boys should be doing." Not until seven years later did we learn from the Pentagon Papers that Johnson had been making opposite plans in secret.

PUBLIC MISLED

We also learned seven years too late that the public was misled about the Gulf of Tonkin incident. Johnson's announcement that North Vietnamese torpedo boats had staged an unprovoked attack upon a U.S. destroyer led to a Senate resolution which was repeatedly cited, thereafter, as legal authorization for prosecuting the Vietnam war. The truth remained classified.

In 1961, *The New York Times* learned of the preparations for the Bay of Pigs invasion, but the story was suppressed in the name of national security. Later, a bitter President Kennedy realized that the press could have saved him a major disaster. "I wish you had run everything on Cuba," he told the paper's late publisher Orville Dryfoos.

WARNINGS HIDDEN

During the Korean War, the people weren't told of repeated Chinese warnings that China would intervene if U.S. troops crossed the 38th Parallel. There was no public opinion, therefore, to restrain Gen. Douglas MacArthur from sending his troops to the Yalu. This brought Chinese volunteers flooding across the river into Korea.

The American people, whose sons must do the dying when the government's policies lead to war, are entitled to know all the dangers. Certainly, the government has the right to classify information that might jeopardize the national security. But the government has badly abused this right.

The classification system gives the executive branch the absolute authority to make whatever it pleases a state secret. Neither Congress nor the courts can declassify documents. Our leaders use this power to control the flow of news to the people. Thanks to freedom of the press, they can't stop newspapers from publishing the news. So they try to cut off undesirable news at the source. The classification system is used, in short, as a censorship system.

There are more than 20 million documents locked away in government file cases under a variety of secrecy labels. Only a tiny portion—perhaps one percent—directly relate to national security. The rest are classified to protect the bureaucrats and safeguard our leaders from public scrutiny.

Many citizens were appalled at the spectacle of their governments' secret papers being spread across the pages of newspapers. What right did I have, many have demanded, to declassify papers?

Under the license granted the press by the First Amendment, I have the right, and probably the duty, to expose government secrets.

RISKS ARE SMALL

For all the risks in a Constitution that gives freedom of the press priority over the government's secrets, the newspapers' handling of both the Pentagon Papers and my revelations indicate that the risks are minimal.

The gravest breach of security the government could find in the Pentagon Papers was the account of "Operation Marigold." This was a confidential peace initiative in 1966 in which the U.S. communicated with Hanoi through a Polish diplomat. Yet this information was spelled out at length in President Johnson's memoirs.

As for the so-called Anderson Papers, no government official has even claimed there was a significant breach of security. I took the utmost care in releasing classified information in my possession. References to the government's intelligence sources and other military details remain tightly guarded.

For about 25 years I have tried to break down the walls of secrecy in Washington. But today the walls are thicker than ever. More and more our policymakers hide behind those walls.

FREE PRESS VITAL

Only the press can stand as a true bulwark against an executive branch with a monopoly on foreign policy information. It has all the authority it needs in the First Amendment. As the late Justice Hugo Black put it so eloquently in his last opinion:

"The government's power to censor the press was abolished so that the press would remain forever free to censure the government. The press was protected so that it could bare the secrets of government and inform the people. Only a free and unrestrained press can effectively expose deception in government. And paramount among responsibilities of a free press is the duty to prevent any part of the government from deceiving the people and sending them off to distant lands to die of foreign fevers and foreign shot and shell."

LITHUANIAN INDEPENDENCE ANNIVERSARY

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. BINGHAM. Mr. Speaker, I wish to note that today, February 16, is the 54th anniversary of the Declaration of Independence of Lithuania and the 721st anniversary of the formation of the Lithuanian state.

Lithuania was occupied by Soviet troops on June 15, 1940, and for more than 3 decades has been subjected to alien and suppressive rule, which has violated many of the universally recognized rights of men and nations, such as the right to self-determination and fundamental freedoms of religious worship and conscience, nationality, and opinion.

The events of this past year again indicate the deep aspirations of the Lithuanian people for freedom and independence. The case of Simas Kudirka is a good example of the denial of self-determination to the Lithuanian people. Mr. Kudirka, a seaman aboard a Soviet ship, attempted to defect to the United States on November 27, 1970. His motives were discrimination and suppression of national rights imposed upon him and his people. Mr. Kudirka was later sentenced to 10 years hard labor and stripped of all personal property for treason by a Lithuanian SSR court.

Abuse of Soviet power and violation of religious rights is illustrated by the case of Rev. Juozas Zdebskis who was arrested on August 26, 1971, for allegedly, systematically teaching catechism to children. A court found him guilty and sentenced him to 1 year in prison. These are just a few of many such cases of the current suffering and suppression of citizens of Lithuania.

The Lithuanian people in my own congressional district in the Bronx, N.Y., Mr. Speaker, are upstanding individuals who contribute greatly to the community and I am sure they join me in commemorating this anniversary.

CONGRESSMAN WHALEN COMMEMORATES LITHUANIAN INDEPENDENCE DAY

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. WHALEN. Mr. Speaker, it is with compassion and admiration that I join with Members of the House of Representatives today to commemorate the two most significant events in the history of the Lithuanian people.

This date marks the 54th anniversary of the establishment of the Republic of Lithuania and the 721st anniversary of the formation of the Lithuanian State. Once again we contemplate with great sadness the continuation of the tragedy which began with the occupation of Lithuania by Russian force of arms in 1940. Yet we cannot be other than inspired by the unending desire for freedom and self-determination manifested by Lithuanians trapped within the Soviet Union and by their countrymen living in other free countries around the world.

While the material aspects of life seem to have improved gradually in this little Baltic Nation—they hardly could have become much worse—the repression of the freedoms we take for granted in the United States persists. Yet the tenacity which the Lithuanians exhibit in working for the ultimate reestablishment of the free Lithuanian Nation is truly a marvel. The Russians quite clearly must recognize the tremendous depth of this yearning. In 31 years they have been unable to quench it despite the various devices they have employed with such great futility. The result has been an intensification rather than diminution of resolve on the shores of the Baltic.

Our remarks here today, Mr. Speaker, are appropriate because they signify the consistent awareness of the United States of the deprivation and hope of a once-free people. I consider it to be our responsibility to signal the Republic of Lithuania that she has not been forgotten by the people of America.

ROUTE 76 PROJECT

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. SCHERLE. Mr. Speaker, a powerful force is gathering momentum in rural America. The force is young people—young men and women who are vitally concerned with the complexities of the future—young men and women who are organizing their strength and applying their vigor to make towns and cities attractive—to encourage expansion of opportunity for jobs and good living.

This nationwide movement is being catalyzed by the Future Farmers of America—FFA—and their Building Our American Communities—BOAC—program. I am elated to learn that the Winterset, Iowa FFA is implementing a long range "Route 76" project to be completed by 1976 the bicentennial year of the American Revolution.

"The project idea" according to Kevin Bishop, 17, president of the Winterset FFA chapter, is to:

> Clean-up deteriorated buildings and dead trees throughout the county, to plant new trees and flowers, to speed up soil and water conservation work, to stimulate a face-lifting of business districts in Madison County communities, and to use these things to find paying jobs for the youths of the Winterset area.

I want to call the attention of my colleagues to an important aspect of this Winterset FFA—BOAC project. It is countywide and the Winterset FFA has invited two other Madison County FFA chapters—Earlham and Truro—to join in the project. This has great meaning for the future. Rural development requires multicommunity, county and area cooperation on a national scale.

The National FFA should encourage interchapter activities and cooperation. Air, water and land pollution are not local problems, neither are they respectors of county or community lines. Employment opportunities in rural areas can be more easily developed and industry attracted by several communities pooling their resources, labor and finances to obtain the necessary technical assistance. Health resources can be mobilized to better advantage if communities work together. The combination, attractive communities with employment opportunities, health and recreation, will provide a good life for more people and stop the out-migration from rural to urban areas.

I commend the Winterset FFA and their adviser, John Bishop, in their effort and compliment them for taking the initiative and involving local citizens, civic leaders, businessmen, county officials and government agencies in their project.

A story entitled "Route 76" Clean-Up written by Don Muhm, the Des Moines Register's farm editor, appeared in that paper January 17. I insert this story in the RECORD.

Mr. Speaker, I believe the National FFA has taken a significant step forward with the Build Our American Communities—(BOAC)—program. It has great portent for the future of rural Americans and the Nation. Many of the young people who have been forced to migrate to urban areas from rural communities would not have left had there been opportunity at home. If we develop opportunity in rural areas, future migration will be slowed, thus helping to prevent the concentration of our population in urban areas. For this reason my urban colleagues should have a vested interest in rural development.

All of us from rural areas know that a strong agriculture earning its equitable share of the national income is the economic base of rural communities. This base can provide the amenities, including education, for millions of young people, thus broadening their opportunities.

In addition to agriculture, rural areas need a strong industrial economy built around the existing rural towns, villages and cities. We still expect about 100 million new people by the year 2000 and development of rural areas is vital to help in a more even distribution of our population.

The national policy of developing a rural-urban balance will require knowledgeable leadership. The FFA is an integral part of the system of agricultural education and it has been instrumental in developing agribusiness and technical leaders in many fields over the 40-odd years of its existence. Long range rural development begins in the schools.

The BOAC program is a study-action program. Vocational agriculture provides the classroom, and the community is the laboratory to develop knowledgeable leaders.

The local projects now begging to emerge demonstrate how young people, industry and educators can work together to accomplish specific community objectives.

BOAC was initiated as a joint effort between the Farmers Home Administration and the National FFA and is being sponsored by Lilly Endowment, Inc., of Indianapolis, Ind. James V. Smith, a former colleague of ours, and now Administrator of the Farmers Home Administration, who is always looking for ways to strengthen rural areas says:

> The BOAC program implemented by the power and vigor of youth, is one of the most promising ideas we have for creating a rural-urban balance.

Robert Pim, Iowa State Director of the Farmers Home Administration, is enthusiastic about the program and is "encouraging FHA County Supervisors and local FFA Advisors to work together to assure this program's success." He and Gerald Barton, the Iowa State FFA Advisor have been cooperating at the State and local level.

I commend the BOAC concept to your attention. It is a sound one. More than that, I challenge the leaders and teacher trainers of our universities to examine it carefully. In-service training and new teacher education in the fundamentals of community development are needed to fully implement the BOAC concept.

We here in Congress should be sensitive to the needs of this program as it develops.

The article follows:

TRAVELING "ROUTE 76"

(By Don Muhm)

Three Winterset Future Farmers of American (FFA) chapter leaders are shown in front of a dilapidated hog house that is one of the "targets" in a four-year Madison County "clean-up" campaign that will terminate by 1976—the American Revolution bicentennial year. Their completion date is the source of their campaign slogan "Route 76." From left are Chapter President Kevin Bishop, 17, of Winterset; and David Stout, 16, of Lorimor; and Roy Foley, 16, of Peru.

WINTERSET, IOWA.—An ambitious, four-year "clean-up" project encompassing Madison County is being organized by the members of the Winterset Future Farmers of America (FFA) chapter.

They call this long-range work program, which is designed to be completed by 1976—the bicentennial year of the American Revolution, "Route 76."

Kevin Bishop, 17, of Winterset, the FFA chapter president, described the project this way:

"Our idea is to clean-up deteriorated building and dead trees throughout the county, to plant new trees and flowers, to speed up soil and water conservation work, to stimulate a face-lifting of business districts in Madison County communities and to use these things to find paying jobs for the youths of the Winterset area."

Bishop stressed that the "clean-up" project isn't to be a matter of FFA youths and other young people donating their time and efforts for the good of Madison County.

"We want to encourage projects that will help provide summer jobs for 200 to 300 young people who we have available in the Winterset area and part-time jobs during the school year," the lad explained.

"While we have done some volunteer work so far, this isn't what we have as a goal."

The FFA members got the idea for the county-wide "clean-up" project from a Georgia FFA chapter which conducted a similar project in their community. . . .

"Our 'clean-up' project is different from what the FHA boys did in Georgia in that ours will last four years, and will terminate in 1976 when we observe the American Revolution Bicentennial," Bishop added.

He is the son of John Bishop of Winterset, who is now in his twentieth year as vocational agriculture instructor in that community and who is also the Winterset FFA chapter advisor.

The FFA youths have sought approval of Madison County officials in their four-years "clean-up" project. They explained their objectives to the county board of supervisors, the local soil conservation district officials, the Winterset City Council, chamber of commerce, and other groups or individuals.

In addition, the Winterset FFA has invited two other Madison County FFA chapters—located at Earlham and Truro—to join in the four-year "county clean-up."

"One county official estimated that we probably had 500 abandoned farm homes in Madison County which should be torn down," the elder Bishop explained. "And we have thousands of dead elm trees that should be removed.

PROF. ROBERT LEKACHMAN SPEAKS OUT IN FAVOR OF PUBLIC SERVICE JOBS

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. RYAN. Mr. Speaker, one of the most pressing problems facing the country is unemployment, which the President's vaunted new economic policy has not solved. The unemployment rate for January 1972 was 5.9 percent, not significantly lower than it was all last year. And this figure masks the fact that certain groups within the population bear a disproportionate amount of the unemployment burden. The unemployment rate for teenagers is 17.5 percent; for black and other minority adults the rate is 10.3 percent; and in the inner cities, for black teenagers it is astronomical.

One of the soundest ideas advanced for dealing with this problem is to create a program of public service jobs, and I have joined in cosponsoring H.R. 12011, initiated by Congressman Reuss, which would create 500,000 federally financed public service jobs by amending and expanding the Emergency Employment Act of 1971.

The concept of public service employment has received support from a wide range of economists. One of the most cogent analyses of the concept of public service jobs was set forth recently by Prof. Robert Lekachman, professor of economics, State University of New York at Stony Brook, before the Select Subcommittee on Labor of the House Education and Labor Committee. In his testimony on January 26, 1972, he observed:

> Public service employment is an idea whose time has come. It represents the best available means of coping simultaneously with the persistent unemployment and unfilled public sector needs.

I commend Professor Lekachman's testimony to the attention of my colleagues.

My testimony follows:

Testimony of Robert Lekachman, Professor of Economics, State University of New York at Stony Brook to the House Labor Committee, January 26, 1972

Public service employment is an idea whose time has come. It represents the best available means of coping simultaneously with persistent unemployment and unfilled public sector needs.

As long ago as 1959, John Kenneth Galbraith used *The Affluent Society* as the occasion eloquently to decry private waste in the midst of public squalor. Since then scholars who have studied the situation as well as ordinary citizens exasperated and endangered by the deficiencies of public services have time and again identified pervasive shortages of personnel which cripple libraries, parks, hospitals, and departments of police and fire protection. In 1965 President Johnson's Commission on Technology and Social Change (the Automation Commission) estimated that at the current levels of staffing more than five million vacant positions existed in community provision for health, education, environmental protection, welfare and home care, public safety, sanitation, and urban renewal. No urban resident is likely to believe that conditions have improved since the Automation Commission delivered its report.

Indeed in 1968 Dr. Harold Sheppard of the Upjohn Institute conducted a survey of 130 cities, each with a population in excess of 100,000, which disclosed that these cities could readily have put to useful work 279,415 persons in activities which ranged from antipollution enforcement, through public safety, to sanitation and welfare—if only the funds were available. Most of these positions required little skill or skills that could readily be taught in short training programs. In the light of the budgetary crises which have afflicted states and municipalities since 1968, Sheppard's figure must in 1972 be substantially larger than at the earlier date.

The changing geography of the labor market attests to the rising significance of public employment. Those who professionally must guess about such matters estimate that between 1966 and 1975 growth of public sector jobs is likely to approximate 4 million. By comparison, private and nonprofit service positions may increase by 8.5 million and private goods-producing employment by a mere 2 million. As many have concluded, the United States is in a post-industrial era, characterized by increasing emphasis upon the production and consumption of human services. And of these services, many of the crucial are largely or completely in the public sector—preservation of the environment, protection of persons and property, education, hospital care, and mass transportation among others. To an extent possibly still unrealized by a great many Americans, the quality of their lives is a direct function of the character of public services.

Thus the quality and quantity of public services represent one escalating national problem. Unemployment is a second. Even the professional optimists who issue this Administration's economic forecasts do not anticipate in 1972 significant reductions in the 6.1 percent measured rate of unemployment. a figure which for a variety of reasons underestimates the scope of the problem. While I do not share Secretary John Connolly's oddly Marxist view that the United States can expect full employment only in time of major war, I do note the continued presence of structural unemployment as an apparently permanent characteristic of our labor markets. The decline in unemployment to 3.3 per cent just before Mr. Nixon entered the White House raised some false hopes among economists that aggregate demand remedies would suffice to wipe out unemployment above some frictional minimum. Even that 3.3 per cent figure masked the quantity of concentrated unemployment in inner cities, rural backwaters, and depressed areas, and among minorities and teen-agers. The exceedingly modest employment goals of this Administration implicitly register the conviction of its economists that structural unemployment is a long-term problem about which little can or ought to be done.

But something can and ought to be done. The crucial decision before Congress and the nation is not, I am convinced, a choice of expansion or contraction of the public sector. The shape of consumer demand and the trend of goods-producing technology practically mandate an expanding public sector. The real choice of national policy is different. It concerns the kind of public services Americans want and the conditions of employment under which they will be supplied. The choice is nothing less crucial than between public service jobs as a mode of social punishment of men and women who lack private employment and public employment as an honorable alternative to private employment.

I devote the remainder of this testimony to a discussion of the implications of these policy alternatives.

THE NEW MALIGNITY

In the last decade Administration and Congressional policy toward public job creation has violently fluctuated. In its more enlightened moods, Congress has proved itself entirely capable of handling government employment as a rational path of social and vocational mobility for poor people. In their days of glory, Office of Economic Opportunity Community Action Programs opened a variety of managerial, clerical, and semiprofessional positions to urban blacks and Puerto Ricans. CAP vocational favoritism to members of indigenous populations is of course nothing new in the American experience. OEO policy simply continued and applied to the latest group of newcomers to the American celebration, traditional patterns of entry by new and aggressive ethnic groups into one or another of the government services. In my own New York City it is history not accident or coincidence that Italians dominate sanitation, Irishmen police and fire protection, and Jews public school teaching and administration.

A commendable feature of Great Society urban legislation was emphasis upon the promise of public employment as an entry point into the vocational structure, preferably with full civil service status. Thus Section 103(a) of the 1966 Demonstration Cities and Metropolitan Development Act mandated ". . . maximum opportunities for employment of residents of the area in all phases of the program." Regrettably the statute stopped short of granting civil service coverage to new employees after suitable probationary experience. Understandably if not especially commendably, local civil service groups and public employees unions have successfully resisted certification of Model Cities workers. Parallel occupational structures accordingly have been erected. It is to the credit of Secretary Romney that since November 1970 HUD regulations insist that "In the case of public employment generated in components of the comprehensive city demonstration program, financed in whole or in part by supplemental or other HUD funds, such jobs will be incorporated into the community's regular civil service system within a reasonable period of time not to exceed two years from the point that the positions were filled."

Sadly there is much in the current national climate that turns Mr. Romney into something of an honorable exception, for this is a period when a good many legislators, Congressmen, state governors, and the President himself are sponsoring a swing to the opposite pole of national policy. The poor, black, urban, unskilled, and unemployed are no longer benignly perceived in Great Society terms as individuals enmeshed in various kinds of personal and social misfortunes from which they can be rescued by encouragement, training, social therapy, income maintenance—and specially designed public jobs. The new brutalism of the Nixon Administration nurtures emphasis upon the personal shortcomings of the poor and a corresponding inclination to convert public service employment into urban chain gangs. Leaders like Ronald Reagan and Nelson Rockefeller in his latest political role profess to discover in the poor a reprehensible preference of welfare to work, hustling to regular employment. There are social scientists whose theories bolster such revelations. If Edward Banfield is right, the poor perpetuate their own condition by an inability to defer gratification after the manner of the prudent middle class. Or, a hampering matriarchal family structure, Daniel P. Moynihan's incendiary explanation, better interprets the plight of poor urban blacks than mere shortages of jobs, suitable housing, supportive services, and public transportation.

I adduce three contemporary examples of this new malignity. Take first President Nixon's Family Assistance Program. Although socially concerned men and women have endorsed FAP as a breakthrough to general income maintenance, others, myself decidedly among them, are convinced that the repressive features which accompany and vitiate this innovation amount to evils larger than the promised benefits. For FAP defines public service jobs less as vocational opportunities and escape routes from poverty and unemployment than as sheer punishment for personal failure. The emphasis is upon coercing the mothers of young children into leaving them, on pain of benefit denial, in day-care centers of which far too few in any event exist.

These women are to be compelled to accept whatever employment is provided quite probably at rates which are exempted from minimum-wage standards. In Skinnerian terms, people are "encouraged" to work by negative reinforcement—the presence of the fear of punishment.

Similar ungenerous conceptions of the motivation and the consequently desirable treatment of the poor were blatantly evident in New York State's abortive experimental program of welfare benefits which in its original form was too much for the stomach even of this Administration's HEW reviewers. This so-called "Incentives for Independence" scheme began by reducing welfare benefits for families of four from $313 to $200 per month. The State then offered the family the "opportunity" to return to its old level of financial maintenance (but not to improve upon that level) by adopting certain approved behaviors and refraining from certain other disapproved ones. A complex point system awarded the parents of school-age boys and girls $12.50 for each two weeks of school attendance with good behavior for each child. An adult could amass additional points for locating a deserting sexual partner, establishing a child's paternity, attending a self-improvement course, enrolling a son in the Boy Scouts, and so on. Such were the carrots—the positive reinforcers.

The negative reinforcers focused upon work. A family could lose as much as one-third of its *reduced* scale benefits, declining from $200 to $133, should one of its adults refuse a job. An individual might be required to work without pay in a public service job, should a shortage of private sector opportunity exist. New York State proposed to test this benign device on 27,000 persons grouped in 7,000 family units located in three counties—rural Franklin, suburban Rockland, and a portion of black and Puerto Rican Manhattan. Of this plan, the New York State Department of Social Services solemnly averred, it endeavors to "provide for the needs of the poor while encouraging a speedy return to independence and self-sufficiency." Rather more aptly the Columbia University Center for Social Policy and Law judged the proposal "a primitive form of coercion", designed "to compel a parent to take certain actions by the manipulation of her child's basic means of survival—the welfare grant."

The suspicious, sour public temper stimulated by the President and his helpers is, finally, and regrettably epitomized by some of the rhetoric and important limitations of the Emergency Employment Act of 1971, Public Law 92-54. Congress, recalling that Mr. Nixon had already vetoed a somewhat superior measure, understandably tailored the new statute to the President's taste. What a mean taste it is! Confronted by high and continuing unemployment, the Act supplied as therapy perhaps 130,000 new jobs for the 7 million or more unemployed or underemployed. Why so little, so late? The statutory language is instructive: throughout the stress is upon the relationship of the new jobs to periods of unusually high unemployment. As the Preamble phrased the position, the Act aims "To provide during times of high unemployment programs of public service employment for unemployed persons to assist States and local communities in providing needed public services, and for other purposes." Section 2 plays variations on the same theme: "times of high unemployment severely limit the work opportunities available to the general population, especially low-income persons and migrants, persons of limited English-speaking ability, and others from socio-economic backgrounds generally associated with substantial unemployment and underemployment." And "in times of high unemployment, many low-income persons are unable to secure or to retain employment." These wise words recall Calvin Coolidge's insight that when people are out of work, unemployment results.

Repeatedly the language of the statute reassures readers that the occasion of the program is unpermanent. All the employment to be financed is only "transitional." The tongue here is that of the business-cycle analyst: "providing resources for transitional public service employment . . . during an economic slowdown can help as an economic stabilizer both to ease the impact of unemployment for the affected individuals and to reduce the pressures which tend to generate further unemployment." And, yet again, "It is . . . the purpose of this Act to provide unemployed and underemployed persons with transitional employment in jobs providing needed public services during times of high unemployment, and wherever feasible, related training and manpower services to enable such persons to move into employment or training not supported under this Act."

Possibly a bandaid was all that Congress could persuade the President to accept. What is needed is a public jobs program of appropriate scale, at least 500,000 new jobs as a start, conceived after a fashion which unifys rather than divides our nation. I turn finally to a sketch of such a national design.

HUMANE PUBLIC SECTOR JOBS

One can very nearly write the headings for more humane and more realistic public job creation by taking the direct opposites of major Nixon-Reagan-Rockefeller attitudes to the poor and the unemployed. Out of considerations of this Committee's time, I shall be exceedingly brief.

STRUCTURAL UNEMPLOYMENT IS ALIVE AND WELL

Its causes are well known: lingering racial and sexual prejudice, mismatches of skills and available jobs, unavailability of cheap and efficient transportation from inner cities to suburban factories, shortages of low-cost housing near outlying plants, deficiencies of education and personal mobility among the unemployed, and so on.

PUBLIC SERVICE JOB PROGRAM SHOULD BE PERMANENT

This is the clear implication of the character of structural unemployment. A 4.5 per cent or any other unemployment trigger as in the current Act, generates uncertainty of tenure among the holders of new positions, weakens the at best difficult process of placing them in civil service categories, and stigmatizes the people who do get new jobs as inferior employees. Temporary or transitional programs ignore the rising needs of the public sector and the endemic understaffing of public services even during spells of relative fiscal ease.

PERMANENT JOBS MERIT STATUS AND CAREER LADDERS

Whether in the long-run civil service associations and public service unions resist or accept public service job creation depends upon the scale of their funding, the training facilities provided, the sincerity of official efforts to equip recruits with realistic credentials (not necessarily the ones currently in vogue), and the promotion opportunities for old as well as new workers. Large-scale programs which enlarge vocational opportunities for all public employees are the most promising. Meager temporary initiatives simply encourage existing resistance to decent status for new workers, fatally damage efforts to convert existing credentials requirements into sensible job qualifications, and facilitate the unseemingly scrambling among communities and states for fiscal crums which has characterized the administration of the Emergency Employment Act.

PUBLIC SERVICES SHOULD BE HIGH-QUALITY SERVICES

Involved here are the self-respect of new and old public servants and the desperate need at all times to improve the quality of public sector output. In the long-run, Americans will not enjoy a decent society until they come to value as highly the work of the public as the private sector.

MINIMUM WAGE LAW SHOULD BE OBSERVED

The temptation to breach the rules is a corollary of the use of public work as punishment and social discipline. Once the attitude changes, the temptation will disappear.

COMMUNITY ACCOUNTABILITY IS DESIRABLE

At their best, public service job programs are vehicles for the rehabilitation of neighborhoods and entire communities. Mechanisms for the responsible participation of community residents accelerate a potentially benign process.

CONCLUSION

In the next few years as a nation we shall almost certainly choose between job creation strategies which punish the unemployed and those designed to integrate them into the productive community. I urge upon this Committee the kind of action which will move the nation toward the only policies which are consistent with our best instincts, a policy which emphasizes human potentiality, not human failure.

LITHUANIAN INDEPENDENCE DAY

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mrs. GRASSO. Mr. Speaker, the significance of our Independence Day is clear to all Americans—it is a time of great celebration and joy. We are truly fortunate to be able to enjoy our Independence Day in freedom and contentment.

It is tragic, indeed, that so many people throughout the world are forced to mark their independence day while under the heavy yoke of tyranny and oppression—and the day becomes a memorial to a shattered dream.

At this time we again commemorate Lithuanian Independence Day. Our commemoration marks two anniversaries: First, the 721st anniversary of the formation of the Lithuanian State when Mindaugas the Great unified all Lithuanian principalities into one kingdom in 1251; and second, the 54th anniversary of the establishment of the modern Republic of Lithuania on February 16, 1918. Most unfortunately, the brave and freedom-loving Lithuanian people must still endure the suppression of the Soviet regime. However, these noble people have persisted in strong faith. They have frustrated Soviet rule by occupation at every conceivable turn. The recent valiant attempts of courageous Lithuanians to escape from national imprisonment—such as Pranas and Algirdas Brazinskas, Vytautas Simokaitis and Simas Kudirka—bear witness to the soul of a people that yearns to be free.

Lithuanians and the people of the other two Baltic nations—Estonia and Latvia—must be free again. It is my hope that the Congress will renew the pledge contained in its 1966 Resolution calling for freedom for all the Baltic nations, and that the President will bring this grave matter to the immediate attention of the United Nations.

LITHUANIAN INDEPENDENCE DAY

HON. JAMES C. CLEVELAND

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. CLEVELAND. Mr. Speaker, on February 16 of this year, Americans of Lithuanian descent together with Lithuanians throughout the world will observe the 54th Anniversary of the Declaration of Independence of Lithuania. It is significant and sad that in Lithuania itself the people will not be permitted to commemorate the occasion, for this country of proud, brave and freedom-loving people has been enslaved by Russian communism for the last 30 years.

The Lithuanian State was formed over 700 years ago in 1251 on the shores of the Baltic Sea by Mindaugas the Great. During several centuries the Lithuanians fought for and maintained their freedom and identity until in the late 18th century they were forcibly annexed to Czarist Russia. For 100 years after that the Lithuanian people were subjugated by the Russian Empire, managing throughout, however, to maintain their separate cultural identity and dignity.

On February 16, 1918, Lithuania was one of the first nations to take advantage of the overthrow of the czar, assert the right of self-determination, and declare its independence. For the next 22 years the Lithuanians rebuilt their war-ravaged nation—homeland under a free and democratic form of government. They lived in peace, worked hard, and were accepted as a member of the League of Nations.

In 1940 they were again subjected to Russian occupation. This time, through Communist controlled elections conducted under the guns of the Russian Army, Lithuania was again annexed to the Soviet Empire. Thus began one of the most brutal, inhumane occupations of all time. Nearly one-sixth of the population has been packed in trains and shipped to distant regions of the Soviet Union. Religious freedom has been suppressed. Self-rule is unknown. But Lithuanians continue to seek freedom. Over 50,000 patriots lost their lives fighting for it between 1945 and 1953, and since that time many more have risked their lives to escape Soviet totalitarianism. Who can forget the tragic November 1970 escape attempt in our own territorial waters, of Simas Kudirka, a Lithuanian seaman? This was truly a day of infamy.

On this anniversary of Lithuanian Independence, I would like to insert in the CONGRESSIONAL RECORD the following copy of House Concurrent Resolution 416, unanimously adopted by the 89th Congress, calling for the liberation of Lithuania and her two Baltic neighbors, Latvia and Estonia. The American people pray for the freeing of the Baltic people from Russian tyranny and reaffirm our commitment to the ultimate liberation of all captive nations. I urge the President to bring the question of Baltic independence before the United Nations and also before the Soviet leadership during his upcoming trip to Moscow.

H. CON. RES. 416

CONCURRENT RESOLUTION

Whereas the subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations, and is an impediment to the promotion of world peace and cooperation; and

Whereas all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social, cultural, and religious development; and

Whereas the Baltic peoples of Estonia, Latvia, and Lithuania have been forcibly deprived of these rights by the Government of the Soviet Union; and

Whereas the Government of the Soviet Union, through a program of deportations and resettlement of peoples, continues in its effort to change the ethnic character of the populations of the Baltic States; and

Whereas it has been the firm and consistent policy of the Government of the United States to support the aspirations of Baltic peoples for self-determination and national independence; and

Whereas there exist many historical, cultural, and family ties between the peoples of the Baltic States and the American people: Be it

Resolved by the House of Representatives (the Senate concurring), That the House of Representatives of the United States urge the President of the United States—

(a) to direct the attention of world opinion at the United Nations and at other appropriate international forums and by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Estonia, Latvia, and Lithuania, and

(b) to bring the force of world opinion to bear on behalf of the restoration of these rights to the Baltic peoples.

Passed the House of Representatives June 21, 1965.

Attest:

RALPH R. ROBERTS, *Clerk.*

AFDC MOTHER WANTS A JOB

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. FRASER. Mr. Speaker, as the Senate prepares to vote on H.R. 1, the President's family assistance plan, I would like to share a letter I recently received from a constituent, an AFDC recipient. Her letter shows she does not lack the desire to work. Rather, the problem is lack of a job that would give her a decent living wage.

Her letter follows:

FEBRUARY 8, 1972.

DEAR CONGRESSMAN FRASER: I understand that on July 1, 1972, President Nixon's "Family Assistance Plan" goes into effect.

This plan affects me, because I am a welfare recipient (AFDC) with two children, ages 10 and 12 years old.

Why I have written to you, is to ask you for advice and information?

July 10, 1969, I took the Post Office examination for clerk-carrier and passed with a low score of 72.3.

I have waited and called the Post Office to find out when I can be hired! I can't get any information from them or I get contradictory information! This has been going on for 2½ years!!

I think after 2½ years, I definitely want to know where I stand in this matter.

Mr. Fraser, you constantly hear about welfare people not wanting to work, just sitting around collecting the taxpayer's money!

If I could have been hired in 1969 by the Post Office, I would have been off 2½ years ago but, I want to work at a job that gives me a decent living wage. The Post Office could do this, and I have met their requirements!!

Would you help me get this job, or, put me in contact with someone, who would look into this matter for me?

President Nixon wants people off welfare, but yet, the Federal Post Office has let my name sit dormant on this list for 2½ years. "I can't believe this!"

Maybe, this should be brought to President Nixon's attention?

Please, would you help me?

THE 54TH ANNIVERSARY OF THE REPUBLIC OF LITHUANIA

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. MURPHY of Illinois. Mr. Speaker, Americans are somewhat inclined to take for granted freedoms of conscience, religion, speech and press. Americans, in fact, sometimes forget the uniqueness of a country where dissent is welcomed and a free exchange of ideas encouraged.

It is good for Americans to recognize today the 54th anniversary of the establishment of the Republic of Lithuania and the 721st anniversary of the formation of the Lithuanian state. It is good for us to note that Lithuanians, though free in spirit, remain shackled physically.

Oppression of the masses is not a new thing. Irish Catholics and Soviet Jewry are arbitrarily detained and illegally held; Vietnamese men, women and children face the ravages of war every day of their lives; East Bengalis who have survived the devastation of a civil war now must fear death by starvation or disease. We must not forget, however, the plight of an entire nation, Lithuania, even though the oppression suffered by this nation does not reach the front pages of our newspapers daily.

We mark this anniversary rather than celebrate it, looking forward to the day when celebration will be in order. We must not shirk our responsibility as a moral force in the world. We must agitate for the self-determination of the Baltic States and the restoration of the freedoms we Americans have come to cherish.

PRESIDENT NIXON—DEDICATED AMERICAN

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. WYMAN. Mr. Speaker, the Nation should not forget, in this time of Democratic attacks on President Richard Nixon, that in 1960 when the President—the then Republican nominee for President—was campaigning against Jack Kennedy, there was a television debate between the two. This debate occurred shortly after a period of hospitalization for Mr. Nixon who did not appear to advantage physically.

More significant in its effect on the election that November, however, was the fact that on that TV program Jack Kennedy sounded like a hawk on Cuba and Nixon reserved even to the point of seeming reticence. Small wonder, for now we know that Nixon then knew of the arms buildup in this planning for an invasion designed to kick the Communist Castro out of that island so close to our shores but candidate Nixon kept the confidence.

Had Nixon, the candidate then, disclosed what he then knew the Republican administration under General Eisenhower was doing, he would have pulled the props right out from Jack Kennedy. In retrospect, it is almost unquestionable that the subsequent election would not have been lost to Kennedy by a whisker as it was had Nixon used this information for political advantage.

Last Sunday, the Boston Herald Traveler had an interesting editorial concerning critics of President Nixon. A main point of the editorial and what I sincerely hope all Americans understand about President Richard Nixon is as the Herald Traveler says:

Whether in or out of office, he placed the Nation's interest ahead of his own or his party's ambitions.

The article follows:

THE PRESIDENT AND HIS CRITICS

Twice in the past week, in his State of the World report to Congress and in his impromptu press conference President Nixon has urged his political adversaries to examine their statements on Vietnam and other critical foreign policy matters with special care.

Candidates for the presidency, he said, have as much right to criticize him as anyone else, but he added they have "a higher responsibility than the ordinary critic."

Why is that? Well, it should be obvious. If one of the "ordinary critics"—a columnist or editorial writer, say—suggests that the administration isn't trying hard enough to reach an accommodation with the North Vietnamese, that won't displease the gentlemen in Hanoi. But it doesn't provide them with much encouragement either, since they know the critic is in no position to implement his suggestion.

But when a serious presidential candidate suggests, as Sen. Edmund Muskie and George McGovern certainly have, they would offer Hanoi a better deal to end the war than the Nixon administration has, is it unreasonable to assume that the North Vietnamese may conclude that it is in their interest to postpone serious bargaining with the U.S. until after the November election, on the theory that they can get the same deal from Mr. Nixon if he wins and a better one if he loses?

This, of course, is exactly what the President had in mind, when he cautioned his political adversaries not to "give the enemy an incentive to prolong the war" on two occasions last week. But his remarks, and those of several other members of the administration, have stirred up a hornet's nest of indignation to the effect that the President is trying to muzzle the opposition and silence all his critics.

That's utter nonsense. Mr. Nixon is a much decorated and scarred veteran of the political battles of the past quarter century. He knows that partisan politics can't always stop at the water's edge, and that it is healthy and useful to have vigorous debate and dissent by the opposition, as long as it is constructive, responsible and loyal. Over the years he's spent a good bit of his own time and effort engaging in that sort of thing.

But the one thing he has never done is to allow his personal or partisan interests to outweigh or interfere with the national interest. His handling of the Vietnam issue during the 1968 campaign is a good example. Sure, he criticized the Johnson administration for its conduct of the war, and he said that he had a plan to end it. But he muted his criticism and offered his cooperation at critical junctures so as not to jeopardize Mr. Johnson's efforts to negotiate a settlement with Hanoi.

Or go back, if you will, to the 1960 campaign, when two of the key issues were Cuba and the so-called "missile gap." If Mr. Nixon had been able to tell the American people that the Eisenhower administration had a plan already in motion to "do" something about Castro and that Mr. Kennedy's "missile gap" charge was absolutely false, he would have scored more points with the voters and might have won the election (one of the closest in U.S. history).

As Vice President and a member of the National Security Council, he had access to plenty of secrets such as these which might have been very helpful in rebutting his opponent's arguments. And, of course, he didn't have to reveal them personally; it would have been easy enough to arrange to have such information "leaked" to a friendly editor or columnist.

But he didn't do that. He listened to arguments he could easily have refuted in silence, rather than jeopardize the nation's interests for personal or partisan gain. John F. Kennedy went on to win the election, and soon after he entered the White House he executed the Eisenhower administration's plans for the overthrow of Castro and also discovered that the "missile gap" had been a myth.

For the past three years, Mr. Nixon has likewise suffered in silence a great deal of criticism he could have refuted easily concerning his efforts to negotiate an agreement with Hanoi. For 30 months, while Henry Kissinger was meeting secretly in Paris with representatives from North Vietnam and the National Liberation Front, offering one plan after another to end the war, the President listened to his critics and adversaries complain incessantly that he wasn't trying hard enough and demanding to know why he wasn't doing precisely what he was doing. But he refused to defend himself by revealing what was going on behind closed doors in Paris as long as there was a chance the secret negotiations might be productive.

No doubt Mr. Nixon's credibility and political stock went down over these many months. But, as he has always done over the years, whether in or out of office, he placed the nation's interest ahead of his own or his party's ambitions.

Would that some of his critics and political adversaries could learn to do the same.

COOLEY'S ANEMIA—A HEREDITARY DISEASE

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. GIAIMO. Mr. Speaker, a private medical foundation recently made me aware of a hereditary disease called Cooley's anemia. Medically termed Thalassemia Major and sometimes called Mediterranean disease, Cooley's anemia was discovered by Dr. Thomas B. Cooley, an American, in 1925. Presently, there are more than 100,000 Americans, mostly children, suffering from this incurable stigma. Initially, it was prevalent only among persons of Mediterranean descent, primarily Greeks and Italians. Today, however, America's Mediterranean population has intermarried in many cases and the disease is now found not only among Americans of Italian or Greek origin but also among Americans of Jewish, Scandinavian, or even oriental origins. Rarely does a victim of this disease live beyond 20, and from early life on victims must undergo blood transfusions almost daily in order to maintain a blood count sufficient for survival.

The Cooley's Anemia Blood and Research Foundation for Children, a private organization based in New York City with branches in other cities, remains the only national source for extensive funding of research and training toward possible cure of the disease. For fiscal year 1971, the Federal sector provided only $630,000. This major reliance on the private sector unfortunately has made the projection of long-term programs difficult. Meanwhile, more and more American children are discovered with the terminal disease. It is estimated that one-quarter of all children born of a marriage of two individuals with even a mere trait will have a severe form of the disease, and an additional 50 percent will be carriers.

Before Cooley's anemia grows worse, and to initiate a long-term program of research and training, the Federal sector must intervene with financial assistance.

COOLEY'S ANEMIA

(By Herbert C. Lichtman, M.D.)

Cooley's Anemia is the name commonly used to describe the severe form of a hereditary disease of the blood. It was Dr. Thomas B. Cooley, an American physician, who described this as a separate and specific type of blood disease about 1925.

This disorder occurs most commonly in individuals whose ancestors were natives of the countries surrounding the Mediterranean Sea. In the United States therefore, most of the patients are of Italian descent. Those of Greek, Turkish, Southern French, and North African origins are also more susceptible. There are sporadic cases found in individuals of other origins, especially among the Chinese and Israeli.

The disease, also called Mediterranean Anemia or Thalassemia, is inherited according to Mendelian laws, and it is currently believed that the severe form (Thalassemia Major) occurs in a child born of parents both of whom must be carriers of the trait.

According to this most widely accepted concept, approximately one quarter of all children born of a marriage of two individuals with the trait, will have the severe form of the disease. Another twenty-five per cent of the offspring will be perfectly normal, and fifty per cent will be carriers themselves. Any such hereditary situation, of course, is valid in a statistical sense only, and may not be referable to one family where instances are known of only one affected (anemic) child out of ten, or the reverse, where three out of three children may be affected.

Because individuals with the trait or minor form of the disease are not in any significant way handicapped physically, and in whom the only manifestation may be detectable changes in the size and shape of the red blood cells, it is of great importance to distinguish between Thalassemia major and Thalassemia minor. Individuals with Thalassemia minor have a normal life span and enjoy normal health, whereas individuals with Thalassemia major may succumb to the disease in a matter of one or two decades. The trait never increases in severity or converts to the severe form of Cooley's Anemia.

Thalassemia major usually becomes manifest during the first year of life. Both sexes are equally affected. The earliest signs may be pallor, listlessness, loss of appetite, and irritability. Examination of the patient, by a physician, usually reveals an enlargement of the spleen and liver to some degree, pallor of the skin and mucous membranes, and sometimes a slight degree jaundice (yellow coloration) of the whites of the eyes. Blood examination will usually show typical changes in the shape, numbers of the erythrocytes (red blood cells), and a variety of alterations from the normal in special properties of the blood cells, in addition to a severe anemia.

There are probably several defects which lead to the anemia, for example, there undoubtedly is a reduction in the rate at which red blood cells are formed in the bone marrow and released to the blood vessels. Those cells that are produced are defective in that they do not survive in the blood vessels for more than ⅓ to ½ of the normal life span of red cells, which should be about 90 to 120 days. There are complications which develop in certain individuals which further reduce the rate of blood cell production and survival time of the formed cells. In these patients the greatly enlarged spleen may be the cause of this additional hindrance.

As a result of the chronic state of anemia the children with this disease are greatly handicapped. Bone growth is poor—they are therefore usually small for their age. Because of abnormalities of the bone marrow there are alterations of the skull and other bones, so that a characteristic facial expression is found, which give many of these children the appearance of being related. The bones are more fragile than normal, and fractures occuring almost spontaneously are quite common. The anemia causes easy fatigability, and a lack of pep and energy. Frequent nose bleeds is a common finding in many patients. When anemia is severe, low grade fever may be noted. There is no particular increase in susceptibility to infections.

At present the only effective treatment is the proper administration of blood transfusions to alleviate the constantly recurring anemia. There are other specific treatments for various complications of the basic disease.

Specific food substances or vitamins other than required for a normal balanced diet do not in any way affect beneficially the basic disease.

There seems to be a continuous spectrum in the degree of severity of the disease from those children who require blood transfusions as often as once a week to those who rarely need transfusions. Some children die within a few years and others are known who are alive in their twenties. There is no known cure.

Basic research on the problems of blood formation and destruction offers the only hope available to the sufferers.

JUDGE ZERFACE'S JUVENILE PLAN

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. LANDGREBE. Mr. Speaker, 2 years ago, I placed in the CONGRESSIONAL RECORD of March 25, 1969, an editorial from the March 7, 1969, issue of the Indianapolis News. The editorial explains how Judge Maurice J. Zerface has succeeded in reducing juvenile crime in White County, Ind. As I pointed out at that time.

It shows that greater firmness and imaginativeness on the part of our courts and judges can significantly reduce criminal offenses, particularly among the young.

I wish to again insert that editorial along with a front page news article from the January 31, 1972, Monticello Herald Journal. Not only is Judge Zerface's program reducing juvenile delinquency, but it is also saving the taxpayers money.

The editorial and article follow:

CUTTING CRIME

White County has a three-man team which has reduced juvenile crime by 80 per cent in a single year.

Youngsters who get in trouble there face Judge Maurice J. Zerface. Under his "get tough" policy, juvenile offenders often find themselves confronting a jail term as well. Zerface and Monticello City Court Judge Edwin W. Malmquist agree that "once a youngster has lived inside a jail cell, he never wants to go back." Neither judge has had youth appear a second time since the policy was initiated in July 1967.

Judge Zerface says parents are responsible for the conduct of their offspring and orders them to appear in court when their youngsters get in trouble. He makes the parents assume the burden of disciplining their children by holding them in contempt if they do not. "When we place the onus on the parents," he says, "we find they're usually tickled to death to find they can control their children after all.

The third member of the team is Charles E. Smithburn county probation officer, who aligns himself with the general views of the two judges. Smithburn works with the schools and various civic organizations to head off potential youthful crime, but he also believes offenders should be adequately punished.

In the common-sense opinion of the two judges, a person capable of stealing a car is no longer a juvenile and should be tried in adult courts. This is in sharp contrast to the attitude of Marion County juvenile court which seldom waives jurisdiction on youthful cases, regardless of the severity of the offense. Judge Harold N. Fields says he used the waiver in 80 cases in 1968 out of a total of over 3,000 cases.

The soft approach hasn't worked. Juvenile crime in Indianapolis increased from 6,573 in 1967 to 7,080 in 1968—a 7.7 per cent hike. In 1967 youthful crime rose 17 percent over the previous year.

Judge Zerface takes the view that the first job of any court is to protect the public from the offenders and that rehabilitation is an outgrowth of proper punishment. Zerface believes that the names of juvenile delinquents should be published because the public has a right to know who the lawbreakers are.

The difference in results in the two counties is graphic. While White County has reduced its juvenile offenses, Marion County experiences a steady rise in youthful crime. It would seem that a dose of common sense also might work in juvenile crime prevention in Marion County.

[From the Monticello Herald Journal, Jan. 31, 1972]

JUDGE ZERFACE'S JUVENILE PLAN REDUCES WHITE COUNTY WELFARE BUDGET BY $15,000 PER YEAR

In 1967 Judge Maurice P. Zerface as Judge of the Juvenile Court initiated a juvenile program referred to as the Juvenile DCP program. The theory of the program was to detect the child who was apparently tending to become a delinquent child, to ascertain the cause of the child's behavior and provide necessary remedy to prevent such delinquency, present and future.

The Judge secured close cooperation from all law enforcement bodies, the churches, Women's church organizations, Civic organizations and lodges, school administrations, and interested businessmen and citizens of the community.

Within two years the Juvenile delinquency rate in White County was reduced 80% and the record of the Juvenile Court of Judge Zerface had received wide publicity.

March 6th, 1969 The Indianapolis Star carried a picture of Judge Zerface and Charles E. Smithburn, Probation Officer, setting out the results he had obtained due to this juvenile program. The White County Juvenile Court immediately received state and national recognition and on March 25th, 1969, Earl J. Landgrebe, U.S. Congressman from the 2nd Congressional District of Indiana introduced a resolution in the U.S. Congress making the record of Judge Zerface and his Juvenile program a matter of Congressional Record in the U.S. Congress in Washington, D.C. and he recommended that all Juvenile Courts adopt such a program.

On this same day the Governor of Indiana called Judge Zerface and invited him to participate in a seminar of Criminal Justice Planning held in Indianapolis April 1st, and 2nd, 1969. Other speakers at the seminar included Wilbur Brantley, Law Enforcement Specialist in the U.S. Department of Justice and Arthur K. Ratz, Director of Indiana Criminal Justice Planning Agency. At this time the Judge explained in detail his program of 'Detection', 'Correction' and 'Prevention' of Juvenile Delinquency. The Criminal Justice Planning agency is a Federal Agency operating nationwide and has incorporated within its planning a "Youth Service Bureau" identical to the White County program as initiated by the Judge of the White County Circuit and Juvenile Court.

A TOTAL OF 1,320 CASES IN 1967

Since Judge Zerface originated his program in 1967 there has been 1,058 juvenile and 262 adult, referrals processed through his office as Judge, for a total of 1,320 cases. It has been necessary to commit just 2 boys and 2 girls to the State institutions and the recidivism rate has dropped from 9.2% to 4.8 per cent.

The court instituted recreational programs and placed the responsibility for these programs in the hands of the Probation Officer of the White Circuit Court. Marshall Waggoner, Probation Officer, now deceased started the recreational program and was followed by Charles E. Smith, burn, Probation Officer, now deceased. The program is now under the direction of Bruce Bramlage, Probation Officer.

These programs include all juveniles, male and female, and their parents and include, baseball, football, basketball, soft ball, track, swimming and other activities. No child is denied participation due to lack of finances, transportation or other conditions. In 1971 there were more than 150 girls in soft ball, basketball and track with most of their parents also participating.

This program also includes a Job Placement Service whereby employment is secured for the youngsters wishing work after school, on week ends and during vacation periods, this being supervised by Bruce Bramlage.

Inadequate clothing, home furnishing and necessities were realized and a Used clothing and Furniture program is in its second year and more than 100 persons and families were given aid in 1971.

The Judge's program has grown to such an extent that it is county wide and of necessity is too great for Mr. Bramlage to direct alone. Mr. and Mrs. Maynard Boze are supervising the girls and parents recreational programs. They are also supervising the clothing and furniture program and have donated the use of two buildings, rent free for this program.

This is a County wide community project, the Women's County Church Organization, the Churches, Lodges, Civic and Fraternal Organizations, Businessmen and many individuals are cooperating in every manner 100%.

This program has also resulted in restitution being paid to businessmen and citizens for losses suffered of a sum of more $7500.00, collected and paid by Bruce Bramlage, Probation Officer.

All of this emanates from the 3rd floor of the Court House, the Judge's Chambers and Office of the Probation Officer with the aid and support of every segment of the Community of White County and without even the cost of one small penny to the taxpayer.

This is the reason John Troncin, Director of the White County Department of Public Welfare has been able to reduce his Juvenile budget $15,000.00 a year. Parents are now responsible for their children, not the Welfare Department.

The door to the Juvenile Conference Room on the 3rd floor of the Court house is always open to juveniles and parents for counseling, solving their many problems, personal and otherwise and all of this is in strict confidence.

The Criminal Justice Planning Agency of the Federal Government is spending vast sums of money in its various endeavors, including the Youth Service Bureau. Office rentals, office expense, costly equipment and high salaried employees but it can not perform the service or take the place of the program now in operation in White County at a saving to the taxpayers of $15,000, a year and at no cost.

The Youth Service Bureau has not jurisdiction, legal or otherwise, over any juvenile or adult. It is not a part of or in any manner connected with the White County Juvenile Court nor the Probation Officer, Bruce Bramlage and will not participate in any respect with the present program instituted in 1967 by the Judge of the Juvenile Court, Maurice P. Zerface.

Considering the success of Judge Zerface's program in reducing crime in White County, Ind., let up hope that it will soon be adopted in other areas of the country.

DICKINSON REPORTS

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. DICKINSON. Mr. Speaker, most everyone has a favorite story to tell about Government bureaucracies to illustrate their shortcomings and failures. I am no exception to that rule. I would therefore like to share with my colleagues in the House a recent episode which I believe you will find quite interesting:

WEEKLY COLUMN FROM CONGRESSMAN BILL DICKINSON, SECOND DISTRICT, ALABAMA

WASHINGTON, D.C.—Mason Lustig lives in a cramped one-room dwelling and subsists mainly on cheap chopped meat. When winter comes, he goes barefoot in the snow. Still he doesn't look like a welfare case. Mason is healthy, very healthy, *but* with a little help from his friends, he has just enrolled in Medicaid, the health care program for the poor.

Mason Lustig has become a source of embarrassment to the city of New York for Kolyer's Mason von Lustig is a registered Harlequin Great Dane. Mason holds Medicaid identification card No. 5463603–1 because of a little scheme his master dreamed up to dramatize alleged administrative laxities in the New York program.

In order to bring reform to the New York Department of Social Services, the dog's owner, Mrs. Evelyn Lustig, applied in the name of one Mason Lustig for all those benefits her dog is now entitled to—visits to a doctor or dentist, false teeth if necessary, prescription drugs, eyeglasses and money for transportation, for example.

Mrs. Lustig listed Mason's age as 32 (he's really a middle-aged 5½), identified Bovine and Quinyce as his son and daughter (they aren't) and asked for benefits for them, too. She added an urgent appeal: "Please rush. Children need dentist work for school."

"I gave answers that any five-year-old should have caught," Mrs. Lustig says. However, neither Mrs. Lustig nor Mason were required to give any answers under oath or in the presence of a notary and many answers were supplied with only a slight exaggeration of the truth. No welfare worker ever came to call, and no one wondered whether Mason's dependents were indeed attending school. But Mason did receive an acknowledgement from the Department of Social Services with a warning that approval would not be automatic.

In the end, though, the department processed Mason's application and, in due course, the yellow "medical identification card" arrived by mail. His ID card merely lists his name, address and the type of coverage—A1, or "all available benefits"—he and the two "children" can receive. The card doesn't describe his appearance, giving neither age, weight (250 pounds) nor height (39 inches to the shoulder). So, his owner asks, what's to stop Mason from putting the bite on taxpayers by lending his card to someone else?

Furthermore, the Medicaiders have informed Mason that his low income ($6 to $19 a week from odd jobs, his application said) qualifies him not only for free health care but for cash grants, too. Accordingly, they wrote "may we suggest that you apply to the office indicated below, where your eligibility for a public assistance grant will be determined fully."

"What? A dog? I can't believe it," exclaims Esta Bloomfield, New York's director of medical services.

This episode reminds me of a welfare family who recently left Indiana in a huff—or rather in a $10,000 air-conditioned mobile home. The family had four TV sets, a deep freeze, a vibrating reclining chair, two $248 red velvet chairs and other new furniture. The family poodle got $10 haircuts. The family packed up and headed for California declaring that Indiana was a "lousy" welfare State.

What? I can't believe it either!

WEEKLY COLUMN FROM CONGRESSMAN BILL DICKINSON, SECOND DISTRICT, ALABAMA

WASHINGTON, D.C.—About two months ago in this column, I reported to you what seemed at the time to be an unbelievable story detailing how one Mason von Lustig, a dog from New York City, applied for and received a Medicaid card from the New York Department of Social Services. As was explained then, Mason von Lustig is a registered Harlequin Great Dane and Mason's owner dreamed up the little scheme to dramatize alleged administrative laxities in the New York program.

It seemed that Mason's master, Mrs. Evelyn Lustig, did succeed in instituting one major change. Effective November 1971, the State of New York made face-to-face interviews mandatory for persons seeking to be certified for Medicaid. That ruling, it was thought, should put a stop to the registration of dogs, who are, incidentally, not qualified to receive benefits from the health care program for the poor.

Apparently, however, someone forgot to notify the computer for it went ahead, having a compassional and social conscience, I presume, and issued a second card to Mason extending his benefits. The re-issued card was sent to Mason in December of last year—a full month after the new ruling became effective.

This is not the end of the story of our friend Mason. The latest episode finds his owner facing criminal prosecution for fraud. New York officials have investigated the case and as a result of their findings have referred the case to the New York district attorney for criminal prosecution.

I don't know what the final results of this bizarre case will be. In the end, the department will probably issue Mason additional medical identification cards. His ID merely lists his name, address and type of coverage—A1, or "all available benefits"—he and his two "children" can receive. The card doesn't describe his appearance, giving neither age (5½ years), weight (250 pounds) nor height (39 inches to the shoulder). So, in the event Mason is unable to personally take advantage of his card, he could put the bite on taxpayers by lending his card to someone else. After all, there just aren't that many dogs who have the cash or insurance needed to obtain proper medical treatment.

Who knows, perhaps Mason, or someone who can help him with his application, will turn his owner's legal difficulties over to a card-issuing legal service. No one wants a registered Harlequin Great Dane to add to the problems of overcrowding our prisons already suffer from, and everyone knows a fine—no matter how stiff—is not going to rehabilitate a 5½ year old "friend of man."

DEERFIELD OBSERVANCE

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. CONTE. Mr. Speaker, there are many ancient and historic towns in my Congressional District, but one of the most famous of these is the town of Deerfield. This town was the site of the legendary Deerfield Massacre in 1704, in which frontier Indians in league with the French razed the village and carried off its inhabitants to Canada. The settlement was restored, however, and its carefully preserved buildings can still be seen in the well-known historic landmark of Old Deerfield.

This town will celebrate its Tercentenary next year. Preparations for the official observances have already begun with the sale of commemorative spoons manufactured by Lunt Silversmiths of Greenfield. I include an article from the Greenfield Recorder, reporting on the plans of the Deerfield Tercentenary Committee:

[From the Greenfield (Mass.) Recorder, Jan. 27, 1972]

DEERFIELD OPENS 300TH OBSERVANCE

(By Walentyna Pomasko)

DEERFIELD.—The Deerfield Tercentenary Committee will start off the town's 300th anniversary program Saturday with the sale of commemorative spoons.

Chr. George Melnik announced the small silver spoons, designed by the late Frederick H. Larrabee, will be on sale at Cleary's Jewelers in Greenfield, Frontier Pharmacy in South Deerfield and Hall Tavern in Old Deerfield. The spoon was manufactured by Lunt Silversmiths of Greenfield and will cost $9 plus tax.

A folder, entitled "Hold History . . . In Your Hand", accompanies the silver demispoon explaining it "embodies the grace of early American silversmithing" and reflects moments in Deerfield history. A replica of the Bloody Brook Memorial is engraved on the handle, the Old Indian House is etched into the bowl and the tomahawk symbol on the back of the handle is the "mark" of Deerfield's tercentenary. The tomahawk is significant because "it epitomizes the town's intimate exposure to the perils of frontier life . . . while striving to achieve man's age-old hope of peace with liberty", the brochure says.

Sale of this spoon is the first event in an ambitious and long awaited event, being planned by the tercentenary committee for more than a year.

The committee this week informed selectmen and the Finance Committee about $125,000 may be needed to make all the plans a reality. Chr. Melanik explained that although funds are needed from the town to back up the committee's plans, the event will be self-supporting. Income derived from sale of commemorative pieces, the town history books and social events will cover costs incurred by the celebration, Melnik explained. The celebration will not be a profit-making event and all funds allocated by the town should be returned, he said.

Selectmen will recommend $30,000 allocated to the committee to start off the numerous expenditures needed.

A revised history is being planned. It will include chapters written by various interested townspeople. Melnik has stated his committee would like to have the two-volume set available for sale at the time of the celebration during the summer of 1973.

A beef barbecue, a specially written play and youth day are just some of the events in the works. The executive committee and the many subcommittees are meeting every week to work out details and enlist townspeople to help.

From now on, the committee and the town will be in full gear, moving toward a grand celebration next year.

KOSCIUSZKO HOME DESERVES RECOGNITION AS NATIONAL HISTORIC SITE

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. ANNUNZIO. Mr. Speaker, I rise to call to the attention of my colleagues an article written by Alan Prince, travel editor for the Miami Herald, regarding the proposal to designate the Thaddeus Kosciuszko Home located in Philadelphia as a National Historic Site. Mr. Prince's article appeared in the January 2 edition of the Herald.

Thus far, favorable consideration has not been extended to the proposal to designate the Kosciuszko Home as a National Historic Site because Kosciuszko lived at his house after the Revolutionary War—and not during the war. Mr. Prince points out that Kosciuszko is being faulted for being a soldier and spending his days in helping to fight and win the Revolutionary War rather than spending lazy days in Philadelphia during the war. I disagree with the view that Kosciuszko should be posthumously ignored simply because he went where duty called and put his best efforts forth in behalf of the cause of American freedom, rather than simply spending unproductive days living at his Philadelphia house.

The fact remains that Kosciuszko did indeed live in this house during the winter of 1797–98, and as far as the records show, no other structure in the United States associated with Kosciuszko has survived. According to the Herald article:

> Philadelphia interests say that the house could be restored with colonial period furnishings and presented to the American people absolutely free.

Under these circumstances, I feel that anything less than prompt designation of the Kosciuszko home in Philadelphia would amount to disrespect and disparagement of the Kosciuszko contribution to American independence, and indeed, of the outstanding contribution made by the Polish American community to the growth and development of America.

Mr. Speaker, the article which appeared in the January 2 edition of the Miami Herald follows:

[From the Miami Herald, Jan. 2, 1972]

YOU LIKE POLISH JOKES? HERE IS ONE YOU WONT

(By Alan Prince)

Polish jokes have circulated in this country for many years. One, for instance, poses the question: "What is the capital of Poland?" The answer: "Thirty-seven cents."

Then there is the really sick variety, such as the joke about the Polish family which painted its garbage-can covers orange so the children would think they were eating at Howard Johnson's.

We are neither that prudish nor hypocritical to deny that we think there is humor in some of the Polish jokes. What is objectionable is that the target is of an ethnic nature.

Now, let us tell you the latest Polish joke.

It concerns a house at 301 Pine St., Philadelphia, commonly called the Thaddeus Kosciusko House. The Advisory Board of the National Park Service has turned down suggestions that the Kosciusko House be declared a national historic site. As such, it would be more than a tourist attraction; it would be a protected shrine to which Americans and foreigners alike could always go to learn more about the shaping of this nation and to receive knowledge and inspiration from it.

Just who was Thaddeus Kosciusko? He was a Polish general who came to this land to help the colonists in their quest for freedom. He used his own money in that effort.

He is most remembered for his engineering skill in erecting the fortifications at West Point during the early battles. George Washington felt that the British surely would have been able to move south from Canada through the Hudson Valley, split the colonies in half and win the Revolutionary War had it not been for Kosciusko's work. In other words, Kosciusko helped to save the life of the emerging nation.

Other contributions by the general have led some military historians to call him the father of American artillery. He also distinguished himself as a cavalry officer in the Carolina campaign.

LOPSIDED LOGIC BY UNITED STATES

The Philadelphia House in which Kosciusko lived does not qualify as a national historic site, however, because Kosciusko lived there after—and not during—the Revolutionary War which he helped to win. That is what the government has decided.

In other words, Kosciusko posthumously is being faulted for being a soldier and for living the life of a soldier. He did not spend lazy days in Philadelphia during the war; he went where duty called. Only after the war was he able to live in the house for some time. But the fact is that he did live in the house, and that is why the federal government ought to help to preserve it.

We do not think that everything that is old should be preserved simply because it is old. However, houses like the Kosciusko House bring to mind a concept explaining land value as articulated once by a real estate man: "There is no more of it." Similarly, there are no more houses in which the nation's heroes have lived than the ones that now exist, and those that still stand should be preserved.

There is a financial irony to the Advisory Board's rejection of the Kosciusko House. Philadelphia interests say that the house could be restored with colonial period furnishings and presented to the American people absolutely free. Yet this offer was turned down by the same board which approved construction of the Kennedy Center for the Performing Arts, a project which originally was supposed to be financed entirely from private resources but which has resulted in a tab of many millions of dollars for the taxpayers.

The Advisory Board's action is, in its lopsided logic, perhaps the cruelest of all Polish jokes. It not only is an insult to millions of Americans of Polish descent. It is an insult to all Americans.

COMMEMORATION OF LITHUANIAN INDEPENDENCE DAY

HON. F. BRADFORD MORSE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. MORSE. Mr. Speaker, I would like to take this opportunity to join many of my colleagues in commemorating Lithuanian Independence Day. This year marks the 721st anniversary of the formation of the Lithuanian State, when Mindaugas the Great succeeded in unifying the Lithuanian principalities into one kingdom in 1251.

Unfortunately, since that time, the Lithuanian nation—and all Baltic peoples—have suffered from the accident of geography. Although related ethnically neither to the Germans nor the Russians, the Baltic peoples have been subjected to invasions and occupations from both sides throughout the centuries. Currently, the Baltic States of Latvia, Lithuania, and Estonia are "incorporated" into the Union of Soviet

Socialist Republics. Since 1940 when the Soviets first took this action, each American President has reiterated this country's policy of nonrecognition of the Soviet occupation of these nations.

It is only because of the remarkable spiritual and ethnic strength of the peoples of these Baltic nations that they were able to survive the intense pressures brought to bear on them throughout their history. It is this spirit and strength that I wish to commemorate today. And in so doing, I insert in the RECORD the text of House Concurrent Resolution 416—passed unanimously in the 89th Congress by both the House and Senate—at the conclusion of my remarks as a fitting tribute, on this 54th anniversary of the establishment of the modern Republic of Lithuania, to the courage and fortitude of all the Baltic peoples:

HOUSE CONCURRENT RESOLUTION 416

Whereas the subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations, and is an impediment to the promotion of world peace and cooperation; and

Whereas all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social, cultural, and religious development; and

Whereas the Baltic peoples of Estonia, Latvia, and Lithuania have been forcibly deprived of these rights by the Government of the Soviet Union; and

Whereas the Government of the Soviet Union, through a program of deportations and resettlement of peoples, continues in its effort to change the ethnic character of the populations of the Baltic States; and

Whereas it has been the firm and consistent policy of the Government of the United States to support the aspirations of Baltic peoples for self-determination and national independence; and

Whereas there exist many historical, cultural, and family ties between the peoples of the Baltic States and the American people: Be it

Resolved by the House of Representatives (the Senate concurring), That the House of Representatives of the United States urge the President of the United States—

(a) to direct the attention of world opinion at the United Nations and at other appropriate international forums and by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Estonia, Latvia, and Lithuania, and

(b) to bring the force of world opinion to bear on behalf of the restoration of these rights to the Baltic peoples.

A VOTE AGAINST AN INCREASE IN THE PUBLIC DEBT LIMIT

HON. JOHN DELLENBACK

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. DELLENBACK. Mr. Speaker, last Wednesday, February 9, 1972, I joined a considerable number of my colleagues in voting "no" on H.R. 12910, legislation providing a temporary increase in the public debt limit.

This legislation, requested by the Nixon administration, added an additional temporary debt increase of $20 billion to the already outstanding temporary debt ceiling of $30 billion, both of these added to the total permanent debt ceiling of $400 billion. This means that through June 30, 1972, the Federal Government now has a total authorized public debt of $450 billion.

I had two major reasons for voting against this increase. The first was to protest the past and anticipated future deficits in the Federal budget, and the second was to help emphasize the urgent need for meaningful tax reform legislation to raise additional revenue for the Federal Government and at the same time distribute the burden of our tax system more equitably.

In regard to my first reason, it is with concern approaching alarm that I view the estimated Federal deficit of $44.7 billion for the current fiscal year. When this figure is combined with the projected deficit of $36.2 billion for the coming fiscal year of 1973 it reaches a frightening level. The Congress should keep foremost in its collective mind the need for fiscal responsibility in Federal spending. This type of excessive spending may have a beneficial short-run effect. At the same time, in my opinion it is clearly not in the best long-run interests of our Nation. While defeat of this proposal would have called for early consideration of some alternative legislation in order to keep solid the credit of the Government, it would have been a most effective method of attracting public attention to the deficit and to the issue of tax reform.

My second reason for opposition to this measure was to attempt to force the Congress to undertake meaningful tax reform legislation. For if we were to limit the public debt, then the Congress would be required to review its present sources of revenue to determine whether it was reasonable and proper to increase tax revenues one way or another.

At the present time, the basic income tax schedules are stated to run from 14 to 70 percent. But recent data shows that under present law the effective rate in the $10,000 income bracket averages about 9 percent; for the $25,000 bracket about 14.5 percent; and at the $1 million mark, only 32.1 percent.

These rates are brought down, particularly in the upper brackets, by such factors as: Lower rates on capital gains, no taxation on local bond interest, the oil depletion allowance, deductions of property taxes and mortgage interest by homeowners, and special treatment for dividends. Each of these special exemptions and deductions should be carefully reexamined. It appears clear that until the Congress moves further than it has to date to reform our present tax system, the Federal Government will not maximize its tax resources, and the present gigantic gap between receipts and expenditures will continue.

In conclusion, I ask my colleagues in the House of Representatives to examine both the present Federal taxation and the present Federal expenditure situations, and ask themselves if it is not absolutely imperative that we accomplish meaningful immediate reform in both areas.

REPUBLIC OF LITHUANIA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. CRANE. Mr. Speaker, the story of the recent decades of the 20th century has, in some respects, been a story of the decline of colonialism, of the desire of the world to implement the principle of self-determination for all peoples. In this regard, we have seen the withdrawal of the European powers from their previous positions of influence and authority in Asia and in Africa.

Yet, if the retreat from colonialism is part of the story of this period, an equally important part is that of the rise of a new, more brutal, and oppressive colonialism and imperialism; namely that of the Soviet Union.

While Western European countries such as England, Holland, France, and Belgium are retreating to their own national boundaries and are pursuing policies meant to improve the standard of living and quality of life of their own people, the Soviet Union continues to expand and extend its influence, using force and violence as its major methodology.

The world observed this force and violence in Hungary and in Czechoslovakia, and witnessed its formulation into a rule with the announcement of the Brehznev doctrine. Still, despite these facts, many argue that somehow communism has "changed," that somehow the Soviet Union no longer harbors aggressive designs upon its neighbors. Were this to be true, evidence could surely be presented. Instead, the colonialism and the imperialism of the Soviet Union remains unchanged.

Today Americans of Lithuanian descent commemorate the 54th anniversary of the etsablishment of the Republic of Lithuania and the 721st anniversary of the formation of the Lithuanian state. In 1251 Mindaugas the Great unified the Lithuanian principalities into one kingdom. For the better part of their history, the Lithuanians have been subjected to brutal attacks, from the Teutonic Knights in the West and from the Russians in the East. It has taken remarkable spiritual and ethnic strength to survive these pressures.

Many Americans have forgotten the history even of our own era. After the Nazis and Soviets smashed Poland in September 1939, the Kremlin moved troops into the Baltic republics and annexed them in June 1940. Thus, the independence of Lithuania was terminated on June 15, 1940, when the Soviet Union sent an army of occupation of 140,000 men into that country. With the support of the occupying force, the Soviets staged mock elections, in which only one slate of Moscow-sponsored candidates was allowed, and through this subversion of the will of the people, formally annexed Lithuania.

The Lithuanian people have shown their hostility to Soviet rule, and have paid a heavy price for such opposition. On June 22, 1941, the Lithuanian people revolted against the Soviet occupation and control and proclaimed the reestablishment of an independent state. This effort cost the Lithuanians almost 12,000 casualties. The Provisional Government, proclaimed by the leaders of the revolt, was disbanded as Lithuania was occupied by the German Armies on the march into the Soviet Union.

From 1945, when the Soviet Union reimposed its rule, until approximately 1953 an armed patriotic resistance movement waged a war against the Communists with approximately 50,000 Lithuanian patriots losing their lives. The Soviet leaders, in an effort to eliminate the national resistance, deported about every sixth Lithuanian to the distant parts of the Soviet Union or to concentration camps, where a large number of them died from the harsh conditions, starvation, and executions. Trials of partisans were held as late as 1955.

Lithuania, together with the other Baltic republics, Latvia and Estonia, represent a special example of Soviet colonialism. They have been physically annexed by the Soviet Union and forcibly incorporated into its group of "Socialist Republics." As far as the Communists are concerned, these three countries have ceased to exist as separate entities entitled to their own national identity and independence.

During his trial Simas Kudirka, the Lithuanian seaman turned back to the Russians by the U.S. Coast Guard in a shocking reversal of America's humane treatment to all those seeking freedom, declared that—

> I have nothing to add to what I have already said, only one wish, more specifically a request to the supreme court and the government of the Soviet Union: I ask that you grant my homeland, Lithuania, independence.

As we commemorate these important anniversaries today, this too should be our request: That Lithuania be granted independence. It is a request which all Americans should share, particularly those who are most vehement in their denunciations of colonialism and imperialism when they think that those committing such acts are fascistic. All those who deny man's freedom and dignity, and the right of peoples to self-determination, whether they be tyrannies of the right or of the left, should be equally condemned. It is the Soviet Union which has perpetrated this new colonialism across the face of Eastern Europe.

Lithuanian independence and freedom, as well as the independence and freedom of the other subjected nations and peoples, must remain an important goal for all of those in our own country who seek a world at peace. The only peace which will advance mankind is a peace based upon the respect for each man and nation to have an identity and a life of its own. The kind of peace based upon subjugation and surrender to tyranny is one which honorable men can endorse only at the price of their own integrity.

During the 89th Congress both the House and Senate unanimously passed a resolution calling for freedom for Lithuania and the other two Baltic states. It is my hope that the administration will seek to implement this legislation by bringing the Baltic states question before the United Nations. It is high time that our society did more than pay lipservice to the concept of freedom for the peoples of Eastern Europe. We have an obligation, to ourselves and to our friends, to translate noble words into meaningful deeds.

METHADONE SERIES SUGGESTS NEED FOR FURTHER DRUG RESEARCH

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. COTTER. Mr. Speaker, the problem of drug addiction continues to plague our Nation and our citizens. We must continue to strive to develop means to remove addicts from drug dependency.

It was this search that led many to tout the effectiveness of methadone as a substitute drug for heroin addicts. Proponents of methadone argue that methadone eliminates dependency by ending the craving for heroin without inducing a stupor after the "high" associated with heroin.

In a recent series of articles in the Hartford Times, Lee Hickling, an industrious investigative reporter for Gannett News Service, illuminates the problems being experienced with methadone treatment. It is a highly informative series of articles and reinforces my support for legislation which calls for more research money to find drug substitutes that effectively block the affects of addictive drugs.

I commend these articles to my colleagues and the readers of the Record:

METHADONE—I

(By Lee Hickling)

Washington.—In 1941, while Nazi Germany was cut off from the rest of the world, its scientists invented a synthetic narcotic to replace the morphine Germany could no longer import. In Adolf Hitler's honor, they named it dolophine.

Now, renamed methadone (it rhymes with "ron," not "roan"), dolophine is being given legally to more than 50,000 of the estimated 315,000 heroin addicts in the United States. By the end of this year, from 100,000 to 200,000 may be getting it at government-licensed and financed clinics.

Among politicians, some physicians and the public there is a widespread belief that methadone blocks the craving for heroin, produces no euphoria or "high" itself, and makes it possible for an addict to live a nearly-normal life.

Evidence is piling up that this belief is wrong in every respect. But public officials, in despair at the failure of other efforts to turn the rising tide of hard-drug addiction, with its resulting crime and misery, are either unaware of or ignore that evidence at city, State and Federal levels, they are moving to put an ever-large share of their slim resources for drug abuse control into methadone maintenance programs.

The Federal Food and Drug Administration has given about 300 organizations or individuals licenses to experiment with methadone, which is classified as an "investigational new drug" at the moment. (As dolophine, it is already accepted for use as a pain-killer, a cough suppressant and to treat opiate addicts undergoing drug withdrawal.)

Few if any of the licensed "experimenters" are actually experimenting with the drug. What they are doing is running clinics where addicts come in, usually daily, to swallow a dose of methadone in a glass of orange drink. The synthetic orange-flavored drink "Tang" (cap T) is the favorite medium for disguising the unpleasant taste of the drug.

A husband and wife team of doctors at Beth Israel Medical Center in New York City, Vincent P. Dole and Marie E. Nyswander, first experimented with giving dolophine or methadone in large daily doses to heroin addicts.

They have a theory not generally held by other leaders in the drug addiction field, that addiction is basically a medical, not a psychological or social problem. Dole and Nyswander do not believe social, emotional or personality problems are the root cause of addiction. They think "some metabolic quirk" causes one person to become an addict while another does not.

It follows that the problem should be treated with medicine, by a doctor, and not with counseling, psychotherapy or social work.

Dolophine, or methadone, is a cheap, legal drug. It can be given by mouth. It is as addictive as heroin. But it does not have to be injected into a vein, and its effects are longer-lasting—24 hours instead of four or five.

From 1964 through March, 1968 (when the first national conference on methadone treatment was held in New York City, Dole and Nyswander took in 871 patients at their clinic and kept 752—rejecting most of the others because they judged them psychopathic or because they used other drugs, including alcohol.

Their conclusion, first given widespread publicity in 1966, was that methadone, properly given, acts as an anti-narcotic agent, blocking the action of heroin and other opiate drugs without in itself producing sedation or euphoria.

All their patients had long records of addiction. All had failed with other methods of treatment. Most had been arrested many times. Only 28 per cent of them held any kind of job when they started treatment.

After five months in the program, 45 per cent were either working or back in school; after 11 months, 61 per cent, and after 24 months, 85 per cent.

Most startling of all, Dole and Nyswander said none of the patients who stayed in the program became re-addicted to heroin. Some did turn to other drugs—about 11 per cent used amphetamines or barbiturates, and about 5 per cent abused alcohol.

But the results were astonishingly successful, compared to any other approach to addiction ever tried. There was widespread disbelief. Other researchers repeated the experiment and reported results paralleling Dole and Nyswander's. Methadone appeared to block their patients' craving for heroin.

The addicts treated by William F. Wieland of the University of Pennsylvania in Philadelphia, he wrote, "Look well, feel well and behave normally under the influence of methadone."

"Furthermore," he went on in a report to the first national conference on methadone treatment, "from the public health point of view methadone maintenance is a relatively inexpensive form of treatment, since it does not require prolonged residential confinement nor extensive psychiatric intervention . . .

"In modern parlance, the cost effectiveness of methadone maintenance is superior to other current modes of treatment . . . a factor that must be weighed by governmental agencies charged with treatment or control of narcotic addiction on a large scale."

Methadone's promise of a solution on the cheap for the heroin problem makes it all but irresistible. At Johns Hopkins Hospital in Baltimore, officials of a drug abuse center struggling to keep its financial support gave figures:

The average addict in Baltimore steals $43,000 to $57,000 worth of merchandise a year to support his habit. There are 5,000 to 10,000 addicts in the city. That means they take $15 million to $500 million a year, mostly by shoplifting and burglary. It costs about $2,000 a year for each patient in a methadone maintenance clinic, which works out to 2 to 4 per cent of the property losses that would be caused if the patient remained an addict on the street.

"It is difficult to see," summed up psychiatrist Herzl Spiro, "How the city, the state or the Federal government can say they cannot afford a drug abuse program."

METHADONE—II

(By Lee Hickling)

WASHINGTON.—"The addicts in the street know the difference between changing your life and just fooling with another drug. If one just wants to play around, the methadone program is where he goes."

The speaker is Ron Clark, a counselor at RAP (CAPS) Inc., a drug-free, live-in home for 85 young ex-addicts, located in three big old houses just north of Dupont Circle in the District of Columbia.

Ron is biased against methadone and in favor of the encounter-group, therapeutic-community style of help for addicts that RAP (standing for regional addiction prevention) tries to give. His bias is based on years of experience, as an addict on the street and as a worker in a methadone maintenance clinic in the Bedford-Stuyvesant Neighborhood of Brooklyn.

Ron, out of his street wisdom, and a growing number of doctors and researchers, based on their studies, dispute nearly every claim made for the synthetic narcotic methadone as a treatment for heroin addiction.

In their purest form, as made by Drs. Vincent P. Dole and Marie E. Nyswander, the original experimenters with the drug in New York City, these are those claims:

—Given at the proper dosage level, it blocks the effect of other opiate-like narcotics. An addict on methadone will get no "high" from shooting heroin, so he stops using it.

—Methadone itself, given at the proper dosage, does not produce euphoria or sleepiness in an individual who has developed a tolerance for the drug. He looks normal, feels normal and functions normally.

—Patients in a well-run methadone maintenance program rarely become readdicted to heroin or any other hard drug. Their craving for narcotics satisfied by methadone, they are not driven to shoplifting, burglary, robbery and prostitution for money to buy heroin.

Dole, Nyswander and other advocates of methadone maintenance as the most effective approach yet to the drug problem—including President Nixon's special advisor on drug abuse, Dr. Jerome Jaffe—are not disturbed that methadone is as highly addictive as heroin or morphine.

Replacing one addiction with another is not an ideal way to fight the rising incidence of heroin use, they admit. But the people who are being addicted to methadone were already addicted to a more dangerous, illegal drug, they argue—and besides, what else do we have?

The best solution might be to find a way of persuading people to no longer want to abuse drugs. Since nobody really knows why they do, nobody has yet succeeded, on a large scale, in making them decide to stop.

Second-best might be a chemical that would block the effect of the narcotics. Research is being done on such drug "antagonists" and one or two look good. None is proved yet and ready for large-scale use.

Meanwhile, misery and crime caused by drugs are blighting whole city neighborhoods and spreading into suburbs and small towns. Hardly a resident of a large city is free from the fear that he will be held up, going home at night, by a youth who needs money for his habit. Pressure on government to act—to do something, anything—is intense.

"Methadone is certainly not a cure-all or panacea for the treatment of heroin addiction," Food and Drug Commissioner Charles C. Edwards told a congressional committee recently. But, he went on, "At the moment . . . we know of no drug that has been demonstrated to be as safe and effective as methadone for combating heroin addiction."

Government—from the White House down—is moving to expand methadone programs. There are 300 programs now treating 50,000 addicts. Applications to start new ones are coming in from cities, States and private organizations at the rate of one a day. Dr. Jaffe, the President's advisor, expects the number of clinics to increase from 50 to 100 per cent by the end of this year.

That would mean, perhaps, more than 100,000 of the country's 315,000 addicts under treatment. Would they be "blocked" or dissuaded, by having their drug need satisfied, from using heroin, and from committing crimes to get the money to buy it?

"I don't know too many people on methadone who don't use drugs on the side," Ron Clark said. "In Brooklyn, our people were out still hustling heroin. They were out learning how to become better burglars. Why should they take a 40-hour job for $90 a week when they can hustle $90 in one day on the street?"

Dr. William Dobbs, who ran a methadone clinic at the District of Columbia General Hospital, quit more than a year ago after disagreements with the city narcotics treatment administration (CAPS N T A). He was suspicious of the effects of methadone and the results of the program.

Dobbs did a study of 100 patients. He found that three-fourths of those who had been given heavy, daily doses of methadone (averaging 100 milligrams) for four to six months were still using heroin, as proved by urinalysis. That was a slightly higher rate than that for patients just admitted to the clinic—69 percent of whose urine tested positive for heroin.

Two doctors, Russell Taylor and Carl Chambers, checked on Philadelphia's methadone maintenance program. They found that 59 percent of the time, patients' urine showed they were using one or more illegal drugs, on top of methadone.

They said this attacks the whole philosophical basis for dosing addicts with methadone. The Philadelphia patients were not staying away from heroin. Even the ones on high doses of methadone—which by the Dole-Nyswander Doctrine should "blockade" an effect from heroin—were using it.

Chambers and Taylor concluded that methadone in daily doses may prevent addicts' getting high on small doses of illegal drugs, but not from large ones. "The high rate of abuse among the patients who had been on maintenance for at least one year," they said, "indicates that drug craving most certainly had neither been extinguished nor significantly diminished."

Ron Clark also disputes the official line that patients on methadone look and act normal. "You can see in their faces when they're on it," he said. "They're all slowed down. You can see it right away when you know what to look for. They're only functioning marginally."

METHADONE—III

(By Lee Hickling)

WASHINGTON.—A great irony is involved in the current rush to set up vast programs to give the synthetic narcotic methadone to heroin addicts.

Unable to solve the problem, society is trying to alleviate it—by giving the victims a drug. Such an approach is exactly why the addicts are in their unhappy condition. Unable to deal realistically with their personal problems, they chose to alleviate them with drugs.

When methadone first became known to the general public in the late 1960s, there was created a lasting impression that it is a miracle cure for addiction which keeps addicts from using heroin and lets them return to normal lives.

Professionals in the drug addiction field know this is not so. But there have been very few newspaper and magazine stories setting the record straight.

Even many physicians, unless they subscribe to medical journals such as the British "Lancet" and the New England Journal of Medicine, where both sides of the issue have been aired, are likely to be misinformed. Until recently, most articles in the widely-read journal of the American Medical Association have promoted and defended the methadone maintenance approach to treating drug addict.

Public overoptimism based on misinformation worries many persons in the field of addiction, including President Nixon's special advisor, Dr. Jerome Jaffe. He advocates methadone maintenance—but only as one method among many, and only as a step toward the ultimate goal of complete freedom from drugs.

Even though methadone is highly addictive itself, even though it is widely misused, even if it does not keep patients who are on it from using other drugs, there are many professionals who think it has a place.

It is widely used for detoxification—bringing heroin addicts back to physical normal by giving them ever-decreasing doses over a period of three weeks to three months. But methadone maintenance is different from detoxification; maintenance means putting patients on a "stabilized" daily dosage and keeping them on it indefinitely.

Asked how long patients could be expected to stay on methadone, pioneer experimenter Vincent P. Dole once answered, "Forever." Dole has since started experimenting with withdrawal, and says he is having success.

Dr. Robert Dupont, who runs a city drug control program in the District of Columbia that now has 3,500 persons on methadone, claims he has had great success in transferring patients from maintenance to drug-free treatment and eventually out of his program altogether. But Dupont's narcotics treatment administration (NTA) stresses methadone maintenance over any other method. At any given time, at least 60 per cent of NTA's patients are on methadone.

Long-time junkies who want to get out of the drug life but cannot do it unaided seem to be the best prospects for methadone maintenance. A large share of Dole's original experimental group answered this description, and many experts attribute their success to a careful selection of just those patients who were likeliest to benefit.

Younger persons in their teens and early 20s—who make up the larger part of the addict population—do not seem to be helped. Two doctors, Carl Chambers and Russell Taylor, in a critical report on Philadelphia's methadone maintenance clinics, described the way they respond:

"Methadone does not eliminate the patient's desires for and pursuit of a 'high,' their attachment to and involvement with the needle, nor their enjoyment with and acceptance of the street life. A relatively common practice among maintenance patients is to trade a portion of their take-home medication for drugs from which to receive a high. They, therefore, have the best of both lives."

Methadone, under its original name of dolophine, has always been available on the street and has had a steady sale to addicts who could not get heroin or who wanted dolophine to taper off or kick their habits. But, fed largely by supplies stolen or fraudulently obtained from legal clinics, the street market for methadone is booming now.

Some addicts, particularly younger, white suburban ones, have bypassed heroin and gone straight to methadone addiction because it is cheap, available and clean—the drug is pure and no needle is needed to take it.

In Fairfax County, near Washington, Commonwealth Attorney Robert Horan is extremely upset about the menace. In the last two years, Fairfax has had only one death from heroin but ten from methadone, three of the victims under 16.

The Philadelphia study by Chambers and Taylor found methadone maintenance was not all bad, in spite of its defects. Many of the patients, even though they kept on using illegal drugs, seemed to be leading more stable lives. Half were maintaining intact marriages. Nearly half were holding jobs. Overall, there were fewer arrests.

Being able to get methadone may have reduced their need to be on a continual prowl for money and freed them of their fear of going into withdrawal sickness, according to one interpretation.

The harshest critics of methadone maintenance programs are those professionals who run drug-free, therapeutic communities for addicts, all modeled more or less freely on the original Synanon community in California. They think using methadone is going in exactly the opposite direction from the right one.

"When you're talking about kicking drugs, you're talking about looking at your whole life," says Psychologist Ron Grognet, director of such a community, RAP Inc., in the District of Columbia. "It means you have to work through some really heavy emotional problems. If you're anesthetized, you're not going to do that."

Grognet disdains the prevailing American view of the drug problem and what to do about it. "They don't choose to relate to 25,000 traffic fatalities a year because of alcohol, not to mention the brain damage, the liver damage and the social damage it causes," he says. "They pick one drug out of all the rest and call it 'our drug problem' and they take aim at it and call that 'our campaign against drugs.'"

RAP, Synanon and a host of other colorfully-named residential drug programs aim at helping addicts find a way to live the rest of their lives free of all drugs, including alcohol and everything except perhaps caffeine. Coffee is drunk at such centers from morning to night.

Not only drug-free, encounter therapy programs but less radical ones based on gradual withdrawal, psychological counseling and job training are facing cutbacks or extinction as more and more of the limited amount of public money for addiction control is put into methadone maintenance clinics.

None of the other methods has proved to be the whole answer, but it can be argued that experience so far shows there is no single answer. To pinch out other programs in order to push methadone therapy, in the face of evidence casting strong doubt on its value for most addicts, would be reckless.

That, however, is what is being done. In New York City recently, three residential programs were shut down and the methadone program expanded. New York State is doing the same thing, cutting back on residential centers and programs in prisons and mental hospitals, and opening more methadone clinics. A year ago there were 8,500 addicts on methadone in public or private clinics in New York. Now there are more than 19,000, and the number is to be increased.

LITHUANIAN INDEPENDENCE DAY

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. MINSHALL. Mr. Speaker, a note of irony is present in this commemoration of the 54th anniversary of the founding of the Republic of Lithuania since 1972 also marks 31 years of totalitarian Soviet rule.

For three decades the freedom-loving people of Lithuania have suffered violations of human rights unimaginable to the average American. The same holds true of all the captive nations and is the reason that today, as on other occasions when the House has paid its respects to nations held in unwilling bondage by the Kremlin, I urge that we give more than lipservice to our concern.

I would hope that at long last the Committee on Foreign Affairs will give its approval to House Concurrent Resolution 49, requiring the U.S. Ambassador to the United Nations to request that the U.N. insist on fulfillment of its charter provisions based on self-determination of all people, and that the Soviet Union be asked to abide by its U.N. obligations concerning colonialism and interference with the sovereignty of other nations.

To that end I insert at this point in the RECORD the complete text of my resolution, and with it, my hopes that the House will take realistic and significant steps toward alleviating the condition of the captive nations through its passage:

HOUSE CONCURRENT RESOLUTION 49

Whereas the United States of America was founded upon and long cherished the principles of self-determination and freedom; and

Whereas these principles, expressed in the sovereign quality of nations, are the very reason for the existence of the United Nations, as set forth in the charter of that world organization; and

Whereas the United States and all other members of the United Nations have solemnly pledged themselves to make these principles universal and to extend their benefits to all peoples; and

Whereas, on December 10, 1948, the General Assembly of the United Nations passed the Universal Declaration of Human Rights which was accepted both by the United States and the Union of Soviet Socialist Republics, defining said rights as relating to citizens of all member states; and

Whereas, since 1918 Soviet communism has, through the most brutal aggression and force, deprived millions of formerly free peoples of their right to self-determination; and

Whereas the Congress of the United States has unanimously expressed in Public Law 86-90, approved July 17, 1959, its revulsion at the continued enslavement of the peoples of Eastern and East Central Europe who were described by the said public law as captive nations; and

Whereas the Hungarian, Polish, Czech, Slovak, Carpatho-Ruthenian, Latvian, Lithuanian, Estonian, East German, Rumanian, Bulgarian, Albanian, Ukrainian, and White Ruthenian peoples may only look to the United States and the United Nations for the restoration of their national self-determination and political independence; and

Whereas the member nations of the United Nations have failed to bring before the General Assembly for successful discussion the problem of self-determination and political independence of the peoples of Eastern Europe; and

Whereas, despite the numerous resolutions passed by the United Nations General Assembly, Russian occupation troops are still maintained in Hungary and the issue of their removal has not come up for discussion in the Assembly since 1962; and

Whereas it is vital to the national security of the United States and to the perpetuation of free civilization that the nations of the world act in concert through the forum of the United Nations in demanding national self-determination and political independence for the peoples enslaved by Communist governments; and

Whereas the Constitution of the United States of America, in article II, section 2, vests in the President of the United States the power, by and with the advice of the Senate, to make treaties and to appoint Ambassadors: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the President of the United States is hereby authorized and requested to instruct the United States Ambassador to the United Nations to request at the 1968 session, that (1) the United Nations insist upon the fulfillment of its charter provisions based on self-determination of all peoples in the form of the sovereign equality of states and condemnation of colonial rule; and (2) the Soviet Union be asked to abide by its United Nations membership obligations concerning colonialism and interference with the sovereignty of other nations through the withdrawal of all Soviet Russia troops and agents from other nations now under Communist rule and through returning to their respective homelands all political prisoners now in prison and labor camps; be it further

Resolved, That the President of the United States is further authorized and requested to use all diplomatic, treaty-making, and appointive powers vested in him by the Constitution of the United States to augment and support actions taken by the United States Ambassador to the United Nations in the interest of self-determination and political independence of these nations.

LITHUANIA CELEBRATES 54TH ANNIVERSARY

HON. JAMES D. (MIKE) McKEVITT

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. McKEVITT. Mr. Speaker, today marks the 54th anniversary of the establishment of the Republic of Lithuania and the 721st anniversary of the formation of the Lithuanian state.

Unfortunately, Lithuania itself will not be able to commemorate this occasion because of continuing subjugation and oppression by the Soviet Union.

Since World II, we have seen many nations emerge. We in the free world have hailed the formation of these new republics. But how tragic that the principle of self-determination is not honored in Eastern Europe and that Lithuania remains a captive nation.

The continuing Soviet oppression of Lithuania and the denial of basic human rights to the people of Lithuania is a tragedy of the first order.

The Lithuanian American Community, Inc., recently issued a report on the Violations of Human Rights in Soviet Occupied Lithuania. This document bears bitter witness to the tragedy and is compelling reading for Americans. It helps remind us of the many freedoms we enjoy in our great Nation—freedoms we often take for granted.

All of us can be proud of the roles that citizens of Lithuanian descent play in the lives of our communities. Their continuing contributions to America mirror a proud and meaningful heritage.

LITHUANIANS KEEP ALIVE ASPIRATIONS FOR NATIONAL INDEPENDENCE

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. PRICE of Illinois. Mr. Speaker, we are taking time to celebrate the 54th anniversary of the declaration of independence of the Republic of Lithuania and the attainment of a long cherished dream of freedom from foreign domination. On February 16, 1918, before the end of World War I, a few million people courageously overcame generations of despotic rule and, at the same time, inspired the hearts of freedom-loving people all over the world.

Our celebration of the freedom won by the Lithuanian people is clouded, however, by the knowledge that these people are again in captivity. In the tragic events which preceded our entry into World War II, two decades of independence ended abruptly with the Soviet occupation of Lithuania in 1939. Along with the other Baltic Republics, Estonia and Latvia, Lithuania was drawn by the force of the Red Army into subjugation by the Soviet Union.

There was the pretense of free elections during the occupation, but the very presence of Soviet force made it dramatically clear that those elections were only a mockery. The need for such force, furthermore, demonstrated that the Kremlin had not completely defeated the desire for liberty by the valiant Lithuanian people.

Today, Americans of Lithuanian descent are continuing to keep alive the many aspects of Lithuanian tradition and culture which have enriched our country. They also nourish the hope that national independence may be restored and under a regime which truly seeks social and political justice.

All Americans, I know, share with me the earnest hope that Lithuanians will again enjoy the God-given rights of freedom and liberty. I join the other Members of the House in expressing sympathy and friendship to a brave people. We pray that for them the future bring independence to their homeland and the right to pursue in peace their own national destiny.

REVENUE SHARING WITH ISRAEL AND RUSSIA

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. RARICK. Mr. Speaker, on the same day our Government announced a $50 million guaranteed loan to build 11,000 homes in Israel, our Government announced approval of $367.1 million worth of export licenses for the Kama River trucking plant in the Soviet Union.

It is small wonder that the American people are so frustrated and confused today. The many tentacles of the bureaucracy do not keep the command post advised of their activities, or the command post cannot make up its mind who are friends or enemies; or when it comes to giving away the taxpayers dollars, the administration loves everybody.

I think that the American people feel that there are many fellow Americans who could use their Government's financial support right here in our own U.S. backyard. Related newsclippings and a document on "The Problem of Government Censorship in Regard to Our Assistance to the Soviet Military Structure," by Mr. Anthony C. Sutton of the Hoover Institution of Stanford, Calif., follow:

[From the Washington Post, Feb. 17, 1972]

A $50 MILLION LOAN SET FOR ISRAEL HOUSING

(By Stephen Klaidman)

The United States yesterday guaranteed a $50 million loan to build 11,000 homes in Israel primarily for Jewish immigrants from the Soviet Union.

The guarantee, the largest to date under the Agency for International Development's housing guarantee program, follows separate and broader legislative proposals by Sens. Edmund S. Muskie (D., Maine) and Henry M. Jackson (D., Wash.) for the United States to help resettle Soviet Jews who emigrate.

It also follows closely the sale of Phantom and other combat aircraft to Israel and a hint by President Nixon that he might raise the issue of Jewish emigration during his May visit to the Soviet Union.

In response to questions State Department spokesman Charles Bray emphasized the ongoing nature of U.S. support to Soviet Jews who wish to emigrate, and of aid to Israel.

The contract signed yesterday by AID Director John A. Hannah and Pinhas Sapir, Israel's finance minister, guarantees repayment of the loan to private U.S. savings and loan associations.

The Muskie bill calls for $85 million over a year to help resettle Soviet Jews. The Jackson bill would provide $250 million over two years for the resettlement of Soviet Jews in "Israel or the country of their choice."

Bray said yesterday that the administration was still considering its position to the proposed legislation.

Israeli officials contend that this is a matter for the U.S. Congress and that they are taking no stand on either bill, except to indicate that they favor the principle of support for the immigrants.

The houses to be built with the AID loan will serve Soviet and other immigrants, Arab and other minority groups, recently formed families and occupants of overcrowded or substandard housing. Current immigration to Israel is mostly from the Soviet Union and at the present pace Soviet newcomers exceed 35,000 this year.

Selling prices of the houses cannot exceed $16,000 and they must all be built within "Israel's pre-June 1967 boundaries."

The loan is repayable to the U.S. home loan institutions in dollars over a period of 25 years with annual interest at 7½ per cent. The purchasers of the houses paid AID a guarantee fee of ½ per cent annually on the outstanding amount of their loans.

The AID program in more than ten years has guaranteed $350 million in loans for housing in 30 countries.

The program does not use any government-appropriated funds. The loan funds come from private investors, and costs of administering the program are paid from the fees charged to the homeowners.

[From the Washington Post, Feb. 17, 1972]

APPROVAL GIVEN MORE EXPORTS TO SOVIET UNION

The U.S. government yesterday approved $367.1 million worth of export licenses to the Soviet Union involving possible sales of machinery for a large trucking plant on the Kama River.

Previously, the government had already approved more than $1 billion worth of licenses for the Kama project. However, these figures do not indicate value of actual exports to the Soviet Union; the licenses will enable American firms to compete against foreign companies—or each other—for firm orders.

Nevertheless, the gain in export licenses reflects the dramatic reversal of government trading policy towards the Soviet Union; in 1971, total U.S. exports to the U.S.S.R. are estimated at about $150 million.

THE PROBLEM OF GOVERNMENT CENSORSHIP IN REGARD TO OUR ASSISTANCE TO THE SOVIET MILITARY STRUCTURE

(By Antony C. Sutton)

INTRODUCTION TO THE PROBLEM

This brief paper is based upon my three volume study "Western Technology and Soviet Economic Development" published by the Hoover Institution at Stanford University, California. (For complete bibliography see Attachment One).

This published study details the fundamental contribution made by Western—mainly U.S. origin—technology to Soviet economic development and its dependent military structure. This technical assistance is the prime factor in Soviet economic and military development and has been traced in precise technical detail from 1918 down to the present time. For the period before 1950 I utilized U.S. State Department and the captured WW II German documents. For the period after 1950, as a result of U.S. Government restrictions, I was forced to use indirect sources. Fortunately, the Soviets, in their own engineering literature, have been reasonably open about technologies used in the USSR. Through private sources, and largely at my own expense, I was able to obtain a considerable quantity of such Soviet technical material.

I have no hesitation in stating, on the basis of my research findings, that the ability of the Soviets to present any credible threat at all to the United States to push its influence into the Mediterranean, the Caribbean and the Indian Ocean is only possible because of our past and present technical assistance. While this statement has been supported with precise technical detail in my work, the fundamental and critical nature of our assistance has not been made known by successive Administrations to the Congress and to the American public. Indeed, all Administration public statements have been to the contrary—i.e. to the effect that we do not provide assistance to the Soviet military-industrial complex.

Two examples may clarify the general nature of my findings in the context of Government censorship of the relevant data.

Example One: The origin of the main propulsion systems of the 96 Soviet ships used on the Haiphong supply run.

For most of the period since 1949 the Battle Act and the Export Control Act have prohibited export to the USSR of transportation technology for military purposes. However, the determinations made by State, Commerce and CoCom within the framework of these laws are classified and it is impossible for an independent reseacher to obtain free and complete access to the relevant decision papers in order to examine the manner in which the intent of Congress has been administered. We do know however that any member of the CoCom group of nations has veto power and that no shipment has ever been made to the Soviet Union without unanimous approval of all members. Thus for example, transfer of Danish marine diesel technology in the 1950's had implicit or explicit U.S. approval.

Some years ago my research strongly suggested that the Soviets had no indigenous military transport technology: either motor vehicles or marine diesel engines. However the bulk of the weapons and supplies for the North Vietnamese in the present war came from the Soviet Union and the greater part of these Soviet supplies and weapons went to Vietnam by sea, and along the Ho Chi Minh trail by Soviet built trucks. Therefore I applied some effort to this apparent contradiction and specifically to identify and make an analysis of the main propulsion units of the Soviet supply ships. While such information is readily available in Government files, it is classified and not available to Congress (by virtue of "executive privilege") and certainly not to individual citizens.

By using Russian origin data I was able to make an accurate analysis. I determined that all main propulsion systems (diesel and steam turbine) of the 96 Soviet ships used on the Haiphong supply run and which could be identified (i.e. 84 out of the 96) originated in design or construction outside the USSR. (See Cong. Record, Oct. 21, 1971, vol. 117, pt. 28, page 37385). By applying the export control laws and some initiative in CoCom the State Department could have prohibited the export of the greater part of this military technology to the USSR. However, without access to the CoCom anl State papers I do not known whether we have a problem of culpable negligence, abysmal inefficiency or a basic inability to examine all sides of a problem. We *do* know that if the U.S. State and Commerce Departments had consistently enforced the 1949 legislation passed by Congress, then the Soviets would not have had the ability to supply the Vietnamese War—and 50,000 more Americans would be alive today.

The names of the 96 Soviet ships used on the Haiphong run were gleaned from *Morskoi Flot* and similar Russian maritime publications. The specifications of engines in these ships were obtained from *Registrovaya Kniga Morskikh Sudov Soyuza SSR* and in the course of my three volume study I had already compiled a list of 42 of 44 types of marine diesels used by the Soviets, together with their non-Soviet origins.

In brief, while all the information came from censored Soviet sources, the same information is only available in the West in classified Government files; it is therefore totally censored to the Western independent researcher and to Congress. Fortunately in this case Soviet censorship was less restrictive than that of the United States.

U.S. classification also conceals another fundamental problem—that illegal or inefficient administration of the export control laws in the 1950's gave the Soviets the ability to supply the North Vietnamese in the 1960's.

Example Two: The Kama Truck plant.

The Soviets have no indigenous truck manufacturing technology. The Soviet trucks on the Ho Chi Minh trail are from Western built plants. Kama is projected to build 150,000 multi axle heavy trucks per year i.e. more than all U.S. manufacturers combined. An interagency committee of the U.S. Government has concluded that such a multi axle truck is essential for war. I queried Department of Commerce to determine if the findings of this interagency committee were accepted, and the reply was to the effect that the findings were acceptable. (See Attachment Three for exchange of letters).

The Administration therefore apparently accepts my argument that Kama will be a weapons production system. The Administration has issued almost $1 billion in licenses for the Kama truck plant but details of these licenses are censored and not available to researchers outside the Executive branch. It is not possible then for independent researchers to determine to what extent the plant will be U.S. built, its capacity, its precise technology and therefore its exact military production capabilities. There is no way at this time in which I can fully document the Kama case (unlike Example One: the origins of the Soviet ships on the Haiphong run).

Finally, while there is little question in my mind that a great deal of other material of direct military application—particularly computer technology—is currently being exported from the United States to the Soviet Union, I cannot completely detail this conclusion without open access to Government files and in particular without detailed knowledge of current applications for export licenses.

My published work suggests the following conclusions (among others):

(a) that the Departments of State and Commerce have, possibly over a period of 50 years and certainly since the early 1930's, assisted the export of military goods and related technologies to the Soviet Union,

(b) both the Korean and Vietnamese wars were fueled on both sides by Western—mainly U.S. origin—technology, and

(c) there have been continuing and largely successful attempts to conceal information concerning this technical transfer and its subsequent utilization by the Soviets.

The problem for the future is whether we will continue to hide critical information from outside examination, and so perpetuate ineffective administration of Congressional intent.

In general this writer now requires two types of information from Government files in order to take the argument to its next stage:

(a) details of current shipments and licenses for exports to the Soviet Union. These are not available to anyone outside the Executive branch. The reason given is "business confidence." However on non-Soviet shipments the same firms are willing—indeed often anxious—to provide such information. I therefore suggest in the light of my past work that a more accurate reason in the Soviet case is an unwillingness to allow public access to the nature of our support to the Soviet military structure.

(b) access to current files (i.e. since 1950), to determine the influences on export control decisions. For example, how did CoCom and the State Department arrive at the decision not to veto export of marine diesel technology in 1959 on the assumption that it was non-strategic—yet this same Danish technology turns up in one third of the Soviet marine propulsion units in the Vietnamese War?

Until independent researchers can gain full freedom of access to Government files on a more or less current basis I see no way in which this tragic process can be halted, and the present artificial information environment replaced with arguments and conclusions based on facts.

ANTONY C. SUTTON.

STANFORD, CALIF., January 17, 1972.

ATTACHMENT 1

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ATTACHMENT 3

HOOVER INSTITUTION
ON WAR, REVOLUTION AND PEACE,
Stanford, Calif., October 27, 1971.

Mr. KENNETH N. DAVIS, Jr.
Assistant Secretary for Domestic and International Business, Department of Commerce, Washington, D.C.

DEAR MR. DAVIS: May I request the assistance of the Department on a problem relating to trade with the Soviet Union?

I am the author of a multi volume series entitled "Western Technology and Soviet Economic Development" published by the Hoover Institution at Stanford University. Two volumes are currently available and the third is about to go to press.

In the third volume I would like to include an analysis of possible American equipment and technical assistance for the proposed Kama truck plant. Kama is of course distinguished by its considerable strategic and economic implications. In particular, as the Soviets have no indigenous truck manufacturing technology (except for "freaks" such as the YAG 12) and there is a long record of use of Western equipment for production of military items, the 'Kama deal' is of considerable current importance for the conclusions of my study.

I understand from press sources that both Swindell-Dressler of Pittsburgh and Giffels Associates of Detroit have been granted licenses by the Department. However, neither company will confirm or deny for publication that this is indeed the case.

Given the extraordinary strategic implication of Kama, may I then pose three questions to the Department?

1. can the names of applicants for licenses to cover equipment for Kama be released for publication?

2. if not, can the Department confirm that the policy of the Administration is in principle to grant licenses for equipment to be used in the Kama Plant?

3. the Report of the Interagency Committee prepared under the coordination of the Foreign Economic Administration stated that 'the Committee is unanimous in its opinion that an established automotive industry is an asset to a country for war-making purposes' (TIDC No. 13 p. 2) and describes multi axle trucks as 'essential for war' (p. 6). Are these conclusions acceptable to the Department of Commerce.

I apologize for taking your time but the Kama project is a crucial piece of the puzzle to which I have devoted many years of work.

With best wishes,

Very truly,

ANTONY C. SUTTON,
Research Fellow.

U.S. DEPARTMENT OF COMMERCE,
BUREAU OF INTERNATIONAL COMMERCE,
Washington, D.C., November 12, 1972.

Mr. ANTHONY C. SUTTON,
Research Fellow, Hoover Institution on War, Revolution and Peace, Stanford, Calif.

DEAR MR. SUTTON: Your letter of October 27 posed three questions about the possible involvement of U.S. firms in construction of the Kama River truck plant in the Soviet Union.

In regard to your first question, Section 7(c) of the Export Administration Act of 1969 prohibits publication or disclosure of information contained in applications for export licenses, unless the Secretary of Commerce determines that withholding the information would be contrary to the national interest. This policy of treating as confidential the names or firms receiving export licenses is both in the public interest and in accord with the intent of Congress as expressed in the Export Administration Act and in Subsection e(3) of the Freedom on Information Act.

Next, you asked whether it is the policy of the Administration, in principle, to issue licenses for Kama River. Applications for such licenses are carefully reviewed on their merits on a case-by-case basis, with the national security and commercial aspects of each given full consideration. To date, the applications on which we have made decisions have been approved. Other applications are under consideration.

Finally, the contribution an established automotive industry can make to the military potential of a country is recognized by the Department. This factor, along with other considerations, enters into the decision whether or not to issue any licenses authorizing exports of equipment to a plant such as Kama. In addition, the fact that such equipment is essentially available abroad (a factor we are obligated to take into account by the Export Administration Act), the overall foreign policy objectives of the United States, and the current health of our economy are all considered in judging whether it is in our national interest to permit U.S. industry to participate in the Kama River project.

Sincerely,

RAUER H. MEYER,
Director, Office of Export Control.

VALUE-ADDED TAX

HON. ORVAL HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. HANSEN of Idaho. Mr. Speaker, a recent newspaper article by Columnist Charles Bartlett should be of great interest to anyone concerned with school finance. Discussing the feasibility of a value-added tax to raise funds for education, Bartlett challenges the arguments of several critics of the proposed new tax. I insert this article in the RECORD, so that my colleagues can have the benefit of reading it:

APPEAL OF VALUE-ADDED TAX GROWS

(By Charles Bartlett)

The Nixon value-added tax is being shaped in the White House as a more appealing package and a better response to the looming gap in school finances than any Democratic alternative.

Sen. Edmund Muskie will certainly have trouble maintaining that he has found an adequate substitute for what the President has in mind. He wants a $1 billion federal subsidy to lighten the property tax burden on the elderly and a reform of local poperty taxes to secure more equitable assessments.

The clever virtue of the plan President Nixon is about to unveil is that it goes further in every direction. It proposes to cut citizens' property taxes in half by furnishing federal funds to cover the costs of education now met by these taxes. This is a crucial response to the almost inevitable prospect that the Supreme Court will uphold rulings by lower courts that it is unconstitutional to finance school systems with the property tax.

Washington will need approximately $13 billion to make this switch and Nixon is expected to propose a 4-percent tax on consumer spending. It will apply to all items across the board but those with incomes below $10,000 will be shielded from the tax by their entitlement to claim an income tax rebate for whatever they have paid.

This means the American value-added tax will not be regressive, as its opponents claim. It will in fact be mildly progressive because lower incomes will get tax relief—a halving of property taxes and no share of the burden of value-added tax. Since many are paying less, some will have to pay more.

The Nixon plan contemplates that persons with incomes around $12,500 will come out about even but for those who are wealthier, the property tax cut will not compensate the cost of the tax on their expenditures.

Critics of the value-added tax maintain the government cannot raise money it needs with a non-regressive tax. But Treasury computer runs show that even when all consumers with incomes of $10,000 or less are excluded, the value-added tax yields $3.4 billion per percentage point. Since the real estate property tax now supplies $13 billion to schools across the nation, a 4 percent tax will cover the need.

Liberals dislike sales taxes because of their obvious inequities, and it is interesting to find, in a study by the Office of Economic Cooperation and Development, that the United States derives less of its tax revenues from this source than any Western industrial nation except Japan. Consumer taxes account for 39 percent of total taxes in all the industrial nations, but this country relies on them for only 30 percent of its total tax revenues.

Since Hawaii is the only state now meeting its school costs without reliance on property taxes, some 49 governors are going to find comfort in the Nixon plan. The Supreme Court decision on the constitutionality of financing schools with property taxes could come as early as this fall. Moreover the McElroy Commission on School Finances will make its report in April and it is ready to propose a nationwide shift to a system of state financing.

Against this background the Commission on Inter-Governmental Relations, of which Muskie is a member, will have less than five months to make its judgment on the Nixon plan. Apprehensions that Nixon's value-added tax will interfere with state and local sales taxes will prove to be groundless because it is buried in retail prices. It will in fact increase the sales tax take by raising the price base.

The Democrats cannot confront the immediate issue by arguing for the elimination of tax loopholes. Their own record in this field of reform leaves little hope that the states could meet court deadlines and rising impatience with the property tax by counting on Congress to tighten the tax codes. Someday tax loopholes will go down with other injustices but this is not an immediate prospect.

Nixon will take his plan to the country just as the political contest is gaining momentum. It may well become a key issue if the Democrats can find objections more substantial than any they have proposed to date.

THE 54TH ANNIVERSARY OF THE DECLARATION OF INDEPENDENCE OF LITHUANIA

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. BIAGGI. Mr. Speaker, I would like to join with my colleagues in the observance of the 54th anniversary of the Declaration of Independence of Lithuania. It is very fitting that the Congress of the United States devote time to commend the Lithuanian people and to remind the world that Lithuania and its people will continue to fight for the reestablishment of complete independence and self-government.

On February 16, 1918, the Lithuanian nation declared its independence. This was a goal for which the Lithuanian people had been striving throughout a long period of Russian domination. After only two decades of independence, Lithuania again fell under Russian domination when it was declared a constituent republic of the U.S.S.R. on August 3, 1940. Then, following the German attack on the Soviet Union 10 months later, Lithuania was in Nazi hands until reoccupied by the Soviet Army in 1944. Since that time Lithuania has been considered by the Soviet Union as a component republic. Propaganda from the U.S.S.R. would try to assure the West that the Lithuanian people are delighted with their satellite status and the Soviet methods of farming and industrial techniques have brought about economic growth never dreamed of in Lithuanian history. The citizens of the free world know that this is a sham. We know that the people of this proud land are struggling in bondage, yearning to be free. The spirit of Lithuanian independence is not dead, nor does it even lie dormant. It exists as an indestructible flame in the hearts of its people. Today we honor and salute these brave people, with the hope that they will again know the joy of human liberty.

KENNETH D. LARSON

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. WALDIE. Mr. Speaker, I would like to take this opportunity to call to my colleague's attention a man most worthy of their commendation. I present to you the record of a man, Kenneth D. Larson, who has worked diligently and unceasingly for the improvement of and protection of firefighters' wages, working conditions, and political rights.

Mr. Larson has a distinguished record of service to the International Association of Fire Fighters, AFL–CIO, both in active service and in the capacity of a legislative representative for the Federated Fire Fighters of California. Mr. Larson served 21 years on the Los Angeles County Fire Department, retiring with the rank of Fire Captain which he held for 11 years. A graduate of USC, his varied educational background in business administration, prelaw, general accounting and cost accounting, as well as his work experience, highly qualified him for the position he now holds as legislative representative for the Federated Fire Fighters of California, AFL–CIO.

It is here, in his capacity as legislative representative that Mr. Larson has truly shown his concern for the welfare of the firefighter. He was responsible for the first public employees' "right to organize" legislation which was passed in 1959. He assisted in the writing and passage of the George Brown Act in 1961. He has caused to be introduced numerous pieces of legislation, among these: The first reciprocity provisions for PERS and County Retirement Acts; political freedom legislation; the elimination of the "earnings test" for PERS and county retirement; the age 50, 25-year retirement under the 1937 County Retirement Act; the 25-year retirement at any age with reduced benefits, under the 1937 C.E.R. Act. This is merely a sampling of the vast amount of legislation that Mr. Larson has actively been involved in introducing during the past 14 years.

Mr. Larson is extremely active in organizations which enable him to keep apprised of the needs of California firefighters. He is a member of the California Labor Federation Labor University Education Committee; the California Fire Training Commission; the California Committee on Staffing Standards and Ratios. In addition, he served for many years as an executive board member of the Los Angeles County Fire Fighters Local, as a delegate to the Los Angeles County Federation of Labor, and as Vice President of the California Labor Federation of Labor, AFL–CIO. In this office he distinguished himself as the first public employee to be elected to the executive council of the C.L.F.

Mr. Speaker, as you can see, the list of achievements of Mr. Larson is seemingly endless, and it serves to reinforce his reputation as a man devoted to the service of his fellow firefighters. I offer my sincere admiration and great appreciation for Mr. Larson's efforts on behalf of the labor movement and extend my best wishes for his continued success. With men of Mr. Larson's caliber, it is not difficult to understand the great success the labor movement in the United States has realized in providing and safeguarding benefits for their members.

ON THE ANNIVERSARY OF LITHUANIAN INDEPENDENCE

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. VANIK. Mr. Speaker, on February 16, 1918, Lithuanian patriots declared the independence of the Lithuanian State. This was the culmination of years of planning and hoping, as well as years of agitation and struggle. The Lithuanian Declaration of Independence set the fires of self-determination in the hearts of Lithuanians everywhere.

For over three decades the Lithuanian people have been subjected to an alien Russian rule, which has violated many of the universally recognized rights of men and nations.

Lithuanian-Americans have contributed much to the progress and freedom of the land from which they and their forefathers came. In the Cleveland area, Lithuanians have long been community leaders who have added immeasurably to the cultural, economic, and political life of Northeastern Ohio.

In the hearts of Lithuanians in our community this anniversary not only represents the spirit of their homeland but also their commitment to the Cleveland community.

Today the courageous and brave people of Lithuania still cling to the hope and idea of freedom and independence. I am glad to join the loyal Americans of Lithuanian descent in the celebration of Lithuanian Independence Day, and with them, hope for the freedom of the Lithuanian people and their homeland.

THE NEED TO IMPROVE THE QUALITY OF INFORMATION AVAILABLE TO FEDERAL POLICYMAKING OFFICIALS IN MATTERS INVOLVING DATA PROCESSING TECHNOLOGY

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. BROOKS. Mr. Speaker, the United States is the world's leader in computer technology and use. Broad segments of our economy and most of the Nation's defense systems rely upon computers. Advanced data processing techniques offer vast potential in the solution of many of the extremely difficult social problems confronting the Nation.

If the United States loses its leadership in computer technology—if we become a second-rate computer power—we will become at the very same time a second-rate Nation, both economically and militarily.

In the quarter century since World War II, the United States has gained a significant lead over other nations in computer technology and development. But, our leadership can be lost. Other nations will continue to challenge us. The productive genius of Japan in the field of electronics is being applied to computers. Nor can we discount the inherent capability of the Russians, the Chinese, and other nations in the field of computer technology.

The supremacy of the United States requires that we maintain a strong momentum of accomplishment, as reflected in the development of electronic data processing techniques during the past three decades. We must challenge the state of the art and translate the advances that we make into practical computer technology.

To maintain our leadership, Federal policymaking officials in matters affecting computers must have the most sophisticated and the highest quality information the computer community can provide. We cannot endanger the Nation's economic and military leadership by faulty policies. In such areas as East-West trade in computers, the patenting of computer software, and matters involving individual privacy and data security, and in other areas in which the Government has specific policymaking responsibility, the officials formulating the policies and making the decisions must have the best information and advice they can get.

The legislation I introduce today (H.R. 13200) would provide limited funding to the Computer Board of the National Academy of Sciences to allow the board, at the request of Federal officials, to study and evaluate critical problems relating to computer technology requiring the Board's unique level of expertise. I believe the legislation will provide a practical means of providing for the informational needs of Government policymakers as they relate to computer technology from the highest level of expertise in the Nation's computer community.

In addition, H.R. 13200 would authorize Federal expenditures of $100 million annually for basic research and computer technology. The major portion of research responsibility must continue to be borne by the computer industry. The Department of Defense must also continue to support a significant computer-oriented research program. But, private industry and Defense Department programs are not sufficient. If computer technology is to be fully exploited in the years to come throughout the social sciences with the fullest benefit to society, there must be a basic research and development program in computer technology that is not compromised by the restraints inherent in these other programs. Poorer nations have larger research programs than the United States at this time.

A third section of my proposal amends the Federal Property and Administrative Services Act of 1949 to authorize the Administrator of General Services to lease computers, computer components, and to acquire other related services under contracts of up to 5 years.

Both the Comptroller General and the Administrator of General Services have recommended in recent months that longer term lease and rental agreements be authorized in view of the obvious savings that would accrue to the Government.

The proposal I introduce today (H.R. 13200) relates to matters that require legislative sanction. The development of an effective computer standards program, the streamlining of our procurement procedures, and the development of effective computer performance measurement criteria are but a few of the more pressing problems that must be solved administratively. Under Public Law 89-306 that Congress approved in October 1965, the executive branch has been able to avoid expenditures that otherwise would have accrued in a sum substantially in excess of $1 billion. But, the improvements that we have made in the management of Government computers are simply the beginning of a long-range program aimed at protecting the taxpayers' interests. We must continue to push forward, seeking solutions to the problems that remain with us and exploiting new opportunities as they arise.

Mr. Speaker, I urge support of this legislation by all Members. I believe it will be another significant step in protecting the Nation's leadership in computer technology and making the computer, which is one of the Nation's most valuable resources, more adaptable in meeting the social needs of the people.

The text of H.R. 13200 follows:

H.R. 13200

A bill to amend the Federal Property and Administrative Services Act of 1949 to improve the quality of information available to Federal policymaking officials in matters involving data processing technology, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d)) is amended by inserting "(1)" after "(d)", and by adding at the end thereof the following new paragraph:

"(2) The Administrator shall reimburse the Computer Board of the National Academy of Sciences from the fund, in an amount not to exceed $3,500,000 during any fiscal year, for costs incurred by the Computer Board (other than any compensation paid to panel members) in conducting studies or evaluations, and in performing other services, which the Computer Board may undertake from time to time at the request or on behalf of a Federal agency, and which, in the judgment of the Computer Board, require the Board's unique capabilities and qualifications and could not be performed in an equally satisfactory manner by a Federal agency or an educational institution, or under Government contract. The recommendations and conclusions of the Computer Board shall be developed and submitted to appropriate Federal officials in such manner and form as to optimize their informational value but shall not be binding upon, or limit the responsibility or the authority of, any Federal official. With regard to studies, evaluations, and other services subject to reimbursement under this paragraph, it is the sense of the Congress that the National Academy of Sciences should select members to serve on the Computer Board and on the Board's panels on the basis of recognized capability and expertise in the relevant areas, with proper provision made for the reasonable development of conflicting philosophies, opinions, or points of view."

(b) Section 111(d)(1) of such Act (as redesignated by subsection (a) of this section) is amended by striking out "(1) advances" and inserting in lieu thereof "(A) advances" and by striking out "(2)" and inserting in lieu thereof "(B)".

SEC. 2. Section 111(f) of such Act (40 U.S.C. 759(f)) is amended by adding at the end thereof the following new sentence: "There is authorized to be appropriated for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, the sum of $100,000,000 to be expended under the guidance and direction of the Director of the National Bureau of Standards to support basic research in data processing technology."

SEC. 3. Section 111 of such Act is amended by adding at the end thereof the following new subsection:

"(h) The Administrator is authorized to enter into contracts for periods not exceeding five years for the rental of computers, computer components, and related services which he is authorized to acquire for use of the Government under provisions of this section."

LITHUANIAN INDEPENDENCE DAY

HON. PAUL S. SARBANES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. SARBANES. Mr. Speaker, it was on February 16, 1918, that the Lithuanian people realized a dream nurtured through over a century of foreign domination; on that date, 54 years ago, Lithuania reestablished its independence. For over two decades the gallant Lithuanian people flourished as they enjoyed their new found freedom. Then, as the world was caught up in World War II, that freedom was snuffed out when this proud nation was occupied by the Red Army. The subjugation which that invasion began continues to this day. Therefore this anniversary of that historic day in 1918 is a cause for both pride and sorrow among all men and women who cherish freedom.

Lithuania's heroic reassertion of its independence reaffirmed an ancient tradition of national identification stretching back to 1253 when a delegate of Pope Innocent IV crowned Mindaugas King of a united Lithuania. During the Middle Ages the Lithuanians created a powerful independent state which protected Europe against the Mongols and Tartars. One scholar has noted that the Lithuanian rulers of that period "blessed their subjects with more human freedoms than in the neighboring countries, and they played their part in the general development of European civilization." In 1386 the marriage of Queen Jadwiga of Poland with Jagiello, Grand Duke of Lithuania, created a personal union between these two proud nations which two centuries later was transformed into a legal bond which lasted until 1795. Always threatened by its powerful neighbors, Lithuania finally fell under foreign control in 1795, but its independent spirit remained.

In the years following Lithuania's loss of independence countless efforts to gain freedom were made. Repressive measures were taken to destroy the Lithuanian language and culture, but none succeeded as the gallant Lithuanian people remained faithful to their religion, language and traditions.

World War I intensified Lithuania's suffering as the Russian and German armies passed through that unfortunate land. But the war did weaken foreign control and resulted in 1917 in a Congress of Lithuanian delegates which elected the 20-member council that proclaimed an independent Lithuania based on democratic principles on February 16, 1918. Lithuanian independence however had to be won with the blood of Lithuanian patriots, for shortly after independence was declared the Red Army invaded. By 1920, however, the Polish-Lithuanian army led by Marshal Joseph Pilsudski had driven the Communists out.

Under its first president, Antanas Smetona, a permanent constitution was adopted in 1922 which awarded freedom of speech, assembly, religion, and communication. The country prospered in its freedom and Lithuanian literature flourished. Suffering quickly returned, however, when an occupied Lithuania was incorporated into the Soviet Union in 1940. After World War II Lithuania patriots rebelled against Soviet rule but were unfortunately not successful.

The heroic commitment to freedom which gave rise to Lithuania's proclamation of independence continues to inspire the Lithuanian people. That commitment was vividly demonstrated in November of 1970 when Simas Kudirka jumped from the Soviet ship *Sovetskaya Litva* onto the U.S. Coast Guard Cutter *Vigilant* seeking political asylum. It is tragic and shameful that the U.S. Coast Guard forced this brave young sailor to return to the Soviet ship. Kudirka was returned to Vilnius, Lithuania, and tried for his attempted defection. Convicted and sentenced to 10 years of hard labor in a Soviet concentration camp, Simas Kudirka symbolizes the courage and spirit of the Lithuanian people. On this anniversary of Lithuania's proclamation of independence I would remind the Congress of Simas Kudirka's words as he awaited sentencing:

> I have . . . only one wish . . . a request both to the supreme court and the government of the Soviet Union: I ask that you grant my homeland, Lithuania, independence.

With heroic young men and women like Simas Kudirka to keep its traditions alive, who can doubt that one day this proud land will know freedom once again.

CHILD CARE TAX DEDUCTION

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. FRASER. Mr. Speaker, each day our offices receive thoughtful letters from constituents. Many of these deserve wider attention. The personal experiences related often provide deep insights into our society and the laws that govern it.

Of course, it is impossible to place each of these letters in the RECORD. But a letter I received Tuesday from a wife who supported her husband while he attended medical school is especially insightful. There is something wrong, as my constituent writes, when a tax deduction for child care is not allowed while entertainment for business purposes is deductible. Here is another instance where a reordering of priorities is in order.

The letter follows:

MINNEAPOLIS, MINN.,
Wednesday, February 2, 1972.

Representative DONALD FRASER,
U.S. House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE FRASER: I have just completed my family's federal income tax return for 1971.

I have also recently completed 4½ years of full time employment to put my husband through his last semester of college and 4 years of medical school. During this time I provided him with food, clothing, shelter, transportation, household goods, and insurance, as well as understanding and encouragement. During his junior year of medical school we were pleased to become the parents of the child which we had planned for.

How is my 1971 tax return related to my role as the former breadwinner for a family of three? I am extremely proud to have supported my husband while he studied to become a doctor. I am extremely proud to be the mother of a wonderful child. But I am extremely ashamed of a country whose tax laws will not allow me to deduct from my taxes any of the $884 required for child care while I continued to be the sole support of my family at a gross salary of $7600. According to the present law, a family whose income is over $6000 is assumed to be able to afford child care as a luxury item. To my knowledge, however, there is no upper limit on incomes beyond which the deduction of entertainment for business purposes is assumed to be an affordable luxury item. Furthermore, the present law contains the highly discriminatory stipulation that a married woman can deduct child care only if her husband is mentally or physically incapable of supporting himself. Do legislators seriously believe that a medical student—working at least 60–80 hours per week for no pay and bearing great responsibilities for the care of human lives—is at the same time capable of supporting himself?

I would certainly appreciate hearing your views on the reasonableness and equity of the present child care deduction rules.

Sincerely,

CONGRESSMAN CHARLES B. RANGEL TESTIFIES ON PRISON REFORM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. RANGEL. Mr. Speaker, on February 11, I testified before the Select Committee on Correctional Institutions and Programs of the New York State Legislature. At that time I discussed several of their recommendations on the future thrust of corrections in my State.

I insert my testimony in the RECORD at this point:

TESTIMONY OF CONGRESSMAN CHARLES B. RANGEL

I appreciate having this opportunity to testify before the New York State Select Committee on Correctional Institutions and Programs. The report which you submitted to the Governor includes many recommendations which we should have adopted many, many years ago, but which we must immediately enact if we expect our prison system to be anything more than a network of laboratories for the brutalization of our fellow citizens.

Today I would like to focus on five of your recommendations. I speak from the perspective of a former Assistant United States Attorney, a member of the Select Committee on Crime of the House of Representatives, and a member of the House Bi-Partisan Task Force on Prison Reform.

I also speak to you today as a Member of Congress who receives letters every day from inmates in local, State and Federal prisons. They are messages of anguish and despair. As one addict in the Tombs wrote to me not long ago:

"I'll be very frank with you, Mr. Rangel. I am now 30 years old and have been in and out of jail since 1956. The better part of my life lies in a heap of waste always staring in my face."

I have been to Attica, the Tombs and other so-called "correctional" institutions across New York State. I have spoken to inmates, guards, prison officials, medical staff and relatives of prisoners. One inmate at a facility in New York told me:

"I cannot live under the present arrangement here. My problem is not mine alone, but is the problem of the majority here. We are subjected to mental harassment, mental intimidations, slurs, unjustness and mistreatments."

I will now address myself to five of your recommendations, four of which I wholeheartedly support—work release and furloughs; restoration of civil rights; Spanish-speaking staff; unrestricted correspondence rights—and one which I oppose—the death penalty for those responsible for homicides inside a prison. There certainly are other recommendations which you have made worthy of comment, but due to the time limitation, I will concentrate on these.

WORK RELEASE AND FURLOUGHS

Our society has long regarded prisoners as unworthy of human dignity. They have been stereotyped as unfit for interrelationship or communication with the community. As a result, we have kept them locked up, subjected them to physical and psychological abuse, denied them meaningful contact with their families and friends, isolated them in predominately rural parts of our State, and then expected them to return to their homes and fit into their communities as if they had simply been on vacation.

The results are inevitable. Without adequate preparation for jobs on the outside, without interrelationships with non-criminals and without a society willing to go out of its way to assist them upon release, a return to crime is the easiest road to travel.

The racial discrimination inherent in a system that disproportionately punishes black inmates is magnified when it comes to the present limited work release and furlough programs. Blacks more often than whites are found guilty when tried for the same offense. The *Washington Post* recently reported:

"A study in Stamford, Connecticut, for example, found that guilty findings per 100,000 ethnic inhabitants was eight times higher for black defendants than white.

"Of nine Americans found guilty in a court, fewer than four actually serve time in a prison. Here, too, whites more often get probation or suspended sentences. In the Stamford study, the rate of commitment to prison per capita for each racial group was ten times more for guilty blacks than for guilty whites.

"Once in prison, blacks stay there longer, partly because they get longer sentences and partly because they get from 10 per cent to 14 per cent fewer paroles."

The work release, education release and furlough system we do have works in the same discriminatory way. The programs are, first of all, too limited in number and scope.

Not only does the inmate have a great deal to gain by participating in a work release program, the State finds that the income earned by the prisoner contributes substantially to the expense of housing, feeding and clothing him.

In testimony before the Select Committee on Crime, William D. Leeke, Director of South Carolina's prisons, explained how his work release program benefits both the inmate and the State:

"These (work release) centers are located in downtown areas or on the outskirts of towns and work release participants commute daily to regular jobs in the community . . . Work release participants pay to the State of South Carolina $3.50 per day. They pay city taxes, (and) Federal taxes, and as a result of this they end up being assets to the State rather than liabilities.

"For the period January 1968 to November 1, 1971 . . . the total earnings of inmates participating in the community-based programs amounted to $2,210,913.18. They paid taxes in the amount of $326,477.53. Breaking that down: Federal taxes of $211,756.95; Social Security $83,680.69; State taxes of $31,039.89; and they paid to the South Carolina Department of Corrections at the rate of $3.50 per day room, board and transportation, $560,424.39; and also paid to their dependents $338,937.72."

The Federal Bureau of Prisons has also put work release programs in the picture of an inmate's immediate fiscal problems when he is released. They are an effective way for an inmate "to accumulate savings for release, to make restitution and to pay legitimate debts, especially when such payments will free an inmate from overwhelming financial burden on the day of release."

The furlough, work release and educational release program is a dynamic and practical way of acclimating the community to receiving the prisoner back into its midst, to reduce the mistrust and antagonisms that might otherwise cause him to become a social outcast upon release.

Leeke detailed the effect of South Carolina's program on the repeater rate for crimes by participants in work release:

"Since 1968, when we began the series of community-based prerelease centers, less than 10 per cent of the people who have successfully completed work release have returned to the South Carolina Department of Corrections for parole violations or new offenses; consequently, our work release program appears to be effective as a deterrent to crime . . . Based on these figures, the recidivism rate is extremely low. We are very pleased with it. . ."

Finally, programs of this type can prepare an inmate for occupational, social and educational experiences in a much more realistic and relevant way than do in-prison training and educational programs.

RESTORATION OF CIVIL RIGHTS

We have created a hypocritical system of perpetual punishment by barring ex-offenders from certain jobs and from voting.

An integral part of the duties of citizenship in the United States is the responsibility to help select our lawmakers. Civics classes, citizenship education programs, voter registration drives, the mass media—all exhort us to register and vote for the candidates of our choice. Unfortunately, rhetoric overshadows reality in the electoral process. Instead of knocking down barriers that lock these citizens out of the voting booth, we have silently accepted a system which unfairly denies these men and women their right to vote.

We who profess to believe in the importance of the ballot box deny the fundamental right to vote to those who have been convicted of a crime and have fulfilled the sentence of the court. At the present time, only a minority of States—Colorado is one—permit these individuals to be automatically reenfranchised after satisfying the legal obligations imposed by the courts. This means that tens of thousands of law-abiding citizens continue to be punished for offenses of the past by the abridgment of certain basic rights of citizenship. The State legislature should take prompt action to end this injustice.

Furthermore, in New York State, individuals imprisoned awaiting trial—even those who have never been convicted of a felony—cannot under present law vote by absentee ballot in a primary election in New York State. This is, of course, in direct contradiction with our historic belief that a person is innocent until proven guilty. If we do not want this traditional tenet of our democratic system to become an empty illusion, it is imperative that we guarantee these prisoners their right to vote.

In the area of employment, New York's statutes barring former felons from certain occupations lock them out of some of the best paying jobs that our economic system provides for men and women of limited education.

It seems unreasonable and unjust to deny a former convict the right to work in a bank, a place selling alcoholic beverages, or an insurance adjuster's office, as just three examples. It is inequitable to bar a former felon from certain Civil Service examinations when the entire thrust of a civil service system is to hire the individuals who are most qualified. It is absurd to say that a former felon cannot be licensed as an auctioneer, a junk dealer, a pharmacist, an undertaker, a check collector, or any one of more than a dozen other jobs. At a time we have a drastic shortage of medical personnel, what sense does it make to prevent an ex-offender from becoming a physiotherapist or dental hygienist?

I cannot understand why some inmates are trained as barbers when they are prevented by State law from practicing that profession upon their release.

We have established a vicious cycle—a criminal act, followed by punishment and release, then the alternatives of welfare, dead-end employment or crime, and back to prison again. That makes no sense at all.

SPANISH-SPEAKING STAFF

I would wholeheartedly concur in your recommendation that Spanish-speaking staff be provided in all State prisons.

On November 5, I introduced in the House of Representatives the Prisoner Treatment Act of 1971. This legislation would establish a National Prisons Standards Administration to set standards modeled largely on the United Nations Minimum Standards Rules for the Treatment of Prisoners. This bill has been cosponsored by 23 of my colleagues, both Democrats and Republicans.

One important provision in the bill requires that among the prison personnel must be individuals "who speak and understand the language best understood by those prisoners" who have not mastered English. In prison, life and death decisions are made every day involving inmates who cannot speak English and, thus unable to comprehend disciplinary proceedings, medical examinations, and parole interviews. They can participate in educational programs only with great difficulty. They have difficulty writing to their elected representatives in the State and Federal legislatures and in communicating with the courts.

The effects are obvious. Alienation. Injustice. Lack of opportunity.

UNRESTRICTED CORRESPONDENCE RIGHTS

I enthusiastically welcome your recommendation that there "be no restrictions on outgoing mail for inmates, and incoming mail should be inspected only for contraband."

Censorship should no longer be part of the of the legacy of injustice in America. There is no reason why a prisoner should be unable to write to whom he wants, including to the press.

During the Select Committee on Crime's investigations into the events at Attica, Warden Vincent Mancusi said several times that he believed the disorders originated through a conspiracy of inmates with attorneys and public officials, a conspiracy made possible, he claims, by the State's liberalized correspondence regulations which permit court officials, elected representatives and attorneys to receive uncensored mail. That fallacious reasoning is in itself an excellent argument for ending censorship—to allow the full and undistorted truth to be available.

Imprisonment has a serious detrimental effect in most cases on the inmate's personal relationships. His family and friends are cut off from him physically and, at the present time, their ties through the mails and through restricted visiting rights are sharply limited. This hinders his reorientation to society without adding significantly to prison "security."

Furthermore, there are in my mind important Constitutional questions as to the legality of prohibiting inmates from exercising their First Amendment guarantees by limiting the amount of mail they may send or receive and the number of authorized correspondents with whom they may keep in touch. The Constitutional difficulties also involve cutting off this large group of citizens from corresponding with the mass media. This imposes unjustly on both the rights of the inmates and the freedom of the press.

DEATH PENALTY FOR HOMICIDAL ACTS WITHIN A PRISON

The Committee's endorsement of the death penalty for any inmate responsible for a homicidal act is another example of how our historic approach to corrections has brutalized our entire society.

Not only does the death penalty fail to act as a deterrent to capital offenses inside or outside of the prison, it also constitutes an admission that even in the last part of the Twentieth Century we do not have either the interest in or the capability of helping someone whom society and our penal system has failed. Prison riots are evidence that we have not succeeded in our duty of preparing inmates for their return to the community. They make it obvious that retribution, not rehabilitation, is the rule of the day in those institutions which are disrupted. They prove that even caged men and women have sensitivities and feelings, that they can be degraded and tortured only to a point before they explode with anger and despair.

Capital punishment will not solve these problems, only worsen them. The death penalty is the ultimate sign of failure. It is not an answer, only an expedient excuse for disposing of an uncomfortable situation. The conditions that lead to riots will not be changed by executing a human being. If vocational and educational programs do not meet the inmates' needs, if guards are allowed to vocally and physically harass and intimidate prisoners, if institutional disciplinary proceedings are devoid of due process protections, if inmates are cut off from contact with their families and friends, if they are kept caged up and without decent recreational facilities in isolated rural Upstate towns—then we should not be surprised when another prison erupts with the death of inmates and guards.

It is appropriate to point out at this time how the death penalty has historically discriminated against black Americans. In the period 1930–1966, more than half of the 3,857 men and women executed—53.5 percent—were black. That figure represents approximately 5 times the proportion of blacks in our total population.

Equally terrifying in its impact was the decision earlier this week by New Jersey State Supreme Court Justice John J. Francis that 113 executions in that State since 1917 had been unconstitutional because of unequal protection of the laws in the case of suspects who chose their Constitutional option of a jury trial. To mandate the death penalty for homicidal acts within the prisons, as you recommend, would be to run the very real and unconscionable risk of taking the life of another human being unjustly, immorally and senselessly.

We are all aware of the stakes in prison reform. We know what inaction will lead to, and we know that action—not rhetoric—is needed.

These words of an inmate at Great Meadow Correctional Facility articulately express how low this society has fallen in treatment of our prisoners:

"I've been down almost nine years, what I mean is that is the time I spent behind these walls and have never seen such condemnation. Not only is this a breeding place of iniquity, but an infectious, stagnant pool from which tomorrow's citizens drink."

I hope that we will soon see the response in Albany for which we have waited so long.

POST-STANDARD WOMEN OF ACHIEVEMENT DAY

HON. JOHN H. TERRY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. TERRY. Mr. Speaker, in the past few years, the just demand for equal opportunity for women has gained great significance. Today in the city of Syracuse in my congressional district, 12 women, who have demonstrated their capacity to contribute in a significant fashion in a variety of fields, are being honored by the Syracuse Post-Standard at a luncheon. The 12 women will receive engraved silver bowls and citations reflecting the area in which they have made such outstanding achievements.

The 12 women and their fields of endeavor are:

Miss Marjorie Smith, all-time.

Mrs. Marcelle Levy, all-time.

Miss Patricia Coolican, career.

Mrs. Harry Thompson, citizenship.

Mrs. J. Frederic Hillegas, communications.

Mrs. John T. Schenck, community service.

Mrs. George Nesbitt, cultural development.

Mrs. J. Cassin McHale, good neighbor.

Dr. Marguerite Fisher, international friendship.

Dr. Miriam Swift, medicine.

Mrs. Bernice Dumas, science.

Mrs. Henry Washington, social service.

Mrs. Lois Vosburgh, women's editor of the Post-Standard, is coordinator of the luncheon. The Post-Standard, Mrs. Vosburgh, and the 12 women honored are to be congratulated for their contributions to not only the central New York areas, but also to New York State and the Nation.

TAXATION WITHOUT TRANSPORTATION

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. WALDIE. Mr. Speaker, the burdens of taxation are heavy enough on the average wage earner that he should not have to bear the additional load of taxes levied for the enhancement of someone else's property or the easing of someone else's commute.

But, Mr. Speaker, such is "overburdening" the case in areas of Contra Costa, Alameda, and San Francisco Counties in California.

For thousands of homeowners and taxpayers the cost of paying for a rapid transit system in those three counties is being shouldered without any hope of having service in the near future or enhancement of their property by that service.

On top of that, the rapid transit district itself envisions expansion outside of the district itself which, if anything, will delay service to those taxpayers who have been paying property and sales taxes for more than 10 years.

Mr. Speaker, recently the Antioch Ledger ran a news story on this issue that showed how each taxpayer in eastern Contra Costa County was being taxed by the Bay Area Rapid Transit district.

I would, at this time, like to place this article in the RECORD.

BART's NONSERVICE EAST CC TAB TOPS $180

MARTINEZ.—Figuring conservatively, homeowners in the East County cities have paid $3,474,959 into the Bay Area Rapid Transit District and gotten nothing in return.

Assuming a person owns a $20,000 home, he's paid $181.30 so far in BART property taxes in 12 years.

And that's not counting what a family may have paid since an extra half-cent sales tax was levied in April 1970 to bail BART out of a financial crisis.

The extra sales tax, providing a family spends at least $3,000 a year on taxable goods, comes to $15 a year or $30 for the past two years.

The figures do not include taxes paid by business and industry.

BART's current tax rate is 65.7 cents per $100 assessed valuation. The tax has been steadily climbing.

A rundown of BART's tax rates for the past 12 years are as follows:—1970–71, 52.7 cents;—1969–70, 55.5 cents;—1968–69, 47.2 cents;—1967–68, 36.9 cents;—1966–67, 41.7 cents;—1965–66, 30.8 cents;—1964–65, 17 cents;—1963–64, 8.4 cents;—1962–63, 0.4 cents;—1961–62, 2 cents;—1960–61, 1.7 cents;—1959–60, 3.9 cents;—1958–59, 1.7 cents.

Anyone can figure the total amount paid to BART by adding the figures included on their tax bills or dividing the total value of their property by four and multiplying that figure, times the tax rate for each year. Rising property values during the years should be considered.

The statistics on the total amount the East County has paid to BART so far are based on Antioch, Pittsburg and Brentwood chamber of commerce figures of 16,469 single family homes with an average value of $20,000 in the area.

The total amount collected from the county for BART is $51,579,036, reports the county tax collectors office. That figure includes the central, east and west parts of the county, plus business and industry.

In the Central County, where there are an estimated 75,000 homes with an average value of $32,000, the amount paid for BART is a whopping $24,150,000.

But for that $24.1 million, Central County residents have BART tracks stretching from the Caldecott Tunnel to Concord, stations nearly complete at Orinda, Lafayette, Walnut Creek and Pleasant Hill, plus a Concord terminal under construction.

But the East County has nothing but a study committee, the chairman of which is worried an extension to Antioch might be aced out by San Mateo County.

BART is apparently becoming an increasingly sore point with East County residents.

The city of Brentwood has plans for its own BART facility—a hitching post.

Although there is the special committee set up to study the feasibility of extending BART to Antioch, its chairman, BART Director Nello Bianco, is worried the system will go to San Mateo County first.

A study to string BART from Daly City to San Francisco Airport has already been completed and a study of an extension from the airport to Menlo Park is in the works.

Bianco is fearful the Antioch study won't be completed by 1973 when the Metropolitan Transportation Commission is to have finished a regional transportation plan for the bay area.

BART, Bianco contends, would have to abide by that plan.

And some commissioners have frankly said chances of building BART to the East County are nil until the system is extended through San Mateo and around the bay through San Jose.

Perhaps the most cutting blow of all is the possibility San Mateo County taxpayers, should they decide to build BART, may not face an increase in property tax.

BART could be built to the airport or Menlo Park using money from either a special sales tax or money from an auto "in lieu" tax.

Keith Bernard, San Mateo study project director, emphasized that project should not affect any East County extensions.

He added an extension to Antioch is more important than building BART around the bay through Santa Clara County.

The East county is a growing area, he said, "and whatever's built won't be ready to roll for 10 years from the day it's designed."

Bernard said even if plans for an East County extension were ready today, BART would still have to go through MTC.

Bianco's fear of the MTC coming to full power in 1973 is somewhat late because that agency is already reviewing transportation plans, Bernard added.

The San Mateo airport extension study itself notes any counties planning to annex to BART must abide by a BART directors' resolution giving top priority to rail extensions to Antioch and Livermore.

The airport study also stresses San Mateo County would have to pay its "full share" of the total cost of the entire rapid transit system.

That amounts, Bernard said, would have to be negotiated between BART and San Mateo. The state law creating BART specifies any counties annexing to the system must pay their fair share of the total cost.

The San Mateo study, Bernard added, emphasizes additional money from San Mateo joining the three-county district could be put into extensions to Antioch and Livermore while still building a line to the airport or Menlo Park at a cost of $700 million.

TRIBUTE TO FRANK B. RAUCH

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. HUNGATE. Mr. Speaker, in all of our districts there are certain men who stand as giants in their civic contributions to our communities and our Nation. Such a man was Frank B. Rauch, Sr., of St. Charles, Mo., whose lifework is described in the following article:

FRANK RAUCH DIES

ST. JOSEPH'S HOSPITAL.—A City father, in the literal and historic sense of the word, died Monday night in St. Joseph's. Francis B. Rauch Sr., died at the age of 76 after an illness, and with his passing, St. Charles and the Catholic Church have lost a man who since 1916 has been a bright and guiding community light.

Mr. Rauch was born and raised in St. Charles, attended the old Borromeo School, and attended high school in St. Mary's, Kansas. When Mr. Rauch was named "Man of the Years" in 1959, it was said, "Sometime after that, the school was disbanded." When he returned home, he worked for a time in East St. Louis.

Mr. Rauch was 16 when he first went to work. One of his duties was to each morning accompany the firm's treasurer to the bank, carrying a length of lead pipe. He returned to St. Charles in 1916 when he and his father bought the Moore wholesale produce company here. So in 1916, his service to St. Charles began, and did not fail until his death.

The honors bestowed upon him have been many. Perhaps the greatest civic honor granted by St. Charles is the "Man of the Years," an award by the Chamber of Commerce citing one man for more than 20 years of service. But in addition to that, one of the highest awards granted by the Catholic

Church is the Order of Knight of St. Gregory. In 1968, this was granted directly by the Pope to Mr. Rauch.

But Mr. Rauch could transcend these public honors, because he did not seek them. "He was never short with his charity. Not organized charity, but individual charity when a person needed something. I know of some efforts of his nobody knows about, never did he turn it down," Sol Wolfe, a friend of Mr. Rauch's for 41 years, says.

Wolfe is speaking specifically (at least) of the depression when Mr. Rauch and two other men were members of the City Relief Committee in 1931, and provided office space. "When people needed shoes or coal, he became one of the first people to put up the money until organized relief could get there," Wolfe remembers.

It was not only charity which made Mr. Rauch noble and great. When St. Charles needed a man of his caliber, he was there. In 1937, the highway department wanted to close the St. Charles bridge for repairs, and Mr. Rauch helped keep it open. In 1948, Mr. Rauch helped bring industry into the City. In 1958, he "gave immeasurable help in securing passage of the sewer bond issue which (was) so vital to the future development of St. Charles," a salute read.

His civic achievements, all of which are not listed here, were matched by his service to his Church. In 1957, he was chairman of the Borromeo Parish committee to raise funds for Central Catholic High School, later to be known as Duchesne High School, and he was, at the same time, active in the drive to raise funds for the expansion of St. Joseph's Hospital.

The passing of Francis Rauch is not only the passing of a monumental human being, but the passing of one of the early and strong foundations of this City; foundations which received the care of his own hands. "He was an outstanding citizen of St. Charles," former mayor Henry Vogt says.

SENATOR CARL HAYDEN

HON. PAUL J. FANNIN

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Thursday, February 17, 1972

Mr. FANNIN. Mr. President, the death of former Senator Carl Hayden caused deep grief among Arizonans. Many tributes were paid to this great statesman. I ask unanimous consent to have printed in the RECORD a tribute written by Fred H. Rosenberg, of Phoenix, and mailed to my office.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

THE LORD SAID

Welcome, Carl, to Paradise.

You have filled your mission on earth and accomplished your task;

You have led the Congress and Senate well, gave your all for these United States and the State of Arizona you loved so much; in wisdom and direction to achieve peace and good will on earth.

You gained the respect of the peoples of the entire world.

You have served your country for 57 long years.

You have smiled often and loved your fellow man, you looked for the best in others and gave the best you had to all.

You never expected others to accept whatever was distasteful and hateful to you; Carl you left behind the true meaning of Brotherhood.

Your humility and compassion for others must have been quite rewarding and pleased me much.

You saw beauty in all I created, In Arizona, its unbelievable magnificence and never failed to express it in your prayers.

Your prayers and concern about Arizona were always acceptable, for you lived by the Ten Commandments and the Bible as you were taught.

You have left the world better than you found it.

Welcome home, Carl!

MARIE ANTOINETTE COMES TO WASHINGTON

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. RONCALIO. Mr. Speaker, our Nation's Capital is about to be graced, symbolically, by the presence of a great lady. As contemplated by many of the cozy and the well-off, a living symbol of her famous quip, "Let them eat cake," will soon preside over Mount Vernon Square—as an undying testament to the fact that the poor will be moved so that the rich can go to conventions in this, the most democratic nation on earth. Mr. Speaker, I refer in this ironic manner to the proposed convention center-sports arena complex. I have read of it and thought hard about it. There is a long report prepared for the House Committee on Public Works by GSA with the cooperation of Booz-Allen & Hamilton, architects. This lays out the reasons for—or at least the propaganda for—having such a complex as is planned immediately south of Mount Vernon Square in Washington, D.C.

It is important for all in this Chamber to be aware at this time that separate legislation is not necessary to build this complex. Under the Public Buildings Act of 1959, approval by both Public Works Committees of the House and the Senate is tantamount to setting in motion a project of this nature.

If the project is to be stopped, the full displeasure of many Members must be given a loud and open airing, and that, I must admit, is what I am attempting to encourage here today. For, if this complex is allowed to be built with such minimal consent, based on an act passed in a long-ago time when our Nation's Capital did not have the sort of unholy congestion that it now has, then the floodgates will stand fully open to boondoggles that are unproductive, unfair, and unwise, built only to contend for tourists' money in this town.

I understand, according to an article in last Sunday's Washington Post, that my esteemed colleague from Illinois (Mr. GRAY) was recently moved to reconsider his opinion on the wisdom of putting such a complex in Mount Vernon Square. Indeed, this past Thursday, he reportedly discovered so much open opposition that he went so far as to hold an open forum on the subject, at the Greater New Hope Baptist Church. I feel that he should be strongly commended by us all for his concern for the feelings of the people of the District, as well as his conviction about their right to express their views on topics which directly affect them. Not only the site for this complex should be reconsidered, but also that such site should be reconsidered in the face of what I believe to be the patent wisdom of further crowding this already overcrowded colonial zoo of Washington, D.C., with any more federally funded white elephants.

Such construction, particularly in the present case of the proposed convention center-sports arena complex, is too often a case of small-scale versus large-scale economics. It certainly is so now. Representing the large-scale view, we have Mark Evans, a former chairman of the city's Bicentennial Commission and a director of the Metropolitan Washington Board of Trade. In the Washington Post article to which I have already referred, he is quoted as saying that the project "represents the future of the city. The facts are unless you refurbish the economic base of the city, it will continue to deteriorate."

Apparently what Mr. Evans and those of a similar disposition envision is a complex which would add $112 million a year to the city's economy and create 1,500 new jobs, with a payroll of $26 million a year. The complex would bring in approximately $96 million in tourist trade, they feel, and would attract some 4,135,000 persons annually to its sporting events. Based on these projections, which are nothing but the guesses of so-called experts—the likes of which have produced many another white elephant in our fair city, Mr. Evans and his friends assert that not erecting such a complex with the tourism trade we have is like a city committing suicide. Shifting his metaphor, Mr. Evans argues:

> It's like being in Oklahoma and having an oil well in your back yard and not tapping it.

Yet only guesstimates assure us that oil is here to be found—or that a pot of gold lies at the end of the proverbial Federal rainbow. According to the GSA report to which I have already referred, the projected top cost for the construction of this complex would be $101.705 million. Yet, anyone with just a little cynicism, bred of remembering what we were promised about the Federal Bureau of Investigation Building, the Rayburn Building, about Dulles Airport, about the Kennedy Center, would at least double these costs. The Kennedy Center is at present being forced to approach Congress, hat-in-hand, for a measly $1.5 million annual appropriation to support its nonperforming functions. Yet we are told, in the GSA report, that the convention center-sports arena complex will require, when completed, all of $3 million annually from the comparatively impoverished and dependent city government to subsidize its performing functions. This is not much of an assurance that Washington, D.C., stands to be rescued economically by the construction of this complex. But finally, will the complex, by itself, really manage to attract as much money as is projected from tourists? I find this to be doubtful. Once the tourists get here, they go to the

Washington Monument, they go to the Kennedy Center, they go everywhere—but do they come here to see only one building? This seems scarcely likely at all.

Locally, the GSA report boasts of 4 million people in the "Washington area" who are reachable through the televised broadcasting of sports events. So what? Does that mean they will thus be attracted to such events? I rather imagine just the reverse would be true. Television and attendance do not complement; they oppose.

So the thinking, the dreaming, and the projections on the large-scale economics end of the question seem neither very clear nor very persuasive.

On the small-scale end, however, the facts are tragically clear and persuasive. What is, is. The place is deteriorating, but people are there, as are churches and places of business. The African Methodist Episcopal Church bought its building for $100,000 20 years ago; in 1965 it held a mortgage-burning ceremony after years of dedication and sacrifice. This would be wiped out, along with the Greater New Hope Baptist Church, according to the GSA report on the proposed complex.

The area to be demolished is a furniture center. Harry Hahn of House and Hoffman is quoted in the Washington Post article of last Sunday that trade in the area comes to $20 million annually and that his payroll alone amounts to $521,000 per year. The Chinese section of Washington would be obliterated. As William Yee, the owner of the China Inn Restaurant, says:

> The Chinese home owners here worked 17, sometimes 20 hours a day to buy their homes and raise their families. It would be a disaster to move them out.

In the debate between large-scale versus small-scale economics, it really comes down to what you mean by "disaster." If you belong to the Washington Board of Trade, if you wrap your economic hopes up in the patriotic symbolism of the Bicentennial Celebration, perhaps you mean the possibility of attaining great wealth not realized. If you are poor and Chinese, perhaps you mean the impossibility of ever going home again to a house for which you have sacrificed for many years that home ownership and self-respect might become personal realities. It is finally therefore a question of values. And I can only go with the Chinese on this one. To go the other way would be, like Marie Antoinette, to take away the natives' bread so that the convention-goers might eat cake.

I am sorry that pressing business kept me from attending the meeting last night at the Greater New Hope Baptist Church, along with other Members of the House Public Works Committee, although I did send an aide to represent me. I can only once again commend Chairman Gray for his foresight and fine democratic spirit in arranging for such an airing of public opinion by the aggrieved themselves. I can only pray that the meeting itself served to stave off the projected disaster of a convention center-sports arena complex on this or any other local site.

BE OF GOOD CHEER

HON. JERRY L. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. PETTIS. Mr. Speaker, seldom does anyone say anything really relevant to today's youth. Recently such a man spoke to a convocation of students at Redlands University, Redlands, Calif., and I would like to share his remarks with my colleagues.

The speaker was Jenkins Lloyd Jones, editor and publisher of the Tulsa Tribune, Tulsa, Okla. The title of his speech is "Be of Good Cheer." It was given originally at Brigham Young University forum in Provo, Utah, on December 9, 1971.

Be of Good Cheer

(By Jenkins Lloyd Jones)

Ladies and gentlemen:

This speech is not going to be directed to everybody in this room. There may be among you a very few who are so talented and so filled with self-confidence that you will not need the homilies you are about to hear.

There will be among you a few who are so egotistical, who are so cocky regardless of your lack of talent that a speech like this would do you no good.

But this speech is directed to the uptight majority. It is directed to the nervous normals. It is directed to the overwhelming bulk of you who, however much you may present to the world an insouciant and carefree face, are in reality in large measure suffering from a number of fears.

You may have the fear of not measuring up. You may have the fear of not being able to get with it, perhaps of having no real place in the future.

Many of you are advanced hypochondriacs. You arise in the morning with incipient cancer and you go to bed with the beginnings of emphysema. You have cold sweats. You fear imminent insanity or at least a brain tumor. You have a dread of losing the guy or the gal, or, perhaps worse yet, you have the fear of never getting far enough in the love business to even lose the guy or the gal.

You fear the quite obvious complexity of this world growing more complex in leaps. And some of you, perhaps all of you at one time or another, have had the mad impulse to drop out and get back in the box and hide.

Ladies and gentlemen, I come to bring you good news.

The overwhelming majority of you are going to make it. That is, you will be useful to society and because you will be useful, you will be reasonably well rewarded in this life. You will accomplish things more difficult than you presently think you can accomplish. You will make a reasonable score in the love business. You may not marry a Raquel Welch or Robert Goulet but the chances are you aren't Apollo or Helen of Troy either.

There will be unlucky ones. A small minority of you in this room at this moment are going to die early, before your potential has been proved. A small minority in this room are going to suffer from chronic ill health, which will dim your hopes. You can take comfort in the fact that this will be a smaller minority than in any generation that ever lived. Thank the Lord for that. But those few of you, if you have this big bad luck, will have to be written off from what I am about to say, because big bad luck can't be overcome.

Still, the sufferers from big bad luck are going to be balanced off by a few of you who are going to have big good luck.

You are going to be in the college play, remembering all your lines, when a Hollywood scout is out in the audience. Miraculously a door that you never thought would open suddenly swings wide. Or your dad who has been hopelessly scratching at 40 acres of hard pan is going to discover that there is an oil pool underneath.

Or you are going to say the right thing at the right time at the right meeting and presto! the whole course of your life will be changed. An almost unknown prairie lawyer by the name of Abraham Lincoln went to the Cooper Union meeting in New York and made a speech that most of the nation was crying to hear. He had big good luck.

Big good luck like big bad luck is rare and it will not affect the overwhelming majority of you.

What I wish to talk about this morning is the fact that most of you are going to spend your lives in a milieu of little good luck, little bad luck. How you bend that luck, how you seize the little good luck and intensify it, how you overcome the little bad luck and perhaps even turn it to your advantage, is going to govern the way in which you will live. It will create your life score.

Most bitter, disappointing lives are curable. Only a few of us are overwhelmed by forces beyond our control.

I wasn't very long in the newspaper business as a young police reporter before a great truth began to dawn on me, and that is that pure evil is a rare force in this world. There are few people who are purely bad. There is, of course, a mental phenomenon which can only be classified as moral and ethical imbecility. You don't find many so afflicted.

Most of the misery, most of the tragedy in this world is caused by people of good intentions and great capacities for self-justification who are suffering from arrested development.

The real problem with this world is that it has an exportable surplus of big babies and no place to export them.

Some of you have seen problems with your parents. Only in very rare instances do parents not love their children, but there are those among you have had your childhoods blighted because your parents reacted to conditions as big babies would react.

Some of them were unable to come to conclusions, difficult conclusions which are the mark of the adult person, and thus were wishy-washy personalities which left you adrift.

Or they were martinets and in an unheeding and unthinking way they attempted to overcontrol your lives, and you were distressed.

You cannot do anything about that.

But you can do something about yourselves. You, too, will be parents. You do not have a right to bring human beings into the world if you are going to mistreat them, even with the best intentions. If you have seen errors in your upbringing you do not have the right to repeat those errors. If you are not determined to be the finest kind of parents, I hope you are barren.

Most of you, if you are thrown, will throw yourselves. Some of you know judo, which is the Japanese art of making your opponent throw himself. The reason why the little man who knows the art can conquer the big man is because the big man, by the unwise use of muscle, goes sprawling. If you get in trouble in this life, it will probably be because you have committed self-judo.

When I was learning how to fly an airplane I went out my first day all excited and fluttery. We took off and my instructor turned the controls over to me. My knuckles were white on the stick and my feet were sawing the rudder pedals. The plane was going all over the sky—wing down, tail up—yawing and pitching—and I was perspiring buckets.

Finally he said, Jones, let go—let go of everything".

Then he put his little finger on the stick and he guided that plane smoothly through the sky.

He said, I want to tell you one thing and I want you never to forget it—the light touch is the touch of the expert".

All through life you are going to see people overcontrolling, people with white knuckles, people sawing at the rudder pedals, people going all over the sky because they have never learned the light touch.

I was talking to a college dean last month in New York State. And he said, "The thing that I can't get over is that many of these young people don't smile. When I say. 'Why don't you smile?' they reply, 'How can we smile with an atom bomb? How can we smile with millions starving to death?' "

Well, our ancestors smiled even while their children were dying of smallpox and diphtheria. Mark Twain smiled even while people were being sold into human slavery.

If we do not learn to smile, if we cannot laugh, then we will not solve problems either. Because we will overcontrol. We will not have learned to put the little finger on the thing to make it fly.

This does not mean that there are not occasions for high dudgeon. This does not mean that righteous indignation does not have a place in the integrated personality.

But it does mean that if you are going to be a professional militant you've got to be mad all the time. You cannot afford gratitude because gratitude is the antithesis of dudgeon. If you are going to be in a high dudgeon all the time, eventually you will suffer a distortion of reality, and you will create a credibility gap that will defeat your hopes.

The light touch. The touch of the expert. Or as one psychiatrist has advised persons suffering from distressing neuroses, "Give it a little judicious neglect".

You hear a lot of talk about doing your own thing. That's great. I'm in favor of people doing their own thing as long as it is a decent thing, as long as it does not intrude upon the liberties and the rights of others, and as long as the world sees enough value in it so that it will be happy to keep feeding you while you are doing it.

I have no quarrel with the son of the banker who doesn't like the banking business then decides to start a small marina. He has a right. It is his life, however much papa may be disappointed. It is a lot better to have a good marina operator than a bum banker.

But if you are going to do your own thing, just be sure that it is so expert that you don't have to spend the rest of your life trying to convince people it's good.

Last year I was out in a hippy pad in California. I was in there out of curiosity. I was very friendly and they were quite friendly to me.

They were all slopping around, barefooted, and attired in necklaces and beads, and they had been daubing at the walls. They gathered around rather wistfully and they explained the great thoughts behind these splashes and blobs, even though the room looked as though a chimpanzee had gotten loose in a navy paint locker.

But you see, they were upright because they had to try to explain to me why this thing they were doing was so splendid. They were defensive, and it's not good to spend your life on the defensive.

If you know four chords on a guitar, and that's the acme of your accomplishment, you are going to have to devote a lot of time trying to convince people that those who know four chords on a guitar are musicians. But if you can play the guitar like Segovia, then you've got no problem because the world will understand that your thing is both difficult and excellent.

So when you talk about doing your thing, ask yourself this question: "Am I going to have to spend my days trying to sell it, lousy as it is, or is my thing going to speak for itself?"

You hear a lot about identity crisis. You hear about young people asking themselves, "Who am I?"

The moment you can do some decent thing that is difficult, and do it well, your identity crisis is going to begin to evaporate. You won't worry about who you are, because who you are will be self-evident.

We've all heard a lot about the new morality. Of course there's nothing new about it. Primitive man probably started out with barnyard morality. No doubt he moved casually from ape-woman to ape-woman and now some so-called advanced thinkers want to get us back into the barnyard. One sage up in Spokane, Washington, said not long ago, "Many people think they are emancipated when they are only unbuttoned."

But what about morality, what about morals? Are these merely capricious and arbitrary rules that whitebearded old characters keep dragging down from mountains on graven tablets to bug the general public? You know, the funny thing is, every great religion is in agreement on the basis of morality, and why is that?

Because Man has learned painfully over the many centuries that some things make a workable society and some things make a chaotic society, and morality is absolutely nothing except a system of guidelines that spell the difference between a workable and an unworkable society. Long before Moses, Man learned that he couldn't live well if people killed, if people stole, if people coveted, if people committed adultery. Because then human associations would fly apart.

These are not senseless taboos. These are the basic formulae for an orderly community. But you hear it said that times change. What harm for example, does a little promiscuity do now that we've got the pill, now that people can sleep around without so much chance of embarrassing consequences? I'll tell you what it does. Promiscuity produces a very interesting paradox—it tends to emasculate the male.

You see, the Man male is in the human context, not in the Hereford context. He is more than a stud. He is the teacher, the protector, the provider for those who are coming behind him. And when the male just wanders up and down the street getting into a different bed every night, he ceases to be the teacher, the protector, the provider and he goes right on back to the Hereford level. He is only a piece of a man.

Then what you get is a matriarchy in which the mother is the stronger of the two. She sticks around. She's stuck with the kid. But history is devoid of a single instance in which a matriarchy has produced a powerful and productive society. One of the great troubles we get in our slum and ghetto societies now is the fact that you find too often a matriarchy—no father-figure and an unproductive social organization. So even if you say that you're not going to pay any attention to those commandments on the graven tablets, you had better pay attention to the way the human animal reacts or you're heading straight into quicksand.

No system of marriage works too well, for man is a confusing mixture of the animal and the spiritual, and he get himself all fouled up with these conflicting natures. So, as all Mormons know, there has been a lot of heated argument through the ages about monogamy and polygamy, and some tribes have even tried polyandry—one wife with multiple husbands.

But the important thing to remember is that all systems of marriage require responsibility. Detractors of old-time Mormonism who came to Salt Lake expecting to find a city of sin went away considerably shaken when they found the high degree of family affection and stability.

Then there's the matter of common honesty. Recently, Abbie Hoffman, the Yippie leader, wrote a book, entitled, paradoxically, "Steal This Book". It was a manual of methods for cheating the telephone company, fixing electric meters, jimmying coin boxes, etc., on the theory that this would wreck the hated capitalist system and bring about whatever fuzzy socialist paradise Hoffman has in mind.

But, oddly enough, one of Abbie's collaborators on the book has recently accused him of unethical practice in the distribution of its royalties. In short, there is an argument over the honest way to divide the proceeds of a book advocating theft.

This illustrates a truism. No human association can get along without rules of fairness. Prisons have "right guys" and "wrong guys" and even thieves sometimes holler for the cops.

Cash is a convenience that can't survive counterfeiting. A credit card civilization can only exist if most of us are honest. If we ever have to go back to biting coins and toting our own scales into the shops then the speed of commerce, which is the essence of our prosperity, will vanish. Without the general assumption of ethical behavior our country would be poor.

So remember this, morality enriches and decomplicates life. Immorality impoverishes and complicates it.

If you tell the truth you don't have to remember what you said. If you lie as a general rule, you'd better keep elaborate notes.

The crooked man leads a complicated life, and he's endlessly surrounded by thieves and cheaters, for he sees his own face in the faces of all men.

If you are going to err, ladies and gentlemen, err on the side of trust.

That doesn't mean you have to be naive. Governor Leon Phillips of Oklahoma had a sign up in his office which quoted an old Indian chief as saying, "Fool me once, shame on you. Fool me twice, shame on me!" You don't have to be a patsy.

But if you are absolutely uncheatable, it means that you have your guard up so high you will be forced to be distant from your fellow man. It is better, occasionally, to be victimized than to be over-suspicious. Err a little on the side of belief in human beings. You won't get lines in your faces so quickly.

Another decomplicator is courage. You've heard the saying that the coward dies a thousand deaths, the brave but one. I remember at the beginning of World War II reading of the farm kid over in Arkansas who committed suicide. He was about to be drafted and was afraid he would be killed in the war.

There is nothing like the plain old-fashioned ability to meet a difficult issue. Trouble is like an angry dog. If you face it fearlessly, it will probably retreat from you. If you try to run away from it, it will grab you by the pants.

Another great decomplicator is the business of keeping an eraser handy.

What's an eraser? It is a device for rubbing out a mistake. Don't stagger through life under a load of futile regret.

You are going to do things of which you will not be proud. We all have done things of which we are not proud. We should ask ourselves three questions:

1. Have I learned my lesson?

2. Am I resolved never to do this stupid thing again?

3. If I have injured someone, have I made every effort at restitution?

If the answer to those three questions is Yes, put your remorse in the garbage can. Don't carry around the chains that weighed down Marley's ghost.

Someone once asked Ben Hogan, the great golfer, how he felt after he had made a bad shot. "I always think," said Hogan, "that the next one will be the big one."

The fourth decomplicator is faith. I don't mean the kind of faith that puts a furtive man with a 30–30 in a Belfast window, waiting for a Catholic dog or a Protestant pig.

We had a lot of that kind of faith during the incredibly vicious religious wars of the Middle Ages.

Nor do I mean the frenetic religious fanaticism which you sometimes see, and which may not be faith at all but some neurotic manifestation of a tortured soul trying to rid itself of internal devils.

Nor do I define faith as a prissy display of holiness by those who are sure they are already elected to Heaven, and who can hardly wait for the damnation of their neighbors.

I mean capital F faith, the faith that bespeaks inner peace.

On New Year's Eve of 1940, when Britain was on its knees and a rampaging Hitler was threatening to send his hordes across the Channel, King George VI got on the BBC to give a ray of hope to his people. I don't know who he quoted, but I clearly remember the words:

"I said to a man who stood at the Gate of the Year, 'Give me a light, that I may tread safely into the unknown.'

"And he said to me, 'Go forth, and put your hand into the hand of God. That shall be better than a light, and safer than a known way.'"

Ladies and gentlemen, it's not going to be so tough for you, unless you make it tough for you.

Barring the big bad luck victims and the big good luck recipients, who won't follow the normal rules, most of you can and most of you will build a good life just as you build a brick wall. A brick wall is nothing but small pieces of dried mud, gradually—slowly accumulated into a formidable thing of great strength.

Every wise thing you say, every decent thing you do, every hour of purposeful and intelligent work, every demonstration of unselfish love will produce a brick. And with the accumulation of good works, good things, little things, you get a wall. Then you'll find it's very hard to miss a substantial realization of your hopes. "Cast thy bread upon the waters, and thou shalt find it after many days."

I don't wish to insult you with idle flattery. The capacity for mental exercise is about the same in one generation as it was in the preceding one. A great number of you will find a comfortable rut, slip your minds in neutral, and turn on the TV. As one of my cynical friends has said, "The only trouble with children is that they grow up to be people."

There are those among you who are drifting through this university because you were sent. Young women may be casually making the minimum grade average because they haven't yet found a likely candidate for a husband, and young men may be turning up with straight C's because they don't want to be sent home and have to get into the plumbing business.

These are the un-eager beavers. They don't understand what this opportunity is all about. They may be plain lazy, or they could be deeply insecure. They may be writing themselves down.

But I have some good news. Some of these apparent sluggards are going to make a marvelous disovery in the next few years. They will catch fire.

Late bloomers are common. Many of the distinguished alumni who are honored by universities later in life were never heard of on the campus during their undergraduate days. I sometimes think that college is wasted on the young. It is a sort of pearls-before-piglets proposition.

But many of you slow starters are going to discover, about the time you get to be 30, that learning can be fun, that challenge is exciting.

Many of the open doors that you are slouching by in your undergraduate days, when you have this marvelous chance to get with it, are going to become intriguing. You may find yourselves in airport waiting rooms, not leafing through sex novels, but picking out treatises on astronomy and chemistry and space science and even accounting. Because many of you who are now just getting by will some day, and perhaps some day soon, begin wondering about what you've been missing.

You who will be late bloomers will be pleased as punch when you find out how much capacity you really have. You will be capable of grasping that which now seems too formidable, of mastering that which presently seems impossible.

There is nothing so complicated that it cannot be reduced to component parts and conquered in pieces.

And so, ladies and gentlemen, life is probably not going to conquer you.

If you are going to fail, you'll have to be self-flunkers.

You can throw yourselves with immature attitudes, and produce disgusted employers, tense households, miserable mates and fouled-up children.

You can throw yourselves with liquor and embark on that downward spiral of the drunk to feel big, the hangover that makes you feel smaller, the drunk to make you feel better, the hangover that makes you feel smaller still, and so on and so on into tragedy.

You can throw yourselves with drugs in an effort to float above problems in narcotic euphoria, instead of facing and resolving them. Even if you discount the physical tortures of addiction, which can hardly be exaggerated, the atrophy of your ability to solve problems can point only one way.

Someone has said that most lives are predestined to be neither triumphant nor tragic. They are predestined to present an endless series of predicaments. Your capacity to resolve predicaments will be the whole answer to your future.

Your salvation will be the daily exercise of common sense. And what is common sense? It is the not-common-enough ability to recognize the obvious.

If you exercise the art of buildup, instead of the grossly overpracticed art of the put-down, you will not lack friends. That's obvious.

If you study and observe you cannot escape acquiring expertise, which will gain for you respect. That's obvious.

If people don't have to watch you, they will trust you. And trust is the surest road to promotion and recognition. That's obvious.

If you indulge in lies you will eventually be utterly disbelieved. That's obvious.

You can hand out only so many wooden nickels before you are out of business. That's obvious.

People who develop alley cat morals will not possess the glue that will cause them to stick during illness and misfortune and advancing age. That's obvious. And then what will they live for—a government pension and a lonely croquet game at St. Petersburg?

Life is a struggle to think well of yourself. And if you do not develop those ingredients of character that bring self-esteem you've lost the struggle.

Life is a search for inner peace. And when you hold to the simple precepts of common sense you'll find the competition not so tough, and the terrors of the night will vanish.

Paul, in his letters to the Corinthians, the Galations and the Ephesians, keeps winding up on one note:

"Finally, my bretheren, be of good cheer."

Well, my brethren and sistern, be of good cheer. Unless you destroy yourselves, you'll probably run up a pretty good score.

As Carl Sandburg wrote in his little poem, "Caboose Thoughts":

"It's going to come out all right, do you know?
The sun, the birds, the grass, they know.
They get along, and we'll get along."

REALIZING THE POTENTIAL OF THE BLACK MEDIA—CURTIS SHAW

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. STOKES. Mr. Speaker, the city of Cleveland is fortunate to have serving her one of the finest broadcasters in the country. Curtis Shaw is a young man whose devotion to the public welfare has been demonstrated on innumerable occasions. I feel that Mr. Shaw's work is an example of the good that can be done by a concerned individual in the communications industry.

Curt Shaw was born on August 13, 1946. In the intervening 25 years, he attended Cleveland's Glenville High School, Cleveland State University, and the University of Iowa. At present he serves as operations manager of WABQ Radio in Cleveland. In 1971, he was elected to a 2-year term as president of the National Association of Television and Radio Announcers, and in 1972 he became chairman of the board of the Association of Black Broadcasters.

Through his work at WABQ, Curt Shaw has created a promising alternative to white analysis and presentation of the news. I am hopeful that efforts such as Mr. Shaw's will not only encourage other talented black broadcasters, but will spur the white media toward greater awareness and responsiveness to the needs of all of the people.

On January 15, 1972, the Cleveland Call and Post featured an article on Mr. Shaw. I commend it to my colleagues as informative reading:

Smooth Talking Curtis Shaw Is Free-lance Philosopher at WABQ

(By Tom Ehrbar)

Over the Station WABQ, which is promoted as Tiger Radio, suave and witty Curtis Shaw is top tiger. He is manager, announcer, free-lance philosopher there.

Anyway, Shaw was rapping about a recent media gathering in Chicago, and right away I could tell he was a radio person—expressing himself just so, with nice even phrases, a molasses timbre, and a command of language. Not glib, though. When I asked Shaw a question he thought it through, then answered frankly, straight out.

So Shaw was rapping about some of the hassles and tussles of black radio. "It's tough for blacks in this business, tougher than it seems," Shaw said. "We don't get the same treatment in regards to pay, in regards to working conditions, in regards to fringe benefits, in regards to anything."

Shaw was particularly miffed at those supposedly neutral guardians of fact, the rating services. These are the people that always knock on the door when Dagwood Bumstead is taking a bath and he comes down with a towel rapped around him and leaves the water running and they ask him what radio station he's listening to.

But like Dagwood Bumstead these services are white, and do not, Shaw asserts, always get an accurate reply from blacks who are distrustful and wary of what they might be consenting to.

Shaw is not super-fond of the white dominance over black radio either. He says "Of our 300 some stations, only 15 have black owners, and only 40 have black managers. This is not a happy situation."

He is certain there is an abundance of black talent, but that their access to radio is unfairly stymied. "And as usual," he says, "the whites have the money and we don't."

At this point, without missing a single breath, Shaw moved spontaneously into a brief dissertation on "a responsible black broadcasting facility." He obviously felt that WABQ aptly qualified, and said:

"a) There must be educational information on the black experience. We have been providing this for six years, long before it became popular to do so.

"b) The station must be available when your people need you. When Martin Luther King was assassinated we went on the air even though we had no license to and let anyone say whatever he wanted to. We became the voice of our community, and I think we prevented what could have been an intensely violent situation.

"c) The news must show the other side, the black side, when necessary.

"d) There must be in-depth surveys to find out what kinds of entertainments our listeners want."

Shaw was also convinced that radio, because of its nature of immediacy, was of special use to the disadvantaged, the illiterate, those who don't have time to watch television.

"We can always at least talk to and listen to one another." he said.

And so saying, and myself listening, Shaw smoothly plugged himself into the musical scene. He said "Black music will never die, it will always continue to expand, to modernize, to spin off into new sounds."

He was also sure that American pop and progressive music are rooted in the black experience. "In the days of slavery," he said, "the blacks in the fields weren't allowed to talk to one another. Their only form of communication was song. The blues was born with a frustrated people, locked in bondage."

Today, rhythem and blues, soul music, or whatever you call it, accounts for about 35 per cent of record sales in the U.S., Shaw says.

Gospel music and jazz too reflect this outpouring of emotion and feeling. And both according to Shaw "are moving in novel and interesting directions."

A watchword with Shaw is "progressive" music, but what exactly it means even he can't define. "It can include jazz-rock sounds, like Chicago, or sweet searching sounds like Carole King. The Fifth Dimension is progressive. James Brown is not. Lead Zeppelin, the Jimmy Hendrix Experience, and Melvin Van Peebles may be called progressive. They're all going places we haven't been before."

Shaw has particular praise for Isaac Hayes, "He's been around for a long time writing songs in Memphis. People never knew about him until he started singing his own stuff. Now finally the recognition is coming."

As a final comment, Shaw mused about one full minute, then said, "I hope black radio can be as meaningful to black people, and as a result to people in general; as black music has been meaningful to music in general.

So saying in perfect cadence, Curtis Shaw, radio man extraordinaire, left me dangling on that hope.

LITHUANIAN INDEPENDENCE

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. DULSKI. Mr. Speaker, once again we pause to join Americans of Lithuanian origin and descent in marking several anniversaries which occur within a few days of each other.

There is the 721st anniversary of the formation of the Lithuanian state when Mindaugas the Great unified all principalities into one kingdom in 1251.

There also is the 54th anniversary of the establishment of the modern Republic of Lithuania on February 16, 1918.

We are fortunate here in America to be able freely to observe these anniversaries. In Lithuania itself, regrettably, such observances are not possible because of the continuing subjugation and oppression by the Soviet Union.

For a relatively too brief period, the Lithuanians were able to exercise the independence they prize and seek. But, since June 1940, they have been under illegal Soviet occupation and annexation and denied their religious freedom and human rights.

The effort must be continued in every forum possible to seek a restoration of basic human rights to the peoples of the Baltic States, including Lithuania.

ANNIVERSARY OF LITHUANIAN INDEPENDENCE

HON. JOHN Y. McCOLLISTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. McCOLLISTER. Mr. Speaker, I wish to join with the Lithuanian American community of Omaha in commemorating the 54th anniversary of the establishment of the Republic of Lithuania. The organization's secretary, Mr. Joseph Navakas, has informed me that approximately 800 members will be celebrating independence day and the 721st anniversary of the formation of the Lithuanian state in 1251. These occasions are cause for festivities.

Yet, I share in the continued sorrow brought on by Russian occupation and oppression during so many of these years. Lithuania's pursuit of freedom became a short-lived reality on February 16, 1918. For 22 years the nation grew and prospered before it was overrun again and engulfed by the Communist empire during World War II. Since that time the population has declined greatly despite several hundred thousand Soviet colonists brought in after World War II.

All Americans can appreciate the never-ending struggle waged by the remaining 3 million Lithuanians to break away from Soviet control. The revolts go on, as does the tyranny. In addition, we applaud the efforts of people of Lithuanian descent in the United States who have kept alive the cause of liberty for their countrymen at home since 1940.

Those of us fortunate enough to live in a free nation must strive to maintain it as a source of hope and inspiration to the enslaved peoples of the world. We honor Lithuanians everywhere on their day of independence and hope that those who remain in the homeland soon will have reason to celebrate renewed independence.

PRESIDENT NIXON SACRIFICES THE CONSUMER AND TAXPAYER TO THE "FARM PROBLEM"

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. WALDIE. Mr. Speaker, a recent article by Mr. Joseph Alsop raises the possibility that the Nixon administration under the guidance of Dr. Earl Butz, Secretary of Agriculture, may be responding to political disaffection in the Midwest by trying to appease farmers through subsidies and by increased consumer prices on food products.

At a time when the President finds it necessary to veto appropriations for health and education; to forestall attempts to develop plans for the eradication of hunger; it is disturbing to realize that the administration might foresake its opposition to increased spending in order to win the votes it could not win in the last election.

The farmers might be "conned" by this political largesse but I doubt the consumer who will pay the price of President Nixon's political generosity to the farmer will be equally enchanted by the high prices he will pay.

If the President were honestly trying to solve farm problems through these decisions, there would be no danger. But, if Mr. Alsop is right, I fear this is not the case.

I would like to place Mr. Alsop's article in the RECORD for the attention of my colleagues:

[From the San Francisco Chronicle, Feb. 4, 1972]

MILLIONS AND BILLIONS FOR THE FARM BELT

(By Joseph Alsop)

One day, an extra $1 billion of government-guaranteed "rural developments credits"; the next day, another $100 million for the corn farmers for not planting corn (with a nice soy bean sweetener)—that, roughly speaking, is the way Secretary of Agriculture Earl L. Butz has been shoveling it out since taking office.

It is a fascinating spectacle. It seems to have passed wholly unnoticed by the Democrats, who keep assuring one another, with rich complacency, that "President Nixon is in bad trouble in the farm belt." Maybe they are partly right today, but the real question is whether the President will still be in trouble in the farm belt next November.

Without plunging too far into the hideous and costly intricacies of the federal agricultural programs, a partial list of costs of the new Secretary of Agriculture's recent decision may be worth offering. To begin with, there was the decision to keep no less than 37 million acres of land out of production under the feed grain program in 1972.

The bill for that one alone will be around $2 billion, or about $600 million more than last year's payments to the feed grain growers for the same purpose.

Then the so-called environmental conservation payments to farmers, cut back last year to $145 million, have been raised again to $200 million. Another $100 million of money for rural electrification loans, long impounded by the Bureau of the Budget, has already been released.

Some $2 million extra for "wheat research" (whatever that may be); another $10 million for a special purchasing program to stimulate the market price of corn—these are mere trifles!

But another deep dig of the shovel of generosity is at least worth mentioning. It is a pretty good bet, in fact, that come April or May, the support price for corn, and maybe for wheat as well, will be raised by 8 or 10 per cent.

The whole thing should be a lesson to the Democrats, who seem to have a limitless capacity for misjudging the President. The choice of Secretary Butz caused every Democrat to crow with delight.

Initially, there is no doubt that the choice of Earl Butz was anything but popular in the farm belt. But what in fact did the President do, when he exchanged Clifford M. Hardin for Butz?

He got rid of a fairly timid and doctrinaire Secretary of Agriculture, and he acquired, instead, a very tough and able operator, with a strong political bent. President Nixon made this exchange, of course, because there was real discontent among the farmers.

Earl Butz is shovelling it out with both hands; and he will surely go on shovelling it out. This year's total increase in federal farm spending can easily go well above $2 billion, if credits are included. The Democrats are always unwise, in sum, because they always under-estimate the President's foresight and political realism.

WHAT IS GOOD FOR SANTA BARBARA IS GOOD FOR THE EAST COAST

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. BRASCO. Mr. Speaker, periodically a proposal is put forth that is either laughable or such a grotesque caricature of reality that it commands significant attention. Drilling for oil off the eastern coast of this country is one such attempt at translating fantasy into ugly reality.

Ordinarily intelligent citizens would greet such a proposal with the derision it so rightly deserves. In this case, however, the proposal must be taken seriously, because of the peculiar circumstances surrounding the way it has emerged as a serious proposition.

Most intelligent Americans are at least generally aware that the domestic oil industry of this country is a coddled, privileged operation, enjoying a series of tax benefits that are the envy of every set of industrial buccaneers in the Republic. Depletion allowances, drilling writeoffs, carveouts, and the like allow the oil industry to reap profits that stagger the imagination. During the 1950's, the artificial walls of oil import quotas were constructed by Presidential Executive order, allowing the Nation to become a captive, profitable sanctuary for the major oil corporations. We pay what they see fit to charge, and that is twice the going world rate for oil. A barrel of crude oil from abroad coming ashore in the New York-Philadelphia-New Jersey refinery complex costs approximately $2,000. When it moves inland to the domestic market, the quotas double its price to the consumer, who of course pays and pays and pays. Such is the unhappy state of affairs today, as the oil moguls gleefully count their massive profits, while paying Federal taxes of around 8 percent annually.

In such a climate of privilege, an arrogant attitude has been spawned in the minds of the people dominating the oil industry decisionmaking process at the top. They feel they can literally get away with anything. Years of such unchallenged dominance have led them to such thinking. As a result, their tankers feel free to despoil our offshore waters and beaches. Their promotion games, based on elementary fraud, are jammed down the throats of the average gasoline station operator, and once again, the consumer pays and pays.

The list is as sad as it is endless. But in recent months a new twist has been added to this particular chain of circumstances. An endless expectation of ever mounting profits has been a permanent part of the oil industry philosophy for some time. Previously, they have been able to raise prices on their products with a fine disregard for the sensibilities or pocketbooks of the average citizen. The cow had always allowed itself to be milked in the past. Why should it rebel this time?

Unfortunately for them, resistance has been rising, and from the Congress on down the line, a constantly mounting outcry has been raised against their depredations. A new gimmick was required. So the "energy crisis" came into being.

Roughly, the argument goes as follows. Because the Government has shaved our tax privileges an infinitesimal amount, we no longer have the financial incentive to develop new domestic sources of oil and natural gas. Until new price hikes are allowed by the Federal Power Commission and other Government agencies, we will have to make do with existing sources here at home. And this certainly may mean that the industrial centers and population concentrations of the Northern United States may be confronted with shortages of oil and gas at critical times during the year, perhaps even during the winter.

Of course an outcry ensued in those same centers. In the process, the Federal Power Commission, which regulates natural gas prices for this fuel when it moves interstate, saw the opportunity it sought, and has begun to grant selective price increases. In turn, this opened up a brand new opportunity to the pirates of this freebooting industry. Why not drill for oil off the east coast of the United States? Why not, indeed.

It was a plausible thought, indeed. If they have been allowed to trample across the sensitivities and wallets of the entire Nation in a dozen different ways; if the tax laws have been written by and for the oil industry; if they have been allowed to inflict one set of prices upon American consumers that is twice that they are able to charge worldwide; why not drill for oil off the east coast of the Nation? Why not allow them to utilize the family toothbrush as well?

Fortunately, the blessings of offshore oil and gas drilling have been revealed to the American public in all their flaming, gaudy glory in recent years. The Santa Barbara Channel oil spill disaster has not faded from memory that fast.

When an oil drilling rig is implanted in an offshore area, it has one purpose: to drill as many producing wells as possible. A common sight is such a rig, complete with as many as two or three dozen sets of pipes leading off it into the water. Each pipe may represent a potential producing well which has been drilled, capped and awaits exploitation. Such was the case in the Santa Barbara Channel. Of course, while all this exists, other wells are in the process of being drilled as well.

In the California case, there was a rupture due to an accident, and the entire channel resort area found itself with an oil spill of catastrophic proportions. Most Americans remember with distaste the sight of oil and gas bubbling to the surface of that lovely body of water with monotonous regularity. All the efforts society and industry were able to mount were unavailing for many days before the spill was brought under some control. The damage to the environment was significant, with results still being tabulated, several years after the event.

The Gulf of Mexico oil drilling rigs have been the source of several holocausts due to similar happenings. It has taken several weeks to bring some of these pyres under some kind of control. Now the oil industry seeks the same blessings for the Atlantic coast of the Nation, right off the shores of the most heavily populated areas of the country.

Their response has been, "the energy crisis," or, "the needs of the Nation must be served." Other times it has been, "technology will prevent any trouble." Of course, no one has believed these fairy tale assurances for an instant.

Yet in the face of the vehement and vigorous opposition of virtually all the Members of Congress from the potentially affected States, the Department of the Interior began to make noises indicating that leases for drilling in these Continental Shelf areas would be made commercially available to the industry.

In spite of all the evidence that showed that an oil spill was an ever-present danger, this sign was given and announced to the media. In spite of the certainty of residual oil spills due to drilling that were a certainty, this action was contemplated. It is to the credit of the people, the media, and the Members of Congress from the affected States that their combined outcry stifled the plan, for the immediate future. Assurances have been given. Delays have been promised and soothing statements have been forthcoming. However, what the large print giveth, the fine print taketh away. Even though we have heard more promises than a drunkard's wife, there is no intention on the part of this Member of the House, at least, to relax any vigilance. The environment of the Continental Shelf area and the Atlantic Coast States come before added profits for the oil industry.

They have been successful in the past in exploiting energy resources in a variety of sparsely populated places, and the environment or people be damned. This time they are not going to get away with it. Notice can and must be constantly served upon these freebooters that the American consumer is turning on them just as their foreign friends are. The cow's milk has turned sour. The cow has sharp horns. And she will use them. The oil industry had better take heed of this particular alarm. They have gone too far.

PHILADELPHIA'S FINANCIAL CRISIS

HON. WILLIAM A. BARRETT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. BARRETT. Mr. Speaker, on February 4 and 5 the Committee of 70, Philadelphia's unique nonpartisan civic watchdog organization held a conference on the city's impending financial crisis.

This seminar was just one of the many special activities of the committee. Included in its regular activities are underwriting graduate fellowships, assisting Temple University and the city of Philadelphia in presenting a graduate-level political science course in municipal administration, investigating complaints concerning the conduct of elections and assisting the Philadelphia city commissioners in the training of election officers.

The basis for the conference was a prediction by the Federal Reserve Bank of Philadelphia that the combined deficit in 1975 for the city and the Philadelphia school district would be $500 million.

My distinguished colleague from Philadelphia, JOSHUA EILBERG, spoke to the conference about the possibility for Federal aid to the big cities and urban school districts. He gave the business and civic leaders at the meeting a clear picture of what our cities and schools can expect from Washington in the near future.

At this time I enter into the RECORD the text of Congressman EILBERG's remarks, the agenda of the 2-day seminar, and the summarizing remarks of the executive secretary of the Committee of Seventy, Michael von Moschzisker:

PHILADELPHIA'S FINANCIAL CRISIS

(An assembly sponsored by the Committee of 70 in cooperation with Temple University)

"$500 million annual deficit in combined operating budget."

Will this be the fate of the City of Philadelphia? It may be, said the Federal Reserve Bank, concluding a comprehensive study of City finances.

To avert such disaster, Philadelphians must be alerted, informed and encouraged to take constructive action. This is the objective of the Assembly.

The Assembly will be held at the Sugar Loaf Conference Center of Temple University, 9230 Germantown Avenue (at Bell's Mill Road), Chestnut Hill:

FRIDAY, FEBRUARY 4, 1972

5:30 p.m.: Registration and Reception (cash bar)

6:30: First General Session: "Philadelphia's Impending Financial Crisis" David Eastburn, president, Mrs. Anita Summers and Mr. Richard Epps, Federal Reserve Bank of Philadelphia

7:30: Dinner (Assembly participants may bring guests at $8 per person)

Speaker: Representative Joshua Eilberg, U.S. Congress, 4th Pennsylvania District, "Federal Financial Aid to Cities"

SATURDAY, FEBRUARY 5

9:00 a.m.: Second General Session: "Philadelphia's Financial Needs and Resources" Lennox Moak, finance director, City of Philadelphia.

10:00: Workshops—

1. Schools' Needs.
2. Municipal Services' Needs.
3. Financial Resources—Local, General.
4. Financial Resources—Local, Business and Industry.
5. Financial Resources—State Government.
6. Financial Resources—Federal Government.

12:30: Luncheon.

2:00: Third General Session—

Workshop Reports.

Commentary by Panel representing Schools, City, State and Federal Government, Business and Industry.

Discussion: Alternatives for Ongoing Action.

Assembly Summary: Michael von Moschzisker, Executive Secretary, 70.

4:30: Adjournment.

FEDERAL AID TO CITIES SPEECH BEFORE THE COMMITTEE OF 70

Urban fiscal crisis—the term has become so pervasive in the media, so familiar from appeals by mayors, so automatic in the reports of commissions and task forces that it may have lost its force and entered the realm of sheer rhetoric.

But it is very real to the urban citizens who feel the effect of urban decay. It is real to mayors who are forced to cut back budgets, drop programs and fire employees—all in the face of increased demands for public services.

It is real to school administrators who are unable to even hold the line and maintain basic programs, let alone develop the new approaches required to meet the special needs of the city pupils.

And, it is real to the man who pays—the taxpayer!

So serious is the situation that the Advisory Commission on Intergovernmental Relations recently began work on a project to develop an orderly plan for dealing with local governments confronted with a financial emergency. It is popularly known as the Municipal Bankruptcy Report.

If we are to avoid the chaos that would ensue were our cities to reach a stage of complete financial collapse, policy makers at all levels of government must join in a concerted effort to realign the allocation of public responsibilities and resources.

Our cities are national assets. They both need, and are entitled, to receive financial assistance to be given by *all* the people in the country.

Few doubt that his country has the *total* resources available to provide essential government services and schooling.

The real problem is that the distribution of responsibility for poviding public services among the three levels of government does not correspond with their respective tax-raising capabilities.

This is particularly true in our older central cities, which are faced with a deadly combination of dwindling tax bases coupled with increased demands for services.

The situation in Philadelphia, which has been so ably described by David Eastburn, president of the Federal Reserve Bank of Philadelphia, is typical.

In his predictions, Mr. Eastburn recognizes our rising demands and expectations.

Because the problem is national in scope, a national response is required. Consider, for example, dislocations in the local economy which are the result of an unhealthy national economy.

The rising salaries and prices which confront local governments, the lower revenue collections due to unemployment, and the unprecedented rise in the cost of borrowing all reflect national economic conditions, and require national remedies.

Andrew Brimmer, member of the Board of Governors of our Federal Reserve System, notes that for all general expenditures combined—state and local—between 1955 and 1969, inflation accounted for well over two-fifths of the total increase in outlays, one-quarter was due to increased workload, while less than one-third was accounted for by changes in scope or quality of services.

Higher prices had the most noticeable effect on the growth of expenditures on local schools—52 percent—and basic urban services—51 percent.

Rising wages and salaries are due partly to the need to offset increases in the cost of living, partly to the need to bring public salaries into better alignment with the private sector, and partly to union militancy. The results of these pressures may be seen in the growth of teacher's salaries in the past 7 years in Philadelphia.

In 1965, before the first teachers' union contract was negotiated, a teacher, on the average, made about $7,200 a year. By 1971, the average salary was $12,500. Teacher wage increases over the past 2 years alone came close to $60 million.

No one can argue that these increases were not justified. In fact, they were long overdue.

The rising cost of debt financing is illustrated in Philadelphia by the figures for school debt service: Between 1962 and 1970, the annual payment on the outstanding debt jumped from $9 million to over $28 million—an increase of 300 percent.

Because of rising interest rates, states and localities are subject to extra costs in maintaining a given volume of debt.

If the average interest rate paid in 1955 had prevailed in 1969, interest payments nationally would have been $2.5 billion, rather than the $3.7 billion actually paid—a saving of $1.2 billion, or 48 percent.

Local governments are facing these rising costs at a time of recession and high unemployment. This slows the expansion of total revenues and places increased demands on local services: Welfare, unemployment compensation, public hospitals and public universities.

It has been estimated that State and local governments would have obtained about $3.5 billion more in revenue in calendar year 1970 if the economy had been at the full employment level.

The Federal government can help alleviate the impact of national economic conditions in several ways. Last year, Congress enacted the Emergency Employment Act of 1971, which is designed to provide approximately 150,000 jobs in the public service.

This legislation authorizes $750 million for fiscal year 1972 and $1 billion for fiscal year 1973. It authorizes these funds to be released when the national unemployment rate reaches 4.5 percent for three consecutive months.

It also authorizes $250 million for fiscal 1972 and $250 million for fiscal 1973 for a special employment assistance program for local areas where the unemployment rate is 6 percent or higher, regardless of the national rate.

This measure is helping to relieve local unemployment and welfare burdens, providing a new source for filling local government personnel needs, and converting 150,000 tax consumers into taxpayers.

A proposal currently being considered by Congress, The National Development Bank, is designed to assist local governments with the problem of meeting the need for public works facilities at a time of rising debt costs.

The Bank would make long-term loans at reasonable interest rates to:

State and local governments for public works facilities,

Individuals and corporations to establish new businesses and commercial institutions, and

Public agencies and private non-profit and limited-dividend corporations for the construction of low and moderate income housing.

Like the Emergency Employment Act, this

proposal is tied to the unemployment rate, and serves as an employment measure as well as an aid to capital facility financing.

This measure was introduced last summer. Its chances are not considered good.

Yet, this program remains a possibility because of its distinguished co-sponsors, Senator John Sparkman, chairman of the Senate Committee on Banking, Housing, and Urban Affairs, and Representative Wright Patman, chairman of the House Committee on Banking and Currency.

Another proposal for alleviating the effects of national cyclical movements in the economy has been put forth by Joseph Pechman of the Brookings Institution. This program would add to the Federal grant system a cyclical grant for general operating purposes which would be activated when the national unemployment rate exceeds 4 percent for three months in a row.

If this supplement were set at $2.5 billion for every percentage point in excess of a national unemployment rate above 4 percent, it would amount to a total of $5 billion under the current unemployment rate of 6 percent.

There are three grounds on which such a program could be justified. First, the Federal Government is responsible for maintaining stable growth. Failure to do this should not increase the burdens on State and local governments.

Secondly, the essential expenditures of State and local governments should not be dependent upon fluctuations in business activity.

Finally, such a supplement to the Federal grant system would be an excellent countercyclical device, allowing State and local governments to plan their expenditures on the basis of revenues at full employment, regardless of the actual flow of receipts.

Unfortunately, at this time, the chances of adoption for this plan are dim.

Of course, the Federal government must, as a first priority, restore and then maintain full employment, full production, and optimum economic growth. That in itself would do a great deal to move us toward the solution of other economic and social problems in our cities.

I have been asked: What if the Federal Reserve Bank's predictions come true?

Will Uncle Sam bail us out with $500 million in 1975, should that figure be the deficit?

First, I think figures such as that are very "iffy" and do not reflect the present determination of the new city administration to prevent such a disaster.

Secondly, the U.S. could do it. Considering the kind of money we spend on trips to the moon and space shuttles, Lockheed and Penn Central loans, C–5A's, etc., and, although $500 million dollars adds up to the salary of all Congressmen and Senators for 22 years, this sized expenditure does not shock us anymore.

Thirdly, I do not believe things will get that bad before help comes.

Our mechanism of government in Washington is sometimes creaky, but I have been there long enough to know it responds to emergencies.

A particularly crucial element in any program to save our cities is the desperate need to improve city schools.

Until these schools become institutions to be proud of, rather than to flee from, the cycle of blight, abandonment, and decline will continue to run in our central cities—a cycle that threatens the very fabric of our society.

Local resources are simply not adequate to meet the need. It is imperative that the Federal government take action.

As I said when I co-sponsored the Quality School Assistance Act of 1972, "The young minds that will make America greater in the years ahead are, at the same time, our finest resource and surest defense. Let us insure by our commitment and action in this body that the best a great nation possesses is assured to our young."

The Federal government currently provides 7 percent of the nation's expenditure for education. The Federal role has been essentially a supplementary one, attempting to plug holes in the fiscal structure of our educational system.

Despite Federal aid, however, the system is creaking, malnourished and unable to maintain on-going programs. This critical situation, plus recent court decisions in several states regarding the current system of financing education, has given impetus to a search for new Federal approaches to the problem.

One approach is embodied in the Quality School Assistance Act. This proposal would provide a greatly expanded form of general, non-earmarked aid to local educatioanl agencies, with special provisions for those districts with large concentrations of students from low-income families.

It includes funds for construction and extends the impact-aid program. Philadelphia would gain almost $90 million in the first year of this program's operation if there are no changes in the original plan.

Because the funds are not earmarked, this program will help to alleviate the problems of educators who claim Federal aid is helping them to meet special needs, but it does little to help them keep the basic enterprise running. They want general, unrestricted operating funds.

The formula takes into account the special needs of low-income children. Therefore the proposal ensures that the areas of greatest need will receive the greatest assistance.

This bill is too new in the hopper to evaluate its chances. We cannot be optimistic in view of the amount of money involved.

Right now, there is growing support in Washington for the idea of Federal assistance for basic operating programs in the local schools.

This favorable climate will probably be strengthened by the report of the President's Commission on School Finance which will be released in the next few weeks.

The Commission is expected to recommend a major overhaul in the nation's educational finance methods. This will include a State-directed tax effort equalization program and more Federal assistance to be given in the form of general, non-earmarked funds with special emphasis given to the needs of urban schools.

Unfortunately, I have come to take a dim view of Commission reports. After submission, they tend to gather dust unless they agree with the prior views of the Administration.

A second approach to greater Federal participation in education is to provide incentives to the States to assume the whole cost of financing public elementary and secondary education as a State function, and gradually relieve the local government of this burden.

This method has been recommended by the Advisory Commission on Intergovernmental Relations and the National Educational Finance Project, and is incorporated in a bill introduced by Representative John Dow of New York.

As the state increases its support, under this approach, the burden borne by the local property tax—which has now reached unmanageable levels in many districts—would be correspondingly reduced.

The States might meet the additional costs of such a program by a State-wide property tax and/or greater reliance on sales and income taxes.

The Federal government can assist the States in these efforts by adjusting Federal services and taxes to reflect the increase in State taxes.

For example, it could increase Federal income tax deductions or credits for taxes paid to the States.

Reports I have received in Washington, however, indicate no great hopes for this idea.

There is substantial feeling in the House that the present patchwork of Federal aid to local education must be converted into an across-the-board system of helping the nation's schools.

The purpose is to raise the present level of Federal spending for education from 7 percent of the total expenditures to 33 and one-third percent.

The increase in spending would be accompanied by a change in policy from funding specialized programs to authorizations for general operating funds.

It is doubtful that any such significant changes will materialize this year, but Chairman Carl Perkins and other key leaders are determined to bring a general aid bill to the floor sometime this session.

The need for Federal assistance to local governments for programs other than education has been widely documented.

There is growing sentiment in Washington for the idea that the Federal Government must commit itself to a new approach to urban problems, based on a total city strategy rather than piecemeal programs that apply band-aids to one neighborhood or service while others are collapsing.

This strategy would entail some form of Federal funding which would provide for equal services to all citizens and would retain some elements of local control.

It seeks to reconcile the need for applying National resources to local needs, while retaining the traditional concept of local determination as the best way to solve local problems.

The basic case for general Federal aid, as stated by Professor George Break, at Berkeley, rests on the "Proposition that State and local governments are presently unable, for reasons beyond their control, to provide the level of local and regional public service benefits that their residents really would like to purchase, or that today's societies regard as an absolute minimum."

Because I support the basic idea of general aid for local governments, I have co-sponsored several measures which take varying approaches to the solution of the problem.

Perhaps the most significant of the proposals is the Intergovernmental Fiscal Coordination Act, H.R. 11950, introduced by Wilbur Mills, the chairman of the House Ways and Means Committee.

This bill has three basic elements:

Direct payments to county and local governments, amounting to $3.5 billion a year for five years.

Direct payments to State governments, in the form of incentive payments geared to the level of State individual income taxes, amounting to $1.8 billion a year for five years, and

Optional Federal collection of State income taxes.

We expect to come to the floor of the House in March with the bill.

In its present form this legislation would provide $36 million to Philadelphia in automatic pass-through funds. It is possible that as we try to improve the aid formula, based on municipal overburden, we may do better.

These funds, which could not be used for education or welfare costs, are restricted to expenditures for public safety, health services, environmental protection, public transportation, youth recreation and fiscal administration. These funds could also be used for the capital cost of providing public works facilities.

Another approach to aiding State and local governments is embodied in legislation introduced by Representative Henry Reuss of Wisconsin, which I am also co-sponsoring. This bill would link Federal financial aid to

State and local government reform efforts by giving incentives to the States to reform their own and their local governments.

In order to qualify for shared revenues in the second and subsequent years of a revenue sharing program, the Governor of a State must come forward with a modernization plan for his State and local governments.

States that do not have an income tax are given an incentive to adopt such a tax. This legislation is designed to support moves in the direction of modernized, fiscally equitable, and humanized local government.

In addition to general aid proposals, other attempts are underway to restructure Federal aid to cities so that local officials will be able to develop a total approach to the problems of their communities.

Both the Senate Subcommittee on Housing and Urban Affairs and the House Subcommittee on Housing are scheduled to work this month on major bills aimed at revising central city renewal and metropolitan development programs.

Essentially, these proposals would consolidate existing fragmented programs for community renewal and development into a single package, cutting down on the red tape and delays that result from the current multi-program approach.

Both the House and Senate Bills would authorize three-year funding for the programs, subject to annual review for performance and modification of funding commitments of local programs. It is expected that legislation along these lines will be enacted in this session.

Finally, there is interest in alleviating State and local financial burdens by having the Federal Government assume the full costs of welfare and medicaid.

You will recall that Representative Mills' Federal aid proposal would prohibit use of funds provided under that program for welfare costs.

The Mills' proposal has this provision because H.R. 1, which has passed the House, provides for Federal assumption of welfare costs. Hearings on H.R. 1 are underway in the Senate Finance Committee.

Yesterday in Washington we learned that an agreement for welfare reform had been worked out between top Nixon Administration officials and Senator Abraham Ribicoff of Connecticut, whereby there will be a major pilot project before welfare reform goes into effect, possibly on January 1, 1974.

Incidentally, an amendment to H.R. 1, pending in the Finance Committee, would provide immediate fiscal relief to the States in the form of $2 billion in emergency payments in the next two years.

Numerous proposals for reforming the nation's system of financing health care are under consideration in the Congress. These bills range from variations of continued reliance on private health insurance to a comprehensive government-supported health care program.

Essentially, health finance reform involving greater Federal participation would relieve the States of the expenses involved in participation in medicaid and other programs, thereby releasing the money for other areas. The House Ways and Means Committee is scheduled to begin hearings on this question in the spring.

Realistically, we shall not legislate in this area this year, except perhaps in the direction of alleviating our citizens of the enormous expense of catastrophic illnesses.

I have tried to give you an assessment of the current thinking in Washington regarding financial relief for local governments. I think we can safely say there is growing support for the idea that cities and their schools must have greater access to Federal funds for maintaining and enriching their services.

We see support for the idea that the Federal Government must recognize the impact of national economic conditions on State and local pocketbooks.

We see support for the development of a coordinated, long-range approach to providing Federal aid.

Whether, in view of the current Federal budget, any immediate relief is in sight I cannot say, except for the very high probability of passage of the Mills' bill.

The big-city mayors, in their review of the President's 1973 budget, asserted that it would reduce major urban programs by $765 million in the fiscal year beginning July 1, 1972.

Mayor Henry W. Maier, of Milwaukee, noted "We're gearing up for a space shuttle by adding $250 million to the earth orbital program, while we are cutting back substantally on funds for low-income housing."

I cannot end my remarks without urging you to be in touch with us more.

There are some 100 Congressmen from the large cities, 240 from metropolitan areas. If you help us and make us do our job better, we will improve the prospects for our cities in the legislative area.

In any event, increased Federal aid will not do much good if we do not work for a better end product here.

We must spend productively. What good are our schools if the kids getting out can't read?

Our cities deserve a better fate than a cutback in services. I agree with Arthur Naftalin, former mayor of Minneapolis, that "The most urgent need today is for a definition of priorities, of what this nation ought to be doing. That definition cannot emerge from 50 states and countless localities.

"It is a study in illogic to devolve responsibility for making national policy upon units of government incapable of doing that. To follow that approach would be to run away from responsibility."

I believe that the Federal government must, in the near future will, accept that responsibility.

There has been a great deal of speculation about conditions in our great cities and that perhaps they are worn out.

These comments are usually made by suburbanites on their way home to their crab grass and martinis.

But, I prefer to go along with the opinion of Simon John McPherson, a Presbyterian minister, who said:

"The city has always been the decisive battleground of civilization . . . It intensifies all the natural tendencies of man.

"From its fomented energies, as well as from its greater weight of numbers the city controls.

"Ancient civilizations rose and fell with their leading cities. In modern times, it is hardly too much to say, as goes the city so goes the world."

Thank you.

FINANCIAL PLIGHT OF PHILADELPHIA AND ITS SCHOOL DISTRICT

(Remarks delivered on February 5, 1972 by Michael von Moschzisker, executive secretary of the Committee of Seventy, Room 910, 1420 Walnut Street, Philadelphia, Pa., summarizing the assembly, sponsored by the Committee of Seventy)

I brought the idea of this Assembly before what I think to be one of the most remarkable groups that Philadelphia has had in my adult lifetime—the Board of the Committee of Seventy—and the Board and successive Chairmen have pushed it hard.

If I may be forgiven a word of personal appreciation, it is wonderful to see you men and women here, men and women who have done their homework. I am going to mention United States Senator Hugh M. Scott. He would have been with us except that he is a trustee of the University of Virginia, and the Trustees are meeting just while we're here—the same two days. That's a direct responsibility that Senator Scott has had for some years and only it kept him from being here. Fortunately, you have already had his special message to this Assembly.

We've learned much. It has interested me to learn that the term "good old days" is a reference to the administration of Bernard G. Samuel. We first heard from David Eastburn, President of the Philadelphia Federal Reserve Bank, who called for an action program. Later this Assembly adopted Mr. I. M. Scott's Resolution. Not a substitute for action, not designed to lull us into non-accomplishment, the Scott Resolution gives us a means, if you choose to use it, to go on to further action and accomplishment. Mr. Eastburn requested that his call for action be responded to at once. I believe that the men and women here have done their best so far. We next heard from Mr. Epps of the Federal Reserve Bank. He showed us wonderful charts on the wall that I am now facing. That is to say the purple and blue bars showing income were wonderful; the orange bars, showing expenses, are another matter altogether.

Mr. Epps spoke of the impact upon the Philadelphia budget of increased services and of inflation. Wages in the public sector in Philadelphia, he noted, have grown more rapidly than in the private sector, and more rapidly than in the public sector in other cities. He spoke in terms of a possible operating budget deficit for city and school district combined of more than $800 million by July, 1974—not correcting the March, 1971 Federal Reserve Bank Report, but simply noting the evidence brought forward, as more water has flower under the bridge.

Mrs. Anita Summers then spoke about what might be done. Power flows to the political unit that can best raise money, Mrs. Summers noted. She reminded us that there are short run problems that perhaps can be responded to with band-aids, but there are long run problems too—and by analogy to physical health you might say that they can be responded to better by adequate, nourishing, balance fiscal fare. Overburdened expenses are different than the problem raised by disappointing revenues, Mrs. Summers noted, and I believe that she communicated to us little hope that we succeed in curtailing our expenditures. She reminded us of inadequacies in the real estate assessment system. She reminded us that the real estate tax relief is regressive, and with that the shade of our late host, Mr. Greenfield, appeared in the corner. The communities surrounding Philadelphia are served by Philadelphia, Mrs. Summers noted, and she admonished us to consider how the people of these communities might pay a more proper share of the cost of the services they are able to receive from Philadelphia. She spoke too of the possibility of increased efficiency through modern electronic techniques, such as those used by the New York Fire Department to spot the areas where fires are apt to occur at certain hours. She mentioned revenue sharing, with strings, without strings—so-called tied and untied revenue sharing. She reminded us of the threat to our federal system that may be implicit in revenue sharing. I did not understand her to mean, and I don't mean to imply, that we should back off from revenue sharing because it might be a threat to our traditional federal system. Echoing Mr. Eastburn, Mrs. Summers enunciated a plea that this group's responsibility not be discharged at 4:30 p.m. today—which is approximately the time it will not be discharged. I believe.

Congressman Eilberg then addressed us. He too spoke of ongoing responsibility on our part. He expressed it in terms of responsibility to communicate with the members of legislative bodies, letting them know our needs and our wishes. Mr. Eilberg also spoke of the bill introduced by Representative Mills for the revenue sharing. He spoke of the value added tax, and in effect said that he regarded it as a glorified sales tax, regressive in nature. Most interestingly, Congressman Eilberg predicted, at least twice I believe, that Mr. Moak, when he appeared this morning would in important respects contradict the Federal Reserve Bank Report. Almost everybody in this room heard Mr. Moak, the city's Finance Director, and can judge whether or not his remarks impaired the validity of what was said by the Federal Reserve Bank.

Mr. Moak came before us this morning. We learned many things. I learned that the eighteen month budget I've criticized Mayor Tate for so many times was, according to Mr. Moak, modeled on an eighten-month budget device that Mr. Dilworth put through as school board president.

Mr. Moak acknowledged that he was speaking in terms of gloom and doom. He too spoke of the expansion of government activities and expenditures. He observed that they challenge our capacity to govern ourselves, that is to say our capacity to sustain our constitutional republic, our representative democracy. He spoke of the impact of loss of jobs in a city that's largely dependent upon the wage tax. He spoke of what he termed—and who am I to contradict him?—undue generosity to city employees, most notably with regard to pensions, as well as other misdesignated fringe benefits. He told us that on July 3, 1972, not only can we look forward to a holiday the next day, but also we may read that a loan has to be negotiated by the city in the amount of $40 million to meet debt service obligations. Mr. Moak spoke of an $83 million city deficit by July, 1973, even before you throw in the coming wage raises under the contracts to be negotiated. Meanwhile, he noted, our tax rates have accelerated more substantially than those of other cities, although other cities are in a jam similar to Philadelphia's. Mr. Moak mentioned plans to improve the tax climate of the business community—not as something to be done for business, but for us all, because it will mean more jobs and fewer jobs lost. He noted a tendency to rely less upon our municipality as a source of financing, and of course a tendency to look more to Washington and Harrisburg—and to the latter city particularly for the expenses of our courts and our prisons and for care of our dependent children. He mentioned the Act of 1968 which provides for binding arbitration for wage and fringe benefit negotiations for fire fighters and policemen, a remarkable piece of legislation incidentally because it takes away from City Council and places in the hands of arbitrators the power to fix a large part of our city budget. Perhaps it would be unconstitutional, but while we all slept lobbyists for the fire fighters' and policemen's unions included in the new Constitution of Pennsylvania a provision authorizing the Act of 1968. So it's hard now to argue that it's unconstitutional, although there is some suggestion that a sort of daring, original-minded attack on the constitutionality of those provisions under the Federal Constitution might possibly be launched. Mr. Moak spoke of the city's operating budget as one that will embrace $573 million to which you have to add not only the pay raises that will be negotiated but the expenses of new judges and their retinues as well. And he spoke of an annual $343 million operating budget for our schools.

At lunch we were honored to hear from the Chairman of the City Planning Commission, Bernard G. Meltzer. He spoke of crisis because of an imbalance in our concept of planning, mentioning the three legs of a metaphorical stool: first, human resources; second, the environmental factor; and third the economic feasibility of plans. Mr. Meltzer explained that planners helped to create the imbalanced situation in Philadelphia, saying that before World War I, our planners heeded only the concept of economic feasibility; then the focus shifted to human needs; and then to the environmental factor, at which time economic feasibility was all but ignored. He spoke of the need for alternative studies, promising that such studies will now take place. He almost told us that this means that a certain area of land is not to be used for low cost public housing as promised, but, if I heard Mr. Meltzer correctly, he stopped short of telling us that this has been decided. He assured us that there will be no more sugar pills—a prediction with which I find myself in accord after listening carefully to what was said in a recent campaign for Mayor. He noted that if we will have libraries and so forth, we must be prepared to pay for them and that there may have to be severe curtailment in the length of the first leg of his metaphorical stool, which was money spent on human needs and resources, as well as in the second leg, which involved consideration of the environment.

Many projects of negative economic feasibility will have to be delayed or shelved, the Chairman of the City Planning Commission advised us. It is no criticism of him, indeed it is wonderful that he came here and told us what's going on. All thanks to him, no criticism whatsoever, if I say that some of us in listening must have wondered if it is proposed that we return to the Dark Ages, and we wondered whether this nation cannot really afford to have a stool with three adequate legs, as I think Dr. Haakenson indicated we can.

I only have one feeling of disappointment about the conference. I tried to listen carefully, I may have missed it, but I remember no adequate discussion of whether more funds might become available for urban areas and for Philadelphia itself, if we rethink our national priorities and especially rethink the wisdom of spending as much as we do spend on what should be only an effort to retain a respectable defensive posture militarily, but which many of us think has become a great deal more than that—and some of us think unwisely so.

In the workshop reports, Mr. Burton dealt with educational needs. The workshop had become emotional, he reported. Certainly that's understandable—they had spoken of pre-school deprivation and the new generation whose needs are not being met. Of what might be done in training parents too, in regard to Get-Set, and to having more teachers per child, avoiding very delicately the controversial question of whether to have fewer children per teacher. Mr. Burton's workshop had spoken also of the necessity that skills relevant to students' environments be acquired by the youngsters. Education ought to be regarded as a capital investment, he reported—echoing, I believe, many people, including Governor Shapp. The year-round school, split-shift schools, the involvement of parents and para-professionals in schools—all these too were considered by the workshop on Educational Needs.

The workshop on Municipal Needs, for which Mr. Ruthrauff reported, had considered whether people are satisfied with services received. Once perhaps they were, but no longer! Whose needs does the new city administration propose to satisfy?—the workshop asked. The sophistication and skill of those who arbitrate for the city in labor matters were questioned in this workshop. There was general feeling that there is little chance of reducing expenses or of increased efficiency, but that the use of modern techniques to increase efficiency, as in the case of the New York Fire Department, has hot been adequately explored in Philadelphia.

Mr. Pincus reported for the workshop on Local Financial Resources. What potential is there is there to improve real estate tax assessments?—they asked. Particularly what potential is there as older structures deteriorate and are even abandoned? The workshop, I speculated, walked right up to the edge of considering Henry George's theory of land value taxation. I don't know that they reached it. They discussed the desirability of reassessing the entire city of Philadelphia. They discussed the recent court decisions from Minnesota, California, Richmond and elsewhere in regard to financing public education. For wage taxes or business taxes to increase without corresponding increases in similar taxes elsewhere in the Delaware Valley would be harmful, this workshop advises us. And they mentioned the possibility of a successful Bicentennial in Eastwick which would get me off the hook a bit. I was chairman of the Redevelopment Authority at the time we approved the Eastwick project. Perhaps I should claim that I had in mind making the Bicentennial possible.

The workshop on State Financial Resources reported in the person of Dr. Haakenson and Mrs. Lotman, at least one of whom was described as lovely. You discerned a ray of hope and good cheer entering our deliberations from Dr. Haakenson. Four points emerged. One, we should latch on to any funds we can get from any other sovereign, state or national, whether or not this endangers the traditional balance of our political entities—city, state, and national. Two, Pennsylvania needs a graduated income tax and from this the gentleman from the Constitutional Party dissented. We must have sophisticated, coordinated, original and imaginative planned budgets, this workshop concluded. And our procedures for making public decisions must be dragged screaming and kicking into the 20th century. The workshop concluded that the Assembly should reach some kind of decision as to ongoing action, which I believe is the truth. The resolution you have adopted makes this possible.

Mrs. Lotman reported that the workshop also considered the role of industry in helping make it possible for young men and women to learn vocations—not in substitution for the role of schools but supplementing the role of schools.

Mr. O'Malley, of the Federal Financial Resources workshop, reported that responsibility for the welfare program might well be totally assumed by the Federal government. The responsibility for paying for education and housing too might well be assumed in part by the Federal government, but more as to financing than by way of control. Federal resources are limited, however, and we should be warned that spending more money or getting more money does not necessarily mean achieving a great deal more in the way of desirable results. Some reservations in regard to revenue sharing were noted. Will the money become stuck in Harrisburg and not reach Philadelphia? And from the floor Mr. Gilbert noted the need to spend in such a way as to generate improvement, not just to soften the anguish of an ill community.

You have just heard the panel discussion. It is so fresh in your minds that I believe I would be delineating the obvious were I to give you a run-down on it. I noted, however, Mr. Cashel's reference to possible increased participation by consortia of businessmen in the struggle to meet our needs. And certainly we all join Mrs. Bennett in hoping that schools of education will explore alternative educational programs.

In closing, I thank you for your attention, your attendance, and your participation in this Assembly. I only wish there had been full discussion of whether sufficient increased Federal help for Philadelphia and other cities does not require that the Pentagon pull in its belt.

Thank you for permitting me to summarize this Assembly.

(The resolution adopted unanimously by those present reads as follows:)

"Resolved that there shall be formed an ongoing group to carry forward the purposes of this Assembly, and that membership in such ongoing group shall be open to all who have participated in our proceedings yesterday and today."

THE SITUATION IN NORTHERN IRELAND

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mrs. HICKS of Massachusetts. Mr. Speaker, I would like to take this opportunity to voice my concern over the present situation in Northern Ireland. The violence and bloodshed of "Bloody Sunday" has dramatically pointed out the tragedy and horror suffered by Northern Ireland and its people. Its people suffer and its divisions grow greater and deeper daily. The consequences of imposing law and order have been disastrous and repressive. It has become quite clear that the British troops have not only failed but have added to the violence and often caused it. We can no longer tolerate this unjust situation which has brought tragedy and misery into the lives of the people of Northern Ireland.

The Catholic minority in Northern Ireland has over the years been blatantly discriminated against and is denied basic civil rights and equal justice under the law. Abuse, humiliation and frustration have been a stark reality for the Catholics of Northern Ireland. Catholic civil rights groups have agitated for redress of well-justified grievances, such as the denial of the principle of one-man-one-vote, as well as discrimination in housing and employment.

British actions and policies have been a complete failure. I strongly believe that British troops must leave Northern Ireland now, for we have seen that civilians must now protect themselves from the protectors. Civil disobedience has clearly spread rapidly and has intensified hatreds and frustrations to the brink of civil war.

A political settlement cannot be achieved while a systematic repressive military force exists and while this very force is implementing the shameful policy of internment without trial, directed almost exclusively against the Catholics and is generally harassing, intimidating, and terrorizing the Catholic population.

I firmly believe that the long standing policy of discrimination against the Catholic minority must be brought under control and that the long-run solution may be a free and united Ireland. Indeed, it would not be an easy task but it is quite evident that continuation along present lines by all parties concerned presents the greatest risk.

The tragedy of Bloody Sunday and the 13 deaths appear to symbolize the end of Northern Ireland in its present political form; almost all Catholics have withdrawn from government positions, lawyers are considering a boycott of the courts, and thousands of families have refused to pay rents and electricity bills. Clearly these conditions represent a radicalization of even the moderate elements within the Catholic community. The outraged Catholic minority which at first was but demanding equality in housing and employment has come to totally disregard the government as a viable force, and has turned to the IRA The IRA has now become the symbol of liberation. A civil rights leader aptly expressed the sentiments of the Catholic minority shortly following the funerals of the Londonderry victims when he said that faith in the system had been shattered and it would have to be replaced.

I strongly believe that we in the Congress as responsible and concerned individuals should urge the administration to take appropriate actions to place Northern Ireland on the U.N. Security Council agenda and to persuade the British Government to accept a U.N. peacekeeping force. By these actions I would hope that the result would be a country in which the people of Ireland could live in harmony, peace, dignity, and equal justice.

THE RETIREMENT OF CHIEF MARTIN C. McDONNELL

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. McCLOSKEY. Mr. Speaker, occasionally the service of a dedicated local government employee reminds us that all the problems are not in Washington and that local government employees are as important to the Nation as is the Federal Government.

This week the city of San Mateo, Calif., is losing one of its most devoted public servants, Police Chief Martin "Marty" McDonnell, after 41 years of dedicated service. Chief McDonnell joined the police department of San Mateo in July of 1930, when the force consisted of 14 men. From that day forward, except for a brief period of service with the U.S. Navy, Martin C. McDonnell has faithfully served the residents of the city. Upon his appointment to Chief of Police in 1950, the size of the force had grown to 50, and, during his tenure, the force grew to 150 plus school crossing guards and a large reserve corps.

When the Commission on Peace Officers Standards and Training was first formulated in 1959, Chief McDonnell was appointed by Governor Brown to that commission and served as its chairman in 1960, continuing his commission until just recently.

Chief McDonnell has also served as president of the California Chapter of the National Academy Associates, the Bay Counties Peace Officers' Association, and the San Mateo County Law Enforcement Association. He is a past president of the Police Chief's Department and the League of California Cities and a past member of the State League Board of Directors. He has given of himself unselfishly for the community in his years of service, and for this commitment to the betterment of the quailty of life, I commend him. To his wife and family I give my thanks on behalf of the community for their understanding and their willingness to share their husband and father over these years for the good of the community.

Chief McDonnell has guided and developed an excellent law enforcement agency, and the effects of his commitment will remain as an indelible asset to the quality of life of San Mateo, Calif.

The San Mateo Times has rather succintly stated the view of the community on the generosity of Chief McDonnell. I include the recent statement made by this newspaper on the occasion of the announcement of the chief's retirement:

CITY SALUTES AN OUTSTANDING POLICE OFFICIAL

Often it is difficult to measure the impact a man has on his community.

This is certainly not the case, however, with a smiling Irish policeman who officially ended a remarkable 41 years of service to the people of San Mateo yesterday.

The undisputed fact that San Mateo is one of the best communities in the world in which to live derives in no small measure from the superb police services rendered over these years by Police Chief Martin McDonnell.

McDonnell comes from the old school of law enforcement but it is mellowed by an Irish twinkle and a strong sense of compassion for his fellow man. Trained by his predecessor, the late Bob O'Brien, Chief McDonnell has stamped his mark on a fine department.

There is no organized crime in San Mateo; there is a police department with genuine roots in the community.

In the days when it has become fashionable to downgrade police officers and police work it is refreshing to find scarcely a word of criticism of Chief McDonnell or his department.

He has been recognized statewide and nationally for his efforts to raise police standards. He is one of the founding directors of the State Police Officers and Standards and Training Program.

But the full measure of appreciation will come from his fellow San Mateans and Peninsulans who will join with The Times in wishing him a long and relaxed retirement.

We agree with City Manager Don Mueller that "it will be difficult to find a replacement for Marty."

MASSACHUSETTS HOUSE OF REPRESENTATIVES HONORS JOSEPH M. HEIRTY

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mrs. HICKS of Massachusetts. Mr. Speaker, on Saturday, February 12, 1972, the Massachusetts House of Representatives honored a most dedicated employee—Joseph M. Heirty, retired senior coordinator of recreation in the Boston Parks and Recreation Department of the city.

"Joe" Heirty has for many years served the youth of Boston and is a specialist in the boxing arena. By keeping his boys in sports he managed to keep many of them out of court.

I join in the resolution offered by Representative Michael F. Flaherty and adopted by the Massachusetts House of Representatives which stated:

Whereas: On February 5, 1972, friends and neighbors of Joseph M. Heirty will join with him in celebration of his retirement as Senior Recreational Coordinator with the Boston Park Department; and

Whereas: Joseph M. Heirty served in the Boston Park Department for 45 years during which he dedicated his life to the youth and the continued improvement of the recreational facilities of the city; and

Whereas: He won the respect and admiration of all those with whom he came in contact by his sincerity of purpose and interest in all youth; therefore be it

Resolved: That the Masachusetts House of Representatitves commends Joseph M. Heirty on his dedication to public service and a job well done; and be it further

Resolved: That an engrossed copy of these resolutions be sent by the Secretary of the Commonwealth to Joseph M. Heirty.

THE ANSWER TO PRISON REFORM AND CRIME CONTROL

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. MIKVA. Mr. Speaker, I believe I have seen the answer to the urgent problems of prison reform and of crime control.

During a recent tour of the Illinois correctional system, several members of the Judiciary Committee had an opportunity to see in close succession the hopelessness of past practices in dealing with crime and criminals, and the hope for the future.

After the sobering experience of touring the overcrowded dungeons which the older prisons in every State represent, my colleagues and I were treated to a real breath of fresh air when we visited the newest State penal institution in Illinois at Vienna.

It is a remarkable place—an exciting place, staffed by qualified and dedicated people who care about the people they are trying to help.

The first indication that this is an extraordinary prison is the physical plant itself. At first glance, it resembles a quiet suburban development—townhouse-type dwelling units on neatly maintained streets amidst grass and trees. No high walls, no bars, no locks, none of the debilitating indicia of the custodial institutions we have been building for centuries and which have been failing for centuries to do anything more than produce embittered, corrupted ex-cons who are 3-to-1 shots to become repeaters.

The residents of the Vienna Correctional Center have nothing to keep them there except their own sense of responsibility. No one does walk away, and the residents are quick to tell visitors that no one dares to jeopardize the programs and the opportunities of the other residents by breaking the rules.

The most exciting thing at Vienna is the attitudes of the residents. They have hope. They have something to look forward to, something to aspire to, thanks to the outstanding vocational and educational programs available to them. Unlike the farcical programs of prison industries in old-line institutions, the men at Vienna are being trained on modern equipment for jobs which really do exist on the outside. They are being trained as typewriter repairmen, keypunch operators, auto mechanics, and welders—not license plate makers or mattress stuffers.

The relationship between realistic vocational training and a convict's chances for making it on his own after release have been clearly demonstrated. The members of the Judiciary Committee who went to Illinois saw a small example of that fact at one of the older State institutions which provides two vocational opportunities to inmates—a machine shop and a clothing shop. The recidivism rate of inmates who work in the clothing shop is over 50 percent, a factor due at least in part to the simple fact that the garment industry has been shrinking for the last 25 years and there is simply no demand on the outside for men with these skills. Graduates of the machine shop, on the other hand, have a recidivism rate below 5 percent.

The educational and vocational programs at Vienna are so good that they are attended not only by inmates but also by people from the surrounding community who may be equally needful of the opportunities such training can provide.

The Illinois State Prison at Vienna is a model of what we ought to be doing. It is an institution that cares more about an inmate's future than about his past. Because the staff cares, because the institution offers a man a real opportunity to make it when he is released, the inmates care, too. Because they are given responsibility and are treated like men, the inmates feel and act like responsible men. The hope we saw in their faces and heard in their voices was the most positive thing society could ask as a return for the dollars and manpower invested in a corrections system.

There is no doubt in my mind that the overwhelming majority of the men who are eventually released from Vienna will make it. They will not return to that or any other penal institution, and that is what counts not only for the men themselves but for the rest of us who might otherwise be victims of crime.

There is no doubt in my mind that the overwhelming majority of people who sit decaying in most of our prisons could also make it, if given the opportunity to do their "time" at a place like Vienna.

The Illinois State Prison at Vienna is nothing less than a world way from the bastilles through which we have been pouring our money and our moral resources down the drain. It is impossible to convey in words the gap between the despair of our traditional prisons and the hope which is found and is felt at Vienna.

I would urge every citizen to heed the advice of the Chief Justice of the Supreme Court, and to visit a prison sometime. But before you give up hope completely on reducing crime by "correcting" convicted offenders, go to Vienna.

An article in the Sunday Star recently featured Vienna as an example of the new hope in corrections. The text of that article follows:

THE MACHINE—THE FAILURE OF PRISONS

(By John Fialka)

Like some giant machine that no one knows how to turn off, America's prison system keeps building large new prisons in rural areas.

A team of experts that is completing what may be the most thorough study of modern prisons yet undertaken has visited 100 prisons in 31 states, all built in the 1960s and nearly all standard products of the machine.

"You know, we heard a lot about community-based programs. This has been the rhetoric lately. We heard a lot about small institutions, too," said William Nagel, a former prison administrator who heads the team for the American foundation, which undertook the project for the Justice Department.

"But what we have seen has been quite large, quite isolated and quite traditional."

A reporter who visited prisons across the country and talked to more than 51 wardens and prison system administrators found no one who would defend the process.

Before beginning their travels early in 1971, Nagel and his colleagues, an architect, a psychologist and a researcher, steeped themselves in the literature of corrections.

It is established dogma, they found, that new prisons should be small, with a capacity of 300 to 500 inmates. The presence of a larger number of prisoners thwarts individualized treatment and brings on an almost constant preoccupation with security.

Furthermore, according to National Crime Commission reports and nearly all other writing done on corrections in the 60s, prisons should be close to major cities, where the prisoners largely come from and where educational, medical and other necessary resources are located.

Yet most of of the team's travels have been from remote airports down country roads to places that are difficult to find, even on state maps. The capacity of the facility at the end of the road was, almost invariably, between 500 and 2,000 inmates.

"Everywhere we would go we would ask them, 'Why the hell did you put it out here?' They would always tell us it was one of two things," Nagel explained to a visitor in the foundation's Philadelphia office.

BETTER EMPLOYEES

"It was either 'The head of the (state senate) judiciary committee lives around here,' or 'You get better employes out here,' " said Nagel. "That's code for white employes."

Nagel is convinced he has discovered who runs the machine.

"Almost universally the heads of corrections are white, rural, middle-class Americans, and they like to work with white, rural, middle-class Americans . . .

"It is a self-perpetuating sort of thing. The rural high school athlete gets a degree and goes into the system. He becomes a lieutenant, captain and then goes into the central office, takes charge of recruiting and the whole thing starts over again."

This cycle, he says, makes it impossible to mount effective programs to recruit guards from urban minority groups, the groups that in many states make up a majority of prison inmates.

The goals of the white, rural, middle class often shape the program and even the architecture of new prisons, Nagel asserts.

"We have seen a lot of make-believe programs. For instance, the college degree programs. That's the kind of window dressing that looks and sounds good.

"But in this world where, God knows, we are terribly short of every kind of artisan and craftsman, they don't begin to address the problem."

CHAPELS FREQUENTLY PROMINENT

In the many slides the Nagel team has returned with, the most splendid part of a new prison depicted is often the chapel.

"Chapels burn me up. More window-dressing. They should be a multi-purpose area. Everybody seems to have an input into this stuff except the inmate," Nagel said.

According to Romaldo Giorgola, the architect who accompanied Nagel, the great majority of new prisons visited were merely refinements of models of prison buildings devised in the last half of the 19th century.

"Most architects have never built a prison in their lives. So they'll sit down with a correctional official and he'll say, "Well, we don't want to use a lot of people to guard them.'

"Then they go to the people who know most about that, the iron grillwork people."

Both Giorgola and Nagel feel that the "hardware experts," invariably called in by architects as consultants, often have the major influence on how a new prison looks and feels.

Security, because it is often seen as the sole purpose, dictates long, sterile corridors, much grill work, and cells where even the steel toilet is visible from a distance.

Nagel suspects these "new" prisons create "an almost Kafka-like lack of reference" that tends to inhibit rehabilitation by making the prisoner feel like a number.

WIRE ADDS TO THE EFFECT

Sometimes he has found wardens who are quite honest about it.

"I found one who had strung concertina wire all over the place and I asked him 'Why do you need this stuff? It makes the place look like a concentration camp.'

"'Well,' he told me, 'that's what it is.'"

There were only a handful of new "correctional institutions," the team found, that looked like they could be places for correction. But even the best of these are in the hinterlands.

New Jersey has just opened one of them, a barless, campus-like facility in Leesburg, N.J., near Delaware Bay, about as far as possible from the state's most populated areas.

Another is the Correctional Center at Vienna, Ill., a minimum security facility for no more than 500 inmates that looks more like a new town than a prison.

Nagel and others who study prison construction say Vienna is one of the best, despite its rural setting. According to Peter B. Bensinger, director of the Illinois Department of Corrections, the facility was built in southern Illinois, near Paducah, Ky., and more than 300 miles from Chicago where most of the prisoners come from, for a familiar reason: "Vienna was Powell's hometown."

LEGENDARY STATE FIGURE

The reference was to the late Illinois Secretary of State Paul Powell, a legendary figure in state politics who amassed a fortune of $2.8 million while in office and in control of much of the state's patronage.

But Bensinger, a wealthy, 36-year-old, Yale-educated businessman, who recently took over the Illinois prison system, says the days when the Powells commanded the prison planning machinery are over, at least in Illinois.

He plans to develop four more Vienna-like facilities, each to be located near a major city. For now, his showplace is at Vienna (pronounced Vy-enna), a town of 1,325.

When the planners and archeologists of the 21st century set about to trace the peculiar evolution of the U.S. prison system, they will find it all there.

It was planned to be a work farm, in the early 1960s. In the first building constructed, there is a six-sided cement pill-box, complete with bullet-proof windows, gas-proof air vents and rotating gun ports. The pillbox was designed so one man could hold off the prisoners in the building's maximum security cells.

Pictures now hang over the gun ports. The pillbox has never been used because a change in administrations brought a change in plans for Vienna.

It was transformed into a fenceless minimum security facility, where inmates live in single, dormitory-like rooms in structures that look like townhouses.

Walking through Vienna, an outsider finds himself wondering where the real estate salesmen are, or why they haven't put up the signs for the model home.

There are still some signs of the old order. For instance, there is not one but two chapel buildings. These structures helped run the cost for Vienna up to $16 million.

According to Donald E. Hood, the assistant warden, the distinction among inmates, guards, counselors and teachers at Vienna has purposely been blurred to create a community feeling.

The guards wear green blazers and-pastel dress shirts that have only a tiny insignia pinned on the collar. They often can be found working with the prisoners, dishing out food in the dining hall serving lines or helping out in the vocational shops and in the farming operations.

CROSS SECTION OF INMATES

Since the first prisoners arrived in 1965, Vienna has seen a cross section of the system's inmates, some charged with the most violent crimes. The typical inmate is one who has obeyed the rules in one of Illinois' four large, walled prisons and is rewarded with a transfer to Vienna.

Vienna has gone as long as 2½ years without an escape. Recently, however, there have been eight successful "walkaways," and the townspeople have been talking about the need for a fence. The administartors don't want it.

"In an institution like this, your best security is good programming," said Hood, as he showed a visitor through the vocational area, which includes a typewriter repair shop, an automotive shop, and a laboratory where a course is taught in the technology of water pollution control.

Despite its philosophies and its price tag, however, Vienna is still lacking the organization it needs to become the "therapeutic community" that Warden Vernon G. Housewright envisions, with "neighborhood" inmate committees helping to run things.

"So far," he said, "about all I can say is I can't remember the last time we had a fight."

The United States may see more Viennas, not because state prison planners necessarily want to build them, but because new federal aid is likely to have a major influence over design.

In a 1970 amendment to the Safe Streets Act, the new aid was made available for states and local governments who want to remodel or rebuild their jail and prison systems.

The U.S. Senate's main prison buff, Sen. Roman Hruska, R-Neb., and a former aide, Omaha lawyer Robert J. Kutak, who drafted the legislation, earmarked the money for small, community-based facilities.

As a result, the Justice Department's Law Enforcement Assistance Administration has set up a clearinghouse where architects, working with criminologists, must approve plans before they are funded.

They are now reviewing plans for more than 300 institutions, including designs to remodel the entire prison systems of Maryland, Maine and Hawaii.

According to Fred Moyer, the 34-year-old architect who heads the clearing house, located near the campus of the University of Illinois in Urbana, those who want to build a prison or jail with a population larger than 400 or costing more than $8 million can go elsewhere.

NEW BARGAINING POSITION

For an architect, it is an unusual position. "The architect always had problems dealing with the local sheriff. If the sheriff didn't get what he wanted, he'd go find another architect," said Moyer.

He riffled through a sheaf of plans on his desk, coming up with the design for a new regional detention center.

"Look at that. Here is an example of what we're talking about. What they want is a steel tank. We'll have to press them for some modifications."

Dr. Edith E. Flynn, a criminologist who works with Moyer, agreed: "So often the local jail people have come up through the ranks and all they know is they need security, tool-proof steel.

"What we want to do is have the security, yet remove the 24-hour statement of security that you get with bars. And the design should be based on treatment rather than the least possible heat loss."

Moyer is looking into modular, prefabricated units, used for college dormitory construction, that can be adapted for prison use.

After touring many prisons, including several where he saw evidence that inmates can tear up "destruction-proof" steel plumbing fixtures when they are angry enough, he is convinced there has to be another way.

"When you make it out of steel, you are almost asking someone to try and destroy it. What we have to do is try and make things likable."

FUSSY ABOUT TRADEOFFS

Moyer is fussy. When tradeoffs are made for increased security, there must also be an effort, he believes, to develop services that will help get people out of the system, such as alcohol and drug treatment programs.

The clearinghouse may be in for a brisk business. Eighty percent of the local jails in this nation are more than 100 years old. Most of its prisons approach that vintage. Local governments are running out of money.

What will happen in the millenium when the machine that keeps building fortresses in the hinterland finally runs down!

"You know, it might seem odd, but I've thought about that," said Moyer. "A lot of those places have considerable land. They would make excellent wildlife refuges."

POLITICS IS A DANGEROUS PROFESSION

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. DEVINE. Mr. Speaker, it seems to be a pastime today, particularly among the communications media, to degrade and ridicule persons in public service, and be highly critical of those to whom they refer as politicians.

One definition of politics, which might suggest some respectibility is "the science of government."

But in defense, I am reminded of a passage from F. S. Oliver in "The Endless Adventure" as follows:

> "One of the heaviest burdens of a free society is apathy toward our governmental responsibilities, and the twisted image of government officials, often created by the press."
>
> "Politics is the most hazardous of all professions. There is not another in which a man can hope to do so much good to his fellow creatures, neither is there any in which by a mere loss of nerve he may do such widespread harm, *nor is there another in which* he may so easily lose his own soul, *nor is there another in which* a positive and strict veracity is so difficult. But danger is the in-

separable companion of honor. With all of the temptations and degradations that besit it, politics is still the noblest career that any man can choose."

THE COLLEGEDALE'S CRUNCHY GRANOLA SUCCESS STORY

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. BAKER. Mr. Speaker, I have the unusual privilege to bring attention to a unique fast-growing food product of the Third District of Tennessee, which I represent. This product, Crunchy Granola, of Collegedale, Tenn., received nationwide recognition recently in a front page article in the Wall Street Journal under the heading, "What Tastes Terrible and Doubles in Sales Every 60 Days or So?" Crunchy Granola was described as "The biggest thing to hit the cereal market since the cardboard box was invented."

It is produced in a little cereal factory in the enterprising town of Collegedale by a 28-year-old entrepreneur, John D. Goodbrad, who himself prefers Cherrios for breakfast. His employees say that they do not go for the product either, though one admitted she once had a horse that was real fond of it.

Crunchy Granola is not shot from guns; it does not snap, crackle or pop; it has not been endorsed by athletes as a breakfast food. It is concocted from rolled oats, wheat germ, sea salt, sesame seeds, coconut, brown sugar, and soy oil all mixed together.

I must admit I had never heard of Crunchy Granola before I read about it yesterday, although it has been going "great guns" for the past 2½ years less than 15 miles from my home in Chattanooga. And, after having read about this product, I have decided that while I might not want to make a steady diet of it, I am certainly going to try it.

Mr. Speaker, I insert this Wall Street Journal article on John Goodbrad's "little cereal factory" in my district at this point so my colleagues may read it for themselves.

The article follows:

WHAT TASTES TERRIBLE AND DOUBLES IN SALES EVERY 60 DAYS OR SO?—CRUNCHY GRANOLA, THAT'S WHAT, AND LAYTON GENTRY IS READY TO SELL THE FORMULA TO YOU

(By Sanford L. Jacobs)

COLLEGEDALE, TENN.—John D. Goodbrad runs a little cereal factory here that turns out something called Crunchy Granola, but he isn't overly fond of the stuff himself. "Cheerios is all right with me," he confides.

One of his employes, day-shift supervisor Melba Chastain, doesn't go for the product, either. Nor, she says, do her kids. But she recalls she once had a horse that "was real fond" of it.

Crunchy Granola is something a horse might be fond of. It's made of rolled oats, wheat germ, sea salt, sesame seeds, coconut, brown sugar and soy oil all mixed together. Even when soaked in milk, it's about as chewy as leather—and not quite as tasty.

So it's understandable why Mr. Goodbrad and Mrs. Chastain and Mrs. Chastain's kids aren't wild about Crunchy Granola. But one thing isn't understandable: Crunchy Granola is the biggest thing to hit the cereal market since the cardboard box was invented.

"Our sales have been doubling every 60 to 90 days for the past 2½ years," says the 28-year-old Mr. Goodbrad, who returned to this bucolic valley a year ago to run the business that his family started in 1964. At the moment, the family business, Sovex Inc., is running round the clock turning out 12,000 pounds of the stuff a day, and it still can't keep up with demand for the 73-cents-a-pound cereal. A second company, in Chico, Calif., turns out even more. "We're really groovin'," says Wayne Schlotthauer, who controls Chico's Lassen Foods Inc.

Crunchy Granola doesn't snap, crackle or pop. It isn't shot from guns or endorsed by tigers or champions. So why are millions of Americans gobbling it up? No one is positive, but there are several theories. For one thing, it's part of the anticommercialism movement of the young. For another, with its oats and wheat germ it's part of the health food, back-to-nature movement. For still another, some people profess to love it—though New Jersey lawyer John Celantano recommends eating it only on weekends because of its laxative effect. "It's dynamite," he says.

FABLED IN SONG

Whatever the reason, Crunchy Granola has become fabled in the underground and shows every sign of making it in the overground. Although it's still generally sold in health-food stores, some supermarkets are beginning to stock it. It has been mentioned on one of those late-night TV talk shows (Steve McQueen gave a spontaneous, effusive testimonial), and rock singer Neil Diamond has a tune called "Crunchy Granola Suite," which is on an album called "Stones." The song says:

Let me hear that
Get me near that
Crunchy Granola suite.
Drop your shrink
And stop your drinkin'
Crunchy Granola's Neat.

So Crunchy Granola, with current annual sales of about $5 million, seems to have a future. Some big food companies are looking at the two little producers, and Lassen's Mr. Schlotthauer says he's ready to sell. He wants $1 million, in stock—"income taxes would murder me in a cash deal"—and he says he has an interested food giant.

Mr. Goodbrad says he isn't interested in selling the factory here, at any price. But the giants don't believe him, he says. "They just keep coming down anyway in their little jets."

A FUTURE—AND A PAST

If Crunchy Granola has a glamorous future, it also has a glamorous past. It apparently was invented by a man named Layton Gentry, who in 1964 sold his oven and his recipe—all the ingredients listed above plus instructions to mix well, perhaps with a canoe paddle in a basement laundry tub—to John Goodbrad the elder for $3,000. Mr. Goodbrad thought he had purchased a little enterprise to help his wife idle away her spare time, but before long the Goodbrad basement was crammed with ovens, oats and odors, so they built a little factory. Recently they enlarged that little factory, and now they have a big little factory.

Meanwhile, Layton Gentry left Tennessee and headed West. About four years ago he sold the recipe again—this time to Lassen Foods, and this time for more than $15,000. The two companies didn't know they were producing the same product until they bumped into each other at a health-food convention two years ago. Neither begrudges Mr. Gentry for selling his secret twice. After all, says Lassen's Mr. Schlotthauer, "We did right on $3 million in granola last year."

Mr. Gentry, it would seem, didn't drive too good a bargain, but he apparently isn't unhappy. He's a hard man to track down, but Mrs. Gentry—they separated after the move West—says her husband has picked up some more money recently selling the formula to folks in Hawaii, Canada, Australia and Missouri.

But what of the golden opportunity missed? "Well," says Mrs. Gentry, Layton never liked things to get too big, he always said. He was in the Army 12 years. You know what that does to a man."

VOTING ATTENDANCE REQUIREMENT FOR MEMBERS OF CONGRESS

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. PRICE of Texas. Mr. Speaker, I have introduced today a joint resolution which, if adopted by the Congress and ratified by the legislatures of three-fourths of the States, will amend the Constitution by requiring Members of Congress to be recorded on at least 70 percent of the rollcall votes during a session of Congress or have their office declared vacant.

The purpose of the bill is to require Members of Congress to do what they are elected by the people to do—represent their constituents by voting on legislation before Congress. My bill is really quite simple. It would merely amend the Constitution of the United States in such a way that, if a Member of Congress is not recorded on at least 70 percent of rollcall votes of the House or Senate, the office becomes vacant and the State from which he is elected is notified of the vacancy. The only absences that would not be included in computing the 70-percent voting requirement would be those when a Member of Congress is excused or necessarily prevented from being present due to illness or official business.

In my opinion, justifiable absences should not count against a Member, but it seems to me that, especially in light of the salaries received, we ought to be working and voting much more than some are doing at the present time.

What is wrong with an amendment requiring a Member of Congress to be present to do the job the voters are paying him to do? Absolutely nothing, in my opinion.

The need for this amendment is especially obvious this year—as it has been in past election years—when so many Members are running around the country campaigning instead of tending to the legislative business of the Nation. In my opinion, voters have a right to expect us to be here in Washington tending to business at least 70 percent of the time.

Contrary to what some have said about the Congress, I am not yet ready to concede that we do not have the will to police ourselves and that Congress will not live up to its responsibilities by seriously considering this much-needed amendment.

I for one intend to do all in my power to see that this amendment is adopted and ratified by the States, and I urge you to join with me in that effort.

ANOTHER IN A LONG LINE OF "FIRSTS" FOR DR. MIDDLETON H. LAMBRIGHT, JR.

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. STOKES. Mr. Speaker, Dr. Middleton H. Lambright, Jr., of Cleveland, who has engaged in pioneer ventures throughout his life, is about to embark upon another.

He has recently accepted an invitation to become assistant dean of the South Carolina Medical College, a primarily white school in Charleston. Dr. Lambright will be the first black doctor to be responsible for minority relations at the 490-student institution.

Cleveland owes Dr. Lambright a debt of gratitude, and we will miss him. Not only has he served us well as a physician, he has also channeled his prodigious energies into the field of community relations, where he has met with successes to match those attained in his professional life.

I include below a column about Dr. Lambright's many achievements. This article appeared in the January 22, 1972, edition of the Cleveland Call and Post.

I urge my colleagues to join with me in wishing Dr. Lambright success in his newest, and most challenging adventure.

TO LEAVE CLEVELAND—DR. LAMBRIGHT TO BE DEAN AT SOUTH CAROLINA MEDICAL COLLEGE

When Dr. Middleton "Middie" H. Lambright, Jr., leaves Cleveland sometime in February to assume his new duties as Assistant Dean of South Carolina Medical College at Charleston, his home city will lose not only one of its most involved citizens, but one of the finest skilled surgeons.

Son of a pioneer medical man, Dr. Middleton H. Lambright, Sr., who brought him to Cleveland from his native Kansas City in 1908 as a child, "Middie" was almost predestined to develop into a physician.

At the time of his death in 1959, the senior Lambright, at 94, was one of the oldest practicing Negro physicians in Ohio. When forced to give up active practice in association with his son, the elder Lambright diverted his energies to the development of Forest City Hospital, to widen internship and training opportunity for the increasing number of young Negro medical school graduates who were finding it difficult to enter major U.S. hospitals which then maintained quota systems in the selection of non-whites.

Young Lambright attended Glenville High School, Lincoln University in Pennsylvania, and Meharry Medical College, his father's alma mater, where he quickly proved an outstanding student. In 1964 he was named by Meharry as its alumnus of the year.

On graduation from Meharry, he became one of the earliest of a small group of black medical men admitted to internship in old City Hospital, now Metropolitan General, in Cleveland. His internship was followed by a residency at the hospital, where he ultimately went on to become president of the medical staff.

At the time of his acceptance of the South Carolina post, where he will be responsible for minority relations at the 490-student school, Dr. Lambright will become the first black physician to occupy such a post at the school that has a predominantly white enrollment, but which has embarked upon a progressive program of expanding training opportunity for blacks.

Dr. Lambright's departure is sure to leave a void in many facets of community life. His professional and civic involvements included service as a trustee of the Cleveland Welfare Federation, Cleveland Community Fund, Young Men's Christian Association and American Cancer Society. He is also a member of the Cleveland Medical Association, Greater Cleveland Growth Association and City Club.

The extra-curricular activity that obviously gave him a great deal of satisfaction was his service as Medical Director of the Cleveland Boxing and Wrestling Commission. Appointed to the body back in 1948 as medical examiner, he appeared at ringside for the first time on a fight program that was topped by an exhibition bout between the then Heavyweight Champion Joe Louis, and Cleveland's heavyweight challenger, Jimmie Bivins.

Since that time, his has been a familiar and respected ringside functionary at all Commission sanctioned bouts. Before his official appointment to the commission, he gave hours of voluntary service as a medical advisor to the Golden Gloves tournaments of that era, zealously guarding the young aspirants from possible danger.

In 1962 he was elected as the first Negro officer of the Cleveland Academy of Medicine, serving as vice president under President Dr. Henry A. Crawford, and was elevated to the presidency in 1964, becoming the second black doctor to head a county medical society in the United States.

His sister, Elizabeth, with whom he resides at 1144 East 98 St., said that her brother, despite his reluctance to leave Cleveland, had been persuaded by the challenging nature of the South Carolina position, to accept the assignment.

While his medical colleagues here were unanimous in their expression of loss, both for the profession and the Cleveland Community here, they hailed the South Carolina offer as "a progressive step" for both the college and for South Carolina, a Deep South state.

AIR SAFETY WOULD RESULT FROM AREA NAVIGATION SYSTEMS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. FRASER. Mr. Speaker, the need to install area navigation equipment on larger aircraft and the need for the FAA to establish alternative airways and procedures for using this equipment are pressing.

Recognition of the great safety contribution which area navigation equipment would provide was made in a speech by John H. Reed, Chairman of the National Transportation Safety Board, on January 24, 1972.

This matter deserves urgent consideration from Congress and the FAA:

SAFETY POTENTIAL INHERENT WITH RNAV

(Remarks by John H. Reed, Chairman, National Transportation Safety Board)

I appreciate the opportunity to address this audience of distinguished aviation leaders. Administrator John H. Shaffer and the Federal Aviation Administration are to be congratulated for sponsoring this meaningful conference on a subject so important as area navigation.

I would also like to compliment Mr. Allen Morrissey, of the FAA, for his excellent work in arranging this noteworthy meeting. Certainly the exchange of information among everyone assembled should serve to stimulate progress and enhance the safety of all flight operations.

As most of you know, the Safety Board is charged with the responsibility for assuring safe transportation of people and products, reviewing investigations of accidents to determine their causes, and determining preventive measures to guard against future accidents. Thus, we welcome any recommended change which will raise the level of safety and prevent accidents. We believe that area navigation represents such a change.

The use of airborne equipment which permits accurate navigation, without the need to fly directly over a specific navigation aid, is a logical step toward more efficient utilization of airspace and airports. Such area navigation capability is now economically feasible for the operators of multiengine aircraft. With the advent of this development, the FAA has promulgated procedures and programs for application of area navigation to the National Airspace System.

The Safety Board is encouraged not only by the fact that area navigation will vastly expand the usable airspace capacity, but that it will also result in an increased safety potential. Aviation forecasts generally indicate that the total number of aircraft operations will double by 1980. The number of aircraft requesting traffic control services (that is, operating under instrument flight rules), however, is expected to triple by 1980.

It is well recognized that the combined airport-airway system has already reached capacity at several major airports and a quota system for takeoffs and landings is in effect. In light of this situation, and the predicted growth of aviation, it is only reasonable that ways to expand the usable airspace must be found. Even if the additional capacity were not required, the magnitude of the midair collision potential dictates that present navigation systems and air traffic control facilities be expanded and upgraded.

With area navigation, the means is now available to restructure the airspace into multiple en route corridors between major traffic hubs, literally creating "super highways" in the skies. Through the application of the area navigation concept to the air traffic control system, congestion in a given volume of airspace can be significantly reduced—thus, the exposure to the midair collision hazard can be similarly reduced. The reduction in the number of ATC reporting fixes would effect a reduction in necessary communications, thereby eliminating much of the workolad of the air traffic controller.

Another facet of area navigation that will increase safety is the terminal approach feature. It is not difficult to see that there is an abundance of unused terminal airspace that could become a useful part of the air traffic system. Airports heretofore unusable during instrument conditions can now become satellite airports or "escape valves," if you will, to relieve the pressure and reduce conflicting traffic at some of our larger air transportation centers.

Although, thus far, I have addressed the operational aspect of area navigation, the Safety Board believes that a primary asset of this concept is its inherent potential to prevent accidents.

Through analysis of the accidents that occurred from 1968 through 1970, the Board has been able to identify 33 accidents that had the potential of being prevented had precision approach information been available to the pilots.

For example: On August 10, 1968, 35 of 37 passengers were killed when an aircraft crashed while executing a localizer-only instrument approach. The crew, while attempting to retain visual reference to the approach lights after entering a fog bank, caused the aircraft to descend below airport elevation and strike the slope of a hill at the approach end of the runway.

A similar case involved a Convair 880 and resulted in the fatal injury of 70 passengers. Once again the crew was executing a localizer-only instrument approach, but this time, at night. This approach ended when the aircraft crashed one and a half miles short of the runway.

More recently an aircraft crashed while executing a VOR approach to an airport at night, under instrument conditions. Because of premature descent, without precision glide slope information, the aircraft crashed ten miles from the airport causing four fatalities.

The circling approach, executed during instrument weather conditions—or at night, taxes the abilities of even the most proficient pilot. Attendant to this type of approach is the potential for another accident parallel to the tragedy that occurred at Peoria, Illinois, just last year. While the Safety Board has not concluded its investigation, we do know that the aircraft had commenced a circling approach in marginal weather; we also know that 16 people died when it crashed two miles from the airport.

These four accidents, and 29 more, might have been prevented had vertical guidance—an optional feature of RNAV—been available during the approach to landing. Too often, the Safety Board's report must state: "Pilot misjudged altitude and distance, prematurely descended into the terrain," or other phrases which indicate that the probable cause of the accident was lack of precision vertical guidance.

With three dimensional area navigation equipment now available we believe that all due speed be exercised toward implementing procedures for using it. Premature descents during nonprecision approaches have haunted aviation for many years, but now the means to significantly reduce this accident cause is available. Area navigation provides the opportunity to achieve greater safety, greater flexibility of routing, and a generally improved aviation environment.

I realize, that on occasion, safety programs appear to be in direct conflict with economic practicality. Each of you must consider what equipment will return the best value for every dollar spent. Whether your decision is to install Doppler, 3–D, Decca, or another system of area navigation, the two prime considerations are safety and economics. I emphasize safety as a vital consideration.

The Safety Board's position on area navigation was stated during our public hearing on the midair collision problem in 1969—and I repeat it now:

"We support the FAA's program to implement the required procurement, procedural and regulatory action at as early a date as possible for a full area navigation system."

I am heartened by the high interest and active participation of aviation's key leaders gation was stated during our public hearing confident we are on the threshold of a major breakthrough for area navigation.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

FREDERICKSON AWARDED SILVER BEAVER

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mrs. HECKLER of Massachusetts. Mr. Speaker, it was with a great deal of pleasure that I learned of the honor recently conferred upon Ronald Frederickson of Plainville, which is located within my 10th Congressional District, by the Old Colony Council of the Boy Scouts of America. Mr. Frederickson, who is the Scoutmaster of Plainville's Boy Scout Troop 132, in recognition of his exemplary civic commitment and contributions to the Boy Scout movement, was awarded the Silver Beaver at the Old Colony Council's annual recognition dinner. Mr. Frederickson has earned the respect of the community for his generosity to and interest in youth, and for his willingness always to find time for the youth of Plainville. He has given a great deal, and knows the craft of scouting as do few, through the many years of his personal involvement as a youth, and now as scoutmaster. It is particularly appropriate that Mr. Frederickson received the Silver Beaver Award during this month when the silver anniversary of the Boy Scouts of America is being celebrated. I am pleased to incorporate in my remarks an article which appeared in the Attleboro Sun Chronicle on January 26 concerning Mr. Frederickson:

FREDERICKSON AWARDED SILVER BEAVER

PLAINVILLE.—Ronald Frederickson, scoutmaster of Plainville's Boy Scout Troop 132, has been awarded the Silver Beaver, the highest honor in adult scouting.

The presentation was made at the annual recognition dinner for Old Colony Council. It was held in the student union at Bridgewater State College. Of 50 names considered for the honor, Frederickson is one of six who was approved by the national headquarters of Boy Scouts of America.

PLAINVILLE CONTINGENT

There were about 50 persons from Plainville among the 600 in attendance. Representing the Plainville Lions Club, sponsoring organization for Boy Scout Troop 132, was President Donald Carter and a number of members.

Other officials, present were Selectmen Ray Felix and Robert Loew with their wives; Donald Soule, chairman of the troop committee for Troop 132; Reginald Keyes, advancement chairman for Manitoak District to which Plainville belongs; and Henry Neveux, chairman of Manitoak District.

SURPRISE HONOR

Frederickson was "tapped" for the surprise honor by Dr. Wesley Woll of Hingham, an old friend in Boy Scouting, who escorted him to the platform and was the one to place the medal around his neck. Also joining him on the platform were his parents, Mr. and Mrs. Alec Frederickson.

Active in scouting since boyhood, Frederickson has been a scout, junior staffman at Camp Child, assistant scoutmaster, scoutmaster, Explorer advisor, neighborhood commissioner, graduate of scoutmaster training, a Mafeking and Two-Bead Wood Badgemen.

Malcolm Orent, chairman of the Silver Beaver committee, spoke prior to the presentation and said in part, "Here is a scoutmaster who always takes his troop to camp each summer, who holds a great number of high adventure trips during the year. He, like other good scouters in the council, has always aided in the sustaining membership enrollment and is active in the camp development program."

He continued, "The people of Plainville are proud of you for your work with their boys over these many years and Old Colony Council is proud to award the Silver Beaver for your outstanding service to boyhood."

Also, during this month of recognition of the contribution of the Boy Scouts and Girl Scouts of America, I am very gratified to note the outstanding work that is being done by Troop Leader Mrs. Joyce Bosley of the Plymouth Bay Girl Scout Council. Mrs. Bosley has devoted much time and skill to encouraging the work of Scout Troop Number 489, whose members are gaining new confidence and ability in overcoming learning disabilities. The confidence and sense of initiative gained through scouting activities are certainly an inducement to measured success in cognitive studies and Mrs. Bosley deserves enormous credit for her work in initiating such activities. It is a pleasure for me to include in my remarks at this point an article which appeared in the Attleboro Sun Chronicle for the same date, January 26, relating to Mrs. Bosley's fine work with Troop Number 489 of the Girl Scouts:

GIRL SCOUTS LEARN "SPECIAL THINGS"

ATTLEBORO.—It takes a special kind of person to work successfully with a special group of teenage girls. And Junior Girl Scout Troop No. 489 is a special kind of troop.

Each of the nine junior scouts (five from Norton and four from Attleboro) is mentally handicapped.

And this is the first and only local such troop especially developed by the Plymouth Bay Girl Scout Council at the prodding of troop leader Mrs. Joyce Bosley for scouts with their particular learning disabilities.

Mrs. Bosley, a cheerful and plump woman, works devotedly with all of these girls each Monday afternoon at All Saints Episcopal Church. The nine scouts rarely miss a meeting except for illness.

Herself the foster mother of two mentally retarded girls, Mrs. Bosley recognized the need in this area when her youngsters reached scouting age. Luckily, it wasn't too difficult to round up enough potential members to form a troop.

"Many of the girls attend the same special class in school," she explained, "so they joined as a group. And I talked to the mothers of the other girls and everybody was enthusiastic."

While she admits that it isn't always easy, she gets a real pleasure out of working with "my girls". She is assisted by Cadette Scout Alice Trembley, who attends each of their meetings besides the meetings of her own troop. Alice helps the girls in their play and work activities. And working with both scout leaders is Lisa Morrison, whose sister Carolyn is a member of the troop.

"It's difficult to work the (scouting) program into badges because of the requirements," Mrs. Bosley said, "but it's fun for them and they have to be occupied all the time."

But they have made progress with the art in the round badge. And they are working on an American Indian folklore project for International Friendship Week. And the weekend before Christmas, they went on a winter camping trip.

"They learned how to mark a trail, how to build a campfire and its different parts and did all their own cooking," Mrs. Bosley said with pride.

Despite their own mental limitations which in turn causes a certain lack of physical coordination, the scouts in Mrs. Bosley's words "try their darndest to do" whatever is set before them. So the girls have really made the meaning of scouting work for them, giving them a real feeling of achievement as well as a feeling of belonging.

So for very special Debbie Allison who is a scout in a very special troop No. 489, being a girl scout means "I learn special things."

HEROIN MAINTENANCE—SOLVING THE DRUG CRISIS OR SERVING IT?

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. RANGEL. Mr. Speaker, there has been a great deal of publicity about the British approach to addiction—heroin maintenance. As a result, it is imperative that we dispel some of the myths about the British system of drug treatment so that the American people will open up their eyes and recognize heroin for what it is—a killer, not a drug on which a human being should be maintained.

When there is a wolf at the door, people react in all sorts of ways. Some deal with it, some run away from it, and some do nothing but worry.

Well, there is a wolf at virtually every door in America. Millions of people are obsessed by a fear that drug addiction will enter their homes. Tens of thousands already have become painfully aware of how suddenly it can strike.

We are all convinced by now that this thing isn't going to just go away. Addicts will continue to succumb to the drug that has become the single controlling force in their lives. In their desperation for money to support the habit, they will create new addicts. The suppliers will get richer and more motivated, and the heroin epidemic will penetrate deeper and deeper into American life. I think it's obvious that unless we deal effectively with it now, greater tragedy will follow.

Opinions as to how we should structure our counterattack vary considerably. Many people are attracted by the so-called "British system" of heroin maintenance because of the paucity of addiction in that country.

I believe that these people are misled by the British approach. In their anxiety for a solution, they incorrectly attribute the relatively small addiction problem in Britain to the practice of legally dispensing heroin. But the truth is that the failure of the English to control addiction since the beginning of the 1960's has them fumbling for a solution just as we are, and borrowing some of the more restrictive measures that we use.

It was the rapid spread of heroin addiction in the 1960's that first made the British aware that they even had a problem. Before that time, there had been only a handful of a addicts visible, and they were able to obtain their drugs on prescription from doctors. But suddenly the number of addicts began to soar. The figures were doubling every 18 months. The explanation for this was massive overprescribing by some doctors. For the first time a major black market was created as addicts sold off surplus supplies to a predominantly youthful clientele. So, amid great publicity the government set up a chain of treatment centers and prohibited further prescribing of heroin except by doctors specially licensed to work at the treatment centers. Since that time, sharp conflict has arisen among those who run these treatment centers.

The hardliners have tightened up considerably on their supplies of heroin and attempt to wean their patients over to methadone. Others refuse to prescribe methadone and, for the most part, consistently prescribe full measures of heroin. Addicts who are deliberately underprescribed with heroin and given methadone have not been sufficiently monitored to assure that they have successfully made the switch; they are selling their methadone prescription on the black market and using the proceeds to buy illegal, poor quality Hong Kong heroin. Authorities are worried because this practice is becoming more frequent and the black market is growing.

Many addicts are supplementing their meager heroin supplies with barbiturates. They crush the pills and inject them intravenously in a water solution. These drugs were never intended for injection and numerous Picadilly junkies can be found huddled in doorways, with needle sores the size of golf balls festering under dirty bandages.

So this is the true picture of the drug scene in England. Official statistics show that addiction has increased at a faster rate in England than here.

Our problem at home, however, dwarfs that of Great Britain both in scope and magnitude. The most striking difference between the two systems is what appears to me to be the insensitivity of the British approach. Let me ask each of you a question. If your son or daughter were an addict, would you rather have him treated in such a way as to break the habit, or would you rather have doctors continue giving him heroin?

I recently spoke to the staff of the U.S. Embassy in Madrid, Spain. I was asked by a high military officer why I did not advocate heroin maintenance. I told him, "The military has traditionally been a model of behavior for our young people. We have always attempted to protect our servicemen from the problems of society. Would you call for the free dispensing of heroin to GI addicts? When the Defense Department feels that the battle to save the lives of addicted servicemen is lost and when the Pentagon is willing to adopt heroin maintenance, then the people of my community will also give up all hope of rehabilitating addicts and will resign themselves to heroin maintenance."

Heroin maintenance is the cry of some Americans who would like to sweep the addict under the rug. It is the call of those who are afraid or unwilling to deal with the causes of addiction, the environmental and psychological conditions of our society that lead young men and women to narcotics. It is the "instant solution" of those who think that, with free heroin will come—as if from the heavens—and end to crime and violence.

I question the ethics of giving heroin to addicts. For one thing, many physicians find it is incompatible with psychotherapy. The basis of a psychotherapeutic approach is to help the addict come to grips with reality. The heroin addict cannot do this because he literally has a one-track mind. The force of addiction is so strong that he tunes everything else out of his life.

In reality, heroin maintenance would be an effective technique for keeping impoverished black and Spanish-speaking youth immobilized at a time when we should be embarking on an all-out research effort to develop an effective heroin antagonist.

We on the House Select Committee on Crime have introduced legislation to provide $50 million in Federal funds to research heroin alternatives and nonaddictive substitutes. Methadone is not the final answer, although it can be a useful tool in treating addicts. It, like heroin, is addictive. The Food and Drug Administration still has not made a satisfactory study of its dangers and long-term side effects. Methadone maintenance, like heroin maintenance, does not deal with the fundamental societal problems that foster addiction. The British heroin maintenance experiment and the American methadone maintenance experiment have shown an obvious failure to deal with the problems of unemployment, undereducation, poor housing, substandard health care, lack of self-dignity and absence of opportunity that encourage the use of drugs.

It is, thus, the human question that must be our final determining factor.

The British system is considerate of the society at large, but not of the addicts. It smacks of the old days of mental health treatment—let them continue being sick people, just do not let them bother those of us who are well. The ironic thing is that the sick people do bother the well people, as evidenced by the rapid growth of addiction in England.

In devising the scheme of our attack on drug abuse, we must keep in mind that we have a responsibility to all Americans, not just to the well members of our society. We must continue and broaden our programs to treat addicts in heroin-free facilities. We must step up our national and international law enforcement capabilities to stop the passage of heroin into our country, States, cities, and communities. We must crack down on the legitimate businessmen who reap huge profits on heroin paraphernalia. We must acquire better understanding of the many facets of the drug problem through research. And we must continue to provide adequately trained manpower to work toward the obliteration of this problem.

We are on the right track, but we are moving too slowly. To adopt heroin maintenance, however, would derail us, not speed us along the journey to our goal.

NO FREE AMERICA WITHOUT A STRONG AMERICA

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. PRICE of Texas. Mr. Speaker, I insert into the Record at this time the contents of a news release I am mailing to the people of northwest Texas. The release expresses my views in support of a strong national defense, and I would hope my remarks are of interest to my colleagues.

The news release follows:

"There can be no free America unless there is a strong America," Congressman Bob Price declared at a businessmen's luncheon at the Trade Winds Motel in Wichita Falls on Wednesday, February 16, 1972.

Price, who has been a vigorous advocate of a strong national defense ever since his election to Congress, criticized those who would disarm America under the guise of re-ordering national priorities. "I am especially amazed by those in Congress, including several Presidential aspirants, who ought to know better, who go around telling the people that money spent for defense is wasted," the Congressman said. "They would have us believe that spending money for defense is like shopping in a grocery store where one simply picks and chooses what he wants to buy. This is completely ridiculous—deciding whether or not we should maintain a strong national defense is like deciding if one should spend money on a life-saving surgical operation. In both cases, it is a simple question of survival, nothing less and nothing more."

Congressman Price further emphasized his firm commitment to keeping Sheppard Air Force Base in Wichita Falls and expanding the mission of the base because of its facilities and greater potential. "The record clearly shows," Price said, "that I have always supported a strong system of defense as long as I have been in Congress. If anyone suggests to you that I am against keeping Sheppard Air Force Base in Wichita Falls, he is either completly misguided or is guilty of a deliberate attempt to distort the facts."

"Because of my deep concern about our Nation's defenses," Price declared, "this past week, I have just completed a rigorous training program which led to an air-borne test flight of the sophisticated SR–71 reconnaissance aircraft. While I am not saying this to boast, I want it to be known that because of my experience as a jet fighter pilot during the Korean War and subsequent experience flying numerous other military jet aircraft, all at the invitation of the Air Force, I am presently among a very few Congressmen qualified to fly and evaluate our modern military aircraft. This experience is invaluable because I am able to judge firsthand the merits of spending billons of dollars for military aircraft, rather than having to depend solely on the opinions and comments of others. This experience further serves me as a member of the House Science and Astronautics Committee and in my assignments as a member of Manned Space Flight and International Cooperation in Science and Space Subcommittees, and Ranking Minority Member of the Space Science and Applications Subcommittee.

Congressman Price praised the SR–71 as a "fantastic aircraft capable of reaching altitudes in excess of 80,000 feet and speeds three times the speed of sound." This aircraft is the first step in a new generation of aircraft that cruise at supersonic speeds, and the mission of the SR–71 is to fly over hostile territory and to survey activities which might be detrimental to the security of the United States. "I am most impressed with this fantastic product of American ingenuity, and this airplane certainly makes an important contribution to guarding the security of the American people," he said.

Congressman Price concluded, "The President in his recent State of the Union message stated that a strong military defense is not the enemy of freedom, but rather the guardian of freedom. No one is more firmly convinced of that premise than myself, and I shall continue to make every effort to promote a sound and efficient posture in the Congress and among the people whom I represent."

CONGRESSMAN WRIGHT CITES NEW CONCEPTS ON HIGHWAYS

HON. JOHN M. SLACK

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. SLACK. Mr. Speaker, our distinguished colleague from Texas, the Honorable Jim Wright, spoke on the evening of January 25, 1972, to the National Limestone Institute's 27th annual convention in the Statler Hilton Hotel here in Washington.

It was one of the most dynamic and enlightening addresses I can remember, Mr. Speaker, and it was all the more remarkable because Mr. Wright spoke not only without a prepared text but even without so much as a note pad.

Fortunately, officials of the National Limestone Institute made a recording of this memorable speech and a transcript is now available. In the belief that the membership would be very much interested in Mr. Wright's perceptive insights into the subtle but dramatic changes now taking place in the Nation's highway program, I am inserting the text of his address in the Record:

Address By Congressman Jim Wright, of Texas

I am pleased, as I know any of my colleagues here tonight would be pleased, to be here as a stand-in for John Blatnik, who receives your award this year. Sam Rayburn once said that the House of Representatives is the most critical jury in the world. He said, "You don't deceive your colleagues." Those with whom we work, day in and day out in this process of government, have an unerring capacity to discern the difference between the fellow who speaks just for home consumption or just for the newspapers and the one who is a serious legislator. And I believe that anyone here tonight would join in saying that if we wanted someone to epitomize the Congress, if we wanted someone to whom you could look and say, "there's a Congressman"—and by whose demeanor you might judge the rest of us—we'd want it to be John Blatnik. He has courage and character, intelligence and integrity.

I can remember very vividly 16 years ago when many politicians were avoiding the unglamorous subject of dirty water—before ecology became a popular fad. It was John Blatnik and his vision that set us on the road to clean water and began the pilot program which has now mushroomed into one of the biggest programs in the government of the United States.

It was in that same year, 1956, that people like John, and George Fallon, and others on the Senate side, along with your leaders—Bob Koch was there—began that pioneering program known as the Interstate Highway System of the United States. Because of your interest in the highway system, I thought we might, for just a very few minutes, talk about the subtle but dramatic changes that are taking place in the highway program of the nation. It behooves us to try to understand them. They do not mean an end to the highway system. Let me assure you of that.

In a nation which values its freedom of mobility more than any other in the history of the human race, there will not be an end to the need for functional, modern, safely designed highways until the American people quit buying automobiles, and I don't see that happening. Yet, I think we'd be whistling past the graveyard, deceiving ourselves—those of us who are vitally interested in the continuation and maintenance of an adequate highway system in this country—did we not acknowledge that the highway program increasingly is under attack by a new breed of sociologists, ecologists and Waldensian reformers. Increasingly residents of big cities like Washington resist the location of urban expressways through the central parts of their towns. And if these expressions are essentially negative, I think they are but the outward signs of the frustration of a society over its own incapacity to come to grips with some of its own social problems.

In our Committee not long ago, for example, there appeared a delegation from Washington, protesting the location of a badly-needed urban expressway to help ease this glutted traffic that daily sends smoke and fumes surging into the atmosphere. And their argument against it was that it would be "a white man's highway through black men's bedrooms." I don't know anything that is better integrated than a highway but I don't scorn their attitude because I recognize it as an expression of frustration—frustration over social problems that haven't yet been perfectly solved. And yet, we are attempting in the Public Works Committee, under the leadership of John Blatnik, John Kluczinski, and Bill Harsha, to devise a system which will not aggravate, but which in itself can alleviate some of these very social problems that bring about the criticism of the highway system. I don't mean to imply to you that the results of our deliberations this year will satisfy all those who speak in such invidious rhetoric but with such little logic, about our paving over the whole country with concrete. Let's think about it this way: since the highway system of the United States is perhaps the most prominent symbol of our national affluence—the most obvious emblem of the freedom and mobility of our people—it's only natural that it would come under attack by those intent upon minimizing our successes and maximizing every failure of our society.

But let's recognize also that in every age, a nation's public works must become an expression of the inner drives and inner motivations of the people of that particular time. This has been true ever since the Town of Babel. The Great Wall by which China isolated itself and held itself back from progress for many centuries, was an expression of a national fear of outside influences. The aqueducts, Colosseum, and all those pragmatic remains of Roman greatness, were an expression of their culture. And just so the Interstate Highway System, launched as it was in 1956 following a great war, spoke more eloquently than any other single expression of the time of the preoccupations, the desires, the ambitions, the dreams of the American people. It became an expression of our obsession with bigness and with numbers and with numerical greatness. It became an expression of our thirst, our drive, for economic development. And it has been true to those mandates.

When the Interstate Highway was begun those sixteen years ago, our gross national product was only some $350 billion. And today, after only the twinkling of an eyelid in the view of history, our GNP stands at better than a trillion dollars. The total cost may come to something like $78 billion for the construction of this system of arterial superhighways through which flows the lifeblood of the nation's economy. But that $78 billion already has set in motion private and local investments directly identifiable along its route of better than $550 billion. The ratio is something like seven to one for the economic growth that it has directly generated. And in a country where we must create two million additional jobs in the private sector every year if we are to take up the slack caused by automation and provide jobs for those newly coming into the job market, that is truly significant.

We have discovered through the Interstate system that well-engineered roads can save lives. Measured in terms of millions of passenger miles traveled, the fatality rate on the Interstate system is only half what it is on the rest of the road and street network of America.

So nobody can say that it has been anything but a fabulous, fantastic success. It is the most extensive and most expensive public works undertaking ever attempted by any nation or any civilization in the entire history of the human race. It is only natural that so integral a part of our American life would respond to the new imperatives and the new desires of the American people. I'd like to spell out for you just four ways in which we who serve on the Public Works Committee and others in the Congress who support this program are attempting to make it a solver and an alleviator of the social ills that beset our country.

First we have launched the program known as "Relocation Assistance" to help in a very tangible way the forgotten people of the highway program—families, among them the poor, and small businesses which have been suddenly uprooted. Through this program we want to show in a humanitarian way that the government recognizes their sacrifices and fully expects to recompense them for what they are making possible for the rest of us.

The second fact of the newly emerging highway program is that provision which will preserve park lands and open spaces of this country to the maximum extent possible, and in a practical way serve the desire for ecological development and enhancement of beauty. With the country more and more being urbanized, there is a thirst, an unquenched need for vistas of inspiration. We can preserve those alongside our highways. There is a need for such park lands as we can provide and as much natural beauty as we can preserve so that the highways of America can be avenues of inspiration and serene reflection as well as avenues of transportation.

I don't mean by that we ought to delay construction of a highway for two years, as was recently done in the small Texas town of Sulphur Springs (which is surrounded, I assure you, by much open space) because someone in Washington felt that the project's environmental impact statement was inadequate or because the route took about 15 trees on the edge of a park in the middle of the city. Nobody locally objected to the project, of course, but it was delayed by almost two years anyhow. And this is manifestly ridiculous. But neither do I want to scoff at the desire and the need for open parklands and vistas of inspiration.

In my home town, a few years back, the ladies of the Garden Club became incensed over an attempt on the part of the Army Corps of Engineers to direct through Trinity and adjacent parks—which comprise the only remaining parklands in downtown Fort Worth—a floodway that would claim many of the trees. My good friend General Frank Koisch, who was then a Colonel and the District Engineer, said, "Well, for Heaven's sake, we can, of course, build it on a different route, but we want to build it there because it's cheaper and it's more sound from an engineering viewpoint." But then began to flow the petitions. Finally Frank got one signed in a beauty shop bearing the name, among others, of his own daughter. At that point I sat down and wrote him a whimsical little poem, with apologies to Joyce Kilmer. I think I said: Dear Frank,

I think that I shall never see,
A levee lovely as a tree,
Besides whose trunk the floods have passed,
And flowed into the sea at last;
I know that trees can never vote,
But let that cast no sour note;
Beloved of dogs and garden dames,
They bring petitions filled with names;
So though you bulldoze all around,
Just leave them trees stuck in the ground!

Frank had a kind spirit and a sense of humor and so he did. We've got to find a way, seriously—and we can do it within the highway program—to demonstrate that a sound economy and a sound ecology are not mutually exclusive, that conservation and commerce can advance hand-in-hand when there is a rule of reason. This is what we are attempting to do.

We are beginning a new, imaginative program of Fringe Parking by which we are trying to assist in the creation of the badly needed mass transit system in downtown urban areas. So much money is offered by the Federal government to match local contributions for parking areas to link up the highways on the outside of the city with mass transportation which can be a conduit into the central city. We think this has much promise.

Another thing we authorized in the Highway Act of 1970, which I think we must expand, is a program calling for highways for Economic Development Centers. Now that doesn't mean big towns. That means just the opposite—little towns. If there is anything in this world that we've got to do it is to recognize the imperatives of population growth—not only the "how many?" but the "where?" The most alarming population development in the United States is the trend of people to move in ever-increasing numbers to fewer and fewer places. It has been demonstrated that when mice, or even lower primates, are crowded together into smaller and smaller places, there emerges every anti-social characteristic, from aggression in some to cringing passivity and even sexual aberrations in others.

So it is observed that if our population density continues to increase, every human problem from crime to pollution to psychosomatic illness will increase by geometric progression. The problems of America are increasingly the problems of our cities. And if highways can be constructed in such a way as to encourage the dispersal of population—the decentralization of industry so as to make it possible for more people to live in many of the thousands upon thousands of smaller towns throughout America that have the space and the potential to absorb them—problems from racial polarity to mental illness can be drastically reduced.

So in all these ways the highway system endeavors to serve America, not just as a ribbon of concrete, not just as something we can build and point to with pride and say look how many miles of this stuff we have put down, but as an integral, breathing part of America's life. To the extent that those of us in Congress can do this, it must be done.

I know that many social problems remain unsolved in this country. But we are working on them. We haven't yet made a reality of the promise of equal opportunity for all. Let's admit that. But let's see how far we have come in just the last decade. Ten years ago only 36% of non-white Americans finished high school. This year it will be something like 78%—not nearly good enough but better than twice as good as it was just one short decade ago.

This year in the United States some 22% of all those of an age to finish four years of college will do so. It depends upon what vantage point you have whether you think that's good or bad, or whether you think the cup is half full or half empty. Those of you who have reached my age are at about the median in life and are likely to look back. You've got to compare a statistic with something in order for it to be meaningful. You say, "22%—Gee that's great." You compare it subconsciously with what it was when you were going to college, and only 4½% from my generation were able to finish four years of college. Today the figure is five times as good.

But let me urge you not to be surprised if your son is not impressed with that. He's not looking back to see how far we've come. He's looking ahead to see how far we've got yet to go. And lacking a comparison with which to evaluate, he compares it with the idea. He finds it woefully lacking. And his response is going to be, "Only 22%—that means 78% don't get to finish college. In a country as rich as ours we should do better." So he is right, too. I ask you not to be impatient with those who are impatient with our progress. Though it has been and continues to be the most rapid progress in the attainment of social goals that any nation in the history of humankind has ever recorded, I don't want the young to be wholly satisfied. I want them to have an appreciation of where we've come from and how far we've come, to be sure. I don't want them in their zeal for a faster trip across the ocean of our troubles—in this boat that is demonstrably the fastest ship in the fleet—to set fire to the boat, because that, of course, would be sheer folly.

But stop and reflect that if a young generation ever came to the front in America wholly satisfied, why that would be the end of progress. And so we look to them for innovation and inspiration and idealism and even impatience. To the extent that those of us in the Congress can help to work out these problems, with your understanding and your support, which we desperately need, then we shall be demonstrating anew that this is the best land and the best system of government—with all its flaws and its human imperfections—ever devised by the mind and purpose of man, and that this country of ours is, as it was in Lincoln's day—the last best hope of earth.

ROGERS SPONSORS RESOLUTION ON SUDDEN INFANT DEATH SYNDROME

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. ROGERS. Mr. Speaker, I am today joining with the entire membership of the Subcommittee on Public Health and Environment of the Interstate and Foreign Commerce Committee, in introducing a joint resolution concerning sudden infant death syndrome. Very little is known about the causes and prevention of sudden infant death syndrome, yet annually it results in the death of more than 10,000 children, and untold agony for parents who are left with haunting doubts and guilt for which there is no answer.

Federal efforts in SIDS research have received minimal funding from the National Institute of Child Health and Human Development, and as recently as 1971 only $1,800,000 was allocated for research in this area, or 2.0 percent of the Institute's research budget. When you consider the fact that three children of every 1,000 live births in the United States will die from this syndrome, and that it is the largest single killer of children between the ages of 1 month and 1 year, I think you will agree that the Federal effort has certainly been minimal.

This resolution would direct the Institute of Child Health and Human Development to intensify their research into the causes and prevention of sudden infant death syndrom, and it would direct the Secretary of Health, Education, and Welfare to develop an education program for coroners, medical examiners, parents and prospective parents and other personnel involved with providing services to children, to acquaint them with the nature of this syndrome and the needs of families affected by it.

Sudden infant death syndrome is certainly a major health problem, and I am hopeful that implementation of the provisions of this resolution will result in a more complete understanding of the problem and improvement in our ability to deal with it effectively.

TRIBUTE TO EDWIN G. O'CONNOR, DISTINGUISHED AND DEDICATED JUDGE

HON. JAMES F. HASTINGS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. HASTINGS. Mr. Speaker, a distinguished member of the bench, from my district in Chautauqua County, Judge Edwin G. O'Connor, was recently taken by death.

Those of us in western New York, where he served so diligently for so many years in the cause of justice will sorely miss him.

Judge O'Connor evoked affection and deep respect of all who knew him. He was refreshingly forthright and had the courage to speak his beliefs with unmistakable clarity.

I was proud to call him a friend. His death is a grievous loss to all and I include in the RECORD at this point an editorial from the Dunkirk, N.Y., Evening Observer, which says so well what this man's life meant.

EDWIN G. O'CONNOR

A lot of color was lost to Chautauqua County with the death of County Judge Edwin G. O'Connor. The stentorian-voiced former district attorney had been a familiar figure around the courthouse since his appointment in 1935 as an assistant DA with principal responsibility for criminal cases originating in the northern end of the county.

But he will be missed for much more than his colorful personality. It is a mark of the man that he is remembered as a friend by the attorneys he waged court battles with during a 23-year tenure as district attorney. He is remembered as a friend, too, by more than a few of the criminal defendants who stood before him for sentencing and-or admonition during his nine years on the bench Whatever the reason, long experience, insight, a better-manned probation department—perhaps a combination of all these, Judge O'Connor developed quite a remarkable skill in determining who deserved another chance. Repeaters were much less common than is considered normal among the young defendants to whom he gave a "break."

Those who were closest to Judge O'Connor, other than his family, gathered in his courtroom Monday morning for a memorial. Some words were repeated a number of times. Words like "conscientious," "mercy," "humanity," "dedication," "concern." And more often than any other, "friend."

CORBETT-FULTON MEMORIAL AWARD

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. GAYDOS. Mr. Speaker, recently I had the privilege of addressing the seventh annual Civil Service banquet sponsored by the American Federation of Government Employees Council of Locals in the Pittsburgh area.

I was highly honored to be the speaker for this group, for it is really they who turn the wheels of this great Government of ours and make it work. They perform an outstanding task, sometimes under criticism they do not deserve, and I believe it fitting they be given due credit and recognition for the services they render to all Americans.

A highlight of the evening's program was the presentation of the first Corbett-Fulton Memorial Award, in honor of our late colleagues, the Honorable Robert Corbett and the Honorable James G. Fulton. The award formerly was known as the Civil Service Award, but was redesignated to the dedication of two fine gentlemen who did so much to help Government employees. It is presented annually to an employee who exemplifies the highest standards of those who work for the Government and serve the public.

The winner of this first Corbett-Fulton Memorial Award was Mrs. Philomene L. Fischione of Penn Hills, Pa., a claims clerk in the Adjudication Division of the Veterans' Administration's regional office. She was presented the honor by our colleague, the Honorable H. J. HEINZ, who succeeded Mr. Corbett in the House.

Mrs. Fischione has been an employee of the Government since 1942, when she worked with the Justice Department in Washington. She was transferred to the VA in Pittsburgh the following year. Her activity with the AFGE began in 1964, and since then she has held a number of posts. In 1966, she was elected treasurer of her local, 1627. The following year she was elected financial secretary-treasurer, a post she still holds.

This exceptional woman has attended three national conventions, serving on various committees; has been a delegate to district and local caucuses; and represents her local in the Council of Locals—all on her own time.

Mr. Speaker, I would like to extend my presonal congratulations to Mrs. Fischione for her years of service on behalf of our Government. She is most deserving of the honor bestowed upon her. I would like to also extend these congratulations to Mr. Robert W. Huffman, president of the AFGE Council of Locals in the Pittsburgh area, and to his staff who assisted in the selection of the first winner of the Corbett-Fulton Memorial Award.

FAMILY FARMS GROW

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. FINDLEY. Mr. Speaker, most any discussion of agricultural policy engaged in by Congress inevitably gets around to what the item under consideration will mean to the family farm. During Senate hearings on the confirmation of Secretary of Agriculture Earl L. Butz, he was asked just what his concept of a family farm is. More recently in the House Committee on Agriculture, during consideration of rural development legislation, he was asked again to define a family farm.

A family farm, of course, is different for about every family. The February 5, 1972, issue of Prairie Farmer magazine published a story describing one type of family farm in Illinois—a very large one.

The farm featured is that of the Pat Scates family near Shawneetown, Ill. It consists of 6,500 acres and is still growing.

How does one family operate a farm that large?

Pat Scates does it with the help of his six grown sons. The farm centers its production on grain and livestock—growing last year 3,500 acres of soybeans, 1,200 acres of corn, 500 acres of wheat and maintaining a 100-head beef cow-calf operation.

Mr. Scates has been farming in southeastern Illinois for many years but the family partnership was established in 1962. The seven members of the family operate under the expanded and growing partnership. The ages of the Scates sons range from 21 to 37.

Each of the sons has individual farming specialities for which he assumes responsibility. One is in charge of maintaining equipment and farm vehicles, another manages the field operations, another is in charge of grain handling and drying, another has general management responsibilities while others are in charge of the livestock operation and sale of the grain.

While the young partners each have their speciality, they all pitch into accomplish the planting or harvesting tasks when those seasons arrive.

The elder Mr. Scates remains active in the management of the farm but readily admits that he stays busy keeping his sons supplied with their needs to keep the farm running smoothly.

The farmland is not all level but rather a series of bottom lands and hills. It is in several tracts but none of the land is more than 15 miles from the home base of operations.

The Scates family is sold on farming as a family and look to their rapid growth in net worth since forming the partnership as a signal that none of the family members could have increased his assets as quickly by farming alone.

The Pat Scates family farm is certainly not typical of the farms in Illinois but could well be one pattern for families who want to farm together in the future as capital, land, and management needs become more critical. This family has cerainly proved that size is not a factor in whether or not a farm is a family farm.

DAIRY FARMER NEEDS INCREASE TO 90 PERCENT OF PARITY

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. OBEY. Mr. Speaker, on or before April 1 of this year, the Secretary of Agriculture is required to announce the price support level for milk for the 1972–73 marketing year. I have urged him to set that level at the full 90 percent of parity authorized by law, or about $5.60 a hundredweight.

I believe this increase is necessary to enable dairy farmers to earn an adequate return on their investment. A modern dairy enterprise requires a large capital investment, something approaching $2,000 per cow. At present price levels, however, financial returns are low, so low, said Under Secretary of Agriculture Campbell recently, that most dairy farmers do not even recover their total investments during their occupational lifetimes.

The low returns to dairymen reflect the continual upward pressure on their production costs. Dairy farmers today must operate under severe rules and regulations relating to sanitation and quality of milk, which add to costs. The cost of most other items, such as taxes, transportation, labor, feed for cattle, equipment and supplies, has continued to increase rapidly. That is one reason why the law provides for an annual review of the price support level by the Secretary of Agriculture.

Last April the Secretary set the price support level for manufacturing milk at $4.93 a hundredweight, which represented 85 percent of parity at that time. By April, 1972, however, it is expected that because of increased costs to dairy farmers $4.93 a hundredweight will represent about 79 percent of parity. And, unless Secretary Butz takes action to raise the price support level, a continual increase in prices paid by dairy farmers will reduce the parity ratio to even lower levels.

That is why, Mr. Speaker, many of us were disturbed to read yesterday in the Dairy Industry Newsletter that:

The knowledgeable scuttlebutt in Washington is that the dairy price support increase which dairy farmers received a year ago would have to do for a 2-year period.

To the best of my knowledge, our dairy farmers were never told the increase a year ago would be for 2 years. Nor was that said, or even implied, to any of us in Congress. With all the credibility gaps in Washington, I would hope that another one has not just developed at the Department of Agriculture.

Mr. Speaker, those of us who support an increase now in the support price for milk to the full 90 percent of parity do so because such an increase should at least prevent dairy farmers' income from slipping further behind the income gains achieved in most other segments of the economy. For that reason, I wrote Secretary Butz last week asking him to increase the support level to 90 percent of parity.

A copy of the letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., February 11, 1972.

Hon. EARL BUTZ,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: As you are well aware, on or before April 1st you must announce the price support level for milk for the coming marketing year. I strongly recommend that support level be increased from its present level—$4.93 a hundredweight or approximately 82% of parity—to the full 90% of parity allowed under the law.

You are well aware, Mr. Secretary, that no less than most other farmers, dairy farmers are faced with a cost-price squeeze in which everything seems to go up by the end of the year but the dairymen's profits.

Nothing illustrates that cost-price squeeze better than a recognition of the fact that the support price of $4.93 a hundredweight set last April for manufacturing milk represented 85% of parity. By April, 1972, is is expected that because of increased costs to dairy farmers $4.93 a hundredweight will represent less than 80% of parity.

That kind of decline through a marketing year is not unusual. For the past several years, in fact, the support price, as a percent of parity, has dropped anywhere from 3% to 6% over the marketing year. In 1970–71, for example, the parity price dropped from the 85% of parity established on April 1st to 80% of parity at the end of the marketing year. For 1969–70, the drop was from 83% to 80%, and for 1968–69 the drop was from 89% to 83%.

In my judgment that is unfortunate and unfair. Dairy farmers lose economic ground throughout the year not because of inefficiency or through fault of their own, but simply because the price support level does not keep pace with inflation.

Mr. Secretary, an increase in the support level now to 90% of parity, or about $5.60 a hundredweight, would help to remedy this situation. In fairness to our nation's dairy farmers, I recommend that you take this action.

Sincerely,

DAVID R. OBEY,
Member of Congress.

MORTON PAYS TRIBUTE TO FORMER AIDE

HON. WILLIAM O. MILLS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. MILLS of Maryland. Mr. Speaker, Secretary of the Interior Rogers C. B. Morton in a letter to newspapers in the First Congressional District of Maryland paid high tribute to Col. James L. Webster, who lost his life in an automobile accident on February 3.

I insert in the RECORD the text of Secretary Morton's letter:

The service to the country of administrative assistants and field representatives in the offices of Senators and Congressmen is little known and scarcely thought about by the public at large. The untimely loss of Jim Webster brings this thought sharply to my mind.

Jim was the first person who became professionally associated with me in my bid for public office in 1962. His contribution to the people whom I represented in the First Congressional District was significant beyond measure and, I am sure, far beyond the awareness of the public. There are others who have served in similar capacities and have given of themselves in a similar way. Jim's devotion to duty, his keen desire to help people and his integrity set him apart.

We who have been given the privilege of representing the people's will in our form of government should be eternally grateful to those who serve so unselfishly, who seek little credit, and whose only desire is to make the system work. I cannot say that I would have been able to assume the awesome responsibilities of today without the unwavering dedication of skilled professionals who have helped so much and asked for so little. Jim Webster was such a man.

I have lost a friend. The Eastern Shore has lost one of its finest citizens.

ROGERS C. B. MORTON.

THE LOUISVILLE INTERNATIONAL JETPORT—STUDIES IN DECEPTION?

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. SNYDER. Mr. Speaker, in the CONGRESSIONAL RECORD of January 19, I pointed out the potential folly of the proposed Louisville International Jetport. I observed that, in light of the financial blunder, Dulles Airport, which the taxpayers were dragooned into underwriting outside Washington, the Louisville Jetport was a bad investment as presently conceived.

I enumerated multiple reasons why the Louisville Jetport seemed a risky venture—numerous parallels between the Dulles "white elephant" and the projected mammoth facility at Louisville. Among these were: First, accessibility: Both airports would be located about the same distance from the metropolitan areas and citizens they are supposed to serve—about 40 miles. The Louisville port would be as inconvenient as the Dulles port; second, cost: The Dulles facility was originally estimated at $40 million, but rose eventually to $120 million in expense, and is now operating at an annual deficit of $70 million. The estimates—given with all assurances—were wrong not only on cost but with regard to the rate of expansion in traffic as well. Dulles now handles only about 20 percent of the region's air traffic. The initial estimate by the Louisville and Jefferson County Air Board as to the cost of their airport project is $200 million. Third, the Dulles

Airport, which is designed to serve the extraordinary traffic needs of the Nation's Capital, and which is supposed to serve a metropolitan area over three times the population size of Louisville's, required 10,000 acres. The proposed Louisville Jetport would require—we are told—a rather astounding 35,000 acres.

There is another comparison—a very important one—which I believe should be made at this time. The Cincinnati Airport presently has an area of 3,700 acres. Officials there have come up with a master plan to meet the demands of the future for the Cincinnati area. This plan calls for the acquisition of an additional 1,500 to 2,000 acres within the next 3 years. The master plan calls for a total acreage of between 6,000 and 8,000 acres. Perhaps the most significant point is that the commercial airlines serving Cincinnati at the airport there have signed a 30-year agreement to use these facilities. This clearly indicates that they believe this master plan to be wholly adequate far into the future.

At this point let us consider the populations of the metropolitan areas in our comparison and the acreage which their "Airports of the future" either have or say they will require:

1970 census

Population:	
Louisville metropolitan area	826, 553
Washington metropolitan area	2, 861, 123
Cincinnati metropolitan area	1, 384, 851
Jetport acreage:	
Louisville	35, 000
Washington	10, 000
Cincinnati	6, 000–8, 000

This comparison highlights even more the seemingly incredible and outsized nature of the Louisville Air Board's plan to acquire 35,000 acres for the proposed jetport. Consider for example, that this proposed site is over one-third the size of Trimble or Carroll Counties—or over half the size of Gallatin County.

There are other serious problems associated with the proposed Louisville Jetport—I covered these aspects of the problem more fully here on January 19. The parallels with Dulles and Cincinnati suggest that the officials and planners of the Louisville facility are steering the taxpayer into an error of quite frightening dimensions.

However, we now know that another factor bears upon the construction of the Louisville International Jetport. Thanks to Mr. John M. Berry, Jr., a New Castle, Ky., lawyer, a relationship has been uncovered between the Louisville and Jefferson County Air Board and the University of Louisville Urban Studies Center which can be described alternatively is disingenuous or sinister.

Yesterday, February 16, here in the RECORD, I included the text of a speech made on this subject by Mr. Berry to the New Castle, Ky., Lions Club.

His remarks would seem to verify what I said some time ago about the proposed jetport; namely, that "grant suckers" are involved in trying to link their fortunes for a new town development with those of the air board's jetport proposals—for the purpose of perpetuating themselves through their relocation and development schemes.

Mr. Berry's remarks also point out that, though the air board has said that the "citizens are given the controlling voice in the decision," they may not mean it. For, it appears now that, far from being able to express their thoughts on the proposed project, the citizens of the jetport site may not even know what the project really is.

The facts and related experience of Dulles International Airport and the Greater Cincinnati Airport certainly suggest that the proposed Louisville International Jetport could easily be a first-class boondoggle on the demerits simply of an airport. And it must, I think, be given grave reconsideration on the basis of this fact alone.

However, the matter approaches the status of an enormous swindle of the taxpayer if we consider that it is manifestly possible and probable that the Louisville and Jefferson County Air Board is in cahoots with the urban studies center to flummox the public into paying, not only for a very questionable airport project, but for a gigantic plunge into social engineering and widespread "relocation" as well.

FREEDOM

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. HOWARD. Mr. Speaker, as we stand in this Chamber today, we are carrying on the necessary work of the government of a free people. I should repeat, and we should consider carefully, the concept of a "free people." In another country, where such freedoms as we consider basic rights are also guaranteed—freedom of speech, freedom of religion, freedom to emmigrate, and the right to liberty and security of person—the concept of freedom has a somewhat different meaning than that to which we are accustomed.

In that country, the word "freedom" means the freedom to stay, but not the freedom to leave. In the Soviet Union, freedom means the freedom to remain silent, but not the freedom to speak. Freedom of religion does not mean freedom to worship, but rather, freedom not to worship. Freedom of the press under the rule of the Soviets is the right to print the word of the government, but not the right to print the word of God.

This matter is particularly poignant today, because the Lithuanian community of this Nation is celebrating the 54th anniversary of the brief period of enlightened independence of their homeland.

This proud and peaceful people have, from time immemorial suffered from the accident of geography, which has marked their fate through the centuries. From the west they were invaded by the Teutonic Knights, from the east by the Russians. It took remarkable spiritual and ethnic strength to survive the pressures from both sides. But survive they did, and in 1918, they established the Republic of Lithuania, bringing a cohesive, progressive and democratic government to the people.

Unfortunately, the progress being made by this nation under the modern system of government was not to last for long. In 1939, the Soviet troops moved into the Baltic States and annexed them to the Soviet Empire. Two years later, the Lithuanians effected a successful rebellion and reestablished their free government. Unhappily, it lasted only 6 weeks before Lithuania was overrun by the Germans, who, once again, suppressed their freedoms. After the war, Lithuania was once again ceded to the Soviets, who remain in power today.

It is important to realize, however, that the spark which has shown so brightly in the peoples of the Baltic States, remains alive—these brave people continue to fight for their freedom, from within the country and from without, as in the case of the American Lithuanian Community.

We in America, and especially in the legislative body of our Government, tend often to take our freedoms for granted, but let us, on this occasion, stop and think. Let us renew our conscious efforts to support those who have the freedom to stay, but not to leave, behind the Iron Curtain; and let us pledge ourselves to the goal of true freedom and recognition of human rights for all peoples in this world.

THE ALASKA PIPELINE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. DERWINSKI. Mr. Speaker, the Alaskan oil pipeline question is one of the major projects on which an objective decision must be made weighting all sides of the issue, obviously keeping in mind the long term national interest.

An editorial in the Star-Tribune of Sunday, February 6, is, in my judgment, the type of calm, reasoned, analysis of the situation that is needed. I insert it into the RECORD as I believe it objectively deserves the attention of the Members:

HOW TO GET OIL WITHOUT DAMAGING ENVIRONMENT

Conservationists have launched a nationwide campaign to urge President Nixon to hold public hearings on the environmental impact of the proposed Alaskan oil pipeline and to defer any decision on the project for at least 60 days after it is made public to permit full public disclosure and comment.

The Alaskan pipeline project, in case anyone hasn't heard about it, is one of the most ambitious construction projects ever proposed. A four-foot-diameter pipe is proposed to be installed from the edge of the Arctic Ocean to the Gulf of Alaska, a distance of roughly 789 miles, to carry two million barrels of hot crude oil daily to tankers. The tanker ships would then transport the oil to the lower United States.

Conservation groups, at least 12 of them, are violently opposed to the entire project. They claim that the proposed pipeline will cross hundreds of miles of frozen, easily-thawed, treacherous arctic and subarctic terrain, "much of its subject to frequent earthquakes, much of it mountainous, much of it unstable." They fear that an earthquake might cause a break in the pipeline, disgorging hot oil into any of several hundred unspoiled rivers and streams. They also believe that thawing action of the hot pipe on the permafrost could cause the same type of disaster. And, they aren't a bit happier about the proposal to transport oil from Alaska to the lower U.S. by tanker, noting that a spill would pollute some of the most productive marine habitats in the world, threatening birds, fish and other valuable marine life.

We agree with the conservation groups that the revised impact statement, reported to fill six large volumes, should be subjected to public or Congressional hearings, but at the same time, we would like to ask the conservationists if they have any ideas about how the oil can be transported to the lower U.S. safely.

The oil is needed by this country. A large portion of the U.S. oil supply has been cut-off by the hostilities in the Middle East. Other oil reserves are being depleted and the Arctic oil may be this country's greatest resource in future years. Without oil, the country stops. Without oil, the nation is forced to engage in international actions that can prove detrimental to the entire country.

These facts cannot be overlooked in any judgment of the proposed project, but they should not be allowed to obscure the necessity for protecting our environment either. Alaska could well be our last state with an environment.

UP WITH HIGHER EDUCATION: PLAN FOR ACTION

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. SCHMITZ. Mr. Speaker, during the last few years many higher educational institutions in the United States have been the scenes of wild student disorders, featured by disruption of classes, destruction of property, intimidation of faculties, lowering of standards, and, too often, a servile acquiescence on the part of authorities. The crises that our institutions have faced were not accidental but planned, usually by small groups of professors, students, and outside revolutionaries.

Fortunately the Nation does have educators who see the problem clearly and have the combination of intelligence, courage, and experience to evaluate the situation and to formulate a plan for action against the assaults that have been made.

Among them is Dr. Donald M. Dozer, eminent professor of history at the University of California, Santa Barbara, authority on Latin America, and author of important books on foreign policy of the United States.

In an article in the autumn 1971 issue of the University Bookman, the quarterly magazine of the Educational Reviewer of Bristol, Conn., Dr. Dozer summarizes the current plight of higher education and outlines a 10-front program for the reassertion of authority and revitalization of values that have been impaired on the educational world.

I recommend it for reading by educators in positions of authority, especially those in Federal and State governments.

The article follows:

RIGHT ON—UP WITH HIGHER EDUCATION

(By Donald Marquand Dozer)

"We will take control of your world, your corporation, your university," Mark Rudd, leader of the rebellion at Columbia University, wrote to President Grayson Kirk in the spring of 1968. "There is only one thing left to say," Rudd concluded. "Up against the wall! This is a stick-up!"

Since then, Rudd's defiance of higher education has been echoed by thousands of militant students, non-students, and their faculty supporters. They have thrown colleges and universities on the defensive. They have terrorized university presidents. They have intimidated faculties and have shattered traditional curricula. They are threatening the future of higher education in America.

In the first eight months of 1969 campus disruptions caused property damage estimated at $8.9 million. According to studies made by Alexander W. Austin, research chief for the American Council on Education, 155 out of 195 campuses which his team surveyed experienced disruptive student incidents between September 1968 and February 1970. Of these, 175 incidents were directed against aspects of the college or university itself on 84 of the campuses; the remaining 260 incidents on the 71 other campuses involved protests against Vietnam, pollution, the "Chicago Seven" trial, and the like. Between January and March 1970 more than 30 cases of arson occurred on college campuses with total damage exceeding $500,000. Sather Gate in Berkeley, Morningside Park in New York City, University Hall in Cambridge, Massachusetts, and Isla Vista in Santa Barbara, California, have become bywords for rioting and mindless destruction with higher education as their targets.

Serious as the physical destruction has been, far more serious has been the damage to morale of faculty and students. "We are parents of a student at your campus," runs a letter written to a campus newspaper in California. "We were so proud when our daughter was accepted . . . at your beautiful and excellent school. We are no longer proud. We are appalled that the majority of students . . . would allow a few radicals to ruin the reputation of such a fine school." Higher education is alienated from the public. It is also undergoing a crisis of self-confidence, as faculties and administrators themselves confess their lack of faith in the values they have professed to represent.

The alienation of colleges and universities from society has been mainly self-induced and self-propelled. The cause for it is not to be found in student acts of defiance; these acts have merely exposed the hollowness of much that masks itself as higher education. Long before students began to voice their complaints about the political involvements of institutions of higher education, colleges and universities—both public and private—were mirroring the concerns and preoccupations of contemporary society. They committed themselves to the ideology of a state-structured society which would be exclusively political and salvationist. Through their willing identification with government policies they accepted political criteria as measure of their success as educational institutions, they permitted erosion of their educational integrity, and they forfeited their capacity for academic balance and real dialogue. Drawn by the magnet of political power, institutions of higher learning thus accepted the responsibility of living entirely in the "now," but they still have not moved fast enough into the "now" to satisfy the new "now" generation. As they transformed themselves into political institutions they became the spoils of political opportunists who now desire to use them for their own ends.

In the judgment of modern militants, the university—and perhaps also every other institution—that does not supply the "correct" answer to all problems of the present does not deserve to survive. If they gain control over the university, they will assuredly mould its mission to respond to the fad of the present; they will relate its program directly and exclusively to solving the "now" problems. They demand that traditional structures be reconstructed in such ways as to produce the new world and the new man of the future. To them, therefore, nothing of the past is valid or sacred. As a means of accomplishing their objectives, they are resorting to the kinds of sabotage and terrorism that disrupted universities in Spain in 1936 before Franco and in Cuba in 1959 before Castro.

The thrust of the protest movement in higher education is purportedly directed against the Establishment, by which is meant the organization that has been built and that is being maintained by the older generation. But in a broader sense it is directed against both the structure of society and the principle of form and management in society. To "hang loose" is to reject the need for order in life. The cry for the reconstitution of higher learning demands the denigration of the management function and the abolition of structure. It it succeeds it will convert the matrix of society into a spongy formless thing. To call this movement simply a counter-culture is seriously to underestimate its revolutionary potential.

The gravity of the current malaise in institutions of higher learning and of its spreading infection into high schools cannot be obscured by well-meaning efforts of school officials to excuse the symptoms as a natural result of manifest grievances which are now being called to their attention spectacularly for the first time. These officials respond with breast-beating confessions of guilt and with frantic efforts to alleviate the alleged causes of the complaints. But they are failing almost everywhere to come to grips with the real problem.

The current impasse in higher education can be partially accounted for by the breakdown in administrative authority, by the soft line which college and university authorities have chosen to follow. In 1966, the latest year for which full data are available, the current-fund expenditures of all institutions of higher education in the United States totaled $12.6 billion. In that year those institutions enrolled more than seven million students and their investment in physical plant alone amounted to the enormous sum of $35.7 billion. In the campus riots since 1966 college and university authorities have failed even to discharge their minimal responsibility of preserving public buildings and other public property.

A tragic gap has thus been disclosed between the legal responsibility of university trustees, regents, presidents, chancellors, and deans, and the degree of authority which they have chosen to exercise in coping with critical problems. Among them, retreat is the order of the day and heroism is a commodity in short supply. Higher education seems to have bred a generation of administrative poltroons who are acting out a death wish for the institutions which they head.

One such university chancellor even personally paid the bail of the militants because he "did not want to lose communication with the student body." The president of Kent State University of Ohio charged that the grand jury which acquitted the National Guard of responsibility for the shooting of four students on that campus showed "a frightening misunderstanding of the role and mission of higher education in an American society dedicated to progress." By implication at least he thus suggested that the university's mission includes rioting, destruction of public property, and complete administrative resignation permitting even anarchy. "The methods of these militants are extreme," admitted another high university official, "but isn't it wonderful that these students are committed?" He failed to point out that the objective of their "commitment" was clearly stated in the declaration of one of the leaders of the student riots at Columbia University in early 1968, "If we don't have enough strength to destroy the nation, by God we can at least destroy Columbia."

It is the duty of administrators to administer, of faculties to teach and of students to learn. This division of authority in higher education has been allowed to go sadly awry. Through default of administrative leadership by presidents, chancellors, and deans, administrators jump through hoops at the command of student extremists and faculties meet in almost continuous handwringing sessions to the neglect of their students and of their classroom duties.

The example set by permissive university presidents and chancellors in yielding to student demands has had the effect of prostituting grading practices in their institutions and of making classroom showmanship and popularity with students the principal measure of the success of the members of teaching staffs. The deterioration of professionalism in academic life is further attested by the proliferation of courses which are offered on a mere pass-fail basis and by the system which has been introduced on the Irvine campus of the University of California allowing students to reject a certain number of their final course grades. This system, the chancellor of that campus has boasted, has had a remarkably beneficial effect upon student morale! And why not?

By and large, universities have long since ceased to dedicate themselves to the pursuit of academic excellence. In this state of academic demoralization higher education has rapidly shed its pose of intellectualism and has declined into a bathos of emotionalism, "relevance," and "democracy."

Students have long known that if they parroted back the "liberal" views of their professors in courses in the social sciences they would receive A grades, but grading practices have now become so lax that even in the so-called "hard" sciences—the physical sciences—students almost never receive failing grades and even in large introductory lower-division courses in such subjects as physics and chemistry students who rank in the lowest 10 per cent of their class are given passing grades of C.

In a course in South American Indians at the University of California, Santa Barbara, students received a final mark of A for dyeing pieces of cloth. In another course the professor, for his final examination, handed out blank sheets of paper to the members of his class, and said, "Write your names on this paper. I will put two words on the blackboard. If you answer *True* you will get a grade of A in the course. If you answer *False* you will get a grade of A minus; and those who helped me distribute papers during this quarter will receive A plusses." On this campus the grade-point average for all students has risen to a substantial B grade or 3.133 on a base of 4.0. Is it any wonder that under these conditions approximately one-fourth of the members of the entire senior class qualify for membership in Phi Beta Kappa?

At the American University in Washington, D.C. President George Williams and a majority of the faculty expressed their sympathy with the so-called National Student Strike, and the administration issued a statement recognizing "the legitimacy of the political concerns raised by the strike." This declaration was countered by one heroic member of the faculty, William F. Fuchs, who served notice on his students in a letter to the editor of a Washington newspaper that he was "staging his own demonstration—a demonstration for society, law, and order, common sense, and discipline. My protest will appear on your report cards. It will look like this—'F'." He continued, advising his students: "Your major undertaking ought to be passing your courses—not passing judgments on the President of the United States, Congress, the Supreme Court, Dow Chemical, everybody over the age of 30, and everybody under the age of 30 who doesn't agree with you."

A university is a place where a certain discipline is required. That discipline must not be made subject to "democratic" controls, to what Chancellor Samuel Gould has called the "authoritarianism of the amateur." The principle of majority rule, which is one of the essential characteristics of democracy, can have little place in a true university community. The mission of the university is a) to impart knowledge, b) to conserve knowledge, and c) to advance knowledge. The only one of these missions which is susceptible to even a modicum of student participation is the first. In the classroom situation continuous responsiveness between teacher and student is a vital necessity, but if teacher and student exchange places the rationale of education evaporates. In the current reversal of roles between teachers and learners the rich and essential disciplines of education are lost, and teachers vie with each other in efforts at influence-peddling with students.

A department of economics at one of the campuses of the University of California has responded to pressures, from both a frightened administration and threatening students, for student voting privileges at departmental meetings by announcing that once each quarter the department will schedule a general meeting of faculty, graduate students, and undergraduate majors at which students will be expected to contribute discussion, suggestions, and questions. But, the department announcement continues firmly, "Student participation will remain advisory. The Department of Economics is not a government nor is it in any way analogous to a government. Individual faculty members were not elected as representatives but were appointed by virtue of skill, training, experience, and accomplishments. . . . Therefore the Economics Faculty reserves the right to conduct its deliberations, discussions, and votes in private session."

In a true university the hierarchy of values will be preserved. In such a university, the past, the present, and the future meet; and those who have experienced the human situation meet and talk with those who have only begun to experience it. It is a place where recipies for successful living of those who think they possess them and those who think they want them can be exchanged and critically examined. Since in this context the learned and the learners do not occupy the same level of learning, a university must operate to some extent hierarchically. It must maintain within its own boundaries the principle of professional elitism which respects the leadership role of the learned on the one hand and the necessary disciplining of the learners on the other.

Constant vigilance must be exercised, however, to prevent this professional elitism from shading into professional snobbery. Like all members of institutional groups, educators tend their own herd of sacred cows. One of these, "Everyone who disagrees with us is an ignoramus," is likely to get loose and wreck the entire barn. Another one, whose name is scarcely even softly whispered, is called "The public be damned." Another is sanctimoniously called "Freedom to live in an ivory tower."

Irving Kristol has pointed out that "when an institution no longer knows what it is doing, it starts trying to do everything." The university, as its name implies, has universal interests and is dedicated to the investigation of all things under the sun. But it is not, therefore, a place for all men. It must be, above all, a place where mind meets mind, and positions in it for both teachers and taught must be reserved for the mentally fit. Those who cannot meet this elementary qualification should seek help in other places, for the university should not be thought of as a relief agency dedicated to salvaging damaged or improvident lives. When such people are brought into the university they find themselves in an uncongenial environment, they soon conclude that they are "sons of the stranger," and they strike back at the forces that placed them there. Even the best-equipped and best-intentioned institution of higher learning must fail if it attempts "to make a silk purse out of a sow's ear."

This truism has been lost sight of in the demands for the universalization of higher education to which colleges and universities have enthusiastically responded since World War II. As these institutions have become objects of mass invasion by the sons and daughters of John Q. Public, they have shown themselves incapable of providing the learned faculties needed to justify their role as citadels of higher education. In substitution they have put at the head of classrooms young instructors who were already indoctrinated in the techniques of political activism and who, unable to carry on classroom dialogues in their own learned discipline, have simply imposed their immature political opinions upon their classes. They have taken advantage of the sincere idealism of the young people under their charge and have induced them with inflammatory rhetoric and impassioned illogicalities to share their own frustrations and to serve their own destructive purposes. To them are attributable many of the depredations committed by militants on college campuses.

A professor of philosophy at Yale University urges a student audience to launch a nationwide student strike. "Go back to your communities and organize," he commands. "Make a summer of organized resistance against oppression." When professors, under the aegis of academic freedom, teach such irresponsible and subversive doctrines to young, highly impressionable people, they must expect to pay a price for their antisocial exercise of this freedom. By such utterances they reduce higher education to lower education, and they should be separated from the university community. The freedoms of education—academic freedom—must be exercised under the law.

Into the vacuum formed by the apathy of chancellors, presidents, and boards of trustees, some "liberal" professors whose teachings through the years have created the climate for student rebellion and have in some cases triggered actual acts of violence, have moved in an attempt to salvage their positions of authority over students, to ingratiate themselves with an outraged public, and to disguise themselves as honest academicians. The best that can be said for them is that, provided their own conversion is now truly sincere, they have literally been hoist with their own petard, they have been failing through the years to perceive the full implications of their own teachings, and they must be characterized now as slow learners, and, as such, too stupid to serve further as mentors of the young.

Students are not entitled to demand "relevance" from their teachers. It has been one of the glories of higher education in America that it has provided a wide range of educational opportunities from which young people could freely choose subjects most conducive to their own growth. This has been considered to be an indispensable attribute of a free society, but it is now being seriously limited by the demand for relevance. Young people must themselves assume the responsibility of supplying the relationship, if any, between their classroom experience and their own career interests. When students demand that educators supply the relevance in their lives they are asking for more than they are entitled to ask and more than any system of formal education can give them. The late Bishop James Pike once stated that every course that he had taken in college "was relevant, including Greek grammar." The university can only say, "Here I stand embodying certain social values and equipped with certain techniques and procedures and with the facilities and the disposition to discover better ones."

Institutions of higher learning which have allowed themselves to become advocates of suicide, destruction, nihilism, and chaos, which have assumed political roles, which have transformed themselves into universal service institutions, and which have opened their doors with the proclamation "come one, come all," have overextended themselves. Under the assaults which are now being mounted against them and which they are failing to withstand, they would do well to retreat to more defensible positions. Grim as the plight of higher education is, the only hope lies in a reassertion and revitalization of values which have been the casualties of conflict and which now lie discarded in the debris. Those values are the values of civilization itself.

First, colleges and universities must set forth their institutional objectives clearly and simply and restore conditions under which freedom to learn and freedom to teach again become possible. These two freedoms define the limits of academic freedom, which is merely the right of intellectual dissent but does not include any other form of dissent.

Second, public institutions of higher learning must be dissociated from politics to the maximum extent possible within the context of public tax policies, and private institutions of higher learning must dedicate themselves once more to the pursuit of independent education of the traditional type, divorced from political and public influences.

Third,. college and university facilities must not be used for activities that do not advance the purposes of higher learning.

Fourth, campuses must not be treated as sanctuaries from the law.

Fifth, the criteria for appointment, retention, and promotion of faculty members must be broadened to include not only scholarly competence and proven teaching ability but also matters of professional conduct, and faculty members who fail to meet these criteria must be dismissed.

Sixth, universities must not appoint or retain faculty persons who are members of an organization which requires its members to accept its orders in violation of the principle of free inquiry inherent in the doctrine of academic freedom.

Seventh, existing faculty imbalances must be corrected to permit consideration of all sides of controversial questions. There is always hope when people are given opportunities to listen to all sides; when they are denied such opportunities errors harden into prejudices.

Eighth, policy-making authority which has been delegated to academic senates and faculties should be converted into a mere advisory power which will be given due consideration by officials responsible for the administration of public colleges and universities.

Ninth, the principle must be maintained that students are admitted to the university at the invitation of the university and that membership in its society is a privilege, not a right. If, on the contrary, access to higher education continues to be construed as a right, then all placement tests must be abolished, and all admissions offices in colleges and universities must be closed. The young man or young woman who comes up to the university and is duly admitted to its privileges should be explicitly put on notice both orally and in writing: "You are now entering into an institution which has been established for the purpose of offering you an academic education. We shall do this to the best of our ability according to rules of discipline applicable to both faculty and students. Should anyone disagree with any part of our programs he should present his grievance to proper officials of the university for consideration. Criticisms whenever justified will be appreciated and the appropriate rectifications will be made. During the course of the year we will not permit demonstrations or clamorous dissent that tends to constrain civil liberties in any manner, and persons who act in that way will be expelled or dismissed."

Tenth, when a student submits himself to the university experience under these conditions, he and the university enter into a voluntary contractual relationship which can be ended by the failure on the part of either to abide by the terms of the contract. For this reason the university can and should require the student to deposit a bond for his good behavior and respect for its property and other physical facilities.

Compliance with these ten points is essential to enable colleges and universities once more to perform their primary task, which is to instill in young people a deep conviction of the need for critical intellectual inquiry into the human situation and a steadfast determination to cling to those values which are demonstrably true.

RICHARD B. RUSSELL DAM—TROTTERS SHOALS

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. DORN. Mr. Speaker, the Honorable Fred West, editor and publisher of the Abbeville, S.C., Press and Banner, is devoted and dedicated to the progress and development of the Savannah Valley and the entire area of western South Carolina.

The following editorial by Mr. West supports the Trotters Shoals Dam, and I commend it to the attention of my colleagues in the Congress who authorized this great project:

RICHARD B. RUSSELL DAM—TROTTERS SHOALS

A real Christmas present for a large number of persons in Abbeville County would be an announcement from some of South Carolina's "late-blooming" ecologists to the effect that opposition to the approved construction of Trotters Shoals Dam is being dropped. Such interest would have been welcomed a few years back, when there was a slight chance the building of the dam could have been prevented. Opposition now can only be classed under the heading of harmful interference.

These late-comers on the scene are also urged to study the whole picture of the area and weigh their recommendations on a complete set of facts. Some changes have occurred within the past several years.

Let's look at a few of them! Lake Hartwell is a reality and a very real hazard to the entire area between that dam and the backwaters of Clark Hill. The nature of things is such that periodically large amounts of water must be released from Lake Hartwell. Woe to those who happen to be near the Savannah River at such times. Water rises rapidly. Human lives have been lost. Others have escaped by the skin of their teeth.

What of cattle and game that might be in the danger area? It doesn't take a conservationist to answer the question. What can be done along the river? Nothing! Hunting? Those who venture into the area gamble with their lives.

The lake planned for Trotters Shoals will be a constant level facility—a very real recreational advantage. Too, it will minimize the effect of the thousands of tons of water from Lake Hartwell. Game can establish itself in a safe area and hunting should be improved.

Only after the dam is constructed and the water impounded can the area even hope for industrial development. Surely, the area will not be suitable for certain types of industry, but it is not now because of fluctuating water level. Prior to the construction of Lake Hartwell, this was not a real problem in this particular area, for there had never been a flood. The picture changed with that construction.

The ecologists and conservationists would do well to apply themselves to additional studies and to take under serious consideration all the facts—as they exist today and not as they did several years ago.

FRANK BOWRON OF WYOMING

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. RONCALIO. Mr. Speaker, last week at Casper, Wyo., the Presbytery of Wyoming of the United Presbyterian Church in the U.S.A. unanimously elected Frank L. Bowron, a 45-year-old Casper attorney, as its commissioner to the 184th general assembly of that denomination which will be held in Denver in May of 1972. Previously, the Wyoming Presbytery had, by acclamation, voted to place Mr. Bowron's name before the general assembly as a candidate for moderator, the highest position in the national church. This is the first time in history that a Wyoming man has been so honored.

Mr. Speaker, I have had the privilege of a friendship with Frank Bowron that goes back for 25 years to a time when at the age of 21 he was first elected a delegate to the State Democratic Convention where he was chosen to serve as chairman of the platform committee and became the youngest person ever elected a delegate to the Democratic National Convention from the State of Wyoming. A year later he came to Washington as an employee of the U.S. Senate under the partronage of the late Senator Lester C. Hunt, and at the age of 22 he headed the student division of the Democratic National Committee.

I feel it is worth noting, too, that a measure of Frank's ability is the fact that while serving as head of the student division and working 8 hours a day for 6 days a week in his Senate job, he also completed both prelaw and his requirements for his law degree at George Washington University in less than 4 years.

Combined with his ability to handle tremendous loads of work, he has a quality of fairness and a sense of justice that resulted in his being selected as chairman of the platform committees of five successive Democratic State conventions, a selection made primarily because he was the one man everyone could be sure would give all a fair hearing and opportunity to present conflicting views to the convention. He headed the rules committee for a National Young Democratic Convention for the same reason. In recent years, he has been unanimously selected as parliamentarian for State conventions of the Democratic Party, an honor which is especially significant in these times of bitter differences on national and international issues.

If I tried to pin down the basic reason that Frank Bowron has moved into these positions of trust, and I have only named a few of those posts. I would say that it is because he is a man of faith: First, a faith in God, and His great capacity for love through that faith; second, and this naturally follows from the first, a faith in his fellow men and their basic goodness; and third, and perhaps most significant to the churches of the Nation at this particular time, Frank Bowron has a faith in our economic and political system and especially in the ability of our people to make changes through that system in the interests of justice.

Mr. Speaker, our late President John F. Kennedy said:

> Those who would make peaceful revolution impossible make violent revolution inevitable.

During the past decade we have lived through a period of violence, of riots, picketing, and of boycotts in the name of social and economic justice. During the 1960's, it seemed to many of us that churchmen, if not church leadership, condoned such violence as necessary to accomplish change. Possibly this violence did result in some benefit, certainly it called national attention to many problems in our society; but the mood of America today has become one in which violence will surely be counterproductive, can result in even greater repression, and will defeat its own ends.

Those of us who, like Frank Bowron, are opposed to violence in accomplishing change are sometimes accused of trying to maintain the status quo. Looking at Frank's record, there can be no doubt that he has not just advocated nonviolent change, but he has accomplished nonviolent change. He has found peaceful ways to make changes in our society. He has the imagination to come up with solutions which have found acceptance without disturbances. Frank Bowron is not just a "letterhead liberal," one of those people who lend distinguished names to causes they espouse and then fail to follow up with real action, but he has been a mover, a doer, a changer, yet always within our system.

When I read of the riot at Attica in New York State, I thought of the situation in the State prison at Rawlins, Wyo. In 1964, some 5 or 6 years before the Presbyterian Church nationally became concerned with prison reform, Frank Bowron was working on a report and recommendations for the prison at Rawlins. That report was issued in 1966, and a storm broke over the capital building in Cheyenne. The Presbytery Committee on Church and Society met with the State prison board, composed of the Governor and four other State elected officials.

Six months later when the Governor appeared before the Presbytery, the first thing he said was, "I want to thank every man here for your perceptivity and tenanciousness. Your frightening report is the unvarnished truth." He then proceeded to outline the beginning of the programs for education and rehabilitation which had been put forward by Frank Bowron and his committee. Today, while we cannot claim that Wyoming's prison system is perfect, we are not afflicted by the difficulties facing many of the States in the Nation, and our rate of recidivism has dropped from the highest in the Nation to one of the lowest.

As I read of demonstrations and violence aimed at integrating public places, I am reminded of a situation at the Casper Air Terminal in the 1950's, when a restaurant at that facility refused to serve blacks. When a complaint was made to Frank Bowron, it took him exactly 2 days to accomplish the integration. He telephoned our late Senator Joseph O'Mahoney and asked him to have the Federal agencies in charge of airport funds hold up any moneys to the Casper Air Terminal until integration was ordered. The airport board took immediate action to integrate the restaurant. This was accomplished without fanfare or publicity, without pickets or riots.

When I read of young people in trouble with the law, I think back to Frank Bowron's record as municipal judge of the city of Casper. For a number of years, various groups had petitioned the city council and State legislature for a juvenile court system, all without success. After he was appointed judge, Frank put into effect, through court order, a procedure which accomplished a juvenile court system.

When the city council budgeted $200 per month for a part-time clerk for the court, he persuaded Mrs. Marion Kreiner, a retired social worker, to go to work for him as a juvenile counselor and probation officer, a post which she handled with such success that after her death several years ago the city named one of the municipal parks after her. This position is now an integral part of the city government and has aided countless young people who are in trouble.

When I read of the reforms in the political party selection of delegates to guarantee minority representation, I am reminded that Frank Bowron, as Democratic State committeeman in 1956, secured election of the first blacks who were ever elected as delegates to the Demcratic State Convention.

While Frank has been active in the Presbyterian Church for many years, I think it is probably the events of the past year and his role in them that has caused the Presbytery of Wyoming to offer his name for the highest post in the church.

A little over a year ago, Frank moved his church membership from First Presbyterian, a church located on the south side of Casper, to Winter Memorial, a multiracial mission church with a membership of 140 men, women, and children located in North Casper, an area shown by the 1975 Federal census to be the place in Wyoming with the worst housing conditions and one of the lowest income groups. The area the church serves is 50 percent nonwhite, the streets are unpaved, basic services are lacking. The greatest problem at the time was a lack of adequate drainage with resulting flood damage after heavy rains or snow.

Within 2 weeks after he joined Winter Memorial, when one of the ruling elders was transferred out of Casper, Frank was elected a ruling elder, and named by the session to a committee called "Associates in Development," as well as a representative to the Casper Strategy and Action Committee, composed of representatives of the three Presbyterian churches in the city. I think the words of one lady who attended her first meeting of the latter group can express what happened:

> When I went home from the meeting, I told my husband, "I've finally met a mover."

Mr. Bowron will probably never get credit for starting this sewer project, because by the time he was through everyone there thought it was his own idea. The plan was to enlist the help of all the churches in Casper to build a storm sewer system in the center of North Casper and to go out and raise the money. The next day, Frank met with Father Brady of St. Anthony's Catholic Church and got a pledge of $1,000. The following week Winter Memorial donated $3,000, Shepherd of the Hills conducted a solicitation which collected $855, from its members, and Bethel Baptist gave $350. By this time, the city government got into the act and agreed to pay assessments for the property it owned in the area, and local residents and property owners decided to organize an assessment district to help pay for the project. The North Casper residents had previously resisted any efforts to establish an assessment district. Winter Memorial held meetings of the residents in the area and explained the project to them, and the district was organized without a single objection being filed with the city government. The funds collected for what became known as ESP, the ecumenical sewer project, were used to pay the assessments for people who showed that they could not afford to pay.

At the same time that the sewer project was getting underway, Frank proposed another project to the congregation: that they borrow funds to purchase land near the church for a playground for youngsters in the neighborhood.

Clarke Vestal, Frank's minister, perhaps expresses it better than I could:

> Frank's ideas, initiative and ability to translate our goals into action have aroused hopes, but I think that the reality of the completion of the storm sewer project has done more for this area than anything else in building the self-respect and self-confidence of our people. One lady told me, "We've wanted to do this for forty years, but no one ever told us how before Mr. Bowron."

Reverend Vestal pointed out to me that perhaps the greatest indication of the morale of the people of his church has been a 10-percent increase in membership and a 25-percent increase in pledges of financial aid at a time when the national church has experienced a membership decline. The session of the church unanimously voted to triple its contribution to the general assembly in a year when funds to the national church have been drastically curtailed.

Reverend Vestal said:

> But by far the greatest indication of our improving mental health in this area was a special fund drive for Self Development of People. Our church's contribution went up 1500% over last year, more than half of it coming in on the Sunday when Frank Bowron spoke in support of the fund. In an area with an average income of less than $3,000 a year, we collected more than $500 in pennies, quarters and dollars.

Another result of ESP has been the organization of a group called the Casper Churchmen composed of laymen serving on church governing boards in the city, meeting to coordinate community projects and exchange ideas and information, a drawing together of churches in a common cause, which one minister has called "the biggest step in the ecumenical effort that has ever been made in Casper."

In 1967, a month after the voters at Casper had rejected a $400,000 library bond issue, Frank was named to the county library board. He immediately began a one-man campaign to replace the old Carnegie building erected in 1910. He dramatized the condition of the building by getting a paint manufacturer to donate white paint, and with television cameras grinding, he went to the roof and repainted the dome of the building. Two years later, as chairman of the library board, he proposed a $1,100,000 bond issue that captured the imagination of the public and he guided the campaign to pass it. This summer at Casper a magnificent new public library will be opened, complete with the Nation's first video reference service to broadcast information and education programs throughout central Wyoming.

Mr. Speaker, it would be difficult to classify Frank Bowron as a "liberal" or a "conservative." He has always supported progressive programs to help other people, but while he was a World War II veteran eligible for subsistence under the GI bill, he refused to apply for Government help, and worked his way through law school. As a Wyoming veteran, he is eligible for a veteran's exemption, but although he owns considerable property he has never made a claim for this bonus.

He has said:

> I strongly feel that help must be given to those who need it, but the good Lord blessed me with health and an ability to make my own way and I have never found it necessary to seek such assistance.

Mr. Speaker, in spite of his outstanding qualifications to be moderator of the United Presbyterian Church, I recognize that Frank Bowron's chances of being elected are slender. The Wyoming Presbytery will have only two of the 850 votes at the general assembly. Frank Bowron has not served on national committees of that denomination and is not part of the "establishment" that any organization seems to develop, and highly qualified men and women closely identified with that "establishment" are also candidates for the position. I am sure, however, that the very fact of his candidacy creates a symbol of hope for the future course of our churches, and I am sure, too, that his candidacy will have an impact upon the course of the church, because all of his life Frank has been a guiding force. More than that, however, it provides a symbol to men and women of all faiths that the injustices in our society can be corrected without violence and through the orderly process of changing within our system. That is the new direction for the church and the Nation in the 1970's, and unless the church follows that direction, there is little hope for reconciliation within individual denominations and no hope for reconciliation among all of our people.

BRANDT DELIVERS TO U.S.S.R.

HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. GROSS. Mr. Speaker, it has come to my attention that West German Chancellor Willy Brandt, in attempting to sell his government's Ostpolitik to the German people and the rest of the free world, has claimed that his overtures to Soviet Russia were based on the wishes of the United States. I am advised that both he and Foreign Minister Walter Scheel, chairman of the Liberal Free Democratic Party, have maintained that the United States has supported exactly the same types of treaties and has followed the same type of policy which West Germany has with Communist countries. These are not the facts.

There is strong conviction in the United States that the Federal Republic of Germany has made itself a bad deal in its treaties with Moscow and Warsaw.

The alleged advantages for West Germany in these treaties consist mainly in Communist promises that traffic to West Berlin will now be guaranteed by the Soviet Union. Whether this is, in fact, an improvement remains to be seen. It may well be that reliance on a treaty—on Communist promises—will actually weaken the present situation.

The treaties have already had their bad effects. In order to put pressure on the West Germans to ratify them, the Communists have restricted the number of Germans they will allow to leave Poland, indicating to many that the Communists intend to use innocent people as pawns to gain what they want. It would be nothing new, of course.

In reaching out for these treaties with the Communists I believe Chancellor Brandt has, unwittingly or otherwise, given the Russians much of what they have wanted for years.

The Russians now have a means of extortion which they can hold over the heads of the West German Government. The Russians have increased West German economic, scientific, and technological aid to their puppet regimes behind the Iron Curtain; they have West Germany's recognition of Communist domination over Eastern and Central Europe; and they have Chancellor Brandt's promise to work for the creation of a European Security Conference on Communist terms.

One has to ask why Brandt and Scheel and others, such as Egon Bahr and Herbert Wehner, go to the lengths they have to assist the Soviet Union.

The policies of Chancellor Brandt toward the Communist nations of Europe are only mirrors of Communist policy which is, in its aim, directed at the destruction of the alliances between the nations of the free world. I do not believe those policies will ever have the support of the American people.

THE NATION SALUTES THE HONORABLE HENRY J. VAN DYKE, POLICE CHIEF OF WAYNE, N.J., CHAMPION OF THE PEOPLE IN PUBLIC SAFETY AND PROTECTION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. ROE. Mr. Speaker, it was indeed my great privilege and honor to participate in a testimonial dinner to my lifelong friend, the Honorable Henry J. Van Dyke, chief of police of Wayne, N.J., commemorating his lifetime of outstanding service as champion of the people in seeking optimum public safety and protection for the citizens of our community. I respectfully request that you join with me in this national recognition of his dedication, sincerity of purpose, and achievements in unselfishly and willingly serving with America's finest—pounding the beat as a young police recruit in 1943 to a leader among his fellow associates at the helm of law enforcement and crime control programing during a period in our Nation's history when established procedures of "law and order" were being threatened and put to their greatest test.

Chief Van Dyke was appointed to the police department of Wayne, N.J., on October 7, 1943. His exceptional qualifications of leadership were quickly recognized and he progressed rapidly through the ranks, being promoted to captain on January 24, 1949, 6 short years later. He assumed the office of deputy chief on August 1, 1958, and was promoted to chief of the department on October 17, 1961.

During his career the chief saw the department grow from an agency of less than 10 men to a department of almost 100 men. The original three police cars of the department have given way to a fleet of almost 30 police units. As specialization in law enforcement became more and more prevalent, various units or bureaus were created under the direction of the chief and staffed with officers highly trained and skilled in their various categories. Under the arrangements made by Chief Van Dyke, men were enrolled in the various police schools operated by the Federal Government, the State, and the counties in order that their knowledge of police operations and techniques might be developed and kept up to date.

Chief Van Dyke himself is a graduate of the New Jersey State Police Academy, the FBI National Academy and approximately 75 other schools and training sessions in the field of law enforcement. He created the Tri-State Conference on Identification and in 1957 was awarded a bronze plaque for his contributions to scientific crime detection. He is a past president of the New Jersey State Identification Association, a past president of the New Jersey Chapter of the FBI National Academy Associates, past president of the Passaic County Chiefs of Police Association and vice president of the New Jersey Association of Chiefs of Police. He also served as chairman of the Tri-State Committee on Organized Crime under the Metropolitan Regional Council. He is also a past president of Kiwanis, a member of the Masonic Lodge, and the Wayne Elks Lodge. Chief Van Dyke also holds the title of "Honorary Chief of the Community Volunteer Fire Co. No. 1," of Wayne.

Henry Van Dyke retired his police badge this past month but his honor and faithful service to Wayne and its people have been lastingly etched in the minds and hearts of all of us and will never be retired. Many, many thanks, Chief. The Nation does indeed salute you.

AN UNCOMMON MAN

HON. WILLIAM O. MILLS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. MILLS of Maryland. Mr. Speaker, I respectfully insert in the RECORD a commentary of which no greater could be made than that placed in the Star-Democrat in memory of a dedicated employee and resident of the First Congressional District of Maryland, Mr. Henry W. "Hank" Montgomery, who lost his life in a tragic accident on February 3. This truly memorializes an uncommon man.

The commentary follows:

AN UNCOMMON MAN

Hank Montgomery was an uncommon man. Not only was he a good journalist, photographer and excellent at newspaper layout and design, but he was able to inspire those who worked around him for he freely gave of his time and talent so that they might one day take over his job.

He could write not only hard news, but his real field was reaching into the story and finding the soul of the subject.

But Hank was more than just a newsman; he was a concerned human being.

A born leader, he was rich in friends from all sections of life, and they deeply valued his friendship and he theirs.

Caring about his fellow man, he greatly furthered the cause of human relations in the community, partly because he knew the secret of feeling other peoples pain and was willing to reach out and help.

Hank deeply loved Talbot County, and his family, friends and associates will have the legacy of his thoughts to read and the fond memory of a caring and creative man to remember.

He was before his time in many ways and he will always be timeless.

ARGUMENTS FOR KEEPING THE DISTRICT FOR ALL THE PEOPLE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. RARICK. Mr. Speaker, in testimony before the House Committee on the District of Columbia on the home rule issue—CONGRESSIONAL RECORD, pages 3503–3505 of February 9, 1972—I spoke in favor of my bill H.R. 355, "to retrocede a portion of the District of Columbia to the State of Maryland" as a plan which would achieve the objectives of the home rule proponents yet not violate the basic constitutional principle whereby the Congress shall "exercise exclusive legislation in all cases whatsoever" over the District of Columbia.

I mentioned the rampant crime in the District and the threat of a militant group such as the Black Muslims gaining control of the District as two reasons why Congress should retain control over all the people's city.

Two recent articles substantiate my statement. In one article aptly entitled "Why the Capital Is a Jungle," columnists Reed Benson and Robert Lee, writing in "The Review of the News" of February 16, 1972, vividly depict the incredible crime situation in the Nation's Capital as well as providing reasons for the condition.

The other article is a news account in which self-appointed Gen. Hassan Jeru Ahmed, founder of the Blackman's Volunteer Army of Liberation, pictured in an army uniform with a star on his collar, announced his intention to seek the Republican nomination for the city's nonvoting congressional delegate seat in the spring primary election. He also told of plans for a massive vote registration drive by members of his paramilitary organization.

All of which goes to prove the wisdom of the Founding Fathers.

I ask that the two articles follow my remarks in the RECORD at this point:

[From the Review of the News, Feb. 16, 1972]

WHY THE CAPITAL IS A JUNGLE

(By Reed Benson and Robert Lee)

The President is promoting permissiveness by freeing convicted murderers and doctoring key statistics.

During his State of the Union Address on January 20, 1972, President Richard Nixon assured the nation that "The rate of increase in crime has been slowed—and here in the District of Columbia, the one city where the federal government has direct jurisdiction, serious crime in 1971 was actually reduced by 13 percent from the year before."

The President knows that if it can be made to look as if the Administration's crime-fighting program is working, the crime issue can be converted into a political plus for Mr. Nixon. And if, in addition, it can be made to appear that the Administration's program is working best in "the one city where the federal government has direct jurisdiction," it will help justify further federal interference in—*and control over*—state and local law enforcement agencies. What is the truth of the matter?

When dealing with crime figures, attempts to run the statistical maze and arrive at the truth can be very frustrating indeed. Consider, for instance, some of the problems about available figures which have arisen in the District of Columbia during the past year. On February 6, 1971, during National Crime Prevention Week, President Nixon issued a statement claiming that the nation's capital "has shown a significant downward trend in crime."

Eight days later, however, a report in the Washington Star revealed that the "downward trend" may have been more show than substance. The Star explained what had happened:

A curious set of statistics, not included in the crime figures for Washington made public by police, raises serious doubt about whether the city's heralded drop in crime during 1970 actually occurred.

The statistics are in the little-noticed crime category of "larceny less than $50" and they lend credence to charges by some officers that police officials have forced them to downgrade the value of stolen merchandise so that the theft would not appear in the crime figures released to the public.

Tending to support these charges was the fact that the decrease in "larceny over $50'" (a reduction amounting to 2,134 offenses during 1970) was balanced by an increase in "larceny under $50" (an increase amounting to 2,800 offenses). One policeman, mentioned by name in the Star article, revealed that officials had ordered officers routinely to devalue stolen property in order to keep down the number of "index" larcenies,[1] and that reports turned in by police officers are now scrutinized by superiors "for the purpose of re-evaluation." A Department official (who preferred to remain anonymous) confirmed that there had indeed been some downgrading of the value of stolen property. He said that pressure had been put on district inspectors to produce a reduction of crime statistics in their sections of the city, and that five inspectors had been transferred in 1970 when crime figures rose in their areas. The implication was that such pressure created a tendency for some officials to "juggle the books" in order to obtain "decreases" in crime within their jurisdictions.

Nevertheless, in a message to Congress on April 7, 1971, President Nixon boasted of the District's supposed decline in crime, claiming that "people who live in the District, people who work here, and our millions of visitors from around the world, are safer on the city's streets." You will walk many a street here in the capital before you will find a resident who believes *that*. Even on Capitol Hill, itself, crime has during the past year steadily increased to shocking levels. As Senator Alan Bible (D.-Nevada) noted on December 11, 1971, "Assault-type crimes, robberies, burglaries, and rapes are not new to Capitol Hill, but they are becoming more frequent." The Senator gave some details:

"It was a shock for me to get a report from Capitol Police Chief James Powell, advising that so far this year within the Capitol Hill complex there have been 43 robbery holdups, 35 robberies by force, 37 autos stolen, 127 larcenies from autos, 19 pocketbook snatchings, one homicide, nine assaults, three rapes, and 64 other types of criminal acts. That this number of criminal acts can occur within an 11-month period at the complex of buildings and streets surrounding the Capitol of the United States is completely intolerable."

Other indications of runaway crime in Washington were revealed in such news reports as the following from the Washington Daily News of November 4, 1971:

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[1] The seven "index" categories of "serious crime" are: murder, rape, robbery, burglary, aggravated assault, auto theft, and larceny *over* fifty dollars.

> The homicide rate in the District is more than twice that of New York City....
>
> So far this year homicides (236) have passed last year's total....[2]
>
> The Health Department, which charts the mortality rate, says that District residents between the ages of 15 and 44 have a better chance of being murdered than of being killed by a heroin overdose, automobile accident or any natural cause.
>
> The city medical examiner has called the homicide rate "epidemic" and the U.S. Attorney calls it "alarming."

That murder continued to escalate over even the previous year was confirmed the following month in a tragic manner. Here is a report from the Washington Star of December 20, 1971:

> Eight persons were killed in six unrelated District homicide cases in 26 hours this weekend....
>
> Homicide detectives said they could not recall so many separate homicide cases in such a short period in the District.

The case is similar with the crime of rape. On November 10, 1971, the Washington Daily News revealed:

> Every 12 hours a woman is raped here and the frequency of attacks has startled police, frightened women and puzzled psychologists.
>
> In the District, the number of reported rapes has climbed significantly and three of the city's suburban police departments say that the number of rapes in their jurisdictions has already equalled or passed last year's total.[3]

Yet, the figures on rape released by the District Police Department on January 20, 1972, claimed a substantial decline in the rape rate during 1971.

Obviously the figures are being juggled! Here is what was happening. Beginning in April of 1971, significant adjustments were made in the manner in which reported rapes are tallied for statistical purposes. So extreme has been the resulting confusion that one source discovered a fourteen percent decrease in rape where another found a seventy-four percent increase in the incidence of that crime.

While the manipulation of figures has resulted in controversy over whether crime in the nation's capital is decreasing, there is no controversy when it comes to the nation as a whole. Crime is still going up by more than half-a-million additional crimes each year. Even the Nixon Administration has been compelled to admit this. But the Administration has done everything possible to present this fact to the public in such a way as to give the opposite impression.

For example, a dispatch in the *Washington Star* for September 8, 1971, reported that the office of Attorney General John Mitchell had begun rewriting F.B.I. interpretations of national crime statistics, and that "As a result of the interpretations placed on the crime situation by Mitchell's public relations staff, it has been made to appear that the FBI believes the crime rise that began under a Democratic administration almost a decade ago is tapering off. The figures, however, show that reported crime is rising at about the same velocity as before."

After noting that this procedure is "in line with the Nixon administration's law and order political strategy," the article went on to illustrate how the figures are being manipulated:

> Ever since the bureau began releasing crime figures in 1933, Director Hoover had drafted the statements to explain the figures. This changed in June 1970 when Hoover's office prepared a statement, under his letterhead, that characterized the statistics to be released that day as follows:
>
> "For release Monday p.m., June 22, 1970—According to figures made available through the FBI's uniform crime reports and released by Atty. Gen. John N. Mitchell, serious crime in the United States continued its upward trend, recording a 13 percent rise nationally for the first three months in 1970 when compared to the same period in 1969."
>
> The statement as rewritten in Mitchell's office and actually issued under Hoover's letterhead began as follows:
>
> "For release Monday p.m., June 22, 1970—Atty. Gen. John N. Mitchell announced today that the FBI's uniform crime reports show that the rate of increase of violent crimes in the first three months of 1970 slowed by 7 percent in the major cities of the nation—and by 3 percent in the nation as a whole.[4]
>
> Significantly, the dispatch also noted that "Comparisons between the FBI's explanatory material and the press statements of past years make it clear that only in Mitchell's tenure has Hoover's copy been edited."

Another illustration of the game of statistical charades being played with the crime statistics appeared in the *Washington Star* for September 30, 1971:

> Atty. Gen. John N. Mitchell pointed with pride yesterday to a 16 percent decrease of "serious crime" in Washington during a period in which murders increased by 6 percent and the number of forcible rapes nearly doubled.

This seeming contradiction apparently arises because violent crimes against persons are combined on an equal basis with the lesser, but far more numerous, crimes against property. Thus, one murder or one rape carries no greater weight than one auto theft or a fifty-dollar shoplifting. Decreases in crimes against property (a doctored statistic, as we have shown) easily offset increases in violent crimes in the overall percentage calculations. Thus it may be possible that the crime situation in Washington is improving somewhat for those who would rather be murdered than have their cars stolen. But, for most Americans, a set of statistics based on equal weight for rape and fifty-dollar larceny is questionable to say the least.

The above situation reminded one Congressman of a man who drowned in a river with an average depth of only six inches. Others are reminded of the description of a statistician as one who, on discovering a man with his head in an oven and his feet in a bucket of ice, is likely to conclude that, on the average, the man's temperature is normal.

None of the above is meant as criticism of the job being done by rank-and-file policemen in the District of Columbia. Like our men in Vietnam, who have been hamstrung in their war against Communism by political restrictions administered from above, the police here have had incredible obstacles thrown in the path of their war against crime by "Liberal" courts, radical politicians, and even some of their own leaders within the Police Department itself. Consider the facts:

On November 4, 1971, the Washington Daily News reported that, while the District homicide squad boasts of solving ninety percent of its cases, "only half of the suspects captured get indicted and only a third of the suspects indicted get convicted." And on November 17, 1971, the Washington Star revealed that "More than 1,400 persons charged with crimes in Washington and freed by local courts—either while awaiting trial or following conviction for an offense—were rearrested and charged with new crimes during an eighth-month period this year, according to a study by District police." The Star went on to note that "In one of the homicide cases, the 25-year-old suspect had been released on personal recognizance—his promise to appear for trial—in January 1971 while awaiting trial for armed robbery and again the following month after being arrested on a second armed robbery charge."

There have in recent weeks been some serious charges of police corruption levelled against some elements within the District Police Department. While it is too early to tell how much substance there is to the allegations, it would come as no surprise to find a few "bad cops" within the Department. Especially since some of the very worst enemies of the police have been assigned in recent years to act as *recruiters* here for the police. For instance, the *Washington Post* for October 11, 1970, mentioned that a fellow named Marion Barry "has been instrumental in recruiting 'community-involved' officers for the metropolitan [*police*] force." Who is Marion Barry?

Prior to moving to Washington in 1965, Barry served as head of the New York office of the revolutionary Student Non-Violent Coordinating Committee. Afterwards, he helped expand Washington's S.N.C.C. office. He had previously been arrested and convicted on assorted charges in Memphis, Knoxville, and Chicago, and asserted on one occasion: "Riot power and rebellion power might make people listen now." The Communist *Worker* for January 10, 1965, listed Barry as a featured speaker at a New York meeting honoring the fortieth anniversary of International Publishers, a Communist publishing firm.

Marion Barry became a top official of Pride, Inc., an outfit funded by the Labor Department ostensibly to provide jobs and training for youths in the District of Columbia. An indication of the organization's slant was its refusal in 1968 to celebrate George Washington's birthday on February twenty-second, choosing instead to celebrate its holiday a day later on the birthday of the notorious Communist, W.E.B. DuBois.[5]

In January of 1968, Barry joined with Communist Stokely Carmichael and other revolutionaries to form the Black United Front in the District of Columbia. Six months later, after a District police officer was slain with his own revolver while trying to make a lawful arrest in the line of duty, the Black United Front issued a statement asserting: "The methods of self-defense [sic] used by the family charged with the alleged slaying of the honky cop is justifiable homicide." That is *part* of the background of police recruiter Marion Barry.[6]

Another member of the anti-police Black United Front chosen to help recruit for the Department was Calvin Rolark. The *Washington Star* of April 26, 1970, carried a news item that revealed: "As part of an intensive drive to attract local residents to become policemen here, the Metropolitan Police Department has hired Calvin Rolark, one of the founders of the Black United Front, as its recruiting coordinator." The *Star* went on to quote Rolark as boasting: "I have been a critic, a severe critic, of the police department." Little wonder that the Washington police now find themselves in trouble.

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[2] The final homicide total for the year reached 275.

[3] Such "improvement" in the District's crime situation recently led one agency of the federal government to install combination security locks on the doors of its twenty-two washrooms.

[4] This business about "slowing the rate of increase" is roughly equivalent to a doctor's assurance to a patient that his health is improving because, while his temperature rose seven degrees yesterday, it only rose another four degrees today.

[5] See the *Congressional Record*, vol. 114, pt. 4, p. 4008.

[6] Unless you are familiar with the incredible situation which exists in Washington, you are probably going to find it hard to believe that last fall Marion Barry was elected a member of the D.C. Board of Education. And on January 24, 1972, by the *unanimous* vote of his fellow Board members, he was elected *president* of the School Board.

Another significant question which arises from discussions of crime in Washington is whether it is being curbed or just spread around. On June 30, 1971, the *Washington Star* reported that serious crime in the District for the first quarter of the year had dropped by 17.5 percent. That figure, as we have seen, is highly dubious. But what is interesting is that the *Star* noted at the same time that over the same period serious crime in the suburban cities of Alexandria and Arlington, Virginia, had risen 28.8 percent and 11.1 percent, respectively. During 1970, when District crime reportedly dropped by 17 percent, crime in the Maryland suburbs increased 18 percent. During 1970, some 28 percent of those detained in the jails of Montgomery County, Maryland, were actually residents of the District, as were 33 percent of those detained in the jails of Prince Georges County, Maryland. One observer compared what is happening to the use of insect repellent, instead of an effective insecticide, to cope with cockroaches. It simply drives the pests into neighboring apartments. As a police captain from a Maryland suburb told a U.S. Senator: "If you want to help us, you should build a 40-foot chain link fence along the District line and put barbed wire on top."

Obviously that is not the solution, for it does not strike at the real problem. During our study of the crime in Washington, we ran across a case history which we think does indicate why crime is rampant in this federal city, and suggests where the fault lies.

In 1960, a gambler in the federal District named George (Cider) Brown was slain during a holdup attempt. A youth named Eddie Harrison was subsequently arrested, convicted of first degree murder, and sentenced to death. Harrison spent sixteen months on death row, and then saw his conviction overturned on appeal because his "lawyer," it turned out, had been a layman without legal training. So Harrison was tried again, was convicted, and received a twenty-year-to-life sentence for the same crime. But this conviction was also overturned on appeal, on the ground that Harrison's confession had been "illegally" obtained.

So Eddie Harrison went to trial for the third time, and was again convicted. But the conviction was overturned by a Supreme Court ruling that tainted testimony from the second trial, which had been introduced at the third trial, compelled Harrison to incriminate himself wrongly.

So Harrison was tried—and convicted—for a fourth time. The case was appealed, but with all technicalities apparently having been exhausted, this time the appeal was denied. Two years later, however, President Richard Nixon responded to what the *Washington Post* later described as "broad-based community pressure," and commuted Harrison's sentence!

And then, on June 6, 1971, the Washington Post carried an Associated Press dispatch which began:

> Baltimore, June 5 (AP).—Eddie M. Harrison, convicted four times of the same slaying in Washington but freed after 8½ years in prison by order of President Nixon, has received a $500,000 grant to run a program for the rehabilitation of juvenile delinquents here.
>
> The Manpower Administration of the U.S. Department of Labor agreed Thursday to supply the funds and a contract has been signed by Mayor Thomas D'Alesandro III.

One month later, on July 6, 1971, President Nixon told news media executives attending a background briefing in Kansas City, Missouri:

> I have stated categorically, and I state it again here today, that in this administration, the era of permissiveness in law enforcement has come to an end. We are going to continue to support strong laws dealing with criminal elements. . . .

This sort of basic dishonesty cannot long be tolerated in a free nation. Americans will not long be fooled by such deception.

It has often been said, as a figure of speech, that crime has turned many American cities into jungles. A few years ago, when vandals wounded two alligators during the New York World's Fair, one wag commented that New York was probably the only place in the world where an alligator couldn't feel safe at night. But here in this federal city, it seems, the situation is even worse. Here is a news item from the *Evening Star* for January 15, 1972, which begins:

> A 20-year-old mother, her baby wrested from her arms, was raped by two men, one of whom wore a ring in his nose, as she walked home from a friend's house, along East Capitol Street, police reported yesterday.

Such is the state of life in the jungle that is Washington, D.C.

[From the Evening Star, Feb. 12, 1972]

Hassan Hits Vote Board

(By Lynn Dunson)

Gen. Hassen Jeru Ahmed, founder of the Blackman's Volunteer Army of Liberation, again has accused the D.C. Board of Elections of failing to do its job and has threatened to take legal action unless more registration sites are opened.

Hassan renewed his attack against the board at a press conference yesterday where he formally announced that he will seek the Republican nomination for the city's nonvoting congressional delegate seat in the spring primary.

Hassen, who last month registered to vote for the first time, is the first Republican to announce his candidacy. He has been unable to vote in the past because of criminal convictions.

Congress in December passed legislation allowing former felons to vote if they have been out of prison at least three years.

Residents may now register to vote at public libraries, the board of elections office and the Division of Motor Vehicles office, but Hassen said that was not enough.

He also charged that the board has failed to notify some 32,000 persons that they are about to be purged from the voters rolls because they have not voted in the past four years. The purge is required by law.

But yesterday, Norval E. Perkins, election board secretary, said that arrangements are already under way to increase registration efforts. Registrars will operate sign-up booths in the city's high schools beginning Monday, he said, and other registration points will be added later.

Perkins also said that in mid-March notices will be mailed to all persons who are in danger of being dropped from the voting list. Registration closes April 23.

In 1970, Hassan threatened to get a court injunction against the nonvoting delegate election because the board of elections was not registering enough people. As a result, the board intensified registration efforts.

Hassan said that he and the members of his paramilitary group will embark on a massive registration effort of their own with the aim of getting 20,000 additional Republican voters in the District.

"I am not a 100 percent Republican," Hassan said yesterday. "I am not joining the 35,000 old-line white Republicans in the District. I am joining the Republican party to bring a change."

He said that he knew he was not welcomed by the Republicans and has not heard from them.

Hassan said that he would seek the spring nomination on a platform of home rule and complete Congressional representation for the District.

He also used the occasion to repudiate Rep. John R. Rarick, D-La., who suggested during testimony Tuesday before a congressional committee that District residents who do not work at essential government jobs should be relocated to sparsely populated areas.

Rarick caused great consternation among spectators and some congressmen on the committee with his remarks strongly opposing home rule, during which he called District residents "squatters" and said that home rule would mean a Black Muslim takeover of the District.

PRESIDENT NIXON ABLY REPRESENTED AT LINCOLN MEMORIAL CEREMONY

HON. LESLIE C. ARENDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. ARENDS. Mr. Speaker, at the historic Lincoln Day ceremonies conducted at the Lincoln Memorial on Saturday, our colleague, Congressman Robert McClory of the 12th District of Illinois, represented President Nixon in the wreath laying and other ceremonies. This highly colorful and impressive ceremony commemorating the 163d anniversay of Abraham Lincoln's birth, also marked the 50th anniversary of the dedication of the Lincoln Memorial. As in earlier years, the program was organized by the Military Order of the Loyal Legion.

In addition to our colleague, Congressman McClory, the ceremony highligted the presence of the Honorable Robert F. Froehlke, Secretary of the Army, who read Lincoln's Gettysburg Address.

The Loyal Legion Award to college students was presented to Miss Mary Sand of South Dakota State College for her original paper entitled, "Foreign Relations and Diplomacy Between Great Britain and the United States During the Civil War, 1860–65."

The military Guards of Honor and escorts were ably organized by the commanding general of the Military District of Washington, Maj. Gen. Roland M. Gleszer.

The role of master of ceremonies was again filled by Frederick Drum Hunt of the Loyal Legion.

Mr. Speaker, I am pleased to present the message of the President of the United States as read by Congressman McClory and Mr. McClory's individual remarks delivered on that occasion. Also, I am including the formal program and a descriptive statement concerning the Lincoln Memorial and the role of the Military Order of the Loyal Legion in keeping alive the Lincoln Day Memorial ceremonies since 1922.

The White House,
Washington, D.C., February 7, 1972.

Hon. Robert McClory,
House of Representatives,
Washington, D.C.

Dear Bob: When you represent me at the wreath-laying ceremony at the Lincoln Memorial, I hope you will convey my best wishes to all who pay tribute to the leadership which this strong yet simple man brought to a divided nation over a century ago.

He was an open man, genuine, rough-hewn

and full of hope for America. His abiding faith in God and in the ultimate wisdom and goodness of the common people guided him all the years of his life and touched the soul of the land. His forthright and honest words sank deep into the understanding of every listener, and what he said of Henry Clay, a man he deeply admired, could well be applied to Lincoln himself:

He loved his country partly because it was his own country, but mostly because it was a free country; and he burned with a zeal for its advancement, prosperity and glory, because he saw in such, the advancement, prosperity, and glory of human liberty, human right and human nature. He desired the prosperity of his countrymen, but chiefly to show to the world that freemen could be prosperous.

Now, one hundred and twenty years later, we work in a divided world to establish a peace to end all wars, and we seek to move America forward here at home bringing its people together and building a new and lasting prosperity. We need more than ever the qualities of Lincoln to inspire us and give us confidence to do our duty as we understand it, to serve America better so that America may better serve mankind.

Sincerely,

RICHARD NIXON.

INDIVIDUAL REMARKS OF CONGRESSMAN ROBERT McCLORY, AT THE WREATH LAYING CEREMONIES, LINCOLN MEMORIAL, WASHINGTON, D.C., FEBRUARY 12, 1972

Mr. Secretary Froehlke, Ambassador Rossides, Fred Hunt, distinguished guests and friends: At any Lincoln Day ceremony it is customary to include some appropriate quotation from Abraham Lincoln. This is not difficult, as Lincoln was a prolific writer and he had a most eloquent literary style. Accordingly, it is merely a question of what quotation of Lincoln's is most appropriate on any given Lincoln Day anniversary.

In this year 1972, as we approach hopefully and prayerfully a peaceful conclusion to the War in Indo-China, it seems logical to recall a few words uttered by Lincoln on March 4, 1965 when he delivered his Second Inaugural Address. In the final paragraph, Lincoln said for both that period and now:

"With firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; . . . to do all which may achieve and cherish a just and lasting peace among ourselves, and with all nations."

Our President, whom I am privileged to represent here today, in disclosing the eight point program for peace submitted as a basis for terminating the War in Indo-China, in his recent television report to the American people, used these words:

"This has been a long and agonizing struggle. But it is difficult to see how anyone, regardless of his past position on the war, could now say that we have not gone the extra mile in offering a settlement that is fair, fair to everybody concerned . . . Honest and patriotic Americans have disagreed as to whether we should have become involved at all nine years ago; and there has been disagreement on the conduct of the war. The proposal I have made tonight is one on which we all can agree.

"Let us unite now, unite in our search for peace—a peace that is fair to both sides—a peace that can last."

The war was not yet over and the difficulties were far from reconciled when Lincoln stood in front of the Capitol for his Second Inaugural. Yet his message of hope for a return to order, justice and peace were examples of the same yearning for freedom, justice and peace which motivates the President who occupies the White House today. Therefore, recalling but a few of the mighty words which were uttered by Lincoln on that occasion—and which are carved on the walls of this hallowed temple—we can repeat them here today and pray for their fulfillment.

For in this day in our history as a nation we may rededicate ourselves during the winding down of the Indo-China War as truly as our forefathers did during the winding down of the great War between the States—and to do all we can to achieve "a just and lasting peace among ourselves, and with all nations."

MILITARY ORDER OF THE LOYAL LEGION HAS KEPT TRADITION ALIVE SINCE 1922

The ground-breaking ceremony took place February 12, 1914, the 105th anniversary of the birth of President Lincoln and the corner stone was laid exactly one year later. However, it was not until 1922 that the fine Memorial was completed. The Lincoln Memorial Commission under the Chairmanship of President Taft had selected the site and the architect was Henry Bacon. Daniel French was sculptor of the fine statue and Jules Guerin painted the interior on canvas.

Recalling the founding of the Military Order of the Loyal Legion on the day of Lincoln's death, April 15, 1865, President Harding asked the Loyal Legion to arrange a suitable ceremony for the occasion. The Commander-in-Chief of the Loyal Legion at that time was Lieut. Gen. Nelson Miles, first Chief of Staff of the Army. He called upon all Companions (members) of the Loyal Legion to assist. Another Companion, Major Vogel (later a Maj. Gen.) was Commandant of the Marine Barracks at that time. Under his command, the Marines furnished all of the ushers, the band and all of the other necessary support. The Marines continued this fine service each year until the establishment of the Dept. of Defense.

The 1922 ceremony was so impressive that the Companions of the District of Columbia Commandery of the Loyal Legion determined to hold a ceremony each year on February 12th and have continued to do so regardless of the day of the week or the state of the weather. In doing so, they have had full support from the Military District of Washington which is in charge of all ceremonies of a military nature, the National Park Service which is custodian of the Lincoln Memorial, and the Commissioner of the District of Columbia.

For the past fifteen years, other patriotic and civic societies have been invited to participate in the ceremony by placing floral tributes. Let us hope that this recognition of a great President and of the traditions of our fine country may continue for another half century.

PROGRAM, FEBRUARY 12, 1972

PRESENTATION OF THE COLORS—THE NATIONAL ANTHEM

The Gettysburg Address read by the Hon. Robert F. Froehlke, Secretary of the Army.

Presentation of Award given by the Loyal Legion Bulletin to Miss Mary Sand of South Dakota State College for an original paper entitled "Foreign Relations and Diplomacy between Great Britain and the United States During the Civil War, 1860–65".

The Wreath of the President of the United States, Hon. Robert McClory, Member of the Congress from the 12th District of Illinois repersenting the President. Escorted by Maj. Gen. Roland M. Gleszer, Commanding General, Military District of Washington.

The Wreath of the Diplomatic Corps, The Hon. Zenon Rossides, Ambassador from Cyprus.

The Wreath of the Secretary of the Interior, Hon. Richard S. Bodman, Assistant Secretary representing Secretary Morton.

The Wreath of the Commissioner of the District of Columbia, Hon. Walter E. Washington.

The Wreath of the National Park Service, Lawrence C. Hadley, Assistant Director.

The Wreath of the Military Order of the Loyal Legion, Col. Brooke Montgomery Lessig of Philadelphia, Commander-in-Chief.

TAPS

Message from President Nixon delivered by Representative McClory.

Additional floral tributes:

The Dames of the Loyal Legion of the United States.

The Sons of Union Veterans of the Civil War.

The Auxiliary to the Sons of Union Veterans of the Civil War.

The Lincoln-Cushing Camp of the Sons of Union Veterans of the Civil War.

The National Ladies of the Grand Army of the Republic.

The National Daughters of Union Veterans of the Civil War.

The Ellen Spencer Mussey Tent #1, Daughters of Union Veterans of the Civil War.

The Woman's Relief Corps, Department of the Potomac.

The National Society Daughters of the Union, 1861–65.

The Lincoln Group of the District of Columbia.

The Society of Mayflower Descendants.

The National Society of Daughters of the American Revolution.

The Sons of the Revolution.

The Sons of the American Revolution.

The Aztec Club of 1847, Military Society of the Mexican War.

The American Legion Auxiliary.

The Retired Officers Association.

The Reserve Officers Association.

The Military Order of World Wars.

The League of Republican Women of the District of Columbia.

RETIRE THE COLORS

(Master of Ceremonies, Frederick Drum Hunt.)

REPORT FROM WASHINGTON

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. ROYBAL. Mr. Speaker, I am pleased to include in the CONGRESSIONAL RECORD my February 1972 report from Washington to the residents of California's 30th District. The report highlights some of major legislative and national issues being considered by the 92d Congress.

The report follows:

REPORT FROM WASHINGTON—STATE OF THE ECONOMY: JOB CRISIS

(By Congressman EDWARD R. ROYBAL)

During the past years the U.S. economy has entered a period of accelerating inflation. Attempts to curb it have only produced severe unemployment throughout the country. Today we are facing an unemployment rate of nearly 6%, doubling the rate three years ago. This job crisis has extended into the older as well as newer communities of the 30th District. In fact, the jobless rate in some sections of my district has soared as high as 16%. In East Los Angeles, the rate is nearly 200% above the national average. In Bell and Huntington Park, it is over 150% and in Maywood, above 130%. In my efforts to solve this inflation-unemployment spiral, I proposed several solutions early in last year's session.

CREATING JOBS

I supported legislation to add $1 billion to the economy through a public works program. This bill had a threefold purpose: to create meaningful employment for the jobless while initiating badly needed local improvements and relieving the heavy burden of local taxes for these improvements. This proposal was later incorporated into a multibillion dollar version which passed Congress but was unfortunately vetoed by the President. Later a compromise bill, the "Emergency Employment Act of 1971" became law providing $2¼ billion over the next two years for public service jobs at state and local levels. The Act gives priority to Vietnam veterans, low income persons, migrant farmworkers, persons with limited English, and the recently unemployed technicians and professionals.

As part of this job strategy, I introduced the "Economic Disaster Area Assistance Act of 1971" providing federal aid to regional and local areas suffering the weight of lingering high unemployment.

CURBING INFLATION

On the inflation side, I introduced legislation to set up a flexible, broadly based wage and price board seven months before the President's own action in this area. We can no longer permit an inflationary cycle to grip this country with such devastating effect. We need an equitable wage and price policy closely tied to effective, long range public employment programs. I believe this balanced approach would end the economic merry-go-round we have been experiencing this past decade. I am concerned that the "trickle down" theory professed by the Administration—which reduces business taxes in the hope of creating jobs—will not adequately tackle our severe job crisis. For this reason I recently sponsored a proposal to add 500,000 more public jobs to the 130,000 total under the emergency employment program.

INDOCHINA POLICY

The recent peace plan by the President has brought us to a crucial point in our Vietnam negotiations. The Presidential plan sets forth conditions that can only guarantee our continuing presence in Indochina's civil wars. In effect it requires North Vietnam to surrender territorial gains while endorsing an American-backed, Thieu-dominated election. The call for a ceasefire, attached as it is to mutual withdrawal, would only result in considerable military and political loss for the North. It is no wonder that the North has rejected these conditions over the past 15 months.

If we hope to end our involvement, we must begin to adopt a broader perspective: the Vietnam war is a civil war, a national struggle. Achieving political stability in Indochina is a local and regional problem We cannot continue to play the world's policeman. As an early opponent of the war, I have consistently worked for its cessation, calling for public congressional hearings in 1965 and later proposing a date of withdrawal conditioned only on release of our prisoners.

The Pentagon Papers revealed a basic flaw in our Vietnam policy—the neglect and underestimation of the human costs involved. Not only has our policy brough ecological havoc to Vietnam but deaths of countless Americans and Vietnamese. By continuing the air war, we have only multiplied the tragedy and increased the number of captured American pilots. I am afraid that the current peace plan will breed further involvement. It is my hope, however, that we may still salvage some settlement from the Paris peace talks.

VETERANS' AFFAIRS

The returning veteran is finding himself caught in a crisis of unemployment and rising costs. To take advantage of his G.I. benefits he must endure a maze of red tape and bureaucracy. If he comes from a low income background, he is likely to become discouraged very quickly and join the ranks of the jobless. Despite his two or more years of service for his country, he is faced with returning to the same cycle of poverty and marginal existence.

In an effort to reverse this trend, I recently became co-chairman of the Los Angeles Veterans Education and Training Action Committee. Its purpose is to bring our Vietnam veterans into the economic and educational mainstream through a veteran-run, community-directed program. Legislatively, I have proposed a tax incentive for employers who hire unemployed Vietnam veterans in hopes of creating additional jobs for them. Other proposals I have supported include: comprehensive medical care, drug treatment, community nursing care, and strengthening of the Veterans Administration's health services.

FOR OLDER AMERICANS

A major theme of the 1971 White House Conference on Aging was the need for a national commitment to help our older citizens. There are now over 19 million older Americans—a group representing 9% of our total population and more than 16% of the adult population. For too many years we have paid lip service to the problems of the senior citizen without pressing for immediate legislative action. To remedy this neglect I have introduced several comprehensive proposals.

Key features of two of my major bills include a strengthened role for the Administration on Aging, low-cost transportation, expanded work opportunities, including the expansion of the Retired Senior Volunteer and Foster Grandparents programs, more effective linkup of all federal aging programs, pre-retirement training, multipurpose centers, continuing education, nutrition programs, improved health and social services, and the establishment of a national research center to study aging.

The Select Education subcommittee has already conducted hearings on comprehensive social services for the older citizen in several cities and plans to continue these hearings this year. It is my hope that sweeping legislation can be enacted this year similar to the one I have outlined above.

Fellowship Program—I have had two deep abiding interests: one in Latin America and the other in education. Last year I was successful in developing a fellowship program for our low income students who wish to study at the University of the Americas in Mexico City. High school seniors are invited to apply by calling my Los Angeles office at 688–4870.

NATIONAL HEALTH PROGRAMS

There has been growing public concern over the cost of health care, especially among middle income Americans. In a recent poll of my district, an overwhelming majority endorsed the idea of a nationwide health insurance program to reduce rising medical expenses. I have sponsored a bill to create a national health system covering almost all medical costs for all Americans. There would be no exclusions because of income, employment or age. Its chief benefits include (a) comprehensive health services including diagnosis and treatment, preventive care, and costs for physicians and specialists, (b) hospitalization benefits without limit, ambulance services, nursing home care, (c) eye care, (d) comprehensive dental care for children under 16, (e) allowances for prosthetic aids and (f) prescription drugs.

Extensive Congressional hearings are being held to analyze this and other health care proposals. I anticipate that all of these bills will undergo several modifications before a final health bill is presented to Congress. The goal of such legislation must be quality health care for all Americans at a reasonable price.

UNSAFE SCHOOLS

As you recall, last February the Los Angeles area experienced a serious earthquake with considerable damage. A national board of experts reported that as the result of this tremor our older schools (many do not meet California safety standards) suffered extensive damage. It is estimated that over 700 unsafe buildings exist in Los Angeles county with more than 1,700 throughout the State. By midsummer this year the Los Angeles school district intends to close 28 school buildings.

There is little time left to avert this growing school crisis. I have introduced a "National Act for School Construction" to replace structurally unsafe and deteriorating school buildings. The bill defines unsafe schools as either vulnerable to natural disasters, endangering the lives of students and staff, or deteriorating and unfit for quality education. First priority goes to schools endangered by natural disaster. Costs would be shared by Federal, State and local governments. If local districts lacked sufficient funds, the Federal and State governments would absorb the cost.

I think the lesson is clear: we either replace or strengthen these buildings or we continue to expose our children to a daily hazard.

JOB DISCRIMINATION

Recently I took the unusual step of suing the federal government for job discrimination against the more than 12 million Spanish speaking Americans. Joining in the civil rights suits were the National League of United Latin American Citizens and the California arm of the American G.I. Forum.

The suit seeks to end the exclusion of the Spanish speaking from federal decision making positions both in Washington and in areas having a large concentration of Spanish speaking people. Despite constitutional guarantees and civil rights laws, the government has shown a documented neglect over several decades in hiring Spanish speaking Americans. The result has been a virtual caste system that has turned the ideal of equal employment into another American myth. Although representing over 6% of the total U.S. population, the Spanish speaking hold only 2.9% of federal jobs, and only one third of one percent of top policy making positions.

The class action seeks a court order requiring the government to develop a plan that would bring federal local employment in line with the percentage of Spanish speaking in each state as well as nationally. For instance, in our state Mexican Americans make up 16% of the population but hold only 5.6% of the federal jobs here—an underrepresentation of over 50%. This inequity extends to local government jobs as well. In Los Angeles county, although comprising 18% of the population, Mexican Americans represent only 3% of county officials. The suit also seeks to end the current standard civil service and postal exams, which discriminate against minorities and do not adequately reflect the measure of a person's talents or job skills. I anticipate court action sometime this year.

COALITION CONFERENCE

Late last year I joined with three other congressmen (Senator Montoya, Representatives Badillo and Lujan) in calling for a national Spanish speaking conference. The purpose of this meeting was to develop a unified social and political strategy through a bipartisan coalition of all Spanish speaking groups. When we first envisioned this unity conference, we expected only 250 people. The response far exceeded this figure—nearly 2,000 participated from all over the country.

The desire for national unity and a growing sense of political awareness pervaded the entire two day conference. As I pointed out in my opening remarks, "The search for unity is more than a search for symbolic cultural solidarity. . . . It is the strong human desire for self preservation, a desire that compels us to seek a united strategy to overcome the many problems which weigh most heavily upon us."

The conference passed many significant resolutions on employment, health, education, community action, and welfare. It became the catalyst for local and regional organizing efforts to form this permanent coalition. Unity will not happen overnight—it can only be accomplished through planning, hard work, and cooperation of all Spanish speaking groups. As I stated at the conference, "We cannot in two days solve problems that have existed for more than a hundred years, but we can agree on issues of immediate concern that deeply affect the welfare of our people." I have been encouraging local and regional meetings as a preliminary to permanent coalition. Once this has taken place in every major state, then we can call a national convention. This community process is crucial to building a nationwide bipartisan force which represents the needs and priorities of the Spanish speaking people.

LEGISLATIVE HIGHLIGHTS

Bilingual Education—As the first sponsor of the Bilingual Education Act in the House of Representatives, I recently introduced two follow-up bills—one adding $100 million for this year's bilingual programs and another funding the training of bilingual teachers.

Child Care—Supported comprehensive child care to provide day care and health and educational services for children of working mothers (later vetoed by the President). Also fought successfully for full funding of the school lunch program despite the Department of Agriculture's abortive attempt to reduce federal support.

Civil Liberties—Introduced bills to repeal the emergency detention law, advance women's rights, lower the voting age to 18, prohibit the military's practice of collecting data on civilian political activity, protect the newsman's confidential sources, and lower the eligibility age for Congress and Senate.

Consumer—Supported bills on consumer class action suits, a consumers' board on public utilities, and a separate consumer protection agency. In related development I introduced a bill authorizing the Federal Communications Commission to investigate the reasonableness of telephone prices and rates.

Labor Rights—Introduced proposals to extend the right to organize to public employees, protect day or temporary help workers, protect migrant farmworkers under federal labor laws and extend unemployment insurance to them.

Pollution—Introduced a score of proposals attacking the problems of air and water pollution, marine dumping, noise abatement, pesticides, detergents and disposal of biological warfare agents.

RUSSIA AND CHINA: CONTROLLED CONFLICT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. HAMILTON. Mr. Speaker, President Nixon departs for mainland China today, on a trip that will be very closely watched in Moscow. It is useful at this time to examine the nature of Sino-Soviet relations and the factors affecting that relationship.

Richard Lowenthal did a fine job of this in an article appearing in the April 1971, issue of Foreign Affairs. He dealt with the historical, geographical, ideological and strategic aspects of the relationship and noted that the impact of a third power, the United States, should not be forgotten.

I inserted another article on Sino-Soviet relations in the RECORD of February 9, 1972, and I recommend both pieces to my colleagues.

The article follows:

RUSSIA AND CHINA: CONTROLLED CONFLICT

(By Richard Lowenthal)

It is now eleven years since an ideological dispute between the Chinese and Soviet communist parties burst into the open on the occasion of the 90th anniversary of Lenin's birth, and almost eight years since the pattern of world affairs became definitely "triangular" with the open break between the two leading communist powers. Since then, the view of some Western dogmatists that personal rivalry between Khrushchev and Mao Tse-tung for the control of "world communism" was the only cause of the rift was plainly refuted as it continued after Khrushchev's fall; but at the opposite extreme, forecasts about tension between the two communist giants building up steadily toward nuclear war appear hardly more plausible at the present time.

What events have tended to show so far is rather the persistence of controlled conflict between Moscow and Peking, with the ups and downs of crisis and relative détente familiar from other great-power conflicts of the nuclear age. A new wave of speculation has been generated in recent months by the efforts at a normalization of Sino-Soviet state relations and the subsequent revival of bitter polemics over the Polish December crisis, by the shifts in the Chinese party leadership since the end of the cultural revolution; and by the approach of the 24th Congress of the CPSU. These may justify one more attempt to analyze the factors underlying this strange relationship and its possible impact on the future.

It is useful to recall at the start that history and geography oppose China and Russia far more to each other than they oppose either to the United States. They are neighbors with the longest common frontier in the world; and among the European powers which took advantage of China's weakness in the nineteenth century, Tsarist Russia was the closest and territorially the most rapacious. It was revolutionary ideology alone that tended to bridge this "natural" conflict of interest after 1917, and the bridge remained imperfect and fragile at best. Soviet Russia's Mongolian and Manchurian policies ensured that Chiang Kai-shek never ceased to distrust the powerful ally—even in his early days as a national revolutionary leader.

Mao Tse-Tung rose to leadership of the Chinese Communists after experiencing, in 1927 and 1934, the disastrous consequences of the party's obedience to Soviet advice; he rose to national power by repeatedly defying that advice; and he had to pay for Soviet support not only by "leaning to one side" in world affairs, but by signing—in February 1950—the last of the unequal treaties in modern China's history. So conscious was Mao of Stalin's tendency to use the Chinese Communists as expendable pawns, and of the potential conflict underneath the ideological solidarity, that from his Yenan days he deliberately trained his cadres to follow their own model of revolutionary strategy, and only his own ultimate authority.

Outwardly, he had to tolerate Soviet bases in Manchuria and to fight Russia's war in Korea while Stalin lived; but once the Vozhd was dead, Mao hastened to depose and arrest Kao Kang, long Russia's trusted man in the Chinese leadership, and to negotiate a revision of the unequal treaty. The different ideological emphasis, developed in following an increasingly independent road to power, now became a compass for an increasingly independent national policy.

The death of Stalin had given China equality of status within the alliance; the crisis of de-Stalinization seems to have been viewed by Mao as a chance to win major influence on Soviet policy without conflict. In the fall of 1957, he offered to Khrushchev the support of his intact authority for overcoming the crisis in the bloc and at home—at a price. His demands included substantial new capital aid, delivery of the latest weapons including in due course atomic bombs, and a more forward joint policy in Asia—and at least the first two were apparently promised to him.

But the state of Soviet resources and the East European situation prevented major capital aid to China, while the Soviet view of the world relation of forces combined with the vulnerability of the advanced Soviet economy to limit Moscow's willingness to take major risks on Peking's behalf. Furthering atomic proliferation to build up an independent great power bordering Russia must have appeared to the Kremlin as the most foolhardy risk of all. From the end of 1957, the differences in the situations and interests of the two powers thus led to a whole series of Chinese disappointments—over capital aid, over atomic proliferation, over Middle Eastern diplomacy, over military aid in the Quemoy crisis, over Soviet-American and over Chinese-Indian relations.

To those disappointments, the Chinese reacted in the course of 1958 and 1959 first with implied, then with increasingly explicit, attacks on Soviet ideological positions, in the hope of exerting effective pressure on the Soviet leaders by hitting their vulnerable spot—the weakness of their ideological authority. It was the public appearance of such symptoms of an "ideological dispute" that first indicated the existence of the underlying power conflict to the non-communist world.

II

But once the common ideology is no longer sufficient to bridge the conflicting policies of communist states, conflicting ideological arguments will be advanced to justify those policies—and will make compromise more difficult. As each side seeks to present its own practice as orthodox and its opponent's as heretical, it attacks by implication the legitimacy of the rival leader, and is perceived by him as threatening the stability of his rule.

The very first disappointment—Russia's inability to supply the capital needed for China's industrialization—led Mao not only to launch the "People's Communes," but to proclaim them as a shortcut to the "higher stage" of communism—a challenge to the Soviets' birthright as pioneers on that road which they were bound to reject. True, the economic setbacks of the "Commune" experiment led the Chinese to withdraw that challenge in early 1959, and the first muted ideological dispute was thus patched up; but the same setback led one of Mao's domestic critics, Marshal P'eng Teh-huai, to seek Khrushchev's support—an approach which the Soviet leader failed to discourage.

When Mao learned of this, he must have felt that both his own control and China's independence were threatened by Soviet subversion. His second, less muted ideological attack, which culminated in the Lenin anniversary speeches and articles of April 1960, was thus prompted not only by the growing conflict over foreign policy, military support and international revolutionary strategy, but by a sense that he was fighting for his survival as leader of an independent great power.

On the other hand, the fact that both V. M. Molotov, then Soviet Ambassador to Mongolia, and the Albanian Communists began to argue on Chinese lines soon convinced Khrushchev and his associates that they had to defend the cohesion of their empire against a subversive attack from Peking. The brutality of the total withdrawal of Soviet technicians from China in the summer of 1960 and the persistence of the Chinese challenge in the face of that blow, disproportionate and irrational in relation to the original policy conflicts, become comprehensible only in the light of the ideological broadening of those conflicts to encompass the domestic and imperial control of both leaders.

By the time of the last joint world conference of communist parties, held in Moscow in November and December 1960, the Chinese leaders were thus convinced that they would have to go their own way without Soviet help, unless and until there were radical changes in Soviet leadership and policy. In the circumstances, the compromise hammered out at this conference could be tactical only, and it proved short-lived because it had a different tactical meaning for each of the two sides.

The Soviets had formally renounced their "leading role" in the world movement because they wanted to be rid of ideological debates: relying on their superior material strength to impose their course in foreign affairs, they were willing to stop criticizing what Mao did at home if Mao would stop criticizing what they did in Russia and East Europe. The Chinese, on the contrary, were interested in maintaining formal unity only as a basis for carrying on a long-term ideological struggle throughout the world movement—including Russia and East Europe.

When the difference became obvious in the Chinese support of Albania against Soviet pressure, a third and open phase of the dispute started, in October 1961, with the clashes at the 22nd Congress of the CPSU. But now, because of the adoption of a new party program at that congress as well as the increasingly apparent internal struggles in China over methods of industrialization, the basic divergence of the domestic development of the two became involved in the dispute.

The need of an advanced industrial (and nuclear) power for continuity of production, hence for domestic stability and internal peace, and its reliance on a highly graded scale of material incentives and privileges seemed directly opposed to the need of an overpopulated, agrarian country with immense problems of modernization for a harsh régime of sacrifice. China needed to keep the masses fired by revolutionary enthusiasm and by the spirit of a besieged fortress.

As Mao Tse-tung engaged in a bitter struggle for the distinctively Chinese form of revolution within his own party, he had to hold up the post-revolutionary materialism of Soviet society in the sixties as a warning example of the revisionist degeneracy to which any alternative road would lead.

The consequences of different national conditions and stages of development were thus raised to the rank of incompatible principles; the objective divergence of the Russian and Chinese roads was magnified by ideology; and the earlier doctrinaire differences about the international struggle against imperialism were absorbed into two complete, mutually exclusive versions of what had once appeared as a common, Marxist-Leninist doctrine.

With the sense of a basic community of goals thus destroyed, the earlier conflicts about the proper contents of a common strategy on the world scene were soon replaced by outright power rivalry between the two nominally still allied states. Even before the rival doctrinaire structures had been fully worked out by their creators, the dual international crisis of the fall of 1962, in the Caribbean and on the Sino-Indian frontier, showed that all sense of solidarity between Moscow and Peking had disappeared: the Chinese delight in embarrassing the Soviets during their retreat from Cuba was matched by the Soviet willingness to aid Indian rearmament.

As the Caribbean defeat led to a Soviet decision to seek a détente in relations with the West, regardless of Chinese denunciations, the last official meeting between delegates of the Soviet and Chinese communist parties, held in Moscow in the summer of 1963, was conceived by each side solely as an occasion to "unmask" the other, and its breakdown marked the effective end of the Sino-Soviet alliance: during the year that followed, the public exposition of the two competing ideological systems and the splitting of a number of communist parties along those lines was paralleled by a series of official disclosures about the earlier conflicts in foreign and military policies, and by a growing number of frontier incidents.

Yet compared with the fundamental power rivalry and the divergence of roads of development, the friction at the borders constituted a subsidiary phenomenon. Its first high point was reached when Mao, in an interview granted to Japanese visitors in the summer of 1964, complained about the massing of Soviet forces on the borders of Kazakhstan and Sinkiang, and Moscow failed to deny the charge. But what Mao feared was clearly not a Soviet attempt at territorial conquests, but a preventive strike at China's fledgling nuclear installations. A few months later, the fall of Khrushchev and the first Chinese atomic explosion ended that particular fear.

III

Khrushchev's successors do not seem to have been under any illusions that the former ideological unity of the communist powers could be restored—not, at any rate, while Mao was in power. But they have made repeated if not consistent efforts to achieve the more modest goal of a "normalization" of Sino-Soviet relations. They aim at a state of affairs in which the two communist great powers would pursue their respective interests independently, now in cooperation, now in conflict with each other, but without fanatical and systematic hostility.

Given that the Soviet Union was necessarily opposed to Chinese pressure in India and Chinese influence in Pakistan, could it not at the same time cooperate with China against the Americans in Vietnam? While taking their precautions along the border, seeking to deter Pakistan from relying on China in her conflict with India, and working to forestall a growth of Chinese influence in Japan, the Soviets have therefore not only repeatedly offered a cessation of hostile ideological polemics, and invited the Chinese Communists to join another international conference of communist parties, but have made specific offers for a "united front" in support of North Vietnam, both on the government and party levels.

The Chinese have consistently refused those offers, to the dismay of the independent communist parties of Asia. As many of their earlier sympathizers turned into ideological neutrals while their most promising allies, the Indonesian Communists, suffered disaster in the fall of 1965, the prospect of a powerful bloc of pro-Chinese communist parties vanished.

Yet Mao was willing to pay the price of growing international isolation because by then the domestic power struggle had absolute priority in his eyes; and for that he needed the bogey of Soviet revisionism leading to a restoration of capitalism. If Liu Shao-chi had to be branded, in the course of the cultural revolution, as the "Chinese Khrushchev" walking the capitalist road, evidently no united front was conceivable with Soviet leaders whose policy had been unmasked as "Khrushchevism without Khrushchev."

In the course of the cultural revolution, Soviet-Chinese relations thus fell to their lowest point yet; as insults to each other's diplomatic personnel led to the withdrawal of both ambassadors, Chinese propaganda called for the overthrow of the revisionist traitors by the Russian people and Soviet propaganda for the overthrow of Mao Tse-tung, the destroyer of the Chinese communist party. The Soviets, at least, may for a time have believed that such an outcome was possible. However, as Mao's domestic victory became evident with the approaching end of the upheaval, the Soviets returned once more to their earlier efforts to work for a pragmatic normalization.

In fact, the end of the cultural revolution has brought a growth of pragmatic influence in the Chinese leadership and a return to a more "normal" conduct in foreign affairs—but at first, Sino-Soviet relations remained an exception. Though evidence on the responsibility for the Ussuri River incident of March 1969 remains conflicting, an analysis of possible political motives strongly suggests a Chinese initiative. The disputed islands themselves are worthless.

The prospect of a multiplication of similar incidents along the endless frontier offered to the Soviets no possible gain, but the nightmare of having to tie down large forces for recurring, indecisive battles against an enemy specializing in hit-and-run warfare and disposing of inexhaustible manpower. The Chinese, on the other hand, whose propagandist exploitation of the incidents was far better prepared—with detailed maps—could make excellent use of them for maintaining the "besieged fortress" spirit in general and popular hostility to the "new Tsars" in particular beyond the end of the cultural revolution.

Conversely, it seems plausible that the Soviets were responsible for the subsequent renewal of clashes on the border of Sinkiang, as they were certainly responsible for spreading the rumor, in the summer of 1969, that they might still decide on the preventive strike against China's nuclear installations which Mao had feared five years earlier.

However unconvincing the rumor was in view of the probable cost of such an attempt at this stage, it may have helped to bring the Chinese to the negotiating table after Kosygin's meeting with Chou En-lai in September of that year, and to end the frontier fighting for the time being.

The course of the negotiations has so far been inconclusive—apparently not because of any substantial difficulty in agreeing on the demarcation of the existing frontier, but because of the Chinese insistence that the Soviets should formally and publicly admit that this frontier was the result of unjust and unequal treaties imposed on China by the Tsars. In demanding this admission, the Chinese assert that they claim it merely as a matter of undeniable historical truth, without any thought of actually changing the frontier to reverse the Tsarist annexations. But the Russians clearly feel that they cannot make such a formal admission without laying themselves open to later susbtantive Chinese demands.

Hence the Chinese appear to have hit on a means for keeping the frontier question open, and thus maintaining popular hostility, without dangerously provoking the Russians by actual fighting. In a similar spirit, Peking finally agreed to resume the exchange of ambassadors with Moscow, and on the occasion of last year's November celebrations for the first time publicly reciprocated the wish for the normalization of state relations which the Soviet government had repeatedly expressed. At the same time the Chinese continue to emphasize their uncompromising ideological struggle against Soviet "revisionism" and "social imperialism."

Yet while that distinction is in principle acceptable to the Soviets and indeed corresponds to the kind of modus vivendi they have long proposed, in practice the Chinese persist in drawing the line between state relations and ideological struggle in a manner which endangers vital interests of the Soviets and cannot be tolerated by them: for the Chinese concept of ideological criticism includes the right to conduct propagandist attacks on the Soviet domination of Eastern Europe, and even on the unity of the nationalities of the Soviet Union.

True, the Chinese attacks on the Soviet invasion of Czechoslovakia took place while the cultural revolution was still in progress and before any talk about normalization of state relations. But in December 1970, Chinese propaganda interpreted the crisis of the Polish régime, in which the Soviets were not visibly involved, in exactly the same spirit as a revolt of the Polish working class against the "revisionist" régime in which the Soviets had allegedly threatened to intervene, and forecast the ultimate victory of the Polish people over "Soviet social imperialism."

To the Soviets, such propaganda naturally appears as incompatible with "normal state relations;" and this applies even more to the continuing Chinese efforts to encourage separatist national movements among the Ukrainians and other constituent nationalities of the Soviet Union. More than a year after the start of negotiations between the governments, Russia and China thus seem back at the point at which the last compromise between the parties broke up a decade ago: at the Chinese refusal to accept the Soviets' control over their own power sphere as the minimum basis for a modus vivendi.

IV

In trying to evaluate the prospects of the conflict, it may be useful to start by separating its components. The first striking fact is that the basic power rivalry between the two communist giants has survived the disappearance of many of the original policy issues of the late 1950s—issues that were linked to the situation of China's material dependence on a richer and more powerful ally. As a nuclear power with an independent role in world affairs, China clearly determined never again to rely on Soviet economic or military aid for achieving its policy aims; nor has the Soviet Union any more grounds to fear that it might be drawn against its will into risky adventures by the now defunct alliance. What has remained, however, is the power rivalry itself—the interest of Russia in slowing down the growth of the industrial and military might of its eastern neighbor, and the determination of China to overcome the obstacle.

At present, the rivalry manifests itself above all as a struggle for influence in Asia. That struggle takes the form of political competition in North Korea, which has become independent of both, and in North Vietnam, which both have supported without ever cooperating directly.

It takes the form of primarily economic competition with Japan. It appears as a direct clash in the Mongolian Peoples' Republic, where China is trying to undermine Soviet control, and in South Asia, where the Soviets are objectively aligned with the United States for the protection of India and have profited from the collapse of Chinese influence in Indonesia.

The importance of the frontier issue in the wider power conflict remains highly controversial among outside observers. The nature of China's overpopulation is not such as to constitute an urgent compulsion to expand her territory: China remains short of capital rather than land.

Nor is there the slightest evidence of a Chinese inclination to engage in dangerous military adventures at the present stage—rather it is the contrast between wild language and cautious behavior that continues to impress the student. Even for the longer run, assuming an absolute and relative growth of China's military power and an eventual exhaustion of the reserves of arable land with a further increase of her population, it is by no means "fatalistically inevitable" that she must seek to expand at Russia's expense, at the risk of nuclear war, rather than move south against weaker neighbors or seek peaceful economic solutions.

But neither can the possibility of such a development be excluded from the Soviet point of view in the light of the growth of Chinese armaments, of her present hostility, and of her insistence on the illegitimate origin of the present frontier. Seen from Moscow, the rise of China to the full status of a modern world power, which may be slowed down but is unlikely to be prevented, remains a potential long-term threat to Soviet territorial security—by now presumably the only serious threat of that kind.

If we now turn to the ideological aspects of the conflict, the struggle for control of the nonruling communist parties has lost much of its earlier importance because of the comparative failure of Chinese efforts in this field. The dominant fact here has been the collapse of the hopes for a block of major Asian communist parties under Chinese leadership since 1965, with the turn of the Korean and Japanese Communists and even the Indian left-Communists toward "neutral" independence and the catastrophe of the Indonesian party. But in Latin America, too, the Chinese have been unable to establish a solid influence among the more or less "Castroist" groups opposing Moscow's "peaceful road" to power, or to prevent the Cuban party itself from attending the Moscow world conference of 1969.

In Europe, the Chinese-oriented splinter groups have nowhere become more than a nuisance for the established communist parties, able at best to delay the evolution of the latter into potential participants in government coalitions useful to Soviet diplomacy. Nor has the Maoist influence among the student "New Left" become more than one unstable element in a general ideological ferment, as it met in the course of time increasing competition from the old-line communists in Western Europe and from the Trotskyites in the United States.

The Chinese themselves seem to have come to realize their failure as an international doctrinaire center: there is evidence that for the propagandist struggle against the West and the Soviets, they are relying more and more on supporting militant movements of an outright nationalist character, like the Palestinian guerrillas, rather than left-wing ideological sects.

By contrast, the ideological legitimation of divergent roads of domestic development has remained a far more vital element in the conflict; but it is also far more liable to be affected by changes in the leadership and domestic policy of either country. Among the latter, changes in China are likely to have a more far-reaching impact on Sino-Soviet relations. A Soviet turn toward a new effort at modernizing reform could now only produce an intensification of Chinese ideological invectives, while a turn toward a wholesale rehabilitation of Stalin's memory and methods, from which its more primitive advocates are said to expect an ideological reconciliation with the Chinese, would leave the basic differences unaffected and only deprive the Maoists of the tactical pretext that they are defending the Stalinist tradition.

In fact, the basic features of Soviet society which form the counterfoil to Mao's vision, such as its reliance on highly differentiated material incentives and its rigid bureaucratic stratification, go back to Stalin's own decisions, as Mao knows perfectly well; and they are unlikely to disappear through any change in the Soviet leadership conceivable at this stage.

On the other hand, a turn on China's part in a more "materialist" and therefore more Soviet-like direction, with more stress on material incentives and continuity of production and less reliance on revolutionary enthusiasm, is conceivable after the disappearance of Mao. Indeed the signs are not lacking that forces favoring such a "pragmatic" turn have increased their influence in the Chinese leadership since the end of the cultural revolution, and that they are the same who have pressed for a normalization of state relations with the Soviet Union (so far, as we have seen, with limited success).

In that sense, a decline in bitterness of China's ideological hostility toward the Soviet Union and a move toward a climate of peaceful coexistence between independent communist powers building different types of "socialism" would be a possible development after Mao's demise. But it would not, of course, end the power rivalry between them; it might even, by speeding the success of China's modernization, make her a more formidable rival of Russia at a quicker pace.

The power rivalry, then, will continue to be decisive for the substance of the conflict, while ideological factors may influence its more or less acute and intensive forms at particular times. That substance excludes a true "reconciliation" between the two leading communist powers in the sense of a return to a stable alliance based on the primacy of common ideological convictions and goals. But given a measure of rationality of the leadership on both sides, the fact of a serious conflict of power interests makes nuclear war between them no more inevitable than between either of them and the United States.

The continuation of limited and controlled conflict between Russia and China thus remains a far more plausible prospect than its end by either reunion or catastrophe. But in an increasingly triangular world, that leaves unanswered a question of decisive practical importance for the West: the question of priorities.

In a triangular constellation, different combinations of cooperation and conflict are possible at different periods, with two of the major powers combining on different issues against the third. Yet it is in the nature of such constellation that the combination that will become effective at any particular time is not predetermined, and therefore not predictable. It will be decided by the choice of the most urgent issues at any given moment, and that depends on the political skill of the leaders of each of the new Big Three—including the United States.

FIGHTING SICKLE CELL ANEMIA IN CLEVELAND, OHIO

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. STOKES. Mr. Speaker, three Cleveland doctors have recently taken upon themselves the responsibility of screening high school students for the sickle cell trait and the disease itself. The doctors are Harold Ford, John Lewis, and Clifton Turner. I have taken a strong interest in their efforts, and have agreed to assist them in an advisory capacity.

Currently, Doctors Ford, Lewis and Turner are operating a pilot project in Glenville High School in Cleveland, Ohio. They are educating every student as to the goals of their program, the nature of the disease, and the manner in which the disease is transmitted. In the evenings, a similar educational project is underway for the students' parents.

Initially, all students were tested for the sickle-shaped red blood cell. Those persons whose test results were positive will be screened again, to determine whether they carry the trait or the disease. Students who are shown to be victims of sickle cell anemia will receive full counseling and medical treatment.

From the pilot project, the doctors hope to be able to obtain firm ideas about the length of time required for such educational and treatment programs; the incidence of sickle cell anemia among the high school population; and the need, in the black community, for a program such as theirs.

Depending upon the results of the pilot, the doctors hope to expand their efforts to a larger scale program. Although it is still early. I am confident that, when they choose to expand, Doctors Ford, Lewis and Turner will have national support. Thus far, they are supported by the March of Dimes, the Urban League, and the Black Athletic Foundation. The list of supporters is destined to continue to grow.

I was pleased to note that the good doctors' efforts have received recognition in the Cleveland Call and Post. Following is the article which appeared in the paper on January 22, 1972:

SICKLE CELL DETECTION OCCUPIES AREA PHYSICIANS

(By Tom Ehrbar)

Efforts to fight sickle cell anemia, a disease which ravages the black race, are steadily intensifying in Cleveland.

All black children will be screened for sickle cell next year. Councilman Virgil E. Brown heads a detection program to be implemented by the National Foundation March of Dimes (NF-MD).

Likewise, the Foundation for Research and Education in Sickle Cell Disease (FRESCD) of New York has volunteered to send in a team to instruct doctors, nurses, and technicians in screening methods.

The screening will be followed by clinic care and family counseling.

WHAT IS SICKLE CELL?

Sickle cell anemia means that the red cells of the blood are not circular like they should be, but sickle shaped. This prevents the cells from carrying an adequate supply of oxygen.

Thus a victim of the disease has shortage of breath, severe glandular pains, lessening of appetite, impaired sense responses, low resistance to infections, and finally a much diminished life expectancy.

Those races whose ancestors came from Africa are most likely to have sickle cell. One out of every ten black Americans have the trait; one out of every 400 have the active anemia. This means that well over two million people in this country are carriers; more than 50,000 are stricken with sickle cell.

A GENETIC DISEASE

The trait is passed genetically, and cannot be spread from one person to another like a cold.

Every time a man and a woman, both of whom have the trait, have a child, the chances are: a) two in four that the child will have the trait just like its parents; b) one in four that the child will have the anemia; and c) one in four that the child will have no form of the disease at all.

Of course, if either parent has the anemia, or if both do, the odds that the disease will be transmitted are considerably raised.

Detection, care, and counseling for those tainted by sickle cell have been sadly absent in the past. It was an ignored black disease.

But recently there has been an awakening—almost bold steps taken to combat the anemia. A big share of federal monies earmarked for research should be approved during the next congressional session. Right now, there is no cure for sickle cell.

Three Cleveland doctors who were well ahead of this awakening are Harold Ford, John Lewis, and Clifton Turner. They share a pediatric clinic at 14900 Kinsman.

Six years ago they began to spot-check for incidence of sickle cell. They were overwhelmed by the frequency.

So in 1968 they decided to make the sickle cell test obligatory for every patient. They acquired the best screening devices around. None else in the city was testing for the disease at the time.

Thus far the three doctors have examined 9,000 persons. Their results agree with national figures—about 900 have been marked with the trait, about 20 with the anemia.

TESTS ARE MADE

Here is how they make the test.

First, a technician pricks your finger to get a small drop of blood.

Then, the blood sample is inspected under a microscope to see whether the cells are circular or sickle shaped.

If they are sickled you will be asked to return for a different kind of blood test, that is a bit longer.

This sample will be placed on electrophoresis graph which measures how fast the cells migrate when prompted by electricity. And this will ascertain whether you have sickle cell trait, anemia, or possibly a variant of the disease.

The results of these procedures enables one of the doctors to give you specific medical advice. If you have sickle cell trait you will be counseled about its tendencies, and about the chances of genetically transmitting the characteristic. If you have anemia you would be given further tests, special medical treatment, and counseling.

All three doctors are adamant that, as a standard policy, all young people are checked for sickle anemia. They will lend their talents, their time, and their testing devices toward accomplishing that end.

PASSPORT TO CHICAGO

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. DERWINSKI. Mr. Speaker, in a series of articles designed to remind residents of the Chicago area of the diversity, uniqueness, and history of their city, the Chicago Daily News carried a very informative article on ethnic groups in the metropolitan area. The article, "Passport to Chicago," by reporter Laura Green, was carried in the Chicago Daily News of Saturday, February 12.

Incidentally, Mr. Speaker, one of the most interesting and valuable contributions of an ethnic group to the metropolitan area is the Polish Museum of America which is a real treasure for historians and researchers, and is the type of positive undertaking that demonstrates the contributions which Americans of various ethnic origins have made in America.

The article follows:

[From the Chicago Daily News, Feb. 12–13, 1972]

PASSPORT TO CHICAGO—MELTING POT NOW WORKS IN REVERSE

(By Laura Green)

Some people like myths. Henry Ford believed in the melting pot.

He set up a big kettle in his factory, asked his immigrant workers to wear 'greenhorn' outfits the first day, then throw them in the melting pot and replace them with American denims.

He believed the theory that said a man would give up his cherished customs, forget his first language and become exactly like his neighbors.

But in Chicago, a 10-minute trip through most neighborhoods will show you that the melting pot didn't work.

From the expressway, Chicago's churches rise above the skyline in silhouettes of domes and spires. The huge stone piles dominate the neighborhoods like they are supposed to do in Europe.

The green turret of St. Stanislaus Kostka, the second oldest Polish church in the country, rises above the two- and three-story Victorian houses in the neighborhood, while the copper cupolas and high domes of St. Nicholas Ukrainian Catholic Cathedral dwarf the dirty brick houses around it.

The streets are dotted with little groceries, movie houses, bakeries, driving schools that teach you to dodge traffic in five languages, gift shops, restaurants and parcel stores to send supplies to relatives behind the Iron Curtain.

Business is often done Old Country style. A grocer or butcher may sell rolls and cheese for a sandwich like a German corner grocery. Another may total his sales on an abacus. Shop owners hang signs in their native languages and greet you in the neighborhood tongue.

Chicago radio stations have foreign-language broadcasts and Channel 26 produces mostly ethnic TV programs. The Yellow Pages show 35 foreign language newspapers.

Everyone has a voice and these voices are growing stronger. Middle-European workers have found spokesmen in the Rev. Andrew M. Greeley, University of Chicago sociologist, and writer Michael Novak, who describe the frustration of the men and women who did all the 'right' things and still weren't accepted as 'real' Americans.

An amendment to a higher education bill to fund ethnic heritage studies centers is picking its way through the U.S. Congress and has a good chance of passing this session. The Chicago public schools introduced black and Latin studies programs several years ago and are discussing others.

Today, the children of the let's-get-Americanized generation are trying to understand their dual heritage.

"We want to find our own answers to what it means to be a Japanese-American. We want to learn more about our origins," said Hiroshi Kanno, president of the Chicago branch of the Japanese American Citizens League. "We cannot be a silent community on the issues that affect us."

A long-haired Ukrainian-American high school student, one of 700 1st- to 12th-graders who spend every Saturday at St. Nicholas Ukrainian Catholic Cathedral's School of Ukrainian Studies, explained it this way:

"I'm an American first, but this is our tradition and we should know about it. Just because I'm a good Ukrainian doesn't mean I can't be a good American, too."

"We're all looking for roots in a fast-growing culture," said the Rev. Paul Asciolla, co-editor of the Italian-American monthly Fra Noi and an administrator of the Italian home for the aged at Villa Scalabrini.

"We're hunting for our grandfathers and we've got to find them somewhere," he said.

Why did it happen now? When did roots become something to be proud of rather than stumble over?

The catalyst was the civil rights movement. When the people who struggled longest for their rights and identity stood up and said, "We're black and we're proud," others listened.

"We learned from the civil rights movement," said Mitchell P. Kobelinski, president of the Copernicus Foundation, which is trying to build a Polish cultural center. "People recognized their individual rights. And many said, 'Hey, we're proud too.' "

"Italian-Americans have always cherished their culture and traditions. Perhaps the civil rights movement helped give us a name for it," said Anthony J. Fornelli, vice president of the Joint Civic Committee of Italian-Americans.

Chicagoans keep their traditions alive in several ways.

There are hundreds of ethnic professional, fraternal and service organizations. Theater groups. Opera productions of everything from atonal Lithuanian multimedia pieces to "Madame Butterfly" in Polish. Choirs. Tape and film projects to interview old immigrants and artists. Folk dance groups and classes. Movie houses and film societies that show recent Latin, Greek and Japanese films. Museums and galleries for anyone who wants to get acquainted with his neighbors' traditions or steep himself in his own. Many festivals and parades.

The most important are the crowded full-time and Saturday schools where children study the language and history of their past. Greek parents send their children to parochial schools where they learn to read and write in both English and Greek. The Lithuanian Youth Center and the Ukrainian Studies Center have extensive teacher-training programs. Polish children fill weekend classes in churches throughout the city.

"Our schools are the best way to pass on our Greek heritage to third- and fourth-generation children," said Andrew T. Kopan, who is active in several Hellenic-American associations. "Our community leaders come from these schools."

Yet this turn toward ethnicity hasn't solved the problems.

Second-generation Chicagoans have joined the race to the suburbs and the "old" neighborhoods are disappearing. Sometimes, in suburbs like Melrose Park, with its many Italian-Americans, or in the Czech suburb of Berwyn, a new community is created. But in the cities, freeways, urban renewal and an influx of new neighbors with different traditions take their toll. The University of Illinois Circle Campus replaced large Italian and Greek neighborhoods. The Kennedy Expressway, a mobile second generation and a growing Puerto Rican immigration to Chicago have changed the old Polish community along Milwaukee Av. and will some day replace it with a Latin one.

"Urban planners always saw ethnic communities as bad," said Father Asciolla. "They'd say 'Well, it's not bad, if it's maintained in the proper way.' " And up went the freeway. And in came the condominiums.

The planners called the neighborhoods expendable and conventional wisdom called the residents racists.

"The neighborhood is seen as a last intractable frontier," said Father Asciolla. "You must understand that, for the people there, it contains their hard-earned house, their investments, their institutions, their community and security. They weren't going to move aside for anybody—black or white."

There's still prejudice.

"I couldn't begin to tell you of the suffering I've seen in the states where I've worked," said Luis G. Machado, Midwest director of the migration division of the Commonwealth of Puerto Rico's Department of Labor. "There is such hatred, such a lack of welcome for Puerto Rican citizens. We have no representation in Government, no services."

Several organizations are working to end professional and executive discrimination in the Chicago area. The Filipino-American Council of Chicago seeks legislation to enable dentists and optometrists, who trained with American texts and methods at home, to practice without returning to school.

Polish-American and Italian-American organizations surveyed Chicago's major banks, utilities and industrial corporations and found almost no Italian- or Polish-Americans in their executive suites.

"There is still subtle discrimination against Japanese-Americans," said Ross Harano, Midwest co-ordinator for the Japanese American Citizens League. "We can't buy homes some places. There's still a limit to how high we can go in a corporation."

There are many ethnic communities in Chicago, each with a different tradition but all with the same determination to keep their cultures alive. They share a pride in their past and in their contributions that have given American life an infinite richness and variety.

DEDICATION OF THE FREDERICK DOUGLASS HOME

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. RYAN. Mr. Speaker, on Monday, February 14, 1971, the Anacostia home of Frederick Douglass was dedicated as a national shrine. I was privileged to attend the dedication ceremonies and to join Secretary of the Interior, Rogers C. B. Morton, in cutting the ribbon. It is fitting that Frederick Douglass' Cedar Hill home, where he lived from 1877 until his death in 1895, be restored and preserved for future generations to enjoy. Congress voted the money for the restoration in recognition of Frederick Douglass' dedication to human rights and freedom. Born a slave, he had no formal education, yet he became an eloquent and steadfast leader, working for the abolition of slavery. He managed to educate himself to become one of the most respected orators and writers of his age.

The significance to history of an individual's actions is that his efforts directly or indirectly improve the opportunities for a better life for those that will live after him. It is more fitting an honor for those of us who follow after him to continue his work, but it is also important for us to recognize the contributions he made.

The contribution of Frederick Douglass to our American heritage is immense indeed, and the Frederick Douglass home will stand as a shrine, displaying for all Americans the mementoes of his life.

The following is the text of the speech made by Secretary of the Interior, Rogers C. B. Morton, at the dedication ceremonies:

REMARKS OF SECRETARY OF THE INTERIOR ROGERS C. B. MORTON AT DEDICATION CEREMONIES OF FREDERICK DOUGLASS HOME

When I was sworn in as Secretary of the Interior, the President charged me with two great responsibilities. He said I must lead the way in the conservation of the beauty of our land and its vast resources and tirelessly pursue the preservation of those things important to our American heritage and cultural life.

This shrine which we dedicate today is a great example of preserving something of value that will be enjoyed and revered by all those who visit it and even those who casually pass by.

How fortunate we are to have our great National Park System with all its skills and competence. Not only to bring back to life those important areas and structures that have laid dormant so long, but also, to manage them, display them and artfully make them available to all Americans.

We are excited about bringing the Frederick Douglass Home into the Department of the Interior during this, the centennial year of the National Parks.

One hundred years ago . . . Yellowstone National Park . . . far in the West . . . was brought into being out of the wonderland of the frontier.

I dare say that few here today have had the opportunity to see this magnificent monument of nature so very far away.

But the President, understanding this, has directed that the Parks . . . in the second century of their history . . . be brought to the people. His legacy of Parks program assures this will be done.

Today is a very special day. As today, in the spirit of conservation and preservation:

In the spirit of this Administration.

In the spirit of our great National Capitol Park System, and

In the spirit of Frederick Douglass, who devoted his life to the highest American principles, we are joining together, to dedicate this his home.

Frederick Douglass leaves for America's history a dramatic reminiscence of a great and moral man. A man whose powerful voice still rings with lessons for our own time.

In the knowledge that the Frederick Douglass Legacy stands for the benefit of all Americans, it is significant that Congress has marked this, his home, as a National Shrine.

President Nixon allocated over $400,000 for Cedar Hill's restoration but the high privilege of bringing it to life is your's and mine today.

The American poet, Walt Whitman, was a contemporary of Douglass. Both felt the country's vigor. Whitman wrote after the Civil War.

"Political democracy, as it exists and practically works in America, with all its threatening evils, supplies a training school for making first-class men. It is life's gymnasium, not of good only, but of all."

He gloried in the fact that the American contest for life was open to all men. Douglass proved Whitman right.

For Douglass, both life and freedom began at age 17 when he over-powered a professional slave broker, and fled from a plantation where his birth had only vaguely been recorded as to time and place.

Believing justice was too often in jeopardy, Douglass always eloquently stood in its defense.

It wasn't easy, it occupied every year of his life; and when Douglass died in 1895, the task was still not completed.

Douglass added volumes to the understanding of what it meant to be a *free and dignified man.*

He hammered away at Southern slavery and Northern hypocrisy when he said:

"You degrade us, and then ask why we are degraded—Douglass said—"You shut our mouths and then ask why we don't speak—You close your colleges and seminaries against us, and then ask why we don't know more."

Douglass continued his fight for equal rights after the Civil War.

Three grateful post-War administrations placed him in high office. Douglass spent the last 15 years of his life here at Cedar Hill and he always remained the crusading defender of justice in jeopardy.

The inspiration of Frederick Douglass raises a dignity in all men. Today, we dedicate his home knowing that future generations will find this inspiration; this greatness, this decency that made Frederick Douglass an outstanding American.

Thank you for inviting me to share with you, the honor of bringing new life to the Frederick Douglass Memorial Home.

SOUTH DAKOTA STATE LEGISLATURE—HARD WORKING AND PRODUCTIVE

HON. JAMES ABOUREZK

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. ABOUREZK. Mr. Speaker, the legislature of the State of South Dakota is composed of dedicated and hard working men and women who are very properly concerned about a large number of problems that are national in scope as well as those that more directly affect South Dakota. This concern is well reflected by the thoughtful resolutions that were passed by the legislature during the recent session which has just adjourned. I feel that the ideas and comments contained in these resolutions are of such importance that they should be called to the attention of each and every Member of Congress. Therefore, Mr. Speaker, I include these resolutions in the RECORD at this point:

SOUTH DAKOTA HOUSE RESOLUTION NO. 505

A resolution, Citing legislative interest in the preservation of Wounded Knee Battlefield and return of its ownership to the Oglala Sioux Tribe.

Be it resolved by the House of Representatives of the State of South Dakota:

Whereas, the historical and aesthetic integrity of the Wounded Knee Battlefield as a registered National Historic Landmark is presently endangered by commercial exploitation; and

Whereas, said integrity would be best preserved if the site were returned to the ownership of the Oglala Sioux Tribe;

Now, therefore, be it resolved, by the House of Representatives of the Forty-seventh Legislature of the state of South Dakota, that appropriate state agencies in cooperation with the Federal Government shall direct their efforts toward the preservation of the Wounded Knee Battlefield to achieve Indian ownership of this significant site.

Adopted by the House February 8, 1972.

DONALD OSHEIM,
Speaker of the House.

SOUTH DAKOTA HOUSE CONCURRENT RESOLUTION NO. 506

A concurrent resolution, Citing legislative interest in the designation of the Missouri River from Yankton, South Dakota to Lake Sakakawea, North Dakota as a national recreation area and encouraging the Congress of the United States to approve such designation.

Be it resolved by the House of Representatives of the State of South Dakota, the Senate concurring therein:

Whereas, a proposal has been made by the Bureau of Outdoor Recreation, Department of Interior, for the establishment of the Great Prairie Lakes unit of the National Recreation Area system, which would extend from Yankton, South Dakota to Lake Sakakawea, North Dakota, and

Whereas, such improvement would offer the people of this country recreational pleasures of outdoor living, fishing, camping, water skiing and other related activities:

Now, therefore, be it resolved, by the House of Representatives of the Forty-seventh Legislature of the State of South Dakota, the Senate concurring therein, that the Congress of the United States be urged to designate that reach of the Missouri River from Yankton, South Dakota to Lake Sakakawea, North Dakota as a National Recreation Area in accordance with a plan of the Bureau of Outdoor Recreation, subject to preparation of a master plan acceptable to the affected states and to the federal government; and

Be it further resolved that construction, operation and maintenance of the Great Prairie Lakes unit of the National Recreation Area system be under direction of the Chief of Engineers.

Adopted by the House January 31, 1972.

Concurred in by the Senate February 5, 1972.

DONALD OSHEIM,
Speaker of the House.
WILLIAM DOUGHERTY,
President of the Senate.

SOUTH DAKOTA HOUSE CONCURRENT RESOLUTION NO. 515

A concurrent resolution, Memorializing the federal Water Resources Council and Office of Management and Budget to reconsider the interest and discount rate of not less than seven per cent which is to be used on federally financed water resource development projects.

Be it resolved by the House of Representatives of the State of South Dakota, the Senate concurring therein:

Whereas, the Federal Register, Vol. 36, No. 245, Part II, dated December 21, 1971, in Section IV D3 on Page 24167, states that an interest and discount rate of not less than 7% be used on federally financed water resource development projects, and

Whereas, no other federally financed program such as housing and other social welfare programs, highway programs, or other programs that enhance the economic well-being of the nation, carry an interest rate above that rate representing the average cost of money to the United States Treasury, and

Whereas, the state of South Dakota has been promised water resource developments to compensate the state for losses in land resources resulting from construction of four Missouri Basin mainstream reservoirs, and

Whereas, no project could be determined feasible under such an unreasonable interest and discount rate, and

Whereas, the state of South Dakota has spent much time and public funds in preparation of laws and formation of legal entities to support the promised water resource projects,

Now, therefore, be it resolved, by the House of Representatives of the Forty-seventh Legislature of the state of South Dakota, the Senate concurring therein, that the federal Water Resources Council and Office of Management and Budget is hereby respectfully requested to withdraw the seven per cent interest and discount rate to be used on federally financed water resource development projects and establish an interest rate consistent with orderly water resource development; and

Be it further resolved, that copies of this Concurrent Resolution be transmitted by the chief clerk of the House of Representatives of the state of South Dakota to the federal Water Resources Council and the Director, Office of Management and Budget and also to the Congressional delegation of the state of South Dakota.

Adopted by the House January 27, 1972

Concurred in by the Senate February 3, 1972.

DONALD OSHEIM,
Speaker of the House.
WILLIAM DOUGHERTY,
President of the Senate.

SOUTH DAKOTA HOUSE CONCURRENT RESOLUTION NO. 517

A concurrent resolution, memorializing the Congress of the United States to enact legislation to amend the Clayton Act in order to provide for the continuance of the family farm and to prevent monopoly.

Be it resolved by the House of Representatives of the state of South Dakota, the Senate concurring therein:

Whereas, it is desirable to preserve free, private enterprise, to protect small business and prevent monopoly, and to protect opportunity for family farmers in interstate commerce, as well as to protect consumers; and

Whereas, vertical integration of the agricultural industry by the processing, distributing, and retailing industries and conglomerate businesses have created situations of unfair, monopolistic competition for the family farmer; and

Whereas, this situation has contributed to the decline of rural populations and the consequent crowding of metropolitan centers; and

Whereas, it has resulted in a noticeable decline in competition in some phases of agricultural production and threatens others; and

Whereas, it should be the national policy to restore competition to the agricultural industry and to provide for the continuance of the family farm; and

Whereas, legislation has been introduced which would provide for the continuance of the family farm and to end these undesirable monopolies:

Now, therefore, be it resolved, by the House of Representatives of the Forty-seventh Legislature of the state of South Dakota, the Senate concurring therein, that the Congress of the United States be respectfully urged and requested to enact said legislation to amend the Clayton Act; and

Be it further resolved, that copies of this concurrent resolution be transmitted by the Chief Clerk of the South Dakota House of Representatives to each member of the South Dakota Congressional Delegation, and the United States Secretary of Agriculture.

Adopted by the House January 28, 1972.

Concurred in by the Senate February 7, 1972.

DONALD OSHEIM,
Speaker of the House.
WILLIAM DOUGHERTY,
President of the Senate.

SOUTH DAKOTA HOUSE CONCURRENT RESOLUTION NO. 518

A concurrent resolution, Memorializing the Fish and Wildlife Service of the Department of the Interior to offer an earlier date for the opening of the sandhill crane season.

Be it resolved by the House of Representatives of the State of South Dakota, the Senate concurring therein:

Whereas, the sandhill crane is a migratory bird and remains in South Dakota for a short time; and

Whereas, the months of November and December often provide severe weather and such weather may cause the sandhill crane to leave South Dakota; and

Whereas, the sandhill crane migration has begun as early as late August; and

Whereas, the sandhill crane, if left undisturbed, has caused considerable damage to corn crops in the state of South Dakota; and

Whereas, hunting pressure can ease the problem of crop destruction by forcing the birds to move; and

Whereas, the popularity of crane hunting as a sport is dependent upon the season being open during the peak migration:

Now, therefore, be it resolved, by the House of Representatives of the Forty-seventh Legislature of the state of South Dakota, the Senate concurring therein, that the Fish and Wildlife Service of the Department of the Interior be memorialized to open the sandhill crane season in South Dakota the first weekend in October; and

Be it further resolved, that the Chief Clerk of the House of Representatives of the state of South Dakota be directed to transmit copies of this resolution to the Fish and Wildlife Service of the Department of the Interior and to the South Dakota Congressional Delegation.

Adopted by the House, February 3, 1972.

Concurred in by the Senate, February 11, 1972.

CONCURRENT RESOLUTION, STATE OF SOUTH DAKOTA

A concurrent resolution, Memorializing the President and the Congress of the United States to initiate and implement action to remove the income limitation on those living on social security.

Be it resolved by the Senate of the State of South Dakota, the House of Representatives concurring therein:

Whereas, the income of those living on social security is generally very low; and

Whereas, inflation has struck hardest those living on fixed incomes; and

Whereas, the limitation is not in effect for those age 72 and over:

Now, therefore, be it resolved, by the Senate of the Forty-seventh Legislature of the state of South Dakota, the House of Representatives concurring therein, that the Congress of the United States initiate and the President of the United States implement without delay the removal of any income limitation for those living on social security; and

Be it further resolved, that copies of this resolution be transmitted by the secretary of the Senate to the state of South Dakota to the members of the South Dakota Congressional delegation and to the President of the United States.

Adopted by the Senate: February 8, 1972.

Concurred in by the House of Representatives: February 10, 1972.

WILLIAM J. DOUGHERTY,
President of the Senate.
DONALD OSHEIM,
Speaker of the House.

HOME RULE FOR THE DISTRICT OF COLUMBIA

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. McKINNEY. Mr. Speaker, on February 8, I introduced H.R. 13033, a bill to provide home rule for the residents of the District of Columbia. The bill is similar to the one which was overwhelmingly passed by the Senate last October 12, and I hope my colleagues in the House will give it their approval soon. I believe it is a good bill and one best suited to meet the two objectives which any home rule legislation must meet: maximum self-determination for the residents of the District and adequate safeguards to protect the Federal interest in the Nation's Capital.

When one stops to think about it, it is amazing that home rule should still be a topic for debate in this Congress. The historical, philosophical, and practical bases for this legislation have already been forcefully set forth by many of my colleagues. They have been obvious for so long, I am at pains to understand why a home rule bill has not been enacted into law long before now.

I will not take time to repeat these arguments here. They are well known to us all. Rather, I will use this opportunity to explain the primary provisions of H.R. 13033:

First. It establishes an 11-member City Council, elected by the voters of the District. The City Council is granted all legislative powers, with stated exceptions, including a prohibition against any act which concerns the functions or property of the United States.

Second. It provides for an elected Mayor who shall serve for 4 years and shall be the chief executive and administrator of the District government.

Third. It provides a fixed Federal payment to cover the proper share of the expenses of the District government. The payment shall be determined on the basis of a percentage of the amount of District fees, charges, miscellaneous receipts, and tax revenues.

Fourth. The Federal interest is protected by providing that any act passed by the City Council and approved by the mayor is then transmitted to Congress. Each house then has the power to veto such act within 30 days. Further, Congress retains its constitutional authority to enact legislation for the District on any subject.

For more than 100 years, the residents of Washington have been denied a basic right which is enjoyed by every other citizen in this country, the right of local self-government. During this time, the District government has stumbled along with little or no direction. Today, even its most staunch defenders admit that the District government needs drastic reorganization if it is to function efficiently and meet the needs of its citizens.

I believe the basic reason for the decay of the city government is the lack of centralized authority. At the present time, responsibility for the city is shared by a Congress which does not have the time and a city administration which not have the authority to run the city properly. The survival of this city requires a strong government which is responsible not only to Congress but to the people who live in the Nation's Capital. I believe H.R. 13033 will accomplish this goal.

NIXON AIDE'S ILL-CHOSEN WORDS

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. JAMES V. STANTON. Mr. Speaker, the Cleveland Plain Dealer recently spoke out forcefully against the statement of Presidential aide, H. R. Haldeman, that those who oppose the Nixon peace plan for Indochina are "consciously aiding and abetting the enemy." Ohio's distinguished morning newspaper pointed out, this view that if one is not totally in favor of a certain political position, he must be totally against it, is very reminiscent of the McCarthy era, and it is an attitude that has no place in American politics today.

I commend to my colleagues the full text of the Plain Dealer's thoughtful and perceptive editorial:

NIXON AIDE'S ILL-CHOSEN WORDS

The White House chief of staff, H. R. Haldeman, went way out of bounds yesterday in rebutting critics of President Nixon's Vietnam peace negotiations. He was interviewed on NBC's "Today" show.

It leaves a bad, bitter taste in one's mouth to hear Haldeman say these critics "now are consciously aiding and abetting the enemy of the United States."

Echoes of the harsh Red-hunting, witch-hunting days of 1951 are set off when Haldeman says that "the President's critics are in favor of putting a Communist government in South Vietnam."

This is bad language. It is a smear that means "traitor" and "soft on communism" if not "pro-Communist."

Labels like these do not apply to prominent critics of Nixon policy, such as Sen. Edmund S. Muskie, D-Me. Nor do they apply to others who are critical of the President's conduct of peace efforts, whether those critics are in or out of politics. Many Americans have different views of the Vietnam situation and different ideas for seeking peace and for the future of South Vietnam.

Once President Nixon disclosed and gave his justification of his eight-point peace proposal, Haldeman was saying, anyone who opposed Mr. Nixon must be "consciously aiding and abetting the enemy of the United States" and must favor putting a Communist government in Saigon.

In other words, either agree with the Nixon position or you are in favor of the Communist enemy.

Haldeman's logic went askew. His view is narrow if he thinks everyone not in 100% agreement with his boss must be 100% against his boss.

And we find his words objectionable. If this is a foretaste of the coming presidential campaign, the voters will be in for considerable unpleasantness.

HANOI OBSTRUCTS PEACE EFFORTS

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. FISHER. Mr. Speaker, under leave to extend my remarks, I include an excellent editorial which appeared in the February 10, 1972, issue of Catholic Standard:

CRITICAL DECISIONS

The recent disclosure of the terms of the secret negotiations between Presidential adviser Henry Kissinger and representatives of the North Vietnamese government make certain conculsions obvious. The North Vietnamese never had—nor do they now have—any intention of negotiating for peace within the accepted terms of international discussions. Every concession made by the United States in its effort to secure a just and equitable peace settlement has been followed by further and greater demands from Hanoi.

It really should not surprise anyone who has followed the course of the conflict and the accompanying negotiations that once again we are confronted by another impasse because of an outrageous demand for further concessions. Yet it is so obvious that once again it is we who will withdraw from our position without any real compromise or concession coming from the enemy. Not a single invader will be withdrawn from South Vietnam, Laos or Cambodia. This course has been apparent and inevitable since our policy of withdrawal became our publicly recognized national policy.

Our policy in Vietnam is now dominated by the disheartening reality that we are bartering for the release of whatever number of American prisoners are thought to be in the enemy's hands. As sad as their plight is and as determined as we must be to secure their release, they are only one part of the total picture that brought us into the conflict and now dictates our disengagement from it. Their welfare is a major concern, but it should not be the only concern. However, it appears to have become so.

Those who have in the past and still agitate for a precipitous withdrawal from Vietnam ignore the real possibility that during the course of a hasty withdrawal many thousands more Americans could fall into the hands of the enemy. These prisoners could be considered non-negotiable by the enemy because that's the way the enemy plays the game.

The President and his advisers have critical decisions to make. They may not be right on all things. But they must be able to negotiate from strength if there is to be any hope for a vestige of a just and reasonable peace and, perhaps, for the release of the prisoners.

INVESTIGATION OF INS

HON. JACK H. McDONALD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. McDONALD of Michigan. Mr. Speaker, nearly 2 weeks ago I wrote the President asking that he request the resignation of Immigration and Naturalization Service Commissioner Raymond F. Farrell. At the same time, I wrote the chairman of the House Government Operations Committee, the gentleman from California, asking that he conduct an investigation of the INS in an attempt to ferret out some spending irregularities which I have discovered.

I felt at the time I wrote the letters a deep dissatisfaction with the way the INS was being managed. Today I am good and mad at what must be the worst run division in American Government.

During a recent trip to Los Angeles, I met with INS personnel. The evidence I obtained there consists of several hundred complaints by citizens in the southern California area reporting to the INS the presence of illegal aliens working and/or residing there. These documents are in my possession because the INS ordered them destroyed in order to make room for more complaints. They were all received in May 1971. None of these complaints have been investigated.

Two weeks ago in the New York office, I viewed some 45,000 uninvestigated complaints. In January of this year, the INS office in Los Angeles destroyed some 2,000 uninvestigated complaints representing a total of 20,000 illegal aliens working or living in this country. Since last June, complaints representing more than 130,000 illegal aliens in the southern California area have been destroyed.

Mr. Speaker, let me cite a few examples pointing out the lack of administrative control within the INS:

One memo in my possession was written by a district director listing some of the problems he is having in his district. Portions of the memo state:

> Correspondence, reports and other material is being held up for long periods of time due to lack of sufficient personnel.
>
> Files are not received upon request. File charges are not immediately filed, and files cannot therefore be located.
>
> The normal flow of supplies has been curtailed and we cannot obtain several necessary forms.

The director stated:

> All of the foregoing has had a most demoralizing effect upon all personnel and created a loss of pride and respect for the service as a whole.

That memo was ignored. Another example, regarding the INS budget and its effect on operations, apparently also went ignored. It reads in part:

> Experience has shown that about 75 percent of the complaints received from the public, if worked promptly, are positive. Many involve multiple apprehensions. With sufficient manpower, area control category investigations, receipts and completions would increase an anticipated 3,000 units per year. This estimate was proven during fiscal year 1970 when a detail of 50 additional officers resulted in the apprehension of over 10,000 illegal aliens during a six-week period. There is no indication that there will be a decrease in area control apprehensions for many years.

But the clincher is one written to Mr. Farrell by a district director:

> Generally, the situation described in our prior monthly reports continues to worsen as backlogs increase in all operations due to insufficient manpower, aggravated by the necessity of terminating all temporary and school-program employment, lack of financial resources, inadequate equipment, and the necessity of juggling employees from one operation to another in an effort to keep all backlogs equal.
>
> It has become increasingly apparent to us in the field that there appears to be a complete lack of communication between Central Office Operations that keep demanding unrealistic performance and Central Office Management that controls the funds. This schizophrenic, paranoid type of management must inevitably result in complete destruction of the Immigration and Naturalization Service as a separate agency.

I have been investigating this problem for only a few months, and am getting angrier with each passing day as the evidence of cavalier disregard for the purposes and goals of the INS mounts.

Mr. Farrell's failure to react to this debilitating influence of illegal immigrants has been an invitation for increasing numbers of illegal aliens to sneak into this country and stay here with little fear of capture or deportation. I will repeat my request to the President that Commissioner Farrell be asked to resign at the same time I submit this new evidence.

DESPITE UNEXCELLED PUBLIC SERVICE, BUSES FACE UNFAIR COMPETITION

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. CARNEY. Mr. Speaker, the intercity bus industry has often been overlooked in the determination of our Nation's transportation policies. Yet, intercity buses serve more than 30,000 cities and towns in this Nation—far more than all other public carriers combined—providing vital low-cost transportation.

This, combined with the industry's excellent safety record, has been succinctly outlined by Mr. Raymond F. Shaffer, president of the Greyhound Corp., in a speech at the recent annual meeting of the American Association of State Highway Officials, which I commend to my colleagues.

I call particular attention to the final several sentences, in which Mr. Shaffer points out that this privately owned system is now facing unfair competition from Amtrak. Mr. Shaffer's comments should be given much weight by Congress in considering future appropriations for Amtrak.

Mr. Shaffer's speech follows:

REMARKS OF R. F. SHAFFER

Mr. Turner, Fellow Panel Members, Ladies and Gentlemen: Thanks for inviting me. I am honored to be asked to participate with this distinguished panel.

Once I told my friend, John Reed, President of the Santa Fe Railroad, that I could say something that he couldn't say about his railroad—that I had been a gandy dancer on his line.

I can say something similar to you about your highways. In 1929, I was a "spudder" on the concrete road being built between Kansas City, Missouri and Lee Summit, Missouri. Also, in the summer of 1930, I laid every piece of steel and placed every expansion joint on Old Highway 40 between Wamego and St. Marys, Kansas. So, you might say I am familiar with your work from the ground up.

I've been in the bus business all my adult life—38 years—and I want you to know that I recognize and greatly appreciate the importance of your work. As Henry Ford once so aptly put it, "We are a nation on wheels." And wheels can't move us or our products unless we have good highways.

I can remember 50 years ago my father working for paved roads through our county. In those days they were called Macadam roads, after John L. MacAdam, the Scotch engineer who started the process. And when we paved some roads, they were paid for by us, the farmers whose properties were adjacent to the road. The theory used was "benefit district." Most of the farmers then did not own automobiles, yet they were expected to pay for the road.

Through associations such as yours, the National Gas Tax Administrators Association, and others, our industry is now paying its fuel tax to the various states on the basis of actual miles operated within each state.

Twenty-eight of our states dedicate their fuel tax monies to the construction of highways. Our industry has worked long and hard to promote this legislation and views with considerable concern the mounting efforts of those in Washington and elsewhere who would raid the Highway Trust Fund for a great variety of non-highway purposes. Our industry opposes any diversion of the Highway Trust Fund and will continue its efforts in the states presently not participating to further legislation allocating monies collected for highway use to the betterment of the highway system.

Our entire economy is affected by your work. I am afraid most of our citizens take our highways for granted and do not realize how this nation is tied together with highways.

Let me recite something specific about the improvements you have accomplished. Twenty-five years ago, it took our bus 9½ hours to go from Washington to New York and it was necessary to make two rest stops. Today we run it with some schedules, non-stop, in three hours and 56 minutes.

To get back to the subject at hand, I think we should look at what our industry is doing with what you have built and how we fit into the complete intermodal concept of transportation for our country.

The intercity bus industry operates 23,000 buses strictly in intercity service on 200,000 route miles. Of the 23,000 intercity buses, my company, Greyhound, operates 6,000 buses over 100,000 route miles in intercity service, plus three sightseeing companies in southern Florida, our Gray Line New York Tours, Gray Line in San Francisco and we serve eight of the nation's 12 largest airports. LaGuardia, Kennedy and Newark are served by our Carey operation, and we serve Washington National and Dulles in our nation's Capitol, as well as Atlanta, Detroit and here in Miami. In addition, we operated 1,000 escorted tours every year. That service combined operates approximately 550 million miles per year, so I think we qualify as a highway user.

I think one of our jobs today is to let officers and administrators like you know what we can do. Many people still do not realize what a service we offer nor the extent of our coverage.

Mr. Johnson gave us a good outline for a panel discussion. When I first read it, I thought perhaps the best thing I could do would be to send our Public Relations man to tell everybody that we are rendering a good intercity bus service on our highways, but Mr. Johnson's provocative statement stirs up the thinking cells and that's good.

First, let me show how our industry serves America along with the other public carriers. Here is the latest Amtrak timetable. It lists service to 410 towns and some of it only twice or three times a week. Here is the Official Airline Guide. It lists service to 708 cities. And here is the Intercity Bus Service Guide. It lists 16,088 cities and towns, and we lay claim to another 25,000 communities or crossroad settlements too numerous to mention where a person can be expected to be picked up or discharged by bus or where they can receive a package express shipment.

I should also acquaint you with the volume of intercity bus travel. Sylvia Porter, well known financial columnist, wrote on August 17, 1971, and I quote:

"Before this year ends we will have taken close to 400 million intercity bus trips in the U.S.—more than double the 1971 number aboard domestic air flights."

Safety—Convenience—Economy—and Frequency have been our stock in trade.

Dealing first with safety. The results of your work really show up in safety statistics. I can recall in our company a goal of 25,000 miles between collision accidents.

Today, we consistently operate 200,000 miles between accidents and we obtain close to a million miles between accidents on the Turnpike and Interstate Highway System. To be sure, in those years we have improved our driver screening and training, and bus performance has improved, but your highways have made a big contribution to this improvement in safety.

Next, convenience. We are flexible and we have taken advantage of all the new highways to make our service more attractive by less time in traffic congestion and at the same time making our service readily available in center city or the suburbs.

Next, economy. Bus fares average less than four cents per mile. For economy, there is no better way.

As for frequency, our industry provides convenient departures. In some of our sparsely settled communities we may operate three or four schedules per day. But the frequency steps up in ratio with the population. For example, all of us tend to point to the northeast corridor—Boston, New York, Washington, when discussing high frequency. Trailways and Greyhound together operate 70 schedules per day from New York to Washington and 40 per day from New York to Boston. Those are schedules, not buses. From Friday through Sunday there may be from two to ten sections on any of those schedules.

I think it would be meaningful in this discussion to point out what we have done to make our service attractive as related to passenger comfort. Our buses are air conditioned—we have air suspension ride—reclining seats—tinted picture windows to keep out glare—and every bus has a restroom.

As for the future, we're very excited about two new developments: (1) we have a new turbocruiser being tested in regular route service. This turbine-powered bus represents a significant breakthrough in technology. To our customers, it will mean a smoother, vibration-free ride. As a contribution to ecology, it is virtually pollution free. And (2), we have a new bus which is 102 inches wide. We have spent two million dollars developing it, and we have operated 100 of them, where they are legal, over 30 million miles without a single accident where the extra six inches could be blamed. Your Association approved this bus and we appreciate your support. With this bus, we can provide more passenger comfort.

This bus is legal in 22 states and is presently pending in Congress. We can operate it in 33 states as soon as Federal enabling legislation is passed. A bus this wide is not new to bus riders—only to intercity bus riders. Buses this wide have been in service 20 years in our city transit systems. In fact more people ride on 102-inch-wide buses than any other size. Fifty-five of our cities use them, but of course, not with the refinements in comfort we have in this bus.

I have tried to point out that our industry is rendering service, nationwide, by use of our highways and we are prepared to do more.

Months ago, we filed agreements with Amtrak whereby we would honor any ticket they sold on our service. This will allow a person to travel on one ticket, using both Amtrak and bus service.

I must be candid and state that I do not like our hard earned tax money being used by Amtrak to operate at a loss and hurt us by cutting the fares. Amtrak just recently announced a reduction of 22½% in its one-way fare between New York and Boston—from $12.75 to $9.90 despite the fact that its monthly deficit on the New York-Boston operation is approximately $250,000. As a result, Trailways and Greyhound were compelled to reduce their fares from $10.45 to $9.65.

They are not serving a need if they force us to reduce a service that is paying its own way just to add volume to their operation which is losing money anyway. That is not creating new business and, in my opinion, this goes beyond the original concept of Amtrak.

We are ready, willing and able to interline business with the airlines too. Highways will the link between communities and airports for a long time to come in most of our cities and we know how to serve them.

Our message remains . . . "Leave the driving to us."

Thank you.

A SALUTE TO DR. AND MRS. GORDON CLARK

HON. GRAHAM PURCELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. PURCELL. Mr. Speaker, at this time throughout the city of Iowa Park and Wichita County in Texas, citizens are reflecting on the contributions that Dr. and Mrs. Gordon G. Clark have made during their 50 years of professional and civic services to that community.

Dr. Clark has recently announced that he is retiring from the medical practice he established over 50 years ago. During those years Dr. Clark has acquired a truly remarkable record of achievement as a dedicated family physician, trusted personal counselor, and revered civic leader.

Mr. Speaker, for the tenure of my work as the U.S. Representative for the citizens of the 13th District of Texas, I have met few individuals who have given as much of their own time, their energy, and their devotion to the community in which they lived than Dr. Gordon Clark and his gracious wife, Oscar.

As testimony to the great love that the citizens of Iowa Park have for this remarkable man, I would like to bring to the attention of my colleagues remarks made by Agnes and Louis Quick when they learned of Dr. Clark's retirement from active medical practice:

> What will we do? Words seem so inadequate when trying to express appreciation for one who has been such a vital part of our lives as a doctor and friend. A doctor who gave untiringly of himself to alleviate the pain and suffering of others: a doctor who came to our home when he was needed, regardless of the hour or the weather: a doctor who shared in our joy at the birth of our children and grandchildren; and a doctor and friend who sat by and sympathized with us in times of sorrow,—that is our beloved doctor and friend—Gordon G. Clark. May God bless him and his every interest.

Multiply this sentiment by the thousands of individuals with whom he has worked during a span of over half a century and it becomes clear why he is loved so dearly by the citizens of Iowa Park and why I wish to echo the praises to this remarkable Texan before my colleagues of the U.S. House of Representatives this afternoon.

Along side her busy husband, Oscar Clark has also generated the admiration of several generations of Iowa Park residents. Her untiring concern for the well-being of the community's young people, her work on behalf of the local chapter of the American Red Cross, her time and attention to the benefit of men stationed at Sheppard Air Force Base, in addition to the contributions she has made to her church community have made her of immeasurable value to people in all walks of life throughout the county.

I ask my colleagues to join with me in saluting the remarkable record of community service that Dr. and Mrs. Clark have achieved during their 50 years residence in Iowa Park, Tex., and in extending to this wonderful couple our wishes for a happy retirement.

A TRIBUTE TO PROF. WILLIAM PAUL WALKER

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. HOGAN. Mr. Speaker, it is with the deepest regret that I must report that the State of Maryland recently lost one of its outstanding sons, Prof. William Paul Walker, who was born, lived, worked, and died within the borders of the Free State. He now rests in Carroll County, Md.

For more than 44 of his 72 years he served the people of Maryland as a scientist and educator in the Department of Agricultural and Resource Economics at the University of Maryland. He taught and guided graduate students in taxation and public finance. He authored or coauthored well over 100 research publications and special studies, including 38 annual reports of the joint tax committee of the Maryland State Grange and Farm Bureau. He pioneered in agricultural taxation, and was a key force in the development of Maryland's laws regarding farmland. His contributions to the work of many taxation and highway commissions appointed by four governors of the State were significant, as was his work with many committees of the Maryland General Assembly. He earned and received a national and international reputation as an expert in his field.

His giant accomplishments were recognized by the Maryland State Grange in 1962, and the Maryland Farm Bureau in 1966. In 1969 he was designated Maryland's "Man of the Year in Agriculture" by the Maryland State Grange.

Professor Walker was a quiet scholar who tied concepts and principles in public finance and taxation to the practical decisions of State governmental administration. Maryland is a stronger State because of his life, and its people are better served because of his work. He loved the rural areas and the farm people of Maryland, but he worked for an improved interrelationship of all our people, rural and urban alike.

The citizens of Maryland could never repay him for his service, but we can express our deepest gratitude and I insert this acknowledgment of our profound appreciation into the RECORD at this time.

TRAGIC TRAFFIC TOLL

HON. EDWARD A. GARMATZ

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. GARMATZ. Mr. Speaker, Martin M. Puncke, Acting Chief, Systems Operations Division, U.S. Department of Transportation, National Highway Traffic Safety Administration, discussed before the Safety First Club of Maryland, on February 14, 1972, the significant steps that are being taken on a national level to reduce the tragic traffic toll in the United States.

At this point in the RECORD, I insert Mr. Puncke's remarks in order that my colleagues may have an opportunity to read his remarks:

REMARKS BY MARTIN M. PUNCKE

I am pleased to be here with you for two important reasons: To bring you a report on a number of ongoing Department of Transportation activities which affect every citizen, and to seek your support for our efforts to achieve the Department's goal of reducing the nation's traffic fatality rate by one third by 1980.

In an organization such as the Department of Transportation, concerned with all transportation modes and their many ramifications, I find it more than difficult to be selective in reporting on those activities of primary interest to you.

Effective January 1, 1972, the Department of Transportation moved to make it easier for consumers to obtain safety information on new automobiles.

Under an amendment to a Federal regulation, prospective car buyers will be able to retain and take home the consumer information on new automobiles which has been made available only in dealers' showrooms. The take-home information will have to be provided without charge.

Under the amendment the consumer information must be in sufficient quantity to be retained by prospective purchasers, or be mailed to a prospective buyer upon his request.

We are proposing that our two old standards on motor vehicle inspection and vehicle registration be combined into one standard to be known as "Vehicle Requirements."

This proposed standard will cover all aspects of vehicle registration, and an entirely new section regarding the maintenance of equipment installed on new vehicles as required by the Federal Motor Vehicle Safety Standards (new car standards like the collapsible steering column, seat belts, headrests, etc.). This section will also deal with the alteration of vehicles—the raised front or rear ends, the inappropriately large tires, the "ape hanger" front ends of motorcycles, and things of that nature.

The last section will deal with the maintenance of the vehicle. The first is to get the unsafe vehicle off the road, and give the States the widest possible latitude in accomplishing this purpose of getting unsafe vehicles off the road and getting the concerned citizen to do a better job of maintaining his vehicle.

That this is a worthwhile objective cannot be denied. We believe that approximately six to seven percent of traffic crashes may be due to mechanical failure. "Due to" in this case means that had the mechanical failure not occurred, there would have been no accident. This means that 3,000 lives may be lost each year from mechanical failure. We also are quite sure that mechanical condition is a factor in 17 percent of the crashes—smooth tires on wet roads, a leaking brake cylinder—things of that nature.

Even though inspection may not have the glamour or priority of our alcohol program, or our experimental safety vehicle program, we are not forgetting the need for people to maintain their vehicles.

We have mentioned a Consumer Information Program, Vehicle Inspection and Maintenance, and I am sure you are all familiar with programs to improve the safety features of new vehicles, so I am not going to discuss these any further.

I am going to tell you about what is going on to improve the quality and behavior of drivers. This is more in my area of responsibility, and since these programs must be implemented by State and local officials, you should be familiar with some of them.

Let me tell you about a program that has just started, a Selective Traffic Enforcement Program—the Administration's STEP effort. It is designed to demonstrate traffic enforcement countermeasures that will result in accident reductions and to identify the quantity and quality of traffic enforcement effort needed to impact on accidents.

To a limited extent this program has demonstrated a high payoff potential by the results of a project in selective traffic enforcement initiated in Flint, Michigan.

Traffic fatalities, for example, were reduced by 59 percent and personal injury accidents were reduced 24 percent with an increase of 44 percent in moving hazardous violation arrests.

In addition, the Flint enforcement effort made 205 felony contacts while working traffic. We believe this potential needs to be further developed and realized on a broader basis than is now the case. The ultimate goal is to apply results to a national undertaking administered by State and community safety programs. At present, Chattanooga, Tennessee; El Paso, Texas; and Sacramento, California, are under contract for a three-year STEP project.

Several months ago we proposed to the Secretary of Transportation a Driver Control Program as our next major priority in the State and Community Program.

By Driver Control we mean the sum total of all actions affecting a driver from his initial licensing to the time he ceases to drive. This program will encompass the driver licensing and relicensing processes; driver improvement, including rehabilitation and retraining; Medical Advisory Board; administrative system of driver referrals; administrative adjudication of traffic law violations; as well as various types of enforcement actions.

In a more direct way, we could term this as our negligent Driver Control Program since it seeks to restructure driver behavioral patterns. Each project undertaken will provide a systematic method for identifying errant and negligent drivers for rehabilitative or license denial action.

I could talk for hours about the advances made in highway design and construction, signing, break-away sign supports, forgiving roadsides, etc.

But just stop for a second and ask yourself this question: What good does it do to have sophisticated highway design and construction, the latest in signing and markings, etc., when in one split second your life and mine, and our loved ones can be snuffed out by a drunk driver.

Most of us use drugs in one form or another. We smoke, drink coffee, take medicine, and may have a drink before dinner. Amphetamines, sedatives and barbiturates are a part of many of our daily lives.

Most of us in this room use some form of drugs daily. How many of us drank coffee today? This was a nerve-wracking day. Did you take a tranquilizer to settle your nerves? When we leave here tonight how many of you will take a sleeping pill to help you fall off to sleep? But let me point out the most widely used drug in our society—and the most abused—alcohol.

While we in the Department of Transportation have no intention of changing America's attitudes and habits about ordinary social drinking, we feel it is necessary to take strong action about the relatively small group of people who use alcohol abusively and drive.

In 1970 over 55,000 highway deaths occurred in the United States. Fifty percent, or roughly 28,000, involved alcohol. Two-thirds of these accidents involved people with a serious alcohol problem. They were problem drinker-drivers. One-third involved heavy social drinkers or inexperienced youths who on occasion drove while intoxicated.

It is a startling fact that the highway toll has been three or four times greater than all homicides. There are, however, two other factors which merit equal attention. For each death there are a score of individuals who are maimed, crippled or disabled. The second factor is that in America's health problems, cancer, heart disease, typically, though not always, attack the middle aged and elderly; while the highway is the killer and maimer of our children and young adults. Indeed, it is the chief cause of death from age 2 through 36. Half of all fatally injured drivers are under age 30.

Recognizing this, Secretary John A. Volpe, U.S. Department of Transportation, has launched as his top priority highway safety effort a national campaign aimed primarily at this small group of problem drinker-drivers. This campaign is a cooperative one with the States and communities. It is in your State and in your community that the action must really take place. Washington can only point out the facts, suggest methods, and give strong emphasis and encouragement to stiff programs to control this number one killer on the highway.

Almost three percent of American drivers are alcoholics. About four percent, if not alcoholic, are heavy escape drinkers. This seven percent is the primary focus of the national program.

Let's take a look at what we hope to accomplish.

To drink or not to drink is an individual concern. But to drink and then drive is a community concern. That's the idea that must be sold—the understanding that must be universal. We have to change a deeply-ingrained pattern of conduct. Unfortunately, it is part of the American social pattern to drive after drinking. And that pattern must be reversed. Americans must become sensitive to the drunken-driver problem—sensitive to our own limitations, sensitive to others, and constantly aware of the social forces that would compromise our good judgment.

I am constantly amazed—and appalled—by our apparent tolerance of this national tragedy. If a 747 jet crashed every week killing 385 persons, we would demand a grounding of that aircraft. Think of the hue and cry if just one football stadium collapsed each Sunday killing 385. Consider the national outrage if 385 persons were killed in one week from food poisoning, or water contamination, or any other unnatural disaster. Yet that is the number of persons who die every week as a result of drinking and driving—the number of persons who will never again ride a 747 or attend a football game.

Preliminary estimates now register a total of 55,000 highway fatalities in 1971. That's an increase of 200 over 1970—200 human beings who—had they not ridden into the valley of death—would be leading happy productive lives today. And this tragedy illustrates the problem we face. Because it is also true that in 1971, the death rate per 100 million miles traveled declined from 4.9 to 4.7, the lowest in history. Yet even this achievement is unacceptable.

Perhaps it would be easiest to stop drunk driving by adopting some of the harsh penalties prescribed in other nations: ten years in jail with a $2800 fine in South Africa. Capital punishment in San Salvador.

But we certainly don't advocate these punishments. We would much prefer, for instance, a concerted effort to make our court systems more responsive.

It's not our goal to lock up every drunk and throw away the key. It's our goal to keep them from driving. And I'm pleased to note that the national press—newspaper, television and radio—is beginning to pick up the theme. The word is beginning to get around—that we have a solution, that it can work, that it is working.

In Charlotte, North Carolina, the liquor stores are giving each customer a breath-testing kit that will tell the customer when he (or she) is too drunk to drive.

Nassau County, New York, has a new 24-hour telephone hot line which a drinker may call to ask for transportation.

Ann Arbor, Michigan, gives a person convicted of drunken driving the option of going to jail or agreeing to swallow one anti-alcohol pill every day—then even one drink makes him unpleasantly ill.

In Seattle, Washington, an ASAP (Alcohol Safety Action Program) worker is meeting with judges and attorneys to make pre-sentencing recommendations—recommendations that could lead a convicted drunk driver out of jail and into an appropriate rehabilitation program.

The press is beginning to report those stories. These are our solutions—countermeasures in action. And there's plenty of room for involvement by safety organizations. Whether it is the adopting of national resolutions, recommending state action programs, or becoming a volunteer worker at the local level—we need your help. We need your expertise—as opinion leaders, as organization leaders, as concerned individuals.

May I spend a few minutes discussing the National Highway Traffic Safety Administration's program within the State of Maryland.

The Department of Mental Health and Hygiene has entered into a contract for an Alcohol Safety Action Program encompassing the area of Baltimore City and part of Baltimore county. The project director is William Terwilliger and the program involves several disciplines. Enforcement is represented by the Maryland State Police and the Baltimore City Police, the District Court system, the Department of Motor Vehicles, the city and county Health Departments, and the Baltimore Area Council on Alcoholism.

The financing level is $2.6 million over a three-year period. This is one of 35 cities throughout the United States which has been selected as a demonstration city for this type of program.

The Highway Safety Act was passed by Congress in 1966 and funds were made available to the States in FY 1967 From FY 1967 through FY 1972, the State of Maryland has received $5,478,385 from the Federal Government to carry out the provisions of the highway safety standards authorized in the Act. The sixteen standards cover areas of highway safety such as driver licensing, registration, motorcycle safety, codes and laws, courts, emergency medical services, driver education, traffic records, police traffic safety programs and pedestrian safety.

In Maryland the greatest amount of funding has gone to five areas. $1,260,445 to Driver Education; $523,732 to Emergency Medical Services and $686,640 to Police Traffic Services; $1,089,444 to Traffic Records and $686,248 to Pedestrian Safety.

During FY 72, which is July 1, 1971, through June 30, 1972, Maryland's appropriation is $1,224,776. Planned expenditures are listed in the Annual Work Plan submitted by the State to the Federal Government.

The NHTSA is waging this fight on several fronts. This is not a job for a single government agency nor a single segment of society. However small it might be, that crack in the door can be opened wider only if every American accepts the idea that traffic safety is the responsibility of everyone It is a PEOPLE program. Everyone must participate, every person behind the wheel, and every pedestrian walking the streets.

Progress is measured at NHTSA in terms of lives saved; every step, every decision is made for people—not just half the people part of the time, but ALL the people ALL the time.

GRAND GULF: NEW LIFE FOR AN OLD TOWN?

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. GRIFFIN. Mr. Speaker, the Mississippi Power & Light Co. recently announced construction of a nuclear powerplant on the Mississippi River near Grand Gulf, Miss.

Grand Gulf is one of the oldest towns on the Mississippi River. Although its days of an important river port are now history, a nuclear age facility may be the beginning of a new era.

The history of Grand Gulf was recently outlined in an article which appeared in the Vicksburg Sunday Post, January 30, 1972. I think my colleagues will find it to be of interest:

GRAND GULF: NEW LIFE FOR AN OLD TOWN?

(By Gordon Cotton)

The landing at Grand Gulf is lonely and silent. On the west shore of a mile-wide bend in the Mississippi River lies Coffee's Point, outlined by a narrow strip of white sand and covered with cypress and oak and swamp willow. A field, divided by a fence, borders the east bank and ends abruptly a mile inland at the base of a limerock bluff. To the north of the bluff flows the Big Black River, its waters merging with those of the Mississippi to form a large whirlpool—a grand gulf.

The blast of a riverboat's whistle breaks through the quiet, a modern reminder of an era when, about 130 years ago, Grand Gulf, Mississippi was second only to New Orleans in shipment of cotton and third-ranked in commercial importance in the state.

But all that changed when first the unpredictable river and then fire set by Yankee troops took their turns at destroying the town.

For over a century there seemed little hope that Grand Gulf's past glory would ever flourish again, but with the announcement last week that Mississippi Power and Light Company would build a $400,000,000 nuclear power plant a mile south of the old town, speculation soared concerning the economic impact on the area.

Some think that Grand Gulf may again enter into an era of economic prosperity. The owner of a local store foresees increased business as laborers are brought to the construction site and officials of the Grand Gulf State Park hope for an increase in visitors.

For one life-long resident, however, little change in the town itself is expected.

"A boom here?" Mrs. Lenora McAlpin, who holds the honorary title of mayor of Grand Gulf, said. "No sir. There's no place to live here, no where to trade. Oh, there'll be a lot of workers, but they'll be coming and going from other towns every day."

Lenora sees the nuclear power plant construction as a "big boost for Claiborne and surrounding counties" but thinks Grand Gulf will remain virtually unchanged. Nuclear power doesn't bother her, she said. "They won't let anything go wrong—if it blows up it'll get them as well as me."

Whether or not Grand Gulf's economy will be revived, the town has definitely left its mark on Mississippi history.

Just when the name Grand Gulf was given is not known, but it appears on French maps dating from around 1700, and one early explorer noted in his journal in 1700 that his party passed "Grand Gulf . . . on the left hand side."

It is thought that the first settlers moved into the area about that time, and early writers noted that the Indian uprisings devastated the settlement in 1729.

Later explorers warned about the treacherous bend in the river where there was "a sudden and violent eddy, which threatened to run our boats upon the snags or crush them against the logs and rafts which floated on every side."

Large-scale settlement came in 1771 when Gov. Phillip Barbour of Virginia was given 5,000 acres; Col. Thaddeus Lyman received 20,000 acres in 1774. Both brought in colonists to settle their vast land grants.

These settlers were Tory in both sympathies and in deeds during the American Revolution, and some suffered at the hands of the Spanish and the Patriots. Following the Revolution, another influx of settlers began.

Braving the trip overland was a hazardous journey, but one by river could be just as dangerous. One traveler told of how the swirling gulf had capsized his boat, destroying all his possessions and drowning his family.

Grand Gulf soon became known up and down the river because of the whirlpool, or gulf, and boatmen were warned that the swirling waters would dash their vessels to pieces.

Yet the settlers came, and by 1821 clearings dotted the area. The wilderness had given way to farms, the farms to plantations, and the river which had been a hindrance became the life of Grand Gulf.

A school was started in 1821, and religious services were held by the Baptists and by Alexander Campbell, who organized a Christian Church there.

When the City of Grand Gulf was planned in 1828 by Amos Whiting, Ezra Marble and White Turpin and surveyed by William Davis, 80 city blocks were envisioned.

At that time Grand Gulf contained three stores, one tavern and several dwellings, and the postmaster, Dr. Thomas Newell, began a stage line to Port Gibson, which was eight miles inland. The next year a road was constructed to the county seat.

John Wilmot Thompson, an enterprising farmer on Bayou Pierre, operated a toll ferry across the stream, and when the Grand Gulf Railroad was chartered a few years later, Thompson refused to sell right of way for the tracks, fearing that his ferry business would be ruined. The case went to court and Thompson lost. Undaunted, he took his slaves at night and by torch light removed the spikes from the newly-laid rails.

Yet the railroad went through, the second in the state, and by transporting cotton from the interior the iron horse helped to transform the Grand Gulf wharf into one of the busiest on the river.

In 1833 the legislature issued a charter of incorporation, and the following year W. M. Smyth began a bi-weekly newspaper, The Grand Gulf Advertiser.

The steamboat trade, aided by the railroad, made Grand Gulf a city of commercial importance. In 1835, in less than nine months, 47,770 bales of cotton were shipped from the wharf.

Evidently Grand Gulf's more than 1,000 citizens believed in the future of the town, for in 1836 the Advertiser reported that $12,000 for a lot 60 x 120 feet on Front Street had been refused, and Editor Smyth predicted that within ten years it would be worth $30,000.

By 1837 Grand Gulf contained 76 city blocks and boasted three hotels, five taverns, a distillery, a theatre, a slave auction block, two tinsmiths, a gunsmith, a jeweler, six general doctors, two surgeons, one obstetrician and two dentists. There was also a town hall and a fire station with two engines.

Elaborate entertainments were held, a little threatre group was active, cultural and scientific societies existed, and a temperance movement was under way.

A nursery also flourished, there was a large commercial orchard, an insurance company with capital of $500,000 was formed, and the Episcopalians built a sturdy brick church.

Stores advertised everthing from silver coffin plates to Monongahela whisky.

The progressive city fathers took steps to hard-surface the streets, an accomplishment which Natchez soon imitated, buying the rock from Grand Gulf.

When the panic of 1837 hit Grand Gulf, the city issued its own paper currency in a variety of denominations. Times quickly improved, and by 1839 the railroads showed assets of over three million dollars.

In that same year, the legislature chartered a shipping company which was to create direct trade between Grand Gulf and Liverpool. Some business was transacted but the venture was not a success.

Local river trade and traffic was more successful. An average of 35 steam boats stopped weekly at Grand Gulf and eight of them are known to have sunk there. One, the George Washington, exploded, setting fire to the town. In later years, a more famous vessel, the Robert E. Lee, took on its first shipment of cotton at the Grand Gulf landing.

No doubt there were many stories of adventure which involved Grand Gulf citizens, but none was more exciting than that of Henry Watkins Allen who, as a runaway lad of 17, came ashore at Grand Gulf where he clerked in a store, studied law, and married into a wealthy family. During the War for Texas Independence, Allen left to join Sam Houston and was given the rank of captain. After the San Jacinto victory, he returned to the Gulf and achieved prestige as a lawyer and planter and fame as a duelist. In the 1850s Allen moved to Louisiana. Twice wounded in Confederate service, he ran for governor of Louisiana during the war and was elected. Following the South's surrender, Allen, refusing to be reconstructed, fled to Mexico City where he edited an English-language newspaper.

Grand Gulf had its share of problems along with its prosperity. Yellow fever, cholera, fires and a tornado ravaged the town over the years before 1860. But a near-fatal blow occurred between 1855 and 1860 when the river slowly began to move inland, its waters gnawing away 55 city blocks—the entire business section—until most of the town was gone and only 158 people remained when the firing started at Fort Sumpter.

During the war, Grand Gulf again figured prominently as Union ships shelled the Confederate positions on the bluff. But their damage was slight as the swirling waters tossed the gunboats around and around, sending their shots awry. After five hours of battle, the Yankees withdrew with heavy casualties and one less boat; from the bluff Confederate guns still roared defiance.

But that wasn't the end of the war for Grand Gulf. Twice landing parties came ashore, and after their second visit, only two or three dwellings had escaped the torch.

Grand Gulf never recovered though the river reverted to its original bed years ago and cattle now graze where the bank and hotels once stood. Only a few houses remain along the dusty streets.

Epitaphs in the cemetery, which spreads like a blanket across the crest of the bluff, best tell the story of Grand Gulf. Here, where crumbling brick walls and iron lace fences stand beneath the shade of cedars and crape myrtles, the tales of a town long dead are etched into the sculptured monuments.

A slight breeze stirs the moss hanging from the trees, and again through the quietness you can hear the whistle of another boat passing the Grand Gulf landing.

Perhaps it is only a nostalgic sound, a sentimental reminder of another era. Perhaps.

Or perhaps it is an indication that Grand Gulf is about to live again.

GETTING BUSTED ABROAD

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. BURTON. Mr. Speaker, in increasing numbers American young people are traveling abroad. Problems that lie in wait for them, in some cases, are graphically described in an article called "Getting Busted Abroad" which was published in the February 14, 1972, issue of the Nation.

The article is of particular interest to me because some of the young people referred to are residents of the San Francisco area. However, conditions are described which should be of concern to all of us—young people, parents, Members of Congress. For this reason, I am placing the article in the RECORD:

GETTING BUSTED ABROAD

(By Bernard Weiner)

Hundreds of American young people are discovering, to their dismay, that in this era of the "global village," many of the other villagers are not quite ready to accept their life style. As a result, they spend years rotting in primitive jails. They come as tourists into slowly changing, but still fairly traditional cultures—such as those of Mexico, Spain, Greece, the Middle East—with their conspicuous hair, bizarre dress, loud music, sexual freedom and euphoric drugs. While they loudly condemn the typical American bourgeois tourists (often their own parents) for disrupting the traditional economy and customs of such places, they fail to see their own flamboyance as something that local officials might interpret as a threat to cherished conventions.

Many of them use marijuana, hashish, occasionally LSD, and some of them become dealers in these illegal drugs for the others. Increasingly, foreign authorities have come to the conclusion that the tourist money brought in by this sort of international hip-tourism is of less moment than the actual or potential "social harm" these young people bring with them. So they bust the "hippies" on whatever grounds they can—sometimes for vagrancy or cohabitation (as happened last summer on the Spanish island of Ibiza in the Mediterranean), but usually for possessing drugs, which may have been planted by the local police or customs officials. If the sentences are harsh enough, these functionaries hope, the threat to their proud cultures and to their own young people can be checked. And in the process, they can preserve the traditional atmosphere which attracts the more affluent tourist.

The "hippies" who fall foul of the law are usually unfamiliar with the legal system in the country through which they are passing, have few contacts with influential natives, do not know their rights—or whom to buy off for how much—and may suffer serious abuse, sometimes physical, at the hands of local law enforcers. In some places, they cannot expect to receive much aid from representatives of their own governments, who often are in an ideological, if not practical, alliance with the police.

A typical case—but with atypical, even frightening, aspects—is that of Jack V. Maniaci, a young Warner Brothers Records promoter from California, who for the past year has been locked in a prison in Las Palmas in the Spanish Canary Islands. Maniaci was arrested February 1971 for alleged involvement in smuggling quantities of hashish from Morocco to Las Palmas. When he was arrested on the ship arriving from Africa, Maniaci had no drugs on him, but police said another youth, a 16-year-old Canadian who was also aboard the ship, had confessed that the drugs found in his possession had come from the Californian. Maniaci says the Canadian told him later in prison that he had been beaten badly in order to force the confession from him; Maniaci's lawyer and his assistant say the Canadian's bruises were still evident months later.

It is interesting at this point to note what happens to a youngster who is arrested in a strange land; how he goes about defending himself, and what part U.S. consular officials can be expected to play. One can conceive the role of a consular agent in some small tourist city in three ways: as an official agent of the U.S. Government, as a neutral translator when the occasion arises, and as being—to put it gently—eager to maintain good relations with the police.

When Maniaci was busted, he was thrown into a 3-by-4-ft. dungeon and left there for nearly five days before being interrogated by the recently formed drug squad of the Las Palmas police. He says he made frequent requests to see the local U.S. consular agent, Manuel Martin, but the police slammed shut the gate of his cell whenever he raised the point. Word was finally sent to Martin and two days later he appeared at the jail. Probably to avoid suspicion of "kickbacks," consular officials are forbidden to recommend a local attorney. So he gave Maniaci a list of the lawyers available in town and told him which ones spoke English. The prisoner blindly picked one who spoke English, having very little alternative.

During interrogation, Maniaci gave his statement, his "confession." (Maniaci says he was told that unless he made a "confession," they would throw him back in that 3-by-4 dungeon for five months.) According to Spanish law, a suspect can challenge the translated language of the confession. Maniaci insists that he did not confess to having furnished the Canadian with the hashish, but the translated version says that he did. He wanted, he says, to challenge that wording, but was told by a court official who spoke some English that if he did he would fall into serious trouble; that since he had no drugs in his possession when arrested, he should let the wording stand. That way, he could be sure of a lenient sentence, perhaps only a few months for vagrancy and then deportation. Completely in the dark about Spanish law, terrified of going back to the dungeon, and Martin not being available for advice, Maniaci took the advice of his Spanish "friend" and let that all-important challenge slide by.

Meanwhile, other long-haired foreign youths were being rounded up, fifteen in all, and the local papers began playing up the capture of an "international drug-smuggling operation." (The Spaniards didn't miss that angle either; they took one look at Maniaci's Italian name—and that of another suspect, a boy from San Francisco—and, according to one paper, became panicky, believing that the Mafia was sending in drug smugglers "masquerading as hippies.") The fact that no hard drugs were involved and that hashish has become common in the dropout culture around the globe carried no weight with the Spanish media, with the drug squad which had a reputation to establish, or with national leaders. "Three years ago, there were no such arrests to speak of," Eduard Blanco, director-general of Spanish security, told reporters in Madrid last year. "Things have reached beyond what tolerance can permit, and the time has come when we have got to do something to keep our country clean from undesirable people."

The lawyer selected by Maniaci was also defending the other fourteen suspects—a clear conflict of interest since one of those was the Canadian youth whose "confession by persuasion" had implicated Maniaci. Maniaci's parents wrote Martin to ask what was going on. The lawyer, he replied, had visited their son in prison and is doing the best he can. At that point, however, the lawyer had never set eyes on Maniaci. When his parents and friends learned that, they hired a San Francisco attorney, Morley Shapiro, who had had some success in similar drug cases in Amsterdam. Shapiro flew to Spain, fired the local lawyer and obtained others, and set about during his three-week stay to investigate the case, the behavior of Martin in the whole affair, and some other startling findings—including the willingness of the American Express office in Las Palmas to turn over mail and packages to the local police.

According to Shapiro, the police originally had a court order empowering them to seize mail of one of the American suspects, but the police were then told to stop any such interdiction. However, Shapiro has a copy of a tape-recorded conversation with an American Express mail clerk who says she was ordered by her boss to turn over to the police the mail of a selected group of Americans and Canadians—as well as to note any hippie types coming into the office who looked "funny."

Shapiro also came back with a tape-re corded conversation with Maniaci in the prison about his case, his treatment, how his "confession" was obtained by means of threat, and so on. Once back in the Bay Area, Shapiro also produced an affidavit from a person in Morocco who swears that he, not Maniaci, gave the hashish to the Canadian.

When Martin learned of the role of the American Express Company in this case he became extremely concerned. So did the United States Embassy in Madrid, and State Department personnel in Washington, the latter learning about this aspect of the case from Shapiro, since Martin's report somehow never made its way to the State Department. The embassy in Madrid maintains that the practice has now been stopped, which may or may not be so, but in any case provides no legal or political help to those whose privacy has already been violated. (A public relations man for American Express in New York, when asked what the company's policy was in releasing to foreign authorities mail addressed in its care, said: "There is no policy because it doesn't happen—it has never been asked of us.")

Meanwhile, Maniaci—like many of the 700 or so other young Americans who were busted abroad last year—remains in prison, his trial not scheduled to begin for at least several months, more than a full year after his arrest. His lawyers are finding it difficult to enter the affidavit from the man who says he passed the dope to the Canadian in Morocco. Martin and the other U.S. officials can (or will) do little to aid him. If he is convicted, and according to precedent he may well be, he could receive as little as six years or as much as twelve years in Spanish prisons. (Maniaci told Shapiro that he'd rather rot in San Quentin or Folsom than remain in the Las Palmas jail, which, he said, is like "an insane asylum and a nightmare.")

State Department indifference is by no means unique to Maniaci's case. Another Bay Area youth, Richard Gary Branchaud, was picked up by the Las Palmas drug squad in December on a marijuana charge. His mother says her son had to wait five days after his arrest to speak with Martin, and she herself was not notified until a week after that. "Why did five days elapse after Gary's arrest before he got to see the consulate?" she asked. "Where was Manuel Martin while Gary was being interrogated and 'confessing'?" Sharon La Bere, a young Bay Area woman who was recently released from a prison in Iran after being charged with "spying," had a similar experience. She condemned the U.S. consulate in Tehran for "complete lack of help. They wanted me to write an apology to the Shah. They said I'd be in prison for fifteen or twenty years if I didn't cooperate with the secret police. All the help I had, and it was little enough during a trial conducted entirely in Persian, was a court-appointed attorney who first saw me fifteen minutes before the trial."

"The hands-off policy used by U.S. consular officials," says lawyer Shapiro, "can be equated with letting these kids get convicted." And he adds, basing his remark upon what Martin told him about the help he received from the embassy in Madrid—it is insane to suppose that the so-called "legal adviser" there is not sufficiently familiar with Spanish criminal law to aid young Americans in legal trouble. It could be, however, that the Administration values U.S. air bases in Spain too much to show any special concern for "hippies" in trouble.

VENEREAL DISEASE—A PROBLEM FOR THE ENTIRE NATION

HON. JAMES F. HASTINGS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. HASTINGS. Mr. Speaker, today I am introducing legislation providing for the prevention and control of venereal disease, which has reached epidemic proportions and threatens the health and welfare of future generations. Approximately 650,000 new cases were reported in 1971. Unfortunately most cases of venereal disease are not reported to the health authorities. The U.S. Public Health Service estimates there were more than 2 million actual new cases of venereal disease last year. The incidence of venereal disease has risen significantly over the past 3 years. New York State has experienced continual increases in cases of venereal disease and is concerned that the numbers will reach frightening proportions. In 1972, the Communicable Disease Center, within the National Institute of Health reported 884,000 cases of venereal disease in New York City and 164,000 in upstate New York.

In June, the communicable disease appropriation expires, and Congress will have the opportunity to review the present program and assert itself in a strong effort to single out the venereal disease problem, by supporting this legislation. By showing special attendance to programs, designed for prevention and control of gonorrhea and syphilis, it is conceivable that the growth of these diseases can be regulated and eventually diminished.

The bill authorizes $15 million for fiscal year 1973 and the next 2 succeeding years for technical assistance and project grants for research, demonstration or training programs in venereal disease prevention and control. The technical assistance and grants would be made available to universities, hospitals, and other public or private nonprofit entities.

For the establishment of State comprehensive venereal disease diagnosis and treatment programs, for which formula grants in the amount of $25 million annually are authorized, the allocation is based upon incidence of venereal disease and population—with a $50,000 State minimum—and each State is required to submit a plan for the establishment and maintenance of adequate public health programs for the diagnosis and treatment of venereal disease including provisions for statewide laboratory diagnostic services.

Project grants of $30 million authorized annually to States and political subdivisions for venereal disease prevention and control programs which require: Disease surveillance activities, including reporting, screening and followup; case finding and followup activities and professional and public venereal disease education activities.

The funding levels provided for in this bill follow the recommendations of the American Social Health Association, American Venereal Disease Association, and the Association of State and Territorial Health officers.

My colleague in the Senate, Jacob Javits has introduced a companion bill and has gained the support of many fellow Senators.

Mr. Speaker, the time is now, to act on the problem of venereal disease and your support of this measure will create the impetus to control its spread.

A TIME OF PRAYER

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. HALPERN. Mr. Speaker, one of the most inspiring and commendable proposals I have heard in a long time is an idea recently advanced by Mr. and Mrs. Phil Regan, of Pasadena, Calif. These noted, public-spirited citizens who exemplify the finest in home, civic and community life have requested all the major broadcasting networks in America to observe 30 seconds of silence on Monday, February 21 at 12 noon—at the time President Nixon will be conducting his historic talks with the leaders of the People's Republic of China.

This is a call to the television and radio networks for a simple 30 seconds of silence for prayer or meditation on the subject of international peace, by a country which has never silenced these media. It is a call for universal accord through such expression regardless of race, color, or political or social philosophy.

The networks have repeatedly expressed their concern for the public interest and have devoted a considerable amount of valuable air time to public service programs. What, Mr. Speaker, could be more in the public service than this humanitarian appeal?

The Regans have sent copies of their proposal to the President, to all the Members of this Congress, to our Governors, and to the leaders of industry, labor and all segments of American society. They also informed various world leaders of their plan, and in a remarkably short period of time they have received direct letters of endorsement from President Nixon who hailed the suggestion in an enthusiastic personal note, from His Holiness Pope Paul VI who reaffirmed his fervent hopes for international harmony, from President Pompidou of France, Prime Minister Trudeau of Canada, Prime Minister Lynch of Ireland, and many others who have quickly acknowledged their support. This is a heartening response, and surely a deserving one for so worthy a cause.

Mr. Speaker, I want to convey my sincere compliments to Jo and Phil Regan, celebrities in their own right, but above all, patriots in the finest American tradition. I insert a copy of their proposal in the Record in order to commend the Regan appeal to my colleagues in the Congress. I trust that they too will join next Monday in this call to prayer for international harmony.

The proposal follows:

(The following letter has been sent to the Presidents of all the major networks:)

February 1, 1972.

Dear Sir: This is a call to prayer for international peace at high noon on February 21, 1972—at a time when our President will be meeting with Chou En-Lai in Peking. As two Americans and great-grandparents who love this country, we call upon you to use your network at high noon on February 21 for 30 seconds dedicated to silent prayer. We implore you to join the other networks in asking your millions of listeners to send up a united prayer that sanity and normal balance prevail in the world and that a wave of international amity and peace be instilled in the hearts of men throughout the world, particularly the leaders of nations. Those who do not pray can silently hold peace and brotherhood in their hearts for thirty seconds. Let us not be lacking in solidarity but united in diversity and help make the universal brotherhood of man a certainty instead of an altruistic dream.

Will you joint with the other networks in giving 30 seconds of silence on TV and radio to this country which has never silenced your network?

Sincerely,

Mr. and Mrs. Phil Regan.

P.S.—A copy of this letter was mailed to the individuals and organizations listed below:

His Holiness Pope Paul VI, President Nixon, Vice President Agnew, 50 Governors, 435 U.S. Congressmen, 100 U.S. Senators, Members of the Cabinet, The Chief Justice, City Mayors, Police Chiefs, J. Edgar Hoover, James Rowley, FCC, Voice of America, Radio Free Europe, United Nations, Paris Peace Talks, Associated International and National Press, UPI.

Whitehouse Press, various newspapers, heads of 40 leading industries, all labor unions, Veterans Administration, American Legion, Women's Temperance Union, General Federation of Women's Clubs, League of Women Voters, Military Chaplins' Assoc., heads of Catholic, Protestant, and Jewish associations, National Parent Teachers Assoc.

Women's Lib., Chou-En-Lai, Prime Minister Heath, President Willy Brandt, Leonid Brezhnev, Prime Minister Sato, Marshal Tito, President George Pompidou, Prime Minister Golda Meir, Premier Indira Ghandi, President of Mexico, Emperor Haile Selassie.

President of Ireland, Queen Elizabeth of England, Fidel Castro, Prime Minister Trudeau of Canada, President Allende of Chile, Prince Juan Carlos of Spain, Ton Buc Thang of Vietnam, Chaing Kai Shek, Prime Minister of Ceylon, Prime Minister of Italy, Prime Minister of Australia, the Premier of the Arab Republic and others.

The major networks to which this letter was sent were ABC, NBC, Mutual, Metromedia, CBS and KCET.

The response has been gratifying. Some of those who responded have included His Holiness the Pope, President Nixon, Vice President Agnew, the President of Ireland, the President of France, and many others.

Jo and Phil Regan.

Pasadena, Calif.

NORTHERN IRELAND RESOLUTIONS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. HARRINGTON. Mr. Speaker, all Americans were deeply shocked and saddened by the brutal slaying of 13 men in Derry 2 weeks ago. It is clear that the situation in Northern Ireland cannot be allowed to continue as it is. The British Government must recognize and act on its responsibility to deal justly with the people of Northern Ireland. The internment policy must end; the occupying troops must be withdrawn and replaced by a truly neutral peacekeeping force; and steps must immediately be taken toward the creation of a new political structure that will replace the existing one which has lost its claim to legitimacy.

Several official agencies in Massachusetts have recently spoken out eloquently on this subject in a manner which expresses the views, not just of the people of Massachusetts, but, I believe, of all Americans who believe in the principles enshrined in our own Declaration of Independence and Constitution. The text of these resolutions follow:

Resolutions Urging a Settlement of the Civil Strife in Northern Ireland

Whereas, The civil strife in Northern Ireland during recent months has become the social cynosure of the European community and the Western Hemisphere; and

Whereas, The most recent deaths of thirteen citizens of Northern Ireland has highlighted the tragic dimensions of this internal unrest; and

Whereas, A world saddened but wisened by a savage and brutal Second World War can no longer tolerate the oppression of a people because of their religious, ethnic or racial identity; therefore be it

Resolved, That the Massachusetts Senate officially expresses to the government of Great Britain the sense of the Senate that the time has come for Great Britain to end the needless oppression and suffering extant in Northern Ireland by relinquishing her claims and ceasing her administration of Northern Ireland; that the time has come to move speedily and with all due regard for and protection of the civil rights of all groups and persons involved to satisfy Irish irredentism and effect the unification of the Irish people; and that the time has come to simultaneously right the wrongs of the past and help ensure a tranquil, prosperous era of cooperation and alliance for Great Britain and Ireland; and be it further

Resolved, That a copy of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, to the presiding officer of each branch of Congress, to the members thereof from the Commonwealth and to the Secretary General of the United Nations.

Resolutions Protesting the Present Political Division of Ireland

Whereas, The present political division of Ireland is not in keeping with the principles of self-determination and is not based on the racial, economic or historical background of the people of Ireland; and

Whereas, The Republic of Ireland should embrace the entire territory unless a clear majority of the people of Ireland in a free plebiscite determine and declare to the contrary; and

Whereas, This approach to the problem of a united Ireland is entirely in keeping with the free democratic ideals and principles of our own democracy and all free nations of the world; and

Whereas, Ireland from the very beginning of our own beloved country through tremendous hardships and adversity has always been a staunch and unflinching friend of America; and

Whereas, The current Northern Ireland movement is aimed at securing equality for all in local government, voting and public housing, at ending property ownership requirements to vote and at terminating discrimination in public housing allocation by local officials; therefore be it

Resolved, That the Massachusetts House of Representatives hereby urges the United States Government to use its good graces and attempt to assist in bringing about a peaceful solution to the Northern Ireland problem presently plaguing the Irish people and thereby lay the foundation for uniting this great nation under one flag; and be it further

Resolved, That copies of these resolutions be sent forthwith by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress, to the members thereof from the Commonwealth and to the Secretary of State.

RESOLUTIONS URGING THE WITHDRAWAL OF BRITISH TROOPS FROM NORTHERN IRELAND

Whereas, The presence of British troops in Northern Ireland has increased the tension which has existed therein for many years; and

Whereas, Riots and bloodshed resulting from the presence of such troops have become an almost daily occurrence; and

Whereas, On Sunday, January 30, 1972, British soldiers fired at Irish Catholic sympathizers thereby killing thirteen persons; and

Whereas, The continued presence of British troops in Northern Ireland will result in further riots, bloodshed and deaths; therefore be it

Resolved, That the Massachusetts House of Representatives urges the President of the United States to use the full weight and power of his office to effect the immediate withdrawal of British troops from Northern Ireland; and be it further

Resolved, That a copy of these resolutions be sent by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress, to the members thereof from the Commonwealth and to the British Consul.

RESOLUTIONS URGING THE UNITED NATIONS TO CONSIDER THE ISSUE OF NORTHERN IRELAND

Whereas, The Massachusetts House of Representatives deplores the violence and bloodshed which has occurred in Northern Ireland; and

Whereas, Continuance of violence in Northern Ireland affects not only that country but much of the civilized world; and

Whereas, It appears unlikely that peace will be restored in Northern Ireland unless British troops are removed therefrom and unless the parties involved in such violence negotiate in good faith to restore peace; and

Whereas, The United Nations presents an ideal and readily available agency through which such negotiations may be conducted; therefore be it

Resolved, That the United Nations be requested to immediately consider the situation in Northern Ireland with a view to effecting the elimination of violence and a political solution to the problems of Northern Ireland by negotiation of the parties involved; and be it further

Resolved, That a copy of these resolutions be sent by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress, to the members thereof from the Commonwealth and to the Secretary General of the United Nations.

MASSACHUSETTS EXECUTIVE COUNCIL RESOLUTION

Resolved: That the Executive Council of the Commonwealth of Massachusetts be recorded as requesting the immediate withdrawal of all British troops from Ireland; and

That the President of the United States, the Secretary of State and the Massachusetts Congressional delegation be informed that the Executive Council favors the withdrawal of diplomatic recognition of and suspension of foreign aid to the British Empire until all invading British troops are removed from Irish soil.

LYNN, MASS., CITY COUNCIL RESOLUTION

An order was unanimously adopted at the City Council meeting held on February 8, 1972 requesting that a letter be sent to you protesting the massacre of Irish Civilians by British soldiers, the internment of people without trial, and the presence of British Troops in Northern Ireland.

CITY OF SALEM, MASS., RESOLUTION

At a regular meeting of the Salem City Council, held in the Council Chamber on Thursday, February 10, 1972 the Council adopted an order in behalf of all Irish and non-Irish citizens of Salem, protesting the massacre of Irish citizens living in Northern Ireland. They protest the jailing and mistreatment of Irish citizens without benefit of a trial and the antagonistic presence of British troops.

They request the immediate cessation of these gross inhumanities and open display of complete disrespect for the most basic human liberties of the many friends and relatives of people who are residents of Salem, and the immediate withdrawal of all British troops from Northern Ireland.

EQUAL OPPORTUNITY FOR ALL AMERICANS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. JACOBS. Mr. Speaker, I recently received two excellent letters from gentlemen affiliated with Tougaloo College in Tougaloo, Miss. Mr. George Earle Owen is a member of the Christian Church and a trustee of Tougaloo College. My good friend, Mr. Merle H. Miller, is a prominent Indianapolis attorney who has for some time worked with Tougaloo College.

I believe the following statements of the gentlemen speak for themselves in reminding of the need to renew our commitment to affording all Americans an equal educational opportunity:

FEBRUARY 14, 1972.

Hon. ANDREW JACOBS, Jr.,
House of Representatives,
Washington, D.C.

DEAR MR. JACOBS: I write in support of proposals in both House and Senate which would increase substantially funds available for Higher Education. As a trustee of Tougaloo College in Tougaloo, Mississippi, I am concerned especially with those programs designed to support developing institutions and disadvantaged students.

Tougaloo College is a small predominantly black institution. Most of the 750 students at Tougaloo come from Mississippi and over 80 percent from families with annual incomes under $6,000 a year. On the average Tougaloo must provide approximately $1,200 aid toward tuition, room and board costs of $1,800 for each student.

I am especially impressed with the E.O.G. program in the Senate bill. Such a program would guarantee the basic needs of our students and would encourage the State of Mississippi to develop a scholarship program.

In addition to increased student aid, we at Tougaloo depend heavily on the programs for Institutional Aid and Developing Institutions. Both the House and Senate bills would provide the kind of aid we need. The Senate bill has an additional provision for Emergency Distress Grants which are needed urgently by many institutions like ours.

Also, we continue to depend on Work Study, Student loan and aid to disadvantaged students. The Ethnic Heritage Studies Centers piece of the Senate bill is a very Creative idea in which Tougaloo would certainly be interested.

I urge your support of these proposals and hope that the strongest possible bill will emerge from the Conference Committee.

GEORGE EARLE OWEN,
Trustee, Tougaloo College.

ICE MILLER DONADIO & RYAN,
Indianapolis, Ind., February 10, 1972.

Hon. ANDREW JACOBS,
U.S. House of Representatives, Washington, D.C.

DEAR ANDY: The occasion for this letter is the Higher Education Bills now pending before the House and Senate. You are aware of my involvement with Tougaloo College and through that I have kept up on the other black colleges. I have come to realize that for the next generation, at least, the only chance for many blacks to get a higher education is through these black colleges which accept students with poor preparation and are yet able to turn out material for graduate schools in the North.

There is an educational and cultural gap between the 18-year old black student who has graduated from high school in Mississippi and the students who would be entering Indiana or Old Miss that precludes a meaningful college experience for most of them. Yet by the time they graduate from Tougaloo 40% are able to go on to graduate schools in the North.

The black colleges in the South that provide this vital function to our country are all practically bankrupt because they geared their programs to take care of more students supported by Federal aid and then that aid was curtailed. So we are vitally interested and our survival is really dependent upon the enactment of some Federal program that will enable these students to get a higher education. On the average, Tougaloo provides $1,200 aid toward tuition, room and board costs of $1,800 for each student.

If you can help to move along some Higher Education Bill that will rescue these black colleges, I shall be grateful.

Sincerely yours,

MERLE H. MILLER.

ACTION ON ARTILLERY ROAD

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mrs. GRASSO. Mr. Speaker, the attached commentary gives expression to pride in a previous heritage and the dedication and spirit it exemplifies.

"Action on Artillery Road" was prepared by Lawrence M. Duryee who is co-chairman with Mrs. Duryee of the Historical Committee of the Middlebury Land Conservation Association.

The commentary follows:

ACTION ON ARTILLERY ROAD

(By Lawrence M. Duryee)

There is a pond in our village which is unique. It is more appealing than any pond I have ever seen. It is really a small lagoon in the country, surrounded by purple swamps and wild flowers of every hue. Marsh grass is so abundant that birds of countless species feed in its lush undergrowth. You stand at the edge of the meadow just where the winding stream called Goat Brook carries its millet and lichen into the marshes and watch the fascinating wild life—ducks, Canada geese, herons and American coots. Motorists driving in a great hurry along the state road look across Fenn's Pond and suddenly slow down. They are captivated by what they see. It is a place of renewal which nature put here long ago.

Close friends of this country lagoon have become enthusiastic historical researchers. It was at the top of the nearby hill called Breakneck during a crucial phase of American Revolution that General Rochambeau's army of four thousand troops encamped. The road, such as it was—winding up the steep slope—proved almost impassable for the French artillery and it has been known at intermittent intervals ever since as Artillery Road. Rochambeau's well equipped army of four regiments was en route to meet General Washington.

This day of June 27th, 1781 they looked down with keen interest on that small pond, on that same meadow, and on Goat Brook. They had tramped twenty miles and they were hot and tired. The cool waters of the stream and lagoon revived them. Thus Fenn's Pond has earned its modest place in history! The site of Rochambeau's camp is commemorated by a stone monument erected at the top of the hill not far away. Authentic military maps of the French army designate this place as "Camp Breuknek" (Camp No. 9). It was after this arduous march from Newport to Virginia that this French army helped Washington defeat Cornwallis at Yorktown.

The part that our village played during the Revolution has inspired many local historians. It has also provided proud owners of old houses in the vicinity with reason to boast that le Compt Rochambeau dined in one of their candle-lit rooms and slept upstairs in a feather bed. You would actually think the great General had nothing else to do but eat and sleep.

A hundred and fifty years ago a clapboard house was built just at the edge of the meadow. It has weathered New England winters well—a God-Fearing memorial to the men who built it. Fenn's Pond has nothing very close to it before except a narrow dirt road leading to the village green. The road went by the blacksmith shop. Goat Brook, winding along at the foot of the hill between wider banks, slid silently into the marshes. It fed the lagoon and helped give life to birds and animals. And often to humans as well. Small boys standing among the marsh marigolds plied their fishing rods in the April sunshine.

The most exciting event in the life of the community occurred last spring. A large family of Canada geese suddenly appeared at the edge of the marsh! Their eggs had been laid in the tall grass. Here they raised their young, completely oblivious to the roar of traffic. The geese with their goslings proudly lined up between them would parade majestically, single file—a dramatic background for the convoy of wood-ducks and mallards diving for food.

Fenn's Pond with its colorful wild life has dwelt in the hearts of the towns-people for as long as any one can remember. It was therefore incomprehensible that any manmade interference would ever disrupt this peaceful lagoon. With anguish coupled with deep personal resentment people in the village learned of a reported sinister moneymaking scheme concocted by a real estate developer. His plan threatened the pond's very existence. He would ruin the lagoon by totally enclosing it in concrete pipes! Bulldozers would smash the dam at its eastern end and fill in Fenn's Pond. Even a modern supermarket could eventually rise in its place. All the historic and idyllic surroundings—the birds, the animals, marsh and meadow—would be nothing but a memory.

At first dismay, then indignation spread through the town as the unbelievable news travelled from house to house. At this point Yankee practicality replaced emotions. Fenn's Pond, the 7½ acres of land, and the 1820 house hard by became the focal point of one of the most dedicated and embattled union of citizens ever banded together. The Middlebury Land Conservation Association was formed under state statute. This legally constituted group then went into every sector of the village and pleaded for immediate support to purchase, with hard cash, the lagoon and the entire surrounding area.

The drive went into high gear under excellent leadership. The appeal was personal, conducted largely by word of mouth. At first progress was slow. Legal obstacles were questioned and submitted to competent lawyers. No government money was sought. No wide publicity or fanfare was used. Perservering, hard-working people were inspired by a common urge to preserve this small body of water. They worked doggedly and with devotion to save the minute piece of earth they loved. Money came from all parts of town and even from outside the state. One gift sent by a casual summer visitor arrived from as far away as San Francisco. The most heart warming experience was the receipt of a check for one dollar sent by a young enthusiast who went without his lunch to help save the pond. In a few short months over 400 people subscribed more than $35,000!

This unique body of water, the marshes, field and winding stream still live because people care. Friends of the pond have preserved by permanent legal ownership not only an enduring sanctuary for birds but an important bit of history as well. What a blending of emotions these inspired! The battle against the bulldozers was won with the fervor of a crusade.

Today the conflict against "modern" technology continues elsewhere partially because of the success at Fenn's Pond, where geese, ducks, muskrats and frogs raise their young unmolested. An occasional horse muzzles the quiet waters of Goat Brook. As you gaze down today on this peaceful scene from the top of the hill you wonder what Yankee pioneer, Algonquian or Cherokee Indian, French soldier or courageous Connecticut milita-man trod the road by the pond, saw the forebears of these very birds flying low over the waters. What weary horseman or itinerate Connecticut tinkerer refreshed himself here long ago?

There are other ponds in Connecticut; many are seriously threatened. They plead for nothing more than to be allowed to quench the thirst of a 'possum or red fox, or feed a flock of migrating ducks. Friends of this village pond know that the true wealth of a place is determined by many things other than its price in the marketplace.

The 1820 house at the meadow's edge was sold recently by the conservation group to an enthusiastic young couple. Care is being used to restore the place to its original condition. An acre of lawn and shrubs surrounding the dwelling have already been reclaimed. Funds obtained from this sale will permit the Middlebury people to tackle their next preservation, which they are sure will be as successful as their "Action On Artillery Road".

AERO-FIRE

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. WINN. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues recent comments made by Congressman Jerry Pettis before the President's National Commission on Fire Prevention and Control.

Congressman Pettis is a member of this Commission and as such has become an authority on the subject. I originally became acquainted with his expertise in this field when, as a member of the Science and Astronautics Committee, he began exploring the use of new technologies in the field of fire prevention and control.

I believe his comments are important and can be of use to fire departments everywhere. In light of the seriousness of recent forest fires, his recommendations about applying advanced technology to combat wildfire losses by utilizing a program called Aero-Fire are particularly timely. The comments follows:

Comments by Congressman Jerry Pettis

Chairman Bland, distinguished Commissioners, ladies and gentlemen.

We have been told that prehistoric man "discovered" fire and learned to make it serve his primitive purposes. That must surely have been the dawn of science and technology on planet Earth. We have claimed that fire became the "servant of men" from that time on. The truth is—we really haven't mastered fire yet. On all too many occasions, even today, fire is still our master. In fact we don't understand this natural phenomenon well enough to master it—not yet.

In the past the public has stoically accepted all the losses caused by catastrophic fires and has been willing to rely upon traditional fire fighting techniques for protection. But public attitudes are changing. People are beginning to demand better protection from their losses. An indication of public recognition of this need for improved protection is evidenced by this Commission and the concerns that you represent.

I'm sure that we're all hoping for the final mastery of fire. We're tired of wasting life and property. You are all experts in your fields and collectively can make important impacts upon our understanding of the fire problem and upon its early solution.

So I won't try to duplicate your expertise. Instead, I'll call upon my own experience and focus comment on one phase that's most familiar to me. I spent several very informative years on the House Science & Astronautics Committee and more recently, I've moved to the Ways & Means Committee. That makes me quite aware of how and why we spend our taxes. I'm especially sensitive to waste—and to me, fire, out of control, is a very wasteful force—wherever it may be.

We've all heard a lot about potential applications of space age technology for solving down to earth problems. In solving some of our problems, the payoff for transferring space technology is still difficult to define and may even take years of research and testing to identify. But in the field of fire suppression there are new ways to apply some of the techniques and technology originally developed for the missile and space programs.

There are several facts that strongly recommend this modern research and development "systems" approach. First of all, if we can do it, we're getting a bargain. A great deal of the technology is already here today and has been paid for by the federal government. We have a lot of equity in it and we deserve to get the dividends. This means that with relatively modest funds the technologies which were very costly to develop for the military and space agencies could become available for fire suppression applications. Secondly, the industry which has developed this technology and would have to participate in its transfer to other purposes is largely available to work on these problems. This means, time saved in obtaining operational systems through the R & D process. Finally, many of the problems to which this technology was applied are directly related to similar civil sector problems An example would be the valuable experience that resulted from the fatal Apollo fire.

Let me describe a few specific examples of this kind of aerospace technology transfer that can have an impact on the reduction of fire losses.

One major effort to apply this advanced technology to combat wildland fire losses is called Aero-Fire. This program which is being conducted by the Forest Service is still new but it has already identified some of the key technologies that can be productive in this area.

It has long been known that effectiveness of the initial response is critical, and in over 97% of the fires this response has been effective. The 3% of the cases in which this effort has not succeeded still results in annual losses of over $600 million each year not to mention the irreplaceable losses of life or the long term loss of watershed and recreation areas.

The Aero-Fire program has analyzed techniques for increasing the capability of aircraft to deliver fire retardants using aerial technology previously developed for weapon delivery systems.

It seems appropriate to point out that in the eagerness to beat our swords into plowshares we may not be able to recognize how much of that process is actually taking place each day. As in the past perhaps the dread of the atomic age may have inhibited the peaceful applications of atomic energy. We may not all enthusiastically endorse military R&D or even the space program but our biases should not distort our ability to see new ways to apply the valuable spin-offs of military and space R&D to solving routine people problems at the earliest possible date. It has been suggested that we need peaceful substitutes for the stimulus that war or defense has traditionally provided for advancing the state of our technology. Many believe that space exploration is such an opportunity. The re-direction of our talents, materials and energies to solving down to earth problems like fire suppression can also become a stimulus to new technology. But first we should use what we already have. The need for modern combat aircraft developed all-weather infrared viewing techniques for flying under low light level conditions. This technology seems to be directly applicable to flying and "seeing" in heavy haze or smoke. Techniques of this kind are being studied in the Aero-Fire program.

The problems of command and control, communications and surveillance are also being studied as they relate to the dispatching of the initial fire-fighting response and the coordination of efforts in combating large or multiple fires.

An experimental command center has been conceived and already simulated at which a wide variety of essential information is displayed using TV and other audiovisual techniques to assist the command personnel in making the best possible operational decisions in the critical time available. It's like a smaller version of Apollo Mission Control.

At this command center the first boss is provided with maps of almost any scale which are projected on viewing screens with overlays of topography, structures, roads, vegetation, fire danger, and wind. The real-time positions and status of critical equipment and personnel are also displayed. The fire which is being mapped by infrared heat sensors can also be overlaid along with periodic projections of its growth or suppression. This command center can also free the personnel of routine clerical problems by managing the details of time, status and cost statistics for the personnel and equipment assigned to the fire. The surveillance of the fire zone by TV or FLIR, which stands for Forward Looking Infrared, will also be transmitted to and displayed at the command center console to assist in the evaluation of the fire's status. The hardware to equip this command center is available today and a dynamic mock-up has already been constructed. The development of new software which would include a computerized simulation model of the fire and the fire fighting progress will require a substantial research effort.

When this automated console is adequately programmed for use as a wildfire simulator it can serve as a training tool for teaching the special regional problems of wildfire suppression. It will be capable of providing a realistic experience environment to professional fire fighters to completely familiarize themselves with regional differences of terrain, fire and fuel types without requiring them to learn all of their lessons through on-the-job training under the extreme pressures of actual fire-fighting operations. It can also be used out of fire season to maintain an inventory of the forest, for harvesting and recreational use.

These techniques were extensively used as you know in preparing our astronauts to operate in the hostile environment of the moon. They worked so efficiently because they had already been "on the moon" hundreds of times before in very realistic simulated environments.

The Aero-Fire program, is an example of what one responsible agency, the Forest Service, has been able to accomplish with the vision to use this approach of technology transfer.

There is another example based on a recent proposal from the same aerospace industry which helped to formulate AERO-FIRE. This group has identified some potential applications of advanced technology to the solution of the urban fire problem. It now appears that it may be possible to speed up the detection and location of fires through improved sensors and data handling techniques. The dispatch and command function equipments developed for space and military operations have been studied extensively. A great deal of this technology appears to be applicable to the problems of dispatching and directing urban fire personnel and equipment. Improved communication techniques developed over the past decade will undoubtedly play an important role in the direction of fire fighting personnel. Finally, there are sophisticated surveillance techniques based on infrared technology which can be used to monitor the fire suppression progress and to determine when it has been adequately suppressed. The use of this kind of advanced technology should produce a much more effective command of the human and material resources used in the overall fire fighting operation.

Before I conclude, let me quickly identify two other benefits which can be realized from the transfer of this technology.

Space technology incorporates the new disciplines of systems management which have been developed to a high degree. These management techniques assure careful planning, the definition of goals and program objectives resulting in the maximum utilization of the scarce or expensive research resources and assets. This technology also makes use of the interdisciplinary engineering which is often the key to useful systems.

The other major benefit to be gained from this transfer is the development of improved training techniques. My former pilot training makes me particularly sensitive to the value of operational training within a dynamic, realistic simulated environment. Jet pilots don't have to actually emergency land an aircraft full of passengers—even once—to know exactly what to do to avoid loss of life and property. The pilots know—and so does the crew—and they learned it through realistic simulation—on safe ground. That's one of the reasons why what was once a '"dangerous" mode of transportation has become so safe for so many today. In fact it was because it was too dangerous to learn under operational conditions that the industry developed a way to learn so much from simulated experience. There is a useful analogy here to the dangerous environment of fire fighting.

The scientific art of simulation—a form of role-playing with mockups and hardware development that creates a total environment in which man can learn to develop technical skills and individual decision-making abilities—has evolved remarkably during the space program.

Astronaut Walter Cunningham described this training simply but eloquently. After his Apollo flight he said, "I kept thinking—It's supposed to be real—it's got to get real any minute now. And you know, it never did. Until I was in orbit it was just another simulation. That's the way they prepare you."

I think we must agree that this form of training has been very effective. Perhaps the greatest success of the aborted Apollo 13 mission was the way we performed in a crisis. The training was so good that disaster was turned into triumph.

With some of these considerations in mind I too would like to go on record as advocating the need for a national fire academy of some kind. But what kind—an ultra-modern totally new training center facility—or an expertly designed national training program integrated into the curricula of other institutions—that will effectively attack and reduce the problem? Certainly not a school for perpetuating costly and outmoded techniques or for slowing down the process of hardware obsolescence. After a realistic educational experience, on the job training for fire fighting students, whether professional or amateur, could then be arranged when they have the expertise to apply what they have learned. That's when operational experience can have the biggest benefit to professionalism.

U.S. POLICY ON ECONOMIC ASSISTANCE AND INVESTMENT SECURITY IN DEVELOPING NATIONS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. RARICK. Mr. Speaker, a recent Presidential policy statement on economic assistance and investment security in developing nations is of significance in understanding the international financial entanglements into which our country has been drawn.

The President in proposing to solve our international financial disputes stated,

> Accordingly, I support the existing International Centre for the Settlement of Investment Disputes within the World Bank Group, as well as the establishment in the very near future of the International Investment Insurance Agency, now under discussion in the World Bank Group. The Overseas Private Investment Corporation will make every effort to incorporate independent dispute settlement procedures in its new insurance and guarantee agreements.

The policy statement and the ensuing press conference statements were released by Mr. Petter G. Peterson, then Assistant to the President for International Economic Affairs and now the President's nominee as U.S. Secretary of Commerce.

I include the Statement by President Nixon and the report of Mr. Peterson's News Conference in the Record at this point, to be followed by a news article from the Wall Street Journal of February 11, 1972, and a relevant section from the Economic Report of the President, January 1972.

The articles follow:

President Nixon Issues Policy Statement on Economic Assistance and Investment Security in Developing Nations

(Following is a statement by President Nixon issued on January 19, together with excerpts from the transcript of a news conference held in the White House press briefing room that day by Peter G. Peterson, Assistant to the President for International Economic Affairs.)

(Statement by President Nixon)

We live in an age that rightly attaches very high importance to economic development. The people of the developing societies in particular see in their own economic development the path to fulfillment of a whole range of national and human aspirations. The United States continues to support wholeheartedly, as we have done for decades, the efforts of those societies to grow economically—out of our deep conviction that, as I said in my inaugural address, "To go forward at all is to go forward together"; that the well-being of mankind is in the final analysis indivisible; and that a better fed, better clothed, healthier, and more literate world will be a more peaceful world as well.

As we enter 1972, therefore, I think it is appropriate to outline my views on some important aspects of overseas development policy. I shall discuss these matters in broader compass and greater detail in messages to be transmitted to the Congress in the coming weeks. Nineteen seventy-one saw great changes in the international monetary and trade fields, especially among the developed nations. A new economic policy was charted for the United States, and a promising beginning was made on a broad reform of the international monetary system—starting with a realignment of international exchange rates. Now, in 1972, the problem of how best to assist the development of the world's emerging nations will move more to the forefront of our concern.

Any policy for such assistance is prompted by a mutuality of interest. Through our development assistance programs, financing in the form of taxes paid by ordinary Americans at all income levels is made available to help people in other nations realize their aspirations. A variety of other mechanisms also serves to transfer economic resources from the United States to developing nations.

Three aspects of U.S. development assistance programs received concentrated attention during the past year. These were:

Continuing a program of bilateral economic assistance.

Meeting our international undertakings for the funding of multilateral development institutions.

Clarifying the role of private foreign investment in overseas development and dealing with the problem of expropriations.

As to our bilateral economic program, it is my intention to seek a regular and adequate fiscal year 1972 appropriation to replace the present interim financing arrangement which expires February 22. I urge that this be one of the first items addressed and completed by the Congress after it reconvenes. Looking beyond this immediate need, I hope the Congress will give early attention to the proposals which I submitted last year to reform our foreign assistance programs to meet the challenges of the seventies.

In regard to our participation in multilateral institutions, I attach the highest importance to meeting in full the financial pledges we make. In 1970, the United States agreed with its hemispheric partners on replenishing the Inter-American Development Bank. Our contributions to this Bank represent our most concrete form of support for regional development in Latin America. While the Congress did approve partial financing for the Bank before the recess, it is urgent that the integrity of this international agreement be preserved through providing the needed payments in full.

These Inter-American Bank contributions—together with our vital contributions to the International Development Association, the World Bank, and the Asian Development Bank—are the heart of my announced policy of channeling substantial resources for development through these experienced and technically proficient multilateral institutions. These latter contributions also require prompt legislative action, and I look to the Congress to demonstrate to other nations that the United States will continue its long-standing cooperative approach to international development through multilateral financial mechanisms.

I also wish to make clear the approach of this administration to the role of private investment in developing countries and, in particular, to one of the major problems affecting such private investment: upholding accepted principles of international law in the face of expropriations without adequate compensation.

A principal objective of foreign economic assistance programs is to assist developing countries in attracting private investment. A nation's ability to compete for this scarce and vital development ingredient is improved by programs which develop economic infrastructure, increase literacy, and raise health standards. Private investment, as a carrier of technology, of trade opportunities, and of capital itself, in turn becomes a major factor in promoting industrial and agricultural development. Further, a significant flow of private foreign capital stimulates the mobilization and formation of domestic capital within the recipient country.

A sort of symbiosis exists—with government aid efforts not only speeding the flow of, but actually depending for their success upon, private capital, both domestic and foreign. And of course, from the investor's point of view, foreign private investment must either yield financial benefits to him over time or cease to be available. Mutual benefit is thus the *sine qua non* of successful foreign private investment.

Unfortunately for all concerned, these virtually axiomatic views on the beneficial role of and necessary conditions for private capital have been challenged in recent and important instances. U.S. enterprises, and those of many other nations, operating abroad under valid contracts negotiated in good faith, and within the established legal codes of certain foreign countries, have found their contracts revoked and their assets seized with inadequate compensation or with no compensation.

Such actions by other governments are wasteful from a resource standpoint, shortsighted considering their adverse effects on the flow of private investment funds from all sources, and unfair to the legitimate interests of foreign private investors.

The wisdom of any expropriation is questionable, even when adequate compensation is paid. The resources diverted to compensate investments that are already producing employment and taxes often could be used more productively to finance new investment in the domestic economy, particularly in areas of high social priority to which foreign capital does not always flow. Consequently, countries that expropriate often postpone the attainment of their own development goals. Still more unfairly, expropriations in one developing country can and do impair the investment climate in other developing countries.

In light of all this, it seems to me imperative to state to our citizens and to other nations the policy of this government in future situations involving expropriatory acts.

1. Under international law, the United States has a right to expect:

—That any taking of American private property will be nondiscriminatory;

That it will be for a public purpose; and

That its citizens will receive prompt, adequate, and effective compensation from the expropriating country.

Thus, when a country expropriates a significant U.S. interest without making reasonable provision for such compensation to U.S. citizens, we will presume that the United States will not extend new bilateral economic benefits to the expropriating country unless and until it is determined that the country is taking reasonable steps to provide adequate compensation or that there are major factors affecting U.S. interests which require continuance of all or part of these benefits.

2. In the face of the expropriatory circumstances just described, we will presume that the United States Government will withhold its support from loans under consideration in multilateral development banks.

3. Humanitarian assistance will, of course, continue to receive special consideration under such circumstances.

4. In order to carry out this policy effectively, I have directed that each potential expropriation case be followed closely. A special interagency group will be established under the Council on International Economic Policy to review such cases and to recommend courses of action for the U.S. Government.

5. The Departments of State, Treasury, and Commerce are increasing their interchange of views with the business community on problems relating to private U.S. investment abroad in order to improve government and business awareness of each other's concerns, actions, and plans. The Department of State has set up a special office to follow expropriation cases in support of the Council on International Economic Policy.

6. Since these issues are of concern to a broad portion of the international community, the U.S. Government will consult with governments of developed and developing countries on expropriation matters to work out effective measures for dealing with these problems on a multilateral basis.

7. Along with other governments, we shall cooperate with the international financial institutions—in particular, the World Bank Group, the Inter-American Development Bank, and the Asian Development Bank—to achieve a mutually beneficial investment atmosphere. The international financial institutions have often assisted in the settlement of investment disputes, and we expect they will continue to do so.

8. One way to make reasonable provision for just compensation in an expropriation dispute is to refer the dispute to international adjudication or arbitration. Firm agreement in advance on dispute settlement procedures is a desirable means of anticipating possible disagreements between host governments and foreign investors. Accordingly, I support the existing International Centre for the Settlement of Investment Disputes within the World Bank Group, as well as the establishment in the very near future of the International Investment Insurance Agency, now under discussion in the World Bank Group. The Overseas Private Investment Corporation will make every effort to incorporate independent dispute settlement procedures in its new insurance and guarantee agreements.

I announce these decisions because I believe there should be no uncertainty regarding U.S. policy. The adoption by the United States Government of this policy is consistent with international law. The policy will be implemented within the framework of existing domestic law until the Congress modifies present statutes along the lines already proposed by this administration. The United States fully respects the sovereign rights of others, but it will not ignore actions prejudicial to the rule of law and legitimate U.S. interest.

Finally, as we look beyond our proper national interests to the larger considerations of the world interest, let us not forget that only within a framework of international law will the developed nations be able to provide increasing support for the aspirations of our less developed neighbors around the world.

MR. PETERSON'S NEWS CONFERENCE

Mr. PETERSON: In this Presidential policy statement, just to summarize it, the President, first of all, reasserted his commitment to development assistance, both bilateral economic assistance and funding of multilateral institutions. Also, he clarifies the role of private foreign investment in overseas development and he deals with investment security or, to be more specific, the problem of expropriation of U.S. private investments.

I would like to give you a bit of background on the importance of these U.S. private direct investments, which, incidentally, are largely in plant and equipment.

In 1970, the United States had about $78 billion, measured in book value, in private direct investment abroad. In 1970, something around $20 billion or so was in less developed countries. So, the first obvious point here is that we are dealing with very large and impressive numbers and commitments.

The trends, however, in certain areas have not been as favorable as we would have liked. For example, in 1960 something over 35 percent of the total U.S. direct private investment abroad was in less developed countries. In only 10 years, 1970, this had fallen to something like 28 percent of our total direct investment.

During this same interval—to take one area of the world in which we have a very strong positive interest and would like very much to stimulate more government and more development assistance; namely, Latin America—whereas up to 1960, over 26 percent of our private investment had been in Latin America, if you look at the new investment in the last decade in that part of the world, it had fallen to 14 percent of total U.S. direct investment.

Now, it seems quite clear that this is not a response to the development needs of the less developed countries, which remain enormous and growing. But it is, at least in a significant part, a response to a rapidly growing concern over investment security, particularly in less developed countries.

Now, this concern expressed itself in a variety of different ways and different places. As you might expect, the business community has expressed growing concern. But also some elements in Congress have expressed a strong preference or an interest in so-called mandatory requirements that all economic benefits would be withheld in any case where inadequate compensation is paid where expropriation is involved.

I should underscore what is covered in the President's statement that the issue here is not whether a country has a right to expropriate, though we might question the wisdom of that in certain cases, but whether it is nondiscriminatory, prompt, adequate, and effective compensation.

Now, in those cases where reasonable provision is not made for adequate compensation, then the Presidential policy statement asserts a U.S. policy—what might be called a presumptive policy—that the U.S. bilateral economic benefits will not be extended unless there are reasonable steps to provide adequate compensation or where there are major other factors that affect U.S. interests which would require the continuance of all or part of it.

The policy statement further confirms the so-called presumptive policy by saying the United States Government will withhold its support from multilateral loans in multilateral development banks. In such cases, incidentally, of multilateral loans, I would assume that the Secretary of Treasury would normally consult with other countries who might not share our views in the attempt to gain multilateral support for our position in that particular case.

To sum up a bit, I think it was concluded that everyone would benefit by having a clearer picture of our policy that minimized ambiguity. In the absence of such a policy, it seemed quite possible that the vast majority of less developed countries might suffer reduced investment flows at a time when they need them even more, as a result of adverse treatment of private investment in one or a very few countries.

To put it more positively, if we are to reverse the downtrend in support of less developed countries, which we certainly want to do, we felt such a policy is a requirement as a way of gaining more congressional and public support in this country for increasing development support.

I should also clarify that this presumptive policy does not apply to humanitarian assistance, and of course, it strongly reasserts the President's support for international settlement procedures in this increasingly important world of private investment. Thank you.

Q. Mr. Peterson, at the top of page 3, paragraph 2, it says: "In light of all this . . . the policy of this government in future, situations involving expropriatory acts." Does that mean that this policy only commences now and goes forward or that it applies to those expropriations that have already taken place, such as in Chile, such as in Peru and other countries? In other words, is it retroactive?

Mr. PETERSON. In the first place, you will see that the statement refers to new benefits, and I should clarify that new bilateral benefits would be considered those for which there has been no U.S. financial commitment; that is, no funds have been obligated. And what would be included there are benefits that are either under consideration or are being requested by the recipient country.

The President is issuing this policy statement as a very important first step, as a guideline, if you will, for handling particular cases. You will see in the statement that specific mechanisms are provided within the Council on International Economic Policy to recommend specific cases and recommend courses of action.

So, I think it is intended to deal as a policy statement, a so-called presumptive policy, but it is not intended to cover particular situations in particular countries.

Q. But the Peruvian expropriation took place in 1968.

Mr. PETERSON. All right. With regard to the Peruvian situation, this statement should imply no change in our current assistance relationship with Peru. As I have indicated, it is a general statement which clarifies, we hope, our policy toward future situations. It does not change the status of the so-called IPC [International Petroleum Co.] case, and I would want to add that we continue to be hopeful that a solution is going to be found in the case of Peru.

Q. Does this confirm existing policy, or does it strengthen or tighten it?

Mr. PETERSON. We would hope that it clarifies it, and to the extent that it does clarify it, I guess you could say it is a policy with a new thrust at least.

Q. There is no real change, is there?

Q. What is the difference between this and the Hickenlooper amendment?

Mr. PETERSON. Well let's take the issue of whether there is a change or not. In the past these cases have been handled more or less on an ad hoc case-by-case basis. In this case, in the case of this new policy statement, the presumption will be that these benefits will be withheld, in which event, if one wants to justify not withholding them—or, that is, continuing them—the case will have to be made as to why this should be an exception.

So I would say the thrust of it is new emphasis on relating economic benefits or the withholding of economic benefits in cases where there has been expropriation.

Q. What statutes will have to be changed?

Mr. PETERSON. I don't believe this requires any change in the statutes. This is a policy statement.

Q. I mention it only because the President's statement refers on page 4: "The policy will be implemented within the framework of existing domestic law until the Congress modifies present statutes along the lines already proposed by this administration."

Mr. PETERSON. The revisions to the Hickenlooper amendment were submitted, as I recall, last spring—I believe in April. And what this refers to is the changes that were provided at that time in the Hickenlooper amendment.

Q. What is meant by the word "nondiscriminatory" on page 3, ". . . taking of American private property will be nondiscriminatory"?

Mr. PETERSON. I would assume what that means is if it were applied, for example, only with regard to the United States and not other countries, we would consider that discriminatory.

Q. You said, Mr. Peterson, with regard to Peru, this policy does not change the status, and our decision in the case of Peru will be to continue economic aid. Can you make the same statement about Chile regarding the dispute between Tenneco and Anaconda and International Telephone? It is important down there, isn't it?

Mr. PETERSON. I believe it is the case that a very, very large proportion of any aid going to Chile is now in the humanitarian category and not in the category of bilateral economic assistance.

Q. Were Chile to apply or request additional foreign aid under the standard foreign aid program, this, then, would apply?

Mr. PETERSON. Yes, if it were decided that reasonable provision were not being made for expropriation, it would apply in any new benefits. To repeat, at the present time I think the benefits are all in the humanitarian category.

Q. There are some multilateral loans, aren't there, still? Didn't Chile have a loan request before the Eximbank?

Mr. PETERSON. If there were multilateral requests, that implies new benefits, and—I have already stated the criteria—they would obviously be covered by this policy.

Q. Going back to the question of newness on this, the language under paragraph 1, "reasonable steps" and "U.S. interests," this is largely the same kind of language found in the Hickenlooper sugar quota, the same provisions that have kept us from lowering the boom, say, in the IPC case.

All this means in essence in those countries that would be exempted in any case will still be exempted, and those countries on which the boom would be lowered, it will be lowered a little harder?

Mr. PETERSON. That is your statement, of course.

Q. Is that the case?

Mr. PETERSON. I would say there is quite a difference between a presumption that says where reasonable provision is not being made the economic benefits will be withheld and a policy that looked into each case on an ad hoc basis where the case needed to be made in order to withhold benefits. I would say it is quite a different thrust to a policy.

Q. Mr. Peterson, in what other less developed areas besides Latin America has there been this downward trend of direct investment?

Mr. PETERSON. Incidentally, I should indicate that even in Latin America there has been an increase in the last 10 years in dollar terms. What I am referring to is, the share of the total has decreased substantially. I think in most other areas of the world the share has either stayed where it was or increased in total U.S. investment.

Q. As a practical matter, how does the United States policy decision work at the multilateral development banks? Does our representative vote no, and is that compelling on the loan in terms of the weighted vote?

Mr. PETERSON. Well, the representative there, of course, has a variety of options. One is to either vote against the loan or to abstain. As to the effect of that decision, it varies by the institution. In the case of the Inter-American Development Bank, for example, it is controlling. In the case of the other multilateral banks, it is not controlling, but obviously significant.

Q. Mr. Peterson, how do you define a presumptive policy? For example, the President says we will presume the United States will not extend new bilateral economic benefits. What is the difference between that and saying we will not extend new bilateral?

Mr. PETERSON. If one were to say we will not do it, it would in effect become automatic. As the statement makes clear, one could visualize situations where major national interests are involved in which one would continue in any event. But the presumption in most cases would be that they would be withheld.

Q. Does this affect military assistance?

Mr. PETERSON. No, this is in the economic development assistance area only.

Q. Mr. Peterson, does the timing of this policy announcement today have anything to do with the reports or threats, however you might characterize them, of expropriation moves in India, Pakistan, or the Middle East area?

Mr. PETERSON. That is one question I am glad you asked. This study was initiated at the President's direction last June and has been thoroughly reviewed by various policy bodies in the government and therefore was not related to the cases that you are talking about.

Q. In that connection, Mr. Peterson, would you say whether the introductory paragraphs of this referring to the mutuality of interest would cover cases such as the India-Pakistan war, where funds are being used which the United States would rather see used in other directions, as a reason for suspending our aid? Does this policy statement cover that kind of circumstance?

Mr. PETERSON. No, this policy statement deals with the presumptive policy in which adequate provision has not been made for adequate compensation in the case of expropriation, and it deals with that specific policy.

Q. Mr. Peterson, in the experience to date, have you not been acting under these same guidelines?

Mr. PETERSON. It has been a case-by-case analysis, I think is about what I can say. I would leave it to you to summarize what we have been doing. I think by having a presumptive policy the effect might be in some cases to accelerate, one might say, the decision on what to do and presumably in those cases it would be to withhold.

Q. Mr. Peterson, considering the dwindling size of U.S. bilateral aid, is this policy likely to be considered much of an incentive by less developed countries?

Mr. PETERSON. Well, obviously we are hopeful that Congress will see fit to authorize aid. Secondly, and longer term, we think the reduction of ambiguity in the cases of investment security is one of the important things that we require to get more support. I think it has been evident that this is an issue that has at least been one significant factor in explaining reduced support for increased aid.

Q. Mr. Peterson, on page 4, the President's statement refers to discussions within the World Bank Group and creating the International Investment Insurance Agency. Has the situation now changed so that you are optimistic that agency will be created any time soon?

Mr. PETERSON. Discussions have continued. We are reasonably optimistic that progress will be made. I want to reaffirm what I said at the end of my opening summary statement that the President believes that it is a very fruitful area for international cooperation; that is, to define criteria and to jointly take action in these cases.

Q. Sir, when you talk about dispensing of economic matters, do you mean Eximbank or Food for Peace or the Peace Corps, as well as the AID loan?

Mr. PETERSON. Principally we are talking about economic development assistance and the multilateral loans.

Q. You are not prepared to discuss the effect on the Eximbank and the Peace Corps and Food for Peace?

Mr. PETERSON. The Peace Corps, of course, is not thought of as bilateral economic assistance. The group that has been set up to implement this policy will very quickly get, I am sure, to a more precise definition of what kinds of benefits and what kinds of situations.

Q. Mr. Peterson, who in this government will make the ultimate decision about whether compensation has been fair, equitable, and prompt or not?

Mr. PETERSON. I would think that if by an ultimate decision you mean one that is extremely important about which there is not agreement, that this might, on occasions of that sort, be referred to the President. We would hope, however, that the mechanism that has been set up would lubricate the process of not only making the decisions promptly—

Q. You mean that Council?

Mr. PETERSON. Yes, that is right. Making them promptly, but achieving agreement.

Q. Are you saying, Mr. Peterson, that one of the reasons for declaring this policy at this time is that we have simply been too soft and too reluctant to use sanctions of economic aid in the past?

Mr. PETERSON. I think what we are saying is that there apparently has existed some ambiguity as to what we would do and that our interest and other countries' interests would be served by clarifying what we will do in most cases.

Q. Have we ever cut off aid to another country as a result of expropriation?

Mr. PETERSON. I think we have on a few occasions, yes.

Q. Has there been more than Ceylon?

Mr. PETERSON. Ceylon is the one that always come to mind. There are no other official cases.

Q. By the way, as long as we are in the process of getting the names of things, because of the statement on multilateral development banks, will you list for us the multilateral development banks that will be affected by this policy statement for the record?

Mr. PETERSON. We will give you a list, but they all will be affected. The thrust of what I intended to say earlier is that our position in those institutions varies.

Q. One consideration in the past has been stiff sanctions against, for example, one Latin American country might alienate others still more against the United States as a superpower to the north. Is there less of a concern under this policy?

Mr. PETERSON. You might not only call it a presumptive policy, but a nondiscriminatory policy. We intend to apply this policy to all countries, and we think by removing that ambiguity it is clear that all countries will be treated alike.

* * * * *

Q. Mr. Peterson, is the administration concerned that the trend toward expropriation of privately owned U.S. properties in Latin America specifically is on the upswing? Is this part of the reasoning here? Do you anticipate further disputes or further international problems over expropriation of American firms?

Mr. PETERSON. Let's look at the objective evidence. First, the objective evidence on what is happening is the material I gave you. Secondly, I don't think there is any question there has been increasing concern. The thrust of this policy is really to strengthen and clarify policies that have existed in the past with a specific objective, namely, to try to minimize future cases, because it is our view that if there are expropriations where reasonable provision is not made and if there is ambiguity about what we will do, on the long term this is destructive of our very strong desire to increase development and the strong desire of those countries to get more development.

So, the objective of this, hopefully, would be to minimize such possibilities in the future, and we certainly don't anticipate any increase in it.

The PRESS. Thank you, Mr. Peterson.

[From the Economic Report of the President, 1972]

INTERNATIONAL MONETARY REFORM

The Smithsonian Accord dealt with the most pressing issue which faced the international monetary system after August 15. It thereby set the stage for the more extended task of designing a new order for international monetary cooperation, on which more intensive work will begin in 1972.

Measured by overall results, the international economic arrangements in force since World War II were strikingly successful. The basic goals of the founders of the Bretton Woods system were achieved to a high degree. Trade and payments among nations were increasingly freed and grew rapidly. International consultation and cooperation developed to an extent previously unknown. The balance-of-payments problems which individual nations experienced at various times did not prevent the general pursuit of policies of relatively rapid and steady growth. In total, the record of the 25-year period was one of unprecedented progress for the world economy—and this is an impressive tribute to the functioning of the so-called Bretton Woods system.

At the same time, the way the monetary component of the system actually operated departed in many important respects from the mechanics envisaged by the participants at Bretton Woods. As reviewed in past *Reports* of this Council, a pronounced asymmetry developed between the role of the United States and the role of other countries. The stability of the system—its ability to reconcile trade, balance of payments, and reserve goals of various countries, to provide adequate liquidity, and to achieve elasticity in financing—came to be heavily dependent on the willingness and ability of the United States to lose reserves, to absorb more or less persistent deficits in its external accounts, and to maintain a passive role with respect to its own exchange rate. The dollar became the center of the system, and this placed particularly heavy responsibilities on the United States to maintain stability domestically along with open trading and financial markets.

The system which evolved had advantages and disadvantages from the standpoint of both the United States and other countries.

Whatever its merits, the important underlying premises of a dollar-centered system are no longer valid. With the strong recovery of the European economies, with the striking growth of Japan, and with industrialization proceeding elsewhere in the world, the position of the United States in the world economy is no longer as predominant as it was in the 1950's. The development and extension of the European Community, with its plans for increasingly close economic and monetary integration of the region, adds an important new, if still uncertain, dimension to the picture. In monetary terms, the U.S. reserve position became inconsistent with a presumption of convertibility of the dollar into reserve assets. This was aggravated by the repercussions of domestic inflation since the mid-1960's, which weakened the U.S. trade and payments position.

Reform of the international monetary framework has been the subject of extensive discussion for many years. The creation in 1970 of a new international reserve asset, Special Drawing Rights, is a major innovation in the system. A thorough report by the Executive Directors of the International Monetary Fund on the role of exchange rates in the adjustment of international payments, also issued in 1970, both reflected and contributed to the growing consensus that there is a need for greater flexibility in official exchange rates.

In 1972 further and more far-reaching negotiations on restructuring the international monetary system will begin. Although the eventual shape of the new order will not be known until these negotiations are completed, the primary questions with which the negotiators must deal are clear.

1. One issue is the degree of "fixity" that should be provided for in the exchange rate mechanism. The Bretton Woods system contemplated that each IMF member government would establish a fixed par value for its currency and maintain this value in the exchange markets within a narrow margin of plus or minus 1 percent. The par value would be adjusted only when a fundamental disequilibrium became manifest over a period of time, and then presumably by a substantial amount. In practice, this rigidity, broken at intervals under heavy pressure, may have become self-defeating in terms of maintaining the broader stability and continuity of the system. Should the new system place an equal emphasis on exchange fixity by requiring all nations to establish official par values? If so, should the band of exchange rate variation permitted around par values be widened? Alternatively, under what conditions should countries be permitted to let exchange values of their currencies be determined by market forces, as Canada and others have found it convenient and useful to do in the past?

2. A second, related issue concerns the mechanisms to be utilized for maintaining reasonably balanced international payments positions. As indicated, the Bretton Woods system tended to think of an exchange rate change as an adjustment of last resort. Nations whose currencies became overvalued relative to other currencies have tended to delay unduly before making a change in the exchange rate. Furthermore, because nations with undervalued currencies also resisted exchange rate changes, and were able to do so longer, most exchange rate changes have been downward. The operating question is how changes might be made in a less disturbing way in the future, with pressure more evenly distributed among surplus and deficit countries, and with the United States having the same degree of freedom of action as other nations.

As noted, there is a growing consensus in favor of greater flexibility: However the correct degree of flexibility, the rules for implementing the process, and the role of the IMF in this implementation process need to be examined and defined.

The need for wider margins than the ±1 percent specified in the Fund's Articles of Agreement is also well recognized. The Smithsonian Accord provides temporarily for margins of ±2¼ percent. The proper width of margins for the longer run must be determined.

Negotiations on the future adjustment process will also cover issues other than exchange rate flexibility. These will include ways and means of influencing short-term capital movements and the degree to which the mix of monetary and fiscal policy should be influenced by external considerations.

3. A third issue is the question of how much liquidity the system needs and how this liquidity should be provided. The amount of liquidity needed will depend on how the other questions are answered, including particularly the flexibility and efficiency of the adjustment mechanism. The question of how liquidity is to be provided raises the issue of the role of alternative reserve assets. The United States and many other countries share the conviction that gold should and will play a diminishing role in the system. Already, considerable progress has ben made in developing the SDR as an alternative international reserve asset, but many questions remain, including the appropriate role of the dollar and other reserve currencies.

The agenda for negotiations is a large one. Fortunately, there is wide agreement that the objectives of the Bretton Woods system remain as valid as before and negotiations will be based on the fundamental premises that nations want to promote international monetary cooperation, balanced growth and increased freedom for trade and payments, stability in the exchange markets, and the avoidance of competitive undervaluation of rates. The challenge will be to find the mechanisms that will assure those results, taking into account the realities of the 1970's and the new balance of economic power and responsibilities.

TRADE POLICY DEVELOPMENTS IN 1971

For over three decades the free world has been gradually liberalizing commercial policy to achieve the economic and political benefits of an open trading world. The United States has taken a position of consistent leadership in this movement. This course recently has faced and survived two major tests. There have been strong pressures in the United States itself to redirect policy toward quantitative restrictions on trade and investment. While the United States extended import restraints to a few additional commodities in 1971, legislation that would apply quantitative restrictions broadly to imports has not been enacted. The second major test, and one that became subject to spirited debate in 1971, came with the trade policy actions to combat the U.S. payments deficit taken in connection with the New Economic Policy. Although it provoked considerable controversy, the import surcharge did not set off the series of retaliatory actions abroad that had been feared in some quarters. And it was removed before the end of 1971 when the currency realignment made it no longer necessary.

During a period when commercial policy is under major pressure for change—as it has been during the past 2 years—it is particularly important that necessary preoccupation with month-to-month events not be allowed to blur appreciation for the long-term objective of U.S. international economic policy. That objective is an open world economy in which trade and investment flows among countries are not distorted by national barriers to free exchange. Moving toward that objective will enhance broad foreign policy objectives for this country, and it will provide important economic benefits. International exchange permits mutually beneficial specialization in production among countries; it provides healthy competition to ensure efficiency in domestic industries; it expands the variety of goods available to U.S. consumers and producers; and in times of inflation it provides a wholesome brake on price increases.

To many Americans the benefits of liberal trade policies are not highly visible because they are broadly diffused. But the short-run costs that trade liberalization sometimes imposes on specific groups are usually highly visible indeed. Thus, the costs of liberalization are more keenly felt than the benefits, and that tends to make removal of trade and investment restrictions difficult to achieve.

Substantial progress has nevertheless been made toward free international exchange in industrial goods during the past 25 years, mainly by reducing tariffs. But much work remains. The President anticipated the controversial and difficult policy issues confronting the United States when he appointed the Commission on International Trade and Investment Policy to study U.S. positions and to recommend a policy for the 1970's. He also recognized that proper formulation and implementation within the executive branch required better coordination among the agencies engaged in international economic policy. In early 1971 he established the Council on International Economic Policy in the White House.

The President's Commission on International Trade and Investment Policy, whose membership was drawn from business, labor, and the universities, presented its report in July, *United States International Economic Policy in an Interdependent World*.

The Commission's recommendations included, on the one hand, measures designed to strengthen the capacity of U.S. industry and labor to compete effectively and, on the other proposals for negotiations with our major trading partners. Specifically recommended were actions which might reduce the adverse effects on U.S. exports of the European Community's Common Agricultural Policy and the Community's widening preferential tariff arrangements and international action to deal with market disruptions due to imports.

For the longer term, the Commission recommended negotiations "looking toward the progressive reduction and eventual elimination of barriers to trade and investment," including reform of the international monetary system, with negotiations eventually leading to the "elimination of all barriers to international trade and capital movements within 25 years."

The purpose of the newly organized Council on International Economic Policy is to strengthen the policymaking process. The Council is chaired by the President, and its members are the Secretaries of State, Treasury, Defense, Agriculture, Commerce, and Labor, the Ambassador at Large, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Special Representative for Trade Negotiations, the Assistant to the President for National Security Affairs, and the Assistant to the President for Domestic Affairs. The President stated in his Executive Order that the Council was to (a) "achieve consistency between domestic and foreign economic policy," (b) "provide a clear, top-level focus for the full range of economic policy issues," and (c) "maintain close coordination with basic foreign policy objectives." The work of the Council is directed by its Executive Director, who is also Assistant to the President for International Economic Affairs. As his first assignment, the Executive Director was instructed by the President to prepare a review of the position of the United States in a changing world economy. This briefing was presented to the Council in April 1971 and was subsequently reviewed with leaders in Congress and others outside the Administration. The Council is now pursuing work programs in a variety of areas—such as export promotion, more comprehensive adjustment assistance programs, and foreign investment policies—and is planning for a series of foreign economic negotiations.

In addition to strengthening its own apparatus for policy formulation in the trade sector, the Administration has extended contacts with our trading partners. The President's Special Trade Representative has participated in the High Level Trade Group assembled by the Organization for Economic Cooperation and Development to explore avenues for major negotiations which might lead in the next few years to a more effective climate for international trade and investment. This group began monthly meetings in November and aims to complete a report for the Council of the OECD in the spring of 1972.

The Commission's report and the coordinating work of the Council have helped to identify the major policy issues in the area of international trade and to initiate steps through which these issues will be resolved.

Export policy

The disappearance of the traditional U.S. trade surplus in 1971 itself raised a fundamental question. Is a trade surplus desirable or essential for the United States?

On one side of this question is a view that exports should always exceed imports by a wide margin because net exports are both a stimulant to the domestic economy and a symbol of relative economic strength. This position views exports as inherently desirable and imports, unless unobtainable domestically, as undesirable or at least suspect. The policy prescription corresponding to this mercantilist position calls for adoption of the measures necessary to keep the volume of U.S. exports higher than the volume of imports in every single accounting period, regardless of cyclical circumstances or developments affecting other elements in the balance of payments.

In another corner are those who argue that after years of investment abroad the United States has achieved a special status in the world. It is a major creditor nation which receives a large and growing income from overseas investments. It is possible, indeed appropriate, for a nation in this position to use some of this income to finance a net inflow of imports. These net imports are the fruits of resources the Nation has foregone consuming or investing domestically in previous years.

In fact, however, the appropriate approach to exports depends upon the approach that is taken to all of the other elements in the balance of payments. While the United States is a major creditor nation—the inflow of net investment income was over $6 billion in 1970 and is expected to grow in the future—a large net investment income does not mean that the country can afford an equally large trade deficit. U.S. policies involve other major payments commitments—grants and loans to less developed countries, mutual security costs, pensions and remittances to citizens living abroad, and funds for additional overseas investments. To the extent that these commitments are desirable, as they clearly are, they also have to be financed. Given the probable size of these flows in the immediate years ahead, it is unlikely that net investment income will be large enough to cover them, to say nothing of a trade deficit as well. Thus a trade surplus will be required if our goal is external balance. Moreover, export growth will permit imports to expand.

For the long run the optimal policy toward exports, as well as toward imports, is one directed to achieving efficient resource allocation within a system of generally balanced international payments.

The preferred means of correcting any disequilibrium that might arise in a nation's balance of payments is through a change in its exchange rate. This method, unlike other ways of restoring equilibrium, does not distort the relationships among transactions: All sellers and all buyers of foreign exchange are affected alike. A change in the exchange rate of the dollar was the process used by the United States in 1971 to correct its balance-of-payments deficit.

However, in a world where trade and investment flows are subject to either special impediments or incentives, more direct measures to stimulate exports may sometimes be justified. Legislation to authorize Domestic International Sales Corporations and steps to expand export credit facilities are examples of such measures.

Domestic International Sales Corporations

The provisions of American and foreign tax laws in many cases have provided an incentive for U.S. firms selling abroad to establish production facilities overseas. U.S. tax liability is not incurred on income earned abroad until it is repatriated, and effective foreign tax rates are often less than those in the United States. Exporters from domestic sources, on the other hand, face immediate tax liability.

This imbalance has been removed in part by the Revenue Act of 1971. Under provisions of the new law U.S. exporters will be able to enjoy tax treatment comparable to that of U.S. producers located abroad. The law provides for formation of a new type of corporation to be known as a Domestic International Sales Corporation (DISC). Taxes on 50 percent of a DISC's income may be deferred indefinitely, provided that 95 percent of the DISC's receipts and assets relate to qualified exports. Loans to a parent company to finance research and development expenditures, inventory accumulation, or investment in plant and equipment can be counted as export-related assets, so long as the proportion which these loans bear to total expenditures for such purposes does not exceed the proportion of the borrower's total sales accounted for by exports. Dividends to DISC stockholders are to be fully taxed.

The Administration's 1971 proposal concerning DISC underwent two major changes in Congress. First, the 100-percent deferral originally requested by the Administration was reduced to 50 percent. Second, Congress added a proviso to discourage a DISC from investing tax deferred income in foreign production facilities. In the bill enacted, the tax deferral on any DISC profits which are lent to parent companies will be terminated if such profits are judged to have been invested in a foreign plant and equipment.

The potential for tax deferral in a DISC is intended to provide U.S. exporters with tax advantages similar to various advantages provided exporters in other countries. The availability of DISC will also blunt one incentive that has existed for U.S. firms to locate production facilities abroad rather than at home.

Export Credit Facilities

The competitive position of sellers in different countries for third-country export markets is influenced by the export credit facilities they can offer, and many governments have taken measures to provide especially advantageous financing for exports. In the United States export credit facilities are influenced by general monetary policy, by various banking regulations, by the operations of the U.S. Export-Import Bank, and by policies of other governmental financing and procurement agencies. Apart from monetary and pricing policies which led to an easing of interest costs for all borrowers in 1971, two steps were taken which increased the special credit facilities for exporting.

On August 17 legislation was enacted to exempt export credits from the Voluntary Foreign Credit Restraint guidelines administered by the Board of Governors of the Federal Reserve System. The formula announced by the Board of Governors in November freed both bank and nonbank financial institutions to expand their lending for exports. It was also designed to remove some existing or potential inequities among the institutions participating in the program.

Legislation passed in August removed Export-Import Bank receipts and disbursements from Federal unified budget totals and provided new leeway for the Bank's export financing activities. New short- and intermediate-term discount programs, together with activity under its other programs, should increase the Bank's total authorizations for loans, guarantees, and insurance from $5.4 billion in fiscal 1971 to $11.5 billion in fiscal 1973.

Easing the adjustment to imports

Changes in the volume and composition of a country's imports usually reflect underlying changes in incomes, tastes, or comparative costs. The release of resources from industries that lose their competitiveness is offset by expansion in industries that become more competitive. The value of total production is increased by the reallocation of resources to what have become more productive uses.

In some cases, however, imports increase so rapidly that they displace domestic resources faster than these can be transferred to other uses. Public policy cannot ignore such disruptions to individual markets or areas, particularly if there is general excess productive capacity and limited opportunities for resources to shift. Positive programs of adjustment assistance are then required to facilitate the necessary transfer of resources into other uses and to ease the financial stress on the workers and owners involved. The adjustments can also be moderated by controlling the pace at which imports are permitted to increase.

Moderation of imports through arrangements with the main suppliers is a technique that has been used for several years both here and abroad. U.S. steel imports are now subject to such agreements. Cotton textiles and certain meats have been for some time subject to intergovernmental agreements. Government agreements to limit the rate of growth of manmade and woolen fiber apparel and textiles were concluded in 1971.

Imports of textiles and apparel have long constituted a special problem for the United States. On the one hand, textiles have an important place in the budget of all Americans, and the benefits of low-cost imported products are widely shared. On the other hand, the 2.3 million persons employed in the textile and apparel industry in the United States tend to have characteristics that make adjustment to new employment especially difficult.

The rate of growth of cotton textile shipments to the United States came under regulation in the multilateral Long Term Arrangement on Cotton Textiles of 1962. Imports of yarns, fabrics, and apparel made of wool and manmade fibers, however, have continued to grow at a rapid rate. The volume of imports of manmade fiber textiles increased more than seven times between 1964 and 1970; and in the first 6 months of 1971 the flow increased almost 80 percent above the level of the corresponding period a year earlier.

After especially difficult negotiations, memoranda of understanding were signed in October with the governments of Japan, the Republic of China, Korea, and Hong Kong, the leading sources of supply. Under the terms of these memoranda, the parties agreed to limit their exports of manmade fiber and wool textiles to this country. The agreements limit the growth rates for various categories of these imports to levels in the range of 5 to 7.5 percent per annum. Such rates, while much lower than the growth rates recently experienced, still somewhat exceed the growth in the U.S. market. The agreements are intended, therefore, to provide time for the domestic industry to adjust, while still permitting American consumers increasingly to enjoy the benefits of low-cost imported supplies.

The use by the United States of voluntary agreements with foreign governments or private groups to restrain shipments to the U.S. market has some attractions over other forms of import restraint such as tariffs or import quotas. Tariffs and quotas are often subject to international treaties and agreements, and further resort to them may also require legislative action. Restraints that are built into law have often become permanent even when the original need for restraint was itself only a temporary one. In contrast, the technique of requesting foreign suppliers voluntarily to limit their sales in the United States is simpler and avoids the complications of law.

However, voluntary agreements also have serious disadvantages. While the limitation of foreign supplies in the U.S. market lifts domestic prices for the goods above what they would otherwise have been, thereby providing the intended relief to domestic sellers, the higher prices that American users pay in this instance are not offset through the higher government tax revenues that would have been collected had higher tariffs been used to achieve the same purpose. It is also not clear that voluntary agreements are always easy to remove. In order to make the restraints operative, suppliers need to coordinate their production and sales plans. In the past, export restraint mechanisms have frequently been used as instruments of monopoly power. Dissolving them has without exception been extraordinarily difficult. The fact that they originate now under duress from the buyers rather than from the volition of sellers may not in the end change their character.

There is a more fundamental danger in too widespread a use of the export restraint technique. This is the additional threat it poses to hopes for a world organized predominantly on free-enterprise principles. Market-oriented societies can be efficient and progressive when competitive forces are present to inhibit the exercise of arbitrary power. But competition requires nurture. Voluntary agreements which encourage foreign sellers to organize in order to restrain their American sales foster those cartels and exporters' organizations which we have for many years sought to eliminate. Clearly voluntary agreements need to be used with circumspection.

The need to protect U.S. industries from market disruptions in the near future will be reduced significantly by the recent realignment of currencies. Products imported from Japan and many Western European countries will be higher priced in U.S. markets as a result of the revaluations of these currencies. At the same time, the impetus to U.S. export industries from the currency realignments, together with the general thrust of economic expansion, will provide more varied and more productive alternative uses for resources now employed in the industries most vulnerable to imports.

Agricultural trade

International trade in agricultural commodities continues to be impeded by a variety of import restrictions. The economic and social conditions in nearly every major industrialized country present serious problems of adjustment for resources employed in agriculture, quite apart from international trade considerations. Most governments have responded to this problem by adopting domestic price-support measures that are supplemented by restrictive trade policies. Tensions over these policies have been growing and surfaced prominently in 1971.

Unlike trade in manufactured products, agricultural trade received little substantive attention in the successive rounds of negotiations which reduced international tariff barriers in the postwar years. Indeed, many developed countries, including the United States, pursued domestic agricultural policies that resulted in an increased level of protection against agricultural imports. This was particularly true in the European Community, where internal prices have been pegged substantially above import prices through a complex system of import levies and export subsidies.

During 1971 the United Kingdom, partly in preparation for EC membership, moved from a consumer-oriented, relatively liberal, import policy toward the EC system by raising minimum import prices on grains and other commodities. The support price to Japanese rice producers was nearly doubled during the 1960's and is one reason why Japan is no longer a significant importer but instead faces burdensome rice surpluses.

The United States has a significant comparative advantage in many agricultural products and therefore has a clear interest in reducing existing impediments to trade in these products. It is also clear that price-support techniques now used in most industrial countries, including the United States, are major impediments to the development of freer trade in agriculture.

Agricultural support policies in the United States have been substantially modified in recent years. Direct payments have been substituted for high price supports for major grains and cotton, commodities that are traditionally exported. This change has permitted market forces to have more influence over actual prices and has reduced the necessity for large export subsidies and import restrictions. The Agricultural Act of 1970 extends these reforms and improves upon them by giving farmers greater freedom in their planning decisions.

Despite these reforms a number of commodities continue to receive support through the price mechanism, and pose problems for a liberal trade policy. Price supports for milk, for example, have been increased over 50 percent in the past 6 years. Partly for this reason and partly because of distortions in world markets caused by similar programs abroad, most dairy imports are now subject to quotas. Four additional dairy products were brought under quotas beginning in 1971. Also, like most developed countries, the United States maintains a sugar program that encourages domestic production through high internal prices. Quotas limit imports and thereby support internal prices. The U.S. sugar program was extended for 3 years in 1971. Several traditional export commodities are supported by limitations on production and substantial export subsidies. About 60 percent of our rice production, for instance, is exported with the aid of export subsidies and concessional sales to developing countries.

There is now realization that agricultural trade is an important item on the negotiating agenda. There is also agreement that freer trade in agricultural products can occur only if the basic problem of agricultural adjustment and the techniques for providing assistance to farmers are dealt with in an international context. As the President's Commission on International Trade and Investment Policy stated, "the time is ripe for a concerted international effort to deal with all aspects of the problem including, in particular, the levels and techniques of agricultural support."

The Commission's analysis, and work done elsewhere, suggest the following important guidelines for future negotiations on agricultural trade:

Discussions over agricultural trade policies will be unproductive until domestic techniques of support are modified.

New policies will be needed to aid the adjustment of some resources, particularly low-income workers, to more productive and higher income pursuits.

Importing countries must participate with exporting countries in facilitating adjustment if an improvement in the international use of resources is to be obtained.

While each country must be free to provide income assistance to those employed in agriculture, the mechanisms for this assistance should minimize interference with production, consumption, and trade.

East-West trade

The widening of the political dialogue between the United States and Communist nations in 1971 was accompanied by trade expansion measures.

Commercial relations between state-controlled and free-enterprise economies present problems unlike those which are experienced in trade between predominantly market-oriented economies. Private firms, for example, can be at a disadvantage in dealing with large state-trading agencies, and legal recourse by individual firms against foreign states may be difficult. It is awkward to apply commercial policy codes that have been negotiated among governments of market-oriented countries—such as those embodied in the General Agreement on Tariffs and Trade—to rigorously socialized states. And the Communist countries can more readily employ economic relationships for political ends than is possible for the free-enterprise states. Furthermore, legislation in the United States and elsewhere places restrictions on private and public trade and credit in connection with Communist countries. And regulations in both the Communist countries and the West restrict the movement of trade representatives. Finally, the Communist states are not party to a number of important international economic organizations and conventions.

Several significant changes occurred in U.S. trading relationships with the Communist countries in 1971. The President's announcements that he would visit Peking and Moscow in 1972 were preceded by a proclamation in June lifting the embargo on imports from the People's Republic of China and freeing a long list of U.S. goods for export to that area. A requirement that 50 percent of U.S. exports of wheat, flour, and other grains to Eastern Europe and the Soviet Union be carried in U.S. vessels was also lifted. The termination of this requirement facilitated the sale in November of over $125 million in U.S. feed grains to the Soviet Union—the first such grain sales since 1964. An amendment to the Export-Import Bank Act in August authorized the President to extend Export-Import Bank credits to further exports to Communist countries when he finds this to be in the national interest. In his first use of this authority, the President directed the Bank to participate in financing exports to Rumania.

Two Soviet Deputy Ministers of Foreign Trade visited the United States in 1971, and at the end of the year the U.S. Secretary of Commerce led a trade delegation from this country to Moscow and Warsaw. U.S.-Soviet talks on trade and shipping are to be continued in 1972.

Generalized preferences for exports of developing countries

In October 1969 the President voiced his support for the adoption by all developed countries of a liberal system of generalized tariff preferences for the exports of lower-income countries. The step is seen as a means of facilitating the economic growth of less developed areas by encouraging their integration into an interdependent world economy. It is also a means of reversing the trend toward specialized preferences whereby a limited number of developing countries have secured access to the markets of particular developed countries, especially those in the European Community. All too often this has occurred in conjunction with "reverse preferences" which open the developing countries' markets in a discriminatory way. Proposals made by the members of the OECD were accepted in 1970 by the United Nations General Assembly as a "mutually acceptable" basis for the establishment of a generalized preference system. The European Community and Japan have initiated systems based on their proposals.

Action on Generalized Preferences by the United States was delayed in 1971 by the unsatisfactory state of the balance of payments. The agreement of December 18 on exchange-rate realignment, in moderating the potential balance-of-payments problem for the near future, enabled the President on December 21 to announce his intention to submit Generalized Preference legislation to Congress in 1972.

A positive program for freer trade

In international trade, as in domestic trade, increased specialization and exchange offer prospects for large gains in productivity. Imports enrich both consumption and investment by increasing the variety of products available to users and by lowering their costs. At the same time imports into a country provide the funds with which other countries can purchase its exports. Reductions in impediments to freer flows of trade, therefore, lead to higher standards of living which are widely shared.

To prevent the changes in patterns of production and consumption which accompany a growing interchange of goods and services from being disruptive, it is important that market adjustments of two kinds take place efficiently:

1. When imbalances develop between the growth of exports and imports, and if these lead to an overall payments imbalance, a mechanism is necessary to bring about corrections. Variations of international exchange rates, by realigning costs and prices among countries, constitute one very efficient process.

2. When changes in demand patterns call for changes in the patterns of production and employment, a mechanism of internal adjustment is needed to make sure that capital and labor in industries which lose market position can shift readily to growing opportunities in other fields.

In 1971 the United States initiated major steps to improve both of these forms of adjustment. Important measures were taken in the international monetary field, notably a significant realignment of exchange rates and a broadening of the band within which exchange rates can move freely. In the domestic economy, general policies were adopted to curb inflation and to expand economic activity and employment opportunities, and work was begun to develop broader arrangements for assisting adjustment by firms and workers affected by the liberalization of trade.

Measures were also taken which can enhance the contribution which two major sectors of the economy make to exports.

One of these sectors is high-technology industry. Such industries require large investments in research and development. This Nation's comparative advantage in the sector depends on its continued technological leadership. To maintain this leadership the Administration has developed proposals to stimulate research and development investment.

The other sector is agriculture. The potential for U.S. agricultural exports is not now realized because serious impediments bar the way to increased trade in agricultural products, mainly in the form of high price supports in important markets abroad. While U.S. agricultural policy has been substantially revised in recent years, away from high price support programs, corresponding action has not been taken in other countries. Negotiations are in progress which have as their goal the reduction of impediments to agricultural trade.

Most of the postwar growth in international trade has come from increased exchange of manufactured products, and it has taken place among the developed nations of the world. As less developed countries move away from heavy reliance on primary production into manufacturing activities, they too will need to participate more actively in the interchange of manufacturers. Agreement has been reached among the developed countries of the world, and between them and less developed countries, on a program through which exports from less developed countries will be given preferential treatment in developed country markets. In the implementation of this program the United States is seeking to minimize the discrimination which developed countries apply to such imports by source and to eliminate the practice by which "reverse preferences" have been granted by some of the developing countries to some developed ones. Legislation to implement a U.S. program in this area is in preparation.

Over the past 20 years the major economies of the world, including the United States, have enjoyed very high rates of growth in output and income. These rates have been higher than anyone predicted at the end of World War II and clearly higher than could have been predicted on the basis of experience prior to that time. One reason that these gains have been possible has been the rapid expansion in the interchange of goods and services that has been brought about by a steady dismantling of impediments to international trade.

Continued progress toward further reductions in existing barriers will require positive policies by both the United States and its trading partners. The international monetary arrangements will have to be made more flexible to accommodate unpredictable changes in world production and consumption patterns. At the same time domestic and international policies will have to provide a milieu of expanding employment opportunities in order to facilitate the reabsorption of resources displaced by change.

If both sets of policies are successful, the shifts which result from change will cease to be feared as harmful dislocations and will be recognized as part of a desirable movement toward higher economic benefits in which most people share.

[From the Wall Street Journal,
Feb. 1, 1972]

DOLLAR BATTERED ON INTERNATIONAL MARTS, DESPITE ASSURANCE REALINEMENT IS STEADY

Despite Nixon administration assurances that last December's world currency realignment isn't in danger of blowing up, the U.S. dollar came under further pressure yesterday on international marts.

Against some currencies, the dollar dropped near the floor rates set by last year's so-called Smithsonian Accord.

Some dealers said "the continuing high price for gold" was partly behind the assault on the dollar.

Also cited were persistent doubts about the ability of the U.S. to solve its balance-of-payments deficit, which occurs when foreigners obtain more dollars than they return.

Still other financial sources noted that the U.S. still hasn't indicated any willingness to resume swapping dollars for gold, or some other reserve asset. President Nixon closed America's gold window Aug. 15, and Wednesday's bill to Congress to raise the U.S. official bullion price to $38 an ounce from $35 didn't touch on convertibility. This, administration officials said, will have to be left to a world session on permanent international monetary reform.

In London, however, one financial source said that "until some progress is made towards a restoration of convertibility, exchange markets around the world are bound to stay unsettled."

The unease on the Frankfurt market pushed the dollar's price to a new low of 3.1875 marks from 3.968 the day before. Yesterday's closing quote was substantially below the new parity rate of 3.2225 marks set last December and only a notch above the new 3.15 floor rate permitted under the Smithsonian Accord's ground rules.

The West German central bank was conspicuously absent from the latest Frankfurt dealings, but figures released by the institution yesterday showed it had actively supported the dollar in recent weeks.

In the week ended Feb. 7, the bank said, its stock of immediately convertible foreign currency holdings swelled by about $300 million. Since the start of the year, the hoard has climbed nearly $700 million, the bank said.

Much of these holdings were greenbacks acquired by the central bank to prevent the dollar from slumping below its new floor rate.

In London, the pound closed at $2.6056, making it considerably more expensive in terms of the dollar than Wednesday's close of $2.60475.

The dollar sat on the floor against the Belgian franc, and central bank intervention was needed to prop the dollar in the Netherlands and Italy.

In Tokyo, the dollar slumped to 305.4 yen from 306.05 yen the day before and well below the new parity of 308 yen. The floor for the dollar in Tokyo is 301.07 yen.

Gold trading was termed "moderate" in London, but there was enough support to push the price to $48.45 an ounce, up 35 cents on the day.

EULOGY TO DON ELLINGER

HON. HUGH L. CAREY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. CAREY of New York. Mr. Speaker, those of us who were fortunate in knowing Don Ellinger will miss him deeply. His life and ideals inspired us in so many ways and they should continue to do so.

At the Mass of the Resurrection celebrated by his brother, the Rev. Walter Ellinger, we sensed renewed inspiration in Don's legacy of love, his wonderful family.

At that mass, attended by so many of Don's friends of public office, of his union, and friends, the courage and dignity of his gracious wife, Ruth, and their nine children, told us that Don had truly won his reward, his victory, his immortality.

There was a feeling of sureness in the words of the scriptures:

For those who live in the Lord, life does not end, it merely changes.

Don Ellinger made changes in good ways, in the lives of others, in politics, in his country.

He did it by his counsel, his example, his ingratiating personality and his honest and direct style.

His zeal for political action in the International Association of Machinists made him the master of the technique of supporting and electing good candidates for high offices. More than that, after election, Don "held their feet to the fire" to further the great causes in which he deeply and truly believed.

He fought and made others fight to alleviate poverty, to improve health, to secure shelter for the homeless and to remove the stigma of racial injustice from our land.

That he carried these causes so far is his testimonial in life. As he leaves us now it is with a sure knowledge that to be worthy of his friendship we must turn to the work of human renewal with greater commitment.

We do not raise monuments to men like Don Ellinger; he would be embarrassed by some status symbol of brick and mortar.

We are left with something more valuable than any monument human hands could construct, that is, that a man like Don Ellinger, by his efforts, can change the world in which we live—the world he has just departed.

I shall never forget his friendship and his selfless efforts to help me to succeed so that together we could try to be of help to others.

May it please his wife and sons and daughters and all his family to know that we are so grateful that you shared Don with us as now he goes to God.

DANIEL W. HANNAN HONORED BY JAYCEES

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. GAYDOS. Mr. Speaker, the Pittsburgh Junior Chamber of Commerce annually recognizes certain individuals for their outstanding accomplishments and leadership in their chosen fields.

This year one of those honored by the Jaycees was Mr. Daniel W. Hannan of Clairton, Pa., a man I am pleased to call a close, personal friend. He was selected as "Man of the Year in Labor" for 1971. It is an award he richly deserves.

Mr. Hannan is a man of many qualities. Normally a quiet, soft-spoken man, he can display bulldog tenacity when fighting for a cause he believes to be just. As a citizen, he takes great pride in his country and a deep interest in the operation of Government on any level. As a steelworker and president of Local 1557, USWA, since 1967, he is dedicated to improving the standard of living for those who labor beside him in the mills at Clairton. As a father and resident of Clairton, he conducts a relentless battle against air and water pollution which may endanger the lives of his family and his neighbors.

Mr. Hannan is not unknown to some of my colleagues in the House or to Members of the other body. He has written or spoken to several of them, expressing his views and opinions on legislation being considered by Congress. In either case, Mr. Hannan does not mince words but bases his arguments on facts and figures pertinent to the issue in question.

During the past few years he has made known his feelings on a number of important measures: the occupational safety and health act, the question of controlling foreign steel imports through mandated quotas. He is actively following the hearings on pension protection currently being conducted by the Select Subcommittee on Labor.

However, don't be misled in thinking Washington and labor are Mr. Hannan's only interest. Pennsylvania's elected officials in Harrisburg are well acquainted with his views on the state income tax and other matters.

Mr. Speaker, I believe it is significant to explain how the Pittsburgh Jaycees select their "Men of the Year." The organization's Man of the Year Committee, which is composed of past presidents and past committee chairmen, solicits the names of potential awardees from former winners. Upon receipt of the suggested names, a ballot is prepared and sent to a list of community, civic, business and governmental leaders, in addition to previous award winners. Upon their return, the ballots are counted and the various winners determined.

Obviously, then, the selection of an awardee is not to be taken lightly. It signifies the respect and admiration that people in all walks of life have for an individual. It is indicative of the confidence and faith they have in that person's ability to lead and to accomplish.

The Pittsburgh Jaycees, their members and former award winners are to be commended on their selection of Daniel W. Hannan. He fills the bill.

RATTLING THE BUSHES FOR CHRISTMAS BIRDS

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mrs. GRASSO. Mr. Speaker, the annual bird count of the Audubon Society has been a special labor of love for many communities in the Sixth District for years. It serves to chronicle the continuation in residence of those varieties that have not been driven away by urbanization and environmental hazards. It provides personal opportunity for a colloquy with nature.

One of the great enjoyments of bird watching is, of course, that each count provides a new adventure. Sherman resident Dwight Tracy recounts in an entertaining, well-written narrative his unique adventure during a recent bird count.

For the interest of my colleagues, Mr. Tracy's report of his outstanding bird counting experience as it appeared in the Sherman Sentinel follows:

RATTLING THE BUSHES FOR CHRISTMAS BIRDS

(By Dwight Tracy)

I got off to a bad start on the Christmas bird count. Determined to take part this year in the annual Audubon venture, I set out happily on Christmas Day and in short order tallied a splendid red-shouldered hawk. I called in my report to Lois Batchelder. "That's fine," she said, "but Christmas isn't the day for the Christmas count. We count on New Year's Day in this sector."

Scratch the hawk.

No, actually that isn't true. He does count, sort of. The count period, you see, extends from December 18 to January 2. To help keep track of our flying populace and all it signifies for man, alert birdwatchers all over keep track of sightings during that time and turn in their findings at the end of the period. But still, every area has its special BIG DAY. And that's when the birds really count. Exactly how that works I haven't quite figured out yet.

Anyway, New Year's Day found me back at it again, ready to give my all for the Hidden Valley Sector. I loaded up the feeder and sat back, clipboard in hand, binoculars on strap, tweedy jacket in place and aspirins ready.

Presently a chickadee arrived. I checked him off: "Chickadee, one." After awhile he left. And that appeared to be it. The feeder hung deserted. An element of competition arose. Soon I began suspecting rival birdwatchers of having lured everyone off to their feeders earlier in the day—when I didn't feel ready to get up. Well, certainly I wasn't going to turn in a list containing only one chickadee. Determined that there had to be more birds than that around here, I cut a long stick and set about thwacking the denser bushes.

I raised Sixpence the cat on the second hit, and produced Other Cat soon after. I continued thwacking. At last another chickadee dashed out of the undergrowth. Or at least I think it was another one. Chickadees have a certain quality of sameness. He disappeared even before I'd written "Chickadees, two." But moments later another one whizzed past. Just as I was erasing "two", a fourth flashed by.

Enraged, I scrounged the cellar and soon reappeared with both the stick and a can of spray whitewash. "Now we'll see who's getting counted more than once!" I shouted at the bushes. At once chickadee number one, or perhaps five, zipped around, and I gave it to him. Or I tried to. Most of the whitewash went on our sliding doors. I hadn't led him enough. The chickadee lapped the feeder and came in on another run. Dropping to one knee I gave him a couple of bursts. Slight error. I'd fired into the wind. The whitewash will come off my face all right. But I'm concerned about the jacket.

As neither the thwacking nor the marking were getting me anywhere, I decided to change tactics. I decided to be dishonest; that's what I decided. Now while I wouldn't write down a bird that wasn't actually seen, it does happen that there's one in the cellar that I see every day. He's a great horned owl, but since he is only a temporary resident of Sherman—incarcerated in our basement while an injured leg heals—Big Owl isn't technically eligible to be counted. But I ask you, faced with a tally sheet filled only with what was probably the same chickadee, what choice did I have?

Accordingly, I brought Big Owl up for a bit of fresh air. And as he sat out there on his block, I took my sweet time about counting him. Boy, I figured the odds of anyone else getting to count an owl at about 1,000 to 1. Using my best Palmer method, I slowly wrote "Great Ho," when, on the "o" a crow appeared overhead. He was doing aerial somersaults and cawing his head off. I abandoned "horned" for the moment, and in the appropriate space started to write "mad crow." But just then three more crows, all equally insane, arrived. Before I could note "four," all the crows in the world appeared. The owl had blown their minds and they were swooping, shrieking and dive-bombing while Big Owl cowered on his block and I waved my stick and fired the whitewash.

They overpowered us. Both the owl and I broke for the basement. Huddled together for safety down there, Big Owl watched as I completed the list: "Chickadee, one; Great Horned Owl, one; Crows, 10,218,397." And that'll be it, Audubon. Take it or leave it.

THE UNEMPLOYMENT FIGURES

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. HARRINGTON Mr. Speaker, the Department of Labor each month presents the Nation with its diagnosis of the economy through its unemployment figures. If they were accurate, they might be helpful, but we know there are ways to use figures to glean a brighter picture than what is actually the case. A column by Martin Gopen called The Job Scene in the January 27 Bay State Banner makes many very sound points on these figures presented to the public by what Gopen calls "sunshine peddlers." Too many blacks are not included in the figures and the same is true for the Spanish-speaking population, as the late Senator Robert F. Kennedy was well aware. For my colleagues, I wish to insert the column into the Record:

The Job Scene

(By Martin Gopen)

The great temptation at this time of the year is to sit down and write a piece evaluating the year's end labor statistics. The U.S. Department of Labor, Bureau of Labor Statistics has issued its annual mass of tables, graphs, percentages, trends, cycles, dips, upswings, etc. all measured in percentiles, trends, seasonally adjusted declines and other esoteric categories.

In studying the massive report, again the temptation is to extract certain statistics and regurgitate them back out like a parrot, trying not to use this year's batch of Labor Department euphemisms like "persistent rate of unemployment," "essentially unchanged," and "not appreciably different," all of which are designed to suggest stability.

We do know that the reported or published rate, of unemployment has been above 6 per cent for the total work force during the past year, the highest in ten years. and we also know that black unemployment has remained around twice that amount or a reported 11 per cent and that teenage unemployment is three times higher than the 6 per cent figure.

Without debating the accuracy of the figures, we know that the economy has not been able to absorb the new workers coming into the labor market such as the returning veterans, the high school graduates, and the married women attempting to return to the labor market. We also know that the present crunch on jobs adversely affects the blue collar worker more than the white collar worker and that those with the least skills are affected the most and this is really all we know.

Four years ago, this column reported on the late Senator Robert Kennedy's testimony before Congress claiming that the Labor Department's system of reporing the unemployment rate left much to be desired in giving the public a true picture of the employment situation in this country. He referred to those persons (mostly black and Spanish) who were not counted in the unemployment ranks as "the Lost Battalions."

Two years ago, this column told of the late Whitney Young's charges that the Labor Department was still manipulating the statistics so as not to paint too bleak a picture and also spoke of the uncounted numbers of unemployed. He called them the "Hidden Hunger."

Well, the latest to pick up on the "truth in reporting" effort is Senator William Proxmire (D.-Wisc.). He has charged that the Nixon Administration has replaced regular civil service workers at the Bureau of Labor Statistics with "hand picked assistants" who have more public relations background than labor reporting.

Senator Proxmire further charges that the Administration combed the labor and employment statistics each month this past year before they were made public and then announced only the good or stable parts of the report.

This charge takes on added dimension because every political prognosticator will be using the reported unemployment rate as a barometer for the presidential election. The fate of the candidates will, in part, be determined by the fluctuations of that rate and the interpretations given to that figure. The economy will be an issue in '72 and its measuring stick will be the monthly unemployment rate.

To that end, this column will resist the temptation to use those figures until some degree of validation is secured.

This problem of credibility in reporting is not just the province of the Labor Department or of the Pentagon in reporting the war's activity. It's indicative of a public malaise that can be called "institutionalized paranoia." This is where a public institution refuses to admit to a true picture of a situation, not necessarily of their making, because they don't want the responsibility to correct same.

Schools refuse to admit to imbalance profiles because the onus would be on them to redress the situation. Civil Services does not acknowledge that their structure discriminates for the same reasons. Recently a labor union proudly announced a "50 percent increase in minority enrollment." Translated, where they had two blacks out of 136, they now have three blacks or a "50 percent increase."

The public can not get too upset at these deceptions because the public at large has not challenged officialdom or the media that dutifully reports these deceptions without question. The public has cynically accepted these statistical manipulations as a piece of the ever increasing alienation it encounters from the insulated and isolated bureaucracy, thus widening the accountability gaps between people and their institutions. Those institutions, in turn, will escalate the process as the check and balance system deteriorates.

What is needed here is an effort or a new direction in consumer advocacy. The consumer in this case is the taxpayer, who is in dire need of protection from the sunshine peddlers who are covering up their own inability to grapple with problems by presenting rose colored glasses in the form of self-serving statistical pronouncements and interpretations.

HOWARD TAKENAKA, SCHOOLTEACHER, PRINCIPAL, COUNSELOR, COMMUNITY LEADER, RETIRES AFTER 44 YEARS OF DEDICATED SERVICE

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. MATSUNAGA. Mr. Speaker, on Sunday evening, February 20, 1972, a Honolulu man will be honored at a banquet marking the end of the 44 years he has devoted to educating the young people of Hawaii. Howard Takenaka has served admirably as teacher, counselor, and principal, and I am proud to be able to call him my friend.

Howard Takenaka retired at the end of 1971 as principal of the Sanford B. Dole Elementary School in the Kalihi-Palama area of Honolulu. He noted that he and his wife, Jane, who taught for 37 years before retiring recently, had been "surrogate parents to about 100,000 Hawaii boys and girls."

Mr. Takenaka's circle of activities was a wide one. His involvement with community organizations was extensive, because his commitment to the community itself was so deep.

When his many friends and admirers gather to honor him on Sunday evening, he will be remembered as a man who believed in being a "no-nonsense" schoolteacher and principal, but one who tempered his discipline with kindness and understanding.

Howard Takenaka served as a sterling example to the young people of Hawaii. As a former educator and his personal friend, I can attest to the fact that his life is a worthy model for all teachers and, indeed, for all mankind.

At this point I offer for inclusion in the Record the text of an article about Howard Takenaka which appeared recently in the Sunday Star-Bulletin and Advertiser of Honolulu:

Educator To Be Honored: After 44 Years, How Can You Say Goodby?

(By Ted Smiley)

Christmas vacation was not a happy time for Howard Iwao Takenaka.

He woke up one morning, dressed, had his usual light breakfast and drove to the Sanford B. Dole Intermediary School in Honolulu's Kalihi-Palama area.

Takenaka unlocked the door to his office, cleaned out his desk and left the school, bringing to an end 44 years and four months as a teacher, principal, counsellor, guide and leader of Hawaii's young people.

"I couldn't stand to face the children and say goodbye," he said. "I couldn't stand it. I would have broken down. Christmas time is a happy time. It's no time for tears, for time past and gone."

Mrs. Takenaka—Jane Y. Morimoto Takenaka—understood. In her own right, she was a teacher for more than 37 years.

"I can speak for Howard," she said. "We have no regrets, no remorse. If we had life to live over again, we'd do the same thing. Be teachers.

"Yes, there are heartbreaks. But there are joys."

"Jane and I," Takenaka said, "have been surrogate parents to about 100,000 Hawaii boys and girls.

"I know I had a reputation for being a no-nonsense teacher and principal. For being tough. Sometimes I was too tough. Sometimes I was too easy. A teacher has to do his best, and hope it's right."

"Howard was tough," Mrs. Takenaka said. "But he was fair. The children understood that. So many boys—boys, usually, but a few girls—were bitter at first. Then, later they would come up to Howard and thank him. Thank him because he was tough."

Listening to the Takenakas is like listening to a trombone and a flute in obligato. After more than 41 years of marriage, their voices and thoughts complement each other's in intricate, rhythmic harmony.

"School is made for children," Howard

said. "Every child has a right to live, to grow up."

"Every child needs understanding and love," Jane said.

"A teacher, a principal, never must be afraid to apologize when he's made a mistake," Howard said. "He's got to be big enough to admit he can be wrong."

Neither Howard nor Jane sees anything wrong with being disciplinarians—or tempering discipline with affection and understanding.

Howard, slim, trim, and still shooting in the 80s on the golf course, was born Jan. 5, 1907 in Waimea on Kauai. His father, who came here in 1900, was a plantation laborer.

It wasn't easy for Howard to complete junior high school on Kauai, then to come to Oahu, where he lived in the Okumura Boy's Home while attending McKinley High School.

He received his teacher's diploma from the Territorial Normal School, his bachelor's degree from the University of Hawaii, and his master's degree from Columbia University in New York City.

After Howard and Jane were married in 1930, both taught in the Kaiwiki School in the Big Island.

"We were assigned a teacher cottage," Jane said. "We were more than just teachers. We were social workers, family counsellors, lawyers, community leaders—you name it, we did it."

"Looking back," Howard said, "those probably were the most satisfying days of our lives. We were totally involved with our pupils and their families."

Ability and willingness to work the clock around brought advancement, and expanding duties cut in to the free time of the Takenakas.

Nevertheless, Howard moved into the upper echelons of the American Institute of Parliamentarians, the Hawaii State Parliamentary Association, Hawaii Government Employes Association, Oahu Aloha Chapter of Credit Unions, Hawaii Credit Union League, Kalihi Valley Council, Model Cities and various Masonic organizations.

In theory, Jane Takenaka retired several years ago, but you'd never believe it from her schedule.

She teaches several adult classes on a volunteer basis, including basic English at Farrington Community School, the Young Buddhist Association and the Sato Mission.

"I taught the children for 37 years," she said. "Now I teach the parents.

"For years, the older people could sign their Social Security checks with an "X"; now that's illegal. They have to sign their names. We teach them, and it opens new doors to them. It's deeply satisfying to help them learn to read and write. It's thrilling."

Both Jane and Howard can talk for hours about the individual pupils they have taught.

"I may not always associate a name with a face," Jane said, "but I usually can place the boy or girl at a certain desk in a classroom."

"Everywhere I go," Howard said, "I run into my pupils; in restaurants, in stores, in the tax office, I see a face smiling at me, and I'm asked, 'Do you remember me?'

"I was at a banquet last week, and the waitress asked me that. Of course I remembered her." " 'I'm a grandmother, now,' she said. "It made me feel very old."

"One of my worst moments came during the Korean War," Howard said. "Kaimuki High School boys were forming a volunteer group. There was one boy, especially, I hated to have leave school. He came in and asked for permission. He had to have permission.

"I pleaded with him to stay in school. At last I asked him to think it over that night. I said if he still wanted to go next day, I'd give permission. He went. He never came back. I lie awake nights, remembering."

On Sunday evening, Feb. 20, Howard and Jane will be honored with a banquet in the Hilton Hawaiian Village Longhouse.

"Howard sneaked out of school without saying goodbye," said Jane, still blackhaired and vivacious. "He won't be able to get out of this. I'll make sure he shows up."

"If the speeches get too long, or too maudlin, I'll show 'em I'm still a disciplinarian," Howard said with a mock scowl.

His former pupils will believe that.

FREEDOM OF INFORMATION: OFFICIALS THWART PUBLIC RIGHT TO KNOW

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. OBEY. Mr. Speaker, Science magazine for February 4 carries an article by Nicholas Wade on the history and workings of the Freedom of Information Act. Author Wade concludes by expressing the opinion that—

> But unless Congress decides to give it some teeth, the Freedom of Information Act will continue to guarantee the public's right to know only what government officials don't mind revealing.

I think the forthcoming hearings by the Subcommittee on Foreign Operations and Government Information, chaired by the gentleman from Pennsylvania (Mr. MOORHEAD), will emphasize that Congress meant what it said in passing the Freedom of Information Act: that disclosure of information shall be the rule, not the exception.

The Science article follows:

FREEDOM OF INFORMATION: OFFICIALS THWART PUBLIC RIGHT TO KNOW

"The public's need for information is especially great in the field of science and technology, for the growth of specialized scientific knowledge threatens to outstrip our collective ability to control its effects on our lives. . . . It would defeat . . . the purposes of the Act to withhold from the public factual information on a federal scientific program whose future is at the center of public debate."

So ruled David L. Bazelon, chief judge of the U.S. Court of Appeals in the District of Columbia, in a decision that ultimately flushed out a confidential scientific study of the supersonic transport compiled for the President's science adviser. The act that Bazelon interpreted is the Freedom of Information Act, an important but underexposed statute which formally inshrines the public's right to know what its government does. The act stipulates that every government agency shall, with certain specified exceptions, make its records promptly available to any person on request.

The willingness with which government officials would reveal the private records of their activities to anyone who asked, and promptly at that, is not difficult to imagine. The act did not have an easy birth—Congress gestated it for 11 years—and the Department of Justice has made determined attempts first to throttle the infant law, and more recently to emasculate it when it began to show signs of potency.

How well is the Freedom of Information Act working? "If an applicant appeals to the director of an agency and shows willingness to go to court, he will generally get his information," says an aide to Representative William S. Moorhead (D-Pa.), chairman of the House committee that oversees the act. Probably the vast bulk of requests for information addressed to the federal government by press and public are satisfied without recourse to the Freedom of Information Act and, judged by standards elsewhere, the U.S. government is a paragon of open-handedness. Nonetheless, Congress found it necessary to pass the act, and there exists an important category of information supposedly within purview of the act that is not easily come by. Behavior under the act varies widely from agency to agency—two of the most recalcitrant, in the opinion of public interest groups, are the Food and Drug Administration (FDA) and the Department of Agriculture. The Environmental Protection Agency (EPA), on the other hand, seems to be adopting a more liberal interpretation. The sticking point at which many bureaucrats start to deny requests under the act is with information that reflects in any way on the internal workings and performance of the agency.

DELAYS AND EVASIONS

The Freedom of Information Act has received rather little judicial attention since it came into force on 4 July 1967 and its eventual impact is hard to assess until further precedents are established. But several weaknesses are already apparent. By and large government officials are able, when they wish, to thwart the intent of the law simply by delay. A requester of information can wait up to 2 years or more before all the administrative remedies have been exhausted and a case has come to court. Few newsmen have that kind of time to spare. For this, among other reasons, of more than 200 cases brought under the act, fewer than 10 have been filed by newspapers, which were envisaged as the chief beneficiaries of the act.

The principal users of the law are corporations, which have the time and money to make it work for them, and public interest groups representing the consumer and environmentalist movements. The latter have won some famous victories, such as the release of a confidential report on the supersonic transport and, more recently, the publication of environmental impact statements on the Cannikin underground bomb test at Amchitka. Equally important were two cases concerning meat inspection records and pesticide registration, which were won by Harrison Welford, a consultant to Ralph Nader's Center for the Study of Responsive Law, against the Department of Agriculture. But the impact of these and other precedents has fallen far short of shaping the act into an effective instrument of public information.

The most vocal critics of the act are the public interest groups, which have found their requests for seemingly innocuous information, such as scientific data, repeatedly rebuffed by the government. "It's a very sketchy law which was badly drafted to begin with, and it's not terribly useful," says an attorney with the Environmental Defense Fund. According to Harrison Welford of the Nader center, the act has not lived up to its initial promise because of the evasion techniques developed by government officials. In *Sowing the Wind*, a study of Department of Agriculture policies on meat and pesticide regulation, Welford lists some of the common tactic used by agency officials for thwarting the act.

Contamination tactic: Unclassified material that may prove embarrassing is mixed with a few items of information that can be withheld under the act, such as trade secrets, and the whole file is labeled as classified.

Specificity tactic: The agency delays replying to a request for several weeks and then states that the request is not specific enough.

Search fee tactic: Even if the agency concedes that the information should be made public, it may impose an arbitrarily high fee for collecting it.

Trade secrets tactic: The formula of a pesticide or other chemical is a trade secret that is properly exempt under the act, but the agency applies the exemption to all of the other information provided by the manufacturer.

Representative John E. Moss (D-Calif.), the author of the act, intended it to represent "an in-between solution which will guarantee the right of every citizen to know the facts of his government while protecting that information which is necessary to the functioning of government." Nine categories of information are protected by the act, including matters of national security, trade secrets, inter- and intra-agency memoranda, files compiled for law enforcement purposes, and matters specifically exempted from disclosure by other statutues. The legislative intent of the act was to make disclosure of information the general rule, not the exception, and to place on the government the burden of justifying the withholding of a document.

The bill passed the House to the sound of a 307 to 0 vote and many elevated observations on the people's right to know. Representative Donald Rumsfeld (R–Ill.), for example, now a counselor to the President, described the act as one of the most important measures to be considered in Congress in 20 years. The bill, he said during the House debate on 20 June 1966, "Will make it considerably more difficult for secrecy-minded bureaucrats to decide arbitrarily that the people should be denied access to information on the conduct of government or on how an individual government official is in handling his job."

The bureaucrats have not suddenly changed their mental habits in the Administration of which Rumsfeld is an eminent member. Here is a not untypical example of how an unwelcome request for information may be handled. On 7 July 1970, Dale Hattis, a researcher at the Stanford University School of Medicine, asked the FDA for the data on which its officials assessed the safety of various food additives and pesticide residues. It took the FDA 11 months and 28 days to compose a reply, in which Hattis was told that he should be more specific. (This is an identical version of the specificity tactic used in the Department of Agriculture.)

Hattis then narrowed his request down to data on a single food additive, sodium nitrite. Sam D. Fine, FDA associate commissioner for compliance, replied that "toxicological and other technical information is valuable commercial property that is regarded as confidential information." Hence the data on sodium nitrite safety supplied by the manufacturers counts as a trade secret and is exempt from disclosure under the act, Fine told Hattis (the trade secrets tactic). The FDA possesses some toxicological data on sodium nitrite not supplied by manufacturers; Fine offers this data for a compilation and copying fee of $99.50 (the search fee tactic). Hattis has enlisted the advice of an attorney at the Environmental Defense Fund, which is now contemplating bringing suit against the FDA under the act.

"I have always believed that freedom of information is so vital that only the national security, not the desire of public officials or private citizens, should determine when it must be restricted," President Johnson proclaimed on signing the act into law. Another example of the government's interpretation of the act is the response to a request by Carolyn Morgan, a Washington, D.C., housewife, for the toxicological data relating to birth control pills. Replying on behalf of the FDA, Roger O. Egeberg, then assistant secretary of Health, Education, and Welfare, told Morgan that some of the information she requested was protected under the act by exemption number 3 (matter exempted by other statutes), number 4 (trade secrets and confidential), number 5 (intra-agency memoranda), and number 6 (personnel and medical files). (It is a standard stratagem to claim as many exemptions as possible—in a court case there's more chance that one may stick.)

Egeberg proceeded to point out that the exempt and nonexempt information in the material Morgan had requested were mixed together in 1929 files, and that to separate the two categories would cost $12,600 in labor (a combination of the contamination and search fee tactics). There would also be a copying charge of 25¢ per page, and an advance fee of $5000 would be required. "We think that such a search would be wasteful for both parties," Egeberg opined to Morgan. Morgan has since brought a suit against the FDA which is now in the appeal stage.

One reason why agencies have been able to run circles around the law is that the government's campaign against the threat to bureaucratic secrecy is skillfully generaled by the Justice Department. When the act first came into force, a memorandum was issued by the attorney general (then Ramsey Clark) which in effect instructed the agencies how to make the broadest interpretations of the nine exceptions. The memo was also not above putting the agencies up to such tricks as charging fees, covering indirect costs as well as copying, in order to "discourage frivolous requests."

The effect of these instructions as they percolated down through government has been noted by Wayne Winters, editor of the weekly *Epitaph*, published at Tombstone, Arizona. When the act was first passed, Winters successfully obtained internal documents from the local offices of the Forest Service at Tucson and Albuquerque. (The documents concerned the Forest Service's methods of evicting gold miners from forest lands. They form the basis for an article by Winters in the 27 March 1969 issue of the *Tombstone Epitaph* entitled "A Harassed Miner is Blown to Kingdom Come—Red Run Their Hands—Bureaucrats Drove Miner to Death Via Continued Harrassment".) Later the local Forest Service offices took a more restrictive view of the Freedom of Information Act. Winters told *Science:* "They became evasive because information came out of Washington telling them how to get around the law. We have a law we didn't have before—I don't think any of us uses it as much as we ought to."

JUSTICE DEPARTMENT DEFENSE

Under Justice Department tutelage, the agencies interpreted the act's exemptions as broadly as possible in order to discourage intruders. But the courts often construed the exemption more narrowly and the government started to lose a few cases, including one in which the Consumers Union sued the Veterans Administration for the results of tests conducted on various brands of hearing aids. More seriously, the summer of 1969 was the first time that students working for the Nader Center—Nader's raiders—descended on the agencies in massive force. A second memo was dispatched from the Justice Department to the general counsels of all federal agencies, calling for a change in government tactics. The memo, dated 8 December 1969, was drawn up by two assistant attorneys general, William H. Rehnquist, now a justice of the Supreme Court, and William D. Ruckelshaus, now the administrator of the EPA. "Although the legal basis for denying a particular request under the Act may seem quite strong to an agency at the time it elects finally to refuse access to the requested records," warned the memo, "the justification may appear considerably less strong when later viewed, in the context of adversary litigation, from the detached perspective of a court and from the standpoint of the broad public policy of the Act." The memo, in so many words, warned that agencies should consult with the Justice Department before letting anyone drag them to court, lest a body of precedents be built up in favor of the public and against the government. The memo concluded with an oblique reference to the consumer movement's growing curiosity about agency methods of regulation and an invitation for agencies to collaborate on methods of meeting the threat ("If the activities of your agency involve testing or information pertaining thereto, we would welcome any statements of experience, policies or views which you may care to provide").

Rather few cases have come to court under the act—about 200 since 1967—presumably because, in accordance with Justice Department strategy, agencies are often advised to yield up their secrets to a persistent requester rather than risk a court case. A questionnaire sent out to all agencies by Representative Moorhead reveals that the Department of Health, Education, and Welfare (HEW) has received 368 formal requests under the act in the 4 years of its existence. Of these, 258 were granted, 77 were denied entirely, 16 were denied in part, and a further 17 cases are pending. Examples of information denied by HEW are a request from the Homestake Mining Co., San Francisco, for data about mine workers who have contracted lung cancer; a request by the Washington, D.C., public relations firm Hill and Knowlton for correspondence between Ralph Nader and the FDA; an application from the pharmaceutical company Upjohn to view HEW's 5-year budget projections; a request by CBS/KNX of Los Angeles for access to the FDA's files on stannous chloride.

HEW does not seem to have been involved in any landmark cases, unlike the Department of Agriculture, which has managed to fight and lose three cases, two to Welford of the Nader Center and one to Aviation Specialties, a company that sued to see the records of a contract it had bid for unsuccessfully. Probably the case that has hurt the government most as far as setting precedents is concerned was the skirmish over the report on the supersonic transport prepared for the Office of Science and Technology (OST).

The report, an adverse critique of the SST, was written by a committee under IBM physicist Richard L. Garwin in 1969. The OST was sued by a number of environmental groups for refusing to make the Garwin report public. A lower court ruled that the OST was part of the President's personal staff, not an agency, and that its records were therefore protected by the mysterious but unchallenged doctrine of executive privilege. On appeal, Judge Bazelon ruled that the Garwin report was not covered by executive privilege unless the President expressly invoked the doctrine, which he had not done in the Garwin report case. (This state of affairs owes much to Representative Moss, the progenitor of the act, who helped persuade President Nixon and his two predecessors to say that they would claim executive privilege only personally and *in extremis*. Formerly, the agencies had made free with the privilege in the President's name.)

Bazelon directed the lower court to consider whether any of the nine exemptions of the Freedom of Information Act was applicable to the Garwin report. But the exemptions were to be interpreted narrowly. Bazelon declared in his 23-page opinion: "The touchstone of any proceedings under the Act must be the clear legislative intent to assure public access to all government records whose disclosure would not significantly harm specific governmental interests. The policy of the Act requires that the disclosure requirement be construed broadly, the exemptions narrowly."

Bazelon's opinion represented just the kind of interpretation the Justice Department had been striving to avoid. A week before the lower court was due to reconsider the case, the Administration eschewed the risk of a further unfavorable precedent by releasing the Garwin report, declaring that it did so to "dispel any further misconception . . . that the government may be concealing factual data on the SST program."

Two other recent events that have served to narrow the scope of the exemptions are the Cannikin case, which unfolded in August and October last year, and a ruling by the EPA on the toxicological data relating to pesticides. Ironically, both of these rulings were effected by men who, while in the Justice Department, had directed government strategy for broadening the act's exemptions. Ramsey Clark, who was responsible for the 1967 memorandum on the act, acted as attorney for 33 members of Congress who last year sued to see a report on the underground nuclear bomb test at Amchitka, code-named Cannikin. The report, classified as secret, included the assessments of the weapon's likely impact on the environment prepared by the EPA and the Council on Environmental Quality.

CANNIKIN HAZARDS REVEALED

A lower court held that the report was covered by the act's exemption for national security matters, but the government's position was not assisted by the public comment of EPA administrator Ruckelshaus that he saw no reason to classify the EPA contribution to the report as top secret. An appeals court reversed the lower court's ruling, saying that there was no basis for "withholding on security grounds a document that, although separately unclassified, is regarded as secret merely because it has been incorporated into a secret file." The ruling led to a requirement that the Administration release those parts of the Cannikin report dealing with the environmental impact of the explosion. The public learned that the chairman of the Council on Environmental Quality had advised the President that the test might trigger a tsunami, a danger that "it is not possible at this time to assess quantitatively."

Another important interpretation of the act is a ruling made last month by Ruckelshaus, who had been coauthor of the Justice Department's December 1969 memorandum on the Freedom of Information Act. In a notice published in the *Federal Register* of 18 December, Ruckelshaus states that data on the toxicity and efficacy of registered pesticides, as supplied by their manufacturers, should be made available to the public under the act. These data, Ruckelshaus rules, do not fall into the category of trade secrets or confidential information.

The EPA's new policy on manufacturer's toxicity data is diametrically opposed to that of the FDA and of the Department of Agriculture, before the latter's administration of pesticide regulation was transferred to the EPA. According to Welford, who sued the Department of Agriculture for this among other data, "Ruckelshaus was surprised at the degree to which USDA had withheld information when it was in control of pesticide regulation."

Apart from corporations, it is public interest groups such as the Nader center that have made most use of the Freedom of Information Act. But even they are skeptical about its effectiveness. Says Welford: "The legal process is too ponderous to handle something as perishable as information. Because of the delays involved, I doubt if many public interest groups will use the act." In Welford's meat case against the Department of Agriculture (he was suing for access to the letters of warning sent out to processors found violating the wholesome meat regulations), some 2½ years elapsed between the filing of the suit and the final court verdict in Welford's favor. (A Nader's raider sent to inspect the long-sought files has found that 99 percent of all alleged violations of meat regulations are treated only by letters of warning.) But even this victory has been blunted because, in what the Nader lawyers consider a clear contravention of the court ruling, the Department of Agriculture refuses to grant access to the back-up files on which each letter of warning is based.

Another consultant to the Nader center, Peter H. Schuck, considers the Freedom of Information Act to be almost impossible to enforce because it creates no incentives for officials to comply promptly with a request for information. "The pervasive attitude in government is 'If you don't like it, sue us,'" Schuck says. He and Welford believe that the law should provide penalties for officials who are found to have withheld information unjustifiably.

Despite the act's many deficiencies in practice, there seems to be agreement that it is worth having. The Nader center, for example, is considering hiring an attorney to work full time on freedom of information suits. And the threat of being taken to court has some moderating influence on the natural secrecy of bureaucrats. The meat inspection case, Welford says, "really scared the hell out of the USDA when they lost, and has clearly made a difference to our relationships over there."

Public interest groups and others might have less reason to be disappointed with the way the act is working if Congress had taken a closer interest in it. "They should be very interested in the act," says Schuck. "After all, a lot of groups like us are doing the jobs that Congress should be doing, and we are after the same kind of information that Congress needs to perform its oversight function." Representative Moorhead's subcommittee is now preparing to hold hearings on the act, the first since it was passed. But unless Congress decides to give it some teeth, the Freedom of Information Act will continue to guarantee the public's right to know only what government officials don't mind revealing.

WILLOWBROOK—THE LAST GREAT DISGRACE

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. HALPERN. Mr. Speaker, recent media exposure of the deplorable and inhumane conditions at Willowbrook State School in New York has brought shock and renewed concern from people across the country.

Willowbrook, built in 1941 to care for 3,000 mentally retarded patients now houses more than 5,200 people. Despite the vivid accounts of the neglect and overcrowding now existing at Willowbrook, there is a waiting list of approximately 1,000 more who wish admission to the world's largest mental institution. More than three quarters of the patients are classified as having IQ's ranging from below 20 to 36 and these youngsters are considered untrainable and cannot be taught the basics of self-care.

The conditions described on television and radio, as well as in newspapers and magazines paint an agonizing portrait of what a society can do to its sick and less fortunate. The blame for these conditions rests with all of us rather than with the attendants and the administrators. The values of a society are reflected in its treatment of those who are unable to care for themselves. Clearly, we have failed to meet our responsibilities in this area.

I have recently been informed that the Secretary of Health, Education, and Welfare, Elliot Richardson, has pledged the full resources of his Department to help alleviate the problems at New York State's mental health facilities. Plans are now being made for a team of experts to visit the institutions involved. The team will consist of Federal specialists and a number of outstanding non-Federal consultants who will begin their work during the week of February 28.

As a public service, WABC–TV in New York, inspired by Newscaster Geraldo Rivera's revelations, ran several short features on Willowbrook. Because wide public interest was aroused quickly and because the public wanted to know more, the ABC affiliate aired a more detailed program which described the horrible conditions at the institution. I am convinced that because of the great service which this station rendered, the public and those in a position to effect change at Willowbrook will take quick action to erase this sad commentary on our times. All of us owe a great debt of gratitude to Geraldo Rivera for his courageous reporting and his vigorous pursuit in bringing these facts to the attention of the American public. His persistent and unrelenting determination will help bring a better way of life to those people living at Willowbrook.

While I would have liked every Member of Congress to have seen the entire television special I believe much can be gained by reading the transcript of the program.

Therefore, Mr. Speaker, if there are no objections, I wish to insert into the Record the transcript of "Willowbrook—the Last Great Disgrace" which was presented by ABC–TV in New York on February 2, 1972:

Willowbrook—The Last Great Disgrace—February 2, 1972

Announcer. There are some aspects of life which society has hidden from public view. The following program will remind you that they exist and that we all bear a responsibility to humanity. If you have children, you may want to exercise parental guidance.

Robert Kennedy. When I visited the state institutions for the mentally retarded, and, I think, particularly at Willowbrook, that we have a situation that borders on a snake pit and that the children live in filth, that many of our fellow citizens are suffering tremendously because lack of attention, lack of imagination, lack of adequate manpower gives very little future for the children or for those who are in these institutions. Both need a tremendous overhauling, and I'm not saying that those who are the attendants or the ones who run the institution are at fault. I think all of us are at fault. And I just think it's long overdue that something be done about it.

Geraldo Rivera. It's been more than six years since Robert Kennedy walked out of one of the wards here at Willowbrook then told newsmen of the horror he'd seen inside. He pleaded then for an overhaul of the system that allowed retarded children to live in a snake pit. That was way back in 1965 and somehow we'd all forgotten. I first heard of this big place with the pretty sounding name because of a call I received from a member of the Willowbrook staff, Michael

Wilkins. The Doctor told me he'd just been fired because he'd been urging parents with children in one of the buildings, Building #6, to organize so they could more effectively demand improved conditions for their children. The Doctor invited me to see the conditions he was talking about, so unannounced and unexpected by the school administration, we toured Building #6.

The Doctor had warned me that it would be bad . . . it was horrible. There was one attendant for perhaps 50 severly and profoundly retarded children. The children, lying on the floor and smeared with their own feces, they were making a pitiful sound . . . a kind of mournful wail that it's impossible for me to forget. This is what it looked . . . This is what it sounded like . . . But how can I tell you about the way it smelled? It smelled of filth . . . It smelled of disease . . . and it smelled of death.

We've just seen something that's probably the most horrible thing I've ever seen in my life. Is that typical of ward life?

Dr. Wilkins. Yes. There are 5,300 patients at Willowbrook, which is the largest institution for the mentally retarded in the world. The ones that we saw were the most severely and profoundly retarded. There are thousands here like that . . . not going to school . . . sitting on the ward all day . . . not being talked to by anyone . . . Only one or two or three people to take care of 70 people on the ward . . . Sharing the same toilet . . . contracting the same diseases together. One hundred percent of the patients at Willowbrook contract hepatitis within six months of being in the institution . . . Most patients at some time in their life have parasites . . . The incidence of pneumonia is greater than any other group of people that I think exist in this country . . . Trauma is severe because these patients are left together on a ward . . . seventy retarded people basically unattended . . . fighting for a small scrap of paper on the floor to play with . . . fighting for the attention of the attendants, who are overworked trying to clean them, feed them, clothe them and, if possible, pay a little attention to them and work with them and develop their intelligence. But what, in fact, happens is that they go downhill.

Geraldo Rivera. Two days after our first unofficial visit, our camera crew was given an authorized tour of the facility. While unannounced we had found the children naked and basically unattended, then we were shown children who were fully clothed and generously attended. It was to insure that this sudden improvement in the quality of life was permanent that we returned without the knowledge of the school administration and through a back door. It was the first day all over again.

Dr. Wilkins. For these people life is just one hour after another of looking at the floor. There's no training going on here.

Geraldo Rivera. Can the children be trained?

Dr. Wilkins. Yes. Every child can be trained . . . You know . . . these kids . . . there's no effort . . . We don't know what these kids are capable of doing. Some training programs go on at Willowbrook, but the State provides a bare minimum, just enough so that they can call this place a school . . . Clearly these kids aren't getting any training. I mean, I don't think I even have to say that. They're just sitting here on the ward . . . These are the hours in which they should be in school and they're not.

Geraldo Rivera. What ward is this now?

Dr. Wilkins. This is Building 27 . . . These patients do have clothes on today. But as you can see, the one thing that can't be hidden is that there are no training programs. That all these patients do is sit during the day. They are not occupied. Their life is just hours and hours of endless nothing to do . . . no one to talk to . . . no expectations . . just an endless life of misery and filth. What you see, it makes you think that it's hopeless . . . but you know they only look this way because they haven't ever had opportunity for training. Now if you or I were left to sit on a ward, surrounded by other mentally retarded people, we would probably begin looking like this, too.

Geraldo Rivera. The Willowbrook State School is this country's largest home for the mentally retarded. It's called a school, but that's more a statement of aspiration than of fact. Fewer than 20% of the 5,230 people who are kept here attend any kind of classes.

When the State of New York entered a period of economic retrenchment two years ago, a hiring freeze was clamped on this and other institutions in the Department of Mental Hygiene. In the intervening months, Willowbrook lost 600 employees through attrition. For the budget of fiscal '71–'72 the Governor recommended a hold-the-line appropriation of $603 million for the Mental Hygiene Department. The Legislature, seeking to trim the waste and fat from the budget cut it down to $580 million. Willowbrook lost another 200 employees and a situation that two years ago was bad became hopeless. The attendants tried to care for their wards but were simply overwhelmed. The attendant-to-patient ratio which should be about 4–1 dropped to 30 or 40–1 and the average feeding time per patient which should be 20 or 30 minutes went down to 2 and 3 minutes.

Dr. Wilkins. Many of the profoundly retarded children aren't capable of feeding themselves. In my building we had no staff to train them in a systematic way to use utensils to feed themselves . . . That can be done, but what's necessary is to feed them. You take a bowl of food that you've made into a mush-like substance with a big spoon and you ladle it out into their mouth. In the buildings where the kids can't feed themselves there are so few attendants that there is only an average minimum time—three minutes per child, per feeding.

Geraldo Rivera. How much time would be needed to do the job adequately?

Dr. Wilkins. The same amount of time that your children and my children would want to have breakfast.

Geraldo Rivera. What's the consequence of three minutes, per meal, per child?

Dr. Wilkins. The consequence is death from pneumonia.

Geraldo Rivera. North of the City on the way to Bear Mountain, is a lovely-looking place called Letchworth Village Rehabilitation Center. Set among the hills and woods of suburban Rockland County a passerby could easily mistake the place for a country club or a college campus, but the early morning mist gave the place an eerie feeling, like a set from a horror movie. And once inside that feeling became suddenly appropriate. It was a repeat of the misery and degradation of Willowbrook.

Congressman Mario Biaggi had planned an official tour of the facility for ten o'clock in the morning, but by this time, wary of what I felt were attempts on the part of the Department of Mental Hygiene to make the situation look better than it really was, my camera crew and I got there two hours before that. As the hour of the official tour approached, bundles of clothing were brought in for the children and the process of cleaning up was begun. Even so, none of these cosmetic changes could do much to improve the place.

Congressman Biaggi. Who's in charge here, Gerry?

Geraldo Rivera. Mrs. Nixon . . . This is . . .

Congressman Biaggi. Mrs. Nixon? I'm Congressman Biaggi. How are you? Why are these patients unclothed?

Mrs. Nixon. We don't have enough clothing We don't have the proper help to keep clothing on them. We have a few nudists that will not keep clothes on. They will pull them off. But most of all we don't have the help to keep the kids properly dressed.

Congressman Biaggi. You're talking about more money for the institution?

Mrs. Nixon. Well, that we could use because then we would have more help.

Congressman Biaggi. How understaffed are you?

Mrs. Nixon. Very understaffed. There are days we have four or five attendants to take care of 134 kids. Like today, we have four people on to take care of the entire group of kids.

Congressman Biaggi. We have a condition in a very beautiful ground, very well-built buildings, where inside we have housed the children of many of our citizens who are subjected to what appears to be the worst possible conditions I've ever seen in my life. I visited penal institutions all over the country . . . I visited hospitals all over the country . . . I visited the worst brigs in the military . . . I've never seen anything like it.

Geraldo Rivera. About 25% of the funding for Letchworth Village comes from the Federal Government and one of the requirements for continued eligibility is that there be 80 square feet of space per patient . . . Here they get only 35 square feet. In the face of this terrible overcrowding there was a ward there that stood empty because they hadn't the funds to hire the 38 people it would take to staff it.

How can this be?

Milton Ressel. Well we need 38 additional positions, then we would be able to staff this area and reduce our overcrowding in overcrowded areas.

Geraldo Rivera. It's a sin, my God, a sin.

Milton Ressel. Well, we have submitted and we are expecting that we might be getting them and then we will be able to reduce the overcrowding in certain areas.

Geraldo Rivera. There's at least one more horrifying aspect of life at Letchworth. . . More than 300 able-bodied patients, both physically and mentally able to work outside the institution, are not being allowed to. They are being used to fill the places of the too few employees. They get paid $2.00 a week for their efforts . . . about what they'd make each hour on the outside. And there was another development on the day we visited Letchworth.

It was eight days after our investigation had begun. Governor Rockefeller admits the growing public outcry over the conditions at Willowbrook . . . made an announcement. He was restoring the $20 million he had stricken from the budget of the Department of Mental Hygiene. Willowbrook, it was said would be able to rehire 300 of the 900 employees it had lost since November, 1970. Letchworth Village would be able to rehire about 200. But the additional employees, while perhaps slowing the downward course of these two institutions, would not be able to change the basic nature of the two places, mere depositories for the retarded.

Do you think what we showed on television in the past week is an adequate reflection of the situation?

Dr. Allen Miller, Commissioner of Mental Hygiene, N.Y.S. I think it focused and made vivid the problems at Willowbrook.

Geraldo Rivera. Do you think it was an honest portrayal?

Dr. Miller. I think it was an honest portrayal of the problems at their worst. It may not tell the whole story of Willowbrook and it certainly doesn't tell the whole story of the retarded, but it does describe unmistakeably the kind of problems that we've seen and now, thanks to the coverage, many people are seeing. If the public eye leaves Willowbrook and all of the other places and we once again find ourselves, we and the directly involved parents, trying to go it alone, then I think we struggle to maintain our few gains and we struggle slowly to get ahead and perhaps if you were to come back a year from now and look again you might see we've made headway. . . I'd expect you would, but you won't see it all solved in two weeks. I wish you would go back in two weeks and in two weeks and in two weeks because I think that a window on these conditions and maybe even allowing to begin to see not only what it is but what it could be and even what it is already in some places . . . so to reinforce a sense of hopefulness and to reestablish in people's minds that we're talking about human beings with potential. I would hope that you would see continued change and if you didn't see it that you'd say so.

Geraldo Rivera. Two weeks after that interview I took Dr. Miller up on his invitation to revisit Willowbrook. I found no meaningful change in the quality of life for the 5,230 people who live here. The attendants are trying their best but the staff is just too small to do anything more than just try and keep the place clean. When there's one person to take care of 30 or 40, nothing good can possibly happen . . . No rehabilitation . . . no training . . . nothing. The attendants are as much the victims of the conditions here as the patients are. And this visit has reminded me of something else Dr. Miller told me. He said, "Now that society has moved to clean up the lunatic asylums, the prisons and the hospitals, the way we care for our mentally retarded is the last great disgrace."

The story of Willowbrook and of Letchworth Village is a story of degradation . . . a real life horror story of lack of attention, of filth and of children living as animals live, an uncivilized and inhuman existence. But our intention is not just to horrify but also to demonstrate that it doesn't have to be that way.

This is Children's Hospital in Los Angeles. It houses the Regional Center for the Mentally Retarded. The Director of the program is Dr. Richard Koch. Last month, at the invitation of several parents' groups, he toured the Willowbrook facility.

Dr. Koch. The conditions that I saw at Willowbrook are somewhat like this . . . When you enter the building I entered, the smell is so over-whelming, it's almost nauseating. I frankly don't understand how they have people who will work there, to be honest with you. And I think that's the first thing that hits you. Secondly, you find many patients in the same room, all milling about with nothing to do. Now, I may have seen an unusual situation but I don't believe so because I saw three different buildings and in those buildings I did not see any kind of program . . . I saw men sitting around masterbating . . . I saw boys and girls lying on the floor, some of them naked. In other words, it just was without program. That is the crucial thing. It's just simply too big.

Now you've got to get the clients out of there because they're becoming dehumanized in the conditions that I saw. They've got to come out where they can become part of society and become treated as an individual. I think the most important thing, though, about the Willowbrook situation, as I see it, is that the system is feeding on itself. In other words, there isn't any alternative for parents that need help. The State is only reaching out its hand primarily with residential care in mind and what parents want, by and large, are a rich variety of programs, primarily in the community. And the reason we've been able to get an expansion of our program in California, even with Mr. Reagan as Governor, is because this program is showing that it has cut the rate of institutionalized retarded persons in California to practically almost in half in just five years.

Geraldo Rivera. Public pressure can apparently force change in California as well as it does here in New York. They had a system that resembled ours until 1965. . . That was when a prominent European expert on retardation said something that was widely publicized. After touring the California facilities he said, 'My God, you don't take care of your mentally retarded children as well as we, in Europe, take care of our cattle!' The remark eventually caused them to dramatically restructure their approach.

The heart and soul of the California system is now no longer the large institutions . . . it's the regional center. Children's Hospital is one of the 13 centers in the State. Various programs are administered in neighborhoods all over Los Angeles County and the San Fernando Valley from here. Suboffices provide whatever services a family with a retarded child needs . . . be it a daycare center, a sheltered workshop or medical care. The idea is to shift the care and training of the retarded children to their own communities . . . In other words, to help the parents keep their children at home.

Education for the retarded in California is as much a right as education for normal children . . . and they're working toward the development of a public school program for every child, no matter what the degree of retardation.

This is a developmental center for handicapped minors. . . All these children are severely or profoundly retarded.

Dr. Koch. This is entirely a State supported program and provides tremendous relief to the parent in terms of day-care.

Geraldo Rivera. Now these children would be parallel to the children at Willowbrook, for instance?

Dr. Koch. O yes. All of these children would be in an institution for the retarded if we didn't have this kind of program for them. The fact is, in years past, I used to recommend institutional care myself for similar children. Now New York is doing some of this, but here again we've realized that the community programs should have top priority in terms of state dollars rather than last priority and I think your priorities are mixed up in New York in terms of serving the retarded. Your top investment is in institutions. . . Our top investment is in the Department of Education, in providing a program for the child while he's at home and in terms of day care, for example. These kids can go to school at age 3 years so they start it very young and that helps a great deal for parents. And when parents are actively encouraged to keep their child at home, they do so because they know they can have the help of the regional centers or public schools or the Health Department in terms of services, etc.

Geraldo Rivera. For the mild to moderately retarded, over school age, the regional center assists in the finding of employment in one of the many sheltered workshops in the area.

Dr. Koch. In the workshops you are seeing less severely retarded persons and the tremendous importance of this is that it gives the retarded person something to do during the daytime that gives them dignity and they earn a little money with it and do something useful. They become a contributor to society instead of a drag on society.

Fred Glad. If you look around and see and just visualize all these people sitting home vegetating and here they are out in the stream of life, doing their own thing. They're earning their own way.

Geraldo Rivera. Dr. Koch told me time and again that the importance of prevention could not be overemphasized. Families with histories of genetic retardation are counselled not to have more children. And if there's a great possibility that a pregnant woman is carrying a retarded child she's tested and if the fetus is found brain-damaged, the center recommends a therapeutic abortion. The center also runs an extensive program of community education and prenatal care, the lack of which is a prime cause of retardation.

Dr. Koch. Now actually this child has Downes Syndrome and she's just as retarded as most of your patients at Willowbrook. And we're helping this family to keep her at home and the mother's doing a beautiful job on her and the important thing is we're also providing genetic counselling for the family. This is an inherited form of Downe's Syndrome and we have advised the mother that this is true and frankly have advised them not to have any more of their own children.

Geraldo Rivera. How is this child being better serviced by being home rather than being in an institution like Willowbrook?

Dr. Koch. Well, for example, she has access to one of the finest pediatric facilities in the world right here at Children's Hospital. If she were in a state hospital she wouldn't have access to this kind of a facility.

Geraldo Rivera. How about prenatal care? Is that making a difference in this child?

Dr. Koch. Parental care makes a difference in every child, even the very retarded person. If you could get that across to the people . . . that retarded people are more normal than they are abnormal . . . they have feelings—love, hate, etc.—just like normal people. The only thing is they simply don't think as fast as a normal person.

Geraldo Rivera. How old is she?

Dr. Koch. She's two years old.

Geraldo Rivera. Two years old. What would be happening to her if she were in a place like Willowbrook?

Dr. Koch. Well, frankly, probably nothing.

Geraldo Rivera. But Dr. Koch admits that for some retarded, perhaps 1½% to 3%, 24-hour residential care will always be necessary and some California institutions, Fairview State and Orange County, for example, could be described in the most unflattering terms as smaller, cleaner Willowbrooks. But while Willowbrook has a large waiting list, the California institutions are being rapidly emptied. In five years the total population is down more than 14,000 to less than 10,000 and that number continues to go down. But even in the area of 24-hour residential care, they are moving to improve the quality of life.

This is the Spastic Children's Foundation, a private foundation that provides total care. It costs $14 a day for children to live here. It costs the State of New York $21 a day to house a child at Willowbrook and if the California parent can't afford the bill, the State contributes based on the family's ability to pay.

Anne Wendt. This is an individualized program, each child has a prescription . . . for therapy, for academic training, for social adjustment, for feeding training, toilet training . . . every facet of his life that he needs help with. We sit down as a staff and we talk about his total needs, not just today, but where he is going to be in the future . . . and how does his family relate to him because all of these things are a part of the whole with this child. See, we see these people as very important human beings.

Geraldo Rivera. It's a five day resident program so the children actually go home?

Anne Wendt. Right, because we want the family to remain the controlling factor in this child's life presently.

Geraldo Rivera. We started this series as a kind of an expose on the conditions at Willowbrook and one of the things that really struck me as barbaric were the toilet facilities. They are so awful, so filthy. Is this more money to keep it this way?

Anne Wendt. It isn't one cent more . . . it doesn't cost any more to be clean . . . it doesn't cost any more to be cheerful and bright and colorful . . . It's a matter of interest and seeing that children are important people . . . It's how much status you give to them. And sometimes because they can't respond and say what they like and dislike, it's very easy for people to just sit back and think, "Oh, this is good enough" . . . But it isn't good enough. They deserve everything that you and I want out of life. But they can't get it for themselves.

Geraldo Rivera. Here the toothbrushes have the children's names on them . . . In Willowbrook there were no toothbrushes.

Hi, Richard. How you doing?

Richard. Fine.

Geraldo Rivera. I see you're copying a Van Gogh there. You'd better watch it, you'll get in trouble.

Richard. Yes.

Geraldo Rivera. How long did you live in the state school before you came here?

Richard. I was there for ten years.

Geraldo Rivera. Do you like it better here?

Richard. Yes.

Geraldo Rivera. The thing that impressed me most on the California trip was an apartment where retarded people live in semi-independence.

Irene, how do you like it living here?

Irene. I love it.

Geraldo Rivera. How come?

Irene. I can do my own thing.

Geraldo Rivera. I think the main difference between the approach of New York and that of California to the problem of caring for the mentally retarded is that they treat the retarded as people . . . we treat them as something less.

We haven't given the people who run the New York program equal time to give their side of the story, for as Edward R. Morrow once said, 'On some stories there is no other side'.

Perhaps the Governor can defend and explain away the budget cuts for the Department of Mental Hygiene . . . And perhaps Dr. Miller can explain and defend the filthy, dehumanizing conditions we found in this and other buildings. But they won't do it on this program.

What we found and documented here is a disgrace to all of us. This place isn't a school, it's a dark corner where we throw children who aren't pretty to look at. It's the "big town's leper colony."

How long have you been at Willowbrook?

Bernard. Eighteen years.

Geraldo Rivera. How long were you given physical therapy in school?

Bernard. Five years.

Geraldo Rivera. Are you still going to school?

Bernard. No.

Geraldo Rivera. Why.

Bernard. Cause I'm over age.

Geraldo Rivera. You're too old?

Bernard. Yes.

Geraldo Rivera. Would you like to go back to school?

Bernard. Yes I would.

Geraldo Rivera. What would you want to learn if you went back to school?

Bernard. Learn how to read more.

Geraldo Rivera. Learn how to read?

Bernard. Yes.

Geraldo Rivera. How is it living on the ward that you live.

Bernard. Disgrace.

Geraldo Rivera. It's a disgrace?

Bernard. Yes.

Geraldo Rivera. Why?

Bernard. Because the conditions are getting worser every time they cut the budget more and more.

Geraldo Rivera. But even Bernard with his tragically eloquent plea for help doesn't really understand that what Willowbrook needs isn't more money . . . more money would certainly help, at least the kids would have clothes and they'd be cleaner than they are now, but they'd still be basically human vegetables in a detention camp. What we need is a new approach . . . We have to change the way we care for our mentally retarded. We ask for change . . . We demand change. What you've seen here just doesn't have to be this way.

Announcer. This special report was brought to you as a public service by WABC–TV News.

"UNSETTLED" NATIVE CLAIMS

HON. JAMES ABOUREZK

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. ABOUREZK. Mr. Speaker, during the closing days of the first session of the 92d Congress, the Alaska Native Lands Claims Settlement Act was passed into law as a final product of many different views and compromises. But even after final passage, many still failed to clearly understand the background, content, and overall importance of that legislation.

An example of this failure to understand the Native Claims bill was evidence in an editorial which appeared in the January 1972 issue of Field and Stream magazine. Mr. Leo Vocu, executive director of the National Congress of American Indians, brought this editorial to my attention as well as the NCAI's response to that editorial. I feel that the editorial and response merit the consideration of all my colleagues, and for that reason, Mr. Speaker, I should like to insert them into the Record today:

EDITORIAL BY CLARE CONLEY

How would you like to have 800 acres of land of your choice and $18,000 tax free? Sound like a crazy idea? Well think again. About 55,000 Americans have been handed just this very thing by a majority of our Congressmen and Senators not very long ago. Every Indian and Eskimo in Alaska from toddler to oldtimer has approximately this stake in the giving-back-to-the-Indians of Alaska that our elected representatives slid past us this fall. The figures for the giveaway will run approximately 40 million acres and $925 million to 55,000 Indians and Eskimos. The bill that perpetrated this fraud on the American public were literally "oiled" and "greased" through Congress. I talked with Senator Frank Church after the House version had passed, hoping to find there was some way to stop the giveaway in the Senate. But he was right when he said that he felt it would pass the Senate quickly. It did.

The astronomic size of the handout is hard for the mind to conceive. For example, 40,000,000 acres amounts to 62,500 square miles. Thirty, or 60 percent, of our fifty states are smaller in size than the amount of land given to the Alaskan natives. Some of the states that are smaller include Alabama, Arkansas, Florida, Georgia, Illinois, Iowa, Michigan, Mississippi, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and Wisconsin. By comparison, the giveaway is like handing over the State of Alabama to the residents of the city of Tuscaloosa, Or the State of Michigan to the residents of the city of Lincoln Park. It staggers the imagination.

Aside from the fact that Congress capriciously is giving away land that everyone could use up till now—including the Alaskan natives—plus a billion dollars of your and my hard earned tax money, what else is at stake? The Indians and Eskimos have the right with some exceptions to select 40 million acres of Alaska pretty much wherever they want from publically owned land. Most of the selection no doubt will be the valuable lowlands. But consider this. Alaska has only 80 million acres below 3,000 feet high. So half of that will be gone. The vast majority of the valuable fishing locations and a large amount of the quality hunting area will be taken up. Landing areas for boats and planes will be taken. And on all of this land, which was previously open to the public to use, you will probably be required to pay to hunt and fish in the future. Naturally the Indians will select the key quality areas and they will tap the hunters and fishermen for all they can get.

But there is more to this unforgivable bit of law-making. The Naval Oil Reserve near Point Barrow was not exempted from the land the Indians could grab up. There are a million acres up there that will be worth billions of dollars. This is the jackpot of all time. Seward's Folly has become Nixon's Folly, and we'll pay for it the rest of our lives.

If the Indians and Eskimos in Alaska now play their cards right, I predict that they will become the richest and most powerful group in Alaska. Giving only leases, not title, on the oil fields will bring them untold wealth which can be invested in all manner of business in Alaska and in the purchase of additional land. In two decades it may very well be that all of Alaska will be run by the Indians.

From what I have said, I am sure I will be labelled anti-Indian, which is not true. I am pro-public—for the good of America and that sort of thing. I do not believe it is right to give this much money and this much land to any group. The Alaska Indians and Eskimos are born Americans just as I am. I deny their right to make this claim on the treasury and land of our country.

Actually, the big corporations—largely oil—were strongly behind this Indian grab bag, because getting it settled take the big stumbling block out of the way of the Alaska pipeline, and because it will be easier to get at the oil and other resources if the land is privately owned. The oil companies could not drill from oil known to exist in the Naval Oil Reserves, which is right beside the Prudhoe Bay field. Friends, we are victims of the biggest hoax ever perpetrated in the name of the Noble Savage by any legislative body. After all, just why should we give all this land away to 55,000 citizens in addition to a billion dollars? I don't know about you, but my conscience doesn't hurt about the lot of the Alaskan Indians and Eskimos. They were never treated like the Indians in the Lower 48, and so I can't see why we should give Alaska back to them. The time is now before the land giveaway is a fact for the non-Indian citizens of Alaska and the citizens of the United States in general take a suit to the Supreme Court. We've got to band together now at save this land. Incidentally, see how your representatives voted on these bills. You'll be surprised. Give the Alaskan natives schools, hospitals, homes, and limited land around their villages, but don't give them Alaska.

National Congress of American Indians,
Washington, D.C., January 7, 1972.

Clare Conley,
Editor, Field & Stream,
New York, N.Y.

Dear Mr. Conley: Re your editorial in the January, 1972 issue of Field & Stream concerning the long overdue settlement of the land claims of the Indians, Eskimos, and Aleuts of Alaska by the Congress. A fair assessment of that editorial is that, where you are not in apparent ignorance of the facts, you have intentionally misrepresented them. In addition, you either disregard or are abysmally ignorant of the American Native, the non-Indian settlement of this land, and the relationship between our people and the United States.

The United States has generally failed to live up to its treaty obligations to provide the Indian people with an adequate education. However, even with this shortcoming, perhaps we can instruct you in some history you should have learned in *your* schools.

It is said that Alaska was "discovered" in 1741 by some wandering Russians. In truth, Alaska was discovered by our ancestors when your ancestors were living in the chalk caves of southern France and hunting the mastodon with stone spearheads.

After "discovering" Alaska, the Russians established a few small settlements in the Aleutian chain and along a small part of the immense coast of mainland Alaska and, on that basis, claimed ownership of and dominion over the vast land mass of Alaska. That is tantamount to an Indian buying a copy of Field & Stream (Why he would do so, I do not know.) and, on that basis, claiming ownership of the entire publication (Why he would want to, I do not know.).

Somewhat akin to Ivory soap, the land mass of Alaska was 99 and 1/100 per cent pure of white settlement and exploration in 1867. Yet, in that year, the United States purchased Alaska from Russia for $7,200,000. Russia did not own Alaska, even the small part they were squatting on, and therefore did not have the right to sell it. The United States knowingly purchased property for which the seller had no title; in short, stolen property. But it is a known fact that concepts such as ownership, justice, and morality fly out the window when two thieves are engaged in a transfer of stolen property.

But even thieves have their moments of morality and conscience. In the thieves agreement between the United States and Russia—officially designated the Treaty of Cession of March 30, 1867 (15 Stat. 539), the parties agreed that:

"The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but if they should prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may from time to time, adopt in regard to aboriginal tribes of that country."

While this may sound like more of the racial immorality of the thieves, it should be noted that it does not confer the rights on a racial basis and admits that if there are "civilized tribes", they, too, are entitled to protection of their property under the law of the thieves. It was a small foot in the door granted by the thieves in a weak and foolish moment.

But worse was yet to come for the mighty white hunters and fishers of 1972. In the Act of May 17, 1884 (23 Stat. 24), organizing Alaska as a territory of the United States, the Congress recognized that:

". . . the Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use and occupation or now claimed by them but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress. . . ."

The Natives have used and occupied the Alaska peninsula for over 10,000 years. They claimed it then—they claimed it in 1867—they claimed it in 1884—they claimed it when Alaska was admitted to statehood—and they claimed it—all of it—prior to passage of the Alaska Native Land Claims Settlement Act of 1971.

What are they going to get?

The 1970 Census indicates that there are 52,062 Natives in Alaska which has a total population of 300,382. The Natives, the true owners of Alaska, represent approximately 15% of the total population.

Out of the greatness of the American heart, they are being awarded 40,000,000 acres of their own land. Alaska has a total acreage of 365,481,600 acres. So the Alaskan Native—the owner of Alaska from time immemorial—must accept less than 11% of the total 365,481,600 acres stolen from them.

Congress, of course, did make a payment on the 100 year use of the Native's land and for their loss of the remaining 325,481,600 acres. The payment is set at $962,500,000. Your editorial implies that this is fantastically outrageous compensation and a raid on the taxpayer's pocketbook. First, let us tell the truth about the compensation.

$462,500,000 is to be directly appropriated from the United States Treasury: $12.5 million in the first year; $50 million in the second year; $70 million in each of the third, fourth, and fifth year; $40 million in the sixth year; and $30 million in each of the next five years. These are, in effect, annuity payments and, as such, must be discounted to arrive at present worth. The discounted value figures out to be less than $350 million.

The Natives are then reluctantly permitted to have a 2% overriding royalty on all mineral revenues derived from leases of Alaska lands which are now public under the Mineral Leasing Act of 1920, as amended and supplemented, up to a total of $500,000,000. The time needed to arrive at that total may be up to 50 years—or even more. That sum, too, must be discounted. It would probably wind up being around $300 million in current value. So, at discounted rates, they are receiving about $650 million.

For what?

During the hundred years the whites have illegally used Alaska, they have probably taken out untold billions of dollars worth of gold, various other minerals, timber, fish, and other wildlife without one cent of rent or lease being paid to the owners. Locked up in the 325 plus million acres of land the Natives have, in effect sold to the United States for a paltry sum are billions of dollars of oil deposits and trillions of dollars of other natural resources. If the United States got a bargain when they knowingly purchased stolen merchandise for $7,200,000, they are now getting a fantastic windfall to get it all from the real owners for a paltry billion dollars—nondiscounted, at that.

Now to your specific misrepresentations.

You state in the third paragraph of your editorial that the Natives are being given an almost unlimited right to select the 40 million acres anywhere they wish out of the 365 plus million acres available in Alaska. You state further that there are only 80 million acres of land in Alaska below the 3000 foot level and that the Natives will, quite naturally, select all their 40 million acre entitlement from this 80 million acres, leaving only (only?) 40 million acres for the use of the great white hunter and fisher.

Here again you show a total ignorance or disregard for the facts. Under the Act, the 40 million acres of land is to be divided between the 220 existing Native villages and 12 regional corporations. Each village will receive surface title to 18½ million acres on the following basis:

Population and acreage entitlement

25 to 99	69, 120
100 to 199	92, 160
200 to 399	115, 200
400 to 599	138, 240
600 or more	161, 280

In addition, the villages will receive surface title to an additional 3½ million acres to be divided among the villages by the regional corporations on some equitable basis, making a total of 22 milion acres for the villages.

The regional corporations, in addition to receiving the subsurface title in all lands selected within their region, will select an additional 16 million acres for their own use and development. A further 2 million acres is to be used for special purposes, such as retaining title to existing Native cemetaries and historical areas or for Natives who are not members of existing villages. This is a total of 40 million acres.

Had you read the Act, you would know that the Natives *do not* have an unrestricted right of selection. The 18½ million acres to be selected by the villages and the 16 million acres to be selected by the regional corporations must come from the 25 townships surrounding each of the 220 villages. For your information, a township is a survey unit of 36 sections of land at 640 acre per section for a total 23,040 acres per township. In addition, the Natives are precluded from selecting any land upon which there are currently existing valid rights or from any land now in the National Park system or withdrawn for national defense purposes, except the Naval Petroleum Reserve Numbered 4.

Your point, now shown to be almost totally inaccurate, was that the Natives (Those sly, shifty devils.) would select all the good lands, particularly those valuable for hunting and fishing and leave none for the white sportsmen. Quite obviously, the 40 million acres remaining below 3000 feet is not enough for the hunting and fishing crowd. Your editorial does not mention that a large part of the sports hunting and fishing activity in this country takes place above 3000 feet.

But suppose you were right. Suppose a choice had to be made between the white hunter and the Native people. Where does the equity lie?

The Alaskan Native has lived upon the peninsula of Alaska from time immemorial. They hunt and fish for their very existence. That activity provides them with their daily food, their housing, clothing, utensils and their trade goods, not to mention their recreation. Deprived of this right, their race might well become extinct. During the thousands of years they have lived in this fashion, they have not been the cause of the extinction of a single species of animal life—they have not killed or trapped an animal for which they did not have an immediate and pressing use or which they did not put to the most efficient use in sustaining their livelihood—nor have they polluted the rivers and streams, eroded the land, or destroyed the balance of the ecology. Rather, they have lived in, been a part of, and conserved and preserved their land and its resources.

And the great white hunter? What is his equity in the land?

Once or twice a year, he must prove manhood and emulate his chalk-cave ancestor. Instead of a spear with a stone head, he uses a high-powered repeating rifle equipped with a high-powered scope to make the killing easier. Having already destroyed the land, air, and game potential of his own evirons with fumes, chemicals, buildings, and people, he yearly treks into the virgin, unspoiled wilderness with his beer cans, whiskey bottles, gas fumes, and other mementos of his "civilization" for the brief pleasure of the chase and the momentary thrill of sending a 180 grain, 30-06 bullet crashing and tearing through the heart of some frightened, desperate bear or moose or deer. Why? So he can cut off the head and skin as visible, living-room proof of his manhood while the flesh, sinew, and bone of the animal rots and whitens in the wilderness sun—flesh, bone, and sinew that may well have supported a Native family for a month.

And now for the Big Lie. In your last tear-jerking paragraph, you state: "Friends, we are victims of the biggest hoax ever perpetrated in the name of the Noble Savage by any legislative body." What, allegedly, is the big hoax and fraud upon the American people? Let us quote your fourth paragraph:

"But there is more to this unforgiveable bit of law making. The Naval Oil Reserve near Point Barrow—

If you had read the Act carefully, which obviously you did not, you would know the official name for this area is Naval Petroleum Reserve Numbered 4.

was not exempted from the land the Indians could grab up. There are a million acres up there that will be worth billions of dollars."

Back to your last paragraph:

"Actually, the big corporations—largely oil—were strongly behind this Indian grab bag, because getting it settled takes the big stumbling block out of the way of the Alaska pipeline, and because it will be easier to get at the oil and other resources if the land is privately owned. The oil companies could not drill for oil known to exist in the Naval Oil Reserve, which is right beside the Prudhoe Bay Field."

The Eskimos of the Arctic North Slope deserve every drop of oil below the surface of their land the whites call Naval Petroleum Reserve Numbered 4. But the truth—the mind-sickening, gut-twisting truth—is that the Natives have been cheated of their right to this resource under their land by the Act. I direct your attention to Section 12 (a) (1) of the Act which reads in the last proviso as follows:

" . . . when a Village Corporation selects the surface estate to lands within the National Wildlife Refuge System or Naval Petroleum Reserve Numbered 4, the Regional Corporation for that region may select the subsurface estate in an equal acreage from other lands withdrawn by subsection 11 (a) within the region, if possible."

And you can bet the Secretary of the Interior, whoever he may be, will determine that it is "possible" because the Senate-House Conference Report on H.R. 10367 as set out in the CONGRESSIONAL RECORD, volume 117, part 36, pages 46592–46593:

"No subsurface estate is granted in Naval Petroleum Reserve Numbered 4 or in the National Wildlife Refuge, but in lieu selection of subsurface estate in an equal amount of acreage *outside* (emphasis added) these areas is provided for the regional corporation."

Furthermore, the Natives will not be able to benefit from the oil under their lands through the revenue sharing provisions. The Conference Report states in the CONGRESSIONAL RECORD, volume 117, part 36, page 46592:

"The Natives will be paid . . . an additional $500,000,000 from mineral revenues received from lands in Alaska hereafter conveyed to the State under the Statehood Act, and from the remaining Federal lands, *other than Naval Petroleum Reserve Numbered 4*, in Alaska." (Emphasis added)

In short, the Natives will not benefit at all from the oil reserves under their lands in Naval Petroleum Reserve Numbered 4.

If your magazine was devoted to the principles of professional journalism, you either knew or should have known the true facts as stated above and should have reported them in your editorial, regardless of the interpretation you chose to place upon them. That you did not means you either lied or distorted and twisted the truth beyond recognition or engaged in totally irresponsible journalism.

The rest of your untruths, half-truths, misrepresentations, and distortions in the editorial we will write off to emotional fervor with unfortunate racial overtones and unprofessional, irresponsible journalism.

Most people associated with the Indian cause in the United States regard the settlement of the Native land claim to be inadequate and a sell-out of their rights. A few, such as yourself and your readers, regard the settlement as a windfall for the Natives. Your readers, great white hunters all, would have been indignant enough with the truth. There was no reason to distort it as your editorial did.

We invite you to make such use of our letter as you deem appropriate.

Sincerely,

FRANKLIN DUCHENEAUX,
Legislative Consultant.
LEO W. VOCU,
Executive Director.

FHA GOOD NEWS IN SOUTHERN INDIANA

HON. ROGER H. ZION

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. ZION. Mr. Speaker, we often become so involved in world and national problems confronting us that we overlook outstanding accomplishments taking place around us. This is exemplified in the services being rendered by the Farmers Home Administration, the supervised credit agency of the U.S. Department of Agriculture. Under the leadership of Administrator James V. Smith and Indiana State FHA Director W. Robert Peterson, this agency is improving the quality of life for innumerable rural people throughout Indiana and the Nation.

The Eighth Congressional District in Indiana, which I represent, is one of widely varied resources. Coal, oil, sandstone, and limestone are produced there. Soil resources range from good to poor. A major problem is that much of the more productive farm land is subject to flooding by the Ohio and Wabash Rivers.

The Farmers Home Administration is contributing to a solution of this problem. Working in conjunction with the Soil Conservation Service, FHA has made five loans totaling $625,000 to local groups so they can meet their share of cost for improving watersheds to tame the wild waters. Four other such loans are in process. In addition, these watershed projects are making water reservoirs available to a number of communities as recreation centers, thus spurring the local economy.

Well water for domestic use is very limited throughout much of my district. This problem is being alleviated for many communities, also with the help of the Farmers Home Administration.

As of December 31, 1971, this agency had made 47 loans totaling $5.7 million to communities in our district for central water systems. Approximately 75 percent of the families in some counties now have pure, running water available to them, and the number is growing.

In housing, the FHA has made insured loans totaling $10.4 million to more than 1,000 families in the 13 counties I represent, enabling them to move from substandard into comfortable, adequate homes equipped with modern facilities. Two small communities, Wadesville and Westphalia, also have organized nonprofit corporations to obtain loans from the Farmers Home Administration to build low-rate rental apartment centers for their senior citizens. Several other projects of this kind are under consideration.

Mr. Speaker, I was proud to learn recently that of all the farm families in Indiana, the Lawrence A. Vogel family from Spencer County of my congressional district has been selected as Indiana FHA Farm Family of the Year. Through financing provided by the FHA, this family has been able to buy their farm, and build one of the finest family-size farms in Indiana through their own hard work. The Vogels produce grain for sale, fatten cattle, and buy feed out pigs. They stand out as evidence that the family farm is still very much alive and thiriving in America, producing food and fiber in an ever increasing abundance.

Mr. Speaker, these are examples of what the Farmers Home Administration is contributing to a better way of life for rural people under the national leadership of Administrator James V. Smith, and a fine force of State and county staff in Indiana headed by State Director Bob Peterson.

These programs and services are needed by rural people who want to help themselves. They deserve our continued strong support.

WIPING OUT SCHOOL DISTRICTS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. DERWINSKI. Mr. Speaker, the complications and growing furor over lower court decisions affecting school districts, primarily the court ordered busing decisions, have become a major national issue.

A very timely and, in my opinion, reasonable commentary in the Life Newspapers, Berwyn, Ill., of Sunday, February 13, discussed the subject reaching a conclusion which I believe reflects nationwide public judgment.

The article follows:

WIPING OUT SCHOOL DISTRICTS

Federal courts, illegally usurping legislative authority, are moving inexorably toward a showdown on elimination of school districts and abrogation of state constitutions declaring it is the states' duties to provide for education of its people.

In a far-reaching decision on January 9 by a U.S. District Court judge, whose own children attend a private school, it was held that Richmond, Va., county schools must unite with two adjoining counties, Henrico and Chesterfield, to form a new administrative school district for the purpose of integration.

The decision, which swept away city, county and school district lines, removed any political boundaries as far as schooling was concerned and gave the new school divisional concept 30 days to implement the order.

Last Tuesday the U.S. Circuit Court of Appeals, its seven judges sitting en banc, delayed the effective date to implement the lower court's order but ordered the three counties to start planning "all phases of the operation in financing a merged school system."

Either the impact of the original decision in the Richmond case has purposely been avoided by the Chicago daily press or the news editors were incompetent to judge the impact of the delay.

The appeals court is willing to hear the matter but its pronouncements seem to indicate it has made up its mind before hearing any of the evidence.

Only the U.S. Supreme Court or Congress now stand in the way of this judicial legislation in a landmark case that will guide all future decisions in such matters.

Taking a cue from the Richmond case, a federal judge in Detroit made party-defendants several school districts outside of that city in a suit brought for a similar purpose.

How soon will our metropolitan area be the target of the pseudo-liberals in similar actions designed to integrate the school systems in Illinois? We can be assured that it won't be long in coming.

Imagine, if you will, that a federal judge orders the elimination of county lines for Cook, DuPage and Lake counties in Illinois and you have some idea of what's going on in the Richmond area.

And it wasn't only the merger of the metropolitan school division that was involved. The school districts in the three counties in the Richmond case were ordered to start a busing program until all schools came within a 60 per cent white and 40 per cent black enrollment.

Applied in this metropolitan area, it would mean suburban pupils would be bused into Chicago, while students from Chicago were bused into suburbia until some similar percentage arrangement was accomplished.

The unreasoning judicial legislator in Richmond sloughed off protests that it might mean an hour's ride each way for some of the students to be integrated. He wasn't concerned about this phase at all, brushing it aside lightly.

If three counties' schools can be integrated by such a sweeping order, then why couldn't all students in a state be subject to such a capricious ruling? There is no reason why it couldn't be.

The U.S. Supreme Court is the last judicial tribunal which can upset such specious nonsense. If it fails to do so, then Congress, which has the power to limit the courts' rulings, is the last resort of free men everywhere.

WHO'S WHO: UNWHOED—REWHOED

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. JACOBS. Mr. Speaker, when my father, Andrew Jacobs, Sr., was serving in the 81st Congress he was listed in "Who's Who." When he left the Congress to practice law in Indianapolis, he was promptly "unwhoed."

Then when I was elected to the 89th Congress, my father received by mail the following application from "Who's Who," looking to the happy prospect of his being "rewhoed." What follows are the questions on the application, together with my father's answer:

QUESTIONS ON APPLICATION

Biographee . . . Please give:

Name: Jacobs Andrew, Sr., 26.

Current or recent activity (new positions, accomplishments, honors, writings, etc.) not included in your listing as last published:

Answer:

Gentlemen: I do not know what was in my last biography because I never saw it. I have no positions, old or new, have accomplished nothing worthy of note, have deserved and received no honors and have written nothing that shouldn't be classed as drivel.

I am an old country lawyer, a graduate of a brief night law school and my admission to the bar was not in the public interest because I knew but little law and less about life on this planet. I have made a modest fortune. This was possible because I had enough horse sense to know my deficiencies.

As ridge runners in Southern Indiana we did a bit of hunting and trapping, not as a sport but for meat and hides. There were those who were better than I in trapping possums and ground hogs. But I excelled in trapping skunks. So in my exalted new profession which I did not understand, I decided to draw upon my boyhood skills, except that I went out after the two legged skunks which abound in these parts.

I was successful in trapping a few with rather valuable pelts. So I am now just a lazy old country lawyer who plays with his grandsons, reads trashy literature and saws a little wood.

INDIANA UNIVERSITY SPEECH

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. HAMILTON. Mr. Speaker, I submit for the RECORD an address I gave at Indiana University February 13 on the Middle East. In this speech, I briefly examined the status of negotiations for an interim settlement of the Arab-Israeli conflict and aspects of the current situation in the area. I concluded this talk by outlining five specific ways in which the cause of peace might be strengthened in 1972. While there can never be a substitute for direct negotiations between the parties, we in the United States might usefully help the parties by considering the following: The revival of the Jarring Mission; the reexamination of the whole Sinai issue; the initiation of a new series of bilateral talks with the Soviet Union on the Middle East; addressing more clearly the Palestinian issue; and promoting an examination of the sensitive Jerusalem question.

The speech follows:

MOVING TOWARD PEACE IN THE MIDDLE EAST IN 1972

(By LEE H. HAMILTON)

(a) Introduction:

Peace has eluded us in the Mid East for the last 25 years. It is now almost five years since the 6 day war between Israel and its neighbors. That war was the third round of major hostilities in the Middle East since the United Nations established Israel just twenty-four years ago. Few problems in American Foreign policy have received such continuous and concentrated attention over the years as the Middle East. The crises pass but the problems remain unsolved.

The apparent intractability and insolubility of the Arab-Israeli conflict should not stop the United States from trying to seek a peace by the parties involved that is fair and seeks to remove the seeds of further conflict. It is in the U.S. national interest that there be a final peace agreement which would:

Incorporate recognition of the right of Israel and its Arab neighbors to exist.

Would settle such different questions as:

The extent of withdrawal from occupied territories;

How to settle the refugee problem; and

The status of Jerusalem.

If another war breaks out, it carries with it the high risk of great power involvement or confrontation. Thus, a settlement acceptable to both the Arab states and Israel in the near future is a matter of highest urgency.

In general, the year 1971 was a much more promising year for peace in the Middle East than much of 1970, and yet the major development of 1970—the August ceasefire along the Suez Canal—was not built upon in 1971. But what is significant about the year 1971 is that, in a time of neither war nor peace, the ceasefire gained credibility and was not really broken and the cause of peace was thereby strengthened.

Obviously, this does not suggest that the current situation is bearable indefinitely for some parties involved. It is highly likely that there will be some fighting in 1972 if there is no movement toward meaningful negotiations.

The present situation of neither war nor peace is probably preferred by the Soviet Union and enhances its interests in the area. The Israelis also find the present situation tolerable and see no need to rush to give up the status quo for the uncertainties of a partial peace arrived at through indirect negotiations. While the present situation is precarious to the interests of the United States in the Arab world, the status quo is least bearable for most Arab States.

(b) Post-1967 Diplomacy and the U.S. Peace Initiative:

Since the 1967 war, the United States has pursued its goal of promoting a Middle East peace in several ways.

U.N. RESOLUTION 242

Following the intense negotiations with our allies, with the Soviet Union and with the parties directly involved, the United Nations Security Council adopted U.N. Resolution 242 in November, 1967. This resolution, agreed to by all parties to the dispute, but variously interpreted, sets forth the basic principles of a peace settlement.

The main provisions of this resolution recommended:

"Withdrawal of Israeli Armed Forces from territories occupied in the recent conflict."

"Termination of all claims or states of belligerency."

"Freedom of navigation through international waterways in the area."

"A just settlement of the refugee problem."

"Guaranteeing the territorial inviolability and political independence of every state in the area."

This resolution contained deliberate ambiguities, and, not surprisingly, it has been subjected to varying interpretations. While the Soviet Union has stressed total withdrawal from all occupied territories as a precondition for implementation of the resolution, many Americans, including some of those who worked on the drafting of the resolution, consider the absence of words like "all" or "the" in the phrase "withdrawal from territories occupied" as intending that there will be certain rectifications to insure secure and recognized boundaries. This controversy over withdrawal and that concerning the relationship of the resolution to direct talks between parties are the two most significant. These and other differing interpretations of, and controversies over, the resolution have not facilitated movement toward a just and lasting peace.

DIPLOMATIC TALKS

Initially after 1967, the U.S. supported Israeli demands for direct talks between the parties, but when this proved fruitless the United States tried to promote understanding and create better conditions for a peace in various other ways, including:

Bilateral talks with the Soviet Union;

"Big-Four" talks involving Britain, France the Soviet Union, and the United States; and

Support of Dr. Gunnar Jarring's peace mission as Secretary-General U Thant's special Middle East Envoy.

Other missions, including a recent mission of African leaders, have also tried to promote a peace agreement.

JARRING MISSION

Dr. Jarring, who received his mandate in U.N. Resolution 242, established contact with the parties and his mediating efforts proceeded intermittently until the spring of 1971, when they were suspended following replies to a February 1971 aide memoire from Dr. Jarring.

In his aide memoire, Dr. Jarring called on

Egypt to give a commitment to enter into a peace agreement with Israel and asked Israel to give a commitment to withdraw its forces from Sinai, provided there were adequate provisions for the demilitarization on Sinai in general and a special arrangement for Sharm al-Shaykh in particular.

Egypt accepted Dr. Jarring's suggestions but Israel's response was less positive; Israel felt that aide memoire put forward specific proposals and preconditions of a peace agreement, an agreement which Israel felt could only be the subject of direct negotiations between Israel and Egypt. Although Israel felt Dr. Jarring had exceeded his authority, it appears that both Egypt and Israel are willing to resume indirect talks with Dr. Jarring without any prior conditions.

INTERIM SETTLEMENT

It was against this background of lack of movement of the Jarring mission and other approaches to peace that the United States undertook its peace initiative and sought:

First, a stable ceasefire to end the war of attrition along the Suez Canal, and

Later (after intense debates over supposed ceasefire violations), an interim agreement between Israel and Egypt, which would include a partial Israeli withdrawal across Sinai and the opening of the Suez Canal.

Until now, the Nixon administration has believed that such an interim agreement is a viable approach to a peaceful settlement of the Arab-Israeli dispute. As Secretary Rogers said in his October 4, 1971, speech before the United Nations General Assembly:

We intend to continue our determined effort to assist them (the Egyptians and Israelis) in arriving at an interim agreement. This effort, we believe is imperative. This is important to keep in mind, because there is no more realistic and hopeful alternative to pursue.

In 1971, this initiative was buttressed by several trips by American diplomats to the Middle East and, at times, strenuous talks concerning an interim settlement involving the opening of the Suez Canal.

However, since the beginning of 1972, United States diplomatic contacts, particularly with the Egyptians, have become less frequent, reflecting at least three factors: (1) Sadat's disappointment with the lack of progress in the talks, over the last several months; (2) the U.S. decisions in the recent months to supply Israel with more Phantoms and to license the Israeli manufacture of certain weapons, and (3) the intensity of the debate in Egypt over the proper course to follow.

An interim peace agreement between Egypt and Israel has advantages for both sides. The agreement, which would involve the opening of the Suez Canal and a partial Israeli withdrawal from the east bank of the canal to some point in Sinai, could be an important first step on the road to complete peace in the Middle East.

For the Egyptians, it would also permit a resumption of civilian life in the many large towns along the canal.

Both sides could benefit from a reduction in tensions which would come from an open canal, although the main economic benefit would accrue to Egypt.

The Current Situation:

Before examining possible ways of breaking out of the present deadlock in negotiations, I would like to examine briefly three aspects of the current situation in the Middle East. They are: the precise nature of the Sinai impasse; the nature of Soviet aims in the area; and the Palestinian refugees and guerrillas.

SINAI IMPASSE

The United States peace initiative in the Middle East involving talks on an interim settlement have reached an impasse on the question of the future of Sinai. Six issues, some of which could be resolved easily, are involved;

First, length of ceasefire—Israel wants an indefinite ceasefire and Egypt wants one of a short duration, perhaps 6 months to a year.

Second, Distance of Israeli withdrawal from canal—From public statements, Israel would seem to be willing to agree to a limited withdrawal while Egyptians want the initial withdrawal to around al-'Arish in central Sinai.

Third, Egyptians allowed in pullback zone—Israel refuses to allow any Egyptian military personnel into this zone while Egypt insists that the stationing of some Egyptian military personnel on the east bank of the canal is essential.

Fourth, Security disposition in pullback zone—Israel wants Israeli participation in any peace-keeping force and Egypt wants a buffer zone with a U.N. force of observers. These positions are not necessarily mutually exclusive; a peace-keeping force could have both Israeli and Egyptian participation.

Fifth, Israeli right of passage through the Suez Canal—Israel wants that right immediately and Egypt wants it deferred until after a final peace is signed and the Palestine refugee problem is solved.

Sixth, Relationship between interim and final settlement—Israel insists an interim settlement be a separate agreement which would state that it does not preclude further steps toward complete peace within the context of U.N. Resolution 242 and direct negotiations and that the new lines were neither final nor representing a new status quo. Egypt insists on an explicit statement that this interim agreement is an integral part of a full settlement and the first step in a timetable to the total withdrawal of Israeli troops to the international border existing between Israel and Egypt before the 1967 war.

INVOLVEMENT OF SOVIET UNION

A second extremely important and changing feature of the Middle East scene is the presence and involvement of the Soviet Union. While we know little with certainty about the nature of Soviet goals in the Middle East, several observations apparently have validity:

First: The Soviet Union prefers a state of controlled tension in the Middle East to a situation of either war or peace. A final settlement of the Arab-Israeli conflict would, in Soviet eyes, remove the major factors that now draw Arab States to the Soviet Union:

The Arab quest for military supplies, and

For political support in the Arab-Israeli conflict.

War likewise presents an unsatisfactory alternative from the Soviet Union's point of view:

War is likely to be costly in terms of new demands for aid;

Another Arab defeat would be embarrassing; and

War would present a danger of an undesirable confrontation with the United States.

The Soviet Union, then, sees a degree of tension as a safeguard to its own influence. It would seem that while Marxists claim capitalism needs war to prosper, Soviet Middle East influence needs tension to survive.

Second, despite the success of the Soviet Union in the Middle East, its policy is fraught with problems:

Military and economic aid is expensive;

The volatility of Arab politics means regimes can fall quickly, as was the case in the Sudan;

The Soviets are not politically well liked by some in Arab countries although their aid is appreciated;

Communist parties are an anathema to all Arab socialist regimes;

And there is a basic Arab nationalist opposition to communism.

Moreover, the Soviets know they cannot respond in a crisis as the Arabs would like them to without risking the dangers of a confrontation with the United States and this situation could cause the Soviet Union to lose the approval of the Arab states.

Third, it is significant that the Soviet Union is aware of Israel's military superiority and seems to be counseling restraint in the Middle East, advising the Egyptians and its other clients not to go to war with Israel. In addition, the Soviet Union does support U.N. Resolution 242, but will reject any settlement Egypt does not find acceptable.

Fourth, the Soviet Union does have significant military and economic interests in the Middle East. The heavy amounts of military aid given the Arab States, some $2 billion between 1967 and 1971, and the presence of over 10,000 to 15,000 Soviet military technicians who train and supervise Arab Armies and care for Soviet equipment, raise justifiable questions concerning the ultimate political and strategic objectives of the Soviet Union.

Soviet economic interests and presence in the Middle East, while less significant than its military presence, are nonetheless formidable. Over $2 billion worth of economic credits, half of which have been drawn down, numerous large construction projects and extensive barter trading have led to a strong economic tie between some Arab countries and the Soviet Union. The terms of this credit are very favorable loans, usually being repayable in 50 years at 2 percent.

Finally, it appears that the Soviet Union has no timetable or blueprint in the Middle East but it has momentum. Its success is due, in large part, to its ability to take advantage of situations, in particular, political instability and the Arab-Israel conflict.

Soviet policy, then has been generally reactive and opportunistic. However, its long-range intentions in the Middle East beyond the maintenance of its current presence remain obscure.

REFUGEES

A third, significant feature of the present situation in the Middle East involves refugees. Ever since the 1940's Palestine has been alternately a haven for or a ghetto of refugees. In addition to the Jewish refugees coming from Europe following World War Two, Israel has accepted over a half a million Jewish refugees from Middle East and Asian lands.

More recently, Israel has become a haven for an increasing flow of Soviet Jews obtaining exit permits. Politically, socially and economically, Israel has the willingness and ability to cope with such refugees and try to integrate them into Israeli society.

More tragic, however, has been the dreadful, human plight of the Palestinian Arab Christian and Muslim refugees who now number close to a million and a half. Politically and socially, Arab States have not been willing or able to cope with this problem. For over twenty years now these refugees, living on about a ten cent per day international humanitarian effort, have been a pawn in the hands of all established Middle East states.

The basic facts of the Palestinian refugees and their recent activities are well known:

The United National Relief and Works Agency for Palestinian Refugees (UNRWA), with a staff of 14,000, is the main international agency caring for the relief and educational needs of Palestinian refugees. Despite the many difficulties in obtaining accurate lists of refugees, it is apparent that today, about 40 percent of the refugees live in camps and, of the 1.5 million refugees registered, about 60 percent receive rations. The 40 percent who do not receive rations are in one of two categories: (a) many children do not receive rations because of U.N. imposed ceilings on the numbers receiving rations in one particular area; or (b) the refugees do not need aid either because of the size of their income or the fact that they are not living near the camps.

The United States contributes about 54 percent of UNRWA's nearly $50 million annual budget and education is the largest budgetary item. Unfortunately, some 25,000 out of 30,000 students who complete their basic education each year cannot attend vocational schools or college. It is among this large unskilled and unemployed group that most guerrilla recruiting has been done.

But even the dedicated guerrilla organizations have been unable both to mobilize the majority of Palestinians and to remain cohesive. Despite the apparent defeat of the guerrillas in Jordan and the further splintering of the guerrilla movement, their disruptive capabilities, particularly through assassinations and demonstrations in Lebanon and Jordan, remain high. Indeed, hundreds of defeats have not, and I suspect will not, erase the basic Palestinian desire for the right of self-determination.

D. New Approaches to Peace:

These three facts of the present Middle East situation—the impasse in negotiations, the Soviet role and the Palestine refugee issue—all indicate the dire need for new approaches to peace so that another Arab-Israeli war, with the possibility that holds for Soviet-American confrontation, can be avoided.

I suggest five concrete ways in which the United States might in 1972 help create a better atmosphere for peace in the Middle East so that the parties to the dispute can start to negotiate their differences.

RESUMPTION OF JARRING MISSION

First, if the United States efforts for peace have reached an impasse, the United States should call immediately for the resumption of the Jarring Mission without any prior conditions. That is, Dr. Jarring should start, not where he left off in March 1971, but with the shelving of his aide memoire. Israel would, I think, agree to a return to the Jarring Mission without what it considers the conditions of that aide memoire. Egypt has, it seems, lost all faith in the mediation efforts of the United States, so from its viewpoint, the Jarring Mission may be the only alternative.

If there are any deeper reasons for or need of the Jarring Mission now, they are two.

First, the Soviet Union must not be kept out of any diplomatic maneuvering. To keep the Soviet Union informed of, and concerned with, efforts to help the parties reach accommodation is only to recognize the Soviet Union's interests in the area and the fact that Moscow might be able to veto any peace agreement.

Second, it is a sad fact that the United Nations and the Arab-Israeli conflict which grew up together, have in the last three and a half years, contributed reciprocally to their mutual decline. It has almost become a truism: there will be no peace in the Middle East without the United Nations, and there will be no United Nations without peace in the Middle East.

U.N. Res. 242 which forms the basis for Dr. Jarring's efforts is the only starting point we have for creating a just and lasting peace in the Middle East.

RETHINK SINAI

A second important role the United States could perform is to start the process of rethinking the Sinai issue so that this major stumbling block to further negotiations can be removed. I suggest two types of plans to be explored. Both operate from the assumption that Israel wants security and not territory in Sinai and Sinai should eventually be returned to Egyptian sovereignty.

First, the United States might consider a time-related, phased-withdrawal peace plan between Israel and Egypt. In such a time-related peace, Israel would concede the return of all of Sinai to Egyptian sovereignty the moment Egypt signs a formal peace with it. Israel would then proceed to withdraw by stages that would go hand in hand with a defined progression from formal peace to normal neighborly relations and be contingent upon such a progression. While it would be difficult to determine when one phase was completed, and another should start, such plans could help build peace, step by step, might be self-enforcing and would not demand single steps greater than the present capacity of States in the region to undertake at any given time.

Second, the United States might consider a similar plan which, instead of involving a time-related withdrawal, would create demilitarized zones in a Sinai under Egyptian sovereignty, conditioned on Israeli and Egyptian participation in the international policing effort. Under one variation, Israel would, along with others, police a zone next to its pre-1967 border with Egypt, a zone stretching from Gaza to Sharm al-Shaykh. Such a plan might create the kinds of international guarantees the parties can accept.

UNITED STATES-SOVIET TALKS

An extremely important third step the United States could undertake in 1972 would be to initiate bilateral talks with the Soviet Union, based on mutual respect of the other's legitimate interests in the area. Such talks should focus on trying to reach an agreement to control the flow of arms to the area and the manufacturing of them by both Israel and the Arab states. These talks might also usefully seek to narrow differences in interpretation on how to implement U.N. Resolution 242.

PALESTINIAN MOVEMENT

Fourth, the United States should concern itself with the Palestinian movement.

We should take note of a new, emerging political consciousness of Palestinians which has not yet jelled. While there is some sympathy for the guerrillas among Palestinians everywhere, there are many Palestinians who are committed to a peaceful, rather than military, settlement of the Arab-Israeli issue. We should watch closely Palestinian developments, be prepared to deal with them and support peaceful and viable ways to encourage expression of the Palestinians' right to have a greater voice in their own political future within the context of a peace settlement.

We might, for example, urge the parties to let an internationally supervised plebiscite of Palestinians be taken, perhaps on the West Bank, in which all Palestinians vote for, say:

A confederation with Israel or Jordan.

Return to Jordan.

Or independence within defined borders agreed to by all parties to the dispute.

The elections the Israelis plan to hold on the occupied West Bank this spring might be expanded to include all Palestinians and might be internationally supervised.

Also, the United States should work with all states of the area to make a greater number of meaningful job opportunities available to Palestinian refugees so that their lives will have more dignity and hope and less apathy, bitterness and despair.

JERUSALEM

Finally, we might explore with the parties, or independently, possible solutions to perhaps the most difficult problem in a dispute of many stumbling blocks—namely, the future status of Jerusalem. Specifically, the United States should explore ways of accommodating the interests of Jews, Christians, and Muslims in the city and ways of guaranteeing the right of access of all groups to their holy places. The United States might also begin a study of:

Extraterritorialities for the holy places.

Consider the possibility of a joint administration of the city.

And, in general, explore alternative international guarantees.

In the final analysis, however, the parties must negotiate the particulars of any settlement of this crucial issue. Our role can be one of examining the range of alternatives so that everyone is familiar with them.

E. CONCLUSION

None of these suggestions is to replace direct negotiations between the parties. Rather, they are to supplement such talks by the parties and to raise related issues which can help promote a lasting peace.

We have many interests in the Middle East. In particular, the United States has—

An interest in Israel's security and well-being which has cultural, political and moral overtones for many Americans.

An increasingly important and vital interest in Middle East oil whose pools contains 75 percent of the world's proven oil reserves. It is estimated that in 1980, the United States will have to get between 35 and 40 percent of its oil needs from the Middle East although it now gets less than 5 percent from this region.

A strategic interest in the entire Middle East as the crossroads of three continents and as an important link in global communications networks.

A general interest in the political, social and economic development of the entire area and all its peoples.

And an interest in avoiding further conflict in the area and any chance of a confrontation with the Soviet Union.

Peace in the Middle East secures these interests and war threatens them as does the present state of neither war nor peace. That is why peace in the Middle East is so important to us all.

We probably must learn to live with insecurity and hostility in the Middle East, and know that we simply are not able to solve its problems in any rapid and final fashion.

I am reminded of the remark "optimism is to the diplomat what courage is to the soldier." The U.S. has no formula for instant peace. But we must proceed with optimism, not overlooking any avenue toward settlement.

May it be said of us when the course has been run:

"How beautiful upon the mountain are the feet of him that bringeth good tidings, that proclaimeth peace, that publisheth salvation."

LITHUANIAN INDEPENDENCE DAY

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. NEDZI. Mr. Speaker, February 16 marked the 51st anniversary of Lithuanian independence.

Most of us in this body are old enough to remember the brutal and abrupt manner in which Russia seized Lithuania and the neighboring Latvia and Estonia in 1940.

Many people, and many nations, preferred at that time not to notice, or not to acknowledge, the implication of the Russian action. After all, the Baltic nations were small nations and virtually powerless. The Western world was then in a precarious position for France was about to fall and Great Britain was entering its most critical days against the might of the German onslaught.

Among those Americans who knew of

the obliteration of freedom in Lithuania, there was either a sense of helplessness, or in some cases, a reluctance to speak harshly of the actions of the Soviet Union.

The plight of Lithuania still suffers from insufficient public attention. This is a particularly bitter fact as we observe new nation after new nation being admitted to the United Nations while having but a fraction of Lithuanian history and culture.

As I have observed in previous years, Lithuania is no make-believe nation. It has a long and distinguished history dating back to 1009 A.D. It was the first nation in Eastern Europe to embrace Christianity.

Lithuania has suffered under Russian occupation before only to emerge as a free and independent state. Thus, while the present situation seems bleak, the Lithuanian people do not forget their history and their hopes for salvation.

The continuing oppression of the Baltic States is forever a reminder of Soviet perfidy and a wound on the conscience of mankind. The United States of America is at its best when it proclaims and supports the concept of self-determination. It is to the credit of the Congress of our Nation, then, that we draw attention to Lithuanian Independence Day and express our hope that the Lithuanian people will ultimately gain national independence and personal liberty.

SECRETARY CONNALLY AND THE ECONOMY

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. HOGAN. Mr. Speaker, on January 20, Treasury Secretary John Connally addressed the 1972 National Affairs Conference sponsored by the Chamber of Commerce of the United States.

Mr. Connally made several observations regarding the economy and the role of the country's businessmen in helping to stem inflation.

On January 29, the Washington Post reported the reply of the National Chamber as stated by that organization's chief staff officer, Arch N. Booth, executive vice president.

In the interest of a full airing, I insert into the RECORD the Washington Post article, a transcript of the remarks of Secretary Connally and Arch Booth's letter, so Members can make a judgment of this interesting exchange:

[From the Washington Post, Jan. 29, 1972]

BOOTH DEFENDS BUSINESS AGAINST CONNALLY ATTACK

Arch N. Booth, executive vice president of the U.S. Chamber of Commerce, wrote Treasury Secretary John B. Connally telling him that Connally's criticism of business for not using recently provided incentives to invest was premature.

At a Chamber meeting last week Connally told businessmen that the government had done all it could to stimulate the economy—and that business should stop complaining and start solving its own problems.

Connally cited studies estimating that business spending will increase only 9 per cent this year—which Connally said was not enough considering new depreciation laws.

Booth told Connally the business community "welcomed" the depreciation revisions, the tax credit and the international monetary realignment. "But it hardly seems necessary to point out that these developments have not been in effect long enough to produce the expected beneficial effects."

Booth also said he was puzzled that Connally spoke "of these measures as though they were gifts to business. We assumed the President supported them because he felt they would benefit the economy, and thus the entire country."

ADDRESS OF THE HONORABLE JOHN B. CONNALLY, SECRETARY OF THE TREASURY, TO THE CHAMBER OF COMMERCE OF THE UNITED STATES, JANUARY 20, 1972

Introduction by Arch Booth, Executive Vice President, The Chamber of Commerce of the United States.

Mr. BOOTH. Ladies and gentlemen: The Secretary of the Treasury has arrived, direct from the Capitol. He will join us here for a very brief visit. He will comment on the State of the Union Message, and on the Nation's economic policies.

It is a great pleasure to present the Secretary of the Treasury, the Honorable John B. Connally.

(Applause.)

Secretary CONNALLY. Thank you very much, ladies and gentlemen. I am delighted to be here. It is a great pleasure to appear before such a distinguished audience under the auspices of the Chamber and, more particularly, I am delighted that I can appear as a substitute for Under-Secretary Charls Walker. I was not originally invited to speak to this distinguished gathering, but Charlie found that he had to make a speech in Denver today, and I agreed to substitute for him at this particular meeting. It is of some significance, I think, that he was substituting for me in Denver!

(Laughter.)

Jack, I wish I could have been here to hear all that you had to say to this distinguished gathering but, as things happen, occasionally, I had another commitment that I had to make. I was listening to another speech, so I missed yours.

But I heard a great speech. As you all know, I have just come from the Capitol where the President delivered his State of the Union address. I was tremendously impressed with his speech for a number of reasons.

I was tremendously impressed, first, by the tone and the spirit of the speech.

I was impressed because he did not lay forth a large list of actions for the Congress to consider in this particular year. He did not do so, largely, because there is a large amount of work they have yet to do. He knew full well we had a number of major matters pending before the Congress that they had not yet acted on.

I was impressed by the deep substance, and the feeling of the President, himself, that came through his speech; his concern for this Country; for its fundamental values for its basic thrust during the 1970's. I think, more than anything else, that is what he was trying to convey. He was not speaking, in any sense, in a partisan way. He was not trying to appeal to any particular group; nor was he trying to divide group against group. He was not trying to separate individuals, communities, or groups, within this Nation. He was speaking to the Nation, as a whole; appealing to the Nation as a whole for their help, for their cooperation.

He was, in a sense, asking this Nation, to pause and reflect, and to think and consider what kind of a Nation this is; what kind of a Nation do we want to be; and how much are we willing to contribute to building what we see as the road for this Nation in the 1970's.

This is largely the task upon which he has been embarked for the past several months. I don't want to, here, deal in superlatives, but I think it is fair to say that during the past several months, this Nation—under the President's leadership—has undertaken far reaching steps to set aright some of the difficulties that are plaguing this Country. Part of those actions is the reason you are here today. Part of those actions has imposed a freeze upon this Nation, followed by wage and price controls; the creation of the Pay Board, and the Price Commission, which are being manned by distinguished and dedicated Americans.

I want here to publicly express the profound gratitude of this Administration, from the President on down, to Judge Boldt; to Chairman Grayson; to the Members of their Respective Boards and Commissions, for their unselfish service in dealing with what has to be one of the most difficult problems that this Nation is confronted with today, and one of the most thankless. It is done in a very selfless fashion, and I think we are entitled to an accolade from everyone here, and everyone else in this Nation.

(Applause.)

If I may, I would like to say a few more things and then, if it is your wish, I will undertake to respond to questions that you have. Don't be lulled into thinking that I can answer them. I am just going to respond to them.

(Laughter.)

I cannot completely give all of my time to you to ask questions, because, frankly, there are a few things I want to say.

I have heard for a number of months—a number of months—about the uncertainty that prevails in the United States; uncertainty in the minds of people; criticisms in the tones of others; uncertainty about the domestic policy; concern about the International Monetary situation; the International economic picture.

This has been voiced over and over again. I recall early last year, when I first came to Washington, we were embroiled in trying to get through the Congress—well, we Administratively acted, then tried to assure the Nation and the Congress that the Treasury's actions with respect to Depreciation Schedules were the right thing to do and the right kind of stimulus for the Nation. The Business community kept saying, throughout the Country. "We need an Investment Tax Credit. We need an Investment Tax Credit," This is what we heard. "If we just had that, everything will be all right."

So we got it. So what have we done with it? Nothing.

We go up on the Hill time and again, and we are the ones—this Administration has defended the American business enterprise in this Nation far more than you have defended yourselves.

I did not come here to criticize you.

I did not come here to fuss at you.

Frankly, I came here to try to tell it to you as I see it, and to try to answer some of the questions that I know you are going to have.

We have done precisely that. We put into effect the Depreciation Schedule, and we felt that it probably was not doing the job. So we went back and, as a part of the Tax Plan, we advocated the Investment Tax Credit; that it be reinstated on a permanent basis.

Now, the question is: What happens?

Science made a 9 percent increase during 1972—that is, in plant purchases and commitments for plant equipment. That is much better than a 9-percent decrease. But I would not say that that is any great banner year, born of any great confidence in the future economy of this Country.

I don't think that 7 precent was too vital to any of you.

What else did we do?

We took a number of other actions on taxes.

We talked about profits, and what profits mean to this System, and to this Society. This Administration has not been one bit afraid to talk about profits, or to defend the System under which you make profits. We have said that profits of American business enterprises during the last year or two have been lower than they have been in many, many years; lower than at any time in the last 30 years.

We have pointed out that profits are what fuel this economy. That is what creates the jobs. That is what makes it possible to build these plants; to buy new equipment. We have done everything we know how to do, to stimulate this economy, through spending too much?

Wait until you see the deficit—if you are not already afraid! They say we are not stimulating it enough.

I, frankly, as Secretary of the Treasury, wish some of you would accompany me when I go up next week to defend our position and ask for an increase of the debt ceiling. It is going to be a very interesting hearing. (Laughter.)

If you have any idea of what I ought to say, I have a few days to get your mail. I would be delighted for any help that you can give me, I assure you.

We have time and again, time and again, said that the greatest fear we have is fear of ourselves, and fear of uncertainty.

As part of the Tax Program, we did everything that we knew how to do. The President suspended the convertibility of the dollar. For weeks and months we heard: "Well, this is what is holding all of the profit. If we could just get it settled, if we could just settle this Inter-Monetary thing, everything would be all right."

So we settled it.

Now, there is concern about other things.

The truth of the matter is that I know there is this uncertainty in your minds. There is uncertainty as to how long you are going to have wage and price controls. There is uncertainty in your minds about: What does this Administration intend to do?

I can tell you very quickly. The philosophy of this Administration basically is against wage and price controls. Conditions were reached in this Nation that made it imperative that we have them. You do have them. Now, you are asking: "How long are we going to have them?"

I can answer this one, too!

You are going to have them so long as it is necessary to bring inflation down to the goal we have set—of 2-to-3 percent. This is how long you are going to have them.

Now, when does that time come?

That time comes largely when you want it to come. That time is going to depend upon how cooperative you are, and how forceful you are, and how ambitious you are to end these controls.

We don't conceive the Government as an instrumentality designed to inflict onerous requirements upon American Free Enterprise.

We don't conceive that we can cure all the ills of this free enterprise system.

We conceive the Government, and what we can do, as an instrumentality to work cooperatively with you in trying to solve some of our common problems.

But I will say to you, in all candor—without any embarrassment whatsoever—that you cannot look to the Government for the complete answer to your problems. When we end wage and price controls is going to depend on you. It is going to depend on you and labor relations across the bargaining table. It depends upon labor.

When each of you makes up your mind that you can no longer negotiate and expect anybody to support unconscionable and unreasonable wage demands in this country; when you make up your mind that you have to increase your productivity; that you cannot continue to expect to raise your prices in unconscionable fashion; then we are going to stop inflation. We are going to try to stimulate the economy. We are going to try to provide the jobs that people in this country need. We are going to do all we can. We are going to do it in the most cooperative way we know how.

There is nothing uncertain about the future of this Country. Sure, there are problems. I cannot tell you the day, or the week, or the month that the Price Commission is going out of business, or the Pay Board is going out of business. They are going out of business when their job is done. It will depend upon you.

You employ the people. You affect the economy. The Government, really, is a small part of it. So make up your minds when you want to get it over with. That is the best answer I can give you.

But, if you are not in a hurry, maybe it will be on for some time. I will tell you that. They are on now. We put them on. It is a whole lot easier to take them off. As long as they are on, we are going to wait until they do the job. It may be summer; it may be fall; it may be this year, or four years from now. I don't know. What we say to you is: Some of the uncertainty stems from the fact that people—just like me—get up here and say to you: "We don't believe in controls."

The Cost of Living Council says we ought to exempt the controls on "Mom and Pop" establishments in this Country. There are well over a million of them; 75% of the business establishments in this Country—retail business establishements in this country—but they only do 14.8% of the volume. They are exempt. Everybody says, "If we will just hold tight a little bit, maybe we will get exempt." But you are not in that category! (Laughter.)

If you all want to be the "big boys" in the Industrial world—which you are; it is not everybody that gets into Tier I (Laughter)—you will get special treatment; I mean that. You are going to get very special treatment. (Laughter.)

So, how long that is, is going to depend on how good a job we all do. We recognize it; we don't have a perfect system.

We look at the 964,000 inquiries that we have had since November 15, through January 11. The Internal Revenue Service has had 964,000 of them! That is 24,000 inquiries a day! We look at the 30,000 complaints that the IRS, alone, has received during that period of time; of alleged violations, 19,000 of those have already been resolved. So we think we know a little something about what the people think; what they are concerned with. We are trying to answer them as fast as we can. Jack Grayson is trying; and his Commission is trying; and the Pay Board is trying. We are all trying. None of us are prepared to say that we are doing a good job, much less a superb job. All I can say to you is: We are doing the best we know how, with what we have. I am sure we are entitled to constructive criticism—even complaints. We don't mind these, but we also think, along with constructive criticism and complaints, goes a little cooperation. The three "C"s. If I had my way, I would put "Cooperation" first. If you all want to put it third, we will even take it that way!

So, we are not going to defend the system: It's not a "perfect" system. It is the "only" one we have. It is the only game in town, so to speak. So we are playing it. We are going to play it fairly; we are going to play it as hard, and as fairly, and as judiciously, and as expeditiously as we know how. We are going to try to meet the needs. You know what the objectives are. You know what the goals are. There is no mystery about that. There is no uncertainly about it.

We are trying to re-establish the free play, in the market place, of this economy—of all aspects of this economy. It has gotten out of kilter. We are trying to right it—to set it a-right—then turn it loose.

Is there uncertainty, any more, about the International Monetary situation? Or our relationship with our International Trading Partners? I think not.

We have some legislation we have yet to do. We have some negotiating we have still to do; with some of our partners.

We are always going to have some of these problems. The time is never going to come when you, as leading business men in this great Society—this great American System—can relax and sit back secure in the knowledge that everything is certain. I believe it was President Eisenhower who said. "There are only two certain things. One is Death; the other is: Taxes until you die".

Those are not very acceptable alternatives to what we have now.

If I know anything about the American spirit; if I know anything about American business; you don't want too much certainty because, when you get things so clearly defined, and so definitely established that it is certain, then you can be absolutely certain of one other thing. That is: We are not making progress, and we are going to lose the competitive position of American products and commodities in the World markets, because I am telling you: The rest of the world is at work while we are worrying. That is the Truth of the matter. They are outworking us; they are out-planning us, day after day. Those of you who are dealing in the International Markets; those of you who compete in the International Field know full well what I am talking about. Now, somehow, you have got to lead a resurgence of the American Spirit of Work. We have to return to our Puritanical system of work, if we are going to survive; if we are going to build; if we are going to grow; if we are going to expand.

I cannot promise you certainty—if I could, I wouldn't because what we have to do is to keep the incentive, the initiative, the genius of America at work in this Country, and in the World. That is your only hope.

I see other Countries around the world, and how they operate; how they manage. This Country does less to try to manage your affairs, I think, than any other Country—advanced Country—on the fact of the earth. But I don't think you want their Systems. I think our own System ought to give us ample evidence that we have gone further; we have produced more; we have done it better; we have created more; we have provided more, in a cheaper fashion, than any people, using any System, since the Creation of Time.

Why do we want to quit it?

We are not trying to quit it. We are not trying to revolutionize the System under which we function.

We are trying merely to make it function, in a period of stress, a little more efficiently to get is back in basic equilibrium.

So, frankly, I am somewhat at a loss to understand the uncertainty, that I come to hear about, that prevails in the minds of business leaders throughout the Country. At least, I hope that in the coming weeks and months, we can dispel the concern, and dispel the uncertainty. We will be trying. We will be doing everything we know how—both at home and abroad. You can be sure that, at home, we are going to try to give you as much running room as we possibly can so that you can use your own innovations; your own energy to build and create.

You can be sure our International leaders are going to try to protect your ability to compete on a fair and equitable basis in the markets of the world. Of that, you can be sure.

So, with no more assurance than that; with no greater definition of certainty than that, let me attempt to answer your questions.

Mr. Booth. All right. If you have a big, strong voice, stand up and let the Secretary hear it, please. I don't like to take the bloom off of that beautiful speech by asking questions, but he is ready!

Question. Is Business wasting its time under this Price Control Program, with the Federal Government going $40 billion in debt?

Secretary Connally. Did you hear the question?

"Is Business wasting its time under this Price Control Program, with the Federal Government going $40 billion in debt?"

Well, in a short run, if you want to be pessimistic, if you want to be despondent, you can. I am not ready to concede that we are going $40 billion in debt—just for the sake of the Press here! (Laughter.)

I want to enter a little disclaimer. I am not going to tell you what the figure is.

Let's assume that, for the moment. (Laughter.)

The Government is on the horns of a dilemma. None of us like a $40 billion deficit, or a $35 billion deficit, or any kind of a deficit. What is your alternative? What position would this Administration, or the Government, be in, if we had a balanced budget, with over 5 million people unemployed?

Is that an acceptable alternative?

Is that an acceptable solution?

I think not!

We live in a political environment; we live in a political society. You cannot always do things in the pristine purety of a philosophy that you would like to go on. I am not a debt-sustaining man. When I was Governor of our Home State, we never had a deficit. We had a surplus. I passed three Tax Bills. In every Legislature for the past two years, we did have a surplus. I don't believe in debt-spending. But, occasionally, we have to have it. We are in a stagnation period. We are in a period of economic slackness. We have to have some physical stimulus. We have provided it. We have provided quite a bit of it. This ought to be encouraging to you.

Now, as a matter of Government philosophy, I can understand your concern but, as a matter of devising and restoring some vitality into this economy, you ought to be upholding it.

Mr. Booth. I will take just one more question.

Secretary Connally. Let's take more!

Mr. Booth. Your people, and Dr. Grayson's people are here; they are eager to get out there.

Let's take one more question.

Question. Mr. Secretary, why don't you ask for a tax increase?

Secretary Connally. Why don't we ask for a tax increase?

We just had a major tax decrease, for one thing. It would be a little bit inconsistent.

(Laughter.)

Secondly, we don't ask for a tax increase for the simple reason that we are trying to put money into the economy. We are trying to stimulate the Economy because all have said, "This is what is wrong with it. We don't have economic stimulus. We don't have the inventories. We don't have the purchase or plant equipment."

We tried to stimulate the economy further with tax cuts.

Now, I say again, to argue philosophically: When you consider the practical alternatives that face this Government, or any other Administration, you come out at different points. What we are trying to do is to stimulate the Economy so we can get these tax revenues; so that we can have a balanced budget. I think for the Government—like anybody else—it is a matter of Governmental philosophy: We want to operate on a balanced budget, just like any business has to do. We are no different, but there are exceptions. We are not in the profit-making business. As a general rule, we ought to be prepared to tax for what we spend. But there are times when economic conditions are such in the Country that, in my judgment, the Government is justified in deficit spending. And we have been in such a period.

Mr. Booth. Mr. Secretary, let us thank you, because these people are out here, waiting to tell us how to make your talk work, in practical action.

Jack Grayson's people are in the Work Shops out here.

So, give the Secretary a big hand.

(Applause.)

U.S. Chamber of Commerce,
Washington, D.C., January 25, 1972.

Hon. John B. Connally,
Secretary of the Treasury,
Washington, D.C.

My Dear Mr. Secretary: Please accept my warmest appreciation for your taking the time to address our National Affairs Conference last week.

Your complaint that business somehow hasn't responded adequately to economic incentives provided by new Administration policies deserves some explanation.

The business community welcomed the Asset Depreciation Range System, the job development tax credit and international monetary reform. But it hardly seems necessary to point out that these developments have not yet been in effect long enough to produce the expected beneficial effects.

The tax credit was signed into law December 10, and it was that same law that dispersed the cloud over accelerated depreciation. Surely you wouldn't anticipate results already.

We are puzzled, however, that you speak of these measures as though they were gifts to business. We assumed the President supported them because he felt they would benefit the economy, and thus the entire country. Obviously, we cannot prosper unless the general economic climate is healthy. And in that case, all sectors would be equally indebted for the "gift."

We fully agree that we should not "expect anybody to support unconscionable and unreasonable wage demands." And we wonder, sadly, why so many people *do* support them: The Congress. The NLRB. The unions. Even the Pay Board. Surely the Administration is familiar with the difficulty—if not the impossibility—of successfully opposing organized labor in today's legislature and regulatory climate.

It's easy to suggest that business must be tougher in resisting unreasonable wage demands. But when a strike results, who suffers? Not the strikers, who receive welfare checks, food stamps and other government aid. When strikers are subsidized by government, a company can't win—and neither can the public.

As for not continuing "to raise prices in an unconscionable fashion," I am not aware that anyone *has* continued to do so. The efficiency and rigor of the Price Commission have been the subject of much comment and admiration. Do you have any specific instances in mind?

Finally, as the President noted, "industrial production, consumer spending, retail sales and personal income all have been rising." We think they will continue to rise. We expect 1972 to be a good year. We *want* 1972 to be a good year. But while we can—and will—do our best to prepare for whatever demand arises, we unfortunately lack a magic wand capable of producing that demand. If we knew how to build one, we would.

Perhaps we would all benefit from the sense of perspective that led the President to advise rejection of "the narrow visions of those who would tell us that . . . all the sweat and toil and sacrifice that have gone into the building of America were for naught because the building is not yet done."

Sincerely yours,

Arch N. Booth,
Executive Vice President.

THE NIXON PLAN: PEACE, OR JUST POLITICS?

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mrs. ABZUG. Mr. Speaker, a recent issue of the New Republic contained an article by Prof. George Kahin on President Nixon's latest "peace plan." The item takes what I consider to be the sound view that Mr. Nixon's insistence upon propping up the Thieu regime is an insurmountable barrier to any agreement regarding withdrawal of American military forces.

In Professor Kahin's words:

> President Nixon's eight-point proposal departs so far from what our opponents might possibly accept, as to lend credence to the allegation that he is addressing himself to an American audience rather than to those with whom he says he wants to negotiate.

I hope that each of my colleagues will have an opportunity to read this article, and I insert it in the Record at the conclusion of these remarks:

Nixon's Peace Plan

(By George McT. Kahin)

Any careful scrutiny of President Nixon's eight-point Vietnam peace plan leaves little hope that it will provide a basis for a negotiated settlement of the war. Most of its provisions have been incorporated in earlier American proposals—proposals which were not acceptable to Hanoi and the NLF. The President has stated his willingness to set a terminal date for the withdrawal of all American forces but has made this dependent upon a formidable set of conditions that go far beyond the simple release of prisoners and the safety of withdrawing American forces. The only hope one can entertain is that President Nixon will regard his proposal as simply a point of departure from which he is prepared to move a very long way toward the NLF-Hanoi position in an effort to find common ground upon which realistic negotiations can finally begin.

But if the President should actually intend to move toward the middle ground of genuine compromise some of the most fundamental components of his eight points will have to be drastically altered. Of central importance is the question of a cease-fire which, contrary to what Mr. Kissinger stated to the press, is very much a major issue and one where the positions are far apart. There are two very different kinds of cease-fire on the table: President Nixon's all-party, all-Indochina cease-fire; and the NLF's proposal for an initial bilateral cease-fire between just the NLF and Hanoi on the one side, and the U.S. and its Korean and other non-Vietnamese allies on the other, with the area covered limited to South Vietnam.

Thus the cease-fire that the NLF and Hanoi are prepared to enter into with us explicitly excludes General Thieu's armed forces. The reason for this is basic to their whole approach to a negotiated settlement: that as between them and Saigon any cease-fire must be preceded by a political agreement. Their experience with the U.S. and Ngo

Dinh Diem in the post-Geneva period has taught them that it is folly to trust to the mere promise of a political agreement later, in return for a prior armistice. They will not again give up their military leverage without first securing a firm agreement covering the political issues about which the war is being fought. It was with this consideration in mind that the NLF in its seven-point proposal of last July, separated out a cease-fire with the United States from the question of its own cease-fire with Saigon's forces. For unless such a separation is made there can be no possibility for a release of prisoners and the safe evacuation of remaining American forces until *after* a political agreement with Saigon has been secured—a matter which will take considerable time to work out.

However, President Nixon's proposed cease-fire is far more complicated and difficult of resolution than the bilateral arrangements proposed by the NLF and Hanoi. With respect to South Vietnam it is evident that it would have far-reaching and decisive political consequences that, quite apart from whatever electoral process is followed, would virtually assure the continuation of Thieu's regime in power. In other words, once President Nixon's kind of cease-fire was operative there would almost automatically ensue political consequences that would be decisive in the allocation of power in South Vietnam and would virtually assure paramountcy for Thieu and his regime. It is with this in mind that one must assess the "flexibility" with which Mr. Kissinger has credited President Nixon, particularly the President's statement that "we would be willing to begin implementing certain military aspects while negotiations continue on the implementation of other issues . . . [or] to settle only the military issues and leave the political issues to the Vietnamese alone." For the antecedent military issues, if solved along the lines called for by the President, would almost certainly ensure resolution of the political issues in accordance with his objectives.

First of all, President Nixon's cease-fire seeks to freeze the military balance at a point in time when the scales are still heavily weighted with US ground and air power (plus over two divisions of US-financed South Korean troops). Thus in terms of self-determination a freezing of the pattern of territory at present under control of the contending Vietnamese parties would be artificial and conducive to equally artificial political consequences. Such a cease-fire would register the enormous impact of American fire power on major areas of South Vietnam. It would not only reflect Saigon's garrisoning of territories won for it over the past years by American combat forces; it would also keep locked into Saigon's control several million refugees that our bombing and artillery fire have driven out of substantial areas, which were previously administered by the NLF.

Moreover, as any close reading of points 5, 6 and 7 of President Nixon's proposal makes clear, his cease-fire is intimately tied in with the requirement for a withdrawal of North Vietnamese forces. This Hanoi is not likely to accept prior to an acceptable political settlement in the South. Certainly Hanoi will not withdraw its troops unless assured that supporters of the NLF are protected against reprisal from the Saigon government. Nor will it accept an election in the South preceded by a disarmament of the NLF while the Saigon generals that support Thieu maintain their arms.

It has been widely noted that President Nixon is calling for a cease-fire at the beginning of the dry season when enemy forces are poised to undertake attacks that even our own military believe will be attended by some successes. Moreover, at the present time most NLF main force units are over the border in Cambodia either engaged in the fighting or resting up for subsequent operations there or in South Vietnam. Thus a cease-fire now would freeze the most important NLF units in position outside their own country.

In neither the President's eight points nor his January 25 speech is any mention made of the NLF's armed forces, and thus there is no reason to assume that the US and Thieu have changed their position with regard to them. This view—essentially that of the Johnson administration—insists that the NLF's armed forces must either go to North Vietnam or, if they elect to return to their homes; surrender their arms to the Saigon regime. With the NLF's armed forces so eliminated, and with Thieu's million-man army and 125,000 police keeping their won arms, it is unlikely that civilian political adherents of the NLF would risk exposing themselves by engaging in election activity or be tempted to serve on the electoral commission to which President Thieu and President Nixon have invited them.

There are other aspects of President Nixon's proposal that will undoubtedly give the NLF pause. He is silent on the question of political amnesty, a matter about which the NLF has repeatedly expressed its concern and which it has highlighted in its own proposal. (There it calls for "concrete measures with the required guarantees" to be taken 'so as to prohibit all acts of terror, reprisal and discrimination against persons having collaborated with one or the other party" and the release of "all persons jailed for political reasons.") Also likely to appear ominous to the NLF is the reference that President Nixon does make to civilian prisoners. Whereas the NLF's proposal calls for the release of "the totality" of the civilians captured in the war," his proposal provides only for the release of "*innocent* civilians." President Thieu's criteria for political "innocence" are hardly likely to provide assurance that this will include NLF supporters. If Truong Dinh Dzu, the non-Communist lawyer who with 17 percent of the votes ranked next to Thieu in the 1967 presidential election, is still doing hard labor in a concentration camp and if several thousand Buddhist leaders, students and teachers now in such camps or in jail, are considered as non-innocent by Thieu, what prospect is there that he will release the additional thousands of jailed political adherents of the NLF so that they can help organize and participate in the proposed election?

President Nixon's call for another presidential election in South Vietnam so soon after the American-endorsed election of last October may seem plausible to some Americans, but it will have little appeal in Vietnam, among either Communists or non-Communists. In appreciating this, one should recall not merely the farcical character of the last election in which even members of the Saigon military establishment were given no fair chance to compete against Thieu, and where the Nixon administration insisted that the United States was completely "neutral." One should also remember the earlier election of 1967, run under the aegis of Saigon's military establishment (where Thieu was then chief of state and chairman of the armed forces council) through which Thieu first became President. There, even after the main popular figures had been screened out of the running, the balloting fraud was so widespread that Saigon's Central Election Council voted 16–2 to invalidate it. It was only after intimidation by threats from the police and other agents of Thieu and Ky and after visible pressure from the American Embassy that a cowed national assembly overruled its decision and declared Thieu's election valid. In that election, too, Washington asserted that the US had been completely "neutral" and endorsed the process as having produced a legitimate, freely elected government representing the will of the South Vietnamese people.

In view of this history of American-promoted elections in Vietnam, it is perhaps understandable that the NLF might be skeptical about its chances in the exercise that President Nixon is now proposing, and why his invitation to membership in an electoral commission charged with overseeing the elections might not seem very attractive. Along with non-Communist opponents of the Thieu regime they recognize all too well that such a body, whether or not subject to international supervision, can have little effect on the course of elections run under the political and administrative aegis of a Saigon government controlled by Thieu and his lieutenants. The NLF has always argued that the central factor is who controls the administrative and political organization at the time that elections are held. It would regard a sharing of power on an electoral commission as futile unless it also shared power in the government and administration whose police and civil and military officials were in control at the time of elections.

The scenario suggested by President Nixon whereby Thieu steps out of the presidential palace a month before the elections in which he intends to run will only be viewed with derision in Vietnam. Absence from his office at that time would, of course, make no real difference. In the first place, the chairman of the senate, whom President Nixon has suggested could serve as "caretaker head of the government," is Thieu's man. But in any case the administration would be firmly in the hands of Thieu appointees from General Khiem, his Prime Minister, through the cabinet, all the way down to the 44 province chiefs and more numerous district heads, each of whom Thieu has appointed and each of whom is beholden to him for continuance in office. Unless this political machine of President Thieu yields place to a different, more representative administration one cannot expect anything like a "free and democratic" election, even if an independent electoral commission "representing all political forces in Vietnam" attempts to achieve this in conjunction with "international supervision."

The Vietnamese have already had experience with international supervision and they have not found it very effective. They recall that the three-nation International Control Commission (composed of members from India, Canada and Poland) that was set up by the 1954 Geneva Conference was quite unable to prepare the ground for the elections scheduled for two years later. It was unable either to halt political reprisals (with Diem finally obliging it to stop even its investigations of them) or to induce Saigon to enter into the negotiations with Hanoi necessary for planning the elections that the ICC was to supervise in 1956. Perhaps it would be possible to arrange for an international supervisory presence much stronger than the ICC; even so the NLF is unlikely to trust to elections prior to a change in the character of the government in Saigon under whose administration they would be held.

Whether taken as a whole or restricted to its most fundamental elements, President Nixon's eight-point proposal departs so far from what our opponents might possibly accept, as to lend credence to the allegation that he is addressing himself to an American audience rather than to those with whom he says he wants to negotiate. For he has made the setting of any terminal date for withdrawal of all American ground forces, and an end to the bombing, dependent upon the enemy's acceptance of conditions that in fact add up to virtual military capitulation and the NLF's political strangulation. He calls for the South Vietnamese people to decide their political future for themselves "free from outside interference," but his strategy is clearly calculated to register the present weightage of US ground and air power on the scales of Vietnamese self-determination. His policy advantages Thieu and his coterie and appears designed to keep them in power.

Despite the ambiguities of President Nixon's proposal the order of his priorities emerges with greater clarity. Certainly there can no longer be much doubt that in his view the release of prisoners and the safety of American troops still in Vietnam must yield precedence to preservation of the military and political position of the present Saigon regime.

COMMUNITY DEVELOPMENT NEEDS IN ARKANSAS

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 16, 1972

Mr. ALEXANDER. Mr. Speaker, I would like, with the permission of the House, to continue making a part of the congressional testimony from my December 4, 1971, hearing in Marked Tree, Ark., on community development needs.

By now, we are familiar with the items in the catalog of "things required to inject new vitality into small town economies." The testimony I have presented since September has already given ample evidence of local interest in this work and the willingness to sacrifice to achieve a brighter future.

Today, I will begin the presentation of this testimony with a special paper. This was prepared by a man named Frank Gamec who had lived in Jonesboro, Ark., just a decade, but whose interest in his county of Craighead and the State of Arkansas is well documented by his record of public service. Unfortunately, though it became a part of the hearing record, this testimony was never publicly presented. The First Congressional District and the State of Arkansas were robbed of a talented mind, dedicated spirit, and a pair of willing hands by the untimely death of Frank Gamec shortly before the December 4 hearing.

The story he told of attempts to improve the lot of small towns and of a growth area which were frustrated by Federal programs supposedly designed to help but which were not usable by his area, underscores the complaint made by many witnesses. I feel it is important that the Members of Congress have access to it. Let me, with its publication, repeat my plea that while expanding, extending or enacting Federal programs of community development, we representatives of the people make them broadly usable by the whole range of communities—not just the major ones where the magnitude of the problem focuses most of the national attention.

Today's insertion in the RECORD also includes testimony by Mayor J. W. Waskom, Jr., of Marked Tree, and J. W. Crawford, representing Gosnell, who discuss specific needs of their municipalities; and Fred Ashcraft, an East Arkansas newspaper publisher and editor, who urges us to begin spending at least as much energy on developing solutions as we do on analyzing problems.

STATEMENT OF FRANK GAMEC

Congressman Alexander, I am Frank Gamec, Chairman of the Craighead County Development Council.

I appreciate the opportunity of being here to add my comments to others you are hearing today and to those I have read and you have heard in Brinkley and other cities you have visited.

As background information—I was reared in a big city. I have lived in big—medium and small cities.

In 1961 I came to Jonesboro as Manager of the General Electric Plant.

I have been a member of the Board of the State Chamber of Commerce, President of the Jonesboro Chamber of Commerce, and active in many of the community development activities in our area.

I have become familiar with some of the problems faced by the people in and around Jonesboro. I enjoy living here—I admire the progressive attitude of the people and have made many friends in and around our community.

The Craighead County Development Council was established from the realization that our small cities and communities lacked an organized approach, lacked sufficient personnel, and lacked funds to establish and carry out a comprehensive plan for community improvements and developments.

With the guidance of Herb Russell of our County Agricultural Extension Service we selected a fine group of people who were interested in and were representative of Agricultural, Educational, Social, Economic, and Cultural activities in our county.

These people came from nine different cities and towns: Bano, Black Oak, Caraway, Brookland, Monette, Lake City, Bay, Dryden, and Jonesboro. Eight of these nine have a population range of from 21 to 1,076 people.

Our objective was to identify projects on a priority basis—projects which would assist one or more of our communities to develop into the type that would help encourage our youth to grow up, develop, and stay in Arkansas.

Educational improvements, vocational schools, and work training were prime targets of discussion.

Recreational, social, economic, and health care activities were of major importance.

We were looking for ways of keeping our families closer to home, to keep them off the highways, to keep our youth from racing around the town square or hot-rodding to the bigger cities to have fun.

We delved into the areas of community improvements such as sewage and trash disposal, flood control, and drainage ditches.

Our enthusiasm was high, but it gradually dwindled away.

Whichever way we turned we could not raise the funds we needed for even a small project. We did not have personnel with the time to follow through. We had no one with the time or money to lobby for us or to unwind the red tape. We found that getting things done via bureaucracy is like trying to pick up a pin with mittens on.

The results was inevitable—we were voices in the wilderness. We ended up talking to ourselves and receiving no answers.

You are asking us what we need:

1. I see a need for obtaining community loans at low rates and terms which will allow small communities to take advantage of existing Federal programs.

2. I see a need for eliminating some of the red tape involved in securing federal assistance for community projects.

3. I see a need for the small towns of our county to be included in the redevelopment area just the same as Jonesboro.

4. I see a need for some better means of communication to make local leaders feel the need for concentrated effort on community development, the need to make them aware of the programs that are available.

5. I see the need for indoor and outdoor recreational facilities, better health care, improved housing, more emphasis on vocational and economic training and additional job opportunities.

If the federal government is sincere about developing rural America, it should concentrate more attention to improving the small communities, by helping them to grow instead of slowly deteriorating, having their youth moving to the big cities and increasing the problems the big cities are currently unable to cope with.

Yes, we need federal assistance—but we would like to have it available at a more local level, administered by people who are closer to our needs, people in a position to know where such assistance will do the most to provide the better way of living for which they are striving.

In closing, may I add that we appreciate what you are doing in trying to help us obtain our objectives.

F. T. GAMEC,
Chairman, Craighead County Development Council.

STATEMENT OF J. G. WASKOM, JR., DECEMBER 4, 1971

My name is J. G. Waskom, Jr., and I am Mayor of the City of Marked Tree.

The following testimony is expected to reflect local area needs, and pertinent information for the Community Development Proposal Hearing at Marked Tree, Arkansas, on December 4, 1971.

It is the opinion of knowledgeable citizens of Marked Tree that the most urgent needs of our town are:

Financial assistance
Housing
To stop the out-migration of our people
Street construction and repair
Extension of water and sewer lines
Community center
Solid waste disposal facilities
Adult education
A hospital

It is very obvious that our economic development status would be improved if these urgent needs, and/or projects, were satisfied wholly or in part.

The first and primary need for our town, and I believe for most towns, is financial assistance—and it will continue to be until our plight is finally recognized by state and federal governments.

Such assistance, of necessity, will be derived from taxation, whether it be a local specific tax or whether it originates at the state or federal level.

With financial assistance should come the solution to the major problems which have long beset the small towns.

Before our town can entertain constructive thinking as to satisfying the many urgent needs that have been mentioned, the everyday problems of paying everyday expenses must be solved.

I believe we can say that most small towns in Arkansas have only three major sources of revenue:

1. County and state turnback funds.
2. Revenue from fines.
3. Revenue from privilege license.

The proceeds from these three sources usually is depleted in the payment of current obligations—and in many instances the city occupies a debt position with the local bank at the end of the year.

I see little possibility of help from direct funding to cure the ill of too little money for operating expenses, and if the state and federal governments expect the small towns to survive—not to mention progress—then tax revenues must be more equitably divided to satisfy the urgent and pressing need existing at the small town level.

How can the town fathers direct their efforts to increase and improve economic development when they are in doubt of the town's ability to pay current, or even past due bills!

If the state and federal governments will not share revenue equitably with the small towns, then why should they not assume all, or at least part, of the duties and responsibilities with which small towns are charged?

What can improve the economic development of our city more than additional housing to satisfy the workers at our three industrial plants, to satisfy the school teachers, Mr. and Mrs. Resident, the butcher, the baker, the candlestick maker?

What can improve the economic development of our city more than to have good streets to drive on, creating a dust free atmosphere, inviting the stranger to settle in our midst, and raising property values for our citizens?

What can improve the economic development of our area more than to influence our citizens, and particularly our young people, not to leave our town for the questionable greener pastures that beckon for residency.

What can improve our economic development more than to be financially able to extend water and sewer lines to accommodate more residents and enhance the general profit status of our town?

And what can improve our economic development more than to have adequate hospital facilities to care for our sick; to have a community center for the entertainment of our young people, and to entice new residents to our town?

Obviously, the tool with which to accomplish this development is a source of money which becomes more pressing as time passes and needs increase.

How much money does our city need? This may be answered by asking these other questions.

What is the cost of several miles of asphalt streets?

What is the cost of several miles of water and sewer line construction?

What is the cost of solid waste disposal facilities for a city of more than 3,000 people?

What is the cost of a sorely needed hospital, properly equipped?

What is the cost of a community recreation center to aid in keeping our young folks off the street and out of parked cars?

What is the cost of a government housing project for many families—especially the elderly?

A cumulative total answering these questions would run into the millions of dollars and the city's over all need would still not be wholly satisfied.

Now, may I ask another question? What is the capability of the city to produce its share of needed revenue to assure the economic development so badly needed.

The answer is nil due to the fact that the city has exhausted all of its taxing ability, and bonding capacity, in the acquisition of projects which were basically necessary for its survival.

The city only has 10 mills with which to retire bonded indebtedness—5 mills for general bonded indebtedness, and 5 mills for specific. I'm sure that most of you know that in order to make additional millage available the constitution of the state must be amended. Our people now do not have the privilege of allowing themselves to be taxed in order to upgrade the town in which they live by providing much needed development.

Now, may I mention some of the problems facing the town in its endeavor to improve its economic status:

1. The high interest rate for bonds.

2. The general requirement that bonds be secured by an income of 1½ times the required payment.

3. That bonds usually are issued for only a short period—for 20 years—retired in about 12 years with the utilization of the 1½ times provision. This, because interest rates are less favorable on long term issues.

4. Insufficient taxing ability together with only minimal turnback from state and federal governments.

The attitude of the people, Mr. Average Taxpayer, of our town could be much improved because they have taxed themselves to the very fullest extent to improve their streets, and water and sewer system, yet much still remains to be accomplished to achieve anything like total improvement—not to mention the other many and varied improvements needed—mentioned elsewhere in this testimony.

Out migration of our people—a loss in count, over the last 10 years, does nothing to alleviate the situation. Our young people, who leave seeking their fortunes in the large cities, leave a gap never to be filled and others who leaves seeking a better community in which to live retard the growth of our town.

In regard to the salability of bonds for public works projects—if new sources of financing at more favorable rates on long terms is not developed—may I say that under present laws there could be additional financing if there was a source of funds at a lower rate, on longer terms, and with less stringent requirements. It appears that present bonding sources are unable or unwilling to help us solve our problems.

Of course, the obvious answer to the financing ills would be a sure, steady source of revenue, on a long term basis, at interest rates small towns could afford to pay. It's as simple as that.

Over the years the City of Marked Tree, with federal assistance, has been able to build some public housing, construct a municipal airport, acquire its water system, and construct a sewer system. We feel that we have utilized the depth of the federal programs—yet so much still needs to be done—and it appears that no longer will assistance be extended to us.

Hopefully, someday in the future the plight of the small towns will be recognized to the end that a fair share of tax revenue will be made available to them and, when necessary, for economic development, a lending agency will offer a helping hand.

I don't think that it was in the design—the scheme of things—for the small town, the birth place of this great nation, to suffer and die for want of financial respect, and I don't believe that just men in a just land will force our small towns to beg for their rightful opportunity to stand proud and straight in the quest for the prosperity they so richly deserve.

Respectfully submitted,

J. G. WASKOM, Jr.,
Mayor, City of Marked Tree, Ark.

CITY OF GOSNELL, ARK.—BRIEF SITUATION AND REPORT

I. Funding requirement estimate by project:

Water—project completed	$243,000
Sewerage—project processing	550,000
Fire Prevention—project completed	42,000
Streets—progressing	165,000
Community Center—planning	55,000
Garbage Disposal—planning	50,000
Industrial Park—planning	100,000
Library—planning	20,000
Recreation Park—planning	250,000
Law Enforcement—planning	25,000
Total	1,500,000

II. Situation report:

A few years ago the town of Gosnell was a community with a Church, School, and some 200 families. A health official who was acting on a water and sewerage complaint in Gosnell, concluded: We can test the drinking water and prove that it is contaminated, and test the water seeping from the ground and prove that it is sewerage; but the people still have the right to live with it or move out. Thus, he had analyzed the frustration of those who stayed and the provocative outmigration pattern of the people in this small town in very few words. The situation is a national disgrace to a civilized nation where billions of dollars are loaned and given away without a sense of priority. I have documented proof of the gross inefficiency of government administered funding programs, but I think that this is an accepted fact by any modern concept of management.

In attempting to solve some of the problems of Gosnell, I observed that these small town people had hope in their hearts, confidence in government workers, trust in elected officials, and a patriotic spirit of improvement that other people have given up hope on long ago. As an example they accepted their problems as their very own and recognized that they would have to work without government hand outs as read about in the newspapers, and that they would have to accomplish their objectives within their own resourcefulness. Gosnell is probably the only town in the United States where the Mayor and City Council serve without pay. What must a man offer to this Nation other than his taxes and his work free while others are being paid? Can we afford to let these people become pacified to the extent that they do not care anymore?

The following comments by project may provide some insight into the success and frustration:

Water. There were no funds to pay for an economic feasibility report. Grant money was out of the question as Gosnell did not have any priority regardless of economically depressed status. The Farm Home Administration did approve a loan of $243,000. Water revenues were pledged to secure the bonds which the Government bought. This project did not cost the government one dime and they made money on the project as they collected taxes from the contractors and wage earners. It was necessary to avoid improvement district and taxation to make it acceptable to the people. This is because the local property taxes are so high by assessment that the poor, sick, and elderly end up losing their homes before they die. The small town people are crushed by taxes as they do not have the economic advantage of the larger city while taxes are assessed at the same rate or in some instances higher.

Sewage system. The cost estimate is $550,000 and involves a $171,000 grant from HUD and a $19,000 grant from pollution control. Problem after problem has been encountered. The first was an argument between government agencies (FHA and HUD) as to who would fund the program. Next was the imposing "ifs" by government workers, such as, we don't know if this project will be successful twenty years from now. Another favorite trick is to plead ignorance by saying: "we don't know as it is under review." The next great expression of a government worker is to rest on indecision by saying: "we haven't decided", next expression: "the other agencies have it." We are sympathetic toward the government employing the little learned and poor, but surely they can employ one man who can make a decision. After many years the City of Gosnell signed a loan and grant agreement with Housing and Urban Development after the office was moved to Little Rock to fund the project. The very indication that the City of Gosnell is Getting Sewerage in addition to water has had its economic impact. FHA loans on housing are now available and bankers are more generous on loans. Approximately 200 additional homes are in the City and the population has jumped from 1380 to 1780 in about one year. At $15,000 per home this totals $3,000,000 additional investment by private enterprise. This economic factor adds to the big City economy from the lumber business in California to the hardware manufacturer in the East. Even the Chase Manhattan Bank in New York will likely feel a few green backs as a result of this little town trying to survive and help itself.

In fact, both the state and federal government will likely take in more taxes than the $171,000 and $19,000 grant that is involved in this project. This should be ample proof that economic prosperity begins in the small town and causes an economic chain reaction throughout the nation. Gosnell is a prime example and willing to pay in excess of one half million in loan money to help this nation as well as its self. What has actually happened to cause the economic chain reaction is that water and sewerage qualifies Gosnell to be taken into a giant national financial combine consisting of Bank loans, FHA loans, etc. In turn this means building, remodeling, and the purchase of appliances and fixtures. This situation can be substantiated by the new homes, telephones, water meters, gas meters, and utility records as well as population growth.

I think that it is only fair to state that some small towns may have certain stabilizing factors such as availability of land that does not permit a sudden economic chain reaction but the population stabilizing factor would still be there. It is well to mention also that the big towns and cities can not expect this economic chain reaction by similar expenditures because they are already in the national financial combine; and when they are deteriorating financially—propping up the structure merely prolongs the usefulness of the structure without creating a chain economic reaction. The small towns are economic pots of gold to be tapped by the government and shared by the whole nation. The government must first recognize the situation and devise a new process of justice and procedures. A final item on our sewerage project will explain what I mean. Pollution Control took the Gosnell application for a participating grant of some $19,000, but insisted that HUD sign a loan and grant agreement with Gosnell before they made the grant money available. In spite of the fact that Gosnell has signed a loan and grant agreement with HUD, and in spite of the fact that Banks and Loan Agencies have already taken Gosnell into the national financial combine; a Pollution Control official has informally notified me not to expect the $19,000 grant very soon. Where did a Pollution Control official get the power that would put a Roman Emperor to shame whereby he can make one decision that will bankrupt the town, kick it out of the national financial combine, violate a trust in government, and sentence the town people to live in pollution and poverty. A documented agreement with Housing and Urban Development that provides for cooperative participation by Pollution Control or nothing makes this situation a reality.

I do not believe that congress or the president gave the officials this power, but we must face the fact that they have it right here in the United States. It appears that both the people of the United States and Congress have become victims of a system that they can not control or refuse to take the time to do so. Any modern concept of the application of the principals of management; based on economy and efficiency of operation, and consistent with the objective to be accomplished, would eliminate this great injustice to our people. I hesitate to class my remarks as criticism of the government worker as the great majority of them are honest and sincere people who are also victims of a system that only congress can correct. I have accumulated many documents on this matter to support this conclusion.

In conclusion, I contend that the Honorable Bill Alexander has the right idea on how to help this nation with his Community Development Program. It is viewed as the program that can lead us through a decade of progress and possibly save us from a dictatorship because this nation is in turmoil. The people can look to this program as improvement and a better way through a just and democratic procedure.

III. Addendum (additional material submitted).

Fire prevention. The small town is ravaged by high insurance rates as compared to the big town. In looking after the best interest of the property owners some $42,000 has been spent from the general fund to provide a fire station and truck which is manned by volunteers. This resulted in a reduction of the insurance rates which helped the people, thus a high priority was given on this expenditure which consumed most of the general fund over a period of two years. Many of the poor, sick, and elderly are subject to total material loss in case of fire as they can not afford the high cost of insurance.

Streets. There are sufficient street funds so designated by the state to hard surface and maintain all the streets, however, it must be projected over a long period of time, thus a long term loan is most desirable with street funds pledged for repayment. There are state laws and opinions against such projected expenditures, therefore, it is a necessity that any venture into the loan structure by the federal government take precedence over state laws. Streets may be considered revenue producing since the state law designates funds for this purpose.

Garbage disposition. Sanitary land fill offers the maximum solution. This is a revenue producing item and a long term loan secured by land, equipment, and revenue pledge is sufficient to eliminate this problem over-night.

Community center. Community participation and leadership are key factors in any community and utilization of a community center for these purposes alone can greatly aid our democratic society. It must be realized that we must combat confusion and false rumors and plan and grow together. I feel that the City of Gosnell is more fortunate than most towns as the Mayor, Andy S. Bevill, has dedicated himself to making the right decisions on behalf of the people as opposed to special interest which invariably wrecks the financial structure of a town.

Industrial park. The City of Gosnell has had a standing agreement with utility companies to provide everything necessary for an industrial park except the land, but when assistance was requested from EDA, it was stated that in order to get any of their assistance that the city would have to have some industry. The answer was accepted as the law, but I can not believe that congress wrote a law that states such. There was one apparent factor, and that is that any small economically depressed town could not participate in funds provided by congress whether it was a decision or law.

Library. The library should be combined with the community center. A library has the purpose of recording available knowledge to provide information, but a new concept must be devised as much of the present system is out-dated when considering modern needs of a community.

Recreational park. This is a critical item to plan and it can be made attractive only with good planning and sufficient funds. A planned package deal should be offered by the government.

Law enforcement. This is the last item on the list because there are no funds available to properly do the job. The criminal element in a small town generally consists of petty thievery, destruction of property, drunkenness, unaddicted dopes, small hoodlum gangs, recruiters to the cause, and bad check bouncers; however, they out-migrate to the bright lights of big towns when they feel that they are ready to graduate into major crimes. This is why the people of a little town think that crime prevention is the answer to our problem while the big town people think that jails and prisons are the answer. One example of prevention is that a small industry is placed on a small town industrial park and employes some 300 people. About 80% of these have an education up to the 8th grade and their attention is diverted from the petty crimes in the small town and the major crimes in the big town. Having served as personnel manager in such a factory in a small town and interviewed thousands of applicants; I can assure you that it works. The only out-migration problem you have is to better jobs in the big town instead of bigger crimes. This preventive crime action also has a stablizing effect on relatives of the workers that is almost unbelievable. as an example a man will stick with a working woman to hold the family together or vice versa and about 3 children are held together for the same reason and schooled.

Recommendation. 1. There are many adverse state laws and legal opinions, yet to be written which can block or stall the program, therefore, the small town should be permitted to participate in an economically feasible plan regardless of the state law. 2. A City financial prospectus should be made with the view of diverting present revenues from short term use to long term projects. 3. The City should be permitted by the government to accomplish the projects themselves under bonded guidance to assure proper structure. The pledge of revenues from revenue producing projects should be accepted in lieu of taxes and improvement districts. 4. The government should offer a planned packaged deal and let the city select based on their available revenues. In other words guidance but not dictatorship as long as logic is used. 5. Eliminate all administrative work except simple plan, estimate, and loan papers, which should be in final format.

J. W. CRAWFORD,
Project Coordinator.

STATEMENT BY FRED ASHCRAFT

I feel that efforts of social and economic upgrading in North Arkansas have been overly preoccupied with a wide-angle approach and directed more toward analyzing cases than focusing on solutions.

I do not wish to appear to denigrate an overview approach. It is necessary that we develop the data and draft board conclusions from which we may better consider the comprehensive nature of the problems of smaller communities. It is incumbent to suggest solutions in a conceptual character.

At the same time, we need to realize the immediacy of the personal needs in terms of human beings. We are, after all, addressing ourselves to providing liveable income, desirable housing and a satisfying, hopeful and rewarding style of living to the people of the small cities and lightly populated rural areas of north Arkansas.

What we are dealing with, essentially, is people living in various stages of deprivation, from tarpaper shacks to educational and social inability to keep pace with current society . . . people living without dignity, existing on welfare handouts and food stamps, with their will to produce eroded until we approach a point where they are lost to productive society, no matter what opportunities we may win for them.

When we discuss the accounterments of a better society—roads and tax sharing and waste disposal systems—I find my innermost considerations returning repeatedly to the source of needs for all these services—that is, the people of Poinsett County themselves.

I find it intolerable, personally and ideologically, to witness this stultifying economic stagnation in the heart of a rich, inordinately affluent nation.

In the musical, Auntie Mame, Mame said

it very well: "Life is a banquet . . . and most poor sons of bitches are starving to death!"

It shouldn't be that way. I believe the kind of effort exemplified here today is a firm step toward seeing it will not continue to be so.

In dealing with what amounts to an economic and sociological overhaul of small communities, we must direct some purposeful thought along pragmatic lines.

We must, in effect, find a loose thread someplace and start yanking.

Where do we start?

There are striking differences of opinion about this.

In my view, admittedly a binocular one influenced by my proclivity for reducing matters to the direct personal terms of people, the number one objective is providing jobs.

Put people to work.

From this, the other things follow in logical sequence.

The second priority is housing. This area, particularly Marked Tree and Lepanto, with which I am better acquainted, needs housing of every nature.

In both instances—employment and housing—there are federal programs either operative or on the drawing boards.

I am very hopeful about some version of welfare reform containing work provisions being enacted. However, it appears probable this may be some time in becoming an actuality.

The Farmers Home Administration low income housing program has led to the construction of a number of new homes in this area. The program, however, is hampered by red tape, inconsistencies and inhibiting stipulations. These have undoubtedly have kept the Farmers Home housing program from achieving maximum benefits.

As an example of what's hampering this program, I would like to cite the case of a man who bought a home with Farmers Home Administration financing late in 1970.

Total payments on the house were $103 per month. On the basis of this man's adjusted income under the FHA formula he paid $60 per month on the house and the government paid the other $43.

The purchaser was informed he would be re-checked every two years. Actually, he was re-checked in 1971, on the contention that it was the "second" year—although he had occupied the house less than a year.

During this time, the man had received a raise of 17½ cents per hour.

This additional income put him over the income cutoff point, which for his income and family situation was $5,900 per year.

His FHA subsidy was cancelled. His house payments went from $60 to $103 per month on the basis of a raise of about $30 per month—not counting withholding and a year's increase in the cost of living.

He couldn't keep up the house payments and lost his home. Since there was no suitable rental housing available, he will very likely be forced to move out of Lepanto.

I offer this isolated example as an example of the lack of responsiveness in a program that's supposed to make it possible for poor but productive people to have a home.

I am no authority on the complexities of federal home financing. I do believe he might have bought a home under Act 235 of the Federal Housing Administration but the same house could have cost him as much as $1,500 more because of discounts. And, also, he would have faced higher closing costs than he would going Farmers Home.

Even so, despite the possibility of penalizing home buyers, the Farmers Home Administration program has much merit. It may need a careful look from the standpoint of implementation and the interests of both builders and home purchasers.

Despite the vital need for housing, I still consider employment opportunity the paramount consideration in Poinsett County.

I am not inclined to base my hopes for employment on securing industry to locate or re-locate here.

There are a formidable number of reasons working against this desirable eventuality. They range from a leadership void to education, from the need for facilities discussed here today to the very size of the communities themselves, a built-in drawback in competing for industry.

I think our economic, employmental salvation should begin at home.

I feel we can do something on our own, through federal programs either existing or potential.

Through some device, most likely a group formed within this county with the help of outside consultation, we should find an industrial need, a product, something which we can produce here in Poinsett County.

It must be something for which a market exists. I talked about this with somebody yesterday and he suggested a distillery. I had to agree there probably was a market and that we could probably flush some experienced distiller out of the floodway bottoms.

Once we've picked a product, let's build a plant right here to produce it. Let us recruit and train a work force of Poinsett County people to man the plant. Let's make it a sizable enough enterprise to employ at least 100 persons—hopefully more but that as a minimum.

I think a profit motive must be built into the structure of this industry. I've even gone so far as to pick the site: such a communal enterprise could be advantageously located at Payneway. This would give it a desirable relationship with Harrisburg, Marked Tree and Trumann.

The big difference between this concept and others discussed is the arbitrary starting point—the prior decision to sit down with purpose to say we ARE going to have a community-created industry and now that that's settled, let's decide what industry.

This communal industrial endeavor should be reinforced with a legalistic status so that director would be in a position to take actions such as land condemnation or whatever was just and proper in carrying out the project in the public interest.

These are hurried over-simplifications of a difficult undertaking but I think it is both feasible and justified. For those who can offer good and proper reasons why this might not be undertaken, I can offer even more reasons why I believe it should.

I wish to thank Congressman Alexander and his staff and all concerned with this hearing for their time and attention. I want to pledge my cooperation toward doing whatever I can to make Poinsett County and all of northeast Arkansas a better place in which we all may be privileged to rear our families and do business. Thank you.

Mr. Speaker, this is the 15th insertion in the CONGRESSIONAL RECORD of testimony and other materials which I have gathered during my research into ways to assist community development in nonmetropolitan areas. Other materials on this subject appear in the CONGRESSIONAL RECORDS, volume 117, part 25, pages 32740–32741; part 26, pages 34505–34506; part 27, pages 35409–35410, 36133–36135; part 28, pages 37358–37360; part 29, 38121–38123; part 30, pages 39156–39158; part 31, pages 40813–40817; part 32, pages 41882–41884; part 34, pages 44697–44699; part 35, pages 45963–45966; December 15, pages 47309–47312; January 25, pages 1225–1226; February 9, pages 3882–3886.

WALL STREET JOURNAL AGAIN SPOTLIGHTS NEED FOR COSMETIC SAFETY LEGISLATION—THIS TIME TO PROTECT MEN

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mrs. SULLIVAN. Mr. Speaker, when I testified before the House Committee on Interstate and Foreign Commerce on the last occasion on which that committee held hearings on my cosmetics safety legislation—10 years ago this June—one of the members of that all-male committee asked me with some concern, "Are you against women being beautiful?"

He had received a deluge of mail from beauty parlor operators in his district, and petitions signed by hundreds of customers of those shops, protesting what cosmetic industry lobbyists had convinced them was a provision of my bill prohibiting the use of hair coloring. Of course my bill would do no such thing; what it would do, however, is to prohibit the use of unsafe hair dyes, or of ingredients in any cosmetics products which are not proved safe for the purposes intended. The cosmetics industry has successfully blocked such legislation for 34 years.

Although the House committee finally did move in 1962 to enact into law many of the important drug provisions contained at that time in H.R. 1235, my omnibus bill to rewrite the Food, Drug, and Cosmetic Act of 1938, it passed over the cosmetic section entirely, and it has not taken up H.R. 1235 since then. There is, perhaps, still a lingering fear among some of the Members that the cosmetic section is intended to prevent women from being beautiful.

SOME 60,000 INSURANCE CLAIMS A YEAR FROM COSMETIC INJURIES

I tried to point out to the committee in 1962 that women are not the only people hurt by unsafe cosmetics—that a multitude of products legally defined as cosmetics is used by men also, and by children. All Americans deserve to be protected against unsafe cosmetic products, which, according to the National Commission on Product Safety, cause about 60,000 injuries a year leading to insurance claims.

The dangers from unsafe cosmetics, and the agonies caused by the inability of allergic individuals to find out what is in the cosmetic products they use, are among the best-kept secrets in magazines aimed at the so-called women's market. Writers from all of those magazines have interviewed me from time to time for articles on this subject but, for some mysterious reason, the articles never appear in the women's magazines, perhaps because the cosmetics ads take up so much room there is no space left for an article on cosmetics safety. Several producers of commercial network television shows have also spent endless hours with me in researching the same story, but there never seems to be network air time available for it.

NEWSPAPERS AND SOME MAGAZINES HAVE DESCRIBED PROBLEM

On the other hand, the Reader's Digest has, from time to time, found room for important articles on this subject, and so has the AMA's Today's Health magazine. So have many newspapers, including the Globe-Democrat and Post-Dispatch in St. Louis, the New York Times, the Los Angeles Times syndicate, the Detroit News, the Chicago Daily News, the three Washington newspapers and numerous others. Over the years, I have placed many of these articles in the CONGRESSIONAL RECORD.

The Wall Street Journal carried an excellent article last June 10 by Ronald G. Shafer which was one of the best on the subject. This week, the same newspaper printed a further piece on cosmetics, by Richard D. James, which should make every man who uses deodorant soap or after-shave lotion sit up and take notice.

DEVELOPING ALLERGY TO SUNLIGHT

Are these products making men photosensitive—allergic to sunlight? Are users of after-shave lotion risking having to stay indoors in summer? According to the Wall Street Journal article, this is a serious enough problem to worry allergists, who are seeing an increasing number of cases of skin photosensitivity resulting from the use of deodorant soaps and after-shave lotions.

The Food and Drug Administration, according to the James article, "says it has received a small number of complaints of photoallergy, as it is called, connected with the soaps and lotions and is keeping an eye on the situation, but it does not plan any immediate action."

The fact is that the FDA's freedom of action in the cosmetics field is severely limited by the 1938 Food, Drug, and Cosmetic Act. The Government must ferret out on its own what is contained in any cosmetic product, and even when it has reason to believe a product is not safe it cannot do anything about it—except ask the industry voluntarily to change its formula—unless the FDA can establish legal proof that the product is dangerous.

COSMETIC SAFETY PROVISIONS OF H.R. 1235

The cosmetic section of H.R. 1235, on the other hand, would require the manufacturer to establish the safety of any ingredient before it can be used, would prohibit the use of any carcinogens in cosmetics, would open up the manufacturers' complaint files to FDA inspectors, and would require a listing on the label of all ingredients so that an allergic individual could determine at the point of sale whether a particular product was safe for him or her to use, and could thus stay away from those ingredients the consumer knows will cause a reaction.

At present, the customer is the unwilling guinea pig for the industry; if there are enough insurance claims, the firm may then change its formula. But the customer has no way of knowing what the manufacturer has substituted for the ingredient which caused the problem, or even whether the formula has in fact been changed. The allergists do not know either. Hence, in millions of homes, one finds partly used containers of cosmetic products which have been purchased in good faith but which cannot comfortably or safely be used. The economic waste is tremendous, but the pain and suffering are worse.

If anyone still thinks this is a problem only for women, he should read the article which appeared in Monday's Wall Street Journal, as follows:

[From the Wall Street Journal, Feb. 14, 1972]

COMING CLEAN—SKIN DOCTORS COMPLAIN SOME INGREDIENTS IN SOAPS, SHAVE LOTIONS CAUSE USERS TO BE ALLERGIC TO SUN

(By Richard D. James)

CHICAGO.—The cosmetics industry, already under fire because of potential health hazards from the widely used germ-killer hexachlorophene, is coming under attack from a new direction.

A number of physicians specializing in skin disorders report that they are seeing an appreciable number of people who have been made allergic to sunlight by some of the big-selling after-shave lotions and by the deodorant toilet soaps that contain germ-killing chemicals other than hexachlorophene. The doctors aren't certain what ingredients in the lotions cause the allergy, but with the soaps they claim that a chemical known as tribromosalicylanilide (TBS) is the main offender.

Most people who use the products aren't bothered by them, but those who are bothered developed scaly, itchy sores on their faces, hands and other parts of the body when exposed to sunlight, the doctors say. The reaction, similar to that caused by poison oak, usually stops when the patients stop using the soaps and lotions, but some sufferers remain allergic to sunlight for years afterward and have to remain indoors virtually all the time. In a few cases they can't even sit near a closed window because light coming through the glass will trigger the reaction. Sometimes light from a fluorescent lamp is enough to cause trouble.

MANY CASES IN HAWAII

The allergy occurs most frequently in parts of the country that receive a lot of sunlight. "Not a week goes by that I don't see one new patient with this problem, and on the average I probably see two new cases a week," says Dr. Harry L. Arnold, a Honolulu dermatologist.

In other areas the number of new cases follows a seasonal pattern, swinging up in warm-weather months and down in the winter, except that there is an upturn around Christmas, the time when people go south for vacations and receive new after-shave lotions as gifts. The allergy also seems to hit men over 40 more frequently than others. The doctors don't understand why.

Some dermatologists have stopped using the soaps and lotions and are recommending that their patients follow suit. They maintain that antibacterial agents in soaps aren't needed. The U.S. Food and Drug Administration says it has received a small number of complaints of photoallergy, as it's called, connected with the soaps and lotions and is keeping an eye on the situation, but it doesn't plan any immediate action.

Companies that manufacture the products generally say they are aware that the products have caused some people to develop the allergy, but they contend that considering the millions of users, the problem is so rare that they consider their products safe and useful. "We take the view that the risk is small and that there are many people who want such a product, so we make it available. My conscience doesn't bother me," says J. David Justice, assistant research director at Lever Brothers Co., a deodorant soap maker.

NOT MONSTROUS, BUT SIGNIFICANT

Doctors agree that the number may be small, but they argue that even a small number is unneeded and unacceptable. "I understand that the companies believe they really aren't harming many people, but who are they helping?" asks Dr. John Epstein, a dermatologist at the University of California medical school.

No count of the number of persons afflicted is available, but the dermatologists estimate that nationally they see between 500 and 1,000 new cases a year, and some say perhaps four times that number never come to doctors' attention. "We really don't know how big the problem is. It can't be monstrous, but it is significant," says Dr. Frederick Urbach, head of the dermatology department at Temple University.

The problem could become worse, some experts believe. They point out that the troublesome chemical in the soaps soon may be used even more widely than it is now because it is a logical substitute for hexachlorophene. The federal government recently proposed restrictions regarding use of hexachlorophene. The proposed restrictions resulted from research showing that hexachlorophene—used widely in shampoos and deodorants—can cause brain damage under certain circumstances.

About half of the two billion bars of toilet soap sold annually contain an antibacterial agent, and there are some 115 million bottles of after-shave lotion sold each year, trade sources estimate.

The deodorant soaps that cause the most trouble, the doctors say, are Lifebuoy and Phase III, made by Lever Brothers Co.; Zest and Safeguard, made by Procter and Gamble Co., and Cuticura, made by Purex Corp. After-shave lotions cited by doctors are Hai Karate, made by Pfizer Inc.; English Leather by Mem Co.; Swank Inc.'s Jade East, and Brut by Faberge Inc.

LIME OIL SUSPECTED

Although the doctors aren't certain what ingredients in the lotions cause the trouble—mainly because the companies generally refuse to disclose the products' contents, even for medical research—they believe the trouble lies with the various oils that are used to give the lotions their fragrance. "We know, for instance, that in the oil of limes there is a powerful photo-sensitizing agent, and I suspect it is lime oil that causes the trouble in lotions such as Hai Karate," says Dr. Harvey Blank, dermatology professor at the University of Miami in Florida.

The doctors say synthetically produced fragrances, which don't utilize the natural oils, don't produce the allergy; the doctors recommend that their patients use cheaper lotions, which generally contain the synthetics.

Most of the companies that make lotions containing natural fragrances say they are unaware of any photoallergy problems with their products. But at least one lotion-maker, Faberge, tends to confirm the doctors' suspicion. "We think the agent (that causes the allergy) might be one of the oils in it," says Phillip Brass, executive vice president. "We've been working on that oil, attempting to find a substitute for it." In the meantime, he says, the company is reducing the amount of that oil in the lotion. Mr. Brass didn't identify the oil.

In the case of soaps, the manufacturers say they are unaware of any current problem. They say that the few photoallergy cases of which they are aware occurred several years ago when TBS—the ingredient doctors believe causes the problem—contained impurities and that it was the impurities that caused the trouble. Today, they say, the TBS used in soaps is almost 100% pure and presents no problem. They go on to argue that if cases of the allergy are still occurring, they are among a tiny number of people who were once sensitized by the old impure TBS and now also react to the pure chemical.

Lifebuoy, Safeguard, Zest, Phase III and a new toilet soap, Irish Spring, being test-marketed by Colgate-Palmolive Co., all contain TBS. It is included in the soaps to kill skin bacteria that produce body odors.

Most of the dermatologists believe that the germ-killing soaps aren't needed by the general public. "They're probably a good idea for prison chain gangs, soldiers and others who have a high risk of contracting skin infections, but most people aren't in that category," says a New York City dermatologist.

The doctors also point out that there's growing evidence that normal skin bacteria, which every person has and which are the type killed by the deodorant soaps, probably play a protective role in fighting off disease-causing bacteria. "Those of us who are studying the skin bacteriology have stopped using them (deodorant soaps). I once used them myself, but I've stopped, and I discourage their use among our staff," says Dr. Blank from Miami University medical school.

Some, but not all, doctors think that TBS should be removed from soaps. "I think it is dangerous. It's not fair to say that percentagewise the risk is small. If you've got a thing like this, you shouldn't expose anybody to it," says Dr. Arnold of Honolulu.

Dr. Urbach of Temple University adds: "It's a question of relative worth. If you're going to save someone's life by using a poisonous chemical, you can take a higher risk. But if you simply want someone's armpit to smell good, you have less of a trade-off."

Some doctors also point out that a few years ago Denmark ordered TBS withdrawn from soaps after a large number of people developed reactions to the chemical. U.S. soap companies, however, respond that the amount of TBS used in Denmark was more than double the amount being used in U.S. soaps.

Doctors who don't favor banning the chemical say that at least it should be listed on the package. Some deodorant soaps do presently list their contents, but not all.

BICYCLING

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. HARRINGTON. Mr. Speaker, my colleague the gentleman from New York (Mr. KOCH) recently spoke before the Bicycle Institute of America, Inc., at their annual convention in Boca Raton, Fla.

In his speech Mr. KOCH discusses the need for facilities for cycling and points to the obvious benefits of cycling—better health, cleaner air due to fewer cars, recreation, and so forth. Mr. KOCH introduced the Bicycle Transportation Act of 1971, which I cosponsored, to authorize construction of exclusive or preferential bicycle lanes, and has spoken out in the Congress many times on the necessity of providing proper bicycle facilities for the 70 million Americans now bicycling.

But, Mr. KOCH sees bicycling as part of the total transportation picture and I agree with him. In his speech he says:

> I believe we must have a single transportation trust fund to support the total transportation needs of the country in the 1970's and beyond.

In this regard, Mr. KOCH has introduced legislation for a unified transportation trust fund utilizing the already existing billions in the highway trust fund for use in both mass transit and highways. I have cosponsored this legislation and believe that the concept is one we must accept if we are ever to solve our chaotic transportation problems.

As Mr. KOCH said:

> Indefinite continuation of the self-feeding Highway Trust Fund, along with a continuing policy of holding those funds inviolate is folly.

Bicycling is a very popular means of transportation now, and a total transportation system is a necessity. I am pleased therefore to insert in the RECORD at this time a copy of Congressman KOCH's informative and interesting speech.

REMARKS BY CONGRESSMAN EDWARD I. KOCH

Thank you, Mr. Snyder, and good morning ladies and gentlemen. It is a distinct pleasure and an honor to be with you this morning, and to be part of the annual meeting of what is so obviously a vital and robust industry.

I must say in response to the very kind introduction of your President, Bill Snyder, that if, as he says, I am known for being interested in "people-oriented" legislation, that is high honor indeed.

I'm afraid, however, that I am also rapidly getting a reputation and becoming even better known for something that may not be quite so high an honor . . . and that is that I am probably the world's worst bicycle rider. I know that's a terrible admission to make to this audience, and I assure you that I am working valiantly to learn. But as I make my faltering, wobbly way around Central Park on a Sunday morning, I'm sure that any of my constituents who see and recognize me wonder if we need federally subsidized bike paths as much as we need federally subsidized cycling lessons for Ed Koch. In fact, I am considered only slightly less a hazard to other cyclists than barking dogs, broken glass and potholes.

Fortunately for cycling, an idea is not always held responsible for the actions of those who espouse it . . . and I do, very much espouse it. For you don't have to be an expert cyclist to appreciate the wondrous potential inherent in this relatively simple machine of yours. You really only have to be able to see and hear and smell and think . . . to see the good health and obvious pleasure radiating from the faces of passing bike riders of all ages . . . and then—

To see the traffic-choked streets and know how much better it would be to have more bikes and fewer cars on those streets . . .

To smell the fresh cut grass and spring flowers as you pedal along, and then to smell the noxious fumes of a half-million cars too many, of a thousand busses too old and inefficient . . .

To hear the happy laughter of children on bikes and then hear the raucous cacophony of blasting horns, screeching brakes, exploding backfires and swearing drivers . . .

No . . . the comparison is all too obvious to a thinking individual, and the bike wins hands down, whether you know how to ride one or not. That's why I am such an ardent supporter of cycling and of the need for prompt legislative action to provide the much needed facilities for cycling.

I live in Manhattan, and if I were the most expert cyclist in the world, I would hesitate to ride my bike to work. Given the state of traffic in New York City, and the disposition of city drivers, I think it can be terribly dangerous. And I believe Mayor Lindsay's action in marking Park Avenue and a few other major thoroughfares with signs and calling them Bikeways is dangerous tokenism. It's too bad New York is lagging so far behind.

I rather think that William F. Buckley had the right idea when, during his unsuccessful campaign for mayor, he proposed an elevated Bikeway over Second Avenue. I have proposed a similar concept—which might make one think that if politics makes strange bedfellows, bicycles make even stranger ones. My idea is to have a special bike lane down Fifth Avenue and another special bike lane up Madison Avenue.

After all, why shouldn't there be facilities so that the bicycle can be used for transportation. Its values for health, fitness, recreation, and improving the environment are too well known to enumerate. Bikes *have* arrived and cyclists have become a force to be reckoned with in the America of 1972.

Why shouldn't there be more of the kind of thing done by State Senator James Mills in California. There *should* be access for cyclists across the Golden Gate Bridge, the Oakland Bay Bridge, and the Verrazano Bridge and Triboro Bridge or any other bridge . . . buses and trails and commuter cycling routes and anything that will help people get out on their bikes without being hemmed in by broad ribbons of concrete which they can neither ride on, cross, or get around.

I know Senator Mills. He's a good legislator and a clear-thinking man. If he's in your corner you have an able ally.

I don't know Assemblyman Stathos in Oregon, but, of course, I salute him. The Oregon bike trail bill is really a major breakthrough, and will surely set the pattern for much legislation to follow.

Getting back to California for a moment, I find it is even possible for me to say a few kind words about Governor Ronald Reagan, even though he vetoed Senator Mills' Bikeways bill, he did appropriate $75,000 for a study to see how bikes fit into a statewide master plan for transportation and he can't be all bad. Quite frankly, I believe that unified transportation planning is an absolute necessity.

Beyond that, I believe we must have a single transportation trust fund to support the total transportation needs of the country in the 1970's and beyond. That is why on July 7, 1971, I introduced a bill which would create such a unified fund, cutting across the rigid modal patterns that today restrict the development of a balanced transportation system, and which results in distorted and inefficient uses of our transportation resources. I believe a unified transportation trust fund is a vital step in achieving our national goals for safe and efficient transportation for everyone.

My bill would create centralized administration of transportation resources that can put the money where the needs are, and a reorganization of transportation authority and operations within the government that will make balanced and effective transportation planning possible.

My bill, H.R. 4571, and the idea behind it, are not without support, both in the Congress and out. Let me read you part of an ad which appeared recently on the Op Ed page of the *New York Times*.

"Instead of dealing with highway construction, railroad needs, urban transit, airport improvement and maritime requirements in separate pieces of legislation, we should approach them as part of an overall transportation plan. This would tie all forms of transportation together to move people and goods fast, safely, comfortably, on time, and at a reasonable cost."

This ad was sponsored by the Mobil Oil Corporation, and called for the creation by Congress of a National Master Transportation Program to be funded by direct Congressional appropriation based on clear and rational priorities.

"In the process," the Mobil ad continues, "Congress should review all special earmarked funds, *including the Highway Trust Fund.*"

And on January 6 of this year, a page one story in the *New York Times* quotes Henry Ford as recommending not only diverting some of the 5 to 6 billion dollar a year Highway Trust Fund money into mass transit, but also as calling for the creation of a unified transportation planning and funding system.

The latest development in this area came only a few days ago, and represents a major breakthrough; General Motors, Ford, Chrysler and American Motors—the Big Four of the automobile industry—formally announced support of Michigan legislation that would divert part of the state's fuel tax revenues to support mass transit facilities for that states' major cities.

This is a major reversal for Detroit, and will probably signal similar legislative drives by mass transit proponents in other states.

Indefinite continuation of the self-feeding Highway Trust Fund, along with a continuing policy of holding those funds inviolate is folly. The idea of salting away $5 billion a year to build more superhighways has outlived its usefulness, particularly when subway, bus and commuter railroad service around our great urban centers deteriorates every day.

The creation of a unified transportation planning and funding system such as I have proposed, and Mr. Ford, the Mobil Oil Company and many others have endorsed, would make it possible to develop more planned cities like Columbia, Maryland, where cars, buses and bicycles were all planned to be part of the system that provides for the transportation needs of *all* the citizens of that city.

It can provide commuter cycling lanes like those in Davis, California for nearly every city in the country.

It can provide for bike racks at the stations of new, high-speed subway systems, bus lines and commuter railroads.

It can mean less traffic, less noise, less air pollution, and a more efficient use of natural and human resources. It can mean significant environmental improvement and a better, healthier and more pleasant way of life for anyone who wants to travel by car, train, bus, bike or plane.

A single transportation trust fund may not come in the current session of Congress, or the next or the one after that. But it will surely come in the not too distant future, for, like bike riding itself, it is an idea whose time has come.

There are already 51 cosponsors of the Bicycle Transportation Act in the House, and 12 cosponsors of the Cranston-Tunney companion bill in the Senate, with more legislators agreeing to be "on" the bill, as we say, every week. Support is coming in from around the country . . . editorials in prominent newspapers and on television news programs, and countless letters from people, all urging passage of the Bicycle Transportation Act.

And frankly, I don't think the Highway Lobby will oppose us. In fact, it may even support us in a quiet way, for it is concerned about its image as a perpetuator of pollution, noise, traffic and roadside junkyards. It sees itself being held to blame for half of what is wrong with America today and at least suspect about the other half. Rightly or wrongly, the Highway Lobby is beginning to get a guilty conscience. It doesn't want to let the mass transit people get their hands on the highway trust fund, but it has to do *something* . . . and here we come with that something, soft-pedaling our Bicycle Transportation Act out for everybody to see.

"Why not?" the highway lobby thinks. "Everybody likes bikes. Here is a chance for us to line up with the good guys . . . an opportunity for us to stop being the 'heavy', a chance to do something for the people."

I may be over simplifying a bit, but I believe that is exactly what is going to happen. I am convinced that the Bicycle Transportation Act is going to pass in both houses of Congress, and I believe action on the bill is going to begin very soon.

What this will mean to the bikeways movement is nearly impossible to calculate. It will mean not 2 miles or 5 miles or 20 miles, but literally thousands and thousands of miles of paved bike paths lacing the country, running alongside new highways, along abandoned railroad rights of way, in towns, cities and suburbs. It will do on a federal level what the Oregon bill has done on a state level. It will mean special commuter cycling routes in and near our major urban centers. It will, in short, mean a massive step forward in making cycling for transportation, fun, recreation and good health safe and more pleasant for millions of Americans.

As has already been pointed out here this morning . . . this is *people* legislation, and today nobody dares be against it very much. To oppose cycling these days marks one as some kind of a subversive. Who would risk offending the 70 million Americans who ride bikes . . . there are too many of them.

Certainly this industry is to be commended for seeing the need and the potential for bikeways back in 1963, and working as hard, as consistently and as effectively as you have to bring the program along this far.

And while I am talking about effectiveness, I would be remiss in not tipping my hat to your trade association, The Bicycle Institute of America. The B.I.A. has excellent credentials, and is well known and much appreciated by any of us who know or care anything about bicycles, whether we are in the Congress or any of the agencies of the administration.

While doing research for the Bicycle Transportation Act, no matter which direction I or my staff looked for information, whether at the Department of Transportation, Commerce or Interior, everything that was helpful seemed to have originated at the Bicycle Institute.

Your newsletter, which I receive every quarter, and other source materials help make my job easier, mine and others who are trying to do something for cycling. Undeniably, your programs are helping make friends for bikes, for cycling and for the industry.

I must also say that I think your convention theme is right on target. That there is a bike boom going on is obvious; I see evidence of it in New York, in Washington and in the many other cities that I have visited during the last year or so. But obviously there are many challenges to your continued growth.

As has been so well articulated by John Auerbach this morning, one of the biggest challenges you face is making sure that you don't run out of growing room.

In Washington, the District traffic department put up several hundred colorful signs last spring. The signs said: "Bikes Have Equal Rights." Washington knows that, and you and I know it. You must make sure that the rest of the country knows it and accepts it.

But more than equal rights, bikes have an important role to play in a unified transportation system for America.

In his message to the Congress on natural beauty in February of 1967, President Lyndon Johnson said: "I see an America where bicycle paths, running through the hearts of our great cities provide pleasant, healthful recreation for millions of our families."

While I don't place myself on a par with the President of the United States, I too have a vision for America. It is a vision of a country that *moves*, swiftly, efficiently, and freely . . . a country that moves by car, bus, rail, air, bicycle or by foot. We must have that freedom of movement or traffic will choke us to death.

I see an America where legislation will be passed for a unified, integrated transportation system, in which all modes of transportation will be used effectively for the betterment of human existence.

I see an America where there will not be one park, one airport, one suburb, or one part of any city of which it must be ruefully said, "you can't *get* there from here." It will be an America where all forms of transportation will be made part of a smooth-functioning system, whether it be luxury air travel, urban mass transit, or personal systems of transportation like the bicycle.

Since we are living in an age where people and what they want and need are beginning to count and be more important than enlarging the establishment or further expanding institutions, I expect to live long enough to see that vision become a reality.

Thank you for your kind attention this morning, and for inviting me to be with you. When it comes time to arouse public support for the Bicycle Transportation Act, I know I can count on you.

Goodbye and good luck.

THE SPACE SHUTTLE: A DOD PROJECT IN NASA CLOTHING?

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mrs. ABZUG. Mr. Speaker, the space shuttle, which promises to be the most wasteful boondoggle since the SST and the C-5A, is being presented to us as a space exploration and development project and is listed in the budget of the National Aeronautics and Space Agency. However, there is mounting evidence to the effect that it is primarily designed and intended for military use. I recognize that our defense budget is extremely swollen, but I do not think that the way to reduce it is to list military projects in the budgets of other agencies.

Yesterday's New York Times carried an illuminating article on this subject by Brian O'Leary, an astronomy professor at San Francisco State College. I think that it is well worth reading, and I include it in the RECORD at the conclusion of my remarks:

DO WE REALLY WANT A SPACE SHUTTLE?

(By Brian O'Leary)

OAKLAND, CALIF.—President Nixon's recent authorization of a $10-to-$14-billion space shuttle has finally brought this budding program to public attention. More than $200 million has already been quietly appropriated for shuttle development. The $10-to-$14-billion total required to purchase and run the system through the nineteen-eighties represents a Federal outlay about twenty times that requested for the supersonic transport (SST) that was defeated by the Senate.

As in the case of the SST, Congressional debates are certain to occur and fundamental questions be raised about the shuttle's role in national priorities. Senator Walter F. Mondale considers the program "a colossal waste" and promises a vigorous effort to defeat the shuttle in the Senate this spring. Senator Edmund Muskie has also declared his opposition to the shuttle. It is likely that this will become a key issue during this year's Presidential campaign.

Undoubtedly a large factor in the Administration's decision to proceed with the shuttle—which the National Aeronautics and Space Administration has been promoting for the last two years—is to provide employment relief for a slumping aerospace industry during an election year.

Politics aside, the important question should be, do we really want a space shuttle? Is it compatible with our goals and priorities? If so, is it more economical than existing space transportation systems?

During the last year NASA contracted $1.9 million to three companies to perform a cost benefit analysis of the space shuttle. They concluded that the shuttle would be more economical than existing space transportation systems after a few years of operation. Because these conclusions conflicted with an earlier study performed for the Air Force by the Rand Corporation, the economy of the space shuttle has caused considerable controversy.

Yet a balanced presentation to decisionmakers of technical information bearing on the costs and benefits of the shuttle cannot be accomplished without some degree of effort outside the perimeter of NASA and its contractors. Such effort is now almost entirely missing and is badly needed before a national decision can be made.

I believe NASA must answer in detail the following questions:

First, what is the shuttle and what will it do? Time and time again configurations have been shifted or obfuscated. The original concept linked the shuttle with a permanent manned space station as a stepping stone for manned flight to the planets. When this approach appeared unpopular, the shuttle became an end in itself—a $12.8-billion two-stage fully reusable system which could hoist more than two million pounds of manned and unmanned payloads into earth orbit each year.

This can be compared to the present rate of about 10,000 pounds per year of unmanned nondefense payload, barely sufficient to comprise 20 per cent of the capacity of one shuttle flight (one shuttle is thus capable of carrying four adult elephants into earth orbit). But when that price seemed too high, we are given a $5.5-billion-plus configuration which can perform essentially the same tasks as the $12.8-billion version, the only major difference being the booster is now expendable rather than reusable. And now the President's budget discloses that $5.5 billion is in fact an underestimate; it will actually cost us $7 to $11 billion to start with and an additional $3 billion to operate during the nineteen-eighties. What next?

Second, what precisely are NASA's goals for shuttle use? Because the present unmanned traffic rate into earth orbit is low and relatively inexpensive it is hard to avoid the conclusion that the shuttle will be used for manned stunts of little intrinsic value. Yet even in unmanned operations it is claimed that satellite retrieval and/or refurbishment can save enough to pay for the shuttle investment. Is such a claim valid for the space traffic rates of these days? I am doubtful.

Third, will the shuttle be primarily a workhorse for the Department of Defense? Assuming present traffic rates and expenditures on unmanned payloads launched into earth orbit, the answer would certainly be yes. Moreover, the enormous engine thrust and wings projected for the shuttle respond largely to an Air Force request for sufficient cross range to pass over the Soviet Union; the shuttle cost could be reduced considerably by removing these constraints. Otherwise it would seem that the Air Force should purchase, administer and operate the shuttle. The defense emphasis of an ostensibly NASA shuttle would also deter international participation.

Wouldn't this be an auspicious time for the Administration to set a goal, more in tune with human values, which would make good use of the talents offered by aerospace workers?

THE 54TH ANNIVERSARY OF THE DECLARATION OF INDEPENDENCE OF LITHUANIA

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. CARNEY. Mr. Speaker, as one studies the history of what are now the Baltic Republics of the Soviet Union, one cannot help but be impressed by two themes which have recurred through the centuries. One is the seemingly endless lust for domination by the big powers who have had occasion to make their influence felt in that unhappy area. The other is the undying courage and resistance of the native inhabitants of the area to the overwhelming forces which have held them in bondage. As we commemorate the 54th anniversary of Lithuania's declaration of independence, which took place on February 16, 1918, it is fitting that we make note of these inexorable historical cycles and ponder their implications for the existence of small nations which desire nothing more than self-determination.

The bearers of a uniquely Baltic culture and of one of the most ancient Indo-European languages, the Lithuanians had by the 14th century established a powerful independent state which extended far beyond the Baltic area and was united with Poland until 1795. During this early period Lithuania was indeed a crossroads country which alternately rebuffed attempts by the Germans to dominate Russia and by the Mongols and Tartars to dominate Europe. The third partition of Poland resulted in the period of Russian rule which was repeatedly rebelled against by the Lithuanian people. The 19th-century czarist policies of forced russification and political and economic repression did not succeed, for the Lithuanians remained true to their religion, their language, and their traditions.

The tragedy which was World War I turned out to be a blessing in disguise for the beleaguered peoples of the Baltic. With their land thoroughly ravaged by the Russian and later the German troops, their fields and houses burnt, their economy in ruins, nevertheless the Lithuanians assembled a congress of delegates who took advantage of the chaos produced by the war and the revolution in Russia to declare the independence of their nation. With the aid of friendly forces, the Lithuanians drove out the newly attacking Red army and embarked on a period of reconstruction and unprecedented prosperity.

For 20 years the people of Lithuania were once again free to speak their own language and develop their own culture. But this freedom was tragically short lived, as once again the machinations and intrigues of Germany and Russia leading up to World War II made pawns of the Baltic nations in the game of big power politics. After periods of Russian and then Nazi occupation, Lithuania was finally incorporated into the Soviet Union in 1944.

Since that time, the tsarist policies of forced russification and political repression have been resurrected, with the greatly augmenting factor of Soviet ruthlessness and efficiency. Although the Baltic republics remain the most tightly sealed-off parts of the Soviet Union, enough news manages to filter out to give us a painfully vivid picture of a people languishing under a highly authoritarian and repressive regime. Use of the Lithuanian language is discouraged in every conceivable way; the Catholic religion is forcibly suppressed; large population transfers have moved Lithuanians to the eastern parts of the Soviet Union, replacing them with Russians and other nationalities; the government and administrative organs are composed of nonnative personnel; expressions of nationalism and assertions of the inviolability of human rights are rewarded with harassment, banishment, and imprisonment. And yet the Lithuanian people persevere.

Perhaps the most dramatic example of this perseverance and desire for human freedom is the attempted defection to the United States by the Lithuanian sailor, Simas Kudirka. Without going into the complexities of how his case was handled by the people directly involved, I would like to quote from one of the pieces of writing which were found among his personal effects after he had been returned to the Soviet ship. He had copied down the following words:

> A man born in a cave cannot appreciate what freedom is. A man who has been hungry all his life cannot be fed. To die for freedom is worth the risk.

We can only hope that more Lithuanians will not have to be imprisoned or die for the freedom which they so richly deserve.

KEEP FOOD PRICES DOWN

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. ROSENTHAL. Mr. Speaker, I am today renewing my call for the President to extend phase II price controls to raw agricultural products in order to head off a 4-percent food price rise predicted for this year by the Agriculture Department.

The American consumer is already overburdened and overcharged, and for the President to ignore the galloping inflation of food prices—especially meat—is irresponsible.

The USDA-predicted increase in food prices would considerably exceed the 25-percent annual overall guideline set by the Price Commission. I believe it was a mistake to exempt raw agricultural products from phase II economic controls and permit retailers to pass along to consumers any cost increases.

The sad thing about this food price increase is that the individual farmer will probably see very little of the money because it will be going to the big agribusiness corporations, including the packers and processors.

This exemption of the most important item on any family's budget must end. The administration must overcome its fear of giant agribusiness and begin protecting the consumer.

Another way it can do this is by permitting increased meat imports. The high cost of the meat is not a result of consumer bidding prices up, as Agriculture Secretary Butz would have us believe; that argument is just another example of the probusiness, anticonsumer bias of the Nixon administration. It is the result of forces well out of the reach of consumers—and Dr. Butz knows it, even if he will not admit it.

I am inserting in the Record at this point an editorial from the New York Post, which should be of interest to anyone who wants to keep food prices reasonable.

The editorial follows:

Mr. Butz Tells Off the Housewives

Although many helpful menu-planning suggestions have been offered to homemakers by the U.S. Dept. of Agriculture, few compare with the latest from Secretary Earl L. Butz. He advises the housewife faced with spiraling beef, lamb, pork and poultry prices to take a meat-ax to her food budget and "not eat quite so much."

Indeed, the Secretary maintains that "Mrs. Housewife" is personally to blame in the matter. "These prices," he has informed the Congressional Joint Economic Committee, "aren't set by farmers. They are set by consumers."

The theory that the consumer or customer is always wrong is unquestionably popular in some areas of the Nixon Administration and Butz is circulating it freely on his fence-mending visits to the farm states.

It is a fact that meat is increasingly in demand and that supply is lagging. It is also true that the costs of middlemen—packagers and processors—have been going up. But that does not constitute evidence of consumer responsibility for higher meat prices—especially not when Butz is simultaneously predicting a $2 billion increase in farmers' receipts from livestock sales this year.

Many informed Americans think that one practical short-term solution would be to increase meat imports, but Butz considers that a "negligble" kind of price relief. How can he be so sure? Last year, imports ran 30 million pounds below established quotas. In the meantime, domestic beef raisers are continuing to fatten stock in the hope of further fattening profits.

The essential objectives of Butz' blitz are clearly 1) to forestall price controls on raw agricultural products—however much they may appeal to Washington's price stabilizers—and 2) to round up as many cattlemen's votes as possible at a time when many seem inclined to stray. It does not follow that either is in the economic interest of the American consumer or that Butz can make scapegoat an appetizing meat dish.

THIRTY-TWO YEARS OF SERVICE TO THE YMCA

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. ASPIN. Mr. Speaker, it is my pleasure to call to the attention of my colleagues Mrs. Mayme Gregory of Janesville, Wis., who has faithfully and loyally served the YMCA in that city for 32 years.

She has worked as secretary, receptionist, bookkeeper, friend, and girl-Friday to thousands of men and boys from Janesville for these 32 years. The Janesville YMCA has been very fortunate to have Mrs. Gregory working there and I know that she is going to be sorely missed.

As a token of their affection and respect, the friends and supporters of the Janesville YMCA are having a testimonial dinner for Mrs. Gregory on February 29. I can think of no other person who has so richly deserved such an honor.

GERMANY'S MOVE TO THE EAST

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. SCHMITZ. Mr. Speaker, the Ostpolitik carried out by West German Socialist Chancellor Willy Brandt has not brought any advantages to the West and to West Germany, but only concessions to the East German, Polish, and Soviet Communists. In fact, one can hardly understand how it is possible that the West German Government could have signed treaties legitimizing the Communist rule over a great part of the German people and over so many Central and Eastern European nations.

The excuse of the authors of the Ostpolitik has been the all too familiar illusion that communism is mellowing, changing, and melting away; that Communist armies, especially the Soviet Army, are becoming instruments of peace instead of instruments of aggression which they have always been. This deadly illusion is spread by West German Socialists, many of whom seem to be sympathetic with communism, and it may well bring Germany to a neutral status without the protection of other nations. Not too much later, the results of this illusion could be to bring West Germany into a Communist system—into a unified but Communist Germany, and later Europe.

The West German Ostpolitik is based on this enormous error in judging Communist intentions, which the Bonn government has been presenting to the free world. The truth is that the Communist armies have increased, not diminished their strength, that the Communist aim is not any improvement of the fate of the people under its rule and European security but the domination of Germany, Europe, and the world. There is no excuse for the West German Socialists doing anything to further these aims.

Last month a former American Ambassador, Mr. Phelps Phelps sent a letter to the New York Times pointing out how the so-called Berlin Agreement has been a poor deal for the West and especially for West Germany.

The letter follows:

[From the New York Times, Feb. 12, 1972]

Berlin's Wall Remains

To the Editor: In order to be able to ratify the Bonn-Moscow Treaty for economic and technical aid to the Soviet Union, West Germany had to await a quadripartite agreement on Berlin, acceptable to the four powers, and an access accord. The former, approved Sept. 3, 1971, merely confirms the original regulations as drafted after World War II. The latter, relative to access of goods and persons, was adopted Dec. 11, 1971.

Goods may move between both Germanys if they are sealed by proper officials and accompanied by proper documents. Regarding persons, the stipulations represent meager concessions, grudgingly ounced out, indicative of the brutish constrictions typical of East Germany. The West Germans are required to go through humiliating and frustrating experiences, and the East Germans may not go west at all unless 65 or over if on pension or over 60 if very ill.

To visit someone in East Germany or East Berlin, the West Berliner must have a certificate, called an invitation, obtained from the person in the East, who must apply for it at the Mayor's office. When received by the visitor named therein, he must carry a passport and obtain a visa or road privilege at the border, valid only for the place specified. A telegram can substitute for a certificate only if the Eastern relative is extremely ill or dying.

Until Dec. 31, 1971, the West German going east had to exchange hard currency for somewhat under $2 for the visa and a similar amount if the visit was for one day or about $3.50 for each day if longer. The maximum stay was thirty days annually unless the person visited was extremely ill or dying.

On Jan. 1, 1972, West Germany undertook to pay for its citizens' visas. The total is estimated at about 204.9 million West marks annually for three years. Excluded from visits are those who left East Germany "illegally since 13 August 1961" and West Germans who committed crimes recognizable by the East Germans.

This is a far cry from Chancellor Brandt's dream of a unified Germany. The Berlin wall remains. Yet President Nixon hailed the agreement as satisfactory during Willy Brandt's last visit to Washington.

Phelps Phelps.

New York, Jan. 29, 1972.

THE FREDERICK DOUGLASS HOME

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. FAUNTROY. Mr. Speaker, when the Frederick Douglass Home was dedicated on February 14, 1972, I had the opportunity to be present and hear the comments of the Secretary of the Interior. For those who were not able to be present, I am pleased to insert the text of the remarks of Secretary Morton at the dedication for it not only tells us a little about Cedar Hill, but something about Frederick Douglass:

Remarks of Secretary of the Interior Rogers C. B. Morton at Dedication Ceremonies of Frederick Douglass Home

When I was sworn in as Secretary of the Interior, the President charged me with two great responsibilities. He said I must lead the way in the conservation of the beauty of our land and its vast resources and tirelessly pursue the preservation of those things important to our American heritage and cultural life.

This shrine which we dedicate today is a great example of preserving something of value that will be enjoyed and revered by all those who visit it and even those who casually pass by.

How fortunate we are to have our great National Park System with all its skills and competence. Not only to bring back to life those important areas and structures that have laid dormant so long, but also, to manage them, display them and artfully make them available to all Americans.

We are excited about bringing the Frederick Douglass Home into the Department of the Interior during this, the centennial year of the National Parks.

One hundred years ago . . . Yellowstone National Park . . . far in the West . . . was brought into being out of the wonderland of the frontier.

I dare say that few here today have had the opportunity to see this magnificent monument of nature so very far away.

But the President, understanding this, has directed that the Parks . . . in the second century of their history . . . be brought to the people. His legacy of Parks program assures this will be done.

Today is a very special day. As today, in the spirit of conservation and preservation:

In the spirit of this Administration.

In the spirit of our great National Capitol Park System and

In the spirit of of Frederick Douglass, who devoted his life to the highest American principles, we are joining together, to dedicate this his home.

Frederick Douglass leaves for America's history a dramatic reminiscence of a great and moral man. A man whose powerful voice still rings with lessons for our own time.

In the knowledge that the Frederick Douglass Legacy stands for the benefit of all Americans, it is significant that Congress has marked this, his home, as a National Shrine.

President Nixon allocated over $400,000 for Cedar Hill's restoration but the high privilege of bringing it to life is your's and mine today.

The American poet, Walt Whitman, was a contemporary of Douglass. Both felt the country's vigor. Whitman wrote after the Civil War:

"Political democracy, as it exists and practically works in America, with all its threatening evils, supplies a training school for making first-class men. It is life's gymnasium, not of good only, but of all."

He gloried in the fact that the American contest for life was open to all men. Douglass proved Whitman right.

For Douglass both life and freedom began at age 17 when he over-powered a professional slave broker, and fled from a plantation where his birth had only vaguely been recorded as to time and place.

Believing justice was too often in jeopardy, Douglass always eloquently stood in its defense.

It wasn't easy, it occupied every year of his life; and when Douglass died in 1895, the task was still not completed.

Douglass added volumes to the understanding of what it meant to be a *free and dignified man*.

He hammered away at Southern slavery and Northern hypocrisy when he said:

"You degrade us, and then ask why we are degraded—Douglass said—"You shut our mouths and then ask why we don't speak—You close your colleges and seminaries against us, and then ask why we don't know more."

Douglass continued his fight for equal rights after the Civil War.

Three grateful post-War administrations placed him in high office. Douglass spent the last 15 years of his life here at Cedar Hill and he always remained the crusading defender of justice in jeopardy.

The inspiration of Frederick Douglass raises a dignity in all men. Today, we dedicate his home knowing that future generations will find this inspiration; this greatness, this decency that made Frederick Douglass an outstanding American.

Thank you for inviting me to share with you, the honor of bringing new life to the Frederick Douglass Memorial Home.

HOUSE OF REPRESENTATIVES—*Monday, February 21, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Preserve me, O God: For in Thee do I put my trust.—Psalm 16: 1.

God of our fathers and our God, to Thee we come praying that our land may be forever bright with freedom's holy light. For this we thank Thee: for the contribution of our Founding Fathers and particularly for the contribution of our first President, whose birthday we celebrate today. May the spirit which was in him become the spirit which shall be in us as we face the experiences of these challenging times.

Bless Thou our President as he talks with the leaders of China. Grant him courage, faith, and wisdom that he may play his full part in ushering in a new day of peace on earth and good will among men.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 8699. An act to provide an Administrative Assistant to the Chief Justice of the United States; and

H.R. 9180. An act to provide for the temporary assignment of a U.S. magistrate from one judicial district to another.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 166) entitled "An act to designate the Stratified Primitive Area as a part of the Washakie Wilderness, heretofore known to the South Absaroka Wilderness, Shoshone National Forest, in the State of Wyoming, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BIBLE, Mr. CHURCH, Mr. METCALF, Mr. HANSEN, and Mr. HATFIELD to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 1394. An act to amend the Bankruptcy Act to abolish the referees' salary and expense fund, to provide that fees and charges collected by the clerk of a court of bankruptcy in bankruptcy proceedings be paid into the general fund of the Treasury of the United States, to provide salaries and expenses of referees be paid from the general fund of the Treasury, and to eliminate the statutory criteria presently required to be considered by the Judicial Conference in fixing salaries of full-time referees;

S. 1395. An act to amend section 48 of the Bankruptcy Act (11 U.S.C. 76) to increase the maximum compensation allowable to receivers and trustees;

S. 1396. An act to amend section 35 of the Bankruptcy Act (11 U.S.C. 63) and section 631 and 634 of title 28, United States Code, to permit full-time referees in bankruptcy to perform the duties of a U.S. magistrate;

S. 2359. An act for the relief of Willard O. Brown;

S.J. Res. 169. Joint resolution to pay tribute to law enforcement officers of this country on Law Day, May 1, 1972.

S.J. Res. 189. Joint resolution to authorize the President to designate the period beginning, March 26, 1972, as "National Week of Concern for Prisoners of War/Missing in Action" and to designate Sunday, March 26, 1972, as a national day of prayer for these Americans; and

S.J. Res. 190. Joint resolution to provide for an extension of the term of the Commission on the Bankruptcy Laws of the United States, and for other purposes.

The message also announced that Mr. STENNIS be appointed a conferee on the bill (H.R. 12067) entitled "An act making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1972, and for other purposes" in lieu of Mr. MCCLELLAN, excused.

GEORGE WASHINGTON'S FAREWELL ADDRESS

The SPEAKER. Pursuant to the order of the House of February 16, 1972, the Chair recognizes the gentleman from Kentucky (Mr. MAZZOLI) to read George Washington's Farewell Address.

Mr. MAZZOLI read the Farewell Address, as follows:

To the people of the United States.

FRIENDS AND FELLOW CITIZENS: The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those, out of whom a choice is to be made.

I beg you, at the same time, to do me the justice to be assured, that this resolution has not been taken, without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country; and that, in withdrawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest; no deficiency of grateful respect for your past kindness; but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in the office to which your suffrages have twice called me, have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety; and am persuaded, whatever partiality may be retained for my services that in the present circumstances of our country, you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust, were explained on the proper occasion. In the discharge of this trust, I will only say that I have, with good intentions, contributed towards the organization and administration of the government, the best exertions of which a very fallible judgment was capable. Not unconscious in the outset of the inferiority of my qualifications, experience, in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and, every day, the increasing weight of years admonishes me more and more that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services they were temporary, I have the consolation to believe that, while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is to terminate the career of my political life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country, for the many honors it has conferred upon me; still more for the steadfast confidence with which it has supported me; and for the opportunities I have thence enjoyed of manifesting my inviolable attachment, by services faithful and perservering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise, and as an instructive example in our annals, that under circumstances in which the passions, agitated in every direction, were liable to mislead amidst appearances sometimes dubious, vicissitudes of fortune often discouraging—in situations in which not unfrequently, want of success has countenanced the spirit of criticism,—the constancy of your support was the essential prop of the efforts, and a guarantee of the plans, by which they were effected. Profoundly penetrated with this idea. I shall carry it with me to my grave, as a strong incitement to unceasing vows that heaven may continue to you the choicest tokens of its beneficence—that your union and brotherly affection may be perpetual—that the free constitution, which is the work of your hands, may be sacredly maintained—that its administration in every department may be stamped with wisdom and virtue—that, in fine, the happiness of the people of these states, under the auspices of liberty, may be made complete by so careful a preservation, and so prudent a use of this blessing, as will acquire to them the glory of recommending it to the applause, the affection and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger, natural to that solicitude, urge me, on an occasion like the present, to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments which are the result of much reflection, of no inconsiderable observation, and which appear to me all important to the permanency of your felicity as a people. These will be offered to you with the more freedom, as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government which constitutes you one people, is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence; the support of your tranquillity at home; your peace abroad, of your safety; of your prosperity; of that very liberty which you so highly prize. But, as it is easy to foresee that, from different causes and from different quarters much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed; it is of infinite moment, that you should properly estimate the immense value of your national union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can, in any event, be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth, or choice, of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism, more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have, in a common cause, fought and triumphed together; the independence and liberty you possess, are the work of joint counsels, and joint efforts, of common dangers, sufferings and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest.—Here, every portion of our country finds the most commanding motives for carefully guarding and preserving the union of the whole.

The *north*, in an unrestrained intercourse with the *south*, protected by the equal laws of a common government, finds in the productions of the latter, great additional resources of maritime and commercial enterprise, and precious materials of manufacturing industry.—The *south* in the same intercourse, benefiting by the same agency of the *north*, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the *north*, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength, to which itself is unequally adapted. The *east*, in a like intercourse with the *west*, already finds, and in the progressive improvement of interior communications by land and water, will more and more find a valuable vent for the commodities which it brings from abroad, or manufactures at home. The *west* derives from the *east* supplies requisite to its growth and comfort—and what is perhaps of still greater consequence, it must of necessity owe the *secure* enjoyment of indispensable *outlets* for its own productions, to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as *one nation*. Any other tenure by which the *west* can hold this essential advantage, whether derived from its own separate strength; or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts, greater strength, greater resource, proportionably greater security from external danger, a less frequently interruption of their peace by foreign nations; and, what is of inestimable value, they must derive from union, an exemption from those broils and wars between themselves which so frequently afflict neighboring countries not tied together by the same government; which their own rivalship alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues, would stimulate and embitter.—Hence likewise, they will avoid the necessity of those overgrown military establishments, which under any form of government are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is, that your union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind and exhibit the continuance of the union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who, in any quarter, may endeavor to weaken its hands.

In contemplating the causes which may disturb our Union, it occurs as matter of serious concern, that any ground should have been furnished for characterizing parties by *geographical* discriminations,—*northern* and *southern*—*Atlantic* and *western;* whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts, is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart burnings which spring from these misrepresentations: they tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head: They have seen, in the negotiation by the executive, and in the unanimous ratification by the senate of the treaty with Spain, and in the universal satisfaction at the event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the general government and in the Atlantic states, unfriendly to their interests in regard to the Mississippi. They have been witnesses to the formation of two treaties, that with Great Britain and that with Spain, which secure to them everything they could desire, in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the union by which they were procured? Will they not henceforth be deaf to those advisers, if such they are, who would sever them from their brethren and connect them with aliens?

To the efficacy and permanency of your Union, a government for the whole is indispensable. No alliances, however strict, between the parts can be an adequate substitute: they must inevitably experience the infractions and interruptions which all alliances, in all times, have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a constitution of government, better calculated than your former, for an intimate union, and for the efficacious management of your common concerns. This government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their constitutions of government. But the constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and the right of the people to establish government, presuppose the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberations and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency.—They serve to organize faction, to give it an artificial and extraordinary force, to put in the place of the delegated will of the nation the will of party, often a small but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common councils, and modified by mutual interests.

However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men, will be enabled to subvert the power of the people, and to usurp for themselves the reins of government; destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your government and the permanency of your present happy state it is requisite, not only, that you steadily discountenance irregular opposition to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretext. One method of assault may be to effect, in the forms of the constitution, alterations which will impair the energy of the system; and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments, as of other human institutions:—that experience is the surest standard by which to test the real tendency of the existing constitution of a country:—that facility in changes, upon the credit of mere hypothesis and opinion, exposes to perpetual change from the endless variety of hypothesis and opinion: and remember, especially, that for the efficient management of your common interests in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indispensable. Liberty itself will find in such a government with powers properly distributed and adjusted, its surest guardian. It is, indeed, little else than a name, where the government is too feeble to withstand the enterprises of faction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the state, with particular reference to the founding them on geographical discrimination. Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the spirit of party generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind.—It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result, gradually incline the minds of men to seek security and repose in the absolute power of an individual; and, sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purpose of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind, (which nevertheless ought not to be entirely out of sight) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill founded jealousies and false alarms; kindles the animosity of one part against another; foments occasional riot and insurrection. It opens the door to foreign influence and corruption, which finds a facilitated access to the government itself through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This within certain limits is probably true; and in governments of a monarchical cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent it bursting into a flame, lest instead of warming, it should consume.

It is important likewise, that the habits of thinking in a free country should inspire caution in those intrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominate in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern: some of them in our country and under our own eyes.—To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the constitution designates.—But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation *desert* the oaths which are the instruments of investigation in courts of justice? and let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect, that national morality can prevail in exclusion of religious principle.

It is substantially true, that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?

Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering, also, that timely disbursements, to prepare for danger, frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions, in time of peace, to discharge the debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to your representatives, but it is necessary that public opinions should co-operate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind, that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper object (which is always a choice of difficulties) ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of acquiescence in the measures for obtaining revenue, which the public exigencies may at any time dictate.

Observe good faith and justice towards all nations; cultivate peace and harmony with all. Religion and morality enjoin this conduct, and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt but, in the course of time and things, the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it; can it be that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan, nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachments for others, should be excluded; and that, in place of them, just and amicable feelings towards all should be cultivated. The nation which indulges towards another an habitual hatred, or an habitual fondness is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur. Hence, frequent collisions, obstinate, envenomed, and bloody contests. The nation, prompted by ill will and resentment, sometimes impels to war the government, contrary to the best calculations of policy. The government sometimes participates in the national propensity, and adopts through passion what reason would reject; at other times, it makes the animosity of the nation subservient to projects of hostility, instigated by pride, ambition, and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty of nations, has been the victim.

So likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest; in cases where no real common interest exists, and infusing into one of the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducements or justifications. It leads also to concessions, to the favorite nation, of privileges denied to others, which is apt doubly to injure the nation making the concessions, by unnecessary parting with what ought to have been retained, and by exciting jealously, ill will, and a disposition to retaliate in the parties from whom equal privileges are withheld; and it gives to ambitious, corrupted or deluded citizens who devote themselves to the favorite nation, facility to betray or sacrifice the interests of their own country, without odium, sometimes even with popularity; gilding with the appearances of a virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public councils!—Such an attachment of a small or weak, towards a great and powerful nation, dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence, (I conjure you to believe me fellow citizens) the jealousy of a free people ought to be *constantly* awake; since history and experience prove, that foreign influence is one of the most baneful foes of republican government. But that jealously, to be useful, must be impartial, else it becomes the instrument of the very influence to be avoided, instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike for another, cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious; while its tools and dupes usurp the applause and confidence of the people, to surrender their interests.

The great rule of conduct for us, in regard to foreign nations, is, in extending our commercial relations, to have with them as little *political* connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith:—Here let us stop.

Europe has a set of primary interests, which to us have none, or a very remote relation. Hence, she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon, to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation, when we may choose peace or war, as our interest, guided by justice, shall counsel.

Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliance with any portion of the foreign world; so far, I mean, as we are now at liberty to do it; for let me not be understood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than private affairs, that honesty is always the best policy. I repeat it, therefore, let those engagements be observed in their genuine sense. But in my opinion, it is unnecessary, and would be unwise to extend them.

Taking care always to keep ourselves by suitable establishments, on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, and a liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand; neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce, but forcing nothing; establishing with powers so disposed, in order to give trade a stable course, to define the rights of our merchants, and to enable the government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied as experience and circumstances shall dictate; constantly keeping in view, that it is folly in one nation to look for disinterested favors from another; that it must pay with a portion of its independence for whatever it may accept under that character; that by such acceptance, it may place itself in the condition of having given equivalents for nominal favors, and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect, or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish; that they will control the usual current of the passions, or prevent our nation from running the course which has hitherto marked the destiny of nations, but if I may even flatter myself that they may be productive of some partial benefit, some occasional good; that they may now and then recur to moderate the fury of party spirit, tc warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism; this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far, in the discharge of my official duties, I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is, that I have, at least, believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 22d of April, 1793, is the index to my plan. Sanctioned by your approving voice, and by that of your representatives in both houses of congress, the spirit of that measure has continually governed me, uninfluenced by any attempts to deter or divert me from it.

After deliberate examination, with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take, and was bound, in duty and interest, to take a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perserverance and firmness.

The considerations which respect the right to hold this conduct, it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the matter, that right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without any thing more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity towards other nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions, and to progress, without interruption, to that degree of strength, and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

Though in reviewing the incidents of my administration, I am unconscious of intentional error, I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence; and that, after forty-five years of my life dedicated to its service, with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it, which is so natural to a man who views in it the native soil of himself and his progenitors for several generations; I anticipate with pleasing expectation that retreat in which I promise myself to realize, without alloy, the sweet enjoyment of partaking, in the midst of my fellow citizens, the benign influence of good laws under a free government—the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors and dangers.

GEO. WASHINGTON.

UNITED STATES,
17th September, 1796.

GENERAL LEAVE

Mr. BOGGS. Mr. Speaker, without its being considered a precedent, I ask unanimous consent that all Members who desire to do so may have permission to revise and extend their remarks and include extraneous material in the RECORD following the reading of George Washington's Farewell Address and also in that portion of the RECORD entitled "Extensions of remarks."

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

THE COST OF ARTHRITIS AND RHEUMATISM

Mr. PRYOR of Arkansas. Mr. Speaker, we are living in a time during which there is much emphasis on the conservation of our Nation's natural resources. This concept, indicative of the mood of all Americans, is moving our Government to protect the land that has blessed the saga of this country, and I am in total agreement with this mood. But, the natural resources of this Nation are not just the rivers, the air, the wildlife by far the greatest and most valuable resource is that of human lives, and more importantly, the health of those lives.

We are engaged in battles on many fronts against the diseases that attack the happy pursuit of life in the United States. Individuals, groups, and governments are cooperating to eliminate the ills that every minute, every second, strike at the well-being of Americans everywhere. One of the most widespread hazards to health that our citizens face is that of arthritis.

Many people have false conceptions about this disease. It is, in fact, many diseases, some mild, some devastating.

It can and does occur at all ages, from infancy on. Almost everyone, if he lives long enough, will develop some form of arthritis. Studies show that 97 percent of all individuals over age 60 have enough arthritis so that it can be seen in X-ray films. There are at least 50 million Americans with some arthritis. It touches every family in the United States.

I am afraid that our people have become somewhat accustomed to its prevalence. Many believe that nothing can be done. But something can and must be done when its toll has been 17 million victims in the United States. A large percentage of those have been senior Americans, whose values to this Nation are just as important as that of our young citizens.

I include a copy of "What Is the Prevalence and Cost of Arthritis and Rheumatism; What Is Being Done for the People With These Diseases?" compiled by the National Health Education Committee in the RECORD. I want my distinguished colleagues to be aware of the nature of this crippler and to ask themselves how we can do more to support research to combat this dread disease. The material follows:

WHAT IS THE PREVALENCE AND COST OF ARTHRITIS AND RHEUMATISM? WHAT IS BEING DONE FOR PEOPLE WITH THESE DISEASES?

(NOTE.—This fact sheet has been compiled from the best available information by the National Health Education Committee, Inc., 866 United Nations Plaza, New York, N.Y. 10017.)

I. How many people in the United States have arthritis and rheumatism?

1. About 17 million people in the U.S. today (1 out of every 11 Americans) are afflicted with arthritis severe enough to require medical care. At least 50 million Americans have some arthritis. (7)

a. No other disorders cause more prolonged misery to a greater number of people in the U.S. than do the arthritis and rheumatism diseases. (1)

2. Arthritis and the rheumatic diseases are second only to heart diseases as the most widespread chronic illness in the United States today. (2)

a. The leading causes of activity limitation in the U.S. today are: (2) Heart conditions, 16%; Arthritis and rheumatism, 15.4%.

b. Arthritis and rheumatism ranked second among the chronic conditions which prevented people from carrying on their major activity (work, keeping house, school). (2) Of those people unable to carry on their major activity, 24.9% reported heart conditions as the cause and 16.5% reported arthritis and rheumatism as the cause. (2)

3. An estimated 3.4 million arthritis victims are disabled—limited in their usual activities—at any one time. (3)

a. Of these, 353,000 are under 45 years of age. (2)

b. 680,000 or 16.5% are unable to carry on their major activity (work, keeping house, school) because of arthritis and rheumatism. (2)

4. Arthritis and rheumatism cause 205 million days of restricted activity annually and 12.2 million days lost from work (regular job) annually. (7)

II. What are the major forms of artbritis and rheumatic disease?

Arthritis (which literally means inflammation of a joint) is an umbrella term covering more than 80 forms of rheumatic disease that attack the joints and/or other connective tissues of the body. Some are very common; some very rare.

The three major forms are : (3) Rheumatoid arthritis; Osteoarthritis; Gout.

Other diseases associated with arthritis which are common and serious enough to be of concern include: (3) Rheumatic fever; Ankylosing spondylitis; Scleroderma; Systemic lupus erythematosus.

III. How many people have rheumatoid arthritis?

Rheumatoid arthritis affects about 5 million people in the U.S. today, and is the most devastating and cripping form of arthritis. (3)

It is a chronic, inflammatory connective tissue disease that leads to permanent joint deformities and other complications producing disability and chronic invalidism. (1)

The majority of its victims are young and middle aged adults in their most productive years, between 20 and 45 years of age, although it can begin both earlier and later. (3)

The primary cause is still unknown. (1) There is no specific cure, though it is often possible to control the disease or ameliorate its manifestations.

IV. How many people have osteoarthritis?

About 10 million Americans have osteoarthritis severe enough to cause painful problems. (7)

Osteoarthritis is associated with aging and degeneration of joint tissues. It usually develops more slowly and is milder and less painful than rheumatoid arthritis, although it can end up producing pain and disability in some victims. (3)

No specific treatment is known for osteoarthritis and this form of disease must be managed by the control of symptoms and the relief of strains on the affected joints.

V. How many people suffer from gout?

About a million Americans suffer from gout. (3)

Gout is an arthritic disease that most often affects the joints of the feet, especially the big toe. (3)

A susceptibility to gout is inherited, and most of its victims are men. Attacks of the disease last for days or weeks, and usually produce intense pain. Gout is related to excess uric acid in the blood and tissues. (3)

The disease can now be controlled by drugs and treatment that reduce the uric acid level. (3)

VI. What is the economic loss to the country from arthritis and rheumatism?

1. Arthritis and rheumatic disease is conservatively estimated to cost the nation $3,-645,000,000 annually. Of this amount:

a. $1.7 billion is lost in wages and salaries by persons unable to work because of their ailment. (7)

b. $1 billion represents annual medical care costs. (7)

VII. How much does the Veterans Administration pay in compensation or pension payments to veterans because of arthritis and rheumatic diseases?

1. As of September 1968, there were 301,064 veterans receiving compensation or pension payments whose major disability was classified as arthritis or rheumatic disease. The estimated annual value of these payments was $271,130,256. (5)

VIII. How much does the Federal Government lose in income and excise taxes?

The Federal Government loses in one year in income and excise taxes alone over $200 million on the wages and salaries lost by persons unable to work because of arthritis and rheumatism. (11)

IX. What methods of treatment are presently in use for arthritis and the rheumatic diseases?

1. Rheumatoid arthritis. (4)

a. Lacking a specific cure for rheumatoid arthritis and since it is a systemic disease, measures of proved value, for the most part, are directed toward improving the patient's general health—these include rest, nutrition, drugs for relief of pain and for rest, sleep, physical therapy, psychotherapy and rehabilitation.

b. Measures for the treatment of rheumatoid arthritis on which there is fairly uniform agreement but no complete unanimity include: (4)

(a) Salicylates: The salicylates, of which aspirin is the most common, are perhaps the only drugs that over the years have been widely used in the treatment of rheumatoid arthritis. Aspirin, in adequate dosage, has proved to be one of the most effective and least dangerous of any drug in relieving the symptoms of the disease. Aspirin not only eases aches and pains in joint stiffness, but research indicates that in the early stages of rheumatoid arthritis, the drug probably lessens the inflammatory process that is the basis of the disease.

Aspirin is available in various forms that permit the use of the drug in persons who are unable to tolerate it because of gastrointestinal distress.

(b) Steroid hormones: These drugs are cortisone and hydrocortisone and their synthetic analogues, prednisone, methyl prednisolone, triamcinalone and dexamethasone, etc. The steroids can be quite effective in suppressing the painful and inflammatory symptoms of rheumatoid arthritis. Carefully selected arthritics respond quite well to these highly potent drugs. Care must be taken to guard against serious side reactions.

Any form of treatment is usually most effective during the early stages of the disease. This is also true of the steriods. As with gold and phenylbutazone, the steroids do not benefit everyone and a good number of arthritics will experience toxic and undesirable side reactions with their long use.

Corticotropin (ACTH), a product of the pituitary gland, though a hormone like the steroids, is in itself not a steroid. ACTH, however, stimulates the production of steroids by the body. Its use has diminished greatly primarily because it can be given only by injection.

(c) Gold Salts: Injections of gold have been effectively used in the treatment of rheumatoid arthritis for at least a quarter of a century. The mode of action of gold on the rheumatoid process is not known. However, experience has shown that about two out of every three persons given gold undergo a beneficial response. Not only does gold restrict the disease activity, but it also suppresses many of the inflammatory changes caused by the rheumatoid process. Not all arthritics will benefit from the use of gold and about ⅓ of them will suffer toxic and undesirable side reactions from it.

(d) Phenylbutazone: This drug is a synthetic chemical and not a steroid or a hormone. It is an analgesic for rheumatic complaints (not headaches) and is an effective pain killer in all types of arthritis especially in spondylitis and gout. In the early and acute stages of rheumatoid arthritis, the drug brings about a decrease in joint swelling and muscle stiffness. The action of phenylbutazone, the little that is known of it, is not hormonal in any way and has nothing to do with the adrenal or the pituitary glands where hydrocortisone and ACTH are made by the body. As with gold and the steroids, phenylbutazone cannot be taken by all arthritics; not all will benefit from it and a good many will experience undesirable side reactions.

(e) Anti-malarial drugs: Certain compounds such as chloroquine, which have been developed against malaria, are used in the treatment of rheumatoid arthritis and systemic lupus erythematosus. Care must be taken in their use because of possible systemic toxic effects, including ocular movement. (4)

(f) Indomethacin: This is a new anti-inflammatory drug, not related to cortisone or aspirin, which may relieve certain symptoms associated with rheumatoid arthritis. It can be prescribed for long-term treatment, with relatively minor side-effects. Experience suggests its greatest usefulness to be in spondylitis, gout and osteoarthritis, particularly osteoarthritis of the hip. (4)

2. Osteoarthritis. (4)

a. No specific therapy is known for the treatment of degenerative joint disease. Treatment is symptomatic and includes rest for the involved joints, physical therapy, weight reduction, drugs and, in some cases, reconstructive surgery to correct badly deformed joints or other mechanical disturbances.

Cortisone-like drugs are rarely used in osteoarthritis except in instances where they are injected into joint spaces. Aspirin, phenylbutazone, indomethacin and perhaps other drugs can be helpful. (4)

3. Gout. (4) The acute, painful attacks of gout can be controlled quite well with several drugs now available, particularly colchicine, phenylbutazone, indomethacin and cortisone-like compounds. Also modern drugs, for example probenecid and sulfinpyrazone now can be prescribed to prevent the excessive accumulation of uric acid. Early treatment is important. (4)

4. Rheumatic Fever. Rheumatic fever is an acute systemic disease accompanied by fever and painful joints. It frequently damages the heart. Anyone of any age can be attacked by rheumatic fever, which nearly always follows a streptococcus infection, although it is most frequently observed between the ages of 5 and 15.

Those who have had one rheumatic fever attack may be susceptible to others and frequently contract it again.

Flare-ups of rheumatic fever can be prevented, however, by proper use of antibiotics (especially penicillin) to prevent the streptococcus infection. The avoidance or prevention of streptococcal infection by the systematic use of penicillin or a similar antibiotic will nearly always prevent attacks of rheumatic fever.

The treatment for acute attacks of rheumatic fever consists of rest, anti-inflammatory drugs such as aspirin, and sometimes cortisone-like compounds. (4)

X. What are some of the current research leads being pursued against arthritis and rheumatic diseases?

The primary cause of rheumatoid arthritis is still unknown. Two leading theories, supported by considerable evidence, suggest that an obscure infectious process or an autoimmune reaction (characterized by manufacture by the body of antibodies that attack its own tissues) may be involved, or possibly a combination of both processes. (1) More research has centered on a possible infectious cause for rheumatoid arthritis during the past 5 years than during the previous 20, but while specic infectious types of arthritis are known due to invasion of joints by certain microorganisms, no microbial agent has yet been positively identified as a cause of rheumatoid arthritis. (1)

In the search for better drugs for treatment of arthritis, attempts are being made to redesign known steroid compounds which have demonstrated salutary anti-inflammatory action but which also cause serious side effects on prolonged use. (1)

Among other new agents, compounds related to triamcinolone have been subject to careful clinical testing. Among these is a new steroid drug triamcinolone hexacetonide, which seems to combine the important features of rapid and prolonged action with minimal side effects on prolonged repeated use. The hexacetonide appears to retain the desirable qualities of the parent compound and to require less frequent administration. (1)

Research is under way to try to gain more knowledge of the transport of antibiotics from the blood into synovial (joint) fluid and surrounding tissues of patients with infectious arthritis. If effective levels of antibiotics could be demonstrated in the synovial fluid of patients receiving generalized treatment with the drug through intramuscular or intravenous injection ("systemic therapy"), direct injection of antibiotics into affected joints with its attendant difficulties, such as secondary infection and joint trauma, could be avoided. Treatment could be simplified in cases of multiple joint involvement. (1)

XI. Are some people affected more by arthritis and rheumatism than others?

1. Persons who work outdoors and who work with their hands appear to suffer more from rheumatic diseases than those in sedentary occupations. (7)

a. More farmers are stricken with arthritis and rheumatism than individuals in any other field or occupation. (7)

b. Factory workers make up the second largest group in this country affected by arthritis and rheumatism. (7)

c. Three times more women than men suffer from arthritis and rheumatism. (7)

XII. How many physicians specialize in the rheumatic diseases?

1. There are approximately 1850 members of the American Rheumatism Association, a professional society of physicians interested in treatment of or research in arthritis and the rheumatic diseases. (3)

2. Only 57 of the nation's 100 medical schools offer a full program of courses in rheumatology. (3)

XIII. What facilities are available for treatment of arthritis and rheumatism?

1. A large "delivery gap" exists between the help that can be given to arthritis victims and what they actually receive. An adequate, comprehensive system has yet to be developed. Arthritis is the Nation's number one crippler but its victims are short-changed by a medical system that is oriented to treating acute, not chronic disease. (3)

2. The Arthritis Foundation has supported pilot programs which have clearly demonstrated the value and effectiveness of comprehensive care for arthritis victims, but the Foundation lacks the funds to provide such treatment for every arthritis sufferer and has sought Federal action to bring these programs into existence throughout the country through the establishment of a network of arthritis centers and satellite clinics. (3)

3. The Arthritis Foundation states in its 1968 Annual Report that there are now about 50 first-rate arthritis research-training-care centers in the U.S. and more than 300 clinics.

a. In 1948, there were only 6 arthritis medical centers for study and treatment and just over 100 arthritis clinics in the entire U.S., most located in 8 cities.

XIV. Are these facilities adequate?

1. No. The need for additional clinics, hospital beds and rehabilitation facilities and trained personnel to treat arthritis is urgent. (3)

a. The facilities that do exist are completely inadequate.

2. In view of the increasing knowledge about arthritis in children and the ever increasing population of the aged, this need will grow progressively in the years to come. (3)

3. Facilities are needed to aid in research on the rehabilitation and restoration of bedridden arthritics to active life. (3)

XV. What are we spending for research on arthritis?

1. The most recent estimated annual allocations for arthritis research and closely related basic studies total $15,182,112; distributed as follows:

a. National Institute of Arthritis & Metabolic Diseases, U.S. Public Health Service, estimated for fiscal 1969 (out of a total appropriation of $143,888,000). (15)

Grants:	
Research grants	$7,955,000
Research fellowships	452,000
Training grants	1,493,000
Total	9,900,000
Direct appropriations:	
Intramural research	1,606,000
Collaborative research and development	42,000
Biometry, epidemiology, field studies	$198,000
Total	1,846,000
Total research in arthritis and rheumatic diseases	11,746,000
b. Veterans' Administration (6): Department of Medicine & Surgery, estimated fiscal 1969	1,664,000
c. The Arthritis Foundation (3): For research in universities, hospitals and other institutions in 1968	1,772,112
Total	15,182,112

XVI. How does this compare with other national expenditures?

1. In contrast with the $15,182,112 currently being spent for arthritis research:

a. The Agricultural Research Service of the Department of Agriculture is planning to spend an estimated $254 million during fiscal 1970. (8)

b. The people of the United States in 1968 spent approximately:

(a) $14,585,450,000 (billions) for alcoholic beverages. (9)

(b) $8,371,500,000 (billions) for tobacco product and smokers' accessories. (9)

(c) $209,250,000 for toilet water and cologne. (9)

(d) $223,780,000 for hair coloring preparations. (9)

2. The current Federal allocation for research on rheumatic disease, Number One Crippler, is about 5% of the $285 million estimated 1970 expenditures of the Forest Service of the U.S. Department of Agriculture for forest protection and utilization programs. (8)

3. Almost $218 million is being spent annually in the field of cancer research, and research fellowships, including expenditures by the Federal Government and by the major voluntary health agencies. (10)

XVII. How much does the Arthritis Foundation raise annually nationwide and how are these funds spent?

According to the 1969 Annual Report of the Arthritis Foundation, the American people contributed $8,117,034 to the Foundation during that year.

Expenditures for the fiscal year ended December 31, 1969 were as follows:

	Amount	Percent of total
Patient and community services	$1, 805, 700	22.4
Research	1, 789, 600	22.2
Management and general	1, 280, 600	15.9
Fundraising	1, 217, 400	15.1
Public health education	1, 159, 600	14.4
Professional education and training	804, 600	10.0
Total	8, 057, 500	100.0

XVIII. What can be done about the problem of arthritis and rheumatism?

1. The public and all agencies in this field should support and cooperate with the Arthritis Foundation, the major national voluntary agency working specifically in this area.

2. Congress should continue to provide funds for research so that a vigorous and direct attack upon the rheumatic diseases can go on without interruption.

3. The problem is centered mainly in the medical schools of the nation where there are inadequacies of personnel, funds and facilities to meet the needs of continued clinical and basic research in the rheumatic diseases.

a. Federal funds should be provided for the construction of laboratories and other research facilities needed to make possible the greater study of these diseases.

b. Federal funds must be increased to make possible more grants-in-aid to non-federal institutions, to provide for the purchase of equipment and the payment of stipends to investigators and their staffs, and to finance the laboratories of the National Institute of Arthritis and Metabolic Diseases.

4. A major problem is the need for the training of more physicians in the diagnosis and treatment of arthritis and rheumatism.

a. Congress should make available to the National Institute of Arthritis and Metabolic Diseases additional funds for training so that young physicians can be trained.

(a) In fiscal 1969, the National Institute of Arthritis and Metabolic Diseases spent an estimated $1,493,000 in training grants for arthritis and the rheumatic diseases which is inadequate. (1)

REFERENCES:

(1) Information from the National Institute of Arthritis and Metabolic Diseases, National Institutes of Health, Bethesda, Maryland.

(2) Chronic Conditions Causing Activity Limitation, U.S. July 1963–June 1965. Series 10, No. 51. National Center for Health Statistics, U.S. Department of Health, Education, and Welfare, Washington, D.C.

(3) 1967 and 1968 Annual Reports, The Arthritis Foundation, New York.

(4) Information on current therapies for rheumatoid arthritis from "Today's Facts About Arthritis" published by the Arthritis Foundation, New York.

(5) Department of Veterans Benefits, Veterans Administration, Washington, D.C., personal communication dated August 14, 1969 from Edward R. Silberman, Director, Program Planning and Budgeting Services.

(6) Veterans Administration, Department of Medicine and Surgery, Washington, D.C., personal communication dated September 29, 1969 from Lionel M. Bernstein, M.D., Director of Research Service.

(7) "Arthritis-The Basic Facts" published 1970 by the Arthritis Foundation, New York.

(8) Budget of the United States Government, 1971.

(9) From a survey compiled and published annually by "Drug Topics", Topics Publishing Company, New York, N.Y.

(10) A total of $217,870,916 is currently being spent in the field of cancer research, as follows: Government funds (fiscal 1969) $180,011,000. Non-governmental funds, including American Cancer Society, Damon Runyon Memorial Fund and the Sloan-Kettering Institute for Cancer Research in New York City; Roswell Park Memorial Institute for Cancer Research in Buffalo, N.Y.; and the M.D. Anderson Hospital and Tumor Institute in Houston, Texas: $37,859,916.

(11) Computation based on information contained in Statistical Abstract of the United States, 1969—on federal individual income tax receipts, excise tax receipts, total personal income.

ARMENIA SHOULD BE FREE

Mr. DERWINSKI. Mr. Speaker, today is the 51st anniversary of the attempt by the Armenians to free themselves from Communist tyranny. This unsuccessful revolution, which occurred on February 18, 1921, has been followed by over half a century of oppression by the powerful and ruthless Soviet empire.

Many peoples have ruled over Armenia, which has known but a few brief periods of freedom. Arabs, Egyptians, Mongols, Persians, Russians, and Turks have taken turns in subjugating Armenians. Their land is now divided between the Soviet Union and Turkey.

More than 70 new nations have been established since the end of World War II, as the British, French, and others relinquished the reins of government and withdrew from their far-flung colonial empires. The Soviet Union, one of the loudest screamers against colonialism and imperialism, continues to hold on to its colonies, including Armenia.

Mr. Speaker, the people of Armenia have the same right to an independent existence as do the peoples of Africa, Asia, and the islands of the seas. Let the self-proclaimed anticolonialists in the Kremlin quit talking against imperialism and demonstrate their sincerity by restoring freedom to Armenia.

ACADEMIC FREEDOM, BLACKLISTING, AND THE DEFENSE DEPARTMENT

Mr. RYAN. Mr. Speaker, it was deeply disturbing to learn that the armed services have instituted a policy prohibiting officers from pursuing graduate education at 15 of the Nation's finest educational institutions. The policy was undertaken at the insistence of the chairman of the House Armed Services Committee in retribution for the discontinuance of Reserve Officer Training Corps programs at these schools.

The 15 universities are Boston College, Boston University, Brown University, Colgate University, Columbia University, Dartmouth College, Harvard University, Hobart and William Smith College, New York University, Pratt Institute, Princeton University, Stanford University, State University of New York at Buffalo, Tufts University, and Yale University.

Regardless of one's feelings toward the action of these schools with respect to the ROTC program, to deny members of the Armed Forces access to these institutions is both arbitrary and punitive. At no time has the Congress mandated such a policy. And I have been informed by Defense Department officials that in the past the Department has consistently opposed legislation to direct such a policy.

This policy can only serve to obstruct the educational advancement of military officers, and thus limit their potential contribution to our country. It can only serve to widen the gulf between the military and civilian sectors of our population.

The most disturbing aspect of this policy, however, is that it casts the ugly shadow of the blacklist—a reprehensible procedure alien to our democracy. Regression to the dark days of the early 1950's cannot be tolerated.

Therefore, on February 17, I wrote to Secretary of Defense Laird urging him in the strongest possible terms immediately to rescind this policy.

Academic freedom has long been cherished as one of the cornerstones of our Nation. Attempts to bludgeon our universities into conformity can only erode that freedom.

UNIVERSITIES BLACKLISTED

Mr. DRINAN. Mr. Speaker, I bring to the attention of all of the Members of Congress a very distressing situation which reveals that the military services have blacklisted some 15 universities because they have phased out their ROTC programs.

In early February a young naval officer, who insisted upon being anonymous, came to me and presented a mimeographed list received by him from naval officials and entitled "Civilian Educational Institutions to Which Naval Officers May Not Apply for Enrollment in Graduate Educational Programs—as of October 1971."

These universities included the following:

Boston College.
Boston University.
Brown University.
Colgate University.
Columbia University.
Dartmouth College.
Harvard University.
Hobart and William Smith College.
New York University.
Pratt Institute.
Princeton University.
Stanford University.
State University of New York, Buffalo.
Tufts University.
Yale University.

On February 7 I wrote the following letter to the Secretary of the Navy:

FEBRUARY 7, 1972.

Hon. JOHN H. CHAFEE,
Secretary of the Navy,
Pentagon Building,
Washington, D.C.

DEAR SECRETARY CHAFEE: I was very distressed to learn from a Naval Officer that the United States Navy has issued a list of distinguished universities in America to which Naval Officers may not apply for graduate training.

I attach herewith a copy of a mimeographed notice given to all Naval Officers who have made inquiry about graduate studies.

I attach a Xeroxed copy of the very poorly mimeographed sheet handed out by Naval officials. For your convenience I attach a clean copy of that document.

I was, of course, distressed to see Boston College on this list of universities to which Naval Officers may not apply.

I know that you will be distressed that Brown University is included in this list.

The Naval Officer who gave this list to me indicated that it was his judgment that the preclusion of ROTC or some other similar activity on the part of these universities had prompted somebody in the Navy to make these institutions unacceptable for graduate programs for Naval Officers.

Another source has indicated to me that it was allegedly pressure from one or more members of the Congress of the United States on the Navy that prompted this particular list.

In any event I know that you will be as distressed as I am.

In the nature of things I feel obliged to inform these universities of the blacklisting of their excellent facilities.

I trust that I will hear from your office a satisfactory reply within 48 hours or 72 hours after receipt of this document.

If no reply is received or if an unsatisfactory answer is given I shall disclose this matter in the Congressional Record with appropriate publicity.

With every best wish, I am

Cordially yours,

Robert F. Drinan,
Member of Congress.

On February 11, 1972, I received the following reply from the Honorable John H. Chafee, the Secretary of the Navy:

Department of the Navy,
Office of the Secretary,
Washington, D.C., February 11, 1972.

Hon. Robert F. Drinan,
House of Representatives,
Washington, D.C.

Dear Mr. Drinan: Thank you for your inquiry of February 7 in which you express concern that the Navy is not sending officers to Boston College and Brown University among other distinguished institutions.

The reports you have received regarding our curtailment of graduate enrollment at those schools which are phasing out NROTC programs are essentially correct. The explanation is that, during the current session, the Congress expressed concern about the Military Departments' funding graduate education for officers at institutions where ROTC units were being disestablished. In its report on legislation involving the ROTC the House Armed Services Committee expressed itself as follows: ". . . it is morally wrong for the military to spend dollars sending students to a particular college or university which has chosen not to cooperate with the military services. . . ." "We (Congress) do not believe that the fact that a particular university has an element of prestige is sufficient reason for sending a student to a university which has withdrawn from R.O.T.C." (House Report 92–354 at page 4). I quote from a December 7 letter I received from the Chairman of the House Armed Services Committee: "It is our hope that it will not be necessary to place a flat prohibition against sending students to these universities which have withdrawn from the ROTC Program when we consider the procurement bill next year but, if it is necessary to legislate on this subject, legislate we will. I am not asking you at this time to withdraw students prior to the completion of the program in which they are enrolled but I am adamant that no new student will be permitted to enter such programs at these universities. Thus, we are looking forward to additional reductions in the number of students attending such schools when the April report is received."

I share with you concern for the loss to the Navy and the nation of the excellent relationships previously experienced with these institutions.

Sincerely yours,

John H. Chafee,
Secretary of the Navy.

The Boston Herald Traveler, under date of February 17, 1972, revealed the blacklisting by the Navy in the article which follows:

NAVY BAN HITS HARVARD, BU, TUFTS, BC—15 COLLEGES BLACKLISTED

(By Drew F. Steis)

Washington.—The Navy Department has quietly circulated a blacklist of 15 major U.S. colleges and universities, including four in Massachusetts, where career officers are prohibited from taking government-financed graduate courses.

The blacklist, which includes Harvard, Boston and Tufts universities and Boston College, was uncovered by Rep. Robert F. Drinan, D-Newton, after receiving a complaint from a naval officer.

In an exchange of letters between Drinan and Navy Secretary John H. Chafee last week, Chafee admitted that the schools had been placed on a proscribed list because of the phasing out of Naval Reserve Officer Training Corps programs (NROTC) but placed the blame on the House Armed Services Committee.

In response to a Drinan letter, Chafee replied:

"The reports you have received regarding our curtailment of graduate enrollment at those schools which are phasing out NROTC programs are essentially correct."

Chafee added that the decision to ban attendance at the schools was made during closed door hearings before the House Armed Services Committee in July of last year.

"In its report on legislation involving the ROTC," the Chafee letter continued, "the House Armed Services Committee expressed itself as follows: '. . . It is morally wrong for the military to spend dollars sending students to a particular college or university which has chosen not to cooperate with the military service. . .' "

Chafee, in his letter to Drinan quoted from a letter he received last September from Committee Chairman F. Edward Hébert, D-Louisiana.

"It is our hope," Hébert wrote, "that it will not be necessary to place a flat prohibition against sending students to these universities which have withdrawn from the ROTC program when we consider the procurement bill next year but, if it is necessary to legislate on this subject, legislate we will.

"I am not asking you at this time to withdraw students prior to the completion of the program in which they are enrolled, but I am adamant that no new student will be permitted to enter such programs at these universities," Hébert continued.

Chafee concluded his letter to Drinan with the words:

"I share with you the concern for the loss to the Navy and the nation of the excellent relationships previously experienced with these institutions."

Placed on the Navy blacklist with the four Massachusetts institutions were Brown University, Providence; Dartmouth College, Hanover, N.H.; Yale University, New Haven; Princeton University, Princeton, N.J.; Stanford University, Stanford, Calif.; and Colgate University, Columbia University, New York University, State University of New York at Buffalo, Pratt, Institute and Hobart and William Smith College, all in New York state.

Drinan sad ithe mimeographed list of blacklisted schools was given to naval officers "who have made inquiry about graduate studies."

The list was preceded by the heading:

"Civilian educational institutions to which Navy officers may not apply for enrollment in graduate educational programs. (As of October, 1971.)"

Drinan, who was graduated from Boston College and was dean of the Boston College Law School between 1956 and 1970, said he was "very distressed" about the blacklist.

"That officer came to me with this list, practically in the dead of night. I can't believe that naval officers would be officially barred from attending some of our nation's finest institutions."

A Navy spokesman at the Pentagon disclaimed any knowledge of the blacklist and said he was unable to provide the Herald Traveler with the number of naval officers who avail themselves of continued studies during any given year.

Spokesmen for the Army and Air Force said they also were unaware of an official or unofficial blacklist for their individual services.

Drinan said he intended to continue his investigation of the ban and would also "inform these universities of the blacklisting of their excellent facilities."

Coincidentally, Navy Secretary Chafee was graduated from Yale and received his law degree from Harvard; two of the schools now blacklisted to naval officers.

On the same day Congressman Thomas P. O'Neill, Jr., the majority whip addressed the following letter to Congressman Hébert, the chairman of the House Armed Services Committee:

House of Representatives,
Washington, D.C., February 17, 1972.

Hon. F. Edward Hébert,
Chairman, House Armed Services Committee,
U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: It has been brought to my attention that the House Armed Services Committee has taken drastic and unprecedented action in prohibiting career officers from taking government financed graduate courses at fifteen of the nation's finest educational institutions, including several which are located in my congressional district.

The tradition of excellent education which these schools represent should be available to every American, including those who serve in the Armed Forces. It is my sincere belief that to deny access to these universities of higher learning to the officers of the Navy solely on the basis that they have phased out their Naval Reserve Officer Training Corps Program is both unsound and punitive. The officers of the United States Navy deserve, and have a right to attend schools of their choice, just as any civilian has the right to do. If I understand the implications of the present decision correctly, the blacklisting of these colleges is tantamount to a denial of due process to the men of the Armed Forces.

Blacklisting, especially when it interferes with academic freedom, is not favorably looked upon by any freedom loving people. The workingman of this nation has battled long and hard to throw off the shackles of the blacklist, the most incipient restraint on the freedom of any individual. To place the servicemen of this nation under the burden of such a system is the consummate insult to both their commitment to their country and the integrity of the Armed Services.

Regardless of how one feels about the ROTC programs and their removal from many of the blacklisted campuses, it seems ludicrous to punish men who have nothing to do with those decisions and whose only objective is to obtain a decent education. Futhermore, the universities of this nation cannot long remain free and independent if pressure from military and government

In light of all the foregoing, I respectfully urge you to reconsider this decision.

With every good wish,

Sincerely,

Thomas P. O'Neill, Jr.,
Member of Congress.

On the following day the Boston Herald Traveler revealed that not merely was the Navy involved in this blacklisting but all of the armed services had acquiesced in the demand of the House Armed Services Committee that no military officers attend those universities which had phased out ROTC programs.

[From the Boston Herald Traveler, Feb. 18, 1972]

All Armed Services Involved—Blacklist of Colleges Stirs Congressmen

(By Drew F. Steis)

WASHINGTON.—Congressmen and senators, concerned over reports of the Navy Department's blacklisting of colleges and universities in their areas, yesterday began a number of independent investigations into the prohibition which affects schools that have deemphasized the Reserve Officer's Training Corps (ROTC) program.

At the same time Rep. Robert F. Drinan, D-Newton, who first uncovered the Navy blacklist, released a second blacklist of 10 educational institutions to which Army and Air Force personnel may not apply.

The blacklisting of some of the nation's major schools, including Harvard, Tufts and Boston Universities and Boston College, which was first reported in yesterday's Herald Traveler, has created a full scale controversy on Captial Hill.

Angry senators and representatives opened individual investigations with letters to the Department of Defense and to the House Armed Services Committee, which ordered the blacklisting last July.

Rep. Thomas P. O'Neill, D-Cambridge, in a strongly worded letter to Committee Chairman F. Edward Hébert, D-La., termed the blacklist "both unsound and punitive.

"The officers of the United States Navy deserve and have a right to attend schools of their choice just as any civilian has a right to do."

O'Neill said the restriction "is tantamount to denial of due process to the men of the armed forces.

"To place the servicemen of this nation under the burden of such a system is the consummate insult to both their commitment to the country and the integrity of the armed services."

O'Neill urged Hébert to "reconsider this decision" and lift the ban on the individual schools."

The original Navy blacklist, dated October, 1971, was entitled: "Civilian educational institutions to which naval officers may not apply for enrollment in graduate education programs."

It included, beside the four Massachusetts schools, Brown, Dartmouth, Princeton, Stanford, Yale and six New York schools: Colgate, Columbia, NYC, State University of New York, the Pratt Institute and Hobart and William Smith College.

Father Drinan said he received the naval blacklist from an unidentified Navy officer who wished to apply for graduate training at one of the schools.

Chairman Hébert, during Armed Services Committee hearings in July of last year, told representatives of the three military services that if voluntary restrictions were not imposed on individual colleges or universities which had "withdrawn from the ROTC program" legislation would be enacted to prohibit the spending of federal money at such institutions.

"It is the belief of the committee," the official report stated, "that it is morally wrong for the military to spend dollars sending students to a particular college or university which has chosen not to cooperate with the military services in providing career opportunities for those students who desire to make the military their career."

Hébert also stated that although officers presently in one of the blacklisted institutions would be permitted to finish their studies, new enrollees would have to justify their choice of a blacklisted school.

Drinan yesterday released a second blacklist for the Army and Air Force personnel which, Drinan said, had been prepared by the Armed Services Committee staff with the aid of the Defense Department.

The second restricted list, dated Nov. 15, 1971, identified 160 military personnel enrolled at Harvard, 30 servicemen taking courses at Boston University, 20 at Tufts and eight enrolled at Boston College.

It was not immediately explained but Harvard said yesterday that at least two Army colonels and a Navy captain enrolled in advanced management courses at the Harvard Business School on Feb. 4, four months after the ban went into effect.

Drinan said the second blacklist which contained the names of six other universities on the original list, had been given him by a member of the Harvard faculty, who had obtained the information in Boston.

The total number of servicemen from the three branches of the armed forces enrolled at the 10 universities totaled 276, Drinan said.

"I am appalled that these schools are now blacklisted and military officers may not now apply at these fine institutions," Drinan added.

"I've talked with my colleagues on the House floor and in the Senate and there is great support for putting an end to this."

Others on Capitol Hill were equally upset by the blacklist. Rep. Don Edwards, D-Calif., a graduate of Stanford, said he intended to investigate the action. He was joined by Rep. William Ryan, D-N.Y., who wrote letters to the secretaries of the three branches of the armed forces and to Chairman Hébert "to voice our concern" over the blacklisting.

Sen. Edward W. Brooke said he was "very concerned about these reports.

"I will make an inquiry to the Department of Defense," he added.

Sen. Claiborne Pell, D-R.I., who received degrees from both Princeton and Columbia universities, both blacklisted schools, said he was "very annoyed and disappointed" that the Defense Department would blacklist any school.

On February 19, 1972, the New York Times, in a front-page story, revealed the background of the blacklisting and the reaction of the universities affected in the following story:

Navy Bars Study at 15 Universities

WASHINGTON.—Yielding to what it said was pressure from the House Armed Services Committee, the Navy has forbidden its officers to take Government-financed graduate courses at 15 colleges and universities that are eliminating Naval Reserve Officer Training Corps programs.

The action was confirmed by the Secretary of the Navy, John H. Chafee, in a letter to Representative Robert F. Drinan, Democrat of Massachusetts, that was made public today.

In the letter, Secretary Chafee said, "The reports you have received regarding our curtailment of graduate enrollment at those schools which are phasing out Navy R.O.T.C. programs are essentially correct." Mr. Chafee said that his decision had been made in response to legislative testimony by Representative F. Edward Hébert, Democrat of Louisiana and chairman of the House Armed Services Committee.

The schools placed off limits to Navy graduate students are Princeton, Columbia, New York University, Harvard, Stanford, Boston University, Tufts, Dartmouth, Boston College, Colgate, Hobart and William Smith Colleges, and the Pratt Institute.

In its report on legislation involving the R.O.T.C., the House committee said, "It is morally wrong for the military to spend dollars sending students to a particular college or university which has chosen not to cooperate with the military services."

"We do not believe that the fact that a particular university has an element of prestige is sufficient reason for sending a student to a university which has withdrawn from R.O.T.C.," the committee held.

Secretary Chafee said that he subsequently had received a letter from Representative Hébert that said: "It is our hope that it will not be necessary to place a flat prohibition against sending students to these universities which have withdrawn from the R.O.T.C program when we consider the procurement bill next year, but if it is necessary to legislate on that subject then legislate we will."

"I am not at this time asking you to withdraw students prior to the completion of the program in which they are enrolled, but I am adamant that no new students will be permitted to enter such programs at these universities."

"Thus, we are looking forward to additional reductions in the number of students attending such schools when the April report is received," Mr. Hébert wrote.

COMMENTS FROM SCHOOLS

Spokesmen at several of the institutions involved commented as follows on the Navy's action:

Yale—"The number of naval officers attending graduate courses here is so small that it is of little significance. It is regrettable that they would deny their officers what in many cases are special courses offered at only a few institutions. For instance, if they want their officers to learn the Vietnamese or Chinese language there are only about six institutions that offer these—we are one."

Princeton—"We haven't heard about the decision, but it is hard to see that the move would have any effect on us, because we only have five or six Navy officers out of 1,400 graduate students."

Dartmouth—"The number of Navy officers attending graduate school here is so small—in fact, I can't think of one—that it won't affect us. But it's too bad the Navy doesn't want to send its officers to the best schools. They're only hurting themselves."

Columbia—"This is the first we've heard of the Navy's decision. What could we possibly say?"

Officials at New York University and Harvard said that they had not heard of the move and declined comment.

On Jan. 15 the board of trustees at Princeton voted to permit military training to remain on campus as an extra-curricular activity. The board had voted 18 months earlier to end the R.O.T.C. programs by June of this year.

The Navy has made no official response to the offer.

Drinan Told by Officer

WASHINGTON, February 18.—The restriction was acknowledged after Representative Drinan sent Secretary Chafee a letter with a list of 15 schools that a Navy officer said he had been given as places where he could not take graduate work.

Representative Drinan asked Mr. Chafee whether it was true that the Navy was prohibiting any new enrollment of its officers at these 15 colleges and universities.

Secretary Chafee then sent the letter saying that the Representative's information was "essentially correct."

Representative Drinan said that such a step was "vindictive, coercive, retaliatory and it cuts off our nose to spite our face."

The Army and Air Force have taken no public stand in regard to members of those services who might take graduate work at the schools involved.

A report ordered by Representative Hébert's committee from the Pentagon shows the military had 164 graduate students and 112 undergraduates in 10 of the universities as of last Nov. 15.

The origin of the blacklisting is described in the following extract from report No. 92–354 of the report from the House Armed Services Committee on H.R.

4729 "Providing Additional Reserve Officers' Training Corps Scholarships for the Army, Navy and Air Force"—under date of July 18, 1971:

EXTRACT FROM HOUSE ARMED SERVICES COMMITTEE REPORT ON H.R. 4729

Consideration was also given to including a provision which would preclude the Department of Defense, or any of the services, from paying the tuition of a military man at any institution which had withdrawn from the ROTC program. Representatives of the services raised strong objections to the inclusion of such a provision and urged the committee not to include such a provision in the bill this year. As a concession for not so doing, they agreed that they would permit military students to go to schools of higher learning which have withdrawn from the ROTC program only in those cases where there is a unique capability at a particular university. The committee reluctantly accepted this recommendation but warned the Department of Defense and the military services that if they do not comply with this agreement, language would be included in one of the bills the Armed Services Committee takes up in 1972. We do not believe that the fact that a particular university has an element of prestige is sufficient reason for sending a student to a university which has withdrawn from ROTC.

It is the intention of this committee to require a report on a semi-annual basis from each of the services naming the students who attend a university which has withdrawn from ROTC and the Secretary must justify, in each instance, the benefits to be derived from sending that particular individual to a university which has withdrawn from ROTC. It is the belief of the committee that it is morally wrong for the military to spend dollars sending students to a particular college or university which has chosen not to cooperate with the military services in providing career opportunities for those students who desire to make the military their career.

A letter under date of September 30, 1971, from Congressman HÉBERT to the Secretary of the Army, as reprinted below, requested a report from the armed services as to the way in which they were carrying out the blacklisting of universities demanded by the House Armed Services Committee:

SEPTEMBER 30, 1971.

Hon. ROBERT F. FROEHLKE,
Secretary of the Army,
Washington, D.C.

DEAR MR. SECRETARY: When the Armed Services Committee considered H.R. 4729, a bill to amend section 2107 of title 10, United States Code, to provide additional Reserve Officers' Training Corps scholarships for the Army, Navy, and Air Force, discussions were held concerning the possible inclusion of a provision which would preclude the Department of Defense or any of the Services from paying the tuition at any institution which has withdrawn from the R.O.T.C. program. As you are undoubtedly aware, representatives of the Services urged that we not include such a provision. We followed the Services request and did not include such a provision in the bill on the assurance that the Services would permit military students to go to schools of higher learning which have withdrawn from the R.O.T.C. program only where there is a unique capability at that particular university.

We stated in our report (H. Rept. 92–354) that we would require a report on a semiannual basis from each of the Services, "naming the student who attended the university which has withdrawn from the R.O.T.C. and the Secretary must justify in each instance the benefits to be derived from sending that particular individual to that university."

We desire that the initial report be provided as expeditiously as possible as of the date of October 1, 1971 and each April 1 and October 1 thereafter.

Sincerely,

F. EDW. HÉBERT,
Chairman.

The following memorandum under date of November 15, 1971, indicates the extent of the military personnel attending colleges which had disassociated themselves from ROTC participation:

NOVEMBER 15, 1971.

Memorandum for Mr. Slatinshek

Subject: Enrollment of Military Personnel in Non-ROTC-Affiliated Schools.

In response to the Chairman's letters of September 30, 1971 to each of the Services, the following information has been provided in accordance with H. Rept. 92–354 as to the numbers of military personnel currently attending schools which have disassociated themselves from ROTC participation.

School	Graduate level	Baccalaureate, nondegree, and tuition aid [1]	Totals
Harvard University	93	67	160
Boston University	20	10	30
Tufts University	20		20
Columbia University	15		15
Boston College	8		8
Yale University	4		4
New York University	1	4	5
State University of New York	2	2	4
Dartmouth College	1		1
Brown University		2	2
Total	164	112	276

[1] Includes 27 Army personnel receiving tuition assistance for off-duty education at undesignated schools which have disenrolled from ROTC participation.

I reproduce below the text of an interview as given to my office by the Department of Defense with Secretary of Defense, Melvin R. Laird, after his appearance before the Senate Armed Services Committee on February 18, 1972:

Q: Secretary Laird, what is your position on Congressman Hébert's demand that certain Navy students not be allowed to go to graduate school, that there be a blacklist?

Secretary LAIRD. We're examining very carefully the requirements for our graduate school programs. We want to do the thing that's in the best interest of the Navy and the best interest of the Service and the best interest of our personnel and the requirements that we have for special training.

Q. Secretary Chafee expressed some concern about it. Do you share his concern?

Secretary LAIRD. Well, I haven't had a chance to look over the Secretary of the Navy's statement but I can assure you that the Secretary of the Navy, as well as Chairman Hébert, want to do what's best for our country.

Q. Congressman Hébert, I wish you could come up and explain to us why you want to blacklist these colleges?

Congressman HÉBERT. I'm just one member of one committee. The Committee's position taken last year in our report and I read Secretary Chafee's letter, he merely quoted the committee report. My position and the committee's position is very simple. Where we've been thrown off of campuses in this country, I don't think that the people who throws the military off should want any part of the Defense dollar. If it's not good enough to have ROTC, they're not good enough to take our Defense money. I am very adamant and positive in that position as the Secretary well knows, he's a kind man.

Q: Do you agree with that Secretary Laird?

Secretary LAIRD. That I'm a kind man? As long as he says I'm not a con man and a kind man, I will agree that I'm a kind man.

Q: On the other point that he was making. . .

Secretary LAIRD. We're looking into that very carefully at the present time.

Q: Do you think it would damage the student's possibility as far as graduate work is concerned if they aren't allowed to go to these colleges?

Secretary LAIRD. To be quite frank with you, I think that there are probably some colleges that have special courses and I believe that there may be a necessity on some of these campuses to have continual graduate work. As far as medical schools, we have a shortage of spaces in medical schools and I would hope that the committee would give some consideration to allowing those students that have been accepted for medical education to use our scholarship program on those campuses where they've been admitted. Because we are able with the help of the HR 2, which we hope will pass the Senate soon, to go forward with a new scholarship program and I'd hope that we could use all medical school facilities all over the United States until the HR 2 is fully implemented.

Q: Are you saying that you perhaps would like to see a loophole in the law if there were a law?

Secretary LAIRD. There is no law. I would rather not see a law.

Congressman HÉBERT. As a matter of fact, I don't want to correct the Secretary. There is a law on the books right now which prohibits any defense money from being spent in schools that have not allowed our recruiters on the campus. That's been a law for a few years.

Secretary LAIRD. But this does not apply to the ROTC.

Congressman HÉBERT, No, no, this is the same principle.

Secretary LAIRD. It is not a law for ROTC.

Congressman HÉBERT. Not yet, no. I hope we don't have to put it in.

Q: Do you think this is a proper way to punish these colleges?

Congressman HÉBERT. We aren't punishing anybody.

* * * * *

Q: Admiral Moorer would you address yourself to the blacklisting of colleges? What's your position on this?

Admiral MOORER. I'm not involved in that fortunately because as you know, I'm no longer the Service Chief and I do not get involved in administrative matters of that kind.

Congressman HÉBERT. May I object to the use of the word blacklisting. Were not blacklisting anybody. We're merely laying down rules and regulations. If they don't want to buy our product, they don't have to, we're not blacklisting them. These are the cute words of good reporters like yourself that get over these things. Like early in the game you sought about Secretary Chafee's concern. All Secretary Chafee quoted was the report and said he too shares concern. We all share the concern, but in the connotation of asking the concern, I'm not lecturing you, I'm just saying I don't want to be falling into those kind of traps. This will be cut off of the air, it won't be said, but I'm going to say it anyway.

Mr. Speaker, I can only conclude, as Congressman THOMAS P. O'NEILL, JR. concluded in his letter of February 17, 1972, that the denial of access to universities which have phased out ROTC is "both unsound and punitive." I agree also with Congressman O'NEILL when he states:

The universities of this nation cannot long remain free and independent if pressure from military and government quarters is to govern their behavior.

I emphasize the fact that Secretary Chafee has conceded in his letter that the program of blacklisting results in a "loss to the Navy and the Nation." I therefore join Congressman O'NEILL and a growing number of Members of this House in Mr. O'NEILL's request to Congressman HÉBERT: "I respectfully urge you to reconsider this decision."

TELEPHONE PRIVACY ACT

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, I am introducing in the House today the Telephone Privacy Act, which would give the individual greater control over who can call him over the telephone.

This legislation would give to individuals the right to indicate to the telephone company if they do not wish to be commercially solicited over the telephone. Commercial firms wanting to solicit business over the telephone would then be required to obtain from the phone company a list of customers who opted for the commercial prohibition. Those not covered by the legislation would be charities and other nonprofit groups, political organizations and poll takers. In addition, debt collection agencies or any other company with whom the individual has an existing contract or debt would not be covered under this bill.

I believe the Telephone Privacy Act is important legislation because it will significantly reduce the use of the telephone as a tool for invading an individual's privacy. There is no doubt that the use of the telephone as a vehicle for commercial solicitation has vastly increased in recent years. Today, many magazines, newspapers, laundries, butchers and various and sundry other types of businesses are increasingly turning to the telephone to solicit long lists of potential customers. Often taken directly out of the phone book or out of city directories. Conceptually, the best way this legislation can be described is as being analogous to allowing an individual to place a "no solicitors" sign on his telephone. Just as an individual has the right to control who enters his home, he should equally have the right to control what kinds of telephone calls he receives—to the extent that is possible.

Under this legislation, the telephone company would be required to either make a list of customers who do not want to be commercially solicited available to firms, or put an asterisk directly in the phone book by the names of those invoking the commercial solicitation ban. The telephone company would be required to ask its customers, at least annally, whether they wish to invoke the ban. The telephone company would then be required to make available to commercial solicitors lists of those individuals who do not object to being commercially solicited over the phone. The FCC is given the authority to prescribe the specific manner in which the phone company will make these lists available to these firms.

Simply put, the object of this bill is to put some reasonable restraints on the growing number of firms who are turning to the telephone as an inexpensive and personal medium through which to do their advertising. A recent article in Parade summed up the problem by quoting a Los Angeles housewife, who complained that:

> In the course of a single day I was phoned by a cemetery lot salesman, a newspaper subscription salesman, a cosmetics saleslady, a used car salesman, an insurance salesman, and a TV salesman.

There are four basic types of phone calls that generate complaints: abusive calls, such as obscene phone calls; debt collection calls; misdirected calls; and commercial solicitation calls. This legislation is directed against the fourth category, commercial solicitation, which affects virtually every phone user in the country. The beauty of this bill is that it will measurably increase the privacy of tens of millions of Americans with minimal expense and with no bureaucracy. Another nice thing about this proposal is that it will be immediately effective and quite easy to enforce. The first reason for it being easy to enforce is that the vast majority of reputable firms will, of course, obey the law. The second reason is that there are sure to be at least 10 complaints if a company is making hundreds of phone calls in violation of the law. Under the bill, if more than 10 complaints are received against a firm, its officers could be subject to criminal prosecution. The third reason is that commercial solicitation is inherently unlike the obscene call problem, where the caller will generally not identify himself. But a company soliciting business over the telephone obviously has to identify itself and, so, the problem of identifying who is breaking the law is eliminated.

In short, Mr. Speaker, the issue in this bill is the individual's right to control possible invasions of his privacy versus the unabridged freedom to advertise. I believe that in this case it is clear that the individual's right to privacy should prevail.

SENATE BILLS AND JOINT RESOLUTIONS REFERRED

Bills and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1394. A act to amend the Bankruptcy Act to abolish the referee's salary and expense fund, to provide that fees and charges collected by the clerk of a court of bankruptcy in bankruptcy proceedings be paid into the general fund of the Treasury of the United States, to provide salaries and expenses of referees be paid from the general fund of the Treasury, and to eliminate the statutory criteria presently required to be considered by the Judicial Conference in fixing salaries of full-time referees; to the Committee on the Judiciary.

S. 1395. An act to amend section 48 of the Bankruptcy Act (11 U.S.C. 76) to increase the maximum compensation allowable to receivers and trustees; to the Committee on the Judiciary.

S. 1396. An act to amend section 35 of the Bankruptcy Act (11 U.S.C. 63) and sections 631 and 634 of title 28, United States Code, to permit full-time referees in bankruptcy to perform the duties of a United States magistrate; to the Committee on the Judiciary.

S. 2359. An act for the relief of Willard O. Brown; to the Committee on the Judiciary.

S.J. Res. 169. Joint resolution to pay tribute to law enforcement officers of this country on Law Day, May 1, 1972; to the Committee on the Judiciary.

S.J. Res. 190. Joint resolution to provide for an extension of the term of the Commission on the Bankruptcy Laws of the United States and for other purposes; to the Committee on the Judiciary.

ADJOURNMENT

Mr. MAZZOLI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 50 minutes p.m.), the House adjourned until tomorrow, Tuesday, February 22, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speakers' table and referred as follows:

1635. A letter from the Secretary of the Treasury, Chairman, National Advisory Council on International Monetary and Financial Policies, transmitting the Council's Annual Report for fiscal year 1971, pursuant to section 4(b), 5, and 6 of the Bretton Woods Agreements Act, as amended (H. Doc. 92–256) to the Committee on Banking and Currency and ordered to be printed with illustrations.

1636. A letter from the Deputy Assistant Secretary of the Army (Research and Development), transmitting a report of Department of the Army research and development contracts in excess of $50,000 which were awarded during the period July 1, through December 31, 1971, pursuant to section 4 of Public Law 82–557; to the Committee on Armed Services.

1637. A letter from the Secretary of Housing and Urban Development and the Administrator of Veterans Affairs, transmitting a report on mortgage settlement costs, pursuant to section 701 of the Emergency Home Finance Act of 1970; to the Committee on Banking and Currency.

1638. A letter from the Secretary of Health, Education, and Welfare, transmitting the first special report on alcohol and health, pursuant to section 102(1) of Public Law 91–616; to the Committee on Interstate and Foreign Commerce.

1639. A letter from the Secretary of Transportation, transmitting the 1972 annual report on highway relocation assistance, pursuant to section 33 of Public Law 90–495; to the Committee on Public Works.

RECEIVED FROM THE COMPTROLLER GENERAL

1640. A letter from the Comptroller General of the United States, transmitting a report on the incomplete installation of the management accounting system for procurement of equipment and missiles in the Department of the Army; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on Feb. 17, 1972, the following report was filed on Feb. 19, 1972.*]

Mr. STAGGERS: Committee on Interior and Insular Affairs. H.R. 11021. A bill to control the emission of noise detrimental to the human environment, and for other purposes; with amendment (Rept. No. 92–842). Referred to the Committee of the Whole House on the State of the Union.

Mr. PATMAN: Joint Committee on Defense Production. Twenty-First Annual Report on the Activities of the Joint Committee on Defense Production; with amendment (Rept. No. 92–843). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN:

H.R. 13267. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRINGTON:

H.R. 13268. A bill to provide for the establishment of an Office for the Aging in the Executive Office of the President, for the fulfillment of the purposes of the Older Americans Act, for enlarging the scope of that act, and for other purposes; to the Committee on Education and Labor.

By Mrs. GRIFFITHS (for herself, Mr. Broomfield, Mr. Brown of Michigan, Mr. Cederberg, Mr. Chamberlain, Mr. Conyers, Mr. Diggs, Mr. Dingell, Mr. Esch, Mr. Gerald R. Ford, Mr. William D. Ford, Mr. Harvey, Mr. Hutchinson, Mr. McDonald of Michigan, Mr. Nedzi, Mr. O'Hara, Mr. Riegle, Mr. Ruppe, and Mr. Vander Jagt):

H.R. 13269. A bill relating to the income tax treatment of living expenses of a State legislator while away from home in attending sessions of the State legislature; to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions, and papers were laid on the Clerk's desk and referred as follows:

193. By the SPEAKER: Petition of J. B. Stoner, Marietta, Ga., and others, relative to impeachment proceedings; to the Committee on the Judiciary.

194. Also petition of the city council, White Salmon, Wash., relative to Federal-State revenue sharing; to the Committee on Ways and Means.

SENATE—*Monday, February 21, 1972*

The Senate met at 12 o'clock meridian and was called to order by Hon. David H. Gambrell, a Senator from the State of Georgia.

PRAYER

The Reverend Dr. Douglas R. Chandler, professor of church history, Wesley Theological Seminary, Washington, D.C., offered the following prayer:

Eternal God, father of all, we thank Thee for the lessons of our past which revive ancient dreams and remind us again and again of our covenant with Thee. We have learned in our blackest hours of despair to flee to Thee for renewed hope. Thou hast taught us that Thy laws are established in Thy love, and Thy judgments are overshadowed by Thy mercies.

Now again, as we seek to "praise famous men and our fathers who begat us," we thank Thee for the remembrance of one whose face and name are marked so clearly in our history and in our hearts: our first President. By remembering him, we are moved to pray that, like him, we may be free from unworthy passions and small prejudices and that good sense, wise counsel, honest speech, and incorruptible zeal may grace our deeds and words.

Forgive, O Lord, and sanctify to our good the faults which we now confess. Make our minds eager to learn Thy thoughts and our feet quick to walk Thy ways of righteousness and peace. Deliver us from every temptation to spoil the spacious beauty of our inheritance or to endanger the health and goodness of our fair land. Work among us by Thy Spirit, that we may be people blessed by Thee, covenanted for the healing of the nations, instruments of Thy peace, and laborers, still, for that "godly union and concord" of which our fathers dreamed. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Ellender).

The assistant legislative clerk read the following letter.

U.S. Senate,
President pro tempore,
Washington, D.C., February 21, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. David H. Gambrell, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

Allen J. Ellender,
President pro tempore.

Mr. GAMBRELL thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, February 18, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the Legislative Calendar, under rule VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of unobjected to bills beginning with Calendars No. 588, through No. 599.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MRS. KAYO N. CARVELL

The bill (H.R. 2714) for the relief of Mrs. Kayo N. Carvell, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–621), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to preserve immediate relative status in behalf of the widow of a U.S. citizen, to which status she would have been entitled were it not for the death of her husband.

JUANITA SAVEDIA VARELA

The bill (H.R. 2792) for the relief of Juanita Savedia Varela, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–622), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to preserve immediate relative status in behalf of the widow of a U.S. citizen, to which status she would have been entitled were it not for the death of her husband.

MRS. CRESCENCIA LYRA SERNA AND HER MINOR CHILDREN, MARIA MINDE FE SERNA, SALLY GAROZA SERNA, GONZALO GAROZA SERNA, AND JAMES GAROZA SERNA

The bill (H.R. 3093) for the relief of Mrs. Crescencia Lyra Serna and her minor children, Maria Minde Fe Serna, Sally Garoza Serna, Gonzalo Garoza Serna, and James Garoza Serna, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–623), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Mrs. Crescencia Lyra Serna and her minor children, Maria Minde Fe Serna, Sally Garoza Serna, Gonzalo Garoza Serna, and James Garoza Serna. The bill provides for appropriate deduction of visa numbers and for payment of the required visa fees.

JOSEPHINE DUMPIT

The bill (H.R. 4319) for the relief of Josephine Dumpit was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–624), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the entry into the United States as an immediate relative of the alien child adopted by a citizen of the United States.

SOO YONG KWAK

The bill (H.R. 5179) for the relief of Soo Yong Kwak, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–625), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the entry into the United States as an immediate relative of the alien child adopted by a citizen of the United States and his lawful resident alien wife, notwithstanding the fact that two prior immediate relative petitions were approved.

MRS. HIND NICHOLAS CHABER, GEORGETTE HANNA CHABER, JEANETTE HANNA CHABER, AND VIOLETTE HANNA CHABER

The bill (H.R. 6506) for the relief of Mrs. Hind Nicholas Chaber, Georgette Hanna Chaber, Jeanette Hanna Chaber, and Violette Hanna Chaber was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–626), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to preserve second preference status in behalf of the widow and three daughters of a deceased lawful resident alien, to which status they would have been entitled had the husband and father lived.

WILLIAM LUCAS

The bill (H.R. 6912) for the relief of William Lucas (also known as Vasilios Loukatis) was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–627), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the adjustment of status as an immediate relative of the adopted son of citizens of the United States.

MRS. NORMA McLEISH

The bill (H.R. 7316) for the relief of Mrs. Norma McLeish was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–628), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to preserve immediate relative status in behalf of Mrs. Norma McLeish, the widow of a U.S. citizen, to which status she would have been entitled were it not for the death of her husband.

ELEONORA G. MPOLAKIS

The bill (H.R. 8540) for the relief of Eleonora G. Mpolakis was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–629), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the entry into the United States as an immediate relative to the adopted child of citizens of the United States.

WOLFGANG KUTTER

The bill (S. 2275) for the relief of Wolfgang Kutter was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the periods of time Wolfgang Kutter has resided in the United States since his lawful admission for permanent residence on August 13, 1962, shall be held and considered to meet the residence and physical presence requirements of section 316 of the Immigration and Nationality Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–620), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to file a petition for naturalization.

GIRL SCOUTS OF AMERICA

The resolution (S. Res. 259) commemorating the Girl Scouts of America on their 60th anniversary, March 12, 1972, was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas Girl Scouts of the United States of America, chartered by the Congress of the United States, is celebrating the sixtieth anniversary of its founding on March 12, 1972; and

Whereas Girl Scouts of the United States of America, begun as a movement to liberate girls from narrow, confining life roles, has since taken the lead in advancing what are today such universal concerns as protection of the environment, youth participation in self-government, strengthened roles for the volunteer worker, and international understanding through friendship; and

Whereas Girl Scouts of the United States of America is quietly and effectively helping to unite young Americans of all races, creeds, ethnic and economic backgrounds, and is providing to millions of girls and adults unlimited opportunities for self-development and responsible service to their communities and to the Nation; and

Whereas Girl Scouts of the United States of America, true to its pioneering tradition, continues to anticipate the changing needs of girls and of the society and to encourage its nearly four million members to be doers, rather than talkers; leaders, not followers; and givers, not takers: Now, therefore, be it

Resolved, That during the week of March 12 through 18, the Girl Scouts of the United States of America are commended, on the sixtieth birthday of their organization, for a progressive spirit and lasting contribution to the social welfare of this Nation.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–630), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the resolution is that during the week of March 12 through 18 inclusive, the Girl Scouts of the United States are commended on the 60th birthday of their organization for a progressive spirit and lasting contribution to the social welfare of this Nation.

STATEMENT

March 12, 1972, marks the 60th anniversary of Girl Scouting. Girl Scouting in the United States was founded in 1912, by Juliette Low in Savannah, Ga. Mrs. Low brought Girl Scouting from England, where Lord Baden-Powell had founded the Scout and Guide movements for boys and girls. The Girl Scouts were chartered by Congress on March 16, 1950. During those 60 years nearly 31 million girls, men and women have been members of the Girl Scouts. At the present time, there are 3,250,000 girls and 675,000 adults in scouting, with over 400 Girl Scout councils in the 50 States.

The ideals fostered by the Girl Scout organization are impressive. Girl Scouting strives to inspire girls with the highest ideals of character, conduct, patriotism, and service so that they may become happy and resourceful citizens. The organization gives a girl a chance to be herself, to choose what she wants to be, the personal values she wants to hold short, her own life style. Girl Scouts learn to make decisions early in life by actually making them.

The activities in which Girl Scouts are involved are truly innovative. Sixty years ago, Girl Scouts studied first aid. They camped, hiked, and learned some basic home management skills. They still do. But Girl Scouts nowadays also tour space flight centers, participate in archeological digs, and join in experiments in self-government. They work directly with disadvantaged children in innercity areas and migrant labor camps. Councils conductd rug education programs; they enlist the aid of other civic and service groups to make local communities aware of the need and the opportunity for effective action against drug abuse. The Girl Scout Council of the Nation's Capital sponsored an anti-drug abuse convocation in the fall of 1970, joining with other concerned community groups to circulate facts on drugs to area residents.

RECOMMENDATION

The committee is of the opinion that this resolution has a meritorious purpose and would call attention to all of our citizens the outstanding accomplishments of the Girl Scouts of America.

Accordingly, the committee recommends favorable consideration of Senate Resolution 259, without amendment.

BOY SCOUTS OF AMERICA

The bill (H.R. 11738) to amend title 10, United States Code, to authorize the Secretary of Defense to lend certain equipment and to provide transportation and other services to the Boy Scouts of America in connection with Boy Scout jamborees, and for other purposes was announced as next in order.

Mr. SCHWEIKER. Mr. President, in the summer of 1973 two simultaneous national Boy Scout jamborees will be held at Farragut State Park, Idaho, and Moraine State Park, Pa. This will be the eighth national jamboree held during the 61 years of existence of the Boy Scout movement in this country. For the first time, the Boy Scouts will stage two jamborees in an effort to meet the increased demand and in order to lessen travel costs and other economic considerations, thus enabling a greater cross section of American youth to participate.

The purpose of H.R. 11738 is to enable the Government to lend certain equipment and services to these two jamborees, which will have approximately 35,000 scouts and leaders in attendance at each one, and to future national and world jamborees. While the participants will bring their own personal, patrol and troop equipment, there are certain items that the Boy Scouts of America is unable to secure without the help of the Government. Such items include field refrigerators, large hospital and commissary tents, extra cots and blankets for hospital services and for central staff, and a limited number of vehicles.

Congress had passed enabling legislation for the seven previous national jamborees and for the participation of American contingents in three world jamborees.

Services that may be authorized for the Boy Scouts include health and safety, communications, engineering, protection, and logistical services. Such equipment and services will be provided by the Government subject to the following conditions.

Equipment will be on a loan basis.

The Boy Scouts of America will pay for delivery and return, plus the cost of rehabilitation, replacement, or repair.

All equipment and services will be provided on condition that the national defense program is not jeopardized.

The Boy Scouts of America will post a bond to insure the safe return of all Government property.

The provision authorizing transportation has been used principally in connection with Boy Scouts of America participation in world jamborees, to provide transportation, on a space-available basis, and at no expense to the Government, for overseas dependents of military and governmental personnel who are certified by the Boy Scouts of America as bona fide jamboree participants. It has also been used on occasion on a space-available basis, at no expense to the Government, to ship limited amounts of equipment to jamborees for the use of the Boy Scouts of American contingent.

The section authorizing other departments of the Federal Government to cooperate under such regulations as may be prescribed by the Secretary of such department is to provide for such contingencies as the following example: The General Service Administration might have a key item of equipment that might be loaned that would not be available through the Department of Defense.

Such jamborees offer an opportunity for American youth to become better acquainted with this great Nation of ours, to live in a democratic camp society with boys from all sections of our Nation, and from other free nations, and to practice the scouting principles of self-reliance and cooperation with their fellow Scouts. The assistance of the Government in the past has enabled the Boy Scouts to more adequate accommodate and safeguard these thousands of American boys.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–631), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of this bill is to provide permanent authority for the Secretary of Defense to lend Army, Navy, and Air Force equipment and to provide transportation and other services to the Boy Scouts of America in support of their national jamborees and world jamborees.

The equipment authorized to be loaned would include tents, cots, blankets, commissary equipment, flags, refrigerators, and such other equipment as may be necessary or useful.

The services to be furnished under authorization of the bill would typically be communications, medical, engineering, protective, and logistic. The authorization includes the furnishing of expendable medical supplies.

Under the general terms of the bill such equipment and provisions as the following types of support which have been provided in the past could be made available:

(1) Specialized equipment for administrative support and the operation of such equipment.

(2) Personnel for security, accounting, and organizational maintenance of the equipment loaned.

(3) Administrative support personnel such as supervisors, medical and dental technicians, military police, and bandsmen.

(4) Temporary duty and per diem costs of the foregoing support personnel as authorized by law.

Transportation would be authorized to be furnished from the U.S. military commands overseas and return on transportation of the armed services. Such transportation would be provided to Boy Scouts, Scouters, and officials certified by the National Council Boy Scouts of America, as representing the National Council at jamborees, and to Boy Scouts and Boy Scout leaders of other nations whose associations are certified by the Boy Scouts of America as being official representatives to the world jamborees. Transportation would also be provided for equipment and property and the property loaned pursuant to the bill.

Transportation would be furnished to the extent that to do so would not interfere with the requirements of military operations. Transportation would be provided and equipment furnished at no expense to the U.S. Government.

The legislation requires that before the delivery of property by the Secretary of Defense the Boy Scouts of America shall furnish a good and sufficient bond for the safe return of property in good condition. A similar bond would also be required for reimbursement to the United States for the actual cost of transportation furnished.

REASON FOR PERMANENT AUTHORIZATION

The Congress has passed enabling legislation providing for the loan of equipment and provision of services for seven previous national jamborees and for participation of American Scouts in three world jamborees.

Given the salutary purposes of the bill and the safeguards provided in the legislation, the committee can foresee no circumstances under which such loan of equipment and provision of services would not continue to be appropriate in the future. The committee, therefore, has provided permanent authorization to obviate the need for periodically enacting such legislation.

FISCAL DATA

This bill provides that no expense shall be incurred by the U.S. Government for delivery, return, rehabilitation, or replacement of equipment loaned. All such costs are to be paid by the Boy Scouts of America. Transportation is to be furnished at no expense to the United States. The services to be provided are nonreimbursable and, in addition, there will be some administrative costs to the Department of Defense in the process of shipments would be nominal and it is believed they can be absorbed within the regular operational budgets of the military installations involved.

DETRIMENTAL DATA

The Department of Defense position was set forth in testimony before the House Armed Services Committee by Maj. Donald E. Sexton, U.S. Army, as follows:

In past years legislation authorizing the Secretary of Defense to lend certain Army, Navy, and Air Force equipment and to provide transportation and other services to the Boy Scouts of America in connection with jamborees was introduced on a case by case basis. For example, Public Law 91–539, 91st Congress, December 9, 1970, authorized the Secretary of Defense to support the Boy Scouts of America at the XIII World Jamboree which was held in Japan, August 7–13, 1971. Support encompassed the loan of equipment, supplies, and certain services necessary and available without jeopardizing the national defense program.

The theme of the 1971 Jamboree, For Understanding, prevailed in all facets of jamboree activities. The 7,800 American scouts in attendance, identified by the stars and stripes on their uniforms, received great applause and admiration wherever they appeared. One of the most significant results of the jamboree was the fellowship and understanding for other peoples the Boy Scouts of America obtained from their association with the scouts of all nations. The international rapport achieved made the equipment loaned and time spent by the Department of Defense and other Government agencies in coordinating the services to the American contingent very worthwhile.

It has been traditional for the Government to assist the Boy Scouts of America with their national and international jamborees. The proposed legislation would give the Secretary of Defense permanent authorization to furnish support to future jamborees. The bill provides that no expense shall be incurred by the U.S. Government for the delivery and return of this loaned equipment and that the Boy Scouts of America shall pay for the cost of the actual rehabilitation and repair or replacement of such equipment. Some administrative costs are incurred in the processing of outgoing and incoming shipments and the inspection of equipment returned; however, these costs are absorbed within the operation cost of the installation involved and are not charged to the Boy Scouts of the United States of America. These expenses have been nominal in the past and it is believed they will continue to remain so. The fiscal effects of the legislation, however, are not known to the Department of Defense.

The Department of the Army on behalf of the Department of Defense strongly endorses the proposed legislation (H.R. 11738) and considers it to be of material assistance in reducing the year to year administrative burden of formalizing Department of Defense support for Boy Scouts of America. I appreciate the opportunity to appear before the committee and will be happy to answer questions you may have on the bill.

The bill was ordered to a third reading, read the third time, and passed.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

DEPARTMENT OF COMMERCE

The second assistant legislative clerk read the nomination of Peter G. Peterson, of Illinois, to be Secretary of Commerce.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE COAST GUARD

The second assistant legislative clerk proceeded to read sundry nominations in the Coast Guard, which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed consideration of legislative business.

MODERATION IN FLORIDA

Mr. MANSFIELD. Mr President, in the February 18 issue of the Washington Daily News, the lead editorial is entitled "Moderation in Florida."

The first paragraph reads as follows:

> In a year when so many politicans are trying so hard to be on the "right" side of busing, school prayer and other emotional issues, the views expressed by Florida Gov. Reubin Askew are a refreshing example of moderation and common sense.

Mr. President, I ask unanimous consent to have the editorial in full printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Moderation in Florida

In a year when so many politicians are trying so hard to be on the "right" side of busing, school prayer and other emotional issues, the views expressed by Florida Gov. Reubin Askew are a refreshing example of moderation and common sense.

Gov. Askew is opposed to a constitutional ban on busing to achieve racial desegregation. He also is opposed to a constitutional amendment permitting formal prayer in the public schools. Both questions will be submitted to Florida voters in the March 14 presidential primary. And both have a great deal of popular support.

The governor has said busing is "an artificial and inadequate instrument of change." Which it is. But he also points out that some busing may be necessary to comply with the law. Which is true.

So that next month's busing vote is not "misunderstood," Gov. Askew says, he also has asked the voters to say (in a separate ballot question) whether they favor equal educational opportunity, regardless of race, and oppose a return to the old dual school system of blacks in one school and whites in another.

As to the prayer amendment, the governor, a life-long churchgoer, is against it—not because he opposes prayer but because he believes, along with the framers of the Constitution, in the separation of church and state.

These are not positions likely to endear Gov. Askew to all of his constituents, especially in a state where Wallace-for-President sentiment is loud and strong.

Which makes Gov. Askew's stand all the more courageous as well as sensible.

Mr. MANSFIELD. Mr. President, may I say that the content of this editorial makes me more proud of the fact that I look upon Governor Askew as being the logical vice-presidential candidate on the Democratic ticket.

I hope that this outstanding southerner, this man who has done so much for Florida and can do so much for the Nation, will be given the consideration which I believe he deserves.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore (Mr. Gambrell). Does the distinguished Republican leader desire to be recognized at this time?

Mr. SCOTT. Yes, Mr. President.

CONFEREES ON H.R. 12067

Mr. SCOTT. Mr. President, I ask unanimous consent that the distinguished Senator from New Hampshire (Mr. Cotton) be released as a conferee on H.R. 12067, the foreign aid appropriation bill, and that the distinguished Senator from Hawaii (Mr. Fong) may be named as a conferee.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

GEORGE WASHINGTON'S BIRTHDAY CELEBRATION

Mr. SCOTT. Mr. President, as we celebrate the birthday of George Washington, our first President, I am moved to comment that I probably have been more closely associated with the name of Washington historically than any other Member of Congress, as I was born on Washington land which my family acquired through Matthew Fontanie Maury who had acquired it from the family, of Betty Washington Lewis, a part of the Kenmore tract.

I grew up a few yards from the home of Washington's mother.

I read with great interest the letters in the town courthouse from George Washington to his mother, pleading with her not to be so extravagant in the buying of various baubles of clothing and decorations.

My home in Philadelphia is on the route followed by George Washington to the battle of Germantown at the Chen house and his retreat along Germantown Pike.

I can see from my house in Chestnut Hill the Militia Hill where the troops rested en route to Valley Forge. I was a guide as a small boy in my town at the Mary Washington House. So that I have been well aware of the history of our first President.

The estimate of the President published in today's Washington Post, written by Thomas Jefferson some 15 years or so after the death of George Washington, makes very interesting reading. It does not decrease his stature. Jefferson recognized, as a man who had grown apart from the President in some ways over the issues of high national priority, the towering stature of Washington, and retained for him the respect which all of us retain today.

So, from the first President to our current President, who is now cutting new ground and making history, we are proud of the long line of those who have assumed, and assumed so well, the responsibility for our governance.

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, I ask unanimous consent that the Senator from Ohio (Mr. SAXBE) be permitted to proceed for 3 minutes prior to the reading of the Farewell Address.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

PRESIDENT NIXON'S HISTORIC MEETING IN CHINA

Mr. SAXBE. Mr. President, I was thrilled this morning to see the President of the United States meet in friendship the leaders of the People's Republic of China—this nation, the largest on earth, which has been our avowed enemy for over a generation.

I was proud to hear the President's straightforward expression of a desire for peace in the world and a desire for all peoples to enjoy the freedom to choose their form of government.

Wars in our history have killed over 57 million people. Untold misery and brutality have repeatedly humiliated man's attempt to rise above an animal-like existence.

Our daily struggles and petty desires pale before the magnitude of the challenge facing the entire world today. Can we survive as men of character and comparison or are destined to perish by our greed, envy, selfishness, and ignorance?

Somehow the experience of today makes the hope of survival a little more attainable. Somehow the billion humans represented at the historic meeting seemed to have improved their odds for a generation of peace.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I had not anticipated that we would do any morning business. However, in view of what has happened, I ask unanimous consent that the distinguished Senator from Wyoming (Mr. McGEE) be recognized for 3 minutes and that immediately thereafter the distinguished Senator from Texas (Mr. BENTSEN) be recognized for the purpose of delivering the Farewell Address of the first President of the United States.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

MEANING OF WASHINGTON'S FAREWELL ADDRESS

Mr. McGEE. Mr. President, we are gathered here to observe the birth date of our first President, whose Farewell Address is supposed to have advised against any foreign entanglements at the very moment the President of the United States finds himself in China in a venture that is a breakthrough in our days.

I would hasten to note that the first President's comments in his Farewell Address have generally been misconstrued, in my judgment, and misrepresented, as most Presidents have been misrepresented by those who would have him think or say things that he never did. As one of those who might be guilty, I confess that I did a doctor's thesis on the Farewell Address, the thrust of which was the Founding Fathers and entangling alliances. It suggested that the first President was consciously entangling us in the broils of Europe for our immediate advantage. That the immediate strife in Europe became an opening wedge for America to take advantage of this entanglement for the advancement of our country. And it represented a perspicacity on the part of our President and the other Founding Fathers that, I think, remains very laudable before the bar of our country's history.

I suggest that all our first President was pleading for was us to not overextend ourselves in our first years until we had matured and acquired greater capacity in self-government before plunging into the realities of the world around us—words that still loom large in the lexicon of wisdom that even now should guide our country, nearly two centuries later.

READING OF WASHINGTON'S FAREWELL ADDRESS

The ACTING PRESIDENT pro tempore. Under the order of January 24, 1901, Washington's Farewell Address will now be read.

The reading will be by the distinguished Senator from Texas (Mr. BENTSEN), who has been designated for that purpose by the Vice President of the United States.

Mr. BENTSEN, at the rostrum read the Farewell Address, as follows:

To the people of the United States.

FRIENDS AND FELLOW CITIZENS: The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those, out of whom a choice is to be made.

I beg you, at the same time, to do me the justice to be assured, that this resolution has not been taken, without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country; and that, in withdrawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest; no deficiency of grateful respect for your past kindness; but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in the office to which your suffrages have twice called me, have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety; and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country, you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust, were explained on the proper occasion. In the discharge of this trust, I will only say that I have, with good intentions, contributed towards the organization and administration of the government, the best exertions of which a very fallible judgment was capable. Not unconscious in the outset, of the inferiority of my qualifications, experience, in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and, every day, the increasing weight of years admonishes me more and more, that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services they were temporary, I have the consolation to believe that, while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is to terminate the career of my political life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country, for the many honors it has conferred upon me; still more for the steadfast confidence with which it has supported me; and for the opportunities I have thence enjoyed of manifesting my inviolable attachment, by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise, and as an instructive example in our annals, that under circumstances in which the passions, agitated in every direction, were liable to mislead amidst appearances sometimes dubious, vicissitudes of fortune often discouraging—in situations in which not unfrequently, want of success has countenanced the spirit of criticism,—the constancy of your support was the essential prop of the efforts, and a guarantee of the plans, by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave, as a strong incitement to unceasing vows that heaven may continue to you the choicest tokens of its beneficence—that your union and brotherly affection may be perpetual—that the free constitution, which is the work of your hands, may be sacredly maintained—that its administration in every department may be stamped with wisdom and virtue—that, in fine, the happiness of the people of these states, under the auspices of liberty, may be made complete by so careful a preservation, and so prudent a use of this blessing, as will acquire to them the glory of recommending it to the applause, the affection and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger, natural to that solicitude, urge me, on an occasion like the present, to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments which are the result of much reflection, of no inconsiderable observation, and which appear to me all important to the permanency of your felicity as a people. These will be offered to you with the more freedom, as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government which constitutes you one people, is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence; the support of your tranquility at home; your peace abroad; of your safety; of your prosperity; of that very liberty which you so highly prize. But, as it is easy to foresee that, from different causes and from different quarters much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed; it is of infinite moment, that you should properly estimate the immense value of your national union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can, in any event, be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth, or choice, of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism, more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have, in a common cause, fought and triumphed together; the independence and liberty you possess, are the work of joint, counsels, and joint efforts, of common dangers, sufferings and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest.—Here, every portion of our country finds the most commanding motives for carefully guarding and preserving the union of the whole.

The *north*, in an unrestrained intercourse with the *south*, protected by the equal laws of a common government, finds in the productions of the latter, great additional resources of maritime and commercial enterprise, and precious materials of manufacturing industry.—The *south* in the same intercourse, benefiting by the same agency of the *north*, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the *north*, it finds its particular nevigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength, to which itself is unequally adapted. The *east*, in a like intercourse with the *west*, already finds, and in the progressive improvement of interior communications by land and water, will more and more find a valuable vent for the commodities which it brings from abroad, or manufactures at home. The *west* derives from the *east* supplies requisite to its growth and comfort—and what is perhaps of still greater consequence, it must of necessity owe the *secure* enjoyment of indispensable *outlets* for its own productions, to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as *one nation*. Any other tenure by which the *west* can hold this essential advantage, whether derived from its own separate strength; or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts, greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and, what is of inestimable value, they must derive from union, an exemption from those broils and wars between themselves, which so frequently afflict neighboring countries not tied together by the same government; which their own rivalship alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues, would stimulate and embitter.—Hence likewise, they will avoid the necessity of those overgrown military establishments, which under any form of government are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is, that your union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind and exhibit the continuance of the union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who, in any quarter, may endeavor to weaken its hands.

In contemplating the causes which may disturb our Union, it occurs as matter of serious concern, that any ground should have been furnished for characterizing parties by *geographical* discriminations,—*northern* and *southern*—*Atlantic* and *western;* whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts, is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart burnings which spring from these misrepresentations: they tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head: they have seen, in the negotiation by the executive, and in the unanimous ratification by the senate of the treaty with Spain, and in the universal satisfaction at the event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the general government and in the Atlantic states, unfriendly to their interests in regard to the Mississippi. They have been witnesses to the formation of two treaties, that with Great Britain and that with Spain, which secure to them everything they could desire, in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the union by which they were procured? will they not henceforth be deaf to those advisers, if such they are, who would sever them from their brethren and connect them with aliens?

To the efficacy and permanency of your Union, a government for the whole is indispensable. No alliances, however, strict, between the parts can be an adequate substitute: they must inevitably experience the infractions and interruptions which all alliances, in all times, have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a constitution of government, better calculated than your former, for an intimate union, and for the efficacious management of your common concerns. This government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their constitutions of government.—But the constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and the right of the people to establish government, presuppose the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberations and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency.—They serve to organize faction, to give it air artificial and extraordinary force, to put in the place of the delegated will of the nation the will of party, often a small but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common councils, and modified by mutual interests.

However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men, will be enabled to subvert the power of the people, and to usurp for themselves the reins of government; destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your government and the permanency of your present happy state it is requisite, not only, that you steadily discountenance irregular opposition to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretext. One method of assault may be to effect, in the forms of the constitution, alterations which will impair the energy of the system; and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments, as of other human institutions:—that experience is the surest standard by which to test the real tendency of the existing constitution of a country:—that facility in changes, upon the credit of mere hypothesis and opinion, exposes to perpetual change from the endless variety of hypothesis and opinion: and remember, especially, that for the efficient management of your common interests in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indispensable. Liberty itself will find in such a government with powers properly distributed and adjusted, its surest guardian. It is, indeed, little else than a name, where the government is too feeble to withstand the enterprises of faction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the state, with particular references to the founding them on geographical discrimination. Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the spirit of party generally.

The spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind.—It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result, gradually incline the minds of men to seek security and repose in the absolute power of an individual; and, sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purpose of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind (which nevertheless ought not to be entirely out of sight) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill founded jealousies and false alarms; kindles the animosity of one part against another; foments occasional riot and insurrection. It opens the door to foreign influence and corruption, which finds a facilitated access to the government itself through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This within certain limits is probably true; and in governments of a monarchical cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent it bursting into a flame, lest instead of warming, it should consume.

It is important likewise, that the habits of thinking in a free country should inspire caution in those intrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominate in the human heart, is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern: some of them in our country and under our own eyes.—To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the constitution designates.—But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation *desert* the oaths which are the instruments of investigation in courts of justice? and let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect, that national morality can prevail in exclusion of religious principle.

It is substantially true, that virtue or morality is necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?

Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering, also, that timely disbursements, to prepare for danger, frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions, in time of peace, to discharge the debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to your representatives, but it is necessary that public opinions should co-operate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind, that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper object (which is always a choice of difficulties) ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of acquiescence in the measures for obtaining revenue, which the public exigencies may at any time dictate.

Observe good faith and justice towards all nations; cultivate peace and harmony with all. Religion and morality enjoin this conduct, and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt but, in the course of time and things, the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it; can it be that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan, nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachments for others, should be excluded; and that, in place of them, just and amicable feelings towards all should be cultivated. The nation which indulges towards another an habitual hatred, or an habitual fondness is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another disposes each more readily to offer insult and injury to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur. Hence, frequent collisions, obstinate, envenomed, and bloody contests. The nation, prompted by ill will and resentment, sometimes impels to war the government, contrary to the best calculations of policy. The government sometimes participates in the national propensity, and adopts through passion what reason would reject; at other times, it makes the animosity of the nation subservient to projects of hostility, instigated by pride, ambition, and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty of nations, has been the victim.

So likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest; in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducements or justifications. It leads also to concessions, to the favorite nation, of privileges denied to others, which is apt doubly to injure the nation making the concessions, by unnecessary parting with what ought to have been retained, and by exciting jealously, ill will, and a disposition to retaliate in the parties from whom equal privileges are withheld; and it gives to ambitious, corrupted or deluded citizens who devote themselves to the favorite nation, facility to betray or sacrifice the interests of their own country, without odium, sometimes even with popularity; gilding with the appearances of a virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction to mislead public opinion, to influence or awe the public councils!—Such an attachment of a small or weak, towards a great and powerful nation, dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence, (I conjure you to believe me fellow citizens) the jealousy of a free people ought to be *constantly* awake; since history and experience prove, that foreign influence is one of the most baneful foes of republican government. But that jealousy, to be useful, must be impartial, else it becomes the instrument of the very influence to be avoided, instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike for another, cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious; while its tools and dupes usurp the applause and confidence of the people, to surrender their interests.

The great rule of conduct for us, in regard to foreign nations, is, in extending our commercial relations, to have with them as little *political* connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith:—Here let us stop.

Europe has a set of primary interests, which to us have none, or a very remote relation. Hence, she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon, to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation, when we may choose peace or war, as our interest, guided by justice, shall counsel.

Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliance with any portion of the foreign world; so far, I mean, as we are now at liberty to do it; for let me not be understood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than private affairs, that honesty is always the best policy. I repeat it, therefore, let those engagements be observed in their genuine sense. But in my opinion, it is unnecessary, and would be unwise to extend them.

Taking care always to keep ourselves by suitable establishments, on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, and a liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand; neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce, but forcing nothing; establishing with powers so disposed, in order to give trade a stable course, to define the rights of our merchants, and to enable the government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied as experience and circumstances shall dictate; constantly keeping in view, that it is folly in one nation to look for disinterested favors from another; that it must pay with a portion of its independence for whatever it may accept under that character; that by such acceptance, it may place itself in the condition of having given equivalents for nominal favors, and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect, or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish; that they will control the usual current of the passions, or prevent our nation from running the course which has hitherto marked the destiny of nations, but if I may even flatter myself that they may be productive of some partial benefit, some occasional good; that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism; this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far, in the discharge of my official duties, I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is, that I have, at least, believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 22d of April 1793, is the index to my plan. Sanctioned by your approving voice, and by that of your representatives in both houses of congress, the spirit of that measure has continually governed me, uninfluenced by any attempts to deter or divert me from it.

After deliberate examination, with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take, and was bound, in duty and interest, to take a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perseverance and firmness.

The considerations which respect the right to hold this conduct, it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the matter, that right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without any thing more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity towards other nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions, and to progress, without interruption, to that degree of strength, and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

Though in reviewing the incidents of my administration, I am unconscious of intentional error, I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence; and that, after forty-five years of my life dedicated to its service, with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it, which is so natural to a man who views in it the native soil of himself and his progenitors for several generations; I anticipate with pleasing expectation that retreat in which I promise myself to realize, without alloy, the sweet enjoyment of partaking, in the midst of my fellow citizens, the benign influence of good laws under a free government—the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors and dangers.

GEO. WASHINGTON.

UNITED STATES,
17th September, 1796.

Mr. MANSFIELD. Mr. President, I wish to express my personal thanks, and I know the thanks of the Senate, to the distinguished Senator from Texas (Mr. BENTSEN) who has just delivered the Farewell Address of our first President.

George Washington was not only a man of his time but a man for all seasons.

As the distinguished Senator from Texas read Washington's Farewell Address, when he put into it the emotion which he felt, it brought back a feeling of love, not only for this country—which we love—but for this man, George Washington, who did so much to make this country what it was to become eventually. His emphasis on the fact of the interdependence between North and South, East and West, is a thesis which could well be restated today.

It is most appropriate that the distinguished Senator from Texas (Mr. BENTSEN) has delivered the Farewell Address on this day, when the first President of the United States to visit mainland China is now in Peking.

There have been other men who were President who visited China. Herbert Hoover, as a mining engineer, visited Manchuria and worked in Manchuria and north China many years before he became President. Ulysses S. Grant visited China and was received with full honors after he left the Presidency.

During George Washington's time, it took months to reach that far-away land, and, therefore, it would have been an impossibility for the Chief of State of this fledgling Republic to have made a journey of that duration.

It is interesting to note, though, that in 1784, Robert Morris, a signer of the Declaration of Independence, sent the first American clipper ship to trade with China. The year that President George Washington whom we honor here today, took the oath of office, 1789, 14 American ships were riding at anchor in the Pearl River off Canton in South China.

Today, there are no American ships in Chinese ports, nor have there been for almost 20 years.

But today the first actual President even to go to China is visiting in Peking. He has already been to Shanghai. He will go to Hangchow and perhaps one or two other places.

It is most appropriate that this man, who represents all of us in his capacity as President of the United States of America, is visiting a modern version of the "Old Middle Kingdom" and is doing so as the Chief of State of this Nation.

Mr. President, we have come a long way since George Washington's time. Sometimes I think that we would all be better off if we paid more attention to what George Washington had to say to his people and to his country in his Farewell Address of the 17th of September, 1796.

Again I want to commend the distinguished Senator from Texas (Mr. BENTSEN) for doing an extraordinarily effective, efficient, and outstanding job.

Mr. PASTORE. Mr. President, I should like to add my voice to that of the distinguished majority leader in complimenting our distinguished colleague from Texas (Mr. BENTSEN) for his magnificent reading of Washington's Farewell Address.

The Senator from Texas is endowed with a melodious voice which falls most pleasantly on the ear. His pace, his emotion, his posture, and his deep sincerity were readily evident to all.

I fully agree with the distinguished majority leader that much of the trouble we are experiencing today could have been avoided if we could turn time back and read more carefully and follow more closely the wise words uttered back in the 18th century by our first President of the United States.

I repeat, much of the turmoil, the travail, the distress, the disruption, and the destruction now agonizing the whole world today might have been avoided if we had adhered to the counsel of the first President of the United States.

It is counsel we would do well in this Senate not only to hear but to heed.

Mr. MOSS. Mr. President, I wish to add my words of commendation to the distinguished Senator from Texas (Mr. BENTSEN) who delivered the Farewell Address of our first President in such an effective and moving manner.

As has been commented on by the distinguished majority leader, and the distinguished Senator from Rhode Island (Mr. PASTORE), the Senator from Texas has done an extraordinarily good job in presenting the sound advice of our first President, which we try to follow by the practice of reading it each year in this Chamber on the occasion of the celebration of the anniversary of George Washington's birth.

Like the distinguished Senator from Rhode Island (Mr. PASTORE), I wish we would all give more adherence to George Washington's advice. We should have been following it all these years. It is well that we have this custom. The distinguished Senator from Texas has done an exceptional job in presenting it here to the Senate today.

Mr. BENTSEN. Mr. President, I wish to thank my distinguished friends, not so much for their words, but for the generosity which led them to exaggerate so beautifully concerning my delivery.

I must say this: I found it most enlightening to read the Farewell Address again. It is a great contribution which we should always keep in mind when considering the issues now facing us in Congress.

Mr. LONG subsequently said: Mr. President, in his absence I wish to extend my congratulations to the junior Senator from Texas (Mr. BENTSEN) for the admirable manner in which he delivered Washington's Farewell Address to us in this session. The Senator from Texas gave the message more meaning, more expression, and more life than I have heard given to it by those who have presented it during the 23 years I have been a Member of this body.

Obviously the Senator from Texas did not take lightly the task assigned to him by the Senate. The manner in which the message was presented showed that he had studied it carefully, had sought to find every hidden meaning that might be there, as well as every obvious intention of the message, and those of us who heard it will leave to profit by the experience we had here today.

I hope, Mr. President, that on future occasions those who have assigned to them the task of presenting Washington's Farewell Address, as did the Senator from Texas, will seek to emulate his example and seek, as obviously he did, to give the message the same type of expression and same meaning as though our first President were here to present it.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. BYRD of West Virginia). Under the previous unanimous-consent order, the distinguished Senator from Utah (Mr. MOSS) will now be recognized for not to exceed 15 minutes.

SURFACE MINING AND PEOPLE

Mr. MOSS. Mr. President, a week ago today, I was flying in an Army helicopter over portions of Tennessee and Kentucky looking at surface mining operations in those two States as a part of the work of the Subcommittee on Minerals, Materials, and Fuels.

My subcommittee has before it bills dealing with surface mining legislation and I felt it appropriate that we see at first hand mining in these States.

I express my sincere appreciation to the agencies of the Federal Government, the Departments of Defense, Agriculture, and Interior, and the Appalachian Regional Commission; the TVA officials and the many fine, conscientious technicians of the Division of Reclamation and Strip Mining for the States of Kentucky and Tennessee for providing expert technical advise, information, and planning. And I thank my colleagues, the Senators from these two States and the Governors of each of these States, for their welcome, hospitality and participation in the tour by the subcommittee.

I can report to you that this was a no-holds-barred trip. We saw the very worst examples of surface or contour mining and the scars of strip mining are terrible. There has been not only devastating degradation of the landscape, but there is human misery caused by slides, siltation, and water pollution which offend the people who live in the hollows.

Our observation of strip mining in Appalachia, particularly in the States of Tennessee and Kentucky, during this trip was planned to provide us with a cross section of mining situations—coal seams, mining methods, geographic conditions, and effectiveness of State regulation. Specifically, we observed access roads, high walls, single and multiple seam mining operations, spoil banks, slides, and acid mine water quality under the various measures of control specified by State laws. A range of damage and of reclamation requirements from prelaw, through early law, to present standards was observed.

It is fully recognized that environmental disturbances caused by unrestrained mining practices come from both surface and underground mining operations. Damages from underground mining occur in the form of acid mine drainage, abandoned hazardous mine openings, uncontrolled surface subsidence and solid mine waste accumulations that are unsightly and occupy considerable valuable land surface. In addition, air and water pollutants from these mine waste piles often damage the surrounding environment.

The committee visited sites of both active and abandoned surface and underground operations to get a better understanding of the problems associated with mining and mine reclamation. Mine sites in the State of Tennessee and Kentucky were selected because of the steep topography in order to provide understanding of the difficulty of reclaiming and restoring damaged surface mined lands.

Both States showed evidence of improved regulation in reclamation of mined areas from strip mining operations which proceeded in past years under situations ranging from those where there were no laws to the more sophisticated operation in Kentucky under strong laws.

State officials of both Tennessee and Kentucky, however, expressed a request for help from the Federal Government. They need help in the uniformity of application of the laws, in enforcement of the laws and all the help they can get in technology.

Those past practices which have gone on unchecked must cease. Strip and auger operations in an unstable area, where there is a present danger of acid mine drainage must not be allowed. Toxic materials must be carefully and safely buried. Appropriate bench widths must be observed and the appropriate degree of slope allowed to be mined must be determined. And all of these requirements must be strictly enforced.

There are dedicated men and women in these two States who have carried for this Nation the great burden of trying to deal with these new and awesome mining operations. Those of us who come from Western States, for whom the mammoth surface mining operations for coal are only just beginning, recognize that the techniques which have been learned in Appalachia will go west. The experimentation with siltation dams, bench and slope widths, landscaping and reclamation which we saw will stand western operators in good stead.

We have seen a cross section of mining situations; enough to recognize that there must be Federal legislation. On the 24th of February at 9:30 a.m., in room 3110, the committee will hold its final day of hearing on the surface mining bills before us.

The issues as I see them developing from the proposed bills and the testimony which we have already heard include:

First. What lands will be covered—Federal, State, Indian and private?

Second. What minerals will be covered?

Third. What is the appropriate measure of responsibility between the Federal and State Governments and which agency or combination of agencies at the Federal level should have the administrative responsibilities?

Fourth. How shall we fund for enforcement and regulation. Suggested sources include appropriation, fines, fees and forfeitures from permits, bonds and sale of reclaimed lands.

Fifth. What reclamation standards and requirements should be written into the bills; should there be detailed provisions or general guidelines?

Sixth. Should there be a total, partial or outright banning of surface mining? Should there be prohibition of all surface mining of coal, or prohibition of coal mining underground in wilderness areas, or permissive mining in national forests at the discretion of the Forest Service?

Seventh. Time schedule. When would the legislation be operable?

Eighth. What provisions should be made for administrative and judicial review of determinations and requirements under the act?

Ninth. What must be done about orphan and other unreclaimed lands?

I am convinced that surface mining

must be assiduously controlled. However, the bill which the subcommittee reports out must recognize that this country is faced with an energy crisis. How we meet our essential energy needs will play an important part in the manner in which this country meets the needs of its people. One of the most critical areas of national importance today lies in balancing our requirements and responsibilities to arrive at a sound national energy policy. Meeting our projected energy requirements means meeting our duties and obligations to our people not only in providing the necessary energy but in providing necessary jobs. Most assuredly, this is not the time to close down going operations and throw more of our people out of work.

Recoverable domestic coal reserves probably exceed 1,600 billion tons. Surface mining is approaching 50 percent of all U.S. coal production. Our coal reserves must play an essential part in meeting our energy needs.

Glenn T. Seaborg has said:

> I do not believe that we have to degrade the natural environment to meet reasonable energy demands. Neither do I believe that we must choose between exploiting sources of abundant energy to support mindless growth or entering into an age of equally mindless austerity enforced by power reductions for the alleged purpose of "saving the environment."

There is a middle road. It is essential that we meet our energy needs but it is also essential that we guard the manner in which we proceed. The committee did see successful reclamation efforts along with the bad. I have the utmost faith that this country, fully aware of its responsibilties to the environment, will, through an expenditure of energy and inventiveness, meet its full responsibilties to its people.

I am convinced that ways can be found to keep the coal industry viable, to meet our energy needs, and at the same time, provide essential reclamation.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the distinguished junior Senator from Pennsylvania (Mr. Schweiker) will now be recognized for not to exceed 15 minutes.

(The remarks of Mr. Schweiker made at this point on the introduction of S. 3201 are printed in the Record under Statements on introduced Bills and Joint Resolutions.)

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

ORDER FOR RECOGNITION OF SENATOR PEARSON TOMORROW

Mr. MOSS. Mr. President, I ask unanimous consent that tomorrow after the prayer by the Chaplain and after the two leaders have been recognized, under the standing order, the Senator from Kansas (Mr. Pearson) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed a bill (H.R. 12350) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 12350) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes, was read twice by its title and referred to the Committee on Labor and Public Welfare.

QUORUM CALL

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks Mr. Allen made at this point on the introduction of Senate Joint Resolution 207 are printed in the Record under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

Mr. MOSS. Mr. President, I will suggest the absence of a quorum so that Senators who may not have had the opportunity to speak in the morning hour may do so.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENT NIXON'S JOURNEY FOR PEACE

Mr. DOLE. Mr. President, by resolution of the Congress this historic day is commemorated as one of united support for President Nixon's efforts to bring a relaxation of international tensions and achieve an enduring and just peace. The search for peace is a universal quest, and the Congress has, I believe, spoken for each of our citizens and all of mankind in expressing sincere and fervent hopes for the success of the President's undertakings in this cause.

I am sure these hopes were in the minds of millions of Americans and people around the world who watched the President's arrival in China last night. Seldom has there been an event signifying a more profound step in the efforts of man to fulfill the potentials of his civilization.

There have never before been two more powerful nations in terms of material and human resources. Never before have two nations possessing this power been isolated and alienated for so long a period of time. And, thankfully, never before have two such nations attempted to reach out to find ways that will enable each to fulfill its dreams, pursue its own course and yet avoid a confrontation that could plunge both into war, chaos, and destruction.

That handshake at the Peking airport between President Nixon and Premier Chou En-lai was more than the act of two leaders of two nations. It was something seen all too rarely in the record of men on this earth.

It was an effort to build—without destruction preceding it. It was a gesture for peace—without a war imposing it. It was an attempt to understand, to communicate, to share and nurture what is common to all men—the hope for peace.

I am tremendously proud to be an American today. I am proud of our Nation's ideals and principles. And I am proud that our President, standing firmly on those ideals and principles, is acting to preserve them and insure their survival in a changing and complex world. And on this national day of unity I believe all Americans share this pride.

QUORUM CALL

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Moss). Without objection, it is so ordered.

OPPOSITION TO FORCED BUSING

Mr. ALLEN. Mr. President, from time to time I make reports to the people of Alabama by a radio message, and this morning I made such a report to the people of Alabama regarding the effort to bring to an end the vicious and destructive forced busing of little children in an effort to attain a mathematical racial balance in public schools. I ask unanimous consent that that radio message be printed in the Record at this point.

There being no objection, the report was ordered to be printed in the Record, as follows:

Opposition To Forced Busing

A new and bitter floor fight is under way in the United States Senate in an effort to bring to an end the vicious and destructive forced busing of boys and girls in order to obtain a mathematical racial balance in public schools.

For three years I have been saying on the floor of the Senate that if the North were required to observe the same tyrannical court decisions and rulings of HEW as have been required of the South, we would see changes in their attitudes and approach to the serious problems of education.

Now that Northern schools *are* facing court orders calling for forced busing, public pressures are causing Northern lawmakers to listen again to what we southerners have been saying.

Just last week Senator Jackson discovered the value of Freedom of Choice, and Senator Griffin, the Republican whip from Michigan, is seemingly trying to change directions and he is being followed by a number of others. Our message has even gotten into the White House where the President announced his opposition to busing for the purpose of racial balance, although he has refrained from committing himself to a course of action.

This turn of events gives encouragement to those of us who have been fighting against destruction of our public schools, and I would welcome the President's assistance in calling to a halt the court-ordered practice of busing.

I have maintained from the very beginning that the fight forced busing is above politics. What is at stake is the future of public education in the United States.

We in the South have already experienced and are suffering the disastrous effects of plans and orders of the Federal judiciary and of the social planners of the Department of Health, Education and Welfare. Forced busing is destroying our public schools. It is causing parents and the public to withdraw their support of public education and it is making it well-nigh impossible for our children, black and white, to receive a good education.

Nationwide polls show that the vast majority of Americans, black and white, are dead set against forced busing of children from their neighborhood schools. When black parents in Detroit were asked to list in order their desires for education, they overwhelmingly named quality teaching as top priority. Almost 70 percent of the parents polled were against forced busing.

I believe that a properly worded constitutional amendment may be the best method of clipping the wings of the Federal Judiciary. Three years ago I introduced a bill in the Senate that would have brought this result, but liberal forces defeated it. I have just introduced a new proposal and am co-sponsoring others. But I realize that a constitutional amendment faces a rocky road and would take at least two years for ratification even under the most favorable conditions.

For this reason, I am going to push for action by the National government and the National administration on three fronts; The passage, first, of a statute outlawing forced busing. And then I'd like to see action by HEW in stopping busing plans which it submits to the Federal courts. And then I'd like to see a changed attitude on the part of the Federal judiciary, all the way up to the Supreme Court.

The irony of forced busing is that wherever court orders and HEW plans require school boards to spend hundreds of thousands of tax dollars providing unneeeded and unwanted transportation, that means fewer tax dollars available for improving the quality of teaching, for more libraries and better school buildings and for greater educational opportunities for our children. In their mad rush to concoct illogical and impractical plans for social change, the bureaucrats and Federal judges purposefully seem to neglect the fact that quality education for the individual child is the most important consideration. I can assure Alabamians—white and black—that my concern will continue to be to see that every child in Alabama and the Nation has the opportunity to obtain a good education.

QUORUM CALL

The PRESIDING OFFICER. Is there further morning business?

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RADIO FREE EUROPE AND RADIO LIBERTY

Mr. McGEE. Mr. President, the subject I wish to comment upon is the controversy now going on in this body with regard to Radio Free Europe and Radio Liberty. We have had honest differences of opinion on this matter in recent years, particularly in the Committee on Foreign Relations, and we have sought to work our wisdom to arrive at a collective judgment of all the members of the committee as well as our colleagues in the House of Representatives. Yet we remain divided and separated by our basic differences.

What I wanted to say about these two programs is by way of updating information on their current operations. Updating to stress that, perhaps because of the Senate's concern about the program and keeping it as up to date with the real world as possible, both programs have really been taken out of the cloak-and-dagger category. They have been removed from the concealment of the white trenchcoats and have been brought out into the open. But they are still beaming their messages of news and information about the Western World to the people behind the Iron Curtain, and that is what is important.

I know there are those among my colleagues on this side of the aisle who characterize these programs as an archaic reflection of the cold war interval of our history. But I think that not only does a disservice to both programs, but tortures the purpose of their impact, which is strictly information.

I have just come back from a visit to some of the countries behind the Iron Curtain, Mr. President, and I can say that while I was there, this point was made to me by people who are now, at this very moment denied access to the news in their locally controlled newspapers, which in turn are controlled by monolithic-government decisions. The only other point of view which they have access to, in addition to the material which is given to them by their government-controlled sources, comes from these two sources—Radio Free Europe and Radio Liberty.

This is what makes the difference. Now that we have arrived, in effect, at a detente in Europe between the blocs that emerged in the wake of World War II, the one thing that is going for an improvement in relations is the opening of channels of information so that each side can see the most of the other side, and understand. One of those instrumentalities remains the radio programs that are currently beamed from Munich into that part of the world.

Therefore, I think that this very moment, when we are beginning to realize the changes and the breakthroughs that the impasse has made possible by avoiding open hostilities, would be the very worst time to suddenly cut off these programs or use parliamentary tactics for delaying action upon them.

We serve nobody well, least of all ourselves, in that kind of approach. Many times, individual citizens on the street in some of the countries I visited—and even in two instances officials of their governments—stressed how important it was for them to establish more contacts with the United States, more understanding of the West, not less. But they were constrained in doing so because of the higher decisions made over the bloc countries.

So, whatever else, I think it is important that we address ourselves to these peaceful means, these nonviolent techniques, for chipping away at the walls that separate people. It is only when people can associate with people, it is only when ideas can interchange and be interchanged, that we can genuinely arrive at a common base of understanding.

At this particular moment, when we have the SALT talks underway, when we have an admitted new atmosphere between the East and the West, when our President is in another and very strange part of the world on a significantly important mission, it ill behooves us to abandon these channels of information to a part of the world that has said it hungers for more information. They do not have to agree with us, but they want the new sources of news.

We are told by some critics that this could be done through the Voice of America. That misses the point, Mr. President, It misses the point. The Voice of America is an official organ and expression of our Government. We are trying to avoid the imposition of a government pattern or a government profile or a government point of view. We are trying to increase instead the channels of contact and understanding.

Radio Free Europe and Radio Liberty, when removed from the Voice of America, removed from the stringencies of clandestine operations as in their very inception, become an even richer factor in breaking down the walls that separate the two worlds.

To continue with my prepared remarks:

Tomorrow we face the prospect that vital funds will be cut off for the operation of Radio Free Europe and Radio Liberty unless there is congressional action approving authorizing legislation for these two programs.

There are some in this body who want both these operations terminated. Their reasons are varied, but the major objections seem to be the following:

The question of whether their broadcasts help or hinder efforts to normalize East-West relations.

American and European opinion believes these radios to be outdated and obsolete—relics of the "cold war."

The radios are a part of some mysterious deception.

The radios, if they have contemporary value, would find financial support in Europe as well as in the United States.

I would like to take this opportunity to deal with these assertions in an effort to clarify the misconceptions surrounding these two radios. Both Radio Free Europe and Radio Liberty, in the opinion of those who have closely studied their operations, perform a significant service in communicating to the peoples of the Iron Curtain countries of Europe.

There is more than ample evidence that the U.S. Congress strongly supports their operation. Last August the Senate, by a voice vote, passed a 1-year authorization bill for both radios. In November 1971 the House, by a large majority, passed a 2-year bill. Both Houses, by their votes, took the position that these radios were valuable assets which should be continued. Both indicated they should be subjected to careful study with regard to their future.

It is asserted that American and European opinion holds the radios to be outdated and obsolete. However, the record reveals just the opposite view is true.

The majority of those American papers commenting on the question have done so positively and overwhelmingly. Perhaps the most succinct statement of consensus of American press opinion is the Washington Post's editorial of June 26, 1971, which concludes:

> Detente, if it means anything, means widening the West's contacts with the East, not helping the East to seal off its people from the West. It means the exchange of people, goods, words and ideas. This is the essential business of Radio Free Europe and Radio Liberty. The Congress, in its right-minded determination to shake the stations free of the CIA, should not lose sight of the reason for letting them continue it.

In this morning's publication of the New York Times an editorial concluded:

> We believe the work of these two stations has a lasting validity and importance, but even those of a different view must realize that the existence of these organizations provides potential bargaining counters for President Nixon's Moscow visit next May. At the least, all concerned should be able to agree that a final decision on the future of Radio Free Europe and Radio Liberty cannot be made until Mr. Nixon has returned from the Kremlin, and Congress can take a hard look at the post-Moscow situation of American *foreign policy*

The Western European press has likewise supported the two radios. The London Daily Telegraph stated on June 9, 1971:

> There is now talk of revising the status of these stations, and signs of a "liberal" offensive on their freedom. It is odd that the self-appointed defenders of civil liberty in the West should have so little concern for the same liberties in the East. Would it really make the world any safer or the Soviet leaders any nicer if our last thin line of communication with the people of the Communist world were cut?

The Frankfurter Allgemeine Zeitung also wrote last year that—

> The station is termed an "inciting station" in East bloc polemics. The reason: it breaks the regimes' news monopoly, and informs the population . . . quite frequently about events in their own country which were intended to be kept secret.

Favorable editorials have been printed by most of the major papers of Western Europe. Earlier this month I was in Germany where I delivered a paper to a NATO conference in Munich. And while there, I had the occasion to reevaluate the two operations. Everywhere I went I was personally made aware of the valuable service both stations render. Likewise, less than 2 weeks ago I visited behind the Iron Curtain in Southeastern Europe. Even there I encountered a strong disposition among both officials and private citizens and an expressed will to increase contacts with the United States, including better communications as well as more trade and cultural exchanges. One spokesman in particular stressed the difficulty his people have in getting news from "the outside"—meaning the U.S.A.

For some it is still a fundamental question as to whether the broadcasts of Radio Free Europe and Radio Liberty help or hinder efforts to normalize East-West relations.

However, it is interesting to note that a key clause in the Universal Declaration of Human Rights adopted by the United Nations General Assembly on December 10, 1948, was officially endorsed by the Soviets. Article 19 of that Declaration states:

> Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers.

Broadcasts have not been a hindrance to working out problems which divide the East from the West. While much remains to be done and serious problems face us, there have been some significant steps forward within the past 2 years. We could cite such things as the SALT talks which are now going forward; the completion of the West German treaties with Poland and the Soviet Union which now await ratification; and the opening of possibilities for some progress on a mutual and balanced forces reduction. The Berlin talks were concluded with agreement among the four occupying powers and we have recently had the announcement of the President's planned trip to Moscow.

Concurrent with these Government-to-Government talks, we have seen a stepping up on the part of the Eastern European governments of their efforts at increasing trade and their attempts at obtaining the benefits of a much greater input of Western technology into their economies. We have also tried to broaden our economic and technological relations with the Eastern European nations.

Broadcasting has not prevented this process. If the Soviet Union really believed it did, I doubt if they would devote more than 330 hours a day in 78 languages to conduct what it calls the ideological struggle against imperialism. As Janusz Kolczynski, the Director of the Polish Institute for Research in East-West Relations, said in a Moscow conference last year:

> Our concept rules, as is well known, that peaceful co-existence does not extend to the sphere of ideology, that there cannot be a truce in this sphere.

The fact is that both East and West are extensively engaged in international radio communication. It is also a fact that East-West negotiations are proceeding on a variety of issues.

Agreements are reached on matters of perceived mutual interest. International broadcasting does not interfere with that process. Indeed, real normalization will become negotiable only with the further evolution of the Communist purpose. The full, free flow of information is so indispensable to that process.

The notion that Radio Free Europe and Radio Liberty engage in "cold war polemics" or seek to incite revolution is one of the myths these radios have had to live with for a long time. That argument, as well as the assertion that money spent on the radios might be better spent on cultural exchange, is most ably, refuted by a prominent former Polish official, Henryk Birecki who wrote:

> These two activities are ultimately serving the same goal in entirely different ways. They should never be contrasted.
>
> I was head of the Department of Cultural Exchanges in the Polish Foreign Office from 1960 to 1968. From the other side of the negotiating table I could see how hard and often without success the American diplomats had to fight for each award of a scholarship . . . or permission for an American ensemble to visit Poland. It must be remembered that, of necessity, cultural exchanges may embrace only a limited number of people and are subject to control, consent and restrictions of the respective government which may discontinue them at will when they cease to serve their own interests. Foreign broadcasts are the only line of direct communication with millions of people in the Soviet bloc countries which are entirely independent of censorship and influence of of the authorities.
>
> As a member of the collective leadership in the Polish Foreign Office and a close associate of the late Adam Rapacki, Minister of Foreign Affairs and a Politburo member, I had an opportunity to observe from inside the impact of Radio Free Europe on the ruling elite. I can state that literally everybody in this inner circle of power, including Gomulka himself, was assiduously following Radio Free Europe broadcasts. Ministers used to start their working day by reading monitoring bulletins of RFE broadcasts. My own habit became so deeply rooted that when I became an exile in 1968, I sold some of my few remaining valuables to buy a good radio set in order to listen in on Radio Free Europe. Even abroad, only from this radio station could I learn what was going on in my country.
>
> Few people in the West realize how anxious the rulers in the totalitarian system are to learn the authentic views of the opposition whose freedom of expression they themselves have suppressed. To some extent Radio Free Europe has become the voice of the silent opposition. It plays this role in a responsible, sometimes even overcautious, manner. RFE news and commentaries are topics of daily discussions at all levels including the members of the Central Committee of the Communist Party and the governmental offices. Communist leaders who have become prisoners of their own monopoly of information need this radio for their own private enlightenment, but at the same time fear its impact on others.

This eloquent letter, written last summer to the Washington Star, says a great deal about the impact of the very special type of broadcasting represented by Radio Free Europe and Radio Liberty. Broadcasting which can kindle the type of relationship which this letter reflects, cannot be simply taken off the news wires of UPI, AP, or Reuters. Careful research into the developments in the country of each audience is mandatory as is careful and objective analysis of trends which must often be pieced together from fragments of censored domestic news. This type of broadcasting is not the business of the official U.S. broadcasters, the Voice of America.

Presenting a full day's programing to their audiences and maintaining a constant contact with the domestic issues listeners are concerned with is a demanding task—the demands in time, personnel, equipment, and management are substantial, much greater than are the demands on each of the language services of the Voice of America which broadcasts perhaps 2 or 3 hours daily to its audiences and is focusing primarily on much more readily provided United States and international news. I believe it to be a mistake to compare Radio Free Europe and Radio Liberty to the Voice of America as it would be a mistake to compare them to CBS, ABC or NBC. They are different types of broadcasters with different functions which do not duplicate each other. For the service they provide and the impact they have, their cost is not excessive.

Now, it has also been asserted that the radios are a part of some mysterious chain of deception. This is hardly the case. The radios are currently being publicly funded through a continuing resolution. Both the bill passed by the Senate, which would fund the radios through the Department of State only until June 30, and the bill passed by the House which would fund them through the chairman of the proposed Study Commission, provide for public funding. On this matter, the desire of Congress for overt financing is clearly being met. It is time to cutaway from this issue the clouds of suspicion and look at these radios for what they are. We should study them as they are viewed by objective examiners and create for them the legislative structure of support they deserve. At this late date in the fiscal year, it seems to me we have only the choice of following the guidance offered by the Congressional Research Service Study which the Committee on Foreign Relations asked us in its July 30 report to wait for or to create—a new broader Commission to come up with new findings in 1973 in accordance with the bill passed in the House.

As to the argument that if the radios had contemporary value, they would find financial support in Europe as well as in the United States, I question the validity of such an assertion. I do not believe that the radios can make a serious effort to seek public financial support in the United States. However, I believe we should pursue the cost-sharing route.

Finally, I would like to refer my colleagues to a column written by Rowland Evans and Robert Novak which appeared in the February 17, edition of the Washington Post. They refer to two studies compiled by the Library of Congress Congressional Research Service into the efficacy of continuing the operations of both radios. Draft reports warmly praised the two programs and recommended continued U.S. financing.

According to the columnists, one report said Radio Free Europe "contributes substantially to preserve the reservoir of good will toward the U.S."—by Eastern Europeans.

> In some cases regimes have grudgingly adopted some features desired by their publics and supported by Radio Free Europe.

As Evans and Novak point out, the other Library of Congress report suggests that—

> Radio Liberty encourages detente, amelioration of international differences through negotiations, strengthening of the United Nations as an instrument of peace and creation of a world system based on the rule of law.

The evidence is overwhelming in support of both Radio Free Europe and Radioe Liberty. Therefore, I believe that the Congress should act with dispatch in approving the authorizing legislation for both operations.

I ask unanimous consent to have printed in the RECORD an excellent editorial published in the New York Times this morning, which makes some of the same points.

I think it behooves us to move on this. We are only frittering away our own interests. We are only wasting away our own opportunities; no one else's.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SAVING FREE VOICES

For a generation now, Radio Free Europe and Radio Liberty have contributed enormously to enlarging the market place of ideas in Eastern Europe and the Soviet Union. Their transmissions have made available to those countries factual news of the outside world that the governments involved would have preferred their subjects did not know. In addition, these stations have broadcast the writings of such dissidents as Nobel Prizewinner Aleksandr Solzhenitsyn, whose masterly novels and stories are prohibited in the Soviet bloc. A Library of Congress study of these stations, made at the request of the Senate Foreign Relations Committee, has paid high tribute to these organizations' contributions toward liberalization of the Soviet world.

But now both these stations are threatened with extinction tomorrow unless House and Senate conferees end a Congressional stalemate. This situation arose because each chamber voted a different bill authorizing the continuation of these broadcasts.

If the deadlock kills Radio Free Europe and Radio Liberty, the chief gainers will be the Soviet bloc's hardliners who hate the two radio stations as allies of the liberal and progressive elements in the Communist world. Moreover, the demise of these broadcasts because of the inability of House and Senate conferees to agree would hardly project a flattering view of the American legislative system, nor would it add to American prestige for Europeans to see an important political question decided by a mere technical stratagem.

We believe the work of these two stations has a lasting validity and importance, but even those of a different view must realize that the existence of these organizations provides potential bargaining counters for President Nixon's Moscow visit next May. At the least, all concerned should be able to agree that a final decision on the future of Radio Free Europe and Radio Liberty cannot be made until Mr. Nixon has returned from the Kremlin, and Congress can take a hard look at the post-Moscow situation of American foreign policy.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. GAMBRELL) laid before the Senate the following letters, which were referred as indicated:

REPORT ON DEPARTMENT OF THE ARMY RESEARCH AND DEVELOPMENT CONTRACTS

A letter from the Deputy Assistant Secretary of the Army (R. & D.), transmitting, pursuant to law, a report on Department of the Army research and development contracts, for the 6-month period ended December 31, 1971 (with an accompanying report); to the Committee on Armed Services.

REPORT ON MORTGAGE SETTLEMENT COSTS

A letter from the Administrator of Veterans' Affairs, and Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on mortgage settlement costs (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL POLICIES

A letter from the Secretary of the Treasury, transmitting pursuant to law, a report of the National Advisory Council on international monetary and financial policies, for the year ended June 30, 1971 (with an accompanying report); to the Committee on Foreign Relations.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of Payments From Special Bank Account to Lockheed Aircraft Corporation For the C-5A Aircraft Program During the Quarter Ended December 31, 1971", Department of Defense dated February 18, 1972 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Incomplete Installation of the Management Accounting System For Procurement of Equipment and Missiles", Department of the Army, dated February 18, 1972 (with an accompanying report); to the Committee on Government Operations.

REPORT OF OFFICE OF COAL RESEARCH

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report of the Office of Coal Research, for the year 1972 (with an accompanying report); to the Committee on Interior and Insular Affairs.

REPORT ON ALCOHOL AND HEALTH

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on alcohol and health (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT ON HIGHWAY RELOCATION ASSISTANCE

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on highway relocation assistance, dated January 1972 (with an accompanying report); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. GAMBRELL):

A resolution adopted by the Diocese of Washington, Washington, D.C., supporting the President of the United States in his efforts to end American military involvement in Southeast Asia; to the Committee on Foreign Relations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. SCHWEIKER:

S. 3201. A bill to expand the scope of the National Heart and Lung Institute, to provide for special emphasis on the prevention of arteriosclerosis and the creation of cardiovascular disease prevention centers, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. TALMADGE:

S. 3202. A bill for the relief of Miss Marilyn Ann Mucha. Referred to the Committee on the Judiciary.

By Mr. DOLE (for himself and Mr. GRIFFIN):

S. 3203. A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, in order to extend under certain circumstances the expiration date specified in a power of attorney executed by a member of the Armed Forces who is missing in action or held as a prisoner of war. Referred to the Committee on Armed Services.

By Mr. FANNIN:

S. 3204. A bill to amend title IV of the Social Security Act to permit greater flexibility in State plans for aid and services to needy families with children. Referred to the Committee on Finance.

By Mr. ALLEN (for himself and Mr. ERVIN):

S.J. Res. 207. A joint resolution proposing an amendment to the Constitution of the United States relating to open admissions to public schools. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHWEIKER:

S. 3201. A bill to expand the scope of the National Heart and Lung Institute, to provide for special emphasis on the prevention of arteriosclerosis and the creation of cardivoascular disease prevention centers, and for other purposes. Referred to the Committee on Labor and Public Welfare.

HEART DISEASE PREVENTION ACT OF 1972

Mr. SCHWEIKER. Mr. President, I send to the desk for appropriate reference a bill designed to accelerate national efforts to attack heart disease. Specifically, my bill will implement certain of the recommendations of the National Heart and Lung Institute task force report on arteriosclerosis. The task force urged leadership by the Federal Government in a major Federal commitment for the prevention and control of cardiovascular diseases, the Nation's No. 1 killer.

The three major provisions of the bill would establish:

National centers for the prevention of arteriosclerosis.

Cardiovascular disease prevention clinics.

An Office of Health Education within the National Heart and Lung Institute.

Heart and blood vessel diseases are the leading cause of death in the United States, killing more than 1 million people each year. Heart attacks alone claim 600,000 lives. It is estimated that 27 million Americans suffer from some form of cardiovascular disease. Of all deaths in the United States 54.1 percent are due to cardiovascular disease. By contrast, 16.8 percent of all deaths are due to cancer. Another statistic, that is both depressing and yet promising, is that six times more people per unit of population are killed in the country by heart disease than in Japan. Our mortality rate for heart disease is six times higher than the rate for Japan. This should alarm us to the danger and yet point out, perhaps, that we can change the rather sad statistics.

A little investment of Federal money in research should go a long way toward giving the opportunity to many Americans to live much longer than they do today.

The National Heart and Lung Institute task force on arteriosclerosis was established in 1970 to develop a long-range plan to combat heart disease. The task force deliberated for 15 months on the problem of hardening of the arteries, or arteriosclerosis, which accounts for about 62 percent of all cardiovascular deaths. There were 16 people on this task force. They were representative of all disciplines and specialties in heart disease and came from institutions spread throughout the country. This group then met with 16 other panels of experts in specific areas. They met at various locations around the country and discussed many of the special problems like sudden death, heart attack, or heart failure.

The task force came up largely with recommendations in five major areas. One, they felt that we did not yet know enough about the cause of the disease at the cellular level, and recommended additional research. They indicated that we do not have enough specialists in this area of all kinds, whether it be for children, or adults, or surgery, and therefore they felt that we should have more people working in the area of heart disease. The main new recommendations had to do with developing new national resources to combat the killer. They recognized that over the past 20 years, the American public invested $2 billion to study this problem and that a lot of new information had been found with this research. It was now timely to bring this information to the public in a way that could be practically introduced into the American practice of medicine, and into the American way of life. Therefore, their new recommendations were to develop a new program of public education, to make the public aware of what they could do for themselves; to make a new program of prevention which would center around new clinics, to show the people how they could use this information and then develop a new series of national centers for arteriosclerosis in which we could now begin to bring together more efficiently some of the expertise for studying the total problem, which is fragmented in our national system today.

In implementing these recommendations the bill provides for:

First. Establishment of a limited number of national centers for arteriosclerosis at major medical centers. In terms of facilities and staff, these would be several times larger than anything currently designated as arteriosclerosis centers. These would be concerned with multidisciplinary approaches to all facets of the arteriosclerosis problem and actively engaged in screening programs to identify individuals at high risk of arteriosclerosis, particularly those in the younger age groups.

Second. Establishment of 10 model cardiovascular disease prevention clinics within the framework of existing programs to first, develop improved methods of detecting high-risk individuals; second, develop improved methods of intervention against risk factors; and third, develop trained manpower highly skilled in cardiovascular prevention. These clinics would be served by a central coordinating unit that would develop standardized procedures for diagnosis, treatment, and data collection.

Third. Creation of an Office of Health Education within NHLI to serve as a clearinghouse for information on arteriosclerosis, particularly the importance of diet, hypertension, obesity, and cigarette smoking, all of which have been shown to have some marked effect on the mortality rate relating to heart disease.

The centers would have as their main goal developing the new knowledge in people that could accelerate our ability to prevent the disease. Prevention is only one aspect, however. We are also concerned with developing new techniques of diagnosis so that the disease can be detected early; and secondly we have to deal with the problem of treating those people that already have the disease. Putting it in that environment would permit work with the experts from a wide variety of disciplines. Whether it be from basic chemistry, or physiology, or drug development, heart surgery, cardiology, clinical medicine, what needs to be done now is the study of the disease in its entirety by all the people that are interested in bringing their great knowledge to bear on solution of this problem. In the past many of these people have been working and doing research on heart disease, but they have been doing it separately and therefore there has been a time lag and an information lag in some respects between being able to use the information that has been developed in one laboratory and bringing it to importance in the practical sense in another location.

The clinics are oriented toward the population, rather than toward the scientists. Actually, the reason we invest in a program of heart research is to reduce the death rate from heart disease and to prevent the disease. The clinic mechanism then would allow us to develop with people practical ways that they can help themselves use this new information to prevent heart disease. Because some of what needs to be done relates to the life style of the American public, the American society, we must therefore work with the people to allow them to change their life style in a way that will allow them to pursue the same other social goals, but not accelerate the development of heart disease. For example, they might consider how to change their diet, or whether they should give up smoking, or how they could do that. This is a different type of prevention than taking a vaccine.

The office of Health Education will provide for the public as well as for the profession—the medical profession and the allied health professions—better information about what is being done and what can be done to reduce the risk of heart disease. It will be responsible to develop an educational program which will translate technical, medical information into practical, useful information that the public can utilize and understand.

The United States has the worst rate of heart disease of any industrialized country in the world. Of all the deaths of Americans between 35 and 64, approximately 40 percent are due to heart attacks. This bill seeks to create an apparatus to deal with this serious problem.

Mr. President, I ask that a copy of the bill and additional data regarding mortality rates and the economic costs of cardiovascular disease prepared by the American Heart Association be included in the RECORD at this point.

There being no objection, the bill and data were ordered to be printed in the RECORD, as follows:

S. 3201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act shall be known as the "Heart Disease Prevention Act of 1972".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to—

(1) provide for the creation of centers concerned with the study and research of arteriosclerosis;

(2) provide for the establishment of model cardiovascular disease prevention centers within the framework of the existing programs; and

(3) provide for a clearinghouse for information concerning arteriosclerosis and cardiovascular disease within the National Heart and Lung Institute.

AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT

SEC. 3. Part B of title IV of the Public Health Service Act is amended by adding at the end thereof the following new sections:

"NATIONAL CENTERS FOR THE PREVENTION OF ARTERIOSCLEROSIS

"SEC. 415. (a) The Director of the National Heart and Lung Institute is authorized to provide for the establishment of new multidisciplinary centers for the study of arteriosclerosis including its prevention, epidemiology, genesis, clinical manifestations and treatment and the screening of individuals to determine those who are high risk in relation to arteriosclerosis. Such centers are to be located at major medical centers.

"(b) Payments under this section may be used for—

"(1) construction;

"(2) staffing and other basic operational costs, including such patient care costs as are required for research;

"(3) training, including training for allied health professions personnel; and

"(4) demonstration purposes.

"(c) Support under this section shall not exceed $10,000,000 per year per center. Support of a center may be for a period of not to exceed three years and may be extended by the Director for additional periods of not more than three years each, after the review of the operation of such center by an appropriate scientific review group.

"CARDIOVASCULAR DISEASE PREVENTION CLINICS

"SEC. 416. (a) The Director of the Heart and Lung Institute is authorized to establish ten model cardiovascular disease prevention clinics throughout the United States within the framework of existing programs. The purpose of such clinics shall be—

"(1) to develop improved methods of detecting high risk individuals;

"(2) to develop improved methods of intervention against high risk factors; and

"(3) to develop highly skilled manpower in cardiovascular disease prevention.

"(b) Such clinics shall be served by a central coordinating unit that shall be responsible for the development of standardized procedures for diagnosis, treatment, and data collection in relation to cardiovascular disease.

"OFFICE OF HEART HEALTH EDUCATION

"SEC. 417. There is hereby established within the National Heart and Lung Institute an Office of Education which shall provide a program of heart health education for public, medical, and allied health professions. Special emphasis shall be placed upon dissemination of information regarding diet, hypertension, cigarette smoking, weight control, and other factors in the prevention of arteriosclerosis and cardiovascular disease.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 418. There are authorized to be appropriated for the purposes of section 415, 416, and 417 $50,000,000 for the fiscal year ending June 30, 1973; $75,000,000 for the fiscal year ending June 30, 1974; $100,000,000 for the fiscal year ending June 30, 1975; $100,000,000 for the fiscal year ending June 30, 1976; and $100,000,000 for fiscal year ending June 30, 1977."

Leading causes of death (United States 1968)

Diseases of heart and blood vessels	1,048,313
Cancer	318,547
Accidents	114,864
Pneumonia and influenza	73,492
Diabetes	38,352
All other causes	336,514

Percent of all deaths due to cardiovascular diseases by age

	Percent
All ages	54
Under 5	8
5–14	8
15–24	6
25–34	14
35–44	30
45–54	42
55–64	51
65–74	59
75 and over	70

Estimated prevalence of the major cardiovascular diseases

Stroke	1,600,000
Rheumatic heart disease	1,650,000
Coronary heart disease	3,750,000
Hypertensive disease	21,490,000
Total CVD	27,000,000

Estimated economic costs of cardiovascular diseases by type of expenditure

[In billions]

Physician and nursing services	$2.0
Hospital and nursing home services	6.4
Cost of medications	.6
Research and construction	1.4
Lost wages	6.9
Total cost	17.3

*Estimated prevalence of cardiovascular diseases * in each State—1969*

	Prevalence
Alabama	472,000
Alaska	14,000
Arizona	154,000
Arkansas	273,000
California	2,096,000
Colorado	191,000
Connecticut	366,000
Delaware	76,000
Washington, D.C.	161,000
Florida	862,000
Georgia	616,000
Hawaii	65,000
Idaho	68,000
Illinois	1,847,000
Indiana	648,000
Iowa	347,000
Kansas	257,000
Kentucky	459,000
Louisiana	536,000
Maine	150,000
Maryland	522,000
Massachusetts	810,000
Michigan	1,086,000
Minnesota	400,000
Mississippi	316,000
Missouri	660,000
Montana	73,000
Nebraska	165,000
Nevada	42,000
New Hampshire	92,000
New Jersey	1,095,000
New Mexico	74,000
New York	2,956,000
North Carolina	704,000
North Dakota	62,000
Ohio	1,429,000
Oklahoma	303,000
Oregon	235,000
Pennsylvania	1,958,000
Rhode Island	142,000
South Carolina	404,000
South Dakota	73,000
Tennessee	515,000
Texas	1,178,000
Utah	83,000
Vermont	55,000
Virginia	607,000
Washington	368,000
West Virginia	274,000
Wisconsin	507,000
Wyoming	33,000

* Includes coronary, hypertensive, rheumatic, congenital, syphilitic and other forms of heart disease, stroke and hypertension without heart disease.

Source: American Heart Association.

ESTIMATED MORTALITY FROM CARDIOVASCULAR DISEASES AND ALL CAUSES IN EACH STATE—1972

	CVD deaths	Total deaths all causes	Percent deaths due to CVD
Alabama	18,200	35,200	52
Alaska	400	1,400	29
Arizona	7,000	15,700	45
Arkansas	12,500	22,500	56
California [1]	89,600	174,800	51
Colorado	9,700	19,000	51
Connecticut	15,300	28,200	54
Delaware	2,700	5,200	52
Washington, D.C.	3,800	8,700	44
Florida	42,200	80,100	53
Georgia	23,500	44,600	53
Hawaii	2,000	4,500	44
Idaho	3,200	6,300	51
Illinois [2]	67,600	117,800	57
Indiana	28,900	51,700	56
Iowa	17,600	30,700	57
Kansas	13,000	23,400	56
Kentucky	19,400	34,500	56
Louisiana	19,200	36,500	53
Maine	6,500	11,400	57
Maryland	17,400	34,900	50
Massachusetts	33,400	60,600	55
Michigan	43,000	82,100	52
Minnesota	19,500	35,200	55
Mississippi	12,800	25,000	51
Missouri	29,400	54,300	54
Montana	3,300	6,700	49
Nebraska	8,700	15,500	56
Nevada	1,700	4,000	42
New Hampshire	4,400	7,800	56
New Jersey	40,800	73,100	56
New Mexico	3,100	7,600	41
New York State [3]	108,600	200,900	54
North Carolina	25,100	47,800	53
North Dakota	3,100	5,800	53

ESTIMATED MORTALITY FROM CARDIOVASCULAR DISEASES AND ALL CAUSES IN EACH STATE—1972—Continued

	CVD deaths	Total deaths all causes	Percent deaths due to CVD
Ohio	60,300	107,500	56
Oklahoma	15,000	27,300	55
Oregon	11,100	20,500	54
Pennsylvania	76,200	136,400	56
Rhode Island	5,700	10,100	56
South Carolina	13,400	25,000	54
South Dakota	3,700	6,700	55
Tennessee	22,300	39,500	56
Texas	50,800	101,100	50
Utah	3,500	7,300	48
Vermont	2,500	4,700	53
Virginia	22.300	42,500	52
Washington	17.500	32,500	54
West Virginia	11,300	20,600	55
Wisconsin	24,400	43,000	57
Wyoming	1,600	3,200	50
Total United States	1,098,300	2,041,200	54

Puerto Rico: CVD deaths 6,800; total deaths 17,100; deaths due to CVD—40 percent. (In addition to U.S. totals.)

[1] Includes Los Angeles.

[2] Includes Chicago.

[3] Includes New York City.

Source: American Heart Association.

By Mr. FANNIN:

S. 3204. A bill to amend title IV of the Social Security Act to permit greater flexibility in State plans for aid and services to needy families with children. Referred to the Committee on Finance.

CORRECTING WELFARE REGULATIONS

Mr. FANNIN. Mr. President, today I am introducing a bill to require four simple but very important changes in Federal welfare regulations.

These changes are necessary because the Department of Health, Education, and Welfare has not complied with the intent of Congress in drawing up regulations States must follow to qualify for Federal funding for welfare.

The HEW regulations are so unrealistic and unreasonable that they should be corrected immediately. This matter cannot wait for the thorough overhaul of the welfare system which is now being undertaken in Congress.

The regulations I am concerned about are having dire consequences for Arizona and other States. These consequences are:

States are being forced to continue paying welfare to persons who have moved to other States, persons who may be on welfare rolls in other States or be holding down well-paying jobs in other States.

States are being forced to make excessive payments to welfare recipients because of an unwise disregard formula.

Families are being encouraged to "farm out" their children in order to proliferate the welfare households.

Unneeded welfare councils are being fostered to weaken the control of legally constituted State and local governments.

ARIZONA'S DILEMMA

Mr. President, the State of Arizona challenged the HEW rules which result in the welfare abuses I have listed. Unfortunately, a Federal court recently upheld the power of HEW to formulate such regulations.

Unless Arizona bows to the unwise regulations, the State could lose some $41 million a year in Federal welfare funds.

Mr. President, I would like to set forth briefly some background materials relating to the controversy.

The Social Security Act authorizes several grant-in-aid programs. Arizona, at its option, applied for Federal funds for its welfare programs in certain statutorily designated categories such as old-age assistance—OAA—aid to the blind—AB—aid to families with dependent children and child welfare services—AFDC and CWS—and aid to permanently and totally disabled—APTD. Arizona submitted plans for programs in these categories to the Secretary of Health, Education, and Welfare. The Secretary is required to scrutinize the plans against the requirements set forth in the titles of the Social Security Act and applicable regulations.

Accordingly, the Arizona State Department of Public Welfare submitted and obtained approval for State plans in several of these categories.

Under the Federal statutory scheme, existing plans such as Arizona's continue to be subject to the Secretary's scrutiny. He may discontinue payments upon a finding that any plan no longer conforms to the above requirements.

The present controversy involves the question of whether the State's plans for OAA, AFDC, AB, and APTD are now in compliance with the Social Security Act.

Arizona objected to HEW's interpretation of the Social Security Act and refused to follow the interpretation in four areas. Consequently, the State was informed that Federal funds would be withheld from the State beginning April 1, 1971, and continuing until the State succumbed to the Federal bureaucratic mandates.

Mr. President, Arizona believes it is in substantial compliance with the Social Security Act. Arizona further contends that regulations of HEW are outside the scope of the Social Security Act. This is a brazen attempt by HEW to exercise by Regulation the policymaking power granted by the Constitution to the legislature.

Mr. President, the bill I am introducing would clarify the Social Security Act in four areas to make it abundantly clear to HEW what Congress intended when this act and amendments were approved. This act would enable Arizona, and other States, to continue reasonable regulations such as the following:

First. Arizona terminates aid payments to recipients who are residents of the State after they have been absent from the State for 90 days.

Second. In disregarding earned income in the aid to families with dependent children program, Arizona disregards from the net income rather than from the gross.

Third. Arizona continues assistance for children living with relatives only where the welfare department or the relatives have legal custody.

Fourth. Arizona has not established an advisory council composed of recipients and representatives of the public to advise the State department of welfare.

TERMINATION OF WELFARE PAYMENTS

Mr. President, section 1 of this bill provides that the Arizona policy of terminating welfare recipients who move out of the State for 90 days is in accordance with the Social Security Act. The objection to a durational residency requirement before welfare can be received is that it imposes hardship upon new poor residents in a State. No such hardship is imposed by cutting a recipient off when he has been continuously absent from the State for 3 months. Further, if a family returns to Arizona after an absence of more than 3 months, and if they meet the requirements, they are once more eligible for public assistance. Arizona simply seeks to be allowed to terminate welfare payments to individuals who no longer have any contact with the State.

What could be more reasonable? Why should the State of Arizona continue making welfare payments to person who may have changed their residence?

It seems obvious that the unrealistic HEW regulation encourages welfare cheating. Welfare recipients are given a perfect opportunity to collect benefits from several States at one time. The State loses supervision of its own welfare cases, and there is no way to check on the continuing entitlement to benefits.

THE DISREGARD FORMULA

Section 2 of the bill pertains to the computations of amount of earned income to be disregarded under AFDC programs.

Under present regulations of HEW, States are required, in determining need for AFDC, to disregard the first $30 earned monthly by an adult plus one-third of additional earnings. Costs related to work—such as transportation costs—are also deducted from earnings in calculating the amount of the welfare benefit.

It should be noted that HEW regulations requiring that employment expenses be deducted from two-thirds of income less $30 is contrary to the accepted method of deducting income earning expenses before disregarding any amount of income traditionally employed under the AFDC program. It is only commonsense that any amount of disregarded earned income should be figured on the basis of disposable income—arrived at after subtracting costs attributable to the generation of income—and that disregards should be applied only to that amount of income available for meeting living expenses. Clearly, the expenses reasonably attributable to the earning of any such income is incurred in earning the gross income rather than only that portion remaining after giving effect to disregards. The HEW's method of considering disregards of one-third of gross income plus $30 before accounting for earning expense defies logic by figuring disregards on a greater amount than is actually available to meet current needs. This, in effect, overstates the expenses reasonably attributable to the earning of income.

Mr. President, the application of the disregard formula as required by HEW has some very serious implications. There have been cases in States using the HEW formula where persons earning more than $20,000 continue to draw welfare.

In Arizona, there is a very real concern that if the HEW formula is applied, it could open the door to welfare payments to people earning more than $30,000 per year.

Take the case of a man who is independently employed, has a gross income of $30,030 per year, and legitimate expenses of $20,000 per year.

Under the HEW formula, the $30 disregard would be subtracted from the $30,030, leaving a total of $30,000. One-third of this is $10,000 leaving a total of $20,000. Subtract the $20,000 in expense money and the man has, for welfare purposes, zero income. He can receive up to 65 percent of his needs in welfare.

Let us look at that again:

Gross income	$30,030
$30 disregard	−30
Subtotal	30,000
⅓ disregard	−10,000
Subtotal	20,000
Expenses	−20,000
Total	0

I suppose that this regulation, if widely used, could be the salvation of many a struggling small businessman. It is my understanding, however, that this is not the purpose of welfare.

The bill provides that the total of earned income, as provided by State law, should be reduced by the amount of expense reasonably attributable to such earned income.

FARMING OUT CHILDREN

Mr. President, the State of Arizona has a legitimate interest in protecting needy and dependent children from being farmed out of their own homes to live with relatives solely for the purposes of circumventing the State's welfare grant limitation.

In strict conformity with the Federal aid to families with dependent children program objectives "to help maintain and strengthen family life," the State has passed a regulation to help prevent parents' splitting up their families with the aim of increasing the aggregate grant size to a level above permissible limits. This is especially true since any child who is a member of a family where a parent is receiving public assistance is classified as needy and dependent.

Since children may reside with their parents and have their needs satisfied by the grant to that family, no need for farming out exists. Placing a child with a relative creates a new grant in that home which provides for fixed household expenses such as rent and utilities plus personal living expenses of the child.

In the home of his parents the household grant is figured on the basis of fixed household expenses plus an additional incremental amount for each child. Therefore, each child residing outside his parents' home generates a new grant in which fixed household expenses are provided for.

Arizona's regulation seeks to discourage this practice but does not prevent it. All the State requires is that the child have someone in the home or in contact with the home legally responsible for protecting his best interests.

If relatives want other children to live with them, they could reasonably be expected to provide and care for them—not merely take them on just to create a new unit of welfare recipients.

Arizona does not oppose the cultural propensity of Mexican-Americans and Indians of allowing children to reside with relatives, but this practice must be subordinated to the policies of providing assistance to as many needy families as possible and assuring that children are in homes capable of protecting their interests.

Arizona's rule is also necessary for the child's protection, so that in case of medical emergency one capable of consenting to treatment, whether the welfare department or a relative, will be available. The custody requirement also cures problems that arise when a child needs permission to marry, authorization to participate in school activities, or permission to obtain a license—such as a driver's license.

It is simply commonsense that the person with whom the child is living, especially if he seeks public assistance for such a child's support, should be legally responsible for his well-being.

Section 3 of this bill makes it clear that HEW cannot disapprove a State plan because such plan provides for the denial of aid to a dependent child who is living with a relative other than the child's parent and whose parent is living with and receiving aid under the plan for a brother or sister of such child.

WELFARE ADVISORY COMMITTEES

Mr. President, the last section of this bill nullifies a HEW regulation that was found by the Senate Finance Committee to have absolutely no statutory basis. This regulation requires States to establish a welfare advisory committee for AFDC and child welfare programs at the State level and at local levels where the programs are locally administered with cost of the advisory committees and their staffs borne by the States as part of the cost of administering the welfare programs.

This requirement of a statewide advisory council for the AFDC and CWS programs is a clear demonstration of the attitude that the Social Security Act has empowered HEW not only to approve State assistance plans, but also to dictate detailed procedures and standards even in absence of authorization in the Social Security Act. Requiring the State to create a statewide advisory council composed of one-third welfare recipients or their representatives and invest it with policymaking authority makes a sham of the State's power to create its own offices in derogation of the 10th amendment and violates the spirit of cooperative federalism upon which the entire welfare program is grounded. HEW's position is that the State has no discretion in administering its own welfare program other than acceding to Federal wishes.

The Secretary can only promulgate regulations which are responsive to some section of the Social Security Act, consistent with it and necessary to the efficient administration of its functions. I submit that this provision is not responsive to any section of the act.

Section 4 of the bill amends the Social Security Act to prevent HEW from prescribing any rule or regulation requiring any State to establish or pay the expenses of any advisory council to advise the State with respect to their welfare programs.

Mr. President, this bill is intended to correct the gross misapplication of welfare. We must stop the bureaucratic proliferation of the welfare program. We must restore public confidence in our Government. These four serious flaws in the current system should be rectified quickly and these guidelines should be included in any future welfare reforms we may approve.

By Mr. ALLEN (for himself and Mr. ERVIN):

S.J. Res. 207. A joint resolution proposing an amendment to the Constitution of the United States relating to open admissions to public schools. Referred to the Committee on the Judiciary.

Mr. ALLEN. Mr. President, on behalf of myself and the distinguished Senator from North Carolina (Mr. ERVIN), I send to the desk a joint resolution and ask that it be appropriately referred.

The PRESIDING OFFICER (Mr. BYRD of West Virginia). The joint resolution will be received and appropriately referred.

Mr. ALLEN. Mr. President, the problems reflected in the current busing controversy stem from orders of U.S. district court judges. On the one hand, the U.S. Supreme Court has said that racial balance in public schools is not required by the Constitution. On the other hand, Congress has specifically excluded racial balance in its definition of "desegregation." Yet, U.S. district court judges continue to issue orders requiring racial balance as an end and massive forced busing as a means of achieving that end. Oddly the U.S. Supreme Court has approved of both the end and the means as established by U.S. district court judges.

If the above situation suggests a contradiction, it is because there is a contradiction in the reasoning employed by the Supreme Court.

The U.S. Supreme Court while recognizing that neither the Court nor Congress requires racial balance has said that judges of U.S. district courts when sitting as courts of equity are empowered in the exercise of broad discretionary power of such courts to order racial balance in public schools and massive forced busing to achieve racial balance. There are grotesque distortions of traditional principles of equity in this procedure—but that point can wait.

At the moment, when the President and Congress are considering possible remedies we must not lose sight of the fact that the basic cause of the problem lies in presumed equity powers of Federal courts.

It is possible that Congress can deny U.S. district court judges the power to enter decrees in school cases which require transportation of schoolchildren for any reason whatsoever. Congress has exercised such a power over U.S. district courts on many occasions. But there remain questions about legislative redress along these lines.

For these reasons, I favor legislative action to once and for all take Congress and the executive branches of Federal Government out of the business of compelling, encouraging, or funding forced busing schemes. However, this may not be adequate to get Federal judges out of the mess. A properly worded constitutional amendment may be the best method of accomplishing this objective.

Mr. President, the U.S. Supreme Court has given its blessings to a racial balance plan, such as described by a recent New York Times editorial, if implemented by State or local governments. It has also blessed racial balance plans such as are criticized by a recent editorial from the Dothan Eagle, Dothan, Ala. It is ironic that opposition is expressed from such diverse sources. This situation provides a strong argument for a constitutional amendment.

I request unanimous consent that these editorials and the text of the joint resolution be printed in the CONGRESSIONAL RECORD at the end of my remarks.

There being no objection, the editorials and joint resolution were ordered to be printed in the RECORD, as follows:

[From the Dothan Eagle, Feb. 9, 1972]

SEMANTICS IN BUSING

The Civil Rights Act of 1964 says:

"Desegregation means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but desegregation shall not mean the assignment of students to public schools in order to overcome racial imbalance."

Section 407 of the act states further: ". . . nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve racial balance . . ."

Yet, Federal judges singly and in panels continue to issue orders that directly and flagrantly ignore this very same act. And previous orders are being enforced. The Judges do not explain how they act thusly. Nor why. Perhaps there isn't an explanation, unless it's hair splitting.

The situation has reached such a confused state—aided and abetted by the inherent fear of Federal Judges—that a movement is well under way in the House to get around the judiciary by an amendment to the Constitution. Scores of such amendments have been proposed and an informal steering committee has decided to push one offered by Rep. Norman Lent (R-NY) choosing his mainly because he's not a Southerner. Says his amendment, reminiscent of the 1964 Civil Rights Act: "No public school student shall, because of his race, creed, or color, be assigned to or required to attend a particular school."

The amendment is stuck in the House Judiciary Committee, headed by Rep. Emanuel Celler (D-NY), but 139 Representatives have signed a petition to force its discharge. At least 218 signatures are required to effect discharge. More than likely they will be forthcoming because (1) this is an election year; (2) busing has now become a national rather than a regional issue and Eastern, Northern, Mid-Western areas are about to feel the pinch. No longer is it something exclusive for the South.

It's a sad commentary on this country that Congress has to resort to an amendment for the public to bail it out. And even if the amendment is ultimately adopted there's no assurance that the Supreme Court won't declare it unconstitutional.

[From the New York Times, Feb. 11, 1972]

DUBIOUS INTEGRATION PLAN . . .

The Fleischmann Commission has properly given high priority to the racial integration of the state's public schools, and it has clearly discribed the disturbing trend of increasing segregation as the school population of the major cities turns predominantly black and Puerto Rican.

It is unfortunate, however, that the commission has proposed actions likely to create a maximum of conflict and in any case are quite unrealistic.

The key to the proposed approach is to create in every school a strict ethnic balance that approximates the racial pattern of total pupil population. In New York City, where the white enrollment now constitutes less than 40 per cent, this would mean that a white minority of roughly that proportion would have to be maintained in every school. Such a redistribution could be accomplished only by either transporting large numbers of white children into the presently predominantly black schools or by phasing out all schools in such areas. Both approaches would run into massive opposition on the part of black as well as white parents.

Equally questionable is the commission's proposal to bring about an ethnic balance among each system's teachers and administrators to reflect the racial profile of the total population. We have long urged effective measures to train and recruit greater numbers of educators among the minorities, along with the elimination of licensing procedures which result in racial discrimination. But to impose a relatively rigid ethnic balance is to mandate a quota system with its inherently discriminatory and divisive consequences.

Although the report thus seems flawed in important respects, it nevertheless contains many worthwhile recommendations, such as the avoidance of rigid ability-grouping within schools and stress on integrated faculties and an integrated curriculum, all of which are indispensable in the battle against racial isolation. Especially pertinent is the commission's insistence on adequate Federal and state financing of desegregation efforts, at a time when Congress, in a senseless backlash maneuver, is trying to prohibit the expenditure of such funds for busing. Even worse, Albany has already wiped out its own meager integration funding.

Perhaps the commission's most appealing suggestion is the construction of special regional schools on the cities' outskirts to give black and white parents a genuine opportunity to send their children to schools which combine educational innovation with full integration.

S.J. RES 207

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:

"ARTICLE —

SECTION 1. No public school student shall be assigned to or required to attend or forbidden to attend a particular school because of his race, creed, color or economic class.

"SEC. 2. Congress shall have the power to enforce this article by appropriate legislation."

ADDITIONAL COSPONSOR OF A BILL

S. 2938

At the request of Mr. DOLE, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 2938, a bill to amend the Rail Passenger Service Act of 1970.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971—AMENDMENTS

AMENDMENTS NOS. 907 AND 908

(Ordered to be printed and to lie on on the table.)

Mr. ERVIN (for himself and Mr. ALLEN) submitted two amendments intended to be proposed by them jointly to the bill (S. 2515) to further promote equal employment opportunities for American workers.

NOTICE OF HEARING OF SUBCOMMITTEE ON MINERALS, MATERIALS, AND FUELS

Mr. MOSS. Mr. President, for the information of the Senate and as previously annonuced, the Subcommittee on Minerals, Materials, and Fuels of the Senate Interior and Insular Affairs Committee will hold a final day of hearing on surface mining legislation and in particular S. 2777 and S. 3000 at 9:30 a.m., February 24, 1972 in room 3110 New Senate Office Building. The witnesses will include Mr. Donald W. Whitehead, Appalachian Regional Commission; Dr. Elburt F. Osborn, Bureau of Mines and Mr. Bruce Hagen, North Dakota Public Service Commission.

NOTICE OF HEARING ON SALE OF CERTAIN PASSENGER VESSELS

Mr. MANSFIELD. Mr. President, Chairman WARREN G. MAGNUSON, Democrat of Washington, of the Senate Committee on Commerce today announced that the Merchant Marine Subcommittee will hold a hearing on Monday, February 28, 1972, to consider H.R. 11589, a bill to authorize the foreign sale of certain passenger vessels.

Senator RUSSELL B. LONG, Democrat of Louisiana, chairman of the Merchant Marine Subcommittee, will preside at the hearing. The hearing is intended to supplement hearings on the subject held on October 19, 1971, and is not intended to repeat testimony received at that time.

The hearing will commence at 2 p.m. in room 5110, New Senate Office Building.

For further information, contact Emanuel Rouvelas, staff counsel at (202) 225-9325.

ADDITIONAL STATEMENTS

ARTHUR GODFREY, A GREAT AMERICAN CITIZEN, RETIRES

Mr. PROXMIRE. Mr. President, one of the truly remarkable citizens of this country is Arthur Godfrey. In my book he is truly a great one.

We all know that he has been a fantastic success in show business, that he has actually earned millions of dollars, and that he brought a direct, personality you-to-me approach that revolutionized radio and TV communications.

But Arthur Godfrey is much more than that. He loves this good earth of ours with a passion. He is a foe, and a tough one, of any attempt to pollute it.

I will never forget his appearance before the Senate Appropriations Committee last year in opposition to the supersonic transport.

He is a man who understands the joy as well as the economics of flying. He is a real, all-out, wild-blue-yonder flyboy, who has spent endless hours in his plane, flying all over this planet.

He thoroughly understands the vital importance of technology for a more efficient, safer, and, yes, even speedier aviation industry. But he also has some very strong convictions that technology should be our tool, not our master, and that technological advance that renders this life of ours less healthy, noisier, or degraded in any other way is just not good enough.

Mr. President, last year I had the rare good fortune to take my 9-year-old son out to the Godfrey farm near Leesburg. Among his many other achievements, Mr. Godfrey has developed one of the most astonishing game preserves I have ever seen.

Much of his farm is devoted to hundreds of acres where a variety of wildlife from every continent can live—"Born Free." Arthur may observe, but he gives this preserve to his wildlife. It is theirs to live out their full-allotted span, and woe be to any bully with a rifle who goes out to kill these rare and lucky animals.

Mr. President, like all of us I have known many rich and successful men in my life, but I know of no one who has gotten so much and given so much and had such a truly great time in doing it as has this really marvelous American institution.

To Arthur Godfrey, his charming and gracious wife, Mary, and his attractive and devoted family I say: Happy retirement.

He will retire on April 30, when his last regular radio show will be broadcast. In all our turmoil and trouble over the past 30 years, Arthur Godfrey has made this a better, more honest America. I hope he will continue to do so for many years to come.

I ask unanimous consent that an article entitled, "Arthur Godfrey: Talk for That One Person," written by Michael Kernan, and published in yesterday's Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ARTHUR GODFREY: TALK FOR "THAT ONE PERSON"

(By Michael Kernan)

In a nationwide photo recognition poll taken just before the 1960 election, John Kennedy scored 71 per cent, Richard Nixon scored 86 percent and Arthur Godfrey scored 91 per cent.

When Godfrey first joined CBS in 1934 he was offered $75 a week. Before long he was bringing into the network conservatively $22 million a year, which made him CBS's greatest single asset and incidentally a multimillionaire.

On April 30 Godfrey will end the half-hour radio show he has been doing seven days a week for 27 years. There will be TV specials and ecological campaigns and doubtless many public appearances, but at 68 the flying squire of Leesburg, Va., is in effect resigning as a fixture of American life.

The Godfrey style, however, will remain with us. It is his contribution to our time. For a generation raised on the disembodied Jehovah-like radio sonorities of Churchill, Roosevelt and Edward R. Murrow, his perfectly ordinary language delivered over radio and television in a voice that has been described as "a south wind blowing over a swampful of dirty old bathtubs" was electrifying.

Godfrey has told many times the story of his basic discovery, how he was lying in a hospital following a disastrous highway collision and was more or less forced to listen to the radio for hours.

"They would all come on," he said, "as if they were speaking to the whole country. Guuud eeevening ladies and gentlemen. What they didn't realize was that the audience is one person sitting in a room and if there's two, they're probably fighting. I saw that you have to talk to that one person."

One night in Washington the idea became a technique. Godfrey read a department store ad about "filmy, clingy, alluring silk underwear in devastating pink and black."

"When I got through I said, 'Man, is my face red,' and I tore it up. 'I'll never do that again,' I said. Next day the client called and before I could speak he said he was sorry about my embarrassment but he wanted to tell me about the 167 women who came into the store and asked for the underdrawers that made Godfrey's face red."

The stories are legion. Five days after he took his first radio job, at Washington's WMAL, he learned that the William Tell Overture had been put on his record schedule. He announced: "Some big shot upstairs thinks you ought to listen to the William Tell Overture at 6:30 a.m.,"—and broke the record over the mike, a memorable sound.

"Don't worry," he added, "the big shots won't ever know about this. They're still in the sack and I can prove it. Scoop Russell—(or Ken Berkeley; the story varies) listen to this, Scoop." And he made a Bronx cheer. "Russell is the vice president, and if he's awake and listening I won't be here tomorrow."

Later the station manager called him in. "I don't know what you're doing on that morning show," he said, "and I'm not about to get up that early to find out, but whatever it is, keep it up . . ."

When Godfrey abruptly quit WMAL one bitter dawn, the station had to play "Beautiful Dreamer" for two hours.

The night Godfrey hit the bigtime: His CBS station, WTOP, wanted to do a 24-hour radio marathon and because there would be no engineer on duty all night and he was "The only one who knew how to run the dials," he was picked. He went out to the broadcasting tower in the swamps where National Airport is now, set the phone in front of him and started talking.

By 3 a.m. all the other stations were off the air, and he was getting calls from all 48 states, Canada, Puerto Rico and Bermuda. Word got around fast: "Hey, this guy puts you on the air," and sometime before dawn Walter Winchell, then at the height of his fame, phoned in and insisted on singing a duet with a Ben Bernie record.

Next day Godfrey's exploit was in Winchell's column.

From an old master disc, a typical program, Dec. 24, 1946: He reads a poem, sings "White Christmas" (in the throwaway style that later was to sell a million copies of a neglectable novelty called the Too Fat Polka), then reads an eggnog recipe. "What a mickey," he comments casually at the end, and laughs. Then: "You folks out in the hinterland, here's a new tune from a brand-new musical on Broadway. Called 'Finian's Rainbow,'" The tune is "Necessity." Later he puts on some background music remarks, "How about a little tune from the orchestra, it being time to sell headache powders," and chuckles the world's most famous chuckle.

A week later: he tells an icepack joke, reads a hangover recipe, adds, "My, my, my. Serves six, it says, Serves 'em right, too." Then he complains about some ads and wishes aloud for something different, like "She's ugly, she's divorced, she uses Bab-o." He winds up with a resolution ("If you're harboring a special hate for someone, get rid of it, you'll feel better") and holiday safety talk.

"Now let's have a merry Christmas, huh? Take care of yourself." The adenoidal voice is not so much worldweary as the classic drawl of the mythic West.

This month Godfrey's narrated Aaron Copland's "A Lincoln Portrait" and "An Air Force Panorama" at Constitution Hall to celebrate the 25th anniversary of the Air Force. As a fanatic flier since 1929 and a retired colonel in the Air Force reserve, he was just the man for the job.

Arriving in Washington from his ranch in his two-engine Beechcraft to rehearse with the Air Force band, his first words were: "Gee, those jets stink." The remark was not a surprise, even for a man with 15,000 hours of command experience in aircraft, because Godfrey's great concern today is the environment and what we are doing to it.

("You used to be able to find a town by looking for the smoke plumes," he said, "but now when you're up there it's all you see is smoke everywhere, and the smog. That's how I got into the pollution thing.")

He walked stiffly from the plane, using his cane. In 1931 a truck collision left him two smashed hips, and though he has had one repaired with plates and pins, he doesn't want to go through the pain of another operation now. "It hurts like hell when I walk and especially when I stand," he said. "When I'm in a play I try to get a role where I can sit down."

For a man who has been through as much pain as he has, notably a lung cancer operation in 1959, Godfrey seems to be in remarkably good shape. His hair is still defiantly and unanimously red. ("Genes," he remarked. "My mother died three years ago at 90, and she hadn't a gray hair till 80.")

He still gets up early for the radio show and sees no reason why he should quit after April. ("Oh, no, no, that's the prettiest part of the day, man. The only way you can handle the population explosion is to adjust your traveling to when the rest are in the sack.")

And like a lot of other former smokers—he quit after 35 years of cigarettes, six years before the cancer developed—he stays out of nightclubs because he is getting steadily less tolerant of tobacco smoke. It agitates his chronic bronchitis.

"It's a stupid habit," he observed. "Nobody knows it better than me. When I was in the hospital I stopped and then had just one to celebrate getting out. I felt awful, couldn't understand why. When they told me it must be the cigarette I said it couldn't be that—I got a $1½-million contract with Chesterfield."

Many of Godfrey's anecdote-rich conversations drift into ecology. Asked about his family, he replied: "Three children, one by the first, two by the second, all happily married, thank God, and five beautiful grandchildren. I don't think anybody has a right to do more than replace himself, though, and if he's a s--- he shouldn't have any kids at all."

Population pressures, he added, are why the younger generation is uptight. "The world population is doubling every 30 years, and even though ours is lower than most, we still get a new Los Angeles every four years. The young are wrong when they cop out. The drug route and all that, it's a mistake, I think. It's their future, their life, and they better get working on it now."

Even his scheduled specials for Chrysler and Bristol Myers contain a requirement that one or two ecological points be made for the casual viewer. ("You got to slip it into his hide.")

Asked why his manner on the Chrysler TV commercials is so conventional, with hardly a glimmer of the irrepressible ad-libber of radio, he said he is allowed to write his own ad copy but it is subjected to executive approval because of the high cost of television time. Frequently he spends an entire day filming a single line from all conceivable angles. But even if the TV crew is incapable of an artistic decision there is no compensation for the wasted time and film: "It's made an actor out of me. I have to say it the same way every time."

Waiting backstage at Constitution Hall for his appearance, he sipped bullion and the strong tea an Air Force aide had brought at his request. His breathing was slightly labored, and frequently he cleared his throat or sprayed with an atomizer. His infirmities appeared to irritate him more than anything else, and his language was much too jaunty for the invalid whom the media had written off in 1959, when the lung operation climaxed years of plunging ratings and public disaffection in the wake of his waspish dismissals of protege Julius La Rosa and other staff members over the air.

Clearly, something had turned him around.

"In '59 I had a 2 per cent chance." Godfrey ruminated. "The media wrote me off. I wrote myself off for a year. Then I got a chance to be copilot on the first 707 delivery to Air India. Everyone was giving me six months at the time, including myself."

It was on tiger hunt in India, in a province where nobody had seen a tiger for 25 years, that the urgency of preserving the earth's species came home to him. Something else happened, too.

"We went on to Tokyo and had us a ball, and I want to tell you that till you've had a bath in Tokoyo you haven't had a bath. I proved to myself that I was a helluva lot younger than my years. I just say, don't wait till you're as old as I was before you take that bath."

The trip changed his outlook on life. He learned to appreciate the Oriental civilization and philosophy.

"The whole thing had a leveling, broadening influence on my life," he said. "There was only one thing in life in which I could have faith, I decided, and that was a belief in the goodness of man. But that doesn't mean you can bend over unless your rear is against the wall. You've got to know that and not let it embitter you against man."

By this time the Air Force people were wigwagging at him in mute desperation because he had to change and go onstage in 12 minutes. He didn't let anything hurry him. He got there, unruffled as ever.

ACADEMIC FREEDOM AT STANFORD UNIVERSITY

Mr. FANNIN. Mr. President, on January 5, 1972, a Stanford University faculty advisory board recommended the dismissal of an associate professor of English for conduct during demonstrations on the Stanford campus last winter. This advisory opinion was accepted and approved by the president of Stanford University, Richard W. Lyman. Shortly thereafter, the Stanford Board of Trustees considered the recommendations and approved the dismissal.

The significance of this decision has important ramifications for a university as it involves questions concerning academic freedom. Some critics are contending that the decision violates academic freedom because they interpret it as an effort to remove a faculty member whose views were considered unpopular or inappropriate. This interpretation is patently incorrect. In fact, what the Stanford decision does is give real meaning to what we know as academic freedom. The faculty advisory board addressed itself to this point in its written opinion by clearly stating that—

> The real issue in these hearings is Professor Franklin's behavior on the offenses charged, not his political views. Diversity of political views is a great asset to the University.
>
> The charges here, however, are incitement to use unlawful coercion and violence and increasing the danger of injury to others as means to achieving Professor Franklin's goals; it is that behavior, not his political views and their expression, which we judge unacceptable.
>
> Indeed, we note with approval that others holding and expounding extreme political views are today highly respected members of the Stanford faculty.
>
> Our decision silences neither political dissent nor criticism of the university.
>
> The only speech of behavior repressed by the board's findings is that which clearly urges and incites others to unlawful coercion or violence, or to acts likely to increase the risk of injury to other persons.

In addition, President Lyman summed up the decision of the advisory board in this way:

> The decision of the Advisory Board rests on the conclusion that on specific occasions in particular circumstances his speech exceeded permissible bounds by "urging and inciting to the use of illegal coercion and violence, methods intolerable in a university devoted to the free exchange and exploration of ideas." My agreement with that conclusion is buttressed by the knowledge that the minority dissent is based on disagreement over the interpretation of fact and motive and over the appropriateness of penalty, *not* on a finding that the University's intention or action in bringing the case was directed against the right of a faculty member to believe and to espouse unpopular views.

And, finally, the New York Times argued that—

> Although the professor's defenders have predictably charged that the 5-to-2 faculty recommendation is a violation of academic freedom, massive evidence shows that it is quite the opposite: a painful but necessary attempt to protect such freedom against coercion and disruption from within the academy.

Mr. President, I think Stanford University is to be commended for making this decision. By strengthening academic freedom, Stanford has signalled its own determination to protect its academic endeavors from those who would subvert its goals and ideals. And, it has also signaled a renewed commitment to preserving self-government in the university community.

If our universities are to survive, then they must have the capacity, as Stanford does, to serve notice that violence, riot, and demagoguery do not serve the values of free scholarship nor a free society.

Mr. President, because of the significance of this decision, I ask unanimous consent that the entire report of the faculty advisory board, the response of President Lyman, and the New York Times editorial be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Decision, Advisory Board, Stanford University, in the Matter of Prof. H. Bruce Franklin, January 5, 1972

DESCRIPTION OF PROCEDURES

Pursuant to the provisions of Paragraph 15 of the *Statement of Policy on Appointment and Tenure,* the Advisory Board has held hearings on the charges preferred against Associate Professor H. Bruce Franklin by President Richard W. Lyman of Stanford University. Professor Franklin requested this hearing before the Advisory Board, which is the elected body of seven faculty members charged with the review of professional appointment and promotions at Stanford University. Our decision as to findings of fact and recommendations based upon those findings follows. In this introduction, we will deal with several related matters: representation by legal counsel for the parties and for the Advisory Board submissions and motions made before the hearings: hearing procedures and Board rulings not a part of the transcript; the schedule for the hearings and subsequent motions; exhibits, transcripts, further attachment and an outline of our report.

A. Representation by legal counsel

As provided for in Paragraph 15a of the *Statement of Policy on Appointment and Tenure,* both parties were entitled to representation by legal counsel. The University Administration was represented by Messrs. William Norris, Raymond C. Fisher, and Charles Rosenberg of the firm of Tuttle and Taylor; Professor Franklin was repersented by Messrs. Michael Kennedy, Joseph Rhine, and Dennis J. Roberts of the firm of Kennedy and Rhine; and later by Messrs. Joel Kline, Merle Rabine, Yale Braunstein, Peter Goldscheider, Mrs. Jane Franklin and Mrs. Enid Hunkeler. Professor Franklin also appeared *in propria persona.* Professor Jan Vetter of the University of California School of Law served as counsel to the Advisory Board.

B. Prehearing procedures

The formal statement of charges against Professor Franklin was filed by the President, with attached exhibits, on March 22, 1971, following Professor Franklin's request on March 12th that an Advisory Board hearing on the charges be held. During the month of April and May, the Board communicated with the parties regarding the scheduling of hearings; a record of correspondence relating to these matters has been attached as a part of the pre-hearing record. On May 5, 1971, Professor Franklin made the request, opposed by the University Administration, that the hearing be postponed until the beginning of Autumn Quarter, 1971. After receiving the views of the parties the Board held a pre-hearing meeting on May 25, 1971, to settle upon a hearing schedule. The Board subsequently announced its decision that the hearings would begin on September 28, 1971, and set a schedule for pre-hearnig motions, responses, and replies. The documents received by the Board are listed below; all were distributed to both parties at the time they were received.

March 2, 1971, Formal Statement of Charges Against Professor H. Bruce Franklin

May 31, 1971, Advisory Board to President Lyman and Professor Franklin regarding postponement

June 8, 1971, Professor Franklin's Reply to Charges

June 28, 1971, University's Interrogatories to Professor Franklin

June 28, 1971, Professor Franklin's Motion for Bill of Particulars

June 28, 1971, Memorandum of Points and Authorities in Support of Motion for Bill of Particulars

July 9, 1971, University Response to Motion for Bill of Particulars

July 9, 1971, Professor Franklin's Reply to University Interrogatories

July 20, 1971, Professor Franklin's Response to Stanford University's Response to Motion for Bill of Particulars

August 2, 1971, Advisory Board's Statement on the Ruling on Requests for Disclosure

August 1, 1971, Motions of Professor Franklin filed before the Advisory Board

August 16, 1971, Professor Franklin's Response to University's Interrogatories

August 17, 1971, University's Answers to Interrogatories

August 20, 1971, Univeristy's Response to Professor Franklin's Motions

September 3, 1971, Professor Franklin's Reply to University's Response to Motions

September 8, 1971, Advisory Board's Rulings on Professor Franklin's Motion

September 8, 1971, Professor Franklin's Supplemental Brief in reply to the University's Response to Motions

September 10, 1971, University's Supplemental Response to Professor Franklin's Motions

September 22, 1971, Advisory Board Memorandum on Procedures

September 25, 1971, University's Hearing Brief

December 17, 1971, Professor Franklin's Final Supplementary Wirtten Brief

December 17, 1971, University's Final Supplementary Written Brief

C. Schedule

The length of the hearings, their original postponement to the fall, and other factors have unavoidably delayed the submission of this report until the present time. The *Statement of Policy on Appointment and Tenure* allows for the submission of supplementary written briefs in addition to final oral argument, and the Board gave the parties an opportunity to make such submissions. We requested that those briefs be in the Board's hands one week after receipt of the final volume of the transcript, but delays in the production of that record meant that the written briefs were not received until December 17, 1971.

D. Requests for intervention

The Board received two requests for intervention in the proceedings. The first of these, directed to the Advisory Board on April 30, 1971, was from a group of faculty members who wished to intervene through direct oral participation in the hearings. We invited this group to be represented at the hearings, and to submit written briefs stating their views of the matter. They have submitted a final written brief. A request for appearance *amicus curiae* was also received, two days before the end of the hearings, from the American Civil Liberties Union of Northern California. Their participation by written brief was also invited, and we received such a brief. These two briefs are also attached, along with a response to the ACLU brief from two members of the Stanford Law School faculty and several other formal communications to the Board and to the parties made by interested groups of faculty members.

E. Hearing procedures

The Board emphasized from the outset that this was an administrative proceeding, heard by an elected body of Professor Franklin's professional colleagues at his request, and that therefore it would not be appropriate to follow narrowly any explicit external model. We were not bound by the *Statement of Policy on Appointment and Tenure* to adhere rigorously to legal rules of evidence, and we did not. We did, however, require that evidence be relevant to the charges as drawn. We also adopted as a standard of proof that "strongly persuasive" evidence of culpability be provided. Professor Franklin's *Answer to Charges* introduced alternative defense based upon necessity and upon the Nuremberg principles. Since these were not argued in the hearings, our findings do not deal with them. Further details on procedures and standards are given in the Advisory Board's Response to Motions, and in its memorandum on procedures dated September 22, 1971.

As requested by Professor Franklin, the hearing was open; it was held in Room 101 of the Physics Lecture Hall on the Stanford campus. Except for two occasions on which the hearings were disrupted for brief periods of time, the hearing atmosphere was an orderly one, and we do not believe that the procedures adopted or the conditions of the hearings presented undue disadvantages for either party. For most of the hearings, closed-circuit television and radio coverage was provided, as requested in Professor Franklin's *Motions*.

As required by the *Statement of Policy on Appointment and Tenure*, a stenographic transcript of the hearing was made, and is supplied along with this report. The hearing commenced on September 28, 1971, at 1 p.m., and concluded on November 5, 1971, at 5 p.m. In the thirty-three days of hearings, the Advisory Board met for a total of 160 hours and heard testimony from 111 witnesses representing the University Administration and Professor Franklin. The resulting transcript contains about one million words.

F. Outline of report

This report consists of three sections. In the first, we consider major background issues raised by the parties in pre-hearing documents and during the course of the hearings themselves. In this section, we deal with the standards that govern faculty conduct, and with arguments concerning the applicability of various constitutional protections to the discipline of a faculty member. In the second section, we review the evidence concerning each of the four charges, and present findings of fact on the separate charges. In the third section, we discuss the question of penalty, and set out recommendations. A summary of the findings and recommendation is given at the end.

FUNDAMENTAL ISSUES AND STANDARDS

Much attention has been paid by the parties to "Constitutional" questions that may apply to the matter before us. We here respond to that concern by treating some of the major issues of this kind that have been raised in argument and briefs by the parties.

"State action"

Constitutional standards of due process and free speech restrain the state. At one point in this proceeding the University administration expressed the view that disciplinary proceedings at a private institution are not necessarily subject to Constitutional protections, while Professor Franklin has responded that Stanford is in substantial part publicly financed and publicly regulated and that the Constitution is consequently as fully applicable to Stanford as to an agency of the state. The merits of these two competing views aside, the Board does not believe that the disagreement between them focusses upon the important issues.

Tenure proceedings at all universities, private and public, involve an attempt to abrogate permanence of employment for cause.

Tenure, accurately and unequivocally defined, lays no claim whatever to a guarantee of lifetime employment. Rather, tenure provides only that no person continuously retained as a full-time faculty member beyond a specified lengthy period of probationary service may thereafter be dismissed without adequate cause. Moreover, the particular standards of "adequate cause" to which the tenured faculty is accountable are themselves wholly within the prerogative of each university to determine through its own published rules, save only that those rules not be applied in a manner which violates the academic freedom or the ordinary personal civil liberties of the individual. An institution may provide for dismissal for "adequate cause" arising from failure to meet specified norm of performance or productivity, as well as from specified acts of affirmative misconduct. . . .

. . . This accompanying complement of academic due process merely establishes that a fairly rigorous procedure will be observed whenever formal complaint is made that dismissal is justified on some stated ground of professional irresponsibility, to insure the fair determination of three facts:

1. that the stated cause is the authentic cause for dismissal, rather than a pretense or makeweight for considerations invading the academic freedom or ordinary personal civil liberties of the individual;

2. that the stated cause exists in fact;

3. that the degree of demonstrated professional irresponsibility warrants outright termination of the individual's appointment rather than some lesser sanction, even after taking into account the balance of his entire service and the personal consequences of dismissal.

(Van Alstyne, N. Bulletin of the American Association of University Professors, Autumn, 1971)

Given the essentially identical character of the inquiry in tensure cases, neither the standards of due process nor the content of regulations covering speech need differ between private and public institutions of higher learning. It is open to a private university to impose Constitutional limitations on itself as a deliberate choice of policy; in advance of the hearing the Board committed itself to at least this much in undertaking to provide for Professor Franklin "no less protection of his Constitutional rights at Stanford than that to which he would be entitled as a member of the faculty of a state university." In the opinion of the Board the more significant questions are: What are the Constitutional boundaries? What should be the university's policies beyond the minimum standards set by the Constitution?

We emphasize at the outset that we do not regard the conduct described in the charges filed by the University administration to be constitutionally protected against University discipline. On the contrary, we consider such conduct to be *clearly* within the reach of institutional authority. The university charges that the two speeches involve advocacy that is directed to inciting or producing imminent lawless action, and likely to produce such action. The charge on the computation Center incident deals with conduct which might unjustifiably increase the risk of injury to others.

But this is not all that needs to be said about the matter. Professor Franklin has also characterized as "vague" and "overbroad" the charges made against him, and also the standards set out in the *Statement of Policy on Appointment and Tenure* ("substantial and manifest incompetence, substantial and manifest neglect of duty, or personal conduct substantially impairing the individual's performance of his appropriate function within the university community"). Prior to the hearing, the Board rejected Professor Franklin's challenge on the vagueness and overbreadth of the charges; at the same time, it reserved its decision regarding the similar claims directed to the underlying tenure regulations. The Board now rejects these claims as well, for reasons we discuss below.

Vagueness overbreadth: The State context

The term "overbreadth," as the parties agree, means that a regulation encompasses both conduct which the institution can legitimately prohibit, and conduct which is Constitutionally protected against such prohibition, i.e., speech of the sort shielded from governmental restraints by the First Amendment. "Vagueness" is a different but related defect which leaves the meaning of the regulation uncertain, in such a way that a member of an institution cannot reasonably judge what conduct is prohibited and what conduct is permitted.

The simplest level at which an argument of overbreadth may be met is to ask whether the conduct for which an individual is allegedly culpable under some regulation is Constitutionally protected. If that were found to be the case, then obviously the Constitution would not allow the individual to be penalized under the regulation because, no matter how precisely and clearly its terms describe the conduct, the prohibition was illegitimate under Constitutional provisions. Professor Franklin maintains that the University's charges against him deal with actions that are Constitutionally protected. He goes further, however, to argue that even if the Constitution would allow his prosecution for that conduct in which he engaged, and even if that conduct were clearly covered by the University's tenure regulation, that regulation is inapplicable to him simply because of its overbreadth. This conclusion is argued from the principle that society places a high value on the free exercise of speech, and that it can tolerate no "chilling effect" on this freedom. If a regulation covers both permitted and prohibited conduct, then it may deter others from exercising First Amendment rights which fall under the improperly constructed portion of the regulation's roof. Even a person guilty of legitimately proscribable conduct may be rewarded for pointing out the Constitutional infirmity of the regulation under which he was prosecuted by relieving him of the consequences of his guilt. For the vice of overbreadth, the institution is forced to invalidate the regulation over its entire range of application, and to substitute for it a more narrowly drawn regulation which will withstand Constitutional scrutiny.

The vagueness doctrine, by contrast, is in substantial part a canon of ordinary fairness. If a jurisdiction has not identified a particular kind of conduct as subject to punishment, it should not then be able to punish perpetrators of such conduct. Vague regulations may share some of the disadvantages of overbroad regulations, because their indefiniteness may overlap Constitutionally-guaranteed zones of activity and deter people from doing what they have the right to do. Where indefinite regulations are applied to speech, the vagueness then invades an activity of such high social utility that it claims special protection in the Constitution. Again, it may be justifiable to reward persons who, while knowingly engaging in activity that the institution may legitimately prosecribe, can show that the regulation is vague at the border between punishable and protected conduct. Like the transgressor who points out overbreadth, the identifier of vagueness—even though he might be guilty under a properly drawn regulation—might receive a benefit for helping to thaw improperly-frozen expression.

Vague regulations introduce other difficulties as well in a state context. The responsibility for drafting of governing regulations rests with legislators who are accountable through political processes; then they enact a vague statute, they shift responsibility for the law-making function onto the courts, who must take up the legislator's abandoned obligations and give the statute meaning in the course of applying it. Such a transfer of responsibility might unduly disturb the balance of powers among the branches of government. Furthermore, the law enforcement authorities as well as the courts have received the responsibility transferred by the vague regulation, and may thereby be afforded unduly wide discretion in the selection of whom to prosecute. Obviously, such freedom might be exercised arbitrarily, or for the purpose of retaliating against Constitutionally protected activities. Finally, the adjudicating process itself is damaged by vague relations: both the parties and the decision maker are at a loss as to how to prepare the case, what evidence to introduce, what arguments to make, and what standards to use in deciding it.

Vagueness and overbreadth: The university context

These reflections on the briefs and arguments of the parties regarding the doctrines of vagueness and overbreadth spell out certain problems, but hardly take us directly to a resolution of the present issues. The legal material pressed on us by the parties deals with problems of vagueness and overbreadth in contexts which often depart substantially from that applying in this case. It is on this ground that we set aside the cases on student discipline that both parties have reviewed for us in some detail. Our examination of these cases persuades us that the law in this field is incompletely settled; a rapid rate of contemporary change has generated substantial disagreement and a conspicuously confused rationale. There may be a trend toward enhanced protection, and an employment of concepts of vagueness and overbreadth similar to those urged upon us by Professor Franklin. But we recognize important differences in the relationship between the institution and students, on the one hand, the faculty, on the other. Students are much more numerous; their time in the institution is shorter; their fiscal relationship with it is entirely different; and a different tradition of academic freedom obtains. These difficulties emphasize our conclusion that the problems of vagueness and overbreadth, as well as other aspects of the case, must be analyzed with due regard for the framework and the atmosphere—of the relation between a faculty member and the University.

We may dispense quickly with two of the difficulties engendered by vagueness. In some other procedural system, vague regulations may produce problems in the preparation, hearing and decision of the case, since none of the participants can find his way in the fog created by the lack of underlying standards. However, we consider the charges in this case reasonably narrow and specific. In our opinion, they are fully adequate to state an intelligible conception of the case on the part of the University administration, give Professor Franklin notice of the conduct with which he is charged and enable him to prepare and present his defense, and equip the Board to shape the hearing and focus on commonly understood issues. Beyond this, the Board afforded each party the opportunity to obtain pre-hearing disclosure from the other party of information and contentions relevant to the case.

We also do not believe that the role of vague statutes in unbalancing the separation of governmental processes is one that need concern us in this situation. The faculty of the university is a small community, characterized by face-to-face contact and personal interaction. Legislation proscribing conduct in a disciplinary context is rare; when it occurs, it merely codifies previously shared understandings. While there is clearly some allocation of function as between faculty and administration, with ultimate authority retained in the Board of Trustees as a matter of legal right, interchanges and combinations of roles are heavily involved in the actual governance of the university. Faculty members relate to the institution more through practice and informally negotiated consensus than through hierarchically codified rule. Rules of conduct thus trace their source to slowly evolving tradition rather than to abrupt acts of legislative intervention by persons in positions of formal authority. Lack of centralization—often aided by small size and extensive interaction—obviate for the university faculty the need for the kind of detailed directions that guide the armies of bureaucrats upon which larger organizations often rely for administering centrally-determined policies.

There remain the problems of fair warning, of overbreadth, and of undue discretion in enforcement. Against the background of the relationship between citizen and state, it is easy to make these issues appear genuine and substantial. Plainly, it would be intolerable for the state to provide that a citizen could be imprisoned for "substantial and manifest incompetence, substantial and manifest neglect of duty, or personal conduct, substantially impairing the individual's performance of his appropriate functions within the community." The situation is different, we believe, when the public to which similar regulations are addressed is the faculty of the university. In the more restricted setting, the regulation invokes a web of largely unwritten rules as tough and living as the British Constitution. Powerful traditions, modified by contemporary practice, furnish a reliable guide to faculty conduct, and entrust review procedures to faculty peers—in this case, to a faculty hearing board elected by the faculty. Nothing in those traditions collides with Constitutionally guarded freedoms. On the contrary, it is the University's responsibility to enhance the exercise of rights of speech which the First Amendment merely protects against governmental interference.

We would emphasize the meager record of the academic community's experience with faculty discipline. This may well be because faculty members chose their profession in part because they embrace traditional faculty norms, therefore performing willingly what written rules coerce in other sytems. Indeed, the kind of written rules contained in court decisions and codes are not merely responses to the need for prior warning. They are also the result of society's experience in enforcing pre-existing norms against a partly recalcitrant population—as suggested by the maxim that "ignorance of the law is no excuse." The general practice of conforming to norms may instruct individual faculty members about those norms just as clearly as would occasional cases of discipline for breach of standards. This wide observance of the norms of faculty conduct cannot disguise the fact of strong disagreement with them among some faculty; dissent from a rule, or even from the entire system of rules, obviously exists, and must exist to furnish the motive power for necessary change. *But disagreement with a rule is not the same as ignorance of its terms.*

It is perhaps true that a fully-developed code would be a more readily interpretable guide. But we believe that the institution and its members would pay a heavy price for such codification in terms of lost faculty autonomy and initiative, and in over-bureaucratization. This detriment should be carefully weighed before the university accepts regulations spelled out in greater detail. What we have called the web of unwritten rules of faculty conduct is not clear or easy to apply in all cases; on the contrary, there are borderline cases, and intractable problems of application. But codified systems of rules, too, are inevitably characterized by gaps and conflicts—and suffer from certain pathologies precisely *because* they are written. For example, rules designed to protect speech by limiting other speech are double-edged; in either direction they cut into regions that lie under the protection of the First Amendment.

On balance, we favor the present reliance on largely unwritten standards. But whatever the future holds in this regard, we find the present understandings adequately clear to guide faculty members in choosing among various courses of action in particular situations.

Statement of policy on appointment and tenure

The duties of a faculty member include, obviously, specific teaching and scholarly obligations that are understood primarily in terms of arrangements reached voluntarily between the individual and his department or some other institutional unit. Such obligations are generally not spelled out in writing, perhaps because professors object to formal job descriptions. Nonetheless, failure to meet commitments of this kind would clearly constitute "substantial and manifest neglect of duty." Similarly, "performance of his appropriate function in the University" means the meeting of the full range of agreed-upon institutional obligations. Professor Franklin, in his final argument, characterizes the *Statement of Policy on Appointment and Tenure* as being worded so as to protect the performance of these positive obligations—to enable the institution to weed out the demonstrably incompetent. But the unwritten understandings discussed above give to the terms "duty" and "appropriate function" a character of limitation as well as of obligation. The fulfillment of a faculty member's duty to his students and colleagues is understood to involve an obligation to refrain from corrupting the intellectual transactions that are the essence of the university, and the other activities that support these. This does not, of course, mean that he must exhibit political conformity with the objectives of the institution; the university must accommodate the questoning of contemporary goals and structures, and must even tolerate the view that the university, or the professoriate, should not survive. There is positive benefit in having on the faculty active representatives of political views that, while they may be considered extreme or dissenting here, are held by large numbers of people in the world and comprise a dominant form of political organization in many places. It seems likely that students can get a better education about the nature of these ideas from proponents than they can obtain through an exposure only to disengaged analysts. Proponents are often also proselytizers: that freedom should be granted also so long as its exercise does not infringe upon the free choice of others. The code of the institution does, however, demand that the speech and conduct of a professor stay behind the line of inciting or physically causing the impairment of the insituation's functions, especially its function as a forum in which various *other* points of view can also be heard.

Policy on campus disruptions

The *Policy on Campus Disruptions* (hereafter called the *Policy*) first appeared in 1965. It was a first attempt to provide more detailed codification of conduct that might be proscribed on the campus. The *Policy* was clearly never intended to list all behavior that a faculty member might engage in that was against university policy; indeed, its original authors (the no-longer-extant Committee on University Policy) did not even aim it explicitly at faculty, so that it later had to be ratified by the Academic Senate in 1968. That bit of legislative history is interesting: although there was some debate about a linked proposal concerning the judicial mechanism for dealing with faculty violators, no member of the Senate offered dissent to a single substantive element of the *Policy*. This episode shows, perhaps more clearly than anything else, that the *Policy* was widely and immediately accepted because it articulated some assumptions about appropriate conduct that most faculty members held in common.

Another way of illustrating this proposition is to suppose that there were no *Policy*. Would the University then be powerless to take action against a faculty member for any of the acts described therein? In other words, do we really insist on requiring that every proscribed action be named in a document before we place it on the other side of the line? The Board believes that the answer to each of these questions is "no." We have concluded above that there are common understandings of appropriate faculty conduct, and that conduct therefore exists which, even though it may not be listed in an official policy, is nevertheless sanctionable.

With this background, we can consider the specific conduct of the *Policy*. It lists several general positive obligations:

a. to maintain "an atmosphere conducive to scholarly pursuits"

b. "to preserve the dignity and seriousness of University ceremonies and public exercises"

c. "to respect the rights of individuals"

The *Policy* also includes several specific areas of proscribed conduct:

a. "to prevent or disrupt the effective carrying out of a University function or approved activity such as lectures, meetings, [and] public events. . . ."

b. "to obstruct the legitimate movement of any person about the campus or in any University building or facility."

The Board believes that these provisions provide a clear statement amplifying and defining some of the concepts expressed more generally in the *Statement of Policy on Appointment and Tenure*. Its applicability to faculty members is beyond doubt.

Protected vs. punishable speech: The relation of the "Policy" to incitement

We now turn to the fact that the *Policy* does not specifically prohibit incitement. The failure to deal with such speech is not, in the Board's view, the result of a conscious decision to protect all speech. Rather, it is one aspect of the history of the *Policy*, which was formulated quickly to meet a momentary need for the articulation of certain basic, commonly-held views. The Board does not accept the argument that the *Policy's* omission of a discussion of incitement automatically removes it from prohibition.

In the Board's view, incitement to illegal conduct—as we shall define it below—is an abuse of power. Such abuse is a serious matter in a university, especially when faculty members are addressing students. We see no excuse for placing certain conduct beyond the law of the campus, as the *Policy* does, and then implying blanket permission for faculty members to incite others to engage in that same conduct.

Protected vs. punishable speech: Standards

We do, however, see every reason for taking care that the standard for incitement is carefully drawn, with due cognizance of those First Amendment protections that apply to the relation between state and citizen. A wide range of standards has been offered to us. At one extreme, we were urged by counsel for Professor Franklin that no speech should be punished by the university, regardless of its incitement to illegal acts. At the other, we might have ruled sanctionable the advocacy of vaguely-defined violent action proposed for some time in the indefinite future. In ruling on the White Plaza and Old Union speeches, we shall meet a standard suggested by the Supreme Court decision discussed at length by the parties in this case. The court in *Brandenburg vs. Ohio* (395 U.S. 444) held that to be punishable, advocacy must "be directed to inciting or producing imminent lawless action, and . . . likely to produce such action." A vague exhortation is not punishable under such a standard; on the other extreme it is clearly unreasonable to demand, as did counsel for Professor Franklin, that there be an exact correspondence between specific acts advocated and those that follow. Subsequent illegal acts are not in fact required for incitement to be punishable under this standard. Such acts might, for example, have been prevented by external circumstances, or illegal acts might occur but differ from those advocated. Subsequent acts are useful in determining the level and character of risk that obtained at the time of the alleged incitement. In judging the applicability of the standard cited, the Board has been guided by the following considerations:

a. What is the entire context surrounding the alleged incitement, including the immediate risk of lawless action?

b. What is specifically being communicated to the audience?

c. What did the speaker intend? We judge intent on the basis of the speaker's own knowledge of the context for his speech, his awareness of the level of the risk, and the words he actually used.

In the application of this standard, punishable advocacy need not identify particular acts, but it must include advocacy of lawless conduct. Inclusion of advocacy of legal acts with advocacy of lawless conduct does not immunize that advocacy from punishment. In the application of this standard to the campus, it is clear that "lawless action" refers to acts against the law of the campus, that is, to conduct proscribed by the Policy or University regulations, or clearly prohibited under the kind of common understanding of conduct discussed above.

With respect to the Computation Center incident, the Board has applied a different standard. Professor Franklin is charged with intentionally inciting students and others to disregard and disobey a police order to disperse. If, knowing the risk, he increased the risk of personal injury to other persons, some of whom were unaware of the risk, then his conduct is punishable. Incitement need not be directed to increasing the likelihood of illegal conduct; it may also be punishable if it places persons at heightened physical risk, as with the cry of "fire" in a crowded theatre. Such speech is clearly not Constitutionally protected.

It may be argued that the university should allow more scope than the Constitution, or the current demands of society, would require; indeed, it has been put to us that the university should not undertake to restrain speech at all. We believe the university's prohibition of incitement, given the criteria of intent, risk and imminence discussed above, is fully justified when speech threatens two central university interests: (1) protection of members of the university community and university facilities against risks of serious injury or damage; (2) protection against coercive intrusion on the intellectual transactions which the university seeks to foster.

We observe also that in taking this position we have rejected a formulation urged upon us by a group of intervening faculty. In their view, dismissal from a tenured position is warranted only for "failure to perform the duties for which one was hired—teaching, and/or research . . ." or for previous conviction of "some criminal act." We believe it is inappropriate to tie tenure proceedings to the criminal process. The standard suggested by the interveners would, to be sure, relieve the Board of the difficult obligation to construct a narrative of disputed events as a basis for judgment. However desirable that might be, we find it almost the only virtue in their position. A criminal proceeding may require several years to resolve, and it may terminate favorably to the accused for reasons which have nothing to do with a faculty member's fitness to retain his position. It is not obvious why the university should be dependent on external prosecution policy, which may respond to a number of factors but which is unlikely to reflect any sensitive judgment of university interests as a central concern. It does seem clear that sound decisions, on the issue of penalty perhaps even more than on the issue of culpability, under university standards, will require the kind of intimate familiarity with the facts of a case that can be best provided by professional peers. On this basis, the mere fact of conviction of criminal offenses could be a wholly insufficient guide to wise disposition within the university.

Relation of speech to the institution

Lastly, we turn to the circumstances under which speech occurs, and to the relationship between those circumstances and the "duty" and "appropriate function" of the speaker. Speech and conduct by faculty members have in other cases been treated according to different standards depending upon whether they were judged to be connected with the faculty member's duties or unrelated to them.

Professor Franklin has applied the term "extracurricular" to his speech at the two rallies. The Board cannot agree with this use of the term, if by it Professor Franklin intends to place the speeches in question outside the framework of his duties and appropriate function in the university. There is a degree of difference, to be sure, between speech in the classroom and speech outside it; it may reasonably be held, for example, that explicit advocacy of a political position unrelated to the subject matter of a course is improper when delivered in front of a class, but is not when delivered at a rally outside the classroom door. But that view does not automatically remove all activities that take place outside the classroom door from the reach of institutional regulation. In a residential university, faculty members relate professionally to students in many ways: in offices, at the dinner table, in informal advising situations, and so on. These relationships certainly do not resemble contacts between the faculty member and citizens on a downtown street. We believe that the speech of a faculty member to a campus audience on campus issues is subject to regulations, though the standard applied to it will be different from that applied to a classroom situation. Indeed, the location of the recommended target may equally serve to define speech in relation to the institution: a faculty member inciting an off-campus crowd to occupy a university building illegally is, in our view, liable to institutional regulation.

We will now consider the specific charges in the light of these standards.

FINDINGS OF FACT: THE LODGE INCIDENT

A. Charges

The relevant University charges concerning the Lodge incident are contained in Paragraphs 6 and 7 of the *Statement of Charges* dated March 22, 1971. These paragraphs read as follows:

6. On January 11, 1971, Drs. Campbell and Tompkins and Ambassador Lodge attempted to proceed with the scheduled program at Dinkelspiel Auditorium but were prevented from doing so by disruptive conduct by various people in the audience. The disruptive conduct include, among other things, loud shouting, chanting and clapping. Because of the disruptive conduct the audience was often unable to hear the words of the speakers, Ambassador Lodge was prevented from delivering his speech, and the scheduled program had to be cancelled.

7. Professor Franklin was in the audience and knowingly and intentionally participated in the disruptive conduct specified in paragraph 6, significantly contributing thereby to the disruption which prevented Ambassador Lodge from speaking and which forced the cancellation of the program. Ambassador Lodge and Drs. Campbell and Tompkins were thus denied their rightful opportunity to be heard, and members of the audience were denied their rightful opportunity to hear and to assemble peacefully.

B. Response to paragraph 6

Paragraph 6 does not connect Professor Franklin with the events cited, and therefore his personal culpability is in no way demonstrated if the Board sustains the correctness of this paragraph. However the defense and the University Administration both introduced extensive evidence and argument dealing with the Lodge incident *per se*, and the Board is responding to this material.

(1) *Description of the Incident*

It is incontestable from the tape recording that "disruptive conduct," including "loud shouting, chanting and clapping" occurred during the Dinkelspiel program of January 11, 1971, and that at least part of the "audience was often unable to hear the words of the speaker." Dr. Campbell was able to complete his prepared speech with only occasional interruptions and catcalls. On one occasion he asked for quiet, on other occasions he acknowledged the noise of the audience with brief pauses, and at one point he commented on it specifically. Dr. Tompkins engaged in several exchanges with the audience, one specifically involving Professor Franklin; there was increased noise, including interplay among members of the audience, but Dr. Tompkins was able to complete his introduction of Ambassador Lodge. From the moment Mr. Lodge took the podium, however, the noise, clapping, and shouting increased; it was sufficiently sustained and intense to cause the cancellation of the meeting some five minutes later.

2. *Principal Defenses*

(*a*) *Cancellation of the Lodge speech was either unnecessary or premature.* Although there may have been a degree of ineptness in the way Drs. Campbell and Tompkins attempted to deal with the crowd, we would agree that Ambassador Lodge was prevented from delivering his speech, and that cancellation of the program was reasonable under the circumstances. We see no evidence that the management of the situation was directed toward entrapment of the demonstrators, as claimed by Professor Franklin and some other witnesses. Furthermore, although more skillful management and additional persistence *might* have kept the meeting going, we do not believe that an institution should be required to supply for such functions presiding officers who possess exceptional ability at crowd management.

(*b*) *The disruption was justified on grounds of necessity.* In his testimony and his argument. Professor Franklin expressed approval of the disruptive conduct of the protesters, and justified this view by claiming (i) that the program was a political rather than an academic function and that the meeting had not been properly authorized under University regulations governing speakers prominent in public life; (ii) that the program was unbalanced because of the exclusion of speakers from Communist countries; and (iii) that Ambassador Lodge is a "war criminal."

(i) The Board believes that, in line with a long practice of similar conferences and meetings on campus sponsored by the Hoover Institution, the intent was to hold an academic exercise rather than a political meeting. Formal approval under University regulations was secured in a routine manner.

(ii) Although we agree that no special efforts were made by the Hoover Institution to include a broad range of political points of view, the Board emphasizes that there is no requirement or expectation in academic life that any single meeting must represent the full extent of the political spectrum. There is clearly an opportunity for many divergent views to be heard on this campus; the entire range need not be present at each event.

(iii) Professor Franklin and many of his witnesses objected to the presence of Ambassador Lodge on the grounds that he is a "war criminal," and felt that shouting and heckling were the only ways to acquaint him with their opposition. There is no question that there were deep feelings of outrage within the Stanford community, which Professor Franklin testified that he shared. Not only was Mr. Lodge appearing under the apparent sponsorship of the University, but he had made it clear at a press conference earlier in the day that he would entertain no questions dealing with the Vietnam war. Although the topic of the meeting dealt with the 25th anniversary of the United Nations, some members of the academic community felt that by refusing to deal with such questions Lodge, as a public official, was refusing to make an accounting of his stewardship of office. The Board, however, is not willing to endorse the general principle that a lecturer—regardless of his official position—must accept his audience's selection of subject matter for the discussion period. We further note that whatever the depth of feeling of the protesters, disruption was not a "last resort" to influence the meeting. It was open to those with strong convictions to communicate ahead of time with the Committee on Public Exercises, the President's Office, or the Hoover Institution, for possible modification of the format at the meeting; it was also possible to devise means of non-disruptive protest. There is no evidence that an effort of either kind was made.

The Board acknowledges that reasonable men may believe that Ambassador Lodge could be tried for "war crimes" under the Nuremberg Principles. However, it is important to remember that Mr. Lodge has not been tried and found guilty of "war crimes"—though the Board noted a tendency on the part of many witnesses to assume the contrary without question. We emphasize that just as Professor Franklin must be presumed innocent until proven guilty, so too must Mr. Lodge.

Even if any or all of these arguments were supported by the facts, the Board feels that disruptions of a magnitude that force the cancellation of a speech on a university campus simply cannot be justified. To acquiesce to the indignation of any group in this matter would permit a tyranny of the few that could deprive the many of the chance to hear not only Mr. Lodge but other controversial speakers as well.

(*c*) *Shouting, heckling and other disruptive audience conduct should be expected and in fact be condoned if a "public figure" speaks on campus.* Professor Franklin claims that a "public figure" speaking before an open meeting should expect extensive "heckling," interruptions and arguments from the audience. In support of that view, he cites the decision *In re Kay* (I C.3d 930, 1970) for the assertion that "robust speech" is not only expected when a political figure speaks before an audience, but that shouted remarks from the audience actually contribute to the democratic values of the meeting. However, the conclusions of *In re Kay* were drawn from an entirely different set of circumstances—from a meeting in which a U.S. Congressman spoke during an election campaign before an unfriendly outdoor audience. In that instance, the speech was completed, and audibility was impaired only occasionally and locally.

Even setting aside these important differences, the Board is unwilling to accept the standards of *In re Kay* for an academic function at Stanford University. The presence of a controversial political figure on the platform does not in itself convert the function into a political meeting; other gatherings presenting speakers of differing views can be arranged at the University. Shouted invective and concerted disruption do not provide a better educational experience than exposure to divergent views, and the University has a responsibility to optimize such intellectual transactions. We do not believe that the University should deach out to the external legal system for those standards used to protect political-picnic oratory. Nor does the Board accept Professor Franklin's view that in the classroom as in public meetings, "politeness" and orderly procedure and conduct interfere with the free expression of ideas.

3. Board Finding

The Board finds incontrovertibly strong evidence that a large number of those in the audience denied the right of speech, hearing and assembly to others on this occasion. The Board considers such action destructive to the fundamental values of the University, and does not believe that the Defense arguments cited above justify such conduct.

With the qualification that it bacame successively more difficult for each speaker to be heard, the Board accepts Paragraph 6 as a substantially accurate account, and sustains the statement.

C. Response to paragraph 7

The issues are considerably more complicated in relation to Paragraph 7, which charges that Professor Franklin "knowingly and intentionally participated in the conduct specified in Paragraph 6 [loud shouting, chanting and clapping], significantly contributing thereby to the disruption which prevented Ambassador Lodge from speaking and which forced the cancellation of the program." There are three matters in controversy here: first, whether and to what degree Professor Franklin was involved in the actions attributed to him; second, whether in those actions he did take he was "significantly contributing thereby to the disruption which prevented Ambassador Lodge from speaking and which forced the cancellation of the program"; and third, how Professor Franklin's conduct relates to his "appropriate function" and "duty" in the University.

(1) *Evidence on Professor Franklin's Involvement in the Disruption of the Lodge Speech*

(a) *Uncontested items in the testimony of witnesses from both sides.*

(i) Early in Dr. Campbell's remarks Professor Franklin shouted the word "napalm!" Other shouts from the audience were heard during the speech made by Dr. Campbell.

(ii) When Dr. Tompkins took the podium he began with a sarcastic reference to the "polite" audience, upon which Professor Franklin shouted, "Tell us about politeness at My Lai."

In his affidavit executed on February 24, 1971, Professor Franklin agrees that he "heckled" Henry Cabot Lodge; in particular he agrees to the nature of the shouted remarks attributed to him while Drs. Campbell and Tompkins were at the podium. Professor Franklin testified that the statement in his affidavit in which he "publicly acknowledged my heckling of Henry Cabot Lodge" referred to the Lodge program in general, and not to Lodge's own speech in particular.

(b) *Items on which the testimony, even if not offered by both sides, seems clear and credible.*

(i) Members of Professor Franklin's 1:15 class took a vote, not initiated by him, to leave the class in order to attend the Lodge speech; a number of them clearly wished to protest Lodge's presence in some fashion.

(ii) The fact that Ambassador Lodge was coming to Stanford was not generally known until a few days before his appearance. There is no evidence that the disruption in Dinkelspiel was specifically organized, although there was "word of mouth" communication to induce protesters having strong views about Lodge's culpability in connection with the Vietnam war to attend the Dinkelspiel program of January 11, 1971. In consequence, a significant portion of the audience was composed of people who intended to protest in some way.

(iii) Professor Franklin is not alleged by any witness to have participated in attempts to organize a protest ahead of time. His own testimony is that he intended to ask Lodge a difficult question at the conclusion of the speech. Professor Franklin can be assumed from the evidence to have known, however, that vigorous protest was probable and outright disruption possible.

(iv) There is no evidence that Professor Franklin was part of any organized group within Dinkelspiel. He went to the auditorium accompanied only by his wife and son, and was joined after he entered by others who shared his political views.

(v) The audience in Dinkelspiel became increasingly polarized as the program and the protest unfolded. The disruptive conduct was clearly initiated by the protesters; in consequence there was an intense counterreaction on the part of the rest of the audience. Much of the noise that made it difficult to hear the speakers came from such intra-audience exchanges.

(c) *Items on which there is conflicting testimony.* The length of time between the Lodge incident and the Advisory Board hearings has increased the difficulty of reconstructing the details of Professor Franklin's actions, and this difficulty is apparent in the testimony offered by both sides. Moreover, the noise, personal political convictions, and participation of some of the witnesses clearly interferes with reliable observation of the events. This makes the problem of evaluating the credibility of testimony more difficult still, even where it is not conflicting.

It appears likely to the Board that two of the University's witnesses (Beckwith and Matthews) may have been confused in their identification of Professor Franklin, so that they attributed to him certain actions that may have been engaged in by another person sitting near him. By their own testimony, persons near Professor Franklin did engage in the sorts of disruptive conduct with which he is charged. Two witnesses (Geier and Laney) alleged in testimony that during the Lodge meeting Beckwith and Matthews accused them of disruptive conduct; however, these two witnesses testified that they had not participated in any protest activities whatever. Another University witness (C. Jacobs) did not see Professor Franklin "clapping or chanting," though she observed him "shouting." Only one witness (Hanley) gives strong evidence in support of all three items of disrutive conduct charged, although there is some dispute concerning the timing of the events he observed.

On the other hand, while all of Professor Franklin's witnesses assert that they did not see him engaging in "loud shouting, chanting or clapping" (save for the two shouts in 1-a-i and ii), none can say with certainty that they had him continuously in view. One (Ramirez) actually testified that the auditorium was so dark as to make clear vision difficult, while a number of others were so positioned in the auditorium as to make a clear view of Professor Franklin exceedingly difficult. While Ambassador Lodge was at the platform, many persons in the audience were standing, interfering with the visibility of Professor Franklin to witnesses. Strong testimony on Professor Franklin's behalf, however, comes from witnesses (Geier and Laney) sitting directly in front of him; they could be expected to have heard him if he had engaged in the sustained activities with which he is charged, although they were not facing him during the critical period. Professor Franklin himself testified that he was "just about positive" he did not rhythmically clap.

The Board does not find the evidence strongly persuasive that Professor Franklin's conduct included "chanting and clapping" as specified in the charges. He did engage in "loud shouting" on at least two occasions when the rest of the audience was quiet, and possibly at other times as well, but there is not strongly persuasive evidence that this shouting took place during the time Lodge was at the podium.

(2) *The Contribution of Professor Franklin's Conduct to the Disruption which Forced Cancellation of the Speech*

The Board is critical of Professor Franklin's conduct during the meeting. His verbal able behavior, in our view, for a member of the faculty, since he should have known that shouts from a recognized leader during relative periods of calm—clearly audible even on the tape recorded from the podium microphone—would add to the excitement of those numerous members of the audience considering a disruption of the proceedings. However, after reviewing the testimony the Board does not feel that it has been presented with strongly persuasive evidence that attacks on the speakers constitute question-Professor Franklin's shouts triggered the demonstration or that he was personally guilty of "significantly contributing" to the disruption that finally forced the cancellation of the meeting. Given the mood of the crowd and the wide distribution of pockets of disruptive activity through the auditorium, it is plausible that the nature and intensity of the disruption would not have been significantly different without Professor Franklin's presence.

Many of Professor Franklin's witnesses claim that there was a deliberate attempt by Dr. Tompkins to bait Professor Franklin into disruptive conduct and call attention to his activity. The Board finds no evidence to support this claim since (as is uncontested) Professor Franklin clearly called attention to himself by interrupting Dr. Tompkins after one sentence with his comment about "politeness at My Lai." Indeed the Board believes that Professor Franklin, having in fact been identified in this public way, may well have decided not to open himself to possible charges by engaging in further disruptive activity.

(3) *Professor Franklin's Conduct as a Faculty Member as it Relates to the Lodge Incident.*

Professor Franklin has argued that in his shouted questions about napalm and My Lai he was actually performing his "appropriate function" as a university professor since he regarded the featured speaker as a war criminal. While such convictions may have impelled him to seek this means of acquainting the University with these atrocities, other routes are available which could have served the same purpose without infringing upon the rights of others. Professor Franklin's right to speak out in protest at a time and place of his own choosing must be balanced not only against the right of Mr. Lodge to speak, but also against the rights of others to hear and to assemble peacefully. The Board cannot accept the view that the interruption of University functions—let alone their disruption—is part of the appropriate function of a faculty member at Stanford.

We note, finally, that Professor Franklin has described his own role in the Lodge affair in terms of his larger role as a leader of the revolutionary movement. He points out that his position as a tenured professor is important to that movement, and that his loss to it would be more serious than that of a student; and he employs his view in explaining his own caution. At the same time, he describes the disruption at the Lodge speech as too weak, and clearly indicates his own preference for more violent actions. This combination of views has the effect of making incitement almost a way of life; and it raises serious questions. Quite aside from this immediate charge, may a professor regularly encourage students to engage in proscribed conduct while he deliberately refrains from the same activities? We return to this issue later, in connection with the other charges.

4. *Board Findings.*

In view of items 1) and 2) above, the specific charges against Professor Franklin as drawn in Paragraph 7 are not sustained.

FINDINGS OF FACT: BACKGROUND TO EVENTS OF FEB. 10, 1971

A. Preface

The climactic events of February 10, on which the remaining charges focus, did not occur without warning. Rather, the preceding several days were characterized by overt turbulence and escalating protest activities. To understand the events of February 10, it is helpful to have some background. We therefore now briefly sketch events which convey the atmosphere of those days and are pertinent to the remaining charges.

Dissatisfaction with the Indochina war was rising again because of rumors that an invasion of Laos was about to begin, perhaps with participation of American armed forces. In addition, the Stanford Judicial Council had been holding hearings on charges brought against students who were accused of disrupting the January speech of Henry Cabot Lodge. Professor Franklin and his associates were strongly opposed to these charges and to the campus judicial system in which they were being considered.

B. Chronology of events prior to Feb. 10, 1971

On Saturday February 6, at about 1 a.m., arson was attempted on the small wooden building known as the Free Market—the headquarters of the conservative Movement whose members frequently observe and photograph demonstrations. Later Saturday evening, at 9:40 p.m., Molotov cocktails were thrown into the first-floor office of the ROTC building. Three false fire alarms were registered soon thereafter at scattered points on campus. Moments earlier, on the other side of the campus firemen had responded to a fire in a trash barrel behind Ventura Hall and a false alarm at the Boathouse.

On Saturday, February 7, the invasion of Laos by South Vietnamese troops with U.S. air support was officially announced. At 8 p.m. in Dinkelspiel Auditorium a crowd of some 600 persons attended a performance of the San Francisco Mime Troupe sponsored by the Stanford Community Against War and Fascism. Before the Mime Troupe began to perform, it was announced that Laos had been invaded. A telegram sent from Ann Arbor, Michigan by Madame Binh, head of the North Vietnam delegation to the Paris Peace Talks, was read which called "for mobilizing peace forces in your country." The Coalition Against the War in Indochina distributed a flyer entitled "It's Official!! Laos Has Been Invaded," which spelled out Madame Binh's message in detail and called for a rally at White Plaza on Monday, February 8. Leaflets were distributed by a antiwar group called The Inquisition, demanding that the University "release all information on the uses of the Computation Center" and that war research at the Center "immediately be halted." In this leaflet the Stanford Research Institute computer program known as Gamut-H was described. The program was said to stimulate the logistics of deployment of helicopters and ships and the leaflet asserted that the "work is directly applicable in Indochina."

After the performance, at about 10:30 p.m., over 200 persons protesting the Laos invasion broke about 100 windows in several buildings, including the Graduate School of Business, Undergraduate Library, Post Office, Engineering Corner, Terman Engineering, Placement Center, Cubberly Education, Lou Henry Hoover Building, and the Inner Quad. In addition to campus police on duty, 35 Sheriff's deputies were brought on to campus briefly after the first reports of property destruction, but the "trashing" quickly subsided and the deputies were not deployed. Windows in two Stanford University police cars were broken when spotlights from one of the cars were focused on 15–30 demonstrators hurling rocks into the Lou Henry Hoover building. Fights broke out between demonstrators and members of the Free Campus Movement who were attempting to halt the trashing. The University Computation Center was evacuated at 9:30 p.m. after a telephoned bomb threat was received, but after a search people re-entered the facility. (This was not the first threat to the Center. In the spring of 1970, a part of the computer complex in Polya Hall was the target of arson, but quick action averted serious damage.)

On Monday, February 8, the noon rally was attended by about 800 in White Memorial Plaza. The leaflet from The Inquisition on the SRI war-related computer program was distributed together with a flyer entitled "Do It!" "Do It!" encouraged formation of tight affinity groups to "do whatever actions you feel ready to do" and stated "last night's action was the first in a series in response to the invasion of Laos." It anticipated trouble with police and with "right wing fascists," and gave suggestions for handling such trouble.

An "Open Letter to the Stanford Community" from the Inquisition also became available at about this time. It stated that the Computation Center was being used by Stanford Research Institute for "war research." Six demands were made in the letter, including making public the identity of all non-Stanford users of Stanford facilities and phasing out of all Stanford research funded by the Department of Defense; attached to this letter was reply made by Provost Miller to some of these demands.

About 100 antiwar demonstrators left the rally and then went to the near-empty Faculty Club dining room searching for members of the Stanford Board of Trustees. The group then left for the Graduate School of Business where at 1:25 p.m. about 150 persons jammed into the ground level lobby, blocking entry to a room in which a trustee committee was meeting and holding the committee virtually under siege for 45 minutes. At 1:45 p.m., C. D. Marron of the Santa Clara County Sheriff's Department declared it was an unlawful assembly, with the group chanting back: "Power to the People." The crowd dispersed when a squad of sheriff's deputies appeared. One plain-clothesman suffered a head laceration when hit by a thrown rock. At 2:30 p.m. about 24 police dispersed some 300 demonstrators who had reassembled outside the ground floor of the Graduate School of Business.

At about 2:45 p.m. part of the group of demonstrators headed for the Old Union. About 150 persons arrived at the courtyard, and 50 of them proceeded into the Union lobby. A meeting was then called in the lobby, and the Old Union was selected as a "strike center." At 5:30 p.m. about 20 Santa Clara Sheriff's Deputies moved into the rear (West) of the Old Union, sweeping about 40 remaining occupants into the courtyard. Simultaneously some 15 members of the San Jose Tactical Squad moved to the front (East) of the Old Union. At about 5:45 p.m. the San Jose units left the scene. Subsequently, however, numerous squads of Santa Clara County and San Jose police patrolled the campus on foot as well as by car.

On Tuesday, February 9, there was an afternoon meeting in the Physics Tank, following the Stanford Judicial Council hearing, in which a "Cambodia-type strike" protesting the invasion of Laos was planned. In the evening, beginning at 8 p.m., a three-hour session was held in Dinkelspiel Auditorium, attended at the peak by approximately 800 people. A recording of the meeting taped by KZSU is available, and an analysis of the speeches at the session is presented in the following section.

C. Analysis of the Dinkelspiel rally speeches of February 9, 1971

An important part of the context for the three speeches of Professor Franklin on February 10th is the Dinkelspiel rally of February 9th. That lengthy evening rally did much to set the stage for the events of the following day. Its recurrent themes may help in understanding the meaning of some significant terms used in the February 10th speeches of Professor Franklin. Indeed, in the hearing Professor Franklin urged us to consider this meeting carefully in order to understand the subsequent events. He participated in the February 9th rally, made a speech there, and was referred to by several other speakers. [See Appendix I] His leadership position may reasonably be inferred from the tape of this meeting.

Many speakers emphasized Stanford's complicity in the war. They emphasized the necessity of concentrating protest activity on the campus rather than off it, and doing so in a powerful way that would impair the University and hence the war effort.

There were repeated linkages of the war in Southeast Asia with the struggle at Stanford, particularly in relation to police on campus. The police were referred to as pigs and were described as an occupation army. Harassment of police was repeatedly advocated. One speaker indicated that resistance to the occupation army could best be carried out late at night. Some speakers pictured the protesters at Stanford as sharing in a common effort with the people of Southeast Asia, especially the NLF and Pathet Lao. The following remarks, which were made early in the rally and echoed later, exemplify this approach:

"What we have found through research and looking at how the war is carried out is that it is an immensely technological war and that Stanford is very useful. And so the only reason that we would attack the University would be on the grounds of effectiveness, so I would try to direct the demands toward specific things in the community and that are attackable like the computer center, like the Gamut-H program that's going on there. Also, in the past things like the A3M have made other movements start so with the effectiveness here and exemplary action for other universities we hope to take to close out and down things which we think are very valuable to the carrying on of this type of war to make it that much more costly." This is followed by another speaker:

"I think that we should take the strongest action possible tomorrow and the next day and the next day after that. But that we should also be addressing ourselves to questions of, and the other things we can begin to move on immediately are some of the demands that have already been raised like ending the occupa . . . the armed occupation of this community. That kind of thing we should begin to move on immediately."

There were many references to the Computation Center. It was clearly the object of intense interest, both for its alleged war complicity and for its vulnerability. It emerged as the prime target for protest activity. The discussion of the Computation Center may be illustrated by a speech in the middle of the meeting:

"I'm not even going to talk about a strike. It doesn't matter either way. But what, I think that it's apparent that the place that has to be hit, and has to be hit hardest and can be hit not only here but in every college campus and in every city in the country, are the computer centers, [applause, shouts of 'Right on'] and they don't have to be hit violently. Computer centers are the most vulnerable places anywhere. If, you've seen the lights blink every once in a while with the power shortage, if that were to happen in a computer center for a millisecond, the computer has to be shut down, and reloaded.

And that's at least an hour delay. Now what does an hour delay mean to a computer in the computer center? Well, it could mean just an hour delay. It could mean a day delay. It could mean a week delay. It could be a month delay or a year delay. [laughter]: It's, nobody knows. It's dependent upon what's destroyed in just that power shortage. What's destroyed in core storage. What's destroyed as to the records. What could be destroyed in the tape reserve rooms by the temperature going too high. Nobody knows."

[Laughter, by speaker and others]

Other references to the Computation Center included a variety of ways in which it might be shut down and put out of service; for example, by blocking access to it with hundreds of thousands of people, by attacking it, even by destroying it. Occasionally, a word of caution was expressed regarding the more violent possibilities.

At various points throughout the meeting, references to coercive and violent protest activities were received with applause or laughter. Acts such as seizing and occupying a building for long periods tended to be treated casually. Violent acts were sometimes spoken of explicitly, and sometimes merely hinted at. Audience response indicated that these hints evoked considerable interest. Fifteen speakers advocated actions in protest on the campus that were most likely coercive or violent in nature. The following speech illustrates the treatment of coercive behavior.

"Yeah, let me straighten that out. I did not advocate any kind of violence about this computer. I tried to say that the beauty of the computer center was no violence is necessary. None at all to get, to get what you want. Simple little sitting in doorways with a thousand people, you know, no violence. You don't have to break a window. Not one single window. And you can still affect problems with this computer center. Without any destruction whatsoever. So there's no violence that would be necessary, please. [Laughter] . . . is used by everybody. If you want to hit industries, you hit the computer that they're using. That stops them from functioning. But you have to hit them with enough people to stop normal access.

Several speakers, notably Braunstein, advocated action on different levels, violent and non-violent, each helping the protest movement in his own way. A spectrum of activities was included, some of which were clearly coercive and some even overtly violent. Imagination was required to think of ways to disrupt the functioning of the University and harass the police.

Altogether, six speakers favored pursuing this multiple-levels-of-action approach, embracing a broad spectrum of protest activities. The general tendency of these speakers was to favor the more disruptive end of this range of activities.

The flavor of this approach is well exemplified in the speech of Braunstein, which is worth quoting in its entirety.

"One thing w've been noted for over the past few years when we've done any action, and again tonight, is a lack of imagination. And, you know, I'd like to address this not to the people in this audience who know how they're going to vote and are going to participate in anything, but people listening on radio wondering what can I do to relate to all this? How can I help? I'm not willing to get busted in front of the Computer Center. Or what have you. And there are many ways, and all you have to do is just think about it. Last night there were some people out playing football who kept just dozens of police busy asking for IDs all the time. At one point they tried to bring the football into the Computer Center and it was searched. The football. [applause] Things like this that tie up the opposing forces, while are not directly going to end the war in Vietnam, are making other people's actions become more effective. And anybody who says "I can't relate to this movement because I don't agree with your tactics" just has a bad imagination, and you know, there are many levels of other action.

"There are people breaking windows, there are people who sit in front of the ROTC building for days, and days, and days, after other people got tired. These people just were there. They deserve, you know, our unending thanks. And there are other people who have done other things, who for some reason or other don't want to claim credit for it. All those people also deserve our thanks. [Applause.] And . . . [KZSU interrupts to say speaker is Yale Braunstein] . . . like the guy who two years ago drove into a power pole up in Woodside and put the Computer Center out for a week. Now they've built an emergency power system, but you know, there are other actions both violent and non-violent, imaginative and very mundane, all of which can help us and everybody, even if you, you object to how the final vote comes out, should find some way of keeping them busy in their off hours and should devote more and more of that time to helping the Movement." [Applause.]

As the meeting procceeded, a suggestion made by Janet Weiss elicited considerable acceptance: to adopt the tactics of a "mobile strike." The word strike" was used often in the meeting. Some of the usage was unclear, and most of it bore little relation to the usual meaning of the term in a labor dispute—i.e., the concerted withholding of labor on a voluntary basis. In the latter part of the Dinkelspiel rally, consensus grew on the "mobile strike" or "mobile strike force," as the meeting's chairman referred to it. The "mobile strike" was intended to be a series of disruptive acts, hopefully leading to a total shutdown of the University. Occupation of the Computation Center was considered a good way to begin. Then, if the occupants were evicted by the police, another building could be occupied, and then other actions taken as issues and targets become apparent. Nine speakers forcefully advocated a "mobile strike," clearly including coercive acts within the scope of such a "strike." Since Janet Weiss' formulation seemed to be quite influential, it is worth quoting her remarks on this subject.

"I've heard that at some places they've used a tactic of shutting down one building with a large group of people, and then going and shutting something else down so that nothing is shut down continually but things are shut down, you know a lot of things are, are shut down at different times, and maybe that's the kind of strike that would keep people doing something, keep them involved in it, so that you don't feel like you're just sitting there all day, bored and cold. I think another thing, though, that, one thing that seems to me is clear that we need, whatever kind of action we have as a focus, is a lot of other little peripheral actions, like the actions about people going out in groups and causing the pigs that are on the campus to really have to do their jobs. People can put up signs and posters in bathrooms and buildings, and things. You see the pigs don't go into the buildings, and any number of things that we can do from inside the building to cause a lot of disruption, havoc and chaos on the campus, and to keep it from functioning properly, without really risking a lot of things and things that might be very pointed. Now that's the kind of things that I can see in a strike that would work, but I'd kind of like to, if we're going to talk about a strike, I think that we should have some idea of what we're talking about. Because I don't think, maybe I'm wrong, that we're going to get a lot of people interested in a strike which means people sitting around in different doorways, very isolated from each other for hours at a time."

Near the end of the meeting, the Hoover Institution was still mentioned as an attractive target.

"Well, anyway, I was going to suggest that if there is a rally scheduled for tomorrow or however we are going to do it, we should probably move from there, when we'll have a crowd already, and I think we should take over Hoover and that, you know, I think that they wouldn't let us stay too long in Hoover before they brought pigs on to campus in daytime and, which would be, you know a very nice thing to happen, you know, for the "movement," I think. If we went to the Comp. Center, first of all I don't think we'd have enough people by tomorrow to go to the Comp Center and secondly it's pretty far removed from the central part of campus. Hoover's right in the center and I think it would be a good thing to do tomorrow. And we'll be kicked out before 5, but that's good too."

At the end of the meeting, there was general agreement that ways must be found the next day to recruit a larger group of participants for the "mobile strike," whether it would begin at the Computation Center or elsewhere. Concern was expressed by four speakers that the number remaining in Dinkel spiel was too small to permit an effective "mobile strike." This was advanced as the primary reason for calling a noon rally at White Plaza on February 10.

FINDINGS OF FACT: WHITE PLAZA INCIDENT AT NOON, FEB. 10, 1971

A. Charges

The relevant University charges concerning the White Plaza incident are contained in Paragraph 8 of the "Statement of Charges" dated March 22, 1971. This paragraph reads as follows:

"8. On February 10, 1971, beginning at about 12 p.m., a rally was held at White Memorial Plaza to, among other things, discuss methods of protesting developments in the war in Indochina. Over five hundred students and other persons attended. During the course of the rally two principal courses of action were discussed, one being to work in the non-University community to bring about changes in government policy, the other being to disrupt University functions and business. Professor Franklin intentionally urged and incited students and other persons present at the rally to follow the latter course of action and specifically to shut down a University computer facility known as the Computation Center. Shortly thereafter a large number of students and others left the rally and went to the Computation Center whereupon many of these persons did in fact occupy the Computation Center, prevent its operation and obstruct movement in and out of the building for several hours, terminating this unlawful activity only when ordered to leave the building by the police."

B. Nature of the charge

The general charge is that Professor Franklin urged and incited the disruption of University functions; the specific charge is that he urged and incited his audience to shut down a University facility, the Computation Center. Effectively, this means that his words, including their delivery and their context, significantly increased the likelihood of prohibited conduct on the part of his audience; it means, moreover, that he must have anticipated that his speech, given its delivery and context, would significantly increase the imminent likelihood of prohibited conduct.

C. Findings of fact

1. Prominent Themes in the White Plaza Rally

The noon-hour rally at White Plaza, attended at its peak by about 700 people, had been proposed the night before at the conclusion of a rally at Dinkelspiel Auditorium. Most of the speeches given at the White Plaza rally were available on tape recordings.

Only a portion at the outset was missing, and this was covered in testimony. The following themes emerged prominently in the course of the White Plaza rally:

a. Many speakers discussed ways of protesting the war in Southeast Asia. Three speakers, including two student body leaders, favored an off-campus focus of protest. They were severely criticized by five subsequent speakers, who characterized liberal war protest in such terms as "counter-insurgency." This may be illustrated by the following speech:

"Yeah, I'd just like to point out that the only time the liberals and moderates come out of the woodwork is when there is radical action on campus. . . . That's the only way moderates and liberals can, can get off their———is when the people around them are doing these violent things which you consider to be useless."

b. On four occasions, there was reference to selection of a protest target on campus; the desirability of alternative possibilities was considered.

c. The Computation Center was referred to often throughout the meeting. Its suitability as a protest target was cited. In the final speech of the rally, Professor Franklin called for shutting down the Computation Center.

d. Some speakers emphasized Stanford's war complicity and the desirability of shutting down the University in order to end that complicity.

e. Four speakers made reference to the concept of different people taking protest action on different levels, each doing his own thing. Three of these clearly included coercive and violent behavior within the spectrum of approved activities, and the fourth is unclear on this point. The following quotations help to clarify this important theme:

"And so closing down Stanford is really a concrete blow against the war. You see, that's a concrete way of stopping, stopping things that are going on that help the war by stopping that kind of research, by stopping the programs that are run in the computer center. . . .

"It's true that if we're writing letters to congressmen we're probably not doing that much. But by striking the University and by taking, by taking whatever kinds of action we can, you see, on a lot of different levels, some people may want to take over buildings, some people will want to boycott class, some people will want to cause classes to be boycotted, you see it's not much good if English classes and the French class aren't going on, but the Business School classes and the Electronic Engineering classes are going on and the Department of Defense research contract are still being carried out.

"KZSU: The crowd is still growing here at White Plaza, now about 700 people.

"[new speaker] What really amazes me is like everybody that's here right now is like obviously against the war. Now all this friction and all this ——— that's going on between radicals and conservatives and liberals or whoever the ——— it is, it's all just friction. Now, as long as people who are writing letters or doing strikes, or breaking windows or what, everybody's doing their own thing to stop that ——— far over there. So, everybody do their own thing, and let's stop that war now and altogether." [applause]

f. The term "strike" was used several times, though less than it had been the previous night at the Dinkelspiel rally. Once again, it seemed to bear little relation to the meaning of "strike" in labor disputes. Rather, it seemed to refer to a broad spectrum of activities, some non-coercive and some coercive. The most prominent connotation was that of the "mobile strike" introduced February 9th at Dinkelspiel—closing down one university facility after another by whatever means proved feasible.

g. Six speakers made favorable reference to coercive or violent behavior. This may be illustrated by a recorded passage from Professor Franklin's speech:

". . . so want to talk about, about high consciousness, the high consciousness is the consciousness of the people most oppressed by U.S. imperialism, which includes as a main institution of that Stanford University. And that's why whenever people from that community, whenever poor working class youth from that community, get a chance to come on the campus at Stanford and do a little material damage, they are very eager to do so. Because they recognize what Stanford University is, even if people here don't."

2. Summary of Professor Franklin's speech

Professor Franklin gave the closing and longest speech of the rally. (See Appendix II.) He called for a willingness to sacrifice in the service of protest activity. He criticized student body leaders for allegedly subverting the activity of protesters. He gave some of his personal history in antiwar activity. He cited a poll indicating that people with little education expressed more opposition to the war in Southeast Asia than those with higher levels of education.

At the passage quoted earlier referring to material damage by working class youth at Stanford, Professor Franklin's delivery shifted to a higher intensity, remaining at this level until the conclusion. He continued later.

"Well, when we talk about, see we're just ripping off the term strike when talking about striking at Stanford. This isn't a strike. We're not risking anything. It's voluntary boycott—a shutdown of some of the activities of the University as a demonstration of something. Now, now what we called a strike last year, and it lasted really about three days and it kind of dragged on, and you know, in an odds and ends way and some people did it. But just the fact that we were able to move our little finger that much, that electrified the working people of this area. . . ."

He ended the speech by saying,

"See, now what we're asking is for people to make that little tiny gesture to show that we're willing to inconvenience ourselves a little bit and to begin to shut down the most obvious machinery of war, such as, and I think it is a good target, that Computation Center. [applause and shouts of "right on. . . ."]

Immediately after Professor Franklin's speech, the chairman asked for a vote to choose between the Computation Center and Hoover. About 100 hands (primarily in front) voted affirmatively on the question of shutting down the former, whereupon the chairman announced that a majority favored this course. He said, "And so I would suggest that we go over there and visit it." At that point, a voice is heard calling, "Shut it down," echoing the comment made just before by Professor Franklin and the meeting's chairman.

As the crowd was leaving they were instructed,

"When people go over to the Comp Center, they should all go in a group and move relatively slowly so that the group can stay together. Also the meeting at 8 o'clock tonight in the Old Union Courtyard is a very important meeting because we can decide what we want to do tomorrow. There are some things that we can't close down now, but we can close them down if we get to them early in the morning."

3. Interpretation of the Meaning of Professor Franklin's White Plaza Speech.

a. *Professor Franklin's Own Interpretation*

There were several differing points of view regarding the meaning of the speech given by Professor Franklin. Professor Franklin himself in an affidavit dated February 24, 1971 described the meaning of his speech:

"Actually, in order to understand either the content of my speech or that of the rally itself, it is necessary to see it in relation to the events of the previous evening. The debate was essentially over the same issues, that is, whether to focus off campus or call for a strike on campus, and whether a strike could be effective. Much of the debate was repetitious of the previous night, but since most of the people at that meeting felt bound by the vote, those who had wanted to stop the munition train did not make their proposal. The main spokesmen for off-campus work were Bob Grant and Larry Diamond, who proposed doing precinct work to elect so-called peace candidates. It was my belief that these two were not being honest, and that their main purpose was to prevent any effective action and to advance their own political careers. It was with this in mind, plus a sense that many people were becoming very impatient with the idle debate of the rally, that I rose to speak. My intention was, as it had been the previous night, to build the anti-war movement on the campus. . . ."

He concluded this portion of the affidavit:

"Let's move our little finger again and begin to pick up where we left off with our strike last spring. Let's begin to shut down the machinery of war. I think that the suggested target of the computer center is as good a place to begin as any. So the content of the entire speech was to strike against the invasion of Laos. In making this speech, and the one on the preceding night, I thought that I was operating entirely within the precedent established during the invasion of Cambodia when the overwhelming majority of the faculty and students of the majority of departments and schools of the University voted to go on strike. For instance, my own department on May 4, 1970 voted overwhelmingly in favor of a strike for an indefinite period, demanding: 1. An immediate withdrawal of all American forces from Southeast Asia. 2. The end of political repression at home, in particular the government's systematic attempt to eliminate the Black Panther and other political dissidents; 3. The removal of ROTC from the Stanford campus by the end of the academic quarter; 4. An end to all war-related and secret research on the Stanford campus by the end of the quarter."

In the hearing, he described the meaning of his speech in essentially similar terms.

b. *Hearing Witnesses' Interpretation*

University Administration witnesses testified that the crowd was moved by Professor Franklin's speech and that he served as a catalyst to get the group moving in the direction of the Computation Center. One of Professor Franklin's witnesses felt that the Computation Center was an appropriate target. He said that a "shutdown" of the University could range from "blast various parts of it from the face of Santa Clara County" to taking over a building as had occurred at Encina Hall the year before. One of his witnesses testified that Professor Franklin was trying to bring factions together but didn't influence tactics already decided; two felt the decision to go to the Computation Center had been arrived at the night before and the purpose of the speech was to support a Cambodia-type strike; two thought Professor Franklin's speech was just educational; two thought that he was not as influential as a middle-aged salesman who had spoken earlier; one felt that the purpose of the White Plaza rally was to choose a target and to recruit more people.

4. Summary of Principal Points of Defense.

Several prominent elements recurred in defense testimony and argument on the White Plaza speech:

"(a) A widespread inclination to shut down the Computation Center, and to carry out a variety of disruptive activities, was formed over the preceding several days. It was justified in terms of Stanford's complicity in the war and the Gamut-H program at the Computation Center. It was consistent with long-standing antipathy to the war in Asia and to Stanford's allegedly vital role in the war. It was exacerbated by the current news of military action in Laos.

"(b) Such an inclination toward disruptive activity in general, and toward the Computation Center in particular, was widespread in and around the University, especially in the "movement." The persons inclined to these actions would have carried them out regardless of any role Professor Franklin might have had in encouraging, fostering or facilitating them.

"(c) Professor Franklin's speech had little effect on those present. It was political, analytical, and educational, rather than tactical. It presented no danger to persons or property.

"(d) He was simply advocating a voluntary boycott or legal strike at the Computation Center. Even if his speech could be construed as advocating disruption of the Computation Center, he had in mind no seriously adverse consequences only a vigorous mode of protest of the war and the University's role in it."

5. Analysis of Professor Franklin's White Plaza Speech, February 10

a. *Background and Foreseeable Consequences of Computation Center Occupations:*

The fact that potential for major damage within the Computation Center existed must have been well known to Professor Franklin. The mechanisms to achieve such damage were thoroughly identified during the Dinkelspiel meeting the previous night. Highly publicized computer occupations leading to extensive damage had recently occurred at other universities. Testimony indicates that the decision not to damage the computer in the face of eviction by the police was taken by the demonstrators *after* the occupation was in force. Professor Franklin could reasonably expect that an occupation of the Computation Center would involve great risks to the computer and to the members of the University community who rely upon it, including the staff of the Computation Center. It should be emphasized that the research and education of many people throughout the University were in jeopardy.

In some respects a computer plays a role in a modern university not unlike that of a library: it receives, catalogues, processes and stores information and it makes it available in various forms as required. To attack a computation center because some of its information is considered evil is little different from attacking an entire library for harboring a few evil books. Professor Franklin should have known that the occupation of the Computation Center would lead to an agonizing decision by the University administration whether to request police to evict the occupiers, thereby ending a costly seizure at the expense of an increased risk of damage.

The demonstrators showed no serious inclination to consider the genuine complexities of computer use. They made minimal inquiry about uses of the computer—considering only on-line medical use, and not investigating even that use thoroughly. They showed no concern for the relation of the computer to other problems involving human welfare. As a consequence of their action, 700 to 800 jobs were not run that day; no one knows how many more would have been impaired if the occupiers had not been evicted. The social cost of vigilante action in regard to computers or similar facilities can become very high.

We heard no evidence that demonstrators made any serious attempt to communicate with responsible officers of the University in order to inquire about the state of the Gamut-H program, or the ways in which research policies are administered in regard to computer use, prior to the forceful occupation of the Center. Indeed, one of Professor Franklin's witnesses testified that the Gamut-H program was known to the "movement" for a week or two, but a decision was made to delay its announcement pending a favorable moment for protest activity. The military action in Laos provided such an opportunity. If the news of Gamut-H could be held a week or two in private, why was instant action suddenly required on February 10? Professor Franklin and his witnesses agreed that advocacy toward shutdown of the Computation Center proceeded on the basis of publications and statements of The Inquisition; shutdown of the Computation Center was certainly not a last resort measure. Thus, a poorly checked complaint was made public after a tactical delay and then rapidly shifted into coercive action with only the most rudimentary attempt at negotiating the grievance. Finally, in view of the expressed rationale for forceful occupation of the Computation Center, it is noteworthy that the Gamut-H program was not even mentioned at any point in the lengthy tape recording of the White Plaza rally.

b. *The Speech Itself*

Professor Franklin urged the Board to consider his speeches in their full context. He particularly called our attention to protests at Stanford, to the events of the preceding few days, and to the Dinkelspiel rally of February 9. These have been summarized earlier. Throughout these turbulent events, a persistent difference of opinion is manifested between those who place primary emphasis on the University's role in the war and those who place primary emphasis on the role of the government. Professor Franklin clearly belongs in the former category. In a Dinkelspiel speech of February 9th and the White Plaza speech of February 10th, he is severely critical of the University's role in fostering the design and execution of the war. He strongly urges his listeners to direct their attention to the University, expressing hostility toward its trustees, administration, and some student body leaders. He views the University as centrally culpable in the war, and directs attention away from the federal government. This characterization of the University has the effect of justifying strong protest or retaliation.

Within this framework, the "movement" chose to focus attention on the Computation Center as a symbol and instrument of the war. The February 9th rally is full of angry references to the Computation Center—the culpability of its users, its vulnerability, its suitability for attack and possibly even for destruction. Professor Franklin must have been aware of this danger to the Computation Center—to its functions, its hardware, and to the large number of people who rely upon it in their work. These matters had been discussed extensively at the February 9th rally in which he was an active participant. He also took part in an investigatory march that followed the February 9th rally, a preparation for the likelihood of disruptive action the following day. He admits in testimony and argument that he gave strong support to the correctness of action against the Computation Center before, during, and after its occupation, specifically including the White Plaza rally.

In the main, the purpose of the White Plaza rally of February 10th appears to have been: (1) to increase the numbers available for protest activity; (2) to settle firmly on a target. In respect to (2) the Computation Center appeared to be the most likely target as a result of the February 9th meeting, but the Hoover Institution was still under consideration; two student leaders advocated nondisruptive political activity, but they were strongly criticized by Professor Franklin and others. Professor Franklin was a highly respected leader of a group advocating intense hostility to the University as well as disdain for nondisruptive modes of protest and for electoral politics. His White Plaza speech contains an approving reference to material damage to Stanford University, and his testimony on these events provides repeated justification for such damage. At White Plaza on February 10th, this orientation was brought sharply to bear on the Computation Center.

It is uncontested that at the White Plaza rally Professor Franklin concluded his speech by stating ". . . what we are asking is . . . to begin to shut down the most obvious machinery of war, such as, and I think it is a good target, that Computation Center . . ." and that subsequently the Stanford Computation Center, although officially declared closed, was forcefully occupied, resulting in shutdown of operation and minor damage. It is also uncontested that many of the occupies were in the audience of Professor Franklin's speech.

Professor Franklin has also asserted that a firm decision to shut down the Computation Center was already reached on February 9, and that therefore his speech on February 10 could not have contributed to the subsequent course of events. The evidence does not support the assertion. The meeting on February 9th held in Dinkelspiel Auditorium identified a spectrum of options for action, and two—action against the Hoover Institution and against the Computation Center—were left as leading candidates. The preceding summary of Dinkelspiel (February 9) and White Plaza (February 10) rallies makes this clear. Moreover, several witnesses (both for the administration and for Professor Franklin) testified that *specific* action against the University was not settled, or that they were undecided whether to participate in the Computation Center action until they attended this rally at which Professor Franklin gave the final speech.

C. Professor Franklin's Use of the Term "Strike"

The Board has found it helpful to pay special attention to the context for subsequent events provided by the Dinkelspiel rally of the night of February 9th. Both the University Administration and Professor Franklin devoted considerable attention to this background. In that connection, we think it important to note that Professor Franklin himself placed special emphasis during the hearing on the importance of that rally for providing context. For that reason, we find the introduction to his own analysis of that topic in this supplementary written brief (page 106) rather unreasonable. He says "The administration attempts to prove that the real meaning of Franklin's speech can be found lurking in several statements gleaned from the lengthy meeting at Dinkelspiel." If the Administration did so, it was at Professor Franklin's own invitation.

Our view of the matter is that Professor Franklin was right the first time: the Dinkelspiel rally *does* provide important insights into the speech that follows. It is analyzed extensively above, in the section on "Background to Events of February 10, 1972." We here comment on the view presented by Professor Franklin in his supplementary written brief. The main thrust of his argument is that the rally was a very general discussion, organized primarily along the lines of planning a strike; he says (p. 109) "The reason there were no plans for a picket sign is that there were no plans for anything beyond a meeting and a general sort of strike." He also asserts (p. 107) "There was never a real discussion of the variety of ways the Computer Center could be shut down except along the general lines of a strike."

In fact, his account tends to select heavily those speeches from the Dinkelspiel rally that emphasize the non-coercive aspects of the kind of "strike" he is talking about. For example, he ignores the following speech early in the rally:

"And so the only reason that we would attack the University would be on the grounds of effectiveness, though I would try to direct the demands toward specific things in the community and that are attackable like the Computation Center. . . ." In addition, there are two other early calls to stop talking and commence action. Later, Braunstein recommends a range of actions, including some that lie well outside the range of legal actions, that is subsumed under the term "strike" when used in its normal context.

Indeed, the term "strike" clearly has a different meaning to members of the "movement" at Stanford than it does in ordinary usage. When preceded by the modifying words "Cambodia-type," it encompasses a wide range of actions, including some that are legal and some that are illegal. The introduction of the concept of a "mobile strike," which takes place well before the end of the Dinkelspiel rally, was clearly a modification that the number of people was inadequate to close a number of things simultaneously, but that they might succeed if targets were attacked *seriatim*. It is clear that in *all* of these uses, the term "strike" encompasses a wide range of activities. In his supplementary written brief, Professor Franklin borrows the conventional meaning from the labor context, and then employs it as a flag in which to wrap a much broader range of conduct. All of the speakers who spoke late in the rally, after they had developed some consensus around the notion of "mobile strike" and were discussing a target, used language that clearly involves the expectation of being confronted by the police, moved out of buildings, and the like. Persuading workers to leave their jobs, standing in the doorways to bear "moral witness," picketing—these activities get little or no prominence in the discussion, although Professor Franklin tries to persuade us that these activities are really the dominant elements of a "strike." The context so established is not substantially changed, in our view, by the earlier speakers at the White Plaza rally.

The words "shut it down" imply a cessation of function that can sometimes be achieved by a strike, strictly defined, but may be achieved by other means as well. From a careful reading of the Dinkelspiel transcript, we are persuaded that the context for the White Plaza rally was one in which the prospective shutting-down of the Computation Center was to be achieved *primarily* by means going beyond the range of legal "strike" tactics. We find Professor Franklin's use of the term "strike" disingenuous, and we believe that his own exhortation to "shut down" the Computation Center was, given that context, an intentional invitation to employ such extra-legal means as might be necessary.

In summary, could Professor Franklin reasonably have expected that his speech would have contributed to the likelihood of the occupation? Professor Franklin asserts that he was only advocating a legal strike or voluntary boycott of the Computation Center, or alternatively that he gave no thoughts at all to the consequences of his speech. The preceding analysis of the Dinkelspiel rally makes this a highly dubious proposition. Although there clearly were discussions of a "strike" against Stanford University during the rally at Dinkelspiel and during the early portions of the White Plaza rally, there is no evidence for preparation for a legal strike or boycott: no plans for picketing; no direct effort at persuasion of the workers of the Computation Center to withhold their labor or for the users of the Center to boycott the facility. In the present context, the term "strike" was a kind of euphemism for a broad range of protest activities, including peaceful, coercive and violent activities. We conclude that Professor Franklin must reasonably have expected that his advocacy of "shutdown" would be interpreted by at least a substantial portion of the audience as calling for forceful disruption of the operation of the Center. Indeed, we believe that this is what he meant.

Conclusion

We conclude that Professor Franklin must reasonably have expected that his speech at White Plaza on February 10, 1971, would increase the likelihood of illegal occupation of the Computation Center immediately following his speech, and that there was risk of serious damage to the computer and its users. The Board finds the evidence strongly persuasive that Professor Franklin urged and incited his audience at White Plaza towards disruption of University functions and shutdown of the Computation Center. We therefore sustain charge No. 8.

FINDINGS OF FACT: COMPUTATION CENTER INCIDENT

A. Charges

The relevant University charge concerning the Computation Center incident is contained in paragraph 9 of the "Statement of Charges."

9. Further, on February 10, 1971 and in connection with the activity at the Computation Center described in paragraph 8, students and other persons were arrested for failure to disperse after orders had been given to clear an area around the Computation Center. Professor Franklin significantly interfered with orderly dispersal by intentionally urging and inciting students and other persons present at the Computation Center to disregard or disobey such orders to disperse.

B. Findings of fact

1. *Occupation of the Computation Center.* Shortly before 1:00 p.m. on February 10, 1971, the Computation Center building was closed on the basis of a telephone order from Provost Miller, but the computer was kept running. Handwritten notices were posted on the doors of the Computation Center; doors, windows, and gates were locked; and two campus policemen were stationed at the front door. Provost Miller had been informed that a group was proceeding from White Plaza to the Computation Center. An estimated 100 to 200 demonstrators arrived at the Computation Center shortly after 1:00 p.m. There were apparently no previous collective decisions or explicit understandings by the group as to what actions were to be taken or as to whether to damage the computer. Some subgroups may have had previous understandings; different individuals testified as to different expectations. There were no plans for formal picketing with picket signs as in many "strikes," and there had been no attempt to communicate with Computation Center workers about a strike after the Dinkelspiel meeting of February 9.

At about 1:15 p.m., forcible entry was made into the Computation Center; the gate was scaled and the back door forced. About 50 demonstrators then entered through the back door. As they moved through the building, they opened other entrances and admitted other demonstrators. Power to the building and to the computer was shut off at 1:20 by pulling a master switch located near the back door. Some 100–200 more persons entered and milled about inside the Computation Center. Some demonstrators, according to officials of the Center jimmied the door and entered the machine room. They went to the 2301 drums, yanked out wires, and flipped switches behind gates or doors on two of the data storage drums. Other demonstrators in that group went directly to the racks where tape reels were stored and began looking through them. The telephone lines were made inoperative. Once demonstrators were inside the building and the doors were thrown open, the Stanford police did not try to stop movement in and out of the building. Some of the demonstrators posted themselves at the doors, and to some extent controlled entry and exit, for example, denying entry to a photographer.

During this period, there was a continual movement of demonstrators into and out of the Computation Center. It is agreed that some time during the occupation approximately $800 of physical damage was done to the premises and contents of the Computation Center, not counting any costs of shutdown time on the computer. This damage was partly caused by the pulling of the wires and damage to the 2301 unit, partly to the premises. Two fire hoses were taken out of racks and valves opened, but the water had been turned off earlier by the University. The printout of each of three printers was removed. It is agreed that no substantial damage was done to the computer itself. However, the shutdown, lasting until about 8:00 p.m., made it impossible for the Computation Center to process 700–800 student and faculty jobs scheduled for that period. Montgomery testified that these jobs would be run during the succeeding two weeks.

Given the fact that the demonstrators illegally seized the Computation Center and made impossible continuation of its regular activities, the Board does not consider further details on the conduct of the occupiers important for Charge 9 against Professor Franklin. It should be noted that the occupiers refused to obey the requests to leave the building required by law—by Bruce Wiggins on behalf of Stanford University and by Officers Marron, Rosa and Tamm of the Santa Clara Sheriff's office. However, as a context for other events, we note briefly some undisputed facts concerning the occupation.

Professor Franklin met his 1:15 class. Only seven of the 150 registered students were present. He believed the others were at the Computation Center and suggested moving the class to the area outside the Center. Professor Franklin did not hold his class because he testified, many of his students were inside the Computation Center. It is uncontested that he remained outside the Computation Center, talking with individuals about a variety of topics prior to the arrival of the police.

Bruce Wiggins, Stanford Director of Public Safety, arrived at the Computation Center soon after its occupation. He walked through and around the building with Assistant Fire Chief Barr. Soon thereafter, around 2:00 p.m., he telephoned the Santa Clara Sheriff's office and told them of the occupation.

Shortly after 2:00 p.m., C. D. Marron of the Santa Clara Sheriff's office arrived at the Computation Center. He too walked through the building, and then went to Redwood Hall nearby to confer with Wiggins and others, including Messrs. Rosenzweig and Schwartz from the University administration Sergeant Tamm and Captain Rosa of the Santa Clara Sheriff's office, and an Assistant District Attorney of Santa Clara County.

At about 3:00 p.m., it was decided that Wiggins should return to the Computation Center and issue, in the name of Stanford University, a declaration of trespass, declaring the occupation a violation of Stanford University regulations and ordering the occupants to leave immediately. Wiggins used a bullhorn as he moved through the building making this declartion. Wiggins claims he was jostled, pushed and shoved; it is agreed that his announcement was greeted by jeers and catcalls, and that virtually no one left the building in response to his order. He then returned to the group at Redwood Hall.

At some point, probably after 3:00 p.m., an informal meeting was held by the demonstrators. It was chaired by Janet Weiss, near the door of the Computation Center, partly inside and partly outside the building. Although reports on this meeting are somewhat confused, apparently there was an informal discussion as to what to do, including whether to continue the occupation of the Compuation Center, what to do if the police came, and whether to damage the computer. The discussion, according to Harry Press, a University witness, included talk about what would be the impact on student support if the computer were wrecked. Janet Weiss is reported to have stressed the political neutrality of machines, urging that they not be damaged. Apparently agreement was reached to stay in the Computation Center until the police came, and then to leave voluntarily without damaging the computer. Station KZSU, misunderstanding this vote, reported that the occupiers would damage the computer, but Janet Weiss asked them to broadcast a retraction of that report. There may have been other, smaller meetings of the occupiers during the afternoon; testimony on this question is confusing.

At about 4:00 p.m., the group in Redwood Hall decided that Messrs. Marron, Rosa, and Tamm would go back to the Computation Center and again try to persuade the occupants to leave voluntarily. They did so, asking what the occupants wanted, calling attention to the vulnerability of the computer and the data it contained, and to possible injury to persons in the University and in the hospital. The responses of the demonstrators were that the occupants wanted to get the Gamut-H program, SRI research, and war-related research out of the Computation Center; the precise nature of all the demands is unclear. Marron testified that there were scattered shouts of "Down with SRI" and "Get SRI out." Few if any of the occupiers left. The three officers returned to Redwood Hall.

After further discussion by the group in Redwood Hall, the three officers again returned to the Computation Center. The police announced to the occupants that they had been informed that the SRI work had been stopped at the Computation Center. Some demonstrators replied that such word was not good enough, and they wanted a written statement from President Lyman. After a brief discussion, the police said there was nothing more that could be done, and the three officers returned again to Redwood Hall.

2. *Order to Disperse and Police Arrival.* Police officers had been called and their arrival was imminent. Just before they were expected to arrive, Marron went out to the front steps of Redwood Hall, and, using a bullhorn, he made a formal statement declaring the occupation of the Center and its immediately adjacent territory unlawful and ordering the demonstrators to disperse, also stating that they were subject to arrest if they did not do so. It is uncontested that he made this announcement three times, pointing in three different directions, with one aimed directly at the people inside the Computation Center and the two others at the people in the area outside the Computation Center to his left and right. There was no response to these orders to disperse, although Professor Franklin's witness Litterman said he heard them.

Very soon thereafter, the police arrived and entered the Computation Center. Lookouts for the occupiers observed the police arrival and notified those inside, so that the occupiers left the building rapidly just as the police were entering from another direction. The police made no arrests in the building, although they indicated that they would have made arrests if the occupiers had remained in the building. Marron entered the building immediately after the police, continuing to declare the assembly an unlawful one, ordering dispersal, and threatening arrest for any who did not obey the order to disperse. Since the Computation Center had been cleared, he then went outside and walked clockwise around the building continuing to give his order to disperse. He continued his series of announcements and, by his testimony, returned to the front of the Computation Center about eight minutes after the arrival of the police. A double line of police had been formed in front of the Center. Marron repeated his complete order at least three or four times in front of the Computation Center, stating that the area from the Computation Center to Jordan Way was to be cleared. Some demonstrators did not hear or did not know the extent of the prohibited area. Marron testified that ordering dispersal from a wide area was common police practice. He testified to his concern that the police officers under his command would be vulnerable to rock-throwing and possible injury if the demonstrators were permitted to stay close to the police lines and the building which had just been cleared. As long as a confrontation between demonstrators and police persisted, indefinite police presence would have been necessary to protect the building and computer.

As police lines were formed in front of the Computation Center and as Marron repeated his announcement, some clusters of demonstrators remained in front of the police line, perhaps six to ten feet away, chanting "Pigs off campus" and other slogans, and loudly questioning the legality of Marron's order to disperse. These demonstrators formed several clusters; they included a number of the "movement." Other demonstrators, faculty observers, students, and passersby were farther from the police line in two grassy areas and in the park lot; they were less active.

After leaving the Computation Center, the small clusters of demonstrators near the police lines made no movement to withdraw in response to Marron's repeated order. At first the more distant persons also did not withdraw. Professor Franklin, Marron, and other witnesses who were near the grassy areas testified, however, that the more distant crowd began to withdraw as the order to disperse was repeated. Professor Franklin, in his affidavit prepared shortly after the event, stated that he believed "most" of the crowd was beginning to move back; in his oral testimony at the hearing he stated that he now believes that a smaller number was beginning to move away—perhaps only more than half, or fewer. Marron, Moses, and Waterman, testifying for the University, and Professor Franklin's witness Owen Blank in a direct report to KZSU from the scene, all agreed that the portion of the crowd away from the police lines was definitely moving back in response to the repeated announcements to disperse. Most of Professor Franklin's witnesses, primarily individuals standing near the front portion of the grassy area nearest the Computation Center, testified that they did not see any significant part of the crowd moving back. This apparent contradiction in testimony is explainable, in part at least, by the fact that those witnesses who had reason to be observing the rear part of the crowd saw the movement away, while those who were focusing their attention on the police lines and events nearby did not see the movement of the rear portion of the crowd.

3. *Professor Franklin's Role.* At this stage, Professor Franklin moved forward and stood in front of a cluster of demonstrators who were loudly stating that the order to disperse was illegal. Some of Professor Franklin's close political associates were part of this cluster. They were giving a clenched fist salute while vociferously denouncing the police order. Professor Franklin, according to testimony and photographs, stood quietly in front of this active group and observed what was occurring. He then moved closer to Tamm, who was near the police line, and argued briefly and vigorously that the dispersal order was illegal and he had a right to remain as a faculty observer. Tamm disagreed on both points, pointing out that Franklin was not on the official list of faculty observers supplied by the President's Office. Professor Franklin then wheeled and strode toward Dean Lincoln Moses. Moses was some 30-50 feet farther back, perhaps 40-60 feet from Tamm, and was beginning to leave in response to the police order. Professor Franklin called out, "Lincoln Moses!". Professor Franklin shouted some words like "God damn it, this happens every time the police charge. The faculty observers are all gone!" He argued loudly that Moses should not leave, that the order to disperse was improper, and that faculty observers, like Moses, should remain to observe possible police brutality. There is substantial agreement on what Professor Franklin said to Moses in this brief but loud set of statements. It is further agreed that Professor Franklin was heard by a nearby circle of 10 to 12 persons and by others farther away; although he was close to Moses, Professor Franklin was shouting his arguments. Professor Franklin testified that he was being careful while shouting at Moses not to use language in describing the police which would reduce the likelihood of his persuading Moses to stay. Professor Franklin's statements to Moses took about a minute and a half. Franklin then headed back toward the police line, some 40-60 feet away.

Witnesses for the University testified that Professor Franklin was shouting loudly as soon as he took his first steps back toward the police lines, angrily denouncing the police order as illegal. He made his way back to Tamm, some 50 feet distant, through the substantial group remaining in the first grassy area. The items of dispute are whether Professor Franklin was addressing his shouts to the police or to others in the crowd when he started shouting, and whether his shouts included exhortations that people not leave.

4. *Testimony that Professor Franklin urged and Incited the Crowd to Stay.* Moses reports that at first he was convinced by Franklin's statement that he should stay as a faculty observer and started to follow Franklin back toward the police line. However, he goes on:

> "He meanwhile continued talking. He turned his back to me and went toward the line, talking loudly and . . . waving his arms or gesticulating. . . . And as he went, a group of people formed about him and went with him. And whether he was addressing only them or generally all who could hear I would not say."

On cross-examination, Moses said:

> "Then as you [Franklin] went on, you appeared to me to be encouraging as many people to come as would come. And that is what turned me around. . . . I felt that I was just being recruited to be one more person present. . . . I took the whole crowd to be provocative of the police."

Under further cross-examination by Professor Franklin, Moses reiterated this testimony and his statement that Professor Franklin was urging people around him to disobey the police order and return. Although he admitted it was "conceivable" that Professor Franklin's words were solely addressed to the police, he said that his understanding was clearly to the contrary.

Moses was asked by Professor Franklin on cross-examination whether Professor Franklin could not have been merely urging faculty observers to join him in going towards the police lines. Moses responded that Professor Franklin was not addressing his remarks to faculty members but to the entire crowd or all within the sound of his voice. Moses said, You spoke to me about faculty people. And then as you went on you appeared to me to be encouraging as many people to come as would come. And that is what turned me around."

Waterman testified that before Franklin approached Moses, ". . . . the crowd was definitely starting to drift back this way . . . in fact they were drifting back in appreciable numbers. . . . I definitely had the impression that the crisis was past, that people were leaving, and that the situation was about to calm down."

He then testified that he observed Franklin at this point crossing the grass in front of Redwood Hall toward the police, although Waterman was not sure whether before or after the Moses encounter, ". . . shouting to the crowd, telling them to come back, challenging the right of the sheriff's men to declare it an illegal assembly, and saying that they had a perfect right to hold a peaceful meeting and that they should return to do so. . . He seemed to be shouting in general to the bunch that were leaving and had gotten about as far as the second grassy plot."

Broholm, reporting from the scene for KZSU, reported (a tape recording is available) first that "the crowd was definitely moving back"; and then that Professor Franklin "was haranguing the crowd to stay" and resist the order to disperse, and "was berating the crowd for leaving." On cross-examination by Professor Franklin, Broholm confirmed this on-the-scene report: "After you turned away from Moses you turned back in that direction and began yelling." And again, "You turned around, faced back toward the police . . . and you started yelling in that direction." It is important to note that Broholm placed the Moses-Franklin encounter and subsequent Franklin shouting near the edge of the crosswalk in front of Redwood Hall, at least 60 feet from Tamm and Marron. Under further cross-examination, Broholm said that he now doubts the accuracy of his on-the-scene report that Professor Franklin was "haranguing the crowd to stay," and that instead Professor Franklin was probably shouting at Tamm. He did not, however, change his estimate that Professor Franklin began shouting in an area some 60 feet from Tamm, who was separated from Professor Franklin by a substantial number of individuals in the first grassy area. We believe that Broholm's on-the-scene account can be presumed more accurate than his recollection eight months later.

Owen Blank, another KZSU announcer, also reported from the scene (recorded on tape) that the crowd in the grassy areas was moving away at first, and then turned and moved back toward the police line as Professor Franklin was shouting. As Professor Franklin's witness, Blank attached the accuracy of the taped reports by Broholm and Blank on Professor Franklin's role in reversing the crowd's dispersal, but Blank's testimony when related to the times on the taped reports instead confirms the on-the-scene reports by Broholm and Blank. Although Broholm and Blank apologized to Moses for errors in Broholm's reporting at the time, these errors concerned Moses's alleged assent to Professor Franklin's urgings, not Professor Franklin's own behavior.

Professor Edward Begle testified that he saw Professor Franklin apparently urging a group of young people to stay at the gathering, but it is not clear whether this was the group of people around Moses and the details of his testimony are not confirmed by others.

The witnesses who heard Professor Franklin's words testified that he, as he strode back towards Tamm, was angry and shouting, repeating the same arguments as before, that the order to disperse was illegal and the crowd should not leave. Moses', Waterman's and Broholm's testimony was cited above. Professor Franklin's witness Doering testified that "He [Professor Franklin] walked away from Moses a couple of paces, and I think he said some things on the way." Doering places the Moses encounter at about the group of birch trees furthest from the police lines, some 30–40 feet away.

As Professor Franklin returned to confront Tamm, an indefinite number of other persons moved along, beside, or behind him. In moving back toward Tamm, Professor Franklin moved through a substantial number of persons between Moses and Tamm. These included some of Professor Franklin's political associates (identified in pictures) and others not identified. Thus, it seems certain that Professor Franklin's shouts against dispersal would be clearly heard by these persons, whether or not they were primarily addressed to Tamm, and that Professor Franklin must surely have known that they would be received by at least these demonstrators through whom he advanced, whether or not they were heard by persons behind Moses and Professor Franklin in the second grassy area.

5. *Testimony that Professor Franklin Did Not Urge and Incite the Crowd to Stay.* On the other hand, Professor Franklin and many of his witnesses testified that Pofessor Franklin spoke only to Moses when he strode from Tamm to Moses, and that he spoke only to Tamm when he turned from Moses back toward the police line. They described his comments to both as not intended to incite other people to disobey the police order. One of his witnesses, photographer Harrison, described both the scene and Professor Franklin's following confrontation with Tamm as tranquil." Another witness, Professor Switzer, described the atmosphere as a "picnic." But these evaluations are specifically controverted by pictures, tapes and other testimony. Nearly all, including Professor Charles Stein who was near Moses, deny hearing Professor Franklin directly address anyone other than Moses or Tamm. Most of Professor Franklin's witnesses testified that they did not hear, or did not remember, what Professor Franklin was saying as he strode forward, until he was close to Tamm (e.g., Pace, Lonsdale, Hunkeler). They report that they heard him shout only as he neared Tamm, and then only at Tamm. This, however, is not inconsistent with Moses', Waterman's and Broholm's testimony that Professor Franklin was shouting earlier when much farther from the police. Most of Professor Franklin's witnesses were nearer the police line, mainly facing the police, and hence did not observe Professor Franklin's entire movement forward. But Doering did, and testified that Professor Franklin spoke as soon as he left Moses. Hunkeler did not have Professor Franklin under constant scrutiny and could hear only a few words.

Professor Franklin testified that he began to shout at Tamm from a distance because he wanted to be sure that Tamm understood why he was returning to the police line and that his action was intended to be conciliatory and to lessen the danger of a police charge and arrests of the demonstrators there. But that he should have done so at such a great distance seems highly implausible under the circumstances, and conflicts with considerable testimony from witnesses from both parties. Clearly, Professor Franklin did, as he stated, address Tamm, saying, "Don, this is ridiculous . . ." as he approached Tamm and Marron, apparently from a distance of five to ten feet; this is confirmed by his witnesses who were near the police line.

With one exception, Professor Franklin's own witnesses did not support his version of events as he left Moses. The only witness for Professor Franklin who gave evidence contradictory to that of the Univerity witnesses was Downey, who testified that, although he was not sure, Professor Franklin was not saying anything as he left Moses and walked towards the police lines. It is likely that Downey was confused about the timing of his interaction with Professor Franklin. Downey testified that he never was with Professor Franklin until after the encounter with Moses, but pictures show Downey standing with Professor Franklin and the group shouting at the police at a time identified by Professor Franklin's witnesses as prior to his words with Moses. With this doubtful exception, Professor Franklin produced no witness who contradicted the testimony of Administration witnesses who observed his shouting as he left Moses at a considerable distance from the police lines.

Professor Franklin was apparently himself confused as to the focus of his confrontation with Moses in relation to the police lines, and, in his testimony, he minimized the distance from the police lines. He testified that he was only a few steps away from Tamm when he turned away from Moses.

One witness for Professor Franklin, Stein, supported this spatial image by testifying that Professor Franklin was about 15 feet from the police lines. No other witness for either party supported Professor Franklin on this point; indeed, five witnesses for Professor Franklin directly contradicted him in their testimony.

6. *Franklin-Tamm Confrontation and Police Charge.* It is agreed, and supported by photographic evidence, that after Professor Franklin approached Tamm, a substantial number of people, approximately 30, closed in around and behind Professor Franklin as he angrily confronted Tamm. Professor Franklin testified that he was aware of people moving in from both sides but he didn't know how many newsmen were present. Some witnesses, including Professor Franklin's witness, Litterman, testified that the crowd threatened to engulf the police officers and Professor Franklin. Professor Franklin and Tamm stood face to face shouting angrily at one another. Witnesses of both parties described the situation as very tense. Professor Franklin was repeating his basic arguments and Tamm was denying the validity of both.

After a very short interval, two, perhaps more, policemen moved rapidly from behind Tamm and Marron to try to arrest Professor Franklin, but Professor Franklin slipped away from them, perhaps with the help of some of his friends. At almost exactly the same time the police line moved forward on the demonstrators in what is commonly called a "police charge."

We note, parenthetically, that we do not consider Professor Franklin's acknowledged urging of Moses and other faculty observers to stay to be objectionable under the charge. Formally designated faculty observers were asked by the University administration to be present, even though some, not identified to the police, were apparently struck during the charge. The presence of faculty observers could have been expressed to reduce the risk of injury to persons.

7. *Findings of Fact.* The Board finds the evidence strongly persuasive that: (a) the police order to disperse was clearly reasonable, given the illegal seizure of the Computation Center, possible serious damage to the computer and data stored there, possible danger to police and demonstrators outside after the building was cleared, and the need to return the Center promptly to normal action without police presence; (b) while some demonstrators refused to disperse after the building was cleared, a substantial portion of the crowd was moving back in response to repeated police orders, prior to Professor Franklin's intervention; (c) Professor Franklin played a central role in reversing the movement of the crowd to disperse and his shouts and behavior significantly increased the likelihood that a substantial number of those present would stay; (d) Professor Franklin intended his shouts after leaving Moses to be heard by, and to influence the crowd to remain at the scene in defiance of the police order to disperse. However, even if he did not directly address his shouts to the crowd, he must reasonably have expected that a result of his shouts would be to incite members of the crowd to disobey the dispersal order, increasing the risk to themselves; Professor Franklin's conduct and shouts cannot reasonably be interpreted as merely attempts to persuade Moses and other faculty observers to stay, to conciliate the police charge or arrests with their attendant dangers to the demon-

strators. We comment further on these findings in the following section.

C. Supplementary evidence and findings

A number of points in the testimony require special attention in order to amplify and interpret the findings of fact indicated above.

1. *Charge of University Negligence.* Professor Franklin suggests that the University administration was negligent in not announcing to the occupiers of the Computation Center that work on the disputed SRI contract had, in fact, been halted one or more days before, because this information might have been sufficient to induce the occupiers to leave the Computation Center peacefully. Alternatively, he implies that had some official of the University explained that an investigation was under way, this might have induced the occupiers to leave the building voluntarily without the police having to be called.

In fact, SRI had apparently stopped using the computer for the GAMUT-H and its other programs prior to February 10, but it had not informed Stanford of any policy decision regarding GAMUT-H or other SRI projects on the Stanford computer. The SRI accounts had not been cancelled. Moreover, the Stanford administration at that time believed, on the information received from SRI, that there was no violation of University policy; SRI had indicated to the University administration that the research in question was not classified and was available for publication. Thus Provost Miller testified that he did not believe it would be proper for the University to issue any statement pending receipt of information on SRI's position on the whole matter. Moreover, the Computer Facilities Committee of the University was meeting on the afternoon of February 10, during the occupation, precisely to discuss the issues raised by the GAMUT-H program.

We do not agree with Professor Franklin's argument that the University administration's refusal to negotiate with, or report to, the Computation Center occupiers justifies the refusal of the demonstrators to leave the Computation Center which they were illegally occupying. Some persons believe the University administration would have been well advised to issue a public statement that it was investigating the whole situation, although we find the University administration's position on the matter easy to understand, given the uncertainty about SRI's position and the fact that the relevant University committee was in fact meeting at 2 p.m. on the afternoon of the occupation. But even if the University officials involved were guilty of faulty administrative judgment, this would in no way justify the illegal occupation of the Computation Center and its continuance in the face of both University and police orders to disperse. Moreover, it is important to remember that the protestors had made no direct effort vis-a-vis the administration to halt the GAMUT-H work beyond one unsigned leaflet, although they had, according to their own testimony, known of it for at least a week or two; the Computation Center sit-in was in no sense a "last resort" step after all legal avenues were exhausted. The demands of the occupiers were vague, and we see no reason to believe that they would have left the Center merely on notification by the administration that the problem was under active investigation.

2. *Argument that Police Order to Disperse was Unreasonable and Illegal.* Professor Franklin argues that the police order to disperse was unreasonable and unlawful—that the crowd outside the Computation Center was peaceful and within its rights of free assembly as guaranteed by the First Amendment to the Constitution. Thus, not only was he within his constitutional rights in refusing to disperse and urging others not to disperse, but indeed he was following his duty as a citizen and a professor in so acting.

California law clearly gives to police the authority to disperse illegal assemblies and sets out the legal requirements for such orders. Only a court of law, which we are not, could finally determine whether in fact the police declaration of illegal assembly and the order to disperse in this instance was legal. In our judgment, the police order to disperse was clearly reasonable and, as we understand the law, was probably legal as well. An illegal seizure of the Computation Center had occurred, and both University and police officials were understandably concerned lest serious damage be done to the valuable equipment housed there and to the even more valuable data stored there. It was widely known that major damage to computers, totalling millions of dollars, had been done to other university computers.

The order declaring the occupation of the Computation Center an illegal assembly and ordering dispersal was a single order aimed at the occupiers of the Computation Center when they were inside the building and at those participating in the demonstration outside the building, both before and following its evacuation. Marron's testimony on this point is clear, and it is confirmed by one of Professor Franklin's witnesses. He began giving the complete order before the arrival of the police and continued with the same order during the evacuation of the Computation Center and following the evacuation when part of the demonstrators stayed close to the Computation Center building. That this order to evacuate the building was fully warranted can hardly be denied. It was that same order that insisted that the demonstrators withdraw a substantial distance from the building being evacuated.

Moreover, we conclude that the order to disperse back to Jordan Way outside the building was reasonable on its own merits as well. The police knew that violence had occurred on the Stanford campus during police-demonstrator confrontations several times during the past few years, the precaution of moving the crowd back a substantial distance from the police line was understandable, and was probably calculated to lessen injury to both the police and the demonstrators. Thus we conclude that the police order declaring the demonstration an illegal assembly and ordering dispersal was clearly reasonable in these circumstances.

Professor Franklin may have had the right as a citizen briefly to protest the police order which he believed unreasonable. But, especially given the strongly negative police response to his first protest which he himself noted, he surely did not have the right to increase the risk of injury to others by urging them to stay and disobey the police order.

3. *Argument that Professor Franklin's Action was Aimed at Conciliation and Reducing Danger to Those Present.* Professor Franklin argues that his action outside the Computation Center was aimed primarily at protecting demonstrators from injury or arrest at the hands of the police—that his argument with faculty observers (and others) to remain and with the police against the legality of the dispersal order was aimed at avoiding such danger to the demonstrators. Some of his witnesses testified that in their judgment Professor Franklin's purpose was conciliation and avoidance of danger to the demonstrators.

We find it plausible that Professor Franklin may have believed that he was acting to protect the rights of his friends and coworkers in the "movement" in some of his actions. It is clear that those in the small group clustered in front of the police line as the larger group of demonstrators moved back were largely members of the "movement," including several of its best known participants. It thus became increasingly likely that these individuals would be in the forefront of a police charge and most likely to be arrested if, in fact, a charge did occur. That Professor Franklin should endeavor to prevent the isolation of these individuals from the rest of the group of demonstrators and passersby is understandable.

But that he believed that his actions were basically conciliatory and aimed primarily at lessening the likelihood of a police charge and arrest is difficult to accept. His behavior was surely encouraging other people to remain at greatly increased risks to themselves. Shouting loudly and angrily at either faculty observers, the police, or others in the crowd is hardly calculated to calm crowd or police behavior, or to lessen the likelihood of violence. Thus, Professor Franklin's loud shouts as he turned from Moses some 40–60 feet from the police could hardly have been calculated to calm the situation. He apparently addressed Tamm by name only after he had approached within 10 feet or so of the police; surely he would have done so sooner had his main goal been to persuade Tamm, and he would not have shouted to the crowd upon turning away from Moses. Professor Franklin described Tamm during the second confrontation as "more immediately hostile than I had ever seen him before." Moreover, Professor Franklin himself testified that he knew "for a certainty" that a police charge or arrest would occur under such conditions once the police line-up occurred and the order to disperse was read. He testified that he knew of no case where such a situation was not followed by a police charge or arrests. On his own testimony, he had these points in mind prior to his discussion with Moses and his shouting return to confront Tamm. Several of Professor Franklin's witnesses testified that they too thought a police charge to be highly likely or inevitable, and became even surer when they saw Professor Franklin striding back to confront Tamm the second time. Given this testimony, it is difficult to accept the argument that Professor Franklin seriously hoped by his actions to eliminate the possibility of either a police charge or arrests outside the Computation Center.

It is difficult to believe that Professor Franklin's duty as a professor encompassed using others to stay and confront the police when he felt certain that the result would be a police charge and arrests, with a danger of serious personal injury (which he testified is likely whenever a police charge occurs). He testified that he personally was resolved not to give way to fascism and was going to stay and confront the police no matter what happened. He testified, as did several of his witness, that dispersal would be a political defeat for the "movement" and an important victory for the police.

Although Professor Franklin felt certain, or almost certain, that a police charge and arrest would ensue soon, he did not advise any people in the demonstrator's group, either those in the "movement" or other students, of the danger of a police charge, possible injury, and arrests. Professor Franklin and some of his close political associates testified of their awareness of the impending police action at a time when others, less experienced, did not anticipate any trouble. Professor Franklin testified:

"My own experience in having been in just lots and lots of police confrontations, is that if an order is given declaring something an illegal assembly, telling people to disperse, once that takes place then there are basically one of two things that are going to happen. Either the pigs are going to charge the people or they're going to move for a mass bust.

"I don't think I've ever seen a declaration of an illegal assembly—maybe I have but I certainly can't remember—I've never seen a declaration of an illegal assembly not followed by one of those two actions. Now it can be seconds; it can be minutes. Sometimes they can declare an area an illegal assembly and then nothing happens for some period of time and they're moving what's really happening is they're moving in for a mass bust. . . .

"And one of the signs you look for in a police line prior to a charge is whether—one thing is the visors. The other thing is whether they're smoking or not. If they're not smoking then you look upon that as, you know, a charge could take place at any time. And of course, one of the things that they try to do is to make the charge unexpected. So once you've got in a situation the charge could take place the next second or it might not take place for some time, but something is going to happen."

Professor Franklin had difficulty explaining his failure to warn others. He testified:

"As far as the question of whether I talked to demonstrators on the lawn of the computer center about the possibility of arrests and beatings and so forth: I just—I mean, I may have had—it's possible that I talked to some people about something about it. But I certainly don't remember that at all, any more than I remember. . . . Well, I'm sure that I didn't urge anybody to stay and I'm sure I didn't urge anybody to leave, if that's what—if that's what the point of that question was."

4. *Did Professor Franklin Intentionally Urge and Incite People to Remain in Defiance of the Police Order to Disperse?* The charge states that "Professor Franklin significantly interfered with orderly dispersal by intentionally urging and inciting students and other persons present at the Computation Center to disregard or disobey such orders to disperse." The evidence seems to us convincing that the result of Professor Franklin's behavior was to help significantly to induce students and other persons present at the Computation Center to disregard or disobey such orders to disperse. But Professor Franklin argues that he did not specifically address any individual other than Moses and Tamm. He said, "I wouldn't take it upon myself to do that to people in that situation because I knew that people were defenseless in that situation." No witness testified that Professor Franklin directly addressed other specific individuals, although there is considerable testimony that he addressed the crowd in more general terms, urging it to resist the allegedly illegal police order to disperse. The question is whether these shouts and this behavior, not addressed to specific individuals other than Moses and Tamm, amount to intentionally urging and inciting students and other persons to disregard the police order.

We find the evidence strongly persuasive that Professor Franklin intentionally urged and incited students and others present to disregard or disobey the police orders. His purpose was to encourage others to remain. Except for his own denial, all percipient witnesses testied that Professor Franklin, after leaving Moses, directly addressed his shouts to the crowd. But even if he did not directly address the crowd, he must have expected the likely effect of his behavior under those circumstances to be to urge and incite others to stay. Professor Franklin surely would not need to have addressed each individual by name to have urged them to stay.

The conclusion that the incitement was intentional is reinforced by Professor Franklin's testimony that, even knowing the results of his actions, he would not have changed his behavior outside the Computation Center. He said, "The only reasonable course of action that I could see was what I did. And in looking back on it now from, I don't know, eight or nine months, I still can't see any other alternative."

The charge is not that Professor Franklin disobeyed the police order himself, but that he intentionally incited others to disobey the order. His behavior increased the risk to others, a risk of which many were unaware. The evidence meets the standards for incitement that we set out earlier.

Conclusion: We find the evidence strongly persuasive that Professor Franklin did significantly interfere with orderly dispersal following the clearing of the Computation Center by intentionally urging and inciting students and other persons present to disregard or disobey such orders to disperse, that this police order to disperse was clearly reasonable under the circumstances, and that Professor Franklin's conduct and speech did substantially increase the danger of injury to other persons.

Dissenting opinion

Professors Brown and Kennedy, although in accord with much of the descriptive account of the majority report on the events outside the Computation Center, dissent as follows:

We place a sufficiently different interpretive weight on the evidence at certain crucial points to make us unable to sustain the charge.

1. The first of these centers on an element of Professor Franklin's conduct that is central in the testimony of virtually every witness, his concern that faculty members remain as observers—a concern without which many of his actions remain inexplicable. This is a major substantive point in the conversations with Tamm and Moses, it persuades Professor Eklof to stay on the scene when he had decided to leave and persuades Professor Moses in retrospect that perhaps he should have stayed, it is a subject Professor Franklin pursues with Professor Hastorf after the police charge, and it is the dominant concern in Professor Franklin's later conversation with Litterman and in a speech in front of President Lyman's office. He asserts that he felt (a) that the continuing presence of faculty observers might avert a police charge, (b) that "respectable" faculty like Moses might help him persuade the police of the right of people to remain, and (c) that if there were a charge, the faculty presence might minimize its brutality. He testified that he felt a police charge would be "inevitable" if there was a "withdrawal of the faculty observers and other kinds of neutral people who had made up a significant section of that crowd."

We agree with the majority report that "the presence of faculty observers could have been expected to reduce the risk of injury to persons." However, that fact, coupled with Professor Franklin's own concern to keep faculty observers on the scene, cause us to dissent from the majority conclusion: "that he believed his actions were basically conciliatory and aimed primarily at lessening the likelihood of a police charge and arrest is difficult to accept." We find the conclusion plausible rather than difficult even though we believe that Professor Franklin's manner of seeking this end was unwise.

2. A second difference of interpretation involves fact more than motivation, and we find the call a close one either way. This concerns the crucial period between the time Professor Franklin leaves Moses and the time he is back in conversation with Tamm, some 40 to 60 feet away. His own witnesses state that he was shouting loudly during these moments, but assert, along with him, that the comments were addressed only to Moses and Tamm. The majority report believes that in addition he spoke directly to others, and that, even if he had not, his voice and demeanor were such that others would inevitably hear him, and that he should have known that his words and actions would influence them not to disperse. Broholm and Blank are no longer completely sure that Professor Franklin was directly haranguing the crowd, although that was their on-the-spot impression. Moses believes he was, though his assessment is predicated on action after Professor Franklin turned his back on him, so that the direction of the shouts is only conjecture. Waterman believes Professor Franklin was directly enlisting crowd support, but his timing of the event is uncertain, and he saw only Professor Franklin's back and left side. The identity of his audience is thus once again conjecture. It is clear, however, that by the time Professor Franklin was within ten feet of Tamm he was yelling directly at him such words as, "Hey Don, this is ridiculous . . ." In the interval he was apparently asserting "that it was not an illegal assembly, and that people should stay," though no witness produced unshakable testimony that he shouted this directly at individuals within the crowd.

The possible reconstructions not all mutually exclusive, are (a) that he spoke directly to Moses and Tamm, but that he was overheard by others, some of whom responded to his exhortations, (b) that he was directly urging members of the crowd to stay, or (c) that he was expressing his disgust and anger at the police order either to the heavens or to onlookers in general, rather than as specific instructions to members of the crowd. There is clear evidence for the alternative, evidence (though less persuasive) for the second, and plausibility for the third. The weight one puts on such alternative explanations, and the interpretation one makes of Professor Franklin's actions during these moments, is dependent on a third consideration.

3. The third matter involves an element in Professor Franklin's conduct that, like the first, appears in the testimony of virtually every witness: his strongly stated conviction that the police order to disperse was illegal. This is the second substantive point of his conversations with both Moses and Tamm. We accept the majority opinion that it is beyond our province or expertise to determine whether or not the order was legal, and with the majority "we conclude that the police order declaring this demonstration an illegal assembly and ordering dispersal was clearly reasonable in these circumstances."

However, if a citizen wishes to question a police order he believes unreasonable and unlawful, he has the right to do so for a limited period of time. We place great weight on this right, and believe that at least in part Professor Franklin was trying to assert it: he believed the order to be both unreasonable and unlawful, and so he exercised the right of a citizen to object to it, in a brief initial dispute with Tamm, in the attempt to enlist Moses, and then in the second heated exchange with Tamm. The elapsed time of these three conversations was probably no more than three or four minutes. To Professor Franklin, standing on the grassy area where all witnesses agree that they had seen no illegal acts, the order to disperse may have seemed patently unreasonable. That the Board in hindsight does not share this assessment does not diminish the right of Professor Franklin to have held it at the time or to have acted upon it, for a reasonable length of time, in the name of the right of peaceable assembly. The fact that the mood of the crowd immediately following the evacuation of the Computation Center was reasonably calm and may have caused no immediate danger to the police or the building gives added legitimacy to the right, under such conditions, to make a brief protest against the order, and even to seek faculty help in so doing. That Professor Franklin tried to enlist the aid of Professor Moses in his exercise of this right is looked upon by no member of the Board as culpable. It is even arguable that Professor Franklin, if he did indeed urge "student and others" to remain, was not engaging in culpable action, but only reminding them of their own rights as citizens to protest, at least briefly, an order that might be considered unlawful or unreasonable.

4. The accumulation of the above con-

siderations leads us to believe (*a*) that Professor Franklin tried to get other faculty members to remain on the scene in order to reduce the likelihood of a police charge, (b) that his continuing argument about the order to disperse was an attempt to protest a police decision he felt to be illegal, and one which as a citizen he had a right to protest, at least briefly, and (c) that these two strongly held convictions, uncontested in the testimony, led him to loud and angry shouting, clearly directed at Moses and Tamm, and possibly though not so clearly directed at others, centering on the need for faculty observers to stay, and the right of others to stay. The University's Supplementary Written Brief states, "The issue is whether a faculty member in a situation laden with the risk of violent confrontation between demonstrators and the police is acting properly when by his conduct he increases that risk." We conclude that, even if one accepts this as a statement of "the issue" such a description does not adequately match the conduct charged, and that there is not in our views strongly persuasive evidence that his words or actions constituted an incitement. Consequently, the charge that "Professor Franklin did significantly interfere with orderly dispersal by intentionally urging and inciting students and other persons present at the Computation Center to disregard or disobey such orders to disperse" is not one that we can sustain.

FINDINGS OF FACT: OLD UNION COURTYARD RALLY

A. Charges

The University Administration's charge concerning Professor Franklin's conduct during the Old Union Courtyard rally on February 10th reads as follows:

10. On the evening of February 10, 1971, beginning at approximately 8:00 p.m., a rally was held in the Old Union Courtyard to, among other things, discuss methods of protesting developments in the war in Indochina. Over two hundred students and other persons attended the rally. The course of the rally Professor Franklin intentionally urged and incited students and other persons present to engage in conduct calculated to disrupt activities of the University and of members of the University community and property. Shortly thereafter students and other persons were assaulted by persons present at the rally, and later that evening other acts of violence occurred.

B. Nature of the charge in paragraph 10

The charge centers on intentional incitement that threatened: (1) disruption of University activities, both individual and institutional; and (2) injury to persons and property. It implies that a rash of coercive or violent behavior existed at the time of the rally and that Professor Franklin further increased the risk by the content and manner of his participation. In determining whether the facts fit the charges, the Board must inquire (1) What is the entire context surrounding the alleged incitement? (2) What is being communicated to the audience? (3) What would the speaker judge to be the effect of his communications on the audience?

C. Findings of fact

Prominent Themes in the Old Union Rally, February 10

On Wednesday, February 10 at 8: 00 p.m. about 350 people attended a rally in the Old Union Courtyard. Speakers debated tactics and demands. Professor Franklin spoke twice. The themes that emerged prominently in the course of the rally may be summarized as follows:

a. There was general agreement on opposition to the war in Southeast Asia and a wish to protest against American involvement.

b. There was a major difference of opinion on the scope of demands and of tactics. A contingent of students from Roble Hall favored a single demand, an effort to reach out for the broadest possible support and strict adherence to non-violent tactics. Another and larger faction favored a broader set of demands, even at the risk of losing community support; and they favored a broader range of tactics, including coercive and violent ones, depending on circumstances. This distinction between the two groups was not only apparent in the speeches, but was emphasized by a KZSU broadcast interview with representatives of the Roble contingent near the end of the rally.

c. Five speakers emphasized Stanford's major war complicity and severe political repression. This viewpoint may be illustrated with the following quotation from one of the speakers.

"I work at the phone company and I realize that everyday one out of every two calls that I place goes from Stanford University or SRI directly to the Pentagon, to SRI all over the country and all over the world, and people realize that Stanford University is integrally linked with Pacific Telephone Company, that all the business, you know, that the whole service which Pacific Telephone puts out is for the benefit of the financial interest in this area and people who are against the war, people that I work with who are against the war, who are very, very angry and outraged by the expansion of the war into Laos realize that, because they have brothers, brothers and uncles and fathers who are over there fighting, who have been forced to go over there, they don't have any choice, they can't afford to go to school, they are forced to be over there. They have brothers and sisters who are locked up in the prisons all over America and they realize that Stanford University, that the kind of research Stanford does, the kind of money Stanford has, which controls the black and brown communities in the mid-peninsula, is a very dangerous thing and they're willing to fight against that for their very survival and I think that the people here should respect that, should respect the fact that telephone workers are getting organized, that we're thinking now about what kind of support demonstration we can have when Stanford gets itself together and the issues become clear to the people that Stanford University is key in the war, key in the oppression of political prisoners and it's just got to go." [Applause.]

d. Eight speakers were very hostile to the police—especially to their presence on campus. Police had been called to the campus to terminate the occupation of the Computation Center and had remained in view of the likelihood of further illegal acts. It will be recalled that arson and "trashing" had occurred on the nights of February 6 and 7. Early in the Old Union rally of February 10, the presence of police on campus was announced. No witness testified that a single uniformed policeman entered the Old Union courtyard, despite the fact that Professor Franklin, in his affidavit shortly after the event, said there were many police there. In the hearing, he corrected this error. Thus, the police were not visible to the people at the rally, but their presence on campus was a focus of deep resentment. They were often referred to as "pigs" and as an occupation army or occupying forces. In conjunction with the previous criticism of Stanford's complicity in the war, the struggle on campus and the struggle in Southeast Asia were portrayed as different facets of a single struggle. Parallels were drawn between the police on campus and imperialist armies in Asia. The all-one-war theme was emphasized by urging resistance to the police as analogous to resistance to occupying forces on Vietnam.

e. On two occasions, members of the Free Campus Movement were pointed out in a context of hostility, and were linked to the police on campus.

f. In response to these various instigations, there was a desire for action—not merely verbal demands, but conrete, tangible steps to implement them. There was a clear preference for strong, vivid action, though some speakers, including those from the Roble contingent, put their main emphasis on education. Little reference was made to "strike" in this rally. The actions mainly preferred by the speakers may be illustrated by the following remarks by the chairman:

"Okay, I think it's still pretty clear that we want to keep the demands as they are. Okay, at this point I think we should go on to specific proposals for how we act now. We've had a few proposals; one guy suggested that after the Comp Center thing today that in order to escalate rather than de-escalate we should zero in on SRI. Another person, other people have proposed that we deal now with the police state that's on this campus because if we're going to move against the war, one of the things we have to do to be able to move against the war in atmosphere where we're not intimidated by pigs coming through to surround our meetings and that kind of thing and that one of the ways to do that is to begin any kind of action people want to take to get the pigs off this campus. I think that people should speak to these proposals and add more proposals that they have."

g. Five speakers explicitly expressed and several others implicitly expressed anger, using words and imagery of fighting. Three speakers suggested actions to embarrass, humiliate, or confront the police, particularly late at night, while others made more general comments advocating resistance to intimidation.

h. Two speakers favored off-campus protests.

2. *Professor Franklin's First Speech at Old Union* (Second speech of February 10)

Professor Franklin's first Old Union speech (Appendix III) began with an effort to persuade the Roble contingent of the correctness of the majority position favoring a broad set of demands, including the freeing of all "political prisoners" and the end of Standford's complicity in the war—not merely immediate withdrawal of US forces from Southeast Asia. He spoke with concern about people who must spend time in jail, emphasized solidarity within the "movement", and opposed betrayal of political prisoners. Then, in an intense delivery, he said:

And we get very upset when we find our beautiful campus crawling with pigs who stop and harass people and trip off and beat half of the people. Well this is just a very, very mild taste of what life is like in the black and brown communities of this country where the pigs come by every night and if you're young and you're black and brown they stop you and ask your I.D. and rip you off for suspicion of burglary and where there are dogs there and where there's helicopter overhead and that's part of the same struggle, and where they shoot you and the pigs who are here tonight, that's those San Jose pigs have just murdered a black brother in San Jose, the same San Jose pig just murdered a black brother down in San Jose and that's normal life down there. People murdered in the streets and that's why we call them pigs. Although it's a little unfair to the four-footed variety, because they don't do that kind of things." [Applause]

Continuing to speak in the same delivery, he next alluded to the Black Panther party's leadership and made the following remarks:

"And the Black Panther Party teaches us that the people of Laos and the people of South Vietnam are not another separate nation state. That they are our brothers and sisters because they are just other oppressed communities of the same empire. The Black Panther Party teaches us that today while this meeting was going on brothers and sisters, blood brothers and sisters of us, were killed in Laos, in Vietnam and Cambodia, in the black and brown communities of the United States of America. They teach us this is all one struggle and the interconnections are every place. Ever if you think about what Laos is all about; what is the chief cash export of Laos, who knows?" [crowd] Opium, heroin?

"Opium, all the heroin on this coast comes form Laos. And it's all brought in by the CIA. It is grown and harvested by Meo tribesmen and flown out on Air America, the VIA airline. And it is brought in to this state as part of the oppression, particularly of black and brown people here, but also of white youth . . . (brief KZSU interruption) . . . and is just as much a part of the counter-insurgency system as the pigs are war on the campus."

He urged that others be taught about such evils as Stanford's complicity in the war and the necessity to free all political prisoners. He expressed the view that the student strike a year earlier had been a success. He closed by restating the necessity to continue the struggle to win others to his viewpoint.

3. *Professor Franklin's Second Speech at the Old Union* (Third speech of February 10)

This speech lasted about two minutes, but because KZSU was conducting an interview at the time it can only be heard in the background on the tape recording. The pitch of his voice is high, with only a few of his words and intermittent responses from the crowd being clearly discernible on the tape. The crowd responses increase toward the end. The content of the speech can only be reconstructed from testimony, but this poses little difficulty. There is substantial agreement as to what Professor Franklin said among his witnesses, the University Administration's witnesses, and Professor Franklin's own affidavit and testimony. The differences, as might be expected, are in the interpretation of his speech.

a. *Professor Franklin's interpretation of his second Old Union speech.*

In his affidavit he describes the speech as follows:

"A number of speakers at the meeting rose to describe specific instances of police harassment and brutality. Several proposed that we go to the dormitories to discuss the police state on campus and what to do about it, as well as what to do about the situation in Southeast Asia. One speaker said that many squads of six to eight police were roaming the campus, and that if we marched to the dorms some of these squads would follow us, and that it would be a good education for people in the dorms to see them. Two speakers said that the police were attempting to keep people from knowing what was happening, and that they had temporarily confiscated a walkie-talkie from a KZSU reporter and threatened to arrest him for listening to police frequencies. Another speaker said that if we march in one group it will be too easy for the police and we should confuse them by dividing into many groups. Another speaker said "there are pigs all over this campus and we have to show people who the pigs are and who the people are, and we cannot tolerate a police state here or any place else."

"It was generally agreed that we would go back to the dormitories to build support for the strike and to raise consciousness about the police occupation of the campus. I rose to speak again. I said that it was unfortunate that the people from Roble had not felt that they were really part of the movement and that it was necessary to go into the dorms and discuss all their questions further. I said that it was very important for people to understand that this is a united front, and that people will respond on different levels of action and with different degrees of consciousness to the war. I said that it was important for people to accept these different levels, and that if people are sincere it is correct for them to do their own thing, to do whatever they think best, and that that is how all of us learn. I pointed out that with the police saturation on campus, however, it would be suicide for people to engage in any militant action in a large group. I said that we must learn from the people of Southeast Asia that when confronted with an occupation army, we must respond with the methods of people's war. Then I explained that this means thoroughly merging with the people. I gave one and only one example of what I mean by this. I said that I had been told that a few nights before, during a similar police occupation, several people had begun a game of touch football. They moved from place to place on the campus, forcing the police to follow them. Several police complained to them that they were supposed to be in fixed positions, and that this was preventing them from maintaining those positions. Finally, when the football game approached the area of the computation center, the police had asked to examine the football. I said that I wasn't sure whether this was because they thought it was a bomb or because they just wanted to examine a real pigskin. I ended by telling people that people's war meant that they should go back to the dormitories, organize people into small groups, and talk with them, or play football, or whatever, as late into the night as possible.

b. *Hearing witnesses' interpretation of Professor Franklin's second Old Union Speech.*

(i) *Administration witnesses*—There is considerable agreement among administration and defense witnesses on the content (though not on the interpretation) of this speech. This can be illustrated by comparing Professor Franklin's version of his speech after the event given above with testimony of Robert Beyers, of the Stanford News Service. He testified that he had attended many rallies at Stanford over a period of years, and had often heard Professor Franklin speak. He described Professor Franklin's speech on this occasion as very critical of the police. He testified that Professor Franklin called specifically for people's war against the occupation army—i.e., the police. Professor Franklin suggested that people go back to their dormitories, meet in small groups, decide to do whatever they wanted to do as late at night as possible so as to bring more police onto the campus to help out their brethren in other communities. At this point, in Beyer's view, the nature of the meeting changed dramatically, leading him to expect that illegal or disruptive incidents would follow. Immediately after the speech, the rally ended and Beyers said three FCM students were badly beaten by some of the Old Union crowd. Under cross-examination, he indicated that Professor Franklin did not specify the exact nature of the violent acts to be carried out.

Brimelow felt there was much tension and restlessness in the meeting, and that the crowd got very excited as a result of the speech. After the speech he saw the crowd stream off in all directions and he heard "war cries" (something of this sort is audible on the tape recording). Almas heard the speech from the balcony of the Women's Clubhouse, thought it was impassioned and was startled by it. Almas had heard Professor Franklin speak about a dozen times but had never heard him encourage this level of action. Almas felt Professor Franklin had not been as careful as usual, and the witness had the expectation that there was going to be violence.

R. Jacobs, also on the balcony, thought Professor Franklin had made inflammatory statements. Gray felt Professor Franklin was playing the role of a leader giving instructions to the group in a serious vein.

(ii) *Professor Franklin's witnesses:* Witnesses for Professor Franklin heard phrases similar to those reported by Administration witnesses but to some extent interpreted them differently. This is well illustrated by an affidavit of Bennion, who also testified at the hearing.

"It became clear that there was some opposition forming, basically between going back into the dorms for further discussion and staying in the area the police were patrolling in order to show them that the occupation of the campus would not be tolerated. At this point Professor Franklin spoke and tried to explain that these two tendencies were not really opposed, but could be carried out at the same time and could mutually serve each other. He discussed at length the tenets of 'people's war' which is based on the concept of a united front. In essence this means that everyone can contribute what they can to a movement, but one person's greater contribution or risk should not be seen as invalidating another's. This leads to many levels of action which mutually reinforce other levels, rather than detracting from each other. He pointed out that in advanced stages of 'people's war' such as in Vietnam, many different levels of action are still employed, not merely the military level of the National Liberation Front. He also stated that in the present case it would be suicidal to engage in any large-scale militant action. He gave one example of what 'people's war' would mean that evening. Some people could go back to the dorms and persuade others to join the movement, while others could play touch football in the area being patrolled by the police to show that they were not intimidated by the occupation of the campus. At no time did he say or even remotely imply or suggest that he advocated a militant action that evening, nor did his in-depth analysis of 'people's war' make such an interpretation possible for any person who had ears to hear and a mind to think."

These witnesses were much preoccupied with the presence of police. They expressed fear and anger, and were inclined to expect trouble with the police that night. They were determined not to be intimidated by the police, and to harass them where possible. By and large, Professor Franklin was seen as speaking to these issues in a way that fostered resistance but not violence. His task was seen as uniting the people against the common foe: putting together the university's complicity in the war, the linkage of the struggle here with the struggle in Asia, the necessity to respond vigorously on many levels of action. For example Pat Faulkner testified that he understood Professor Franklin to mean that all levels of actions are all right, even writing letters, and that it is necessary to wage war on many levels to win. He felt that Professor Franklin gave a speech in which he approved a wide range of actions, including trashing, but did not emphasize violent responses.

Professor Franklin's witnesses gave the term "people's war" a variety of emphases, but the words were generally understood to have a range of connotations. These included (1) harassment of police; (2) taking control of our own lives; (3) bringing the war home; (4) strike; (5) learning from the peoples of Southeast Asia; (6) attention to our war here, not only the one in Indochina; (7) doing whatever conscience dictates, which might include trashing; (8) determination not to be intimidated by police, not to shrink from threats.

4. *Post-Rally Events:* In the course of the hearing, on October 28, the Advisory Board made the following statement on post-rally events:

"With respect to the Old Union courtyard speech, the Board is now in a position to give its view of the value of testimony about events following the rally. We admitted testimony on these matters because the University Administration, in order to demonstrate that there was a risk that prohibited conduct would follow the speech, introduced evidence for the limited purpose of showing that such conduct did in fact occur. We now feel that this evidence—concerning the fight on White Plaza, the alleged false alarms, the shootings, and other incidents—need not be rebutted. We have reached this decision because, in our view, the existence of risk is adequately shown by pre-and co-existing conditions, and does not require demonstration by referring to subsequent events."

It is a matter of record that untoward events of the sort mentioned above did in fact occur that night, beginning immediately after the rally. We limited testimony on these matters for two reasons: (1) the charges did not contain any references to Professor Franklin's post-rally conduct; (2) we had good reason to believe that significant risk existed without reference to post-rally events.

D. Defenses and their analyses

1. Principal Points made in Defense Against Charges in Paragraph 10.

Professor Franklin, in testimony and argument, made several points in defending these charges:

a. The speeches were brief, especially the second one at the very end of the evening's program. Such brief speeches could hardly have had the impact ascribed to them by the University Administration.

b. It was difficult to hear the speeches. Except for those near the speakers, consisting to a considerable extent of Professor Franklin's close associates, audibility was a problem. The testimony of several witnesses who were not close to the speaker was challenged by Professor Franklin.

c. What could be heard was innocuous. It was mean to inform, educate, and persuade to a political viewpoint. It was not intended to incite, inflame, or cause violence.

d. Most of the people at the rally had already decided what they were going to do by the time Professor Franklin gave his second and closing speech. In this speech, he essentially gave them a political rationale for what they had already decided to do.

e. Even if his speeches were taken as inflamatory by some members of his audience, they were well justified by Stanford's condition as a fascist and imperialist institution, and by the presence on the campus of an occupation army consisting of police who frequently kill black and brown people, and indeed had just killed a black brother.

f. In any event, Professor Franklin should be able to give such speeches with impunity, since all speech should be considered to be constitutionally protected, even where appreciable risks are posed.

g. If speech is to be restricted at all, it must be done within a very narrow band. Such a band could not include general prescriptions for hostile actions or even for violence. Specific prescriptions for violent acts would be required, and these must be confirmed by specific evidence that individuals had been moved to carry out those same specific acts by the speech in question.

2. *Analysis of the Defenses:* The length of the speeches is much less important than other characteristics: content, delivery, context, audience. In any event, the first speech was not particularly brief, and the second was in a crucial position: at the very end of the rally.

In regard to audibility, we conclude that those who wanted to hear the speeches could do so. This is admitted by some defense witnesses, and to a certain extent by Professor Franklin himself who testified that at the time he felt he could reach those who really wanted to hear him. The main variable seems to have been attention; some members of the audience paid close attention to his speeches, others little. Among those who did pay attention, there is considerable agreement as to content, though witnesses differ as to interpretation.

There is no meaningful way to consider Professor Franklin's behavior in the Old Union rally without a firm grasp of the context in which the rally occurred. The mood that evening was tense and angry. After the passage of so many months it is difficult to recapture the sense of anxious expectation that characterized the campus that evening. The Old Union rally followed several days of continually escalating events: threats of coercion, actual coercion, arson, police action, and hostile confrontations on campus. We have already summarized recurrent themes of the immediately preceding rallies at Dinkelspiel on February 9th and White Plaza on February 10th. As the Board concluded in its statement of October 28th, cited above, substantial risk existed on the Stanford campus before and during the Old Union rally.

There are additional aspects of the context for the Old Union rally that deserve consideration. Professor Franklin rose to speak as a well-known and respected leader of the "movement". Defense witnesses testified that he was viewed with admiration and his ideas were taken seriously. Professor Franklin testified that the time of these events in February was a crucial one for the "movement", a time when the "movement" might transcend itself.

Testimony in the hearing, mainly from defense witnesses, brought out the fact that this occasion stirred memories of other similar occasions which also provide meaningful context for the Old Union rally. The events approximately a year earlier at the time of the military action in Cambodia came up repeatedly. Indeed, one of Professor Franklin's main contentions is that he was attempting to foster a "Cambodia-type strike". A number of defense witnesses, including especially Braumstein and Professor Franklin, discussed the events of the Cambodian period and compared them with the events during the Laotian invasion. It became clear that the protest events of the Cambodian period, viewed with approbation, included a spectrum of activities, some of which were nonviolent, some of which were patently coercive, and some of which were overtly violent. The coercive and violent activities included: forcible blocking of entries into buildings for sustained periods, large-scale breaking of windows, bombings, and fire bombings.

The Old Union rally also brought back recollections of other night rallies held in similar circumstances, especially when police were on campus, not only during the Cambodian protest but at other times in the past few years as well. There has been a clear tendency for such occasions to be followed by violent behavior. This fact was known to Professor Franklin, since several of the defense witnesses commented on his participation in these protests.

Two of the major themes permeating the three rallies of February 9th and February 10, advanced by Professor Franklin and many of his close associates, are especially pertinent to his closing speech at the Old Union rally: (1) all-one-war; (2) multiple-levels-of-action.

(1) All-one-war is the theme linking the struggle at Stanford with the struggle in Southeast Asia. It is the heart of the problem, emphasized by Professor Franklin in his speeches, affidavit, testimony and argument.

The speeches attack Stanford's war complicity, draw parallels between racial oppression in America and Asia, and emphasize the necessity to learn from the peoples of Southeast Asia how to resist oppression at home. By the end of the Old Union rally, the cumulative weight of these linkages suggests that one way to fight the war now is to fight the police and administration here.

In his testimony Professor Franklin says: ". . . what I say there basically is that we can't separate the war in Southeast Asia from the war at home. Now on all these points, all four of these speeches that were given in this 24-hour period—that is from the night before in Dink through this—all four of those speeches are essentially saying—are saying the same thing. They're expressing a set of ideas which I consider the most important ideas. . . . And then this seems to me the most essential thing, both in this speech and in the second speech, to try to show people just as clearly as possible that in fact that occupation army of police that was on the campus was part of the same war that was being waged in Southeast Asia and that was being waged in the Black ghettos and in the barrios of the United States."

This point is further clarified in Braunstein's defense testimony, under cross-examination:

"And the people fighting the United States in Southeast Asia are fighting the same battles that people fighting the police . . . who were on campus in the Old Union Courtyard one and two of the year before and are fighting the same battle as the people trying to get rotten research off this campus and are fighting all these battles, and they're all the same battles.

"Then if it's all one battle, the word 'opposing forces' relates to all the people on the other side in this big global battle.

"I've later learned that that is what's known as 'People's War'; is part of what is known as 'People's War'.

"Q. I take it in the context in which you were speaking you at least included the police in that reference?

"A. Oh, certainly. Especially that night, yes. I also included the University administrators."

(2) The war is to be waged with the multiple-levels-of-action formula. Each person is to do his own thing, whatever he can, whatever he thinks best, using his imagination to find ways of resisting the occupying forces. This theme has a familiar ring from its recurrence during the preceding few days. We have earlier quoted Braunstein's remarks on this subject at the Dinkelspiel rally on February 9th. It is clear from a variety of references in several rallies that this formulation is meant to advocate a spectrum of activities which might include contacting Congressmen, persuading students in dormitories, being active on campus at night, refusing to be intimidated by the police, blocking doorways, occupying buildings, breaking windows, putting the computer out of service for a long time, destroying the computer, or doing other things for which one might not wish to "take credit."

In his testimony Professor Franklin said he felt impelled at the end of the rally to speak about: ". . . that action that was going to be taken, which was essentially going back to the dorms to talk about the war in Southeast Asia and about the police occupation of the campus and for people to be there and exercise their right. That it was important for somebody to explain to people that that action itself was, you know, just as legitimate a part of this war as, say, the armed self defense of the Vietnamese people or the people of Laos . . . And in that speech I mentioned using the methods of people's war. And at that point I was speaking very directly to the people there, I think, who considered themselves revolutionaries. Because I knew that they would have a basic understanding of what that meant, and that that phrase summed up a whole lot of experience."

Braunstein testified for Professor Franklin, "There are all sorts of actions on various levels, including people breaking windows with rocks and people burning down buildings, as yet unidentified people burning down buildings, and so on, that sometimes have the same goals in mind and sometimes don't."

Significant in this context was the term "people's war." It was interpreted by various witnesses in different ways. It seems to include a wide range of suggested actions, some of which are nonviolent, and some of which are violent. It can clearly include guerilla warfare. Some witnesses interpreted this as its primary meaning, others gave this meaning less prominence. Maoist writings use the term "People's war" for all action, in particular guerrilla warfare, in which the warriors merge with the masses. Professor Franklin acknowledges in his testimony that guerrilla warfare, including assassination and bombings, is one important component of people's war, but denied it was the one he had in mind when he used the term in his speech. Defense testimony indicated that the concept of people's war extends beyond military action, but did not deny that it prominently includes military action. Given the repeated explicit linkages of the struggle against the police occupation army here and the war in Southeast Asia, in the context of recent night violence on campus and an afternoon of police confrontation, it is difficult to believe that most listeners would be insensitive to the violent connotations of this term. Why repeatedly use warlike terms and images—such as Professor Franklin's "war on this campus"—if peaceful actions are intended?

Similar considerations apply to Professor Franklin's advocacy of action to be taken against the occupation army in small groups. It is clear that small groups can conduct dormitory discussions and other peacefully persuasive activities, and that this did in fact occur, though we learned very little about the focus of such discussions—e.g., whether they were intended to foster particular nonviolence or violent tactics of protest. In any event, such dormitory discussions may well have been one of the meanings of his alleged recommendations for reliance upon affinity groups. He advised against mass militant action, meaning essentially violent confrontation with the police, on tactical grounds. Such action was not feasible because the police were too strong. It is also clear that the smaller groups could engage in violent activities as has often happened in similar circumstances at Stanford during the past few years—i.e., following night rallies permeated by angry speech. Two days earlier, February 8, after a night of "trashing", a sheet was distributed at a "movement" rally under the title "Do It!" It endorsed the previous night's activity and called for more of the same, indicating that tight affinity groups can be helpful in doing whatever people want to do.

Whatever the activities that Professor Franklin was urging upon individuals and small groups, it appears that lateness of the hour was positively desirable—"as late into the night as possible". In view of the behavior of some individuals and affinity groups at Stanford in similar circumstances during the past few years, it is reasonable to suppose that lateness might be useful as a cover for violent activities though it could of course be used for peaceful activities as well.

Professor Franklin's two Old Union speeches were given in a hostile tone. This is apparent in the content of the first speech, and the effect is heightened when one listens to the tape and hears his tone of voice. Even when the speech is briefly interrupted by a KZSU interview, the angry tone and the emotional crowd response can be clearly detected. Although the second speech is covered over by a KZSU interview, similar indications are available from the tape and from testimony.

In the course of the hearing, both Professor Franklin and Braunstein indicated that ambiguity about tactics was desirable to these rally speeches because KZSU was broadcasting them and the police would presumably have tape recordings. To advocate violent tactics openly in this context would have exposed the speaker to later sanctions. We were informed in the hearing by Professor Franklin of his "political decision" to keep his position at Stanford, hence caution about open calls for "revolutionary violence."

Thus, we are faced with a difficult problem: how to interpret speech deliberately given in ambiguous terms. But we have seen already that considerable clarification emerges from a close examination of the text, from the full context provided by preceding events, and from the way in which the speech was delivered. In essence, Professor Franklin came into a combustible situation, focused hostility on certain targets, intensified existing hostility toward those targets, and urged a spectrum of actions against them: some peaceful, some coercive, some violent. We must now turn our attention to his audience in order to inquire whether they were likely to understand him and whether Professor Franklin must have expected the risk of prohibited conduct to be increased by his behavior.

The tone and content of Professor Franklin's speeches must have been particularly significant for two groups: 1) people in the movement; 2) people who are violence-prone for whatever reason. In respect to the first, these are people who are responsive to Professor Franklin by virtue of past association, respect, dedication, and sharing of common goals. They tend to understand the nuances of his speech, as was evident at the hearing itself. As for the second group, it is well known that public meetings characterized by intense anger and hints of violence tend to attract, both at the meeting and via media coverage, individuals who are drawn to violence for a variety of reasons, not necessarily political. Whatever the reason for their susceptibility to violence, they tend to find such occasions exciting. They may be induced by angry rhetoric to commit acts of gravity, particularly in the context of recent examples of violent behavior.

Professor Franklin testified that he was aware of the long-term, bitter antagonism between Venceremos and FCM; and he was aware of the immediate, clearly expressed hostility toward the small FCM group at the rally. The presence of these mutually hostile groups at the rally certainly added to the risk. The use of violent rhetoric in such circumstances increased the probability of attack and counter-attack.

We think that "movement" people were capable of understanding the messages. We refer here to familiar connotations understood by a group sharing common interests and values. For example, reference to "militant action on campus" in 1971 is understood by many people to mean "trashing" which in turn is understood to mean "window-breaking." These are not the only connotations of the terms, nor are they understood by everyone who comes on campus. A few years ago, the terms did not have these connotations. But common usage in concrete situations has led to a widely shared understanding.

Those devoted to the "movement" had a rich refresher course in such terms during the rallies of the preceding few days which we have already summarized. Professor Franklin is explicit in his testimony that he was aiming his remarks specifically at them, wanting primarily to be understood by them. Braunstein testified that there is special communication within the "movement" and pointed out that Professor Franklin referred to "us" at the rally. But the defense, in effect, asks us to believe that, on the night of February 10, individuals in the "movement" failed to understand the coercive and violent connotations of phrases like "war on this campus", taking action on multiple levels to resist oppression here, and "we must learn from the peoples of Southeast Asia that when confronted with an occupation army, we must respond with the methods of people's war". The defense puts forward its bland interpretation of such phrases even though they were expressed in a very angry tone and in a context of profound hostility toward the university—by a respected leader who generally approves coercive and violent tactics in campus disputes (though he denies he advocated them on this occasion). We must therefore examine possible reasons why the audience might not have detected the menacing connotations of his remarks on the evening of February 10.

From the testimony in the hearing, we do not believe members of the "movement" were obtuse; nor is their anything credible in the record to suggest that they were in such a conciliatory mood that his angry rhetoric failed to reach them. Were the "movement" members of Professor Franklin's audience so concerned with trying to win over the Roble group that they rejected all coercive and violent connotations of his remarks? This possibility deserves further consideration.

During the rally, "movement" people in control of the meeting showed little consideration for the feelings of the Roble students. Indeed, Professor Franklin seems to have been concerned about this situation, since he devoted a good deal of his first speech to persuading the Roble group to accept the "movement's" view of the situation. As a Roble speaker made clear in the KZSU interview, the difference between the Roble contingent and the "movement" was not only one of demands (narrow vs. broad) but of tactics (non-violent vs. violent). In this episode, Professor Franklin demonstrated his authority as a leader of the "movement", when he easily stopped the flow of the meeting, re-opened the question, made a major speech, and got a re-vote.

In his way, Professor Franklin was trying to persuade the Roble contingent to link up with the "movement" in a united front, at least for the moment. His way of undertaking this persuasion was itself inflammatory. He made assertions of such hostile content in such an angry manner regarding the University and the police that, whatever their effect on the Roble group, they must surely have intensified the resentment of many persons favorable to the "movement" and thereby raised the probability of violent actions later. We have earlier quoted a portion of his first Old Union speech pertinent to this point. Finally, his do-your-own-thing formula permitted some encouragement for Roble students to take peaceful actions and still leave room for encouragement of "militant" actions by the "movement".

This brings us again to one of the central themes in the entire case. At Old Union as at White Plaza, the actions urged by Professor Franklin were not exclusively coercive or violent. He advocated a wide range of protest actions: some peaceful, some coercive, some violent. If a person removes valuable merchandise from a store, paying for half, but not paying for the other half, is he culpable for the part he stole? We believe that the presence of peaceful recommendations cannot immunize a person from sanctions if he has urged imminent coercion and violence as well.

Once again, as at White Plaza, Professor Franklin was the final speaker, and once again his speech was promptly followed by events of a disruptive, coercive or violent nature. The probability of this occurring by chance is very small. At the least, it reflects his leadership position in the "movement" and the riskiness of those situations in which he spoke. He cannot avoid the conclusion that his speeches, the last on each occasion, increased the probability that illegal acts would follow the two rallies.

In an earlier section on "Fundamental Issues and Standards", we have indicated that the University must have the right to put some constraints on speech in dangerous circumstances, but only with great caution. This applies to acts of incitement to imminent lawless action that are likely to produce such action. "Lawless" in the university context includes state or local laws, the *Policy on Campus Disruptions* or other university regulations, or common-law understandings of professional responsibility.

In judging the applicability of this standard to the present charge, we have been guided by these questions: (1) What is the entire context surrounding the alleged incitement? (2) What was communicated to the audience? (3) What would the speaker judge to be the effect of his communication on the audience?

Since we wish to sustain the university's vital tradition of fostering free expression in its widest diversity, we are exceedingly cautious in considering possible constraints on speech. If such constraints are ever to be invoked, they must be reserved for extreme situations. We are asking whether the context here was that of a highly combustible situation, whether the speaker gave an inflammatory message in that context, and whether the speaker had good reason to anticipate that his message would increase the risk of imminent lawless action. If indeed we find that the speaker issued a call to violence, he is not protected by having issued it in euphemistic jargon. Such a call may be quite as effective as one issued in more stark terms. In any event, the language used here was hardly ocult.

Although Professor Franklin's witnesses were inclined to protect him by minimizing their understanding of coercive and violent connotations in his speeches, they did not exclude such connotations—nor did he. The difference between them and administration witnesses was mainly one of emphasis. In the spectrum of activities advocated by Professor Franklin, the defense emphasized the legal end, whereas the administration emphasized the illegal end.

In our detailed analysis of the context for his Old Union speeches, we have determined that persons active in the "movement" must have been quite familiar with the coercive and violent connotations of Professor Franklin's phrases, that they were responsive to such connotations, and that Professor Franklin must have been aware of these facts.

Finally, we must consider the line of defense that, even if Professor Franklin were considered to have carried out such an incitement, he would nevertheless be justified by his perception of Stanford as a fascist institution playing an important role in an imperialist war.

We recognize that Professor Franklin is pressing for reform in important areas of social concern. Can this justify coercive behavior in campus disputes, or the fostering of a climate of violence on campus? Once any person is granted this privilege in the name of a good cause, we must grant it also to others who feel they have worthy aims. When these rights conflict, as they inevitably must, are we to condone low-grade guerilla warfare on campus? If we deny to others what we grant to Professor Franklin, we have adopted a double standard: coercion and violence in the university may be condoned if we approve its aims, but restricted if we disapprove its aims. Then it becomes a simple question of whose ox is gored. But every cause is fervently supported by some, eloquently justified by some, pursued with passion by some. In a way, every war is a holy war. If we accept Professor Franklin's holiness, how are we to reject the holiness of other true believers? In our view, this course is not morally defensible. We must do our best to apply one standard across all political preferences and that standard must not condone violence on campus.

E. CONCLUSON

Taking into account content, context, delivery, and audience, did Professor Franklin's two Old Union speeches include urging and inciting to disruption of university activities, or threat to persons or property? Must he have known that this exhortation would be widely interpreted as immediate advocacy of disruptive or violent behavior?

1. The situation was risky. Illegal acts had occurred earlier that day. There was intense resentment toward the war, the police, and the university; there had been serious frustration for the "movement" earlier in the day; bitter political adversaries were present at the rally and identified by the chairman; protest actions including coercive and violent possibilities were under discussion; the police were present on campus; there was a well known history of violence in similar circumstances at Stanford. In general, the higher the risk, the less it takes to trigger coercive and violent behavior.

2. The targets of Professor Franklin's animosity were quite explicit—the police and the university. He made an intensive effort in the two speeches to generate further hostility toward these targets. He provided justification for coercive and violent behavior toward them, without specifying precisely what the nature of such acts might be, leaving that to the judgment and imagination of each individual or small group.

3. The urging of immediate retaliatory action towards the police and the university was clear. A great sense of urgency was conveyed by both the tone and the content of his remarks. While no detailed blueprint for action was provided, the necessity for prompt action was a strong message. The overall effect was to increase the likelihood of imminent lawless action.

Taking into account the full context surround his speeches at the Old Union rally, the messages he communicated to his audience, and what he should be able to judge about the effect of these messages under the circumstances, we reach the conclusion that Professor Franklin intentionally urged and incited his audience to engage in conduct which would disrupt activities of the University and of members of the University Community and threaten injury to individuals and property.

The Advisory Board thus finds that the charge in No. 10 is sustained.

Dissenting Opinions

Professors Brown and Kennedy, while agreeing with substantial portions of the majority's account, dissent as follows:

The majority sustains the charge of incitement against Professor Franklin citing (1) an extensive background of material from speeches at this and other rallies that supply context for his last speech; (2) Professor Franklin's first speech at this rally, which also supplies context and reveals relevant attitudes of his own; and (3) words in the second speech that constitute, in the majority's view, sufficiently explicit invitations to do violence against persons and property.

We dissent regarding some matters of context, as well as on the finding with respect to Professor Franklin's own speeches.

In describing the context of the rally, we would give more weight than does the majority to the presence of the Roble students and to their impact upon events in the Old Union Courtyard. The interaction between the group of Roble moderates (concerned about the invasion of Laos but not part of the "movement") and the "movement" group itself provides a central theme for the rally. Professor Franklin's own first speech is directed predominantly to an attenuation of those tensions and to a reconciliation that would accommodate the new recruits to "movement" objectives. It is, in essence, a long argument that political prisoners must not be forgotten, and that there is a fundamental identity between the struggle of Asian peoples against U.S. imperialism and the struggle of oppressed people and antiwar students against repressive forces at home.

As a majority states, the speech contains a heavy tone of anger against the police and other forces that, to Professor Franklin, symbolize this oppression. We nevertheless believe it plausible that the speech was intended to make a group of Stanford students identify, perhaps for the first time, with oppressed people; we do not see evidence that Professor Franklin's intention was to turn them explicitly to violent actions. In no sense can this first Old Union speech be regarded as actionable; indeed, the University administration does not attempt to persuade us to find against Professor Franklin on the basis of its content. To the extent that it contains intensity and anger, and to the extent that these are directed against the police and the University, the speech might be said to have added—along with other speeches at the rally—to the risk that prohibited conduct might follow. But all agree that nothing in the content of this speech approaches incitement. Indeed, we feel that the speech presented, in however objectionable a style, some legitimate concerns about the plight of prisoners, the existence of police brutality, and other significant issues.

Clearly Professor Franklin and other speakers believed that a major mission of the "movement" people at the rally was to undertake the "education" of the rest of the Stanford community. Professor Franklin's own first speech concludes with a plea that those present go out to the people "and teach them what we have learned in the movement," and that any who are not persuaded should "get up here [ile. to the microphone] and we should discuss it." At the conclusion of his speech he testifies that he went over to discuss the matter further with the Roble group. The speaker who followed Professor Franklin to the podium commented that the important thing was to "go to the dorms, go to the people we want to talk to. . . ." A later speaker extends the suggestion by hoping that those at the rally will go to the dorms and "rap all night." Recruitment, broadening the base of the "movement," educating the community; all these were significant themes in the development of the meeting's context. By its relatively stronger emphasis on the more violent rhetoric, in particular Professor Franklin's, the majority has decided against what seems to us a plausible, even persuasive, second view of the matter.

The content of the second speech, of course, is not available to us except through the testimony of witnesses. According to Beyers, Professor Franklin called for a "people's war against the occupation army of the police," and he "suggested that people should go back to their dormitories, form meetings, meet in small groups, decide whatever they wanted to do, to do it as late at night as possible, and to do things which would bring more of the occupation here." Professor Franklin's version in his affidavit is only slightly different. He, too, claims to have said that "when confronted with an occupation army we must respond with the methods of people's war." He adds, "I ended by telliing people that people's war meant that they should go back to their dormitories, organize people into small groups, talk with them, play football, or whatever, as late into the night as possible." These differences are not very substantial; they can easily be accounted for by differences in recollection.

The majority analyzes these collections of phrases in such a way that they are strongly persuaded as to their meaning and that the meaning sustains an incitement charge, given such other factors as risk. The logic consists essentially in the elimination of various attenuative constructions that are more benign. In our view this interpretation is not strongly persuasive." The phrases upon which attention has been focused are isolated from a substantial matrix of interstitial speech, the precise construction of which we do not know, and about which we must be careful not to draw too confident appraisals. Two examples will illustrate the point. First, Professor Franklin says that in the context in which he used it, "People's war" was clearly indicated to mean "thoroughly merging with the masses;" he states that he used the football game as an example of that kind of tactic. It is significant that virtually all of the witnesses link the words "people's war" to the example of the football game. Professor Franklin states in his affidavit that this was the only example he used, and the cumulative testimony seems to bear him out. Second, the phrase "as late into the night as possible," interpreted by the majority as a call to militant action by small groups, could equally have appeared in a context in which it applied primarily to late dormitory discussions and to legal (though perhaps risky) methods of taking up the time of the police. Such an interpretation gain in plausibility from Professor Franklin's testimony that although he does not in principle disapprove of trashing, he would not have urged it on that occasion, both because of the heavy presence of police on campus that night and because it would have alienated those now to the "movement."

The point is that *none* of these interpretations has a great deal of certainty about it. The ones we have just mentioned may be a little less plausible than those favored by the majority, but only a little less. The "hard" data on words are so fragmentary, and depend so much on the kind of context-construction that is very sensitive to whatever bias the witnesses may have had, that we find them inadequate to meet a "strongly persuasive" criterion that Professor Franklin is guilty as charged by the University administration.

We are not strongly persuaded by the *impressions* of the speech given by various witnesses—as opposed to actual reconstructions of wording. Such impressions are especially subject to the bias of expectations. The differing treatments of Professor Franklin's account of the football game provide one example among many. Some witnesses regarded it as a euphemism for more violent activity, others regarded it merely as an opportunity for a bad pun, while still others interpreted it as we would, as an invitation to occupy the time of the police.

In effect, the majority report argues that Professor Franklin was employing words well understood to his audience but not to others. But there is no convincing evidence that any substantial number of the audience would have translated his speech into an invitation to commit violent acts. Each phrase, like "people's war," has been subject to a number of conflicting interpretations in the testimony. Furthermore, the reconstruction of a code depends on one's ability to capture a reasonably large portion of the message, and in this instance we have only scattered elements. Although we think it is quite possible that Professor Franklin advocated a range of actions some of which may have been illegal, we do not find the evidence strongly persuasive that his speech constituted the advocacy of imminent lawless action.

The majority emphasizes the extremity of the risk in the situation; we do not disagree with their evaluation, but we stress more heavily the doubts we have about the context and the meaning of the words actually spoken.

To find against Professor Franklin on this charge might, we believe, force a faculty member addressing a political rally in the future to guard against possible cryptic meanings that his speech might convey to a segment of his audience whenever a situation of high risk obtains. The social cost of such a prohibition must be balanced against the benefits to be derived from being able to prosecute somewhat ambiguous speech in dangerous situations. We find the costs too great.

Accordingly, we do not sustain the charge against Professor Franklin as stated in Paragraph 10.

DISCUSSION OF SANCTIONS

A. Introduction

The University administration proposed in its statement of charges that Professor Franklin be dismissed, and has argued in its response to Professor Franklin's Motion to Dismiss Charges that dismissal would be the appropriate penalty even if the Board sustained only one of the last three charges (No. 8—White Plaza Rally, No. 9—Computation Center Incident, No. 10—Old Union Rally).

In the section on "Fundamental Issues and Standards" of this report the Board has agreed that the purpose of academic due process is to establish:

1. That the stated cause is the authentic cause for dismissal, rather than a pretense or makeweight for considerations invading the academic freedom or ordinary personal civil liberties of the individual;

2. that the stated cause exists in fact;

3. that the degree of demonstrated professional irresponsibility warrants outright termination of the individual's appointment rather than some lesser sanction, even after taking into account the balance of his entire service and the personal consequences of dismissal. (N. Van Alstyne, *Bulletin of the American Association of University Professors*, Autumn, 1971)

In the preceding sections the Board has dealt with the first two of these points; we now proceed to the contents of the third.

Professor Franklin's performance as a scholar and teacher has not been questioned in these proceedings; the Board ruled on this matter on October 28, 1971, in its response to Professor Franklin's motion:

"The Board requires no testimony supporting Professor Franklin's exceptional competence as a scholar and teacher. His competence is not in question in this hearing; the protections of tenure extend to all tenured faculty members without regard to judgments of their *relative* merits."

The remaining question is thus one of appropriate penalty, taking into account the Board's findings of fact, the entire record, and the consequences of the sanctions that might be imposed.

Beyond the Board's findings of fact, several elements of the record in its entirety deserve consideration. First Professor Franklin is led into a pattern fo conduct that directly involves attacks upon the values of the university as now constituted, and also includes encouragement of violent or coercive tactics against the members of the university community and the society of which it is a part. Second, Professor Franklin has repeatedly reminded the Board that he bases his actions upon a different set of perceptions about the university and society from those of the majority of Stanford faculty members, including members of the Board. Such perceptions of reality, and the convictions that emerge from them, might provide an explanation for his conduct which would assist the Board in its judgment. Third, the rights of the university's entire membership not to be disrupted by the unbridled exercise of self-proclaimed moral conviction must be balanced against Professor Franklin's right of political expression and action.

It is the need to balance these frequently conflicting interests which underlies the determination of appropriate sanction.

B. Professor Franklin's pattern of conduct

From the viewpoint of most Stanford faculty members, who themselves are of course subject to limitations of perception, Professor Franklin pursues a course of action that seeks systematically to disrupt the normal functioning of the university. Professor Franklin, on the other hand, asserts that he is not trying to destroy the institution, but to convert it to "serve the needs of the people." Professor Franklin asserts that the university's actual function is to serve as a training and research center for the maintenance of an imperialistic hegemony over the "Pacific Basin Empire;" yet to most of his colleagues, that is a bizarre mischaracterization. Thus the basis of a pattern of conduct is itself subject to conflicting interpretations, depending upon the perception of reality from which it is being described.

A major element in Professor Franklin's treatment of issues in the university is an attempt to disembody the institution from the human beings who make it up. Characteristically, an instance of policy or action in one area is identified and found to be unacceptable in some respects; guilt is then globalized to the entire institution, and it and its chief administrators are labeled as responsible in absolute terms. The dehumanizing process extends to the treatment of the individuals so labeled: they are characterized as "pigs," "fascists," "lackeys," and the like.

The essential feature of the confrontation with the institution involves a call to coercive or violent action, based upon indignation generated by the particular issue raised. In such calls, however, Professor Franklin has been careful to limit his own role to that of advocate rather than participant. He has said that he does not wish to compromise his own position as a tenured member of the Stanford faculty, feeling that he is more valuable to the "movement" because of that status than, for example, is a student. For this reason he has stated that he avoids participating directly in disruptions, illegal occupations of buildings, and the like. For the same reason one may presume that he also attempts to avoid direct incitement; he does, however, acknowledge and praise violent conduct when it is carried out by others—as when he says in his affidavit:

"I have the right to voice public approval of the fragging of officers in Vietnam and the breaking of windows at Stanford University. In fact, I am ashamed to admit that I have not engaged in any of these activities, nor incited, counselled, advised or urged others to do so. So I find myself in the awkward position of defending myself against allegations of things which I have not done but perhaps I should have done."

In this way, encouragement is given to persons who share Professor Franklin's views about the nature of the university to engage in illegal acts in which he is not willing to engage. This influence extends not only to members of the "movement," but also to non-members who are in general sympathy with a number of the causes for which Professor Franklin is an advocate. The alleviation of poverty, an end to the war in Southeast Asia, and more rapid progress toward social justice are all goals with which the majority of Stanford students and faculty members are in sympathy. In supporting these causes from his particular political stance, Professor Franklin forcefully remonstrates that the university is a primary agent of injustice in order to focus protest action on the university itself. To dramatize the institution's complicity, a variety of immediate issues may serve; these may present themselves as targets of opportunity based on the vulnerability of the institution, on the time scale of university decision-making, on administrative errors, or on genuine failure on the part of the university to do what it said it would or what it should have done.

The events leading up to February 10th provide an illustration of the use of a target of opportunity. The running on the computer of an SRI program entitled "Gamut-H", allegedly having direct application to amphibious assault operations in the Vietnam war, was coupled to the general mood of anger on the campus about the Laotian invasion. Indeed it emerged in testimony that the local issue—Gamut-H—had been stored for the tactically useful moment; it had been known to members of the "movement," though apparently not to Professor Franklin, for at least a week before the Laotian invasion. The existence of that program was proclaimed to be a major basis for selection of the Computation Center as a target for occupation—although the urgency of the demands for remedial action contrasted oddly with the fact that the "movement" had been willing to introduce substantial delays while seeking the tactically opportune moment for releasing its information. The circumstances also reveal a typical failure to use alternative, non-coercive channels for securing the same objective. If a professor feels that such channels are ineffective, he can be instrumental in creating new means of legitimate problem-solving within the university. The violent episodes in which Professor Franklin played a role represent by no means a "last resort" effort after non-coercive possibilities have been exhausted.

Even such a brief description as the above indicates that the pattern of conduct of Professor Franklin and other members of the "movement" contains paradoxical elements that are subject to varying interpretations. What may appear to his following to be a sincere concern with issues of domestic and international injustice and a zeal to make the university more useful to society will appear to others to be an instance of cynical manipulation to achieve ends—tactics that contrast vividly with the ideals on behalf of which they are invoked.

Such a stance, in which a member of the faculty wishes to encourage violence against the university but also wishes to fall short of actual incitement to or participation in such violence, leads inevitably to covert or ambiguous recommendations. On the one hand, Professor Franklin attempts to stay on the permissible side of conduct, in order to preserve his position; on the other hand, he hopes that illegal acts will come about and wants to do what he can within the law to encourage them. Such tactics become particularly effective in escalating an already inflamed series of events.

The demonstrated existence of this pattern of conduct could be used in either of two ways in constructing an argument concerning penalty. His stated intention of "going right up to the line" might be taken as evidence of his awareness of that line, and his consequent determination not to violate it. However, continuous probing of the university's will to enforce its rules might lead to a high likelihood of future transgressions, quite apart from the Board's findings of fact on the current charges.

C. Differing perceptions of reality

Balanced against this pattern of conduct, and in part responsible for it, it is a perception of reality which Professor Franklin and his followers profess to share which differs drastically from the consensus in the university. In his opening argument Professor Franklin proclaimed deep convictions about the evils of American foreign and domestic policy and about the inevitable influences of our socio-economic system in shaping that policy. Essential to this perception is a mistrust of the allegedly intricate interrelationship between the economic power of American's "ruling class" and the maintenance of policies that are imperialistic abroad and oppressive at home. Of crucial importance in the present case is his expressed view that the university, run by and for this ruling class, possesses a substantial institutional guilt for the ongoing prosecution of those policies. Consequently he sees no way to disengage American foreign imperialism and domestic oppression from the impetus and support given to those policies by the university.

The outcome of this perception of reality is a conviction that the situation must be radically changed—by persuasion if that is possible and by violence if persuasion is unavailing. The university becomes the most immediate and obvious target for such action. Since Professor Franklin maintains that the class interests of those with power in the university make it unlikely that they will engage in more than token gestures of reform, he sees coercive tactics, which can include violence, as most likely to produce the changes he desires:

In response to those who claim to abhor violence on campus, Professor Franklin replies that the university, as an integral part of the capitalistic system, is itself systematically engaged in the support of violence—a violence that is sometimes very open and apparent, as in Vietnam or in police oppression in the ghettos, but is often hidden yet none the less devastating in the economic oppression that is exercised domestically against minority groups and internationally against Third World nations. Because of the university's complicity in this range of violent activities, Professor Franklin maintains that it is not only appropriate but necessary (taking tactical consideration into account) to engage in such acts of violence against the university as can lead it in the direction of far-reaching reorganization, "to serve the needs of the people" and not of the privileged few. This results in the pattern of conduct described in the preceding section.

Despite the strident, opportunistic, and aggressive behavior which is in part caused by these perceptions, the Board affirms that the university must not only tolerate, but must actively foster, the widest range of opinions possible. We realize that any perception of reality can be challenged, stretched and revised by the competing views with which it comes into vigorous contact and debate on the university campus. We are committed to the principle that in the competing marketplace of ideas truth can make it without cheating—that is, that in the competition of conflicting perceptions of reality truth can survive without resort to the stifling of dissent. We must engage, and have tried to engage, in "the willing suspension of disbelief," so as to enter as sympathetically as possible into the perception of reality espoused by Professor Franklin. Such matters as conviction, motivation and rationale are important determinants in the assessment of penalty, even though they may not enter directly into findings of fact.

D. The conflicting rights

There are special reasons for the exercise of caution in the application of sanctions in this case. First, loss of tenure is at risk. We need hardly review here the significance of tenure; it is not merely a protection of the individual against unwarranted attacks from the institution from outside political forces. Tenure thus protects freedom for the full range of scholarly inquiry, and both the institution and the individual have a large stake in its continued good health. At the same time, it exacts from the tenured faculty member obligations of performance and conduct.

Second, the impoverished state of "case laws" for academic proceedings of the sort gives great weight to the outcome of the present case. There is much to be said for caution in ground-breaking. Yet caution demands regard both for the rights of the *individual* and of the *institution*.

The rights of the *individual* must be balanced and judged in relation to the rights of others having different perceptions, and to the rights of the entire university community to function and to survive as a center of unregimented thought. However, the expression of deeply-held convictions of one who affirms a minority perception of reality should not be denied merely because the majority feels more comfortable when not confronted by challenge.

In dealing with the rights of the *institution*, it must be recognized that the university is not the all-powerful monolith its attackers at times pretend it is. It is an institution thriving on decentralized initiative, with a central administration that has limited power but increasing responsibilities. There is a real danger that ignoring the rights of the institution in order to safeguard the rights of the individual faculty member may have a result opposite from that intended: it may lead to more attacks on the rights of other faculty members and more, rather than less, concentration of administrative authority. In a very real sense the university *is* the totality of its constituents—damage suffered by the university works directly to the detriment of its individual members.

There is thus a needed balance among three interests; those of the faculty member accused, those of the other members of the academic community, and those of the university as an institution. But there is a fundamental consequence of this balance of rights. While it is the consensus within the university that it should have room for the widest possible range of perceptions and expression, the university says in fact to its members: "You may preach and also practice . . . but only up to a certain point."

The latter edict is not aimed exclusively at those on the far political left, who often complain that they are the only ones being discriminated against when told that a theoretical espousal of their position is permitted so long as it does not spill over into action. It is also applied at many other points along the socio-politico-economic spectrum within the academic community. For instance, the university protects the right of a professor to espouse views that suggest a demeaning relationship between racial background and intelligence, but it would not permit him to organize a forcible attempt to prevent the Admissions Office from accepting black applicants. It would allow a fascist professor to advocate abolition of democratic processes, but would not let him interfere with the conduct of university exercises dedicated toward the exposition of democratic institutions. Common to these examples is the institutional decision that while those further toward the center of the political spectrum may practice what they preach, those at its extremes may preach but are limited in their practice. From Professor Franklin's viewpoint, this is an unfair asymmetry. The majority of the community would point out that in any even-handed balancing of rights, the encouragement of violence constitutes an infringement; to Professor Franklin the balancing of rights appears insufficiently global. Because he makes the need for incitement a political credo, a prosecution for the advocacy of imminent lawless action becomes to him a political persecution.

These descriptions do not solve the problem; they only help to identify it. We cannot simultaneously rededicate the university to a specific political goal—by using force or violence if necessary—and at the same time preserve it as an institution in which independent initiative from many quarters can have the widest possible play. A choice must be made and we choose the latter. Yet having made this choice, the university can contemplate punishment of action—and most especially, of speech—only when the rights claimed by the dissidents seriously infringe those of other groups or individuals within the university. Punishment should follow only when strongly persuasive evidence has been developed that such infringement has actually occurred.

E. Guidelines for severity of sanction

1. *Modifying Circumstances.* On the basis of the above considerations we are prepared to consider as mitigating issues of motivation, overriding necessity, and a variety of factors that may be understandable within

Professor Franklin's framework of convictions but not within our own or those of most of our colleagues. At the same time we are prepared to consider as justification for a relatively more severe penalty a pattern of conduct which systematically threatens the university as an institution in which decentralized individual initiative can have the widest possible range.

However, within this balanced input we believe that in case of doubt, those criteria that are external to the factual fabric of the charges should be applied asymmetrically in favor of the defendant, since (1) such matters were not taken into account in findings of fact, (2) the perceptions of reality held by the Board are generally more shared with those of the Administration than with those of Professor Franklin.

2. *The Purpose of Sanction.* The purpose of sanction can be to retaliate, to rehabilitate, or to deter further violations. We hope that in a university setting only the last two deserve consideration; and we must ask what importance to attach to each.

We are highly dubious whether *rehabilitation* is a useful concept in this case. Professor Franklin's announced convictions about the guilt of the university appear deeply-held, and his opposition to the institution in its present form seems implacable. We believe him when he expresses his regret that his role in converting the university to "serve the people" is restricted by practical reasons to advocacy rather than action. "Rehabilitation" might appear to Professor Franklin as a highly unfair mandate to change his convictions. Barring a dramatic change in perception he is unlikely to change his conduct; thus "rehabilitation" is likely to fail, whatever the sanction.

It can be argued in contrast that the *deterring* function of penalty has real force. By setting a price on proscribed conduct, the university can make its members consider carefully the line that separates forbidden from permitted speech and action, and avoid crossing that line. In establishing a penalty, the institution in effect announces the degree to which it is attached to its own values. Such an announcement insists that persons considering borderline conduct must locate the border; for when there is no deterrent to illegal acts, it hardly pays to have a law.

3. *The Range of Possible Sanctions.* Dismissal severs the connection between the defendant and the institution; a lesser sanction assumes that a satisfactory relationship between Professor Franklin and the other members of the university can be re-established. In considering the appropriateness of a lesser penalty, we must thus consider (1) whether it will actually deter, and whether deterrence is a reasonable expectation at all; (2) whether it appropriately announces the institution's attachment to the value measured.

There is no absolute way of defining the deterrent value of penalty. Some professions (and some people) are especially sensitive to economic sanctions, others to censure. If that proposition is granted, a certain finding of fact can still justify a range of penalties that differ in kind as well as in severity. Between mere censure and dismissal there is an intermediate range of possible sanctions that is populated primarily by such mechanisms as suspension (with or without pay) and probation.

We do not hold probation to be workable. Where such a right as tenure is involved, probation merely challenges it authenticity; and probation is too often an excuse for the removal of due process. Suspension is another matter, and encompasses three kinds of sanction. There is, first, the loss of privilege—to teach and to use the full range of academy's resources. Professor Franklin has already suffered—irreversibly—the penalty of suspension with pay since February 12, 1971; this is a long time, although he has contributed substantially to its length. Second, suspension may also involve loss of salary. Finally, the imposition of any penalty, suspension included, produces a subtle but real change in professional status. Sanction imposed by a council of his peers would surely detract from the offender's standing in the academic community at large.

For all these reasons suspension without pay ranging from one quarter upward is a substantial penalty—in terms of financial cost, in terms of lost academic participation, and in terms of lowered professional status and consequent loss of mobility. Suspension of too great a length is not practicable, because at some point the defendant—whom we must assume to be economically vulnerable—becomes likely to be forced into irreversible occupational alternatives.

Dismissal is a penalty of undoubted severity because of its absolute effect upon the immediate institutional relationship combined with its impact upon employment opportunities elsewhere within and even outside the profession. The severity of dismissal as a penalty can be softened somewhat by a financial settlement which would permit time for the exploration of alternatives.

The more severe penalties are not in our view inappropriately matched to the gravity of the charges. Incitement to violent, coercive lawless action—however it may be modified in final judgment by any of the factors discusses above—is a heavy attack upon the institution of which Professor Franklin is a member.

ADVISORY BOARD DECISION

1. Findings on University Charges

The following numbered paragraphs of the "Statement of Charges" of the University administration require a finding by the Board: 6, 7, 8, 9 and 10. Of these No. 6 does not involve Professor Franklin's conduct, but is sustained unanimously by the Board.

The findings of fact by the seven-member Board on those paragraphs involving Professor Franklin's conduct are as follows:

"7 *The Lodge Incident*

"The Board unanimously does not sustain this charge.

"8 *White Plaza Rally*

"The Board unanimously sustains this charge.

"9 *Computation Center Incident*

"The Board sustains this charge. Two members of the Board (Brown, Kennedy) do not.

"10 *Old Union Courtyard Rally*

"The Board sustains this charge. Two members of the Board (Brown, Kennedy) do not.

The violations sustained constitute, in the Board's judgment, "sustained and manifest neglect of duty or personal conduct substantially impairing the individual's performance of his appropriate function within the University community," and are therefore sanctionable under the *Statement of Policy on Appointment and Tenure.*

2. Sanctions

The Board has sustained Professor Franklin's culpability on three charges, unanimously on one charge and with two of the seven members dissenting on two charges. The University administration argues that dismissal is the appropriate penalty for each of the three offenses.

We agree that each of the offenses is a serious one; since we find Professor Franklin culpable on three charges, we need not decide whether any one alone would justify dismissal. Taken together, however, the three offenses comprise, in our judgment, major violations of the professional responsibilities and duties of a professor in this University under the *Statement of Policy on Appointment and Tenure,* the *Policy on Campus Disruptions,* and the common traditions of this and other universities. Giving the fullest weight to Professor Franklin's personal rights to advocate vigorously his political views, we are unable to escape the conclusion that by his conduct he repeatedly and seriously infringed the rights of others in the University, and significantly increased the risk of injury to them and to University property. He did so by urging and inciting to the use of illegal coercion and violence, methods intolerable in a university devoted to the free exchange and exploration of ideas.

In the preceding *Discussion of Sanctions,* all the members of the Board enumerated the factors which affect the choice of proper sanctions, once findings of facts are established. Accordingly, we considered possible mitigating circumstances as well as those circumstances which make Professor Franklin's behavior more unacceptable. We conclude that these roughly offset each other. On balance, they do not argue against what would otherwise be the appropriate penalty for such grave offenses. Nor do we doubt Professor Franklin's own testimony that he would continute the type of behavior charged here; indeed, he considered both his own and his political associates' behavior to have been "too weak" during some of the incidents covered by the charges.

The real issue in these hearings is Professor Franklin's behavior on the offenses charged, not his political views. Diversity of political views is a great asset to the University. The charges here, however, are incitement to use of unlawful coercion and violence and increasing the danger of injury to others as means to achieving Professor Franklin's goals; it is that behavior, not his political views and their expression, which we judge unacceptable. Indeed, we note with approval that others holding and expounding extreme political views are today highly respected members of the Stanford faculty. Our decision silences neither political dissent nor criticism of the University. The only speech or behavior repressed by this Board's findings is that which clearly urges and incites others to unlawful coercion or violence, or to acts likely to increase the risk of injury to other persons. We believe such behavior should be restrained; insistence on such standards of faculty conduct will not chill open and robust dissent on this or any other campus.

The Board is also critical of Professor Franklin's deliberate choice, demonstrated by action as well as by his testimony, to attempt to protect his own position as professor in the University while at the same time inciting others, including students, to expose themselves to expulsion or criminal charges.

Despite the severity of these offenses, we have weighed carefully possible sanctions short of dismissal. But a lesser penalty would fail to recognize the fundamental nature and severity of Professor Franklin's attacks on the University of which he is a member. Tolerance of such attacks on the freedom of others, under the guise of protecting Professor Franklin's freedom to act as he wishes, would be subversion, not support, of true academic freedom and individual rights. It is precisely because unlawful coercion and violence infringe upon the rights of others in the University that the charges against Professor Franklin are such serious ones.

We believe, given all these considerations, that immediate dismissal of Professor Franklin from the University is warranted. In view of the difficulty of developing alternative sources of income at this time, we recommend that a sum equal to Professor Franklin's salary until August 31, 1972, be paid to him.

Minority decision: Professors Brown and Kennedy

In determining the appropriate penalty given our own findings of fact, we have considered carefully the University administration's argument that dismissal is the appropriate sanction if we sustain any of the last three charges.

The findings on the White Plaza speech on February 10th dictate, in our view, a serious penalty. Although we differ slightly about the relation between the earlier part of Professor Franklin's speech and its conclusion, we agree that his call to shut down the Computation Center, given its context and its position at the end of the rally, was clear and unambiguous. Its force is blunted only by the claim that it was, in a sense, an afterthought to the rest of the speech; but even as an afterthought it provided immediate impetus for a move to occupy a University facility. Our view of the offense is not substantially mitigated by Professor Franklin's attempt to convert the context of his instructions into one appropriate for a call to a "voluntary boycott" or "strike"—terms whose ambiguity is amply demonstrated in the testimony. Indeed, the unimpressive analysis of syntax that characterized Professor Franklin's defense on this charge left us wishing instead for an honest appeal to the urgency of outraged conscience.

Although we find this violation a serious one, we cannot agree that dismissal is the appropriate penalty for it. The following elements contribute to that view:

First, suspension is itself a severe penalty. It works substantial professional and financial hardships—substantial enough to provide a significant deterrent to Professor Franklin and others. It is therefore an adequate advertisement of the University's devotion to the principles under attack by Professor Franklin.

Second, Professor Franklin has stated his intention to be a non-participant in any action he supposes to be punishable. If he has correctly represented his feeling that in his case the line between permitted and proscribed conduct was vague to him, then surely the Board's emphasis on its position with respect to incitement will be informative. We can tentatively accept the proposition that for someone with a perception of reality different from our own, that line might have seemed blurred; but then we must also assume that the present clarification, coupled with Professor Franklin's announced determination to avoid dismissal, will be helpful in preventing further violations.

Third, while it is true that Professor Franklin's present ideological position will encourage further coercive acts against the University and that some of these will be unlawful, we cannot assume his position to be static. It can therefore not be argued conclusively that dismissal is appropriate merely because other penalties would be without effect.

Fourth, we would argue a careful weighing of the costs of dismissal to the University relative to the risks of future violations. These issues have been outlined in the preceding section. We here discuss those that seem to us especially important, in light of the fact that our own findings of fact could justify a range of penalties, perhaps including dismissal. (a) The University thrives on diversity and challenge. When we lose a prominent symbol of these qualities, we lose not only the substance of the challenge, but also the external perception that we can take it in stride. In some quarters, the latter effect could be damaging—for example, less well-buffered institutions may become more vulnerable to outside pressures to get rid of controversial faculty members. (b) Because we live in a society in which there are increasing public pressures to curb dissident speech and action, the University has a special responsibility to insulate its procedures from such influences. That need is magnified by the special significance of tenure, which historically protects the institution's faculty from social trends toward political conformity. We should therefore be scrupulous in protecting violators of University rules against excessive penalties imposed by collective judgment, especially when those violators espouse uncomfortably heterodox views. (c) For all these reasons, the University is obliged to tolerate a great deal of what it does not like. We see substantial costs in Professor Franklin's loss to the institution; they are measured externally in the form of corrosive effects on academic freedom, and internally in terms of lost challenge and the subtle inhibition of dissent.

In light of these considerations, Professor Kennedy recommends that Professor Franklin's suspension be continued through the remainder of the current academic year and that his suspension be without pay for one of the remaining quarters; Professor Brown recommends that in view of the time Professor Franklin has already been suspended, his suspension be continued through the Winter quarter only, suspension for that quarter to be without pay.

Addendum to minority decision: Professor Brown

Since I found against Professor Franklin on only one of the four charges, it may seem gratuitous to discuss possible penalty had I found him culpable on any of the other charges as well. However, in view of the time and resources the University has asked us to devote to this hearing, and the gravity of the issues posed, I consider it both appropriate and necessary as a member of the Board to address myself to the question.

I strongly urge the University administration and the Board of Trustees to consider once again, before taking final action, whether a dismissal penalty does not represent a higher cost than the University ought to pay. My departure from the majority, in addition to a different finding of fact, focuses on the difference between the majority's belief that possible mitigating factors tend to be cancelled out by Professor Franklin's ongoing pattern of conduct, and my belief that there are certain mitigating factors that should be given proportionately greater weight. The four elements of the argument against dismissal made in the minority decision can additionally be offered as mitigating factors even in the face of a more severe finding of fact, and I urge that they be re-examined in that context before a final decision is reached.

There are three points I wish to emphasize more strongly than does the report as a whole, which I believe militate against dismissal as an appropriate penalty:

1. While I acknowledge with the majority that the University is more fragile than its attackers or defenders often realize, I put greater stress on the need for the University to be the scrupulous, even over-zealous, champion of *the rights of the individual*. The University whatever its vulnerabilities, has many champions at work defending its interests. The individual, on the other hand, particularly if he espouses unpopular beliefs, is not so amply blessed with supporters. He will inevitably have tougher going and therefore needs a special degree of championing. This is particularly important in the area of speech; for speech that goes "up to the line" of what is permissible is extraordinarily important speech both to the university and to society, since it is through such speech that new insights are often born. If there is the slightest possibility that an individual, called to account for speech that transgresses permissible boundaries, will more clearly respect such boundaries in the future, he deserves to be given that chance. A severe penalty does not deny him that opportunity, but dismissal does. In a matter as crucial as this, I put great stress on the point made in the *Discussion of Sanctions* that the balancing of probabilities should be tipped in favor of the individual; I believe it is the business of the University to be the community where the balances are so tipped. If such a stance makes the University fragile, it is equally true that such a stance makes the University strong.

2. Although the Board's joint *Discussion of Sanctions* indicates that one's *perception of reality* could be a mitigating factor, I place more weight on this than does the majority. Even though Professor Franklin did not choose to develop this point in a systematic way in his defense, it is clear from the testimony that his indignation at many injustices that he sees in the world inevitably leads him to vehement attack on those whom he considers the purveyors of injustice. When we describe his speech and manner as angry or strident, we must not forget that from his perception of reality there is a great deal to be angry and strident about. Indeed, we must acknowledge that his perception of reality colors his own definitions of what constitutes his "appropriate functions within the University community," leading him to seek for ways to acquaint his hearers with the reality of police oppression in the ghettos, the committing of war crimes in Southeast Asia, the immorality of certain kinds of war-related research, and so on. While we can properly demand, by a severe penalty, that his speech and action not circumscribe the rights of others, we must recognize that the penalty of dismissal would deny him a chance to apply his own perception of reality within boundaries of permissible conduct that may now be clearer to him.

3. There is a final point we may not ignore. This is a recognition that *many aspects of the University need to be changed*. Those of us within the University share responsibility for many of the evils of our society, sometimes by our neglect of means for bringing about change, and sometimes by our tacit if not overt approval of the involvement of the University and University personnel in ongoing social structures of human oppression. Albeit it in a harsh and strident manner, Professor Franklin has helped to call attention to many of these realities. He has not been alone, of course, in doing this, and others may have joined the issues more effectively and creatively than he has done. But his has been an important voice, however uncomfortable it makes the rest of us. Dismissal would deprive us of that voice, whereas a penalty short of dismissal would not do so unless Professor Franklin chose in the future to disregard its warning.

I believe very strongly that, however, much I and many of my colleagues may disagree with what Professor Franklin says or how he says it, Stanford University will be less a true university without him and more of a true university with him. I fear that we may do untold harm to ourselves and to the cause of higher education unless, by imposing a penalty short of dismissal, we seek to keep him as a very uncomfortable but very important part of what this University, or any university, is meant to be.

SUMMARY OF ADVISORY BOARD REPORT

A. The proceedings

President Lyman on March 22, 1971, preferred charges against Associate Professor H. Bruce Franklin under Stanford's *Statement of Policy on Appointment and Tenure*, indicating his intention to dismiss Professor Franklin on the basis of these charges. Pursuant to Paragraph 15 of the *Statement*, Professor Franklin requested hearings on the charges before this Advisory Board, composed of seven faculty members elected by the entire Stanford faculty. The hearings covered the period September 28 to November 5, 1971. Final briefs were filed by both parties on December 17, 1971; the Board has also received numerous written statements from other interested groups and individuals.

The following pages summarize briefly the charges against Professor Franklin, the standards used by the Board, findings of fact on the charges, considerations concerning possible sanctions, and the decision of the Board as to the appropriate penalty. In accordance with the *Statement*, this report has been transmitted to the President of the University.

B. The charges

In summary, the four charges against Professor Franklin are:

1) On January 11, 1971, Professor Franklin intentionally participated in, and significantly contributed to, the disruption of a scheduled speech by Ambassador Henry Cabot Lodge. Such conduct prevented Ambassador Lodge from speaking, forced cancellation of the meeting, and denied to others their rights to hear and to be heard.

2) On February 10, 1971, a war-protest rally was held in White Plaza. At that rally Professor Franklin urged the audience away from tactics aimed at influencing government policy off-campus. Instead he urged and incited students and others to disrupt University functions by shutting down the Computation Center. Subsequently a shutdown was effected by an unlawful occupation of the Center.

3) Following the unlawful occupation of the Computation Center, Professor Franklin significantly interfered with orderly dispersal in response to police orders by intentionally urging and inciting students and others to disobey the orders to disperse.

4) Following these events, during an evening rally in the Old Union Courtyard Professor Franklin intentionally urged and incited students and others to engage in disruptive conduct which threatened injury to individuals and property. Acts of violence followed.

To establish culpability on the conduct charged, the Board required as standard of proof that *strongly persuasive* evidence be furnished.

C. Fundamental issues and standards

The Board held the following principles to be applicable in resolving the issues before it:

1) Rigorous standards of due process should be met by the hearing and associated procedures, but these need not be modeled specifically after the criminal (or any other external) standard. The University context, whether state or private, is a special one.

2) Similarly, standards for the judgment of what speech or conduct may properly be regulated may or may not correspond to those in effect in particular external legal systems.

3) Regulations should not be vague, since a vague regulation may leave a person in doubt about what conduct is permitted; nor overbroad, since an overbroad regulation prohibits conduct which the Constitution guarantees as well as conduct which the institution may legitimately regulate. In the University setting, the identification of proscribed conduct is partly a matter of tradition and partly codification. The Board believes that the concepts of "appropriate function" and "duty" in the *Statement of Policy on Appointment and Tenure* do reflect commonly understood and accepted standards of conduct, including restraints as well as positive obligations. We also affirm that the *Policy on Campus Disruptions* provides an explicit though not exhaustive list of conduct which is proscribed under the *Statement*. We thus do not accept the contention that the rules and understandings governing faculty conduct are vague or overbroad.

4) Advocacy is punishable, if it is directed to inciting or producing imminent lawless action, and is likely to produce such action; lawless action here refers to conduct proscribed by state or local laws, by the *Policy on Campus Disruptions* or other campus regulations, or by commonly-held understandings in the University community. Advocacy is also punishable if the advocate knowingly increases the likelihood of injury to persons.

D. Findings of fact

1. Lodge Incident

The Board accepts as accurate the University administration's contention that the speech to be delivered by Ambassador Lodge was disrupted to such a degree that it was reasonable to cancel the meeting before the speech could be given. This contention does not directly connect Professor Franklin with the events that are the subject of the charge; accordingly, his personal culpability is not demonstrated by the Board's agreement with this description. The Board finds strong evidence, however, that a large number of those in the audience denied others the right of speech, hearing and assembly on this occasion, and considers such actions destructive to the fundamental values of the University.

The Board does not, however, feel that it has been presented with strongly persuasive evidence that Professor Franklin's conduct included "chanting and clapping" as specified in the charges. He did engage in "loud shouting" on at least two occasions when the rest of the audience was quiet, and possibly at other times as well, but there is not strongly persuasive evidence that Professor Franklin participated in the kind of disruptive conduct charged, in particular while Ambassador Lodge was at the podium. Accordingly the Board unanimously holds that the specific charges against Professor Franklin in connection with this incident are not sustained.

2. White Plaza Rally

At the White Plaza rally at noon on February 10, Professor Franklin gave the concluding speech. It was followed by an illegal occupation of the Computation Center by several hundred persons, many of whom had attended the rally. The occupation posed a grave danger to the facility and the research projects that depend upon it; there were no explicit group understandings before the occupation to avoid damage to the machine or to stored data.

The Board considered the background that provides context for this rally and the events that followed it. These included the invasion of Laos, resulting in protests of various kinds on the campus, and a rally the evening before in Dinkelspiel Auditorium. At that rally, which was attended by Professor Franklin and many of the Computation Center occupiers, the vulnerability of computers was discussed and the Center was selected as a tentative target for the next day.

In light of this background, Professor Franklin had reason to expect that his speech was given to an audience already prepared for illegal actions. At the conclusion of his speech he said: "See, now what we're asking for is for people to make that little tiny gesture to show that we're willing to inconvenience ourselves a little bit and to begin to shut down the most obvious machinery of war, such as, and I think it is a good target, that Computation Center."

The Board does not accept Professor Franklin's argument that he was in fact discussing a "strike" or a "voluntary boycott"; that was not the main tone of the discussion at the previous rally, nor is it consistent with the preparations for action. The Board is thus strongly persuaded that, given the context of the speech, Professor Franklin did intentionally incite and urge persons at the White Plaza rally to occupy the Computation Center illegally. We therefore unanimously sustain the University administration's charge regarding this incident.

3. Computation Center Incident

After the Computation Center had been illegally occupied for about three hours, during which time some damage had occurred and the occupiers had refused University requests to leave, police declared the occupation unlawful and ordered the demonstrators to disperse. After police had cleared the building, many persons were moving away from the building, as ordered, but some, including Professor Franklin and other members of the "movement," stayed immediately in front of the police line near the building, protesting the order to disperse. When a police official denied Professor Franklin's protest, Professor Franklin strode into the crowd, denying the legality of the police order to disperse and shouting at Professor Moses to stay as a "faculty observer." Professor Franklin testified that he believed a police charge and arrests were almost certain under the circumstances.

After urging Professor Moses to stay, Professor Franklin then returned to confront the police officer in charge; he testified that he addressed only the police officer and he denied urging or inciting anyone else to remain. But at least three witnesses testified specifically that as he turned away from Moses, and with numerous demonstrators between him and the police 40-60 feet away, Professor Franklin was urging the crowd to defy the police order. Professor Franklin produced no witnesses who directly contradicted this evidence; most of his witnesses were close to the police line and could not observe his actions during this period. Indeed, five of his own witnesses contradicted his version of the spatial relationships. As Professor Franklin returned to the police line, others returned with him, and the general dispersal of the crowd was reversed. Following a further brief, angry confrontation between Professor Franklin and the police, an attempt was made to arrest Profesor Franklin, and the police line charged, dispersing the crowd, with arrests and minor injuries to some persons.

We conclude that the police order to disperse at the Computation Center was clearly reasonable. We find the evidence strongly persuasive that Professor Franklin did intentionally urge and incite others to disobey the order to disperse, thereby increasing the danger of arrest or injury to those present, a risk of which many were unaware. The Board therefore sustains this charge.

Professors Brown and Kennedy, while agreeing that Professor Franklin's behavior may have induced members of the crowd to stay, do not find the evidence strongly persuasive that he intentionally urged and incited them to do so, and therefore do not sustain the charge.

4. Old Union Courtyard Rally

On February 10, 1971, about 350 people attended an evening rally in the Old Union Courtyard. Speakers debated demands and tactics. The situation was tense: there was resentment toward the war, the police, and the University; the occupation of the Computation Center and the police charge had occurred that afternoon; the preceding four days had been marked by arson, false fire alarms, fire bombing, breaking of windows, bomb threats, fighting between demonstrators and other students, disruption of the Trustees' meeting, and occupation of the Old Union.

Professor Franklin made two speeches at the rally. His first speech, emotional and intense, linked the struggle at Stanford with the struggle in Southeast Asia. He drew parallels between the occupation army on campus and imperialist forces in Asia. His briefer second speech, in which he urged action that night to bring more police on campus and thereby relieve police pressure on the ghettos and barrios, was the last speech at the rally. There is substantial agreement between Professor Franklin and witnesses for the University administration as to the content of the second speech. Professor Franklin said that militant action in large groups would be suicidal, given the number of police on campus. He urged responding with "the methods of people's war." Professor Franklin said that he "ended by telling people that people's war meant that they should go back to the dormitories, organize people into small groups, and talk with them, or play football, or whatever, as late into the night as possible." Violent acts followed.

Professor Franklin must have known that the circumstances under which he spoke involved a high risk of subsequent violence. He urged responses to the police and the University at many levels of action. His speeches sought to generate further hostility toward these targets and, with deliberate ambiguity, he urged immediate retaliation against them by both legal and illegal means. The specific tactics to be used were left to the judgment and imagination of each individual and small group. His message included a general call to employ immediately a range of action including violent and illegal behavior.

The Board is strongly persuaded that Professor Franklin intentionally urged and incited his audience to engage in conduct which would disrupt activities of the University community and threaten injury to individuals and property; it therefore sustains the charge.

Professors Brown and Kennedy, while agreeing that the situation was one of risk, place a different interpretation on the context of Professor Franklin's speeches. They do not find the evidence regarding the content of his second speech sufficient to sustain the charge.

E. Sanctions

The Board has considered various elements that might enter the consideration of penalty, given a finding of fact that would justify a range of substantial sanctions.

Professor Franklin engages in a pattern of conduct that constitutes a continual challenge to the institution: he states that he wishes to encourage violent and coercive actions, but at the same time not to risk the loss of his position in the University. This pattern of conduct, however, is guided by a set of perceptions which differ markedly from those of most faculty members: Professor Franklin views the University as a central agent in domestic repression and in an imperialist foreign policy.

These facts make it necessary for the Board (1) to consider carefully what implications Professor Franklin's pattern of conduct may have for the efficacy of various possible penalties, and (2) to enter as sympathetically as possible into the perception of reality he espouses, so as to make a fair evaluation of such mitigating factors as necessity and sincerity of conviction.

In applying such considerations, it is important to balance Professor Franklin's rights as an individual against those of others in the University upon whom his conduct may infringe, and against the functional integrity of the institution. Where there is doubt, such external considerations should be applied asymmetrically in Professor Franklin's favor.

The Board considers probation and very long suspensions to be unworkable. The range of penalties from one quarter without pay to dismissal encompasses substantial penalties, but in the Board's view that range is justified by the gravity of the charges.

F. Decision

The Board, having sustained the University administration's charges involving the White Plaza rally, the Computation Center incident, and the Old Union rally, believes that immediate dismissal of Professor Franklin from the University is warranted. The Board recommends that he be paid a sum equivalent to his salary until August 31, 1972.

Professors Brown and Kennedy dissent from this recommendation, having sustained only the University administration's charge involving the White Plaza rally. They recommend that Professor Franklin be suspended for one quarter without pay; Professor Kennedy recommends an additional quarter of suspension with pay to extend through June 1972.

Professor Brown has appended an argument against dismissal even if all charges are sustained.

Donald Kennedy,
Chairman.
D. A. Hamburg,
Vice-Chairman.
G. L. Bach.
R. M. Brown.
S. M. Dornbusch.
D. M. Mason.
W. K. H. Panofsky.

APPENDIX I

Transcript of Professor Franklin's main speech at Dinkelspiel auditorium on the evening of February 9, 1971

Yeh, I mean, I think that the demand "U.S. out of Southeast Asia" now is, I mean, the heart of it. But the point that the woman from Columbae House raised before is, I think, a key question in what demands we formulate, to whom do we make these demands, and what do we do about them? And you see, I would take almost precisely the opposite view from the position she takes about the relationship between Nixon on one hand and the Board of Trustees of Stanford University on the other. This is not Nixon's war and I don't quite understand why we have so much trouble registering that fact. It is not Nixon's war any more than that it was Johnson's war or Kennedy's war or Eisenhower's war. This is a war waged by the Board of Trustees of Stanford University and, and the other people of that social class. *KZSU interruption:* To catch you up with what's happening, we previously had a speaker who stated his opinion that this meeting should only have one, that's one, demand, that demand to be that the U.S. be removed from Indo China. All other demands would give students an opportunity to become apathetic. Right now the speaker is Bruce Franklin and he's speaking against the substitution of the single demand of "U.S. Out of Southeast Asia" and pointing out that the war is not Nixon's war and that the war is not a mistake. The war is being waged by Stanford trustees.

You see the power in United States society and that decision-making power rests in the hands of the giant corporations. Those are the powers that run Stanford University and they can't and they don't make those decisions just inside each corporation. They get together in such institutions as the Board of Trustees of Stanford University. The design of the Pacific Basin empire of which the Southeast Asia war is just part, that was worked out here. [Applause.] The interlocked empire of the Pacific Basin is represented on that Board of Trustees of Stanford University and we've been putting out research on this for years. I mean, the thing the other night, the trial of Lodge, put forward a lot of new facts and I think that, you know, there was an assumption there that people were familiar with the interlocked role of all of these giant corporations. Now, see that's a very important thing because, because if we don't understand that, then its true, there's no logic in a strike. You know, why in the world would we strike the University? The University, that's just the University and the real decisions are made by the government. That's what most people think now. That's true. Why would we strike? Why would we do anything on the University? See? So why the hell, why the hell would we even have a movement here? See, but that raises another question. Is why do we have a movement here? And the movement didn't fall out of the sky. [Laughter.] Probably the main reason that there's a movement on the University is because there is a consciousness that this is true. And that people have been discovering this over a period of years. Now to say that most students didn't now understand that, that's also true. And therefore, it seems to me clear that one of our main jobs is to bring that understanding and that consciousness of what is true to those people out there and to get rid of the ideas that they have, that policy is made because Nixon has a war personality or some insane idea like that. Now, I think that it would really pay if we were to have say, I don't know, 20 minutes of discussion, on this point. I don't think it's anything that we can vote on. But I do think that there are people here in this room who have a knowledge that they should begin, to begin with, bring to the other people in the room. So that at least we can have some kind of unity of will here and can be able to act in some kind of effective way. If the people from Columbae and so forth can persuade us that the University is just a, you know, vaguely associated with the war, and that the real architect of the war is Nixon, then I'll be perfectly happy to go out with him and lie down in front of trains or whatever. On the other hand, I think that if we can convince people that this is a prime seat of power, and a center of that Pacific Basin empire, then it follows that we ought to take some very effective action here on the University (Applause).

APPENDIX II

Transcript of Professor Franklin's speech during the noon hour on February 10, 1971

People are complaining about the meeting going on a long time. [Laughter from the audience] But, you know, you see I think that we could inconvenience ourselves for a few minutes considering what we're trying to do here. Now, there were some, there were some hot emotions at the beginning of the meeting when Bob Grant and Larry Diamond tried to subvert what we were doing. And I think a lot of people misunderstood where things were and what was coming down. Because they believed that they're really very sincere people and so forth. And not that we're some kind of lunatic who just has some private axe to grind; we being the radicals, the revolutionaries. The fact of the matter is that a lot of us were doing precinct work out in the community in 1964, and at that time we were opposed by the Bob Grants and Larry Diamonds of the world. We were called Traitors and Saboteurs of the war at that time. In 1965 the most radical act here was when 24 people stayed overnight in an all-night vigil at the fountain and people came down and beat us up and threw us into the fountain. In '60, in late '65 or early '66, when we had here the first act in the United States of open identification with the Vietnamese people, and a blood drive in North Vietnam, people threw garbage at us. Called us "dirty jew bastards" and "traitors" and so forth. And at every point, you see, when the movement was being built, there have been people who have come out to talk about the tactics alienating the vast mass of people and we understand where that's coming from. Now they come out here and tell us that we shouldn't be doing anything on the University. We should be going into the community. We're the last ones in the world to oppose doing anything in the communities. The fact of the matter is that most of our comrades are working full-time in the community 'cause they come from the community, and they're brown and black and white working-class and poor people. And, see, there's a very extreme form of false consciousness that's created on a university campus. Because we get the illusion because there are a lot of people gathered here that this is a, this is the most advanced opposition to the war. But that poll that was cited, it wasn't a poll of people who were in favor of the McGovern-Hatfield Amendment. They don't know what the——— that is. It was a poll of people who want to get out of Southeast Asia right now and that poll, which is, and remember it was a poll of people over 21, and mostly white, but that poll showed something.

And that is that 60% of those people with a college education wanted to get out of Southeast Asia now. 70% of people who only have a high school education want to get out of Southeast Asia now, and 80% of people with only a grade school education want to get out of Southeast Asia now. [applause] . . so want to talk about, about high consciousness, high consciousness is the consciousness of the people most oppressed by U.S. imperialism, which includes as a main institution of that Stanford University. And that's why whenever people from that community, whenever poor working class youth from that community, get a chance to come on the campus at Stanford and do a little material damage, they are very eager to do so. Because they recognize what Stanford University really is, even if people here don't. Now, see, what the question is, the question of what we do. Now people get up here and talk about workers striking, and the important thing is for us to go out into the community, and tell the workers to strike. Well, that, I mean, it's true that, that the workers have the ability in the long run to bring the war to an end. The war that started with the extermination of the Indian people and black people, and Mexican people, and went on to the point where extermination of people in Southeast Asia. Yes, it's working people who can do that if they strike. But to ask us, for us to ask workers to risk their chances to survive, to physically survive, by really striking, when we can't do a kind of fake strike, is to stand the world on it's head. [applause]

Well, when we talk about, see we're just ripping off that term strike when we talk about striking at Stanford. This isn't a strike. We're not risking anything. It's a voluntary boycott. A shutdown of some of the University as a demonstration of something. Now, now what we called a strike last year, and it lasted really about three days and it kind of dragged on, and, you know, in an odds and ends way and some people did it. But just the fact that we were able to move our little finger that much, that electrified the working people of this area. That's a fact and the people who were down there on that picket line, down at shipping and receiving, knew that practically every single truck driver who came there when he saw us on strike said "Okay". He was prepared to risk his job and turn that truck around. And in four states, four states, teamsters linked up concretely with student strikers and said that they would strike if the students were willing to strike. And factory workers were walking out. And the day after that we called that strike there was a record absenteeism of all factories in the Bay Area. See, now what we're asking is for people to make that little tiny gesture to show that we're willing to inconvenience ourselves a little bit and to begin to shut down the most obvious machinery of war, such as and I think it is a good target, that Computation Center. [applause] [Shouts of right on. . ."]

APPENDIX III

Transcript of Professor Franklin's first speech at the Old Union Courtyard on the evening of February 10, 1971.

First of all I want to say that I think that was a premature vote. And I certainly think that we should have a revote. I think this is a very important discussion that we're having now, particularly because. . . .

KZSU interrupts: You are now listening to Bruce Franklin.

FRANKLIN (continued). There are people here tonight who are new to the movement and there are other people who have been in the movement a long time. Now, I would like to ask of those people who voted, that free all political prisoners should not be one of the demands. I would like to know how many of those people have ever been in jail?

KZSU interrupts: No one raising their hand.

VOICE in crowd. Why?

FRANKLIN (cont'd). Now I would like to assure you, see that, if you're in jail that can be a very lonely experience. And if you're in jail because you've been fighting for the people, if you realize that those people were then abandoning you and saying well, you know, somehow cut into our support, if we make your freedom one of our demands, you would feel betrayed. And I would like to say to the people who are new to the movement that what this movement is all about is brotherhood and sisterhood and love of people for each other, and we love those political prisoners. We know that they're in jail for us, that they're part of our struggle. So we wouldn't be out here tonight if it hadn't been for them. [applause]

KZSU interrupts: In case you just joined us, there are approximately 350 people here at the Old Union Courtyard. Bruce Franklin is currently speaking. A contingent of 100 persons from Roble Hall came down here in a group to represent their views. It was their belief that the demands of the demonstration should be limited to ending the war in Indochina and to drop the demand of freeing all political prisoners, which is currently one of the three demands held by this group through which their strike is being based and represented by. There was a vote to change the demands to limit to just one, that being—get U.S. out of Indochina. The vote was defeated, voting to maintain all three demands. Then a representative from Roble got up and said that he and his hundred fellows did not believe that the demands should be maintained as all three but limited to just the first, and now Bruce Franklin is trying to defend his point of view that freeing all political prisoners should be maintained as one of the demands of the group, and now back to Dr. Franklin.

FRANKLIN. . . . and we can't betray them. And another part of this is, we can't say, we can't separate the war in Southeast Asia from the war at home. We can't turn our backs on our black brothers and sisters here at home who are part of this struggle and who are today, not us, they are the ones who are the vanguard. And we get very upset when we find our beautiful campus crawling with pigs who stop and harass people and tip off and beat half of the people. Well, this is just a very, very mild taste of what life is like in the black and brown communities of this country, where the pigs come by every night, and if you're young, if you're black and brown, they stop you and ask your I.D. and rip you off for suspicion of burglary and where there are dogs there, and where there's a helicopter overhead, and that's part of the same struggle. And the Black Panthers—and where they shoot you. And the pigs are here tonight. Those San Jose pigs have just murdered a black brother in San Jose. Right, the same San Jose pig just murdered a black brother down in San Jose and that's normal life down there. People murdered in the streets and that's why we call them pigs. Although it's a little unfair to the four-footed variety, because they don't do that kind of thing. [applause] Now the real leadership of our struggle is the Black Panther Party, and the reason that they are the leadership is because they represent the most oppressed people in this country and because they have shown in theory and in practice that they are leading our struggle. And the Black Panther Party is now teaching us a new concept, a new word, and that word is called intercommunalism. And the Black Panther Party teaches us that the people of Laos and the people of South Vietnam are not another separate nation state, that they are our brothers and sisters because they are just other oppressed communities of the same empire. The Black Panther Party teaches us that today, while this meeting was going on, brothers and sisters, blood brothers and sisters of us, were killed in Laos, in Vietnam and Cambodia, in the black and brown communities of the United States of America. They teach us this is all one struggle and the interconnections are every place. Even if you think about what Laos is all about; what is the chief cash export of Laos, who knows? Crowd: Opium, heroin? Franklin: Opium, all the heroin on this coast comes from Laos. It's all brought in by the C.I.A. It is grown and harvested by Meo tribesmen and flown out on Air America, the C.I.A. airline. And it is brought in to this state as part of the oppression, particularly of black and brown people here, but also of white youth. . . .

KZSU interrupts: This is Bruce Franklin speaking now. He's now discussing what he believes the motives are for the war in Laos, in Indochina and, according to him, so the C.I.A. can bring hard drugs, such as heroin, into this country to be given to the minority groups to further oppress them, in his words.

FRANKLIN. And is just as much a part of the counter-insurgency system as the pigs are war on this campus. So the war in Laos is not a separate thing that we can separate out, and it's necessary that there will be some people who will not participate in the actions somehow because there are those other two demands that Stanford get out of the war and that all political prisoners be freed. I think that's too bad. I don't think there will be that many people, but I don't think, say, that we should just forget those people, I think we have an absolute obligation to go out to those people and teach them what we have learned in the course of this movement. But just on a practical level, let me say one other thing. That last year after the same kind of struggle we raised these very same demands and had a student strike all over this country, and it was a strike that was on such a high level for a student strike that large numbers of workers began to join that strike because they understand what this is all about. And I think that if people disagree with any of these things that I have been saying, or other people have been saying, they should get up there and we should discuss it, and it's worth the time that it takes to struggle this out. Power to the people. [applause, shouts of "right on."]

PRESIDENT LYMAN'S REPLY

(Following is the text of a Jan. 8 letter from Stanford President Richard W. Lyman to Robert Minge Brown, president of the Stanford Board of Trustees, accepting the majority decision of the Advisory Board)

I have received and had the opportunity of reviewing the decision of the Advisory Board on the charges brought by the University against Professor H. Bruce Franklin. I must now report that I accept the decision of the majority of the Advisory Board that Professor Franklin be dismissed from the faculty immediately and that a sum equal to his salary until August 31, 1972, be paid to him. In so doing, I call your attention to paragraph 15 (b) of the "Statement of Policy on Appointment and Tenure at Stanford University," which requires the concurrence of the Board of Trustees before such a decision as this can become effective.

In reaching the above conclusion I have given full weight to the fact that the Advisory Board found in Professor Franklin's favor on the first of the four charges and that on the third and fourth charges, as well as on the sanction, two members of the Board dissented. I believe, however, that the Board's findings against Professor Franklin on the charges arising from the events of February 10, 1971, are wholly persuasive. The dissents on charges three and four do not, in my view, undermine the conclusions of the five-man majority on matters of fact or motivation.

I wish to call special attention to an issue addressed by both the majority and the minority of the Board, namely the effect of this decision on free speech and academic freedom at Stanford and at other institutions of higher education. It is significant that the issue was a salient one for all members of the Board, and I have given particular thought to the fact that his concern weighed so heavily in the conclusion of two men whom I know to be as devoted to this University as are Professors Brown and Kennedy. Yet I am convinced that no fair and careful reading of the record of this case will provide comfort for any who may be tempted to use it as a precedent for an attack on the freedoms essential to an academic institution. Chief among these is, of course, the freedom to hold and advocate whatever views one's conscience and knowledge may lead one to have, no matter how unpopular or disturbing to orthodoxy or downright outrageous those views may appear to others, and no matter how large may be the majority that dislikes them, Professor Franklin, in common with all other members of the Stanford faculty, has long enjoyed that freedom. The decision of the Advisory Board rests on the conclusion that on specific occasions in particular circumstances his speech exceeded permissible bounds by "urging and inciting to the use of illegal coercion and violence, methods intolerable in a university devoted to the free exchange and exploration of ideas." My agreement with that conclusion is buttressed by the knowledge that the minority dissent is based on disagreement over the interpretation of fact and motive and over the appropriateness of penalty, not in a finding that the University's intention or action in bringing the case was directed against the right of a faculty member to believe and to espouse unpopular views.

The dismissal of a tenured faculty member is an act with few precedents. Even thought in this case the procedures prescribed in the "Policy on Appointment and Tenure" have been followed scrupulously, and the faculty has acted through its own elected representatives with the fullest due process, there is bound to be shock and uncertainty in the minds of many when the result is a decision for severance. That persons of integrity should differ in predicting the consequences should surprise no one. Clearly no one can speak with complete confidence about future events at other institutions; what can be said with confidence is that the present decision provides no legitimate basis for assaults on the essential rights of faculty anywhere. We can speak more certainly about the future of our own institution. If any person doubts that the future of Stanford will include the full measure of openness to the expression of the widest variety of views he must read in full the report of the Advisory Board. That report in all of its parts is firmly grounded in a broad conception of free speech, a high standard of proof, and a scrupulous regard for the procedural rights of faculty. I am satisfied that we can ask no more and I therefore concur in the decision presented to me.

[From the New York Times, Jan. 11, 1972]

PROTECTING STANFORD'S FREEDOM

The recommendation by a seven-man faculty advisory board at Stanford University that a tenured professor be dismissed for repeatedly inciting students to "the use of illegal coercion and violence" is a matter of utmost gravity for the nation's academic community. If the Board of Trustees follows suit, this would be the first such step by a major university in the context of recent campus unrest.

[Although the professor's defenders have predictably charged that the 5-to-2 faculty recommendation is a violation of academic freedom, massive evidence shows that it is quite the opposite: a painful but necessary attempt to protect such freedom against coercion and disruption from within the academy.]

H. Bruce Franklin, an associate professor of English, has long and publicly encouraged students to commit illegal acts. He urged actions that threatened injury to persons, damage to property and interference with the lawful activities of other members of the community. He has in effect cried "fire" in a crowded theater. His conduct has been cowardly as well as irresponsible, manipulating students, endangering their own safety and damaging their future careers. It makes pawns of vulnerable young men and women, while the professor as instigator seeks immunity behind the shield of tenure.

At no time has Professor Franklin's Maoist ideology been an issue. What is at stake is the university's right physically to protect itself. The senior faculty panel's painstaking deliberations, after six weeks of hearings of more than 100 witnesses, led to the unimpeachable conclusion that incitement to illegal conduct is "an abuse of power" rendered particularly serious when it ignores a teacher's responsibility toward his students. In a flagrant instance last February, a student occupation of the university's Computation Center followed Dr. Franklin's appeal for just such a take-over.

The panel's two dissenting members disagreed with the majority only with regard to the severity of the penalty. Their counsel of leniency might be supported had the offense been an aberration of momentary passion. But Professor Franklin's consistent contempt for the foundations of a free, rational and non-violent community was unmistakably reaffirmed when he responded to the faculty verdict with a call for "revolutionary counter-violence," while his wife "symbolically" stood by his side with a rifle.

A better symbol of the universities' determination to uphold freedom through self-government under law will be Stanford's notice that neither tenure nor inflammatory rhetoric constitutes a license for coercive and illegal action.

MATCHING FUNDS FOR ATTACK ON CRIME AND DRUG ABUSE

Mr. SPONG. Mr. President, the Omnibus Crime Control and Safe Streets Act of 1968 provided States and local communities with the tools they need to mount a comprehensive attack on crime and drug abuse. In most States, grants under this program have become the mainstay of the entire law enforcement effort.

Unfortunately, stricter matching-fund requirements which take effect July 1 threaten to choke off the progress that has been made in this field.

My own State of Virginia, for example, will lose $14 million in LEAA entitlements over the next biennium unless some relief is granted. I am certain that many other States are in the same position and I would hope that there will be support for my amendment now pending before the Judiciary Committee.

Mr. President, the attorney general of Virginia, Andrew P. Miller, recently discussed this and other challenges facing Commonwealth's attorneys. Mr. Miller is in the forefront of the State's anticrime program and I commend his remarks to the Senate. I ask unanimous consent that Attorney General Miller's Williamsburg, Va., speech be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE CHALLENGE FACING COMMONWEALTH'S ATTORNEYS

(An Address by the Honorable Andrew P. Miller, Attorney General of Virginia, Before the Commonwealth's Attorneys' Seminar, Williamsburg, Va., February 9, 1972)

This is a good opportunity for you to evaluate the job of Commonwealth's Attorney. You've probably been doing a lot of it already here at Williamsburg, since you're all here in a group.

There are two ways of looking at it. Some of you might justifiably say that you couldn't have picked a worse time in Virginia's history to be a Commonwealth's Attorney. Crime is increasing, and so is public pressure on you to do something about it. Many of you have found that you have neither the budget nor the facilities to do the job the way it should be done. Neighboring jurisdictions don't work together as they should to fight crime. Courts are overworked, jail facilities are inadequate, police departments are shorthanded and underpaid, and unpredictable political cross winds ruffle your composure. You have a mandate from the voters who elected you, but they don't understand your problems. All they want are results. That's what they elected you for, and they're not likely to forget it.

So you could say that you're in hot water, or deep water. Or is it both?

But there's another way of looking at the shape you're in as Commonwealth's Attorneys in Virginia today. You have accepted an opportunity for public service at a time when the office of Commonwealth's Attorney has never been more significant to the welfare of the citizens of Virginia.

The fight against organized and other crime is your fight, and you are beginning to gain ground. In the decade of the 70's, the office of Commonwealth's Attorney is destined to become more clearly than ever before the command post of every locality's fight against crime. The Commonwealth Attorney himself will assume the kind of leadership which his predecessors were not called upon to provide. His decisions will be crucial, his needs will have to be met and his requests for cooperation will have to be honored—if the fight is to be successful.

I submit to you today that you couldn't have become Commonwealth's Attorneys at a better time, either for you or the Commonwealth itself. It will not be an easy time for you. You who are newly elected are going to discover, as others of you already have, that much is going to be expected of you. The climate of public opinion in the Commonwealth is undergoing a metamorphis in regard to crime. Citizens in every locality are deeply concerned about the way in which Virginia is meeting this clear and present danger.

The drug traffic is responsible to a great degree. It has taken Virginia a long time to realize the extent of drug abuse in the Commonwealth. But now that it is clear that the drug traffic affects every area of the state, the public is beginning to react. Parents want assurances that their children will be protected and that those who traffic in drugs will be apprehended and prosecuted. And they are learning who does the prosecuting.

A graphic demonstration of just how concerned the public is about law breaking has been going on in my office since early last summer. I have received more than 6,000 postcards from Virginians who want to know what the Office of the Attorney General is doing to prosecute the peddlers of obscene movies and books. Some of you may have seen the cards, or the letter from an organization known as Citizens for Decent Literature which supplies the cards to persons on its mailing lists. Citizens for Decent Literature asks that the two pre-addressed postcards in the letter be sent to Governor Holton and to me, and that a contribution be sent to the organization to keep up the postcard campaign.

This campaign by postcard is designed, of course, to generate public pressure on law enforcement agencies to prosecute the smut peddlers. In my reply to those who have sent the cards, I point out that responsibility for initiating prosecution rests with you, the Commonwealth's Attorneys of the various localities. I've advised the senders of the cards to consult you if they have specific complaints about violation of the obscenity statutes. Some of you may already have encountered persons who have received my letter.

The point is that this kind of stimulus to public indignation about crime in general is likely to appear more often.

Virginians want something to be done about crime, and they will expect you to do it. Our citizens are in a mood today for action. To them, Law and Order is no longer a vague concept, a hazily defined theme for the general welfare. It has become a necessity if their homes, their property and their lives are to be safeguarded in a time when respect for the Law is at an ominously low level.

Obviously, the job the public is beginning to demand that you do cannot be done alone. You will need help, help from law enforcement agencies, help from the General Assembly, help from the public itself and, whenever I can provide it, help from my office in Richmond.

This seminar—and the two which many of you attended last year—represents the kind of assistance which the Office of the Attorney General can provide. Hopefully, we may continue to schedule such seminars on a yearly basis, thus providing continuity to our effort to keep you up to date on new developments in criminal law and in prosecutorial technique.

While these seminars provide the kind of head to head exchange of information I hope will prove of great value to you, they occur only periodically. Clearly, there must be some additional sources of information available to you on a continuing basis. With that in mind, my office has undertaken a number of projects designed to keep Commonwealth's Attorneys and others in the law enforcement system fully abreast of developments throughout the year. You are familiar with some of them already, but I would like to take a few moments today to discuss them in detail.

By far the most important step we have taken is the establishment, with the aid of funds from the Law Enforcement Assistance Administration, of a Technical Assistance Unit in my office. The TAU, as we call it, is responsible for the planning and development of this seminar. It will have the responsibility for planning those to be held in the future.

The TAU's prime purpose is to provide assistance to Commonwealth's Attorneys, judges and law enforcement officers in a variety of ways. Two assistant attorneys general, Linwood Wells and Wilburn Dibling, with a secretary, comprise this compact unit. It is supervised by Deputy Attorney General Reno Harp, whom some of you may know as head of the Criminal Litigation Division of my office. The TAU came into being on the first of November last year, and it hasn't had a slack moment since.

Basically, its purpose can be described as twofold. It stands ready to aid with research in response to inquiries from all of you. And it seeks to provide information on developments in law, law enforcement, and the judicial process almost as soon as they have happened.

Its first success last fall was securing a federal grant to underwrite the cost of printing and mailing all criminal decisions of the Supreme Court of Virginia. Until this project was undertaken, criminal decisions of the Supreme Court were frequently unobtainable by Commonwealth's Attorneys and judges until the publication of the Court's advance sheets many weeks after the decisions had been handed down. Now, these decisions are rushed to the printer the day they are announced and are mailed to you within 48 hours.

Incidentally, nothing pleased me more than to hear shortly after the TAU began sending out Supreme Court decisions that one of you had reinforced a case on the basis of one such decision which reached you in the mail the day the hearing was to be held.

A second project of the Technical Assistance Unit is to work closely with the committee which is preparing Virginia's first Commonwealth's Attorneys manual. This publication should be of significant assistance to all of you, whether you have been in office for a number of years or only for a short time. We hope that the manual, once published, will be continually updated.

Perhaps the TAU's most inwardly satisfying project to date has been in the field of publication. All of you have, by now, received the first two issues of the *Virginia Prosecutor*. Nothing like it has ever been attempted before, and we have the high hopes for its success. It provides the sort of steady continuity I referred to earlier—filling in the gaps between seminars like this one. The *Virginia Prosecutor* is aimed at keeping you posted.

As you have already observed, it brings you significant rulings of the Attorney General in criminal law. In the past, a Commonwealth's Attorney often knew only the Attorney General's rulings which he himself had requested. He had to wait until the Annual Report of the Attorney General was published each winter to learn what other rulings my office had made. Now, through the monthly newsletter, digests of all important opinions of the Attorney General pertaining to criminal matters will be in the hands of Commonwealth's Attorneys promptly.

You may also be aware that a second publication of the Technical Assistance Unit is now in its second edition. This is a monthly newsletter for law enforcement officers, called the *Virginia Peace Officer*. The *Peace Officer* is similar in format to the *Prosecutor*, but is designed expressly for law enforcement officers. This newsletter also contains synopses of rulings of my office that have to do directly with law enforcement. In addition, the *Virginia Peace Officer* will include brief articles on law enforcement techniques, equipment and facilities.

Both of these monthly newsletters provide something else that has been missing in the past, and which I consider absolutely necessary if we are all to work together toward the elimination of criminal activity in the various localities—communication. We all need to know what each other is doing. Seminars like this, and regular meetings of the Commonwealth's Attorneys Association or the Sheriff's Association, for example, enable us to exchange ideas and information. But they don't occur more than once a year. The newsletters published by the Technical Assistance Unit will provide continuity.

Incidently, we are now sending complimentary copies of the *Virginia Prosecutor* to judges of courts of record. Many of them have expressed interest in the publication, and I am certain they will find it helpful.

Another function of the TAU which I should emphasize at this seminar is its constant monitoring of the work of the General Assembly. All of you are concerned with pending legislation which, in one form or another, will affect the operation of the office you hold. The TAU maintains a close watch on the progress of this kind of legislation. There are two objectives to be attained. First, the TAU will forward immedately to all Commonwealth's Attorneys details of any statute enacted at this session as emergency legislation having to do with criminal law. This will avoid weeks of delay in getting such vital information into the hands of you who need it most.

Then, at the conclusion of the 1972 session of the General Assembly, the Technical Assistance Unit will forward a digest of all legislation having to do with crime and enforcement of law. Thus, you will have an opportunity to have in file, months in advance of the effective date of these new acts, pertinent new statutes, and there will be ample time to study them and their application.

I have addressed myself on several previous occasions recently to legislation which has been proposed by the Virginia State Crime Commission to the current session of the General Assembly. Most of you are, I believe, familiar with the Commission's proposals, and I will not trespass on your time today with a detailed analysis of them. However, several of those proposals are of such impact that I think it would be well to remind you of them here.

It is likely that the proposed wiretap statute—which would be the Commonwealth's first venture with this crime fighting technique—could become our most telling weapon against organized crime. As proposed, the statute would include stringent safeguards to protect the privacy of individual citizens. A wiretap ordered by the court having jurisdiction could be used only in cases involving the drug traffic, gambling, extortion or bribery.

I consider its passage vital if we are to stop Organized Crime in its tracks in the Commonwealth.

The difficulty encountered in obtaining convictions, because of the reluctance of witnesses to testify, is dealt with in another bill proposed by the Virginia State Crime Commission. This measure would provide witnesses immunity from prosecution under specified circumstances only. The grant of immunity would not be automatic but require an affirmative act on the part of the Commonwealth's Attorney and the presiding judge. The bill would have general applicability and, if adopted, would involve the repeal of those existing immunity statutes relating to particular offenses.

I think, too, you will be interested in legislation I support for a study of Title 16.1 of the Code. This Title, which includes our Juvenile and Domestic Relations Court system as well as all other courts not of record, has not been revised in many years. It is likely that sweeping changes will be made in these courts as a result of recommendations of the Virginia Court System Study Commission. Doubtless the result will create conflicts within Title 16.1. It seems adviseable, therefore, that the Virginia Code Commission undertake a study of this Title immediately leading toward recodification by the 1974 session of the General Assembly.

These and other proposals, including a bill to make permanent the Crime Commission, constitute an aggressive and forward-looking program to fight crime. I trust the legislature will not hesitate to act favorably on them.

Aside from legislative action itself, one of Virginia's most effective programs against crime in the last few years has been that directed by the Division of Justice and Crime Prevention. The Division, through its administration of federal money provided by the Law Enforcement Assistance Administration, has approved a wide variety of grant applications across the state. The benefits have affected virtually every area of the Commonwealth, and law enforcement has, as a direct result, shown marked improvement.

This seminar itself was made possible by an LEAA grant, supplemented by state funds granted to the Division of Justice and Crime Prevention by the General Assembly. The newsletters I spoke of earlier could not have been produced without such a grant. Nor could the criminal decisions of the Supreme Court of Virginia be sped to you after each term of court without funding from this source.

Should the state not be able to produce sufficient matching funds in the future, many of these programs through which crime, its causes and effects, must be attacked could not proceed. Yet, today there is serious concern that this is exactly what may happen.

The budget proposed by Governor Holton to the General Assembly contains a serious cutback in funds proposed to be allocated to the Division of Justice and Crime Prevention to match available federal funds from LEAA. The Division's Director, Dick Harris, had originally asked for $8.7 million, a sum sufficient to meet all need for matching funds at the state level for the next two years. It would also have permitted the Director to employ an additional 30 persons and relieve the workload on his presently overburdened staff.

That request was rejected. A second budget was submitted in the amount of $4.7 million. It would have met the state matching requirements for local grants, but would have required state agencies out of their own budgets to put up $150 in cash or in kind for each $1,000 of a given project. And it reduced to 25 the number of new employees for the Division.

That second budget was also rejected by the Governor. So, a third budget was submitted by the Division of Justice and Crime Prevention—this time asking for only $2.8 million. It met with the Governor's approval, but the result is to maintain the Division at the federal 1971 fiscal year level insofar as LEAA funds are concerned.

These critical budget cutbacks mean that the Commonwealth will be able to obtain only $7.6 million in federal funds in FY 1973 and in FY 1974, thus losing $14 million dollars in available monies from the Law Enforcement Assistance Administration. The effect upon vitally-needed programs to fight crime in Virginia will be clearly adverse. In the field of drug abuse alone—the Commonwealth's worst crime problem—we are in danger of being crippled just after we've learned to walk.

In a speech on the floor of the U.S. Senate this past Monday, Senator Spong decried the action taken in cutting the budget requests of the Division of Justice and Crime Prevention. The Senator said "short changing drug abuse programs is not an economy Virginia can afford." Senator Spong pointed out that the cutback comes at a time when the state's own Crime Commission has called drug abuse the most serious crime problem facing the state. And he urged Governor Holton and the General Assembly to provide the necessary funds to permit the implementation of these programs with LEAA support.

The Senator moved simultaneously on the legislative front by introducing a bill which would allow states to delay meeting the new matching fund requirements for a year. Senator Spong's legislation would free about a quarter of a million dollars in Virginia for matching purposes in the form of goods and services. But even this proposal, if enacted, would do little to repair the dent in the Division of Justice and Crime Prevention's budget for the next two years.

I think it is imperative that the General Assembly give earnest consideration to appropriating the $1.9 million in funds cut from the second budget of Mr. Harris' Division. We cannot afford to withdraw from the front line positions we have gained in the fight against crime. We dare not risk losing momentum when every Virginia citizen demands that crime be halted. This is not the time for Virginia to say that it costs too much to make our streets safe. Short changing law enforcement does not constitute fiscal responsibility in light of society's loss from criminal activity. Instead it represents partial disengagement when victory is not yet in sight. I, therefore, urge you to use your influence, combined with your knowledge of the seriousness of conditions with which you are faced, to persuade the General Assembly to restore these vitally needed funds.

In conclusion, I submit that today is a time of opportunity for all of you as Commonwealth Attorneys. Virginia and her citizens are looking to you for leadership in making law enforcement truly effective. You are in a position to reduce the incidence of crime in the Commonwealth, but it will take all your skills, all your cooperative efforts, and above all your dedication to the principle that ours is a society built on respect for law to do the job. Let me assure you that my office and my staff stand ready to be of assistance, whenever you feel we may be of service, in this the pursuit of our common goal.

FORMER SENATOR A. WILLIS ROBERTSON

Mr. McGEE. Mr. President, it was not so long ago that the halls and corridors of the Senate were graced by the happy presence of that distinguished public servant from Virginia, A. Willis Robertson, who, for two decades, ably represented the people of his State and the Nation in this body.

While those of us who served with Senator Robertson have special memories of his long and devoted service, as well as friendship, the measure of the man can also be judged by the thousands upon thousands of citizens whose daily lives brought them into contact with Senator Robertson. Almost invariably, I would say, they came away richer. Shortly after his death, I had occasion to discuss Senator Robertson with a member of the Capitol Police, whose memories were of a down-to-earth man who always had the time and the presence of mind to talk with and learn from the man on the door or the man on the street.

Willis Robertson's career was varied, but, for the most part, it was a public career. A lawyer and a veteran of service during World War I, he served in the Virginia State Senate when many of us in this body were children. Later, he served as the Commonwealth's Attorney and as chairman of the Virginia Game and Inland Fisheries Commission—an experience which brought valuable insight to the U.S. Senate in later years.

A. Willis Robertson was a wise legislator and a careful one. But, more, he was a solid man, a good friend, a person whose presence among us has made an impact. He is missed, Mr. President, but his example carries on.

THE GENOCIDE CONVENTION: TOOLS FOR IMPLEMENTATION

Mr. PROXMIRE. Mr. President, critics of the Genocide Convention of 1948 have argued that U.S. ratification would require complicated legislation and American entanglements in international affairs. Further, they maintained that endorsement of the treaty would inevitably conflict with existing laws of the Nation.

However, during the past week a bill has been introduced in the Senate by the Senator from Pennsylvania (Mr. SCOTT) which provides the means for simple and proper implementation of the treaty's articles. Even a summary examination of this proposed legislation reveals that implementation is neither complicated nor in conflict with our present statutes. It conforms in every way with the safeguards of the Constitution, Bill of Rights, and past international agreements.

The Senate's long hesitation over ratification, ostensibly in anticipation of concrete legislation, can now be ended. Let us quickly endorse this legislation and ratify the Genocide Convention now.

WE MUST NOT FAIL OUR FIREFIGHTERS

Mr. McINTYRE. Mr. President, I wish to commend the tireless efforts of one of America's most vital, yet often downgraded and least appreciated groups, the American fireman.

Over 200 firefighters lost their lives battling more than 2½ million blazes in this country last year.

Twelve thousand two hundred people died in these fires and over 3,000 of these victims were children.

But how much money is allocated to assist firemen in their struggle against the ravages of fire? The amount is shockingly small, and with our Nation's present concern with other critical problems, no funding has been given from the Department of Housing and Urban Development to firefighting units in several years.

There just is not enough money to go around, and firefighting groups cannot get the green light to fund necessary improvements.

That is why I have submitted an amendment to the housing bill now being deliberated in the Committee on Banking, Housing and Urban Affairs. The amendment would earmark funds for firefighting units throughout the country.

It would cover construction to expand present facilities and to build new ones. It would also authorize HUD to allocate funds for equipment where a need has been demonstrated.

Mr. President, I believe that the bill would aid not only the big city fire departments feeling the pinch of urban sprawl with their outdated facilities, it would also aid the smalltown department, particularly the volunteer department, that does not serve a single community but several small communities spread miles apart.

We need to tell firefighters across this Nation that we appreciate and applaud their countless acts of heroism. The best way to let them know we care is to give them the opportunity to improve their facilities, both physical plant and equipment.

After all, it is our property and our lives that are at stake.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Washington Post of February 16, 1972. The editorial states the awful truth about fires and deserves the attention of the Members of the

Senate who are as much concerned as I am about this problem.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

A Look at What Killed 12,200 People Last Year

What with all the efforts to do something about "bettering our environment"—which is really a catchphrase for making our surroundings safer and healthier—there is a tendency to overlook one of the oldest people-killers known to man: fire. Somehow, maybe because it's too obvious to become a trendy environmental topic, public concern about fire safety has never amounted to much more than a set of seasonal campaigns that draw token civic support.

But last year, fire killed 12,200 people in the United States—and about one-fourth of these victims were children. The total also includes 210 firefighters. The property damage figures are shocking, too: an estimated $2.845 billion caused by the more than 2½ million fires in 1971. Of this total, about $2.3 billion represents damage to buildings and other contents; the rest is attributed to forest fires and damage to aircraft, ships and motor vehicles. The President's National Commission on Fire Prevention and Control, which compiled these statistics, says the principal causes of building damage were defective, misused and overloaded electrical wiring and equipment; defective or overheated heating and cooking equipment; and careless use of smoking materials.

Obviously, safety slogans haven't done the job, and new ways must be found to improve the nation's ability to prevent, detect and control fire. This is the challenge currently being undertaken by the presidential commission, which will begin a series of public hearings on the subject here this morning at the old Senate office building. The commission, which includes Cabinet members, engineers, insurance executives, experts in firefighting and four advisory members from Congress, is doing a two-year study of the nation's fire problems and will submit a report of its findings and recommendations in June, 1973.

While no simple solutions are likely to spring forth from the public hearings, this serious attempt to come up with some new thinking deserves public attention and support, as a significant—and extremely difficult—examination of an age-old environmental problem.

LITHUANIAN INDEPENDENCE DAY

Mr. TAFT. Mr. President, February is a month when Americans recognize two of our country's greatest leaders, George Washington and Abraham Lincoln. It is also a special month for those Americans of Lithuanian origin or descent.

February 12 marked the 721st anniversary of the formation of the Lithuanian state, when Mindaugas the Great unified all Lithuanian principalities into one kingdom in 1251. February 16 was the 54th anniversary of the establishment of the modern Republic of Lithuania in 1918.

As we pause in memory of those who helped to preserve the freedom of the United States, it is also appropriate for us to pay tribute to the Lithuanians throughout this country who keep alive the spirit of liberation. This day is touched with sadness only because the Baltic States are no longer free. For all Americans it should be a day of thanks for our freedom, inspired by the millions of brave people currently living under Soviet rule.

We are fortunate to have the Lithuanian Americans, who understand the value of true democracy so well, living in the United States. I salute those who celebrate their brief rise to independence and hope that once again they may realize their goal of freedom.

Mr. President, I ask unanimous consent to have printed in the Record, copies of certain correspondence and other material, including House Concurrent Resolution 416 of the 89th Congress.

There being no objection, the items were ordered to be printed in the Record, as follows:

January 11, 1972.

Senator Robert Taft,
Senate Office Building,
Washington, D.C.

Dear Senator Taft: February 16, 1972 will mark the 56th anniversary of the Independence of Lithuania. Lithuania as you know has been occupied by the Soviets since World War 2. Would you help commemorate their brief independence by making appropriate remarks in the Senate on that date.

Thank you for helping to make the plight of Lithuania known to all.

Sincerely,

Mrs. Dianne Drumstas.

January 25, 1972.

Senator Robert Taft, Jr.,
U.S. Senate,
Washington, D.C.

Dear Senator: I would like to take this opportunity to remind you that the American Lithuanian Community throughout the United States will be celebrating the 54th anniversary of Lithuanian Independence on February 16.

We would appreciate your help by commemorating this day on the Senate floor.

Thank you.

Sincerely,

Albert Ozalis.

January 26, 1972.

Hon. Robert Taft, Jr.,
U.S. Senate,
Senate Office Building,
Washington, D.C.

Dear Senator Taft, Jr.: The Lithuanian Americans will commemorate the 54th anniversary of Lithuanian Independence on February 16, 1972. I would appreciate your public and moral support on this occasion.

Sincerely yours,

Mrs. Val Stanaitis.

January 29, 1972.

Senator Robert Taft, Jr.,
Senate Office Building,
Washington, D.C.

Dear Senator: On February 16, Lithuanian-Americans throughout this country will commemorate the 54th Anniversary of Lithuania's Independence even though for the past 31 years she has been under Russian oppression.

I would sincerely appreciate it if you would commemorate this occasion in the House and Senate.

Thank you in advance and wishing you continued political success.

Yours truly,

(Miss) Lillian M. Sasnauskas.

Chicago, Ill., *January 27, 1972.*

Dear Senator Taft: Although Lithuania is not a free nation, people of Lithuanian ancestry as well as many of their friends will commemorate the 54th anniversary of Lithuanian Independence on February 16, 1972.

I hope that you too will be able to give us your public moral support on this day.

Yours truly,

Albert L. Zakarka.

Oak Lawn, Ill., *February 2, 1972.*

Senator Robert Taft, Jr.,
U.S. Senate,
Washington, D.C.

Dear Senator: Won't you please join with those of us of Lithuanian ancestry living in a free America in our annual commemoration of Lithuanian Independence on February 16.

Your public support of this occasion would be deeply appreciated as it is always our hope freedom may once again come to Lithuania.

Sincerely,

Mrs. A. Mockus.

Lithuanian American Council, Inc.,
Chicago, Ill., February 4, 1972.

Dear Senator: Freedom and independence is cherished throughout the world by all people. On February 16th, Lithuanians will commemorate the 54th anniversary of Lithuania's Declaration of Independence as a Republic, although her glorious past history dates back to the 12th century. The only country where they will be unable to commemorate this historical event will be in Lithuania itself because of the continuing subjugation and oppression by the Soviet Union.

Reliable sources confirm that the Lithuanian people continue to revere their national and cultural traditions and resist the Communist occupation.

The Secretary of State, William P. Rogers, stated on January 27, 1971: "The American people understand and sympathize with the desire of the Lithuanian people to be masters of their own destiny. The United States government, by its continued non-recognition of the forcible incorporation of Lithuania, affirms its support for Lithuania's right of self-determination."

The Honorable Charles H. Percy, Senator from Illinois, at the request of the Lithuanian American Council, will be sponsoring the commemoration of Lithuanian Independence Day in the Senate on Thursday, February 17, 1972. Senator Percy had first hand opportunity, during his visit to Lithuania, to recognize the desire of the Lithuanians to be independent and freed from Soviet enslavement.

The Lithuanian American Council will greatly appreciate your support of the official United States position of non-recognition of Soviet occupation of Lithuania. The extension of your remarks concerning Lithuania's illegal annexation and their inclusion in the Congressional Record is kindly requested.

May I also take the opportunity to ask you to remind President Nixon, on his forthcoming trips to Peking and Moscow, to seek freedom and self-determination for Lithuania and the other Baltic countries.

Please accept our gratitude for your efforts to propagate the cause of human freedom and independence for all people of the world, including those of Lithuania.

Respectfully yours,

Kazys C. Bobelis, M.D., *President.*

Xenia, Ohio, *February 8, 1972.*

Hon. Robert Taft, Jr.
Senate Office Building,
Washington, D.C.

My Dear Senator Taft: Americans of Lithuanian origin or descent and their friends in our community and throughout the nation will commemorate two very important anniversaries this month (starting February 12): (1) They will observe the 721st anniversary of the formation of the

Lithuanian state when Mindaugas the Great unified all Lithuanian principalities into one kingdom in the year 1251; and (2) They will mark the 54th anniversary of the establishment of the Republic of Lithuania on February 16, 1918.

As a rule, the U. S. Congress marks these anniversaries each and every year. I most sincerely ask you to take part in the commemoration of Lithuanian Independence Day in the U.S. Senate. The U.S. Senate and the House has passed *H. Con. Res. 416,* 89th Congress, that calls for freedom for Lithuania, Estonia and Latvia. Won't you please urge the Administration by your kind remarks in the Senate to implement this very important legislation.

In America we have a tendency to take too much for granted—like our freedom. But many of our community's relatives are locked behind the iron curtain unable to have a free thought or even contact loved ones here in Dayton, much less ever dream of seeing them again. That is why we, who are most involved with the potential freedom of Lithuania, are asking you to help.

Please mail me a copy of the *Congressional Record* that will carry your remarks. "Aăiu Labai."

Very sincerely,

(Mrs.) Karen C. Bedrowsky.

Lithuanian American Community
of the United States of America, Inc,
Delran, N.J., February 4, 1972.

Hon. Robert Taft, Jr.
Senate Office Building,
Washington, D.C.

My Dear Senator: Americans of Lithuanian origin or descent and their friends in all parts of our great nation will commemorate two very important anniversaries this month (starting February 12th): (1) They will observe the 721st anniversary of the formation of the Lithuanian state when Mindaugas the Great unified all Lithuanian principalities into one kingdom in 1251; and (2) They will mark the 54th anniversary of the establishment of the modern Republic of Lithuania on February 16, 1918.

The United States Congress marks these anniversaries each and every year. We kindly ask you to take part in the commemoration of Lithuanian Independence Day in the United States Senate that will take place during the second part of February (starting February 14th).

Enclosed you will find a copy of an essay prepared by us which could be one of the sources for your remarks in the Senate. We are mailing you a copy of *H. Con. Res. 416* that was unanimously passed by the the Senate and the House (89th Congress). This legislation calls for freedom for Lithuania and the other two Baltic states—Estonia and Latvia. Please insert this very important legislation in the *Congressional Record* for the information of all your colleagues in the U.S. Congress and all the readers of this publication. Please urge the Administration (in your remarks in the Senate) to implement the aforesaid legislation by bringing the Baltic States' question in the United Nations and demanding the Soviets to withdraw from Lithuania, Latvia and Estonia.

Needless to say, all Lithuanian-Americans and other freedom-loving constituents of your State will really appreciate your aid and assistance given by you to this crusade to free the Baltic States.

Thank you.

Sincerely,

V. P. Volteras,
President,
National Executive Committee.

Lithuania's Seven-Century Quest for Freedom—The Land of Simas Kudirka

"I have nothing to add to what I have already said, only one wish, more specifically, a request to the supreme court and the government of the Soviet Union: I ask that you grant my homeland, Lithuania, independence."

—From appeal of Simas Kudirka during his trial.

The Kremlin is fond of saying that Russian imperialism died with the czar. But the fate of the Baltic nations—Lithuania, Latvia and Estonia—shows this to be a cruel fiction. The Communist regime did not come to power in the Baltic States by legal or democratic process. The Soviets invaded and occupied the Baltic States in June of 1940, and the Baltic peoples have been suffering in Russian-Communist slavery for more than 30 years.

700-YEAR-OLD STATE

The Lithuanians are proud people who have lived peacefully on the shores of the Baltic from time immemorial. For instance, this year marks the 721st anniversary of the formation of the Lithuanian state. Mindaugas the Great unified Lithuanian principalities into one kingdom in 1251.

The Baltic peoples have suffered for centuries from the "accident of geography." From the West they were invaded by the Teutonic Knights, from the East by the Russians. It took remarkable spiritual and ethnic strength to survive the pressures from both sides. The Lithuanians, Latvians and Estonians, it should be kept in mind, are ethnically related *neither to the Germans nor the Russians.*

After the Nazis and Soviets smashed Poland in September of 1939, the Kremlin moved troops into the Baltic republics and annexed them in June of 1940. In one of history's greatest frauds, "elections" were held under the Red army guns. The Kremlin then claimed that Lithuania, Latvia and Estonia voted for inclusion in the Soviet empire.

MOST BRUTAL OCCUPATION OF ALL TIME

Then began one of the most brutal occupations of all time. Hundreds of thousands of Balts were dragged off to trains and jammed into cars without food and water. Many died from suffocation. The pitiful survivors were dumped out in the Arctic or Siberia. The Baltic peoples have never experienced such an extermination and annihilation of their people in their long history through centuries as during the last three decades. Since June 15, 1940, these three nations have lost more than one-fourth of their entire population. The genocidal operations and practices being carried out by the Soviets continue with no end in sight.

Since the very beginning of Soviet Russian occupation, however, the Balts have waged an intensive fight for freedom. During the period between 1940 and 1952 alone, some 30,000 Lithuanian freedom fighters lost their lives in an organized resistance movement against the invaders. The cessation of armed guerrilla warfare in 1952 did not spell the end of the Baltic resistance against Soviet domination. On the contrary, resistance by passive means gained a new impetus.

SUCCESSFUL REVOLT AGAINST SOVIETS

The year of 1971 marked the 30th anniversary of Lithuania's successful revolt against the Soviet Union. During the second part of June of 1941 the people of Lithuania succeeded in getting rid of the Communist regime in the country: freedom and independence were restored and a free government was reestablished. This free, provisional government remained in existence for more than six weeks. At that time Lithuania was overrun by the Nazis who suppressed all the activities of this free government and the government itself.

The Government of the United States of America has refused to recognize the seizure and forced "incorporation" of Lithuania, Latvia and Estonia by the Communists into the Union of Soviet Socialist Republics. Our Government maintains diplomatic relations with the former free Governments of the Baltic States. Since June of 1940, when the Soviet Union took over Lithuania, Latvia and Estonia, all the Presidents of the United States (Franklin D. Roosevelt, Harry S. Truman, Dwight D. Eisenhower, John F. Kennedy, Lyndon B. Johnson, and Richard M. Nixon) have stated, restated and confirmed our country's nonrecognition policy of the occupation of the Baltic States by the Kremlin dictators. However, our country has done very little, if anything, to help the suffering Baltic peoples to get rid of the Communist regimes in their countries.

RESTORATION OF INDEPENDENCE TO LITHUANIA

The case of the Baltic States is not a question about the rights of self-rule of Lithuania, Latvia and Estonia, since this is established beyond any reasonable doubt, but the question is how to stop the Soviet crime and restore freedom and independence to these countries. The Select Committee of the House of Representatives to investigate the Incorporation of the Baltic States into the U.S.S.R., created by the 83rd Congress, after having held 50 public hearings during which the testimony of 335 persons was taken, made a number of recommendations to our Government pertaining to the whole question of liberation of the Baltic States. According to the findings of this House committee, "no nation, including the Russian Federated Soviet Republic, has ever voluntarily adopted communism." All of them were enslaved by the use of infiltration, subversion, and force. The American foreign policy toward the Communist enslaved nations, the aforesaid House committee stated, must be guided by "the moral and political principles of the American Declaration of Independence." The present generation of Americans, this committee suggested, should recognize that the bonds which many Americans have with enslaved lands of their ancestry are a great asset to the struggle against communism and that, furthermore, the Communist danger should be abolished during the present generation. The only hope of avoiding a new world war, according to this committee, is a "bold, positive political offensive by the United States and the entire free world." The committee included a declaration of the U.S. Congress which states that the eventual liberation and self-determination of nations are "firm and unchanging parts of our policy."

RIGHT STEP IN THE RIGHT DIRECTION

The United States Congress has made a right step in the right direction by unanimously adopting *H. Con. Res. 416* (89th Congress) that calls for freedom for Lithuania, Latvia and Estonia. All freedom-loving Americans should urge the President of the United States to implement this very important legislation by bringing the issue of the liberation of the Baltic States in the United Nations and requesting the Soviets withdraw from Lithuania, Latvia and Estonia. The time has come for the whole world to demand that the principle of self-determination be respected and that the nations of Lithuania, Latvia and Estonia, too, shall be free from domination and be permitted to choose their own form of government. We should have a single standard for freedom. Its denial in the whole or in part, in any place in the world, including the Soviet Union, is surely intolerable.

H. Con. Res. 416

Whereas the subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations, and is an impediment to the promotion of world peace and cooperation; and

Whereas all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social, cultural, and religious development; and

Whereas the Baltic peoples of Estonia, Latvia, and Lithuania have been forcibly deprived of these rights by the Government of the Soviet Union; and

Whereas the Government of the Soviet Union, through a program of deportations and resettlement of peoples, continues in its effort to change the ethnic character of the populations of the Baltic States; and

Whereas it has been the firm and consistent policy of the Government of the United States to support the aspirations of Baltic peoples for self-determination and national independence; and

Whereas there exist many historical, cultural, and family ties between the peoples of the Baltic States and the American people: Be it

Resolved by the House of Representatives (the Senate concurring), That the House of Representatives of the United States urge the President of the United States—

(a) to direct the attention of world opinion at the United Nations and at other appropriate international forums and by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Estonia, Latvia, and Lithuania, and

(b) to bring the force of world opinion to bear on behalf of the restoration of these rights to the Baltic peoples.

CHICAGO, ILL., *February 10, 1972.*

The Honorable ROBERT TAFT, Jr.,
House of Senate,
Washington, D.C.

DEAR SIR: It is with high esteem and profound gratitude that I am addressing these words to you and to the other friends of the enslaved Lithuanian nation on the occasion of the commemoration of the 54th anniversary of the proclamation of Lithuania's Independence.

Today, more than ever, all leaders, religious and those of Governments are talking of peace. Wars are the bane and the shame of mankind. Intelligent men of good will should resolve their problems according to right reason, not be force of arms. But the word "peace", without certain intrinsically inherent qualities, is a grotesque parody of peace and travesty of justice. Peace without God-given freedom and justice for all is a caricature. An excellent example of this kind of "peace" is provided by the USSR, particularly in its slave labor and concentration camps, filled mostly with people from enslaved nations. The content of this kind of "peace" is suffering, fear, loathing for the hatred of the slavemasters. This kind of peace is the hallmark of all tyrannies.

No true peace is possible among nations unless it be founded on justice and tend towards its perfection in love. Indeed, a peace founded on injustice can be worse than war. Millions of European Jews, Poles, Ukrainians, Balts and others died, not on battlefields, but were executed en masse in trenches they were forced to dig themselves or were done away with in concentration camps. If Worth War II had not destroyed the nazis, the number of Jews, Slavs, French and others that would have been killed by now according to the nazi timetable would be several times greater than those of both sides actually killed on the battlefields. The Soviet Communists are effectuating a similar plan this very moment in the countries they have subjected. Such a plan would go into immediate effect wherever the communists extend their empire.

It is strange indeed, that those who are advocating immediate, complete, unconditional and unilateral capitulation in Indochina, deliberately close their eyes tightly to the planned genocide of enslaved nations in the Soviet Union, progressing according to a certain timetable. The captive nations are being destroyed at a faster rate during the present Soviet "peace" than they would be in a war. If this Soviet "peace" policy continues much longer, some of the smaller nations may become totally extinct.

I am not an advocate of war. All I wish to point out is, that it would be an empty and meaningless, indeed a flagrantly hypocritical gesture for the free world to accept a peace without freedom and justice for all conquered nations. The immediate consequence to such a "peace" accepted by the free world would be distrust and unbelief in the most solemn proclamation of its leaders, and hatred of the oppressors. The oppressors are well aware of this hatred and employ against it terror and physical extermination of the people. It seems obvious that such a "peace" is worse than war, for in a war the oppressed would make very many efforts to overthrow the tyranny that enchains them. Only those nations are honestly seeking peace, for whom peace is founded on justice and freedom for all nations. Only such are the peace-loving nations envisioned in the Charter of the United Nations.

Please accept my sincere homage to a distinguished champion of justice and freedom for all peoples.

Respectfully yours,
VINCENT BRIZGYS,
Auxiliary Bishop.

ADMINISTRATION'S DOUBLE TALK ON "FULL EMPLOYMENT" GOAL

Mr. MOSS. Mr. President, having lost confidence in its ability to reduce the Nation's unemployment rate, administration policymakers have resorted to a subtle campaign aimed at confusing public understanding of the jobless figures themselves.

According to the most recent Department of Labor report, unemployment figures remain near 6 percent, where they have hovered for more than a year. At the same time, budget deficits for the current fiscal year are now expected to approach $40 billion. Lacking any concrete program to deal with the economy's anemic condition, the White House has chosen to employ its imagination elsewhere—in a calculated effort to distort the public's ability to judge the economic record.

Listening to the Nixon administration spokesmen, the whole concept of "full employment" has become an "impossible dream." Structural changes in the country's labor markets have made a 4-percent jobless rate, the usual standard for "full employment," an unreasonable goal. To their estimation, a much higher figure, perhaps 5 or 5½ percent, should now be considered as an acceptable target for national policy.

The administration's election year tactics assume an extremely short public memory. When President Nixon took office in June of 1969, unemployment stood at 3.5 percent—a percentage of the labor far below what the administration now calls unreasonable. Having failed to provide adequately for a successful peacetime economic transition, the administration blames the high unemployment rate on vague "structural conditions."

When it suits their purposes, however, administration economists are not hesitant to cite the 4-percent figure as the true "full employment" standard. In the President's annual budget message to Congress, for example, administration policymakers took a sharp aboutface. Four percent was held up as the genuinely acceptable guide to a "full employment" situation. Seeking to explain away the historically high Federal deficits of recent years, White House economists referred to the concept of a budget "balanced at full employment." The Government is really spending no more than it would be collecting if the economy were at 4 percent unemployment.

The administration now admits that it is spending about $39 billion more than it collects in revenues. It argues, however, that the level of Federal expenditures should be geared to the amount it would collect were the economy at "full employment." To insure itself the greatest possible leeway, it cites 4 percent as the appropriate "full employment" figure, the very same standard it called unreasonable when discussing the subject of joblessness itself.

There is an obvious political reason for such double talk. When discussing Federal deficits, it is clearly in the President's interest to argue that 4 percent is a still acceptable guide to a full employment situation. With the current jobless rate stuck at 6 percent it also serves the administration's purposes to set a normal full employment figure substantially below the current rate. Thus, with current unemployment so far above the 4-percent full employment standard, almost any Federal deficits could be talked away.

This, then, is the explanation for the administration's managed effort to manipulate presentation of national employment statistics. In certain discussions it benefits the incumbents to intimate that the 4-percent full employment goal is no longer valid. On the other hand, when a large difference between current and full employment justifies their deficit overruns, administration policymakers do not hesitate to rely upon a standard which at other times they consider obsolete.

There is nothing illusory about the unemployment rate, however, to those Americans out looking for work, but unable to find it. To them the administration's public relation's effort is all too obvious.

Despite all the administration's shell-game tactics, the figures speak for themselves. Unemployment is at its highest annual rate—6 percent—in a decade. At the same time the Federal Government is running its greatest peacetime deficit—$38.8 billion—in history. In perpetrating a campaign to disguise these facts, the administration does a disservice to the people it seeks to lead. Each percentage point of unemployment means that there are more than 800,000 workers looking for jobs, but cannot find them. To these Americans and their families, the Nixon administration's "double talk" is seen for what it is.

In the end it will be these people, the 100-percent unemployment unemployed, who will see through the smokescreen of statistical manipulation, regardless of how dense it becomes between now and November.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. All time for morning business has expired. Morning business is closed.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The PRESIDING OFFICER. Under the previous order, the Chair now lays before the Senate the unfinished business, which will be stated.

The assistant legislative clerk read as follows:

A bill (S. 2515) to further promote equal employment opportunities for American workers.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The pending question is on the adoption of the amendment of the Senator from North Carolina (Mr. ERVIN).

Mr. ERVIN. We are ready to vote, Mr. President.

Mr. WILLIAMS. Mr. President, the amendment proposed by the Senator from Alabama broadens the present exemption found in title VII and retained in the committee bill, for a religious corporation, association, educational institution or society with respect to employment of individuals of a particular religion to perform work connected with the religious activities of such institution.

This amendment would have the effect of exempting these institutions from the operation of title VII insofar as religion is concerned whether or not their activities are religious or secular.

I do not believe that the religious integrity of these instiutions would be compromised by providing equal job opportunities for employees in positions unrelated to the religious activities of such institutions.

Mr. President, this is the second attempt to provide such an exemption. Several weeks ago, an amendment was offered that would provide a complete exemption from title VII to employees of educational and religious institutions. That amendment, No. 815 was soundly defeated on a vote of 55 to 25 on February 1.

Now, we are faced with another such amendment. Admittedly, it is a much narrower exemption that is offered since it only applies to religion. Nonetheless, I believe it should not be adopted.

Many of these religious corporations and associations often provide purely secular services to the general public without regard to religious affiliation, and most of the many thousands of persons employed by these institutions perform totally secular functions. In this regard, employees in these "religious" institutions perform jobs that are identical to jobs in comparable secular institutions. It is appropriate, therefore, that these persons employed by religious corporations and associations should be given the same equal employment opportunities as those persons employed in comparable positions by secular employers.

I would like to revisit some of these considerations as I did when the previous amendment was offered.

For example, religious organizations in this country own and operate a substantial number of hospitals open to the public. These hospitals employ a broad range of persons to staff them. Without expounding on all of the job classifications at a hospital, I will just note that the categories of employment range from nurses and hospital administrator to dietitians and housekeeping personnel. There is no justification, in my judgment, for such hospitals to be permitted to discriminate against such personnel on any grounds. Further, in my judgment, it might be very well unconstitutional for Congress to permit such discrimination. I recognize that the first amendment protects the free exercise of religion. However, the major purpose of hospitals and other service agencies is to provide public service. In providing this service they should not be allowed to become instruments of invidious and unreasonable discrimination in employment.

I would note for the record again that a similar issue was resolved by the administration under the Occupational Safety and Health Act passed by this Congress in 1970, which provided no exemptions for employers in defining the term "employer engaged in the business affecting commerce," for purposes of that act.

The Department of Labor faced the question of coverage of churches as employers. As a matter of enforcement policy, the performance of, or participation in, religious services—as distinguished from secular or proprietary activities whether for charitable or religion-related purposes—is regarded as not constituting employment under the act. I believe that interpretation is fully consistent with the statutory exemption in title VII of these institutions insofar as religious activities are concerned. Some of the Labor Department's examples would be useful comparisons. Coverage of religious organizations would include a private hospital owned or operated by a religious organization; a private school or orphanage owned or operated by a religious organization; commercial establishments or religious organizations engaged in producing or selling products such as alcoholic beverages, bakery goods, religious goods, and so forth; and administrative, executive, and other office personnel employed by religious organizations.

Some examples of noncoverage in the case or religious organizations would be: Clergymen while performing or participating in religious services; and other participants in religious services; namely, choir masters, organists, other musicians, choir members, ushers, and the like.

I reiterate my judgment expressed during the debate on the last such amendment. Of all the institutions in this country that should be setting the example of equal employment opportunity, of equal opportunity for that matter in all aspects of life, it is America's religious institutions. I am confident that the houses of God in this country do not shirk that responsibility nor should we. I, therefore, urge that the amendment be rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina (putting the question).

The amendment was agreed to.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ERVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Personally, I strongly oppose this amendment. I recognize, however, that 2 years ago, when this body faced the identical issue on October 1, 1970, it agreed to the amendment of the Senator from North Carolina by a rollcall vote of 43 to 28. I believe that a majority of the Senate would be as clear today in its agreement with the Senator from North Carolina and therefore I did not insist on a rollcall vote.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. WILLIAMS. Mr. President, I call up amendments numbered 896, 897, 899, 900, 901, and 902, and ask that they be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The amendments will be stated.

The assistant legislative clerk proceeded to read the amendments.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendments will be printed in the RECORD.

The amendments are as follows:

AMENDMENT No. 896

On page 58, line 4, after "Senate" insert the following: "for a term of five years".

On page 58, line 9, strike out the word "members" and insert in lieu thereof the word "member".

AMENDMENT No. 897

On page 50, before line 20, insert the following:

SEC. 4A. The fifth sentence of section 706 (f) (1) of the Civil Rights Act of 1964, as amended by the previous section, is amended to read as follows: "Upon timely application, the court may, in its discretion, permit the General Counsel, or the Attorney General in a case involving a government, government agency, or political subdivision, to intervene in such civil action if he certifies that the case is of general public importance."

AMENDMENT No. 899

On page 60, line 9, beginning with the word "powers" strike out through the word "the" on line 12.

AMENDMENT No. 900

On page 59, in the matter to be inserted after line 22, strike out in lines 22 and 23 on page 3 of amendment numbered 797 the following: "the issuance of complaints, the prosecution of such complaints before the Commission," and insert in lieu thereof the following: "the filing of complaints".

On page 59, in the matter to be inserted after line 22, strike out beginning after the period on line 7 through the period on line 14 on page 4 of amendment numbered 797.

AMENDMENT No. 901

On page 56, beginning with line 15, strike out through the period in line 19.

AMENDMENT NO. 902

On page 52, line 1, beginning with the comma, strike out through the word "thereof" on line 3.

Mr. WILLIAMS. Mr. President, the first amendment, No. 896, is a technical amendment to correct a typographical error in the redrafting of section 705 concerning the number of commissioners to make clear that their term of office is 5 years. The second sentence of the amendment corrects a typographical error.

No. 897 amendment to the court enforcement provision is intended to allow the general counsel to intervene in private actions not involving governments, governmental agencies or political subdivisions and to make clear that it is the Attorney General who will intervene in cases involving governments, governmental agencies, and political subdivisions brought by private individuals. The present language of the Dominick substitute only authorizes the Attorney General to intervene in private actions. The amendment is to clear up an inconsistency whereby the general counsel of the Commission may bring a civil action for the Commission, but might not be able to protect the Commission's interest in a case where private litigant is involved.

No. 899 is a technical amendment redefining the Commission's operational authority to eliminate references to the cease-and-desist powers.

No. 900 is a technical and conforming amendment to the provision of S. 2515 that created a general counsel. It makes clear the general counsel authority is to handle the filing of complaints under the now adopted court enforcement procedures rather than the issuance and prosecution of complaints before the Commission under cease and desist.

The amendment also strikes the provision prohibiting the Commission employees engaged in prosecutorial functions from participating in other decisional functions at the Commission since there is no administrative hearing process any longer, as a result of the amendment.

Amendment No. 901 is a technical amendment concerning the investigatory powers of the Commission which eliminates a sentence relating to the use of the subpena powers in relation to cease and desist, which again has been stricken.

Amendment No. 902 is a technical amendment, eliminating the reference in the pattern and practice transfer to cease and desist procedures to make clear that the Commission's handling of pattern and practice cases is to be through the Federal district courts.

The PRESIDING OFFICER (Mr. Moss). The question is on agreeing en bloc to the amendments numbered 896, 897, 899, 900, 901, and 902.

The amendments were agreed to en bloc.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. WILLIAMS. Mr. President, I have nine other technical amendments which have not been printed. I have reviewed them with the Senator from North Carolina and believe that, as they are of a technical nature only, they will be accepted.

I send the amendments to the desk and ask unanimous consent that they not be read but printed in the RECORD, and I will explain each one at this time.

The PRESIDING OFFICER. Is there objection to consideration of the perfecting amendments en bloc and to suspend the reading of the amendments? The Chair hears none, and it is so ordered; and without objection, the amendments will be printed in the RECORD.

The text of the amendments is as follows:

On page 33, in the matter to be inserted by an amendment after line 13, strike out the word "religions" and insert in lieu thereof the word "religion".

On page 33, in the matter to be inserted by an amendment after line 13, strike out the word "in" and insert in lieu thereof the word "to".

On page 38, in the matter to be inserted by amendment numbered 884, insert on page 2, line 7, after the period the following: "The person or persons aggrieved shall have the right to intervene in a civil action brought by the General Counsel or the Attorney General in a case involving a government, governmental agency, or political subdivision.".

On page 38, in the matter to be inserted by amendment numbered 884, insert on page 2, line 13, after the words "Attorney General" the following: "has not filed a civil action".

On page 38, in the matter to be inserted by amendment numbered 884, on page 3, line 11, strike out "subsection (c)" and insert in lieu thereof "subsections (c) or (d)".

On page 38, in the matter to be inserted by amendment numbered 884, insert on page 5, line 6, after the word "Commission" the following: "or the Attorney General in a case involving a government, governmental agency, or political subdivision,".

On page 38, in the matter to be inserted by amendment numbered 884, on page 5, line 20, strike out the word "plaintiff" and insert in lieu thereof the words "aggrieved person".

On page 38, in the matter to be inserted by amendment numbered 884, insert on page 5, after line 11, the following:

"(6) The provisions of section 706 (f) through (k), as applicable, shall govern civil action brought hereunder."

On page 55, line 12, strike out the word "or" and insert in lieu thereof the word "as".

On page 50, line 25, strike out "1971" and insert in lieu thereof "1972".

On page 51, line 20, strike out "1971" and insert in lieu thereof "1972".

On page 59, line 6, strike out "1971" and insert in lieu thereof "1972".

The PRESIDING OFFICER. The Senator from New Jersey (Mr. WILLIAMS) may propound the perfecting amendments at this time.

Mr. WILLIAMS. Mr. President, the first amendment that I offer makes two typographical corrections in the amendment that was adopted on religious belief. The first correction makes the word "religion" singular instead of plural. The second change is a grammatical change relating to hardship of religious practice to the conduct "of" the employer's business rather than "in" the conduct of the employer's business.

Mr. ERVIN. Mr. President, I would like to ask the Senator from New Jersey if that affects the amendment which was adopted in any respect——

Mr. WILLIAMS. No. This does not deal with the amendment offered by the Senator from North Carolina. This deals with the amendment offered by the Senator from West Virginia, not the Senator's amendment.

The PRESIDING OFFICER. Does the Senator from New Jersey wish these amendments to be considered en bloc or separately?

Mr. WILLIAMS. I ask unanimous consent that they be considered en bloc, Mr. President.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WILLIAMS. The second amendment replaces language that was in the original bill making it clear that the right of an aggrieved party to intervene in a civil suit brought by general counsel or Attorney General in cases involving a governmental agency or political subdivision. It is likely that such individual would have the right of intervention under Federal rules in civil procedures which this amendment is designed to make clear.

Mr. GRIFFIN. If the Senator from New Jersey will yield for a question, are these several amendments also cleared with the ranking Members on this side; is that correct?

Mr. WILLIAMS. Yes.

Mr. GRIFFIN. I thank the Senator.

Mr. WILLIAMS. They were all cleared with the Senators from New York and Colorado.

Mr. President, the third amendment is intended to make clear the provision under which a private action may have been filed in a case involving a governmental agency and political subdivision. Private action can be filed if the Attorney General has not filed a civil action within the requisite period of time. The words "has not filed a civil action" were left out of the amendment on court enforcement.

The fourth amendment is intended to correct a typographical error which allowed for the deferral under State and local proceedings under 706(c). It should have read 706 (c) or (d), since there are two deferral procedures.

The fifth amendment is intended to make clear that preliminary injuctions involving a governmental agency or political subdivision are to be sought by the Attorney General.

The sixth amendment is intended to conform to language in the bill relating to an "aggrieved person" rather than the term "plaintiff," since civil actions would be in the name of the commission or the United States.

The seventh amendment is in the nature of a technical amendment, to make clear the provisions under which civil actions are to be brought.

The eighth amendment is intended to correct a grammatical error in the redesignation of several subsections. This amendment, which is No. 898, is a technical amendment, intended to reflect the fact that the bill would be passed in 1972 rather than in 1971, as it is in the bill as introduced.

That concludes this group of technical amendments.

The PRESIDING OFFICER (Mr.

MOSS). The nine technical amendments of the Senator from New Jersey have been explained and the motion to consider them en bloc having been granted, the question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SAXBE). Without objection, it is so ordered.

QUORUM CALL

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

Mr. ALLEN. Mr. President, on behalf of myself and the distinguished Senator from North Carolina (Mr. ERVIN) I call up an amendment which is at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk read as follows:

> On page 50, between lines 19 and 20, to insert the following at the end of section 4 with a proper subsection designation:
>
> As used in this act, the term "charge" shall mean an accusation of discrimination supported by oath or affirmation."

Mr. ALLEN. Mr. President, by way of explanation of the clerk's difficulty in reading the amendment, it was drafted by the hand of the distinguished Senator from North Carolina (Mr. ERVIN) who——

Mr. ERVIN. If the Senator will pardon me, if he tested me solely on my capacity to write rather than to read, I could not pass a literacy test.

Mr. ALLEN. Fortunately, or unfortunately, as the case may be, there is no literacy test any more, so that the distinguished Senator would have no difficulty getting by any examination if he should appear before a board of registrars. [Laughter.]

Mr. President, the purpose of this amendment is to require that charges of discrimination filed with the Commission shall be under oath or affirmation. For some reason unexplained, but apparently not intentional, the amendment as drafted and the committee substitute as reported, leave off the requirement that a charge be under oath.

The present law and the committee report containing a copy of the present law, at page 55, section 706(a) points out:

> Whenever it is charged in writing under oath by a person claiming to be aggrieved—

So all this amendment would do would be to go back to the present law and make no change in the requirement, meaning charges are to be filed and made under oath in writing.

I am advised that the sponsors of the bill have no objection to the amendment. I trust that they will so state.

Mr. WILLIAMS. Mr. President, I gather that one copy has been taken from the Chamber. Does the Senator have another copy of the amendment?

Mr. ALLEN. No, sir. The amendment adds a new section at the end of section 4, and it is between lines 19 and 20 on page 50 of the bill. It merely states that the word "charge" as used in the act shall be a charge supported by oath or affirmation.

Mr. WILLIAMS. I wonder if the Senator would refer to the bill at page 34, and whether this would not be the place to make the bill conform to present law.

Mr. ALLEN. The only reason we did not put it there would have been because four or five subsections start off with reference to a charge, and it would have been necessary to amend the bill at about four or five places, whereas if we add one coverall, blanket statement it would cover the matter without trying to amend it as four or five different points, and possibly not covering every one.

Mr. WILLIAMS. The present law makes the requirement in one place, and it is in section 706.

Mr. ALLEN. Yes.

Mr. WILLIAMS. "Whenever it is charged in writing under oath." I do not know why it was taken out of the bill, but I would think that would be the place to put it back.

Mr. ALLEN. As I stated, if it were put back, it would also have to be put back on page 35, subsection (c), where it refers to the case of a charge; it would also have to be put on page 36, subsection (d), where it refers to the case of a charge; it would also have to be put on page 37, subsection (e), where it refers to the case of a charge.

Mr. WILLIAMS. If the Senator will yield further, if it could be done in one place, it probably would be best to do it in section 706(b) where the requirement would be put at the very beginning: "Charges shall be in writing under oath or affirmation." That would be on line 21, page 34, of the bill before the Senate.

Mr. ALLEN. Apparently the oath or affirmation requirement was left out of the bill.

Mr. WILLIAMS. Yes.

Mr. ALLEN. Would the Senator then, interpose no objection if we withdrew the amendment, put in a quorum call, and then put in an amendment that is applicable to this line?

Mr. WILLIAMS. I wonder if the Senator could do that without the benefit of a quorum call, while we further discuss the bill. The reason for the omission in the bill of the requirement that the charges be filed in writing under oath is not clear to me. I do not know why it was done.

Mr. ALLEN. Very well. We will put in such an amendment.

Mr. WILLIAMS. The Senator has accommodated this provision to those who, for one reason or another do not resist taking an oath, and suggests putting it "in writing under oath or affirmation."

Mr. ALLEN. That is the way we have worded it.

Mr. WILLIAMS. Certainly, in the liberal spirit of today—

Mr. ERVIN. Mr. President, if the Senator will yield, I would suggest to the distinguished Senator from Alabama that he modify his amendment so as to read, on page 34, line 21, insert the following between the word "writing" and the word "and": "under oath or affirmation."

Mr. ALLEN. Very well.

Mr. President, I offer a modification of my amendment in the manner suggested by the distinguished Senator from North Carolina.

The amendment, as modified was, on page 34, line 21, after the word "writing," insert "under oath or affirmation."

The PRESIDING OFFICER. The amendment is so modified.

The question is on agreeing to the amendment.

Mr. ALLOTT. Mr. President, it just occurs to me at this time that this might be an appropriate time to see that the name of the Senator from Colorado, as well as other Senators who are present, appears in the RECORD. As I gaze upon this very tightly packed Senate today, I am astounded at the great number who are here.

I think this is a very meritorious amendment. I think we are very much indebted to the distinguished Senator from Alabama for offering the amendment, even though I cannot read the handwriting of the man who originated the amendment. For that reason I shall support the amendment wholeheartedly. It is very nice to be present here and participate in the debate on a day like this.

Mr. ALLEN. I thank the distinguished Senator from Colorado. I feel certain that, having taken a stand on this amendment and throwing his support behind it, the amendment will be unanimously adopted by the packed membership of the Senate present at this time. [Laughter.]

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. WILLIAMS. Mr. President, one of the amendments that was offered and considered en bloc, for technical reasons, should be rescinded, because the language in the master copy does not conform to the language as offered. I ask unanimous consent that the action of the Senate in adopting the first of the unprinted amendments be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 2515.

Mr. JAVITS. Mr. President, for the Senator from New Jersey (Mr. WILLIAMS) and myself, I send two amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

On page 34, line 1, strike out "(e)" and insert in lieu thereof "(g)".

On page 34, line 3, strike out "(e)" and insert in lieu thereof "(g)".

Mr. JAVITS. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. These are technical amendments, simply renumbering and relettering certain sections to conform with the present status of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendments, en bloc.

The amendments were agreed to.

Mr. JAVITS. Again for Senator WILLIAMS and myself, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 66, line 15, beginning with the word "not" strike out through the word "Act" in line 17 and insert in lieu thereof the following: "be applicable with respect to charges pending with the Commission on the date of enactment of this Act and all charges filed thereafter".

Mr. JAVITS. Mr. President, this amendment would make whatever we do enact into law applicable to pending cases. The Department of Justice has requested it in a letter to the minority leader; that is my reason for offering it.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. ERVIN. Did I understand the Senator from New York to say that this amendment merely provides that charges existing at the time the bill is passed shall remain in existence, and that the bill as amended shall be considered a part of the Civil Rights Act of 1964?

Mr. JAVITS. That is right.

Mr. ERVIN. In other words, it is just to keep pending charges alive, and make them subject to the amendment to the original act?

Mr. JAVITS. To this particular act, whatever it is, at the time it becomes law.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

AMENDMENT NO. 848

Mr. JAVITS. Mr. President, I call up amendment No. 848.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill add the following new section:

SEC. 14. The Chairman of the United States Civil Service Commission, or his delegate, shall be a member of the Equal Employment Opportunity Coordinating Council established by section 715 of the Civil Rights Act of 1964, as amended by this Act.

Mr. JAVITS. Mr. President, the purpose of this amendment is to make the Chairman of the U.S. Civil Service Commission a member of the Equal Employment Opportunity Coordinating Council, the idea being that, as we are introducing the Civil Service Commission into this legislation, the highest official of that Commission ought to be a member of the Coordinating Council which is established under this bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 848) of the Senator from New York.

The amendment was agreed to.

AMENDMENT NO. 909

Mr. JAVITS. Mr. President, I submit an amendment to the desk for printing, and wish to serve notice as to what it is.

It is an amendment upon which I have yet to consult finally with the Senator from Colorado (Mr. DOMINICK); but in view of the fact that we will be tolling amendments, as it were, as of tomorrow, I would have it printed and give notice.

This amendment developed from debate, which I think Senators who are present will recall, on the Dominick amendment, in the presentation of the Senator from Kentucky (Mr. COOPER), who voted with Mr. DOMINICK.

Senator COOPER pointed out that the courts could refer cases, in order to expedite them, to a special master or referee. That, of course, is entirely possible under the Rules of Civil Procedure, and Senator DOMINICK and I discussed the idea of asking the courts to do that. Of course, we cannot compel them to do it, but we can ask the courts to do it, after the case has been pending for a given period of time.

Senator DOMINICK and I have agreed on a provision to go into the bill in principle, but we have not yet agreed on a number of days. We have discussed varying numbers of days from 60 to 150. I have chosen 120 days as being 4 months and somewhat analogous to the other provisions of the bill, which provide various periods of time.

So, Mr. President, I send to the desk for printing, so that it may be at the desk and qualified, an amendment which would provide that if the judge designated pursuant to subsection (f) of this section, that is, in the assignment of a case of this kind for trial, does not assign the case for trial within 120 days after issue has been joined—that is, after giving the time for pleadings, which probably normally would take another 60 or 90 days, giving us, normally, the 6-month period which this act generally contemplates—the judge shall appoint a social master in accordance with the rules of civil procedure.

I would call the amendment up at this time except that I have not consulted with Senator DOMINICK.

The PRESIDING OFFICER. The amendment will be received and printed and will lie on the table.

Mr. ERVIN. I wish to ask a question about the jurisdiction of the amendment. As I understand the Dominick amendment, it puts the jurisdiction in the Federal district courts, or in certain cases in the circuit courts of appeals. Certainly with respect to cases in the Federal district courts, there is plenty of authority under existing law for the judge to appoint a special master if he sees fit to do so.

Mr. JAVITS. Exactly.

Mr. ERVIN. Would this amendment seek to make that mandatory?

Mr. JAVITS. I do not think we can mandate a court to do that. I did use the word "shall," but as a lawyer, I believe with such a provision in the law it would give a lawyer for either side the opportunity to apply to the court for such procedure in order to expedite the case. That is my thought in proposing it.

Mr. ERVIN. I wanted to tell the Senator from New York that I propose to offer an amendment which is now at the desk to provide for the trial of issues of fact arising in these cases by a jury. I guess we can battle out the two amendments. I do not know what the law of the Federal court is—I am not enough of an expert to say what it is—as to whether, if you have a right of jury trial, the court can preclude that right of a jury trial by appointing a special master.

Mr. JAVITS. I would doubt it. I would think the two amendments would be inconsistent, so if they were both the law, it would pose a very neat legal problem. I hope they will not both be the law.

Mr. ERVIN. I hope the Senator from New York joins the Senator from North Carolina in his deep veneration for the right to a trial by jury, which our citizens have enjoyed throughout the history of this Nation.

Mr. JAVITS. Of course, the Senator from North Carolina, who is as good a lawyer as I am, knows that the overwhelming majority of cases in equity are tried without a jury; so I am not too inhibited by the fact that the Senator would seek to provide for a jury trial. However, that is the Senator's right, as it is my right to seek some way of expediting this court procedure, which is what this amendment proposes.

Mr. ERVIN. I would just like to express the hope that the Senator from New York and those who have sought to provide for jurisdiction in the Federal courts will accept the wise course of action followed by the State of North Carolina, which gives the right of trial by jury in respect to all issues of fact, regardless of whether they arise in legal or equitable proceedings.

Mr. JAVITS. I thank my colleague for the information he has conveyed to the Senate. As I said before, I shall not call up the amendment at this time, but simply ask that it be printed.

Mr. President, if there is no other business, I suggest the absence of a quorum.

Mr. ERVIN. Mr. President, I should like to call up an amendment, if the Senator will withhold that.

Mr. JAVITS. We have another amendment. We are discussing whether to bring it up. Will the Senator give me a minute on that?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 850

Mr. JAVITS. Mr. President, on behalf of the Senator from New Jersey and myself, I send to the desk amendment No. 850.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 66, between lines 13 and 14, insert the following new section:

"SEC. 13. Section 5108(c) of title 5, United States Code, is amended by—

"(1) striking out the word 'and' at the end of paragraph (9);

"(2) striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon and the word 'and'; and

"(3) by adding immediately after paragraph (10) the last time it appears therein the following new paragraph:

"'(11) the Chairman of the Equal Employment Opportunity Commission, subject to the standards and procedures prescribed by this chapter, may place an additional ten positions in the Equal Employment Opportunity Commission in GS–16, GS–17, and GS–18 for the purposes of carrying out title VII of the Civil Rights Act of 1964.'."

On page 66, line 14, strike out "SEC. 13" and insert in lieu thereof "SEC. 14".

Mr. JAVITS. Mr. President, this amendment proposes to establish 10 supergrade jobs in the Equal Employment Opportunity Commission to deal with the added responsibilities which are vested in the Commission. I shall not call it up today or deal with it today, if that is agreeable to the manager of the bill, but it can be the pending amendment overnight. I will lay before the Senate that amendment for consideration. I will not press it today.

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I ask unanimous consent that if cloture should be invoked on S. 2515 tomorrow, it be in order to call up any amendment now at the desk to S. 2515, regardless of the pagination and section references, as now printed, so long as no changes in substantive matter are made, but that it would be in order to eliminate parts of amendments that would no longer be applicable because of changes in the bill; and that it be in order to correct the references to pages and sections on these amendments when called up so as to apply properly to S. 2515 as now amended.

This, of course, would have no effect on whether or not the amendments are germane as required by the rule.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. STEVENSON. Mr. President, S. 2515, the Equal Employment Opportunities Enforcement Act, is designed to give the Equal Employment Opportunities Commission the authority it needs to deal responsibly and effectively with job discrimination. In some quarters, however, S. 2515 is characterized strictly as a measure to combat job discrimination based on race or color. The legislative battle to enact S. 2515 is thereby cast as another chapter in the continuing racial saga which, for our purposes, began at least as early as the Constitutional Convention.

There is no question that S. 2515 is a civil rights bill in the best and truest sense of the term. Discrimination in employment because of race or color continues in this country, and the EEOC must be given new and more meaningful powers to help end this seemingly never-ending problem. But S. 2515 is something more.

There is, for example, job discrimination based on an employee's nationality, and on religion or religious practices. In regard to this latter problem, the Senate early in the debate on this bill considered and adopted an amendment proposed by the distinguished senior Senator from West Virginia, Mr. RANDOLPH, which sought to define more clearly and thereby prohibit more directly such discrimination based on religious practice. During that consideration Senator RANDOLPH documented the employment problems which affect those who seek to observe the Sabbath on a day other than Sunday, such as Seventh-Day Baptists, Seventh-day Adventists, and Orthodox and Conservative Jews.

There is yet another major area which the bill treats—the grave problem of discrimination in employment against women.

To many citizens of both sexes efforts to combat sex discrimination may seem novel. But even the sketchiest perusal of American history discloses that the legislative aspect of this movement, the search for women's equal rights, is at least a century old. That was about the time that the roots which later became the full-fledged suffragette movement—culminating in the 19th amendment—began to grow. The equal rights amendment, which the Senate shall consider again in the near future and which I support, and which is a main legislative theme of all present-day women's groups, was first introduced in 1923 and has been introduced in every Congress since. And even at the late date of 1964 the women's rights movement as it has come to be known today was not prominent. But in 1964 Congress first enacted VII of the Civil Rights Act, and one of the broad mandates given to the newly established Equal Employment Opportunities Commission was to end discrimination in employment based on sex.

Sex discrimination, especially in employment, is not new. But it is widespread and persistent.

There are some 30 million women employed in the United States, about 38 percent of the total work force. And the number of working women has increased rapidly in the last 25 years—between 1947 and 1968 alone the number of women in the labor force increased by 75 percent. The comparable figure for men was only 16 percent. But despite this comparatively large increase in the number of women in the work force, women continue to be relegated to the lower-paying positions, largely excluded from the higher-paying executive positions, and promoted much slower than men in similar positions.

These statistics have been mentioned before in this prolonged debate, but they bear repeating, for they illustrate this grave aspect of employment discrimination. In 1968, for example, the last year for which extensive data is available, the median salary for all scientists was $13,200; but for women scientists alone the median was $10,000. The story is even more stark for blue-collar workers: the median salary for a full-time male factory worker was $6,738; the counterpart female median was $3,991. In fact, 60 percent of women but only 20 percent of men earned less than $5,000 per year, while only 3 percent of women but 28 percent of men earned $10,000 per year or more.

Perhaps nowhere can this problem be seen in better perspective than in higher education employment, an area over which even the presently weak EEOC does not have jurisdiction, but likewise a problem to which S. 2515 is addressed. Of all men in higher education facilities in 1968–69, 24.5 percent held the rank of professor, 21.9 percent the rank of associate professor, 28.2 percent the rank of assistant professor, and 25.3 percent instructor or below. Similar figures for women faculty were 9.4 percent professors, 15.7 percent associate professors, 28.7 percent assistant professors, and 46.2 percent instructor or below. In 1965–66, the median annual salary of women was $410 less than men at the instructor's level, $576 less at the assistant professor's level, $742 less at the associate professor's level, and $1,119 less at the professor's level.

The litany of discrimination can continue into a consideration of women in professions in this country. Women presently comprise 3.5 percent of our Nation's lawyers, 2 percent of our dentists, and 7 percent of our physicians. The comparable figure for lawyers in Denmark is 24 percent and for dentists 70 percent. In Great Britain, 16 percent of the doctors are women, and this figure is 20 percent in Germany and 24 percent in Israel.

There are some who would say that much of this discrimination is caused by discrimination in previous years in the admissions processes of higher education, especially in graduate and professional schools. To an extent this is correct. The law school which nine other Senators and I attended, Harvard, did not admit women until after 1950. But the comparative figures I quoted above, for comparative ranks and salaries within educational institutions, and for comparative salaries even at the blue-collar level, belie such simplistic explanations. The problem of discrimination, as in other kinds of discrimination, forms that old vicious circle. The attack against discrimination against women, therefore, must come on a variety of fronts—to enact an equal rights amendment, to end discrimination in school admissions, to end job discrimination, and to act in yet other ways.

The question is not whether the EEOC should have jurisdiction over sex discrimination in employment, but whether EEOC is to have the tools needed to discharge its mandates effectively.

Whether S. 2515 is a civil rights bill or a women's rights bill should not matter. It should only further emphasize the importance of this legislation.

Once again, I urge my fellow Senators to heed the words of the Commission on Civil Rights and act "promptly and vigorously" to remove the impediments from the effective functioning of the EEOC. The time to act is now. The place to begin is with passage of S. 2515.

ORDER FOR ADJOURNMENT FROM TUESDAY, FEBRUARY 22, TO 10 A.M. WEDNESDAY, FEBRUARY 23, 1972

Mr. MOSS. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, Tuesday, the Senate stand in adjournment until 10 a.m. on Wednesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR RIBICOFF ON WEDNESDAY

Mr. MOSS. Mr. President, I ask unanimous consent that after the two leaders have been recognized on Wednesday, the Senator from Connecticut (Mr. Ribicoff) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 10:30 a.m. After the two leaders have been recognized, the Chair will recognize the distinguished Senator from Kansas (Mr. Pearson) for not to exceed 15 minutes, following which there will be a period for routine morning business, not to extend beyond 11:15 a.m., with statements therein limited to 3 minutes.

At 11:15 a.m., the chair will lay before the Senate the unfinished business, and the 1 hour, under rule XXII, will begin running on the motion to invoke cloture on S. 2515. At 12:15 p.m., the mandatory quorum call will begin. When a quorum has been established, the automatic rollcall vote on the cloture motion will take place. That rollcall vote will begin at about 12:25 or 12:30 p.m.

Additional rollcall votes can be expected tomorrow afternoon, especially in the event the cloture motion is adopted.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. MOSS. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10:30 a.m. tomorrow.

The motion was agreed to; and (at 2:58 p.m.) the Senate adjourned until tomorrow, Tuesday, February 22, 1972, at 10:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 21, 1972:

Department of Commerce

Peter G. Peterson, of Illinois, to be Secretary of Commerce.

In the Coast Guard

The nominations beginning Andrew P. Durkee, Jr., to be lieutenant commander, and ending Gordon A. Tooley, to be lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on January 21, 1972; and

The nominations beginning Bienveni D. Abiles, to be ensign, and ending Eugene N. Tulich, to be lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on February 7, 1972.

EXTENSIONS OF REMARKS

SENATOR WILLIAMS CHARTS A LONG OVERDUE COURSE FOR HANDICAPPED LEGISLATION

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, February 18, 1972

Mr. RANDOLPH. Mr. President, as chairman of the Subcommittee on Handicapped Workers of the Senate Committee on Labor and Public Welfare, I have become increasingly aware of the need for consolidation of programs and new initiatives on behalf of the Nation's nearly 30 million Americans who are handicapped in some degree. We have, over the past three decades, made noteworthy strides toward eliminating the discrimination in employment and educational opportunities for the handicapped.

Yet, the problems faced by these worthy citizens are not being dealt with directly in the myriad of special programs aimed at their relief. As an example, only recently have we seen serious study given to the transportation barriers faced by handicapped persons.

Senator Harrison A. Williams, Jr., chairman of the Committee on Labor and Public Welfare, spoke recently to the annual legislative conference of the New Jersey School Boards Association. His address delineated the scope of these problems. He outlined forceful goals to accomplish what is needed in alleviating the complex problems that exist.

Senator Williams stated:

> I wish it to be said of America in the 70's, that when its attention at last returned to domestic needs, the afflicted and the helpless are in the front rank of a new commitment of compassion.

Each of us shares this concern. Chairman Williams has given us bold new emphasis and direction. His words constitute a statement of purpose and give legislative direction that Americans applaud. I urge that my colleagues read his words, for they contain new hope for the handicapped.

Mr. President, I ask unanimous consent that the text of Chairman Williams' historic address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address of U.S. Senator Harrison A. Williams, Jr.

It is a pleasure to be with you today at your annual legislative conference.

These are difficult and exciting times for the education community here in New Jersey and throughout the Nation.

And we in the Congress are extremely concerned about the future of American education.

There are many problems which we must confront during the next several years if the strength of our education system is to be sustained.

There is the problem of school finances and how the States and local school districts are going to continue raising the funds necessary to meet the educational needs of their communities.

We know that we can no longer rely almost exclusively upon the property tax to provide increased revenues for our schools; and many people are beginning to look to the federal government to provide these resources.

There is also the continuing problem of equal educational opportunity.

The court decisions in California, Texas, Minnesota, and most recently, here in New Jersey, have made us look squarely at the issue of whether children in every school district are getting a substantially equal education.

And this raises the question of how we define the concept of an equal education.

And related to this issue also is the question of how we can best integrate our schools where we have found that there have been discriminatory practices.

These are indeed difficult problems which cannot be easily resolved.

And they are problems which are very much in the public eye and which will no doubt be the subject of a great deal of public discussion in the months to come.

But, there is another extremely important education matter which we have too long neglected.

It involves a subject about which we hear a good deal of sympathetic talk.

It concerns people whose plight always seems to touch the rhetorical heartstrings.

And no-one can ever quite bring themselves to openly reject the need to deal with this problem.

Yet, despite the sympathy, the heartstrings, and the lack of resistance, deeds simply have not matched words.

The problem I am speaking about is our neglect of the handicapped.

It is a stain on our collective conscience; an affront to what this great Nation is supposed to stand for.

I think we have not yet come to realize what it means to be handicapped in this society.

The handicapped live among us, and have the same hopes, the same fears, and the same ambitions, as the rest of us.

They are children and adults, black and white, men and women, rich and poor.

They have problems as varied as their individual personalities.

Yet, they represent a hidden population because they have certain problems in common which are different from most of ours.

Only the bravest of the handicapped risk the dangers and suffer the discomfort and humiliations they encounter when they try to live what we consider to be normal, productive lives.

In their quest to achieve the benefits of our society they ask no more than equality of opportunity.

But they are faced with continuing discrimination: Discrimination in access to public transportation and public communication facilities because they cannot make use of more normal modes.

Discrimination in pursuing advanced education—because they are often excluded from education altogether.

And, discrimination because they do not have even the simplest forms of special educational and rehabilitation services they need to develop to their fullest capacity.

Today, there are 7 million handicapped children in this Nation.

Sixty percent of these children are denied the special educational assistance that they need to have full equality of opportunity.

A full one million of these children are excluded entirely from public schools and do not go through the learning process with their peers.

Only 40 percent of America's handicapped children receive compensatory education, and these services vary widely within the 50 states.

In most cases, special programs are provided only if the local community is able to support such services entirely by itself; we are least likely to find special services in areas of population growth.

More tragically, special services and education for the handicapped are the first programs to be done away with during times of economic adversity.

In a very real sense, whether a handicapped person receives this kind of attention depends on where he lives, and not on the nature of his disability.

According to the best figures I can find, there are more than 22 million adults in the United States with physical handicaps severe enough to limit in some way their ability to work.

Of the 22 million with physical disabilities, an estimated 1 million could work if given the opportunity.

Actual employment figures are not so positive.

Again, according to the best estimates I could find:

There are some 150,000 blind persons of working age in this country—only one-third of them are employed.

There are some 60,000 paraplegics of working age, and 47 percent are employed.

Of the 400,000 epileptics of working age, the employment rate—according to best estimates—is between 15 and 25 percent.

And of the 200,000 persons of working age afflicted with cerebral palsy, only a small handful are employed.

These figures only account for a little over 800,000 of the 22 million adults with physical handicaps.

Other sources that I have examined have wildly differing statistics, including in some cases percentages for employment that are completely the reverse of those noted above.

Even HEW cannot fully enumerate or locate the handicapped.

The fact that this population is not accounted for accurately or consistently is shocking.

The individuality of the people with these conditions has been lost somewhere in the process.

We have lost track of them, lost the reality of their lives, and the pain and suffering of their disabilities.

There are more than 50 programs for the handicapped in the Department of Health, Education and Welfare, which include some aspect of assistance in meeting the problems of the handicapped.

Their funding levels over the past several years have increased—albeit too slowly.

And there are larger numbers of Federal personnel serving the handicapped than 5 years ago.

I question, however, whether these initiatives are adequately responding to the needs and wants of handicapped persons in our society.

The sheer diversity and separateness of the programs—the unreliability of the statistics—and the lack of information on accomplishments for the adult handicapped population, suggest that they are not.

And if the situation of handicapped adults in our society at all parallels that information that we have on the handicapped among our children, we know they are not.

All those children we excluded from education years ago are the adult handicapped population of today.

Their problems have not gone away, although we have lost sight of them.

It cannot be a question of the costs.

It would save us money to save the lives that we are wasting.

According to data for 1966, $3.5 billion was obligated for the handicapped by the Federal Government.

But, $2.65 billion of this money was for income maintenance.

The lifetime cost of educating an educable handicapped or retarded child is about $20,000.

The lifetime cost of institutionalization is ten times that amount.

This does not even take into consideration the potential earning power of these individuals, if they receive the special education and other services necessary for them to realize their personal and economic potential.

Yet in 1970, out of a total of $38.5 billion in federal, state and local dollars spent on public elementary and secondary education, only $1.4 billion was spent on the handicapped.

This figure is well under their fair share, which should be 10 to 12 percent of total funds.

It does not even come close to the kind of investment we should be making.

The paradox of our national behavior is that we simultaneously do too much and too little.

Too many of our handicapped population are misdiagnosed, mislabelled, and hustled out of schools, jobs and other institutions of society.

They are tested with instruments that are either not relevant or not sensitive to their varied backgrounds.

We have failed to recognize the intrinsic rights of the handicapped.

For too long, we have been dealing with them out of charity.

It is time to recognize that the handicapped have rights which we have been denying for too long.

The mere fact that services for the handicapped are considered frills, to be reduced in times of economic adversity underlines a tragedy of our society.

This is medieval treatment of a very current problem.

Clearly, we should re-evaluate our national policy and national programming toward the handicapped.

In order to alleviate many of their problems we need an increased national commitment, and we need it now.

Some of the ingredients of this new commitment will have to include strengthened national leadership, greatly increased visibility for the problems of the handicapped, and integrated and consistent programming.

Foremost in this commitment, should be immediate re-examination of educational policies, and continuing training and education of adults.

For these reasons, I will move next week to initiate a change in our National perspective on the handicapped.

As Chairman of the Labor and Public Welfare Committee, I believe it is time that we revise the way that the Congress looks at problems of the handicapped.

For many years we have been doing this in a piecemeal fashion through separate Subcommittees on Labor, on Education, on Health and on Handicapped Workers.

And we have seen many fine accomplishments during this time period.

Senator Pell, as Chairman of the Education Subcommittee has shown deep devotion to solving the problems of providing vitally needed special educational services for handicapped children.

Indeed, he has been a leader in this effort.

Senator Randolph has shown his firm commitment to assuring that handicapped workers are given new and meaningful opportunities to secure the kinds of jobs which they are best suited for.

Senator Kennedy has through the years demonstrated his real concern for the mentally retarded.

He has consistently supported all Congressional efforts to provide greater opportunities for the handicapped.

But with all of this fine work, it is my view that we have come to a point in time when we must revise this piecemeal method of separate Subcommittees and individual effort to deal with the problems of the handicapped in a way that is comprehensive.

We must look for the full integration of all the handicapped into all aspects of our society.

For this reason, I am announcing today the establishment of a permanent Subcommittee on the Labor and Public Welfare Committee to be known as the Subcommittee on the Handicapped.

Senator Randolph has agreed to serve as the chairman of this subcommittee and Senators Pell and Kennedy will also bring their expertise to this body.

This will provide a congressional channel that will act as a full-time oversight and legislative panel to deal with all of the problems that the handicapped must face; including the myriad federal programs in *HEW.*

This is a commitment that I am making to the Congress and to the entire Nation.

But most important, it is a commitment which I am making to the handicapped.

In addition, I will be introducing legislation to create, within the Office of the Secretary of HEW, an Office of the Handicapped.

This Office will be charged with coordinating all programs for the handicapped within the Department.

It will advise the Secretary on policy and administration related to these programs, and will serve as a focal point for information related to the Department's program for the handicapped.

The effective coordination of Federal programs serving the handicapped has critical significance in attaining the objectives of many legislative proposals enacted by Congress.

In recent years Congress has authorized many new statutes designed to improve the educational services available to handicapped children; assist local communities to construct facilities for service programs directed at the needs of the handicapped; support research to uncover the causes of handicapping conditions; and provide medical, educational and behavioral diagnoses so that effective life planning for the handicapped might be undertaken.

None of these programs attain their full objectives as long as they remain isolated, single efforts.

Only when they are coordinated can they focus on the total needs of the handicapped.

Of course, organizational structures are not means in themselves—they are not panaceas for all our bureaucratic problems.

And, they certainly do not take the place of innovative programs and ideas which will bring the handicapped into full participation in this Nation.

But a coordinating structure such as the one I shall propose is a vital first step in the development of a total Federal program with the necessary range, comprehensiveness and impact demanded by the handicapped.

As a third step, I am introducing a resolution calling upon the President to convene a White House Conference on the Handicapped.

This conference will concentrate the attention of all concerned organizations, governmental and private, on the handicapped and their place in our society.

It will provide a forum in which all concerned persons can together plan a set of goals and establish a realistic timetable for achieving them.

It will also offer an opportunity for a critical review and re-examination of where we now stand.

Only through such a national endeavor can the necessary resources be marshalled to attack the problems which the handicapped face every day.

The call for a White House Conference on the Handicapped is a response to the call of the handicapped themselves.

They ask for recognition, for their rightful place in our Nation's life, and for a fair share of our resources.

It is time that we provide them with that recognition and with a forum with sufficient visibility and national prominence so they are no longer a minority lost within this Nation.

In addition to these actions, I will be introducing in the next few weeks a number of substantive programs which will begin to deal immediately with specific areas where we know that special programming is needed.

We cannot sit back any longer knowing that one million children in this country are excluded from the educational system and receive no education at all—knowing that 60 percent of all the handicapped children are denied the special services they need to have an equal chance to live freely in this nation—and knowing that these children will grow up to be handicapped adults lost somewhere within this Nation.

We cannot and must not look upon these individual tragedies with an attitude of business as usual.

For, as Jacob Marley said to Scrooge in the immortal *Christmas Carol;* "Mankind was my business. The common welfare was my business . . . The dealings of my trade were but a drop of water in the comprehensive ocean of my business."

It is that timeless spirit which we need in this country so that it can be said of America in the 1970's that when its attention at last returned to domestic needs, the afflicted and the helpless were in the front rank of a new commitment of compassion.

COMMUNIST THREAT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 21, 1972

Mr. DERWINSKI. Mr. Speaker, it is absolutely necessary, at a time when well meaning, but forgetful, liberals are again espousing total acquiescence of the free world to Communist diplomatic and economic demands, that we keep in mind the actual conditions that exist behind the Iron Curtain.

In my judgment, the threat to Western Europe by the Soviet Union is as great today as it ever has been. Only the most naive persons would disregard the aggressive, imperialistic foreign policy of the Soviet Union.

It is always necessary to keep in mind that the Government of the Soviet Union in every area oppresses its own citizens, and this is especially so as far as the non-Russian peoples of the U.S.S.R. are concerned.

In my judgment, the free world, more specifically the United States and its Western European NATO allies, should be more alert and better prepared than ever to deal with the constant threat imposed by the Soviet Union. At a time when the Soviet Union is propagandizing its participation in a number of pending treaties and planning to manipulate the European Security Conference, we should keep in mind the record of constant treachery and double-dealing by the Soviet Union and their historic pattern of disregarding the solemn obligations they have made in previous agreements and treaties.

However, the purpose of my comments this afternoon is, more specifically, to direct the attention of the Members to a lengthy letter from a group of unidentified Latvian Communist leaders to their comrades in a number of European countries. This letter has recently been smuggled out of the Soviet Union, and is considered to be completely authentic.

The letter follows:

LETTER TO COMMUNIST PARTY LEADERS

(Please forward copies to Communist Party leaders in Rumania, Yugoslavia, France, Austria and Spain, as well as to parties in any other countries you choose. Please forward personal copies to Comrades Aragon and Geradi in France.)

DEAR COMRADES: We are seventeen Latvian communists, seeking your help. We are writing to you because we do not see any other way of affecting certain actions and events which cause great harm to the communist movement, to Marxism-Leninism, and to our own and other small nations.

Many communists have voiced in their party organizations the concerns we are expressing here, and some have appealed to the Central Committee of the Communist Party of the Soviet Union. Repressions have been the only results.

In order for you to understand us better, we would like to say a few words about ourselves. We are not opportunists, nor are we "leftists" or "rightists." We are communists and most of us became communists 25–35, or more, years ago. We wish only success for socialism, for Marxism-Leninism, and for the whole mankind.

All of us were born and have lived in Latvia, and most of us have personally experienced the deficiencies of a bourgeois regime. We joined the party at a time when it was still underground. We endured repressions, were confined to prisons, and suffered under the yoke of bourgeois Latvia. The struggle to establish Soviet power and socialistic order was our main goal in life. We all studied Marxism-Leninism. During the last World War, we were members of the Soviet armed forces or partisan groups and fought the Nazi aggressors. During the postwar years, we all actively participated in building socialism in our land.

With a clear conscience, we did everything in our power to carry out the teachings of Marx, Engels and Lenin. However, it became painfully clear to us that with each passing year their ideas became more distorted, that the teachings of Lenin are used here as a cover for Great Russian chauvinism, that deeds no longer agree with words, that we are complicating the work of communists in other countries, that we are impeding this work instead of enhancing it.

Originally we believed that this was due simply to the errors of a few individual local officials who did not realize the harmful effects of their attitudes. With time, however, it became apparent to us that the leadership of the Soviet Communist Party had deliberately adopted a policy of Great Russian chauvinism and that the forcible assimilation of the small USSR nations had been set as one of the most immediate and important domestic policy goals.

Latvia is such a small country that its history, geography and economic situation probably is not known to many outsiders.

Already 2000 years ago the Indo-European tribes of Kursi, Seli, Zemgali and Letgali inhabited the eastern shores of the Baltic Sea. Because they inhabited the shores of sea gulfs and the estuaries of navigable rivers, such as Daugava, Visla, Venta, and others, their territories attracted the attention of nations both to the east and west, principally Germany and Russia. Consequently, these tribes were conquered in the thirteenth century with the cross and the sword of the German Crusaders. The ancestors of the Latvian people lived for 700 years under the oppression of the German Crusaders and barons.

But the Russian czars always dreamed of capturing the ice-free ports of Ventspils, Liepaja, Riga, and Tallin.

Czar Peter I fulfilled this dream and our ancestors came under Russian domination. From time to time various areas of Latvia were also occupied by the Poles and the

Swedes. All these conquerors tried to assimilate the local tribes, but without success. Later these tribes evolved as the nations of Lithuania, Latvian, and Estonian, gaining their independence in 1918, after World War I.

The territory of Latvia covered 66,000 square kilometers, with 2,000,0000 inhabitants, 76% of them Latvians. Latvia established a democratic bourgeois government with a multi-party system. A political class struggle took place and, according to the division of power, the system was more or less democratic. The trade unions and the Social Democrat Party from 1918 to 1934 functioned legally, but the Communist Party was underground from 1919 to 1940.

Before World War II the Soviet Union forced Ulmanis, the head of the Latvian bourgeois government, to sign an agreement permitting the stationing of large garrisons of the Red Army in Latvia, but in 1940, with the help of the Red Army, the bourgeois government was overthrown and Latvia was annexed by the Soviet Union.

During the democratic bourgeois rule, Latvian economy and cultural life achieved significant progress. Latvia, along with Denmark and The Netherlands, supplied the world's markets with the highest quality butter, cheese, eggs, bacon, lumber and flax. It also exported electrotechnical equipment, optical goods and other industrial products. It had a national university with 9 faculties, 4 other institutions for higher education, opera, theater of music, several theaters of drama and many groups of performing artists.

During World War II, approximately 40,000 people were evacuated to the interior of the Soviet Union. Two Latvian divisions fought in the ranks of the Red Army. The rest of the indigenous population remained in Latvia. Some of the people that had remained in Latvia were annihilated by the German fascists. Some died on the front in battle against the Red Army, and, at the end of the war, some emigrated to Western countries (West Germany, Sweden, Australia, United States, etc.)

After World War II, the CPSU CC established as its goal to develop a permanent power base in the territories of Latvia, Lithuania and Estonia, and began the forceful colonization of these territories with Russians, Byelorussians and Ukrainians. It also began the forceful assimilation of Latvians, Lithuanians and Estonians, as well as other minority nationalities, disregarding the fact that such actions clearly speak against the principles of Marxism-Leninism.

Since we cannot sign this letter, you may think that the things we have said are not true, that we have exaggerated certain shortcomings that are unavoidable in any endeavor.

No, it is not so. Let the facts speak for themselves. Let us start with those truthful words that are written in the resolutions of the CPSU CC meeting on June 12, 1953 (the only such truthful resolution).

In his report about this resolution by the Presidium of the CPSU CC the member of CC and candidate of the Presidium of CPSU CC Janis Kalnberzins told at the Plenary Session of Latvian CP CC on June 22, 1953:

"The Presidium of CPSU CC resolved to:

"(1) Charge all party and state organs with the task to correct thoroughly the situation in the national Republics—to put an end to the mutilation of Soviet national policy.

"(2) to organize the preparation, education and wide selection for leadership positions of the members of local nationalities, to abandon the present practice of selecting leaders who are not of the local nationality, and to relieve individuals who do not have the command of the native language, and have them recalled by the CPSU CC.

"(3) All official business in the national Republics should be conducted in native languages."

Latvian CP CC First Secretary Kalnberzins stated in this Latvian CP CC Plenary Session that CPSU CC Presidium's resolution is harsh, but in regard to the Latvian SSR it is correct. Stated in this ruling was that Latvian CP CC and Council of Deputies (obviously under pressure from Moscow) up until now have grossly overstepped Lenin's principles of national policy. He further stated that numerous Party, Soviet and economic executives, basing their actions on false vigilance, express their distrust of the local cadres, and for leading positions pick mostly non-Latvians. These people do not understand Latvian language and are ignorant of local conditions. Such position taken against the local cadres has resulted in a situation that in the Latvian CP CC only 42% of its members are Latvians, while among the Party Secretaries from cities and districts only 47% are Latvians. Besides many of them are Latvians in name only and do not know the Latvian language, having lived many years, or their entire lives, in Russia.

Who knows to what extent this action had been directed from above, but Kalnberzins (very loyal to Moscow) then correctly said that an especially unsatisfactory situation from a nationalistic group viewpoint is in the city of Riga Party organization. In the City Council division cadre there are no Latvians and from 31 instructors only two are Latvians.

The cadre policy and Party organization membership is set by the regional organization division and the Party's charter organization secretary. It is in these circles that there are the fewest Latvians—the regional committee divisions each have but one Latvian, and among the charter organization secretaries, only 17% are Latvians.

Such unfounded mistrust of Latvian workers, farmers, working intelligensia, combined with the described Party cadre membership, has led to the situation that among Riga communists there are only 18% Latvians.

This gross distortion of Nationalistic politics and discrimination against Latvians mentioned in the Latvian CP CC plenum was acknowledged by such a sycophant of power politics as Arvids Pelse, the then Latvian CP CC propaganda secretary, present CPSU CC policy bureau member and CPSU CC control Committee Chairman. Speaking about CPSU CC Presidency resolution, he said:

"The resolution gives clear and unequivocal instructions—first of all, to improve the basic situation in the Republic, to end distortion of Soviet nationalistic politic . . . to prepare, to train and to appoint Latvian cadres to leading positions in the near future, on a large-scale basis."

From this statement, it is obvious that it was officially acknowledged in 1953 (the only time since Lenin's death) that the Marxist-Leninist nationalistic policy in our country had been grossly distorted (and is still being grossly distorted today).

But did this distortion end after this Plenary session? No. The above-mentioned course continued but a short time. After that, even though the plenary resolution was never repealed, all intended changes were halted and everything remained as it had been before. Even more, in the national republics the determined program for the coercive assimilation of small nationality groups was enacted even more forcibly and consistently.

What is the main course of this program and how is it enacted? The first main task is to transfer from Russia, White Russia and Ukraine as many Russians, White Russians and Ukrainians as possible to Latvia (and to other Baltic states) for permanent settlement.

How is this first main task enacted?

The Soviet Union CPCC did not trust the national republic CPCC. Thus:

1. For the Latvian CPCC, and likewise for all other republic CPCC, a Soviet Union CPCC organizational bureau (orgbureau) was established for Latvian affairs. The bureau's function was to control and direct the Latvian CPCC and the republic's overall politics. Shatalin was chosen the orgbureau's chairman, but was later replaced by Rjazanov.

2. For the Latvian CPCC Second Secretary position Moscow appointed Ivan Lebedev and for the Latvian CPCC First Secretary in cadre affairs—Fjodor Titov. These positions are still held by appointed Russians. At present time the Latvian CPCC Second Secretary position is held by Belucha, a Russian sent from Leningrad.

3. "Orgbureau" and these "High-commissars" from Moscow have continually directed the republic's cadres politics so that all leading positions—and primarily all Party, state and economic department head positions—are given to Russian newcomers. These people in turn grant other newcomers preference for registration in cities, provide apartments, and appoint them to better jobs.

4. To guarantee a massive influx of Russians, White Russians and Ukrainians into the Latvian republic, federal, inter-republican and zonal government departments have been set up in Latvia, and the construction of new large industries, as well as expansion of existing plants has been undertaken, disregarding any economic necessity.

The construction personnel for these projects were collected and brought in from cities outside of the Republic; raw materials were brought in from the Urals or the Don basin (i.e from places 3–4 thousand kilometers away); similarly, the labor force and the specialists were imported, but the production was exported from the Republic. For this reason a diesel equipment factory, a factory making electrical accessories for automobile (Autoelektropribor), hydrometric equipment factory (Gidrometpribor), and a turbine factory was built in Riga. Extensive synthetic fiber plants were built in Daugavpils. The imported labor force for these plants has formed a fair size town with almost no Latvian inhabitants. A large tricot garment factory and many other plants have been established in Ogre.

Literally, in every regional city new plants are, or have been built. The construction labor, specialists and production labor is imported, but the products are sent to the entire USSR.

Although Latvia had a sufficient number of generating stations which have provided electric power for the Republic, and Russia has many large rivers, imported workers have built a hydroelectric station in the river Daugava at Plavinas, and a city—Stučka—has been built for the construction forces, and consequently a new region has been formed in the Republic.

5. Although the depletion of forests has exceeded reforestation for every year since the war, forests are being barbarically destroyed, turning large areas into swamps and leading to the importing of raw materials for the local furniture industry. For the last few years lumberjacks have been and are still being brought into Latvia from Russia, White Russia and the Ukraine. The destruction of the forests continues and the imported lumberjacks settle permanently in the Republic.

This policy has led to the present situation where between 25,000–35,000 additional people each year become permanent residents of Riga. Total population has increased by a factor of 2.5. As a result, whereas Latvians in Latvia were 62% of the population in 1959, in 1970 they accounted only for 57% of the population. Similarly, population of Riga was 45% Latvian in 1959 and only 40% Latvian in 1970.

The further result of such a policy can be clearly discerned from the fate of the former Karelian Soviet Socialist Republic. It exists no more, because it has been liquidated because of the local nationals make up less than half of the total population of the republic. Now Karelia is a part of the Russian Soviet Federated Socialist Republic. A similar fate awaits Kazakh S.S.R. and Latvia.

6. Absorption of the local population into the mass of arriving Russians, White Russians, and Ukrainians is also furthered by the establishing of large bases for the armed forces and border guards on Latvian soil, as well as the building of dozens of medical clinics, rest homes and tourist facilities for the use of the entire Soviet Union. Rīgas Jūrmala (the beach area on the Baltic Sea) is now an official Soviet Union resort and there remain few local residents.

This has been the policy ever since the end of World War II and in the last two years it has been further reinforced. In our republic there are already many large firms where almost no Latvians remain among the workers, technicians-engineers, or management (e.g. "REZ", Diselestroitelnij zavod, Gidrometpribor and many others) and there are other companies where the majority of workers are Latvian, but management does not understand the Latvian language (Popov radio factory, Wagon Car Mfg., Autoelektropribor, Rigasc Audums etc.)

There are bureaus and departments where few Latvians are employed. For example, in the Interior Department System of Riga there are about 1500 workers, but only about 300 of these are Latvians.

Among the employees in the Commerce Department, a majority (51%) does not speak Latvian and only 29% of the management positions are filled by Latvians.

There are very few Latvians in construction. Approximately 65% of the physicians who work in Riga's medical institutions do not understand Latvian and because of this there are often gross mistakes made in diagnosis as well as in prescribing treatment.

All of this naturally leads to rightful indignation among the local population.

In achieving the first basic aim, the increase in the number of non-Latvians in the republic, steps are also being taken to achieve the second basic aim which is to assimilate the Latvians and lead to the Russian way of life throughout Latvia.

To achieve this the following things already have been done and are still being done:

1. The arrivals' demands for increased Russian language radio and television programming have been met. Currently, one radio station and one television station broadcasts programs only in Russian, while the other broadcasts programs bilingually. Thus, approximately two-thirds of radio and television broadcasts are in Russian. Jelinskis, the former director of Riga's broadcasting center resisted the arrivals' demands and was fired.

2. Regardless of the accessibility in Latvia of all newspapers, magazines and books published in the Soviet Union, approximately half of all periodicals issued in Latvia are in Russian. In Latvia there is a shortage of paper for publishing works of Latvians and for school books; however, works of Russian writers are published, as well as school books in Russian.

3. In the Republic's city, regional and most of the local municipal organizations, as well as in all enterprises, all business is conducted in Russian.

4. With the exception of such collectives as the Latvian newspapers and magazines, Latvian theaters and schools and partially the farm collectives, all gatherings and meetings are conducted in Russian.

There are many collectives where the absolute majority is Latvian; however, if there is only one Russian in the collective, his demand that meetings be conducted in Russian are met. If this is not done, the collective is accused of nationalism.

5. In cities and villages the formation of the so-called "united" schools, kindergartens and children's homes continues. In practice this means that Russian language kindergartens and schools remained unchanged, but in all the formerly Latvian language institutions classes in Russian were instituted. Thereafter, in these cases, all pedagogical meetings, teacher and student meetings, as well as the meetings of the Young Pioneers are conducted in Russian. Excepting the rural districts of Kurzeme, Zemgale and Vidzeme, few Latvian kindergartens, children's homes and schools remain.

6. In all high schools, and institutions of higher learning there are extensive study programs in Russian.

7. In newspapers, radio and television broadcasts, meetings and books—everywhere, every day, friendship with Russians is encouraged, widely propagandized are cases where Latvian girls marry Russian or Latvian youths marry Russian girls.

8. In the production of consumer goods, everything national has been eliminated. Formerly in Latvia, as in any other country, there were unique foods, special brands of confectionary, chocolates, cigarettes, but now there are only brands of the Soviet Union: Belock, Lastocka, Kara-Kum, Kazbek, Belomorkahal and others. In cafeterias and restaurants food is prepared according to the Russian recipes. National foods are rarities.

9. The Latvian people have a very important festival called "Līgo", which has been celebrated for hundreds of years, even during the German Fascist occupation. Until last year, it was expressly forbidden to hold this festival. This year the festival again was not recognized, although it was not officially banned.

10. There are two approaches to our literary heritage. There are repeated editions of the works of such Russian authors as Tolstoi, Turgenev, Dostoevski, Gogol, Pushkin, Lermontov, and others. However, of the Latvian authors who wrote in the pre-Soviet era, only Rainis, Paegle, and Veidenbaums are fully recognized, and partial recognition is given to Aspāzija, Blaumanis, and a handful of others.

11. Rīga is divided into six administrative regions, none of which has a locally-derived name. They are named Lenin, Kirov, Moscow, Leningrad, October, and Proletarian.

12. Rīga has streets which have been renamed after Lenin, Kirov, Sverdlov, Pushkin, Lermontov, Gogol, and Gorki. One street is named after Suvarov, who was a czarist governor. The street names that were dropped include "Aspazija Boulevard" (named after the best known Latvian poet), and "Krisjāna Voldemāra Street" (named after an unrelenting exponent of Latvian nationhood.)

13. In Rīga today there is a memorial museum not only for Lenin, but also for Peter I—the Russian czar who conquered the Baltic states.

14. Latvian soldiers, called "strēlnieki" played an important role in the October Revolution. Lenin himself gave them the important role of guarding the Kremlin during the most critical days of the revolution. During World War II, two Latvian divisions and a special aviation battalion heroically fought as part of the Red Army. Today, however, there are no separate Latvian military units; Latvian youths in the military are purposely not assigned to the Russian units stationed in Latvia, but are scattered throughout the Soviet Union as far from Latvia as possible.

15. Latvian professional and amateur theaters, ensembles, orchestras, and choirs cannot have a repertoir officially approved unless it contains Russian plays or songs. However, the Russian collective repertoirs almost never include Latvian plays or songs.

We could continue enumerating more such facts and conditions which all support the same point, namely, that all expressions of Latvian nationalism are suppressed, that there is a forcible assimilation and no equality among nations, cultures, and traditions.

One could ask: Why are the Latvian people and Latvian communists silent?

They are not silent. There have been attempts to oppose this political policy.

For example, the former First Secretary of the Riga Committee of the Communist Party, who later became the Vice Chairman of the Latvian Socialist Soviet Republic, E. Berklavs, always spoke out against this injustice. For a time he was also supported by other members of the Central Committee of Latvian Communist Party.

But when his support grew to include a majority of the Central Committee members, the then First Secretary of the Communist Party of the Soviet Socialist Republics, Comrade Chruschev made a personal trip to Latvia and later sent the Secretary of the CPSU, Muchitinov. As a result, E. Berklavs was dismissed from his post as Vice Chairman of the Council of Ministers and expelled from the Central Committee Bureau and the Central Committee and was sent out of the Latvian Republic.

For supporting E. Berklavs and opposing the great Russian chauvinism and opposing the mutilation of Marxism and Leninism, the following persons were also removed from their posts:

K. Ozolins, Chairman of the Supreme Soviet of the Latvian Soviet Socialist Republic and Latvian Communist Party's Central Committee Bureau member:

Straujums, First Secretary, (after E. Berklavs), of the City of Riga Communist Party Committee and Latvian Communist Party's Central Committee Bureau member;

Pizāns, Editor of the Latvian Communist Party official newspaper "Cina" and Latvian Communist Party Central Committee candidate;

E. Mukins, Deputy Planning Chairman for the Republic;

V. Kreitus, First Deput Chairman of the City of Riga Party Executive Committee;

Bisenieks, Latvian Communist Party Central Committee Bureau member and Secretary;

V. Krumins, Latvian Communist Party Central Committee Secretary;

P. Dzérve, Director of the Economic Research Institute of the Latvian Soviet Socialist Republic's Academy of Science;

V. Kalpins, Minister of Culture and Latvian Communist Party Central Committee Bureau member;

P. Cerkovskis, Deputy Minister of Culture;

Prombergs, Deputy Health Minister;

A. Nikonovs, Minister of Agriculture;

Vallis, Deputy Minister of Agriculture;

Darbin, Editor of the City of Riga official newspaper;

Ruskulis, First Secretary of the Communist Youth League Central Committee;

Valters, Latgvian Communist Youth League Secretary;

Brencis, Editor of the Latvian Communist Youth League official publication "Padomju Jaunatne";

Zandmanis, Director of the Cadres Division of the Latvian Soviet Socialist Republic's Council of Ministers;

J. Jacens, Supervisor of the Administrative Section of the Latvian Communist Party Central Committee;

E. Liberts, Minister of Highways;

Plesums, Chairman of the Control Commission of the Latvian Communist Party Central Committee;

E. Erenstreite, Senior Advisor to the Council of Ministers;

J. Giblets, member of the City of Riga Communist Party Central Committee and Supervisor of the Education Section of the City of Riga Communist Party Executive Committee;

M. Vernere and Duskina and many other principals of intermediate schools.

All the significant party and government posts have now been filled with non-Latvians and Latvians who have spent their entire lives in Russia and who arrived in Latvia only after World War II. The majority of them either do not speak any Latvian or speak very little. The facts speak for themselves.

The Secretaries of the Central Committee of the Latvian Communist Party are the following:

First Secretary Voss, Russian born Latvian; as a rule, he doesn't speak Latvian in public.

Second Secretary Belucha, born Russian. Knows no Latvian at all.

Secretary of Propaganda Drizulis, Russian-born Latvian.

Secretary of Agriculture Verro, Estonian from Russia. Knows no Latvian at all.

Secretary of Industry Petersons, Russian born Latvian. Speaks Latvian poorly.

Leaders of the Council of Ministers: Chairman J. Rubens, Russian born Latvian, speaks Latvian very poorly; vice-chairman Bondaletov, born Russian, speaks no Latvian at all.

Chairman of the Supreme Soviet of the Soviet Latvian Republic J. Rubens, knows Latvian only superficially, does not speak Latvian in public.

It is almost a law that leading positions are filled by men without principles, men without personal views or opinions, sycophants, opportunists, and flatterers. Men of principles who have opinions and express them openly are barred from important positions.

Such are the conditions in Latvia, under such conditions live the people native to their republics in their own land.

Those Lithuanians, Estonians, Jews, Germans, Poles, and other minorities (except Russians) residing in Latvian territory do not have their ethnic heritages at all respected. Until 1940 (until the establishment of the Soviet rule) in Latvia these minorities had their own elementary and secondary schools where they studied in their own language. They issued their own language newspapers, magazines, books; they had their own clubs, theaters, and other cultural and educational institutions. Now, in disregard of pertinent Marxism-Leninism principles dealing with ethnic questions, and, contrary to the statements of USSR leaders that ethnic problems in Soviet Union have been solved and that each nationality has been guaranteed complete freedom and equality, nothing of that kind is evident. In every republic the Russians have everything, people native to their republics have something, but others nothing at all. The 3.5 million Jews residing in Soviet Union have only one newspaper and only one magazine in their native language, and that only in their autonomous region. They are denied the right to have their own theaters, clubs, cultural, and educational institutions, even in those cities where they number tens of thousands.

Esteemed comrades! In this letter we briefly illuminated actual conditions in Soviet Union only from one viewpoint—that of the rights of ethnic minorities. Just as cruelly are mutilated in our midst Marxist-Leninist teachings about inalienable human rights and freedoms, freedom of speech, Lenin's work ethic, and other fundamental principles of Marxism-Leninism.

Why are we writing to you about all this? Why have we waited so long to write? What are we asking you to do, what are we proposing?

As explained earlier in this letter, we became Communists a long time ago. We were acquainted with the teachings of Marxism-Leninism and the basics of the Socialist state in theory only while being active in the Communist underground, or while suffering in the prisons and forced labor camps of bourgeois Latvia, but we believed in these ideas unreservedly. When we first saw the socialist state (the only one in existence at that time) we immediately noticed the difference between theory and practice. But we firmly believed that the faults were of a transient character and that they could be overcome. At first, we did not recognize the seriousness of these faults. Through daily application of the socialist ideas we gradually realized that much of the official written and spoken output of the government was for display purposes only—deliberate distortions and outright lies. All Party conferences, meetings and assemblies are carefully prearranged and executed shows. They are convened only to create an illusion of democracy within the Party. In reality, these conferences, meetings and assemblies merely have to approve everything that has been dictated from "above", subsequently they expound the individual opinion of a single person—the head man in the government. Every attempt to object to these opinions is regarded as opposition to the ideals of the Party and Leninism. Those who dare to object not only lose their positions but also their freedom, and often end up, suffering subhuman conditions, in prisons and concentration camps, are deported, or sometimes, vanish without a trace.

Naturally, these conditions eliminate all arguments and discussions at Party conferences and assemblies as well as at the meetings of workers' councils. In this way, an apparent unity is achieved.

We suppose you have heard of the situation here or know part of it. However, knowledge of the conditions here based on information of official documents, or short visits to the USSR, is certain to be far from complete. That is why we are writing to you: we want to acquaint you with the facts.

We realize that no Communist Party has the right to interfere in the internal affairs of another Communist Party. Nevertheless, for this very purpose, in order to safeguard this principle we must unite against any violator. You now have the facts. Besides, the world opinion judges the effectiveness of Socialism and Communism in general by our successes and failures here. Therefore, the actions of the USSR have a direct influence on your work. For this reason we feel that you should know the truth about the conditions here, so that you can take appropriate steps to sway the leaders of the Communist Party of the Soviet Union. We know that this will not be easy. These men are not used to opening their minds to outside ideas. They act from a position of power and recognize only force. But your Party plays an important role in the world Communist movement and your proposals cannot be taken lightly. We have no intentions of suggesting any methods you might use to influence the leaders of the Communist Party of the Soviet Union. Nevertheless, we are convinced that the high prestige of Marxism-Leninism cannot be preserved if the distortions of its principles are accepted silently, without protest. If the leaders of the Communist Party of the Soviet Union decline to stop actions described above they have to be unmasked and boycotted.

The present policies of the Communist Party leaders in the Soviet Union are destroying the world Communist movement.

With a Communist greeting,

—— ——.

JOSEPH P. COSAND APPOINTED DEPUTY COMMISSIONER FOR HIGHER EDUCATION

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 21, 1972

Mr. BRADEMAS. Mr. Speaker, I was pleased to learn about the recent appointment as Deputy Commissioner for Higher Education in the U.S. Office of Education of Joseph P. Cosand.

Mr. Cosand is a man much respected by all those concerned with higher education and I know he will make significant contributions in this new and important responsibility.

I insert at this point in the RECORD an article about Mr. Cosand published in the March 1972 issue of Junior College Journal:

JOSEPH COSAND TO USOE

Joseph P. Cosand, a member of the AAJC Board of Directors, was appointed in early January as deputy commissioner for higher education in the U.S. Office of Education.

He was president of the Junior College District of St. Louis, Missouri, from the time it was organized in 1962 until last summer when he resigned to become director of the Center of Higher Education at the Univeristy of Michigan. Before going to St. Louis he was president of Santa Barbara City College in California. Mr. Cosand was elected to the AAJC Board in 1969 for a term of office ending with the 1971 annual meeting. He has also served on the governing boards of the American Association of Higher Education and the American Council on Education. Last year he served as chairman of A.C.E. He has also been serving as a member of the Carnegie Commission on Higher Education.

During his presidency at St. Louis, the Junior College District grew from a dream in the minds of local supporters to a multi-campus, nationally-acclaimed institution enrolling 20,000 students.

At U.S.O.E. Mr. Cosand will be one of five deputy commissioners. The post he fills has been open since Sidney P. Marland, Jr., Commissioner of Education, created the deputy commissioner offices. Peter P. Muirhead, executive deputy commissioner has served as acting deputy commissioner for higher education in the interim.

Other U.S.O.E. deputy commissioners deal with development, school systems, external relations, and management.

"There appears to be a turning point ahead in American higher education because of the government interest in seeing increased opportunity for those who wish to enroll in higher education," Mr. Cosand said. "I have hopes that Congress will adopt a program of institutional aid and, if they do, that will be a real moment in the history of education in our country. I took this job because I want to be a part of that effort."

"Also, I have great respect for Secretary Richardson, Commissioner Marland, and Executive Deputy Commissioner Muirhead." Mr. Cosand mentioned the good relations he had with these men during the past year when he served as chairman of the American Council of Education and he referred, too, to his high regard for Roger Heyns, the new president of the council.

Mr. Cosand said another reason he took his new job was he believed he could contribute to a close working relationship between O.E. and the higher education associations during what he termed "a crucial year for higher education."

Edmund J. Gleazer, Jr., executive director of AAJC, said, "Joseph Cosand will bring outstanding credentials with him to Washington. He has a comprehensive knowledge of post-secondary education, including operational experience in community colleges. We are highly pleased to see a person of his competency move into this important new position in the Office of Education."

Included in Mr. Cosand's duties will be responsibility for the Bureau of Higher Education, the Institute of International Studies, and the Bureau of Libraries and Educational Technology.

THE CASE FOR LOCATING THE SPACE SHUTTLE BASE IN CALIFORNIA

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 21, 1972

Mr. ANDERSON of California. Mr. Speaker, upon the completion of Apollo 17 in late 1972, the United States will embark on a bold, new approach to continue our successful exploration of space.

In 1973, we will launch our first Skylab—a scientific mission directed toward an extensive study of the sun; a study of the application of space in surveying and monitoring the resources and environmental interactions of the earth; and the biomedical study of the effects of long-duration flight on man.

But, the real key to future space operations lies in the successful development of a space shuttle transportation system. This earth-to-orbit shuttle will provide a recoverable, reusable space vehicle for the placement and the retrieval of satellites.

In addition to radically reducing the cost of transporting satellites into space, the space shuttle is expected to produce significant savings in the cost of design, development, and operations of space payloads.

The 1973 Federal budget recognizes the need for the space shuttle and provides for proceeding with the detailed design and development of a space shuttle based on the definition studies which are now nearing completion.

When the Congress concurs in the decision to develop the space shuttle, the question arises: Where should the launch-retrieval base be located?

Mr. Speaker, at this time I would like to present the case for locating the space shuttle base in California.

CLIMATE

Because shuttle landings will take place at 2- to 3-week intervals, and because the returning shuttle will have fuel for less than 15 minutes maneuvering before landing, weather will be an important factor in the selection of a site.

Both prospective California sites—Edwards and Vandenberg Air Force Bases—meet the climatic requirements.

Lightning activity is almost unknown at Vandenberg, which averages only 12 inches of annual rainfall, and Edwards has an arid desert climate.

Visibility at Edwards cannot be surpassed and, except for nighttime clouds, and seasonal fog at Vandenberg, visibility is excellent.

LOCATION

U.S. launchings are, generally, either polar—rotating over both poles, thus, passing over all sections of the rotating globe—or retrograde—in orbit synchronized with the sun so they can constantly monitor the day, night, or twilight sides of the globe.

The polar-orbiting satellite is launched south. Retrograde orbits are lofted south to southwest.

The California location at Vandenberg accounts for all of the previous 410 polar orbit launchings, and all but three of the 136 retrograde shots that took place by mid-1971, were lofted from Vandenberg.

The Vandenberg site overlooks the Pacific Ocean over a 210-degree span, thus permitting overwater launching southward without passing over foreign territory during suborbital flight.

An easterly launching from Vandenberg can take place without crossing population centers during the crucial first 100 miles of flight.

Due to its high elevation, the Edwards site offers a unique consideration. Obviously, the fuel needed to launch a satellite into space from 2,300 feet is much less than the fuel needed to launch a satellite from sea level.

FACILITIES

The site for the space shuttle launch-retrieval base must have first, navigational aids and weather equipment; second, a 10,000- to 15,000-foot runway; third, at least 65,000 acres in order to contain the noise of the shuttle rocket firing; fourth, facilities to prepare boosters and orbiters as well as equipment and fuel storage areas.

California sites potentially meet or surpass all of these requirements.

Vandenberg Air Force Base, the largest launch area in the Western World, has 44 launch sites on a 100,000-acre range, traversed by 327 miles of roads, and dotted with 3,500 buildings.

The 8,000-foot Vandenberg runway, which presently accommodates the 747 jumbo jet, can be easily extended to 15,000 feet.

Extensiveness visibility, unobstructed access, and existing facilities make Edwards Air Force Base the prime landing and testing facility in the Nation. It covers 300,000 acres and is probably the only U.S. military airfield that would not require strengthening for frequent booster and orbiter retrievals.

Edwards also maintains an assembly of tracking facilities; houses the Aerospace Research Pilot School, and has conducted rocket test firings since 1953.

MANPOWER

In order to operate the space shuttle and to manufacture the components that go into it, responsible, technically competent personnel must be hired. The larger the pool of potential aerospace workers in the vicinity of the launch site, the better the choice shuttle administrations will have of qualified applicants without paying costly inducements for relocation.

Fortunately, Vandenberg and Edwards are surrounded by the largest pool of aerospace power in the Nation. Forty-two percent of those employed by U.S. aerospace industries live in California, most of them in the southern part of the State.

In addition to experienced, qualified manpower surpluses, California offers a scientific environment with more specialized and independent research and testing laboratories than any other State.

LOGISTICS

In addition to the need for qualified personnel to operate the space shuttle base, supplies, and materials will be needed to launch an estimated 54 shuttle rockets per year.

With the base close to the supplier, shipping times will be cut, and servicing will be more convenient.

In addition, an important factor in selecting a site for the space shuttle base is its access to plentiful supplies of liquid oxygen and hydrogen—the fuel used in launching.

The proposed California sites—Vandenberg and Edwards—are within easy driving distance of those aerospace manufacturers who are likely participants in the Shuttle development. Thus, shipping materials to either base would be relatively inexpensive, and servicing would be accessible.

To meet the shuttle fuel requirements of an estimated 75 tons of liquid hydrogen and 350 tons of liquid oxygen per day, California has an extensive natural gas network and the plant facilities for converting natural gas to liquid hydrogen. The present capacity is more than adequate to keep shuttle rockets burning during peak years of operation.

Plants within 150 miles of the proposed California sites can supply enough liquid oxygen and hydrogen by tank truck for initial shuttle operations, and natural gas and electric power are readily at hand for supplying any liquid hydrogen plants that may be erected at the launch site.

CONCLUSION

Mr. Speaker, obviously, the combined use of the existing bases located at Vandenberg and Edwards offers the ideal solution to the problem of where to best locate the space shuttle launch and retrieval base, as well as a flight testing center.

Existing facilities, and the natural advantages of climate and location make Edwards the perfect site for preshuttle flight testing and for alternate and emergency retrievals once the shuttle becomes operational.

Vandenberg, on the other hand, stands out as the best qualified site for launch and for most retrievals.

The proximity of the two bases permits an efficient interchange during testing and ultimately during operations.

With the selection of the California sites for the shuttle base, the Government will have easy access to the personnel, the manufacturers, and the contractors who have proven themselves over the years. The existing facilities, and the close proximity of suppliers will result in savings to the American taxpayer.

Mr. Speaker, as space pioneer Dr.

Wernher von Braun stated, the knowledge gained from space exploration "has great significance to man, to environment, and to the ecology."

We must continue our space program by conquering new frontiers with a retrievable, reusable, economic space shuttle which promises to get more payloads into space and more down-to-earth benefits from it at less cost.

The space shuttle must be fully funded by the Congress and, in order to get the most for our tax dollar, we must locate the launch-retrieval base in southern California.

LAKE COUNTY OBSERVES ANNIVERSARY OF LITHUANIAN INDEPENDENCE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. McCLORY. Mr Speaker, it is with special pride that I take part in the ceremonies honoring the 54th anniversary of Lithuanian independence.

The establishment of the Independent Republic of Lithuania on February 16, 1918, served to reinstitute a nation whose identity and sovereignty dates back more than 700 years—to 1251, when Mindaugas the Great unified the Lithuanian principalities into a single nation.

Mr. Speaker, I will not recount the tragedy of Lithuanian subjugation by foreign powers except to note that in 1944 the Soviets reoccupied the territory of the Independent Lithuanian Republic and established Lithuania as an annexed unit of the Soviet Union.

Mr. Speaker, this event represented the end of Lithuanian freedom. The occupation of Lithuania by the Red Army of Soviet Russia was followed by a reign of terror, by cruel and inhuman treatment of Lithuanian citizens, by imprisonment and liquidation of many brave patriots, and by the exiling of many tens of thousands to the slave labor camps of Siberia.

Mr. Speaker, I am proud that many Lithuanian nationals as well as a much larger number of Americans of Lithuanian descent have chosen my congressional district for their new homes—and as a refuge from Soviet tyranny.

Mr. Speaker, my longtime friend, Edward R. Skalisius, president of the Lake County Chapter of the Lithuanian American Community of U.S.A. Inc., has invited me to attend the commemorative ceremonies in honor of Lithuanian Independence Day. These ceremonies, to be held at the Lithuanian Auditorium in Waukegan, Ill., on Sunday, February 27th, will provide an opportunity for large numbers of the Lithuanian American community to gather in respect to Lithuanian Independence Day.

Mr. Speaker, I am confident that many expressions of courage and determination will be voiced on that occasion. In recognition of this event, I take this opportunity to publicly declare my support for a free and independent Lithuania and to commend in the highest possible terms the courage and perseverance of those sturdy sons and daughters of Lithuania who are keeping alive the great heritage with which they are endowed.

Mr. Speaker, in paying this tribute, I wish to reiterate my support for House Concurrent Resolution 416 passed by the Congress in 1966 calling for self-determination and national independence for the Baltic nations of Estonia, Latvia, and Lithuania.

Mr. Speaker, I wish also to express my agreement with the many other expressions of support for a free Lithuania which have been uttered on the floor of the House of Representatives under the special order of my distinguished colleague from Pennsylvania, the Honorable DANIEL J. FLOOD.

COMMUNITY DEVELOPMENT PROGRAMS

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 21, 1972

Mr. ALEXANDER. Mr. Speaker, today, in my continuing effort to provide my colleagues with information useful to them in devising community development programs intended to recognize the special character of nonmetropolitan areas, I would like to share statements by two men whose training and experience in this area particularly qualify them to address this problem.

These men are Dr. H. J. Meenen, chairman of the Department of Agricultural Economics and Rural Sociology at the University of Arkansas, and Dr. Bernal L. Green, agricultural economist with the U.S. Department of Agriculture's Economic Research Service, who is working with the University of Arkansas. Their statements were presented at the hearing on community development needs in the First Congressional District which I conducted in Batesville, Ark., on December 4.

Mr. Speaker, this is the 16th insertion in the CONGRESSIONAL RECORD of testimony and other materials which I have gathered during my research into ways to assist community development in nonmetropolitan areas. Other materials on this subject appear in the CONGRESSIONAL RECORD, volume 117, part 25, pages 32740–32741; part 26, pages 34505–34506; part 27, pages 35409–35410; part 28, pages 36133–36135 and 37358–37360; part 29, pages 38121–38123; part 30, pages 39156–39158; part 31, pages 40813–40817; part 32, pages 41882–41884; part 34, pages 44696–44699; part 35, pages 45963–45966; part 36, pages 47310–47312; and volume 118, part 1, pages 1225–1226; part 3, pages 3583–3586; part 4, pages 4739–4743.

The testimony follows:

STATEMENT BY H. J. MEENEN

Congressman Bill Alexander, I am Henry Meenen, Head of the Department of Agricultural Economics and Rural Sociology of the University of Arkansas at Fayetteville. May I express our appreciation for your invitation to present testimony concerned with Community Development. Economic and Social Development has been a concern of the members of our department since its organization in the 1920's. Although our research and teaching activities tend to be concerned more with the rural areas as contrasted to the large metropolitan areas, we are very aware of the interrelationship of the two and realize that the problems of one area become the problems of both. The economic and social health of our nation is dependent upon a balance in the interrelated adjustments or changes in all sectors of our society.

The comments which I shall make today result from research which has been conducted by members of the department in recent years. I shall select those studies which may provide some basic background data that should be helpful when considering a source of funding for public and/or quasi public agencies. In the limited time available I should like to comment on five areas that we feel are worthy of consideration. These are public services, housing, medical services, a systems approach to development for the leisure industry and the need for planning and design service centers. We realize that informational needs essential for the design of a national credit organization are much greater than these areas but because of limited time we prefer to speak to these points which we have recently researched and for which we have specific facts.

PUBLIC SERVICES

A study which we have under way at the present time investigates a means of making more efficient use of the existing supply of water in an area by using a single supply and treatment facility for a two-county region, replacing existing municipal systems and numerous wells for rural residents. The resulting benefit will be to remove a dependable water supply as a limitation on industrial development. A uniform supply of water in a region should lead to a more even dispersion of industries in that region because of the direct demand for water by industry and because of the lowering of fire insurance rates as a result of the water supply. It is also possible that a water supply for the rural areas will tend to moderate the concentration of population in cities and towns.

Data have been gathered revealing the household usage and cost of providing water for the thirteen municipalities located in Washington and Benton, Arkansas. The cost of providing water ranged from 35¢ to $2.68 per thousand gallons. The daily household usage ranged from 195 gallons to 2,681 gallons. This household usage includes the drafts for commercial and industrial use, thus the wide variation in household usage. The investment necessary for the regional system has been established and operating, maintenance, and repair costs are currently being projected.

Regional water systems which are economically sound will require large sums of money for long range financing. Public or quasi public water district organizations could well be served by a rural development credit institution.

HOUSING

The availability and quality of housing is an important element in economic and social development. These aspects of housing in an area have often been cited as an important indicator of the existing level of living of the occupants. Our research indicates that while progress has been and continues to be made in improving housing a high incidence of substandard housing still exists in Arkansas especially in the widely scattered rural areas and small towns. A sample taken in late 1966, which included 44 counties in Arkansas showed that 38 percent of the households lacked one or more of such essential items as hot and cold running water, a flush toilet, a bath, and adequate water supply and sewage disposal facilities or the minimum essentials for health and sanitation.

The underlying causes of poor housing are complex. Analysis of survey data show that the quality of rural housing was significantly related to income, the level of formal education of the head of the household and of the wife and the type of employment of the household head—white collar, blue collar or service worker.

Farm housing was found to be of about the same quality as rural nonfarm housing. In addition, renters did not occupy significantly poorer housing than did owners.

Less than half of the rural homeowners had never mortgaged their present house and land. Those who had, occupied significantly higher quality housing. Half of all the loans made in the 1960 to 1966 period were for less than $5,500. Local banks made 36 percent of the loans, individuals 26 percent and savings and loan associations 17 percent. Bank loans for residences indicate that 11 percent were made for farm residents compared to 89 percent for non-farm. The comparable number for savings and loan associations were 3 and 97 percent. Individuals were important sources of loans for farm residents. Findings suggest that the rural households scattered over the region have only limited access to some of the large "pools of credit" capable of making the more desirable long-term, low-equity, amortized loans. Although the loan-to-sale price ratio was 72 percent in the 1960 to 1966 period, among all lenders, the ratio was 63 percent for home buyers borrowing from a local bank.

A two-fold approach may be necessary in solving the rural housing problem in the region. Long-range goals must include upgrading household incomes and improving education and training. A sound development program for the area is required if these characteristics are to be modified. In the short run housing can best be upgraded by easing credit terms, increasing the participation of large institutional lenders and by greater effort by Government lending agencies. Some segments of the need for housing may be served by a rural development credit organization.

MEDICAL SERVICES

The following comments are based on the preliminary examination of the data from a study of medical care in rural areas of Arkansas. The sample population covers a hospital service area in each of three major subregions of the state—Delta, Coastal Plain, and Hills. Secondary sources provide the information on population composition and change, size of hospitals, and number of physicians in all counties of the state.

Several occurrences imply the rapid acceleration of the need for medical services in rural areas. First, the increase in the aggregate numbers of the aged and in dependency due to the aging of the population. In 12 counties of north central Arkansas 17.6 percent of the population was 65 years and older in 1970, and 19.9 percent was 50 to 64 years. Relatively a much lighter burden of medical services is implied in the figures for the nation: 9.9 percent 50 to 64 years, 14.4 percent 65 years and older. The aged was less than 10 percent of the population in 1950. Second, the introduction of social insurance for medical care among the aged. Third, the increase in nonfarm work among rural people and the provision of group coverage in industry has been the main factor in the increase of medical care insurance for persons under 65 years old.

The "supply" side of services evinces inflexibility in adapting to changing volume and nature of medical care demand. No change in the provision for services is noted in the three areas of study after medicare came into operation and numbers of aged increased. Earlier with federal aid there had been a spurt in the construction in rural counties of small hospitals, but the number of physicians to serve them has dropped off acutely. Using, for example, the 21 counties of no urban population, there were 87 physicians practicing in 1950 and 67 in 1970, and at the latter year the number of physicians per 1,000 of the population ranged from 1,500 to nearly 6,000.

Only one of the 21 all-rural counties had a local hospital in 1950, 12 had been established by 1970, ranging in size from 25 to 48 beds. A rather nominal hospital was reported for 3 other counties, 2 of 10 and 1 of 9 beds. Data in compilation will show variation among small county districts in physician-people and hospital-bed ratios, and implicitly the need for planning with both local and central services in perspective.

The differential need for services among categories of people is indicated by the presence or absence of symptoms of illness or ill health. Age, race, and income are among factors having association with the prevalence of ill health.

The poor are very much disadvantaged in acquiring services through prepayment by insurance. Three-fourths of persons of premedicare age and of annual household income of less than $3,000 have no medical insurance of any kind; only one-fourth of persons in higher income households have no insurance. Of persons 65 years and older, 9 percent report no insurance in households with income under $3,000, and only 2 percent report no insurance in households of higher income.

These data indicate an increasing demand for medical services both personal services in the form of doctors and nurses and hospital and clinical facilities. As indicated earlier, careful planning in terms of local needs and regional needs is essential. But regardless of whether the needs is for a local clinic or a large regional hospital, a dependable source of financing on a long term basis at reasonable rates is critical.

A SYSTEMS APPROACH TO DEVELOPMENT FOR THE LEISURE INDUSTRY

The need for developing a systems approach is highlighted by the following statement:

"To many small (unattractive) outdoor recreation and related facilities have been established in unplanned strip developments. Consideration must be given to *shopping centers consisting of these facilities*. Collectively, these grouped firms will exert greater influence on travelers to come and/or to stop and participate. Such groupings will contribute materially in the effort for a favorable national (resource-based) image as a recreation area."

To the extent that the quality of the outdoor recreation experience is damaged by esthetically unattractive recreation firms in "neon strips", customers may choose to withhold expenditures or spend them sparingly under such circumstances. A necessary condition for an economically viable recreation sector is a system of carefully planned and well designed "shopping centers" of recreation and supportive facilities. The shopping center grouping permits what economists call economies of size. Second, the overall planning is especially significant for a viable outdoor recreation sector. This is because it is so vulnerable to "spillover effects". Spillover effects are where one operator's production and/or consumption activities affect one or more other operators. An example would be uncontrolled development around lakes. Each individual home occupant or businessman is locked into an unpredictable system of development.

The key point of this section is that investment both public and private in outdoor recreation should be committed to a spatial arrangement that will increase regional and national demand, and will involve comprehensive planning such that "spillover effects" do not result in overall calamity beyond the short-run. Or stating it differently, investment should not be spread piece-meal throughout the region; rather a coordinated massive investment at one or more growth points is the key to stimulating not only the growth-point center but the broader region around it. Investments by governments in certain key facilities leased to private operators may be a vital part of the total effort.

RURAL PLANNING AND DESIGN SERVICE CENTERS

Increasingly, we now recognize the important contribution of the visual scenic resource together with its relative fragility. The landscape is everyone's business, therefore, it tends to be no one's business. It is important that the esthetic value of the landscape be considered as a resource enhancing or enriching the more active visual experiences. This is true whether we are talking about an industrial area, a commercial agricultural area or an area with a wide panorama of natural beauty. Designers and ecologists list six key factors that affect the way an observer views and reacts to the landscape. They are: (1) distance, (2) observers position, (3) form, (4) spatial definition, (5) light, and (6) sequence of visual experiences.

Three of these, form, spatial definition, and light are concerned with the landscape directly, and man cannot easily alter them. The other three, distance, observer position, and sequence are concerned mainly with the observer in relation to the landscape and man can alter or manipulate these relations to his recreational (esthetic) advantage. All are fragile in that unplanned intrusions on a small scale can adversely affect very large areas of the visual scene. The design of revenue producing facilities is obviously an issue of some importance in their relationships to and effects upon this natural resource.

Based upon a research-extension project conducted by the University it was found that the professional physical planning and design capability needed to deal with the problems of developing a viable recreation sector in Arkansas can be placed into two categories: (1) architecture (the design of buildings and groups of buildings), (2) environmental planning (the design of the larger scale physical environment) including: (a) land development, (b) landscaping, and (c) relationship of buildings to the total environment.

Prime physical design problem areas identified by the study were: (1) the generally low quality of the man-made segment of the physical environment; (2) the lack of satisfactory examples (as compared with some other regions of this country) to use for comparative standards and as a basis for upgrading quality; (3) the lack of access to, and knowledge of, the role of the design professional; (4) the tendency to see problems as composed of sequential parts rather than in their entirety.

It is the collective judgment of the participants of this study that the esthetic and environmental design problems of adjustments in our agricultural industry, of the location of non-agricultural industry and of the leisure industry can be aided materially by a competently staffed rural design serving a given geographical area.

Rural planning and design service centers could perform a valuable service for a rural development bank. They could be asked to evaluate location, arrangement and design of buildings and facilities which governmental or quasi-governmental organizations submitted for funding through the rural development bank. The implementation of a total, quality, developmental program could be favorably influenced by lending agencies.

With this I must close. Thank you again for the opportunity to appear at this hearing. We will furnish you with any of our research results as you may request.

STATEMENT OF BERNAL L. GREEN

I appreciate the opportunity to discuss human resources in Arkansas, because they are a basic factor in any program of development. I wish to make three major points—that have been uncovered in our research:

(1) The somewhat unique characteristics of the people in the Ozarks need to be considered to improve the potential for programs designed to improve their condition.

(2) Many of the native residents in the Ozarks may not be employed readily in the

usual industrialization process—in-migrants may intervene or out-compete the natives for jobs.

(3) There is a vital need not only to generate the various programs for development with citizen participation, but also to coordinate them so that they are more effective.

A key assumption that I have made is that *reduction in the incidence of economic poverty* will be one among important variables you will consider when you evaluate the effectiveness of your program for development. Thus, reduction in poverty is the perspective from which I will consider the three points.

INCIDENCE OF POVERTY IN RURAL AREAS

Data, based on 1,413 households in rural parts of the Ozarks region, indicate 25% of the households to be in poverty.[1], [2] And 79 percent, or 4 our of 5, of the low-income household heads cannot do much about their economic condition because of their advanced age, physical disability, sex, and/or functional illiteracy. Advanced age is the most prevalent poverty-related characteristic. The household heads of the poor in the Delta and Coastal Plain Regions are similarly handicapped, but with different distributions of reasons.

TABLE 1.—AVERAGE CHANGE IN HOUSEHOLD HEADS' INCOMES AT TIME OF MOVE INTO SELECTED COMMUNITIES IN THE OZARKS REGION BY MIGRANT CLASSIFICATION, MIGRANT STUDY

Community	Average income before move	Average income after move	Change in income: Average amount	Change in income: Proportion, percent
New inmigrant household heads:				
Branson	$7,501	$5,420	−$2,081	−28
Monett	5,395	5,424	29	1
Rogers	4,644	4,650	6	[1]0
Springdale	6,058	6,397	339	6
Returnee household heads:				
Branson [2]	5,766	4,231	−1,535	−27
Monett	5,476	4,114	−1,362	−25
Rogers	5,490	4,885	−605	−11
Springdale	5,614	5,420	−193	−3

[1] Less than 1 percent.

[2] Only 9 household heads' incomes considered.

A program, then, which offers a strong new source of capital for development might consider channeling a significant portion into economic sectors which can/will utilize these older household heads. Examples of such sectors are recreation; also related sectors such as arts and crafts, eating facilities, overnight accommodations, and Green Thumb projects. Users of the capital might be granted favorable terms provided they employed higher proportions of these elderly and poor household heads.

MIGRATION AND INCIDENCE OF POVERTY IN URBAN AREAS

This will provide an impression about inmigration into urban areas of Arkansas and the competition for jobs between nonmigrant Arkansans and the in-migrants. One hypothesis tested was that job trickle down effectively benefits indigenous poor when industrialization is used as a poverty policy.[3] [4] In-migration of laborers with employment attributes superior to those of non-migrants was one of several hypothesized leakages that could occur. Two communities in northwest Arkansas (Rogers and Springdale) and two in southwest Missouri were involved in the study. A total of 2,900 households were screened for migrant status, and in-depth interviews were provided by 423 household heads. We found that in-migration into the Rogers community, 1960–67, was 18 percent of the households, and 16 percent in Springdale. Compared with non-migrants, the in-migrants typically were better educated and younger, had a history of more job mobility, and had comparable incomes despite their lack of seniority. We noticed that returnees, especially, accepted income decreases as they moved back to the study communities (Table 1). These findings prompted us to take another look at the previous study of 1,413 households, in terms of migrant status and possible advantages that in-migrants to the rural parts of the Ozarks might have for new jobs. We found that the same pattern of advantage held. The attributes of the in-migrants who were in the labor force suggest initial advantages over non-migrants in competing for jobs. In addition, the in-migrants indicated more willingness to accept job training or to move and thus widen these advantages over time. We noted again that many families accepted lower incomes when they moved into the Ozarks. Our data indicated that 55 percent of the in-migrants *in the labor force* experienced an income decrease by moving to the Ozarks.[4] Their mean family income before the move was $6,314, but it was $3,343 after the move (Table 2). About 45 percent had relatively small income increases—$5,178 before and $6,055 after. Overall, their income before the move was $5,809, and $3,838 after the move. Based upon the definition for poverty used by the U.S. Department of Agriculture, 13 percent were considered in the poverty class before the move compared to 24 percent after the move. Of those not in the labor force (retirees), 22 percent were in poverty before the move, but 54 percent were after the move. The point is this: in-migration into the Ozarks, a designated low income region, is fairly high; many of the in-migrants (especially retirees) move into poverty level incomes; even so, the in-migrants have a competitive advantage for new jobs over the non-migrants. Such in-migration, then, has contributed, at least in an absolute way, to the poverty population. It appears that programs, such as credit, to speed industrialization and thereby to reduce the incidence of poverty needs manpower development programs designed for non-migrants especially.

TABLE 2.—AVERAGE CHANGE OF INCOME OF MIGRANTS AT TIME OF MOVE INTO RURAL OZARKS (1,413 HOUSEHOLDS IN SAMPLE)

Head of household	Mean family income: Before move	Mean family income: After move	Percent in poverty: Before move	Percent in poverty: After move
In labor force	$5,809	$3,838	13	24
Income decreases	6,314	3,343	5	37
Income increases	5,178	6,055	24	2
Not in labor force	5,522	2,713	22	54

Source: Reference No. 4, p. 40.

THE ABILITY TO GENERATE AND COORDINATE PROGRAMS FOR DEVELOPMENT [5]

These concerns, shared with my colleagues in rural sociology, point out the increasing complexity encountered with our social structure as we attempt to redesign it to meet new needs. One of the problems facing city and county governments is where to obtain knowledge and how to gain experience to work with the various organizations or social systems, and to carry out a program for development. In the Space Program, for example, many thousands of man-hours were spent in teaching people to understand the various systems involved and their relationships to each other. Each person was taught his own role and responsibility. Each operation was practiced to be certain that each person and each system would function and that all systems supported each other properly. Another example, for purpose of contrast, is the Pruitt-Igoe housing project in St. Louis. Apparently the needs for self-esteem and information about how to utilize the facilities effectively were under-emphasized relative to the needs for bricks and mortar.

When we create a new social system, such as a Planning and Development District, the people and their leaders need new knowledge and new skills to operate it and coordinate it into the other social systems—communities, towns and cities, counties, and states, as well as the other federal, state, and local agencies and organizations.

A second and related need facing local governmental units is to learn how to coordinate the available resources and human energies into a meaningful set of programs. Dr. Thomas R. Ford [6] has said, "It would be ironic, indeed, if the economic development of the Appalachian region should founder, not from a lack of efforts but from an overabundance of competing development programs that are poorly conceived, organized, coordinated, and executed—yet this possibility looms as a real danger."

And this is a potential danger in all programs for development in our Nation. Basic planning is needed, and there must be coordinated efforts from the local communities to the county, district, state and national level. The people and their leaders need to understand the objectives of an overall plan, so they can help determine priorities, assist in public decisions, and actively participate in the development of their own communities and areas. It is important that they learn new skills and new knowledge for these new responsibilities. Your series of hearings is a good example of an element in this essential learning process.

As you work to formulate and implement programs for development, we believe that you will join us in the hope that the knowledge and experience of the several interrelated disciplines will be focused on assisting people and their leaders to gain this necessary new knowledge and experience, especially to work with the Planning and Development Districts.*

Perhaps this might best be begun in a "pilot project." And perhaps a project should be planned in each of the major regions of the U.S. The project could be attempted only in a state that would devote all of the resources necessary for a thorough test. Then as useful knowledge and experience are gained in one district or area, such information could be transferred to additional areas.

FOOTNOTES

* A very "casual" interview with the "man on the street" in one community seemed to indicate that the public had little knowledge about the Planning and Development District. Also, even among the "officials" there is confusion as to the role and responsibility of different planning units.

[1] Herbert Hoover and Bernal L. Green, *Human Resources in the Ozarks Region . . . with Emphasis on the Poor,* Economic Research Service in cooperation with the Universities of Arkansas and Missouri Agricultural Experiment Stations, AER No. 182, May, 1970.

[2] John L. McCoy, *Rural Poverty in Three Southern Regions—Mississippi Delta, Ozarks, Southeast Coastal Plain,* Economic Research Service, AER No. 176, March, 1970.

[3] Bernal L. Green, Lloyd D. Bender, and Rex. R. Campbell, *Migration into Four Communities in the Ozarks Region,* Agri. Exp. Sta., Univ. of Ark., Bul. 756, June, 1970.

[4] Lloyd D. Bender, Bernal L. Green, and Rex R. Campbell, "Trickle-down and Leakage in the War on Poverty," *Growth and Change, A Journal of Regional Development,* Vol. 2, No. 4, Oct. 1971.

[5] Unpublished research results and ideas about this topic may be obtained by request from Dr. Gerald Hudson, Department of Agri. Econ. and Rural Sociology, Univ. of Arkansas, Fayetteville, Arkansas, 72701.

[6] Thomas R. Ford, Prof. of Sociology, Univ. of Kentucky, "Adapting Social Institutions," *Research and Education for Regional and Area Development,* Iowa State University Press, Ames, Iowa, 1966.

RADICALS THE SAME, ALL OVER THE WORLD

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 21, 1972

Mr. DERWINSKI. Mr. Speaker, in a period in which radical groups periodically attempt to create havoc in many nations of the free world, an understanding of what this pattern represents is necessary.

One of Washington's most astute observers is Dumitru Danielopol, the distinguished international correspondent of the Copley Press, whose experience in many facets of foreign affairs is such that he can very properly analyze current radical activities. His column, which appeared in the Joliet, Ill., Herald-News of January 31, is, I believe, pertinent to our times.

The editorial follows:

RADICALS THE SAME, ALL OVER THE WORLD

WASHINGTON.—Radical faculty and students who are trying to take over campuses in Europe and the United States are forged in the same pattern.

Despite their slogans, there is nothing democratic about them.

Whatever they call themselves—Weathermen, SDS, New Left Maoist, Castroite, Sparticus or pure and simply Communist—they are totalitarian. They reject honest debate, opposition or controversy. They must silence any argument before it starts.

Recently at the University of Caen in France, Jacques Soustelle, a scientist and writer, former member of cabinet in the DeGaulle government and once governor general of Algeria, was severely beaten when he prepared to deliver a lecture.

He was scheduled to speak on "Israel, peace or war?" under the auspices of the International Study Circle, a non-political group of law students.

The 1,000 people who had gathered to listen to Soustelle were held in check with fire hoses, while a band of some 50 youths—helmeted, masked, wearing boots and armed with crowbars, blackjacks, cycle chains and butcher hooks shouted "Ho Chi Minh," "Che Guevara," and other similar slogans—attacked Soustelle and his small group.

He received severe injuries. For awhile it was thought he would lose an eye.

The attack on Soustelle was organized by the two Communist organizations on campus called "Secour Rouge" and the "Front Rouge."

The accusations hurled at him of "fascism" are ludicrous. Soustelle was an active member of the DeGaulle movement during World War II that fought both the Fascists and the Nazis.

But we've heard the song before. It happens all the time, in Tokyo, in Berlin, in Rome and closer home.

Remember for instance what happened at Stanford University on Jan. 11, 1971, when a similar bunch of goons stopped Ambassador Henry Cabot Lodge from delivering a lecture at the Hoover Institution on War, Revolution and Peace. They called the ambassador "pig" and "war criminal," and made such a ruckus that the lecture had to be cancelled.

A member of the faculty, H. Bruce Franklin, an avowed Maoist revolutionary, was among the rioters. He has been finally dismissed from Stanford.

I was in Paris during the student revolt in May 1968 and saw the types that form this minority of trouble makers. Wild eyed, brutal bullies, completely ruthless fanatics, with no other idea in their head but to take over and destroy a university, overthrow a capitalist system and install a totalitarian regime.

They are the exact replica of Hitler's goons whom I saw in Berlin in the winter of 1932, rioting, burning, looting and killing.

Hitler's gangs formed the cadres of the Brown Shirts, the SS, the bookburners and the Gestapo, the torturers and exterminators.

If our free society is to survive, weakness on campuses cannot be tolerated. The firing of Prof. Franklin is a healthy precedent. President Dr. Ruckard Wyman of Stanford is to be commended.

In England, too, reaction is setting in.

When the warden of Wadham College, Oxford, was faced with a list of "no negotiable demands" from revolutionary students he answered this way:

"Dear Gentlemen:

"We note your threat to take what you call 'direct action' unless your demands are immediately met. We feel that it is only sporting to let you know that our governing body includes three experts in chemical warfare, two ex-commandos skilled with dynamite and torturing prisoners, four qualified marksmen . . . two ex-artillery men, one holder of the Victoria Cross, four karate experts and a chaplain . . . we look forward with confidence to what you call a 'confrontation' . . ."

Nothing more was heard from the revolutionaries.

INFLATION BEGINS AND EXPANDS HERE IN THE HALLS OF CONGRESS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 21, 1972

Mr. COLLINS of Texas. Mr. Speaker, Inflation is a matter of grave concern to the folks back in Texas. Most of them are beginning to understand that our votes for spending and more and more spending represent the cause of inflation.

Congress must shoulder the responsibility for our unsound fiscal policy. The budget deficit grows larger every year and these are prosperous times. What would happen if we had a bad year?

This year the deficit that we are overspending may exceed $50 billion. We have the United States greatest Secretary of the Treasury in John Connally. There is no smarter finance man than we have in Arthur Burns heading up the Federal Reserve. But what can Connally and Burns do when we continue to spend this country into an uncertain future.

Yesterday I began my Sunday morning by reading the Dallas Times Herald. The weekends I am home I really enjoy reading well-written, factual papers. The editor of the Herald, Felix McKnight, can tell you more commonsense factual news in two paragraphs than you can find in the Washington Post in 2 years.

And in the business section they have a good column by Dr. Arthur A. Smith. Many years ago Dr. Smith headed up the economics department at Southern Methodist University. He then went on to serve many years as the senior vice president and economist of the large First National Bank in Dallas. On Sunday, February 20, in the Dallas Times Herald he wrote this concise statement on debt and deficit. Here is what Dr. Arthur Smith said.

The statutory limit on the federal debt has been raised again, this time by $20 billion to a new ceiling of $450 billion.

The limit had to be raised. We were fast approaching the old limit of $430 billion which was set in March last year.

The debt limit has been raised nine times since 1962—so many times that whatever restraint Congress seeks to accomplish by the process seems rather farcical. It has not checked the mounting federal debt one bit. The debt continues to go straight up. The new limit is $150 billion above the limit set in 1962.

Within a matter of a few months Congress will have to lift the limit again so that Uncle Sam can pay his bills, including salaries of Congressmen and Senators.

Actually President Nixon and Secretary of the Treasury Connally requested Congress to put the new limit at $480 billion, or an increase of $50 billion. But Congress, apparently playing politics, would approve only a $20 billion hike, knowing full well that red ink in the budget would send the administration back about October, just before election, asking for another increase.

Where is the debt going anyway? No one knows for sure; but as long as the current economic and political philosophy prevails in this country, we surely have not seen the debt's peak by any means. My guess is a trillion-dollar federal debt by the year 2000.

Can the debt continue to climb indefinitely? Not indefinitely, but it can reach rather astronomical figures if the dollar gets cheaper and cheaper at the same time.

Since the dollar's value is affected greatly by Federal fiscal policy and hence is largely a function of the debt, the amount of the debt and the value of the dollar will move inversely. As the debt climbs, the dollar will fall in value.

The debt could ultimately reach a point where both it and the dollar would be repudiated and a new monetary unit be created to exchange at a ratio of one new unit for every million old units (maybe every billion old units).

This is not a new thing. It has happened several times, even once in our history. After the American Revolution, we had both an inflated debt and an inflated paper currency, which were almost entirely repudiated by two exchanges—the first was 1 for 40 and the second was 1 for 100. In Germany in 1924 the exchange was 1 for a trillion.

Certainly the present level of the Federal debt is no cause for worry about repudiation, but its magnitude does create a management problem. Since the chances of repaying any of the debt are meager, the Treasury must be constantly engaged in refinancing operations. The average length of maturity of the marketable part of the Federal debt is only 3 years and 4 months, and about $120 billion of the debt matures within one year. This means that the Treasury is in the money market much of the time.

Since Uncle Sam uses the same kind of money as the rest of us, his financial operations can and do become a major influence in the economy. Because of the size of Treasury borrowings, the Federal Reserve System must act as a stabilizing force from time to time, supplying funds sufficient to absorb the new issue without unduly depressing the money market or the economy.

Unfortunately the Fed's role too often simply results in an expansion of the money supply which becomes as permanent as the debt itself.

The larger the Federal debt becomes, the greater the cost required to carry it. For example, the annual interest charge on the current debt amounts to about $22 billion. In these days of big numbers this sum might not seem very much, but it is more than twice all Federal expenditures in 1940. Interest cost of the national debt is now the third largest item in the Federal budget, being exceeded only by expenditures of the defense Department and of the Health, Education, and Welfare Department.

ESTONIAN INDEPENDENCE RECALLED IN WOODSTOCK, ILL., OBSERVANCE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 21, 1972

Mr. McCLORY. Mr. Speaker, in paying tribute on the occasion of the 54th anniversary of Estonian Independence, I wish to commend those sturdy citizens of Estonian descent who honor the great heritage of their country and who continue to work and pray for liberation of families and friends who remain in the territory of occupied Estonia today.

Mr. Speaker, I had occasion to attend ceremonies sponsored by the Estonian Association of Northern Illinois, Inc. in Woodstock on Saturday evening, February 19. The event was organized by my friend Olaf Tammark, and he and his wife Marga developed a program of Estonian entertainment and cuisine, as well as appropriate remarks for the occasion. The keynote address was delivered by Vello Koger. Other Estonians participated actively in the proceedings, and it was a spirited and highly impressive evening in which all in attendance rededicated themselves to freedom and independence for Estonia.

Mr. Speaker, I would like to include my own remarks delivered to those gathered at Woodstock and to again express my support for the objectives of House Concurrent Resolution 416 passed by the Congress in 1966 urging self-determination and national independence for the peoples of Estonia, Latvia, and Lithuania. My remarks at Saturday night's meeting were as follows:

REMARKS OF CONGRESSMAN ROBERT McCLORY

It is especially good to have the opportunity to meet with leaders and members of the Estonian community in this celebration of the 54th Anniversary of Estonian independence.

I recall that February 24th is the precise date of your nation's independence from Russia which was decreed in 1918.

However, I am also aware that Estonia experienced a much longer history dating back a thousand years or more, and that Estonian independence includes liberation from the Poles, the Danes and the Germans, as well as the Soviets.

It has been my privilege to meet with you on several earlier occasions and I take this opportunity to salute you as a great people who cherish the highest qualities of citizenship. I salute you on your persistent quest for human freedom, for independence from all types of domination, suppression and absorption, and for the industry which you as a people have typified. I honor you for preserving the great traditions of your culture, your language, and your independence which you cherish and respect in a manner unsurpassed by any other people of the world.

While my review of events during the past year is not too encouraging, still, there is strong evidence that Estonian nationalism remains strong despite the persistent efforts of the Soviet Union to destroy or assimilate Estonia as a nation.

The Russian language is still about as unpopular in Estonia today as it was in 1940 when your nation was first occupied by the Soviets. The Estonian population continues to enjoy the highest standard of living of any of the area which has been occupied by the Soviets. In dress, in language, in free expression and in many subtle and effective ways, the Estonian character penetrates the veil of Soviet domination. While more than 30 years have passed since the Soviets overran Estonia by force, the people's will to be free appears to be as widespread now as it was at that time.

I am proud that our country continues to maintain a position which provides recognition and respect to free Estonia.

Just a few months ago, our President, by Executive Order, authorized the transfer of funds to support several Estonian officials in exile. While these individuals are quite elderly at this time, both Mr. Bahter and Mr. Raamot—the former Chairman and Treasurer of the Committee for a Free Estonia—are beneficiaries of this Executive Order issued by President Nixon in November, 1971.

In addition, I want to report another bit of good news. Just before leaving Washington, I was informed by the National Aeronautics and Space Administration that on the Apollo 16 flight to the moon—on April 16—our astronauts will carry with them the Estonian flag as well as other independent nations.

I know that this has been one of the objectives of the Committee for a Free Estonia, and I am pleased that our nation is taking this step in behalf of all the freedom-loving people of Estonian citizenship and descent, and in recognition of the fervent hope which we all have that Estonia will soon again be free.

PROPOSED PUBLIC ACCESS AMENDMENT TO H.R. 12931

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 21, 1972

Mr. REUSS. Mr. Speaker, the bill H.R. 12931—Rural Development Act of 1972—was recently reported by the Committee on Agriculture and will be considered on the House floor later this week. At that time I shall offer an amendment to the bill which reads as follows:

> Public access for the purpose of fishing, hunting, or other recreational use shall be provided or reserved at any reservoir constructed pursuant to the provisions of the Watershed Protection and Flood Prevention Act (68 Stat. 666), as amended, where the Secretary of the Interior determines that such reservoir has potential value for such use.

I urge my colleagues to support this amendment.

SENATE—*Tuesday, February 22, 1972*

The Senate met at 10:30 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord, our God, touch our minds with light, that having a right understanding, we may have wisdom, courage, and patience, working with Thy help for a better order of men and nations. Create in us a clearer insight, a just and true spirit. So temper our minds and emotions that we may be led to sound conclusions. Grant us mutual trust and good will. Lead us in the ways of peace and honor, in paths of truth and brotherhood until we are delivered from fear and hate into the love of Thy kingdom.

Be with all who serve the Nation here and with all who carry its message abroad.

And to Thee shall be all glory and praise. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 22, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, February 21, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

VITIATION OF ORDER RECOGNIZING SENATOR PEARSON TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order which the Senate granted on yesterday that the distinguished Senator from Kansas (Mr. PEARSON) be allowed to proceed for not to exceed 15 minutes today be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FEDERAL RESERVE BANK BRANCH BUILDINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 601, S. 3197.

The ACTING PRESIDENT pro tempore. The clerk will please state the bill by title.

The assistant legislative clerk read the bill by title, as follows: A bill (S. 3197) to increase the dollar limitation on the cost for construction of Federal Reserve Bank branch buildings.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the ninth paragraph of section 10 of the Federal Reserve Act, as amended (12 U.S.C. 522), is amended by striking out "$60,000,000" and inserting "$120,000,000".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–633), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXPLANATION OF BILL

Section 10 of the Federal Reserve Act in effect imposes a $60 million limit on construction of buildings for branches of the Federal Reserve banks. The committee bill would increase this limit by $60 million, to $120 million. The existing authorization is virtually exhausted, and new buildings are needed to permit the Reserve banks to perform their functions efficiently.

Federal Reserve branches perform functions important to the banking system and to the public, including particularly handling cash and checks. The use of branches by the Federal Reserve banks saves time and money in transporting cash and checks in addition to speeding up the operations of the commercial banking system.

As the economy grows, the workload of the Reserve banks also expands. While technological improvements in the method of handling many Federal Reserve operations have helped to stem the need for additional space, increases in the volume of operations have more than offset the savings. Some idea of the growth in the workload of Reserve bank branches is indicated by the volume increases in the following activities from 1961 through 1971:

Currency operations.—Increased from 1.5 billion items to 2.3 billion items, or 56 percent.

Coin operations.—Increased from 3.3 billion items to 6.3 billion items, or 90 percent.

Check collections.—Increased from 1.6 billion items to 3.3 billion items, or 106 percent.

The statutory limit on branch building construction applies to the cost of the building proper—that is, the cost of constructing, purchasing, or adding to buildings—but not to the cost of land, vaults, permanent equipment, furnishings, or fixtures. Branch building programs are subject to approval by the Board of Governors in Washington.

Based on current estimates, the increase in authorization of $60 million will allow for construction needed during the next 5-year period; that is, through 1977. The following is a tabulation of the estimated building proper costs of Federal Reserve branch building construction contemplated in the next 5 years:

Federal Reserve branch bank:	*Cost*
Pittsburgh	$2, 000, 000
Baltimore	20, 000, 000
Charlotte	9, 000, 000
Detroit	2, 500, 000
Louisville	1, 000, 000
Helena	2, 000, 000
Omaha	3, 000, 000
Los Angeles	18, 000, 000
Total	57, 500, 000

Appropriated funds are not used in constructing Federal Reserve buildings; the cost of construction is amortized out of the earnings of the Federal Reserve banks over a period of years.

The committee recommends favorable consideration on this bill by the Senate.

RADIO FREE EUROPE AND RADIO LIBERTY

Mr. SCOTT. Mr. President, the conferees on the authorization bill affecting Radio Free Europe and Radio Liberty, as I understand, have met only once. Today is the end of the continuing resolution for the funding of the program. I am informed that there are 3,200 people affected. They can probably be paid for about a week, and after that they will lose their jobs.

I think the Senate owes these employees of the Federal Government the right to have matters affecting their agencies adjudicated. I think the conferees ought to meet. I sincerely hope they will. Otherwise we ought to consider a continuing resolution. Editorials in both the New York Times and Washington Post favor the continuation of these agencies. Both the House and the Senate have indicated overwhelming support for them.

It would seem to me the conferees in the other body and in this body ought to meet promptly. I would hope they would meet today. I do not believe this is the proper way to legislate. I do not think, because a few Members of the Congress may not like the program, that we ought to override the authority provided by the Senate and the House of Representatives.

So I hope the conferees will get together and meet on this matter. That is why we established room EF–100, which is in the exact center of the Capitol, as the meeting place. That takes care of those who may have geographic pride. Nobody has to walk any farther than anybody else and no kowtowing is expected over one's action.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, there will be a period for the transaction of routine morning business, not to extend beyond 11:15, with speeches by Senators limited to 3 minutes.

Is there morning business to be transacted at this time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Maryland is recognized.

(The remarks Mr. MATHIAS made at this point on the introduction of S. 3205 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

THE ACTING PRESIDENT pro tempore. Is there further morning business?

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MANSFIELD. Mr. President, I move that the Senate stand in recess subject to the call of the Chair, but not beyond the hour of 11:15 a.m.

The motion was agreed to; and at 10:48 a.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 11:01 a.m., when called to order by the Presiding Officer (Mr. EAGLETON).

BUSING OF SCHOOLCHILDREN

Mr. ALLEN. Mr. President, I was astounded to read this morning in the New York Times that the distinguished majority leaders (Mr. SCOTT and Mr. MANSFIELD) are proposing what is touted as a "compromise busing plan." Astounded—not so much because the proposal was made—but because it is not a compromise in any sense of the word. If we accept what is written about the proposal, it does not begin to face up to the fundamental problems involved.

Mr. President, I call to mind the Sermon on the Mount, where Jesus asked the rhetorical question as recorded in the seventh chapter of Saint Matthew, starting with verse 9:

> Or what man is there of you, whom if his son ask bread, will he give him a stone?
>
> Or if he ask a fish, will he give him a serpent?

Mr. President, the country is clamoring for antibusing legislation, this so-called compromise is a probusing amendment. Far from being an antibusing amendment, it will freeze busing as a remedy or as a means for use by the Federal courts as part of the statutory law of the land.

Mr. President, this so-called compromise nullifies the antibusing amendments passed by the House of Representatives after long and searching debate. In fact, it is proposed that we freeze busing into all desegregation schemes as may be imposed not only in the South, but also in other sections of the Nation. It is a known fact that Federal courts have found State action to be a factor in current residential patterns and the racial composition of schools serving residential areas in all areas of the Nation. This proposal would accept and establish forced busing as a matter of public policy and this is precisely what opponents of massive forced busing from all sections of the Nation are undertaking to avoid.

Mr. President, the Washington Post on Monday, February 21, 1972, quotes from an interview with the distinguished Senator from Pennsylvania (Mr. Scott), published in the U.S. News & World Report, in which he predicts that Congress "will waffle on the busing issue." I do not know precisely what the distinguished Senator had in mind in using the word "waffling," but judging from past successes he has had in scuttling legislative proposals to prevent massive crosstown busing, I cannot avoid the conclusion that the effort is being made to play games with the American people on this vitally important issue. But be that as it may, I have said that this so-called compromise does not, in any sense, address itself to the basic problems involved.

Mr. President, the telltale phrase in the interview with the distinguished Senator from Pennsylvania (Mr. Scott) are the words contained in the amendment which say more or less that the Department of HEW could not demand busing except as constitutionally required.

Well, Mr. President, that is a first cousin to the phrase with which the distinguished Senator from Pennsylvania has scuttled legislation or proposed legislation in the past that would have sought to put an end to massive forced busing.

Every Senators recalls that the distinguished Senator from Pennsylvania inserted the phrase, "except as provided by the Constitution" to the language of a certain amendment, because the Department of HEW said that with the use of those words they would be able to go ahead with their busing plans. Such a proposal is a most cynical one that would actually authorize busing at the same time portending to put some limits on the use of busing to force racial balance in the public schools.

In a nutshell, as I pointed out yesterday on the introduction of Senate Joint Resolution 207, the Supreme Court admits that racial balance is not required by the Constitution. At the same time, Congress has specifically excluded racial balance in its definition of desegregation. Yet U.S. district court judges continue to issue orders requiring racial balance and massive forced busing as a means of achieving that end.

So this so-called compromise amendment would place into the hands of the courts continued use of the very practice the country wants stopped. Forced busing will be the No. 1 issue in the next presidential campaign.

I have noticed, since I came to the Senate, that ofttimes it will be alleged a compromise is being offered in settlement of a legislative debate that is going on in the Senate, but the compromise is all on one side, and it has not been agreed to by anyone.

So, this is no compromise. I serve notice, right here and now, that such a pro-busing amendment will not be adopted without a concerted fight here on the Senate floor, because it does not abolish busing, it is not an anti-busing amendment but a pro-busing amendment—just the opposite of what the country is demanding.

Mr. President, the U.S. Supreme Court has approved of both the ends and the means by the process of weird reasoning that U.S. district courts may order racial balance and busing to achieve racial balance in the exercise of broad discretionary equity powers of Federal courts. Yet, this scuttling compromise provides that the Department of Health, Education, and Welfare could demand busing so long as the busing scheme conformed with court decisions. In this connection, this provision in the Scott-Mansfield proposal would replace a much more effective amendment, sponsored by Representative Edith Green, designed "to prohibit all Federal agencies from urging, persuading, inducing or requiring school districts to use their own or State funds for busing to achieve desegregation."

Mr. President, in conclusion, this proposed compromise would do nothing constructive but would vest the Department of Health, Education, and Welfare with powers of a czar over every public school system in the United States of America. I make this broad statement for the reason that "State Action" is involved in drawing the school district boundaries of every school district in the United States. U.S. district court judges, under existing precedents, may continue to issue racial balance decisions and may continue to require massive busing and cross busing to achieve racial balance in the schools.

There is no stronger argument for a constitutional amendment than evidence presented of a concerted effort to "waffle," "pussyfoot," and "suttle" every legislative effort made to return some semblance of sanity, of commonsense reasoning, to this massive, disruptive, and divisive business of U.S. district court judges' playing God with the children of parents of the United States.

I am firmly convinced that the American people are fed up with efforts to avoid and evade the issued presented. The coercive power of Federal Government is being employed to disallow the rights of parents and schoolchildren and local school officials and State governments to determine questions which vitally affect the health, safety, and welfare of public school children. This abuse of power must be remedied. The people will not sit idly by and watch games being played with this important issue.

Mr. President, I predict that the American people are preparing a political scaffold which may be used to abruptly end the political careers of those who duck and dodge and waffle on this issue.

I ask unanimous consent that the articles published in the New York Times of Tuesday, February 22, 1972, and the Washington Post of Monday, February 21, 1972, to which I have referred, be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Senate's Leaders Design Compromise Busing Plan—Scott-Mansfield Proposal Would Allow Some Transporting of Pupils But Put Constraints on Agencies and Courts

(By John W. Finney)

Washington, February 21.—Senate leaders have drafted a bipartisan legislative amendment designed to offset the growing pressure for a constitutional amendment that would prohibit busing to achieve racial balance in schools.

In line with recent Federal court decisions, the legislative amendment would permit busing as one way to overcome officially imposed school segregation. At the same time, it would seek to place policy constraints on the courts and Federal agencies in using busing to achieve racial balance in the schools.

The amendment is expected to be offered by the Republican leader, Hugh Scott, and the Democratic leader, Mike Mansfield, when the Senate takes up a Federal aid to education bill, probably later this week.

The education bill, a substitute for legislation passed last year by the House, would provide $700-million annually in Federal aid to colleges and universities and $1.5-billion in emergency aid to help schools that are desegregating.

The latter section of the bill is expected to provide the battleground for a heated debate over school busing, including attempts to attach amendments that would prohibit the use of Federal funds for busing to achieve school desegregation.

Senator Scott, who has taken the initiative in drafting the amendment, makes it clear that his purpose is to offer a compromise that a broad majority in the Senate can support and in the process to offset the pressures for a legislative or constitutional restriction on school busing.

Senator Scott is moving somewhat independently of the White House, which is still holding out the possibility that President Nixon, as a result of a current Cabinet-level study of the school busing issue, will recommend a constitutional amendment.

A senior White House official said Saturday that Mr. Nixon was "very strongly interested" in a constitutional amendment despite the misgivings of some of his aides and Cabinet officers. The President was said to regard such an amendment as a "live option" in his search for a way to defuse an issue that he regards as dangerous and divisive.

ADOPTION CALLED LIKELY

Adoption of the Scott-Mansfield amendment is regarded as likely since the proposal carries the joint endorsement of the leaders. If it passes, Senator Scott predicted in an interview, the pressure for a constitutional amendment "will fade away except as it serves the purposes of those who want to keep it alive."

Senators Mansfield and Scott are united in their opposition to any constitutional amendment. Noting that any constitutional amendment would face prolonged debate and probably could not command the necessary two-thirds vote in the Senate, Senator Mansfield said such an amendment, "instead of facing up to the situation, would let it deteriorate through avoidance and postponement."

Senator Scott said it would be "almost impossible" to draft a constitutional amendment on school busing that "does not tear pieces" out of the 14th Amendment or in effect reverse the 1954 Supreme Court decision on school desegregation.

ENFORCEMENT GUIDELINES

The Scott-Mansfield proposal would deal both with the use of Federal funds for busing and with the enforcement guidelines to be followed by the courts and Federal agencies in particular the Department of Health, Education and Welfare, in moving against school segregation.

The amendment would prohibit the use of Federal funds for busing unless requested by a school district that was carrying out a court-ordered or a voluntary desegregation plan.

That would reverse a provision in the House-passed bill, sponsored by Representative John M. Ashbrook, Republican of Ohio, that would prohibit the use of any Federal funds for busing to achieve racial desegregation. At the same time, as interpreted by its drafters, the Senate language would preserve the principle of local control over the use of funds for busing.

The language would also give legislative endorsement to a recent line of court decisions, culminating in the Supreme Court decision last April involving Mecklenberg County and the City of Charlotte, N.C., holding that busing is "one tool of school desegregation" that the local authorities may be required to use.

At the same time, the Scott-Mansfield amendment would prohibit any Federal agency from requiring or demanding that busing be carried out purely to achieve racial balance in schools. It would also provide that the Department of Health, Education and Welfare could not demand busing "except as constitutionally required"—a phrase that would permit the department to proceed with busing plans so long as they conformed with court decisions.

This section in the Scott-Mansfield amendment would replace a much stricter House amendment, sponsored by Representative Edith Green, Democrat of Oregon, that would prohibit all Federal agencies from "urging, persuading, inducing or requiring" school districts to use their own or state funds for busing to use their own or state funds for busing to achieve desegregation.

As explained by its drafters, the general purpose of the Scott-Mansfield amendment is to impress upon the Department of Health, Education and Welfare and the courts—as they interpret how the emergency desegregation funds are to be used—that Congress accepts the use of busing as a remedy of last resort to overcome officially imposed segregation but looks with disfavor upon the broader use of busing to achieve racial balance in schools.

Congress To Waffle Busing, Scott Says

Senate Republican Leader Hugh Scott says Congress probably will not pass an antibusing constitutional amendment and will avoid a real showdown on that thorny issue in this election year.

The busing issue moves to the Senate floor this week.

Scott, in a copyrighted interview in U.S. News & World Report, was asked if Congress "will waffle on the busing issue."

He answered, "Yes, sir, I'm saying just that. It is partly because congressmen are uncertain what the will of the people is.

"Another reason is that they see forces in Congress in the process of realignment. I cite the 'turning tail' of all the white Democratic congressmen from Michigan in abandoning their two black colleagues in that state on the busing issue. This has shocked the liberals but it is a fact of life."

Scott's assessment that Congress will be able to "waffle" on the issue conflicts with that of at least one congressional sponsor of the antibusing amendment, Rep. Tom Steed (D-Okla.). He has said, "The House will be forced to make a decision this year. The voters are going to make us face it. They are not going to let anybody come back here who hasn't been smoked out on this issue."

Led by Sen. Sam J. Ervin Jr. (D-N.C.), Southern senators plan to press for a vote on their amendment to the higher education bill to bar school districts from busing to alter racial composition. Antibusing moderates from both parties may seek to replace the Ervin amendment with a less binding proposal.

Busing has become a major issue in the Florida primary. Alabama Gov. George C. Wallace has been drawing large crowds and enthusiastic responses with antibusing remarks.

Scott said he thought Congress probably would vote funds for court-ordered busing to bring about racial balance in schools but was unlikely to go much further.

"In the end, I think money for court-ordered busing will be approved," Scott said, "but, to put it bluntly, Congress is going to avoid final clarification of this controversy in 1972, simply because this is an election year."

Mr. ERVIN. Mr. President, I want to forewarn those who seek by legislative tyranny, which is permissible under the Senate rules, to forestall those of us who want to have the right to attack directly by amendments the proposed Scott amendment, that the rules of the Senate permit us to offer substitutes for every Senate bill that comes before the Senate which will strike out all after the enacting clause and enable us to get to a direct vote on the question of whether the schoolchildren of America are going to be subjected to the kind of bureaucratic and judicial tyranny that they are being subjected to in my State and in many other States of the Union at the moment.

Personally, I consider that restoring the freedom of little children and their parents is the most important issue confronting the American people at this moment. And I will adopt every means the rules permit to see to it that this issue is presented squarely to the Senate under the circumstances so that the Senate can work its will free from legislative tyranny. Furthermore, I will say that as a result of our experience in this field, I will never again agree to any unanimous consent request to place time limitations on any piece of legislation in which I have a substantial interest.

The Constitution of the United States declares in its Preamble that the Constitution is ordained and establish to secure the blessings of liberties for Americans of all generations. The schoolchildren in America today are being subjected to the worst form of tyranny in being denied the right to attend their neighborhood schools and in their being bused to and from vast distances, not for the purpose of enlightening their minds, but merely for the purpose of integrating their bodies.

I say that the American people are entitled to a direct vote on this issue, and as far as it lies within my power, I will continue to fight for their rights to have a direct vote until the end of this session of the Senate and, if the Good Lord spares me, I will take up the fight again at the beginning of the next session.

The PRESIDING OFFICER. The time of the Senator has expired Is there further morning business?

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Allen):

A resolution of the General Assembly of the State of Rhode Island; to the Committee on Foreign Relations:

"Resolution Memorializing Congress and the President of the United States To Take Whatever Steps in Their Power To Bring About Reconciliation and Peace in Ireland

"Whereas, In recent months and especially in the last few days, the world has witnessed the consummate tragedy born of hatred and violent despair in Northern Ireland; and

"Whereas, All of Ireland is moving swiftly and almost irrevocably toward massive civil war and carnage while British troops purportedly guard the peace in Ulster; and

"Whereas, Catholics in Northern Ireland are being interned in camps because they continue to wage their struggle for the freedom and equality inherent in the right of self-determination; and

"Whereas, The issue in Northern Ireland is human dignity—the basic human right due to all men and one that men throughout history have been willing to relinquish their lives to possess; and

"Whereas, Until the minority enjoys equal rights with the majority, since equality and justice are the only true instruments men possess to eradicate fear and mistrust, the handmaidens of violence and terror, peace will be alien to Ireland; and

"Whereas, The true answer may lie in a unified Ireland in which Catholics and Protestants work together to create a new Ireland—a country in which all men by having full and mutual respect for each other come together and tenaciously guard their hard fought peace, now therefore be it

"Resolved, That the congress and the President of the United States be and hereby are respectfully requested to take whatever steps in their power to bring about reconciliation and peace in Ireland; and be it further

"Resolved, That the secretary of state be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the congress, the President, and the delegation from Rhode Island in congress."

INTERIM REPORT OF ACTIVITIES OF THE PRIVATE WELFARE AND PENSION PLAN STUDY, 1971—REPORT OF A COMMITTEE (S. REPT. NO. 92-634)

Mr. WILLIAMS, from the Committee on Labor and Public Welfare, pursuant to Senate Resolution 35, 92d Congress, first session, submitted a report entitled "Interim Report of Activities of the Private Welfare and Pension Plan Study, 1971," together with additional views, which was ordered to be printed.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MATHIAS (for himself, Mr. Beall, Mr. Church, and Mr. Humphrey):

S. 3205. A bill to amend the Act of April 9, 1966, so as to provide for the acquisition of Oxon Hill Manor for use as the official residence for the Vice President of the United States. Referred to the Committee on Public Works.

By Mr. BOGGS:

S. 3206. A bill to amend chapter 15 of title 38, United States Code, to provide for the payment of a higher rate of pension to the widows and children of certain veterans who at the time of death were totally and permanently disabled as the result of service-connected disabilities. Referred to the Committee on Veterans' Affairs.

By Mr. HUMPHREY:

S. 3207. A bill to provide financial assistance to the States for the development and carrying out of programs to improve the environment, and for other purposes. Referred to the Committee on Finance.

S. 3208. A bill to provide for the Establishment of an Older Workers Conservation Corps, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. HARTKE:

S. 3209. A bill to provide for a study of the feasibility and desirability of establishing a proposed Ohio River National Parkway in the State of Indiana, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HARTKE (for himself and Mr. CRANSTON):

S. 3210. A bill to amend the Public Health Service Act to provide assistance to certain non-Federal institutions, agencies, and organizations for the establishment and operation of cooperative community programs for patients with kidney disease for the conduct of training related to such programs, and to provide financial assistance to individuals suffering from chronic kidney disease who are unable to pay the costs of necessary treatment. Referred to the Committee on Labor and Public Welfare.

By Mr. COOPER:

S. 3211. A bill for the relief of William H. T. Carney. Referred to the Committee on the Judiciary.

By Mr. GAMBRELL:

S. 3212. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to allow, in the case of certain States, an exemption from the effective date of such act. Referred to the Committee on Government Operations.

By Mr. COOK:

S. 3213. A bill to provide for the establishment of a National Cemetery in the locality of Fort Knox, Ky. Referred to the Committee on Veterans' Affairs.

By Mr. BYRD of West Virginia (for Mr. BIBLE):

S. 3214. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Referred to the Committee on Government Operations.

By Mr. PROXMIRE:

S. 3215. A bill to expand the market for municipal securities, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs, by unanimous consent.

By Mr. RANDOLPH:

S. 3216. A bill authorizing the change in name of certain water resource projects under the jurisdiction of the Department of the Army. Referred to the Committee on Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATHIAS (for himself, Mr. BEALL, Mr. CHURCH, and Mr. HUMPHREY):

S. 3205. A bill to amend the Act of April 9, 1966, so as to provide for the acquisition of Oxon Hill Manor for use as the official residence for the Vice President of the United States. Referred to the Committee on Public Works.

ESTABLISHMENT OF AN OFFICIAL RESIDENCE FOR THE VICE PRESIDENT

Mr. MATHIAS. Mr. President, I send to the desk a bill of some importance dealing with the proper discharge of the duties of the Vice President of the United States. I am happy to say that this measure is cosponsored by a man who knows what it is to be Vice President, the junior Senator from Minnesota (Mr. HUMPHREY). It is also cosponsored by my distinguished colleague from Maryland (Mr. BEALL), and by the distinguished Senator from Idaho (Mr. CHURCH). It is therefore a bill which is precisely bipartisan.

This is a good time to introduce a bill dealing with preparing the office of the Vice Presidency for a more efficient and more effective operation, because we are in an election year. The plans which are contemplated in the bill could be put into execution in time for the next occupant of the office of Vice President, whoever that may be, and the bill is thus, I think, so timed as to favor no particular individual, but to provide a proper setting for the office of the Vice President.

We have all seen, in the nearly two centuries of the existence of the Republic, how the Office of the Presidency has evolved, and how Presidents today are expected and required to perform duties which the Founders of the Republic never dreamed would even exist. If this is true of the Presidency, it is also true of the Vice Presidency; and modern Vice Presidents, if they are properly to perform the functions of the office in the 20th century context, must do more than simply discharge the constitutional function of presiding over the Senate. Vice Presidents, in the modern context, sit as Members of the Cabinet, or at least with the Cabinet. They preside over various Government agencies and committees. They have a constant personal responsibility to be acquainted with what is going on throughout the Government. They have what is certainly a highly desirable function of assisting the President with the ceremonial duties of the Chief Executive, and in making the acquaintance of statesmen around the world with whom a President must do business.

It is with this latter function that this bill particularly deals, because it contemplates providing an official residence for the Vice President. It suggests the purchase by the Government of an existing house, built some years ago by the late Under Secretary of State Sumner Welles, which is conveniently located on the southern edge of the city overlooking the Potomac River. Such a location would permit the Vice President to come to the Capitol or to get to the White House or Andrews Air Force Base, for example, in a matter of a very few minutes, and would make it convenient for him to relieve the President of some of the onerous chores and ceremonial burdens of the Office of President, thereby making it possible for the President to devote himself more completely to the substantive problems of Government with which he is charged.

The property has been inspected by the Secret Service and by the Department of the Interior. All those who have seen it feel that it would be highly suitable as a residence for the Vice President. I am hopeful, Mr. President, that the Senate will give early consideration to this question of making the second ranking officer in the executive branch better equipped to more effectively discharge the duties of his office that we expect him to perform. I would submit that we have been unfair to Vice Presidents in modern times in not providing them with equipment for the job. This is our opportunity. I think this is the time to act. We are in, as I have stated, a year in which this cannot be said to be accruing to the advantage of any single individual, but simply to the advantage of the office. The opportunity is here because the property is available, which may not be the case at another time.

At long last, there is a prospect that the Vice President will be accorded an official residence. In April, 1966, Congress enacted a law making provisions for such a residence. The specific plans called for the construction of a new residence on the grounds of the Naval Observatory. For a number of reasons, these plans were never carried out.

Now, my distinguished colleagues, Senator BEALL, Senator HUMPHREY, and Senator CHURCH have joined me in sponsoring a bill to amend S. 2394 (Public Law 89–386) providing for the purchase of the stately Oxon Hill Manor. This house, with some 95 acres surrounding it, overlooks the Potomac River just southeast of Washington and is only a 10- to 15-minute drive from the Capitol and the White House. Similarly, it is only 10 minutes from Andrews Air Force Base, the terminal used by the Vice President for his official travel.

Oxon Hill Manor is a large and very attractive residence with adequate facilities for entertaining visiting dignitaries and for every sort of state function. It also has a distinguished history. The land was acquired by a prominent Maryland family in 1685. John Hanson, the first President of the United States under the Articles of Confederation, died there and it is said that he is buried on the manor. More recently the property belonged to the late Sumner Welles.

One of the paradoxes of our democratic system is that our President is burdened not only with the responsibilities of the head of Government but also with those falling to the head of state. I can think of no other major country in the world in which either head of state or head of government is obliged to accept this dual burden. In the United States, because of its position of leadership in the West, this burden falls particularly heavily.

And, thus, it seems doubly imperative that the Vice President should help in extending the hand of hospitality for state occasions and informal discussion, as well. Clearly, this has proved impossible without a suitable residence to permit such a role.

Mr. President, the Washington Post carried an article on February 13 on this proposal. I ask unanimous consent to have the article printed in the RECORD at this point, together with a copy of Public Law 89–386, and my bill.

I hope, Mr. President, that the matter will receive early and favorable attention.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 13, 1972]

MANOR FOR THE VEEP?

(By Maxine Cheshire)

Oxon Hill Manor, a classical Georgian mansion overlooking the Potomac River and less than 10 minutes from Capitol Hill will, be proposed to Congress next week as an official vice-presidential residence.

Maryland's Sens. Charles McC. Mathias and J. Glenn Beall will introduce legislation "to provide for the acquisition" of the historic Prince George's County estate as a home for the nation's No. 2 officeholder.

At the same time on the House side, Rep. Lawrence J. Hogan (R-Md.), will introduce a companion bill.

The property, once the home of Under Secretary of State Sumner Welles in the New Deal days, has special significance for many historians and scholars.

The grounds, almost within sight of Mount Vernon, are believed to be the burial place of John Hanson, who preceded George Washington as the first President of the United States under the Articles of Confederation.

Mathias and Beall, who have been quietly lobbying in advance for their proposal, are thus far encouraged by the favorable response of their Senate colleagues and key members of the Nixon administration.

Vice President Spiro T. Agnew, also from Maryland, does not wish to appear to be house-hunting for himself. But he has indicated that he would not stand in the way of those who consider the place appropriate for others who come after him.

Former Vice President Hubert Humphrey, whose own staff once coveted Oxon Hill Manor when the Government first started looking for an official residence in the 1960s, is enthusiastically behind the bill.

Further support has come also from still another Marylander, Interior Secretary Rogers Morton. He was so impressed with Oxon Hill Manor's suitability that he had the National Park Service work up an evaluation that Congress should find very persuasive.

The National Park Service's Office of Archeology and Historic Preservation has concluded in a two-volume report that Oxon Hill Manor is something "very special" and "meets all the requirements necessary for the official residence of a high official such as the Vice President of the United States of America."

The report concedes that there may be those who feel that the Vice President's home should be located inside the District of Columbia. But all other features of site and location are regarded as "highly desirable."

Deer roam the woods, yet Oxon Hill Manor is only 7.4 miles from the White House and 6.4 miles from Andrews Air Force Base, which is used by vice-presidential aircraft.

There is enough acreage (55 to 158 acres) available to satisfy the Secret Service's security requirements and permit both a helicopter landing pad and anchorage for a boat on the river frontage.

Oxon Hill Manor has been occupied since 1952 by Fred N. Maloof, a self-made millionaire of Lebanese ancestry who got rich in oil and land speculation. He bought the property from Welles.

A connoisseur of art and antiques and historic memorabilia, Maloof maintains his unusual collection for visitors as "The John Hanson Memorial Museum."

But he hasn't owned the property since 1967, when he sold it to Johnson administration insider Howard Burris, who tried unsuccessfully to develop an educational Disneyland there.

International Capital Corp. and Financial Realty Corp. now hold title to the main 55 acres and the house. The remaining 92 acres are owned by shopping center developers from Hampton, Va.

Congress has long been in favor of some kind of vice-presidential residence, but no one has ever been able to come up with a suggestion with enough support to get money from the Appropriations Committee.

In 1966, Congress passed a bill authorizing $750,000 for "planning, design, construction, furnishing and maintenance."

But that official vice-presidential house was supposed to be built on the Naval Observatory grounds on Massachusetts Avenue, and certain admirals were just as happy that no one on the Hill ever cared enough to follow up on that idea.

Mathias' and Beall's upcoming bill was drafted in the form of an amendment to the earlier legislation.

The new proposal would merely change the wording of what is already on the books as Public Law 89–386 and will read:

". . . the Administrator of the General Services is authorized and directed to acquire, by purchase or otherwise, the property known as Oxon Hill Manor . . . together with a suitable portion of the grounds surrounding it."

The new bill asks for an appropriation of $1.5 million to the General Services Administration "for the acquisition and initial repair and improvement . . . including the cost of initial furnishings."

If there is any opposition to the amendment, money will probably be the issue. Some members of Congress may object to the Maryland location, but more are apt to be stingy about an expenditure that not everyone considers vital.

Oxon Hill Manor can be bought with varying amounts of acreage. The minimum recommended in the National Park Service's report is a 55-acre parcel that contains a 49-room mansion, formal boxwood gardens, a swimming pool, stables, a five-car garage, a greenhouse and a six-room manager's cottage.

The asking price for that portion is a negotiable $1 million.

The Park Service, however, is hoping that Congress will consider purchasing an additional 92.73 acres next door as a "buffer" that could also be available for "limited recreational use" and "public access to the waterfront."

The history of Oxon Hill Manor dates to 1685, when a member of Maryland's prominent Addison family acquired the land from Lord Baltimore.

The first Oxon Hill Manor house, built in 1710, survived until it was destroyed by fire in 1895.

It was in this early house that John Hanson, a visitor, died in 1783. Many written records indicate that he was buried there, either in the family cemetery or in the remains of what appears to be a mausoleum.

Hanson has a cult of followers among history buffs who feel he has been overlooked among our founding fathers and would like to see the present-day Oxon Hill Manor become a memorial to him.

The brick house that stands there today was built for Sumner Welles in 1929 by Washington architect Jules H. de Sibour, who also designed the Chevy Chase Country Club.

The style is an 18th-century English country house, with elegant rooms grandly scaled for formal entertaining.

A 26-by-31-foot entrance hall is floored with black-and-white marble. A 26-by-45-foot drawing room and a paneled Charles Dickens library open into each other and out onto verandas with a view of the Potomac.

The dining room will seat 24 at one long, table, and perhaps three times that many at smaller tables.

The antique Regency wallpaper has a history which researchers may or may not be able to confirm. Supposedly, an emperor of China gave the eight large panels to Queen Victoria as a gift.

The main part of the house has six large "bed chambers," each with its own bathroom and fireplace.

The service wing is three stories high, 79 feet long and contains a wine cellar, incinerator, sewing rooms, linen closets, silver safe, a flower room, eight rooms for female servants and four rooms for male servants.

The place is not air conditioned, but the steel-beam, slate-roof construction is "first-class" and the condition is "sound."

"Refurbishing," according to the Park Service, "would involve more cleaning and painting than repairs."

Even the swimming pool (25-by-75 feet) is in good condition, but it needs a filtering system.

[Public Law 89–386, 89th Congress, S. 2394, April 9, 1966]

An Act authorizing the planning, design, construction, furnishing, and maintenance of an official residence for the Vice President of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is hereby authorized to plan, design, and construct an official residence for the Vice President of the United States in the District of Columbia.

SEC. 2. The Administrator is further authorized to use as a site for such residence Federal land and property comprising approximately ten acres at the United States Naval Observatory, the specific area and boundaries thereof to be determined jointly by the General Services Administration and the Department of the Navy: *Provided,* That any roads and improvements thereon for which there is a continued need may be relocated and reconstructed.

SEC. 3. The Administrator is further authorized to provide for the care, maintenance, repair, improvement, alteration, and furnishing of the official residence and grounds, including heating, lighting, and air conditioning, which services shall be provided at the expense of the United States.

SEC. 4. The Administrator of General Services is further authorized to accept cash gifts, furniture, and furnishings and other types of gifts on behalf of the United States for use in constructing and furnishing the official residence but without further conditions on use, all such articles thus given to become the property of the United States.

SEC. 5. There is authorized to be appropriated to the General Services Administration, the sum of $750,000 for planning, design, construction, and costs incidental thereto, including the cost of initial furnishings.

SEC. 6. There is further authorized to be appropriated to the General Services Administration, annually, such amounts as may be necessary to carry out the purposes of section 3.

S. 3205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act authorizing the planning, design, construction, furnishing, and maintenance of an official residence for the Vice President of the United States", approved April 9, 1966 (Public Law 89–386), is amended by striking out the first two sections and inserting in lieu thereof the following:

"That the Administrator of General Services is authorized and directed to acquire, by purchase or otherwise, the property known as Oxon Hill Manor, situated in Prince Georges County, Maryland, together with a suitable portion of the grounds surrounding it.

"SEC. 2. Upon acquisition of Oxon Hill Manor, the Administrator is further authorized and directed to make necessary and proper repairs and improvements thereto. Upon completion of such repairs and improvements, Oxon Hill Manor shall be the official residence of the Vice President of the United States."

Mr. BEALL. Mr. President, I rise today to decry a continuing neglect on the part of this country, and to propose a solution to a situation too long overlooked. I refer to the lack of a suitable official residence for the second highest officeholder in the land—the Vice President of the United States. All of us acknowledge that the demands upon public officials have increased dramatically. This is particularly true of the Vice President. No longer is one doomed to oblivion in the job. On the contrary, the Vice President occupies a unique and extremely important vantage point in our system. With the demands upon the Chief Executive's time, the Vice President has taken a place of immense policymaking responsibility in numerous areas. In addition, he serves as the President's personal representative both in governmental and social areas. An official residence for the Vice President would allow him to better undertake the myriad social obligations of his office and even possibly free the President to better allot his time in this necessary, if time-consuming, function.

Many sites have been suggested for this residence, but none so suitably meets the requirements as does the Oxon Hill Manor, a classical Georgian mansion less than 10 minutes from Capitol Hill. Nestled upon a high escarpment overlooking the Potomac, affording a breathtaking view of the river 180 feet below, Oxon Hill Manor boasts of facilities that both remind one of our colonial past and serves well as an elegant contemporary home. The manor house, built in 1929, contains 49 rooms and would provide a private home for the Vice President, and a public home, similar to the White House, for all our citizens to admire. In short, Oxon Hill Manor serves as an unexcelled link between a historic past and a promising future.

The history of this site dates back to 1685, when a member of Maryland's prominent Addison family acquired the land from Lord Baltimore. The first manor was built in 1710 and survived until 1895, when it was destroyed by fire.

It was here in the fall of 1783, that John Hanson came to visit his nephews at Oxon Hill Manor. My colleagues will recall that I have introduced legislation last spring to recognize this great patriot's birthday of April 14th as John Hanson Day. Although other men had served as presiding officers of the Continental Congress, John Hanson assumed office under rather unique circumstances. He became President just as America won her struggle for independence. Hanson died there on November 15. Many records indicate that he was buried at Oxon Hill rather than at his Frederick, Md., home. Thus, enactment of Oxon Hill Manor as the official residence of the Vice President would also serve the dual purpose of recognizing an often overlooked Founding Father.

The imposing home that stands today was built for Sumner Welles, later Franklin D. Roosevelt's Under Secretary of State. The style is an 18th century English country house, with magnificent rooms designed for the large-scale entertaining that such a high Government official would need, and lacks, today.

Although Oxon Hill Manor is an historic and venerated home, it will serve the needs of the modern Vice President admirably. The National Park Services Office of Archeology calls the site "very special" and "meets all the requirements necessary for the official residence of a high official such as the Vice President of the United States of America." Even though wildlife abound on the estate, the manor is only 7 miles from the White House and 6 from Andrews Air Force Base. The availability of up to 158 acres would satisfy security needs and permit both a helicopter landing pad and anchorage for a boat on the river frontage.

Mr. President, Oxon Hill Manor would serve as an elegant and utilitarian home for our Vice President, while at the same time symbolizing our historic past. I would hope that the buildings and grounds could be opened to the public, in the manner of the White House, so that all Americans could take pride in its beauty and charm. Oxon Hill Manor would be a most needed addition to our national heritage, one in which we can take just pride. I therefore urge its purchase.

By Mr. BOGGS:

S. 3206. A bill to amend chapter 15 of title 38, United States Code, to provide for the payment of a higher rate of pension to the widows and children of certain veterans who at the time of death were totally and permanently disabled as the result of service-connected disabilities. Referred to the Committee on Veterans' Affairs.

Mr. BOGGS. Mr. President, I am introducing today for reference to the appropriate committee legislation which would remove an inequity from our veterans' benefit laws. This bill would raise the survivors' pension for the widows and children of veterans who have been totally and permanently disabled as a result of a service-connected disability, to the extent that he has been eligible to receive aid and attendance payments for 10 years or more, if he should die from causes unrelated to his disability.

Under current law, the families of veterans who die from causes unrelated to their service-connected disability receive a pension at a rate which is substantially lower than if the cause of death were attributed to a service-connected disability. In general, this lower rate is justified since in most cases the disability is not severe enough to prevent a veteran from working to provide for his family's financial security if he should die. Moreover, his wife may also pursue a career which would enable her to support herself and her children after his death.

But in the case of a veteran who is totally and permanently disabled and who requires constant care and attention at home, neither he nor his wife is free to work and provide for the future. If the wife does work, her salary must be used to pay for someone else to care for her husband. They are totally dependent on veterans' and social security benefits without any opportunity to supplement this income. Yet if such a veteran should die from a cause unrelated to his disability, his wife and children would receive a veteran's pension ranging from only $81 a month for an annual income of $300 or less, to $17 a month for an income of $2,300.

In the case of severely disabled veterans the Veterans' Administration, I am happy to note, draws the distinction between service-connected cause of death and nonservice connected cause of death rather loosely, often awarding full dependency and indemnity compensation to survivors of disabled veterans whose disability had only an incidental bearing on the actual cause of death. However, the large degree of uncertainty in this determination is a source of great worry to disabled veterans who, of course, can never be sure if they will die from their disability or from some other cause.

I believe this uncertainty and worry should be eliminated so that these veterans who have sacrificed so much for their country, will have the peace of mind of knowing that their survivors will be adequately provided for regardless of their cause of death. I also believe the Veterans' Administration should be freed from making these difficult determinations.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 541 of title 38, United States Code, is amended by redesignating subsection (e) as subsection (f), and inserting after subsection (d) a new subsection as follows:

"(e) Notwithstanding any other provision of this title, the widow of any veteran of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era who at the time of his death was permanently and totally disabled as the result of a service-connected disability or disabilities and who at the time of his death was receiving (or was entitled to receive) additional compensation for aid and attendance and had been receiving (or had been entitled to receive) such additional compensation for a period of ten years immediately prior to his death shall be paid a pension under this section at a rate computed under the provisions of section 411 of this title. Whenever there is no widow of any such deceased veteran, pension shall be paid in equal shares to the children of such veteran at the rates prescribed in section 413 of this title."

Sec. 2. The amendments made by the first section of this Act shall become effective on the first day of the second calendar month following the month in which this Act is enacted.

By Mr. HUMPHREY:

S. 3207. A bill to provide financial assistance to the States for the development and carrying out of programs to improve the environment, and for other purposes. Referred to the Committee on Finance.

COMMUNITY COALITIONS FOR A CLEAN ENVIRONMENT ACT

Mr. HUMPHREY. Mr. President, I am today introducing legislation that will provide the mechanism for communities to identify their own local environment problems, establish action plans, and quickly move to implement these plans. The Community Coalitions for A Clean Environment Act of 1972 establishes Federal funding for locally originated and directed demonstration project community environmental action organizations. An Environmental Trust Fund within the Treasury of the United States is established in order to provide funding for the Coalitions. This trust fund receives finances from two sources: direct appropriations and a program of Environmental Savings Bonds—bonds citizens can purchase with the assurance that their savings will be spent to improve the environment.

In the last session of Congress, a number of significant environmental bills were introduced, debated, and, in some instances, acted upon: The Federal Water Quality Act of 1971, the Environmental Protection Act of 1971, the National Environmental Laboratories, the Ocean Dumping, and Coastal Zone Protection Acts, are but examples.

Yet, in all of this legislation, the explicit interest of citizens in their environment failed to achieve prominence. Of course, almost all of the environmental legislation does have an element of citizen participation. But none focuses directly on it as a mechanism for furthering ecological improvement.

Mr. President, none can deny that there is a growing citizen awareness of environmental problems; and a mounting public determination to do something about these problems.

Air pollution for example, is just one area of concern. Air pollution can impair health; it reduces visibility, and it can kill. It does cause vast economic loss, and it most assuredly contributes to the deterioration of life in our cities. Estimates place the dollar cost of air pollution nationally at around $20 billion a year; and, it costs a family of four over $800 or more a year to live if that family has a home in a city fouled by polluted air.

The quality and purity of our water is another chief concern. And, there are serious threats to the maintenance of quality water.

Over 1,000 oil spills occur each year; last year, approximately 360 legal actions were taken against oil dumpers. Over 65 percent of the water polluters are industries that utilize direct water waste discharge methods. Municipal governments without effective sewerage systems add another 20 percent to polluted water. And again, the projected cleanup cost is staggering—over $17.1 billion for municipal waste treatment and construction cost, $9 billion for industrial abatement, $7.4 billion for storm sewers and interceptor improvements, $6.6 billion for sediment control and acid mine drainage, $2 million in just miscellaneous projects like the water craft discharge and reservoir storage—a total cost of over $42 billion.

There are other environmental areas. Agriculture experts have reported that 64 percent of our cropland needs better care to prevent erosion. Or, consider our natural wildlife: Are we taking action today that will stop the increase of the endangered species list—an increase of over 30 species in the last 3 years? What kind of protections do we have for wildlife habitat—just what is our concern for our wilderness areas?

And, environmental also means we need to take a critical look at our energy supply. Some experts have said that natural gas rationing will be part of our living style in the near future. The enormity of the energy problem is that while the whole U.S. population is less than 6 percent of the total world population, we use about 30 percent of the world's energy.

What can be done to preserve the land, the minerals, the water, the air, and the freshness of life? Various approaches to solving the problem have been offered—from new technology, to tough quality standards, to taxes, to governmental monitoring, to regional coordination, to citizen participation. All are important if we are to achieve the national goal of a clean environment.

I believe citizen participation to be particularly crucial. Yet, I am disturbed because in all too many instances, citizens do not become intimately involved in hearings even though their vital interests may be at stake. There are many reasons—for one, involvement takes time. For another, many people have become so disparied at fighting city hall that they just do not bother to expend the energy.

The legislation I am introducing today will aid and assist those citizens who want to get involved but have lacked the necessary means to do so. This legislation focuses on one aspect of the antipollution battle: the need for an effective local citizen's interest coalition to identify the problems and voice a reasoned, well-doclmented, thoroughly researched approach to solving the problem.

Title I of the Community Coalitions for a Clean Environment Act of 1972 sets up the comprehensive planning framework for local coalitions—$10 million in grants for the first year of operation are available for States and localities to establish demonstration projects under a broad State plan—a plan designed to integrate the functioning of the coalition with other activities in conservation, development, use of water, and land use policy. In the second and third year of the program, the funding available increases to $50 million and then to $100 million.

Allotments from the $10 million are made according to a formula based on the population of the State; funds are then funneled through a central State agency. And, the State will be reimbursed 80 percent of its costs for developing and carrying out approved programs embodying the concept of community coalitions. Sixty percent of State funds must be allocated to units of government serving a population of over 50,000 people.

Much of the detailed hiring specifications and organizational structures for the "coalitions" remain under local control. The only main guide is that the State plan must have broad specifications for staffing assistance to insure professional competence and help. All parts of the overall State plan for community coalitions must be prepared in a manner that assures open hearings and representativeness.

Title II of the legislation establishes an Environmental Trust Fund in the U.S. Treasury. This title also authorizes the Treasury to issue U.S. Environmental Savings Bonds. Money received from the bonds is transferred directly into the Environmental Trust Fund to pay for the local coalitions and to supplement ongoing environmental programs.

Mr. President, this legislation says to the citizens: Government cannot solve the environmental problem alone. We need the people's help to protect the broad public interest in a clean environment.

I believe that people tend to ask fundamental questions. They are not stymied by details such as emission standards, toxic additives, or effluent charges. They want to know the basics: How can we get clean air? How long will it take? Why are we not doing something right now? I submit that this is the kind of perspective and urgency we need if our environmental life is ever to be protected. It helps administrators clean out the bureaucratic cobwebs; it reminds government officials that the ends of programs are people—not agencies.

This legislation can bring new vitality and life to environmental endeavors. It is premised on an active, informed citizenry, aided by an organized citizen-based coalition to make certain that the interests of people—of workers, teachers, children, and families, are always part of governmental decisionmaking.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis thereof be printed at this point in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3207

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Community Coalitions for a Clean Environment Act of 1971."

DEFINITIONS

SEC. 2. When used in this Act—

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "State" means a State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands.

TITLE I—CLEAN ENVIRONMENTAL PROGRAMS

STATEMENT OF POLICY

SEC. 101. It is hereby declared to be the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of the States in the conservation, development, and utilization of their water and land resources and in the protection and improvement of the environment generally. In recognition of the need for assistance in these areas the Administrator is authorized to assist the States and local governments in developing and carrying out comprehensive plans to improve the environment in accordance with this title.

APPROPRIATIONS AUTHORIZED

SEC. 102. There is hereby authorized to be appropriated out of the Environmental Trust Fund established pursuant to section 201 for the next fiscal year beginning after the date of enactment of this Act, and for three succeeding fiscal years thereafter the amounts of $10,000,000, $50,000,000, and $100,000,000 in such year for grants to the States to assist them in developing and carrying out the provision of this Act establishing Community Coalitions for a Clean Environment.

ALLOTMENTS

SEC. 103. (a) From the sums appropriated pursuant to section 102 for each fiscal year the Administrator shall make allotments to the States on the basis of the population of the respective States. For the purposes of this section the population of the States shall be determined on the basis of the latest estimates available from the Department of Commerce.

(b) From each State's allotment under this section for any fiscal year the Administrator shall pay to such State an amount equal to 80 per centum of the cost of developing and carrying out its State programs approved under this title, including the cost of training personnel on carrying out such programs and the cost of administering such programs.

DEMONSTRATION PROGRAMS COMMUNITY COALITIONS FOR A CLEAN ENVIRONMENT

SEC. 104. (a) A State shall be eligible to receive its allotment pursuant to this title for any fiscal year if it has an environmental program approved by the Administrator under this section. Such a plan shall

(1) provide that basis for the establishment of at least one demonstration project to community coalitions for a clean environment. Such coalitions shall be directed to identify the environmental problems of the local community, prepare alternative solutions to those problems, and provide guidance for additional local, State, and Federal assistance for environmental endeavors;

(2) such demonstration projects shall provide specifications for the hiring of staff, the participation of the community, and a statement of goals and objectives;

(3) be administered by a single State agency;

(4) be coordinated with and not replace existing environmental improvement programs in States;

(5) be prepared in the manner which provides (A) an opportunity for the presentation of the views of representative public organizations, and (B) for due consideration to such views in the formulation of the plan;

(6) provide for the expenditure of adequate amounts of such State's allotment for each fiscal year under this title for the maintenance of the plan;

(7) include provision for the equitable allocation of funds between the various local government units of such State, except that in such allocation 60 per centum of the funds received by the State in each year shall go to local government units serving a population in excess of 50,000;

(8) provide necessary assurances that the State and local governments will provide their share of the funds to develop and carry out the plan;

(9) provide that such administering agency will make such reports to the Administrator in such form and containing such information, as may reasonably be necessary to enable the Administrator to perform his duties under this title and will keep such records and afford such access thereto as the Administrator finds necessary to assure the correctness and verification of such reports;

(10) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid the State under this title (including such funds paid by the State to local governments); and

(11) provide such further information and assurances as the Administrator may by regulation require.

(b) The Administrator shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State administering agency reasonable notice and opportunity for a hearing.

(c) Nothing in this Act shall preclude two or more States from coordinating or acting jointly in the preparation and execution of their plans. Such regional cooperation and joint activity is encouraged.

HEARINGS AND JUDICIAL REVIEW

Sec. 105. (a) Whenever the Administrator, after reasonable notice and opportunity for hearing to the State agency administering a State plan approved under this title, finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of this title, or

(2) in the administration of the plan there is a failure to comply substantially with any such provisions,

the Administrator shall notify such State agency that no further payments will be made to the State under this title (or, in his discretion, that further payments to the State will be limited to programs under or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made to such State under this title (or payments shall be limited to programs under or portions of the State plan not affected by such failure).

(b) A State agency dissatisfied with a final action of the Administrator under section 104 or subsection (a) of this section may appeal to the United States court of appeals for the circuit in which the State is located by filing a petition with such court within sixty days after such final action. A copy of the position shall be forthwith transmitted by the clerk of the court to the Administrator or any officer designated by him for that purpose. The Administrator thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Administrator or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Administrator may modify or set aside his order. The findings of the Administrator as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Administrator to take further evidence, and the Administrator may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to the review by the Supreme Court of the United States upon certiorari or certification as provided in section 1224 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Administrator's action.

TITLE II—ENVIRONMENTAL TRUST FUND, ENVIRONMENTAL BONDS, AND OTHER ENVIRONMENTAL PROGRAMS

ESTABLISHMENT OF TRUST FUND

SEC. 201. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the "Environmental Trust Fund" (hereafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of (1) the proceeds of United States environmental bonds issued under section 22B of the Second Liberty Bond Act, and (2) such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

(b) Amounts in the Trust Fund shall be available—

(1) to redeem United States environmental bonds issued under section 22B of the Second Liberty Bond Act, and

(2) as provided by appropriations Act, for making payments pursuant to title I of this Act and under such other laws as may hereafter be specified by law.

Expenditures from the Trust Fund under paragraphs (2) and (3) shall be made only upon certification by the Administrator to the Secretary of the Treasury.

(c) There are authorized to be appropriated to the Trust Fund such sums as may be required to make the expenditures referred to in subsection (b) of this section.

(d) (1) It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Administrator) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next five fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) (A) It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearings obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on an original issue or at the market price, is not in the public interest.

(B) Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accured interest.

(C) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

ENVIRONMENTAL BONDS

SEC. 202. The Second Liberty Bond Act (31 U.S.C. 752 et seq.) is amended by inserting after section 22A the following new section:

"SEC. 22B. (a) In addition to the United States savings bonds authorized to be issued under section 22 and the United States retirement and savings bonds authorized to be issued under section 22A, the Secretary of the Treasury, with the approval of the President, is authorized to issue from time to time, through the Postal Service or otherwise, United States environmental bonds, the proceeds of which shall be deposited in the Environmental Trust Fund. The various issues and series of United States environmental bonds shall be in such forms, shall be offered in such amounts, subject to the limitations imposed by section 21 of this Act, and shall be issued in such manner and subject to such terms and conditions consistent with subsections (b), (c), and (d) of this section, including any restrictions on their transfer, as the Secretary of the Treasury may from time to time prescribe.

"(b) (1) Environmental bonds may be issued on an interest-bearing basis, on a discount basis, or on a combination interest-bearing and discount basis and shall mature not more than twenty years from the date as of which issued. Environmental bonds may be sold at such price or prices, and redeemed before maturity upon such terms and conditions as the Secretary of the Treasury may prescribe, except that the interest rate on, and the issue price of, such bonds and the terms upon which they may be redeemed shall be such as to afford an investment yield not in excess of 5 per centum per annum, compounded semiannually. The denominations of environmental bonds shall be such as the Secretary of the Treasury may from time to time determine and shall be expressed in terms of their maturity value. The Secretary of the Treasury is authorized by regulation to fix the amount of environmental bonds issued in any one year that may be held by any one person at any one time.

"(2) The Secretary of the Treasury, with the approval of the President, is authorized to provide by regulations that owners of environmental bonds may, at their option, retain the bonds after maturity and continue to earn interest upon them at rates which are consistent with the rate of investment yield afforded by environmental bonds.

"(c) For purposes of taxation, any increment in value represented by the difference between the price paid and the redemption value received (whether at, before, or after maturity) for environmental bonds shall be considered as interest. Such bonds shall not bear the circulation privilege.

"(d) The provisions of subsections (c), (e), (g), (h), and (i) of section 22 shall, to the extent not inconsistent with the provisions of this section, apply with respect to environmental bonds issued under this section."

Section-by-Section Analysis, Community Coalition for a Clean Environment Act of 1971

This is a bill to provide financial assistance to the States for the development and execution of programs to improve the environment.

SHORT TITLE

Section 1 cites the short title, Community Coalitions for a Clean Environment.

Section 2 defines "Administrator" as the Administrator of the Environmental Protection Agency, and "State" to mean a State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands.

TITLE I: CLEAN ENVIRONMENT PROGRAMS

Section 101 is a statement of policy that the Congress will recognize, preserve, and protect the primary responsibilities and rights of the States in the conservation, development, and use of water and land resources, and in the protection and improvement of the environment generally. Recognizing the need for assistance in these areas, the Administrator is authorized to assist States and local governments in developing and carrying out comprehensive plans to improve the environment.

Section 102 authorizes appropriations out of the Environmental Trust Fund—to be established in accordance with Section 201—for the next fiscal year beginning after date of enactment and for 3 succeeding fiscal years thereafter. $100 million in each year for grants to States to assist them in developing and carrying out programs to improve the environment according to the provisions of this Act.

(1) provides for the establishment of the Community Coalitions for a Clean Environment on a demonstration basis;

(2) provides that the plan shall have specifications for the hiring at the local community level of staff and provides also for community participation;

(3) the plan will be administered by a single State agency;

(4) the plan will be coordinated with and not replace existing environmental improvement programs in the State;

Section 103 provides (a) that from the sums appropriated under section 102 for each fiscal year, the Administrator shall make allotments to States on the basis of population, as determined from Department of Commerce estimates; and (b) from each State's allotment for any fiscal year, the Administrator shall pay to such State 80 percent of the cost of developing and carrying out its State program approved under this title, including the cost of training personnel and the cost of administration of the program.

Section 104(a) declares that a State shall be eligible to receive its fiscal year allotment under this Title if its State environmental program has been approved by the Administrator according to these specifications:

(5) The plan will be prepared in a manner which provides (a) an opportunity for representative public organizations to present their views, and (b) these views will be considered in formulating the plan;

(6) The plan makes provision for the expenditure of adequate amounts of State's allotment for each fiscal year under Title I for the maintenance of the plan;

(7) The plan will provide for equitable allocation of funds among the various local government units of the State, with 60 percent of funds received going to local government units serving a population of more than 50,000;

(8) The plan provides necessary assurances that State and local governments will provide their share of funds to develop and carry out the plan;

(9) The plan will provide that the administering agency will make reports to the Administrator containing information that will enable him to perform his duties under this Title, including the keeping of records that would be accessible to the Administrator to assure correctness and verification of such reports as necessary;

(10) The plan will provide fiscal control and fund accounting procedures so as to assure proper disbursement of, and accounting for, Federal funds paid the State under this Title, as well as such funds paid by the State or local governments;

(11) The plan will provide any other information or assurance as the Administrator may require.

Section 104(b) says that no State plan, or modification thereof, shall be finally disapproved by the Administrator without first affording the State administering agency reasonable notice and opportunity for a hearing.

Section 104(c) declares that the provisions of this Act do not preclude two or more States from coordinating, or acting jointly, in the preparation and execution of their plans. In fact, such regional cooperation and joint activity is encouraged.

Section 105(a) directs that whenever the Administrator, after reasonable notice and opportunity for hearing to the State agency administering a State plan, finds that (1) the State plan has been so changed that it no longer complies with the provisions of this Title, or (2) in the administration of the plan there is a failure to comply substantially with any such provisions, the Administrator shall notify the State agency that no further payments will be made (or, in his discretion, that further payments will be limited to programs or portions of the State plan not affected by such failure), until he is satisfied that compliance will be forthcoming. Until he is so satisfied, no further payments may be made to the State or payments shall be limited to programs/portions of the plan not affected.

Section 105(b) provides that a State agency dissatisfied with a final action of the Administrator, as spelled out in Section 104, or subsection (a) of this section, may appeal in the U.S. Court of Appeals (for the Circuit in which the State is located) by filing a petition with such court within 60 days after such final action. A copy of the petition is to be transmitted by the Clerk of the Court to the Administrator or his designee. The Administrator then shall file with the Court the record of the proceedings on which he based his actions, according to Section 2112 of Title 28, U.S.C. The Court shall affirm or set aside the action of the Administrator, entirely or in part, temporarily or permanently; however, until the filing of the record, the Administrator may modify or set aside his order. The findings of the Administrator as to the facts, supported by substantial evidence, shall be conclusive, but the Court, if good cause is shown, may remand the case to the Administrator to acquire further evidence, whereupon the Administrator may make new or modified findings of fact and may recant his previous action. The Administrator shall then file in the Court the record of the new or modified facts, and they shall be conclusive if supported by substantial evidence. The judgment of the Court in affirming, or setting aside, wholly or partly, any action of the Administrator shall be final, subject to review by the Supreme Court of the United States upon *certiorari* (or certification) as provided in Section 1254 of Title 28, U.S.C. Unless specifically ordered by the Court, the beginning of proceedings under this subsection shall not operate as a stay of the Administrator's action.

TITLE II—ENVIRONMENTAL TRUST FUND, ENVIRONMENTAL BONDS, AND OTHER ENVIRONMENTAL PROGRAMS

ESTABLISHMENT OF TRUST FUND

Section 201(a) establishes in the United States Treasury a trust fund to be known as the "Environmental Trust Fund" (hereafter called the "Trust Fund"). The Trust Fund shall be comprised of (1) proceeds from United States Environmental Bonds issued under Section 22B of the Second Liberty Bond Act, and (2) deposits made pursuant to Section 203(a) of this Act, and (3) amounts appropriated or credited to the Trust Fund as provided in this Section.

Section 201(b) declares that amounts in the Trust Fund shall be available (1) to redeem U.S. Environmental Bonds, (2) to make refunds and payments according to Section 203(b) of this Act, and (3) to make payments from appropriations according to Title I of this Act and any other applicable laws.

Expenditures from the Trust Fund under (2) and (3) above shall be made only upon certification by the Administrator to the Secretary of the Treasury.

Section 201(c) authorizes to be appropriated to the Trust Fund such sums as are required to make the expenditures authorized in subsection (b) of this Section.

Section 201(d) directs (1) that the Secretary of the Treasury shall hold the Trust Fund and, after consultation with the Administrator, shall report to the Congress each year on the financial condition and results of the operations of the Trust Fund during the previous fiscal year, and on its expected condition and operations during the next 5 fiscal years. The report to the Congress shall be printed as a House Document of the session of Congress to which the report is made.

This subsection in (2)(A) declares it to be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as he deems *not* to be required to meet current withdrawals. Such investments are limited to interest-bearing obligations of the United States, or obligations guaranteed in principal and interest by the United States. These obligations may be acquired (1) on original issue at issue price, (2) by purchase of outstanding obligations at market price. This subsection extends, through the provisions of the Second Liberty Bond Act as amended, the issuance at par of special obligations exclusively to the Trust Fund. These special obligations are to bear interest at a rate equal to the average rate of interest (computed to the end of the next calendar month preceding the date of issue) that is carried on all marketable interest-bearing obligations of the United States forming a part of the public debt . . . *Except,* where such average interest rate is not a multiple of ⅛ of 1 percent, the rate of interest of the special obligations (Trust Fund) shall be the multiple of ⅛ of 1 percent next lower than the average rate. These special obligations are to be issued at the discretion of the Secretary of the Treasury, if he deems them to be in the public interest.

Subsection (2)(B) states that an obligations acquired by the Trust Fund (except special obligations issued exclusively *to* the Trust Fund) may be sold at the market price by the Secretary of the Treasury, and the special obligations may be redeemed at par with accrued interest.

Subsection (2)(C) requires that the interest on, and the proceeds from the sale or redemption of, and obligations held in the Trust Fund shall be credited to, and be, a part of the Trust Fund.

ENVIRONMENTAL BONDS

Section 202 amends the Second Liberty Bond Act (31 U.S.C. 752 et seq.) by inserting after section 22A a new section:

"Section 22B. (a)" In addition to the United States saving bonds authorized to be issued under section 22 and the United States retirement and savings bonds authorized to be issued under section 22A", the Secretary of the Treasury (with the President's approval) will be authorized to issue from time to time—through the Postal Service or otherwise—United States Environmental Bonds and the proceeds will be deposited in the Environmental Trust Fund. The various issues and series of environmental bonds issued will be determined by Section 21 of the Second Liberty Bond Act as amended and under conditions consistent with subsections (b), (c), and (d) of this Section, as the Secretary of the Treasury shall, from time to time, prescribe.

"Section 22B. (b)" of the Second Liberty Bond Act is amended in two ways: (1) Environmental bonds may be issued on an interest-bearing basis, a discount basis, or a combination of the two methods, and shall mature not more than 20 years from the date of issuance.

* * * * *

By Mr. HUMPHREY:

S. 3208. A bill to provide for the Establishment of an Older Workers Conservation Corps, and for other purposes. Referred to the Committee on Labor and Public Welfare.

OLDER WORKERS CONSERVATION CORPS

Mr. HUMPHREY. Mr. President, I am today introducing for appropriate reference, a bill to provide for a major expansion of opportunities for older Americans to obtain paid jobs of great importance to our communities and States. Under this bill, an Older Workers Conservation Corps program, administered by the Secretaries of Agriculture and Interior, would be established to promote useful part-time work opportunities in various conservation and environmental improvement activities for unemployed low-income persons who are 55 years old and older and who have poor employment prospects.

This program is designed to supplement—not replace—the vital pilot projects under Operation Mainstream, administered through the Department of Labor, and providing training and limited employment to disadvantaged older persons in important community service projects. But it has become clearly evident that a Government-wide emphasis must be placed upon the establishment of effective and comprehensive community service programs for older Americans across the Nation to meet both their critical income needs and to enable our States and cities to provide essential social services and community improvement services that must presently be set aside because of severe budget limitations.

Existing job training programs administered by the Department of Labor operate at a level that is totally inadequate to the need of older Americans for jobs and income. Only 3.7 percent of first-time enrollees in Department of Labor manpower and training programs are aged 45 and older. The percentage of enrollees aged 55 and older is still less—1.1 percent, with only 5,500 assisted through operation mainstream programs in fiscal 1971. But by the end of that fiscal year, nearly 500,000 individuals 55 years of age and older had lost their jobs, while 171,000 in this age category had been unemployed for 15 weeks or longer. Today, persons over age 45 represent 21 percent of total unemployment, and 30 percent of those who have been out of work over 15 weeks.

Problems of inadequate income and joblessness are particularly severe among older Americans living in rural areas. That is why, in addition to jointly sponsoring major legislation to establish comprehensive community service programs for and by older persons across America, I am introducing this bill to provide good job opportunities at a fair wage for thousands of older Americans in our rural counties, who need programs specially designed to meet their employment needs and which will be immediately accessible to them. They want to work, not wait still longer in destitution and despair. They want to continue to share in the development and improvement of our country, not be pushed aside and told to get along on meager savings and accept their isolation from society. And after long years of hard work, they deserve the security of a liveable income, not the sudden cancellation of pension rights from job layoffs.

The Older Workers Conservation Corps can play an important role in achieving these goals, through providing employment to thousands of older Americans in areas of conservation, beautification, environmental improvement, and community development projects.

Mr. President, I ask unanimous consent that the full text of the Older Workers Conservation Corps Act be printed in the RECORD.

There being no objection the bill was ordered to be printed in the RECORD, as follows:

S. 3208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Older Workers Conservation Corps Act."

SEC. 2 (a) In order to foster and promote useful parttime work opportunities in various and related conservation activities for unemployed low-income persons who are fifty-five years old and older and who have poor employment prospects, the Secretaries of Agriculture and Interior (herein after referred to as the Secretaries) are authorized to establish an Older Workers Conservation Corps (hereinafter referred to as the "program".)

(b) In order to carry out the provisions of this Act, the Secretaries are authorized:

(1) to enter into agreements where feasible with public or private nonprofit agencies or organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretaries in order to make the program effective or to supplement it. No payment shall be made by the Secretaries towards the cost of any project established or administered by any organization or agency unless they determine that such projects:

(A) Will provide employment only for eligible individuals except for necessary technical, administrative and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

(B) Will provide employment in the immediate areas in which the individuals reside.

(C) Will employ eligible individuals in projects related to publicly owned and operated facilities and projects or projects sponsored by organizations exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954 (other than political parties), except projects involving the construction, operation, or maintenance of any facility used or to be used as a place of sectarian religious instruction or worship;

(D) Will contribute to the general welfare of the nation, state and community;

(E) Will provide employment for eligible individuals who do not have opportunities for other suitable public or private paid employment, other than projects supported under the Economic Opportunity Act of 1964, or under this Act;

(F) Will result in an increase in employment opportunities for eligible individuals and will not result in the displacement of employed workers or impair existing contracts;

(G) Will utilize methods of recruitment and selection which will assure that the maximum number of eligible individuals will have an opportunity to participate in the program;

(H) Will include short-term training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating;

(I) Will assure that safe and healthy conditions of work will be provided, and will assure that persons employed under such program will be paid rates comparable to the rates of pay prevailing in the same labor market area for persons in similar occupations, but in no event shall any person employed under such program be paid at a rate less than that prescribed by sections 6(a)(1) of the Fair Labor Standards Act of 1938, as amended;

(J) Will be established or administered with the advise of persons competent in the field of service in which employment is being provided, and of persons who are knowledgeable with regard to the needs of older persons; and

(K) Will authorize pay for transportation costs of eligible participants which may be incurred in employment in any project funded under this Act in accordance with regulations promulgated by the Secretaries; and

(2) to make, issue and amend such regulations as may be necessary to effectively carry out the provisions of this Act;

(c)(1) The Secretaries are authorized to pay not to exceed 90 per centum of the cost of any project which is the subject of an agreement entered into subsection (b), except that the Secretaries are authorized to pay all of the cost of any such project which is (A) an emergency or disaster project or (B) a project located in an economically depressed area, or (C) projects involving Federally owned, operated or supervised lands.

(2) The non-federal share shall be in cash or in kind. In determining the amount of the non Federal share, the Secretaries are authorized to attribute fair market value to services and facilities contributed from non Federal sources.

ADMINISTRATION

SEC. 3(a). In carrying out the provisions of this Act, the Secretaries are authorized to use, with their consent, the services, equipment, personnel and facilities of Federal and other agencies with or without reimbursement and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment and facilities.

(b) The Secretaries shall establish criteria designed to assure equitable participation in the administration of the Older Workers Conservation Corps projects by agencies and organizations eligible for payment under section 2(b).

(c) The Secretaries shall not delegate their functions and duties of this Act to any other department or agency of the Government.

PARTICIPANTS NOT FEDERAL EMPLOYEES

SEC. 4(a). Eligible individuals who are employed in any project funded by this Act shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of Title 5, United States Code.

(b) No contract shall be entered into under this Act with a contractor who is or whose employees are under State law, exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide through insurance by a recognized carried, or by self-insurance, as allowed by State law, that the persons employed under the contract, shall enjoy workmen's compensation coverage equal to that provided by law for covered employment.

INTERAGENCY COOPERATION

SEC. 5. The Secretaries shall establish jointly an interagency advisory board with a view to achieving optimal coordination of such program.

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 6. The Secretaries of Agriculture and Interior shall share equally in the distribution of funds appropriated to carry out the provisions of this Act.

DEFINITIONS

SEC. 7. As used in this Act:

(a) "State" means any of the several States of the United States and the District of Columbia.

(b) "Eligible individuals" means an individual who is fifty-five years old or older, who has a low income and who has or would have difficulty in securing employment.

(c) "Conservation" means maintenance or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; recreational development; and other such projects which are essential and necessary to the community, State, and Nation as the Secretaries, by regulation, may prescribe.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are hereby authorized to be appropriated $130,000,000 for the fiscal year ending June 30, 1973, and $150,000,000 for fiscal year ending June 30, 1974.

By Mr. HARTKE:

S. 3209. A bill to provide for a study of the feasibility and desirability of establishing a proposed Ohio River National Parkway in the State of Indiana, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

OHIO RIVER NATIONAL PARKWAY

Mr. HARTKE. Mr. President, today I introduce legislation that would lead to the creation of recreational facilities for millions of people in the Midwest portion of our country. This bill provides for a study of the feasibility and desirability of establishing an Ohio River National Parkway running along the northern side of the Ohio River between Aurora and Troy, Ind.

This legislation has been introduced in previous years by myself and by my distinguished colleague from Indiana, Representative Lee H. Hamilton. On those occasions, during the 89th and 90th Congresses, cutbacks were being made in highway construction funds due to the Vietnam war. As we continue to withdraw from that tragic endeavor, however, these funds are once again available, and the parkway proposed by this bill deserves renewed consideration.

Currently, there are five national parkways, three of which are in the Washington area. There have been no additions to this group since 1950. The portion of the Ohio River that would be banked by this parkway is one of the most scenic of the river's entire length. The proposed plan would bring these beautiful sights within the reach of 10 million people from Indiana, Kentucky, Ohio, Tennessee, and Missouri. In addition to the esthetic benefits derived from the parkway's location, it would also serve as a connecting link to the Lincoln Trail in Spencer County and, possibly, with the Lincoln Memorial National Parkway.

The Ohio River has played a significant role in the expansion of our country, and the trail history winding along its shores should be made available to more people than the present highway system permits. The bill I offer today will not only enable area residents to enjoy the historical and recreational sites this section of the country has to offer, but it will also make it readily accessible to visitors coming from other parts of the Nation.

Mr. President, I hope that my colleagues will give this proposal the consideration it merits, and I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3209

A bill to provide for a study of the feasibility and desirability of establishing a proposed Ohio River National Parkway in the State of Indiana, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed, in consultation with the Secretary of Transportation, to conduct a study of the route of a proposed national parkway beginning at a point at or in close proximity to Aurora, Indiana, and extending generally along the northern banks of the Ohio River to a point ending at, or in close proximity to, Troy, Indiana. Based on the results of such study, the Secretary of the Interior shall submit a report, as to the feasibility and desirability of establishing a proposed Ohio River National Parkway generally along the route referred to herein, to the Congress within two years from the effective date of this Act. Such report shall contain full information relative to the cost of constructing such a parkway, and proposed legislation to carry out any recommendation that such a parkway be authorized.

SEC. 2. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. HARTKE (for himself and Mr. Cranston):

S. 3210. A bill to amend the Public Health Service Act to provide assistance to certain non-Federal institutions, agencies, and organizations for the establishment and operation of cooperative community programs for patients with kidney disease for the conduct of training related to such programs, and to provide financial assistance to individuals suffering from chronic kidney disease who are unable to pay the costs of necessary treatment. Referred to the Committee on Labor and Public Welfare.

KIDNEY DISEASE

Mr. HARTKE. Mr. President, ours is a highly advanced society. We spend billions of dollars each year to go from home to work, from coast to coast, from one continuent to another, and from earth into space. Tens of billions are spent on weapons to kill, on cosmetics to make us look pleasing, and on appliances to make our lives easier. We do all of this, but when it comes to maintaining our health, we revert to the primitive values and attitudes of the distant past.

In what must be the most tragic irony of the 20th century, people are dying because they cannot get access to proper medical care. We have learned how to treat or to cure some of the diseases which have plagued mankind for centuries, yet these treatments are not available to most Americans because of their cost.

Mr. President, more than 8,000 Americans will die this year from kidney disease who could have been saved if they had been able to afford an artificial kidney machine or transplantation. These will be needless deaths—deaths which should shock our conscience and shame our sensibilities.

What are we to say to these 8,000 people? How do we explain that the difference between life and death is a matter of dollars? How do we explain that those who are wealthy have a greater chance to enjoy a longer life than those who are not? These are difficult questions to ask; they are even more difficult to answer.

Mr. President, we can begin to set our national priorities straight by undertaking a national effort to bring kidney disease treatment within the reach of all those in need. Today, I introduce on behalf of Senator Hartke and Senator Cranston the Kidney Disease Treatment and Prevention Act so that we may save 8,000 lives this year, and hundreds of thousands of lives in the years to come.

Each year, about 8 million Americans are afflicted with kidney diseases. Diseases of the kidneys and diseases affecting these organs rank among the major ailments which undermine or destroy good health. As the fifth leading cause of death in this country, the insidious nature of kidney diseases is reflected in the fact that many people who harbor infectious organisms in their urinary tract will have no warning of their disease until kidney damage is beyond repair. Of the nearly 8 million new victims each year, about 2,800,000 suffer from hypertensive renal cardiovascular diseases causing 35 percent of deaths from kidney disease; about 2 million suffer from infectious diseases causing 18 percent of deaths; and about 3 million suffer other diseases such as hypersensitivity, calculi, urinary abnormalities, and other ailments causing 26 percent of the deaths.

In terms of indirect costs of mortality—lost future income—kidney disease is the highest ranking killer, costing the country $1.5 billion annually. Additionally, more than $1 billion has to be spent each year for hospital and nursing home care, professional services, and drugs. Surprisingly, this exceeds the annual medical services costs for maternity care, or for all forms of cancer.

Mr. President, the Kidney Disease Treatment and Prevention Act provides assistance to certain non-Federal institutions, agencies, and organizations for the establishment and operation of cooperative community programs for patients with kidney disease and for the conduct of training related to such programs. It also provides financial assistance to those people suffering from chronic kidney disease who cannot afford treatment; 50,000 Americans need dialysis treatment today, but 42,000 of these people cannot afford it. My proposal will put life back within the grasp of these 42,000 people. I ask unanimous consent that the text of my bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3210

A bill to amend the Public Health Service Act to provide assistance to certain non-Federal institutions, agencies, and organizations for the establishment and operation of cooperative community programs for patients with kidney disease for the conduct of training related to such programs, and to provide financial assistance to individuals suffering from chronic kidney disease who are unable to pay the costs of necessary treatment

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Kidney Disease Treatment and Prevention Act of 1972."

Sec. 2. Part B of title III of the Public Health Service Act is amended by adding at the end thereof the following new sections:

"Establishment and Operation of Cooperative and Community Programs for the Prevention and Treatment of Kidney Disease.

"Sec. 319. (a) It is the purpose of this section to provide financial support through grants to public and other nonprofit schools of medicine, hospitals, agencies, and institutions to assist in the establishment and operation of cooperative and community prevention and treatment program for patients with kidney diseases and for training related to such programs.

"(b) There are hereby authorized to be appropriated the sums of $12,000,000 in the fiscal year ending June 30, 1973; and $20,000,000 for each succeeding fiscal year until and including the fiscal year ending June 30, 1977, to enable the Secretary to carry out the purposes of this section and section 320 of this Act.

"(c) The Secretary shall, after consultation with the National Advisory Committee on Kidney Disease Programs (etsablished pursuant to section 321 of this title), prescribe general regulations and guidelines concerning (1) eligibility of public or nonprofit agencies, institutions, or organizations for grants under this section, (2) determination of costs with respect to which such grants may be made, (3) the terms and conditions under which such grants will be made, and (4) the assurance that all grants are coordinated with any existing regional plan for a kidney disease program in a particular area.

"(d) There is hereby established in the Department of Health, Education, and Welfare the Office of Kidney Centers, for the purpose of administering sections 320 and 321 of this Act and providing coordination of Federal activities in the prevention and treatment of kidney disease. The Secretary is authorized to appoint a Director and such additional personnel as are required to perform the responsibilities specified in this Act and such additional responsibilities as the Secretary may assign to the Office of Kidney Centers.

"(e) Subject to the regulations and guidelines established pursuant to subsection (c) the Office of Kidney Centers shall assist in establishing kidney center programs. This assistance shall consist of providing information, services, and grants for planning, training, construction, renovation, and percentage contributions toward the operation of kidney centers.

"(f) A 'kidney center' for the purpose of this section means:

"(1) a 'cooperative kidney center' established within or as a part of a medical school or hospital that has demonstrated a high level of professional competence in relevant medical disciplines. The purpose of the kidney center would be:

"(i) to train medical and supporting personnel;

"(ii) to provide transplantation treatment for patients with chronic uremia where this form of therapy is indicated;

"(iii) to provide dialysis treatment when medically indicated in connection with training, research, and transplantation;

"(iv) to engage in research and the development of new techniques;

"(v) to coordinate with and establish appropriate relations with one or more local community dialysis units (described in subsection (f)(2)); and

"(vi) to assure that knowledge and treatment of kidney disease will evolve in a balanced fashion;

"(2) a local 'community dialysis unit' established in conjunction with and in continuing relationship with 'cooperative kidney center.' The purposes of a community dialysis unit would be:

"(i) to provide a central training and treatment facility for the care of persons having chronic kidney disease;

"(ii) to provide training and supervision to physicians, staff members, and to patients who are candidates for home dialysis;

"(iii) to foster and promote the availability and wider use of the equipment and techniques of home dialysis.

"(g) The amount of any grant to carry out the purposes of this section shall include:

"(1) 100 per centum of the costs directly related to the training of physicians, staff members, patients, and their families;

"(2) 100 per centum of the costs for construction or renovation of existing facilities and for the necessary equipment to establish a kidney center under the provisions of subsection (f)(1);

"(3) 60 to 90 per centum of the costs for construction or renovation of existing facilities and for the necessary equipment to establish a community dialysis unit under the provisions of subsection (f)(2). The percentage contribution shall be determined on the basis of the economic status of the particular community involved pursuant to guidelines established by the Secretary;

"(4) 90 per centum in the first year of full operation, 60 per centum in the second year, and 30 per centum in the third year and thereafter of the operation and maintenance costs of cooperative kidney centers and community dialysis units established pursuant to this Act: *Provided, however,* That grants under this subsection may be in lesser amount if the Secretary determines that centers and units are capable of meeting a larger share of costs of operation.

"(h) Three years after the Secretary formally publishes notice in the Federal Register that applications will be received for grants under this section, the President will transmit to the Congress any recommendations he may wish to make concerning the program. In the event that no changes are made in the authorizing legislation, the program shall continue as authorized under this section and section 320.

"THE NATIONAL ADVISORY COMMITTEE ON KIDNEY DISEASE PROGRAMS

"Sec. 320. (a) There is hereby authorized a National Advisory Committee on Kidney Disease Programs. The Committee shall consist of four members currently in Government service and eight members, not otherwise in the employ of the United States, appointed by the Secretary and with regard to the civil service laws, who are leaders in the fields of the basic medical sciences related to kidney disease, kidney disease diagnosis and treatment, community health programs, or public affairs.

"(b) Each appointed member of the Committee shall hold office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and except that the term of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, four at the end of the third year after the date of appointment. An appointed member shall not be eligible to serve for more than two terms.

"(c) Appointed members of the Committee while attending meetings or conferences thereof or otherwise serving on the business of the Committee shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(d) The Committee shall advise and assist the Secretary in the preparation of regulations for, and as to policy matters arising with respect to, the administration of this section insofar as it pertains to kidney disease, or the diagnosis, treatment, and care of patients suffering from such diseases. After the Committee is established, it shall consider all applications for grants under section 320 which pertain to kidney diseases, or the diagnosis, treatment, and care of patients suffering from such diseases and shall make recommendations to the Secretary with respect to approval of application for the amounts of such grants.

"(e) The Committee shall also review and make recommendations on kidney disease programs of departments and agencies of the Federal Government, including, but not limited to, those in the Veterans' Administration, the Public Health Service, and the Vocational Rehabilitation Administration, so that the methods, facilities, and programs of these administrative agencies can best be utilized in supporting programs for prevention and treatment of kidney disease. Particular attention shall be paid to the coordination of activities of these various agencies in a given region so as to insure adequate geographical distribution of services and avoid duplication of facilities and services.

"ASSISTANCE TO INDIVIDUALS SUFFERING FROM CHRONIC RENAL DISEASE

"SEC. 321. (a) It is the purpose of this section to provide financial assistance to individuals who suffer from chronic renal disease and require hemodialysis or other lifesaving care and treatment therefor.

"(b) In order to assure that individuals who suffer from chronic renal disease and require hemodialysis or other lifesaving care and treatment therefor, but who are unable to pay the costs of such care and treatment on a continuing basis, will not be denied such care and treatment because of their inability to pay such costs, the Secretary is authorized to establish and carry out a program of assistance under which, subject to subsection (c), payments will be made to or on behalf of such individuals for any part of such costs which they are unable to pay from funds otherwise available to them.

"(c) Payments from the program established pursuant to this section—

"(1) may be made only with respect to the care and treatment of individuals who are citizens of the United States or aliens lawfully admitted to the United States for permanent residence;

"(2) shall, in cases involving hemodialysis, be made only to the extent that they do not exceed the cost of the least expensive form of dialysis which is or would be medically sufficient (reduced in any such case by an amount equal to the portion of the costs actually incurred which the individual is able to pay); and

"(3) shall be subject to such terms and conditions as to eligibility and amount, and made in such manner and form in accordance with such standards and procedures, as may be prescribed by the Secretary in regulations designed to assure that the purpose of this section is effectively carried out.

"(c) To carry out the purpose of this section, there are hereby authorized to be appropriated the sums of $15,000,000 in the fiscal year ending June 30, 1973, and $25,000,000 for each succeeding fiscal year.

By Mr. GAMBRELL:

S. 3212. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to allow, in the case of certain States, an exemption from the effective date of such Act. Referred to the Committee on Government Operations.

Mr. GAMBRELL. Mr. President, it has come to my attention that some States, including Georgia, are faced with a State constitutional inability to comply with certain provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. I am offering legislation today which would amend that act to grant a limited extension of the effective date to allow those States an opportunity to bring themselves into compliance.

The need for this amendment can best be seen by looking at the provisions of the act itself. The act went into effect on January 2, 1971, and requires that after July 1, 1972, payment of relocation costs will be shared by local public agencies on the same basis as in the project being undertaken. If, after July 1, 1972, a local public agency cannot give satisfactory assurance to the head of the participating Federal agency that the public agency will be able to pay its share of relocation costs, then no Federal funding will be allowed for the project.

However, the expenditure of public funds by State and local governments for relocation payments and assistance is not currently authorized in every instance required by the Relocation Act, and sufficient time was not given for an appropriate State constitutional amendment to be ratified where one was needed. The obvious result will be the loss of millions of dollars and the delay of public projects.

The exemption provided by this amendment would give adequate opportunity for State constitutional amendments to be ratified and implemented by legislation. At the same time, however, the main intent and purpose of the Relocation Act would be effectuated to the fullest extent possible.

By Mr. BYRD of West Virginia (for Mr. BIBLE):

S. 3214. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Referred to the Committee on Government Operations.

Mr. BYRD of West Virginia. Mr. President, on behalf of the distinguished senior Senator from Nevada (Mr. BIBLE), I introduce a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and I ask unanimous consent that a statement prepared by him in connection with the introduction of this bill be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR BIBLE

I introduce for appropriate reference a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

The 1970 Act was one of the most important accomplishments of the 91st Congress. It was an overdue consolidation and comprehensive reformation of the federal laws relating to the acquisition of real property under federal and federally-assisted programs and the relocation of families, individuals and businesses displaced by such programs.

The 1970 Act provides that after July 1, 1972 no federal agency may approve any federal financial assistance to a State agency for any program which will result in the acquisition of real property or the displacement of any person unless the head of the federal agency involved receives satisfactory assurances that the State agency is able under State law to provide the same level of relocation payments and assistance required to be provided by a federal agency under the 1970 Act.

This means that in order to remain eligible for continued federal financial assistance it is necessary that States conform their own relocation statutes to the requirements of the new federal statute, and it has come to my attention that some of the States—including my own State of Nevada—need additional time in which to do so.

The effect of this amendment would be to extend for one year the period given the States to conform their laws to the requirements of the federal statute.

The Governor of Nevada was recently advised by the Economic Development Administration of the Department of Commerce that after July 1, 1972 the State of Nevada and all political subdivisions thereof may no longer be eligible as recipients of federal financial assistance from such federal agencies as the Economic Development Administration, Environmental Protection Agency, Department of Housing and Urban Development, and the Farmers Home Administration. According to EDA, such a termination of federal financial assistance will be necessitated by the present provisions of section 221(b) of the 1970 Act.

The 1970 Act became effective January 2, 1971. The Nevada State Legislature meets biennially. During its 1971 session, the State Legislature initiated but did not complete its consideration of and action on amendments conforming State law to the requirements of the 1970 Act. The Legislature will not be meeting this year and further consideration of relocation assistance legislation cannot take place until January 1973.

Obviously, it was not the intent of the 1970 Act that there be a wholesale termination of federal assistance programs in any State. The Act contemplated that State legislatures would have ample time to conform their laws, but the limited period allowed State legislatures by section 221 has not sufficed for Nevada, and may well have created comparable problems for other States whose legislatures do not meet annually.

This is a matter requiring immediate attention in order that whatever action is needed can be taken to assure that federal financial assistance to Nevada and other states will not be impaired by the present provision of the Uniform Relocation Assistance Act.

By Mr. PROXMIRE:

S. 3215. A bill to expand the market for municipal securities, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs, by unanimous consent.

Mr. PROXMIRE. Mr. President, today I am introducing a bill to expand the market for municipal securities in order to help our State and local governments finance their need for more schools, hospitals, pollution control facilities, and other capital needs. The bill directs the Secretary of the Treasury to pay 33 percent of the interest on taxable bonds issued by State or local governments in lieu of issuing tax-exempt bonds. The entire cost of these interest payments will be more than offset by increased tax revenues from investors who purchase the taxable bonds instead of tax-exempt bonds. State and local governments will also save money since a subsidized taxable bond will usually involve lower net interest payments than an equivalent tax-exempt bond.

My bill in no way restricts the right of State and local governments to issue tax-exempt securities. Instead, it gives State and local governments a new financing option—a subsidized taxable security. State and local governments will have complete freedom to decide which type of security to issue and to choose whichever one they believe is most advantageous to them.

Mr. President, the legislation has three main obectives:

First, it seeks to increase the equity and efficiency of the present tax-exempt system for financing municipal securities by creating an alternative financing method which will produce greater benefits at lower cost;

Second, it seeks to expand the scope of the municipal securities market by providing incentives for new institutional investors to invest in municipal securities;

Third, it seeks to reduce cyclical instability in the municipal bond market resulting from periodic shortages of credit due to monetary policy or other factors.

TAX-EXEMPT BONDS CREATE WINDFALLS

Many studies have concluded that the issuance of tax-exempt securities is an inequitable and inefficient method for financing State and local capital needs. It is inequitable and inefficient, because the benefits of tax exemption are not fully passed on to State and local governments. The cost to the Treasury in the way of lost tax revenue exceeds the benefit to municipalities in the way of lower borrowing costs. The difference represents a windfall profit to wealthy investors who are least in need of Government welfare assistance.

One solution to the problem might be to abolish tax-exempt securities and pay a direct subsidy to State and local governments to compensate them for the higher interest they would be required to pay. I believe this approach is unsatisfactory, because State and local governments would surrender a substantial benefit without any assurance that the subsidy payments will continue. It is therefore understandable why State and local governments have resisted any attempt to restrict their freedom to issue tax-exempt bonds. This freedom must be respected by the Federal Government if we are to preserve the traditional independence and autonomy of State and local governments. By giving State and local governments an option to issue taxable bonds, as my bill does, we remove some of the inefficiencies and inequities of the tax-exempt system without jeopardizing the freedom and independence of State and local governments.

ANNUAL SAVINGS OF $1.9 BILLION

If a State or local government elects to issue a subsidized taxable bond, the cost of the subsidy will be more than offset by the increased tax revenues paid by investors who purchase taxable securities instead of tax-exempt securities. This is because the average tax bracket of municipal bondholders is 42 percent as estimated by the Treasury whereas the amount of the interest subsidy is only 33 percent. Thus, the Treasury will collect $42 in tax revenues for each $33 it pays out in subsidies. At the same time, State and local governments will benefit since a taxable bond with a 33-percent interest subsidy will result in lower interest than an equivalent tax-exempt bond. Over the last 9 years, the interest on tax-exempt municipal bonds has been only 27 percent below the interest on taxable corporate bonds.

If subsidized taxable bonds were fully utilized by municipalities, I estimate that over the next 10 years the U.S. Treasury would save nearly $1.3 billion a year while municipalities would save nearly $600 million a year. These potential savings could be reduced if the taxable bond alternatives were not fully utilized by State and local governments. Nonetheless, the potential savings are large enough to warrant serious consideration of the proposal by the Congress. I ask unanimous consent that a table showing how these savings were calculated be inserted in the RECORD at the end of my remarks.

ASSURED FUNDING

In order to give State and local governments assurance that the subsidy payments will continue, my bill provides that they will be financed by a permanent indefinite appropriation. Interest payments on the national debt are financed in the same manner; hence, there is adequate precedent for extending the authority to State and local debt. Such an approach would not violate the appropriations process since the Treasury will collect more than enough tax revenue to pay the cost of the subsidy.

EXPANDING SCOPE OF MARKET

Another problem of the municipal bond market is that it is unduly restricted in size, because of the tax-exempt system. Municipal securities trade at a lower interest rate because of their tax-exempt status. Accordingly, they are of interest only to investors in higher tax brackets. Investors in lower tax brackets have little or no incentive to invest in municipal securities since they can earn a higher after-tax yield by investing in corporate securities. Low tax bracket investors who shun the municipal market include pension funds, mutual life insurance companies, savings and loan associations and mutual savings banks. These institutions invested over $41 billion during 1970; virtually none of the funds went into the municipal bond market.

In recent years, commercial banks have become the dominant force in the municipal bond market. From 1965 through 1970, commercial banks purchased over 65 percent of new municipal bond issues. However, there is serious question whether commercial banks can continue to supply the bulk of the funds for the municipal bond market. Bank investment in municipal bonds may be approaching the saturation point. For example, in 1959, 8.8 percent of commercial bank credit was invested in State and local obligations whereas by 1970 the percentage was nearly double at 15.7 percent. Commercial banks owe primary allegiance to their business customers, and only invest in municipal bonds when the funds are not needed by their commercial accounts. It therefore seems highly doubtful that commercial banks can continue investing a higher and higher percentage of their funds in State and local obligations. If the banks level off their portfolio holdings of municipals at 16 percent, more funds will have to come from nonbank investors to meet the projected capital needs of State and local governments.

Studies by the Urban Institute indicate that commercial banks will not be able to meet the borrowing needs of State and local governments which are projected to reach $30 billion a year by 1975. These studies project an annual growth rate of over 10 percent in State and local borrowing. Since the supply of savings is not likely to grow at the same high rate, the market for municipal bonds must be expanded if the additional funds are to be forthcoming.

Some might argue that the record high level of State and local borrowing in 1971 indicates that the present tax-exempt market can expand to meet future capital needs. During 1971, State and local governments sold over $24 billion in new bond issues compared to $18 billion in 1970 and $12 billion in 1969. However, it is unrealistic to expect that this high level of borrowing can continue. Commercial banks experienced an unusually heavy inflow of funds during 1971 as consumers began saving more and as deposit rates at banks became more competitive with open market securities. Time deposits at commercial banks increased by $42 billion during 1971 compared to an annual average of $18 billion during the 4 preceding years. At the same time, the demand for business loans began to slacken. Commercial and industrial loans increased by only $4 billion in 1971. As a result, bankers had a record volume of funds to invest in the municipal bond market. It is unlikely that this favorable combination of circumstances will exist throughout the 1970's.

Under my bill, the market for municipal securities would be considerably expanded by attracting pension funds, life insurance companies, mutual savings banks, and savings and loan associations who are not in the market today. These institutional investors supplied an annual average of $33.6 billion in funds over the last 5 years compared to $33.1 billion from commercial banks. Thus, the potential market for municipal bonds among institutional investors would be more than doubled if my legislation is enacted. Given the broader market, municipalities would be in a much better position to attract the additional funds required to finance their growing capital needs. I ask unanimous consent that a table showing the supply of funds from various institutional investors be printed in the RECORD at the end of my remarks.

CYCLICAL INSTABILITY

A third problem of the municipal bond market is that it is becoming increasingly vulnerable to monetary policy. The problem of cyclical instability is aggravated by commercial bank behavior during a credit crunch. During the 1966 credit shortage, banks only acquired 30 percent of the net increase in municipal debt; during the 1969 credit shortage, banks acquired less than 5 percent of the net increase in municipal debt. The next period of tight money might very well see commercial banks become net sellers of municipal bonds.

Commercial banks withdraw from the municipal bond market during a period of tight money to continue lending to their business loan customers to whom they owe primary allegiance. As a result, yields on municipal bonds must rise to abnormally high levels in order to attract nonbank investors. The interest spread between municipal bonds and corporate bonds of comparable risk and maturity always narrows during a credit shortage, thereby eroding the benefits of tax exemption at a time when financial assistance is needed the most.

The municipal bond market is likely to suffer even more cyclical instability in the future to the extent we make greater use of monetary policy to stabilize the economy. Moreover, monetary policy will impinge more heavily on the municipal bond market to the extent that a greater percentage of outstanding municipal bonds are held by commercial banks. When commercial banks dominate the municipal bond market, their withdrawal because of tight money can be disastrous. Finally, the problem of cyclical instability in the municipal bond market is likely to worsen as Government efforts increase to insulate the mortgage market from monetary policy. Under these circumstances, a greater share of the burden of adjusting to tight money will be transferred to the municipal bond market.

A boom-and-bust pattern in the municipal bond market creates uncertainty and inefficiency in capital spending programs. Planned expenditures must be cut back, or postponed, often at a greater ultimate cost. Interest costs are subject to sharp increases if a project must be financed when rates are abnormally high. The cost of municipal construction will inevitably increase as contractors begin to anticipate delays or changes brought about by changing financial conditions.

The problem of cyclical instability would be alleviated by my bill in two ways. First, the market will be more stable to the extent other investors are attracted in addition to commercial banks whose investment policies have been the most volatile. Pension funds and life insurance companies offer a particularly stable source of funds since they are less vulnerable to monetary policy. Second, by paying a fixed subsidy of 33 percent, the taxable bond alternative will become more attractive to municipalities during tight money periods when the spread between taxable and tax-exempt yields begins to narrow. Taxable bonds will make it possible for municipalities to stay in the market when they might otherwise be priced out, because of abnormally high rates on tax-exempt bonds. For example, during 1969 credit crunch the spread between taxable and tax-exempt yields declined from 31 percent in 1968 to 22 percent in 1969. Obviously, a 33-percent interest rate subsidy would have been much more advantageous in 1969 when the municipal bond market was in serious disarray.

THE URBANK APPROACH

There have been other approaches toward improving the municipal bond market. One proposal for easing the municipal financing burden is the Urban Development Bank or so-called Urbank. Proposed during the last few days of the Johnson administration, Urbank would purchase tax-exempt securities from State and local governments. It would finance its purchases by selling taxable securities in the bond market and rely upon a Federal subsidy to make up the difference between its cost of borrowing and the rate it earned on municipals.

The Urbank would operate at little or no cost to the Treasury since the cost of the subsidy would be offset by the tax revenues derived from the substitution in the marketplace of taxable securities for tax-exempt securities.

The Urbank proposal has been criticized on a number of grounds:

First, the proposal contemplates that State and local governments meet fairly specific planning requirements before their securities would become eligible for Urbank purchase. Thus, Urbank could become an instrument of increasing Federal domination although this certainly was not the intent of its sponsors.

Second, Urbank borrowing capacity would be controlled by the Secretary of the Treasury. To the extent local governments become dependent on Urbank, their ability to obtain credit could be turned on or off at will by the U.S. Treasury. Since the Treasury itself is a borrower in the bond market, State and local governments may have to take a back seat to the Federal Government when it comes to issuing bonds.

Third, the bonds issued by Urbank would be underwritten by a handful of large New York investment houses. These firms would gain business at the expense of the 600 to 700 regional investment banking firms on whom State and local governments have thus far relied to underwrite municipal issues. With their marketing network destroyed, State and local governments would then become highly dependent on Urbank and the Federal Government for their financial needs. While local governments would be theoretically free to market their own tax-exempt issues, it would be a meaningless freedom if the distribution channels were put out of business.

THE INCREMENTAL APPROACH

The Nixon administration seems to be pursuing the Urbank approach, but on a piecemeal basis. Legislation has already been obtained authorizing "mini-urbanks" to deal in State and local obligations issued in connection with Federal programs for hospital construction, rural housing, and new-town development. Legislation is pending setting up similar Federal banks for State housing authority bonds and pollution bonds. The latter bill establishing an Environmental Financing Authority, has been reported by the House Committee on Public Works.

The proliferation of these separate Federal banks could be effectively merged into a single mechanism if the Treasury's bill for a Federal financing bank is enacted by the Congress. This legislation (S. 3001) would set up a bank under Treasury control to consolidate many of the separate credit programs and to channel agency borrowing through a single outlet.

All of the disadvantages of the Urbank approach would be revived with the administration's incremental approach to the problem. Moreover, the proliferation of separate agency issues adds a heavy burden to the market and escalates the cost of financing public programs. We need a comprehensive and not a piecemeal solution. We need to expand the entire municipal bond market, not just selected categories of the market. We need to give State and local officials greater authority in determining capital spending priorities and not preempt their authority in Washington. And we need to assure State and local authorities that financial assistance will be provided on a permanent basis.

SUPPORT FOR BILL

Mr. President, I believe there is an emerging consensus for the type of legislation I have introduced. Last August, a task force of the National League of Cities recommended that cities should have the option to issue subsidized taxable bonds. A slightly different version of the plan was endorsed by the annual conference of the National League of Cities last December. The U.S. Governors Conference has similarly endorsed the approach taken by my bill. The Investment Bankers Association voted overwhelmingly last December to endorse legislation along the lines of my bill. The legislation I have introduced is also strongly supported by Frank E. Morris, president of the Federal Reserve Bank of Boston and a leading authority on the municipal bond market. In a seminar organized by the bank, 30 leading authorities on State and local finance reached a consensus that legislation along the lines of my bill should be enacted. I ask unanimous consent that a copy of a Federal Reserve Bank press release about the seminar be printed in the RECORD at the end of my remarks. I also ask unanimous consent that the bill be referred to the Committee on Banking, Housing and Urban Affairs, and that a copy of the legislation be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds that—

(1) It is desirable that the market for securities of State and local governments be broadened without infringing on the right of State and local governments to issue tax-exempt securities;

(2) Federal interest subsidy payments made to State and local governments in return for issuing taxable securities will—

(A) Broaden the market for municipal securities by attracting new investors in lower income tax brackets such as pension funds which receive little or no benefit from purchasing tax-exempt securities;

(B) Stabilize the flow of credit into the municipal bond market during periods of restrictive monetary policy and rising interest rates; and

(C) Increase Federal tax revenues and reduce interest payments of State and local governments, thereby resulting in aggregate public benefits in excess of the cost of the interest subsidy payments.

(b) It is the purpose of this Act to provide Federal financial assistance to increase the marketability of State and local securities and thereby expand the municipal capital market.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(a) The term "State or local obligation" means any obligation issued by or on behalf of a State or local public body to finance the construction, reconstruction or acquisition of any capital improvements, but such term does not include any obligation which is an industrial development bond as defined in Section 103(c)(2) of the Internal Revenue Code of 1954;

(b) "State" means any one or more of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and Territory, and any of the possessions of the United States;

(c) "local public body" means any municipality or other political subdivision of any one or more States, including, without limitation, any agency or body corporate or other instrumentality of one or more of the foregoing; and any Indian tribe; and

(d) "Secretary" means the Secretary of the Treasury or his delegate.

INTEREST REDUCTION PAYMENTS

SEC. 4. (a) The Secretary shall enter into a contract with any State or local public body so requesting to make periodic interest reduction payments on behalf of such State or local public body to reduce the net interest cost, as determined in subsection (b), on any State or local obligation issued or authorized to be issued by or on behalf of such State or local public body after the effective date of this Act.

(b) The interest reduction payments authorized under subsection (a) on account of a State or local obligation shall (1) be sufficient to pay 33⅓% of the net interest cost per annum of such obligation as determined by the Secretary, and (2) be made at such periodic intervals as may be necessary to pay interest to the holder of such obligation at the time such interest is due.

(c) The interest reduction payments referred to in subsection (b) shall be made by the Secretary either directly to the issuer of the State or local obligation or to a trustee or paying agent therefor, as may be requested by such issuer.

(d) The obligation of the Secretary to make such interest reduction payment may be evidenced by a supplemental endorsement on, or supplemental coupon or coupons affixed to, the instrument evidencing such State or local obligation or in such other manner as may be set forth in the contract referred to in subsection (a).

REGULATIONS

SEC. 5. The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this Act.

REPORTS TO CONGRESS

SEC. 6. Not later than April of each year, the Secretary shall report to the Congress concerning the administration of his functions under this Act.

PERMANENT ANNUAL APPROPRIATIONS

SEC. 7. Section 3689 of the Revised Statutes (31 U.S.C. 711) is amended by inserting after—

"Interest on the public debt"

"For payment of interest on the public debt, under the several Acts authorizing the same."

the following:

"Payments with respect to certain securities:

"For interest reduction payments under the Municipal Capital Market Expansion Act.".

OBLIGATIONS AS LAWFUL INVESTMENTS

SEC. 8. State or local obligations for which interest reduction payments are provided in a contract made by the Secretary under this Act shall be lawful investments, and may be accepted as security for fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof.

AMENDMENTS RELATING TO FINANCIAL INSTITUTIONS

SEC. 9. (a) The first paragraph of section 5 (c) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(c)) is amended by inserting "or in State or local obligations, as defined in Section 3 of the Municipal Capital Market Expansion Act, for which interest reduction payments are provided in a contract made by the Secretary of the Treasury or his delegate under Section 4 of the Municipal Capital Expansion Act," in the second proviso immediately after "any political subdivision thereof".

(5) Section 107(8)(E) of the Federal Credit Union Act, as amended (12 U.S.C. 1957(8) (E)) is amended by inserting before the semicolon at the end thereof the following: ", or in State or local obligations, as defined in Section 3 of the Municipal Capital Market Expansion Act, for which interest reduction payments are provided in a contract made by the Secretary of the Treasury or his delegate under Section 4 of the Municipal Capital Market Expansion Act".

EFFECTIVE DATE

SEC. 10. This Act shall become effective ninety days following its enactment.

CALCULATION OF PUBLIC BENEFITS—PROXMIRE BILL TO EXPAND MUNICIPAL BOND MARKET

[In percent]

	Rate on taxable corporate bonds	Rate on taxable corporate bonds with 33 percent interest subsidy	Rate on tax-exempt State and local obligations	Difference between subsidized taxable rate and tax-exempt rate
Year:				
1962	4.62	3.09	3.30	0.21
1963	4.50	3.01	3.28	.27
1964	4.57	3.06	3.28	.22
1965	4.64	3.10	3.34	.24
1966	5.34	3.57	3.90	.33
1967	5.82	3.89	3.99	.10
1968	6.51	4.36	4.48	.12
1969	7.36	4.93	5.73	.83
1970	8.51	5.70	6.42	.72
Average difference 1962–70				.33

Assumptions:

1. State and local governments will issue taxable bonds at corporate bond rate.

2. The net interest payable on taxable subsidized bonds will continue to average 0.33% below interest payable on tax-exempt bonds.

3. State and local governments will issue an average of $30 billion a year in bonds over next 10 years with an average maturity of 12 years.

4. Issues are repaid in installments with an average outstanding life of 6 years.

Estimated State and local benefits:	
Average annual State and local borrowing (billion)	$30
Average interest rate savings (percent)	.33
Average number of years outstanding	6
Average annual interest saving (million)	600
Benefits to U.S. Treasury:	
Average sales of taxable municipal bonds (billion)	$30
Estimated average interest rate (percent)	8
Annual interest payments (billion)	$2.4
Increased U.S. tax revenues:	
Interest on taxable bonds (billion)	$2.4
Average tax bracket of bondholder (percent)	0.42
Increased revenue (billion)	$1.008
Cost of subsidy:	
Interest on taxable bonds (billion)	$2.4
Subsidy rate (percent)	.33
Cost of subsidy (billion	$.792
Net savings, year of issue (billion)	.216
Average year outstanding	6
Net savings over life of issue (billions)	$1.296

NET ACQUISITION OF FINANCIAL ASSETS BY SELECTED INSTITUTIONAL INVESTORS

	Commercial banks	Nonbank investors (total)	Pension funds	Life insurance companies	Savings and loan associations	Mutual savings banks
1966	$20.1	$25.8	$10.1	$8.3	$4.6	$2.8
1967	39.9	34.0	10.2	8.7	9.7	5.4
1968	44.0	35.1	11.0	9.8	9.7	4.6
1969	19.7	32.7	10.9	9.2	9.5	3.1
1970	41.9	40.7	12.2	9.4	14.3	4.8
Total	165.6	168.3	54.4	45.4	47.8	20.7
5-year average	33.1	33.6	10.8	9.0	9.5	4.1

BOSTON FED SEMINAR CONSENSUS STRESSES NEED FOR MUNICIPAL BOND MARKET REFORM

BOSTON.—Thirty leading authorities on state and local finance attending a two-day seminar at the Federal Reserve Bank of Boston agreed August 31 that the Federal government should provide state and local governments with an additional method for obtaining access to the credit markets. Although persons attending the seminar represented a great variety of organizations and had a wide range of professional backgrounds, there was general agreement that the market for municipal securities was in need of major reform. They generally agreed that the present market for municipal securities would be unable to supply the funds needed by state and local governments during periods of monetary restraint in the coming decade and that the present method of state and local borrowing created serious inequities in the Federal tax system. In addition, they were concerned that many proposals for reform might bring with them increased Federal control over the capital spending decisions of state and local governments.

Seminar participants reached the following consensus:

"The Federal Government should provide State and local governments with an additional method for obtaining access to the credit markets. Specifically, the group agrees that State and local governments should have the option of issuing fully-taxable obligations (of the character presently tax exempt under the Internal Revenue Code) with the Federal Government obligated to pay to the issuer, without any restrictions, a fixed percentage of the interest cost. This percentage should be set at a level sufficient to encourage widespread use of this option."

Although the group came to a "consensus" on this issue, individual participants made it clear that their personal views did not necessarily represent the official views of their organizations.

President Frank E. Morris of the Federal Reserve Bank of Boston, who presided over the seminar, said that he was pleased that knowledgeable authorities representing such a wide range of organizations could come to a general agreement on this major public policy issue. He expressed the hope that the ideas generated at the seminar could help state and local officials, as well as the Congress, make better judgments on proposed Federal bills dealing with municipal finance. More than a dozen such bills are now being considered by the Senate and/or the House of Representatives.

The seminar participants included the following:

Wayne Anderson, City Manager, Alexandria, Virginia.

Meg Armstrong, National Governors' Conference.

Donald Beatty, Executive Director, Municipal Finance Officers Association.

Irving Beck, Director of Interstate Relations, New England Council.

B. Alton Blackwelder, National Association of Counties.

Barry Bosworth, the Brookings Institution.

John Collins, Consulting Professor of Urban Affairs, Massachusetts Institute of Technology (former Mayor of Boston).

Robert W. Eisenmenger, Senior Vice President and Director of Research, Federal Reserve Bank of Boston.

Ronold Formes, Assistant Professor of Finance, State University of New York at Albany.

Peter Fortune, Economist, Federal Reserve Bank of Boston.

Harvey Galper, Senior Research Staff, the Urban Institute.

Richard Gabler, Senior Analyst, Advisory Commission on Intergovernmental Relations.

Peter Harkins, Executive Director, Maryland Municipal League, Inc.

Patrick Healy, Executive Vice President, National League of Cities.

Robert Huefner, Graduate Student, Harvard Business School.

Earl Mackey, Assistant Director, National Governors' Conference.

Benjamin McKeever, Assistant Council, Subcommittee on Housing, House Banking and Currency Committee.

Bruce MacLaury, President, Federal Reserve Bank of Minneapolis.

Kenneth McLean, Professional Staff Member, United States Senate Committee on Banking, Housing and Urban Affairs.

Frank Morris, President, Federal Reserve Bank of Boston.

Lawrence Naake, Western Region Representative, National Association of Counties.

David Ott, Professor of Economics, Clark University.

John Peterson, Municipal Director, Investment Bankers Association of America.

Donald Reeb, Associate Professor, State University of New York at Albany.

Edward Renshaw, Professor of Economics, State University of New York at Albany.

Sally Ronk, Economist, Drexel Firestone.

Paul Schneiderman, Economist, Board of Governors of the Federal Reserve System.

Stanley Surrey, Jeremiah Smith Jr. Professor of Law, Harvard University.

Paul Tracy, Jr., Vice President, First National City Bank.

John Thompson, Vice President, Equitable Securities, Morton & Co.

Richard Thompson, Legislative Counsel, National League of Cities and U.S. Conference of Mayors.

John Walsh, Director of Finance, City of Hartford, Connecticut.

Steven Weiss, Assistant Vice President and Economist, Federal Reserve Bank of Boston.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 76

At the request of Mr. NELSON, the Senator from Alaska (Mr. GRAVEL) was added as a consponsor of S. 76, a bill to amend the Federal Food, Drug, and Cosmetic Act, relating to food additives.

S. 1588 AND 1591

At the request of Mr. PERCY, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 1588, a bill to provide financial assistance for the construction and operation of senior citizens' community centers, and for other purposes; and S. 1591, a bill to provide certain new transportation services to elderly persons, to authorize studies and demonstration projects for the improvement of transportation services to the elderly, and for other purposes.

S. 1819

At the request of Mr. BROCK, the Senator from Nevada (Mr. BIBLE), the Senator from Florida (Mr. CHILES), the Senator from Colorado (Mr. DOMINICK) and the Senator from Illinois (Mr. PERCY) were added as cosponsors of S. 1819, a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

S. 2614

At the request of Mr. HARRIS, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 2614, the Concentrated Industries Act.

S. 2813

At the request of Mr. TOWER, the Senator from Georgia (Mr. GAMBRELL) and the Senator from Rhode Island (Mr. PASTORE) were added as cosponsors of S. 2813, a bill to amend the Vocational Rehabilitation Act to provide improved vocational rehabilitation services to individuals.

S. 2939

At his own request, Mr. TOWER was added as a cosponsor of S. 2939, a bill to establish a National Commission on Corrections.

S. 2943

At the request of Mr. HUMPHREY, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2943, a bill to designate the Department of Health, Education, and Welfare's South Building as the "Mary Switzer Memorial Building."

S. 2992

At the request of Mr. INOUYE, his name was added as a cosponsor of S. 2992, the Guam National Seashore bill.

S. 3119

At the request of Mr. CHILES, the Senator from Florida (Mr. GURNEY) was added as a cosponsor of S. 3119, a bill to designate certain lands in the Cedar Keys National Wildlife Refuge in Florida as wilderness.

S. 3120

At the request of Mr. CHILES, the Senator from Florida (Mr. GURNEY) was added as a cosponsor of S. 3120, a bill to designate certain lands in the National Key Deer Refuge, Great White Heron National Wildlife Refuge, and the Key West National Wildlife Refuge, Monroe County, Florida, as wilderness.

S. 3137

At the request of Mr. SPONG, the Senators from Rhode Island (Mr. PASTORE and Mr. PELL) were added as cosponsors of S. 3137, a bill to amend the Safe Streets Act of 1968.

S. 3152

At the request of Mr. CHILES, the Senator from California (Mr. TUNNEY) and the Senator from New Mexico (Mr. MONTOYA) were added as cosponsors of S. 3152, a bill to provide that no interest shall be payable by a person to whom an erroneous refund is made if the erroneous refund is made due to error by an officer of employee of the United States.

S. 3163

At the request of Mr. NELSON, the Senator from Oklahoma (Mr. HARRIS) and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 3163, a bill to amend the Federal Food, Drug, and Cosmetic Act, relating to food additives.

SENATE RESOLUTION 260—SUBMISSION OF A RESOLUTION RELATING TO MANAGEMENT OF NUCLEAR WASTES

(Referred to the Committee on Foreign Relations.)

RADIOACTIVE WASTE MANAGEMENT: AN INTERNATIONAL ENVIRONMENTAL CHALLENGE

Mr. PEARSON. Mr. President, recently the Chairman of the Atomic Energy Commission said the National Aeronautics and Space Administration should examine the potential cost of loading high-level radioactive wastes on space ships for transport to—and ultimate disposal upon—the surface of the sun. In an interview in the February 14, 1972, issue of U.S. News & World Report, Dr. J. R. Schlesinger of the AEC admitted that space shuttle removal of atomic wastes from man's environment is years in the future, if at all technologically or economically feasible.

Nevertheless, the fact that an official of Dr. Schlesinger's stature and station has advanced such a proposal is indicative of the incredibly complex challenge which radioactive waste management poses for the U.S. Government, and indeed, for all other nations with nuclear programs or ambitions for nuclear development.

Radioactive wastes vary widely in chemical and radiological composition, depending upon source and previous treatment. All wastes are somewhat arbitrarily classified as low-, intermediate-, and high-level in terms of activity.

This classification is based on the decontamination factor—DF—required to yield final radioisotope concentrations within the prescribed maximum levels considered safe for direct release into the environment.

Low-level wastes require a DF of no more than 10^3. Thus, wastes may be considered as low-level if they have no more than 1,000 times the level of concentration authorized for direct release. Intermediate level wastes require a DF in the range of 10^3 to 10^5. And high-level wastes are those materials which have radioactivity greater than 100,000 times the intensity considered safe for direct release into the environment.

Concentrated high-level wastes in liquid or solid form may have a DF of 10^6 or more. The incredible intensity of radioactivity in high-level wastes, combined with the long half-lives of some of the fission by-products, make them potentially lethal to man, and destructive to the environment for thousands of years.

HUTCHINSON BEDDED SALT

The AEC at this moment is seeking a site in bedded salt beneath the Kansas wheatfields for entombment of high-level waste from commercial fuel reprocessing plants. The Hutchinson bedded salt formation in central Kansas lies between groundwater aquifers which support life, and the "arbuckle" group of Cambro-Ordovician rocks containing oil, gas and salt water concentrations under intense pressure. The salt water in the arbuckle is thought to be part of an interconnected system which pervades the North American Continent.

High-level waste, if buried in the salt, must be isolated from these aquifers for thousands of years. Any penetration of the burial ground, from above or below, by man or the forces of nature, could result in irrevocable damage to the environment. Citizens of my State, quite understandably, have become concerned about the difficulties associated with isolation of high-level wastes in perpetuity.

The AEC proposed initially that a "Federal Repository" for the containment of commercial high-level wastes be established near Lyons, Kans., in a salt mine once operated by the Carey Co. The developments which have followed this proposal are a microcosm of the overall problems associated with high-level waste management.

After submission of the environmental impact statement on the proposed Lyons Repository site in June 1971, it became increasingly clear that AEC had failed adequately to consult with the Kansas scientific community, and that the proposed project raised serious questions relating to health and safety.

Despite unanswered questions on the environmental consequences of the Lyons proposal, the AEC requested authority to purchase land immediately for installation of the repository. One AEC official justified this request as necessary to insure development of the repository "as quickly as possible."

Because of the unanswered questions, Senator Dole and I offered an amendment to the 1972 AEC authorization bill which would limit AEC to a 3-year leasehold on the Carey property. Our amendment also required that final action on establishing the site be postponed until complete safety could be affirmed by an independent advisory council. This modification was necessary, in our judgment, despite resounding assurances from AEC that "technical problems" could be worked out once the repository was in being.

The Congress adopted the Pearson-Dole amendment in substance. This action was vindicated when the AEC, in a pronounced reversal of position, announced on September 30, 1971, a halt to further development of the Lyons site. An investigation of extensive hydrofracturing, or solution mining, conducted in the immediate vicinity by the American Salt Co. revealed despite earlier assurances by the AEC that the Carey mine is an unacceptable repository for high-level radioactive wastes. The AEC has begun the tortuous search for an alternate location.

An initial study of several alternate areas—all within Kansas—has been completed by the State Geological Survey, and forwarded to the AEC.

Mr. President, I have been assured by the AEC that the Agency will not limit to Kansas its search for an appropriate Federal Repository location. The entire continental United States, I am informed, will be scanned in an effort to obtain the safest possible geological conditions for permanent burial of commercial nuclear wastes.

INITIAL FEDERAL REPOSITORY LIMITED TO COMMERCIAL WASTES

Mr. President, the proposed Federal Repository would be established to receive, and permanently seal off from the environment, all high-level wastes generated in this century through the U.S. commercial exploitation of atomic energy. Most of the waste would be generated by nuclear fuel reprocessing plants. Ultimately, the AEC estimates that 5,000,000 gallons of wastes which have been solidified would be committed to this particular repository.

It is difficult to estimate accurately the level of radioactivity which this accumulation could approach by the year 2000. It is probable, however, that radioactivity would exceed 2 billion curies. As a means of reference, one AEC official has been quoted as saying that 10 billion gallons of water are required to dilute a single curie of strontium-90 to the level current guidelines establish as safe in drinking water.

If the high-level radioactive waste generated by 20th century American commercial applications of atomic energy were the only radioactive materials requiring perpetual containment, the environmental challenge would be exacting—but perhaps manageable. Those 5,000,000 gallons of solidified waste slated for burial at the Federal Repository, however, represent only a small fraction of the total international radioactive waste management problem. I believe it will be useful to review the worldwide accumulation of high-level waste, and project that accumulation into the foreseeable future. One cannot fully comprehend the environmental hazard this accumulation poses without viewing the problem in its totality.

THE WORLDWIDE WASTE ACCUMULATION

The Atomic Energy Commission, in the development of the U.S. nuclear weapons program and in research and development on peaceful uses of atomic energy, has already generated about 40 million gallons of concentrated high-level radioactive waste. This accumulation is wholly separate and distinct from the projected high-level waste accumulation of private enterprise. Thus the AEC has on hand—at the present time—an accumulation of high-level, concentrated waste that is probably eight times greater than that accumulation projected for burial at the first Federal Repository.

Because of the prohibitive cost of packaging and transporting this AEC accumulation, now in temporary storage at various AEC facilities, the Agency is reviewing the feasibility of in situ burial in bedrock formations deep beneath the surface of the earth.

Although we cannot know, it must be assumed the Soviet Union has generated a comparable quantity of radioactive wastes in the development of its weapons and reactor programs. I understand from AEC sources that the Russians are experimenting with the disposal of wastes in deep wells.

West Germany has been experimenting with the burial of intermediate level wastes in "dome" salt formations. The AEC considers dome salt less acceptable than bedded salt. Dome formations are "moving geologically" as intense subterranean pressures thrust the salt upward toward the surface of the earth. Dome salt similar to that in Germany is found in Arizona and a few other locations in the continental United States.

The French nuclear development program has generated about 2 million gallons of concentrated high-level waste. This material is currently stored in tanks near the surface of the earth. The British have accumulated 500 thousand gallons, but have no present plans for permanent isolation of this waste from man's environment.

The following nations has each accumulated less than 1,000 gallons of high-level waste material from pilot nuclear fuel reprocessing plants: India, Italy, Spain, Brazil, and Japan.

The Euratom organization, a European cooperative effort to develop the peaceful uses of atomic energy, has on hand approximately 1 million gallons of concentrated high-level wastes.

Thus, throughout the world outside mainland China there are today in existence perhaps 83,500,000 gallons of highly concentrated, extraordinarily long-lived high-level radioactive waste materials from the development of both weapons and commercial reactor technology. All of this material is in temporary storage, with the possible exception of an unspecified amount under Soviet control which has been deposited in undisclosed, deep geological formations on an experimental basis.

This worldwide accumulation of deadly radioactive material has no economic utility, and scientists do not envision any practical use for this incredible concentration of energy in the foreseeable future. The consensus of the world scientific community is that today's stockpile of high-level wastes, along with all future accumulations, must be stored indefinitely in total isolation from the environment.

WASTE MANAGEMENT PROBLEM DEMANDS INTERNATIONAL ATTENTION

All of the development of atomic energy throughout the remainder of this century, in all probability, will not generate an additional accumulation of high-level wastes equal to that accumulation now in temporary storage. Therefore, the problem of managing radioactive wastes is an immediate one. The Atomic Energy Commission, along with its Soviet, French, and British counterparts, must develop absolutely safe procedures for the management of considerable quantities of on-hand waste. And all nations who hope to enlist nuclear energy for peaceful purposes must develop orderly procedures for the containment and perpetual isolation of all future high-level waste accumulations.

Mr. President, the management of radioactive wastes is an unparalleled environmental challenge. Those nations which develop atomic energy have an immediate responsibility to their countrymen to insure that waste-management procedures are wholly safe. But the responsibility does not end when contemporary protection from radioactive hazards is accomplished.

Those countries whose citizens engage in the development of atomic energy have a profound responsibility to all humanity to insure that future generations are not threatened. Decisions made by governments today, in dealing with the management of high-level waste material, will affect profoundly the world environment for centuries, indeed for millennia, to come.

The problem is truly one of international significance. All humanity has a vested interest in the proper disposition of radioactive waste.

THE PRECEDENT FOR COOPERATION

Mr. President, it is a tribute to the good sense of the world community that, in the short span of years since atomic energy has been harnessed for peaceful purposes, there has emerged a degree of international cooperation in dealing with nuclear problems that transcend local or regional considerations. International cooperation in the development of nuclear technology is reflected by the increase in membership of the International Atomic Energy Agency, from 58 nations in 1957, to 102 in 1971.

The 15th IAEA Conference was held in Vienna, Austria, in September 1971. Commissioner James T. Ramey, of the U.S. Atomic Energy Commission, made the following statement before the Program, Technical, and Budget Committee:

> We also heartily endorse the plan of the Agency to have a group of consultants review the possible establishment of an international waste storage site for high-level and alpha wastes. Waste treatment, disposal and storage is a problem which is assuming ever-increasing importance and urgency . . . It seems to us that a cooperative international effort toward practical steps to help resolve this matter deserve careful consideration.

I am deeply gratified that the IAEA budget for this year includes funds for a responsible study of nuclear waste management, and for possible international cooperation in dealing with the problem.

The European Nuclear Energy Agency—ENEA—is a specialized agency of OECD, and has 16 member nations. The United States serves as an associate ENEA member. At its April 30, 1970, meeting, the ENEA Steering Committee for Nuclear Energy concluded that a review should be undertaken of policies and practices of radioactive waste management in Western Europe, both currently and in relation to the increased scope of problems which could be foreseen. A group of highly qualified specialists was chosen in a personal, rather than representative capacity, to carry out this review.

The ENEA Report on Radioactive Waste Management Policies in Western Europe was promulgated September 29, 1971.

Suffice it to say that ENEA foresees a significant growth in the commercial application of atomic energy throughout the remainder of this century. According to a report published in 1970 by Foratom on the future of reprocessing in Europe, 6,500 tons and 10,000 tons of nuclear fuel will be reprocessed in 1980 and 1988, respectively, compared to less than 2,000 tons in 1970. For the year 2000 and beyond, it should be assumed that approximately 35,000 tons of fuel will be reprocessed annually in Western Europe alone.

The problem of high-level waste management in Western Europe, the United States and the Soviet Union—from the peaceful exploitation of the atom—will increasingly become more complex as time passes. A few less developed countries may follow the lead of India and Brazil in developing a nuclear fuel reprocessing capability. Most LDC's, at the very least, will seek to establish reactor sites for power generation and other purposes.

Contributions from the LDC's to the worldwide accumulation of high-level wastes will not approach those of the advanced countries. Nevertheless, all countries which establish reactor sites will contribute to the problem, for fuel cells from all reactors must be reprocessed, either incountry or at some regional location.

ENEA is making an effort to regionalize, within Western Europe, the site-selection for burial of high-level wastes. But these efforts are in their infancy.

NEED FOR INTERNATIONAL AGREEMENT IN WASTE MANAGEMENT

There is no international agreement which prohibits or limits the disposal of high-level wastes in the ocean or atmosphere. There is no international agreement in existence which would provide for controlled proliferation of repository sites. There are no international standards which guide or regulate the selection of repository sites. There are no mandatory reporting procedures imposed upon atomic powers for the disposition of wastes. Voluntary cooperation has been excellent among most countries, but voluntary cooperation clearly will not be adequate to deal with the growing pressures of ever-increasing waste accumulations in the coming years.

Mr. President, I share completely the view expressed by the distinguished chairman of the Joint Atomic Energy Committee (Mr. PASTORE), on February 2, 1972, on the floor of the Senate. The distinguished Senator from Rhode Island observed:

> One of the big concerns of atomic energy is, "What do you do about the disposal of waste?" . . . You have to have international agreements, because this is an international problem.

AN INTERNATIONAL APPROACH TO WASTE MANAGEMENT

I am today announcing several proposed initiatives to facilitate international cooperation in the disposal of radioactive waste. These initiatives, if embraced by the Congress and the executive branch, and if accepted in good faith by the world community, would result in uniformly acceptable procedures for the containment of the radioactive hazard. These initiatives are designed to accomplish at least the following objectives:

First. To promote the development of an awareness among the leaders and citizenry of all the world of the extraordinary environmental challenge posed by the containment of high-level wastes.

Second. To enlist the assistance of concerned environmentalists from throughout the world scientific community in drafting proposed international agreements to deal with the growing waste management problem.

Third. To facilitate the selection under international auspices of the most acceptable sites, from a demographic, geologic, and tectonic standpoint, for the ultimate containment and isolation of all high-level radioactive wastes.

Fourth. To encourage the identification, on a worldwide basis, of the precise geographic locations of all repositories used for the disposal of radioactive waste materials.

Fifth. To initiate an international, cooperative research and development effort into all problems associated with the management of radioactive waste.

U.N. CONFERENCE ON THE HUMAN ENVIRONMENT

Mr. President, I propose that the United States include, as an agenda item of the 1972 U.N. Conference on the Human Environment, the international problem of high level radioactive waste management.

This Conference will be held in Stockholm, Sweden, June 5 to 16, 1972. Representatives of the governments of most U.N. member states are expected to attend. A total 1,500 delegates is anticipated. In addition, there will be 200 participants from the U.N. Secretariat Staff, and about 1,000 press representatives. U.N. member nations will meet in Stockholm to focus world opinion on the urgent physical and social problems caused by technology, industrialization, and population pressures. The Conference will be action oriented; it is hoped the Conference will result in draft-international agreements dealing with major environmental problems.

I have today written to the Honorable Maurice Strong, the U.N. Under Secretary General for Environmental Affairs, who has been designated Secretary General of the Conference. I have urged Mr. Strong to insure that international attention at the Conference is focused on radioactive waste disposal procedures and problems.

I have written the distinguished Senator from Tennessee (Mr. BAKER), chairman of the Secretary's Advisory Committee on the 1972 U.N. Conference on the Human Environment, to request that Senator BAKER's committee formally propose to the Secretary of State that radioactive waste management be the subject of appropriate study and action at the Conference.

I have also written Secretary of State

Rogers urging that his personal attention be directed to the profound environmental consequences of improper management on the part of any nation of high-level radioactive wastes.

Dedicated scientists and international civil servants of the ENEA and IAEA, along with informed Members of Congress and officials of the AEC, recognize—and have publicly stated—that international cooperation is indispensable if the world environment is to be protected fully from haphazard treatment of the waste management problem. If the 1972 U.N. Conference on the Human Environment were to focus attention on this problem, surely the position of these knowledgeable spokesmen would be strengthened.

I believe it wholly appropriate, therefore, for the United States to assume a leadership role in securing adequate Conference consideration of this profoundly significant international environmental issue.

SENATE RESOLUTION TO CONVENE AN INTERNATIONAL CONFERENCE ON THE MANAGEMENT OF NUCLEAR WASTE

Mr. President, the second initiative I announce today is the introduction of a Senate Resolution relating to the convening of an international conference to consider matters involving the management of nuclear waste.

I propose that the President invite the governments of foreign countries to participate with the Government of the United States in an international conference called for the specific purpose of negotiating and preparing a treaty relating to this urgent international problem.

Not only should an international conference on radioactive waste management deal with the perpetual isolation from the human environment of high-level waste, but it also should deal with disposal of low-level and intermediate-level waste.

I believe a treaty dealing with radioactive waste management should focus on the cumulative effect of low- and intermediate-level waste disposal within the human environment, as well as the containment and isolation of high-level wastes from the human environment. There should be a reporting requirement, at the very least, imposed upon all atomic powers, with respect to the disposal of all generated atomic waste materials, regardless of the level of radioactivity.

I sincerely hope the Senate Committee on Foreign Relations, of which I am a member, will consider this Senate resolution. There is no doubt that a greater understanding of radioactive waste management is needed in the United States. I believe that hearings before the Committee on Foreign Relations would convince most responsible observers that a treaty on this worldwide environmental problem is needed. I am convinced the President should proceed promptly to initiate an international conference relating to the environmental challenge of radioactive waste management.

Mr. President, the Senate last week ratified a treaty restricting the use of sea beds as repositories for nuclear weaponry. This treaty is a responsible initiative, and a step toward protecting the world from nuclear holocaust. Is it not equally appropriate to consider a treaty restricting the use of the sea beds as repositories for radioactive wastes? The United States, I understand, voluntarily has terminated the ocean dumping of low-level wastes. I understand ENEA has serious reservations about continuing its policy of ocean dumping. But there is no assurance that other countries, without international agreement and better understanding will voluntarily restrict ocean dumping in the interest of the environment.

I urge my colleagues to study carefully the resolution which I have today introduced. I urge my colleagues, the members of the press and the public, to consider the frightful prospect of unregulated international disposal of radioactive waste materials.

BILATERAL AGREEMENTS FOR REPOSITORY SITE SELECTION AND MONITORING

Mr. President, I propose finally that the AEC suspend all further efforts excepting research to establish a Federal repository in Kansas until geological, tectonic, and demographic conditions in cooperating countries throughout the world can be reviewed for possible repository siting.

If sites overseas could be found to provide greater environmental security, the United States should enter into bilateral negotiations with the host countries for the establishment of joint-use high-level waste repositories. Bilateral negotiations of this nature, of course, should be completely consistent with all international efforts—on a broader scale—to establish criteria for, and promote the regulation of waste management.

There is a possibility that cooperation between the United States and a foreign power for the establishment and monitoring of a joint-use repository could be achieved. The United States, of course, should be willing to compensate any foreign nation adequately for the use of its territory and facilities in radioactive waste management.

High-level wastes should not be committed to the Hutchinson salt formation, or any other domestic location, if more acceptable sites can be found abroad. All atomic powers should suspend current efforts to establish waste repositories, until such time as an adequate worldwide survey has been completed to determine the safest possible sites for perpetual waste management. The transcending environmental considerations involved demonstrate that all humanity has a stake in the disposal of high-level wastes under the safest possible conditions.

CONCLUSION

Mr. President, the central Kansas bedded salt formations lie between strata which contain immense quantities of water. They lie beneath populated regions of the American heartland, in one of the most favorable areas for human food production on this continent. Oil and gas deposits in the area have been exploited for decades, and will continue to be exploited indefinitely.

It is almost self-evident that conditions for the perpetual isolation of wastes would be safer if bedded salt—or other geologically acceptable formations—could be found in regions with less hydrological activity, less petroleum and natural gas exploitation, and less people.

Therefore, I believe in the interests of environmental security in the millennium to come, that the AEC and other national specialized agencies charged with the management problem, should be required literally to search the world for the most ideal conditions for perpetual containment of intensely radioactive wastes. There is no justification, from an environmental standpoint, to limit site selection to the territories of the nuclear powers.

I believe the initiatives which I have proposed today could be the foundation for the successful international regulation of hazardous radioactive materials.

Mr. President, I ask unanimous consent that a statement prepared by Senator Baker, together with my resolution, be printed at this point in the Record.

There being no objection, the statement and resolution were ordered to be printed in the Record, as follows:

STATEMENT BY SENATOR BAKER

Mr. President, I commend the distinguished Senator from Kansas on his thoughtful and constructive statement. The question of nuclear waste is clearly a matter of enormous importance, not solely to the people of Kansas but to the international community as a whole.

As Chairman of the Secretary of State's Advisory Committee on the United Nations Conference on the Human Environment, I offer Senator Pearson my personal assurance that I will bring this important and pressing problem to the attention of my committee. I would hope that the issue will be addressed at the Conference itself in Stockholm in June.

In any event, Senator Pearson has done us all a service by emphasizing so forcefully the international ramifications of nuclear waste disposal.

S. RES. 260

Resolved, That (a) it is the sense of the Senate that the President should invite the governments of foreign countries to convene, with the Government of the United States, a conference to appoint a commission to undertake a worldwide feasibility study to recommend sites to the conference to serve as repositories for nuclear wastes. Any site recommended by the commission should be safe for the long-term storage of nuclear wastes until such time as those wastes are harmless to the environment and should be acceptable for use as a repository site for such wastes by the country in which the site is located.

(b) It is further the sense of the Senate that, upon completion of the study and receipt of the commission's recommendations, the conference should negotiate and prepare a treaty for ratification or accession of all countries in which sites are to be located, and with countries desiring to use such sites, which would include, but not be limited to—

(1) procedures for transporting nuclear wastes to any such site, methods of storage at the site, and compensation for the use of such site; and

(2) the designation or establishment of an international agency to administer any such site in cooperation with the government in which the site is located.

Mr. PASTORE. Mr. President, the distinguished Senator from Kansas has aptly characterized the problem of radioactive waste management as being an international problem, and I support his statesman-like efforts to initiate international discussions and dialog which can hopefully lead to international agreements on the methods to store or otherwise manage these wastes safely and practically. I therefore endorse the actions which *he proposed*—to include the problem as an agenda item on the 1972 U.N. Conference on Human Environment to be held in Stockholm, Sweden, in June of this year, and to convene an international conference on the subject to lay the groundwork for agreements or treaties among the nuclear nations of the world on this important subject.

Efforts have been underway for some time, both to develop the information necessary to an understanding of the problem, and to explore feasible and safe solutions. The International Atomic Energy Agency for a number of years now has conducted conferences on disposal of atomic wastes. The United States is a member of that Agency and has contributed substantially in terms of financial support as well as technical effort.

I must, however, point out that development of international agreements takes time. Our own efforts to solve these problems cannot and should not stop, pending the negotiation of these agreements.

I note that the Senator from Kansas has recognized this. Although he proposes that all future AEC efforts to establish a repository in Kansas be suspended until the international aspects of repository siting can be reviewed, he also recognizes U.S. research and development in the area could be continued.

The need for such continued development efforts cannot be overemphasized. The research and development effort of the AEC should be recognized as being more than a laboratory experimentation.

Mr. President, I suggest that any resolution passed by this body clearly and specifically recognize the need for the continuation of extensive research and development work.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 232

At the request of Mr. Chiles, the Senator from Nevada (Mr. Bible) was added as a cosponsor of Senate Resolution 232, expressing the sense of the Senate that the remainder of the amount appropriated for the rural electrification program for fiscal 1972 be immediately released by the Office of Management and Budget.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE CONCURRENT RESOLUTION 55

At the request of Mr. Hollings, the Senator from Indiana (Mr. Bayh) was added as a cosponsor of Senate Concurrent Resolution 55, relating to the recognition of Bangladesh as an independent foreign country.

EDUCATION AMENDMENTS OF 1972—AMENDMENTS

AMENDMENTS NOS. 910 AND 911

(Ordered to be printed and to lie on the table.)

Mr. ERVIN (for himself, Mr. Baker, Mr. Bennett, Mr. Brock, Mr. Byrd of Virginia, Mr. Eastland, Mr. Ellender, Mr. Gambrell, Mr. Gurney, Mr. Hollings, Mr. Jordan of North Carolina, Mr. Long, Mr. McClellan, Mr. Sparkman, Mr. Stennis, Mr. Talmadge, Mr. Thurmond, and Mr. Tower) submitted two amendments intended to be proposed by them jointly to the committee amendment offered as a substitute for the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

AMENDMENT NO. 915

(Ordered to be printed and to lie on the table.)

Mr. GRIFFIN submitted an amendment intended to be proposed by him to the committee amendment in the nature of a substitute for the House amendment to S. 659, supra.

OCEAN MAMMAL PROTECTION ACT—AMENDMENT

AMENDMENT NO. 913

(Ordered to be printed and referred to the Committee on Commerce.)

WE SHOULD STOP THE KILLING OF DOLPHINS AND OTHER OCEAN MAMMALS

Mr. HUMPHREY. Mr. President, last week I submitted to the Senate Subcommittee on Oceans and Atmospheres an amendment to S. 2579, the ocean mamal protection bill which would bring an immediate halt to the senseless killing of dolphins, as well as all other ocean mammals. I also presented a statement as testimony for the subcommittee's hearings on the bill, describing the situation that prompted me to offer this amendment.

In my written testimony I singled out one group of ocean mammals for our immediate attention: the dolphins, one of the world's most highly developed creatures. Literally hundreds of thousands of dolphins and porpoises are being killed each year needlessly. This kind of senseless killing offers no particular financial gain, but it does ignore the important contributions which these mammals make to nature and to science. Moreover, were the dolphins to become extinct, we would be taking a step backward in our attempt to establish a more humane world.

My amendment would provide the necessary safeguards to stave off the rapid extinction of the dolphins and the other ocean mammals threatened with extinction. It would:

First, prohibit commercial fishing techniques which could kill or injure ocean mammals.

Second, require the executive branch to take the necessary steps to help the fishing industry make the required adjustments to protect ocean mammals.

Third, call upon the President to prohibit the importation of fish or fish products which are taken by techniques determined to be hazardous to ocean mammals.

Fourth, call upon the Secretary of State to enter immediately into negotiations for international arrangements on this question. The first step would be to prepare a draft agenda on the protection of ocean mammals for the U.N. Conference on the Human Environment, scheduled for this June in Stockholm.

Mr. President, the ocean mammal protection bill has won the attention of a large segment of the American public. What these people want is what I should think we all would want: to put a stop to the present killing of ocean mammals. In this regard, I ask unanimous consent, Mr. President, that a number of articles be printed at this point in the Record.

These articles point up the extent of the devastation wrought by man and the need to stop it right away. We are witnessing the gradual disappearance of all species of ocean mammals. If we fail to act now, we will have no one but ourselves to blame. The loss will be manifold.

Mr. President, I ask also that my amendment and the accompanying statement I submitted to the Subcommittee on Oceans and Atmospheres be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From Sports Illustrated, Feb. 14, 1972]

SCORECARD

(Edited by Robert W. Creamer)

MARINE DEVASTATION

In one area of the eastern Pacific Ocean in 1970 an estimated quarter of a million dolphins died after being trapped in vast nets set out by commercial tuna fishermen. The fishermen welcome the lively marine mammals, which help drive the tuna into the nets. Too bad if a thousand or so are killed when a huge net is hauled in, but what are you gonna do? The slaughter is incidental and almost casual. And it continues. Legislation introduced in Congress to halt or alter the practice is repeatedly undercut; the tuna industry is a vigorous lobbyer.

But what a pointless and disgraceful waste of a potentially invaluable animal. Dolphins have repeatedly demonstrated that they have exceptional intelligence, a natural friendliness toward man and an amazing aptitude for learning. Beyond their aid to man in fishing, they have shown that they can be trained for a variety of other uses and the U.S. Department of Defense has made extensive studies of the possibilities. The Soviet Union places such a high value on them that it has banned their killing or capture.

Killing them to catch tuna is as foolish as cutting down apple trees to pick apples. As Lewis Regenstein wrote in an illuminating report on the problem in *The Miami Herald*, "Because of the limitations of human intelligence, man may never perceive the real nature, the true significance, of these unique creatures that he is so needlessly destroying."

[From Newsweek, Sept. 6, 1971]

PITY THE POOR PORPOISE

Down through the centuries, man has either erased or pushed to the brink of extinction a number of species, notably the passenger pigeon, whooping crane, blue whale and the American bison. Now, in his quest for the tasty yellowfin tuna, man is placing a disastrously heavy strain on three different species of small porpoises whose misfortune it is to travel the ocean currents with the big silvery fish.

Every year, using modern nylon nets and power winches, U.S. tuna fleets operating out of West Coast ports catch about 45,000 tons of tuna. Unfortunately, they also inadvertently net large numbers of spinner, spotter and white-belly porpoises along with the tuna; as many as 250,000 of these highly intelligent, legendarily entertaining mammals die in the process. Moreover, no one knows just how many more porpoises drown in the nets of French, Japanese, Spanish, Mexican and Peruvian tuna boats plying other waters, but the figure may well surpass that of the U.S. kill.

PONGO

Tuna fishermen discovered long ago that porpoises and yellowfin tuna are inseparable companions as they travel the oceans, perhaps because they both feed on the same types of small fish. Whenever a tuna boat spots a pack of porpoises and tuna, it immediately dispatches a crew on a "pongo"—a 16-foot fiber-glass craft propelled by a 105-horsepower outboard motor. Like a sheepdog turning in sheep, the fishermen use the pongo to drive the porpoises into a tight circle. And wherever the porpoises go, the tuna are sure to follow.

A second skiff, called a cork tender, follows the pongo and plays out the cork line that holds up the nylon net. Once the tuna boat has its net (typically 70 fathoms deep and 2,400 feet long) around the fish, the crew turns on a powerful winch and begins to pull the enveloping string tight. And it is usually at this point that the porpoises panic—and begin to die.

ESCAPE

The tuna fishermen bear no malice toward the porpoises and, in fact, many make a considerable effort to save the creatures from drowning inside the nets. It is not at all unusual for fishermen to jump into the water and help struggling porpoises to escape. Some captains also execute a maneuver called "backing down," in which the tension on the far end of the net is momentarily released, allowing it to sink a few feet under the weight of the trapped tuna. If the porpoises are at the far end of the net area, the dropped barrier permits some of them to escape. But the melancholy fact is that no one has yet developed an acceptable way of separating the mammals from the fish, once both are caught up in the net.

Next week, a Congressional subcommittee will conduct hearings on legislation designed to protect ocean mammals, such as the three species of porpoises. One proposed bill would completely bar the killing of any and all sea mammals. But another, to be introduced by California Rep. Glenn M. Anderson, would allow the killing of marine mammals "if the harassment, hunting, capturing or killing is incidental to commercial fishing operations." Interestingly enough, Anderson's Congressional district includes the port of Los Angeles—where many tuna boats are based.

[From the Washington Post, April 8, 1971]

Pet Food Use Poses Threat to Porpoises

Los Angeles, April 17 (UPI).—Porpoises, the good luck symbol of sailors for centuries, may face extinction because they make good dog food.

Kenneth Norris, professor of natural history at UCLA and director of the Oceanic Institute at the Makapuu Ocean Center in Hawaii, said Friday that porpoises may be used as a substitute for whale meat in cat and dog foods.

"Until recently the United States was the consumer of about a third of all whale products, mostly as pet food," Norris said. "Now that this has been banned . . . I'm afraid that the cat and dog food manufacturers will turn to the porpoises as a substitute for the whales."

[From the New York Times, June 22, 1971]

Extinction Called Peril to Porpoises

Los Angeles, (AP).—The same threat of extinction that faces the whales now also endangers porpoises, says Kenneth Norris, professor of natural history at the University of California at Los Angeles.

Professor Norris said Japanese fishermen were using huge nets to catch whole schools of porpoises at once. He fears, too, that American and other fishermen may soon get into the business of catching the sea mammals.

"Until recently the United States was the consumer of about a third of all whale products, mostly as pet food," he said. "Now that this has been banned in the U.S., I'm afraid that the cat and dog food manufacturers will turn to the porpoises as a substitute for the whales."

Professor Norris, who is director of the Oceanic Institute at the Makapuu Ocean Center in Hawaii as well, said there are about 70 species of the small-toothed whales that are called porpoises. Some of them, the killer and pilot whales, for example, are called whales but are species of porpoises.

[From the New York Times, Monday, Nov. 8, 1971]

To Kill a Cousin

Dolphins and porpoises are man's first cousins in the animal kingdom. Like human beings, they are warm-blooded and bear their children one at a time. Highly intelligent and capable of complex forms of communication, they have been called "the intellectuals of the sea."

Inadvertently and carelessly, men are engaged in the wholesale killing of these fascinating mammalian cousins. Dolphins act as skilled navigators for great schools of tuna, hunting out the smaller fish upon which both species feed. Fishermen have long known that where dolphins were sighted tuna were probably nearby. When long lines were used to catch tuna, this presented no problem.

But a dozen years ago, the tuna industry began the use of huge nylon nets, and this marvel of efficiency spells death for the dolphins for they too are gathered up in the net and apparently asphyxiated. An estimated 250,000 dolphins die each year in these traps. Once abundant, they have become a species endangered.

A House Merchant Marine and Fishery Subcommittee is now drafting a bill to protect dolphins and other mammals, including whales, otters, polar bears and sea lions. A one-year deadline should be imposed to make present industry practices illegal and a joint government-industry research program undertaken to devise tuna fishing techniques which will spare the dolphins. Man has eradicated many other species but to kill his own cousins only escalates ecological recklessness.

[From the Evening Star, Nov. 9, 1971]

The Endangered Friend

There is no animal on the face of the earth—with the possible exception of man himself—that is more universally admired by man than the dolphin. Dogs and cats have their detractors; everybody loves a dolphin.

This affection is no recent phenomenon, created by television or aquatic circuses. Admiration for the animals can be found in the writings of Aesop, 600 years before the birth of Christ. Oppian, writing in the 2nd Century A.D., called the killing of dolphins "an offense to the gods . . . as execrable as the murder of a human." For centuries, men who traveled the oceans have known the dolphin as a delightful companion who has never used his formidable teeth against man, even in self-defense. Recent studies in animal behavior and intelligence have done nothing to dim man's admiration. It is now known that dolphins can communicate verbally with one another and, to a more limited degree, with man. Their intelligence approaches that of man. Their cooperation, their willingness to learn, their gentleness clearly exceed man's.

Today the end of the long affectionate relationship between man and dolphin is in sight. Today dolphins are being killed by man at a rate that soon will push three species of the ocean mammals to the edge of extinction; the United States alone is responsible for the death of a quarter million dolphins a year. No one hunts the creatures for their flesh or their oil or their hides. The slaughter is the by-product of the yellowfin tuna catch. The dolphins are threatened with extinction because of their natural affinity for the tuna and by a recent product of man's inventive genius, the purse seine. This ingenious device can encircle an entire school of tuna. It also fences in the schools of dolphin that travel with the fish. As the seine draws tighter, the dolphins are caught, held under water and drowned.

The House subcommittee on fisheries and wildlife is now considering legislation for the protection of ocean mammals. We have previously stated our support for a controversial law that would ban the importation of all ocean mammal products into the United States. But in the matter of the dolphins, there should be no controversy. The slaughter should be halted.

American technology, which produced the purse seine, should be called upon to devise some means by which the dolphin can be excluded from its deadly grasp. Meanwhile Congress should encourage the tuna fishermen in their affection for the dolphin by setting forth—and enforcing—stiff financial penalties for the accidental killing of the gentle creatures.

It's the least we can do for a friend.

[From the Washington Post, Jan. 11, 1972]

Abused by the Tuna Fishing Industry . . . Dolphins and Porpoises Face Threat of Extinction

(By Lewis Regenstein)

Dolphins and porpoises are among the most intelligent and highly evolved of all the world's creatures. It is easy to see why these friendly and fascinating animals have captured the imagination and interest of a large segment of the American public, for they have become the subject of countless movies, television programs, and children's stories, as well as the star attractions at oceanariums. Unfortunately, they have also become the major victims of a new type of fishing technology invented and utilized by the U.S. tuna industry; and in recent years, over a million dolphins have been killed by U.S. tuna fishermen. As a result, schools of dolphins and porpoises are decreasing in size and numbers at an alarming rate; and several species of these animals may shortly be threatened with extinction.

There are about 80 different types of dolphins and porpoises, and they belong to the same biological family as the whales, the mammal order *cetacea*. These animals exhibit many equalities that we like to think of as "human": they are warm blooded, air-breathing mammals which nurse their young and usually bear a single calf every three to four years.

Man has traditionally enjoyed a friendly, cooperative relationship with dolphins; and in some areas such symbolic arrangements, celebrated in local folklore, still exist. Some aboriginal tribes living along the coastlines of Australia, New Zealand, and the Mediterranean have for generations utilized the help of dolphins to drive fish into their nets. Naturalist Tom Garrett, a wildlife consultant for Friends of the Earth, has described how tribes in the Amazon basin cultivate the friendship of fresh water dolphins to protect them against such dangers as pirania fish.

Some natives reportedly refuse to enter the water without first "calling" a friendly dolphin by knocking on the side of the boat. Moreover, the countless sea legends of dolphins saving the lives of drowning people may have some scientific basis, since these animals instinctively swim under their young and buoy them up to the surface so that they will not drown during their infancy period.

The ancient Greeks had a deep and frequently awed appreciation for dolphins. Aesop, writing some 600 years B.C., made favorable references to these animals; and Oppian, in the second century A.D., called the killing of dophins "an offense to the gods . . . as execrable as the murder of a human." Pliny the Elder has described how the Greeks used dolphins to lead them to schools of fish and then shared their catch with these friendly cetaceans. According to him, the dolphins even waited in the area until the following day, to be rewarded for their efforts with bread dipped in wine.

Aristotle has written that "this creature is remarkable for the strength of its parental affection"; and females do indeed show great concern for their young, nursing them until they are about 18 months of age. This mother-young relationship lasts for several years, and dolphins 4 to 6 years old have been known to seek out their mothers from a group when they become tired, sleepy or frightened. Adult dolphins also exhibit strong protective traits towards one another; and the killing or capture of one sends a shockwave of trauma through the entire herd.

Scientific studies of dolphins have confirmed their extraordinary intellectual capabilities. The brain of the dolphin is quite convoluted, even more so than that of man. Moreover, Colin Taylor of the Port Elizabeth. South Africa, oceanarium has studied adult dolphins teaching their young and believes that the infants learn close to 1,000 "words."

The U.S. Department of Defense has also made extensive studies of dophin intelligence, primarily for such things as locating sunken ships and in anti-submarine warfare projects. (Some dolphins even developed ulcers from the strain of learning their missions!) In one such experiment, a female dolphin, using its sonar system, has learned to differentiate between copper and aluminum plate by echo ranging.

Interestingly, the Soviet Union not only studies dolphins but has also banned the killing or capture of these animals: the Minister of Fisheries, Alexander Ishkov, calls them "marine brother to man." In urging that worldwide protection be accorded these creatures, Ishkov pointed out that "the teeth of a dolphin could turn him into a dangerous enemy. But, no dolphin has ever attacked or molested a man, even in self-defense.

Yet these fascinating creatures are rapidly being wiped out, in large part by the American tuna fishing industry. The fishing practices in U.S. tuna fleets are similar to that of the ancient Greeks in that dolphins are used to locate and follow schools of tuna. However, after leading the fishermen to the tuna, the dolphins are entrapped in the tuna nets and killed. In 1970, in one area of the Eastern Tropical Pacific, between 250,000 and 400,000 dolphins are estimated to have perished in the huge "purse-seine" tuna nets which only recently came into widespread use. These nets sometimes entrap as many as 2,000 dolphins at a time along with the yellowfin tuna with which they are usually found. After being netted, the dolphins usually swim about wildly in a desperate effort to escape. They then huddle together "singing" in one corner of the net; those that instinctively "sound" or dive to the bottom usually become ensnared in the meshing and drown. Other dolphins become so frightened that they go into a state of shock and also drown. The rest make little attempt to jump out of the nets and escape, since they will not, as a rule, abandon their infants or desert a fellow dolphin that seems to be injured or in distress. The majority of dolphins killed in this manner have been females and infants, primarily of the spiner (*Stenella longirostris*), spotter (*Stevella fraffmanis*), and common dolphin (*Delphinus delphis*) species.

The result of these tuna fishing operations has been a serious reduction in the numbers and composition of the dolphin schools, and they are becoming much harder to approach than in the past. Many scientists concerned with this problem fear that the above types of dolphin may soon face a very real danger of extinction, particularly since Mexico, France, Spain and fleets operating under the Panamanian flags are increasingly turning to purse-seine technology. Moreover, with the rapidly approaching extinction of the great whales, dolphins and porpoises may well become an economically feasible (albeit temporary) substitute source for the products of the larger whales, particularly since they are already being "harvested" in such extraordinary numbers. The Japanese, for example, have already established a dolphin "fishery" and in 1970 are estimated to have "taken some 20,000 of these animals.

The powerful tuna industry has been vigorously lobbying in Congress in an attempt to exempt itself from pending legislation which would protect ocean mammals. While claiming (without convincing evidence) that new nets and techniques have been developed which will reduce dolphin mortality, the industry has been successful in obtaining legal permission to continue their wasteful fishing methods. A marine mammal "protection" bill, originally introduced by Rep. Glenn Anderson (D-Cal), whose district includes the port of Los Angeles where most of the tuna boats are based, was reported out of Rep. John Dingell's Wildlife Conservation Subcommittee in December, 1971. The act contains provisions which give the Secretary of Commerce broad discretion to allow the tuna industry to continue killing dolphins including the use of "general" or blanket permits which may be issued to the fishermen for the "taking" of these animals. Such language was reportedly insisted upon by the Nixon Commerce administration, acting through the Commerce Department and the Republican members of the subcommittee, whose senior member Rep. Thomas Pelly (R Wash.) represents a district which includes the builders of the tuna fleets as well as many Commerce Department bureaucrats based in Seattle.

Representative David Pryor (D-Ark.) and other congressmen plan to offer strenthening amendments to this bill when it comes up for a vote this month or next. However, the Senate has not yet taken any action on the ocean mammal legislation pending before it; and Senator Ernest Hollings (D. S.C.) subcommittee of the Commerce Committee has so far refused to even schedule hearings on these bills. In the meantime, several conservation groups are threatening to launch a boycott of tuna products unless the industry takes immediate steps to solve the problem.

Because of the limitations of human intelligence, man may never perceive the real nature, the true significance, of these unique creatures that he is so needlessly destroying. A hint of this vast and untapped wealth of knowledge is contained in the writings of a Russian delphinologist, Professor Yablakov:

"Dolphin societies are extraordinarily complex, and up to 10 generations coexist at one time. If that were the case with man, Leonardo Da Vinci, Faraday, and Einstein would still be alive . . . Could not the dolphin's brain contain an amount of information, comparable in volume to the thousands of tons of books in our libraries?"

Dolphins play an integral if little understood role in the health and stability of the oceans' ecology—ecosystems that are fundamental to the survival of man's own environment. If we allow shellfish men to destroy or alienate the dolphin before we have had a chance to learn what it can teach us, then we will compound the inherent evil of human nature with a foolishness which may, in the end, hasten our own doom.

AMENDMENT No. 913

On page 3, after line 21, insert the following:

(c) (1) After the expiration of one year beginning on the date of the enactment of this Act, it shall be unlawful to use, on or in connection with any commercial fishing vessel subject to the jurisdictions of the United States, any means or methods of fishing whereby any ocean mammal could be injured or killed in the course of or incidental to commercial fishing operations.

(2) The Secretary of Interior, after consultation with the other Secretaries named in section 206, shall issue regulations to effectuate the purposes of pargaraph (1) and to reduce, and eventually eliminate, the injuring or killing of ocean mammals as a result of commercial fishing operations. Such regulations shall include prohibitions against purseseine nets and other nets and fishing techniques which have been found to be hazardous to ocean mammals.

(3) The Secretary of Interior shall assist the United States commercial fishing industry in changing over to safer fishing techniques as required by this subsection (A) by providing observers to the fleet to monitor and help suggest newer and safer nets and techniques, (B) by making grants and/or loans to United States fishing companies to help in this transition, and (C) by such other ways and means as he determines which will carry out the purposes of this subsection, but which will help the United States commercial fishing operations remain competitive with foreign fishing operations.

(4) The President shall prohibit the importation into the United States of fish or fish products if it is determined that in the taking of such fish means or method of fishing were used which have been found to be hazardous to ocean mammals.

(5) The Secretary of State shall negotiate immediately with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which are endangering ocean mammals for the purpose of entering into multi-lateral treaties with these countries to ban thhe purse-seine nets and any other nets, techniques, or devices found to be hazardous to ocean mammals. The Secretary of State shall prepare a draft agenda relating to this matter for discussion and agreement at the United Nations Conference on the Human Environment in Stockholm, Sweden, June 1972.

PROTECTION OF MARINE MAMMALS

(Statement of Senator HUBERT H. HUMPHREY)

Mr. Chairman. It is indeed a pleasure to present testimony before this distinguished Committee on the matter before you today. I commend you for holding these hearings and for your attempt to find the best way to protect what are probably the most intelligent, friendly and highly-evolved of all animals, the mammals of the sea.

All species of ocean mammals—without exception—are rapidly disappearing. Most are very depleted or are near extinction; all are experiencing slaughter and suffering at the hands of man.

I am particularly alarmed that our State

Department has for several years been negotiating in secret a convention to the Antarctic treaty which would allow signatory nations to kill 225,000 seals annually. This is the last remaining relatively untouched area in the world; it is, in the words of a New New York Times editorial of 6 February 1972, "a vast untouched observatory the world cannot afford to lose, the one continent left where man can still walk unfeared by his fellow creatures."

Our own Government is thus acquiescing in the ecological destruction of this pristine area. We have all been shocked by pictures and accounts of baby seals being clubbed to death.

Now that the seal herds of the Northern Hemisphere are on the verge of being wiped out, it is inexcusable that we are cooperating in the transfer of this slaughter to the Southern Hemiphere.

The American public has made clear its feelings; it wants us to put a stop to the present killing of ocean mammals that is taking place, and prevent future slaughter from commencing. I hope that in your deliberations over the next few weeks you will report out a strong, tough bill which will do just that.

As a co-sponsor of the Harris-Pryor Ocean Mammal Protection Act (S. 2579, the amended version of S. 1315), I urge that favorable consideration be given to this vital bill which would be a major step forward in halting the senseless killing of seals, whales, dolphins, porpoises, sea otters, polar bears, and other mammals of the sea.

This bill is co-sponsored by 26 Senators—over the one quarter of the Senate—and about 100 members of the House. It has been endorsed by all of the major newspapers in the Washington, D.C. area—The Post, The Evening Star, and The Daily News—as well as many others nationwide including the New York Times and the Louisville (Kentucky) Courier-Journal. In hearings held in September of last year before a subcommittee of the House Merchant Marine and Fisheries Committee, the Harris-Pryor Bill was strongly supported bv such prestigious conservation, humane, and environmental organization as The Fund for Animals, Friends and the Earth, The Humane Society of the United States, The Sierra Club, Friends of Animals, The Committee for Humane Legislation, The National Parks and Conservation Association, The World Federation for the Protection of Animals, The International Fund for Animal Welfare, and many other recognized and responsible groups. Such eminent scientists as Oceanographer Jacques Cousteau and anthropologist Ashley Montagu have also come out in favor of the bill. Congressman Edward Garmatz, Chairman of the Merchant Marine and Fisheries Committee, stated at his hearings that, in his 25 years in Congress, he had never before seen such public interest in an issue. Other Congressmen and Senators report that they have received literally tens of thousands of letters in support of the Ocean Mammal Protection Act, with many stating that the flood of mail has been "unprecedented."

I realize that there are other worthy bills under consideration by this subcommittee; but I hope that the final bill reported out will—at a bare minimum—contain the following provisions: (1) A ban or moratorium of at least ten years on the killing of ocean mammals, except for treaty obligations and non-wasteful native hunting; (2) A total ban on the import into this country of all ocean mammal products, thereby removing much of the economic incentive for their slaughter; (3) language instructing the Secretary of State to negotiate with other countries treaties to protect marine mammals; (4) The responsibility for protecting marine mammals given to the Department of Interior.

In the area of ocean mammal protection, there is one problem that is of such magnitude and importance that it requires special attention. This concerns the fact that literally hundreds of thousands of dolphins are being killed each year in the huge nets that have recently come into widespread use by the tuna industry. In 1970, in one area of the Eastern Pacific, between 250,000 and 400,000 dolphins are estimated to have perished in the huge "purse-seine" tuna nets. Worldwide, the annual mortality probably exceeds a million. As a result of this new technology employed by the tuna industry, several species of dolphins are rapidly approaching extinction.

This tragedy is compounded by the fact that dolphins are justly noted for their extraordinary intelligence, their love for each other, and their seeming friendliness towards man. Dolphins in captivity have been taught extremely complex tasks, and some have even learned to mimic the human voice.

The legendary episodes of dolphins saving the lives of drowning swimmers or sailors may in fact have some scientific basis, since these animals instinctively swim under their young and buoy them to the surface so that they will not drown during their infance. The ancient Greeks had a deep appreciation for dolphins; and after using them to locate schools of fish, they would share their catch with these friendly and cooperative cetaceans.

The scientific value of dolphins is inestimable, and we have much to learn from these fascinating creatures. The dolphins that are frequently seen swimming just ahead of the bow of a ship are actually "hitching a ride" on the ship's forward compression wave, much as a surfer's board is carried along by a wave. The brain of the dolphin is quite convoluted, even more so than that of man. Studies of adult dolphins teaching their young indicate that the infants learn close to 1,000 "words". The U.S. Department of Defense has made extensive studies of dolphin behavior, and these have confirmed their extraordinary intellectual capabilities. In one experiment, a female dolphin, using its sonar system, has learned to differentiate between copper and aluminum plates by echo ranging. This is the phenomenon by which dolphins emit ultrasonic, high-pitched sounds for navigating under water and locating food. By moving its head from side to side, it can locate objects long distances away by means of the returning "echo". One dolphin used in experiments by Navy would willingly allow itself to have suction cups placed over its eyes, after which it could still swim easily about without bumping into obstacles. Another trained dolphin was used by the Naval aquanauts, who spent several weeks at the bottom of the sea, to carry materials and supplies to and from the surface.

Because of the limitations of human intelligence, man may never perceive the real nature, the true significance, of these unique creatures that he is so needlessly destroying. But a hint of this vast and untapped wealth of knowledge is contained in the writings of a Russian delphinologist, Professor Yablakov:

"Dolphin societies are extraordinarily complex, and up to ten generations coexist at one time. If that were the case with man, Leonardo Da Vinci, Faraday, and Einstein would still be alive. . . . Could not the dolphin's brain contain an amount of information comparable in volume to the thousands of tons of books in our libraries?"

Dolphins play an integral if little understood role in the health and stability of the oceans' ecology—ecosystems that are fundamental to the survival of man's own environment.

If we allow selfish men to destroy or alienate the dolphin before we have had a chance to learn what it can teach us, then we will compound the inherent evil of human nature with a foolishness which may, in the end, hasten our own doom.

I am therefore offering an amendment to S. 2579 which is intended to specifically address and hopefully solve this problem. My amendment would set stringent guidelines on the use of tuna nets that can be used and provide strict prohibitions against the killing of dolphins after a reasonable period of time, The cost of changing over to new nets and fishing methods and the funding for the necessary research would be borne entirely by the Federal Government so as not to cause any economic hardship for our tuna fishermen.

At the same time, in order that the U.S. tuna fleet not be put at a disadvantage with foreign competitors, imports of tuna from countries which use destructive fishing techniques would be banned.

My amendment also calls upon the State Department to negotiate with other tuna fishing nations a ban on the use of nets which are injurious to dolphins. Furthermore, the U.S. delegation to the June 1972 United Nations Conference on the Environment to be held in Stockholm would be instructed to seek an end to the killing of all cetaceans—whales, dolphins, porpoises. Most of the larger cetaceans are at or nearing extinction; and it is no exaggeration to say that this may be one of our last chances to save these unique and extremely valuable creatures.

It is imperative that we deal with the dolphin problem in a meaningful way, particularly since the House Merchant Marine and Fisheries Committee has reported out a marine mammal bill which does not adequately deal with this situation or provide sufficient protection to the dolphins. This bill, H.R. 10420, contains a provision which allows the Secretary of Commerce to issue blanket (or "general") permits to the tuna fishermen for the continued killing of unlimited numbers of dolphins which occurs "incidental" to tuna netting operations. It is therefore up to the Senate to correct the shortcomings in this legislation and make the final bill agreed upon by Congress an effective one.

I realize that this committee is under strong pressure to allow exemptions, however, there is no species of ocean mammal that has captured the imagination and interest of the American public as has the dolphin. It has become the subject of countless movies, television programs, and children's stories; the prime attraction at oceanariums; and even the symbol of a championship football team, the Miami dolphins. Editorials in the New York Times, the Washington Post, the Washington Evening Star, and the Miami Herald have made moving and eloquent pleas that Congress save the dolphins from the massive slaughter they are now facing. I would like to enclose for the record these and other articles as an indication of the extent of public concern with this problem.

Gentlemen, we can no longer plead innocence. Reassuring language and lip service to the principles of conservation will no longer suffice. If we fail in this endeavor to stop the killing of the dolphins before it is too late to save them, we will have to answer not only to our own constituents but future generations as well.

MILITARY PROCUREMENT AUTHORIZATIONS, 1973—AMENDMENT

AMENDMENT NO. 914

(Ordered to be printed and referred to the Committee on Armed Services.)

TO HALT INDUCTIONS

Mr. HATFIELD. Mr. President, I send to the desk an amendment to the Military

Procurement Act of 1972 and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

Mr. President, last year the Selective Service Act expired and the Congress debated its extension for 5 months, finally deciding to extend the President's authority to induct men into the Armed Forces for 2 more years. During the debate in the Senate we heard dire predictions of the consequences if this authority were not granted the President—consequences of a grave nature, threatening our Nation's security and the security of our allies. Once the President had regained the draft authority, 10,800 men were drafted during the last 3 months of the year. Secretary Laird has announced that there will not be any draft calls during the first 3 months of this year, leaving the 3 months remaining in fiscal year 1972 in doubt as well. Consequently, in submitting this amendment, I will not examine the moral, political, or foreign policy aspects of the draft. Rather, I will focus only on the general question of manpower for our active duty forces and examine other aspects of the issue at a later date.

The President's fiscal year 1973 budget projects a requirement for 26,700 inductions in fiscal year 1972, indicating that perhaps as many as 15,900 men remain to be drafted during the months of April, May, and June.

There is reason to suspect, however, that draft calls for these 3 months of this fiscal year will be significantly lower than projected in the budget, and the strong possibility that there will not be any at all. One of the reasons for this assertion is the announcement by the Selective Service that the 10,000 men who were served induction notices at the beginning of the year were having those orders rescinded and would not be drafted.

Be that as it may, the Defense Department indicates that a shortfall of 160,000 could have been expected in fiscal year 1972 if the draft did not exist during that time. Of these, 26,700 would have been draftees, and it must be assumed that the remainder would have been draft induced volunteers—men who would not have enlisted in the military had it not been for the threat of being inducted. The most current data indicate that 30 percent of the men entering the Armed Forces between July and December 1971 were draft induced. Prior to that time, the ratio varied between approximately 45 and 35 percent. This figure, 30 percent, is probably decreasing as time progresses.

The pay increases which were passed by Congress last year is one of the reasons. Another reason is the decreasing manpower requirements in our Armed Forces due to lower total force levels, as well as the decreasing need of men to fight in Southeast Asia. A fourth reason is the policy changes within the Department of Defense are geared to attract volunteers. Indication of this progress is the lack of draft calls during the first 3 months of this calendar year and the rescinding of the induction orders for 10,000 men earlier this month.

Nevertheless, assuming the Defense Department's projected shortfall of 160,000 for fiscal 1972—this assumes a 70 percent true volunteer ratio for the remainder of the fiscal year—with a total accession requirement of 485,000 to maintain our active strength levels, 325,000 men can be said to have entered the Armed Forces during this fiscal year without, or inspite of, the threat of the draft. This means that our total end strength for the year would be approximately 2,231,800 rather than the projected 2,391,800.

In spite of the dubious nature of some of the assumptions within these projections, it cannot be forcefully argued that our security would be jeopardized at all if we had "only" 2.23 million men in our Armed Forces. Nor can it be argued that the quality of our forces would subvert our security, because we do not depend on the draft, either directly or indirectly, through threat of induction, to provide the more vital skills and talent to maintain our complex weapons systems.

Men are drafted for only 2 years and cannot be adequately trained or acquire the necessary experience in this short period of time to adequately perform in a job of this nature. This would be generally true for draft induced volunteers, as well. The security of our country and our national defense is not dependent upon 160,000 draftees and draft induced volunteers who are enlisted for between 18 months and 4 years. This is all the more poignantly clear in view of our decreasing military role on the ground in Southeast Asia.

Consequently, Mr. President, the Congress could well have refused to extend the President's authority to induct men into the Armed Forces last year and not jeopardize our national security. Most of this shortfall would have occurred in the Army in that virtually all of the inductees over the past quarter century have bene drafted into the Army and most of the draft induced volunteers look to the branch which has the shortest tours of duty, the Army.

Looking at these figures more closely, however, would lead one to view these projections rather skeptically. The Defense Department projects that during this fiscal year, 388,000 will voluntarily enlist, none of whom are draft motivated. It further projects that roughly 190,000 men will reenlist during fiscal year 1972. These two combined equal 578,000 truly voluntary accessions during this fiscal year out of a total requirement of 485,000. This data would indicate that there would be 93,000 men volunteering to enter the Armed Forces who would have to be turned down even if there were no draft or threat of draft. Even more interesting is the fact that 10,800 men were drafted during the second quarter. Therefore, we will have to turn down perhaps as many as 103,000 qualified volunteers. On the basis of this data, Secretary Laird's announcement of no inductions during the third quarter and the rescinding of induction notices by Selective Service are easily understandable.

Mr. President, I would like to repeat this for the record. If this body had decided not to extend the President's authority to induct men into the Armed Forces, we may well have experienced 93,000 more volunteers than needed during fiscal year 1972. And because of the draft, we may well be turning away volunteers this fiscal year.

This data points up another aspect of the entire question of manpower recruitment methods. Last year during the draft debate, I occasionally referred to the numbers game being played. At times there were five different sets of data dealing with the same question, all of them leading to different conclusions. I hesitate to accuse any agency of intentionally creating confusion by such tactics. I prefer, rather, to think that it is more a question of method, namely, using different mathematical models and formulas involving varying assumptions which render different and sometimes contradictory results. It is a problem of consistency, or the lack thereof, more than anything else. Consequently, we find ourselves, as we do today, with an anticipated overflow for fiscal year 1972, assuming no draft, of 93,000, or a shortfall of 160,000—a variance of 253,000.

Because of my views on this issue, I would prefer to believe the overflow figure of 93,000. But whatever the choice one chooses to make on this, 253,000 man spectrum, it is perfectly clear that without a draft during fiscal year 1972, our Armed Forces would have maintained adequate strength and our security would not have been jeopardized.

Let us now turn to fiscal year 1973. The end strength for this next fiscal year is 2.358 million men. The Defense Department tells us that if the draft were suspended at the end of fiscal year 1972, it would be expected that a shortfall of perhaps as many as 150,000 would result, although they admit that this would be a highly pessimistic projection. Nevertheless, this would mean that our end strength would be approximately 2.208 million men at the end of fiscal year 1973. Again, as I stated earlier, these shortfalls would occur mostly in the noncritical areas in the Army where our end strengths for fiscal year 1973 would be roughly 691,000 in contrast to the aimed for 841,000.

Our experience with the fiscal year 1972 data, can shed another light on this matter. One approach would be to assume the 253,000 variance that we experienced with the 1972 data. This would mean that we might anticipate 103,000 more volunteers than we need during the next fiscal year—150,000 most skeptical shortfall minus the 253,000 variance. Or we might consider the fact that the Defense Department anticipates roughly 210,000 reenlistments during fiscal year 1973. We could merely combine them with the true volunteer figure of fiscal year 1972—388,000—which would be an assumption on the very low side, considering, among other things the fact that the pay raises were in effect for only one half of that year, and we come up with 598,000 voluntary accessions during fiscal year 1973—or 48,000 more volunteers than needed. The Defense Department tells us that approximately 550,000 accessions will be required during fiscal year 1973.

Consequently, we come up with the

parameters for fiscal year 1973 of a shortfall of 150,000 to 103,000 overflow of volunteers—a 253,000 man variance. Yet, I contend that whatever the variance and the 103,000 seems more likely to me, our security would not be jeopardized in any way if the draft did not exist during fiscal year 1973.

Mr. President, there are other aspects of this question which need to be fully examined and articulated before an informed judgment on the amendment I am introducing today can be made. These areas will be the subject of subsequent statements on the floor within the next few weeks. The remarks I have made today, however, form the general outline of the reasoning behind my introducing legislation today to stop the draft at the end of fiscal year 1972, June 30, 1972.

I would like to make one final comment. The sole source of the data used in examining the manpower question in the statement I have made today is contained in a letter from the Defense Department which I received in response to an inquiry made earlier this year. The assistance I have received and the rapid response from the Department of Defense is highly laudatory and deeply appreciated.

Mr. President, I ask unanimous consent that amendment No. 914 to the Military Procurement Authorizations Act of 1973 be printed at this point in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

On page 6, after line 20, add the following new section:

Sec. 502. Section 17(c) of the Military Selective Service Act is amended by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1972".

Mr. President, I ask unanimous consent that the Department's letter be printed in the Record at the conclusion of my remarks.

There being no objection, the letter and amendment were ordered to be printed in the Record, as follows:

Assistant Secretary of Defense,
Washington, D.C., February 7, 1972.

Hon. Mark O. Hatfield,
U.S. Senate,
Washington, D.C.

Dear Senator Hatfield: This is in response to your letter of January 14, 1972, which requests information concerning military personnel accessions, reenlistments, and strengths.

1. Inductions each month during the last year—1971:

Calendar year 1971 inductions by month
(In thousands)

January	20.8
February	19.6
March	13.6
April	9.7
May	12.3
June	8.0
July	0
August	0
September	0
October	.6
November	7.7
December	2.5

2. Total number of inductions for 1972, fiscal year and calendar year:

The Services' manpower programs submitted with the President's Fiscal Year 1973 budget project a requirement for 26,700 inductions in Fiscal Year 1972 and 30,900 inductions in calendar year 1972. These estimates are tentative and assume that we have good response to the recent improvement in military/civilian pay relationships and the Services' intensified recruiting efforts.

3. End Strengths for end FY 1972 and FY 1973:

The end strengths projected in the President's FY 1973 budget are, in thousands:

Year	Total DOD	Army	Navy	Marine Corps	Air Force
1972	2,391.8	861.2	602.2	198.0	730.4
1973	2,358.0	841.2	601.7	198.0	717.2

4. Total volunteer enlistments for Fiscal Year, 1971, by month for Fiscal Year 1972, using the most recent information:

NONPRIOR SERVICE MALE CHARGEABLE ENLISTMENTS BY SERVICE FISCAL YEAR 1971, FISCAL YEAR 1972 MONTHLY

[In thousands]

	Total	Army	Navy	Marine Corps	Air Force
Fiscal year 1971 total	367.1	146.0	75.5	54.6	91.0
Fiscal year 1972:					
July 1971	35.0	13.3	8.1	5.0	8.6
August 1971	38.9	14.4	10.1	5.2	9.3
September 1971	38.3	16.3	7.9	4.9	9.2
October 1971	30.7	10.4	7.6	4.2	8.5
November 1971	25.5	9.6	6.1	3.5	6.3
December 1971	25.3	12.1	4.5	3.2	5.5

5. Total enlistments, for each month in FY 1972:

Actual data for the past six months are shown above. Planning estimates for the balance of FY 1972 are as follows.

PROJECTED NPS MALE ENLISTMENTS BY SERVICE BY MONTH, JANUARY–JUNE 1972

	Total DOD	Army	Navy	Marine Corps	Air Force
January 1972	35.1	14.5	9.7	4.7	6.2
February	32.5	14.6	9.0	4.3	4.6
March	30.2	14.6	7.0	4.1	4.5
April	27.8	12.6	6.6	4.0	4.6
May	27.7	10.7	7.0	4.1	5.9
June	41.0	20.1	9.0	5.2	6.7

6. Total enlistments into the Combat Arms for fiscal year 1972 by month, (most recent to date):

Army has reported the following number of combat arms enlistments in Fiscal Year 1972:

July	3,687
August	3,643
September	3,883
October	1,911
November	2,333
December	3,072

7. Fiscal years 1972 and 1973 total requirements for the combat arms:

Army currently estimates the FY 1972 requirement for combat arms at 66,000. This total is above previous estimates because of the need to replace personnel separated early as a result of the reprogramming caused by the 50,000 manyear reduction imposed by the Congress. Firm FY 73 estimates are not available at this time because of the uncertain effects of early release policies occasioned by the Congressional manyear ceiling. The FY 1973 requirements are likely to be somewhat lower than FY 1972.

8. Total accessions for the Department of Defense for FY 1972 and FY 1973.

Total Active and Reserve Components requirements for new non-prior service male and female officer and enlisted personnel are estimated to be about 660,000-665,000 in both FY 1972 (485,000 Active and 175,000 Reserve) and FY 1973 (550,000 Active and 115,000 Reserve).

9. Anticipated shortfalls for FY 1972 and 1973 if the draft is suspended.

We are not certain as to the extent of the shortfalls that could be expected in FY 1972 and FY 1973 if the draft were to be suspended. Our analysis of enlistments from July-December 1971 when the total draft was only 10,000 reveals that about 70% of the enlistees who entered were true volunteers and about 30% were draft motivated. If this proportion continued through the end of June 1972 about 160,000 men will have entered enlisted ranks in Fiscal Year 1972 either because they were drafted or because they were motivated by the draft. The Reserve Forces report they are currently falling behind in their recruiting efforts and a suspension of the draft would aggravate an already serious condition.

Our estimate for FY 1973, based on a suspension of the draft, assumes that no draft-motivated enlistees would enter Service. In this case shortfalls could be as high as 150,000. This however, is probably the worst case. With continuance of the draft authority and low draft calls, some draft motivated enlistees would enter Service. It is still too early to determine the number of additional enlistments which will result from the pay raise which was effective November 15, 1971. A number of actions, in addition to pay, were begun in FY 1972 to increase Service attractiveness and recruiting capability in order to move to a volunteer force. The full effect of these actions is not yet known. A better forecast of recruiting potential in the absence of the draft under present pay and other incentives, can be made after the results of the good recruiting months, June-September, are available. On the basis of evidence to date the draft and draft motivated enlistments will continue to be needed through the FY 1973 time period.

10. Reenlistments in fiscal years 1971, 1972 and 1973:

The total number of regular and inductee reenlistment actions reported for fiscal year 1971 was 205,000. Preliminary projections are for 190,000 in FY 1972 and 210,000 in FY 1973.

11. Number of Blacks enlisting and reenlisting for FY '71, '72 and '73:

The number of Non-Caucasian enlistees (about 90% of whom are Black) in FY 1971 for the Active Forces was 45,900.

The number of Blacks who reenlisted in FY 1971 was 26,200.

We estimate that the FY 1972 and FY 1973 totals will be at approximately the same level for both enlistments and reenlistments.

Sincerely,

Robert C. Taber,
Lieutenant General, U.S. Army, Acting Assistant Secretary of Defense (Manpower and Reserve Affairs).

NOTICE OF HEARINGS ON EFFECTS OF CORPORATE GIANTISM AND CORPORATE SECRECY ON RURAL AND SMALL-TOWN AMERICA

Mr. NELSON. Mr. President, the Subcommittee on Monopoly of the Select Committee on Small Business, on March 1 and 2, 1972, will continue its hearings on the role of giant corporations in the American and world economies. The hearings will be in room 318 of the Old Senate Office Building and will begin at 10 a.m. each day. These hearings will be the third and fourth sessions of part 3 of the corporate giantism study, which is currently examining corporate secrecy. In part 3, the subcommittee is considering the role of giant corporations in farming, and the effects on small business, small towns, and the family farm of corporate giantism and corporate secrecy in agriculture.

On March 1, the subcommittee will receive testimony from Dr. Walter R. Goldschmidt, professor of anthropology, University of California at Los Angeles; Dr. Philip M. Raup, professor of agricultural economics, University of Minnesota; Dr. Eugene A. Wilkening, professor of rural sociology, The University of Wisconsin; and Mr. Richard D. Rodefeld, instructor in sociology, Michigan State University.

On March 2, the subcommittee will receive testimony from witnesses representing the National Coalition for Land Reform—NCLR—San Francisco; the National Council of Agricultural Employers—NCAE—Washington; and the National Federation of Independent Business—NFIB—San Mateo, Calif. The NCLR's testimony will be presented by its general counsel, Mr. Sheldon Greene. Mr. Richard V. Thornton, executive vice president, will present the statement of NCAE. The NFIB's testimony will be presented by Mr. Ed Wimmer, vice president, public relations.

The testimony on both days will be focused primarily on the economic, social, and cultural effects in small-town and rural America, of the activities of large, diversified and integrated corporations in farming.

Those who have been especially interested in this subject will recall that Professor Goldschmidt, in the mid-1940's, made a famous study of two rural towns in California, Arvin and Dinuba. One town, Arvin, was surrounded by large and predominantly industrial farms, the others, Dinuba, by much smaller and predominantly family farms. The object of the study was to measure, quantitatively and qualitatively, the economic, social and cultural attributes of the two towns and to ascertain whether any differences that might be found were related to the differences in the types of farms that surrounded the two communities. The conclusion of the study, in a nutshell, was that Dinuba was much the superior town in all respects, and its superiority was related to the type of farming that formed its economic base.

Not surprisingly, the study was a subject of controversy both during its making and after its results were written. In fact, the Goldschmidt report became "too hot to handle" in the view of the very agency that had commissioned it, the Bureau of Agricultural Economics of the U.S. Department of Agriculture. The BAE decided not to publish it; however, a copy was obtained by the Senate Special Committee To Study Problems of American Small Business, predecessor to the present Select Committee on Small Business. Senator James E. Murray of Montana, chairman of the committee, determined to publish the report and it duly appeared on December 23, 1946, under the title "Small Business and the Community: A Study in Central Valley of California on Effects of Scale of Farm Operations," Senate Committee Print No. 13, 79th Congress, second session.

Dr. Goldschmidt's report remains to this day a fascinating, much-read, much-discussed, important—and still controversial—document.

At the hearing on March 1, Professor Goldschmidt will share with the Subcommittee on Monopoly his reminiscences of the making and reporting of the Arvin-Dinuba study. Then, with the other three witnesses, all of whom have admired and used his report, he will make suggestions for retesting, augmenting and updating the significant findings and conclusions it contains.

The witnesses on March 2 will also be discussing the effects—the social and economic benefits and costs—of corporate giantism and corporate secrecy on small-town and rural America. However, they will speak from the perspective of the members of their organizations today, rather than from the perspective of an anthropologist's study completed more than a quarter of a century ago.

ANNOUNCEMENT OF HEARINGS ON S. 1819, AN AMENDMENT TO THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 (PUBLIC LAW 91-646)

Mr. CHILES. Mr. President, on February 24, the Subcommittee on Intergovernmental Relations, Committee on Government Operations, will hold a hearing on S. 1819, a bill introduced earlier this session by Senators BAKER and BROCK to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Under present law, the Federal Government would continue to pay 100 percent of the first $25,000 of any single payment required by the act only until July 1, 1972. After that date, unless the act is amended, the States would be required to share relocation costs on a matching funds basis, sharing relocation costs with the Federal Government on the same basis that other project costs are shared.

It is the purpose of S. 1819 to extend indefinitely the period in which the Federal Government would pay 100 percent of the first $25,000.

The hearing will be held in room 3302, New Senate Office Building, beginning at 10 a.m.

Any Member of Congress or other person wishing to file a statement with respect to the proposed legislation should notify Mrs. Lucinda T. Dennis, chief clerk of the subcommittee. She can be reached by calling 225-4718.

ANNOUNCEMENT OF HEARINGS BY SUBCOMMITTEE ON AGING

Mr. EAGLETON. Mr. President, a major responsibility of the Subcommittee on Aging of the Committee on Labor and Public Welfare in the coming months will be the development of legislation to extend or supplant the Older Americans Act, which expires on June 30, 1972. To this end, I wish to announce that hearings on the Older Americans Act will begin on March 1, 1972, in Kansas City, Mo. We expect to continue these hearings in Washington thereafter on a date that will be announced as soon as possible.

In the last session of Congress, the Subcommittee on Aging conducted hearings on several bills to coordinate and greatly expand research activities in the field of aging. Leading scientists in this field are confident that great progress could be made if our research efforts were expanded and improved. In this connection, I ask unanimous consent that an article that appeared in the New York Times of October 24, 1971, by Walter Sullivan, a distinguished science writer, be inserted in the RECORD at the conclusion of my remarks.

The subcommittee was unfortunately unable at our earlier hearings to obtain the testimony of a number of distinguished authorities in this field, many of whom are located on the west coast. For this reason, the subcommittee will conduct additional hearings on this subject in San Francisco and Los Angeles on March 3 and March 4, respectively. The ranking majority member of the subcommittee, the distinguished senior Senator from California (Mr. CRANSTON) has graciously agreed to act as chairman for the purpose of conducting these hearings.

Bills to be considered at the California hearings are S. 887 (Mr. EAGLETON), S. 1925 (Mr. WILLIAMS), and S. 2934 (Mr. MOSS). The March 3 hearing will be in the board of supervisors hearing room at McAllister and Polk Streets in San Francisco and the March 4 hearing will be in the West Los Angeles Federal Building, 13320 Wilshire Boulevard.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ETERNAL QUEST FOR ETERNAL YOUTH

(By Walter Sullivan)

To be beloved of a goddess is not always a fate to be desired. Tithonus, in Greek mythology, was sought after by Aurora, goddess of the Dawn, who persuaded Jupiter to make him immortal. However, she neglected to specify that he should also remain young. Tithonus became gray. His limbs weakened until he could no longer move and the goddess shut him into his room, from which his feeble cries could be heard. Finally, tiring of this, she turned him into a grasshopper.

Today an ever larger proportion of Americans share the problems, if not the final fate, of Tithonus. They live longer, but the added years are little enjoyed. Thus about 10 per cent of Americans are now older than 65—and 86 per cent of them suffer from one or more chronic diseases. Two out of every three dollars spent on Federal health care go to support them.

Because of this financial burden, because of this increasing body of human misery, and because of dramatic advances in understanding of the life process, the study of aging is rapidly moving to the forefront of medical research. Next week, at the meeting of the Gerontological Society in Houston, a number of remarkable discoveries in the field will be discussed. Next month a White House conference on aging will attack some of the broader social aspects of the problem.

The recent discoveries have emboldened researchers to predict that some control over aging will be possible within five or 10 years—or at least by the end of this century. It is already possible greatly to increase the lifespan of some experimental animals by reducing food intake, by lowering body temperature or by introducing various chemicals into the diet. Some even believe the ravages of time can ultimately be reversed by reaching into the cells of the body and reactivating genetic machinery that has lain dormant.

Such an "elixir of youth" is beyond the horizon, It is only a possibility if certain theories are correct. And it is spoken of in whispers because monkey glands, potency pills and the other tools of rejuvenation quacks have given the whole subject a bad name.

Not all forms of life are mortal. Amoebas and many other one-celled organisms that reproduce by dividing do so indefinitely as long as the environment and nutrition are adequate.

The only fully-developed human cells that live on indefinitely seem to be those that have taken on a form that appears cancerous. It has been shown by Dr. Leonard Hayflick of Stanford University and others that a fixed lifetime is built into individual human cells as well as into complete human beings.

The cells, when removed from the body, apparently "know" the age of their parent body. Those from an embryonic lung subdivide about 50 times before dying. Those from an adult lung do so only some 20 times. Dr. Hayflick has warmed up more than 100 batches of such cells, kept in a deep freeze for a number of years, and the cells "remembered" how old they were when frozen.

At the University of Washington, cells were taken from the arms of 100 subjects, ranging from prenatal age to 90 and the number of subdivisions in laboratory culture fell off systematically according to the age of donor. From such experiments it is evident that the key to aging is hidden in every cell.

There is evidence to suggest that aging is—or can be—controlled by some specific part of a person's genetic inheritance (a so-called gene). Dr. William Reichel at Franklin Square Hospital in Baltimore has been studying two rare and insidious human disorders (they may, actually, be identical) that produce symptoms of accelerated aging. In one, known as progeria, aging is so rapid that by eight years a child may be bald with wrinkled skin, weakened bones and heart disease. Such children die of "old age" by about age 11.

Their cells, cultured by the University of Washington group, rarely doubled in number more than a couple of times, indicating a strong inborn aging factor. In the other disorder, Werner's syndrome, death comes later, at about 40, and this disease, according to Dr. Reichel, seems clearly to be inherited as a single gene. This, he recently told Medical World News, indicates that a single enzyme is the cause, the implication being that such a cause should be subject to chemical correction with drugs.

There are other indications that an aging factor can be inherited. Dr. James F. Danielli, now at the State University of New York in Buffalo, discovered accidentally that his cultures of "immortal" amoebas sometimes acquired an aging factor as part of their genetic makeup when subjected to stress. Some or all of their descendants ultimately died.

Dr. Nathan W. Shock, head of the Gerontology Research Center of the National Institutes of Health in Baltimore, and dean of American researchers in the field, wrote recently: "Much work must still be done before we can alter the basic genetic program for aging in man." Nevertheless, he said, as predicted by some geneticists, "such an alteration might result in the doubling or tripling of the human life span."

Interviews with a number of researchers in this country and abroad have disclosed, among others, the following lines of attack on the aging problem:

Free radicals. Some believe that substances known as free radicals cause aging within the cells. A free radical is a partly dismembered molecule so "anxious" to recombine that it tends to react with anything near by. Free radicals can be produced, for example, by radiation. They cause butter to become rancid. Substances known as antioxidants are used to neutralize their effects as an aid to food preservation.

Dr. Denham Harman at the University of Nebraska in Omaha has been feeding antioxidants to mice. In some mouse strains the average lifespan has increased 45 per cent, but as in modern medical practice, the maximum lifespan has not risen noticeably.

Dr. Harman believes free radicals perform an essential function within those energy-processing units of cells known as mitochondria. He thinks radicals leak out of the mitochondria and attack other substances, producing permanent damage, within the cell. The "clock" that controls aging resides in the mitochondria, he believes. It runs faster in mice than in men and so, although the hearts of mice and men beat about the same number of times in an average life, the "engine" of the mouse runs faster and dies sooner.

Cross-linking. As rubber, leather, human skin and blood vessel walls become older they lose their elasticity. This is attributed to a process known as cross-linking. The original elasticity is provided by elongated fibers of collagen, a basic building material of the body. But as time passes, chemical cross-links are formed between these fibers, reducing their elasticity.

During a mysterious sheep epidemic in the West it was found that the animals had been eating a form of wild tea that broke such cross-links until the sheep almost literally fell apart. A certain amount of cross-linkage is essential.

Chemicals that break these links, such as the one in the wild tea, have been tried in efforts to extend animal lifetimes without disintegrating their bodies. The results so far are inconclusive.

Autoimmunity. A number of diseases of advancing years, such as arthritis, are thought to result from autoimmune reactions—those in which the body's chemical defenders turn on parts of one's own body, failing to distinguish friend from foe. Some believe that not only does the ability to muster these antibody defenders decline with age, but so does the efficiency of that system in making such distinctions.

The spleen is a major source of cells that produce the defenders. In experiments at Oak Ridge National Laboratory in Tennessee, spleens have been extirpated from specially bred mice that normally die of cancer within two years. If the spleens are removed at 1.5 years the life expectancy is doubled.

Low protein diet. In the 1930's it was noticed that rats kept hungry lived longer and many investigators have pursued this clue. Dr. Morris H. Ross of the Institute for Cancer Research in Philadelphia has found that limited protein intake plays a role in this respect as well as in the onset of cancer. Last week Dr. Robert A. Good of the University of Minnesota also reported that rats, mice and Australian aborigines on low protein diets show strong resistance to cancer. However, the food intake apparently must be restricted enough to slow growth and must be maintained throughout life. This would make it unattractive to human beings.

Copying errors. It is suspected by many that as life proceeds, errors accumulate in the composition of molecules controlling cell function. The nucleic acids, notably DNA, are the central archive. Enzymes help carry the messages, repair damaged nucleic acids and perform other roles.

In 1963 Dr. Leslie E. Orgel of the Salk Institute in La Jolla, Calif., suggested that errors accumulate in the system of nucleic acids and enzymes until there is an "error catastrophe" which manifests itself in aging. He and many others are exploring such possibilities.

Dr. Bernard L. Strehler of the University of Southern California points out that, if the cell continues to harbor, in hidden and suppressed form, the genetic instructions that originally made it function properly, some way may be found to reactivate those instructions. This could make it possible to turn back the years and, he said last week, "there is a remote possibility of something like that."

The dean of British researchers in this field, Dr. Alex Comfort at the University of London, notes that the rate of aging in human beings can now be measured, over a span of only a few years, by observing changes in such things as skin flexibility, percentage of white hairs, heart and lung function. He is therefore pressing for early tests of various diets, even though the basic cause of aging is still uncertain.

This might not have much effect on maximum lifespan, but it could, he thinks, substantially lengthen the years of health and vigor. Once the secret of aging itself has been resolved, however, a major social and economic upheaval will be in prospect. The effects will range from new efforts to control population growth to revision of insurance, retirement and pension plans.

At least some progress toward control of aging is to be expected in our lifetime, and Dr. Comfort said recently, "We should get used to the idea."

ADDITIONAL STATEMENTS

NOTABLE LINCOLN QUOTATIONS

Mr. ALLEN. Mr. President, the annual Lincoln Day observance has come and gone. However, the memory of the life of Lincoln is kept fresh and alive, as though sustained by lifegiving waters of a sparkling mountain spring. The books on his life and anthologies of his writings provide us with a continuous source of refreshment and inspiration.

Mr. President, a former neighbor and a dear personal friend, Mrs. Marene Monroe, has compiled a list of notable Lincoln quotations, some of which articulate certain aspects of the conservative philosophy. Some few of these quotations were recently published in the Birmingham News. I believe that Mrs. Monroe has brought together an impressive list of Lincoln quotations that may be read and pondered with profit by Senators and the public.

I ask unanimous consent that the quotations be printed in the RECORD.

There being no objection, the quotations were ordered to be printed in the RECORD, as follows:

LINCOLN'S WORDS STILL GOOD ADVICE

As we approach the birthday of Abraham Lincoln, our 16th president, on Feb. 12, in these days of "Let-me-do-it-for-you society," I would like to recall some of his valuable statements:

"You cannot bring about prosperity by discouraging thrift."

"You cannot strengthen the weak by weakening the strong."

"You cannot help small men by tearing down big men."

"You cannot help the poor by destroying the rich."

"You cannot lift the wage earner by pulling down the wage payer."

"You cannot keep out of trouble by spending more than your income."

"You cannot further the brotherhood of men by inciting class hatred."

"You cannot establish sound security on borrowed money."

"You cannot build character and courage by taking away a man's initiative and independence."

"You cannot help men permanently by doing for them what they could and should do for themselves."

Remember, "No one ever got lost walking on a straight path."

OCEAN MAMMALS PROTECTION ACT

Mr. MATHIAS. Mr. President, because of the importance of the Ocean Mammals Protection Act now under consideration by the Senate Commerce Committee, I ask unanimous consent that my testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

OCEAN MAMMALS PROTECTION ACT

Mr. Chairman, members of the Commerce Committee, I wish to thank you for this opportunity to share my thoughts with you on the vital legislation currently before you.

The Senator from Oklahoma has introduced the Ocean Mammals Protection Act of 1971, a bill to protect seals, walruses, sea lions, polar bears, and other like mammals from being pursued, harassed, killed, and exterminated. I take great pride in cosponsoring this legislation which I believe is exemplary in its goals and worthy of the support of every Member of Congress.

It is a somber reflection of the estranged soul of man that it is necessary for this Government to enact a law prohibiting the cruel, unwarranted slaughter of any of God's creatures. Yet, we approach that duty today because we see that citizens of this Nation continue to condone, and even encourage, the mass destruction of ocean mammals. In its most blatant form, this conscious act of extermination continues because certain entrepreneurs know that there is money to be made in the selling of seal skins to persons who enjoy wearing expensive, ornamental accoutrements. To supply the mercantile market as many as 2,500 seals may be clubbed and skinned in a single day's outing on the northern Pacific Pribiloff Islands. At the same time the delicate ecological balance amongst the species has been seriously impaired. The harbor seal population has declined by four-fifths of its number, the blue whale by one-hundredth of its number, and the polar bear is almost extinct.

The Pribiloff Island natives employed in these annual summer-long hunts do not kill the ocean mammals for purposes of enjoyment or sport. They do so in the belief that it is the only available means of deriving food and shelter for their families and themselves. The Ocean Mammals Protection Act provides these natives with an alternative life style which will meet their economic needs.

The act establishes the islands as a National Seal Rookery Preserve and Bird Sanctuary, and it directs the Department of the Interior to train and hire the natives who remain on the island as rangers and guides. The act also establishes an appointed Commission to "help in the transfer of the Pribiloff Islands from a place of killing into a preserve, to help promote tourism, and to develop an economy on the islands for the Aleuts to take the place of their participation in the slaughter of the seals."

The brutality that is currently perpetrated against the mammals of the ocean is a rank violation of the covenant of preservation which exists between man and his surrounding world, his total environment. We have lately rediscovered that covenant because it has become apparent that through our careless abrogation of this law of nature we have allowed our land, our water, and our air to be poisoned. It is quite possible that had we been more aware of this natural responsibility in the past, we would not be so endangered at present by pervasive pollution.

That covenant and natural responsibility, however, exists fundamentally upon a moral basis, and it extends to all things and all living creatures. We step beyond our natural bounds if we kill for any other reason than to protect ourselves and to provide for our sustenance.

This act presents alternative livelihoods for those persons currently engaged in the great mammal hunts, and it presents the opportunity for this Nation to adopt a visibly humane purpose. Further, it presents a challenge to all of us to preserve an essential part of our environment, a segment of the animal kingdom that is steadily disappearing. I urge my fellow Senators to act promptly and favorably in support of this legislation.

B'NAI B'RITH SENIOR CITIZENS HOUSING PROGRAM

Mr. SCOTT. Mr. President, two very encouraging actions—one by a private organization and one by the Government—have brought hope to some of the world's ill-housed. On February 12, the B'nai B'rith announced a speedup of its senior citizens housing program, which provides for low-rent units in nonprofit and nonsectarian projects constructed with Government-insured mortgage loans. And on February 16, the Department of State's Agency for International Development guaranteed a $50 million loan to build 11,000 homes in Israel primarily for Jewish immigrants from the Soviet Union.

I am pleased to note that the B'nai B'rith housing program already includes a fully occupied project in Wilkes-Barre, Pa., with another one under construction in Allentown. Other projects are already on the drawing boards for Harrisburg, Philadelphia, and nearby Cherry Hill, N.J. David M. Blumberg, B'nai B'rith's new president, said that—

> Decent low-cost housing is an imperative for the elderly.

I am delighted to learn of this outstanding program, and I intend to encourage more of the same by other groups in the private sector.

The Israeli loan guarantee is one about which I am tremendously gratified to learn. During the foreign aid bill's markup before my Foreign Relations Committee last October, I worked very closely with the State Department to assure that the bill contained necessary funds for the worldwide housing guarantee program. At one point, the level had been pushed down to $130 million, but the conference moved it back up to $205 million. The higher figure virtually assured the $50 million loan guarantee which was just announced. To date, it is the largest guarantee ever granted by the Agency for International Development. I remain hopeful that it will not be the last.

MANIFESTO FOR THE ELDERLY POOR

Mr. CHURCH. Mr. President, the OEO Older Persons Advisory Committee has issued a far-reaching manifesto to bring the elderly poor into the mainstream of our society.

In many respects, their comprehensive action program is a powerful reaffirmation of many proposals advanced by the Senate Committee on Aging, of which I am chairman. For example, this 20-member panel called for:

Major increases in social security benefits;

Cost-of-living adjustments to make these benefits inflation-proof;

Provision for general revenue financing for a portion of the social security program;

Relief for overwhelmed aged homeowners and tenants whose incomes are at or below the poverty line; and

Establishment of special emphasis programs to provide full and part-time employment opportunities for older Americans.

Additionally, this manifesto provides further compelling arguments for my Social Security-Welfare Reform proposal, S. 1645, to end poverty for the elderly. Today 4.7 million older Americans fall below the poverty threshold. Another 1.8 million are considered marginally poor. Even more disturbing, the number of aged poor has actually increased by 100,000 during the past 2 years.

My proposal, however, could abolish poverty for the elderly once and for all. First, it would provide for across-the-board increases in social security benefits which would average about 12 percent. But these raises would be weighted to provide larger percentage increases for persons who now receive low payments. For instance, a person with monthly lifetime earnings between $150 and $200 would be entitled of a 21-percent boost in benefits. Second, my bill would raise the minimum monthly benefit from $70.40 to $120 for persons with long periods of covered employment. Third, S. 1645 would abolish old age assistance and replace it with a new income supplement program with an income standard sufficient to end poverty for the aged. Finally, my bill would authorize cost-of-living adjustments for the social security and the new income supplement programs.

The urgent need for comprehensive and prompt action was expressed very forcefully and eloquently by the Advisory Committee when it said:

> No longer must American aged live in hunger, suffer from lack of health care, exist in dilapidated housing, and remain isolated and hidden from the mainstream of American life. Many elderly—poor and rich—are robbed of their dignity as human beings by a now-oriented society which too easily forgets the contributions—past and present—of its aged population.

Mr. President, I commend the "Manifesto for the Elderly Poor" to the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the manifesto was ordered to be printed in the RECORD, as follows:

OFFICE OF ECONOMIC OPPORTUNITY,
Washington, D.C. November 4, 1971.

Mr. TONY KUBEK,
Chairman, Older Persons Advisory Committee, Office of Economic Opportunity, Washington, D.C.

DEAR MR. KUBEK: I am pleased to acknowledge receipt of your report, entitled *A Manifesto For The Elderly Poor*, which was submitted pursant to Executive Order #11007 authorizing the establishment of Advisory Committees to assist Agency heads in receiving the advice and counsel of distinguished citizens outside the Federal Government.

As you know, the Executive Order requires that "no committee shall be utilized for functions not solely advisory" and that "determinations of action to be taken with respect to matters upon which an advisory committee advises or recommends shall be made solely by officers or employees of the Government".

I am grateful for the thoughtful work reflected in your recommendations and, by this letter, am authorizing its contents to be reproduced in sufficient quantity that it may receive the consideration of appropriate Government officials.

With best wishes, I am,

Sincerely,

PHILLIP V. SANCHEZ,
Acting Director.

MANIFESTO FOR THE ELDERLY POOR

The Older Persons Advisory Committee is a group of 20 citizens serving in a voluntary capacity as advisors to the Director of the Office of Economic Opportunity. We assist him in carrying out the responsibility given him by the Economic Opportunity Act, namely, ". . . to achieve a coordinated national approach to the elderly poor."

Because all members of the committee are also delegates to the 1971 White House Conference on Aging, we are fulfilling two responsibilities in presenting this "Manifesto for the Elderly Poor."

The manifesto represents our beliefs and recommendations and not necessarily those of the Office of Economic Opportunity.

Mr. Tony Kubek (Chairman), Wausau, Wisconsin.

Mr. Albert Abrams, Albany, New York.

Col. Cruz Alvarez, Mesilla, New Mexico.

Mr. Chester Blubaugh, Lebanon, Indiana.

Mr. Orin Crump, Sandy, Utah.

Mr. John Hickey, Buffalo, New York.

Mrs. Mary Louise Johns, San Antonio, Texas.

Dr. Donald Kent, University Park, Penn.

Dr. Juanita Kreps, Durham, North Carolina.

Mrs. Angela Littlebeaver, Winnebago, Nebraska.

Mr. Robert Blue (Co-chairman), Eagle Grove, Iowa.

Mother Bernadette de Lourdes, Trumbull, Connecticut.

Mrs. Thelma Morris, Denver, Colorado.

Mrs. Ida May Petty, Baltimore, Maryland.

Mr. John Pioda, Atlanta, Georgia.

Mrs. Mary Powell, Akron, Ohio.

Miss Ollie Randall, New York, New York.

Rev. Richard Waggy, Brighton, Colorado.

Mrs. Minnie Wooden, Washington, D.C.

Mrs. Sally Wren, Edmonds, Washington.

Cleonice Tavani (Executive Secretary), Office of Economic Opportunity.

ACTION NOW

One out of every four Americans over the age of 65 lives in poverty. And even more live so close to poverty that its chilling effects hang over them. To the trials of old age are added the harsh burdens of poverty—made more cruel by the fact that it need not be. Action is needed now.

No longer must American aged live in hunger, suffer from lack of health care, exist in dilapidated housing, and remain isolated and hidden from the main stream of American life. Many elderly—poor and rich—are robbed of their dignity as human beings by a now-oriented society which too easily forgets the contributions—past and present—of its aged population.

We can—we must—we will do better!

While we must improve the quality of life for all the aged, our top priority must go to those who suffer most. America must address itself first to the needs of the elderly poor.

Our goals must equal our national greatness. Our action must merit our national pride. We must strive to provide more than mere subsistence; we can and must provide the opportunities for decent and meaningful living through all the years of life.

In planning, we must recognize the continuity of life. We must act immediately to lift the present aged from poverty. Even with adequate income, certain needed services cannot be purchased in the marketplace and must be provided. Within and between income and services programs, a full range of options should be available for all aged Americans.

To insure that future generations do not end their days in poverty and despair, the Older Persons Advisory Committee of the Office of Economic Opportunity submits these recommendations.

To end poverty now—Older Americans should be assured that level of income which the Bureau of Labor Statistics designates as the "intermediate" level required for a "modest but adequate" standard of living.

I. Change Social Security System: The promise of an adequate income for the elderly based on a combination of Old Age and Survivors Insurance and Old Age Assistance has not been realized. A complete revision is essential. We urge the Congress to enact legislation that would:

1. Bring all the elderly under the coverage of the Social Insurance System. It is time to end demeaning "welfare" for the aged. No older American shall be denied coverage today because in the past some occupations have been excluded.

2. Finance the Social Insurance System out of general revenues in addition to continuing employer and employee contributions.

3. Build into benefits regular cost of living increases.

II. Improve Existing Social Security and Welfare Systems: Until these fundamental changes in the Social Security System have been made, the Congress should:

1. Increase Old Age and Survivors Insurance and Old Age Assistance benefits to the Bureau of Labor Statistics' "intermediate" level of a "modest but adequate" standard of living. (Spring, 1970: $2,297-single person, 65 and over; $4,185-couple, 65 and over.)

2. Bar states from deducting any increases in Social Security from state Old Age Assistance payments. It is essential that all increases in Social Security benefits result in a net increase to the elderly poor who also receive welfare payments.

III. Curb Inflation: Unchecked inflation is a threat to all. It is the hidden thief that reduces the buying power of those on fixed incomes. It impoverishes those who retire on modest pensions; and it wipes out lifetime savings. We urge the President and the Congress to:

1. Give special attention to the needs of the elderly in pursuing the current strategy to stabilize the economy.

IV. Vesting and Portability of Pension Rights: After years of work and of contributing to private pension funds, many workers retire to find themselves ineligible for benefits. Many more lose pension rights because of job changes or unemployment. We urge the Congress to enact legislation to:

1. Require vesting of private pension plans beginning with the end of the first year of employment.

2. Provide for pension portability.

To maintain good health—Good health like income is a foundation stone on which to build a satisfactory and dignified old age. Good health in old age comes not alone from adequate medical care in the later years, but from a lifetime of good nutrition, good health habits, and good medical care.

Good health care is comprehensive care. It includes more than access to a physician and nurse during illness. There must be care for the acutely ill in hospitals and provision for the long term care of the chronically ill.

I. Basic Health System: Health care programs must go beyond curing illness. Prevention of illness is essential along with maintaining a high level of well-being. We urge Congress to:

1. Establish a national health insurance system that will provide health care throughout one's lifetime. Coverage for the elderly should include dental care, podiatry, prescription drugs, psychiatric help, eye glasses and other rehabilitative aids.

2. Provide for health maintenance organizations and neighborhood clinics to meet the needs of the elderly poor where they live. This would include mobile units, crossroads treatment centers, and store-front geriatrics. The elderly poor cannot afford a Cadillac medical system.

II. Home Health Care: The varying and progressive levels of incapacity of many of the elderly cannot be met through basic health programs. Still, not all of this group need or want costly institutional care. To enable individuals to remain in their own homes, it is urgent that the Federal government, in cooperation with state and local governments, develop on a national scale in every community—urban and rural—at least the following home health services:

1. visiting nursing services
2. homemaking services
3. home-delivered meals
4. transportation to essential services
5. casework services

III. Chronic Care: The greatest lack in the present system of health-care of the elderly is provision for chronic illness. It is a national disgrace to use both Federal and state tax funds to directly and indirectly subsidize substandard buildings and care. We urge the President and Congress to:

1. Require that government reimbursement for chronic care go only to facilities meeting at least minimum quality standards. The payment should at least cover the cost of care.

2. Consider the operations of chronic care facilities as the provision of an essential public service with rates and profits to be regulated as a public utility.

To provide a decent place to live—Older people should have *freedom of choice* to live in their own residences or in subsidized housing, in low or high-rise apartment buildings, with older people or with all-age groups, and with persons of a variety of income levels. Such living arrangements should also provide cultural diversity as well as serve to maintain family contacts.

I. Private Dwellings: Their own home frequently represents the greatest financial asset of the elderly. Many times it is their major expression of independence. Federal state and local government should assist those already poor and those who are housing-indigent through efforts to:

1. Prevent the levying of liens on homes of older persons otherwise eligible for Old Age Assistance payments.

2. Abate part or all of the property taxes levied on homes and rentals units of senior citizens whose income is at or below the poverty level.

3. Provide rehabilitation grants to low-income owners and low-interest loans for renovation of communal living arrangements for the elderly poor.

4. Prevent massive uprooting of the elderly poor in urban renewal and model cities programs. No plans should be approved without consultation with residents and provisions to insure a minimum of dislocation.

II. Congregate Subsidized Living Arrangements: Where and when the elderly desire or need to live in subsidized group housing, their independence should be encouraged in all possible ways including:

1. Make available limited supportive services in residential-centered facilities. Fi-

nancing for these services should be coupled with Federal programs for construction loans and grants.

2. Provide varying levels of care in health-centered facilities.

3. Provide maximum effectiveness of residential or health-centered facilities by easy transition between the two systems including development of a single system under a single administration which would provide housing for the active elderly, sheltered living for those in declining health and nursing services to take care of temporary minor ailments and provide long-term care for the chronically ill.

To be employed—Many elderly are willing and able and need to work, but are denied employment because of arbitrary age discrimination and Social Security regulations. Recent experience with such programs as Foster Grandparents, senior community aides programs of "Operation Mainstream" and "over-60" type employment projects have demonstrated the employment capabilities of the elderly. We urge the public and private sectors to cooperate in efforts to:

1. Eliminate the earnings test on Old Age and Survivors Insurance benefits.

2. Establish an independent program unit in the United States Employment Service to provide full-time and part-time employment opportunities for older people.

3. Grant tax concessions to private employers who employ the elderly.

4. Withhold Federal manpower aid from states which fail to enforce age discrimination laws.

5. Incorporate subsidized public employment programs in general-purpose government for middle-aged and older workers, to provide additional income and, at the same time, perform needed community services.

To put it all together—We have set forth some of the priorities which we believe this nation should address to fulfill its responsibilities to the elderly poor. But the promise and hope of new initiatives can mean nothing to the poor who all too often are not now receiving existing benefits and services. That help which does exist is often inaccessible to the vulnerable elderly because of complex and seperate delivery systems.

We have had enough demonstrations and research and experiments for the time being. Based on what has proven effective and needed, we urge the Federal government in partnership with other levels of government and with the private sector to establish the following as on-going and regular activities.

I. Accountability: All levels of government and voluntary groups should account to their constituents on their progress (or lack of it) in meeting their stated objectives for older persons. The President should take the lead by making an annual report on the conditions of the American aged. In addition, surveys of needs should be conducted, especially to assure that no older American suffers from malnutrition.

II. Planning, coordination and advocacy: Responsibility for planning and coordinating programs for the elderly as well as advocacy for their needs should be lodged in a sufficiently high place in each level of government to assure adequate and appropriate attention. The private sector should assign an equivalent importance to the aged and should work cooperatively with government and with older Americans themselves to establish community priorities.

III. Public senior centers: There should be a focal point in every community and neighborhood which would provide certain basic social services to all older persons as well as link those individuals with particular vulnerabilities to appropriate sources of help. The senior focal point should operate with maximum involvement of the elderly in policy-making, staff and volunteer roles.

These basic services in these clearly identifiable sites, financed as an on-going government program, could be the foundation for such additional services as the various levels of government and the voluntary sector, including organizations of the aged, would desire and sponsor.

The basic social services which would enhance the ability of the elderly to retain independence as long as possible are:

1. Outreach, information and referral regarding existing benefits and services.

2. Nutrition, health and consumer education.

3. Housing counseling.

4. Health screening.

5. Transportation.

Action now.

Today more Americans live in affluence than ever before. Yet the aged poor are increasing both in percent and in number. This stark fact must dominate our thinking.

Government and the citizenry-individuals as well as groups—must all strive to ensure the opportunity for decent and purposeful lives for our nation's elderly.

We must design and adapt our institutions to meet the demands of today. We must expand the range of choices open to older persons. We have the know-how; we have the resources; we must not fail for lack of will.

This is the challenge to the 1971 White House Conference on Aging. This is its opportunity.

Action now.

TOWARD PEACE IN ULSTER

Mr. JAVITS. Mr. President, an editorial published in the New York Times of February 14, 1972, establishes so well how the tragedy of Northern Ireland has a chance for honorable settlement that I believe it should be made available to all Senators.

I ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Toward Peace in Ulster

Despite steady polarization of the two communities of Northern Ireland there can be no doubt that the overwhelming majority of Protestants and Catholics alike still fervently desire a peaceful solution for the future of the province. And despite the recent escalation of violence and bloodshed, an outline has emerged for a settlement that might yet find acceptance by both sides.

It will not be easy for any of the groups concerned to arrive at that settlement. The only force that might bring them within striking distance is the realization, now dawning on everyone, that the only probable alternative is civil war and sectarian strife.

The solution would demand a stiff price from all three governments involved, almost certainly including the eventual disappearance in its present form of one of these—the Northern Ireland Government at Stormont. That will not be accepted easily by that Government and by the Unionist-Protestant majority that sustains it nor by Britain, that set it up fifty years ago.

There is nothing sacred about the Stormont pattern, however, and it is now clear that even revisions in this miniature Westminster system will not give leaders of the Catholic minority the share of power they deem just and essential for their participation. The only imperative is that any successor administration have adequate representation of the million-plus Protestants, who comprise two-thirds of Ulster's population.

Depending on how other matters develop, this successor authority might have a long or only a medium life; but every possible solution for the Irish problem should be on its agenda from the outset, including unification. As Harold Wilson told the House of Commons in November, "A substantial term of years will be required before any concept of unification could become a reality, but the dream must be there."

If unity goes on the agenda for Ulster, it will be up to the Republic's Government in Dublin to demonstrate, by major revision of its Constitution and laws, that it genuinely wishes to turn dream into reality. This essential is often overlooked by ardent unity advocates in Ireland and abroad; it is never forgotten by that growing number of Ulster Protestants who would be willing in the right climate to agree to unification.

That climate requires elimination of the religious elements in the Constitution and laws of the Irish Republic; abolition of censorship; adoption of legislation in the fields of civil rights, health, education and social security to bring Eire's systems more in line with those of Britain and Ulster. Many of these reforms are long overdue; Dublin's will to carry them out will be a measure of the depth of its desire to prepare the way for unification. Without solid evidence that Dublin is serious enough about unity to make major changes, it will never be possible to get Protestant cooperation on a commission to draft a constitution for a united Ireland.

But will it be possible to get responsible Catholic participation even if the concessions are forthcoming? John Hume, Gerry Fitt and other Catholic leaders have said they will boycott discussions so long as internment without trial is in force. After the Londonderry tragedy they will be under pressure to demand withdrawal of all British forces as well.

It should be possible to devise a plan for phasing out internment, detaining for regular trial only those I.R.A. leaders and terrorists against whom there is solid evidence. It might be feasible to couple this with a conditional timetable for a gradual reduction of British forces as security improves, in return for Catholic participation in negotiations. But these developments would require Westminster to assure direct responsibility for security in Ulster.

There would be risks at every step in such policies; but it now is evident that continuation along present lines by all parties carries the greatest risk of all. These moves seem worth trying because, as Horold Wilson told the Commons in November, "If men of moderation have nothing to hope for, men of violence will have something to shoot for."

DEMOCRATIC PARTY REFORM

Mr. TALMADGE. Mr. President, my distinguished colleague from Georgia (Mr. Gambrell) addressed the Woman's National Democratic Club in Washington on February 17. His comments on Democratic Party reform have received such widespread attention that I ask unanimous consent that his address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address by Senator David H. Gambrell, of Georgia

When I was asked several weeks ago to indicate a subject, I thought of covering with you some of the structural reforms which we have seen and can expect to see in our Democratic Party in the future. Since then, however, it has become more and more obvious to me that no amount of structural reform in our party can lead our candidates to victory in November without a fundamental change in the attitude which our party leadership has adopted in recent years toward a large segment of the American voting public.

I will say, though, that reform of the National Party structure suits me very well. In fact, I don't think it has been carried far enough. No state party in the country has undergone a more thorough program of reform than that which I initiated during my term as State party chairman in Georgia. When our Georgia party was reorganized, our procedures were so democratic that both Julian Bond and Lester Maddox were selected as members of our state executive committee.

Also among those selected were approximately 10% women, 10% black, and 10% under 30. If form rather than substance were the end to be served, our greatest claim to fame would have to be the selection of Linda Curney, a black college girl of 19 years of age as a representative from the whitest congressional district of the State. But even more illustrative of the extent of the reform was the election by the new state committee just this last Monday afternoon of a 25 year old public administration graduate student as national committeeman and a 34 year old mother of five who is mayor of Jesup, Georgia as national committeewoman. I am proud of all of them, men and women, black and white, young and old, rich and poor, urban and rural, all elected by the people in a Democratic way.

At the national level, I have advocated not democratic selection of convention delegates, but also democratic selection and fair apportionment of the national committee. As you know, the national committee is no better apportioned than the U.S. Senate, and is selected not by the people, or by their states, but by the outgoing national convention, our self-righteous national party management, while gung-ho for convention reform, has not been able to swallow any such reform of their own status. It got too close to home. Democracy was alright for four or five days every four years, but not on a 365-day-a-year basis.

I have also advocated the right to challenge convention delegates across state lines, so that your D.C. delegation, if properly selected, could challenge one from Connecticut, Wisconsin, Oregon, or any other place if it is improperly constituted. What is so sacred about a challenge coming from within the State? Actually an illegally constituted delegation is as great an offense to other delegations as it is to people within the State. The reformers won't even acknowledge receipt of that suggestion.

I have also advocated doing away with the undemocratic and shortsighted bonus system of apportioning delegates, based on voting in the last Presidential election. Democratic participation, if it really seeks to encompass a majority of the voters in the country, should be based on democratic voting in Gubernatorial and Senatorial elections, as well as on the Presidential election. Of course, many of our so-called leaders believe that a narrower constituency is more cozy, and reject the idea of appealing to people who didn't vote democratic in previous elections. How they expect to put together a majority is beyond me.

I have a number of other mechanical and structural reforms which I would suggest for our party machinery, but as I say, they won't amount to much unless our message has appeal to a majority of Americans, who form a natural constituency for the Democratic Party.

The question of the hour is whether the message of current leadership has such appeal.

I don't have to tell you that George Corley Wallace is giving the so-called "leading candidates" of the Democratic Party a working over in Florida and a lot of other places. Some of the analysts are blind enough to believe that it is Governor Wallace himself who is creating all the trouble.

Actually, it's not Wallace himself at all, but a substantial group, possibly as high as 30 or 40 percent of the total population, all would-be Democrats, who think their party has run off and left them.

What we are seeing today in Florida, and elsewhere in the country, results from a division of the coalition forged by Franklin D. Roosevelt, between American working people, the poor, and the intellectual community. As matters now stand, the leadership of the Democratic Party is deliberately excluding a large segment of the American working people who lifted them to political power.

It is popular with the press to cast Democrats as "liberal", and anxious for change. That's because most of the Democrats they associate with like to tinker with society and the economy, but make no mistake about it, the working people of this country, including the poor, are by nature, and of necessity, "conservative". They look for strong governmental actions to protect their status, and their opportunities. But, as a group in our society, they are the least prepared for radical changes, economically, morally, politically, or socially. They have little mobility in society, either vertically or horizontally, and in fact take great comfort in the security of the status which they have.

Threats to undermine what they have fought, sweated and died to hold onto are not welcome.

Those who know this group only through Gallup polls and Harris Surveys, have persuaded themselves that these people are some insensitive subhuman form of life. Actually, they are a broad mixture of average American citizens. They are black as well as white, urban as well as rural, many relatively wealthy as well as the relatively poor. They include women along with men, white collar as well as blue collar, and young as well as old. In fact, on most issues, they include a majority of Democrats, and in some cases a majority of Americans. They have a basic sense of fair play, and are compassionate to their fellowmen. They have a sense of community as reflected in their schools, churches, civic clubs, and fraternal lodges. By and large, they are a hard-working, God-fearing, patriotic, tax-paying, self-reliant Americans who have been taught to do their duty, and to be respectful of authority, and they expect those they have placed in authority to run things right.

For some time, the American workingman has blindly trusted his leaders to serve him, and a myth has grown about progress for the workingman. The contradiction between the myth and reality is coming home to roost today.

Since World War II, real income (after taxes and inflation) for the lower one fifth of the economic spectrum, that is the very poor, has increased four percent.

Real income for the top fifth of the spectrum has increased forty percent.

Real income for the middle three fifths has actually dropped one and one-half percent—leaving the middle income workingman of America, who has been sold on so-called "progress" for 25 years as a way to patriotic self interest, worse off than he was in 1947.

Finally, the pain has become too great for him to ignore.

His pocketbook has been eroded by taxes and inflation, his moral values have been eroded by permissiveness, his communities have been destroyed by social manipulation, and his sons have been killed and maimed in misdirected warfare.

At the same time, he gets court-martialed while the generals get more medals. His children are bused, while the snobs send their children to private schools. He lives on take-home pay while the rich have subsidies and tax-free income; and on top of all that the smut-peddlers, dope-peddlers and rapists are set free on his children by courts that he has paid for.

Talk about pollution of the air and water!

Furthermore, he can see that the leaders, political, intellectual, business, military and trade union, who have conducted this fiasco are still in place, rich, comfortable, and established, full of new so-called "programs" for more of the same.

And not only do the political, business, and intellectual bosses keep driving him for more work, blood and taxes but they want to exclude him from fair participation in the political life of the country. It is popular with the elite of the Democratic Party to contemptuously refer to him as the silent majority, uneducated, a hard-hat, a blue collar, a red-neck, a racist, the top leader of the party tells him he's not welcome at the national convention, he can sleep on the beach, there's no room at the inn.

No wonder he's enraged, and slightly disoriented. He is so maligned by the elite, that no so-called respectable politician wants to be identified with him. Well, the feeling is mutual.

He is tired of the establishment leadership. He wants one of his own boys, one who has sweated and bled a little with him, lately. One who knows how to get the hay down where the goats are.

Politically, he is out for the best deal he can get. He no longer sees the Republican Party as the only enemy of the American workingman. He feels as unwelcome among the "intellectual snobs" as he ever did among the "robber barons." He may cast a protest vote for a candidate who allegedly "can't win", and he may even protest by voting Republican.

Thus, I suppose the burning question of the day is what can be done to draw these people back to the support of democratic candidates, or better still, what can be done to draw the Democratic Party back to its base of popular majority. The so-called "leading candidates" are apparently only vaguely aware of this problem, and are fumbling for an answer.

One technique that is being used is that of confessing grievous errors in the past. Another popular solution is to adopt what I'll call a "Florida accent", which is a new dialect being taken up by those who have spent the past twelve years playing political one-upmanship in Washington, but are now gaining a better understanding from a communicating directly with America's working people.

The shell-shocked appearance of those heroes returning from the Florida primary reminds me of a little story which I've heard up in the mountains of north Georgia.

On recommendation of his doctor, an elderly mountaineer sought relief from the rigors of winter by sojourning in the Florida sunshine. After recovering his health, he developed a deep tan on the Florida beach. However, he died suddenly of an unanticipated heart attack. After his returning home, he was lying in state before burial. Two of his friends were admiring the fine skin color which he had acquired during his winter vacation, and one remarked to the other, "that trip to Florida sure did old Zeke a lot of good."

While our leading candidates are still among the living, I'll say that this trip to Florida has done them a lot of good.

But their hides will need a lot more tanning before they regain credibility with the average working American. Unfortunately, the instincts of the party brain-trust are to look down their noses at "the silent majority", and to use the Federal treasury, the Federal courts, and the flag, to drum up political support. These are exactly the abuses which have created the disenchantment I have referred to.

In the long run, and also in the short run, it is my opinion that success for the Democratic Party will come from the emergence of new leadership which can genuinely reach out for those who have been considered outcasts. We are trying to play the big games of this season with the heroes of the early Sixties, who lost the super bowl in 1968. This program might not be so misguided if our bench were not filled up with talented rookies, who have shown the capacity "to put it all together" in the elections of 1970 and 1971.

It is questionable to me whether the present party leadership is capable of bringing lost Democrats back into the Democratic Party, or of bringing the lost Democratic Party back to the Democrats. Today's party is hardly the party of Roosevelt, or even of John Kennedy. It is hardly the party that drew the poor and the working people of this country together. These true Democrats must once again control the party that is their own. The basic reform which is needed as we approach the national elections of 1972 is to restore the confidence of the American workingman in the Democratic Party.

PUNISHMENT FOR GENOCIDE

Mr. PROXMIRE. Mr. President, the articles of the Genocide Convention do not specify appropriate punishments for the crimes they describe. Rather they have left this decision to the individual nations that have ratified the treaty.

On May 4, 1971, the Senate Committee on Foreign Relations favorably reported the treaty to this Chamber. In their report they called upon the administration to draft and submit legislation to implement this treaty for consideration by Congress. The Senator from Pennsylvania (Mr. SCOTT) has presented such legislation. Within it there is the following direct statement regarding punishment:

> Whoever is guilty of genocide or of an attempt to commit genocide shall be fined not more than $20,000 or imprisoned for not more than twenty years, or both; and if death results shall be subject to imprisonment for any term of years or life imprisonment.

Considering the great atrocity which genocide entails, no one could find such punishment too severe. Rather it provides a just punishment for a crime against all humanity.

We must all hope, however, that such punishment will serve as an effective deterrent against those deranged minds who would attempt such heinous acts. Through this legislation of implementation the Senate should now have a clear picture of the Genocide Convention. I urge my colleagues to move for immediate ratification of the treaty.

SPARTAN BAND, HILLSBORO, OREG., HIGH SCHOOL

Mr. HATFIELD. Mr. President, it is an honor and a privilege to call attention to the Spartan band of Hillsboro Union High School, Hillsboro, Oreg. The Spartan band is the only band from Oregon to participate in the International Band Festival to be held in Vienna, Austria, in July 1972. Less than 2 percent of the high school bands of the United States were even considered by the festival invitation committee.

The Spartan band, under the direction of Mr. Carl A. Gutmann, has established itself as one of the outstanding high school bands in the Northwest. The band has been honored many times during the 20 years Mr. Gutmann has been its director. In 1961, the Hillsboro band represented Oregon in the Pasadena, Calif., Tournament of Roses parade on New Year's Day. Three times the band, through an extensive audition system, was selected to represent Oregon school music groups at Northwest and State music educators conventions. The Spartan band has won first place in the Portland Rose Festival parade marching competition three different years. College band directors at both Oregon State University and the University of Oregon, as well as Lewis and Clark College in Portland, have many times referred to the Hillsboro Spartans as one of the consistently best high school music organizations in the Northwest.

Fine bands are a tradition at Hillsboro and this proud city is hard at work supporting various fundraising projects to help send the Spartan band to Europe this coming July. These young people will undoubtedly represent their State and Nation to the highest degree in the competition in Vienna.

IDAHO'S CONTRIBUTION TO THE OLYMPICS

Mr. CHURCH. Mr. President, the Winter Olympics in Sapporo, Japan, are now over.

However, I take this occasion to invite the attention of Senators to the fact that my State contributed to the U.S. Olympic Team two members, including one member who won the first medal for the United States at Sapporo.

The two Idahoans on the team were Miss Patty Boydstun, of McCall, Idaho, and Miss Susan Corrock, of Ketchum, Idaho. I personally think that congratulations are in order for both girls for their contributions.

Susan won the first medal for the United States team at Sapporo by placing third in the women's downhill Alpine ski races.

It is, of course, no surprise that Idaho placed two members on the U.S. Olympic Team. Idaho boasts some of the best skiing in the United States, including world-famous Sun Valley—near Ketchum where Miss Corrock grew up. In all, Idaho has 26 excellent, developed ski areas, and I invite Senators to try our State on their next winter vacation.

Mr. President, I ask unanimous consent to have printed in the RECORD two articles—one from the Washington Star, the other from the Washington Post—concerning Miss Corrock's victory at Sapporo.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Washington Star, Feb. 5, 1972]

IDAHO SKIER WINS FIRST U.S. MEDAL

SAPPORO, JAPAN.—The courage of downhill racer Susan Currock could whet the American appetite for a bigger medal haul in the IX Winter Olympic Games.

The 20-year-old Miss Currock, of Ketchum, Idaho, picked up the first medal for the United States when she finished third in the women's downhill, first of the Olympic Alpine ski races.

Miss Currock finished exactly one second behind the one-minute and 36.68-second clocking of surprise winner Marie-Therese Nadig of Switzerland. The American girls high finish wasn't too astonishing, especially after Friday's downhill practice session when she went all out for the best time while other girls preferred a more cautious descent to avoid injury.

West Germany won two of the other four medals contested Saturday and East Germany captured the other. The U.S. hockey team, given little chance to be anything but the doormat of the Class A competition, lost the first game of the Olympic round-robin to Sweden by 5–1. Kevin Ahearne of Milton, Mass., scored the only Yank goal of the game.

Beatrix Schuba of Austria held the lead with a perfect 9.0 ordinal score at the halfway mark of the women's figure skating championships. Julie Lynn Holmes of North Hollywood, Calif., was second in the competition and Janet Lynn of Rockford, Ill., stood fourth in the standings.

Erhard Keller of West Germany, who plans on hanging up his skates next month because he is getting too old for active competition, won the men's 500-meter speed skating gold medal in Olympic-record time of 39.44 seconds.

Earlier in the day, Wolfgang Zimmerer and Petter Utzschneider had given West Germany its first gold medal of the games by winning the two-man bobsled. East Germany took the fourth gold medal contested Saturday as Ulrich Wehling won the Nordic combined ski title.

Miss Currock, light for a downhill racer at 116 pounds, said she had to ski well because "once you make a slight mistake you blow the whole race. I think I skied well without any mistakes and I'm very happy over having won the bronze medal."

The United States won seven medals in the 1968 Winter Olympics at Grenoble, including the lone American gold medal picked up by Peggy Fleming in figure skating.

West Germany took the lead in gold medals with its pair Saturday. Keller, a 27-year-old dental student, became the first 1968 Olympic champion to defend his title successfully as he erased the games record of 40.10 seconds set by Terry McDermott of the United States in the 500-meter skating event at Innsbruck, Austria, in 1964.

Ard Schenk, the towering Hollander who was going for a gold medal double after winning the 5,000-meter skating event Friday, was stopped in his bid for a second triumph when he fell and finished far back in the pack with a slow 43.40 second time.

Zimmerer and Utzschneider had the bobsled title wrapped up by the third run and took no chances of having an accident as they carefully went down the chute the fourth time. They had a best combined time of four minutes 57.06 seconds.

Wehling, a 19-year-old East German high school student who was fourth in Friday's jumping phase of the combined Nordic, finished third in Saturday's 15-kilometer (9.6 mile) cross-country ski race to post a best point total of 413.340.

Miss Nadig was given little chance of winning the downhill race after doing poorly in several World Cup meets. But she successfully negotiated the final right-hand turn and steep schuss to the finish line that proved disastrous for France's Francoise Macchi earlier in the week when she injured herself and was forced out of the competition.

"I can't believe that I am the Olympic champion," said the Swiss miss. "I think I skied well, although I could have done better over one of the jumps."

Downhill practice ended Olympic medal hopes of Eric Poulsen of Olympic Valley, Calif., who fractured his right wrist in a training accident for Monday's men's downhill event. Poulsen was airlifted by helicopter to the Olympic village clinic where it was also discovered he tore some ligaments in his right leg.

[From the Washington Post, Feb. 5, 1972]

American Susan Corrock Third—Swiss Girl Wins Downhill Ski

Sapporo, Japan, February 5.—Switzerland's Marie Therese Nadig won the women's alpine downhill ski race today as Susan Corrock of Ketchum, Idaho, finished third to win the United States' first medal of the 11th Winter Olympic Games.

Miss Nadig, 17, a student, sped the course in 1 minute 36.68 seconds to edge favored Annemarie Proell of Austria, the women's World Cup leader, who finished in 1:37.00. Miss Corrock was third at 1:37.68.

The performance of Miss Corrock, 22, been skiing in international competition just two years, also brought the U.S. its first Olympic medal in alpine skiing since 1964, when Jean Saubert and Billy Kidd totaled three medals. Miss Corrock, laughing and crying, embraced teammate Marilyn Cochran and said.

"I can't believe it. This was my best run. I didn't make any mistakes.

SUBJECT TO REVIEW

"I felt great. It feels exciting, really good to have a bronze."

All downhill placings are subject to official review, so the races are subject to protest and official decision.

Unofficially, other American finishers were Karen Budge, of Jackson Hole, Wyo., 14th in 1:40.68; Sandy Poulsen of Squaw Valley, Calif., 22d in 1:41.25, and Marilyn Cochran of Richmond, Vt., 28th in 1:41.98.

The two German teams swept the first three gold medals contested today, and the United States hockey team was trounced by Sweden, 5–1.

East Germany's Ulrich Wehling, 19, a high-school student, was the day's first gold-medal winner when she parlayed a third-place finish in the 15-kilometer (9.6-mile) cross-country ski race into over-all victory in the two-event Nordic combined competition.

The West German team of Wolfgang Zimmerer and Peter Utzschneider won two-man bobsledding, and West Germany's Erhard Keller became the Games' first defending champion to retain his title as he took the 500-meter speed skating in Olympic-record time.

Sweden, rated behind Russia and Czechoslovakia in title competition, routed the tired Americans, playing only 16 hours after defeating Switzerland 5–3, for the right to enter Class A and compete for a medal.

Kevin Ahearn, of Milton, Mass., who had scored twice against Switzerland, averted a shutout against Sweden by scoring in the first period.

The Swedes scored at 2:32 of the first period and then dominated play. American goalie Mike Curran, of International Falls, Minn., played brilliantly, several times stopping breakaways.

Two American "goals" were not allowed when the referee ruled that, on each shot, an American player preceded the puck into the goal crease.

RUSSIANS OPEN PLAY

The remaining Class A opening games, scheduled later today, matched defending champion Russia against No. 4 Finland and No. 2 Czechoslovakia against No. 8 Poland, an upset winner in the elimination round.

Wehling won the Nordic combined with a 413.340 overall point total, based on today's race and his fourth-place finish in Friday's 70-meter jumping event.

Silver and bronze medalists were Finland's Rauno Miettinen and Germany's Karl Luck, respectively. Japan's Hideki Nakano, leader after the jumping, raced poorly today and finished far back.

Top American finisher was Michael Devecka of Government Camp, Ore., who was sixth today but 21st over-all.

MIETTINEN CLOSE

Wehling began his international career two years ago and last year won the European Junior championship. He outraced Miettinen, a baker, by 1 minute 52 seconds to win the gold.

In bobsledding, West Germany also took the silver medal as Horst Floth and Pepi Bader set a course record on their final run to edge Switzerland's Jean Wicki and Edy Hubacher.

Both runnersup were unsure of their status until Italy's defending world champions, Gianfranco Gaspari and Mario Armano, made the day's final run down the 1,563-meter, 13-curve Mt. Teine course.

METHADONE MAINTENANCE TREATMENT PROGRAMS

Mr. JAVITS. Mr. President, I believe methadone maintenance treatment programs to be an effective procedure for reducing the large number of heroin addicts, and have introduced with Senator Hughes the Drug Addict Treatment and Rehabilitation Act of 1971 (S. 2840) to launch a national commitment to the establishment of substantial numbers of methadone maintenance treatment programs where needed.

For example, in New York, despite heroic State and city efforts to eliminate the waiting lists of addicts voluntarily requesting methadone maintenance treatment programs, there are estimates of approximately 20,000 addicts who want methadone maintenance treatment programs, but funds and personnel are not available. Hence, an estimated $1 million a day in stealing may be the result of this failure. Methadone maintenance is not a short-term treatment process, but the reported results have been promising. I commend to the attention of my colleagues an article on methadone maintenance appearing in the February 16, 1972, issue of the Medical Tribune entitled "Treatment of Heroin Addicts With Methadone Is Defended," which describes the problems and sample results of methadone maintenance.

This article points out that methadone has no adverse effects on the human body, as compared to the horrible alternative effects of heroin, and many of the sample patients have shown remarkable advancement. Of the 1,150 patients tested, 75 percent secured a job as compared to only 25 percent previously employed and another 13 percent have returned to school. Methadone maintenance is a long-term treatment that has helped heroin addicts to return to a normal productive life, and I believe that these people should be given a second chance at life. By helping them, we are, in turn, helping ourselves.

I ask unanimous consent that the complete text of the article from the Medical Tribune be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Treatment of Heroin Addicts With Methadone Is Defended

New York.—Methadone maintenance treatment for heroin addicts, which has been attacked as the substitution of one addictive drug for another, was defended here by Dr. Ray E. Trussel, general director of Beth Israel Medical Center, which has been operating such a program in cooperation with 11 hospitals in the New York area.

Acknowledging that this is so, Dr. Trussel pointed out, however, that the person on heroin is violating the law, is out hustling all the time to get money for his next fix, is always either "high" or "low," is in and out of jail, has broken up with his family, and runs a high risk of dying either of overdose or some medical complication.

"The patient on methadone maintenance, on the other hand, takes his methadone once a day under a doctor's prescription and gets on his way to do whatever he is capable of doing, getting back to his family, getting a job or going to school, or just being on welfare—but not stealing," Dr. Trussel told a Conference on Health Implications of Drug Abuse sponsored by the New York Heart Association.

This does not mean, he added, "that all of our patients are perfect human beings; some of them still go on doing antisocial things after they are no longer on heroin." About two out of every 10 patients are lost, he noted. This may be because of lack of cooperation on the program, because of a severe problem with alcohol, because of a severe problem with other drugs, occasionally because of death, "although the death rate drops very sharply after they get on methadone maintenance," and because some just want to get out of the program and go back to using heroin. Dr. Trussel emphasized, however, that the average rate of maintenance on the program is 80 per cent.

NOT SHORT-TERM PROGRAM

The question is frequently asked, "When will these patients get off methadone?" But this is asked, said Dr. Trussel, by those who think this is a short-term program. "They mix it up with detoxification," he said, "which doesn't cure anyone but just gives them temporary relief."

He noted that the follow-up on patients either discharged or voluntarily withdrawn from the program indicates that a percentage die, some go into other treatment programs, some are either in jail or back on heroin, "but the large percentage" come back and ask to be readmitted. "Apparently" he said, "when you withdraw an individual from methadone maintenance down to about a fifth of his usual blockade dose, he begins to experience drug hunger and starts thinking about going back on heroin and, in fact, in most cases will go back on heroin sooner or later."

It is necessary to understand, he said, that methadone is a long, long treatment program for each individual. "And given the absence of any adverse effects on the human body so far in the patients we have been following and that have been followed by others, I can't at this time see any scientific evidence that gives me reason to worry," Dr. Trussel said. "If I were a heroin addict who had failed in every other way, I'd rather take my methadone and do the best I could in life, rather than go back to heroin with all of the horrible alternatives before me."

The program, he added, has a number of women who were married or who became married and who have had babies. They are excellent patients, he said. They keep their prenatal appointments and have normal deliveries. And no evidence has been found that these babies as a group are any different than a control group of babies. In contrast, he noted, women on heroin are very poor patients. They do not keep their prenatal appointments, they seek care late, they have premature deliveries, and if they don't give up their babies for adoption the babies are condemned to a horrible life.

SIMILAR TO TB APPROACH

The program, he declared, has demonstrated a public health approach to a public health problem similar to the tuberculosis situation. He noted that New York State once had a large number of tuberculosis hospital beds all filled and with a waiting list. With the discovery of isoniazid and streptomycin for the treatment of the disease, he said, every state tuberculosis hospital is closed and New York City has "remarkably few" tuberculosis hospital beds still open.

ABOUT 14,000 TB PATIENTS AROUND

"But there are some 14,000 patients with tuberculosis walking around the streets every day taking isoniazid and streptomycin by mouth, which they get at a health department clinic or a hospital clinic," he said. "And we have about 11,000 people walking the streets of New York taking methadone every day, people who were formerly in and out of jail, stealing and prostituting, and at a high risk of death."

In terms of reduced antisocial behavior, Dr. Trussel said that the effect of methadone treatment "is really remarkable."

He noted the employment and school status of 1,150 men who had been in the program for three months or longer. When they entered the program, one-fourth had a job. In six months, half had a job and half were on welfare. In three years, nearly 75 percent were working, about 12 percent were on welfare, and the rest were in school.

LIBRARIES AND THE ELDERLY

Mr. CHURCH. Mr. President, delegates to the education section of the White House Conference on Aging stated in the introduction to their recommendations:

> Education is a basic right for all persons of all age groups. It is continuous and henceforth one of the ways of enabling older people to have a full and meaningful life, and as a means of helping them develop their potential as a resource for the betterment of society.

I certainly subscribe to that concept.

Last October, I introduced the Community School Center Development Act, the intent of which is to open our schools to all people, of all ages, in order to better serve our communities. As I said at the time, there is a need to maximize the use of all learning resources that have been established to serve young and old members of the community.

The public library has long been a familiar institution in our neighborhoods. But, the orientation of the library has long been toward the young. The White House Conference delegates recognized the importance of this educational resource and recommended that library services for the elderly be expanded.

Mr. Martin Segal, an Associated Press columnist on aging recently wrote an excellent article on new trends in the provision of library services for our Nation's aged. Mr. President, I ask unanimous consent that this article entitled "Libraries Emphasizing Services for Seniors" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SECURITY FOR YOU—LIBRARIES EMPHASIZING SERVICES FOR SENIORS

(By Martin E. Segal)

Older Americans now will receive special attention from the public libraries. Traditionally, attention has been channeled toward the young person. Recently, however, the U.S. Office of Education, librarians, and legislators have been examining and testing ways to provide more specialized services to other groups.

The aging, in a growing number of instances, have been the focus of special concern and services. The impetus for this attention can be attributed to the awakening national interest in their needs and welfare. Workshops have been conducted to develop librarian skills in working with the aging. Articles describing library services for the aging appear regularly in professional journals. And studies have been undertaken to determine what should be done by libraries for the aging.

Some libraries have established significant programs or services for their older readers. A few examples are:

The Boston Public Library sponsors its Never Too Late Groups for senior citizens in the main library and 15 branches.

The Cleveland Public Library's Live Long and Like It Library Club for persons over 60 recently entered its 26th year; a bequest from Frederick and Henryett Slocum Judd also made it possible, in 1941, to establish a library service for shut-ins, many of whom are older people living in homes for the aged.

The Milwaukee Public Library provides extensive programs for the aging through its Over 60 Service.

A branch of the Wake County Public Library (North Carolina) cosponsors an educational program for senior citizens.

In addition, many public and institutional libraries make special efforts, within the limits of their resources, to provide services to those denied normal access to library facilities because of handicaps.

The St. Louis Public Library, for example, provides direct individual delivery of materials to residents of nursing homes, homes for the aging, residents of apartment buildings for the aging, and the homebound. The Enoch Pratt Free Library (Baltimore) maintains collections of books at various local hospitals and nursing homes, and delivers books to aged shut-ins.

NATIONAL COMMISSION ON CORRECTIONS

Mr. TOWER. Mr. President, I am most pleasd today to join with my colleagues, the distinguished senior Senator from Arkansas (Mr. McCLELLAN), and the distinguished junior Senator from Tennessee (Mr. BROCK) in cosponsoring S. 2939, to establish a National Commission on Corrections. It will be the duty of this National Commission to study in depth the Nation's corrections systems and to recommend minimum standards for Federal correctional facilities. There have been numerous studies in this area during the past few years and there has been much discussion of this pressing problem from all quarters during the past few months. Yet I have not seen any unified, coordinated plan emerge from any of the studies or given by any speaker. This Commission on Corrections would be charged not simply with reviewing past studies and statements, but likewise with taking a new look at the situation and with proposing concrete steps that the Federal Government should take to resolve this crisis.

Mr. President, I am one who believes that we must have strict and swift enforcement of our criminal laws in order that the rights of the law-abiding citizens of this Nation may be protected. Swift, sure judgment, and punishment is one of the most proven safeguards against crime. However, there is another aspect of the problem; that is, rehabilitation of criminals once they are in prison. It does no one any good, especially the society that we are trying to protect, if a man is sent to prison for a crime and the only thing that happens in prison is that the man becomes more bitter and uses prison time as a graduate course to become a better criminal.

Statistics show that the rate of repeaters in crime is at an alarming level. The FBI's Uniform Crime Reports of 1970 show that of the 37,884 persons arrested on Federal criminal charges in 1970, 68 percent had previously been arrested on criminal charges. Another alarming figure, likewise compiled in 1970, shows that of the 16,332 offenders released to the public community in 1965–69, 63 percent had been rearrested by the end of the fourth calendar year after release.

Mr. President, I submit that these figures show that we must do better in the rehabilitation of persons convicted of crimes in this Nation. There must be a way, or a combination of ways in which we can improve upon this record. I am all too aware that there are undoubtedly criminals who are beyond the pale, who probably have been so hardened that they can never be rehabilitated.

Nevertheless, I am just as convinced that there are many people convicted of crimes who would prefer to live within the law, if they could only learn how. Imagine, if you will, the case of the young adult first offender who is sent to prison. In most institutions, there is no distinction made between him and someone who has served three prison terms. They live in the same cell block and have to fend for themselves in the prison world. In order to survive, the first offender could easily become bitter, and, in a matter of months, become indistinguishable from the hardened criminals. Steps can be taken to see that those who can be rehabilitated have a chance to do so. We must find those steps so that one of the greatest menaces to society, the recidivist, can be eliminated as much as possible.

Mr. President, another great problem in our prison system today is the state of the Nation's jails and prisons. These institutions are handling nearly twice the number of people that they were originally designed to house. Sixty-one of the larger prisons in this Nation were opened before 1900 and 25 of these are more than 100 years old. Given these antiquated and crowded conditions, it should surprise no one that our penal institutions have become a place where first offenders are turned into hardened criminals and where the crime rate in the country continues to be adversely affected.

Mr. President, this matter should receive priority consideration. At stake are not only the lives of many thousands of people who can be saved from a life of crime, but also the very safety and well-being of the lives and property of nearly every American. With a sound penal system, another battle in the war against crime can be won.

ADDRESS BY SENATOR MUSKIE

Mr. FULBRIGHT. Mr. President, on February 2, 1972, the Senator from

Maine (Mr. MUSKIE) spoke on the Vietnam war at the National Presbyterian Center in Washington. That speech, in which he criticized the administration's peace proposals and offered his own two-point plan, has become a subject of wide public discussion because of the intensity of the subsequent attack by the administration against Senator MUSKIE and other Democratic presidential candidates. Because Senators may be interested in reading the words that inspired this administration response, I ask unanimous consent that Senator MUSKIE's speech on February 2 be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR EDMUND S. MUSKIE

I have been asked to talk with you today about the environment—the earth God made. Instead, I want to ask you to reflect with me on the earth man has remade. For if what we mean by the environment is what we have done to our land and our lives, then half a world away, we have come dreadfully close to fulfilling the nightmare of Tacitus: "They have made a desert and called it peace."

Four years ago, this nightmare was first invoked to describe the war in Vietnam. Since then, every year has been hailed as a year of hope for peace. And every year, we have seen our hope turn to the dust of new-made graves. America's leaders have been carried along on a tide of illusion, convinced at first that we were right, committed still to making right a war we know is wrong. We fight for a make-believe victory in a real place and real people die each day.

The President gave us his latest solution last week, and he is at a crossroads. The choice for the President is whether he will use his dramatic announcement to build political support for endless battle—or whether he will seek to end the fighting now. Those of us who are out of power must welcome Administration proposals to move American troops out of Indochina. But we must also question the wisdom of a course which attaches so many conditions to our leaving that it can only leave us where we are now—watching our sons fight and die, not for a cause, but for a mistake—looking to a future where more human beings will suffer at our hands in a senseless and immoral conflict.

Surely when we look into our own consciences, we must know that saving lives is more important than saving face. And just as surely, we must judge the President's policy and our own by a single standard: Can they bring America's soldiers and prisoners home from Vietnam? For what we need is not a reason to prolong the agony of war, but a way to peace.

Most of us had hoped that this was what we would hear from the President last week. We had hoped for news of future negotiations that would succeed instead of past negotiations that have failed. We had hoped to see the President remove the war as an election issue by stopping the war before the election.

But again, as so often before, we find our hopes disappointed. We have now had the time to look closely at each of the eight points and listen carefully to all of the official explanations. We waited for a response from Hanoi. All we have heard is harsh criticism of the President's plan, and their official newspaper rejected it on Saturday.

Why are we at an impasse? What has our government really offered to the other side?

Most Americans thought they heard the President agree to set a date certain for our withdrawal. But it is not the genuine date certain so many of us have urged upon him. He did not offer to exchange our presence in Vietnam for the freedom of our prisoners. Instead, he laid down additional conditions: a general settlement of all outstanding issues or a ceasefire in all of Indochina.

As part of the general settlement, the President suggested the kind of elections already rejected by the other side—because they would be controlled by our side. The administration promises that such elections will be "free", the same promise that was made in every American proposal of the 1960s, the same promise that was broken in 1971, when we saw so clearly what we had purchased with our treasure and our blood: A democratic regime so undemocratic that its Presidential election was unfree, unfair, and uncontested. This time, General Thieu has volunteered to step down thirty days before the voting, but his hand-picked agents would continue to control the police; the province, district, and village chiefs; the whole machinery and force of government. What opponent would then risk his liberty or even his life in open opposition? How could anyone call such elections free?

The President has also offered the kind of ceasefire already rejected by the other side—because it would strengthen our side. The Administration claims that the principle of a ceasefire has been accepted by their negotiators as well as ours. But the administration's words cannot conceal a plain reality. Hanoi apparently proposes a ceasefire as part of a settlement on their terms—which our government rejects. The President proposes a ceasefire on our terms—which Hanoi rejects. Our kind of ceasefire would force the North Vietnamese to withdraw their forces in some unspecified fashion from South Vietnam, Laos, and Cambodia. We are asking them to stop fighting and concede Saigon's control over most of the countryside, abandoning their supporters to the police power of an enemy regime.

The President called for just such a ceasefire in his proposals of October, 1970. His proposals were turned down then. How could anyone expect a similar ceasefire offer to be anything but a stumbling block now? How could anyone expect Hanoi to settle for something which must seem to them nothing more than a date certain for their own surrender.

In short, in the face of a frustrating deadlock, the President has basically renumbered and reissued the proposals that have failed for six years. We are trying to win at the conference table what we have not won and cannot win on the battlefield. And yet we persist.

When will we ever learn?

We have no right to take for our own the awful majesty of God over life and death, destroying land and people in order to save them.

We have no right to kill, wound, or displace over a hundred thousand civilians a month by continuing to rain over four million pounds of bombs a day on Indochina.

We have no right to send young Americans to Vietnam as bargaining chips for the freedom of prisoners of war who would be free if those young Americans were not sent at all.

And we have paid so high a price for being wrong. We have seen 55,000 of our sons come home from Asia in coffins, twenty thousand of them in the last three years. We have seen hundreds of our soldiers captured or missing in action, four hundred of them in the last three years. We have seen countless Vietnamese killed and innocent children scarred and shot, and no number of years can erase the terrible memory.

There are those who say that if we sustain the pressure and stand the pain, we can fight on to victory. We have heard their voices before. We can only reply in the words of an ancient king: "One more such victory and we shall be undone."

So our task is to leave Indochina, to leave it to the Vietnamese to work out their own peace, not to determine their destiny according to a plan written in Washington.

There is only one way out of this war. We must take that way now, before further erosion in our troop strength and our bargaining position frustrates any chance to exchange American military disengagement for American prisoners in the North. This disengagement, I believe, would also set the stage for the Vietnamese to reach a political settlement among themselves. The President must stop throwing away that opportunity. He must commit this country to take two vital steps—not only because they are realistic—but because they are right.

First, we must set a date when we will withdraw every soldier, sailor, and airman, and stop all bombing and other American military activity, dependent only on an agreement for the return of our prisoners and the safety of our troops as they leave.

Second, we must urge the government in Saigon to move toward a political accommodation with all the elements of their society. Without such an accommodation, the war cannot be ended. And it is clear that the American people will not support an indefinite war either by our presence or by proxy.

We must turn toward peace. And we must face this fact: If we had learned anything in seven years, it is that we cannot bomb Hanoi into submission. We cannot bomb them into freeing our prisoners, anymore than we were able to bomb them to the conference table in the 1960's. We have learned that this disastrous course will not contain the spread of Communist power, will not strengthen our leadership among nations, and will only turn the people of Asia and indeed of all the world against us, as a country that is violating its deepest principles of morality and respect for human life and human rights.

We should never have gone to Vietnam. We should never have stayed there. A thirty-year-old Laotian mother in a refugee camp recently asked the only question still worth answering: "And, as for the other men and women, do they know all the unimaginable things happening in this war?"

We are the other men and women. We know the truth. How can we go on as we have . . . unleashing terror and destruction to prop up a corrupt dictatorship? Is this what America was made for? Is this what we want America to stand for in our time?

It took too much time for most of us to see the full depth of the tragedy in Vietnam. At first, there were only the quiet stirrings of doubt, then the public outcry of a few brave people, then the great debate over the bombing of the North. In the process, many of us learned that we had been wrong. And I say what I must now, not in righteousness, but in the conviction that we cannot and should not shrink from the truth.

This war has lasted far longer than anyone ever dreamed it could. It has drained us of our treasure and our spirit and our unity far beyond what we can possibly afford. It has brought tragedy and suffering to homes across the nation where young men will never return. It has brought doubt and division to our schools, our churches, and our communities. It has subverted our respect fo government and our ties with one another.

It is not an easy thing for a great country to admit a mistake. But it is perhaps the definition of greatness in a country that it can.

So what now must we say of Vietnam?

For the sons who have already died in battle, whose brothers should not have to follow them to war and to an early grave—

For the innocent people of a thousand Asian villages, people who may not know the name of their nation, let alone the cause of their dying—

For the American prisoners of war, who deserve something better than a life sentence or a slow death in foreign jails—

For all those who suffer in Indochina as we meet here—

For their sake and for our own—

We must be willing now—all of us—to say, "Enough."

IN TRIBUTE TO BILL HULL, A FINE CONGRESSMAN AND AN OUTSTANDING AMERICAN

Mr. SYMINGTON. Mr. President, those of us who have had the pleasure of knowing and working with my beloved friend and colleague, Representative William R. Hull, Jr., of the Sixth Congressional District of Missouri, were sorry indeed to learn of his decision not to continue his superb representation of his district in Congress.

Bill Hull has a long record of public service, as mayor of his hometown, Weston, Platte County, Mo., and in many civic activities. At the end of this year, he will have served 18 years in the Congress. During those years he has accomplished much for the Sixth District including many studies, authorization, planning and construction starts on water development and flood control projects north of the Missouri River.

As his colleagues in the House and in the Senate know well, this dedicated Representative has worked on these projects with diligence and effectiveness, first as a member of the House Committee on Public Works, and then, for the past 8 years, as a member of the House Committee on Appropriations.

In addition, Representative Hull has been one of the most conscientious and hard-working members of the Appropriations Subcommittee on Agriculture and Health, Education, and Welfare.

The high regard in which this great American is held by his constituents is evidenced by the fact that since 1954, when he first won the Democratic nomination in a three-way race by 27 votes, he has won renomination and reelection eight times, with strong majorities each time in a district that many observers consider marginal.

Many fine tributes have been paid the Congressman since his announcement that he plans to retire at the end of his present term. Typical of those was a statement made by Joseph R. Snyder, Gallatin, Mo., vice chairman of the Missouri Water Resources Board and editor and publisher of the Gallatin North Missourian, at a meeting of the Northwest Missouri Press Association in St. Joseph on January 21.

Not only the Sixth District, but all Missouri as well as the Nation, can only suffer loss because of his decision to retire, at least temporarily, from public life.

I ask unanimous consent that Mr. Snyder's remarks be printed in the Record; also an editorial written by another of Missouri's outstanding newspaper publishers, Jack Stapleton, Sr., which appeared in the Stanberry Headlight; also an article in the Kansas City Star by Joe Lastelic of the Star's Washington bureau.

Everyone who knows Bill Hull knows that throughout the present term, he will be working ceaselessly for his constituents and the people of Missouri and America.

Today it is my privilege to wish him well, not only this year, but in future years as he returns to his beloved home community, Weston, in order to spend more time with his family in the retirement he has earned so well.

There being no objection, the items were ordered to be printed in the Record, as follows:

Tribute to Congressman William R. Hull, Jr.

(By Joseph R. Snyder)

I am deeply honored to introduce the next individual, with some sadness, too, for this will be the last time he will appear before us in his present capacity, since only this week he announced that he will not seek another term in Congress. I am speaking, of course, of our good friend, Bill Hull.

I am sure that a congressman's job—just as it is for a conscientious editor—is not the easiest road for making one's way through life. Not only is it hard work, but it is a road on which one is forever forced to measure himself against what he ought to be, or ought to do. Even at best, one is constantly aware he could do much better if he were wiser, more gifted, more retentive and more responsive.

Of course with this agony, there is great satisfaction. There is solemn pride in serving the people and being a part of a great nation. There is excitement in seeing the world and observing first hand the scenes of crisis. There is satisfaction in knowing personally the men and women who are making the world we live in, and who influence its thought and its course of action.

This has certainly been true of my friend, Bill, because he has never isolated himself from the people—but has walked and talked among them to win a balance the top leaders can never know, but wish they could achieve.

It has been by privilege and pleasure to know him well. It is an association I have treasured. No one could have been more considerate and nicer to me and my family. I will remember Bill Hull as the man who did what he thought was best for the majority of the people in his district, even if it meant disappointing a few personal friends.

And if there was ever a more honest and sincere man in Washington, I have yet to meet him.

Ladies and gentlemen, with affection and appreciation for 18 years public service, I respectfully recognize Sixth District Congressman William R. Hull, Jr.

Congressman Hull Decides Not To Run

Many Democrats—and quite a few Republicans—were taken by surprise with the announcement by Congressman William R. Hull, Jr., that he would not again seek the office from the Sixth Congressional District. Many had believed that Mr. Hull would run again this year.

But in his nice statement of last week, Mr. Hull pointed out that he had held the office of Congressman from this district longer than any other man. That statement, of course, is absolutely correct.

What Mr. Hull didn't say and couldn't say was that he has served this Sixth district in an admirable manner. Those who have followed the career of Mr. Hull knew that he was a good Congressman. He was honest to the nth degree. He was conservative in everything he did.

And that conservatism is what attracted many Republicans to his banner. There was never an election that Bill Hull didn't grab off a great many Republicans who liked his way of thinking and liked the manner in which he operated in Washington.

Mr. Hull will have more time to spend with his family, as he pointed out in his statement. He was popular all over his district and that was evident in the fact that his elections generally saw him winning by a 20,000-vote majority.

It had seemed rather certain this year, that Congressman Hull would have opposition. That probably had no bearing on his decision, but it might have caused him to think a little in that direction.

Not everyone agreed with Congressman Hull. This newspaper did not always agree with him, but we never at any time doubted his honesty and his integrity. Congressman Hull will be missed in Washington. But he is certainly deserving of a long rest.

And the Sixth Congressional district will miss the gentleman from Weston. Our sincere good wishes go to Bill Hull wherever he may go and whatever he undertakes.

[From the Kansas City Star, Jan. 19, 1972]

Hull To Give Up Congress for Family

(By Joe Lastelic)

Washington.—Rep. William R. Hull, Jr. (D-Mo.) reminisced today about his life, his service in Congress and why he decided to retire at the end of this year.

"I hate to go on and on and on," he said. "I want to be with my family. I want to spend more time with them."

A smile crossed his face as he looked at photographs of a granddaughter, Stacey, 4 years old. She is one of four grandchildren.

"My whole family is glad that I'm retiring," Hull said. "It is a rough thing to do. There are so many I've been with in these years, who have helped me and you think of those things, too."

Hull sat back in his chair, removed his tie and looked around the office at the certificates, plaques, awards, photographs, two honorary doctor of laws degrees and other mementos of 17 years in Congress. There are photographs with Presidents Kennedy and Johnson, Pope John XXIII and Pope Paul. And the delegations who have come to Washington through the years seeking Hull's assistance in their projects and endeavors.

What will he do with all of that, and the files, books and documents and accumulation of years?

"It's a question I'm wondering about," Hull said, laughing. "But I've got a year."

He talked about his mother and father, who left Kentucky when they lost their money and went to Weston, Mo., in search of a new life. They began there in a log cabin and his father worked for 50 cents a day. They farmed, raised tobacco and traded horses and reared a family of five boys and a girl. In those days of the early 1900s Hull said he never thought about someday serving in Congress.

"Sis," come in here," he called to his sister, Mrs. Daniel Lynch, who is receptionist in his congressional office. "I want to make sure I get this information correct."

His father was mayor of Weston, which meant taking the town's troubles home all the time, and that was about as far as the younger Hull thought he might want to go, he said. He served on the school board and other community enterprises and decided to run for mayor.

"Mother said she would work against you," Mrs. Lynch recalled, explaining that Mrs. Hull could remember all the troubles her husband had encountered as mayor.

Hull served one term.

"I wanted to get out there as fast as I could," Hull said, confirming that the job was no bed of roses.

Because his brother, George Hull, could not, Hull went to the Democratic National Convention in Chicago in 1952. There he met the speaker of the House of Representatives, Sam Rayburn, and Rep. Harold Cooley of North Carolina, and they suggested that he run for Congress. They promised to campaign for him.

"He came home and said he was going to run," Mrs. Lynch said.

Two years later the entire family was engaged in the campaign and Rayburn, Cooley and Sen. Lister Hill of Alabama kept their promises and campaigned with Hull. He won the Democratic primary by just 27 votes and then unseated the incumbent, Rep. William Cole, a St. Joseph Republican.

When he took the job he had to give up fishing, his favorite sport. When he retires, Hull said he wants to go back to Missouri and try his luck at the farm ponds and the big reservoirs he has seen built in the 6th District in Northwest Missouri.

Since his first victory Hull has won reelection eight times with margins of about 20,000 votes. He is a conservative, like his district. The district is evenly balanced with Republicans and Democrats, and Hull's voting record also reflects that.

Hull has an easy-going and friendly manner and believes in the committee system and in teamwork, and he has made many friends in Congress. His office follows a policy of prompt attention to inquiries from constituents.

"If we can help people, that's what I like," he said. "I've always felt that way about it."

He is distressed at the turmoil in this country, the tearing down of old institutions, discarding of things he believes are honorable and right, the pressures both in and out of Congress for changes he feels are not in the interests of the nation. Yet he is confident that the future is bright. He summed up his philosophy as a public servant:

"I do what I think I should do," he said. "I have never bowed to pressure and the people have supported me."

Hull plans to return to his home and 128-acre farm near Weston. His daughter and grandchildren and his brothers and their families live there. His wife died in 1950.

"AS OBSERVED FROM BERLIN," BOOK BY AXEL C. SPRINGER

Mr. TOWER. Mr. President, the book "As Observed From Berlin (Von Berlin aus gesehen)", written by Axel C. Springer, one of the most distinguished publishers on the continent of Europe, was published recently in West Germany. Mr. Springer has done a great deal for the free press in Germany. His spectacular success story in post-World War II Europe is an outstanding proof of the viability of the free enterprise system. I ask unanimous consent to have printed in the Record some excerpts from the foreword and epilog to this remarkable book:

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

From the Foreword by the Publisher Hans Wallenberg

The book is a testimony to the involvement of the man who as a publisher and an active newspaperman has expressed his opinions with conviction on the crucial problems of our times. The book is also a testimonial to his radical anti-radicalism, to his absolute rejection of any fanatic opinion whether it is being voiced from the left or right. If there ever was an uncompromising man of the middle, the book makes it clear that this man is Axel Springer.

From the Epilog by Baron Karl Theodor von und Zu Guttenberg

It is primarily due to the newspapers published by the Axel Springer Publishing House that German public opinion has been kept informed about the details of the present government's ambiguous Eastern policy. In particular, however, it was Axel Springer himself, notwithstanding all personal accusations and defamations nowadays connected with opposing Ostpolitik in the Federal Republic, who raised his voice to warn that the German Government is helping the Soviet Union, the coldest of all cold-war warriors, to achieve a dominant position over the entire Europe.

A democracy needs politically dedicated publishers who openly and frankly express their opinions. Axel Springer is one of those honest people without whom society would decay. He makes his statements regardless of whether what he says pleases the majority or minority of the nation. Springer's attitude is being disposed of with demagogic slogans by his adversaries. For many leftwingers he is simply the man to be booded down, denied discussion and on whom defamatory labels are being pinned. He is the "reactionary," the "nationalist," the "German Nationalist of the Hugenberg type," the "capitalist," the "revanchist," the "partisan of the cold war." For those for whom that list of insults is too reminiscent of the Moscow or East German vocabulary, he is a visionary or a harmless political dreamer.

It is true that Axel Springer is one of those who did not lose hope for a better future for our nation.

The present policy of the Soviet Union is the continuation of the cold war with the use of new means. There is not a single, and I repeat, not a single shred of evidence available that Moscow gave up its revolutionary and expansionist aims. On the contrary, the Soviet Union is striving towards these objectives on all political and geographic fronts with the same intensity and consistency as heretofore on all continents, on all seas and with all means. How would it then be possible for the West or for the Bonn government alone to hope to end the cold war which is being waged by Moscow?

Having its objectives in view, the Soviet Union is not shy, naturally, to constantly use the term "status quo," and "recognition of the actual situation." However only people who are blind or do not want to open their eyes because they are afraid of the facts, could overlook the meaning of the Soviet Union's understanding of the term "recognition of the actual situation," which comprehends as an inevitable "historical process" of the expansion of the Communist ideology, with the constantly growing military power of the Soviet Union being the important component. The status quo which we would have to accept under Moscow control is only a camouflage for a continuous enlargement of the Pax Sovietica and of the Soviet imperialism.

I share with Axel Springer the doubtful "privilege" of being reviled as a reactionary and a cold war advocate. The attempt is being made to leave the impression that whoever speaks out against Brandt's Eastern policy, is a peace-hating nationalist. The truth is quite different. I have no intention to call the nebulous messianism which constitutes the tone of the present Eastern policy "a betrayal of the nation." The word "betrayal," concerning the present course of the government, has been used by the same leading Social Democrats, before their surprising change in the winter of 1969–1970. The opponents of this course believe, and in this respect I am in agreement with Axel Springer, that it is imperative to resist a dangerous and shattered illusion of peace which is going to be pushed through by a slimmest parliamentary majority. Our goal will remain a real peace, recognized by the whole German people, peace with the Soviet Union, as well as with Poland and with other East European countries. There is however one unequivocal and uncompromising precondition for this peace and this is the respect for the right of self-determination of the Germans.

This train of thoughts is in evidence in many speeches and articles of Axel Springer, published in this book. There are the statements of a sincere German Democrat, who is concerned about world peace and the freedom rights for his people

ENGINEERS' WEEK

Mr. GRAVEL. Mr. President, in Alaska the week of February 20–26, 1972, has been set aside by Gov. William A. Egan as Engineers' Week. I know that Senators will want to join with Alaskans in the observance of this event. I ask unanimous consent that the Governor's proclamation be printed in the Record.

There being no objection the proclamation was ordered to be printed in the Record, as follows:

Proclamation—Engineers' Week

Engineering is the profession in which a knowledge of the mathematical and physical sciences gained by study, experience, and practice is applied with judgment to develop ways to utilize, economically, the materials and forces of nature for the progressive well-being of mankind in creating, improving, and protecting environment, in providing facilities for community living, industry, and transportation, and in providing structures for the use of mankind.

Members of the profession in Alaska in cooperation with other agencies have continued to serve the public in the aforementioned manner.

It is appropriate that the profession be recognized at a time when we celebrate the birthday of George Washington, one of America's first engineers.

Engineers' Week provides an opportunity for the public and the engineering profession to become more mutually acquainted and the public, therefore, to better understand the works of engineers.

Therefore, I, William A. Egan, Governor of Alaska, do hereby proclaim and call upon the people of our State to observe the week of February 20 through 26, 1972, as Engineers' Week in Alaska, and I urge all citizens of Alaska to join in extending recognition and honor to our engineers.

Dated this 14th day of February, 1972.

William A. Egan,
Governor.

POLISH-AMERICAN CULTURE AND THE AMERICAN FOLKLIFE FOUNDATION ACT

Mr. HARRIS. Mr. President, I invite the attention of Senators to an article entitled "Polish Dancers Nurture Cultural Heritage" which was published in the January 10 edition of the biweekly Midland Cooperator.

As Carol James, the article's author, writes:

> Anyone who thinks symphonies, ballets, and classical music have a corner on culture had better trade his baby grand piano for a concertina and hock his opera tickets for a seat on the next bus bound for Thorp, Wis.

There, one will find a group of Thorp residents who have been nurturing their Polish cultural heritage for the last 35 years.

At least once a month, according to the article, they get together, clothed in traditional Polish dress, to dine and dance classical Polish dances. In addition, the group has been active in maintaining other aspects of Polish culture such as language, music, and history.

Mr. President, this kind of pride in one's cultural heritage is healthy for America. It is the diversity of our people, and the unique gifts each of our many cultures possess, that have contributed to the vitality and strength of our Nation. America is not a melting pot, and it ought not to be. Mr. President, I have introduced a bill, S. 1930—the American Folklife Foundation Act—which recognizes that principle and would therefore help to promote and preserve this country's rich folklife traditions. Polish-American culture is certainly a colorful part of that tradition.

Mr. President, I ask unanimous consent that the article be printed in the Record, along with a copy of S. 1930, the American Folklife Foundation Act, and my remarks upon introducing it.

There being no objection, the items were ordered to be printed in the Record, as follows:

POLISH DANCERS NURTURE CULTURAL HERITAGE

(By Carol James)

When Joan Kennedy reads Peter and the Wolf with the Boston symphony orchestra—that's culture. When Rudolf Nureyev goes on tour with the London Ballet—that's culture.

But anyone who thinks symphonies, ballets and classical music have a corner on culture had better trade his baby grand piano for a concertina and hock his opera tickets for a seat on the next bus bound for Thorp, Wis.

Upon arriving in Thorp he'd meet people whose names are more difficult to pronounce than Rockefeller, Kennedy or Henry Cabott Lodge. But in terms of culture, the residents of Thorp have it. They've been nurturing their Polish cultural heritage for 35 years.

Sixteen couples of Polish ancestry get together to dine and dance classical Polish dances at least once a month. Sometimes the group is invited to perform at towns surrounding Thorp in north central Wisconsin.

Should you happen in on one of the Thorp Polish Dancers' monthly soirees, you'll find the Mssrs. Burzynskr, Truckey, Pszenczny, Kotecky, Ogurek, Mroz, Bieno, Buresh, Slipek Strzok, Slowiak, Ciolkosz and Jakobowicz decked out in satin-lined coats with long tails to wear dancing and dining.

On the men's arms are Polish-costumed ladies wearing flouncy white blouses with red or black sequined vests forming petals ringing their waists.

When the dancers whirl around the dance floor at the Thorp American Legion Hall, satin coattails swirl and yards of ribbon twirl to the beat of Polish concertina music, to the click of men's gallant knee-high black boots and to shouts of "Whoopee . . ."

The Krakowiak-costumed couples dance for hours the traditional steps of their forebearers. By the time an evening's dance is over, they've performed everything from the stately and aristocratic Polonaise to the rowdy "Pillow Dance," which calls for exuberant kissing, hugging and circling laced with strains of a lively polka.

"Our costumes are the traditional dress of one of the districts in Poland. But the dances we perform come from all over Poland," Joe Truckey, a leader of the Thorp dancers group, explains.

The group has been active to maintain the traditional Polish dances and other aspects of Polish culture in Thorp since 1937. Al Ciolkosz, founder of the group, has held rehearsals through the years in Polish dancing, singing and marching and he has given lessons in Polish history. He even taught Polish in a rural Thorp elementary school for a number of years.

Members of the Polish National Alliance in Minneapolis have worked with the Thorp Polish Dancers from time to time to make sure their steps are accurate renditions of the classical Polish dances.

"Until we joined this group, many of us knew very little about our Polish heritage," Ed Bieno, a member of the group and a Thorp banker, says. "It makes us much more aware of what being Polish really means."

Animated conversations in Polish can be heard during breaks in the dancing. Even some of the teenagers, who share with their parents an active interest in the Polish folk dancing group, can speak some Polish.

Sometimes Americanisms creep in during an evening of Polish culture. A cheerleader, for instance, arrives at the hall after a basketball game between Thorp and a rival team, and all of the costumed dancers are anxious to hear the outcome.

The potluck buffet dinner the dancers enjoy following their activities also looks a bit American—slices of boneless ham, potato salad and gelatin fruit salads. But redeeming the meal as ethnic is a large platter of homemade Polish dill pickles. And the pickles disappear faster than anything else on the table.

During the meal, several dancers admire one woman's long fringed red scarf. Upon learning the scarf is from Warsaw, another says, "Of course it's beautiful—it's from Poland."

Across the dance hall another person wears a button that says "Polish Power."

It's people like those with the difficult last names in places like Thorp, Wis., who remind the culture-seeker that culture can't be cornered and boxed and sent in the mail as this month's phonograph record selection. Culture has to be nurtured through the years to survive.

[From the Congressional Record, May 24, 1971]

S. 1930

By Mr. HARRIS (for himself, Mr. Cranston, Mr. Fulbright, Mr. Gravel, Mr. Humphrey, Mr. Mondale, Mr. Randolph, and Mr. Stevenson):

S. 1930. A bill entitled "American Folklife Foundation Act." Referred to the Committee on Rules and Administration.

AMERICAN FOLKLIFE FOUNDATION ACT

Mr. Harris. Mr. President, I introduce today a bill that would create an American Folklife Foundation within the Library of Congress. Through this Foundation, vital public support would be lent to a wide-ranging effort designed to foster both a broader and deeper understanding of this country's rich folklife. I am very pleased to be joined in the introduction of this legislation by seven cosponsors: Senators Cranston, Fulbright, Gravel, Humphrey, Mondale, Randolph and Stevenson.

Without question, we have been wise to invest millions of dollars in the proud work of the National Endowments of the Arts and Humanities, and we have done well as a people and as a government to build here in Washington the John F. Kennedy Center for the Performing Arts, so that this civilization might appreciate and foster fine arts and high culture. But for too long, Mr. President, our public moneys have supported a Western European cultural tradition almost to the exclusion of the many noble cultures that are homegrown throughout this country.

American cultures have not been viewed with the pride they warrant; too often, they have been scorned as the life-style of an uncultured lower class. Nothing American was allowed to bear the label "culture." We had had no national policy of appreciation and support for America's folklife.

The legislation proposed here today is an effort to invest in the culture of America's common man. It says that the country fiddler need not feel uncultured simply because his fiddle does not produce a concert tone; it says that the pottery of Jugtown, N.C., and the sand-painting of Southwestern Indians are artistic treasures in the same sense as those from the dynasties of China; it says that the black bluesmen along the Brazos Valley in Texas are recognized as pure artists and welcome as a national treasure; it says that the American Indian philosopher has something urgently important for America today and that this society wants to hear him as well as the ancient Greeks; it says that the total lifestyles of Swedish-Americans in Milwaukee, of Polish-Americans in Chicago, and of Italian-Americans in Boston have brought a perspective and a contribution to this country that has ennobled us as a society; and it says that the bluegrass band has developed a music with a complexity and a richness that will grow and that will endure always as a living monument to American musical genius. In short, the bill I am proposing says that there is a vast cultural treasure in American's common man, and that our society will be a better one if we focus on that tresaure and build on it.

Before going further, it probably would be useful to stress what we mean in this bill when we say "folklife." All too often, people think of folklife as something out of the hills, and they frequently think of it only in terms of folk music. These impressions are incorrect. We are concerned in this legislation with folklike in its broadest sense—perhaps best summed up as the total lifestyle of peoples—and we are concerned about it everywhere in America—in cities as well as in small towns and rural areas. The legislation defines folklife as "the traditional customs, beliefs, dances, songs, tales, sayings, art, crafts, and other expressions of the spirit common to a group of people within any area of the United States; the term includes, but is not limited to, music (vocal and instrumental), dance, drama, lore, beliefs, language, humor, handicraft, painting, sculpture, architecture, other forms of creative and artistic expression, and skills related to the preservation, presentation, performance, and exhibition of the cultural heritage of any family, ethnic, religious, occupational, racial, regional or other grouping of American people."

Most important, Mr. President, this bill considers folklife as a dynamic force in today's society and not simply as something out of our past. The American Folklife Foundation will be concerned with the past and will enable scholars and field researchers to give us all a better understanding of the cultural history of America. The need adequately and accurately to record our history cannot be doubted. This should be a proper concern of the Federal Government; however, at the moment no Federal program is designed to meet this need insofar as the folklife of the country is concerend. But the purpose of all this is not simply to know what was and then to store it in an archive to gather dust. Rather, we are interested in bringing the American folklife of 200 years ago, as well as the folklife of 20 years ago, to bear on the daily lives of today's Americans. While we contemplate pure academic research in this bill, we contemplate much more than that. We contemplate dissemination and presentation of America's folklife in such a way that it can bring understanding and perhaps even some wisdom to the decisions that our people—both individually and as a society—must make today and tomorrow. This is not to say that this little bill is going to produce wisdom or is going to make the difference in the quality of our lives, but it is to say that this bill at least will finally allow us to count our folk cultures as a force working toward wisdom and quality in life.

Perhaps the most important aspect of this legislation is that it recognizes, accepts, and builds on the fact that America is not a melting pot and that there is no such thing in this country as a homogenized mass culture.

This is a union of individuals. America is a mosaic of cultures, not a blend. Too often, we have failed to treat our differences with respect. The truth is that we do not know each other well enough. Some only know that Germans live in Nebraska, that Chicanos are in the barrio, that a lot of Scots can be found in Appalachia, that many Poles live in and around Chicago, that smalltown blacks live on the other side of the tracks, and that there are Amish in Pennsylvania, but we do not know how they live.

To complicate this lack of understanding, the overwhelming forces of technology and bureaucracy tend to deny us our humanity and to stifle our expressions of individuality. In this climate of alienation and anxiety, we need to know ourselves if we are to know each other. One way to accomplish this is to enlarge upon folk lifestyles and to seek as many outlets as possible for the expression of American cultures. That is what this bill is about. The American Folklife Foundation will give the American people a chance to express themselves.

Mr. President, the substance of this bill was introduced in 1969 by former Senator Ralph Yarborough of Texas, and I am privileged to carry on the outstanding effort that he began. In May of 1970, Senator Yarborough held hearings on the bill and reported it from the Labor and Public Welfare Committee, but the 91st Congress adjourned before the full Senate was able to act. I hope we can have hearings on this measure very soon, and it is my deep hope that the Senate will see fit to enact the proposal in this session of Congress. There is great strength in the folklife of this Nation. Strength which has not been fully understood and certainly not used to the fullest. A companion bill is being introduced on the House side by Mr. Thompson of New Jersey, and it is hoped that quick action also can be had in that body so that we are able soon to create the American Folklife Foundation and to fund it to begin this very important work.

SECTION-BY-SECTION ANALYSIS OF AMERICAN FOLKLIFE FOUNDATION ACT

SECTION 1

This section states the purpose of the Act to be that of supporting research and scholarship in American folklife in order to contribute to an understanding of the complex problems of the basic desires, beliefs and values of the American people in both rural and urban areas, and that, among other things, it is in the interest of the general welfare of the nation to preserve, support, revitalize and disseminate American folklife traditions and arts.

SECTION 2

This section contains the definitions and defines "American folklife" as the traditional customs, beliefs, dances, songs, tales, sayings, art, crafts and other expressions of the spirit common to a group of people within any area of the United States.

SECTION 3

This section provides that the American Folklife Foundation should be established within the Library of Congress.

The Foundation is subject to the supervision of a twelve member Board of Trustees, four to be appointed by the President and eight by the Librarian of Congress.

A Director and Deputy Director, to be appointed by the Librarian, would be the principal directing officers of the Foundation.

SECTION 4

This section sets forth the authority of the Foundation. The Foundation would be empowered to establish and implement a program of contracts, grants, loans, and scholarships with individuals and groups in order to record and to promote American folklife.

SECTION 5

This section places certain limitations on the grants. No payments shall be made to carry out research or training over a period in excess of two years, except with the concurrence of two-thirds of the members of the Board of the Foundation. A limitation on grants to former employees of the Federal Government is also provided for in this section.

SECTION 6

This section gives the Foundation administrative authority to carry out the purposes of the Act.

SECTION 7

This section authorizes to be appropriated such sums as may be necessary to carry out the provisions of the Act.

Mr. President, I ask that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1930

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "American Folklife Foundation Act".

DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds and declares—

(a) that American folklife has lent strength to the American people and to the Nation;

(b) that the diversity inherent in American folklife has contributed greatly to the cultural richness of the Nation and has fostered a sense of individuality and identity among the American people;

(c) that the history of the United States effectively demonstrates that building a strong nation does not require the sacrifice of cultural differences;

(d) that American folklife has a fundamental influence on the desires, beliefs, values, and character of the American people;

(e) that it is appropriate and necessary for the Federal Government to support research and scholarship in American folklife in order to contribute to an understanding of the complex problems of the basic desires, beliefs and values of the American people in both rural and urban areas;

(f) that the encouragement and support of American folklife, while primarily a matter for private and local initiative, is also an appropriate matter of concern to the Federal Government;

(g) that it is in the interest of the general welfare of the Nation to preserve, support, revitalize, and disseminate American folklife traditions and arts;

(h) that in order to implement these findings, it is appropriate to establish in the Library of Congress an American Folklife Foundation to develop, promote, and implement a broadly conceived national policy of support for American folklife.

DEFINITIONS

SEC. 3. As used in this Act—

(a) the term "American folklife" means the traditional customs, beliefs, dances, songs, tales, sayings, art, crafts, and other expressions of the spirit common to a group of people within any area of the United States; the term includes, but is not limited to, music (vocal and instrumental), dance, drama, lore, beliefs, language, humor, handicraft, painting, sculpture, architecture, other forms of creative and artistic expression, and skills related to the preservation, presentation, performance, and exhibition of the cultural heritage of any family, ethnic, religious, occupational, racial, regional, or other grouping of American people;

(b) the term "group" includes any State or public agency or institution and any nonprofit society, institution, organization, association, or establishment in the United States;

(c) the term "State" includes in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands;

(d) the term "workshop" means an activity the primary purpose of which is to encourage the development of skills, appreciation, or enjoyment of American folklife among amateur, student, or nonprofessional participants, or to promote scholarship or teaching among the participants.

ESTABLISHMENT OF FOUNDATION

SEC. 4. (a) There is hereby established in the Library of Congress an American Folklife Foundation (hereinafter referred to as the "Foundation").

(b) The Foundation shall be subject to the supervision and direction of a Board of Trustees (whereinafter referred to as the "Board"). The Board shall be composed of four members appointed by the President by and with the advice and consent of the Senate, eight members appointed by the Librarian of Congress by and with the advice and consent of the Senate, the Librarian of Congress ex officio, and the Director of the Foundation ex officio. The four members appointed by the President shall be officials of Federal departments and agencies concerned with some significant aspect of American folklife traditions and arts. The eight members appointed by the Librarian of Congress shall be individuals from private life who are widely recognized by virtue of their scholarship, experience, creativity, or interest in American folklife traditions and arts. In making appointments from private life, the Librarian shall give due consideration to individuals suggested to the Librarian by the Board and shall provide for regional balance in the membership of the Board.

(c) The term of office of each appointed member of the Board shall be six years; except that (1) the term of members first taking office shall be two years for three members appointed and so designated by the Librarian, two years for two members appointed and so designated by the President, four years for three members appointed and so designated by the Librarian, and four years for one member appointed and so designated by the President, and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term to which his predecessor was appointed shall be appointed for the remainder of such term.

(d) Members of the Board who are not regular full-time employees of the United States shall be entitled, while serving on business of the Foundation, to receive compensation at rates fixed by the Librarian, but not exceeding $100 per diem, including travel time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by Section 5703 of Title 5, United States Code, for persons in Government service employed intermittently.

(e) The Librarian shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve for a term of one year. Thereafter each Chairman and Vice Chairman shall be elected for a term of two years. The Vice Chairman shall perform the duties of the Chairman in his absence. In case of a vacancy occurs in the Chairmanship or Vice Chairmanship, the Board shall elect a member to fill the vacancy for the remainder of the unexpired term.

(f) A majority of the members of the Board shall constitute a quorum.

(g) There shall be a Director and a Deputy Director of the Foundation, who shall be appointed by the Librarian, by and with the advice and consent of the Senate. In making such appointments the Librarian shall give due consideration to any recommendation submitted to him by the Board. The Director shall receive compensation at the rate provided for level V of the Federal Executive Salary Schedule, and the Deputy Director shall receive compensation at a rate not to exceed G.S. 18 of the General Schedule under Section 5322 of Title V of such Schedule. Each shall serve for a term of six years unless previously removed by the Librarian.

(h) The Director shall be the chief executive officer of the Foundation. He shall carry out the programs of the Foundation subject to the supervision and direction of the Board, and shall carry out such functions as the Board may delegate to him consistent with the provisions of this Act.

(i) The Deputy Director shall perform such function as the Director, with the approval of the Board, may prescribe, and shall serve as acting Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

AUTHORITY OF FOUNDATION

SEC. 5. The Foundation is authorized to establish and implement a program of contracts, grants, loans, and scholarships with individuals and groups in order to—

(a) initiate, promote, support, organize, and produce live performances, festivals, exhibits, and workshops related to American folklife;

(b) initiate, encourage, support, organize, and promote research, scholarship, and training in American folklife:

(c) establish and maintain in conjunction with any Federal Department, agency, or institution a national archive and center for American folklife;

(d) procure, receive, purchase, and collect for preservation and storage in the archive appropriate paintings, creative works, exhibitions, presentations, objects, materials, artifacts, and audio and visual records (including still and motion picture film records, audio and visual magnetic tape recordings, written records, and manuscripts) which represent or illustrate some aspect of American folklife;

(e) loan, lease, or otherwise make available any item in the archive to any individual or group under such terms and for such uses as the Board deems appropriate;

(f) purchase, receive, product, or arrange and support the producton of exhibitions, displays and presentations (including presentations by still and motion picture films, and audio and visual magnetic tape recordings) which represent or illustrate some aspect of American folklife;

(g) present, display, exhibit, disseminate, communicate, and broadcast to local, regional, state, or national audiences any exhibition, display, or presentation produced pursuant to subsection (d) of this section or any item in the archive established pursuant to subsection (c) of this section, by making appropriate arrangements, including contracts, loans, and grants with public, non-profit, and private radio and television broadcasters, museums, educational institutions, and other individuals, and private or non-profit corporations as the Board deems appropriate;

(h) purchase, receive, produce, and arrange for and support the production of exhibitions, programs, presentations, and materials specially designed for classroom use representing or illustrating some aspect of American folklife, and to loan, lease, or otherwise make available such exhibitions, programs, presentations, and material to public, private, and nonprofit educational institutions;

(i) develop and implement other appropriate programs to preserve, support, revitalize, and disseminate American folklife.

LIMITATION ON GRANTS

SEC. 6. (a) No payment shall be made pursuant to this Act to carry out any research or training over a period in excess of two years, except that with the concurrence of at least two-thirds of the members of the Board of the Foundation such research or training may be carried out over a period of not to exceed five years.

(b) No individual formerly in the employment of the Federal government shall be eligible to receive any grant or other assistance pursuant to this Act, or to serve as a trustee of the Foundation, in the two-year period following the termination of such employment.

ADMINISTRATIVE PROVISIONS

SEC. 7. In addition to any authority vested in it by other provisions of this Act, the Foundation, in carrying out its functions, is authorized to—

(a) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(b) receive money and other property donated, bequeathed or devised, without condition or restriction other than that it be for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(c) in the discretion of the Foundation, receive (and use, sell, or otherwise dispose of, in accordance with paragraph (b)) money and other property donated, bequeathed, or devised to the Foundation with a condition or restriction, including a condition that the Foundation use other funds of the Foundation for the purpose of the gift;

(d) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of the Act without regard to the provision of Title V, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall receive compensation in excess of the rate received by the Deputy Director of the Foundation;

(e) obtain the services of experts and consultants in accordance with the provisions of Section 3109 of Title 5, United States Code, at rates for individuals not to exceed $100 per diem;

(f) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by Section 5703 of Title 5, United States Code;

(g) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of the Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds and without regard to Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(h) make advances, progress, and other payments which the Board deems necessary under this Act without regard to the provisions of Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

(i) rent office space in the District of Columbia;

(j) make other necessary expenditures.

The Foundation shall submit to the Library of Congress for inclusion in its annual report to the Congress an annual report of its operations under this Act, which shall include a detailed statement of all private and public funds received and expended by it, and such recommendations as the Foundation deems appropriate.

AUTHORIZATION

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EDITORIAL SUPPORT FOR NEW EMERGENCY TRANSPORTATION LAW

Mr. PACKWOOD. Mr. President, on February 8, the Senate finally addressed itself to the crippling dock tieup on the west coast which to this very day, in spite of our legislation, is still strangling commerce into and out of west coast ports. The Nation's farmers are, as might be expected, the hardest hit by this breakdown in our vital waterborne transportation system. The Agriculture Department is estimating that our farmers' losses will total over $1 billion, and that it will take at least 15 years to reestablish trading patterns with foreign nations, patterns which have been disrupted and sometimes severed altogether during the course of the last 7 months.

Although the PMA and the ILWU have tentatively agreed on a settlement and there is wide spread optimism that the docks will soon be open for commerce again, untold and irreparable damage has been done. Furthermore, we are still facing a large number of potential transportation disputes in the next 18 months, any one of which could bring this Nation's commerce to its knees, and repeat the tragic story of the last 7 months.

Mr. President, my State of Oregon has long since recognized the need for new statutory procedures which will give the President new options and authority to protect the public interest in the event of regional or national emergencies resulting from unresolved transportation disputes. In my judgment, and I think most Oregonians would agree, no union or industrial baron should have a life-or-death power over the livelihoods, health, and safety of the rest of the Nation or region. Free collective bargaining should be protected and fostered, but when the public interest is clearly threatened, the President should have the authority he needs to prevent the sort of paralysis and long-term damage which has resulted from the west coast tieup.

The President does not currently have any additional authority beyond the 80-day cooling off period provided for in the Taft-Hartley Act of 1947. If the dispute is not resolved during the 80 days, there is no remedy, no way to protect the public, except by resort to congressional intervention. Legislation which I have introduced would eliminate congressional interference by giving the President three new options to deal with emergency transportation disputes, after the 80-day cooling off period has expired without a settlement.

Mr. President, I am firmly convinced that Congress is far behind the public in seeing the desperate need for new options in the face of crippling emergency transportation tieups. On February 7, I placed in the RECORD 18 editorials from major newspapers around the country. Each pointed up the failure of Congress to act on one of the very most serious and obvious problems facing our economy today, the ability of a handful of union or management powers to literally ruin millions of individuals and businesses who play no part in their dispute but are nevertheless dependent on vital transportation services for their livelihoods.

Mr. President, Congress has acted to meet the latest emergency, but the editorial support for new permanent procedures to deal with emergency transportation disputes still remains. The public will not forget that we have not yet met our responsibility, nor will the great newspapers of this Nation forget. Their vigilance is a proud hallmark of this democracy, and I am confident that their interest and attention will remain focused on this issue until it is finally resolved with new permanent legislation.

I ask unanimous consent that four recent editorials from the Oregonian, Oregon Journal, Eugene Register-Guard, and Los Angeles Times, each written since Congress approved the dock strike resolution, and each citing the need for new permanent legislation, be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Eugene Register-Guard, Feb. 10, 1972]

Get On With It

Whether or not the West Coast dock strike is settled by labor-management compromise before the President insures settlement by compulsory arbitration, Congress should proceed with legislation to protect the nation against recurring economy-crippling major industry tieups.

Time and time again, especially in transportation industry disputes, it has been proved that the general public, not the warring factions, ends up paying the most because of Congress timidity about infringing upon principles of free collective bargaining.

In the case of the West Coast dock strike, the longshoremen will emerge with guideline-exceeding wage gains—and, apparently with a guaranteed annual wage, plus other important benefits. In their turn, the shipping interests can pretty well depend that if these strike settlement terms prove too heavy a load for them, the federal government will bail them out one way or another.

Ultimately, the cost will fall upon the general American public. And it will be added to direct losses that West Coast residents have suffered in lost business opportunities during the prolonged strike. Those losses alone have been estimated in excess of two billion dollars.

Experts in the field of labor relations differ in their views about how the public interest should be safeguarded against hardships inflicted as the result of big battles between big labor and big business. Some favor making the certainty of compulsory arbitration simply a matter of due course in instances where strike or lockout effects become too drastic. Others lean toward the establishment of special labor courts and the ending of union-management impasses through specially developed processes of law.

But, except in the circles of organized labor and multimillion-dollar managements, there remains little doubt that the nation's lawmakers must provide better than 13th hour ad hoc solutions for titanic labor-management struggles.

Mounting public opinion is that the sooner Congress acts to recognize that rights of the general public are at least equal to those of labor and management, the better the economic well-being of all Americans will be protected.

[From the Oregonian, Feb. 10, 1972]

Strike Issue Remains

It was the imminence of congressional approval of the Nixon Administration's bill to end the West Coast longshore strike that brought the "tentative" agreement between the negotiators at San Francisco, after 124 days of idle ports, lost markets and an estimated $1.4 billion cost to workers, growers, shippers and industry generally and Oregon's lumber industry in particular.

Has Congress got the message? The American people are completely fed up with strikes and lockouts in major industries, particularly in transportation, that add to long-term unemployment, cause business to stagnate and cripple farmers. The national welfare supersedes the "right" of a handful of workers or an intransigent group of employers to do violence to the livelihood of millions of others.

Putting aside the reluctant agreement of members of the Pacific Maritime Association to pay ransom to the International Longshoremen's and Warehousemen's Association for containerization and other benefits of automation and mechanization, the responsibility of Congress remains paramount.

The threat of specific action to send the longshoremen back to the docks and settle their grievances in a fair manner by binding arbitration would not have been necessary had Congress acted earlier on national emergency strike legislation submitted two years ago by President Nixon. And the danger of more such tieups, if not a resumption of this one, will not be removed until Congress does adopt a law such as that introduced by Sen. Bob Packwood of Oregon.

The inadequacy of the Taft-Hartley Act has been demonstrated fully by the economic harm done by the unconscionably long paralysis of Pacific ports. Settlement of this strike does not in any degree lessen the responsibility of Congress to enact permanent legislation to protect the national health and welfare in the future. The issue has been avoided too long. Congress must heed the words of Rep. John Dellenback of Oregon's Fourth District, who said:

"Whether or not the issues have been settled, the dock strike has provided an unfortunate lesson for Congress: Unless we create some mechanism to protect innocent citizens from the harmful effects of prolonged strikes which imperil the national health or safety, Congress will be asked to settle strike after strike."

That is an intolerable situation and one the American people are not going to accept any longer. Nor is there any valid reason why the people's elected representatives in Congress refuse to act.

[From the Los Angeles Times, Feb. 11, 1972]

The Strike Is Over: Problems Remain

Reopening of the West Coast ports will be welcome, but a lot more needs fixing before there is cause for celebration.

It now appears likely that the longshoremen will ratify the agreement of the negotiators. That provides contract increases of more than 34% over the next 18 months and an agreement to leave to binding arbitratian the unresolved work rule questions.

If that doesn't work, there is standby emergency legislation which permits the President to impose a settlement through a three-man arbitration board.

The whole thing may come unravelled, however, through further labor disputes, for the Teamsters are not a bit happy about incentives to cut them out of container handling, or through a Wage Board veto, for the tentative agreement does violence to the board's 5.5% per year pay increase guideline.

Basically it is bad that the normal economic pressures did not work to bring agreement between the longshoremen and the Pacific Maritime Assn. This is the fifth transportation strike in two years that has been the object of special federal legislation. But there was, this time, a faint note of encouragement. The Senate came closer than ever before to doing something permanent about the problem.

President Nixon in 1970 proposed Emergency Public Protection legislation. It has been about as popular as Asian flu in a Congress where organized labor has considerable muscle. But in the frustration of the dock strike, a move to substitute this legislation won 39 votes in the Senate, and there were hints that more votes may be forth coming. That much support may at least produce committee hearings on the President proposal.

His ideas deserve study. Included is a novel form of arbitration which would encourage the normal process of mediation by focusing the arbitration on the last best offer of each side. But compulsory arbitration in any form scares many people, not just labor leaders.

There is no question that something is needed. The Taft-Hartley Act, designed for national emergency strikes, doesn't apply to railroads. President Nixon let the West Coast dock strike run 100 days before he applied it because it is not easy to define a regional problem as a national emergency. And as soon as the Taft-Hartley cooling-off period expired, the dock strike was back in effect.

Negotiated settlements of labor disputes are obviously the best. Strikes remain a legitimate tool in the struggle for economic justice. But when the public interest is clearly imperiled by the special interests of shippers or unions or transport companies, a democracy risks anarchy if it fails to have an orderly alternative.

[From the Oregon Journal, Feb. 13, 1972]

Main Job Yet To Be Done

No one on the outside can say for certain whether the International Longshoremen's and Warehousemen's Union (ILWU) and the Pacific Maritime Association (PMA) would have agreed to end their dispute this week without the pressure of congressional action.

An emergency end-the-strike bill was approved one day after the contending parties had come to terms in San Francisco, so the new legislation will be used by President Nixon only if the ILWU membership fails to ratify the agreement. This is not expected.

The willingness of Congress to act after long months of delay may be good or bad, depending on what it signals for the future.

It is bad if the lawmakers view this step as a substitute for permanent legislation designed to resolve disputes without disastrous strikes in the transportation industry.

It is good if it reflects congressional determination to attack this whole troublesome issue head on.

Oregon's Sen. Bob Packwood has interpreted the narrow defeat in the Senate of his amendment which would have attached permanent legislation to President Nixon's anti-dock strike bill as a positive sign that Congress finally will "bite the bullet."

In Oregon and the entire West Coast, the end of the waterfront dispute is only the beginning of a long, tough fight to lure back old customers who have been driven elsewhere because they could not be served from here.

The questions uppermost in their minds are: Can we depend on future shipments? How can we know this will not happen again?

Ostensibly, this is a two-year contract. But the two-year period began last July 1. It will end 16 months from now.

Asian markets for Pacific Northwest wheat were built up over a long period of relative stability, thanks to a series of five-year-contracts and a seeming realization on both sides that waterfront peace was in everybody's interest.

The easiest and quickest way to restore

the confidence of overseas buyers is for the Congress to enact legislation which will provide procedures in the whole transportation industry by which labor disputes can be settled fairly and judiciously without strikes, after collective bargaining has failed. Such procedures should apply to regional disputes like the one we have just seen.

Proposals of this kind have been in the Congress for a long time. They have been blocked and derailed by men who are indebted to or overly fearful of organized labor.

But the country as a whole—and this includes many in organized labor—is in a mood for reform. Congress is often behind the country in its acceptance of change. It ought to be getting the message from the people on this issue now.

RADIATION EXPERIMENTS ON TERMINAL CANCER PATIENTS

Mr. GRAVEL. Mr. President, the propriety of the experimental exposure of terminal cancer patients in Cincinnati to high doses of whole-body radiation, in connection with a Department of Defense research grant, has been under investigation since October 1971.

On October 15, I placed in the Record, pages 36448–36451, a statement and several newspaper accounts.

On January 19, Mr. Taft placed in the Record, pages 250–252, a report by the American College of Radiology regarding the experiments.

On January 26, Mr. Kennedy placed in the Record, pages 1359–1361, a report by the Junior Faculty Association of the University of Cincinnati.

Today, I ask unanimous consent that my recent letter and second set of questions to the American College of Radiology about these experiments be placed in the Record; the first set of questions is incorporated in the January 19 Record item, cited above.

There being no objection, the items were ordered to be printed in the Record. as follows:

February 4, 1972.

Robert W. McConnell, M.D.,
President, American College of Radiology, Chicago, Ill.

Dear Dr. McConnell: It is clear from your letter of January 3, that the American College of Radiology has taken a lot of trouble to respond to my request for advice about the radiation experiments of Dr. Eugene Saenger, and I appreciate your responsiveness.

In addition, I appreciate your willingness to discuss any points which still concern me.

My questions originally fell into five categories:

I. Animal Data and Basis For Trying This Therapy.

II. Follow-up Studies To Determine Effects.

III. Control Groups To Determine Helpfulness or Harmfulness.

IV. Private Patients.

V. Trickery, Purpose, Risk.

You seem to have answered question number four.

I will keep my questions today in the same categories as before. Considering all the conclusions which your team has reached, and considering the small number of patients involved (82), I hope and expect that the attached questions will not be difficult.

Meanwhile, I will list some of the tentative conclusions I reach from your January report, in order to find out if I understand or not. In case of a misinterpretation, I would welcome correction.

(1) The ACR report confirms that there is no control-group or systematic effort to assess comparative benefit or risk of Dr. Saenger's special cancer therapy.

(2) The ACR report confirms that the patients were not thoroughly informed about the extra discomfort, the military aspects, or the possibly lethal effects.

(3) The ACR report confirms that the patients were given hope that the treatment might prolong their lives, shrink their tumors, retard development of metastases, and/or relieve their pain.

(4) The ACR report fails so far to show that there was basis in prior animal or human experiments to justify offering this hope.

(5) The ACR report confirms that the mixed results can not be correlated with a specific treatment because many of Dr. Saenger's patients received several different kinds of treatment.

(6) The ACR report fails so far to deal with the possible harm suffered by some patients in the course of this experimentation.

Very truly yours,

Mike Gravel.

Questions Regarding Dr. Saenger's Radiation Experiments at the University of Cincinnati

(Note: The letter referred to is from Dr. McConnell to Senator Gravel, January 3, 1972, and appears in the Congressional Record of January 19, beginning on page S2500.)

I. ANIMAL DATA AND BASIS FOR TRYING THIS THERAPY

Your letter refers repeatedly (pages 3, 5, 6, 9) to the "basic animal work", "the voluminous literature" etc. which justifies human experimentation.

You state (page 3) that, "In the opinion of the Committee, the team at Cincinnati had abundant bases in the literature for undertaking this study".

Later (page 6) you state that, since 1942, there have been 86 papers published "on the subject". You apparently are alluding to the "bibliography" dated November 30, 1971 which presents 86 items.

A survey of those titles suggests that many concern:

a. leukemia.

b. bone-marrow transplant.

c. measurement of radiation effects other than cancer palliation and therapy.

Only a few of them seem to concern the treatment of "advanced, disseminated tumors" with whole-body irradiation, which is what Dr. Saenger decided to do, according to your letter (page 6).

a. Would you please indicate exactly which of the 86 references report on experiments elsewhere, on either humans or other animals, in which the treatment of malignant, disseminated tumors was the purpose of whole-and-partial-body irradiation with high energy sources? Which of these studies were complete prior to 1960, when Dr. Saenger began his own experimentation?

b. You refer (page 6) to current efforts elsewhere using whole-or-partial-body radiation to control "disseminated cancers of the breast, thyroid, and prostate". Where are these experiments going on, and who is conducting them? Is this external or internal radiation, and what is the dose-range? What is the application of partial-body radiation if the cancer is disseminated throughout the whole body?

c. Bibliography item #23 (1970) concerns the use of Phosphorus-32 for prostate cancer. Is this external or internal radition, and what is the mean whole-body radiation exposure in rads?

d. Bibliography item #32 (1950) concerns the use of Phosphorus-32 in the treatment of carcinoma of the breast with widespread metastases to bone. Was this external or internal radiation, and what is the mean whole-body exposure in rads?

e. Bibliography item #55 (1956) concerns the use of radioactive Phosphorus and Testosterone in the treatment of metastic lesions in bone from breast and prostate. What was the mean whole-body exposure in rads?

f. You state (page 11) that "some type of partial or whole-body radiation is used in more than 42 different U.S. medical centers". Since, according to your letter, a list is not available, where did the information come from: Do you mean by "used", used for treatment of "advanced, disseminated tumors"?

II. FOLLOW-UP STUDIES TO DETERMINE EFFECTS

a. You state (page 8) that, "In terms of survival, the Cincinnati group reported results showing an extension of days over untreated patients in each of the tumor categories".

What does the term "days" mean? 2 days? 180 days? Without some specification here, this important claim can be misunderstood. In which of Dr. Saenger's papers or reports does he present this important information?

What does "untreated" mean? Untreated with whole-or-partial-body irradiation, or completely untreated at all?

b. How many patients, if any, experienced an increase in pain and primary tumor size following Dr. Saenger's treatment? A decrease in activity and "well-being"?

c. You state (page 8) that about 29% of the patients felt a reduction of pain and tumor-size following Dr. Saenger's treatment. For how long did these patients feel better? A day? A year? In which of Dr. Saenger's reports can I find this important data on pain and tumor reduction?

d. You state (page 8) that about 29% of the patients experienced no improvement or change following Dr. Saenger's treatment. Is it the position of the American College of Radiology that the whole-body irradiation treatment helped as many (29%) as not (29%)? Or are there other factors besides this special treatment which may account for these results?

e. How many autopsies have been performed on the deceased patients?

III. CONTROL GROUPS TO DETERMINE HELPFULNESS OR HARMFULNESS

a. You state (page 10) that Dr. Saenger has no specific control groups or randomized samples, but that "The literature contains sufficient studies of similar patients and comparable sized samples treated by other methods to allow basic comparisons of tumor regression, post-treatment symptoms, and survival-times after palliation."

Dr. Saenger must have assembled and thoroughly studied this literature in order to make the comparison of survival times which you report (page 8) and to conclude that his treatment is promising.

I would like a list of the studies which Dr. Saenger is using for comparison and control. Would you make me a copy?

b. You state (page 8) that comparisons are "clouded" because "many" of Dr. Saenger's patients had had "one or more types of treatment" both before and after his special whole-or-partial-body irradiation experiment.

Prior to Dr. Saenger's treatment, how many of his 82 patients had themselves already had

1. localized, phophylactic irradiation of the primary tumor?

2. surgery on the tumor?

3. chemo-therapy?

How many of his 82 patients received any of those other treatments following Dr. Saenger's experiment?

c. You state (page 8) that the mixture of treatments "blurred" analysis of the effects of Dr. Saenger's single whole-body radiation therapy.

If the primary purpose of Dr. Saenger's work is to advance cancer therapy and not to procure human data for the Department of Defense, as the ACR contends (page 11), which was doomed to give "cloudy" and "blurred" results? To what extent could more useful information about the therapeutic effects of single whole-body radiation exposure in the treatment of advanced disseminated tumors be obtained from laboratory animal experiments?

V. TRICKERY, PURPOSE, RISK

a. According to the AEC's 1968 booklet, *Your Body and Radiation*, (pages 45–50), "The single-dose, whole-body lethal dose for 50% of exposed mammals ranges from about 100 to 1000 rads . . . 500 rads is thought to be the average figure for humans."

A single-dose exposure between 50 and 400 rads is described as "still nasty." The booklet says, "A victim (of such a dose) may show signs of 'tired blood', and a somewhat lowered disease resistance, with consequent shortened life expectancy . . . Irradiation is known certainly to 'take years off your life' . . ."

What basis if any, exists for disputing these statements?

b. You quote (page 8) Dr. Saenger as stating that his whole-body irradiation treatment in the 150–300 rad range creates "no greater risk than many present forms of chemotherapy."

To what degree would "present forms of chemotherapy" constitute the same risk to a healthy person as would a single dose of 200–300 rads of whole-body radiation:

c. To what extent is it correct to say that chemotherapy has unequivocally helped dozens or hundreds or thousands of cancer patients?

d. You state (page 8) that out of 82 patients whose condition had been thought to be stable died within 60 days of Dr. Saenger's treatment. Their bone marrow function was found to be subnormal, and "thus relatable to radiation syndrome".

To what extent would such results indicate warning patients about possible lethal effects from Dr. Saenger's treatment?

e. You state (page 7) that all the patients were told the radiation treatment would be attempted "to prolong their lives". What basis is there for supposing that 150–300 rads might prolong life?

f. You refer (pages 5 and 6) to bone-marrow transplants beginning in 1964, then beginning in 1965, and then "becoming practical" in 1969. This leaves me confused.

Could you please provide a year-by-year list (11 entries) showing the number of patients that year who received bone-marrow transplants, and the number who did not?

Altogether, how many of the 82 patients received bone-marrow transplants?

There seems to be quite a variation in when the patients got the bone-marrow help—everything from immediately after radiation, to the same day, to 18–21 days later.

What used to determine the timing, and what determines it now? Can delay kill a patient?

g. You state (page 7) that, "It is worth noting that these symptoms (e.g. vomiting due to radiation) are certainly no greater than those experienced by patients treated either by surgery or by any of the systemic drugs now being used clinically on disseminated tumors."

We are not comparing discomfort. What is at issue is the voluntary and informed choice by patients to endure extra discomfort and risk in return for something.

I do not understand why the patients were not informed about the possible side-effects. Doctors commonly offer warnings to their patients about the side-effects of the birth-control pill, the IUD, antibiotics, pencillin, etc. even though the effects can be subjectively induced. Is it approved medical practice for doctors not to warn patients about unpleasant side-effects of treatment?

h. You state (page 7) that "In the last few years" patients were told that the experiments might have military as well as clinical significance. What was the reason for this change in policy?

i. You state (page 6) that 24 patients were rejected and received none of Dr. Saenger's whole-body irradiation treatment. What was the basis for rejection? Were they too sick to risk the extra ordeal?

j. You state (page 6) that "some of the patients had sham irradiation treatment." What was the therapeutic purpose of this? How many of the 82 patients had it?

k. You suggest (page 3) that referral just to Dr. Saenger's papers prepared for the Department of Defense might produce misleading conclusions about the real purpose of his work. You supplied a list of all his papers and presentations. Is it correct to infer from their titles that there is only one about the effects of his treatment on helping cancer victims (1967), and in that paper, he says he can't tell much?

l. You state (page 3) that "Department of Defense funds were used only to support the laboratory and psychological studies, but not the treatment or care of the patient." Later (page 6) you state that only 82 patients were treated. Elsewhere (*Washington Post*, October 8, 1971) it has been stated that the DOD has already spent $850,000 on this work, which comes to $10,000 per patient. What accounts for this cost per patient?

THE DAVIS-BACON ACT AND JOB CREATION

Mr. TOWER. Mr. President, on January 19, I introduced S. 3036, a bill to repeal the Davis-Bacon Act and the Contract Work Hours Standards Act.

My remarks upon introducing the bill made note of a variety of reasons why I have come to the conclusion that repeal of these laws is advantageous. One of these reasons is the belief that the Davis-Bacon Act has and continues to work against other Government objectives in the fight against poverty and unemployment.

In an article in the April 1971, issue of Labor Law Journal, Prof. Jerry E. Pohlman, assistant professor at the State University of New York at Buffalo, discusses the relationship between the Davis-Bacon Act and job creation by using public housing construction as a model. Professor Pohlman's basic conclusion is that the Davis-Bacon Act increases the cost of public housing by increasing the cost of individual job creation. As a result fewer jobs are created and our war against poverty suffers.

Because I have become a firm believer that increased labor costs have contributed greatly to our inflationary spiral I find this article extremely important. Furthermore, as the ranking minority member of the Housing Subcommittee of the Senate Banking, Housing, and Urban Affairs Committee I am very much concerned over the negative effect which the Davis-Bacon Act has had on public housing and the program's related objectives.

I ask unanimous consent to have Professor Pohlman's article printed in the RECORD. I urge Senators to give it their closest attention.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HARD-CORE UNEMPLOYMENT, PUBLIC HOUSING CONSTRUCTION AND THE DAVIS-BACON ACT

(By Jerry E. Pohlman)

"I am today [February 23, 1971] suspending the provisions of the Davis-Bacon Act which require contractors working on federal construction projects to pay certain prescribed wage rates to their workers." In his announcement, President Nixon went on to explain that the government will not be a party to inflationary measures. The author applauds this decision, particularly as he believes it will affect public housing construction (a perennial favorite when "creating" government employment). Jerry E. Pohlman is assistant professor, department of industrial relations, at the State University of New York at Buffalo.

Job creation, or the government as employer as last resort is increasingly being thought of as a vital tool in the fight against poverty. Numerous individuals and commissions, including the President's Commission on Technology, Automation, and Economic Progress, have advocated that the government provide employment as a last resort to persons unable to find jobs in the private sector.[1] Although the 1970 Manpower Act, which went far toward implementing this concept, was vetoed by the President it is very likely that a similar proposal will be enacted into law in the not-too-distant future. Also, if welfare is expanded to cover the entire poverty population—such as the Administration's Family Assistance Program which is now being considered—job creation will become even more important as an alternative to welfare.

Should the government undertake employment-creating programs, many of them would undoubtedly be in the area of public construction. As such, they would be subject to the terms of the Davis-Bacon Act of 1931. This act compels the government to pay "prevailing wage rates" on public works projects.[2] Many persons, including Arthur Burns, Chairman of the Federal Reserve Board, see the Davis-Bacon Act as effectively hindering the number of hard-core unemployed persons who could be absorbed on government projects due to the high wages which would have to be paid to them.[3] As a result, an increasingly vocal group of persons have called for repeal of this Act and the President recently suspended it for an indefinite period.[4] The purpose of this article is to analyze the effect of different wage rates on a given type of construction project—namely, public housing—in altering the man-hours of labor required. If it is true that lower wage rates imply a greater utilization of labor per unit of expenditure, and particularly that more unskilled labor will be utilized, then repeal of the Davis-Bacon Act may be beneficial.

If, on the other hand, the state of technology is such in the construction industry that man-hour requirements change little with respect to changing wage rates, there would be little need to attempt this institutional change. There is no doubt that such a measure as the repeal or suspension of the Davis-Bacon Act would be a politically difficult task to accomplish. Therefore, one should be quite sure of the benefits of such a course of action before advocating its undertaking.

THE SUSPENSION: RATIONALE

The analysis is limited to public housing since this type of project is usually among the forefront of suggested public works projects designed to provide government employment for the hard-core unemployed. Leon Keyserling has noted:

Footnotes at end of article.

"By far the most promising opportunities to expand employment, especially among the unskilled and semiskilled are in the type of economic activity where our unmet nationwide needs call for expansion of goods far in excess of the likely technological advances in such types of activity. . . . Housing and urban renewal is by far the most important of these areas quantitatively and as important as any qualitatively." [5]

In the following analysis we will discuss, in terms of data generated by the Bureau of Labor Statistics, the costs of creating jobs through public housing expenditures, and, further, the possibility of adopting more labor intensive techniques in an effort to create more jobs per unit of output. If it can be shown that more labor intensive techniques will be adopted given lower wage rates, then suspension of the Davis-Bacon Act as a means of promoting employment of the hard-core unemployed would seem sensible.

The Bureau of Labor Statistics has surveyed several different types of construction projects in an effort to determine how many man-hours are required per $1,000 of total expenditure. The results of these surveys provide the basic man-hour data used in this study. These data have then been updated by the Department of Commerce composite cost index for construction to reflect 1970 prices.[6] In public housing construction approximately 156 man-hours of employment are created for each $1,000 expended. This consists of 75 on-site hours (48 per cent) and 81 off-site hours (52 per cent).[7] These are national averages with differing man-hours being required for specific projects depending upon location and the type of the structure.

Considering one year's work to consist of 2,000 man-hours,[8] it can be seen that one full-time job will be created for each $12,800 of construction expenditure. This figure includes all of the costs associated with the projects and reflects payments to off-site as well as on-site labor plus all the materials used in the project. This means that although 2,000 man-hours of work are created for each $12,800 of construction expenditure, it is not 2,000 man-hours of unskilled labor or even on-site labor. For purposes of job creation for the hard-core unemployed, less than one job is being created since the government presumably would not have control over the off-site jobs and the skilled jobs would be less relevant than the unskilled ones.

OFF-SITE MAN-HOURS/ON-SITE COSTS

As noted, part of the above expenditure reflects man-hours created in off-site jobs. The question then arises as to what degree of control the government would have over the allocation of these off-site positions and, presumably, it would have little. This implies, for purposes of hiring the poor, that the relevant openings are restricted to the on-site man-hour requirements. Considering only the effects of on-site employment creation, the cost of creating one 2,000-hour job increases to $26,400, that is, for each $26,400 expended on public housing construction, one full-time on-site job is created. This figure, of course, includes many payments for factors other than labor. Materials account for 47.5 per cent of these total costs, on-site wages 35.5 per cent and "other" (manufacturing, transportation, etc.) 17 per cent.

For purposes of job creation the higher the percentage of total costs going to on-site labor the more economical the creation of these jobs will be. The significant question, then, is to what extent do the provisions of the Davis-Bacon Act prohibit more labor from being used by making utilization less economical and thereby lowering the percentage of total costs going to on-site wages. It will be shown that in areas where wages are lower the percentage of total costs allocated to on-site labor are higher. Of course, to make this latter percentage higher while wages are lower, more persons must be hired. Thus, the argument can be made that in areas where the Davis-Bacon Act *does* prohibit wage rates from being lowered, the costs of job creation are higher, thereby making employment-generating projects less attractive as a means of poverty alleviation.

Comparing the figure of 35.5 per cent of on-site labor costs above to other projects surveyed by the BLS (hospitals, schools, highways, federal office buildings and others) illustrates that the cost of creating an on-site job will be less with public housing than with these other projects. This reinforces the opinion of Keyserling that public housing construction is an attractive means of creating jobs. Surprisingly, this 35.5 per cent figure is also somewhat above the comparable figure for European construction where the average share of costs going to on-site labor is only 15–25 per cent.[9]

LONG-TERM EFFECTS

Given these percentages it can be seen that $12,550 of the $26,400 goes for materials while only $9,380 goes for labor. There are different ways to view this: on the one hand, it can be said that this is a relatively inefficient method of reducing poverty since a good portion of the payments go into things other than the hands of the poor. Alternatively, the outlays can be viewed as far more than promoting the immediate reduction of poverty. Society is producing urgently needed housing while at the same time the patterns being put to work are gaining valuable on-the-job training which will mitigate the need for future welfare payments. The government is receiving the immediate benefits of increased housing and decreased welfare expenditures while at the same time making an investment in human capital which will decrease future welfare needs as it increases future output.

It may well be that a large proportion of the newly employed persons to be drawn from the ranks of the poverty population will be able to accept only unskilled jobs. In this case, a crucial element becomes the ratio of unskilled to skilled openings created per unit of expenditure. The greater the percentage of unskilled jobs to total jobs the lower the cost per job will be. Obviously, with any given amount of expenditures to be allocated to employment-creation projects, it is desirable to create as many unskilled jobs as possible. A closely related question, then, is the extent to which the Prevailing Wage Law, or Davis-Bacon Act alters the ratio of skilled to unskilled in favor of more skilled people by keeping unskilled wages artificially high. There are then, two elements in determining the cost per job being created. One is the ratio of labor cost to total cost and the other is the ratio of unskilled man-hour requirements to skilled man-hour requirements.

Of the approximately 75 hours of on-site work created by the expenditure of $1,000 on public housing construction, only 26.2 hours or 34.9 per cent were semi-skilled or unskilled. The other 48.8 hours consisted of supervisors, professional and clerical workers, and skilled workers. If we desire to reach the hard-core unemployed who could take only an unskilled job, the expenditures required to create one year's employment (2,000 hours) would come to $77,200. That is, for each $77,200 expended by the government on public housing construction, 2,000 hours of unskilled employment will be generated. Of course, many other openings will be generated in the skilled lines as well as the purchase of many materials so it should not in any sense be thought that through this large outlay the only benefit the government is receiving is the creation of an unskilled job. Also, this figure would be a maximum since it is doubtful that all of the hard-core unemployed would be limited to unskilled jobs. In fact, the work history of the unemployed in general indicates that a relatively small proportion are unskilled.[10] Supposedly, however, public works projects would deal primarily with the unskilled or hard-core unemployed since most economists would agree that more powerful and general measures, such as monetary and fiscal policy, are more appropriate in terms of reducing overall unemployment rates.

LOCATION AND MATERIALS VARY COSTS

Three principal types of public housing projects considered are reinforced concrete, load-bearing masonry and wood. Reinforced concrete structures are found primarily in large metropolitan areas due in large part to the high cost of land here and the concomitant need to economize on this scarce resource. This type of structure, however, has serious limitations as a job-creating device. The technology required demands less unskilled labor than other types of housing, thereby increasing the cost of creating an unskilled job. This type of building is usually quite large, thus allowing the utilization of highly specialized equipment and also requiring expensive components (especially elevators) which reduces the percentage of expenditures going to labor.

Load-bearing masonry and wooden structures are found in both metropolitan and rural areas. As well as costing less per square foot of housing space, these projects also generate a larger amount of employment per unit of expenditure than the high rise concrete structures. However, part of the reason that higher expenditures are associated with concrete structures is due to their virtual absence in the South where all costs are lower. Since the figures derived by the Bureau of Labor Statistics are averages throughout the country and since high-rise concrete structures are not found to a great extent in the South, the average cost for this type of structure appears quite high. However, since all costs are higher in areas outside of the South, part of this differential with respect to concrete buildings is due to the fact that they are in high-cost areas and not to the difference in structural type.

Differences in location of the projects and type of structures give rise to differing estimates of the costs involved in creating jobs for the poverty population.[11] The most striking feature concerning location is the large difference in man-hour requirements between the South and other regions of the country. In large part, this seems to be due to the lower wage costs in the South—thereby reinforcing the above hypothesis with respect to the Davis-Bacon Act. Employers are able to utilize a more labor intensive factor mix in response to the lower wages. The effect of this on the cost of creating a job can readily be seen in Table 1, which depicts the amount of expenditures required to produce one full-time job. (This includes on-site as well as off-site employment.)

TABLE 1.—EXPENDITURES REQUIRED ON PUBLIC HOUSING CONSTRUCTION TO CREATE 1 FULL-TIME (2,000-HOUR), ON-SITE JOB [1]

	United States	South	Other regions
All projects	$26,400	$21,300	$30,500
Construction cost group:			
Under $1,000,000	21,600	18,900	29,600
$1,000,000 to $1,999,999	26,000	23,600	27,900
Over $2,000,000	30,500	24,900	32,000
Type of structure:			
Reinforced concrete	32,200	....	32,200
Load-bearing masonry	21,900	21,100	24,800
Wood	24,200	21,700	32,500

[1] All figures rounded to the nearest $100.

Footnotes at end of article.

The above figures indicates that the adoption of labor intensive techniques is indeed a technological feasibility with respect to public housing construction. Thus, when projects are considered for various areas of the country the cost figures for that region should not simply be taken as given. A conscious policy could be adopted in an effort to change the factor proportions in favor of increased use of labor. However, this would only be possible to the extent that it is institutionally possible to pay lower than "prevailing" wage rates in high-wage areas. And this brings such a policy into direct conflict with the provisions of the Davis-Bacon Act. If this act cannot be circumvented the possibility of adopting labor intensive techniques as a means for generating employment in high labor cost areas is small indeed.

The figures presented in Table 1 also suggest that smaller projects are superior to the large ones with respect to job-creating potential. This, then, provides another means whereby government policy could reduce the costs of job creation—mainly, by concentrating on smaller projects. However, even this is somewhat misleading. A large proportion of the smaller projects in the BLS survey were found in the South, where, as mentioned above, all costs are lower. Also, it is significant that in the South more nonunion labor is used than in the North. Therefore, a part of the lower costs associated with smaller projects is again due to the fact that wage rates on these projects are lower. Contractors in this situation have an incentive to use more labor intensive techniques, thereby lowering the costs per job of creating employment.

The figures developed thus far refer to total labor requirements. However, as noted earlier, of major importance for the hardcore unemployed is the number of *unskilled* jobs available. The openings created at the lower end of the occupational ladder thus become very relevant. The on-site man-hour requirements by region and skill level are summarized in Table 2.

TABLE 2.—ONSITE MAN-HOUR REQUIREMENTS PER $1,000 OF PUBLIC HOUSING CONSTRUCTION[1]

Occupational group	United States		Northeast		North Central		South		West	
	Man-hour	Percent	Man-hour	Percent	Man-hour	Percent	Man-hour	Percent	Man-hour	Percent
All occupations	75.0	100.0	64.0	100.0	70.0	100.0	94.0	100.0	65.0	100.0
Supervisors	1.9	2.5	1.3	2.0	2.4	3.4	2.4	2.6	1.4	2.1
Professional, technical, and clerical	1.1	1.5	1.2	1.8	1.5	2.1	.8	.8	1.3	2.0
Skilled workers	45.8	61.1	43.8	68.5	46.6	66.5	48.6	51.7	45.7	70.3
Unskilled workers	26.2	34.9	17.9	27.9	19.6	28.0	42.2	44.9	16.5	25.4

[1] The skilled workers category includes the summation of 20 various trades. Unskilled workers include helpers and tenders, truckdrivers, custodial workers, laborers, and other miscellaneous. For a complete breakdown, see BLS Study No. 1402, p. 15. These data have been altered to reflect 1970 prices although the percentage figures are presumed to have remained constant.

The most significant data revealed in Table 2 are the very large discrepancies among man-hour requirements for various regions of the country, especially with respect to unskilled workers. This again supports the contention that there is considerable latitude for factor substitution within public housing construction. If, as many persons believe, the technology for a given construction project is relatively fixed then the ratio of unskilled to skilled labor would be relatively constant regardless of the differential in the cost of the two. This, however, does not appear to be the case—indeed, the opposite seems to be quite true. There is a high degree of substitution available and this factor substitution does in fact take place with respect to different factor costs. Wage rates are lower in the South than in the North therefore providing for a factor mix of proportionally more labor in the former than in the latter area. However, the differential between the wage rates of skilled and unskilled labor are also greater in the South than in the North and, as a result, a higher proportion of unskilled to total labor requirements is found in the South. Approximately 45 per cent of the work force in the South consists of unskilled labor compared with only 25 per cent in the West, thereby making the technological arrangements in use in the South quite attractive for a public housing program aimed at job creation. These considerations are clearly reflected in the cost estimates presented in Table 3. Again it should be noted that these figures represent the total amount of expenditures required to create one on-site job and one on-site unskilled job, respectively. That is, the cost of an unskilled job includes several hours of skilled man-hour requirements as well as the materials required for the project.

TABLE 3.—EXPENDITURES REQUIRED ON PUBLIC HOUSING CONSTRUCTION TO CREATE ONE FULL-TIME ON-SITE JOB

Occupational group	United States	Northeast	North Central	South	West
All jobs	$26,400	$31,400	$28,500	$21,300	$30,800
Unskilled jobs	75,650	112,600	101,300	47,300	120,300

From the above it can be seen that it would cost two and one-half times as much to create one unskilled job in the West as in the South and more than twice as much in the Northeast. Alternatively, we could say that it would cost two and one-half times as much to employ the same number of unskilled persons by using the *techniques of production* of the West rather than those of the South.

CONCLUSIONS AND IMPLICATIONS

The above analysis lends support to the hypothesis of Dr. Burns and others that the provisions of the Davis-Bacon Act do prohibit the adoption of more job-creating programs by the government. Once a project has been decided upon—and all forms of public works projects should certainly have merit on their own as well as their job-creating potential—certain crucial variables become very important with respect to the cost of creating a job. One is the percentage of total costs allocated to labor. As seen above, the high-wage-rate areas have a lower percentage of total cost allocated to labor and therefore a higher cost per job. The second crucial variable is the ratio of unskilled to skilled openings. For purposes of alleviating hard-core unemployment, the unskilled job openings may be more relevant than the total openings. It can also be seen from the data that where the differential between skilled and unskilled rates is wider, the percentage of total labor costs going to unskilled labor is correspondingly higher implying that the number of unskilled man-hours created is significantly greater. By not allowing these technological possibilities to be adopted, the Davis-Bacon Act reduces the potential of job-creation programs in the war against poverty.

It should not be supposed that the above analysis is anti-labor in the sense of attempting to institute a policy of promoting low-wage labor to compete with union labor. On the contrary, most proponents of job-creation programs see these projects as being *in addition* to current construction projects and to consist of projects which would not otherwise be undertaken. The effect, then, would be to give jobs to people who presently do not have jobs at the union wage rates or any other wage rate. Also, the increased total amount of money being expended upon construction could only put an upward pressure upon union wage levels. Given these two important considerations, trade union opposition to suspension of the Davis-Bacon Act would, hopefully, be minimized.

Finally, it should be noted that job creation will become a more important aspect of the total war against poverty in the future. This has to do with the relationship between the poverty population and the welfare population. These two groups are sometimes assumed, erroneously, to consist of the same persons when, in fact, they have quite different constituencies. The poverty population is approximately four times the size of the welfare population, and, while it is true that most persons on welfare are unable to work for one reason or another (they are too old, too young or disabled), the same is not true of the poverty population.

The poverty population is overwhelmingly attached to the labor force with a surprisingly high number (over 75 per cent) having some contact with the labor force throughout the year. That is, they were either employed full time and earning less than poverty wages; employed part time; or unemployed and therefore available for work.[12] These figures indicate that the poverty problem, as opposed to the "welfare problem," is in large part a labor market phenomenon and can be effectively attacked through labor market mechanisms of which job-creation programs are a very important element.

Also, should a minimum-income-guarantee program be adopted by the Congress, one effect will be to increase the size of the welfare population to be coexistent with the poverty population. Should this occur, labor market mechanisms will become even more important as a means of minimizing the total cost of public assistance. In this case, it will be extremely important for the government to be able to create as many jobs as possible per unit of public expenditure.

There are, of course, a multiplicity of factors to be considered when examining the feasibility of government job-creation efforts through public works projects such as public housing construction. One of the most important, would seem to be the cost per job created. The above figures indicate that contrary to a widespread belief, there is a wide range of cost depending upon several variables, not the least of which is the labor intensity of the production technique adopted. Furthermore, this labor intensity is highly correlated to the wage rates in given areas, thereby making the provisions of the Davis-Bacon Act extremely important as a factor in determining the total costs of poverty reduction.

FOOTNOTES

[1] *Technology and the American Economy*, Report of the National Commission on Technology, Automation, and Economic Progress, Vol. 1, 1966, p. 37.

[2] For a concise discussion of the Davis-Bacon Act and other laws affecting government employment, see Donald R. Herzog,

"Labor Laws Applicable to Federal Government Contracts," LABOR LAW JOURNAL. Vol. 19, No. 1, January 1968, p. 12. For a more detailed analysis of the Prevailing Wage Law, see D. N. Gujarati, "The Economics of the Davis-Bacon Act," *The Journal of Business*, Vol. 40, No. 3, July 1967, p. 303.

[3] See, for example, Dr. Burns' recent Los Angeles speech of November, 1970, in which he called for repeal of the Davis-Bacon Act as a means of generating employment.

[4] This action, taken by the President on February 23, 1971, was designed to reduce inflationary pressures in the construction industry. However, the results of this policy will also be felt in the employment aspect of construction, the subject of this article.

[5] *Progress or Poverty*, Conference on Economic Progress, 1964, p. 138.

[6] Since there is no way to revise man-hour requirements except to adjust for price changes within the industry, the implication is that the technology has remained constant. Although this may not be precisely true, the results require only that any alterations in technology have been uniform among geographical areas, a not unreasonable assumption.

[7] Bureau of Labor Statistics, *Labor and Material Requirements for Public Housing Construction*, Bulletin No. 1402, May 1964, p. 4. Prices and man-hour requirements have been adjusted by the 1970 Commerce Department index for construction costs.

[8] The average work year in construction is approximately 1,790 hours but it is presumed that if the government were to institute a public works project it could adopt a 2,000-hour year. If not, the basic analysis would remain unaltered with the cost per job going down slightly.

[9] This is probably somewhat understated, however, since 20–25 per cent of these contract costs go to subcontractors for which there is no breakdown into labor requirements. See E. Jay Howenstine, *Compensatory Employment Programmes*, Paris. Organization for Economic Co-operation and Development, 1968, pp. 111–114.

[10] Robert L. Stein, "Special Labor Force Report: Work History, Attitudes, and Income for the Unemployed," *Monthly Labor Review*, Washington, D.C., December 1963, p. 1408.

[11] For a breakdown of man-hours per $1,000 of outlay by region, structural type, and size, see BLS Bulletin No. 1402, cited at footnote 7, at pp. 9, 12.

[12] See United States Bureau of the Census, *Current Population Reports*, Series p-60, No 54, May 31, 1968, pp. 29–31.

HONOR TO JONATHAN L. GOLDSTEIN

Mr. CASE. Mr. President, our New Jersey U.S. attorney's office has been honored by the selection of Jonathan L. Goldstein, chief assistant U.S. attorney, as one of 10 outstanding Federal employees in the Nation.

Mr. Goldstein has earned a well-deserved reputation for his legal competence, his dedication and his untiring work. Most recently he was in charge of a successful suit to enjoin permanently municipal dumping of accumulated sludge in nearby waters of the Atlantic. The suit is the first application of the Federal Refuse Act of 1899 to municipalities.

I ask unanimous consent to have printed in the RECORD an article from the Star-Ledger of Newark, N.J., which outlines Mr. Goldstein's background and accomplishments.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CHIEF STERN AIDE NAMED A TOP FEDERAL WORKER

Jonathan L. Goldstein, chief assistant of the U.S. Attorney's office for New Jersey, has been selected as one of the 10 outstanding federal employes in the nation.

U.S. Attorney Herbert J. Stern announced that Goldstein was selected as one of the 10 persons in the U.S. Government to receive the Arthur S. Fleming Award, presented in recognition of outstanding service by a federal employee.

Goldstein, 30, an East Orange resident, has served as chief assistant U.S. attorney for the past year. He participated in the U.S. grand jury investigations that led to the indictment of such persons as former New Jersey Assembly Speaker Peter Moraites, former Secretary of State Robert Burkhardt and former State Sen. Willard Knowlton.

Goldstein also worked on the preparation and trial of the government's case against former Jersey City Mayor Thomas Whelan and seven other Hudson County figures. All eight defendants in that case were later convicted on federal extortion-conspiracy charges.

Goldstein is an honor graduate of the University of Pennsylvania and the New York University Law School. He was admitted to the New York State Bar in 1965 and became a member of the New Jersey Bar shortly afterwards.

He had previously served as special attorney for the U.S. Justice Department's Organized Crime Strike Force. He was named to his present post last February, shortly after Stern was sworn in as U.S. Attorney.

MULTINATIONAL CORPORATIONS

Mr. HARTKE. Mr. President, the U.S. Chamber of Commerce has recently released a summary of a study that was supposed to deal with the impact of multinational firms on domestic employment. In a field where there is much need for more detailed data, I would ordinarily welcome any contribution. But the study in question was so arbitrarily drawn and so narrowly reported that it misleads much more than it informs.

Because the survey purported to deal with issues raised by the Hartke-Burke Foreign Trade and Investment Act, I have felt compelled to advise the Chamber of my sentiments. The questions raised here are so vital, that I wanted to share my reservations with Congress. I ask unanimous consent that my letter to the Chamber be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., February 22, 1972.

Mr. DONALD J. MUSCH,
Staff Associate, International Group, Chamber of Commerce of the United States, Washington, D.C.

DEAR MR. MUSCH: Last week the U.S. Chamber of Commerce released a grossly unscientific study that was supposed to deal with the impact of the multinational firm on domestic employment. Because the study purported to deal with the Hartke-Burke Foreign Trade and Investment Act, I feel that I must point out the many failures and distortions encompased by your survey.

Choosing firms from FORTUNE'S top 1,000 may be a legitimate approach but there was no indication as to why only 600 of these were approached. Less than half of this sample responded and barely half of these were considered by you to be multinationals.

I was appalled at the broad definition you gave to multinational firms. Your term would embrace a largely domestic firm with one plant in Mexico as well as the firm with most of its assets overseas.

Although the study did cover the very important 1960–1970 period, it ignored one of the most striking features of that era: mergers. In your consideration of the epoch in which the conglomerate firm surged to national prominence, you made no attempt to correct employment figures for acquisitions. It is quite conceivable that a major conglomerate could show spectacular employment growth and actually have lost employment in each of its units to foreign competition. Your figures for exports suffer from the same failure: no attempt to correct for acquisitions.

Rather than identify firms by name, you chose to use a standard industrial classification number. This makes it impossible for an outside researcher to check these figures with an independent source. There should be no reason to keep such basic data on employment and exports as industrial secrets, unless, of course, the figures would not bear up under closer scrutiny.

What I found most disappointing about your survey was the failure to ask any of the really relevant questions. Judging from your published summary, none of the firms was asked how many plants they had closed because of competition from foreign imports. None of the firms was asked how many plants they had located overseas to supply the American market. There were no inquiries about loss of employment in domestic plants because of licensing foreign firms to use American technology.

While the loss of jobs, industries and new technology continues apace, your survey attempts to sweep these phenomena out of sight. This attempt at misdirection in supposedly scientific garb has only renewed my conviction that the Hartke-Burke bill identifies very real economic problems and correctly singles out a number of necessary steps.

I trust your future studies will follow a more objective and fruitful path.

Sincerely,

VANCE HARTKE,
U.S. Senator.

EULOGY OF MRS. NORA MORGAN, WATERTOWN, CONN.

Mr. TAFT. Mr. President, recently the distinguished Representative from Connecticut, Hon. JOHN S. MONAGAN, introduced in the CONGRESSIONAL RECORD a eulogy to Mrs. Nora Morgan of Watertown, Conn. Mrs. Morgan was a longtime personal friend of mine and of my family and the Congressman's remarks are so appropriate and well chosen, that I feel they should be included in the CONGRESSIONAL RECORD. I ask unanimous consent that the statement, eulogy, and other material hereto attached be so included.

In doing so I offer my deep sympathy for her husband, George Morgan, who used to coach me in glee club efforts at Taft School. Both he and his lovely wife have over many years contributed vastly to the pleasure and enjoyment of all who have known them.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

NORA FAUCHALD MORGAN

Mr. Speaker, on December 10, 1971, Nora Fauchald Morgan died in New York City.

For some 40 years a resident of Watertown, Connecticut, she was a unique and dynamic person who contributed immeasureably to the artistic growth of many individuals and significantly aided the cultural development of the Waterbury area.

Her career was much broader than that however, and the New York Times on December 11, 1971, carried a summary of her career which I append to my statement.

It is as an outstanding American and a vigorous defender of our Nation and its traditions as well as one who played a foremost role in improving the quality of American cultural life that I salute Nora Fauchald Morgan.

She was a long time friend of mine and the wife of one of Taft School's greatest teachers, George H. Morgan. I am confident that her influence will persist far beyond the lifetime of those of us who knew her.

A memorial service for Nora Morgan was held on December 18, 1971, in Watertown and I also append to these remarks the eulogies delivered by Representative John S. Monagan (D-Conn.) and William T. Taylor, as well as a remarkably fine appreciation by George Weigl which appeared in his column, "Musical Musings," in the January 9, 1972, issue of the Waterbury, Connecticut, Republican.

EULOGY DELIVERED BY REPRESENTATIVE JOHN S. MONAGAN AT MEMORIAL SERVICE FOR MRS. NORA FAUCHALD MORGAN, DECEMBER 18, 1971, WATERTOWN, CONN.

Nora always hated the lugubrious and especially in a group of her friends gathered in her memory, she would be horrified that there should be any suggestion of the doleful.

For this reason, I speak today in the spirit of affirmation and faith that characterized Nora's life and with an expression of gratitude for the good fortune which joined our lives with hers.

To summarize Nora is impossible as it is impossible to describe quicksilver or to define charisma. But as I ponder the problem, I thought of the words that Floria Tosca, the Roman diva, sings in the Palazzo Farnese in the second act of Puccini's opera—and it seemed to me that they might well have been spoken of Nora.

"Vissi 'd arte, vissi d'amore.
Non feci mai male ad anima viva."

"I have lived for art. I have lived for love. I have done harm to no living creature."

Nora lived for her art. She was dedicated, demanding and single-minded in pursuit of perfection for herself and her pupils. In technique she strove for excellence and she drove others to equal her high standards. Above all, her art was suffused with her intelligence, her warmth and her sympathy. Between Nora and her audience there was never any communications gap.

Through her artistry she brought pleasure to those who heard her and worked with her and with her magic gift she raised them above the humdrum round of getting and spending and gave them a memorable sense of romance and the conviction that there were values and satisfactions beyond those of the shop or the market place.

Like Tosca, Nora also lived to spread her limitless fund of love. Love for her husband, Red (with whom she formed an unforgettable combination). Love for her daughters and their families and love for those of us who were blessed with the gift of her friendship.

How prodigal she was with her great gifts and how indebted we are for the hours we were privileged to spend with her. Not only the great audiences that heard her in opera or concert, nor the more select groups who attended her recitals. But the small, intimate gatherings who shared those gay evenings in the privacy of her home when George played the piano and she sang the songs that we remember so well.

And over all there was ever her warm and compelling presence.

Who other than Nora could with effortless ease have arranged to have Harry Heminway passing drinks, Horace Taft singing "I Polished Up The Knocker On The Big Front Door" and the young Mayor of Waterbury fumbling his way over the piano keys in a Louis Armstrong ballad all in a single evening?

And after the amateurs had finished, on an evening such as I describe, she would sing "Sea Shell" and "To A Violet" and her tales of Pocahontas and Cleopatra, Mona Lisa and George Sand, the poetess whose cargo always included a lover and cigars.

As I sift my memories, it is not the Grieg songs that are foremost in my remembrance. Nor the Mozart "Alleluia." Nor the Handel.

I think first and always of Nora's voice, pure and true, soaring above the accompanying chorus in the words of that great old spiritual "There is a Balm in Gilead."

"There is a Balm in Gilead that makes the wounded whole
There is a Balm in Gilead that heals the sin-sick soul."

Singing with her confidence and strength of conviction, Nora cast aside doubt and faintness of heart and made us share in her inspiration and her belief.

Yes, through Nora we knew truly that there was a balm in Gilead to make the wounded whole. This was her message. This is her legacy to us and we are grateful for it.

She is with us today and she will always be with us.

NORA FAUCHALD MORGAN, SATURDAY, DECEMBER 18, 1971

A eulogy is defined as "a commendatory formal statement or set oration." I devoutly hope that the informality of my remarks in the next few minutes will not be considered inappropriate to the occasion. As in the case of most of those here today to honor her, Nora Fauchald Morgan was my long-time, revered and honored friend.

More than fifty years ago I was a college-mate of another dear friend who had the great good fortune to become Nora's husband. I happened to be in his dormitory room on an occasion when I saw on his desk a volume, which would now be called a paperback, entitled "Learn to Speak Norwegian." Surprised at this newly-discovered intellectual interest, my inquiry elicited the answer that he had always wanted to speak Norwegian; that he loved the music of Grieg and other Norwegian composers, etc., etc. It took little further questioning to learn that he had recently met Nora and had been possessed—whether *he* knew or not. Shortly thereafter I met Nora and was similarly charmed, although I never became expert in the Norwegian language.

In trying to put my emotion-packed thoughts in form for presentation on this occasion, I found it impossible to recite, in order of degree, the great and dynamic virtues which Nora possessed and exemplified for us, her friends.

Her love of beauty for beauty's sake was outstanding and contagious. Who could have heard her sing in all metiers—operatic, concert and lieder—without the thrill of beauty. One must not forget the Norwegian folk songs and her translations that created in one the love, respect, humor and warmth of the people who were her ancestors. Few artists have had the remarkable versatility which Nora possessed and few could transport their listeners into the very mood which she was experiencing. I would be remiss at this point were I to omit the part which her accompanist played in putting the appropriate frame on each of her musical pictures. The artistry of that partnership will always be remembered with complete satisfaction.

But Nora not only created beauty, she evoked it from others. What sincere devotion she exhibited in her relationships with pupils. It is my conviction that Nora never had a *personal* triumph that gave her greater satisfaction than that which she experienced in hearing the progress made by a pupil who had profited from her rare talent to communicate in her teaching methods.

Generosity was another characteristic with which Nora was abundantly endowed. I am referring not only to the giving of substance but as well to generosity of the spirit. She was a staunch and almost a dangerous defender of those she loved but she was not backward in protecting, against unfair criticism, even those she did not particularly love.

Possibly the most predominant quality of dear Nora in my opinion and one for which I revere her was her sense of loyalty. In this I include fidelity to country, to family and friends, and to ideas in which she believed. Hers was not a quiescent faith but a fierce allegiance to those persons and ideas in which she believed. One felt a sense of protection in her love.

I should not stop without comment upon the unique family unit which Nora's strengths and love helped to create and sustain. Each member, to the third generation, has his own rights, privileges, powers and immunities but they are not expected to impinge upon the unity of the family. A clear proof of this oneness is in their singing. To hear them, even to the smallest member, participate in rounds and other choral renditions is to prove my point. The voluntary nature of this participation emphasizes the fact.

And so, despite the inadequacy of my observations, I must conclude. It has been a privilege to share with you my sense of joy and thankfulness to have been a friend of Nora's. She was a great and good woman and will continue to live in all of us who loved her.

NORA FAUCHALD MORGAN

(By George Weigl)

Early in December Nora Fauchald Morgan passed on. When she bade adieu to this life there ended an era: an era of singers that included the greatest lieder singers of all time. Nora Fauchald, her professional name, was the youngest of that era which included such great artists as Merle Alcock, Alma Gluck, Lotta Lehmen and Louise Homer.

Nora Fauchald concertised for years the world over and then joined the staff as a voice teacher at the Damrosch Institute, forerunner of the Juilliard School of Music. She was one of its youngest teachers and probably the youngest ever to be engaged by Frank Damrosch who was the director of the Institute at the time.

Nora Fauchald was next selected by John Phillip Sousa to be the leading soloist with his famous band, a position she retained for five years or more and everywhere she was acclaimed by critics who heard her. During this time a brilliant young pianist, George Morgan, met and became enamoured of Nora and not long after they were married.

With marriage the rigors of concertising, those numerous concerts daily and that lonesome feeling, that comes with being in a different city every day and night, induced the young singer to forego the thrill of concertising. Thereafter she gave fewer recitals and came to Watertown to live. George Morgan had become music director at Taft School. Mrs. Morgan became a teacher at Saint Margaret's School and taught privately until a year ago. Meanwhile the Morgans became the parents of three beautiful, charming daughters.

Fortunately, the art of Nora Fauchald Morgan lives on. It lives on via the art and technique she instilled into her pupils and by the good fortune of having had the courage to record an actual performance of a recital she presented in Town Hall, New York, some years ago. That recital, recorded exactly as presented to the public, has given posterity an almost perfect record of what can be done with the human voice when it is intelligently used. In listening to it one hears a most beautiful voice, perfect phrasing, and superb diction all homogenized into as perfect a song recital as is humanly possible.

Of course, in a song recital there is always a pianist who is sometimes called an accompanist and sometimes the pianist is but an accompanist. In the Fauchald recorded recital there is a pianist and not a mere accompanist. It is piano playing in the grand style by George Morgan and can be called nothing less than a collaboration; a blending of two souls musically inclined who are in complete accord with each other and the music at hand.

Nora Fauchald was not only a fine musician, she was an inspirational one. She was a violinist, a pianist and a singer. She could offer criticism of a musical nature to anyone. Play a Beethoven piano and violin sonata for her and she would analyze the performance. The violinist played too loud here, the pianists too loud there or vice versa. Then, after the technical difficulties were ironed out, came her suggestions on phrasing a passage. The violinist didn't "breathe" properly and joined phrases, or the pianist "breathed" in the wrong place, or even at times played the passage with altogether wrong phrasing. And though both pianist and violinist were often reluctant to admit their shortcomings, the critic, Nora, was always right. She had a God-given talent for understanding a composer's intention. She was one of those rare creatures, an inspirational musician. A musical conversation of minutest length with her always left one a better musician for having had that conversation.

On the 18th of December a large number of relatives and friends gathered at Christ Church in Watertown to pay tribute to Nora Fauchald Morgan at a profoundly beautiful memorial service in honor of her days just ended. William Taylor, a longtime friend of the Morgans, brought back many nostalgic memories of Nora: Of how his classmate, George Morgan, became enamoured of the young singer, Nora Fauchald. Mr. Taylor spoke with great feeling and told of the Morgan daughters and their children, those grandchildren of whom Nora was so proud. Then John S. Monagan, who in earlier days was Waterbury's mayor and is now one of the country's most brilliant Congressmen, delivered a profoundly beautiful eulogy.

Mr. Monagan, speaking extemporaneously, also brought to mind memorable times of bygone days with the Morgans. He said, "It is difficult to tell all that can be said of Nora Morgan, speaking as I am, but Providentially something has just come to mind." He then recited a few lines in Italian from the Puccini opera "La Boheme," and translated them. Said he, "Those lines say, 'I have lived for art, I have lived for love, and I have done no harm to anyone.' Those words best describe Nora Morgan." What a glorious tribute!

As time rushes on some of us oldtimers begin to take inventory of the credits and debts we have accumulated along the way. We realize that somewhere, sometime along the line old Father Time will say, "Here's where you get off, Feller," as he touches us with his scythe. And then we will think about getting up to those Pearly Gates to seek admittance. That's when it would be nice to be able to present but one credit that says, "I have lived for art. I have lived for love, and I have done no harm to anyone."

Those of us who knew Nora Morgan know those credits head her list.

NORA FAUCHALD, SOPRANO, IS DEAD—SOLOIST MANY TIMES IN TOWN HALL TAUGHT AT JUILLIARD

Nora Fauchald, a soprano who in her later years had been a teacher of voice at St. Margaret's School in Waterbury, Conn., died Friday evening in the Sloan-Kettering Institute for Cancer Research. She was 73 years old and lived at 47 Woodbury Road, Watertown, Conn.

Miss Fauchald was the wife of George Morgan, for more than 40 years director of music at the Taft School. She was a soloist with the Sousa Band for five years, making several transcontinental tours, and also had appeared many times in Town Hall and Carnegie Hall as a soloist.

A graduate of the Institute of Musical Art, now the Juilliard School of Music, Miss Fauchald won a scholarship given by the Juilliard Foundation for operatic training in Europe. This in turn led to an appointment to the Juilliard faculty that was to last for 12 years.

Reviewing an appearance at Town Hall in 1930, a critic for The New York Times remarked that Miss Fauchald had "a delicately colored and appealing tone of fresh and youthful timbre, produced without effort, free from tremolo, and even through its range."

Of her appearance at Town Hall in 1941, after a 10-year absence, with Mr. Morgan at the piano, a reviewer commented:

"They seemed like a team, for his playing was clear and sensitive, and, since the program was made up largely of lieder by Schubert, Wolf and Grieg, the accompaniments formed an important part of all the works performed."

The reviewer said of her voice that "it is often beautiful and she uses it with imagination and taste."

In addition to her husband, Miss Fauchald leaves three children, Mrs. Frederick C. Richardson of Lincoln, Mass.; Mrs. Donald M. Thomson Jr. of Ewa Beach, Oahu, Hawaii, and Karen of Cambridge, Mass.; two sisters and two brothers.

TRIBUTE TO AMBASSADOR THOMPSON

Mr. HUMPHREY. Mr. President, it is sad news indeed to hear of the death of Llewellyn Thompson. "Tommy" Thompson was one of the United States most expert ambassadors and authorities on the Soviet Union. He served selflessly in moments of crisis like Cuba and great stress like the enduring tension in Soviet-American relations. He was every bit the statesman, committed to the reduction of conflict and the promotion of understanding.

It is ironical that all his efforts received less attention than the results of his work which are so widely acclaimed today. "Tommy" Thompson's career spanned the cold war, but he applied his hopes and talents to moving us out of this era of constant strain and misunderstanding. The chances today may be better than ever that an end to the cold war is in sight and that a new structure for the conduct of international relations will emerge. Ambassador Thompson played an instrumental role in this evolution, and his presence at this important diplomatic juncture will certainly be missed.

Mr. President, I ask unanimous consent that the New York Times article by Chip Bolen, taken from Ambassador Bolen's eulogy at the funeral of Llewellyn Thompson, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 11, 1972]

A MODEL FOR DIPLOMATS

(By Charles E. Bohlen)

WASHINGTON, February 9.—The eighteenth-century English writer, Sir Richard Steele, once wrote in The Spectator, "The noblest motive is the public good." This seems to me to epitomize Llewellyn Thompson's attitude toward his life and work. He had a full, successful and, I think, satisfying life.

Entering the Foreign Service in 1928 as a vice consul, he rose by his own remarkable abilities and character to the very top of his profession, career Ambassador of the United States. He served in many posts—Ceylon, Geneva, Rome; he was high commissioner, then Ambassador to Austria; he was twice Ambassador to the U.S.S.R., the only American to have that distinction. His career stands and will continue to stand as an inspiration and a model for all young diplomats.

It provides convincing refutation to a thesis which has become fashionable today, namely that mass communications and rapid travel have rendered diplomacy in the old-fashioned sense obsolete. It is of course the spectacular agreement and the highly publicized trip that make the big news today. But it is as true now as it ever was that the quiet continuous contacts and the confidential discussions which are the essence of diplomacy prepare the way for the public agreements.

It was here that Ambassador Thompson excelled.

His keen analytical intelligence, his "feel" for the other side's position, together with his tact and patience made him one of our most effective diplomats and one of the ablest negotiators that the United States has ever had. He had the quality, so important to his profession, of being able to be firm when necessary without ever antagonizing those on the other side of the table.

The successful outcome of the London negotiations on the Trieste question in 1954 was largely his achievement; it was his skill that guided the Austrian peace to a successful conclusion in 1955. He was instrumental in getting discussions on the nonproliferation treaty and test ban started. Of the many other accomplishments one might cite, his role in the Cuban missile crisis perhaps deserves special mention. It has been described as his "finest hour."

The tribute which the late Robert F. Kennedy paid him in his diary of the crisis has been quoted in many of Tommy's obituaries but it is well worth repeating here. Senator Kennedy wrote: President Kennedy also "wished to hear from Tommy Thompson, former (and now again) Ambassador to the Soviet Union, whose advice on the Russians and predictions as to what they would do was uncannily accurate and whose advice and recommendations were surpassed by none."

Ambassador Thompson was firmly convinced that despite all the differences between the United States and the Soviet Union—differences of which he was well aware—it was possible to avoid conflict and unnecessary crises. This conviction was often put to the test during the seven years he served as Ambassador in Moscow.

Moscow is a difficult and frustrating post at all times, but it was particularly so during his incumbency. Crisis succeeded crisis, but Ambassador Thompson handled them all with cool competence.

A harsh test of a man's character in the Foreign Service is the attitude of those who worked for him. I have yet to meet anyone who served under Tommy Thompson who did not have for both him and his wife the very strongest feelings of respect and affection.

My own friendship with him extended

with increasing intimacy over thirty years. I will remember him for his many fine qualities of mind and spirit, for many hours of serious discussion, spiced with his inimitable stories, for many happy encounters on the golf course and at the poker table, where he excelled, as I learned to my cost. Tommy loved competition and enjoyed the clash of wits involved.

But his most outstanding characteristic to my mind was his decency. How deep this decency went I have cause to know from my own personal experience.

In the late winter of 1957 I received word from the Secretary of State that he was planning to replace me as Ambassador in Moscow sooner than I had expected and that Tommy was to be my successor. Tommy learned that I was disappointed not to be staying another year and I received from him a long handwritten letter imbued with the deepest personal feeling in which he voiced his concern that I would in any way think he was trying to supplant me. He offered to withdraw his candidacy for the post if that would make it easier for me. I naturally reassured him and urged him to take the job, since no one could possibly be more eminently qualified. What better example could one find of a man's integrity and sensitive regard for others?

ARMY'S NORTHERNMOST CEMETERY

Mr. GRAVEL. Mr. President, it pleases me to note the unusual Memorial Day ceremonies that take place each year at the tiny Army cemetery at Sitka, Alaska, the Army's northernmost cemetery. The ceremonies involve both military personnel and residents from the surrounding area, and recall two significant holidays.

Lyman L. Woodman, public information officer, Headquarters, U.S. Army Alaska, describes the unique ceremonies in the February 1972 issue of the official U.S. Army magazine, "Soldiers."

I ask unanimous consent that the article entitled "Under Northern Lights," written by Lyman L. Woodman, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNDER NORTHERN LIGHTS

(By Lyman L. Woodman)

The sweet sad sound of "Taps" and the staccato volleying of honor guard rifles ring out not for one Memorial Day but for two at Alaska's tiny national cemetery atop a hill on an island in Sitka Bay.

The regulation ceremony at the end of May is staged by the people of Sitka who usually invite an Army chaplain from Fort Richardson, the nearest active Army post some 600 miles to the northwest. But the second is a military program with the civilian community invited to attend as observers. It is held on Alaska Day—October 18, anniversary of the date in 1867 when the imperial Russian flag fluttered down and Old Glory was raised at New Archangel, then capital of the Russian territory. Today the town is called Sitka.

The tiny cemetery—just an acre and a half—was established in 1868 by Brevet Major General Jefferson C. Davis (not to be confused with the Confederate president) who then was commanding general of the newly established Military District of Alaska. Buried there were soldiers from the five original forts established in Alaska—sailors and Marines who died aboard ships of the Navy or the old U.S. Revenue Cutter Service, some Russian nationals and some U.S. civilian administrators including John G. Brady, first governor of Alaska. Also interred there are some Americans killed in the Battle of Attu, including Charles W. Paddock, the famed three-time Olympic winner who in the 1920s was known as the "world's fastest human." A captain in the Marines, he was killed in an airplane crash in 1943.

The second memorial observance was started a dozen or so years ago when a small team from the 6th Battalion, 9th Infantry, took part. The unit, an element of the 171st Infantry Brigade at Fort Wainwright, traces its heritage to Company F, 9th Infantry, a unit of the 2d Artillery which raised the American flag in 1867.

Actually the program is a 3-day affair with the Army band from U.S. Army Alaska (USARAL) taking part with the color guard. Usually the USARAL command chaplain conducts the ceremony and the commanding general places a floral tribute on one of the 19 "unknown" headstones. After ceremonies at the cemetery the military groups reenact the original change-of-flag ceremonies on Castle Hill.

NATIONAL VENEREAL DISEASE PREVENTION AND CONTROL ACT

Mr. TOWER. Mr. President, I wish to indicate my wholehearted support of the "National Venereal Disease Prevention and Control Act," by joining Senators as a cosponsor of this significant bill.

Venereal disease is of epidemic proportions in the United States today. The number of reported cases of primary and secondary syphilis, after decreasing dramatically in the late 1940's and early 1950's, then began to rise, dropped slightly in the mid 1960's, and is now rising again. In fiscal year 1971 there were 23,336 cases reported. Reported gonorrhea cases, like syphilis, decreased through the late 1940's and early 1950's, but since 1957 have been steadily on the increase until in fiscal year 1971 there were 624,371 reported cases. Unfortunately, even these shockingly high figures tell only a small part of the story, for approximately four times as many cases of venereal disease are treated as are reported. This figure means that there were well over 2 million cases of syphilis and gonorrhea treated in the United States last year. Even more appalling, there are estimates that perhaps 500,000 individuals in the United States have syphilis and do not know it.

Both syphilis and gonorrhea are far more prevalent in urban areas; thus, our cities have reported rates for these diseases that far exceed the national average.

States, too, vary in reported rates for venereal diseases. Texas for example, has the third highest reported State case rate for primary and secondary syphilis, more than double the national average. Dallas and Houston are included in the top 10 cities in the United States with the highest per capita infectious syphilis rates. In a compilation of syphilis case rates for 160 cities, Austin and Lubbock were among the top eight, Houston and Dallas among the top 12, and San Antonio and Fort Worth among the top 22.

As for gonorrhea, Texas has the sixth highest reported State case rate. Houston and Fort Worth populations, for example, have a case rate of over one per hundred. These figures are over three times greater than the national reported average.

These statistics tell a grim but challenging story. Syphilis, which could be eradicated in the United States if cases were detected and treated promptly, is on the increase, with perhaps the most appalling result being the new increase in congenital syphilis in newborn babies. Gonorrhea, while more difficult to eradicate, could still be brought under control with adequate funding and programs. Sadly, it is our young people between the ages of 20 and 24 who have the highest rates of both syphilis and gonorrhea.

Given these staggering figures, what is being done currently to bring these diseases under control? Unfortunately, far too little. While the rates of venereal diseases have been increasing, Federal funds for VD research and for control programs have been at the same low level for several years, $6.3 million for fiscal years 1970 and 1971. Six million three hundred thousand dollars was also made available for fiscal year 1972, but recently, an additional $16 million was released for a new gonorrhea control program under the Center for Disease Control of the Public Health Service. Funds are also available to States under the Partnership for Health program of HEW; however, these funds are not designed for any specific programs within the States, so that it is up to the individual States to decide how much Federal money under these programs is used in VD control activities.

States and cities use some but not enough of their own funds in VD control programs. It has been estimated that for fiscal year 1970 only $11 million in Federal and State funds was available for State VD control programs, and only $8.6 million in Federal and local funds for VD control in the 15 largest U.S. cities.

It is clear from the statistics on VD incidence that present VD control programs are inadequate. More public health personnel are required to carry out epidemiological studies on syphilis to trace all contacts of all infected individuals, and a strong gonorrhea control program is desperately needed. All physicians in private practice should be encouraged to report more fully the cases of VD they treat so that epidemiological studies can be carried out on their patients. Continuing medical education programs are needed to keep physicians abreast of current developments in VD control. More emphasis upon VD studies in medical schools should be vigorously promoted. Public awareness programs must be developed, including a provision for better information for young people, and more screening programs to detect the 80 percent of gonorrhea cases in women and the 10 percent in men which are asymptomatic.

We should also provide considerably more funds for research in venereal diseases. An improved blood test is needed for more efficient identification of gonorrhea; the possibilities of developing vaccines, especially for syphilis, must be explored further; a better therapeutic agent is needed for gonorrhea since some strains are becoming resistant to penicillin; preventative methods must be developed; more information is needed to pinpoint the groups of people most at risk for the venereal diseases; and further research is needed in other sexually transmitted diseases such as the herpes virus which is implicated in cervical cancer.

Because VD was considered in the late 1940's through the early 1960's to be easily cured and, therefore, under control as a communicable disease, doctors in medical and clinical research lost interest in the diseases and young medical students ignored venereology as a specialty. Therefore, today there are not enough medical personnel studying the venereal disease problem. This trend must be reversed by appropriate adjustments in the medical profession and in medical education.

The proposed National Venereal Disease Prevention and Control Act would provide funds to stimulate both research and control programs in the venereal disease field. The bill authorizes $15 million annually for fiscal years 1972–74 to provide money for research in the prevention and treatment of the diseases $25 million annually for the same time period is authorized to make formula grants to States in establishing and maintaining public health programs in VD diagnosis and treatment. Finally, $30 million annually for the same period is authorized for project grants in VD prevention and control, including disease surveillance, case-finding and followup, interstate epidemiologic referral followup, and professional and public venereal disease education.

With the knowledge we have in our possession now we can do much to control gonorrhea and eradicate syphilis in the United States. Yet, there is more to be learned of an applied nature about venereal diseases and it is only through the stimulation of further research that we will be able to eradicate these diseases from the United States and from the world.

Mr. President, I believe that the programs provided for in the proposed National Venereal Prevention and Control Act will do much to stem the epidemic of venereal diseases which is now sweeping the country. I urge the swift passage of this important bill.

ANNIVERSARY OF THE ESTABLISHMENT OF THE REPUBLIC OF LITHUANIA

Mr. HUMPHREY. Mr. President, on February 16, Americans of Lithuanian descent celebrated the 54th anniversary of the establishment of the Republic of Lithuania and the 721st anniversary of the formation of the state of Lithuania. The anniversary is both momentous and somber.

The history and tradition of the Lithuanian state can be traced all the way back to the 11th century A.D. It is marked by the dedication of its people to freedom and independence, goals which we are still striving for to this very day. In addition, Lithuania and its citizenry have produced a flourishing culture which remains intact and is carried on by Lithuanians throughout the world.

The somber tone of this anniversary stems from the fact that Lithuania cannot celebrate the independence it once enjoyed. It is now under the domination of the Soviet Union and we all are concerned that the basic human rights of Lithuanians are upheld. With stories of the violations of these rights throughout the Soviet Union, hopes and concerns are not enough. We must actively join in an international effort to secure these rights wherever they are threatened. Lithuanian descendants in the United States and throughout the world have relentlessly worked toward this goal. It is an aim we all share and, consequently, I want to pay tribute to Lithuanians and their country for upholding their tradition of human dignity and freedom. Their struggle is a universal struggle, their anniversary is an international anniversary.

REMEDIES FOR PRISON DEBACLE

Mr. BROCK. Mr. President, concluding with personal suggestions for possible remedies to our continuing prison debacle, Mr. Ben Bagdikian writes his last in a series of eight articles.

My main purpose in having these articles reprinted was to bring congressional attention to this too easily avoided problem that persists in our society.

The views expressed by Mr. Bagdikian in these eight articles are not necessarily my own. They are the most sensitive and informative of the current articles that I have come across on our contemporary "prison system." An author of Mr. Bagdikian's caliber naturally proffers controversy, but controversy is often responsible for needed reforms. I admire his candor and congratulate him on this fine series.

On December 2, 1971, the Senator from Arkansas (Mr. McCLELLAN) and I introduced legislation that would create a National Commission on Corrections to spot problems in our prisons and provide recommendations and guidelines in correcting them. This national commission would consider such things as: Qualifications of personnel, health, safety, employment and counseling, general living conditions, recreation, and any other programs designed to prepare inmates to cope with the rules of society.

This is a national problem that crosses every boundary in our country. It must be met with national concern. This legislation is only a beginning. Until the American public is concerned enough to push for reform, our "institutions" will remain just that, and not "correctional rehabilitation centers."

Mr. President, I ask unanimous consent that this final article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AN AGENDA FOR REFORM OF A HELL BEHIND WALLS

(By Ben H. Bagdikian)

When you turned down Fourth Street you saw all the usual clues: the 14-foot cyclone fence with escapeproof top, the 5½-inch window frames looking normal but precisely too small for the passage of the human head, the high intensity lights around the perimeter.

But something was wrong. The gate was wide open and nobody was guarding it.

Inside it was eerie. Everything was in place. The plastic chairs were set around tables in the dining hall. The electric clocks were working but they were on daylight saving time, in the winter. In the Catholic chapel, the Virgin Mary was still wrapped in cellophane and on the Protestant side there were cobwebs on the candelabra.

Nobody was there.

The "new," five-year-old prison had never been used. The DeWitt Nelson Training Center eight miles from Stockton, Calif. was finished in 1967 for $5,800,000, completely furnished for $500,000 and in 1968 was on the verge of accepting the first of 400 juvenile inmates when suddenly everything stopped.

A lot else stopped, too. Through the fence you can see 800 acres of farmland, remarkable to the naked eye only for the magnificent oaks that stand against the sky. Unseen, below the surface, is a complex of water mains, sewers, gas lines and steam pipes already in place for connection to nine more prisons just like DeWitt.

Except that the new prisons were never built.

California made a shocking decision. Like the rest of the country its crime rate was rising—faster, in fact, than the national rate. Like the rest of the country, it was sentencing more people to prison, only for longer terms, up 50 per cent in ten years. It decided to try something else: keep more criminals free in their own communities with special help.

In the last five years, the equivalent of 15,000 California criminals who ordinarily would have spent time in prison walked freely in their home towns. Instead of spending $6,500 a year to maintain each prisoner in an institution, the state spent $4,000 to help him keep out of trouble at home. The state saved $196 million in new prison construction and its crime rate went up at no more than other urban states. The policy was promulgated by a governor, Ronald Reagan, not known for permissiveness toward crime.

The men who run prisons seem to agree that most of their inmates shouldn't be there. In visiting prisons, I asked every warden, deputy warden and director of corrections what percentage of his prisoners he felt needed to be locked behind walls. The highest estimate was 33 per cent, the lowest 5; most were between 10 and 20 per cent.

DETERRENCE OR DETERIORATION

Most also believed that American sentences are too long, that after a time deterrence is replaced by deterioration.

American society already turns loose most of its convicted criminals. About two-thirds of people found guilty of crime are out on probation or parole. Probationers repeat crime at an apparent rate of about 27 per cent, compared to 40 to 70 per cent for people who spend time time in prison.

This does not mean that no one ought to be restrained. Criminals dangerous to society will be imprisoned and have been in the most idyllic societies. But the country has to decide what it wants to happen inside the walls. Is the act of imprisonment itself the punishment? Or is punishment what happens after the criminal arrives inside the walls?

The way most jails and prisons are run, the walls are used to provide secrecy while varying degrees of deliberate damage are done to inmates.

Men are put in a harsh environment and subjected to uncertain anguish, psychologically and physically. They are further punished by placement in "the hole," a standard part of every prison in which the prisoner is isolated without normal sights, sounds or tastes and is denied reading material or anything to occupy his mind and senses in a normal way. Psychologists say it can induce insanity.

Most prisons normally keep the prisoner as cut off as possible from his family and normal contacts. It is typical that outgoing mail is limited in quantity—sometimes ten letters a month—and is censored. It can be written only to persons approved by the prison. Incoming letters are limited to persons approved by the prison and these, too, are censored. Visiting is limited, typically to four hours a month. Often contact with visitors is limited to speaking by microphone through a wire mesh. Food is sparse and bad, treatment by guards frequently brutal and insulting. Overcrowded inmates prey on each other and the most ruthless establish the standard of conduct. Day after day is spent either in idleness or in dreary work at pennies an hour.

PATTERN ITSELF REPEATS

In riot after riot, the same pattern emerges: months or years of warden's requests, without results, for improved conditions in food, program, crowding and character of guards; followed by peaceful petitions of prisoners with no result; followed by promises, followed by minuscule results.

When he was in Sweden, David A. Ward, chairman of the department of Criminal Justice Studies at the University of Minnesota, took the list of 28 demands made by prisoners in Attica with him to meetings of the inmate councils and to Swedish prison authorities.

"I really felt ashamed," he says. "The prisoners and their keepers were astonished. There was only one Attica demand—full pay for work—that was not established practice there. They kept asking me. 'You mean that in America you still have to negotiate for adequate food inside prisons?' "

The courts are sentencing more criminals and decisions have to be made for their disposition. If no new facilities are built and more inmates are put into present prisons, densities will go even higher and there will be more human wreckage and riots; the formula for a bomb is to build an escape-proof container and increase the pressure inside.

If present prisons are modernized, it will cost from $15 billion to $18 billion. New prisons will cost about $22,000 per inmate capacity just for construction, and from $5,000 to $10,000 a year to maintain each prisoner. Society, already balking at the expense of building schools, is not likely to spend such money.

It is not the noblest of reasons, but prison reform could come because it costs too much to do anything else.

REEXAMINING "VICTIMLESS CRIMES"

The first reform should be to keep out of prison persons whose problem is chiefly medical or psychiatric. A place with custom-built locks and steel bars and untrained staff is not the place to treat drug addiction, for example.

The law and social standards need to be re-examined for "victimless crimes," illegal acts by which the offender affects only himself—drugs, alcoholism, prostitution, gambling. While the country is overwhelmed with crimes against innocent persons, it spends billions of dollars and millions of man-hours pursuing people who only do things only to themselves.

Where there are victims to crime, society should compensate them. This would not reduce crime but would diminish its social cost.

It is irrational for a society concerned with crime not to compensate its innocent victims. Nothing can pay for a murder or rape (though the police and hospitals should stop treating the victims of rape as though they were the criminals). But at least medical and psychiatric costs could be compensated. Property crimes are clearly payable.

The money involved is not a large amount, except to the victims. The average burglary loss is $150, which averges $6 per taxpayer a year; the average taxpayer already spends $17.20 a year to prosecute and jail burglary cases. In California the loss to owners is $7 million a year in car thefts, though the state spends $38 million in finding, prosecuting and imprisoning car thieves.

CHANGES ON THE INSIDE

For offenders who need to be locked up, prisons need to change.

Prisons should be small, the smaller the better. Large populations require regimentation and impersonal management and cause perpetual crises in control. The federal government recommends adult prisons with no more than 400 inmates, though it supports construction of larger ones. Some think 400 is too large.

Prisons should be in cities. Prisoner families are usually poor and cannot afford long trips by private transportation to remote locations where commercial lodging is required. Prison staffs need professionals, who are not found in rural areas and don't like to move there. Inmate programs for advanced education and practical occupational training require visits outside the wall, but outside the walls of rural prisons there are usually farms and villages.

The deliberate internal isolation of prisoners should end. Mail should be unlimited and uncensored except for inspection for physical contraband. Visiting should be unlimited except for common-sense rules. Sextual deprivation should end wherever possible. Conjugal visits inside the prison are better than nothing but they are demeaning and force the prison to decide who may conjugally visit an inmate. Regular home furloughs for all nonviolent inmates would end sexual deprivation and most induced homosexualism, and they would have other important benefits. Where all these things have been tried there has been a net gain for everyone, prisoner and keeper.

Prisoners and ex-prisoners need much practical help in returning to society and to repair personal problems that may have sent them to prison in the first place. They need contacts while in prison to keep in touch with families and employers, to provide reading material and crucial information. Maintenance of these contacts make the critical weeks after discharge less dangerous. Jobs need to be lined up, housing arranged, family ties reshaped. There are not enough professional workers to do this and if there were there is not enough money to pay them. Volunteers on a massive scale are needed, including ex-inmates. (In Sweden parole officers are all volunteers, many of them lawyers, doctors and teachers.) In New York City, some churches have adopted cell blocks of the city jail. In many prisons, the Junior Chamber of Commerce has opened chapters inside the walls. Prisoners desperately need volunteer lawyers.

Within the walls, prisoners need basic rights that no prison administration can violate. Physical and psychological torture should end other punishments—removal of privileges, transfer to other cell blocks, cancellation of furloughs, transfer to another prison, serious downgrading of assigned work—should be done only with a hearing by committees that include elected inmate representatives.

The perversion of indeterminate sentences and parole should end. Short, fixed sentences with time off for good behavior would be better than the unfair agonies imposed by uncertain sentences decided by an anonymous administrator. A judge may sentence a man to 12 years but an unaccountable guard or parole examiner may decide the last nine years and do it beyond the reach of any judge. The indeterminate sentence has meant that men can serve life for stealing $100 because they displease their jailers. Parole should end, and with it parole boards. Or else parole board decisions should be based on open, reviewable procedures with precise reasons given for denials. Since parole boards control more of a prisoner's life than any judge, they should be as accountable as judges and as subject to review and appeal.

The elaborate procedures of "treatment" have been ineffective and have dubious ethical grounds. The modern philosophy is that the criminal is "sick" and can be "cured" by rearranging his thinking and emotions. Genuine change of attitude comes voluntarily from within and there is nothing voluntary in imprisonment: prisoners do what they can to be paroled and avoid further punishment but it usually produces cynicism. "Treatment" has not reduced repeated crime. "Treated" prisoners repeat crime just as often as "untreated" ones. Self-examination or counseling can produce benefits to inmates. But they don't reduce crime by themselves and they create an elaborate game of fake conformity. One group that does avoid future crime more successfully are the "alienated," that is, those who do not do well in "treatment." What is needed more than anything else is practical, convincing job training and effective education.

Artificial barriers for ex-convicts and parolees should be removed. Parolees must get permission to marry and change apartments; they cannot get driver's licenses without permission or associate with people of poor repute. "My God," one parole worker said, "the parents of half of my clients have prison records—and they're not supposed to associate with them?" Many parolees come from neighborhoods where it is difficult to avoid people with police records.

Job barriers for ex-convicts are destructive and governments themselves are most guilty. Large categories of federal, state and local jobs are denied anyone with a criminal record, yet federal, state and local governments urge private industry to "hire the ex-convict."

Most licensed jobs are denied ex-convicts. New York State trains barbers in its prisons; New York State will not license an ex-convict to be a barber. In Michigan an ex-convict cannot be an ambulance attendant; in Illinois if you've been in prison you can't sell horsemeat. Ex-convicts usually cannot get auto and life insurance at normal rates.

The parolee and ex-convict are placed back into society and asked to compete with everyone else but they enter competition under heavier restraints than those who have not been to prison.

One result is that parolees and ex-convicts generally end up with the least attractive jobs with little future, making it easier to return to crime.

No prisoner should leave an institution directly to outside life without a period of relative freedom and preparation for coping with the real world. In South Carolina, all prisoners in their last 90 days are in an unlocked classroom facility where they are given courses in such practical problems as buying used cars, finding housing and filling out job applications.

There should be a multiplication of halfway houses, small facilities inside cities where prisoners live in open conditions doing work or attending school in a free atmosphere, with help available if it is needed.

The secrecy within prisons should end. Sophisticated men like to repeat that power corrupts and absolute power corrupts absolutely. There are few places in the world where anyone has absolute and complete power over another human being. Prison is one such place.

It is an awesome power, with the ability to produce physical pain, mental disintegration and protracted caging. Yet it is done almost entirely in secret, without accountability or inspection.

Openness of prisons is needed not because wardens are wicked but because they are human: in a closed arena of prisoner-and-keeper, the relationship almost inevitably leads to pressure and counterpressure.

THE PROSPECT OF TORTURE

Americans don't like to face it, but physical torture goes on in this country's prisons and there is little done about it. Court suits have produced some change, but these are occasional glimpses behind the wall. When the examination ends the tendency is to return to sadism and savagery.

A year ago, a federal judge ruled that Arkansas' state penitentiary, the scene of years of tortures, was "unconstitutional" and he ordered sadistic treatment stopped. Last November, the judge held a hearing to see what had happened. Still going on, according to inmates testifying under oath, was placing of naked prisoners into unheated punishment cells; beating of handcuffed prisoners; putting a prisoner naked in a bare, concrete cell for 28 days without bed, blanket, or toilet paper; Macing of an inmate in his cell by drunken guards; placing an inmate on the hood of a pickup truck that went 60 miles an hour over the fields; stripping prisoners naked and forcing them to lean against a wall with their noses for six hours at a time.

Not all prisons match such torture but without supervision and openness, all have the potential of degenerating into it.

The answer is not rules and regulations or even court orders alone. Openness to inspection by the public and by the press is the best guarantee. Visiting committees of a mixture of citizens who can examine an institution without warning should be the rule of every prison and jail jurisdiction in the country.

At present, prisoners in most places are forbidden to make contacts with the press, or press with prisoners. Parolees are often told that they will be held responsible (meaning threatened with a return to prison) for anything appearing in the press about them or their prison.

THE OLD, EASY ANSWERS

Prisons do not stop crime. They only punish it.

Unless the sources of crime are stopped, all the prisons imaginable will not protect the public from new and repeating criminals. The easy answers for the cause of crime have been available for years: too much "permissiveness," not enough church-going, not enough hard punishment.

"Permissiveness" usually means that people have the money to move around and do what they wish and this has been more true of the middle classes who usually don't go to jail than of the poor who do. Slum families tend to be more authoritarian—hard rules with corporal punishment—than middle-class families.

In the last decade, church attendance has dropped only slightly but crime increased 143 per cent.

And in the last five years punishments have become more harsh and the crime rate increased faster than ever. Nor did hard punishment work in the past when unconnected with social change at the source. During the reign of the original Queen Elizabeth, vagrants were hanged in lots of 300 and 400 but vagrancy did not cease. Henry VIII hanged 72,000 persons but it did not bring civil peace.

THE THREAT TO SOCIETY

The less easy answer to the causes of crime may lie in the slum neighborhoods that most prisoners come from and from the phenomenal growth in use of drugs by the young. The poor are generally families caught in a radical change from uneducated rural life to technological urban demands, in a society that puts a high value on aggressiveness, possession of material goods, guns and other violence.

It is an incredibly rich society that nevertheless tolerates endemic poverty and racial depression and does it within sight of wealth. The poor usually live in chaotic neighborhoods with ineffective schools and poor career choices. The connection between poverty and antisocial behavior is historically clear and is pertinent today.

The withdrawal into drugs should warn about the lack of purpose that suffuses a society surfeited with material goods.

NO SIMPLE ANSWER

There is no simple answer to crime.

Under the best of conditions there will be some individuals dangerous to others who will be restrained. The first requirement of their institutionalization is that it ought to be humane and that their aggression not worsened. The two are related. Today prisons receive troubled men, women and juveniles and deliver them back to society more unsuited to normal life and more savage than before.

But personality traits are not unconnected to the world the individual grows in. David Bazelon, chief judge of the United States Court of Appeals in the District of Columbia, has said:

"Instead of facing up to the true dimensions of the problem and admitting that violent crime is an inevitable byproduct of our society's social and economic structure, we prefer to blame the problem on a criminal class . . . They may simply be responding to an environment that has impoverished them, humiliated them and embittered them."

Thomas Callinan, head of the New York State association of probation and parole officers, has spent his life trying to rehabilitate criminals:

"You know where it all comes from—the ghetto. They come from a sick environment. We pour money into the police and the courts and prisons but we don't put it into what causes it all in the first place—poverty and race."

Ennis J. Olgiati heads a New York project for keeping arrested persons from jail and prison by getting them jobs before they are tried and found guilty. He says it succeeds well but unless the problem of drugs and other destructiveness is solved, catastrophe lies ahead:

"All the storekeepers will have iron gates, all the homes and apartments will have bars on windows and doors. Then the addicts will turn to acetelyne torches and machine guns. And we'll lose the city."

Prison does not change this. Men come out with the same problems that sent them in. They need individualized education up to standards that let them compete in a technical society. They need modern training in modern jobs with a future at good pay. They need to live in decent housing in civilized neighborhoods at moderate cost. They need effective community services, volunteer and professional, for the personal and family crises that periodically overtake most people.

But this is a dilemma. Why do more for lawbreakers than for the ordinary citizen who needs the same things? The answer may be to provide it first for the ordinary citizen who needs such services and it is possible that in the future there will be fewer lawbreakers.

So far, society has not stopped the rise in crime despite added billions of dollars for more police and more punishment. The failure threatens a free society. Citizens in their homes and on the streets are justifiably frightened by threats to themselves and their property. Yet violence, including the adoration of guns, continues. The barricading of people in their homes and abandonment of public places goes on. It is an escalating war between the comfortable who want peace and the uncomfortable who don't.

If the only answer is to imprison the growing number of captives in this warfare, it could result in a society forced to be more concerned with physical security than with freedom, a nation of jailed and jailers where in the most perverted sense each person will be his brother's keeper.

HARDSHIPS CONFRONTING THE HANDICAPPED ON COLLEGE CAMPUSES

Mr. DOLE. Mr. President, too few people are aware of the numerous inequities and hardships which face the handicapped in our society, but many citizens have become more aware of the problems which a handicapped person experiences when attempting to lead a more productive life. These problems still exist for the handicapped, and especially to those who choose to further their education.

In testimony before the House Select Subcommittee on Education regarding a provision in H.R. 8395, to establish a national information and resource center for the handicapped, I mentioned a young man named Jim Warnken. His name is one of the many which has appeared on the college campus enrollment lists for the 1972 spring semester at Kansas State University, in Manhattan, Kans. But, unlike many of his classmates, Jim has a physical handicap. He has overcome many obstacles to pursuing a college education, but on the Manhattan campus he continues to encounter many barriers—of the physical variety—which have not yielded to his efforts. Many handicapped individuals have discontinued their studies at Kansas State and other institutions to attend schools which already have more accessible campuses with curb ramps and elevators to accommodate the handicapped. Jim is determined to remain at Kansas State, however, and direct his efforts toward altering the campus to his needs and those of others who might wish someday to study there too.

Jim's story is told in an informative article published in the Kansas State Collegian of January 1972. I ask unanimous consent that it be printed in the RECORD to call attention to one young man's efforts to bring positive constructive change to an institution's design and remove architectural barriers to the handicapped. The information in this article may be helpful to others who strive to improve the educational facilities available to the handicapped.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE KANSAS STATE CAMPUS—A HANDICAP—ON TOP OF A HANDICAP

(By Rick Dean)

Try counting the number of steps you climb a day as you hurry from class to class. You probably can't. Most of us take climbing steps for granted.

Imagine the same situation except this time you're confined to a wheelchair. Chances are you'll count every step you take.

"The campus at K-State is totally inaccessible to wheelchair students," James Warnken, senior in radio-tv, said.

Warnken, who is paralyzed from the waist down and confined to a wheelchair, currently is spearheading a drive to make the campus conducive to wheelchairs. His goal is to level several curbs and add ramps and possibly elevators in many buildings.

On Jan. 27 Warnken met with Paul Young, vice-president for University development, and with representatives of the State Rehabilitation Center in Topeka to discuss plans for a rehabilitation program at K-State.

"It was a get-acquainted meeting, so to speak," Young said.

"We basically met to hear Jim's ideas about changing the campus and to find out what programs were available to the University," he continued. "We haven't had time to investigate these programs in detail, but we are definitely planning to look into them.

"There is a possibility federal funds are available to finance such a program.

"But this program must entail more than just knocking out a few curbs and putting up some ramps. It must involve setting up an entire rehabilitation program including counseling and physical therapy, as well as plant changes."

Young noted such a program would be costly and comes at a time when funds for University operation are scarce.

Problems of navigating a wheelchair on the K-State campus would seem insurmountable to most people, but not to Warnken. He manages to climb most University curbs by raising the front wheels of his chair, then pulling the back wheels over.

Coming to school from his home at 1016 Moro is another problem.

"You'll never know why they call this campus the 'Hill' until you've tried to propel a wheelchair up it," Warnken said.

He is usually able to find help in climbing stairs to his classes. It takes three people to push-pull Warnken up stairs.

"It's something of a blow to your pride when you must ask for help, but I've come to understand it's something I must do," Warnken said.

The only state school with facilities for wheelchair students is Kansas State Teachers College in Emporia. At KSTC all buildings are equipped with inclined ramps to classrooms, leveled curbs and elevators.

Warning signs caution motorists of special wheelchair crossings and signals were installed for handicapped students. Many drinking fountains are lowered, enabling wheelchair students to easily get a drink of water.

KSTC also has a massive rehabilitation program, which includes a counseling program, physical therapy center, and special classes geared to handicapped students. Wheelchair basketball leagues also have been formed.

The University of Missouri in Columbia and the University of Illinois also have such facilities.

A Federal law passed in 1971 requires all new university buildings to be accessible to wheelchairs. The only such buildings at K-State are Cardwell, Ward and Ackert Halls. But even these buildings have problems.

"In Ward we have an elevator shaft but no elevator," Young said.

He also noted, while Cardwell has an elevator, it is ramped solely on the north side, while Ackert is ramped only on the east side.

"And then you must be sure the doors are wide enough," Young said.

Young explained the problem at K-State would be to rennovate the older buildings for wheelchair students. He emphasized that in order to put an elevator in one building, several classrooms would have to be eliminated and the elevator shaft installed. In fact, Young said, several structures were built with a space for elevators but later were converted into classrooms.

Anybody could make a survey of buildings on campus and note most of the newer ones have some type of street-level entrance, while older structures have many steps leading to the main floor.

But even if the University were to lower curbs and raise ramps, Warnken believes the problems of wheelchair students still would be unsolved.

Much of the difficulty encountered by handicapped people involves their relationship with others.

"People have the idea imperfection or disability is something bad and they don't want to accept the handicapped person as a human being," Warnken said.

"They try to block imperfection out of their minds," he continued. "But they will have to accept the fact that a handicapped person is not an invalid or disease carrier, but a contributing human being.

"Several people are opposed to the idea of making this campus accessible to wheelchairs, saying we don't need such facilities because there aren't many handicapped students.

"What they're really saying is they don't want to be exposed to wheelchair students or handicapped persons.

"A handicapped person needs a degree to overcome his disability. Not being able to get the education you want is like putting a handicap on top of a handicap.

"I've been trying to make myself as obvious as possible to make people realize there's nothing wrong with me. I'm a human being, just like they are."

Warnken was injured in a mountain climbing accident in Big Thompson Canyon on Sugarloaf Mountain. He fell approximately 85 feet, breaking his spine in the fall. He spent more than three months in the Craig Rehabilitation Center in Denver, Col.

"Doctors told me I would never touch the top of my head, move either of my hips, or have any feeling in my legs," Warnken said, as he touched his head and moved his hips.

Warnken is currently a disc jockey for KSDB, and his ultimate goal is "to come wheeling in before Walter Cronkite and give a newscast."

If K-State does establish a rehabilitational program, the final decision will rest with the Board of Regents.

"If it were only leveling a curb or two we would do that ourselves," Young said. "But either we do the whole program or we don't start it at all.

"As is the case with many things to be developed on campus, money is the big drawback, but we're seeking funds."

Warnken, too, would like to see a complete rehabilitation program inaugurated here, but as he says, "I'd be happy just to see a few curbs lowered and some ramps put up."

NORTHERN IRELAND SECRET PEACE PROPOSAL—"THE DOVE THAT DIED"

Mr. RIBICOFF. Mr. President, since my introduction last October of Senate Resolution 180 dealing with the tragic situation in Northern Ireland, I have warned that Ulster was becoming Britain's Vietnam. The most dramatic evidence of this sad fact was the bloody Sunday in Londonderry. Now, Columnist Pete Hamill writing in the New York Post, has revealed how the British Government rejected a secret five-point peace proposal acceptable to both the Catholic and Protestant leadership in Northern Ireland. This is reminiscent of the many abortive efforts to find peace in Indochina.

There is reason to believe that the events related by Mr. Hamill are substantially correct. In any event, the failure of this attempt to find a peaceful solution lends additional weight to the need for our own Government to play a role in ending the bloodshed and discrimination in Northern Ireland. The recommendations contained in Senate Resolution 180 provide a suitable framework for bringing peace and justice.

I ask unanimous consent that Mr. Hamill's article of February 12 be printed in the Record along with Senate Resolution 180, which has been cosponsored by Senators Kennedy, Williams, Pastore, and Hartke.

There being no objection, the items were ordered to be printed in the Record, as follows:

The Dove That Died

(By Pete Hamill)

Dublin.—On the Thursday before Bloody Sunday, the British government was presented with a secret five-point plan that could have brought an immediate IRA ceasefire in Northern Ireland, to be followed by a peace conference. The British rejected the plan, and by the following Monday morning all hope for a swift peace seemed to have been lost in the slaughter in the Bogside.

The plan was presented to "very high officials" in the British Home Office by Dr. John O'Connell, a Labor member of the Irish Parliament in Dublin. O'Connell had been working for weeks to try to find a way out of the political and diplomatic impasse that had been in effect since internment without trial started last Aug. 9, and for a few days he seemed to have succeeded.

"O'Connell wanted to see the killing stopped and the talking begin," said a man who was very close to the negotiations. "Since he was not part of the ruling Dublin government, he had certain advantages over many people."

O'Connell first approached leaders of the Provisional IRA in Dublin. After a series of discussions, the Provisionals agreed to halt the campaign of bombing and shooting in the North if certain concessions were made. This in itself was encouraging, because the Provisionals had been stereotyped as hard-nosed gunmen who would fight to the bitter end.

Basically, the Provisionals agreed to an immediate 30-day ceasefire, if the British government would stop internment. During that period, while groundwork was laid for a peace conference, the British Army would be confined to barracks, and army harassment of Catholics in the North would come to an end. The Official IRA went along with the plan as long as it guaranteed that the British Army would be confined to barracks.

"The key there was an agreement that internment would end," the source said. "That then freed the politicians in the SDLP to join the negotiations."

The Social Democratic and Labor Party (SDLP) is the major opposition party in the North, and has withdrawn from the Stormont Parliament until internment is ended. If the IRA could agree, even to a phased-out end of internment, SDLP leaders would then be free to negotiate. O'Connell made clear, however, that the IRA would have to have a seat at the conference table.

With agreement from the IRA and SDLP, O'Connell then traveled North to see the Rev. Ian Paisley, the Protestant militant whose constituency includes the most hard-lined Protestants in the North.

In a series of extraordinary discussions, O'Connell managed to convince Paisley that a peace conference was necessary to end the killings, but that Paisley and the IRA must be present at the table. O'Connell reminded Paisley that Michael Collins, one of the greatest of all IRA leaders, had attended the peace conference of 1920, and Paisley agreed that this was a legitimate precedent.

Paisley went along with O'Connell's plan.

And so, armed with agreements from the major opposition party, both wings of the IRA and the most powerful Protestant militant, O'Connell traveled to London on Jan. 27 for meetings at the Home Office. There were five basic points in his proposal.

1. Amnesty for all political prisoners. (More than half the 750 people in the camps are being held for their political beliefs and are not members of the IRA.)

2. The end of internment.

3. The immediate withdrawal of the British Army to barracks.

4. The complete restructuring of the Stormont government along democratic lines.

5. A declaration of intent by the British on the future of Ireland.

If the British agreed to a conference, the Provisionals would have put a ceasefire into effect immediately, as a sign of good faith. If at the end of 30 days, internment was also ended, talks would begin the following week.

Despite a public statement about not sitting down with gunmen, the British were prepared to admit the IRA to the conference table. Initially, they had no trouble accepting the first four points but were shaky about the fifth because that dealt with the reunification of Ireland.

"We told them that the fifth point did not have to be agreed upon going in," the source said. "That's what the conference would be all about."

Unknown to O'Connell, Northern Ireland's Prime Minister Brian Faulkner was in a nearby room during these top secret talks, and was being informed of all developments. At the end of the day, O'Connell was asked to stay overnight in London for further talks in the morning. He agreed.

The following day, he returned to the Home Office and the British turned down the whole package.

Their only apparent excuse was that "We didn't know what would happen if the talks broke down." O'Connell flew back to Dublin. Within 48 hours, 13 people were dead in the streets of Derry, and a major chance of peace had been lost.

"They are either very stupid," the source said, "or they already had planned the events at Derry and had opted for a military victory over the IRA. Either way, we are now back at square one."

S. Res. 180

Resolution calling for peace in Northern Ireland and the establishment of a United Ireland

Whereas the continuing violence and bloodshed in Northern Ireland is a cause of the deepest concern to Americans of all faiths and political persuasions;

Whereas the causes of the present conflict may be traced to the systematic and deliberate discrimination in housing, employment, political representation, and educational opportunities practiced by the governmental authorities of Northern Ireland against the minority there;

Whereas the Governments of the United Kingdom and of North Ireland have failed to end the bloodshed and have failed to establish measures to meet the legitimate grievances of this minority;

Whereas continued repression and lack of fundamental reforms in Northern Ireland threaten to prolong and escalate the conflict and the denial of civil liberties: Now, therefore, be it

Resolved, That the Senate of the United States expresses its deepest concern over the present situation in Northern Ireland, and in accord with fundamental concepts of nondiscrimination, fairness, democracy, self-determination, and justice, requests the Government of the United States at the highest level to urge the immediate implementation of the following actions:

1. Termination of the current internment policy and the simultaneous release of all persons detained thereunder.

2. Full respect for the civil rights of all the people of Northern Ireland, and the termination of all political, social, economic, and religious discrimination.

3. Implementation of the reforms promised by the Government of the United Kingdom since 1968, including reforms in the fields of law enforcement, housing, employment, and voting rights.

4. Dissolution of the Parliament of Northern Ireland.

5. Withdrawal of all British forces from Northern Ireland and the institution of law enforcement and criminal justice under local control acceptable to all parties.

6. Convening of all interested parties for the purpose of accomplishing the unification of Ireland.

SENATOR CARL HAYDEN

Mr. BROCK. Mr. President, never having known the late Senator Carl Hayden, I have no unique anecdotes or personal remembrances to offer with my respects. I know only of his long and prestigious service to this body. For this record I have the greatest admiration.

A man who brought his home to statehood, saw the coming of the age of the telephone, the automobile, radio, television and space must have known the profound and capricious nature of this land. I only wish I had the benefit of his knowledge and perspective gained from his long life and tenure in the Senate. The wisdom of age is not easily given or accepted, but I imagine that Carl Hayden would have given freely.

Arizona has lost one of its greatest statesmen, a man whose service to his country was exceeded by no one. The motto of his beloved Arizona is "Ditat Deus"—God Enriches. Truly, this territory and 48th State of the Union was enriched by his presence.

AFL–CIO URGES FUNDING FOR RADIO FREE EUROPE AND RADIO LIBERTY

Mr. HUMPHREY. Mr. President, at midnight tonight the funding for Radio Free Europe and Radio Liberty will end. At this time the continuing resolution will expire and there will be no authorization measure to provide for appropriations. The future of Radio Free Europe and Radio Liberty waits upon this legislation.

This situation has occurred before in the Congress, but what is startling in this case is that both Houses have already passed authorization bills. What the Congress is waiting for—and it has been waiting for some time—is for the conferees to meet to agree to an acceptable authorization formula. In this case the will of the Congress, and I am confident that it is also the will of the American people, is not being carried out by the conferees for S. 18, the authorization bill for funding these two great radio stations.

The explanation offered is that Radio Free Europe and Radio Liberty are relics of the cold war and as such should be done away with. I contend that nothing could be farther from the truth, unless the attempt to liberalize thinking in Eastern Europe and the Soviet Union is strictly an effort to promote the cold war. No, it is not. It is an attempt to communicate a variety of views to peoples who would otherwise only hear news as distilled through the controlled press of their closed society. It is an attempt to break down cold war thinking and instill an appreciation for liberty.

If we are to push for a reduction of conflict and further accomodation with the Soviet Union, we have to work in every way possible to pressure Soviet leaders to be flexible in their position. We must be able to communicate with people in and under the influence of the Soviet Union, and we can do just that through Radio Free Europe and Radio Liberty's programs. Agreements like the one we are expecting to come out of the strategic arms limitation talks depend on constant information flows. Such positive developments, of which there have been far too few in our relations with the Soviet Union, are made possible only by the behind-the-scenes influence of progressive and informed elements in Soviet society: scientists, writers, educators, and others. Such people in the Soviet Union and other peoples in the Soviet world depend on the core of objective information which they receive in broadcasts by their fellow countrymen over Radio Liberty and Radio Free Europe.

It would be tragic for the United States to lose these devoted audiences and the splendid communication facilities which these two radios have built up over the years. Their constructive role is documented in a recent study by the Congressional Research Service, which should be given wide public circulation.

I, too, hope that tensions between the Soviet Union and the United States will one day disappear, but I also believe that failure to save these two radios would not only harm the interest of the United States now in the Soviet world, but would also be a declaration to Europe of a declining American interest in the affairs of the continent.

I now invite the attention of Senators to an excellent resolution adopted yesterday by the AFL-CIO executive committee meeting in Miami. I commend Mr. George Meany and the executive committee for having passed this timely resolution and given such complete support to one of our country's most exemplary organizations. This resolution expresses firm support for Radio Free Europe and Radio Liberty because of the great work they have done and will continue to do.

Mr. President, I ask unanimous consent that the resolution be printed in the Record along with today's Washington Post editorial on the same question.

Resolution Adopted by AFL–CIO Executive Committee, Miami, February 22, 1972

The future of Radio Free Europe and Radio Liberty is being decided in Congress.

The closing of these vital communications with the captive peoples of the Soviet Union and Eastern Europe will be a clear sign of U.S. capitulation in the war to bring truth and courage to countless millions behind the iron curtain.

The Soviet Union has spent more than $300 million annually to stop these effective broadcasts and the Soviet Union has until now failed.

The Executive Council urges the responsible leadership of both Houses of the Congress to demand the passage of a fully funded program which has the overwhelming support of the membership in both Houses and the American people.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

RADIO FREE EUROPE STILL HAS A PART TO PLAY

When American public—or political—opinion swings, it tends to swing hard, and this is likely to be more and more of a problem for the Nixon Administration as it trumpets its "breakthrough" in Peking this week and, presumably, further successes in Moscow in May. No matter what the true measure of the rapproachement achieved in either Communist capital, there will be a tendency on the part of some to exploit a "new era" in world relationships as a reason for scuttling anything and everything that smacks of the dark, old Cold War days. A case in point is the effort now being conducted in the Senate, largely by Senator Fulbright, to choke off appropriations for Radio Free Europe and Radio Liberty, which beam broadcasts into Eastern Europe and the Soviet Union, respectively, with the help of government funds. The CIA used to finance these broadcasts covertly and after this was brought inescapably to light two years ago the government took over the burden openly, but on a temporary basis while debate continued about whether these operations should be continued, and in what form.

With the question still unsettled, a continuing resolution authorizing temporary funding of RFE and RL expires today and the money will run out in a few weeks. This is just what Senator Fulbright thinks should happen, his point being that everything is changing, what with Mr. Nixon's new approaches and new evidence of conciliation in China and the Soviet Union, and that therefore RFE and RL should "take their rightful place in the graveyard of Cold War relics." The Senator would have us believe, on the basis of White House briefings he has received about the President's policy, that broadcasts of this sort behind the Iron Curtain are contrary to the President's purposes in Peking and Moscow.

The President, however, has not only never said as much, but has actually expressed quite the opposite view; in a recent letter to Mr. Stewart Cort, the chairman of a fund which seeks to raise private money to supplement RFE operations, Mr. Nixon said he thinks the free flow of information is "indispensable" to more normal relations between East and West. Given the nature of the service performed by RFE and RL, it would seem to us that their programs fit the President's definition of what is still needed in Europe, for all the bright hopes of easing tensions and developing detente. For these are not provocative, propagandistic diatribes and still less do they "sell" America, U.S.I.A.-style. Rather, what both stations attempt to do is tell the people of Eastern Europe and Russia news about themselves and their own countries which their governments don't want them to hear. They do this job professionally, responsibly, and effectively, by almost all accounts, and the only real question for Congress, in our view, is how RFE and RL should be set up in a more permanent way so that they can go on doing it.

THE PEOPLE'S STATE OF THE UNION

Mr. HARRIS. Mr. President, it is a tradition every year that the President of the United States presents to Congress his vision of the state of the Union. Then in established ritual, the President's supporters and his critics step forward either to endorse or attack this vision.

On January 25, I organized a Peoples' state of the Union in an unemployment hall close to the Nation's Capitol. The purpose was to give an opportunity to some additional Americans to express their vision for this country.

Those participating were: Nelson Cruikshank, president, National Council of Senior Citizens; Tony Dechant, president, National Farmers Union; James A. Gavin, legislative director, National Federation of Independent Business; LaDonna Harris, president, Americans for Indian Opportunity; Dennis Hayes, former coordinator and now consultant, Environmental Action; Nicholas Johnson, Commissioner, Federal Communications Commission; John Kerry, spokesman, Vietnam Veterans; Ralph Nader, consumer advocate; James Simmons, president, Gulf Coast Pulpwood Association; Margie Tabankin, president, National Student Association; George Wiley, executive director, National Welfare Rights Organization; and myself.

Their purpose in joining me was not to seek agreement on all issues. Rather, it was to provide an alternative vision, or several of them, as to where our country is heading.

I believe it is vital that more Americans step forward to do this. More and more Americans, whatever their political loyalties, believe that we are passing through a period of crisis in our national life. We need all the good advice we can get in finding the best solutions to our problems.

Mr. President, I believe it will, therefore, be of interest to Senators to read what several distinguished Americans believe is now the state of our Union. I ask unanimous consent, therefore, that the statements of all who participated in the People's state of the Union be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

PEOPLES STATE OF THE UNION—PARTICIPANTS

Senator Fred R. Harris—Senior United States Senator from Oklahoma

Nelson Cruikshank—President, National Council of Senior Citizens

Tony Dechant—President, National Farmers Union

James A. Gavin—Legislative Director, National Federation of Independent Business

LaDonna Harris—Convener and Operating Committee Member, National Women's Political Caucus; President, Americans for Indian Opportunity; Member, Board of Directors, National Urban League

Dennis Hayes—Former Coordinator and now Consultant, Environmental Action

Nicholas Johnson—Commissioner, Federal Communications Commission

John Kerry—Spokesman, Vietnam Veterans

Ralph Nader—Consumer Advocate

James Simmons—President, Gulf Coast Pulpwood Association (Association of white wood haulers in Mississippi which joined with Mississippi NAACP in striking the Masonite Corporation in November, 1971)

Margie Tabankin—President, National Student Association

George Wiley—Executive Director, National Welfare Rights Organization

STATEMENT OF U.S. SENATOR FRED R. HARRIS

We have come here today with more hope than despair, though there's despair enough. We have gathered not in partisanship nor even total agreement with each other, but in a belief in common goals and the strengths of coalition.

There is a new populist vision for this country. And we hope we may be able to express a part of it and help bring it into being.

The state of the union is not a matter of budgets and bills, nor of dollars and deficits.

It is a matter of how a people see themselves.

And we look at ourselves and find no reassurance of our rectitude, nor inevitability of our promise.

We see an America more involved in destroying foreign villages than in making liveable our own.

We are asked to increase arms in the name of peace, donate to dictators in the cause of freedom, tax the poor and subsidize the rich in furtherance of free enterprise.

We are asked to remain a country where children are taught about the virtues of self-reliance in inferior schools, where health is a privilege and unemployment seems more a measure than a human condition. A nation lost in pragmatism and geopolitics.

But our people have a higher vision of themselves. And they know the basic questions.

Where is the sense of shared ideals and common struggle, of belonging to something bigger than ourselves?

What does it mean to be an American? Or better still—what should it mean?

A decent life—not as a gift, but a right. A fairer share for all. A nation willing to be judged on what it does, no less outside our shores than here at home.

A people who see and act upon the time-worn truth: that peace and justice are symbiotic twins which cannot live apart.

Not region, sex, nor race nor age can long divide a nation of that kind.

But we must seize now upon this chance, look at what we are and what we're asked to be.

America can be whole again. Not, as we're asked, by making an unfair tax system even more unfair, not by continuing the too-great concentration of economic power, not by ignoring the need for jobs and health and homes while spending more and more on arms.

There is greatness in our people. And power, too. Calling forth both is a task worth our efforts.

STATEMENT OF NELSON H. CRUIKSHANK PRESIDENT, NATIONAL COUNCIL OF SENIOR CITIZENS

The nation's elderly are angry.

They have stood by, watching the Federal government hand out billions of dollars for arms and defense and additional billions to business and corporations in the form of whopping income tax reduction while they wait, wait and wait for an urgently needed Social Security increase.

Older Americans do not riot or threaten violence, yet they are the poorest of the U.S. poor. Their number is steadily increasing as galloping inflation cruelly reduces their buying power because their incomes are fixed.

There are nearly five million men and women age 65 or over who are impoverished. Millions of others—at least two million more—are very close to the poverty line.

The 3,400 delegates to last month's White House Conference on Aging had these grim facts very much in mind as they demanded that the Nixon Administration and Congress realign national priorities to make life better for the poor, infirm and elderly as well as for defense contractors and investors.

The White House Conference delegates spoke out loud and clear for immediate action by the Administration and Congress on their increasingly desperate problems. They called for an immediate 25 per cent boost in Social Security benefits. As a matter of fact, a 20 per cent Social Security cash benefit increase could be achieved right now without additional contributions to the Social Security trust fund if Congress accepts the rising earnings base of actuarial assumptions for the Social Security program recommended by the highly respected Social Security Advisory Council.

The White House Conference delegates also said they want a floor of income amounting to $4,500 a year for an elderly couple adjusted annually to increases in prices and living standards, with 75 per cent of that amount reserved for individuals.

Financing should, they said, come from the Federal Social Security tax on workers and employers augmented by Federal general revenue.

Four out of five older Americans have some form of illness or disability. Adequate health care is equally important to them as income. Because of the ever-rising out-of-pocket payments they must put up, more and more elderly poor are denied the benefits of Medicare, the Federal health insurance program for those age 65 and over.

That is why delegates to the White House Conference on Aging urged comprehensive health security legislation without regard to age or economic status financed with a Social Security tax on workers and employers and by Federal general revenue with no out-of-pocket payments, cutoffs or other barriers imposed.

Health security legislation pending in Congress would pay at least 70 per cent of the health costs of the average citizen. Medicare pays less than half—43 per cent—of the health cost of older people.

Pending adoption of health security legislation, the White House Conference delegates asked for an expansion of Medicare to cover out-of-hospital prescription drugs, broadened home health services and other alternatives to nursing home care and coverage of dentures, eye glasses, and hearing aids, together with provision for foot care and dental care (none of which Medicare now pays for.)

The White House Conference delegates also called for construction of 120,000 new elderly housing units a year, a nation-wide community service program for employment of the low income elderly and adequate funding of legal research and services for the low income elderly.

A nation that can budget the astronomical sum of $70 billion for arms and defense and a nation that gives away billions to business by cutting income taxes in that amount can surely afford to do something for the elderly.

Statement of Tony T. Dechant, President National Farmers Union

Some twenty million people have left the farms and rural communities over the last twenty years because of chronic low farm income. Many of the problems of our cities have their roots in rural America and we must meet the challenge of not only stemming the continuing senseless migration to the cities but of reversing it.

I search in vain in the "State of the Union" message for words of encouragement to farmers. President Nixon refers to a program to raise farm income, but he does not tell us what the program is. Surely it cannot be the Agricultural Act of 1970. That is his bill. Under threat of veto it was forced through the Congress in 1970 by his first Secretary of Agriculture. In its first year of operation, during 1971, it resulted in run-away production and the lowest farm prices in years.

The President lauded the American farmer, by indicating that while the productivity of our non-farm industries has gone up 60 percent during the last 20 years, agricultural productivity has gone up 200 percent, or nearly 3½ times as much. 25 years ago, in 1947, 14 persons were supplied with food per farm worker and now, 45 persons are supplied. We have increased farm output 38 percent in these last 25 years. Ironically, net realized farm income in 1947 was $15½ billion and that is the same figure for 1971.

President Nixon has promised to increase farm income in 1972. Yet he ignored completely in his "State of the Union" message the most important legislation now pending in the Congress for improving farm income. The bill is H.R 1163, which passed the House early last December and on which hearings were completed by the Senate Agriculture Committee this week.

The bill would increase income of wheat and feed grain farmers by $1½ billion. Because it would do this by increasing the loan rate by 25 percent—and thus be worked through the marketplace rather than working through direct Government payments—the bill would require no substantial increase in Government outlays.

President Nixon's new Secretary of Agriculture, Earl Butz, opposes this bill. Although farm prices have been rising a little in recent weeks, I am convinced that this is so largely because the House-passed bill is pending in the Senate. If it is defeated, I predict prices will drop and the migration from the farms will be accelerated.

Statement of James A. Gairn

I wish to thank Senator Harris for this opportunity to be here and to be able to comment on the affairs of the small independent businessman. The National Federation of Independent Business is the largest business organization of its kind in the world—representing some 298,000 firms. Our members come from every sector of the business community, and include retailing, wholesaling, manufacturing, the service trades, construction, transportation and the professions.

Most people are unaware of the impact of small business upon the nation's economy, and upon their lives. Today there are 5½ million small businesses in the country, located in every city and town throughout our land. They account for 95 percent of all the businesses in America, and provide jobs for 6 out of every 10 Americans engaged in private, non-agricultural occupations. Furthermore, small business contributes nearly 40 percent of America's Gross National Product. Because of the N.F.I.B.'s large membership, and because we represent such a cross section of small business, we believe we are well aware of the problems and the needs facing this important sector of American life.

Today, small business is caught in a real economic squeeze whereby it's difficult for it to remain competitive. There is definite need for enactment of tax reform legislation that would not only provide relief from a mountain of red-tape paperwork that has been fostered upon the independent businessman, but that would also provide a real tax break. We consider such legislation of utmost priority. Although numerous bills have been introduced in Congress that would do this, none have gone into hearings. This is most unfortunate because there were almost 10,000 small business failures in 1970 alone—up some 2,000 over 1969. Although the figures for last year are not complete, it appears that the number of failures will at least equal the 10,000 figure.

The 7 percent investment tax credit enacted recently by the Congress will help somewhat—and the relief of all small business from economic controls would also help. Certainly, the exemption of some small firms from price posting and controls is a constructive step, but we favor the lifting of controls from all small businesses. I say this not to suggest that small businessmen be allowed to bypass the law and hike the costs of goods and services at will, but because such a move will lift a financial burden from them that could—in the end—prove beneficial to the overall economy. Remember, it's an economic fact of life that the economic market, which is controlled by the large firms and the conglomerates, will keep the little guy in line as long as the controls are keeping the bigger ones in line. Exemption of all the small firms would free more IRS enforcement agents to make sure that the larger ones stay within the law.

Another area that will be of help to small business would be for rigid enforcement of anti-trust provisions in the law.

Borrowing money is always a problem for the smaller businessmen. And, in recent years the problem has grown more acute as the SBA direct loan program has been greatly deemphasized. In 1965, for example, direct loans totaled 7,313 for a sum in excess of 115 million dollars loaned. But in 1970, there were only 42 such loans for under 2 million dollars. Meanwhile, bank participation and government guaranteed loans increased to almost 11,000 totaling 588 million dollars at high interest rates.

We find such a trend to be detrimental to small business, and at the same time observe this to be a bonanza for the big financial institutions.

Small business faces other problems also. We regret to see the attention that is being focused on proposed National Health Insurance and an increase in the minimum wage in the Congress. This comes at a time when the small businessman cannot stand another increase. His costs would not be just the 25 percent most frequently mentioned, but would include increased payroll taxes and matching Social Security taxes. While it is true that these are deductible expenses at the year's end, this alone will not make up for curtailed cash flow which is so essential to business survival.

The Federation would like to see permanent committees with legislative authority established in both Houses of Congress. We have urged enactment of this legislation for a number of years, and feel it to be necessary. After all, agriculture, labor, and even aeronautics have committees with legislative authority. Surely small business, making up 95 percent of all businesses, should be granted its rightful place in the halls of Congress.

In-city migration is another concern of small business. During the last two decades, people have been leaving rural America to flock to the nation's cities. Today more than 70 percent of the population lives on 2 percent of the land. This has brought numerous problems to the cities. In order to more evenly distribute the population, we believe that tax incentives should be given for rural job development. The N.F.I.B. has pushed for such legislation, and will continue to do so because this way both our cities and rural areas would benefit.

Briefly, this is the state of the union as seen through the eyes of the small independent businessman.

Statement of LaDonna Harris, President, Americans for Indian Opportunity and Member of the Policy Council, National Women's Policy Council

In 1972 there still is a lack of understanding of anyone who looks different from the white male.

If your skin is brown and you speak Spanish, you are nearly twice as likely to be unemployed as anyone else.

If your skin is broken and you are a Native American, it means that your life expectancy is about twenty years less and your babies will die one and a half times more often than anyone else's in our country. Those who live will receive inferior education with little or no hope that their lives will be much better than those of their parents.

If you are Black your children have been bused past white schools for years without comment and now you hear that no one has ever believed in busing children on racial grounds. If you're an Indian in Washington state or in Alaska you know that your children are still being bused to Oklahoma to segregated Indian schools.

If you are a woman, you have no chance to serve on the Supreme Court; you are still not covered by an Equal Rights Amendment; you have no legal right to the control of your own body; you are far more likely to become a victim of the welfare system; you are working at the same jobs men are for less pay; you have virtually no voice in decision making roles throughout the government. The head of your government vetoed the child care bill which would have made it possible to have quality care for your children if you must work or want to work outside your home.

He calls your efforts to make changes burlesque.

Yet you are 53% of the population and 5.4 million families are totally dependent on your earnings.

In spite of all that, 1971 has been a year of promise because of the people themselves. Things have begun to happen that no one dreamed possible. Women have begun to get together. They are crossing all of the artificial barriers—race, age, regionalism, even political party lines—in order to work together for the basic changes that must come in our society. We are beginning to form coalitions not only among ourselves but with people such as the Black Caucus, Youth Caucus and others.

Black people have brought about change for themselves.

Spanish speaking people—Chicanos, Puerto Ricans and Cubans—are crossing traditional barriers for their common good.

Native Americans are overcoming old tribal rivalries. Urban and reservation Indians have recognized the need to stand together to rewrite the history of this country and will no longer tolerate someone else telling them what to do and controlling their future.

Though politicians are not yet responsive or understanding, we who are different understand through our own experience that the power is in the people.

STATEMENT OF DENNIS HAYES

You can fool some of the people all of the time, and that's enough to earn a decent living. So for a couple of years now we've been bombarded with advertisements designed to fool us.

We have seen that the exhaust from a car burning Brand X gasoline looks sooty black when collected in a plastic balloon. The exhaust from a car burning Chevron with new F-310, on the other hand, is perfectly clear. Only later, after an F.C.C. investigation, do we learn that the first car is blowing up a balloon made of black plastic; the second, a balloon made of clear plastic.

We have seen paper companies photograph rivers 15 miles *upstream* from their mills to show how little they pollute. We have seen coal companies suggest that fishing is great in exhausted strip mines, and oil companies retort that fishing is even better under offshore oil derricks.

Worse, they are spending billions of dollars a year, co-opting our vocabulary. Today you can buy environmental rugs, environmental records, environmental gasoline, and environmental parlor games. Consequently, it's getting difficult for an activist to talk about the environment without feeling like a huckster. One might almost suspect a corporate plot to cheapen the movement—to so misuse and debase and profane its terminology as to render it laughable.

At the same time there has been a concerted effort to drive a wedge between poor people and working people on the one hand, and environmentalists on the other. The environment is consistently blamed for every tired, outmoded, unproductive factory they shut down. And the media cooperate with headlines like yesterday's gem: "Pollution or Poverty"—implying we must choose one or the other.

But big business really takes a back seat in all this to politicians. The billows of environmental rhetoric along the political circuits by men who clearly don't have any idea what they are talking about has served to cheapen a set of concepts which might have ennobled man and helped him build a better world. Nowhere is this more clearly seen than at the White House.

In his 1970 State of the Union message, President Nixon proclaimed the 1970's to be the environmental decade. After a half-hour of bombast, he suggested his one concrete proposal: a water pollution measure to help cities finance sewage plants. The proposal never went anywhere, and much of this last session of Congress was spent unsuccessfully trying to overcome White House opposition to a comprehensive water pollution bill.

With air pollution we were more successful. Aided by a 2-week thermal inversion which blanketed the East coast in smog, we passed a decent Clean Air Act. (It is worth noting, parenthetically, that it took the federal government ¾ of a century to notice that automobiles have exhaust pipes.) But the air bill hardly redounds to the President's credit. The legislation was opposed by the White House every step of the way—including a last-minute grandstand attempt by Elliott Richardson to gut it.

These were, of course, the motherhood and apple pie issues: air pollution and water pollution. On controversial environmental issues—the SST, the Alaskan Pipeline, offshore oil drilling, pesticides policy—the White House worked openly and energetically on the wrong side.

I don't mean to limit myself to the incumbent President; these failings tend to fall upon politicians generally. For Henry Jackson to run for the Presidency as an environmentalist is as ironic as for Procter and Gamble to label its new laundry detergent "revolutionary".

Part of the difference is semantic. We just don't mean the same thing when we say "environment."

When they say environment, they mean filters on smokestacks and trout fishing in the mountains.

When we say environment, we're talking about the filth, the disease, the ugliness which permeates the lives of the 4.5 million whites and 3.1 million blacks condemned to urban poverty. The E.P.A. Task Force on the Inner City Environment, completed last September, apparently unearthed such shocking statistics that the agency has been refusing for 4 months to even release it.

When we say environment, we're talking about the noise, the 500 new untested chemicals a year, the dust, and the radiation that 56 million working Americans are exposed to for 40 hours each week.

We're talking about the environment of S.E. Asia, where our herbicides have turned fertile plains into ruin, where our explosives have riddled the countryside into a moonscape, and where our technological excellence still daily melts childrens chins into their chests in a sterile, high-altitude barbarity for worse that the crimes of My Lai.

And we're talking about the explosive disparity between rich people and poor people, and the even more explosive disparity between rich countries and poor countries.

Viewed from this perspective, the first two years of the Environmental Decade were years of minuscule, piecemeal, "bandaid" victories, and of staggering, comprehensive losses. The time is long since past to stop all this foolishness about the environment bringing everyone together. There are major villians in this scenario, and it will no longer suffice to say that everyone is a polluter. If there is any single lesson the people have learned these last couple years, it's that litter bags aren't enough.

In the last election, environmentalists helped run 7 of a "dirty dozen" congressmen out of office. We've gone to court so many times we've created a brand new academic discipline; environmental law. We've inserted ourselves into stock proxy fights, and we've made some fledgling attempts at economic boycotts.

Working together with diverse people, like our brothers and sisters in this room, we're going to start turning this country around.

COMMUNICATIONS FROM NICHOLAS JOHNSON

Reforming communications policy is central to making any change in this country.

No problem—the war, the treatment of blacks and women, environmental pollution—can be resolved without a fully functioning communications system.

When the communications system is working properly people at least have a fighting chance to solve other problems freely.

No aspect of the corporate control and stifling of our nation's free spirit is more serious and far reaching than the big business control of the communications system.

We have most of the laws necessary to right this imbalance. The principal solution is to be found in men with the will to enforce them.

AT&T must be tamed. We might consider breaking AT&T into manageable units and forcing it to participate in the free private enterprise system, nationalized, or regulated effectively—none of which the Federal Communications Commission seems inclined to do. Unexamined rate hikes must stop. We must insure that the small user does not bear the burden of special rates for Bell's big business users.

Public participation in the broadcast license renewal process should be encouraged—as an appropriate way to return governmental regulation from Washington to local communities—rather than further limited by legislation.

Effective regulation of broadcast advertising should be provided by the FCC. Advertising should be informative rather than emotionally based; time should be made available for "counter advertising" on a regular basis.

Cable television should be made available in the nation's largest cities on an "access channel" basis—rather than limited to the smallest markets.

The Public Broadcasting Corporation should be provided insulated funding at a $500 million a year level.

At least 1% of the FCC's budget (as with the budgets of all other regulatory commissions) should be made available to public interest law firms, and others, seeking to participate in the adversary process on the public's behalf.

Every American citizen should be able to telephone any public official in Washington without cost to himself. Such a central, cost-free number in AT&T's 800 series—say 800 plus Freedom (373-3366)—would cost the government a fraction of the current Defense Department telephone bill.

Wiretapping and bugging—now fully sanctioned by AT&T and the government under many conditions—should be halted immediately.

White House interference with print and broadcast press freedom, and with the fact-gathering and reporting process (such as the Bureau of Labor Statistics and the Surgeon General's Television Violence report) should be opposed as inconsistent with the need of a free people to be accurately informed.

These are but a few of the reforms of the communications process and policy that are necessary if the people of this country are to be permitted and encouraged to exercise the freedoms that our basic charters originally granted.

Statement of John Kerry

Most Americans have been led to believe the war in Vietnam is over. The Administration has played to our frustration and the media, in powerful echo, tells America we are on our way towards peace simply because the President says it is so.

But in the midst of all the talk about "winding down the war" and about "protective reaction strikes," we can see the hard reality. It has been said before. Evidently, it must be said again and again and again.

The war in Vietnam is far from over.

Yes, American troops are coming home. And yes, the President can claim credit for that. And yes, in the light of what we had before, that is an improvement. But that is not enough and deep inside every American should know that is not enough.

Where troops have come out, bombs and sensor devices have gone in to replace them. The My Lais once accountable from the ground are now My Lais unaccountable from the air. The war has become a technological bonanza which the United States believes it can continue as long as the casualty lists say "only"—followed by a small enough digit.

We here today, and thousands across the country, are left asking if as a nation we are so dulled emotionally that our sense of national outrage is satisfied with half of what could and should be done.

This war could have ended months ago. The killing, at very least the killing for which the United States is responsible, could end tomorrow.

No talk of upholding democracy in the face of South Vietnamese dictatorship, no talk of treaty commitments which long ago have proven doubtful, no talk of stands against aggression which all know to be false, in fact there is not one word that can excuse the loss of one more life in Southeast Asia.

What was a mistake one year ago, or one month ago, or one day ago is a mistake today and one simply does not send men to kill or be killed for a mistake.

The South Vietnamese army is now the fourth largest Army in the world—following Russia, China and ourselves. If they are not ready to fight now, after twenty-five years of training, they will never be ready.

In the final analysis our Vietnam policy under Richard Nixon has not changed at all. In 1954 we were committed to a non-communist regime in that country. Today, 18 years later, our goal is the same, a goal which ignores that all those years of struggle have been an effort by people in their own country to gain representation. That is democracy. That is supposedly what we stand for.

But this administration ignores what we stand for and we remain committed, to the very goal we have found impossible to guarantee which is why we are withdrawing in the first place. That must be both the strangest and cruelest dicotomy in world politics today.

Respected sources today confirm what many have been saying for a long time—America will sometime in the future offer withdrawal in return for the prisoners. We can only ask in desperation, why if we can do it in a month or so can we not do it now. The people of America are due more respect than this Administration seems willing to pay and perhaps our only hope is that history will judge harshly those who use the lives of American sons and the people of other nations to suit their re-election needs.

Such callousness is not new however. It is, sadly, the state of the union. We have been lied to openly by this and other administrations. Defense budgets grow while we talk of success at the SALT talks and a "Generation of peace." Politicians exploit fears of Communism where experts know there is no monolithic movement.

At some point many of our leaders have gotten it into their heads that it is all right to kick people around and get away with it. So it is that we have created not just a Vietnam those thousands of miles away, but a hundred of Vietnams here at home—in Watts and Harlem, Kent State and Attica—in cities and communities all across the country.

So it is that veterans can die in VA hospitals for lack of adequate care; so it is that veterans make up the largest single unemployed bloc in the nation; so it is we find 15,000 to 25,000 veterans addicts in New York City and 6,000 to 10,000 in Boston. So it is this country sat by while Mexican Americans and Indians, 27% of the population of New Mexico made up 67% of our Vietnam casualties from that State or while blacks provided the largest percentage of casualties for two consecutive years. So it is that 234 Congressmen's sons were eligible to serve while half of those were deferred, 26 saw uniform in Vietnam and one was wounded.

So it is on an international scale that we side with status-quo, unrepresentative regimes—in Greece, Pakistan, Vietnam, South America.

It is clear that our leaders have lost sight of what this country is and wants to be. Today we are affirming however, that though men of small mind and less character may project themselves onto their fellow citizens and suggest that an America that admits its mistakes will turn into a craven, hollow place, we will continue this struggle. Because we know this country is bigger than they are and it's bigger than us.

Statement by Ralph Nader

My specific comments on President Nixon's State of the Union address will be restricted to the areas of consumer protection, economic concentration and the property tax issue.

Consumer protection—The President continued the Administration's past policy of ignoring the urgency of consumer exploitation and frauds which sap billions of dollars from the income of Americans yet giving verbal service to consumerism as an ideal. For example, the President has refused to support: adequate consumer class action legislation (a self-help, non-bureaucratic, inexpensive tool for consumer justice in the courts); adequate powers to the Federal Trade Commission; and creation of an *independent* product safety agency supported by many members of Congress. He sees no need for basic insurance reform, despite the widespread revulsion among policyholders everywhere, except to exhort the states to act where the federal government should lead. He has not exerted any leadership in obtaining necessary appropriations for regulatory agencies to perform their consumer protection mission. Nor has he began to recognize the gravity of 'crime in the suites' by stepping up enforcement against corporate violators of consumer laws—such as the meat and poultry acts, the Food, Drug and Cosmetic Act, the auto and tire safety acts, the gas pipeline safety act, the flammable fabrics act, the toy safety act and the radiation control act—to name a few of the laws so badly neglected.

Perhaps most revealing is the President's continued opposition to the passage of legislation establishing an adequate consumer advocacy agency to monitor, challenge and intervene before other federal regulatory agencies to defend and further the consumer interest in economic, health and safety matters. Once totally opposed to the idea, the administration shifted in mid-1971, when it could not even count on Congressional Republicans for support, and supported a weak version of the proposal which passed the House and is now before the Senate. The consumer advocacy agency does not regulate anything; it simply redresses the balance of power somewhat against the special interests and makes government more responsive to the laws and the people.

It is quite clear that the vital issues of real income values, health and safety which are embodied in a vigorous program of consumer protection do not absorb much of the President's time or energy. Without question, professional football has taken ten times or more of the President's time and enthusiasm than has the mission of consumer protection. Paul Warfield can command the President's attention, but millions of harmed or cheated consumers cannot.

Economic Concentration—The enormous power of large corporations over the economy which deprives the consumer of viable competition and innovation and injects institutionalized inflationary forces was ignored by the President. At a time when some of his major economic advisers (Peterson, Stans, Flanigan) are urging a relaxation of the antitrust laws and even less enforcement, and at the time when even conservatives of the Hruska school are beginning to wonder whether the choice is increasingly one of controls or competition, the President could have reassured the nation that economic competition would be a high priority for the Administration. Furthermore, a worsening imbalance in the distribution of income and wealth in this country, despite a burgeoning gross national product, received no attention in the address. The concentration of land ownership and the relentless expansion of corporation-conglomerate-type farming which threatens to drive out the family farm and introduce contaminating and inefficiency factors faster into the subsidized farm economy were ignored.

Property Tax—The President is trying to capitalize on the widespread dissatisfaction with the property tax and propose a national consumer tax as the remedy. He ignored entirely the major inequities of the property tax which is the underpayment of the tax by large industrial, commercial, land and mineral companies. At least $7 billion a year could be collected if these large property holders were required to simply pay their fair share according to prevailing assessment standards. Instead, he proposes to alleviate a part of the property tax burden by burdening the same people with a hidden sales or consumer tax that is regressive on the poor as well who don't have property to pay taxes on in the first place. Much that is wrong with the property tax can be remedied with professional assessment practices and equitable collection of the tax from the steel, coal, oil, timber, and large urban building owners. Senator Muskie has been promising field hearings around the country on the property tax by his intergovernmental relations subcommittee. The time has come to deliver on that promise.

The expectations heaped on any State of the Union address are always greater than can be realistically met by any President. Yet there are minimum standards which can be met by any President. One of these standards is an earnest attempt to consider the results of unjust power on people generally or afflicted minorities and to invoke the sinews of citizen action to overcome these results with the help of democratic government. It is regrettable that the President did not meet this standard, in part because his audience was first the Congress—a fact which helps shape the content of the message—and in part because our President continues to avoid his obligation to see that those who are victimized in our society must have first claim on the Presidential powers to reshape the alignment of power and allocation of resources in their favor for a truly meaningful democracy of change.

Statement of the Gulfcoast Pulpwood Association

There are ¾ of a million black and white pulpwood cutters in the South today, most of whom have been left hungry and unable to change their economic and political lives amid a multi-billion dollar industry. Although white and black workers have not been organized in the past, we are now moving toward united participation in the political and economic life of the South. Many blacks and white cutters have only in the past 6 years began to vote and are now beginning to unite and form a new political and social base of working people in the south.

The Pulp and Paper industry and the economic lives of the woodcutters in the South have long been controlled by the large companies through a dealer system which separates the cutter from the company and insulates the company from its responsibility to provide basic workman's benefits to the cutters. The woodcutters must cut where the Company tells him to cut. He delivers to a Company yard in most cases. The wood he brings in is weighed on Company scales. He receives a Company ticket for the amount of wood he has brought in, and he takes that ticket off the company's property to the wood dealers office to be paid. Yet the companies maintain that they don't deal with woodcutters, but that the cutters are "independent businessmen." This system deprives the woodcutters of their rights as working people, to:

Workmen's Compensation
Minimum Wage Scale
Insurance
Social Security
Safe working Conditions
The right to bargain collectively

This system makes millions for the Companies while the woodcutters live on foodstamps or government commodities. The paper companies brag that they are one of the only businesses that are not being subsidized by the government, but the woodcutters who are unable to make a decent wage, must depend on taxpayers' money to eat from. The working people in the South are tired of this system and are moving to change it.

The Gulfcoast Pulpwood Association is such a movement in the South. The GPA has approximately 8,000 members. It is an organization of woodcutters, 60% black—40% white, who have united to improve their own political and economic conditions in the South.

In order to improve these conditions, members of the GPA entered into a strike against 5 major paper companies in the South that lasted for 3½ months. Although we were not legally recognized as a union by the companies, we won settlements which raised the price of wood and gave the woodcutters better weight factors.

The core of the Association's strength and the success of the strike has been found in the unity of its white and black members who resisted all efforts of the companies, news media and politicians to split us along racial lines. In resisting the race baiting and the red baiting that accompanied it, the black and white woodcutters were brought closer together in Mississippi and overcame the barriers that had always stopped people in the South from organizing.

Results from this new unity are just beginning to be felt—many white cutters voted for Charles Evers in the last election after Mayor Evers supported the woodcutters. Workers in other industries who have seen what a grass roots movement of people can do are beginning to organize and are asking the Association for help. Groups of poor people are beginning to demand fair treatment at the Food Stamp and Commodity Groceries Office. Now the woodcutters are beginning to attend workshops and meetings to develop their own leadership and show the other workers that they have an important voice in the political and economic life in the South.

People say that things will never be the same after the Gulfcoast Pulpwood Association strike of '71. And as we unite and grow, we are reaching out to touch and unite with other people's groups across the country and to bring what we have learned in the Association to a national level—that together we have power.

STUDENT STATE OF THE UNION ADDRESS, MARGERY TABANKIN, PRESIDENT, USNSA

Mr. Nixon blithely assumes the campuses are quiet because students have returned to the pursuit of learning like the docile sheep he thinks they are. I think he is misreading the signs: that the silence is not the good-natured passivity he would lead us to believe, but the ominous silence of young people who have repeatedly witnessed the defeat of even their most minimal visions of a just society. Politicians exhort youth to participate in the political process, and columnists wonder at their failure to so much as register to vote.

I don't think anybody should be surprised at their indifference. Why organize to elect people to a Congress that can take a piece of legislation like the Equal Rights Amendment, clearly designed to secure women's rights under the law, and amend it so that in fact it legalizes discrimination against women? Why organize to elect people to a Congress that can take a bill like the Williams legislation, clearly designed to give enforcement powers to the Equal Employment Opportunity Commission in defending ethnic minorities' right to work, and strip it of its "cease and desist provisions? Why organize to elect a President if a President can publicly declare his intention to ignore a piece of legislation with the status of law like the Mansfield amendment, and go unchecked? Why organize to elect a President, if a President can so blatantly disregard the basic human survival needs of our society that he vetoes a Child Development Bill because it is too costly and steals that thunder from his own inadequate initiatives, and yet support a space shuttle that costs more than twice as much to implement? Why organize to support a system in which a Department of the Interior can chauvinistically oppose legislation to protect the California coastline from the known ecological hazards of oil exploration and development, and yet think it fulfills its duty to protect the environment by fining major oil companies a trifling $500 apiece for wrecking the ecology of that coastline with oil spills? Why organize to support a system that freezes wages and permits tuitions to rise, escalating the cost of a college education that means virtually nothing in a depressed labor market, judging from the numbers of unemployed graduates? Why organize to support a government that purports to "Vietnamize" its own aggression, adding more victims to the 3 million Vietnamese dead, and changing nothing but the color of the corpses in the pursuit of its own incredibly racist foreign policy? Why indeed?

There is more than a little poignancy in a recent cartoon which showed two imprisoned draft resisters looking at the headlines of Nixon's intervention in the Calley case, and one saying to the other ironically: "I should have gone into killing Vietnamese civilians instead of the Resistance."

The gap between the vision and reality grows wider every day, and young people know too well what the reality is: if you're rich and powerful, you can bend the political system to your whim. If you're poor and disenfranchised, it can bend you till you break. Nobody wonders at the unresponsiveness of the political system, only at the unresponsiveness of young people to it.

Mr. Nixon's major national priority becomes increasingly clear: his own reelection. His single-minded pursuit of this goal dictates every statement and times every action. Unfortunately, the timetable of his election strategy seems to be the only kind of timetable he is capable of constructing, despite his promises in 1968. He will go to China before he will go to Paris and seriously discuss the only substantive resolutions advanced thus far to end the Vietnam War: the PRG's Seven Point Peace Plan. In fact, he will go anywhere in the world, so long as he doesn't have to go in a schoolbus. He will demand some $90 billion in military appropriations, much of it to support governments without popular base abroad, because he thinks he has all the time in the world to reconcile the people of America to his own increasingly unpopular government at home. He will veto a Child Development Bill, because it features community control and bypasses the state governments, and clearly bypassing a governor has no place in an election timetable. He will force mothers to work for less than the minimum wage, and force children into wholly inadequate custodial services under H.R. 1, because he clearly feels no pressure to resolve the problems of poverty. But the timetable of a nation's problems is not the timetable of one man's self-interest, and the silence of youth is not to be interpreted as acquiescence while Richard Nixon holds his breath and waits for November. Because the campuses are not really all that quiet, and students are certainly not all that patient.

For one thing, 1019 campuses experienced some kind of protest activity in 1970–1971, according to the *Chronicle of Higher Education*. It's just that the media doesn't find student protest newsworthy anymore, so thoroughly have the American people been coopted by the double-talk of the Administration; in fact, the media finds student protest in America almost as *un*-newsworthy as it finds the harassment, torture and death of student protesters in South Vietnam at the hands of the US-supported Thieu regime.

For another, many students have registered to vote and are using the registration process as a tool for community organizing, and thousands of students have abandoned their "ivory tower," campus-oriented politics to move into the towns and cities and join community people in the struggle to wrest control of their resources and institutions out of the insensitive hands of bureaucrats and petty politicians. Because they know what a just society would look like: they know that assuring every family of four a guaranteed minimum annual income of $6500 is the humane response to poverty, and not the appropriation of $30 billion more for the war.

They know that good and inexpensive mass transit systems are more important than transit systems to the stars. They know that securing the right of every individual who chooses to a free higher education, and expanding the minimum wage to all working persons, are more appropriate responses to raising the standard of living than freezing school breakfast program funds and the repressive forced work provisions of FAP.

They know that a just society is not one where women must win every concession by dragging their cause through the courts at extreme personal expense, not one where children become political footballs in battles over school lunch programs and busing projects, not one where blacks and chicanos and native Americans are denied their basic human rights—to food, employment, housing and education, not one where returning veterans are ignored by the government they risked their lives to serve, not one where Atticas must happen before the society at large recognizes the corruption and degradation of our penal system, not one where a generation of political exiles is created because of their opposition to a thoroughly unpopular war, not one where grand juries harass the citizenry and invade their privacy on sheer whim.

They know that a just society is one in which all its people have free and equal access to the governmental processes that rule their lives, and the resources that determine the quality of their lives. And they are beginning to move on it, quietly perhaps, but with profound conviction and even more profound outrage at the inequities they perceive. Richard Nixon doesn't see it, because Richard Nixon wouldn't know a movement for social justice if he tripped over it. The media doesn't report it, because the media is not even influenced, much less controlled, by the disenfranchised young. But we see, and we know, that young *people are going* to organize to achieve their vision of justice—because, after all, the dream dies hard—in the voting booths of America when they can, in the streets of America when they must. And I say to Mr. Nixon: the silence you hear is not the stillness of passivity. It is the lull before the storm.

Statement by Dr. George A. Wiley, Executive Director of the National Welfare Rights Organization

Our Nation faces serious problems in the Seventies: persistent racism, perpetual poverty, mounting unemployment, a precarious economy, unchecked inflation, a deteriorating environment, and a costly immoral and increasingly automated war.

The legacy of failure to change these conditions falls most heavily on our children. Children suffer the ravages of hunger and malnutrition when their parents' incomes are inadequate to meet basic needs. Children innocently suffer the atrocities of war. Children suffer the brutality of racism. Children are the inheritors of an exploited and polluted environment.

The National Welfare Rights Organization will devote itself in 1972 to improve and enrich the lot of children. We call upon the Nation to examine all of its policies and programs for their impact on children.

We challenge the Administration's veto of developmental child care legislation in favor of a custodial care program as advocated in Nixon's so-called Family Assistance Plan (FAP HR-1).

We condemn the Administration's refusal to spend money on child feeding programs and the punitive and restrictive changes in federal food programs made by the Congress and the Administration.

We condemn the Administration's waivers of sections of the Social Security Act for large scale tests of forced work programs whose net impact is to depress wages for poor workers and reduce grants to welfare families. These punitive programs place increased hardship on poor children.

We condemn the Talmadge Amendment, railroaded through the Congress in two days and enthusiastically signed by President Nixon. This Amendment seeks to create a permanent class of poor people required to do menial work for sub welfare wages.

Most of all, we condemn and challenge H.R. 1, which embodies all of these repressive principles in Nixon's Family Assistance Plan. H.R. 1 has masqueraded as welfare reform. Let us understand it for what it is—a multiheaded repression falling most heavily on the children of the poor.

Let us unite to fight H.R. 1. Let us defeat repression against children and begin a program to preserve and protect our Nation's most precious natural resources: our children.

Let us begin by adopting a program for guaranteed adequate income for all Americans, setting a floor of $6,500 for a family of four, and thereby ensuring that no child will be hungry or lack the other basic necessities of clothing, shelter or medical care. Let us expand child feeding programs to all schools and other institutions.

Let us adopt an adequate child care program which provides for comprehensive, creative and developmental services focused on the real needs of the child locally controlled by parents, family centered, and available on a voluntary basis to all children. Let us not legislate a separate class of poor children who are abandoned in custodial care as a means of coercing their mothers to work.

Let us move to put an end to an educational system that continues to fail to bring opportunities to the children of the poor that more and more is being used to control poor children's behavior often through the abuse of drugs, such as ritalin.

Let us end this system in favor of one that can be a vehicle for bringing children out of poverty rather than entrenching them further into a poverty of spirit as well as of being. And, in doing this, let us not move to tax the poor for the cost of this education through value laden or other regressive taxes.

Let us end the war economy and war psychosis which is so destructive to children and to our whole society.

Let us embark on a program of assuring adequate housing for all Americans so that our children may grow up in a healthy environment.

Let us publicly show the value we place in our children through the enactment of substantial income and other tax changes to directly benefit children.

Let us end childhood disease and premature deaths which run rampant, especially among the nation's poor. Let us bring this nation's infant mortality rate as close to zero as possible through a universal and comprehensive physical and mental health program which emphasizes a shift from crisis to preventive care.

FISHERY POLICY—RESOLUTIONS OF NATIONAL FEDERATION OF FISHERMEN

Mr. STEVENS. Mr. President, on July 10 and 11 last year, in San Francisco, Calif., the National Federation of Fishermen adopted certain resolutions concerning the laws of the sea as they relate to fishery policy. These relate to coastal fish species, anadromous fish species, and high seas species.

The first resolution concerning coastal fish species indicates that coastal nations shall have the ownership over all such fish adjacent thereto. Only when such fish are not harvested by the coastal nation shall provisions be made for harvesting by other nations subject to control and licensing by the coastal nation.

The second resolution concerning anadromous fish species indicates that these shall be the property of the coastal state of origin. That nation must approve harvesting of such fish by any other nation. All nations must work out rules with due regard to conservation and the rights of each nation to its proper share.

The third resolution concerning high seas fish species including all species of fish not covered by the previous two resolutions, indicates that these fish are not subject to ownership and control by the coastal states. Their conservation and management is the responsibility of international control, including both of the harvesting countries and countries whose coast border the distribution of such fish.

I ask unanimous consent that the synopsis be printed in the RECORD.

There being no objection, the synopsis be ordered to be printed in the RECORD, as follows:

Law of Sea Fishery Policy Adopted at National Federation of Fishermen Conference

I. COASTAL SPECIES

Coastal nations shall have the ownership of all the fish and shellfish resources which live on or above, or are dependent upon the Continental Shelf and slope adjacent to the coastal nation and/or the waters above the shelf and slope for reproduction and/or survival during the major part of their life.

When stocks of fish are underharvested by a coastal nation to which they belong, provisions shall be made for harvesting by other nations subject to licensing and control by the coastal nation.

II. ANADROMOUS SPECIES

Anadromous fish shall be the property of the coastal nation of origin. No nation shall harvest anadromous species of fish without express consent and approval of country of origin. Where anadromous fish is habitating and is harvestable in territorial waters of a country other than the country of origin, it shall be mandatory upon the nations involved to work out harvesting rules consistent with conservation with due regard to the rights of each nation to its proper share of the allowable catch.

III. HIGH SEAS SPECIES

All species of fish not included in paragraphs I and II, and in particular, fish of oceanic origin and habitat, shall not be subject to ownership and control by the coastal nation. The conservation and management of such species shall be the responsibility of multinational control to be exercised jointly by the harvesting countries and by countries whose coast borders the distribution of such fish stocks.

CARL HAYDEN

Mr. HARTKE. Mr. President, few men in the history of the Nation have been as devoted a servant to it and its people as Carl Hayden. His desire to improve the lives of Americans persisted throughout his entire life. His phenomenal record in years of service is overshadowed only by the immense impact he had on the development of our country during those years. A tireless worker, Carl Hayden lent his whole person to those activities he undertook and those whose lives he touched will not soon forget his efforts.

Carl Hayden served in the Senate longer than any man—42 years, and prefaced this with eight terms in the House. Although he worked diligently to obtain measures beneficial to the people of Arizona whom he represented, every State in the Union profited by his activities. He has often been termed the third Senator of every State, and this describes his broad-gaged interests perfectly.

For the length of his public life, Carl Hayden avoided the spotlight, realizing that a ceaseless devotion to his work would bring him the respect of his colleagues. To say that it has would, indeed, be an understatement.

I join with Senators in expressing my deep sorrow at the passing of such a great American. In the more than 50 years that Carl Hayden served his country, we have made great technological and social advances. We were most fortunate to have a man such as Carl Hayden give us constant guidance throughout those years. But equally important, the perseverance he displayed will serve as a model for those who follow.

IN SUPPORT OF BANGLADESH

Mr. HUMPHREY. Mr. President, on January 4, the Association of Baptists for World Evangelism wrote the President, urging him to extend diplomatic recognition to Bangladesh, and begin economic and humanitarian aid programs in that country. The association was critical of the administration's approach to the entire crisis in South Asia, especially the "tilt" toward Pakistan, as are we all. Rather than dwell on our unfortunate past policies, the association has acted responsibly by pressing the President to change our policies and begin anew. Mr. President, I ask unanimous consent that the association's letter be printed in the RECORD.

Several Members of the Senate have urged the President to do the same. I have submitted Senate Concurrent Resolution 58, calling for U.S. recognition of Bangladesh and India. In the past, I have asked the President to take the lead, not only extending diplomatic recognition, but also by proposing a seat for Bangladesh in the United Nations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ASSOCIATION OF BAPTISTS FOR
WORLD EVANGELISM,
Chittagong District, Bangladesh,
January 4, 1972.

Hon. RICHARD M. NIXON
President of the United States,
Washington, D.C.

DEAR MR. PRESIDENT:

THE DIPLOMATIC RECOGNITION OF BANGLADESH

This letter comes to you from 21 American missionaries—the largest single group working in Bangla Desh. Our organization has worked in East Pakistan since 1957. All of us left our homes in the United States, the land of our birth, to assist the people of this land. We are committed to the welfare of the Bengali people.

Included in our group are 2 medical doctors, 8 nurses, 1 laboratory technologist, 1 physical therapy technician, 5 ordained Christian ministers and 2 school teachers. Several of us have lived in this country for more than 10 years. The majority of us have worked here for periods exceeding 4 years. All of us speak Bengali. We live and work in Chittagong District. Each day we meet hundreds of Bengalis—from primitive tribal villagers to government officials. Since we have been in East Pakistan during the present difficulties, we feel that our observations are worthy of your attention. The statements herein reflect our personal observations and opinions and are not necessarily a statement of mission policy.

What we have seen: One year ago an election was held in East Pakistan which electrified the entire nation. Virtually the entire province grouped solidly behind Sheik Mujibur Rahman and supported his program for more regional autonomy. At that time the majority of the people had no interest in secession. They were interested in getting a "fair deal" from West Pakistan. Up to this point, financial, military and political reins were held in West Pakistan by West Pakistanis. Frankly, the Bengalis were tired of it. Doubtless this is what caused them to throw their weight solidly behind the Sheik. The ruling interests of West Pakistan, finding it intolerable to sit in a National Assembly dominated by Bengalis, embarked on a series of delaying maneuvers. Ultimately, President Yahya Khan started "negotiations" with Mujibur Rahman which were only further delaying tactics designed to allow the West Pakistan Army to swing into fighting position.

On March 25, 1971, that day of infamy, the West Pakistan military machine struck. Bengali members of the Pakistan Army were lined up on cantonment parade grounds and machine gunned to death. We have talked to some who escaped. Barracks filled with Bengali troops and police were shot as they slept. We talked to those who were there. Captured Bengali troops were summarily executed. A Pakistan Army major told us that he personally ordered the execution of several hundred captured Bengali troops.

After subduing the Bengali military and police force, the Pakistan Army embarked on a program of terrorism and destruction in the villages. As the military machine advanced, the Bengali people fled in terror. Entire villages were burned to the ground. Some villages were cordoned off by troops and the villagers systematically slaughtered. Other villages had a death quota to fill. An Army officer admitted that he had seen the order to kill 15 people from a nearby village. Intelligent young men—university students, lawyers and doctors were a special target. Young girls were taken from their families, raped and murdered. Still others were taken to the cantonments and repeatedly ravished by the troops. An officer in Dacca admitted to a foreigner that in Dacca cantonment alone, 500 girls were kept for immoral purposes. Women and children were shot and hacked to death without mercy. Babies were butchered before the eyes of crazed mothers. We have seen with our own eyes the bodies of those who were dismembered before stuffed into shallow graves. One of our missionaries personally dug from such a grave the shoes and bones of a six year girl.

Throughout the course of this disaster, the voice of President Yahya Khan could be heard calling for the refugees to return to their homes. You, Mr. President, and the rest of the world might well have asked, "What homes?" Thousands of homes and villages were razed to the ground as military terrorism set the pace for further destruction in the villages. The Pakistan Army looted, burned and raped its way across the country, enlisting the help of unscrupulous Muslims. Propaganda, stating that India and the Hindus were responsible for the war, gave rise to a Hindu/Muslim struggle. Bands of armed Muslim thugs terrorized and put to flight their innocent Hindu neighbors. In our area alone, 87 Hindu homes were burned; personal property looted; cattle and fields confiscated. Similar scenes were re-enacted throughout the country. How could the world stand by unmoved while an entire nation was being raped and devastated?

It is our opinion, based on personal experience, that the Bengali people were not to blame. The rebellion in East Pakistan after March 25th was a deep-seated Bengali effort to gain their freedom. This movement was supported by the vast majority of people in all stratas of society. Hindus, Muslims, Christians and others worked shoulder to shoulder to free the land of hateful oppression. While we endeavored to remain neutral, it was impossible to view the wholesale slaughter of the Bengali people and remain loyal to Pakistan at the same time.

As the Indian Army advanced on several fronts and the Mukti Bahini (Freedom Fighters) stepped up their guerrilla activities, it was obvious to the Pakistan Army that defeat was imminent. Ultimately Pakistan called for a cease fire and surrendered. There is good evidence that up to the very moment of surrender the Pakistan troops were busy killing their prisoners. As the Indian Army advanced, the freshly slain bodies of many educated young men were found in and around Dacca and Chittagong.

Since the surrender of the Pakistan troops we have seen in this nation a change of spirit and heart which beggars description. Houses which were filled with worry and heartache are now literally filled with joy and laughter. The country resounds to the cry, "Joi Bangla" (victory for Bengal). People are streaming back from their jungle hiding places to be reunited with their families. One of the most obvious changes is the attitude towards the occupying Indian forces. When the Pakistan forces were in the country they could not move about unarmed for fear of the people. The Bengali people were afraid to move outside, lest they be shot or molested. Remember that these were *people* of the same country. The Indian troops, however, move about the bazaars unarmed, followed by large groups of laughing children and smiling villagers. They obviously look on the Indian Army as the Savior of their nation.

What we believe: We initially agreed with our government's foreign policy decision to work out a political settlement through negotiation. For over eight months, however, the United States pursued discussions with the Pakistan government without meaningful progress. Meanwhile East Pakistan came close to annihilation at the hands of West Pakistan. We feel that events of the past months should have influenced the United States to take a different approach than mere dialogue. We want to give you our reasons for this opinion.

We realize that the present U.S. policy in favor of a united Pakistan is within the legal framework of the United Nations Charter regarding the integrity of a member nation. However, we feel that there is a higher morality than the U.N. Charter that the United States should follow. It is the morality of Human Rights set down for mankind in our Declaration of Independence. The first four paragraphs of our Declaration of Independence very accurately express the case for the oppressed people of East Pakistan. We quote from paragraph four:

". . . that whenever any Form of Government becomes destructive to these Ends (the Rights of Life, Liberty and the Pursuit of Happiness), it is the Right of the People to alter or abolish it, and to institute new Government . . ."

Mr. President, if this assertion of human rights was moral for us in 1776, why do we not consider it moral for the Bengals in 1971? Why was it moral for France to help us win our independence in 1776, yet immoral for India to help Bangla Desh in 1971?

Because of the results of the 1970 election and the subsequent tragic events in East Pakistan, the Bengalis have, in fact, more of a case for our Declaration of Independence than our forefathers had. When we allow the legal framework of an organization to take precedence over the basic morality of human rights we reject the very principles upon which our own nation was so securely founded. If we fail to recognize the right of the Bengali people to establish a free and independent Bangla Desh, we must also reject the statement of Human Rights which was the basis of our own great war for freedom from oppression.

What we ask you to do: In view of the above discussion, we ask you to do the following:

1. *Immediately recognize the nation of Bangla Desh.* This country is a physical reality. Let America, the nation of freedom, be in the vanguard of those that recognize Bangla Desh, a nation desiring freedom. We feel that it is important for the U.S. to recognize Bangla Desh *before* the communist bloc nations do so.

2. *Continue aid to Bangla Desh.* If Bangla

Desh is to survive, she will need much medical and humanitarian aid just to restore the people to normalcy. This should not only be done through the U.N. but through private American relief and humanitarian agencies, as well.

3. *Institute economic aid to Bangla Desh.* Aid will be needed to help rebuild, develop and stabilize Bangla Desh. Economic aid programs should be instituted and implemented by the U.S. without delay.

What we pray: Mr. President, be assured that we pray for you most fervently. These are tumultuous days and we pray that God will give you the wisdom to lead our nation, founded under God, in the paths of truth and righteousness.

We pray, too, for our nation, that she may prosper in every way, spiritually, materially, and as a leader among the nations of the world.

We also pray for the people of Bangla Desh. We have devoted our lives to living with them, working with them, and helping them. We pray that the freedom they seek may soon become a reality.

Sincerely yours,

Mr. Robert D. Adolph, Wheaton, Ill., Rev. Melvin C. Beals, Pinole, Calif., Joseph L. DeCook, M.D., Holland, Mich., Mrs. Barbara Adolph, Wheaton, Ill., Mrs. Marjorie Beals, Pinole, Calif., Mrs. Joyce DeCook, Holland, Mich.

Rev. Lawrence D. Golin, Grand Rapids, Mich., Donn W. Ketcham, M.D., Wyoming, Mich., Rev. David J. Walsh, McMillan, Mich., Miss Mary L. Brownell, Rochester, N.Y., Miss Gwendolyn M. Geens, Nunda, N.Y., Miss Ernajean Lockerbie, Stony Brook, N.Y., Miss Linda L. Short, Arlington, Va., Miss Jean L. Weld, Minneapolis, Minn.

Mrs. Jane Golin, Philadelphia, Pa., Mrs. Pauline Ketcham, Wyoming, Mich., Mrs. Eleanor Walsh, McMillan, Mich., Miss Rebecca A. Davey, Bothell, Wash., Miss Shirley J. Harkness, McMillan, Mich., Rev. Reid P. Minich, Mayville, N.Y., Miss Lynn A. Silvernale, Millerton, N.Y.

RULES OF PROCEDURE OF COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. WILLIAMS. Mr. President, as required by section 133B of the Legislative Reorganization Act of 1946, as amended, I ask unanimous consent to have printed in the RECORD the Rules of Procedure of the Committee on Labor and Public Welfare.

There being no objection, the rules of procedure were ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE, HARRISON A. WILLIAMS, JR., CHAIRMAN

RULES OF PROCEDURE, AS AMENDED, MARCH 11, 1971

Rule 1. Unless the Senate is meeting at the time, or it is otherwise ordered, the Committee shall meet regularly at 10:30 a.m. on the fourth Thursday of each month in Room 4232, New Senate Office Building. The Chairman may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2. The Chairman of the Committee or of a subcommittee, or if the Chairman is not present, the ranking Majority member present, shall preside at all meetings.

Rule 3. Meetings of the Committee or a subcommittee shall be open to the public, except executive sessions for the consideration of bills or resolutions, or for voting, or when the Committee or subcommittee by majority vote of those present orders an executive session.

Rule 4. For the purpose of transacting business, one-third of the membership of the Committee, or a subcommittee, actually present shall constitute a quorum, but no measure or matter shall be ordered reported from the Committee unless a majority of the Committee is actually present at the time such action is taken. Any quorum of the Committee or a subcommittee which is composed of less than a majority of the members of the Committee or subcommittee shall include at least one member of the Majority and one member of the Minority.

Rule 5. With the approval of the Chairman of the Committee or subcommittee, one member thereof may conduct public hearings, other than taking sworn testimony.

Rule 6. Proxy voting shall be allowed on all measures and matters before the Committee or a subcommittee if the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. While proxies may be voted on a motion to report a measure or matter from the Committee, such a motion shall also require the concurrence of a majority of the members who are actually present at the time such action is taken.

Rule 7. There shall be kept a complete record of all Committee or subcommittee action. Such records shall contain the vote cast by each member of the Committee or subcommittee on any question on which a "yea and nay" vote is demanded, and shall be available for inspection by any Committee member. The Clerk of the Committee, or his assistant, shall act as recording secretary of all proceedings before the Committee or a subcommittee.

Rule 8. The Committee, and each subcommittee, shall undertake, consistent with the provisions of section 133A of the Legislative Reorganization Act of 1946, as amended, to issue public announcement of any hearing it intends to hold at least one week prior to the commencement of such hearing.

Rule 9. The Committee or a subcommittee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 24 hours before a hearing, unless the Chairman and the ranking Minority member determine that there is good cause for failure to so file, and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the Committee or a subcommittee. The Committee or a subcommittee shall, as far as practicable, utilize testimony previously taken on bills and measures similar to those before it for consideration.

Rule 10. Should a subcommittee fail to report back to the full Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such subcommittee and report that fact to the full Committee for further disposition.

Rule 11. No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full Committee. No more than one subcommittee executive meeting may be held at the same time.

Rule 12. It shall be the duty of the Chairman in accordance with section 133(c) of the Legislative Reorganization Act of 1946, as amended, to report or cause to be reported to the Senate, any measure or recommendation approved by the Committee and to take or cause to be taken, necessary steps to bring the matter to a vote in the Senate.

Rule 13. No person other than members of the Committee, members of the staff of the Committee, or designated assistants to members of the Committee, shall be permitted to attend the executive sessions of the Committee or a subcommittee, except by special dispensation of the Committee or subcommittee, or the Chairman thereof.

Rule 14. The Chairman of the Committee or a subcommittee shall be empowered to adjourn any meeting of the Committee or a subcommittee if a quorum is not present within fifteen minutes of the time scheduled for such meeting.

Rule 15. Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or a subcommittee for final consideration, the Clerk shall place before each member of the Committee or subcommittee a print of the statute or the part or section thereof to be amended or repealed showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added.

Rule 16. An appropriate opportunity shall be given the Minority to examine the proposed text of Committee reports prior to their filing or publication. In the event there are Minority or Individual views, an appropriate opportunity shall be given the Majority to examine the proposed text prior to filing or publication.

Rule 17. Investigation procedures

a. The Committee, or any subcommittee, may issue subpoenas, or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such investigative activity has been authorized by vote of the Committee.

b. For the purpose of holding a hearing to take sworn testimony or hear subpoenaed witnesses, three members of the Committee or subcommittee shall constitute a quorum: Provided, however, that with the concurrence of the Chairman and ranking Minority member of the Committee or subcommittee, a single member may hear subpoenaed witnesses or take sworn testimony.

c. The authority to issue subpoenas may be delegated by vote of the Committee or subcommittee.

d. Any witness summoned to testify at a hearing, or any witness giving sworn testimony, may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

e. No confidential testimony taken or confidential material presented in an executive hearing, or any report of the proceedings of such an executive hearing, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the Committee or subcommittee.

Rule 18. Subject to statutory requirements imposed on the Committee with respect to procedure, the rules of the Committee may be changed, modified, amended or suspended at any time, provided, however, that not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Rule 19. In addition to the foregoing, the proceedings of the Committee shall be governed by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.

DEFENSE BUDGET FOR FISCAL YEAR 1973

Mr. TOWER. Mr. President, my record on national defense is long and clear. I have always felt that strong, adequate Armed Forces are a prerequisite to the survival of the freedom we all hold so dear.

The administration has recently introduced its budget proposals for fiscal year 1973. There are many areas of defense preparedness that have been allowed to deteriorate during the Indochina conflict. Our Navy urgently needs modernization. We must begin new initiatives in strategic nuclear weaponry to counter continuing Soviet movement. We must develop new ways to compete on the open market for manpower to realize our objective of an all-volunteer armed force. All of these, and more, require money.

Surprisingly, many Americans are not aware of the declining state of the Nation's defense. Without their support, without their realization that everything they have worked for and hope to achieve is at stake, the possibility of having the size and quality of deterrent force we require is slim.

Part of the responsibility to inform the people is ours. But the Department of Defense must also be available to the people, not simply those in Washington, D.C., but also throughout the country. There are those who feel that these efforts are merely propaganda. They would cut the public affairs budget to restrict this activity. But I feel it is the responsibility of the Defense Department to be available to the people throughout the Nation. One of the finest explanations of the role of public affairs activities was given in a recent speech by Deputy Assistant Secretary of Defense Jerry Friedheim. I ask unanimous consent that his speech be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY MR. JERRY W. FRIEDHEIM, PRINCIPAL DEPUTY ASSISTANT SECRETARY OF DEFENSE (PUBLIC AFFAIRS), AT OZARK BIBLE COLLEGE, JOPLIN, MO., FRIDAY, JANUARY 21, 1972

I very much appreciate the invitation to be here as you conclude this National Security Seminar. As a Defense official, I appreciate also the fact that you invited here the military and Foreign Service scholars from the Industrial College of the Armed Forces.

As you know, this Seminar is especially designed to bring training to Reserve members of the Armed Forces who do not have an immediate opportunity to attend formal classes at a Service School.

This is just one example of the increasing importance we attach to having ready and well-trained men and women in our National Guard and Reserve forces, particularly during this time when our active military forces are decreasing in size by a million men and when our reliance on the draft is being phased out.

I also am pleased that you citizens here in Joplin have welcomed to the Seminar members of the general public—and a great many students.

I hope you are prepared, though, to hear a few complaints.

Because, while most people will applaud your interest in our national security, your Ozark hospitality and your openness; some will complain that neither the Seminar group, nor I, should be here—and that, even if we are, the public should not be permitted in.

The complainers seem to feel that it is quite all right, for example, for me to hold a daily, on-the-record press conference at the Pentagon or to report to newsmen in Washington or New York, but they do not agree with me that I have an equal responsibility to accept, when my other duties permit, invitations to talk with newsmen and citizens in Joplin, or Fresno or Austin or New Haven—all places I have been on this job.

The complainers seemed to feel it is quite all right for the members of the Industrial College faculty to present lectures and receive questions in Washington; but they would not allow these men to travel temporarily outside Washington to make the same sort of classes available this year to Reservists and citizens in such cities as Utica, Bakersfield, Duluth and Biloxi.

You may recall that two years ago there was a Senate discussion about whether or not the public should be allowed to attend these Seminars. And, you may recall that just about a year ago, on a national TV show, an erroneous charge was made that these seminars present military men speaking illegally on foreign policy.

I have always wondered why that TV show did not say—although its producers knew, just as you know—that a Foreign Service Officer is a member of this Seminar team and that the views expressed by this team are fully coordinated with and representative of the policies of both the Department of Defense and the Department of State.

So there are worriers and complainers and critics—some constructive, some not. They worry that you are being militarized and misled and manipulated by what they contend is a somehow sinister Seminar. They give you a good deal less credit than I do for common sense, skepticism and independent thoughtfulness. They seem to say, that only in Washington are people wise enough and reliable enough to participate in the affairs of their country.

Now, as you very well know not all wisdom resides in Washington. And, I want to assure you that I am not apologizing to anyone for accepting invitations to visit not just large cities but small cities as well. I may be prejudiced, of course about the vitality of smaller cities, because I went to Washington from a grass-roots part of our country; so did Secretary of Defense Melvin Laird—from Marshfield, Wisconsin; and so did President Nixon—from Whittier, California.

But, most of all I want you to know that the Department of Defense is proud of what this team, from this Armed Forces college, does. We respect their scholarship; and we respect their integrity—and fortunately so, too does the vast majority of our Congress, whose members often join in these seminars around the country.

Certainly, I will apologize to no one because you students and you of the public are free, by your own choice, to join your military-reservist friends here. We at the Department of Defense believe you have a right to be here. We believe that we have a responsibility to be open and on-the-record with you; to answer your questions and to explain to the best of our ability what your government is doing and planning.

We do not demand that you believe anything you have heard. We open the entrance door; but don't bar the exit doors. We have found we can learn much from you; your advice and suggestions are needed and necessary.

Your Seminar lecturers don't work for anybody but you. I work for you. Your Department of Defense is not somehow separate from you. It's yours.

We sometimes are called the Military-Industrial Complex—but we are much more. We are a Military, Civilian, Industrial, Union, Academic, Congressional, Scientific, Business, Research, Diplomatic, Medical, Educational, Retiree, Veterans sort of complex.

And, if that gets to sound like a rather National Complex—well it is. It's a nation united for national defense. It's big because the responsibilities of achieving and maintaining peace are big responsibilities.

Your defense servicemen are of America, not above America, they draw their strength from America's strength. We like it that way, and I am here today, because the Administration in which I serve feels strongly that we must talk to and listen to Americans everywhere in this nation.

Of course, the Commander-in-Chief has been talking with you, too. Yesterday we heard his State of the Union Address.

And Monday the President will present his budget for the next fiscal year—including his budget for national security needs. Those of you here will have added insight into the consequences of that budget because of your participation in this Seminar.

And, you will be interested, I know, in what our President decides to include in his budget request to Congress. He will include several new initiatives to ensure that our strategic deterrent remains adequate in the face of continuing momentum of Soviet weapons development and deployment. And, the President's new Defense budget will continue our priority on scientific research and will continue modernization of our Navy's fleet.

Secretary Laird stated in his 1971 Defense Report to Congress that it is our goal to provide national security and safety for our people in a realistic manner requiring annually no more than seven percent of the Gross National Product and needing no more than 2.5 million military men and women who are volunteers. As we achieve ever-increasing volunteerism, we will meet those spending and manpower goals again in 1972.

It has cost and will continue to cost a lot of money for national defense but you should carefully note that our Defense budgets are now at a 20-year-low as a portion of the Federal budget and as a percentage of the Gross National Product. And our military manpower level is at a 20-year-low, also.

National defense—which used to take more Federal dollars than anything else—is now in second place behind Federal expenditures on human resource programs. But, even though that reordering of priorities has been accomplished, we must never allow our nation to become second best in national-security strength; and you may be certain that the budget presented Monday will assure our strength.

It will provide both flexibility and a strong negotiating position for our delegation at the Strategic Arms Limitation Talks with the Soviets. It also will reflect savings from our terminating involvement in Vietnam.

As the President announced last week, there will be fewer than 69,000 U.S. servicemen and women left in South Vietnam by May first. That's 87-percent-fewer than the authorized Vietnam strength of 549,500 when President Nixon assumed office. U.S. air sorties are down 67 percent from their 1968 peaks, and, of course, costs and casualties are dramatically down, too. President Nixon has reversed the Vietnam escalator from one going up to one going down.

In fact, although we will maintain a limited American presence in Vietnam until all our prisoners-of-war have been returned safely by the enemy, we really are able now to look beyond Vietnam. We are able to have a new perspective on the world. We are able to anticipate a new era in world history and to respond to new realities.

You have heard already during your Seminar about the President's Foreign Policy for Peace and about the Nixon Doctrine. This Policy for Peace and this Nixon Doctrine are the foreign policy keystones for our nation's international future. They face up to reality, and point the way toward lasting peace in a period of history greatly changed from the 1950's and even from the 1960's.

The Nixon Doctrine, as you here know, strikes a balance between what America should do and what our friends can do. It allows us to do enough—without doing too much. It insures continuance of the U.S. nuclear shield. It says that we will keep our treaty commitments and participate with our friends in safeguarding world stability and progress—but not do everything ourselves.

The Nixon Doctrine says we will be involved but not overinvolved. It expects others to do more because others are now able to do more.

The Nixon Doctrine implements the three pillars of the President's Policy for Peace—"partnership, strength and a willingness to negotiate." And that Policy for Peace is supported also by the Defense Department's new National Security Strategy of Realistic Deterrence.

Our 1970's Strategy of Realistic Deterrence operates in the areas of "strength" and "partnership" which make "meaningful negotiation" possible. It is a positive strategy which emphasizes cooperation with our friends and allies around the world. It makes clear, however, that the U.S. will concentrate more on seapower and airpower, while looking to other nations to provide most of the manpower needed on the ground overseas.

In its simplest formulation, our new national security strategy seeks to steer a prudent, middle-course between the policy extremes of world policeman and a new isolationism. It seeks to foster greater readiness on the part of others and greater regional defense cooperation.

We are asking other nations to do more than they have done in patrolling the beat in their own neighborhoods; we are avoiding situations in which the United States is the only cop on the beat.

This new strategy was overdue when President Nixon assumed office. Our country had, for a quarter of a century, borne at great cost in lives and resources an overwhelming share of the burden of maintaining peace and deterrence. Many nations which had looked to us for protection in the past had come of age and reached a stage of development and strength which made them capable of assuming more of the burden that we had been carrying. They are now helping carry that burden, and they will be able to do even more.

This new strategy lessens the strain on our own country's resources. It puts within reach the day when the draft can be ended. It guards against future Vietnams. It lowers the threshold for possible involvement of U.S. forces in conflict. And, it brings greater collective strength by mustering the strengths of all nations who believe freedom is worth preserving.

It has led us already into a time of intensive negotiations and made possible the coming trips to China and Russia as our President continues his work as the world's leader for peace.

But, let's be very clear, now, about what our national security strategy is and what it is not. It promotes a more equitable sharing of the free-world's defense burdens, but it does not mean a retreat to Fortress America.

We are not going to be the world's cop; but neither are we going to cop out on the world.

We are the Free World's leader, and we will maintain that position while inviting other nations to share in an even more participatory leadership.

Let's remember that, since World War Two, America has preserved freedom and national independence in more than half the earth. We have prevented nuclear holocaust. We have helped restore Western Europe and Japan. We have helped friend and former foe achieve prosperity, liberty and stability. We have sustained the United Nations.

We have led the way to a cease-fire in the Middle East. We have aided millions of refugees from natural disaster and war the world over.

We have offered the hand of friendship to the less fortunate in this world, if they will but take our hand.

We have led the way.

And, we intend to maintain our leadership, our strength, our partnership, and our willingness to negotiate. We recognize a new era in the world's history—an era in which the power relationships and the programs that developed after World War II are no longer adequate nor relevant. We see a world in which neither Communism, nor anything else, is monolithic.

We intend to pursue a realistic national security policy that recognizes our own basic, national-self-interests. We do not regard it as essential to our security in the 1970's that we be everywhere and do everything and fight every battle and finance every bank in an effort to remake the world in our own self-image and to our own system of government.

We view our security requirements not with the sometimes two-dimensional visions of the past, but in terms of a many-faceted balance of power that can permit deterrence, and stability, and negotiation, and flexibility in a dynamic world.

We look forward to coming decades in which nuclear war and brushfire war involving the great powers are less likely—decades during which other great powers may seek, short of war, to limit—by their worldwide presence and influence—our access to the world's peoples and resources.

This matter of "access" and of "presence"—without war and in order to deter war—is fully accommodated by our Nixon Doctrine plans.

We expect that it will remain useful to world stability for the U.S. to maintain a military presence in Europe, in the Mediterranean area, and periodically in all the major oceans of the world. It is a case in point that, as we complete our withdrawal from South Vietnam, we are in transition from warfighting forces in Southeast Asia to Nixon Doctrine deterrent forces in that part of the world.

We are not abandoning the Pacific, nor are we abandoning Asia, but our coming Nixon Doctrine presence there will be primarily deterrent air and seapower forces that would, in the future, engage in combat and assist other nations only under the principles of our new strategy.

It does seem a little presumptuous, I suppose, for me to come here so briefly on the last day of this Seminar—during which you have discussed so much—and expound to you about what the future holds for America. I cannot pretend in these closing remarks to pull together neatly for you all your thoughts of the last two weeks. And, while I might claim to be either journalist or political-scientist—or a temporary bureaucrat—I certainly am no philosopher.

Let me simply point out that while tomorrow will be different, not everything will be changed.

One could make a good case, I think, for the unchanging nature over the centuries of man's relation with man. We humans relate to our neighbors and our neighboring-nations today in very much the same way that citizens of Rome responded to their neighbors—with love and fear, envy and pride, dedication and apathy, trust and trickery, cooperation and neglect.

The interaction of all these ancient, yet everlasting, human foibles generated the politics of the Roman Senator, the Oriental Emperor and the Egyptian Pharoah just as such emotions affect the United States Congress and the United Nations Assembly—and just as they will generate the future's national and international relations.

We can hope, of course, that men will continually learn how to get along better—slowly but surely. There is precedent, I think, for us to hope that improved education will lead to greater peace and prosperity.

At least some nations today do not resort to war as an instrument of national policy. Many societies feel a desire and a responsibility to assist others rather than to exploit others. Yet, even with this hope, I doubt that we can expect our future world to be free of tyrants, or of evil, or of the covetous and the selfish.

So, though we strive for perfection; let us not be blind to reality. Let us instead anticipate challenge and pursue progress.

And let us remember that the United States of America has operated for nearly 200 years as a constitutional government; that we have the world's oldest written-constitution still firmly in force and effect.

America, in fact, is doing pretty well, thank you.

For nearly two centuries Americans have made workable—government "of the people, by the people and for the people." With the consent of the governed we have established a republic—under God—which recognizes both liberty and reality. We have drawn upon our heritage of law to operate the most successful government ever conceived by man.

An America which has survived thus far certainly can and will survive much longer. The constitutional principles which have proved adequate to give order to 200 years of transition from carriages to space-capsules—those principles are fully capable of bearing us safely into a future of underseas habitation and lunar cultivation.

There are those, of course, who already claim our constitutional democracy is out-of-date and out-of-touch. They tell us changing times demand changing principles, and that the concept of liberty vacillates like concepts of fashion. They think technological advances necessarily outmode historical values. They would have us believe that mere man cannot hope to control tomorrow.

They tell us we must fit our values of the future.

Not so.

This is not a time to bend principles to the future—not a time to sell America short.

What we must do is what Americans always have done—we must fashion the future to our values, we must provide tomorrow with principle.

Let the fainthearts, who say we cannot make it . . . let them come along for the ride; for it is going to be a wondrous ride, indeed.

Over the coming decades your government, with your participation and guidance, is going to create a climate for the most secure, most healthy, most prosperous existence ever known to man.

We are going to meet challenges and lick them.

We are going to face and deal with such things as tripled population, 100-year life spans, exotic life-saving drugs, uninjuring weapons, ocean farming, fusion power, robots, weather control, space exploitation, instant communication and a host of other modern miracles.

Tomorrow? It's worth waiting for.

And America? America . . . she's doing very nicely, thank you.

And she's worth everybody's best efforts!

ALASKA OIL LEASE SALE

Mr. STEVENS. Mr. President, some time ago the Wall Street Journal published an article indicating that Alaska was spending its money from the September 1967 oil lease sale just as fast as it could, with little regard for the future and in a manner that will leave Alaska bankrupt within a short period of time. The overall effect was to give the appearance that Alaska should not be expected to take care of her own financial matters prudently and that, in fact, only the worst should be expected. For the RECORD, I should like to describe the actual situation and thereby point out that, far from being unable to manage its economic affairs, Alaska is, in fact, acting very responsibly.

Accordingly, if there is no objection, I ask unanimous consent to have printed in the RECORD the comments of Eric E. Wohlforth, commissioner of the Alaska Department of Revenue. Mr. Wohlforth tells it like it is—and he has earned a reputation of sound financial management in a time of economic stress in Alaska,

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS OF ERIC E. WOHLFORTH, COMMISSIONER OF REVENUE, STATE OF ALASKA, TO THE MUNICIPAL FORUM ON FEBRUARY 4, 1971

As you know the Wall Street Journal carried an article on November 16 which gave some of the details of Alaska's present financial situation but unfortunately left out the really important and salient facts in making an intelligent assessment of the State's economic and financial future.

The tone of the article was that Alaska was on a spending spree with complete drawdown of our budget surplus around the corner. This simply is not true.

In order to give an accurate view of the State's financial picture, the Governor wrote a number of financial institutions and others giving a complete account of what has in fact happened in Alaska since the $900 million lease sale of September, 1969.

Governor Egan pointed out that Alaskans recognized in 1971 that the legislators and the people were simply honestly mistaken in 1970 by assuming completion of the Trans-Alaska pipeline by 1973. That mistake led to a high level of budgetary spending in 1970. When Governor Egan took office in December 1970, he immediately ordered a series of computer projections based on the current spending rate of the previous administration and a more realistic date of North Slope oil flow. These projections did show steep deficits in the late 1970's if spending rates were not drastically curbed. The Legislature responded by cutting back the 1970 budget from $300 million to $292.1 million.

I think it is probably unique in the annals of State government that this cutback in State spending was accomplished when the amount in the Treasury equalled three times the annual expenditures.

The investigation which led to the cutback was prompted by a recognition that we had as Alaskans to choose the path of financial stringency until North Slope revenue were assured.

Part of the ability to persuade the Legislature to make the cutback was based on technical innovations in the State's revenue estimating and budgetary process.

On a crash basis we developed a computer model, as mentioned in the Wall Street Journal article, which extended our ability to project revenues and expenses ten years. The model utilizes differing assumptions as to the growth of State operating expenses and differing assumptions as to the time of North Slope oil flow. In addition, much of the calendar year 1971 was devoted to implementing a budget procedure which has already significantly contributed to operating our State government at maximum cost efficiency. With the help of Management Analysis Corporation of Palo Alto, California, an infusion of new talent in various departments, and at times an extraordinary expenditure of extra effort by all public officials of the State we instituted for this budget year a program budgeting procedure of broader scope than that perhaps implemented by any other state government. This new budget procedure has given the administration much greater insight into expenditures and provides all Alaskans with the analytical tools to identify programs such as general government, health, education, welfare, and others, where savings can be made cutting across departments. Using this technique many programs have been made more efficient while the overall budget increase has been kept in line with the trend set last year.

The philosophy of my own Department of Revenue is to build inhouse investment management expertise. We have a permanent investment staff of four, all of whom have investment backgrounds. We work on a daily basis with our principal investment advisors and others to secure maximum return on our funds consistent with the possibility of drawdowns prior to realization of North Slope oil revenues.

In addition, and in recognition of the expected expansion of the nation's economy in calendar year 1972 and beyond, we have placed a small amount of general fund North Slope proceeds with trust departments of Alaska banks for investment inequities. Such amounts were placed with our banks after long and thorough deliberation, a performance study of their history of management of our pension funds, and development of investment strategy guidelines. In operation the new investment program involves almost daily contact with the banking system to establish the necessary dialogue of philosophy between outside and inhouse management. In addition, we contemplate development of further staff capacity to permit some direct inhouse investment of portions of the North Slope fund. We are still actively considering retention of further outside investment counsel to manage portions of the fund.

We are striving for constant improvement of our banking procedures attempting to keep every dollar working at interest for the State. We also keep in constant contact with the banking system to maximize the economic impact of our $102,000,000 of State C.D.'s in Alaska banks.

As of January 31, 1972, two years and four months after the lease sale, the market value of our North Slope securities is $829,800,000. Our realized earnings rate on the Investment Agency portion for the year 1971 was 10.2%. Total cash and investment assets of the State on February 1, 1972 equalled $863,500,000.

The Wall Street Journal article also noted that there is an effort by some legislators to channel North Slope fund proceeds to development loan purposes, some of which represent fairly acute need, some of which fall in the desirable but not immediately necessary category. In an effort to rationalize a State Development Loan Program the Governor sponsored this fall a Development Loan Workshop comprised of representatives of the World Bank, the International Banking Division of the Bank of America, the Bank of Tokyo, and others to assist in development of a proper development loan vehicle for the State. We know that Alaska partakes in some respects of the characteristics of an under-developed nation and we felt that the insights that World Bank and International Bank representatives could bring to the Alaska scene might prove valuable in establishing a sound development loan financing effort. It is this Administration's view that the State should not embark on total financing of development loan efforts but should seek tandem investment with outside venture capital. State funds should work as a catalyst for outside venture capital investment. This was the unanimous conclusion of the conference, as reflected in Governor Egan's proposed establishment this year of a new Department of Community and Economic Development. This new department will have a task oriented steering committee to determine the exact areas and particular eligible projects in Alaska which could be advanced by a new financing vehicle.

I will conclude this present report on Alaska's present fiscal status by mentioning the fact that the Official Statement now in your hands for our bond sale on February 8 points out that our new proposed budget represents only a 4.6% increase over the budget adopted by the Legislature last year. From this rate of expenditure increase, now at least in partial effect for a two year period, we can see fiscal daylight even with a longer delay in North Slope oil flow than our current estimate of July 1, 1976.

As far as a spending spree is concerned, as stated in the Journal headline, the answer is that it "just ain't so". In one prime area, total state support for Pre-School, Elementary, and Secondary education goes down from $79,400,000 last year to $78,305,000 this year. Other examples from the proposed budget could be cited to show actual proposed cutbacks in State expenditure.

With such cutbacks the trend—line revenue projections—show the State in a constant surplus position through the last year of the estimate, 1982.

These projections are conservative in showing only a 6% annual rate of expenditure increase in fiscal years 1974 through 1976 and 8% thereafter, North Slope oil to begin in 1976, and no major oil lease sales planned.

It is also worthy of mention that Alaska has managed to keep its income tax rates at the same rates today as in 1961. Our largest city, Archorage, does not levy a sales tax and Alaska is one of five remaining states imposing no sales tax. The only tax increases proposed this year—a cigarette tax increase and a bank franchise tax increase to bring us up to the national norm—together a ½% income tax increase to counteract the federal tax decreases.

The most significant socio/economic event for Alaska in 1971 was the passage in December of the Alaska Native Land Claims Settlement Act which basically provides for actual transfer of 40 million acres to Native communities and eventual payment of $925 million, $500 million of which will be provided from 2% of gross mineral value and of bonus and lease income. The Native Land Claims Settlement Act represents, for the first time anywhere in the United States, a morally and ethically sound treatment of the aboriginal claims of the owners of the land when Western civiliaztion arrived. Native leaders are doing much preparation now for the post settlement period and are concentrating on the real needs of their people. Economically the settlement provides a way for rural Alaska to move into the cash economy and contribute to the overall economic good of the State. In the past there have been two economic systems in the State, the cash economy represented by the urbanized Anchorage/Fairbanks and the Southeast complex, and the subsistence barter economy represented by rural Alaska. Alaska's rural economy has been a cash drain on more urbanized Alaska. The settlement, which will be properly administered with the cooperative help of the State, represents the potential end of this economic drain. When rural Alaska emerges as a viable economy and a strong part of the State it will be one of the most positive economic events to happen since Statehood.

Passage of the Native Land Claims Settlement Act freed the State to make the final selection of land to which it was entitled under the Statehood Act of 1959. On January 16, 1972, Governor Egan made the final selection adding 76 million acres to state-owned lands. The selections, delayed five years by the land freezes, were made after intensive review of multiple land use characteristics by all affected state departments. Indeed, the State has initiated on its own a land use program which together with Federal funds will work towards development of a land use plan of all Alaska for the long term economic and sound benefit of Alaskans and citizens of the rest of the United tSates.

Any final assessment of the economic potential of the State must start with a realization of one basic fact. To an extent greater than any other state, Alaska owns its subsurface resources. With development of those resources we can and will share in the monetary gain which their ultimate sale will represent. Thus, unlike other oil and gas states, our state revenues need not be derived only from taxation of the resources but also from the participation in their development.

Passage of the Native Land Claims Settlement Act was a giant step toward proper development of those resources.

The battles which will be faced over the issue of "lock up Alaska forever" as proposed by some environmentalists versus the State's desire for "sound development" are similar to those which Alaskans faced during the natural disaster of the Earthquake of 1964 and the Fairbanks Flood of 1967. I believe that our successes here show that Alaskans have the ability to take on these challenges of the future.

It is in this context of not being overcome by events but rather to shape our future that Governor Egan's pipeline proposal should be viewed. His proposal was largely based on the fact that the pipeline will represent one of the laregst public utilities in the world, perhaps exceeding $3 billion in cost compared to Alaska's current assessed valuation of $2.68 billion. The Governor realized that Alaska's economic future is deeply wedded to the public conveyance of petroleum thoughout the State and that many important issues besides the purely fiscal one of maximizing State revenues are involved with the State's stance towards the pipeline. For this reason Governor Egan initiated in October probably the most comprehensive survey ever attempted by any state directed toward all the ramifications of state or private ownership and financing of the pipeline. In addition to selecting a management underwriting feasibility team of seven major underwriters, the firm of Tibbetts, Abbot, McCarthy and Stratton was engaged to inform the State on the operational costs of the line as well as to confirm the total cost as stated by the oil companies. The economic and management consulting firm of Temple, Barker & Sloane of Massachusetts was engaged to make indepth surveys of taxation and the regulation potential of pipeline ownership in private or public hands. Among other things, the range of private possible pipeline charges in private ownership are being carefully estimated because of their potential effect on the value of the oil upon which our present royalty and severance tax structure is based. In view of this and the fact that a prior report rested on questionable assumptions, the Governor felt that it was incumbent upon him to make this indepth survey of the legal engineering and financing feasibility of the State pipeline ownership. The effort is now continuing on an intensive basis. In order to bring the issue to the consideration of the Legislature, early this week the Governor introduced a bill authorizing the creation of a Trans-Alaska Authority for construction, financing, and ownership of the pipeline as well as a bill authorizing the submission to the voters of a bond issue of $3.5 billion for the same purpose. At the same time regulatory bills were submitted for legislative consideration. Shortly there will be submitted to the Legislature an indepth feasibility report based on research on the pipeline ownership issue. We know that some oil company cooperation is essential to State financing but we also had to know the tax and economic facts which will affect state income on initial flow. The bond issue proposal must be viewed in this context of the study effort, the necessity of legislative hearings on the whole issue, the necessity of a vote of the people, and finally the test of the market. As you know financing is permissive even after legislative and voter approval and I am convinced that if the final decision for State financing of the line is positive, the bonds would be of necessity have to be so well secured and would reach such a broad market of new Alaska investors that the value of our general obligation bonds could only be improved. In any event no financing plan will contain any elements diminishing the security of general obligation bonds of the State. If there is a state or authority bond issue for the pipeline you may be assured that it will be based on objective cost-benefit determinations derived from the particulars or a specific financing plan.

I am able to make these statements because I know that Governor Egan is very much aware that Alaska's image of financial solvency is a great asset which must not be frittered away by too great expenditure today or by injudicious bond financing plans. He is aware that enhancement of our financial solvency, as reflected in the hold-the-line budgets submitted the last two years, is essential to our ability to continue to borrow money on the bond market at competitive interest rates.

Included on the main table are copies of the magazine Alaska Construction and Oil for January 1972. The construction review for 1971 concludes that 1972 will be a better construction year than 1971 despite delay in granting the pipeline permit. A principal factor in the 1971 increase in construction level was the high level of private investment in the State which the article concludes will remain strong in 1972 even without a pipeline start. The article notes that contract totals for the entire State received by the magazine amounted to $208 million for 1971.

Some of this construction is attributable to public projects which include needed highway connections, additional educational facilities, airport improvements and the like which are among the purposes of the bond sale scheduled for February 8.

Alaskans know the importance of our ability to borrow at competitive rates on State general obligation bonds and other bonds must be maintained at all times and that bond service is given the highest priority in the State of Alaska budgeting. I believe that this view will continue and is reflected in part by the sharp reduction in the number of bonds requested by the administration for authorization by the Legislature and submission to the people of $71 million. Only vitally necessary airport, university, flood control, hospital, and water and sewer projects are included in the proposed bond issue program, which if passed by the Legislature will go to the voters this fall.

Besides the somewhat surprising fact of a substantially better 1971 than 1970, leading economic indicators have shown a dramatic increase in taxes and licenses over the last five year period rising from $54.7 million in 1966 to an all time high of $91.7 million in fiscal 1971. All this has been accomplished without any general tax increases. I won't detail the particular increases in other leading tax and license indicators which are set forth in the text of the speech. (In 1966 78 thousand individual Alaska income tax returns were filed in the state netting the State $19.2 million as compared to 116 thousand returns filed in 1971 netting $35.4 million. As indicated before, the volume of business in the State has risen dramatically as reflected in the 100 per cent increase in gross receipts of $1.4 billion in 1966 to $2.9 billion in 1971. In like fashion the premium value of insurance written in the State rose from $58.6 million in 1966 to $113.2 million in 1971, again nearly a 100 per cent increase. Bank deposits in the State in 1966 was $382 million and rose to $637 million in 1970. More immediately, gross collections of taxes and fees went from $90.8 million in fiscal 1970 to $101.1 million in fiscal 1971.)

This is an over long summary of Alaska's current economic status and developments of the last year although much more could be said of developments in timber, fisheries, and our other great renewable resources industries. When any Alaskan starts talking about his own state it is hard to get him to stop and of course I know that everyone tends to crow about his own back yard.

Those of you who have visited our State and spent some time in Anchorage, Juneau, and Fairbanks, have some picture of the pace of life and activity and spirit which makes Alaskans proud of their state and willing to devote many hours to its growth and development. Our small population of 302 thousand is growing at a rate in excess of 6% each year and the state is attracting more and more people who see the benefits of an unspoiled quality of life. The fact that we are few in number means much discussion of public issues. Public problems loom large in everyone's minds. To an investor, however, the basic point is that there is a spirit of desire to make the state the best possible place to live. This spirit includes recognition of the importance of financial solvency as well as the human and environmental resources that provide a better quality of life. It also means that each Alaskan is aware of how much money the State is borrowing and intimately concerned with the debt service we pay on our bonds. Alaskans know that these bonds mean more adequate schools, more pollution control facilities, and more airports—that especially vital transportation link. This spirit of community interest is a precious asset and, I believe, although a highly intangible one, a value that must be considered in your very technical job of pricing our bonds. We can overcome adversity and have a clear view of the Alaska we expect to develop in the 1970's and beyond. Our economic stability is improving yearly and our economic potential is being realized at a greater rate than could have been foreseen even five years ago. We welcome more of you to visit us and to see what is happening in Anchorage and elsewhere where your investment money has been placed. In the meantime I will attempt to answer any questions you may wish to ask concerning our financial and economic life. I extend Governor Egan's invitation for as many of you as possible to come see our State and hopefully to capture some of the spirit of the last, and I feel ultimately the greatest, frontier.

THE GENOCIDE CONVENTION

Mr. HUMPHREY. Mr. President, on the last day of the 1971 session of Congress, the distinguished majority leader (Mr. MANSFIELD) reminded us that ratification of the Genocide Treaty was on the calendar and awaited only a better indication from the Members of the Senate that they were prepared to take up the issue. I rise today to express the hope that we may soon have the opportunity to debate and pass on this issue. Altogether too many years have now gone by without Senate confirmation of this basic, humanitarian declaration.

During these many years in which we have failed to ratify the treaty, a series of myths have developed about it. These myths have been effectively rebutted time and time again, but never as clearly and brilliantly as two of the Nation's outstanding experts and scholars have done in the current issue of the Journal of the American Bar Association.

The authors are Arthur J. Goldberg, the former Justice of the Supreme Court and Ambassador to the United Nations, and Richard N. Gardner, the Henry Moses Professor of Law and International Organization at Columbia University and former Deputy Assistant Secretary of State for International Affairs from 1961 to 1965.

Both Justice Goldberg and Professor Gardner appeared on behalf of the Ad Hoc Committee on the Human Rights and Genocide Treaties about a year ago before the Senate Foreign Relations Committee and presented impressive testimony in support of ratification of the Genocide Treaty. Their article in the ABA Journal is a persuasive summary of the case for ratification and an eloquent refutation of every major argument made against it. I commend its reading to every Member of the Senate.

Twice now, the Senate Foreign Relations Committee has approved ratification. The President of the United States has requested such ratification. In the last 23 years, 75 nations have ratified the treaty. The United States is the most prominent nation that has failed to do so. The reasons for doing so are summarized in the concluding paragraph of the Goldberg-Gardner article:

> The Genocide Convention outlaws action that is repugnant to the American people. We should not decline to affirm our support for principles of international law and morality which we believe in. Our country was founded out of a passionate concern for human liberty reflected by the Bill of Rights and the Constitution. We believe that concern is very much alive today, as is reflected by the report of the Foreign Relations Committee supporting the Convention. It is inconceivable that we should hesitate any longer in making an international commitment against mass murder. At a time when our commitment to human rights is being questioned by some of our own people and by others overseas, it is particularly important that we ratify a treaty so thoroughly consistent with our national purpose.

Mr. President, I ask unanimous consent that the complete text of the article from the February 1972 issue of the Journal of the American Bar Association be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TIME TO ACT ON THE GENOCIDE CONVENTION

(By Arthur J. Goldberg and Richard N. Gardner*)

It is now more than twenty-five years since the United Nations first took up the question of the prevention and punishment of the crime of Genocide. On December 11, 1946, the General Assembly unanimously adopted Resolution 96(I) which affirmed "that genocide is a crime under international law" and requested the Economic and Social Council to draft a Genocide Convention. Two years later, on December 9, 1948, the text of the Convention was unanimously approved by the General Assembly.

Seventy-five countries have now ratified the Genocide Convention. The United States is the most prominent UN member that has not. One reason for our country's failure to ratify—very possibly the principal reason—has been the opposition of the American Bar Association recorded in a decision of the House of Delegates on September 8, 1949.

Since 1949, however, sentiment within the ABA has changed. At the mid-year meeting of the House of Delegates on February 23, 1970, a proposal to reverse the 1949 position and to place the ABA on record in favor of the Genocide Convention failed by a vote of 126 to 130. Still more significant, every section of the ABA having specialized competence in the subject matter has come out in support of ratification of the Genocide Convention during the last few years: the Section of Individual Rights and Responsibilities, the Section of International and Comparative Law, the Section of Criminal Law, the Section of Judicial Administration, the Section of Family Law, and the ABA Standing Committee on World Order Under Law. Ratification of the Genocide Convention has also been endorsed by a number of past Presidents of the ABA, including Bernard G. Segal, William T Gossett, Charles S. Rhyne and Whitney North Seymour; by the Chairman of the ABA Standing Committee on the Federal Judiciary, Lawrence Walsh; by Solicitor General Erwin N. Griswold; and by many other leaders in the Association.

Notwithstanding these developments, two members of the ABA, Eberhard P. Deutsch and Alfred J. Schweppe, appeared on behalf of the Association to testify in opposition to the Genocide Convention in hearings held before a Senate Foreign Relations Subcommittee on March 10, 1971.[1] Mr Deutsch and Mr. Schweppe made a comprehensive presentation of all the legal objections that have been raised against the Convention.[2] The authors of this article, appearing on behalf of the Ad Hoc Committee on the Human Rights and Genocide Treaties (a committee of 52 national, civic, religious and labor organizations) presented testimony in favor of the Convention.[3] Thereafter the Foreign Relations Committee reported favorably on the Genocide Convention and recommended that the Senate advise and consent to ratification.[4]

After carefully reviewing the arguments presented by Mr. Deutsch and Mr. Schweppe the Committee concluded:

"We find no substantial merit in the arguments against the convention. Indeed, there is a note of fear behind most arguments—as if genocide were rampant in the United States and this Nation could not afford to have its actions examined by international organs—as if our Supreme Court would lose its collective mind and make of the treaty something it is not—as if we as a people don't trust ourselves and our society." [5]

We believe the report of the Senate Foreign Relations Committee provides an authoritative refutation of the legal arguments which opponents of the Genocide Convention have employed to justify their opposition for nearly a quarter of a century. Yet the Senate has still not yet acted favorably on the Convention. We present herein a point-by-point rebuttal of the legal arguments against the Convention, drawing from our testimony to the Foreign Relations Committee as well as the Committee's own report, in the hope that it may clarify the legal issues and contribute to speedy and favorable action by the Senate.

1. *The contention that the Constitution prevents ratification of the Genocide Convention because Genocide is a "domestic" matter is without foundation.*

In his testimony to the Foreign Relations Committee, Mr. Deutsch declared himself fully in agreement with the decision of the United States to vote in favor of the General Assembly resolution on Genocide of December 11, 1946: "Standing foremost as a world leader in the protection of individual rights, she could do no less." But he added that "having joined in such a declaration as to a matter *which lies, ultimately, within the domestic sphere of each of the world's nations*, the United States has gone far enough" (italics supplied).[6a] The underlined phrase is clearly incompatible with the statement in the General Assembly resoluiton that "genocide is a crime under international law." It is significant that Mr. Deutsch's extensive quotations from the General Assembly resolution neglected to include this key provision.[6b]

Nowhere in his testimony on the Genocide Convention does Mr. Deutsch explain his conclusion that Genocide is a "domestic matter." His reasoning on this general issue may be found, however, in a report which he prepared in 1967 as Chairman of the ABA's Standing Committee on Peace and Law Through the United Nations. It is there stated that a convention deals with "domestic matters" when it deals "with the relation between a state and its own citizens." [7] But this is not the relevant constitutional test. As the Supreme Court declared in *Geofroy v. Riggs* 133 U.S. 258, 267 (1890), the treaty-making power may be exercised on any matter "which is properly the subject of negotiation with a foreign country." The United States is party to numerous international agreements regulating the activities of its own citizens within the United States (and therefore "domestic" under Mr. Deutsch's definition) because those treaties nevertheless deal with matters appropriate for international negotiation. Examples include treaties on narcotics,[8] public health [9] and nature conservation,[10] and the Supplementary Convention on Slavery which Mr. Deutsch initially opposed on the grounds that it also dealt with "matters essentially within the domestic jurisdiction of the United States." [11]

In the words of the Special Committee of Lawyers of the President's Commission for the Observance of Human Rights Year, chaired by retired Supreme Court Justice Tom C. Clark: "Treaties which deal with the rights of individuals within their own countries as a matter of international concern may be a proper exercise of the treaty making power of the United States . . . It may seem almost anachronistic that this question continues to be raised." [12]

What is "properly the subject of negotiation with a foreign country" and therefore a valid subject of a treaty is something the Senate has an obligation to determine in each case. Obviously, we do not take the position that the Executive Branch can make any matter "international" by putting it in a treaty. But the question should be determined objectively in the light of current U.S. interest in an interdependent world—not on the basis of notions that may have been appropriate to a different historical era.

By any objective standard, Genocide is a matter of international concern and is, therefore, an appropriate subject for the exercise of the treaty-making power. In our shrinking world the massive destruction of a racial, religious or national group in one country has its impact on members of this group in other countries, stimulates demands for intervention, and inevitably troubles international relations. The fact that the United Nations General Assembly unanimously declared Genocide to be a crime under international law in 1949 and that 75 members of the United Nations are parties to the Genocide Convention (including such friends and democracies as the United Kingdom, Canada, France, Mexico, the Scandanavian countries and Israel) is further evidence that Genocide can no longer be considered a matter wholly within domestic jurisdiction. As was said by the Senate Foreign Relations Committee: "On both moral and practical grounds, the commission of genocide, involving as it must mass action, cannot help but be of concern to the community of nations." [13]

2. *The contention that the Genocide Convention would alter the balance of authority between the States and the Federal Government is unfounded.*[14]

The Constitution specifically gives Congress the power to "define and punish . . . offenses against the law of Nations." Genocide is an offense against the law of nations and is thus within the power of Congress to outlaw. Moreover, the power of the Federal Government in this field has been confirmed in the Civil Rights Acts of 1957 and 1964 and the Voting Rights Act of 1965. As the ABA Section on Individual Rights and Responsi-

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Footnotes at end of article.

bilities said in its report: "Ratification of the Convention will add no powers to those the Federal Government already possesses."

3. *The contention that ratification of the Genocide Convention would subject American citizens to trial in foreign countries like North Viet Nam or trumped-up charges of Genocide is wholly false.*[15]

There is nothing in the Genocide Convention that would provide warrant for charges by North Viet Nam that our prisoners of war, being held under conditions in violation of the Geneva Convention, are guilty of Genocide. As the Foreign Relations Committee pointed out in its report, Hanoi can make trumped-up charges of Genocide against our servicemen who fall into their hands, with or without reference to the Genocide Convention. In the words of the Committee: "It is reality that American prisoners of war in North Viet Nam could now be charged by the Hanoi government for war crimes or genocidal acts on whatever trumped-up charges Hanoi wishes to make. Their peril will not be increased by approval of this convention while peril may be avoided for tens of millions by ratification of the convention."[16]

As to the possibility of extraditing Americans from the United States to North Viet Nam or other countries for acts of genocide allegedly having occurred there, it should be remembered that under the Genocide Convention, extradition would only take place in accordance with laws and treaties in force. We have no extradition treaties with North Viet Nam. Nor do we make such treaties with countries whose legal systems do not afford basic procedural safeguards. We do not grant extradition in any event unless a *prima facie* case is established against the accused and unless the accused will be afforded by the requesting state the due process provided by our own law. Finally, the Genocide Convention, in accordance with an agreed interpretation of Article VI which is contained in the relevant U.N. committee report, "does not affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State."[17] The Foreign Relations Committee expressed itself as fully satisfied on this point, but recommended an understanding to this effect to remove any possible uncertainty. The Administration has further indicated that any agreements we make covering Genocide will assert the right of the United States to refuse to extradite an accused if he is standing trial in the United States or if our Government elects to try him itself.[18]

4. *The argument that ratification of the Genocide Convention would subject the United States Government to irresponsible charges of Genocide arising out of Viet Nam, our treatment of American Negroes, or other situations is without foundation.*[19]

Here again, ratification of the Genocide Convention does not alter the present situation to our disadvantage. Even in the absence of our ratification, there is nothing to prevent a country from making baseless charges of genocide against this country in the U.N. If anything, ratification would improve our position, because the Convention requires an "intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such." The tragic events in Viet Nam and the terrible loss of life, both military and civilian, that has occurred there do not meet the above definition. The treatment of the Negro community in the United States, which admittedly has suffered widespread discrimination for many years, also does not fall within the definition. In both cases the necessary intent to destroy a racial or ethnic group as such is missing. Ratification of the Convention would, if anything, help us rebut such charges by subjecting our behavior to a precise legal definition of Genocide.[20]

5. *The argument that provision for the settlement of disputes by the International Court of Justice would override the Connally Amendment and unreasonably limit our sovereignity is wtihout substance.*[21]

The Connally Amendment applies only to our acceptance of Article 36 (2) of the Court's Statute, the so-called "optional clause" providing for compulsory jurisdiction across-the-board. Cases arising as a result of our adherence to the Genocide Convention would come Article 36 (1) of the Court's Statute, which covers the Court's jurisdiction as provided for in specific treaties. The United States has ratified many treaties containing the same type of provision for the settlement of disputes by the International Court as is contained in the Genocide Convention. Among such treaties are the Supplementary Convention on Slavery, the Antarctic Treaty, the Statute of the International Atomic Energy, and the Convention on the Privileges and Immunities of the United Nations ratified in 1970.

This provision for the settlement of disputes over the interpretation of the Genocide Convention does not unreasonably limit our sovereignty. Our interests are better served by having any charges of Genocide against us considered in a judicial forum like the International Court, rather than in more politically-motivated forums. Of course, by this provision we do undertake a commitment to subject ourselves to third-party judgment in a limited sphere, as do the other parties to the Convention. This exchange of commitments is inherent in any treaty to which we become a party. Where the exchange of commitments serves our national interest, as it does here, it provides no valid basis for objecting to the treaty.

It should be noted that the Soviet Union and other countries have ratified the Convention subject to a reservation that they do not accept compulsory reference to the International Court. As a result, the United States will be in a position to invoke these countries' reservations in its own behalf to defeat the Court's jurisdiction if a case of Genocide should be brought against us by such countries.[22]

6. *The argument that various provisions in the Convention—"in whole or in part", "mental harm," "direct and public incitement to commit Genocide"—are loosely drafted and potentially harmful to our interests is without foundation.*

Words in a statute or treaty are not self-interpreting. They must be read in the context of other provisions and in the light of the legislative or drafting history. The hypothetical interpretations of the Genocide Convention advanced by the critics are invalidated by the language of the Convention itself and by the records of the negotiation.

Thus "in whole or in part" does not mean that the killing of a single individual becomes Genocide.[23] As the negotiating history makes clear, substantial numbers must be involved, and the acts of homicide must be joined by a common intent to destroy the group, for the definition of Genocide to be satisfied. The understanding recommended by the Foreign Relations Committee to confirm this point is wholly consistent with the drafting history.[24]

"Mental harm," in turn, would not support propaganda charges of harassment of minority groups, as charged by some critics,[25] because mental harm becomes an element of Genocide only when done with an intent to *destroy* a group. Moreover, as the negotiating history shows, this provision was inserted for the narrow purpose of prohibiting the permanent impairment of mental facilities, as through the forcible application of narcotic drugs. Once again, the understanding recommended by the Foreign Relations Committee is wholly consistent with the drafting history.[26]

"Direct and public incitement to commit Genocide" does not cover constitutionally-protected speech.[27] It covers speech which calls for the commission of mass murder, which is actionable under our Constitution as in other countries. As the Supreme Court declared in *Brandenburg v. Ohio*, 395 U.S. 444, "the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation *except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.*" (emphasis added). In any case, as was stated in *Reid v. Covert*, 354 U.S. 1, no treaty can override a provision of the Constitution, and there is no doubt that the legislation passed in implementing the Genocide Convention will be interpreted in accordance with the First Amendment.

7. *The contention that ratification of the Genocide Convention would subject American citizens to trial before an international penal tribunal is without foundation.*[28]

Article VI of the Convention provides that persons charged with Genocide shall be tried "by such international penal tribunal as may have jurisdiction with respect to those contracting parties which shall have accepted its jurisdiction." This part of Article VI is a dead letter. No such international penal tribunal has been established and there is no negotiation underway to create one. If such a tribunal were established, action by the Senate would be required, either in the form of advice and consent to ratification of a treaty or action on legislation, before the United States could accept its jurisdiction. Finally, it should be underlined that the International Court has no criminal or penal jurisdiction and only considers cases involving states, not individuals.[29]

8. *The argument that the Convention does not define Genocide as having been committed "with the complicity of government" is no objection to ratification.*[30]

The Convention is directed at "persons" whether they are "constitutionally responsible rulers, public officials or private individuals." Each government is committed under the Convention to punish such persons. There is no reason why individuals should not be held responsible for genocidal acts, even without government complicity.

9. *The argument that the Genocide Convention abolishes the defense of "superior orders" is without foundation.*[31]

The Soviet Union sought to include in the Genocide Convention a provision making the defense of superior orders unavailable. That Soviet proposal was rejected. The Convention says nothing about a possible defense of "superior orders," but it is significant that the Convention includes "intent" as an element of the crime of Genocide. Thus a subordinate who had no choice but to act would be protected under the Convention. An authoritative review of the drafting history on this point summarizes the matter as follows:

"Ordinarily it would seem that no intent could be ascribed to persons merely fulfilling superior orders; intent implies initiative. However, superior orders would not be a justification in such cases where the guilty party was not only a tool of his superiors but participated in the 'conspiracy to commit Genocide.' Guilt could likewise be established in a case where, although acting under orders, the person was in a position to use his own initiative and thus act with the intent to destroy the group. The non-inclusion of a proviso relating to superior orders thus leaves the tribunals applying the Convention the freedom of interpreting it in accordance with the domestic legislation and the specific circumstances of the case."[32]

10. *The argument that the omission of "political" groups makes the Genocide Convention worthless is unpersuasive.*[33]

It is inconsistent for those who criticize the Convention on the grounds that it sub-

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Footnotes at end of article.

jects the U.S. to too much interference in its domestic affairs to complain at the same time that it fails to cover "political groups." In any event, the absence of one kind of group from the Convention is no reason not to protect the groups that *are* covered.

In conclusion, we find the objections against ratification of the Genocide Convention to be without substance. The arguments in favor of ratification, on the other hand, seem to us compelling.

Our adherence to the Genocide Convention can make a practical contribution to the long and difficult process of building a structure of international law based on principles of human dignity. It will put us in a better position to protest acts of Genocide in other parts of the world and will enhance our influence in United Nations efforts to draft satisfactory human rights principles.

We do not say that our adherence to this Convention will work miracles. It may not bring very dramatic benefits in the short run. Let us remember, however, that none of the great documents of human civilization produced instant morality—not even Magna Carta or our own Bill of Rights. The point is that they did shape history in the long run. We believe the same may be true of the Genocide Convention, if we only give it a chance.

The Genocide Convention outlaws action that is repugnant to the American people. We should not decline to affirm our support for principles of international law and morality which we believe in. Our country was founded out of a passionate concern for human liberty reflected by the Bill of Rights and the Constitution. We believe that concern is very much alive today, as is reflected by the report of the Foreign Relations Committee supporting the Convention. It is inconceivable that we should hesitate any longer in making an international commitment against mass murder. At the time when our commitment to human rights is being questioned by some of our own people and by others overseas, it is particularly important that we ratify a treaty so thoroughly consistent with our national purpose.

(AUTHOR'S NOTE.—Arthur J. Goldberg served as Secretary of Labor from 1961 to 1963, Justice of the Supreme Court from 1963 to 1965, and U.S. Ambassador to the United Nations from 1965 to 1968. He is now in the private practice of law in Washington.

(Richard N. Gardner is Henry L. Moses Professor of Law and International Organization at Columbia University. He served as Deputy Assistant Secretary of State for International Affairs from 1961 to 1965.

(Justice Goldberg and Professor Gardner appeared on behalf of the Ad Hoc Committee on the Human Rights and Genocide Treaties in last year's hearings on the Genocide Convention before the Senate Foreign Relations Committee.)

FOOTNOTES

* See author's note at end of this article.

[1] Article 12, Section 1 of the By-laws of the ABA provides: "No section or Committee or member thereof shall assume to represent the Association or Committee thereof before any legislative body in any court or before any other tribunal, unless authorized to do so by the House of Delegates or by the Board of Governors." Mr. Deutsch stated at the Foreign Relations Committee that this authority to appear derived from a decision of the Board of Governors. See *Genocide Convention*, Hearings before a Subcommittee of the Committee on Foreign Relations, U.S. Senate, March 10, 1971, p. 13 (hereinafter cited as 1971 Hearings). In fact, neither at the 1970 mid-year meeting or thereafter did the Board of Governors or the House of Delegates authorize anyone to represent the ABA regarding the February 1970 action. The President of the Association, Mr. Edward Wright, later explained that he authorized Mr. Deutsch and Mr. Schweppe to appear without any authority from the Board of Governors or House of Delegates under the President's "inherent power to designate a member or members of the Association to present its views before a legislative body where the House of Delegates has formerly spoken on the subject." (1971 Hearings, pages 14–15). We do not enter into the issue of whether this inherent power exists, and we certainly do not question the good faith of President Wright's interpretation. But given the almost evenly divided vote in the House of Delegates and the support of the Convention from all the relevant specialized Sections and Committees of the ABA, we believe it would have been more appropriate for the ABA to have refrained from testifying on the Convention, or to have sent a panel of spokesmen to present a balanced picture of the different viewpoints now existing in the Association.

[2] 1971 Hearings, pp. 12–54. Mr. Deutsch's testimony was virtually identical to his article with Orie L. Phillips, "Pitfalls of the Genocide Convention," 56 *ABA Journal* 641–646 (July, 1970).

[3] 1971 Hearings, pp. 107–137.

[4] The Committee's decision was taken by a vote of 10 to 4. Voting in the affirmative were Senators Fulbright, Church, Symington, Pell, McGee, Muskie, Spong, Case, Javits, and Scott. Voting in the negative were Senators Sparkman, Aiken, Cooper, and Pearson. *International Convention on the Prevention and Punishment of the Crime of Genocide,* Ex. Report No. 92–6, May 4, 1971 (hereinafter cited as Senate Report).

[5] Id., p. 17.

[6a] 1971 Hearings, pp. 25, 26.

[6b] Id., pp. 16 and 25.

[7] Human Rights Conventions, Hearings before the Committee on Foreign Relations of the U.S. Senate, Part 2, September 13, 1967, p. 70.

[8] 1912 Convention Relating to the Suppression of the Abuse of Opium and Other Drugs (TS 612); 1931 Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs (TS 863); 1953 Protocol for Limiting and Regulating the Cultivation of the Poppy Plan, the Production of, the International and Wholesale Trade In, and the Use of Opium (TIAS 5273).

[9] World Health Organization Regulations No. 1 (TIAS 3482), as amended (TIAS 3482 and 4409) and WHO Regulations No. 2 (TIAS 3625), as amended (TIAS 5156, 4420, 4823, 4896, 5459, and 5863).

[10] 1940 Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (TS 981).

[11] ABA, *Human Rights Conventions and Recommendations,* Draft of Proposed Report for Consideration by Section and Committee, April, 1967. This report was drafted by the Committee on Peace and Law Through the United Nations chaired by Mr. Deutsch.

[12] For another example of confusion over the relevant constitutional test, see John M. Raymond, "Don't Ratify the Human Rights Conventions," 54 *ABA Journal* 141–143. Mr. Raymond, evidently unaware of the treaty cited in footnote 10 above, takes the view that the United States can make treaties on the protection of wildlife only when birds fly from one country to another.

[13] Senate Report, p. 5.

[14] This contention appears in appendix to Mr. Schweppe's statement to the Committee, 1971 Hearings, page 71, though not in Mr. Deutsch's testimony.

[15] This contention appears in the testimony of Mr. Deutsch, 1971 Hearings, pp. 20, 37–39.

[16] Senate Report, p. 5.

[17] See Nehemiah Robinson, *The Genocide Convention—a Commentary,* World Jewish Congress, 1960, pp. 83–4, containing citations to the drafting history on this point.

[18] Testimony of Mr. George Aldrich, Deputy Legal Adviser, Department of State, in *Genocide Convention,* Hearings Before a Subcommittee of the Committee on Foreign Relations, U.S. Senate, April and May, 1970, pp. 45–46.

[19] This argument is made by Mr. Deutsch in 1971 Hearings, pp. 18, 31–33.

[20] Senate Report, p. 12.

[21] This argument is made in Mr. Deutsch's testimony, 1971 Hearings, pp. 22, 46.

[22] Senate Report, p. 13.

[23] This claim was made by Mr. Schweppe, 1971 Hearings, p. 61.

[24] Senate Report, pp. 1, 6, 18; Robinson, op. cit., 63.

[25] Mr. Deutsch, 1971 Hearings, pp. 18–19, 33–34.

[26] Senate Report, pp. 2, 7, 18; Robinson, p. 65.

[27] As charged by Mr. Deutsch, 1971 Hearings, p. 45.

[28] The contention was made by Mr. Deutsch, 1971 Hearings, pp. 21, 40–45.

[29] One of the exhibits submitted by Mr. Deutsch stated incorrectly that under the Genocide Convention, the "U.N. World Court" would "hear cases of alleged incidents of physical or mental 'genocide' committed by individuals. . . . The accused in such cases would not be protected by the Bill of Rights." 1971 Hearings, p. 50.

[30] This argument is advanced by Mr. Deutsch in 1971 Hearings, pp. 17–18, 30–31.

[31] Mr. Deutsch makes this argument in 1971 Hearings, pp. 39–40.

[32] Robinson, pp. 72–3.

[33] This argument is made by Mr. Deutsch in 1971 Hearings, pp. 19, 35–36.

SPEEDUP OF JUDICIAL PROCEDURES

Mr. TOWER. Mr. President, recently the Texas Police Journal published a most interesting article by the Deputy Attorney General, Richard G. Kleindienst. In the article, entitled "Toward Speedy Justice," Mr. Kleindienst addresses himself to one of the most pressing problems in criminal law: How can we speed up the judicial process, with its nearly interminable backlogs, while still preserving constitutional guarantees. I believe that all who are concerned with this problem will benefit from Mr. Kleindienst's insight. The article is particularly timely, since Mr. Kleindienst has just been appointed Attorney General by the President.

I ask unanimous consent that the entire text of Mr. Kleindienst's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Texas Police Journal, Feb. 1972]

TOWARD SPEEDY JUSTICE

(By U.S. Deputy Attorney General Richard G. Kleindienst)

Speedy justice is fast becoming one of the major subjects of concern to students of criminal justice in the United States.

Massive backlogs in our courts and long delays in the trial and appeal of criminal cases have awakened a sense of urgency in the American public. The realization that delays impose a burden not only upon individual defendants but also upon society has provided the stimulus for needed reforms.

What these reforms should be remains an open question. But few persons now doubt that reforms are necessary. When many months and sometimes several years elapse between a defendant's arrest and trial—a fact of life in numerous jurisdictions throughout the country—one finds it difficult to give unqualified endorsement to the view that "Justice is alive and well and living in the United States."

In recent years, federal courts have been faced with a huge expansion in the number of civil and criminal cases. This great volume of litigation has produced backlogs and delays in many judicial districts in the federal system.

Two obvious solutions to this growing

workload are to increase the output and efficiency of existing personnel, and to increase manpower. Both of these approaches have been pursued.

In the District of Columbia, for example, the Department of Justice sponsored legislation to reorganize and reform the local courts. Among other things, the D.C. Court Reform Act featured a court executive to relieve judges of administrative burdens and bring modern management techniques to the court's business. The legislation also authorized 17 additional trial judges by February 1, 1972, to contend with backlogs and new jurisdiction.

Chief Justice Warren Burger has taken the lead in promoting improved judicial administration in other parts of the federal system. He has often suggested the use of court administrators and other methods of efficient management. Judge Irving R. Kaufman of the U.S. Court of Appeals, Second Circuit, noted recently that "a well-trained para-professional will cope with calendar control, not merely as well, but perhaps better than a judge who is highly trained to apply and interpret the law, but not trained to employ flow charts or systems analyses to eliminate bottlenecks."

The Judicial Conference, with support from the Department of Justice, has played a key role in securing additional manpower. For years the Conference has advocated more trial and appellate judges. In response to a Judicial Conference initiative, Congress in 1970 created 61 new judgeships in U.S. district courts.

These efforts must go forward. For our part, the Department of Justice will back judicial innovations and additional judgeships when the need for them is demonstrated. And our support for increased manpower and resources will extend to additional prosecutors and public defenders wherever they are needed. Adequate staffing of the entire system of criminal justice is essential.

But the Department of Justice agrees with President Nixon's observation: "If we limit ourselves to calling for more judges, more police, more lawyers operating in the same system, we will produce more backlogs, more delays, more litigation, more jails, and more criminals."

"What is needed now," the President has said, "is genuine reform—the kind of change that requires imagination and daring, that demands a focus on ultimate goals. . . ."

In the search for speedy justice, we must look beyond additional manpower and resources. We must ask ourselves whether all the cases now processed in federal courts should continue to be entertained. Are there some disputes that could better be resolved in a different forum? Are there cases that are simply a rehash of cases already tried?

The answer to both questions is clearly "yes."

The increasing use of U.S. magistrates for minor disputes reflects a desire to preserve the time of U.S. district judges for important matters. It may be possible in the future not only to extend the jurisdiction of magistrates but also to remove certain cases from federal courts.

This latter course is sharply controversial. Chief Justice Burger has been roasted by some members of the bar merely for considering the possibility that personal injury cases be made an exception to federal diversity jurisdiction.

But in view of our present difficulties, recriminations are out of order.

Genuine reform requires both thinking. Although not every idea put forward should be adopted, we should recognize that the jurisdiction of federal district courts is not divinely ordained, and thus suggestions for its revision are entirely appropriate. The legal profession is mature enough to debate these suggestions on the merits without rancor.

Excessive relitigation is another problem deserving careful study. The statistics on the number of post-conviction collateral attacks are striking. Twenty years ago, federal courts entertained about 500 petitions for habeas corpus. By 1960, these petitions had tripled. By 1970, the total had reached the amazing figure of 10,792.

The vast majority of these petitions are utterly frivolous and without merit. They tend to deprive criminal justice of finality, undermine the rehabilitative process, and imperil public confidence in the courts. It is surely possible for lawmakers to curtail collateral attacks in the federal system while preserving fairness, because current practice is neither required by the Constitution nor fully contemplated by statutory law.

The Department of Justice is presently considering measures to revise post-conviction, post-appeal remedies to reintroduce finality to the administration of criminal justice. Reform of habeas corpus will materially aid the cause of speedy justice in federal courts.

One source of future congestion which perhaps requires legislative action is the case of U.S. ex rel. *Flemings* v. *Chafee*, decided last July in the eastern district of New York. In *Flemings* the court ruled that a 1969 Supreme Court decision barring military courts-martial for servicemen charged with civilian offenses, should be applied retroactively to the 1944 court-martial conviction of a seaman for auto theft. In effect, the decision opens the way for an estimated 450,000 similar suits in federal courts.

Henceforward, both judges and lawmakers must weigh the impact of their activities on the operation of federal courts.

At present, the Department of Justice is reviewing several bills that could vastly increase the workload of the judiciary. The heavy impact of these bills on the courts should not necessarily bar their passage; but lawmakers who propose new remedies should begin to think in terms of providing other means to afford redress. When court relief appears indispensable, then it may be necessary to supplement judicial resources.

The huge expansion in the civil and criminal caseload is only half the problem facing courts today. Chief Justice Burger noted last year that the actual trial of a criminal case now takes twice as long as it did ten years ago because of the closer scrutiny we expect for such things as confessions, identification witnesses and evidence seized.

"These changes," he said, "represent a deliberate commitment on our part . . . to values higher than pure efficiency when we are dealing with human liberty."

Criminal adjudication will never be a completely efficient process. But there is good reason to believe that it can become a more efficient process than it is now, without losing anything that is worth keeping. Genuine reform of the judicial process necessitates an open-minded review of existing procedures to determine their utility in the light of changed conditions.

Pretrial hearings in criminal cases now eat up a substantial percentage of court time. Indeed, it is not unusual for a pretrial motion to suppress tangible evidence, eyewitness identification, or a defendant's confession to consume as much court time as the trial itself. At most of these hearings, the fighting issue concerns the conduct of investigating officers, not the innocence of the defendant.

Many proponents of speedy justice now believe it is time to look long and hard at the exclusionary rule as a major source of the congestion problem. Chief Justice Burger argued recently. "Instead of continuing to enforce the Suppression Doctrine, inflexibly, rigidly, and mechanically, we should view it as one of the experimental steps in the great tradition of the Common Law and acknowledge its shortcomings."

Other remedies for governmental overreaching and official misconduct can be devised, and they may prove to be far superior deterrents to constitutional violations than the exclusionary rule has been, without monopolizing court time.

Even if the substance of pretrial motion practice is not changed, the scheduling of pretrial hearings can often be substantially improved. As a rule, suppression hearings immediately prior to trial avoid repeated preparation, ease the burden on witnesses, and reduce paperwork.

This year's national high school debate topic highlights change in the jury system. Young people by the thousands are vigorously debating propositions for "reform" that few attorneys would have the courage to propose in public. The bar should take heed: While the jury system is surely worth preserving in large measure, it is not immune to significant improvement.

Attorney Edward Bennett Williams has zeroed in on the grand jury and voir dire as jury institutions ripe for reform. Mandatory indictment by a grand jury in felony cases, he says, is "an outmoded, archaic fetish of yesteryear." Many critics believe that a clear information followed by a quick trial, supplemented in cases of detention by a probable cause hearing, would save time, reduce scheduling problems and fully protect the interests of defendants.

Voir dire, Williams declares, can be "the judicial counterpart of the legislative filibuster." Although one might not agree literally with his view that "no case . . . should require more than a day of jury selection," it is hard for any serious member of the bar to condone the 12 weeks of voir dire that we have seen in some recent cases. Such abuse of procedure should not be permitted.

Other changes have been suggested that could streamline judicial procedure. The Judicial Conference has voted in principle to reduce the size of federal juries in civil cases. During its present term, the Supreme Court will review the constitutionality of nonunanimous verdicts. Six-man juries and nonunanimous verdicts have been utilized extensively in civil cases in the states, and this experience should afford a reasonable basis for determining their desirability for the federal system.

No facet of current procedure should escape scrutiny if we are truly sincere about attaining speedy justice. The basic axiom that "institutions long established should not be changed for light and transient causes" does not mean that institutions and procedures should never be changed.

One of the most popular proposals nowadays for promoting speedy trials is a mandatory time limit enforced by dismissals with prejudice. Some of these varying time limits encompass as little as 60 days. From the start, the Department of Justice has viewed these proposals with skepticism and trepidation.

The recent experience in Florida provides ample basis for this concern. Last winter the Florida Supreme Court promulgated a rule providing all defendants who request it a trial within 60 days. In short order, trial courts found they were incapable of meeting this stringent deadline, and several hundred cases were dismissed. One judge felt compelled to urge the U.S. Supreme Court to "stop the Supreme Court of Florida from wholesale dismissal of defendants."

Short mandatory time limits which dismiss cases against the prosecution but allow delays for the defense will inevitably reward defendants who have not been prejudiced by delay and undercut the public interest in convicting the guilty. They could adversely affect the plea bargaining process and substantially increase demands for jury trials. We do not believe it is desirable public policy to dismiss serious criminal cases because a defendant has not been tried within a reasonable period of time, when no prejudice to the defendant has been shown, no malfeasance on the part of the prosecution can be demonstrated, and the time period involved is considerably shorter than that allowed by the Constitution.

To the extent that mandatory time limits become the subject of experimentation, relatively flexible court rules are preferable to relatively inflexible statutory commands. The Florida experience points up the desirability of a flexible approach, permitting retrenchment in the event of emergency. The Judicial Conference followed this course at its October meeting by encouraging court rules that may vary from district to district, depending on circumstances.

These ideas for improving the federal judicial system are not offered as a detailed blueprint for reform. Rather, they are meant to suggest the immense scope, difficulty, and controversy of the task before us.

There is no easy formula for speedy justice.

HELP YOUNG AMERICA WEEK

Mr. GRAVEL. Mr. President, in Alaska the week of February 21–27, 1972, has been set aside by Gov. William A. Egan as Help Young America Week. I know that Senators will want to join with me in the observance of this event, which will help five of America's leading youth groups—the Boy Scouts of America, Girl Scouts of the U.S.A., Boys' Clubs of America, Girls' Clubs of America, and the Camp Fire Girls—reach their current goals.

I ask unanimous consent that the Governor's proclamation be printed in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

PROCLAMATION—HELP YOUNG AMERICA

A National help Young America program has been launched as a major campaign to help five of America's leading youth groups reach their current goals.

The Boy Scouts of America, Girl Scouts of the U.S.A., Boys' Clubs of America, Girls' Clubs of America, and the Camp Fire Girls will share in a quarter-million-dollar Help Young America Fund following a national vote to be conducted in early 1972. These groups have a combined membership of more than nine million.

The Help Young America Program marks the first time that these five leading youth groups have united in a single youth promotion campaign, and it initiates a unique, cooperative effort between American business and American youth. The goals of the Help Young America Program are to help our young people to help themselves and to bring their needs and aims to the attention of all America.

The Help Young America Program will be officially launched in Alaska during the week of February 21, and it is fitting that recognition be given by the general public to this week.

Therefore, I, William A. Egan, Governor of Alaska, do hereby proclaim the week of February 21–27, 1972, as Help Young America Week in Alaska and urge that appropriate programs be observed by all citizens of Alaska.

RADIO FREE EUROPE AND RADIO LIBERTY

Mr. PERCY. Mr. President, I should like to comment on some of the points recently made on the floor of the Senate in connection with the legislation to provide financial support to Radio Free Europe and Radio Liberty.

First of all, let me say that we must approach this issue in terms of the present situation, not in terms of the past. The distinguished senior Senator from New Jersey called for the termination of CIA support to the two radio stations a year ago, and this support has been terminated. That is no longer the issue.

The question today is whether these radio stations play a useful role and whether their operations are compatible with the objectives of U.S. foreign policy. The distinguished chairman of the Committee on Foreign Relations (Mr. FULBRIGHT) is quite correct to pose this question.

I believe we must take a close look at our foreign policy interests. These are not fixed in concrete, fortunately. We have all of us been fascinated in recent days with the televised evidence from China that our foreign policy is open to significant movement. We are looking in some new directions across the Pacific; and within months we hope to see further movement toward the long-sought goals of greater stability and security in Europe. This is a time of hope and of change, but it is not yet a time of concrete achievement. Until the results of these bold and hopeful moves can be assessed, it would be unwise, I believe, to discard assets which are of great value and cannot be easily reconstructed if abandoned at this time.

Also, we should look to the interests of those nations with whom we work most closely in our search for greater security in Europe. It is not their view that this is the proper moment to silence the principal free and uncensored voices which are heard in Eastern Europe and the Soviet Union on the side of freedom, liberalization, and evolution within these societies. European observers who are closer than many of us to the studios of Radio Free Europe and Radio Liberty in Germany sharply defend the relevance of their programing. In the last few days, when the possible termination of the stations has been advocated here, several prominent German papers have commented, including Frankfurter Allgemeine Zeitung, which asserted on February 19 that——

> . . . In Bonn, no one doubts the elementary function which the radio station (Radio Free Europe) has for the population of the Eastern European countries.

Hannoversche Allgemeine Zeitung wrote this past weekend that:

> In this era of detente, it is all the more important that the voice of free opinion is not silenced. For what has begun now is a quiet struggle for the intellectual orientation of people in all of Europe. Communist propaganda does not know peaceful co-existence. It will continue its running fire. We must counter at least with objective information.

These are just two evidences of concern in Europe lest we dispose of these valuable facilities. They confirm my own direct impressions gained by visiting Radio Free Europe in Munich and participating in its broadcasts to Eastern Europe.

Finally, I cannot close without reference to the interests of the peoples of Eastern Europe and the Soviet Union which coincide closely with our own. They wish a secure Europe as we do, a Europe in which tensions have abated and armaments have been reduced, a Europe which has fewer barriers to the movement of people and the transmission of ideas. Until the governments of the area permit and encourage this fine flow, these two radio stations play an important role.

Boris Tsukerman, a Soviet physicist who left the U.S.S.R. in 1971 for Israel, wrote why he listened to Radio Liberty:

> In the U.S.S.R. there is a genuine need for information which cannot be gleaned from the official press and radio. The government knows of this need and tried to some extent to fill it through the so-called "White TASS," which reprints more topical reports from the foreign press. However, this publication is accessible only to a small fraction of top officials. The rest have to seek other possibilities.

Mr. President, I believe that the bill passed by the House of Representatives amending the bill passed by the Senate has merit and would provide us with a good means of reaching a year from now a more carefully considered decision than we can take now. Let me say also that I believe we should avoid subordinating the two radio stations to the Department of State. These two stations have built their reputations as independent broadcasters largely because they have not had to reflect on a daily basis the requirements of the diplomatic position of the United States. They are not another Voice of America, and we should not treat them as official broadcasters representing American foreign policy.

So long as Radio Free Europe and Radio Liberty maintain programs of objective news and responsible commentary, I believe they should be supported. They serve to show the peoples who do not have the benefit of a free press that we are concerned about them and their opinion. They serve to keep alive in many countries the hope that freedom may some day be attained.

RULES OF COMMITTEE ON APPROPRIATIONS

Mr. ELLENDER. Mr. President, pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, I ask unanimous consent that the text of the committee rules be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES GOVERNING THE PROCEDURE OF THE SENATE COMMITTEE ON APPROPRIATIONS, ADOPTED PURSUANT TO SECTION 133(b) OF THE LEGISLATIVE REORGANIZATION ACT OF 1946, AS AMENDED

1. MEETINGS

The Committee will meet at the call of the Chairman.

2. QUORUM

(a) *Reporting a bill.* A majority of the members must be present for the reporting of a bill.

(b) *Other business.* For the purpose of transacting business other than reporting a bill or taking testimony, one-third of the members of the Committee shall constitute a quorum.

(c) *Taking testimony.* For the purpose of taking testimony, other than sworn testimony, by the Committee or any subcommittee, one member of the Committee or subcommittee shall constitute a quorum. For the purpose of taking sworn testimony by the Committee three members shall constitute a quorum, and for the taking of sworn testimony by any subcommittee one member shall constitute a quorum.

(d) *Ex officio members.* In determining if a quorum is present ex officio members appointed pursuant to paragraph 6 of Rule XVI of the Standing Rules of the Senate shall not be considered.

3. PROXIES

Votes may be cast by proxy when any member so requests.

4. ATTENDANCE OF STAFF MEMBERS AT EXECUTIVE SESSIONS

Attendance of Staff Members at Executive Sessions of the Committee shall be limited to those members of the Committee Staff that have a responsibility associated with the matter being considered at such meeting. This rule may be waived by unanimous consent.

5. BROADCASTING AND PHOTOGRAPHING OF COMMITTEE HEARING

The Committee or any of its subcommittees may permit the photographing and broadcast of open hearings by television and/or radio.

6. AVAILABILITY OF SUBCOMMITTEE REPORTS

When the bill and report of any subcommittee is available, they shall be furnished to each member of the Committee twenty-four hours prior to the Committee's consideration of said bill and report.

7. POINTS OF ORDER

Any member or ex officio member of the Committee who has in charge an appropriation bill, is hereby authorized and directed to make points of order against any amendment offered in violation of the Senate rules on the floor of the Senate to such appropriation bill.

RATE INCREASES BY PUBLIC UTILITIES

Mr. HARRIS. Mr. President, the Price Commission began a series of hearings today on rate increases by public utilities. This is a matter of growing concern to the average American for, as the Commission noted when it called the hearings, 40 percent of the public's complaints have involved utility rates. I ask unanimous consent that the text of my testimony before the Commission this morning be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR FRED R. HARRIS

As the Commission begins its first round of public hearings on a major issue before it, it is faced with one overwhelming fact: the average American just doesn't think wage and price controls are being administered fairly. A poll recently commissioned by The Wall Street Journal reported that 55% of the American people feel that the price controls are not fair across the board, while 56% held the same view of the wage controls. This is why the issue facing us today is not only fair regulation of utilities but the overall fairness of the entire Phase II program.

There are some worrisome questions of propriety. Judge Boldt, the chairman of the Pay Board, was wined and dined in New York by an executive of General Electric. No one objects to the designated representatives of business and labor retaining their ties to their home organizations. But people are understandably disturbed to see *public* members of the Pay Board like Neil Jacoby of Occidental Petroleum retain their seats on the boards of directors of giant corporations.

People worry, too, about the possibility of a kind of socialism from the right, allowing profits to rise while controlling wages. In its February 16 issue, The Gallagher President's Report, a business newsletter, told corporate executives that for the "first time in 25 years company presidents gain [the] upper hand over unions. Reversal of roles facilitated by 1) Nixon Administration's program of wage/price controls; 2) increased automation by private sector; 3) high rate of unemployment; 4) continued plant closings, worker layoffs."

The results of the wage and price control program are pro big business. First, the rules are so complicated the ordinary person simply cannot participate in enforcing them. Arthur Okun, former chairman of the President's Council of Economic Advisors, has said, "On the price side, the thing is 99% Rube Goldberg. . . . There is enough elasticity for a good lawyer and accountant to get whatever a company wants from the Price Commission." The Commission's own figures indicate it has granted 95% of the requests for price increases which it has decided.

The weighted average of wage increases approved by the Pay Board was 5.67% as of February 4, according to its own figures, within a fraction of a percent of its goal of holding increases to 5.5%, while the Wall Street Journal reports that "most analysts expect an actual increase in pretax profits of about 15%" this year.

Take the example of steel, which is a classic shared monopoly with the power to raise prices regardless of the state of the market. As a result, American steel is dangerously overpriced, under pressure from foreign imports, and operating at about 50% of capacity. The last thing this industry, and its 100,000 laid off workers, needs is another price increase.

Yet, at the beginning of Phase II the steel companies applied to the Price Commission for a price increase. The Commission gave the industry an across the board price rise of 3.6%, which each company could allocate to each product line as it wished. Typically, virtually the entire increase went into product lines in which the companies face little competition. Prices for cold roll steel—that used to make cars, refrigerators, and such—went up by 7.2%, double the across the board rate approved by the Commission. On the other hand, the prices for structural steel—that used for buildings and bridges—didn't go up at all. It seems that it is in structural steel that American companies face stiff competition.

Thus, we find that even under wage and price controls, big steel companies can raise their prices at an inflationary rate when they have the market power to do it. And the Price Commission has not stopped them.

So far, the New Economic Program has helped to preserve the old mal-distribution of income. The working poor and the aerospace worker and the consumer are asked to sacrifice, while General Motors is allowed to maintain its monopoly rate of profit of 20% of its stockholders investment. The new Chairman of the Board, of GM, Richard Gerstenberg, doesn't have to worry about losing an expected raise, when he starts out with an income of over $800,000.

An anonymous White House official told the New York Times last month, "Equity in this program means that we preserve the real economic relationship of all participants at a lower level of inflation . . . Social justice is not a panacea for the world's problems."

This is the context in which we must consider today an appropriate policy for controlling rate increases by public utilities. People are concerned about the fairness of controls. This is especially true in case of utility rates. As the Chairman noted when he called these hearings, 40% of the public's complaints to the Price Commission have involved utilities.

Whatever the changes in the wording of the rules and regulations over the last several months, the Commission's policy of leaving the bulk of responsibility for controlling inflation in the utility industry to the existing regulatory agencies essentially meant decontrolled utilities. As Senator Lee Metcalf of Montana has said, "Anyone who has any experience in public utility regulation knows that state regulatory agencies, for the most part, are dominated by the businesses they regulate, because of the inequities in regulatory procedures. The commissions have neither the resources, staffing, nor inclination to generate an aggressive testing of the evidence produced by the companies. To rest with these agencies the additional role of enforcing a coordinated, national economic policy installs the rabbits as guardians of the public's lettuce."

The inequitable procedures Senator Metcalf mentions are compounded in Phase II by the fact that consumers are not allowed to participate in an adversary proceeding before the Price Commission on utility rates and cannot appeal its rulings in court.

The most important factor to consider, however, in setting a pricing policy for utilities is how enormously profitable these companies are right now. In 1970, the average return on stockholders investment in the 184 biggest electric power companies was 11.33%. That's about twice the rate of profits of firms in a competitive industry. And of course there is virtually no risk in investing in utilities—they provide a necessity to a captive market. The fact is that many, perhaps most, of the public utilities in this country are overcharging their customers right now. An anti-inflationary pricing policy would require them to lower their rates, not raise them.

Yet during the year that ended September 30, 1971, the state regulatory agencies granted increases totaling $1 billion to electric power companies alone, according to the Federal Power Commission. At the same time there was another $1.2 billion in rate requests from electric power companies pending before state agencies. When you add in gas pipeline requests pending before the FPC, and telephone company rate increases pending before the Federal Communications Commission and the state agencies, the total is well over $3 billion.

With this kind of potential for driving up the cost of living in the hands of utilities, the Price Commission's past policies in this area are indeed discouraging. On November 29 of last year, when the Commission took its first step toward laying down some guidelines for the state regulatory agencies to follow in considering rate increases, it said that productivity gains by utilities had to be passed on to consumers. In a press release of that date, the Commission said that state and federal regulatory agencies must certify to the Commission that any rate increase which they granted must, among other things be "reduced to reflect productivity gains." This guideline was quite significant since productivity has traditionally risen faster in the utility field, especially in electric power, than in others. According to the studies of productivity expert John W. Kendrick at the George Washington University, productivity in the electric power field has been twice that in the economy as a whole. While the size of the gains has decreased in recent years, according to Professor Kendrick, power companies still out pace other industries. It was therefore encouraging to see the Price Commission take this factor into account when it announced its guidelines for the existing regulatory agencies. In its November 29 press release, the Commission noted that "this policy will be printed in a few days in the Federal Register."

However, when the policy was finally printed in the Federal Register on January 14, 1972, all mention of passing on productivity gains to the consumer had been removed. From an Administration so concerned about increasing productivity that its officials insist on lecturing people about it at every opportunity, we have heard nothing about productivity in the utility field since that press release of November 29. All the other guidelines mentioned in that press release were carried in the regulations issued January 14. But not those on cutting back utility rate increases.

In any case those are past mistakes. What's to be done now? I propose that the Commission reject the myth that the existing regulator agencies can do the job by themselves. What the state and federal agencies need is some firm and detailed directives from the Price Commission and the knowledge that if they deviate from those directives their decisions will be overturned. People have a right to expect that the Price Commission will put a stop to skyrocketing utility rates.

That means:

(1) The Commission must set a fair return on the stockholder's equity to guide the regulatory agencies in setting the utilities' rates of return. The rate of return, as the phase is commonly used in utility regulation, is a lot of hocus pocus that hides the stockholder's profits. It's what the stockholders get—the return on equity—that really counts; and that's what the Price Commission must set some limit on. There is no reason why owners of a no risk monopoly should earn twice the rate of profit of a small businessman in a competitive market. It's not fair to the small businessman; it's not fair to the consumer, and it drives up the cost of living.

(2) The Commission must make sure that as interest rates go down for utilities, those savings are passed on to consumers. In recent months interest rates on high grade utility bonds have dropped from 9.1% to 7.5%, and they will probably go lower. Requests for rate increases submitted before interest rates fell must be adjusted accordingly.

(3) The Commission must require that lower taxes on utilities resulting from the Revenue Act of 1971 be passed on to their customers. The utilities got its own benefits out of that corporate tax giveaway plan, including liberalized depreciation rules and an increase in their investment tax credit from 3% to 4%.

The consumer should realize all those savings.

(4) The Commission must reinstate the requirement mentioned in that November 29 press release—productivity gains must be passed on to the consumer. If, as President Nixon believes, the long-term solution to inflation is increased productivity, there is no better place to begin than in the public utility field.

(5) The Commission should require the existing regulatory agencies to use the maximum suspension periods allowed for rate increase requests. Every day that a regulatory agency puts off a rate increase by suspending it, it is fighting the "inflation psychology" that the President has called attention to.

(6) The Commission should outlaw the "fair value" standard of evaluating a utility's rate base. Since the utilities are allowed to earn a profit on every bit of their plant and facilities that they can convince the regulatory agency to include in their rate base, what is included and what value is assigned to each item can mean a lot to the consumer in dollars and cents. In over a dozen states, regulatory agencies are allowed to assign a "fair value" to each piece of the company's property regardless of what it actually cost to build. This practice inflates the size of the rate base, the utility's profits and, finally, the rates the consumer pays. The Commission should simply outlaw the "fair value" standard and require that all plants and facilities be valued according to what it actually cost to build them. Such a policy can only lead to lower rates.

(7) The Commission must continue its requirement, included in its January 14 set of regulations, prohibiting regulatory agencies from granting increases which "reflect further inflationary expectations."

(8) Finally, the Commission must be willing to roll back utility rates that are already too high. We are never going to beat inflation so long as prices can only go up; some prices must come down and public utility rates are mighty deserving candidates for that honor. Especially in an industry with rapidly rising productivity, the Price Commission must be ready to force prices down where necessary.

The facts are simple. The ordinary American doesn't think the wage and price controls are fair. He thinks big business is getting a better break under Phase II than he and his family are getting. And he wants things evened up.

Getting tough with rising utility rates is a good place to start. And, as I have outlined them above, there are some very specific ways the Commission can do that.

THE ADMINISTRATION'S PROPOSED FAMILY ASSISTANCE PROGRAM

Mr. BYRD of Virginia. Mr. President, Anthony Harrigan, executive vice president of the Southern States Industrial Council, has analyzed the administration's proposed family assistance program.

It contains a lot of facts of which Congress and the public should be aware.

I ask unanimous consent that Mr. Harrigan's statement entitled "The Truth About FAP" be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE TRUTH ABOUT FAP

Apologists for the current welfare system often contend that the rolls are made up largely of the aged, blind, disabled and, of course, children. Therefore they insist that very few recipients are capable of earning their living as an alternative to subsidy. That this claim is, strictly speaking, true obscures may realities about American welfare and prematurely dismisses significant arguments against President Nixon's gargantuan Family Assistance Plan (FAP) which has passed the House as H.R. 1 and is now before the Senate.

In fact the three "adult programs" in the federal public assistance system, aid to the aged, blind and disabled, constitute barely one fourth of the whole cost,[1] with the overwhelming majority devoted to Aid to Families with Dependent Children (AFDC), a system which has ironically made participating parents as dependent upon their children as their children are upon them.

When federal aid to children was first conceived in 1935 its backers called the scheme "Aid to Fatherless Children," intending the beneficiaries to be orphans or children whose father was in some way incapacitated.[2] But when the program got on the books the name was changed to Aid for Dependent Children (ADC), and a seemingly innocuous phrase referring to a father's "continued absence from the home" was slipped in as one standard for eligibility. At first the measure stayed largely within Congressional aims, and five years later considerably less than a third of all ADC recipients were on the rolls as a result of the father's absence.[3] By 1961. however, children of absent fathers represented nearly two thirds (63%) of the total,[4] and that same year, in an effort to discourage such paternal desertion, Congress made children of unemployed fathers eligible as well, in those states which agreed to the change. Even so, by 1970 children with absent fathers had risen to 73% of the total, and strangely, this change was most marked in states where children of unemployed fathers were eligible for grants.[5]

In 1962 the name of the program was changed to Aid to *Families* with Dependent Children (AFDC) and nine years later there were 2.8 million adults on AFDC rolls, in addition to an approximately equal number receiving benefits under the official "adult" programs.[6] Congressional intent was thwarted, however, as the rate of absentee fathers continued its relentless growth.

It was not a mindless desire to squander public funds which motivated the Congress thus to expand welfare eligibility; indeed lawmakers almost unanimously had exactly the opposite intention. Likewise President Nixon tells us that FAP will get people "off the welfare rolls and onto payrolls." Yet the grand total of AFDC recipients has quintupled in the last fifteen years, doubled in the last four, and FAP proposes to double it again.[7] President Nixon has tried to sell the plan to Congress by stressing its work incentives and the fact that no one would be better off on the dole than on the job. The fact remains that such work incentives by reducing welfare payments, would subject a recipient to a 67% tax on earnings, leaving him 67¢ an hour if the base pay were two dollars. Common sense dictates that few people, especially the least motivated members of society, would work at boring, menial jobs for such a reward, particularly when FAP *guarantees* a family of four an income of $2400 plus substantial fringe benefits, regardless of work. Passage of FAP will prove that Congress has failed to learn what it should have learned ten years ago—increased benefits will continue increased paternal desertion because, as Dr. Roger Freeman testified to the Senate Finance Committee:

"No combination of benefits or earnings and benefits can alter the fact that a man can still maximize his and his family's income by desertion: he can then keep whatever he earns—instead of only one third as he would under plans in H.R. 1—and let his family be supported by AFDC."[8]

The current welfare structure is plainly inadequate, and while FAP represents an even worse alternative, a general consensus does exist to the effect that some drastic change is desirable. Certainly the most serious welfare problem is the absent father, and some Congressmen, such as Senators Harry Byrd and Russell Long, believe that the best way to deal with it is to make desertion a federal offense. H.R. 1 goes halfway in this direction, by making a deserting father who crosses state lines subject to federal prosecution, but only about ten per cent of absent fathers are known to have changed states.[9] To be truly effective, federal law should cover all deserting fathers regardless of residence who leave their families dependent upon AFDC funds largely provided by the federal government.

And welfare mothers should be firmly encouraged to assist in establishing the whereabouts and often even the identity of the missing father. Mothers now have an incentive not to bring back their mates since the missing man is generally not productive enough to support the family on his earnings alone as well as they had been living on AFDC, supplemented perhaps by his own surreptitious additions. Although the mother

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Footnotes at end of article.

is now protected in her silence by HEW's confidentiality regulations, Congress can legislate an end to this counterproductive "right" and should authorize federal investigative forces such as the FBI to join the search for the elusive fathers.

Additionally the myth must be exploded that it is the scarcity of day care facilities which prevents mothers of young children from working. Statistics show that while fifteen million mothers worked outside the home in 1970, day care centers had capacity for only 750,000 children. In 1965 the Children's Bureau found that 46% of all children of working mothers were cared for in the home, mostly by relatives, 15% went to another home and only 2% were in day care centers.[10] It is reasonable to suppose, therefore, that the huge majority of mothers can, if they wish, find some means of caring for their children during working hours, especially now that new laws allow tax deductions for household help in families earning less than $18,000.[11] As Dr. Freeman has observed, the important question is whether the mother "truly wants to take the type of job she can handle at the wage it pays, or would rather be on welfare."[12] With what some estimated as "several million" domestic jobs going unfilled,[13] the lack of available employment cannot credibly be argued.

But perhaps the most important welfare reform is also the simplest. Rather than federalizing public assistance as in FAP, states should be granted wider discretion to set their own welfare standards. Governor Ronald Reagan testified to the Senate Finance Committee on February 1 that his administration had cut nearly half a million potential welfare recipients from the rolls in California and had thereby been able to raise benefits to those truly needy who remained. Some Reagan proposals included denying aid to families of strikers and making recipients who could not find private employment work for no additional pay at public jobs that would not otherwise be filled. One provocative sidelight to Reagan's presentation occurred when the Governor was asked what had happened to the citizens his changes had caused to become ineligible for welfare. While Reagan naturally could not specifically answer the question, he did observe that the unemployment rate in his state had remained stable, and he did not mention any sudden onslaught of Californians dying in the streets for lack of any means of survival. Likely they had returned to where they should have been all along, working within the private system at jobs which circumstances no longer permitted them to feel were too boring or too menial.

FOOTNOTES

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[1] Richard A. Snyder, "Welfare: Separating Myth and Fact" Wall Street Journal, January 27, 1972, p. 10.

[2] "Statement of Roger A. Freeman, Senior Fellow of the Hoover Institution on War, Revolution and Peace before the Committee on Finance, United States Senate" January 27, 1972, U.S. Government Printing Office, Washington. p. 13.

[3] "The Welfare Mess: A Scandal of Illegitimacy and Desertion," an address of Hon. Russell B. Long, Chairman, Committee on Finance, and Supporting Material, U.S. Government Printing Office, Washington, Table 2, p. 12.

[4] *Ibid.*, p. 13.

[5] "Statement of Roger A. Freeman," p. 31.

[6] *Ibid.*, p. 47.

[7] *Ibid.*, pp. 57–58.

[8] *Ibid.*, p. 39.

[9] "The Welfare Mess," Table 6, p. 17; "Statement of Roger A. Freeman," p. 42.

[10] *Child Care Arrangements of the Nation's Working Mothers*, Departments of HEW and Labor, 1965, cited in "Statement of Roger A. Freeman," p. 50.

[11] "Washington Newsletter from Senator Russell B. Long," January 1972, p. 1.

[12] "Statement of Roger A. Freeman," p. 53.

[13] Martin J. Shannon, "Importing of Maids Swells as U.S. Girls Shun Domestic Work," Wall Street Journal, November 9, 1966, cited in "Statement of Roger A. Freeman," p. 55.

KENTUCKY DEVELOPS A BEEF INDUSTRY

Mr. COOK. Mr. President, a recent report issued by the U.S. Department of Agriculture shows that the Commonwealth of Kentucky ranks 11th in inventory of beef and milk cows when compared with the other 50 States of the Union. In addition, as of January 1, there were in excess of 44,000 head of cattle and calves on Kentucky feedlots being fattened for slaughter.

It is obvious that the Commonwealth has been quietly and slowly developing a new industry and has now emerged as a cattle State of some significance. Part of this growth can be attributed to the meat import law adopted by Congress in 1964.

The intent of this law was to stabilize not to stop the flow of beef imports to this country. It is a good law. It has allowed other countries to sell more meat to the United States while at the same time permitted substantial growth in domestic production. As a result the American cattle producer has finally reached the point where he can expect a reasonable return on his investment and labor. I would hate to see this trend reversed. But there is a danger that a reversal could occur.

There have been reports that certain officials within the administration are urging the President to authorize substantial increases in meat imports. I am against such action. I submit that an increase in beef imports would not result in any adjustment at the retail level but would in all likelihood, precipitate lower prices for the producer. These lower prices would have to be absorbed during a period that production costs are increasing. A severe setback to these producers could result.

I am interested in preserving and increasing beef production in my State not only because of the economic advantage accruing to Kentucky but because this industry contributes to the solution of a problem which effects the environment of the Nation.

Recently members of a subcommittee of the Senate Interior Committee visited Kentucky for a first hand view of the effects of surface mining on the landscape. These members were shown the results of adequate and inadequate reclamation of land which had been surface mined. The inadequate still needs to be corrected. But the members were impressed with the results of specific well executed reclamation plans. They were shown areas which had been graded and seeded, and which now provided excellent pasture land for cattle. It is impressive to see cattle grazing on relative flat land which was once a steep mountainside. There is substantial evidence that as more controls are exercised on surface mine operations and the resultant reclamation of these lands, more productive land suitable for pasture will be available.

I repeat that I oppose any action to increase beef imports. I do not believe that such action is in the best interest of the economy of this Nation as well as the attempts by the various States to solve related problems.

PEACE CORPS CRISIS

Mr. WEICKER. Mr. President, the Peace Corps is facing a crisis. Last January, President Nixon requested a "barebones" budget of $82.2 million for all the Corps' activities. The continuing resolution of December reduced this amount by over 12 percent to $72 million and the House cut out even more by agreeing to a spending ceiling of $68 million.

Unfortunately, this is only half the story. Since the Peace Corps has been authorized in July to spend at an annual rate averaging $80 million, they had already gone through $40 million by December 31, the mid-point of the fiscal year.

So, if we now agreed to the House appropriation, we would reduce the Corps' budget from $40 million to $28 million over the second half of the fiscal year—a cut of 30 percent. The result would effectively kill about half of the Peace Corps programs and cripple its future activities by drastically reducing the number of future volunteers in training.

The Peace Corps is indeed in crisis.

But now, Mr. President, comes the real irony. The budget for the most promising American promoter of international peace is one-tenth of 1 percent of the amount we spend to prepare for war.

Fortunately, the Senate Appropriations Committee and the Full Senate added $9.2 to the amount approved by the House, bringing the Peace Corps at least within shouting distance of the President's original request. Now it is absolutely imperative that the joint conference approve the full $77.2 million passed by the Senate.

Peace Corps Director Joseph Blatchford has estimated that if the appropriation is left at $68 million, 4,000 or fully half of all the Peace Corps Volunteers will have to return home immediately. This would completely wipe out programs in 15 countries and drastically reduce those in 40 others.

Mr. President, I can think of nothing more disastrous for our image abroad and at home. Governments and people worldwide would rapidly become convinced that American pursuit of peace, American offers to aid developing nations were little more than empty rhetoric. Here at home, millions of Americans who have come to see the Peace Corps as an idealistic yet uniquely effective weapon for peace would be badly disillusioned.

NATURAL GAS POLICY HEARING

Mr. BYRD of West Virginia. Mr. President, on behalf of the distinguished Senator from Washington (Mr. Jackson), I ask unanimous consent to have printed in the Record a statement by him relating to the natural gas policy hearing.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JACKSON ANNOUNCING WITNESS LIST FOR NATURAL GAS POLICY HEARING

Mr. President, on February 25, 29 and March 2, 1972 the Senate Committee on Interior and Insular Affairs will hold hearings to review natural gas policy issues. The hearings are being conducted pursuant to S. Res. 45 which authorizes the Interior and Insular Affairs Committee, with ex-officio representation from the Commerce and Public Works Committees and the Joint Committee on Atomic Energy, to undertake a study of National Fuels and Energy Policies. The hearings will be held in Room 3110 of the New Senate Office Building beginning at 9:30 a.m. each day.

The purpose of the hearings will be to review with selected Federal agencies and with selected witnesses the major policy issues related to natural gas supply and demand, exploration, production, distribution, and regulation.

A list of natural gas policy issues to which witnesses have been asked to respond was published in the Congressional Record on February 9, 1972 (S1487). The following is a schedule of invited witnesses.

FEBRUARY 25, 1972

Morning

Honorable Hollis M. Dole, Assistant Secretary for Mineral Resources, Department of the Interior.

Dr. M. A. Adelman, Massachusetts Institute of Technology, Cambridge, Massachusetts.

Charles Frazier, National Economic Research Associates, Philadelphia, Pennsylvania.

Afternoon

James E. Akins, Director, Office of Fuels and Energy, Bureau of Economic Affairs, Department of State.

Lee White, Former Chairman, Federal Power Commission, Semer, White & Jacobsen, Washington, D.C.

Paul W. Lattimore, Mayor, Auburn, New York, National League of Cities, U.S. Conference of Mayors.

FEBRUARY 29, 1972

Morning

John N. Nassikas, Chairman, Federal Power Commission, Washington, D.C.

Joseph Swidler, Chairman, New York State Public Service Commission, Albany, New York.

Jeffrey Montgomery, Chairman, Natural Gas Committee, Independent Petroleum Association of America, Washington, D.C.

W. L. Culbertson, American Petroleum Institute, Washington, D.C.

FEBRUARY 29, 1972

Afternoon

G. J. Tankersley, American Gas Association, Arlington, Virginia.

Charles Wheatley, General Counsel, American Public Gas Association, Washington, D.C.

W. Donham Crawford, President, Edison Electric Institute, New York, New York.

James T. Jensen, Arthur D. Little, Inc., Cambridge, Massachusetts, and Thomas Stauffer, Research Associate, Center for Middle Eastern Studies, Harvard University.

Carl Bagge, President, National Coal Association, Washington, D.C.

MARCH 2, 1972

Morning

General George Lincoln, Director, Office of Emergency Preparedness, Washington, D.C.

Environmental Protection Agency, Washington, D.C.

Walter E. Rogers, President, Independent Natural Gas Association of America, Washington, D.C.

Edward Berlin, General Counsel, Consumer Federation of America, Washington, D.C.

Afternoon

John F. O'Leary, Washington, D.C.

Arthur T. Woerthwein, Chairman, GAMA's Gas Availability and Supply Committee, Gas Appliances Manufacturers Association, Arlington, Virginia.

R. Hefner, III, Clover, Hefner, Kennedy Oil Co., Oklahoma City, Oklahoma.

Maxwell Hill, Union Carbide Co., New York, New York.

Due to the limited time available for these hearings the Committee will not be able to take testimony from everyone wishing to testify. The Committee does, however, welcome any statements or recommendations on the policy issues the Committee has identified as important elements in the development of a coherent and comprehensive national energy policy. Any statements received will be carefully reviewed and made a part of the Committee's hearing record.

THE AMERICAN TAX SYSTEM—UNFAIR—TAXES: TIME FOR FAIRNESS AND JUSTICE

Mr. HUMPHREY. Mr. President, the American taxing system—at all levels of government—is complex, overlapping, and fragmented.

I think it is the responsibility of government to make certain that taxes are just and no one gets a special deal.

But that is not the way it is with our present taxing system.

The present system is unfair.

It is rigged against the workingman.

It is rigged against the average family.

And it is rigged in favor of unearned income.

It is a system that penalizes the little man who works, and rewards the wealthy investor who gets checks from stocks, bonds, and large dividends.

Let us examine our taxing system.

Our citizens are subject to all kinds of taxes. On a $30,000 home, he pays an average property tax of $700. On a monthly electric bill, he pays an average of $3. His weekly grocery bill of average $50 includes about $2.50 in taxes. His monthly paycheck is subject to Federal income tax, State income tax, county income tax, and social security taxes. Telephone taxes on an average $18 phone bill cost $2.35 a month. There is sales tax on new tires. Drivers licenses, car certificates, title transfers, dog licenses—all costs money. His gasoline taxes average about 13 cents on a 37-cent gallon of gas. Cigarette taxes are about 22 cents a pack and going to a movie costs about 10 cents in amusement taxes. And on his or her death there will be inheritance taxes to pay.

In a 40-hour workweek, the average citizen spends 13 hours and 5 minutes earning enough money to pay his or her taxes. Or, on a daily basis, he or she spends 2 hours and 37 minutes working to pay his taxes. On the other hand, medical costs require 23 minutes of an 8-hour day; food requires 1 hour and 3 minutes; housing requires 1 hour and 1 minute; transportation requires 38 minutes; recreation, 19 minutes; and clothing, 25 minutes.

What all these taxes mean is that a once-progressive system of taxation has become a regressive system of taxation, and the once true theory that taxes ought to be based on one's ability to pay has been turned into a yearly game of tax payment avoidance with the result that some millionaires have escaped paying taxes.

In 1969 over 300 Americans with incomes in excess of $200,000 paid no income tax. Fifty-six of these Americans were millionaires. In 1970, more than 100 Americans with incomes of $200,000 paid no income tax. Yet, an average worker making $8,000, with a wife and two children pays $801 or 10 percent of his income in Federal income taxes.

This is neither right, nor just, nor fair.

Additionally, much of our Federal taxes go to pay for the cost of past wars—spending escalated by debt borrowing and rising interest rates on the public debt. The per capita cost of this debt is $1,816—a greater amount than the poverty level for a single individual. Federal debt is now over $400 billion. And the administration continually has to return to Congress asking for increased borrowing power.

Increasing taxes, increasing hours of work to pay for these taxes, and increased debt limits and deficits are only compounded in their heavy burden through the unequal, unfair, and regressive nature of who bears the most of the tax burden.

Federal, State, and local governments collect more than $275 billion in taxes a year. The Federal Government collects about $90 billion in personal income tax a year. However, 2 percent of the people in the United States receive 22 percent of the income and pay less than 10 percent of the taxes. The working man or woman making between $8,000 and $15,000—that is 26 percent of the people—makes 20 percent of the total national income, but pays 36 percent of the taxes.

Inflation has had its effect on the tax burden also. It has caused the burden of taxes relative to constant income to rise to a level almost as great as the sum of all the tax cuts since and including 1964. It seems that the much heralded tax cuts of 1969 and 1971 have had little effect. Economist Henry Wallich reports that "only for the lowest bracket—those with adjusted gross incomes of less than $5,000, has there really been a substantial reduction in the effective tax rate." Wallich further argues that, "Inflation * * * has shifted the taxpayer into a higher income class and tends to raise his real (tax) burden." Thus the "fiscal middle American" only finds his tax burden increased, not decreased by the combination of economic factors operating in our society today. In other words, the heaviest tax load is carried by middle-income Americans, with low-income earners burdened by a host of miscellaneous taxes such as sales tax, wage taxes, excise taxes on gasoline, telephone, tobacco, automobile parts, and so forth.

There is another group that is hurt by our taxing system—the poor and the near poor. Until 1970, the number of families living in poverty was decreasing, from some 39,851,000 in 1960 to 24,289,000 in 1969. In 1970, with high unemployment and a generally depressed condition of the national economy, the number of persons living in poverty actually increased by 1.2 million, or a gain of 5.1 percent.

Yet, these same poor people—those

making a total adjusted gross income of less than $6,000 pay over $5.4 billion in direct taxes, $2.8 billion of taxes in social security, and $2 billion in indirect taxes shifted back on wages, and over $14.5 billion in indirect taxes shifted forward on consumers.

During the debate on the Revenue Act of 1971, I offered an amendment which would have eliminated the poor from Federal tax liability. My amendment was adopted by the Senate, but the Nixon administration fought it in conference committee as being "too costly." As I said during the debate in November:

> The treasury loses this revenue. There is no getting around it. But it loses it from those who can least afford to pay, and may I say from those whom society can least afford to tax.

The same holds true today. There is something unfair about a society that taxes poor people while millionaires and the wealthy are allowed to escape from taxation.

And there is something unfair about an administration and its Treasury Department that has become the advocate for the special interest. The Nixon Treasury has proposed legislation which allows a few big businesses to set up tax-free dummy corporations to sell their goods overseas; it has fought for legislation that would permit corporate giants a super-fast writeoff on their machinery, saving them billions in tax dollars every year. It has fought against increasing the amount of money a taxpayer can deduct for his dependents.

Under the Nixon administration, the Treasury has ceased its traditional role as the great bulwark against the special interest. It abdicated that responsibility and joined with special and privileged interest to sponsor legislation against the public interest.

THE FEDERAL TAX SYSTEM

The Federal Government collects over $146 billion dollars in taxes—not including trust fund taxes—that is over $123 billion in income taxes including $90 billion in individual income taxes and $32 billion in corporation taxes.

If you are wealthy, there are a whole series of tax escapes one can use. One could invest money in tax-exempt State or municipal bonds; one could go into the oil business; one could set himself up as a foundation; one could join a number of corporations and benefit from multiple pension plans; one could design a living trust fund; or split his income; or invest in captal gains taxation taxed at less than half the ordinary rates.

In short, our Federal income tax system is riddled with tax loopholes. Here are just a few that must and should be closed:

Is it fair that one giant oil company earning over $2.8 billion a year is permitted to pay less than 10 percent of its total income in taxes?

Is it fair that big business got a $9 billion tax break from the Nixon administration in the Revenue Act of 1971 through superfast machinery writeoffs and phony export devices?

Is it fair to the family farmer who struggles to make a living and pays high taxes while doctors and lawyers with big incomes play weekend farmer by buying farm property and grow tax deductions?

Is it fair for 10 percent of our people to use all sorts of tax dodges and tax shelters to avoid paying?

I do not believe so. I believe we must close these and other loopholes.

Payroll taxes are another source of inequitable tax burden on middle-, moderate-, and low-income families. The great percentage of payroll taxes at the Federal level are collected by social security taxes. The social security payroll tax collected over $42.9 billion in 1971—second to collections of the income tax and greater than the total corporate tax receipts of $35 billion. In 1972 the payroll tax will collect an estimated $48.1 billion.

All of this money comes from taxes on the first $7,800 of a worker's wages. Under legislation presently pending before the Senate, this wage base will increase to $10,300 with a total tax rate of 7.4 percent. What this means in terms of dollars is that the average wage earner will find himself paying a $754 in flat tax over and above the property, income, and sales taxes.

The payroll tax burden is becoming intolerable. It is not progressive. It is regressive. It is not spread equitably throughout the population. It is concentrated on those who make less.

The Nation desperately needs a change in the financing of social security. Numerous methods have been proposed—from progressive tax rates, to rebates for the poor on their social security taxes, to general revenue financing. On November 11, 1971, I introduced S. 2838, legislation that would begin one third general revenue financing of social security and railroad retirement benefits. Under this plan, a worker making $5,000 in 1972 would pay $140 maximum instead of $210. And a worker making $7,000 would pay $156 instead of $299. The social security tax for a $10,000-year employee would be $280.

This kind of change is vitally necessary—not only to give tax relief to present workers, but also to provide increasing benefits to our elderly.

STATE TAXES

Thirty-nine States now collect broad-based personal income taxes, 45 levy general sales taxes, 50 States have gasoline taxes, and 43 collect corporation income taxes. And the burden of State taxes is growing. In 1972 alone States such as Arkansas, California, Florida, Maine, Minnesota, Massachusetts, New York, Pennsylvania, and Ohio increased their tax rates or introduced new forms of taxation. Between 1959 and 1969, State taxes doubled in all but 10 States.

Sales taxes alone collect some $80 billion a year. But, the sales tax is a regressive tax. It is a consumption tax. It hits hardest on the poor and those with incomes below $10,000.

Tax reform in the States is not less important than tax reform in the Federal Government. But tax reform in the State is of a different nature than at the Federal level. For one thing, the Federal Government can play a large part in bringing about tax relief in the States. We can pass revenue sharing and include enough money both to make a dent in the problems and provide partial relief.

We can pass welfare reform in a manner that provides complete Federal funding of all State welfare costs.

And the Federal Government can begin to encourage States to have the most progressive tax system—the income tax—if that State needs and votes one.

We can have increased credits against Federal income tax for a States tax.

We can have Federal collection of State tax, both to cut the administrative expenditures and to simplify the complex systems in each of the States.

There are changes that must and should be made.

LOCAL LEVEL—PROPERTY TAX

The foremost tax at the local level is the property tax. There is no question that the property tax is regressive. It becomes even more regressive when it is used as the sole support of educational expenses. Over $30.6 billion is collected each year by the property taxes. Local governments in the United States receive about 86 percent of their total tax revenue from it; and school districts receive about 98 percent of their revenue from it.

At one time, the property tax made sense. Services were minimal, and local control was assured by having the taxing effort and the spending decisions coming from the same locality. Today, however, many cities and communities have reached the limit of the amount their property tax can produce. People are turning bond issues down because of the fear of increasing property taxes. The rate of school bond rejection has risen from 33 percent in 1964 to over 50 percent in 1970.

The property tax is a very heavy burden on the elderly living on fixed incomes and on the poor who find they are already strapped by low earnings and find rents increasing because of property tax increases. Cities find they are continually relying on a property tax base that just is not growing and, in fact, is declining.

The property tax discourages rehabilitation and improvements on housing, it discriminates because assessment procedures and practices are not current, and there exists a great disparity among local governments and among school districts, with affluent districts having better services, better schools, a higher quality of education, than poor communities and poor school districts.

In short, the property tax may well be a good sound tax to pay for fundamental community services and community government. It is not a sound tax to pay for school, educational, and welfare costs.

What must be done is to find an alternative method of financing school costs—with vast new participation by the Federal Government as a money supplier; with changes in the State as to the uniformity and equitability of property taxes; and with continued local control over fundamental school decisionmaking.

There are a variety of methods we could use.

But one is not the Nixon administration's proposal of a value-added tax.

I will not support and I cannot vote for any value-added tax. Indeed, it is the height of hypocrisy for the Nixon administration even to think of placing a giant size national sales tax on the American people when the income tax system is riddled with unfairness and loopholes, and when the States do want to take action to remedy their own situations.

The value-added tax is nothing but a consumption tax that means higher taxes for middle Americans and lower taxes for the wealthy. It will increase the cost of living, it will place an unconscionable burden on the poor, and it will play havoc with the tax base of local communities.

We need more funds. But we do not need them from a value-added tax.

I believe that the Federal Government must expand its education effort many times fold. The Federal Government should pay at least one-third of the total cost of public elementary and secondary education. We can create an education trust fund into which this money would be paid, and then allocated to the States on the basis of educational need.

At the same time, we can provide incentive funds if local areas place a ceiling on the growth of the property tax, and rebate that part of the property tax utilized for educational funding. Finally, the funding from the Federal Government for educational purposes might be contingent upon other goals such as first, a more equitable method of raising revenue within the State, second, giving the States wide latitude to achieve some equity in their revenue producing mechanisms, and third, a more equitable method of distributing public revenues for public education.

Just as we need high standards of public services throughout the Nation, we also need high standards of education quality and opportunity among all school districts.

A method of funding which follows the principles I have outlined above will accomplish the public goal.

What then are the objectives and goals of a taxing system for this Nation?

First, we must close the door shut on the loopholes of special privilege for the wealthy and the giant corporations.

Second, we must promote the inventiveness and imagination among all our people by making certain that the tax system does not penalize some for the advantage of others.

Third, we must end the fast writeoffs, the tax dodges, and tax shelter, and other undue tax breaks that make our tax system unfair for the majority of us.

Fourth, we must eliminate from Federal tax liability the poor and impoverished.

Fifth, we must reduce the burden for low- and moderate-income-tax families.

Sixth, we must bring the taxing systems of the Federal, State, and local governments into harmony with each other so that these systems are truly progressive.

Seventh, we must reduce the burdens of the property tax and payroll taxes through a more equitable method of paying for school costs, social security, and welfare.

Our goal must be to achieve tax justice through fairplay in our tax system.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest that the morning business be concluded.

The PRESIDING OFFICER. If there is no further morning business, morning business is concluded.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2515) to further promote equal employment opportunities for American workers.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

The hour of 11:15 has arrived, and pursuant to the unanimous-consent agreement the remaining time between now and 12:15 p.m. will be equally divided and controlled by the manager of the bill, the Senator from New Jersey (Mr. WILLIAMS), and the Senator from North Carolina (Mr. ERVIN). Who yields time?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be equally charged against both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I yield to the Senator from Alabama such time as he may need out of the time allotted to me.

Mr. ALLEN. Mr. President, I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 7 minutes.

Mr. ALLEN. Mr. President, this is the third time since January 18 that the invoking of cloture has been sought in the Senate on this bill, S. 2515, that would extend the authority, jurisdiction, and power of the so-called Equal Employment Opportunity Commission. On two occasions the Senate has refused to invoke cloture because more than one-third of the Senators voting on the cloture motion voted against that cloture motion. I harbor no illusions that the cloture motion will not be voted today, but I feel sure that it will.

Has this effort to familiarize the people of the country with the provisions of S. 2515 been worth the effort that has been put into it? In the judgment of the junior Senator from Alabama the time and effort expended in the discussion of the provisions of this bill have been well worthwhile. To this extended debate goes the credit for the adoption of the Dominick amendment which substituted court action on charges of discriminatory employment practices for the original provisions of the bill that would have allowed this Commission to be the court, jury, prosecutor, and enforcement officer, all wrapped into one Federal bureau.

To this debate goes credit for the amendment of the bill that would raise from eight to 15 the number of employees that a person would have to have in order to be subject to the provisions of the EEOC.

To this debate would go the credit for the adoption yesterday of the amendment that would exempt religious societies, corporations, and educational institutions from the provisions of the act insofar as their employment practices are controlled by religious considerations. In other words, it would prevent the EEOC from forcing on a Baptist school an atheist, or from forcing on a Catholic-supported school a Mohammedan.

So, Mr. President, this debate has been worthwhile. The distinguished majority leader has said that if this cloture effort today should fail he is going to ask that the whole measure be set aside. In effect, this is voting for or against enlarging the powers of the EEOC, up and down.

The EEOC has been operating for 7 years and almost 8 years as an advisory body, a conciliatory body, without enforcement powers. It claims it has been doing a good job. It has come in every year and asked for increased appropriations, and I assume they have told the Appropriations Committees of both bodies that they have been doing a good job. Therefore, why do they need enforcement powers? I submit they do not.

I object, too, to the extension of the jurisdiction of the EEOC over the employment practices of State, county, and local governments because I believe Federal bureaucracy should not encroach further on the powers of State and local governments.

I object to the extension of control by the EEOC of every educational institution in this country, every university, every college, every church-supported school, except in regard I mentioned a moment ago, every private school, and every public school, for that matter, because each of them is an educational institution. I object to these extensions.

If we should vote against cloture today it would defeat this effort. It is not often a Senator has an opportunity to strike such an effective blow, because to vote against this cloture motion will kill the bill and strike an effective blow against mushrooming Federal bureaucracy; it will strike a blow against the doubling in size of a Federal agency; it will strike a blow against further encroachment on the powers of the State and local governments, and on the power of the EEOC and the Federal Government over the daily lives of our people.

Mr. President, this bill extending as it will, the power of the EEOC over small businesses—and I would say a business that employs as few as 15 people is a small business—will crowd many a small business to the wall. It is going to force many small businesses to close their doors and throw hundreds of thousands of people out of employment.

Mr. President, with the demands of Federal bureaucracy on small businesses, with the investigations, harassment, redtape, and high taxes it is hard for any small business to stay in business. So the giving of enforcement power to the EEOC over the employment practices of small businesses, over the employment practices of State, counties, cities, and all educational institutions in the entire country, is, in the judgment of the junior Senator from Alabama, wrong.

It is hoped that one more than one-third of the Senators present will vote against this cloture motion.

The proponents of the measure, of course, have been able to select the time when this vote is to take place on the cloture motion, by controlling the time for the filing of the petition. Since the Senate rules require that 1 day be skipped and the vote be taken the next day, it has been possible to arrange a day, Tuesday, when the senatorial presidential candidates—and there are about six or seven of them—will be here. Mark my words, Mr. President: We are going to have a pretty full attendance by the senatorial presidents.

The PRESIDING OFFICER. The Senator's 8 minutes have now expired.

Mr. ERVIN. Mr. President, I yield the distinguished Senator from Alabama such further portion of the time available to me as he may wish.

Mr. ALLEN. I thank the distinguished Senator from North Carolina.

I did want to complete my thought that the time for this vote has been chosen by the proponents at a time when it will not be inconvenient for Senators to come in and vote. One of the cloture motions in the past was defeated on account of the absence of a number of the presidential candidates, and I dare say they are going to be here today. They are going to turn out in force for this vote. Every single one of them is going to vote to cut off free debate in the U.S. Senate. I hope the country is going to mark, and mark well——

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. ERVIN. Does the Senator think any of them would want to cut off debate for the candidates for the office of President?

Mr. ALLEN. They would not like to be cut off, themselves; they might like to cut off the opposition from discussion. But not a single one of those presidential candidates is going to vote against cloture. Each and every one of them is going to cast a vote to cut off free debate in the U.S. Senate.

I note the names of 53 Senators on the cloture motion, and that is a great show of strength. I daresay a two-thirds vote will be cast invoking cloture.

Here is an opportunity to kill this bill. I hope Senators will avail themselves of the opportunity to come in and vote against the cloture motion.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I yield.

Mr. ERVIN. Is the Senator from Alabama convinced that the Senator from Alabama and the Senator from North Carolina will follow the injunction of the Scriptures where it says, "Thou shalt not follow after a great multitude to do evil?"

Mr. ALLEN. Yes, I do agree with the distinguished Senator from North Carolina.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I yield myself such time as I need within my limits.

Mr. President, we have now reached the moment of decision in the debate over the Equal Employment Opportunity Enforcement Act of 1972. This is the 21st day of debate on that legislation. We have completed 5 weeks of discussion. We have had more than 30 rollcall votes. We have adequately and amply debated every issue that has been of significant concern to any Member of this body.

This is now the third time that we have tried to obtain a vote on the bill. It has been crystal clear since last week, when the Senate decided that the method of enforcement to be given EEOC was to be litigation through the Federal district courts, that no further debate on this bill was really necessary. I think it is clear that it was the sense of the Senate that we could have passed the bill last Tuesday night.

Since that vote, we have had a number of other amendments considered, but it has appeared to me that, for the most part, we have merely been marking time waiting for this day.

The people of the United States deserve this bill. The minorities and women who are suffering from discrimination in employment need this bill. The President of the United States has stated that he wants this bill.

The only people who oppose this kind of bill are those who, with a point of view of long standing, feel that no such legislation should be enacted by the Congress of the United States.

Mr. President, we crossed that bridge in 1957. We crossed that bridge in 1960, and we crossed that bridge in 1964 with the judgement of the Congress that the Federal Government protect the civil rights of our citizens. In a larger sense, that bridge was crossed with the adoption of the Constitution of the United States. Over the last 200 years there have been periods of activity with respect to enforcement of those constitutional guarantees, and other times when, regrettably, there has been less interest shown on behalf of individual rights.

I firmly believe that today, as much as at any time in our history, we need to actively protect the rights of our citizens.

The Senate has an opportunity to pass a far-reaching and vitally important piece of legislation after having conducted as extensive and intensive a debate as could conceivably be asked for on this measure. There is nothing left to discuss, Mr. President. This is a bill that is awaiting a vote of final passage. This is a bill where final passage cannot come until the Senate, observing its two-thirds rule, invokes cloture.

Mr. President, I expect that cloture will be invoked today. I respectfully urge all of my colleagues to vote to do so, so that we may expedite enactment of this legislation.

Mr. President, just before we recessed Friday, the Senator from North Carolina made a statement. I did not take an opportunity on Friday to comment, because we had just had an historic moment—the filing of a cloture motion with 53 Senators, and understandably the people of the press wanted to talk about that. So I did not make any observations at the time after the Senator from North Carolina made the statement, but I would like to make a brief statement now with regard to his observation on Friday last, when he said:

> It is very difficult to present the views of a minority in respect to legislation which is backed by a pressure group. This legislation is backed by a pressure group which has tremendous political power in the Congress of the United States and, unfortunately—I say this without intending to be critical—all too many Members of Congress will listen to the requests of a pressure group for the support of legislation and fail to avail themselves of an opportunity to ascertain whether the proposed legislation contains iniquitous provisions.

Mr. President, the first comment I would like to make is that, while the Senator has said it is very difficult to present the views of a minority—I gather he was speaking of his position and the difficulty of expressing his views—we have had, as I have indicated, 5 weeks of opportunity here in the Senate for those who are opposed to this legislation to express their views. Perhaps it is difficult. It did require attendance over the days through those 5 weeks. It was a hardship, but the opportunity was there. But the very distinguished and respected Senator from North Carolina seemed to be saying that having a pressure group backing the bill and supporting the bill is an iniquitous thing.

I have had an opportunity to reflect over that statement over many hours this past weekend, driving through a part of our country that was really the cradle of our country, where our Nation was born, through the land of the American Revolution, up through the Saratoga battlegrounds, and down through and across the river and into New England. I thought about the miracle and the pain of this young country. We are less than 200 years old. Two hundred years sounds like a long period of time, but when we measure it against the history of other nations, it is really almost a brief moment.

I was thinking subjectively and personally. I had an opportunity as a youngster to sit with my grandfather and learn from him about the country as it was when he was a boy. He was born before the Civil War. He as a young man had an opportunity to sit with his grandfather and learn about the country as it was at the beginning. His grandfather was born during the American Revolutionary War. So in this brief span of time—a grandson, his grandfather and his grandfather, in this subjective view of time personally—I have spanned the history of this country.

I suggest the miracle is that with the promise of liberty and equality of the individual as the basic principle, within 200 years this land has become the pinnacle of the aspirations of all people for freedom and equality.

But what of the pain during those 200 years? People came here with the promise and the hope of living lives of freedom and equality; but it was not an automatic thing. Earlier in this debate, some days or weeks ago, I recalled the people who came from Eastern Europe and the people who came from Western Europe, and I mentioned those from Ireland who came here knowing that this was a land of hope for a man who wanted to be free and who understood he would be equal. But the painfulness of this process of assimilation during these 200 years has been marked indeed.

Those who have come from the south, from Spanish-speaking lands, also came here for opportunity. From depressed lands, they came to get jobs. Their assimilation has yet to be completed. The others I have mentioned have been assimilated quite fully, notwithstanding that they came to a land where they were not in a majority in terms of religion or national origin; but those from the south, who came with another language, the Spanish-speaking people who came here, have yet to be assimilated. And the same is true of the black people who were impressed into service and servitude here and later freed. They have not yet been assimilated in the full sense.

These are the people to whom we are addressing ourselves, and these are the people who form the pressure group that I feel. I stand here in open confession that I feel the pressure upon me, as a Member of the U.S. Senate, of all people who have found in this land of promised equality and freedom that they, for reasons of land of origin, color of skin, or religion, have not had the opportunity to be fully assimilated on an equal basis.

This is the pressure group to which we are addressing ourselves—those people who know that their constitutional rights are not fully protected until there is effective law saying that no matter what your religion, where you came from, or what your race or your sex, you are equal in that first fundamental for any man or woman, a livelihood for themselves and their families.

And this is the pressure group, I respectfully submit to our good friend the Senator from North Carolina—not iniquitous at all, but a group, a nation, that should be heard—which should be heard about 12:30 p.m. today, when the roll is called after this long, long debate, when the Senate will have the opportunity to say it is now time to vote on this legislation.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, will the Senator from New Jersey yield?

Mr. WILLIAMS. How much time does the Senator need?

Mr. JAVITS. About 5 minutes.

Mr. WILLIAMS. I yield the Senator 5 minutes.

Mr. JAVITS. Mr. President, we come now to the crucial moment in respect to this measure. We have had two votes on cloture motions, both of which have failed. It has now been clearly demonstrated that the Senate is run, not by a majority, but by one-third of its Members, who can block anything the majority may wish to do.

We believe that we have now come to terms with two-thirds of the Senate, through the adoption of the so-called Dominick amendment, and through the reduction of the number of employees on which coverage is based which we had contemplated from 25 to 15 instead of from 25 to 8. We have passed decisively on a number of controverted issues. We have dealt with the question of whether or not the Office of Federal Contract Compliance shall be transferred to the Commission rather than the Department of Labor. We have dealt with employees of local units of government and of State units of government. We have dealt with the exclusivity of the remedy provided under this bill. It seems to me that we have dealt with about every substantive issue, and in many cases more than once.

So, Mr. President, I say that the time has come to vote. The question of whether the Senate can, even under its rules, become disentangled from a really old-fashioned filibuster of a civil rights bill now comes again into focus. Mr. President, I believe the Senate will vote cloture today, and we will see the end in sight with respect to this legislation.

The Senator from New Jersey (Mr. WILLIAMS) has very eloquently pictured what is at stake, and I would just like very briefly to state again my position, so often stated during this debate.

We seek to do a great deal, sometimes with success, about housing, about education, about opportunities for the uses of places of public accommodation, et cetera; but we know in our hearts that the fundamental proposition by which all Americans are ultimately conditioned is jobs—the availability of a job, the incentive of promotion with respect to a job, and the training for a job. Unless these opportunities are open, we can say all we want to, and even make all the provisions we wish about other matters, but they are bound to be inadequate to the occasion of really giving an equal chance for life to the minorities in this country.

So this is absolutely essential and absolutely basic. This is the enormous area in which discrimination continues. This law is vital. To secure the rights which we wish to secure under the Constitution, an essential condition precedent is that we shall secure this right, the right to a job. In terms of what we have learned in the war against poverty and in the civil rights field in the last 2½ decades, one thing stands out, Mr. President, and that is the issue of dignity. This consideration is superior even to money, or to any other opportunity. There is no greater dignity than that of the man who has a job and is earning his way. So, sociologically, this becomes a critical element of any effort in this country to bring abreast of the rest of society the poor and the minorities who are disadvantaged.

Finally, Mr. President, the opposition to this act has been constantly voiced on the ground that it would jeopardize American freedom, and that it would immobilize the employers of American workmen.

In terms of jeopardizing American freedom, I cannot see any greater enlargement of American freedom we could give than greater assurance that if a man rates it—that is the traditional American pioneer spirit—there is no limit to where he can go. We know that in the modern day, he cannot go anywhere without the necessary opportunity to work and to prove himself in work.

So, Mr. President, it seems to me that we are assuring and buttressing an inalienable right here, the right of every American to go as far as he can go in an economic sense—one of the dearest and strongest instincts of our country, which has brought us to the greatness of which we are all so proud.

The other aspect, Mr. President, is that of the employer. We are constantly told about how the employer is going to be bedeviled, inhibited, circumscribed, and persecuted by frivolous complaints, litigations, and so forth.

Mr. President, this contradicts the experience of 34 States with laws involving the right to get cease-and-desist orders, a far stronger remedy than we even have in this bill now, for a denial of equal opportunity respecting jobs and job training.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Will the Senator yield me 2 additional minutes?

Mr. WILLIAMS. Yes.

Mr. JAVITS. Having given the instance before, I give it again. In my own home State of New York we have had a job discrimination bill since 1946, the famous Ives-Quinn bill, the principal author of which was Senator Irving Ives, who served in this body for two terms and with whom I had the great privilege of serving earlier in my incumbency here.

Our experience there has been that the cases are relatively few, that the overwhelming majority of cases are settled by conciliation procedures, that the fears which we expressed in 1945, when that bill was being considered, which were precisely those we hear here, of harassment and persecution of employers, were never realized. Sure, it has worked inadequately. I am sure we still have some discrimination. We still have complaints and court cases, and so forth. But on the whole it has been a remarkably successful reform, as it will be when nationally carried through under this bill.

So, Mr. President, the best proof is experience, and experience contradicts the network of fears which have been argued here against this measure.

Finally, we all know that we face a great social problem in this country, and that is the problem of an integration of the black community into the society of the United States, uninhibited by the three centuries old tradition beginning with times of slavery, in which it first saw light in this country. This is a constant struggle which certainly can be dealt with according to the processes of law and the Constitution, if we are ready to afford a remedy when there is a legitimate grievance, as there is in this case, as witness the thousands of complaints which the EEOC has received since 1964.

So, in the interest of peace and tranquillity at home, this is an absolutely indispensable measure.

For all those reasons, I hope that the Senate, being now ready to vote, will commit itself to vote by voting cloture today.

Mr. ERVIN. I yield myself the remaining time at my disposal.

Mr. President, I do not think anyone can gainsay the accuracy of the statement I made last Friday to which my distinguished friend, the Senator from New Jersey, has alluded. I pointed out that those who represent a minority viewpoint against the demands of a pressure group are greatly handicapped in presenting their cause to Congress.

Under the Constitution of the United States, the Senate membership consists of 100 Members. The vision of the Senator from North Carolina is pretty good. He looks around the Senate Chamber and sees one, two, three, four, five Senators. The other 95 do not come to the Senate Chamber at this moment to hear what I say is the greatest grab for governmental power that this country has witnessed in my lifetime.

I use the term "pressure group" to denote a special interest group which seeks to attain its special objectives by destroying the freedom of other men.

I listened with great interest to the very eloquent presentation of the exploits of the men of the Revolution by my good friend, the Senator from New Jersey, and I applaud every word he said on that score. After they had won their independence, they established a Constitution to secure the blessings of liberty to themselves and their posterity.

Our generation has been so solicitous about the plight of minority groups that it has come to the conclusion that, by virtue of being a member of a minority group, an individual has rights superior to those of other Americans and that the rights of other Americans must be subordinated to their demands or the demands made on their behalf. That theory is absolutely incompatible both with liberty and equality.

If A has a right under the law to require B to work for him, that is slavery. On the contrary, if A has a right to say to B, "You must employ me if ordered to do so by a Federal agency in Washington, even if you prefer to select men of other races or other religions or other national origins because you think they will assist you better in making your business a success instead of a failure," that is also slavery.

This bill is incompatible with the free enterprise system, because the free enterprise system contemplates that a man who invests his talents and his resources in a business shall have the right to do those things which will make his business a success, including the right to determine for himself, without the dictation of government, whom he shall hire, whom he shall promote, and whom he shall discharge.

There never has been a bill which illustrates better the advisability of having rule XXII. When this bill was presented to the Senate, it was a most intemperate piece of legislation. It even went so far as to deny religious institutions the power to hire people of their own religion to do their ordinary work. A religious institution is not two separate institutions, one sectarian and the other secular. It is one living organism. It was only yesterday, after days of debate, that those of us who did not favor this bill in its original form were able to secure the adoption of an amendment that secured the freedom of worship guaranteed by the first amendment, by denying this Federal Commission the power to compel a religious society or a religious educational institution to hire people of another religion or no religion whatsoever.

To me, this bill is a rather despondent bill in its outlook for America's future. It is based upon the theory that America is, in substance, a decadent nation, that there are not enough jobs to go around, and that some men must be denied jobs and that the Government, through an agency elected by no one and responsible to no one, must decide who will have the jobs and who will be denied the jobs.

Speaking of equality and freedom, the bill was designed to confer on the Federal agency the power to deny employment to members of majority groups. A member of a majority group is just as much entitled to employment as the member of a minority group. Yet when the distinguished Senator from Alabama and the senior Senator from North Carolina introduced an amendment to the bill to prohibit the Commission, set up to prevent discrimination in employment, from practicing discrimination in employment, the amendment was overwhelmingly defeated.

Mr. President, I do not know of any single activity which deserves more severe condemnation than the effort to secure the enactment of legal provisions which will prostitute the judicial process while pretending to make obeisance to justice, thus damaging procedures under which justice cannot possibly be obtained.

This bill came in here with a proposal that the Commission be given autocratic power and that it combine within itself the duty of a prosecutor, the duty of an investigator, and the duty of a judge in a cause in which the members were essentially biased. It actually contained a provision in its original form, prior to adoption of the Dominick amendment, that the findings of fact of this prosecutor, judge, and jury, should be binding on the courts and that the courts would have to accept them even though it appeared to the courts that the findings of fact were probably not true.

I cannot imagine a greater prostitution of the judicial process than a provision like that.

By reason of the fact that the Senator from Colorado (Mr. DOMINICK) and the Senator from Alabama (Mr. ALLEN) and myself continued to make appeals to the Senate, notwithstanding the fact that the Senate had sanctioned by its votes such a prostitution of the judicial process, we were at last able to persuade the Senate to adopt an amendment which would provide that decisions should be made in the only place where decisions affecting the rights of other people should be made, and that is in courts of justice presided over by impartial judges.

Every man is entitled to a fair trial. A litigant is denied a fair trial when he is tried by an individual or an agency who is prosecutor as well as judge.

What is a fair trial?

A fair trial is given a man when he has his cause determined in an atmosphere of judicial calm by a judge who, in the words of Edmund Burke, "is able to decide the cases with the cold neutrality of the impartial judge."

Mr. President, I rejoice in the fact that despite the demands of a special interest group with great political power in this Nation, there have been some Senators who have stood on the floor of the Senate and sought to protect the freedom of American business and the freedom of the workingmen who belong to majority groups from legislation which would impose economic tyranny upon all American business employing as many as eight persons.

I respectfully submit that there is no body on earth which is capable of exercising wisely and impartially and justly all of the powers which this bill in its original form attempted to confer upon the EEOC.

Thus, Mr. President, in fighting for these changes in the bill, we have not only sought to prevent the prostitution of the judicial process, but we have also sought to preserve the right of employers who put their means and their resources into a business to determine for themselves things which should be determined by them, rather than by a governmental agency elected by no one and responsible to no one and possessing no competence in determining the requirements of business or how a business should be operated.

Mr. President, thanks to rule XXII, the Senate will probably pass, soon, a bill which will be far less obnoxious than the bill was when it was originally presented to the Senate.

Mr. President, I yield the floor.

Mr. WILLIAMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. GAMBRELL). The Senator from New Jersey will state it.

Mr. WILLIAMS. How much time remains?

The PRESIDING OFFICER. Seven minutes.

Mr. WILLIAMS. That is, at the conclusion of the 7 minutes, that is the entire time remaining before a quorum call is called prior to the cloture motion vote; is that correct?

The PRESIDING OFFICER. The Senator from North Carolina has 1½ minutes remaining.

Mr. WILLIAMS. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 2 minutes.

Mr. WILLIAMS. Mr. President, I feel a bit of compulsion to come back to the distinguished Senator from North Carolina and his insistence on using the descriptive phrase "pressure group" as the moving force behind this legislation.

I confess that I feel the pressure of a group, a national group, the pressure of a nation of people who believe what the Constitution says and, to be effective, that the Constitution must have laws to support it.

What disturbs me is, it suggests that the Senator is rather impugning the whole process, the legislative process.

When a man introduces a bill and he goes out to fight for the bill, he is fighting for a measure that he believes will be useful or necessary for the Nation.

Maybe a group has persuaded him that this is in the national interest, but I would not impugn the process. Frankly, this would make as much sense as for me to look over to my good friend from North Carolina and say that he is being the voice of a pressure group of professional basketball players, because everyone in this country knows, who reads the sports pages, and now it is beginning to get into the general news, that the distinguished Senator from North Carolina (Mr. ERVIN) is fighting the fight for professional basketball players to preserve their freedom to contract.

The PRESIDING OFFICER. The 2 minutes of the Senator have expired.

Mr. WILLIAMS. And we know the problems in baseball. I believe it is suggested that the Senator from North Carolina is going to pick up the fight for the freedom of professional baseball players to contract.

I want to say that in this analogy what we are doing here, or what it is my prayer we are doing here, is saying to the employers of this Nation, be they governments or private employers, that they cannot have a reserve clause reserving the right to not hire because of a person's religion, race, sex, or national origin.

That reserve clause opportunity, I think, is against one of the first fundamental principles of the United States of America.

Mr. President, I yield to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I think that the very eloquent argument of the Senator from New Jersey brings the matter home to every American.

I believe that what is involved at this point is the capability of the Senate to operate. It seems to me that we get to a point—and I have recounted the major issues we have already debated and redebated in this debate—where democracy itself is challenged by the question of whether a legislative body can operate. The thing that is often overlooked is the rule in the Senate by which a cloture motion must be agreed to by two-thirds in the event of a filibuster against the bill. That gives one-third of the membership present and voting the ability to immobilize the Government.

We hope and pray that there is never a day when this right will be used to jeopardize the security of this Nation. However, it could be.

We should all realize that nothing in the Constitution makes the Government work. If money is not appropriated, if authority is not given, if a law expires and is not renewed, the U.S. Government itself literally can be ground to a halt, not by affirmative action, but by unwillingness to act. And that is what is at stake. Therefore, we have a question involving a really major bill and the capability of the Senate to act and, therefore, the ability of the Government to act.

The President cannot spend money unless Congress appropriates it. The President cannot do anything if one side in the Senate were to say, "No. We will not do anything in a given aspect concerning the Federal law."

At long last when the Senate does gird its loins, it can invoke cloture, as I believe it will do today. It represents, if inadequate a vindication of the process of our constitutional form of government so that we are not in the position where we will collapse because our own institutions have trapped us in this quagmire so that we cannot act.

I hope very much we realize that the Senate must act. Democracy has to have finality some time. That is why we have a Supreme Court of the United States. That is why we have a Congress. And that is why—notwithstanding the usefulness of a filibuster in giving the side that feels they do not want a law, the opportunity to say, for whatever reason, that they will use this rule that permits the Senate to act only by a majority of two-thirds—the Senate will act.

Mr. President, I hope that the vote on cloture will be successful today.

Mr. WILLIAMS. Mr. President, do we have any time remaining. Have we run out of time?

The PRESIDING OFFICER. The Senator from New Jersey has 5 seconds remaining.

Mr. ERVIN. Mr. President, at long last I believe that the Senator from New York and I agree that the rule requires a majority of two-thirds.

In this very case, it compels the Senate to listen, to stop, and to think long enough to recover its senses.

Mr. WILLIAMS. Mr. President, I yield to the Senator from New York the 5 seconds if he wants to correct that erroneous impression.

Mr. JAVITS. Mr. President, I think that we have argued and reargued this thing enough. There are some things, notwithstanding my great respect for the distinguished Senator from North Carolina, that we cannot agree on. So, I think we had better vote.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 12:15 has arrived. Under the unanimous consent agreement and pursuant to rule XXII the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 2515), a bill to further promote equal employment opportunities for American workers.

1. Mike Mansfield
2. Robert Griffin
3. Robert C. Byrd
4. Abraham Ribicoff
5. Thomas J. McIntyre
6. Jennings Randolph
7. Harold E. Hughes
8. Gaylord Nelson
9. Thomas F. Eagleton
10. Adlai Stevenson
11. Walter F. Mondale
12. Lee Metcalf
13. Frank E. Moss
14. Len B. Jordan
15. John O. Pastore
16. Robert T. Stafford
17. Mark O. Hatfield
18. Robert Taft, Jr.
19. Harrison Williams
20. Richard S. Schweiker
21. Hugh Scott
22. Jacob K. Javits
23. J. Caleb Boggs
24. Charles H. Percy
25. James B. Pearson
26. Edward W. Brooke
27. Gordon Allott
28. Lowell F. Weicker
29. Clifford P. Case
30. Marlow W. Cook
31. Charles McC. Mathias, Jr.
32. Robert Dole
33. Henry Bellmon
34. Bob Packwood
35. Ted Stevens
36. J. Glenn Beall
37. Vance Hartke
38. George McGovern
39. Frank Church
40. Alan Cranston
41. Claiborne Pell
42. Daniel K. Inouye
43. John V. Tunney
44. Gale W. McGee
45. Joseph M. Montoya
46. Philip A. Hart
47. Stuart Symington
48. Lloyd Bentsen
49. William Proxmire
50. Birch Bayh
51. Fred R. Harris
52. Lawton Chiles
53. Warren G. Magnuson

CALL OF THE ROLL

The PRESIDING OFFICER. Under rule XXII, the Chair directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[No. 51 Leg.]

Aiken
Allen
Allott
Anderson
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon

Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Fulbright
Gambrell
Goldwater
Gravel
Griffin
Gurney
Harris
Hart
Hartke
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

Mr. BYRD of West Virginia. I announce that the Senator from Arkansas (Mr. McCLELLAN), the Senator from South Dakota (Mr. McGOVERN), and the Senator from Washington (Mr. JACKSON) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent by leave of the Senate on official committee business.

The Senator from Wyoming (Mr. HANSEN) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The PRESIDING OFFICER. A quorum is present.

The question before the Senate now is: Is it the sense of the Senate that debate on S. 2515, a bill to further promote equal employment opportunities for American workers, shall be brought to a close?

The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. McCLELLAN) and the Senator from South Dakota (Mr. McGOVERN) are necessarily absent.

On this vote, the Senator from Washington (Mr. JACKSON) the Senator from South Dakota (Mr. McGOVERN) are paired with the Senator from Arkansas (Mr. McCLELLAN).

If present and voting, the Senator from Washington and the Senator from South Dakota would vote "yea", and the Senator from Arkansas would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent by leave of the Senate on official committee business.

The Senator from Wyoming (Mr. HANSEN) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The yeas and nays resulted—yeas 73, nays 21, as follows:

[No. 52 Leg.]

YEAS—73

Aiken
Allott
Anderson
Bayh
Beall
Bellmon
Bentsen
Boggs
Brooke
Buckley
Burdick
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cranston
Curtis
Dole
Dominick
Eagleton
Fong
Gambrell
Goldwater
Gravel
Griffin
Harris
Hart
Hartke
Hatfield
Hughes
Humphrey
Inouye
Javits
Jordan, Idaho
Kennedy
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Spong
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NAYS—21

Allen
Bennett
Bible
Brock
Byrd, Va.
Cotton
Eastland
Ellender
Ervin
Fannin
Fulbright
Gurney
Hollings
Hruska
Jordan, N.C.
Long
Sparkman
Stennis
Talmadge
Thurmond
Tower

NOT VOTING—6

Baker
Hansen
Jackson
McClellan
McGovern
Mundt

The PRESIDING OFFICER. On this vote the yeas are 73 and the nays 21. Two-thirds of the Senators present and voting having voted in the affirmative, the motion is agreed to.

Cloture has now been invoked on S. 2515, and all debate is limited to a total of 1 hour, in all, for each Senator.

The question is on agreeing to amendment No. 850 to the pending measure.

Mr. SCOTT. Mr. President, on my hour, I rise first to comment briefly that I understand that not all of this time will be used. I believe the distinguished Senator from North Carolina has four amendments, and I understand from him that he does not plan to ask for rollcall votes on them. I am not sure of the intention of the Senator from New York, but it is hoped that we can bring this bill to an early conclusion. Does the majority leader have any comment?

Mr. MANSFIELD. No; I just wish to echo the sentiments expressed by the distinguished Republican leader. The sooner we can dispose of this measure, the sooner we will be prepared to lay down the bill on higher education and get embarked on that journey.

Mr. SCOTT. Does the Senator from New York desire the yeas and nays on his amendment?

Mr. JAVITS. Mr. President, I think it will depend upon the nature and extent of the opposition we may encounter. We really do not know. I have no desire for rollcalls just for the sake of rollcalls, but if opposition develops to amendments which the Senator from New Jersey (Mr. WILLIAMS) and I consider important to the bill, they may be necessary. From what I already know, I do not believe that our amendments should require more than 2 rollcalls at the most.

Mr. CRANSTON. Mr. President, will the Senator from Pennsylvania yield?

Mr. SCOTT. I yield.

Mr. CRANSTON. I wish to advise him that the Senator from Colorado (Mr. DOMINICK) and I have an amendment, submitted this morning, which we wish to bring up, which will not necessarily require a rollcall or take much time.

Mr. SCOTT. I thank the distinguished Senator from California.

AMENDMENT NO. 850

The PRESIDING OFFICER. The question is on agreeing to amendment No. 850. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

Mr. BYRD of West Virginia. Mr. President, the Senate is not in order. We cannot hear what the Senator says.

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats. The Senator from New York may proceed.

Mr. JAVITS. Mr. President, the pending amendment seeks to authorize 10 positions in the so-called higher grades 16, 17, and 18, for the purposes of buttressing the higher level staff of the Equal Employment Opportunity Commission in connection with the new responsibilities which it would have under this bill. We are advised by the Commission that this is the absolute rockbottom minimum number with which it can even begin to hope to do the job which we are assigning it under this measure. That includes, of course, an enlarged jurisdiction relating to employers of small numbers of workers, down to 15 from the present 25; it includes the right to go into court and start suits, which the commission has not had before; and it includes, with respect to employees of other units of government, State, and local, the responsibility to look into situations and try to handle them by conciliation, the actual litigation being undertaken by the Attorney General.

The mere recital of those responsibilities indicates the size of the job, and it seems to me and to the Senator from New Jersey (Mr. WILLIAMS) that the 10 additional positions sought is by no means out of line or unreasonable, and is certainly credible on the basis of the new ambit of their responsibilities. So I hope very much that the Senate, in the process of giving them the authority, will give them the means with which to discharge the responsibility.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. Mr. President, on my time, I should like to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMINICK. Under the rules of cloture, is it possible to amend an amendment if the amendment has not been sent to the desk prior to this time?

The PRESIDING OFFICER. It would not be in order to amend an amendment which had not been sent to the desk and read before the vote.

Mr. DOMINICK. So the ruling of the Chair is that any amendment that is printed is now in final form, not subject to any amendment whatsoever. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMINICK. Therefore, if changes need to be made, could they be made by consent of the Senator who is offering the amendment—by unanimous consent or otherwise?

The PRESIDING OFFICER. It would require the consent of the Senate to make such a change.

Mr. DOMINICK. I thank the Chair.

Mr. JAVITS. Mr. President, if there is no opposition to this amendment, I am prepared to vote on it now.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, if I may have the attention of the leadership on the Republican side and the members of the Senate, a situation has come up which may call for the laying before the Senate of another cloture motion this afternoon, with the vote to come on Thursday.

Mr. President, I ask that immediately after the third reading of the pending bill, the Senate proceed to the consideration of H.R. 1746, the House companion bill; that the text of the Senate bill as amended be substituted for the House passed bill; that the House bill as amended progress through third reading, and that the final vote occur on the House bill as amended.

Mr. ALLEN. Reserving the right to object, Mr. President, rule XXII has been invoked.

The PRESIDING OFFICER. The Senator asks that rule XXII be suspended?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I am reserving the right to object.

Rule XXII, to stop debate on the Senate bill, S. 2515, has been invoked. Under the provisions of rule XXII, S. 2515 shall be the pending business until disposed of. Disposed of would mean either killed or passed.

I raise the point. I do not at this time object to the unanimous-consent request. I merely at this time raise the point that the Senator's request is out of order, under rule XXII.

Mr. MANSFIELD. Mr. President, if I may be heard, I did ask unanimous consent, and it is my belief that I am in order. I was aware of the situation which might arise, and I would be prepared to hear the ruling of the Chair.

The PRESIDING OFFICER. The Chair rules that the request is in order. There is nothing in the rule which prevents the making of a unanimous-consent request.

Mr. ALLEN. Then I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, it is the intention of the Senator from Montana to file a cloture motion today, which will come to a vote on Thursday next. All Senators should be warned, and all Senators should be in attendance at that time.

Mr. ALLEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Is the presentation of a cloture motion in order prior to the final disposition of S. 2515, cloture having been invoked with respect to it?

The PRESIDING OFFICER. A cloture motion on the House bill would not be in order until the House bill is before the Senate, except by unanimous consent.

Mr. ALLEN. I raise that point of order.

Mr. MANSFIELD. Mr. President, it was my understanding, on the basis of colloquy between the distinguished minority leader and the Senator from North Carolina and other Senators that not too much time would be spent on the bill as long as cloture was invoked. If the situation has been changed, of course, we will be guided accordingly, and at an appropriate time we will file a cloture motion.

Mr. ERVIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. I yield time to myself, out of my time, if it is required.

Mr. President, rule XXII provides that if the question—that is, "Is it the sense of the Senate that the debate will be brought to a close?"—"shall be decided in the affirmative by two-thirds of the Senators present and voting, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of."

Does not that provide, cloture having been invoked, that action must be completed on the Senate bill?

The PRESIDING OFFICER. The Senator is correct—except by unanimous consent.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. MANSFIELD. Mr. President, it is my understanding—and I know I am correct—that each Senator has 1 hour, once cloture has been agreed to.

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. To the best of my knowledge, not many Senators are going to speak on the amendments; and those who are are going to speak, with one or two exceptions, are going to speak briefly. It would be my hope that we could dispose of the pending business sometime today, so that later today we could file a cloture motion, after every Senator has had a chance to be heard on the basis of the hour, which is his right and which is nontransferrable, under the rules of this body.

The PRESIDING OFFICER. Once the House bill is laid before the Senate. The Senator is correct.

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Before the cloture motion could be presented, the House bill would have to be the pending or the unfinished business, would it not? In other words, an intervening motion would have to be made to bring up the matter.

The PRESIDING OFFICER. The Senate would have to agree to consider the bill first, and the bill would have to be the pending business.

Mr. ALLEN. And that motion would be debatable.

The PRESIDING OFFICER. The motion to take up would be debatable.

Mr. ERVIN. Mr. President, a further parliamentary inquiry, and I yield time to myself.

The PRESIDING OFFICER. The Senator will state it.

Mr. ERVIN. The substance of the proposal embodied in the unanimous-consent request of the distinguished majority leader is, in effect, an amendment to substitute the Senate version of the bill for the House bill, and such is tantamount to an amendment to that effect, and such an amendment was not pending at the time the cloture motion came on for consideration.

The PRESIDING OFFICER. The Senator is correct, but by unanimous consent it could be agreed otherwise.

Mr. ERVIN. That is the point I am making. As long as there is no unanimous consent, the matter cannot be considered.

Mr. ALLEN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, this move to bring up the House bill will be resisted.

According to the understanding of the junior Senator from Alabama, the Senate bill and the House bill were reported by the same committee on the same day. Both bills came to the calendar on the same day. The Senate bill was brought up for consideration. We spent a month debating it. An election was made as to the bill to be considered, and we spent more than a month considering it.

So it does not seem that it would be the wise procedure to abandon the Senate bill and go to the House bill. Why was not the House bill brought up originally? They had that option. Having chosen the Senate bill, it is going to be the opinion of the junior Senator from Alabama that we ought to stay on that bill until a final vote is had, let the bill go to the House, and let the House act on it.

The junior Senator from Alabama is going to resist any motion to bring up the House bill following close on the heels of the passage of the Senate bill. Why should we pass two bills dealing with the same subject, after we have spent more than a month debating the Senate bill?

So any motion to bring up a House bill will be resisted because it cannot even come up until the Senate bill is disposed of. Having acted on the question, why should the Senate then bring up another bill dealing with exactly the same subject? It is certainly not going to be permitted without a hard fight. I serve that notice.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER (Mr. NELSON). The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, of course the answer to the Senator from Alabama (Mr. ALLEN) is obvious. It is the traditional procedure in the Senate that when we pass a Senate bill and there is a House bill at the table, the House bill is called up and the Senate bill is substituted for it in terms of the text, and then it goes to conference. The distinguished majority leader had exactly that in mind when he made his unanimous-consent request.

Also, Mr. President, tradition is the only reason why I have risen to speak. Where the Senate has emphasized its will, Senators will generally do their utmost to carry out the will of the Senate.

The Senate overwhelmingly voted cloture. The Senate will be very well instructed to note that, notwithstanding the overwhelming exercise by the Senate of its will, it is now proposed to put the Senate through the trouble—which is all it is, because there is no substantive question involved whatever—of going through cloture all over again.

I rise only to underline and emphasize that fact.

It is the "nice guys" in this body who often go along with these things and say, "It is all right, let us do it this way." I have done that a hundred times since I came to Congress. The Senate has now decided.

It will be instructive to us to witness that the rules can be used to make the Senate—and it is perfectly legitimate to do so, I have no complaint about it—backtrack and go over the same ground again and again and again.

It is very instructive to us on what should be the rules. It is very instructive to us, also on the way the rules can be used in this body to deal with what is the expressed and overwhelming will of the Senate after long and full and fair debate.

So, I would only say to the Senate that we should be well instructed to know—and that is all I suggest, so that there is no deliberation as to what should be the rules on how they should be managed—that we understand just what happens in given situations.

I hope that the distinguished majority leader—I know his nature—will not be deterred, and I am sure he will not be, by the difficulties which seem to be before us momentarily. I believe the same will of the Senate, which decided the issue decisively now will decide it again and, if necessary, again after today in respect of the determination to enact this bill into law.

Mr. MANSFIELD. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Montana is recognized for 5 minutes.

Mr. MANSFIELD. Mr. President, I agree with the remarks of the distinguished Senator from New York (Mr. JAVITS). I feel sorry for the Senate, though—very sorry for the Senate—because of the use of the rules as announced by two distinguished Senators this afternoon.

The Senate is supposed to be a deliberative body. On occasion we refer to this institution as the greatest deliberative body on the face of the earth.

In my 20 years in this Chamber, I have come to doubt that statement, because on both sides, and on all sides, I have, on occasion, seen postponement, stalling, dillydallying, outright obstructionism of the will of the Senate, not of a bare majority but of the great majority.

Of course, this suggested procedure is the regular procedure. This is the way the leadership usually operates. This is the procedure which the Senate, by and large, without exception, to the best of my knowledge, has followed until today. This is a privilege and a right—a responsibility if you wish to call it that, Mr. President—which the Senate has given to the leadership.

Mr. President, it was my intention, when I called up the Senate bill, to follow the usual practice, and, in time, substitute the House bill for it.

May I say that I have been impressed with the attitude and the cooperation and the sense of fairness shown by the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Alabama (Mr. ALLEN) during the course of this debate which began on January 18 on the pending measure.

They were not the ones who, by and large, were stalling most of the time. When they had something to offer, they offered it.

They were most cooperative and considerate. The delays on the votes as such were on the other side.

Mr. President, the Senate is supposed to operate on the basis of a sense of fairness. The Senate is supposed to have some confidence, some trust in the judgment of the joint leadership. If we have not got that, we have not got anything, because it is only on the basis of this trust, this faith, and this confidence that the Senate can operate as it should and as it must, if it is to be the institution we all think, deep down, that it is.

What the distinguished Senators have indicated in their opposition to the unanimous-consent request proposed by the Senator from Montana is entirely within their rights. It will not delay finally facing up to this question. It can, of course, postpone final consideration for some hours or some days but, eventually, the Senate will face up to the issue.

Mr. President, what we have before us, after this bill is disposed of, is the higher education bill. Related to that measure is one of the most emotional issues of the year; namely, the issue of busing. We have to contend with that and it will take some time.

Then there is the voter registration bill. That will take some time. Before we get to the voter registration bill, however, we have the women's rights amendment. That will take some time.

Somewhere along the road we have to consider legislation to raise the debt ceiling by $50 billion as requested by the administration—although the House only allowed a $20 billion increase until sometime this spring.

Then there is H.R. 1—a highly contentious piece of legislation.

There is also the Revenue Act, so-called, which would give aid and assistance to States, or if not the States, then to the cities and the municipalities of various kinds. There are measures dealing with health insurance, consumer affairs and many other major issues.

The PRESIDING OFFICER. The time of the Senator from Montana has expired.

Mr. MANSFIELD. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Montana is recognized for 2 additional minutes.

Mr. MANSFIELD. Mr. President, then we have 14 appropriation bills to consider.

Then there is the Democratic National Convention in the State of Florida in early July.

Then there is the Republican National Convention in the State of California in August.

Then we have the election.

You know, Mr. President, even though February has 1 extra day this year, this year is not going to be long enough to get through all this legislation if we continue to operate at this snail's pace and to hamstring the will of the Senate.

So I just want to make myself clear. If the Senate wants to be hamstrung—and the rules allow it—there is nothing we can do except to face up to our responsibilities, not as Senators from New York or Arkansas or West Virginia or Alabama or North Carolina or Montana, but as Senators of the United States.

I would hope that every Member of this body would recognize the fact that he is just not a Senator from a State nor an ambassador from a State, but that the interest of the Senate of the United States and this Nation should supersede all others in the conduct of the affairs of this body.

Mr. BYRD of West Virginia. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 3 minutes.

Mr. BYRD of West Virginia. Mr. President, I express my support for what the distinguished majority leader has just said. And in every respect, may I say, I approve of what he has said.

Every Senator in this body has a tremendous responsibility, and with that responsibility there is an uncommonly heavy burden. However, the heaviest burden to be borne by any Member of the Senate is the burden placed by the membership of this body upon the majority leader and upon the minority leader. Their responsibility is not only to their constituents in their respective States and to the Nation as a whole, but, more than that, they have a responsibility to their constituency in this body.

It is their responsibility, as the joint leadership, to do everything within their power, in conformity with the rules and after reasonable debate has occurred on any measure, to try to advance that measure to some disposition one way or the other, up or down.

The majority leader has at all times been most patient and fair and most considerate of the rights of every Senator. And I would hope that our friends in the Senate—whom we admire greatly for their courage, for their ability, and for their dedication to their duty—will not pursue the course which they have indicated will be pursued. And I am talking with regard to the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Alabama (Mr. ALLEN).

Mr. President, I have no greater respect and admiration for any Senators in this body than I have for the two Senators whom I have just named. I think that they have fought a good fight. I think that they have performed a service to the Senate of the United States, to their respective States, and to the United States as a nation in bringing to light certain flaws and certain weaknesses in the pending legislation. I think it has been largely through their efforts, Mr. President, that this legislation has been refined and improved, although not to the complete satisfaction of the two Senators and not to the complete satisfaction of some of those of us who voted for cloture today and who signed a cloture motion last Friday. However, the handwriting is on the wall. The Senate has expressed itself in no uncertain terms. I hope that the distinguished Senators will realize that there is nothing to be gained, really, in opposing the unanimous-consent request of the distinguished majority leader, and he will probably propound it again.

The PRESIDING OFFICER (Mr. GRAVEL). The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 2 additional minutes.

Mr. BYRD of West Virginia. Mr. President, there is nothing to be gained except delay and, in the long run, it is my concern that such delay, if it does occur, will but inure to the disadvantage of the Senator from Alabama and the Senator from North Carolina, perhaps when the next measure is before the Senate I know that they have equally strong feelings about that measure.

Mr. President, the Senate in its vote today has overwhelmingly supported the motion to invoke cloture. It will do so again if the leadership is forced to offer another cloture motion.

I do not say what I say out of unkindness to the Senator from North Carolina or to the Senator from Alabama. I feel that the die has been cast and the Rubicon has been crossed. I think that they will do themselves a disservice, perhaps, if they pursue the course which they have indicated they may. They have a right to do that. They are working within the rules. They have their hearts in the matter and whatever they do, I know they will do in good conscience. I have no doubt about that. I know that they will do what they think is right.

But, Mr. President, I want to say again that the leadership does have its burdens and its responsibility, and it will measure up to that responsibility, and the Senate will invoke cloture again on this measure, if need be.

So, I hope that the distinguished Senators will reconsider the position they have staked out and that they will not force the leadership to offer another cloture motion.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for an additional minute.

Mr. BYRD of West Virginia. Mr. President, I hope that once the Senators have offered amendments which have qualified under rule XXII and the Senate has disposed of them, they will accept the judgment of the Senate on this bill and we might go on to take up the higher education measure—which is also very controversial.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent at this time that I may be permitted to yield my 1 hour, under the rule, or the remaining portion thereof, to the distinguished Senator from North Carolina (Mr. ERVIN). I do this because I know that he has a multitude of amendments at the desk and I want him to have all the time he can possibly have in order to discuss those amendments. Whether or not I support them is another matter.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

Mr. ALLEN. Mr. President will the Senator yield?

Mr. BYRD of West Virginia. Yes.

Mr. ALLEN. Mr. President, I thank the Senator from West Virginia. It occurs to the junior Senator from Alabama that, the choice having been made to take up and consider the Senate bill, and that having been under consideration for a month, and rule XXII having been invoked—not through the vote of the distinguished Senator from Alabama or the distinguished Senator from North Carolina, but by the proponents of the bill who are demanding final action on S. 2515—I would like to inquire——

The PRESIDING OFFICER. The Senator from West Virginia may yield only for a question.

Mr. ALLEN. I am now ready to propound the question. I have laid this matter out as a predicate.

I ask the distinguished Senator from West Virginia why it would not be the better course of wisdom to send the bill over to the House for action? Why is it necessary to abandon the work of 1 month in the Senate and take up a brand new bill which is entirely different from the bill that the Senate has acted upon and then go through a cloture motion again on that measure? Why would it not be a better course of wisdom to let the Senate bill go to the House for action there?

The distinguished Senator from West Virginia has pointed out that the bill has been improved by the debate in the Senate. Might it not be improved more if it goes back to the House for consideration in that body?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may have back 5 minutes of my time.

Mr. ERVIN. Mr. President, I yield back to the Senator from West Virginia out of the time he yielded to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, from the standpoint of the Senator from Alabama, I can see why he views the parliamentary procedure as he does. From his standpoint he is entirely within his rights, and I would have to agree with him, if I stood in his shoes and viewed the matter as he does. I agree with his viewpoint that sending the Senate bill to the House and letting the House act on it would, indeed, perhaps allow, through additional consideration in the House, further refinement of the measure. However, it would also impose further delay.

Mr. ALLEN. It would not provide for any delay in the Senate. The Senate would be free of it until the measure came back to the Senate after House action.

Mr. BYRD of West Virginia. The Senate will soon have worked its will on the Senate bill. The House has already acted on the House bill. The leadership is pursuing the same course that has been pursued heretofore in situations of this nature. Once having acted on a Senate bill, it then moves to substitute the Senate language for the language of the House-numbered bill that came from the House. It is a faster procedure, and the bill then goes direct to conference. It saves time. The House acts in the same way with respect to Senate bills sent to that body.

So the leadership is pursing the same course it always pursues in the interest of time and in the interest of orderly legislative procedure. It is for that reason the leadership is taking this course. A decision was made at some point, somewhere by the leadership to take up the Senate bill rather than to take up the House bill in the beginning. But we have come down that road. The Senate will soon complete its action on the Senate bill, and I am simply saying to my distinguished friend from Alabama, for whom I have the greatest respect, that I think it would be a mistake, and I hope that that course will not be pursued, to force the leadership to again offer a motion to invoke cloture in order to get the House-passed bill acted upon by the Senate, with the Senate language substituted therein.

Mr. ALLEN. Mr. President, on my time, I have asked the distinguished Senator from West Virginia if it would not be conceivable that the Senate, having acted on the Senate bill, send it to the House, that the House might well act upon the Senate bill before the Senate could act on the final bill. Is that conceivable?

Mr. BYRD of West Virginia. It might be conceivable, but I do not think it is going to happen.

I must say that a cloture motion, when offered, will receive probably even more heavy support than the one which was voted on today. Certainly, it will be just as overwhelmingly adopted.

I say this in the interest of the Senator from Alabama: I cannot see where anything can be gained for the cause concerning which thus far he has made such a great contribution.

Mr. ALLEN. It seems strange to the junior Senator from Alabama that the Senate would pass the Senate bill and then, after having done that, move to the House bill on the very same subject, with so many other bills pending in the Senate needing action. Why would that be the best course to pursue?

Mr. BYRD of West Virginia. Well, we have already pursued the course of considering the Senate bill; we are already down that road. I am trying to say I hope the Senator from Alabama will not seek to turn the Senate back from its unalterable course—which has now been chosen—of taking up the House bill and substituting the Senate language therefor.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield to the distinguished majority leader.

Mr. MANSFIELD. I came in only on the last part of the speech just made by the distinguished Senator from Alabama so I may have missed some of it or misinterpreted what I heard. The Senator from Alabama will recall that the Senator from Montana, as majority leader, made the statement last week to the effect that if the cloture motion failed today the pending legislation would be set aside and we would turn to the next order of business. That did not come to pass. The cloture motion was adopted with at least 10 votes to spare, if my mathematics are correct.

Therefore, I think the Senate has expressed its will and I hope the will of the Senate will be respected by all of us, regardless of our feeling on this matter.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

I think sometimes it is better to dispel any concerns or possibilities. I suggest to the distinguished majority leader the possibility that a unanimous-consent request be couched strictly in terms of what it is all about. In other words, the only thing of interest here would be to substitute the Senate text for the House text, and nothing else. There should be no concern in that regard that anybody has designs to redo the bill. If the unanimous-consent request is limited to the one function, that may be of some help. I make that suggestion.

Mr. BYRD of West Virginia. Mr. President, I renew my unanimous-consent request that my time may be yielded to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I assure the Senator I do not need his time because I have only four amendments, on which I do not expect to ask for rollcall votes, and they can be disposed of quickly by voice vote.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to rescind the action on my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. The question occurs that rule XXII having been invoked, and since the rule declares that the pending business must be disposed of before anything else can be brought up, it seems to me that the rule would require that the Senate bill be sent to the House. The House bill is entirely different from the Senate bill, and the House should have an opportunity to consider the quite different bill under its procedures.

We do not have any desire to force another cloture vote. But since the substitution of the revisions of the Senate bill to the House bill would be, in effect, an amendment which was not pending at the time the cloture motion was agreed to, I do not see how there would be anything to do except to pass the bill and send it to the House for its procedures. I do not see anything under the rules to necessitate or require any other cloture motion.

I have not placed this in the form of a parliamentary inquiry, but I would like to have it considered.

There is no other Senator in this Chamber for whom I have more respect than I have for the distinguished majority leader and the distinguished assistant majority leader. They have been most fair to us. If we have a valid point it can be sustained. We do not desire another cloture motion. We would just like to send it to the House because it is an entirely different bill than the bill the House passed, and let the House work its will according to its procedures.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 2 minutes.

Mr. WILLIAMS. Mr. President, it was last Wednesday that the Senator from Alabama asked the Senator from New York and the Senator from New Jersey our parliamentary intention at the end of the debate on this bill. The Senator will recall that it was his concern that, having addressed the amendments through the last few weeks to the substitute, at the end of the amending process we might move to table and then we would be back at the original bill. I am sure the Senator recalls that. It was made crystal clear we would take the work of the Senate at that point and that would be the final legislative measure. Does the Senator recall that?

Mr. ALLEN. Yes.

Mr. WILLIAMS. It was this Senator's firm commitment that we would not use parliamentary availability to set aside the Senate's work and go back to the original measure.

Then, I so clearly stated that the work that we did here would not be touched again when that was finally voted, except to send it in the usual parliamentary and procedural way to the House for conference, by taking that work and using it in substitution of the House bill when that was taken up.

I could not have been more clear when I said there is to be only one cloture vote under our procedure, and the Senator stated "Yes."

Mr. ALLEN. Mr. President, I yield myself 3 minutes.

The Senator from Alabama is not suggesting that the intention of the proponents of the measure is to go back on what the Senate has done; but the point the junior Senator from Alabama is making is that it is the Senate bill which is before us.

It is the Senate bill which has to go back to the House, not the House bill. The debate has been on the Senate bill and the colloquy we had several days ago had reference to the Senate bill. The House bill was never mentioned.

Mr. WILLIAMS. I would write it in blood that the Senate bill, when it is substituted for the House bill, will be the Senate's work, and that is what will go over there.

Mr. ALLEN. That is not the point.

Mr. WILLIAMS. Is it the substance of what goes over there that bothers the Senator from Alabama?

Mr. ALLEN. The point that the Senator from Alabama is raising is that it is the Senate bill that we are working on, and it is the Senate bill, S. 2515, that should go to the House for conference, and not the House bill. We have not been discussing the House bill.

Mr. WILLIAMS. The Senate bill as finally passed will be the substantive measure which goes to the House.

Mr. ALLEN. Will it be S. 2515, as to which cloture has been invoked?

Mr. WILLIAMS. It will be the work of the Senate.

I would like to ask the distinguished acting majority leader, parliamentarily, if, in substance, we are getting absolutely the same result the Senator from Alabama is suggesting. Am I right or not?

Mr. BYRD of West Virginia. The language passed by the Senate is substituted for the language in the House bill, carrying the House number.

Mr. WILLIAMS. And that was the only thing that was not done here in the Senate—the numbering of the bill.

Mr. BYRD of West Virginia. The language of the Senate will not have been before the House, but will go to conference.

Mr. WILLIAMS. Exactly, but the Senator from Alabama is not worried, then, about the substance of the legislation that leaves this Senate Chamber for conference with the House. He simply is disturbed about the number at the top of the bill. It is as simple as that.

Mr. ALLEN. That is exactly right in this respect: The Senator from Alabama has been suggesting that we have been acting on S. 2515, and that is the bill that ought to go to the House, not the House bill, because we have not been acting on the House bill.

Mr. WILLIAMS. Let me ask again: Is it the substance of it?

Mr. ALLEN. It is the Senate bill.

Mr. WILLIAMS. I will say again: I will guarantee and I will write it in blood that the substance of the Senate action will be what will be sent to the House.

I yield to the Senator from New York. Is that not a blood promise?

Mr. ALLEN. The Senator does not doubt the integrity of the Senator from New Jersey and the Senator from New York. What the Senator from New Jersey does not seem to comprehend is that the objection the Senator from Alabama is making is to consideration of the House bill. He says that S. 2515 is what is before us. That is what rule XXII requires us to act upon. That is the bill that must go to the House under rule XXII.

Mr. JAVITS. Mr. President, if the Senator will yield to me, on my time—I yield myself 1 minute—this whole thing comes down simply to the fact that the Rules Committee in the other body will have another shot in calling the Senate bill to the floor, so that the House can go to conference, and the only net result will be to delay the Senate and the legislative process for a week or thereabouts. That is exactly the thing that will happen. That is the only point. That would be the only result of it. Senators are absolutely within their rights, but it will have no substantive effect whatever. So it would be well to underline and emphasize again that what we are seeing is that the rules can be very susceptible of being used, as the majority leader said, to hamstring the Senate's will. That is all it amounts to.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, a parliamentary inquiry, and again I yield myself 1 minute. If there is no further amendment, is third reading in order?

Mr. ERVIN. Mr. President, I have another amendment.

The PRESIDING OFFICER. The Senate would first have to agree to the committee amendment as amended.

Mr. JAVITS. Mr. President, what is the question?

The PRESIDING OFFICER. The question is on the adoption of the committee amendment as amended.

Mr. ALLEN. Mr. President, the Senator from North Carolina has an amendment.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

AMENDMENT NO. 860

Mr. ERVIN. Mr. President, on behalf of myself and the distinguished Senator from Alabama (Mr. ALLEN), I call up my amendment No. 860 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be read.

The legislative clerk read the amendment, as follows:

> On page 33, insert the following between the comma after the word "State" on line 19 and the word "or" on line 20: "or the employment of teachers or other members of the faculties of public elementary and secondary schools".

Mr. ERVIN. Mr. President, I yield myself 2 minutes.

This amendment, if approved by the Senate, would remove from the coverage of the bill the employment of teachers or other members of the faculties of public schools.

We already have Federal courts dealing with the subject of employment of members of faculties and teachers of public schools. We also have the HEW dealing with that same question. To my mind, it is rather ridiculous to have a third agency or department of the Federal Government have jurisdiction in exactly that same field in which the other two are acting. We have enough confusion in this field. Indeed, we have conflicts between the EEOC and the Office of Federal Contract Compliance in the Department of Labor. So that this amendment would merely make it certain that EEOC is not going to undertake to act in the same field in which the Department of Health, Education, and Welfare and the Federal courts are now acting.

We do not need to have three different Federal governmental powers to try to deal with one situation.

I hope the Senate will adopt the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

This is simply an effort to add to the exemptions of the bill an exemption for teachers or other members of the faculties of public elementary and secondary schools. It simply removes from title VII of the Civil Rights Act of 1964 the question of discrimination regarding teachers or other members of faculties.

There has certainly been enough involvement in this question to recognize that teachers, just as much as others, are involved in the effort to desegregate schools.

The PRESIDING OFFICER (Mr. GRAVEL). The question is on the amendment. All those in favor say "aye." All those opposed, "no." The noes have it. The amendment is not agreed to.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. It is too late to ask for the yeas and nays.

Mr. JAVITS. Mr. President, I yield myself half a minute.

As I understand it, at this stage of the proceedings that we have just passed by, a quorum call is in order, because there are not enough Senators here for the yeas and nays or for any other purpose, really, if anyone wishes to challenge it.

The PRESIDING OFFICER. A quorum call would be very much in order. The Chair will entertain a motion to rescind the recent action, and vote again.

Mr. ALLEN. Mr. President, I am satisfied with the result.

The PRESIDING OFFICER. The Chair thanks the Senator.

The committee amendment, as amended, is open to further amendment.

AMENDMENT NO. 908

Mr. ERVIN. Mr. President, I call up amendment No. 908, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 66, insert the following new section between lines 13 and 14:
>
> "SEC. 13. Upon demand of any party, the issues of fact arising in any civil action brought under the provisions of this Act or the provisions of title VII of the Civil Rights Act of 1964 shall be determined by a jury."
>
> Renumber "SEC. 13" as it appears on page 66, line 14, as "SEC. 14".

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. Mr. President, I yield myself 4 minutes.

This amendment would amend subsection (j) of section 703 of the original Civil Rights Act of 1964 so that it would read as follows:

> Nothing contained in this title or in Executive Order No. 11246, or in any other law or Executive Order, shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title or to any other law or Executive Order to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

In short, this would make it unlawful for the EEOC, the Office of Federal Contract Compliance, or any other Federal agency or department in seeking to prevent so-called discrimination in employment, from practicing discrimination in reverse such as is being practiced every day by the EEOC and also by the Office of Federal Contract Compliance. I sincerely hope that the Senate will agree to the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 1 minute.

The amendment would simply spin out and lengthen the time delay which is already incident to the fact that the EEOC must go into court by seeking a jury trial, thus guaranteeing that the——

Mr. ERVIN. No, Mr. President, this is not the jury trial amendment. The amendment is at the desk. This is the amendment which would amend——

Mr. JAVITS. No. 908 is the jury trial amendment, is it not?

Mr. ERVIN. No, this is to amend subsection (j) of section 703 of the Civil Rights Act of 1964 to make its prohibition upon preferential treatment applicable to the EEOC, the Office of Contract Compliance, and any other bargaining agency of the Federal Government enforcing any statute or Presidential directive relating to this subject.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. What is the pending amendment?

The PRESIDING OFFICER. The pending amendment is amendment No. 908.

Mr. ERVIN. Mr. President, I withdraw that amendment for the time being.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is withdrawn.

AMENDMENT NO. 907

Mr. ERVIN. I call up amendment No. 907. I made a mistake a moment ago in stating the number. I did not intend to call up the jury trial amendment—No. 908—at this time. I ask that amendment 907 be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 66, insert the following new section between lines 13 and 14:
>
> "SEC. 13. Section 703 of title VII of the Civil Rights Act of 1964 is amended as follows: Strike out the word 'title' wherever it appears in subsection (j) and insert in lieu thereof the words 'title, Executive Order Numbered 11246, or any other statute or executive order'."
>
> Renumber "SEC. 13" as it appears on page 66, line 14, as "SEC. 14".

Mr. ERVIN. Mr. President, I yield myself 4 minutes, or such portion thereof as I may use, to explain this amendment to the Senate.

I ask unanimous consent that subsection (j) of section 703 of the Civil Rights Act of 1964 be printed in the Record at this point.

There being no objection, the statute was ordered to be printed in the Record, as follows:

PREFERENTIAL TREATMENT

(j) Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

Mr. ERVIN. Any Senator who is desirous of understanding this amendment can read the amendment in the light of subsection (j) of section 703 of the Civil Rights Act of 1964 and understand what it would do.

It is designed to make the prohibition upon preferential treatment created by this subsection of the original act applicable not only to the EEOC, but also to the Office of Contract Compliance and to every other executive department or agency engaged, either under the statute or under any Presidential directive, in enforcing the so-called equal employment opportunity statutes.

Mr. JAVITS. Mr. President, I yield myself 1 minute in opposition to the amendment.

What is sought to be done here is to apply a particular provision of the Civil Rights Act of 1964 to the Executive order in order to make unlawful any affirmative action plan like the so-called Philadelphia Plan, and, by including the Executive order in this title, that would effectively be done, so that the Federal Government, as an employer, would be inhibited from putting into effect such a plan.

We have held that, because the Federal Government—we voted on that here; we debated it and we decided it—has an interest in maintaining constitutional guarantees, it has discretion as to whom it will contract with and will not contract with, to affirmatively encourage nondiscrimination and full utilization of minority group employees and women. So we—and the courts have sustained us—permitted the Federal Government to put into effect an affirmative-action plan.

This amendment, for practical purposes, would simply nullify that action. For those reasons, I oppose the amendment and hope it will be rejected.

Mr. WILLIAMS. Mr. President, I yield myself 1 minute.

When this idea was last presented by the Senator from North Carolina, it was resisted. There was resistance to the transfer of the OFCC to the EEOC. I joined with the Senator from North Carolina, but we lost.

I have recently, within the last few minutes, made a pledge to support what the Senate has done here, that I would support it as the measure we send to the House of Representatives.

The Senate has acted. I happened to agree with the Senator from North Carolina on the transfer of OFCC, but we lost. He is trying to do it all over again. Therefore I resist it, because the Senate has acted.

Mr. ERVIN. I yield myself 1 minute.

This is not exactly the same amendment. The same question is involved. The other amendment tried to circumvent the extenuated ruling of the then Secretary of Labor, who nullified the Civil Rights Act of 1964. This puts it under the Civil Rights Act of 1964 and makes it expressly apply to the Department of Labor as well as everybody else.

The PRESIDING OFFICER. The question is on agreeing to the amendment (putting the question).

Mr. ALLEN. Mr. President, I ask for a division.

Mr. ERVIN. Mr. President, I ask for a division.

The Senate proceeded to divide.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Roth). Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state it.

Mr. JAVITS. Has debate ended on this matter?

The PRESIDING OFFICER. No.

Mr. JAVITS. I thank the Chair.

I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. JAVITS. Mr. President, I wish to call to the attention of the Senate the fact that this amendment which is now before us for a vote seeks to cancel out the ability of the Federal Government to use the Philadelphia plan approach of affirmative action plans respecting employment. The courts have upheld that plan. The Senate has upheld the plan. We say that Federal Government contractors should be a model in that respect.

I wish also to point out for the information of the Senate that when the distinguished Senator from North Carolina (Mr. Ervin) in a previous amendment stated that the affirmative action plan was being used arbitrarily and capriciously in some employment, I worked out with him an amendment which would guarantee and assure that when a contractor had gone into a plan and was proceeding with it, he would not be arbitrarily canceled out or coerced, or anything like that.

It seems to me, under those circumstances, that the Senate should very definitely reject the pending amendment.

The PRESIDING OFFICER (Mr. Roth). The question is on agreeing to the amendment No. 907 of the Senator from North Carolina (Mr. Ervin).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Washington (Mr. Jackson), the Senator from Massachusetts (Mr. Kennedy), the Senator from Arkansas (Mr. McClellan), and the Senator from South Dakota (Mr. McGovern) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker) is absent by leave of the Senate on official committee business.

The Senator from Wyoming (Mr. Hansen), and the Senator from Iowa (Mr. Miller) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Arizona (Mr. Goldwater) is detained on official business.

The result was announced—yeas 30, nays 60, as follows:

[No. 53 Leg.]

YEAS—30

Allen
Anderson
Bennett
Bentsen
Bible
Brock
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Eagleton
Eastland
Ellender
Ervin
Fannin
Gambrell
Gurney
Hughes
Jordan, N.C.
Long
Montoya
Pastore
Sparkman
Spong
Stennis
Symington
Talmadge
Thurmond
Tower
Young

NAYS—60

Aiken
Allott
Bayh
Beall
Bellmon
Boggs
Brooke
Buckley
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Fong
Gravel
Griffin
Harris
Hart
Hartke
Hatfield
Hollings
Hruska
Humphrey
Inouye
Javits
Jordan, Idaho
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Stafford
Stevens
Stevenson
Taft
Tunney
Weicker
Williams

NOT VOTING—10

Baker
Fulbright
Goldwater
Hansen
Jackson
Kennedy
McClellan
McGovern
Miller
Mundt

So Mr. Ervin's amendment was rejected.

Mr. ERVIN. Mr. President, on behalf of the distinguished Senator from Alabama and myself I call up amendment No. 844 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 33, strike out everything from the word "or" on line 20 through the word "activities" on line 24, and insert the following in lieu thereof: "or to the employment of any individuals by any educational institution."

Mr. ERVIN. Mr. President, I yield myself whatever time I consume.

Mr. President, this amendment would remove from the coverage of the bill all employment practices of all educational institutions. As I pointed out some days ago, when the EEOC invades the field of education to enforce employment practices, they have to decide two things before they can take action.

Mr. BYRD of West Virginia. Mr. President, may we have better order in the Senate?

The PRESIDING OFFICER. The Senator will please suspend. The Senate will be in order.

The Senator may proceed.

Mr. ERVIN. Mr. President, the first thing they have to decide is that a man who claims he has suffered discrimination when he applied for a job at the educational institution is qualified to teach the course of study in which the vacancy occurs. The second thing they have to decide is that he was denied employment because of his race, or religion, or national origin, or his sex.

Manifestly, as I pointed out some days ago, Federal judges, and members of the EEOC are not competent to pass on the qualifications of people who teach such abstract subjects as anthropology and other subjects in institutions of higher learning. Therefore, this amendment would remove from the coverage of the act employment in educational institutions.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I think this is simply rearguing the case which has been argued before in respect of this debate as to the delimitations of the employment of any individuals by any educational institutions.

I would like to point out that the exemption as it is now contained in section 702 has been considered and reconsidered five or six times. I believe as it stands now it represents the will of the Senate in what exemptions the Senate wishes to make in this particular title. Therefore, in accordance with the pledge that was made to the Senate by the Senator from New Jersey and me, the Senate has spoken and we wish to leave the matter strictly where it is.

Therefore, I urge that the amendment be rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment. All those in favor will signify by saying "aye." All those opposed will signify by saying "no."

Mr. ERVIN. I ask for a division.

The PRESIDING OFFICER. A division is requested.

All Senators in favor please stand and be counted.

Those opposed stand and be counted.

Mr. ALLEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from South Dakota (Mr. McGovern), the Senator from Arkansas (Mr. McClellan), the Senator from Washington (Mr. Jackson), the Senator from Indiana, (Mr. Bayh), the Senator from Florida (Mr. Chiles), the Senator from Massachusetts (Mr. Kennedy), the Senator from Maine (Mr. Muskie), the Senator from Arkansas (Mr. Fulbright) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker) is absent by leave of the Senate on official committee business.

The Senator from Wyoming (Mr. Hansen) and the Senator from Iowa (Mr. Miller) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Arizona (Mr. Goldwater), the Senator from Vermont (Mr. Stafford), and the Senator from Ohio (Mr. Taft) are detained on official business.

If present and voting, the Senator from Ohio (Mr. Taft) would vote "nay."

The result was announced—yeas 15, nays 70, as follows:

[No. 54 Leg.]

YEAS—15

Allen
Brock
Byrd, Va.
Eastland
Ellender
Ervin
Fannin
Gurney
Jordan, N.C.
Long
Sparkman
Stennis
Talmadge
Thurmond
Tower

NAYS—70

Aiken
Allott
Anderson
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brooke
Buckley
Burdick
Byrd, W. Va.
Cannon
Case
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Fong
Gambrell
Gravel
Griffin
Harris
Hart
Hartke
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Javits
Jordan, Idaho
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Spong
Stevens
Stevenson
Symington
Tunney
Weicker
Williams
Young

NOT VOTING—15

Baker
Bayh
Chiles
Fulbright
Goldwater
Hansen
Jackson
Kennedy
McClellan
McGovern
Miller
Mundt
Muskie
Stafford
Taft

So Mr. Ervin's amendment (No. 844) was rejected.

AMENDMENT NO. 908

Mr. ERVIN. Mr. President, I call up amendment No. 908, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 66, insert the following new section between lines 13 and 14:
>
> "Sec. 13. Upon demand of any party, the issues of fact arising in any civil action brought under the provisions of this Act or the provisions of title VII of the Civil Rights Act of 1964 shall be determined by a jury."
>
> Renumber "Sec. 13" as it appears on page 66, line 14, as "Sec. 14".

Mr. ERVIN. I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I am a great believer in the right of trial by jury. I think that the issues of fact in any legal proceeding which affects the rights or responsibilities of any man ought to be determined by a jury rather than by a court. I find myself in complete harmony with the men who drafted and ratified the Constitution. They declared in that instrument, in the third paragraph of section 2 of article III:

> The trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

When the demand of the people of North Carolina, as expressed in their constitutional convention, that there be a Bill of Rights added to the Constitution, was complied with, or at least when it became certain it would be complied with, there was eventually adopted amendment 6, which provides that:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law.

Then it is provided, in amendment 7, that:

> In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

I am aware that the seventh amendment guaranteed the right of trial by jury only in common law actions as distinguished from equitable proceedings. But they were so solicitous of the right guaranteed in that amendment that they guaranteed that right in common law actions where the value in controversy amounted to more than $20. Here we are passing a bill giving the Federal district courts jurisdiction of controversies which far exceed in value $20, in some cases going to the hundreds of dollars.

I have been astounded by the expansion of the equitable powers of Federal courts. They have been expanded, I think, because some people do not favor trials by jury, and the expansion of the equitable powers of the Federal courts has occurred to circumvent the guarantees of trial by jury contained in the Constitution.

I recognize that Congress has the power to deny the people covered by this bill the right of trial by jury. I think if the courts of our land are going to enjoy the respect and confidence of the people in cases of this kind, as well as in equitable proceedings generally, Congress is going to have to grant the litigants in those cases a statutory right of trial by jury. I say that because I think it is calculated to cause a loss of confidence in the courts of our country to allow everything in those courts to be determined solely by members of one profession, namely, the legal profession. I say this because the fact is that all Federal judges at least have a law license, are theoretically lawyers, and are so regarded by the general public, regardless of their legal attainments or lack of legal attainments.

I think the people of this Nation should participate in the administration of justice, and that we should have jurors called from the body of the citizenship of this Nation to determine issues of fact. That is the only way in which we can have citizen participation in the administration of justice in matters which might otherwise fall within the jurisdiction of courts of equity, where cases are tried without the intervention of a jury.

I feel that there would be a guarantee of a trial by jury contained in the Constitution in respect to equitable proceedings, which were very few in number at the time of the adoption of the Constitution, had the Founding Fathers been able to envisage the future and see how the powers of courts of equity were to be expanded. I rejoice to say that within the State of North Carolina, where I have the privilege of residing and which I have the honor of representing in part in this body, the legislature has recognized and the constitution of the State recognizes that there shall be a trial of issues of fact by jury, regardless of whether the issues of fact arise in what would have been common law actions or in equitable proceedings.

The purpose of this amendment is just to make it certain that litigants who are summoned under this act to the Federal courts shall have the right to demand a trial by jury on the issues of fact, and to make it certain that there shall be citizen participation in the enforcement of the provisions of this bill.

I think both of these purposes are praiseworthy, and ought to move the Senate to vote in favor of this amendment.

Mr. JAVITS. I yield myself 2 minutes.

Mr. President, in the first place, this is an equity proceeding in the Federal courts; and even the other body, in passing this bill, did not include a requirement for a jury trial. It would be special and unusual, and available only for this particular kind of proceeding which would be carried out by the Commission. If it is valid for this, why is it not valid for all proceedings under the 14th amendment, which would include education, housing, and everything else in the Civil Rights Act of 1964?

The real objection to it is that it would simply proliferate the court delays which were the primary element in the struggle here, and we had the assurances of the Senator from Colorado in his amendment that there was expedited procedure, including the possibility of a three-judge Federal court. When the Senate adopted that approach, notwithstanding that a majority did not want it but finally had to yield to the fact that it wanted a bill, it was without any contemplation that we would simply pyramid the difficulties we already had in court delays running up to 40 months—3 years and 4 months in many jurisdictions—by now imposing what would be a special requirement in these cases, as distinguished from the antidiscrimination field generally, of jury trial.

I believe that the Senate, having decided that it is going to go the route of litigation, does not desire simply to stop the litigation dead in its tracks even further by clogged calendars. As there are many safeguards, with appeals and so forth, and as we have many cases in equity, including those dealing with environment and other matters fully as serious as this, if not more so, I see no justification for introducing the jury trial except to delay these cases further.

For those reasons, I urge the Senate to reject the amendment.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Washington (Mr. Jackson), the Senator from Arkansas (Mr. McClellan), the Senator from South Dakota (Mr. McGovern), the Senator from Maine (Mr. Muskie), the Senator from Arkansas (Mr. Fulbright), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker) is absent by leave of the Senate on official committee business.

The Senator from Wyoming (Mr. Hansen) and the Senator from Iowa (Mr. Miller) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Ohio (Mr. Taft) is detained on official business.

If present and voting, the Senator from Ohio (Mr. Taft) would vote "nay."

The result was announced—yeas 30, nays 56, as follows:

[No. 55 Leg.]

YEAS—30

Allen
Allott
Bennett
Brock
Buckley
Byrd, Va.
Byrd, W. Va.
Chiles
Cotton
Curtis
Dole
Eastland
Ellender
Ervin
Fannin
Gambrell
Goldwater
Gurney
Hollings
Hruska
Jordan, N.C.
Jordan, Idaho
Long
Randolph
Sparkman
Spong
Stennis
Talmadge
Thurmond
Tower

NAYS—56

Aiken
Anderson
Beall
Bellmon
Bentsen
Bible
Boggs
Brooke
Burdick
Cannon
Case
Church
Cook
Cooper
Cranston
Dominick
Eagleton
Fong
Gravel
Griffin
Harris
Hart
Hatfield
Hughes
Humphrey
Inouye
Javits
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Stafford
Stevens
Stevenson
Symington
Weicker
Williams
Young

NOT VOTING—14

Baker
Bayh
Fulbright
Hansen
Hartke
Jackson
Kennedy
McClellan
McGovern
Miller
Mundt
Muskie
Taft
Tunney

So Mr. Ervin's amendment (No. 908) was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed, without amendment, the following bill and joint resolution the Senate:

S. 2896. An act to amend chapter 83 of title 5, United States Code, relating to adopted child; and

S.J. Res. 189. Joint resolution to authorize the President to designate the period beginning March 26, 1972, as "National Week of Concern for Prisoners of War/Missing in Action" and to designate Sunday, March 26, 1972, as a national day of prayer for these Americans.

The message also announced that the House insisted upon its amendment to the bill (S. 671) to provide for division and for the disposition of the funds appropriated to pay a judgment in favor of the Blackfeet Tribe of the Blackfeet Indian Reservation, Mont. and the Gros Ventre Tribe of the Fort Belknap Reservation, Mont. in Indian Claims Commission docket numbered 279–A, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Aspinall, Mr. Haley, Mr. Melcher, Mr. Steiger of Arizona, and Mr. Terry were appointed managers on the part of the House at the conference.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 748) to authorize payment and appropriation of the second and third installments of the U.S. contributions to the Fund for Special Operations of the Inter-American Development Bank.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 749) to authorize U.S. contributions to the Special Funds of the Asian Development Bank.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2010) to provide for increased participation by the United States in the International Development Association.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

EQUAL EMPLOYMENT OPPORTUNITY IN THE LIBRARY OF CONGRESS

Mr. CRANSTON. Mr. President, I call up the amendment I submitted earlier today prior to the cloture vote, which has been cosponsored by the distinguished Senator from Colorado (Mr. DOMINICK) and ask that it be stated.

The PRESIDING OFFICER (Mr. ROTH). The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the text of the amendment will be printed in the RECORD.

The text of the amendment is as follows:

On page 63, strike out lines 9 and 10 and insert in lieu thereof the following:

"In those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be"

On page 63, line 13, strike out "The" and insert in lieu thereof:

"Except as otherwise provided in this subsection, the".

On page 65, between lines 4 and 5, insert the following new sentence at the close of subsection (b):

"With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress."

Mr. CRANSTON. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. CRANSTON. Mr. President, this amendment deals with section 11 of S. 2515, relating to nondiscrimination in Federal Government employment.

Mr. President, section 11 of the bill inserts a new section 717 in title VII of the Civil Rights Act of 1964 to provide, for the first time, a clear statutory mandate with respect to equal employment opportunity in the Federal Government. This section was added in committee as a result of an amendment which I offered with the Senator from Massachusetts (Mr. KENNEDY) and in cooperation with the Senator from Colorado (Mr. DOMINICK).

This bipartisan provision has three basic purposes:

First. Subsection (a) of the new section 717 provides a statutory mandate that all personnel actions affecting employees or applicants for employment in the Federal Government, "Shall be made free from any discrimination based on race, color, religion, sex or national origin."

Second. Subsection (b) in the new section 717 empowers the Civil Service Commission to enforce the mandate in subsection (a) and to be responsible for review of evaluation of Federal agency equal employment opportunity plans and programs. The subsection also requires that certain provisions be included in each agency's plan.

Third. Subsection (c) of the new section 717 creates a remedy in Federal district court—comparable to private employment actions—for any employee who has exhausted the equal employment opportunity complaint procedure within his Federal agency.

Mr. President, unfortunately, as drafted, these provisions, which in many respects only codify requirements presently contained in Executive orders and the Constitution, would not apply to employment in the Library of Congress. That is because legislative branch coverage in the bill is limited to "positions in the competitive service." Although this would apply to both the General Accounting Office and the Government Printing Office—which are agencies of the Congress, it would not apply to the Library of Congress which does not have positions in the competitive service and is not generally bound by the Federal personnel manual.

Presently, the Library of Congress has established its own equal employment opportunity program and generally cooperates with the Civil Service Commission with respect to equal employment, although the Library is not covered by the Government-wide Executive order. Under the amendment Senator DOMINICK and I are offering, employment in the Library of Congress would be subject to the nondiscrimination mandate of subsection (a) in the new section 717. I am assured by the Library of Congress that this would do no more than codify existing practice in the Library's personnel program.

In the same way, the amendment I am offering would also include the Library of Congress within the subsection (c) provision permitting aggrieved employees to bring civil actions in Federal court after they have exhausted their agency's administrative remedies. I am also assured by the Library of Congress that such law suits have been brought in the past against the Library in discrimination cases, and have not been dismissed on jurisdictional grounds.

However, with respect to the enforcement authorities granted to the Civil Service Commission in subsection (b) of the new section 717, to include the Library of Congress would raise substantial questions about the appropriateness of the Congress delegating to an executive agency—the Civil Service Commission—the legislative function of overseeing one of its own arms in this instance, the Library of Congress. Presently, the Civil Service Commission has no authority in the area of nondiscrimination in Library of Congress personnel programs or actions.

The amendment we offer would not in any way change that situation. Our amendment would amend subsection (b) so as specifically to remove any possibility that the Civil Service Commission or the EEOC would be empowered to exercise enforcement, review or evaluation responsibilities or authorities vis-a-vis Library of Congress equal employment opportunity programs or actions. Instead, our amendment gives to the Librarian of Congress with respect to Library of Congress employment all enforcement authorities which are given to the Civil Service Commission under subsection (b) with respect to nondiscrimination in Federal employment generally, and bestows on the Librarian of Congress, himself, the final authority—except as it continues to repose in the Congress itself with respect to one of its own agencies—for preparing and carrying out equal employment opportunity plans and programs. Thus, there would be no invasion by this amendment of the statutory authority of the Librarian to appoint employees of the Library "solely with reference to their fitness for their particular duties." (2 U.S.C. 140).

Mr. President, the Library of Congress employs approximately 3,850 employees under all pay systems, the vast majority of whom are paid under the general schedule. Its record of entry-level equal employment opportunity for minority groups generally is a good one. According to figures compiled as of May 31, 1971, blacks, Spanish-surnamed, and orientals hold 41.8 percent of all Library of Congress jobs. By contrast, minority group persons hold only about 19 percent of total Federal Executive Branch jobs.

However, opportunities for job advancement for minorities at the Library of Congress, as for the Government generally, leave much to be desired as illustrated by the disproportionately large share of Library of Congress jobs which minorities hold at the lowest GS grades and the very small share of jobs they hold at the higher grades. For example, minorities hold 87.5 percent of the 40 jobs at GS–2, 75.6 percent of the 226 jobs at GS–3, and 76.4 percent of the 466 jobs at GS–4. Yet, at the higher levels of employment, blacks, for example, hold only 6.4 percent of the 299 jobs at GS–12, 4.1 percent of the jobs at GS–13, and 2.7 percent of the 112 jobs at GS–14. And blacks hold none of the 134 positions above GS–14.

Thus, the Library of Congress needs to make greater progress in provision for upward mobility for its minority group employees and also in opening up higher paying jobs for qualified minority persons beginning employment in the Library of Congress. Toward this end, as sponsors of this amendment, we would expect the Library of Congress, to the maximum extent possible, to continue to cooperate and coordinate with the Civil Service Commission in the planning and implementation of its equal employment opportunity program, including keeping the Commission periodically advised of the appropriate data showing the results of its EEO program.

I am grateful to the Senator from Colorado (Mr. DOMINICK) for joining me in offering this amendment this afternoon and for all the cooperation he has extended to me in developing section 11 of the pending bill.

Mr. President, this amendment has

been discussed with the Director of Personnel and the Legislative Liaison of the Library of Congress, who have raised no objections to it. It has also been discussed with the distinguished Senator from North Carolina (Mr. JORDAN), Chairman of the Joint Committee on the Library of Congress, who has agreed to it. I have also discussed it with his fellow Senator from North Carolina (Mr. ERVIN) and the distinguished floor leaders of the bill, Senator WILLIAMS and Senator JAVITS, all of whom have agreed to it.

Mr. WILLIAMS. Mr. President, I should like to address myself for a few moments to the section of the pending bill which contains significant new procedures and directives to the Civil Service Commission regarding Federal equal employment programs. It also provides, for the first time, to my knowledge, for the right of an individual to take his complaint to court. The Senator from California (Mr. CRANSTON) will be offering an amendment to this section and my remarks are intended to include the provisions of his amendment concerning the Library of Congress.

Historically, procedures and responsibilities regarding Federal equal employment opportunity have been set forth in Executive orders, rather than in statute. The first of these orders was issued by President Franklin D. Roosevelt in 1940. Every President since Roosevelt has issued at least one Executive order on the subject, and yet equal employment opportunity in the Federal Government is still not a reality for all of its workers.

Some of the relevant statistics tell the story all too clearly. For example, minorities represent 19.4 percent of the total employment of the Federal Government, but their concentration in grades GS-1 through 8 indicates that their ability to advance to the higher levels has been severely restricted. Just as glaring is the situation regarding employment of women by the Federal Government. Women represent about 34 percent—approximately 665,000—of Government employees, and yet more than three-fourths of all women employed by the Government are in grades 1 through 6.

There are, perhaps, many reasons for this unfortunate record. One of them must be presumed to be the fact that the complaint process, in effect, calls upon the complaining party's agency to investigate and judge itself. Although the informal nature of the complaint process provides for the appointment of an outside examiner, the examiner does not have the authority to conduct an independent investigation, and his conclusions and findings are in the nature of recommendations to the agency head who makes the final determination on whether there is discrimination in that particular case. The only appeal possible is to the Civil Service Commission's Board of Appeals and Review.

Testimony heard in the past by this committee and the records of other commitees of Congress indicate that there is substantial skepticism on the part of Federal employees regarding the ultimate benefit of such procedures.

Many tend to feel that it is useless to even bother to file a complaint, knowing that it will be a rare instance where an agency admits to its own shortcomings. During the hearings on this bill conducted by the Senate Subcommittee on Labor, testimony was presented by the Honorable WALTER E. FAUNTROY, the Delegate in Congress from the District of Columbia. If I may I should like to quote briefly from Delegate FAUNTROY's remarks on this very subject. He said:

> It seems anomalous to have the Commission both establish policies for rooting out discrimination and at the same time have the basic responsibility for measuring the effectiveness of its personnel policies against the demands of the law. S. 2515 will remedy this inequity and provide for objective review of Federal discrimination policies.

It does indeed seem anomalous, and I am confident that the proposals proposed and adopted by the committee will improve the Federal equal employment picture substantially.

Mr. President, I should like to outline briefly the provisions of this section for the Senate, as I believe that an understanding of them will be beneficial as we consider this legislation. The section makes clear that personnel actions of the U.S. Government affecting employees or applicants for employment shall be made free from any discrimination based on race, color, religion, sex, or national origin, and the Civil Service Commission is given power to enforce that provision with appropriate remedies. The committee report makes clear that such remedies may be applied as the result of individual allegations of discrimination, Civil Service investigation of equal employment opportunity programs in Federal agencies, or their field offices, or from review of agency plans of action and progress reports. These remedies may relate to a situation involving a single employee, a group of employees, or broad management action to correct systematic discrimination and to improve equal employment opportunity program effectiveness.

The bill also directs the Civil Service Commission to require each Federal department and agency to prepare an equal employment affirmative action plan at least once every year.

As part of this program, it is expected that the commission would require agency plans to include specific regional plans for particularly large installations. Federal agencies are to receive from the commission the necessary guidance and authority to institute necessary remedies in individual cases including the award of back pay, reinstatement or hiring, and promotion where appropriate.

So that it will be a model for other agencies and lend the greatest credibility to Federal equal employment efforts, the commission will be expected to review and revise its own equal employment opportunity plan, particularly in its regional offices and at the higher grade levels, to insure that its own record in this field is exemplary. Other Federal agencies will be required to provide, on at least a semiannual basis, minority group employment and other data to the Civil Service Commission for its evaluation and for the public record.

Finally, written expressly into the law is a provision enabling an aggrieved Federal employee to file an action in U.S. District Court for a review of the administrative proceeding record after a final order by his agency or by the Civil Service Commission, if he is dissatisfied with that decision. Previously, there have been unrealistically high barriers which prevented or discouraged a Federal employee from taking a case to court. This will no longer be the case. There is no reason why a Federal employee should not have the same private right of action enjoyed by individuals in the private sector, and I believe that the committee has acted wisely in this regard.

Mr. President, I appreciate the Senate's time and attention. I am convinced that the language in the committee bill regarding Federal employees will prove a substantial help to those, who, for so long, have been "second class citizens," as far as equal employment opportunity is concerned. I ask unanimous consent that a more detailed analysis be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ANALYSIS OF FEDERAL EMPLOYMENT

The bill adds to title VII a new section 717 making clear the obligation of the Federal Government to make all personnel actions free from discrimination based on race, color, sex, religion or national origin. The Civil Service Commission, which presently has the responsibility under Executive Order 11478, is given the authority under this title to enforce equal employment in the Federal Government.

BACKGROUND

The Federal Government, with 2.6 million employees, is the single largest employer in the Nation. It also comprises the central policy-making and administrative network for the Nation. Consequently, its policies, actions, and programs strongly influence the activities of all other enterprises, organizations and groups. In no area is government action more important than in the area of civil rights.

The prohibition against discrimination by the Federal Government, based upon the due process clause of the Fifth Amendment, was judicially recognized long before the enactment of the Civil Rights Act of 1964.* Congress itself has specifically provided for nondiscrimination in the Federal Government by stating that it is "the policy of the United States to insure equal employment opportunities for Federal employees without discrimination because of race, color, religion, sex, or national origin . . ." (5 U.S.C. § 7151). The primary responsibility for implementing this stated National objective has been granted to the Civil Service Commission pursuant to Executive Order 11246 (1964), and more recently by Executive Order 11478 (1969). In his memorandum accompanying Executive Order 11478, President Nixon stated that "discrimination of any kind based on factors not relevant to job performance must be eradicated completely from Federal employment." This was an important step forward in the field of equal employment opportunity for Federal employees.

STATISTICS RELATING TO FEDERAL EMPLOYMENT OF MINORITIES AND WOMEN

Statistical evidence shows that minorities and women continue to be denied access to a large number of government jobs, particularly in the higher grade levels. This disparity can be clearly seen in figures presented in

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*See *Bolling* v. *Sharpe*, 347 U.S. 497 (1954) and cases cited therein.

a recent report released by the Civil Service Commission, *Minority Group Employment in the Federal Government (1970)*. On the basis of the figures presented therein, the following listing shows the percentage of minority group employees under the General Schedule by grade level:

	Negro	Spanish-surnamed	American Indian	Oriental
GS-1 through GS-4	21.8	3.0	1.8	0.6
GS-4 through GS-8	13.5	2.2	.7	.8
GS-9 through GS-11	5.1	1.5	.5	1.0
GS-12 through GS-13	2.7	.8	.2	.9
GS-14 through GS-15	1.7	.7	.2	.8
GS-16 through GS-18	1.4	.3	.1	.2

Minorities represent 19.4% of the total employment in the Federal government (15.0% are Negroes, 2.9% are Spanish-surnamed, 0.7% are American Indians, and 0.8% are Oriental). Their concentration in the lower grade levels indicates that their ability to advance to the higher levels has been restricted.

In many areas, the pattern at regional levels is worse than the national pattern, for example, the particularly low percentage of Federal jobs held by Spanish-surnamed persons in areas of high residential concentration of such persons, particularly in California and the Southwestern States.

The position of women in the Federal government has not fared any better. In testimony before the Senate Labor Subcommittee on this bill, Mrs. Daisy B. Fields, past president of Federally Employed Women (FEW), testified as to the distribution, by percent, of all women employed by the Federal Government (approximately 665,000 or about 34%) as represented by the following breakdown:

	Percent
GS-1 thru GS-6	76.7
GS-7 thru GS-12	21.7
GS-13 and above	1.1

The inordinate concentration of women in the lower grade levels, and their conspicuous absence from the higher grades is again evident.

COMPLAINT PROCEDURE

One feature of the present equal employment opportunity program which deserves special scrutiny by the Civil Service Commission is the complaint process. The procedure under the present system, intended to provide for the informal disposition of complaints, may have denied employees adequate opportunity for impartial investigation and resolution of complaints.

Under present procedures, in most cases, each agency is still responsible for investigating and judging itself. Although provision is made for the appointment of an outside examiner, the examiner does not have the authority to conduct an independent investigation, and his conclusions and findings are in the nature of recommendations to the agency head who makes the final agency determination on whether there is, in fact, discrimination in that particular case. The only appeal is to the Board of Appeals and Review in the Civil Service Commission.

The testimony before the Labor Subcommittee reflected a general lack of confidence in the effectiveness of the complaint procedure on the part of Federal employees.

Complaints have indicated skepticism regarding the Commission's record in obtaining just resolution of complaints and adequate remedies. This has, in turn, discouraged persons from filing complaints with the Commission for fear that doing so will only result in antagonizing their supervisors and impairing any future hope of advancement. The new authority given to the Civil Service Commission in the bill is intended to enable the Commission to reconsider its entire complaint structure and the relationships between the employee, agency and Commission in these cases.

SYSTEMIC DISCRIMINATION

Another task for the Civil Service Commission is to develop more expertise in recognizing and isolating the various forms of discrimination which exist in the system it administers. The Commission should be especially careful to ensure that its directives issued to Federal agencies address themselves to the various forms of systemic discrimination in the system. The Commission should not assume that employment discrimination in the Federal Government is solely a matter of malicious intent on the part of individuals. It apparently has not fully recognized that the general rules and procedures that it has promulgated may in themselves constitute systemic barriers to minorities and women. Civil Service selection and promotion techniques and requirements are replete with artificial requirements that place a premium on "paper" credentials. Similar requirements in the private sectors of business have often proven of questionable value in predicting job performance and have often resulted in perpetuating existing patterns of discrimination (see e.g. *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971)). The inevitable consequence of this kind of a technique in Federal employment, as it has been in the private sector, is that classes of persons who are socio-economically or educationally disadvantaged suffer a very heavy burden in trying to meet such artificial qualifications.

It will be incumbent upon the Civil Service Commission to undertake a thorough reexamination of its entire testing and qualification program to ensure that the standards enunciated in the *Griggs* case are fully met.

PROVISIONS OF S. 2515

In order to assist the Commission in accomplishing its goals and to make clear the Congressional expectation that the Commission will take those further steps which are necessary in order to satisfy the goals of Executive Order 11478, Section 717(b) of the bill contains specific requirements under which the Commission is to function in developing a comprehensive equal employment opportunity program.

Thus, the provision in section 717(b) for applying "appropriate remedies" is intended to strengthen the enforcement powers of the Civil Service Commission by providing statutory authority and support for ordering whatever remedies or actions by Federal agencies are needed to ensure equal employment opportunity in Federal employment. Remedies may be applied as a result of individual allegations of discrimination, CSC investigation of equal employment opportunity programs in Federal agencies or their field installations, or from review of agency plans of action and progress reports. Remedies may be in terms of action required to correct a situation regarding a single employee or group of employees or broader management action to correct systemic discrimination and to improve equal employment program effectiveness to bring about needed progress. The Commission is to provide Federal agencies with necessary guidance and authority to effectuate necessary remedies in individual cases, including the award of back pay, reinstatement or hiring, and immediate promotion where appropriate.

REPORTING REQUIREMENTS

The bill also directs the Commission to require each Federal department and agency (including appropriate units of the District of Columbia Government) to prepare an equal employment opportunity affirmative plan of action at least annually. The Commission is to review, modify, and approve each department or agency plan (at whatever agency level needed) developed with full consideration of particular problems and employment opportunity needs of individual minority group populations within each geographic area.

Under these provisions, the Commission may require that agency plans include specific regional plans for particularly large Federal regional installations and other regional offices with deficient records of progress in equal employment opportunity.

The bill requires the Commission to obtain, on at least a semi-annual basis, minority group employment and such other data as are necessary for effective evaluation by the Commission and the public of each department's, agency's or unit's record of equal employment opportunity achievement and to publish at least semi-annually full statistical and other reports (comparable to the report now published annually) of equal employment opportunity progress. In evaluating agency plans for approval, the Commission is also directed to study and determine the appropriate allocation of personnel and resources committed to, and the qualifications to be established for top equal employment opportunity officials responsible for carrying out program responsibilities, including necessary affirmative action as well as processing of individual discrimination cases, on both a central office and regional (SMSA) basis.

PRIVATE RIGHT OF ACTION

An important adjunct to the strengthened Civil Service Commission responsibilities is the statutory provision of a private right of action of review of the agency proceedings in the courts by Federal employees who are not satisfied with the Agency or Commission decision.

The testimony of the Civil Service Commission notwithstanding, the Committee found that an aggrieved Federal employee does not have access to the courts. In many cases, the employee must overcome a U. S. Government defense of sovereign immunity or failure to exhaust administrative remedies with no certainty as to the steps required to exhaust such remedies. Moreover, the remedial authority of the Commission and the courts has also been in doubt. The provisions adopted by the Committee will enable the Commission to grant full relief to aggrieved employees, or applicants, including back pay and immediate advancement as appropriate. Aggrieved employees or applicants will also have the full rights of review available in the courts.

The bill (section 717(c)) enables the aggrieved Federal employee (or applicant for employment) to file an action in the appropriate U. S. district court after either a final order by his agency or a final order of the Civil Service Commission on an appeal from an agency decision or order in any personnel action in which the issue of discrimination on the basis of race, color, religion, sex or national origin has been raised by the aggrieved person. It is intended that the employee have the option to go to the appropriate district court or the District Court for the District of Columbia after either the final decision within his agency on his appeal from the personnel action complained of or after an appropriate appeal to the Civil Service Commission or after the lapse of 180 days from the filing of the initial complaint or appeal with the Civil Service Commission.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

AMENDMENT NO. 909

Mr. JAVITS. Mr. President, I send amendment No. 909 to the desk on behalf of myself, the Senator from Kentucky (Mr. Cooper) and the Senator from New Jersey (Mr. Williams). I ask unanimous consent that the text of the amendment I send to the desk, rather than the text of the amendment as printed, be the amendment I call up.

The PRESIDING OFFICER. Is there objection?

Mr. ERVIN. Mr. President, reserving the right to object——

Mr. JAVITS. Mr. President, I am sure the Senator wants to hear it. I suggest that the amendment be read first.

Mr. ERVIN. Mr. President, as I understand, the Senator from New York has asked unanimous consent to modify the prior amendment so as to make the appointment of special masters by the judge discretionary rather than mandatory?

Mr. JAVITS. The Senator is exactly correct.

Mr. ERVIN. I certainly have no objection to that.

Mr. JAVITS. Mr. President, I thank the Senator. I yield myself 1 minute.

The PRESIDING OFFICER. Would the Senator suspend while the clerk reads the amendment. The clerk will state the amendment.

The legislative clerk read as follows:

On page 50, before line 20, insert the following new section:

SEC. 4A. Section 706 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(1) If the judge designated pursuant to subsection (f)(3) of this section has not assigned the case for trial within one hundred and twenty days after issue has been joined, that judge may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure.".

Mr. JAVITS. Mr. President, the pending amendment really originated with the Senator from Kentucky (Mr. COOPER). I begged him to offer the amendment. However, with traditional modesty, he asked me to do so and allowed me to join him as a cosponsor.

It arose from the Dominick amendment, on which the Senator from Kentucky (Mr. COOPER) based his position that the courts could proceed as they wished on the appointment of a master under rule 53 of the Federal Rules of Civil Procedure. The normal rule as to the ability of the court to appoint a master if it wishes under rule 53 is quite stringent—the case must be truly exceptional to qualify. All this amendment does is relax that stringency in the area of title 7 cases, where justice delayed is very often justice denied.

Mr. DOMINICK. Mr. President, on my own time I wish to engage in a colloquy with the distinguished Senator from New York.

I discussed this amendment in its original form with the Senator from New York and suggested that rather than to strike what trial judges are supposed to do, we ought to leave it discretionary with judges because of the different situations that might arise in different jurisdictions.

As I understand it, the amendment language now is simply designed to remind the judge that Congress intends that employment discrimination cases should be expedited so if the judge thinks it wise, he can turn the case over to a master. This language simply highlights Congressional concern without trying to mandate what the judge does.

Mr. JAVITS. The Senator is exactly correct.

Mr. DOMINICK. Mr. President, under those circumstances, I can see no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York and the Senator from Kentucky, as modified.

The amendment as modified was agreed to.

Mr. ALLEN. Mr. President, the total unconcern of the Equal Employment Opportunity Commission for individual freedoms, property rights, and constitutional principles that would lie trampled in the dust under its rampaging feet if this Senate were to confer upon it the additional power and authority sought under S. 2515 was graphically revealed in an article by Mr. William Chapman which appeared in the August 27, 1971, edition of the Washington Post. Many of the Senators may have seen and read the article. I hope they did. Prefaced with the heading, "EEOC Would Curb Moves to Suburbs," Mr. Chapman exposed a diabolical scheme by present and former EEOC attorneys to snuff out freedom of movement by business. The article reads as follows:

[From the Washington Post, August 27, 1971]

EEOC WOULD CURB MOVES TO SUBURBS

(By William Chapman)

Legal officers of the Equal Employment Opportunity Commission have proposed a novel strategy to reduce the movement to suburbia of companies which leave minority-group workers trapped behind in the city.

A memorandum submitted to the commission last month suggests that companies are guilty of racial discrimination if their movement to new locations adversely affects minority workers living in the community where the firm is originally located.

Under the strategy outlined, court orders could be sought against companies planning to relocate, charging prima facie violations of civil rights laws. The companies would then have to prove in court that some overriding business necessity required the moves. Private plaintiffs would start the court actions; the EEOC lacks authority to do so.

The memorandum was prepared by the EEOC's former general counsel, Stanley P. Hebert, and the current acting general counsel, John de J. Pemberton Jr., and given to the commission chairman on July 7. The commission has yet to discuss the proposal.

It is designed to counter what civil rights leaders regard as one of the major threats of the times, the movement by businesses and factories to new suburban locations. Frequently, this means that blacks, Chicanos and other minorities are left jobless in the inner cities. Furthermore, either racial discrimination or the absence of low-cost housing in suburbia prevents these groups from moving to new job sites.

These factors play a large part in the increasing racial separation illustrated by the 1970 census. During the 1960s, the white population of the central cities declined by nearly 2 million people while the minority population increased by nearly 3 million.

The EEOC memorandum states: "A vast national expansion into the suburbs is generating severe racial polarization in our metropolitan areas. . . . Just as many middle-class citizens are migrating to the suburbs, companies and trade associations have begun to pull up stakes in the cities and to move to the suburbs."

It cites the recent movement out of New York City to New Jersey and Connecticut suburbs of such corporate giants as American Can Co., Pepsico and Continental Oil.

The legal strategy under consideration at the EEOC proposes the following steps to be taken under authority of Title 7 of the Civil Rights Act of 1964:

The transfer of an employer's facilities amounts to a prima facie violation if any of three elements are present—if the community left behind has a higher percentage of minority workers than the new community, if the transfer affects minority workers' employment situation more adversely than it affects other workers, and if the employer fails to take steps to correct inequities.

If the prima facie case were established, then the company would bear the burden of proving that some overriding business consideration required it to move. For example, the company could not simply say that the convenience of its executives and employees would be served by the move.

If the company could not prove an overwhelming business necessity, the court could then order it to refrain from moving.

The legal theory is based on precedents arising from other EEOC cases and suits by private plaintiffs against companies accused of violating Title 7. A string of decisions has held that although the company may not intend to discriminate, it is violating the law if the effect of its actions is to treat racial groups unequally.

In one case cited by the EEOC attorneys, a Southern power company was accused of discriminating against black job applicants by using certain educational tests. More blacks failed than whites. The courts finally held that although the tests were administered equally, their effect was to weed out black applicants whose education was inferior to whites. The courts said the tests must be dropped because the company could show no overriding economic need for their use.

"The test is whether there exists an overriding, legitimate business purpose such that the practice is necessary to the safe and efficient operation of the business," the Fourth Circuit Court of Appeals said in that case. "Thus, the business purpose must be sufficiently compelling to override any racial impact."

EEOC attorneys would hope to apply that same standard to relocation of private businesses. The issue probably will be presented to the commission this fall.

Such a legal policy would have only indirect effects in the District of Columbia, where the federal government is the largest employer. The EEOC would not have authority to seek court actions against government agencies, although EEOC attorneys think private plaintiffs could, using the same theory advanced by the agency's counsel.

If the unmasking of this bizarre proposal by Mr. Chapman was received incredulously by the American public, it is even more apparent that the article sent shock waves of embarrassment through the halls of the EEOC. For on the same day Mr. Chapman's article appeared in the Washington Post, in a matter of a few hours, EEOC Chairman Brown, obviously chagrined, issued the following hurry-scurry statement:

STATEMENT BY EEOC CHAIRMAN WILLIAM H. BROWN, ISSUED JANUARY 13, 1972

In order to correct some errors of interpretation in press reports earlier today about an EEOC staff memorandum, Chairman William H. Brown III issued the following statement:

"The memorandum discussed in press reports today concerned the possibility of employment discrimination by relocation of plant and corporate headquarters.

> "This memorandum was an internal working paper expressing the legal opinions of some staff attorneys. It was not a recommendation for action and, of course, it certainly does not express EEOC policy.
>
> "The memorandum was prepared only for me and has not been presented to the full Commission; nor is it likely to be considered by the Commission in the near future. We are deeply involved in preparation for our upcoming public hearings on employment practices in the gas and electric utilities industry which is the first priority of the Commission and staff at the moment.
>
> "The issue of plant relocation is exceedingly complex and can only be skimmed in a brief memorandum."

Well, what Chairman Brown said is nice. It is not an uncommon practice for a Government agency, when it is confronted in print with an embarrassing news story, to issue a statement through the head of the agency to help straighten out or to "correct some errors of interpretation in press reports" and then clam up about the disclosure. Chairman Brown is not the first Federal official to cringe under the heat of public disclosure of a nefarious and undercover bureaucratic scheme, nor the first to look around for ways to play it down or, better yet, attempt to turn it off.

In fairness, I must say that Chairman Brown's disclaimer as to the full accuracy of Mr. Chapman's article apparently met with some degree of success. Little notice, if any, was paid to the memorandum during the hearings and executive sessions in which S. 2515 was jammed through the subcommittee and then the committee. This may be understandable in view of the revolutionary nature of the memorandum.

Some people may think that the EEOC would never arrogate unto itself the sole authority to examine and pass judgment as to what business shall move or not move because of the patent absurdity involved. Less than a decade ago, however, the idea of requiring a racial balance in public schools was also deemed too ridiculous to consider. Yet, today we see little schoolchildren in the South and other parts of the Nation being lugged all over cities and counties to achieve what HEW officials and the courts consider to be a mathematically satisfactory racial mixture in public schools.

No, Mr. President, the EEOC memorandum as described by Mr. Chapman is no fictionalized horror story. It is real. And its designing authors were never more serious in either their preparation of it or their intent to see it become the law of the land by some extrapolation of power conferred upon the executive branch of our Government.

I have, in my hand, a copy of the EEOC memorandum and intend to read and discuss it in just a few moments. Before doing so, however, I should like to say that I was astounded by the memorandum's contents. Even a casual reading of the memorandum removes all questions about the thirst for unlimited and unrestrained power which motivated the writing of the memorandum. It is more than just a vicious assault upon our free enterprise system. In its simplest terms, the memorandum is the dictrine of the arrogance of bureaucratic power. It would confer upon the EEOC the power of discretion and enforcement equivalent to that of a czar. Taken to its logical limit, the memorandum would destroy the rule of law and would leave us stripped before the whim of men. It is the very antithesis of a government of law—and particularly the antithesis of a government of limited powers specifically delegated to it by the people through a written constitution.

The authors of this shrewd memorandum tried to give the proposal some semblance of justification and refinement by the way of case citations. They even tried to use the present language of title VII to justify their theory, but here is where the first of many jokers contained in the memorandum appear. The memorandum asserts that—

> Section 703(a) states that it is unlawful for an employer "to deprive or *tend to deprive* an individual of employment opportunities . . ." Thus, a proposed relocation that threatens to deprive minority workers of employment opportunities constitutes a *prima facie* violation of Title VII.

The catch is, Mr. President, and it blows their entire legal argument, section 703(a) says much more. It reads as follows:

> Section 703(a)—It shall be an unlawful employment practice for an employer—
>
> (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual, with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
>
> (2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

From a reading of all of section 703(a), we, therefore, see that what the authors of the memorandum have done is to trim down part 2 of the section to prove its statutory authority to either forbid or restrict business relocation.

Taken as a whole, neither part 1 nor 2 of section 703(a) says anything at all about where a businessman can or cannot operate. It simply requires an employer to hire, discharge, classify, promote, and compensate his employees strictly on their skills and performance, which, I might add, any wise employer who is actuated by the profit motive does anyway.

When viewed in this light, Mr. President, the memorandum—all of it—reveals its legal inadequacies and one-sidedness so quickly as to be guilty almost of indecent exposure.

But let us look at all of the memorandum. It affords a glimpse, not often granted to the public or even to the Congress of the United States, of some of the ways in which a government bureau works in espousing the side of arbitrary and oppressive governmental intrusion against fundamental economic and individual rights.

I ask unanimous consent to have the memorandum printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION MEMORANDUM, JULY 7, 1971

To: William H. Brown III, Chairman.

From: Stanley P. Hebert, General Counsel; John de J. Pemberton, Jr., Deputy General Counsel; and Martin I. Slate, Attorney, Office of the General Counsel.

Subject: Employment Discrimination by Re-location of Plant and Corporate Headquarters.

A vast national expansion into the suburbs is generating severe racial polarization in our metropolitan areas. During the past decade, the white population in our central cities has declined by 1.9 million persons while the minority population has increased by 2.8 million.[1]

Just as many middle-class citizens are migrating to the suburbs, companies and trade associations have begun to pull up stakes in the cities and to move to the suburbs. The following companies have, for instance, recently moved their corporate headquarters from New York City to Connecticut and New Jersey suburbs: The American Can Company, Pepsico, General Telephone & Electronics, Continental Oil, Chesebrough Pond's, Lone Star Cement, The Olin Corporation, Hooker Chemical, and many others.[2]

These corporate relocations sharpen racial polarization, with the companies go employment opportunities for minority workers,[3] for while suburbia has welcomed the white wage-earner, minority workers have been shut out of suburbia.[4]

Last month in Washington, D.C., the United States Commission on Civil Rights conducted extensive hearings on the role of the Federal Government in combating racial polarization resulting from migration to suburbia. The Commission concluded that the Federal Government has failed to make the full use of its authority in this area, and recommended that the Government develop affirmative programs to assure that future migrations to suburbia reduce rather than intensify polarization.

Pursuant to that recommendation, the Office of General Counsel has prepared this discussion of the role that the Commission might play in the Government's effort to reverse the present process of polarization. Part I shows that a corporate relocation or proposed relocation to a suburban area where minority workers do not reside constitutes a violation of Title VII unless the corporation has taken steps to assure equal employment opportunity. Part II suggests what steps might be.

PART I

The transfer of an employer's facilities constitutes a *prima facie* violation of Title VII if (1) the community from which an employer moves has a higher percentage of minority workers than the community to which he moves, or (2) the transfer affects the employment situation of the employer's minority workers more adversely than it affects his remaining workers, and (3) the employer fails to take measures to correct such disparate effect.

Section 703(a) of Title VII makes it unlawful for an employer to engage in discriminatory employment practices. In *Griggs* v. *Duke Power Company*, 91 S. Ct. 849 (1971), the Supreme Court held that any employment practice that has a disparate impact on minority workers constitutes a *prima facie* violation of Section 703(a) and places the burden of proving non-discrimination on the employer.[5]

A corporate relocation has a disparate effect on the minority work force. When an employer moves to a community with a lower percentage of minority workers than that from which he came, he diminishes the pool of available minority workers. He therefore decreases the employment opportunities for

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Footnotes at end of article.

minority workers while increasing opportunities for non-minority workers.

More specifically, an employer has a duty of fair recruitment.[6] Locating a plant in an area with few minority residents gives rise to minority recruiting problems. Normal recruiting patterns tend to confine notice of job vacancies to those who reside and work in an area. Unless an employer makes special efforts to institute a minority recruiting program, he will have failed in his duty of fair recruitment.

A transfer also has a disparate effect on the employer's present minority workers if the ratio of minority employees who are unable to continue employment with the company to those minorities who do move is higher than the ratio of whites who are unable to move to those whites who do move. In the conventional employment situation there is this disparate effect: Management, which is largely nonminority, adjusts to the transfer easily; indeed, management personnel may live in the area to which the facility is transferred. Other personnel, largely minority, are frequently unable to follow the relocation; commuting may be too difficult, moving may be too costly, or minorities may be shut out from suburbia by racial attitudes or by restrictive zoning laws. Thus, unless the relocating employer arranges for his minority employees to continue employment, he will be discharging employees on the basis of race.[7]

It should be noted that it is not necessary for the relocation to have been completed in order for Title VII liability to attach. Section 703(a) states that it is unlawful for an employer "to deprive or *tend to deprive* any individual of employment opportunities . . ." Thus, a proposed relocation that threatens to deprive minority workers of employment opportunities constitutes a *prima facie* violation of Title VII.

The proposition that a corporate relocation constitutes a *prima facie* violation of Title VII is consistent with Commission policy and Court precedent. Mindful of the subtle and sophisticated nature of employment discrimination,[8] the Commission and the Courts have not limited their attack on employment discrimination to more traditional forms of discrimination, such as outright refusal to hire minorities. Rather they have given a broad interpretation to Title VII.[9] Thus, as the *Griggs* case establishes, commonly used tools of corporate manpower policy have been declared unlawful when they operate to deprive minority workers of equal employment opportunity; the high school diploma requirement, the Wonderlic test, the hiring hall,[10] and seniority rosters[11] have all been held illegal in such circumstances.

Nor has the thrust of Title VII been restricted to eradicating practices that are intentionally discriminatory. Title VII deals with the *consequences* of an employer's action, not with his motivation.[12] In the words of Chief Justice Burger, Title VII condemns "practices that are fair in form but discriminatory in operation." The neutrality of the relocation process should not save it from illegality if its consequences are to restrict minority employment.

Finally, it should be noted that the National Labor Relations Board has dealt firmly with the corporate relocation problem. An employer who relocates in order to avoid a union commits an unfair labor practice.[13] The analogy between the NLRA and Title VII has frequently been noted,[14] indeed, the Courts have pointed out that Title VII provides broader protection than the Labor Act.[15] It would therefore be unthinkable that an employer who is prohibited from relocating to avoid a union would be free to relocate his facilities away from minority workers.

Once a *prima facie* violation is established, to defend his conduct the employer must show that his discriminatory conduct serves a valid business purpose. As the Court explained in *Robinson* v. *Lorillard,* 319 F. Supp. 835, 841, 2 FEP Cases 465, 470 (M.D.N.C., 1970) *aff'd.* — F. 2d —, 3 FEP Cases — (4th Cir., July 1, 1971), "two lines of thought appear to have been advanced with respect to the meaning of *business purpose or business necessity* and what value Courts should ascribe to those words in determining whether a given employment practice is unlawful or not."

The first line of thought, and the one that the *Lorillard* court thought was most in keeping with the primary policy of Title VII is that "a valid business purpose can offer no absolution to an employer or labor organization who is acting in a discriminatory fashion. Where effects of discrimination are present, the system cannot be regarded as bona fide." Under this standard, an employer who relocates to the detriment of the minority workforce is clearly in violation of Title VII.

The second line of thought is that, to defend his conduct, the employer must demonstrate that an overriding business necessity justifies his discriminatory policy.[16] He must show that the advantages that he will derive from his discriminatory policy are *vital* to the operation of his business, and that they outweigh the discriminatory effect on the minority workforce. At first blush, it appears that this would be a difficult burden for an employer to meet when he relocates without assuring equal employment opportunity. His move will have created almost insurmountable problems for minorities, while the steps needed to assure equal employment opportunity appear far less costly.

On appeal, the Fourth Circuit, found it unnecessary to reject either of these two "lines of thought" for it held, in agreement with the District Court, that the employer's business purpose failed as a defense by either standard. But it elaborated upon the balancing test with these words: "The test is whether there exists an overriding legitimate business purpose such that the practice is necessary to the safe and efficient operation of the business. Thus, the business purpose must be sufficiently compelling to override any racial impact;[17] the challenged practice must effectively carry out the business purpose it is alleged to serve;[18] and there must be available no acceptable alternative policies or practices which would better accomplish the business purpose advanced, or accomplish it equally well with a lesser differential racial impact."[19]

Robinson v. *Lorillard,* —F. 2d —, —, 3 FEP Cases —, —, (4th Cir. 1971) (Typewritten opinion at pp. 15–16).

In the *Lorillard* case, the employer had resisted changing its promotion and job transfer system on the grounds, *inter alia,* that the settled policies provided for an efficient progression through interrelated jobs and, besides, had been adopted under union pressure at the risk of having to endure a strike. The court rejected the first of these recited reasons, because non-discriminatory alternatives could be found to serve the same need for efficiency in job progression. As to the second it said:

"The rights assured by Title VII are not rights which can be bargained away—either by a union, by an employer, or by both acting in concert. Title VII requires that both union and employer represent and protect the best interest of minority employees. Despite the fact that a strike over a contract provision may impose economic costs, if a discriminatory contract provision is acceded to the bargainee as well as the bargainor will be held liable." *Robinson* v. *Lorillard,* (4th Cir. dec.) *supra,* Typewritten opinion at p. 18. (Footnote omitted).

The reasoning of the Court on these two issues would seem to foreclose any successful "business necessity" defense for a relocation that failed to make adequate provision for members of the minority workforce.

Other judicial precedent is consistent. In cases involving employment discrimination based on race, the business necessity defense has rarely succeeded.[20] As the Fifth Circuit held in *Diaz,* a discriminatory policy is valid only when the essence or primary function of a business would be undermined by a nondiscriminatory policy.[21]

If, as some critics maintain, corporate moves to the suburbs are motivated by the desires of corporate officials to locate their offices near their suburban homes,[22] the move is unlawful. Business convenience does not constitute business necessity.

The only possible defense would be proof that the move effects an essential or vital competitive advantage. This would be difficult. Not only must the employer prove that suburban relocation would improve his competitive position, but also he must show that it would improve his position more than a relocation in an area where minority workers reside; that is, he must show a business necessity that cannot be served by some alternative less costly to minority employment opportunity. Land values are depressed in many lower-income areas, and a relocation to suburbia might well be more costly than a relocation to a lower-income area.[23]

In any case, even if the profit motive justifies the relocation, to suburbia, it cannot justify the failure to take steps to assure that the risk of exclusion of minorities from employment is avoided.[24] The employer's costs of taking such steps is minimal in comparison with the social and economic damage brought about by his failure to assure equal employment opportunity. To quote Sol M. Linowitz, the Chairman of the National Urban Coalition:

"Everytime business decides to move or build a plant or other facility out in the hinterlands without insisting upon housing, schools and other services for its workers—present and prospective—it is helping to exacerbate the problems of an already deeply divided country."

PART II

An employer who violates Title VII must take action to comply with the Title. There are three touchstones in the formulation of remedies in the civil rights and fair employment areas:

(1) The paramount factor is the "public interest".[25] Employment discrimination is unfair and undercuts national productivity, and the individual "abrasions and dislocations"[26] that a remedy might cause should not interfere with our effort to achieve maximum fairness and efficiency.

(2) The victims of discrimination must be made whole.[27] Fairness dictates that they should have the position that they would have had but for the unlawful conduct.

(3) In making victims whole, a Court or the Commission will be flexible and tailor the remedy to the violation. As Section 706(g) of Title VII provides, when a Court finds that an employer is engaging in an unlawful employment practice, it should "order such affirmative action as may be appropriate."[28]

In this light, the following remedial scheme is appropriate:[29]

To assure a continued pool of minority labor, an employer should—

(1) institute special recruiting efforts in the nearest areas of minority residence. There is substantial precedent for such programs.[30]

(2) assure that the minority workers enjoy the same access to the employer's facilities that non-minorities do. If commuting expenses for minorities are high, they should be paid. If commuting is impossible, housing arrangements should be made: The employer should provide moving expenses.[31] If necessary, he should also provide or assist in the search for housing and use legal and commercial leverage to assure housing opportunities for minorities. The employer might not be responsible for the factors restricting housing opportunities, such as exclusive zon-

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Footnotes at end of article.

ing regulations, but as the Fifth Circuit stated in refusing a local school board's claim that integration was precluded by natural barriers and by a state highway that crossed between a minority neighborhood and an all-white school:

> Barriers which did not prevent enforced segregation in the past will not be held to prevent conversion to a full unitary system.[32]

(3) establish a goal for minority employment. This should be the same goal that he presumably set at his original location:[33] the employment of minorities at a level which reflects the ratio of minorities to the population as a whole in (or to their proportionate participation on the community's work force in that area.

To assure that his current minority employees are not deprived of employment, the employer should:

(1) notify all employees that they will be able to continue employment with the company if they choose to do so.

(2) make the appropriate commuting and housing arrangements (see above) for those who choose to continue with the employer.

(3) offer those who choose not to relocate assistance in obtaining comparable positions with other employers.[34]

In addition to remedying specific violations, the Commission should take general steps to implement its policy. Pursuant to Section 709(c), the Commission should require all employers to keep records concerning their planning with respect to plant location and to report on their efforts to assure equal employment opportunity when they are contemplating a move. Such a reporting system would serve to alert the employer to his legal obligations and would give the Commission an opportunity to become involved in relocation at the planning stage.

The Commission should also prepare Guidelines concerning plant relocation. The preparation of the Guidelines will educate the Commission on this problem. The Guidelines themselves will alert employers to their obligations and strengthen the litigation position of victims of discriminatory relocation.[35]

FOOTNOTES

[1] *Opening Statement of Dr. Stephen Horn*, Vice-Chairman, United States Commission on Civil Rights, at Washington, D.C. Hearings, June 15, 1971.

[2] *Rush to the Suburbs: Business Also Deserts City*, The Evening Star (Washington, D.C.), June 15, 1971, page A-14.

[3] A recent St. Louis study found that while the number of jobs in Greater St. Louis had increased fivefold in the past twenty years, the number of jobs in the city of St Louis had declined by over 20%. *Statement on Hearing Before the U.S. Commission on Civil Rights in St. Louis, Missouri*—January 14–17, 1970.

[4] Thus, the 1970 census shows that in metropolitan areas with one million or more residents, 54% of the whites earning less than $4,000 per year live in suburbia while 14% of the blacks earning less than $4,000 per year live in suburbia.

[5] The lower courts have consistently articulated identical standards. *Jones* v. *Lee Way Motor Freight*, 431 F. 2d 245 (C.A. 10, 1970); *Papermakers, Local 189* v. *U.S.*, 416 F. 2d 980 (C.A. 5, 1969); *Parham* v. *Southwestern Bell Telephone Co.*, 433 F. 2d 421 (C.A. 8, 1970); *Gregory* v. *Litton Systems*, 316 F. Supp. 401 (C.D. Calif., 1970).

[6] *Parham* v. *Southwestern Bell Telephone, supra; U.S.* v. *Frazer*, — F. Supp. —, 2 FEP Cases 847 (M.D. Ala., 1970); *Clark* v. *American Marine Corp.*, 304 F. Supp. 603 (E.D. La., 1969).

[7] It would be no defense that the relocation will have the same effect on individual white and minority employees who are similarly situated (e.g., are of low-income). *Jones* v. *Lee Motor Freight, supra*. The disparate effect on minorities as a class constitutes the *prima facie* violation.

[8] *Sanchez* v. *Standard Brands*, 431 F. 2d 455 (C.A. 5, 1970); *Graniteville Co.* v. *EEOC*, 438 F. 2d 32 (C.A. 4, 1971).

[9] *Sanchez* v. *Standard Brands, supra; Dean* v. *Ashling*, 409 F. 2d 754 (C.A. 5, 1969).

[10] *U.S.* v. *Sheet Metal Workers, Local 36*, 416 F. 2d 123 (C.A. 8, 1968); *Asbestos Workers Local 53* v. *Vogler*, 407 F. 2d 1047 (C.A. 5, 1969).

[11] *U.S.* v. *Papermarkers & Paperworkers, Local 189*, 415 F. 2d 980 (C.A. 5, 1969) *cert. denied* 379 U.S. 919 (1970).

[12] *Jones* v. *Lee Way Motor Freight, supra; Parham* v. *Southwestern Bell, supra; U.S.* v. *Dillon Supply Co.*, 429 F. 2d 800 (C.A. 4, 1970).

[13] *NLRB* v. *LEWIS*, 246 F. 2d 886 (C.A. 9, 1957).

[14] *Bowe* v *Colgate-Palmolive Co.*, 416 F. 2d 711 (C.A. 7, 1969).

[15] *Pettway* v. *American Cast Iron Pipe Co.*, 411 F. 2d 998 (C.A. 5, 1969).

[16] *Griggs* v. *Duke Power Co., supra; Diaz* v. *Pan American Airways*, —— F. 2d ——, 3 FEP Cases 337 (C.A. 5, 1971); *Jones* v. *Lee Way Motor Freight, supra; Gregory* v. *Litton, supra; Hicks* v. *Crown Zellerbach Corp.*, —— F. Supp. —— 2 FEP Cases 1059 (E.D. La., 1970).

[17] "The desire of a union to insure family security by restricting new membership to the sons and close relatives of present members may constitute a legitimate 'business purpose.' But it cannot override the racial impact where present union membership is all-white. *See* Local 53, International Association of Heat & Frost Insulators and Asbestos Workers v. Vogler, 407 F. 2d 1047 (5th Cir. 1959)." (Footnote in Court's opinion.)

[18] "In the *Griggs* case the Supreme Court held that Congress has placed on the employer the burden of showing that any given requirement must have a manifest relationship to the employment in question." 39 U.S.L.W. at 4319. The Court concluded that Duke Power failed to carry that burden in arguing that its educational standards were necessary to upgrade the quality of the work force:

"On the record before us, neither the high school completion requirement nor the general intelligence test is shown to bear a demonstrable relationship to successful performance of the jobs for which it is used." 39 U.S.L.W. at 4319. (Footnote in Court's opinion).

[19] "It should go without saying that a practice is hardly 'necessary' if an alternative practice better effectuates the intended purpose or is equally effective but less discriminatory. Thus, with regard to testing, the the Equal Employment Opportunity Commission guidelines stipulate that where technically feasible, a test should be validated for each minority group with which it is used; that is, any differential rejection rates that may exist, based on a test, must be relevant to performance on the jobs in question." 29 C.F.R. S 1607.4(a). (Footnote in Court's opinion).

[20] We are aware of only two cases which even appear to reach that result: *Colbert* v. *M.K. Corp.*, — F. Supp. — 2 FEP Cases 951 (N.D. Ga., 1970) and *Williams* v. *American St. Gobain Corp.*, — F. Supp. — 2 FEP Cases 331 (E.D. Okla., 1969). The Fifth Circuit recently remanded *Colbert* to the District Court and in *Williams* it is not clear that the complainants succeeded in establishing a disparate effect; the Court's language there with regard to business necessity may not be central to its ruling.

[21] See also *U.S.* v. *Bethlehem Steel*, —F. 2d—, (C.A. 2, Docket No. 35183, June 21, 1971).

[22] See Note 2, *supra*.

[23] Even if the employer did prove that relocation would improve his competitive position, the Courts might not agree that this particular competitive advantage was essential to the primary function of a business. Thus, in the *Diaz* case, the Fifth Circuit held that the primary function of Pan American's business was transporting passengers, and that the extra cost that Pan American would incur in selecting and training male cabin attendants did not interfere with the achievement of the Airline's primary function. *Cf. Jones* v. *Lee Way Motor Freight, supra.*

In addition there is a question as to whether this particular competitive advantage constitutes a lawful advantage. If an employer improves his competitive position by discriminating, he should not be allowed to enjoy the profits of his discrimination at the expense of those other employers who do not discriminate.

[24] *Jones* v. *Lee Way Motor Freight, supra.*

[25] *Jenkins* v. *United Gas Corp.*, 400 F. 2d 28 (C.A. 5, 1968); *Clark* v. *American Marine, supra.*

[26] *Allen* v. *Board of Public Instruction of Broward County, Fla.*, 432 F. 2d 362 (1970); *Swann* v. *Charlotte-Mecklenberg Bd. of Education*, 91 S. Ct. 1267 (1971).

[27] *Bowe* v. *Colgate-Palmolive, supra; NLRB* v. *Rutter-Rex Mfg. Co.*, 90 S. Ct. 417 (1969).

[28] See, for example, *Quarles* v. *Phillip Morris*, 279 F. Supp. 505 (E.D. Va., 1968).

[29] In the discussion below, it is not suggested that an employer return his plant to its original site or cancel a proposed move. The NLRB has taken the position that a return will be ordered only in the most extreme circumstances, and even then only when the employer rejects alternative remedies. *Ronre Products Co.*, 77 NLRB 1217.

The Commission should take a similar approach—the return of a plant to the city will contribute much less to the harmony and integration of our nation's races than an intelligently planned move to suburbia.

[30] See, Note 6, *supra*.

[31] See *Klotz & Co.*, 13 NLRB 1746 (1939); *New Madrid Mfg. Co.*, 104 NLRB 117 (1953).

[32] *Henry* v. *Clarksdale Municipal Separate School District*, 433 F. 2d 387 (C.A. 5, 1970).

[33] This practice was impliedly sanctioned by the Supreme Court in *Swann, supra*, and explicitly approved by the Third Circuit in the Philadelphia Plan case. *Contractors' Association* v. *Schultz*, — F. 2d —, 3 FEP Cases 395 (C.A. 3, 1971).

[34] This would be especially appropriate for minority females who are unable to relocate because of their spouses' employment situations.

[35] See *Griggs* v. *Duke Power*, supra, 91 S. Ct. at 855.

Mr. ALLEN. Mr. President, this lifting of a corner of the curtain on EEOC activities should be disquieting to every Member of the Senate. To my way of thinking, it suggests that the appropriate committees of both Chambers of the Congress ought to look much more thoroughly at what the Commission is doing. Granted that business relocations from urban to suburban areas undoubtedly present a problem to the communities where they occur. But they do not rise to the level of a threat which warrants the adoption of an abomination in the name of equal employment opportunity which shows a contemptuous disregard for the essential freedoms of American citizens and strikes dangerously at the foundations of American life.

It should not for a moment be overlooked that the architects of the memorandum do not propose to limit the power sought to giant business organizations such as General Motors, United States Steel, IBM, Procter & Gamble, General Electric, or the like. Remember, if this bill is passed, business establishments having eight or more employees will be subject to the sweeping new authority conferred upon the Commission. This means such small businesses as the corner drugstore, the neighborhood restaurant, the local automobile repair shop and thousands upon thousands of other small business enterprises, including the so-called "mom and pop" establishments, could be subject to constant harassment by EEOC agents in connection with proposed business relocations.

Under our free economic system, it has never been seriously questioned that a small businessman has the right to set himself up in business, to select the site of his establishment on the basis of such market considerations as he might, within his own free and uncontrolled discretion, consider advantageous to his undertaking, and to do all this without hindrance or interference. Indeed, our history of free location or relocation of business has been one of the reasons for our unparalleled economic success because our free enterprise system has, by its very fundamental nature, allowed men of ability to create, to build, to develop something for themselves on the basis of mobility. It has always been recognized that in the development of any business, any man who invests capital, any man who operates a business, must have the freedom to choose where he wishes to operate or relocate. That is the only way an owner can operate if he expects to remain a part of a free, competitive economy.

But the power which the EEOC is attempting to confer upon itself could utterly destroy the right of the owner of a business, whether large or small, to select where he wants to operate. Under the guise of promoting fair employment practices, the EEOC would be vested with the right to compel a person or a corporation to do business where the Commission commands. And remember, the EEOC could not only concern itself with the relocation of businesses, but also with the location of a new business in the first instance; in fact, the memorandum uses the term "location" instead of "relocation" on several occasions.

Let us consider how the EEOC could operate against a small businessman who has been charged with committing an unlawful employment practice because he wants to relocate his business.

Suppose there is the owner of a small restaurant located in a neighborhood which is experiencing a high incidence of crime. Suppose further than the restaurant has been robbed once or twice and that some of the owner's waitresses have either been mugged or the victims of purse snatchings. Let us also suppose that, as a result of this unfavorable neighborhood climate, the patrons of the restaurant are becoming fewer, particularly in the evenings, but the owner is still managing to make a small return on his investment.

Despite the fact that he is still barely operating in the black, the restaurant owner reaches the decision that it would be better for him to close down his restaurant for the reasons I have just outlined and relocate it in an outlying area, perhaps in the suburbs or just across the State line. The owner determines that the new location might not be the most desirable site; in fact, he anticipates that he will initially operate in the red. But the new location is relatively free of crime and the owner is confident that in due time his new restaurant will become a going enterprise. It is, at best, a risky venture, but one which is in keeping with adventurous spirit of our free economic system.

So, the owner commissions an architect to prepare the blueprints for his new establishment and borrows money from his bank to purchase a new lot and to construct and furnish his new restaurant. He may even obtain a loan from the Small Business Administration to furnish the working capital for his new enterprise. All is going well for the small businessman until someone in the neighborhood where he is presently situated learns of his impending move and so advises the Equal Employment Opportunity Commission.

An EEOC Commissioner, either on his own motion or acting through a subordinate, could firmly, but politely, tell the small businessman that he could not move his business because "the community from which you are moving has a higher percentage of minority workers than the community to where you are moving. In addition, you are moving so far away from the community where you are presently located that the shift adversely affects the employment situation of your minority employees inasmuch as they are in no position to accompany you and cannot find similar jobs in the community where you are presently located."

The employer could vainly protest that the move is necessary because the neighborhood where he is presently situated is crimeridden and dangerous to human life. He could point out that he has been robbed, that some of his employees have been assaulted, and that business is falling off because many of his customers no longer patronize his establishment.

"None of this makes any difference," the Commissioner could reply, "because you have not met the criteria I have just set forth. You are depriving minority workers of employment opportunities by virtue of your move; hence, the move is denied because, in our opinion, it does not serve a valid business purpose."

The Commissioner could add, "Now, if you do not stay where you are presently located, I will put the law to you in an action or proceeding under title VII in which all the legal and financial might of the Federal Government will be arrayed against you and in which you will be denied such basic safeguards as the right of trial by jury."

The restaurant owner could then do one of three things. First, he could submit to the threats of the EEOC, thus permitting a Federal agency to dictate how and where his business will continue to function.

Second, he could close the doors of his restaurant and by putting all of his employees on the unemployment rolls, he could escape further EEOC harassment.

Third, he could stand up and fight for his convictions, even to the point of defending a lawsuit in a Federal district court under title VII as presently written or by way of the cease-and-desist procedure with only limited appellate review if S. 2515 becomes law.

If the small businessman should pursue the latter course and win, he could conceivably bankrupt himself in defraying the cost of his successful defense. Let me again remind the Senate that S. 2515 would provide attorneys' fees for a charging party, but if the respondent restaurant owner wins his case, he gets nothing.

In addition, if the restaurant owner should pursue the alternative of fighting for his convictions and lose, he could conceivably wind up being sentenced to jail by a Federal judge sitting without a jury because he truthfully felt that no bureau of the Federal Government should compel him to stay in an undesirable location.

We, thus, see how the odds will be heavily weighed against the owner of a small business with limited resources to establish that he is not guilty of an unlawful employment practice. It is clear that the coercive and oppressive power which could be so wielded by the EEOC could destroy utterly thousands of small private businesses in the manner which I have just described.

Like S. 2515, the memorandum is, in its essential features, a wicked and antilibertarian attack on the rights of individuals and on the whole concept of due process of law.

In principle, there is no difference between S. 2515 and the memorandum. Both would deny basic rights of a majority of American citizens to protect the alleged rights of a few. As between S. 2515 and the memorandum, one denies them by the dozen, while the other merely denies them 12 at a time. If either of these proposals constitutes equality—particularly when the overwhelming might and power of the Federal Government is arrayed against an employer, a State or local government, a union, or a school who dares defy the EEOC—then I just do not understand the meaning of the term.

In his state of the Union address last year, President Nixon pledged to the American people that he was going to bring the vast Federal bureaucracy under control. The President said:

> The further away government is from the people, the stronger government becomes and the weaker people become. And a nation with a strong government and a weak people is an empty shell.

Later on in his remarks the President said:

> The idea that a bureaucratic elite in Washington knows best what is best for people everywhere and that you cannot trust local governments is really a contention that you cannot trust the people to govern themselves. This notion is completely foreign to the American experience.

Apparently no one down at the Equal Employment Opportunity Commission took the time to read the President's speech. I should like to suggest to the President that if he wants to find a "bureaucratic elite" which is running out of control, he need look no further than his own Equal Employment Opportunity Commission.

At this point, I wish to remind and commend to the Senate one of the greatest passages ever contained in an opinion by one of the great liberal and great Supreme Court Justices of our time, Mr. Justice Brandeis. He declared:

> The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings, and of the intellect. They knew that only a part of the pain, pleasure, and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. The conferred, as against the Government—the right to be let alone, the most comprehensive of rights and the right most valued by civilized men.

When we weigh this bill and when we look beyond and behind it and see it in its true and unmasked form, we see that it is at variance with the fundamental concept that our Government should be a government by law and not a government by men.

I urge the Senate to carefully scrutinize S. 2515 as a whole and condemn the legislation when it has done so as insulting to American principles. The aim of law must be to enlarge liberty, not extinguish it.

Mr. President, in recent years we have already seen many of our sacred rights laid on the altar of political expediency. This bill would put us well along the way to the erosion of other freedoms we now know and enjoy and on which the American system is built.

Let us return to reason. Let us turn away from the dangers inherent in S. 2515. Let us not be counted among the communicants at the altar of expediency.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971—CORRECTING THE EEO DEFICIENCIES IN THE 1964 CIVIL RIGHTS ACT

Mr. CRANSTON. Mr. President, I rise in support of S. 2515 as reported from committee, the proposed Equal Employment Opportunities Enforcement Act of 1971, which I am pleased to join in cosponsoring with the Senator from New Jersey (Mr. WILLIAMS) who serves as the chairman of the Committee on Labor and Public Welfare, on which I am privileged to serve, and with a bipartisan group of 31 of my colleagues.

Mr. President, I would like to congratulate Chairman WILLIAMS for his dedication and hard work in the development of the legislation we have before us. Senator WILLIAMS held extensive hearings on this measure, and with the help of his most able staff—particularly Gerald Feder, counsel to the Labor Subcommittee, and Donald Elisburg, associate counsel—worked long and diligently so that S. 2515 could be considered by the Senate as the first item on the agenda this session. The fruit of his efforts is a piece of civil rights legislation which is critical to our total effort to end discrimination in America.

The Equal Employment Opportunity Commission was established by the Civil Rights Act of 1964 to deal with the problem of discrimination in employment. The Commission was not, however, given the legal powers necessary to fulfill its mandate, and thus its authority in cases of discrimination based on race, color, religion, sex, or national origin has been limited to conciliation efforts alone. The provisions of S. 2515 as reported from committee would provide the EEOC with the legal muscle it needs to enforce its findings of discrimination. The bill as it has been amended on the floor is less strong certainly, but still a long stride forward.

BACKGROUND

In the last Congress, both bodies of the Congress developed, and the Senate passed, legislation to give the EEOC the enforcement powers it required. S. 2453 of last Congress was also introduced by the distinguished Senator from New Jersey (Mr. WILLIAMS). It successfully passed the Senate, but the House adjourned before the bill could be brought to the floor for a vote.

This year, it was the House which acted first on this vital legislation. During the first week of May, the House Education and Labor Committee approved by a vote of 21 to 12 H.R. 1746, to give tough enforcement powers to the EEOC. Unfortunately, when this, the Hawkins bill, came to the floor of the House for a vote, it was passed with what I and other proponents of a strong enforcement measure viewed as a most unfortunate substitute. The Erlenborn substitute, which was agreed to by only the narrowest margin, provided for court enforcement powers in lieu of the tougher cease-and-desist authority which I believe is so vital to attacking discrimination in hiring.

Subsequently, the Labor and Public Welfare Committee considered the House-passed measure along with S. 2515. The legislation favorably reported by the committee, unlike the House version, extends the scope and coverage of the equal employment opportunity provisions of the Civil Rights Act of 1964, provides for strong methods of enforcement, and consolidates in the EEOC a number of existing Federal programs aimed at ending job discrimination. In addition, the committee adopted several important changes, one of which I am pleased to say is a result of an amendment I offered to deal with discrimination in Federal Government employment and to open up more and better paying jobs in the Federal sector for Mexican Americans, blacks, Indians, orientals, women, and other minorities.

EQUAL OPPORTUNITY IN FEDERAL GOVERNMENT EMPLOYMENT

My Federal Government EEO amendment included in the committee bill would:

First. Put the Congress on record in favor of maximum affirmative action under Civil Service Commission direction to provide Federal jobs and real advancement opportunities for minority groups in Federal service. At the present time, the CSC derives its authority to act against discrimination from Executive order.

Second. Specifically charge the Civil Service Commission with the responsibility to require all agencies to draw up affirmative action plans and see that they are carried out.

Third. Entitle an employee to back pay if discrimination has been found to exist—the Government has insisted it does not have legal authority to make such awards.

Fourth. Direct the Civil Service Commission to publish, twice a year, employment studies, agency by agency and for every large metropolitan area, to indicate progress in eliminating discrimination in Federal employment.

Fifth. For the first time, permit Federal employees to sue the Federal Government in discrimination cases—under the theory of Federal sovereign immunity, courts have not generally allowed such suits—and to bring suit either prior to or after CSC review of the agency EEO decision in the case. As with other cases brought under title VII of the Civil Rights Act of 1964, Federal district court review would not be based on the agency and/or CSC record and would be a trial de novo.

Mr. President, the Federal Government must be a model of equal employment opportunity.

This requires that Federal agencies make a special effort to employ and promote qualified minority persons according to their relative proportions in the population of the area surrounding agency field offices. Although statistics available to me show that there has been some recent improvement, the situation is by no means satisfactory. In many instances, Federal minority employment remains disgracefully low. There is a national pattern of disproportionately low employment of certain minorities and a definite pattern of exclusion of minorities, when they are employed, from the higher, better-paying Government positions.

We must provide meaningful opportunities for advancement, training, and education in service in order to qualify minority group persons for the higher and better-paying jobs, as well as to open up entry level jobs.

At the present time, although minority groups make up 19.4 percent of the total number of Federal employees, approximately 80 percent are locked into grades 1 through 8 and account for 27.3 percent of the lowest four GS—General Schedule—grades. Minority employees hold only 3.3 percent of the jobs at grades GS 14 and 15 and only 2 percent of those at Grades GS 16 through 18. An examination of the jobs held by the highest ranking minority group employees discloses that a large number of them are working only in civil rights-related fields. We find this shocking pattern of exclusion in the very agency responsible for creating equal employment opportunity in the Federal Government—the Civil Service Commission. Of the Commission's 53 top jobs, only two are held by blacks, one of whom is a civil rights official.

In my own State of California, Mr. President, where at least 15.6 percent of the population is Spanish-surnamed, I find similar discrepancies in Federal minority group employment based on local populations. I am shocked that in my State only 5.6 percent of all Federal jobs, and in certain agencies even fewer of the jobs, are filled by Spanish-surnamed persons. In many instances, the statistics for other minorities are just as disturbing and inequitable.

In Los Angeles, for example, minority group employees make up 34 percent of all Federal employees, but white Anglo employees hold 95.4 percent of the top jobs in grades GS 14 and above. In contrast, minority group members hold nearly half of the positions in the very lowest grades there—42 percent in GS 1 through 8—often doing the most menial work with little or no opportunity to advance to management, supervisory or policymaking positions—only 6 percent in GS 14 through 18.

The largest minority in Los Angeles, the Spanish-surnamed Americans, makes up at least 18 percent of the population, but holds only 6.2 percent of the total number of Federal jobs there. And the record of Chicano employment in certain agencies is even more disproportionate.

Moreover, in virtually every agency there is evidence of a serious lack of upward mobility opportunity for Spanish-surnamed employees. They hold only 25 of the 1,342 Federal positions above GS-14 in the Los Angeles SMSA, and only 55 of those top 5,042 positions statewide. This is grossly inadequate and must be rectified.

In contrast, the overall employment rate for blacks in the Los Angeles area appears to be equitable—25 percent of all Federal jobs there. However, most of their jobs are found in the entry-level, lower-paying jobs—32.6 percent of all jobs at GS-1 through 4—indicating a clear lack of upward mobility in the Federal employment of blacks. In Los Angeles, for example, blacks hold only 22 of the 1,342 Federal positions above GS-14, and statewide hold only 60 of those top 5,042 positions. This highly unfortunate pattern is repeated in similar fashion in most of the other SMSA's in California.

Mr. President, because of the seriousness of the situation in the Los Angeles area, I have asked for a special investigation by the Civil Service Commission. I have also sent letters to the heads of each Federal agency which has installations in California, outlining in detail their minority employment records. In addition, I have asked each of these agency heads to submit reports on the efforts each is taking to overcome discrimination in their Federal hiring and their efforts toward increasing upward mobility for their minority employees. I ask unanimous consent, Mr. President, that my February 7 letter to the Chairman of the U.S. Civil Service Commission be printed in the Record at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. I also ask unanimous consent to have included at this point in the Record charts which my office has compiled from Civil Service Commission employment data and U.S. Census figures indicating the percentages of Federal minority group employees in the California SMSA's compared to their total percentage within the local population, followed by a 1969 and 1970 Minority Group Employment Study of Federal Employment in California which indicates the declining percentages of minority employment as the GS level inclines, compared to the ascending percentages of all other employees.

There being no objection, the charts were ordered to be printed in the Record, as follows:

Area (SMSA)	Total population [1]				Total Federal employment [2]				
	Population	Percent			Employment	Percent			
		Spanish surnamed [3]	Blacks	American Indian		Spanish surnamed	Blacks	American Indian	Other white
Statewide California	19,953,134	15.6	7.0	0.46	293,770	5.6	14.9	0.5	75.0
Los Angeles/Long Beach	7,032,075	18.0	10.8	.35	66,475	6.2	25.0	.3	65.9
San Francisco	3,109,519	14.0	10.6	.41	73,408	3.8	22.8	.4	65.1
Oakland (Alameda)		13.0		.53					
Sacramento	800,592	9.0	4.7	.42	27,390	4.6	7.5	.5	84.1
Fresno	413,053	25.0	4.9	.52	2,703	10.7	4.6	.6	81.8
San Diego	1,064,714	13.0	4.6	.43	29,272	6.2	8.0	.4	82.5
San Bernadino	1,143,146	16.0	4.4	.51	13,121	11.8	6.2	1.3	80.1
Ontario/Riverside		([4])		.6					
San Jose (Santa Clara)	1,064,714	18.0	1.6	.38	8,442	6.9	6.6	.4	81.4

[1] From official U.S. Census Bureau, 1970.

[2] From U.S. Civil Service Commission report "Minority Group Employment in the Federal Government," 1970.

[3] County.

[4] Not available.

TABLE 3-6.—1970 MINORITY GROUP STUDY, CALIFORNIA: FULL-TIME EMPLOYMENT AS OF NOV. 30, 1970

Pay system	Total full-time employees number	Negro		Spanish surnamed		American Indian		Oriental		All other employees	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total all pay systems	293,770	43,711	14.9	16,506	5.6	1,352	0.5	11,855	4.0	220,356	75.0
Total general schedule or similar	127,679	11,417	8.9	4,423	3.5	627	.5	4,698	3.7	106,514	83.4
GS-1 through GS-4	29,511	5,239	17.8	1,516	5.1	225	.8	1,027	3.5	21,504	72.9
GS-5 through GS-8	36,330	4,349	12.0	1,523	4.2	210	.6	1,577	4.3	28,670	78.9
GS-9 through GS-11	35,228	1,323	3.8	981	2.8	127	.4	1,358	3.9	31,639	89.2
GS-12 through GS-13	21,568	446	2.1	347	1.6	54	.3	630	2.9	20,091	93.2
GS-14 through GS-15	4,857	58	1.2	54	191	11	.2	106	2.2	4,628	95.3
GS-16 through GS-18	185	2	1.1	1	.5					182	98.4
Total wage systems	84,780	14,774	17.4	6,805	8.0	481	.6	4,030	4.8	58,690	69.2
Up through $5,499	221	43	19.5	39	17.6	3	1.4	4	1.8	132	59.7
$5,500 through $6,999	6,822	2,145	31.4	618	9.1	38	.6	751	11.0	3,270	47.9
$7,000 through $7,999	10,746	2,585	24.1	1,332	12.4	63	.6	655	6.1	6,111	56.9
$8,000 through $8,999	19,130	4,794	25.1	1,843	9.6	132	.7	784	4.1	11,577	60.5
$9,000 through $9,999	30,589	4,127	13.5	2,165	791	172	.6	1,314	4.3	22,811	74.6
$10,000 through $13,999	16,156	1,065	6.6	785	4.9	68	.4	516	3.2	13,722	84.9
$14,000 through $17,999	951	14	1.5	22	2.3	5	.5	5	.5	905	95.2
$18,000 and over	165	1	.6	1	.6			1	.6	162	98.2
Total postal field service	79,602	17,397	21.9	5,231	6.6	242	.3	3,087	3.9	53,645	67.4
PFS-1 through PFS-5 [1]	66,911	15,251	22.8	4,609	6.9	206	.3	2,506	3.7	44,339	66.3
PFS-6 through PFS-9	10,388	1,975	19.0	562	5.4	35	.3	512	4.9	7,304	70.3
PFS-10 through PFS-12	1,729	131	7.6	47	2.7	1	.1	55	3.2	1,496	86.5
PFS-13 through PFS-16	522	39	7.5	12	2.3			13	2.5	458	87.7
PFS-17 through PFS-19	49	1	2.0	1	2.0			1	2.0	46	93.9
PFS-20 through PFS-21	3									3	100.0
Total other pay systems	1,709	113	6.6	47	2.8	2	.1	40	2.3	1,507	88.2
Up through $6,499	535	81	15.1	25	4.7	1	.2	25	4.7	403	75.3
$6,500 through $9,999	464	25	5.4	16	3.4	1	.2	8	1.7	414	89.2
$10,000 through $13,999	316	2	.6	4	1.3			4	1.3	306	96.8
$14,000 through $17,999	141	2	1.4	2	1.4			2	1.4	135	95.7
$18,000 through $25,999	164	3	1.8					1	.6	160	97.6
$26,000 and over	89									89	100.0

[1] Includes 4th class postmasters and rural carriers.

Source: From the U.S. Civil Service Commission study: "Minority Group Employment in Federal Government" Nov. 30, 1970.

TABLE 3-6a.—1969 MINORITY GROUP STUDY, CALIFORNIA

FULL-TIME EMPLOYMENT AS OF NOV. 30, 1969

Pay system	Total full-time employees number	Negro		Spanish surnamed		American Indian		Oriental		All other employees	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Tota. all pay systems	300,745	43,733	14.5	16,556	5.5	1,375	0.5	11,744	3.9	227,337	75.6
Total general schedule or similar	128,812	11,069	8.6	4,224	3.3	642	.5	4,502	3.5	108,375	84.1
GS-1 through GS-4	31,883	5,513	17.3	1,573	4.9	254	.8	1,098	3.4	23,445	73.5
GS-5 through GS-8	36,248	3,925	10.8	1,404	3.9	196	.5	1,511	4.2	29,212	80.6
GS-9 through GS-11	35,095	1,206	3.4	905	2.6	132	.4	1,264	3.6	31,588	90.0
GS-12 through GS-13	20,785	380	1.8	290	1.4	53	.3	535	2.6	19,527	93.9
GS-14 through GS-15	4,628	44	1.0	51	1.1	7	.2	94	2.0	4,432	95.8
GS-16 through GS-18	173	1	.6	1	.6					171	98.8
Total wage systems	93,288	15,803	16.9	7,250	7.8	509	.5	4,276	4.6	65,450	70.2
Up through $5,499	1,749	175	10.0	237	13.6	4	.2	217	12.4	1,116	63.8
$5,500 through $6,999	14,094	3,710	26.3	1,390	9.9	71	.5	1,143	8.1	7,780	55.2
$7,000 through $7,999	20,753	4,723	22.8	2,187	10.5	137	.7	883	4.3	12,823	61.8
$8,000 through $8,999	28,706	4,603	16.0	2,041	7.1	178	.6	1,144	4.0	20,740	72.2
$9,000 through $9,999	16,866	2,025	12.0	977	5.8	82	.5	611	3.6	13,171	78.1
$10,000 through $13,999	10,578	564	5.3	408	3.9	37	.3	274	2.6	9,295	87.9
$14,000 through $17,999	462	3	.6	10	2.2			4	.9	445	96.3
$18,000 and over	80									80	100.0
Total postal field service	77,012	16,751	21.8	5,044	6.5	221	.3	2,943	3.8	52,053	67.6
PFS-1 through PFS-5[1]	65,811	15,133	23.0	4,547	6.9	187	.3	2,447	3.7	43,497	66.1
PFS-6 through PFS-9	9,101	1,491	16.4	448	4.9	33	.4	448	4.9	6,681	73.4
PFS-10 through PFS-12	1,596	104	6.5	39	2.4	1	.1	37	2.3	1,415	88.7
PFS-13 through PFS-16	463	22	4.8	10	2.2			10	2.2	421	90.9
PFS-17 through PFS-19	38	1	2.6					1	2.6	36	94.7
PFS-20 through PFS-21	3									3	100.0
Total other pay systems	1,633	110	6.7	38	2.3	3	.2	23	1.4	1,459	89.3
Up through $6,499	577	85	14.7	22	3.8	2	.3	11	1.9	457	79.2
$6,500 through $9,999	514	21	4.1	14	2.7	1	.2	9	1.8	469	91.2
$10,000 through $13,999	188			2	1.1			1	.5	185	98.4
$14,000 through $17,999	168	1	.6					2	1.2	165	98.2
$18,000 through $25,999	106	2	1.9							104	98.1
$26,000 and over	80	1	1.3							79	98.8

[1] Includes 4th class postmasters and rural carriers.

Mr. CRANSTON. Mr. President, I do not have the statistics on the Federal employment trends for women within California, but I do have information for the national level which I am sure will be of interest to my colleagues. These statistics show employment discrepancies with women holding 76.4 percent of all-white-collar Federal jobs at GS-2, 79.1 percent of those jobs at GS-3, and 75.9 percent at GS-4. Yet at the higher levels of white-collar employment women hold only 1.8 percent of the jobs at GS-16, 1.5 percent at GS-17, and 0.6 percent at GS-18. These deeply distressing statistics are more fully set forth in an additional chart which is included as an attachment to my February 7 letter to the Chairman of the Civil Service Commission, which will be set forth at the end of my remarks.

With respect to the employment of American Indians, Mr. President, although they make up 0.46 percent of California's population and comprise 0.5 percent of the State's Federal Government employment, some Federal agencies employ well below this level and others employ no Indians at all.

My amendment, then, adds to title VII of the Civil Rights Act a new section 717 making clear the obligation of the Federal Government to insure that all personnel actions are free from discrimination based on race, color, sex, religion, or national origin. The Civil Service Commission is mandated under this title to enforce an affirmative equal employment opportunity program in the Federal Government.

I want to express my gratitude to Chairman Williams and the ranking minority member of the committee (Mr. Javits)—and his minority counsel, Gene Mittleman—for their support of my amendment. I also want to thank the Senator from Massachusetts (Mr. Kennedy), and the Senator from Colorado (Mr. Dominick), who joined with me as cosponsors, for their cooperation in this amendment.

I urge my colleagues to consider carefully these new provisions—section 11 of S. 2515—and to approve the bill with this amendment unchanged.

I would like now to discuss some of the other major provisions of S. 2515 as reported from committee.

EXTENSION OF COVERAGE

Mr. President, section 2 of the bill amends section 701 of the Civil Rights Act of 1964 to extend coverage to the following groups: First, employees of private employers with 15—eight as reported from committee—or more workers and members of unions with 15—also eight originally—or more members, to become effective 1 year after enactment of the law; the present limit is 25; second, State and local government employees; and third, teachers and other employees of educational institutions.

The committee agreed with the Chairman of the EEOC that discrimination must be attacked wherever it exists. We recognize that smaller establishments have frequently been among the most flagrant violators of equal employment opportunity. It was for this reason that coverage under S. 2515 as reported from committee was extended to groups of eight or more workers. The compromise to reduce from 25 to 15 is still a significant step forward. The delay in the effective date of this provision was included to insure that the Commission would have adequate time to prepare to assume and carry out effectively these new responsibilities.

The bill also deletes the existing exemptions for State and local government employees but provides for enforcement through civil actions brought by the Attorney General rather than through cease-and-desist orders. I believe this is a desirable compromise rather than empowering a Federal agency—the EEOC—to order sovereign units of State and local government to take particular employment actions.

Both the Constitution and Federal law prohibit job discrimination by State and local governments, but the existence of pervasive discrimination in State and local government is all too well documented. What is lacking, however, is an effective Federal administrative machinery to enforce these prohibitions. Thus, the expansion of title VII coverage to State and local governments is necessary if we are to provide a truly effective means of implementing the declared equal employment opportunity policy of our Nation.

The existing exemption for employees of educational institutions is also eliminated by S. 2515. There are at present over 120,000 educational institutions, with approximately 2.8 million teachers and professional staff members and another 1.5 million nonprofessional staff members. Yet all of these employees are, at present, without an effective Federal remedy in the area of employment discrimination. As in other areas of employment, statistics for educational institutions indicate that minorities, and particularly women, are precluded from the more prestigious and higher paying positions and are relegated to the more menial and lower paying positions. I believe it is essential that these employees be given the same opportunity to redress their grievances as are available to other employees in the private sector.

I have already discussed in great detail the provisions of section 11 of S. 2515, which mandates the Civil Service Commission to strengthen its programs to eliminate discrimination in Federal employment and job advancement and provides for civil suit remedy in Federal district court.

ENFORCEMENT

Section 4 of S. 2515 as reported from committee would have revised section 706 of the act to enable the EEOC to process a charge of employment discrimination through the investigation, conciliation, administrative hearing, and judicial review stages. The present act allows the Commission to pursue charges only through the informal methods of persuasion and conciliation, a factor which has proven to be seriously defective in providing an effective Federal remedy for violations of title VII.

The need to provide some form of direct enforcement power for the EEOC has been voiced since the inception of the Commission. Indeed, last Congress, during testimony before the Labor and Public Welfare Committee on S. 2453 and again this past year in testimony on S. 2515, EEOC Chairman William Brown concurred in the need for cease-and-desist authority.

The committee was not persuaded that the direct court enforcement technique, the method included in the House version, would be faster and more effective than cease-and-desist enforcement. The present, and ever increasing, overcrowded caseloads of the Federal courts is a well known fact, and measures are desperately needed to expedite trials and relieve the court dockets, not to increase their case responsibilities. There is ample evidence that reliance on the court enforcement approach could create an unacceptable deluge of new cases on the already previously backlogged Federal courts. In 1970 alone, for instance, there was a 63-percent increase in the filing of civil rights cases.

It was for this reason that the Labor and Public Welfare Committee, as did the House Education and Labor Committee last May, rejected the court enforcement approach. Moreover, without exception, every spokesman for the major civil rights groups who appeared before our committee strongly supported the cease-and-desist enforcement powers provided in S. 2515.

The major benefits of the cease-and-desist approach are that: First, it would encourage early settlement of claims, thereby further alleviating the courts and providing quick relief for aggrieved individuals; second, it is the type of authority given to many other Federal regulatory agencies, including the National Labor Relations Board, the Department of Justice, the Interstate Commerce Commission, the Department of Labor, and the Department of Health, Education, and Welfare, to name but a few; third, it is the type of enforcement authority preferred by 32 of the 37 States which have equal employment opportunity laws; fourth, it would insure a unified approach to the problems of discrimination since decisions would be rendered by one agency rather than several hundred district court judges; and fifth, it would provide the needed expertise in recognizing and solving the more subtle, institutional forms of discrimination.

The enforcement authority in S. 2515 as reported from committee provided that employees of private employers would have their rights enforced by the EEOC through administrative complaint and hearing after investigation and conciliation of charges. If the EEOC found an unlawful employment practice, it could have issued cease-and-desist orders subject to review in U.S. courts of appeals.

In my judgment, cease-and-desist authority was, by far the stronger and more workable enforcement mechanism. However, the Senate has voted by a narrow margin to substitute district court suits to enforce EEOC findings. This is better than no EEO enforcement mechanism at all, and I believe that civil rights groups, and the minority community generally will make the most of this new remedy.

CONSOLIDATION OF ENFORCEMENT FUNCTIONS

Mr. President, section 5 of S. 2515 would transfer from the Attorney General, as granted under section 707 of present law—to the EEOC the authority to bring "pattern or practice" suits directly in the Federal district courts. This transfer would take place over a period of 2 years, with the EEOC and the Attorney General having concurrent jurisdiction during this time. This transfer to the Commission should also help the Federal Government pursue a more unified attack upon employment discrimination.

Section 10 of S. 2515 as reported would have provided for the transfer from the Department of Labor to the Commission of the authority, functions, and responsibilities of the Office of Federal Contract Compliance—OFCC—authority, which presently rests in Executive Order 11246—as amended by Executive Order 11375. The Executive order stipulates that Government contractors and subcontractors are required to agree to the following contract provision:

> The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin.

During committee consideration of the equal employment opportunities enforcement bill—S. 2453—in the 91st Congress, I joined with Senator KENNEDY in moving successfully to delete the provision transferring this function from the Department of Labor to the Commission.

I believed then, and I continue to believe, that it would be a mistake to consolidate all EEO functions in one Federal agency, thereby creating a single target for those who would seek to retard advancement in this field. I recognize, at the same time, that the OFCC record of achievement in this field leaves a good deal to be desired. I just am not convinced that consolidation of this function would have the net effect of improving the EEO Federal contract compliance effort.

Although I recognize that many, as fully committed to equal employment as I am, support this OFCC/EEOC consolidation, I differ with their views and thus voted for the successful amendment to delete this transfer from the bill.

In conclusion, Mr. President, although I believe the bill as reported has been weakened by floor amendments, I urge my colleagues to support it. If we are to make progress in fulfilling our commitment to equal employment opportunity for all Americans, we must make the Equal Employment Opportunity Commission a more effective instrument for preventing discrimination in employment. To this end, the extended coverage which S. 2515 provides; its new methods of enforcement, although not optimum; and its stress on Federal Government equal employment opportunity promise real gains in this long and arduous civil rights battle.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., February 7, 1972.

HON. ROBERT HAMPTON,
Chairman, U.S. Civil Service Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: I am increasingly disturbed by the gross discrepancies in the employment of certain minorities and their lack of advancement opportunities throughout the Federal Government.

The Federal Government should be a model of equal employment opportunity. I know that you fully share this view.

This requires that Federal agencies make a special effort to employ and promote qualified minority persons according to their relative proportions in the population of the area surrounding the agency field offices. Although there has been some recent improvement, the situation is by no means satisfactory. In many instances, Federal Government minority employment remains disgracefully low. There is a national pattern of disproportionately low employment of certain minorities and a definite pattern of exclusion of minorities, when they are employed, from the higher, better-paying government positions.

In California, where at least 15.6% of the population is Spanish-surnamed, I find many such discrepancies in Federal minority group employment based on local populations. I am shocked that in my state only 5.6% of all Federal jobs, and only 5.4% of all CSC jobs, are filled by Spanish-surnamed persons. Statewide the CSC fills 16.9% of the GS 1 through 4 positions with blacks, yet blacks hold only 2 of the 85 jobs above GS 12.

In Los Angeles, for example, minority group employees make up 34% of all Federal employees, but white Anglo employees hold 95.4% of the top jobs in grades GS 14 and above. In contrast, minority group members hold nearly half of the positions in the very lowest grades there (42% in GS 1 through 8), often doing the most menial work with little or no opportunity to advance to management, supervisory or policy-making positions (only 6% in GS 14 through 18).

The largest minority in Los Angeles, the Spanish-surnamed Americans, makes up at least 18% of the population, but holds only about 6.2% of the total number of Federal jobs there.

The Civil Service Commission's record of Chicano employment is almost as disproportionate with only 8.6% of the CSC employees having Spanish-surnames in the Los Angeles Standard Metropolitan Statistical Area (SMSA). In the San Francisco SMSA, only 4% of all CSC employees are Spanish-surnamed, as compared to the total local Chicano population share of 14%. There also is evidence of a serious lack of upward mobility opportunity for Spanish-surnamed CSC employees in San Francisco where they hold only 1 of the 102 positions above GS 9.

The data reveal that the CSC has a good record in the employment of Blacks in entry-level, lower paying jobs. But they also show a clear lack of opportunity for upward mobility on the part of Black CSC employees. In the San Francisco SMSA, Blacks, occupying 10.3% of all CSC jobs, hold 14% of the jobs between GS 1 thru 4 but only 4 of 102 jobs above GS 8 and none of the 17 jobs at GS 14 through 18. This pattern is repeated in similar fashion at most of the other CSC installations in California.

In discussing upward mobility opportunities, I am not suggesting the advancement of persons who do not meet job qualifications. Rather, special efforts must be made to offer accessible training, upgrading and ongoing educational opportunities to minority persons to prepare them for career advancement.

As a member of the Senate Labor and Public Welfare Committee, I have introduced in Committee amendments to S. 2515, the proposed "Equal Employment Opportunities Enforcement Act of 1971," which are intended to deal with discrimination in Federal Government employment and to open up more high level positions for minorities, particularly Mexican-Americans, Blacks, Indians, Orientals and women.

I am enclosing for your information a copy of the language of my amendment contained in the bill as reported to the Senate (section 11) and the Committee report language explaining the amendment along with the Committee's views (pages 12–17). I am also enclosing, for your examination and comment, charts prepared by both your office and mine showing proportionate employment and grade level breakdown both statewide and for local SMSA's, along with a copy of the *1970 Minority Group Study* (Civil Service Commission) describing in several charts the CSC's employment and advancement opportunity record in California. Unfortunately, in some instances I do not have the full in depth 1970 data on population size, especially in the cases of American Indians, Orientals and women. (I have asked the Census Bureau to supply me with this information as soon as it is available for the 1970 census.)

Although I do not have the statistics on the employment trends for women within California, I do have information for the national level. These statistics show employment discrepancies with women holding 76.5% of all white collar Federal jobs at GS 2, 79.1% of the jobs at GS 3, and 75.9% at GS 4; yet at the higher levels of employment they hold only 1.8% of the jobs at GS 16, 1.5% at GS 17, and .6% at GS 18 (see enclosed charts). With respect to the employment of American Indians, I note that whereas this minority makes up .46% of the California population and comprises .5% of the State's Federal Government employment, the Civil Service Commission in California employs no American Indians.

As a member of the Senate Committee on Labor and Public Welfare, and the Senate Committee on Housing and Urban Affairs, I am particularly concerned about the minority employment trends for the Civil Service Commission and other Federal agencies in California. I, therefore, am requesting your comments on the comparison of local population statistics to the Federal minority employment record for the areas mentioned in California, both for the Civil Service Commission itself and for each Federal Agency in California. In each situation where there are large discrepancies. I would also appreciate detailed information on the affirmative steps you and each agency concerned is taking to improve both the upward mobility and the overall employment ratios for each minority group in each particular area.

To this end, I request that you send a special team to conduct a field study of the Los Angeles Federal Government employment situation for minorities and prepare a special action plan to bring about prompt and substantial improvement. (Jonathan R. Steinberg, my Committee counsel, has already discussed this with Mr. Irving Kator, Assistant Executive Director of the Commission.) Therefore, I would hope this field study and plan, if successful, can be extended to all other appropriate areas in the state.

I am sending similar letters to the heads of each Federal agency with installations in California. I will be sending you a copy of each such letter for your review and comment. I would greatly appreciate any assistance you can provide these agencies to improve their minority employment ratios and upward mobility opportunities.

I would also appreciate your forwarding a copy of this letter and the enclosures to the head of each Civil Service Commission installation in California under your jurisdiction, and supplying me with a list of those addresses and copies of their reports.

Thank you for your valuable cooperation in this matter.

Sincerely,

ALAN CRANSTON.

MINORITY GROUP EMPLOYMENT IN THE FEDERAL GOVERNMENT, 1970—THE EMPLOYMENT STATISTICS FOR U.S. CIVIL SERVICE COMMISSION

CONTENTS (MINORITY GROUP EMPLOYMENT CHARTS)

Chart 1.—Total population chart for regions within California.

Chart 2.—Total Federal employment chart—California.

Chart 3.—Your individual agency's employment record—California.

Chart 4.—Upward mobility and trends in minority employment for your individual agency.

Chart 5.—Your agency's employment record for women—nationwide.

Chart 6.—Upward mobility and trends in employment of women for the Federal Government—nationwide.

ATTACHMENTS

1. 1970 minority group study for your agency prepared by the U.S. Civil Service Commission—November 1970. (Charts include: California statewide statistics, and in some instances you will find SMSA charts for regions within California. Charts illustrate level of minority employment and upward mobility trends.)

2. S. 2515 "The Equal Employment Opportunities Enforcement Act of 1971" relating to nondiscrimination in Federal Government employment.

3. The committee report related to S. 2515 (section relating to nondiscrimination in Federal Government employment). Senate Committee on Labor and Public Welfare.

1.—CIVIL SERVICE COMMISSION—TOTAL POPULATION CHART

Area	Total population [1]	Spanish [2] surnamed (percent)	Blacks [1] (percent)	American [2] Indian (percent)
Statewide, California	19, 953, 134	15. 6	7. 0	0. 46
Los Angeles/Long Beach	7, 032, 075	18. 0	10. 8	. 35
San Francisco	3, 109, 519	14. 0	10. 6	. 41
Oakland (Alameda)		31. 0		. 53
Sacramento	800, 592	9. 0	4. 7	. 42
Fresno	413, 053	25. 0	4. 9	. 52
San Diego	1, 064, 714	13. 0	4. 6	. 43
San Bernadino	1, 143, 146	16. 0	4. 4	. 51
Ontario/Riverside		(3)		. 6
San Jose (Santa Clara)	1, 064, 714	18. 0	1. 6	. 38

[1] SMSA.

[2] County.

[3] Not available.

Note: All statistics are from official U.S. Census Bureau 1970.

2.—CIVIL SERVICE COMMISSION—TOTAL FEDERAL EMPLOYMENT CHART

Area (SMSA)	Total employment	Spanish surnamed (percent)	Blacks (percent)	American Indian (percent)	(Other) White (percent)
Statewide California	293, 770	5. 6	14. 9	0. 5	75. 0
Los Angeles/Long Beach	66, 475	6. 2	25. 0	. 3	65. 9
San Francisco	73, 408	3. 8	22. 8	. 4	65. 1
Oakland (Alameda)					
Sacramento	27, 390	4. 6	7. 5	. 5	84. 1
Fresno	2, 703	10. 7	4. 6	0. 6	81. 8
San Diego	29, 272	6. 2	8. 0	. 4	82. 5
San Bernardino	13, 121	11. 8	6. 2	1. 3	80. 1
Ontario/Riverside					
San Jose (Santa Clara)	8, 442	6. 9	6. 6	. 4	81. 4

3.—CIVIL SERVICE COMMISSION—AGENCY EMPLOYMENT CHART

Area (SMSA)	Total employment	Spanish surnamed (percent)	Blacks (percent)	American Indian (percent)	(Other) White (percent)
Statewide California	504	5.4	11.7	0	80.0
Los Angeles/Long Beach	116	8.6	22.4	0	66.4
San Francisco	272	4.0	10.3	0	82.4
Oakland (Alameda)					
Sacramento	36	2.8	5.6	0	88.9
Fresno	1	0	0	0	100.0
San Diego	36	2.8	8.3	0	83.3
San Bernadino	14	28.6	0	0	71.4
Ontario/Riverside					
San Jose (Santa Clara)	10	0	0	0	80.0

Note: Charts No. 2 and 3 contain statistics taken from U.S. Civil Service Commission minority group employment in the Federal Government, November 1970.

THE STATE OF CALIFORNIA, U.S. CIVIL SERVICE COMMISSION, UPWARD MOBILITY AND TRENDS IN MINORITY EMPLOYMENT

Total general schedule (pay system)[1]	Percent of total agency positions held: Spanish surnamed	Blacks	American Indian	White (other)
GS 1 through 4	8.2	16.9	0	71.0
GS 5 through 8	8.0	18.4	0	69.0
GS 9 through 11	1.6	4.8	0	88.8
GS 12 through 13	1.5	3.0	0	95.5
GS 14 through 15	0	0	0	100.0
GS 16 through 18	0	0	0	100.0

[1] Statistics taken from the 1970 minority group study for your agency published by the U.S. Civil Service Commission—November 1970.

Total wage system (pay system)[1]	Percent of total agency positions held: Spanish surnamed	Blacks	American Indian	White (other)
Up to $5,499				
$5,500 through $6,999				
$7,000 through $7,999				
$8,000 through $8,999				
$9,000 through $9,999				
$10,000 through $13,999				
$14,000 through $17,999				
$18,000 and above				

[1] Statistics taken from the 1970 minority group study for your agency published by the U.S. Civil Service Commission—November 1970.

TABLE 2-25.—WORLD/NATIONWIDE—1970 MINORITY GROUP STUDY, CIVIL SERVICE COMMISSION

FULL-TIME EMPLOYMENT AS OF NOV. 30, 1970

Pay system	Total full-time employees, number	Negro		Spanish surnamed		American Indian		Oriental		All other employees	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total all pay systems	5,268	1,236	23.5	119	2.3	8	0.2	38	0.7	3,867	73.4
Total general schedule or similar	5,216	1,200	23.0	118	2.3	8	.2	38	.7	3,852	73.8
GS-1 through GS-4	1,860	722	38.8	58	3.1	5	.3	16	.9	1,059	56.9
GS-5 through GS-8	1,081	325	30.1	26	2.4			9	.8	721	66.7
GS-9 through GS-11	1,124	104	9.3	15	1.3	1	.1	11	1.0	993	88.3
GS-12 through GS-13	760	36	4.7	14	1.8	2	.3	1	.1	707	93.0
GS-14 through GS-15	338	12	3.6	5	1.5			1	.3	320	94.7
GS-16 through GS-18	53	1	1.9							52	98.1
Total wage systems	48	35	72.9	1	2.1					12	25.0
Up through $5,499	4	4	100.0								
$5,500 through $6,999	13	9	69.2	1	7.7					3	23.1
$7,000 through $7,999	13	8	61.5							5	38.5
$8,000 through $8,999	9	8	88.9							1	11.1
$9,000 through $9,999	5	3	60.0							2	40.0
$10,000 through $13,999	4	3	75.0							1	25.0
$14,000 through $17,999											
$18,000 and over											
Total other pay systems	4	1	25.0							3	75.0
Up through $6,499											
$6,500 through $9,999											
$10,000 through $13,999											
$14,000 through $17,999											
$18,000 through $25,999											
$26,000 and over	4	1	25.0							3	75.0

TABLE 2-25A.—1969 MINORITY GROUP STUDY, CIVIL SERVICE COMMISSION

FULL-TIME EMPLOYMENT AS OF NOV. 30, 1969

Pay system	Total full-time employees, number	Negro		Spanish surnamed		American Indian		Oriental		All other employees	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total all pay systems	4,886	1,123	23.0	118	2.4	6	0.1	29	0.6	3,610	73.9
Total general schedule or similar	4,839	1,092	22.6	118	2.4	6	.1	29	.6	3,594	74.3
GS-1 through GS-4	1,666	686	41.2	64	3.8	3	.2	12	.7	901	54.1
GS-5 through GS-8	1,021	284	27.8	22	2.2	1	.1	7	.7	707	69.2
GS-9 through GS-11	1,126	78	6.9	18	1.6	1	.1	8	.7	1,021	90.7
GS-12 through GS-13	686	33	4.8	9	1.3	1	.1	1	.1	642	93.6
GS-14 through GS-15	293	11	3.8	5	1.7			1	.3	276	94.2
GS-16 through GS-18	47									47	100.0
Total wage systems	43	30	69.8							13	30.2
Up through $5,499	7	6	85.7							1	14.3
$5,500 through $6,999	15	11	73.3							4	26.7
$7,000 through $7,999	16	11	68.8							5	31.3
$8,000 through $8,999	2	1	50.0							1	50.0
$9,000 through $9,999	2	1	50.0							1	50.0
$10,000 through $13,999	1									1	100.0

Pay system	Total full-time employees, number	Negro		Spanish surnamed		American Indian		Oriental		All other employees	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
$14,000 through $17,999											
$18,000 and over											
Total other pay systems	4	1	25.0							3	75.0
Up through $6,499											
$6,500 through $9,999											
$10,000 through $13,999											
$14,000 through $17,999											
$18,000 through $25,999											
$26,000 and over	4	1	25.0							3	75.0

TABLE B—ALL AGENCIES

FULL-TIME WHITE COLLAR EMPLOYMENT BY GENERAL SCHEDULE AND EQUIVALENT GRADES—WORLDWIDE

Grade[1]	Employment, Oct. 31, 1969			Employment, Oct. 31, 1966			Percent change	
		Women			Women			
	Total	Number	Percent	Total	Number	Percent	Total	Women
1	5,533	3,042	69.4	5,041	3,505	69.5	9.0	9.6
2	25,512	19,900	76.4	59,811	44,900	80.5	54.3	56.6
3	121,312	95,932	79.1	140,472	111,874	75.4	18.3	14.2
4	100,134	142,876	75.9	214,936	134,810	62.7	12.5	6.0
5	643,019	194,000	30.2	534,561	149,420	20.0	20.3	29.0
6	133,262	61,457	46.1	106,099	40,472	45.7	25.6	26.8
7	150,895	53,579	35.5	132,137	49,109	37.2	14.2	9.0
8	47,062	11,402	29.8	31,252	7,836	25.1	53.1	45.9
9	170,769	42,056	24.6	147,643	29,151	19.7	15.7	44.9
10	25,570	3,560	13.9	21,102	2,649	12.0	21.2	34.7
11	155,386	10,332	11.8	136,868	19,409	9.9	19.5	35.9
12	191,724	9,136	6.9	109,216	6,814	6.2	20.0	34.1
13	98,667	4,290	4.9	78,442	3,155	4.0	25.0	36.0
14	49,127	1,009	3.0	39,741	1,396	3.5	29.6	35.9
15	26,410	717	2.7	20,412	494	2.4	29.4	45.1
16	6,344	115	1.8	6,060	111	1.0	4.7	9.6
17	2,498	37	1.5	2,391	94	1.4	4.5	8.9
18	700	4	.6	622	5	.8	12.5	20.0
Above 18	656	17	2.6	583	11	1.9	12.5	54.5
Ungraded	6,402	2,553	39.9	45,673	9,939	21.0	6.0	74.9
Total[2]	1,909,798	665,294	33.4	1,037,062	617,220	33.6	0.3	7.0

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[1] The grades or levels of the various pay systems have been considered equivalent to specific general schedule grades solely on the basis of comparison of salary rates, specifically, in most instances, by comparing the 4th step GS rates with comparable rates in other pay systems.

[2] Excludes employees of Central Intelligence Agency, National Security Agency, Board of Governors of Federal Reserve System and foreign nationals overseas.

FULL-TIME WHITE COLLAR EMPLOYMENT BY GENERAL SCHEDULE AND EQUIVALENT GRADES, WORLDWIDE—WOMEN

TABLE C.—CIVIL SERVICE COMMISSION

Grade[1]	Employment, Oct. 31, 1969			Employment. Oct. 31, 1966			Percent change	
		Women			Women			
	Total	Number	Percent	Total	Number	Percent	Total	Women
1	26	23	88.5	23	21	91.3	13.0	9.5
2	236	205	86.9	471	425	9.02	−49.9	−51.8
3	711	634	89.2	728	630	86.5	−2.3	.6
4	698	609	87.2	491	433	88.2	42.2	40.6
5	577	486	84.2	484	375	77.5	19.2	29.6
6	140	124	88.6	76	63	82.9	84.2	96.8
7	280	145	51.8	320	136	42.5	−12.5	6.6
8	18	15	83.3	8	5	62.5	125.0	200.0
9	350	162	46.3	348	133	38.2	.6	21.8
10	25	16	64.0	18	7	38.9	38.9	128.6
11	773	128	16.6	744	57	7.7	3.9	124.6
12	341	71	20.8	280	48	17.1	21.8	47.9
13	349	44	12.6	267	32	12.0	30.7	37.5
14	171	10	5.8	135	7	5.2	26.7	42.9
15	124	4	3.2	87	4	4.6	42.5	0
16	27	2	7.4	28	1	3.6	−3.6	100.0
17	14	1	7.1	6			133.3	*
18	6			3			100.0	0
Above 18	4			4			0	0
Ungraded								
Total[2]	4,870	2,679	55.0	4,521	2,377	52.6	7.7	12.7

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[1] The grades or levels of the various pay systems have been considered equivalent to specific general schedule grades solely on the basis of comparison of salary rates, specifically, in most instances, by comparing the 6th step GS rates with comparable rates in other pay systems.

[2] Excludes foreign nationals overseas.

CIVIL SERVICE COMMISSION

1970 MINORITY GROUP STUDY, AGENCY WITHIN STATE, FULL-TIME EMPLOYMENT AS OF NOV. 30, 1970 (CALIFORNIA)

Pay system	Total full-time employees	Negro		Spanish surnamed		American Indian		Oriental		All other employees	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total, all pay systems	504	59	11.7	27	5.4			18	3.6	400	79.4
Total, general schedule or similar	504	59	11.7	27	5.4			18	3.6	400	79.4
GS-1 through 4	207	35	16.9	17	8.2			8	3.9	147	71.0
GS-5 through 8	87	16	18.4	7	8.0			4	4.6	60	69.0
GS-9 through 11	125	6	4.8	2	1.6			6	4.8	111	88.8
GS-12 through 13	66	2	3.0	1	1.5					63	95.5
GS-14 through 15	18									18	100.0
GS-16 through 18	1									1	100.0
Total, wage systems											
Up through $5,499											
$5,500 through $6,999											
$7,000 through $7,999											
$8,000 through $8,999											
$9,000 through $9,999											
$10,000 through $13,999											
$14,000 through $17,999											
$18,000 and over											
Total, other pay systems											

CIVIL SERVICE COMMISSION—Continued

1970 MINORITY GROUP STUDY, AGENCY WITHIN STATE, FULL-TIME EMPLOYMENT AS OF NOV. 30, 1970 (CALIFORNIA)—Continued

Pay system	Total full-time employees	Negro		Spanish surnamed		American Indian		Oriental		All other employees	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Up through $6,499											
$6,500 through $9,999											
$10,000 through $13,999											
$14,000 through $17,999											
$18,000 through $25,999											
$26,000 and over											
AGENCY WITHIN STANDARD METROPOLITAN STATISTICAL AREA (SAN FRANCISCO-OAKLAND, CALIF.)											
Total, all pay systems	272	28	10.3	11	4.0			9	3.3	224	82.4
Total, general schedule or similar	272	28	10.3	11	4.0			9	3.3	224	82.4
GS-1 through 4	121	17	14.0	7	5.8			5	4.1	92	76.0
GS-5 through 8	49	8	16.3	3	6.1			2	4.1	36	73.5
GS-9 through 11	50	2	4.0	1	2.0			2	4.0	45	90.0
GS-12 through 13	35	1	2.9							34	97.1
GS-14 through 15	16									16	100.0
GS-16 through 18	1									1	100.0
Total, wage systems											
Up through $5,499											
$5,500 through $6,999											
$7,000 through $7,999											
$8,000 through $8,999											
$9,000 through $9,999											
$10,000 through $13,999											
$14,000 through $17,999											
$18,000 and over											
Total, other pay systems											
Up through $6,499											
$6,500 through $9,999											
$10,000 through $13,999											
$14,000 through $17,999											
$18,000 through $25,999											
$26,000 and over											
AGENCY WITHIN STANDARD METROPOLITAN STATISTICAL AREA (LOS ANGELES-LONG BEACH, CALIF.)											
Total, all pay systems	116	26	22.4	10	8.6			3	2.6	77	66.4
Total, general sehedule or similar	116	26	22.4	10	8.6			3	2.6	77	66.4
GS-1 through 4	46	15	32.6	6	13.0			1	2.2	24	52.2
GS-5 through 8	22	7	31.8	3	13.6			1	4.5	11	50.0
GS-9 through 11	33	3	9.1					1	3.0	29	87.9
GS-12 through 13	13	1	7.7	1	7.7					11	84.6
GS-14 through 15	2									2	100.0
GS-16 through 18											
Total, wage systems											
Up through $5,499											
$5,500 through $6,999											
$7,000 through $7,999											
$8,000 through $8,999											
$9,000 through $9,999											
$10,000 through $13,999											
$14,000 through $17,999											
$18,000 and over											
Total, other pay systems											
Up through $6,499											
$6,500 through $9 999											
$10,000 through $13,999											
$14,000 through $17,999											
$18,000 through $25,999											
$26,000 and over											

S. 2515

A bill to further promote equal employment opportunities for American workers

* * * * *

SEC. 11. Title VII of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e et seq.) is amended by adding at the end thereof the following new section:

"NONDISCRIMINATION IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 717. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units of the Government of the District of Columbia having positions in the competitive service, and in the legislative and judicial branches of the Federal Government having positions in the competitive service, shall be made free from any discrimination based on race, color, religion, sex, or national origin.

"(b) The Civil Service Commission shall have authority to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section, and shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

(1) be responsible for the annual review and approval of a national and regional equal employment opportunity plan which each department and agency and each appropriate unit referred to in section 717(a) shall submit in order to maintain an affirmative program of equal employment opportunity for all such employees and applicants for employment;

(2) be responsible for the review and evaluation of the operation of all agency equal employment opportunity programs, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

(3) consult with and solicit the recommendations of interested individuals,

groups, and organizations relating to equal employment opportunity.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. The plan submitted by each department, agency, and unit shall include, but not be limited to—

(1) provision for the establishment of training and education programs designed to provide a maximum opportunity for employees to advance so as to perform at their highest potential; and

"(2) a description of the qualifications in terms of training and experience relating to equal employment opportunity for the principal and operating officials of each such department, agency, or unit responsible for carrying out the equal employment opportunity program and of the allocation of personnel and resources proposed by such department, agency, or unit to carry out its equal employment opportunity program.

"(c) Within thirty days of receipt of notice of final action taken by a department, agency, or unit referred to in subsection 717 (a), or by the Civil Service Commission upon an appeal from a decision or order of such department, agency, or unit on a complaint of discrimination based on race, color, religion, sex or national origin, brought pursuant to subsection (a) of this section, Executive Order 11478 or any succeeding Executive orders, or after one hundred and eighty days from the filing of the initial charge with the department, agency, or unit or with the Civil Service Commission on appeal from a decision or order of such department, agency, or unit until such time as final action may be taken by a department, agency, or unit, an employee or applicant for employment, if aggrieved by the final disposition of his complaint, or by the failure to take final action on his complaint, may file a civil action as provided in section 706(q), in which civil action the head of the department, agency, or unit, as appropriate, shall be the defendant.

"(d) The provisions of section 706(q) through (w), as applicable, shall govern civil actions brought hereunder.

"(e) Nothing contained in this Act shall relieve any Government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required by the Constitution and statutes or of its or his responsibilities under Executive Order 11478 relating to equal employment opportunity in the Federal Government.

SEC. 12. Section 716 of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)-15, 78 Stat. 266) is amended by adding at the end thereof the following new subsection:

"(d) In the performance of their responsibilities under this Act, the Attorney General, the Chairman of the Civil Service Commission and the Chairman of the Equal Employment Opportunity Commission shall consult regarding their rules, regulations, and policies."

SEC. 13. The amendments made by this Act to section 706 of the Civil Rights Act of 1964 shall not be applicable to charges filed with the Commission prior to the enactment of this Act.

S. REPT. NO. 92–415—EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

* * * * *

4. *Federal employment.*—The bill adds to title VII a new section 717 (section 11 of the bill) making clear the obligation of the Federal Government to make all personnel actions free from discrimination based on race, color, sex, religion or national origin. The Civil Service Commission, which presently has the responsibility under Executive Order 11478, is given the authority under this title to enforce equal employment opportunity in the Federal government.

The Federal government, with 2.6 million employees, is the single largest employer in the Nation. It also comprises the central policymaking and administrative network for the Nation. Consequently, its policies, actions, and programs strongly influence the activities of all other enterprises, organizations and groups. In no area is government action more important than in the area of civil rights.

The prohibition against discrimination by the Federal government, based upon the due process clause of the Fifth Amendment, was judicially recognized long before the enactment of the Civil Rights Act of 1964.[8] Congress itself has specifically provided for nondiscrimination in the Federal government by stating that it is "the policy of the United States to insure equal employment opportunities for Federal employees without discrimination because of race, color, religion, sex, or national origin . . ." (5 U.S.C. § 7151). The primary responsibility for implementing this stated National objective has been granted to the Civil Service Commission pursuant to Executive Order 11246 (1964), and more recently by Executive Order 11478 (1969). In his memorandum accompanying Executive Order 11478, President Nixon stated that "discrimination of any kind based on factors not relevant to job performance must be eradicated completely from Federal employment." This was an important step forward in the field of equal employment opportunity for Federal employees.

Progress has been made in this field, however, much remains to be done. Statistical evidence shows that minorities and women continue to be denied access to a large number of government jobs, particularly in the higher grade levels. The disparity can be clearly seen in figures presented in a recent report released by the Civil Service Commission, *Minority Group Employment in the Federal Government* (1970). On the basis of the figures presented therein, the following listing shows the percentage of minority group employees under the General Schedule by grade level:

	Negro	Spanish surnamed	American Indian	Oriental
GS–1 through GS–4	21.8	3.0	1.8	0.6
GS–5 through GS–8	13.5	2.2	.7	.8
GS–9 through GS–11	5.1	1.5	.5	1.0
GS–12 through GS–13	2.7	.8	.2	.9
GS–14 through GS–15	1.7	.7	.2	.8
GS–16 through GS–18	1.4	.3	.1	.2

Minorities represent 19.4% of the total employment in the Federal government (15.0% are Negroes, 2.9% are Spanish-surnamed, 0.7% are American Indians, and 0.8% are Oriental). Their concentration in the lower grade levels indicates that their ability to advance to the higher levels has been restricted.

In many areas, the pattern at regional levels is worse than the national pattern. For example, the committee notes with special concern the particularly low percentage of Federal jobs held by Spanish-surnamed persons in areas of high residential concentration of such persons, particularly in California and the Southwestern States, and expects the Commission to undertake a special study of this problem to develop programs to provide greater entry level and advancement employment opportunities for Spanish-surnamed persons.

The position of women in the Federal government has not fared any better. In testimony before the Senate Labor Subcommittee this year, Mrs. Daisy B. Fields, past president of Federally Employed Women (FEW), testified as to the distribution, by percent, of all women employed by the Federal government (approximately 665,000 or about 34%) as represented by the following breakdown:

	Percent
GS–1 through GS–6	76.1
GS–7 through GS–12	21.7
GS–13 and above	1.1

The inordinate concentration of women in the lower grade levels, and their conspicuous absence from the higher grades is again evident.

One feature of the present equal employment opportunity program which deserves special scrutiny by the Civil Service Commission is the complaint process. The procedure under the present system, intended to provide for the informal disposition of complaints, may have denied employees adequate opportunity for impartial investigation and resolution of complaints.

Under present procedures, in most cases, each agency is still responsible for investigating and judging itself. Although provision is made for the appointment of an outside examiner, the examiner does not have the authority to conduct an independent investigation, and his conclusions and findings are in the nature of recommendations to the agency head who makes the final agency determination on whether there is, in fact, discrimination in that particular case. The only appeal is to the Board of Appeals and Review in the Civil Service Commission.

The testimony before the Labor Subcommittee reflected a general lack of confidence in the effectiveness of the complaint procedure on the part of Federal employees. Complaints have indicated skepticism regarding the Commission's record in obtaining just resolutions of complaints and adequate remedies. This has, in turn, discouraged persons from filing complaints with the Commission for fear that doing so will only result in antagonizing their supervisors and impairing any future hope of advancement. The new authority given to the Civil Service Commission in the bill is intended to enable the Commission to reconsider its entire complaint structure and the relationships between the employees, agency and Commission in these cases.

Another task for the Civil Service Commission is to develop more expertise in recognizing and isolating the various forms of discrimination which exist in the system it administers. The Commission should be especially careful to ensure that its directives issued to Federal agencies address themselves to the various forms of systemic discrimination in the system. The Commission should not assume that employment discrimination in the Federal Government is solely a matter of malicious intent on the part of individuals. It apparently has not fully recognized that the general rules and procedures that it has promulgated may in themselves constitute systemic barriers to minorities and women. Civil Service selection and promotion techniques and requirements are replete with artificial requirements that place a premium on "paper" credentials. Similar requirements in the private sectors of business have often proven of questionable value in predicting job performance and have often resulted in perpetuating existing patterns of discrimination (see e.g. *Griggs* v. *Duke Power Co.*, supra n.1). The inevitable consequence of this kind of a technique in Federal employment, as it has been in the private sector, is that classes of persons who are socio-economically or educationally disadvantaged suffer a very heavy burden in trying to meet such artificial qualifications.

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[8] See *Bolling* v. *Sharpe*, 347 U.S. 497 (1954) and cases cited therein.

It is in these and other areas where discrimination is institutional, rather than merely a matter of bad faith, that corrective measures appear to be urgently required. For example, the Committee expects the Civil Service Commission to undertake a thorough re-examination of its entire testing and qualification program to ensure that the standards enunciated in the *Griggs* case are fully met.

The Civil Service Commission's primary responsibility over all personnel matters in the Government does create a built-in conflict of interest for examining the Government's equal employment opportunity program for structural defects which may result in a lack of true equal employment opportunity. Yet, the Committee was persuaded that the Civil Service Commission is sincere in its dedication to the principles of equal employment opportunity enunciated in Executive Order 11478 and that the Commission has the will and desire to overcome any such conflict of interest. In order to assist the Commission in accomplishing its goals and to make clear the Congressional expectation that the Commission will take those further steps which are necessary in order to satisfy the goals of Executive Order 11478, the Committee adopted in Section 707(b) of the bill specific requirements under which the Commission is to function in developing a comprehensive equal employment opportunity program.

Thus the provision in section 717(b) for applying "appropriate remedies" is intended to strengthen the enforcement powers of the Civil Service Commission by providing statutory authority and support for ordering whatever remedies or actions by Federal agencies are needed to ensure equal employment opportunity in Federal employment. Remedies may be applied as a result of individual allegations of discrimination, CSC investigation of equal employment opportunity programs in Federal agencies or their field installations, or from review of agency plans of action and progress reports. Remedies may be in terms of action required to correct a situation regarding a single employee or group of employees or broader management action to correct systemic discrimination and to improve equal employment opportunity program effectiveness to bring about needed progress. The Commission is to provide Federal agencies with necessary guidance and authority to effectuate necessary remedies in individual cases, including the award of back pay, reinstatement or hiring, and immediate promotion where appropriate.

The bill also directs the Commission to require each Federal department and agency (including appropriate units of the District of Columbia Government) to prepare an equal employment opportunity affirmative plan of action at least annually. The Commission is to review, modify, and approve each department or agency developed with full consideration of particular problems and employment opportunity needs of individual minority group populations within each geographic area. These legislative directions are, of course, not intended to limit the Commission in requiring the establishment of affirmative equal employment opportunity plans for any agency level, including local installations as needed; indeed, the Committee expects the Commission to require that agency plans include specific regional plans for particularly large Federal regional installations and other regional offices with deficient records of progress in equal employment opportunity. The Committee recognizes that this new emphasis on regional installation equal employment opportunities and action plans will require a greater commitment of both agency and Civil Service Commission personnel to planning and enforcement activities and expects the Civil Service Commission to ensure that such staffing additions will be made both at the national and regional office levels. Finally, to lend the greatest credibility to its equal employment opportunity efforts at a national and regional level, the Commission should review and revise its own equal employment action plan and implemenation, particularly at its regional offices and higher grade levels, to ensure that its own record in this field is exemplary and thus a model for all other Federal agencies.

The bill requires the Commission to obtain, on at least a semi-annual basis, minority group employment and such other data as are necessary for effective evaluation by the Commission and the public of each department's, agency's or unit's record of equal employment opportunity achievement and to publish at least semi-annually full statistical and other reports (comparable to the report now published annually) of equal employment opportunity progress. In evaluating agency plans for approval, the Commission is also directed to study and determine the appropriate allocation of personnel and resources committed to, and the qualifications to be established for top equal employment opportunity officials responsible for, carrying out program responsibilities, including necessary affirmative action as well as processing of individual discrimination cases, on both a central office and regional (SMSA) basis.

The Committee wishes to emphasize the significant reservoir of expertise developed by the EEOC with respect to dealing with problems of discrimination. According, the committee strongly urges the Civil Service Commission to take advantage of this knowledge and experience and to work closely with EEOC in the development and maintenance of its equal employment opportunity programs.

An important adjunct to the strengthened Civil Service Commission responsibilities is the statutory provision of a private right of action in the courts by Federal employees who are not satisfied with the agency or Commission decision.

The testimony of the Civil Service Commission not withstanding, the committee found that an aggrieved Federal employee does not have access to the courts. In many cases, the employee must overcome a U.S. Government defense of sovereign immunity or failure to exhaust administrative remedies with no certainty as to the steps required to exhaust such remedies. Moreover, the remedial authority of the Commission and the courts has also been in doubt. The provisions adopted by the committee will enable the Commission to grant full relief to aggrieved employees, or applicants, including back pay and immediate advancement as appropriate. Aggrieved employees or applicants will also have the full rights available in the courts as are granted to individuals in the private sector under title VII.

The bill (section 717(c)) enables the aggrieved Federal employee (or applicant for employment) to file an action in the appropriate U.S. district court after either a final order by his agency or a final order of the Civil Service Commission on an appeal from an agency decision or order in any personnel action in which the issue of discrimination on the basis of race, color, religion, sex or national origin has been raised by the aggrieved person. It is intended that the employee have the option to go to the appropriate district court or the District Court for the District of Columbia after either the final decision within his agency on his appeal from the personnel action complained of or after an appropriate appeal to the Civil Service Commission or after the elapse of 180 days from the filing of the initial complaint or appeal with the Civil Service Commission.

CHANGES IN ENFORCEMENT PROVISIONS

Section 4 of the bill revises section 706 of the act to enable the EEOC to process a charge of employment discrimination through the investigation, conciliation, administrative hearing, and judicial review stages.

The present act, which only allows the Commission to pursue charges through the informal methods of persuasion and conciliation, has, as already shown, proven to be seriously defective in providing an effective Federal remedy for violations of title VII. Since the compliance provisions of the present law, as regards the findings of the EEOC, are purely voluntary, and respondents have not generally been very agreeable to accepting EEOC decisions where discriminatory practices are found, the burden of relief has been placed upon the aggrieved individual's private right of action in the Federal courts.

This method has generally worked to the disadvantage of the aggrieved individuals. Since most title VII complainants are by the very nature of their complaint disadvantaged, the burden of going to court, initiating legal proceedings by retention of private counsel, and the attendant time delays and legal costs involved, have effectively precluded a very large percentage of valid title VII claims from ever being decided. This disparity between complainants and respondents in title VII litigation has been recognized by the courts which have characterized such litigation as a "modern day David and Goliath confrontation."[9] In such situations, the public has an overriding interest in protecting the individual from the denial of those rights which Congress has specifically provided.

To accomplish the stated purpose of title VII, the bill, while retaining the private right of action, provides, as well, for the elimination of unfair employment practices through a system of administrative hearings, Commission decisions and orders, and ultimate court review in appropriate cases—the method of enforcement which has long been utilized by other regulatory agencies.

The need to provide some form of direct enforcement power to the EEOC has been voiced since the inception of the Commission. There is disagreement whether this enforcement power should be through a Commission lawsuit in a U.S. district court, or by an administrative proceeding followed by a cease-and-desist order with review in the appropriate U.S. court of appeals. . . .

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, but I would like to retain my right to the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I have had the opportunity to meet with the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Alabama (Mr. ALLEN) to lay before them a proposal which after some consultation they both agree to.

I have also discussed this matter with the manager of the bill, the distinguished Senator from New Jersey (Mr. WILLIAMS) and the ranking Republican member of the committee, the distinguished Senator from New York (Mr. JAVITS) and others.

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[9] See *Sanchez v. Standard Brands, Inc.*, 431 F. 2d 455 (C.A. 1970); *Jenkins v. United Gas Corp.*, 400 F. 2d 28 (C.A. 5, 1968); *Pettway v. American Cast Iron Pipe Co.*, 411 F. 2d 998 (C.A. 5, 1969).

I hope this meets with the approval of the leadership on the Republican side. I am sure it will but I would appreciate it if it would be possible for them to give their approval to the unanimous consent request I am about to make.

Mr. President, I ask unanimous consent that immediately after the final passage of S. 2515, for which a conference will not be asked in the Senate until the House so requests, the Senate proceed without debate to the consideration of H.R. 1746, that the text of S. 2515, as passed by the Senate, be substituted for the text of H.R. 1746; that H.R. 1746, as amended, proceed immediately to third reading and then immediately to final passage; and that a motion to reconsider the vote on final passage of both be waived. I also ask unanimous consent that rule XII be waived.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. I wonder about the motion to reconsider being waived. Why is that included? We are perfectly agreeable to sending both bills to the other body but why waive a motion to reconsider?

Mr. MANSFIELD. If the Senator will allow me, knowing the rules of procedure of this body as he does, if such a motion were made it could be held up, I understand, for 2 days. This way it faces up to the issue immediately.

Mr. JAVITS. Both bills would go over at once?

Mr. MANSFIELD. Yes.

Mr. JAVITS. Do we understand, however, and in good faith we should know, there is no intent to make any motion to reconsider in the 2 days?

Mr. MANSFIELD. Not that I know of.

Mr. JAVITS. This is a situation where everybody is agreeing?

Mr. MANSFIELD. This is in good faith. There are no cards under the table, no angles, no openings.

Mr. ALLOTT. Mr. President, I have no objection to the request except the one part about a motion to reconsider. I have nothing in my mind and I do not know that anybody else would, but if a motion to reconsider is made immediately, a motion to table can be made at any time, as we have done hundreds of times. I must say I am very, very reluctant to waive this right by unanimous consent. If it were left to the Senator from Colorado alone I would ask the Senator if he would consider deleting that. Heaven knows I have no desire to delay the progress of this legislation.

Mr. MANSFIELD. I appreciate what the distinguished Senator from Colorado, the acting Republican leader, just said. If I may make a personal request, I hope the Senator will allow me to proceed in this manner, with my assurance to him that this is no subterfuge, there is nothing under the table, and it is one way of bringing this proposal, which has encountered some difficulty, to a head, with the idea that this would not set a precedent.

Mr. ALLOTT. I am sure the Senator does not have anything under the table, or anything like that, but I stated my own view. If the Senator thinks it is necessary, I would be perfectly willing not to object, but I must say this should not be considered a precedent.

Mr. MANSFIELD. I agree. This is something that is not to be considered a precedent.

Mr. ALLOTT. I thank the Senator.

Mr. ALLEN. Mr. President, reserving the right to object and I do not object, as I understand the agreement, House bill, H.R. 1746, would not be called up until after the passage of the Senate bill.

Mr. MANSFIELD. The Senator is correct.

Mr. ALLEN. Then, the Senate bill would go over to the House for further consideration. Then the House bill, amended to conform to the Senate bill as passed, would then be passed and also sent to the House so that the House would have the option of acting again on the House bill or to take up the Senate bill from the start, if it saw fit. It would give the House an option.

Mr. MANSFIELD. The Senator is correct, although the substance of both bills would be the same.

Mr. ALLEN. Yes, but the House could proceed to act again by using the Senate bill.

Mr. MANSFIELD. The Senator is correct.

Mr. ALLEN. I have no objection.

Mr. ERVIN. As I understand the request, there would be two votes, one on the passage of the Senate bill and one on the passage of the House bill as amended, to conform to the Senate bill.

Mr. MANSFIELD. The Senator is correct.

Mr. ERVIN. I thank the Senator.

Mr. MANSFIELD. I ask for the yeas and nays on both.

The PRESIDING OFFICER. Without objection, rule XII will be waived.

Mr. MANSFIELD. I ask that it be in order at this time to ask for the yeas and nays, not only on the pending bill, which I understand is ready for third reading, but on H.R. 1746.

The PRESIDING OFFICER. First, is there objection to the unanimous-consent request?

Mr. MANSFIELD. What unanimous-consent request does the Chair refer to?

The PRESIDING OFFICER. The one the Senator just made.

Mr. MANSFIELD. That we vote on both?

The PRESIDING OFFICER. No; that we proceed to the House bill afterwards.

Is there objection? The Chair hears no objection, and it is so ordered.

Mr. MANSFIELD. I ask for the yeas and nays on both bills.

The PRESIDING OFFICER. Is there a sufficient second to the request for the yeas and nays?

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I desire to speak for a moment on the committee substitute. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I plan to vote for the committee substitute. I shall not call for the yeas and nays on the adoption of the committee substitute, but I shall vote for it because it is a vast improvement over the bill as introduced, because it does have the Dominick amendment in it. It has the increase from eight to 15 as the required number of employees to put employers under the provisions of the EEOC. It eliminates religious schools and educational institutions from the religious aspect of discrimination. It is a vast improvement over the bill as introduced, and I shall support the committee substitute.

Mr. DOMINICK. Mr. President, I yield myself 2 minutes.

We have engaged in a pretty tough debate on this bill for a very long period of time. I had thought when the bill came out that we would have completed it long before this. I feel, however, that the debate itself and the amendments which have been adopted have substantially improved the bill. We now have all classifications of employees having the right to redress employment grievances in the Federal courts. We have not unfairly harassed the very small employers by going to the extreme of extending the coverage of the bill to employers of eight or more employees. The present bill coverage of employers with 15 or more employees is much more reasonable. We have taken care of the situation brought out by the Senator from North Carolina and the Senator from Alabama on elected officials and their personal staffs.

A number of other amendments have been adopted that, in my opinion, have so substantially improved the bill that I think we can work it out either by action of the House or in conference. As a result, I intend to support the bill on final passage.

In conclusion, I would like to thank colleagues who, despite strong pressures to the contrary, exercised great degrees of allegiance to principle to make this bill truly a representative Senate bill. Additionally, I wish to compliment my assistant, Mr. Daniel T. Moyle, Jr., for his excellent and persistent efforts on my behalf.

Mr. WILLIAMS. Mr. President, as I stated earlier, this is the 21st full day of debate. We have had more than 30 rollcalls. But the Senate, in invoking cloture, has determined that it is time to get on with the passage of this bill. In a very few minutes we will be voting on the final passage of that bill. I think it is clear to everyone here that the bill represents the overwhelming will of the majority of the U.S. Senate.

I believe that this bill, as amended in the Senate, will assure a greater measure of equality in employment opportunities to the Nation's women workers and to its minorities. I believe it represents a major step forward in the struggle to end job discrimination in our society.

I think it would be useful to review some of the steps that have been taken in the Senate in modifying this bill and the significant changes in the existing law made by this bill when it is finally passed.

First, as to the method of enforcement. This was a long and hard-fought issue. The simple question was the appropriate and best method of enforcement powers for the Equal Employment Opportunity Commission. Many of us felt that the best method of enforcement was the time-honored administrative agency approach which would have enabled EEOC to conduct administrative hearings and issue judicially enforceable cease-and-desist orders. We debated this issue for 4 weeks. We had a number of votes on the subject. The final vote came last Tuesday, on an amendment offered by the Senator from Colorado (Mr. DOMINICK). That amendment provided an enforcement mechanism which would allow the Equal Employment Opportunity Commission to seek injunctive relief in the Federal district courts for charges of unlawful employment practices.

Mr. President, I vigorously opposed that method of enforcement because I felt that it would lead to unwarranted delays in the Federal courts and would not provide the kind of agency expertise and guidance needed in employment discrimination cases. However, Mr. President, the Senate made its judgment. I fully recognize, as I have stated on several occasions, that the enforcement mechanism that was so stanchly advocated by the distinguished Senator from Colorado was a workable mechanism. It was not a negative approach to this law. It was a positive effort. I commend him for his diligence. Although I strongly prefer the administrative mechanism, I think that the court enforcement mechanism can work. However, it can only work if Congress provides the commission and the courts with the resources that are going to be necessary to make that program work.

Second, as to coverage. The bill will extend the coverage to three classes of employees. It will assure to employees of State and local governments the protections of title VII of the Civil Rights Act. It does so, with one proviso, which exempts from coverage the elected officials and their most personal advisers. I believe that the coverage of governmental employees is a monumentally important step for the cause of equal employment opportunity. It was a hotly contested issue. I am gratified that the Senate, by an overwhelming vote of 59 to 16, took this historical opportunity to assure a protective mechanism for the more than 10 million workers employed in such capacities.

The bill also extends coverage to millions of teachers in our educational system by eliminating the present exemption for employees of those institutions. It goes without saying that the opportunity to become a teacher in our society is one that should be cherished and valued. Arbitrary and artificial restraints, which deny that opportunity, must be abolished. Inclusion of teachers, in this bill, is a major step toward obtaining that goal. Finally, coverage is extended to employers with 15 or more employees and unions with 15 or more members instead of 25 or more. This figure represented a compromise between those of us who advocated coverage of employers and unions with even fewer employees and members and those who were concerned with the impact of additional Federal regulations on smaller businessmen. I think it is clear that no one really disputes the need for equal employment opportunity at every level of our society. I do not believe that those who were advocating higher levels of coverage were suggesting that small businessmen or unions should be engaged in discrimination on the basis of race, color, religion, sex, or national origin. I think, however, that there was a concern about the ability of the commission to digest the new coverage that we are providing. I think, therefore, that the 15 level will be a useful and workable device and the extension of coverage in the future can be reconsidered at an appropriate time.

Another significant part of the bill and one that has not had very much debate because it was so clearly accepted at the committee level, concerns our Federal Government employees. The requirement of equal employment opportunity is extended by statute to these employees, and for the first time a clear remedy is provided enabling them to pursue their claims in the district courts following a Civil Service Commission or agency hearing.

Moreover, and very importantly, the Civil Service Commission is given additional responsibilities to see that job discrimination in the Federal service is brought to a halt. I cannot emphasize the concern that was expressed in our committee over the need to have the Federal Government as the model employer. Provision for a noncontroversial method is due to the extensive efforts of the Senator from Colorado (Mr. DOMINICK) and the Senator from California (Mr. CRANSTON), and the good faith and desire for improvement and change reflected on the part of the Civil Service Commission during our committee consideration of this matter.

Lastly, the bill makes a number of modifications in the administrative operation of EEOC. This includes the very important provisions for deferral of cases to State agencies, modification of the recordkeeping and investigative authority of the commission and other similar housekeeping changes.

Mr. President, I ask unanimous consent that a section-by-section explanation of the scope of the bill that I have prepared be printed in the RECORD at the end of my remarks.

I firmly believe that we have a good bill before us. I believe this legislation is long overdue. I hope that we can look forward to its enactment in the very near future.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF S. 2515, THE EQUAL EMPLOYMENT OPPORTUNITIES ACT OF 1972

The following analysis seeks to explain the major provisions of S. 2515, the Equal Employment Opportunities Act of 1972, as amended by the Senate during its debate on the bill. These explanations, which reflect the changes adopted by the Senate from the original bill as reported by the Committee, encompass the enforcement provisions of Title VII as now adopted by the Senate and the various procedural and jurisdictional changes which are also encompassed within provisions of S. 2515.

In any area where the new law does not address itself, or in any areas where a specific contrary intention is not indicated, it is assumed that the present case law as developed by the courts shall continue to determine the applicability of Title VII. It is also the intent of this legislation to remedy deficiencies in the current law.

SECTION 2

This section amends certain definitions contained in section 701 of the Civil Rights Act of 1964.

Section 701(a)—This subsection defines "person" as used in Title VII. Under the provisions of S. 2515, the term is now expanded to include State and local governments, governmental agencies, and political subdivisions.

Section 701(b)—This subsection defines the term "employer" as used in Title VII. This subsection would now include, within the meaning of the term "employer", all State and local governments, governmental agencies, and political subdivisions, and the District of Columbia departments or agencies (except those subject by statute to the procedures of the Federal competitive service as defined in 5 U.S.C. § 2102, who along with all other Federal employees would now be covered by section 717 of the Act).

This subsection would extend coverage of the term "employer", one year after enactment, to those employers with 15 or more employees. The standard for determining the number of employees of an employer, i.e. "employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year," would apply immediately upon enactment to all employers of 25 or more employees during the first year, as well as to the final coverage of 15 or more employees thereafter.

Section 701(c)—This subsection eliminates the exemption for agencies of the United States, States, or the political subdivisions of States from the definition of "employment agency" in order to conform with the expanded coverage of State and local governments in section 701 (a) and (b) above, State agencies, previously covered by reference to the United States Employment Service, continue to be covered as employment agencies.

Section 701(e)—This subsection is revised to include labor organizations with 15 or more members within the coverage of Title VII, one year after the enactment of the present bill.

Section 701(f)—This subsection is intended to exclude from the definition of "employee" as used in Title VII those persons elected to public office in any State or political subdivision of any State by the qualified voters of such State or political subdivision. An additional exemption from the definition of "employee" is also provided for persons chosen by such officers as personal assistants or as immediate advisors in respect to the exercise of the Constitutional or legal powers of the office held by such elected officer. This exemption is intended to be read very narrowly and is in no way intended to establish an overall narrowing of the expanded coverage of State and local governmental employees as set forth in section 701(a) and (b) above.

Section 701(j)—This subsection, which is new, defines "religion" to include all aspects of religious observance, practice and belief, so as to prohibit discrimination against employees whose "religion" requires observances, practices and beliefs which differ from the employer's or potential employer's norm. Discrimination on this basis would be unlawful unless an employer can demonstrate that he cannot reasonably accommodate beliefs without undue hardship on the conduct of his business.

SECTION 3

This section amends the exemptions allowed in section 702 of the Civil Rights Act of 1964.

Section 702—This section is amended to eliminate the exemption for employees of educational institutions. Under the provisions of this section, all private and public educational institutions, which are not religious educational institutions, would now be covered under the provisions of Title VII. With the elimination of the exemption, the employment practices of such institutions most of which have previously been covered by other relevant state and federal laws, would now be expected to conform to the standards of equal employment opportunity as established under Title VII, and employment practices such as hiring, promotion, transfer, and termination would be subject to strict equal employment standards.

The exemption in this section for religious corporations, associations, educational institutions, or societies to allow such entities to employ individuals of a particular religion to perform work connected with the particular corporation, association, educational institution or society, has been broadened to allow such religious preference regardless of the particular job which the individual is being considered.

SECTION 4(a)

This section of the bill contains the major provisions for the enforcement functions which are provided to the EEOC for the prevention of unlawful employment practices. S. 2515 revises the present section 706 of Title VII of the Civil Rights Act of 1964 to enable the EEOC to process a charge of employment discrimination through the investigation and conciliation stages of voluntary compliance. In addition, however, the provisions or S. 2515 provide that if such should prove unsuccessful, then the EEOC would be empowered to file an action against the respondent in the appropriate Federal District Court.

The accomplishment of the stated purpose of Title VII, the elimination of employment discrimination in all areas of employment in this Nation, has not been accomplished under the present system of voluntary compliance through EEOC procedures or, in the alternative, the private law suit. Under the provisions of section 4 of the bill, the overriding public interest in equal employment opportunity would be asserted through direct Federal enforcement. Accordingly, this section amends sections 706(a) through (g) of the Civil Rights Act of 1964.

Section 706(a)—This subsection would empower the Commission to prevent persons from engaging in unlawful employment practices under sections 703 and 704 of Title VII of the Civil Rights Act of 1964. As these noted sections remain largely unchanged, the unlawful employment practices which were enumerated in 1964 in the original Act, and as defined and expanded by the courts in litigation since that time, and by these amendments, remain in effect.

Section 706(b)—This subsection sets out the procedures to be followed when a charge of an unlawful employment practice is filed with the Commission. The present requirement that charges must be in writing and under oath or affirmation has been retained. In order to accord respondents fair notice that charges are pending against them, this subsection provides that the Commission must serve a notice of the charge on the respondent within ten days; further, the Commission would be expected to investigate the charge as quickly as possible and to make its determination on whether there is reasonable cause to believe that the charge is true. It is not intended that failure to give notice of the charge to the respondent within ten days should prejudice the rights of the aggrieved party.

If the Commission finds no reasonable cause, it must dismiss the charge; if it finds reasonable cause, it must attempt to conciliate the case. During the Commission's investigation of the charge, the allegations would not be made public by the Commission, and if it finds that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and notify the complainant and the respondent of its decision.

This subsection also makes a number of other changes in existing law:

1. Under present law, a charge may be filed only by a person aggrieved under oath or by a member of the Commission where that member has reasonable cause to believe a violation has occurred. This subsection would permit a charge to be filed under oath or affirmation by or on behalf of a person aggrieved, or by an officer or employee of the Commission upon the request of a person claiming to be aggrieved. The purpose of this provision would enable aggrieved persons to have charges processed under circumstances where they are unwilling to come forward publicly for fear of economic or physical reprisals. In this connection, it is intended that the device of a Commission charge may be used to maintain the confidential identity of the persons aggrieved and that no disclosure need be made of the identity of person aggrieved.

2. The Commission would be required to make its determination on reasonable cause as promptly as possible and, "so far as practicable," within 120 days from the filing of the charge or from the date upon which the Commission is authorized to act on the charge under section 706(c) or (d). The Commission, where appropriate, would be required in its determination of reasonable cause to accord substantial weight to final findings and orders made by State or local authorities under State and local laws.

3. This subsection and section 8(c) of the bill add appropriate provisions to carry out the intent of the present statute to provide full coverage for joint labor-management committees controlling apprenticeship or other training or retraining, including on-the-job training programs. While these joint labor-management committees are prohibited under section 703(d) of the present act from discriminating, they were not expressly included in the prohibition against discriminatory advertising or retaliation against persons participating in Commission proceedings (sec. 704(a) and (b)) or in the procedures for filing changes in section 706(a).

Section 706(c)—This subsection retains the present requirement that the Commission defer for a period of 60 days to State or local agencies which have a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto (this period for deferral is 120 days during the first year after the effective date of such law).

The present law is changed by deleting the phrase "no charge may be filed" with the Commission by an aggrieved person in such State or locality until the deferral period has expired. The present law is somewhat unclear respecting the nature of Commission action on charges filed with it prior to resort to the State or local agency. The new language clarifies the present law by permitting a charge to be filed but prohibiting the Commission from taking any action with respect thereto until the prescribed deferral period has elapsed (see a similar holding by the Supreme Court in *Love* v. *Pullman Co.* decided on January 17, 1972 (No. 70-5033), where the Court held that a complaint filed with the Commission, then orally deferred to the State agency for the required deferral period, and then reactivated automatically after the deferral period had expired was proper procedure under the provisions of § 706(b) and (d) of the present Act.

Section 706(d).—This subsection requires deferral to State or local anti-discrimination agencies, similar to provisions contained in subsection 703(c), in the case of charges filed by an officer or employee of the Commission.

Section 706(e).—This subsection sets forth the time limits controlling certain actions by the Commission under the provisions of the bill.

Under the present law, charges must be filed within 90 days after an alleged unlawful employment practice has occurred. In cases where the Commission defers to a State or local agency under the provisions of section 706(c) or (d), the charge must presently be filed within 30 days after the person aggrieved receives notice that the State or local agency has terminated its proceedings, or within 210 days after the alleged unlawful employment practice occurred, whichever is earlier.

The amendments to this subsection would now provide that charges be filed within 180 days of the alleged unlawful employment practice, a limitation period similar to that contained in the Labor Management Relations Act, as amended (29 U.S.C. § 160(b)). In establishing the new time period for the filing of charges, it is not intended that existing law, which has shown an inclination to interpret this type of time limitation to give the aggrieved person the maximum benefit of the law, should be in any way circumscribed. Existing case law which has determined that certain types of violations are continuing in nature, thereby measuring the running of the required time period from the last occurrence of the discrimination and not from the first occurrence is continued, and other interpretations of the courts maximizing the coverage of the law are not affected. It is intended by expanding the time period for filing charges in this subsection that aggrieved individuals, who frequently are untrained laymen who are not always aware of the discrimination which is practiced against them, should be given a greater opportunity to prepare their charges and file their complaints, and that existent but undiscovered acts of discrimination should not escape the effect of the law through a procedural oversight.

Similarly, the time period allowing a determination by a State or local anti-discrimination agency has been extended to 300 days after the alleged unlawful employment practice occurred or within 30 days after the State or local agency has terminated proceedings under the State or local law, whichever is earlier.

This subsection also requires that notice of the charge be served on the respondent within 10 days after its having been filed.

Section 706(f).—This subsection, which is new, sets forth the procedures to be followed, in those cases where the Commission is unable to achieve a satisfactory conciliation after a finding of reasonable cause, for securing compliance with the provisions of Title VII. The procedures set forth in this subsection are intended to place the primary responsibility for enforcing violations of Title VII in the Commission and to shift them from the private plaintiff where they have been under the existing provisions of title VII.

Section 706(f)(1)—Under this subparagraph, if the Commission is unable to secure a conciliation agreement pursuant to section 706(b) that is acceptable to the Commission within 30 days from the filing of the charge or within 30 days after expiration of any period of reference under subsection (c) or (d), it would promptly so notify the General Counsel who may bring a civil action against the respondent in the appropriate district court, if the respondent is not a government, governmental agency, or political subdivision.

In the case of a respondent that is a government, governmental agency, or political subdivision, if conciliation fails, the Commission will take no further action and will refer the case to the Attorney General who may bring a civil action in the appropriate district court.

With respect to cases arising under this subsection, if the Commission: (a) has dismissed the charge, or (b) 150 days have elapsed from the filing of the charge or period of reference to State agencies under subsection 706 (c) or (d), whichever is later, without the General Counsel or the Attorney General, as the case may be, having issued a complaint under section 706(f), or without the Commission having entered into a conciliation agreement to which the person aggrieved is a party, the person aggrieved may bring an action in the appropriate district court within 90 days after being notified thereof. Such civil actions are to be governed by sections 706 (f) through (k) as applicable. In providing this provision, it is intended that the individual who has been aggrieved by a violation of Title VII should not be forced to abandon his claim merely because of a decision by the agency that there is insufficient grounds upon which to file a complaint in court or that the person aggrieved should have to endure lengthy delays if the agency does not act with due diligence and speed. Accordingly, the provisions described above would allow the person aggrieved to elect to pursue his or her own remedy in the courts where agency action does not prove satisfactory.

In providing this remedy, it is intended that recourse to this form of remedy will be the exception and not the rule, and that the vast majority of complaints will be handled through the offices of the EEOC. However, as the individual's rights to redress are paramount under the provisions of Title VII, it is necessary that all avenues of relief be left open for quick and effective relief.

In providing for the individual right to sue in the event that action by the Commission is unsatisfactory or unresponsive, it is not intended that duplication of proceedings should be allowed. Therefore, in any proceeding where the General Counsel or the Attorney General, as the case may be, is proceeding with due diligence within the time limits specified in this subsection, the person aggrieved would be precluded from instituting an individual action until such time as one of the specific conditions of this subsection are not met.

In any such complaint brought by the person named in the charge as claiming to be aggrieved or in the case of a charge filed by an officer or employee of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice, the court may upon timely application of the complainant, appoint an attorney and authorize the commencement of the action without the payment of fees, costs, or security in such circumstances as it deems just. The Attorney General or the General Counsel, upon timely application and subject to the court's discretion, may intervene in such a private action if he certifies that the private action is of general public importance. In addition, the court is given discretion to stay proceedings for not more than 60 days pending the termination of State or local proceedings or efforts by the Commission to obtain voluntary compliance.

In establishing the enforcement provisions under this subsection and subsection 706(f) generally, it is not intended that any of the provisions contained therein are designed to affect the present use of class action lawsuits under Title VII in conjunction with Rule 23 of the Federal Rules of Civil Procedure. The courts have been particularly cognizant of the fact that claims under Title VII involve the vindication of a major public interest, and that any action under the Act involves considerations beyond those raised by the individual claimant. As a consequence, the leading cases in this area to date have recognized that Title VII claims are necessarily class action complaints and that, accordingly, it is not necessary that each individual entitled to relief under the claim be named in the original charge or in the claim for relief.

Section 706(f)(2)—This subsection provides a procedure by which the General Counsel or the Attorney General in a case involving a government, governmental agency, or political subdivision, could secure a three-judge court to hear and determine an action brought by him under this section, if such request is accompanied by a certificate that the case is of general public importance. The chief judge of the court is responsible for appointing the three-judge court. Cases are to be expedited in every way, and appeals from the three-judge court are to be appealed directly to the Supreme Court.

Section 706(f)(3) and 706(f)(4)—Under these paragraphs, if a three-judge court is not requested, the chief judge is required to designate a district judge to hear the case. If no judge is available, then the chief judge of the circuit assigns the judge. Cases are to be heard at the earliest practicable date and expedited in every way.

Section 706(f)(5)—This subsection authorizes the Commission or the Attorney General in a case involving a government, governmental agency or political subdivision based upon a preliminary investigation of a charge filed, to bring an action for appropriate temporary or preliminary relief, pending the final disposition of the charge. Such actions are to be assigned for hearing at the earliest possible date and expedited in everyway.

Section 706(g)(1)—This subsection, which is the same as the present section 706(f) of the Act, grants the district courts jurisdiction over actions brought under this title and provides the venue requirements.

It is also intended that one of the fundamental jurisdictional attributes exercised by the court under any actions brought before it under this Act includes the ability to grant such temporary or preliminary relief as it deems just and proper.

Section 706(g)(2)—This subsection is similar to the present section 706(g) of the Act. It authorizes the court, upon a finding that the respondent has engaged in or is engaging in an unlawful employment practice to enjoin the respondent from such unlawful conduct and order such affirmative relief including, but not limited to, reinstatement or hiring of employees, with or without back pay as will effectuate the policies of the Act. The court's award of back pay is limited to that which accrues from a date not more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the aggrieved person(s) would operate to reduce the back pay otherwise allowable.

The provisions of this subsection are intended to give the court wide discretion, as has been generally exercised by the courts under existing law, in fashioning the most complete relief possible. In dealing with the present section 706(g) the courts have stressed that the scope of relief under that section of the Act is intended to make the victims of unlawful discrimination whole, and that the attainment of this objective rests not only upon the elimination of the particular unlawful employment practice complained of but also requires that the consequences and effects of the unlawful employment practice be, so far as possible, restored to a position where they would have been were it not for the unlawful discrimination. This broad reading of the need for effective remedies under this subsection is intended to be preserved in this bill in order to effectively combat the presence of employment discrimination.

SECTION 4(b)

Section 706(k)—This subsection is similar to section 706(k) of the present Act allowing the award of attorney's fees. It adds a provision allowing a prevailing party, in an action brought by the General Counsel or the Attorney General, who is an employer with less than 25 employees or a labor union with less than 25 members to be indemnified by the United States Treasury upon certification of the Commission, in an amount not to exceed $5,000 for their defense, including all expenses and reasonable attorney's fees incurred subsequent to receiving notice of a charge filed against them. Any such prevailing party with 25 to 100 employees whose average income from such employment is less than $7,500, or in the case of a labor union with 25 to 100 members, would be indemnified for one-half of the cost of their defense in an amount not to exceed $2,500. Costs are to be submitted by application to the Commission evidenced by vouchers and are to be deemed reasonable so long as they are comparable to the total amount of the expenses and attorneys fees incurred by the Commission in its investigation and prosecution of the charge. Any district court with jurisdiction over the proceedings would have the authority to make the determination provided for by the subsection.

SECTION 5

This section amends section 707, concerning the Attorney General's "pattern or practice" action, to provide for a transfer of this function to the Commission two years after the enactment of the bill. The bill further provides for current "pattern or practice" jurisdiction for the commission from the date of enactment until the transfer is complete. The transfer is subject to change in accordance with a Presidential reorganization plan if not vetoed by Congress. The section would provide that currently pending proceedings would continue without abatement, that all court orders and decrees remain in effect, and that upon the transfer the Commission would be substituted as a party for the United States of America or the Attorney General as appropriate. The Commission would have authority to investigate and act on pattern or practice charges except that any action would follow the procedures of section 706.

SECTION 6

This section amends section 709 of the Civil Rights Act of 1964, entitled "Investigations, Inspections, Records, State Agencies."

Section 709(a)—This subsection, which gives the Commission the right to examine and copy documents in connection with its investigation of a charge, would remain unchanged.

Section 709(b)—This subsection would authorize the Commission to cooperate with State and local fair employment practice agencies in order to carry out the purposes of the title, and to enter into agreements with such agencies under which the Commission would refrain from processing certain types of charges or relieve persons from the recordkeeping requirements. This subsection would make two changes in the present statute. Under this subsection, the Commission could, within the limitations of funds appropriated for the purpose, also engaged in and contribute to the cost of research and other projects undertaken by these State and local agencies and pay these agencies in advance for services rendered to the Commission. The subsection also deletes the reference to private civil actions under section 706(e) of the present statute.

Section 709(c)—This subsection, like the present statute, would require employers, employment agencies, labor organizations, and joint labor-management apprenticeship committees subject to the title to make and keep certain records and to make reports therefrom to the Commission. Under the present statute, a party required to keep records could seek an exemption from these requirements on the ground of undue hardship either by applying to the Commission or bringing a civil action in the district court. This subsection would require the party seeking the exemption first to make an application to the Commission and only if the Commission denies the request could the party bring an action in the district court. This subsection would also authorize the Commission to apply for a court order compelling compliance with the recordkeeping and reporting obligations set forth in the subsection.

Section 709(d)—This subsection would eliminate the present exemption from recordkeeping requirements for those employers in States and political subdivisions with fair employment practice laws or for employers subject to Federal executive order or agency recordkeeping requirements. Under this subsection, the Commission would consult with interested State and other Federal agencies in order to coordinate the Federal recordkeeping requirement under section 709(c) with those adopted by such agencies. The subsection further provides that the Commission furnish to such agencies information pertaining to State and local fair employment agencies, on condition that the information would not be made public prior to the institution of State or local proceedings.

Section 709(e)—Under this subsection, the Commission or the Attorney General would have the authority to direct the person having custody of any record or paper required by section 709(c) to be preserved or maintained to make such record or paper available for inspection or copying by the Commission or the Attorney General. The district court of the judicial district where the demand is made or the papers are located would have jurisdiction by appropriate process to compel the production of such record or paper. The subsection further provides that the members of the Commission and its representatives or the Attorney General and his representatives, could not, unless ordered by the court, disclose any record or paper produced except to Congress or a congressional committee, to other government agencies, or in the presentation of cases before a court or a grand jury.

SECTION 7

This section would amend section 710 of the Civil Rights Act of 1964 to make section 11 of the National Labor Relations Act (29 U.S.C. § 161), to the extent appropriate, applicable to Commission investigations. The person served by the Commission with the subpoena could petition the Commission to revoke the subpoena within 5 days. On application of the Commission, an appropriate district court could order a person to obey a subpoena and failure to comply with the court order would be punishable in contempt proceedings. Section 11 of the National Labor Relations Act also contains provisions relating to privileges of witnesses, immunity from prosecution, fees, process, service, and return, and information and assistance from other agencies.

SECTION 8 (a) AND (b)

These subsections would amend sections 703(a) and 703(c)(2) of the present statute to make it clear that discrimination against applicants for employment and applicants for membership in labor organizations is an unlawful employment practice. This subsection would merely be declaratory of present law.

SECTION 8 (C) (1) AND (2)

These subsections would amend section 704 (a) and (b) of the present statute to make clear that joint labor-management apprenticeship committees are covered by those provisions which relate to discriminatory advertising and retaliation against individuals participating in Commission proceedings.

SECTION 8(d)

This subsection would amend section 705(a) of the present statute to permit a member of the Commission to serve until his successor is appointed but not for more than 60 days when Congress is in session unless the successor has been nominated and the nomination submitted to the Senate, or after the adjournment *sine die* of the session of the Senate in which such nomination was submitted.

The rest of the subsection provides that the Chairman of the Commission on behalf of the Commission, would be responsible, except as provided in section 705(b), for the administrative operations of the Commission and for the appointment of officers, agents, attorneys, hearing examiners, and other employees of the Commission, and Regional Directors, with the concurrence of the General Counsel, in accordance with Federal law, as he deems necessary.

SECTION 8(e)

This subsection would provide a new section 705(b) of the Act which establishes a General Counsel appointed by the President, with the advice and consent of the Senate, for a four (4) year term. The responsibilities of the General Counsel would include, in addition to those the Commission may prescribe and provided by law, the prosecution and the conduct of all litigation as so provided in sections 706 and 707 of the Act. The General Counsel would appoint regional attorneys with the concurrence of the Chairman and other employees in the Office of the General Counsel in order to effectively carry out his functions and responsibilities.

Furthermore, this subsection would continue the General Counsel on the effective date of the act in that position until a successor has been appointed and qualified. Subsections (b) through (j) of section 705 of the act are redesignated as Subsections (e) through (k), respectively.

SECTION 8(f)

This subsection would amend section 705(g)(1) of the present Act to permit the Commission to accept uncompensated services for the purpose of publicizing its activities in the media.

SECTION 8(g)

This subsection would eliminate the provision in present section 705(g) authorizing the Commission to request the Attorney General to intervene in private civil actions and instead permit the Commission itself to intervene in such civil actions as provided in section 706.

SECTION 8(h)

This subsection would, subject to one exception, permit the Commission to delegate any of its functions, duties and powers to such persons as it may designate by regulation. A number of other Federal agencies have similar broad authority to delegate functions, e.g., the Securities and Exchange Commission (15 U.S.C. § 78(d)(1)), the Interstate Commerce Commission (49 U.S.C. § 17(5)), and the Federal Communications Commission (47 U.S.C. § 155(d)). The exception is as follows:

The Commission could not delegate its authority under section 709(b) to make agreements with States under which the Commission agrees to refrain from processing certain charges or to relieve certain persons from the recordkeeping requirements. The Commission would however be authorized to delegate this power or any of its other powers to groups of three or more members of the Commission.

SECTION 8(i)

This subsection would afford additional protection to officers, agents, and employees of the Commission in the performance of their official duties by making 18 U.S.C. 1114 applicable to them.

SECTION 9 (a), (b), (C), AND (d)

These subsections would make certain modifications in the position of the Chairman of the Commission and the members of the Commission and include the General Counsel in the executive pay scale, so as to place them in a position of parity with officials in comparable positions in agencies having substantially equivalent powers such as the National Labor Relations Board, the Federal Trade Commission and the Federal Power Commission.

SECTION 10

Section 715—This section, which is new, establishes an Equal Employment Opportunity Council (Council) composed of the Secretary of Labor, the Chairman of the Equal Employment Opportunity Commission, the Attorney General, the Chairman of the United States Civil Service Commission and the Chairman of the United States Civil Rights Commission or their respective designees. The Council will have the responsibility to coordinate and implement programs to promote the efficiency of all the various branches of government with responsibility for equal employment opportunities. The Council will submit an annual report to the President and Congress including a report of its activities and recommendations as to legislative or administrative changes it considers desirable.

SECTION 11

Section 717(a)—This subsection would make clear that all personnel actions of the U.S. Government affecting employees or applicants for employment shall be made free from any discrimination based on race, color, religion, sex, or national origin. All employees of any agency, department, office or commission having positions in the competitive service are covered by this section.

Section 717(b)—Under this subsection, the Civil Service Commission is given the authority to enforce the provisions of subsection (a) through appropriate remedies. These remedies may include but are not limited to back pay for applicants as well as employees denied promotion opportunities, reinstatement, hire, and immediate promotion. Any remedy needed to fully recompense the employee for his loss, both financially and professionally is considered appropriate under this subsection. The Civil Service Commission is also given authority to issue rules and regulations necessary to carry out its responsibilities under this section. The Civil Service Commission also shall annually review national and regional equal employment opportunity plans and be responsible for review and evaluation of all agency equal employment opportunity programs. Finally, agency and executive department heads and officers of the District of Columbia shall comply with such rules and regulations, submit an annual equal employment opportunity plan and notify any employee or applicant of any final action taken on any complaint of discrimination filed by him.

Section 717 (c) and (d)—The provisions of sections 706(f) through (k) as applicable, concerning private civil actions by aggrieved persons, are made applicable to aggrieved Federal employees or applicants. They could file a civil action within 30 days of notice of final action on a complaint made pursuant to section 717(b), or after 180 days from the filing of an initial charge, or an appeal with the Commission. The authority given to the Commission or the limitations placed upon the Commission under sections 706(f) through (k) would apply to the Civil Service Commission or the agencies, as appropriate, in connection with a civil action brought under section 707(c). So, for example, if the Civil Service Commission or agency does not issue an order within 180 days after a complaint or appeal is filed, the aggrieved person may also institute a civil action. If such action is instituted within one year of the filing of the complaint or appeal, the Civil Service Commission or agency may request that the action be stayed or dismissed upon a showing that it has been acting with due diligence, that it anticipates issuance of an order within a reasonable time on the complaint or appeal, that the case or proceeding is exceptional and that extension of exclusive jurisdiction of the Civil Service Commission or agency is warranted.

Section 717(e)—This subsection provides that nothing in this act relieves any Government agency or official of his existing nondiscriminating obligations under the Constitution, other statutes, or his or its responsibilities under Executive Order 11478 relating to equal employment opportunity in the Federal Government.

SECTION 12

Section 716 is amended to provide for consultation of the Attorney General, the Chairman of the Civil Service Commission, and the Chairman of the Equal Employment Opportunity Commission regarding rules, regulations and policy in the performance of their responsibilities under this act. It does not in any way limit each of the officials in independently carrying out their respective obligations under this title.

SECTION 13

This section provides that the amended provisions of Section 706 would apply to charges filed with the Commission prior to the effective date of this Act. In addition, those new or amended sections of Title VII not specifically made inapplicable to current charges, would be applicable to such existing charges.

SECTION 14

This section provides that no government contract, or portion thereof, can be denied, withheld, terminated, or superseded by a government agency under the Executive Order 11246 or any other order of law without according the respective employer a full hearing and adjudication pursuant to 5 U.S.C. § 554 et seq. where such employer has an affirmative action program for the same facility which had been accepted by the Government within the prior twelve months. Such plan shall be deemed to be accepted by the Government if the appropriate compliance agency has accepted such plan and the Office of Federal Contract Compliance has not disapproved of such plan within 45 days. However, an employer who substantially deviates from the previously accepted plan is excluded from the protection afforded by this section.

The PRESIDING OFFICER. The question now is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question now is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on final passage of S. 2515. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Indiana (Mr. Hartke), the Senator from Washington (Mr. Jackson), the Senator from Arkansas (Mr. McClellan), the Senator from South Dakota (Mr. McGovern), the Senator from Maine (Mr. Muskie), and the Senator from Arkansas (Mr. Fulbright) are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas (Mr. Fulbright), the Senator from Washington (Mr. Jackson), the Senator from South Dakota (Mr. McGovern), and the Senator from Maine (Mr. Muskie) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker) is absent by leave of the Senate on official committee business.

The Senator from Wyoming (Mr. Hansen) and the Senator from Iowa (Mr. Miller) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The result was announced—yeas 73, nays 16, as follows:

[No. 56 Leg.]

YEAS—73

Aiken
Allott
Anderson
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brooke
Buckley
Burdick
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Fong
Gambrell
Gravel
Griffin
Gurney
Harris
Hart
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Javits
Jordan, Idaho
Kennedy
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Spong
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NAYS—16

Allen
Brock
Byrd, Va.
Eastland
Ellender
Ervin
Fannin
Goldwater
Jordan, N.C.
Long
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—11

Baker
Bayh
Fulbright
Hansen
Hartke
Jackson
McClellan
McGovern
Miller
Mundt
Muskie

So the bill (S. 2515) was passed, as follows:

S. 2515

An act to further promote equal employment opportunities for American workers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Equal Employment Opportunities Enforcement Act of 1972".

SEC. 2. Section 701 of the Civil Rights Act of 1961 (78 Stat. 253; 42 U.S.C. 2000e) is amended as follows:

(1) In subsection (a) insert "governments, governmental agencies, political subdivisions," after the word "individuals".

(2) Subsection (b) is amended to read as follows:

"(b) The term 'employer' means a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of title 5 of the United States Code), or (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954, except that during the first year after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1971, persons having fewer than twenty-five employees (and their agents) shall not be considered employers."

(3) In subsection (c) beginning with the semicolon strike out through the word "assistance".

(4) In subsection (e) strike out between "(A)" and "and such labor organization," and insert in lieu thereof "twenty-five or more during the first year after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1972, or (B) fifteen or more thereafter,".

(5) In subsection (f), change the period at the end of the subsection to a colon, and add thereafter the following words: "*Provided, however,* That the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be a personal assistant, or an immediate adviser in respect to the exercise of the constitutional or legal powers of the office."

(6) At the end of subsection (h) insert before the period a comma and the following: "and further includes any governmental industry, business, or activity".

(7) After subsection (i) insert the following new subsection (j):

"(j) The term 'religion' includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's, religious observance or practice without undue hardship on the conduct of the employer's business."

SEC. 3. Section 702 of the Civil Rights Act of 1964 (78 Stat. 255; 42 U.S.C. 2000e–1) is amended to read as follows:

"EXEMPTION

"SEC. 702. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its religious activities."

SEC. 4. (a) Subsections (a) through (g) of section 706 of the Civil Rights Act of 1964 (78 Stat. 259; 42 U.S.C. 2000e–5(a)–(g)) are amended to read as follows:

"(a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 703 or 704 of this title.

"(b) Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by an officer or employee of the Commission upon the request of any person claiming to be aggrieved, alleging that an employer, employment agency, labor organization, or joint labor-management committee controlling: apprenticeship or other training or retraining, including on-the-job training programs, has engaged in an unlawful employment practice, the Commission shall serve a notice of the charge (including the date, place, and circumstances of the alleged unlawful employment practice) on such employer, employment agency, labor organization, or joint labor-management committee (hereinafter referred to as the 'respondent') within ten days, and shall make an investigation thereof. Charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Commission requires. Charges shall not be made public by the Commission. If the Commission determines after such investigation that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and promptly notify the person claiming to be aggrieved and the respondent of its action. In determining whether reasonable cause exists, the Commission shall accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law pursuant to the requirements of subsections (c) and (d). If the Commission determines after such investigation that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such informal endeavors may be made public by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. Any person who makes public information in violation of this subsection shall be fined not more than $1,000 or imprisoned for not more than one year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection (c) or (d), from the date upon which the Commission is authorized to take action with respect to the charge.

"(c) In the case of a charge filed by or on behalf of a person claiming to be aggrieved alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof the Commission shall take no action with respect to the investigation of such charge before the expiration of sixty days after proceedings thave been commenced under the State or local law, unless such proceedings have been earlier terminated, except that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered or certified mail to the appropriate State or local authority.

"(d) In the case of any charge filed by an officer or employee of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

"(e) A charge under this section shall be filed within one hundred and eighty days after the alleged unlawful employment practice occurred and notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) shall be served upon the person against whom such charge is made within ten days thereafter, except that in a case of an unlawful employment practice with respect to which the person aggrieved has initially instituted proceedings with a State or local agency with authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, such charge shall be filed by or on behalf of the person aggrieved within three hundred days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

"(f) (1) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) or (d), the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission shall so notify the General Counsel who may bring a civil action against any respondent not a government, governmental agency, or political subdivision named in the charge. In the case of a respondent which is a government, governmental agency, or political subdivision, the Commission shall take no further action and shall refer the case to the Attorney General who may bring a civil action against such respondent in the appropriate United States district court. The person or persons aggrieved shall have the right to intervene in a civil action brought by the General Counsel or the Attorney General in a case involving a government, governmental agency, or political subdivision. If a charge filed with the Commision pursuant to subsection (b) is dismissed by the Commission, or if within one hundred and fifty days from the filing of such charge or the expiration of any period of reference under subsection (c) or (d), whichever is later, the General Counsel has not filed a civil action under this section or the Attorney General has not filed a civil action in a case involving a government, governmental agency, or political subdivision, or the Commission has not entered into a conciliation agreement to which the person aggrieved is a party, the Commission or the Attorney General in a case involving a government, governmental agency, or political subdivision shall so notify the person aggrieved and within ninety days after the giving of such notice a civil action may be brought against the respondent named in the charge (1) by the person named in the charge as claiming to be aggrieved or (2) if such charge was filed by an officer or employee of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsections (c) or (d) of this section or further efforts of the Commission to obtain voluntary compliance.

"(2) In any such proceeding the General Counsel or the Attorney General in a case involving a government, governmental agency or political subdivision may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the General Counsel or the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk, to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

"(3) In the event the General Counsel or the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

"(4) It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

"(5) Whenever a charge is led with the Commission and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this Act, the Commission or the Attorney General in a case involving a government, governmental agency, or political subdivision, may bring an action for appropriate temporary or prelimnary relief pending final disposition of such charge. It shall be the duty of a court having jurisdicton over proceedings under this section to assign cases for hearing at the earliest practicable date and to cause such cases to be in every way expedited.

"(6) The provisions of section 706 (f) through (k), as applicable, shall govern civil actions brought hereunder.

"(g) (1) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this title. Such an action may be brought in any judicial district in the State in which the unlawful employment practice as alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the injured person would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28 of the United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.

"(2) If the court finds that the respondent has engaged in or is engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without backpay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Backpay liability shall not exceed that which accrues from a date more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the backpay otherwise allowable."

"(b) Subsection (k) of section 706 of such Act is amended to read as follows:

"(k) In any action or proceeding under this title the Commission or court, as the case may be, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee as part of the costs, and the Commission and the United States shall be liable for costs the same as a private person. Any prevailing party in any proceeding brought by or against the Commission of the United States under this title, that is an employer of less than twenty-five employees or a labor organization of less than twenty-five members shall, upon application to the Commission, be indemnified by the United States for the cost of his defense against the charge in an amount not to exceed $5,000, including all reasonable expenses and attorney's fees incurred after the serving of notice on him of the charge.

"Any prevailing party in such a proceeding that is an employer of twenty-five to one hundred employees whose average income from such employment is less than $7,500, or a labor organization with twenty-five to one hundred members, shall, upon application to the Commission, be indemnified by the United States for one-half of the cost of his defense against the charge not to exceed $2,500, including all reasonable expenses and attorney's fees incurred after the serving of notice on him of the charge. The costs evidenced by respondent's vouchers of his expenses and attorney's fees shall be deemed reasonable so long as they are comparable to the total amount of the expenses and attorney's fees incurred by the Commission in investigating and prosecuting the charge. Disallowance of any part of such request shall be made a part of the Commission's order in such proceedings. Any United States court before which a proceeding under this title shall be brought may upon request by the respondent make the determination provided for in this subsection. The Treasurer of the United States shall indemnify the respondent as provided for herein upon certification by the Commission."

SEC. 4A. The fifth sentence of section 706 (f)(1) of the Civil Rights Act of 1964, as amended by the previous section, is amended to read as follows: "Upon timely application, the court may, in its discretion, permit the General Counsel, or the Attorney General in a case involving a government, government agency, or political subdivision, to intervene in such civil action if he certifies that the case is of general public importance."

SEC. 4B. Section 706 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(l) If the judge designated pursuant to subsection (f)(3) of this section has not assigned the case for trial within one hundred and twenty days after issue has been joined, that judge may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure."

SEC. 5. Section 707 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(c) Effective two years after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1972, the functions of the Attorney General under this section shall be transferred to the Commission, together with such personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with such functions unless the President submits, and neither House of Congress vetoes, a reorganization plan pursuant to chapter 9, of title 5, United States Code, inconsistent with the provisions of this subsection. The Commission shall carry out such functions in accordance with the provisions of subsection (d) and (c) of this section.

"(d) Upon the transfer of functions provided for in subsection (c) of this section, in all suits commenced pursuant to this section prior to the date of such transfer, proceedings shall continue without abatement, all court orders and decrees shall remain in effect, and the Commission shall be substituted as a party for the United States of America, the Attorney General, or the Acting Attorney General, as appropriate.

"(e) Subsequent to the date of enactment of the Equal Employment Opportunities Enforcement Act of 1972, the Commission shall have authority to investigate and act on a charge of a pattern or practice of discrimination, whether filed by or on behalf of a person claiming to be aggrieved or by an officer or employee of the Commission. All such actions shall be conducted in accordance with the procedures set forth in section 706."

SEC. 6. (a) Subsections (b), (c), and (d) of section 709 of the Civil Rights Act of 1964 (78 Stat. 263; 42 U.S.C. 2000e-8(b)-(d)) are amended to read as follows:

"(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may, for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, engage in and contribute to the cost of research and other projects of mutual interest undertaken by such agencies, and utilize the services of such agencies and their employees, and, notwithstanding any other provision of law, pay by advance or reimbursement such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

"(c) Every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purposes of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which applications were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, and, if such application for an exemption is denied, bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, or the Attorney General in a case involving a government, governmental agency or political subdivision, have jurisdiction to issue to such person an order requiring him to comply.

"(d) In prescribing requirements pursuant to subsection (c) of this section, the Commission shall consult with other interested State and Federal agencies and shall endeavor to coordinate its requirements with those adopted by such agencies. The Commission shall furnish upon request and without cost to any State or local agency charged with the administration of a fair employment practice law information obtained pursuant to subsection (c) of this section from any employer, employment agency, labor organization, or joint labor-management committee subject to the jurisdiction of such agency. Such information shall be furnished on condition that it not be made public by the recipient agency prior to the institution of a proceeding under State or local law involving such information. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests pursuant to this subsection."

(b) Section 709 or the Civil Rights Act of 1964 is amended by: (1) redesignating subsection (e) as subsection (f) and (2) by adding immediately after section 709(d) as amended, the following subsection (e):

"(e) Any record or paper required by section 709(c) of this title to be preserved or maintained shall be made available for inspection, reproduction, and copying by the Commission or its representative, or by the Attorney General or his representative, upon demand in writing directed to the person having custody, possession, or control of such record or paper. Unless otherwise ordered by a court of the United States, neither the members of the Commission or its representative nor the Attorney General or his representative shall disclose any record or paper produced pursuant to this title, or any reproduction or copy, except to Congress or any committee thereof, or to a governmental agency, or in the presentation of any case or proceeding before any court or grand jury. The United States district court for the district in which a demand is made or in which a record or paper so demanded is located, shall have jurisdiction to compel by appropriate process the production of such record or paper."

SEC. 7. Section 710 of the Civil Rights Act of 1964 (78 Stat. 264; 42 U.S.C. 2000e-9) is amended to read as follows:

"INVESTIGATORY POWERS

"SEC. 710. For the purpose of all hearings and investigations conducted by the Commission or its duly authorized agents or agencies, section 11 of the National Labor Relations Act (49 Stat. 455 29 U.S.C. 161) shall apply."

SEC. 8. (a) Section 703(a)(2) of the Civil Rights Act of 1961 (78 Stat. 255; 42 U.S.C. 2000e-2(a)(2)) is amended by inserting the words "or applicants for employment" after the words "his employees".

(b) Section 703(c)(2) of such Act is amended by inserting the words "or applicants for membership" after the word "membership".

(c)(1) Section 704(a) of such Act is amended by inserting "or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs," after "employment agency" in section 704(a).

(2) Section 704(b) of such Act is amended by (A) striking out "or employment agency" and inserting in lieu thereof "employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs,", and (B) inserting a comma and the words "or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee" before the word "indicating".

(d) Section 705(a) of the Civil Rights Act of 1964 (785 Stat. 258, 42 U.S.C. 200e-4(a)) is amended to read as follows:

"SEC. 705. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, unless additional members are appointed as hereinafter provided in this subsection. Not more than the least number of members sufficient to constitute a majority of the members of the Commission shall be members of the same political party. Members of the Commission shall be appointed by the President by and with the advice and consent of the Senate for a term of five years. Any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed, and all members of the Commission shall continue to serve until their successors are appointed and qualified, except that no such member of the Commission shall continue to serve (1) for more than sixty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and, except as provided in subsection (b), shall appoint, in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, such officers, agents, attorneys, hearing examiners, and employees, except that regional directors of the Commission shall be appointed by the Chairman with the concurrence of the General Counsel, as he deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates: *Provided*, That assignment, removal, and compensation of hearing examiners shall be in accordance with sections 3105, 3344, 5362, and 7521 of title 5, United States Code. At any time after one year from the effective date of the Equal Employment Opportunities Enforcement Act of 1972, the Chairman of the Commission, if he determines that the appointment of additional members of the Commission would help to effectuate the purposes of this title, may request the President to appoint up to four additional members of the Commission. Upon receiving such a request, the President may appoint up to four additional members of the Commission by and with the advice and consent of the Senate. Such additional members shall be appointed for a term of five years. Upon the expiration of the term of appointment of any such additional member no further appointment to the same position shall be made, and the total number of members of the Commission shall be reduced accordingly unless the Chairman of the Commission determines that the appointment of one or more additional members of the Commission continues to be necessary to better effectuate the purposes of this title and so advises the President."

(c)(1) Section 705 of the Act is amended by inserting the following new subsection (b):

"(b) There shall be a General Counsel of the Commission appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel shall have responsibility for the filing of complaints and the conduct of litigation as provided in sections 706 and 707 of this title. The General Counsel shall have such other duties as the Commission may prescribe or as may be provided by law. The General Counsel shall appoint regional attorneys with the concurrence of the Chairman, and shall appoint such other employees in the Office of the General Counsel as may be necessary to assist in carrying out the General Counsel's responsibilities and functions under this title. The General Counsel of the Commission on the effective date of this Act shall continue in such position and perform the functions specified in this subsection until a successor is appointed and qulified."

(2) Subsections (b) through (j) of section 705 of such Act are redesignated as subsections (c) through (k), respectively.

(f) Section 705(h)(1) of such Act is amended by inserting at the end thereof the following: ", and to accept voluntary and uncompensated services, for the limited purpose of publicizing in the media the Commission and its activities notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))".

(g) Section 705(h)(6) of such Act, as redesignated by this section, is amended to read as follows:

"(6) to intervene in a civil action brought by an aggrieved party under section 706."

(h) Section 713 of such Act is amended by adding at the end thereof the following new subsections:

"(c) Except for the rulemaking power as defined in subchapter II of chapter 5 of title 5, United States Code, with reference to general rules as distinguished from rules of specific applicability, and the power to enter into or rescind agreements with State and local agencies, as provided in subsection (b) of section 709, under which the Commission agrees to refrain from processing a charge in any cases or class of cases or under which the Commission agrees to relieve any person or class of persons in such State or locality from requirements imposed by section 709, the Commission may delegate any of its functions, duties, and powers to such person or persons as the Commission may designate by regulation, including functions, duties, and powers with respect to hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter. Nothing in this subsection authorizes the Commission to provide for persons other than those referred to in clauses (2) and (3) of subsection (b) of section 556 of title 5 of the United States Code to conduct any hearing to which that section applies.

"(d) The Commission is authorized to delegate to any group of three or more members of the Commission any or all of the powers which it may itself exercise."

(i) Section 714 of such Act is amended by striking out "section 11" and inserting in lieu thereof "sections 111 and 1114".

SEC. 9. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new clause:

"(58) Chairman, Equal Employment Opportunity Commission."

(b) Clause (72) of section 5315 of such title is amended to read as follows:

"(72) Members, Equal Employment Opportunity Commission (8)."

(c) Clause (111) of section 5316 of such title is repealed.

(d) Section 5316 of such title is amended by adding at the end thereof the following new clause:

"(131) General Counsel of the Equal Employment Opportunity Commission."

SEC. 10. Section 715 of the Civil Rights Act of 1964 is amended to read as follows:

"SEC. 715. There shall be established an Equal Employment Opportunity Coordinating Council (hereinafter referred to in this paragraph as the Council) composed of the Secretary of Labor, the Chairman of the Equal Employment Opportunity Commission, the Attorney General, and the Chairman of the United States Civil Rights Commission, or their respective delegates. The Council shall have the responsibility for developing and implementing agreements, policies and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among the operations, functions and jurisdictions of the various departments, agencies and branches of the Federal Government responsible for the implementation and enforcement of equal employment opportunity legislation, orders, and policies. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section."

SEC. 11. Title VII of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e et seq.) is amended by adding at the end thereof the following new section:

"NONDISCRIMINATION IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 717. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units of the Government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on race, color, religion, sex, or national origin.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission shall have authority to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section, and shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the annual review and approval of a national and regional equal employment opportunity plan which each department and agency and each appropriate unit referred to in section 717(a) shall submit in order to maintain an affirmative program of equal employment opportunity for all such employees and applicants for employment;

"(2) be responsible for the review and evaluation of the operation of all agency equal employment opportunity programs, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

"(3) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to equal employment opportunity.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. The plan submitted by each department, agency, and unit shall include, but not be limited to—

"(1) provisions for the establishment of training and education programs designed to provide a maximum opportunity for employees to advance so as to perform at their highest potential; and

"(2) a description of the qualifications in terms of training and experience relating to equal employment opportunity for the principal and operating officials of each such department, agency, or unit responsible for carrying out the equal employment opportunity program and of the allocation of personnel and resources proposed by such department, agency, or unit to carry out its equal employment opportunity program.

With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Within thirty days of receipt of notice of final action taken by a department, agency, or unit referred to in subsection 717(a), or by the Civil Service Commission upon an appeal from a decision or order of such department, agency, or unit on a complaint of discrimination based on race, color, religion, sex or national origin, brought pursuant to subsection (a) of this section, Executive Order 11478 or any succeeding executive orders, or after one hundred and eighty days from the filing of the initial charge with the department, agency, or unit or with the Civil Service Commission on appeal from a decision or order of such department, agency, or unit until such time as final action may be taken by a department, agency, or unit, an employee or applicant for employment, if aggrieved by the final disposition of his complaint, or by the failure to take final action on his complaint, may file a civil action as provided in section 706, in which civil action the head of the department, agency, or unit, as appropriate, shall be the defendant.

"(d) The provisions of section 706 (f) through (k), as applicable, shall govern civil actions brought hereunder.

"(e) Nothing contained in this Act shall relieve any Government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required by the Constitution and statutes or of its or his responsibilities under Executive Order 11478 relating to equal employment opportunity in the Federal Government."

SEC. 12. Section 716 of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)–15, 78 Stat. 266) is amended by adding at the end thereof the following new subsection:

"(d) In the performance of their responsibilities under this Act, the Attorney General, the Chairman of the Civil Service Commission and the Chairman of the Equal Employment Opportunity Commission shall consult regarding their rules, regulations, and policies."

SEC. 13. Section 5108(c) of title 5, United States Code, is amended by—

(1) striking out the word "and" at the end of paragraph (9);

(2) striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding immediately after paragraph (10) the last time it appears therein the following new paragraph:

"(11) the Chairman of the Equal Employment Opportunity Commission, subject to the standards and procedures prescribed by this chapter, may place an additional ten positions in the Equal Employment Opportunity Commission in GS–16, GS–17, and GS–18 for the purposes of carrying out title VII of the Civil Rights Act of 1964."

SEC. 14. The amendments made by this Act to section 706 of the Civil Rights Act of 1964 shall be applicable with respect to charges pending with the Commission on the date of enactment of this Act and all charges filed thereafter.

SEC. 15. No Government contract, or portion thereof, with any employer, shall be denied, withheld, terminated, or suspended, by any agency or officer of the United States under any equal employment opportunity law or order, where such employer has an affirmative action plan which has previously been accepted by the Government for the same facility within the past twelve months without first according such employer full hearing and adjudication under the provisions of title 5, United States Code, section 554, and the following pertinent sections: *Provided*, That if such employer has deviated substantially from such previously agreed to affirmative action plan, this section shall not apply: *Provided further*, That for the purposes of this section an affirmative action plan shall be deemed to have been accepted by the Government at the time the appropriate compliance agency has accepted such plan unless within forty-five days thereafter the Office of Federal Contract Compliance has disapproved such plan.

SEC. 16. The Chairman of the United States Civil Service Commission, or his delegate, shall be a member of the Equal Employment Opportunity Coordinating Council established by section 715 of the Civil Rights Act of 1964, as amended by this Act.

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the Senate will now proceed to the consideration of H.R. 1746, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R 1746) to further promote equal opportunity for American workers.

The PRESIDING OFFICER. Under the agreement, all after the enacting clause is stricken, and the language of S. 2515 as passed by the Senate is substituted therefor.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announced that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Maine (Mr. MUSKIE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent by leave of the Senate on official committee business.

The Senator from Wyoming (Mr. HANSEN) and the Senator from Iowa (Mr. MILLER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 72, nays 17, as follows:

[No. 57 Leg.]

YEAS—72

Aiken
Allott
Anderson
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Fong
Gambrell
Gravel
Griffin
Gurney
Harris
Hart
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Javits
Jordan, Idaho
Kennedy
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Spong
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NAYS—17

Allen
Brock
Buckley
Byrd, Va.
Eastland
Ellender
Ervin
Fannin
Goldwater
Jordan, N.C.
Long
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—11

Baker
Bayh
Fulbright
Hansen
Hartke
Jackson
McClellan
McGovern
Miller
Mundt
Muskie

So the bill (H.R. 1746) was passed.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that in the engrossment of the Senate amendments to H.R. 1746, the Secretary of the Senate be authorized to make necessary technical and clerical corrections.

The PRESIDING OFFICER (Mr. ROTH). Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that H.R. 1746 as amended by the Senate be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I simply wish to extend the gratitude of the Senate to the distinguished Senator from New Jersey (Mr. Williams), the able chairman of the Committee on Labor and Public Welfare.

Day after day for the past month or more he pressed here on the floor for the successful adoption of the equal opportunity proposal. Today's overwhelming vote indicates beyond all doubt the effectiveness of his efforts. The Senate is deeply grateful.

The Senate is grateful as well for the splendid cooperative efforts of the distinguished Senator from New York (Mr. Javits), the able ranking minority member of the committee. His support and assistance were indispensable to such an outstanding achievement.

To be singled out for special tribute as well, are the Senators from North Carolina (Mr. Ervin) and Alabama (Mr. Allen). To be sure, they employed the procedures of the Senate to protect to the utmost their positions on this measure, but they did so fairly and openly. They expressed their views strongly and they did so sincerely and they are to be commended.

The distinguished Senator from Colorado (Mr. Dominick) is to be singled out also. It was through his efforts and those of many other Members that the Senate was able to reach final disposition of the equal opportunities proposal.

Finally, the Senate as a whole may be commended. In the final analysis, all Members joined to assure final action today.

Mr. WILLIAMS. Mr. President, I want to express my deep appreciation for the remarkable work of so many people in the passage of this bill after 5 weeks of consideration.

My personal appreciation goes to all the individuals concerned, especially the tireless staffs who carried the workload for such a long period of time, on both sides of the aisle, both majority and minority staffs, Mr. Gerald Feder, counsel to the Labor Subcommittee, Mr. Donold Elisburg, associate counsel, Mr. Eugene Mittelman, minority counsel to the Labor Committee, and Mr. Dan Moyle, legislative assistant to Senator Dominick.

Mr. JAVITS. Mr. President, will the Senator from New Jersey yield?

Mr. WILLIAMS. I yield.

Mr. JAVITS. I should like to express my appreciation for the opportunity to work again in such close cooperation with the distinguished Senator from New Jersey (Mr. Williams). This was a monumental labor. All of us can look back on it with pride and satisfaction. I believe that it will result in a bill which will be an immeasurable improvement over the present administration of the statute.

Our relations have been excellent. The Senator from New Jersey has given every fiber of his being to the work which was involved, and I think the entire country will appreciate that as the days go by.

I should also like to state my own satisfaction at having gotten over the preliminary difference with the distinguished Senator from Colorado (Mr. Dominick). He was most cooperative and pitched in during the final efforts to pass this bill, as he said he would, once his real concern about the method of enforcement had been surmounted.

The staffs who served us, both majority and minority, Mr. Eugene Mittelman, minority counsel to the committee, for me, and Mr. Williams' assistant, Mr. Gerald Feder, counsel to the subcommittee, now in the Chamber, and Mr. Donald Elisburg, associate counsel, and Mr. Dan Moyle as well as all the other backup people, deserve the highest praise and greatest commendation because they were so much involved in the fashioning of this work. I hope very much that they will derive the same satisfaction that the Senator from New Jersey and I and our other colleagues will derive from final consummation of this bill.

The bill will now go over to the other body. I express every confidence that the other body will send the bill promptly to conference and that we, as the conferees, will be able to bring back a finished product to the Senate very shortly, have it agreed to by the Senate and then sent on the President for his signature. I believe that it will immeasurably improve the economic opportunities for millions of Americans and be a critically important factor in the economic as well as the social stability of the country.

I again express my pleasure at having worked so closely with the chairman of the committee, the Senator from New Jersey (Mr. Williams).

Mr. WILLIAMS. I appreciate the kind comments of the Senator from New York.

Mr. President, this has been a long and grueling 5 weeks. It has been a worthwhile and rewarding experience, however, and the millions of minorities and women in our country have been well served by the passage of this bill.

Many, many people were involved in this effort and I would like to express my deep appreciation to all of them at this time.

First, to the Senate leadership for bearing with this measure for the 5 weeks of debate and to all the Members of the Senate for their cooperation during the debates and for their action in finally passing the bill.

A special note of personal thanks should go to Senator Javits for being a tower of strength to me throughout the consideration of this bill. As always, it has been gratifying to have his continuous support every step of the way. Senator Dominick has my appreciation for his diligence and tireless efforts. Even though we had a strong disagreement on certain features of the measure, he certainly assisted us in expediting consideration wherever possible.

Senators Ervin and Allen showed the utmost courtesy during the most difficult days and I appreciate their consideration.

The entire membership of the Labor and Public Welfare Committee was most helpful during consideration of this bill in committee and their diligence helped us in reporting the measure soon after introduction. My special thanks go to Senator Taft for his cooperation in the committee and for his authorship of the general counsel amendment, Senator Schweiker for his assistance in handling the general counsel amendment on the floor, Senators Mondale and Gambrell for their work on the small business and union legal fees amendment, Senator Randolph for authoring the Sabbath observer amendment, Senator Cranston for his efforts on behalf of Federal employees, and Senator Chiles for his efforts on the controversial voluntary services amendment.

Senator Hruska has my appreciation for the gentlemanly manner in which he approached the two amendments that he offered, though they were not adopted.

Finally, I must extend my deep personal thanks to the Leadership Conference on Civil Rights and each of its constituent groups. The labor movement is to be commended for its support of our efforts in this and previous civil rights measures, despite the fact that labor unions may be respondents under the law. The women's groups have been a source of exceptional assistance in support of this bill as have the many church and church-related groups.

Most importantly, I must express my special thanks to Clarence Mitchell of the NAACP, without whose efforts over the last 30 years, there would be no such legislation. This bill is a tribute to his efforts over the many years in behalf of all the Nation's minorities.

ANNOUNCEMENT OF POSITION ON VOTE

Mr. GAMBRELL. Mr. President, I was necessarily absent when a record vote was taken on the Allen amendment (Leg. 42) to S. 2515, the Equal Employment Opportunity Commission's bill.

Had I been present on February 14, when a vote on this amendment was taken, I would have voted "yea."

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW, THURSDAY, AND FRIDAY OF THIS WEEK

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today and Wednesday and Thursday, it stand in adjournment, respectively, until 10 a.m. tomorrow; 10 a.m. on Thursday, February 24; and 10 a.m. on Friday, February 25, 1972.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESCISION OF ORDER FOR RECOGNITION OF SENATOR RIBICOFF TOMORROW—ORDER FOR RECOGNITION OF SENATOR BYRD OF VIRGINIA TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order previously entered, under which the distinguished Senator from Connecticut (Mr. Ribicoff) was to be recognized for not to exceed 15 minutes on tomorrow, be vacated, and that the name of the distinguished senior Senator from Virginia (Mr. Byrd) be substituted in lieu thereof for recognition in the same place.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATION OF WILDERNESS AREA, ARIZONA

Mr. BYRD of West Virginia. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 960.

The PRESIDING OFFICER (Mr. Roth) laid before the Senate the amendment of the House of Representatives to the bill (S. 960) to designate the Sycamore Canyon Wilderness, Coconino, Kaibab, and Prescott National Forests, State of Arizona, which was to strike out all after the enacting clause, and insert:

That, in accordance with subsection 3(b) of the Wilderness Act of September 3, 1964 (78 Stat. 891), the area classified as the Sycamore Canyon Primitive Area, with the proposed additions thereto and deletions therefrom, as generally depicted on a map entitled "Proposed Sycamore Canyon Wilderness," dated September 30, 1971, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, is hereby designated as the Sycamore Canyon Wilderness within and as a part of the Coconino, Kaibab, and Prescott National Forests, comprising an area of approximately forty-eight thousand five hundred acres.

Sec. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Sycamore Canyon Wilderness with the Interior and Insular Affairs Committee of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

Sec. 3. The Sycamore Canyon Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

Sec. 4. The previous classification of the Sycamore Canyon Primitive Area is hereby abolished.

Mr. BYRD of West Virginia. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. There is no pending business.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent, therefore, that during the remainder of this calendar day, Senators may speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. Roth). The Chair, on behalf of the Vice President, pursuant to Public Law 84-1028, announces the appointment of the following Senators to the Board of Visitors to the U.S. Military Academy: The Senator from Hawaii (Mr. Inouye); the Senator from Minnesota (Mr. Humphrey); the Senator from North Dakota (Mr. Young); and the Senator from Arizona (Mr. Goldwater).

The Chair, on behalf of the Vice President, pursuant to Public Law 84-1028, announces the appointment of the following Senators to the Board of Visitors to the U.S. Air Force Academy: The Senator from Rhode Island (Mr. Pastore); the Senator from Nevada (Mr. Cannon); the Senator from Colorado (Mr. Allott); and the Senator from Alaska (Mr. Stevens).

The Chair, on behalf of the Vice President, pursuant to Public Law 80-816 appoints the following Senators to the Board of Visitors to the U.S. Naval Academy: The Senator from Washington (Mr. Magnuson); the Senator from Virginia (Mr. Byrd); the Senator from Rhode Island (Mr. Pell); and the Senator from Delaware (Mr. Boggs).

THE NEED FOR A NATIONAL POLICY FOR SCHOOL DESEGREGATION

Mr. SPONG. Mr. President, one of the most pressing domestic problems confronting us concerns our public school system and its future. The confusion resulting from recent court decisions, governmental actions, and pronouncements by public officials is widespread. The problems of busing and school desegregation are nationwide; they affect every part of our country.

I am a cosponsor of a constitutional amendment on school desegregation but am fully aware of the time ratification of an amendment would require and that action probably could not be completed soon enough to provide relief to our school systems for the school year of 1972 or perhaps even 1973. Thus, we must also consider statutory remedies.

I believe Congress and the executive branch should act to devise a national policy for school desegregation which will treat all sections of the country alike and which can be readily understood by all our people. Congress should make an effort to clarify the existing situation in which massive enforced busing which I oppose is required in some parts of our Nation but not others. The executive branch which administers our laws should also act to promote uniformity and orderliness in our policy.

For this reason, I have written a letter to President Nixon expressing the hope that the Congress will act soon to try to bring some order to the disarray in current desegregation efforts and requesting that the Justice Department enter, with amicus curiae briefs, those cases which could lead us toward a national school desegregation policy which will resolve the de facto/de jure distinction.

As a contribution to the dialog which must take place in order for us to devise a rational desegregation plan which will guarantee the constitutional rights of all children to an equal educational opportunity and bring order to our public school system, I have suggested four principles which I believe should serve as our guidelines in formulating a policy. While I do not believe these principles are either perfect or inclusive, I believe they can form a basis for rational discussion and consideration of alternative courses of action.

First, we must have a single, uniform nationwide school desegregation policy, which obliterates once and for all the superficial distinction between de facto and de jure segregation. If it is educationally disadvantageous for a black child to attend an all-black school, then the child in the inner area of Boston or Detroit is just as deprived as the black child in an all-black rural southern school. Furthermore, there is currently more desegregation in the South than in many northern and western areas and it is only natural that southerners should question whether or not they should be asked to bear certain burdens of finance and inconvenience when other parts of the Nation—where the disadvantaged child is receiving less opportunity—are not being asked to bear the same burdens.

Second, we must reevaluate the neighborhood school concept as the basic unit for school assignment purposes, especially for elementary school children. At the same time, however, consideration should be given to utilization of a majority-to-minority transfer provision in which any child in a school where his race is in a majority may transfer to a school in which his race is in a minority.

Third, we must make every effort to remove the inequities which exist both within and among school districts.

Fourth, we must see that local involvement in and local control of public schools remains a significant feature of our school policy.

I have discussed the reasons I believe these principles are valid in my letter to the President. I expect to elaborate on these principles and means of implementing them at a later date. I did, however, want to contribute to the current discussion. Consequently, I ask unanimous consent that my letter to the President be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., February 17, 1972.

Hon. Richard M. Nixon,
President of the United States,
The White House,
Washington, D.C.

Dear Mr. President: I have concluded from actions taken prior to your departure today for the People's Republic of China that you and your advisors are involved in a re-evaluation of the public school desegregation efforts throughout our country. As a representative of a State which has probably experienced as much litigation involving school desegregation as any other, I am compelled to share my own views with you.

The recent District Court decision in the Richmond, Virginia, school case, the similar cases pending in other parts of our nation, and the numerous pronouncements by our public officials have again brought confusion and misunderstanding to the issue of public school desegregation.

Our people are understandably perplexed and I have a deep sympathy for their feelings.

I appreciate, as I am certain you do, the the fears of some of our citizens who have been subjected to discrimination in the past. I understand their apprehensions that the gains they have made through the *Brown* and certain subsequent decisions and the improved educational opportunity which has been made available to their children will be lost in a retreat.

I appreciate, as I am certain you do, the fears of parents who are asked to put their children on buses for several hours a day, to send them miles from home, and often to send them to a school which is known to be no better than a school a few blocks from home in terms of facilities and services. It is quite understandable that these parents object to the sacrifices their children are being asked to make. I share their opposition to massive enforced busing to achieve racial balance, because I do not believe it will accomplish its purpose of providing equal educational opportunity.

Also, I appreciate the difficulties faced by local educational officials who find that they must make significant reassignments at the beginning of each school year, that they must constantly be reorganizing and that, in many cases, they must come up with additional sums of money for transportation costs, money which is in scarce supply at this time.

I am aware of the fact that in the past black children were bused past white schools to black ones and that white children were bused past black schools to white ones. That was wrong. But, I do not believe that we can rectify the mistakes of the past by experimenting with the school children of the present. I believe that we must seek to provide excellence in education for all our children. I believe that there are many situations which must be improved, where education needs vast renovations. But, I do not feel that we accomplish much, either for our children or for our nation's future, by pursuing a policy based solely on head counts and ratios.

We refuse to face reality when we refuse to acknowledge the fact that no parent wants a child to be bused far away from home to a school which is no better than a school close to home in terms of facilities, services and educational offerings. We also refuse to face reality if we fail to acknowledge that parents, no matter what their color or economic condition, want the best education possible for their children.

The question then becomes quite simply, "How do we reconcile the desire of a parent for his child to be educated in the neighborhood school with the desire of a parent for his child to receive an education in a school superior to the one closest to his home, a parent who is often economically disadvantaged and of a minority?"

As we have all come to realize, there is no easy answer. Furthermore, the knowledge which we have about busing, racial balance and educational achievement, both cognitive and affective, is at best inconclusive. We have studies on compensatory education, which demonstrate that this approach tends not to succeed. We have the recent reports on the Berkeley experience, where racial balance was undertaken voluntarily, and again find failures.

Professor James Coleman of Johns Hopkins University, in one of the most massive studies, has told us that parental background and the background of the peer group are generally the most influential factors on a child's development. Yet, this does not suggest that racial balancing is necessary. In fact, Dr. Coleman and Dr. Thomas Pettigrew of Harvard University suggested that there is a point at which balancing can produce a "tipping" effect which can be detrimental to educational offerings. Thus, it seems to me premature to determine the future of American education, especially when we are talking about busing, ratios and similar expensive and disruptive procedures, on the little information which we have regarding their effects on educational opportunity.

Consequently, I believe we must look beyond court-imposed solutions. There is no perfect answer, but there are certain principles which should underlie our search for a reasonable and practical solution to the problem of public school desegregation.

First, we must have a single, uniform, nationwide policy on school desegregation, which obliterates the superficial distinction between *de facto* and *de jure* segregation. The statistics developed in the Department of Health, Education and Welfare indicate that there is currently more desegregation in the South than in many parts of the North and West. Problems do remain, but they remain in every part of the nation. If it is educationally disadvantageous for a black child to attend an all-black school, then the black child in a Detroit or Boston inner city area is just as deprived educationally as a child in a black rural Southern school. And, it is meaningless to tell one child that his deprivation is wrong because it was *de jure* and the other that his is right because it is *de facto*. Educationally—and I hope education is our prime consideration—the result is the same. Thus, our goal should be the provision of a better education for every child, no matter what section of the country he lives in.

Secondly, we must reevaluate the neighborhood school concept as the basic unit for school assignment purposes, especially as far as elementary school children are concerned. It is logical in terms of cost, safety and convenience for a parent to want a child in a school near his home. Many parents—black and white—feel that they have paid for that privilege in the purchase of their homes and the payment of taxes. There is every reason to believe that many parents in the future—again both black and white—will seek that same privilege. This, too, is a factor which cannot be ignored. We are told that we cannot change policy because of the desires of people. Frankly, I do not believe the desires of most of our people are based on race and segregation. I believe the large majority of Americans are fair-minded, that they do not want to deprive their fellow citizens of opportunity. But, understandably, parents' first concerns are for their own children—their education, safety and well-being.

We must see that these latter concerns are met or we shall certainly imperil public education. But, we shall also imperil public education if we fail to provide for our educationally deprived. I believe there could be merit in an extensive utilization of a majority-to-minority transfer provision, with the transfers financed by the local or state educational agency. In other words, any child in a school in which his race was in a majority could transfer to a school in which his race was in a minority, with his transportation costs paid by school authorities. The argument often made against this proposal is that the burden is placed upon the deprived child to rectify the inequities which exist. That is, to an extent, true. The child would, however, have the benefit of the transfer provision and an assured right to education in a desegregated environment. In recent years we have witnessed white flight to the suburbs and to private schools. Perhaps we ought now to ask ourselves how far we can follow white flight with the buses and to what extent we can discourage the enrollment in private schools. Is racial balancing and social engineering to the extent being contemplated in some areas, racial balancing and social engineering whose redeeming benefits are questionable, worth the possibility that our public school system may be deprived of even more advantaged students and of the degree of support needed to sustain public education? On the other hand, can we stop in mid-stream or stray backward? In both cases I would hope not.

Thirdly, in addition to reviewing our policy on the neighborhood school and majority-to-minority transfers, it is important to make every effort to remove the inequities which currently exist both within school districts and among them. There are, for example, currently differences in facilities, services offered, libraries, the numbers of specially-trained teachers, to name only a few. We must move once and for all to eliminate these disparities. And in doing so, we should remember that the disparities between urban and suburban school districts are generally exceeded by those between rural and urban/suburban districts.

Finally, it is highly important for us to deal with a situation you discussed in the State of the Union Message: the control of our school systems. The frustrations of our people who find themselves ordered by courts which are not responsible to them is certainly understandable. The seeming inability of elected representatives to act is another. We must take steps and take them immediately to see that local officials, officials responsible to an electorate, control and administer our schools. We have heard this from both the black and white communities. The calls for decentralization and community control of schools have been widespread. Certainly, there are pitfalls in these procedures, pitfalls against which we must guard, but representative government and responsibility and accountability of public servants to those they serve are a significant part of the American heritage.

Thus, local involvement and local control of public schools must be a significant feature of public school policy.

The situation is, of course, complex. The proposals I have discussed are neither inclusive nor perfect. They have been attacked by those on the right and those on the left. This in itself, however, is probably evidence of their redeeming qualities.

In Senate floor speeches of July 20 and August 3, 1970, I tried to outline the conflicting court opinions and governmental actions which were resulting in confusion throughout our land. As a member of the Senate Select Committee on Equal Educational Opportunity, I have participated extensively in hearings on our school problems and have questioned several members of your Administration, including former Attorney General John Mitchell and former head of the Justice Department's Civil Rights Division, Jerris Leonard, regarding the issues which today confront us. Based on this, I introduced in the Senate on August 3, 1970, a bill which I felt sought a rational, moderate approach to our problems. This bill was drafted by Professor Alexander Bickel of the Yale University Law School and Congressman Richardson Preyer of North Carolina. Hearings on this legislation were held before the Senate Education Subcommittee and the Senate Select Committee on Equal Educational Opportunity. The bill was attacked by the NAACP as well as by those in basic disagreement with the *Brown* decision. Despite the fact that the bill remained in Committee, there was excellent testimony by school officials from both Norfolk and Richmond, Virginia. I commend this testimony to you.

In my judgment, the decision in the Charlotte-Mecklenberg case, when coupled with that in the Mobile case, negated much of the thrust of the Bickel-Preyer proposals. Consequently, I joined in cosponsoring a Constitutional amendment regarding this as the best available vehicle for provoking a public discussion of the need for a single, uniform, national school desegregation policy that all can understand—a policy that would end the present double standard of hypocrisy which prevails in our nation today.

The unanimity of the Charlotte-Mecklenberg decision suggests that the opinion in that case represents consensus. The uncertainty of that consensus was, however, illustrated by statements made by Chief Justice Burger soon after the decision that appeared at odds with the findings of his own court. Despite the fact that nearly 20 years have passed since *Brown*, the Supreme Court continues to give maximum discretion to district judges and minimum guidance.

In addition to the principles I discussed earlier, which I believe should underlie our search for a solution, I would like to make several specific suggestions. On August 13, 1970, when the Attorney General appeared before the Select Committee on Equal Educational Opportunity, he indicated a hope—a hope which I shared—that the Charlotte-Mecklenburg decision would answer many of the unanswered questions regarding public school desegregation. (Hearings before the Senate Select Committee on Equal Educational Opportunity, August 13, 1970, p. 1912.) Many of the questions were not answered and the Court has thus far avoided setting the *de facto/de jure* matter. Now, in the Richmond case, we have a new enforcement procedure, a procedure for which the Attorney General, also on August 13, 1970, in response to my questions, indicated there was no legal precedent. (Hearings referred to above, p. 1910.) Consequently, I would like to suggest and request that the Department of Justice enter, with amicus curiae briefs, those cases where it would be appropriate and where there is evidence that such action would contribute to the determination of a national school desegregation policy.

As you know, the Fourth Circuit Court of Appeals has granted a stay in the Richmond school case, pending appeal. In my judgment implementation of the order should be stayed until a *final* decision is rendered by the Supreme Court. It seems somewhat contradictory to find the federal government questioning the expansion of municipalities for racial reasons and at the same time ordering consolidation of political subdivisions for racial reasons.

The recommendations above are not intended to imply that Congress should be absolved of responsibility for this issue. In fact, I have stated on a number of occasions that Congress should act to clarify the existing situation, and I am pleased that both the Majority Leader and the Minority Leader of the Senate sought to contribute to the dialogue over possible courses of action during a Senate floor discussion on yesterday. Congress does have a responsibility to give consideration to all measures before it which are designed to bring clarification and rationality to efforts to resolve this pressing domestic problem. That responsibility should not be avoided because this is an election year.

Aside from the compulsory features of the recent decisions which threaten to undermine public education, there are equal rights involved which Americans will not long see abused. Parents black and white in Virginia's major cities might well ask why their private resources should go for bus fares and why their tax monies should go for the purchase of school buses when metropolitan areas throughout much of America are not burdened with this same cost and yet where black children are receiving less opportunity.

I have not always been proud of Virginia's past history with regard to education of minority pupils. I am, however, proud of the restaint most Virginians have displayed despite providing the proving ground for every new approach to a solution to the complex problem of meeting the Constitutional rights of all children to an equal educational opportunity. The traditional respect of Virginians for the law and the common sense of our people has thus far always prevailed over the appeals of demagogues, the militant and the racist. However, it is difficult for people to comply with an interpretation of the law that they neither understand nor believe will achieve its stated purpose.

In view of the fact that several members of your cabinet and staff are involved with the matters discussed in this letter, I am taking the liberty of forwarding copies of this letter to them. I expect to reiterate and elaborate on a number of the principles I have discussed here in the report of the Senate Select Committee on Equal Educational Opportunity, on which I serve. Since you and your advisors are currently contemplating action in the field of school desegregation, I did, however, want to write to you at this time.

Sincerely,

WILLIAM B. SPONG, Jr.

QUORUM CALL

Mr. SPONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SHIPMENT OF F-4 AIRCRAFT TO ISRAEL—INDEFINITE POSTPONEMENT OF SENATE RESOLUTION 177

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that Calendar No. 397, Senate Resolution 177, a resolution calling for the shipment of Phantom F-4 aircraft to Israel in order to maintain the arms balance in the Middle East, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the message from the House on S. 659 is brought before the Senate, the committee amendment to the House amendment to S. 659 be open to amendment in two further degrees; that debate on all amendments be limited to 2 hours, the time to be equally controlled and divided between the mover of the amendment and the manager of the bill, except that when the manager of the bill favors the amendment, the time in opposition shall be controlled by whomever the majority leader designates; furthermore, that time on any appeal, point of order, or motion, except a motion to table, shall be limited to one-half hour, the time to be similarly divided and controlled as described above; further, that third reading shall occur not later than 2 p.m. on Wednesday, March 1, 1972; that at 2 p.m., Wednesday, March 1, 1972, the first vote on the motion to concur in the House amendment to S. 659 with an amendment shall take place; and, further, that rule XII be waived.

Mr. President, on advice of counsel, I ask that the words "third reading" be stricken.

Mr. ALLEN. Mr. President, reserving the right to object, I did not quite get the last two phrases about the committee substitute.

Mr. MANSFIELD. Further, that the vote shall occur not later than 2 p.m. on Wednesday, March 1, 1972, and that at 2 p.m. on Wednesday, March 1, 1972, the final vote on the motion to concur in the House amendment to S. 659 with an amendment shall take place; and, further, that rule XII be waived.

Mr. ALLEN. How would we know that that was the motion before the Senate, that the motion to concur be voted on? That might have been voted down before that time, and another issue might be before the Senate. How would that preserve the identity and the priority of this motion to concur?

Mr. MANSFIELD. The final vote on the motion in the House amendment—strike out "to concur." The final vote on the motion in the House amendment——

Mr. ALLEN. That prejudges what the parliamentary situation will be at that time.

Mr. MANSFIELD. It is my understanding that this amendment is amendable and that this is the best way that we could face up to the agreement.

Mr. ALLEN. Why would we need the last phrase? Why would not the parliamentary situation take care of itself, if the time is set for a vote on whatever is pending before the Senate, not any motion to concur?

Mr. MANSFIELD. All right.

The PRESIDING OFFICER. The question before the Senate will be on concurrence in the House amendment with an amendment, whatever it is.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. Will the Chair allow me a moment?

Mr. ALLEN. Why would it not be the best to say, "voting on the pending question"?

Mr. MANSFIELD. Further that final disposition shall occur not later than 2 p.m. on Wednesday, March 1, 1972; and, further, that rule XII shall be waived——

Mr. JAVITS. Mr. President, will the Senator from Montana yield to me?

The PRESIDING OFFICER (Mr. ROTH). The Chair would advise the Senator from Montana that rule XII does not need to be waived, under the circumstances.

Mr. MANSFIELD. Rule XII cannot be waived?

The PRESIDING OFFICER. Does not have to be waived.

Mr. MANSFIELD. Does not have to be waived. All right. Then we will scratch that.

Mr. JAVITS. Mr. President, I think the words "final disposition" are well chosen and deal with all questions because it is our understanding that there may be, beginning at 2 p.m., a vote or votes. It may not be one. It may be more than one, beginning at 2 o'clock, and that will represent the final disposition of this measure before it is finally acted on by the Senate. When that voting is completed, when it begins at 2 p.m., the measure will have been finally acted on by the Senate. That is, as

I understand it, the purpose of the unanimous-consent request. Therefore, the use of the words "final disposition," it seems to me, covers exactly what the majority leader has in mind and deals with all contingencies.

Mr. MANSFIELD. We could agree further to the vote on final disposition but I think it is understood.

Mr. BYRD of West Virginia. Mr. President, does not final disposition mean the vote on the House amendment as amended by the Senate committee substitute, as amended, if amended?

Mr. ALLEN. The committee substitute might be tabled by that time. It might not be before the Senate. I think "pending question" would be the way to do it.

Mr. BYRD of West Virginia. Mr. President, does not final disposition really mean the vote to concur in the House amendment—in the nature of a substitute for S. 659—with an amendment in the nature of a substitute, as amended, if amended? [Laughter.]

Mr. MANSFIELD. It is kind of like that. [More laughter.]

Mr. ALLEN. But would it then be final disposition if it has to go back to the House before action? That would not be final disposition.

Mr. JAVITS. It would be final disposition by the Senate. That is all I said. If we commence voting at 2 p.m. on Wednesday and take one or more votes, whatever number is required by the parliamentary situation leading to final disposition on the measure by the Senate, that would take care of everyone's contingency. Whatever votes are required will be taken beginning at 2 p.m., whatever is the given parliamentary situation at that time leading to final disposition by the Senate.

The PRESIDING OFFICER. The Senator from New York means not later than the designated hour.

Mr. JAVITS. Exactly, Mr. President.

Mr. ALLEN. That would rule out any amendments after the reaching of that time.

Mr. JAVITS. That is correct. That is finality.

Mr. ALLEN. I do not see why we have to agree at this time to what the nature of the pending question is to be. That is the point, because that might not be the pending question.

Mr. JAVITS. The pending question might be a vote on the committee amendment. We would not want to abort our proceedings by ending at that point. The distinguished Senator from Michigan (Mr. Griffin), for instance, suggested that at 2 p.m., when we begin voting, whatever series of votes are required, there may be amendments that are to be voted on up or down, so that they will be voted on, as that is what we do all the time, but we know that at the beginning of 2 p.m. on Wednesday, we deal with whatever number of votes are required to lead to final disposition by the Senate. It seems to me, in that way, that everyone's rights are protected. We know it is finality but we do not try to guess what the parliamentary situation will be.

Mr. ALLEN. That is the point that the junior Senator from Alabama is raising, that we should not seek to state what measure will be pending before the Senate at that time.

Mr. MANSFIELD. That is what I am intending to do. The Senator from Alabama may rest assured, as I am sure he is fully aware that every Senator's rights will be protected.

Mr. ALLEN. How does the agreement read, then, after the time for final voting has been reached?

Mr. MANSFIELD. Except a motion to table, it shall be limited to one-half hour, the time to be similarly divided and controlled as described above; and, further, that final disposition shall occur no later than 2 p.m., Wednesday March 1, 1972.

Mr. ALLEN. That leaves out the reference to acting on the committee amendments, then?

Mr. MANSFIELD. That is right.

Mr. ALLEN. Very well.

Mr. MANSFIELD. It leaves it out and waives rule XII.

Mr. ALLEN. I withdraw my objection.

Mr. GRIFFIN. Will the distinguished majority leader reread that portion which relates to time on the amendments?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the message from the House on S. 659 be brought before the Senate, the committee amendment to the House amendment to S. 659 be open to amendment in two further degrees, and that debate on all amendments be limited to 2 hours——

Mr. GRIFFIN. If the majority leader will yield there, the intent is clear as to what he wants, but since we have had some problems, it could be misunderstood to indicate that debate on all amendments would be limited to 2 hours, period.

What the majority leader is seeking to do is to make it clear that there are 2 hours on each amendment; is that not correct?

Mr. MANSFIELD. Two hours on each amendment. That would include amendments in the second degree.

Mr. GRIFFIN. Right.

Mr. MANSFIELD. That is correct.

The PRESIDING OFFICER (Mr. Roth). Is there objection to the unanimous-consent request of the Senator from Montana? The Chair hears none, and it is so ordered.

EDUCATION AMENDMENTS OF 1972

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 659.

The PRESIDING OFFICER (Mr. Roth) laid before the Senate the amendment of the House of Representatives to the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act (creating a National Foundation for Postsecondary Education and a National Institute of Education), the Elementary and Secondary Education Act of 1965, Public Law 874, 81st Congress, and related acts, and for other purposes, which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Higher Education Act of 1971".

TITLE I—EXTENSION OF COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

Sec. 101. Section 101 of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971" the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

TITLE II—EXTENSION AND AMENDMENT OF PROGRAMS OF COLLEGE LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

Sec. 201. (a) Section 201 of the Higher Education Act of 1965 is amended by striking out "and" and after "1970," and inserting after "1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

(b) Section 202 of such Act is amended by inserting before the period at the end of the first sentence ", and other public and private nonprofit library institutions whose primary function is to provide library and information services in institutions of higher education on a formal, cooperative basis".

(c) Section 202(a) of such Act is amended by inserting before "and (2)" the following: "except that under special and unusual circumstances the Commissioner is authorized to waive his requirement,".

(d) Section 202(b) of such Act is amended by inserting immediately preceding the semicolon at the end thereof the following: ", except that under special and unusual circumstances the Commissioner is authorized to waive this requirement".

(e) Section 203(a) of such Act is amended by striking out "$10" and inserting in lieu thereof "$20".

(f) Section 204(a)(2) of such Act is amended by striking out "and" immediately preceding "(C)", and inserting before the period at the end of the first sentence the following: ", and (D) to other public and private nonprofit library institutions which provide library and information services to institutions of higher education on a formal, cooperative basis".

(g) Section 221 of such Act is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"Sec. 221. Only for the purpose of carrying out training programs under this part, there are authorized to be appropriated such sums as may be necessary for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976. In addition only for the purpose of carrying out research and demonstration programs under this part, there are authorized to be appropriated $5,000,000 for the fiscal year 1972, $10,000,000 for the fiscal year 1973, $20,000,000 for the fiscal year 1974, $35,000,000 for the fiscal year 1975, and $40,000,000 for the fiscal year 1976."

(h) Subsection (a) of section 223 of such Act is amended by striking out the period at the end of the subsection and inserting: ": *Provided, however,* That in any fiscal year not less than 50 percent of the grants made under this subsection shall be for the purpose of establishing and maintaining fellowships or traineeships under clause (2)."

(i) Subsection (b) of section 223 of such Act is amended by inserting after "institution of higher education" the following: "and other library and educational organizations or agencies".

(j)(1) Section 231 of such Act is amended by striking out "and" after "1969," and inserting before "to enable the Commissioner" the following: "and $9,000,000 for the fiscal year 1972, and each succeeding fiscal year ending prior to July 1, 1976,".

(2) Effective on the date of enactment of this Act, part C of the Higher Education Act of 1965 is further amended by adding at the end thereof the following new section:

"EVALUATION AND REPORT

"SEC. 232. No later than March 31 of each calendar year the Librarian of the Congress shall transmit to the respective committees of the Congress having legislative jurisdiction over this part and to the respective Committees on Appropriations of the Congress a report evaluating the results and effectiveness of acquisition and cataloging work done under this part, based to the maximum extent practicable on objective measurements, including costs, together with recommendations as to proposed legislative action."

TITLE III—EXTENSION OF PROGRAMS TO STRENGTHEN DEVELOPING INSTITUTIONS

SEC. 301. Section 301(b)(1) of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971," the following: "and the sum of $120,000,000 for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976,".

AMENDMENT OF PROVISIONS RELATING TO DEVELOPING

SEC. 302. (a) Section 306 of the Higher Education Act of 1965 is amended by striking out "(other than developing institutions)".

(b) Section 304(c) of such Act is amended by adding at the end thereof the following new sentence: "None of the funds appropriated pursuant to section 301(b)(1) shall be used for a school or department of divinity or for any religious worship or sectarian instruction."

TITLE IV—STUDENT ASSISTANCE

PART A—AMENDMENT AND EXTENSION OF EDUCATIONAL OPPORTUNITY GRANT PROGRAM

SEC. 401. So much of part A of title IV of the Higher Education Act of 1965 as precedes section 408 is amended to read as follows:

"PART A—EDUCATIONAL OPPORTUNITY GRANTS

"STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

"SEC. 401. (a) It is the purpose of this part to provide, through institutions of higher education, educational opportunity grants to assist in making available the benefits of higher education to qualified high school graduates of exceptional financial need, who for lack of financial means would be unable to obtain such benefits without such aid.

"(b) There are hereby authorized to be appropriated $295,000,000 for the fiscal year 1972 and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976, to enable the Commissioner to make payments to institutions of higher education that have agreements with him entered into under section 407, for use by such institutions for payments to undergraduate students for educational opportunity grants under this part. Sums appropriated pursuant to this subsection for any fiscal year shall be available for payment to institutions until the close of the fiscal year succeeding the fiscal year for which they were appropriated.

"DETERMINATION OF AMOUNT OF EDUCATIONAL OPPORTUNITY GRANTS

"SEC. 402. From the funds received by it for such purpose under this part, an institution which awards an educational opportunity grant to a student for an academic year under this part shall, for such year, pay to that student the amount determined by the institution for such student for that year, which amount shall not exceed the lesser of $1,500 or one-half of the sum of the amount of student financial aid (including assistance under this title) provided such student by such institution and any assistance provided such student under any scholarship program established by a State or a private institution or organization, as determined in accordance with regulations of the Commissioner, except that no student shall be paid during all the academic years he is pursuing his undergraduate course of study at one or more institutions of higher education in excess of $4,000, or $5,000 in the case referred to in the second sentence of section 403. The Commissioner shall, subject to the other limitations in this part, prescribe basic criteria or schedules (or both) for the determination of the amount of educational opportunity grants, taking into account the objective of limiting grant aid under this part to students of exceptional financial need who but for such aid would be unable to obtain the benefits of higher education, but such criteria or schedules shall not disqualify an applicant on account of his earned income if income from other sources in the amount of such earned income would not disqualify him. An individual who has, in years prior to the effective date of the Higher Education Act of 1971, been awarded an educational opportunity grant pursuant to this part shall continue to be eligible to receive a grant in accordance with the requirements of this part as in effect at the time of the initial grant.

"DURATION OF PERIOD OF ELIGIBILITY FOR EDUCATIONAL OPPORTUNITY GRANTS

"SEC. 403. A student eligible therefor may be awarded an educational opportunity grant under this part for each academic year of the period required for completion by the recipient of his undergraduate course of study at the institution of higher education from which he received the educational opportunity grant, except that such period shall not exceed four academic years. The eligibility of a student for an educational opportunity grant may, in accordance with regulations of the Commissioner, be extended for up to an additional academic year where five academic years is the normal period needed to complete the course of study the student is pursuing, or where the student, because of his particular circumstances, is determined by the institution to need an additional year to complete a course of study normally requiring four academic years.

"SELECTION OF RECIPIENTS OF EDUCATIONAL OPPORTUNITY GRANTS

"SEC. 404. (a) An individual shall be eligible for the award of an educational opportunity grant under this part at any institution of higher education which has made an agreement with the Commissioner pursuant to section 407 (which institution is hereinafter in this part referred to as an 'eligible institution'), if the individual makes application at the time and in the manner prescribed by that institution.

"(b) From among those eligible for educational opportunity grants from an institution of higher education for each fiscal year, the institution shall, in accordance with the provisions of its agreement with the Commissioner under section 407 and within the amount allocated to the institution for that purpose for that year under section 406, select individuals who are to be awarded such grants and determine, pursuant to section 402, the amounts to be paid to them. An institution shall not award an educational opportunity grant to an individual unless it determines that—

"(1) he has been accepted for enrollment as a student at such institution on at least a half-time basis or, in the case of a student already attending such institution, is in good standing and in attendance there on at least a half-time basis as an undergraduate student;

"(2) he shows evidence of academic or creative promise and capability of maintaining good standing in his course of study; and

"(3) he is of exceptional financial need and would not, but for an educational opportunity grant, be financially able to pursue a course of study at such institution of higher education. In determining financial need, expected family contributions shall be considered to be the contribution expected in the specific circumstances of the applicant, as determined by the student financial aid officer. Any calculation of the ability of a family to contribute shall include consideration of (A) family assets, (B) value of any social welfare services provided to the family by public or private agencies, (C) number of children in the family, (D) number of children attending institutions of higher education, (E) any catastrophic illnesses in the family, (F) business failures, (G) educational expenses of other dependent children in the family, and (H) other circumstances affecting the student's financial need.

"ALLOTMENT OF EDUCATIONAL OPPORTUNITY GRANT FUNDS AMONG STATES

"SEC. 405. The Commissioner shall allot funds appropriated pursuant to section 401 among the States in accordance with section 465.

"ALLOCATION OF ALLOTTED FUNDS TO INSTITUTIONS

"SEC. 406. (a) The Commissioner shall from time to time set dates by which eligible institutions in any State must file applications for allocation, to such institutions, of educational opportunity grant funds from the allotment to that State (including any reallotment thereto) for any fiscal year in accordance with section 465(a), to be used for the purposes specified in the first sentence of section 401(b). Such allocations shall be made in accordance with criteria which the Commissioner shall establish and which shall be designed to achieve such distribution of such funds among eligible institutions within a State as will most effectively carry out the purposes of this part.

"(b) Payment shall be made from allocations under this section to institutions as needed.

"AGREEMENTS WITH INSTITUTIONS—CONDITIONS

"SEC. 407. An institution of higher education which desires to obtain funds for educational opportunity grants under this part shall enter into an agreement with the Commissioner. Such agreement shall—

"(1) provide that funds received by the institution under this part will be used by it only for the purposes specified in, and in accordance with, the provisions of this part;

"(2) provide that in determining whether an individual meets the requirements of section 404(b)(3) the institution will consider such individual's income, including as a part thereof any expected contribution from parents or others upon whom the student may rely for support, except that there shall be deemed to be no expected contribution from the parents of a veteran (as that term is defined in section 101(2) of title 38, United States Code);

"(3) provide that the institution, in cooperation with other institutions of higher education where appropriate, will make vigorous efforts to identify qualified youths of exceptional financial need and to encourage them to continue their education beyond secondary school through programs and activities such as—

"(A) establishing or strengthening close working relationships with secondary-school principals and guidance and counseling personnel with a view toward motivating students to complete secondary school and pursue post-secondary-school educational opportunities, and

"(B) making, to the extent feasible, conditional commitments for educational opportunity grants to qualified secondary school students, who but for such grants would be unable to obtain the benefits of higher education, with special emphasis on students enrolled in grade 11 or lower grades who show evidence of academic or creative promise;

"(4) provide assurance that the institution will continue to spend in its own scholarship and student-aid program, from sources other than funds received under this part, not less than the average expenditure per year made for that purpose during the most recent period of three fiscal years preceding the effective date of the agreement;

"(5) include provisions designed to make educational opportunity grants under this part reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof; and

"(6) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part."

PROGRAM CONSOLIDATIONS

SEC. 402. Section 408 of the Higher Education Act of 1965 is amended to read as follows:

"IDENTIFYING QUALIFIED LOW-INCOME STUDENTS; PREPARING THEM FOR POSTSECONDARY EDUCATION; SPECIAL SERVICES FOR SUCH STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

"SEC. 408. (a) To assist in achieving the objectives of this section the Commissioner is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, or contracts with, institutions of higher education, including institutions of vocational and career education programs, combinations of such institutions, public or private agencies or organizations (including professional or scholarly associations), or in exceptional cases secondary schools or secondary vocational schools, for planning, developing, or carrying out within the States one or more of the services described in subsection (c), except that no grant may be made to an agency, organization, institution, or school other than a public or nonprofit private one.

"(b) Such services shall be designed to enable youths from low-income backgrounds who have academic potential (but may lack adequate secondary school preparation or be physically handicapped) to enter, continue, or resume a program of postsecondary education.

"(c) Such services are—

"(1) publicizing existing forms of student financial aid;

"(2) identifying youths described in subsection (b) and encouraging them to complete secondary school and to undertake postsecondary education;

"(3) encouraging youths described in subsection (b) who have dropped out of secondary school or college to reenter educational programs, including programs of postsecondary education;

"(4) generating skills and motivation necessary for success in education beyond high school;

"(5) providing counseling, tutorial, or other educational services, including special summer programs, to remedy academic deficiencies;

"(6) providing career guidance, placement, or other student personnel services (including health services);

"(7) identifying, encouraging, and counseling students with a view to their undertaking a program of graduate or professional education; and

"(8) providing other special or supplemental services necessary to achieve the purposes set forth in subsection (b).

"(d) Enrollees who are participating on an essentially full-time basis in one or more services being provided under subsection (c) may be paid stipends, but not in excess of $30 per month except in exceptional cases as determined by the Commissioner.

"(e) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year 1972, and each succeeding fiscal year ending prior to July 1, 1976."

INCLUSION OF PROPRIETARY INSTITUTIONS

SEC. 403. Effective July 1, 1973, section 409 of the Higher Education Act of 1965 is amended to read as follows:

"DEFINITIONS

"SEC. 409. For the purposes of this part (other than section 408)—

"(1) The term 'academic year' means an academic year or its equivalent, as defined in regulations of the Commissioner.

"(2) The term 'institution of higher education' includes a proprietary institution of higher education (as defined in section 461 of this Act)."

PART B—EXTENSION AND AMENDMENT OF STUDENT LOAN INSURANCE PROGRAM

EXTENSION OF STUDENT LOAN INSURANCE PROGRAM

SEC. 411. (a) The first sentence of section 424(a) of the Higher Education Act of 1965 is amended to read as follows: "The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part shall not exceed $1,600,000,000 for the fiscal year 1972, $1,800,000,000 for the fiscal year 1973, $2,000,000,000 for the fiscal year 1974, $2,200,000,000 for the fiscal year 1975, and $2,400,000,000 for the fiscal year 1976."

(b) The second sentence of such section 424(a) is amended by striking out "1975" and inserting "1980".

(c) Section 428(a)(4) of such Act is amended by striking out "1971" and inserting "1976" and by striking out "1975" and inserting "1980".

(d) Section 433(c) of such Act is amended by striking out "for the fiscal year ending June 30, 1969, and for each of of the two succeeding fiscal years" and inserting "for each fiscal year ending prior to July 1, 1976".

EXTENSION OF AUTHORITY FOR PAYING SPECIAL ALLOWANCES ON INSURED STUDENT LOANS

SEC. 412. Paragraph (7) of section 2(a) of the Emergency Insured Student Loan Act of 1969 (Public Law 91–95) is amended by striking out "1971" and inserting "1976".

AMENDMENTS TO INTEREST SUBSIDY PROVISIONS

SEC. 413. (a) Paragraph (1) of subsection (a) of section 428 of the Higher Education Act of 1965 is amended to read as follows:

"(1) Each student who has received a loan for study at an eligible institution—

"(A) which is insured by the Commissioner under this part;

"(B) which was made under a State student loan program (meeting criteria prescribed by the Commissioner), and which was contracted for, and paid to the student, within the period specified by paragraph (4); or

"(C) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (4), and which—

"(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than sixty days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1) at an eligible institution, or

"(ii) in the case of a loan insured after June 30, 1967, is insured under a program covered by an agreement made pursuant to subsection (b),

and who has been determined by the eligible institution to be in need of the entire amount of such loan, after consideration of expected family contributions, in order to pursue a course of study at such eligible institution and has provided the lender with a statement evidencing such determination and stating the amount of the loan of which such student is in need, shall be entitled to have paid on his behalf and for his account to the holder of the loan, a portion of the interest on the loan. Such determination of need shall be made, and such statement be furnished, by the eligible institution, except that, in the case of eligible institutions located outside the United States, such determination shall be made, and such statement furnished, in such manner as the Commissioner may prescribe. In addition, the Commissioner shall pay an administrative cost allowance in the amount established by paragraph (2)(B) of this subsection with respect to loans to any student without regard to the borrower's need. In the absence of fraud by the lender, such determination of the need of a student under this paragraph shall be final insofar as it concerns the obligation of the Commissioner to pay the holder of a loan a portion of the interest on the loan."

(b) Section 428(b)(1)(H) of such Act is amended to read as follows:

"(H) provides that the benefits of the loan insurance program will not be denied any student because of his family income or lack of need if the institution has furnished the lender with a statement under paragraph (1) of subsection (a) of this section that the student needs a loan in the amount determined pursuant to such paragraph to pursue his course of study at that institution, except in the case of loans made by an instrumentality of a State or eligible institution;".

INSURANCE LIABILITY

SEC. 414. (a) Section 425(b) of the Higher Education Act of 1965 is amended to read as follows:

"(b) The insurance liability on any loan insured by the Commissioner under this part shall be 100 per centum of the unpaid balance of the principal amount of the loan, plus interest. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part."

(b) Section 427(a)(2)(D) of such Act is amended by striking out the following: "(but without thereby increasing the insurance liability under this part)".

(c) The last sentence of section 430(a) of such Act is amended by striking out "of the loan (other than interest added to principal)" and inserting in lieu thereof the following: "and interest".

INCREASE IN LOAN CEILINGS

SEC. 415. (a) Subsection (a) of section 425 of the Higher Education Act of 1965 is amended (1) by striking out "$1,500" and inserting in lieu thereof the following: "$2,500, except in cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education" and (2) by striking out "$7,500" and inserting "$10,000".

(b) Clause (A) of section 428(b)(1) of such Act is amended (1) by striking out "$1,500" and inserting in lieu thereof the following: "$2,500 (except in those cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education)" and (2) by striking out "$7,500" and inserting "$10,000".

INCLUSION OF PART-TIME STUDENTS IN LOAN PROGRAMS

"SEC. 416. Section 427(a)(1) of the Higher Education Act of 1965 is amended by striking out everything after "who (A)" down through "and (C)" and inserting in lieu thereof the following: "has been accepted for enrollment at an eligible institution on a full time or on a part-time basis or, in the case of a student already attending such institution, is in good standing there as determined by the institution on a full time or on a part-time basis, and (B)"

ALLOWANCES TO INSTITUTIONS FOR THEIR COSTS IN CONNECTION WITH THE INSURED STUDENT LOAN PROGRAM

SEC. 417. Section 428 of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

"(f) The Commissioner may pay to each eligible institution an allowance for each fiscal year which may not exceed 1 per centum of the amount of loans made to students at that institution for that year which are insured (1) by the Commissioner under this part or (2) by a State or nonprofit private loan insurance program (covered at the time the loan was made by an agreement under section 428(b))."

TECHNICAL AMENDMENTS

SEC. 418. (a) Section 437 of such Act is amended to read as follows:

"REPAYMENT BY THE COMMISSIONER OF LOANS OF DECEASED OR DISABLED BORROWERS

"SEC. 437. If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Commissioner), then the Commissioner shall discharge the borrower's liability on the loan by repaying the amount owed on the loan."

(b) Paragraph (1) of section 428(b) is amended (1) by striking out "and" at the end of clause (J) thereof, (2) by striking out the period at the end of clause (K) and inserting "; and" in lieu thereof, and (3) by adding at the end of such paragraph the following new clause:

"(L) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, or (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under title VII of the Economic Opportunity Act of 1964."

(c) Section 428(e) of such Act is repealed.

(d) Paragraph (1) of subsection (c) of such section 428 is amended by striking out "adjusted family income of the borrower" and inserting in lieu thereof "the borrower's lack of need".

(e) Section 434 of such Act is amended by striking out "up to 15 per centum of their assets,".

(f) Section 435(a) of such Act is amended by inserting at the end thereof the following: "Notwithstanding any other provision of this part, whenever the Commissioner determines that it is necessary in order to carry out the purposes of this part and after affording an opportunity for a hearing, he is authorized to suspend, limit, or terminate eligibility under this part for any single otherwise eligible institution."

SAVINGS PROVISION

SEC. 419. The amendments made by this part shall not be effective with respect to any loan made after the date of enactment of this Act, in whole or in part, to consolidate or convert a loan made or contracted for prior to its effective date.

PART C—EXTENSION AND AMENDMENT OF THE WORK-STUDY PROGRAM

STATEMENT OF PURPOSE

SEC. 421. Section 441(a) of the Higher Education Act of 1965 is amended by striking out "from low-income families" and inserting in lieu thereof "with great financial need".

APPROPRIATIONS AUTHORIZATION

SEC. 422. Section 441(b) of the Higher Education Act of 1965 is amended to read as follows:

"(b) There are authorized to be appropriated $330,000,000 for the fiscal year 1972, $360,000,000 for the fiscal year 1973, $390,000,000 for the fiscal year 1974, $420,000,000 for the fiscal year 1975, and $450,000,000 for the fiscal year 1976 to carry out this part (other than section 447)."

REVISION OF STATE ALLOTMENT FORMULA

SEC. 423. Section 442 of the Higher Education Act of 1965 is amended by redesignating subsection (e) as subsection (b), and by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"SEC. 442. (a) From the sums appropriated to carry out this part, the Commissioner shall reserve the amount provided for in subsection (b) and shall allot the remainder among the States in accordance with section 465."

AUTHORIZING PARTICIPATION OF HALF-TIME STUDENTS IN COLLEGE WORK-STUDY PROGRAM

SEC. 424. Section 444(a)(3)(C) of the Higher Education Act of 1965 is amended (1) by striking out "full time" both times it appears, and (2) by inserting after "student at the institution" and after "attendance there" the following: "on at least a half-time basis".

CONDITIONS OF AGREEMENT

SEC. 425. (a) Section 444(a)(3) of the Higher Education Act of 1965 is amended (1) by striking out "from low-income families" and inserting in lieu thereof the following: "with the greatest financial need, taking into account grant assistance provided such student from any public or private sources", and (2) by amending clause (B) to read as follows: "(B) shows evidence of academic or creative promise and capability of maintaining good standing in such course of study while employed under the program covered by the agreement, and".

(b) Section 444(a) of such Act is amended by striking out paragraph (4).

WORK-STUDY FOR COMMUNITY SERVICE LEARNING PROGRAM

SEC. 426. Part C of title IV of the Higher Education Act of 1965 is amended by adding at the end thereof the following new section:

"WORK-STUDY FOR COMMUNITY SERVICE LEARNING PROGRAM

"SEC. 447. (a) The purpose of this section is to enable students in eligible institutions who are in need of additional financial support to attend institutions of higher education, with preference given to veterans who served in the Armed Forces in Indochina or Korea after August 5, 1964, to obtain earnings from employment which offers the maximum potential both for effective service to the community and for enhancement of the educational development of such students.

"(b) There are authorized to be appropriated $50,000,000 for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, to carry out this section through local project grants, without regard to the provisions of section 465.

"(c) The Commissioner is authorized to enter into agreements with public or private nonprofit agencies under which the Commissioner will make grants to such agencies to pay the compensation of students who are employed by such agencies in jobs providing needed community services and which are of educational value.

"(d) An agreement entered into under subsection (c) above shall—

"(1) provide for the part-time employment of college students in projects designed to improve community services or solve particular problems in the community.

"(2) provide assurances that preference will be given to veterans who served in the Armed Forces in Indochina or Korea after August 5, 1964 in recruiting students in eligible institutions for jobs under this section, and that the agency will make an effort to relate the projects performed by students to their general academic program and to a comprehensive program for college student services to the community.

"(3) conform with the provisions of clauses (A), (B) and (C) of paragraph (1) of section 444(a), and provide for the selection of students who meet the requirements of clauses (A), (B) and (C) of paragraph (3) of section 444(a);

"(4) include such other provisions as the Commissioner shall deem necessary or appropriate to carry out the purposes of this section.

"(e) For purposes of this section, the term 'community service' includes, but is not limited to, work in such fields as environmental quality, health care, education, welfare, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, conservation, beautification, and other fields of human betterment and community improvement."

PART D—EXTENSION AND AMENDMENT OF COOPERATIVE EDUCATION PROGRAMS

EXTENSION OF PROGRAM

SEC. 431. (a) Section 451(a) of the Higher Education Act of 1965 is amended by striking out "There are authorized to be appropriated $340,000 for the fiscal year ending June 30, 1969, $8,000,000 for the fiscal year ending June 30, 1970, and $10,000,000 for the fiscal year ending June 30, 1971," and inserting in lieu thereof "There are authorized to be appropriated such sums as may be necessary for the fiscal year 1972, and for each succeeding fiscal year ending prior to July 1, 1976,".

(b) The second sentence of section 451(a) of such Act is repealed.

(c) Section 451(b) of such Act is amended by striking out "$750,000 for the fiscal year ending June 30, 1969, and for each of the two succeeding fiscal years," and inserting in lieu thereof "such sums as may be necessary for the fiscal year 1972, and for each fiscal year ending prior to July 1, 1976,".

NEW USE OF FUNDS

SEC. 432. (a) Section 451(b) of the Higher Education Act of 1965 is amended by inserting after "training" the following: ", demonstration,".

(b) Section 453 of such Act is amended by inserting immediately before "or for research" the following: "for projects demonstrating or exploring the feasibility or value of innovative methods of cooperative education,".

PART E—AMENDMENTS TO GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE

FORMULA FOR ALLOTTING STUDENT FINANCIAL ASSISTANCE FUNDS AMONG STATES

SEC. 441. Part E of title IV of the Higher Education Act of 1965 is amended by inserting after section 464 the following new section:

"ALLOTMENT OF FUNDS TO STATES

"SEC. 465. (a) Subject to the provision of subsection (c) ninety per centum of the sums appropriated for a fiscal year (1) under section 401(b) of this Act, (2) under section 441(b) of this Act (after making the reservation provided for in section 442), or (3) under section 201 of the National Defense Education Act of 1958, for fiscal years ending prior to July 1, 1976, shall each be allotted by the Commissioner among the States as provided in subsection (b).

"(b) In allotting sums under subsection (a), the Commissioner shall allot not to exceed two per centum of each sum being allotted between American Samoa and the Trust Territory of the Pacific Islands according to their respective needs for the assistance for which the sum being allotted was appropriated. The remainder of each sum shall be allotted as follows:

"(1) one-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of persons enrolled on a full-time basis in institutions of higher education in such State bears to the total number of persons enrolled on a full-time basis in institutions of higher education in all the States;

"(2) one-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of high school graduates (as defined in section 103(d)(3) of the Higher Education Facilities Act of 1963) of such State bears to the total number of such high school graduates of all the States; and

"(3) one-third shall be allotted by him among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of related children under eighteen years of age living in families with annual incomes of less than $3,000 in such State bears to the number of related children under eighteen years of age living in families with annual incomes of less than $3,000 in all the States.

"(c) In the event the allotment to a State for a fiscal year after the fiscal year 1972 from the appropriations described in clause (1), (2), or (3) of subsection (a) plus any amounts allotted under subsection (d), is less than the amount so allotted to such State from the amount so appropriated for the fiscal year 1972, such allotment to the State shall be increased to an amount equal to its allotment from such appropriation for the fiscal year 1972, and the total of the increases thereby required shall be derived by proportionately reducing the allotments of each of the remaining States, but with such adjustments as may be necessary to prevent the allotment from such appropriation to any State from being thereby reduced below its allotment from such appropriation for the fiscal year 1972.

"(d) The sums remaining after making the allotments provided for in subsection (a) of this section shall be allotted among the States by the Commissioner in accordance with equitable criteria which he shall establish and which shall be designed to achieve a distribution of the sum being allotted among the States which will most effectively carry out the purpose for which the funds were appropriated. Sums allotted to a State under this subsection shall be consolidated with, and become a part of, its allotment of funds from the same appropriation under the preceding subsections of this section.

"(e) The portion of any State's allotment under subsections (a), (b), (c), and (d) of this section for a fiscal year which the Commissioner determines will not be required in the State for the purpose for which appropriated may be reallotted by the Commissioner from time to time, on such dates as he may fix, to other States in such manner as he determines will best assist in achieving the purpose for which the funds were appropriated.

"(f) For purposes of this section (other than subsection (g)), the term 'State' does not include American Samoa or the Trust Territory of the Pacific Islands.

"(g) Sums appropriated under section 201 of the National Defense Education Act of 1958 for a fiscal year ending after June 30, 1976, shall be allotted among the States in such manner as the Commissioner determines to be necessary to carry out the purpose for which such amounts were appropriated."

TRANSFER OF FUNDS BETWEEN PROGRAMS

SEC. 442. (a) Effective with respect to fiscal years ending after June 30, 1972, subpart 1 of part E of title IV of the Higher Education Act of 1965 is amended by adding at the end thereof (after the section added by section 441) the following new sections:

"TRANSFERS BETWEEN PROGRAMS

"SEC. 466. Up to 10 per centum of the allotment of an institution of higher education for a fiscal year under section 405 or 442 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student. The Commissioner shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

"GUIDELINES

"SEC. 467. Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives at least thirty days prior to their effective date."

WAIVER OF MAINTENANCE OF EFFORT REQUIREMENTS IN CERTAIN CASES

SEC. 443. (a) Section 464 of such Act is amended by inserting before the period at the end thereof the following: ", except that under special and unusual circumstances the Commissioner is authorized to waive the application of any provision of such an agreement which is required by this section".

(b) The amendment made by subsection (a) shall be deemed to be effective from the date of enactment of the Higher Education Act of 1965.

PART F—SECONDARY MARKET AND WAREHOUSING

SEC. 451. Title IV of the Higher Education Act of 1965 is amended by adding at the end thereof the following new part F:

"PART F—STUDENT LOAN MARKETING ASSOCIATION

"DECLARATION OF PURPOSE

"SEC. 471. Congress hereby declares that it is the purpose of this part to establish a Government-sponsored private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for insured student loans and provide liquidity for student loan investments.

"CREATION OF AGENCY

"SEC. 472. (a) There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the 'Association'). The Association shall have succession until dissolved by Act of Congress. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

"(b) The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

"(c) There are hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare such sums as may be necessary for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association.

"BOARD OF DIRECTORS

"SEC. 473. (a) The Association shall have a Board of Directors which shall consist of twenty-one persons, one of whom shall be designated Chairman by the President.

"(b) An interim Board of Directors shall be appointed by the President, one of whom he shall designate as interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders under this title, seven of educational institutions, and seven of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

"(c) When in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors, who shall be representative of the general public.

"(d) At the time the event described in subsection (c) has occurred, the interim Board shall turn over the affairs of the Association to the regular Board so chosen or appointed.

"(e) The directors shall serve for a term ending on the date of the next annual meeting of the common stockholders of the Association and, in the case of those directors appointed by the President, until their successors have been appointed and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(f) The Board of Directors shall meet at the call of its chairman, but at least semiannually. The Board shall determine the general polices which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

"FUNCTIONS

"SEC. 474. (a) The Association is authorized, subject to the provisions of this part, pursuant to commitments or otherwise, to make advances on the security of, purchase, service, sell, or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured under this part.

"(b) Any advance made under subsection (a) of this section shall not exceed 80 per centum of the face amount of an insured loan. The proceeds from any such advance shall be invested in additional insured student loans.

"COMMON STOCK

"SEC. 475. (a) The Association shall have common stock having a par value of $100 per share which may be issued only to lenders under part B of this title who are qualified as insured lenders under such part or who are eligible institutions as defined in section 435(b) (other than an institution outside the United States).

"(b) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in section 473(c).

"(c) The common stock of the Association shall be transferable only as may be prescribed by regulations of the Secretary, and, as to the Association, only on the books of the Association. The Secretary shall prescribe the maximum number of shares of common stock the Association may issue and have outstanding at any one time.

"(d) To the extent that net income is earned and realized, subject to section 476 (b), dividends may be declared on common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock, except that no such dividend shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"PREFERRED STOCK

"SEC. 476. (a) The Association is authorized, with the approval of the Secretary, to issue nonvoting preferred stock with a par value of $100 per share. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(b) The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions, as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

"(c) In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

"OBLIGATIONS

"SEC. 477. (a) The Association is authorized with the approval of the Secretary and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein.

"(b) The Secretary is authorized, on behalf of the United States, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury.

"(c) To enable the Secretary to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

"GENERAL POWERS

"SEC. 478. The Association shall have power—

"(a) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

"(b) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

"(c) to adopt, amend, and repeal by its board of directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(d) to conduct its business, carry on its operations, and have officers and exercise the power granted by this part in any State without regard to any qualification or similar statute in any State;

"(e) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(f) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

"(g) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(h) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof; and

"(i) to enter into contracts, to execute instruments, to incur liabilities, and to do all things necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"AUDIT

"SEC. 479. The accounts of the Association shall be audited at least annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury.

"AUDIT REPORT TO CONGRESS

"SEC. 480. A report of each such audit for a fiscal year shall be made by the Secretary to the President and to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary of the Treasury and to the Association.

"OBLIGATIONS AS LAWFUL INVESTMENT, ACCEPTANCE AS SECURITY

"SEC. 481. All obligations issued by the Association shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this part shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States.

"PREPARATION OF OBLIGATIONS

"SEC. 482. In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and other materials, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

"ANNUAL REPORT

"SEC. 483. The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year.

"SEPARABILITY

"SEC. 484. If any provision of this part or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the part, and the application of such provisions to other persons or circumstances, shall not be affected.".

AMENDMENTS RELATING TO FINANCIAL INSTITUTIONS

SEC. 452. (a) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting "or obligations or other instruments or securities of the Student Loan Marketing Association," immediately after "or obligations, participation, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association,".

(b) Section 5200 of the Revised Statutes, as amended (12 U.S.C. 84), is amended by adding at the end thereof the following new paragraph:

"(14) Obligations of the Student Loan Marketing Association shall not be subject to any limitation based upon such capital and surplus."

(c) The first paragraph of section 5(c) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(c)), is amended by inserting "or in obligations or other instruments or securities of the Student Loan Marketing Association;" in the second proviso immediately after "any political subdivision thereof".

(d) Section 107(8) (E) of the Federal Credit Union Act, as amended (12 U.S.C. 1957(8) (E)), is amended by inserting before the semicolon at the end thereof the following: ", or in obligations or other instruments or securities of the Student Loan Marketing Association".

PART G—EXTENSION AND AMENDMENT OF TITLE II OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

EXTENSION OF STUDENT LOAN PROGRAM

SEC. 461. The first sentence of section 201 of the National Defense Education Act of 1958 is amended to read as follows: "For the purpose of enabling the Commissioner to stimulate and assist in the establishment at institutions of higher education of funds for the making of low interest loans to students in need thereof to pursue their courses of study in such institutions, there are hereby authorized to be appropriated $425,000,000 for the fiscal year 1972, $475,000,000 for the fiscal year 1973, $575,000,000 for the fiscal year 1974, and $675,000,000 for the fiscal year 1975 and the succeeding fiscal year, to carry out this part, and there are further authorized to be appropriated such sums for the fiscal year 1977, and each of the next three fiscal years, as may be necessary to enable students who have received loans for school years ending prior to July 1, 1976, to continue or complete their education."

REVISION OF STATE ALLOTMENT FORMULA

SEC. 462. Section 202 of the National Defense Education Act of 1958 is amended to read as follows:

"ALLOTMENTS TO STATES

"SEC. 202. The Commissioner shall allot funds appropriated pursuant to section 201 among the States in accordance with section 465 of the Higher Education Act of 1965."

MODIFICATION OF LOAN LIMIT

SEC. 463. Section 205(a) of the National Defense Education Act of 1958 is amended to read as follows:

"SEC. 205. (a) The aggregate of the loans for all years made by institutions of higher education from loan funds established pursuant to agreements under this title may not exceed $10,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner, and including any loans from such funds made to such person before he became a graduate or professional student), $5,000 in the case of a student who has successfully completed two years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Commissioner and including any loans from such funds made to such person before he became such a student), and $2,500 in the case of any other student.

ASSIGNMENT OF LOANS IN DEFAULT TO THE COMMISSIONER

SEC. 464. (a) Effective thirty days after the date of enactment of this Act, section 204 of the National Defense Education Act of 1958 is amended by striking out "and" at the end of paragraph (3), by renumbering paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4) provide that where a note or written agreement evidencing a loan has been in default for at least one hundred and eighty days despite due diligence on the part of the institution in making collection thereon, the institution may assign its rights under such note or agreement to the United States, without recompense, and that in that event any sums collected on such a loan shall be deposited in the general fund of the Treasury."

INCREASE IN MINIMUM RATE OF REPAYMENT

SEC. 465. Section 205(b)(2)(F) of the National Defense Education Act of 1958 is amended by striking out "$15" and inserting "$30."

PROVIDING THAT A VETERAN SHALL BE CONSIDERED SELF-SUPPORTING IN DETERMINING HIS NEED FOR A LOAN

SEC. 466. Section 207 of the National Defense Education Act of 1958 is amended by adding at the end thereof the following new subsection:

"(e) In determining, for purposes of clause (A) of paragraph (1) of subsection (b) of this section, whether a student who is a veteran (as that term is defined in section 101 (2) of title 38, United States Code), is in need an institution shall not take into account the income and assets of his parents."

REIMBURSEMENT IN FULL TO COVER REDUCTIONS

SEC. 467. Section 208 of the National Defense Education Act of 1958 is amended to read as follows:

"PAYMENTS TO COVER REDUCTIONS IN AMOUNTS OF LOANS

"SEC. 208. In addition to the payments otherwise authorized to be made pursuant to this title, the Commissioner shall pay to the appropriate institution, at such time or times as he determines, an amount equal to the interest which, after the effective date of the Higher Education Act of 1971, has been prevented from accruing and the portion of the principal which has been canceled after such effective date on student loans pursuant to paragraph (3) of section 205(b) (and not previously paid under this section)."

REVISION OF PROVISION RELATING TO LOAN FORGIVENESS

SEC. 468. (a) Section 205(b)(3) of the National Defense Education Act of 1958 is amended to read as follows:

"(3) part or all of such loan may be canceled for certain service as a teacher, in accordance with section 210;".

(b) Title II of such Act is amended by adding at the end thereof the following new section:

"CANCELLATION FOR CERTAIN SERVICE AS A TEACHER

"SEC. 210. (a)(1) Fifteen per centum of the total amount of any loan made after June 30, 1972, from a student loan fund established under this title shall be canceled for each complete academic year of service by the borrower—

"(A) as a full-time teacher in an elementary or secondary school described in paragraph (3),

"(B) as a full-time staff member in a preschool program carried on under section 222 (a)(1) of the Economic Opportunity Act of 1964 which is operated for a period which is comparable to a full school year in the locality: *Provided*, That the salary of such staff member is not more than the salary of a comparable employee of a local educational agency, or

"(C) as a full-time teacher of handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed or other health impaired children who by reason thereof require special education) in a public or other nonprofit elementary or secondary school system.

"(2) A teacher may receive cancellation of a loan under subparagraph (A) of paragraph (1) only for service in an academic year in a public or other nonprofit elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, as amended, and which for purposes of this paragraph and for that year had been determined by the Commissoner (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children described in clause (A), (B), or (C) of section 103(a)(2) of title I of the Elementary and Secondary Education Act of 1965, as amended (using a low-income factor of $3,000), exceeds 40 per centum of the total enrollment of the school.

"(b) In the case of a loan made before July 1, 1972, not to exceed 50 per centum of such loan (1) shall be canceled for service as a full-time teacher in a public or other nonprofit elementary or secondary school in a State, in an institution of higher education, or in an elementary or secondary school overseas of the Armed Forces of the United States at the rate of 10 per centum of the total amount of such loan for each complete academic year of such service, except that (A) such rate shall be 15 per centum for each complete academic year of service as a full-time teacher in a public or other nonprofit elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, as amended, and which for purposes of this paragraph and for that year has been determined by the Commissioner (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which there is a high concentration of students from low-income families, except that (unless all of the schools so determined are schools in which the enrollment of children described in clause (A), (B), or (C) of section 103(a)(2) of such title (using a low-income factor of $3,000) exceeds 50 per centum of the total enrollment of the school) the Commissioner shall not make such determination with respect to more than 25 per centum of the total of the public and other nonprofit elementary and secondary schools in any one State for any one year, (B) such rate shall be 15 per centum for each complete academic year of service as a full-time teacher of handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or other health impaired children who by reason thereof require special education) in a public or other nonprofit elementary or secondary school system, and (C) for the purposes of any cancellation pursuant to clause (A) or (B), an additional 50 per centum of any such loan may be canceled, and (2) shall be canceled for service after June 30, 1970, as a member of the Armed Forces of the United States at the rate of 12½ per centum of the total amount of such loan for each year of consecutive service, but only if such loan was made after April 13, 1970.

"(c)(1) If for any academic year any portion of a loan is canceled under subsection (a) or (b), the entire amount of interest on such loan which accrues for such year shall be canceled.

"(2) Nothing in this section shall authorize refunding any repayment of a loan.

"(3) For purposes of this section, the term 'academic year' means an academic year or its equivalent (as determined under regulations of the Commissioner)."

TITLE V—EXTENSION AND AMENDMENT OF EDUCATION PROFESSIONS DEVELOPMENT ACT

PART A—AMENDMENTS TO PART A OF TITLE V

EXTENSION OF NATIONAL ADVISORY COUNCIL ON EDUCATION PROFESSIONS DEVELOPMENT AND PROGRAM FOR ATTRACTING QUALIFIED PERSONNEL TO THE FIELD OF EDUCATION

SEC. 501. (a) Section 502(f) of the Higher Education Act of 1965 (the Education Professions Development Act) is amended by striking out "and" after "1968," and inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

(b) Section 504(b) of such Act is amended by striking out "and" after "1969," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

PART B—AMENDMENTS TO SUBPART 1 OF PART B

EXTENSION OF TEACHER CORPS PROGRAM

SEC. 511. Section 511(b) of the Higher Education Act of 1965 is amended (1) by striking out "and" after "1970." and by inserting after "June 30, 1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,", and (2) by striking out "1972" and inserting "1977".

PART C.—AMENDMENTS TO SUBPART 2 OF PART B

ATTRACTING AND QUALIFYING TEACHERS TO ALLEVIATE TEACHER SHORTAGES

SEC. 521. Section 518(b) of the Higher Education Act of 1965 is amended by striking out "and" after "1969," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

VOLUNTEER SERVICE PROGRAMS

SEC. 522. Section 518(a) of the Higher Education Act of 1965 is amended by striking out "the succeeding", and inserting in lieu thereof "each succeeding", and by striking out "and" before "(2)" and by inserting before the period at the end thereof the following: ", (3) encourage volunteers (including high school and college students) for service as part-time tutors or full-time instructional assistants for educationally disadvantaged children, (4) compensate such tutors and instructional assistants at such rates as the Commission may determine to be consistent with prevailing practices under comparable federally supported work-study programs, and (5) provide necessary training to teachers to enable them to teach other grades or other subjects in which such agencies have a teacher shortage".

INCREASE IN AMOUNT AVAILABLE FOR ADMINISTRATION

SEC. 523. Section 520(a)(2) of such Act is amend (1) by striking out "and (C)" and inserting in lieu thereof the following: "(C) programs of such agencies to provide necessary training to teachers to enable them to teach other grades or other subjects in which such agencies have a teacher shortage, and (D)", (2) by striking out "3 per centum" and inserting in lieu thereof "5 per centum", and (3) by inserting before the semicolon: ", or $20,000, whichever is greater".

ELIMINATING CEILING ON AMOUNT FOR AIDES

SEC. 524. Section 520(a) of such Act is further amended by striking out paragraph (5) and redesignating paragraphs (6), (7), (8) and (9) as paragraphs (5), (6), (7), (8); and (5) thereof (as so redesignated) is amended by inserting after "because he" the following: "is teaching or".

PART D—AMENDMENT TO PART C

EXTENSION OF FELLOWSHIP PROGRAM

SEC. 531. Section 528 of the Higher Education Act of 1965 is amended by striking out "1971" each time it appears and inserting "1976".

FELLOWSHIPS IN SCHOOL NURSING

SEC. 532. Section 521 of the Higher Education Act of 1965 is amended by inserting "school nursing," after "such as library science,".

PART E—AMENDMENTS TO PART D (IMPROVING TRAINING OPPORTUNITIES FOR NON-HIGHER EDUCATION PERSONNEL)

SEC. 541. Section 532 of the Higher Education Act of 1965 is amended by striking out "and" after "1969," and inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

SUPPORT OF VOLUNTEER SERVICES PROGRAM

SEC. 542. Section 531(b) of such Act is amended by striking out the period at the end of paragraph (10) and inserting a semicolon, and by adding the following new paragraph at the end thereof:

"(11) programs or projects to encourage volunteers (including high school and college students) for service as part time tutors or full time instructional assistants in preschool, elementary, and secondary school classes, especially for educationally disadvantaged children;"

COMPENSATION OF TUTORS AND INSTRUCTIONAL ASSISTANTS

SEC. 543. Section 531(c) of such Act is amended by striking out "or" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting a semicolon, and by adding the following new paragraph after paragraph (2):

"(3) compensating tutors and instructional assistants at such rates as the Commissioner may determine to be consistent with the prevailing practices under comparable federally supported work-study programs; or"

DEVELOPING AND STRENGTHENING PROGRAMS FOR THE EDUCATION OF TEACHERS AND RELATED EDUCATIONAL PERSONNEL

SEC. 544. (a) Section 531(b) of such Act is further amended by adding the following new paragraph at the end thereof:

"(12) programs or projects (including cooperative arrangements or consortia between institutions of higher education and junior and community colleges, or between such institutions and State or local education agencies and nonprofit education associations) for the development, expansion, or improvement or undergraduate programs for preparing educational personnel, including design, development, and evaluation of exemplary undergraduate training programs, introduction of high quality and more effective curriculums and curricular materials, and the provision of increased opportunities for practical teaching experience for prospective teachers in elementary and secondary schools."

(b) Section 531(c) of such Act is further amended by adding the following new paragraph at the end thereof:

"(4) projects or programs to develop, expand, or improve undergraduate and other programs for training educational personnel."

APPLICATION OF PART D TO INDIAN SCHOOLS

SEC. 545. Section 532 of the Higher Education Act of 1965 is amended by inserting "(a)" after "SEC. 532." and by inserting at the end thereof the following new subsection:

"(b) From the sums appropriated pursuant to subsection (a), the Commissioner may also make payments to the Secretary of the Interior to carry out the policy of this part with respect to persons preparing to serve as teachers of individuals on reservations serviced by elementary and secondary schools for Indian children operated or supported by the Department of the Interior. The terms upon which payments for that purpose may be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the policy of this part.

PART F—AMENDMENTS TO PART E (PROGRAMS OF TRAINING FOR HIGHER EDUCATION PERSONNEL)

SEC. 551. Section 543 of the Higher Education Act of 1965 is amended by striking out "and" after "1969," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976."

PART G—TRAINING AND DEVELOPMENT OF VOCATIONAL EDUCATION PERSONNEL

SEC. 561. Section 555 of the Higher Education Act of 1965 is amended by striking out "and" after "1971," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976."

TITLE VI—EXTENSION OR AMENDMENTS OF CERTAIN OTHER PROVISIONS OF LAW

EXTENSION OF PART A OF TITLE III OF NATIONAL DEFENSE EDUCATION ACT OF 1958

SEC. 601. Section 301 of the National Defense Education Act of 1958 is amended by inserting after "1971," the following: "and for each succeeding fiscal year ending prior to July 1, 1976,", and by striking out "July 1, 1971" and inserting "July 1, 1976."

EXTENSION AND AMENDMENT OF TITLE IV OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

SEC. 602. (a) The first sentence of section 402(a) of the National Defense Education Act of 1958 is amended by striking out "seven succeeding fiscal years" and inserting in lieu thereof "ten succeeding fiscal years".

(b) Section 403 of such Act is amended to read as follows:

"AWARD OF FELLOWSHIPS AND APPROVAL OF INSTITUTIONS

"SEC. 403. (a) Of the total number of fellowships authorized by section 402(a) to be awarded during a fiscal year (1) not less than one-third shall be awarded to individuals accepted for study in graduate programs approved by the Commissioner under this section, and (2) the remainder shall be awarded on such bases as he may determine, subject to the provisions of subsection (c). The Commissioner shall approve a graduate program of an institution of higher education only upon application by the institution and only upon his finding that the application contains satisfactory assurance that the institution will provide special orientation and practical experiences designed to prepare its fellowship recipients for academic careers at some levels of education beyond the high school.

"(b) In determining priorities and procedures for the award of fellowships under this section, the Commissioner shall—

"(1) take into account present and projected needs for highly trained teachers in all areas of education beyond the high school,

"(2) give special attention to those institutions which have developed new doctoral-level programs especially tailored to prepare classroom teachers,

"(3) consider the need to prepare a large number of teachers and other academic leaders from minority groups, but nothing contained in this clause shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of persons of that group participating in or receiving the benefits of this program, in comparison with the total number or percentage of persons of that group in any community, State, section, or other area,

"(4) assure that at least one-half of all new fellowship recipients have demonstrated their competence outside of a higher education setting for at least two years subsequent to the completion of their undergraduate studies,

"(5) allow a fellowship recipient to interrupt his studies for up to one year for the purpose of work, travel, or independent study away from the campus, except that no stipend or travel expenses may be paid for such period, and

"(6) seek to achieve a reasonably equitable geographical distribution of graduate programs approved under this section based upon such factors as student enrollments in institutions of higher education and population.

"(c) Recipients of fellowships under this title shall be persons who are interested in an academic career in educational programs beyond the high school and are pursuing, or intend to pursue, a course of study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree.

"(d) No fellowship shall be awarded under this title for study at a school or department of divinity. For the purposes of this subsection, the term 'school or department of divinity' means an institution or department or branch of an institution, whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation or to prepare them to teach theological subjects."

(c) Section 404(b) of such Act is amended to read as follows:

"(b) The Commissioner shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study, in lieu of tuition charged such person, such amounts as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount shall not exceed $4,000 per academic year for any such person."

EXTENSION AND EXPANSION OF TITLE VI OF THE NATIONAL DEFENSE EDUCATION ACT

SEC. 603. (a) Section 601(a) of the National Defense Education Act of 1958 is amended to read as follows:

"(a) The Secretary is authorized to make grants to or contracts with institutions of higher education for the purposes of establishing, equipping, and operating graduate and undergraduate centers and programs for the teaching of any modern foreign language, for instruction in other fields needed to provide a full understanding of the areas, regions, or countries in which such language is commonly used, or for research and training in international studies and the international aspects of professional and other fields of study. Any such grant or contract may cover all or part of the cost of the establishment or operation of a center or program, including the costs of faculty, staff, and student travel in foreign areas, regions, or countries, and the costs of travel of foreign scholars to teach or conduct research, and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of this section."

(b) Section 601(b) of such Act is amended to read as follows:

"(b) The Secretary is also authorized to pay stipends to individuals undergoing advanced training in any center or under any program receiving Federal financial assistance under this title, including allowances for dependents and for travel for research and study here and abroad, but only upon reasonable assurance that the recipients of such stipends will, on completion of their training, be available for teaching service in an institution of higher education or elementary or secondary school, or such other service of a public nature as may be permitted in the regulations of the Secretary."

(c) Section 601 of such Act is further amended by adding a new subsection (c), to read as follows:

"(c) No funds may be expended under this title for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study."

(d) Section 603 of such Act is amended by striking out "and" after "1970," and by inserting after "1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

EXTENSION OF THE INTERNATIONAL EDUCATION ACT OF 1966

SEC. 604. Section 105(a) of the International Education Act of 1966 is amended by striking out "and" after "1968," and by inserting after "1971" the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

EXTENSION OF PROGRAM TO ASSIST INSTITUTIONS IN THE ACQUISITION OF EQUIPMENT

SEC. 605. (a) Section 601(b) of the Higher Education Act of 1965 is amended by striking out "two" and inserting in lieu thereof "seven".

(b) Section 601(c) of such Act is amended by striking out "two succeeding fiscal years" and inserting "seven succeeding fiscal years".

EXTENSION OF NETWORKS FOR KNOWLEDGE PROGRAM

SEC. 606. Section 802 of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971" the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

EXTENSION OF PUBLIC SERVICE EDUCATION PROGRAMS

SEC. 607. Section 925 of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

EXTENSION OF PROGRAMS FOR IMPROVEMENT OF GRADUATE EDUCATION

SEC. 609. Section 1002(a) of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

EXTENSION OF LAW SCHOOL CLINICAL EXPERIENCE PROGRAM

SEC. 610. Section 1103 of the Higher Education Act of 1965 is amended by striking out "and" after "1969," and by inserting after "of the fiscal years ending June 30, 1970, and June 30, 1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

TITLE VII—HIGHER EDUCATION FACILITIES

PART A—EXTENSION AND AMENDMENT OF HIGHER EDUCATION FACILITIES ACT OF 1963

EXTENSION OF UNDERGRADUATE FACILITIES CONSTRUCTION GRANT PROGRAM

SEC. 701. (a) Section 101(b) of the Higher Education Facilities Act of 1963 is amended (1) by striking out "and" after "1968," and inserting after "1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,", and (2) by striking out the second sentence thereof.

(b) Section 105(b) of such Act is amended by striking out "and" after "1966," and by inserting after "succeeding fiscal years" the following: ", and such sums as may be necessary for each succeeding fiscal year ending before July 1, 1976,".

EXTENSION OF GRADUATE FACILITIES CONSTRUCTION GRANT PROGRAM

SEC. 702. Section 201 of the Higher Education Facilities Act of 1963 is amended (1) by striking out "and" after "1967" and inserting after "1971" the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976," and (2) by striking out the third sentence thereof.

EXTENSION OF CONSTRUCTION LOANS AND ANNUAL INTEREST GRANT PROGRAMS

SEC. 703. Section 303(c) of the Higher Education Facilities Act of 1963 is amended (1) by striking out "and" after "1967," and inserting after "1971" the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976," and (2) by striking out the third sentence thereof.

ARCHITECTURAL AND DESIGN STANDARDS

SEC. 704. The last sentence of section 401 (a)(1) of the Higher Education Facilities Act of 1963 is amended by inserting after "Act" the following: "(1) have due consideration for excellence of architecture and design consistent with economical construction, and (2)".

AUTHORIZING THE SECRETARY FOR GOOD CAUSE TO RELEASE AN INSTITUTION FROM ITS OBLIGATION TO USE A FACILITY FOR TWENTY YEARS FOR THE PURPOSES FOR WHICH CONSTRUCTED

SEC. 705. Section 404(b) of the Higher Education Facilities Act of 1963 is amended by inserting "unless the Secretary determines that there is good cause for releasing the institution from its obligation" immediately after "section 401(a)(2),".

PROHIBITION ON USE OF FACILITIES FOR RELIGIOUS PURPOSES

SEC. 706. Section 404 of the Higher Education Facilities Act of 1963 is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding the provisions of subsections (a) and (b), no facility constructed with assistance under titles I and II of this Act shall ever be used for religious worship or sectarian instruction or for a school or department of divinity."

PART B—NEW PROGRAM OF INSURED LOANS FOR CONSTRUCTION OF NONPROFIT PRIVATE ACADEMIC FACILITIES

SEC. 711. Title III of the Higher Education Facilities Act of 1963 is amended by inserting immediately after section 306 the following:

"ACADEMIC FACILITIES LOAN INSURANCE

"SEC. 307. (a) In order to assist nonprofit private institutions of higher education and nonprofit private higher education building agencies to procure loans for the construction of academic facilities, the Commissioner may insure the payment of interest and principal on such loans if such institutions and agencies meet, with respect to such loans, criteria prescribed by or under section 306 for the making of annual interest grants under such section.

"(b) No loan insurance under subsection (a) may apply to so much of the principal amount of any loan as exceeds 90 per centum of the development cost of the academic facility with respect to which such loan was made.

"RIGHT OF RECOVERY AND INCONTESTABLE NATURE OF INSURANCE

"SEC. 308. (a) The United States shall be entitled to recover from any institution or agency to which loan insurance has been issued under section 307 the amount of any payment made pursuant to that insurance, unless the Commissioner for good cause waives its right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payment with respect to which the payment was made.

"(b) Any insurance issued by the Commissioner pursuant to section 307 shall be incontestable in the hands of the institution or agency on whose behalf such insurance is issued, and as to any agency, organization, or individual who makes or contracts to make a loan to such institution or agency in reliance thereon, except for fraud or misrepresentation on the part of such institution or agency or on the part of the agency, organization, or individual who makes or contracts to make such loan.

"CONDITIONS

"SEC. 309. Insurance may be issued by the Commissioner under section 307 only if he determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Commissioner may charge a premium for such insurance in an amount reasonably determined by him to be necessary to cover administrative expenses and probable losses under sections 307 and 308. Such insurance shall be subject to such further terms and conditions as the Commissioner determines to be necessary."

MAKING REVOLVING LOAN FUND AVAILABLE FOR LOAN INSURANCE

SEC. 712. (a) Section 305 of such Act is amended—

(1) by striking out the heading therefor and inserting "Revolving Loan and Insurance Fund" in lieu thereof;

(2) by inserting "and loan insurance" immediately after "academic facilities loans" in the first sentence thereof; and

(3) by inserting "or loan insurance" immediately following "any loans" in the second sentence thereof. (b) Section 303(c) of such Act is amended—

(1) by inserting "and may insure loans" immediately after "academic facilities" in the first sentence thereof; and

(2) by inserting "and for insurance" immediately after "for loans" in the last sentence thereof.

EFFECTIVE DATE

SEC. 713. The amendments made by section 711 shall be effective July 1, 1972, and the amendments made by section 712 shall be effective as if enacted on the date of enactment of section 305 of such Higher Education Facilities Act of 1963.

TITLE VIII—HIGHER EDUCATION GENERAL ASSISTANCE

SEC. 801. The Higher Education Act of 1965 is amended by inserting after title XI the following new title:

"TITLE XII—GENERAL ASSISTANCE FOR HIGHER EDUCATION

"PART A—INSTITUTIONAL ASSISTANCE

"FINDINGS AND DECLARATION OF PURPOSE

"SEC. 1201. The Congress hereby finds and declares that an emergency condition has arisen which threatens the continued ability of many institutions of higher education to provide the education necessary to enable our citizens to make their full contribution to the Nation's economic and cultural development. It is therefore the purpose of this part to meet this critical need through general assistance from the Federal Government as provided in this part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1202. There is hereby authorized to be appropriated for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, to carry out the program of assistance to institutions of higher education under this part, an amount equal to the aggregate amount determined for all institutions of higher education for that year under paragraphs (2) and (3) of section 1203(a). Of the amount so appropriated for a fiscal year, two-thirds shall be available only for general education assistance grants under section 1203(a) and one-third shall be available only for cost of education grants under section 1203(b).

"ASSISTANCE

"SEC. 1203. (a) (1) From two-thirds of the sums appropriated under section 1202 for a fiscal year, the Commissioner shall make a general assistance grant for such fiscal year to each institution of higher education in an amount not exceeding that applied for by such institution or in an amount determined under paragraphs (2) and (3), whichever is the lesser. Such a grant may be made only if any application therefor has been approved in accordance with section 1204.

"(2) Subject to paragraph (4), the amount of the grant to which an institution is entitled under this subsection for a fiscal year shall be the aggregate of—

"(A) the product obtained by multiplying $100 times the full-time enrollment (including the full-time equivalent of the part-time enrollment for credit) of students in the first two years of post-secondary education at the institution,

"(B) the product obtained by multiplying $150 times the full-time enrollment (including the full-time equivalent of the part-time enrollment for credit) of students in the upper division of the institution defined as the last two academic years of instruction at the baccalaureate level in an institution awarding such degrees, and

"(C) the product obtained by multiplying $200 times the full-time enrollment (including the full-time equivalent of the part-time enrollment for credit) of students who are pursuing a program of post-baccalaureate study.

"(3) Subject to paragraph (4), in addition to the amounts to be paid under paragraph (2), an institution shall be entitled to an additional $300 for each of 200 students and an additional $200 for each of 100 additional students of the total full-time enrollment of such institution.

"(4) If two-thirds of the sums appropriated for any fiscal year for making grants under this part are not sufficient to pay in full the total amounts that all institutions of higher education are entitled to receive under this subsection, the grant to each such institution shall be an amount which bears the same ratio to the amount to which it is entitled under this subsection as two-thirds of the sums so appropriated bears to the total amount all institutions are entitled to receive under this subsection.

"(5) Determinations of enrollment under this subsection shall be made on the basis of credits earned by students at the institutions during the academic year ending during the second fiscal year preceding the fiscal year for which the determination is made. The Commissioner shall by regulation prescribe (1) the number of earned credits which constitute enrollment on a full-time basis, and (2) a definition of 'credit' to be used for such determinations which shall be substantially uniform for all institutions.

"(b)(1) From one-third of the sums appropriated under section 1202 for any fiscal year, the Commissioner shall, subject to paragraph (2), make a grant to each institution of higher education in an amount equal to 38 per centum of the aggregate of educational opportunity grants and work-study payments under title IV of this Act and loans under title II of the National Defense Education Act of 1958 made for such year to students who are enrolled in such institution plus the amount attributable to veterans in such institution as determined under subsection (3), except that—

"(A) such grant shall be equal to 50 per centum of such aggregate if the number of full-time students, and the full-time equivalent of the number of part-time students, enrolled in such institution during the most recent academic year ending prior to such fiscal year did not exceed one thousand,

"(B) such grant shall be equal to 46 per centum of such aggregate if the number of full-time students, and the full-time equivalent of the number of part-time students, enrolled in such institution during the most recent academic year ending prior to such fiscal year exceeded one thousand, but did not exceed three thousand, and

"(C) such grant shall be equal to 42 per centum of such aggregate if the number of full-time students, and the full-time equivalent of the number of part-time students, enrolled in such institution during the most recent academic year ending prior to such fiscal year exceeded three thousand, but did not exceed ten thousand.

"(2) If one-third of the sums appropriated for any fiscal year for making grants under this part are more than or less than the amount necessary to pay in full the total amounts that all institutions of higher education are entitled to receive under this subsection, the grant to each such institution shall be an amount which bears the same ratio to the amount to which it is entitled under this subsection as one-third of the sums so appropriated bears to the total amounts all institutions are entitled to receive under this subsection.

"(3) The amount attributable to veterans for purposes of paragraph (1) of this subsection shall be determined, in the case of each institution of higher education, by multiplying the number of veterans enrolled in such institution who have not completed one full academic year at an institution of higher education and who—

"(1) served on active duty in the Armed Forces for at least one hundred and eighty days after August 4, 1964, and

"(2) are receiving an educational assistance allowance under section 1682 of title 38, United States Code, or are receiving vocational rehabilitation under section 1502 of such title,

by an amount equal to (A) 40 per centum of the educational assistance allowance which would be paid them if they had no dependents, in the case of veterans receiving payments under section 1682, or (B) the amount of tuition and fees paid on their account in the case of veterans being furnished vocational rehabilitation under section 1502.

"APPLICATIONS

"SEC. 1204. An institution of higher education may receive a grant under this part only if it submits an application therefor at such time and in such manner as the Commissioner shall prescribe by regulations. The application may be approved if the Commissioner determines that the application—

"(1) describes general educational goals and specific objectives of the institution and the amount of institutional income needed to meet such goals and objectives,

"(2) provides satisfactory assurance that—

"(A) the proceeds of the grant will be used for programs of the applicant institution consistent with such goals and objectives,

"(B) current operating support from non-Federal sources for educationally-related programs of the institutions has not been reduced in anticipation of funds to be received under this part,

"(C) the applicant will make such reports as the Commissioner may require, including a summary report describing how the grant was expended and an evaluation of its effectiveness; and

"(3) contains such provisions as the Commissioner may require by regulation in order to protect the financial interest of the United States.

The Commissioner may waive the requirements of paragraph (2)(B) for any institution for any fiscal year if he determines such waiver would promote the purposes of this part.

"REPORT BY COMMISSIONER TO CONGRESS

"SEC. 1205. The Commissioner shall report to Congress within 120 days after the close of each fiscal year regarding the effectiveness of assistance under this part in meeting the goals and objectives of institutions of higher education and in encouraging diversity and autonomy among such institutions. The Commissioner shall also make such recommendations as seem appropriate regarding continuation, modification or extension of assistance under this part.

"LIMITATIONS

"SEC. 1206. No grant under this part may be made to, or used to support, a school or department of divinity or for religious worship or sectarian instruction. For purposes of this section, the term 'school or department of divinity' means an institution or department or branch of an institution whose program is specifically for the education of students to prepare them to be ministers of religion or to enter upon some other religious vocation or to prepare them to teach theological subjects.

"DEFINITIONS

"SEC. 1207. For purposes of this part—

"(1) The term 'institution of higher education' means an institution described in the first sentence of section 1601(a) of this title. A branch of an institution of higher education which is located in a community different from that of its parent institution shall be treated as a separate institution.

"(2) The term 'baccalaureate degree' means an undergraduate degree which normally requires at least four but not more than five years of full-time enrollment in an academic program for credit.

"PART B—NATIONAL COMMISSION ON FINANCING OF POSTSECONDARY EDUCATION

"PURPOSE

"SEC. 1211. (a) It is the purpose of this part to authorize a study of the impact of past and present support and the appropriate level of future support for postsecondary education from private sources and from Federal, State and local governments.

"(b) In order to give the States and the Nation the information needed to assess the dimensions of, and extent of, the financial crisis confronting the Nation's postsecondary institutions the study shall determine the need, the desirability, the form and the level of additional governmental and private assistance. Such study shall include but not be limited to (1) an analysis of the existing programs of aid to institutions of higher education, various alternative proposals presented to the Congress to provide assistance to institutions of higher education, as well as other viable alternatives which, in the judgment of the Commission merit inclusion in such a study; (2) the costs, advantages and disadvantages, and the extent to which each proposal would preserve the diversity and independence of such institutions; and (3) the extent to which each would advance the national goal of making postsecondary education accessible to all individuals, including returning veterans, having the desire and ability to continue their education.

"ESTABLISHMENT OF COMMISSION

"SEC. 1212. (a) There is hereby established, as an independent agency within the executive branch, a National Commission on the Financing of Postsecondary Education (hereinafter referred to as the 'Commission').

"(b) The Department of Health, Education, and Welfare shall provide the Commission with necessary administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) for which payment shall be made in advance, or by reimbursement, from funds of the Commission and such amounts as may be agreed upon by the Commission and the Secretary of Health, Education, and Welfare.

"CONTRIBUTIONS

"SEC. 1213. (a) The Commission shall have authority to accept in the name of the United States, grants, gifts or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or his representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.

"FUNCTIONS

"SEC. 1214. In conducting such a study, the Commission shall consider:

"(1) the nature and causes of serious financial distress facing institutions of postsecondary education; and

"(2) alternative models for the long range solutions to the problems of financing postsecondary education with special attention to the potential Federal, State, local, and private participation in such programs, including, but not limited to—

"(A) the assessment of previous related private and governmental studies and their recommendations;

"(B) the determination of the annual per student cost of providing postsecondary education for students in attendance at various types and classes of postsecondary institutions;

"(C) existing state and local programs of aid to postsecondary institutions;

"(D) the level of endowment, private sector support and other incomes of postsecondary institutions and the feasibility of Federal and State income tax credits for charitable contributions to postsecondary institutions;

"(E) the level of Federal support of postsecondary institutions through such programs as research grants, and other general and categorical programs; and

"(F) alternative forms of student assistance, including but not limited to loan programs based on income contingent lending, loan programs which utilize fixed, graduated repayment schedules, loan programs which provide for cancellation or deferment of all or part of repayment in any given year based on a certain level of a borrower's income; and existing student assistance programs including but not limited to those administered by the U.S. Office of Education, the Social Security Administration, and the Veterans' Administration.

"REPORT TO CONGRESS

"SEC. 1215. Not later than June 30, 1973, the Commission shall make a final report to the President and Congress on the results of the investigation and study authorized by this part, together with such findings and recommendations, including recommendations for legislation, as they deem appropriate. An interim report shall be due no later than December 31, 1972. The Commission may release such other reports and studies at any time that it may desire.

"CONTRACT AUTHORITY

"SEC. 1216. In order to carry out the provisions of this part, the Commission is authorized to:

"(1) enter into contracts with institutions of postsecondary education and other appropriate individuals, public agencies and private organizations;

"(2) appoint and fix the compensation of such personnel as may be necessary;

"(3) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"(4) utilize, with their consent, the services, personnel, information and facilities of other Federal, State, local, and private agencies with or without reimbursement; and

"(5) consult with the heads of such Federal agencies as they deem appropriate.

"HEARINGS

"SEC. 1217. (a) The Commission is further authorized to conduct such hearings at such times and places as it deems appropriate for carrying out the purposes of this part.

"(b) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this part.

"MEMBERSHIP

"SEC. 1218. (a) The Commission shall be composed of—

"(1) two Members of the Senate who shall be members of different political parties and who shall be appointed by the President of the Senate;

"(2) two Members of the House of Representatives who shall be members of different political parties and who shall be appointed by the Speaker of the House of Representatives; and

"(3) not to exceed thirteen members appointed by the President not later than ninety days after the date of enactment of this Act. Such members shall be appointed from:

"(i) members of State and local education agencies;

"(ii) State and local government officials;

"(iii) education administrators from private and public higher education institutions and community colleges;

"(iv) teaching faculty;

"(v) financial experts from the private sector;

"(vi) students;

"(vii) the Office of Education; and

"(viii) other appropriate fields.

"(b) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

"(c) The majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

"(d) The terms of office of the appointive members of the Commission shall expire after submission of the final report.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1219. There are hereby authorized to be appropriated $500,000 for the fiscal year 1972, and $1,000,000 for the fiscal year ending 1973, for the purpose of carrying out the provisions of this part."

TITLE IX—PROHIBITION OF DISCRIMINATION

SEC. 901. (a) No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that this subsection shall not apply—

(1) to the undergraduate admissions policy of any institution of higher education,

(2) for seven years from the date an educational institution begins the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such change which is approved by the Commissioner of Education, or

(3) to an educational institution which is controlled by a religious organization and where the application of this subsection would not be consistent with the religious tenets of such organization.

(b) Nothing contained in subsection (a) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: *Provided*, That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this title of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex.

(c) For purposes of this section an educational institution means any pre-school, elementary or secondary school, or any institution of higher education, except that in the case of an institution of higher education composed of more than one school or college which is an administratively separate unit, such term means each such school or college.

SEC. 902. Each Federal department and agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 901 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however*, That no such action shall betaken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

SEC. 903. Any department or agency action taken pursuant to section 902 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 902, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, United States Code, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of section 701 of that title.

SEC. 904. Nothing contained in this title shall be construed to authorize action under this title by any department or agency with respect to any employment practice of any employer, employment agency or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

SEC. 905. Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

SEC. 906. No person in the United States shall, on the ground of blindness or severely impaired vision, be denied admission in any course of study by a recipient of Federal financial assistance for any education program or activity: *Provided, however*, That nothing herein shall be construed to require any such institution to provide any special services to such person because of his blindness or visual impairment.

SEC. 907. (a) Clause (1) of section 701(b) of the Civil Rights Act of 1964 is amended by inserting after "thereof" the following: "(except with respect to employees of a State, or a political subdivision thereof, employed in an educational institution)".

(b) Section 702 of title VII of the Civil Rights Act of 1964 is amended by the insertion of a period after "religious activities" and the deletion of the remainder of the sentence.

SEC. 908. Section 13(a) of the Fair Labor Standards Act of 1938 is amended by the insertion after the words "the provisions of sections 6" of the following: "(except section 6(d) in the case of paragraph (1))."

SEC. 909. (a) Subsection (1) of section 3 (r) of the Fair Labor Standards Act of 1938 is amended by the deletion of the words "an elementary or secondary school" and the insertion of the words "a pre-school, elementary or secondary school".

(b) Section 3(s)(4) of such Act is amended by deleting "an elementary or secondary school" and inserting "a pre-school, elementary or secondary school".

SEC. 910. Notwithstanding anything to the contrary contained in this title, nothing contained herein shall be construed as to prohibit any educational institution receiving funds under this Act, from maintaining separate living facilities for the different sexes.

TITLE X—IMPROVEMENT OF MINERAL CONSERVATION EDUCATION

SEC. 1001. The Higher Education Act of 1965 adding after title XII the following new title:

"TITLE XIII—IMPROVEMENT OF MINERAL CONSERVATION EDUCATION

"SEC. 1301. The Congress, in recognition of the profound impact of mineral exploration and development on the health and safety of persons working in the mineral industries and on the interrelations of all facets of the natural environment, including, but not limited to, ground subsidence, mine fires, air and water resources, and fish and wildlife, and on outdoor recreation, aesthetic, agricultural, and other similar values of national, regional, and local significance, and in recognition of the fact that the prosperity and future welfare of the Nation is dependent, in large measure, on the sound exploration, extraction, processing, and development of its unrenewable mineral resources, declares that it is the purpose of this title to assist in assuring the Nation, at all times, of an adequate supply of mineral engineers and scientists (a) for the mineral industries engaged in research, investigations, experiments, demonstrations, exploration, extraction, processing, developing, and production of such resources in a manner consistent with the need to protect and enhance the quality of the total environment, and (b) for the public agencies concerned with such mineral activities, with the health and safety of persons employed in such industries, and with the protection and enhancement of the total environment.

"SEC. 1302. (a) The Commissioner is authorized to make, in accordance with the provisions of this title, grants each fiscal year, for establishing and carrying out the work of a competent and qualified mineral resources conservation institute, center, or equivalent agency (hereinafter referred to as an 'institute'), to such institutions of higher education as he may select, not to exceed ten in the Nation, and selected so as to serve the needs of a region, which shall be an institution of higher education established in accordance with sections 1 through 5, 7, and 8, of the Act of July 2, 1862, as amended (7 U.S.C. 30–305, 307 and 308), or some other institution of higher education designated by the Governor of the State within which the institution is located. Institutions of higher education selected under this subsection are encouraged to cooperate with other such institutions in participating in the work of the institute.

"(b) The Commissioner shall approve any application or any modification thereof submitted annually under this section by a designated institute, which he finds, in consultation with the Secretary of the Interior—

"(1) sets forth a plan to provide for the training, consistent with the purpose of this title, of individuals as mineral engineers and scientists under a four-year undergraduate curriculum appropriate to the field of mineral resources and mineral engineering and related fields of environmental control, and to conduct competent research, investigations, demonstrations, and experiments of either a basic or practical nature, or both, in relation to the exploration, extraction, processing, development, and conservation of mineral resources, to the solution of current and emerging problems of minerals technology, and to the protection and enhancement of health and safety of persons employed in the minerals industries and of the total environment affected by mineral operations;

"(2) gives assurances that such institute has or will promptly employ an adequate and competent faculty and administrative personnel;

"(3) sets forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available for purposes of this title, and in no case supplant such funds;

"(4) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title;

"(5) provides for making such reports, in such form and containing such information, as the Commissioner may require, in consultation with the Secretary of the Interior and for keeping such records and for affording access thereto; and

"(6) meet such additional conditions and regulations as the Commissioner may from time to time prescribe consistent with the purpose of this title.

"(c) In approving applications under subsection (b) of this section, the Commission shall require the institute to show that its program of mineral research, investigations, demonstrations, and experimental projects has been developed so as to avoid, having due regard to the varying conditions and needs of each State or region, (1) undue displacement of mineral scientists and engineers engaged in such activities, and (2) duplication, to the greatest extent possible, of such mineral projects conducted or being conducted by Federal or State agencies or other institutes.

"(d) There are authorized to be appropriated to the Commissioner for grants under this section for the fiscal year 1972, and for each succeeding fiscal year ending prior to July 1, 1976, such sums as may be necessary to pay not to exceed $500,000 annually of the estimated cost of establishing and carrying out the work of an institute. The Commissioner shall provide for an equitable distribution of sums appropriated for such grants. Such sums shall remain available until expended. The institute shall assume indirect costs. A minimum of 20 per centum of such grant shall be designated for scholarships, graduate fellowships, and postdoctoral fellowships.

"SEC. 1303. (a) There are authorized to be appropriated to the Commissioner for fiscal year 1972 and for each of the succeeding fiscal years ending prior to July 1, 1976, not to exceed $5,000,000 annually. Such sums shall remain available until expended for grants to institutes designated under this title where there is an application approved under this title to match, on a dollar-for-dollar basis, funds made available to such institutes by State or other non-Federal sources to pay the costs of conducting specific mineral research and demonstration projects of industrywide application relating (1) to the conservation, exploration, extraction, processing, development, or production of mineral resources, including but not limited to, the recycling and reuse of such resources and the products and wastes thereof, and (2) to the protection or enhancement of health and safety of persons employed in the minerals industries and of the environment in connection with mineral operations. The Commissioner shall provide for an equitable distribution of the sums appropriated among institutes for which an application is approved under section 1302 of this title.

"(b) Each application for a grant under this section and section 1304 of this title shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualification of the personnel who will direct and conduct it, the estimated cost, the extent of participation by nongovernmental sources in the project, including the identification of the participants, the importance of the project to the Nation, region, or State, and its relation to other known research projects theretofore pursued or being pursued. The Secretary of the Interior shall review each such application and shall make recommendations thereon to the Commissioner within thirty days after receipt of such application concerning the adequacy and merit of the project, the knowledge which it is expected to produce when completed, and such other matters as he deems appropriate. The Commissioner shall not make any grant for a project which the Secretary of the Interior recommends disapproval of, or which, in the judgment of the Commissioner, does not provide an adequate opportunity to train individuals as mineral engineers and scientists consistent with the purpose of this title.

"(c) In making grants under this section, the Commissioner shall prescribe such terms and conditions consistent with the purpose of this title.

"SEC. 1304. There are authorized to be appropriated to the Commissioner $10,000,000 for the fiscal year 1972, and increasing $2,000,000, annually for four years, from which he may, in consultation with the Secretary of the Interior, make grants or contracts with any educational institution to undertake mineral research and demonstration projects consistent with the purposes and applicable provisions of this title.

"SEC. 1305. No research, demonstrations, or experiments shall be carried out under this title by an institute financed by grants under this title, unless all information, uses, products, processes, patents, and other developments resulting therefrom (with such exception or limitation, if any, as the Commissioner may find to be necessary in the public interest) be made available promptly to the general public. Funds appropriated under this title shall be available for printing and publishing the results of activities carried out with the assistance of such funds by institutes and for administrative planning and direction.

"SEC. 1306. To assure that any institute established under this title is adequately equipped to train individuals, the Commissioner may make grants to each institute to pay 50 per centum of the cost of purchasing equipment and supplies. The equipment and supplies so purchased shall be used primarily for the education and training of individuals consistent with the purposes of this title. No portion of any such grant shall be applied to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building. There are hereby authorized to be appropriated not to exceed $5,000,000 for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, to remain available until expended, to carry out the purposes of this section.

"SEC. 1307. (a) The Commissioner shall appoint an advisory committee on mineral research composed of—

"(1) the Director of the National Science Foundation, or his delegate, with his consent;

"(2) the President, National Academy of Sciences or his delegate, with his consent;

"(3) the President, National Academy of Engineering, or his delegate, with his consent;

"(4) the Director, Bureau of Mines, or his delegate, with his consent; and

"(5) such other persons as the Commissioner may appoint who are knowledgeable in the field of mineral research and its impact on health and safety and the quality of the environment.

"(b) The Commissioner shall designate the chairman of the committee. The advisory committee shall consult with, and make recommendations to, the Commissioner and the Secretary of the Interior on matters involving or relating to the purpose of this title. The Commissioner and the Secretary of the Interior shall consult with, and consider recommendations of, such committee in the conduct of mineral research and development and the making of any grant under this title."

TITLE XI—SPECIAL ASSISTANCE FOR THE COLLEGE OF THE VIRGIN ISLANDS AND THE UNIVERSITY OF GUAM

SEC. 1101. In order to enable the Commissioner of Education to make grants to the College of the Virgin Islands and the University of Guam in recognition of the fact that such institutions and the areas they serve do not receive the support afforded land-grant colleges, there is authorized to be appropriated the sum of $3,000,000 for each such institution to be used as an endowment, and the sum of $450,000 for each such institution for the fiscal year 1973, and each succeeding fiscal year, for strengthening higher education, including community service programs, in the areas they serve.

TITLE XII—EVALUATION

SEC. 1201. The Higher Education Act of 1965 is amended by inserting after title XIII the following new title:

TITLE XIV—EVALUATION OF FEDERAL EDUCATION PROGRAMS

"SEC. 1401. (a) The Comptroller General of the United States shall review, audit, and evaluate any Federal education program upon request by a committee of the Congress having jurisdiction of the statute authorizing such program or, to the extent personnel are available, upon request by a member of such committee. Upon such request, he shall (1) conduct studies of statutes and regulations governing such Federal education program; (2) review the policies and practices of Federal agencies administering such program; (3) review the evaluation procedures adopted by such agencies carrying out such program; and (4) evaluate particular projects or programs. The Comptroller General shall compile such data as are necessary to carry out the preceding functions and shall report to the Congress at such times as he deems appropriate his findings with respect to such Federal education program and his recommendations for such modifications in existing laws, regulations, procedures and practices as will in his judgment best serve to carry out effectively and without duplication the policies set forth in education legislation relative to such program.

"(b) In carrying out his responsibilities as provided in subsection (a) of this section, the Comptroller General shall give particular attention to the practice of Federal agencies of contracting with private firms, organizations and individuals for the provision of a wide range of studies and services (such as personnel recruitment and training, program evaluation, and program administration) with respect to Federal education programs, and shall report to the heads of the agencies concerned and to the Congress his findings with respect to the necessity for such contracts and their effectiveness in serving the objective established in education legislation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1402. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title."

TITLE XIII—NATIONAL INSTITUTE OF EDUCATION

SHORT TITLE

SEC. 1301. This title may be cited as the "National Institute of Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 1302. (a) (1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American educational system has pursued this objective, it has not attained it. Inequalities of opportunity to receive high quality education remain pronounced. To achieve quality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

(ii) advance the practice of education, as an art, science, and profession;

(iii) strengthen the scientific and technological foundations of education; and

(iv) build an effective educational research and development system.

(b) The purpose of this title is to establish a National Institute of Education to conduct and support educational research and development and disseminate education research and development findings throughout the Nation.

ESTABLISHMENT OF NATIONAL INSTITUTE OF EDUCATION

SEC. 1303. There is established in the Department of Health, Education, and Welfare a National Institute of Education (hereinafter referred to as the "Institute"). The Institute shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate. The Director shall perform such duties as are prescribed by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") and shall be responsible to such Secretary and not to or through any other officer of that Department. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him. The Director shall receive compensation at the rate prescribed for the Commissioner of Education.

FUNCTIONS OF THE INSTITUTE

SEC. 1304. (a) The Director, through the Institute, shall conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this Act the term "educational research" includes but is not limited to research (basic and applied), planning surveys, evaluations, investigations, experiments, developments, and demonstrations.

(b) Not less than 90 per centum of the funds appropriated under section 1308 for a fiscal year shall be expended to carry out this title through grants or contracts with qualified public or private agencies and individuals.

EMPLOYMENT OF PERSONNEL

SEC. 1305. The Secretary may appoint and fix the compensation of such officers and employees as may be necessary to carry out such purposes. Such officers and employees shall be appointed in accordance with chapter 51 of title 5, United States Code.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND DEVELOPMENT

SEC. 1306. (a) The President shall appoint a National Advisory Council on Educational Research and Development which shall—

(1) review and advise the Secretary and the Director on the status of education, educational research and the prospective educational needs of our society;

(2) advise the Secretary and the Director of the Institute on development of programs to be carried out by the Institute and on matters of general policy arising in the administration of this title;

(3) present to the Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of insuring the implementation of educational renewal and reform based upon the findings of educational research;

(4) conduct such studies as may be necessary to fulfill its functions under this section;

(5) prepare an annual report to the Secretary on the current status and needs of educational research in the United States;

(6) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (A) which shall include such recommendations and comments as the Council may deem appropriate, and (B) shall be submitted to the Congress not later than March 31 of each year; and

(7) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

(b) The Council shall be appointed by the President and shall consist of fifteen members appointed for terms of three years; except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessors was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the members first taking office shall begin upon enactment of this title and shall expire as designated at the time of appointment, five at the end of three years, five at the end of two years, and five at the end of the first year. One of such members shall be designated by the President as Chairman. Members of the Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates to be determined by the Secretary, but not exceeding the per diem equivalent for GS-18 for each day so engaged, including travel time and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Director of the Institute and the Commissioner of Education shall serve on the Council ex officio.

(c) The Secretary shall provide to the Council such professional, clerical, and other assistance as may be required to carry out its functions.

(d) The President may also appoint other Federal officials as non-voting ex officio members.

(e) The Council is further authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, and it may enter into contracts for the conduct of studies and other activities necessary to the discharge of its duties.

GENERAL PROVISIONS

SEC. 1307. (a) The Director, in order to carry out the purposes of this title, is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of the Institute;

(2) to accept unconditional gifts or donations of services, money or property, real, personal or mixed, tangible or intangible;

(3) without regard to section 529 of title 31, United States Code, to enter into and perform such contracts, leases, cooperative agreements or other transactions as may be necessary for the conduct of the Institute's work and on such terms as he may deem appropriate with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any international organization or agency, or with any firm, association, corporation or educational institution, or with any person, without regard to statutory provisions prohibiting payment of compensation to aliens;

(4) to acquire (by purchase, lease, condemnation or otherwise), construct, improve, repair, operate and maintain laboratories, research and testing facilities, computing devices, communications networks and machinery, and such other real and personal property or interest therein as deemed necessary;

(5) to acquire (by purchase, lease, condemnation or otherwise) and to lease to others or to sell such property in accordance with the provisions of the Federal Property and Administrative Services Act, patents, copyrights, computing programs, theatrical and broadcast performance rights or any form of property whatsoever or any rights thereunder; and

(6) to use the services, computation capacity, communications networks, equipment, personnel, and facilities of Federal and other agencies with their consent, with or without reimbursement. Each department and agency of the Federal Government shall cooperate fully with the Director in making its services, equipment, personnel and facilities available to the Institute.

(b) All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a-5a). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

JOINT FUNDING WAIVER AUTHORITY

SEC. 1308. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the National Institute of Education may act for all in administering the funds advanced and any such agency may waiver any technical grant or contract requirement which is inconsistent with the similar requirements of the National Institute or which the National Institute does not impose.

APPROPRIATIONS AUTHORIZED

SEC. 1309. There are authorized to be appropriated for the fiscal year 1972, and for each fiscal year thereafter, such sums as may be necessary to carry out this title, which shall remain available until expended.

TITLE XIV—OCCUPATIONAL EDUCATION

SEC. 1401. This title may be cited as the "Occupational Education Act of 1971".

FINDINGS AND STATEMENT OF PURPOSES

SEC. 1402. The Congress finds and declares that—

(a) our educational system should be responsible for assuring that every young person leaving secondary school is prepared for and assisted in placement either in productive employment or in further education at the postsecondary level;

(b) the opportunity for postsecondary occupational education in programs which do not directly lead to a baccalaureate or advanced academic degree is severely limited in many parts of the Nation and is everywhere inadequate to meet existing needs, and that this situation adversely affects vital national economic and social goals;

(c) high-quality programs of postsecondary occupational education can be found in a wide variety of institutions, including public and private community and junior colleges, area vocational schools, technical institutes, private proprietary schools, college and university branches, and colleges and universities, and Federal support should encourage the utilization of all such facilities to meet the enormous needs in this field;

(d) the goals and purposes of the Congress in enacting the Vocational Education Act of 1963 and the amendments to that Act of 1968 cannot be realized until there is a widespread understanding of and support for occupational preparation in the general academic community which in turn is reflected in changed attitudes, curriculums, and practices in elementary and secondary schools; and

(e) the foregoing purposes and those of the Vocational Education Act Amendments of 1968 and related Acts cannot be realized without strong leadership and exemplary administration at the Federal level.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1403. For the purpose of carryring out part A of this title, there are hereby authorized to be appropriated $100,000,000 for the fiscal year 1972, $250,000,000 for the fiscal year 1973, $500,000,000 for the fiscal year 1974, and for each fiscal year thereafter such sums as may be necessary to assure that the purposes of this title are realized. From the sums appropriated for the fiscal year 1972, 80 per centum shall be available for the purposes of establishing a plan for administration under section 1413, making planning grants under section 1415, and for initiating programs under section 1416 in those States which have complied with the planning requirements of section 1415; and 20 per centum shall be available only for technical assistance under section 1418(a). From the amount appropriated for each succeeding fiscal year 85 per centum shall be available for grants to the States for carrying out part A, and 15 per centum shall be reserved to the Commissioner for grants and contracts pursuant to section 1418.

ALLOTMENTS AND REALLOTMENTS AMONG STATES

SEC. 1404. (a) From the sums available for the fiscal year 1972, for allotment to the States under section 1403 the Commissioner shall first allot such sums as they may require (but not to exceed $50,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $100,000.

(b) From the sums available for any fiscal year beginning after June 30, 1972, for allotment to the States under section 1403, the Commissioner shall first allot such sums as they may require (but not to exceed $500,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $1,000,000.

(c) The portion of any State's allotment under subsection (a) or (b) for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the purposes of this title shall be available for reallotment from time to time, on such date or dates during such periods as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) or (b) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such States needs and will be able to use for such period, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) or (b) for such year.

PART A—OCCUPATIONAL EDUCATION PROGRAMS

FEDERAL ADMINISTRATION

SEC. 1410. The Secretary of Health, Education, and Welfare shall develop and carry out a program designed to promote and encourage occupational education, which program shall—

(1) provide for the administration by the Commissioner of Education of grants to the States authorized by this part;

(2) assure that manpower needs in subprofessional occupations in education, health, rehabilitation, and community and welfare services are adequately considered in the development of programs under this title;

(3) promote and encourage the coordination of programs developed under this title with those supported under the Vocational Education Act 1963, the Manpower Development and Training Act 1962, title I of the Economic Opportunity Act 1964, the Public Health Service Act, and related activities administered by various departments and agencies of the Federal Government; and

(4) provide for the continuous assessment of needs in occupational education and for the continuous evaluation of programs supported under the authority of this title and of related Acts.

GENERAL RESPONSIBILITIES OF COMMISSIONER OF EDUCATION

SEC. 1411. The Commissioner of Education shall, in addition to the specific responsibilities imposed by this title, develop and carry out a program of occupational education that will—

(1) coordinate all programs administered by the Commissioner which relate to or have an effect upon occupational education so as to provide the maximum practicable support for the objectives of this title;

(2) promote and encourage the infusion into our system of elementary and secondary education of occupational preparation, counseling and guidance, and job placement or placement in postsecondary occupational educational programs as a responsibility of the schools;

(3) utilize research and demonstration programs administered by him to assist in the development of new and improved instructional methods and technology for occupational education and in the design and testing of models of schools or school systems which place occupational education on an equal footing with academic education;

(4) assure that the Education Professions Development Act and similar programs of general application will be so administered as to provide a degree of support for vocational, technical, and occupational education commensurate with national needs and more nearly representative of the relative size of the population to be served; and

(5) develop and disseminate accurate information on the status of occupational education in all parts of the Nation, at all levels of education, and in all types of institutions, together with information on occupational opportunities available to persons of all ages.

ESTABLISHMENT OF BUREAU OF OCCUPATIONAL EDUCATION

SEC. 1412. (a) There is hereby established in the United States Office of Education a Bureau of Occupational Education which shall be the principal agency within the Office of Education for the administration of this title, the Vocational Education Act of 1963 including parts C and I, the Adult Education Act of 1966, functions of the Office of Education relating to manpower training and development, and functions of the Office relating to vocational, technical, and occupational training in community and junior colleges.

(b) (1) The Bureau shall be headed by a person (appointed or designated by the Commissioner) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Commissioner.

(2) Additional positions shall be assigned to the Bureau as follows—

(A) not less than three positions, one of which shall be filled by a person with broad experience in the field of community and junior college education;

(B) not less than seven positions, at least two of which shall be filled by persons with broad experience in the field of postsecondary occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling; and

(C) not less than three positions which shall be filled by persons at least one of whom is a skilled worker in a recognized occupation, another is a subprofessional technician in one of the branches of engineering, and the other is a subprofessional worker in one of the branches of social or medical services, who shall serve as senior advisers in the implementation of this title.

STATE ADMINISTRATION

SEC. 1413. (a) Any State desiring to participate in the program authorized by this title shall in accordance with State law designate or establish a State agency which will have sole responsibility for fiscal management and administration of the program, and which will provide assurances satisfactory to the Commissioner that—

(1) such State agency shall submit to the Commissioner a plan of administration which makes adequate provision for effective participation in the planning, design, administration, and evaluation of the program authorized by this title of persons with broad experience in the fields of—

(A) public and private community and junior college education,

(B) postsecondary vocational and technical education,

(C) occupational education in private, proprietary institutions,

(D) economic and industrial development,

(E) manpower development and training,

(F) academic education at the college and university level,

(G) secondary vocational and technical education,

(H) elementary and secondary education,

(I) elementary and secondary counseling and guidance, and

(J) industry, commerce, and labor.

(2) the State Advisory Council for Vocational Education will be charged with the same responsibilities with respect to the program authorized by this title as it has with respect to programs authorized under the Vocational Education Act of 1963;

(3) there is an administrative device which provides reasonable promise for resolving differences between vocational educators, community and junior college educators, college and university educators, elementary and secondary educators, and other interested groups with respect to the administration of the program authorized under this title; and

(4) there is adequate provision for individual institutions or groups of institutions and for local educational agencies to appeal and obtain a hearing from the State administrative agency with respect to policies, procedures, programs, or allocation of resources under this title with which such institution or institutions or such agency disagree.

(b) The Commissioner shall approve any plan of administration which meets the requirements of subsection (a), and shall not finally disapprove any plan without affording the State administrative agency a reasonable opportunity for a hearing. Upon the final disapproval of any plan, the provisions for judicial review set forth in section 1417 (b) shall be applicable.

AUTHORIZATION OF GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1414. From the sums made available for grants under this section pursuant to sections 1403 and 1404, the Commissioner is authorized to make grants to the States to assist them in planning and administering high-quality programs of post-secondary occupational education which will be available to all persons in all parts of the State who desire and need such education, and to promote occupational orientation and education in the regular elementary and secondary school programs.

PLANNING GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1415. (a) Upon the application of a State under section 1413, the Commissioner shall make available to the State the amount of its allotment under section 1404 for the following purposes—

(1) to assist the State administrative agency established in meeting the requirements of section 1413;

(2) to strengthen the State Advisory Council on Vocational Education in order that it may effectively carry out the additional functions imposed by this title; and

(3) to enable the agency designated or established under section 1413 to initiate and conduct a comprehensive program of planning for the establishment and carrying out of the program authorized by this title.

(b)(1) Planning activities initiated under clause (3) of subsection (a) shall include—

(A) an assessment of the existing capabilities and facilities for the provision of post-secondary occupational education, together with existing needs and projected needs for such education in all parts of the State;

(B) thorough consideration of the most effective means of utilizing all existing institutions within the State capable of providing the kinds of programs funded under this title, including (but not limited to) both private and public community and junior colleges, area vocational schools, accredited private proprietary institutions, technical institutes, manpower skill centers, branch institutions of State colleges or universities, and public and private colleges and universities;

(C) the design of high-quality instructional programs to meet the needs for post-secondary occupational education and the development of an order of priorities for placing these programs in operation;

(D) the development of a long-range strategy for infusing occupational education (including general orientation, counseling and guidance, and placement either in a job or in post-secondary occupational programs) into elementary and secondary schools on an equal footing with traditional academic education, to the end that every child who leaves secondary school is prepared either to enter productive employment or to undertake additional education at the postsecondary level, but without being forced prematurely to make an irrevocable commitment to a particular educational or occupational choice; and

(E) the development of procedures to insure continuous planning and evaluation, including the regular collection of data which would be readily available to the State administrative agency, the State Advisory Council on Vocational Education, individual educational institutions, and other interested parties (including concerned private citizens).

(2) Planning activities carried out under this section shall involve the active participation of—

(A) the State board for vocational education;

(B) the State agency having responsibility for community and junior colleges;

(C) the State agency having responsibility for higher education institutions or programs;

(D) the State agency responsible for administering public elementary and secondary education;

(E) the State agency responsible for programs of adult basic education;

(F) representatives of all types of institutions in the State which are conducting or which have the capability and desire to conduct programs of postsecondary occupational education;

(G) representatives of private, nonprofit elementary and secondary schools;

(H) the State employment security agency, the State agency responsible for apprenticeship programs, and other agencies within the State having responsibility for administering manpower development and training programs;

(I) the State agency responsible for economic and industrial development;

(J) persons familiar with the occupational education needs of the disadvantaged, of the handicapped, and of minority groups; and

(K) representatives of business, industry, organized labor, and the general public.

(c) The Commissioner shall not approve any application for a grant under section 1416 of this title unless he is reasonably satisfied that the planning described in this section (whether or not assisted by a grant under this section) has been carried.

PROGRAM GRANTS FOR STATE OCCUPATIONAL EDUCATIONAL PROGRAMS

SEC. 1416. (a) From the allotments available to the States under section 1404(b) (upon application by the State administrative agency designated or established under section 1413), the Commissioner shall make grants to any State which has satisfied the requirements of section 1417. Such grants may be used for the following purposes—

(1) the design, establishment, and conduct of programs of post-secondary occupational education (or the expansion and improvement of existing programs) as defined by section 1420 of this title;

(2) the design, establishment, and conduct of programs to carry out the long-range strategy developed pursuant to section 1415 (b)(1)(D) for infusing into elementary and secondary education occupational preparation, which shall include methods of involving secondary schools in occupational placement and methods of providing followup services and career counseling and guidance for persons of all ages as a regular function of the educational system;

(3) special training and preparation of persons to equip them to teach, administer, or otherwise assist in carrying out the program authorized under this title (such as programs to prepare journeymen in the skilled trades or occupations for teaching positions);

(4) planning and evaluation activities designed pursuant to section 1415(b)(1)(E); and

(5) the leasing, renting, or remodeling of facilities required to carry out the program authorized by this title. (b) Programs authorized by this title may be carried out through contractual arrangements with private organizations and institutions organized for profit where such arrangements can make a contribution to achieving the purposes of this title by providing substantially equivalent education, training or services more readily or more economically, or by preventing needless duplication of expensive physical plant and equipment, or by providing needed education or training of the types authorized by this title which would not otherwise be available.

ASSURANCES; JUDICIAL REVIEW

SEC. 1417. (a) Before making any program grant under this title the Commissioner shall receive from the State administrative agency assurances satisfactory to him that—

(1) the planning requirements of section 1415 have been met;

(2) the State Advisory Council on Vocational Education has had a reasonable opportunity to review and make recommendations concerning the design of the programs for which the grant is requested;

(3) Federal funds made available under this title will result in improved occupational education programs, and in no case supplant State, local, or private funds;

(4) adequate provision has been made by such agency for programs described in section 1416(a)(2);

(5) provision has been made for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State under this title;

(6) to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served by an elementary or secondary school program funded under this title, provision has been made for the effective participation of such students; and

(7) reports will be made in such form and containing such information as the Commissioner may reasonably require to carry out his functions under this title.

(b)(1) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to the State administrative agency, finds that any of the assurances required by subsection (a) are unsatisfactory, or that in the administration of the program there is a failure to comply with such assurances or with other requirements of the title, the Commissioner shall notify the administrative agency that no further payments will be made to the State under this title until he is satisfied that there has been or will be compliance with the requirements of the title.

(2) A State administrative agency which is dissatisfied with a final action of the Commissioner under this section or under section 1413 (respecting approval of a State plan for administration) may appeal to the United States court of appeals for the circuit in which the State is located by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently but until the filing of the record the Commissioner may modify or set aside his action. The findings of the Commisisoner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

TECHNICAL ASSISTANCE; MODEL PROGRAMS

SEC. 1418. (a) The Commissioner shall make available (to the extent practicable) technical assistance to the States in planning, designing, and carrying out the program authorized by this title upon the request of any State administrative agency designated or established pursuant to section 1413, and the Commissioner shall take affirmative steps to acquaint all interested organizations, agencies, and institutions with the provisions of this title and to enlist broad public understanding of its purposes.

(b) From the sums reserved to the Commissioner under section 1403, he shall by grant or contract provide assistance—

(1) for the establishment and conduct of of model or demonstration programs which in his judgment will promote the achievement of one or more purposes of this title and which might otherwise not be carried out (or be carried out soon enough or in such a way as to have the desirable impact upon the purposes of the title),

(2) as an incentive or supplemental grant to any State administrative agency which makes a proposal for advancing the purposes

of this title which he feels holds special promise for meeting occupational education needs of particular groups or classes of persons who are disadvantaged or who have special needs, when such proposal could not reasonably be expected to be carried out under the regular State program; and

(3) for particular programs or projects eligible for support under this title which he believes have a special potential for helping to find solutions to problems on a regional or national basis.

(c) In providing support under subsection (b) the Commissioner may as appropriate make grants to or contracts with public or private agencies, organizations, and institutions, but he shall give first preference to applications for projects or programs which are administered by or approved by State administrative agencies, and he shall in no case make a grant or contract within any State without first having afforded the State administrative agency reasonable notice and opportunity for comment and for making recommendations.

PAYMENTS

SEC. 1419. Payments under this title may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

DEFINITIONS

SEC. 1420. For the purpose of this title—

(1) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and (except for the purposes of subsections (a) and (b) of section 1404) American Samoa and the Trust Territory of the Pacific Islands.

(2) The term "post-secondary occupational education" means education, training, or retraining (and including guidance, counseling, and placement services) for persons sixteen years of age or older who have graduated from or left elementary or secondary school, conducted by an institution legally authorized to provide post-secondary education within a State, which is designed to prepare individuals for gainful employment as semiskilled or skilled workers or technicians or subprofessionals in recognized occupations (including new and emerging occupations) or to prepare individuals for enrollment in advanced technical education programs, but excluding any program to prepare individuals for employment in occupations which the Commissioner determines, and specifies by regulation, to be generally considered professional or which require a baccalaureate or advanced degree.

PART B—CONFORMING AND SUPPORTING AMENDMENTS TO OTHER ACTS

SEC. 1430. (a) Section 203(a)(3) of the Elementary and Secondary Education Act of 1965 is amended by striking out "and" at the end of clause (B), striking out the semicolon at the end of clause (C) and inserting in lieu thereof ", and", and by inserting a new clause as follows:

"(D) provide assurance that equal consideration shall be given to the needs of elementary and secondary schools for library resources, textbooks, and other printed and published materials utilized for instruction, orientation, or guidance and counseling in occupational education."

(b) Section 303(b)(3) of such Act is amended by redesignating clauses (C), (D), (E), (F), (G), (H), (I), and (J), respectively, as clauses (D), (E), (F), (G), (H), (I), (J), and (K) and by inserting a new clause as follows:

"(C) programs designed to encourage the development in elementary and secondary schools of occupational information and counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education;".

(c) Section 503(4) of such Act is amended by redesignating clauses (A), (B), and (C), respectively, as clauses (B), (C), and (D), and by inserting a new clause as follows:

"(A) the development in elementary and secondary schools of programs of occupational information, counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education,".

SEC. 1431. (a) Section 104(a)(2) of the Vocational Education Act of 1963 (relating to the duties of the National Advisory Council on Vocational Education) is amended by inserting after "under this title" each time it appears ", and under part A of the Occupational Education Act of 1971,".

(b) Section 104 of such Act is further amended by redesignating subsection (c) as subsection (d) and by inserting a new subsection as follows:

"(c) State advisory councils also shall perform with respect to the programs carried out under part A of the Occupational Education Act of 1971 functions identical with or analogous to those assigned under this title, and the Commissioner shall assure that adequate funds are made available to such Councils from funds appropriated to carry out part A of that title (without regard to whether such funds have been allotted to States) to enable them to perform such functions."

TITLE XV—STATE POSTSECONDARY EDUCATION COMMISSIONS

SEC. 1501. (a) Any State may designate or create a State agency or commission which is broadly and equitably representative of the public and of the public and private nonprofit and proprietary institutions of postsecondary education including community and junior colleges, technical institutes, four year institutions of higher education and branches thereof providing postsecondary academic and/or vocational and occupational training, in the State.

(b)(1) The Commissioner is authorized to make grants to State agencies or commissions designated or created pursuant to subsection (a) to enable them to make comprehensive inventories of, and studies with respect to, the postsecondary educational resources in the States and means by which such resources may be better planned and coordinated, improved, expanded, or altered in order to insure that all persons within the States who desire, and who can benefit from, postsecondary education may have an opportunity to do so.

(2) The Commissioner is further authorized to make grants to such State agencies or commissions to enable them to conduct comprehensive planning for statewide postsecondary education systems which will achieve the purpose set forth in paragraph (1). Such planning shall include consideration of a system of community service institutions as a means of achieving such purpose.

(3) The Commissioner shall make technical assistance available to such State agencies or commissions to assist them in achieving the purposes set forth in paragraphs (1) and (2).

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 1502. (a) Each State agency or commission (established under section 1501) may establish a committee (hereinafter in this section referred to as the committee), the membership of which shall include representatives of—

(1) all State agencies having responsibility or an interest in postsecondary education;

(2) community and junior colleges, four-year institutions of higher education and branches thereof, technical institutes, proprietary institutions, vocational schools, comprehensive secondary schools, adult education agencies, and State manpower agencies providing postsecondary academic and/or vocational and occupational training; and

(3) the general public, labor unions, business and industry, and agriculture.

(b) The committee may develop and adopt a statewide plan for the expansion and improvement of community postsecondary education programs. Such plan may—

(1) designate areas of the State in which residents do not have access to occupational education, continuing education, and community service institutions of postsecondary education within reasonable commuting distance;

(2) designate areas of the State in which existing community service institutions cannot meet the postsecondary educational needs of the residents;

(3) set forth a statewide plan for the establishment, expansion, and improvement of comprehensive community service institutions in order to achieve the goal of making available to all residents of the States, within commuting distance, an opportunity to attend a postsecondary educational institution;

(4) establish priorities for the use of financial and other resources in achieving the goal set forth in clause (3);

(5) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (4), for community service institutions of higher education;

(6) recommendations for coordination of duplicating programs in order to eliminate such duplications;

(7) set forth a plan for the use of existing and new educational resources in the State in order to achieve the goal set forth in clause (3), including recommendations for the modification of State plans for federally assisted vocational education, community services, and academic facilities as they may affect postsecondary education institutions.

(c)(1) There are hereby authorized to be appropriated $16,000,000 during the period beginning July 1, 1972, and ending July 1, 1974, to carry out the provisions of this title.

(2) Sums appropriated pursuant to paragraph (1) shall be equitably allotted by the Commissioner among the States on the basis of the amount needed by each State for the purpose of this section, except that no such allotment to any State shall be less than $100,000 except that in the case of American Samoa and the Trust Territory of the Pacific Islands such allotment shall not be more than $50,000 each. Such sums shall remain available until expended.

(d) For purposes of this title, the term "State" includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

TITLE XVI—INVESTIGATION OF YOUTH CAMP SAFETY

SEC. 1601. The Secretary of Health, Education, and Welfare shall make a full and complete investigation and study to determine (1) the extent of preventable accidents and illnesses currently occurring in youth camps throughout the Nation, (2) the contribution to youth camp safety now being made by State and local public agencies and private groups, (3) whether existing State and local laws adequately deal with the safety of campers in youth camps, (4) whether existing State and local laws relating to youth camp safety are being effectively enforced, and (5) the need for Federal laws in this field.

REPORT

SEC. 1602. The Secretary of Health, Education, and Welfare shall make a report to the Congress before January 1, 1973, on the results of his investigation and study under this title. Such report shall include his recommendations for such legislation as may be necessary or desirable.

AUTHORIZATION OF FUNDS

SEC. 1603. There is authorized to be appropriated $300,000 for carrying out the purposes of this title.

TITLE XVII—MISCELLANEOUS

SEC. 1701. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

REDESIGNATION OF SECTIONS

SEC. 1702. Title XII of the Higher Education Act of 1964 is redesignated as title XVI, and sections 1201, 1202, 1204, and 1205 of such Act are redesignated as sections 1601, 1602, 1604, and 1605, respectively, and cross-references to such title and such sections are redesignated accordingly.

WAIVER OF MATCHING REQUIREMENT IN CERTAIN CASES

SEC. 1703. (a) Part A of the General Education Provisions Act is amended by adding at the end thereof the following:

"MODIFICATIONS OF MATCHING REQUIREMENTS

"SEC. 407. Where a provision of law relating to an applicable program limits the amount of Federal assistance which may be made available for carrying out the program to a specified portion of the cost thereof or requires a specified non-Federal contribution with respect to the program, the Commissioner may approve assistance to institutions of higher education (as defined in section 1601(a) of the Higher Education Act of 1965) for such program in excess of the portion so specified, or a lesser non-Federal contribution than that so specified, if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of such applicable program."

(b) Part A of the General Educational Provisions Act is further amended by adding at the end thereof the following:

"PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

"SEC. 408. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system. No officer or employee of the Department of Health, Education, and Welfare (including the Office of Education) or of any other Federal agency shall, by rule, regulation, order, guideline, or otherwise, (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization, to use any funds derived from any State or local sources for any purpose for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee."

APPLICATION OF CERTAIN LAWS TO PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

SEC. 1704. (a) Section 103(a) of the Higher Education Act of 1965 is amended by striking out "each to Guam, American Samoa, the Commonwealth of Puerto Rico, and the Virgin Islands" and inserting in lieu thereof "to American Samoa".

(b) Section 513(c)(2) of such Act is amended (1) by striking out the first sentence and insertnig in lieu thereof the following: "Not to exceed 5 per centum of the number of members of the Teacher Corps who are available shall be allocated to the elementary and secondary schools operated for Indian children by the Department of the Interior.", and (2) by striking out the last sentence thereof.

(c)(1) The first sentence of section 519(a) of such Act is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 519(a) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(d) Section 602(a)(2) of such Act is amended by striking out "Puerto Rico, the Virgin Islands, American Samoa, and Guam" each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(e) Section 103(d)(1) of the Higher Education Facilities Act of 1963 is amended by striking out "Puerto Rico, the Virgin Islands, American Samoa, and Guam" each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(f) Section 103(a) of the National Defense Education Act of 1958 is amended by striking out "Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "the Canal Zone, American Samoa,".

(g) Section 302(a)(3)(B) of the National Defense Education Act of 1958 is amended by striking out "and the District of Columbia" and by inserting in lieu thereof ", the District of Columbia, Puerto Rico, Guam, and the Virgin Islands".

(h) Section 1008(A) of the National Defense Education Act of 1958 is amended by striking out "Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "the Canal Zone, American Samoa,".

(i) (1) Section 202(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and by inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 202(a)(2) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(j)(1) Section 302(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and by inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 302(a)(2) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(3) Section 307(b) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and inserting in lieu thereof "American Samoa".

(k)(1) Section 502(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(2) Section 522(a) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(3) Section 531(c)(1) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

SEC. 1705. All data, statistics, or other information required by the Secretary to make determinations with respect to entitlements to any moneys under the elementary and secondary grants shall be obtained by him from the appropriate State educational agency. The Secretary shall require such State educational agency to provide only such data, statistics, or other information to him as is or are essential to enable him to carry out his duties under this Act.

EFFECTIVE DATE

SEC. 1706. Except as otherwise provided in this Act, each of the provisions of this Act, and each amendment made by this Act, shall become effective July 1, 1972.

TITLE XVIII—EMERGENCY SCHOOL AID

SEC. 1801. This title may be cited as the "Emergency School Aid Act of 1971".

PURPOSE AND POLICY

SEC. 1802. (a) The purpose of this title is to provide financial assistance—

(1) to meet the special needs incident to the elimination of racial segregation and discrimination among students and faculty in elementary and secondary schools, and

(2) to encourage the voluntary elimination, reduction, or prevention of racial isolation in elementary and secondary schools with substantial proportions of minority group students.

(b) It is the policy of the United States that guidelines and criteria established pursuant to this title shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

APPROPRIATIONS

SEC. 1803. (a) There are authorized to be appropriated for carrying out this title not in excess of $500,000,000 for the fiscal year ending June 30, 1972, and not in excess of $1,000,000,000 for the succeeding fiscal year.

(b) Funds appropriated under subsection (a) shall remain available for obligation for one fiscal year beyond that for which they are appropriated.

(c) From the sums appropriated under subsection (a) for each fiscal year there shall be reserved to the Secretary an amount equal to not less than 4 per centum of the sums so appropriated for the purpose of carrying out bilingual education programs in accordance with section 1805(e).

ALLOTMENTS AMONG STATES

SEC. 1804. (a) From the sums appropriated pursuant to section 1803(a) for carrying out this title for any fiscal year, the Secretary shall allot an amount equal to 90 per centum among the States by allotting to each State $100,000 plus an amount which bears the same ratio to the balance of such 90 percentum of such sums as the aggregate number of children aged five to seventeen, inclusive, in the State who are Negroes, American Indians, Spanish-surnamed Americans, or members of other racial minority groups (such as Orientals, Alaskan natives, and Hawaiian natives) as determined by the Secretary, bears to the aggregate number of such children in all of the States. The remainder of such sums (other than sums reserved under section 1803(c)) may be expended by the Secretary as he may find necessary or appropriate (but only for activities described in section 1806 and in accordance with the other provisions of this title) for grants or contracts to carry out the purpose of this title stated in section 1802(a). The number of such children in each State and in all of the States shall be determined by the Secretary on the basis of the most recent available data satisfactory to him.

(b) (1) The amount by which any allotment to a State for a fiscal year under subsection (a) exceeds the amount which the Secretary determines will be required for such fiscal year for programs or projects within such State shall be available for reallotment to other States in proportion to the original allotments to such States under subsection (a) for that year, but with such proportionate amount for any such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a fiscal year shall be deemed part of its allotment under subsection (a) for such year.

(2) In order to afford ample opportunity for all eligible applicants in a State to submit applications for assistance under this title, the Secretary shall not fix a date for reallotment, pursuant to this subsection, of any portion of any allotment to a State for a fiscal year which date is earlier than sixty days prior to the end of such fiscal year.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, no portion of any allotment to a State for a fiscal year shall be available for reallotment pursuant to this subsection unless the Secretary determines that the applications for assistance under this title which have been filed by eligible applicants in that State for which a portion of such allotment has not been reserved (but which would necessitate use of that portion) are applications which do not meet the requirements of this title, as set forth in sections 1806, 1807, and 1808, or which set forth programs or projects of such insufficent promise for achieving the purpose of this title stated in section 1802(a) that their approval is not warranted.

ELIGIBILITY FOR FINANCIAL ASSISTANCE

SEC. 1805. (a) The Secretary shall provide financial assistance by grant upon application therefor approved in accordance with this title to a local educational agency—

(1) which is implementing a plan—

(A) which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of racially segregated students or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of racial isolation in such schools; or

(B) which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of racially segregated students or faculty in such schools;

(2) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan for the complete elimination of racial isolation in all the racially isolated schools in the school district of such agency;

(3) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement a plan—

(A) to eliminate or reduce racial isolation in one or more of the racially isolated schools in the school district of such agency,

(B) to reduce the total number of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 1804(a), who are in racially isolated schools in such district, or

(C) to prevent racial isolation reasonably likely to occur (in the absence of assistance under this title) in any school in such district in which school at least 10 per centum, but not more than 50 per centum, of the enrollment consists of such children;

(4) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement a plan to enroll and educate in the schools of such agency children who would not otherwise be eligible for enrollment because of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing racial isolation in one or more of the school districts to which such plan relates; or

(5) which, upon a determination by the Secretary—

(A) that more than 50 per centum of the number of children in attendance at the schools of a local educational agency is Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 1804(a), and

(B) that such local educational agency has applied for and will receive at least an equal amount of assistance under subsection (b), has established or will establish one or more stable, quality, integrated schools. For the purposes of this paragraph, an integrated school shall be a school with (i) an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, and in which the Secretary determines that the number of children who are not in groups described in clause (A) constitutes that proportion of the enrollment which will achieve stability, in no event more than 70 per centum thereof, and (ii) a faculty which is representative of persons who are Negroes, American Indians, or Spanish-surnamed Americans, or members of other racial minority groups as determined by the Secretary under section 1804 (a) and persons who are not members of such groups in the population of the larger community in which it is located, or, whenever the Secretary determines that the local educational agency concerned is attempting to increase the proportions of racial minority group teachers, supervisors, and administrators in its employ, a faculty which is representative of the racial minority group and nonminority group faculty employed by the local educational agency.

(b) The Secretary is authorized to make grants to local educational agencies, which are eligible under subsection (a) (5), for unusually promising pilot programs or projects designed to overcome the adverse effects of racial isolation by improving the academic achievement of children in one or more racially isolated schools, if he determines that the local educational agency had a number of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 1804 (a) enrolled in its schools, for the fiscal year preceding the fiscal year for which assistance is to be provided, which is at least 15,000.

(c) In cases in which the Secretary finds that it would effectively carry out the purpose of this title stated in section 1802(a), he may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) to carry out programs or projects designed to support the development or implementation of a plan or activity described in subsection (a).

(d) (1) No local educational agency shall be eligible for assistance under this title if it has, after the date of enactment of this title—

(A) transferred (directly or indirectly by gift, lease, loan, sale, or other means) real or personal property to, or made any services available to, any nonpublic school or school system (or any organization controlling, or intending to establish, such a school or school system) without prior determination by such agency that such nonpublic school or school system (i) is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregated public schools, and (ii) does not otherwise practice discrimination on the basis of race, color, or national origin in the operation of any school activity;

(B) had in effect any practice, policy, or procedure which results in the disproportionate demotion or dismissal of instructional or other personnel from racial minority groups in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, or otherwise engaged in discrimination based upon race, color, or national origin in the hiring, promotion, or assignment of employees of the agency (or other personnel for whom the agency has any administrative responsibility);

(C) in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, had in effect any procedure for the assignment of children to or within classes which results in the separation of racial minority group from nonminority group children;

(D) had in effect any other practice, policy, or procedure, such as limiting curricular or extracurricular activities (or participation therein by children) in order to avoid the participation of racial minority group children in such activities, which discriminates among children on the basis of race, color, or national origin;

except that, in the case of any local educational agency which is ineligible for assistance by reason of clause (A), (B), (C), or (D), such agency may make application for a waiver of ineligibility, which application shall specify the reason for its ineligibility, contain such information and assurances as the Secretary shall require by regulation in order to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exist or occur and include such provisions as are necessary to insure that such activities do not reoccur after the submission of the application.

(2) All determinations pursuant to this subsection shall be carried out in accordance with criteria and investigative procedures established by regulations of the Secretary for the purpose of compliance with this subsection.

(3) All determinations and waivers pursuant to this subsection shall be in writing.

(e) (1) The Secretary shall carry out a program to meet the needs of children who are from an environment in which the dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. From the amount reserved pursuant to section 1803(c) the Secretary is authorized to make grants to and contracts with—

(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more local educational agencies which are eligible for assistance under this section, designed to meet the special educational needs of children who are from environments in which the dominant language is other than English for the development of reading, writing, and speaking skills in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the groups of which such children are members;

(B) local educational agencies eligible for assistance under this section for the purposes of engaging in such activities;

(C) local educational agencies eligible for assistance under this section for the purpose of carrying out activities authorized under section 1806 of this title to implement curricula developed under clause (A) or (B) or curricula otherwise developed which the Secretary determines meets the needs described in clause (A).

In making grants and contracts under this paragraph, the Secretary shall assure that sufficient funds from the amount reserved pursuant to section 1803(c) remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Secretary determines meet the needs described in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph, the Secretary shall take whatever action is necessary to assure that the implementation plan includes provisions adequate to insure training of teachers and other ancillary education personnel.

(2)(A) In order to be eligible for a grant or contract under this subsection—

(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policymaking authority with respect to the program or project and (II) have demonstrated to the Secretary that it has the capacity to obtain the services of adequately trained and qualified staff.

(B) A program or project committee or board established pursuant to subparagraph (A) must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the group, the educational needs of which the program or project is intended to meet.

(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under this section. The Secretary shall insure that programs of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.

AUTHORIZED ACTIVITIES

SEC. 1806. Financial assistance under this title shall be available for programs or projects which would not otherwise be funded and which involve activities designed to carry out the purpose of this title stated in section 1802(a), including—

(1) remedial and other services to meet the special needs of children (including gifted and talented children) in schools which are affected by a plan or activity described in section 1805 or a program described in section 1809(2), when such services are deemed necessary to the success of such plan, activity, or program;

(2) the provision of additional professional or other staff members (including staff members specially trained in problems incident to desegregation or the elimination, reduction, or prevention of racial isolation) and the training and retraining of staff for such schools;

(3) comprehensive guidance, counseling, and other personal services for such children;

(4) development and employment of new instructional techniques and materials designed to meet the needs of such children;

(5) educational programs using shared facilities for career education and other specialized activities;

(6) innovative interracial educational programs or projects involving the joint participation of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 1804(a), and other children attending different schools, including extracurricular activities and cooperative exchanges or other arrangements between schools within the same or different school districts;

(7) repair or minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of equipment) and the lease or purchase of mobile classroom units or other mobile educational facilities;

(8) community activities, including public education efforts, in support of a plan or activity described in section 1805 or a program described in section 1809(2);

(9) special administrative activities, such as the rescheduling of students or teachers, or the provision of information to parents and other members of the general public, incident to the implementation of a plan or activity described in section 1805 or a program described in section 1809(2);

(10) planning and evaluation activities; and

(11) other specially designed programs or projects which meet the purpose of this title stated in section 1802(a).

CRITERIA FOR APPROVAL

SEC. 1807. (a) In approving applications submitted under this title (except for those submitted under sections 1805(e) and 1809(2)), the Secretary shall apply only the following criteria:

(1) the need for assistance, taking into account such factors as—

(A) the extent of racial isolation (including the number of racially isolated children and the relative concentration of such children) in the school district to be served as compared to other school districts in the State,

(B) the financial need of such school district as compared to other school districts in the State,

(C) the expense and difficulty of effectively carrying out a plan or activity described in section 1805 in such school district as compared to other school districts in the State, and

(D) the degree to which measurable deficiencies in the quality of public education afforded in such school district exceed those of other school districts within the State;

(2) the degree to which the plan or activity described in section 1805, and the program or project to be assisted, are likely to effect a decrease in racial isolation in racially isolated schools, or in the case of applications submitted under section 1805(a)(3)(C), the degree to which the plan and the program or project, are likely to prevent racial isolation from occurring or increasing (in the absence of assistance under this title);

(3) the extent to which the plan or activity described in section 1805 constitutes a comprehensive districtwide approach to the elimination of racial isolation, to the maximum extent practicable, in the schools of such school district;

(4) th degree to which the program or project to be assisted affords promise of achieving the purpose of this title stated in section 1802(a);

(5) that (except in the case of an application submitted under section 1809(1)) the amount necessary to carry out effectively the program or project does not exceed the amount available for assistance in the State under this title in relation to the other applications from the State pending before him; and

(6) the degree to which the plan or activity described in section 1805 involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(b) The Secretary shall not give less favorable consideration to the application of a local educational agency (including an agency currently classified as legally desegregated by the Secretary) which has voluntarily adopted a plan qualified for assistance under this title (due only to the voluntary nature of the action) than to the application of a local educational agency which has been legally required to adopt such a plan.

ASSURANCES

SEC. 1808. (a) An application submitted for approval under this title shall contain such information as the Secretary may prescribe and shall contain assurances that—

(1) the appropriate State educational agency has been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Secretary;

(2) the applicant has adopted effective procedures, including provisions for such objective measurements of educational and other change to be effected by this title as the Secretary may require for the continuing evaluation of programs or projects under this title, including their effectiveness in achieving clearly stated program goals, their impact on related programs or projects and upon the community served, and their structure and mechanisms for the delivery of services, and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs or projects;

(3) the applicant will provide such other information as the Secretary may require to carry out the purpose of this title stated in section 1802(a);

(4) the applicant is not reasonably able to provide, out of non-Federal sources, the assistance for which the application is made; and

(5) staff members of the applicant who work directly with children, and professional staff of such applicant who are employed on the administrative level, will be hired, assigned, promoted, paid, demoted, dismissed or otherwise treated without regard to their membership in a racial minority group, except that no assignment pursuant to a court order or a plan approved under title VI of the Civil Rights Act of 1964, or otherwise adopted under section 1805, will be considered as being in violation of this subsection.

(b) An application for assistance under this title submitted by a local educational agency shall, in addition to meeting the requirements of subsection (a), contain satisfactory assurances that—

(1) to the extent consistent with the number of children, teachers, and other educational staff in the school district of such agency enrolled or employed in private nonprofit elementary and secondary schools whose participation would assist in achieving the purpose of this title stated in section 1802(a) or, in the case of an application under section 1805(e), would assist in meeting the needs described in paragraph (1)(A) of that subsection, such agency (after consultation with the appropriate private school officials) has made provisions for their participation on an equitable basis;

(2) such agency has not reduced its fiscal effort for the provision of free public education for children in attendance at the schools of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year;

(3) the current expenditure per pupil (as defined in section 1811(a)) which such agency makes from revenues derived from its local sources for the academic year for which assistance under this title will be made available to such agency is not less than the current expenditure per pupil which such agency made from such revenues for (A) the academic year preceding the academic year during which the implementation of a plan or activity described in section 1805 or in section 1809(2) was commenced, or (B) the third academic year preceding the aca-

demic year for which such assistance will be made available, whichever is later;

(4) the plan with respect to which such agency is seeking assistance (as specified in section 1805(a)(1)) does not involve freedom of choice as a means of desegregation, unless the Secretary determines that freedom of choice has achieved, or will achieve, the complete elimination of a dual school system in the school district of such agency;

(5) for each academic year for which assistance is made available to the applicant under this title, such agency has taken or is in the process of taking all practicable steps to avail itself of all assistance for which it is eligible under any program administered by the Commissioner of Education;

(6) such agency will not institute or have in effect any practice, policy, or procedure prohibited by clause (B), (C), or (D) of section 1805(d)(1));

(7) such agency will not engage in a transaction described in clause (A) of section 1805 (d)(1); and

(8) such agency will carry out, and comply with, all provisions, terms, and conditions of any plan or activity as described in section 1805 or section 1809(2) upon which a determination of its eligibility for assistance under this title is based.

(c) The Secretary shall not finally disapprove in whole or in part any application for funds submitted by a local educational agency without first notifying the local educational agency of the specific reasons for his disapproval and without affording the agency a reasonable time to modify its application.

(d) The Secretary may, from time to time, set dates by which applications shall be filed.

(e) In the case of an application by a combination of local educational agencies for jointly carrying out a program or project under this title, at least one such agency shall be an agency described in section 1805 (a) or (e) or section 1809 and any one or more of such agencies joining in such application may be authorized to administer such program or project.

SPECIAL PROGRAMS

SEC. 1809. From the funds available to him under the second sentence of section 1804(a) the Secretary is authorized to make grants—

(1) to eligible local educational agencies to carry out model or demonstration programs related to the purpose of this title stated in section 1802(a) if in the Secretary's judgment these programs make a special contribution to the development of methods, techniques, or programs designed to eliminate racial segregation or to eliminate, reduce, or prevent racial isolation in elementary or secondary schools; and

(2) to local educational agencies to carry out programs for children who are from environments where the dominant language is other than English and who, (A) as a result of limited English-speaking ability, are educationally deprived, (B) have needs similar to the needs of other children participating in programs or projects assisted under this title, and (C) attend a school in which they constitute more than 50 per centum of the enrollment.

PAYMENTS

SEC. 1810. (a) Upon his approval of an application for assistance under this title, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefore the amount fixed for such application.

(b) The Secretary shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

(c)(1) If a local educational agency in a State is prohibited by law from providing for the participation of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (1) of section 1808(b), the Secretary may waive such requirement with respect to local educational agencies in such State and, upon the approval of an application from a local educational agency within such State, shall arrange for the provision of services to such children enrolled in, or teachers or other educational staff of, any nonprofit private elementary or secondary school located within the school district of such agency if the participation of such children and staff would assist in achieving the purpose of this title stated in section 1802(a) or in the case of an application under section 1805(e) would assist in meeting the needs described in paragraph (1)(A). The services to be provided through arrangements made by the Secretary under this paragraph shall be comparable to the services to be provided by such local educational agency under such application. The Secretary shall pay the cost of such arrangements from such State's allotment or, in the case of an application under section 1805(e), from the funds reserved under section 1803 (c), or in case of an application under section 1809, from the sums available to the Secretary under the second sentence of section 1804(a).

(2) In determining the amount to be paid pursuant to paragraph (1), the Secretary shall take into account the number of children and teachers and other educational staff who, except for provisions of State law, might reasonably be expected to participate in the program carried out under this title by such local educational agency.

(3) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (1) of section 1808(b), he shall arrange for the provision of services to children enrolled in, or teachers or other educational staff of, the nonprofit private elementary or secondary school or schools located within the school district of such local educational agency, which services shall, to the maximum extent feasible, be identical with the services which would have been provided such children or staff had the local educational agency carried out such assurance. The Secretary shall pay the cost of such services from the grant to such local educational agency and shall have the authority for this purpose of recovering from such agency any funds paid to it under such grant.

(d) After making a grant or contract under this title, the Secretary shall notify the appropriate State educational agency of the name of the approved applicant and of the amount approved.

(e) The amount of financial assistance to a local educational agency under this title may not exceed those net additional costs which are determined by the Secretary, in accordance with regulations prescribed by him, to be the result of the implementation of a plan or activity described in section 1805 (a), (b), or (e), or of the operation of a program under section 1809(2).

DEFINITIONS

SEC. 1811. As used in this title, except when otherwise specified—

(a) The term "current expenditure per pupil" for a local educational agency means (1) the expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay and debt service, or any expenditure made from funds granted under such Federal program of assistance as the Secretary may prescribe, divided by (2) the number of children in average daily attendance to whom such agency provided free public education during the year for which the computation is made.

(b) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of education services, such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and other related material.

(c) The term "gifted and talented children" means, in accordance with objective criteria prescribed by the Secretary, children who have outstanding intellectual ability or creative talent.

(d) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control, or direction, of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school; and where responsibility for the control and direction of the activities in such schools which are to be assisted under this title is vested in an agency subordinate to such a board or other authority, the Secretary may consider such subordinate agency as a local educational agency for purpose of this title.

(e) The term "nonprofit" as applied to an agency, organization, or institution means an agency, organization, or institution owned or operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(f) The terms "racially isolated school" and "racial isolation" in reference to a school mean a school and condition, respectively, in which Negro, American Indian, or Spanish-surnamed American children, or children who are members of other racial minority groups as determined by the Secretary under section 1804(a), constitute more than 50 per centum of the enrollment of a school.

(g) The terms "elementary and secondary school" and "school" mean a school which provides elementary or secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(h) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(i) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

(j) The term "State" means one of the fifty States or the District of Columbia, and for purposes of section 1809, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be deemed to be States.

EVALUATION

SEC. 1812. Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation under this title for any fiscal year shall be available to him under the second sentence of section 1804(a) for evaluation (directly or by grant or contract) of the programs, activities, and projects authorized by this title.

JOINT FUNDING

SEC. 1813. Pursuant to regulations prescribed by the President, where funds are advanced by the Department of Health, Education, and Welfare and one or more other Federal agencies for any program, project, or activity funded in whole or in part under this title, any one Federal agency may be designated to act for all in administering the funds advanced.

NATIONAL ADVISORY COUNCIL

SEC. 1814. (a) There is hereby established a National Advisory Council on Equality of Educational Opportunity, consisting of fifteen members, at least one-half of whom shall be representatives of racial minority groups, appointed by the President, which shall—

(1) advise the Secretary with respect to the operation of the program authorized by this title, including the preparation of regulations and the implementation of the criteria for the approval of applications;

(2) review the operation of the program (A) with respect to its effectiveness in achieving the purpose stated in section 1802(a), and (B) with respect to the Secretary's conduct in the administration of the program;

(3) meet not less than four times in the period during which the program is authorized and submit through the Secretary to the Congress at least two interim reports, which reports shall include a statement of its activities and of any recommendations it may have with respect to the operation of the program; and

(4) not later than December 1, 1973, submit to the Congress a final report on the operation of the program.

(b) The Commissioner shall submit an estimate under the authority of section 401 (c) of part C of the General Education Provisions Act to the Congress for the appropriations necessary for the Council created by subsection (a) to carry out its functions.

REPORTS

SEC. 1815. The Secretary shall make periodic detailed reports concerning his activities in connection with the program authorized by this title and the program carried out with appropriations under the paragraph headed "Emergency School Assistance" in the Office of Education Appropriations Act, 1971 (Public Law 91–380), and the effectiveness of programs and projects assisted under this title in achieving the purpose of this title stated in section 1802(a). Such reports shall contain such information as may be necessary to permit adequate evaluation of the program authorized by this title, and shall include application forms, regulations, program guides, and guidelines used in the administration of the program. The report shall be submitted to the President and to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. The first report submitted pursuant to this section shall be submitted no later than ninety days after the enactment of this title. Subsequent reports shall be submitted no less often than two times annually.

GENERAL PROVISIONS

SEC. 1816. (a) The provisions of parts B and C of the General Education Provisions Act shall apply to the program of Federal assistance authorized under this title as if such program were an applicable program under such General Education Provisions Act, and the Secretary shall have the authority vested in the Commissioner of Education by such parts with respect to such program.

(b) Section 422 of such General Education Provisions Act is amended by inserting "the Emergency School Aid Act of 1971;" after "the International Education Act of 1966:"

PROHIBITION AGAINST BUSING

SEC. 1817. No funds appropriated pursuant to this title may be used to acquire or pay for the use of equipment for the purpose of transporting children to or from any school, or otherwise to pay any part of the cost of any such transportation.

NEIGHBORHOOD SCHOOLS

SEC. 1818. Nothing in this title shall be construed as requiring any local educational agency which assigns students to schools on the basis of geographic attendance areas drawn on a racially nondiscriminatory basis to adopt any other method of student assignment whether or not the use of such geographic attendance areas results in the complete desegregation of the schools of such agency.

Mr. PELL. Mr. President, I move that the Senate concur in the House amendment with an amendment in the nature of a substitute.

The amendment in the nature of a substitute is as follows:

GENERAL PROVISIONS

SEC. 2. (a) As used in this Act—

(1) the term "Secretary" means the Secretary of Health, Education, and Welfare; and

(2) the term "Commissioner" means the Commissioner of Education;

unless the context requires another meaning.

(b) Unless otherwise specified, the redesignation of a section, subsection, or other designation by any amendment in this Act shall include the redesignation of any reference to such section, subsection, or other designation in any Act or regulation, however styled.

(c)(1) Unless otherwise specified, in any case where an amendment made by this Act is to become effective after a date set herein, it shall be effective with the beginning of the day which immediately follows the date after which such amendment is effective.

(2) In any case where the effective date for an amendment made by this Act is expressly stated to be effective after June 30, 1971, such amendment shall be deemed to have been enacted on July 1, 1971.

TITLE I—HIGHER EDUCATION

PART A—COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Section 101 of the Higher Education Act of 1965 is amended by striking out all that follows "authorized to be appropriated" and inserting in lieu thereof the following: "$60,000,000 for the fiscal year ending June 30, 1972, and for each of the succeeding fiscal years ending prior to July 1, 1975.".

(b) The amendment made by subsection (a) shall be effective after June 30, 1971.

SPECIAL PROGRAMS AND PROJECTS RELATING TO NATIONAL AND REGIONAL PROBLEMS

SEC. 102. (a)(1) Sections 106, 107, 108, 109, 110, and 111 of the Higher Education Act of 1965, and all references thereto, are redesignated as sections 107, 108, 109, 110, 111, and 112, respectively. Title I of such Act is amended by inserting after section 105 the following new section:

"SPECIAL PROGRAMS AND PROJECTS RELATING TO NATIONAL AND REGIONAL PROBLEMS

"SEC. 106. (a)(1) The Commissioner is authorized to reserve from the sums appropriated pursuant to section 101 for any fiscal year an amount not in excess of 10 per centum of the sums so appropriated for that fiscal year for grants pursuant to subsection (b).

"(b)(1) From the sums reserved under subsection (a), the Commissioner is authorized to make grants to, and contracts with, institutions of higher education (and combinations thereof) to assist them in carrying out special programs and projects, consistent with the purposes of this title, which are designed to seek solutions to national and regional problems relating to urbanization, technological and social changes, and environmental pollution.

"(2) No grant or contract under this section shall exceed 90 per centum of the cost of the program or project for which application is made.".

(2) Section 103(a) of such title I is amended by striking out that part of the language which precedes ", the Commissioner" and by inserting in lieu thereof "From the sums appropriated pursuant to section 101 for any fiscal year which are not reserved under section 106(a)".

(b) The amendments made by the second sentence of subsection (a) and by paragraph (2) of such subsection shall be effective after June 30, 1972, and then—

(1) only with respect to appropriations for title I of the Higher Education Act of 1965 for fiscal years beginning after June 30, 1972; and

(2) only to the extent that the allotment to any State under section 103(a) of such title is not less for any fiscal year than the allotment to that State under such section 103(a) for the fiscal year ending June 30, 1972.

METROPOLITAN AREA PROGRAMS

SEC. 103. (a)(1) Sections 110, 111, and 112 (as so designated by section 102) of the Higher Education Act of 1965, and all references thereto, are redesignated as sections 111, 112, and 113, respectively. Title I of such Act is amended by inserting after section 109 the following new section:

"METROPOLITAN AREA PROGRAMS

"SEC. 110. (a) The Commissioner is authorized to make grants to institutions of higher education (and combinations thereof) which are located within, or adjacent to, Standard Metropolitan Statistical Areas to assist such institutions in planning, developing, and carrying out, consistent with the purposes of this title, comprehensive programs specifically designed to apply the resources of higher education to the problems of the urban communities within Standard Metropolitan Statistical Areas.

"(b) For the purposes of making grants under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975.".

(2) Section 101 of such title is amended by inserting after "under this title" the following: "(other than section 110)".

(b) Section 1201 of the Higher Education Act of 1965 is amended by adding at the end thereof the following new paragraph:

"(1) The term 'Standard Metropolitan Statistical Area' means the area in and around a city of fifty thousand inhabitants or more as defined by the Director of the Office of Management and Budget.".

(c) The amendments made by subsection (a) shall be effective after June 30, 1972.

EVALUATION OF ACTIVITIES

SEC. 104. (a) During the period beginning with the date of enactment of this Act and ending July 1, 1974, the Commissioner shall conduct a review of the programs and projects carried out with assistance under title I of the Higher Education Act of 1965 prior to July 1, 1973. Such review shall include an evaluation of specific programs and projects with a view toward ascertaining which of them show, or have shown (1) the greatest promise in achieving the purposes of such title, and (2) the greatest return for the resources devoted to them. Such review shall be carried out by direct evaluations by the Commissioner, by the use of other agencies, institutions, and groups, and by the use of independent appraisal units.

(b) Not later than March 31, 1973, and March 31, 1975, the Commissioner shall submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives a report on the review conducted pursuant to subsection (a). Such report shall include (1) an evaluation of the program authorized by title I of the Higher Education Act of 1965 and of specific programs and projects assisted through payments under such title, (2) a description and an analysis of programs and projects which are determined to be most successful, and (3) recommendations with respect to the means by which the most successful programs and projects can be expanded and replicated.

(c) Sums appropriated pursuant to section 401(c) of the General Education Provisions Act for the purposes of section 402 of such Act shall be available to carry out the purposes of this section.

PART B—COLLEGE LIBRARY PROGRAMS

AUTHORIZATION OF APPROPRIATIONS

SEC. 111. (a) Sections 201 and 221 of the Higher Education Act of 1965 are each amended by striking out "for the fiscal year ending June 30, 1971" and inserting in lieu thereof "each for the fiscal years ending June 30, 1971, and June 30, 1972."

(b) (1) Title II of the Higher Education Act of 1965 is amended by striking out "PART A—COLLEGE LIBRARY RESOURCES" and by striking out all of section 201 and inserting in lieu thereof the following:

"COLLEGE LIBRARY PROGRAMS; TRAINING; RESEARCH

"SEC. 201. (a) The Commissioner shall carry out a program of financial assistance—

"(1) to assist and encourage institutions of higher educaiton in the acquisition of library resources, including law library resources, in accordance with part A: and

"(2) to assist with and encourage research and training persons in librarianship, including law librarianship, in accordance with part B.

"(b) For the purpose of making grants under parts A and B, there are authorized to be appropriated $130,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975. Of the sums appropriated pursuant to the preceding sentence for any fiscal year, 70 per centum shall be used for the purposes of part A and 30 per centum shall be used for the purposes of part B, except that the amount available for the purposes of part B for any fiscal year shall not be less than the amount appropriated for such purposes for the fiscal year ending June 30, 1972.

"(c) For the purposes of this title—

"(1) the term 'library resources' means books, periodicals, documents, magnetic tapes, phonograph records, audiovisual materials, and other related library materials, including necessary binding; and

"(2) the term 'librarianship' means the principles and practices of the ilbrary and information sciences, including the acquisition, organization, storage, retrieval and dissemination of information, and reference and research use of library and information resources.

"PART A—COLLEGE LIBRARY RESOURCES"

(2) (A) Section 202 of such title II is amended by striking out that part of the first sentence which precedes "institutions of higher education" and inserting in lieu thereof the following: "From the amount available for grants under this part pursuant to section 201 for any fiscal year, the Commissioner shall make basic grants for the purposes set forth in section 201(a)(1) to".

(B) Section 203 of such title II is amended by striking out that part of the first sentence which precedes "supplemental grants" and inserting in lieu thereof the following: "From that part of the sums appropriated pursuant to section 201 for the purposes of this part for any fiscal year which remains after making basic grants pursuant to section 202, and which is not reserved for the purposes of section 204, the Commissioner shall make", and by striking out "section 201" where it appears after "set forth in" and inserting in lieu thereof "section 201(a)(1)".

(C) (i) Section 204(a)(1) of such title II is amended to read as follows:

"(1) From the sums appropriated pursuant to section 201 for the purposes of this part for any fiscal year, the Commissioner is authorized to reserve not to exceed 25 per centum thereof for the purposes of this section.".

(ii) Section 304(a)(2) of such title II is amended by striking out that part of the first sentence which precedes "may be used to make" and inserting in lieu thereof "Sums reserved pursuant to paragraph (1)".

(iii) Section 204(a) of such title II is amended by striking out paragraph (3).

(3) (A) Part B of such title II is amended by striking out sections 221 and 222 and inserting in lieu thereof the following:

"TRAINING AND RESEARCH PROGRAMS

"SEC. 221. From the amount available for grants under this part pursuant to section 201 for any fiscal year, the Commissioner shall carry out a program of making grants in accordance with sections 222 and 223. Of such amount, 66⅔ per centum shall be available for the purposes of section 222 and 33⅓ per centum shall be available for the purposes of section 223.".

(B) Such part B is further amended by striking out section 225; and sections 223 and 224 of such part, and all references thereto (except those references thereto in section 221 of such part, as amended by subparagraph (A)), are redesignated as sections 222 and 223, respectively.

(c) (1) The amendments made by subsection (a) shall be effective on and after July 1, 1971.

(2) The amendments made by subsection (b) shall be effective after June 30, 1972, and only with respect to appropriations for the fiscal year ending June 30, 1973, and succeeding fiscal years.

WAIVER OF MAINTENANCE OF EFFORT REQUIREMENT

SEC. 112. (a) Section 202 of title II of the Higher Education Act of 1965 is amended by redesignating clauses (c) and (d), and all references thereto, as clauses (2) and (3), respectively, and by striking out clauses (a) and (b) and inserting in lieu thereof the following:

"(1) provides satisfactory assurance that the applicant will expend during the fiscal year for which the basic grant is sought, from funds other than funds received under this part—

"(A) for all library purposes (exclusive of construction), an amount not less than the average annual amount if expended for such purposes during the two fiscal years preceding the fiscal year for which assistance is sought under this part, and

"(B) for library resources, an amount not less than the average amount it expended for such resources during the two fiscal years preceding the fiscal year for which assistance is sought under this part,

except that, if the Commissioner determines, in accordance wtih regulations, that there are special and unusual circumstances which prevent the applicant from making the assurances required by this clause (1), he may waive that requirement for one or more of such assurances;".

(b) (1) The second sentence of such section 202 is amended by striking out "not exceed" and inserting in lieu thereof the following: ", for any fiscal year, be equal to the amount expended by the applicant for library resources during that year from funds other than funds received under this part, except that no basic grant shall exceed".

(2) Clause (1) of section 203(a) of such title II is amended by striking out that part thereof which follows "section 202" and inserting in lieu thereof a semicolon.

(c) The amendments made by this section shall be effective after, and only with respect to appropriations for fiscal year beginning after, June 30, 1971.

INCREASE IN MAXIMUM AMOUNT OF SUPPLEMENTAL GRANTS

SEC. 113. (a) Section 203(a) of the Higher Education Act of 1965 is amended by striking out "$10" and inserting in lieu thereof "$15".

(b) Such section 203(a) is amended by striking out "$15" and inserting in lieu thereof "$20".

(c) (1) The amendment made by subsection (a) shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1972.

(2) The amendment made by subsection (b) shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1974.

AUTHORIZATION OF APPROPRIATIONS FOR COLLEGE AND RESEARCH LIBRARY RESOURCES

SEC. 114. (a) Section 231 of the Higher Education Act of 1965 is amended by striking out "and the succeeding fiscal year" and inserting in lieu thereof "and $15,000,000 for each of the succeeding fiscal years ending prior to July 1, 1974".

(b) Such section 231 is further amended by striking out "enable the Commissioner to transfer funds to".

(c) The amendments made by subsections (a) and (b) shall be effective after June 30, 1971.

EVALUATION AND REPORT

SEC. 115. (a) Part C of title II of the Higher Education Act of 1965 is amended by adding at the end thereof the following new section:

"EVALUATION AND REPORT

"SEC. 232. No later than March 31 of each calendar year, the Librarian of the Congress shall transmit to the Committees on Education and Labor and on House Administration of the House of Representatives, and the Committees on Labor and Public Welfare and on Rules and Administration of the Senate, and to the respective Committees on Appropriations of the Congress, a report evaluating the result and effectiveness of acquisition and cataloging work done under this part, based to the maximum extent practicable on objective measurements, including costs, together with recommendations as to proposed legislative action.".

(b) The amendment made by subsection (a) shall be effective after June 30, 1971.

PART C—DEVELOPING INSTITUTIONS; EMERGENCY ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION

EXTENSION OF AUTHORIZATION FOR TITLE III

SEC. 121. (a) Section 301(b)(1) of the Higher Education Act of 1965 is amended by inserting "each" after "$91,000,000" and by inserting after "1971," the following: "and the fiscal year ending June 30, 1972,".

(b) The amendments made by subsection (a) shall be effective after June 30, 1971.

REVISION OF TITLE III (STRENGTHENING DEVELOPING INSTITUTIONS)

SEC. 122. (a) Title III of the Higher Education Act of 1965 is amended to read as follows:

"TITLE III—STRENGTHENING DEVELOPING INSTITUTIONS

"AUTHORIZATIONS

"SEC. 301. (a) The Commissioner shall carry out a program of special assistance to strengthen the academic quality of developing institutions which have the desire and potential to make a substantial contribution to the higher education resources of the Nation but which are struggling for survival and are isolated from the main currents of academic life and which enroll a significant proportion of students who have been educationally deprived or who have limited English speaking ability.

"(b) (1) For the purpose of carrying out this title, there are authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, and each of the succeeding fiscal years ending prior to July 1, 1975.

(2) Of the sums appropriated pursuant to this subsection for any fiscal year, (A) 24 per centum shall be available only for carrying out the provisions of this title with respect to developing institutions which are junior or community colleges, and (B) not less than 50 per centum shall be available only for carrying out the provisions of this title with respect to developing institutions which the Commissioner determines meets the criterion set forth in clause (D) (iii) of section 302(a) (1).

"ELIGIBILITY FOR SPECIAL ASSISTANCE

"SEC. 302. (a) (1) For the purposes of this title, the term 'developing institution' means an institution of higher education in any State which—

"(A) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or a junior or community college;

"(B) is accredited by a nationally recognized accrediting agency or association determined by the Commissioner to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

"(C) except as is provided in paragraph (2), has met the requirement of clauses (A) and (B) during the five academic years preceding the academic year for which it seeks assistance under this title; and

"(D) meets such other requirements as the Commissioner shall, with the advice of the Council, prescribe by regulation, which requirements shall include at least a determination of whether the institution—

"(i) is making a reasonable effort to improve the quality of its teaching and administrative staffs and of its student services,

"(ii) is, for financial or other reasons, struggling for survival and is isolated from the main currents of academic life, and

"(iii) enrolls a significant proportion of students who may have had inadequate secondary school preparation or who come from educationally, culturally, or economically deprived backgrounds.

"(2) The Commissioner is authorized to waive the requirement set forth in clause (C) of paragraph (1) in the case of applications for grants under this title by junior or community colleges, or such institutions located on or near an Indian reservation if the Commissioner determines that such action will increase the availability of higher education to Indians, except that grants pursuant to such applications for any fiscal year may not involve an expenditure of funds in excess of 10 per centum of the amount designated by clause (A) of paragraph (2) of section 301(b).

"(b) Any institution desiring special assistance under the provisions of this title shall submit an application for eligibility to the Commissioner at such time, in such form, and containing such information, as may be necessary to enable the Commissioner to evaluate the need of the applicant for such assistance and to determine its eligibility to be a developing institution for the purposes of this title. The Commissioner shall, with the advice of the Council approve any application for eligibility under this subsection, which indicates that the applicant is a developing institution meeting the requirements set forth in subsection (a). Not later than thirty days after the beginning of any fiscal year ending after June 30, 1972, the Commission shall, on the basis of applications submitted pursuant to the first sentence of this subsection, establish a list of developing institutions eligible for special assistance under the provisions of this title. Such list of developing institutions shall be published in the Federal Register as soon as possible after its establishment each year.

"(c) For the purposes of clause (A) of paragraph (1) and of paragraph (2) of subsection (a) of this section and of paragraph (2) of section 301(b), the term 'junior or community college' means an institution of higher education—

"(1) which does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree);

"(2) which admits as regular students only persons having a certificate of graduation from a school providing secondary education (or the recognized equivalent of such a certificate); and

"(3) which does—

"(A) provide an educational program of not less than two years which is acceptable for full credit toward such a degree, or

"(B) offer a two-year program in engineering, mathematics, or the physical or biological sciences, which program is designed to prepare a student to work as a technician and at the semiprofessional level in engineering, scientific, or other technological fields, which fields require the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

"ADVISORY COUNCIL ON DEVELOPING INSTITUTIONS

"SEC. 303. (a) There is hereby established an Advisory Council on Developing Institutions (in this title referred to as the 'Council') consisting of nine members appointed by the Commissioner with the approval of the Secretary.

"(b) The Council shall, with respect to the program authorized by this title, carry out the duties and functions specified by part C of the General Education Provisions Act and, in particular, it shall assist the Commissioner—

"(1) in developing the criteria for defining developing institutions under clause (D) of section 302(a) (1);

"(2) in establishing the list described in section 302(b);

"(3) in identifying developing institutions through which the purposes of this title may be achieved; and

"(4) in establishing the priorities and criteria to be used in making grants under section 304(a).

"USES OF FUNDS: COOPERATIVE ARRANGEMENTS, NATIONAL TEACHING FELLOWSHIPS, AND PROFESSORS EMERITUS

"SEC. 304. (a) The Commissioner is authorized to make grants and awards, in accordance with the provisions of this title, for the purpose of strengthening developing institutions Such grants and awards shall be used solely for the purposes set forth in subsection (b).

"(b) Funds appropriated pursuant to section 301(b) shall be available for—

"(1) grants to institutions of higher education to pay part of the cost of planning, developing, and carrying out cooperative arrangements between developing institutions and other institutions of higher education, and between developing institutions and other organizations, agencies, and business entities, which show promise as effective measures for strengthening the academic program and the administrative capacity of developing institutions, including such projects and activities as—

"(A) exchange of faculty or students, including arrangements for bringing visiting scholars to developing institutions,

"(B) faculty and administration improvement programs, utilizing training, education (including fellowships leading to advanced degrees), internships, research participation, and other means.

"(C) introduction of new curricula and curricular materials,

"(D) development and operation of cooperative education programs involving alternate periods of academic study and business or public employment, and

"(E) joint use of facilities such as libraries or laboratories, including necessary books, materials, and equipment;

"(2) National Teaching Fellowships to be awarded by the Commissioner to highly qualified graduate students and junior faculty members of institutions of higher education for teaching at developing institutions; and

"(3) Professors emeritus grants to be awarded by the Commissioner to professors retired from active service at institutions of higher education to encourage them to teach and to conduct research at developing institutions.

"(c) (1) An application for assistance for the purposes described in subsection (b) (1) shall be approved only if it—

"(A) sets forth a program for carrying out one or more of the activities described in subsection (b) (1), and set forth such policies and procedures for the administration of the program as will insure the proper and efficient operation of the program and the accomplishment of the purposes of this title;

"(B) sets forth such policies and procedures as will insure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds be made available for the purposes of the activities described in subsection (b) (1), and in no case supplant such funds;

"(C) sets forth policies and procedures for the evaluation of the effectiveness of the project or activity in accomplishing its purpose;

"(D) provides for such fiscal control and fund accounting procedures as may be necessary to insure proper disbursement of and accounting for funds made available under this title to the applicant; and

"(E) provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this title, and for keeping such records and affording such access thereto, as he may find necessary to assure the correctness and verification of such reports.

The Commissioner shall, after consultation with the Council, establish by regulation criteria as to eligible expenditures for which funds from grants for cooperative arrangements under clause (1) of subsection (b) may be used, which criteria shall be so designed as to prevent the use of such funds for purposes not necessary to the achievement of the purposes for which the grant is made.

"(2) (A) Applications for awards described in clauses (2) and (3) of subsection (b) may be approved only upon a finding by the Commissioner that the program of teaching and research set forth therein is reasonable in the light of the qualifications of the applicant and of the educational needs of the institution at which the applicant intends to teach.

"(B) No application for a National Teaching Fellowship or a Professors Emeritus Grant shall be approved for an award of such a fellowship or grant for a period exceeding two academic years, except that the award of a Professors Emeritus Grant may be for such period, in addition to such two-year period of award, as the Commissioner, upon the advice of the Council, may determine in accordance with policies of the Commissioner set forth in regulations.

"(C) Each person awarded a National Teaching Fellowship or a Professors Emeritus Grant shall receive a stipend for each academic year of teaching (or, in the case of a recipient of a Professors Emeritus Grant, research), as determined by the Commissioner upon the advice of the Council, plus an additional allowance for each such year for each dependent of such person.

"ASSISTANCE TO DEVELOPING INSTITUTIONS UNDER OTHER PROGRAMS

"SEC. 305. (a) Each institution which has been placed on the list of eligible developing institutions under section 302(b) shall be eligible for priority consideration and waivers in accordance with subsection (b).

"(b)(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by a developing institution for assistance under any program specified in paragraph (2), the Commissioner is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from institutions which are not developing institutions.

"(2) The provisions of this section shall apply to any program authorized by title II, IV, VI, or VII of this Act.

"(c) The Commissioner shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 per centum of the appropriations for that program for any fiscal year.

"LIMITATION

"SEC. 306. None of the funds appropriated pursuant to section 301 (b)(1) shall be used for a school or department of divinity or for any religious worship or sectarian activity.".

(b) The amendment made by subsection (a) shall be effective after, and only with respect to appropriations made for fiscal years beginning after, June 30, 1972.

EMERGENCY ASSISTANCE FOR INSTITUTIONS OF HIGHER EDUCATION

SEC. 123. (a)(1) The Congress hereby finds and declares that—

(A) the Nation's institutions of higher education constitute a national resource which significantly contributes to the security, general welfare, and economy of the United States;

(B) considerable evidence has been advanced which indicates that many institutions of higher education are in financial distress resulting from many causes, including, among others, efforts on the part of such institutions to increase enrollments, to improve the quality of education and training, and to enlarge educational opportunities; and

(C) various proposals have been presented to the Congress, in response to such condition of financial distress, for providing financial assistance to the Nation's institutions of higher education but, except for that necessary to justify payments provided for reimbursement for part of the cost of instruction under subpart 5 of part A of title IV of the Higher Education Act of 1965 as added by section 131(b) of this Act, insufficient information is available on the basis of which the Congress can determine, with any degree of certainty, the nature and causes of such financial distress or the most appropriate means with which present and future conditions of financial distress may be dealt.

(2) It is the purpose of this section (A) to provide to institutions of higher education, which are determined in accordance with this section to be in serious financial distress, interim emergency assistance to enable them to determine the nature and causes of such distress and the means by which such distress may be alleviated, and to improve their capabilities for dealing with financial problems using, to the extent appropriate, assistance authorized under the Higher Education Act of 1965 and all other sources of financial assistance, and (B) to authorize the Commissioner to obtain and make available to the Congress such information as may be necessary to enable the Congress to assess problems relating to financing of higher education, and to make decisions, to the extent that such problems exist, with respect to long-range solutions to such problems.

(b)(1) There is authorized to be appropriated for the period beginning with the date of enactment of this Act, and ending June 30, 1973, $150,000,000 for the purpose of making grants under this subsection. Sums so appropriated shall remain available for obligation and expenditure until expended.

(2) (A) The Commissioner is authorized to make grants to institutions of higher education which are in serious financial distress, as such term is defined in regulations of the Commissioner, in accordance with the provisions of this section.

(B) A grant under this subsection may be made only upon application therefor to the Commissioner. Such applications shall be submitted at such time, in such form, and containing such information, assurances, policies, and procedures as the Commissioner may require in order to enable him to carry out his functions under this section. The Commissioner shall not approve any such application unless he finds that—

(i) in the case of a public institution of higher education, the institution has submitted its application for emergency assistance under this subsection to the appropriate State agency, as provided by the law of the State in which it is located and in accordance with regulations of the Commissioner, if any such agency exists with respect to such State, and such State agency has made a finding, in accordance with criteria established by the Commissioner, that such institution is in serious financial distress and (I) is in need of financial assistance under this section to continue its operation, or (II) will have to discontinue or substantially curtail its academic programs to the detriment of the quality of education available to its students;

(ii) in the case of a nonpublic institution of higher education, the institution either has complied with the procedure set forth in clause (i) for public institutions, or has submitted an application directly to the Commissioner and the Commissioner has determined that the institution meets the condition set forth in either clause (i) (I) or (i) (II), and has submitted a copy to the appropriate State agency, as determined under the law of the State in which it is located and in accordance with regulations of the Commissioner, for comment;

(iii) such institution has developed, adopted, and submitted a plan which the Commissioner determines provides reasonable assurance that, if the institution receives the grant for which it is applying, such institution will be able, during and after the period covered by such grant, to continue the educational services, programs, and activities with respect to which such grant is sought;

(iv) such institution is making a major contribution to the overall higher educational system of the area of the State in which it is located, or of the Nation; and

(v) such institution has included in such application such policies and procedures for the use of funds received under the grant as will insure that such funds will not be used for a school or department of divinity or for any religious worship or sectarian activity, and as will insure that such funds will be solely used for the purposes for which the grant is made.

(C) An application shall be approved under this subsection only if it includes such information, terms, and conditions as the Commissioner finds necessary and reasonable to enable him to carry out his functions under this section, and as he determines will be in the financial interest of the United States, and the applicant agrees—

(i) to disclose such financial information as the Commissioner determines to be necessary to determine the sources or causes of its financial distress and other information relating to its use of its financial resources;

(ii) to conduct a comprehensive cost analysis study of its operation, including income-cost comparisons and cost per credit hour of instruction for each department, in accordance with uniform standards prescribed by the Commissioner; and

(iii) to consider, and either implement or give adequate reasons in writing for not doing so, any financial or operational reform recommended by the Commissioner for the improvement of its financial condition.

(D) The Commissioner shall not approve an application for a grant under this section without first obtaining the advice and recommendations of a panel of specialists who are not regular, full-time employees of the Federal Government and who are competent to evaluate the applications as to the relative degree of financial distress of the applying institutions.

(c)(1) In order to give the States and the Nation the information needed to assess the dimensions of and extent of the financial crisis confronting the Nation's institutions of higher education, the Commissioner shall make, or arrange for, a study of the financial conditions of such institutions to determine the need, if any, the desirability, and the form that additional governmental and private assistance should take. Such study shall include (A) an analysis of the various proposals presented to the Congress that provide assistance to institutions of higher education, as well as other viable alternatives which, in the judgment of the Commissioner, merit inclusion in such a study; (B) the costs, advantages and disadvantages, and the extent to which each proposal would preserve the diversity and independence of such institutions; and (C) the extent to which each would advance the national goal of making higher education accessible to all individuals having the desire and ability to continue their education.

(2)(A) The Commissioner shall, at the earliest practicable date after he has had an opportunity to review the suggested national uniform standards referred to in clause (5) of section 140(c), but not later than July 1, 1973, prescribe national uniform standards for determining average per-student costs to institutions of higher education for providing postsecondary education for students in attendance at such institutions.

(B) After the Commissioner has prescribed the national uniform standard required by subparagraph (A), he shall require, as a condition of approval of any application of any institution of higher education for any funds under a grant or contract authorized by the Higher Education Act of 1965, that such institution supply cost-of-education data determined in accordance with such national uniform standards.

(3) The Commissioner shall report the results of the study required by this subsection to the President and the Congress not later than December 31, 1972.

(d)(1) The Commissioner is authorized to make grants to—

(A) institutions of higher education which are receiving emergency assistance under subsection (b) for the purpose of enabling them to improve their planning and management capabilities, and

(B) other institutions of higher education to assist them in conducting research and demonstration projects having national significance for improving the planning and management capabilities of institutions of higher education.

(2) The maximum amount of a grant under this subsection, with respect to an institution for any fiscal year, shall not exceed—

(A) an amount equal to the full-time equivalent number of persons in enrollment at that institution multiplied by $5; or

(B) $15,000;

whichever is greater.

(3) There are authorized to be appropriated for the period beginning on the date of enactment of this Act, and ending June 30, 1974, such sums as may be necessary to carry out the purposes of this subsection.

(e) As used in this section—

(1) the term "institution of higher education" means an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) has been in existence for at least five years prior to the date upon which it makes application under this section, (D) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit towards such a degree, (E) is a public or other nonprofit institution, and (F) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, (i) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (ii) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution which is accredited, and, for the purpose of this clause, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered;

(2) the term "State" includes the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands; and

(3) the term "school or department of divinity" means an institution or a department or a branch of an institution the program of instruction of which is designed for the education of students (A) to prepare them to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation), or (B) to prepare them to teach theological subjects.

PART D—STUDENT ASSISTANCE

REVISION OF PART A OF TITLE IV (EDUCATIONAL OPPORTUNITY GRANTS)

SEC. 131. (a) (1) (A) The first sentence of section 401(b) of the Higher Education Act of 1965 is amended by striking out that part which precedes "to enable the Commissioner" and inserting in lieu thereof: "There are hereby authorized to be appropriated $170,000,000 for the fiscal year ending June 30, 1972, and for each of the succeeding fiscal years ending prior to July 1, 1975,".

(B) Section 408 of such Act is amended by striking out "for the fiscal year ending June 30, 1971" and inserting in lieu thereof "each for the succeeding fiscal years ending prior to June 30, 1975".

(2) The amendments made by paragraph (1) shall be effective after June 30, 1971.

(b) (1) Part A of title IV of such Act is amended to read as follows:

"PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

"STATEMENT OF PURPOSE; PROGRAM AUTHORIZATION

"SEC. 401. (a) It is the purpose of this part, to assist in making available the benefits of postsecondary education to qualified students in institutions of higher education by—

"(1) providing basic educational opportunity grants (hereinafter referred to as 'basic grants') to all eligible students;

"(2) providing supplemental educational opportunity grants (hereinafter referred to as 'supplemental grants') to those students of exceptional need who, for lack of such a grant, would be unable to obtain the benefits of a postsecondary education;

"(3) providing for payments to the States to assist them in making financial aid available to such students;

"(4) providing for special programs and projects designed (A) to identify and encourage qualified youths with financial or cultural need with a potential for postsecondary education, (B) to prepare students from low-income families for postsecondary education, and (C) to provide remedial (including remedial language study) and other services to students; and

"(5) providing for payments to institutions of higher education in connection with students receiving assistance pursuant to subpart 1 who are in attendance at such institutions.

"(b) The Commissioner shall, in accordance with subparts 1, 2, 3, 4, and 5, carry out programs to achieve the purposes of this part.

"Subpart 1—Basic Educational Opportunity Grants

"BASIC EDUCATIONAL OPPORTUNITY GRANTS: AMOUNT AND DETERMINATIONS; APPLICATIONS

"SEC. 411. (a) (1) The Commissioner shall, during the period beginning July 1, 1972, and ending June 30, 1975, pay to each student who has been accepted for enrollment in, or is in good standing at, an institution of higher education (according to the prescribed standards, regulations and practices of that institution) for each academic year during which that student is in attendance at that institution, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to paragraph (2).

"(2) (A) (i) The amount of the basic grant for a student eligible under this subpart for any academic year shall be $1,400, less an amount equal to the amount determined under paragraph (3) to be the expected family contribution with respect to that student for that year.

"(ii) In any case where a student attends an institution of higher education on less than a full-time basis during any academic year, the amount of the basic grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Commissioner for the purposes of this division. Such schedule of reductions shall be established by regulation and published in the Federal Register not later than February 1 of each year.

"(B) (i) The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed 50 per centum of the actual cost of attendance at the institution at which the student is in attendance for that year.

"(ii) For the purpose of this subparagraph the term 'actual cost of attendance' means, subject to regulations of the Commissioner, the actual per-student charges for tuition, fees, room and board (or expenses related to reasonable commuting), books, and an allowance for such other expenses as the Commissioner determines by regulation to be reasonably related to attendance at the institution at which the student is in attendance.

"(C) No basic grant shall be awarded to a student under this subpart if the amount of that grant for that student as determined under this paragraph for any academic year is less than $200. Pursuant to criteria established by the Commissioner by regulation, the institution of higher education may award a basic grant of less than $200 upon a determination that the amount of the basic grant is less than $200 because of the requirement of division (i) of subparagraph (B) and that due to exceptional circumstances the reduced grant should be made in order to enable the student to benefit from postsecondary education.

"(3) (A) (i) Not later than February 1 of each year the Commissioner shall publish in the Federal Register a schedule of expected family contributions for the succeeding academic year for various levels of family income, which, except as is otherwise provided in division (ii), together with any amendments thereto, shall become effective July 1 of that year. During the thirty-day period following such publication the Commissioner shall provide interested parties with an opportunity to present their views and make recommendations with respect to such schedule.

"(ii) The schedule of expected family contributions required by division (i) for each academic year shall be submitted to the President of the Senate and the Speaker of the House of Representatives not later than February 1 of that year. If either the Senate or the House of Representatives adopts, prior to May 1 of such year, a resolution of disapproval of such schedule, the Commissioner shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in connection with such resolution and shall become effective, together with any amendments thereto, on July 1 of that year.

"(B) (i) For the purposes of this paragraph, the term 'family contribution' with respect to any student means the amount which the family of that student may be reasonably expected to contribute toward his postsecondary education for the academic year for which the determination under subparagraph (A) of paragraph (2) is made, as determined in accordance with regulations. In promulgating such regulations, the Commissioner shall follow the basic criteria set forth in division (ii) of this subparagraph.

"(ii) The basic criteria to be followed in promulgating regulations with respect to expected family contributions are as follows:

"(I) The amount of the effective income of the student or the effective family income of the student's family.

"(II) The number of dependents of the family of the student.

"(III) The number of dependents of the student's family who are in attendance in a program of postsecondary education and for whom the family may be reasonably expected to contribute for their postsecondary education.

"(IV) The amount of the assets of the student and those of the student's family.

"(V) Any unusual expenses of the student or his family, such as unusual medical expenses, and those which may arise from a catastrophe.

"(iii) For the purposes of clause (I) of division (ii) the term 'effective family income' with respect to a student means the annual adjusted famly income, as determined in accordance with regulations prescribed by the Commissioner, received by the parents or guardian of that student (or the person or persons having an equivalent relationship to such student) minus Federal income tax paid or payable with respect to such income.

"(iv) For the purposes of this paragraph, one-half of veteran's benefits and payments under the Social Security Act received by a student or a student's family shall not be included in the determination of family contribution.

"(C) The Commissioner shall promulgate special regulations for determining the expected family contribution and effective family income in the case of students who are determined to be emancipated or self-supporting. Such special regulations shall be consistent with the basic criteria set forth in division (ii) of subparagraph (B).

"(4) (A) The period during which a student may receive basic grants shall be the period required for the completion of the undergraduate course of study being pursued by that student at the institution at which the student is in attendance, except that such period may not exceed four academic years unless—

"(i) the student is pursuing a course of study leading to a first degree in a program of study which is designed by the institution offering it to extend over five academic years; or

"(ii) the student is, or will be, unable to complete a course of study within four academic years because of a requirement of the institution of such course of study that the student enroll in a noncredit remedial course of study,

in either which case such period may be extended for not more than one additional academic year.

"(B) For the purposes of clause (ii) of subparagraph (A), a 'noncredit remedial course of study' is a course of study for which no credit is given toward an academic degree, and which is designed to increase the ability of the student to engage in an undergraduate course of study leading to such a degree.

"(b) (1) The Commissioner shall from time to time set dates by which students must file applications for basic grants under this subpart.

"(2) Each student desiring a basic grant for any year must file an application therefor containing such information and assurances as the Commissioner may deem necessary to enable him to carry out his functions and responsibilities under this subpart.

"(3) (A) Payments under this section shall be made in accordance with regulations promulgated by the Commissioner for such purpose, in such manner as will best accomplish the purposes of this section.

"(B) If, during any period of any fiscal year, the funds available for payments under this subpart are insufficient to fully satisfy all entitlements under this subpart, the amount paid with respect to each such entitlement shall be ratably reduced. When sufficient funds become available for such purpose, the amount of payment to be applied to each holder of a basic grant shall be equal to the difference between the amount paid to that holder under the first sentence of this subparagraph and the amount determined under subsection (a) to be that to which that holder is entitled for that year. No method of computing or manner of distribution of payments shall be used which is inconsistent with this subparagraph.

"Subpart 2—Supplemental Educational Opportunity Grants

"PURPOSE; APPROPRIATIONS AUTHORIZED

"Sec. 413A. (a) It is the purpose of this subpart to provide, through institutions of higher education, supplemental grants to assist in making available the benefits of postsecondary education to qualified students who, for lack of financial means, would be unable to obtain such benefits without such a grant.

"(b) (1) For the purpose of enabling the Commissioner to make payments to institutions of higher education which have made agreements with the Commissioner in accordance with section 413C(b), for use by such institutions for payments to undergraduate students for the initial academic year of a supplemental grant awarded to them under this subpart, there are authorized to be appropriated $200,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975. Funds appropriated pursuant to this paragraph shall be appropriated separate from any funds appropriated pursuant to paragraph (2).

"(2) In addition to the sums authorized to be appropriated by paragraph (1), there are authorized to be appropriated by paragraph (1), there are authorized to be appropriated such sums as may be necessary for payment to institutions of higher education for use by such institutions for making continuing supplemental grants under this subpart, except that no appropriation may be made pursuant to this paragraph for any fiscal year beginning more than three years after the last fiscal year for which an appropriation is authorized under paragraph (1). Funds appropriated pursuant to this paragraph shall be appropriated separate from any funds appropriated pursuant to paragraph (1).

"(3) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the fiscal year succeeding the fiscal year for which they were appropriated.

"(4) For the purposes of this subsection, payment for the first year of a supplemental grant shall not be considered as an initial year payment if the grant was awarded for the continuing education of a student who—

"(A) had been previously awarded a supplemental grant under this subpart (whether by another institution or otherwise), and

"(B) had received payment for any year of that supplemental grant.

"AMOUNT AND DURATION OF GRANTS

"Sec. 413B. (a) (1) An institution which awards a supplemental grant to a student under this subpart shall, for the duration of the grant, pay, from the funds received under this subpart by such institution for such purpose, to that student, for each academic year during which he is in need of such grant to pursue a course of study at that institution, an amount determined pursuant to paragraph (2).

"(2) (A) (i) The amount of the payment to any student pursuant to paragraph (1) shall be equal to the amount determined by the institution to be needed by that student to enable him to pursue a course of study at the institution, except that such amount shall not exceed—

"(I) $1,000, or

"(II) one-half the sum of the total amount of student financial aid provided to such student by institution,

whichever is the lesser.

"(ii) The $1,000 limitation set forth in clause (I) of division (i) shall be increased to $1,200 in the case of a student who, during the preceding academic year, is determined in accordance with regulations to have ranked in the upper half of his class at an institution of higher education.

"(iii) For the purposes of clause (II) of division (i), the term 'student financial aid' includes assistance payments to the student under subpart 1 of this part and parts C and E of this title, and any assistance provided to a student under any scholarship program established by a State or a private institution or organization, as determined in accordance with regulations, shall be deemed to be aid provided such student by the institution.

"(B) If the amount determined under division (i) of subparagraph (A) with respect to a student for any academic year is less than $200, no payment shall be made to that student for that year.

"(C) Subject to subparagraphs (A) and (B), the Commissioner shall prescribe, for the guidance of institutions, basic criteria and schedules for the determination of the amount of needs to be determined under division (i) of subparagraph (A). Such criteria and schedules shall take into consideration the objective of limiting assistance under this subpart to students of financial need, and such other factors related to determining the need of students of financial assistance as the Commissioner deems relevant.

"(b) (1) (A) The duration of a supplemental grant awarded to a student under this subpart shall be the period required for the completion of the undergraduate course of study being pursued by the student to whom the grant is awarded at the institution awarding the grant.

"(B) The period of the duration of a supplemental grant under this subpart shall not exceed four academic years, less any such period with respect to which that student has previously received payments under this subpart pursuant to a prior award of a supplemental grant, whether such payments were made by the same or another institution, except that in the case of a student—

"(i) who is pursuing a course of study leading to a first degree in a program of study which is designed by the institution offering it to extend over five academic years, or

"(ii) who, is, or will be, unable to complete a course of study within four academic years because of a requirement of the institution offering such course of study that the student enroll in a noncredit remedial course of study,

such period may be extended for not more than one additional academic year. For the purposes of clause (ii), a 'non-credit remedial course of study' is a course of study for which no credit is given toward an academic degree, and which is designed to increase the ability of the student to engage in an undergraduate course of study leading to such a degree.

"(2) A supplemental grant awarded under this subpart shall entitle the student to whom it is awarded to payments pursuant to such grant only if—

"(A) that student is maintaining satisfactory progress in the course of study he is pursuing, according to the standards and practices of the institution awarding the grant, and

"(B) that student is devoting at least half-time to that course of study, during the academic year, in attendance at that institution.

Failure to be in attendance at the institution during vacation periods or periods of military service, or during other periods during which the Commissioner determines, in accordance with regulations, that there is good cause for his nonattendance, shall not render a student ineligible for a supplemental grant; but no payments may be made to a student during any such period of failure to be in attendance or period of nonattendance.

"SELECTION OF RECIPIENTS; AGREEMENTS WITH INSTITUTIONS

"Sec. 413C. (a) (1) An individual shall be eligible for the award of a supplemental grant under this subpart by an institution of higher education which has made an agreement with the Commissioner pursuant to subsection (b), if the individual makes application at the time and in the manner prescribed by that institution, in accordance with regulations of the Commissioner.

"(2) From among those who are eligible for supplemental grants through an institution which has an agreement with the Commissioner under subsection (b) for each fiscal year, the institution shall, in accordance with such agreement under subsection (b), and within the amount allocated to the institution for that purpose for that year under section 413D(b) select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them. An institution shall not award a supplemental grant to an individual unless it determines that—

"(A) he has been accepted for enrollment as an undergraduate student at such institution or, in the case of a student already attending such institution, is in good standing there as an undergraduate;

"(B) he shows evidence of academic or creative promise and capability of maintaining good standing in this course of study;

"(C) he is of exceptional financial need; and

"(D) he would not, but for a supplemental grant, be financially able to pursue a course of study at such institution.

"(b) An institution of higher education which desires to obtain funds for supplemental grants under this subpart shall enter into an agreement with the Commissioner. Such agreement shall—

"(1) provide that funds received by the institution under this subpart will be used by it solely for the purposes specified in, and in accordance with, the provisions of this subpart and of section 463;

"(2) provide that, in determining whether an individual meets the requirements of clause (C) of paragraph (2) of subsection (a), the institution will—

"(A) consider the source of such individual's income and that of any individual or individuals upon whom he relies primarily for support, and

"(B) make appropriate review of the assets of the student and of such individuals;

"(3) provide that the institution, in cooperation with other eligible institutions where appropriate, will make vigorous efforts to identify qualified youths of exceptional financial need, and to encourage them to continue their education beyond secondary school through such programs and activities as—

"(A) establishing or strengthening close working relationships with secondary school principals and guidance and counseling personnel, with a view toward motivating students to complete secondary school and to pursue postsecondary school educational opportunities, and

"(B) making, to the extent feasible, conditional commitments for student financial aid by such institution to qualified secondary school students enrolled in grade 11 or lower grades who show evidences of academic or creative promise;

"(4) provide that the institution will meet the requirements of section 464;

"(5) include provisions designed to make grants under this subpart reasonably available, to the extent of available funds, to all eligible students in attendance at the institution;

"(6) include such other provisions as may be necessary to protect the financial interest of the United States.

"APPORTIONMENT AND ALLOCATION OF FUNDS

"SEC. 413D. (a) (1) (A) From the sums appropriated pursuant to section 413A(b) (1) for any fiscal year, the Commissioner shall apportion to each State an amount which bears the same ratio to such sums as the number of persons enrolled full-time and the full-time equivalent of the number of persons enrolled part time in institutions of higher education in such State bears to the total number of such persons in all the States.

"(B) If the Commissioner determines that the sums apportioned to any State under subparagraph (A) for any fiscal year exceed the aggregate of the amounts that he determines to be required under subsection (b) for that fiscal year for institutions of higher education in that State, the Commissioner shall reapportion such excess, from time to time, on such date or dates as he shall fix, to other States in such manner as the Commissioner determines will best assist in achieving the purposes of this subpart.

"(2) Sums appropriated pursuant to section 413A(b) (2) for any fiscal year shall be apportioned among the States in such manner as the Commissioner determines will best achieve the purposes for which such sums were appropriated.

"(b) (1) (A) The Commissioner shall, from time to time, set dates before which institutions in any State must file applications for allocation, to such institutions, of supplemental grant funds from the apportionment to that State (including any reapportionment thereto) for any fiscal year pursuant to subsection (a) (1).

"(B) (i) From the sums apportioned (or reapportioned) to any State, the Commissioner shall allocate amounts to institutions which have submitted applications pursuant to subparagraph (A).

"(ii) Allocations under division (i) by the Commissioner to such institutions shall be made in accordance with equitable criteria established by the Commissioner by regulation. Such criteria shall be designed to achieve such distribution of supplemental grant funds among such institutions within a State as will most effectively carry out the purposes of this subpart.

"(2) The Commissioner shall, in accordance with regulations, allocate to such institutions in any State, from funds apportioned or reapportioned pursuant to subsection (a) (2), funds to be used as the supplemental grants specified in section 413A(b) (2).

"(3) Payments shall be made from allocations under this subsection as needed.

"Subpart 3—Grants to States for State Scholarship Incentives

"PURPOSE; APPROPRIATIONS AUTHORIZED

"SEC. 415A. (a) It is the purpose of this subpart to make grants available to the States to assist them in providing student incentive grants to eligible students in attendance at institutions of higher education.

"(b) (1) There are hereby authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975, for payments to the States for student incentive grants to individuals who have not previously been awarded such grants.

"(2) In addition to the sums authorized to be appropriated pursuant to paragraph (1), there is authorized to be appropriated such sums as may be necessary for making grants to individuals who have been awarded student incentive grants for previous years.

"(3) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States for the award of student incentive grants under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.

"(4) For the purposes of this subsection, a payment on the first year of a student incentive grant with respect to any student who has not been awarded a student incentive grant during any previous year shall be considered, subject to regulations of the Commissioner, an initial award to be paid from appropriations pursuant to paragraph (1).

"ALLOTMENT AMONG STATES

"SEC. 415B. (a) (1) (A) From the sums appropriated pursuant to section 415A(b) (1) for any fiscal year, the Commissioner shall allot to each State an amount which bears the same ratio to such sums as the number of students in attendance at institutions of higher education in such State bears to the total number of such students in such attendance in all the States.

"(B) For the purposes of this paragraph, the number of students in attendance at institutions of higher education in a State and in all the States shall be determined by the Commissioner for the most recent year for which satisfactory data are available to him.

"(2) If the Commissioner determines that the amount allotted to any State under paragraph (1) for any fiscal year exceeds the amount he determines to be required for that fiscal year for the student incentive grant program of that State, such excess shall be reallotted among the other States, from time to time, on such date or dates as he shall fix, in such manner as he determines will best assist in achieving the purposes of this subpart.

"(b) Sums appropriated pursuant to section 415A(b) (2) for any fiscal year shall be allotted among the States in such manner as the Commissioner determines will best achieve the purposes for which such sums were appropriated.

"APPLICATIONS FOR STUDENTS INCENTIVE GRANT PROGRAMS

"SEC. 415C. (a) A State which desires to obtain a payment under this subpart for any fiscal year shall submit an application therefor through the State agency administering its program of student incentive grants, at such time or times, and containing such information as may be required by, or pursuant to, regulation for the purpose of enabling the Commissioner to make the determinations required under this subpart.

"(b) From a State's allotment under this subpart for any fiscal year the Commissioner is authorized to make payments to such State for paying 50 per centum of the amount of student incentive grants pursuant to a State program which—

"(1) is administered by a single State agency;

"(2) provides that such grants will be in amounts not in excess of $1,500 per academic year for attendance on a full-time basis as an undergraduate at an institution of higher education;

"(3) provides for the selection of recipients of such grants on the basis of substantial financial need determined on the basis of criteria established by the Commissioner;

"(4) provides for the payment of the non-Federal portion of such grants from funds supplied by such State which represent an additional expenditure for such year by such State for grants for students attending institutions of higher education over the amount expended by such State for such grants during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart; and

"(5) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Commissioner to perform his functions under this subpart.

"(c) Upon his approval of any application for a payment under this subpart, the Commissioner shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of the student incentive grant covered by such application. The Commissioner shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as he may determine. The Commissioner's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of the student incentive grants with respect to which such reservation was made, and in the event of an upward revision of such estimated cost approved by him he may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval.

"ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW

"SEC. 415D. (a) (1) The Commissioner shall not finally disapprove any application for a State program submitted under section 415 C, or any modification thereof without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

"(2) Whenever the Commission, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

"(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

"(B) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Commissioner shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

"(b) (1) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

"(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

"Subpart 4—Special Programs for Students From Disadvantaged Backgrounds

"PROGRAM AUTHORIZATION

"SEC. 417A. (a) The Commissioner shall, in accordance with the provisions of this subpart, carry out a program designed to identify qualified students from low-income families, to prepare them for a program of postsecondary education, and to provide special services for such students who are pursuing programs of postsecondary education.

"(b) For the purpose of enabling the Commissioner to carry out this subpart, there are authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975.

"AUTHORIZED ACTIVITIES

"SEC. 417(B). (a) The Commissioner is authorized (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)) to make grants to, and contracts with, institutions of higher education, including institutions with vocational and career education programs, combinations of such institutions, public and private nonprofit agencies and organizations (including professional and scholarly associations), and, in exceptional cases, secondary schools and secondary vocational schools, for planning, developing, or carrying out within the States one or more of the services described in section 417A(a).

"(b) Services provided through grants and contracts under this subpart shall be specifically designed to assist in enabling youths from low-income families who have academic potential, but who may lack adequate secondary school preparation or who may be handicapped, to enter, continue, or resume a program of postsecondary education, including—

"(1) programs, to be known as 'Talent Search', designed to—

"(A) identify qualified youths of financial or cultural need with an exceptional potential for postsecondary educational training and encourage them to complete secondary school and undertake postsecondary educational training,

"(B) publicize existing forms of student financial aid, including aid furnished under this title, and

"(C) encourage secondary-school or college dropouts of demonstrated aptitude to reenter educational programs, including postsecondary-school programs;

"(2) programs, to be known as 'Upward Bound', (A) which are designed to generate skills and motivation necessary for success in education beyond high school, and (B) in which enrollees from low-income backgrounds and with inadequate secondary-school preparation participate on a substantially full-time basis during all or part of the program;

"(3) programs, to be known as 'Special Services for Disadvantaged Students', of remedial and other special services for students with academic potential (A) who are enrolled or accepted for enrollment at the institution which is the beneficiary of the grant or contract, and (B) who, by reason of deprived educational, cultural, or economic background, or other handicap, are in need of such services to assist them to initiate, continue, or resume their postsecondary education; and

"(4) a program of paying up to 75 percentum of the cost of establishing and operating Educational Opportunity Centers which—

"(A) serve areas with major concentrations of low-income populations by providing, in coordination with other applicable programs and services—

"(i) information with respect to financial and academic assistance available for persons in such areas desiring to pursue a program of postsecondary education;

"(ii) assistance to such persons in applying for admission to institutions, at which a program of postsecondary education is offered, including preparing necessary applications for use by admission and financial aid officers; and

"(iii) counseling services and tutorial and other necessary assistance to such persons while attending such institutions; and

"(B) serve as recruiting and counseling pools to coordinate resources and staff efforts of institutions of higher education and of other institutions offering programs of postsecondary education, in admitting educationally disadvantaged persons.

The portion of the cost of any project assisted under clause (4) in the preceding sentence which is borne by the applicant shall represent an increase in expenditure by such applicant for the purposes of such project.

"Subpart 5—Payments to Institutions of Higher Education for Cost of Instruction

"COST-OF-INSTRUCTION ALLOWANCES

"SEC. 419. (a) Each institution of higher education at which a student who is the recipient of a basic grant under subpart 1 is in attendance, shall be entitled for each fiscal year to a cost-of-instruction allowance (hereinafter in this section referred to as 'allowance'), in accordance with the provisons of this section.

"(b) (1) (A) The amount of the allowance to which an institution shall be entitled under this section for a fiscal year shall be determined on the basis of the total number of undergraduate students in attendance at the institution, and the number of students who are in attendance at such institution and who are also recipients of basic grants under this part and shall be determined in accordance with the following table:

"If the total number of students in attendance is—	The amount of the grant is—
Not over 1,000	$500 for each recipient.
Over 1,000 but not over 2,500	$400 for each recipient or, if the number of recipients is at least 100, $50,000, plus $400 for each recipient in excess of 100.
Over 2,500 but not over 5,000	$300 for each recipient or, if the number of recipients is at least 250, $110,000, plus $300 for each recipient in excess of 250.
Over 5,000 but not over 10,000	$200 for each recipient or, if the number of recipients is at least 500, $185,000, plus $200 for each recipient in excess of 500.
Over 10,000	$100 for each recipient or, if the number of recipients is at least 1,000, $235,000, plus $100 for each recipient in excess of 1,000.

"(B) In any case where a recipient of a basic grant under subpart 1 attends an institution receiving an allowance under this subpart on less than a full-time basis, the amount of the allowance to that institution with respect to that student shall be reduced in proportion to the degree to which that student is not attending on a full-time basis.

"(C) The Commissioner shall make a separate determination of the number of students in attendance at an institution of higher education and the number of recipients of basic grants at any such institution at each branch or separate campus of that institution located in a different community from the principal campus of that institution pursuant to criteria established by him.

"(2) An institution of higher education may receive an allowance in accordance with this section only upon application therefor. An application under this section shall be submitted at such time or times, in such manner, and containing such information as the Commissioner determines necessary to carry out his functions under this title, and shall—

"(A) set forth such policies, assurances, and procedures as will insure that—

"(i) the funds received by the institution under this section will be used solely to defray instructional expenses in academically related programs of the applicant;

"(ii) except as is authorized in paragraph

(3), the applicant will not increase tuition with respect to the recipients of basic grants under this part above the rate charged by the applicant for undergraduate students for the academic year 1971–1972;

"(iii) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

"(iv) the applicant will expend, during the academic year for which a grant is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the three years preceding the year for which the grant is sought; and

"(v) the applicant will submit to the Commissioner such reports as the Commissioner may require by regulation; and

"(B) contain such other statement of policies, assurances, and procedures as the Commissioner may require by regulation in order to protect the financial interests of the United States.

"(3) In accordance with criteria established by regulations promulgated for the purposes of this paragraph, the Commissioner is authorized to permit increases in tuition in cases where failure to do so would result in undue hardship for an institution. Such criteria shall, among other factors, take into consideration increases in the cost-of-living index established by the Department of Labor.

"(c)(1) The Commissioner shall pay to each institution of higher education for each fiscal year the amount to which it is entitled under this section.

"(2) If during any period of any fiscal year the funds available for payments for entitlements established under this subpart are insufficient to fully satisfy all such entitlements the amount paid with respect to each such entitlement shall be ratably reduced. When sufficient funds become available for such period for such purpose the amount of payment from such funds to be applied to the entitled of each institution shall be equal to the difference between the amount paid to that institution under the first sentence of this paragraph and the amount of the entitlement for that institution as determined under paragraph (1) of subsection (b). No method of computing or no distribution of payments under this subpart shall be used which is inconsistent with this paragraph.".

(2) The amendment made by paragraph (1) shall be effective after June 30, 1972.

(3) There are authorized to be appropriated for each of the fiscal years ending prior to July 1, 1975, such sums as may be necessary for payment to institutions which have in effect agreements with the Commissioner entered into under section 407 of the Higher Education Act of 1965 before July 1, 1972, for use by such institutions for making educational opportunity grants under part A of title IV of such Act, as such part A is in effect on June 30, 1972, to undergraduate students for academic years other than the initial year of their educational opportunity grant under such part A.

(c) Section 461 of the Higher Education Act of 1965 is amended by striking out subsection (b) thereof and inserting in lieu thereof the following:

"(b)(1) For the purposes of this title, except subpart 5 of part A, the term 'institution of higher education' includes any school of nursing; and any proprietary institution of higher education which has an agreement with the Commissioner containing such terms and conditions as the Commissioner determines to be necessary to insure that the availability of assistance to students at the school under this title has not resulted, and will not result, in an increase in the tuition, fees, or other charges to such students.

"(2) For the purposes of this subsection—

"(A) The term 'school of nursing' means a public or other nonprofit collegiate or associate degree school of nursing.

"(B) The term 'collegiate school of nursing' means a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing.

"(C) The term 'associate degree school of nursing' means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

"(D) The term 'accredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Commissioner.

"(3) For the purposes of this subsection, the term 'proprietary institution of higher education' means a school (A) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (B) which meets the requirements of clauses (1) and (2) of section 1201(a), (C) which does not meet the requirement of section clause (4) of section 1201(a), (D) which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, and (E) which has been in existence for at least two years. For purposes of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(c) For the purposes of this title—

"(1) the term 'academic year' shall be defined by the Commissioner by regulations; and

"(2) the term 'in attendance', when applied to a student, means a student who attends an institution of higher education at least on a half-time basis, as defined by the Commissioner by regulation.".

(d)(1) Section 1201 of the Higher Education Act of 1965 is amended by adding at the end thereof the following new paragraph:

"(m) The term 'school or department of divinity' means an institution or a department or a branch of an institution the program of instruction of which is designed for the education of students (A) to prepare them to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation), or (B) to prepare them to teach theological subjects.".

(2) The Higher Education Act of 1965 is amended by striking out the following provisions:

(A) The second sentence of section 113;

(B) The second sentence of section 207;

(C) The second sentence of section 526;

(D) The second sentence of section 609; and

(E) The second sentence of section 923.

(e) No payments shall be paid on the basis of entitlements created by subpart 5 of part A of title IV of the Higher Education Act of 1965 for any fiscal year in which—

(1) the appropriations available for payments on the basis of entitlements created by subpart 1 of such part are insufficient to pay in full the amounts to which all students are entitled under such subpart 1 for that fiscal year; or

(2) the appropriation for grants under subpart 2 of such part for that fiscal year does not at least equal the appropriation for the purposes of part A of title IV of the Higher Education Act of 1965 for the fiscal year ending June 30, 1972; or

(3) the appropriation for grants under part C of such title IV for that fiscal year does not at least equal the appropriation for such part C for the fiscal year ending June 30, 1972; or

(4) the appropriation pursuant to section 461 of the Higher Education Act of 1965 (as added by section 137(b) of this Act) for that fiscal year does not at least equal the appropriation for contributions to loan funds under title II of the National Defense Education Act of 1958 for the fiscal year ending June 30, 1972.

INSURED STUDENT LOANS—EXTENSION OF PROGRAM

SEC. 132A. (a)(1) Section 424(a) of the Higher Education Act of 1965 is amended by striking out "three succeeding fiscal years" and inserting in lieu thereof "succeeding fiscal years ending prior to July 1, 1975".

(2) Such section 424(a) is further amended by striking out "June 30, 1975" and inserting in lieu thereof "June 30, 1979".

(b) Paragraph (4) of section 428(a) of such Act is amended (A) by striking out "June 30, 1971" and inserting in lieu thereof "June 30, 1979" and (B) by striking out "shall end at the close of June 30, 1975" and inserting in lieu thereof "shall end at the close of June 30, 1979".

(c) Section 433(c) of such Act is amended by striking out "two succeeding fiscal years" and inserting in lieu thereof "succeeding fiscal years ending prior to July 1, 1975".

(d) The amendments made by this section shall be effective after June 30, 1971.

INCREASE IN LOAN LIMITATION IN EXCEPTIONAL CASES

SEC. 132B. (a)(1) Section 425(a) of the Higher Education Act of 1965 is amended by inserting before the period at the end of the first sentence the following: ", except when the financial aid officer of the institution in which such student is enrolled or at which he has been accepted for enrollment determines (in accordance with general criteria prescribed by the Commissioner) that such student is in need of a larger total to continue his education, in which case such total may not exceed whichever is the lesser, $2,500 or such larger total".

(2) Section 428(b)(1)(A) of such Act is amended by inserting after "$1,500" the following: (except when the financial aid officer of the institution in which such student is enrolled or at which he has been accepted for enrollment determines, in accordance with general criteria prescribed by the Commissioner, that such student is in need of a larger amount to continue his education, in which case such total may not exceed whichever is the lesser, $2,500 or such larger amount)".

(b) The amendments made by subsection (a) shall be effective with respect to loans made after the enactment of this Act, and insured by the Commissioner under part B of title IV of the Higher Education Act of 1965, or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b) of such part.

ELIGIBILITY OF INSTITUTIONS

SEC. 132C. (a) Part B of title IV of the Higher Education Act of 1965 is amended by adding at the end thereof the following new section:

"ELIGIBILITY OF INSTITUTIONS

"SEC. 438. Notwithstanding any other provision of this part, the Commissioner is authorized to prescribe such regulations as may be necessary to provide for—

"(1) a fiscal audit of an eligible institution with regard to any funds obtained from a student who has received a loan insured under this part, or insured by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b);

"(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid with respect to funds obtained from a student who has received a loan insured under this part, or insured by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b);

"(3) the limitation, suspension, or termination of the eligibility under this part of any otherwise eligible institution, whenever the Commissioner has determined, after notice and affording an opportunity for hearing, that such institution has violated or failed to carry out any regulation prescribed under this part.".

(b) The amendment made by subsection (a) shall be effective on and after the sixtieth day following the enactment of this Act.

STUDENT LOAN MARKETING ASSOCIATION

SEC. 133. (a)(1) Part B of title IV of the Higher Education Act of 1965 is further amended by adding at the end thereof the following new section:

"STUDENT LOAN MARKETING ASSOCIATION

"SEC. 439. (a) The Congress hereby declares that it is the purpose of this section to establish a Government-sponsored private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for insured student loans, insured by the Commissioner under this part or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b), and which will provide liquidity for student loan investments.

"(b)(1) There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the 'Association'). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

"(2) The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

"(3) There is hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 per centum, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

"(c)(1) The Association shall have a Board of Directors which shall consist of twenty-one persons, one of whom shall be designated Chairman by the Board members.

"(2) An interim Board of Directors shall be appointed by the President, one of whom he shall designate as interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders pursuant to this section, seven of whom shall be representative of educational institutions, and seven of whom shall be representative of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

"(3) When in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors.

"(4) At the time the events described in paragraph (3) have occurred, the interim Board shall turn over the affairs of the Association to the regular Board so chosen or appointed.

"(5) The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(6) The Board of Directors shall meet at the call of its chairman. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

"(d)(1) The Association is authorized, subject to the provisions of this section, pursuant to commitments or otherwise, to make advances on the security of, purchase, service, sell, or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Commissioner under this part or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b).

"(2) Any warehousing advance made under paragraph (1) of this subsection shall not exceed 80 per centum of the face amount of an insured loan. The proceeds from any such advance shall be invested in additional insured student loans.

"(e) The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security, purchase, service, sell, warehouse, or otherwise deal in student loans pursuant to subsection (d) only after the Association is assured in each instance—

"(1) that the lender (A) did not discriminate against any particular class or category of students by (i) requiring that, as a candidate to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that in the case of a loan made by a Federal credit union pursuant to this part, nothing contained in this section shall be construed to limit the customary obligation of membership in such credit union and (ii) refusing to make loans to such students for their freshman year of study, and (B) did not discriminate on the basis of sex, color, creed, or national origin; and

"(2) that the lender's institution is in the geographical vicinity of the student's legal residence, or the loan was obtained only after the student had exercised reasonable efforts to obtain a loan from eligible lenders in the geographical vicinity of the student's legal residence, or the student obtained the loan with a lender outside the geographical vicinity of the student's legal residence because the lender maintained a business relationship with the student or his family.

"(f)(1) The Association shall have common stock having a par value of $100 per share which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part.

"(2) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in subsection (c)(3).

"(3) The common stock of the Association shall be transferable only as may be prescribed by regulations of the Secretary of Health, Education, and Welfare, and, as to the Association, only on the books of the Association. The Secretary of Health, Education, and Welfare shall prescribe the maximum number of shares of common stock the Association may issue and have outstanding at any one time.

"(4) To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(g)(1) The Association is authorized, with the approval of the Secretary of Health, Education, and Welfare, to issue nonvoting preferred stock with a par value of $100 per share. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(2) The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions, as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

"(3) In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

"(h)(1) The Association is authorized with the approval of the Secretary of Health, Education, and Welfare and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein.

"(2) The Secretary of Health, Education, and Welfare is authorized, within such limitations as may be specified in appropriations Acts, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury.

"(3) To enable the Secretary of Health, Education, and Welfare to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of Health, Education, and Welfare with the approval of the Secretary of the Treasury but only in such amounts as may be specified from time to time in appropriations Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare such sums as may be necessary to pay the principal and interest on the notes or obligation issued by him to the Secretary of the Treasury.

"(i) The association shall have power—

"(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

"(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed,

"(3) to adopt, amend, and repeal by its board of directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

"(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

"(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(8) to appoint such officers, attorneys, employees, and agent as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof; and

"(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(j)(1) The financial transactions of the Association shall be audited annually by the Secretary of the Treasury in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as he may prescribe. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

"(2) The expenses of any audit performed under this section shall be borne out of appropriations to the Treasury Department, and appropriations in such sums as may be necessary are authorized. The Association shall reimburse the Department for the full cost of such audit as billed therefor by the Secretary, and the Department shall deposit the sums as reimbursed into the Treasury as miscellaneous receipts.

"(k) A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary of Health, Education, and Welfare and to the Association.

"(l) All obligations issued by the Association shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States.

"(m) In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

"(n) The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year.".

(2) The authority of the Student Loan Marketing Association to make advances on the security of, purchase, service, sell, or otherwise deal in, student loans and to issue obligations shall terminate five years after the enactment of this Act. Upon the termination provided in the preceding sentence. The Board of Directors of the Association shall proceed to liquidate its assets and take whatever other action is necessary to wind up its affairs. Thereupon the Association shall notify the President and the Congress that it is dissolved.

(b)(1) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting "or obligations or other instruments or securities of the Student Loan Marketing Association," immediately after "or obligations, participation, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association,".

(2) Section 5200 of the Revised Statutes, as amended (12 U.S.C. 84), is amended by adding at the end thereof the following new paragraph:

"(14) Obligations of the Student Loan Marketing Association shall not be subject to any limitation based upon such capital and surplus.".

(3) The first paragraph of section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)), is amended by inserting "or in obligations or other instruments or securities of the Student Loan Marketing Association;" in the second proviso immediately after "any political subdivision thereof".

(4) Section 8(8)(E) of the Federal Credit Union Act, amended (12 U.S.C. 1757(8)(E)), is amended by inserting before the semicolon at the end thereof the following: ", or in obligations or other instruments or securities of the Student Loan Marketing Association".

EXTENSION OF THE EMERGENCY INSURED STUDENT LOAN ACT OF 1969

SEC. 134. (a) Section 2(a)(7) of the Emergency Insured Student Loan Act of 1969 is amended by striking out "July 1, 1971" and inserting in lieu thereof "July 1, 1973".

(b) The amendment made by subsection (a) shall be effective on and after July 1, 1971.

COLLEGE WORK STUDY PROGRAM—EXTENSION AND SELECTION OF STUDENTS FOR EMPLOYMENT

SEC. 135. (a)(1) Section 441(b) of the Higher Education Act of 1965 is amended by striking out "the fiscal year ending June 30, 1971" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1975".

(2) The amendment made by subsection (a) shall be effective after June 30, 1971.

(b)(1) Clause (3)(A) of section 444(a) of the Higher Education Act of 1965 is amended by inserting immediately after "such institution" the following: "(taking into consideration the actual cost of attendance at such institution)".

(2) The amendment made by subsection (a) shall be effective on and after July 1, 1971, with respect to appropriations for fiscal years beginning on and after July 1, 1971.

COOPERATIVE EDUCATION

SEC. 136. (a)(1) Section 451(a) of the Higher Education Act of 1965 is amended by striking out "the fiscal year ending June 30, 1971" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1975".

(2) Section 451(b) of such Act is amended by striking out "two succeeding fiscal years" and inserting in lieu thereof "succeeding fiscal years ending prior to July 1, 1975".

(b) The amendments made by subsection (a) shall be effective after June 30, 1971.

DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

SEC. 137. (a) (1) Section 201 of the National Defense Education Act of 1958 is amended by inserting "each" after "$375,000,000", and by inserting after "June 30, 1971," the following: "and for the fiscal year ending June 30, 1972,".

(2) The amendments made by paragraph (1) shall be effective after June 30, 1971.

(b) Title IV of the Higher Education Act of 1965 is amended by striking out part F. Part E and sections 461, 462, 463, 464, and 469 of such title IV, and all references thereto (except the reference to section 461 in section 131(e)(4)), are redesignated as part F and sections 491, 492, 493, 494, and 499, respectively. Such title IV is further amended by inserting after part D the following new parts:

"PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

"APPROPRIATIONS AUTHORIZED

"SEC. 461. (a) The Commissioner shall carry out a program of stimulating and assisting in the establishment and maintenance of funds at institutions of higher education for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions.

"(o)(1) For the purpose of enabling the Commissioner to make contributions to student loan funds established under this part, there are hereby authorized to be appropriated $375,000,000 for the fiscal year ending June 30, 1972, and for each of the succeeding fiscal years ending prior to July 1, 1975.

"(2) In addition there are hereby authorized to be appropriated such sums for the fiscal year ending June 30, 1976, and each of the three succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to July 1, 1975, to continue or complete courses of study.

"(c) Any sums appropriated pursuant to subsection (b) for any fiscal year shall be available for apportionment pursuant to section 462 and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Commissioner under section 463. Such Federal capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds.

"APPORTIONMENT OF APPROPRIATIONS

"SEC. 462. (a)(1) From the sums appropriated pursuant to section 461(b)(1) for any fiscal year, the Commissioner shall apportion to each State an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in institutions of higher education, as determined by the Commissioner for the most recent year for which satisfactory data are available to him, in such State bears to the total number of persons so enrolled in all the States.

"(2) Any sums appropriated pursuant to section 461(b)(2) for any fiscal year shall be apportioned among institutions of higher education in such a manner as the Commissioner determines will best accomplish the purpose for which they were appropriated.

"(b)(1) Any institution of higher education desiring to receive payments of Federal capital contributions from the apportionment of the State in which it is located for any fiscal year shall make an agreement under section 463 and shall submit an application therefor to the Commissioner, in accordance with the provisions of this part. The Commissioner shall, from time to time, set dates before which such institutions must file applications under this section.

"(2) The Commissioner shall pay to each applicant under this subsection which has an agreement with him under section 463, from the amount apportioned to the State in which it is located, the amount requested in such application. Such payment may be made in such installments as the Commissioner determines will not result in unused accumulations of capital in the student loan fund of the applicant established under its agreement under section 463.

"(c)(1)(A) If the total amount of Federal capital contributions requested in the applications in the applications from a State for any fiscal year exceeds the amount apportioned to that State, the request from each institution shall be reduced ratably.

"(B) In case additional amounts become available for payments to student loan funds in a State in which requests have been ratably reduced under subparagraph (A), such requests shall be increased on the same basis as they were reduced, except that no request shall be increased above the request submitted under subsection (b)(1).

"(2) If the amount of an apportionment to a State for any fiscal year exceeds the total amount of Federal capital contributions requested in applications from that State, such excess shall be available for reapportionment from time to time on such date or dates as the Commissioner shall fix. From the aggregate of such excess for any fiscal year, the Commissioner shall reapportion to each State in which requests were reduced under subparagraph (A) of paragraph (1) an amount which bears the same ratio to such aggregate as the total amount of such reduction in that State bears to the total amount of such reductions in all the States.

"(d) The aggregate of the amounts of Federal capital contributions paid under this section for any fiscal year to proprietary institutions of higher education may not exceed the amount by which the sums appropriated pursuant to section 461(b)(1) for that fiscal year exceed $190,000,000.

"AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

"SEC. 463. (a) An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

"(1) provide for the establishment and maintenance of a student loan fund for the purposes of this part;

"(2) provide for the deposit in such fund of—

"(A) the Federal capital contributions,

"(B) a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of such Federal contributions,

"(C) collections of principal and interest on student loans made from such fund,

"(D) charges collected pursuant to regulations under section 464(c)(1)(G), and

"(E) any other earnings of the funds;

"(3) provide that such student loan fund shall be used only for—

"(A) loans to students, in accordance with the provisions of this part,

"(B) administrative expenses, as provided in subsection (b),

"(C) capital distributions, as provided in section 466, and

"(D) costs of litigation, and other collection costs authorized by the Commissioner by regulation in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 464(c)(1)(G); and

"(4) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part as are agreed to by the Commissioner and the institution.

"(b) An instituton which has entered into an agreement under subsecton (a) shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 493.

"TERMS OF LOANS

"SEC. 464. (a) (1) Loans from any student loan fund established pursuant to an agreement under section 463 to any student by any institution shall, subject to such conditions, limitations, and requirements as the Commissioner shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

"(2) The total of such loans for any academic year made by institutions from student loan funds assisted under this part shall not exceed—

"(A) $2,500, in the case of any graduate student or professional student (as defined by regulation); or

(B) $1,500, in the case of any other student.

The aggregate of the loans for all years from such funds shall not exceed $10,000, in the case of any such graduate or professional student, or $7,500, in the case of any other student .

"(3) Regulations of the Commissioner under paragraph (1) shall be designed to prevent the impairment of the capital of student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

"(b) A loan from a student loan fund assisted under this part may be made only to a student who—

"(1) is in need of the amount of the loan to pursue a course of study at such institution;

"(2) is capable, in the opinion of the institution, of maintaining good standing in such course of study;

"(3) has been accepted for enrollment as an undergraduate, graduate, or professional student in such instituton or, in the case of a student already in attendance at such institution, is in good standing; and

"(4) is carrying at least one-half the normal academic workload, as determined by the institution.

In any case in which a student has been determined to be eligible for a loan under the preceding sentence, and such student thereafter fails to maintain good standing, the eligibility of such student shall, upon notice to the Commissioner, be suspended, and further payments to, or on behalf of, such student shall not be made until such student regains good standing.

"(c)(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

"(A) shall be evidenced by a note or other written instrument which, except as is provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in installments over a period (i) beginning nine months after the student ceases to carry at least one-half the normal full-time academic workload at an institution of higher education and (ii) ending ten years and nine months after such date;

"(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

"(C) may provide, at the option of the institution in accordance with regulations of the Commissioner, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to him from student loan funds assisted under this part shall be at a rate equal to not less than $30 per month;

"(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 3 per centum per annum, except that no interest shall accrue (i) prior to the beginning date of repayment determined under clause (A)(i), or (ii) during any period in which repayment is suspended by reason of paragraph (2);

"(E) unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law create a binding obligation, shall provide that the loan shall be made without security and without endorsement;

"(F) shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is approved by the Commissioner for such purpose), to such institution; and

"(G) may, pursuant to regulations of the Commissioner, provide for an assessment of a charge with respect to the loan for failure of the borrower (i) to pay all or part of an installment when it is due or (ii) to file timely and satisfactory evidence of an entitlement of the borrower to a deferment of repayment benefit or a cancellation benefit provided under this part.

"(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period in which the borrower—

"(i) is carrying at least one-half the normal full-time academic workload at an institution of higher education or at a comparable institution outside the United States which is approved for this purpose by the Commissioner;

"(ii) is a member of the Armed Forces of the United States;

"(iii) is in service as a volunteer under the Peace Corps Act; or

"(iv) is in service as a volunteer under title VIII of the Economic Opportunity Act of 1964.

The period during which repayment may be deferred by reason of clause (ii), (iii), or (iv) shall not exceed three years.

"(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the ten-year maximum period provided for in clause (A) of paragraph (1).

"(3) The Commissioner is authorized, when good cause is shown, to extend, in accordance with regulations, the ten-year maximum repayment period provided for in clause (A) of paragraph (1) with respect to individual loans.

"(4) The amount of any charge under clause (G) of paragraph (1) shall not exceed—

"(A) in the case of a loan which is repayable in monthly installments, $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter, and

"(B) in the case of a loan which has a bimonthly or quarterly repayment interval, $3 and $6, respectively, for each such interval or part thereof by which such installment or evidence is late.

The institution may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the institution not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

"(d) An agreement under this part for payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such funds) to all eligible students in such institution in need thereof.

"CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE

"SEC. 465. (a) (1) The per centum specified in paragraph (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

"(2) Loans shall be canceled under paragraph (1) for service—

"(A) as a full-time teacher in a public or other nonprofit elementary or secondary school in a State, in an institution of higher education, or in an elementary or secondary school overseas of the Armed Forces of the United States;

"(B) as a full-time teacher in a public or other nonprofit elementary or secondary school in the school district of a local educational agency receiving assistance under title I of the Elementary and Secondary Education Act of 1965 if such school is determined (according to criteria established by regulation which shall permit such determination with respect to not more than 50 per centum of such schools in any State) to be serving an attendance area in which there is a high concentration of children from low-income families;

"(C) as a full-time teacher of handicapped children in a public or other nonprofit elementary or secondary school system; or

"(D) as a member of the Armed Forces of the United States.

For the purposes of this paragraph, (i) the term 'handicapped children' means children who are mentally retarded, hard of hearing, deaf, speech-impaired, visually handicapped, seriously emotionally disturbed, or other health-impaired children who by reason thereof require special education, and (ii) the term 'children from low-income families' means children from families with a family income which is not in excess of the low-income factor determined under section 103 of title I of the Elementary and Secondary Education Act of 1965.

"(3)(A) The per centum of a loan which shall be canceled under paragraph (1) of this subsection is—

"(i) in the case of service described in clause (A) of paragraph (2), not to exceed a total of 50 per centum of such loan at the rate of 10 per centum for each year of such service;

"(ii) in the case of service described in clause (B) or (C) of paragraph (2), 15 per centum for the first or second year of such service, 20 per centum for the third or fourth year of such service, and 30 per centum for the fifth year of such service; and

"(iii) in the case of service described in clause (D) of paragraph (2), not to exceed a total of 50 per centum of such loan at the rate of 12½ per centum for each year of consecutive service.

"(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

"(C) Nothing in this subsection shall be construed to authorize refunding any repayment of a loan.

"(4) For the purposes of this subsection, the term 'year' where applied to service as a teacher means academic year as defined by the Commissioner.

"(b) The Commissioner shall pay to each institution for each fiscal year an amount equal to the aggregate of the amounts of loans from its student loan fund which are canceled pursuant to this section for such year. None of the funds appropriated pursuant to section 461(b) shall be available for payments pursuant to this subsection.

"DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS

"SEC. 466. (a) After June 30, 1980, and not later than December 31, 1980, there shall be a capital distribution of the balance of the student loan fund established under this part by each institution of higher education as follows:

"(1) The Commissioner shall first be paid an amount which bears the same ratio to the balance in such fund at the close of June 30, 1980, as the total amount of the Federal capital contributions to such fund by the Commissioner under this part bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

"(2) The remainder of such balance shall be paid to the institution.

"(b) After December 31, 1980, each institution with which the Commissioner has made an agreement under this part, shall pay to the Commissioner the same proportionate share of amounts received by the institution after June 30, 1974, in payment of principal and interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the fund or from such payments of principal or interest), as was determined for the Commissioner under subsection (a).

"(c) Upon a finding by the institution or the Commissioner prior to July 1, 1980, that the liquid assets of a student loan fund established pursuant to an agreement under this part exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Commissioner, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Commissioner or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

"(1) The Commissioner shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Commissioner to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the institution.

"(2) The remainder of the capital distribution shall be paid to the institution.".

(c)(1) Upon enactment of this Act, the program authorized by part E of title IV of the Higher Education Act of 1965 as added by subsection (b) is, and shall be deemed to be, a continuation of the program authorized by title II of the National Defense Education Act of 1958. In accordance with regulations of the Commissioner, all rights, privileges, duties, functions, and obligations under such title II prior to the enactment of this Act shall be deemed to be vested, as the Commissioner determines to be appropriate, under such part E. Any student loan fund established under an agreement under such title II shall, in accordance with regulations, be deemed to have been established under such part E; and any assets of any such student loan fund of any institution shall be deemed to be the assets of a student loan fund established under an agreement of that institution with the Commissioner under such part E.

(2) Title II of the National Defense Education Act of 1958 is amended by striking out section 206.

ELIGIBILITY FOR STUDENT ASSISTANCE

SEC. 138. (a) Part F of title IV of the Higher Education Act of 1965 is amended by inserting after section 494, the following new section:

"ELIGIBILITY FOR STUDENT ASSISTANCE

"SEC. 495. (a) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after June 30, 1972, and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engaging in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was commited, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, or for the direct benefit of, such individual under any of the programs authorized under this title. If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends shall deny for the remainder of the two-year period any further payment to, or for the direct benefit of, such individual under any program authorized by this title.

"(b) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after June 30, 1972, and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payments to, or for the direct benefit of, such individual under any program authorized by this title.

"(c) (1) Nothing in this section shall be construed to prohibit any institution of higher education from refusing to award, continue, or extend any financial assistance under this title to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

"(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent, disciplinary proceeding pursuant to existing authority, practice, and law.

"(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expression of individual views or opinions.".

(b) Effective July 1, 1972, section 504 of Public Law 90-575 is repealed.

AFFIDAVIT OF EDUCATIONAL PURPOSE REQUIRED

SEC. 139. (a) Part F of title IV of the Higher Education Act of 1965 is amended by inserting after section 495 the following new section:

"AFFIDAVIT OF EDUCATIONAL PURPOSE REQUIRED

"SEC. 496. (a) Notwithstanding any other provision of law, no grant, loan, or loan guarantee authorized under this title may be made unless the students to whom the grant, loan, or loan guarantee is made has filed with the institution of higher education which he intends to attend, or is attending, an affidavit stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution.

"(b) Whenever the institution of higher education determines, after notice and opportunity for hearing, that any student has violated the affidavit required by subsection (a) of this section, that student shall be obligated to return any assistance subject to the violation and shall not be eligible for any further assistance received under this title after the date of the violation.

"(c) Nothing in this section shall be construed to invalidate any loan guarantee made under this title.".

(b) The amendment made by subsection (a) of this section shall become effective after the date of enactment of this Act.

POSTSECONDARY EDUCATION STUDY

SEC. 140. (a) It is the purpose of this section to authorize a study of the impact of past, present, and anticipated private, local, State, and Federal support for postsecondary education, the appropriate role for the States in support of higher education (including the application of State law upon postsecondary educational opportunities), alternative student assistance programs, and the potential Federal, State, and private participation in such programs.

(b) The Secretary shall conduct a thorough study and investigation of the impact of past and present support and the appropriate level of future support for higher education from private sources and from Federal, State, and local governments.

(c) In conducting such investigation and study, the Secretary shall consider—

(1) alternative models of State and local support for postsecondary education;

(2) new Federal initiatives to complement alternative State and local programs; and including—

(3) alternative forms of student assistance, including—

(A) loan programs based on income contingent lending;

(B) loan programs which utilized fixed, graduated repayment schedules; and

(C) loan programs which provide for cancellation or deferment of part or all of repayment in any given year based on a certain level of a borrower's income;

(4) the potential Federal, State, local, and private participation in such programs; and

(5) suggested national uniform standards for determining the anual per student costs of providing postsecondary education for students in attendance at various types and classes of institutions of higher education.

(d) In order to carry out the provisions of this section, the Secretary is authorized to—

(1) enter into contracts with institutions of higher education and other appropriate individuals, public agencies and private organizations;

(2) appoint and fix the compensation of such personnel as may be necessary;

(3) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

(4) utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement; and

(5) consult with the heads of such Federal agencies as he deems appropriate.

(e) Not later than December 31, 1972, the Secretary shall report to the President and Congress the results of the investigation and study authorized by this section, together with such recommendations, including recommendations for legislation as he deems appropriate.

(f) There are authorized to be appropriated such sums, not to exceed $5,000,000, as may be necessary to carry out the provisions of this section.

PART E—EDUCATION PROFESSIONS DEVELOPMENT

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS

SEC. 141. (a) (1) Title V of the Higher Education Act of 1965 is amended—

(A) in section 511(b), by striking out "for the fiscal year ending June 30, 1971" and inserting in lieu thereof "each for the fiscal years ending June 30, 1971, and June 30, 1972";

(B) in sections 504(b), 518(b), 528, 532, and 543, by striking out "July 1, 1971" and inserting in lieu thereof "July 1, 1972" in each instance.

(2) The amendments made by paragraph (1) shall be effective after June 30, 1971.

(b) (1) Section 501 of the Higher Education Act of 1965 is amended by inserting "(a)" after "SEC. 501." and by adding at the end thereof the following new subsection:

"(b) For the purpose of carrying out the provisions of this title, there are authorized to be appropriated $600,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975, of which—

"(1) not less than $500,000 shall be for the purposes of section 504;

"(2) not less than 25 per centum or $37,500,000, whichever is greater, shall be for the purposes of subpart 1 of part B;

"(3) not less than 5 per centum shall be for the purposes of part C;

"(4) not less than 5 per centum shall be for the purposes of part D;

"(5) not less than 5 per centum shall be for the purposes of part E;

"(6) not less than 10 per centum shall be for the purposes of part F; and

"(7) not less than 5 per centum of the amounts available for the purposes of part C or part D shall be used for the training of teachers for service in programs for children with limited English speaking ability.".

(2) The amendments made by paragraph (1) shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1972.

(c) (1) Effective on and after July 1, 1972, title V of the Higher Education Act of 1965 is amended by striking out the following provisions:

(A) Section 502(f);

(B) Section 504(b);

(C) Section 511(b) and "(a)" where it appears after "SEC. 511.";

(D) Section 518(b) and "(a)" where it appears after "SEC. 518.";

(E) Section 528;

(F) Section 532;

(G) Section 543; and

(H) Section 555.

(2) (A) (i) The caption head of section 518 of such title V is amended to read as follows: "PROGRAM AUTHORIZED".

(ii) Such section 518 is amended by striking out "during the fiscal year ending June 30, 1969, and the succeeding fiscal year,".

(B) Effective on and after July 1, 1972, section 519(a) of such title V is amended by striking out that part of the first sentence which precedes ", the Commissioner" and inserting in lieu thereof the following: "From the amount available for grants under this subpart for any fiscal year".

(3) Section 525(b) of such Act is amended by striking out all that follows "federally supported programs" and inserting in lieu thereof a period.

(4) The Department of Health, Education, and Welfare shall, under the authority of section 401(c) and of part C of the General Education Provisions Act, submit to the Congress an estimate of the sums necessary to carry out section 502 of such title V.

FUNCTIONS OF, AND COMPENSATION FOR, THE DIRECTOR OF THE TEACHER CORPS

SEC. 142. (a) The second sentence of section 512 of the Higher Education Act of 1965 is amended to read as follows: "The Teacher Corps shall be headed by a Director who shall be compensated at the rate prescribed for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and a Deputy Director who shall be placed in grade 17 of such General Schedule; and such positions shall be in addition to the number of positions placed in those grades under section 5108 of such title 5.".

(b) The third sentence of such section 512 is amended by inserting before the period at the end thereof the following: ", except that

(1) the Commissioner may delegate his functions under this subpart only to the Director, and (2) the Director and Deputy Director shall not be given any function authorized by law other than that granted by this subpart".

RETRAINING OF TEACHERS AND EMPLOYMENT OF TUTORS AND INSTRUCTIONAL ASSISTANTS

SEC. 143. (a) (1) Section 518 of the Higher Education Act of 1965 is amended (1) by striking out "to (1)" and inserting in lieu thereof "(1) to". (2) by striking out "and (2)" and inserting in lieu thereof "(2) to", and (3) and by adding the following before the period: ", (3) to employ high school and college students as tutors or instructional assistants for educationally disadvantaged children, (4) to compensate such tutors and instructional assistants at such rates as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported work-study programs, and (5) to provide necessary training to teachers to enable them to teach other grades or other subjects in which such agencies have a teacher shortage".

(2) Section 520(a)(2) of such Act is amended (A) by striking out "and (C)" and inserting in lieu thereof "(C) programs of such agencies to employ high school and college students as tutors or instructional assistants for educationally disadvantaged children, (D) programs of such agencies to compensate such tutors and instructional assistants at such rates as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported work-study programs, (E) programs of such agencies to provide necessary training to teachers to enable them to teach other grades or other subjects in which such agencies have a teacher shortage, and (F)".

(3) Section 520(a)(3) of such Act is amended by inserting "or for the retraining of teachers" immediately before the semicolon at the end thereof.

(b) The amendments made by subsection (a) shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1972.

PROVISION FOR ADMINISTRATIVE EXPENSES FOR OPERATION OF STATE PLAN

SEC. 144. (a) Section 520(a)(2) of the Higher Education Act of 1965 is amended, in clause (F) thereof, by (1) striking out "3" and inserting in lieu thereof "5", and (2) by inserting before the semicolon: "or, $20,000, whichever is greater".

(b) The amendments made by subsection (a) shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1972.

ELIMINATION OF CEILING ON EXPENDITURES FOR TEACHING AIDES

SEC. 145. (a) Section 520(a) of the Higher Education Act of 1965 is amended by striking out clause (5) thereof. Clauses (6) through (9) of such section 520(a), and all references thereto, are redesignated as clauses (5) through (8), respectively.

(b) The amendments made by subsection (a) shall be effective after and only with respect to appropriations for fiscal years beginning after, June 30, 1972.

TRAINING FOR TEACHERS AND AIDES IN PRIVATE SCHOOLS

SEC. 146. (a) Clause (5) of section 520(a) of the Higher Education Act of 1965 is amended by inserting "is teaching, or" after "because he".

(b) The amendment made by subsection (a) shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1972.

IMPROVING TRAINING PROGRAMS FOR THE EDUCATION OF TEACHERS AND RELATED EDUCATIONAL PERSONNEL

SEC. 147. (a) (1) Section 531(b) of the Higher Education Act of 1965 is amended by striking out the period at the end thereof and inserting in lieu thereof "; and", and by adding at the end thereof the following new clause:

"(11) programs or projects (including cooperative arrangements or consortia between institutions of higher education, junior and community colleges, or between such institutions and State or local educational agencies and nonprofit education associations) for the improvement of undergraduate programs for preparing educational personnel, including design, development, and evaluation of exemplary undergraduate training programs, introduction of high quality and more effective curricula and curricular materials, and the provision of increased opportunities for practical teaching experience for prospective teachers in elementary and secondary schools.".

(2) Section 531(c) of such Act is amended by striking out the "or" at the end of clause (1) and the period at the end of clause (2) by inserting a semicolon and "or" at the end of clause (2), and by adding the following new clause:

"(3) projects or programs to improve undergraduate or other programs for training educational personnel.".

(b) The amendments made by subsection (a) shall be effective after, and only with respect to appropriations for fiscal years beginning after June 30, 1972.

SUPPORT OF TUTORS AND INSTRUCTIONAL ASSISTANTS

SEC. 148. (a)(1) Section 531(b) of the Higher Education Act of 1965 is amended by striking out the period at the end of clause (11) and inserting in lieu thereof a semicolon and the word "and", and by adding the following new clause:

"(12) programs or projects to employ tutors or instructional assistants in preschool, elementary school, or secondary school classes, especially for educationally disadvantaged children, and children with limited English speaking ability.".

(2) Section 531(c) of such Act is amended by striking out "or" at the end of clause (2), by striking out the period at the end of clause (3) and inserting a semicolon and the word "or" in lieu thereof, and by adding the following clause:

"(4) compensating tutors and instructional assistants at such rates as the Commissioner may determine to be consistent with the prevailing practices under comparable federally supported work-study programs.".

(b) The amendments made by subsection (a) shall be effective after, and only with respect to appropriations for fiscal years beginning after June 30, 1972.

PROGRAMS FOR TEACHERS OF MIGRANT CHILDREN

SEC. 149. (a)(1) Section 531(b) of the Higher Education Act of 1965 is further amended by striking out the word "and" after clause (11) and by striking out the period at the end of clause (12) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new clause:

"(13) programs and projects designed to meet the need for the training of teachers for participation in education programs for migratory children of migratory agricultural workers, including teacher exchange programs.".

(2) Section 531(c) of such Act is amended by striking out "or" at the end of clause (3), by striking out the period at the end of clause (4) and inserting in lieu thereof a semicolon and the word "or", and by adding at the end thereof the following new clause (5):

"(5) such activities as may be necessary to carry out the purposes of clause (13) of subsection (b), to the extent that such activities are not inconsistent with the other provisions of this part.".

(b) The amendments made by subsection (a) shall be effective after June 30, 1972.

PART F—INSTRUCTIONAL EQUIPMENT

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS

SEC. 151. (a) Subsections (b) and (c) of section 601 and the Higher Education Act of 1965 are each amended by striking out "two succeeding fiscal years" and inserting in lieu thereof "succeeding fiscal years ending prior to July 1, 1975".

(b) The amendments made by subsection (a) of this section shall be effective after June 30, 1971.

PART G—ACADEMIC FACILITIES

TRANSFER OF THE PROVISIONS OF THE HIGHER EDUCATION FACILITIES ACT OF 1963

SEC. 161. (a) Title VII of the Higher Education Act of 1965 is amended to read as follows:

"TITLE VII—CONSTRUCTION OF ACADEMIC FACILITIES

"PART A—GRANTS FOR THE CONSTRUCTION OF UNDERGRADUATE ACADEMIC FACILITIES

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 701. (a) The Commissioner shall carry out a program of grants to institutions of higher education for the construction of academic facilities in accordance with this part.

"(b) For the purpose of making grants under this part, there are hereby authorized to be appropriated $936,000,000 for the fiscal year ending June 30, 1972 and for each of the succeeding fiscal years ending prior to July 1, 1975.

"(c) Of the sums appropriated pursuant to section 701(b), not less than 24 per centum nor more than 33⅓ per centum shall be reserved by the Commissioner and allotted among the States under section 702. The remainder of such sums shall be available for allotment among the States under section 703.

"PUBLIC COMMUNITY COLLEGES AND PUBLIC TECHNICAL INSTITUTES

"SEC. 702. (a) Sums reserved pursuant to the first sentence of section 701(c) shall be available for allotments to States for providing academic facilities for public community colleges and public technical institutes.

"(b) From the sums available for any fiscal year for the purposes of this section, the Commissioner shall allot to each State an amount which bears the same ratio to such sums as the product of—

"(1) the number of high school graduates of the State, and

"(2) the State's allotment ratio.

bears to the sum of the corresponding products for all the States, except that the amount allowed to any State shall not be less than $50,000.

"(b) From the sums available for any fiscal year for amounts allotted to a State under this section shall be available for the payment of the Federal share of the development cost of approved projects for the construction of academic facilities within such State for public community colleges and public technical institutes.

"(2) Any portion of a State's allotment under this section for any fiscal year for which applications from an institution qualified to receive grants under this section have not been received by the State Commission prior to January 1 of such fiscal year, shall if the State Commission so reqeusts, be available for payment of the Federal share of the development cost of approved projects under section 703.

"(d) All amounts allotted under this section for any fiscal year which are not reserved as provided in section 701(c) by the close of the fiscal year for which they are allotted shall be reallotted by the Commissioner, on the basis of such factors as he determines to be equitable and reasonable, among the States which, as determined by the Commissioner, are able to use without delay any amounts so reallotted for the purpose set forth in subsection (c)(1). Amounts reallotted under this subsection shall be available for reservation until the close of the fiscal year next succeeding the fiscal year for which they were originally allotted

"(e) For the purposes of clause (2) of subsection (b), the 'allotment ratio' for any State shall be 1.00 less the product of (A) 0.50 and (B) the quotient obtained by dividing the income per person for the State by the income per person for all the States (not including Puerto Rico, the Virgin Islands, American Samoa, and Guam), except that (i) the allotment ratio shall in no case be less than 0.33⅓ or more than 0.66⅔, (ii) the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, and Guam shall be 0.66⅔, and (iii) the allotment ratio of any State shall be 0.50 for any fiscal year if the Commissioner finds that the cost of school construction in such State exceeds twice the median of such costs in all the States as determined by him on the basis of statistics and data as the Commissioner shall deem adequate and appropriate. The allotment ratios shall be promulgated by the Commissioner as soon as possible after June 30, 1972, and annually thereafter, on the basis of the average of the incomes per person of the State and of all the States for the three most recent consecutive calendar years for which satisfactory data are available from the Department of Commerce.

"INSTITUTIONS OF HIGHER EDUCATION OTHER THAN PUBLIC COMMUNITY COLLEGES AND PUBLIC TECHNICAL INSTITUTES

"SEC. 703. (a) Sums appropriated pursuant to section 701(b) which remain after the reservation provided for in the first sentence of section 701(c) for any fiscal year shall be available for allotments to States for providing academic facilities for institutions of higher education other than institutions eligible for grants under section 702.

"(b) Sums available for the purposes of this section for any fiscal year shall be allotted among the States as follows:

"(1) The Commissioner shall allot to each State an amount which bears the same ratio to 50 per centum of such sums as the number of students enrolled in institutions of higher education in such States bears to the number of students so enrolled in all the States; and

"(2) The Commissioner shall allot to each State an amount which bears the same ratio to 50 per centum of such sums as the number of students enrolled in grades nine through twelve (both inclusive) of schools in such State bears to the total number of students so enrolled in all the States. For the purposes of this subsection, (A) the number of students enrolled in institutions of higher education shall be deemed to be equal to the sum of (i) the number of full-time students and (ii) the full-time equivalent of the number of part-time students as determined by the Commissioner in accordance with regulations; and (B) determinations as to enrollment under either clause (1) or clause (2) shall be made by the Commissioner on the basis of data for the most recent year for which satisfactory data with respect to such enrollment are available to him.

The amount allotted to any State under the preceding sentence for any fiscal year shall not be less than $50,000.

"(c)(1) Any amount allotted to a State under this section for any fiscal year shall, except as provided in paragraph (2), be available, in accordance with the provisions of this title, for payment of the Federal share of the development cost of approved projects for the construction of academic facilities within such State for institutions of higher education which are not eligible for grants under section 702.

"(2) Any portion of a State's allotment under this section for any fiscal year for which applications from an institution qualified to receive grants under this section have not been received by the State Commission prior to January 1 of such fiscal year, shall, if the State Commission so requests, be available for payment of the Federal share of the development cost of approved projects under section 702.

"(d) All amounts allotted under this section for any fiscal year which are not reserved by the close of the fiscal year for which they are allotted, shall be realloted by the Commissioner, on the basis of such factors as he determines to be equitable and reasonable, among the States which, as determined by the Commissioner, are able to use without delay any amounts so reallotted for the purposes of this section. Amounts reallotted under this subsection shall be available for reservation until the close of the fiscal year next succeeding the fiscal year for which they were originally allotted.

"STATE PLANS

"SEC. 704. (a) Any State desiring to participate in the grant program authorized by this part for any fiscal year shall submit for that year to the Commissioner through the State Commission a State plan for such participation. Such plan shall be submitted at such time, in such manner, and containing such information as may be necessary to enable the Commissioner to carry out his functions under this part and shall—

"(1) provide that it shall be administered by the State Commission;

"(2) set forth objective standards and methods which are consistent with basic criteria prescribed by regulations pursuant to section 706, for—

"(A) determining the relative priorities of eligible projects submitted by institutions of higher education within the State for the construction of academic facilities, and

"(B) determining the Federal share of the development cost of each such project;

"(3) provide that the fund apportioned for any fiscal year under section 702 or 703 shall be used only for the purposes set forth therein;

"(4) provide for—

"(A) assigning priorities solely on the basis of such criteria, standards, and methods to eligible projects submitted to the State Commission and found by it otherwise approvable under the provisions of this part, and

"(B) approving and recommending to the Commissioner, in the order of such priority, applications covering such eligible projects, and for certifying to the Commissioner the Federal share of the development cost of the project involved;

"(5) provide for affording to every applicant which has submitted a project to the State Commission on opportunity for a fair hearing before the State Commission as to the priority assigned to such project, or as to any other determination of the State Commission adversely affecting such applicant; and

"(6) provide for—

"(A) such fiscal control and fund accounting procedure as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State Commission under this part, and

"(B) making such reports, in such form and containing such information, as may be reasonably necessary to enable the Commissioner to perform his functions under this part.

"(b) The Commissioner shall approve any State plan submitted under this section if he determines that it complies with the provisions of this section and other appropriate provisions of this title.

"ELIGIBILITY FOR GRANTS

"SEC. 705. (a) Except as is provided in subsection (b), an institution of higher education shall be eligible for a grant under this part only if the State Commission determines, in accordance with criteria prescribed by regulation, that the construction project for which assistance is sought will, either alone or together with other construction to be undertaken within a reasonable time, result in—

"(1) a substantial expansion of, or

"(2) in the case of a new institution, the creation of, urgently needed (A) enrollment capacity, (B) the capacity to provide health care for students and institutional personnel to provide health care for students and institutional personnel, or (C) capacity to carry out extension and continuing education programs on the campus of such institution.

"(b) If the Commissioner determines, in accordance with criteria established by regulation, that the student enrollment capacity of an institution of higher education would decrease if an urgently needed academic facility is not constructed, the construction of such a facility may be considered, for the purposes of this section, to result in an expansion of the institution's student enrollment capacity.

"BASIC CRITERIA FOR DETERMINING PRIORITIES AND FEDERAL SHARE

"SEC. 706. (a)(1) The Commissioner shall, by regulation, prescribe basic criteria to which the provisions of State plans setting forth standards and methods for determining relative priorities of eligible construction projects, and the application of such standards and methods to such projects under such plans, shall be subject.

"(2) Such basic criteria shall, at least—

"(A) be such as will best tend to achieve the objectives of this part, while leaving opportunity and flexibility to State Commissions for the development of State plan standards and methods that will best accommodate the varied needs of institutions in the several States;

"(B) give special consideration to the expansion of undergraduate enrollment capacity; and

"(C) give consideration to the expansion of capacity to provide needed health care to students.

"(3) Subject to paragraph (2), such regulations may establish additional and appropriate basic criteria, including—

"(A) provision for considering the degree to which applicant institutions are effectively utilizing existing facilities;

"(B) provision for allowing State plans to group, or to allow grouping, in a reasonable manner, facilities or institutions according to functional or educational type for priority purposes; and

"(C) in view of the national objectives of this title, provision for considering the degree to which applicant institutions serve students from two or more States or from outside the United States.

"(4) In no event shall such basic criteria permit the readiness of an institution to admit out-of-State students to be considered as a priority adverse to such institution.

"(b)(1) The Commissioner shall prescribe, by regulation, the base criteria for determining the Federal share of the development cost of any eligible project under this part within a State, to which criteria the applicable standards and methods set forth in the State plan for such State shall conform.

"(2) In no case shall such basic criteria permit the Federal share to exceed 50 per centum of the development cost of a project, except in the case of a developing institution approved pursuant to section 302(b) in which case such percentage may not be in excess of 66⅔ per centum.

"(c) Section 553 of title 5, United States Code, shall apply to the prescription of regulations under this section, notwithstanding clause (2) of subsection (a) thereof.

"APPLICATIONS FOR GRANTS; AMOUNT OF GRANTS

"SEC. 707. (a) (1) Any institution of higher education which desires to receive a grant under this part shall submit an application therefor at such time or times, in such manner, and containing such information as the Commissioner shall prescribe by regulation.

"(2) The Commissioner shall approve an application for a construction project under this part if he determines that—

"(A) it meets the requirements prescribed under paragraph (1);

"(B) the project for which assistance is sought is an eligible project under section 705;

"(C) such project has been submitted through, and been approved and recommended by, the appropriate State Commission;

"(D) such State Commission has certified to the Commissioner, in accordance with the State plan, the Federal share of the development cost of the project, and sufficient funds to pay such Federal share are available from the applicable apportionment of the State;

"(E) such project has, pursuant to the State plan, been assigned a priority that is higher than that assigned to all other projects within the State which are chargeable to the same apportionment, and meet the requirements of this section, and for which Federal funds have not yet been reserved;

"(F) the construction to be carried out under the application will be undertaken in a timely and economic manner and will not be of elaborate or extravagant design or materials;

"(G) in the case of a student health care facility, no assistance will be provided for such facility under title IV of the Housing Act of 1950; and

"(H) the application contains assurances or is supported by satisfactory assurances—

"(i) that title to the site is in accordance with regulations of the Commissioner relating thereto,

"(ii) that Federal funds received by the applicant will be solely used for defraying the development cost of the project covered by the application,

"(iii) that sufficient funds will be available to meet the non-Federal portion of such cost and to provide for the effective use of the academic facility upon completion, and

"(iv) that the facility will be used as an academic facility for at least the period of the Federal interest therein, as provided in section 781.

"(b) Amendments to applications submitted under this section shall, except as the Commissioner may otherwise provide by regulations, be subject to approval in the same manner as original applications.

"(c) (1) Upon his approval of any application under this section, the Commissioner shall reserve from the applicable allotment available therefor, the amount of such grant, which shall be equal to the Federal share of the development cost of the project covered by the application, and, in accordance with regulations, shall pay the amount reserved to the applicant.

"(2) Upon approval of an amendment of an application, or revision of the estimated development cost of a project, for which there has been a reservation made under paragraph (1), the Commissioner may adjust the amount so reserved, accordingly. If an adjustment under the first sentence of this paragraph results in a greater amount being reserved, he may reserve the Federal share of the added cost only from the applicable allotment available at the time of such approval.

"ADMINISTRATION OF STATE PLANS; JUDICIAL REVIEW

"SEC. 708. (a) (1) The Commissioner shall not finally disapprove any State plan submitted under this part, or any modification thereof, without first affording the State Commission submitting the plan reasonable notice and opportunity for a hearing.

"(2) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State Commission administering a State plan approved under this part, finds—

"(A) that the State plan has been so changed that it no longer complies with the provisions of section 704, or

"(B) that in the administration of the plan there is a failure to comply substantially with any such provision,

the Commissioner shall notify such State Commission that the State will not be regarded as eligible to participate in the program under this part until he is satisfied that there is no longer any such failure to comply.

"(b) (1) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under section 704, or with his final action under subsection (a), such State may appeal to the United States Court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

"(2) The findings of fact by the Commissioner if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

"PART B—GRANTS FOR CONSTRUCTION OF GRADUATE ACADEMIC FACILITIES

"AUTHORIZATION

"SEC. 721. (a) The Commissioner shall carry out a program of making grants to institutions of higher education to assist them in improving existing graduate schools and cooperative graduate centers, and in establishing graduate schools and cooperative graduate centers of excellence, in order to increase the supply of highly qualified personnel needed by communities, industries, and governments and for teaching and research.

"(b) For the purpose of making grants under this part, there are authorized to be appropriated $60,000,000 for each of the fiscal years ending June 30, 1972, and June 30, 1973, and $90,000,000 for each of the succeeding fiscal years ending prior to July 1, 1975.

"APPLICATION FOR, AND AMOUNT OF, GRANTS

"SEC. 722. (a) (1) Any institution of higher education desiring to receive a grant under this part shall submit an application therefor at such time, in such manner, and containing such information as the Commissioner may require.

"(2) In determining whether to approve applications under this section, the order in which to approve such applications, and the amount of grants, the Commissioner shall give consideration to the extent to which the projects for which assistance is sought will contribute toward achieving the objectives of this part, and the extent to which they will aid in attaining a wider distribution of graduate schools and cooperative graduate centers throughout the States. In no case shall the total of payments from appropriations for any fiscal year pursuant to section 721 made with respect to projects in any State exceed an amount equal to 12½ per centum of such appropriations.

"(3) For the purposes of this section, the term 'institution of higher education' includes cooperative graduate center boards.

"(b) The Commissioner shall not approve any application under this section until he has obtained the advice and recommendations of a panel of specialists who are not regular full-time employees of the Federal Government and who are competent to evaluate such application.

"(c) No grant under this part may be in an amount in excess of 50 per centum of the development cost of the project covered by the application.

"PART C—LOANS FOR CONSTRUCTION OF ACADEMIC FACILITIES

"AUTHORIZATION

"SEC. 741. (a) (1) The Commissioner shall carry out a program of making and insuring loans, in accordance with the provisions of this part.

"(2) The Commissioner is authorized to make loans to institutions of higher education and to higher education building agencies, which, in the case of undergraduate facilities, have submitted approvable applications under part A, for the construction of academic facilities and to insure loans.

"(b) For the purpose of making payments into the fund established under section 744, there are hereby authorized to be appropriated $200,000,000 for the fiscal year ending June 30, 1972, and for each of the succeeding fiscal years ending prior to July 1, 1975. Sums appropriated pursuant to this subsection for any fiscal year shall be available without fiscal year limitations.

"ELIGIBILITY CONDITIONS, AMOUNTS, AND TERMS OF LOANS

"SEC. 742. (a) No loan pursuant to this part shall be made unless the Commissioner finds (1) that not less than 20 per centum of the development cost of the facility will be financed from non-Federal sources, (2) that the applicant is unable to secure the amount of such loan from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this part, (3) that the construction will be undertaken in an economical manner and that it will not be of elaborate or extravagant design or materials, and (4) that, in the case of a project to construct an infirmary or other facility designed to provide primarily for outpatient care of students and institutional personnel, no financial assistance will be provided such project under title IV of the Housing Act of 1950.

"(b) A loan pursuant to this part shall be secured in such manner and shall be repaid within such period not exceeding fifty years, as may be determined by the Commissioner; and it shall bear interest at (1) a rate determined by the Commissioner which shall not be less than a per annum rate that is one-quarter of 1 percentage point above the average annual interest rate on all interest-bearing obligations of the United States forming a part of the public debt as computed at the end of the preceding fiscal year, adjusted to the nearest one-eighth of 1 per centum, or (2) the rate of 3 per centum per annum, whichever is the lesser.

"GENERAL PROVISION FOR LOAN PROGRAM

"SEC. 743. (a) Financial transactions of the Commissioner under this part, except with respect to administrative expenses, shall be final and conclusive on all officers of the Government and shall not be reviewable by any Court.

"(b) In the performance of, and with respect to, the functions, powers, and duties vested in him by this part, the Commissioner may—

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part;

"(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this subsection by or against the Commissioner shall survive notwithstanding any change in the person occupying the office of Commissioner or any vacancy in such office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Commissioner or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 507(b) and 517 and 2679 of title 28, United States Code;

"(3) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which he has made a loan pursuant to this part; and, in the event of any such acquisition (and notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States), complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property; except that (1) such action shall not preclude any other action by him to recover any deficiency in the amounts loaned and (2) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the cvil rights under the State or local laws of the inhabitants on such property;

"(4) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix;

"(5) subject to the specific limitations in this part, consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which he is a party or which has been transferred to him pursuant to this section; and

"(6) include in any contract or instrument made pursuant to this part such other covenants, conditions, or provisions (including provisions designed to assure against use of the facility, constructed with the aid of a loan under this part, for purposes described in section 782(1)), as he may deem necessary to assure that the purpose of this part will be achieved.

"REVOLVING LOAN FUND AND INSURANCE FUND

"SEC. 744. (a) There is hereby created within the Treasury a separate fund for higher education academic facilities loans and loan insurance (hereafter in this section called the 'fund') which shall be available to the Commissioner without fiscal year limitation as a revolving fund for the purposes of making loans and insuring loans under this part.

"(b) (1) The Commissioner shall transfer to the fund available appropriations provided under section 741(b) to provide capital for the fund. All amounts received by the Commissioner as interest payments or repayments of principal on loans, and any other moneys, property, or assets derived by him from his operations in connection with this part, including any moneys derived directly or indirectly from the sale of assets, or beneficial interests or participations in assets of the fund, shall be deposited in the fund.

"(2) All loans, expenses, and payments pursuant to operations of the Commissioner under this part shall be paid from the fund, including (but not limited to) expenses and payments of the Commissioner in connection with sale, under section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this part. From time to time, and at least at the close of each fiscal year, the Commissioner shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations paid out for loans under this part or available as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Commissioner determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess shall be available for the purposes of part A and shall be deemed to have been appropriated pursuant to section 701(b).

"ANNUAL INTEREST GRANTS

"SEC. 745. (a) To assist institutions of higher education and higher education building agencies, which, in the case of undergraduate facilities, have an approvable application submitted under part A, to reduce the cost of borrowing from other sources for the construction of academic facilities, the Commissioner may make annual interest grants to such institutions and agencies.

"(b) Annual interest grants to an institution of higher education or higher education building agency with respect to any academic facility shall be made over a fixed period not exceeding forty years, and provision for such grants shall be embodied in a contract guaranteeing their payment over such period. Each such grant shall be in an amount not greater than the difference between (1) the average annual debt service which would be required to be paid, during the life of the loan, on the amount borrowed from other sources for the construction of such facilities, and (2) the average annual debt service which the institution would have been required to pay, during the life of the loan, with respect to such amounts if the applicable interest rate were the maximum rate specified in section 744(b)(2). The amount on which such grant is based shall be approved by the Secretary.

"(c) (1) There are hereby authorized to be appropriated to the Commissioner such sums as may be necessary for the payment of annual interest grants to institutions of higher education and higher education building agencies in accordance with this section.

"(2) Contracts for annual interest grants under this section shall not be entered into in an aggregate amount greater than is authorized in appropriation Acts; and in any event the total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into under this section shall not exceed $5,000,000 which amount shall be increased by $6,750,000 on July 1, 1969, and by $13,500,000 on July 1, 1970 and on July 1 of each of the four succeeding years.

"(d) Not more than 12½ per centum of the funds provided for in this section for grants may be used within any one State.

"(e) No annual interest grant pursuant to this section shall be made unless the Commissioner finds (1) that not less than 10 per centum of the development costs of the facility will be financed from non-Federal sources, (2) that the applicant is unable to secure a loan in the amount of the loan with respect to which the annual interest grant is to be made, from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this title, and (3) that the construction will be undertaken in an economical manner and that it will not be of elaborate or extravagant design or materials. For purposes of this section, a loan with respect to which an interest grant is made under this section shall not be considered financing from a non-Federal source. For purposes of the other provisions of this title, such a loan shall be considered financing from a non-Federal source.

"ACADEMIC FACILITIES LOAN INSURANCE

"SEC. 746. (a) (1) In order to assist institutions of higher education and higher education building agencies to procure loans for the construction of academic facilities, the Commissioner may insure the payment of interest and principal on such loans if such institutions and agencies meet, with respect to such loans, criteria prescribed by or under section 745 for the making of annual interest grants under such section.

"(2) No loan insurance under paragraph (1) may apply to so much of the principal amount of any loan as exceeds 90 per centum of the development cost of the academic facility with respect to which such loan was made.

"(b) (1) The United States shall be entitled to recover from any institution or agency to which loan insurance has been issued under this section the amount of any payment made pursuant to that insurance, unless the Commissioner for goood cause waives its right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payment with respect to which the payment was made.

"(2) Any insurance issued by the Commissioner pursuant to subsection (a) shall be incontestable in the hands of the institution or agency on whose behalf such insurance is issued, and as to any agency, organization, or individual who makes or contracts to make a loan to such institution or agency in reliance thereon, except for fraud or misrepresentation on the part of such institution or agency or on the part of the agency, organization, or individual who makes or contracts to make such loan.

"(c) Insurance may be issued by the Commissioner under subsection (a) only if he determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a deterimnation that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Commissioner may charge a premium for such insurance in an amount reasonably determined by him to be necessary to cover administrative expenses and probable losses under subsections (a) and (b). Such insurance shall be subject to such further terms and conditions as the Commissioner determines to be necessary.

"PART D—ASSISTANCE IN MAJOR DISASTER AREAS

"AUTHORIZATION

"SEC. 761. (a) The Commissioner shall carry out a program of financial assistance to public institutions of higher education, in accordance with the provisions of this part.

"(b) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this part.

"ASSISTANCE FOR CONSTRUCTION OF ACADEMIC FACILITIES

"SEC. 762. (a) If the Director of the Office of Emergency Planning determines that a public institution of higher education is, in whole or in part, within an area which, after June 30, 1971, and before July 1, 1975, has suffered a disaster which is a major disaster, and if the Commissioner determines with respect to such institution that—

"(1) the academic facilities of such institution have been destroyed or seriously damaged as a result of the disaster;

"(2) such institution is exercising due diligence in availing itself of State and other financial assistance available for restoration or replacement of such facilities; and

"(3) the institution does not have sufficient funds available from such other sources, including proceeds of insurance on the facilities, to provide for the restoration or replacement of such facilities;

the Commissioner is authorized to provide such assistance to such institution as is provided in subsection (b).

"(b) (1) Assistance under this section shall be a grant to an eligible institution, as determined under subsection (a), of an amount necessary to enable the institution to carry out the construction necessary to restore or replace the academic facilities determined under clause (1) of subsection (a) to be damaged or destroyed.

"(2) The maximum amount of a grant under this section shall not exceed the cost of construction incident to the restoration or replacement of the facilities determined to be damaged or destroyed under clause (1) of subsection (a) less the amount of additional assistance determined under clause (3) of subsection (a) to be available.

"(c) (1) Assistance under this section may include a grant of an amount necessary to enable the institution to lease, or otherwise obtain the use of, such facilities as are needed to replace, temporarily, facilities which have been made unavailable as a result of a major disaster.

"(2) An institution shall be eligible for assistance under this subsection if it qualifies for assistance under subsection (a), whether or not it receives assistance under subsection (b).

"EQUIPMENT AND SUPPLIES

"SEC. 763. If an institution is eligible for assistance under section 762(a), the Commissioner is authorized, whether or not such institution receives assistance under section 762(b), to make a grant to such institution of not in excess of an amount he determines necessary to replace equipment, maintenance supplies, and instructional supplies (including books, and curricular and program materials) destroyed or seriously damaged as a result of the major disaster.

"REPAYABLE ASSISTANCE IN LIEU OF A GRANT

"SEC. 764. If the Commissioner's determinations under clauses (2) and (3) of section 762(a) indicate that financial resources will become available to an institution otherwise qualified for assistance under section 762 at some future date or dates, he is authorized, subject to such terms and conditions as may be in the public interest, to extend assistance to such institution under section 762 (b), 762(c), or 763 (or all such sections) with an agreement with such institution which provides that the institution will repay part or all of the funds received by it under this part.

"APPLICATIONS

"SEC. 765. No payment may be made to a public institution of higher education for academic facilities under this part unless an application therefor is submitted through the appropriate State Commission and is filed with the Commissioner in accordance with regulations prescribed by him. In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the institutions which have submitted approvable applications. No payment may be made under section 762(b) unless the Commissioner finds, after consultation with the State Commission, that the project or projects with respect to which it is made are not inconsistent with overall State plans, submitted under section 704(a), for the construction of academic facilities. All determinations made by the Commissioner under this part shall be made only after consultation with the appropriate State Commission.

"DEFINITIONS

"SEC. 766. For the purposes of this part—

"(1) the term 'major disaster' means a disaster determined to be a major disaster as defined in section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a)); and

"(2) an institution of higher education shall be deemed to be a 'public institution of higher education' if such institution is found by the Commissioner to be under public supervision and control.

"PART E—GENERAL

"RECOVERY OF PAYMENTS

"SEC. 781. (a) The Congress hereby finds and declares that, if a facility constructed with the aid of a grant or grants under part A or B of this title is used as an academic facility for twenty years following completion of such construction, the public benefit accruing to the United States from such use will equal in value the amount of such grant or grants. The period of twenty years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this title.

"(b) If, within twenty years after completion of construction of an academic facility which has been constructed in part with a grant or grants under part A or B of this title—

"(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

"(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term 'academic facility',

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal grant or grants bore to the development cost of the facility financed with the aid of such grant or grants. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"(c) Notwithstanding the provisions of subsections (a) and (b), no facility constructed with assistance under this title shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

"DEFINITIONS

"SEC. 782. The following definitions apply to terms used in this title:

"(1) (A) Except as provided in subparagraph (B) of this paragraph, the term 'academic facilities' means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For purposes of parts A, C, and D, such term includes infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary of Health, Education, and Welfare may prescribe or approve in order to insure that facilities constructed with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

"(B) The term 'academic facilities' shall not include (i) any facility intended primarily for events for which admission is to be charged to the general public, or (ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Commissioner finds that the physical integration of such facility used or to be used for sectarian included under this title is required to carry out the objectives of this title, or (iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or (iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (v) any facility used or to be used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 724 of the Public Health Service Act, or a school of nursing as defined in section 843 of that Act.

"(2) The term 'construction' means (A) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (B) acquisition of existing structures not owned by the institution involved; or (C) rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of built-in equipment) of existing structures; or (D) a combination of any two or more of the foregoing. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular and program materials, and items of current operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed in connection with construction as defined in paragraph (2) (A) or (B) or, in cases referred to in paragraph (2) (C), equipment acquired and installed as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; and the terms 'equipment', 'initial equipment', and 'built-in equipment' shall be more particularly defined by the Commissioner by regulation. For the purposes of clause (C) in the first sentence of this paragraph, the term 'rehabilitation, alteration, conversion, or improvement' includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.

"(3) (A) The term 'development cost', with respect to an academic facility, means the amount found by the Commissioner to be the cost, to the applicant for a grant or loan under this title, of the construction involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility. There shall be excluded from the development cost—

"(i) in determining the amount of any grant under part A or B, an amount equal to the sum of (I) any Federal grant which the institution has obtained, or is assured of obtaining, under any law other than this title, with respect to the construction that is to be financed with the aid of a grant under part A or B, and (II) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant; and

"(ii) in determining the amount of any loan under part C, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this title, with respect to the construction that is to be financed with the aid of a loan under part C.

"(B) In determining the development cost with respect to an academic facility, the Commissioner may include expenditures for works of arts for the facility of not to exceed 1 per centum of the total cost (including such expenditures) to the applicant of construction of, and land acquisition and site improvements for, such facility.

"(4) The term 'Federal share' means, except as provided in section 706(b)(2), in the case of any project a percentage (as determined under the applicable State plan) not in excess of 50 per centum of its development cost.

"(5) The term 'higher education building agency' means (A) an agency, public authority, or other instrumentality of a State authorized to provide, or finance the construction of, academic facilities for institutions of higher education (whether or not also authorized to provide or finance other facilities for such or other educational institutions, or for their students or faculty), or (B) any corporation (no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual) (I) established by an institution of higher education for the sole purpose of providing academic facilities for the use of such institution, and (II) upon dissolution of which, all title to any property purchased or built from the proceeds of any loan made under part C will pass to such institution.

"(6) The term 'public community college and public technical institute' means an institution of higher education which is under public supervision and control, and is organized and administered principally to provide a two-year program which is acceptable for full credit toward a bachelor's degree, or a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; and the term includes a branch of an institution of higher education offering four or more years of higher education which is located in a community different from that in which its parent institution is located.

"(7) The term 'cooperative graduate center' means an institution or program created by two or more institutions of higher education which will offer to the students of the participating institutions of higher education graduate work which could not be offered with the same proficiency or economy (or both) at the individual institution of higher education. The center may be located or the program carried out on the campus of any of the participating institutions or at a separate location.

"(8) The term 'cooperative graduate center board' means a duly constituted board established to construct and maintain the cooperative graduate center and coordinate academic programs. The board shall be composed of representatives of each of the institutions of higher education participating in the center and of the community involved. At least one-third of the board's members shall be community representatives. The board shall elect by a majority vote a chairman from among its membership.".

(b)(1) The programs authorized by title VII of the Higher Education Act of 1965 shall be deemed to be a continuation of the comparable programs authorized by the Higher Education Facilities Act of 1963.

(2) Effective July 1, 1972, the Higher Education Facilities Act of 1963 is amended by striking out titles I and II thereof.

(3) Effective July 1, 1971, such Act is amended by striking out section 306 thereof.

(4) The revolving fund created by section 744 of the Higher Education Act of 1965 shall be deemed to be a continuation of the revolving fund created by section 305 of the Higher Education Facilities Act of 1963. Any sums in the fund for higher education academic facilities created by such section 305 on the date of enactment of this Act shall be transferred to the fund created by section 744 of the Higher Education Act of 1965, and all such funds shall be deemed to have been made available for such fund. Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this sentence, any sums appropriated pursuant to section 303(c) of the Higher Education Facilities Act of 1963 for any fiscal year ending prior to July 1, 1972, which have not been loaned under title III of that Act of 1963 shall be deemed to have been appropriated pursuant to section 741(b) of the Higher Education Act of 1965 for the fiscal year ending June 30, 1972.

EXTENSION OF AUTHORIZATIONS OF APPROPRIATIONS FOR THE HIGHER EDUCATION FACILITIES ACT OF 1963

SEC. 162. (a) Sections 101(b), 201, 303(c), and 408(a) of the Higher Education Facilities Act of 1963 are each amended by striking out "July 1, 1971" and inserting in lieu thereof "Julv 1. 1972".

(b) The amendments made by subsection (a) of this section shall be effective after June 30, 1971.

STATE HIGHER EDUCATION COMMISSIONS

SEC. 163. (a) Section 1202 of the Higher Education Act of 1965, having been superseded by section 425 of the General Education Provisions Act, is hereby repealed.

(b) Title XII of such Act is amended by adding after section 1201 the following new section:

"STATE HIGHER EDUCATION COMMISSIONS

"SEC. 1202 (a)(1) Any State desiring to participate, after June 30, 1972, in any program authorized by this Act which requires the use of a State Commission in the administration thereof shall designate, for such purpose, a State agency which is broadly representative of the public and of the public and private institutions of higher education (including public community colleges and public technical institutes) in the State. If, in the case of any State, no such State agency exists, such State shall create such an agency.

"(2) Each State Commission shall be authorized to, and shall carry out, such functions as may be required or authorized with respect to the program in which the State is participating. The Commissioner shall pay to each State Commission the amount necessary for the proper and efficient administration by such Commission of each State plan which is approved by him under a program authorized by this Act which requires the use of a State Commission in the administration of such program.

"(3) The Commissioner is authorized to make grants, upon such terms and conditions as the Commissioner determines will best further the purposes of title VII, to State Commissions for conducting comprehensive planning to determine construction needs of institutions of higher education.

"(b)(1) The Commissioner is authorized to make grants to State Commissions to enable them to make comprehensive inventories of, and studies with respect to, the postsecondary educational resources in the States and means by which such resources may be better planned and coordinated, improved, expanded, or altered in order to insure that all persons within the States who desire, and who can benefit from, postsecondary education may have an opportunity to do so.

"(2) The Commissioner is further authorized to make grants to State Commissions to enable them to conduct comprehensive planning for statewide postsecondary education systems which will achieve the purpose set forth in paragraph (1). Such planning shall include a consideration of a system of comprehensive public community colleges as a means of achieving such purpose.

"(c) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.".

(c)(1) Unless a State otherwise creates or designates a State Commission for the purposes of section 1202 of the Higher Education Act of 1965 prior to June 30, 1972, the State Commission of any State, designated or established pursuant to that part of section 105(a) of the Higher Education Facilities Act of 1963 which precedes clause (1) thereof, which exists on June 30, 1972, shall become, and be deemed to be, the State Commission of that State pursuant to section 1202 of the Higher Education Act of 1965 for the purposes of such section 1202(a). The State Commissions under such section 1202 shall be successor State Commission to those designated or established under such part of such section 105(a) for the purposes of such section 1202(a).

(2) On July 1, 1972, all functions, powers, duties, and responsibilities vested in any State Commission established pursuant to such section 105(a) on June 30, 1972 shall be vested in their successor State Commissions.

(3) All orders, determinations, rules, procedures, or other decisions of States Commissions under such part of such section 105(a), which are in effect on June 30, 1972, shall continue to be in effect and shall be deemed to be orders, determinations, rules, procedures, or other decisions of their successor State Commissions until changed or modified, in accordance with law, by such successor State Commissions.

(4) All personnel, assets, liabilities, contracts, property, and records as are determined by the Commissioner to be necessary for the transitions required under this section, are, effective July 1, 1972, transferred to successor State Commissions.

(5) No successor State Commission under this subsection shall be eligible to receive a grant under section 1202(b) of the Higher Education Act of 1965, prior to sixty days after the end of the first legislative session of the State legislature of the State for which it is the State Commission which begins after the date of enactment of this Act.

PART H—NETWORKS FOR KNOWLEDGE EXTENSION

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS

SEC. 171. Section 802 of the Higher Education Act of 1965 is amended by inserting before the period at the end thereof "and for each of the succeeding fiscal years ending prior to July 1, 1975".

INCLUSION OF LAW AND GRADUATE PROFESSIONAL SCHOOLS

SEC. 172. (a)(1) Section 801(a) of the Higher Education Act of 1965 is amended by striking out the first sentence thereof and inserting in lieu thereof the following: "The Commissioner shall carry out a program of encouraging institutions of higher education (including law and other graduate professional schools) to share, to the optimal extent, their technical and other educational and administrative facilities and resources in accordance with this title. The Commissioner is authorized to make grants to, and contracts with, institutions of higher education to pay all or part of the cost of cooperative arrangements and of pilot or demonstration projects designed to accomplish the purpose set forth in the first sentence of this subsection.".

(2) Clause (1)(A) of section 801(b) of such Act is amended by inserting after "libraries" a comma and "including law libraries", and by inserting after "collections" a comma and "including law library collections,".

(b) The amendments made by subsection (a) shall be effective after June 30, 1972.

PART I—GRADUATE PROGRAMS AND COMMUNITY COLLEGE PROGRAMS

EXTENSION OF TITLES IX AND X OF THE HIGHER EDUCATION ACT OF 1965

SEC. 181. (a) (1) The first sentence of section 925 of the Higher Education Act of 1965 is amended to read as follows: "There is authorized to be appropriated $13,000,000 for the fiscal year ending June 30, 1972.".

(2) The amendment made by paragraph (1) shall be effective after June 30, 1971.

(b) (1) Section 1002 of the Higher Education Act of 1965 is amended by striking out "for the fiscal year ending June 30, 1971" and inserting in lieu thereof "each for the fiscal years ending June 30, 1971, and June 30, 1972".

(2) The amendment made by paragraph (1) shall be effective after June 30, 1971.

NEW TITLE IX OF THE HIGHER EDUCATION ACT OF 1965 (GRADUATE PROGRAMS)

SEC. 182. (a) The Higher Education Act of 1965 is amended by striking out title IX and inserting in lieu thereof the following:

"TITLE IX—GRADUATE PROGRAMS

"PART A—GRANTS TO INSTITUTIONS OF HIGHER EDUCATION

"PURPOSES; AUTHORIZATION

"SEC. 901. (a) It is the purpose of this part to make financial assistance available to institutions of higher education—

"(1) to strengthen and improve the quality of graduate and professional programs leading to an advanced degree in such institutions and to increase the number of such programs;

"(2) to establish, strengthen, and support graduate centers for the study of the languages and cultures of foreign countries, areas, or regions;

"(3) to establish, strengthen, and support graduate centers to serve as national and international resources for research and training in international studies;

"(4) to establish, strengthen, and improve programs designed to prepare graduate and professional students for public service; and

"(5) to assist in strengthening undergraduate programs of instruction in the areas described in clauses (2), (3), and (4), whenever the Commissioner determines that strengthened undergraduate programs of instruction will contribute to the purposes of such clauses.

"(b) The Commissioner shall carry out a program of making grants to institutions of higher education to carry out the purposes set forth in subsection (a).

"(c) There are authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975, for the purposes of this part.

"APPLICATIONS FOR GRANTS

"SEC. 902. (a) The Commissioner is authorized to make grants to institutions of higher education in accordance with the provisions of this part. An institution of higher education desiring to receive a grant under this part shall submit to the Commissioner an application therefor at such time or times, in such manner, and containing such information as the Commissioner may prescribe by regulation. Such application shall set forth a program of activities for carrying out one or more of the purposes set forth in section 901(a) in such detail as will enable the Commissioner to determine the degree to which such program will accomplish such purpose or purposes, and such other policies, procedures, and assurances as the Commissioner may require by regulation.

"(b) The Commissioner shall approve an application only if he determines—

"(1) that the application sets forth a program of activities which are likely to make substantial progress toward achieving the purposes of this part; and

"(2) that the approval of the application will result in a wider distribution of the programs described in section 901(a) throughout the States.

"AUTHORIZED ACTIVITIES

"SEC. 903. (a) The funds appropriated pursuant to section 901(c) may be used for such purposes as the Commissioner determines will best accomplish the purposes of this part.

"(b) Such funds may be used solely for the purposes set forth in an application approved under section 902 and solely for the purpose of accomplishing the purposes stated in section 901(a), and to that end such funds may be used for—

"(1) faculty improvement;

"(2) the expansion of graduate and professional programs of study;

"(3) the acquisition of appropriate instructional equipment and materials;

"(4) cooperative arrangements among graduate and professional schools; and

"(5) the strengthening of graduate and professional school administration.

"RESEARCH AND STUDIES

"SEC. 904. The Commissioner is authorized, directly or by contract, to conduct studies and research activities in connection with the need for, and improvement of, graduate programs in various fields of study in institutions of higher education throughout the United States.

"PART B—FEDERAL FELLOWSHIPS

"PROGRAM AUTHORIZED

"SEC. 921. (a) It is the purpose of this part to provide grants, to be known as Federal fellowships, to assist graduate students of exceptional ability, who also demonstrate a financial need, and graduate and professional students of ability who are from economically disadvantaged backgrounds, to complete their study toward an advanced degree, to the end that the flow of highly trained individuals from universities may be speeded. The demonstration of financial need shall be determined in accordance with regulations prescribed by the Commissioner.

"(b) (1) The Commissioner is authorized to award under the provisions of this part not to exceed 13,200 fellowships for the fiscal year ending June 30, 1973, 19,200 fellowships for the fiscal year ending June 30, 1974, and 25,200 fellowships for the fiscal year ending June 30, 1975.

"(2) In addition to the number of fellowships authorized to be awarded by paragraph (1), the Commissioner is authorized to award fellowships equal to the number previously awarded during any fiscal year under this part but vacated prior to the end of the period for which they were awarded, except that each fellowship awarded under this paragraph shall be for such period of graduate or professional work or research, not in excess of the remainder of the period for which the fellowship which it replaces was awarded, as the Commissioner may determine.

"(c) (1) Fellowships awarded under this part shall be for graduate and professional study leading to an advanced degree or research incident to the presentation of a doctoral dissertation. Such fellowships may be awarded for graduate and professional study and research at any institution of higher education, library, archive, or any other research center approved for such purpose by the Commissioner. Such fellowships shall be awarded for such periods as the Commissioner may determine, but not to exceed three years.

"(2) Fellowships awarded under this part shall be, among others—

"(A) for persons who are (i) interested in teaching, planning to teach, or continuing to teach, in institutions of higher education, and (ii) pursuing, or intending to pursue, a course of study leading to a degree of doctor of philosophy, or an equivalent degree; or

"(B) for graduate or professional study for persons who plan to pursue environmental careers, in such fields as ecology, hydrology, chemistry, biology, and engineering related to the protection of the environment and the control of environmental pollution; or

"(C) for persons planning to pursue a career in the public service, which term 'public service' means service as an officer or employee in any branch of local, State, or Federal Government;

"(D) for persons undertaking advanced study or training in any modern foreign language and in fields needed for a full understanding of the area, region, or country in which such language is commonly used;

"(E) for persons from disadvantaged backgrounds, as determined by the Commissioner, undertaking graduate or professional study in fields to which their backgrounds are particularly relevant; or

"(F) for persons undertaking advanced study in domestic mining, and mineral and mineral fuel conservation, including oil, gas, coal, oil shale, and uranium.

"AWARD OF FELLOWSHIPS

"SEC. 922. Recipients of fellowships under this part shall be—

"(1) persons who have been accepted by an institution of higher education for graduate study leading to an advanced degree or for a professional degree, or

"(2) persons who have completed all course work required for granting of a doctoral degree or an equivalent degree (except such course work credited on the dissertation) and comprehensive examinations where appropriate, and whose doctoral dissertation (or other equivalent dissertation) proposal has been approved by appropriate officials of an institution of higher education.

"DISTRIBUTION OF FELLOWSHIPS

"SEC. 923. In awarding fellowships under the provisions of this part, the Commissioner shall endeavor to provide an equitable distribution of such fellowships throughout the Nation, except that, to the extent he deems proper, to provide for those who are in greatest financial need of such fellowships.

"STIPENDS AND INSTITUTION OF HIGHER EDUCATION ALLOWANCES

"SEC. 924. (a) The Commissioner shall pay to persons awarded fellowships under this part such stipends as he may determine to be consistent with prevailing practices under comparable federally supported programs, except that the stipend shall not be less than $2,800 for each academic year study. An additional amount of $300 for each such year shall be paid to each such person on account of each of his dependents, not to exceed the amount of $1,500 per academic year.

"(b) In addition to the amount paid to persons pursuant to subsection (a) there shall be paid to the institution of higher education at which each such person is pursuing his course of study an amount equal to 150 per centum of the amount paid to such person, less the amount paid on account of each of such person's dependents, to such person, less any amount charged such person for tuition.

"(c) The Commissioner shall reimburse any person awarded a fellowship pursuant to this part for actual and necessary traveling expenses of such person and his dependents from his ordinary place of residence to the institution of higher education, library, archive, or other research center where he will pursue his studies under such fellowship, and to return to such residence.

"LIMITATION

"SEC. 925. No fellowship shall be awarded under this part for study at a school or department of divinity.

"FELLOWSHIP CONDITIONS

"SEC. 926. (a) A person awarded a fellowship under the provisions of this part shall continue to receive the payments provided in section 924(a) only during such periods as the Commissioner finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment in teaching, research, or similar activities, approved by the Commissioner.

"(b) The Commissioner is authorized to require reports containing such information in such form and to be filed at such times as he determines necessary from any person awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Commissioner, stating that such person is making satisfactory progress in, and is devoting essentially full time to, the program for which the fellowship was awarded.

"APPROPRIATIONS AUTHORIZED

"SEC. 927. There are authorized to be appropriated such sums as may be necessary for the purposes of this part.".

(b) Of the sums appropriated pursuant to section 901(c) of the Higher Education Act of 1965 for any fiscal year at least $18,000,000 shall be for the purposes of sections 901 (a) (2) and (3) of such Act.

(c) The amendment made by subsection (a) shall be effective after June 30, 1972.

INTERNS FOR POLITICAL LEADERSHIP PROGRAM

SEC. 182A. (a) Title IX of the Higher Education Act of 1965 is amended by adding at the end thereof the following new part:

"PART C—INTERNS FOR POLITICAL LEADERSHIP

"PROGRAM AUTHORIZED

"SEC. 931. The Commissioner is authorized to plan, develop, and carry out an internship program under which students will be provided practical political involvement with elected officials in the performance of their duties at all levels of government through internships in their offices. Such internship program shall be carried out through arrangements with such nonprofit agencies as are appropriate, with institutions of higher education, and with State and local governments. Under such program the interns, who are students in their third and fourth years of study at any institution of higher education will be assigned duties in offices of State and local elected officials, which will give them an insight into the problems and operations of the different levels of government, as well as an opportunity for research and for involvement in the policymaking process. Such arrangements shall provide for coordination between the on-campus educational programs of the persons selected and their activities as interns, with commensurate credit given for their work and achievement as interns. Such internship program shall also provide opportunities for students who have participated in the internship program at State and local levels to become interns in the offices of Members of Congress, who wish to participate, for up to three months during the first year following the receipt of their bachelor's degree.

"SELECTION OF STUDENTS FOR PARTICIPATION

"SEC. 932. The students who are to participate in the internship program provided for in this part shall be selected from among students whose names are proposed by participating institutions of higher education. Internships shall be distributed among the States so that insofar as practicable the number for each State bears the same ratio to the total number as the number of Members of Congress from that State bears to the total number of Members of Congress.

"FEDERAL SHARE

"SEC. 933. The Federal share of the cost of carrying out the program provided for in this part may not exceed 50 per centum.

"ADMINISTRATION

"SEC. 934. The Commissioner shall prescribe the stipends to be paid to the interns participating in the program provided for in this part, and the duration and other terms and conditions of such internships. The cost of administration of a program may be paid by the Commissioner.

"APPROPRIATIONS AUTHORIZED

"SEC. 935. There is authorized to be appropriated to carry out this part the sum of $10,000,000 for the fiscal year 1972 and for each of the two succeeding fiscal years.

"DEFINITION

"SEC. 936. For the purpose of this part, the term 'State' as used in this part means the fifty States, Puerto Rico, and the District of Columbia. For purposes of this distribution of internships among the States, in determining the number of Members of Congress for purposes of section 932, the Resident Commissioner for Puerto Rico and the Delegate from the District of Columbia shall be considered Members of Congress, and interns in the offices of Members of Congress shall be attributed to the State of the Member in whose office they are serving."

(b) The amendment made by subsection (a) shall be effective after June 30, 1972.

IMPROVEMENT OF COMMUNITY COLLEGES

SEC. 183. (a) (1) Title X of the Higher Education Act of 1965 is amended to read as follows:

"TITLE X—IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES THROUGH COMMUNITY COLLEGES

"PART A—STATEWIDE PLANS FOR COMMMUNITY COLLEGES

"STATE PLANS

"SEC. 1001. (a) Each State Commission (established under section 1202) shall establish a committee, hereinafter in this section referred to as the committee, the membership of which shall include representatives of—

"(1) all State agencies having responsibility for, or an interest in postsecondary education;

"(2) the community colleges in the State and local agencies having responsibility for supervision or control of such colleges; and

"(3) the general public.

At least one-half of the members of the committee shall be persons with direct responsibility for the operation of a community college; one of which persons shall be designated by the Governor of the State as chairman of the committee.

"(b) (1) The committee shall develop and adopt a statewide plan for the expansion and improvement of postsecondary education programs in community colleges. Such plan shall—

"(A) designate areas of the State in which residents do not have access to at least two years of tuition-free or low-tuition postsecondary education within reasonable commuting distance;

"(B) designate areas of the State in which existing community colleges cannot meet the postsecondary educational needs of the residents;

"(C) set forth a comprehensive statewide plan for the establishment, expansion, and improvement of community colleges in order to achieve the goal of making available, within reasonable commuting distance, to all residents of the State an opportunity to attend a community college;

"(D) establish priorities for the use of financial and other resources in achieving the goal set forth in clause (C);

"(E) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (D), for community colleges;

"(F) set forth a statement analyzing the duplications of postsecondary educational programs and make recommendations for coordination of such programs in order to eliminate such duplications;

"(G) set forth a plan for the use of existing, and new educational resources in the State in order to achieve the goal set forth in clause (C), including recommendations for the modification of State plans for federally assisted vocational education, community services, and academic facilities as they may affect community colleges.

"(2) Each plan developed and adopted pursuant to paragraph (1) shall be submitted, through the State Commission of the State for which it is developed, to the Commissioner for his approval. The Commissioner shall not approve a plan submitted pursuant to this paragraph unless he determines that (A) the plan has been developed on the basis of hearings conducted throughout the State in which all interested parties have been given an opportunity to present their views and (B) each State and local agency responsible for postsecondary education has had an opportunity to review, and make recommendations with respect to, the plan.

"(c) (1) There is hereby authorized to be appropriated $15,700,000 during the period beginning July 1, 1972, and ending July 1, 1974, to carry out the provisions of this section.

"(2) Sums appropriated pursuant to paragraph (1) shall be allotted by the Commissioner equally among the States, except that the amount allotted to Guam, American Samoa, and the Virgin Islands shall not exceed $100,000 each. Such sums shall remain available until expended.

"(d) The State plan for federally assisted vocational education, community services, or academic facilities of each State shall be modified by June 30, 1976, in accordance with the plan the Commissioner has approved from that State submitted pursuant to subsection (b).

"PART B—ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLEGES

"PURPOSE

"SEC. 1011. It is the purpose of this title to encourage and assist the States and localities in establishing and expanding community colleges in communities throughout the States in order that every American will have an opportunity to attend a community college within reasonable commuting distance of his residence.

"PROGRAM AUTHORIZATION

"SEC. 1012. (a) The Commissioner shall carry out a program of making grants to community colleges in order to improve educational opportunities through community colleges as provided in this title.

"(b) For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, $75,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for the fiscal year ending June 30, 1975.

"APPORTIONMENTS

"SEC. 1013. (a) From the sums appropriated pursuant to section 1012(b) for each fiscal year the Commissioner shall apportion not more than 5 per centum thereof among Puerto Rico, Guam, American Samoa, and the Virgin Islands according to their respective needs. From the remainder of such sums the Commissioner shall apportion to each State an amount which bears the same ratio to such remainder as the population aged eighteen and over in such State bears to the total of such population in all States. For the purpose of the second sentence of this subsection, the term 'State' does not include Puerto Rico, Guam, American Samoa, and the Virgin Islands.

"(b) The portion of any State's apportionment under subsection (a) for a fiscal year which the Commissioner determines will not be required, for the period such apportionment is available, for carrying out the purposes of this part shall be available for reapportionment from time to time, on such dates during such period as the Commissioner shall fix, to other States in proportion to the original apportionments to such States under subsection (a) for such year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such State needs and will be able to use for such period for carrying out such portion of its State application approved under this part, and the total of such reductions shall be similarly reapportioned among the States whose proportionate amounts are not so reduced. Any amount reapportioned to a State under this subsection during a year shall be deemed part of its apportionment under subsection (a) for such year.

"ESTABLISHMENT GRANTS

"SEC. 1014. (a) The Commissioner is authorized to make grants to new community colleges to assist them in planning, developing, establishing, and conducting initial operations of new community colleges in areas of the States in which there are no existing community colleges or in which existing community colleges cannot adequately provide postsecondary educational opportunities for all of the residents thereof who desire and can benefit from postsecondary education.

"(b) For the purposes of subsection (a), the term 'new community college' means a board of trustees or other governing board (or its equivalent) which is established by, or pursuant to, the law of a State, or local government, for the purpose of establishing a community college, as defined in section 1019 or any existing board so established which has the authority to create, and is in the process of establishing, a new community college.

"EXPANSION GRANTS

"SEC. 1015. The Commissioner is authorized to make grants to existing community colleges to assist them—

"(1) in expanding their enrollment capacities,

"(2) in establishing new campuses, and

"(3) in altering or modifying their educational programs,

in order that they may (A) more adequately meet the needs, interests, and potential benefits of the communities they serve, or (B) provide educational programs especially suited to the needs of educationally disadvantaged persons residing in such communities.

"APPLICATIONS; FEDERAL SHARE

"SEC. 1016. (a)(1) Grants under sections 1014 and 1015 may be made only upon application to the Commissioner. Applications for assistance under such sections shall be submitted at such time, in such manner and form, and containing such information as the Commissioner shall require by regulation.

"(2) No application submitted pursuant to paragraph (1) shall be approved unless the Commissioner determines that it is consistent with the plan approved by him from the State in which the applicant is located under section 1001.

"(b)(1) No application for assistance under section 1014 or 1015 shall be approved for a period of assistance in excess of four years.

"(2) The Federal share of carrying out the project for which assistance is sought in an application submitted pursuant to this section shall not exceed—

"(A) 40 per centum of such cost for the first year of assistance;

"(B) 30 per centum thereof for the second year of assistance;

"(C) 20 per centum thereof for the third year of assistance; and

"(D) 10 per centum thereof for the fourth year of assistance.

"(c)(1) Funds appropriated pursuant to section 1012 and granted under section 1014 or 1015 shall, subject to paragraph (2), be available for those activities the Commissioner determines to be necessary to carry out the purposes of such sections.

"(2) Such funds may be used (A) to remodel or renovate existing facilities, or (B) to equip new and existing facilities, but such funds may not be used for the construction of new facilities or the acquisition of existing facilities.

"LEASE OF FACILITIES

"SEC. 1017. (a) The Commissioner is authorized to make grants to community colleges to enable them to lease facilities, for a period of not to exceed five years, in connection with activities carried out by them under section 1014 or section 1015.

"(b) The Federal share of carrying out a project through a grant under this section shall not exceed—

"(1) 90 per centum of the cost of such project for the first year of assistance under this section;

"(2) 70 per centum thereof for the second such year;

"(3) 50 per centum thereof for the third such year;

"(4) 30 per centum thereof for the fourth such year; and

"(5) 20 per centum thereof for the fifth such year.

"PAYMENTS

"SEC. 1018. From the amount apportioned to each State pursuant to section 1013, the Commissioner shall pay to each applicant from that State which has had an application for assistance approved under this part the Federal share of the amount expended under such application.

"DEFINITION

"SEC. 1019. As used in this title, the term 'community college' means any junior college, technical institute, or any other educational institution (which may include a four-year institution of higher education or a branch thereof) in any State which—

"(1) is legally authorized within such State to provide a program of education beyond secondary education;

"(2) admits as regular students high school graduates or equivalent, or persons at least eighteen years of age;

"(3) provides a two-year postsecondary educational program leading to an associate degree, or acceptable for credit toward a bachelor's degree, and also provides programs of postsecondary vocational, technical, occupational, and specialized education;

"(4) is a public or other nonprofit institution;

"(5) is accredited as an institution by a nationally recognized accrediting agency or association, or if not so accredited—

"(A) is an institution that has obtained recognized preaccreditation status from a nationally recognized accrediting body, or

"(B) is an institution whose credits are accepted on transfer, by not less than three accredited institutions, for credit on the same basis as if transferred from an institution so accredited.

"COMMUNITY COLLEGE UNIT

"SEC. 1020. (a) There is established, in the Office of Education, a Community College unit (hereinafter in this section referred to as the 'Unit') which shall have the responsibility for coordinating all programs administered by the Commissioner which affect, or can benefit, community colleges, including those authorized by this Act, and the Vocational Education Act of 1963.

"(b) The Unit shall be headed by a Director who shall be placed in grade 17 of the General Schedule set forth in section 5332 of title 5, United States Code."

(2) The position created by section 1020 of the Higher Education Act of 1965 shall be in addition to the number of positions placed in that grade under section 5108 of title 5, United States Code.

(b) The amendment made by subsection (a) shall be effective after June 30, 1972.

EXTENSION OF TITLES IV AND VI OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958 AND OF THE INTERNATIONAL EDUCATION ACT OF 1966

SEC. 184. (a)(1) Section 402(a) of the National Defense Education Act of 1958 is amended by striking out "seven succeeding fiscal years" and inserting in lieu thereof "eight succeeding fiscal years".

(2)(A) The first sentence of section 601 of such Act is amended by striking out "during the period beginning July 1, 1958, and ending with the close of June 30, 1971,".

(B) Section 603 of such Act is amended by striking out "for the fiscal year ending June 30, 1971," and inserting in lieu thereof "for each of the fiscal years ending June 30, 1971, and June 30, 1972,".

(b) The second sentence of section 105(a) of the International Education Act of 1966 is amended by striking out "July 1, 1971" and inserting in lieu thereof "July 1, 1972".

The amendments made by subsections (b) and (c) shall be effective after June 30, 1971.

PART J—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

AMENDMENTS TO TITLE XI OF THE HIGHER EDUCATION ACT OF 1965

SEC. 191. (a) Title XI of the Higher Education Act of 1965 is amended by inserting "grant or" before "contract", and "grants or" before "contracts" wherever they appear.

(b)(1) Section 1101(a) of such Act is amended by striking out "The" where it appears at the beginning of such section, and inserting in lieu thereof the following: "In order to provide law students with experience, based on effective experimental programs, in dealing directly with the problems of the disadvantaged and other individuals and groups in society adversely affected by circumstances beyond their capacity to control, the".

(2) Such section 1101(a) is amended by inserting "for students" before "clinical", and striking out "to students in the practice of law, with preference being given to programs providing such experience, to the extent practicable, in", and inserting in lieu thereof "in providing legal services and advice, including".

(c) Clause (5) of section 1101(b) of such Act is amended to read as follows:

"(5) equipment and library resources; and".

(d) Section 1101(d) of such Act is amended by striking out all that follows "association", and inserting in lieu thereof "listed by the Commissioner as a nationally recognized accrediting agency."

(e) Section 1103 of such Act is amended by striking out "$340,000 for the fiscal year ending June 30, 1969", and by striking out "fiscal years ending June 30, 1970, and June 30, 1971", and inserting in lieu thereof "succeeding fiscal years ending prior to July 1, 1975". Such section is further amended by striking out the second sentence.

(f) The amendments made by this section shall be effective after June 30, 1971.

TITLE II—VOCATIONAL EDUCATION

SPECIAL PROGRAMS FOR THE DISADVANTAGED

SEC. 201. Section 102(b) of the Vocational Education Act of 1963 is amended by inserting after "1972," the following: "and for the succeeding fiscal years ending prior to July 1, 1975,".

BUREAU OF OCCUPATIONAL AND ADULT EDUCATION

SEC. 202. (a) (1) The Vocational Education Act of 1963 is amended by inserting after section 104 the following new section:

"FEDERAL ADMINISTRATION

"SEC. 105. (a) There is established within the Office of Education a Bureau of Occupational and Adult Education, hereinafter in this section referred to as the 'Bureau', which shall be responsible for carrying out those responsibilities of the Commissioner which he is authorized to delegate under this Act, the Adult Education Act, and any other Act vesting authority in the Commissioner for vocational, occupational, or career education (including manpower training) or for adult or continuing education.

"(b) (1) The Bureau shall be headed by an Associate Commissioner, who shall be appointed by the Commissioner and who shall be compensated at the rate specified for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

"(2) Additional positions are created for, and shall be assigned to, the Bureau as follows:

"(A) Three positions to be placed in grade 17 of such General Schedule, one of which shall be filled by a person with broad experience in the field of junior and community college education.

"(B) Seven positions to be placed in grade 16 of such General Schedule, at least two of which shall be filled by persons with broad experience in the field of postsecondary-occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling.

"(c) The Commissioner is authorized to delegate any of his functions under this Act or under the Adult Education Act, except the approval of State plans under section 123 of this Act and section 306 of the Adult Education Act, to the Associate Commissioner.".

(2) The positions created by section 105(b) of the Vocational Education Act of 1963, as amended by paragraph (1), shall be in addition to the number of positions placed in the appropriate grades under section 5108 of title 5, United States Code.

(b) The amendment made by subsection (a) shall be effective July 1, 1972.

CLARIFICATION OF DEFINITION OF VOCATIONAL EDUCATION WITH RESPECT TO INDIVIDUAL ARTS PROGRAMS; INCLUSION OF VOLUNTEER FIREMEN

SEC. 203. (a) Section 108(1) of the Vocational Education Act of 1963 is amended by inserting at the end thereof the following new sentence: "Such term includes industrial arts education programs in cases where the Commissioner determines by regulation that such programs will accomplish or facilitate one or more of the purposes of the first sentence of this paragraph.".

(b) Such section 108(1) is further amended by inserting immediately after the word "employment" the first time it appears in such section the following: " (including volunteer firemen)".

EXEMPLARY PROGRAMS AND PROJECTS

SEC. 204. Section 142(a) of the Vocational Education Act of 1963 is amended by striking out "two" and inserting in lieu thereof "five".

RESIDENTIAL VOCATIONAL SCHOOLS

SEC. 205. (a) Section 151(b) of the Vocational Education Act of 1963 is amended by striking out "the succeeding fiscal year" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1975".

(b) Section 152(a)(1) of such Act is amended by striking out "July 1, 1972" and inserting in lieu thereof "July 1, 1975".

(c) Section 153(d)(2) of such Act is amended by striking out "July 1, 1971" and inserting in lieu thereof "July 1 of each of the four succeeding fiscal years".

CONSUMER AND HOMEMAKING EDUCATION

SEC. 206. (a) Section 161(a)(1) of the Vocational Education Act of 1963 is amended by striking out "the fiscal year ending June 30, 1972" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1975".

(b) Section 161(c) of such Act is amended by striking out "and the two succeeding" and inserting in lieu thereof "and the five succeeding".

COOPERATIVE VOCATIONAL EDUCATION

SEC. 207. Section 172(a) of the Vocational Education Act of 1963 is amended by striking out "the fiscal year ending June 30, 1972" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1975".

WORK-STUDY PROGRAMS

SEC. 208. Section 181(a) of the Vocational Education Act of 1963 is amended by inserting after "June 30, 1972," the following: "and for each of the succeeding fiscal years ending prior to July 1, 1975,".

CURRICULUM DEVELOPMENT

SEC. 209. Section 191(b) of the Vocational Education Act of 1963 is amended by striking out "July 1, 1972" and inserting in lieu thereof "July 1, 1975".

NATIONAL ADVISORY COUNCIL

SEC. 210. Section 104(a)(4) of the Vocational Education Act of 1968 is amended by striking out "two" and inserting in lieu thereof "five".

TITLE III—ESTABLISHMENT OF A NATIONAL FOUNDATION FOR POSTSECONDARY EDUCATION AND A NATIONAL INSTITUTE OF EDUCATION

AMENDMENT TO THE GENERAL EDUCATION PROVISIONS ACT

SEC. 301. (a) The General Education Provisions Act (title IV of Public Law 90-247) is amended—

(1) by redesignating parts A, B, and C thereof, and all references thereto, as parts B, C, and D and redesignating sections 401, 402, 403, 404, 405, 406, 411, 412, 413, 414, 415, 416, 417, 421, 422, 423, 424, 425, 426, 431, 432, 433, 434, 435, 436, 437, 438, and all references thereto, as sections 400, 411, 412, 413, 414, 415, 421, 422, 423, 424, 425, 426, 427, 431, 432, 433, 434, 435, 436, 441 442, 443, 444, 445, 446, 447, and 448, respectively; and

(2) by inserting after section 400 (as so redesignated by clause (1)) the following new part:

"PART A—EDUCATION DIVISION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

"THE EDUCATION DIVISION

"SEC. 401. There shall be, within the Department of Health, Education, and Welfare, an Education Division which shall be composed of the Office of Education, the National Foundation for Postsecondary Education, and the National Institute of Education, and shall be headed by the Commissioner of Education.

"THE OFFICE OF EDUCATION

"SEC. 402. (a) The purpose and duties of the Office of Education shall be to collect statistics and facts showing the condition and progress of education in the United States, and to disseminate such information respecting the organization and management of schools and school systems and methods of teaching, as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country. Nothing in this section, or any other provision of law, shall be construed to grant the Office of Education any authority which is expressly provided for by statute or implied therein.

"(b) (1) The management of the Office of Education shall, subject to the direction and supervision of the Secretary, be entrusted to a Commissioner of Education, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall serve at the pleasure of the President.

"(2) There shall be a Deputy Commissioner of Education (referred to in this section as 'Deputy Commissioner') who shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President, and who shall perform such duties as the Commissioner may prescribe by regulation. The Deputy Commissioner shall serve as Commissioner during the absence or disability of the Commissioner or in the event of a vacancy in the Office of the Commissioner.

"(3) Persons holding the offices created by paragraphs (1) and (2) shall be compensated at the following rates specified for the Executive Schedule in subchapter II of title 5, United States Code:

"(A) The Commissioner shall be compensated at the rate provided for level IV under section 5315 thereof.

"(B) The Deputy Commissioner shall be compensated at the rate provided for level V under section 5316 thereof.

"(4) The Commissioner and the Deputy Commissioner may not engage in any other business, vocation, or employment while serving in any such position; nor may either of them, except with the express approval of the President in writing, hold any office in, or act in any capacity for, or have a financial interest in, any organization, agency, or institution to which the Office of Education makes a grant or with which it makes a contract or other financial arrangement.

"(5) There are hereby created six additional positions within the Office of Education which shall be placed in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code; and such positions shall be in addition to the number of positions placed in that grade under section 5108 of such title.

"NATIONAL FOUNDATION FOR POSTSECONDARY EDUCATION

"SEC. 403. (a) (1) The National Foundation for Postsecondary Education (referred to in this section as the 'Foundation'), shall consist of a Postsecondary Education Board (referred to in this section as the 'Board') and a Director. The Foundation shall have only such authority as may be vested therein by this section or delegated thereto by the Commissioner and shall be subject to the general regulations of the Commissioner promulgated for its management.

"(2) It shall be the purpose of the Foundation—

"(A) to encourage excellence, innovation, and reform in postsecondary education;

"(B) to provide assistance for the design and establishment of innovative structures for providing postsecondary education and innovative modes of teaching and learning therein;

"(C) to expand the ways and pattern of acquiring postsecondary education and to open opportunities for such education to individuals of all ages and circumstances;

"(D) to strengthen the autonomy, individuality, and sense of mission of postsecondary educational institutions, and to support programs which are distinctive or of special value to American society; and

"(E) to encourage postsecondary educational institutions to develop policies, programs, and practices responsive to social needs, and to provide an organization concerned with the rationalization of public policies toward postsecondary education.

"(b)(1) The Board shall consist of fifteen members, at least one of whom shall be a student at the time of his appointment, appointed by the President, by and with the advice and consent of the Senate, the Director, and such other ex officio members who are officers of the United States as the President may designate. Eight members (excluding ex officio members) shall constitute a quorum. The Chairman of the Board shall be designated by the President from among its appointed members. Ex officio members shall not have a vote on the Board.

"(2) The term of office of members of the Board (other than ex officio members) shall be six years, except that (A) any member appointed to fill a vacancy shall serve only such portion of a term as shall not have been expired at the time of such appointment, and (B) in the case of initial members, five shall serve for terms of four years and five for terms of two years. Any person, whose term of office is subject to this paragraph, who has been a member of the Board for six consecutive years shall thereafter be ineligible for appointment to the Board during the two-year period following the expiration of such sixth year.

"(3) Subject to general regulations of the Commissioner promulgated for the management of the Foundation, the Board shall—

"(A) establish general policies for, and review the conduct of, the Foundation;

"(B) meet at the call of the Chairman of the Board, except that it shall meet (i) at least four times during each fiscal year, or (ii) whenever one-third of the members request a meeting in writing, in which event one-third of the members (excluding ex officio members) shall constitute a quorum;

"(C) submit an annual report to the President on the activities of the Foundation and the status of postsecondary education in the United States, which (i) shall include such recommendations and comments as the Board may deem appropriate, and (ii) shall be submitted to the Congress not later than March 31 of each year;

"(D) make and submit to the President and the Congress such other reports as it may deem necessary.

The Board shall have the responsibility for the general policies with respect to the powers, duties, and authorities vested in the Foundation under this section. The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

"(c)(1) The Director of the Foundation (referred to in this section as the 'Director') shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and shall perform such duties and exercise such powers as the Board, subject to general regulations of the Commissioner, may prescribe.

"(2) There shall be a Deputy Director of the Foundation (referred to in this section as the 'Deputy Director') who shall be appointed by the President and shall serve at the pleasure of the President. The Deputy Director shall be compensated at the rate provided for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code. The Deputy Director shall exercise such powers as the Director may prescribe and Deputy Director shall serve as Director during the absence or disability of the Director or in the event of a vacancy in the Office of Director. The position created by this paragraph shall be in addition to the number of positions placed in grade 18 of the General Schedule under section 5108 of title 5, United States Code.

"(3) There are hereby created three additional positions within the Foundation which shall be placed in grade 18 of the General Schedule set forth in section 5332 of title 5. United States Code; and such positions shall be in addition to the number of positions placed in that grade under section 5108 of such title.

"(d) The Foundation is authorized to make grants to, and contracts with, institutions of higher education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance for—

"(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

"(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experimental learning;

"(3) the establishment of institutions and programs based on the technology of communications;

"(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

"(5) the design and introduction of cost-effective methods of instruction and operation;

"(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

"(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

"(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto;

"(e) In carrying out this section, the Director shall have the authority—

"(1) to enter into contracts without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

"(2) to make advance, progress, and other payments without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529);

"(3) to receive money and other property donated, bequeathed, or devised to the Foundation with or without a condition or restriction, including a condition that the Foundation use other funds for the purposes of the gift; and to use, sell, or otherwise dispose of such property for the purposes of this section;

"(4) to publish or arrange for the publication of information without regard to the provisions of section 501 of title 44, United States Code;

"(5) to accept and utilize the services of voluntary and uncompensated personnel, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), and to provide transportation and subsistence as authorized by section 5703 of title 5, United States Code, for persons serving without compensation;

"(6) to arrange with and reimburse the heads of other Federal agencies for the performance of any activity which the Foundation is authorized to conduct; and

"(7) to appoint, for terms not to exceed three years, and compensate without regard to the civil service or classification laws such technical or professional employees of the Foundation as he deems necessary to accomplish its functions, and also appoint and compensate without regard to such laws not to exceed one-fifth of the number of full-time, regular technical or professional employees of the Foundation.

"(f) There is authorized to be appropriated, without fiscal year limitations, $250,000,000, in the aggregate, for the period beginnnig July 1, 1972, and ending June 30, 1975, to carry out the functions of the Foundation, Sums so appropriated shall, notwithstanding any other provision of law, unless enacted in express limitation of this subsection, remain available for the purposes of this section until expended.

"NATIONAL INSTITUTE OF EDUCATION

"SEC. 404. (a)(1) The National Institute of Education (hereinafter referred to as the 'Institute') shall consist of a National Council on Educational Research (hereinafter referred to as the 'Council') and a Director of the Institute (hereinafter referred to as the 'Director'). The Institute shall have only such authority as may be vested therein by this section and shall be subject to general regulations of the Commissioner promulgated for its management.

"(2) The Institute shall, in accordance with the provisions of this section, seek to improve education, including career education, in the United States through—

"(A) helping to solve or to alleviate the problems of, and achieve the objectives of American education;

"(B) advancing the practice of education, as an art, science, and profession;

"(C) the strengthening of the scientific and technological foundations of education; and

"(D) building an effective educational research and development system.

"(b)(1) The Council shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate, the Director, and such other ex officio members who are officers of the United States as the President may designate. Eight members of the Council (excluding ex officio members) shall constitute a quorum. The Chairman of the Council shall be designated from among its appointed members by the President. Ex officio members shall not have a vote on the Council.

"(2) The term of office of the members of the Council (other than ex officio members) shall be three years, except that (A) any member appointed to fill a vacancy shall serve only such portion of a term as shall not have been expired at the time of such appointment, and (B) in the case of initial members, five shall serve terms of two years and five shall serve terms of one year. Any appointed member who has been a member of the Council for six consecutive years shall thereafter be ineligible for appointment to the Council during the two-year period following the expiration of such sixth year.

(3) Subject to general regulations of the Commissioner promulgated for the management of the Institute, the Council shall—

"(A) establish general policies for, and review the conduct of, the Institute;

"(B) review, and advise the Commissioner on the status of educational research in the United States;

"(C) meet at the call of the Chairman, except that it shall meet (i) at least six times during each fiscal year, or (ii) whenever one-third of the members request a meeting in writing, in which event one-third of the members (excluding ex officio members) shall constitute a quorum;

"(D) submit an annual report to the President on the activities of the Institute, and on educational research in general, which (i) shall include such recommendations and comments as the Council may deem appropriate, and (ii) shall be submitted to the Congress not later than March 31 of each year; and

"(E) make and submit to the President and the Congress such other reports as it may deem necessary.

The Council shall have the responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under this section. The Director shall make available to the Council such information and assistance as may be necessary to enable the Council to carry out its functions.

"(c) (1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and shall perform such duties and exercise such powers and authorities as the Council, subject to general regulations of the Commissioner, may prescribe.

"(2) There shall be a Deputy Director of the Institute (referred to in this section as the 'Deputy Director') who shall be appointed by the President and shall serve at the pleasure of the President. The Deputy Director shall be compensated at the rate provided for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall act for the Director during the absence or disability of the Director and exercise such powers and authorities as the Director may prescribe. The position created by this paragraph shall be in addition to the number of positions placed in grade 18 of the General Schedule under section 5108 of title 5, United States Code.

"(3) There are hereby created three additional positions within the Institute which shall be placed in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code; and such positions shall be in addition to the number of positions placed in that grade under section 5108 of such title.

"(d) (1) In order to carry out the objectives of the Institute, the Commissioner is authorized, through the Institute, to conduct educational research; collect and disseminate the findings of educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this subsection, the term 'educational research' includes research, planning, surveys, evaluations, investigations, experiments, developments, and demonstrations in the field of education (including career education).

"(2) The Commissioner may appoint, for terms not to exceed three years, and compensate without regard to the civil service or classification laws, such technical or professional employees of the Institute as he deems necessary to accomplish its functions and also appoint and compensate without regard to such laws not to exceed one-fifth of the number of full-time, regular technical or professional employees of the Institute.

"(e) There are hereby authorized to be appropriated, without fiscal year limitations, $550,000,000, in the aggregate, for the period beginning July 1, 1972, and ending June 30, 1975, to carry out the functions of the Institute. Sums so appropriated shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for the purposes of this subsection until expended.".

(b) (1) The amendments made by subsection (a) shall be effective after June 30, 1972.

(2) (A) Effective July 1, 1972, sections 516 and 517 of the Revised Statutes of the United States (20 U.S.C. 1, 2) are repealed.

(B) Effective July 1, 1972, section 422 of the General Education Provisions Act is amended by striking out "(as set forth in section 516 of the Revised Statutes (20 U.S.C. 1))" and inserting in lieu thereof "(as set forth in section 402(a) of this Act)".

(3) (A) Effective July 1, 1972, the functions of the Secretary of Health, Education, and Welfare administered through the Office of Education and the functions of the Commissioner of Education are transferred to the Commissioner of Education established pursuant to section 402 of the General Education Provisions Act.

(B) All orders, determinations, rules, regulations, procedures, or other decisions of the Commissioner of Education which are in effect on June 30, 1972, shall continue to be in effect and shall be deemed to be orders, determinations, rules regulations, procedures, or other decisions of the Commissioner of Education established under section 402 of such Act until changed or modified in accordance with law. No suit, action, or other proceeding lawfully commenced by or against any office or officer of the United States acting in his official capacity shall abate by reason of any transfer made pursuant to this section, but the court, on motion or supplemental petition filed at any time within twelve months after such transfer takes effect, showing a necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the appropriate office or officer of the United States.

(C) All personnel, assets, liabilities, contracts, property, and records as are determined by the Commissioner to be necessary for the transitions required under this section, are, effective July 1, 1972, transferred to the Commissioner of Education established pursuant to section 402 of such Act.

(4) Effective July 1, 1972, the Cooperative Research Act is amended by striking out sections 2 and 3.

(5) Effective July 1, 1972, section 421 of the General Education Provisions Act (as redesignated by section 301(a) (1) of this Act) is amended by adding the following new subsection at the end thereof:

"(d) (1) The Commissioner is authorized to make grants to, or contracts with, any public or nonprofit private agency, institution, or organization or contracts with any private agency, institution, or organization for the dissemination of information, for surveys, for exemplary projects in the field of education and for the conduct of studies related to the management of the Office of Education.

"(2) There are authorized to be appropriated for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975, $25,000,000 for the purposes of this subsection.".

TITLE IV—INDIAN EDUCATION

SHORT TITLE

Sec. 401. This title may be cited as the "Indian Education Act of 1971".

Part A—Revision of Impacted Areas Program as It Relates to Indian Children

AMENDMENTS TO PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

Sec. 411. (a) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by redesignating title III as title IV, by redesignating sections 301 through 303 and references thereto as sections 401 through 403, respectively, and by adding after title II the following new title:

"TITLE III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF INDIAN CHILDREN

"SHORT TITLE

"Sec. 301. This title may be cited as the 'Indian Elementary and Secondary School Assistance Act'.

"DECLARATION OF POLICY

"Sec. 302. (a) In recognition of the special educational needs of Indian students in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs specially designed to meet these special educational needs.

"(b) The Commissioner shall, in order to effectuate the policy set forth in subsection (a), carry out a program of making grants to local educational agencies which are entitled to payments under this title and which have submitted, and had approved, applications therefor, in accordance with the provisions of this title.

"GRANTS TO LOCAL EDUCATIONAL AGENCIES

"Sec. 303. (a) (1) For the purpose of computing the amount to which a local educational agency is entitled under this title for any fiscal year ending prior to July 1, 1975, the Commissioner shall determine the number of Indian children who were enrolled in the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year.

"(2) (A) The amount of the grant to which a local educational agency is entitled under this title for any fiscal year shall be an amount equal to (i) the average per pupil expenditure for such agency (as determined under subparagraph (C)) multiplied by (ii) the sum of the number of children determined under paragraph (1).

"(B) A local educational agency shall not be entitled to receive a grant under this title for any fiscal year unless the number of children under subsection (a), with respect to such agency, is at least ten or constitutes at least 50 per centum of its total enrollment: *Provided*, That the requirements of this subparagraph shall not apply to any such agencies serving Indian children in Alaska, California, and Oklahoma or located on, or in proximity to, an Indian reservation.

"(C) For the purposes of this subsection, the average per pupil expenditure for a local educational agency shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all of the local educational agencies in the State in which such agency is located, plus any direct current expenditures by such State for the operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children who were in average daily enrollment for whom such agencies provided free public education during such preceding fiscal year.

"(b) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 5 per centum of the amount appropriated for payments on the basis of entitlements computed under subsection (a) for that fiscal year, for the purpose of enabling the Commissioner to provide financial assistance to schools on or near reservations which are not local educational agencies or have not been local educational agencies for more than three years, in accordance with the appropriate provisions of this title.

"USES OF FEDERAL FUNDS

"SEC. 304. Grants under this title may be used, in accordance with applications approved under section 305, for—

"(1) planning for and taking other steps leading to the development of programs specifically designed to meet the special educational needs of Indian children, including pilot projects designed to test the effectiveness of plans so developed; and

"(2) the establishment, maintenance, and operation of programs, including, in accordance with special regulations of the Commissioner, minor remodeling of classroom or other space used for such programs and acquisition of necessary equipment, specially designed to meet the special educational needs of Indian children.

"APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL

"SEC. 305. (a) A grant under this title, except as provided in section 303(b), may be made only to a local educational agency or agencies, and only upon application to the Commissioner at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Such application shall—

"(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) set forth a program for carrying out the purposes of section 304, and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

"(3) in the case of an application for payments for planning, provide that (A) the planning was or will be directly related to programs or projects to be carried out under this title and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this title, and (B) the planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this title;

"(4) provide that effective procedures, including provisions for appropriate objective measurement of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs and projects in meeting the special educational needs of Indian students;

"(5) set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the education of Indian children and in no case supplant such funds;

"(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

"(7) provide for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of Indian students in the area served, and for keeping such record and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"(b) An application by a local educational agency or agencies for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

"(1) meets the requirements set forth in subsection (a);

"(2) provides that the program or project for which application is made—

"(A) will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian children in the area to be served by the applicant; and

"(B) has been developed—

"(i) in open consultation with parents of Indian children, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

"(ii) with the participation and approval of a committee composed of, and selected by, parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students of which at least half the members shall be such parents;

"(C) sets forth such policies and procedures as will insure that the program for which assistance is sought will be operated and evaluated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B)(ii).

"(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

"PAYMENTS

"SEC. 306. (a) The Commissioner shall, subject to the provisions of section 307, from time to time pay to each local educational agency which has had an application approved under section 305, an amount equal to the amount expended by such agency in carrying out activities under such application.

"(b)(1) No payments shall be made under this title for any fiscal year to any local educational agency in a State which has taken into consideration payments under this title in determining the eligibility of such local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

"(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

"ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

"SEC. 307. (a) If the sums appropriated for any fiscal year for making payments under this title are not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under this title for that fiscal year, the maximum amounts which all such agencies are eligible to receive under this title for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the first sentence of this subsection is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"(b) In the case of any fiscal year in which the maximum amounts for which local educational agencies are eligible have been reduced under the first sentence of subsection (a), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection. the Commissioner shall fix dates prior to which each local educational agency shall report to him on the amount of funds available to it, under the terms of section 306(a) and subsection (a) of this section, which it estimates, in accordance with regulations of the Commissioner, that it will expand under approved applications. The amounts so available to any local educational agency, or any amount which would be available to any other local education agency if it were to submit an approvable application therefor, which the Commissioner determines will not be used for the period of its availability, shall be available for allocation to those local educational agencies, in the manner provided in the second sentence of subsection (a), which the Commissioner determines will need additional funds to carry out approved applications, except that no local educational agency shall receive an amount under this sentence which, when added to the amount available to it under subsection (a), exceeds its entitlement under section 303.".

(b)(1) The second sentence of section 103(a)(1)(A) of title I of the Elementary and Secondary Education Act of 1965 is amended to read as follows: "In addition, he shall allot from such amount to the Secretary of the Interior—

"(i) the amount necessary to make payments pursuant to subparagraph (B); and

"(ii) in the case of fiscal years ending prior to July 1, 1973, the amount necessary to make payments pursuant to subparagraph (C).".

(2)(A) Section 103(a)(1) of such title I is amended by adding at the end thereof the following new subparagraph:

"(C) The maximum amount allotted for payments to the Secretary of the Interior under clause (ii) in the second sentence of subparagraph (A) for any fiscal year shall be the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, as determined pursuant to criteria established by the Commissioner. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this part. Such agreement shall contain (1) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of Interior which meet the applicable requirements of section 141(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (2) provision for carrying out the applicable provisions of sections 141(a) and 142(a)(3).".

(B) The fourth sentence of section 103(a)(1)(A) of such title I is amended by striking out "and the terms upon which payment shall be made to the Department of the Interior.".

(3) The amendments made by this subsection shall be effective on and after July 1, 1972.

(c)(1) Subsection (a) of section 5 of Public Law 874, 81st Congress, as amended, is amended by inserting "(1)" after "(a)" and by inserting at the end thereof the following new paragraph (2):

"(2)(A) Applications for payment on the basis of children determined under section 3(a) or 3(b) who reside, or reside with a parent employed, on Indian lands shall set forth adequate assurance that Indian children will participate on an equitable basis in the school program of the local educational agency.

"(B) For the purposes of this paragraph, Indian lands means that property included within the definition of Federal property under clause (A) of section 303(1).".

(2)(A) The Commissioner shall exercise his authority under section 415 of Public Law 90-247, to encourage local parental participation with respect to financial assistance under title I of Public Law 874, 81st Congress, based upon children who reside on, or reside with a parent employed on, Indian lands.

(B) For the purposes of this paragraph, the term "Indian lands" means that property included within the definition of Federal property under clause (A) of section 303(1) of Public Law 874, 81st Congress.

PART B—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

AMENDMENT TO TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 421. (a) Title VIII of the Elementary and Secondary Education Act of 1965 is amended by adding to the end thereof the following new section:

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

"SEC. 810. (a) The Commissioner shall carry out a program of making grants for the improvement of educational opportunities for Indian children—

"(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b), which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Indian children;

"(2) to assist in the establishment and operation of programs, in accordance with subsection (c), which are designed to stimulate (A) the provision of educational services not available to Indian children in sufficient quantity or quality, and (B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which Indian children are educated;

"(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d), for persons serving Indian children as educational personnel; and

"(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian children.

In the case of activities of the type described in clause (3), preference shall be given to the training of Indians.

"(b) The Commissioner is authorized to make grants to State and local educational agencies, federally supported elementary and secondary schools for Indian children and to Indian tribe organizations, and institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Indian children, including—

"(1) innovative programs related to the educational needs of educationally deprived children;

"(2) bilingual and bicultural education programs and projects;

"(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Indian children; and

"(4) coordinating the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

"(c) The Commissioner is also authorized to make grants to State and local educational agencies and to tribal and other Indian community organizations to assist and stimulate them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Indian children. Grants may be used—

"(1) to provide educational services not available to such children in sufficient quantity or quality, including—

"(A) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

"(B) comprehensive academic and vocational instruction;

"(C) instructional materials (such as library books, textbooks, and other printed or published or audiovisual materials) and equipment;

"(D) comprehensive guidance, counseling, and testing services;

"(E) special education programs for handicapped;

"(F) preschool programs;

"(G) bilingual and bicultural education programs; and

"(H) other services which meet the purposes of this subsection; and

"(2) for the establishment and operation of exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children.

"(d) The Commissioner is also authorized to make grants to institutions of higher education and to State and local educational agencies, in combination with institutions of higher education, for carrying out programs and projects—

"(1) to prepare persons to serve Indian children as teachers, teacher aides, social workers, and ancillary educational personnel; and

"(2) to improve the qualifications of such persons who are serving Indian children in such capacities.

Grants for the purposes of this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences.

"(e) The Commissioner is also authorized to make grants to and contracts with, public agencies, and institutions and Indian tribes, institutions, and organizations for—

"(1) the dissemination of information concerning education programs, services, and resources available to Indian children, including evaluations thereof; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Indian children may participate in achieving the purposes of such programs with respect to such children.

"(f) Applicants for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applicants shall—

"(1) set forth a statement describing the activities for which assistance is sought;

"(2) in the case of an application for the purposes of subsection (c), subject to such criteria as the Commissioner shall prescribe, provide for the use of funds available under this section, and for the coordination of other resources available to the applicant, in order to insure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section;

"(3) in the case of an application for the purposes of subsection (c), make adequate provision for the training of the personnel participating in the project; and

"(4) provide for an evaluation of effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (b) or (c) unless he is satisfied that such application, and any documents submitted with respect thereto, show that there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under this section, the Commissioner shall give priority to applications from Indian educational agencies, organizations, and institutions.

"(g) For the purpose of making grants under this section there are hereby authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, and $35,000,000 for each of the two succeeding fiscal years.".

(b)(1)(A) The third sentence of section 202(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "July 1, 1972," and inserting in lieu thereof "July 1, 1973,".

(B) The third sentence of section 302(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "July 1, 1972," and inserting in lieu thereof "July 1, 1973.".

(C) Clause (B) of section 612(a)(1) of Public Law 91-230 is amended by striking out "July 1, 1972," and inserting in lieu thereof "July 1, 1973,".

(2) For the purposes of titles II and III of the Elementary and Secondary Education Act of 1965 and part B of title VI of Public Law 91-230, the Secretary of the Interior shall have the same duties and responsibilities with respect to funds paid to him under such titles, as he would have if the Department of the Interior were a State educational agency having responsibility for the administration of a State plan under such titles.

PART C—SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR INDIANS

AMENDMENT TO THE ADULT EDUCATION ACT

SEC. 431. Title III of the Elementary and Secondary Education Amendments of 1966 (the Adult Education Act) is amended by redesignating sections 314 and 315, and all references thereto, as sections 315 and 316, respectively, and by adding after section 313 the following new section:

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS

"SEC. 314. (a) The Commissioner shall carry out a program of making grants to State and local educational agencies, and to Indian tribes, institutions, and organizations, to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Indians—

"(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

"(2) to assist in the establishment and operation of programs which are designed to stimulate (A) the provision of basic literacy opportunities to all nonliterate Indian adults, and (B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

"(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

"(4) to provide for basic surveys and evaluations thereof to define accurately the extent of the problems of illiteracy and lack of high school completion on Indian reservations;

"(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

"(b) The Commissioner is also authorized to make grants to, and contracts with, public agencies and institutions, and Indian tribes, institutions, and organizations for—

"(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Indian adults may participate in achieving the purposes of such programs with respect to such adults.

"(c) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

"(1) set forth a statement describing the activities for which assistance is sought;

"(2) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under subsection (a), the Commissioner shall give priority to applications from Indian educational agencies, organizations, and institutions.

"(d) For the purpose of making grants under this section there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, and $8,000,000 for each of the two succeeding fiscal years.".

Part D—Office of Indian Education

OFFICE OF INDIAN EDUCATION

Sec. 441. (a) There is hereby established, in the Office of Education, a bureau to be known as the "Office of Indian Education" which, under the direction of the Commissioner, shall have the responsibility for administering the provisions of title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 810 of title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act, and section 314 of title III of the Elementary and Secondary Education Amendments of 1966, as added by this Act. The Office shall be headed by a Deputy Commissioner of Indian Education, who shall be appointed by the Commissioner of Education from a list of nominees submitted to him by the National Advisory Council on Indian Education.

(b) The Deputy Commissioner of Indian Education shall be compensated at the rate prescribed for, and shall be placed in, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall perform such duties as are delegated or assigned to him by the Commissioner. The position created by this subsection shall be in addition to the number of positions placed in grade 18 of such General Schedule under section 5108 of title 5, United States Code.

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Sec. 442. (a) There is hereby established the National Advisory Council on Indian Education (referred to in this title as the "National Council"), which shall consist of fifteen members who are Indians and *Alaska* Natives appointed by the President of the United States. Such appointments shall be made by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and shall represent diverse geographic areas of the country.

(b) The National Council shall—

(1) advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress, as added by this Act, and section 810, title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act and with respect to adequate funding thereof;

(2) review applications for assistance under title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 810 of title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act, and section 314 of the Adult Education Act, as added by this Act, and make recommendations to the Commissioner with respect to their approval;

(3) evaluate program and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(4) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(5) assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress); and

(6) to submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include statement of the National Council's recommendations to the Commissioner with respect to the funding of any such programs.

(c) With respect to functions of the National Council stated in clauses (2), (3), and (4) of subsection (b), the National Council is authorized to contract with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

(d) From the sums appropriated pursuant to section 401(c) of the General Education Provisions Act which are available for the purposes of section 411 of such Act and for part C of such Act, the Commissioner shall make available such sums as may be necessary to enable the National Council to carry out its functions under this section.

Part E—Miscellaneous Provisions

AMENDMENT TO TITLE V OF HIGHER EDUCATION ACT OF 1965

Sec. 451. (a) Section 503(a) of the Higher Education Act of 1965 is amended by inserting after "and higher education," the following: "including the need to provide such programs and education to Indians,".

(b) Part D of title V of the Higher Education Act of 1965 is amended by adding after section 531 the following new section:

"TEACHERS FOR INDIAN CHILDREN

"Sec. 532. Of the sums made available for the purposes of this part, not less than 5 per centum shall be used for grants to, and contracts with, institutions of higher education and other public and private nonprofit agencies and organizations for the purpose of preparing persons to serve as teachers of children living on reservations serviced by elementary and secondary schools for Indian children operated or supported by the Department of the Interior.".

AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Sec. 452. Section 706(a) of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"Sec. 706. (a) For the purpose of carrying out programs pursuant to this title for individuals on or from reservations serviced by elementary and secondary schools operated on or near such reservations for Indian children, a nonprofit institution or organization of the Indian trible concerned which operate any such school and which is approved by the Commissioner for the purpose of this section, may be considered to be a local educational agency, as such term is used in this title.".

DEFINITION

Sec. 453. For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education which regulations shall further define the term "Indian".

TITLE V—MISCELLANEOUS

ADMINISTRATION OF PROGRAMS AND PROJECTS

Sec. 501. Section 434 of the General Education Provisions Act (title IV of Public Law 90–247) is amended by—

(1) amending the caption head thereof to read "ADMINISTRATION OF EDUCATION PROGRAMS AND PROJECTS";

(2) striking out "(a)" after "Sec. 424." and inserting in lieu thereof "(a)(1)" and striking out "(b)" and inserting in lieu thereof "(2)";

(3) adding at the end thereof the following new subsection:

"(b) Each application for assistance under any applicable program, with respect to which the Commissioner determines that this subsection should apply, whether such application is approved by the Commissioner or by an agency administering a State plan approved by him and each State plan submitted to the Commissioner under any applicable program shall, as a precondition for approval—

"(1) provide for such methods of administration as are necessary for the proper and efficient administration of the program or project for which application is made;

"(2) set forth such policies and procedures as will insure that Federal funds made available under the application will so be used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such funds, be available for the purposes of the program or project for which application is made, and in no case supplant such funds;

"(3) procedures have been adopted (A)

for the periodic evaluation of the effectiveness of the programs to be supported under such title, and (B) for appropriate dissemination of the results of such evaluation;

"(4) make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under the application; and

"(5) provide for making such reports as the Commissioner may require to carry out his functions.".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS OF TITLE III OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

SEC. 502. (a) The first sentence of section 301 of the National Defense Education Act of 1958 is amended by striking out "for the fiscal year ending June 30, 1971" and inserting in lieu thereof "for each of the succeeding fiscal years ending prior to July 1, 1975".

(b) The second sentence of such section 301 is amended by striking out "July 1, 1971" and inserting in lieu thereof "July 1, 1975".

STUDY AND REPORT ON RULES AND REGULATIONS

SEC. 503. (a) The Commissioner shall conduct a study of all rules, regulations, guidelines, or other published interpretations or orders issued by him or by the Secretary of Health, Education, and Welfare (or any of their delegates) in connection with, or affecting, the administration of any program to which the General Education Provisions Act applies, which have been issued after July 30, 1965. Such study shall include a review of each such rule, regulation, guideline, interpretation, or order as it relates to the statutory or other legal authority upon which it is based, and to committee reports relating to such statutory authority.

(b) No later than one hundred and twenty days after the enactment of this Act, the Commissioner shall submit a report on the study conducted pursuant to subsection (a) to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives, which report shall include the specific legal authority of each section, or other division, of each rule, regulation, guideline, interpretation, or other order to which this section applies.

(c) Not earlier than one hundred and fifty days after the date of the enactment of this Act nor later than one hundred eighty days after such date all rules, regulations, guidelines, interpretations, or other orders to which this section applies shall be published in the Federal Register. During the thirty-day period following such publication, the Commissioner shall provide interested parties an opportunity for a public hearing on the matters so published.

(d) After a study of comments and recommendations offered to the Commissioner during the thirty-day period specified in subsection (c), he shall submit a report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives on such comments and recommendations, and any action he has taken as a result thereof, and he shall, not later than two-hundred ten days after the enactment of this Act, republish all rules, regulations, guidelines, interpretations and orders in the Federal Register, which shall supersede all preceding rules, regulations, guidelines, interpretations and orders issued in connection with, or affecting, any program to which the General Education Provisions Act applies, and become effective thirty days after such republication.

ETHNIC HERITAGE STUDIES CENTERS

SEC. 504. (a) The Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new title:

"TITLE IX—ETHNIC HERITAGE PROGRAMS

"STATEMENT OF POLICY

"SEC. 901. In recognition of the heterogeneous composition of the Nation and of the fact that in a multiethnic society a greater understanding of the contributions of one's own heritage and those of one's fellow citizens can contribute to a more harmonious, patriotic, and committed populace, and in recognition of the principle that all persons in the educational institutions of the Nation should have an opportunity to learn about the differing and unique contributions to the national heritage made by each ethnic group, it is the purpose of this title to provide assistance designed to afford to students opportunities to learn about the nature of their own cultural heritage, and to study the contributions of the cultural heritages of the ethnic groups of the Nation.

"ETHNIC HERITAGE STUDIES CENTERS

"SEC. 902. The Commissioner is authorized to make grants to, and contracts with, public and private nonprofit educational agencies, institutions, and organizations to assist them in planning, developing, establishing, and operating ethnic heritage studies centers, as provided in this title.

"ACTIVITIES OF ETHNIC HERITAGE STUDIES CENTERS

"SEC. 903. Each center assisted under this title shall—

"(1) develop curriculum materials for use in elementary and secondary schools and institutions of higher education relating to the history, geography, society, economy, literature, art, music, drama, language, and general culture of the groups with which the center is concerned, and the contributions of those ethnic groups to the American heritage;

"(2) disseminate curriculum materials to permit their use in elementary and secondary schools and institutions of higher education throughout the Nation;

"(3) provide training for persons using, or preparing to use, curriculum materials developed under this title; and

"(4) cooperate with persons and organizations in the communities being served by the center to assist them in promoting, encouraging, developing, or producing programs or other activities in such communities which relate to the history, culture, or traditions of ethnic groups.

"APPLICATIONS

"SEC. 904. (a) Any public or private nonprofit agency, institution, or organization desiring assistance to establish and operate a center under this title shall make application therefor in accordance with the provisions of this title and other applicable law and with regulations of the Commissioner promulgated for the purposes of this title. The Commissioner shall approve an application under this title only if he determines that—

"(1) the center for which the application seeks assistance will be operated by the applicant and that the applicant will operate such center in accordance with this title;

"(2) such center will be operated under the direction of a Director who will be selected by the Commissioner, in consultation with, and with the approval of, the applicant;

"(3) such center will carry out the activities described in section 903 and will offer programs and courses of study related to all ethnic groups represented in the area to be served; and

"(4) such center has been planned, and will be established and operated, in consultation with an advisory council which is representative of the ethnic groups in the area to be served and of the cultural and educational resources of such area and which is appointed in a manner prescribed by regulation.

"(b) In approving applications under this title, the Commissioner shall insure there is cooperation and coordination of efforts among the Ethnic Heritage Studies Centers assisted under this title, including the exchange of materials and information and joint projects where appropriate.

"ADMINISTRATIVE PROVISIONS

"SEC. 905. (a) In carrying out this title, the Commissioner shall make arrangements which will utilize (1) the research facilities and personnel of institutions of higher education, (2) the special knowledge of ethnic groups in local communities and of foreign students pursuing their education in this country, (3) the expertise of teachers in elementary and secondary schools and institutions of higher education, and (4) the talents and experience of any other groups in the regional area to be served by centers assisted under this title such as foundations, which would further the goals of the centers.

"(b) Funds appropriated to carry out this title may be used to cover all or part of the cost of establishing, equipping, and operating the centers, including the cost of research materials and resources, academic consultants, and the cost of training of staff for the purpose of carrying out the purposes of this title. Such funds may also be used to provide stipends (in such amounts as may be determined in accordance with regulations of the Commissioner) to individuals receiving training in such centers, including allowances for dependents.

"NATIONAL ADVISORY COUNCIL

"SEC. 906. (a) There is hereby established a National Advisory Council on Ethnic Heritage Studies consisting of fifteen members appointed by the Secretary who shall be appointed, serve, and be compensated as provided in part D of the General Education Provisions Act.

"(b) Such Council shall, with respect to the program authorized by this title, carry out the duties and functions specified in part D of the General Education Provisions Act.

"APPROPRIATIONS AUTHORIZED

"SEC. 907. For the purpose of carrying out this title, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1972, and $20,000,000 for the fiscal year ending June 30, 1973. Sums appropriated pursuant to this section shall, notwithstanding any other provisions of law unless enacted in express limitation of this sentence, remain available for expenditure and obligation until the end of the fiscal year succeeding the fiscal year for which they were appropriated.".

(b) The amendment made by subsection (a) shall be effective after June 30, 1971.

CONSUMER'S EDUCATION

SEC. 505. (a) (1) The Congress of the United States finds that there do not exist adequate resources for educating and informing consumers about their role as participants in the marketplace.

(2) It is the purpose of the amendment made by this section to encourage and support the development of new improved curriculums to prepare consumers for participation in the marketplace to demonstrate the use of such curriculums in model educational programs and to evaluate the effectiveness thereof; to provide support for the initiation and maintenance of programs in consumer education at the elementary and secondary and higher education levels; to disseminate curricular materials and other information for use in educational programs throughout the Nation; to provide training programs for teachers, other educational personnel, public service personnel, and community and labor leaders and employees, and government employees at State, Federal, and local levels; to provide for community consumer education

programs; and to provide for the preparation and distribution of materials by mass media in dealing with consumer education.

(3) Title VIII of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new section:

"CONSUMERS' EDUCATION PROGRAMS

"Sec. 811. (a) There shall be within the Office of Education, a Director of Consumers' Education (hereafter in this section referred to as the 'Director') who, subject to the management of the Commissioner, shall have primary responsibility for carrying out the provisions of this section and who shall be placed in grade 17 of the General Schedule set forth in section 5332 of title 5, United States Code. The position created by this subsection shall be in addition to the number of positions placed in such grade 17 under section 5108 of title 5, United States Code.

"(b) (1) (A) The Director shall carry out a program of making grants to, and contracts with, institutions of higher education. State and local educational agencies. and other public and private agencies, organizations, and institutions (including libraries) to support research, demonstration, and pilot projects designed to provide consumer education to the public except that no grant may be made other than to a nonprofit agency, organization, or institution.

"(B) Funds appropriated for grants and contracts under this section shall be available for such activities as—

"(i) the development of curricula (including interdisciplinary curricula) in consumer education;

"(ii) dissemination of information relating to such curricula;

"(iii) in the case of grants to State and local educational agencies and institutions of higher education, for the support of education programs at the elementary and secondary and higher education levels; and

"(iv) preservice and inservice training programs and projects (including fellowship programs, institutes, workshops, symposiums, and seminars) for educational personnel to prepare them to teach in subject matter areas associated with consumer education.

In addition to the activities specified in the first sentence of this paragraph, such funds may be used for projects designed to demonstrate, test, and evaluate the effectiveness of any activities, whether or not assisted under this section. Activities pursuant to this section shall provide bilingual assistance when appropriate.

("C) Financial assistance under this subsection may be made available only upon application to the Director. Applications under this subsection shall be submitted at such time, in such form, and containing such information as the Director shall prescribe by regulation and shall be approved only if it—

"(i) provides that the activities and service for which assistance is sought will be administered by, or under the supervision of, the applicant;

"(ii) describes a program for carrying out one or more of the purposes set forth in the first sentence of paragraph (2) which holds promise of making a substantial contribution toward attaining the purposes of this section;

"(iii) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application;

"(iv) sets forth policies and procedures which assure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this section, and in no case supplant such funds;

"(v) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

"(vi) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require and for keeping such records, and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

Applications from local educational agencies for financial assistance under this section may be approved by the Director only if the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

"(2) Federal assistance to any program or project under this subsection, other than those involving curriculum development, dissemination of curricular materials, and evaluation, shall support up to 100 per centum of the cost of such program including costs of administration; contributions in kind are acceptable as local contributions to program costs.

(c) Each recipient of Federal funds under this section shall make such reports and evaluations as the Commissioner shall prescribe by regulation.

"(d) There is authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973; $25,000,000 for the fiscal year ending June 30, 1974; and $35,000,000 for the year ending June 30, 1975, for carrying out the purposes of this section.".

(b) The amendment made by this section shall be effective after June 30, 1972.

LAND-GRANT STATUS FOR THE COLLEGE OF THE VIRGIN ISLANDS AND THE UNIVERSITY OF GUAM

Sec. 506. (a) The College of the Virgin Islands and the University of Guam shall be considered land-grant colleges established for the benefit of agriculture and mechanic arts in accordance with the provisions of the Act of July 2, 1862, as amended (12 Stat. 503; 7 U.S.C. 301–305, 307, 308).

(b) (1) In lieu of extending to the Virgin Islands and Guam those provisions of the Act of July 2, 1862, as amended, relating to donations of public land or land script for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, there is authorized to be appropriated to the Virgin Islands and Guam an amount computed in accordance with paragraph (2). Amounts appropriated pursuant to this section shall be held and considered to have been granted to the Virgin Islands and Guam subject to the provisions of that Act applicable to the proceeds from the sale of land or land script.

(2) (A) The amounts authorized to be appropriated pursuant to paragraph (1) shall be computed in the following manner:

(i) In the case of the Virgin Islands, the amount so authorized shall be an amount which bears the same ratio to the population of the Virgin Islands at the beginning of the first calendar year which begins after the enactment of this section as $6,000,000 bore to the population of the State of Hawaii as determined by the census of 1950.

(ii) In the case of Guam, the amount so authorized shall be an amount which bears the same ratio to the population of Guam at the beginning of the first calendar year which begins after the enactment of this section as $6,000,000 bore to the population of the State of Hawaii as determined by the census of 1950.

(B) The population of the Virgin Islands and Guam at the beginning of the first calendar year which begins after the enactment of this section shall be estimated by the Commissioner on the basis of the most recent satisfactory data available to him. Estimates of such population shall be published in the Federal Register as soon as practicable after the beginning of the first calendar year which begins after the enactment of this section.

(c) The Act of August 30, 1890 (26 Stat. 417; 7 U.S.C. 3–22–326) is amended—

(1) by striking out "and Territory" wherever it appears and inserting in lieu thereof the following: ", Puerto Rico, the Virgin Islands, and Guam";

(2) by striking out "and Territories" wherever it appears and inserting in lieu thereof the following: ", Puerto Rico, the Virgin Islands, and Guam";

(3) by striking out "or Territory" wherever it appears and inserting in lieu thereof the following: ", Puerto Rico, the Virgin Islands, or Guam";

(4) by striking out "or Territories" wherever it appears and inserting in lieu thereof the following: ", Puerto Rico, the Virgin Islands, or Guam"; and

(5) by striking out "or Territorial" where it appears.

(d) Section 22 of the Act of June 29, 1935, as amended (49 Stat. 439; 7 U.S.C. 329), is further amended—

(1) by striking out "and Puerto Rico" wherever it appears and inserting in lieu thereof the following: "; Puerto Rico, the Virgin Islands, and Guam";

(2) by striking out "$7,800,000" and inserting in lieu thereof the figure "$8,100,000"; and

(3) by striking out "$4,320,000" and inserting in lieu thereof the figure "$4,360,000".

(e) The Act of March 4, 1940 (54 Stat. 39; 7 U.S.C. 331) is amended—

(1) by striking out "and Territories" wherever it appears and inserting in lieu thereof the following: ", Puerto Rico, the Virgin Islands, and Guam";

(2) by striking out "or Territories" wherever it appears and inserting in lieu thereof the following: ", Puerto Rico, the Virgin Islands, or Guam"; and

(3) by striking out "State" wherever it appears in the third proviso of that Act and inserting in lieu thereof the following: "State, Puerto Rico, the Virgin Islands, or Guam".

(f) Section 27 of the Agricultural Marketing Act of 1946 (60 Stat. 1091; 7 U.S.C. 1626), is amended by striking out the period at the end of the section and inserting in lieu thereof the following: ", and the term 'State' when used in this chapter shall include the Virgin Islands and Guam.".

(g) Section 3 of the Act of May 8, 1914, as amended (38 Stat. 373; 7 U.S.C. 343), is further amended by redesignating subsection (b) as paragraph (1) of subsection (b), and adding a new paragraph (2) to subsection (b) to read as follows:

"(2) There is authorized to be appropriated for the fiscal year ending June 30, 1971, and for each fiscal year thereafter, for payment to the Virgin Islands and Guam, $100,000 each, which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal year, except the fiscal years ending June 30, 1971, and June 30, 1972, when such amount may be used to pay the total cost of providing services pursuant to this Act, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of this Act.".

(h) Section 10 of the Act of May 8, 1914, is amended by striking out "and Puerto Rico" and inserting in lieu thereof the following: ", Puerto Rico, the Virgin Islands, and Guam".

(i) Section 4 of the Act of October 10, 1962 (76 Stat. 806; 16 U.S.C. 582a–3), is amended by striking out the period at the end of the first sentence thereof and inserting in lieu thereof the following: ", except that for the fiscal years ending June 30, 1971, and June 30, 1972, the matching funds requirement hereof shall not be applicable to the Virgin Islands and Guam, and sums authorized for such years for the Virgin Islands and Guam may be used to pay the total cost of programs for forestry research.".

(j) Section 8 of the Act of October 10, 1962 (76 Stat. 807; 16 U.S.C. 582a–7), is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", the Virgin Islands, and Guam.".

(k) Section 1 of the Act of August 11, 1955 (7 U.S.C. 361a–361i), is amended by striking out the period at the end of the second sentence and inserting in lieu thereof the following: "Guam and the Virgin Islands," and striking out "and" between the words "Hawaii and Puerto Rico.".

(l) Section 3 of the Act of August 11, 1955 (7 U.S.C. 361a–361i) is amended by redesignating subsection (b) as paragraph (1) of subsection (b), and adding a new paragraph (2) to subsection (b) to read as follows:

"(2) There is authorized to be appropriated for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, for payment to the Virgin Islands and Guam, $100,000 each, which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal year, except the fiscal years ending June 30, 1971, and June 30, 1972, when such amount may be used to pay the total cost of providing services pursuant to this Act, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of this Act.".

(m) With respect to the Virgin Islands and Guam, the enactment of this section shall be deemed to satisfy any requirement of State consent contained in laws or provisions of law referred to in this section.

(n) The amendments made by this section shall be effective after June 30, 1970, and this section shall be deemed to have been enacted on such date.

AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 WITH RESPECT TO MIGRATORY CHILDREN OF MIGRATORY AGRICULTURAL WORKERS

SEC. 507. (a) Section 103(a)(6) of title I of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Commissioner shall by regulation establish criteria for the allocation of funds within each State for which a State educational agency is eligible under this paragraph, after considering the areas of the State and local educational agencies of the State which have the highest concentrations of such children.".

(b) Section 141(c)(1) of such title I is amended by striking out the word "and" at the end of clause (B) of such section, by redesignating clause (C) of such section as clause (D), and by inserting immediately after clause (B) the following new clause (C):

"(C) that, effective after June 30, 1971, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering the funds available for this purpose; and".

(c) Section 141(3)(C) of such title I is amended by adding at the end thereof the following new sentence: "Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in the consideration of programs and activities contained in applications submitted under this section."

(d)(1) The Commissioner shall conduct a study of the operation of title I of the Elementary and Secondary Education Act of 1965 as such title affects the education of migratory children of migratory agricultural workers. Such study shall include an evaluation of the specific programs and projects assisted under such title I for such children, with a view toward the assessment of their effectiveness, and shall include a review of the administration of such programs and projects by the States.

(2) Not later than December 31, 1972, the Commisisoner shall submit a report on the study required by paragraph (1), which report shall contain a statement with respect to the effectiveness of individual programs and projects assisted under such title I with respect to migrant children, an evaluation of State administration of such programs and projects, and make recommendations for the improvement of such programs and projects.

TECHNICAL AMENDMENT WITH RESPECT TO NEGLECTED OR DELINQUENT CHILDREN

SEC. 508. Section 103(a)(7) of title I of the Elementary and Secondary Education Act of 1965, is amended by striking out "for children in institutions for neglected or delinquent children" and inserting in lieu thereof the following: "for children in institutions for neglected or delinquent children or in adult correctional institutions, if such funds are used solely for delinquent children".

NUMBER OF MEMBERS OF THE NATIONAL COMMISSION ON SCHOOL FINANCE

SEC. 509. Section 809(d) of Public Law 91–230 is amended by striking out "fifteen members" and inserting in lieu thereof "eighteen members".

TITLE VI—YOUTH CAMP SAFETY

SHORT TITLE

SEC. 601. This title shall be cited as the "Youth Camp Safety Act".

STATEMENT OF PURPOSE

SEC. 602. It is the purpose of this title to protect and safeguard the health and well-being of the youth of the Nation attending day camps, resident camps, and travel camps, by providing for the establishment of Federal standards for safe operation of youth camps, and to provide Federal assistance and leadership to the States in developing programs for implementing safety standards for youth camps, thereby providing assurance to parents and interested citizens that youth camps meet minimum safety standards.

DEFINITIONS

SEC. 603. As used in this title—

(a) The term "youth camp" means:

(1) any parcel or parcels of land having the general characteristics and features of a camp as the term is generally understood, used wholly or in part for recreational or educational purposes and accommodating for profit or under philanthropic or charitable auspices five or more children under eighteen years of age, living apart from their relatives, parents, or legal guardians for a period or, or portions of, five days or more, and includes a site that is operated as a day camp or as a resident camp; and

(2) any travel camp which for profit or under philanthropic or charitable auspices, sponsors or conducts group tours within the United States, or foreign group tours originating of terminating within the United States, for educational or recreational purposes, accommodating within the group five or more children under eighteen years of age living apart from their relatives, parent, or legal guardians for a period of five days or more.

(b) The term "person" means any individual, partnership, corporation, association, or other form of business enterprises.

(c) The term "safety standards" means criteria directed toward safe operation of youth camps, in such areas as—but not limited to—personnel qualifications for director and staff; ratio of staff to campers; sanitation and public health; personal health, first aid, and medical services; food handling, mass feeding, and cleaniness; water supply and waste disposal, water safety including use of lakes and rivers, swimming and boating equipment and practices; vehicle condition and operation; building and site design; equipment; and condition and density of use.

(d) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(e) The term "State" includes each of the several States and the District of Columbia.

GRANTS TO STATES FOR YOUTH CAMP SAFETY STANDARDS

SEC. 604. From sums appropriated pursuant to section 610 of this Act, but not to exceed $2,500,000 of such appropriation for any fiscal year, the Secretary is authorized to make grants to States which have State plans approved by him under section 606 to pay up to 50 per centum of the cost of developing and administering States programs for youth camp safety standards.

DEVELOPING FEDERAL STANDARDS

SEC. 605. In developing Federal standards for youth camps, the Secretary shall—

(a) undertake a study of existing State and local regulations and standards, and standards developed by private organizations, applicable to youth camp safety, including the enforcement of such State, local, and private regulations and standards;

(b) establish and publish youth camp safety standards within one year after enactment of the title, after consultation with State officials and with representatives of appropriate private and public organizations after opportunity for hearings and notification published in the Federal Register; and

(c) authorize and encourage camps certified by the States as complying with the published Federal youth camp standards to advertise their compliance with minimum safety standards.

STATE PLANS

SEC. 606. (a) Any State desiring to participate in the grant program under this title shall designate or create an appropriate State agency for the purpose of this section, and submit, through such State agency, a State plan which shall—

(1) set forth a program for State supervised annual inspection of, and certification of compliance with, minimum safety standards developed under the provisions of sections 605 and 609(a) of this title, at youth camps located in such State;

(2) provide assurances that the State will accept and apply such minimum youth camp safety standards as the Secretary shall by regulations prescribe;

(3) provide for the administration of such plan by such State agency;

(4) provide for an advisory committee, to advise the State agency on the general policy involved in inspection and certification procedures under the State plan, which committee shall include among its members representatives of other State agencies concerned with camping or programs related thereto and persons representative of professional or civic or other public or nonprofit private agencies, organizations, or groups concerned with organized camping;

(5) provide that such State agency will make such reports in such form and containing such information as the Secretary may reasonably require;

(6) provide assurance that the State will pay from non-Federal sources the remaining cost of such program; and

(7) provide such fiscal control and fund accounting procedures as may be necessary

to assure proper disbursement of any accounting of funds received under this title.

(b) Any State desiring to enable youth camps in the State to advertise compliance with Federal youth camp standards, but which does not wish to participate in the grant programs under this title, shall designate or create an appropriate State agency for the purpose of this section, and submit, through such State agency a State plan which shall accomplish the steps specified in (a) (1) through (3) of this section, and which provides for availability of information so that the Secretary may be assured of compliance with the standards.

(c) The Secretary shall not finally disapprove any State plan submitted under this title or any modification thereof, without first affording such State agency reasonable notice and opportunity for a hearing.

DETERMINATION OF FEDERAL SHARE; PAYMENTS

SEC. 607. (a) The Secretary shall determine the amount of the Federal share of the cost of programs approved by him under section 606 based upon the funds appropriated therefor pursuant to section 610 for that fiscal year and upon the number of participating States; except that no State may receive a grant under this title for any fiscal year in excess of $50,000.

(b) Payments to a State under this title may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of overpayments or underpayments.

OPERATION OF STATE PLANS; HEARINGS AND JUDICIAL REVIEW

SEC. 608. (a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State plan approved under this title, finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of section 606, or

(2) in the administration of the plan there is a failure to comply substantially with any such provision,

the Secretary shall notify such State agency that no further payments will be made to the State under this title (or in his discretion, that further payments to the State will be limited to programs or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made to such State under this title (or payment shall be limited to programs or portions of the State plan not affected by such failure).

(b) A State agency dissatisfied with a final action of the Secretary under section 606 or subsection (a) of this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part temporarily or permanently, but, until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

ADVISORY COUNCIL ON YOUTH CAMP SAFETY

SEC. 609. (a) The Secretary shall establish in the Department of Health, Education, and Welfare an Advisory Council on Youth Camp Safety to advise and consult on policy matters relating to youth camp safety, particularly the promulgation of youth camp safety standards. The Council shall consist of the Secretary, who shall be Chairman, and eighteen members appointed by him, without regard to the civil service laws, from persons who are specially qualified by experience and competence to render such service. Prior to making such appointments, the Secretary shall consult with appropriate associations representing organized camping.

(b) The Secretary may appoint such special advisory and technical experts and consultants as may be necessary in carrying out the functions of the Council.

(c) Members of the Advisory Council, while serving on business of the Advisory Council, shall receive compensation at a rate to be fixed by the Secretary, but not exceeding $100 per day, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

ADMINISTRATION

SEC. 610. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress at least once in each fiscal year a comprehensive and detailed report on the administration of this title.

(b) The Secretary is authorized to request directly from any department or agency of the Federal Government information, suggestions, estimates, and statistics needed to carry out his functions under this title; and such department or agency is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary.

(c) Nothing in this title or regulations issued hereunder shall authorize the Secretary, a State agency, or any official acting under this law to restrict, determine, or influence the curriculum, program, or ministry of any youth camp.

AUTHORIZATION

SEC. 611. There are authorized to be appropriated to carry out the provisions of this Act the sum of $3,000,000 for the fiscal year ending June 30, 1972, and for each of the five succeeding fiscal years.

TITLE VII—EMERGENCY SCHOOL AID AND QUALITY INTEGRATED EDUCATION

SHORT TITLE

SEC. 701. This title may be cited as the "Emergency School Aid and Quality Integrated Education Act of 1971".

POLICY WITH RESPECT TO THE APPLICATION OF CERTAIN PROVISIONS OF FEDERAL LAW

SEC. 702. It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964, section 182 of the Elementary and Secondary Education Amendments of 1966, and this title, shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

FINDINGS AND PURPOSE

SEC. 703. (a) The Congress hereby finds that the process of establishing and maintaining stable, quality, integrated schools and eliminating or preventing minority group isolation improves the quality of education for all children and often involves the expenditure of additional funds to which local educational agencies do not have access.

(b) It is the purpose of this title (1) to encourage comprehensive planning for the elimination of minority group isolation in school systems throughout the Nation, (2) to provide financial assistance to encourage the establishment and maintenance of stable, quality integrated schools throughout the Nation, serving students from all backgrounds, which offer enriched educational opportunities derived from the presence of children from diverse backgrounds in an environment sensitive to the potential contribution of each child to the education of all, through the use of modern educational methods, practices, and techniques, including, where appropriate, programs of integrated bilingual, bicultural education, (3) to assist in eliminating minority group isolation in public school systems throughout the Nation, and (4) to aid schoolchildren in overcoming the educational disadvantages of minority group isolation.

APPROPRIATIONS

SEC. 704. (a) The Commissioner, shall, in accordance with the provisions of this title, carry out a program designed to achieve the purposes set forth in section 703(b). There are authorized to be appropriated to the Commissioner, for the purpose of carrying out this title, $500,000,000 for the period beginning with the enactment of this title and ending June 30, 1972, and $1,000,000,000 for the fiscal year ending June 30, 1973. Funds so appropriated shall remain available for obligation and expenditure during the fiscal year succeeding the fiscal year for which they are appropriated, except that funds reserved pursuant to subsection (b) shall remain available until expended.

(b) (1) From the sums appropriated pursuant to subsection (a) for any fiscal year, the Commissioner shall reserve an amount equal to 15 per centum thereof for the purposes of section 709.

(2) From the sums appropriated pursuant to subsection (a) for any fiscal year, the Commissioner shall reserve an amount equal to 15 percentum thereof for the purposes of sections 708 (a) and (c), and 711, of which—

(A) not less than an amount equal to 4 per centum of such sum shall be for the purposes of section 708(c); and

(B) not less than an amount equal to 3 per centum of such sums shall be for the purposes of section 711.

APPORTIONMENT AMONG STATES

SEC. 705. (a) (1) From the sums appropriated pursuant to section 3(a) which are not reserved under section 704(b) or 713 for any fiscal year, the Commission shall apportion to each State for grants and contracts within that State an amount which bears the same ratio to such sums as the number of minority group children enrolled in elementary and secondary schools in that State bears to the number of such children in all the States, except that the amount apportioned to any State shall not be less than $100,000.

(2) Of the amount apportioned to each State under paragraph (1), the Commissioner shall, in accordance with criteria established by regulation, reserve not in excess of 22 per centum thereof for grants to, and contracts with, local educational agencies in that State pursuant to section 706(b).

(3) Of the amount apportioned to each State under paragraph (1), the Commissioner shall reserve not less than 15 percentum thereof for grants and contracts in that State pursuant to section 708(b).

(b) The amount of any State's apportionment under subsection (a) which exceeds the amount which the Commissioner determines, in accordance with criteria established by regulation, will be required during the period for which the apportionment is available for programs and projects within such State, shall be available for reapportionment from time to time, on such dates during such period as the Commisioner shall fix by regulation, to other States in proportion to the original apportionments to such States under subsection (a). If the Commisioner determines, in accordance with criteria established by regulation, that the amount which would be reapportioned to a State under the first sentence of this subsection exceeds the amount which will be required during the period of the apportionment for programs and projects within such State, the amount of such State's reapportionment shall be reduced to the extent of such excess, and the total amount of any reductions pursuant to this sentence shall be available for reapportionment under the first sentence of this subsection. Any amount reapportioned to a State under this subsection during the period of any apportionment shall be deemed a part of its apportionment for that period. Any amount reserved pursuant to paragraph (3) of subsection (a) and reapportioned under this subsection shall be used solely for the purposes for which it was originally reserved.

ELIGIBILITY FOR ASSISTANCE

SEC. 706. (a) (1) (A) The Commissioner is authorized to make a grant to, or a contract with, a local educational agency—

(i) which is implementing a plan—

(I) which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of minority group isolation in such schools; or

(II) which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools;

(ii) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan for the complete elimination of minority group isolation in all the minority group isolated schools of such agency; or

(iii) which has adopted and is implementing, or will, if assistance is made available to it under this Act, adopt and implement, a plan—

(I) to eliminate or reduce minority group isolation in one or more of the minority group isolated schools of such agency,

(II) to reduce the total number of minority group children who are in minority group isolated schools of such agency, or

(III) to prevent minority group isolation reasonably likely to occur (in the absence of assistance under this title) in any school of such agency, in which school at least 20 per centum, of the enrollment consists of such children.

(B) No local educational agency shall be eligible under subparagraph (A) unless the Commissioner determines, in accordance with regulations, that the local educational agency will establish or maintain or has established and will maintain at least one stable, quality integrated school and that the agency has adopted a comprehensive districtwide plan for the elimination of minority group isolation, to the maximum extent possible, in all schools of such agency.

(2) (A) The Commissioner is authorized, in accordance with special eligibility criteria established by regulation for the purposes of this paragraph, to make grants to, and contracts with, local educational agencies for the purposes of section 709(a) (1).

(B) A local educational agency shall be eligible for assistance under this paragraph only if—

(i) such agency is located within, or adjacent to, a Standard Metropolitan Statistical Area;

(ii) the schools of such agency are not attended by minority group children in a significant number or proportion; and

(iii) such local educational agency has made joint arrangements with a local educational agency, located within that Standard Metropolitan Statistical Area, and the schools of which are attended by minority group children in a significant proportion, for the establishment or maintenance of one or more stable, quality integrated schools as provided in section 709(a) (1).

(3) (A) Upon a determination by the Commissioner—

(i) that more than 50 per centum of the number of children in attendance at the schools of a local educational agency is minority group children;

(ii) that such local educational agency has adopted a comprehensive districtwide plan which meets the requirements of subparagraph (B) of paragraph (1) of this section; and

(iii) that such local educational agency has applied for and will receive at least an equal amount of assistance under subsection (b);

the Commissioner is authorized to make a grant to, or contract with, such local educational agency for the establishment or maintenance of one or more stable, quality integrated schools as defined in subparagraph (B).

(B) For the purposes of this paragraph (3), an integrated school shall be a school with (i) an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, and in which the Commissioner determines that the number of nonminority group children constitutes that proportion of the enrollment which will achieve stability, in no event more than 60 per centum thereof, and (ii) a faculty which is representative of the minority group and nonminority group population of the larger community in which it is located, or, whenever the Commissioner determines that the local educational agency concerned is attempting to increase the proportions of minority group teachers, supervisors, and administrators in its employ, a faculty which is representative of the minority group and nonminority group faculty employed by the local educational agency.

(b) The Commissioner is authorized to make grants to, or contracts with, local educational agencies, which are eligible under subsection (a), for unusually promising pilot programs or projects designed to overcome the adverse effects of minority group isolation by improving the academic achievement of children in one or more minority group isolated schools, if he determines that the local educational agency had a number of minority group children enrolled in its schools, for the fiscal year preceding the fiscal year for which assistance is to be provided, (1) is at least 15,000, or (2) constitutes more than 50 per centum of the total number of children enrolled in such schools.

(c) No local educational agency making application under this section shall be eligible to receive a grant or contract in an amount in excess of the amount determined by the Commissioner, in accordance with regulations setting forth criteria established for such purpose, to be the additional cost to the applicant arising out of activities authorized under this title, above that of the activities normally carried out by the local educational agency.

(d) (1) No local educational agency shall be eligible for assistance under this title if it has, after the date of enactment of this title—

(A) transferred (directly or indirectly by gift, lease, loan, sale, or other means) real or personal property to, or made any services available to, any nonpublic school or school system (or any organization controlling, or intending to establish, such a school or school system) without prior determination that such nonpublic school or school system (i) is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregated public schools, and (ii) does not otherwise practice, or permit to be practiced, discrimination on the basis of race, color, or national origin in the operation of any school activity;

(B) had in effect any practice, policy, or procedure which results (or has resulted) in the disproportionate demotion or dismissal of instructional or other personnel from minority groups in conjunction with desegregation or the conduct of an activity described in section 706, or otherwise engaged in discrimination based upon race, color, or national origin in the hiring, promotion, or assignment of employees of the agency (or other personnel for whom the agency has any administrative responsibility);

(C) in conjunction with desegregation or the conduct of an activity described in section 706, had in effect any procedure for the assignment of children to or within classes which results in the separation of minority group from nonminority group children for a substantial portion of the school day: *Provided, however,* That the foregoing does not prohibit the use of bona fide ability grouping by a local education agency as a standard pedagogical practice; or

(D) had in effect any other practice, policy, or procedure, such as limiting curricular or extracurricular activities (or participation therein by children) in order to avoid the participaton of minority group children in such activities which discriminates among children on the basis of race, color, or national origin;

except that, in the case of any local educational agency which is ineligible for assistance by reason of clause (A), (B), (C), or (D), such agency may make application for a waiver of ineligibility, which application shall specify the reason for its ineligibility, contain such information and assurances as the Secretary shall require by regulation in order to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exist or occur and include such provisions as are necessary to insure that such activities do not reoccur after the submission of the application.

(2) (A) Except as is provided in subparagraph (B), no local educational agency shall be eligible for assistance under this title or for a waiver under paragraph (1) if—

(i) after August 18, 1970, it has caused to exist or occur, or has permitted to exist or occur, any transaction, practice, policy, or procedure described in clause (A), (B), (C), or (D) of paragraph (1) which would have rendered it ineligible if such transaction, practice, policy, or procedure existed or occurred after the date of enactment of this title; and

(ii) it has received assistance under the paragraph headed "Emergency School Assistance" in the Office of Education Appropriations Act, 1971 (Public Law 91-380).

(B) (i) In the case of any local educational agency which is ineligible for assistance under this title by reason of subparagraph (A), such agency may make a special application for a waiver of its ineligibility, which application shall include (I) all the specifications, procedures, assurances, and other information required for a waived under the exception set forth in paragraph (1), and (II) in addition, such other data, plans, assurances, and information as the Secretary shall require in order to insure compliance with this subparagraph (B).

(ii) The additional matters required by the Secretary under clause (II) of subparagraph (B)(i) shall at least include sufficient information as to enable the Commissioner to evaluate properly the application submitted under section 710 by the applicant for a special waiver under this subparagraph (B) and advise the Secretary with respect to the merit of the program for which assistance is sought.

(3) Applications for waivers under paragraphs (1) and (2) may be approved only by the Secretary. The Secretary's functions under this paragraph shall, notwithstanding any other provision of law, not be delegated.

(4) No application for assistance under this title shall be approved prior to a determination by the Commissioner that the applicant is not ineligible by reason of this subsection. No waiver under paragraph (2) shall be granted until the Commissioner has determined that the special applicant has submitted an application under section 710 proposing a program or project of extraordinary merit.

(5) All determinations pursuant to this subsection shall be carried out in accordance with criteria and investigative procedures established by regulations of the Secretary for the purpose of compliance with this subsection.

(6) All determinations and waivers pursuant to this subsection shall be in writing. The Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives shall each be given notice of an intention to grant any waiver under this subsection, which notice shall be accompanied by a copy of the proposed waiver for which notice is given and copies of all determinations relating to such waiver. The Commissioner shall not approve an application by a local educational agency which requires a waiver under this subsection prior to thirty days after receipt of the notice required by the preceding sentence by the chairman of the Committee on Labor and Public Welfare of the Senate and the chairman of the Committee on Education and Labor of the House of Representatives.

AUTHORIZED ACTIVITIES

SEC. 707. (a) Sums appropriated pursuant to section 704(a) and apportioned to a State pursuant to section 705 (which have not been reserved under paragraph (2) or (3) of section 705(a)) shall be available for grants to, and contracts with, local educational agencies in that State which have been established as eligible under section 706(a), to assist such agencies in carrying out the following programs and projects under the comprehensive district wide plan submitted pursuant to section 706(a) as necessary and appropriate to carry out the purposes of this title:

(1) The development and use of new curricula and instructional methods, practices, and techniques (and the acquisition of instructional materials relating thereto) to support a program of instruction for children from all racial, ethnic, and economic backgrounds, including instruction in the language and cultural heritage of minority groups.

(2) Remedial services, beyond those provided under the regular school program conducted by the local educational agency, including student-to-student tutoring.

(3) Guidance and counseling services, beyond those provided under the regular school program conducted by the local educational agency, designed to promote mutual understanding among minority group and nonminority group parents, children, and teachers.

(4) Administrative and auxiliary services to facilitate the success of the project.

(5) Community activities, including public information efforts, in support of a plan, program, project, or other activities described in this section.

(6) Recruiting, hiring, and training of teacher aides: *Provided*, That in recruiting teacher aides, preference shall be given to parents of children attending schools assisted under section 706(a).

(7) Inservice teacher training designed to enhance the success of schools assisted under section 706(a) through contracts with institutions of higher education, or other institutions, agencies, and organizations individually determined by the Commissioner to have special competence for such purpose.

(8) Planning programs and projects under this section, the evaluation of such programs and projects, and dissemination of information with respect to such programs and projects.

(9) Repair or minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of instructional equipment) and the lease or purchase of mobile classroom units or other mobile education facilities.

In the case of programs and projects involving activities described in paragraph (9), the inclusion of such activities must be found to be a necessary component of, or necessary to facilitate, a program or project involving other activities described in this section or subsection (b), and in no case involve an expenditure in excess of 10 per centum of the amount made available to the applicant to carry out the program or project. The Commissioner shall by regulation define the term "repair or minor remodeling or alteration".

(b) Sums reserved under section 705(a)(2) with respect to any State shall be available for grants to, and contracts with, local educational agencies in that State making application for assistance under section 706(b) to carry out innovative pilot programs and projects which are specifically designed to assist in overcoming the adverse effects of minority group isolation, by improving the educational achievement of children in minority group isolated schools, including only the activities described in paragraphs (1) through (9) of subsection (a), as they may be used to accomplish such purpose.

(c) Sums appropriated as set forth in section 707 shall also be available for grants to, and contracts with, any local educational agencies in such State, to assist such agencies in carrying out programs as may be required or provided for in the court order applicable to such agency referred to in section 706(a)(1)(A)(i)(I).

SPECIAL PROGRAMS AND PROJECTS

SEC. 708. (a)(1) Amounts reserved by the Commissioner pursuant to section 704(b)(2), which are not designated for the purposes of clause (A) or (B) thereof, shall be available to him for grants and contracts under this subsection.

(2) The Commissioner is authorized to make grants to, and contracts with, State and local educational agencies, and other public and private nonprofit agencies and organizations (or a combination of such agencies and organizations) for the purpose of conducting special programs and projects carrying out activities otherwise authorized by this title, which the Commissioner determines will make substantial progress toward achieving the purposes of this title.

(b) From the amounts reserved pursuant to section 705(a)(3), the Commissioner is authorized to make grants to, and contracts with, public and private nonprofit agencies, institutions, and organizations (other than local educational agencies and nonpublic elementary and secondary schools) for programs and projects to promote equality of educational opportunity, through facilitating the participation of parents, students, and teachers in the design and implementation of comprehensive educational planning; the provisions of services which will enable parents to become effective participants in the educational process; the conduct of activities which foster understanding among minority group and nonminority group parents, children, teachers, and school officials, including public information and school-community relations activities; and the conduct of school-related activities to reinforce student growth and achievement.

(c)(1) The Commissioner shall carry out a program to meet the needs of minority group children who are from an environment in which a dominant language is other than English and who, because of language barriers and cultural differences do not have equality of educational opportunity. From the amount reserved pursuant to section 704(b)(2)(B), the Commissioner is authorized to make grants to, and contracts with—

(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more educational agencies which are eligible for assistance under section 706, designed to meet the special educational needs of minority group children who are from environments in which a dominant language is other than English, for the development of reading, writing, and speaking skills in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the minority groups of which such childern are members;

(B) local educational agencies eligible for assistance under setcion 706 for the purpose of engaging in such activities:

(C) local educational agencies which are eligible to receive assistance under section 706, for the purpose of carrying out activities authorized under section 707(a) of this title to implement curricula developed under clauses (A) and (B) or curricula otherwise developed which the Commissioner determines meets the purposes stated in clause (A).

In making grants and contracts under this paragraph, the Commissioner shall assure that sufficient funds from the amount reserved pursuant to section 704(b)(2)(A) remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Commissioner determines meet the purposes stated in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph, the Commissioner shall take whatever action is necessary to assure that the implementation plan includes provision adequate to insure training of teachers and other ancillary education personnel.

(2)(A) In order to be eligible for a grant or contract under this subsection—

(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policymaking authority with respect to the program or project and (II) have demonstrated to the Commissioner that it has the capacity to obtain the services of adequately trained and qualified staff.

(B) A program or project committee or board, established pursuant to subparagraph (A) must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the minority group, the educational needs of which the program or project is intended to meet.

(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under section 706. The Commissioner shall insure that programs of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.

METROPOLITAN AREA PROJECTS

SEC. 709. (a) Sums reserved pursuant to section 704(b)(1) shall be available for the following purposes:

(1) A program of grants to, and contracts with, local educational agencies which are eligible under section 706(a)(2) in order to assist them in establishing and maintaining stable, quality integrated schools. For the purposes of this paragraph, an integrated school shall be a school with an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, in which the proportions of minority group children are at least 50 per centum of the proportions of minority group children enrolled in all schools of the local educational agencies within the Standard Metropolitan Statistical Area, and which has a faculty and administrative staff with substantial representation of minority group persons.

(2) A program of grants to groups of local educational agencies located in Standard Metropolitan Statistical Areas, for the joint development of plans to reduce and eliminate minority group isolation, to the maximum extent possible, in the public elementary and secondary schools in Standard Metropolitan Statistical Areas, which shall, as a minimum, provide that by a date certain, but in no event later than July 1, 1983, the percentage of minority group children enrolled in each school in the Standard Metropolitan Statistical Area shall be at least 50 per centum of the percentage of minority children enrolled in all the schools in the Standard Metropolitan Statistical Area.

(3) A program of grants to local educational agencies to pay all or part of the cost of planning and constructing integrated education parks. For the purpose of this paragraph the term "educational park" means a school or cluster of such schools located on a common site, within a Standard Metropolitan Statistical Area, of sufficient size to achieve maximum economy of scale consistent with sound educational practice, providing the full range of pre-school, elementary, and secondary education, with an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, and which is representative of the minority group and nonminority group children in attendance at the school of the local educational agencies in the Standard Metropolitan Statistical Area, or, if the applicant is a single local educational agency, representative of that of the local educational agency, and a faculty and administrative staff with substantial representation of minority group persons.

(b) In making grants and contracts under this section, the Commissioner shall insure that—

(1) at least one grant shall be for the purposes of paragraph (2) of subsection (a); and

(2) at least two grants shall be for the purposes of paragraph (3) of subsection (a), of which at least one shall be to assist an education park being planned, established and operated as an interdistrict project involving two or more local educational agencies.

APPLICATIONS

SEC. 710. (a) Any local educational agency desiring to receive assistance under this title for any fiscal year shall submit to the Commissioner an application therefor for that fiscal year at such time, in such form, and containing such information as the Commissioner shall require by regulation. Such application, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Commissioner. The Commissioner may approve such an application only if he determines that such application—

(1) in the case of applications under section 706, sets forth a program under which, and such policies and procedures as will assure that, (A) the applicant will use the funds received under this title only for the activities set forth in section 707 and that the applicant will use such funds for the implementation of a comprehensive districtwide plan for the elimination, to the extent possible, of minority group isolation, and that the use of such funds by the applicant will include the implementation of a comprehensive program specifically designed to establish or maintain at least one, or more, stable, quality, integrated schools and, (B) in the case of an application under section 706(b), the applicant will initiate or expand an innovative program specifically designed to meet the educational needs of children attending one or more minority group isolated schools;

(2) has been developed—

(A) in open consultation with parents, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

(B) except in the case of applications under section 708(c), with the participation and, subject to subsection (b), approval of a committee composed of parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students, of which at least half the members shall be such parents, and at least half shall be persons from minority groups;

(3) sets forth such policies and procedures as will insure that the program for which assistance is sought will be operated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B);

(4) sets forth such policies and procedures, and contains such information, as will insure that funds paid to the applicant under the application be used solely to pay the additional cost to the applicant in carrying out the plan and program described in the application;

(5) contains such assurances and other information as will insure that the program for which assistance is sought will be administered by the applicant, and that any funds received by the applicant, and any property derived therefrom, will remain under the administration and control of the applicant;

(6) sets forth such policies and procedures, and contains such information, as will insure that funds made available to the applicant (A) under this title will be so used (i) as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources for the purposes of the program for which assistance is sought, and for promoting the integration of the schools of the applicant, and for the education of children participating in such program, and (ii) in no case, as to supplant such funds from non-Federal sources, and (B) under any other law of the United States will, in accordance with standards established by regulation, be used in coordination with such programs to the extent consistent with such other law;

(7) in the case of an application for assistance under section 706, provides that the program or project to be assisted will involve an additional expenditure per pupil to be served, determined in accordance with regulations prescribed by the Commissioner, of sufficient magnitude to provide reasonable assurance that the desired funds under this title will not be dispersed in such a way as to undermine their effectiveness;

(8) to the extent consistent with the number of minority group children in the area to be served who are enrolled in private nonprofit elementary and secondary schools which are operated in a manner free from discrimination on the basis of race, color or national origin, and which do not serve as alternatives for children seeking to avoid attendance in desegregated or integrated public schools, whose participation would assist in achieving the purpose of this title, provides assurance that such agency (after consultation with the appropriate private school officials) has made provision for their participation on an equitable basis;

(9) provides that the applicant has not reduced its fiscal effort for the provision of free public education for children in attendance at the schools of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year, and that the current expenditure per pupil which such agency makes from revenues derived from its local source for the fiscal year for which assistance under this title will be made available to such agency is not less than such exepnditure per pupil which such agency made from such revenues for (A) the fiscal year preceding the fiscal year during which the implementation of a plan described in section 706(a)(1)(A) was commenced, or (B) the third fiscal year preceding the fiscal year for which such assistance will be made available under this title, whichever is later;

(10) that the State educational agency or agencies governing the school district or school districts in which the approved program or project will be carried out have been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Commissioner;

(11) sets forth effective procedures, including provisions for objective measurement of change in educational achievement and other ducted under this title, for the continuing evaluation of programs or projects under this title, including their effectiveness in achieving clearly stated program goals, the impact on related programs and upon the community served, and their structure and mechanisms for the delivery of services; and

(12) provides (A) that the applicant will make periodic reports at such time, in such form, and containing such information as the Commissioner shall require by regulation, which regulation shall require at least—

(i) in the case of reports relating to performance, that the reports be consistent with specific criteria related to the program objectives, and

(ii) that the reports include information relating to educational achievement of children in the schools of the applicant,

and (B) that the applicant will keep such records and afford such access thereto as—

(i) will be necessary to assure the correctness of such reports and to verify them, and

(ii) will be necessary to assure the public adequate access to such reports and other written materials.

(b) No application under this section shall be approved which is not accompanied by a detailed written statement of approval or disapproval by the committee established pursuant to clause (2)(B) of subsection (a), which statement shall be considered by the Commissioner in making his determination, after the committee has been given an appropriate opportunity for an informal hearing, that the local educational agency had sufficient cause to proceed without committee approval, and the Commissioner shall provide a written explanation to the local educational agency and the committee.

(c) The Commissioner shall not approve an application under this section unless he determines that—

(1) the comprehensive districtwide plan submitted pursuant to section 706(a)(1)(B) or 706(a)(3) can be reasonably expected to eliminate minority group isolation, to the maximum extent possible, in all schools of the applicant; and

(2) the funding for establishment or maintenance of the stable, quality integrated schools operated by applicant will be at a sufficient level as to achieve the purpose set forth in section 703(b)(2).

(d) In approving applications under section 706, the Commissioner shall take into consideration (1) the extent to which the applicant will decrease minority group isolation and will prevent minority group isolation, (2) the numbers and proportions of minority group children which the applicant will place in stable, quality integrated schools, and (3) applications which offer the greatest promise of providing quality education for all children participating in the proposed project; and he shall first approve those applications from local educational agencies which place the largest numbers and proportions of minority group children in stable, quality integrated schools.

(e) No State shall reduce the amount of State aid with respect to the provision of free public education in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title.

EDUCATIONAL TELEVISION

SEC. 711. (a) The sums reserved pursuant to section 704(b)(2)(B) for the purpose of carrying out this section shall be available for grants and contracts in accordance with subsection (b).

(b)(1) The Commissioner shall carry out a program of making grants to, or contracts with, not more than ten public or private nonprofit agencies, institutions, or organizations with the capability of providing expertise in the development of television programing, in sufficient number to assure diversity, to pay the cost of development and production of integrated children's television programs of cognitive and effective educational value.

(2) Television programs developed in whole or in part with assistance provided under this title shall be made reasonably available for transmission, free of charge, and shall not be transmitted under commercial sponsorship.

(3) The Commissioner may approve an application under this section only if he determines that the applicant—

(A) will employ members of minority groups in responsible positions in development, production, and administrative staffs;

(B) will use modern television techniques of research and production; and

(C) has adopted effective procedures for evaluating education and other change achieved by children viewing the program.

DEFINITIONS

SEC. 712. Except as otherwise specified, the following definitions shall apply to the terms used in this title:

(1) The term "Commissioner" means the Commissioner of Education; and the term "Secretary" means the Secretary of Health, Education, and Welfare.

(2) The term "current expenditure per pupil" for a local educational agency means (1) the expenditures for free public education, including expenditures for administration, instruction, attendance, and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from any Federal funds paid to the agency, divided by (2) the number of children in average daily attendance to whom such agency provided free public education during the year for which the computation is made.

(3) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(4) The term "equipment" includes machinery, utilities and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of educational services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and other related material.

(5) The term "institution of higher education" means an educational institution in any State which—

(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) is legally authorized within such State to provide a program of education beyond high school;

(C) provides an educational program for which it awards a bachelor's degree; or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(D) is a public or other nonprofit institution; and

(E) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner for the purposes of this paragraph.

(6) The term "integrated school" means a school with an enrollment in which a substantial proportion of the children are from educationally advantaged backgrounds, and which is substantially representative of the minority group and nonminority group enrollment of the local educational agency in which it is located, and a faculty which is representative of the minority group and nonminority group population of the larger community in which it is located, or whenever the Commissioner determines that the local educational agency concerned is attempting to increase the proportions of minority group teachers, supervisors, and administrators in its employ, a faculty which is representative of the minority group and nonminority group faculty employed by the local educational agency.

(7) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a federally recognized Indian reservation, or such combination of school districts, or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(8)(A) The term "minority group" refers to (i) persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, or Oriental; and (ii) (except for the purposes of section 705), as determined by the Secretary, persons who are from environments in which a dominant language is other than English and who, as a result of language barriers and cultural differences, do not have an equal educational opportunity, and (B) the term "Spanish-surnamed American" includes persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry.

(9) The terms "minority group isolated school" and "minority group isolation" in reference to a school mean a school and condition, respectively, in which minority group children constitute more than 50 per centum of the enrollment of a school.

(10) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(11) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(12) The term "Standard Metropolitan Statistical Area" means the area in and around a city of fifty thousand inhabitants or more as defined by the Office of Management and Budget.

(13) The term "State" means one of the fifty States or the District of Columbia.

(14) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

EVALUATIONS

SEC. 713. The Commissioner is authorized to reserve net in excess of 1 per centum of the sums appropriated under this title for any fiscal year for the purposes of this section. From such reservation, the Commissioner is authorized to make grants to, and contracts with, State educational agencies, institutions of higher education and private organizations, institutions, and agencies, including committees established pursuant to section 710(a)(2) for the purpose of evaluating specific programs and projects assisted under this title.

REPORTS

SEC. 714. The Commissioner shall make periodic detailed reports concerning his activities in connection with the program authorized by this title and the program carried out with appropriations under the paragraph headed "Emergency School Assistance" in the Office of Education Appropriations Act, 1971 (Public Law 91-380), and the effectiveness of programs and projects assisted under this title in achieving the purposes of this title. Such reports shall contain such information as may be necessary to permit adequate evaluation of the programs authorized by this title, and shall be submitted to the President and to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. The first report submitted pursuant to this section shall be submitted no later than ninety days after the enactment of this title. Subsequent reports shall be submitted no less often than four times annually.

JOINT FUNDING

SEC. 715. Pursuant to regulations prescribed by the President, where funds are advanced by the Office of Education, and one or more other Federal agencies for any project or activity funded in whole or in part under this title, any one of such Federal agencies may be designated to act for all in administering the funds advanced. In such cases, any such agency may waive any technical grant or contract requirement (as defined by regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose. Nothing in this section shall be construed to authorize (1) the use of any funds appropriated under this title for any purpose not authorized herein, (2) a variance of any reservation or apportionment under section 704 or 705, or (3) waiver of any requirement set forth in sections 706, 707, 708, 709, 711, and 712(6).

NATIONAL ADVISORY COUNCIL

SEC. 716. (a) There is hereby established a National Advisory Council on Equality of Educational Opportunity, consisting of fifteen members, at least one-half of whom shall be representative of minority groups, appointed by the President, which shall—

(1) advise the Secretary with respect to the operation of the program authorized by this title, including the preparation of regulations and the development of criteria for the approval of applications;

(2) review the operation of the program (A) with respect to its effectiveness in achieving its purposes as stated in section 703, and (B) with respect to the Commissioner's conduct in the administration of the program;

(3) meet not less than four times in the period during which the program is authorized, and submit through the Secretary, to the Congress at least two interim reports, which reports shall include a statement of its activities and of any recommendations it may have with respect to the operation of the program; and

(4) not later than December 1, 1973, submit to the Congress a final report on the operation of the program.

(b) The Commissioner shall submit an estimate under the authority of section 401 (c) and part C of the General Education Provisions Act to the Congress for the appropriations necessary for the Council created by subsection (a) to carry out its functions.

ATTORNEY FEES

SEC. 717. Upon the entry of a final order by a court of the United States against a local educational agency, a State (or any agency thereof), or the United States (or any agency thereof), for failure to comply with any provision of this title or for discrimination on the basis of race, color, or national origin in violation of title VI of the Civil Rights Act of 1964, or the fourteenth amendment to the Constitution of the United States as they pertain to elementary and secondary education, the court, in its discretion, upon a finding that the proceedings were necessary to bring about compliance, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

TITLE VIII—FOREIGN SERVICE SCHOLARSHIP PROGRAM

SEC. 801. (a) This title may be cited as the "United States Foreign Service Scholarship Program Act."

(b) The Higher Education Act of 1965 is amended (1) by redesignating title XII and sections 1201, 1202, 1204, and 1205, and all references thereto, as title XIII and sections 1301, 1302, 1303, and 1304, respectively, and (2) by inserting after title XI a new title as follows:

"TITLE XII—UNITED STATES FOREIGN SERVICE SCHOLARSHIP PROGRAM

"ESTABLISHMENT OF SCHOLARSHIP PROGRAM

"SEC. 1201. The Congress recognizes that the world and the universe are growing smaller in terms of time and space which necessitates now, and will demand in the future, constant informed contact, knowledge, and understanding among all the peoples of the world in diplomatic, cultural, and commercial exchanges. The success of these exchanges and the survival of the world may depend upon the ability, education, training, and intelligence of the men and women charged with responsibilities relating to the foreign affairs of the United States. To assure that there is adequate opportunity for the young men and women of the United States to enter this vast field with the best possible training of their natural abilities and to advance the professional education and training of the officers and employees of the Government currently engaged in the field of foreign affairs, there is hereby established, as provided in the succeeding provisions of this title, a United States Foreign Services Scholarship Program (hereinafter referred to as the 'Program'). The members of the Program shall be all students admitted to the Program under section 1205, and all officers and employees of the Government admitted to the Program under section 1207, who are enrolled in a program of education, training, or research, or a course of study, approved by the Board under section 1204.

"DEFINITIONS

"SEC. 1202. As used in this title—

"(a) 'Government' means the Government of the United States;

"(b) 'non-Federal institution of higher education' means an institution of higher education which is not owned or substantially controlled by the Government of the United States;

"(c) 'Board' means the Board of Trustees of the Program;

"(d) 'department or agency' means an executive department, a military department, an independent establishment, or a Government corporation as specified in chapter 1 of title 5, United States Code;

"(e) 'training month' means any month during which a member of the Program admitted under section 1205 is taking at least the minimum level of credit hours in a full-time course of study prescribed by the Board, or is taking field training as assigned by the Board; and

"(f) 'dependent', when used in relation to a dependent of a member of the Program admitted under section 1205, means an individual who qualifies as a dependent of such member under section 152 of the Internal Revenue Code of 1954, as amended.

"BOARD OF TRUSTEES

"SEC. 1203. (a) The management and supervision of the Program shall be vested in a Board of Trustees. The Board shall develop and support, as provided hereinafter, programs of education, training, and research in the field of foreign affairs, designed to prepare, or advance the qualifications of, members of the Program for service with the United States in positions or programs related to such field.

"(b) The Board shall consist of the Secretary of State, four persons experienced in higher education or training and education in foreign affairs, to be appointed by the President, two members of the United States Senate to be appointed by the Vice President, and two members of the House of Representatives to be appointed by the Speaker of the House of Representatives. Not more than one of the trustees appointed from the Senate nor one of the trustees appointed from the House of Representatives shall be of the same political party.

"(c) (1) The term of each member of the Board appointed from the Senate and the House of Representatives shall be two years.

"(2) The term of each member of the Board appointed by the President shall be four years; except that of the first four persons appointed by the President two shall be designated to serve for two years and two shall be designated to serve for four years.

"(3) Members of the Board shall be eligible for reappointment.

"(d) Vacancies created by death or resignation shall be filled in the same manner in which the original appointment was made, except that the person appointed to fill the vacancy shall be appointed only for the unexpired term of the trustee whom he shall succeed.

"(e) Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

"ESTABLISHMENT OF SCHOLARSHIP PROGRAMS

"SEC. 1204. (a) In order to carry out the purposes of this title, the Board is authorized and directed to make arrangements with non-Federal institutions of higher education providing for the admission of qualified members of the Program to such institutions for their enrollment in programs operated by and at such institutions which are designed to—

"(1) enable qualified students who are admitted to the Program pursuant to section 1205 to pursue full-time courses of study relating to the field of foreign affairs and leading to the granting of an undergraduate or graduate degree;

"(2) enable qualified officers and employees of the Government having duties or responsibilities in the field of foreign affairs who are admitted to the Program pursuant to section 1207 to pursue, on a voluntary basis and on such terms and conditions as the Board may prescribe, professional education, training, and research activities relating to the field of foreign affairs, including selected subjects from a general curriculum, or to pursue full-time courses of study relating to the field of foreign affairs and leading to an undergraduate or graduate degree; and

"(3) enable selected members of the Program to engage in research activities approved by the Board relating to the field of foreign affairs.

In addition, such arrangements shall provide for a program of appropriate orientation and language training by and at such institutions for members of the families of persons admitted to the Program or of officers and employees of the Government who are not members of the Program, but have duties or responsibilities in the field of foreign affairs, in anticipation of, or on account of, the assignment of such members of the Program or officers or employees of the Government to a foreign country or area.

"(b) In carrying out its functions under subsection (a), the Board shall not enter into any arrangement with a non-Federal institution of higher education unless such arrangement provides that such institution will offer to members of the Program, as a part of its curriculum, courses of study or activities of education, training, or research in the field of foreign affairs sufficient to prepare, or advance the qualifications of, members of the Program for service with the United States in positions or programs related to the field of foreign affairs.

"(c) The Board shall, pursuant to guidelines established after consultation with departments and agencies of the Government concerned with future personnel needs in the field of foreign affairs, determine the number of persons who may receive instructions and training under the Program. Not more than three thousand five hundred students may be admitted under section 1205 as new members of the Program in any academic year for the purpose of pursuing courses of study leading to an undergraduate degree, and not more than fifteen hundred students may be admitted under section 1205 as new members of the Program in any academic year for the purpose of pursuing courses of study leading to a graduate degree.

"NOMINATION AND ADMISSION OF STUDENTS INTO PROGRAM

"SEC. 1205. (a) The Board shall provide for the holding of annual competitive undergraduate and graduate examinations to determine the admission of applicants into the Program from among students who are nominated pursuant to subsection (c). Such examinations shall test the intellectual capacities and training of the applicant and his aptitude for service in the field of foreign affairs. The Board shall develop such examinations in consultation with non-Federal institutions of higher education with which it has made arrangements under section 1204.

"(b) Applicants for the annual undergraduate examination held by the Board shall be citizens of the United States who are graduate of, or attending, a public secondary school in, or any private secondary school accredited by, a State, or a public or private secondary school in a foreign country which in the judgment of the Board provides an educational program for which it awards a certificate of graduation generally accepted as constituting the equivalent of that awarded by secondary schools accredited by a State. Applicants for the annual graduate examination held by the Board shall be citizens of the United States who are graduates of, or attending, an institution of higher education in the United States or of an institution of higher education in a foreign country which provides an educational program for which it awards a degree which in the judgment of the Board is generally accepted as constituting the equivalent of a bachelor's degree awarded by similar institutions in the United States. No applicant shall be eligible to take any such examination unless he has first been nominated pursuant to subsection (c).

"(c)(1) A total of eight thousand four hundred and twenty-four applicants shall be nominated each year to take the annual competitive examinations held by the Board as follows:

"(A) two hundred and twenty from the United States at large as follows:

"(i) one hundred nominated by the President,

"(ii) sixty-six nominated by the Vice President, and

"(iii) fifty-four nominated by the Secretary of State;

"(B) thirty from each State, fifteen nominated by each Senator from the State;

"(C) fifteen from each congressional district, nominated by the Representative from the district;

"(D) three from each State nominated by the Governor of the State;

"(E) seven from the Commonwealth of Puerto Rico, nominated by the Resident Commissioner from Puerto Rico;

"(F) ten from the District of Columbia, nominated by the Commissioner of the District of Columbia;

"(G) three from the Virgin Islands, nominated by the Governor of the Virgin Islands;

"(H) three from American Samoa, nominated by the Governor of American Samoa;

"(I) three from Guam, nominated by the Governor of Guam; and

"(J) three from the Canal Zone, nominated by the Governor of the Canal Zone.

"(2) No person may be nominated under clauses (B) through (I), inclusive, or paragraph (1) unless such person is domiciled in the State, or in the congressional district, from which such person is nominated, or in the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam if nominated from one of those places. To be eligible for nomination by the Governor of the Canal Zone, a person must be a resident of the Canal Zone, or a member of the family of a resident of the Canal Zone, or a member of the family of a civilian officer or employee of the United States or the Panama Canal Company residing in the Republic of Panama

"(3) After the initial three years of operation of the Program, if the Board determines that the total number of applicants who will be qualified and admitted as new members in the Program prior to the beginning of any academic year under this section for the purpose of pursuing courses of study during such academic year leading to undergraduate or graduate degrees, respectively, will be below the total number of applicants who may be so admitted to the Program in accordance with section 1204(c), the Board may nominate to take a competitive examination held prior to such academic year, and select for admission to the Program, in the order of merit established by such examination, such additional number of eligible applicants as the Board finds will be necessary to meet the needs of the Program in such academic year and will not exceed the limitations set forth in section 1204(c).

"(d) Applicants under this section shall be selected for membership in the Program in the order of merit established by the annual examinations held by the Board pursuant to this section, but no person shall be eligible for admission as a member of the Program unless he is a graduate of a public or private secondary school described in subsection (b) in the case of a student intending to pursue a course of study leading to an undergraduate degree or a graduate of an institution of higher education described in subsection (b) in the case of a student intending to pursue a course of study leading to a graduate degree.

"(e) Except as provided in this section, no competitive or other similar examination shall be required for admission of any person as a member of the Program under this section.

"COMPENSATION AND REPAYMENT OF EXPENSES AND SUBSISTENCE FOR STUDENT MEMBERS

"SEC. 1206. (a) Members of the Program who are admitted under section 1205 and are maintaining satisfactory progress in, and taking at least the minimum level of credit hours in, full-time courses of study as prescribed by the Board shall be compensated for tuition, texts, laboratory fees and associated course materials, and shall receive subsistence payments as provided in this section. No compensation or payments shall be made except in accordance with procedures established by the Board to assure their accuracy and appropriateness.

"(b) The subsistence payments which shall be payable under this section area as follows:

"(1) A single student member shall receive $200 subsistence pay per training month.

"(2) A married student member having a dependent spouse shall receive $250 subsistence pay per training month, and if they have a dependent child or children and additional allowance of $30 for each dependent child shall be paid per training month.

"(3) Where both a husband and wife member are students under the Program, their joint subsistence pay shall be $300 per training month, and if they have a dependent child or children an additional allowance of $30 for each dependent child shall be paid per training month.

"(4) Where both a husband and a wife member are students under the Program and are legally separated they each shall receive the same subsistence pay per training month as would a single student, but if either spouse has a dependent child or children an additional allowance of $30 per training month shall be paid to the entitled spouse for each dependent child.

"(5) Student members shall be granted an additional allowance of $30 per training month for each dependent not a spouse or a child of such student member.

"ADMISSION OF GOVERNMENT OFFICERS AND EMPLOYEES INTO THE PROGRAM; EXPENSES AND COMPENSATION

"SEC. 1207. (a) The head of each Government department or agency is authorized (1) to select officers and employees of such department or agency who may volunteer to be admitted to the Program to pursue education, training, or research or a course of study within the Program, (2) to pay all or any part of the pay (except overtime, holiday, or night differential pay) of any such officer or employee so selected for the period of such education, training or research, or course of study, as a member of the Program, and (3) to pay or reimburse such officer or employee for all or part of the necessary expenses of such education, training, or research, or course of study, without regard to section 529 of title 31, United States Code, including the necessary costs of (A) the travel expenses of such officer or employee and the transportation expenses of his immediate family, (B) the expenses of packing, crating, transporting, and temporarily storing, draying, and unpacking his household goods and personal effects to the extent authorized by section 5724 of title 5, United States Code, (C) purchase or rental of books, materials, and supplies, and (D) all other services for facilities directly related to the education, training, or research, or course of study of such officer or employee within the Program. The head of each Government department or agency shall prescribe, with the approval of the Board, limitations concerning the number of officers and employees of such department or agency who may be selected for admission to the Program at the same time and the period of time which may be spent by such officers and employees in study, training, or research, or a course of study within the Program. The provisions of section 1206 shall not apply to any Government officers or employees admitted to the Program under this section.

"(b) Appropriations made available to any Government department or agency or the payment of salaries and expenses of officers and employees of such department or agency shall be available for making payments under this section to members of the Program selected from such department or agency.

"(c) During any period for which any Government officer or employee who is admitted to the Program under this section is separated from his usual duties of employment with any Government department or agency for the purpose of education, training, or research or a course of study within the Program, such officer or employee shall be considered to have performed service, as an officer or employee of such department or agency at the rate of compensation received immediately prior to commencing such education, training, or research or course of study (including any increase in compensation provided by law during the period of such activity) for the purposes of (1) retirement pensions including when applicable civil service retirement pensions as provided in subchapter III of chapter 83 of title 5, United States Code, (2) life insurance including when applicable Federal employees group life insurance as provided in chapter 87 of title 5, United States Code, and (3) health insurance including when applicable Federal employees group health insurance as provided in chapter 89 of title 5, United States Code.

"(d) Each Government officer or employee who is admitted to the Program under this section shall, on completion of the period of education, training, or research or a course of study within the Program, be entitled to continue service in his former position or a position of at least like seniority and status in the department or agency from which he was selected for such education, training, or research or course of study and shall be entitled to at least the rate of basic pay to which he would have been entitled had he continued in his usual service with such department or agency. On resumption of his usual duties with such department or agency, the department or agency shall restore such officer's or employee's sick leave account, by credit or charge, to its status at the time he commenced education, training, or research or a course of study within the Program.

"AGREEMENT TO ENTER INTO OR CONTINUE GOVERNMENT SERVICE AFTER COMPLETING THE SCHOLARSHIP PROGRAM

"SEC. 1208. The Board shall obtain from each person admitted to the Program, other than members of a family receiving orientation or language training under section 1204(a), such agreement as the Board may deem necessary to assure that such person will accept employment with the United States, unless already so employed, and will remain in the employ of the United States, wherever assigned by the employing department or agency, for such period after completion of their education, training, research, or course of study within the Program as is prescribed by (1) the Board in the case of students admitted to the Program under section 1205, or (2) the head of the employing department or agency in the case of Government officers and employees selected for admission to the Program from such department or agency under section 1207.

"ASSIGNMENT OF STUDENT MEMBERS FOR FIELD TRAINING AND GOVERNMENT SERVICE

"SEC. 1909. (a) During the course of study leading to an undergraduate or graduate degree, each student admitted to the Program under section 1205 may be assigned at the discretion of the Board for field training with any program of the Government relating to the field of foreign relations conducted by any department or agency of the Government. The period of field training assignment for a member of the Program under this subsection may not exceed two consecutive months in any calendar year during the first three years of undergraduate study, nor more than six consecutive months during the fourth year of undergraduate study or any academic year of graduate study.

"(b) Except as otherwise provided by any law of the United States or regulation prescribed by the Board, each student admitted to the Program under section 1205 shall, upon satisfactory completion of his course of study leading to an undergraduate or graduate degree, or within such period of time thereafter as the Board finds to be reasonable to prepare and submit any thesis or dissertation related to his course of study, be available for assignment in the discretion of and by the Board (1) for hiring or appointment by the United States in connection with any program of the Government relating to the field of foreign affairs conducted by any department or agency of the Government, or (2) if such member has completed a course of study leading to a graduate degree, for one year of specialized study in a particular foreign country or area in which he may later be assigned for Government service.

"(c) Prior to making any assignments under this section, the Board shall consult with interested departments and agencies of the Government to determine the personnel requirements of their programs relating to the field of foreign affairs. To the extent practicable, members of the Program shall be assigned in accordance with their preferences for a particular Government program.

"ROTATION FOR SERVICE IN THE UNITED STATES

"SEC. 1210. All members of the Program who have satisfactorily completed their education, training, or research, or course of study within the Program and are employed by, or remain in the employment of, the United States under this title shall be assigned to Government duties within the United States for a minimum of one year during every five that they are employed in any Government program in the field of foreign affairs; except that the provisions of this subsection may be waived when the United States is at war as declared by Congress.

"STAFF OF BOARD

"SEC. 1211. (a) The Board may appoint and fix the compensation of a staff consisting of not more than five professional staff members and such clerical staff members as may be necessary. Such appointments shall be made and such compensation shall be fixed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) The Board may designate one member from the professional staff who shall serve as the chief staff officer of the Board and shall exercise, under the supervision and in accordance with the policies of the Board, such of the powers and duties granted to the Board as it deems appropriate.

"(c) The Board may procure such temporary and intermittent services as are authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

"ACQUISITION OF REAL OR PERSONAL PROPERTY BY BOARD

"SEC. 1212. The Board shall have the power to acquire and hold property, real or personal, and to receive and accept money or other property, real or personal, bequeathed, devised, or donated, and to use, sell, or otherwise dispose of such property for the purpose of carrying out this title.

"PROHIBITION AGAINST ESTABLISHMENT OF ACADEMY

"SEC. 1213. Nothing in this title shall be construed to authorize the Board to establish any educational institution or to appoint or hire any person to serve on the faculty or staff of any educational institution.

"AUTHORIZATION

"SEC. 1214. There are hereby authorized to be appropriated to the Board to carry out the purposes of this title (other than section 1207), $15,000,000 for the fiscal year ending June 30, 1973; $30,000,000 for the fiscal year ending June 30, 1974; $45,000,000 for the fiscal year ending June 30, 1975; and $60,000,000 for the fiscal year ending June 30, 1976".

TITLE IX—GENERAL PROVISION

ASSIGNMENT OR TRANSPORTATION TO OVERCOME RACIAL IMBALANCE

SEC. 901. No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

Mr. PELL. Mr. President, it is my belief that a long discussion of this measure will not be necessary at this point. S. 659 is a conglomerate of pieces of legislation previously acted upon by the Committee on Labor and Public Welfare and in certain cases by the Senate.

Titles I, II, III, V, and VI are identical, except for technical and clerical corrections, to titles I, II, III, IV, and V of S. 659, the Education Amendments of 1971, as passed by the Senate, August 6, 1971—51 yeas, 0 nays.

Title IV is identical, except for conforming changes, with S. 2482, the Indian Education Act, which passed the Senate on October 8, 1971—57 yeas, 0 nays.

Title VII is identical, except for conforming changes, with S. 1557, the Emergency School Aid and Quality Integrated Education Act, which passed the Senate on April 26, 1971—74 yeas, 8 nays.

Title VIII contains provisions which are comparable with those contained in S. 390, the U.S. Foreign Service Scholarship Program Act, on which the Committee on Foreign Affairs and the Committee on Labor and Public Welfare have reported—Senate Reports No. 92–104 and 92–236; Calendar No. 229.

Title IX contains language designed to clarify Federal education law with respect to the assignment and transportation of students and teachers in order to overcome racial imbalance.

By way of background, S. 659, the Education Amendments of 1971, was passed by the Senate on August 6, 1971. The House of Representatives considered and passed a comparable measure—H.R. 7248—the Higher Education Act of 1971, on November 4, 1971, having amended the bill to include language comparable with S. 1557, the Emergency School Aid and Quality Integrated Education Act—which had separately passed the Senate April 26, 1971. S. 659 was then taken up by the House of Representatives and, after substituting the language of H.R. 7248 as so amended, the House passed the act of the Senate. On November 8, 1971, the House insisted on its amendment to S. 659 and asked for a conference.

On November 24, 1971, the Senate, by unanimous consent, referred the message of the House of Representatives on S. 659 to the Committee on Labor and Public Welfare.

The committee met in executive session on December 3, 1971, and considered the message of the House, together with amendments to S. 659 which had been printed and referred to the committee. The committee recommends that the Senate agree to the amendment of the House of Representatives with a substitute amendment.

In the light of several House amendments pertaining to the transportation of students, the committee discussed at length the use of Federal funds for transportation. The subject matter was approached from the standpoint of transportation as an educational tool under present law and under the proposed Senate language.

Under present law, Federal funds may be used for transportation services per se, with no relationship to other parts of a fundable program or project, only under the impacted areas program—Public Law 874, 81st Congress. In addition, Federal funds may be used for transportation services if these services are needed to carry out a fundable project under titles I—special projects for educationally deprived children—title III—supplementary centers and services—and title VII—bilingual education—of the Elementary and Secondary Education Act of 1965, and also under the Education of the Handicapped Act. The committee found, insofar as it was possible to determine, that the only Federal funds which could be used for transportation solely to alter the racial composition of the enrollment of schools are the funds I mentioned above available under the impacted areas program, and then only because Federal funds are comingled with State and local funds in this program. And, the Federal funds cannot be used unless the local educational agency decides to use its own pool of funds for transportation.

The committee believes that, to the extent consistent with law, the question of transportation should be decided at the local level. Its recommendation, in order to clarify Federal policy on this subject, would be the inclusion of the following provision:

> No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

The proposed Senate desegregation language would provide financial support for school desegregation—including, where necessary, transportation services—undertaken pursuant to desegregation plans under a Federal court order, the Civil Rights Act of 1964, State law or court orders, or a voluntary plan initiated by the local educational agency. Transportation to achieve desegregation has been undertaken in the communities of our Nation, often as a matter of wholly voluntary local education policy, and sometimes under Federal court or administrative order to remedy unconstitutional discrimination, or under State law. Though title VII does not require the transportation of students, funds under title VII could be used at the request of local school officials to assist in paying the cost of desegregation-related transportation.

The committee is of the firm opinion that a prohibition against Federal assistance to meet the cost of desegregation-related transportation if requested by local school authorities would result in additional taxes at the local level, or cutbacks in vital education services.

In summary, the only provisions not heretofore considered by this body in the pending measure are those dealing with the Foreign Service scholarship program, which was favorably reported by both the Labor and Public Welfare and the Foreign Relations Committees, and the language relating to transportation, which I have just discussed. During the executive session of the committee, amendments were offered which dealt with other facets of Federal education law. The committee did not discuss the merits of these amendments. It was decided that no new amendments would be taken before the Senate, as we wished to limit floor action to consideration of previously acted-upon legislative proposals and the transportation question. All other new matters, no matter how meritorious, were put aside.

I urge the Senate to concur in the recommendation of the committee, and act promptly on this omnibus measure which provides needed funds to so many segments of this Nation's entire educational system.

Mr. President, in closing I would like to say that this education bill is really one of the major pieces of legislation to be considered by this Congress. The Carnegie Commission on Education has characterized the higher education bill as the most important piece of legislation to be put before the country since the passage of the Morrill Land Grant Act of 1862.

I would hope that we would not lose sight of the deep foundation of this legislation as we discuss the question of busing which is extraneous to the higher education bill. The higher education bill and the emergency school aid program were amalgamated by the House of Representatives, an action regretted by many Members there and deeply regretted by me. It is for that reason that the busing amendments are being offered with respect to this bill.

Mr. GRIFFIN. Mr. President, the distinguished senior Senator from New York (Mr. Javits), the ranking minority member of the committee, would like to make a few remarks. Pending his arrival, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, the pending measure, though not by any means the largest in sums of money which are available, is in my judgment one of the most important which the Congress will have to consider in this Congress, let alone in this session, because there are a number of grave questions in this field. I will refer to a few of them.

What about the capabilities of our educational system to meet modern demands? Must people who are meritorious and deserving be denied the opportunity to have a higher college education for economic reasons?

We go a long way to deal with this problem. However, we have not by any means gone far enough. Approximately 40 percent of our high school graduates who are capable of attaining a college education get it. That still leaves 60 percent. That is a long way from home, with its residual risk which is probably as great. What about college education in terms of the progress of the country?

Will we have to give a college education to people based upon the kind of education they can get and not have enough trained and vocationally educated trained people? We are learning that there is great dignity in training in the quasi-professions which individuals can qualify for in the American industrial and economic fields. There will be a need for infinitely more quasi-professionals than ever before. It is estimated that in this decade not less than 25 percent of all workers will have to be professionally trained for that purpose.

All of this raises a big question about having a surplus age of young people educated in the humanities and real deficiencies in the major aspects of structural education. For example, most people think we are overloaded with engineers. However, we are only overloaded with engineers out of the aerospace and defense industries.

We are very short of engineers in the computer field and other fields, where jobs are going begging precisely because we have had this inadequacy in relating the supply to the demand.

Mr. President, the adjudication of responsibility between the Federal Government and the States in this area is critically important. The States are very hungry for Federal help in the educational field but are extremely sensitive to any measure of Federal control or the imposition of Federal ideas. It is a great challenge to the Federal concept of our Constitution. The unraveling of those provisions is critically important.

Finally, there is the matter of incentives. There never can be created incentives by which a very great effort can be made by States and even local units of government, for the dead hand of the absolute depends on what will come from the Federal Government controlling systems of education, notwithstanding that the Federal Government cannot hope to afford more than a minority share in their sustenance and support.

In all those respects I believe a magnificient bill has been fashioned. It is regrettable that we should be diverted in terms of the basic purpose and grand design of this bill by the busing controversy, but hopefully, with the agreement which has not been arrived at, the Senate will be able to manifest its will on the busing issue with reasonableness and move to the consideration of the different titles of the bill with a view of enacting the best legislation of which the Senate is capable to take to conference with the other body.

I believe we have made in a critical area of American education and American life an auspicious beginning today by the joint agreement of Members of the Senate of very diverse views; they were united on one proposition and that is that the law is essential, that higher education is of the greatest need, and we turn now to fashion that law without delay and in such time that it would have to become law in this session of Congress.

I think this is a most constructive step forward, and all who participated are entitled to the very highest credit.

I express my satisfaction to the chairman of the subcommittee (Mr. Pell) and I pay tribute to the nobility of his effort and to the skill he has brought to the bill to the point where a bill will be passed by the Senate. I know perhaps better than anyone else of his decisive contribution of the various matters before us and the highly constructive legislation for the education of the young people of our country.

Mr. PELL. I thank the Senator very much for his words. To have worked with him as a team has been very good. This bill has been reported with a minimum of partisanship, and working together we have a bill of which we are very proud.

It could not have been done without that cooperation.

AMENDMENT NO. 912

AN ALTERNATIVE TO PANIC

Mr. RIBICOFF. Mr. President, the Senate is about to begin an historic debate that will go far toward determining the future course of this country. The headlines all focus on busing but the issue before us is not busing—it is not even integrated education. The gut issue facing our country and its leaders today is whether we will continue our commitment to a unified society where race is an irrelevant factor or whether we will allow the drift toward apartheid to become a movement sanctioned by our Government.

Never has it been more important for us to articulate our principles clearly and stand by them in the face of panic. Unfortunately, in the rush of politicians stumbling over each other to oppose busing, the drive for racial equality has lost out.

Eighteen years after the Supreme Court's decision in Brown v. Board of Education, the discredited doctrine of separate but equal has begun to rear its head. Now liberals as well as conservatives are talking about insuring equal educational opportunities and quality education. Freedom of choice amendments are being considered by northerners as well as southerners.

Developing a society that no longer relegates one racial group to the least and worst of everything is not easy. It will take time, and all the intelligence and good will at our disposal. But this does not make the cause any less just nor its completion any less urgent.

I have been dismayed by the developments of the last year. The arguments we rejected for years when raised by Southerners are now embraced by liberals throughout the North. After years of Presidential leadership on civil rights, we have an administration anxious and willing to abdicate its constitutional responsibilities by appealing to the worst fears and stereotypes rather than trying to eliminate them. After years of forcing the issue onto the courts, the Congress of the United States seems more determined than ever to hide behind a few courageous men in judicial robes.

The distinguished Senator from Minnesota (Senator MONDALE) correctly noted last week that busing is not being ordered willy-nilly by courts around the country. The number of children in the South where most court-ordered integration is occurring riding buses is 3 percent above the national average. Nationally, 65 percent of our school children ride buses to school every day for reasons unrelated to integration.

Revealing the lack of substance to fears about busing is not enough, however. We must also begin to fashion solutions for the increasing racial separation occurring throughout this country, in the North as well as the South. Even if we successfully oppose the antibusing amendments confronting us, we will have done nothing to alleviate the underlying problem.

The need now is not for more rhetoric or political posturing. The need now is for a serious legislative initiative to solve the greatest issue we face. The lack of any initiative to unite our society by the President, the Congress, and even integration's supporters is only a confession of our intellectual and moral bankruptcy on this issue.

If we are not to betray the years of effort and the lives that have been given to the struggle for racial equality in this country, we have an obligation to confront the problem of segregation squarely and to develop solutions commensurate with the conditions we face.

Some are talking now of compromises on the question of busing, perhaps resulting in an amendment introduced by liberals that would appear to be against busing, without really ending it. Senators will therefore be able to vote against busing without, hopefully, destroying our efforts to end segregation. This may be fine for our consciences and may allow us to appear to be all things to all people, but it hardly qualifies as constructive leadership. Nor does it do anything to dissipate the fog resulting from the irresponsible dialog surrounding the entire question of busing and school integration. At a time when our future is threatened and people are seeking leadership and guidance, fancy legislative footwork without more is not enough.

To solve the problem of racial isolation in this country, we are going to have to recognize several principles. First and foremost, we can no longer assume that the problem is confined geographically to the South or that programs to integrate education by itself will ever succeed. Our schools are segregated in the North as well as the South because our society is segregated. The question of widespread busing arises only in the context of separate societies we attempt to bridge by sending children on missions of integration. If we truly integrated our neighborhoods, there would be no reason to bus any child.

Since I first raised this point 2 years ago, the figures have only become more ominous. That this is a truly national problem is shown by HEW statistics just released revealing that 43.9 percent of black students in the South now attend majority white schools while only 27.8 percent do in the North and West.

This past year for the first time, the number and percentage of blacks in 100 percent minority schools in the South were lower than the number and percentage in the schools in the North.

The 1970 census validated the warnings that our country—North and South—is dividing into increasingly black central cities and white suburbs. In the last 10 years central cities lost 2½ million whites and gained 3 million blacks. At the same time, suburbs in the 66 largest metropolitan areas gained 12.5 million whites and only 800,000 blacks. The suburbs generally are 95 percent or more white while the cities become blacker and blacker each year. And still we talk the same game: integration only for the South, only in the central cities, and only in our schools.

We must also recognize that waiting for the courts to solve our problems for us will only lead to greater chaos. The courts historically were established to be the last refuge on difficult political questions, acting only when legislative and executive authorities had failed to meet their constitutional responsibilities. The Supreme Court ruled in Brown against Board of Education only when it became clear that no other relief would be forthcoming.

We in Congress and the President have now turned the constitutional tables. We act only if the Supreme Court tells us we have to act. We have placed the burden of insuring equal rights solely on the shoulders of the courts.

Letting the courts take the heat is convenient for us politically, but we are seriously undermining the authority of the judiciary in the process. The courts are not structured to be legislatures, and the rising opposition to court decrees threatens the legitimacy of the rule of law.

Court litigation is also an inefficient and unnecessarily abrasive way to proceed on a matter like integration. Courts decide issues on a case-by-case basis which does not lend itself to devising and implementing national programs. Issues must be tried in courtroom after courtroom, city after city, with each case being judged individually.

Litigation requires adversary proceedings with someone being found guilty of racism, overt discrimination, or illegal and unconstitutional actions. Ultimately a scapegoat is found, but by that time the entire community may well be embittered and more polarized than ever before. Once a decision to integrate is handed down, courts are unable to provide the money with which to implement their decrees.

Nonetheless, I am confident that after years of litigation in city after city in the North, we will be able to establish that so-called de facto or neighborhood segregation as it exists in the North is just as much the result of official action as the de jure or legal segregation of the South. School districting and zoning decisions, the drafting of building codes, government housing policies, and the location of schools often have been purposefully planned to separate the races residentially as well as educationally.

But do we need years of litigation to establish this? I think not. We all know the situation exists. There is enough guilt and responsibility to go around. We do not need to waste more time and money proving the point.

We would be better advised to acknowledge that a critical problem faces this country and then to devote our energies to solving that problem. Little will be gained by more arguments about who is to blame. A guilty conscience or criminal penalty never taught a youngster how to read.

Nonetheless, some supporters of integration oppose any major legislative moves now because it might interfere with the courts. I can only reply that the massive opposition to busing and integration now confronting us has resulted from only a handful of cases in cities like Richmond, Va.; Pontiac, Mich.; and Pasadena, Calif. To place all the burden on the courts, abdicate legislative responsibility and leave things as they are will only insure ultimate passage of regressive legislation. Judges read the newspapers as well as the election returns, and if the politicians all run for cover, the courts will soon be forced to follow.

The fault is not only on the part of those one would expect to support integration. Those in Congress, joining President Nixon in supporting fund cutoffs for busing, do their constituents a great disservice. Court-ordered integration and busing under the Constitution will continue no matter what we do here. Cutting off funds only deprives school districts of additional funds that are urgently needed. This is especially true in school districts throughout the South where school officials have watched with dismay as their representatives vote to deny them financial assistance.

To help focus the debate on solving the problem we all face as a nation, therefore, I am submitting today an amendment to establish a nationwide program of desegregation. I first introduced this amendment in November 1970 and reintroduced it last March in its present form.

My amendment recognizes that we cannot afford to ignore the lessons of the past 18 years. We now know that massive social changes cannot be required overnight, nor can they be deferred until some indefinite time in the future. My amendment therefore envisions a 2-year pilot program, provided by the committee bill, followed by 2 full years for planning at the local level on the basis of the experiences of this pilot program. Up to 10 years would then be allowed for implementation of the plans developed. Substantial progress would have to be made during each year of the plan, but the 10-year implementation period would allow local leaders and parents the time needed to insure that integration was a positive program implemented with the necessary planning and public education.

At the end of the 10 years, every school throughout each metropolitan area would have to have a percentage of minority group students equal to at least one-half the percentage of minority group students in the metropolitan area as a whole. In most metropolitan areas, the percentage of minority students is less than 20 percent. This means that minority-group students would have to make up at least 10 percent of each school in the area no later than 10 years after the plan began. This is only 3 or 4 students per class. I cannot believe that many Americans would object to this. All the public opinion polls show they would support it.

Even in the most heavily minority-group areas such as Baltimore where the minority group percentage is about 32 percent, there would be little difficulty. Under my amendment, each school in the Baltimore area would be required to have a minority group population of at least 16 percent no later than 10 years after adoption of an acceptable plan. This is only five or six in a class.

My amendment would not mandate any particular plan or set of plans to be imposed from community to community across the country. Instead, great flexibility would be left to those involved at the local level, including parents and community members as well as educators and school officials. A plan useful and acceptable in Chicago might be substantially different than the plan for Hartford, Conn., or Durham, N.C. In addition, a plan developed at the local level is much more likely to be supported by those in the community than one imposed by authorities from Washington or by a district court. The planning process itself will serve an educational function for those involved at the local level.

A number of possible techniques are identified in my amendment, including construction of magnet schools and educational parks together with school redistricting, pairing and transportation. But it should be clear that this is not simply or primarily a busing proposal. If transportation is identified as a useful technique in a city, my amendment requires that the burden shall fall equitably on minority and majority children. But, if we have to depend solely upon busing children from one area to another on a metropolitan-wide basis to achieve integration, we will fail no matter what bill or plan we adopt.

When I offered this same proposal last spring, it was defeated. For the first time, however, a civil rights bill was supported by Senators from every section of the country, Senators who were willing to place the national interest above regional prejudices. As a Democrat, I was particularly pleased that Senators BAYH, MCGOVERN, JACKSON, HUMPHREY, HUGHES, and MUSKIE—presidential contenders at the time—were willing to confront the issue directly and support my proposal. I was also happy to have the support of several distinguished Senators from the South including Senators STENNIS, FULBRIGHT, BAKER, and COOPER.

Even if my amendment is adopted, it will not be the complete answer. Educational desegregation alone is not enough. Until our society is integrated, black and white, rich and poor, no school integration plan will succeed.

Schools have borne the burden of integration alone too long. Success will come only if we open up the suburbs for housing as well as education. I intend therefore to offer an amendment to the housing bill which will soon be considered by the Senate. This amendment, the Government Facilities Location Act, requires Government facilities and Government contractors to expand or locate only in those communities willing to provide adequate housing for the facilities' low- and moderate-income employees. If enacted, it would be a significant first step toward ending the residential separation that breeds the educational segregation we now face.

I do not claim that these proposals are a panacea that will cure all our society's ills. But I am sure that the people of this country have a reservoir of common sense and decency and a great desire in these days of turbulence for reasonable, responsible leadership. Such leadership will not be found by consulting the latest public opinion polls. It will not be found in the continued mouthings of words we either do not mean or do not understand. It will only come from a willingness to recognize the danger we face and to deal with it honestly.

I submit the amendment.

The PRESIDING OFFICER. The amendment will be received and printed and will lie on the table.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that at this point in the RECORD the following items be inserted:

First. The text of the amendment I have submitted today;

Second. A section by section analysis of that amendment;

Third. Questions and answers relating to that amendment; and

Fourth. The Department of Health, Education, and Welfare's fall 1971 estimated projections of public school Negro enrollment.

There being no objection, the material was ordered to be printed in the RECORD as follows:

AMENDMENT

Amendment No. 912. Add the following new title:

TITLE X

SEC. 101. (a) There are authorized to be appropriated to the Commissioner, for the purpose of carrying out title VII of this Act, $1,000,000,000 for the fiscal year ending June 30, 1974, and the same amount for the fiscal year ending June 30, 1975.

(b) None of the funds authorized under section 101(a) shall be available for expenditure under the provisions of section 8(a)(2) of title VII.

SEC. 202. It is the purpose of this title—

(a) to require State and local educational agencies in metropolitan areas throughout this country to develop and implement plans which will reduce and eliminate minority group isolation in our public schools, whatever the cause of such isolation; and

(b) to provide financial assistance to assist State and local educational agencies to develop and implement such plans.

DEFINITIONS

SEC. 301. As used in this title, except when otherwise specified—

(a) The term "minority group isolation" means a condition in which minority group children in a school constitute more than 50 per centum of the average daily enrollment of that school. The term "minority group isolated" refers to a school in which such condition of minority group isolation exists.

(b) The term "school" means those elementary and secondary public schools of a State which are located within a standard metropolitan statistical area (SMSA).

(c) The term "noncooperating local educational agency" means any local educational agency which refuses or has refused to participate in the preparation, submission, revision, or implementation of an acceptable plan as required by this title.

(d) The term "cooperating local educational agency" means any local educational agency that has participated in the preparation, submission, revision, and implementation of an acceptable plan as required by this title.

(e) The term "State" means any State in which there is an area defined as a standard metropolitan statistical area, and the District of Columbia.

(f) The terms "Standard Metropolitan Statistical Area" or "SMSA" means the area in and around cities of fifty thousand inhabitants or more as defined by the Office of Management and Budget: *Provided*, That the term shall mean only that portion of any standard metropolitan statistical area which lies wholly within the boundaries of one State. Each portion of an SMSA in a different State shall be considered an independent SMSA for purposes of this title.

(g) The term "Federal educational funds" means Federal funds appropriated for grants, loans, contracts, or other financial assistance to a State educational agency, a local educational agency, an individual school, or to an individual in compensation for services rendered such organizations. This term shall not mean funds which go to individuals in the form of scholarships, fellowships, loans, cost-of-education payments, or other such assistance which is designed to further that individual's education, nor shall it mean funds which are to assist private, nonprofit organizations in the provision of education in preelementary and elementary situations.

THE PLAN

SEC. 401. Each State shall prepare and file with the Secretary for his approval, in accordance with regulations issued by him, a plan under which it will establish and supervise the operation in each SMSA of an SMSA agency to develop with the local educational agencies within the SMSA a plan to reduce minority group isolation in their schools: *Provided*, That, should any State refuse to comply with the provisions of this title, the local educational agencies within an SMSA may then independently create or assume control of such an SMSA agency.

SEC. 402. The plan developed by each such SMSA agency shall—

(a) contain the proposals by which the local educational agencies within an SMSA agree to reduce minority group isolation in their schools;

(b) provide that by a date approved by the Secretary, but in no event later than July 1, 1985, the percentage of minority group children enrolled in each school of the SMSA shall be at least 50 per centum of the percentage of minority group children enrolled in all the schools of that SMSA;

(c) include the use of techniques, as appropriate in local circumstances, such as redrawing school boundaries, creating unified school districts, pairing schools or school districts, establishing educational parks and magnet schools as well as other techniques designed to end as soon as possible minority group isolation in all schools within the SMSA;

(d) provide for the establishment of committees composed of local parents, teachers, and students, the members of such committees to be representative of the minority and majority population groups of the SMSA as a whole and the geographical areas within the SMSA, to advise the local education agencies and the SMSA agency, in open consultation including public hearings at which such persons have had a full opportunity to explore and discuss the program for which assistance is being sought and to offer recommendations thereon, regarding the development of the plan required by this title and to report periodically to the Secretary on the extent of compliance with the requirements of this title;

(e) set forth such policies and procedures as will insure that the program for which assistance is sought will be operated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committees established for the purposes of section 402(d);

(f) provide that in each year of operation of the plan, substantial progress toward fulfilling the requirements of this title shall be made; and

(g) provide that State financial assistance to local educational agencies within each SMSA shall not be so calculated, based, rated, or fixed in any manner as to result in the condition that the per pupil contribution of the State to any minority group isolated school within the SMSA shall be less than per pupil contribution of the State to any nonminority group isolated school within the SMSA.

SEC. 403. (a) The plan required by section 402 must be submitted to and approved by the Secretary no later than July 1, 1975.

(b) The Secretary is authorized to promulgate and issue regulations regarding the time and manner of submission of such plans for his approval.

SEC. 404. In extreme and unusual cases should the Secretary determine that the size, shape, or population distribution of an SMSA would make inclusion of some parts of that SMSA in a plan unnecessary for fulfillment of the purposes of this title or excessively disruptive of the educational process, he may exempt such parts from participation in the plan. Such exemptions shall be in writing, fully explained and justified, and freely available to the public and the committees established for the purposes of section 402(d).

SEC. 405. Each SMSA agency shall annually prepare and file in accordance with regulations issued by the Secretary a report setting forth the results achieved under the plan and any necessary amendments to the plan to correct any deficiency of the plan. The Secretary shall assure that the plan and any reports filed with the Secretary in accordance with this section shall be made readily available to the public and to the committees established for the purposes of section 402 (d).

SEC. 406. The Secretary is directed to review annually the plan and the reports of each SMSA agency. If the Secretary finds that for any reason the purposes of this title are not being effectuated by the plan and any amendments thereto he shall, after giving appropriate notice to all concerned parties, withdraw his approval of the plan and each local educational agency in question will be treated as a noncooperating local educational agency: *Provided*, That if within a period prescribed by the Secretary, but in no event exceeding one hundred and eighty days following the Secretary's withdrawal of approval, the local educational agencies through their SMSA agency submit a revised plan approved by the Secretary, the local educational agencies within the SMSA shall be entitled to receive all funds withheld during the period.

SEC. 407. (a) Because of its unique circumstances, the SMSA for the District of Columbia shall include for purposes of this title Montgomery and Prince Georges Counties in Maryland, Arlington, Fairfax, and Prince William Counties in Virginia, and the cities of Falls Church and Alexandria in Virginia, notwithstanding the provisions of section 301(f) of this title.

(b) A single plan shall be designed and submitted by all local educational agencies included in the District of Columbia SMSA: *Provided*, That the existence of nonoperating local educational agencies within this SMSA shall not affect the status of cooperating local educational agencies.

SEC. 408. No State or local educational agency shall formulate or administer its plan in a manner that will result in the separation of minority group children within a school or classroom.

FINANCIAL ASSISTANCE

SEC. 501. PLANNING FUNDS.—

(a) Within six months of the date of enactment of this title, the Secretary shall notify each State and local educational agency within an SMSA of the requirements of this title.

(b) The Secretary shall issue regulations establishing procedures and a timetable according to which SMSA agencies required to file a plan under this title may apply for funds authorized to be appropriated by this title.

(c) Upon application meeting the standards established by the Secretary, the Secretary shall grant to each SMA agency funds for the development of a plan to reduce minority group isolation pursuant to the requirements of this title, the amount of such funds being determined by the number of minority group students and the number of all students enrolled in schools in the SMSA.

SEC. 502. (a) Each year following the implementation of an approved plan, cooperating local educational agenices, through their SMSA agency, may submit to the Secretary applications for financial assistance.

(b) An application for assistance under this title may be approved by the Secretary only if he determines that—

(1) such application—

(A) sets forth a plan which is sufficiently comprehensive to offer reasonable assurance that it will achieve one or more purposes for which grants may be made under this title; and

(B) contains such other information, terms, conditions, and assurances as the Secretary may require to carry out the purposes of this title;

(2) the applicant has adopted effective procedures for the continuing evaluation of programs or projects under this title;

(3) the programs or projects for which assistance is sought will not result, and in the case of an ongoing program or project has not resulted in an increase in the percentage of racial separation in any school.

(4) no part of the assistance provided under this title shall be used to supplant funds, equipment, or services which are used to assist any private school. Should any funds provided under this title be used for this purpose, or for any other purpose that the Secretary finds to be inconsistent with the purposes of this title, the Secretary shall file suit in the United States District Court for the District of Columbia against either the school which received such funds or the State educational agency, or both, for restitution of the funds.

(c) Upon the submission and approval of such an application, the Secretary is authorized to provide a cooperating local educational agency with sufficient funds to meet its obligations under its approved plan.

(d) Funds provided under this section may be used for the following purposes or any other purposes the Secretary finds will promote an end to minority group isolation:

(1) establishing and constructing magnet schools or educational parks in locations chosen to reduce the degree of minority group isolation in the schools of the SMSA;

(2) providing additional staff members including paraprofessionals to provide guidance, counseling, and training to assist minority group children in adjusting to a nonminority group isolated school environment;

(3) providing counseling, retraining, and guidance for professional and other staff members who will be working with minority group children;

(4) developing and implementing interracial educational programs and projects involving the joint participation of minority group and nonminority group children attending different schools, including extracurricular activities and cooperative exchanges or other arrangement between schools within the same or different school districts;

(5) providing such additional transportation for children as may be necessitated by the plan developed pursuant to this title: *Provided*, That in the review and approval of SMSA plans under this title, the Secretary shall assure that any burden of transportation shall fall equitably on both minority and majority children;

(6) expanding or altering facilities to accommodate students transferred under the plan;

(7) community activities, including public education efforts, in support of the plans, programs, projects, or other activities developed pursuant to this title;

(8) planning and evaluation activities and expenses of administration;

(9) work study programs to provide the financial assistance necessary for minority group children to complete their education; and

(10) other specially designed programs or projects which meet the purposes of this title.

(e) No funds granted under this title may be used to supplant State or local educational funds presently being expended by State and local educational agencies.

(f) The Secretary shall issue regulations establishing procedures and a timetable according to which State and local educational agencies entitled to apply for financial assistance under this title may apply to the Secretary for funds authorized to be appropriated by this section.

RESTRICTIONS ON FEDERAL FINANCIAL ASSISTANCE

SEC. 601. (a) No noncooperating local educational agency shall be entitled to receive any Federal educational funds: *Provided*, That the presence within an SMSA of a noncooperating local educational agency shall not affect the eligibility of cooperating local educational agencies in the SMSA to receive Federal educational funds.

(b) No State that fails to participate in the preparation, submission, revision, and implementation of any plan or plans required by this title, and no State that continues to provide State funds or assistance after July 1, 1975, to any non-cooperating local educational agency under section 401 shall be entitled to receive any Federal educational funds.

APPROPRIATIONS

SEC. 701. (a) For the fiscal years beginning July 1, 1973, and July 1, 1974, respectively, there is authorized to be appropriated $25,000,000 each year to be used by SMSA agencies to develop and promulgate the plan herein required to be filed.

SEC. 702. For the fiscal years beginning July 1, 1975, and for each of the nine fiscal years following, there is authorized to be appropriated $2,000,000,000 each year for purposes of carrying out this title.

SEC. 703. Funds so appropriated shall remain available for obligation for one fiscal year beyond that for which they are appropriated.

JUDICIAL REVIEW

SEC. 801. (a) Any person affected by the enforcement or nonenforcement in the SMSA in which he resides of any provision of this title may petition the Secretary for an expedited hearing of his complaint.

(b) Within sixty days of receiving such petition the Secretary shall hold a formal hearing to determine whether the provisions and purposes of this title are being carried out in the cause raised by the petitioner. A transcript shall be kept of the proceedings of the hearing.

(c) Within thirty days after the date of the hearing, the Secretary shall issue a decision in writing which sets forth his findings and appropriate orders.

(d) The Secretary's decision shall be reviewable, upon petition, by the United States Court of Appeals for the District of Columbia circuit. The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(e) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

LAWS REPEALED

SEC. 901. The following provisions of law are hereby repealed:

(a) Section 181 of the Elementary and Secondary Education Act Amendments of 1966.

(b) Section 422 of the Elementary and Secondary Education Act Amendments of 1970.

(c) Section 2 of the Elementary and Secondary Education Act Amendments of 1970.

(d) Sections 102(d) and 205(f) of the Demonstration Cities and Metropolitan Development Act of 1966.

(e) Section 401(b) of the Civil Rights Act of 1964.

SECTION-BY-SECTION ANALYSIS

Sections 201 and 202. State that the purpose of this Act is to end minority group isolation in the public schools of our nation's metropolitan areas regardless of the origin of such isolation.

Section 301. Provides definitions of terms used throughout the Act. The term "minority group children" includes Negro, American Indian, or Spanish-surnamed Americans, and, as determined by the Secretary, children from environments where the dominant language is other than English. "Minority group isolation" is a situation where minority group children in a school constitute more than 50% of the average daily enrollment of that school. "Standard Metropolitan Statistical Area" or "SMSA", as defined by the Office of Management and Budget, is the area in and around cities of 50,000 inhabitants or more.

Section 401. Requires each state to prepare and file an acceptable plan pursuant to which it will establish and supervise the operation of an SMSA agency, within each SMSA, to develop with local educational agencies a plan to reduce minority group isolation in their schools.

Section 402 (generally). Sets forth the requirements of the plan to be prepared.

Section 402(b). The plan must insure that, no later than July 1, 1983, the percentage of minority group children enrolled in each school of the SMSA shall be at least half the percentage of minority group children enrolled in all schools in the SMSA.

Section 402(c). As appropriate in local circumstances the plan must use such techniques as redrawing school boundaries, creating unified districts, and establishing magnet schools and educational parks so as to end minority group isolation in all schools within the SMSA.

Section 402(d). Local committees of parents, teachers, and students representative of minority and majority groups and the geographical areas within the SMSA must be established to advise the local education agencies and SMAS agency in open consultation regarding the development of the plan and must report periodically to the Secretary on the extent of compliance with the requirements of this Act.

Section 402(e). Provides that parents of the children and representatives of the areas must be consulted and involved in the operation of the proposed programs.

Section 402(f). Substantial progress toward the goal must be demonstrated in each year of operation of the plan.

Section 402(g). Per pupil contributions of the State to any minority-group isolated school shall not be less than per pupil contributions to non-minority group isolated schools.

Section 403. Requires submission of the plan and approval by the Secretary no later than July 1, 1973.

Section 404. Allows the Secretary in extreme and unusual cases to exempt portions of an SMSA from the plan where necessary because of the size, shape or population distribution of an SMSA.

Section 405. Each SMSA agency must file an annual report setting forth the results achieved under the plan. The Secretary must assure the ready availability of the plan to the public and the local committees.

Section 406. The Secretary must review each plan and report for each SMSA agency annually and require revised plans where necessary.

Section 407. Provides that the District of Columbia SMSA shall include those parts of the metropolitan areas lying in Virginia and Maryland.

Section 408. Prohibits the formulation or administration of a plan in any way that will result in separation of minority group children within a school or a classroom.

Section 501. Provides Federal funds for each SMSA agency for development of the plan required by this Act.

Section 502 (generally). Provides Federal financial assistance for implementation of an approved plan. No Federal funds are to be used to supplant funds, equipment, or services that are used to assist any private school. The Secretary is given power to file suit for restitution of any funds used for these purposes.

Section 502(d). Describes the purposes for which funds provided may be used including, among others, establishing and constructing magnet schools and educational parks, providing additional staff members, and the necessary counselling, retraining and guidance for those working with minority group children, furnishing transportation where necessary (provided that any burden of transportation shall fall equitably on both minority and majority group children) and expanding or altering facilities to accommodate students transferred.

Section 502(e). Prohibits the supplanting of State or local educational agency funds presently being expanded.

Section 601. Any local educational agency in an SMSA refusing to cooperate in the formulation or implementation of a plan shall not be entitled to receive any Federal educational funds. Likewise, any State failing to participate in the preparation, submission, revision or implementation of any plan required by the act and any State continuing to provide State funds to any noncooperating local educational agency shall not be entitled to receive Federal education funds. The presence within an SMSA of a noncooperating local educational agency does not affect the eligibility for Federal funds of the remaining cooperating local educational agencies.

Section 701. Provides $25 million for each of two years for SMSA's to develop and promulgate the plans required.

Sections 702 and 703. Authorizes $2 billion a year for each of ten years to implement the plans developed pursuant to this Act.

Section 801. Provides for expedited hearings by the Secretary for complaints concerning the enforcement or nonenforcement of provisions of this Act. Review of the Secretary's final decision lies with the United States Court of Appeals for the District of Columbia Circuit.

Section 901. Repeals those provisions of law which would interfere with the operation of this Act, particularly those forbidding the use of Federal funds to overcome racial imbalance.

QUESTIONS AND ANSWERS RELATING TO RIBICOFF AMENDMENT

Q. How does your education bill relate to the Administration's proposed Emergency School Aid Act?

A. The President's bill primarily provides assistance only to those school systems proceeding under court-ordered desegregation. This, by definition, focuses primarily on the South and single school districts. The President's bill does not confront directly the problem of de facto segregation on a metropolitan basis.

Q. Isn't the basis of the problem of educational segregation to be found in residential housing patterns?

A. That's exactly what I argued months ago on the floor of the Senate. We can't consider problems of educational segregation apart from problems of residential segregation. That's why I will also urge passage of my bill designed to assist suburbs in providing low-income housing.

Q. Won't your bills encourage migration outside SMSA's?

A. Almost 70% of the population already live within SMSA's. It would be difficult for large numbers of them to move far enough away to be beyond an SMSA and still within reach of their jobs. Moreover, the percentages of minority groups involved in integration are not large enough to generate the threat of white flight that presently exists within our central cities. Public opinion polls have demonstrated that most Americans support integration in their neighborhoods as long as it is within manageable proportions.

Q. Don't many black leaders today believe integration is irrelevant if not actually undesirable?

A. Yes. And a lot of whites could not be more pleased with that development. In many ways it is a result of the failure of the white community to do any more than talk about the importance of integration. Nonetheless, the majority of blacks in this country still seek and desire integration and the purpose of my bills for integrating housing as well as education is to provide them with that opportunity.

Q. Isn't your education legislation just a thinly disguised busing bill?

A. No. Busing is one technique which local districts in an SMSA might choose to employ, but there is no requirement that they do so. In many situations, substantial integration can be achieved with little or no significant transportation above that now being undertaken. Ultimately, no bill relying totally on busing will succeed. Only by integrating neighborhoods as we integrate our schools will we be able to end racial isolation in this country.

Q. Why was a ten-year period chosen for achieving school integration?

A. That is only to be a maximum period. Some districts can meet the requirements in a lesser period of time. However, it is important to look at this problem realistically and not naively expect that we can change patterns of housing and education on a metropolitan basis overnight or even in two years. If we can achieve the goals of my bills within ten years, we will have made a major move away from the development of two separate societies.

Q. How and why did you choose a goal requiring each school in the metropolitan area to have a percentage of minority-group students that is at least one-half of the percentage of the minority-group school population in the metropolitan area as a whole?

A. As my legislation makes clear, the percentage requirements at the end of a ten year period are simply minimums. In most SMSA's the requirement will be between 10 and 15 percent of the school population and, therefore, will generally reflect the percentage of minority group persons in the population as a whole.

Q. How will your school bill effect the growth and development of private schools?

A. It is hard to predict the impact of my bill on the development of private schools. The percentage of blacks moving into suburban schools will be small enough, and over such a long enough period of time, that few whites will feel so threatened that they will incur the large expense of placing their children in private schools.

Q. Your education bill says that no state which continues to provide state funds to a noncooperating local educational agency shall be entitled to receive federal educational funds. Does this mean that an entire state will lose federal funds if it continues to aid just one noncooperating agency? If so, do you believe that this will penalize more children than it will benefit?

A. I agree that it would be unwise to cut off all Federal funds to all local school districts simply because one school district does not cooperate. My bill specifically provides that cooperating local educational agencies are to continue to receive state and local funds even if there is a noncooperating educational agency in their SMSA. However, the states, themselves, receive Federal funds for state-wide activities as distinguished from Federal funds channeled through the states to specific local educational agencies. These funds would be cut off if a state continued to provide state funds to a noncooperating local educational agency. The political realities are such that local pressures will generally result in state cut-offs of funds to noncooperating agencies rather than rejection of Federal funding for state-wide programs.

Q. Nonetheless, won't many suburban school districts simply decide to do without federal aid rather than comply with the requirements of your education act.

A. The act will also cut off federal educatonal funds for any state that continues to supply state funds to a noncooperating school district. Therefore, a suburban school district will have to do without both state and federal funds if it does not want to follow the requirements of this act. Not many will be able to do that.

Q. Won't there still be a possibility of all black central city schools?

A. Yes, but it is my hope that the development of new school construction and imaginative educational programs in the central city will alleviate much of this problem by attracting white students in the city. Moreover, the impetus behind much of the so-called "white flight" to the suburbs will fade away once it becomes clear that the racial situation is stabilizing and the suburbs are not a white sanctuary.

Q. What about the District of Columbia?

A. The District must receive separate treatment, since all of its suburbs are in other states. This my education bill does.

Q. Aren't some metropolitan areas so large or irregularly shaped that difficulties will be encountered in developing a school plan.

A. The bill gives the Secretary of HEW discretion to take such unusual factors into consideration.

Q. What about metropolitan areas that cross state lines?

A. My bill provides that each portion of a metropolitan area within a state would be treated separately for purposes of the education act. This does not present a problem since in all cases there are blacks and whites on both sides of the state lines.

Q. If the focus is on large metropolitan areas what say will local residents have in the development of their school integration plan and its implementation?

A. My bill requires that any plan submitted for approval must provide for establishment of multiracial committees composed of local parents and students who are representative geographically and racially of the population for the SMSA as a whole. Open hearings must be held and full opportunity for discussion and exploration of the issues must be guaranteed. Provisions must be made for the continuing involvement of these committees during implementation of the plan. In addition, the bill requires the Secretary to assure that all plans and progress reports are made freely available to the public and to the multiracial committees in each SMSA.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE FOR CIVIL RIGHTS

FALL 1971 ESTIMATED PROJECTIONS OF PUBLIC SCHOOL NEGRO ENROLLMENT COMPARED WITH FINAL FALL 1968 AND 1970 DATA [1]

Geographic area	Total pupils	Negro pupils		Negro pupils attending schools which are— 0–49.9 percent minority		80–100 percent minority		100 percent minority	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
Continental United States:									
1968	43, 353, 568	6, 282, 173	14.5	1, 467, 291	23.4	4, 274, 461	68.0	2, 493, 398	39.7
1970	44, 877, 547	6, 707, 411	14.9	2, 223, 506	33.1	3, 311, 372	49.4	941, 111	14.0
1971 estimate	44, 691, 675	6, 724, 956	15.0	2, 393, 824	35.6	3, 084, 785	45.9	778, 832	11.6
Difference 1970–71	−189, 872	17, 000	0.1	170, 318	2.5	−226, 587	−3.5	−162, 279	−2.4
32 North and West: [2]									
1968	28, 579, 766	2, 703, 056	9.5	746, 030	27.6	1, 550, 440	57.4	332, 408	12.3
1970	29, 451, 976	2, 889, 858	9.8	793, 979	27.5	1, 665, 926	57.6	343, 629	11.9
1971 estimate	29, 299, 586	2, 913, 047	9.9	810, 895	27.8	1, 664, 771	57.1	325, 874	11.2
Difference 1970–71	−152, 390	23, 189	.1	16, 916	.3	−1, 155	−.5	−17, 755	−.7
11 South: [3]									
1968	11, 043, 485	2, 942, 960	26.6	540, 692	18.4	2, 317, 850	78.8	2, 000, 486	68.0
1970	11, 570, 351	3, 150, 192	27.2	1, 230, 868	39.1	1, 241, 050	39.4	443, 073	14.1
1971 estimate	11, 551, 697	3, 139, 436	27.2	1, 377, 847	43.9	1, 010, 558	32.2	290, 390	9.2
Difference 1970–71	−18, 654	−10, 756	.0	146, 979	4.8	−230, 492	−7.2	−152, 683	−4.9
6 Border and District of Columbia: [4]									
1968	3, 730, 317	636, 157	17.1	180, 569	28.4	406, 171	63.8	160, 504	25.2
1970	3, 855, 221	667, 362	17.3	198, 659	29.8	404, 396	60.6	154, 409	23.1
1971 estimate	3 840, 392	672, 473	17.5	205, 082	30.5	409, 456	60.9	162, 568	24.2
Difference 1970–71	−14, 829	5, 111	.2	6, 423	.7	5, 060	.3	8, 159	1.1

[1] 1971 figures are estimations based on latest available data and are subject to change upon final compilation.

[2] Alaska, Arizona, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, Hew Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, Wisconsin, and Wyoming.

[3] Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.

[4] Delaware, District of Columbia, Kentucky, Maryland, Missouri, Oklahoma, and West Virginia.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW AND FOR UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of remarks by the distinguished senior Senator from Virginia (Mr. BYRD) tomorrow there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

UNANIMOUS-CONSENT REQUEST

Mr. BYRD of West Virginia. Mr. President, the distinguished majority leader has contacted me to ask that I submit the following unanimous-consent request.

I ask unanimous consent that time for debate on the pending committee substitute for the House amendment to S. 659 be limited to not to exceed 6 hours daily on Wednesday, Thursday, and Friday of this week, and 6 hours daily on Monday and Tuesday of next week; and that such time be equally divided between and controlled by the majority and minority leaders or their designees.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object and I shall not object, I think it might be said for the record that this is to assure that time which would ordinarily be available on the bill—but in this instance rather than the bill it is the committee substitute to the House bill—would be fairly apportioned and that those with opposing views would have an opportunity to get the floor in the event such time is available.

Is that the purpose of the agreement?

Mr. BYRD of West Virginia. The Senator is correct. It would assure equal apportionment of, and control of, time on the committee substitute for the House amendment, in the nature of a substitute, to S. 659 at all times when no amendment to the committee substitute is pending before the Senate.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. JAVITS. It is understood, of course, that this is the kind of time which can be allotted to given Members, either in block or partially, because the majority and minority leaders are really custodians of the time. Is that not correct?

Mr. BYRD of West Virginia. The Senator is correct.

Mr. PELL. Mr. President, also, is it not correct that if there is time available and not being used, it can be ceded for other purposes of the Senate; it does not have to be used?

Mr. BYRD of West Virginia. That is correct; it can be yielded back, and each day it would not exceed 6 hours, which I think would be sufficient daily to carry the Senate at least to the hour of 5 p.m. or 5:30 p.m., or, in some instances perhaps 6 p.m., but it need not all be used.

Mr. JAVITS. May we also have an understanding—and I am perfectly willing to rely upon the majority and minority leaders to use their good judgment—about not unduly extending time on particular amendments? It would be possible under this proposal to yield hours on an amendment. I am not trying to provide for that in the unanimous consent request, but to utter a caveat that our leadership will exercise reasonable discretion in allotting extra time on an amendment. They can always yield time on the bill, but this can be taken care of if they exercise discretion.

Mr. BYRD of West Virginia. My request did not provide for yielding time on any amendment from the time allotted to the committee substitute.

Mr. JAVITS. So it could not be done?

Mr. BYRD of West Virginia. It could not be done under my request.

Mr. JAVITS. Very well.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? The Chair hears none, and it is so ordered.

The unanimous-consent agreement is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That, during the consideration of the message from the House on S. 659, the committee amendment in the nature of a substitute for the House amendment to S. 659 be treated as original text for the purpose of amendment and that debate on every amendment to the committee amendment be limited to 2 hours to be equally divided and controlled between the mover of the amendment and the manager of the bill, unless the manager of the bill favors the amendment in which case the time in opposition would be controlled by whomever the Majority Leader designates. *Provided further*, That time on any appeal, point of order or debatable motion shall be limited to ½ hour with the time to be equally divided and controlled by the mover and the manager of the bill, unless the manager of the bill favors the proposition, in which case the time in opposition shall be controlled by whomever the Majority Leader designates.

Ordered further, That, the vote on final disposition of the matter shall occur no later than 2 p.m. on Wednesday, March 1, 1972.

Ordered further, That debate on the pending motion to concur in the House amendment with the committee substitute be limited not to exceed 6 hours each day until Wednesday to be equally divided and controlled by the Majority and Minority Leaders or their designees.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I assume this will be the final quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the Senate will proceed as follows on tomorrow:

The Senate will convene at 10 o'clock a.m. After the two leaders have been recognized, the distinguished senior Senator from Virginia (Mr. BYRD) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business. The unfinished business is the Senate committee substitute for the House amendment in the nature of a substitute for S. 659, an act to amend the Higher Education Act of 1965.

There is a time agreement on the committee substitute and on each amendment thereto, and also on each debatable motion, point of order, or appeal in respect thereto.

Roll call votes may occur on tomorrow. Senators may expect and anticipate—and should do so—roll call votes daily throughout the remainder of this week.

ADJOURNMENT UNTIL 10 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 o'clock a.m. tomorrow.

The motion was agreed to; and at 5:37 p.m. the Senate adjourned until tomorrow, Wednesday, February 23, 1972, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, February 22, 1972*

The House met at 12 o'clock noon.

Rev. Paul D. Moore, Woodland Heights Baptist Church, Chesapeake, Va., offered the following prayer:

Our Father, source of life and giver of strength, we come to Thee in humility.

We give Thee thanks for the influence of our Nation in the past, its leadership in the present, its role yet to be observed in the future.

Praising Thee for the larger area of life's surroundings and history, we come with immediate intercession in behalf of this government body—elected by man, may they be blessed by God.

Wisdom is promised from above. May this rest upon our Representatives during the period of trials and transition. Send the wisdom "liberally and without upbraiding"—James 1: 5.

In a special way, we unite our spirits in behalf of our President and other leaders as they now have worldwide attention. May common ground be found and the Prince of Peace reign in meetings and through the lands represented.

For Thy grace, strength, wisdom, we ask: in faith give Thee thanks.

In the name of God's Son, Jesus. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2714. An act for the relief of Mrs. Kayo N. Carvell;

H.R. 2792. An act for the relief of Juanita Savedia Varela;

H.R. 3093. An act for the relief of Mrs. Crescenica Lyra Serna and her minor children, Maria Minde Fe Serna, Sally Garoza Serna, Gonzalo Garoza Serna, and James Garoza Serna;

H.R. 4319. An act for the relief of Josephine Dumpit;

H.R. 5179. An act for the relief of Soo Yong Kwak;

H.R. 6506. An act for the relief of Mrs. Hind Nicholas Chaber, Georgette Hanna Chaber, Jeanette Hanna Chaber, and Violette Hanna Chaber;

H.R. 6912. An act for the relief of William Lucas (also known as Vasilios Loukatis);

H.R. 7316. An act for the relief of Mrs. Norma McLeish;

H.R. 8540. An act for the relief of Eleonora G. Mpolakis; and

H.R. 11738. An act to amend title 10, United States Code, to authorize the Secretary of Defense to lend certain equipment and to provide transportation and other services to the Boy Scouts of America, in connection with Boy Scout jamborees, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2275. An act for the relief of Wolfgang Kutter.

The message also announced that Mr. FONG be appointed as a conferee on the bill (H.R. 12067) entitled "An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1972, and for other purposes" in lieu of Mr. COTTON, excused.

RESIGNATION OF EDWARD O. CRAFT AS LEGISLATIVE COUNSEL

The SPEAKER laid before the House the following resignation of the Legislative Counsel, Edward O. Craft:

WASHINGTON, D.C.,
February 21, 1972.

Hon. CARL ALBERT,
Speaker of the U.S. House of Representatives, The Capitol, Washington, D.C.

DEAR MR. SPEAKER: I hereby submit my resignation as Legislative Counsel of the United States House of Representatives effective at the close of business February 29, 1972.

Sincerely yours,
EDWARD O. CRAFT,
Legislative Counsel.

THE SPEAKER'S ACCEPTANCE LETTER OF THE RESIGNATION OF LEGISLATIVE COUNSEL

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent that the Speaker's letter to Mr. Craft be inserted in the RECORD at this point.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The letter referred to follows:

WASHINGTON, D.C.,
February 21, 1972.

EDWARD O. CRAFT, Esq.,
Legislative Counsel, U.S. House of Representatives, Washington, D.C.

DEAR ED: This will acknowledge receipt of your letter of February 21. You state therein that you are retiring from your position as Legislative Counsel, House of Representatives, effective at the close of business on February 29.

In accepting your resignation I am sure all Members join me in expressing deep appreciation for the excellent and devoted service you have so unstintingly given to the House and all its Members since 1941. The House will be losing a highly skilled legal craftsman and a dedicated official only because of ill health; no other reason, I am sure, would tempt you away from the career you have so dearly cherished.

Please accept my heart felt wishes for restoration of rugged health, many years of happiness for you, your wife Wilma, and your three children, and much success at any endeavor you undertake.

Sincerely,
CARL ALBERT,
The Speaker.

TRIBUTE TO EDWARD O. CRAFT

(Mr. MILLS of Arkansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLS of Arkansas. Mr. Speaker, as chairman of the Committee on Ways and Means and one who has known Ed Craft since the time when he first began work in the legislative counsel's office, and as one who has known him probably as closely as anyone here today, let me say that it was with deep regret that I learned some time ago that Ed was planning to retire at the end of February. There is probably no committee of the Congress which has been more closely related to the work of the legislative counsel's office than the Committee on Ways and Means. That office was created by the Revenue Act of 1918 and continued its existence under that authority until last year when the last Legislative Reorganization Act was passed. The Committee on Ways and Means has drawn quite heavily on the services of the legislative counsel and many of the specialists in his office over the years, because of the nature of the legislation which our committee processes.

Over all the years that I have known Ed, I can say that I do not know of anyone who has been more conscientious or sincere in the performance of his duties. He became legislative counsel in 1962 and has served as such for this period of 10 years—a very heavy responsibility. He has served with distinction, in my judgment, and I want to join with the other Members in extending to him best wishes on his retirement, along with our regret that he has made the decision. Ed is a very modest person, but one who is dedicated to his work and who brings to that work a keen intelligence and broad knowledge of the law.

We wish him well.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I am glad to yield to the distinguished majority leader.

Mr. BOGGS. Mr. Speaker, I would like to join in the remarks made by the distinguished chairman of the Committee on Ways and Means, the gentleman from Arkansas (Mr. MILLS). Ed Craft came to work for this body in 1941, the same year that I first came here, and I have known him very well since then. I know of no man who knows more about the actual mechanics of enacting legislation than Ed Craft. As a matter of fact, in the years that I served on the Committee on Ways and Means with the distinguished gentleman from Arkansas (Mr. MILLS) and the distinguished ranking minority member, the gentleman from Wisconsin (Mr. BYRNES) I was always amazed that after we had completed work on a complex bill, whether it dealt with taxes, social security, tariffs, or any of the myriad of other subjects considered by that committee, that it would be turned over to Ed Craft and he would say, in a very quiet manner, without being ruffled at all, that he would have it ready the next day, or the day after tomorrow, or some such thing. In any event, we always relied on Ed to do the work of actually drafting the legislation. At that time he was a legislative draftsman for the Ways and Means Committee.

Then when he became the legislative counsel of the House, he extended his work to include, not only to the great Committee on Ways and Means, but to all of the committees of the House, and to all of the Members, of the House.

Mr. Speaker, we are indeed losing one of the great people who make this body possible, and I join with the distinguished gentleman from Arkansas (Mr. MILLS), in extending to Ed Craft and his family the very best wishes for a long retirement.

Mr. BYRNES of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the distinguished gentleman from Wisconsin (Mr. BYRNES).

Mr. BYRNES of Wisconsin. Mr. Speaker, for more than three decades this House has been endowed with rare good fortune. We have had the unparalleled assistance of Ed Craft in the legislative counsel's office.

Throughout his matchless career Ed has been a classic professional. He has worked for all of us—Democrats and Republicans—with an immense intensity of desire for objectivity, and without the slightest hint of partisanship. His work has been characterized by a true genius for precise drafting—a task which has become increasingly complex over the years.

For two of those decades Ed has worked closely with the Committee on Ways and Means on all of our major tax, social security, and trade legislation, and we are grateful to him for that service.

Speaking as one member of the committee, Mr. Speaker, I consider Ed Craft's efforts in our behalf to have been superb. I simply cannot envision a better sustained performance in that demanding capacity.

When I think back, Mr. Speaker, I can truly say that Ed Craft was not an 8-to-5 worker. Many nights he has worked long into the night so that we would have the legislation by the following morning in the correct legislative language—and that would follow day in and day out. He will leave a real legacy of excellence to those who follow.

Ed has devoted much of his life to us, and while we hate to see him go we fully recognize that after 31 years of this kind of service he certainly deserves some rest and relaxation, and our very best wishes for a truly rewarding retirement.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, I thank the distinguished chairman of the Committee on Ways and Means, the gentleman from Arkansas (Mr. MILLS), for yielding to me at this time.

When the House of Representatives does a good job on complicated legislative matters the fact is not known to many that the real work and the expertise in the language that is produced comes from those who work behind the scenes, and Ed Craft for 30-plus years has performed that superb service for the House of Representatives.

He never sought any reward—he was getting his reward by the good job that was done in the writing of legislation for the benefit of the House, the Congress, and the country.

Although I did not have the privilege of working with him intimately on the legislative committees, I could see as we had legislation come to the floor of the House, his fine hand and expertise which was solely for the purpose of writing good legislation.

I join with the gentleman from Arkansas and our other colleagues in extending to him our best wishes for a long, healthy, and happy retirement. We will welcome him back as a friend in the years ahead.

Mr. MILLS of Arkansas. Mr. Speaker, I yield to a distinguished member of the committee, the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I have been a member of the Committee on Ways and Means for a number of years and have had an opportunity to see at close range the intricate and complex nature of the work which falls upon those specialists in the legislative counsel's office who work with our committee. The man who has worked with us longer than anyone else is, of course, Ed Craft, who is now the legislative counsel and whose retirement has today been announced.

I know of no individual with a higher integrity or finer mind or keener intelligence than Ed Craft, and I certainly know that other members of the Committee on Ways and Means feel as I do.

There is probably no committee of the Congress that has required more constant service of the legislative counsel's office than the Committee on Ways and Means. Indeed, the legislative counsel of the House was established by a Revenue Act many years ago and, until the Legislative Reorganization Act of last year, it was a revenue act which afforded the basis for the continuance of the office. We, therefore, have a close affinity to the nature of the work which is done by the legislative counsel and we have occasion to know the quality of the work which is performed.

We all wish Ed Craft Godspeed and a well deserved rest and relaxation upon his retirement, and hope we can take comfort from the fact that he will remain here in Washington and that we can have the opportunity to see him from time to time.

Mr. MILLS of Arkansas. Mr. Speaker, I yield to the gentleman from Ohio (Mr. BETTS).

Mr. BETTS. Mr. Speaker, I want to join the distinguished chairman of our committee and others who have paid tribute to Ed Craft at this time.

I was terribly distressed to hear of Ed's retirement because I have always counted him among my longtime personal friends. He was completely dedicated to his duties and to every Member of the House. He has been a devoted public servant—one who has been so capable and yet so modest. His office is one that is entirely indispensable insofar as the operation of the House is concerned, and particularly the Committee on Ways and Means. Ed Craft was always more than adequate in the performance of his duties as head of this important service.

Mr. Speaker, I want to extend my best wishes to Ed on his retirement.

Mr. MILLS of Arkansas. Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Speaker, it is with a measure of regret that we note today the retirement of Edward O. Craft as the distinguished legislative counsel of this body. In my time here I have known no other person who has served this body and this Nation with greater dedication, expertise, and loyalty than Ed Craft.

For some 31 years, Ed Craft has labored in the Office of the Legislative Counsel, over a decade of that time as head of that Office. There would be few, if any, offices in this House which carry a greater burden in terms of workload and deadlines than the Office of the Legislative Counsel. They often work around the clock in drafting the measures that come to this floor.

In this respect, Mr. Speaker, let me say that Ed's surname is appropriately representative and descriptive of his calling and his career, as a craftsman par excellence, a legislative draftsman, whose products over the past 30 years have consistently reflected the complete objectivity and general excellence that have become hallmarks of the House Legislative Counsel's Office and for which that Office is known throughout the world.

We shall certainly miss Ed's great service to this Body, but we take gratification from the realization that his is such a singularly well-deserved retirement, and we hope a very long and happy one. We are sure that whatever his new endeavors may be he will pursue them with that same great spirit that has characterized his superb service to the House of Representatives, the Congress and the United States for these past three decades.

Mr. MILLS of Arkansas. Mr. Speaker, I yield to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. I thank the chairman. Mr. Speaker, I want to add my voice to these tributes to Ed Craft on the occasion of his retirement. He must have had great satisfaction in his demanding work, because his hand has now long been a major factor in the law of the land. He has worked under great pressure, but has never sacrificed excellence to the exigencies of time and the volume of legislation that has flowed from his drafting room. I admire a man who can bring Ed Craft's objectivity to such a central role in government, who can maintain his standards while serving so many legislators and who can sustain cheerfulness and equanimity in the face of constant pressure and change.

I salute Ed Craft, with all those who have admired his work, and wish him a most rewarding retirement.

Mr. MILLS of Arkansas. Mr. Speaker, I yield to the distinguished member of the committee, the gentleman from California (Mr. PETTIS).

Mr. PETTIS. I thank the distinguished gentleman for yielding. I wish to join my colleagues in this tribute to Ed Craft.

As a member of the Committee on Ways and Means, I want to acknowledge personally the untiring and excellent efforts of Edward O. Craft, the legislative counsel of the House for the past 10 years and a valued employee of this body for 31 years.

Our committee's legislation, as all of us are very much aware, is usually anything but simple, and the drafting problems associated with it are great. In this connection, Ed Craft's work has been difficult, indeed, during the 20 years he has worked closely with Ways and Means, and all of us on the committee are thoroughly appreciative of his labors on our behalf.

He will be missed, but we wish him well in his richly deserved retirement.

Mr. SCHNEEBELI. Mr. Speaker, December of 1941 was a tragic month for the Nation, because of the Japanese attack on Pearl Harbor. But for the House of Representatives, it was a month with at least one happy event. For on December 5, Ed Craft came to work in the legislative counsel's office, and ushered in a new and better era in that sector of this body's work.

The legislative counsel's office will bear the stamp of his unsurpassed efforts for many Congresses to come. He has graced the office throughout his 31 years with a remarkable diligence and stamina and with a never-ending pursuit of accuracy and nonpartisanship. We on the Ways and Means Committee particularly are grateful for his service. He has worked with us since 1950 on major legislation, and we will sorely miss him.

He has earned, however, an unquestionably well-deserved rest, and our fondest hopes go with him. Ed has taken his vacation for a long time near my district in Pennsylvania, and on a personal note, I hope he will now be able to spend much more of his time in that area, where I am hopeful I may visit him to bring him up to date in what his former colleagues are doing.

Mr. BROYHILL of Virginia. Mr. Speaker, Edward O. Craft is a rare man, indeed. He has a genuine gift for objectivity, a passion for accuracy, and an unerring eye for nonpartisanship. All of these characteristics have served him well in the legislative counsel's office for the past 31 years.

His quality of service has been exceptionally high and it is doubtful we shall see his like again. All of us on the Ways and Means Committee are grateful for his efforts in connection with our tax, trade, and social security legislation over the past 21 years, and our best wishes go with him as he embarks upon his amply merited retirement.

Mr. DUNCAN. Mr. Speaker, Edward O. Craft has made his mark upon the work of the House in general, and upon the Ways and Means Committee in particular. As a member of that committee, I join my colleagues in expressing appreciation of his important contribution to our legislative efforts over two-score years, and in wishing him well in his retirement.

He came to work in the legislative counsel's office in December of 1941, and in the intervening years has established a standard of excellence toward which others strive. His personal record will be difficult to surpass.

Mr. COLLIER. Mr. Speaker, I join my colleagues in praising the work of Ed Craft, our legislative counsel, and in wishing him the very best in his retirement years. Members of the Ways and Means Committee are particularly mindful of his superlative abilities as a draftsman of difficult and intricate legislation, and we will miss him greatly.

But, we are mindful also that Ed has served 31 years in the House and has worked with us in the committee for more than 21 of those years. In a broad sense, he has given a great deal of his life to the House, and in a narrower sense, he has given much of that to Ways and Means.

His absence will be marked, but we rejoice with him in his departure for the good life of retirement.

Mr. BROTZMAN. Mr. Speaker, men such as Edward O. Craft come along all too infrequently, as the entire Ways and Means Committee has good reason to know. He has performed a truly monumental service for the committee for about two-thirds of his 31 years with the House, and every member of our committee has mixed feelings about his retirement. We are sorry to lose him, but glad to see him enter a new and more relaxing period of life.

Fortunately for all of us, the legislative counsel's office under his leadership has been, and will continue to be, an extremely capable arm of the House. He has set a uniquely fine example in his post.

GENERAL LEAVE

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days within which to extend their remarks on the retirement of Mr. Craft at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

APPOINTMENT OF WARD M. HUSSEY, LEGISLATIVE COUNSEL OF U.S. HOUSE OF REPRESENTATIVES

The SPEAKER. The Chair announces to the House that, pursuant to section 521 of the Legislative Reorganization Act of 1970 (2 U.S.C., sec. 282), he has appointed Ward M. Hussey Legislative Counsel of the U.S. House of Representatives, effective March 1, 1972.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. COLMER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 671, DIVISION AND DISPOSITION OF FUNDS APPROPRIATED TO PAY A JUDGMENT IN FAVOR OF THE BLACKFEET TRIBE AND THE GROS VENTRE TRIBE OF MONTANA

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 671) to provide for division and for the disposition of the funds appropriated to pay a judgment in favor of the Blackfeet Tribe of the Blackfeet Indian Reservation, Mont., and the Gros Ventre Tribe of the Fort Belknap Reservation, Mont., with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Colorado? The Chair hears none, and appoints the following conferees: Messrs. ASPINALL, HALEY, MELCHER, STEIGER of Arizona, and TERRY.

CONSENT CALENDAR

The SPEAKER. The Chair will announce that this is Consent Calendar day, and the Chair cannot accept unanimous-consent requests until the Consent Calendar has been called.

The Clerk will call the first bill on the Calendar.

DISASTER LOANS

The Clerk called the joint resolution (H.J. Res. 893), to amend the Disaster Relief Act of 1970 to authorize disaster loans with respect to certain losses arising as the result of recent natural disasters, and for other purposes.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

Mr. HALL. Mr. Speaker, reserving the right to object, I would like to say that because the RECORD was misprinted or garbled on the last Consent Calendar day, this particular joint resolution does not meet the categorical requirements for the Consent Calendar in at least two different instances. First, it does not meet the category for consideration under unanimous consent as agreed to by the full House and recommended by the chairman of the majority of committee members during the organization of the House in the beginning of the 92d Congress in that it exceeds over $1 million in not only 1972, but 1973 and 1974.

Second, Mr. Speaker, it does not have any departmental views given.

Therefore, Mr. Speaker, I again ask unanimous consent that the joint resolution be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

REPEALING THE "COOLY TRADE" LAWS

The Clerk called the bill (H.R. 213), to repeal the "cooly trade" laws.

There being no objection, the Clerk read the bill as follows:

H.R. 213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 2158–2163, Revised Statutes, and sections 1, 2, and 4 of the Act of March 3, 1875 (ch. 141, 18 Stat. 477) (8 U.S.C. 331–339), are hereby repealed.

(Mr. MATSUNAGA asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MATSUNAGA. Mr. Speaker, I rise as the author and introducer of H.R. 213, to urge its passage. This House, to its great credit, passed similar legislation in the 89th Congress and again in the 90th Congress, but in each instance the legislation was not acted upon by the Senate before final adjournment.

I wish at the outset to thank and commend the distinguished gentleman from New Jersey (Mr. RODINO), chairman of the subcommittee of the Committee on the Judiciary, for the leading role which he assumed in reporting this measure to the floor. I wish also to express my appreciation to Chairman Celler and members of his committee for the expeditious and unanimous support they gave the measure. It is with fervent hope and optimism that I look forward to favorable action by the other body on this long overdue legislation.

The so-called cooly trade laws were enacted by Congress in 1862 and 1875 to correct the then widespread practice of exploiting persons of oriental descent, particularly Chinese and Japanese, in connection with their procurement abroad for importation into the United States to be held in service as servants or apprentices. Criminal sanctions were imposed on those who were found guilty of such practice. These laws have remained in our statute books to this day.

However commendable they may have been at one time, these laws are obsolete and, for all practical purposes, are of no effect under today's enlightened social, economic and political conditions. Furthermore, the word "cooly" carries a demeaning connotation to persons of Chinese ancestry—Americans and foreigners alike—a fact which it would appear we are deliberately ignoring as we continue to perpetuate these laws in our statute books. All that my bill proposes to do is to repeal these obsolete and unnecessary, but irritant, laws.

The people of the State of Hawaii, because of its proximity to the Far East and its large population of Asian descent, are perhaps more sensitive than Americans in any other area of the country to the feelings and thoughts of Asians. We who live in Hawaii know that enactment of H.R. 213 would remove a source of racial misunderstanding and help to promote better relations between the United States and Asian countries.

In view of recent events, particularly the President's trip to Peking, which tend to focus world attention on our relations with the Far Eastern nations, there can be no better time than the present for the U.S. Congress to repeal these cooly trade laws. To dramatize his visit to the People's Republic of China, President Nixon might even sign the bill immediately upon his return to Washington from mainland China.

Accordingly, Mr. Speaker, I strongly urge a unanimous vote today in favor of H.R. 213.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING THE IMMIGRATION AND NATIONALITY ACT

The Clerk called the bill (H.R. 6420) to amend the Immigration and Naturalization Act.

There being no objection, the Clerk read the bill as follows:

H.R. 6420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 344(C) of the Immigration and Naturalization Act (8 U.S.C. 1455(c)) is amended by striking out "$6,000" in the two places it appears and inserting in lieu thereof "$15,000".

With the following committee amendment:

On page 1, beginning on line 3, strike out the following language "section 344(C) of the Immigration and Naturalization Act" and substitute in lieu thereof the following: "section 344(c) of the Immigration and Nationality Act".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time and passed.

The title was amended so as to read: "A bill to amend the Immigration and Nationality Act".

A motion to reconsider was laid on the table.

SURVIVOR ANNUITIES UNDER CIVIL SERVICE RETIREMENT PROGRAM FOR CERTAIN CHILDREN ADOPTED BY SURVIVING SPOUSE AFTER DEATH OF EMPLOYEE OR MEMBER

The Clerk called the bill (S. 2896) to amend chapter 83 of title 5, United States Code, relating to adopted child.

There being no objection, the Clerk read the bill as follows:

S. 2896

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8341(a)(3)(A) of title 5, United States Code, is amended by inserting before the semicolon the following: ", and (iii) a child who lived with and for whom a petition of adoption was filed by an employee or Member, and who is adopted by the surviving spouse of the employee or Member after his death".

Sec. 2. The amendment made by the first section of this Act is effective upon enactment. Upon application to the Civil Service Commission, it also applies to a child of an employee or Member who died or retired before such date of enactment but no annuity shall be paid by reason of the amendment for any period prior to the date of enactment.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C.,
February 18, 1972.

The Honorable the Speaker,
House of Representatives.

Dear Sir: The Clerk of the House of Representatives received on February 16, 1972 from the U.S. Marshal, a copy of the summons in a Civil Action together with the complaint filed by Ralph Nader and Public Citizen, Inc. v. several Government officials as defendents, including W. Pat Jennings, Clerk of the House of Representatives, United States House of Representatives, in Civil Action File No. 243–72 in the United States District Court for the District of Columbia.

The summons requires an answer to the complaint within sixty days after service, and both documents are attached herewith.

Pursuant to 2 U.S.C. 118, I have written to the Acting Attorney General of the United States and to the U.S. Attorney for the District of Columbia (copies of letters attached), requesting that they carry out their assigned statutory responsibilities in defending the Clerk of the House in this matter.

Sincerely yours,
W. Pat Jennings,
Clerk, House of Representatives.

Washington, D.C.,
February 18, 1972.

Hon. Harold H. Titus, Jr.,
U.S. Attorney for the District of Columbia, U.S. Courthouse, Washington, D.C.

Dear Mr. Titus: I am sending you a copy of a summons and complaint in a Civil Action No. 243–72, filed against several Government officials as defendents, including W. Pat Jennings, Clerk of the U.S. House of Representatives, in the United States District Court for the District of Columbia and served upon me in my official capacity as Clerk of the House of Representatives on February 16, 1972.

In accordance with 2 U.S.C. 118, I respectfully request that you take appropriate action, as deemed necessary, under the "supervision and direction of the Attorney General" of the United States in defense of this suit against The Congress of the United States.

I am also sending you a copy of the letter that I forwarded this date to the Attorney General of the United States.

Sincerely yours,
W. Pat Jennings,
Clerk, House of Representatives.

Washington, D.C.,
February 18, 1972.

Hon. Richard G. Kleindienst,
Acting Attorney General of the United States, Department of Justice, Washington, D.C.

Dear Mr. Kleindienst: I am sending you a copy of a summons and complaint in a Civil Action No. 243–72, filed against several Government officials as defendents, including W. Pat Jennings, Clerk of the U.S. House of Representatives, in the United States District Court for the District of Columbia and served upon me on February 16, 1972.

In accordance with 2 U.S.C. 118, I have sent a copy of the summons and complaint in this action to the U.S. Attorney for the District of Columbia requesting that he take appropriate action under the supervision and direction of the Attorney General. I am also sending you a copy of the letter I forwarded this date to the U.S. Attorney.

Sincerely yours,
W. Pat Jennings,
Clerk, House of Representatives.

[In the U.S. District Court for the District of Columbia, Civil Action File No. 243–72]

Ralph Nader, Public Citizen, Inc., Plaintiffs v. John N. Mitchell, Attorney General of the United States; Harold H. Titus, Jr., U.S. Attorney for the District of Columbia; W. Pat Jennings, clerk of the House of Representatives; Francis R. Valeo, Secretary of the Senate, Defendants.

To the above named Defendant W. Pat Jennings, Clerk of the House of Representatives.

You are hereby summoned and required to serve upon William A. Dobrovir, plaintiff's attorney, whose address, 2005 L Street, N.W., Washington, D.C., an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

James F. Davey,
Clerk of court.
Mary B. Deavers,
Deputy Clerk.

Date: February 8, 1972.

DESIGNATING NATIONAL WEEK OF CONCERN FOR PRISONERS OF WAR/MISSING IN ACTION

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 189) to authorize the President to designate the period beginning March 26, 1972, as "National Week of Concern for Prisoners of War/Missing in Action" and to designate Sunday, March 26, 1972, as a national day of prayer for these Americans.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from California.

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 189

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That to demonstrate the support and concern of the people of the United States, for the more than one thousand five hundred Americans listed as prisoners of war or missing in action in Southeast Asia, and to forcefully protest the inhumane treatment these men are receiving at the hands of the North Vietnamese in violation of the Geneva Convention, the President is hereby authorized and requested to issue a proclamation (1) designating the period beginning March 26, 1972, and ending April 1, 1972, as "National Week of Concern for Prisoners of War/Missing in Action", (2) designating Sunday, March 26, 1972, as a national day of prayer for the lives and safety of these men, and (3) calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. ROUSSELOT. Mr. Speaker, I wish to join with my two colleagues from California (Mr. EDWARDS and Mr. WIGGINS) in continuing the effort here in Congress to make sure that we, and the American people, not be allowed to forget the importance of the return of American prisoners who are now languishing in the deplorable conditions of enemy camps in Southeast Asia.

This resolution—Senate Joint Resolution 189—which authorized the President to designate the period beginning March 26, 1972, as "National Week of Concern for Prisoners of War/Missing in Action" and to designate Sunday, March 26, 1972, as a national day of prayer for these Americans, will be passed today to make it clear that our Congress has not forgotten and will not forget our prisoners of war and missing in action. Again we renew our demand and request that the Hanoi government adhere to the Geneva Convention and cooperate with the International Red Cross to allow for the release of names of those held as prisoners and permit greater exchange of correspondence and communication with the families of these men.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on Senate Joint Resolution 189, just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

NEW ECONOMIC POLICY RESULTS IN RISING CONSUMER CONFIDENCE

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BROWN of Ohio. Mr. Speaker, it is becoming increasingly clear that since President Nixon inaugurated his new economic policy last August 15, consumer confidence in the economy has been rising dramatically. Growth in consumer installment credit is one of our best indicators of what consumers are thinking. The months of September through December 1971 saw strong rises in consumer credit. During the month of September, installment debt outstanding, as seasonally adjusted, increased by almost $1 billion. During October the rise was $924 million, followed by rises in November and December of $1¼ billion and $900 million, respectively. Although the rise in December slowed somewhat from that of November, when installment credit had a record surge, the December credit growth was still brisk and generally reflects strong retail sales in December.

There is good evidence that this strong December performance was matched last month. Our major retail chain stores reported large sales gains during the month of January. For example, Sears, Roebuck & Co., the Nation's largest retailer, reported sales at a level last month which was 9.6 percent above sales in January 1971. The volume for J. C. Penney Co. rose even faster, having been reported at 15.7 percent over the sales rate a year ago. Two other important retailers, Montgomery Ward & Co. and F. W. Woolworth Co., reported sales gains last month over the comparable period a year earlier of 11 and 13 percent respectively.

Mr. Speaker, I think that we should be especially encouraged by the fact that these strong performances in consumer credit and in retail sales have not been merely one month results, but are showing a consistent pattern of growth over a period of several months, reflecting continuing consumer confidence in the economy.

RADIO FREE EUROPE

(Mr. FRELINGHUYSEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FRELINGHUYSEN. Mr. Speaker, on returning to Washington this morning, I found on my desk a telegram from George Meany, president of the AFL–CIO. In that telegram Mr. Meany expresses the concern of the executive council of the AFL–CIO with respect to the future of Radio Free Europe and Radio Liberty.

The text of Mr. Meany's telegram follows:

> The future of Radio Free Europe and Radio Liberty is being decided in Congress. The closing of these vital communications with the captive peoples of the Soviet Union and Eastern Europe will be a clear sign of U.S. capitulation in the war to bring truth and courage to countless millions behind the Iron Curtain.
>
> The Soviet Union has spent more than $300,000,000 annually to try to stop these effective broadcasts and the Soviet Union has until now failed.
>
> The Executive Council urges the responsible leadership of both houses of Congress to demand the passage of a fully funded program which has the overwhelming support of the membership in both houses and the American people. George Meany, President, AFL–CIO.

As one of the conferees on this legislation, I regret very much we have been unable to reach a resolution of the differences between the House- and the Senate-passed bills. In my opinion, we have a clear obligation to reach an agreement, and reach it soon. Quite frankly, I was appalled by the statement made in the other body last week by one of the Senate conferees, saying that the whole program should be killed. That is not an issue between the House and the Senate. Both the House and the Senate have agreed to continue these vital programs.

Mr. Speaker, the present situation is clearly intolerable. The differences between the two bills are not great and agreement should not be difficult. In my opinion, it would reflect on Congress as an institution if a few individuals were to block any further legislative progress because they happen to hold strong views about the value of these radio programs. The fact is that both the House and the Senate have already decided that further funding should be forthcoming.

Let us hope we reach an early resolution of our differences.

CALL OF THE HOUSE

Mr. SCHERLE. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 47]

Abourezk
Ashley
Badillo
Baring
Belcher
Bergland
Blanton
Blatnik
Burleson, Tex.
Caffery
Celler
Chappell
Chisholm
Clark
Clawson, Del
Clay
Collins, Ill.
Conyers
Davis, S.C.
Dellums
Diggs
Dow
Dwyer
Edmondson
Edwards, La.
Fisher
Galifianakis
Gallagher
Gross
Harsha
Hébert
Heinz
Holifield
Jonas
Jones, Ala.
Kee
Kyl
Leggett
Link
Long, La.
McCloskey
McFall
Macdonald, Mass.
Metcalfe
Mikva
Moorhead
Morgan
Murphy, N.Y.
Nelsen
Nix
Pike
Pryor, Ark.
Pucinski

Rees
Roe
Rostenkowski
Roy
Sandman
Scheuer
Sikes
Sisk
Smith, Calif.
Steed
Talcott
Teague, Calif.
Teague, Tex.
Tiernan
Udall
Wampler
Wilson, Charles H.
Zablocki

The SPEAKER. On this rollcall 360 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 748, U.S. CONTRIBUTIONS TO INTER-AMERICAN DEVELOPMENT BANK

Mr. PATMAN. Mr. Speaker, I call up the conference report on the bill S. 748, to authorize payment and appropriation of the second and third installments of the U.S. contributions to the Fund for Special Operations of the Inter-American Development Bank, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of February 9, 1972.)

Mr. PATMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement on the part of the managers be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ANDERSON of California. Mr. Speaker, reserving the right to object, and I do so for the purpose of asking a question. It is my understanding, and I wish to be corrected if I am wrong, that the conference committee could not uphold the position of the House and they yielded to the Senate and took out the deterrent provision for the seizure of fishing vessels by foreign nations. Is that correct?

Mr. PATMAN. In part it is true, but the bill already contained sufficient language to protect the seizure of any vessels. It protects the owner of any seized vessel.

Mr. ANDERSON of California. But we put in a provision aimed basically at Ecuador, which has been harassing our fishing vessels and our people in international waters. Is it my understanding that the provision the House put in has been taken out?

Mr. PATMAN. We have a broadened provision that includes all the countries—not just Ecuador, but all countries—and there is no doubt that there is plenty of protection for American citizens. If the gentleman will read this report, I think he will be willing to admit himself that they are fully covered, and there is no use to put in a specific provision.

Mr. ANDERSON of California. Since I have the gentleman's assurance that the language in the conference report is sufficient to protect America's fishing on the high seas, I withdraw my objection.

Mr. PELLY. Mr. Speaker, reserving the right to object, I do so to ask the gentleman from Texas a question with respect to the language in the bill. I have read the conference report, and I see the language is left in the bill which indicates that any country which has seized ownership or control of the property owned by any U.S. citizen or corporation, and so forth; a fishing vessel which had been seized and taken into port and put under the control of that nation would still be covered and would therefore require our representative in the Bank to vote against any loan to that country. Is that correct?

Mr. PATMAN. That is correct.

Mr. PELLY. So fishing vessels, while they are stricken from the language of the bill are actually still included?

Mr. PATMAN. They are included and fully protected, I assure the gentleman.

Mr. PELLY. I do not want any State Department lawyer to put his own interpretation on the language of the bill. As it is, it is mandatory that the President of the United States shall instruct the U.S. Executive Director to vote against any loan for the benefit of any country which has imposed exaction or restrictive operational conditions which have the effect of seizing control of property owned by a U.S. citizen or corporation.

I am now assured by the chairman, (Mr. PATMAN) that such seizing control would include a U.S. fishing vessel taken into a foreign port and only subject to release on payment of a fine.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PATMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend to the House the conference report on S. 748 as an excellent action on the part of the Congress and as a great victory for the House of Representatives.

The bill as passed the House and agreed to by the conferees authorizes the payment and appropriation of the second and third installments of the U.S. contribution to the Fund for Special Operations of the Inter-American Development Bank. The committee of conference agreed to the expropriation amendment as passed the House, with very minor modifications, and, for that conference action, the House of Representatives can be justly proud. This amendment requires a negative vote on the part of the United States on the question of lending funds to any country which nationalizes, expropriates, or seizes ownership or control of property owned by U.S. citizens or which has taken steps to repudiate or nullify existing contracts or agreements with any U.S. citizen.

In connection with the expropriation amendment, the House conferees agreed to two very inconsequential Senate amendments which failed to alter in any significant way the substance or effect of the amendment as passed the House.

The first modification simply requires the President instead of the Secretary of the Treasury to take the responsibility for giving instructions as to when the United States should vote against the making of a loan because of an expropriation or seizure of control. The House conferees accepted this modification since it has no more effect than to identify as the real party in interest the President instead of the Secretary of the Treasury. Since the Secretary of the Treasury, as a Cabinet officer, is responsible to the President any way, the modification simply recognizes the facts as they are and addresses itself to the principal instead of his agent—that is, to the President instead of his Secretary of the Treasury.

In addition, the House conferees agreed to a Senate amendment to strike out the so-called tuna boat amendment. This amendment required an adverse vote on the part of the United States in connection with any loan to any country which wrongfully seizes a vessel of the United States in territorial waters or the high seas.

At the outset, it should be made unmistakenly clear that the conferees of both Houses are of the view that the bill is not being weakened one bit by this action. The conferees are mindful of the seriousness of the wrongful taking of a vessel of the United States on the basis of rights or claims in territorial waters of the high seas. However, it is the view of the committee of conference that this kind of taking is clearly and manifestly covered by the existing provisions of the so-called expropriation amendment. To repeat, the expropriation amendment is designed to require the United States to vote against a loan in any case where any country has, and I quote, "nationalized, or expropriated, or seized ownership or control of property owned by any United States citizen * * *", and I emphasize the words "seized ownership or control of property." Clearly, when a foreign nation boards and seizes a vessel of the United States and takes it to port, then that nation has, at the very least, seized control of the U.S. vessel within the terms of the expropriation amendment.

The Senate conferees agreed to the House-passed amendment relating to the control of narcotic drugs. Your conferees felt that the acceptance of this amendment reflects a significant victory for the Congress and an important step in the battle against the illegal importation and distribution of narcotic drugs in the United States. The amendment requires the Secretary of the Treasury to require a vote against any loan to any country with respect to which the President makes a determination that such country has failed to take adequate steps to prevent illegal trafficking in narcotic drugs. The amendment is strong and since it is brief it is worthy of recital at this point, and I quote:

> The Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to vote against any loan or other utilization of the funds of the Bank for the benefit of any country with respect to which the President has made a determination, and so notified the Secretary of the Treasury, that the government of such country has failed to take

> adequate steps to prevent narcotic drugs and other controlled substances . . . produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such instruction shall continue in effect until the President determines, and so notifies the Secretary of the Treasury, that the government of such country has taken adequate steps to prevent such sale or entry of narcotic drugs and other controlled substances.

In the past, the United States has perhaps unthinkingly participated in international lending programs to foreign countries without attempting to exact as a condition to such loans that borrowing nations to take steps to stem the flow of illegal drug traffic into the United States. Many such foreign nations have permitted the unhindered growth of opium crops and the processing of the seeds and morphine within their borders. To the extent that those illegal crops are directed to the United States, this amendment is designed to help bring about a dramatic halt.

The adoption of this amendment represents an intelligent and vigorous effort on the part of the United States to use its extensive international power to help stem the flow of narcotic drugs to the United States. The amendment represents a new initiative on the part of this county to make foreign nations more effectively control traffic in narcotic drugs as a condition to our agreement to permit international bank loans.

Since a sizable amount of the illegal narcotic drugs sold in this country are grown or manufactured abroad, it is through our economic and other influence in areas of international interaction that we might best hope to attack our national problem of drug abuse. This amendment represents a bold and energetic step in that direction.

The House conferees vigorously recommend the passage of this conference report. The approval of this report, together with the approval of the other two reports scheduled for today relating to U.S. contributions to international lending institutions, will continue this Nation's record as a moving force in providing international lending assistance to better help less privileged nations to help themselves. It is interesting and important to note at this point that our participation in these international lending programs benefits business in the United States at the same time that it helps to meet the needs of our foreign friends. Review of these programs has revealed that the direct benefit to the U.S. exports from financing these international institutions comes to about $3.3 billion. A reasonable, and probably conservative estimate of the spare parts, replacements, and followup business not financed by the institutions but generated by the initial loans would add about $500 million. The administrative expenditures of the institutions located in Washington have probably averaged $20 million annually, and over the past decade, the United States economically has, therefore, benefited from such expenditures by an amount of $200 million. The total of the direct benefits to U.S. suppliers from financing by these international institutions thus, has been $4.1 billion. Since our part in contributions to these banks is $3.8 billion, the direct U.S. business generated has exceeded our imports by $287 million.

Mr. Speaker, I urge the House to adopt the conference report on S. 748.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman, the chairman of the Committee on Banking and Currency, yield to me?

Mr. PATMAN. I am delighted to yield to the distinguished minority leader, the gentleman from Michigan (Mr. Gerald R. Ford).

Mr. GERALD R. FORD. Mr. Speaker, I wish to compliment and congratulate the House conferees for coming back with what I think is good legislation.

The House conferees did well in their negotiations with their counterparts in the other body.

The legislation passed by the House several weeks ago I supported and I more strongly support this conference report on this occasion.

This legislation over the years has helped to implement and execute our Nation's foreign policy under all administrations. I am convinced the extension of this legislation with modifications will equally help in the execution of our Nation's foreign policy. At a time when the President is in China on a rather historic mission on behalf of all of us it seems to me we would be acting properly and effectively to pass this legislation to help him in the overall task of seeking a better world for us as well as for others.

I thank the gentleman for yielding.

Mr. PATMAN. I thank the gentleman.

I am very much impressed with what is going on in China myself. I feel as though a big step is being taken in the direction of real peace in the world. I do not believe we should think about voting against any bill that is aimed directly in a direction that the President of the United States wants it aimed at. The President has especially asked for the passage of this legislation.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I am glad to yield to the gentleman from Missouri.

Mr. HALL. I appreciate the gentleman from Texas yielding, the chairman of the Committee on Banking and Currency.

While agreeing with some of the things that he has said, not being indicative of total concurrence in either the background of this expenditure or the authorization therefor, let me simply ask if the expenditure is increased over the amount that passed the House and if the Senate added any nongermane amendments in the conference.

Mr. PATMAN. It is not increased over it.

Mr. HALL. Will the gentleman answer my second question as to whether or not there are any nongermane amendments?

Mr. PATMAN. There are no nongermane amendments, under the rules of the House.

Mr. HALL. I thank the gentleman.

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I yield myself such time as I may use.

As a member of the committee of conference, I want to say to the House that I thought we had a very successful conference with the Senate. They yielded to the House on all of our amendments except the one previously mentioned on fishing vessels.

I think we have a set of very fine bills before us, and I want to associate myself with the remarks of both the chairman of the Committee on Banking and Currency, Mr. Patman, and also those of Mr. Gerald R. Ford, our minority leader.

I ask the House to agree to the conference report.

Mr. ANDERSON of California. Mr. Speaker, on February 1, the House of Representatives adopted an amendment to S. 748 which would instruct the U.S. Executive Director of the Inter-American Development Bank to vote against any loan to a country, such as Ecuador, which seizes and fines a U.S. vessel for fishing in international waters.

I felt that this amendment was necessary in order to deter pirate nations from seizing our vessels on the high seas. Last year, Ecuador seized 51 U.S. fishing vessels and exacted fines totaling over $2 million. Thus far, in 1972, Ecuador has seized seven U.S. vessels and levied fines totaling $469,180.

At the same time Ecuador was pirating our vessels, the Inter-American Development Bank was making loans to Ecuador through a Fund for Special Operations. United States contributions represent approximately 73 percent of the amount of money in the Fund for Special Operations.

In fiscal year 1971, which concluded June 30, 1971, the Inter-American Development Bank loaned $30 million to Ecuador.

Thus far in fiscal year 1972, which concludes June 30, 1972, the IADB has loaned Ecuador an additional $30.3 million. Three prospective loans requested by Ecuador, totaling between $18 million to $23 million, are presently pending before the IADB awaiting action by the Board of Directors.

The amendment adopted by the House of Representatives on February 1, 1972, would have had the effect of vetoing these pending loans to Ecuador, since a negative vote by the U.S. member of the IADB would cancel any loan from the Fund for Special Operations.

While the language of the amendment I authored to S. 748 was not adopted by the conference committee, I have received Chairman Patman's assurance that the conference report contains sufficient language to protect the owner of any seized vessel.

Since I have the gentleman's assurance that the language in the conference report will direct the President to instruct the U.S. Executive Director of the Inter-American Development Board to vote against a loan to a country which illegally seizes a U.S. vessel in international waters, I will support the conference report to accompany S. 748.

Mr. Speaker, I assure you that I will continue to watch the activities of the

State Department to insure their compliance with the intent of Congress that loans should not be granted to countries which violate international law by seizing U.S. vessels which are fishing on the high seas.

Mr. PATMAN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 749, U.S. CONTRIBUTIONS TO ASIAN DEVELOPMENT BANK

Mr. PATMAN. Mr. Speaker, I call up the conference report on the bill (S. 749) to authorize U.S. contributions to the Special Funds of the Asian Development Bank, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of February 9, 1972.)

Mr. PATMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend to the House the conference report on S. 749 as an excellent action on the part of the Congress and as a great victory for the House of Representatives.

The bill as passed the House and agreed to by the conferees authorizes the U.S. contributions to the Special Funds of the Asian Development Bank. The committee of conference agreed to the so-called expropriation amendment as passed the House, with very minor modifications, and, for that conference action, the House of Representatives can be justly proud. This amendment requires a negative vote on the part of the United States on the question of lending funds to any country which nationalizes, expropriates, or seizes ownership or control of property owned by U.S. citizens or which has taken steps to repudiate or nullify existing contracts or agreements with any U.S. citizen.

In connection with the expropriation amendment, the House conferees agreed to one very inconsequential Senate amendment which failed to alter in any significant way the substance or effect of the amendment as passed the House.

The modification simply requires the President instead of the Secretary of the Treasury to take the responsibility for giving instructions as to when the United States should vote against the making of a loan because of an expropriation or seizure of control. The House conferees accepted this modification since it has no more effect than to identify as the real party in interest the President instead of the Secretary of the Treasury. Since the Secretary of the Treasury, as a Cabinet officer, is responsible to the President anyway, the modification simply recognizes the facts as they are and addresses itself to the principal instead of his agent; that is, to the President instead of his Secretary of the Treasury.

The Senate conferees agreed to the House-passed amendment relating to the control of narcotic drugs. Your conferees felt that the acceptance of this amendment reflects a significant victory for the Congress and an important step in the battle agaist the illegal importation and distribution of narcotic drugs in the United States. The amendment requires the Secretary of the Treasury to require a vote against any loan to any country with respect to which the President makes a determination that such country has failed to take adequate steps to prevent illegal trafficking in narcotic drugs. The amendment is strong and since it is brief it is worthy of recital at this point, and I quote:

> The Secretary of the Treasury shall instruct the United States Executive Director of the Asian Development Bank to vote against any loan or other utilization of the funds of the Bank for the benefit of any country with respect to which the President has made a determination, and so notified the Secretary of the Treasury, that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances . . . produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such instruction shall continue in effect until the President determines, and so notifies the Secretary of the Treasury, that the government of such country has taken adequate steps to prevent such sale or entry of narcotic drugs and other controlled substances.

In the past, the United States has perhaps unthinkingly participated in international lending programs to foreign countries without attempting to exact as a condition to such loans that borrowing nations take steps to stem the flow of illegal drug traffic into the United States. Many such foreign nations have permitted the unhindered growth of opium crops and the processing of the seeds and morphine within their borders. To the extent that these illegal crops are directed to the United States, this amendment is designed to help bring about a dramatic halt.

The adoption of this amendment represents an intelligent and vigorous effort on the part of the United States to use its extensive international power to help stem the flow of narcotic drugs to the United States. The amendment represents a new initiative on the part of this country to make foreign nations more effectively control traffic in narcotic drugs as a condition to our agreement to permit international bank loans.

Since a sizable amount of the illegal narcotic drugs sold in this country are grown or manufactured abroad, it is through our economic and other influence in areas of international interaction that we might best hope to attack our national problem of drug abuse. This amendment represents a bold and energetic step in that direction.

The House conferees vigorously recommend the passage of this conference report. The approval of this report, together with the approval of the other two reports scheduled for today relating to U.S. contributions to international lending institutions, will continue this Nation's record as a moving force in providing international lending assistance to better help less privileged nations to help themselves. It is interesting and important to note at this point that our participation in these international lending programs benefits business in the United States at the same time that it helps to meet the needs of our foreign friends. Review of these programs has revealed that the direct benefit to the U.S. exports from financing these international institutions comes to about $3.3 billion. A reasonable, and probably conservative estimate of the spare parts, replacements, and followup business not financed by the institutions but generated by the initial loans would add about $500 million. The administrative expenditures of the institutions located in Washington have probably averaged $20 million annually, and over the past decade, the United States economically has, therefore, benefited from such expenditures by an amount of $200 million. The total of the direct benefits to U.S. suppliers from financing by these international institutions thus, has been $4.1 billion. Since our part in contributions to these banks is $3.8 billion, the direct U.S. business generated has exceeded our imports by $287 million.

Mr. Speaker, I urge the House to adopt the conference report on S. 749.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I heard with interest the statement of the gentleman from Texas that this conference report is similar to the Inter-American Development Bank conference report, but I think, maybe, some of us think there is considerable difference between the Asian Development Bank which was born later than the other one, if for no other reason; and, second, I would like for the chairman to at least assure the Members before we put this conference report through that there is no money in this conference report for any giveaway to those north of the DMZ that might now be under consideration and that there was no increase in funds over the House-passed bill; and, third, that all Senate amendments are germane to the House bill?

Mr. PATMAN. I can assure the gentleman from Missouri in both instances and also the third one that there is no Senate nongermane amendment.

Mr. PATMAN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2010, INCREASED PARTICIPATION BY THE UNITED STATES IN THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. PATMAN. Mr. Speaker, I call up the conference report on the bill (S. 2010) to provide for increased participation by the United States in the International Development Association, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of February 9, 1972.)

Mr. PATMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend to the House the conference report on S. 2010 as an excellent action on the part of the Congress and as a great victory for the House of Representatives.

The bill as passed the House and agreed to by the conferees provide for increased participation by the United States in the International Development Association. The committee of conference agreed to the so-called expropriation amendment as passed the House, with very minor modifications, and, for that conference action, the House of Representatives can be justly proud. This amendment requires a negative vote on the part of the United States on the question of lending funds to any country which nationalizes, expropriates, or seizes ownership or control of property owned by U.S. citizens or which has taken steps to repudiate or nullify existing contracts or agreements with any U.S. citizen.

In connection with the expropriation amendment, the House conferees agreed to one very inconsequential Senate amendment which failed to alter in any significant way the substance or effect of the amendment as passed the House.

The modification simply requires the President instead of the Secretary of the Treasury to take the responsibility for giving instructions as to when the United States should vote against the making of a loan because of an expropriation or seizure of control. The House conferees accepted this modification since it has no more effect than to identify as the real party in interest the President instead of the Secretary of the Treasury. Since the Secretary of the Treasury, as a Cabinet officer, is responsible to the President anyway, the modification simply recognizes the facts as they are and addresses itself to the principal instead of his agent—that is, to the President instead of his Secretary of the Treasury.

The Senate conferees agreed to the House-passed amendment relating to the control of narcotic drugs. Your conferees felt that the acceptance of this amendment reflects a significant victory for the Congress and an important step in the battle against the illegal importation and distribution of narcotic drugs in the United States. The amendment requires the Secretary of the Treasury to require a vote against any loan to any country with respect to which the President makes a determination that such country has failed to take adequate steps to prevent illegal trafficking in narcotic drugs. The amendment is strong and since it is brief it is worthy of recital at this point, and I quote:

> The Secretary of the Treasury shall instruct the United States Executive Director of the Asian Development Bank to vote against any loan or other utilization of the funds of the Bank for the benefit of any country with respect to which the President has made a determination, and so notified the Secretary of Treasury, that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances . . . produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such instruction shall continue in effect until the President determines, and so notifies the Secretary of the Treasury, that the government of such country has taken adequate steps to prevent such sale or entry of narcotic drugs and other controlled substances.

In the past, the United States has perhaps unthinkingly participated in international lending programs to foreign countries without attempting to exact as a condition to such loans that borrowing nations take steps to stem the flow of illegal drug traffic into the United States. Many such foreign nations have permitted the unhindered growth of opium crops and the processing of the seeds and morphine within their borders. To the extent that those illegal crops are directed to the United States, this amendment is designed to help bring about a dramatic halt.

The adoption of this amendment represents an intelligent and vigorous effort on the part of the United States to use its extensive international power to help stem the flow of narcotic drugs to the United States. The amendment represents a new initiative on the part of this country to make foreign nations more effectively control traffic in narcotic drugs as a condition to our agreement to permit international bank loans.

Since a sizable amount of the illegal narcotic drugs sold in this country are grown or manufactured abroad, it is through our economic and other influence in areas of international interaction that we might best hope to attack our national problem of drug abuse. This amendment represents a bold and energetic step in that direction.

The House conferees vigorously recommend the passage of this conference report. The approval of this report, together with the approval of the other two reports scheduled for today relating to United States contributions to international lending institutions, will continue this Nation's record as a moving force in providing international lending assistance to better help less privileged nations to help themselves. It is interesting and important to note at this point that our participation in these international lending programs benefits business in the United States at the same time that it helps to meet the needs of our foreign friends.

Review of these programs has revealed that the direct benefit to the U.S. exports from financing these international institutions comes to about $3.3 billion. A reasonable, and probably conservative estimate of the spare parts, replacements, and followup business not financed by the institutions but generated by the initial loans would add about $500 million. The administrative expenditures of the institutions located in Washington have probably averaged $20 million annually, and over the past decade, the United States economically has, therefore, benefited from such expenditures by an amount of $200 million. The total of the direct benefits to U.S. suppliers from financing by these international institutions thus, has been $4.1 billion. Since our part in contributions to these banks is $3.8 billion, the direct U.S. business generated has exceeded our imports by $287 million.

Mr. Speaker, I urge the House to adopt the conference report on S. 2010.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I would like to ask the same three questions that I have asked on the two previous conference reports in view of the fact that the chairman did not see fit to include them in his remarks.

Mr. PATMAN. Mr. Speaker, I commend the gentleman from Missouri for being so alert. They are relevant questions, and they should be answered. The answers are the same as on the preceding two conference reports.

Mr. HALL. Mr. Speaker, I thank the gentleman.

Mr. PATMAN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the three conference reports that have just been agreed to on S. 748, S. 749, and S. 2010 and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

OFFSHORE MINERAL REVENUE SHARING

(Mr. BOGGS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BOGGS. Mr. Speaker, on several occasions in the past I have taken the floor to discuss the need to devise some formula by which Coastal States could share the revenues from mineral production on Federal lands adjacent to their shores.

At the present time, the Department of Interior has before it my bill which would apply to Coastal States the same formula which is presently applied to inland States with mineral-producing, Federal lands within their borders.

Simply stated, the proposal would allow Coastal States 37.5 percent of the revenues arising from mineral production on submerged lands, belonging to the Federal Government, off their shores.

Mr. Speaker, Coastal States make great and expensive contributions in the form of public services to offshore mineral production. Among other things, they build the roads, educate the children, and provide the health care for the men and their families who make offshore mineral production possible. It is only just that the Coastal States be compensated for these expenditures as is presently done in the case of inland States.

This topic has been thoroughly researched and studied by the distinguished executive editor of the New Orleans Times Picayune, George W. Healy, Jr.

The Times Picayune has recently published a report to Members of the Congress, entitled, "Revenue Sharing, Earned and Deserved." I am inserting this document in the RECORD, and calling it to the attention of my colleagues:

A REPORT TO MEMBERS OF THE CONGRESS

For a quarter of a century oil and gas have been produced from beneath waters off the coast of Louisiana.

Development of oil fields in the Outer Continental Shelf has produced revenues for the federal government in the past eighteen years exceeding $6 billion.

Royalties from offshore federal lands are continuing to rise, and there is real prospect that federal lands off coastal states which now have no minerals production soon will be adding bonus, rental and royalty money to the United States Treasury.

As of Jan. 1, 1972, federal oil and gas income had been realized principally from lands off the coasts of Louisiana, Texas, California, Oregon, Washington and Florida.

By far the greatest contributor of funds to the central government are federal lands off Louisiana's coast.

Because it makes great and expensive contributions toward productivity of these federal lands off its coast but receives no share of the revenues from these lands, Louisiana has been and is a victim of what seems to us serious injustice. That inequity will affect adversely other coastal states unless the law is amended to provide for sharing with coastal states of revenues from offshore lands in a way comparable to that by which revenues from inshore federal lands are shared with inland states.

Facts in this booklet have been compiled with the hope that they will assist members of the Congress to better understand what offshore minerals production means to the United States, where offshore production is being obtained and is expected to be obtained and why the federal government should share its growing offshore revenues with states which provide services for the men who make possible production of those revenues and for their families.

GEORGE W. HEALY, Jr.,
Editor, The Times-Picayune, New Orleans, La.

VOLUME OF PRODUCTION OFF LOUISIANA'S SHORES, CRUDE PRODUCTION, DAILY AVERAGE, JUNE 1970

	Barrels	Value of production
Oil:		
Zone 0	3,188	$9,564
Zone 1	143,618	430,854
Zone 2	345,480	1,036,440
Zone 3	177,219	531,657
Zone 4 (bisected leases)	24,655	73,965
Zone 4 (uncontested)	41,452	124,356

Notes: Zone 1, to 3 miles from shore. Zone 2, from 3 miles to 3 leagues from shore. Zone 3, 3 leagues to coastline established 1812.

	Cubic feet	Value of production
Gas (not counting casinghead):		
Zone 0	48,824,000	$7,811,840.00
Zone 1	1,359,952,000	217,592,320.00
Zone 2	1,634,711,000	310,595,090.00
Zone 3	609,133,000	115,735,270.00
Zone 4 (bisected leases)	102,314,000	19,439,660.00
Zone 4 (outer)	134,398,250	25,534,667.50

Notes: Zone 1, to 3 miles from shore. Zone 2, from 3 miles to 3 leagues from shore. Zone 3, 3 leagues to coastline established 1812.

BUREAU OF LAND MANAGEMENT, OUTER CONTINENTAL SHELF RECEIPTS, FISCAL YEAR, 1955 THROUGH 1970

Year	Royalties	Total (includes bonuses and rentals)
1955	0	$154,621,764.85
1956	$52,814.63	137,742,374.94
1957	232,342.31	13,178,593.89
1958	830,760.69	15,669,347.58
1959	2,266,484.40	23,830,325.75
1960	2,839,980.97	401,722,186.69
1961	5,588,525.60	51,067,561.98
1962	5,605,230.15	510,198,439.12
1963	7,443,921.55	137,273,981.41
1964	10,620,439.52	152,395,954.32
1965	11,246,201.92	142,502,002.40
1966	86,424,061.11	208,764,843.82
1967	41,107,770.26	785,440,705.67
1968	57,935,108.40	1.082,763,202.32
1969	78,083,889,47	713,912,091.57
1970	113,580,953.89	333,809,071.36
1971	159,914,891,13	1,272,257,326.56
Total	583,771,719.06	6,137,149,774.21

Federal revenues produced by bonuses and rentals from minerals' rights sales for operations off coastal States up to Dec. 15, 1970

Louisiana	**$3,021,740,545.86**
Texas	**699,022,081.96**
California	**638,754,209.28**
Oregon	**29,045,074.24**
Washington	**8,231,188.40**
Florida	**2,109,312.00**

BONUSES AND RENTALS RECEIVED BY FEDERAL TREASURY—FEDERAL REVENUES FROM OUTER CONTINENTAL SHELF, MINERAL LEASE SALES—INCLUDING BONUSES AND RENTALS

Adjacent State and products	Number	Acreage	Bonus	First year rental
1954				
Louisiana—Oil and gas	90	394,721.16	$116,378,476.00	$1,184,175
Louisiana—Sulphur	5	25,000.00	1,233,500.00	50,000
Texas—Oil and gas	19	67,148.70	23,357,029.48	201,450
Total	114	486,869.86	140,969,005.48	1,435,625
1955				
Louisiana—Oil and gas	94	252,806.92	100,091,262.93	758,442
Texas—Oil and gas	27	149,760.00	8,437,461.60	449,280
Total	121	402,566.92	108,528,724.53	1,207,722
1959				
Florida—Oil and gas	23	132,480.00	1,711,872.00	397,440
Louisiana—Oil and gas	19	38,819.90	88,035,121.27	388,200
Total	42	171,299.90	89,746,993.27	786,640
1960				
Louisiana—Oil and gas	99	464,046.23	246,909,783.59	1,392,159
Texas—Oil and gas	48	240,480.00	35,732,031.20	721,440
Louisiana—Salt	1	2,500.00	75,250.00	7,500
Total	148	707,926.23	282,717,064.79	2,121,099
1962				
Louisiana—Oil and gas	401	1,879,526.71	445,036,031.81	5,638,671
Texas—Oil and gas	10	28,800.00	557,719.50	86,400
Louisiana—Oil and gas	9	16,177.95	43,887,358.75	161,780
Total	420	1,924,504.66	489,481,110.06	5,886,851
1963				
California—Oil and gas	57	312,944.85	$12,807,586.68	$938,838
1964				
Louisiana—Oil and gas	23	32,673.34	60,340,626.00	326,780
Oregon—Oil and gas	74	425,433.05	27,768,772.24	1,276,302
Washington—Oil and gas	27	155,420.00	7,764,728.40	466,260
Total	124	613,526.39	95,874,326.64	2,069,342
1965				
Texas—Sulfur	50	72,000.00	33,740,308.80	216,000
1966				
Louisiana—Oil and gas	17	35,056.00	88,845,963.00	350,570
Louisiana—Oil and gas	24	104,717.19	99,164,930.42	523,600
California—Oil and gas	1	1,995.48	21,189,000.00	9,980
Total	42	141,768.67	209,199,893.42	884,150
1967				
Louisiana—Oil and gas	158	744,456.12	510,079,177.76	2,233.458
Louisiana—Salt	1	2,495.00	30,563.75	7,485
Total	159	746,951.13	510,109,741.51	2,240,943
1968				
California—Oil and Gas	71	363,181.00	602,719,261.60	1,089,543
Texas—Oil and Gas	110	541,304.41	593,899,046.38	1,623,915
Louisiana—Oil and Gas	169	934,167.41	149,868,789.27	296,820
Total	197	934,167.41	1,346,487,097.25	3,010,278

Adjacent State and products	Number	Acreage	Bonus	First year rental
1969				
Louisiana—Oil and gas	20	48,505.00	$44,037,338.65	$485,050
Louisiana—Sulphur	4	5,625.00	715,150.00	16,875
Louisiana—Oil and gas	16	60,153.06	66,908,195.60	601,550
Total	40	114,283.06	111,660,684.25	1,103,475
1970				
Louisiana—Oil and gas	19	44,642.00	$97,769,013.00	$446,420
Louisiana—Oil and gas	116	543,897.70	845,832,785.06	1,631,694
Total	135	588,539.70	943,601,198.06	2,078,114
Grand total to Dec 15, 1970	1,649	7,216,448.78	4,374,324,334.74	23,978,077

Source: U.S. Bureau of Land Management.

NUMBER OF PERSONS EMPLOYED OFF LOUISIANA'S SHORES (ESTIMATES AND ASPECTS FOR ESTIMATION)

30,000 employed in exploration and production, some from satellites are employed offshore.

6,400 or 40% of 16,000 persons in one parish covered by the Employment Security Law who drew their livelihood directly from the oil and gas industry.

5,000 were either unemployed or underemployed (on part-time basis) in Morgan City area alone during the offshore curtailment.

30,144 persons are engaged in some form of water transportation with movement of petroleum, its products and personnel, by far the largest operation.

7,500 is not an unreasonable estimate for number of persons who gain a livelihood from boats, barges, tankers and other vessels engaged in oil industry movements in Louisiana's waterways each day. (From testimony presented before the Senate Committee by the Offshore Operations Committee in 1970.)

WHAT ARE OFFSHORE OPERATIONS COSTING LOUISIANA AND ITS POLITICAL SUBDIVISIONS?

Providing education, health, police, recreation and other essential government services to 67,644 persons employed to make offshore fields productive and to members of their families cost the state and local government, conservatively, in 1970: $79,718,702.

This estimate is based on employment figures obtained from the oil and gas industry and suppliers and on government cost figures compiled by the Louisiana Public Affairs Research Council. The data used by PAR as foundation for its figures was obtained from the United States Department of Commerce, Bureau of the Census.

Capital expenditures by the state and local governments to provide roads, marinas and other facilities needed to service the offshore operations run to many millions of dollars.

As an example

Heavy traffic of trucks carrying supplies and equipment to the offshore platforms and barges, of buses carrying workers and of heavy drilling machinery overtaxed the highway between Belle Chasse and Venice, at the head of the Mississippi river passes.

Creating a four-lane highway to accommodate this increased load cost Plaquemines parish alone: $48,024,008.00

LOUISIANA'S OIL-POPULATION GROWTH

	1950	1960	Growth	1970	
			Percent		Percent
Louisiana (total)	2,683,516	3,257,022	21.4	3,564,310	9.4
Coastal parishes:					
Cameron	6,244	6,909	10.7	7,685	11.2
Jefferson	103,873	208,769	100.9	688,774	229.9
Lafourche	42,209	55,381	31.2	67,652	22.2
Plaquemines	14,239	22,545	58.3	24,700	9.6
Coastal parishes—Continued					
St. Bernard	11,087	32,186	190.3	50,729	57.6
St. Mary	35,848	48,833	36.2	59,559	21.9
Terrebonne	43,328	60,771	40.3	73,343	20.7
Vermilion	36,929	38,855	5.2	21,930	7.9
8-parish total	293,757	425,416	44.8	1,014,372	138.4

If collectible, Louisiana's severance tax rates on natural resources extracted from the soil, would have provided $397,356,668.42 (1955–1968):

Oil	$250,233,711.75
Condensate	26,933,276.65
Casinghead gas	23,503,190.66
Natural gas	96,686,489.36
Total	397,356,668.42

Louisiana collects no sales tax on materials used in offshore operations.

WHAT HAS GULF OIL PRODUCTION DONE TO THE LOUISIANA ENVIRONMENT?

Fish catch in pounds

1945:	
Louisiana	163,902,000
Total gulf	341,080,000
1968:	
Louisiana	763,969,000
Total gulf	1,298,295,000
1969:	
Louisiana	1,003,137,000
Total gulf	1,614,628,000
1970:	
Louisiana	1,107,251,000
Total gulf	1,698,104,000

Source—National Marine Fisheries Bureau of the National Oceanic and Atmospheric Administration.

WHERE HAS LITIGATION BROUGHT US?

First offshore lawsuit filed by the U.S. against California in 1945. It was decided—to a point—in 1977. It is still hanging fire on some issues.

U.S. vs Louisiana was filed in 1950. It is still in the courts!

Costs are not available.

Plaquemines parish, alone, appropriated and spent more than $250,000 in two years.

IN QUEST OF SPEEDY JUSTICE

John N. Mitchell, quoted in Judicature, November, 1971:

In the novel, Bleak House, Charles Dickens built his story and his message around a civil case before the High Court of Chancery that had dragged on for generations. Two or three of the solicitors in the cause, he wrote, . . . have inherited it from their fathers, who made a fortune by it . . . Innumerable children have been born into the cause; innumerable young people have been married into it; innumerable old people have died out of it.

Receipts by Coastal states from Federal Offshore Lands in 1970—Zero.

Division of Receipts from Federal Lands in 1970

Alabama	$15,814.42
Alaska	8,652,976.12
Arizona	193,803.90
Arkansas	19,533.29
California	3,376,685.63
Colorado	2,806,968.65
Florida	41,664.97
Idaho	297,359.75
Indiana	2.00
Kansas	183,311.61
Louisiana	312,411.51
Michigan	16,860.44
Mississippi	15,544.95
Missouri	4.00
Montana	2,742,397.73
Nebraska	1,530.86
Nevada	456,706.55
New Mexico	12,964,835.88
North Dakota	201,501.57
Oklahoma	170,136.50
Oregon	163,523.62
South Dakota	166,647.84
Utah	3,409,833.03
Washington	10,173.14
Wisconsin	15.70
Wyoming	18,792,266.71
Total	55,011,910.37

REVENUE FROM OIL AND GAS MINERAL LEASES ON STATE LANDS

Year	Inland			Submerged lands			Total
	Royalty	Rentals	Bonuses	Royalty	Rentals	Bonuses	
1945	$2,574,762.51	$591,831.21	$834,092.28	0	0	$634,997.65	$4,635,683.60
1946	3,298,980.40	421,136.06	981,088.10	0	$229,381.07	4,854,612.66	9,785,198.29
1947	5,141,146.63	680,843.39	1,823,995.51	0	2,275,598.96	8,676,522.50	18,598,106.99
1948	8,066,882.20	572,495.27	6,242,296.39	$32,524.05	5,573,630.90	11,866,374.91	32,354,203.72
949	8,837,096.92	941,068.94	2,456,750.42	273,813.89	7,663,728.14	0	19,372,458.31
1950	9,218,156.91	1,090,123.85	4,220,646.76	941,800.10	3,941,764.07	1,340,590.04	20,753,081.73
951	11,508,659.90	1,122,356.59	3,947,828.61	319,958.62	867,455.32	4,087,286.41	21,853,545.45

REVENUE FROM OIL AND GAS MINERAL LEASES ON STATE LANDS—Continued

Year	Inland			Submerged lands			Total
	Royalty	Rentals	Bonuses	Royalty	Rentals	Bonuses	
1952	$12, 708, 412. 88	$862, 593. 87	$6, 046, 357. 29	$136, 889. 94	$1, 026, 868. 99	$8, 933, 573. 02	$29, 714, 695. 99
1953	13, 638, 787. 90	1, 063, 870. 63	7, 028, 049. 18	3, 576, 812. 09	1, 300, 175. 70	3, 766, 110. 49	30, 373, 805. 99
1954	17, 103, 753. 91	1, 254, 127. 24	9, 650, 516. 90	3, 983, 146. 41	2, 091, 481. 25	36, 302, 875. 08	70, 385, 900. 79
1955	18, 652, 338. 11	1, 440, 242. 50	44, 564, 388. 17	5, 839, 622. 82	1, 553, 068. 66	44, 212, 534. 53	116, 262, 194. 79
1956	20, 794, 053. 39	1, 654, 620. 99	46, 784, 657. 04	6, 342, 201. 65	1, 260, 144. 11	15, 951, 511. 75	92, 787, 189. 93
1957	35, 083, 879. 29	2, 677, 982. 47	24, 988, 764. 23	13, 167, 241. 45	941, 054. 47	1, 522, 310. 47	78, 381, 232. 38
1958	30, 022, 757. 15	1, 643, 532. 21	13, 243, 909. 22	10, 160, 215. 10	348, 777. 47	0	55, 419, 191. 15
1959	40, 657, 718. 13	668, 979. 73	24, 106, 967. 16	13, 129, 934. 42	168, 952. 93	47, 459, 266. 67	126, 191, 819. 04
1960	39, 400, 679. 41	1, 189, 417. 93	11, 267, 698. 77	13, 094, 552. 06	302, 987. 60	850, 000. 00	66, 105, 335. 77
1961	44, 494, 831. 45	1, 253, 895. 68	6, 787, 951. 96	13, 299, 765. 12	72, 112. 66	10, 265, 223. 61	76, 173, 780. 48
1962	51, 487, 656. 87	479, 355. 07	10, 436, 750. 62	18, 599, 278. 71	205, 819. 08	6, 641, 701. 95	87, 850, 562. 30
1963	56, 672, 037. 78	1, 043, 191. 68	34, 477, 333. 71	15, 901, 028. 50	449, 098. 52	832, 360. 00	109, 375, 050. 19
1964	58, 799, 759. 36	982, 220. 16	21, 838, 107. 81	17, 445, 071. 41	468, 635. 50	13, 142, 149. 44	112, 675, 943. 68
1965	63, 039, 409. 25	2, 079, 919. 00	22, 732, 440. 88	21, 787, 067. 72	628, 656. 31	7, 768, 949. 00	118, 036, 442. 16
1966	71, 267, 105. 86	1, 166, 962. 66	14, 243, 497. 51	44, 610, 478. 52	857, 674. 43	21, 996, 887. 30	154, 142, 606. 10
1967	86, 341, 690. 05	1, 041, 282. 64	8, 555, 217. 57	32, 945, 913. 61	630, 282. 76	6, 450, 679. 94	135, 965, 066. 57
1968	95, 098, 223. 79	1, 055, 460. 23	14, 145, 477. 97	34, 992, 621. 35	575, 557. 31	4, 241, 395. 13	150, 108, 735. 78
1969	102, 013, 241. 15	1, 294, 697. 44	12, 886, 377. 69	37, 516, 328. 02	717, 061. 51	1, 840, 471. 16	156, 268, 176. 97
1970	99, 632, 735. 92	1, 044, 301. 61	6, 426, 423. 02	38, 270, 035. 03	367, 510. 76	1, 581, 778. 07	147, 323, 684. 41
Total	1, 004, 754, 756. 94	29, 316, 509. 05	360, 717, 584. 72	346, 367, 200. 59	34, 517, 479. 48	265, 220, 161. 78	2, 040, 893, 692. 56

Note: State's bonuses from submerged lands decreased from $44,212,534.53 to $1,581,778.07 in 15 years; Federal bonuses from lands off Louisiana increased from $100 091,262.93 to $948,601,798.06 in same period.

Source: Table by register of State land office for Mid-Continent Oil and Gas Association.

BOLD NEW PLAN TO EXPAND AMERICAN EXPORTS

(Mr. MOORHEAD asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MOORHEAD. Mr. Speaker, I wish to make some remarks on behalf of the gentleman from Michigan (Mr. Broomfield) and myself concerning the cosponsorship of our bill (H.R. 11508) which will greatly benefit America and the world, especially the developing countries.

Thirty Members of Congress today joined us in cosponsoring a bold new plan to expand American exports abroad without costing the U.S. taxpayers a penny in new appropriations. In fact, this plan can make money for the Treasury as well as U.S. labor and industry.

The major bipartisan bill—plainly labeled as an experiment—would use U.S.-owned foreign currencies and debt repayments to pay foreign import duties on American-manufactured goods and agricultural products. The move would make U.S. exports more competitive with European and Japanese goods right in the foreign marketplace. Foreign import duties average about 10 percent. In order to qualify, the foreign importer would have to agree to pass this saving along to the ultimate consumer.

Our investment would be repaid in the form of increased U.S. tax revenues and at the same time result in a tremendous boost to the U.S. economy creating new jobs and raising corporate profits.

The United States currently owns and is owed vast amounts of foreign currencies which have rapidly deteriorated in value because of devaluations, inflation, and exchange rate adjustments. America now holds more than $2 billion in such currencies. Another $6 billion in foreign currencies are owed to the United States and in the process of regular payment. In addition, almost $22 billion in our own currency is owed the United States. The total of all these categories is approximately $30 billion and considering an average 10-percent foreign import duty would finance $300 billion worth of American exports over the coming years if used entirely for that purpose.

Because of the multiplier tax effects when our exports increase, for every dollar or its equivalent in foreign currency we spend, we would virtually double our tax income. Corporation taxes would rise, taxes on dividends would go up, and, of course, income taxes from the thousands of new jobs created would flow into the Treasury. These multiple new tax revenues will be reflected as fast as U.S. exports expand.

And as our exports rise, we also will need increased raw materials from many of the developing nations, thus providing them with additional foreign exchange to buy machinery, tools, transport equipment, and other goods from the United States which will assist and speed their development.

A classic economic cycle is thus set in motion that will benefit not only America but other countries everywhere.

The other cosponsors are: Representatives William R. Cotter, Democrat, of Connecticut; Jonathan B. Bingham, Democrat, of New York; John E. Moss, Democrat, of California; Ogden R. Reid, Republican, of New York; Robert L. Leggett, Democrat, of California; Charles B. Rangel, Democrat, of New York; John D. Dingell, Democrat, of Michigan; Frank Horton, Republican, of New York; Craig Hosmer, Republican, of California; Seymour Halpern, Republican, of New York; Charles W. Whalen, Jr., Republican, of Ohio; William R. Roy, Democrat, of Kansas; Joshua Eilberg, Democrat, of Pennsylvania; James W. Symington, Democrat, of Missouri; Phillip Burton, Democrat, of California; Gus Yatron, Democrat, of Pennsylvania; James C. Cleveland, Republican, of New Hampshire; John H. Terry, Republican, of New York; Charles Thone, Republican, of Nebraska; Robert L. F. Sikes, Democrat, of Florida; Fernand J. St Germain, Democrat, of Rhode Island; William L. Scott, Republican, of Virginia; Lawrence G. Williams, Republican, of Pennsylvania; Philip E. Ruppe, Republican, of Michigan; James A. McClure, Republican, of Idaho; Guy Vander Jagt, Republican, of Michigan; James J. Howard, Democrat, of New Jersey; Manuel Lujan, Republican, of New Mexico; Bill Alexander, Democrat, of Arkansas; and John S. Monagan, Democrat, of Connecticut.

UNEMPLOYMENT AND JOBLESSNESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Dent) is recognized for 60 minutes.

Mr. DENT. Mr. Speaker and Members of Congress, I just noticed something in today's paper and yesterday's paper that changed the whole course of the remarks I was going to make.

It is related to the subject matter that I took up with the House 10 days ago when I read a report from the chairman of the board of the Committee of 100 headed by the Corn Products Corp., Inc., International. This Committee of 100 went over to Russia to talk to Chairman Kosygin and Russian officials about a trade deal with the United States.

As we know, we are living in an era of commercialization and merchantilism and trade that supersedes all other considerations of the human actions and behavior of our times.

I read the complete report that was given by this committee, and to say the least about it, it scared me since it deals with the subject matter that I believe to be the most important subject matter before the American people today—unemployment and joblessness, caused by our illogical and outmoded international trade posture.

Mr. Kosygin laid down two specific terms before he would discuss any trade agreements.

First. He said that the Soviet Union must be considered as a favored nation under our trade agreements.

This means that all concessions that we have given over the some 30 years of the reciprocal trade agreements between the United States and friendly nations would have to be given to the Soviet Union in one fell swoop.

The second provision that he would expect is that all avenues of credit now open to all our trading partners would be open to the Soviet Union, including the Import-Export Bank financing.

He went on further to say that since the United States was so far ahead of Russia in its production of sophisticated computers, and that he was having difficulty buying computers from the United States because, he said, they would not be used for military purposes.

At least he was honest enough to qualify that particular statement by saying that at least these computers we would buy now would not be used for military purposes.

Then he went on to say, to put the clincher on what I think would be a most devastating blow to U.S. industrial productivity and employment capacities—he said that he would want and expects American enterprise concerns to build plants and to send the equipped and trained persons to teach them the know-how to produce many industrial goods that they do not have proficiency in today.

Further, he would expect and demand that the plants would be paid for by selling to the United States the production of those plants.

Further, he said that this meant also preagreement arrangements for the plants would include an agreement to buy the same amount of goods from those plants annually for the next 20 years.

He further went on to say that any products that the United States would sell to Russia would have to be part of a quid pro quo in which the Russian products would have to be bought by America, and that all products bought from America would have to be paid for in a barter type trade arrangement on products from Russia because "We will not pay for products from any hard currency country other than in products from our country to take their place in a barter deal."

Now, Mr. Speaker and Members of Congress, the article I refer to was just disclosed not more than 10 minutes before I advised this Congress of the kind of secret arrangement which happens to be the diplomatic policy of this administration—secret arrangements and secret deals that are brought out in the open after they have been accomplished and leaving Congress in a bind where it can do nothing else but ratify the arrangements that were made.

Arrangements were made, and we are now providing $3,100,000,000 worth of equipment, machinery, know-how, technical staffs, and all of the background knowledge that we have paid for with billions of dollars and the sweat of many thousands of American workmen, to build a plant for the construction of trucks.

However, in that agreement—and he has already petitioned for the financing of the total amount from the Export-Import Bank and other agencies of credit that are within control of the United States—but he also goes further and says that they would produce under the first group of vehicles that they make 150,000 trucks plus 100,000 motors which will be sold to the United States in payment yearly for the plant until the $3 billion is paid off.

I defy anybody to go broke under that kind of an arrangement. I would be glad to start a group tomorrow to construct a plant in my district and make motor trucks if the U.S. Government would give me the money and buy back enough of the product to pay for the plant.

I am afraid, Mr. Chairman, that this is the kind of agreement we have made all over the world, and that is why we cannot do anything about the import invasion of the United States. We cannot, because secret agreements have been made whereby we have spent billions of dollars of American money constructing production facilities all over the world and have agreed to buy back the products in order to pay the debts for the construction of those plants.

This country grew big because it had a brain to create productivity. It grew big because it had a dedicated labor force and a business enterprise system which allowed the smallest man within it to become the largest man within the whole country. It was built big because we designed and knew how to make things, and we kept that design to ourselves and sold the product of that design.

Now we give the design away and buy the product from those to whom we have given it.

To those of you who have not yet felt the seriousness of the unemployment in the United States, I pray that you do not wake up, because you are sleeping in a dream world of unreality. We are on a very dangerous precipice, and one little shove can push us down into oblivion. I do not want to comment on the President's visit to China. Anything that is done in the interest of humanity I applaud and support. But I say that the prompting factor in the decision to go to China is the commercialism and the mercantilism of international trade.

You will see just as surely as you are alive that within a very short time we will be importing from the Chinese mainland products that just a few years ago would subject you to jail sentences and fines if you were caught bringing them into the country.

This ban has been lifted already, because the Hecht Co. just announced this morning that all of the District stores will, in 2 weeks, open up with China shops called "The Oriental Express," in which they will have available for sale soups, glass, and certain articles that are already made in Red China.

We cannot be the marketplace for the whole world, but they think we are. At this point, 32.7 percent of all the shoes purchased in America come from foreign countries. It so happens that in last week's issue of Toronto's Financial Post, an article stated that the Canadians are very seriously disturbed because of the imports of shoes into Canada.

But what do Members think their solution is? Do the Members think their solution is to do something about protectionism and to do something to guarantee that the workers in their areas are not put out of work by workers making shoes for one-quarter or one-fifth or one-tenth of our wages? No. They are holding a meeting this week, and the tone of the meeting is this: that now, because of the pressure of shoes coming in from France and Italy and Brazil and Japan and Taiwan, they think the thing they have to do is expand their sales into the United States.

We have become the biggest boobs on the face of the earth. We have failed to realize that without jobs there is no economy. Without men working there is no market here for our goods nor will there be a market for foreign goods.

There will be no foreign goods market simply because the income of the American is being taken from him now. The income which would be used to feed and clothe and house and medically care for a great portion of our American people is being taken now.

There are approximately 200 million people living in this country. Yet, there are 52 million of that number who do not work at any productive or service type of work. We have 26 million who draw social security; they do not produce goods. The money that pays for social security comes out of the marketplace. Some of that money goes back in, but mostly it is for food and rent and a few necessities, no luxuries.

We have something like 13½ million Americans who are drawing welfare. This money comes out of the earnings of those who work, and that does not buy in the marketplace the kind of products that create employment in this country. Then we have about 13 million in the service of the different governments in the United States. This money comes out of the wages of those who are employed in productive and service industries. All of this money comes in and then goes back out to take care of Americans who are out of productive work.

Right now, every automobile company in America is buying foreign steel. Let us take a look at automobile production. This year, a nation that 10 years ago was not producing 100,000 automobiles—Japan—is producing by their own calculations 6,700,000 automobiles, over 2 million of which they expect to sell in the United States. For every 200,000 automobiles that are sold in the United States, 25,000 workers are required, starting from the digging of the coal, the mining of the ore, and on through the blast furnaces and steelmaking processes, the making of springs and seats, tires and tubes, and the glass and the electronic equipment that goes into the automobile.

So, if we take 2 million imported cars—and we must not forget that we do not sell 2,500 automobiles to Japan in the whole year, most of which are bought by American expatriates or the Diplomatic Corps in Japan—when we couple that with the above facts and multiply 10 times 200,000, or 250,000, we will find there are 2 million Americans in some walk of life, in some form of production, in some type of service industry, who will lose their jobs this year because of imports of cars alone.

In the steel industry this past year we

imported 18 million tons of steel, and we exported less than 2 million tons, a difference of 16 million tons of exports. Every million tons of steel that is made requires 6,000 workers per year in all of the types of jobs required from the digging of the coal and the drilling of the oil on through all the parts that go into the production of steel.

So we find ourselves with 16 million tons and 6,000 workers, or 96,000 workers no longer employed in steel.

Come to Pittsburgh. Go to Birmingham, Ala. Go out to Detroit. Go anywhere in this country where men make their living making steel, where men make their living making automobiles, where men make their living making tires. Do you know that last year we imported 21 million automobile tires, not counting the five tires that come in on every imported car into the United States?

Then they say that labor has caused inflation. They are against my little minimum wage bill that is going to pay $1.80 to some workers and $2 an hour to some other workers. It is too much money, they have said, and it causes inflation. I do not know anybody who is working 40 hours a week, making even $2 an hour, the minimum we have in our bill, who can buy anything with that that would cause inflation. In my book, I believe he will be hard put just to buy the barest necessities for himself and his family. But that is going to cause inflation.

Do you know what causes inflation? When there are goods on the shelves of the marketplaces and money in the pockets of Americans, and those people are buying goods on the market shelves that were not put there by American workers. When the goods on the market shelves are made elsewhere, every time Americans buy those products the money goes elsewhere to pay the worker who made it in a foreign country. He pays his shoemaker, and he pays his electric bills and he pay his grocery bills. You and I and the rest of us who are fortunate enough to be working pay for all the costs for the boys thrown out of work because that foreign workers has his job.

There is absolutely no living person, in spite of his philosophy, in spite of whatever ideology he may have, who can stand up in open debate and defend a system that destroys the capability of this country in peace and makes us an open target in case of war.

We have difficulty and have had difficulty in prosecuting the so-called brush fire in Vietnam. Why? It is because we had let our merchant marine go down, and we did not have the bottoms to send over the seas to ship not only the men required but also the equipment and materiel for them. And, we had to pay exorbitant prices to foreign flagships, owned by Americans. It cost you and every other American who bought or built a home since that war began thousands of dollars extra, because we had used these ships to bring our lumber to the east coast, to the central United States and to the South from the northwestern part of our country. We had to pay three or four times as much per board foot because we did not have ships to bring it around to the coastal ports so that you and I could get it at reasonable rates.

We are living in a day and age today where to be sound and sane, according to some people, one must be unreal in his philosophy and unreal in your love for this country and in regard for your fellow worker.

There is not anything any country can give the United States that can give back to a working man who has lost his job the dignity of working for himself and his family or can give them an opportunity to live on an equal basis with anybody who happens to have a job.

That is the ideal my father came to when he was an immigrant from little Italy. He came over with the idea that this was the place which recognized the need for dignity for human beings. He worked—and he worked for 80 cents a day—and he did not cry or complain. It was a lot more than he could make over there, and he had an opportunity to educate his children. That opportunity is now going to be taken from their grandchildren because the Government of the United States cannot pay for all of the education or for all of the needs of human beings who are not working.

I do not care what anybody tells you about figures. To me every able-bodied person who is not working today is unemployed. I do not believe now and I never will believe that the American citizen would rather be on relief than work. I do not believe that argument, because every time I have had an opportunity to find a job for anyone I have never had any trouble finding somebody to fill it. To those critics who moan and groan and say that we have to cut back on welfare I say there is only one way to do it, which is give them an opportunity to work. Give them a job, the job that we are transporting across the oceans without regard to what it means to the welfare and well-being of our American people and to our country itself.

Mr. GAYDOS. Will the gentleman yield?

Mr. DENT. I am happy to yield to the gentleman.

Mr. GAYDOS. We all know in our district and in this House that the gentleman in the well has been fighting against unreasonable imports for the last 15 years or more.

I would like to ask the gentleman if he would explain and clarify the situation regarding specialty steels as it affects his district, my district, and the Nation, particularly since the voluntary quota arrangement with Japan and the European steel producers has expired.

Mr. DENT. When you stand on the floor of the House and say to the House, as I have on about 11 occasions in the last few years, that they have just closed down the Graybar Steel Co.—and this is a plant that has been there for over 300 years—does not cause a ripple. When I tell them that the Latrobe Steel Co. is down 30 percent, that does not cause a ripple. When I tell them the American Pane Glass Co. shut down permanently, it having been the largest in the world, and that its last employment was down from 11,000 a few years ago to about 5,500, it does not make any difference to the House Members and the Secretary of State who negotiated the trade deals that we are in. It does not make any difference when I come here and cry and plead with the Members to try to do something about the Aluminum Co. of America which is closing down its plant. When I was a little younger man they had 15,000 employees. They will all be thrown out of work. It does not seem to mean anything to anyone any more than it did in the 1920's when we lost the production of coal in our area because of the importation of oil. It does not seem to matter to any of you that today there is not an American who is working and earning $7,500 a year or more who is not paying 50 cents out of every dollar that he earns into Federal, State, local, and county taxes in the form of hidden taxes as well as public and open taxes. That is the distribution that the gentleman talks about.

You must understand that the mere loss of a job in a steel plant is not the extent of the injury; it is not the extent of the damage that is being done to the economy, because before that steel man can make steel someone has to provide a ton and a half of coal in order to make three-quarters of a ton of coke that goes into that steel mill in order to make the steel. Somebody has to provide the coal for the energy needed to drive the powerplants which make the necessary electricity. Somebody else has to mine the ore and somebody else has to transport it and someone has to be working to unload and then to load and unload it again. Someone has to do these jobs all along the line, making tools and the necessary equipment and machines in order to make a ton of steel. That is where you get this work distribution.

It means that when they shut down plants and mills 100,000 workers are put out onto the street when the distribution is stopped at that particular plant. Maybe some of those who distribute the goods, the truckdrivers and railroad workers, will still work, but they will be distributing foreign steel.

At the same time so many Americans think that there is no damage whatsoever done to the economy of this country in going in and buying a Volkswagen or a Datsun or a Honda or a Yamaha or a Suzuki. They think nothing of it. But every time they do it these young people are cutting down their own chances of having a job. It is cutting down the opportunity for the parents to support them if not old enough to get a job; it is cutting down the opportunity for their future for work. This is proven by the fact that in June of this year we will have 65,000 of all the college graduates in America out of work. Unless the men working in the mills, unless the men working in the mines have jobs in the production field, there are no jobs for the parasites. They will have no opportunity to go into the production work.

I am one of the parasitic group. I do not produce anything any more. However, at one time I worked in the mills, in the actual production field, and thereby I was providing the salaries for government officials and for others in service industries, but the minute the production job dies, all of the other jobs die. If you do not believe me, take a walk with me out into Pennsylvania and Appalachia and you will see whole towns abandoned.

Mr. Speaker, I was born on the banks of the Allegheny River. It was a big town at that time for a coal town. It was a town of 700 families and that is a big town in a coal community. I lived there and worked there and everyone dealt with the two stores located there. We had a squire or a justice of the peace, we had a constable, we had two churches, we had two barbers, we had a shoe repairman to repair our shoes, but what happened? When the coal mines shut down, within 9 months there was not a living soul in that community. It is still there on the banks of the Allegheny. Some of the coal is still there. But, why could not the shoemaker stay? He was earning a living. Why could not the doctor stay? Why did they have to move? Because there was not that same amount of money that came from production.

For every production worker producing a product to sell in the marketplace, three more were earning a living. The production worker took the money and paid a part of it to this person, he paid a part of it to that person, he paid a part of it to this person and they, in turn, paid a part of their wages back to the person that supplies the services they need and thereby we have what made this economy—the free movement within our own States, the free movement within the territory, that made this Nation great, the free movement of people, the free movement of goods, the same price for money, the same banking loans and the same rules of behavior, and minimum wage laws. But, when we go out into the jungle of foreign trade, do we have any kind of law that guarantees that my coworker in Italy or Japan is going to have as much to spend from his wages to buy the production he makes, as I will have to buy the production I make? We do not have any equality in the value of our money. They juggle their money up and down. They do anything they want to do with it. Most of their unions are company operated and in most instances they are nationally operated. They get subsidies to see to it that they can dump their goods on the American market.

I am not saying that only the Nixon administration is at fault, because it goes back to the Johnson administration, to the Kennedy administration, to the Eisenhower administration, to the Truman administration, and all the way back to the most inconceivable conception of 1933 that this had to be a free trade world.

Mr. Speaker, there is no such thing as free trade. We do not have it in the United States. We were great when we had free trade. No man had to pay a bounty to go across the State line from Pennsylvania over into Ohio, but now if you go across a State line up in New Jersey or New York and many other States and take a little bottle of whiskey, you will be stopped and they will confiscate your car.

Oh, no, you will be stopped, and they will confiscate your car. In some States you cannot bring in a carton of cigarettes from another State. If you happen to be traveling in one State you cannot bring cigarettes into Pennsylvania. Also if you buy a car somewhere else because it is cheaper, if you go into a State like Pennsylvania where they have a 6 percent sales tax, then you cannot run that car in Pennsylvania unless you pay another tax in Pennsylvania, no matter where you buy the car.

This is not true with foreign goods. When foreign products come into this country, no one says they have to pay an equalizing tax on it by the residents of the United States, and that is true of any product that comes into the United States; it comes in without taxation. But we have to pay an equalizing tax when you travel from one State to another.

What we are doing is removing all the barriers against trade with foreign countries, and at the same time we are erecting barriers on trade within the United States.

Oh, I know that it will not be too long until people like myself will not be heard on this floor because I believe we are all becoming mesmerized into the belief that if we get world trade it means peace. Well, within about 2 weeks I will be 64 years of age, and, do you know, I just cannot remember peace during all these years—and my uncle GEORGE MILLER from California just said that I am just a kid—but I just want to say that even in his memory at no period in our entire history of the 200 years, come 1976, at no period of time has there been more war and devastation, unrest and unfriendliness in the world than in the last 40 years. We have never been without war. I have never seen a war that has been settled yet. Every time we end one we work out a solution that starts another.

And trade is nothing but a commercial venture, its whole purpose in being is profit. We have compounded it to the real injury of this economy by creating multinational corporations that are no more interested in the integrity of any land within which they operate, including our own, than the man in the moon. They are interested in only one thing, and that is profit; they are profiteering beyond any amount, beyond any measure in our economy before. I have seen things sold to importers for as low as $3, and sold to Americans for as high as $50.

As an example, I visited in my investigation of Export-Import, a shoe plant in Florence, in fact three or four of them, and the highest priced shoe being sold to the United States from the highest priced shoe plant in Italy was $6.75 to the American importer—and you ask any American woman if she can buy a pair of Italian shoes for that—and I remember the name of the shoe, I just cannot think of it right now, but it is the highest-priced shoe in America, and it sells for $67.

Do you think that we are being honest and true to the concept and principle that we adhere to, or believe that we adhere to in this country when we allow them to pay their workers over there 63 cents an hour, and the same American workers get $5.40 or $4.50 an hour? That is slavery in a certain way. The slaves worked for nothing, they got their food and they got their board, but now we are paying them, but they still have to come to the government and get food and board, because they are not paid enough. As I say, in the old days we had physical slavery all over the world, but you know what you have now? You have political-economic slavery. And just as Chile, Cuba, and Peru, and just as Brazil and the rest of them, you will see the day when the workers in this country make our luxuries for us and they will not be able to buy these same luxuries themselves. That is the form of slavery that will destroy this economy unless we wake up. Unless the people wake up, it will happen. And the way to wake up is to just go into the stores and not buy foreign-made products.

I went into the biggest store in our area. I wanted to buy a couple of white shirts. I know that today everybody is wearing colored shirts, but I wanted to go back to white again just to see what I would look like. And I went into the store and out of all the shirts—and they must have at least 12 or 14 counters of men's shirts and this is one of the largest chains in this country.

Only one counter had American-made shirts on it. All the rest were from Malaya, and they do not even wear shirts in Malaya. Malaya, the Philippines, Hong Kong, Taiwan, Singapore, and pretty soon I guess they will go to the Congo because I understand they only pay 4 cents an hour in the Congo. They do not care where they make a product—they bring it to the market that has the highest buying power. There is not a single worker—now get this straight—there is not a single worker outside of the sophisticated workers in West Germany, France and certain common market countries and Japan—the ordinary worker and tradesman in all those countries does not get paid as much as we pay for the welfare of our families who are on public assistance.

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. DENT. I yield to the gentleman and I will yield him 30 minutes if he wishes.

Mr. GAYDOS. Will the gentleman be good enough to explain how a shirt manufactured in Rumania, behind the Iron Curtain, passes through Germany or Scandinavia and comes to this country labeled as an American-made product?

Mr. DENT. We are investigating welfare pension systems to try to improve the pension systems in the United States for those Americans who have to depend solely on social security. We were trying to work out a system whereby a collateral program would allow them to live without going on welfare once they were provided with social security and a private pension.

So, of course, we know that Denmark is way ahead of many countries. Sweden is way ahead of many countries. So we decided to go up to the Nordic countries that have had pension systems in existence for a long time.

One evening a Member of Congress, the gentleman from New Jersey (Mr. DANIELS), was with us on the committee and we went out to have some dinner. There was an American sitting at the next table, and surprising to say—he was drinking and he was talking a little loud. We caught on that he was some kind of a textile man. So later he came over and he said:

> I heard you boys talking—you are Americans. Won't you have a drink?

And we said:

> Sure.

Then this man told us that he is operating out of Finland, behind the Red Curtain, and they were making textiles, Finnish products—dresses, shirts, and things like that for men, and women, boys, and girls.

I said to him:

> How do you get them into the United States?

He said:

> Well, we have a corporation in two or three countries that have trade agreements with the United States. So we ship them to our corporations in those free nations and then they pack them and label them with their country label and send them to the United States.

All these years, if you want to know where they got the money for sputnik and you want to know where they got the money for many of the things—some of it came out of your pockets and my pockets when we go in and buy foreign-made products.

Mr. GAYDOS. Before the gentleman concludes, I wonder if he would give us the benefit of his expert knowledge with respect to the effect foreign imports have on our domestic specialty steel and tool steel industries.

Would the gentleman tell us what we can expect if this insidious encroachment in these areas continues as far as the national defense of this country is concerned.

Mr. DENT. Over 3 years ago we made a so-called voluntary agreement with Japan. At the time special steel in the United States was producing 99 percent of most of the specialty steels and 97 percent of the special steel coming into—I mean being sold in the United States.

After this voluntary agreement was signed, the Japanese changed their product mix from high carbon steel and low carbon steel and ordinary steel, structural steel and so on and went into the special steel business, which is the high cost, high employment steel.

To make a million tons of ordinary steel, it takes 6,000 workers a year. To make a million tons of special steel, it takes 15,000 workers a year.

So now up as high as 72 percent of all the special steel sold in the United States is being imported and so our special steel industry is flat on its back. Unless we in the Congress have the courage to do something about it, the specialty steel industry will not survive another 3 years.

Let me say something to you about what specialty steel is. Everything that you see, everything that you touch, everything processed by man has to have the use of specialty steel to be able to make it or to produce it. Specialty steel is the steel that cuts the molds. It is the steel that makes it possible to build production machinery. Without it you cannot do anything. You would never have gotten off the ground in trying to go to the moon without specialty steel. You would not get from here out the door of the Capitol of the United States without specialty steel having been used.

Everything you see that has been created by modern man, since he first learned how to make steel in its crudest form, has been formed into something useful for the human hand to use through specialty steel.

You cannot survive in peace without specialty steel and without the productivity to meet the demands of peacetime, and in war you have no more hope of surviving than a man in the moon. Germany ran out of pep because her specialty steels were not sufficient to meet the demands for the production of the war machine that had been devastated by the allies. Japan went down the drain for the same reason. If it were not for North Vietnam getting its requirements and needs from Soviet Russia and Red China, they would have been down a long time ago.

The whole basis of human endeavor as we know it in our country and as the world knows it stems from the use of specialty steel.

We, my dear friend from Allegheny County, are in a very dangerous position, and apparently the Congress has lost either its knowledge of the subject, its respect for this Nation's needs, or its regard for the human beings that make up this great country of ours.

I yield whatever time is remaining to the gentleman from Allegheny County.

Mr. GAYDOS. Mr. Speaker, I wish to thank my good friend for yielding to me at this time. JOHN DENT has been fighting the unfair and unreasonable foreign import problem for the last 15 years. As he carries on the almost single-handed battle, he has never hesitated to appear anywhere inside or outside this country to save American jobs and American industry. If someone were to say to me that I could do half as good a job as he, I would consider it an extreme personal compliment. I hope the gentleman is with us for a long time. Regardless of how young he is, we expect him to be here for the next three or four terms, because we do not have many people here who have the knowledge that he has on this very complicated subject.

I can stand here and tell you about the voluntary trade arrangements, the agreements we have had in effect for the last 3 years and how they have been violated, and I can tell you what we are trying to do and what has not been done by the State Department. Many things can be said but only men like JOHN DENT have the expertise and intimate knowledge of our foreign-trade problems and the ability to present them so clearly.

Mr. Speaker, there was a time when the expression "as American as apple pie" carried a most significant meaning. Whether applied to man or machine, it was a declaration to the world that that person or product was American and, therefore, something solid, dependable, something to be trusted.

Regrettably, that no longer applies today. At least not in the business world. Products once made in America by Americans and sold under names that were "as American as apple pie" now are made practically anywhere on the face of the earth. However, because their name still is "American" the product is sold in the United States under the label our people have come to respect and trust.

For instance, Ford Motor Co., a firm whose name occupies a special spot in American history, has parts of its cars made in Canada and England but sold here under the Ford name. Plymouth has a model made in England with parts supplied by Germany. It is not sold as an English Plymouth or a German Plymouth. It is sold simply as a Plymouth, a good solid American name. Dodge, another well-known American auto manufacturer, has a model built in Japan by the Mitsubishi Corp.

Please do not get the idea I am singling out the automakers of America as the only practitioners of this type of sales pitch. The list of "American" products made overseas is a long one. It includes, television models—Monroe, for example; typewriters—Royal; movie cameras—Bell & Howell; radios—RCA; washing machines—General Electric; calculators—NCR, Burroughs and Dictaphone. Even baseball, the all-American game, has gone abroad, Spalding Co., a firm synonomous with baseball, has its "mitts" made overseas.

Some people will say you should not criticize a company for going international, for expanding and increasing its sales. After all, they point out, a firm which is beholden to its stockholders has an obligation to return as high a dividend as possible. The cheap labor markets overseas gives them that opportunity.

I do not stand here to criticize the marketing policy of any company. It is not my intention to tell them how to run their business. But I firmly believe that the American consumer is entitled to know whether the product which carries an "American" name is in fact American made.

Of course, it can be said that many companies do stamp their product with the point of manufacture, telling the consumer the article was made here or there. But too often, far too often, that stamp is not prominently displayed. Granted, the fact the stamp is there at all might meet legal requirements but there is a question whether moral ones are met.

Is it really right to expect a potential auto buyer to crawl under the hood of a new car, search his way through the twisted mass of wiring, dig in through all the nuts and bolts just to find out what parts are made where? Must a customer take apart his radio, TV, or washing machine to find out whether the component parts were made in America or somewhere else?

I will insert into the RECORD at the close of my remarks a copy of a news article which deals with the subject of "American" products manufactured abroad. It was researched by a reporter for United Press International in New York and points out that each year American consumers spend billions of dollars for Japanese-made products which carry American names. The writer notes, too, that many people are not aware of this because labels and plates denoting the point of manufacture often are placed in obscure areas of the product.

That same article, which appeared in the February 14 issue of the Pittsburgh Press, attributes the loss of 275,000 jobs to the flight of American companies overseas where labor is a cheap commodity.

That combination of cheap labor, good technology, and a well-known name product is part of the reason that last year 90 percent of the home radios in America were imported, 51 percent of the black and white TV sets came in from other countries, so did 42 percent of our shoes, 96 percent of our motorcycles, and 68 percent of our sweaters.

You can add to that list the more than 18 million tons of our steel. This is the area which particularly concerns me and the more than 50,000 men and women in the Mon-Yough Valley of the 20th Congressional District of Pennsylvania, who depend on steel and steel products for a living.

These are the people who are still waiting to see what will come from our State Department's attempt to gain a new, and I certainly hope, a meaningful voluntary restraint arrangement with the major foreign steelmakers. I say "meaningful" arrangement because the 1968 one was disastrous. Less than 2 weeks ago, I stood on the floor of this House and told you I was assured of a preliminary report on the negotiations with a more detailed one to follow when the talks were completed. I did not have that report then; I do not have it now.

What I do have is a report from Stewart S. Cort, chairman of Bethlehem Steel Corp. The report is not a cheerful one. Mr. Cort frankly admits the American steel industry is not snapping back from last year's import deluge. Furthermore, the reason he is quoted as giving for the slow recovery is due to continued heavy imports.

Despite the west coast dock strike, imports of steel last month probably equaled the 1.3 million tons shipped into the country during December of 1971. In addition, Bethlehem Steel, despite a pickup in orders from the automotive and construction industries, does not expect to see much of a business increase until next month, according to Mr. Cort

Mr. Cort's comments are contained in a news article in the Pittsburgh Press of February 16, and I will include a copy of that article in the RECORD today. In the same issue, in fact on the same page, is another story which I think will interest you. Written by Robert Dietsch, a Scripps-Howard staff writer, it is primarily concerned with our country's $30 billion deficit in the balance of payments last year. However, it does touch on our lopsided trade balance, which was a factor in the overall deficit. Mr. Dietsch points out that in 1 year this Nation did a complete flip-flop in the import-export area. In 1970, he reports our exports topped our imports by $2.1 billion. But last year the situation was reversed with imports topping our exports by almost $3 billion. He adds a rather gloomy footnote, noting that our exports still are not booming and that we cannot soon expect to see a return to the trade surpluses of a decade ago.

Industry Week magazine did nothing to brighten the outlook in a report it carried in its February 14 issue. The "Valentine" it sent to the steel industry was an announcement that General Motors Corps. planned to double its purchase of Japanese steel this year. According to Industry Week, GM will buy 154,322 net tons from Japan in 1972.

The magazine further warned that:

> Coming on top of an absence of new quota agreements with European and Japanese steel producers, renewed interest in overseas sources raises the threat of another big year for steel import.

Nineteen seventy-one, you recall, was the year of the big love affair between U.S. manufacturers and foreign steelmakers. The result was a record 18.3 million tons of steel, valued at $2.6 billion, another record, shipped into the country.

Industry Week, as does Mr. Cort, sees little to cheer about in the immediate future as far as steel is concerned. The magazine says foreign mills are expected to ship us about 8 million tons in the first half of this year. That is not too far behind last year when imports totaled 9.1 million tons in the same 6-month period.

Quite frankly, Mr. Speaker, I am frightened. The situation grows ever more critical. America, once the greatest exporter in the world, has become the greatest importer in the world. The trade deficit last year, the country's first since 1888, shocked a great many people and, I hope, brought the issue into sharp focus.

It did produce a reaction to "Buy American." I am glad to see that. But, if the present trend continues, that may be all that we produce.

The articles follow:

"MADE IN JAPAN" LABEL WIDESPREAD

NEW YORK.—You may think that the Dodge Colt compact car, Royal's "Apollo" typewriter and Bell & Howell's Super-8 movie camera have little in common.

But they do.

They're all made in Japan.

To the long list of "American" products made overseas can be added many models of television sets, some General Electric washing machines, RCA radios and even Spalding baseball gloves.

Each year Americans spend billions for Japanese products bearing American brand names. Many people aren't even aware of it because labels and plates denoting point of manufacture often are under or on the backs of the machines.

Hitachi makes some models of the RCA radio and G.E. washing machines. Mitsubishi Corp. makes the Colt compact.

NCR, Burroughs and Dictaphone place their names on calculators produced in Japan by Sharp, Sanyo and Nippon, respectively. Most Monroe television sets also are produced abroad.

This flight to cheaper labor markets has cost Americans about 275,000 jobs just in the radio-television and electronics area and the fields of leather footwear, steel, apparel and textiles, according to Bureau of Labor Statistics. Imports in these areas in 1970 contributed nearly $4 billion to the balance of payments deficit.

It's been estimated that Americans in 1971 imported 90 percent of their home radios, 51 per cent of their black and white television sets, 42 per cent of their shoes, 16 per cent of their new cars, 96 per cent of their motorcycles and 68 per cent of their sweaters.

Besides products made overseas and bearing American brand names, a vast quantity of goods are assembled here from components manufactured abroad.

IBM, the leading maker of computers, has a component manufacturing plant in Taiwan. That island also turns out television components and other electronic parts for Philco-Ford, Admiral and General Instruments Co.

Little by little, the drive toward cheaper labor, a major factor in productivity which ultimately determines profit margins, is chipping away at American industries.

Take the portable typewriter industry, for example. Major producers like Royal, Remington and Underwood, acquired by Olivetti, an Italian company, make their products overseas.

Allen business machines (formerly R. C. Allen), an American manufacturer of office typewriters, was forced out of business entirely.

Smith-Corona portables, made by SCM Corp., are the only portables still produced in this country. SCM manages this through automated manufacturing methods at its production complex in the Cortland, N.Y., area.

Despite the automation, Smith-Corona still hires 3,500 workers at these plants. But you can bet that these workers worry some as they feel the pressures of foreign labor closing in on them.

Corporations also feel that pressure. They're caught between the desire to make more profits through higher productivity and public resentment when they phase out plants * * * foreign labor.

IMPORTS STILL HURTING STEEL

Imports are taking the snap out of steel's comeback, according to Stewart S. Cort, chairman of Bethlehem Steel Corp.

Cort said that shipments, which remain well below expected levels, are "inching up" but the reason they aren't more robust "quite frankly, is due to continued heavy imports."

The steel executive said that despite the dock strike on the West Coast, imports last month probably equalled the 1.3 million tons shipped into the U.S. in December.

Despite a pickup in orders from the automotive and construction industries, he said it would be March before Bethlehem would expect to see much of a hike in business.

He reiterated estimates made in the past that industry shipments in the first quarter will be only 21.5 million tons to 22 million tons and lag behind the 24.4 million tons shipped a year ago.

It is still possible, according to Cort, that total shipments this year will reach the 94-million-ton level he had been forecasting two months ago.

Cort added that this figure, which represents an 8 per cent hike from the 87 million tons shipped in 1971, is based on an expected drop in imports from last year's record 18.3 million to around 16 million tons.

Cort said as part of an intensive cost cutting program last year, Bethlehem weeded out unprofitable sales and partially, as a result, saw its shipments fall to 12.6 million tons from 13.8 million in 1970 and its share of the market slip to 14.5 per cent from 15.2.

He said Bethlehem is "going to try with every effort" to regain its market share this year, and he forecasts the company's shipments in 1972 at 14 million tons.

He declined to project earnings and laughed at estimates by some analysts that the company will earn $4 or more a share this year. "I like those figures," he said, adding that "We'll have to work hard to meet that."

Some analysts had increased their projections for Bethlehem from around $3.50 a share earlier this year when the company astounded the industry by reporting a 54.6 per cent surge in earnings to $139,239,000 or $3.14 a share on a 1 per cent gain in sales to $2.96 billion.

Cort said it's too early to tell if Bethlehem can match last year's first quarter net of $33,125,000 or 75 cents a share on sales of $768.4 million.

"We had a chance in a few early months last year—when customers were building inventory as a hedge against a strike that didn't materialize—to turn the motor on and really let things roll at optimum levels." But sluggish demand has kept operations below these levels so far this year.

PAYMENTS DEFICIT RECORD IN 1971

(By Robert Dietsch)

WASHINGTON.—The $29.6 billion deficit in the U.S. balance of payments last year set a record.

Administration officials and private bankers said today they foresee some improvement, but not much, for 1972.

The Commerce Department reported yesterday that the 1971 payments deficit was $19.8 billion more than the previous record set only a year earlier.

The figures reflect what economists call the "official reserve transactions balance" meaning that foreign central banks accumulated $29.6 billion more than they sent to the United States.

By another method of measurement—one which reflects dollars accumulated by both foreign central banks and foreign private sources (individuals, private banks and corporations)—the 1971 balance of payments deficit was $21.2 billion.

This also was a record by far. The previous record deficit by this accounting was $3.8 billion set in 1970.

The deterioration of the payments account is reflected in the fact that in 1969 the official reserve payments account had a $2.7 billion surplus.

Main reason for the massive dollar exodus last year was the loss of faith in the dollar last spring and summer.

Foreigners had piled up so many dollars they became apprehensive about the U.S. government's ability or intent to swap them for gold. They became convinced the dollar was overvalued in relation to other major world currencies.

As a result, not only foreigners but U.S. businessmen and banks doing business overseas sold dollars to buy other currencies, especially the West German mark and the Japanese yen.

It was to stem such dollar hemorrhaging that President Nixon last Aug. 15 ended the policy of swapping dollars for gold and thus, in effect, devalued the dollar.

The official devaluation did not come until shortly before Christmas, when the dollar was cheapened in price in relation to other currencies and many other currencies were raised in price in relation to the dollar.

Another factor in the swelling of the 1971 payments deficit was a deteriorating U.S. trade balance. In 1970, U.S. exports topped imports by about $2.1 billion; but in 1971, imports topped exports by almost $3 billion. It was the country's first trade deficit since 1888.

The new alignment of currencies, which gives the dollar an edge in world merchandise and financial transactions, was designed to help the U.S. payments account. But most economists think it will be several years before any sizeable improvement can be made.

U.S. exports still are not booming and the country cannot soon expect the hefty trade surpluses it enjoyed in the early 1960s.

And, despite the new currency alignment, there has been no massive flow of dollars back into the United States.

[From the Daily News, McKeesport, Pa., Feb. 14, 1972]

STEEL IMPORTS SET RECORD IN 1971

CLEVELAND, OHIO.—More foreign steel entered the United States last year than ever before, and U.S. manufacturers are looking to overseas steel mills again this year for price breaks, Industry Week magazine reports.

Steel users last year built up a strike hedge with foreign steel at a cost of $2.6 billion. This year, customers are looking to the lower cost of imported steel in the face of hikes by U.S. steelmakers, the business weekly said.

General Motors Corp. said it will buy 154,322 net tons of Japanese steel this year—double the amount GM purchased last year, Industry Week said.

"Coming on top of an absence of new quota agreements with European and Japanese steel producers, renewed interest in overseas sources raises the threat of another big year for steel imports," the magazine said.

It noted a record 18.3 million net tons of foreign steel entered the U.S. last year.

Domestic steelmakers forecast imports for the first half of the year will be about 3.5 million net tons the first quarter and 4.5 million net tons the second quarter. Last year, 3.8 million net tons were imported the first period and 5.3 million net tons the second.

The magazine said, however, that "there is some indication . . . that overseas steel producers are eyeing price hikes of their own."

Imports may "hit a snag in the form of a strike of dock workers at the Great Lakes ports April 1," Industry Week said.

"Contracts with the International Longshoremen's Association expire on the Great Lakes March 31, and unless the federal Pay Board approves a 40 per cent increase like that won on the East, West and Gulf coasts, lake port stevedores will probably be asked to strike."

Industry Week estimated 2,378,000 net tons of raw steel were poured in the week ended Feb. 12, compared with 2,345,000 net tons for the week ended Feb. 5.

The price composite on No. 1 heavy melting steelmaking scrap held at $34.83 per gross ton for the second week the magazine said.

[From Industry Week, Feb. 14, 1972]

MORE STEEL CUSTOMERS GO SHOPPING OVERSEAS

U.S. manufacturers are again flirting with foreign steelmakers—and this could further hurt the domestic mills they jilted last year.

In 1971, steel users in this country had a record $2.6 billion affair with overseas suppliers as they built huge strikehedge stockpiles. This year, customers are looking for price breaks in the face of hikes by U.S. steelmakers.

Evidence of current interest in import steel is mounting:

The recent price increase on cold rolled steel sheet and strip apparently hasn't cost U.S. mills any business yet—but it is causing some customers to grumble and check foreign price lists.

Price shading on some other steel product lines is necessary to keep orders in this country, notes a Chicago area mill.

General Motors Corp. says it will buy 154,322 net tons of Japanese steel this year—double the amount it purchased last year.

A Southern pig iron facility has been closed because its customers were able to buy more cheaply overseas.

Import fears.—Coming on top of an absence of new quota agreements with European and Japanese steel producers, renewed interest in overseas sources raises the threat of another big year for steel imports. Last year, more foreign steel than ever before—18.3 million net tons—entered the U.S.

Indeed, domestic steelmakers are forecasting imports for the first two quarters at a relatively high level, although down from record 1971. Foreign mills are expected to ship about 3.5 million net tons of steel to this country in the first quarter and 4.5 million tons in the second. A year ago, they shipped 3.8 million and 5.3 million tons, respectively.

There is, however, some indication that overseas steel producers are eying price hikes of their own. Most are reported to be signing contracts of only three months.

I yield to the gentleman from Ohio.

Mr. CARNEY. Mr. Speaker, I want to take this opportunity to congratulate the two gentlemen from Pennsylvania.

Congressman JOHN DENT has long been an advocate of a truer and freer and better life for Americans, and also his colleague Congressman GAYDOS.

This is my first full term here. I came down here as a theoretical free trader. All I had read and studied advocated the policies of free trade. However, after being here for just 1 short year I have found that America is in desperate straits.

My district, formerly a great steel district in the Mahoning Valley area—the Cumberland and Mahoning Valley area—in the State of Ohio has had small plant after small plant closing their doors for good. The great United States Steel Co. shut down the Ohio works at Youngstown early in July of last year idling about 3,400 workers. They have opened up that plant to 700 people in the last 3 weeks. There are over 2,000 workers still unemployed at that plant. The Highland Co. in my district shut its doors forever a few weeks ago and sold all its equipment. It employed as many as 400 people and at the time of its closing 300 people.

In each and every one of these instances they gave the same reason for closing. United States Steel gave as the reason for shutting down its Ohio works, which made some of the best alloy steels in the world, the fact that they could not compete with cheap foreign imports. The Highland Co., which is one of the oldest companies, going back to Civil War days in the steel valley, shut down because of foreign imports.

Congressman DENT in his very fine speech started off by saying that it seemed to him that the people just do not care. They do not care. He gave instance after instance of that. I am saying to this Congress and to the people of the United States we had better start caring or it will be woe for America.

So, I appeal to you here for assistance in this matter. I cannot do too much on my own, but I want to say that I wish to associate myself with the remarks of the gentleman from Pennsylvania (Mr. GAYDOS) and the gentleman from Pennsylvania (Mr. DENT) and those who want the America of old, and I will do my best to help them.

IMPORTS AND FREE TRADE HURTING THE AMERICAN ECONOMY

The SPEAKER pro tempore (Mr. KEE). Under a previous order of the House the gentleman from Pennsylvania (Mr. GAYDOS) is recognized for 30 minutes.

Mr. GAYDOS. I thank you, Mr. Speaker. I am only going to take approximately 2 or 3 minutes.

However, I would like to make a point which I think is very important, particularly for my colleagues, if I may have their attention. A great many people, in fact most people throughout the country, for many years have had the misunderstanding of what we mean by fair foreign trade under international law.

Mr. Speaker, the difference between protectionism and liberalism is clear and regardless of the difference, it must be understood that those who advocate reasonable restraints and a fair quota system are not those who are saying we should not be trading with anyone.

It is fundamental, but a lot of people have a misunderstanding and a misconception, particularly those businessmen who make their living in the import business, because they believe when we talk about a voluntary arrangement to restrict imports, they think we are cutting off their life line. They misinterpret it and they immediately begin accusing us of being antifree trade.

Mr. Speaker, there cannot be any more erroneous conclusion than that. We must understand fair trade as distinguished from free trade.

Under fair international agreements—and I hope they will be binding—a country would be allowed to produce within its capabilities and send that product to this country under reasonable regulations and we, in turn, would manufacture and deliver to the world—in those areas where we can sell our product to those who do not have it without creating a great imbalance between the economic situation as we see it. These are very broad concepts. It is fundamental that if we sell, we would of necessity be expected to buy. However, the point to remember when you do buy is that you must have a fair atmosphere in which to buy, and that a foreign country should not have the opportunity, a legal right based upon international agreements, to come into this country, pick out one particular segment of an industry and flood that area by dumping their products and thereby do irreparable harm to that industry.

Mr. Speaker, it is an insidious type of operation and a designed approach to capture a product market.

The Japanese are past masters at this and pick out certain segments of our industry, doing just what I explained, and then doing carte blanche what they want to do. The consumer, of course, does not see the inherent danger in this type of operation. We have many people who are critical of the so-called fair traders when they say we are taking away the opportunity to buy a product at a lower price than an American-made product, particularly in view of inflation and high taxes. They say we are hurting the American consumer. They say you are not allowing them to have a free choice, that they should have a right to a competitive product price. The example is cited many times to the effect that a mother or father is pressured by a child to buy a bicycle or tricycle of a foreign make. Because of the high cost of living and taxes being what they are, that housewife when she walks into that store should have a right to buy that Japanese-made bicycle. She should have the right to spend $30 for that Japanese bicycle which today is as good and sometimes better than the American bicycle.

She should have the right, because of her economic condition, to have available a $30 tricycle for purchase, and save the difference between the $50 cost of the American product and the one she is buying. I say this is right. From my research I do not believe you can convince anyone in this country that one can go to the workingmen or to the so-called middle-class income group and expect them to solve our international trade problem by buying American. We would like to see people buy American. But as I see it, and as I analyze it—and I think I am on solid ground—it is impractical; we cannot buy American because of the economic situation. I think it is illustrative of what occurs with so many different products. You cannot put this obligation upon the backs of the consumers and expect them to buy American because it is, costwise, too impractical. So what is the alternative?

As I see it, as a fair trader, distinguished from a free trader, I would advocate a reasonable amount of bicycles be imported into this country. I say a reasonable amount, yes, so as to keep our manufacturers in a competitive situation so that that American product remains a good American product compared with those imported into this country.

Yes, imports are important. We cannot expect to sell and not to buy. Yes, that housewife, because of her particular economic situation, should have the choice of a cheaper product so as to be able to buy that $30 tricycle. As I say, this is a general observation considering the entire problem. I do not think that that position could be criticized that it is not a reasonable position; that it is not well thought out. It is good for the American manufacturer and the American consumer. But what bothers me, and what bothers every American and every Member of this House, is the fact that the Japanese and the European Common Market countries are able to pick out a specific product such as, you might say, the Honda motorcycles they are selling in this country. They will dump their product in the first instance on the American market at far below what it costs them to manufacture. And then once they corner that market, and once the American manufacturer folds because he cannot compete, then the sky is the limit. They charge what they want and the product eventually changes in price, quality, and durability.

Once they have captured the market, the quality of that product slowly, but surely, diminishes. Before you know it, the product becomes inferior to the American product and it becomes more expensive.

Just to give you a good example of that situation, we had cameras that were manufactured in Germany, and those German cameras were competitive with the other cameras then being sold. They were available after World War II for a price of $300 to $350. The Nikon camera from Japan was a competitive product brought into this country, to compete with the German cameras. Of course, the American camera manufacturers were out of the business a long time ago, so we are not even talking about the American end of it. But the Nikon and other Japanese cameras competed with the German cameras, and undersold the German cameras. The end result was that the German producers were forced to withdraw from the market. And now that same camera costs $150 over the original price because they captured the market and now there are no other competitors.

That is how this insidious movement goes, day after day, month after month, and year after year.

In fact, the Japanese Government has today in the city of New York 14,000 to 16,000 highly trained representatives. They live in a community in New York, all together. They have one interest in common, and that is to sell Japanese products.

They knew years back that if they wanted to match the economy of this country and wanted to increase their standard of living to be at least comparable to what the American standard of living is, they would have to outsell and outproduce us. I would do the same thing. If I wanted to help my people and my country as an elected official I would look at the most successful country in the world, which happens to be us—and I would use them as an example and study it and see what they did that was right and how they did it. That is what I would do and that is what they did.

They found out that we sold a lot of things to a lot of people and in a lot of places and they found out that we had the technology and the patents, the copyrights and the research and development.

They knew what to do some 25 years ago with our money—they put together an industrial complex second to none and with our money. They picked up the result of our Government investments like Acu color in the TV industry, where this Government had spent millions of dollars. The Japanese representatives being well schooled and skilled in the special school of international diplomacy came into this country and saw what was going on in California and bought the patent rights on which we spent so much of the taxpayers' money. Now they have the only exclusive copyrighted Acu color in the world. That is what is selling their color TV sets. That is what they have been doing and will continue to do.

We have antitrust laws in this country that say you must be very careful or you will be violating the law—you cannot get together in concert nor can you put together a cartel.

But the Japanese analyzing our economy and our free enterprise system have done just the opposite. They have allowed and encouraged their companies, their entire steelmaking industries, to work together and have given them special money credit—they have allowed them to sit in one room and fix prices. They have encouraged that.

The Japanese made a decision a long time ago—we are not going to allow to exist nor are we going to permit a drain upon our productive wealth any company that is incapable of producing efficiently. They have methodically and coldly put poorly run industries out of business.

We are going to have to take a second look in this country as to how we run our free enterprise business.

I am a firm advocate of the laissez faire doctrine of carrying on business—hands off and private industry will do it. They will do it better, cheaper and more efficiently if you allow them to do it. If we are going to sustain this doctrine and this philosophy, if we want to better it, we have to make some changes to remain competitive with the Japanese.

Mr. Speaker, I do not want to take any more time. I would hope our colleagues would join us in a special order of business to discuss all the aspects of this matter and make sure that our discussions are carried back to our districts.

I think the time has come when we must all get together behind the same wheel and push in the same direction.

KEMP FEDERAL WATER POLLUTION CONTROL BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 30 minutes.

Mr. KEMP. Mr. Speaker, today I am introducing in the House forceful legislation to amend the Federal Water Pollution Control Act.

It states unequivocally that no one has the right to pollute.

With the full realization that our concern for the environment must transcend politics, even in an election year, I am introducing, with some refinements, the Water Pollution Control Act which our Senate colleagues have approved, the bill introduced in the Senate by Senator EDMUND S. MUSKIE.

I also have the greatest respect for the work done by the House Committee on Public Works under the leadership of the very able and distinguished chairman, the gentleman from Minnesota (Mr. BLATNIK). I therefore have used those provisions of the Blatnik bill which I feel contribute most effectively in the fight to control water pollution.

With this in mind, I respectfully bring to the attention of my colleagues and the distinguished members of Mr. BLATNIK's committee, through the introduction of this legislation today, several points which I feel are critical to a strong and effective water pollution control bill.

This bill is the most practical and most available legislation to curb pollution in Lake Erie and all the waters in the United States at the earliest possible date.

It is a tough and challenging proposal which establishes a timetable to achieve an ambitious goal: The total elimination of all effluent discharges into the Nation's waterways by a 1985 deadline.

I believe that this 1985 goal of "zero discharge" is more reasonable than its critics may think. The bill sets zero discharge as a goal, not a legal requirement. And every step toward achieving that goal is clearly circumscribed by cost considerations.

The legislation has two stages. During its first phase ending in 1976, all companies must apply the "best practicable" technology to control water pollution. In its second phase, companies must achieve zero discharge by 1981 unless they can show it cannot be done at "reasonable cost." In that case, they must employ the "best available" technology. The aim: To achieve water clean enough for swimming and fish propagation by 1981 and to eliminate all effluents by 1985. The legislation which I am urging you to approve is widely misunderstood by industrial critics and others, despite the fact it contains effective safeguards to protect economic interests and existing jobs and, at the same time, holds the promise of helping to create additional jobs in a new and expanding antipollution industry.

The language of my bill which I will introduce tomorrow is careful not to eliminate affluence along with effluents. The phrases "best practicable" and "best available" are defined to consider the ages of the plants, their sizes, their processes, and the cost of controls—thereby ruling out ruinously expensive techniques. Furthermore, the bill requires the Environmental Protection Agency to study the cost and feasibility of zero discharge. If the costs outweigh the benefits, Congress is charged with making a "mid-course correction" by 1976, eliminating zero discharge as a national goal altogether.

While no one knows precisely what zero discharge would eventually cost, there are many signs that the price tag will not be as high as critics fear. Several companies, including Dow Chemical and Hercules, are already operating plants that have achieved zero discharge through recycling. And General Motors plans to convert a Chevrolet assembly plant on the Hudson River to complete recycling of waste water. Since no one has compelled these companies to eliminate pollution, the costs are obviously not prohibitive. Indeed, as Dow has found, it is often cheaper to recycle wastes than to build expensive treatment facilities.

This legislation encourages the recycling of waste water used by industry.

In many cases of industrial use of recycled water, the water does not have to be completely purged of pollutants.

In addition, the Environmental Protection Agency has stated that the technology for closed loop recycling seems within reach of many industries.

My bill as does Senator MUSKIE's makes unlawful the dumping or disposal of any radiological, chemical, or biological warfare agent, or high-level radioactive waste into the oceans or the waters of the contiguous zone—3 to 12 miles—and the territorial seas—0 to 3 miles.

Discharges into the territorial seas or discharges from ocean outfalls are subject to the regulations applicable to discharge into the domestic, navigable waters.

For new, point sources of pollutants, the bill requires the Administrator to set uniform standards of performance. These standards must reflect the maximum reduction of pollutants possible through use of the best available control technology.

Twenty-eight types of industry listed by the bill are to be covered by the performance standards. Each State may develop and submit to the Administrator a procedure for enforcing the performance standards for new, point sources located within the State.

This bill contains a sensible, philosophical shift from the 1965 water pollution control law which currently allows each state to determine how it wants to use its waters, either for industry or recreation.

The 1965 law is difficult to implement. Ecologically, it is difficult to link water quality standards to pollutant discharges. In contrast, the Kemp bill establishes a practical goal for zero discharge instead of an inflexible legal requirement.

My bill provides that firms must achieve zero discharge unless they can factually show that the goal cannot be reached at reasonable cost.

It shifts the burden of proof from the regulating government to the polluter and thus has the additional benefit of easing enforcement procedures.

I believe that the philosophy and main thrust of the provisions of this bill are of critical importance and should be contained in the final water pollution control legislation which will be passed by this Congress.

I have made several additions to the legislation now under consideration which I believe make a better and stronger bill. For example, I felt that the Senate-passed bill lacked adequate financing in some areas.

The legislation I am introducing today would add approximately $100 million for a cleanup program for the Great Lakes, based upon a study made by the Environmental Protection Agency. The water of the Great Lakes is the primary physical fact in the lives of the more than 35 million people now living and working in the Great Lakes region in Canada and the United States. A program to clean and restore the Great Lakes must no longer be delayed.

I have included a new section in this legislation which contains the provisions of a bill which I previously introduced to regulate the disposition of wastes by subsurface injection. The subsurface environment must be protected so as to yield the maximum environmental benefits to man. This section will help accomplish this by giving the Environmental Protection Agency exclusive authority for determining, first, those subsurface areas and stratigraphic zones which are suitable for subsurface disposal or storage of wastes; second, those wastes—including sewage—which are suitable for subsurface disposal; and third, criteria for the construction and operation of wells for the disposal or storage of such wastes.

We must act now before our subsurface environment has gone the way of Lake Erie and our other surface waters.

Reimbursement is of critical importance to the States' pure water programs. An additional $1 billion is included in my legislation to provide adequate financing for conventional reimbursement. The bill also provides reimbursement for sewage treatment plant built without Federal assistance during earlier stages of the Federal program. I feel that the House will eventually agree that Federal participation for retroactive grants should be 50 percent.

Mr. Speaker, in order to emphasize the need to amend both Senate and House reimbursement sections, I am including at the end of my remarks a letter from Henry L. Diamond, Commissioner of the State of New York, Department of Environmental Conservation, which points out that the amendments which I have proposed are both equitable and necessary.

Also, Mr. Speaker, I am convinced that industry as a whole, as demonstrated by the achievements of Dow Chemical and Hercules, will come to the conclusion that the philosophy of a reasonable goal should not be thrust aside because the urgings of the inefficient or those too timid to accept change. The material follows:

STATE OF NEW YORK, DEPARTMENT
OF ENVIRONMENTAL CONSERVATION,
Albany, N.Y., February 8, 1972.

To: Members, New York Congressional Delegation.

Subject: Legislation to amend the Federal Water Pollution Control Act and its effect on projects pending in New York State.

I appreciated the opportunity to meet last week with Members of the Delegation and their staffs regarding water pollution legislation, particularly as it relates to the 45 projects that had been withdrawn from consideration by the Environmental Protection Agency and the 112 projects which had been scheduled for submission to EPA.

We were pleased that the Delegation was anxious to assure that provisions in any legislation that is enacted will not impede the progress of water pollution control in New York.

Attached is a summary of the six most important provisions in pending legislation, with comments on how we believe these provisions affect the best interests of New York State.

Several Members requested data on prefinancing commitments by the State and municipalities for projects in their Districts. Enclosed is a list of commitments for all the projects involved in New York State.

We appreciate your help greatly.

Sincerely,

HENRY L. DIAMOND,
Commissioner.

FEDERAL WATER POLLUTION CONTROL PROGRAM—EFFECT OF PROPOSED LEGISLATION ON PENDING PROJECTS IN NEW YORK STATE

1. FINANCING

a. Attached (*Tab. A*) is a table showing the details of the following:

I. New York's pending projects (three-year projection) (Total eligible cost through FY '74), $1,790 million.

As detailed in Tab A, following is a summary of how these projects could be financed under the various proposals being considered by Congress:

II. *Senate bill,* which would provide over a four-year period financing for New York projects costing, $1,442 million.

III. *House bill,* which would provide over a four-year period financing for New York projects costing, $3,395 million.

IV. Administration budget, which would provide over a four-year period financing for New York projects costing: under Senate formula, $765 million; under House formula, $1,315 million.

V. *Administration proposed legislation,* which would provide over a three-year period financing for New York projects costing, $585 million.

b. *State Matching grants:*

The above financing is based on the maximum Federal share which would be available if the State provided matching grants (i.e., 10% under Senate formula, 15% under House formula, and 25% under Administration's proposed legislation).

As you know, authority for New York's basic grant program expires March 31, 1972. The Legislature is being requested to provide a State matching grant that will result in a municipality receiving the maximum Federal share under any proposed legislation.

If the authority is not approved by the Legislature, the minimum Federal financing (i.e., 60% under Senate and House bills, and 30% under administration proposed legislation) would be available for projects in New York, and municipalities would finance everything over the Federal share.

However, with no State matching grant, the available Federal funds under each formula would finance a far greater number of projects, as indicated by the following:

Senate bill, 60% Federal grant, would finance over a *four*-year period for New York projects costing, $1,681 million.

House bill, 60% Federal grant, would finance over a *four*-year period for New York projects costing, $4,243 million.

Administration budget of $2 billion a year, would finance over a *four*-year period for New York projects costing; under Senate formula (60% grants), $955 million; under House formula (60% grants), $1,644 million

Administration's proposed legislation, 30% Federal grants, would finance over a *three*-year period for New York projects costing, $1,072 million.

c. Allocation to States on basis of population (Senate bill), or basis of need (House bill).

As can be concluded from the above, all but the House proposal fall short of meeting the needs in New York State.

Financing under the House bill is far superior, since funds would be allocated to the States on the basis of need (under which New York would receive approximately 13% of the funds under *present* criteria of need.)

If the needs criteria are not changed, *and if the eligibility criteria for construction grants are not changed,* funds would be available under the House bill to finance not only the $1,790 million worth of projects now in the pipeline or in the pre-application stage, but would enable the State to plan with confidence for its program beyond Fiscal Year 1974.

A new survey of needs of the States is expected to be issued shortly, and New York's relative position may drop somewhat, perhaps to 10% or 11% of the total national need. The figures listed above under the House bill would therefore be commensurately reduced. Nevertheless, the House needs formula is in the best interests of New York State.

d. *Financing if eligibility criteria for construction grants are changed significantly.*

Authorizations for funding of construction would be a purely academic exercise if the eligibility criteria were changed significantly, since no grant could be approved until the new criteria are met. This is explained in detail under item 3 of this document, which recommends a two-year transition period for the States and municipalities, to enable them to continue their current pollution abatement efforts, and at the same time to prepare to meet the new criteria.

e. *Recommendations:* That the Delegation support—

(1) The authorizations in the House bill;

(2) Allocations to the States on the basis of need.

2. ADVANCE FUNDING OF PROJECTS; PREFINANCING AUTHORITY

a. *Advance funding of Projects:* Under both the Senate and House bills, the States would be permitted to "borrow" against future allocations, but only up to the amount for which they would be eligible over a four-year period. (Note: The House language is somewhat unclear on this point).

Comment: New York State strongly supports the advance funding provision, to enable the State to move forward quickly with most of the 157 projects now in the pipeline. The New York Delegation should recognize, however, that this authority is limited, and is not comparable to prefinancing/reimbursement authority in the 1966 Act, which did not limit the amount of prefinancing the State and its municipalities could undertake.

b. *Prefinancing/reimbursement authority for future projects:* There is no provision in either the House or Senate bill to prefinance projects in the future.

Comment: New York does not support a continuation of this authority, *unless* there is an iron-clad guarantee that any funds prefinanced in the future would be reimbursed by the Federal Government. If all the funds authorized in the House bill are made available to the States, there would be no need for any State to prefinance a portion of the Federal share of the cost of projects.

c. *Recommendations:* That the Delegation—

(1) Support advance funding of projects

(2) Oppose continuation of prefinancing authority unless such authority is supported by an iron-clad guarantee of reimbursement.

3. NEW CRITERIA AND CONDITIONS

a. *New Criteria:* The estimates under 1. above are based on criteria promulgated under the 1966 Act. Since costs increase with each higher degree of treatment, and since additional facilities would become eligible for grant assistance, the funds authorized would commensurately reduce the number of projects that could be financed. The problem of costs incurred through new or additional criteria are more thoroughly discussed under item 5. of this document.

b. *New Conditions for Grant Awards*

The Senate bill gives six conditions under which grants for treatment works would be approved by the Administrator (See *Tab B* for details of key conditions)

Comment: An analysis indicates it is unlikely that any State will be able to meet all these conditions for at least two years, if the conditions are as stringently applied as others have been in the recent past. *No project could be approved until these conditions are met.*

The additional conditions will require revisions of applications and plans for projects that New York now has ready to be submitted to the EPA. These revisions will involve a time period of several months for small projects, and several years (at least two or three) for large projects.

The House bill would, with one major exception (noted in Tab B attached) permit New York's program to continue without interruption.

c. *Recommendation.* In order to continue the momentum of the current pollution abatement program, and to provide sufficient time to meet the new conditions, it is recommended that any new additional conditions be applicable two years after enactment (instead of January 1, 1973, as provided in the House bill.)

See page 4 of Tab B for suggested language.

4. REIMBURSEMENTS

The total eligible reimbursables for New York State was estimated to be $1.3 billion as of December 31, 1971. The final figures on New York's eligibility will not be known until the end of 1972, when all bids are expected to be in, and construction contracts are awarded. (See Tab C for details).

a. *Senate bill.*

(1) *$2 billion is authorized for*—

(a) *"Conventional reimbursements"* (such as undertaken by New York and about 25 other States between FY '67 and FY '71).

Comment: The Senate report stated that the reimbursable balance as of July 1, 1971 totaled $1.63 billion, of which the New York share was approximately half.

However, the national total had grown to $1.85 billion by September 30, 1971, and is expected to increase to a minimum of $2.5 billion by the end of 1972.

(b) *Retroactive grants* to raise Federal share to 50% for those States which were eligible for only 30–33% Federal grants.

The EPA Administrator, in a recent report giving a State-by-State breakdown, estimated that $456 million will be required for retroactive grants. The New York figure is $4.1 million.

Comment: If the $2 billion authorization is retained in final legislation, the available funds appropriated by Congress will be allocated on the basis of the ratio of eligibility.

(2) *$400 million is authorized* to bring the Federal share to 30% for projects approved prior to FY '67.

Comment: This authorization is particularly significant for projects in cities, which were limited to $250,000 per project during the period 1956–1961, and $600,000 through 1966.

Several projects in New York State may be eligible for these additional funds.

b. *House bill.*

(1) $2 billion authorized for "conventional" reimbursements. Retroactive grants (from 30% to 50%) are not included in the House bill.

(2) $750 million is authorized for projects approved prior to FY '67 (same provision as Senate bill, but with higher authorization).

c. *Recommendation.* That retroactive grants be included in the House bill, and the authorization for "conventional" and retroactive grants be increased to $3 billion.

5. NATIONAL ACADEMIES OF SCIENCES AND ENGINEERS STUDY OF SOCIAL AND ECONOMIC COST OF MEETING NEW CRITERIA

a. *The Senate bill* would require:

For industries: "best practicable control technology" by January 1, 1976 and "complete elimination" of discharges by January 1, 1981, except that in the latter case, if compliance is unattainable at a reasonable cost, "best available technology," taking into account the cost, would be required.

For municipalities: the bill would require:

First: "secondary treatment" by January 1, 1976;

Second: "best practicable waste treatment technology" by January 1, 1981, including wastewater reclamation and land disposal of discharges; and,

Third: to the extent practicable, complete elimination of discharges "at a later date" (Under the "Declaration of Policy" the bill establishes a policy that discharges into the navigable waters be eliminated by 1985.)

If the discharge requirements to be achieved by 1981 are insufficient to protect the quality of any stream or other receiving water for any water use including propagation of shellfish, fish and wildlife and swimming, more stringent controls can be required unless a discharger proves that the economic and social benefits (including the water improvement) are not sufficient to justify the economic and social costs.

b. *The House bill* would establish essentially the same effluent limitations as in the Senate bill for achievement by 1976, but adds a provision for extensions for periods not to exceed two years if completion of construction is proven to be physically or legally unachievable by that time.

In the House bill, however, the provision for more stringent effluent limitations related to receiving water quality standards would be based on the principle of best use designation under the existing law, but would require such standards to be extended to cover all navigable waters.

The effluent limitation goals for 1981 and 1985 for complete elimination of discharges or best available treatment technology in the House bill would not be implemented unless specifically authorized by Congress after evaluation of a comprehensive study of the economic, social and environmental costs and benefits to be submitted within two years by the National Academies of Sciences and Engineering.

Comment: The House bill requirements are much more practical and capable of achievement than those of the Senate bill in the face of economic, technological and environmental constraints (including the Federal Government limitations on funding Federal shares of municipal project costs as discussed under Item 1, "Financing", above) during the period up to 1976. Achievement of present pollution abatement goals and the new national objective of effluent limitations based on best practicable control technology for industries and secondary treatment for municipalities, if not already equalled or exceeded due to the requirements of existing or new receiving water quality standards, should not be inhibited by the simultaneous confusion over achieving goals set for 1981 and 1985, the costs and benefits of which have not been carefully evaluated.

Recommendation: New York's present water quality standards and policies require that its waters be suitable for *recreational purposes* for people and protection of fish, shellfish and wildlife, with exceptions such as New York Harbor, East River, the Lower Buffalo River and the Lower Genesee River, where the cost of achieving water quality suitable for swimming and suitable for the propagation of aquatic life would be far in excess of the uses—i.e., shipping, etc.—for which those waters are used or would be in the foreseeable future.

If New York's current program is permitted to continue, present standards will largely be met by 1976. The costs of meeting present standards are extremely high, but there is no question regarding the State's commitment in this regard.

New York supports the goal of even higher standards, and the upgrading of its standards is a continuing process, a step at a time. For example, phosphate removal in the Great Lakes Watersheds is not required under the State's Federally approved standards, but is required by New York State policy, and is being achieved.

New York has attempted to estimate the cost of the "great leap forward" to "no discharge" by 1981 for industry and 1985 for municipalities, and the policy of restoration of all waters to their *natural* chemical, physical and biological integrity, declared by the Senate bill. The State's estimates are based on the considerable experience it has had in dealing with the problem of costs when standards are upgraded even slightly.

New York strongly supports a study of social and economic costs of achieving "no discharge" of pollutants. The study should be conducted by a group that has unquestioned expertise. The provision in the House bill for such a study, to be completed in two years by the National Academies of Sciences and Engineering, and the requirement for subsequent statutory action by Congress before any "ratcheting up" of effluent limitations for 1981 and beyond, clearly is an approach which would prevent confusion and possible expenditures of billions of dollars, the benefits from which now can only be guessed, if indeed any at all would be realized.

6. PERMITS

a. *Senate bill.*

The Senate bill provides for a new National Permit System, covering both municipal and industrial discharges to navigable water. It does not provide specifically for discontinuation of the 1899 Refuse Act Permit Program (which covers only industrial discharges).

The Administrator of EPA would be authorized to approve any State permit program which complies with specific requirements in the bill as well as additional guidelines to be developed by the EPA. However, the Administrator would have the authority to review and veto each and every permit issued by a State after his approval of the State program. He also would be authorized to withdraw approval of a State program and resume Federal EPA issuance of permits in a State.

No provision for appeal (to a quasijudicial or administrative board, for example) by a State or a discharger to an action of the EPA with regard to approval of a State permit program or an individual permit is included in the bill, other than to the courts.

EPA would be authorized to enforce directly the effluent limitations and other requirements of either a State or EPA issued permit.

b. *House bill.*

The House bill provisions on the new National Permit System are similar to the Senate bill, with the following improvements:

(1) Issuance of permits under the 1899 Refuse Act Program would be terminated upon enactment of the bill, and all future permits would be issued under the new National Permit System.

(2) The EPA Administrator would be authorized to approve a State program for issuance of permits under the National System in the interim between enactment of the bill and promulgation of the National System guidelines.

(3) The EPA review and veto of permits issued by a State under the National System would be restricted to those discharges from sources in a State which affect another State.

c. *Comments:* The House bill is much superior to the Senate bill, in that it would much more quickly and efficiently terminate the pollution abatement confusion caused by the present red tape and overlapping and duplication of the 1899 Federal Refuse Act Permit Program (FRAPP) with permit programs in many States.

The FRAPP, started in December 1970, will result in expenditures of $5.7 million in FY '72 by EPA alone (the Army Corps of Engineers also is deeply involved), and is budgeted in FY '73 for an increase to $9.7 million, as compared to the annual Federal assistance of $10 million for all aspects of the 50 State water pollution control programs.

During this period FRAPP has abated no pollution, and has issued about 20 permits from tons of paperwork involved in over 20,000 applications.

d. *Recommendations:* The House bill provisions should be supported as a considerable improvement over the Senate bill.

However, the following provisions should be added to maintain the continuity of present State permit programs until any new EPA guidelines can be promulgated and full compliance achieved therewith:

(1) A State-operated permit program, which was in effect prior to the effective date of the Act, shall remain in effect and constitute the National Permit System in a State, under the following conditions:

That the EPA Administrator approve a State program

That a State notifies EPA that it intends to participate in a permit program under the National System

That the permit program of a State appears to comply substantially with Federal guidelines for approval on the effective date of the Act, or will comply with the guidelines in the near future.

(2) State permits shall be effective upon issuance. The Federal Government shall have direct authority to veto or override the State permit for discharges other than those affecting other States only during the first year after enactment, or until full compliance with promulgated guidelines is achieved.

(3) To provide an opportunity to appeal any discretionary actions by the Administrator authorized in the legislation, particularly Sections 101, 106, 304 and 402 (Permits).

Section 509 should be appropriately revised, in order to include establishment of a quasijudicial hearing board. Suggested language is proposed in *Tab D.*

PROJECTS PLANNED, NEW YORK STATE

	Total eligible cost
45 projects, withdrawn Jan. 20 from EPA	$546,000,000
112 projects, originally scheduled for submission to EPA prior to Mar. 31, 1972	937,000,000
Total, projects in pipeline	1,483,000,000
55 projects—preapplication stage	307,000,000
Total program that could go forward by June 30, 1974	[1] 1,790,000,000

[1] For construction starts in fiscal years 1973 and 1974 these costs will require adjustments (higher).

II. SENATE BILL, S. 2770 ($14,000,000,000 OVER 4 YEARS)

[Allocation to New York: 8.08 percent—based on population; Federal matching: 70 percent maximum (if State matches with 10 percent grant) local share would be 20 percent]

Fiscal year	Authorization (billions)	New York State share (8.08 percent) (millions)	Will finance project costing total of (millions)—
1972	$2		
Less[1]	.20		
Subtotal	1.80	$137.4	
Less 5 percent[2]	.10	[3]53.6	
Balance	1.70	83.8	$120
1973	3		
Less[1]	.20		
Subtotal	2.80		
Less 5 percent	.15		
Total	2.65	214.1	306
1974	4		
Less 5 percent	$.20		
Total	$3.80	$307.0	$439
1975	5	404.0	577
Grand total	13.15	1,008.9	1,442
10 percent State matching required			145

[1] $200,000,000 set aside for fiscal years 1972 and 1973 for Washington, D.C. treatment plant.

[2] 5 percent of authorization earmarked for planning agencies for waste management.

[3] Already allotted.

III. HOUSE BILL ($20,000,000,000 OVER 4 YEARS)

[Allocation to New York: 13 percent—based on current criteria need (in accordance with "cost of clean water" S. Doc. 92-23) Federal matching: 75-percent maximum (if State matches with 15-percent grant) local share would be 10 percent]

Fiscal year	Authorization (billions)	New York State Share of 13 percent (millions)	Will finance projects costing total of (millions)—
1972	$2	$260	$275.2
Less		[1]53.6	
Balance		206.4	
1973	5	650.0	867.0
1974	6	780.0	1,040.0
1975	7	910.0	1,213.0
Total	20	2,546.4	3,395.2
15 percent State matching required			509.0

[1] Already allocated.

IV. ADMINISTRATION'S PROPOSED BUDGET ($2,000,000,000 A YEAR)

Allocations to New York Under Senate and House Formulas

A. Under Senate formula—[Allocation to New York: 8.08 percent based on population; Federal matching: 70-percent maximum (if State matches with 10-percent grant), local share would be 20 percent]

Fiscal year	Administration budget (billions)	New York State share (8.08 percent) (millions)	Will finance project costing total of (millions)—
1972	[1] $1.7	[2] $83.8	$120
1973	[1] 1.7	137.4	196
1974	[1] 1.9	153.5	219
1975	2.0	161.6	230
Total	7.3	536.3	765
10 percent State matching required			77

B. Under House bill formula—Allocation to New York: 13 percent on basis of need; Federal matching: 75-percent maximum (if State matches with 15-percent grant, local share would be 10 percent)

Fiscal year	Administration budget (billions)	New York State share (millions)	Will finance project costing total of (millions)—
1972	$2	$260.0	
Less		[3]53.6	
Total		206.4	$275
1973 to 1975	$6	$780.0	1,040
Total	8	986.4	1,315
15-percent State matching required			197

[1] $200,000,000 set aside for fiscal years 1972 and 1973 for Washington, D.C. treatment plant.

[2] Balance available. (See table II above.)

[3] Already allocated.

V. ADMINISTRATION PROPOSED LEGISLATION

[$2,000,000,000 a year, for 3 years equals $6,000,000,000; Federal matching: 55-percent maximum; State matching required 25 percent; Allocation: Basis of need [1] and for reimbursements; Reallocation: To areas of special need]

Fiscal year and total appropriation	To New York allocation for new projects[1]	Allocation to New York for reimbursements	Total allocations to New York
1972, $2 billion	$125,099,000	$280,861,000	$405,960,000
Less	[2] 53,600,000		
Balance	71,499,000		
1973, $2 billion	125,099,000	280,861,000	405,960,000
1974, $2 billion	125,099,000	280,861,000	405,960,000
Total, $6 billion[3]	375,300,000	842,600,000	1,217,880,000
Less	[2] 53,600,000		
Balance	[4] 321,700,000		

[1] Basis of need:

Each year to be allocated on basis of population	$900,000,000
Each year to be allocated to States with matching grants	400,000,000
Available each year for new projects	1,300,000,000
Each year to be allocated for reimbursables	500,000,000

[2] Already allocated.

[3] $200,000,000 each year for Administrator's discretionary fund for areas of special need.

[4] In addition, all funds available for reallocation would be used in areas of special need.

Comment: The $321.7 million available to New York for new projects (See 2nd column) would finance $585 million worth of projects over 3 years, if the State provides 25% grants (total $146 million).

This amount would barely cover the cost of the 45 projects recently withdrawn from EPA.

If the State does not provide 25% matching grants, the Federal share will drop to 30%, in which case, the $321.7 million available would finance $1,072 million worth of projects over a 3-year period.

It should be noted that any allocation for reimbursement (see Column 3 on previous page) would not be available to provide the Federal share for any new project.

TAB B: NEW CRITERIA AND CONDITIONS

Six new conditions in the Senate bill must be met before grants can be awarded. Some present real problems, although others can probably be met. Those that probably cannot be met by most states within the time frames allowed are described below:

1. Title I (Sec. 106(h)) of the Senate bill lists requirements to be met before State program grants can be approved (a State program must be approved before a construction grant can be awarded.) Two of the most complex and time consuming are:

Establishment of procedure for review of the location of new and modified sources of pollution to which national standards of treatment performance (including discharge prohibition) would apply (the timetable is two years)

Establishment and operation of monitoring devices, methods, systems and procedures (including biological) as well as procedures to analyze data on quality of water, including classification according to eutrophic conditions (the timetable for which is one year).

Comment: Based on considerable experience under which similar requirements have been administered in the past by Federal agencies, and the fact that the Administrator's required actions would be subject to citizens suits under the bill, conformance with the provisions of this section would effectively preclude approval of any construction grant application in fiscal year 1973, and possibly not within the life of the bill.

House bill: Contains no similar provision.

2. *Title II, Section 204(a)(3)(A) of the Senate bill* provides that the State water pollution control agency must certify a treatment works as having priority over other works in the State, *"and have or will qualify for a permit under Section 402 of the Act."*

The House bill changes this provision to "and have qualified for a permit in accordance with section 402 of this Act."

Comment: Issuance of a permit entails compliance with the applicable requirements of:

Sec. 209 (Waste Treatment Management), which may not be available until four years after enactment.

Sec. 301, effluent limitations, to be developed by EPA

Sec. 302, certification that there will result non-interference with attainment of January 1, 1981 effluent limitations

Sec. 306, national standards of performance for all new and modified sources.

Sec. 307, non-existent toxic and pretreatment effluent standards, to be developed by EPA.

Sec. 308, inspection and monitoring of all sources.

Sec. 403, guidelines for ocean discharge criteria, to be developed by EPA.

The Administrator of EPA would be constrained to implement strict interpretations of the above provisions, since non-discretionary actions by him would be subject to citizens suits under the bill.

Under these conditions the EPA could not approve a construction grant until all the above criteria are met. Although there are timetables for development of criteria and guidelines, until they are developed, no State can give assurance that its program or a project could comply, thereby qualifying the project for a construction grant.

3. *Title II. Industrial participation in municipal treatment plants.*

Section 204(b)(1) of the Senate bill requires that before approval of any treatment works, the Administrator shall determine that: (A) there has been adopted a system of charges for each category of user to assure that it will pay its appropriate share of the costs of operation and maintenance (including replacement); (B) there will be full recovery from industrial users of that portion of the estimated reasonable capital cost of construction allocable to the treatment of industrial waste which is the Federal share of the cost of construction; and (C) capability for adequate construction, operation and maintenance (including replacement) of the treatment works.

In the House bill, this provision would be effective January 1, 1973.

Section 204(b)(2) of both bills directs the Administrator, within 180 days of enactment, to issue guidelines on payment of waste treatment costs by industrial and non-industrial users.

Section 204(b)(3) of the Senate bill provides that revenues derived from recovery of capital costs from industrial users apportionable to the Federal share of eligible project costs shall be transmitted to the Administrator for deposit by him in the U.S. Treasury as miscellaneous receipts.

The House bill provides that such revenues would go to the municipality for operation and maintenance and future expansion or replacement of facilities.

Comment: Present Program: Industry is charged on the basis of quantity and strength of discharge into a municipal system, and industry pays its proportionate share of the *municipality's share* of the cost of construction, plus a proportionate share of the operation and maintenance costs. Such charges are covered by service contracts which bind an industry to the payments over the life of the facility (usually 20 years), even though the industry may close down operations within that period.

These fees (except for operation and maintenance) are retained by the municipality and are utilized for retirement of bonds sold to finance the municipal share.

Senate Bill: Industry would be liable for its proportionate share of the Federal and municipal share of the capital cost (in other words, if there is no State grant, industry would be liable for its share of the entire cost of the project; if there were a State 10% grant, industry would be liable for its share of 90% of the cost of the project).

Industry's proportionate share of the Federal cost of the project would be returned to the Treasury, and its proportionate share of the municipality's share would be returned to the municipality, as at present.

House Bill: Same as Senate, except that payment of industries portion of the Federal share would be paid to the municipality.

Problems:

1. Repayment of the Federal share by industry would remove all incentive for industry to participate in a municipal system in those cases where it has a choice to go it alone, and negates the regional concept of wastewater treatment. Under the circumstances, in most cases it would be not only less expensive for industry to build and operate its own plant (less capital intensive and under the complete control of this industry), but by so doing, it is eligible for both State and Federal tax advantages as well.

2. This requirement will result in the scrapping of already completed plans and specifications for a large number of projects (including most of the 157 projects) which are ready to go in New York, where industrial-municipal agreements have been made under the present rules. The results will be especially burdensome on municipalities; i.e.:

There is no provision in the pending legislation for recovery of costs of preparing non-usable plans.

Precious time is lost in the preparation of new plans.

Where industrial flows are removed from a municipal plant, the latter is usually much oversized and beyond the capabilities of the municipality to finance, construct and maintain.

3. Payment of industry's proportionate share of the Federal and municipal shares would result in payment to municipalities higher than its share of the project.

For example, if industry is responsible for 50% of the effluent into a municipal plant costing $2 million,

Under the House bill:

Half of 75% of the cost (the Federal share) is $750,000.

Half of the 10% of the cost (municipal share) is $100,000.

Presumably, the municipality would use a portion of these funds to retire its 10% of the cost ($200,000) and the balance would go into a "sinking fund" which would perhaps be reserved for payment of a new treatment system 20 or 30 years later.

The problem is that "sinking funds" are not generally permitted under New York State law. Experience has taught us that hard-pressed municipalities tend to use such reserve funds for more immediate and urgent problems, such as schools, hospitals, roads, etc.

4. *The most immediate problem*, however, is that:

in the Senate bill, these provisions would be effective immediately upon enactment.

in the House bill, the user charge provision (see 3, above) would not be effective until January 1, 1973, but this date needs to be pushed farther into the future.

To accomplish this, the following wording should be incorporated into whichever Federal legislation is enacted, in order to utilize the effort expended on projects already designed according to current standards and to bridge the gap during which new criteria, standards and procedures are available for processing of applications for Federal grants under the policies of S. 2770 and H.R. 11896:

"Effective on the date of enactment of this Act and extending through the fiscal year ending June 30, 1974, all applications for Federal financial assistance shall conform to the requirements of the Federal Water Pollution Control Act as amended by the Federal Water Pollution Control Act Amendments of 1961—(Public Law 87–88), the Water Quality Act of 1965 (Public Law 89–234), the Clean Water Restoration Act of 1966—(Public Law 89–753), and the Water Improvement Act of 1970—(Public Law 91–224).

"For the fiscal year commencing July 1, 1974 and thereafter, all applications for Federal financial assistance shall conform fully with all the requirements of this Act."

TAB C: REIMBURSEMENTS DUE NEW YORK STATE—FOR PROJECTS APPROVED FROM FISCAL YEAR 1967 THROUGH FISCAL YEAR 1971 ALLOCATIONS

Projects approved (352)—eligibility for reimbursement

State	$611,564,201
Local (New York City share: $349 million)	678,566,789
Total	1,290,130,990

This figure is predicated on estimates based on firm experience on bidding in New York State. Many projects, particularly the larger ones, have a dozen or more contracts that are let out for bids. Hopefully, all bids will be in, and construction contracts awarded, by the end of 1972. Until then, no final figure on New York's eligibility for reimbursement will be available.

How bids, which are higher than estimates, affect reimbursables

First Stage: At the time a project is approved by the Federal government, financing must be committed to pay the entire estimated eligible cost, on a shared basis between the Federal, State and local governments.

When a Federal grant award is made, this grant amount is deducted from the limited allocation New York receives from the Federal government. Federal grants have averaged 10% over the past five years. However, since New York projects are eligible for 55% Federal financing, the State and the municipality must agree to prefinance the balance of the Federal share.

Meanwhile, in addition to prefinancing, the State agrees to provide a basic 30% State grant toward the project, and the municipality agrees to pay its 15% share of the cost.

Second Stage: A more precise estimate of the actual cost of a project is available after all the bids are in and construction contracts are let.

At that time, if there is an increase in the original estimated cost, and the increases are accepted by all three levels of Government, financial commitments are adjusted upward so that the entire new estimated eligible cost is accounted for on a shared basis.

At this point, a choice must be made with regard to financing commitments for the Federal share of the increase:

(1) Increase the Federal grant amount by using current Federal allocations, thus reducing the availability of Federal funds from New York's limited allocation (which would otherwise be used to finance new projects); or

(2) Leave the Federal grant amount as originally agreed, but increase the State and municipal prefinancing of the Federal share of the cost.

Because of the inadequacy of Federal funding, the only real option available to New York has been the second route.

EXAMPLE OF INCREASED PREFINANCING COMMITMENTS

	Estimated eligible cost (original)		Revised eligible cost (based on bids)	
	Amount	Percent	Amount	Percent
Federal grant	$150,000	10	$150,000	7½
State prefinancing	300,000	20	450,000	22½
Local prefinancing	375,000	25	500,000	25
Federal share	825,000	55	1,100,000	55
Basic State grant	450,000	30	600,000	30
Local share	225,000	15	300,000	15
Total	1,500,000	100	2,000,000	100

TAB D: SECTION 509—ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

(Sections (a), (b) and (c) to be revised to accommodate new additional language, as follows.)

Establishment of a Quasijudicial Hearing Board

"(d) Any person, including a state or any of its agencies and subdivisions, feeling aggrieved by action of the Administrator in the

(1) Issuance or denial of a waste disposal permit or

(2) Termination or modification of a waste disposal permit,

(3) All matters arising from actions of the Administrator pertaining to such other matters as approval or denial of a State permit program, and those arising in connection with Sections 101, 106, 304, [and possibly 508]

may obtain review thereof before a quasi-judicial environmental protection hearings board established under subsection (g) of this section, by filing a notice of appeal within 45 days of the action taken by the administrator, setting forth the basis for its request, and the relief sought. The burden of persuasion shall be on the requestor and the board shall affirm the administrator unless it finds that the administrator's action was, on the basis of all the evidence before it:

(1) Beyond his authority; or

(2) Inconsistent with the water quality protection policies of this act; or

(3) Constituted a clear mistake in the interpretation of the law or evaluation of the facts.

(e) Any state [or person] feeling aggrieved by an action by the administrator may obtain a review thereof before the environmental hearings board by filing a notice of appeal within 60 days. The board shall affirm the administrator if it determines that there is clear and convincing evidence, taking into account the entire record before it, to support the position of the administrator.

(f) Review of a final decision of an environmental protection hearings board shall be available to any person, including the United States or a state or any of their agencies or subdivisions, in a United States Court of Appeals following the same procedures and time requirements for review proceedings as are applicable to review of final decisions by the Federal Power Commission on applications for licenses to undertake hydroelectric projects.

(g) An environmental protection hearings board of three members sitting as a quasi-judicial body federal agency, is established. No member shall be otherwise employed by the federal or state governments and no more than two shall be members of the same political party. The members shall serve for six year terms except for two of the first appointments who shall serve four and two year terms respectively. The chairman shall be designated by the President. Any decision of the board must be agreed to by two members to be final. The administrator shall provide the board with such office space and equipment and administrative, financial, secretarial and clerical assistance as the board may require.

The members of the board shall be compensated for services and for travel, lodging and subsistence in the same amounts as commissioners of the Federal Power Commission.

The threefold objectives of my bill are to restore and maintain the natural chemical, biological, and physical integrity of the Nation's waters; to establish pollution control in the Great Lakes; and to provide adequate reimbursement to the States for the construction of treatment works. This bill establishes a timetable to achieve an ambitious goal.

I realize that some industry groups have weighed in with dire predictions. But a careful evaluation of the language and intent of my bill will point out that this gloomy outlook is unwarranted. But we must all face the fact that much remains to be done at the Federal level even though the States and localities have, in many areas, attacked the pollution problem with vigor. Therefore Federal guidelines for these procedures are needed.

The Federal Government owes the State of New York about $1.3 billion—$611,564,000 to the State and $678,566,000 to the localities for projects that have been prefinanced. With adequate Federal legislation the State will continue its aggressive program under Henry L. Diamond, commissioner of environmental conservation. I now include those projects at this point.

REIMBURSABLES OWED NEW YORK STATE AND ITS MUNICIPALITIES FOR PREFINANCING THE FEDERAL SHARE OF CONSTRUCTION OF SEWAGE TREATMENT WORKS AS OF DEC. 31, 1971

Cong. Dist.	Project No. C-36-	Applicant	Eligible project cost	Prefinancing	
				State	Local
		CENTRAL SECTION			
33	228	Endicott (V), Broome	$1,693,867	[1] $109,085	
33	223	Johnson City (V), Broome	2,280,469		
33	226	Kirkwood S.D. No. 1, Broome	10,675		
33	242	Vestal (T) S.D. No. 1, Broome	62,432		
33	295	Vestal (T), Broome	118,043		$13,317
34	271	Auburn (C), Cayuga	274,154		
34	263	Port Byron (V), Cayuga	349,643		
34	285	Weedsport (V), Cayuga	600,694		
35	113	Norwich (C), Chenango	3,820		
31	181	Watertown (C), Jefferson	1,790,140		
35	254	Canastota (V), Madison	1,015,280		
35	259	Chittenango (V), Madison	477,937		
35	360	Hamilton (V), Madison	553,824		61,133
32	303	Camden (V), Oneida	58,585		6,894
35	308	Onondaga (County) DPW, Manilus S.D., Onondaga	87,625		2,504
35	296	Onondaga (County) Jail, Onondaga	95,300		21,817
35	251	Salina (T), Onondaga	467,600		
31	225	Central Square (V), Oswego	280,526		
31	132	Fulton (C), Oswego	1,432,201	[1] 154,660	
31	283	Canton (V), St. Lawrence	77,500		
31	196	Ogdensburg (C), St. Lawrence	23,767		
33	239	Owego (V), Tioga (6)	605,127		
33	278	Dryden (V), Tompkins	744,405		
33	224	Ithaca (C). Tompkins	13,867	[1] 138	
33	267	do	302,537		
		EASTERN SECTION			
29	298	Altamont (V), Albany	162,500		
28	258	Hudson (C), Columbia	1,033,870		
30	180	Port Henry (V), Essex	69,398		
28	108	Canajoharie (V), Montgomery	58,490	[1] 140	
28	338	Cooperstown (V), Otsego	941,698		
29	203	Niskayuna (T), Schenectady	885,718		
29	291	Schenectady (C), Schenectady	133,000		14,799
28	195	Sharon Springs (V), Schoharie	6,189		
30	194	Lake George (V), Warren	62,855		
30	284	Lake George (T), Warren	590,300		
		SOUTHEASTERN SECTION			
4	318	Cedarhurst (V), Nassau	907,932		
3	236	Glen Cove (C), Nassau	47,748	[1] 4,632	
4	250	Lawrence (V), Nassau	1,650,516		
3	190	North Hempstead (T), Nassau	86,812	[1] 310	
7	109	Jamaica, New York City	148,936	[1] 42,641	
26	229	Hillcrest Center, Westchester	211,172		
27	265	Cornwall (T), Orange	153,208		
27	203	Montgomery (V), Orange	5,695		
25	176	Orangetown (T), Rockland	27,307	[1] 251	
25	275	do	242,200		
28	232	Ellenville (V), Ulster	145,427		
26	67	Port Chester (V), Westchester.	77,879	[1] 9,057	
		WESTERN SECTION			
38	182	Cuba (V), Allegany	42,221		
38	215	Jamestown (C), Chautauqua	44,407		
38	193	Erie County S.D. No. 2, Erie	3,802		
39	238	Erie County S.D. No. 3, Erie	1,894,569		
37	370	Erie County, Erie County Home and Penitentiary, Erie	322,232		39,411
40	324	Tonawanda (T), Erie	1,284,489		141,105
37	199	Batavia (C), Genesee	367,989		
34	260	Lima (V), Livingston	401,991		
36	281	Brighton (T), Monroe	750,328		
37	240	Brockport (V), Monroe	882,321		
36	147	East Rochester (V), Monroe	8,023	[1] 38	
37	315	Gates-Chili-Ogden S.D., Monroe	638,059		77,359
36	202	Henrietta (T) S.D. No. 1, Monroe	16,185		
36	231	do	491,839		
37	246	Hilton (V), Monroe	235,021		
36	264	Irondequoit (T), Monroa	623,400		
36	288	do	233,686		
36	233	Penfield S.D. No. 3, Monroe	197,644	[1] 691	
36	287	Penfield (T), Monroe	86,377		
36	270	Perinton (T), Monroe	229,627		
36	243	Pittsford (T), Monroe	185,200		
36	192	Rochester (C), Monroe	42,018		
		WESTERN SECTION—Continued			
36	249	Webster (V), Monroa	$701,619		
40	350	Youngstown (V), Niagara	42,964		$4,568
34	157	Phelps (V), Ontario	19,769		
34	273	Victor (V), Ontario	582,065		
37	217	Medina (V), Orleans	77,333		
36	252	Newark (V), Wayne	152,260		
34	145	Penn Yan (V), Yates	18,623	[1] $49	
		CENTRAL SECTION			
33	544	Binghamton (C), Broome	9,906,100		1,837,245
33	306	Dickinson (T) S.D. No. 3 Broome	112,000		13,740
33	533	Port Dickinson (V), Broome	443,815		49,368
33	304	Union (T), Broome	1,506,000		157,700
33	528	Vestal (T) S.D. No. 4. Broome	829,000		108,780
34	535	Aurora (V), Cayuga	1,210,700		194,655
34	601	Fleming (T), Cayuga	388,000		79,660
34	349	Moravia (V) (EFC), Cayuga	914,505		137,998
34	477	Env Facilities Corp., Port Byron (V), Cayuga	223,400		33,750
34	647	Sennett (T), Cayuga	97,000		12,100
35	277	Bainbridge (V), Chenango	660,700		64,815
35	300	Greene (V), Chenango	667,900		42,541
35	549	Sherburne (V)(EFC), Chenango	1,178,494		230,471
32	572	Dolgeville (V), Herkimer	1,376,900		268,925
32	461	Herkimer (V), Herkimer	1,741,800		219,900
32	479	Little Falls (C), Herkimer	5,340,850		1,122,278
31	556	Brownville (V), Jefferson	818,615		180,098
31	478	Cape Vincent (V), Jefferson	422,200		37,540
31	547	Evans Mills (V), Jefferson	238,000		45,460
31	465	Philadelphia (V), Jefferson	270,600		29,540
31	292	Watertown (C), Jefferson	1,338,552		
32	301	Castorland (V) (EFC), Lewis	210,900		42,180
32	491	Env Facilities Corp., Martinsburg (T), Glenfield S.D., Lewis	153,400		22,380
32	606	Lowville (V), Lewis	441,200		35,540
32	302	Kirkland (T), Oneida	293,000		35,860
32	371	Oneida County S.D., Oneida	28,060,200	783,810	7,015,050
32	470	Waterville (V), Oneida	880,880		107,694
34	319	Camillus (V), Onondaga	64,700		6,334
35	452	Manlius (T), Fremont S.D., Onondaga	253,928		12,660
35	467	Marcellus (V), Onondaga	381,000		46,620
35	633	Minoa (V), Onondaga	661,500		165,375
35	450	Onondaga (County), Cicero S.D., Onondaga	1,725,556		211,016
34	234	Onondaga (County), Camillus (T), Onondaga	684,925	[1] 40,168	[1] 20,548
34	482	Onondaga (County), Geddes (T), Onondaga	1,492,663		196,695
35	358	Onondaga (County), Ley Creek Modification to STP, Onondaga	3,361,400		384,429
35	313	Onondaga (County), Morgan Road, Onondaga	3,187,829		389,937
35	266	Onondaga (County),	3,873,000	[1] 32,146	[1] 154,954
35	454	Tully (V), Onondaga	938,000		98,200
35	474	Central Square (V), Oswego	129,547		16,820
35	462	Fulton (C), Oswego	1,163,294		164,121
35	386	Oswego (C), Oswego	6,100,000		890,600
35	336	Env Facilities Corp., Pulaski (V), Oswego	1,074,500		183,395
31	369	Canton (V), St. Lawrence	2,635,600		293,120
31	520	Colton (T), St. Lawrence	363,416		36,056
31	486	DeKalb (T), St. Lawrence	198,200		33,440
31	316	Edwards (V), St. Lawrence	181,000		16,100
31	444	Fine (Y), St. Lawrence	103,400		10,940
31	468	Heuvelton (V), St. Lawrence	629,000		56,000
31	464	Norwood (V), St. Lawrence	892,500		99,200
31	320	Potsdam (V), St. Lawrence	3,110,500		488,650
31	501	Stockholm (T), St. Lawrence	190,624		21,231
31	435	Waddington (V), St. Lawrence	397,250		79,445
33	552	Owego (T), Tioga	3,570,000		574,000
33	412	Dryden (T), Varna S.D., Tompkins.	152,600		18,670
		EASTERN SECTION			
29	562	Altamont (V), Albany	40,623		4,374
29	387	Coeymans (T), Albany	1,738,700		245,315
29	317	Colonie (T), Albany	1,093,700		133,315

Footnotes at end of table.

REIMBURSABLES OWED NEW YORK STATE AND ITS MUNICIPALITIES FOR PREFINANCING THE FEDERAL SHARE OF CONSTRUCTION OF SEWAGE TREATMENT WORKS AS OF DEC. 31, 1971—Continued

Cong. Dist.	Project No. C-36-	Applicant	Eligible project cost	Prefinancing	
				State	Local
		EASTERN SECTION			
29	377	Colonie (T), Dry River area, Albany	$556,000		$121,500
29	571	Colonie (V), Albany	560,400		140,100
29	591	Colonie (T), Newtonville, S.D., Albany	770,000		101,000
29	523	Guilderland (T), Albany	588,574		109,185
29	524	Menands (V), Albany	215,835		43,167
31	353	Keeseville (V), Clinton	1,231,500		169,002
31	521	Plattsburgh (C), Clinton	11,570,515		2,374,324
28	256	Sidney (V), Delaware	1,950,000		419,400
30	522	Env Facilities Corp., Westport (V), Essex	525,053		60,297
32	471	Gloversville (C), Johnstown (C), Fulton	8,780,900		1,244,180
28	503	Athens (V), Greene	926,280		114,650
28	514	Catskill (V), Greene	2,934,600		414,020
32	473	Indian Lake (T), Hamilton	379,000		77,780
29	516	Env Facilities Corp., Amsterdam (C), Montgomery	11,466,600	$671,280	2,866,650
28	607	Oneonta (C), Otsego	4,945,600	989,120	989,120
30	255	Hoosick Falls (V), Rensselaer	1,592,200		201,090
30	569	Saratoga County, Homestead Infirmary at Providence, Saratoga	112,600		18,440
29	441	Niskayuna (T), Schenectady	979,000		244,750
29	625	Niskayuna (T) S.D. No. 6 Ext., Schenectady	135,000		590
28	580	Schoharie (V), Schoharie	341,102		59,946
28	543	Richmondville (V), Schoharie	253,000		35,660
30	466	Granville (V), Washington	916,000		138,000
		SOUTHEASTERN SECTION			
27	619	Beacon (C), Dutchess	5,693,765		1,224,520
27	378	Poughkeepsie (T), Arlington S.D., Dutchess	3,871,400		473,510
27	511	Poughkeepsie (T), Ireland Estates Dutchess.	79,844		9,785
28	519	Millbrook (V), Dutchess	353,400		59,730
28	469	LaGrange (T), Titusville, S.D., Dutchess.	179,010		21,335
27	340	Wappinger (T), Dutchess	159,800		34,180
3	341	Great Neck (V), Nassau	433,503		64,897
3	289	Great Neck S.D., Nassau	1,174,759		
5	305	Long Beach (C), Nassau	260,000		57,200
5	361	Nassau County S.D., No. 3, Nas.	151,416,000	13,122,630	48,877,076
3	351	Port Washington S.D., Nassau	637,030		70,815
3	342	Roslyn (V), Nassau	131,200		17,113
14	86	Newtown Creek, New York City	64,488,733	[1] 19,249,888	
15	357	Owls Head, New York City	106,900		10,102
16	346	Port Richmond, New York City	3,030,492		370,710
21	406	Bowery Bay, New York City	975,340		119,287
23	214	Wards Island, New York City	1,405,147		
18	363	do	1,083,775		132,527
11	345	Coney Island, New York City	4,559,005		665,583
8	166	Tallmans Island, New York City	237,636	[1] 58,274	
7	321	Jamaica, New York City	718,951		21,569
27	368	Cornwall (T), Orange	1,135,923		143,419
27	475	County of Orange, Orange Farm, Orange	171,665		20,956
27	352	Goshen (V), Orange	691,000		95,960
27	508	Maybrook (V), Orange	348,000		43,960
27	480	Middletown (C), Orange	66,300		7,287
27	53	Newburgh (C), Orange	8,013,170		1,090,793
27	364	New Windsor (T), Orange	2,348,202		289,060
27	456	New Windsor (T) S.D. No. 9, Orange	1,110,126		178,540
27	362	Walden (V), Orange	323,900		41,965
27	507	Wallkill (T), Orange	1,287,118		305,014
27	492	Joint Regional Sewerage Board, Haverstraw (T) and West Haverstraw (V), Rockland	4,344,663		634,362
25	290	Orangetown (T), Rockland	3,533,600		
25	712	do	663,400		145,950
25	9	Piermont (V), Rockland	357,900		
25, 27	274	Rockland County, S.D., No. 1, Rockland	28,538,800		
25	268	Stony Point (T), Rockland	1,720,100		
2	343	Huntington (T), Huntington, S.D., Suffolk	195,000		23,900
2	237	Northport (V), Suffolk	55,800		
1	536	Riverhead S.D., Suffolk	225,000		97,200
28	253	Liberty (V), Sullivan	321,735		
28	322	Rockland (T), Livingston Manor S.D., Sullivan	344,650		52,955
28	365	Fallsburgh (T), South Fallsburgh S.D., Sullivan	1,781,439		260,131
28	498	New Paltz (V), Ulster	1,390,810		196,185
25	247	Buchanan (V), Westchester	146,514		
25	88	Peekskill (C), Westchester	185,811		
		WESTERN SECTION			
38	420	Alfred (V), Allegany	900,752		189,253
38	311	Belmont (V), Allegany	573,500		
38	356	Caneadea (T), Allegany	869,200		91,130
		WESTERN SECTION—Continued			
38	354	Friendship (V), Allegany	$533,310		$11,215
38	279	Salamanca (C), Cattaraugus	2,814,100		421,648
38	245	Silver Creek (V), Chautauqua	1,408,385		42,252
33	325	Chemung County S.D. No. 1, Chemung	1,748,700		213,915
33	632	Chemung County S.D. No. 1, Ext. D., Chemung	193,310		42,630
33	297	Elmira (C), Chemung	433,600		51,159
39	197	Cheektowaga (T), Erie	158,304		
39	385	Erie County, Erie County S.D. No. 3, Erie	229,130		30,411
41	257	Lackawanna (C), Erie	1,440,600		15,567
37	407	Elba (V), Genesee	448,237		56,630
34	314	Avon (V), Livingston	1,313,420		160,661
34	561	Geneseo (V), Livingston	1,026,040		225,742
36	327	Brighton (T) S.D. No. 2, Monroe	4,905,000		618,975
36, 37	414	Gates-Chili-Ogden S.D., Monroe	2,772,600		338,890
37	329	Greece (T), Monroe	227,800		38,372
37	310	do	277,701		35,285
36	423	Henrietta (T), Monroe	$368,400		$31,500
36	476	do	1,698,780		299,649
36	425	Honeoye Falls (V), Monroe	1,195,000		150,000
36	424	Irondequoit (T), Monroe	127,000		10,512
36	261	Pittsford (V), Monroe	144,500		
36	489	Pittsford (T), Monroe	143,000		21,560
37	293	Scottsville (V), Monroe	1,079,389		136,264
37	383	Spencerport (V), Monroe	634,300		77,545
36	299	Webster (T), Monroe	4,019,200		861,288
36	419	Webster (V), Monroe	496,000		62,620
40	359	Lockport (C) (EFC), Niagara	8,468,860	$1,967,314	2,117,170
40	487	Lockport (T) S.D. No. 3, Niagara	255,100		42,830
40	382	Middleport (V), Niagara	1,046,400		128,110
34	272	Farmington (T), Ontario	813,500		177,100
34	560	Geneva (C), Ontario	6,213,500	1,298,110	1,553,375
34	330	Ontario County, Ontario	171,334		14,877
37	539	Holley (V), Orleans	1,316,300		289,585
34	372	Seneca Falls (V), Seneca	2,700,720		330,366
34	416	Waterloo (V), Seneca	1,109,300		140,055
38	530	Env Facilities Corp., Addison (V), Steuben	1,004,200		220,930
38	421	Bath (V), Steuben	2,208,500		344,272
38	579	Canisteo (V), Steuben	1,093,700		240,615
38	331	Corning (C), Steuben	1,759,000		
38	373	Erwin (T), Steuben	1,188,000		145,360
38	280	Hornell (C), Steuben	2,991,200		
38	576	North Hornell (V), Steuben	290,000		22,970
36	415	Clyde (V), Wayne	1,552,400		220,918
36	422	Lyons (V), Wayne	1,082,475		184,741
36	484	Macedon (V), Wayne	1,185,695		149,753
36	367	Newark (V), Wayne	1,550,000		189,600
36	380	Sodus (V) (EFC), Wayne	811,915		130,533
36	490	Env Facilities Corp., Wolcott (V), Wayne	672,353		84,935
37	417	Perry (V), Wyoming	1,568,598		392,150
34	312	Dundee (V), Yates	486,680		110,502
34	332	Jerusalem (T), Keuka Park S.D., Yates	558,270		68,320
		CENTRAL SECTION			
33	693	Dickinson (T) S.D., No. 5, Broome	199,800		41,330
33	545	Endicott (V), Broome	3,807,900	238,170	951,975
34	483	Auburn (C), Cayuga	7,326,600	2,146,170	1,831,650
32	602	Thruway Authority, Schuyler Service Area, Herkimer			
31	502	Env Facilities Corp., Carthage (V), West Carthage (V), Jefferson	5,680,000	954,000	1,420,000
32	515	Boonville (V) (EFC) Oneida	1,016,856		203,388
35	447	Onondaga (County), Meadowbrook-Limestone S.D., Onondaga	9,025,000		2,088,790
33	605	Cayuga Heights (V), Tompkins	2,910,000	133,770	727,500
		EASTERN SECTION			
29, 30	388	Albany County S.D., Albany	72,000,000	14,100,000	8,000,000
29, 30	570	Albany (C), Albany	6,133,369	832,710	791,592
31	697	Plattsburgh (T), Route 3 S.D., Clinton	396,000		99,000
31	442	Lake Placid (V), Essex	2,547,575		574,016
29	590	Bethlehem (T), Albany	8,549,660	2,953,738	2,137,415
31	443	Saranac Lake (V), Franklin-Essex	2,190,000		510,150
32	620	Speculator (V), Hamilton	870,000		192,260
29	598	Thruway Authority, Pattersonville Service Area, Montgomery			
29	599	Thruway Authority, Mohawk Service Area, Montgomery			
30	555	Department of Correction, Great Meadows Correctional Institution, Washington			

Footnotes at end of table.

REIMBURSABLES OWED NEW YORK STATE AND ITS MUNICIPALITIES FOR PREFINANCING THE FEDERAL SHARE OF CONSTRUCTION OF SEWAGE TREATMENT WORKS AS OF DEC. 31, 1971—Continued

Cong. Dist.	Project No. C-36-	Applicant	Eligible project cost	Prefinancing State	Prefinancing Local
		SOUTHEASTERN SECTION			
28	493	Tivoli (V), Dutchess	$239,000		$47,800
3	432	Glen Cove (C), Nassau	1,035,000	$136,680	258,750
2, 3, 4, 5	628	Nassau County S.D. No. 3, Phase II, Nassau	93,945,000	27,722,970	789,000
3	130	Oyster Bay (T), S.D. No. 1, Nassau	136,000		
20	178	North River, New York City	770,285,000	224,061,600	192,571,170
16	593	Port Richmond, New York City	189,140,000	38,866,150	47,285,000
21	398	Bowery Bay, New York City	86,502,000	24,818,050	22,625,500
18	395	Wards Island, New York City	68,000,000	19,266,720	17,000,000
11	405	26th Ward, New York City	47,805,000	13,927,760	11,951,250
7	400	Jamaica, New York City	37,322,000	3,420,650	9,330,500
22	397	Hunts Point, New York City	65,936,000	18,785,226	16,484,000
11	347	Spring Creek, New York City	18,590,978	734,000	4,647,745
27	294	Washingtonville (V), Orange	733,000		161,260
27	282	Carmel (T), Putnam	1,068,000		
27	244	Env Facilities Corp., Cold Spring (V), Putnam	1,879,000		404,220
2	577	Northport (V), Suffolk	820,000		180,400
1	355	Suffolk County, Suffolk County Community College Suffolk			
28	608	Ulster (T), Ulster	2,177,000		478,940
24	568	Westchester (County), Yonkers, (C), Westchester	58,000,000	9,154,600	14,500,000
26	634	Yorktown (T) Yorktown Heights, S.D., Westchester	3,000,000		750,000
		WESTERN SECTION			
38	409	Olean (C) (EFC), Cattaraugus	6,350,000	1,813,440	1,587,500
38	379	Dunkirk (C), Chautauqua	15,100,000	3,844,220	3,775,000
38	410	Jamestown (C), Chautauqua	333,300,	16,570	83,325
38	583	Springville (V), Erie	631,800		138,996
34	623	Conesus Lake County, S.D., Livingston	5,575,200	836,280	1,393,800
34	426	Mount Morris (V), Livingston		1,298,650	285,703
37	626	Churchville (V), Monroe	1,189,500	30,750	297,375
36, 37	581	Gates-Chili-Ogden, S.D., Monroe	1,338,400		208,650
36	500	Irondequoit Bay PWD, Monroe	120,338,040	30,722,962	30,084,510
37	496	Northwest Quadrant PWD No. 1, Monroe	40,193,000	4,362,800	10,048,250
36	375	Rochester (C), Monroe	79,040,000	18,792,500	19,760,000
37	603	Thruway Authority, Scottsville Service Area, Monroe			
34	459	Env. Facilities Corp., Clifton Springs (V), Ontario	1,069,000		235,180
34	617	Holcomb (V), Ontario	606,000		133,320
36	582	Palmyra (V), Wayne	696,000		173,470
37	537	Arcade (V), Wyoming	1,092,000	90,330	273,000
		CENTRAL SECTION			
31	701	Norfolk (T) S.D. No. 1, St. Lawrence County	585,000	40,530	117,000
35	551	Homer (V), Cortland	1,680,000	27,300	420,000
31	653	Alexandria Bay (V) (EFC), Jefferson	2,200,000	69,960	550,000
31	513	Dexter (V), Jefferson	196,000	12,300	49,000
31	595	Orleans (T), Thousand Island Park S.D., Jefferson	830,000	47,310	207,500
32	636	Camden (V), Oneida	1,420,000		355,000
		CENTRAL SECTION—Continued			
32	449	Env Facilities Corp., Vernon (V), Oneida	$1 300,000	$44,260	$325,000
35	448	Onondaga (County), Lakeshore S.D., Onondaga	18,700,000	5,520,130	
31	584	Potsdam (T) S.D. No. 1, St. Lawrence	192,000	13,140	38,400
		EASTERN SECTION			
29	604	Cohoes (C), Albany	4,741,000	538,560	1,185,250
31	630	Plattsburgh (T), Cumberland Corners S D, Clinton	381,000	17,480	95,250
28	366	Stamford (V) (EFC), Delaware	2,108,000	202,080	421,600
28	614	Env Facilities Corp., Delhi (V), Delaware	1,650,000		270,884
28	612	Coxsackie (V), Greene	1,997,000	105,720	499,250
29	721	Fonda (V), Fultonville (V), Montgomery	2,560,000	116,910	640,000
28	589	St. Johnsville (V), Montgomery	2,180,000		545,000
29	613	Hagaman (V), Montgomery	410,000	28,030	102,500
28	463	Richfield Springs (V), Otsego	648,000	51,540	129,600
30	594	Corinth (V), Saratoga	772,000		154,400
29	645	Schenectady (C), Schenectady	22,000,000	5,362,894	5,500,000
30	686	Lake George (V), Warren	58,000	2,620	14,500
		SOUTHEASTERN SECTION			
3	629	Great Neck S.D., Nassau	6,500,000	440,000	1,625,000
3	609	North Hemstead (T), Belgrave S.D., Nassau	730,500	85,860	182,625
4	559	West Long Beach S.D., Nassau	110,000		21,500
7	403	Rockaway, New York City	56,910,000	16,654,150	14,227,500
8	404	Tallmans Island, New York City	43,863,000	12,798,210	10,965,750
27	600	Env Facilities Corp., Florida (V), Orange	1,000,000	74,150	250,000
27	668	Warwick (V), Orange	972,380	61,704	243,095
27	527	Suffern (V), Rockland	325,000	15,000	81,250
2	669	Huntington (T), Centerport S.D., Suffolk	6,460	150,000	37,500
1, 2	624	Suffolk (County), Southwest S.D., Suffolk	280,000,000	74,000,000	56,000,000
27	563	Monticello (V), Sullivan	250,000		50,000
28	497	Kingston (C), Ulster	2,900,000	53,750	725,000
25	671	Westchester (County), Tarrytown Ext., Westchester	5,000,000	1,462,020	1,250,000
		WESTERN SECTION			
38	610	Ellicottville (V), Cattaraugus	795,700	28,970	198,925
38	635	Randolph (V), Cattaraugus	793,000		158,600
39	616	Buffalo Sewer Authority, Buffalo (C), Erie	99,775,000	4,605,000	24,943,750
37	622	Batavia (T) S.D. No. 1, Genesse	256,100		
37	627	Corfu (V), Genesee	701,740	65,592	175,435
37	578	Gates-Chili-Ogden S.D., Monroe	26,637,000	7,871,480	6,659,250
34	538	Montour Falls (V), Schuyler	287,925		57,585
30	437	Env Facilities Corp., Schroon (T), Schroon Lake S.D., No. 1 Ext., Essex	1,239,570	45,411	247,914
		Total	2,997,983,282	611,564,201	678,566,789

[1] Projects prefinanced not eligible for reimbursement. Not included in totals.

PROPOSED AMENDMENTS TO TITLE II OF THE RURAL DEVELOPMENT ACT (H.R. 12931)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BLACKBURN) is recognized for 5 minutes.

Mr. BLACKBURN. Mr. Speaker, in accordance with rule XXIII section 6 of the Rules of the House of Representatives, I am inserting a copy of the three amendments which I plan to offer to title II of the Rural Development Act, H.R. 12931, which is scheduled for consideration on Wednesday, February 23, 1971:

AMENDMENT TO H.R. 12931, AS REPORTED, OFFERED BY MR. BLACKBURN

Page 18, insert immediately after line 6 the following:

(h) Section 12 is amended to read as follows:

"SEC. 12. (1) This Act shall be administered in accordance with tne provisions of the Fish and Wildlife Coordination Act (16 U.S.C. 661). Construction and operation measures for the benefit of fish and wildlife resources, including measures for the mitigation and compensation of project related losses to such resources, will be incorporated into works of improvement authorized under this Act if joint approval of such measures is given by the Secretary, the Secretary of the Interior, and the State fish and game agencies.

"(2) In the case of financial or technical assistance or construction by the Department of Agriculture, the Secretary shall transfer to the United States Fish and Wildlife Service, out of appropriations or other funds made available for investigations, engineering, or construction, such funds as may be necessary to conduct all or part of the investigations required to carry out the purposes of section 2 of the Fish and Wildlife Coordination Act [16 U.S.C. 662(e)]."

AMENDMENT TO H.R. 12931, AS REPORTED, OFFERED BY MR. BLACKBURN

Page 18, insert immediately after line 6 the following:

(h) Adding at the end thereof the following new section:

"SEC. 13. The Secretary of Agriculture shall not grant any funds for engineering or construction of any stream channelization measure under any program administered by him under this Act unless construction of such channelization began prior to the effective date of this section or unless the Secretary of Agriculture, the Secretary of the Interior, and the Administrator of the Environmental Protection Agency publish in the Federal Register their determination that such channelization would be in the public interest.

AMENDMENT TO H.R. 12931, AS REPORTED, OFFERED BY MR. BLACKBURN

Page 13, strike out line 3 and all that follows thereafter down through line 7 and insert in lieu thereof the following:

(b) The definition of the term "works of improvement" in section 2 is amended by—

(1) striking out "or" at the end of clause (1) and inserting in lieu thereof a comma;

(2) inserting a comma at the end of clause (2);

(3) inserting after clause (2) the following new clauses:

"(3) the conservation and proper utilization of land, or

"(4) the conservation and preservation of natural areas"; and

(4) adding at the end thereof the following new sentence: "The cost-benefit ratio of works of improvement described in clause (4) of this definition may be computed in the same manner as is done with respect to drainage projects for municipal water supply."

INTEROCEANIC CANAL PROBLEM: CONGRESSIONAL VISITATION, FEBRUARY 18–24, 1972

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, on many occasions in addresses and statements in and out of the Congress, I have warned of the impending giveaway of the Canal Zone and Panama Canal in the current treaty negotiations and on February 9, 1972, I made a press release inserted in the CONGRESSIONAL RECORD of that day.

Although most of the large newspapers in the mass media of the United States have failed to deal with the Isthmian Canal situation objectively, there are some that have, among them the Miami Herald.

A recent special newsstory from Panama in that paper states that snags are now stalling the negotiations with positions between the Panamanian and United States negotiators hardening, with the former demanding complete sovereignty and the latter falling far short of meeting this demand. This indicates that the efforts of congressional leaders opposing any surrender at Panama have had an impact.

The newsstory states that our negotiators have agreed to cede part of the Canal Zone to Panama, control of business activities of the canal and Canal Zone Government activities such as police and courts.

Mr. Speaker, the Congress has not authorized the surrender of any territory or property of the United States in the Canal Zone. The Constitution vests this power in the Congress, which is the ultimate authority in the determination of these matters.

The Subcommittee on the Panama Canal under its able chairman, Mr. MURPHY of New York, on February 18 went to the Canal Zone for its annual visitation, February 18 through February 24, during which it will have an opportunity to obtain facts from residents who know the situation in realistic depth. Meanwhile, I can report that concern over the Panama Canal situation has become widespread in the United States despite the failure of the mass media. The people of the Nation and the Congress will await the report of the subcommittee findings with great interest.

The indicated newsstory follows as part of my remarks:

[From the Miami Herald, Feb. 2, 1972]

SNAGS STALL NEGOTIATING ON CANAL

PANAMA.—From the Panamanian point of view, negotiations with the United States for a new treaty governing the U.S.-controlled Panama Canal are not going as well as had been hoped, say reliable sources here.

Since the current round of negotiations began in mid-1971, Panama has repeatedly demanded complete sovereignty over the U.S.-administered Canal Zone but sources here indicate that U.S. concessions so far have fallen short of meeting the demand.

At the same time, the United States reportedly has hardened its position.

Even Panamanian officials hold out little hope of reducing the U.S. military presence in the Canal Zone, believing that the best they can expect is a limitation on the size and number of U.S. bases and their activities.

According to sources here, concessions so far agreed to by the United States include:

Return of a portion of the present 10-mile wide Canal Zone that slices the country in half to immediate Panamanian jurisdiction, with the return of the remaining areas subject to a joint commission to be created.

Concessions to Panamanians to operate the commissaries, shoe stores, furniture stores, etc. presently operated by the Panama Canal Co. for its civilian employes.

Control of Canal Zone courts by Panama and police force with a proviso that certain offenses will not come under Panamanian jurisdiction for interim periods varying from two to seven years.

Control by Panama of the postal system in the present Canal Zone area.

In view of strident and repeated public demands by Panama's military dictatorship headed by Gen. Omar Torrijos it seems at least questionable whether such a treaty would be acceptable even though it fulfills many of Panama's aspirations.

If an impasse does develop, observers do not discount the possibility that the Torrijos government might attempt to apply pressures through a march on the zone.

Apart from a recent statement by treaty negotiator Fernando Manfredo that the negotiations are continuing, there has been no official comment here on the talks.

According to these reports, Manfredo and another member of the negotiating team, Panamanian Ambassador to Washington Jose de la Ossa, are to be replaced by Diogenes de la Rosa and Juan Antonio Tack, the present Panamanian foreign minister who has voiced some of the most strident Panamanian demands.

MORE WASTE ON F–111

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, the General Accounting Office recently released a report that details the Air Force's acquisition of spare parts for the F–111 program.

The report reveals that the Air Force procured most of the spare parts for the F–111 from the prime contractors instead of purchasing them from the subcontractors. The result, according to the GAO, has been a markup or giveaway of $56 million. In other words, the Air Force chose to line the pockets of General Dynamics with an extra $56 million rather than purchase the spare parts from the appropriate subcontractor.

This latest GAO report is just one more sign that the Air Force has been guilty of the grossest mismanagement of the entire F–111 program. The original per copy cost of the F–111 was $3.4 million but the cost has now escalated to $15 million. Despite a dramatic reduction in the number of planes purchased, the program is costing 1 billion more than forecast.

In addition to purchasing spares through the prime contractor the Air Force bought many spare parts too soon. The price tag for the early purchase was $116 million. Of the $116 million, $9.6 million has already been declared excess by the Air Force and in all probability will be scrapped during 1973.

Rather than adjust the rate of purchasing spares because of changes in the program, the Air Force continued to buy spares as if the program was proceeding on schedule. Hence, the Air Force clearly ignored the fact that the program was delayed and wasted millions of dollars on unneeded spares.

The Air Force's program management of the F–111 has been a disgrace. The Pentagon has apparently learned little, if anything, about improving the management of major weapon systems programs.

As waste continues, the American people may be forced to choose between unilateral disarmament or bankrupting the National Treasury in the name of national defense. That choice is unacceptable—the waste must stop now.

U.S. SUPPORT OF POLICY TOWARD TAIWAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POAGE) is recognized for 5 minutes.

Mr. POAGE. Mr. Speaker, for the United States to even consider the possibility of turning the island of Taiwan over to the so-called People's Democratic Republic on mainland China, would be such a breach of our commitments that the very thought is repulsive.

In the first place, Taiwan is not a part of, and has never been a part of, the People's Democratic Republic or any other Communist government. Historically, Taiwan was for many centuries a completely undeveloped area with only rudimentary local government. About three centuries ago, the Chinese Empire incorporated the island, but something like 75 years ago, the same Empire ceded the island to Japan. It was part of the Japaness Empire until the end of World War II when it became, and still is, a part of the Republic of China. It has never been a part of the People's Democratic Republic of China and the Communist government has never exercised the slightest degree of control of this island.

If there were no Republic of China, the government in Peking would still have no legitimate claim in this area. The overwhelming majority of the people are Taiwanese—not of the same race as the mainland Chinese. Even though they have developed and prospered as a province of the Republic of China, they have certainly evidenced not the slightest desire to become a part of the People's Democratic Republic.

The United States has historically followed the policy of recognizing and supporting the independence of those nations who have established their own governments. Certainly the Republic of China on Taiwan has proclaimed and maintained its independence. We have recognized it and most of the nations of the world have recognized it although some have become fearful and have withdrawn their recognition. The fact remains that there is a functioning government and a sound economy now operating on this island. It has shown one of the most remarkable economic growths in any part of the world. The Government has brought education, opportunities, and dignity to the people. The United States has publicly committed itself to the defense of this Government on this island.

I accept President Nixon's statement that—

> We shall maintain our friendship, our diplomatic ties, and our defense commitment.

To do otherwise would dishonor the principles which have made us a great Nation.

OFFSHORE ATLANTIC OIL DRILLING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 15 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to call the attention of the Members of this House to the continuing concern of the citizens of the Commonwealth of Massachusetts and, I am sure, many of the other States along the eastern seaboard, over the prospect of imminent exploration off the Atlantic coastline for new sources of oil. The Interior Department, as matters now stand, holds the key in this matter. Countless Members of Congress have already voiced their concern to this Department, lest the Department rush into this matter without first giving it the most careful consideration. As an indication of the seriousness with which the Commonwealth of Massachusetts views the situation, the legislative commission on marine boundaries and of the great General Court of the Commonwealth of Massachusetts is in the midst of hearings on the whole controversy. Last Friday I testified before this commission. At this time, I wish to go over my prepared testimony with my colleagues here because of the tremendous importance I attach to the whole controversy. If nothing else, I hope it will serve as a reminder to the House that our concern of a month ago or 2 months ago, when the announcement was first made has not in any way diminished, but rather has, in fact, been reinforced upon further reflection. It only remains for me to add at this point that I believe Senator William M. Bulger, of Boston, the chairman of this commission, deserves the gratitude of all Americans along the eastern seaboard for the tremendous public service he is performing in focusing the attention of his commission on this matter of gravest concern.

My testimony follows:

REMARKS OF CONGRESSMAN JAMES A. BURKE BEFORE THE MASSACHUSETTS COMMISSION ON MARINE BOUNDARIES AND RESOURCES, FEBRUARY 16, 1972

Mr. Chairman, I want to thank you and the other members of the commission for extending to me the invitation to appear before you today to testify before the commission in the course of the hearings you have been conducting on offshore oil drilling. I feel that the Massachusetts Legislative Commission on Marine Boundaries and Resources is performing probably the most vital public service within its powers in airing the controversy surrounding even the merest possibility of developing the "potential" (or perhaps more correctly, the "possible") offshore oil reserves on Georges Bank near Cape Cod. Hopefully, at the conclusion of the hearings the public, and probably more importantly, the Interior Department, will have a better feeling for just how concerned the residents of this State are about such a prospect, without getting involved in States' rights controversies or the meaning of federalism. I think it entirely reasonable to argue that the citizens and residents of a State such as the Commonwealth of Massachusetts have every right to have their say about something as related to their immediate environment as offshore oil drilling. In other words, even if we were to go along with the Interior Department's authority to formulate this Nation's energy policies—which I do not—it seems entirely within the right of the citizens of this Commonwealth to have the final say about whether their very health and well-being, the very food they eat and the very jobs related to the sea around us should be potentially endangered.

This would seem to be a decision entirely within the proper jurisdiction of this Commonwealth and its legislative and judicial institutions. In other words, maybe the citizens of Louisiana and Texas do not mind having offshore oil drilling in their very tidal waters, but should the citizens of Massachusetts have legitimate concerns and fears, then they should, at a very minimum, be carefully considered by the formulators of this Nation's energy policies.

In fact, if the Interior Department does not begin to display more statesmanship on this issue and seriously negotiate every step of the way, each States' legitimate concerns for the well being of its citizens in deciding on a policy of exploration and then later on the development of any potentially productive offshore oil fields, then I would be prepared as to go so far as to argue that our Constitution gives our State some sort of veto power over the whole matter. In saying so, I say so fully confident that in this we, the citizens of the Commonwealth of Massachusetts would not be alone, but would probably be supported by citizens in most of the States along the Atlantic seaboard.

The fact of the matter is the Interior Department is no longer dealing with an uneducated, ignorant citizenry when it comes to the whole matter of environmental dangers and water pollution. The past five years have witnessed an astounding increase in the awareness of our people, of the dangers to our very life and health in haphazard tampering with the environment, uncoordinated and hastily decided use of our natural resources. In other words, no longer should this Nation's national fuel policies be decided solely on the basis of future energy requirements and what is good for a few major oil producers. Energy requirements, future heating needs, future jobs in the oil industry have to be considered against the all-encompassing background of what our environmental concerns must be. The fact of the matter is the last five years have shown us that offshore oil wells can lead to serious damage to the surrounding marine environment, can ruin miles of shoreline, and ultimately can lead to staggering costs of cleanup and restoration. If we have learned nothing else from the serious problems with offshore oil drilling in the Pacific, it is that we must in fact proceed more carefully and with greater caution in the future. That is a minimum statement of what our attitude should be with regards to possible offshore oil drilling along the Atlantic seaboard. Serious study may well reveal that in fact, there is no possible way of guaranteeing against repetition of episodes like those experienced off California. In that case, we may well decide the risk is simply not worth it and that the Nation's energy requirements will have to be met some other way. At the moment, I do not pretend to have the information to take either position in this controversy. But I am sure that we all have the information to insist that the Interior Department just simply has not given the matter sufficient study and time, to be in a position at the moment to award even exploratory contracts off our shores. Much more time and study and consideration of all the worse possibilities must be insisted upon by this commission and hopefully by other States along our seaboard.

If the Interior Department does not in fact slow down in its enthusiasm for exploring new oil sources off our Nation's coast or to the north in Alaska, then I am afraid that our forefathers' wisdom of entrusting the executive branch of our Government with the formulation policies will be seriously in question. Increasingly, Members of Congress, representing citizens such as ours are becoming convinced that they must assert themselves in the policy making area and at the very minimum, insist on a veto authority over the policy making functions of Government agencies such as the Interior Department. This Nation's energy policies for the next 100 years are just becoming too important, either from the viewpoint of environmental considerations or the increasingly limited supply of natural energy sources, to leave them in the hands of the bureaucracy if the bureaucracy is not going to exercise the restraint for which the bureaucracy is supposed to be well known for. I am always amazed at how long it takes the bureaucracy to make a decision on somebody's social security check or on a routine V.A. case. It seems, however, that the Interior Department lately is trying to break all kinds of track records, first in the case of the transAlaska pipeline and now that there is a prospect of oil fields being developed off our Atlantic coast. I just do not think that this is the sort of field which lends itself to such speedy action.

To go back to a point that I just made in passing: Even those interested in safeguarding what energy resources this Nation has and are primarily interested in this to the exclusion of environmental considerations—ever for these people there is justifiable reason for proceeding with caution in this area. If this Nation's oil resources are as scarce as the experts say they are, and if one of a nation' most important resources is its ability to meet future energy requirements, then I can see many reasons for postponing a rapid development of any oil fields which might exist off our coast until we absolutely have no alternative. In other words, let's save these vital resources for some future dire emergency. Meanwhile, let us do what I have been advocating all along and import the bulk of our energy requirements. In other words, it seems to me that it would be a very intelligent policy for a nation concerned about its own dwindling supply of fuel to buy as much of the foreign source fuel available and save its own as much as possible. In other words, why be so concerned about the fact that we might be importing more and more oil or more and more natural gas in the years ahead? As long as foreign nations are prepared to sell us this valuable commodity at lower prices than we can possibly produce it for ourselves in this country, and we know our own supply is limited, then from every viewpoint of national security, it seems to me that we should buy as much as we can from overseas.

Now, this might seem strange coming from someone like myself who has advocated consistently the damage of importing too many manufactured items from overseas. I am all too familiar with the hundreds of thousands of jobs that have been lost around this nation, the number of factories that have closed down because of the flooding of our markets with cheap foreign imports. I have spent the last thirteen years petitioning one administration after another, one government department after another, to change our policies and stop this flooding and loss of jobs, all to no avail. The only department which seems to be at all concerned about imports in our government, irony of ironies, seems to be the Interior Department, worried about oil imports of all things—the very thing we need all we can get of and would not cost us a single job in the process. In other words, given this nation's seemingly insatiable demand for oil, it seems that we should be making increasingly greater reliance on imports and conserving whatever limited natural resources of our own we possess. This would keep domestic production at its present level, would not lead to the need for tapping offshore oil resources such as is proposed now and would in fact result in a tremendous savings for our consumers. Make no mistake about it, this offshore oil exploration which is being considered today will not result in any substantial savings for New England consumers. On the contrary, it represents a continuation of the same worn out attitude which has dominated the Interior Department for years now of restricting imports and artificially restricting our oil supply to domestic sources. In other words, I feel that the proposal to rush ahead with explorations off our sea coast is a last-ditch, desperate effort by our domestic oil producers to tap any domestic sources available so that they can continue to control the price mechanism of this vital necessity of modern day life. The way they can do this is to continue to have an alternative to opening up our ports to cheaper foreign oil imports. In other words, as I see it, this proposal of the Interior Department represents a two-pronged threat to Massachusetts: unspeakable environmental dangers and a continuation of high fuel oil costs for the state.

The alternative to both threats is simple and has been too long overlooked by the Interior Department and that is, import more foreign oil. In 25 years, we may, because of some disruption in foreign supply, have to look to other sources to develop and maybe then a decision will be made that it is worth all the risks and go ahead and develop these offshore oil drills. But my point today is, let's not rush into this, let's wait the 25 years. By then, we should know much more about controlling oil spills and blow-outs. Who knows, too, by then we may have a reasonable alternative, a fuel substitute to oil for our energy requirements.

In conclusion, therefore, I feel strongly that the Interior Department should refrain from proceeding any further with oil exploration on the Atlantic Seaboard until all of the environmental factors have been evaluated and considered. Of equal importance, I feel we must make a start to reexamine our whole national energy policy. The present policy is clearly a hangover from an earlier period. It represents the complete domination of our nation's energy thinking by powerful oil interests. The time has come to rethink everything from scratch and I am convinced that in the process, we will find how little we need to develop these offshore Atlantic oil fields. In short, Mr. Chairman, the time for reaction is over, the time for new thinking is at hand. A freeze on future major development of this nation's fuel supply is probably the only way we are going to successfully bring this about. Let those of us in Massachusetts used to initiating change, familiar with revolution and new ideas, not hesitate to let the word go out from this day forth that this state, for one, has decided to blow the whistle on the present order and the fuel barons. If I may borrow a word from your eloquent chairman, let us serve notice on the rest of the nation that we will no longer be held hostage to a bankrupt view.

THE SMALL COMMUNITIES PLANNING, DEVELOPMENT, AND TRAINING ACT OF 1972

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

Mr. ALEXANDER. Mr. Speaker, I rise today to introduce a bill entitled "The Small Communities Planning, Development, and Training Act of 1972." This measure is designed to build upon and to complement the legislative recommendations contained in the pending Housing and Urban Development Act of 1971, H.R. 9688, which represents the most forward-looking and progressive housing and urban development legislation proposed in the Congress in several decades.

H.R. 9688 represents the fruit of nearly a year's intensive study and analysis by the Subcommittee on Housing of the House Banking and Currency Committee. The chairman and members of that subcommittee, led by our colleagues WILLIAM A. BARRETT, LEONOR K. SULLIVAN, THOMAS L. ASHLEY, and WILLIAM S. MOORHEAD, are to be highly commended. As a result of their comprehensive and objective study of Federal community development and housing production efforts, H.R. 9688 contains many provisions that can significantly improve the quality of housing and the urban environment, in both small and large communities.

The purpose of my bill is to strengthen H.R. 9688 as it relates specifically to the many small communities and urbanizing areas of the country outside of our metropolitan areas. Although H.R. 9688 is aimed primarily at the problems of the Nation's urban areas, my proposed amendments recognize, as does the Housing Subcommittee, that the problems of large cities and those of the countryside are interrelated. Every citizen who leaves a nonmetropolitan area and migrates to a city and is ill-equipped for that labor market becomes an additional tax burden to the city. Unless we encourage the growth and revitalization of our small towns, we cannot slow the continuing migration of their citizens, and their problems, to large urban centers. We cannot achieve the balanced growth which, although often belabored, is essential to the environmental, economic, and social health of the entire Nation.

The proposals contained in the Small Communities Planning, Development, and Training Act of 1972 can be enacted separately or incorporated into the omnibus housing bill expected to be reported this spring by the Housing Subcommittee. I urge the subcommittee to give careful and sympathetic consideration to these proposals.

A further purpose of my bill is to enhance our recognition and understanding of the severity of our people's problems outside metropolitan areas—problems that are often rendered invisible by the glare of publicity cast on the problems of our large cities. The problems of the cities, of course, cannot be minimized: a large majority of our population grows increasingly crowded into small areas of our land, and each year over half a million more rural Americans migrate to metropolitan areas. In fact, however, the problems of small communities outside metropolitan areas are extremely severe and may be worsening.

Over the past 50 years there have been important national population changes with far-reaching effects. Since 1920, while the national population has almost doubled, the urban population has almost tripled. During that same time period, the nonmetropolitan areas have not shared in the population increases. Their population has remained at about the same level of 50 million. The composition of this group of citizens, however, has changed significantly: the proportion of farmers has decreased substantially and the numbers of unemployed. and underemployed, the weak, and the old all have increased sharply. In fact, the decades of country-to-city migration have left nonmetropolitan areas with long-term problems of a critical nature.

Recent testimony before the Senate Finance Committee by representatives of the newly formed Coalition for Rural America revealed what the present pattern of national urbanization has left in its wake:

> One-half of our rural citizens live in poverty; 60 percent of the nation's inadequate housing is found outside the major metropolitan areas; 30,000 rural communities lack adequate water systems and more than 45,000 have no sewer systems at all; the infant mortality rate in rural areas exceeds the national average by 20 percent, and for non-white infants it is almost twice as high.

This lack of basic modern facilities and amenities directly affects the health of small town residents. It encourages the young to depart and impedes the balanced economic development of our country which could help us protect our living environment.

Title I of the bill would provide for the establishment of a Community Development Bank substantially identical to the Urban Development Bank provided for in title VIII of H.R. 9688. The bank would be a Federal corporate agency raising its funds through the sale of taxable obligations in the credit market and lending those funds at a lower-than-market rate to States, counties, cities, towns, and other public bodies. My bill—in section 105(d)—would direct the Community Development Bank to give preference in the processing of loan applications to applications of communities with populations of less than 50,000. Because their obligations are unrated by the security-rating services or because their borrowings are in small amount, these small communities most often bear the high interest rates required by private investors. As a result, they find it most difficult to provide the facilities needed to accommodate present and future community needs. A preference for small communities would direct the bank's activities into the area of most critical need in the field of municipal finance.

My bill would also recognize that outside of metropolitan areas nonprofit groups are often empowered to undertake what are essentially public facility projects. Section 105(a)(2) of the bill make such nonprofit groups eligible for the Community Development Bank's loan assistance.

Title II of the bill would amend the public facility loan program, administered by the Department of Housing and Urban Development, to enable this program to more effectively serve the needs of small communities in financing essential public facilities.

This title of the bill would be unnecessary if the Community Development Bank or Urbank proposal, containing a small community preference, is enacted. I recognize, however, that Urbank is a very controversial proposal which faces formidable opposition—unfortunately, from the very groups it is intended to benefit. If Urbank, or a Community Development Bank, is not enacted, a modified public facility loan program would certainly be a necessity.

The present public facility loan program operates at a $40 million program level, permitting approximately only 75 loan approvals for public facilities of all kinds, including water and sewer facilities, health facilities, gas utilities, industrial parks, and city streets and county roads. Last spring, HUD estimated that application demand for public facility loans for small communities would exceed available funds by almost $100 million, despite the fact that the interest rate for loans, set by the Secretary of Housing and Urban Development at the beginning of the fiscal year, was 5⅝ percent. Under the existing program, interest rates on loans are set by statute at one-half of 1 percent above the average rate on all interest-bearing obligations of the Federal Government comprising the public debt, or 3 percent, whichever is higher.

I propose to amend the public facility loan program to give small communities an alternative method of financing which would result in lower interest costs to them, at a very small loss to the Federal Government.

Except in periods of tight money, most municipalities can get loans for public facilities in the tax-exempt money market at a lower rate of interest than the statutory lending rate used in the existing program. As a result, most of the program activity is with small municipalities in the South and Southwest which are outside most principal money markets, or whose projects and financing prospects are marginal. Furthermore, Federal direct lending programs are strongly opposed by the Treasury, and it is doubtful that a higher program level can be obtained.

In 1970, however, housing legislation contained an alternative financing mechanism for public bodies sponsoring new community projects which I feel can be of great benefit to small communities wishing to use the public facility loan program. Under title VII of the Housing and Urban Development Act of 1970, the Secretary of Housing and Urban Development guarantees the taxable obligations of State and local public bodies issued to finance new community projects, and make grants to those bodies to cover the difference between the interest rate on the taxable obligations and the interest rate which the obligations would bear if they were tax-exempt obligations.

My bill would provide this new method of financing as an alternative to direct loans in the public facility loan program, with one modification. Under title II, the Secretary of Housing and Urban Development would simply make grants to cover 40 percent of the interest cost on the community's taxable obligation. The reason for this change is that the job of estimating the difference between the taxable and tax-exempt rate is simply too much of an administrative burden, especially in the case of small communities. This alternative method of financing would make the program more broadly available to small communities throughout the country, reduce interest rates for those communities willing to issue taxable obligations, and stem a part of the loss to the Treasury that is involved in tax-exempt financing and that is increasingly alleged as an inefficient subsidy to public borrowers.

The total amount of borrowing guaranteed by HUD could not exceed $200 million. If the interest rate on this $200 million of small community obligations averaged 7½ percent, the total interest payable would be $15 million. HUD would pay 40 percent of these interest charges, or $6 million. Thus, for the sum of $6 million, HUD could finance $200 million worth of public facility projects. And, the total interest paid on the $200 million—$15 million—would be taxable by the Federal Government.

Title III of the bill incorporates the entire community development block grant program from H.R. 9688, with slight modification. It would attempt to assure that the $500 million to be provided annually in H.R. 9688 for nonmetropolitan areas in the form of block grant funds would be distributed with due consideration given to the needs and wishes of the people and groups most directly involved in rebuilding small communities outside metropolitan areas. My modification—contained in section 306 (c) of the bill—would direct the Secretary of Housing and Urban Development to take into account locally developed plans and ideas for community development programs, and to utilize, whenever possible, program administration advice from interested local individuals, groups, and organizations with demonstrated competence in planning and carrying out development programs in small communities.

Title IV of the bill contemplates the establishment of a National Community Affairs Institute that would be analogous in purpose and activity to the Urban Institute in Washington, D.C. Since its beginning in 1968, the Urban Institute has fulfilled the high expectations held out for it as an urban research and development institute of the first order; and already the Institute has rewarded the confidence of those who supported its finding by developing a program of studies and activities of direct relevance to the solution of many urban problems.

The Institute's recent research efforts, for example, have included the development of "urban indicators" that would allow us, over a period of time, to monitor the vital signs of city conditions in respect to housing, poverty, education, health, transportation, recreation, economic developments, and other matters. In addition, the Institute has done research in the areas of income maintenance programing and an analysis of the "exploitation thesis" of metropolitan-wide maldistribution of tax burdens and public benefits.

The National Community Affairs Institute proposed in title IV of the bill would mobilize this kind of research and evaluative capability for the solution of similar problems affecting small communities. The Institute would study new and improved modes of governmental service financing, the process of urbanization of hinterland areas, structures, and processes of adaptation to rapid technological and economic development, citizen group participation in the community development process, and much more. In addition, the Institute would provide technical assistance to small communities to help develop strategies for the solution of general and specific problems. Finally, it would provide timely, independent, and continuing evaluation of Federal, State, local, and private programs aimed at meeting the problems of small nonmetropolitan communities. Like its urban counterpart, the Institute would be supported by contracts with and grants from Federal agencies and private organizations, and could contract with public and private bodies for services and studies meeting mutual needs.

My bill would authorize the Secretary of Housing and Urban Development to take all steps necessary to provide for the establishment of the Institute, utilizing the broad research and development authority contained in existing law. The Secretary would have the flexibility to establish the Institute in any manner he deemed appropriate, with one exception: the Director of the Library of Congress would serve as the chairman of the new Institute's board of directors. The purpose here is to assure that the Institute will be responsive to the Congress, and help to enhance the capability and resources of the Congress in legislating for small communities.

Title V of the Small Communities Planning, Development, and Training Act of 1972 provides for a fellowship program for the training of professionals and other specialists in the broad fields of planning and development for small communities in nonmetropolitan areas. The existing urban studies fellowship program, authorized by the Housing Act of 1964, would be amended to add this new program.

Under the urban studies fellowship program, about 100 fellowships are awarded each year by the Secretary of Housing and Urban Development for the training of professionals in various fields of urban studies. Stipends and allowances for up to two dependents are permitted. Tuition and fees are paid directly to the institutions by HUD. The Secretary of Housing and Urban Development would be authorized to provide these additional fellowships for training in planning and development for small communities upon the recommendation of the board of directors of the Community Affairs Institute would be established by title IV of the bill.

I believe the provisions of my bill, when added to the outstanding work of the Housing Subcommittee, would enable many small communities in nonmetropolitan areas to begin solving both their immediate and long-term problems. I urge all Members of the House to support the bill.

HEARINGS ON EMERGENCY CRIME CONTROL ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. James V. Stanton) is recognized for 15 minutes.

Mr. JAMES V. STANTON. Mr. Speaker, I am pleased to announce that my esteemed colleague, John F. Seiberling of Ohio, and I have been advised that the Judiciary Committee will hold hearings in late April or early May on our Emergency Crime Control Act (H.R. 11813). We were informed of this shortly before the recess last week by the distinguished chairman of our Judiciary Committee, the Honorable Emanuel Celler of New York. In a conference in his office, Mr. Celler asserted the concern shared by so many Members of Congress over the implementation of the Omnibus Crime Control and Safe Streets Act by the Justice Department. We discussed the fact that too little of the money appropriated by Congress pursuant to this Act is reaching the high-crime urban areas, and that redtape is delaying the funding of projects.

The Emergency Crime Control Act is based on the concept of revenue sharing. It would channel Safe Streets Act funds to large metropolitan areas in the form of block grants, with the money being controlled by criminal justice coordinating councils at the county level. Projects would be funded according to needs as perceived by local officials. The text of the bill, Mr. Speaker, and the rationale for it are set forth in the Congressional Record, volume 117, part 32, page 41573.

Additional material relating to the bill appears in the Congressional Record, volume 117, part 36, page 47456; and volume 118, part 1, page 1120; and part 3, page 2567.

At this time, Mr. Speaker, I would like to insert in the Record an article that appeared recently, relative to this issue, in the Plain Dealer, Ohio's distinguished morning newspaper:

[From the Cleveland Plain Dealer, Feb. 12, 1972]

Stanton and Nixon Aides Clash on Crimefighting

(By Richard G. Zimmerman)

Washington.—James V. Stanton, Cleveland's freshman congressman, is heading for a collision with the federal government in the fight against crime in the streets.

Backed up by complaints from across the nation, Stanton's goal is the speedy distribution of federal crime-fighting aid directly to the 56 largest cities.

Stanton D-20, and John R. Seiberling, D-14, Akron, have introduced the Emergency Crime Control Act to accomplish this.

Stanton, the once-powerful president of Cleveland City Council, who now chafes in frustrating anonymity, says President Nixon's Law Enforcement Assistance Administration is inefficient and wasteful in channeling funds.

Critics of the LEAA have used it as an illustration of what might happen if Nixon's proposals for general revenue-sharing were enacted, they complain that LEAA bloc grants are going unspent because of bureaucratic bungling at the state level.

If states could not spend LEAA funds quickly and wisely, the critics argue, how would they handle the huge grants that would be available under revenue-sharing?

But more important were the complaints of big-city mayors and police chiefs that LEAA funds, even when they did filter down, were too skimpy to meet the needs of high-crime urban centers.

Stanton's bill would channel the funds straight to cities that have more than 250,000 population through a $5-a-head grant over a three-year period and force cities and counties to cooperate.

To counter the criticism the administration last month announced a $160-million three-year "high-impact" anticrime program in eight major cities, including Cleveland.

Stanton, however, argues that this program covers only eight cities while his covers 56; that funds under the LEAA plan could vary so much per year that a city could not plan ahead; that it does not cover the suburbs, as his does, and that the LEAA money would still flow through the slow-moving states while his bill would send it directly to the cities.

Dean Fohlene, deputy LEAA administrator, argued against all these points. He said, for instance, that the high-impact program eventually would reach all cities over 250,000, although he admitted there was no timetable.

With money already available for the first year of the program, the LEAA clearly is in the driver's seat. But Congress could still look over the financing of the last two years of the program and Stanton's influence might be felt.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Miller) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's pioneers of progress and in so doing renew our faith and confidence in ourselves as individuals and as a nation. The first electronic computer was created by American Howard Aiken in 1937.

A STATEMENT ON BEHALF OF TWO BILLS TO AID LAW ENFORCEMENT PERSONNEL, H.R. 10104 AND H.R. 10500, 92D CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Halpern) is recognized for 5 minutes.

Mr. HALPERN. Mr. Speaker, I rise today on behalf of two measures I have recently introduced to benefit this Nation's law enforcement officers and firemen and their dependents.

The measures are H.R. 10500 and H.R. 10104. Both reflect the deep gratitude this Nation owes to its protectors of life and property.

H.R. 10500 would amend the Internal Revenue Code of 1954 to provide that the first $5,000 of compensation paid to law enforcement officers shall not be subject to the Federal income tax. It would do so by amending part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 which relates to items specifically excluded from gross income to provide that:

> [G]ross income does not include amounts received as compensation for service as a full-time law enforcement officer in the employ of the United States, the District of Columbia, a State or political subdivision thereof, to the extent that the aggregate of such amounts does not exceed $5,000 in the taxable year.

The amendment would apply only to taxable years ending after the date of its enactment.

Here is a measure which would provide direct and speedy financial assistance to law enforcement officers and their families. This measure is a fitting symbolic and financial expression of national gratitude to those men and women who on a daily basis put their lives on the line to protect our lives and well being.

One need spend only a few hours at the side of a law enforcement officer to know the difficulties and responsibilities which are his daily and nightly companions.

The law enforcement officer performs one of the society's most difficult jobs. Many officers work under the most dangerous conditions. His employer may be a city or town that is oftentimes financially strapped and sometimes unable to provide him with a salary commensurate with the responsibilities, difficulties, and dangers of the work.

Since these officers are asked to take such dangerous risks, the financial returns they receive should reflect these conditions. H.R. 10500 would grant officers an increase in real income by reducing their Federal income tax obligations beginning the year it is enacted. This certainly is a measure deserving widespread support. I urge its speedy enactment.

H.R. 10104 would amend the Merchant Marine Act of 1936 to provide for the appointment to the Merchant Marine Academy of sons of State and local law enforcement officers and firemen killed in the line of duty. It does so by amending section 216(a) of the 1936 act to provide that:

> The Secretary of Commerce shall each year appoint to the Academy in order of merit established by competitive examinations

> eighty qualified candidates from among sons of State and local law enforcement officers and firemen who died in the line of duty.

The determination of a State or local agency that a law enforcement officer or fireman died in the line of duty shall be binding upon the Secretary.

This measure would insure that a sizable number of openings would be available for the sons of law enforcement officers and firemen who died while protecting life and property, providing of course that those so admitted be qualified candidates. Certainly here too is a measure deserving of widespread nonpartisan support. Any measure that provides for the well-being of the dependents of those who died in service to their Nation, State, or locality deserves favorable consideration. That is particularly true when the benefit being provided is the opportunity to receive an education and an occupation which otherwise might not have been attainable.

Certainly a special allotment of appointments to the Merchant Marine Academy is not too generous a benefit to the sons of those who served their Nation protecting life and property. Nor is partial relief from Federal income tax too generous a benefit for those who enforce our laws.

I urge full congressional consideration of these worthy measures and their early enactment.

THE PRESIDENT'S TRIP TO CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SKUBITZ) is recognized for 5 minutes.

Mr. SKUBITZ. Mr. Speaker, with great historical interest, I watched the live television coverage this weekend of the President's trip to China. Those first scenes of the Chinese mainland were very enlightening.

I am not one who expects the President to splice together in 1 week the frayed ends of a diplomatic cord severed some 20 years ago. Nor do I expect a resolution of the philosophical differences that foster our nuclear tensions. The President has warned against such great expectations.

But I do hope Mr. Nixon will be able to bring our political differences to the point of discussability. We are not harmed, and we may greatly gain, by exchanging views with a nation so large and potentially influential to world opinion as the People's Republic of China.

The trip, however, is much more than a beginning to discussions on the diplomatic level. If we accomplish nothing diplomatically, we have at least gained the chance to see how part of the world's most populous country lives, works, eats, dresses, speaks, and reacts to other people. The satellite coverage of the President's trip provides us with a windowlike view of China and her people.

Discounting the "dressing up" by the Chinese people which probably took place before the President landed, the telecasts are showing that Peking is a clean and beautiful capital city. The avenues appear tree-lined, wide, and absent the bustle of crowds that one might expect in a country of 750 to 800 million people. The formal square is well-kept, free of big-city debris, and pleasantly calm. The architectural design is what has to be known as Russian modern. Little of this development could have occurred on the spur of the moment in anticipation of the arrival of the President.

I also noticed great variety in the Chinese dress. It was colorful, simple, and practical. The formal uniforms so often depicted in scenes of the Chinese culture publicized prior to this visit were not as prevalent as one might have thought.

The people seemed relaxed and friendly. Even the formal greeting of the President by officers of the Chinese Government was conducted with a minimum amount of officialdom. Of course, it lacked the pomp which might be given to the Chief Executive of a country friendlier to China.

While viewing this coverage of the China trip, I could not help but realize that the Chinese people are also learning something about us. The newsmen and technical associates accompanying the President are creating an important first impression for some of the Chinese people who meet these Americans.

I am a little disappointed that more of a cross-section of the American public was not selected to travel with the President. As it is, I hope the newsmen and camera technicians will be on special guard to put America's best foot forward.

Unfortunately, the usually composed Walter Cronkite has already commented that he could have been duped into wearing a "Yankee Go Home" button because he does not understand the Chinese script on his press identification badge. He also publicly doubted if he would have a bed in which to sleep. Jocularly intended or not, these comments may be misunderstood by the hosts or by others in the worldwide audience viewing the satellite broadcast.

Other reports indicate that the press corps was provided with all the modern accommodations expected on any trip of this kind. In fact, this larger-than-ever press corps was furnished immediate long-distance telephone service at the Shanghai airport.

Mr. Speaker, I simply want to emphasize that the men and women accompanying the President serve also as ambassadors of the American people on this initial journey to China. The President is skating on thin diplomatic ice and we do him and the Chinese an injustice by airing comments susceptible of being misunderstood in a worldwide broadcast. Surely these newsmen can better use this occasion to telecast a multitude of facts about the Chinese and their country and leave invidious comments out of it.

EMPLOYMENT—A LA WPA? DID SOMEONE TURN UP THE LIGHTS?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. McFALL) is recognized for 15 minutes.

Mr. McFALL. Mr. Speaker, I was glad to read in the Washington Post last week that the administration has launched an urgent task force study to uncover the reasons for consistent high unemployment, and more importantly, recommend ways of attacking the problem. This makes sense. One naturally puts out the fire before looking for causes.

The article, written by Post financial editor Hobart Rowen, notes that Treasury Secretary John Connally, chairman of the task force, and Charles E. Walker, his deputy, "make clear that the administration is ready to consider the pros and cons of expanded public service employment 'a la WPA.' "

The article refers to a Treasury Department memorandum that quotes the Assistant Secretary for Economic Policy, Edgar R. Fiedler, as writing—

> What can be done to put unemployment to work for the government, a la WPA? What benefits do governments get? What is the impact on the labor market?

A quick review of past and current accelerated public works type programs will reveal answers to these questions. The 92d Congress, during the first session, provided the administration with the necessary tool to test this approach under today's conditions.

Mr. Speaker, during the past 2 years 150 of my colleagues joined with me in sponsoring legislation that embraced that concept of relieving the Nation's high rate of unemployment which has now reached such proportions that it affects the homes of approximately 5½ million Americans.

San Joaquin County—in the Stockton labor market—and Stanislaus County—in the Modesto labor market—in my home district in California have been listed among the "top 10" standard metropolitan statistical areas for highest rates of unemployment in the United States. The Stockton labor market is one of only four in the continental United States listed by the Department of Labor as both "substantial and persistent."

During the last session, my colleagues and I introduced legislation known as "accelerated public works" which does, in fact, embrace the concept of soaking up unemployment by providing 80 percent Federal grants to local governments to build permanent public facilities.

Although this measure passed the House of Representatives by an overwhelming vote of 320 to 67, the President vetoed the proposal. However, I recall that during the closing days of the 91st Congress the President also vetoed the first legislation proposed that included public service employment. Last summer he signed into law the Emergency Employment Act which has already provided jobs and prevented unemployment rates from inching up even higher. I commend the administration for reconsidering its first position on that proposal and I believe the time has come to reconsider its first position regarding the accelerated public works proposal.

The APW bill vetoed by the President also extended the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965. In order to keep the Economic Development Act and Appalachian programs alive, it was necessary for the House Public Works Committee to immediately report out another bill.

Congressman John Blatnik, chairman of the House Committee on Public Works, and his committee dutifully reported a new bill that was signed into public law on August 5, 1971 (Public Law 92–65). However, Chairman Blatnik and his committee, when drafting the new act, did not lose sight of the intent of the vetoed legislation and provided for some limited APW assistance in title I of the act. Chairman Blatnik's foresight has paved the way to enlarge assistance to communities designated as "special impact target areas" to provide immediate useful work that will reduce the high rates of unemployment in these areas.

Mr. Speaker, I am today introducing legislation that will increase assistance to "special impact" areas authorized in Public Law 92–65 to approximately $475 million. Chairman Blatnik's Subcommittee on Economic Development Programs will begin hearings on March 7. I believe it appropriate that this committee hear testimony on this proposal which has the net effect of increasing the authorization for this purpose by only $195 million.

Public service employment legislation has assisted in meeting the needs of communities by providing jobs and services that these communities can no longer afford. However, it falls short of creating employment in the construction industry, including the building trades, that segment of our economy that suffers from an unemployment rate double the national average.

Eligible cities and counties with exorbitantly high rates of unemployment have lists of much-needed public works projects that could be initiated at once: Storm drainage systems, sidewalk improvement, libraries, police stations, community centers, street lights and traffic signals, airport facilities, hospitals, warehouses, water purification plants, and so forth, in addition to sewage systems and many others that will aid in cleaning up our rivers and attracting industry to these communities.

Mr. Speaker, I include at this point in the Record the text of my bill to be followed by Mr. Rowen's article appearing in the Washington Post, February 18, 1972:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 105 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3135) is amended—

(1) by striking out "and not to exceed $800,000,000 per fiscal year for the fiscal years ending June 30, 1972, and June 30, 1973" and inserting in lieu thereof the following: "not to exceed $800,000,000 for the fiscal year ending June 30, 1972, and not to exceed $950,000,000 for the fiscal year ending June 30, 1973"; and

(2) by amending the last sentence thereof to read as follows: "Not less than 25 per centum nor more than 35 per centum of all appropriations made for the fiscal year ending June 30, 1972, and not less than 50 per centum of all appropriations made for the fiscal year ending June 30, 1973, under the authority of the preceding sentences shall be expended in redevelopment areas designated as such under section 401(a) (6) of this Act."

Urgent U.S. Study Weighs WPA-Type Jobs Program

(By Hobart Rowen)

The Nixon Administration has launched an urgent study, under the direction of Treasury Secretary John B. Connally, to uncover the reasons for persistently high unemployment and recommends ways of attacking the problem.

A Treasury Department memorandum to members of Connally's task force—headed by Under Secretary Charles E. Walker—makes clear that the Administration is ready to consider the pros and cons of expanded public service employment, "a la WPA."

WPA, or Works Progress Administration, was one of the New Deal measures used to soak up heavy unemployment in 1932–33. Republican Party orators historically have condemned the WPA as a "boondoggle."

But the Treasury memo, bearing the initials of Assistant Secretary for Economic Policy Edgar R. Fiedler lists as one question to be studied:

"What is and can be done to put the unemployed to work for the government, a la WPA? What benefit do the governments get? What is the impact on the labor market?"

Democrats during the past two sessions of Congress have increasingly pushed for reliance on the Government as an "employer of last resort" because of the failure of unemployment to recede. Despite a mild improvement in the economy in 1971, the unemployment rate was virtually unchanged in a 5.8 to 6.0 per cent range for the entire year.

The Connally study was initiated by a Presidential directive Jan. 20.

The task force, scheduled to report by the end of this month, will also examine these questions, outlined in a Connally memo Jan. 20.

The soundness of present statistical methods.

The regional, sex, occupational characteristics of the unemployed and how they may differ from earlier periods.

Reasons for the "mismatch" between available jobs and vacancies.

Government training programs, and whether they really work.

"Disincentives to employment" such as unemployment compensation, welfare payments and minimum wage legislation.

Task force conclusions remain to be seen. But an internal Treasury staff paper titled: "The Unemployed: Who, Where and Why," by career economist Herman I. Liebling has already concluded that a 4 per cent rate as a national goal over the next few years "is not feasible wtihout significant inflation."

"This might apply even if some new fundamental approaches in manpower training, not now in sight, were tried."

Sen. William Proxmire (D-Wis.) had confronted Connally with the above quotation from the report during the Secretary's testimony Wednesday at the Joint Economic Committee. Connally (who was aware that the report had leaked to the JEC) insisted it had no official status, and that the Administration had not abandoned 4 per cent as the goal of policy.

The Liebling paper summarizes the general theme of recent academic reports on the unemployment problem, which suggest that more of the unemployed today are young, or female, or "disadvantaged"—and thus it is more difficult to find them jobs merely by cranking up the economy.

But it goes on to suggest that the unemployment rate probably can't be lowered below 5 per cent "without unleashing unwanted inflationary repercussions."

Setting a 4 per cent goal, Liebling said, might mean "acceptance of 4 per cent or more inflation." But a 5 per cent unemployment rate would "trade-off," or be accompanied by a more satisfactory 3 per cent inflation rate. The unemployment-inflation "trade-off" in the U.S. is "worse" than in other countries, Liebling said, the result of "a worse mismatch of existing employment opportunities and skills than in the other (industrialized) countries, except possibly for Canada."

Task force members are the Secretaries of Defense, Agriculture, Commerce, Labor, HEW and the Chairman of the Council of Economic Advisers. The Director of the Office of Management and Budget was omitted, apparently inadvertently.

THE PRESIDENT AND SOVIET JEWS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. St Germain) is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, for many years I have shared with my constituents a deep concern for the plight of those brave Soviet Jews and other oppressed minorities who are denied religious and personal freedom by the Kremlin.

We now have an unusual opportunity to speak up for these courageous people when the President visits Russia in May. He has indicated that he might discuss the plight of Soviet Jewry with the Kremlin leadership. This is an opportunity that should not be ignored.

The distinguished members of the Senate of my State of Rhode Island and Providence Plantations have enacted a resolution requesting the President:

> To call upon the Soviet Government to permit the free exercise of religion by all its citizens in accordance with the Soviet Constitution, to end discrimination against religious minorities, and to permit its citizens to emigrate from the Soviet Union to the countries of their choice as affirmed by the United Nations Declaration of Human Rights.

I strongly endorse this resolution and urge my colleagues in the House to do the same. The struggle for religious and personal freedom by the Soviet Jews is in the best tradition of our own fight for freedom nearly 200 years ago.

I would like to insert the complete text of the resolution in the Record at this point:

State of Rhode Island Resolution Memorializing the President of the United States and the Congress To Ask the Government of the Soviet Union To Permit the Free Exercise of Religion to All Its Citizens

Whereas, In the Soviet Union men and women are denied freedoms recognized as basic by all civilized countries of the world and, indeed, by the Soviet Constitution; and

Whereas, People of the Jewish faith and other religious minorities in the Soviet Union are being denied the means to exercise their religion and sustain their identity; and

Whereas, The government of the Soviet Union is persecuting Jewish citizens by denying them the same rights and privileges accorded other recognized religions in the Soviet Union and by discriminating against Jews in cultural activities and access to higher education; and

Whereas, The right to emigrate freely which is a right affirmed by the United Nations Declaration of Human Rights, adopted unanimously by the General Assembly of the United Nations, is denied Soviet Jews who seek to maintain their identity by moving elsewhere; and

Whereas, These infringements of human rights are an obstacle to the development of better understanding and better relations between the people of the United States and the people of the Soviet Union; now therefore be it

Resolved, That the President of the United States when he visits the Soviet Union be respectfully requested to call upon the Soviet government to permit the free exercise of religion by all its citizens in accordance with the Soviet Constitution to end discrimination against religious minorities, and to permit its citizens to emigrate from the Soviet Union to the countries of their choice as affirmed by the United Nations Declaration of Human Rights; and be it further

Resolved, That the secretary of state be and he hereby is respectfully requested and directed to transmit duly certified copies of this resolution to the President of the United States and to the Rhode Island delegation in Congress.

ANNOUNCEMENT OF POSITION ON MISSED ROLLCALL VOTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska (Mr. Begich) is recognized for 5 minutes.

Mr. BEGICH. Mr. Speaker, Alaskans have but one Congressman, and this makes it essential that he be on the job as much as possible. For this reason, I made two promises to the voters of Alaska when I sought this congressional seat. First, I promised to have the best voting attendance record possible. Second, I promised to make my position clear on all issues where I was unable to make a vote.

So far, there have been 518 occasions when I was asked to answer for Alaska. I have missed answering four times, the most recent being February 9, 1972, when I missed a rollcall vote in order to catch the last possible flight on which I could make the connections necessary to reach Alaska. I would like to announce my position on that vote at this time.

The question was on final passage of House Joint Resolution 1025 to provide a procedure for settling the west coast dock strike. After amendments in the nature of a substitute, this was essentially the legislation which was proposed by the President. If I had been present to vote, I would have voted against passage of the bill. The final vote was 214 to 139 in favor of passage. Because this entire issue is and was so important for Alaska, I would like to explain my position.

The bill finally voted on was a substitute for the bill reported by the House Education and Labor Committee which I supported. The committee bill contained two provisions which were of crucial importance to Alaska. First, it did not require compulsory arbitration. Second, specific protection was provided for shipments involving agricultural products, military cargo, and shipments to and from Hawaii and Alaska.

For Alaskans, this meant both that vital supplies could get through, and that the final settlement would not have to be coerced, as in the administration bill. I would not have missed the vote on the final passage, no matter what other conflicts I had, but for the fact that the crucial vote on this issue was taken earlier when the rule for consideration was voted on which permitted the administration bill to be substituted. Once this vote was lost, over my own dissenting vote, the issue was effectively decided.

I am hopeful that this makes clear my position on this vote. Alaskans may expect similar statements on each occasion I am forced to miss any recorded vote.

PANDA BEAR DIPLOMACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. Galifianakis) is recognized for 5 minutes.

Mr. GALIFIANAKIS. Mr. Speaker, I was delighted to learn today, February 22, that the Government of the Peoples Republic of China is going to present President Nixon with two giant pandas as gifts for the American people.

This is encouraging news to me, because since last May I have been in communication with both the White House and the State Department about asking the Chinese Government for a panda for the North Carolina State Zoo in Asheboro.

Before President Nixon departed for the Peoples Republic of China on February 17, 1972, I sent him the following telegram reminding him of my original request:

> Pursuant to my letter of last May 11, I would appreciate any action you might be able to take on your forthcoming trip to the Peoples Republic of China to secure a giant panda bear for the North Carolina zoological park in Asheboro. The giant panda is a gentle animal and would be a fitting symbol of the peace you are seeking to build between our two nations.
>
> I am confident the North Carolina Zoological Authority would prove a faithful trustee, not only for the people of North Carolina, but for all the people of the United States, if you can arrange for the donation or sale of a panda.
>
> With every good wish for the success of your important mission.
>
> Respectfully,
>
> Nick Galifianakis.

At present there are only four giant pandas outside of the Peoples Republic of China, two in North Korea, one in Moscow, and one in London.

Since the two pandas being sent to the United States are gifts to all the American people, I think it would be appropriate if one animal is maintained at the National Zoo in Washington, D.C., and the other at the zoo which nearly a year ago initiated the idea of asking the Chinese for a panda, the North Carolina State Zoo in Asheboro, N.C.

A TRIBUTE TO PARTNERSHIP

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on February 20, speaking before the 13th Annual Bob Hope Dinner to raise funds for the National Parkinson Foundation at the Fontainebleau Hotel at Miami Beach, Fla., Dr. Merlin K. DuVal, Assistant Secretary for Health and Scientific Affairs of the Department of Health, Education, and Welfare, delivered an outstanding address entitled "A Tribute to Partnership."

This dinner is a great event attended by some 1,200 people each year who have long given their loyal support to the problem of Parkinson's disease which afflicts 60,000 new victims every year in our country, which has an annual population afflicted with Parkinson's of 1½ million persons. Bob Hope, for 13 years the honorary chairman of the dinner, was again honorary chairman and was present and in his own inimitable way was master of ceremonies for the entertainment at the dinner, assisted by some of the outstanding artists performing on Miami Beach. My wife has long been the dinner chairman. I had the honor to be toastmaster on this occasion. The National Parkinson Foundation, with headquarters in Miami, provides treatment and rehabilitation for the largest number of Parkinson's patients in the world. The Parkinson Foundation is working in close concert in its research and rehabilitation with the National Institute on Neurological Diseases and Blindness and with other authorities.

The great genius of the foundation has been Mrs. Jeanne Levey who with her husband, a victim of Parkinson's, was the cofounder of the National Parkinson Foundation.

Dr. DuVal in his able and outstanding address not only took due note of the progress made in research upon Parkinson's disease but reviewed the meaningful results possible when the Federal and private resources of the country are brought to bear on a problem. From his vantage point as Secretary for Health and Scientific Affairs in the Department of Health, Education, and Welfare, Dr. DuVal was able to offer much hope in what can be accomplished in dealing with this tragic affliction by such Federal and private cooperation in the years ahead.

Mr. Speaker, I commend the scholarly address of Dr. DuVal to my colleagues and my fellow countrymen in the Record immediately following my remarks:

A Tribute to Partnership

(Address by Merlin K. DuVal, M.D.)

This month, from a podium in Washington, a weekend neighbor of yours offered resounding tribute to volunteerism and to those who give so generously of their time and funds for the betterment of all of us. On that occasion, President Nixon—and Mrs. Nixon, who shares his appreciation of the enormous public good that emanates from private efforts—toasted the growing spirit of partnership between two sectors of our society. Here, tonight, we see a brilliant example of the kind of health achievement that is possible when both Federal and private resources are brought to bear on a problem.

The work of the National Parkinson Foundation and those who support it has been responsible for renewed hope for at least one million Americans afflicted by parkinsonism. On behalf of Secretary Richardson and our entire Federal health team, I want to compliment Mrs. Jeanne Levey, her officers and Board—with special reference to the dedicated efforts of Congressman and Mrs. Claude Pepper. I'm sure that you know that Congressman Pepper has been tireless in this efforts to further your cause from his office in Washington.

Bob Hope, your Honorary Chairman, was described last year by his fellow Californian, White House Counsellor Finch, as a "sort of one-man ambulatory HEW"—and I'll second that remark. I also noted that Bob Finch suggested that if we combine the generosity and energy of Bob Hope with the assets of Howard Hughes, this might make it possible to eliminate the Federal Government entirely. I'll second that too—but with one reservation. Let's not let Clifford Irving write the reorganization plan.

But for as long as the Federal Government stays in business, we at HEW will continue to do our very best to make a contribution in the health field.

Let me touch on some of our work in the battle against Parkinson's Disease. As we do in a number of areas, our first effort is to complement, with a strong research support program, the efforts of groups like the National Parkinson Institute as they work more directly with patients. Our own thrust is concentrated in the National Institute of Neurological Diseases and Stroke.

By now, the name of Dr. George Cotzias, the developer of L-Dopa therapy, and winner of a 1969 Lasker Award for Clinical Medical Research, has become thoroughly familiar to everyone with an interest in Parkinson's disease. We are proud to have supported Dr. Cotzias' work with L-Dopa, just as we are proud that we supported much of the research extending over the past 20 years which led up to this discovery. Even today, we are continuing to sponsor his program. He, too, is concerned primarily with the basic nature of parkinsonism. He has been working with possible alternates to L-Dopa, and is now studying reactions to the drug in animals.

He is particularly interested in finding a possible relationship of trace metals to parkinsonism (in fact his original interest was in manganese poisoning, the effects of which so closely resemble parkinsonism). He has been successful in breeding a strain of laboratory mice that does not absorb manganese and, incidentally, is also highly resistant to the toxic effects of L-Dopa. That parkinsonism might be traced to anything as simple as too much or too little manganese would be too good to be true, but we certainly think it's worth while to find out just what the relationship is.

We have some other major clinical groups that we're sponsoring—at the University of Colorado, and at the Albert Einstein College of Medicine in New York, for example.

The people at Colorado are doing a large study of the metabolism, or chemical fate, of L-Dopa in the body, in both animals and man. Simultaneously, they're studying the electrical activity of the peripheral nervous system and muscle in parkinsonism. Just recently they reported that they have found three distinct types of muscle fiber in human muscle, each with its own independent nerve supply. They're now trying to find out whether parkinsonism affects all three of the types, rather than one or two, and whether any difference can be found in the muscle tissue of patients on L-Dopa.

Our center at Albert Einstein was only inaugurated in 1971. This group also will devote itself largely to exploiting the research opportunities opened up by the success of L-Dopa therapy.

In addition to these large projects, we are supporting about 60 smaller, more specifically targeted projects. These cover a very broad range, and I won't try to describe them. One of them, though, is a project of special interest to us tonight that I do want to mention. This is a study that our own National Institute of Neurological Diseases and Stroke is conducting in collaboration with the National Parkinson Institute here in Miami. One of the things we would very much like to know is whether L-Dopa really affects the natural course of Parkinson's disease, or whether it represents purely symptomatic treatment.

The National Parkinson Institute now has the largest L-Dopa therapy program in the world. It dispenses about 100,000 2½ milligram capsules a month, and it has uniform records on the largest population of Parkinson patients of any institution in the world. We're currently analyzing data from this tremendously rich source to see if we can detect any life expectancy differences between pre- and post-L-Dopa patients. This study is going very well, and we expect to be able to report on it by the end of this year. Real knowledge of whether L-Dopa slows the progression of parkinsonism would give us a very important new research lead.

Of course there are other things we also have to find out about this interesting drug. As many of you know, one of the problems that has discouraged many patients, and their physicians, has been that the doses of L-Dopa that are necessary to obliterate tremors are so large that they also frequently produce severe, although reversible, side effects. The problem appears to stem from a natural protective mechanism that acts to prevent many drugs from getting into the brain from the blood stream. Small amounts of L-Dopa (and therefore less likely to produce side effects) are broken down so quickly in the body that adequate penetration into the brain doesn't take place. The main experimental approach to this problem, is through the use of certain "inhibitor" drugs which slow the breakdown of L-Dopa, thus allowing greater penetration, and permitting smaller doses. This is a tremendously exciting investigation because, if it's successful, it will enable us to help many of the 25 to 35 percent of Parkinson patients who cannot now tolerate L-Dopa.

We were most interested to learn that the National Parkinson Institute is negotiating with a drug company to test one of the inhibitors, known as "MK-486." This compound is being tried in a number of other centers and, if you haven't already heard it: the results are highly encouraging up to now. One group that we support in New York currently has 50 patients under treatment with MK-486, plus L-Dopa. They have found that they can reduce dosages by 80 percent, eliminate some side effects, and reduce many of the others to negligible levels.

Some other information of interest relating to long-term safety of L-Dopa has also been reported recently, patients who have been on the drug continuously for as long as three years have shown no serious untoward effects. Furthermore, we have no evidence that the drug causes any measurable alterations in brain tissue. This is very encouraging, indeed.

The data I have just discussed relates, of course, to specific treatment measures—their efficacy and the problems that are associated with them. They are of paramount importance to those of you who are so conscious of the progress of individuals suffering from Parkinson's Disease. But even beyond that awareness, I know that many of you here tonight have an even deeper concern. You look to the *total* health picture with a concern for those who are afflicted with a broad range of disorders. You have seen the appearance of health deficits which might not have occurred had we paid greater attention to preventive techniques. You have borne the burden that escalating costs have placed on consumed and provider alike—to say nothing of the enlarging price of the Federal budget allocated to health. And you have experienced the inadequacies of traditional methods of insuring against the expense of both chronic and acute disorders.

We, at HEW, have increasingly come to a better understanding of these matters—something the voluntary organizations have known for a long time—while dollars are important, the efficient and well-planned use of those dollars is absolutely vital. For too long, we have received only a partial return from Federal health expenditures; today, we must insist that every dollar we spend produces the maximum possible benefit to American health consumers.

This philosophy is the cornerstone of the comprehensive health strategy I came to Washington to implement, at the request of our President. And my associates and I have started to implement it. We began by streamlining the operation of HEW—the second largest but most complex of all government departments. For years, people have said that HEW couldn't be managed. I'm here to tell you it can be managed and under the inspired leadership of our Secretary, Elliot Richardson, it *is* being managed; and well too, in my judgment.

At HEW our concern is not, weapons systems, national parks or highways—it's people—their health; their education; their well being and their welfare. My one concern, in the Department, is health. And our goal is to make it possible for all people to have ready access to good health care at a price that is reasonable and can be reasonably afforded. We are emphasizing the prevention of disease, the control of costs and the quality of the product. And we intend to achieve these objectives without destroying the freedom which has been responsible for so many of the advances in American health technology. We are not yet prepared to bankrupt the nation with paternalistic health protection schemes. We do not think that government has the right to rob the individual citizen of his own right to choose the physician and the health facility that he believes are best equipped to meet his needs.

More simply stated, our strategy is an interlocking effort to encourage the reform and renovation of the entire health care system through more skillful health planning, health research, health manpower education and health services. And I am gratified that you who are associated with the National Parkinson Foundation also recognize the need for a fresh and innovative approach in your work with patients. I refer, of course, to the concept utilized in the Tower of Hope. This unique facility undertakes rehabilitation and research in effective, new ways—providing an environment more closely resembling the "real world" to which the chronic patient and his family must adapt.

Mrs. Levey has told us of the plans for the Bob Hope Research and Rehabilitation Institute, which will encompass some 50 beds, and laboratory facilities for 8 to 10 scientists. I can only say that we welcome and applaud this enterprise and wish you the best of good luck with it.

As I have already suggested, the conquest of Parkinson's Disease—like most of our other health challenges—will result from a partnership, an amalgam of public and private effort. Thus far, your share of the job has been handled admirably. My colleagues and I will do everything we can to match it.

Thank you.

LAWRENCE F. O'BRIEN SPEAKS ON CHALLENGES FACING OUR NATION

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to extend extraneous matter.)

Mr. PEPPER. Mr. Speaker, on Thursday, January 13, 1972, the Honorable Lawrence F. O'Brien, distinguished Democratic national chairman, addressed the Men's Clubs of Synagogues-Beth Shalom Synagogue in Kansas City, Mo. His speech is a masterful account of the challenges facing our Nation in the year ahead, and I want to commend it to my colleagues who might not already have seen it, and to all who read this RECORD, as a timely analysis of today's problems:

REMARKS BY DEMOCRATIC NATIONAL CHAIRMAN LAWRENCE F. O'BRIEN

And so it is with us again—another year of reckoning—the quadrennial test of man and system.

Yes, it is 1972 and the determination of America's destiny is before us again.

It occurs to me, as it may to many of you, that there probably has never been an election year when it was not said that the future of America depended on the outcome . . . that America's destiny truly lay, in whatever year it happened to be, in the decision of millions of citizens as they privately register their choice for President of the United States.

But in the year of 1972, I submit that our destiny as a nation is on the line perhaps as it has not been since the Civil War.

We, as a nation, have survived many crises, many critical tests, since that dark period in the mid-19th Century. But now, as a democracy approaching its 200th year, we could well be facing our greatest test.

For I am convinced that millions of Americans have become dubious to the point of despondency at the capacity of this system ever again to produce strong, compassionate, and trustworthy leaders. The national polls will tell you: "Politicians never keep their word."

Events of recent months and years have spawned a grim cynicism among our fellow citizens toward the most basic tenets of our form of government. Many—and perhaps most—simply *don't believe* that the people govern themselves . . . that their voices and needs are heard by their elected leaders . . . that theirs is truly a government not of men, but of laws.

And there, my friends, is the challenge to the party of which I am a member—the Democratic Party. Let me state right here and now that *that* challenge is the reason I am involved as its national chairman.

Now, you may be forgiven if you happen to believe my purpose in life is solely to win elections; it's a reputation that's hard to shed.

So let me indulge in what might seem, to some of my associates, to be heresy. I simply have *no* interest—*none whatever*—in dislodging Richard Nixon from the White House if the alternative is simply more of the same. America just couldn't take that in 1972.

Of course, I would take pleasure in sending Mr. Nixon back to San Clemente, or Park Avenue, or Key Biscayne, or wherever he calls home—but *only* if my party has replaced him with a leader who will lead; who will command the trust and confidence of the American people, and who will offer a solid, tangible, and positive alternative to the clumsy and insensitive bungling of the past three years.

A philosopher once said there is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success, than the introduction of a new order of things.

But without question, the 1970s cry out for a new order of things in American society. And if my party is rightfully to seek the leadership of this nation, it must set that new order before the people in a way that will *compel* their affirmative response.

The challenge to the Democratic Party—with its incredibly broad coalition of virtually every segment of American society—is to restate in believable and contemporary terms the party's traditional concern for the interests of average citizens . . . those aspects of society that directly affect people's daily lives. The challenge is to set forth this commitment in terms that reflect the reality of 1972 rather than the realities of the Great Depression, the 1950s, or the 1960s.

You may be sure that Mr. Nixon will be hard at work telling the American people he has done his best in a difficult situation. He will pour unprecedented millions of dollars into that effort, hoping the all-time record for summit conferences and Air Forces One fuel consumption will entice the American people away from their concern over their livelihoods, their children, their sick, their elderly, and the ever-diminishing "little extras" in life.

You may be sure that Mr. Nixon realizes fully the absence of a committed personal following and the undoubted minority position of the Republican Party as the 1972 campaign begins. And so we can expect that he will try to orchestrate a highly "presidential" campaign, quite different from the strident partisan effort of 1970. The phrase "partisans of principle" will ring throughout the land; the word "Republican" will seldom, if ever, be mentioned.

You'll be hearing a lot about "a generation of peace" and "the new prosperity based on peace" as Mr. Nixon tries to portray himself as a man of action, of vision, struggling with intractable problems inherited from the Democrats. And to some observers, the Nixon strategy will appear unbeatable, with the Democrats overwhelmed by the disadvantages of incubency and unlimited finances.

I do not agree.

And here lies the challenge to the Democratic Party in 1972: To nominate a presidential candidate who—along with his party's platform—offers a real alternative, a leader who shows the strengths and ability to get the job done, a candidate with the capacity to make the voters say: "Mr. Nixon's best is not good enough; we can do better."

And truly, it comes down in large measure to the basic question of trust.

What are the American people to think of their leaders when they elect a man who has "a plan to end the war"—and three years later open their newspapers at the holiday season to discover that North Vietnam is under a rain of awesome new American bombs?

What are they to think of their leaders when a professed neutrality over another war in South Asia turns out to be cynically masking a spiteful bungling of all of our Asian relationships?

We can only hope that Mr. Nixon's exercise in professed neutrality—one that featured a distinct tilt against India and the people of Bangla Desh—is not repeated in the Middle East.

The objective of U.S. policy in the Middle East must be a lasting peace between Israel and the Arab nations—a peace that will assure independence and security to Israel and all other nations and people in the area. The Middle East arms race regrettably has continued, spurred by increased shipments of arms to the Arabs from the Soviet Union and certain western nations. The United States should make every effort to reduce the flow of arms into the area and press for Middle East arms limitation arrangements.

However, pending such an arrangement, the United States must correct or prevent an arms imbalance that might either threaten Israel's existence or contribute to a resumption of major hostilities.

In other words, the Nixon administration's neutrality in this area of the world must not become a pretext for endangering Israel's survival.

What are the American people to think of their leaders when Mr. Nixon—who has on 11 occasions vetoed major items of special legislation—goes out of his way to announce his "reluctance" at signing legislation to extend emergency unemployment benefits in those states most harshly affected by his administration's failure to end unemployment—which in 1971 reached a 10-year high?

The issue in 1972? It's a question I am asked nearly every day. The issue is leadership. The issue is the survival of our form of government—built as it is on a flow of power *from* the people, who *must* believe, if government is to be legitimate, that they are heard. The issue, in short, is trust.

And on that issue, I firmly believe Mr. Nixon has failed us utterly.

And *that* is the issue we shall present to the American people.

Reformed, restructured, and revitalized, the Democratic Party will prove to our fellow citizens that this, after all, is *still* the best form of government mankind has known. And to dramatize that effort, I would remind you that every one of you, every organization in the country such as these represented here tonight, may now, under our new reform procedures, play a direct role in the selection of our nominee and the writing of our platform. We as a party have laid the groundwork; it is time now for Democrats across this nation to avail themselves of the opportunities now existing to become delegates to the local, state, and national Democratic conventions, or to exert their influence on the selection of these delegates. You need only inquire; we shall tell you how.

With that involvement, we shall summon forth once again the commitment of every citizen to the destiny of this nation, knowing that our democracy will stand or fall on the capacity and willingness of each individual to meet his responsibilities.

We shall not venture to China, or Russia, or South America, or the Bahamas, to reach the hearts of the American people. For us, in 1972, the "summit conference" must be every word we exchange with our fellow Americans. *We* shall "normalize" relations here in our own land, where the challenges are unending.

We shall do it in the contest for the presidential nomination in all the states. We shall prove our fitness to lead at Miami Beach with a nominating convention unprecedented for its openness, fairness, and good sense.

And we shall do it in the fall, a few short months from now, with an appeal to the *best* in our people; an appeal that unites rather than divides; an appeal that utterly rejects the Nixon-Mitchell reliance on bitterness and distrust.

For the future of our nation, someone must do that. It must be done now, in this year of 1972.

It is a time for greatness, for vision, for boldness. And yet it is a time for steady, reasoned leadership that does not seek to startle and confuse the people with explosive announcements and sudden shiftings of course.

Above all, in striving to regain the confidence of the people in their elected representatives and leaders, we must be certain that we do not promise too much on the cynical presumption that "nobody really expects politicians to keep their promises anyway."

A distinguished political analyst wrote recently of this syndrome:

"Some politicians . . . have bespoken the glory of the dream, convinced obviously that this was what many Americans wanted to hear. The corollary, inevitably, was that bad news, limited promises, ordinary visions could not be offered.

"As a people, we should by now have seen the folly in this course. Dreams, like everything else, have their price. Things gained too easily at the outset cost much more later. America's resources are running thin. The social burdens of pollution and the ravaged land are mounting . . .

"Our leaders are supposed to be our wise counselors. If they are overpromisers, as some of them surely are, then they are cruel deceivers. They must know better. On the threshold of 1972, America still is rich in the substance of good living. Its people have great qualities. But there needs to be less fanciful dreaming and more hard effort, more payment on the high price of great dreams."

And so our promise to the American people in this momentous year must be carefully defined. Not "this year will be a very good year in the economy" when we can't possible know that to be true. Simply "We hear you. We understand the problems. We will set them in their proper place in the social order of things; assign them the correct priority, and then do everything within our power to come up with a solution that will be meaningful to you."

Who knows? We might even come up with a president of the United States who will be able to say, when it is appropriate, such bizarre things as, "I don't know." Or "We were wrong." Or even, "You're not going to like this for a while, but here's what we have to do."

For I believe the American people know in their hearts what their political leaders seem too seldom to realize: That we must always, in the final analysis, rely on human intelligence, human will, and human decency—always allowing for human fallibility.

The American people, in 1972, want desperately to know where this nation is going—and where it is taking them, as individual human beings.

Those in power today have defaulted. And now it is up to us to provide the answers and lead the way.

This is my commitment—and I hope it will be yours.

LEAVE OF ABSENCE

Mr. Davis of South Carolina (at the request of Mr. McMillan), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. Goldwater):)

Mr. Blackburn, today, for 5 minutes.

(The following Members (at the request of Mr. Archer), to revise and extend their remarks, and to include extraneous matter:)

Mr. Miller of Ohio, today, for 5 minutes.

Mr. Halpern, today, for 5 minutes.

Mr. Skubitz, today, for 5 minutes.

(The following Members (at the request of Mr. Mazzoli) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 10 minutes, today.

Mr. Flood, for 10 minutes, today.

Mr. Aspin, for 10 minutes, today.

Mr. Poage, for 5 minutes, today.

Mr. Burke of Massachusetts, for 15 minutes, today.

Mr. Alexander, for 30 minutes, today.

Mr. James V. Stanton, for 15 minutes, today.

Mr. McFall, today, for 15 minutes.

Mr. St Germain, today, for 5 minutes.

Mr. Begich, today, for 5 minutes.

Mr. Galifianakis, today, for 5 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Madden, and to include extraneous material.

(The following Members (at the request of Mr. Goldwater) and to include extraneous material:)

Mr. Steele in six instances.

Mr. Railsback.

Mr. Goodling.

Mr. Derwinski in three instances.

Mr. McKinney.

Mr. Johnson of Pennsylvania.

Mr. Rhodes in five instances.

Mr. Goldwater.

Mr. McClory.

Mr. Lent.

Mr. Zwach in two instances.

Mr. Hosmer in two instances.

Mrs. Dwyer in four instances.

Mr. Harvey.

Mr. Wyman in two instances.

Mr. Frenzel.

Mr. Buchanan in two instances.

Mr. Heinz.

(The following Members (at the request of Mr. Archer) and to include extraneous matter:)

Mr. McClure.

Mr. Schmitz in two instances.

Mr. Vander Jagt in two instances.

Mrs. Heckler of Massachusetts in two instances.

Mr. Edwards of Alabama.

Mr. Halpern in two instances.

Mr. Carter in two instances.

(The following Members (at the request of Mr. Mazzoli) and to include extraneous material:)

Mr. Symington.

Mr. Seiberling in 10 instances.

Mr. Gonzalez in three instances.

Mr. Hagan in three instances.

Mr. Rarick in three instances.

Mr. Rogers in five instances.

Mr. Aspin in two instances.

Mr. Dingell in two instances.

Mr. Rodino in two instances.

Mr. Byron in 10 instances.

Mr. Stokes in two instances.

Mr. Drinan in three instances.

Mr. Badillo in three instances.

Mr. Reuss in six instances.

Mr. Boland in two instances.

Mr. Culver in three instances.

Mr. Anderson of California in two instances.

Mr. Evins of Tennessee in three instances.

Mr. Cotter.

Mr. Hungate in four instances.

Mr. Scheuer in two instances.

Mr. Annunzio in two instances.

Mr. Smith of Iowa in two instances.

Mr. Begich in two instances.

Mr. Patman.

Mr. Ichord.

Mr. Miller of California in five instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2275. An act for the relief of Wolfgang Kutter; to the Committee on the Judiciary.

ADJOURNMENT

Mr. MAZZOLI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 38 minutes p.m.), the House adjourned until tomorrow, Wednesday, February 23, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1641. A letter from the Director of ACTION, transmitting a draft of proposed legislation to provide additional authorization of appropriations under title VIII of the Economic Opportunity Act of 1964, and for other purposes; to the Committee on Education and Labor.

1642. A letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce; to the Committee on Merchant Marine and Fisheries.

RECEIVED FROM THE COMPTROLLER GENERAL

1643. A letter from the Comptroller General of the United States, transmitting a report that better inspection and improved methods of administration are needed for foreign meat imports under the Consumer and Marketing Service of the Department of Agriculture; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MATSUNAGA: Committee on Rules. House Resolution 828. Resolution providing for the consideration of H.R. 11021. A bill to control the emission of noise detrimental to the human environment, and for other purposes (Rept. No. 92–844). Referred to the House Calendar.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 829. Resolution providing for the consideration of H.R. 12931. A bill to provide for improving the economy and living conditions in rural America (Rept. No. 92–845). Referred to the House Calendar.

Mr. O'NEILL: Committee on Rules. House Resolution 819. Resolution to create a Special Committee to Investigate Campaign Expenditures (Rept. No. 92–846). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. ABZUG:

H.R. 13270. A bill. National Public Employee Relations Act; to the Committee on Education and Labor.

H.R. 13271. A bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide; to the Committee on the Judiciary.

H.R. 13272. A bill to amend title XVIII of the Social Security Act to authorize the provision of home health services under the insurance program established by part A thereof without a prior stay in a hospital; to the Committee on Ways and Means.

By Mr. ALEXANDER:

H.R. 13273. A bill to establish more effective community planning and development programs (and expand the related provisions of existing programs) with particular emphasis upon assistance to small communities; to the Committee on Banking and Currency.

By Mr. ANDERSON of California:

H.R. 13274. A bill to ban the usage of diethylstilbestrol (DES) as a growth promotant; to the Committee on Interstate and Foreign Commerce.

By Mr. ASHBROOK:

H.R. 13275. A bill to require that certain textile products bear a label containing cleaning instructions; to the Committee on Interstate and Foreign Commerce.

By Mr. BIAGGI (for himself, Mr. Leggett, Mr. Cabell, Mr. Ruppe, Mr. Reid, Mr. Harrington, and Mr. Williams):

H.R. 13276. A bill to amend the Military Selective Service Act in order to provide for the deferment thereunder of students appointed to maritime academies and colleges; to the Committee on Armed Services.

H.R. 13277. A bill to amend the Maritime Academy Act of 1958 in order to authorize the Secretary of the Navy to appoint students at State maritime academies and colleges as Reserve midshipmen in the U.S. Navy, and for other purposes; to the Committee on Armed Services.

By Mr. CLARK:

H.R. 13278. A bill to ban the usage of diethylstilbestrol (DES) as a growth promotant; to the Committee on Interstate and Foreign Commerce.

By Mr. CONABLE:

H.R. 13279. A bill relating to the income tax treatment of charitable contributions of inventory and certain other ordinary income property; to the Commitee on Ways and Means.

By Mr. GRAY:

H.R. 13280. A bill to provide headstones for the unmarked graves of former Members of Congress; to the Committee on House Administration.

By Mr. HOGAN:

H.R. 13281. A bill to provide for the conveyance to Charles County, Md., certain Federal surplus real property to be used for civil defense and other emergency purposes; to the Committee on Government Operations.

H.R. 13282. A bill to amend the act of April 9, 1966, so as to provide for the acquisition of Oxon Hill Manor for use as the official residence for the Vice President of the United States; to the Committee on Public Works.

By Mr. HOWARD (for himself and Mr. Gray):

H.R. 13283. A bill to amend title III of the act of March 3, 1933, commonly referred to as the "Buy American Act," with respect to determining when the cost of certain articles, materials, or supplies is unreasonable; to define when articles, materials, and supplies have been mined, produced, or manufactured in the United States; to make clear the right of any State to give preference to domestically produced goods in purchasing for public use, and for other purposes; to the Committee on Public Works.

By Mr. JOHNSON of California:

H.R. 13284. A bill to provide for improving the economy and living conditions in rural America; to the Committee on Agriculture.

By Mr. KYROS:

H.R. 13285. A bill to provide for improving the economy and living conditions in rural America; to the Committee on Agriculture.

By Mr. LUJAN:

H.R. 13286. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

H.R. 13287. A bill to provide that any person making an offer to supply items through the mails periodically and pursuant to an agreement to another person, must send the other person a complete copy of the agreement; to the Committee on Post Office and Civil Service.

By Mr. MILLS of Arkansas:

H.R. 13288. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. MILLS of Arkansas (for himself and Mr. Landrum):

H.R. 13289. A bill to amend section 101(l)(3) of the Tax Reform Act of 1969 in respect to the application of section 4942(d) of the Internal Revenue Code of 1954 to private foundations subject to section 101(l)(4) of the Tax Reform Act of 1969; to the Committee on Ways and Means.

By Mr. MOORHEAD (for himself, Mr. Broomfield, Mr. Burton, Mr. Yatron, Mr. Cleveland, Mr. Terry, Mr. Thone, Mr. Sikes, Mr. Monagan, Mr. St Germain, Mr. Scott, Mr. Williams, Mr. Ruppe, Mr. McClure, Mr. Vander Jagt, Mr. Howard, Mr. Lujan, and Mr. Alexander):

H.R. 13290. A bill to amend the Foreign Assistance Act of 1961 to expand American exports by utilizing U.S.-owned foreign currencies to pay import duties on such goods, and for other purposes; to the Committee on Foreign Affairs.

By Mr. MOORHEAD (for himself, Mr. Broomfield, Mr. Cotter, Mr. Leggett, Mr. Bingham, Mr. Moss, Mr. Reid, Mr. Rangel, Mr. Dingell, Mr. Horton, Mr. Hosmer, Mr. Halpern, Mr. Whalen, Mr. Roy, Mr. Eilberg, and Mr. Symington):

H.R. 13291. A bill to amend the Foreign Assistance Act of 1961 to expand American exports by utilizing U.S.-owned foreign currencies to pay import duties on such goods, and for other purposes; to the Committee on Foreign Affairs.

By Mr. PEPPER:

H.R. 13292. A bill to broaden the national housing goals, to provide housing assistance, and promote community development through block grants with emphasis upon the preservation and more efficient use of the existing housing stock and upon the revitalization of declining neighborhoods, to improve programs of Federal planning assistance with emphasis upon modernizing and increasing the management capabilities of State and local governments, and for other purposes; to the Committee on Banking and Currency.

By Mr. RAILSBACK:

H.R. 13293. A bill to promote more effective operations and management of the Federal corrections system by reorganizing certain functions and creating new organizations, and for other purposes; to the Committee on the Judiciary.

By Mr. ROSTENKOWSKI:

H.R. 13294. A bill to suspend the duty on artificial kidneys used in hemodialysis procedure until the close of June 30, 1974; to the Committee on Ways and Means.

By Mr. ROYBAL:

H.R. 13295. A bill to amend the Lead-Based Paint Poisoning Prevention Act; to the Committee on Banking and Currency.

H.R. 13296. A bill to establish the Cabinet Committee for Asian American Affairs, and for other purposes; to the Committee on Government Operations.

H.R. 13297. A bill to amend the Civil Rights Act of 1964 in order to prohibit discrimination on the basis of physical or mental handicap in federally assisted programs; to the Committee on the Judiciary.

H.R. 13298. A bill to amend title 38, United States Code, in order to permit certain veterans up to 9 months of educational assistance for the purpose of pursuing retraining or refresher course; to the Committee on Veterans' Affairs.

By Mr. SCHMITZ:

H.R. 13299. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Santa Margarita project, California, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. McFALL:

H.R. 13300. A bill to amend the Public Works and Economic Development Act of 1965 in order to increase the authorization of appropriations for the fiscal year ending June 30, 1973, for public works and development facilities grants, and to require that a larger percentage of such appropriations be expended in certain redevelopment areas; to the Committee on Public Works.

By Mr. ST GERMAIN:

H.R. 13301. A bill to amend the Vocational Rehabilitation Act to provide improved vocational rehabilitation services to individuals; to the Committee on Education and Labor.

H.R. 13302. A bill to increase the contribution of the Federal Government to the costs of health benefits, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 13303. A bill to provide a pension for veterans of World War I and their widows; to the Committee on Veterans' Affairs.

By Mr. SPRINGER:

H.R. 13304. A bill to authorize financial assistance for opportunities industrialization centers; to the Committee on Education and Labor.

By Mr. THOMPSON of Georgia:

H.R. 13305. A bill to amend title 5, United States Code, to provide that employees of the Federal Government who are ordained ministers shall not be required to perform work on Sunday; to the Committee on Post Office and Civil Service.

By Mr. VANIK (for himself, Mr. Begich, Mr. Biaggi, Mr. Burton, Mrs. Chisholm, Mr. Diggs, Mr. Edwards of California, Mr. Fraser, Mrs. Grasso, Mr. Gude, Mrs. Heckler of Massachusetts, Mr. Matsunaga, Mr. Mazzoli, Mr. Nix, Mr. Pepper, Mr. Price of Illinois, Mr. Rangel, Mr. Ryan, Mr. St Germain, Mr. Sarbanes, Mr. Seiberling, Mr. Stokes, Mr. Symington, and Mr. Charles H. Wilson):

H.R. 13306. A bill to amend the Civil Rights Act of 1964 in order to prohibit discrimination on the basis of physical or mental handicap in federally assisted programs; to the Committee on the Judiciary.

By Mr. NICHOLS:

H.J. Res. 1071. Joint resolution to create a select joint committee to conduct an investigation and study into methods of significantly simplifying Federal income tax return forms; to the Committee on Rules.

By Mr. ROYBAL:

H.J. Res. 1072. Joint resolution proposing an amendment to the Constitution of the United States lowering the age requirements for membership in the Houses of Congress; to the Committee on the Judiciary.

By Mr. FRENZEL (for himself and Mr. McKinney):

H. Res. 830. Resolution to authorize each Member, Resident Commissioner, and Delegate to hire within the monetary limits of the existing clerk-hire allowance two additional clerks who are physically handicapped; to the Committee on House Administration.

By Mr. HAYS:

H. Res. 831. Resolution to provide funds for the expenses of the investigations and studies by the Committee on House Administration; to the Committee on House Administration.

By Mr. LUJAN:

H. Res. 832. Resolution printing in red ink of any U.S. Government budget submitted to the Congress which on a Federal funds basis is in deficit; to the Committee on House Administration.

By Mr. ROYBAL:

H. Res. 833. Resolution expressing the sense of the House that the United States recognize Bangladesh; to the Committee on Foreign Affairs.

By Mr. RYAN (for himself and Mr. BENNETT):

H. Res. 834. Resolution calling upon the Voice of America to broadcast in the Yiddish language to Soviet Jewry; to the Committee on Foreign Affairs.

By Mr. THOMPSON of New Jersey:

H. Res. 835. Resolution providing additional compensation for services performed by certain employees in the House Publications Distribution Services; to the Committee on House Administration.

H. Res. 836. Resolution providing for adjustment of the salary for the position of Clerk, Official Reporters to Committees of the House; to the Committee on House Administration.

H. Res. 837. Resolution to provide additional funds for the expenses of studies, investigations, and inquiries authorized by House Resolution 114; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

314. The SPEAKER presented a memorial of the Senate of the State of New Jersey, relative to Federal highway aid for urban areas, which was referred to the Committee on Public Works.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BIESTER:

H.R. 13307. A bill for the relief of Newtown Presbyterian Church; to the Committee on the Judiciary.

By Mr. BURTON:

H.R. 13308. A bill for the relief of Aurora Javier Fructuoso; to the Committee on the Judiciary.

By Mr. GOODLING:

H.R. 13309. A bill for the relief of Sonia Regina Jones, an alien; to the Committee on the Judiciary.

By Mr. HOGAN:

H.R. 13310. A bill for the relief of Jean W. Davis; to the Committee on the Judiciary.

H.R. 13311. A bill for the relief of Park Nam Moon; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 13312. A bill for the relief of Bertha Alicia Sierra; to the Committee on the Judiciary.

By Mr. SCHMITZ:

H.R. 13313. A bill for the relief of Robert D. Campbell; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

SYRINGES FOR HEROIN, ANYONE?

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. BRASCO. Mr. Speaker, the heroin epidemic in this country is in danger of turning into a pandemic. Hard drugs are now into many high schools and even are appearing in some grammar schools. Every major city is crawling with them. Deaths among young people from overdoses are rising constantly. Everyone is deploring or worrying about this situation. Yet, tangible efforts to curb this traffic are within our reach.

One area eminently worth exploring is commerce in potential heroin paraphernalia, especially syringes and hypodermic needles. Such items are sold through the mails by some enterprises with a fine disregard for their ultimate destination and use. It is imperative that some registry and control be placed on those who manufacture and sell these products.

Instances abound in which individuals order such equipment by mail from producers, such as those dealing in veterinary paraphernalia, and receive them with no questions asked and no permanent record kept. Here is a very definite contributing factor to the situation we confront in our cities.

In several of these cases, orders were placed and goods received without questions as to whether or not the customer was a physician, veterinarian, diabetic, or narcotics addict and pusher.

The answer is that love of the almighty dollar and desire for a fast profit weighed far larger in the scales of these businesses than the potential menace their use would entail.

In the proper hands they are useful tools. In the improper hands, they are, in all truth, contributing factors to the spread of the heroin traffic and resulting addiction and crime.

For these reasons, I am joining in sponsorship of the Hypodermic Needle and Syringe Control Act of 1972. This proposal would regulate sale of needles and syringes by registering manufacturers, importers, wholesalers, and nonpharmacy dealers with the Attorney General of the United States. Also, it would prevent interstate transfer of such paraphernalia to those lacking a prescription, medical certificate, or other lawful excuse for possessing or using them.

This measure in no way trespasses upon the prerogatives of the medical or pharmaceutical professions. Pharmacies will not be impeded in the least. Legal use of these devices will not be interfered with. But the measure will directly and significantly impede access to them by undesirable persons.

The State laws in our various jurisdictions range from the stringent to the nonexistent. It is intolerable to allow such a vacuum to continue to exist, particularly in light of the consequences which are growing daily. One theme runs through the entire drug problem. Those in authority know perfectly well what the dimensions of the problem are. They know where the poison comes from, who grows it, moves it, processes it, and brings it into our country. The powers that be are also aware of the channels through which it flows in order to reach the streets. They further know what are the contributing factors, such as the situation this measure immediately is aimed at dealing with.

Yet in spite of this situation, no one seems to be willing to crack down hard. Bureaucratic excuses proliferate. There is always some smooth fellow reassuring the public and concerned authorities with the same type of excuse. They know what is best. They are working on it. They have the big picture. Well, all I have is the actual picture of what heroin is doing on the streets of the city of New York. All I can see is the agony, death, destruction, and upheaval this traffic is causing, and I for one am heartily sick and tired of what I consider to be unconscionable delay and inability to act.

This is a good measure, and deserves the favorable attention of the Congress. It is my fervent hope that we will act accordingly and with minimal delay. No one is immune, as we all know.

Thank you.

FARMERS HOME ADMINISTRATION PROGRAMS COMMENDED—A REPORT ON GROWTH AND PROGRESS IN RURAL TENNESSEE

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. EVINS of Tennessee. Mr. Speaker, we are much concerned today with the need for revitalizing opportunity in rural areas in America. With 70 percent of the people in this country crowded onto 2 percent of the land, we are concerned with the continuing problems of cities becoming almost unmanageable, and rural communities declining due to the loss of that most precious of our resources, their people—particularly their youth.

Much is proposed as to what should be done—ideas, suggestions, pending legislation, and much thinking on this critical question prevails.

However, experience in the rural areas clearly indicates that rural development can prosper if there is more action like that being provided by the Farmers Home Administration of the U.S. Department of Agriculture.

This experienced rural agency, now under the leadership of able Administrator James V. Smith, who knows and understands rural America, is channeling vital and important resources into many rural communities to enable them to carry through with projects that arise from their own enterprise and industry. Programs of fundamental support in farming, housing, and the improvement of community facilities are reaching the people through programs of the Farmers Home Administration.

One essential element of rural America that benefits from programs of the Farmers Home is the family farm. It is true that more big farms—corporate farms—are developing, but the family farm should be the prevailing pattern of American agriculture. Hopefully it will remain so, if agriculture is to survive as a mainstay of the rural economy and community life.

In agricultural credit, Farmers Home Administration is dedicated to helping the one-family farm secure the financing it needs to survive and produce on a viable basis. FHA serves the family farmer—beginner or veteran—who is able and willing to work his way to success on the land, but does not have access to adequate credit from conventional sources.

During fiscal year 1971, FHA made loans totaling $11.8 million to 1,765 such family farms in the State of Tennessee. Of this total, 374 farms in the Fourth Congressional District—which I am honored to serve in the Congress—were provided with $2.5 million of credit for operating expenses or the purchase, enlargement or basic improvement of their farms. Other farm credit in substantial amounts is also being provided.

The Farmers Home Administration has become a major instrument of progress in providing housing in rural areas. FHA-insured housing credit now serves both farm and nonfarm rural people, including those in towns of up to 10,000. The agency generated some $45 million of insured housing credit to provide more than 4,000 new or improved homes in rural Tennessee last year for families of low and moderate income. Tennessee's Fourth District is a leader in homebuilding—with 1,276 new homes realized from $12.9 million of rural FHA housing credit between July 1970 and September 1971.

Farmers Home Administration also is the first agency to be successful in a widespread program of financing to assist in providing modern water and sewer systems to the people of rural America. FHA's rural community facilities program has brought 163 water systems and 16 waste disposal systems to town and farm areas still lacking these basic advantages in rural Tennessee.

Some 48 of these systems are in our Fourth Congressional District, made possible by $6.8 million in Farmers Home Administration loan financing that the communities will pay back. We have famous examples of what water extension and modernization has meant in terms of business development and home improvement—for instance, Warren County, Tenn., where some three dozen industries, large and small, and several hundred new homes have been built on the lines of four rural community water systems built in recent years.

One of the greatest values of the Farmers Home Administration is its flexibility in rural development. For example, with the help of civic clubs and Department of Agriculture agencies, a group of farmers formed the Midstate Producers, Inc. The Farmers Home Administration supplied a $39,000 loan to the corporation to buy land and build a livestock marketing center. The farmers of Cannon County now can market their livestock without enduring the hardship of hauling them long distances. This has brought on tremendous improvement in livestock production. Cannon County residents have also received housing assistance and financial assistance for water service. Many other counties throughout the Fourth District and Tennessee have been assisted by FHA.

So, Mr. Speaker, I commend and congratulate National Administrator James V. Smith of the Farmers Home Administration, and Tennessee State FHA Director Paul Koger for their fine leadership and for the great service the FHA is rendering the rural people of Tennessee and throughout America.

IT TAKES PEOPLE TO MAKE VIABLE COMMUNITIES

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. ZWACH. Mr. Speaker, it takes more than agricultural prices and sales to build a sound economy for our countryside. We must diversify to provide off-farm employment opportunities for those who are not producers.

In this respect I would like to insert a copy of a letter sent to Dr. Butz from G. B. Gunlogson of the Countryside Development Foundation, Inc., into the CONGRESSIONAL RECORD, in which he points out the need for the development of industry in rural America:

DECEMBER 9, 1971.

Hon. EARL BUTZ,
Secretary of Agriculture,
Washington, D.C.

DEAR SECRETARY BUTZ: I want to express my congratulations on your appointment to the office of Secretary of Agriculture. The Department of Agriculture may now be in a better position than ever to initiate more effective programs to help the farm and other related problems, many of which are rooted in the imbalances which have grown up between the urban and country economies.

The time has come, in my opinion, when we must begin to look at farming as something more than a mere production machine. While only one family in seven living in the country is directly engaged in farming, the family farms form the main economic base for thousands of towns and small cities under 15,000 population. They help to keep vast areas of the country from becoming human wastelands. In many of these areas the character of the land is not suitable for large-scale farming.

It would be unfortunate for the country if agriculture should continue to become concentrated in the hands of big corporations and absentee landowners. These operations are usually centered in the richer agricultural areas. Yet it is here where we often find some of the most backward communities and poorest living conditions. It takes people to make viable communities.

Millions of people have been flocking into cities, some of which are now choking from overpopulation, while the great body of America remains relatively underdeveloped and underpopulated. This experience would suggest that the "rural development" programs which have been going on for 18 years need to be evaluated in the light of present-day realities. While rural pockets are being patched up, we need to redefine our goals with respect to the *total* countryside or 98 percent of the United States.

This total countryside includes farming, nearly all land area, natural resources, and available living space. It includes thousands of towns and some 70 million people. These resources form an inter-related system whose potential for development is greater than it has ever been in our history. The production of raw products alone cannot support this system. Ways must be found to diversify and to develop industry. This can best be accomplished in conjunction with a thriving and broadly based land economy. Many communities are now making progress along these lines. I have confidence that you will find ways to help accelerate this progress. Some of these issues are discussed further in the attached reports.

Sincerely,

G. B. GUNLOGSON.

ANNIVERSARY OF LITHUANIAN INDEPENDENCE

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. MADDEN. Mr. Speaker, last Sunday evening the Lithuanian-American Council of Lake County, Ind., held a large banquet and mass meeting in East Chicago, Ind. commemorating the 54th anniversary of Lithuanian independence. I was present at that gathering, and along with others, participated in the program with messages reminding the gathering and the local community of the necessity to continue efforts to keep up the fight, with other captive nations, to restore independence and free government to all countries enslaved by Communist tyranny. The following Resolution was submitted by Mr. Al G. Vinick, president of the Lake County Lithuanian-American Council, and the same was unanimously adopted:

RESOLUTION

Whereas, Lithuania's Declaration of Independence proclaimed on February 16, 1918, in Vilnius, whereby a sovereign Lithuanian State, having antecedents in the Lithuanian Kingdom established in 1251, was restored, and

Whereas, the Soviet Union, through a program of deportations and re-settlement of peoples, continues in its efforts to change the ethnic character of the population of Lithuania and the other Baltic States, thereby committing the offence of genocide, and

Whereas, thousands of American citizens of Lithuanian descent have by all possible means demonstrated their concern for the plight of enslaved people of Lithuania, and now therefore be it

Resolved That we again express our gratitude to the United States Government for the firm and unwavering position of non-recognition of the Soviet occupation and annexation of Lithuania, and

That we respectfully request President Nixon to direct the attention of world opinion at the United Nations and at other appropriate international forums on behalf of the restoration of sovereign rights to the Baltic peoples, which policy was recommended to the President of the United States by the House Concurrent Resolution 416 of the 89th Congress, and

That we urgently request our government to make all possible efforts to have Simas Kudirka returned to this country with his family, and

That the copies of this Resolution be mailed to President Richard M. Nixon, Secretary of State William P. Rogers, to both Senators and all the members of Congress from our State, and to the Press.

DEALING WITH POLLUTION

HON. GEORGE A. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. GOODLING. Mr. Speaker, everyone is concerned about our environment. There are some individuals in our society, however, who, for some reason or other, want to push the panic button on our pollution problem.

The simple truth of the matter is that as long as men inhabit the earth, there will be pollution, and the secret of dealing with pollution is to keep one step ahead of it.

Contrary to what the panic button pushers contend, we are more than holding our end against pollution. Dr. McKinney, a professor of civil engineering at the University of Kansas, points this out in an article that appeared in the Kansas Alumni magazine. Because of the article's timeliness, I insert it into the CONGRESSIONAL RECORD and recommend that my colleagues read it closely.

WATCH OUT FOR THE ECOLOGICAL CON MAN

(By Ross E. McKinney)

In recent months we have heard more and more about "unbreathable air, undrinkable water, inedible fish, eroded mountainsides, intolerable noise, scarred Alaskan tundra, and poisoned mother's milk." . . .

Each day brings new stories of environmental horror. Each new story must be worse than the last in order to get even a measure of attention from our ever-fleeting media.

Like a large wounded animal, the public has responded to this environmental danger with screams of lament. There is no hope for the future. All is lost. It is merely a matter of time before mankind is flushed down the tube, once and for all. There is doubt that we will live long enough to see the dawn of another century. The picture is painted with blacker and blacker hues. And like the wounded animal, the public cries out for life. Environmental pollution must be stopped. The world must be made pristine again. Time is of the essence. Do we have time or is it already too late?

As is normal in times of stress, various groups of people step forward to meet the challenge. All are eager to do battle. All have the answers we seek. Some of the answers are simple; some of the answers are quite expensive; and some of the answers are even magical.

Ever since the beginning of time man has been fascinated by magic. The sleight-of-hand artist, the Brooklyn-bridge salesman, the something-for-nothing specialist, and the ecological medicine man have held a special charm that has permitted the sucker to be taken without his realizing it. The name of the game is "Making It Without Any Effort." The con man makes it with a minimum effort on his part while the sucker loses what little he had.

Currently we are involved in one of the largest con games ever played, the environmental con game. It is an easy game to play. It requires no skill and works best in a highly educated, technologically oriented, socially conscious society. There is no easier sucker than someone who has been exposed to a smattering of knowledge; who has tasted the fruits of technology; and who feels slightly guilty for having it so much better than his fellow man. Unfortunately, the environmental con man is not easy to spot. He comes in many shapes and forms. Most of all, he wears the cloak of respectability. The environmental con man is well-educated, both technically and socially; but he has no conscience.

If we examine the facts carefully, we would find that environmental pollution is not something that suddenly caught up with us a few years back. It is not something that is strangely peculiar to the United States and other technological nations. It is not the end product of a greedy society that is consuming all the earth's resources at an ever-increasing rate. Environmental pollution has been with us since the beginning of time and will be with us until the end of the earth. We cannot escape from pollution but we do not have to live in a polluted environment. For centuries man has lived in an ever-increasingly polluted world. Slowly but surely, he learned that environmental pollution destroys life both actually and spiritually. Once he learned this, man had the key to solving the pollution problems once and for all.

One of the major aspects of our current environmental-pollution binge is its negativeness. Everything about pollution today is negative. Unfortunately, two negatives do not make a positive. It is interesting to note that the negative approach to pollution appeals to most people. They like to think that they must be punished for having the good life. The more they enjoy life, the more they must be punished. Since suffering appeals to so many, it is not surprising to note that the environmental con men are preaching salvation through further suffering. Needless to say, further suffering can be obtained only at great cost to the public and gain to the environmental con artist. As long as we accept this strange philosophy of personal guilt for enjoying life, we will not make any real progress in solving pollution or in getting rid of our environmental con men. . . .

The con men have been very effective in undermining public confidence in existing pollution-control specialists. Existing pollution-control people have been blamed for allowing the situation to deteriorate to the sorry state that now exists. The public is being conned into believing that things are getting worse and worse. Actually, just the opposite is true. The situation is actually getting better and better. This progress is not being made by the environmental con men but by the plodding professional who does the work and is never recognized.

One of the current fallacies being expounded by environmental con men is that more money will solve all of our environmental problems. There is no doubt that more money will have to be spent for environmental pollution control. A clean environment is not free. But it does not need to cost as much as the environmental conmen have indicated.

A typical example of the environmental con game is the construction-grants program for municipal waste-water treatment plants. Initially, the construction grants were proposed as carrots to help local areas recover after World War II. The professional people mistakenly thought that a little Federal support would help the local levels over the financial hurdles that had accumulated during World War II.

Unfortunately, the professionals failed to recognize the real impact of that request. Over the years the construction-grant program changed as the envronmental con men recognized the real value of this incentive program. The rules were changed so that today the mayor of Lincoln, Neb., can publicize the fact that Lincoln will have its expanded sewage plant for only 20 cents on the dollar. The State of Nebraska will pay 25 cents on the dollar and the Federal Government has promised to pay 55 cents on the dollar.

Since everyone pays such a minor share of the total cost, no one cares if the cost is inflated somewhat artificially. . . .

The only catch is that the real cost is well over a dollar for each dollar committed. The people could get the job done for a dollar per dollar cost if they would do it themselves; but they want something for nothing. They are suckers for the free-money concept.

The local politicians love this procedure because they get credit for bringing in all this free money to the local area. The pollution is created at the local level and can be solved only at the local level. Fragmentation of responsibility for funding has caused a loss of local control. Increased bureaucracy plays right into the hands of the environmental con men and they are having a field day at all levels—local, state, and Federal. . . .

The solutions to pollution lie with the professionals. There are no magic solutions; but there are new ways of doing things. There is a positive way of moving ahead but it takes lots of work and effort. It means that we are not going to solve our environmental pollution problems in just a few years of effort. We are going to be working on these problems from now until eternity. We can never stop working.

ARMENIAN REVOLT AGAINST THE SOVIETS

HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. STEELE. Mr. Speaker, February 18, 1972, marks the 51st anniversary of the Armenian revolt against the Soviets. This revolt was the first and only time in Soviet history that a Soviet-occupied country was able to successfully restore its independence after overthrowing the Soviet regime.

The Armenian revolt against the Communists was not a planned or organized event; it was a spontaneous uprising by a people who could no longer tolerate the gross injustices of the Soviet rule. On February 18, 1921, the central prison at Erevan was stormed by angry Armenian citizens. The day before, a large number of prisoners had been poleaxed and the rest awaited mass execution.

This rebellion marked the restoration of Armenian independence. The Armenian people were outraged by the massive brutality and abuse of the occupying Soviet rule. Unable to be subjected to these atrocities any longer, the people were banded together through common desperation.

After the rebellion, leaders of the Armenian Revolutionary Federation—Dashnaks—organized a new government and restored order to the chaos-stricken country. After the reorganization, the new government appealed to the free world for assistance in maintaining Armenia's freedom and eliminating once and for all the possibility of Soviet occupation or domination in the future. The plea was never answered and in August 1921, the Soviet forces returned to reoccupy Armenia. Unable to resist the Soviets without additional outside aid, Armenia was finally and permanently Sovietized.

The rebellion was not in vain. The resistance shown by the Armenians to the earlier Soviet regime, proved to cause the Soviets to be more considerate and lenient toward a people who had the will and love of their country to die for it.

Today, in remembering the Armenian revolt in 1921, we should also remember all the nations under Soviet rule which have been subjected to the massive abuses of their Soviet rulers. We should also remember the brave Armenian people who stood up to help their country regain its independence.

MRS. D. HAROLD BYRD OF DALLAS, TEX.

HON. EARLE CABELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. CABELL. Mr. Speaker, one of the great ladies of Texas died on February 15 in Dallas.

Mrs. D. Harold Byrd, the former Mattie Caruth, was a civic leader and philanthropist whose leadership and presence will be sorely missed in our city.

She was a patron of the arts and in business was chairman of two major corporations.

Mattie was the granddaughter of William Caruth who owned a plantation just north of present day downtown Dallas. Much of University Park is built on land once owned by Mattie Caruth Byrd's family and the sensational new shopping development, North Park, is located on land leased from the family. Her father contributed the land for Southern Methodist University.

In 1935, she married Brig. Gen. D. Harold Byrd, a successful oilman who began as an oilfield roughneck in 1918. Mrs. Byrd had two sons, David Harold Byrd, Jr., and Caruth Clark Byrd.

As a patron of the arts, Mrs. Byrd commissioned a 124-foot long painting of more than 200 personalities of the Bible for her church, the First Presbyterian Church of Dallas. The mural depicts the coming of the Holy Spirit on the day of Pentecost. It is reported to have cost in excess of $500,000.

Mrs. Byrd traveled widely and during her travels acquired a collection of oriental antiques which is considered to be one of the best of any private citizen in the West.

Always active in the business interests of her family, Mrs. Byrd held corporate posts and directorships in various Dallas business enterprises.

Her activities and memberships included the Colonial Dames of America, Daughters of the American Revolution, Daughters of the Republic of Texas, the Dallas Women's Club and the Dallas Garden Club.

All of us who knew her well and those people of our city who benefited by her life and interests while not having the privilege of personal acquaintance, have lost a friend.

FEDERAL ASSISTANCE FOR KIDNEY VICTIMS

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. ST GERMAIN. Mr. Speaker, the legislation I am introducing today will provide Federal assistance to persons who require hemodialysis treatment and kidney transplants, but are unable to afford the high cost of these services.

This bill is a major step toward substantially reducing the tremendous cost of treatment and making this care available for all those who require it.

The cost of hemodialysis, a process to clean the blood artificially is more than many people pay for a house. For those who suffer from kidney failure, this treatment is a downpayment on life itself.

Present costs for hemodialysis average $30,000 to $40,000 per year at a hospital. Treatment at home runs $12,000 to $20,000 annually. A kidney transplant costs about $8,000 to $10,000. Often hemodialysis must continue after the transplant operation. Health insurance programs have proven tragically inadequate for this kind of care.

Where does a family turn when faced with such a financial burden? For far too many, the only answer is poverty or the grave.

A few programs to help kidney victims are available, such as the National Kidney Foundation, State assistance programs, and Federal programs including medicare, vocational rehabilitation, and the Veterans' Administration. But these help only 10,000 of the 58,000 people stricken by this disease each year.

I take pride in the fact that Rhode Island was among the first of the New England States to provide financial assistance to kidney victims. This program has helped 60 Rhode Islanders in the last 6 years. Another 20 are presently undergoing hemodialysis while waiting for kidney transplants. Today 24 States have similar programs. But there is not enough money or equipment to help all those who require this treatment.

The time has come for the Federal Government to assume a leadership role in this area.

The legislation I have sponsored would amend the Vocational Rehabilitation Act to provide $25 million in Federal matching grants to the States to help individuals suffering from kidney failure. The Government would provide 90 percent of these funds and the States would pay the balance.

I support the legislation which the House Education and Labor Committee is expected to approve this week.

In addition, I will support the efforts of my distinguished colleague, Mr. MILLS, to provide assistance for kidney victims through social security.

At the present time the vocational rehabilitation amendments would not help those who are unable to be retrained for employment, such as children and the elderly. The social security approach would fill this gap.

When these bills come up for a vote in the House, I intend to support the legislation that will provide the most immediate and effective help for the largest number of kidney victims.

The urgent need for this legislation was recently described in the Providence Evening Bulletin of January 5, 1972 in an article by Bruce W. Honsinger. I insert this article in the RECORD, along with letters from the director of the Rhode Island Department of Social and Rehabilitative Services and the chairman of the State Advisory Committee on Hemodialysis and Organ Transplantation.

The material follows:

THE COST OF RENAL FAILURE CAN BE $30,000 ANNUALLY—OR LIFE ITSELF

(By Bruce W. Honsinger)

Edward P. Travers lives against the day his $30,000 major medical insurance policy is exhausted.

When the money is gone, and it probably will be about three years from now, he conceivably could be faced with a monumental decision.

The 43-year-old father of four could be forced to give up his home, most of his possessions and his job as the superintendent of schools in Bristol, and let welfare pay his medical bills.

Or, he could attempt to continue to pay the bills, and failing that, have companies refuse to supply the materials he needs for the maintenance of the artificial kidney machine in his home.

Mr. Travers could go two weeks, maybe three, without hemodialysis, an artificial cleansing of the blood. Then he would die.

His unhappy situation is an example of the dilemma facing patients with renal failure, who find that their regular Blue Cross and Blue Shield medical insurance no longer pays for the costs of their continuing treatment.

Those costs are high. The annual expenses for a patient undergoing dialysis three times a week in Rhode Island Hospital runs from $30,000 to $40,000, Mr. Travers calculates.

For a patient who undergoes dialysis at home, the cost is lessened.

Mr. Travers began home dialysis about two months ago, after his wife Eleanor, a registered nurse, learned to operate an artificial kidney during an eight-week training course.

He had been led to expect that the maintenance of the machine on loan from the state Department of Vocational Rehabilitation, would cost from $5,000 to $7,000 each year.

On his $22,000 annual salary, he "could handle" that yearly medical bill on his own, he felt.

However, he has added up the prices of medical supplies, and found that for the first two months he was on the machine, the supplies cost $1,400 a month. At that rate, one year of supplies would cost nearly $17,000.

The superintendent thinks that expense can be brought down to $1,000 a month, or $12,000 a year, since he initially ordered more of some materials than he needed.

Pointing out that his take-home pay is less than $22,000 a year after taxes and benefits are deducted, the superintendent said he "would not be able to keep up" with medical expenses, if, as he expects, they run $12,000 a year for supplies and $2,000 a year for physicians' fees.

"Every cent I make goes now. Nothing is saved," he said.

Even if he could pay the bills initially, spiraling medical costs might eventually exceed the rate at which his salary increased.

Worst, he fears there will be no money left to pay for a kidney transplant, which doctors have said he probably can have in about three years.

And, without the transplant, the scenario of an energetic, highly-educated and much-honored man forced to subside on welfare could become reality.

Mr. Travers was the second person to enter Rhode Island Hospital's renal care unit. From February until late October of this year, he went to the hospital every Monday, Wednesday and Friday for an eight-hour treatment on the artificial kidney machine.

He completed his duties as superintendent by working nights and weekends, using his "time on the machine" for catching up on professional reading.

From February 1 to May 1, his Blue Shield Plan B insurance paid for the treatment. In May, however, Blue Cross re-examined its policy and decided that Mr. Travers was an "out-patient," not eligible for treatment under the Blue Cross program.

From May 1 on, his $30,000 major medical insurance, also with Blue Cross, was used to pay for 80 per cent of the cost of treatment. The rest he pays himself. Mr. Travers estimates he now has $12,000 to $15,000 left in the depleted major medical policy.

A spokesman for Rhode Island Blue Cross explained why the plan stopped paying Mr. Traver's medical bills from the Plan B insurance. Since the service is relatively new to Rhode Island, "it was a matter of waking up to what was being done," and finding that hemodialysis is an outpatient service and not covered in basic Blue Cross contracts, he said.

"We do cover dialysis on an in-patient basis when it is part of overall treatment. But we would not cover admission strictly for dialysis," the spokesman said.

Mr. Travers differs with this view. He recently received a billing telling him that several thousand dollars had been used from his major medical insurance. The billing was accompanied by a form letter inviting comment on the medical insurance company's service.

Mr. Travers wrote back that the present Blue Cross policy on payment "is reducing the amount that would extend my life."

Hemodialysis is an eight-hour process that takes place in the hospital and should not be treated as occurring on an out-patient basis, he feels.

He pointed out that some Blue Cross contracts in other states do provide for hemodialysis. "Others," the superintendent added, "are trying to reject this responsibility, and say 'Just die, please, quickly.' "

If Blue Cross were to cover the illness, the plan would have to raise its premium rates, said the spokesman. "This is really a social, community problem because of the large amounts of money involved."

Initial steps are being taken to consider society's role in treating the illness.

A committee appointed by Governor Licht, the state advisory committee on hemodialysis and organ transplantation, is studying the problem.

The committee is considering Blue Cross' role in the continuing treatment of kidney failure. It also is investigating the possibility of eliminating indigency as a requirement for gaining state or federal assistance for hemodialysis, the Blue Cross spokesman said.

The Miriam Hospital and Rhode Island Hospital have rejected two proposals made by Blue Cross for coverage of kidney failure, and the health insurance plan is now awaiting information from the two hospitals on the cost of treatment, the spokesman added.

Also, there is a bill under consideration in the U.S. Senate that would provide funds for those suffering from kidney failure.

But none of those proposals is reality.

And while they are being considered, the remaining funds in Edward Travers' insurance policy are being reduced.

But the superintendent is not without hope.

With home dialysis, his job is uninterrupted, expenses are down, and he is feeling better, feeling good enough to react to what he feels are some real injustices in this nation's health care.

He and his wife admit they are becoming more receptive to some sort of nationalized health care plan that would help share the cost of treating illnesses, such as his own, that cost far more to treat than even a wealthy man can afford.

For instance, noted his wife Eleanor, every year 50,000 people in the United States are struck with kidney failure. Of those, 10,000 are treated.

And the other 40,000? Well, Mrs. Travers said, there aren't enough machines, or treatment programs, or else the victims don't have the money and aren't covered by an insurance program.

"In that case, they just die."

Providence, R.I., January 24, 1972.

Hon. FERNAND J. ST GERMAIN,
John E. Fogarty Federal Building,
Providence, R.I.

DEAR REPRESENTATIVE ST GERMAIN: I wish to express the position of the Rhode Island Advisory Committee for Hemodialysis and Organ Transplantation as it relates to Bill S 2813 entitled "Vocational Rehabilitation Amendments Act of 1971". This bill introduced in the Senate on November 5, 1971, by Senator Tower in behalf of himself, Senator Williams of New Jersey and Senator Boggs of Delaware contains certain amendments to the Vocational Rehabilitation Act which are of vital concern to Rhode Island as it applies to the State Program of Hemodialysis and Transportation services for individuals suffering from renal failure.

I think that you can take pride in the fact that Rhode Island was among the first of the New England States to participate through its State Vocational Rehabilitation Program and its State Medical Assistance Program through the provisions of Title XIX in providing funding for Hemodialysis and renal transplant services for eligible recipients of Vocational Rehabilitation and/or Medical Assistance.

Our early participation in this highly specialized and costly service began in November 1966. Our involvement in this type of activity was encouraged by our beloved late Congressman, the Honorable John E. Fogarty. It is interesting to note that the patient for whom the late Congressman Fogarty asked the Medical Director of the Rhode Island Medical Assistance Program to assume responsibility for funding is listed among one of our success cases. He is a young man in his early 30's, the father of five children, who was successfully transplanted in 1967 and was able to return to gainful employment as of January 1968. The total expenditure on the part of the State in this case amounted to $17,000—a small price to pay for the rehabilitation of a person who was doomed to certain death.

To date the Vocational Rehabilitation and the Medical Assistance Programs have participated in funding a total of approximately 60 cases. Of these 60 cases we are pleased to report 30 cases have been successfully transplanted. In addition we have 20 people who are presently undergoing hemodialysis while awaiting kidney transplantation.

We are indeed excited by the tremendous benefits which have derived from our State participation in these cases. It is for this reason that Bill S 2183 arouses such an enthusiastic reaction on the Rhode Island State Advisory Committee for Hemodialysis Agencies participating in these activities.

You will appreciate the fact that while we have participated in 60 cases, to date, there have been, in all probability, some persons who have perhaps gone without these services because of lack of funding. We feel that Hemodialysis and Renal Transplantation for patients with end-stage renal disease has proven its effectiveness: therefore every effort should be made to reach all of those individuals who require this service.

The members of the Rhode Island State Advisory Committee for Hemodialysis and Organ Transportation strongly urge you to lend your enthusiastic support to the enactment of this bill. It is our sincere hope that you as a member of the Rhode Island Congressional Delegation, will share with us the same enthusiasm and conviction regarding the need for these services.

WILLIAM S. KLUTZ, M.D.
Chairman, State Advisory Committee on Hemodialysis and Organ Transplantation.

DEPARTMENT OF SOCIAL
AND REHABILITATIVE SERVICES,
February 1, 1972.

Hon. FERNAND J. ST GERMAIN,
Longworth House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE ST GERMAIN: I am addressing this letter to you to express the position of the Rhode Island Department of Social and Rehabilitative Services as it relates to Bill S–2813 entitled, "Vocational Rehabilitation Amendments Act of 1971." This bill which was introduced in the Senate on November 5, 1971 by Senator Tower in behalf of himself and Senator Williams of New Jersey and Senator Briggs of Delaware contains certain amendments to the Vocational Rehabilitation Act which would be of vital concern to Rhode Island as it applies to our State Program of Hemodialysis and Renal Transplantation service for individuals suffering from renal failure.

The Rhode Island Department of Social and Rehabilitative Services has been extremely active since November of 1966 in assisting many citizens of our State who require Hemodialysis and Renal Transplant services. Funding for these services has been provided through the Department's Vocational Rehabilitation Program and the Medical Assistance Program enacted under Title XIX.

Since 1966 the Vocational Rehabilitation and the Medical Assistance Programs have participated in funding a total of approximately 60 cases. Of these 60 cases, we are please to report that 30 cases have been successfully transplanted. In addition, we have 20 people who are presently undergoing Hemodialysis and who are awaiting Renal Transplantation. These most gratifying results more than justify the expenditure which in some cases has exceeded $30,000.00.

While the Department has participated in 60 cases to date, there have been, in all probability, some persons who have perhaps gone without these services because of a lack of funding. We feel that now that this type of service has proven its effectiveness every effort should be made to reach all those individuals who require Hemodialysis and Renal Transplantation.

In order to accomplish this goal, additional financial support as provided for in Bill S–2813 is urgently needed. At the present time, the involvement of the Department is limited to providing payment for Hemodialysis and Renal Transplantation services for eligible recipients of the Medical Assistance Program. Financial support from Vocational Rehabilitation is limited to the funds available during the fiscal year. It should also be noted that support from Blue Cross/Blue Shield and other third party health plans only scratches the surface of the cost of Hemodialysis and Renal Transplantation.

It is our sincere hope that you will share with us the same enthusiasm and conviction pertinent to the need for passage of legislation such as S-2813 in order to provide assistance to citizens of our State in need of these highly specialized and costly medical services.

Sincerely yours,

JOHN J. AFFLECK, *Director*.

MISSOURI EDITORS SPEAK OUT

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. HUNGATE. Mr. Speaker, along with having the Nation's first journalism school, the State of Missouri is blessed with a number of good and outspoken editors. Among these is Tom Warden of the Gasconade County Republican whose journalistic abilities fortunately compensate for his politics and banjo playing.

MISSOURI EDITORS SPEAK OUT

Newspapers are not infallible.

Nor are they gifted with any extra-sensory talent for correctness.

As products of erring humans, they are subject to error—in spite of constant attempts for accuracy and exactness.

Errors in fact come from sloppy reporting.

But typographical errors—those heaven forbid kind of mistakes that pop up when letters become transposed and words are omitted—come from the nimble fingers of devilish little elves that lurk in the corners of newspaper offices.

Once a year—lest we become complacent—we like to remind ourselves of mistakes that have crept in to newspaper columns—ours and those of other knights of the typewriter.

It reminds us, too, that uncluttered corners leave no hiding places for those tricky elves.

The greatest terror of any editor comes from words that are not spelled the way they should be—but nevertheless form a correct spelling with a horrifying change in meaning.

The best example of this kind of typo was experienced by an editor who wrote an obituary about a suicide victim who had "shot himself to death."

Somehow—gremlins, again—the vowel in the word "shot" was changed to a different one . . . resulting in a correct spelling but an entirely different meaning as to the man's demise.

What a way to go!

Headlines can give an editor a chance to demonstrate his wit, as with a story on the dedication of a dam. The ceremony was rained out and moved to a nearby auditorium. The headline: "Dedication Not By a Dam Site."

Headlines can also make trouble.

The editor of a small newspaper in the Ozarks—facing a usually-dull week from the news standpoint—was quick to recognize the newsworthy merit of a story about the heroic efforts of a man who fended off an attack upon his wife by a maddened donkey.

The hero beat the animal away with a broom—making it the top story of the week, worthy of a full-page-width "banner" headline.

"Man Beats Donkey Off Wife with Broom" was, no doubt about it, a good headline. But as luck would have it, the headline was a wee bit too long for the alloted space. Too many letters.

So the editor did what any good headline writer does. He searched for a word with fewer letters and came up with a three-letter substitute for donkey . . . a bona fide word for a quadruped, allied to the horse.

The headline fit the space with the smaller word—made that issue a collector's gem.

We are not without sin in the error department. We have buried a man in a church basement . . . blown straw into a haystack . . . and hooked a guy-wire from a water tower to a wench, instead of a winch. There are undoubtedly others that our proof-reading banker neglected to chide us about.

The classic example of a misplaced character comes from the late Kansas editor William Allen White, who told of sending a young reporter to cover the departure of a prominent family from Kansas to Missouri. As the family left the house, one little girl turned her face to the heavens and said, "Goodbye, God, we're moving to Missouri." It was an emotional scene and worthy of quoting in the news story.

But somehow the comma was misplaced, an "e" was dropped and a space added. The resulting quote then read: "Good, by God, we're moving to Missouri."

There is nothing as indelible as a newspaper typographical error. Politicians say they were mis-quoted. Businessmen are misunderstood. Farmers blame theirs on the weather; lawyers lie out of their mistakes, and doctors bury theirs.

But a mistake in the newspaper cannot be excused, buried, misunderstood, or lied out of existence.

It is as glaring as a little boy's black eye, and almost as embarrassing.

PROPOSES PAYMENT OF IMPORT DUTY EXPENSES

HON. JAMES A. McCLURE

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. McCLURE. Mr. Speaker, if you were to ask if any of us have the solution to our economic problems, I am afraid that most of us would immediately confess that it is an exceedingly complex problem. I think, though, that a bipartisan group in this Congress is today offering at least part of the answer.

You have before you our amendments to the Foreign Assistance Act of 1961. We propose a very simple thing—to open up many, many new foreign markets for American agricultural and industrial products.

Essentially, this will be done by offering the American businessman "free" access to these new markets by paying his import duty expenses with American-owned foreign currency. He must agree to pass his savings along to his ultimate customer, thus making his product more competitive on the world market.

We are talking about the utilization of some $30 billion in American-held foreign currencies. Foreign import duties average about 10 percent and at that rate, we can afford to finance about $300 billion worth of American exports over the coming years.

New markets trigger a classic economic cycle. As our exports rise, we will in turn need increased raw materials from many of the developing nations. With this additional foreign exchange, they will turn to American business for goods to speed their development.

You can readily see that the U.S. Government's initial investment would be repaid in the form of increased U.S. tax revenues. More important to my friends back home is the sure knowledge that the local economy will receive a tremendous boost from the creation of new jobs and the raise in corporate profits which will result.

FEDERAL LAND REVENUE SHARING

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. RARICK. Mr. Speaker, Mr. George W. Healy, Jr., editor of the New Orleans Times-Picayune, in an editorial report points out quite succinctly the discrimination by our Federal Government between inshore revenue sharing from Federal lands and the revenue sharing from offshore Federal lands. I insert the editorial at this point:

[From Times-Picayune, Feb. 14, 1972]

FUNDS DUE, JUSTLY SHARED

(By George W. Healy, Jr.)

From time to time our readers have been reminded how the United States government for about half a century has shared revenues from federal inshore lands with states deserving those revenues.

The Bureau of Land Management of the Department of the Interior a few days ago issued another report of its revenue sharing. During the six-month period that ended Dec. 31, 1971, $23,977,480.68 in mineral leasing revenues received by the bureau was shared with 23 states and 19 counties.

Wyoming, with large acreage of federal land, received $8,207,885.92, as the recipient of the largest single share. New Mexico was next, with $5,576,308.30.

Amounts received from this six-month distribution by all 23 states on the list are tabulated with this report.

Earlier, The Times-Picayune reported a like sharing with 26 states of $55,011,910.37 from 1970 revenues. In that instance Wyoming received $18,011,910.37 to top the list, and New Mexico was second with $12,964,835.88.

Both of these states and the others deserved every cent that they received from the federal government. Without facilities and services which were provided by these states and their subdivisions, production from the inland federal lands would have been impossible.

By the same token, the federal government could not realize vast sums from production of oil, gas and other minerals from federal lands off coastal states were it not for facilities and services provided—at their expense—by the coastal states and their subdivisions.

In 1970 alone Louisiana and its subdivisions spent, by conservative estimate, more than $79,718,702 to provide government services and facilities—education, highways, health facilities and care, police protection and other things—for 67,644 persons employed to make offshore fields productive and for members of their families. Without these people production could not have been achieved.

During the past five years the federal government has received approximately $3,000,000,000 in bonuses, rentals and royalties generated by production from federal lands off Louisiana. How much of this money has been shared with this state? None.

Louisiana is not alone in having been discriminated against by the government in Washington. Since 1955 the central government has received more than $6,000,000,000 from offshore exploration and production off the coasts of Louisiana, Texas, Florida, California, Oregon and Washington. None of these states has been given a share of these revenues.

The prospect that the Outer Continental Shelf off other coastal states will produce added millions in bonuses, royalties and rentals to the federal treasury, in our opinion, is bright.

When the citizens and officials of all coastal states learn that it is practicable to have protection of the environment and production from offshore federal lands at the same time, we predict a rapid acceleration of exploration for and production of minerals off all the coasts of the United States.

Louisiana, in our opinion, is a good example of the truth that "Do you want good environment or good oil production?" is an illogical question. Here, we've proved you can have both.

All coastal states, we are convinced, will be more receptive than they are today to proposals for sorely needed offshore mineral production when the Congress adopts legislation to give them a share of the revenues produced from federal lands off their shores.

The law, very equitably, provides for sharing of revenues from inshore federal lands. Until it treats offshore federal lands as inshore federal lands are treated, coastal states will suffer grave discrimination.

SEMIANNUAL FEDERAL LAND REVENUE PAYMENTS

(6-month period ending Dec. 31, 1971)

Alabama	$6,745.02
Alaska	3,903,628.56
Arizona	94,467.13
Arkansas	4,173.74
California	1,284,544.95
Colorado	1,352,950.52
Florida	689.81
Idaho	158,315.98
Kansas	79,137.73
Louisiana	122,180.35
Michigan	12,986.44
Mississippi	4,754.78
Montana	1,119,916.62
Nebraska	520.88
Nevada	156,808.75
New Mexico	5,567,308.30
North Dakota	101,174.31
Oklahoma	93,366.23
Oregon	7,427.25
South Dakota	31,594.97
Utah	1,666,797.44
Washington	105.00
Wyoming	8,207,885.92
Total	23,977,480.68

PROVIDING VETERANS WITH BENEFITS OF OUTDOOR LIFE

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. HEINZ. Mr. Speaker, on the request of the Allegheny Valley Barracks No. 964, World War I veterans, a resolution is being introduced in the Pennsylvania State House of Representatives which would have the effect of permitting all Pennsylvania World War I veterans to avail themselves of Pennsylvania's excellent hunting and fishing grounds cost-free. It seems to me that this is an excellent way to provide a group of deserving veterans with benefits of outdoor life. What follows is the resolution which is being introduced:

Whereas, World War I Veterans of the Allegheny Valley Barracks No. 964 at a regular meeting unanimously voted to request our State Senators, State Representatives, and our Governor to enact legislation for the purpose of permitting all Pennsylvania World War I Veterans to be issued a Hunting and Fishing License without cost or fees so they may enjoy the outdoor life which is so available in our Commonwealth, and

Whereas, it is felt the loss of revenue by virtue of this request is insignificant in comparison to the availability for men of older years (all retired) to more readily enjoy the outdoor way of life, and

Now, therefore, it is respectfully requested that our Honorable Elected Public Officials enact proper legislation which will permit all World War I Veterans residing in our Commonwealth the privilege of fishing and hunting without the need of any license whatsoever, or charge of fee, providing they remain residents of this Commonwealth.

Resolved this 17th day of February, 1972.

A LITTLE GOLD WON'T GILD THAT EGG

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. DERWINSKI. Mr. Speaker, the Life newspaper's editor and reporters take turns producing a column giving staff viewpoints. An article in the February 17 edition by Associate Editor Lexy McCulloch, which comments on the recent winter Olympic games, is, I believe, extremely pertinent.

The article not only looks into the amateur issue, but also reviews the financial and governmental complications involved.

The commentary follows:

A LITTLE GOLD WON'T GILD THAT EGG

(By Lexy McCulloch)

By the fading light of the Olympic flame they folded banners proclaiming "Yokoso Sapporo." The last poles of the slalom gates toppled in their places and bobsled runs and luge courses were left to await the melting sun.

Binding its wounds and shaking its wings, the American eagle rose from the snow like a bogus Phoenix from the ashes and climbed heavily onto the shoulders of the American Olympians who came near or attained the glint of gold for the victorious ride home.

I, for one, believe this is one time the eagle should move to the back of the bus.

American victories in Sapporo were victories of perseverance by the few for the pride of the many. The victors who heard our National Anthem played in their honor stood for us, but they stood alone.

But for the support of a town which rightly prides itself as the speed skating capital, Dianne Holum and Anne Henning stood alone through the years of training which brought them hands down to victory.

"We" may have whipped the Dutch at their own game, but it took some doing, like going to Holland to train or driving to the rink at West Allis, Wis.

Any fan who knows his skiing knew the name Cochran when Barbara Cochran broke the decades of ice to bring home a gold medal in the slalom, but from whence did Susan Corrock spring to snatch the bronze in the downhill?

Barbara Cochran shares at least part of her success with a rope tow in the Cochran backyard in Vermont. The Eagle's publicity department has made good use of that story, Yankee ingenuity and all that. Perhaps Susan Corrock popped out of the Idaho snows full grown.

The U.S. sent the largest delegation of athletes to Sapporo, 131 in all. Yet we don't know or seem to care how they got there or how the few who made it won. That they won is all that matters, right?

Their victory is our victory you say. But what about those who trained, bruised and even broke to try for us? Is it that they weren't good enough or that WE weren't good enough?

This nation's enthusiasm for winter sports has soared beyond all bounds. Yet every year our Olympic hopefuls make little showing or else turn their backs on "amateur" standing for greener pastures where they are certainly more appreciated.

"Mercenaries," you sneer. "All that cold air has made them hear the jingle of money." And this summer you'll tune in the summer games to watch those more wholesomely consistent winning swimmers and runners.

That's just it. Our attitude is as different as winter is from summer. The idea of government support when mentioned in connection with the Winter Olympics makes our blood run cold and yet every year we, as taxpayers, support our summer Olympians by supporting the training ground that sits right next to the three R's in our schools.

Why should there be a difference? Perhaps you're sick to death of hearing about it, but why don't we know what a luge is and why can't we keep our nation's only bobsled run open?

We all know what high hurdles are, don't we? We wouldn't dare close the pool at Hinsdale Central High School, would we?

Still you insist there's a difference. Show me the difference when for the third time in Olympic history millions upon millions of dollars are spent so that the U.S. can host the winter Olympics.

At least in 1976 we'll only have to get up enough money to go as far as Denver to lay an egg.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 Americans prisoners of war and their families.

How long?

BUTZ FARM POLITICS

HON. NEAL SMITH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. SMITH of Iowa. Mr. Speaker, an editorial appeared in the Des Moines Register yesterday which I believe is worthy of the attention of all readers of the CONGRESSIONAL RECORD. It speaks for itself and is as follows:

BUTZ FARM POLITICS

The city of Des Moines seems to be a favorite place for Nixon Administration officials to vent their frustrations.

Vice-President Spiro Agnew chose Des Moines to start his campaign against the "Eastern establishment press," "liberal" TV network news broadcasters and other imagined enemies of the Nixon Administration. Earl Butz, the new secretary of agriculture, who seems to be taking a leaf from Agnew's book, came to Des Moines to the Farm Institute to attack some of the same targets.

If Butz had confined himself to blaming the press (he called it the "Eastern establishment press"), nobody would have thought much about it. After all, that isn't very original. Every politician blames journalism once in awhile, and politicians with the weakest arguments do it practically all the time.

But Butz didn't stop with the press. He repeated his attacks on labor unions for the dock strikes and seemed to be blaming the strikers for all the troubles facing farmers.

Prices of corn and soybeans, the leading export crops, *have* declined in the last several months. The obvious reason was the huge 1971 crops. Of course transportation strikes ought to be ended, and we favor the President's bill to establish an arbitration procedure for stopping crippling tieups. But it is deceptive to place as much emphasis as Butz does on the dock strike as a cause of lower prices.

The USDA Economic Research Service reported last week: "After being held down by the dock strike in October, exports of corn increased sharply in November and December. The October-December total of 160 million bushels is 4 million more than a year earlier. Exports are expected to continue well above a year earlier during the remainder of the marketing year."

Butz ought to consult his economists before making any more statements about the dock strike costing farmers a billion dollars in income.

Prices have not fallen more than would be expected if there had not been a dock strike holding up export movement of grain. This is not guesswork but based on the long-established relationship between corn supplies and prices. Market prices now are around $1.05 a bushel in central Iowa, which is not out of line with a 5.5-million bushel corn crop and an increase in total feed grain supplies of 15 per cent above a year ago. Prices averaged $1.40 a year ago with a crop of 4.1-billion bushels.

If, however, prices of corn and soybeans were thought to be too low because of the dock strike, the Butz Department of Agriculture had a remedy at hand. It could have supported the proposal in Congress for a grain reserve program. Or, even without that legislation, it could have bought corn and beans to hold the commodities until ocean shipping opened up again.

Instead, USDA bought a puny 13 million bushels of corn, about the production of one Iowa county, and now has stopped purchasing.

Butz' harping on the dock strike leads to suspicion that it is a ploy to divert the dissatisfaction of farmers from the Administration to labor unions.

Butz also belittled the environmental groups who are worried about pollution caused by the use of chemicals in agriculture. He showed little sympathy with consumers who think food prices are too high. He went overhead flattering farm people and Midwesterners for their hard work and patriotism. He told farmers he was spending more money to raise their incomes. He invited farmers to feel persecuted by a number of "villains."

Butz blamed the farmer's troubles on the "East," the press, labor, environmentalists and consumers who want price controls on food. That is not exactly agricultural statesmanship. It is diverse, Agnew-style politics, and is not in the farmer's interest.

SUPPORT OF USING MONEYS FROM THE HIGHWAY TRUST FUND FOR NONMOTORIZED TRANSPORTATION SUPPORT SYSTEMS: THE BICYCLE

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. HALPERN. Mr. Speaker, in 1956 the Federal Highway Act authorized cooperative assistance in planning and constructing an Interstate Highway System. Today we take for granted the 4-lane wonders which can send us virtually anywhere in the United States. The system supports a trucking industry which has converted our eating habits from seasonal dependency on local crops to allow a year-round supply of fresh fruits and vegetables. Speed limits have climbed and the rate of highway tragedy has dropped. In sum, a superior mode of individualized ground travel was developed in less than 15 years to allow us to move safely and efficiently throughout the country.

In spite of these great strides, however, we still need better mass transportation, a better air transport system and an integration of the highway system with the communities it serves. We have recognized some of those needs at this time and will obviously support future systems as recommended means arrive for consideration.

My purpose here today is to focus the attention of my colleagues in the House on a portion of the problem of integrating the highway system to its home communities. The issue of which I speak is the use of moneys from the highway trust fund for the development of safety lanes or bicycle paths which allow nonmotorized transportation to interface with—that is, cross—the superhighway system.

The Bicycle Transportation Act would allow that such funds can be used also in the construction of bicycle shelters, parking facilities and for bicycle traffic control devices.

Support of such a system would counter some of the less desirable effects that our interstate and State superhighways systems have had, especially in urban areas. This potential nonmotorized transportation system which could so quickly become a reality would, for example, allow safe transport of millions of schoolchildren under or over busy highways and along busy streets. With no provision for safe passage of nonmotorized vehicles via a safety lane or bike path, it is no wonder that we must crowd our restless children into buses and burden them with a tedious bumper-to-bumper route. In addition, a bicycle transportation system enhances the responsibility of a young citizen for himself and eliminates carpools for those other activities just out of walking distance or away from public bus routes.

Furthermore, the extensive use of bicycles by adults has a historical basis. In the 1890's and early 1900's bicycles were a quite popular means of transportation and recreation. A monthly magazine, Outing, covering all sports including "wheeling," as cycling was often called during that period, included a great variety of ads both for cycles and for sundry accoutrements, and included articles with such titles as these: "Wheeling in North Georgia," "From Chicago to San Francisco," "Coasting Down Hill a Mile a Minute," "Over Jersey Highways to the Sea," "From the Schuylkill to the Potomac," and "Wheeling Through the San Joaquin." Only when the automobile appeared did the widespread use of pedal-power decline.

Today adults again increasingly prefer the use of the bicycle to that of the motor vehicle. The adult who uses a cycle as a means of commuting finds it invigorating, economical, more direct, and, in many cases, speedier than any of the present modes of moving for short distances about a city.

Mass transportation is still inadequate and automotive traffic is causing serious congestion, intolerable air pollution, health hazards, and noise in our metropolitan areas. We need to respond favorably to the plea for a nonmotorized pollution-free bicycle support system. Such a system would greatly reduce the safety hazard to apprehensive motorists who are alarmed by the quick, controlled movements of a competent cyclist. It would encourage novices to venture forth, and, in general, open the way to an equilibrium between fast-moving, motorized traffic and more leisurely pollution-free transportation.

Turning from the urban problems just discussed to less populated areas we are faced with a problem of geographic isolation by the highway system. While greatly assisting the movement of people and goods over long distances the highway system has curbed the movement of local traffic. The cost of interfacing with highways is practically nonexistent when compared to the cost of the highway and the motor vehicle support system. Just as we provided the cohesiveness in developing an interstate system of roadways, we need now to encourage and provide support in developing local planning for interaction with that great Federal highway system as well as State highways which have done so much to bring towns together only to split communities apart.

There is a stirring among the States. Oregon, California, Wisconsin, Ohio, Indiana, Illinois, Kentucky, Florida, Texas, and Colorado and States in the Connecticut River Valley are exploring the need for a nonmotor system. Cities across the country are trying to resolve their difficulties. New York, Chicago, Washington, D.C., San Francisco, Houston, and San Antonio are some of the larger cities deeply involved with the idea of bike paths and safety lanes. Many smaller cities all along the west coast from San Diego to Santa Barbara have initiated local nonmotorized transportation support systems. Local jurisdictions must become involved with roads under State jurisdiction and likewise States must interact ultimately with the Federal highway system.

We have created the most efficient roadways in the world. Now we must accept the responsibility of interfacing those roadways with bicycle paths. Over one-quarter of our population cycles each year, and that figure could undoubtedly soar. Let us provide the leadership needed to support what is both a most rational means of transportation in these times of auto exhaust pollution, and a traditional American pastime as well—the bicycle.

LITHUANIAN INDEPENDENCE

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. COTTER. Mr. Speaker, I rise to call to the attention of my colleagues the regrettable and continuing subjugation of Lithuania and the two other Baltic States of Estonia and Latvia by the Soviet Union.

This past February 16 marked the 721st anniversary of the formation of the Lithuanian State when Mindaugas the Great unified all Lithuanian principalities into one kingdom in 1251 and also the 54th anniversary of the establishment of the modern Republic of Lithuania in 1918. During the course of the years, the Baltic peoples have suffered for centuries from the "accident of geography." From the West they were invaded by the Teutonic Knights, and from the East by the Russians. The remarkable spiritual and ethnic strength which has been essential over the centuries for the survival of the Baltic States is still very much alive today. This vitality is reflected in the Baltic peoples' continued resistance to their Soviet oppression. Although armed guerrilla warfare ended in 1952, nonviolent resistance continues still.

This same dedication to the ideals of freedom is reflected today in our own citizens of Baltic extraction as well. Their worthy contributions to the American way of life are well known.

I am certain that all my colleagues and all freedom-loving people everywhere will join with me in paying tribute to these courageous people on these important anniversaries.

At this point, I insert a resolution passed by the Hartford Branch of the Lithuanian American Community of the USA, Inc. Mr. Steponas Zabulis, the president of this organization, was kind enough to share the resolution of this fine organization with me and I want my colleagues to be aware of it:

RESOLUTION

We, the Lithuanian-Americans of Greater Hartford, assembled this 13th day of February, 1972, at the Lithuanian Club in Hartford, Connecticut to commemorate the restoration of Lithuania's independence, do hereby state as follows:

Whereas, the 16th of February, 1972 marks the 54th anniversary of the restoration of independence to the more than 700 year old Lithuanian State, and

Whereas, on June 15, 1940, the Soviet Union forcibly occupied and illegally annexed the independent Republic of Lithuania, which fact has been officially confirmed by the findings of the Select Committee on Communist Aggression of the House of Representatives, 83rd Congress of the United States, and

Whereas, the subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations, and is an impediment to the promotion of world peace and cooperation, and

Whereas, the Soviet Union, through a program of deportations and resettlement of peoples, continue in its efforts to change the ethnic character of the population of Lithuania and the other Baltic States, thereby committing the offence of genocide,

Now, therefore be it resolved, That we again demand that the Soviet Union shall withdraw its armed forces, administrative apparatus, and the imported Russian colonists from Lithuania, thus permitting the Lithuanian people to freely exercise their sovereign rights,

That we again express our gratitude to the United States Government for the firm and unwavering position of non-recognition of the Soviet occupation and annexation of Lithuania,

That we respectfully request President Nixon to direct the attention of world opinion at the United Nations and at other appropriate international forums on behalf of the restoration of sovereign rights to the Baltic peoples, which policy was recommended to the President of the United States by the House Concurrent Resolution 416 of the 89th Congress.

That the copies of this Resolution be mailed to President Richard M. Nixon, Secretary of State William P. Rogers, Senator Lowell P. Weicker, Jr., Senator Abraham A. Ribicoff, and Congressman William R. Cotter.

NEW YORK STATE CURLING CHAMPIONSHIP

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. PEYSER. Mr. Speaker, it is a privilege for me to inform you and the Members of the House today that the Ardsley Curling Club of New York, for the first time in its history, has won the New York State Curling Championship. The team that accomplished this outstanding feat was led by Mr. Edward Brandt, who had as his teammates Edwin Sibert, James Christie, and Donald Wismer. To gain this championship many matches are played among competing clubs throughout the great State of New York. As a sports enthusiast, I know you share with me in wishing this team success in the national championship that will take place in Chicago this March.

RESOLUTION OPPOSING H.R. 10914, THE HARTKE-BURKE BILL

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. FRENZEL. Mr. Speaker, just 1 week ago today the board of directors of the Minneapolis Chamber of Commerce passed the following resolution opposing H.R. 10914—the Hartke-Burke bill. The resolution was passed unanimously both by the chamber's board and by its world trade committee.

I have requested that the resolution be printed because I believe that many Members will be interested. Although the resolution strongly opposes H.R. 10914, it is moderate and thoughtful in tone. It acknowledges the problem, but points out the proposed solution only creates more problems without necessarily solving the first one.

The resolution follows:

RESOLUTION ON HARTKE-BURKE BILL

The Greater Minneapolis Chamber of Commerce shares with all responsible Americans the concern for the reduction of our high rate of unemployment and for the preservation of American job opportunities. We recognize the close interrelationsip between domestic and foreign economic policies promoting and seeking to maintain a fully employed, innovative and diversified production and technological base in the United States.

For many years our Chamber has advocated a course of moving toward freer and fair international trade between the countries of the world. We have consistently opposed artificial solutions to the problems of increasing imports while at the same time recognizing the need for mechanisms which temporarily restrain the effect of these imports on business and jobs in the United States.

We agree with the thrust of the opening sentence of the preamble of the Hartke-Burke bill. However, we must reject as rash and hasty the actions of the bill aimed at accomplishing these desired objectives without first determining with reasonable certainty the role of the so-called multi-national company in creating, preserving or reducing United States jobs as well as their effect upon our balance of payments and the overall economic conditions in this country.

We must oppose the Hartke-Burke bill as legislation which (1) is based upon unproven assumptions as to the effect of capital exports and commodity imports upon United States jobs and economic conditions, (2) is diametrically opposed to United States foreign policy of the past 40 years, (3) is likely to cause widespread retaliation by our foreign trade partners and (4) totally fails to take into account the legitimate objectives of the American consumer to obtain high quality products of a varied nature at a reasonable price.

We, therefore, urge that the United States senators and representatives from the State of Minnesota oppose the enactment of the Hartke-Burke bill and use every effort to assure its defeat. We also urge the Congress to make an immediate in-depth study and to conduct full-scale open hearings in order to determine the effects of United States capital exports and commodity imports into the United States upon jobs and economic conditions, and also to assure that effective foreign trade legislation be passed which will continue the United States' role of working toward a system of fair, multi-lateral and nondiscriminatory trade and investments which will recognize the legitimate needs of both American consumers and those employees, companies, and industries most vitally affected by the increased penetration of imports on United States markets.

CREDIT UNIONS PRODUCE RECORD YEAR

HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. PATMAN. Mr. Speaker, in 1971 this country's more than 23,000 credit unions set yearly records based on growth in assets, loans, and savings. At year end, assets in the 23,333 credit unions were estimated to exceed $21 billion, an increase of 17.2 percent, or $3.1 billion for the year. At yearend, savings in the credit unions totaled more than $18 billion, while loans outstanding were more than $15 billion, both records.

Not only do the dollar figures increase, but credit unions are also setting membership records. At the end of 1971, there were 24.3 million credit union members in the United States, an increase of more than 1.5 million members from last year and an increase of more than 180,000 members from the month of November.

I am enclosing in my remarks a copy of the National Credit Union Administration's monthly credit union statistics for the month of December which shows the phenomenal growth of credit unions:

SELECTED DATA FOR DECEMBER 1971

Loans outstanding in credit unions increased $151 million in December on a seasonally adjusted basis. This was substantially smaller than the November rise and about 20% smaller than average monthly increases since mid-year. Based on fourth quarter trends, loans were increasing at an annual rate of 14.9%, compared to 13.3% for 1971 as a whole.

Members' savings rose $208 million in December after allowing for seasonal influences. The December increase was larger than in the preceding month but equal to the average monthly increase, July–November, 1971. Savings growth during the fourth quarter, at an annual rate of 13.7%, was considerably slower than during 1971 as a whole.

Loan-to-share ratios drifted slightly lower and liquid asset ratios edged somewhat higher during December (see back page of release).

In terms of dollar expansion, 1971 was a year of record breaking growth in assets, loans, and savings in U.S. credit unions. At yearend their assets totaled $21 billion, an increase of $3.1 billion (17.2%) for the year.

[Dollar amounts in millions]

	Seasonally adjusted				Unadjusted			
		Increase or decrease (—) from				Increase or decrease (—) from		
			3 months ago at annual rate				Year ago	
Item	Outstanding this monthend	Previous monthend	Amount	Percent	Outstanding this monthend	Previous monthend	Amount	Percent
Total assets/liabilities and capital	$20,845	$260	$2,528	14.2	$21,032	$293	$3,082	17.2
Federal	10,426	119	1,236	14.2	10,582	193	1,721	19.4
State	10,419	141	1,292	14.3	10,450	100	1,361	15.0
Loans outstanding	15,858	151	2,092	14.9	15,977	129	1,871	13.3
Federal	7,875	81	1,096	15.9	7,946	90	977	14.0
State	7,983	70	996	14.0	8,031	39	894	12.5
Savings	18,246	208	2,112	13.7	18,319	290	2,796	18.0
Federal (shares)	9,200	113	1,144	15.1	9,264	177	1,635	21.4
State (shares+dep.)	9,046	95	968	12.3	9,055	113	1,161	14.7

Note: Monthly figures, except where otherwise indicated, are preliminary estimates based on reports furnished by a group of Federal and State-chartered credit unions that account for about 30 percent of credit union assets. Estimates are revised annually, mainly to incorporate recent benchmark data.

CREDIT UNIONS—SELECTED DATA

Item	This month	Last month	Year ago
Number of operating credit unions [1]	23,333	23,345	23,656
Federal	12,754	12,757	12,977
Charters issued	23	46	28
Entered liquidation [2]	26	38	40
State	10,579	10,588	10,679
Number of members (thousands)	24,323	24,200	22,819
Federal credit unions	12,869	12,792	11,966
State credit unions	11,454	11,408	10,853
Average savings per member	$753	$745	$680
Federal credit unions (shares)	720	710	638
State credit unions (shares + deposits)	791	784	727
Delinquency rate: [3]			
Federal credit unions:			
Number of loans	3.1	3.2	3.5
Amount of loans	2.0	2.0	2.7
Repayments ratio: [4]			
Federal credit unions	9.3	8.9	9.4
State credit unions	7.2	7.0	6.9
Loan-to-share ratio:			
Federal credit unions with assets of:			
$2,000,000 or more	85.9	86.6	92.0
$500,000 to $1,999,999	85.4	86.1	90.6
Less than $500,000	85.8	86.4	90.1
Liquid asset ratio: [5]			
Federal credit unions with assets of:			
$2,000,000 or more	52.4	52.1	44.9
$500,000 to $1,999,999	88.6	88.4	76.8
Less than $500,000	135.7	135.4	122.9

[1] Data for Federal credit unions based on complete reporting.

[2] Net of Federal credit unions that resumed operations during the month.

[3] Loans delinquent 2 months or more as a percentage of the number or amount of loans outstanding as reported by monthly respondents.

[4] Repayments in current month as a percentage of outstanding loans at end of preceding month as reported by monthly respondents.

[5] Represents the sum of U.S. Government securities, savings and loan association shares, and loans to other credit unions as a percentage of notes payable and share accounts larger than $5,000.

Note: Ratios and averages based on data not adjusted for seasonal variation.

HON. ALBERT W. JOHNSON'S LATEST NEWSLETTER

HON. ALBERT W. JOHNSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I have just issued a newsletter and am submitting it for the RECORD as a part of the official proceedings of the House. The newsletter contains the usual heading of my previous newsletters, as follows:

Newsletter from your Open Door in Washington, Congressman Albert W. Johnson, 23d District of Pennsylvania, Newsletter 21, February 1972.

I have inserted 12 pictures in the newsletter, in addition to the usual picture of myself before the open door. While I realize the RECORD does not reproduce pictures, they may be seen by interested persons by examining the newsletter as filed in the official records of the House. The newsletter is as follows:

DEAR FOLKS IN THE 23D CONGRESSIONAL DISTRICT: The Second Session of the 92nd Congress is now underway and President Nixon has delivered his message on the State of the Union with a background of an almost unanimous prediction by economists that 1972 will be a banner year, with the Gross National Product soaring to $1 trillion, 150 billion, an increase of $106 billion over 1971. He called on Congress to pass his previously-outlined legislative program.

It has been my custom to devote a "Newsletter" to some of the interesting events in the district during the past year. This year was certainly one of action in the district and I am pleased to present some of the highlights of 1971 for your information.

THE NEW 23D CONGRESSIONAL DISTRICT

Most everybody breathed a sigh of relief when the Legislature re-instated our present 10-county district without change, and then added a part of Clarion County including Clarion Borough in order to make a district having the required 471,000 population. The plan that had passed the House ripped the counties of Centre, Clearfield, and most of Clinton from the district and then added Indiana, Armstrong, Clarion, and Jefferson counties. However, pressures from all over the state cause the Senate of Pennsylvania to come up with sensible districts. The people in my opinion have a vested right to some continuity of their district, with an opportunity to vote for or against their sitting Congressman if they decide to do so. This district as now set up will make this choice possible.

CENTENNIALS AND CELEBRATIONS

The people of the district are proud of their history, and they fittingly celebrate milestones as they occur. Here follows a few of the more interesting events of 1971.

THE OIL CITY CENTENNIAL

One of the biggest events was the Oil City Centential celebrating one hundred years as a city. The history of Oil City is both glamorous and thrilling. In 1859, it was a little village called "Cornplanter" with a general store, a grist mill and several dwellings. It was a favorite stopping place for raftsmen, steering logs from Coudersport in Potter County to Pittsburgh. The hotel was the "Moran House" and a descendent of the original owner is Ed Moran, a resident of

Oil City, and seen in the picture in the derby hat.

I had the honor to be the speaker at the opening ceremonies at noon on August 12th. The picture shows me at the microphone delivering the keynote speech.

Oil City started to really grow in 1859 with the discovery of oil by Colonel Drake on the bank of Oil Creek, 17 miles from Oil City. Soon oil was being discovered in great quantities. In 1862 Andrew Carnegie paid $40,000 for the Storey farm near Oil City and in two years the oil discovered on the farm made it worth $5 million. Carnegie was then 27 years old. No doubt this strike helped make Andrew Carnegie the great success he later became.

BRADFORD CELEBRATES OIL DISCOVERY

Oil was discovered near Bradford in 1871. This led to the mushroom growth of the city and development of the largest oil field in the Nation during the next 30 years. From August 16 to the 22nd, Bradford staged the "Bradford Oil Centennial" under the chairmanship of Sam Gregg. It was a tremendous affair ending on August 22nd with the largest parade ever staged in Bradford. Mrs. Johnson and I rode in the parade with great delight. Many speeches were made during the week, one of the best by H. H. Danielson, the District Manager of Pennzoil United, Inc. before the Kiwanis Club. He traced the history of the Bradford field and pointed out the total oil produced by the field to August 1971 was 647 million barrels, for an overall gross revenue of $2.50 per barrel or the sum of $1.6 billion. He estimated that only 30 to 50% of the oil in place had been produced to date.

Another matter of great interest to Bradford and the area is the completion and operation of the new Instrument Landing System at the Airport, together with 15,000 candle power landing lights. New control instruments were installed; greatly overtaxing present quarters at the airport. The Federal Government provided $358,250 towards the Instrument Landing System and the lights. I was glad to be a part of this new facility which is a tremendous safety factor. I recently visited the airport to view the new system and instruments and posed with Tony Volpe, the Flight Station Manager.

A SESQUICENTENNIAL AT PLEASANTVILLE

Another historic celebration was the Sesquicentennial conducted by Pleasantville, in Venango County. The town was settled in 1821, and in 1868 had 3,000 people, also the result of the Drake Oil Well discovery. Pleasantville is located 5 miles from the Drake well and is 5 miles from the site of the now ghost town of Pithole which at one time had 15,000 people. Mrs. Johnson, our granddaughter, and I rode in the parade which attracted over 10,000 people. I posed for this picture there with Mayor Ralph Archer (left) and Arthur C. Covell, President of the Borough Council (on the right). This was a very enjoyable event.

LUDLOW ALSO CELEBRATED

Ludlow in McKean County also celebrated its 100th Anniversary on July 3rd and 4th. Mr. and Mrs. Enoch Nelson headed a local committee that did a tremendous job. We attended the dinner staged for visitors and local residents and we were amazed at the large numbers of people who came "back home" for the event. Ludlow has a great history of achievement in the leather industry.

LABOR DAY AT WEEDVILLE

Each year on Labor Day, Weedville in Elk County starts the fall season off with a celebration which draws a large crowd. The action centers around their very fine school. For a small community they put on a real worthwhile parade. Mrs. Johnson and I were honored by a place in the parade.

SWEDISH FESTIVAL AT MT. JEWETT

Mt. Jewett in McKean County, proud of their Scandinavian background staged their annual Swedish Festival. This is a week set aside for former residents, mostly of Swedish descent to return home for a visit and celebration. I rode in the long parade on August 19th and then went to the school auditorium where I had the privilege of crowning the festival queen. I am pictured placing the crown on Miss Gail Storm, chosen by the Judges, who were Juanita Lane of Turtlepoint, Hazel Jordan, Smethport, Guy Willey of WKZA, Kane, and Alpha Tantalo of Bradford.

THE "FALL WEEKEND" AT BELLEFONTE

The 23rd District fittingly observes the beauty of the Fall foliage. Annually Renovo stages a "Flaming Foliage Festival" which increases in size and splendor each year. Clarion, in the new 23rd District, has a glamorous celebration on the same day. 1971 saw a new festival presented at Bellefonte on October 16th, called the "Fall Weekend." I delivered the address at the formal "opening ceremonies" at 1 p.m. Present at the opening were various officals and we posed for this picture. They are left to right: Richard Bridge, of the U.S. Olympic Games for Canoeing, myself, Mayor Ellis Keller, State College, Mayor Chauncey Long, and Nicholas Pelick, President of the Bellefonte Chamber of Commerce. In my remarks I congratulated Bellefonte on this new venture which will be built around the activities of the Wild Water Boating Club and Bellefonte's interesting history. Bellefonte boasts of members on the Olympic Canoeing and Kayak teams and plans to make this an annual event.

A NEW WATER SYSTEM FOR ST. MARYS

1971 saw the realization of a dream that came true for St. Mary's, Pennsylvania. On Sunday, October 24th they dedicated their new Laurel Run Reservoir and Water Plant at the cost of $8.5 million. The Federal Government provided $2,150,000 which I was pleased to assist them in securing. Like most thriving communities, St. Mary's had outgrown its water supply. An authority was formed by civic-minded citizens. They purchased the local water company, went up Laurel Run and built a new reservoir with a capacity of 875 million gallons of water. The very finest purification plant was erected. I was the dedication speaker, and afterwards posed for this picture at the control station with Harrison C. Stackpole of St. Marys, authority member and ardent promoter of the project. I recommend readers of this newsletter to visit this new improvement and see a remarkable new water plant.

ROUTE 8 RELOCATION NEAR FRANKLIN

All over the 23rd District new highway projects attracted attention in 1971. One of the most important was the ground-breaking for the relocation of Traffic Route 8 near Franklin at the Polk cutoff with a new 4-lane limited access concrete pavement approximately 7 miles long to cost $11.9 million. There were many prominent persons at this event as it signals the eventual construction of a new Route 8 north and south. I was called on to speak on the occasion, and pointed out this road is the "Highway of Presidents" having been traveled by President Garfield, and also President Grant in 1862. Some of us posed for a picture, and in the picture to the right of the Route 8 sign is Jacob Kassab, Secretary of the Pennsylvania Department of Transportation. Assemblyman Kahle, and myself. This is a badly needed improvement, financed 50% by Federal funds.

PROGRESS AT MINE DRAINAGE TREATMENT PLANT

On June 27, 1970 I delivered the dedication address at the opening of the new Experimental Mine Drainage Treatment Facility Plant at Hollywood, in Clearfield County. It is said the greatest pollution in Pennsylvania is caused by mine drainage, and this plant, which cost over $1 million with a Federal grant of $700,000, is designed to research methods to control this pollution. They have achieved a breakthrough in this task by utilizing autotrophic bacteria to oxidize the iron in these waters with the use of low cost limestone. On September 6th I again visited the station and posed for this picture with Harold L. Lovell, its enthusiastic project director. The various states are watching this facility and expect productive results.

LOCK HAVEN STATE COLLEGE DEDICATES A STUDENT CENTER

Other communities also staged dedications. A real delightful one was the dedication ceremonies for the Parsons Student Community Center at Lock Haven State College on October 23rd. I was pleased to be present and posed with Dr. Francis N. Hamblin, the new College President for this picture. The center was erected in honor of Dr. Richard T. Parsons, President of Lock Haven State College for 28 years, who made an inspiring address. The Master of Ceremonies for the affair was a fine young man named Ron Jury who hails from Clearfield. Also present from Clearfield was Ashley Woolridge, the Alumni President.

Dr. Hamblin, formerly from the University of Arizona, was attired in a western formal outfit with cowboy hat. He crowned the Homecoming Queen and seemed very popular with the students. The center is a real fine addition to the student life of the college.

SPORTSMEN HEAR NOTED SPORTSWRITER

On March 27th I attended the annual dinner of the Northwestern Pennsylvania Camp Association at Bradford, which dinner, called the "Oberammergau of Sportsmen," attracted over 400 persons. Warren Page, noted sportswriter, was the speaker. In the group picture taken at the event are, from left to right: Assemblyman Victor Westerber; Judge Glenn Mencer; Duane Hagg, President; Judge William Potter; Warren Page; Henry Onofrio, Secretary; myself, and Griffith Herold, Toastmaster. I was called on for a report on the Fish Hatchery. It will now be located at the Kinzua Dam, as water obtained on Marvin Creek was not usable for fish production, it having 1.99 parts-per-million of manganese and 1.29 parts-per-million of iron. I also reported on the status of gun control legislation which I oppose.

MEDICAL CENTERS—A VITAL NEW VENTURE

Many communities in the district are building or have built medical centers to attract doctors and provide an opportunity for high standard medical care. One such area is Penns Valley in Centre County, where they broke ground for their center on August 8th to serve 9,000 residents. I was invited to be present and delivered one of the dedicatory speeches. I am pictured at the microphone with Reverend Geraldine Shawda, a board member, in the background. The center will cost $132,780, financed by a Federal grant of $46,808, and a remarkable response from local residents. John Decker is the President of the Health Association. Snow Shoe is also establishing a center, to cost $132,060, have been awarded a Federal grant of $47,760 with the area providing the remainder of the funding. Centers completed are in Sheffield and Marienville. Under consideration is St. Marys. I consider these projects outstanding local achievements.

CHAMBER OF COMMERCE ACTIVITIES

Most communities in the district have active Chambers of Commerce and Industrial Development Corporations. All are striving to obtain new industries for their areas and help local firms expand. Warren has a very live Chamber, and they frequently stage what they call an "Early Bird Breakfast," inviting speakers for the occasion. I spoke to this group twice in 1971, the last time being on November 24th. In the picture I am addressing the meeting. Recently I was the luncheon speaker for the State College Chamber. The DuBois Chamber has fought for flood control and I am pleased to state the President's budget contains an additional appropriation of $700,000 for this $3.2 million project. Cheap imports have destroyed jobs in the district, as has a very unfavorable Pennsylvania business tax climate. The increase in the Gross National Product, the revaluation of the dollar and wage and price controls all will contribute to a healthier 1972 and make the job of local Chambers much easier. Space does not permit my relating contacts with the other fine Chambers of Commerce in the district which were most productive.

PUBLICATIONS AVAILABLE

As usual, I have a few publications available for distribution: Official 1971–1972 Pennsylvania road map; 1972 Congressional Calendar; Our Flag; Our American Government.

And now, in closing, I trust you have found this Newsletter both interesting and informative.

Sincerely yours,

ALBERT W. JOHNSON.

LITHUANIAN INDEPENDENCE DAY

HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1972

Mr. STEELE. Mr. Speaker, today marks the 54th anniversary of the Republic of Lithuania, founded on February 16, 1918. It is also the 721st anniversary of the formation of the Lithuanian State. These two events are very important to all Lithuanians as they commemorate their past freedom and present aspirations for future independence and freedom.

Today, many nations of the world have gained their freedom and independence. Most of these new nations had been under colonial domination for decades. The Baltic States, Lithuania, Estonia, and Latvia, are examples which contradict the trend toward independence so vividly seen in recent years. Although they were independent nations in the beginning of this century, they were again dominated by a foreign power, the Soviet Union, during World War II. The United States has never recognized the domination by the Soviet Union of the Baltic States or their integration into the Union of Soviet Socialist Republics.

On February 16, 1918, the Republic of Lithuania was established as a free state. This was after more than a century of subjugation by the Russian Empire. Not until June 15, 1940, were the Russians to subjugate Lithuania again. In the short 22 years of freedom, the Lithuanian people developed a strong and flourishing republic.

The achievements and progress of the Lithuanian people during their short period of freedom demonstrate that not only are they able to be a self-sufficient country but that they have the will and strength to make Lithuania a great nation.

Under the provisions of the Nazi-Soviet Pact of 1939, the Baltic States were placed in the Soviet sphere of influence. On June 15, 1940, Soviet occupation forces entered Lithuania. Mock elections were staged in which only Moscow-sponsored candidates appeared on the slate.

The Lithuanian people never accepted the Soviet domination. On June 22, 1941, 1 year after the initial Soviet occupation, the Lithuanians revolted against the Soviet rule. The reestablishment of the independent state was proclaimed and a provisional government was created by the leaders of the revolt. The provisional government was disbanded 6 weeks later by the German armies as they marched into the Soviet Union. The revolt cost the Lithuanians 12,000 in casualties.

Resistance continued after the Soviet reoccupation in 1945. In the period between Soviet reoccupation and 1953, approximately 50,000 Lithuanian patriots were killed resisting the Soviet occupation. The Soviets, in an attempt to eradicate the national resistance, deported about every sixth Lithuanian to distant areas in the Soviet Union or concentration camps where many perished from exposure to the harsh conditions, starvation, or execution.

The Lithuanian people continue today to resist the Soviet rule. Desperately, they try to maintain their traditional heritage while the Soviet Union attempts to destroy any trace of native Lithuanian culture.

Today in commemoration of the anniversary of once-free Lithuania, I urge all Americans to remember the brave Lithuanian patriots who continue to strive toward regaining their independence, to become a free Lithuanian State once again.

RESPIRATORY AWARENESS WEEK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. ANDERSON of California. Mr. Speaker, being a leader among the cities of the United States is not a new experience to the progressive city of Compton, Calif.

To meet the needs of her citizens, Compton has taken dramatic steps which have set the pace for other cities to follow.

Under the dynamic leadership of Mayor Douglas Dollarhide, the city of Compton has undertaken new programs to bring industry into the city, to upgrade housing, to provide quality education for her children, and to improve the health care system for her residents.

In keeping with the spirit of leadership, Mayor Dollarhide has taken a new initiative to help the public become aware of the dangers of respiratory diseases.

By proclaiming the week of February 21–25, as Respiratory Awareness Week, which, incidentally, is another first for the city of Compton, Mayor Dollarhide has brought local government together with academic institutions, other government agencies, public and private organizations, and citizens' groups in order to help the public first, become aware of the dangers of respiratory disease, and second, participate in preventive measures against the incidence of respiratory disorders.

The program includes pamphlets, posters, newspaper coverage, radio slots, lectures, demonstrations at the local high schools, and a testing and a demonstration operation at Martin Luther King, Jr. General Hospital.

This imaginative project is a cooperative effort between the city of Compton, Compton College, Martin Luther King, Jr. Hospital, and Abbey Rents, Inhalation Therapy Division.

Mr. Speaker, I commend Mayor Dollarhide, the Compton City Council, and the community-minded citizens of Compton who are involving themselves in the preventive and educational measures that will be initiated to help curb the incidence and the effects of respiratory disorders in the city of Compton.

I insert at this point in the RECORD the proclamation signed by Mayor Dollarhide proclaiming February 21–25 as Respiratory Awareness Week:

PROCLAMATION

Whereas, Respiratory disorders are increasing in the United States by 12,000 sufferers per month, and

Whereas, it is further estimated that three to five percent of the general population suffer from varying degrees of bronchial asthma, and

Whereas, there are more than 20 million respiratory disorder patients in the United States, and

Whereas, it is now well known that our nation's most rapidly growing health problem is chronic respiratory disease, most notably emphysema and chronic bronchitis, and

Whereas, these two diseases alone have doubled in the past fifteen years for each five year period, and

Whereas, over 20 million persons in the United States have chronic obstructive lung disease of varying degrees, and

Whereas, there is an emergent need for local government in conjunction with academic institutions, other government agencies, public and private organizations, citizens' groups and citizens to help the public become aware of the dangers and to participate in preventive measures against the incidence of respiratory disorders,

Now therefore, I, Douglas F. Dollarhide by virtue of the authority vested in me as Mayor of the City of Compton, do hereby proclaim the week of February 21–25, 1972, as Respiratory Awareness Week, and urge all concerned citizens to involve themselves in the preventives and educational measures that will be initiated to help curb the incidence and effects of respiratory disorders in our community.

PRESIDENT NIXON IS KEEPING HIS WORD

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. McCLORY. Mr. Speaker, last week the President of the United States withdrew an additional 4,100 soldiers from Vietnam.

On January 20, 1969, there were 532,500 Americans enduring the perils of an Asian war. Today, there are 127,100 Americans in Vietnam who are planning to come home.

Mr. Speaker, President Nixon is keeping his word.

TO BE COMMENDED

HON. JAMES HARVEY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. HARVEY. Mr. Speaker, as it was my privilege to participate in the recent Conferences of African and American Representatives at Lusaka, Zambia, it was with more than passing interest that I read the recent news article that General Motors Chairman Richard C. Gerstenberg will visit South Africa to see to it that GM is doing everything possible to hasten equality there.

I applaud Mr. Gerstenberg's personal interest and, in particular, the principal purpose of his trip late in March or early April. My recent visit to Africa has strengthened my sincere belief that an African-American economic partnership must be developed, and it must develop through a combination of public and private cooperation.

I also realize that there has been a call by some that would make American trade or investment with South Africa virtually impossible under present circumstances. I do not believe that Congress is prepared to go as far as this proposal suggests. I submit that it can well be argued that to remove American business from South Africa completely would serve to strengthen their existing forces of repression.

Mr. Gerstenberg's intended visit and its purpose is most timely. I am further impressed by his strong words and I quote him:

> There is no room for prejudice in General Motors—and we mean just that. If we have any person at management level in any GM facility who cannot function within this policy, or is not giving it full attention, then he will simply no longer be able to work for General Motors.

May I urge each of my colleagues to read the following article as it appeared in the February 11, 1972, edition of the Detroit News, Detroit, Mich., on Mr. Gerstenberg's ringing declaration for racial equality:

GM CHIEF TO VISIT SOUTH AFRICAN PLANTS

(By Dennis Shere)

General Motors Chairman Richard C. Gerstenberg said he will visit white-dominated South Africa in a few weeks to "assure myself that GM is doing everything it can to hasten the day of equality" there.

GM has been criticized for operating plants in South Africa, which has a policy of apartheid (separation of the races.)

Gerstenberg said he has told his U.S. management personnel they must fully support GM's equal employment opportunity policies or they "will simply no longer be able to work" for the firm.

Gerstenberg became GM chairman last month after the retirement of James M. Roche, who also went on record in favor of hiring minority groups and supporting minority businesses.

In discussing GM's role in South Africa, Gerstenberg said everyone familiar with the situation recognizes that the situation recognizes that "restraint to racial equality are extremely difficult to eliminate."

But he said that everyone should hope that racial equality in South Africa will be achieved.

Last year, at the GM annual meeting, the Episcopal Church of America—which owns common stock in GM—proposed that stockholders ban the firm from manufacturing activities in South Africa because of its racial policies.

The Episcopal shareholder proposal was overwhelmingly defeated as was expected. But the move received strong support from the Rev. Leon H. Sullivan, only black member of the GM board, who spoke on its behalf during the meeting.

Gerstenberg will be the first GM top officer to visit South Africa in several years when he travels there in late March or early April.

Roche did not visit that * * * try during his seven years as president and then chairman of GM. But he went to South Africa in October, 1964, when he was an executive vice-president.

Spokesmen for GM said Gerstenberg's latest statement to managers and personnel directors of the firm is the strongest he has made on the subject of racial equality.

Gerstenberg disclosed his position and the upcoming South African visit in a speech yesterday to 100 representatives of investment institutions, universities and foundations who met at the GM Technical Center in Warren.

During the speech, Gerstenberg also announced that GM will hire some 250 additional professional researchers—increasing the staff to 750—and expand its facilities at the technical center in the next five years.

He said the expansion—largely in the areas of atmospheric and biomedical research—comes at the urging of the firm's science advisory committee, which is made up of six of the nation's top scientists.

Gerstenberg said GM regards equal employment opportunity as "both a moral and a legal issue."

He said his statement on managerial support of the firm's employment policy came "last week, in the first talk I made as chairman of General Motors to a group of our managers and employes."

He said he repeated it in a meeting Tuesday with all of GM's personnel directors.

In his statement to the management personnel, Gerstenberg said:

"As you are all aware, the policy of General Motors Corp. is that everyone will be given an equal opportunity in employment without regard to his or her race, religion or national origin.

"This is a policy of General Motors and every member of management must implement this policy.

"Now, there may be many personal prejudices in connection with this problem. These are being expressed in different ways throughout the country, and each person is entitled to his own opinion.

"However, the position of GM in these matters is unmistakably clear. There is no room for prejudice in General Motors—and we mean just that.

"If we have any person at management level in any GM facility who cannot function within this policy, or is not giving it full attention, then he will simply no longer be able to work for General Motors.

"This is strong language but I assure you it is no stronger than our conviction. We are determined that equal employment opportunity be not only a policy but a fact in every plant and every office of General Motors."

THINKING THINGS OVER

HON. JACK EDWARDS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. EDWARDS of Alabama. Mr. Speaker, the issue of busing is one which weighs on the hearts of all Americans at this time in history. Mr. A. D. McIntyre, Jr., of Mobile, Ala., one of my constituents, has sent me an excellent article by Vermont Royster which appeared in the Tuesday, February 8, 1972, issue of the Wall Street Journal. Since the article makes several good points about this important issue, I would like to bring it to the attention of my colleagues.

The article follows:

THINKING THINGS OVER

(By Vermont Royster)

SUFFER THE CHILDREN

For anyone with a grisly sense of humor—sick humor, in the current phrase—there is bound to be sardonic laughter in the rise of school busing as a social and political issue outside the South.

For one thing it does is expose some monumental hypocrisy. Over many years those in other parts of the country have treated the issue as one peculiar to the Southern states. Objections to hauling children all over the countryside to obtain a preconceived "racial balance" in the public schools were supposed to stem only from racial prejudice and to be raised only by Southern white racists.

Any other objections to this kind of busing—whether on educational grounds, the disruption of neighborhood cohesion, inconvenience to the children or parents, or considerations of cost—all were disdainfully dismissed as merely the rationalizations of diehard segregationists. Where, as sometimes happened, blacks in the South likewise objected they were dismissed as "Uncle Toms."

It was treated, in short, as a purely regional issue. The rest of the country looked on with smug equanimity as court decisions, government policy and public pressure forced area-wide school busing on community after community. After all, so said the rest of the country, it's not our problem.

Well, it is now. In the North, the Midwest and even in the Far West, in community after community, there have of late been eruptions of public protest when the same policy of area-wide busing came to be applied. And every poll of public sentiment is now showing that school busing for arbitrary racial balance has become a nationwide issue.

Congress is having to come to grips with it both as a substantive and a political issue: The House has already passed anti-busing legislation; it is also considering a Constitutional amendment banning busing. The Senate, to the agony of so many Presidential hopefuls, is finding it daily harder to avoid the issue because the people back home—all over the country—are forcing it.

In this, too, there is cause for sardonic laughter. Of all those Senate presidential hopefuls with school-age children only Senator Jackson (the most "ocnservative" of the Democratic aspirants) has his children in a Washington public school. The others, liberals all, send their own children to private schools while proclaiming their devotion to busing for everybody else.

But for all this exposed hypocrisy there is, in all truth, nothing to laugh at, sardonically or otherwise. The whole business has become too sad even for sick humor.

A part of the sadness lies in the fact that this great convulsion over school busing comes at a time when the public, in the South and elsewhere, is at long last casting aside old prejudices. Just recently the National Opinion Research Center, as cited in a Wall Street Journal story, found that 80% of the nation (including half of the Southern white population) today accepts integration in schools and other aspects of public life. That is, acceptance of integration and opposition to school busing have grown together.

This paradox is only a seeming one. What the evidence shows is that it is no longer correct to treat the school busing issue as solely a "racist" one. Many blacks, as recent demonstrations witness, also oppose area-wide busing. So too do many whites who are not only not "racists" but actively support racial integration in the school system. The busing issue now trenscends the old labels.

This ought to be understandable to anyone who can put aside stereotyped thinking. There is, first of all, something absurd about busing a child, who lives within a few blocks of an elementary school, a half-day's journey across country, with some starting before dawn and returning long after dark. For years the country labored expanding its school system to avoid just this sort of necessity. Now when it isn't necessary we are reverting to it in the name of having the "right" racial quota.

The expense of it is ridiculous. The cruelty of it is that it takes a small child and makes him consume an 8 or 10 hour day for a few hours of schooling, and puts him in the position where the friends of his school are not the friends of his neighborhood or vice-versa. He (or she), aged six or ten, has life disrupted over a social policy of his elders.

And that, I think, gets us to what is really sad about the way we, the elders, have gone about the long overdue and necessary task of ending the segregation and isolation of the blacks among us.

It was a happenstance of history that the first major decision of the Supreme Court striking down the old laws and customs of segregation came in an elementary school case. The other court decisions and the various civil rights laws came afterward. But that happenstance focused the issue, first and foremost, on the school system.

And nowhere have we since applied the pressure as implacably as on the elementary school system. In the schools the courts have said that there is a legally correct "balance" and that if necessary children must be moved around to enforce it.

Where else have we said the same thing? Segregation has been struck down, and properly so, at the college level also. But no court has ordered any public college to truck a certain portion of its white students to a black college, or the other way around, to enforce the quota concept.

The courts and the statutes have attacked *de facto* segregation in neighborhood housing by striking down racial convenants and limiting the rights of sellers and renters. But nowhere is there a court decision or a law compelling people to move from one neighborhood to another, by a governmental fiat, to achieve some preconceived idea of what constitutes a correct neighborhood balance of the races.

The reason why this has not been done is quite plain. The people, white and black, would consider it outrageous; it could not be done by anything short of a Soviet type dictatorship. And the people would be quite right. The law of a free people ought to prohibit segregation of any of its citizens in any form. A law to *compel* people to move from one place to another would make our society no longer one of a free people.

But what we, the elders, have refused to decree for ourselves and our own lives we have, by some tortured logic, decreed for our children. However you may dismiss the inconvenience or the cost of this wholesale busing, we have asked our children to suffer what we will not. And the wrong of that cannot easily be dismissed.

MARRIAGE: "MY PERSONAL ADVICE IS DON'T"

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. HUNGATE. Mr. Speaker, I am certain all of my colleagues have heard about one of the outstanding communities in my district, the home of former Speaker Champ Clark, Bowling Green, the county seat of Pike County, Mo.

I enclose the following quote from the Bowling Green Times to show that the community has always given outstanding service to any who sought help:

MARRIAGE: "MY PERSONAL ADVICE IS DON'T"

As reported recently, members of Bowling Green Merchants Association decided to reorganize as the Bowling Green Chamber of Commerce in 1972. As part of the process, records of the old Chamber of Commerce (which ceased to function in 1964) were obtained.

A brief check through boxes of the old records showing meeting minutes, bank records, and a lot of other dry, dull material with little value. But there was one letter in the stuff that made the search worthwhile.

It was a 1962 letter written by the secretary-treasurer of the Chamber at that time, a man with a dim view of matrimony. He'd received a letter addressed to the Chamber by an Illinois man asking about the legal requirements for getting married in Bowling Green. The Chamber secretary dutifully answered:

DEAR MR. ——: On behalf of the Bowling Green Chamber of Commerce I acknowledge receipt of your letter requesting information as to what is needed to get married here in Bowling Green Missouri.

As to the question of whether to get married or not to get married, the Bowling Green Chamber of Commerce has no official opinion. However, my personal advice is Don't.

However, if you are determined to get married either here or elsewhere, I will attempt to give you benefit of my limited knowledge on the subject. (The good secretary went on to do so in detail.)

If you have any further questions concerning this matter or if there is any other information that I can give to you or obtain for you, please do not hesitate to contact me.

In the meantime, stop, think, reconsider, and remain a happy bachelor.

Sincerely yours,

——— ———,
Secretary-Treasurer.

Now that's service. We thought about including the Chamber secretary's name, to give him the recognition he deserves. But just think for a moment . . . somewhere in Illinois there's a jilted bride, now an old maid, perhaps, still trying to figure out why her once-eager boy friend got cold feet about going to Bowling Green, Mo., to tie the knot. The poor girl might get the notion to tie the knot . . . right around the neck of that one-time Chamber of Commerce secretary.

MISS JENNIE BURRIER 100 YEARS YOUNG

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. BYRON. Mr. Speaker, everyone says that our greatest national asset is our youth—our children. I agree that this is a great national asset, however, I also contend that our No. 1 asset is the wisdom and spirit in the minds of our senior citizens. Such is the case of Miss Jennie Burrier who recently celebrated her 100th birthday. The Frederick News-Post gave its readers some insight into the spry Mount Pleasant woman in a recent feature article which I now would like to share with you:

MISS JENNIE BURRIER LOOKS BACK 100 YEARS

(By Monica Schairer)

She sits at her window watching life go on outside. The quaint lady is Miss Elizabeth Burrier, and she's been watching the activity outside her Mt. Pleasant home for a century. She resides with a brother and sister, Darwin Burrier and Mrs. Ada Filler, and a niece Miss Rhema Fogle.

The small, spry woman who marks her 100th birthday today, has lived a life filled with hard work, family togetherness, warm friends and religion.

"Miss Jennie," as she is known to most, was born on a small farm located five miles northeast of Frederick in the Mt. Pleasant district. She was the second born of John William and Mary Katherine Burrier; five brothers and sisters followed.

Her childhood days are remembered working in the fields with her brothers and sisters as well as performing the household tasks assigned to girls.

She chuckles when remembering sleigh rides with her brothers, joy rides that usually ended when the sleigh overturned.

Miss Jennie busied her small hands with crocheting and spent leisure hours reading, particularly the Bible.

One of her proudest memories is that of being church treasurer for 50 years. A church member since the age of 14, Miss Jennie was given the task of collecting 5 cents per month from each parishioner who wished to retain membership in the Mr. Pleasant Reformed Church, now the Faith-Mt. Pleasant Charge of the United Church of Christ. She was also a member of the Ladies Missionary Group as well as a Sunday School teacher.

As father time caught up with Miss Jennie, she was unable to make the weekly jaunt to the church, so now, the church comes to her.

Her pastor, the Rev. L. Richard Batzler marvels at the woman's constitution, remarking, "Miss Jennie is such a quiet, pleasant woman. I always see her sitting by the window watching all the life outside. She has always been interested in what's going on."

Rev. Batzler recalls Miss Jennie as an avid reader in her younger days, especially of the Bible, however at age 100, failing eyes have curtailed her reading.

Her neighbors describe Miss Jennie as "very congenial, truly a friend when you need one." Up until last year, Miss Jennie set about her annual task of making taffy for friends and relatives at Christmas.

As for the question of matrimony, Miss Jennie prides herself on her spinsterhood, stating "I never wanted to get married (though she had many opportunities according to her sister) mainly because I just wanted to be my own boss."

Miss Jennie isn't too enthusiastic of the life style of today's younger generation, saying that she thinks "all that long hair just looks terrible."

Not an ardent believer in women's liberation 100 per cent, she sums up her feelings in a brief, "I don't even think women should wear pants!"

Neither mystic philosophy or modern science has yet devised a formula for longevity.

Miss Jennie confesses she has no secret to 100 years of happy living but partially attributes it to "retaining your zest for life." She adds that her non-indulgence in anything "harmful" might have helped too.

But she sums up the situation by quietly saying in an almost prayer, "I just thank God for living."

ADDRESS OF TERENCE CARDINAL COOKE, ARCHBISHOP OF NEW YORK BEFORE THE USO 10TH ANNUAL DINNER

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. LENT. Mr. Speaker, recently, His Eminence, Terence Cardinal Cooke, archbishop of New York, delivered the address at the USO 10th annual dinner in New York. In his address, the Cardinal discussed the moral fiber of our Armed Forces in Vietnam.

Also, at this dinner the Cardinal was presented with the USO's gold medal award.

Therefore, I insert his remarks in the RECORD and encourage my colleagues to read them:

ADDRESS OF HIS EMINENCE TERENCE CARDINAL COOKE

I am very grateful for this Award which encourages me once again to rededicate myself to the spiritual service of the members of the military family at home and in various parts of the world. In my visits to our servicemen, I seek to be a source of encouragement to them but actually they are a source of inspiration to me in their constant efforts to promote peace in the world. I wish that every one of you could travel with me and discover the depth of goodness in the young men and women who serve our nation.

We are all concerned by the war in Southeast Asia as well as the danger of war in other lands. We pray for peace and we hope that with God's help our young men will all leave Vietnam very soon.

You who have loyally supported them in the excellent and saving personal work of the USO, will not neglect them as they return home. Indeed your sensitivity and insight into human needs that led you to provide the important supportive services of the USO here in New York and around the world will effectively welcome them back to society. Your understanding of the social and psychological needs of young men and women and your goodness to them is precisely the attitude that is required today. In the name of the youth of America and their families whom all of you have served so well during their years of military service, I thank you.

There are a few thoughts that I would like to share with you this evening. I have made three trips to Vietnam and look forward to a fourth very soon. What I saw, first of all, in Vietnam was tragedy. The savagery of the Vietcong and the fury that is turned against them. There is nothing attractive about that. The sight of the wounded; stories of torture and massacre; boredom and isolation—temptations to drug addiction and despair—all this confronts an interested visitor.

But there is in Vietnam *another* story, and we cannot afford to miss it. It is the way in which the majority of our young men have conducted themselves under grave stress. What has emerged, from the years of this dreadful conflict is an untold story of evident goodness and the heartfelt generosity of the overwhelming number of our soldiers, sailors, marines, and air men. Regrettably, the easiest news to sell is bad news—and perhaps our own fascination with sensation is partly to blame—but because of that our nation has lost a heartening lesson regarding our "under-30's." If hundreds of men lost their morals and good sense in Vietnam, hundreds of *thousands* discovered a potential within themselves for true sympathy for human beings, however different in culture they might be. The inner momentum of a true personal generosity urged them to assist the least of their brethren in a strange land. They found in their hearts a tender love of children and of the elderly and the sick. They showed an openness of heart that would flatter the men of any age. All this outpouring of kindness occurred while their lives were in danger and their young hearts longed for home.

Insofar as most of the news from Vietnam has been filled with fire fights and smoldering villages—facts we must face—it has submerged this—one of the greatest stories of our time. These young men came fresh from our so-called affluent society, a society in which national purposes and moral standards have become obscured. These young men drew from their inner spiritual resources a dynamic goodness that some say has disappeared from the world. I have seen them returning from long and hazardous marches or ending a tour of nerve-wracking sentry duty. I have seen them then devote themselves selflessly to neglected children and to unwanted lepers, to digging wells and building chapels, entertaining the aging and giving their money and personal service to every good cause for the benefit of their fellowmen. In their open-handed generosity, they have shown a love of human beings that crosses every line of age, color and style of life.

War does not breed virtue. But under stress a man's strengths and weaknesses appear.

In Vietnam the idealism and generosity of our twenty year olds rises before us. It demands that we attempt to create a society in which their virtues can find a proper outlet. They are not perfect and they do not have the experience and perspective some of their seniors enjoy. But these young men and women are real and promising and they are what America will be in the year 2000.

Let us welcome our young men and women home from their years of sacrifice in war and tell them that we wish to join with them in a national effort to help people live together in unity and peace and human dignity. Let us tell them that we welcome and need them here in the United States, that we cherish their spirit of love and generosity to the widows and orphans, the lepers and aged of a distant and distressed land. In God's Providence, they may yet turn the tide against war and hatred; they may be the idealists who will succeed. Let us welcome them with a renewed sense of faith in America and Americans, a firm hope under God for the fulfillment of destiny and an ever-increasing love and respect for our fellow citizens.

CARE FOR THE SPINAL CORD INJURED

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. McKINNEY. Mr. Speaker, the keynote of social legislation in the past 10 years has been equal opportunity; an equal opportunity for all Americans to achieve that position in his or her community to which their ambition and ability entitle them.

In the past months, I have been actively engaged in a field which deals with men and women who seek not only an opportunity to live again, but to give again of their immeasurable spirit and talents. In a very real sense, we in Congress, hold the remedy; a remedy which would clear up the sclerosis of health care services for the spinal cord injured individual.

In this regard, I would like to share with you my message to my constituents dealing with this problem and with one man who embodies the spirit and hope which I see for the future:

JANUARY 31, 1972.

One of the most rewarding aspects of being your Congressman is the contact I have with the fine young men and women of our District, not only during the grueling days of the campaign, but in the day-to-day functions of running a Congressional office. From this group, one young man brought special significance to me and the others with whom he worked.

During my campaign, "David" acted as both advisor and communications expert for me. I would often find myself strongly tested by his knowledge of the issues and his persistence in defending what he thought was the right course. For his role as advocate of social issues, he was given the auspicious title of "liberal in residence."

Along with his dogged individuality, David brought something else to my office. For along with his strong intellectual talents, he carried a burden which, for most of us, would overwhelm any desires to be part of a team and offer all we had. David, you see, is a quadriplegic, paralyzed from the neck down in an automobile accident. With only youthful determination and modern medicine, was he able to contribute his best resource, his mind.

Today, David lies in a nursing home, his family shattered by the financial and spiritual burden, and his hopes and health failing every day under the pressure of pain.

David is not unlike many of our young men and women who, through both war and accidents, lie helpless in homes and hospitals throughout the United States. The greatest tragedy is not their paralysis, but the paralysis of this country to take those steps which would bring new life to these gifted people.

If you or I were to suffer spinal cord damage today, it would be mere chance what our care would be. For despite our great resources, we have failed to coordinate our vast medical facilities. By sheer irony, we are over-gifted, with too many general hospitals treating the spinal cord injured and no comprehensive center where the patient can get the maximum of care at minimum expense.

It would come as a shock to most Americans if they realized that we rank a poor second to many countries in the world in our treatment of this affliction. In Ireland, England and Australia, there are special centers where the injured are taken directly from the scene of the accident, by helicopter, to the center where a whole team of experts stand ready to minimize his injury and supervise rehabilitation.

And what do we do? In essence, we keep the paralyzed alive, with the exception of a few very good centers which could and should be the pilots for a new program.

The challenge we face is the organization of the resources at hand into a comprehensive system of care. From the moment of the accident through the period of rehabilitation, the spinal cord injured should be at a special center which deal with this problem. This is not impossible for it is working in other parts of the world.

In respect to New England, I have already met with several experts in this field who are now in the process of establishing a Regional Spinal Cord Office in New England. This is just one small step to the eventual goal of bringing to the spinal cord injured the opportunity to serve his country, at a very small price in relation to the very great price we pay to keep the fine young people like David in a home away from home.

ENGINEERS' WEEK

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. BEGICH. Mr. Speaker, the week of February 20 through 26, 1972, has been proclaimed by Gov. William A. Egan as Engineers' Week in Alaska. During this time, all Alaskans are called upon to extend the recognition and honor due to the engineers in our State.

Alaska, with its vast natural resources and immense potential, provides an ideal setting for the engineering profession and its practice, as described by Governor Egan in his proclamation:

> To develop ways to utilize, economically, the materials and forces of nature for the progressive well-being of mankind in creating, improving, and protecting environment, in providing facilities for community living, industry, and transportation, and in providing structures for the use of mankind.

I would like to add my tribute to that of Governor Egan in recognizing the engineering profession in Alaska. For the benefit and interest of my colleagues, I am inserting the proclamation of Engineers' Week in Alaska into the CONGRESSIONAL RECORD:

PROCLAMATION: ENGINEERS' WEEK

Engineering is the profession in which a knowledge of the mathematical and physical sciences gained by study, experience, and practice is applied with judgment to develop ways to utilize, economically, the materials and forces of nature for the progressive well-being of mankind in creating, improving, and protecting environment, in providing facilities for community living, industry, and transportation, and in providing structures for the use of mankind.

Members of the profession in Alaska in cooperation with other agencies have continued to serve the public in the aforementioned manner.

It is appropriate that the profession be recognized at a time when we celebrate the birthday of George Washington, one of America's first engineers.

Engineers' Week provides an opportunity for the public and the engineering profession to become more mutually acquainted and the public, therefore, to better understand the works of engineers.

Therefore, I, William A. Egan, Governor of Alaska, do hereby proclaim and call upon the people of our State to observe the week of February 20 through 26, 1972, as Engineers' Week in Alaska, and I urge all citizens of Alaska to join in extending recognition and honor to our engineers.

Dated this 14th day of February, 1972.

WILLIAM A. EGAN,
Governor.

PRESIDENT NIXON'S HISTORIC MISSION TO CHINA, STATE OF THE ECONOMY LEADING TOPICS OF THE DAY

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. EVINS of Tennessee. Mr. Speaker, recent issues of my newsletter, Capitol Comments, discussed the President's trip to China and the state of our economy—two major topics of the day in Washington.

Because of the interest of my colleagues and the American people in these important subjects, I include copies of the newsletters in the RECORD:

SOME TRUTHS ABOUT THE BUDGET, UNEMPLOYMENT, AND THE PRESIDENT'S ECONOMIC REPORT

Following the President's annual State of the Union Message, the submission of the Federal budget for next year, and the Economic Report of the President, thoughtful Members of Congress and citizens throughout the country have been carefully considering all three of these documents.

It is customary and traditional for the President to make an optimistic report to Congress and the President's State of the Union Address was brimming with optimism, glowing predictions and all-is-right-with-the-world rhetoric.

Abraham Lincoln—called "Honest Abe"—once said that "you can fool some of the people all of the time, and all of the people some of the time, but you cannot fool all of the people all the time."

The truth of the matter is that this Administration has switched from a balanced budget approach to fiscal policy to an era of full-blown deficit spending.

During the past three years deficits have exceeded $30 billion—the deficit is estimated at $38.3 billion and many predict the deficit will exceed $40 billion in the red this year, an election year.

What the President is proposing is heavy spending in 1972, with $12.3 billion in impounded funds from this year being added to amounts appropriated for next year for heavy Election Year spending.

The submission of an unbalanced budget—in fact a deficit budget which the President calls a "full employment budget"—is contrary to the traditional conservative Republican principle of balanced budgets.

Recently Secretary Connally of the Treasury Department said in a speech to the United States Chamber of Commerce and business executives that the country should be "applauding" the proposed $40 billion deficit. News reports stated that "a thundering silence" greeted this admonition from the Secretary.

The Economic Report of the President recently released reveals that unemployment has increased from 3.3 percent when this Administration took office to 6.1 percent currently—the highest unemployment rate in ten years. In terms of people out of work, the total has increased from 2,500,000 in 1963 to 5,500,000 currently.

The Economic Report indicates that the Administration hopes to cut the unemployment rate to 5 percent by the end of this year, which means that for most of the year the rate will be more than 5 percent—and much more than 5 percent for such groups as young people, minorities and employees in low-paying positions.

Coupled with unemployment are these hard economic facts:

The balance of payments deficit in foreign trade is at its highest point in history—$56 billion 600 million.

Interest rates have reached their highest peak in 100 years.

The Nation last year experienced its first trade deficit since 1888.

The Consumer Price Index—an index which measures the cost of living—has risen 13.7 percent in the last three years.

No matter how flowery the rhetoric or how rosy the picture, the Economic Report and other official documents provide the truth on the state of our economy.

In addition, the war issue is not resolved but continues, along with these economic problems. Utopia has not arrived and there exists a frustration and an undercurrent of dissatisfaction in the Nation—in spite of optimistic rhetoric.

Continued efforts must be made by all branches of Government to solve these problems—and this Congress will continue to act in concert with the President to combat these problems in the public interest.

The President once again referred to the need for welfare reform and revenue sharing with states and local governments. He also referred to the need for new revenues because of a shortfall in revenues and indicated he is considering a recommendation for a new tax called a value-added tax, which is a form of national sales tax.

Your Representative has supported both welfare reform and a modified Federal revenue-sharing with states and local governments. Welfare reform legislation with work incentives included has passed the House and is pending in the Senate and your Representative is co-sponsoring a revenue-sharing bill. It is my further position that in adopting revenue-sharing, important and vital programs for Rural America should not be eliminated in the process of aiding big cities and the several states.

The Second Session of the Ninety-Second Congress will be an historic and productive session and yet a difficult session in an election year. However, Committee hearings are now continuing and being scheduled to carefully evaluate the President's proposals and to further develop programs which Congress will initiate and consider necessary in the public interest.

PRESIDENT NIXON'S HISTORIC JOURNEY TO CHINA COULD PRODUCE SENSATIONAL ANNOUNCEMENTS

As this is written, President Nixon is winging his way to China on his historic mission to re-establish friendly relations with this isolated Nation of 800 million people. As the first President to visit mainland China, the President faces many challenges.

He will be negotiating with shrewd—even brilliant—Communist leaders who have demonstrated their ability to transform a Nation and its people from a backward, disorganized country to a nuclear power. These are hard, tough, calculating men although they have indicated they will roll out the red carpet for the President and extend to him traditional Chinese hospitality.

A famous student of the Far East once commented that it is impossible to understand the Oriental mind because Orientals tend to think in terms of centuries while the Occidental world tends to think in terms of shorter periods—years or decades. The question is whether any concrete results will be achieved other than building a bridge for friendlier relations between the two nations.

As the President embarked on his historic mission from the White House, he emphasized again a warning to the American people against expecting anything other than the establishing of closer relationships and a dialogue as a basis for further discussions, negotiations and friendlier relations between China and the United States.

However, many of us who know and respect President Nixon expect that some sensational announcements and developments may occur as a result of his trip to China. There is speculation that there may be some announcement with respect to the conflict in Southeast Asia—perhaps a neutralization and cease fire—or perhaps an indication of some treaty agreement between the United States and China with a large-scale Marshall-type China aid plan to be proposed and announced.

There has been much elaborate and detailed groundwork and planning for the trip—with the President's principal foreign policy advisor at the White House, Dr. Henry Kissinger, having held long preliminary discussions with Chinese Communist leaders. As the President travels to China on this historic mission, Americans of all political persuasions wish him well—we wish him success—and we wish him a safe journey, Godspeed and divine protection.

President Nixon himself, at the recent National Prayer Breakfast, made this appeal regarding his trip:

"As you pray in the future, as these journeys take place, will you pray primarily that this Nation, under God, in the person of its President, will to best of our ability, be on God's side."

AMERICAN EXPORTS

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. VANDER JAGT. Mr. Speaker, I join Congressmen William S. Broomfield and William S. Moorhead today in cosponsoring a measure designed to expand American exports. The legislation's aim is to make American manufactured goods and agricultural products more competitive in the foreign marketplace by using U.S.-owned foreign currencies and debt repayments to pay foreign import duties. Such duties currently average approximately 10 percent.

This investment would result in a boost for our economy by creating new jobs and raising corporate profits. In turn, our productive capacity would be expanded and technologically upgraded, and our tax revenues would increase.

The United States owns and is owed vast sums of foreign currencies which over the years have lost much of their value through devaluations, inflation, and changes in exchange rates. The chief sponsors of this bill indicate that the amount of foreign currency now held by the United States or owed to our country, coupled with the amounts foreign nations owe us in dollars, totals approximately $30 billion. Based on an average 10 percent duty, this fund could potentially finance $300 billion worth of American exports.

As foreign demand for American goods increases, the U.S. will require greater imports of raw materials, thus providing emerging countries with additional foreign exchange with which to buy American machinery and other goods needed for their economic development. The legislation promises to set in motion an economic cycle of great benefit to the United States and to foreign nations, at no cost to American taxpayers.

HON. SHIRLEY CHISHOLM

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. BIAGGI. Mr. Speaker, I would like to take a moment to comment on the recent activities of one of our members, the distinguished gentlewoman from New York (Mrs. Chisholm). While I am not in a position now to endorse any one candidate, I feel the candidacy of Shirley Chisholm deserves noting.

In the past, we have heard arguments that an Irish Catholic could not be President, but that barrier is gone. And others have argued that a person of Greek origin could not be Vice President, but that barrier is no longer. And still others have said that a person of Polish origin would not have a chance to aspire to high office, but that stumbling block is past.

Now there are those who are saying that a black person could never be Vice President or President, but Shirley Chisholm is out to disprove that. There have been others who have said a woman cannot handle the job of President, but Shirley Chisholm does not believe that. And there are many who argue that a black woman cannot get anywhere in the world of politics, but Shirley Chisholm is proving them wrong.

Her campaign is a tribute to this country and its tradition of democracy. The fact that a woman who is black can seriously consider running for the highest office in the land is a sign that the dictates of our Constitution still hold strong in this Nation.

Moreover, her campaign is dispelling the myths that money and power win the prestige of office. Her efforts are among the people, working with grassroots organizations in homes, church basements, civic halls—anywhere a group of supporters can gather and tell the people about their candidate.

She is exciting blacks, whites, chicanos, youth, women, men, and others about her candidacy and her views. She is showing America that anyone with a good idea and the will to tell it to the people can become actively involved with politics.

Whether Shirley Chisholm wins or loses the Democratic nomination for President is not important. What is significant is that she is running and running well. She is serious and being taken seriously. America is still a land where anyone, regardless of race, creed, sex, or country of origin can be the President of the United States.

BRISTOL, CONN., POLICEMAN OF THE YEAR

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mrs. GRASSO. Mr. Speaker, the Exchange Club of Bristol, Conn., in making its selection for Policeman of the Year for 1972, found it impossible to select one from among a galaxy of deserving recipients. This is a dilemma shared by many civic organizations seeking to pay special honor to the dedication and devoted service of our local police. In recognizing one person, it is hoped that not only the valor and high esteem of a single individual is put in focus, but also the many acts of kindness and service beyond duty that exemplify the lives of the people to whom we entrust the protection of our property and our lives.

The solution of the Exchange Club of Bristol was simple—yet of a wisdom that recognized the singleness of purpose and selflessness of these men and their sister associates whose labors are often long and tedious and thankless, in spite of risk and the ever present terror of danger. The Exchange Club solved the problem by naming each and every member of the department "Policeman of the Year."

It is a special pleasure to salute these gallant men. The editorial from the February 17 issue of the Bristol Press answers for all of us the question a policeman often asks: "Is it worth it? Who cares?" We care. The article follows:

> Our Policemen of the Year
>
> The Exchange Club of Bristol paid a long overdue honor to the Bristol Police Department Monday night by naming each and every member of the Department "Policemen of the Year."
>
> Although the award had been singular in recent years, the collective honor was as fitting to all our policemen, as it is to award a World Series pennant to an entire team rather than the so-called star players.
>
> Law enforcement is a team effort—consisting of dedication, patience, self-sacrifice, ability and (when called for) courage. The combined efforts of Bristol Police this past year resulted in a 25 per cent reduction in crime—a record just reverse of those being compiled by other muncipalities across the nation.
>
> From the plainclothes detective to the administrators and the average cop on the beat—it's a thankless job, meaning long hours despite the weather for pay which borders merely on the adequate side of the ledger.

Does Bristol have outstanding policemen? Of course we do. We also have had at times policemen somewhat less than outstanding. But, the honor afforded our Police Department collectively is a well deserved accolade.

Hopefully this recognition might ease the sting some of our law enforcement officers have felt as of late. Faced with an all too common practice of verbal assaults from the citizenry, particularly the young, and the sad dilemma that wages they bargained for in good faith might not come about, one could almost understand a policeman asking himself, "Is it worth it? Who cares?"

We believe the Exchange Club said it for the entire community—and said it well—that by their diligence and proven ability the Bristol Police Department to a man is deserving of the respect from each of us . . . and the occasional lapses in proper conduct of a few should never sway our residents from the admiration of and appreciation for all.

TO REESTABLISH THE RECOMPUTATION PRINCIPLE IN MILITARY RETIRED PAY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. ANDERSON of California. Mr. Speaker, in 1968, when President Nixon was a candidate for the Presidency of the United States, he pledged to reinstate the "recomputation principle" in military retired pay.

Today, 4 years later, we have yet to see an administration proposal which would equalize the retirement pay of uniformed services personnel of equal rank and years of service.

But, there is hope.

On October 29, 1971, the Secretary of Defense stated that the recommendations of the President's Interagency Committee on Military Retirement were under careful study within the Department of Defense. He also stated that the Department of Defense hopes to develop appropriate legislative recommendations, based on the Interagency Committee study, for forwarding to the Congress early in 1972.

To follow up on this, President Nixon, in his state of the Union message on January 20, 1972, stated:

> I will submit to the Congress an overall reform of our military retirement and survivor benefit program, raising the level of protection for military families.

But still, we in the Congress have not received these recommendations.

Mr. Speaker, instead of recomputation, the administration's primary goal is to reduce draft calls to zero by July 1, 1973, and achieve an all-volunteer force.

I say that one of the best ways to achieve a volunteer force is to live up to promises made to our servicemen by reestablishing the principle of recomputation in military retired pay.

In 1969, when I first came to Congress, I introduced a bill which would equalize the retirement pay of members of the uniformed service of equal rank and years of service.

In July 1970, the Department of Defense was opposed to this legislation. The Department reported:

> After careful consideration of the matter, it has been concluded that the Department of Defense cannot, at this time, recommend favorable consideration of any of these bills.

Due to this opposition, my bill died in the 91st Congress, but, in February 1971, with opening of the 92d Congress, I reintroduced an identical bill in order to reestablish the recomputation principle.

Hopefully, Secretary Laird's statement on October 29, 1971, and President Nixon's statement on January 20, 1972, signals a change in the administration's attitude toward fulfilling the moral obligation to retired servicemen.

GOVERNOR OGILVIE'S TOP PRIORITY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. MICHEL. Mr. Speaker, while back home in my district during the Lincoln Day recess I noticed a full page newspaper advertisement outlining the achievements of Governor Ogilvie's administration in the field of aid to education. While the ad is acknowledged to be part of a political campaign, I just wanted to say that the accomplishments it outlines are real and as the ranking member of the Appropriations Subcommittee funding education programs at the Federal level I am very proud of what our Governor has achieved.

His courage in pushing for adoption of our State's first income tax law has been rewarded by the massive improvements in our educational system throughout the State and I salute him for it. Perhaps if more States were to follow a similar course, it would lessen the pressures we feel for ever-increasing appropriations for education at the Federal level and also assure that the control of our educational system will remain at the local and State level where it belongs rather than being brought more under Federal control as so many would prefer.

I insert the text of the ad in the RECORD at this point and recommend its message to my colleagues.

The ad follows:

GOVERNOR OGILVIE'S TOP PRIORITY

Governor Ogilvie has done more for Illinois education than any other governor in history.

He's doubled state appropriations to grammar and high schools. (More than 2 billion, 700 million state dollars in three years.)

He's increased state appropriations to universities and colleges by more than 64%. (From $925 million in the last three pre-Ogilvie years to more than $1.5 billion under Ogilvie.)

He's doubled the number of Illinois State Scholarships—from 29,000 in the last pre-Ogilvie year to more than 70,000 this fall. Now Illinois can meet every meritorious request.

In his three years as governor, Ogilvie's state appropriations for education total 4 billion, 233 million dollars—an increase of $1 billion, 913 million over the three pre-Ogilvie years.

This tremendous input of state funds represents a major effort on the part of Governor Ogilvie to help relieve citizens hard-pressed by local property taxes.

It also represents two new four year colleges.

Four new junior colleges.

Five new medical schools in downstate Illinois.

And over twelve hundred new grammar and high school classrooms. (All built at a ⅓ saving through the efforts of the State School Building Commission.)

It represents doubled state aid for pupil transportation.

Doubled support for special education for the handicapped.

And tripled vocational training opportunities.

But the governor's commitment to our children doesn't end there.

It's also represented by a brand new school breakfast program that's put more than 6 million breakfasts into the empty stomachs of needy children during this school year.

And Ogilvie's also increased the school lunch program eightfold—from $7 million in the last pre-Ogilvie year to more than $54 million this year.

Where has all the money come from?

The state income tax. Most of which goes toward education.

When Governor Ogilvie proposed that tax, he knew it wasn't going to be popular. But he had the courage to do what was right regardless of political expediency.

And what could be more right than making sure your child gets a good education?

GUY R. MOLONY

HON. HALE BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. BOGGS. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial printed in the New Orleans Times-Picayune on February 15, 1972, entitled, "Orleans and Soldiers of Fortune," with reference to the late Guy R. Molony.

Mr. Molony was one of the most colorful citizens of my community whose exploits in Latin America are legendary. The editorial follows:

ORLEANS AND SOLDIERS OF FORTUNE

Death of Guy R. Molony, former superintendent of police and once a soldier of fortune, revives memories of how importantly New Orleans figures in the turbulent days of Central American countries about two generations ago.

His background for exploits in Middle America came in the Boer War and the Philippines. He returned to New Orleans and it was to become a way station to and from revolutions.

Mr. Molony was in his early 20s when he sailed off to become a machine gunner in a Nicaraguan revolution. Next, aboard an oyster lugger, his destination was Honduras and another revolution in association with Gen. Lee Christmas. That particular attempt was not successful, but the next, also based from New Orleans, achieved its goal.

Gen. Christmas once remarked that he had served as many presidents in Central America as he had years of service there—20. He was a plantation-born Louisianian. It was while Mr. Molony was chief of police that he was a blood donor to the general.

After police work for the McShane administration, Mr. Molony returned to Honduras as a businessman but was caught up in another revolution in 1931. Angered by the turn of events, he later related, he patched up an old machine gun, rounded up some other refugees and joined government forces to put down the uprising. His interest in Honduras led to his long-term operation of a rice mill there.

Reminders of how New Orleans figures in many of the colorful episodes in Central American history are becoming scarce.

RIVERTON HIGH SCHOOL HONORED

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. RONCALIO. Mr. Speaker, the State of Wyoming has been selected to receive the 31st annual National Bellamy Flag award this year. As an outstanding school, representative of the best in education in Wyoming, Riverton High School in Riverton will be the standard bearer for the State high schools.

The award honors Francis Bellamy, author of the Pledge of Allegiance to the flag. He wrote the pledge in Boston in 1892 to commemorate the 400th anniversary of the discovery of America.

The Bellamy Flag award is an outdoor flag, which will be flown over the Capitol and presented to Riverton High School on Columbus Day 1972, the 80th anniversary of the Pledge of Allegiance.

Wyoming takes pride in this presentation, particularly the community of Riverton, whose education system has enjoyed a reputation for excellence.

I am pleased to insert for the RECORD, an editorial and a news article which appeared in the Riverton Ranger on January 27.

The material follows:

JOB WELL DONE

Rising costs of education and challenges to the educational methods have brought schools, boards, teachers and school administrators under attack. Wyoming Taxpayers Association took tenure and the salary schedule to task, claiming it serves to discourage individual initiative and to patronize the substandard teacher.

Defenders of the system maintain that the security the salary scale offers and tenure all but guarantees and encourages imaginative, innovative teaching methods.

Let's mark up a score for this point of view with the announcement yesterday that Riverton High School has been selected as the national winner in the 31st Bellamy Award.

The points mentioned in the selection of RHS as the school best representing high quality education in Wyoming include:

A proficient administration.

A dedicated, professional and accomplished faculty excelling in academic and extra-curricular activities.

A student body active and respected in decision making.

An accomplished alumni.

A constant and strengthening rapport with the local press.

A community that realizes the value of its youth, offering praise for youth endeavors.

An active program to curb dropouts.

Progressive practices in career education.

Bridges built over the cultural gaps.

An educational philosophy keyed to student participation and student well-being.

The accumulation of awards, honors and the varied accomplishments of the school and RHS products, students and alumni, are brought together by the Bellamy Award.

In times, when nothing is immune from challenge and proof, let's chalk up a score for a job well done at Riverton High School as exemplified by the school's selection for the Bellamy Award.

RIVERTON HIGH WINS 31ST NATIONAL BELLAMY AWARD

Riverton High School is being announced today as the national winner of the 31st annual Bellamy Flag Award, representative of the quality high schools in the State of Wyoming, which was selected to be the honored state for 1972.

Executive Director of the National Bellamy Award Committee Margarette S. Miller said, "The National Bellamy Award makes no pretense at selecting a 'best school' in a state. It simply selects a school that is 'representative' of all fine public high schools in the chosen state. Thus, Riverton High School has been chosen and designated as the standard bearer for all Wyoming high schools. Riverton will retain the honor for a 50 year period in the distinguished group of outstanding and representative secondary schools throughout the nation."

The 31st annual Bellamy Award will be presented in formal ceremonies to Riverton High School for the State of Wyoming on Columbus Day, October 12, 1972, the 80th anniversary of the Pledge of Allegiance. The presentation ceremony will follow a traditional pattern with band and choral arrangements including "Battle Hymn of the Republic," "Pledge of Allegiance," and "America, the Beautiful."

BELLAMY FLAG

The Bellamy Flag Award is a large outdoor flag that will be flown over the U.S. Capitol in Washington, D.C. on May 18 of this year and honors Francis Bellamy who was a minister, journalist and advertising man and authored the Pledge of Allegiance to the Flag of the United States of America.

The Pledge of Allegiance was written by Bellamy in Boston, in 1892, under the auspices of the 'Youth Companion" magazine, for the National Public School Celebration of Columbus Day, commemorating the nation's quadro-centennial. The Bellamy Award gives conspicuous acknowledgment to the vital role the public school, an instrument of the American ideal, plays in helping to mold and to realize the ideals and goals of the country.

In announcing the award to Riverton High School, Dr. Miller said, "The Bellamy Award is not an honor to be obtained by the mere efforts of administration, faculty and students during the year of study." Led by Riverton Principal Floyd Hart, Riverton had made a bid for the Bellamy Award nearly a year ago and has continued to support this bid. Originally one of 14 schools nominated the field was narrowed to two—Riverton and Cheyenne East—late last year with the final selection being announced today. Semi-finalists were Riverton, Cheyenne East, Lander, Cheyenne Central, and Sheridan. Dr. Miller said, "The school (Riverton) is chosen for its long history of accomplishment along with its continuous accumulation of awards, honors, innovation in teaching, the accomplishments of the alumni, faculty, and the present student body. The manner in which a school stresses the American Way of Life, as patterned by the nation's founders, is important."

TEN POINTS

Dr. Miller outlined ten points for which "Riverton High School, designated by the Bellamy Advisory Board as representative of all quality public schools in the State of Wyoming, has been selected as the recipient of the 31st annual Bellamy Award for these specific reasons," she said. The ten points detailed were:

The proficient performance of duty by the administration in organization, ability, judgment, school and community leadership, loyalty and pride in the school are ever in force by Floyd Hart, Principal of Riverton High School, and James H. Moore, Superintendent of Riverton Public Schools.

A dedicated, professional and accomplished faculty excelling in academic and extracurricular activities on state, national and international levels; those who want to be "more than just a teacher . . . to be an educator."

A student body active and respected in decision making; students who take pride in their school facility; students diverse in cultural background and typically American; students who are a "vital force in the school's progress" with a strong voice in the establishment of school policy with their recommendations heeded and encouraged.

An accomplished alumni prominent in all walks of life having contributed highly in the fields of law, the armed services, science, medicine, government and education.

A constant and strengthening rapport with the local press which offers full coverage of Riverton's "efforts to develop excellence in a wide range of activities for young people." The Riverton Ranger is a tremendous supporter of education. The school publication Write On rates high in state competition having led last year in news writing, editorial, photography, and advertising with 24 individual honors received from the Wyoming High School Press Association for "excellence and social concern" by individual student writers.

A community that senses and realizes the value of its youth by offering praise for endeavors to work together for the betterment of the community as well as the school. For example, unselfish Riverton youth voted to give up the traditional Homecoming Parade of floats so that their efforts and money would go into a community project of greater significance and value—the March of Dimes—working with community leaders to raise $3500 the past year.

Project Pascal, the federally funded $2.5 million project designed "to curb the dropout problem" a five-year experimental and possible model program for the United States.

Innovative and progressive educational practices including the Occupational (Career) Education, an exemplary and experimental program to provide career education and opportunities for all students. Block scheduling, the elimination of teacher-directed compulsory student halls allowing the choice of study privileges with time allowed above academic instruction for cultural enrichment. Riverton was the first school in Wyoming to develop this system and one of the first in which it worked efficiently to receive commendation by the North Central Accreditation Association.

Bridging the culture gap. An Indian coordinator conducts a summer program "to provide course work in high school subjects while emphasizing the uniqueness and value of Indian culture."

The educational philosophy keyed to the welfare of the students with participation, involvement toward greater benefit to the students rather than the administration, teachers and parents; with strong emphasis that the individual contribution of teacher or student adds prestige for all the staff, for all the students, for the entire school family.

COMMUNITY EFFORT

Dr. Miller recognized that "Fine schools take the concerted effort of every member of a community. The educational experiences and training gained at Riverton High School should produce a strong foundation for the young people to mature into responsible adult citizens.

Quoting California Congressman Charles H. Wilson, Dr. Miller said, "Education is the single most valuable investment we can make in the future of our country."

Dr. Miller will be planning and conducting the National Bellamy Award presentation to be held here on October 12. The presentation will draw educators and students from throughout the nation.

As a part of the honor which is to stand for 50 years for the school, each issue of the student newspaper Write On is to include under its masthead indefinitely "1972 Bellamy Award School—State of Wyoming."

PREVIOUS WINNERS

The 1971 National Bellamy Award winner was Dillard McCollum High School in San Antonio, Texas. Winning the award in 1970 was Lead, South Dakota, High School.

In the 31 years, this is the first time the award has been made to a Wyoming school. Other recent winners were Holyoke, Massachusetts, 1969; Hibbing, Minnesota, 1968; Flowing Wells High School, Tucson, Arizona, 1967; Cherry Creek High School, Englewood, Colo., 1966; Pierre S. DuPont High School, Wilmington, Del., 1965; Wausau East Senior High School, Wausau, Wisconsin, 1964; Central High School, Harrison, Tennessee, 1963, and West High School, Waterloo, Iowa, 1962.

FROM HENRY WATTERSON'S FAMOUS ORATION ON LINCOLN

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. CARTER. Mr. Speaker, as pertinent to the annual recognition of Abraham Lincoln, and under leave accorded I am placing in the RECORD a portion of the famous oration of Henry Watterson who, years ago, was editor of the Courier-Journal of Louisville, Ky.

Mr. Watterson was, himself, famous for his orations on public figures and subjects, and was a genius of the first order. Among his accomplishments was that of a love of music. He was a brilliant performer on the piano.

Recently, a centenarian of Bowling Green, Ky., and one of the few remaining Spanish War veterans, sent to his lifelong friend, Maurice H. Thatcher, a printed page reproduced hereinafter. Mr. Thatcher is a few months senior to this man with whom he maintains correspondence, Mr. A. M. Causey.

Mr. Thatcher is a former Member of this body, representing the Louisville, Ky., district, and is now the oldest ex-Member of Congress. He is one of the few Representatives that live beyond the centenarian milepost. Since retiring from Congress, he has remained in Washington, D.C., but has maintained his citizenship in Louisville, Ky.

Mr. Thatcher has been a lifelong student of Lincoln, and undoubtedly has been inspired and influenced thereby.

He also was the author of the legislation which redeemed the neglect of the Congress to authorize funds for the improvement, maintenance, and care of the Lincoln Birthplace Farm in Kentucky which the Government received in 1916 from the Lincoln Farm Association, headed by Mr. P. F. Collier, the publisher.

The shrine, under the Thatcher Act, is now a place of beauty, and free to the public, and administered by the National Park Service.

The indicated citation follows:

A BIT OF KENTUCKY HISTORY THAT A FEW PEOPLE MAY NOT KNOW

Shortly after the Civil War Henry Watterson, who was a Colonel in the Confederate Army moved to Louisville, became Editor of the Courier Journal. He became a great admirer of Abraham Lincoln. His writings attracted national attention and he was invited to speak to Lincoln Union Club meeting held at the Chicago Auditorium February 12, 1895.

The following is a portion of his address, probably the greatest tribute ever paid to any man:

"Born as lowly as the Son of God, in a hovel, reared in penury, squalor, with no gleams of light or fair surroundings; without graces, actual or acquired; with none of fame or official training; it was reserved for this strange being, late in life to be snatched from obscurity raised to supreme command at a supreme moment, and entrusted with the destiny of a nation.

"The great leaders of his party, the most experienced and accomplished public men of the day, were made to stand aside; were sent to the rear, whilst this fantastic figure was led by unseen hands to the front and given the reins of power. It is immaterial whether we were for him, or against him: wholly immaterial. That, during four years, carrying with them such a weight of responsibility as the world never witnessed before, he filled the vast space allotted him in the eyes and actions of mankind, is to say that he was inspired of God, for no where else could he have acquired the wisdom, and the virtue.

"Where did Shakespear get his genius? Where did Mozart get his Music? Whose hand smooth the lyre of the Scottish plowman? God, God, and God alone; and as surely as these were raised up by God, inspired by God, was Abraham Lincoln; and a thousand years hence, no drama, no tragedy, no epic poem will be filled with greater wonder, or be followed by mankind with deeper feeling than that which tells the story of his life and death."

GEORGE WASHINGTON—FIRST IN THE HEARTS OF HIS COUNTRYMEN?

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. YOUNG of Florida. Mr. Speaker, although the Monday Holiday Act has changed the dates upon which we previously celebrated many of our historic and patriotic holidays, there are literally thousands of Americans who choose to continue recognizing these commemorative occasions on the days they were meant to be recognized. In this respect, although yesterday was the official holiday designated by the Monday Holiday Act to celebrate Washington's birthday, I feel that today, the actual birthdate of George Washington, should not go unnoticed.

As we all know, the American Legion is a national organization made up of outstanding persons who are dedicated to the betterment of our great country and who have made it their responsibility to stand up for America. In the past, I have inserted various articles and resolutions endorsed by this fine organization. Today, I would like to bring to the attention of my colleagues an editorial from the American Legion News Service entitled "George Washington—First in the Hearts of His Countrymen?"

The editorial follows:

GEORGE WASHINGTON—FIRST IN THE HEARTS OF HIS COUNTRYMEN?

"First in war, first in peace, and in the hearts of his countrymen." This famous phrase was part of the "Funeral Oration Upon George Washington" delivered December 26, 1799, before the houses of Congress by Gen. Henry Lee.

Is George Washington still "first in the hearts of his countrymen?" Or have we sounded the final funeral dirge honoring the memory of the father of this great nation before its 200th birthday?

A New York newspaper editor and Legionnaire pointed out recently, in a letter to the Legion's National Americanism Division, that only one editorial was carried on Washington out of 47 major dailies he surveyed and suggests a major organization, such as The American Legion, help correct this "neglect."

To understand why Washington's memory is being neglected, one must understand why Americanism is being eroded in this country. One must understand that Washington, "the father of our country," is part of America. This complacent attitude of not honoring Washington, is strong evidence of patriotic decay, a decay of loyalty and devotion to the principles and ideals upon which our nation was founded.

George Washington, as "father of his country," was a father in many ways. He was commander in chief of the American forces in the Revolutionary War, chairman of the convention that wrote the U.S. Constitution, and the first president.

Like our country's present commander in chief, Washington had many political enemies and critics who attacked him during the war. And some of the problems that plagued Washington, can be likened to the problems that have confronted our President in the Vietnam War. Washington was undermined by Benedict Arnold, a man whose name has become a synonym for a traitor to one's country by giving aid and comfort to the enemy. Political opportunists, who are allowing their political ambitions to divide and destroy our nation, have made attempts to undermine the President's efforts to end the Vietnam War. These people have fought for legislation which would tell the enemy exactly when, where and how we are going to withdraw troops, openly endangering our fighting men's lives. These are the same short-sighted lawmakers who endorsed changing our patriotic holidays to Mondays for commercial purposes. Those holidays included *Washington's Birthday*, Memorial Day and Veterans Day.

Rarely does one hear a citizen give voice to his outraged feelings over these actions. Why? We are too smug: too self-satisfied. We are not lacking in courage, but we are too lazy intellectually to care, except during a national crisis, about having a hand in national policies.

In the near future America must come to her senses. Her people must realize, the Communist plan for subverting America includes the down-grading of patriotic observances and national heroes. Loyal Americans must determine whether we are interested in preserving the nation that we and our forefathers defended or allow it to be destroyed from within. To keep Washington first in our hearts, we must see to it that Americans with a sense of history and appreciation for its meaning occupy seats in our legislative halls.

Display the American Flag on February 22, the birthdate of George Washington!

TALENTS OF TWO LOCAL AUTHORS

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mrs. GRASSO. Mr. Speaker, the Sixth Congressional District of Connecticut encompasses a vast and diverse area, and a population with a myriad of talents and skills that is unequaled. We are especially proud of the recent release of books by two area authors. Bridgewater resident Leonard A. Stevens' most recent book, "Explorers of the Brain", has earned accolades as has the sleuthing of Ladislas Farago in his latest book, "The Game of the Foxes".

For the interest of my colleagues, commentaries on these books—from the New Milford Times and the other from the Lakeville Journal—follow:

[From the New Milford (Conn.) Times, Feb. 10, 1972]

NEW MILFORD AUTHOR SAYS: WRITING BOOK ABOUT SPIES REQUIRED SOME SLEUTHING

(By Ladislas Farago)

(EDITOR'S NOTE.—The following article was written by Ladislas Farago, New Milford author, whose latest book "The Game of the Foxes"—an account of German espionage activities in the United States before and during World War II—is reviewed this week on the editorial page)

Toward the end of World War II, in the U.S. Office of Naval Intelligence where I worked, I read a top secret report about a brilliant ruse of the British Secret Service during the Teheran Conference of November 1943, and how it was instrumental in assuring the security of Roosevelt, Churchill and Stalin. The story of this ingenious coup intrigued me even more two decades later. In 1965, I decided to commemorate it in a book.

I received enthusiastic support for my project from Sir Reader Bullard, His Majesty's Ambassador in Persia at the time of the Conference, and Sir Fitzroy MacLean, the distinguished British politician who had served as the most intrepid secret agent in the area during part of the war. But I found it difficult if not impossible to obtain the documentation I needed from official British sources.

I, therefore, turned to that gold mine of historical research, the depositories of American and foreign documents in Washington, D.C., in the hope that I would find in them what I could not procure in London. In my past efforts, it was in the Office of the Chief of Military History, the Library of Congress and especially the National Archives where I invariably discovered unpublished papers bearing on my quests. Thus the revelation in my book "The Broken Seal" that Herbert O. Yardley, the foremost American codecracker in his own time, was a Japanese agent, had come from his dossier in the Japanese Foreign Ministry, preserved in the unindexed, uncatalogued collection of captured documents in the Library of Congress. In a similar manner, much new documentation that went into the writing of my biography of General Patton was found among the thousands of papers held for those willing to dig for them in the Office of the Chief of Military History of the Department of War.

In January 1967, I called at the National Archives, told Robert Wolfe and Richard Bauer, custodians of the captured German records, of my special interest in this sideline of the Teheran Conference, and was taken by them on a guided tour to the mass of declassified but uncatalogued documents. On this occasion, I was allowed into a dimly lit loft where a great number of the stray German papers were piled up, most of them awaiting indexing to join on the open shelves literally millions of documents.

Knowing of my studies of intelligence and espionage in general (War of Wits) and my special preoccupation with the espionage history of World War II (Burn After Reading), they opened up for me sources in which they thought I could find the documentation I was seeking.

I did find considerable original material about German spies stationed in Iran and at least some substantiation for the scoop the British had scored—and much more than that. In some 800 yellow boxes of microfilm I discovered thousands of frames of photographed documents untouched since their capture and microfilming during the closing weeks of World War II, among them the most secret files of the German Foreign Ministry, Wehrmacht High Command and the Nazi terror machine. Most important from my point of view, some thirty of the boxes contained the archives of the Abwehr branch in Bremen, with the complete paper work of this important bureau as well as copies of hundreds of documents from the Abwehr's big Hamburg outpost.

Suddenly, my interest in the Teheran Conference turned into fascination with this new material that held out the promise of an authoritative book about those segments of the Abwehr that were primarily responsible for the clandestine coverage of the United States and the United Kingdom. Even as my decision to write my Patton biography stemmed from my discovery of the General's unpublished diaries, my determination to write this history of German espionage in World War II originated in the finding of this collection of forgotten documents, the very existence of which was known before.

I like to have a sense of proportion about windfalls in research. My own definition of such a discovery is to find something nobody else is looking for. It was, indeed, not the original spotting of presumably lost documents that fill me with pride as a researcher, but the hard work that ensued—trying, often against seemingly impossible odds, to gain confirmation, corroboration and substantiation for German claims contained in the papers and to reconstruct the operations they revealed.

The beginning was fortuitous and easy. But the proper exploitation of this unique material proved a difficult and tedious job. In bringing it into sharp focus I had the help of living sources—of men and women who had the good fortune of participating in the events and maneuvers the documents exposed for the first time, and could be persuaded to share their memories with me.

They included Colonel Nokolaus Ritter, Lieutenant Colonel Hermann J. Giskes, Dr. Karl-Heinz Kraemer, Mr. Dusko Popov, Sir John Masterman, Professor H. H. Trevor-Roper, Major Jules Boeckel, the late Captain Arthur Leslie Nicholson, Professor Louis de Jong, Captain Henry M. Denham, Lord Granville of Eye, Herman Gyllenhaal, Nils Hamerby, Dr. Fritz Hesse, General Wilhelm Meyer-Detring, and many others.

The list is long but by no means complete. For reasons of security and other considerations, I am not at liberty to identify some of my primary sources. But I am anxious to assure them that, unmentioned though they must remain, my debt of gratitude to them is real and great.

I am also deeply grateful to Vice Admiral Sir Norman Denning for his advice and helpful recommendations, to Dr. O. John Rogge, former U.S. Assistant Attorney General, to the late Adolf A. Berle, whose documentation and guidance proved invaluable in the presentation of my evidence in the case of John L. Lewis.

Finally, my appreciation and gratitude for the assistance I received in the preparation of this book in Washington, D.C., especially at the National Archives, go to Dr. James B. Rhoads, the Archivist of the United States, Dr. Mabel Deutrich, Director of the Military Archives Division, and Dr. Robert Wolfe, the Acting Chief of the Captured Records Branch. Without their help this book could not have been written.

I wish to note that my own collection of Abwehr and related papers have been assembled over nearly thirty years. This together with a vast selection of other unpublished material will be deposited with a learned institution under agreement that it be available without restrictions to all legitimate scholars.

THE BOOKWORM

(By Jim Stuart)

On a recent vacation, and quite by accident, we bought and read a paperback copy of a book called "The Tenth Fleet," an engrossing and fast-paced yarn about the U.S. effort in World War II to outwit Nazi submarines in the Atlantic.

We bought this book, many miles from New Milford, because we knew its author, Ladislas Farago, was a resident of New Milford who also wrote the best-selling "Patton—Ordeal and Triumph," on which the Academy-award movie "Patton" was based.

When we got back from vacation what should be waiting on our desk but a review copy of Mr. Farago's latest book, "The Game of the Foxes," an imposing volume about German espionage activities prior to and during World War II in the United States and elsewhere.

This is to report we have just finished reading "Foxes" and find it, like "The Tenth Fleet," engrossing and fast-paced. We unreservedly recommend it to World War II buffs as well as to anyone who has a taste for intrigue and danger on a global scale. That should include just about everyone, so we have little doubt that Mr. Farago's latest volume will be enormously successful. It deserves to be, if for no other reason than that the book is a masterpiece of what would seem painstaking research.

Doing a book on spies and their activities would, we should imagine, be no easy task. After all, spies don't as a rule go around telling just anyone what they have been or are up to. Pinning them down, so to speak, is a rough go. But Mr. Farago manages it all beautifully, and in "Foxes" he presents us with a mixed bag of spies, double agents, petty crooks and master criminals, ranging all the way from Adolf Hitler and his ace spymaster, Admiral Wilhelm Canaris, head of the Abwehr, down to a feckless young lady who was forced by an evil stepfather to hang around waterfront bars in Staten Island and Brooklyn to get information on ship movements. The latter exhibit, incidentally, came to be known as the "Waterfront Mata Hari."

We were surprised to learn from Mr. Farago's book that Hitler apparently had very little use for spies, considering them and their activities somewhat distasteful. At the very least, Mr. Farago says, Hitler was uneasy in the presence of espionage people and was somewhat frosty in his dealings with his top intelligence people.

Nonetheless, and guided by Admiral Canaris, the Germans developed a spy network before and during World War II that was formidable, involving at one time more than a thousand agents in this country.

Mr. Farago's book also is fascinating in its account of the difficulties a spy faces. It is one thing, apparently, to collect information in a hostile land, and quite another to get the information to your boss in time for it to mean anything. The Abwehr partially solved this problem—and later ran afoul because of the solution—by radioing information to Abwehr headquarters in Germany. Agents in this country also used mail drops in such countries as Switzerland, but this wasn't too satisfactory because of the time element and also because the British surveillance of mail eventually became highly efficient.

While "The Game of the Foxes" is full of the exploits of numerous foreign agents plying their trade in this country in the 1940s, our favorite spy is a chap named Simon Emil Koedel, a slithery type who finally was arrested in 1944 following a long and successful career in espionage for the Germans. Mr. Farago agrees that Koedel was, to say the least, highly skilled, not only at getting valuable information but also at eluding the authorities.

We rather respect Koedel, in fact, for his inventiveness and his astounding gall. This superspy was not one to skulk around back alleys chatting with derelicts. He, whenever possible, went right to the top and, for one reason or another, had little trouble getting the information he wanted straight from the horse's mouth. He got a lot of good stuff, for instance, straight from the American Ordnance Association, a quasi-confidential trade organization composed of munition makers, who naturally were privy to top war department secrets. Koedel got on the mailing list of this outfit merely by writing to them, stating he was a big stockholder in a number of firms engaged in the manufacture of munitions. Just for toppers he sent along his Army discharge papers (he was a corporal in World War I in the U.S. Army) with his letter.

Soon, as a member of this organization, he was attending secret lectures on armament and inspecting defense plants. This contact, as Mr. Farago states, was "a gold mine for a spy."

But, like most of his colleagues, Koedel finally came a cropper. He was, incidentally, the chap who stationed his stepdaughter in waterfront bars to pry information out of unwary sailors.

We gather from reading Mr. Farago's book, too, that the Germans were not overly generous with their agents. Indeed, it seems most of this skullduggery was pretty much a labor of love.

But Koedel, intriguing as he was, is only one of the stars in Mr. Farago's constellation of double-dealers.

This book, which we understand is being considered for a movie, is, as we said previously, a must for anyone who likes to live a little vicariously. Not many of us would make very good spies, but there is something in almost everyone that savors the world of cloak and dagger, a world Mr. Farago presents expertly and with great wit in "The Game of the Foxes."

[From the Lakeville (Conn.) Journal, Feb. 10, 1972]

SPEAKING OF PEOPLE: HE'S WRITTEN A BRAINY BOOK

(By Alison Wyrley Birch)

Sigmund Freud and those who came after stirred humanity up and made it consider the mysterious, inner and invisible self—what Leonard Stevens of Bridgewater and New Milford calls the "Thou" of us, but no one has yet been able to pin down that elusive and bewildering "Thou" that each of us is.

For many years—centuries even—people have placed the vagabond soul of man in the liver, or the heart or the brain. "We still don't understand the physical base of the mind," Stevens says, "although we now suspect it's cornered in some section of the brain. Sinews, bones, and glands we understand, along with the workings of the heart and inner organs, but nowhere has the 'life' of us been located with any certainty."

Leonard A. Stevens, who has written a total of 12 books and uncountable magazine articles, joined science in the search for man's soul. He has interviewed approximately 60 eminent brain scientists here and in Europe, and has spent a tremendous number of hours researching back through written history.

The result is his newest book, *Explorers of the Brain*, just published by Alfred A. Knopf. It's written for the unscientific investigator—as well as the science student—and it reads like a great drama, with a look at the still-impossible brain transplant, split brain operations, memory transfer and other incredible, fantastic possibilities for the future as science unclothes more and more veiled areas in the human skull.

Leonard Stevens, who lives with his wife and four children in Bridgewater and works in New Milford, is a tall, friendly fellow who combines a scientific bent with an inquiring journalistic mind

He started out as an engineer, but switched—after detouring to the service during World War II—to majoring in journalism and speech. He took his B.S. and M.A. degrees at the State University of Iowa and then worked for about five years as news editor for radio station WSUI in Iowa City and for the Hoover commission. Mostly, he's been a free-lance writer covering diverse subjects in Alaska and along the California coast.

North Atlantic Jet Flight—a book for young adults—gave him the opportunity to ride on an upended box between the two pilots of a North Atlantic jet and *Elizabeth—The Passage Of A Queen* took him across the Atlantic on the QE1 on her 424th voyage.

Leonard Stevens is now working on a book under contract that is a history of the medical science of the nervous system. It's an outgrowth of *Explorers of the Brain*, just as that was an outgrowth of a book called *On Growing Older* that Stevens wrote for the President's Council On Aging in 1964—a book strongly endorsed, incidentally, by Dr. Paul Dudley White.

Study of the brain Stevens believes to be the ultimate science. Through it we can understand and curb violence and much of the social confusion we suffer from. It may help solve many of the abstruse intricacies of personal existence. "We aren't going to really know who we are until we get inside the head and explore inner space," he said. "The brain is the seat of the soul—it relates to everything that involves us, both personal and social."

Leonard Stevens has written a very exciting book. Talking to him I could sense how much of himself he invested in his search, and the resultant excitement passes from him onto the pages of his book.

SETTING THE RECORD IN BALANCE

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. HANNA. Mr. Speaker, it is neither unique or unexpected that in the course of debate comments occur which are inconsistent with or unrelated to fact. Statements also appear that may do a considerable injustice to persons or institutions not provided with the opportunity for instant and adequate response. It is, however, my opinion that whenever possible, the RECORD should be available for response by those at whom allegations or charges have been made.

So it is that I take this opportunity for a response to allegations made against the Asian Development Bank which appeared on page 2044 dated February 1, 1972. The allegation was to the effect that the ADB is run "by the Japanese, with the Japanese, and for the Japanese."

I find it difficult to believe that the gentleman making this sweepingly general charge seriously entertains a conviction that it is grounded in truth and fact. However, the respondent should have the access accorded the allegation so I have inserted below the body of a letter received from Mr. Takeshi Watanabe, President of the Bank, which presents in a detailed factual fashion the precise position, and condition of the Asian Development Bank as dictated by its organic law, its practices and its performance.

The letter follows:

ANNEXURE TO MR. TAKESHI WATANABE'S LETTER OF FEBRUARY 15, 1972, TO THE HONORABLE MR. RICHARD T. HANNA

The substance of the allegations recorded in the "Congressional Record—House" page 2044 dated 1st February 1972 is that the Asian Development Bank (ADB) is run "by the Japanese, with the Japanese and for the Japanese", that it might "as well be an agency and a branch of the Japanese Government" and that the Bank's finances go to support industries which are Japanese-controlled, Japanese-owned and Japanese-operated.

2. The ADB is owned by 36 countries of whom Japan is one; Japan's share holding in the Bank is neither more nor less but exactly the same as that of the US namely 19.892% of the total shares. So far as the voting power goes, Japan, similarly, has neither more nor less but exactly the same as that of the US, namely 16.471% of the total voting power of all members of the Bank. Thus, from the point of view of share-holding and of voting power, Japan does not have any greater power than the US has—it is exactly in the same position.

(a) So far as the operation of the Bank is concerned, under Chapter VI of the ADB Charter, the supreme controlling body is the Board of Governors on which again Japan has exactly the same representation as the US with exactly the same voting power.

(b) On the Board of Directors, which is resident in Manila and which, under Article 31 of the Bank's Charter, has the responsibility for the direction of the general operations of the Bank, Japan and USA have exactly identical representation and voting power. This indicates that Japan has no greater controlling voice than, for instance, the US. Further, there has not been any occasion so far wherein a decision was arrived at the Board of Directors by exercise of votes; decisions have been by ascertaining the "sense" (i.e., general view) of the Board as a whole; nor has there been any case wherein the US representative has had to be in any posture of confrontation with the Japanese representative.

(c) According to Article 34.1 of the Bank's Charter, the President has to be "a national of a regional member-country". The President's term is five years. Mr. T. Watanabe was elected for a first term in November 1966 and for a second term in April 1971, both actions being taken by the Board of Governors consisting of representatives of all the member countries of the Bank. On both occasions, the decision was unanimous; in particular, the US supported the election of Mr. Watanabe *not* only on the first occasion *but also*, after five years of experience of his methods of managing the Bank, in the second election in 1971. It has to be further noted that, unlike other international financial institutions, the Vice Presidency of the Bank is not a matter of mere appointment by the President. The Vice-President (according to Article 35.1) has to be elected by the Board of Directors on recommendation of the President. The Board of Directors elected in December 1966 and then again in June 1971 (in each case for a term of five years) and by unanimous vote a non-Japanese Vice-President (Mr. C. S. Krishna Moorthi). According to the regulations of the Bank, the Vice-President is the deputy of the President and acts for the President when the latter is out of Headquarters. Mr. C. S. Krishna Moorthi, the Vice-President, is a robust-minded financial expert with considerable experience of economic development. The President and the Vice-President have worked most closely and cooperatively and in the true spirit of international officials. The actions of the President have been fully available to the Board of Directors (and to the fullest membership of the Bank including the USA) and the confidence of countries in his actions (under the responsibility of the Board of Directors for the direction of the general operations of the Bank) has not evoked any challenge by any member and certainly not by the US: this has been demonstrated by the unanimity, including the vote of the US, at his reelection in 1971.

3. The staff which assists the President consists of 197 professionals (apart from non-professionals who are mostly of Philippine nationality). The 197 professionals have been drawn from 34 nationalities. The number of professionals of Japanese nationality is only 13.7% of the total professional strength. Of the 10 Heads of Departments and Offices, there is only one who is of Japanese nationality; there is thus no Japanese national predominance in the staff that could orient the ADB to act in a manner other than consistent with its international character.

4. Loans are made by decision of the Board of Directors where the Japanese and the U.S. position are equivalent; they are *not* decided by the President.

5. All the loans of the Bank are made to developing member countries; all the loans are made (after thorough appraisal of the project) on the basis of *international procurement of goods and services in the member countries of the Bank*; financial competitiveness consistent with technical acceptability is the criterion on which procurement is done; any competitive advantage that Japan may have had by reason of its proximity to the region and also by reason of the heretofore low cost structure of Japanese industrial production may tend to get affected by recent currency realignments and other international actions under which U.S. pricing *vis-a-vis* Japanese pricing may undergo a "tilt" *interse* in favour of the U.S. on world markets.

6. Of 85 loans made so far, 52 have been to Governments and 17 to public authorities and public corporations; in respect of these, there can be no question of ADB loans helping to finance Japanese-owned or controlled or operated industry; of the balance, 16 have been to development finance institutions in member countries; and sub-lending by these institutions is controlled by internal policies of such institutions which are thoroughly appraised and examined by the Board of Directors before each loan is approved.

7. On all the above counts, nothing emerges that would justify even an insinuation that the ADB "might as well be an agency and a branch of the Japanese Government."

8. If Japan, in the estimation of parties concerned, enjoys any special respect in the ADB vis-a-vis other members, it should be attributed essentially to the fact that the Government of Japan has been kind and generous enough to be the largest donor (under Article 19 of of the ADB Charter) of Special Funds, and on liberal terms too, to add to the resources of the Bank for lending on concessional terms. It is regrettable, but yet factually correct, that (though Japan and the U.S.—the two largest share-holders of the Bank—started action almost simultaneously to endow the ADB with such Special Funds) Japan has made substantial contributions already while substantial U.S. contributions are *yet* awaited. Apart from limited resources made available for technical assistance operations, Japan has so far made available Special Funds resources of over $100 millions and is expected to make further such endowments in the coming years; on the other hand, (apart from limited resources for technical assistance operations), the efforts of the U.S. Administration to endow the ADB with such Special Funds, repeated every year over the past four years, have not met with success in previous years and show indications of producing results only this year. This comparative situation for which neither the ADB nor Japan is responsible, may give parties the feeling that Japan has, as a matter of fact, been more involved in the ADB's capacity to operate than has been, as of the current moment, the U.S.; such an impression, however, would correlate only to the resources placed by Japan at the disposal of the Bank and not to any insidious or behind-the-scene effort by Japan to achieve control, or even domination, in the framing of the policies and in the day-to-day operations of this international institution.

POLITICAL PHILOSOPHY AND SUPREME COURT JUSTICES

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. HUNGATE. Mr. Speaker, the proper criterion to be considered in the confirmation of Supreme Court Justices is certainly a current and troublesome problem.

An article in the American Bar Association Journal of February 1972, by the Senator from Arizona, BARRY GOLDWATER, illustrates the errors that can be made in seeking to forecast the future conduct of any Judge who has been appointed for life.

I believe my colleagues will find the study both interesting and informative:

POLITICAL PHILOSOPHY AND SUPREME COURT JUSTICES

(By Barry Goldwater)

In December, the Senate of the United States gave its advice and consent on the President's nominations of the 99th and 100th Justices to sit on the Supreme Court of the United States. The Senate's confirmation of Lewis F. Powell and William H. Rehnquist was preceded by the efforts of a few members of the Senate to scrutinize and judge the nominees solely on the basis of their political philosophy.

The Senators who did so made no bones about it. They were concerned with knowing whether the nominees' judicial and political philosophies fitted the same mold as their own views on the social issues of the day. Their position, as expressed by four liberal members of that committee. was particularly evident at the hearings held by the Senate Judiciary Committee on Mr. Rehnquist's nomination.

I was reminded of a recent poll reported in *Life* in which two legal scholars (Professor Albert Blaustein of Rutgers and Roy Mersky of the University of Texas) set out to grade ninety-six prior Supreme Court Justices. Professors Blaustein and Mersky chose a panel of sixty-five academic experts to evaluate all of the Justices on the quality of their individual contributions (Chief Justice Burger and Justice Blackmun were omitted because they were so recently appointed). Only twelve were rated as "great" by the panel. Of the rest, fifteen were considered "near great", fifty-five were rated "average", six "below average" and eight "failures".

As I listened to the critics of Mr. Rehnquist, I wondered how the twelve Justices selected as "great" would have fared under their liberal-oriented criteria. It would be interesting. I thought, to take a look at the words and deeds of those twelve great Justices to see how they might stack up against the test used by the current liberal wing of the Senate.

"OUR CONSTITUTION IS COLOR-BLIND"

Let us begin with an early Justice who is hailed today for his stands in solitary disagreement with his colleagues against segregation, a man who is well known today for his assertion that "Our Constitution is color-blind." And yet, prior to serving on the Court, this Justice had been a member of a slave-owning family in Kentucky, a bitter foe of the Civil War amendments and a critic of federal civil rights legislation. In 1854 he began his political activities by joining the Know-Nothing Society, a secret organization having for its purpose the restriction and destruction of the influence of foreigners and Catholic priests in our political affairs.

In 1859, upon being nominated for a Congressional seat, he set out to prove himself the more devoted defender of property rights in slaves. He not only endorsed the holding of the *Dred Scott* decision that Congress lacked power to exclude slavery from the territories, but also claimed that that case meant that Congress was duty-bound to pass laws for the full protection of the rights of slaveowners.

Later, running for election as Attorney General of Kentucky, he denounced President Lincoln's promulgation of the Emancipation Proclamation and came out strongly against the Thirteenth Amendment to the Constitution abolishing slavery.

Once he became Attorney General, this Justice argued several cases involving slave issues and civil rights. In *Kentucky* v. *Palmer*, 65 Ky. (2 Bush) 570 (1866), he prosecuted a Union general for being guilty of the crime of aiding slaves to escape. In *Bowlen* v. *Kentucky*, 65 Ky. 5 (2 Bush) 5 (1867), he asked the Kentucky Court of Appeals to overturn a lower court decision that had permitted the introduction of Negro testimony against a white defendant indicted for larceny.

We might also observe that in the 1865 elections for state legislature this man took the stump in support of "a thorough union of all citizens who . . . are opposed to the admission of the Negro to the ballot box or to the enjoyment of other political advantages".

He is, I should mention, none other than the first John Marshall Harlan, author of the famous dissent in the Supreme Court's decision of *Plessy* v. *Ferguson*, 163 U.S. 537 (1896).

JUSTICE HAD A PALTRY FOUNDATION IN-LAW

Turning to another early Justice whose background may cause some raised eyebrows, I should like to discuss a man of whom it is said: "Judged by the standards of the present day, or even by those of the Eighteenth century colonial America, he was given a paltry foundation in the law." In fact, Friedman and Israel, in their authoritative new biography of the Justices of the Supreme Court, state that the extent of his formal education included six weeks of attendance at George Wythe's law lectures at William and Mary and some reading from Bacon's *Abridgement*, and that is all. This future great was both a slaveholder himself and an official of the American Colonization Society, which was dedicated to the transportation of free Negroes back to Africa.

It is particularly striking to notice that seven years before the famed decision of *Marbury* v. *Madison*, 1 Cr. 137 (1803), this Justice had argued before his future tribunal that "the judicial authority can have no right to question the validity of a law, unless such a jurisdiction is expressly given by the Constitution"—a conferral which he knew was not expressly granted. Yet, in 1803, it was he who ruled in *Marbury* v. *Madison* that an act of Congress was unconstitutional, a decision that is considered perhaps the most important in Supreme Court history. Of course, I am referring to the unanimously recognized great, John Marshall.

Here we have a man who in his pre-Court days argued vehemently that the Court could not review and veto acts of a legislature and who turned around seven years later and wrote the most famous decision of his career, holding that the Court could do that very thing. We might remember this incident when we hear criticism made of the positions taken by judicial nominees as advocates for the United States Government or as private practitioners on behalf of their clients.

Next, let us review the history of another Chief Justice. Like Marshall, this one was a member of the Colonization Society and was born into a slave-owning family. A descendant of a prominent Maryland Tidewater family, he sided with rural area representatives as a member of the Maryland legislature and remained a states'-rights man in that body.

Once, as attorney in a case, the future Chief Justice argued: "The African race in the United States, even when free, are everywhere a degraded class. . . . The privileges they are allowed to enjoy are accorded to them as a matter of kindness and benevolence rather of right." Later, as Attorney General under President Andrew Jackson, he rendered opinions that repeated his view that slavery was basically a problem for the states alone—except that he allowed that the Government might pass fugitive slave laws upholding the property rights of Southerners.

HIS COURT MIGHT ABDICATE RIGHT OF JUDICIAL REVIEW

During this same period he gave some suggestions that a Court headed by him might abdicate its right of judicial review. He said: "The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges and on that point the President is independent of both."

In these days of marked contest by Congress to reassert its role in relation to that of the President, imagine how these words would go over with our liberal friends! In a similar manner, the spokesmen for civil liberty would undoubtedly be horrified at the following words written by this future Justice upon the occasion of hearing about a riot caused by workingmen whose savings had been wiped out a year before by the collapse of a Maryland bank. He wrote his son-in-law: "There ought not to have been a moment's hesitation about the use of fire arms, and the firm and free use of them the moment that force was attempted by the mob. The first stone thrown . . . should have been the signal to fire." So said Roger Brooke Taney in 1835. Shades of Kent State and Washington's May Day disturbances! Can you picture how this inflammatory message would be received by some radical spokesmen were they to be expressed today?

The last Justice selected by the panel from the 1800s leaves little to grasp in examining his pre-Court history. As the youngest person ever to sit on the Supreme Court, his prior record did not offer much opportunity for making distinct points about his philosophy.

The one and only case which brought this lawyer to national attention was one in which he was retained to uphold the money interests of Massachusetts speculators in lands which they had snapped up from a corrupted Georgia's legislature. According to Friedman and Israel, the young attorney thus began "the work he was to complete as a judge—a transformation of the contract clause of the Constitution into a bastion for the rights of property . . .".

In view of the sparseness of material on this individual in his pre-Court life, I am taking the liberty of mentioning his view on an important political question which he expressed nine years after taking his seat on the bench. I use this reference only because it was made in the Constitutional Convention of Massachusetts relative to the composition of the state legislature in which he had earlier been a member and because his remarks seems to reflect a long-held position.

When the convention reached the issue of determining the basis of representation in the state senate, he rose to attack the idea that population should serve as the basis of seats in the senate rather than the amount of taxation derived by each county. He said: "Cases may be easily supposed, in which, from the peculiar state of society, such a basis would be universally deemed unsafe and injurious. Take a State, . . . where there are five or ten thousand wealthy persons, and 90 or 100 thousand artisans, reduced to a state of vice, and poverty, and wretchedness, which leave them exposed to the most dangerous political excitement. . . Who would found a representation on such a population, unless he intended that all property should be a booty to be divided among the plunderers?"

Elsewhere in the same speech the Justice, whom I shall reveal as Joseph Story, said: "The more numerous the body, the greater the danger from its movements. . . ." Where in these views is the spirit of human compassion that some liberals deem necessary in candidates for the High Bench?

Let us turn now to twentieth-century men who have been chosen as outstanding Justices. First we might study the background of a personality who is known today as the "peoples' attorney". By 1895 the peoples' attorney ". . . was rapidly becoming a millionaire. He was esteemed in the nation's highest financial and business circles. Big businessmen and heads of great corporations were among his clients and friends." When he was appointed to the Court in 1916, he had become a millionaire twice over.

In 1902 he incurred the wrath of Samuel Gompers by proposing to take away from unions their immunity from suit by incorporating them. "If unions are lawless," he said, "restrain and punish their lawlessness: if they are arbitrary, repress their arbitrariness. . . . The unions need something to protect them from their own arbitrariness." Two years later he found something. When acting as counsel for an employer's organization, he obtained an injunction ending a union strike.

As further indication of his concept of industrial relations, he declared in an address before the Central Labor Union in 1905 that labor "should strive to make earnings of any business as large as possible" and "should not limit the production of individuals".

In 1899, the peoples' attorney was, all at the same time, an investor, a director and a lawyer in the shoe industry monopoly held by the United Shoe Machinery Company. In this capacity he publicly opposed legislation which would break up the monopoly by overriding a provision of United's contract which forced a shoe manufacturer to use United's entire line if he wanted to use any at all. In his brief on behalf of United he argued: "We have found in Massachusetts that in certain things we have got to have a monopoly."

"THE SUPREME COURT IS ALL WRONG"

On the occasion of the Supreme Court ruling of 1913 holding that manufacturers of patented articles could not fix the price at which retailers sell their product to the consumer, the peoples' attorney angrily wrote: "The Supreme Court is all wrong. . . . When a Court decides a case upon grounds of public policy, the Judges become, in effect, legislators."

Do these revelations reflect a sensitivity to the protection of the poor and the weak? Did a statement signed by seven past presidents of the American Bar Association declaring "he is not a fit person to be a Member of the Supreme Court of the United States" indicate that degree of recognition by his brethren at the Bar that would meet the approval of our liberal colleagues in the Senate today? Yet, if the Senate had conformed to the test now suggested by them, the nation would never have had the services of Justice Louis D. Brandeis.

JUSTICE OPPOSED POLITICAL AND RELIGIOUS OBJECTORS

Moving to another Justice now celebrated for zeal for social justice, we encounter an individual who, as Dean of Columbia Law School, was sorely troubled with the view that judges "should consciously endeavor to mold the rules of laws to conform to their own personal notion of what is the correct theory of social organization and development."

When public discussion centered on a decision which invalidated the New York Workingmen's Compensation Act of 1910, the future Justice rallied to the defense of the decision on the theory that the mere fact the goal was economically desirable did not justify the taking of property from the employer. He stated: "The proper method of securing the economic benefits of workmen's compensation . . . is 'by the orderly process of constitutional amendment. . . .' "

During the controversy over another human rights law, the New York Tenement House Act of 1901, he endorsed a court ruling exempting an apartment house owner from the law. He admonished: "The view that it is possible to base judicial decisions upon some vague notion of social justice finds frequent expression in these days of hasty and ill-considered criticism. Social justice may mean anything, and therefore, as a basis of judicial decision means nothing."

But there is more in the man's record that leads one to suspect that his appointment to the Court would never have been cleared by today's liberal standards. Sitting on a presidential board of inquiry reviewing conscientious objector cases in World War I, he "entertained a profound repugnance" toward the political or nonreligious objector. A year after Armistice Day, he observed: "One can but wonder what forces are at work in our social and educational life to produce the ill-balanced and distorted intellectual processes by which these young men, in many respects intelligent, had worked out their social philosophy." Even as to religious objectors, he felt "many were plainly fanatics, with abnormal mental experiences . . .".

As Dean of Columbia Law School, he expressed much the same thought about youth at large. In 1917, he stated: "I observe generally that the average college student of today has a radical tendency."

Finally, I should mention his role in supporting the efforts of the J. P. Morgan estate against Colonel Ownbey. In this unusual case, the future Justice argued before the Supreme Court that Ownbey had not been denied any fundamental right simply because neither he nor his attorney had been allowed to testify or offer proof denying the allegations in the case against him. It mattered not that the Morgans were thereby enabled to seize everything the old Indian scout owned. Speaking in defense of the ancient Delaware practice which effectively prevented Ownbey from being represented in the court below, the Morgans' attorney proclaimed that the correction of old methods ought to be left to the legislators, not the courts.

Now if this view indicates a deepseated commitment to individual liberties of the kind required by my liberal friends, I should be very much surprised. Had this nominee been disapproved on the ground of his approach to questions of human liberty, however, the Court would have lost its future Chief Justice, Harlan Fiske Stone.

CHIEF JUSTICE BEGAN CAREER CONVICTING CRIMINALS

Next we might examine the past record of a Chief Justice who began his career convicting criminals, first as deputy city attorney, then in the county district attorney's office and later in the state attorney generalship. As a state attorney general he denounced "Communist radicals", attacked his election opponent for opposing a bill to make school children salute the flag and blocked the nomination of a liberal-minded law professor to the state supreme court.

As a governor, he was a leading proponent of the wartime order removing all persons of Japanese ancestry from the West Coast and putting them in concentration camps. Opposing the return of the evacuees in 1943, he told a conference of governors: "If the Japs are released, no one will be able to tell a saboteur from any other Jap."

Through most of his career in state politics he was regarded as a favorite of what his biographer calls right-wing politicians. William Randolph Hearst promoted him for the Republican Presidential nomination in 1944. The *Saturday Evening Post* described him admiringly as an "ardent believer in States' rights". His name, if you have not guessed it by now, is Earl Warren.

Another man revered as a defender of personal liberties got his start as a police court judge after which he became prosecuting attorney for his county. In the course of this experience he is said to have tried more murder cases than he could ever remember.

Backed by the Ku Klux Klan, he was sent to the United States Senate. From the time he came into that chamber, he was a leader against all efforts to pass an antilynching law. On the Senate floor he sarcastically charged that the attempt to pass such a law "could well be designated a bill to increase lynching".

As an ironical twist on fate, this Justice, later known for his dedication to freedom of speech, was chairman of a special Senate committee that demanded the delivery to it under blanket subpoena of all telegraph messages transmitted by a daily newspaper and magazine publisher over a seven-month period in 1935. The newspaper firm was forced to go to a United States court to get an order enjoining the committee from copying and using these telegraph messages.

Perhaps the most interesting characteristic of the nominee, at the time his name was before the Senate, was his total silence during vigorous argument over whether or not he had ever been a member of the Klan. Holding his silence throughout the entire confirmation proceedings, it was later proved that he had taken the oath of a Klansman early in his political career. Yet, I suppose most observers would believe that subsequent events have definitely vindicated the appointment of Justice Hugo L. Black to the Bench.

JUSTICE LEAVES GREAT PROBLEMS TO LEGISLATURE

Another of the Supreme Court's dozen greats had, during his eighteen years on the New York Court of Appeals, established a reputation for adherence to the theme that solutions to the great problems of the twentieth century are for the legislature. For example, in the 1920s he wrote an opinion upholding a statute of the State of New York which gave preference to its citizens over aliens in the construction of public works.

Was this discrimination in opposition to human rights? "It is not enough", he said, "that it may seem to us to be impolitic or even oppressive. It is not enough that in its making, great and historic traditions of generosity have been ignored. We do not assume to pass judgment upon the wisdom of the legislature."

In 1927 he handed down a decision in favor of a husband who had, in a moment of fury, caused the arrest of his innocent wife. The judge held that neither statutes nor the Constitution granted women legal rights in cases such as this. Their remedy must lie in legislative action, not judicial interpretation, he held.

An examination of his cases on criminal law in the New York Court of Appeals indicates that he carried over the same strict view of interpretation into this field. In general, he gave great weight to the interests of society in effective law enforcement. Consider, if you will, the 1927 case in which he held there was no violation of personal liberty by a state statute which automatically provided for life imprisonment once a criminal was convicted for a fourth time. Admitting that this would result in too cruel a punishment in some instances, he nevertheless did not consider the statute to be in conflict with the Constitution.

A year earlier, in *New York* v. *Deford,* 150 N.E. 585 (1926), he had held that evidence obtained through an illegal search and seizure was admissible in a criminal proceeding. Though the defendant had been unlawfully arrested and the evidence against him obtained by lawless force, the future Justice ruled evidence could still be used against him.

In so ruling, the judge had expressly rejected a growing line of federal decisions that were at variance with his opinion. His attitude toward the issue is reflected in his reasoning that the pettiest peace officer would have it in his power, through overzeal or indiscretion, to confer immunity upon an offender for the most wicked crimes.

"A room is searched against the law, and the body of a murdered man is found", he wrote. "The privacy of the home has been infringed, and the murderer goes free. . . . We may not subject society to these dangers."

Again, I must ask, what evidence of a "breadth for vision" is demonstrated on this record? Would my liberal colleagues find that these decisions cast a cloud over the judge's commitment to justice, so they could not have supported his nomination? I wonder if Benjamin N. Cardozo would be confirmed today under the doctrine of the New Left?

Another great Justice was a Boston Brahman, an irreverent agnostic, economically upper-class. In his personal politics he was rated a conservative. It is said that almost by instinct he tended to mistrust Democrats.

Judged by some today as "the greatest judicial liberal the Court has known", it may be interesting to consider some of his personal pronouncements on the nature of human beings. He wrote: "I only mean that when one thinks coldly I see no reason for attributing to man a significance different in kind from that which belongs to a baboon or to a grain of sand."

He also said "that man at present is a predatory animal. I think that the sacredness of human life is purely a municipal ideal of no validity outside the jurisdiction."

JUSTICE CALLED HIMSELF A BETTABILITARIAN

The theme running through his letters and papers is that might makes right. Professor Francis E. Lucey of Georgetown University Law School describes his philosophy as meaning that since "the binding force in law is nothing but physical force applied through decisions of courts to the bad man, namely the man who runs counter to the dominant groups' completely changeable tastes, the only important thing in law is to try to predict how public policy, i.e., dominant tastes will change, and in changing change decisions. The smart judge should keep his eye on fast developing tastes and write a minority opinion based on the same betting that some day that minority taste will be the dominant taste in public policy." And so he called himself a bettabilitarian.

According to this view, if the dominant taste in the community was changing from one of great emphasis on the rights of the accused to a call for law and order, judges should change their decisions in line with the latest trend. If society should be changing its taste from a regard for the advancement of minorities to a protection of the interests of the majority, his judicial philosophy would mean that a smart judge had better begin to change his decisions accordingly.

For one who held no personal standard for testing the goodness or badness of public policy, "except what the crowd wants", the drastic turnabout in his position on the great issues of the day would have seemed the practical thing to do. But whether this eccentric approach to questions of human liberty would have enabled Oliver Wendell Holmes, Jr., to be confirmed by present-day liberals raises a serious question.

When the name of the next of the twelve great Justices was before the Senate as a nominee, Senator George Norris charged: "Perhaps it is not far amiss to say that no man in public life so exemplifies the influence of powerful combinations in the political and financial world as does . . ." he. As a Wall Street lawyer, he had been a lawyer for the American Petroleum Institute, arguing that the Federal Government had no power and no means by which to retain control or direct oil companies in the production of oil.

Early in his career he represented other vast commercial ventures. In the late 1880s when heavy electric light cables on poles were falling to the ground, frequently killing people, this great man represented the electric light companies in pleading that city orders to get the wires underground were "an invasion of the rights of property". In deciding in favor of New York City, the court rebuked this position. The companies, the court said, "are without excuse, and when they claim that the destruction of these instruments of death . . . is an invasion of the rights of property, such claim seems to proceed upon the assumption that nothing has a right to exist except themselves."

Later, as Secretary of State in Harding's Administration, this man became known for his "narrow and uncomprehending insistence at all cost on the most extreme interpretation of American property rights, notably in our oil diplomacy . . .". As Secretary of State, he violently fought recognition of Soviet Russia until there should exist "convincing evidence" of a restoration of "private property, the sanctity of contract and the rights of free labor".

Finally, to give away the game, I will mention that this great figure was attacked during debate over his nomination for having already resigned a seat on the Supreme Court in order to run as a candidate for President of the United States. It was charged that his example would establish a precedent tending to lower the standard of the Supreme Court down to the level of the political machine. How this question and the over-all record of Charles Evans Hughes would look to the judicial philosophy theorists today is an intriguing question.

REMAINING JUSTICE A "STRICT CONSTRUCTIONIST"

The remaining Justice among the twelve greats is the only one who appears to have had an impeccable past record as a liberal. Strangely enough, he is also the only one whom *Life* appraises as fitting "President Nixon's definition as a 'strict constructionist'."

His pre-Court background reads like a "Who's Who" of liberalism. He was one of the founders of the American Civil Liberties Union, a legal adviser to the N.A.A.C.P. and counsel to the National Consumers' League. He participated in a number of important human rights cases, such as support of the Oregon maximum hour labor law and the District of Columbia minimum wage law.

He wrote editorials in the *New Republic*, arguing that labor injunctions must go, an article for the *Atlantic Monthly* that denounced the terrorist methods used against Sacco and Vanzetti and worshipful essays about Justices who cherished civil liberties.

"Once on the Court, however," *Life* says, "he adhered to strict judicial restraint." This philosophy is well illustrated in an opinion he wrote upholding state right-to-work laws, which make it unlawful to forbid employment to a person simply because he does not belong to a union. He wrote: "But even if a law is found wanting on trial, it is better that its defects should be demonstrated and removed than that the law should be aborted by Judicial fiat." He added: "The Court is not saved from being oligarchic because it professes to act in the service of human ends."

Applying this philosophy to other issues before the Court, the Justice upheld the practice of states of allowing their police, without a warrant, to search and seize a person's papers and effects, rejected the view that speech and press were absolutes and refused to embrace the general approach that speech and press are "preferred" freedoms. In other significant opinions he held that a state may try a man after he had been acquitted of a federal crime based on the same facts, voted to uphold criminal prosecution of Communist Party leaders under the Smith Act, and concluded that a state could require Jehovah's Witness children to saluate the flag on pain of expulsion from public school.

ONE CANNOT PREDICT HOW A JUSTICE WILL VOTE

From these cases alone, it is evident that Justice Felix Frankfurter could not be counted upon to deliver his judgment routinely in support of the latest accepted tenet of the liberal program. More than any other illustration, the judicial record of Justice Frankfurter should prove it is impossible to predict with certainty how a Justice will vote once he joins the nation's highest Court.

In truth, those who would use the judicial philosophy test are engaged in an utterly fallacious practice. I believe it is safe to say that, if the criteria suggested by the liberal element of the Senate had been apllied to the twelve Justices selected as great, only one of them would have been assured of his seat on the Court. There was something tangible and significant in the background of each of the other nominees that could have disqualified him from acceptance by the judicial philosophy advocates.

There is a real spark of independence that ignites men once they become immune from all political pressures. As Justices, they sit as neither conservative nor liberal, but as intelligent human beings doing their utmost within their God-given capacities to search for and uphold the truth.

The President of the United States should be given broad leeway in choosing judicial nominees who might reflect the same broad philosophy as his own on major matters of the day. Thereby the will of the people, as indicated by an election for a nationwide office, can be given some possibility of expression. So long as a nominee is a man of high ability, scholarship, integrity and diligence, without any significant conflict of interest in his past record, he should be confirmed by the Senate.

ILLINOIS JAYCEES EX-OFFENDERS PROGRAM

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. RAILSBACK. Mr. Speaker, 2 years ago—upon the 50th anniversary of the founding of the United States Jaycees—the president of that organization challenged the membership to create an environment for change through people. He told them:

> We must connect with the less affluent people, reach into the heart of the fenced off world, find out what can be done for humanity.

Happily, the Jaycees in my home State of Illinois are meeting that challenge in a most effective manner. With other members of the House Judiciary Committee subcommitee No. 3 on juvenile delinquency, penal reform, and copyrights and patents, I have been deeply interested in the problems of this Nation's system of corrections for some time now. We have toured correctional facilities and observed programs to aid offenders in six States and the District of Columbia. Much of what we have seen has been appalling. Little has been encouraging. However, the work of the Illinois Jaycees is most encouraging and most enlightening.

For more than a year the Illinois Jaycees have sponsored a program known as the Illinois Jaycees Ex-Offenders Employment Project. The chairman of the program, an inmate in the Illinois State Penitentiary, recently addressed a subcommittee hearing in Chicago to explain the employment network to us. I wish to submit his prepared statement here for the benefit of all:

STATEMENT OF JAMES L. TRIMBLE, CHAIRMAN, ILLINOIS JAYCEES EX-OFFENDERS EMPLOYMENT PROJECT BEFORE SUBCOMMITTEE 3, HOUSE JUDICIARY COMMITTEE, DIRKSEN FEDERAL BUILDING, CHICAGO, ILL., JANUARY 29, 1972

Mr. Chairman and Distinguished Committee Members: My name is James L. Trimble. I am a member of the Joliet-East Jaycees. Because of my age, I am in a category called "Exhausted Rooster" which, besides other connotations, indicates that some use can still be found for Jaycees beyond the normal 21-35 age requirement. Since its inception last year, I have served as chairman of the Illinois Jaycees Ex-Offenders Employment Project. I have also served, and am still serving, a 3-5 year sentence in the Illinois State Penitentiary, where I am identified as No. 68543. My co-chairman, Dave Blumenthal, and records coordinator, Ray Larsen—who deserve most of the credit for the project's success—were unavoidably detained this morning.

Speaking of invitations, the one addressed to me arrived, via the Warden's Office, slightly more than 48 hours ago. I use this as an excuse for my sloppy statement and presentation, but at the same time I assure you of my appreciation for the privilege and opportunity of being a witness before this distinguished body. I might add that, when I first heard the news—via the prison grapevine—of your communication, it was translated into "subpena"—which, to put it mildly, wasn't exactly music to my ears! (Who can forget the Valachi case?) Later, when officially apprised that yours was an invitation rather than a command performance, I was at once pleased, appreciative, and honored. The point I am really trying to make is this: there was not the slightest hesitation on the part of the Warden or other prison officials to make it possible for me to accept your invitation if I so desired. To accept or not to accept was a decision left solely to me. Later on in this statement you will become familiar with the great progress that has been made in the Illinois Penal System in the past years. In my own view, however, *nothing* points up the enlightened attitude and progressive concepts now in effect than the situation where an inmate is even *permitted to be in a position* where such an invitation could be extended, much less accepted. Which brings on the sudden thought: perhaps Chairman Celler was *unaware* of my prisoner status which, obviously, lends even greater emphasis to my original thesis.

In the brief amount of time between receipt of the Committee's invitation and my appearance this morning, we concentrated on putting together a brochure—a sales kit, if you will—which would give you an insight into the nature and scope of the Ex-Offenders Employment Project. We managed, despite carrying on with normal prison duties and with limited facilities available to us, to produce five such kits, which have been made available to you. It would be our earnest hope that these would receive your diligent attention when more time is at hand and when their contents might be given the consideration we feel they deserve. If time permits this morning, I will of course be only too happy to respond to any questions to the best of my ability, either in connection with my statement or with respect to the brochures, and I will not hesitate to be frank with my answers.

In order to understand the implications as well as the success to date of the Ex-Offenders Employment Project, it would be well to give you a bit of background information concerning the who-what-when-how of our endeavors. Briefly, for years an effort had been made to establish a Jaycee Chapter within the confines of the Illinois State Penitentiary. The idea was sparked by the downtown Joliet Jaycees, who—aware of the spread of chapters in other states in recent years—were eager to emulate their contemporaries in other areas. Frankly, the idea was repeatedly resisted and rejected. It was only after the creation of the Illinois Department of Corrections, and the appointment of Mr. Peter B. Bensinger to head this new agency, that the Joliet Jaycees finally got the go-ahead to extend a chapter at the Joliet Adult Reception and Diagnostic Center. With the wholehearted support of newly-appointed Warden John J. Twomey, as well as that of Center Superintendent Wilson M. Meeks, the first penal chapter in the Illinois Penal System was formally chartered on the last day of May, 1970. This is a significant date, we think, for it serves to highlight—even confound many outside-prison-walls observers—the magnitude of the progress and achievements of the Joliet-East Jaycees *in a period of less than two years*.

Even more interesting and revealing, perhaps, is the fact that the chapter is composed of inmates assigned to the permanent detail at the Reception and Diagnostic Center, *whose maximum strength has never exceeded some 30 active members*. While it is hoped, and planned, that other chapters may eventually be established at Joliet and at Stateville (where some 2,500 inmates reside), the fact remains that, at the moment, the 30-odd members of the Joliet-East Jaycees have made notable contributions to the welfare of their fellow inmates *and to the State of Illinois* by and through numerous projects, the Ex-Offenders Employment Project included, to clearly and unmistakably prove the merit of the enlightened methods inaugurated by Director Bensinger and his associates of the Illinois Department of Corrections.

The Joliet-East Jaycees conceived, implemented and now operate a book-purchase program for the entire 2,500-inmate Joliet-Stateville Prison Complex. Previously, inmates found it almost impossible to purchase, through outside sources, titles of their choice—pornography excluded, of course!—and limited access was complicated by cumbersome rules, a this-is-the-way-it-has-always-been-done attitude, and the usual prison bureaucracy. Now, however, thanks to the initative of the inmate members of the Joliet-East Jaycees, and to the encouragement of officialdom, inmates are privileged to purchase, at a substantial discount, book titles of almost any nature. To date, more than 1,000 such books have been purchased through this project, the Joliet-East Jaycees have themselves reaped a small profit to finance their many other projects, and the resultant benefits to all concerned are literally beyond calculation.

The Joliet-East Jaycess have conceived and inaugurated many, many other projects, not the least being their idea for the establishment of a Drug Coordination and Information Council in Joliet. The Jaycees spearheaded the project, made from their own extremely limited funds *the first contribution toward the establishment of a clinic to provide counseling for youthful drug users,* were editorialized throughout the country for their efforts, and are now preparing (thanks to legislation spearheaded by Director Bensinger) to journey outside the walls for "rap sessions" and other contacts with civic, fraternal, veterans, social, youth and other groups in furtherance of an accelebrated drug abuse program. The Joliet-East Jaycees won a "Sweepstakes Award" from the United States Jaycees for their establishment of a blood donor project a year ago that even today brings letters of appreciation from around the country. They have donated to orphanages, edited a magazine sponsored softball and horseshoe tournaments, invited and entertained—within prison walls—scores of outside Jaycee chapters, and—get this, gentlemen—brought "Playboy" Magazine into the penitentiary! Talk about enlightenment, this is it! For the first time in history, Hugh Hefner's publication is now widely distributed within the walls, the "Playmate of the Month" is standard equipment in almost every cell—*and who else but the Joliet-East Jaycees made it all possible?*—with a slight profit on each sale, let it be said.

But without doubt the most significant and far-reaching project of this chapter—and here I am prejudiced—is the Ex-Offenders Employment Project, which was, in fact, the *first* project undertaken by the Joliet-East Jaycees, though it required considerable time to actually put the plan in motion. Initially, even at the first formal meeting of the chapter, all manner of ideas, proposals and suggestions were put forth, bandied about, rejected, postponed, et cetera.

It must be remembered, gentlemen, that at this stage Director Bensinger and his department were severely, it seemed then even impossibly, hamstrung by existing policies—*and stringent laws*—which prohibited, in fact as in name, the extent to which inmates would be permitted to participate in *any activities, of any nature,* beyond the rigid prison regulations. Here was a revolutionary concept, at least for the Illinois Penal System, and it is not the slightest exaggeration to say that everybody—the inmate Joliet-East Jaycees especially, but not excluding the Director, Warden, Superintendent and their staffs—was cautious and well aware, at that juncture, that the subject of projects to be undertaken by the Joliet-East Jaycees was one to be approached with care. But there was almost unanimous agreement from the outset, by both inmates and their downtown Joliet Jaycee sponsors, that some kind of meaningful program to find jobs for inmates deserved priority consideration. Thus emanated the basic foundation for what subsequently proved to be an undertaking of major proportions and consequences—one which today has attained nationwide attention, as evidenced by my appearance here this morning.

Subsequent to that initial discussion, with the full encouragement, support and cooperation of prison officials from the lowest to the highest ranks, there developed a plan of unique dimensions. The Joliet Jaycees, our downtown sponsors, extended the fullest possible measure of assistance. There evolved—and this concept originated with the Joliet group—the idea of enlisting the help of outside Jaycee chapters throughout Illinois in setting up an apparatus to find *meaningful jobs,* not just *any* job, for inmates without outside families, friends or contacts.

Basically, the proposal would, in practice as well as in theory, create a network of volunteer Jaycee "Career Coordinators" throughout the state who would accept inmate applications, seek out jobs commensurate with backgrounds and skills, establish and maintain personal contact with applicants, and—more importantly—provide after-care assistance once the inmates had been paroled or otherwise released. We find no indications that any such personalized endeavor had ever been undertaken anywhere else in the United States, or elsewhere, and it is to the undying credit of scores of unselfish, dedicated, highly-motivated Jaycees through Illinois that the revolutionary plan has proved to be so eminently successful.

The brochures you have been furnished, will, we think, convey via the media of reports, letters, et cetera, the full range of activities encompassed in the implementation and functioning of the project from the outset. It would therefore be redundant—perhaps impossible—for me to attempt to describe in this statement the magnitude of those endeavors. There have been failures, as you will see, gentlemen, when you give your attention to your brochure. There have been disappointments, a few inmate applicants have violated the confidence and trust of the volunteer Jaycees who extended such diligent efforts in their behalf—even a few (eight out of 313, to be exact) who subsequently violated parole and have been returned to prison. But for the most part—and this we feel is of paramount importance and the highest possible tribute to our magnificent Jaycee friends throughout Illinois—there has been only minimal disenchantment with the project, *and not one single Jaycee Coordinator has abandoned the project* except by reason of transfer out of the State. One coordinator quite literally sacrificed his own job when his employer did not share his interest and dedication in seeking jobs for what the employer called "those bastard convicts." Another coordinator—who to date has successfully placed six inmate applicants—was threatened with divorce if he did not cease and desist! Still another has written:

"I've been a member of the Jaycees for six years. Until I got involved in your project my contribution to my chapter and community had included such things as clean-up campaigns, sponsoring a bingo party that almost put me in jail, and taking part in flag-raising ceremonies and get-out-the-vote campaigns. I was skeptical about trying to help convicts (oops, ex-offenders) find jobs. My wife was scared to death. Then we got to thinking, well, those men are going to come back to our town when they get out, whether we like it or not. Why not try to help them find useful jobs—jobs with a future and security—so that they wouldn't *have* to bargle so strong arm somebody. I've been involved in helping three men whose applications you sent to me. I found them jobs, good jobs. I loaned them money when they needed it. I invited them to my home (my wife likes all three!), took them to Jaycee meetings, to church. They're now my friends and I trust and respect them all. I'm glad to get involved in this program. It has meant more to me than anything I have ever done in my life, and I hope other Jaycees will be as inspired as I have been by this work."

I don't care much for statistics, gentlemen. We stated at the outset of this project that we were dealing in the future and life of Human Beings; that we would consider ourselves eminently successful if, through our efforts, only one man could be influenced to lead a useful, productive life And Not Return to Prison Ever Again! We still feel exactly the same way, but that one man *has become 305 men* who have not returned—not yet, at least!—and so, our aversion to statistics notwithstanding, we take pride, we take heart, from the fact our Jaycee friends in the free world have made such magnanimous contributions toward the restoration of the lives of so many men. We thank God for their unselfish, dedicated service.

It would seem appropriate, at this point, to make a brief excursion into the why's and wherefore's of the success of our project and of the other projects conceived and executed with such skill by a small group of inmates. Above and beyond the creation of an atmosphere where inmates would be encouraged and aided in carrying on such activities, it must be remembered that the programs we have discussed here today *were undertaken and carried on by a very small number of men, in a very small prison complex, literally away (perhaps excluded would be a better word) from the pressures, staggering administrative and custodial complexities and warehouse-type installations which presently constitute the Illinois as well as most other penal complexities.* We obviously have had advantages and privileges extended to us which would be unthinkable, impossible, in the "human storage warehouses" which constitute Joliet and Stateville. While I do not presume to be qualified to say what is the most urgent need with respect to today's prisons, I most certainly would offer the opinion that if there must be prisons at all, they should be small installations housing, say, no more than 300 inmates, at the most. I seem to have heard, or read somewhere, that California has inaugurated a penal reform system embracing this very concept, and that it has proved to be eminently successful. Moreover, it is my understanding, also, that California *has found it to be cheaper to pay municipalities to provide correctional treatment than for the state to do so.* But as I have said, I am far from an expert, far from knowledgeable, on the overall subject. On the other hand, gentlemen, I *am* knowledgeable about *what a few men, housed in a small facility*—encouraged, supported and assisted by enlightened penal officials—can do, and have done, to rehabilitate themselves, participate in meaningful programs for the benefit of their fellow inmates and even the state holding them prisoner, and perhaps "show the way" for other penal systems to emulate their activities. Director Bensinger, Warden Twomey, Superintendent Meeks and other prison officials—and most certainly not excluding Governor Richard B. Ogilvie—have made an auspicious start in the direction of the highest possible type of prison administration. They already know of our appreciation.

Perhaps this is not within your province, gentlemen, but there is one area where we could use the assistance of governmental authorities at the highest level. As you will see reflected in the special progress report which has been made a part of this statement, and is also included in your brochure, on Monday next we will forward 100 inmate applications to the City of Chicago. We have had some problems in Chicago and Cook County since our project went into operation. Without going into specifics, let us just say that the number of inmates desiring to return to that area far exceeded our capabilities of providing adequate job-placement assistance, although many Jaycees in "fringe area" chapters had made a number of placements. The result of all this was that we accumulated a very large number of applications which could not receive our immediate attention, many involving inmates scheduled for emminent parole hearings or otherwise eligible for release.

With this background in mind, then, and with our own project having been in operation for nearly a year—with a total of 313 actual placements at a total cost of something like $6,000—imagine our amazement, gentlemen, when we came across a Chicago Tribune announcement that the Law Enforcement Assistance Administration had made a direct grant to the City of Chicago *in the sum of $818,400 for the placement of 100 ex-offenders.* Our amazement was coincidental with our hope that we would be asked to provide the names and applications of inmates *who had already applied to us for assistance,* and who, it seemed to us, *should be given priority consideration for those 100 jobs.* Just days before, the United States Department of Labor had completed a feature story on our project (to appear in "Manpower" Magazine, March issue) extolling the virtues of the volunteer-Jaycee-coordinator concept, pointing out the nature and extent of our project to date, and generally applauding the accomplishments attained with such limited funds, manpower, administrative expense, et cetera. Additionally, the LEAA, in making the grant to the City of Chicago, stipulated that the 100 ex-offenders must come from the ranks of men *not yet released from confinement,* which further reinforced our belief that applications already on hand should receive priority treatment, and this we did not hesitate to convey to the appropriate officials with the City of Chicago.

Our communications have gone unanswered, as a result of which we plan to dispatch 100 applications to the City of Chicago on Monday next. We would hope, most fervently, that they would receive the attention we feel they deserve, and which we believe the LEAA intended; nevertheless, if you will forgive the impertinence of someone who is not yet himself an ex-offender—and who speaks only for himself—the Illinois Jaycees, in this one exclusive instance involving *only the City of Chicago and no other area of Illinois*—we could use, and would welcome, your intervention or other assistance in this situation. We are confident that, in an accelerated program now being formulated for presentation to the Illinois Law Enforcement Commission for funding purposes, we will be able to resolve the job-placement dilemma in Chicago and Cook County in the near future. Meanwhile, however, it makes sense to us, and seems wholly proper and for the best interests of all concerned, that those 100 jobs to be allocated to ex-offenders under the provisions of the LEAA Grant *should go to inmates whose applications are already on hand.*

I have taken up far too much of the committee's valuable time already, but I would ask, most respectfully, that you bear with me for just a moment longer. (It must be obvious that I am letting the words pour out as I type—late at night, I might add.)

I would be remiss if I did not point out to the committee that literally none of our efforts could have proved fruitful without the endorsement and support of the Illinois State Chamber of Commerce. Like our sponsoring chapter, the Joliet Jaycees, this organization extended the hand of support from the outset which made it possible for us to attain any measure of success whatever. Mainly in the person of Mr. Frank M. Whittaker, Director, Crime Prevention and Control Programs, the State Chamber provided the essential ingredient without which there literally would have been no project at all. From the time of its formal endorsement of the project, continuing through Mr. Whittaker's personal arduous efforts culminating in the "recruitment" of scores of Illinois business firms who agreed to employ qualified ex-offenders, we have been blessed with the fullest possible measure of cooperation and assistance from that marvelous organization. You will find in your brochure documentation of the extent of that organization's support and assistance, which has been far beyond expectations and which is hereby gratefully acknowledged.

We are proud of our achievements. We are even prouder of the fact that more than 175 other Jaycee chapters across this great Nation—not to mention chapters in Australia, Canada and Mexico—have written to us for assistance and guidance in implementing similar or identical projects in their own areas. We now have facilities, and are actually involved, for the placement of ex-offenders from the Illinois Penal System in other states. Mr. Gary Hill, Consultant on Crime and Corrections, United States Jaycees (and recently selected as one of America's Ten Outstanding Young Men) serves as our national coordinator. Mr. Hill, by and through the cooperation of Jaycee chapters throughout America, has been responsible for the placement in other states of a sizable number of our applicants, most of whom had ties, family connections or for other reasons desired to relocate away from Illinois. As Senator Charles Percy has suggested (see letter in brochure) there is the possibility of emulation and implementation of the Illinois Jaycees Ex-Offenders Employment Project on a nationwide basis. While we do not subscribe to the plans suggested by various national leaders that there be "incentive payments" to private business firms to employ ex-offenders (our own experience shows this to be totally unnecessary) we most certainly feel that the federal government can be instrumental in encouraging the fullest possible measure of participation and support from the private sector. The "volunteer-Jaycee-coordinator" concept, we believe, goes hand in hand with involvement with the private sector, one complements the other, neither means very much without the other.

Participation in the Illinois Jaycees Ex-Offenders Employment Project has meant more to me, personally, than mere words could ever convey. By and through my contacts and associations with hundreds of Jaycees throughout Illinois and the Nation, I have come to have a greater appreciation and respect for what the Jaycee organization stands for. Despite Jaycee connections dating back to my discharge from the Navy in 1946, I had never before truly comprehended or embraced that portion of the Jaycee Creed which reads, *"Service to Humanity Is the Best Work of Life."* The enlightened, progressive, innovative—even revolutionary—concepts now being fostered in the Illinois Penal System, and which to me appear to be gaining momentum with each passing day, have made it all possible. I am considered something of a "maverick" (to use a polite term) by my fellow workers and those most intimately associated with the project, most especially those on the receiving end of some of my undiplomatic, un-politic letters—which perhaps should never have been mailed—in my zeal, determination and fervor over what I consider the most important undertaking of my life. But, then, Jaycees everywhere are zealous, determined and imbued with a fervor that transcends the ordinary, the routine, the inconsequential. And so I consider myself to be in select company. The walls are still there—but they are crumbling. The bars remain in place—but they need not be a deterrent to self-improvement, community-involvement, participation in the nobler and more meaningful projects beyond the enclosure.

It has been my privilege—my honor—to appear before this distinguished committee, and I am grateful for the opportunity. And I close—at long last—with a repetition of the words that have brought real meaning to my life, and which are the inspiration for all Jaycee work:

"Service to Humanity Is the Best Work of Life."

SPECIAL PROGRESS REPORT

(Prepared for Subcommittee 3, House Judiciary Committee, January 29, 1972)

Total Number of Applications received To Date	902
Applicants Paroled To Jobs	313
Applications Pending With Jaycee Coordinators	[1] 202
Applications To Be Forwarded To City of Chicago 1–31–72	[2] 100
Applications Being Processed For Placement With Outside Jaycee Coordinators	[3] 177
Applications "Closed Out"	[4] 110
Total	902

[1] Inmates awaiting parole hearings or for whom other assistance is being extended by volunteer Jaycee Coordinators.

[2] City of Chicago recently given $818,400 grant from Law Enforcement Assistance Administration, U.S. Department of Justice, to hire 100 ex-offenders. Jaycees feel strongly jobs should be filled from ranks of inmates who have requested assistance through project; accordingly, 100 applications being forwarded to attain this objective.

[3] Mostly inmates with parole hearings scheduled at least 3–6 months hence. Most, perhaps all, of these applications will eventually reach hands of outside volunteer Jaycee Coordinators.

[4] Mostly inmate applicants for whom no immediate assistance was available in Chicago/Cook County. Also includes inmates who subsequently found employment via other channels, were transferred to other institutions, or who were denied parole.

Mr. Speaker, the program Mr. Trimble so eloquently outlines is a promising avenue for our national correctional system. This week the Illinois Jaycees will be asked to weigh the success of their program to this point. It is my hope that they will give it an overwhelming vote of confidence. I certainly do.

HON. JOHN R. MURDOCK

HON. WAYNE N. ASPINALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. ASPINALL. Mr. Speaker, the late John Robert Murdock, Congressman from the State of Arizona, had already been a Member of Congress for 10 years when I took my oath as a Member of this body. He had given of his time and talents to congressional matters having to do with our natural resources, especially in the public land areas. He was especially interested in matters of government in the natural resource field, and particularly so in the water resource values of the southwestern part of the Nation and of his State of Arizona.

After I became a Member of the House

of Representatives, I came to know him as a student of water matters, especially in the Colorado River Basin. He had a good understanding of the law of the Colorado River and he did his best to secure all of the consideration for his State of Arizona that was humanly possible for him to do so.

He served as chairman of the Committee on Interior and Insular Affairs during the years 1951 and 1952. As chairman, he was a most considerate and kind presiding officer. He was loved and respected by the members of this committee and his colleagues of the House.

It can truly be said that he gave his life to the service of his fellow man, first and last in the schoolroom, but of his intervening 14 years as a Federal public servant.

He was a great help to me personally and I always appreciated his interest in my behalf and in the work which I was learning during those days when he was one of the leaders of the committee.

Mrs. Aspinall joins me in sending our sympathy to Mrs. Murdock and their family.

THE 100TH ANNIVERSARY OF BIRTH OF SANTIAGO IGLESIAS PANTIN—PIONEER OF ORGANIZED LABOR MOVEMENT IN PUERTO RICO

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. BADILLO. Mr. Speaker, today marks the centennial of the birth of Santiago Iglesias Pantin, an early associate of Samuel Gompers and a pioneer of organized labor in Puerto Rico.

A native of Galicia, Spain, Santiago Iglesias emigrated to Puerto Rico in 1896 as a 24-year-old carpenter turned labor organizer. He had been deported from Cuba because of his pro-labor activities and he continued his efforts on behalf of workers, championing the causes of Puerto Rico's tobacco and cigar factory workers and canecutters.

In 1899, just 3 years after his arrival, Santiago Iglesias—through strikes and protests—was able to secure an 8-hour workday on the island. He founded and served as the editor of three labor papers—Porvenir Social (1889–1900), Union Obrera (1903–06), and Justicia (1914–25). In 1899 he also founded the Federación Libre de Trabajadores and, in 1900, he obtained the support of the American Federation of Labor. In 1901 Iglesias' union became formally affiliated with the AFL—an association which lasted some 40 years—and he was appointed the AFL organizer for Puerto Rico and Cuba.

In 1917 Iglesias was elected to the Puerto Rican Senate, where he served for 16 years. In November 1932, he was elected as the Resident Commissioner from Puerto Rico, a position he held until his death in December 1939.

Santiago Iglesias also headed the Socialist Party on the island and was frequently at odds with island officials. Nevertheless, he left an indelible mark on Puerto Rico and made important contributions to the labor movement there. It is appropriate, therefore, that we observe the 100th anniversary of Iglesias' birth today.

I present herewith, for inclusion in the RECORD, a letter from the President of the Puerto Rico Free Federation of Labor to President Nixon and the federation's resolution commemorating Iglesias' birth, his life, and his contributions:

PUERTO RICO FREE
FEDERATION OF LABOR,
Santurce, P.I., January 17, 1972.

Hon. RICHARD M. NIXON,
President of the United States,
White House, Washington, D.C.

DISTINGUISHED PRESIDENT NIXON: We are including copy of the Resolution adopted by our Executive Council on July, 1970 and unanimously approved by the 31st. Convention of the Puerto Rico Free Federation of Labor held on November 14, 1971 at the Oliver Theater in the city of Arecibo, Puerto Rico to celebrate the centennial anniversary of the birthday of Santiago Iglesias Pantín, founder of our Federation in 1899 and pioneer of organized labor movement in Puerto Rico.

When the Spanish-American War started and the war ships of the United States fired their guns, Igelsias was in prison, victim of the constant persecution of the spanish and local authorities simply because he started to illustrate the toiling masses about labor organization. He denounced in private and public meetings the lack of civil and political rights of the workers. He advocated for the right of the people to vote in democratic elections for the election of public representatives. He vigorously denounced the lack of educational facilities especially for the children of the working people. He pointed out the unhealthy conditions of the dwellings in the urban zone and the poor housing conditions of the farm workers in the rural zones of the island. He advocated freedom of speech and assembly. For all of these he was persecuted and periodically imprisoned.

The landing of American troops in Puerto Rico gave Santiago Iglesias Pantín the opportunity to be freed. As soon as he came out of jail he came in contact with the officers of the United States Army affording all of them his whole-hearted cooperation.

Iglesias was born in La Coruña, Spain, February 22, 1872, a happy coincidence with the birthday of George Washington. He died in Washington, D.C. on December 5, 1939 while serving as Resident Commissioner of Puerto Rico.

As soon as the United States got control of the island through the Treaty of Paris, Santiago Iglesias Pantin adhered sincerely and loyally to American institutions and to the American flag, as a great symbol those institutions of freedom and democracy. Through the Puerto Rico Free Federation of Labor he propagated the ideals and principles of the free democratic institutions of our Nation, the United States of America. He used to wrap himself with the American flag while addressing labor meetings. He was always reluctant to use any platform to address the people if there was not in it the American flag. In 1936, while he was addressing a public meeting in Mayaguez (and the undersigned was with him, shoulder to shoulder in the platform) a nationalist shot him five bullets, one of them injuring him on the right shoulder.

Iglesias married to a very honorable lady whose name was Justa Bocanegra who became Mrs. Santiago Iglesias Pantín raising a family of eleven children. Mr. & Mrs. Iglesias are dead and the oldest son, too, is dead. All of them are honorable people who love and defend American institutions.

The resolution included points out some of the highlights of the events in which he was involved and sincerely participated.

The Puerto Rico Free Federation of Labor founded by him 1899 have continued his task without any deviation, institutional or ideological. In 1936, Santiago Iglesias Pantín, reelected Resident Commissioner, called the subscriber to his home to ask him to continue the glorious job that he had been doing since the foundation of the Federación Libre on behalf of the working people. Puerto Rico in general, and on behalf of the American democratic ideals and principles and to see to it that the American flags stays forever in this island. We have been discharging faithfully our duties and his wishes.

Going over modern history but covering the period from 1898 up to this time it is our sincere and honest belief that there has been not an American citizen outside the mainland, who have suffered and worked harder than Santiago Iglesias Pantín in transmitting to the people of this hemisphere the message of freedom, justice, liberty and democracy represented by the American flag and constitution; the ideals and principles of the American democracy and the sound and prosperous way of life achieved by hard work and endurance and freedom by the great people of the United States.

We have adopted the resolution to commemorate his centennial birthday. We are trying to do and we will do our best. But we are sincere and honestly asking the President of the United States and the United States Congress to do something, to take some action and to promote some activity to perpetuate the memory of this great American citizen, Santiago Iglesias Pantín, who was born in Spain, lived a lifetime in Puerto Rico and served democracy and justice in this hemisphere.

Among the many things we respectfully suggest are, (1) the issuing of a special postal stamp commemorating this centennial birthday anniversary of Santiago Iglesias Pantín, (2) a special message of the President of the United States; a resolution of the United States Congress, paying tribute to this great leader who was a laborious, consequent, loyal and honest great American citizen.

We would like to say so many things of our great leader whom we followed during many years and whom we haven't forgotten and whom we will not forget.

Sincerely and respectfully,
NICOLÁS NOGUERAS RIVERA,
President.

RESOLUTION

To declare the whole year of 1972 as the year to commemorate the celebration of the centennial birthday of the founder and pioneer of organized labor movement in Puerto Rico and of the Puerto Rico Free Federation of Labor, Santiago Iglesias Pantin; to invite the Government of the Commonwealth of Puerto Rico and the public and private institutions of our island to celebrate this historic and outstanding date with different activities; to pay tribute and acknowledgement to the forerunner and apostle of the great task for the social, economic and political manumission of the Puerto Rican toiling masses and of all the people of our island as a whole; to create the adequate organism towards the successful fulfillment of the objectives and the intentions of this resolution and for other purposes.

Whereas, Santiago Iglesias Pantín, born in La Coruña, Spain, on February 22, 1872, in a humble but honorable home, saturated his spirit at an early age of ideals of social justice and inspired by a divine mandate, reached our shores in 1896. He had been in Cuba ten years before helping to set the foundations of the early stages of the Cuban labor movement. This was in his second trip to our island ignoring, perhaps, that here he would start and put into effect his great emancipating task, raise a family and win the heart and deep affection of the great toiling masses:

Whereas, when Santiago Iglesias Pantín reached our island he found the people living under an old system of colonial exploitation, inhumane and antisocial that pictured clearly the neglect in which the government of the peninsula kept this place as an ancient prison for political prisoners and as a place for the most regrettable exploitation;

Whereas, since 1896, Santiago Iglesias Pantín started with vision, will power and human feelings his crusade to awaken and educate the people in social, economic and political matters fostering their organization to create a concerted action for the betterment of their conditions and the recognition of their personality;

Whereas, notwithstanding the fact that even in the beginning and under the so-called autonomic regime directed by some Puerto Rican "patriots", Santiago Iglesias Pantín suffered imprisonment and constant persecution for his private and public meetings, he managed to create the Regional Federation of Labor (Federación Regional del Trabajo) spoiled later because of the intervention of the politicians and their agents, having finally founded, together with a small group of followers that were forged under his sound preaching and humanitarian ideals and with great success and sound bases of permanency in 1899, the Puerto Rico Free Federation of Labor (Federación Libre de los Trabajadores de Puerto Rico). This important event took place one year after the American regime started in our island;

Whereas, by the time the Army of the United States landed on our island, Iglesias was in jail because of his preachings. He was immediately set free. He followed the Army, the flag and American institutions that opened the doors of freedom to humble people that had been deprived of their civil and political rights; no educational opportunities; no participation in the democratic structuration of the government; and no decent wages and human working conditions;

Whereas, after a public meeting on the First of May, 1899, Santiago Iglesias Pantín succeeded in convincing General Henry, chief of the military government, to adopt the following decree:

1. Eight hours of the 24, will constitute a working day, in all the island.

2. No contribution will be imposed on the salaries of men and women employed in any job.

This was one of the first achievements in the struggle for the justice of the toiling masses.

Whereas, even under the American regime, Santiago Iglesias Pantín, the Puerto Rico Free Federation of Labor and the political party created by him, continued the struggle against the reactionary groups and big interests so as to assure a just and democratic participation of the workers in all the social and economic structure of Puerto Rico;

Whereas, Santiago Iglesias Pantín with his heart and soul in the well-being of Puerto Rico worked together with José Celso Barbosa and Luis Muñoz Riverà to get the approval of the Foraker Act in 1900 that established a civil government in Puerto Rico with some political rights. He also contributed in 1917 to the approval of the Jones Act and the extension of American citizenship to all the people of the Island;

Whereas, in his effort for the emancipation of the working people and for the benefit of all the people in Puerto Rico, Santiago Iglesias Pantín used the powerful American labor movement first, under the leadership of Samuel Gompers; and later, under William Green; and approached other persons in the federal administration;

Whereas, under the inspiration and guidance of Santiago Iglesias Pantín great progress was made in labor legislation concerning wages, labor conditions, compensations, social security, etc. both in the Legislative Assembly in Puerto Rico and in the United States Congress;

Whereas, as Resident Commissioner of Puerto Rico in Washington, Santiago Iglesias Pantín succeeded in the extension of the first titles of the Social Security Act to our Island; and the extension without any discrimination of the Wage and Hour Law in 1938. His participation in all legislation favoring our island was always fruitful, dynamic and honest;

Whereas, the wonderful job done by Santiago Iglesias Pantín since he arrived in our island until his death was and has been so great that we can assure that the great reivindications and achievements of the working people in all walks of life of our institutions have been the final result of his fruitful and devoted effort and constitutes the best reward of the Almighty to his sacrifice, to his inspiration and to his extraordinary spirit and that of the Puerto Rico Free Federation of Labor (Federación Libre de los Trabajadores de Puerto Rico) founded by him, and of all men and women that followed his struggle throughout the years and have continued this outstanding task with the greatest generosity and dedication;

Whereas, Santiago Iglesias Pantín, besides being the pioneer of the great struggle for the ideals of human redemption in our island, founded also the Socialist Labor Party (1899) and the Socialist Party of P.R. (1915); founded, with the cooperation of some labor leaders from Mexico and the United States the Pan American Federation of Labor (1919); was elected Senator (1919); Resident Commissioner of Puerto Rico in Washington (1932–1939); was a witty, vibrant and aggressive speaker; wonderful writer on behalf of the oppressed. He wrote, among other things, the book, "Luchas Emancipadoris", having consecrated all of his life and thoughts to the strife in social justice; for liberty; for the betterment and redemption of the toiling masses in general and of the working people, and for the benefit of our island;

Be it resolved as it is resolved by the Executive Council of the Puerto Rico Free Federation of Labor (Federación Libre de los Trabajadores de Puerto Rico) in its ordinary meeting, today, Sunday, July 26, 1970 in the Conference Room of its central offices in the fourth floor, First Federal Bldg., Stop 23, Santurce:

1. To declare, as we do declare, the year 1972, as the commemorative year of the Centennial Birthday of our Leader and founder of the Puerto Rico Free Federation of Labor, and the pioneer of the great labor reivindications in our island, Santiago Iglesias Pantín;

2. To authorize, as we do it now, the President of our Federation to appoint a committee to organize the different activities for the celebration of said Centenary that will cover from January 1st to December 31st, 1972;

3. That this Organizing Committee be integrated by the members of the Executive Council and the representatives of institutions in sympathy with the purpose of this resolution and principles it embodies, named by the President;

4. That the Organizing Committee make a fraternal and cordial invitation to the Governor and Legislative Assembly of Puerto Rico to cooperate in this celebration by approving a resolution and a proclamation by the Executive;

5. To authorize the President of the Puerto Rico Free Federation of Labor to extend full authority to the President of the Organizing Committee to take all the necessary steps for the full success of this activity;

6. That the President of the Puerto Rico Free Federation of Labor be authorized, as is already authorized, to delegate in the President of the Organizing Committee all the authority to secure the success of its duties here and abroad, including the faculty to organize the economic part to finance the expenses of this activity and the enforcement of the same;

7. To give instructions to the Organizing Committee to get in contact with the municipal government and other public and private institutions to enlist their efforts to this commemoration of the Centennial Birthday of Santiago Iglesias Pantín.

We certify that this resolution was presented by the President of the Puerto Rico Free Federation of Labor, brother Nicholás Nogueras Rivera and adopted by all the members of the Executive Council of the Puerto Rico Free Federation of Labor in attendance at the meeting and unanimously approved by this Council, in its ordinary meeting, Sunday, July 26, 1970 in the Conference Room of its Central Offices in the fourth floor, First Federal Savings Condominium, Stop 23, Santurce, Puerto Rico.

Given in San Juan, Puerto Rico, today, January 4, 1970, having affixed here the official seal of our Federation.

NICHOLÁS NOGUERAS RIVERA,
President.

IRENE TORRES-RESTO,
Secretary-Treasurer.

FEBRUARY IS A SPECIAL MONTH FOR AMERICANS AND LITHUANIANS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. GAYDOS. Mr. Speaker, the month of February has special significance for all Americans for it commemorates the birth of two of our greatest historical figures: George Washington and Abraham Lincoln.

But February also has a very special significance for Americans who are of Lithuanian origin or descent. They will join in a common observance of two anniversaries which are most important to their heritage; the 721st anniversary of the formation of the Lithuanian state in 1251, and the 54th anniversary of the establishment of the modern Republic of Lithuania on February 16, 1918.

Each year the Congress of the United States recognizes these dates and their importance to those Americans who are tied to their homeland. Each year we, who serve the world's greatest mass of freedom-loving people, call upon world opinion and the United Nations to focus on the restoration of the right to self-determination to the citizens of Lithuania, Estonia, and Latvia.

The 89th Congress of the United States made an official plea when it unanimously passed House Concurrent Resolution 416 in 1966. I urge our representatives to the United Nations to bring this matter again to the attention of that international body, for it affects not only the people of the Baltic nations, but

Americans as well. Whether an American be of Lithuanian, Estonian, or Latvian descent is not the point. The point is, all Americans cherish their freedom and want to see others live in its light. The fact that many Americans have strong ties with people of other nations who live under the yoke of alien subjugation only increases their urge to see those people free.

Lithuanians tasted the joy of freedom briefly in 1941 after they successfully revolted against the Soviet Union. The joy was short lived, however. Six weeks later Nazi Germany crushed the country and replaced the yoke of slavery. When World War II ended, Lithuania was one of several nations incorporated into the U.S.S.R.

For years the people of that nation carried on organized guerrilla warfare against their oppressors. Some 30,000 of them died in the fight for freedom. Although the guns have been quiet since 1952, the desire for freedom has not dimmed. Armed warfare has been replaced by an increased passive resistance to unwanted domination.

In view of their history, Mr. Speaker, I believe Lithuania and the Baltic States will continue their struggle to be free. Anything less is intolerable to these strong, courageous people.

A FIRM STANCE IN PANAMA

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. RARICK. Mr. Speaker, among the outstanding patriotic organizations of the United States is the Military Order of the World Wars the members of which are experienced officers of the Armed Forces who are knowledgeable about erosion of our international position, understand the situation at Panama, and are bound by oath to support the Constitution.

A recent article by Lt. Col. Jerry W. Asher of the San Clemente Chapter in the World Wars Officer Review does not waste time explaining the strategic value of the Panama Canal but attacks those in our country responsible for our policy failures on the Isthmus and calls for their exposure.

As regards increased trans-Isthmian transit, the article does not urge the construction of a new canal but the modernization of the existing canal. As such program would be wholly within the Canal Zone it would not require the negotiation of a new treaty.

In the last session, I introduced H.R. 1518 to provide for the needed modernization and the Subcommittee on the Panama Canal is now in the Canal Zone conducting hearings on all aspects of the canal problem.

Because the Asher article calls for a firm stance in Panama and reflects the feeling of the vast majority of our people, I quote it as part of my remarks and include a copy of my bill, H.R. 1518, as follows:

[From the World Wars Officer Review, January–February 1972]

A FIRM STANCE IN PANAMA!

(By Lt. Col. Jerry W. Asher)

Is the State Department working for American interests? Which banana republic will enjoy tweaking the eagle's beak next? Does the Yankee taxpayer ever get a break? Where does the erosion of our national security stop? Will the Panama Canal suffer the fate of Suez? If we are withdrawing as a Pacific power, can we still be a Caribbean power? Which South American country respects retreating Yanks? When the diplomats, politicians, and foreign-aid grantees are finished with us, what will be left? What can the citizen do when confronted with obvious evidences of policy weakness, appeasement, and vacillation, deteriorating into international failures? Is there to be an accounting of responsibility for the opening, when the next crisis hits Latin America? What measures should the United States have taken to prevent the spreading of revolutionary poison from Cuba? Is the Communist minority in Chile to be permitted to continue to rule? What ever happened to the Monroe Doctrine? Which is the next Russian objective, in operating out of Cuba? These are some of the questions the voters are asking as the proposal to give away our Panama Canal becomes more widely known.

To give away Alaska, Hawaii, Guam, Puerto Rico, or other non-contiguous American Territory would be equally foolhardy. The Military Order of World Wars, Veterans of Foreign Wars, Elks Lodge, and some American Legion Posts, have, with patriotic motives, begun an opposition to this unnecessary loss to our national security; other national organizations of strong character should be brought into the defense of the United States stake at Panama. The politicians involved in this scheme to deprive America of a vital link between our coasts must be put on notice that this giveaway will become a grave issue perturbing the public. To hand over the well-run facility to a scrawny, brawling, unstable, impoverished Isthmus dictatorship, further debilitating hemispheric hegemony, and removing our outposts over a thousand miles, would be an unthinking present to America's enemies. MOWW may have to adopt the tactic of the Reserve Officers Association in its successful fight to restore the USCG Reserve when abolished by the bureaucracy, and obtain the names of the figures causing the outrage, for publication and wide distribution.

The knowledgeable, experienced group of leaders which comprises this Order does not need a recounting of the strategic value, commercial usefulness, naval utility, and air-mile jet-time risked, to be apprised of the worth of our Panama Canal. Neither do we need to be again told of the erosion of America's international position, the hazards abroad, and the critical reductions in our Armed Forces below the danger point. It would be more logical to give the Southerly half of the "Republic of Panama" back to Colombia; this would probably be beneficial to both inhabitants and recipient, a full-blown nation. The geopolitical realities in maintaining some semblance of a balance of power to prevent World War III, require that the United States fulfill a role of strength with firmness and resolve. When our overseas positions crumble needlessly, without our firing a shot, only to have to be retaken at great cost with heavy losses when the boldest aggressor challenges us, the long overburdened voters should be alerted and warned. We are among those qualified, as well as duty-bound, to sound the alarm.

Our Canal should be improved in capacity, all within our Zone of sovereignty, our railroad double-tracked and re-equipped, a freeway constructed, additional permanent structures built, and the area defenses strengthened and modernized.

Clearly, well-understood, tested, tried, practical, common-sense dispositions and policies work better than internationalist theories and diplomatic pretensions. The American public is bone-weary of being deceived then bilked. Would you personally defend our Canal Zone with as much vigor as Wake Island or Pearl Harbor or Martha's Vineyard or Key West or San Clemente Island? I would. These are part and parcel of the defensive perimeter of the American people, who deserve to be forewarned by their Army, and their other Services, sworn protectors of the Constitution. America can ill afford to heighten the perils besetting this country! Now, a healthy counter-weight to the territorial ambitions of the Communist powers, and their hirelings, is called for.

H.R. 1518

A bill to provide for the increase of capacity and the improvement of operations of the Panama Canal, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Panama Canal Modernization Act".

SEC. 2. (a) The Governor of the Canal Zone, under the supervision of the Secretary of the Army, is authorized and directed to prosecute the work necessary to increase the capacity and improve the operations of the Panama Canal through the adaptation of the Third Locks project set forth in the report of the Governor of the Panama Canal, dated February 24, 1939 (House Document Numbered 210, Seventy-sixth Congress), and authorized to be undertaken by the Act of August 11, 1939 (53 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), with usable lock dimensions of not less than one hundred and forty feet by not less than one thousand two hundred feet by not less than forty-five feet, and including the following: elimination of the Pedro Miguel Locks, and consolidation of all Pacific locks near Miraflores in new lock structures to correspond with the locks capacity at Gatun, raise the summit water level to its optimum height of approximately ninety-two feet, and provide a summit-level lake anchorage at the Pacific end of the canal, together with such appurtenant structures, works, and facilities, and enlargements or improvements of existing channels, structures, works, and facilities, as may be deemed necessary, at an estimated total cost not to exceed $850,000,000, which is hereby authorized to be appropriated for this purpose.

(b) The provisions of the second sentence and the second paragraph of the Act of August 11, 1939 (53 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), shall apply with respect to the work authorized by subsection (a) of this section. As used in such Act, the terms "Governor of the Panama Canal", "Secretary of War", and "Panama Railroad Company" shall be held and considered to refer to the "Governor of the Canal Zone", "Secretary of the Army", and "Panama Canal Company", respectively, for the purposes of this Act.

(c) In carrying out the purposes of this Act, the Governor of the Canal Zone may act and exercise his authority as President of the Panama Canal Company and may utilize the services and facilities of that company.

SEC. 3. (a) There is hereby established a board, to be known as the "'Panama Canal Advisory and Inspection Board" (hereinafter referred to as the "Board").

(b) The Board shall be composed of five members who are citizens of the United States of America. Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate, as follows:

(1) one member from private life, experienced and skilled in private business (including engineering);

(2) two members from private life, experienced and skilled in the science of engineering;

(3) one member who is a commissioned officer of the Corps of Engineers, United States Army (retired); and

(4) one member who is a commissioned officer of the line, United States Navy (retired).

(c) The President shall designate as Chairman of the Board one of the members experienced and skilled in the science of engineering.

(d) The President shall fill each vacancy on the Board in the same manner as the original appointment.

(e) The Board shall cease to exist on that date designated by the President as the date on which its work under this Act is completed.

(f) The Chairman of the Board shall be paid basic pay at the rate provided for level II of the Executive Schedule in section 5313 of title 5, United States Code. The other members of the Board appointed from private life shall be paid basic pay at a per annum rate which is $500 less than the rate of basic pay of the Chairman. The members of the Board who are retired officers of the United States Army and the United States Navy each shall be paid at a rate of basic pay which, when added to his pay as a retired officer, will establish his total rate of pay from the United States at a per annum rate which is $500 less than the rate of basic pay as the Chairman.

(g) The Board shall appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, a Secretary and such other personnel as may be necessary to carry out its functions and activities and shall fix their rates of basic pay in accordance with chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The Secretary and other personnel of the Board shall serve at the pleasure of the Board.

SEC. 4. (a) The Board is authorized and directed to study and review all plans and designs for the Third Locks project referred to in section 2(a) of this Act, to make on-the-site studies and inspections of the Third Locks project, and to obtain current information on all phases of planning and construction with respect to such project. The Governor of the Canal Zone shall furnish and make available to the Board at all times current information with respect to such plans, designs, and construction. No construction work shall be commenced at any stage of the Third Locks project unless the plans and designs for such work, and all changes and modifications of such plans and designs, have been submitted by the Governor of the Canal Zone to, and have had the prior approval of, the Board. The Board shall report promptly to the Governor of the Canal Zone the results of its studies and reviews of all plans and designs, including changes and modifications thereof, which have been submitted to the Board by the Governor of the Canal Zone, together with its approval or disapproval thereof, or its recommendations for changes or modifications thereof, and its reasons therefor.

(b) The Board shall submit to the President and to the Congress an annual report covering its activities and functions under this Act and the progress of the work on the Third Locks project and may submit, in its discretion, interim reports to the President and to the Congress with respect to these matters.

SEC. 5. For the purpose of conducting all studies, reviews, inquiries, and investigations deemed necessary by the Board in carrying out its functions and activities under this Act, the Board is authorized to utilize any official reports, documents, data, and papers in the possession of the United States Government and its officials; and the Board is given power to designate and authorize any member, or other personnel, of the Board, to administer oaths and affirmations, subpena witnesses, take evidence, procure information and data, and require the production of any books, papers, or other documents and records which the Board may deem relevant or material to the performance of the functions and activities of the Board. Such attendance of witnesses, and the production of documentary evidence, may be required from any place in the United States, or any territory, or any other area under the control or jurisdiction of the United States, including the Canal Zone.

SEC. 6. In carrying out its functions and activities under this Act, the Board is authorized to obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of title 5, United States Code, at rates not in excess of $200 per diem.

SEC. 7. Upon request of the Board, the head of my department, agency, or establishment in the executive branch of the Federal Government is authorized to detail, on a reimbursable or nonreimbursable basis, for such period or periods as may be agreed upon by the Board and the head of the department, agency, or establishment concerned, any of the personnel of such department, agency, or establishment to assist the Board in carrying out its functions and activities under this Act.

SEC. 8. The Board may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

SEC. 9. The Administrator of General Services or the President of the Panama Canal Company, or both, shall provide, on a reimbursable basis, such administrative support services for the Board as the Board may request.

SEC. 10. The Board may make expenditures for travel and subsistence expenses of members and personnel of the Board in accordance with chapter 57 of title 5, United States Code, for rent of quarters at the seat of government and in the Canal Zone, and for such printing and binding as the Board deems necessary to carry out effectively its functions and activities under this Act.

SEC. 11. All expenses of the Board shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the Chairman of the Board or by such other member or employee of the Board as the Chairman may designate.

SEC. 12. There are hereby authorized to be appropriated to the Board each fiscal year such sums as may be necessary to carry out its functions and activities under this Act.

SEC. 13. Any provision of the Act of August 11, 1939 (54 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), or of any other statute, inconsistent with any provision of this Act is superseded, for the purposes of this Act, to the extent of such inconsistency.

GILBERT D. CHAVENELLE—DUBUQUE MAN OF THE YEAR

HON. JOHN C. CULVER

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. CULVER. Mr. Speaker, recently Mr. Gilbert D. Chavenelle was cited by the Dubuque Telegraph-Herald as the city's "Man of the Year."

As city manager of Dubuque since 1960, Gilbert Chavenelle has set a remarkable record of service and visible achievement. In the many advances made by Dubuque in public services, public works, planning, zoning, personnel and budgetary improvements, as well as in the tone and quality of life in the city generally, Mr. Chavenelle's quiet persistence, and versatility are everywhere evident. I should like to add my personal congratulations to him and Mrs. Chavenelle and insert the special article in the Dubuque Telegraph-Herald on December 30, 1971, in the CONGRESSIONAL RECORD:

GILBERT D. CHAVENELLE, DUBUQUE CITY MANAGER SELECTED AS "MAN OF THE YEAR" BY THE TELEGRAPH-HERALD

It was one of those weeks of crisis at City Hall, and Gilbert Chavenelle was up to his neck in it. It was halfway through the summer of 1970, and the perennial youth problem was steaming to the boiling point.

Hundreds of teen-aged citizens were restlessly out of school, out of work and on the streets. The city council was getting antsier by the hour; crowds of "workers" and motorcycle jockeys were "cleaning up" the hippie situation at a downtown coffeehouse. Factions formed and dissipated and charges and counter-charges were a dime a dozen.

Chavenelle had just finished a lengthy, lonesome discussion with a self-appointed youth leader. It was not the first such session he'd had that week and it wouldn't be the last.

He eyed a new visitor to his office, one who was aware of his current headache. "How in the hell," asked Chavenelle, "do I find out who really knows what's going on?"

If there's one thing that Dubuque is, it's opinionated. It is a rare Dubuquer who doesn't have an unquenchable faith in his own ability to analyze and solve a given problem. True, too few opinions here are rooted in the fertile field of fact, but the opinions are there in abundance nonetheless.

One of the reasons Gilbert Chavenelle has stayed city manager of Dubuque since 1960 is because he has a remarkable ability to listen . . . and a dauntless willingness to exercise the ability.

"Usually your original idea comes out quite differently from what you'd planned," says Chavenelle; "An idea grows because of what you say about it, and what the chamber of commerce says about it, and what the council says about it, and what everybody says about it.

"Look at that floodwall. It doesn't look anything like what people thought it would 10 years ago. It's higher and it's longer. It grew as we progressed, like anything we do.

"They say Dubuque is dull. They say nobody cares. I know differently. There are a heck of a lot of people in this town who give a damn, who really work.

"I wish I could work faster. I wish I could be at every meeting that's held in this town. Think what we could do if we could put all the ideas together . . . that goes for library, that goes for health, that goes for transportation, I don't care what it is, if we could do it all together . . ."

His voice trailed off, and his arms and eyes and head slowly relaxed from the twisting body motion his words had—typically—wrought.

"That's what really keeps you going," he smiled: "The hope that it can happen."

At 60, Chavenelle is showing signs of wear. His short-cropped hair is silver-white; the once-slim torso is a bit more portly; more than occasionally he has difficulty hearing the softer tones.

There are some who say he won't survive

the demands of the city council that takes office Jan. 3.

It's no surprise to Chavenelle. He predicted it himself two years ago. He has too much to worry about right now to bother with it.

And there are a surprising number of people with their fingers on city government's pulse who predict Chavenelle will survive, and that he will do it in the slow, methodical, tailored style with which he has piloted City Hall from the start.

But being all things to no man, and only one thing—honest—to all men is a grueling job, and Gilbert Chavenelle shows it.

He has been accused of suffering from the same malaise once attributed to Nelson Rockefeller, the "edifice complex," a drive to build "things" to prove he was here.

"In truth," he says, "I say no to more than I say yes to."

But then, that's the problem with government everywhere, isn't it? he adds.

"Think how many times cities say No to people in one day: 'Keep off the grass.' 'Don't speed.' 'You're under arrest.' Believe me, this is what keeps you awake at night."

Is it possible that the bigger government gets, the more government does, that the more it intrudes on the individual citizen's private lives . . . a theory so popular these days among urbanologists?

"Look at the other side of the coin," responded Chavenelle; "It's got to be big to be viable. It's got to be big enough to live and be real. It's got to be big enough to work.

"I don't meet enough people anymore," he said truthfully. Dubuque's city manager is a recluse compared to the modern expectation of public figures to be constantly in the public view.

Reporters at City Hall learn quickly that Chavenelle says things only when he wants them heard, and appeals for "your comment" and "Let's get it on tape" are politely but firmly declined.

"I quit making public utterances some time ago," he said: "One of the mayors told me I sounded like a preacher. Lord, I don't want to sound like a preacher.

"I used to go to parties, you know, the kind where you walk in and circulate from one side of the room to the other and meet everybody and shake hands and tell them how glad you are to see them. And then it comes time to leave and you retrace your steps and shake hands with everyone again and tell them good-bye.

"It's a practiced thing . . . and I don't like it."

And yet the manager's office is as open to people as a 12- or 15-hour-a-day city manager's can be. One never knows who'll be in his office either. It could be a candidate for governor. And it could just as likely be an elderly farmer scared to pieces that the new sewer will destroy his garden.

"I try, I really do. I want it so individual people can be heard in this community . . . and heard loudly."

(Last March, a few days before a public airing of the north-south freeway—an airing that was sure to be fraught with community outrage and objection—Chavenelle made one of his rare calls to the newspaper, to request prominent display of the hearing's advance notice.)

(The public was heard. Loudly.)

When Chavenelle first learned that he was 1971's "Man Of The Year," his reaction was predictable: "For God's sake, get out of here and find someone else."

He meant it.

He concluded the subsequent interview with this:

"I wish I could find the right words to express it, I know I can't, but I'll try. The most important thing . . . the thing I've got to remember constantly, is to be willing to go out and serve, whether I win or get beat. My hope is that all the people that work here feel that way, and I hope they realize that's what I want them to do.

"The job I've got has got to be done with the greatest humility."

He's Our Man of the Year

No one man, including the city manager, can take credit for engineering the municipal accomplishments of the last decade. But the indisputable fact is that Chavenelle's administration has been marked by a flurry of activity, and over it all presided—happily, and at other times not so happily—Gilbert Chavenelle.

One of the major capital improvements of the Sixties was a handsome and functional airport terminal, and yet the city manager is the first to admit it was finished as early as it was over his objections that it should be lower on the priority list.

Nevertheless, it was Chavenelle who monitored its planning, conducted its performance before the city council and pieced together the intricacies of the ultimate bond sale.

Following is a list of achievements reached during the Chavenelle administration:

1. Development of a 20-year plan for sewage and solid waste disposal.

a. Construction of one of the first secondary sewage treatment plants on the upper Mississippi, completed well ahead of federal and state deadlines;

b. Survey of new sites for land-fills.

2. Development of a 20-year plan for water service extensions and improvements.

a. Drilling of new wells, construction of at least one new pump station and preparation for a $3 million-$4 million water treatment plant expansion and modernization.

3. Establishment of a full-time city planning department, with staff: active promotion of a countywide planning commission.

4. Development of a 20-year transportation plan, as required by federal law, successfully including participation of elective and administrative officials from the rest of Dubuque County and counties in the two states across the Mississippi.

a. Implementation of north-south freeway-expressway planning.

5. Development of a comprehensive plan for the city of Dubuque, entailing several years' economic and social surveys of the city and surrounding area at a cost of approximately a quarter of a million dollars. The Green Report, among other things:

a. Laid the groundwork for a downtown urban renewal project covering 15 blocks and worth about $13 million;

b. Identified neighborhoods within the city and the particular needs of each;

c. Provided a timetable for annexations,

d. Discussed extensivly the needs of the city in the areas of finance, parks and recreation, public safety and redevelopment;

e. Recommended a citywide land use plan.

6. Revision of the 1934 zoning codes, including the most up-to-date land use philosophies available. The new zoning ordinance, pending council approval:

a. Implements a set of restrictive sign regulations designed to improve the visual aspect of the city;

b. Implements rules for residential developers to provide open space, the amount of which is related to the type and density of the development;

c. Strictly regulates operation of business in private homes, removing much of the mixed land use prevalent throughout the city.

7. Accommodation of a major commerical and residential "land boom" on the city's west side, despite its advent in the face of negative recommendations in the Gruen Report and other studies.

8. Active participation in the establishment of an industrial bureau to handle location of new industries and expansion of old ones; the bureau, semi-public in nature, is an integral and well-established part of the city structure;

a. Nearly complete industrial development of Industrial Park, dredged in 1955.

9. Active participation in establishment of a community action program; Chavenelle is a member of the Dubuque County segment's advisory board;

a. Participation in other non-city bureaus like the alcoholism counseling program and Project Concern, an aid-to-the-elderly unit.

10. Consistent support and participation from city staff to drug prevention programs and earlier youth-oriented projects.

11. Updated building, housing, plumbing, electrical, heating, ventilating, air-conditioning and refrigeration codes.

12. Citywide inspection of houses, with provisions for demolition of unsafe, unsanitary dwellings and for improvement of inadequacies discovered through personal inspections.

13. Initiation and completion of full-scale revision of the municipal budget system from departmental to program budgets. This included piecemeal introduction of data processing services to the city payroll, accounting and voter registration, as well as to the budgetmaking and monitoring process itself.

14. Maintenance of the tradition of balanced budgets in Dubuque, simultaneously.

a. Providing salaries for police, firemen and other city employes that are among the highest in the state;

b. Maintaining the highest rating possible on bonds floated by the city, despite a sharp increase in the municipal debt—which is still less than half the statutory limit;

c. Participating in lobbying to increase state funding of municipal projects to lessen the property tax load.

15. Construction of a new municipal public works garage, a new central fire headquarters and a westside fire house.

16. Construction of the first two city parking ramps.

17. Maintenance of a "workable program" for the city, thereby assuring continued favorable records with United States Department of Housing and Urban Development for funding purposes.

18. Establishing of a Human Rights Commission and two part-time directors.

19. Establishment of a Low-Rent Housing Commission and a part-time director.

20. Start of construction of a floodwall.

a. Comprehensive flood-fighting plans until the permanent dike is completed; the temporary dike system was implemented during floods in 1965, 1967 and 1969.

21. Airport improvements, including the new terminal, new hangars, runway extensions and installation of radio and lighting equipment designed to enable planes to land in bad weather.

THE NEED FOR AN EVALUATION OF THE FIRE PROBLEM IN THIS COUNTRY

HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. STEELE. Mr. Speaker, on February 15, 1972, I testified before the National Commission on Fire Prevention and Control. That testimony follows:

Remarks by Representative Robert H. Steele

Today, we live in a combustible society. The new synthetic fabrics that are wrinkleproof, fadeproof, and almost as combustible as a book of matches, are worn daily by all of us. We furnish our homes and offices with highly flammable synthetic materials that many times emit deadly fumes when burned. The chairs we are now sitting upon may contain such toxic substances, and commonly the mattresses, pillows, and even the insulation in our homes and offices incorporate synthetics.

Along the great rail and highway systems the transportation of hazardous materials is increasing at a rapid rate and the Office of Hazardous Materials of the Department of Transportation has predicted a 55 per cent increase in such hauls over the next 10 years.

We construct so-called fireproof highrise buildings and manufacturing plants that aren't fireproof at all. These buildings are often designed without sprinkler systems, with inadequate exits, with sealed windows, and with elevators which become inoperable in a fire.

It is unconscionable that in our society, where we place the highest of values on human life, more than 12,000 men, women and children have perished because of fire for each of the last 6 years. For every death recorded there were an estimated forty persons burned.

These injuries and deaths represent a staggering total of 2,880,000 fire victims during the past 6 years.

Correspondingly, we ask most of our nation's 2,175,000 firefighters to combat the immense and increasing fire problem with turnout coats which won't meet the flammability test for children's sleepwear. Furthermore, we have furnished the firefighter with equipment designed decades ago, and have not provided them with sufficient funds for training and educational programs. Yet, we ask our firefighters to engage in our nation's most dangerous profession.

I have used the words "fire problem" in my opening remarks without attempting to define what in my mind is one of the most neglected social problems facing this country. Exactly then, what is the "fire problem"? First, we must take a comprehensive approach to permit us fully to grasp the complex and intricate relationships which collectively constitute the fire problem. A fire in a hypothetical highrise building, combining the worst of typical fire hazards, would serve as a good example. Let us say that a small waste can is the source of a fire on the thirtieth floor of such a building. In this building, there are no automatic alarm devices to warn people or alert the fire department of the occurrence of fire. The fire has begun to grow quickly feeding on furniture and rug underlays which contain highly flammable toxic materials, and dense smoke is now filling the corridor and being vented by the air conditioning ducts, utility cable conduits, and elevator shafts. These flues spread murderous fumes throughout the entire structure. The fire department arrives. With ladders too short to reach the fire involved floor, the firefighters must combat the blaze from within, exposing themselves to temperatures reaching 1500–2000 degrees F., blinded by the dense, toxic smoke, and having to battle the thousands of individuals trying to exit.

The elevators in this particular building rise to the thirtieth floor when flames activate the electronic touch-type call buttons and remain locked there as the opaque smoke makes the automatic closing devices inoperable, thus entrapping men, women, and children in a blazing inferno and hindering the firefighter trying desperately, but in vain, to reach the floor.

As the occupants futilely try to vent the rooms by knocking out the large fixed windows, there would-be rescuers must turn back as the turnout coats can no longer shield them from the intense heat generated by the fire, and their antiquated, heavy, and awkward breathing systems have run low on the 15–20 minutes of air they supply. The number of deaths, the number of people injured, maimed and disfigured for life, the number of firefighters hospitalized because of smoke inhalation, the number of lost work days could clearly be of tragic proportions.

Even though this is a hypothetical example designed to dramatize the various fire hazards we face today, such a fire situation could develop in any one of scores of American cities today. The facts, statistics, and the many conversations that I and my staff have had with practitioners and fire research experts clearly indicates to me that the occurrence of fire, and the resulting loss of life and property is, today, greater than it has ever been in our country's history.

Le[illegible] more clearly define what the fire problem is, not by graphically describing the dangers associated in a fire situation as I have just done, but by familiarizing ourselves with the effects that fire has upon our society.

In 1970, property losses from fire in the United States totaled $2,263,918,000, not counting losses from aircraft, motor vehicles, forest and other non-building fires, and the 1971 figures indicate an upward trend with an estimated $2.845 billion of property losses.

Some fire research experts have estimated that the dollar cost to the nation in fire losses including deaths, injuries, man-hour lost, property damage and the increasing cost of fire protection equals about one percent of the Gross National Product. Those dollar amounts are easily attainable when every day more than 6,600 fires occur, and you consider that today's structures are more complex and costly than ever.

Of the 1970 figure, educational facilities valued at $18,315,000 were destroyed in 26 large loss fires. The significance of this loss is apparent when we measure the increasing difficulties that every State and local municipality has in trying to stretch its limited tax dollars in order to provide the public with services that they demand.

The United States experiences a per capita death rate from fire that is twice that of Canada, four times that of the United Kingdom, and six-and-a-half times that of Japan.

With the construction of complex manufacturing plants, highrise buildings and thousands o fnew products which incorporate dangerous materials, the threat of fire has intensified, while the public generally has been led to believe that we work and live in safe modern structures and that our society is doing all it can to reduce the toll of fire.

What is being done to protect the innocent child and the elderly? Clearly, we are not doing all we can, and the blame for this rests on every one of us.

Flammability standards for sleepwear, for instance, should be extended to cover those living in nursing homes and hospitals. The Veterans Administration has initiated the introduction of a permanent flame-resistant patent clothing material which will be used in all of its pajamas by June 1972. Interestingly, the costs will not be prohibitive for the widespread introduction of this material to the public, for even though the initial costs on a per unit basis are greater than those for traditional sleepwear, tests indicate the new flame resistant material has a useful life up to 15 times that of cotton pajamas.

Other innovations and technological breakthroughs have been used by the National Aeronautics and Space Administration in producing a wide variety of practical solutions to serious fire problems. NASA, for instance, has designed a firefighter's suit using materials that are commercially available to present manufacturers of the suits. The NASA coat can withstand a 1500 degree flame directly applied to it and still give adequate protection to the wearer.

NASA has also prepared certain varieties of polyurethane foam which are nearly flame resistant and fireproof. Research experts from NASA have told me that for $10 the average living room sofa or mattress could be completely treated for flame resistance. Treatments and materials are also commercially available to produce flame resistant wool carpeting, cotton clothing, and a wide variety of materials to be used for home furnishings and clothing.

The extent to which NASA's innovations could be used in our day-to-day living is fascinating. Technicians in Houston are outfitting a commercial size airplane with completely flame resistant paints and fabrics to be used as interior wall coverings, seat cushions, curtains and carpets.

The legislation I have introduced is not a panacea for solving the death and property loss caused by fire. There must be a national focus on these problems and an intensive new effort to solve them.

I look upon my nine bills as a framework of proposals to be discussed and, if and where necessary, modified. My concern is based on the need for legislation and the realization of the extent to which fragmentation of effort has handicapped us in reducing the casualties of fire.

OUTLINE: FIRE LEGISLATION

The conerstone of my legislative package is the "National Fire Education and Training Act of 1972", H.R. 12892. Conceptually, it establishes an apolitical, nonprofit autonomous instrument known as the National Academy of Fire Prevention and Control. Unquestionably, there exists a need in this country for a national focus and a continuing direction in fire research with emphasis on educating the public and the firefighter. In essence, the academy would give direction to the efforts of all fire service organizations and fire personnel. It would train top leaders in fire prevention and control.

The National Fire Academy would function as any public or private college or university. The President of the United States would initially appoint fifteen individuals, constituting a board of directors, who would reasonably represent:

(a) various regions of the country
(b) private industry and labor
(c) all levels of government
(d) consumer interests
(e) and other experienced individuals.

The board shall serve as incorporators, framing the organizational rules and most importantly, will designate a president and other executive officers who will be responsible for the day-to-day operations of the academy. The institution can accept grants and contracts from industry, all levels of government, and organizations to conduct research and studies. Additionally it may establish fees and other charges for services rendered. Federal funding must be provided to augment any other fees received, if the academy is to become a reality. Section 8 gives legal authorization for such funds to be appropriated.

Briefly, the academy's functions are:

(a) to recommend actions which can be taken by Federal, State, and local government, and private individuals and organizations to improve and strengthen fire protection, fire prevention, and fire suppression;

(b) encourage individuals to pursue careers as administrators of fire service organizations at all levels;

(c) develop a curriculum, carry out programs of instructional assistance, and conduct seminars, conferences, and workshops to introduce and disseminate information gained from investigation, research, and development concerning the areas of fire protection, fire prevention and fire suppression;

(d) develop fire service extension programs to assist States, counties, and local communities in providing continuous training and operational programs;

(e) to assist institutions of higher education in planning, developing, and improving programs and projects concerning fire administration;

(f) assist States, counties, and local communities in the development of training programs for firefighters;

(g) to establish and maintain education programs for the purpose of informing the public of fire hazards and fire safety techniques;

(h) establish a voluntary, uniform national testing program to evaluate the skills level of firefighters and fire administrators.

The academy will have contact with salaried and volunteer firefighters, fire service organizations, the public, private organizations and businesses, fire departments, and educational institutions, thus forging new channels of communication for the exchange of ideas and facilitating the introduction of technical breakthroughs.

II. The Firemens Training Act of 1972, H.R. 12893. Provides the Secretary of Commerce with the authority to make matching grants up to 50 percent for firefighter training programs. This will bring both volunteer and salaried firefighters into continuous operational training programs.

III. The Fire Science Education Act, H.R. 12894. Provides the Secretary of Commerce to make grants to accredited institutions of higher education for up to one-half of the costs of two or four year fire science programs. Its emphasis shall be on fire research, investigation, prevention, and suppression.

IV. Amendment to the Flammable Fabrics Act, H.R. 12899. The scope of the present Act will be expanded by adding the definition "interior finishing materials"—any material made (in whole or part) of fabric or related material and used in the construction of the interior walls, floors, or ceilings in homes, offices, or other places of assembly or accommodation.

Furthermore, it would require toxicity standards or other regulations that would require labeling for a fabric, related material, or product that may be needed to protect the public against unreasonable risk of death or personal injury from toxic byproducts by the burning or thermal degradation of the fabric, related material or product. In this age of increasing production and use of synthetic plastics, our concern for the flammability of such products is inadequate. This legislation would provide the means, for not only safeguarding the public from the occurrence of fire, but also address itself to the clear and present dangers associated with the burning of today's highly toxic materials.

V. National Fire Data and Information Clearinghouse of 1972, H.R. 12898. Before the identification and evaluation of this country's fire problem can be attempted seriously, we must have a sound and thorough informational data base. The Clearinghouse, by cataloguing data on fire research and development, property loss, death and injury statistics, causes, locations, and number of fires, will provide such a base. Also, a 24-hour emergency information center responsible for information related to hazardous materials will be available.

VI. Amendment to the Hazardous Transportation Control Act, H.R. 12900. It requires the Secretary of Transportation to issue regulations providing for the placarding of vehicles transporting hazardous materials in interstate and foreign commerce. This Act, in conjunction with the 24-hour emergency information center, greatly aids firefighters, law enforcement personnel, and shippers in protecting the public's general welfare.

VII. General Aid to Local Fire Departments, H.R. 12895. The Secretary of Commerce is authorized and directed to make grants to local fire departments to pay *up to* one-half the costs of purchasing equipment for fire investigation, suppression, and extinguishment, or emergency first aid. This grant system will act as an incentive to industry, inducing strong research and development programs that have been lacking up to now.

IX. Financial Aid to Local Fire Departments, H.R. 12896. The Act provides grants to local fire departments to pay *up to* 90 percent of the cost of purchasing heat protecting fire-fighting suits and breathing apparatus.

ADDITIONAL INFORMATION IN SUPPORT OF COMPREHENSIVE TEST BAN TREATY

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mrs. ABZUG. Mr. Speaker, the Atomic Energy Commission predicted last year that fewer than 20 sea otters would suffer from the Cannikin underground test explosion at Amchitka Island in the Aleutians. The number of these animals now thought to have been gravely damaged or killed by the force of this explosion is now estimated at between 900 and 1,000. A final report is expected in June of this year when the Alaska Department of Fish and Game completes its annual census of sea otters.

A Chinese nuclear test in the atmosphere on January 7, 1972, is said to have added to the burden of radioactive materials in the atmosphere of our own hemisphere. The fallout from this test was distributed over several Western States, according to AEC monitors. Last year's Pacific tests by the French were vigorously protested by several Latin American countries when radioactive materials were detected within their own borders. In fact, the French are reported to have cut short their test series as a result of these protests.

The General Assembly of the United Nations recently passed three resolutions urging suspension of all nuclear and thermonuclear weapons tests by the superpowers. The affirmative votes on these resolutions were overwhelming. They may be seen as resounding demonstrations of the will of the majority of the nations that the nuclear powers, either unilaterally or by negotiation, fulfill the pledges they made in the limited test ban treaty and the nonproliferation treaty to end nuclear testing for all time.

The 25-nation disarmament conference will reconvene in Geneva on February 29. Canada's representative at that conference, who is also Canada's Ambassador to the United Nations, has written a thoughtful article on the subject of nuclear testing. In this article Mr. George Ignatieff describes the tragic "dialog of the deaf" atmosphere of the Conference of the Committee on Disarmament. It should be remembered that it was our friend and neighbor, Canada, which most vociferously protested the U.S. test at Amchitka.

Mr. Speaker, I urge that hearings be held by the Foreign Affairs Committee at the earliest feasible date on my resolutions for a total test ban, House Concurrent Resolution 480 and House Concurrent Resolution 522 so that our delegates to the Geneva Conference may know of the concern of the people of the United States.

I include at the conclusion of my remarks articles from various publications on this subject, together with the text of the three U.N. General Assembly resolutions:

[From the Bulletin of the Sierra Club, January 1972]

CANNIKIN RESULTS

News reports now estimate the number of sea otters killed by the AEC's Cannikin test at somewhere between 900 and 1100 animals, according to the preliminary surveys made by the Alaska Department of Fish and Game and a biologist under contract to the AEC to do sea otter studies. The number will not be known precisely until June, when the Department makes its annual sea otter census. Now, however, scientists state that the Bering Sea side of Amchitka Island is "80 to 90 percent" devoid of sea otters.

Only 20 carcasses have been found, leading biologists to speculate the others were either blown out to sea by the 100 MPH winds of the severe storm during and after the test, or are trapped below the surface of the ocean by the phenomenon of "underpressure," which destroyed the animals' natural buoyancy. The underpressure was caused by ground acceleration or "cavitation," as the Bering Sea floor and beach were abruptly and permanently uplifted about ten feet, much more than AEC scientists had predicted. One otter body was dredged from 35 fathoms of water by a University of Washington research ship.

The original Cannikin environmental impact statement had asserted that fewer than 20 sea otters would suffer measurable physiological effects from the blast. The June redraft stated that as many as 100 sea otters might be killed, and the AEC's final prediction, released in October, was that up to 240 otters might suffer ruptured ear drums and eventually die as a result of the bomb test.

[From the Christian Science Monitor, Feb. 9, 1972]

A-TEST BAN BONUS—FALLOUT LEVEL SLASHED

(By Robert C. Cowen)

WASHINGTON.—A major clean air benefit goes virtually unnoticed these days—the lessening of what was once a disturbing rate of radioactive fallout.

It's dropped tenfold since the treaty banning above-ground testing came into force in 1963.

In fact, according to a recent British analysis, it would have practically faded away altogether were it not for the treaty-shunning testers, France and China. They have been setting off just enough atmospheric blasts to keep global fallout more or less constant since 1967.

Indeed, Chinese fallout is advertising that country's growing nuclear prowess right now.

China's latest test, Jan. 7, was the 12th it reportedly had detonated up to the time of this writing. The U.S. Atomic Energy Commission, which announced detection of that test at the time, subsequently picked up its fallout over the western United States.

That fallout has been at much too low a level to present any health hazard, the AEC says. Nevertheless, it contributes its bit to maintaining the global fallout rate, and especially the rate for the northern hemisphere.

Meanwhile, France has been making a similar contribution in the southern hemisphere from its Pacific testing site. It has detonated something like 27 shots there. That includes the five explosions in the series it cut short last year after vigorous protests from several Latin American countries.

The United Kingdom Atomic Energy Authority has been monitoring global fallout for many years. Periodic analyses of these data by the Harwell atomic energy research establishment are important reference documents on the state of fallout.

FRENCH CONTRIBUTION HEAVY

In the latest such study, Harwell analysts report that 1970 and 1971 French tests account for some 60 percent of southern hemisphere fallout. Likewise, the October, 1970, Chinese test contributed about 60 percent of the long-lived radioactivity in air over Britain last summer.

Last fall, in a paper published in the journal Nature, D. H. Peirson of the Harwell team traced fallout patterns since 1955. He looked especially at two radioactive isotopes, strontium 90 and caesium 137. These present the greatest potential health dangers.

Fallout reached an all-time high in 1963 following the last American and Soviet atmosphere testing in 1961–1962. Then global fallout began to decrease, although the pattern of decrease was uneven. For example, deposition rates continued to rise in the southern hemisphere even while falling in the northern hemisphere.

GENERAL ASSEMBLY RESOLUTIONS—26TH REGULAR SESSION

Subject: Urgent need for suspension of nuclear and thermonuclear tests.

Date and meeting: 16 December 1971, 2022nd plenary meeting.

Votes:

Resolution A: 74 in favour, 2 against, with 36 abstentions (recorded vote).

Resolution B: 71 in favour, 2 against, with 38 abstentions (recorded vote).

Resolution C: 91 in favour, 2 against, with 21 abstentions (recorded vote).

Document Numbers

Report to Assembly: First Committee report A/8575 and Corr. 1.

Resolutions adopted: 2828 A–C (XXVI).

TEXT OF RESOLUTIONS

A

The General Assembly,

Viewing with the utmost apprehension the harmful consequences of nuclear weapon tests for the acceleration of the arms race and for the health of present and future generations of mankind,

Fully conscious that world opinion has, over the years, demanded the immediate and complete cessation of all nuclear weapon tests in all environment,

Recalling that the item on the question of a comprehensive test ban has been included in the agenda of the General Assembly every year since 1957,

Deploring the fact that the General Assembly has not yet succeeded in its aim of achieving a comprehensive test ban, despite eighteen successive resolutions on the subject,

Noting with regret that all States have not yet adhered to the Treaty Banning Nuclear Tests in the Atmosphere, in Outer Space and under Water signed in Moscow on 5 August 1963,[1]

Deploring the fact that the determination expressed by the original parties to that Treaty to continue negotiations to achieve the discontinuance of all explosions of nuclear weapons for all time has not so far produced the desired results,

Noting with special concern that the continuation of nuclear weapon tests in the atmosphere is a source of growing pollution and that the number and magnitude of underground tests has increased at an alarming rate since 1963,

Having considered the special report submitted by the Conference of the Committee on Disarmament[2] in response to resolution 2663 B (XXV) of December 1970,

Recalling its resolution 1762 A (XVII) of 6 November 1962, whereby all nuclear weapon tests, without exception, were condemned,

Convinced that, whatever may be the differences on the question of verification, there is no valid reason for delaying the conclusion of a comprehensive test ban of the nature contemplated in the preamble to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water,

1. *Reiterates solemnly and most emphatically* its condemnation of all nuclear weapon tests;

2. *Urges* the Governments of nuclear-weapon States to bring to a halt all nuclear weapon tests at the earliest possible date and, in any case, not later than 5 August 1973;

3. *Requests* the Secretary-General to transmit the present resolution to the nuclear-weapon States and to inform the General Assembly at its twenty-seventh session of any measures they have taken to implement it.

B

The General Assembly,

Noting that one of the first steps in the strengthening of international security is to dissipate world-wide fears that nuclear, thermonuclear and other weapons of mass destruction may be used by miscalculation in what could appear to be a desperate situation,

Considering that for the last few years the United Nations has been peroccupied with finding ways and means of diminishing the pollution of the earth's atmosphere,

Noting that scientists have been unanimous in the conclusion that the fall-out from nuclear tests is injurious to human and animal life and that such fall-out may poison the earth's atmosphere for many decades to come,

Taking into account that underground nuclear and thermonuclear tests may not only create serious health hazards but may also cause as yet undetermined injury to humans and animals of the region where such tests are conducted,

Recognizing that there already exist sufficient nuclear, thermonuclear and other lethal weapons of mass destruction in the arsenals of certain Powers to decimate the world's population and possibly render the earth uninhabitable,

1. *Appeals* to the nuclear Powers to desist from carrying out further nuclear and thermonuclear tests, whether underground, under water or in the Earth's atmosphere;

2. *Urges* the nuclear Powers to reach an agreement without delay on the cessation of all nuclear and thermonuclear tests;

3. *Reassures* the peoples of the world that the United Nations will continue to raise its voice against nuclear and thermonuclear tests of any kind and earnestly requests the nuclear Powers not to deploy such weapons of mass destruction.

C

The General Assembly,

Recognizing the urgent need for the cessation of nuclear and thermonuclear weapon tests, including those carried out underground,

Recalling that this subject has been included in the agenda of the General Assembly every year since 1957,

Recalling in particular its resolutions 914 (X) of 16 December 1955, 1762 (XVII) of 6 November 1962, 1910 (XVIII) of 27 November 1963, 2032 (XX) of 3 December 1965, 2163 (XXI) of 5 December 1966, 2343 (XXII) of 19 December 1967, 2455 (XXIII) of 20 December 1968, 2604 (XXIV) of 16 December 1969, and 2663 (XXV) of 7 December 1970,

Expressing serious concern that the objectives of those resolutions have not been fulfilled,

Noting with regret that all States have not yet adhered to the Treaty Planning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water, signed in Moscow on 5 August 1963,[3] and that some continue to test in the atmosphere,

Taking into account the determination expressed by the parties to that treaty to continue negotiations to achieve the discontinuance of all test explosions of nuclear weapons for all times,

Noting the appeal for progress on this issue, made by the Secretary-General in the introduction to his report on the work of the Organization,

Noting with special concern that nuclear weapon tests in the atmosphere and underground are continuing,

Having considered the special report submitted by the Conference of the committee on Disarmament[4] in response to resolution 2663 B (XXV) of December 1970.

1. *Stresses anew* the urgency of bringing to a halt all nuclear weapon testing in all environments by all States;

2. *Urges* all States that have not yet done so to adhere without further delay to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water and meanwhile to refrain from testing in the environments covered by that Treaty;

3. *Calls upon* all Governments that have been conducting nuclear weapon tests, particularly those of parties to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water, immediately to undertake unilateral or negotiated measures of restraint that would suspend nuclear weapon testing or limit or reduce the size and number of nuclear weapon tests, pending the early entry into force of a comprehensive ban on all nuclear weapon tests in all environments by all States;

4. *Urges* Governments to take all possible measures to develop further, and to use more effectively, existing capabilities for the seismological identification of underground nuclear tests, in order to facilitate the monitoring of a comprehensive test ban;

5. *Requests* the Conference of the Committee on Disarmament to continue as a matter of highest priority its deliberations on a treaty banning underground nuclear weapon tests, taking into account the suggestions already made in the Conference, as well as the views expressed at the current session of the General Assembly;

6. *Requests particularly* Governments that have been carrying out nuclear tests to take an active and constructive part in developing, in the Conference the Committee on Disarmament (or in any successor body), specific proposals for an underground test ban treaty;

7. *Expresses the hope* that these efforts will enable all States to sign in the near future, a treaty banning underground nuclear weapon tests.

Recorded vote on Resolution A:

In favour: Afghanistan, Argentina, Austria, Bahrain, Bhutan, Brazil, Burma, Burundi, Cameroon, Ceylon, Chad, Chile, Colombia, Costa Rica, Cyprus, Dahomey, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Fiji, Ghana, Guatemala, Guyana, Honduras, Iceland, India, Indonesia, Iran, Ireland, Israel, Ivory Coast, Jamaica, Jordan, Kenya, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libya, Malaysia, Mali, Malta, Mexico, Morocco, Nepal, New Zealand, Nigeria, Norway, Paraguay, Peru, Qatar, Rwanda, Saudi Arabia, Senegal, Singapore, Somalia, Sweden, Togo, Trinidad and Tobago, Tunisia, Uganda, United Republic of Tanzania, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire, Zambia.

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[1] United Nations, *Treaty Series*, vol. 480 (1963), No. 6964.

[2] A/8457, section IV.

[3] United Nations, *Treaty Series*, vol. 480 (1963), No. 6964.

[4] A/8457–DC/234, section III.

Against: Albania, China.

Abstaining: Algeria, Australia, Belgium, Bulgaria, Byelorussia, Canada,[5] Central African Republic, Congo, Cuba, Czechoslovakia, Finland, France, Greece, Guinea, Hungary, Italy, Japan, Khmer Republic, Luxembourg, Madagascar, Mongolia, Netherlands, Pakistan, People's Democratic Republic of Yemen, Philippines, Poland, Portugal, Romania, South Africa, Spain, Thailand, Turkey, Ukraine, USSR, United Kingdom, United States.

Absent: Barbados, Bolivia, Botswana, Gabon, Gambia, Haiti,[5] Iraq,[6] Malawi, Maldives, Mauritania, Mauritius, Nicaragua, Niger, Oman, Panama, Sierra Leone, Sudan, Swaziland, Syria, United Arab Emirates.

Recorded vote on resolution B:

In favour: Afghanistan, Bahrain, Bhutan, Bulgaria, Burundi, Byelorussia, Cameroon, •Canada, Central African Republic, Chad, Colombia, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Dominican Republic, Ecuador, El Salvador, Fiji, Ghana, Guatemala, Guyana, Hungary, Indonesia, Iran, Ireland, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Khmer Republic, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libya, Malaysia, Mexico, Mongolia, Morocco, Nepal, New Zealand, Nicaragua, Nigeria, Pakistan, Paraguay, People's Democratic Republic of Yemen, Philippines, Poland, Qatar, Romania, Rwanda, Saudi Arabia, Singapore, Somalia, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Ukraine, USSR, Upper Volta, Uruguay, Venezuela, Yemen, Zaire, Zambia.

Against: Albania, China.

Abstaining: Algeria, Argentina, Australia, Austria, Belgium, Brazil, Burma, Ceylon, Chile, Congo, Denmark, Equatorial Guinea, Ethiopia, Finland, France, Greece, Guinea, Honduras, India, Israel, Italy, Luxembourg, Madagascar, Mali, Malta, Netherlands, Norway, Peru, Portugal, Senegal, South Africa, Spain, Sweden, Uganda, United Kingdom, United Republic of Tanzania, United States, Yugoslavia.

Absent: Barbados, Bolivia, Botswana, Egypt, Gabon, Gambia, Haiti,[7] Iceland, Iraq,[8] Malawi, Maldives, Mauritius, Niger, Oman, Panama, Sierra Leone, Sudan, Swaziland, Syria, United Arab Emirates.

Recorded vote on Resolution C:

In favour: Afghanistan, Australia, Austria, Bahrain, Belgium, Bhutan, Bolivia, Burma, Burundi, Cameroon, Canada, Central African Republic, Chad, Colombia, Costa Rica, Cyprus, Dahomey, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Fiji, Ghana, Greece, Guatemala, Guyana, Haiti, Honduras, Iceland, Indonesia, Iran, Ireland, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Khmer Republic, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libya, Luxembourg, Madagascar, Malaysia, Mali, Malta, Mauritania, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, People's Democratic Republic of Yemen, Philippines, Portugal, Qatar, Rwanda, Saudi Arabia, Senegal, Singapore, Somalia, South Africa, Spain, Sweden, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Republic of Tanzania, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire, Zambia.

Against: Albania, China.

Abstaining: Algeria, Argentina, Brazil, Bulgaria, Byelorussia, Ceylon, Chile, Congo, Cuba, Czechoslovakia, France, Guinea, Hungary, India, Mongolia, Poland, Romania, Ukraine, USSR, United Kingdom, United States.

Absent: Barbados, Botswana, Finland, Gabon, Gambia, Iraq[9], Israel[10], Malawi, Maldives, Mauritius, Niger, Oman, Peru[9], Sierra Leone, Sudan, Swaziland, Syria, United Arab Emirates.

[From Vista, January/February 1972]

HOW MUCH IS ENOUGH? A REPORT ON NUCLEAR TESTING

(By George Ignatieff)

(NOTE.—Ambassador George Ignatieff is Permanent Representative of Canada to the Office of the United Nations at Geneva, as well as Canada's Representative to the Conference of the Committee on Disarmament.)

To understand what the case against continued testing of nuclear weapons is all about, and why Canada has taken a lead in trying to bring about international agreements to constrain and end such tests, it is necessary to look back briefly on the history of this issue, so much in the news today.

Of all the by-products of the scientific and technological revolution accelerated by World War II, nuclear weapons undoubtedly are potentially the most destructive—even disastrous—in their effect. The very fact that no government possessing nuclear armaments has dared to use them in war, since the two bombs on Hiroshima and Nagasaki put an abrupt end to World War II, serves only to highlight their peculiarly effective properties as instruments of mass destruction. The deterrent effects of fear, however, have not prevented the detonation of an increasing number of nuclear devices over the years in test explosions, both for the purpose of improving nuclear armaments and for assuring the military establishment of their stockpiles. It is the extent and magnitude of nuclear testing which has come to be taken as the outward and visible sign—a kind of barometer—of the nuclear arms race.

The problem of containing or controlling atomic energy has been complicated moreover by the dual purpose to which this revolutionary material force can be put. Peaceful applications involve not only controlled nuclear reaction for the release of energy for power and the use of isotopes for medical, agricultural and industrial research, but also the potential use of nuclear explosions for major construction projects involving the moving of large masses of earth, such as canal building, the changing of river courses or the release of fossil fuel from underground sources. Thus the problem of controlling the atom for peaceful purposes involves not only putting restraints on the diversion of this energy for military purposes, including the testing of nuclear weapons, but also providing for its peaceful applications under adequate international controls.

Because of Canada's location and its position as a major supplier of the world's uranium—the substance essential for the peaceful and military uses of atomic energy—and also because of Canadian participation in atomic research during the Second World War, Canada was, with the United Kingdom and the United States, at the forefront of atomic research and development from the early 1940's. From the start, the Canadian Government also sought the conclusion of atomic power, and to "ensure its use only for peaceful purposes."

Soon after the atomic bomb was dropped on Hiroshima and Nagasaki by the United States in 1945, Mr. King, the Canadian Prime Minister, Mr. Attlee, then Prime Minister of the United Kingdom, and President Truman—representing the three countries which possessed the knowledge essential to the use of atomic energy—proclaimed in Washington on November 15 an agreed Declaration on Atomic Energy "to prevent the use of atomic energy for destructive purposes" and "to promote the use of recent and future advances in scientific knowledge, particularly in the utilization of atomic energy, for peaceful and humanitarian ends." This was the first major call for disarmament to be made after the Second World War.

The three heads of government agreed not to share with other members of the infant United Nations detailed information concerning the possible peaceful applications of atomic energy, until "effective and enforceable safeguards against its use for destructive purposes," i.e. effective international control, could be devised. Mr. King pointed out soon afterward in the House of Commons that it would be an error "to contemplate the control of the use of atomic energy in commodity and police terms, as if atomic energy were some new and dangerous drug." The problem was political and could involve a "limited surrender of national sovereignty."

Following up the Declaration of the three western heads of government, the agreement of the Soviet Union was obtained and, at the very first session of the General Assembly of the United Nations, held on January 24, 1946 in London, unanimous approval was given to the establishment of the Atomic Energy Commission (AEC).

On June 14, 1946, at the first meeting of the Commission in New York (the very time that the House of Commons in Ottawa was debating the setting up of the government-controlled Atomic Energy Control Board) Mr. Bernard Baruch outlined his Plan, based on a State Department study on atomic energy (the Acheson-Lilienthal Report), for the creation of an International Atomic Development Authority. He introduced the Plan on a fittingly somber note: the AEC (whose members included the author, who was at that time adviser to General A. G. L. McNaughton, Canadian Representative) was called upon "to make a choice between the quick and the dead." Mr. Baruch proposed that the Authority be entrusted with all stages of the development and use of atomic energy, a move which would, incidentally, have led to the unilateral surrender by the United States of its atomic monopoly in exchange for adequate international assurances against the risks of the diversion of atomic energy to the production of nuclear weapons by the creation, virtually, of an international monopoly.

The Canadian Government gave its support to the purposes and objectives of the "Baruch Plan," as it came to be called. The Soviet Government rejected it despite the element of international socialism it contained, largely because of the elements of international intrusion into national mechanisms of planning and control inherent in it. They proposed in turn, at the second meeting of the AEC (June 19, 1946), the destruction of all atomic weapons, but without any effective international safeguards behind their plan, which the United States accordingly rejected.

It was already evident then that any agreement to curb the development of atomic energy for destructive purposes would have to be sought within the confines of a bipolar pattern of U.S.-Soviet rivalry. In a speech made on March 31, 1950, General McNaughton foresaw the pattern of international politics in which the question of nuclear weapons would be discussed in the two decades which followed, when he said: "The real objective to be sought is to free the world from secrecy in atomic matters and to allay suspicions by giving a certainty of warning to the world, if any nations should start to prepare for atomic war."

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[5] Later advised the Secretariat they had intended to vote in favour.

[6] Later advised the Secretariat it had intended to abstain.

[7] Later advised the Secretariat it had intended to vote in favour.

[8] Later advised the Secretariat they had intended to abstain.

[9] Later advised the Secretariat they had abstained.

[10] Later advised the Secretariat it had voted in favour.

Is it going too far to say that, in continuing to carry out programs of testing of nuclear weapons, the nuclear powers have been preparing for nuclear war? It is difficult to believe that public opinion can be assured that the world is not running a substantial risk of nuclear disaster while an escalating competition in nuclear arms is explained and excused as being the only way in which peace may be kept by what Churchill called, at the dawn of the Atomic Age, the "balance of terror." It is undoubtedly fear of the precarious balance becoming destabilized which has provided much of the impetus toward the conclusion, in the 1960's, after fifteen years of Cold War stalemate, of the Moscow Partial Test Ban (PTB), the Non-Proliferation Treaty (NPT), and later efforts to achieve a Comprehensive Test Ban (CTB) or at least progress in that direction.

Proliferation of nuclear weapons came not long after the breakdown of the negotiations on the Baruch proposals. The Soviet Union exploded its first atomic bomb late in 1949, thus becoming the second great nuclear power. In October 1952, the United States exploded a thermonuclear device, the world's first; the Soviets followed in August 1953.

An American test carried out on March 1, 1953, on the Bikini Atoll brought to the attention of the world one of the more threatening aspects of nuclear experimentation: radioactivity, in the form of "fallout," the invisible menace whose first victims were some unsuspecting Japanese sailors aboard the fishing boat "Fukurya Maru."

Canada was in the vanguard of the pressure mounted throughout the world by public opinion against the potential dangers of atmospheric pollution, through radioactive fallout, to foodstuffs and health. In 1955, the General Assembly set up the United Nations Scientific Committee on the Effects of Atomic Radiation to carry out an extensive fallout monitoring program. Monthly reports from air, precipitation and milk samples, together with the results of the examination of water, soil and human bone samples, are sent to the Committee for its study of the problem of preventing radioactive contamination, an undertaking of continuing importance in an environmental context, especially.

The fear aroused in the minds of people everywhere concerning the risks of radioactive fallout gave an impetus to the first efforts to contain or arrest nuclear testing, as well, of course, as the deeper fear of nuclear catastrophes resulting from accidental war involving nuclear powers. Indeed, as is declared in the "Year Book of World Armament and Disarmament" 1968–69, published by the Stockholm International Peace Research Institute, "there are reasons for thinking that the total number of accidents involving nuclear weapons systems is significantly higher than the number officially announced."

Furthermore, the same report records that "even 'contained' underground nuclear explosions release their gaseous radioactive products in the atmosphere," and that between the signing of the Partial Test Ban in 1963 and the middle of 1969, at least nineteen underground nuclear tests, the majority being weapons tests, had vented into the atmosphere. The Canadian Minister of the Environment, the Honourable Jack Davis, drew attention in the House of Commons on October 15, 1971, to the fact that—

"Pollution effects have resulted from previous underground blasts. More than one in four of the underground blasts in the United States have resulted in venting—in other words, in the loss of radioactive material from below ground to the atmosphere. Statistics over the past 25 years covering some 230 underground blasts in the continental United States show that 67 have vented, some to a lesser extent, some to a greater extent."

There are three international treaties that seek to put restraints on nuclear weapons. The Treaty of Tlatelolco, regional in effect and signed on February 14, 1967 in Mexico City, establishes a nuclear-free zone in Latin America (including the prohibition of nuclear weapons testing), sets up an international agency to ensure compliance with the treaty and provides for the development of peaceful uses of atomic energy. The two other international treaties which aim at the containment of nuclear weapons deal with nuclear testing and the dissemination of nuclear weapons to states not yet possessing them, i.e. the Moscow Partial Test Ban of 1963 and the Non-Proliferation Treaty of 1968. They were intended to be global in application, but have so far been only partial in their effects.

"Arms control measures" was the term already being applied to collateral measures of restricted scope when the Geneva Disarmament Conference first started dealing in mid-1962 with the prohibition of nuclear weapons testing. Such prohibition had been urged at the United Nations General Assembly since 1955, and the nuclear powers had been considering it since 1958. In March 1962 the Eighteen Nation Disarmament Committee set up a Sub-Committee made up of the USSR, the United States and the United Kingdom to negotiate a test ban.

The problem of verification bedeviled the issue from the very start. The Soviets rejected international inspection of national territory. The United States and the United Kingdom submitted two alternate propositions: a draft treaty providing for a test ban in all environments and a quota of on-site inspections in cases of underground tests; the other proposing a partial test ban only in the three non-controversial environments (the atmosphere, outer space and underwater) without international verification. The latter was to be a first step for as long as the Soviet Union opposed compulsory on-site inspection in the comprehensive treaty. As for the partial ban, the Soviet Union at first rejected it on the grounds that it excluded underground tests, but were prepared to consider it if a voluntary moratorium on tests could be agreed upon, pending a comprehensive ban on testing.

Then as a possible basis of compromise to resolve the deadlock on the verification issue the Soviets proposed the use of "black boxes" (automatic seismic stations), two or three of which could be established on the territories of each of the nuclear powers. These boxes would be taken to an international commission for analysis. The United States held that this idea, positive though it might be, could not rule out the need for some on-site inspection. Deadlock continued and the Subcommittee of the three nuclear powers ceased to function.

The Canadian position has been to aim at the ending of all nuclear weapons tests, so long as the ban could be verified and applied equally to all nuclear powers. General Burns, Canadian Representative to the Eighteen Nation Disarmament Committee, on December 3, 1962, stated the Canadian position as follows:

"As for a preliminary treaty, one banning those tests in the three environments which both sides now recognize present no verification problems, the Canadian Delegation cannot see why the single outstanding difficulty concerning whether or not such a limited ban must include a formal understanding on underground tests should present an insuperable barrier. If both sides genuinely want to halt testing and show goodwill, diplomatic ingenuity can surely devise an acceptable method of permitting an early conclusion of a treaty to ban atmospheric, outer space and under water tests. That would create a favourable climate for the subsequent extension of treaty commitments to comprise the cessation of every kind of test everywhere."

In meetings between February and July 1963, the ENDC discussed a nucelar test ban in all environments, including the consideration of "black boxes" and a limited quota of on-site inspections as possible ways to a compromise on the verification issue. But no agreement could be reached. Then suddenly on July 2, Mr. Khrushchev announced that the USSR would sign a partial ban covering the three non-controversial environments; an underground test ban was impossible since the U.S. and U.K. insistence on on-site inspections clashed with the Soviet rejection of them. Talks began in Moscow on July 15 with the Soviets dropping their earlier insistence on a voluntary moratorium on underground testing. The Moscow Partial Test Ban Treaty was signed by the Foreign Ministers of the USSR, United States and United Kingdom on August 5, 1963.

The Partial Test Ban Treaty contains a basic obligation of great importance. Significantly, in the preamble, the parties declare they are "seeking to achieve the discontinuance of *all* test explosions of nuclear weapons for *all time*, determined to continue negotiations to this end." Operative Article I also states that the parties "seek to achieve" the conclusion of a Comprehensive Test Ban Further, Article I, besides banning tests in the non-controversial environments, prohibits those "in any other environment, *if such explosion causes radioactive debris* to be present *outside* the territorial limits of the state under whose jurisdiction or control such explosion is conducted."

The Partial Test Ban is not partial only because it is limited in effect to three environments; it is partial also because France and the People's Republic of China have never adhered to it and both continue to test nuclear devices in the atmosphere, in face of international disapproval and despite the hazards of radioactive fallout which others have to suffer as a result.

The halting of the nuclear arms race involves not only a halt in the competition in nuclear arms between the existing nuclear weapons powers, of which nuclear weapons testing is the main symptom, but also the prevention of a situation in which control or acquisition of nuclear weapons should pass to non-nuclear countries. The two issues are closely linked.

Negotiations toward halting the dissemination of nuclear weapons to powers not possessing them, an idea approved unanimously within the General Assembly of 1961, did not start seriously until 1964 and 1965, by which time the United States and USSR had come to recognize that such an agreement might serve their own interests in preserving the status quo. Canada favored the negotiation of such an agreement in the Eighteen Nation Disarmament Committee. The position of the Canadian Government on dissemination or proliferation of nuclear weapons was set out by General Burns at the Geneva Conference on July 23, 1964:

"Canada is formally opposed to any further increase in the number of states having nuclear weapons in their arsenals and having the independent power to use those weapons on their own decision. In order to prevent any further increase in the number of countries in that category, we consider that it is urgent to conclude an appropriate international agreement on nondissemination which would be binding on nuclear and non-nuclear states alike."

The March 1964 White Paper from the Canadian Government described Canada's status *vis-a-vis* "the nuclear club" in unambiguous terms, viz.: "There never has been any serious question of Canada becoming a member of the nuclear club—that is, one of those nations which by its own national decision can launch nuclear weapons. This ability could only be obtained by the national manufacture of nuclear weapons. It is not contemplated."

The line that Canada followed all along was that such a nonproliferation of weapons treaty was not an end in itself but, as General Burns stated in Geneva on January 18, 1968, would put the Committee in "an excellent position to attack the more substantive problem of the control and reduction of existing nuclear arsenals."

Article I of the Non-Proliferation Treaty (NPT) signed on July 1, 1968, as finally agreed, states:

"Each nuclear weapon State Party to this Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices."

The phrase "other nuclear explosive devices" was inserted to preclude the possibility of a party developing a nuclear explosive device under the guise of devices for peaceful purposes. Canada, while realizing the potential value of peaceful nuclear explosions, has persistently pointed out, as did other representatives, that such explosions cannot be distinguished in technology from nuclear weapons tests. Prime Minister Trudeau, in New Delhi on January 12, 1971, clearly expressed the Canadian stand:

"Our position, as you know, is the one of NPT that there is no distinction between peaceful atomic explosions and nuclear bombs, that the country that develops one has the wherewithal to explode the other, and for that reason, we are against the use of atomic devices for peaceful explosion as it were and we adhere to the NPT trend of thinking that there should be an international agency developed which would put its know-how, its technology, at the disposal of countries who would want to explode nuclear bombs for peaceful purposes, for engineering, or moving mountains and so on. But it is fraught with dangers, the technology isn't advanced and the dangers of fallout and pollution are great."

That peaceful explosions are indistinguishable from weapons tests was also confirmed in the report on the effective uses of nuclear weapons of a panel of nuclear scientists convened by the United Nations Secretary-General.

Article VI of the Non-Proliferation Treaty, which Canada worked to have included in the final text, clearly placed an obligation on the nuclear powers to accept effective restraints on their arms race and on the competition in the improvement of their own nuclear weapons, as a necessary corollary to the self-denying ordinance on the acquisition of nuclear weapons accepted by the non-nuclear signatories of the Treaty. The Article reads as follows:

"Each of the Parties to the Treaty undertakes to pursue negotiations in good faith of effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament and on a treaty on general and complete disarmament under strict and effective international control."

Disarmament to be dynamic requires long-term objectives and continuing effort, through negotiations, to attain these objectives. No objective in disarmament is more important than the stabilizing and ending of the nuclear arms race. Canada has played a major role over the last few years in trying to break the deadlock over verification which has bedeviled the test ban issue, through the development of international cooperation on the seismological detection of underground events, and on their identification, i.e. distinguishing them from natural earthquakes. Negotiations have been stalled, however, since 1963—the U.S. Government insisting that on-site inspection is necessary, the USSR Government rejecting this and insisting that detection by "national means" only would provide sufficient guarantees of compliance with the terms of the Comprehensive Test Ban.

Since the mid-1960's, in the Eighteen Nation Disarmament Committee (now enlarged to twenty-six and known as the Conference of the Committee on Disarmament) and in the General Assembly, various suggestions have been put forward to resolve this "verification gap." Among the most important have been: (a) the Swedish Delegation's proposal of 1965 for the creation of a "Detection Club" to promote international cooperation in the exchange of seismic data; (b) the U.A.R. suggestion for a threshold together with a moratorium on underground testing below this level; (c) the system for "verification by challenge" put forward by the Swedish Delegation in 1966 and embodied in their draft Comprehensive Test Ban first submitted in 1969; (d) the U.K. suggestion that a treaty once agreed upon should be implemented progressively through a descending annual quota of underground test explosions, the scale descending to nil in a period of four or five years; and (e) the Canadian effort to establish improved methods for the verification of an underground test ban, through an international seismic data exchange.

The resources of both Canadian diplomacy and seismological research have been directed toward the ending of nuclear testing in all environments. As far back as 1962 the then Department of Mines and Resources set up seismographic stations designed to improve techniques for identification and detection of underground events and has established Canada in the van of international seismological cooperation.

At Geneva, and at the General Assembly of the United Nations in New York, the Canadian Delegation submitted a proposal in 1969 that a request be made to governments by the United Nations Secretary-General for the provision of information to facilitate the achievement of a Comprehensive Test Ban, information which would amount in effect to a list of all seismic stations in a country from which that country "would be prepared to supply records on the basis of a guarantee of availability." This proposal was adopted on October 16, 1969. The Warsaw Pact countries, however, rejected the Resolution on the ground that any compulsory exchange of seismological data must be accompanied by an acceptance that national means of detection, alone, sufficed to ensure compliance with an underground test ban.

More than half the membership of the United Nations responded favorably last year to this Canadian initiative and informed the Secretary-General about the quantity and quality of seismological data they would be willing to supply from their seismic stations. It was on the basis of this new "hard" data that Canadian experts prepared further extensive original studies of current capabilities in the seismological detection, location and identification of underground tests, which have been tabled in the Conference of the Committee on Disarmament.

As a result of this improvement in scientific techniques aiming at the positive identification of underground tests, the latest Canadian studies show that there can be a reasonable certainty of identification down to a magnitude of 20 kilotons in hard rock in Eurasia. Even more important, the Canadian study indicates that, with regard to smaller explosions, relatively simple, economical steps can be taken to lower this technical identification threshold to at least between 5 and 10 kilotons in hard rock for the northern hemisphere, where all known underground test sites are located. Granted, it may never be possible to detect and identify all underground nuclear explosions of smaller yield by seismological means alone. Nevertheless, the Canadian studies have helped to demonstrate that very effective identification by seismological means is potentially within the reach of the existing network of stations, covering at least the spectrum of underground nuclear explosion yields relating to the testing of what are usually classified as "strategic nuclear weapons" and even down to the low intermediate yield range.

Since the difference between the positions of the United States and the USSR appears to be primarily military-political, rather than technical in nature, must we simply wait for some technical breakthrough in the seismic field to solve the CTB problem? Satellite surveillance is another means of contributing to vertification and, as *supra*, compromise ideas have been advanced. A combination of the "Detection Club" idea (i.e. the pooling of seismological data) together with "verification by challenge" (i.e. no provision for any obligatory on-site inspection as a prime condition to agreement, but an agreement that a party could challenge another to permit an on-site inspection of an allegedly suspicious event and, if the challenge were denied, could withdraw from the agreement), might be a possible way to resolve the political problem, particularly if it is accepted that the residual risk of evasions of a test ban at very low yield levels could have very limited security implications.

Meanwhile, Canada has taken the initiative in urging the superpowers to take some interim or transitional measures to reinforce the Partial Test Ban of 1963, to prevent the situation from deteriorating further while efforts are carried on to end, through a Comprehensive Test Ban, continuing nuclear testing. In particular, the Canadian proposal to the Conference of the Committee on Disarmament of April 6, 1971, called on the two major testing powers to undertake, either separately or on the basis of a bilateral understanding, some or all of the following steps: (a) to disclose dates concerning underground explosions so that existing monitoring facilities could be more easily tested and improved; (b) as an earnest of their good faith in working toward a comprehensive test ban, to begin as soon as possible to scale down their underground testing programs beginning with high-yield testing that can be readily identified, and working downwards; (c) to take special measures to guard against environmental risks connected with testing; and (d) to undertake to cooperate in the use, development and improvement of facilities for the monitoring of underground tests by seismological means.

Although the USSR undertook to study our proposals carefully, they rejected suggestion (a) above on the curious ground that it would facilitate the leak of military information and endanger security (a contention inconsistent with the Soviet claim that other countries' "national means" are adequate to provide them with this same information). To all the transitional Canadian proposals, the United States has so far not offered any response. Present public indications are, however, that they are not prepared to give up their insistence on on-site inspection for the verification of a CTB, and that the Soviet Union is not about to change its position concerning reliance on national means of identification only. The rest of us in the CCD seem to be participating in a dialogue of the deaf. In an attempt to break the spell of the "all or nothing" dilemma, the Secretary of State for External Affairs of Canada, the Honourable Mitchell Sharp, appealed for prompt, interim action by the nuclear testing powers when he said to the Conference of the Committee on Disarmament on September 7, 1971: "Until this (i.e. a Comprehensive Test Ban) can be achieved, we believe that all members of the United Nations would wish to appeal to those governments that are conducting nuclear tests to put restraints on the size as well as the number of tests they are now carrying out, and announce such restraints. This is a simple concept that does not involve any complications."

Since the early 1960's, while the negotiations have remained deadlocked, there has in fact been a steady increase in the rate and magnitude of U.S. and Soviet underground nuclear weapons testing (according to the figures of the Stockholm International Peace Research Institute, a total of 285 from October 1963 to July 1970, compared to 475 in 15 years up to October 1963) as well as continued testing in the atmosphere, with its greater risk of radioactive contamination, by France and China. As the risk becomes increasingly evident that the Partial Test Ban will be rendered meaningless, the need for a Comprehensive Test Ban becomes correspondingly greater. Canada continues to press for the consideration and acceptance of the transitional measures we have suggested together with any other restraints on testing that may gain general acceptability—pending the resolution of the strategic political issues between the nuclear testing powers, which lie at the root of the present impasse.

The choice that confronts us all is between the risks inherent in a CTB, compliance with which can be verified up to a percentage bound to be something less than 100%, or the increasing risks inherent in a continued nuclear weapons race, involving as well the risks of further additions to the "nuclear weapons club," if the existing nuclear powers fail to set an example in nuclear restraint.

No seismic verification—and no on-site inspection system of itself for that matter—can guarantee that all violations of a test ban could be detected. What is necessary is that the parties to a test ban should have a sufficiently higher degree of confidence in their abilities to detect violations to the ban, than the violator in his ability to escape detection. For an important deterrent against violation is obviously the risk of being detected, rather than a 100% certainty of identifying all underground events, together with the knowledge that the violator would face condemnation as well as the termination of the test ban, and the resumption of the nuclear arms race.

While the differing positions on verification procedures between the United States and the USSR are advanced as the main reason for the failure to conclude a Comprehensive Test Ban, despite the avowed acceptance of this aim by both governments, it is becoming increasingly clear that the nuclear-weapons states apparently continue to believe that their security interests are best served by further nuclear testing.

Overriding security interests have been advanced by the United States as reasons for continuing its nuclear weapons tests, including the recent high-yield test on Amchitka Island. Nuclear weapons tests by the Soviet Union have been proceeding concurrently, including one major explosion recorded on September 27, 1971, of between 3 to 6 megatons at Novaya Zemlya (according to U.S. authorities). While other testing powers are intent to guarantee the continued reliability of existing weapons, or to develop or improve advanced weapons, it still remains to be considered whether the future security interests of any nuclear state can be safeguarded more effectively through testing than through an international agreement prohibiting tests in all environments, so long as a reasonable deterrent against violations exists.

Three factors—the attainment of approximate strategic parity between the United States and the USSR, progress in the ability to monitor underground events by seismic and other means, and the dangers if the further proliferation of weapons to non-nuclear states should be allowed to gather momentum—all point to the urgent need for renewed efforts for the early conclusion of a treaty banning nuclear testing in all environments.

President Nixon recognized the new strategic relationship between the United States and the USSR when at his news conference on October 12, referring to his proposed visit to Moscow next May, he stated:

"I think we can both agree that neither major power can get a decisive advantage over the other, an advantage which would enable it to launch a preemptive strike which might enable it to engage in international blackmail. It is because we have reached the point that the competition in terms of escalating arms race cannot gain an advantage."

If both superpowers accept the condition of mutual deterrence which traditionally has been advanced as a justification for continuing testing of nuclear warheads, why would it not be that a Comprehensive Test Ban, which in effect curtailed efforts to upset the current rough strategic balance, would be preferable to continuing destabilizing advances, involving further nuclear testing? The main value of a CTB would be precisely the reduction of the suspicion that significant destabilizing progress was being made by the other side.

If the maintenance of the reliability of existing nuclear stockpiles is advanced as the rationale for continued testing, is it not the case that when nuclear arsenals are as large and as varied as those of the United States and the USSR, even some uncertainty regarding the reliability of a portion of the weapons constituting the nuclear deterrent would hardly jeopardize the condition of mutual "assured destruction capacity," resting on different strategic weapons systems, which is the key to mutual deterrence.

There is the further important consideration to be borne in mind that world peace and security may be further endangered if nuclear weapons were to proliferate beyond the existing nuclear powers which, with the inclusion of China among the Permanent Members of the Security Council, provides a natural plateau from which to try to prevent the breakdown of the Non-Proliferation Treaty.

The Secretary of State for External Affairs indicated the connection of nuclear testing with the NPT in his statement in the House of Commons on October 15, 1971, when he called upon the superpowers to fulfill the formal Treaty obligations to which the NPT binds them in Article VI. The Minister said:

"Unless the two major nuclear powers are willing to accept effective restraints on their arms race and on the competition in the improvement of their own nuclear weapons—as they are committed to do under Article VI of the Non-Proliferation Treaty—they cannot expect the two less highly developed nuclear powers, France and China, and the so-called 'near nuclear powers,' to accept or respect the restraints of the Non-Proliferation agreement which the USA and the USSR sponsored. That France and China should adhere to the Moscow Partial Test Ban Treaty is of the greatest importance, since it is the tests they are carrying out in the atmosphere that pose the major threat of radioactive contamination of the world environment.

"The problem of verification is not yet completely solved, and the achievement of an underground test ban will take time. Until this can be achieved, both major powers should institute immediate mutual restraints to reduce the size and number of underground tests, starting with high-yield tests like the Soviet explosion of September 27 and the proposed USA test on Amchitka Island this fall. Such measures would present no insurmountable problems of verification."

If even the modest restraints suggested by Canada on nuclear testing cannot be accepted and followed up, how can the two superpowers, party to the Non-Proliferation Treaty of 1968, claim to be fulfilling either its injunction concerning the cessation (and not just the curtailing) of the nuclear arms race or the Partial Test Ban Treaty of 1963? One thing is clear: if the NPT breaks down, the nuclear balance of fear and deterrence would be disturbed and the effects of this are likely to come into play in the politically "hottest" international areas. Military and political destabilization and increasing world tensions would be the sure results, if the NPT is not rendered viable.

A treaty banning nuclear in all environments would in itself constitute a very important potential restraint on the horizontal proliferation of nuclear weapons. It would also serve to strengthen the non-proliferation system contained in the NPT. For the NPT involves not only a self-denying pledge from the non-nuclear states, but also a promise by the nuclear powers to undertake serious nuclear disarmament negotiations to end the nuclear arms race. Through SALT the United States and the USSR are in fact seeking to carry out their part of the bargain, so far with no measurable success. The prohibition on testing would be a major step toward halting the proliferation of nuclear weapons through further sophistication and qualitative improvement and might facilitate a decision by near-nuclear states, who are hesitating to ratify or sign the NPT, to do their share in stopping "horizontal" proliferation through the acquisition of nuclear weapons by non-nuclear powers. It is certain that if the testing by nuclear power continues, the future viability of the NPT will be jeopardized.

Thus weighing the risks and the benefits, it seems clear that the time has come for serious negotiations to begin immediately to place further restraints on or to end nuclear testing. To bridge the verification gap, an agreement which combines national monitoring facilities and international seismic data exchange, perhaps a system of verification by challenge or inspection by invitation, and supplemented possibly by provision for a few obligatory on-site inspections, could constitute sufficient deterrence to any would-be violator.

If national security continues to be advanced as the main justification for the alternative course of continuing the nuclear arms race and nuclear testing, it is legitimate to ask "How much national security is enough?" So much "over-kill" capacity is already available to both superpowers that the greater magnitude or efficiency in the nuclear arsenals of either power could hardly add to their respective deterrent capacities. Now, not later, is the time to call for a halt to "over-measures" in creating further nuclear over-kill and start the journey, so much more hopeful for peace, toward the fulfillment of the Non-Proliferation Treaty and the "discontinuation of all test explosions of nuclear weapons for all times."

HELP YOUNG AMERICA WEEK

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. BEGICH. Mr. Speaker, five of the leading youth groups in America have united in a major campaign to help reach their current goals. These groups, the

Boy Scouts of America, Girl Scouts of the U.S.A., Boys' Clubs of America, Girls' Clubs of America, and the Camp Fire Girls, have a combined membership of more than 9 million and will share in a quarter-million dollar Help Young America Fund.

Gov. William A. Egan has officially proclaimed February 21–27, 1972 as Help Young America Week in Alaska. This proclamation is part of the effort to bring the needs and goals of these young people to the attention of American citizens. I join with Governor Egan in his recognition of this fine program and would include his proclamation in the CONGRESSIONAL RECORD for the benefit of my colleagues:

[Proclamation]

HELP YOUNG AMERICA

A National Help Young America Program has been launched as a major campaign to help five of America's leading youth groups reach their current goals.

The Boy Scouts of America, Girl Scouts of the U.S.A., Boys' Clubs of America, Girls' Clubs of America, and the Camp Fire Girls will share in a quarter-million-dollar Help Young America Fund following a national vote to be conducted in early 1972. These groups have a combined membership of more than nine million.

The Help Young America Program marks the first time that these five leading youth groups have united in a single youth promotion campaign, and it initiates a unique, cooperative effort between American business and American youth. The goals of the Help Young America Program are to help our young people to help themselves and to bring their needs and aims to the attention of all America.

The Help Young America Program will be officially launched in Alaska during the week of February 21, and it is fitting that recognition be given by the general public to this week.

Therefore, I, William A. Egan, Governor of Alaska, do hereby proclaim the week of February 21–27, 1972, as Help Young America Week in Alaska and urge that appropriate programs be observed by all citizens of Alaska.

Dated this 14th day of February, 1972.

WILLIAM A. EGAN,
Governor.

DOES ANYONE CRY OVER ABORTIONS?

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. HOGAN. Mr. Speaker, "abortion" is a term which has been used increasingly glibly during the past few years, and it often seems that people toss the term about without ever taking into consideration what it really means.

A letter written to the editors of the Washington Post reassures me that there are people who realize that abortion means the tragic death of a tiny unborn human being and who are truly saddened by the idea and the fact of abortion. Mr. Speaker, I insert Patricia Stafford Broderick's letter into the RECORD at this point.

The letter follows:

DOES ANYONE CRY?

You published on your front page the news that 20,000 abortions were performed in D.C. in 1971. I realize that these are statistics, arrays of numbers like 10 groups of 1,000 little black balls in a counting ledger, that we must treat cooly and objectively like scientists for the good of society. After all, respected scientists and statisticians have told us that overpopulation poses a threat to all of us.

I would like to ask one question though—does anyone cry? Do the babies cry? Do the deciding parents ever cry? Do the medical helpers cry? Do the reporters, or statisticians or typists? Does anyone cry at this news? Do funeral people, or toy salesmen or school teachers?

I remember some years ago that it was unnerving and strange when the 5-year-old daughter of a friend caught her fingers in a door and did not cry. A few years later we learned the reason why: the child was brain-damaged. I also remember a number of years ago during a flu season such as we are having now, one of our neighbors' children, a toddler, died—evidently from becoming dehydrated while sick. There was a sadness over the whole neighborhood then, even though we hardly knew the people. And I believe everyone was glad when that woman had another baby to replace the one she'd lost.

Now we are still affected by news of deaths in airline crashes and Vietnam casualties, aren't we? We don't think we're morose or demented—we'll laugh as quick as anyone at Flip Wilson or Bob Hope. But have the people in the Washington area changed so much in 10 years? At the news of 20,000 abortions in Washington in 1971, does anyone cry?

PATRICIA STAFFORD BRODERICK.

ENERGY AND THE ENVIRONMENT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. CRANE. Mr. Speaker, in recent days there has been much discussion about a growing "crisis" in the environment.

Some critics have even advanced the view that in order to protect the air, the water, and the quality of life, we should pursue a policy of zero economic growth. We should, in other words, cut back our material consumption and production, and satisfy ourselves with a lower standard of living.

Our Nation's energy consumption, for example, will double in the next 15 years and our domestic capability for this period will have to be expanded to meet it. If we do not develop nuclear power, our oil and natural gas resources will have to carry the load at the very time when our own resources in this area are about to peak.

Yet, some argue that energy despoils the environment and that rather than seeking to fulfill the energy needs of our people we should not increase the supply but should, somehow, curtail the demand.

The idea of "zero economic growth" sounds appealing to some ecologists, but upon even a perfunctory examination it becomes clear that such an approach would cause far more problems than it would solve.

Speaking before the Houston Club Men's Forum, Harry Bridges, president of the Shell Oil Co., noted:

> It seems ironic that a zero-growth philosophy should surface now, when as a recent Gallup Poll reported, public concern over economic problems is greater than at any time since the jobless years of the Thirties . . . In the 15 years between 1950 and 1965, our nation's labor force increased by 12 million. It took an average increase in Real Gross National Product of 3¾ per cent to provide jobs for these new workers. By comparison, 23 million people will enter the labor market between 1970 and 1985; and, assuming that there is the same rise in productivity as we experienced between 1950 and 1965, it will take an annual increase in Real Gross National Product of 4¼ per cent just to keep unemployment at the current level.

Those who advance the idea of zero economic growth have not considered the impact of such a policy upon the tens of thousands who would find themselves unemployed as a result. Mr. Bridges points out that—

> What the advocates of such a philosophy seem to minimize is that these people are going to need the jobs and goods and services that industry provides. And there is no indication that today's children are willing to settle for anything less than what their parents enjoyed.

Mr. Bridges expresses the view that—

> Advocating zero population growth also means telling the disadvantaged members of our society, who strive for a better way of life, that their goals are unattainable. This seems to be a real indifference to the very material needs of millions of Americans who have not yet achieved even an average share.

Since Americans want both a healthy and decent environment and a decent standard of living as well, it is clear that the policy being urged is one which takes both of these goals into consideration. Thus, it is not a policy of "either" meeting our energy requirements "or" meeting our environmental needs. It is a question of compromise.

In this regard, Mr. Bridges points out that—

> The only answer . . . is compromise. This is not the time for two sides to square off . . . It is, instead, a time when we must work toward an acceptable trade-off between energy and the environment. We must proceed to the best of our abilities, even knowing full well that our best today will not be good enough by tomorrow's standards.

I wish to share Mr. Bridges' thoughts with my colleagues, and insert in the RECORD the text of his talk before the Houston Club Men's Forum in Houston, Tex., on November 30, 1971:

ENERGY AND THE ENVIRONMENT * * * NOT EITHER/OR—BUT BOTH

(By Harry Bridges)

My subject today—energy and the environment—is no stranger to the podium. It has become a national issue and as such it has been examined, dissected, poked into and expounded upon with increasing frequency in recent months. I feel fortunate that this particular audience differs from most in its expertise and appreciation for the fundamentals of the subject. Accordingly, I don't believe it necessary for me to trace step-by-step those factors which have lifted the subject of energy to one of national interest and debate.

Let me only say that Shell's forecast agrees with the industry and government leaders who project that our nation's energy consumption will double in the next 15 years and that our domestic supply capability for this period is less than comforting under present conditions.

We also agree that the lag in development of nuclear power means that oil and natural gas—which now provide three-fourths of our total energy—will continue to carry the major portion of the burden in the foreseeable future. We agree that while oil and natural gas production is about to peak in this country, there are considerable resources left to be tapped. It is estimated that there is as much oil and gas left unfound as we have already discovered. It just happens to be better hidden and tougher and more expensive to reach.

We would dispute the concept, however, that increasing our economic and energy growth means we must necessarily endanger our quality of life. Or that the search for and the development of raw materials to meet the demands means we must relinquish our hopes of a clean environment.

Admittedly, there are those who have these fears. And recently they have become increasingly vocal.

These concerned people are not quarreling with the mathematics of the energy demand projections. They quarrel instead with the premises of the forecasts, the lens through which any glance into the future must be viewed. They see a doubling of our energy consumption by 1985 as a serious threat to our environment and quality of life. "This must not be," they say. "The premises must be changed."

THE WHAT-IF'S

These people have filled the air with "what if's." What if, they say, we can slow down the population growth? What if we increase mass transit? What if we turn to electric cars? What if we limit economic growth?

Today I would like to examine with you some of these "what if's" being advanced by those who suggest changing society's patterns.

I will be concentrating on the demand side of the ledger, so for the purpose of today's talk, let's assume that whatever the future consumption rate, there will be, from somewhere, an adequate and environmentally compatible supply of fuels. Certainly there are enough questions about supply to make it a separate discussion, one which I won't try to get into today.

While I will be focusing today upon the U.S., keep in mind that you have only to magnify the problems to get a fairly clear view of the world situation. The world's energy consumption is growing even faster than that of the United States.

Also keep in mind that consumption could be drastically reduced if our government imposed energy rationing. Our projection, however, is based on our belief that energy consumption will be primarily dictated by supply and demand with only minor changes in the amount of government intervention.

Now let's look at the "what if's".

Certainly there is no factor more basic to the overall problem than population. All energy consumption—and environmental problems—are directly related to people. Quite predictable, then, there is a concerned segment of society which is advocating a slowdown in our nation's population growth. Others say a slowdown isn't enough and seek "zero population growth"—meaning, I presume, a birth rate which would keep our numbers constant, with no growth. "Stop the population growth," they say, "and you can change the energy demand picture."

Let's examine this a little more closely. U.S. Census Bureau forecasts indicate that the U.S. population will increase 17 percent by 1985. An increase of about 36 million people. This is the lowest of the Bureau of Census estimates and is based on a fertility rate of 2.45 children per female of childbearing age. At the same time, you will remember, government and industry are forecasting that energy consumption will double by 1985. Why the disproportion?

PRODUCTS OF THE BABY BOOM

It is simple, really. Among the few things we know for sure about America's near future are a few facts about its population. We know that the people who are going to drastically affect the energy demands between now and 1985 are already born. They are the products of the baby boom of the late Forties and early Fifties. You undoubtedly are already aware of this boom, having watched your school taxes skyrocket as these youngsters progressed through the early stages of their education. Now they are starting to make a similar impact on the energy situation. As they move into the 25 to 35-year-old age bracket they will be buying their first homes, their first new cars and will be starting families of their own. In short, they will be consuming more energy.

It is true that for a variety of still-emerging social, economic and other reasons, it now looks like these young people may not maintain the birth rate that was first expected. Birth rate figures for the first half of 1971, for example, show a significant drop from the 2.45 rate. The rate in fact has been 2.19.

Whether this drop in the birth rate is temporary will only be answered by time, of course. It is an important question. The next 15 years are crucial to long-term population trends as the baby boom children come of age and begin their families. But even if the birth rate were to slump immediately to 2.11 children per female—the rate zero-population growth advocates seek since it would amount to the replacement of parents plus a little extra to make up for the child mortality rate—population growth would not stop until about the middle of the next century.

ZERO POPULATION GROWTH NOT THE ANSWER

We could reach zero population growth more rapidly by ending all immigration tomorrow and having the fertility rate drop substantially below the replacement level for each of the next 14 years. This obviously unlikely occurrence would stabilize our population at 230 million in 1985. But is this the answer to the energy demand problem? Hardly.

Our forecast currently projects a population of 240 million in 1985. Energy consumption is projected at the equivalent of 62 million barrels of crude oil per day. But even if we could somehow attain zero-population growth by 1985, we would still have an energy demand of 59 million barrels per day. That's only a 4-percent decrease from our original projection.

The reason for this is simple. Increased use of energy per capita—spurred by the maturing of the products of the baby boom and the continuing development of the underprivileged segments of society—will have a far greater effect on energy demands than will population growth.

Clearly then, while population is a key to the long-term energy consumption rates, it will have little or no effect on our forecasts for the next 15 to 20 years. Per capita increase in consumption of energy is a much more influential factor.

Whatever our population in the future, there is every indication that we will continue to be a highly mobile society. Transportation, as a result, will continue to be a major energy market. Therefore, one way to dramatically reduce our energy demands would be to curtail our consumption of gasoline. Little wonder then there are those advocating the rapid development of the electric cars as a way of easing the energy problem.

Unfortunately, there are two reasons why this isn't the answer.

EFFECT OF ELECTRIC CARS

First, it is unlikely that electric cars will make any sort of significant impact between now and 1985. Several major car manufacturers—including Ford and General Motors—are working on electric prototypes. Both report progress as being painfully slow. The development of an efficient battery power source is the major problem. There will be continued research in this area, we are sure. However, since the internal combustion engine has been given until 1976 to meet the next stringent reduction in air pollution emission standards, we see no great emphasis toward electric cars at least until then.

Shell now estimates—and ours is a high-side estimate—that there will be about 5 million electric cars on the road by 1985. That represents only about 4 percent of the 125 million vehicles projected to be on our highways by 1985.

But no matter how many electric cars will be used in 1985, it's unlikely that they will result in a reduction of our energy consumption. Remember, an electric car really only substitutes one source of energy for another. It is true that the electric motor itself is far more efficient than the internal combustion engine.

However, when you look at the electric car's system as a whole—from the generating plant which produces the electricity clear down to the car's drive shaft—the system's efficiency is only 20 percent. That's just 4 percent better than the system using the internal combustion engine.

This is because while the electric motor itself is more efficient than the internal combustion engine, two-thirds of the fuel used to generate electricity is lost in heat and waste. In addition, there are significant losses in the transmission of the electricity from the generating plant to the car's recharging stations. There are also losses from the car's storage battery. The equivalent losses in the system feeding the internal combustion engine are much lower. And remember that the marginal increase in power generation will be fossil-fuel fired.

There is every reason to believe that the electric car will ultimately be the prime source of highway travel. But it is clear we won't feel a major impact between now and 1985. And even when the electric car does come into its own, it will not greatly affect energy consumption rates.

MASS TRANSIT'S IMPACT

Many of the people who are advocating the electric car are also pushing for mass transit systems. Anyone who has ever battled his way to and from work on the crowded freeways of a major city will applaud the concept of mass transit. Certainly it is a worthy goal but let's not delude ourselves into believing that it is a cure-all for the energy consumption situation.

Mass transit, as we conceive it now, would affect only intracity transportation. Today, 14 percent of all commuters use public transportation. Commuting accounts for one-fourth of all passenger car usage. Even if mass transit were to double in the next 15 years—which now appears highly unlikely—it would only reduce total auto usage by 4 percent and gasoline consumption by 3 percent. Hardly a significant amount.

You will notice I said it was unlikely that mass transit would double in the next 15 years. Here's why. A few years ago, rail mass transit was seen as the solution to our crowded urban areas but although every major city in the U.S. today is nagged by clogged freeways and crowded downtown streets during peak commuter hours, only two cities have rail mass transit systems under construction. In San Francisco, the Bay Area Rapid Transit system, a system given voter approval 10 years ago, is nearing completion of its first segment. In Washington, D.C. the Metro system is under construction but will take about ten more years to complete. In a third city, Atlanta, voters early this month approved a combined rail and highway mass transit system. Completion is scheduled for 1982. On the other hand, voters in New York and Pittsburgh recently rejected integrated rail and highway transit systems. In the rest of the cities there has been a lot of talk . . . but no action.

But even if every major city were to give approval to a rail mass transit system tomorrow there would be little impact before the mid-1980s. The U.S. Department of Transportation tells us that the minimum lead time needed to plan and build these systems is between 10 and 15 years. The Department of Transportation people now tell us that it is unlikely that many more of the rail mass transit systems will ever be started. Cities are starting to sour on the idea because of the high cost and because of the inability to make these systems attractive enough to lure the commuter out of his car.

It now appears that cities—such as Houston—are, instead, increasing their efforts to make bus service more attractive. Many are reserving both highway and downtown street lanes for buses and generally improving the feeder system schedules. But assuming these systems can double their passenger loads in the next 15 years, we would only lower gasoline consumption about 2 percent.

For the reasons I've just mentioned, it now seems that mass transit systems will have little or no impact on gasoline consumption. There are other advantages of these systems and we may someday see them as the ultimate in intracity travel, but it is doubtful that energy conservation will be the main reason for their existence.

ZERO ECONOMIC GROWTH

So far, I have discussed our nation's population and some of our transportation habits. Americans, by the very nature of our economic system, have another pretty important habit: working for a living.

It seems ironic then that a zero-growth philosophy should surface now, when, as a recent Gallup Poll reported, public concern over economic problems is greater than at any time since the jobless years of the early Thirties. But it has. There is an increasingly vocal minority supporting zero economic growth. It is difficult to define this philosophy since there are almost as many definitions as there are proponents. The basic premise, however, is that industrial and economic growth and the environment and quality of life are not compatible.

Because you are businessmen yourselves, I don't feel it necessary to spell out in detail what a successful zero economic growth movement would mean to our economy. One example will be sufficient, I believe.

In the 15 years between 1950 and 1965, our nation's labor force increased by 12 million. It took an average annual increase in Real Gross National Product of 3¾ percent to provide jobs for these new workers. By comparison, 23 million people will enter the labor market between 1970 and 1985; and, assuming that there is the same rise in productivity as we experienced between 1950 and 1965, it will take an annual increase in Real Gross National Product of 4¼ percent just to keep unemployment at the current level.

With these figures in mind I find the obvious impact of zero economic growth pretty hard to swallow. So will, I'm sure, the portion of our young men and women entering the labor market who find themselves without jobs.

What the advocates of such a philosophy seem to minimize is that these people are going to need the jobs and goods and services that industry provides. And there is no indication that today's children are willing to settle for anything less than what their parents enjoyed. Advocating zero growth also means telling the disadvantaged members of our society, who strive for a better way of life, that their goals are unattainable. This seems to be a real indifference to the very material needs of millions of Americans who have not yet achieved even an average share. Not to mention their intellectual and cultural shares.

That this philosophy is gaining momentum, however, is clearly evident. Communities which once fiercely competed for new industry have suddenly pulled in the welcome mat. As one result, plant siting has become increasingly difficult. We in the petroleum industry have felt the early impact of this movement. Let me cite just a few recent examples.

BASIC FLAW IN ZERO-GROWTH PHILOSOPHY

In South Carolina, a proposed $200-million petrochemical plant that would have provided 650 jobs was turned away. In Maine, Rhode Island and Delaware, conservationists managed to bar construction of much-needed oil refineries. Delaware went so far as to adopt landmark restrictive coastal zoning laws which have precluded Shell's construction of a refinery on Delaware Bay. Almost immediately, the states of Maryland, Georgia, Florida and Washington followed by introducing similar legislation. While the impact of this philosophy has been felt nationwide, much of this zero growth activity has been centered on the East Coast. The logic of this is particularly hard to understand since it is the East that uses 40 percent of the country's oil while it has only 12 percent of the refining capacity.

This points up, I believe, a basic flaw in the zero-growth philosophy. As long as we want the products and energy from oil, we can't expect to keep putting the refinery in someone else's backyard. The requirements of our growing nation cannot be met by a society that is standing still. I don't believe the job of building this country is finished. I don't believe you do either.

One thing you may find hard to believe, however, is that approximately half of the energy in the United States is lost through waste. On the surface, then, it would appear that we can drastically lower our energy requirements through the more efficient use of our fuels. It's an area worthy of intensive effort, but it won't be easy.

There are some areas of obvious waste such as heat lost through poorly insulated homes and lights left burning when they're not needed. Certainly a public education program might help in this area.

There are some not so obvious examples, however.

FACTOR OF EFFICIENCY

Take electricity for example: With today's technology, the best coal-burning power plant can only achieve a 40 percent conversion of the fuel into electricity. This does not include transmission losses which occur en route to the consumer. Great strides have already been made in improving the electrical payoff. In 1900, for example; electrical plants were estimated to be about 5-percent efficient. The experts tell us, however, that the maximum efficiency rate for a conventional electrical power plant, as limited by the Carnot, heat cycle, is about 60 percent. There is heavy funding today in research and development attempting to get us closer to that maximum but progress is going to be slow. We have reached the point of diminishing returns in this area.

Another efficiency problem is the internal combustion engine. On the average the engine and drive system is about 16 percent efficient. There is little reason to believe that the internal combustion engine will ever be made to run more efficiently. There are limits to what technology can do in this area. However, if Americans decided to pack less metal around with them—that is to say, to drive lighter cars—we could certainly increase fuel utilization efficiency and ease the demand for gasoline.

But, the lead time required to implement this would take many years. As an extreme case, let's assume the government decides tomorrow that cars would have to be of the Volkswagen class—2,000 pounds or less in weight, averaging 28 miles per gallon—it would take about 16 years at normal replacement rate to phase out existing models and replace them with smaller cars.

And this would allow us to cut our gasoline consumption in 1985 by 3.1 million barrels per day. But it will be only a 4.5-percent decrease in the overall energy demand.

I think by now my position is clear. I do not believe that any of the so-called alternatives we have discussed today—either separately or collectively—can significantly alter our energy consumption for the next 10 or 15 years. Certainly population growth, mass transit, more efficient utilization of energy, economic growth and improved technology such as electric cars will have a significant effect on the long-range energy picture. But we have been moving toward more energy utilization for quite a while and history tells us that society is slow to change. I cannot believe that we will change our pattern of living overnight. Undoubtedly we will establish new trends, new directions, in the next decade, but as we have seen today, these trends are the keys to a more distant tomorrow than 1985.

SOCIETY WANTS BOTH

However, to assume that our energy demands are indeed going to double by 1985 does not mean we must abandon our hopes for an acceptable environment. It should be, instead, an indication that society wants *both* a plentiful supply of energy and the quality of life provided by a clean environment.

It has been said that the extremes of any issue are seldom right. I think that's particularly true today. The only answer, then, is compromise. This is not the time for two sides to square off, draw a line in the dirt, and dare the other to cross it. It is, instead, a time when we must work toward an acceptable trade-off between energy and the environment. We must proceed to the best of our abilities, even knowing full well that our best today will not be good enough by tomorrow's standards.

Finally, neither side of this issue must delude itself into believing it has the right to choose between energy and the environment. Society has already made that decision. That it wants *both* seems clear. It is now up to us to give the consumers what they want. To try and do less would be to shirk our responsibilities.

LITHUANIA

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. VANDER JAGT. Mr. Speaker, this month many Members of the U.S. Congress will pause to mark the anniversary of the formation of the Lithuanian state in 1251, and the establishment of the modern Republic of Lithuania in 1918. I am proud to share in this annual recognition.

At a time when people throughout the world yearn for peace, and when great diplomatic initiatives are being taken in the name of international harmony and understanding, it is appropriate that we remember the Baltic peoples, who today are locked behind the Iron Curtain. The Free World cannot quietly tolerate the continued forced isolation of these peoples who have been subjugated and exploited, denied their civil liberties, and precluded from participating in the family of nations.

The 89th Congress passed a resolution calling for freedom for the Baltic peoples and consideration of their plight by the United Nations. This month, as Americans of Lithuanian origin or descent and their friends observe this anniversary, let us join with them and renew this call for freedom.

COMMUNITY DEVELOPMENT PROGRAM

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. ALEXANDER. Mr. Speaker, I have introduced for consideration, and hopefully passage, by my colleagues in the Congress, a far-reaching community development bill. It places emphasis on the needs nonmetropolitan areas have in their fight to maintain or reclaim their position in our Nation as vital, contributing segments of our society. This proposal could properly be called "the bill the people wrote."

It is actually the direct result of my contacts with the men and women in the First Congressional District of Arkansas, and regions like it, whose daily struggle has given them a clear insight into what is needed in their struggle to revitalize their economies and societies. Many of these contacts were made during a series of community development hearings which I began last August. Since September I have been sharing testimony from these with my colleagues. I would like to continue that practice today with information from Max C. McElmurry, executive director of the White River Planning and Development District, Inc., at Batesville, Ark.; Hogan Sisk, a town councilman from Oil Trough, Ark.; and Mayor Edwin T. Baldwin, of Horseshoe Bend, Ark. These men presented their testimony at the January 7, 1972, hearing in Batesville, Ark.

The testimony follows:

TESTIMONY OF MAX C. MCELMURRY

Congressan Alexander, I am very appreciative of the opportunity to present testimony before you relative to the problems as well as the opportunities that exist in North Central Arkansas. Our problems are many and varied but they are far overshadowed by the development potential that exists in this area of the state.

My compliments go to you for having the courage that it takes to make the sincere effort to find out just what local people think and how they would like to see their region developed, and then take whatever steps are necessary to see that these desires are fulfilled.

One of the weaknesses in current discussions of rural development is the false assumption that the problems one encounters in the city is somehow unrelated to the problems of our rural areas. It should be obvious that we cannot begin to deal effectively with the problems of our large urban communities with respect to health, education, unemployment and social ills, to mention only a few, unless we concurrently, or if possible previously, deal with our rural areas which, oftentimes, are the source of uncontrolled migration to the city.

In the past, and this is unfortunate, our rural areas have served simply as a farm system for our big league ghettos. Consequently, we have spent the majority of our time as well as our financial resources in treating the effects of past failures rather than putting our major emphasis on the causes which, to a large extent, can be found in rural America.

To this point, only token developmental programs have been aimed at rural areas and these have been grossly underfunded. The lions share continues to be poured into cities. There are exceptions, however these exceptions have been of little or no benefit to our state. Example.

Congress last year extended the Public Works and Economic Development Act of 1965 for an additional two years. It was funded at the $5.2 billion level. Included in the appropriation was funding for the Appalachia Regional Commission as well as the Title V Commissions. Appalachia received $1.5 billion while the Ozarks Regional Commission received approximately $7 million annually of which Arkansas' share was less than $2 million, probably closer to $1.5 million. This borders on the ridiculous. If a program has any merit at all, and this one certainly has, it deserves to be funded at a level sufficient enough to allow the program to make an impact on the area for which it has responsibility. The six counties we are talking about today will need the 80% maximum grant ratio offered by the Ozarks Regional Commission in order to fully realize their growth potential. Also, included in this appropriation was funding for the Economic Development Administration. Present legislation limits the EDA to $800 million annually, however, never has their appropriation approached this level. $254.4 million was appropriated for EDA this year of which only $160 million was for Public Works. Certainly new rural development legislation needs to be considered such as the Community Development Bank proposal, of which you are a proponent, and Senate Bill No. 10 sponsored by Senator McClellan, whereby industries locating in underdeveloped rural areas would be given certain incentives for doing so. However, if we would take maximum advantage of legislation presently on the books our lot would be appreciably better.

Since county and municipal officials will be offering testimony before you today I will not touch on proposed projects that outwardly appear to be local in nature, such as water, sewer, etc. Instead I would like to emphasis six general areas of concern and address my remarks to several specific proposals within these general areas that could be categorized as having broad regional impact. These general areas include transportation, health, education, environment (to include environmental protection, environmental health and recreation) law enforcement (to include juvenile problems) and public works, which embodies all of the aforementioned.

I have listed these broad areas separately, but in no wise can they be separated—each impinges on the other and success in one area can only be measured by the degree of success achieved in another: i.e., without an adequate transportation network we can never reach our potential in such areas as health, recreation, industrial development, education, etc.

KANSAS CITY TO ATLANTA EXPRESSWAY

The need for this improvement is evident from a review of the existing highway conditions in comparison with the anticipated traffic volume generated by such attractions as the Mt. View Folk Culture Center; Blanchard Cavern and the Sylamore National Recreation Areas; Lakes Norfolk, Bull Shoals and Greers Ferry, Cherokee Village, Horseshoe Bend, and numerous retirement areas presently under development; the entire upper reaches of the White River, Dogpatch, the Buffalo National River, and other vacation spots. With the construction of such an expressway it would make it possible for our visitors to travel from all parts of the United States via the interstate system to within 30–40 miles of these attractions.

If North Central Arkansas and the Ozarks ever hopes to become the playground of mid-America we must make our region more accessible. It goes without saying that the impact the expressway would have on our industrial development potential and overall economy staggers the imagination. As "regionalization" develops across the state, particularly in the rural areas, such a transportation facility would lend itself readily to the delivery of medical, educational, training and rehabilitation services.

WHITE RIVER MEDICAL CENTER

The absence of such a medical facility has placed this area in an acute emergency situation. This week a member of my staff postponed a much needed stay in the hospital by 24 hours because the only bed available was in the hospital hallway. Several industries have sent letters to either the Batesville Area Chamber of Commerce or the White River Medical Center Board indicating their reluctance to expand their operations as originally planned or to offer encouragement to industry desiring to locate in this area. They feel, and justly so, that they would be doing their employees as well as the community a disservice should they add to their operations with the critical lack of medical facilities offering treatment. As one letter indicates, one hospital has already told industry that they will not be able to assume any additional patient load should they desire to expand.

This curtailment of industrial development comes at a most critical time. Having attracted several top-notch industrial plants, the city has the largest industrial payroll in this District, providing employment for residents in eight redevelopment counties surrounding Batesville.

Simply said, we are fighting for our future. The leisure and retirement industry is booming in North Central Arkansas perhaps greater than in any other area. This simply means that our population will be increased by people in the over fifty category that will have to be near medical facilities that offer comprehensive services by Board Specialist Physicians. At the moment, the hospital facilities are such that no Board Specialist has considered practicing in the area, with possibly one exception.

EMERGENCY HEALTH CARE

As determined by the U.S. Department of Transportation, the State of Arkansas stands at the bottom of the list of states insofar as the availability of effective emergency health care facilities are concerned. The recent state-wide survey of health needs established Emergency Health Care as the third ranking priority in Arkansas behind Health Manpower and Health Facilities. In response to this challenge, the White River Health Planning Council established the White River Emergency Health Care Task Force to act as their agent to explore ways to improve emergency health care and to recommend an appropriate course of action.

The long range objective is to establish a District-wide ambulance network, with service located in all remote communities having a population of 500 or more; hospital based service with HEAR system communication in all towns with hospital accommodations; and public, private or volunteer ambulance service for towns without hospitals in 2-way radio communication with one or more hospitals. No attempt would be made to displace existing proprietary ambulance companies if they deliver quality service.

These recommendations are attached to this testimony as Appendix A.

HUMAN RESOURCES CENTER

Within the six county area we are fortunate to have located here in Batesville a liberal arts college, Arkansas College, whose history goes back for 100 years. The presence of this college offers us a unique opportunity to combine the advantages of a comprehensive community college curriculum with some of the cultural offerings of a liberal arts institution.

Towards this end, Governor Bumpers recently announced the approval of an ORC grant to look into the possibility of wedding these two curriculums. If this is successful, it will make available a new educational dimension to students in North Central Arkansas and it is expected that this new concept would soon find its way into other areas as well.

Also included, and presently underway, is an adult education program initiated by Arkansas College this past year.

REGIONAL DETENTION AND REHABILITATION

In an attempt to make services more accessible and relevant to local communities throughout the state, a number of governmental agencies in Arkansas have begun to consider methods for regionalization of their programs. In the area of law enforcement such an approach appears to be particularly applicable in North Central Arkansas, especially when one considers the deteriorated condition of a majority of the jail facilities within the District, the inadequacy of local funding sources for the construction of new facilities and the lack of adequate rehabilitative programs in the area for dealing with the criminal personality.

It is envisioned that a multi-county regional jail facility be established within the District and that a District-wide organization be formed to coordinate law enforcement programs within the area. Such a program and facility would include at least four areas of priority.

(1) *Minimum Security Program.* This facility would provide for first offenders and those whose behavior is of such a nature as to indicate minimal incarceration. This facility would place great emphasis upon a rehabilitative program which would be focused upon preventing increased or continued criminal acts by the individual.

(2) *Short Term Detention Program.* This facility would be available to the participating counties for those cases requiring attention awaiting trial or transfer to a maximum security facility.

(3) *Juvenile Care Program.* This facility would provide care for juvenile cases, including runaways; much emphasis would be placed here on rehabilitation of the juvenile and social work with the home situation. Also, juvenile workers from this program would be available to work with local county courts, and, if indicated, as a referee in juvenile cases.

(4) *Addictive Treatment Program.* This facility would evaluate and secure the proper treatment for alcoholics and other types of addictive personalities. All DWI's would be evaluated through this program.

In addition to consolidation of resources, such a regional approach would offer significant alternatives to local courts in rendering verdicts. Also, the facility could provide a training center to local law enforcement personnel and would offer a means for establishing much broader communication lines between law enforcement personnel and rehabilitation programs.

MELBOURNE VOCATIONAL-TECHNICAL SCHOOL

The State Department of Education has allocated $75,000 in state funds for the construction of a mini vocational-technical school to be located at Melbourne. The state has received authorization from the Economic Development Administration to submit an application for the facility.

This agency, due in part, as mentioned previously, to a large demand for their limited funds, is making overtures that indicate they will soon, if not already, stop utilizing their funds for the construction of Vocational-Technical schools as we presently know them. If the state is serious about building a school at Melbourne, they need to move with haste.

The curriculum at this school would undoubtedly be oriented toward the construction trades as a heavy demand will be generated by the retirement and leisure communities in the area. Within a 40 mile radius of Batesville are 36 retirement oriented developments encompassing in excess of 70,000 acres.

GREERS FERRY PILOT POLLUTION CONTROL PROPOSAL

Greers Ferry Lake has created an environment within Cleburne and Van Buren Counties where it is desirable to live, work, play and enjoy an abundance of natural beauty. Population growth and development will continue until there has been built what constitutes a "Lake City" around its shores. This creates problems, as you can imagine.

Isolated living communities on the lake, or removed from the lake, yet within the watershed system of the lake, are using individual septic systems, outdoor privies, and unmanaged, open dumps scattered throughout the area. All of this is contributing to the pollution of Greers Ferry Reservoir. Further, continued unguided growth and inadequate waste management systems will only serve to accelerate the pollution of the lake environment, subsequently, destroying its usefulness and beauty.

To combat this possibility a proposal has been made to both the Environmental Protection Agency and the Corps of Engineers to develop a Pilot Pollution Control System around the lake. Both agencies are in agreement that this is a problem that deserves attention.

A copy of this proposal is attached as appendix B.

Closely related to this proposal is the district-wide need for solid waste management. To date this office has prepared and presented solid waste management plans to six of the ten District counties. Copies are attached as appendix C.

RURAL REGIONAL SERVICE CENTER

In an attempt to provide more accessible and comprehensive civic and social services to the residents of the White River Planning and Development District, an effort is being made to establish a "Regional Service Center" within the area. Plans call for an initial emphasis on social and health services with later developments to include a broader range of legal and governmental services.

It is anticipated that many of the basic services now being provided by such agencies as welfare, rehabilitation, mental health, public health, O.E.O., mental retardation, Office on Aging and Regional Medical Program will be included in the first unit. In fact, most of these agencies have already made a tentative commitment to the project and a number of them have stated that such an approach will significantly increase the number and types of services which they can provide the area. It should be noted that an attempt is being made, so far as possible, to utilize existing buildings for the project rather than construct totally new facilities.

In assessing the feasibility of this proposal it would appear that at least three factors dictate the need for this approach.

First, consumers will benefit from the accessibility to services. Such a program will eliminate the necessity of residents in this rural area seeking assistance in a number of different locales. Also, the development of a realistic transportation system for clients is conceivable through the cooperative efforts of the various programs with the center becoming the hub for such a system. Again, it is suggested that the appointment of an Advisory Board to the Service Center, including significant consumer representation, could and should be an integral part of the complex. In this way the consumer will be given a voice in the development and operation of local programs;

Secondly, providers will benefit from such a program by the development of an effective inter-agency system of cooperation. It is anticipated that this approach would eliminate much duplication of services and make more effective use of available manpower. In addition, such a center would offer a greatly improved working environment for the staff of many programs as well as a degree of stabilization of location not found in some of the facilities presently leased from private sources; and

Thirdly, the entire area will benefit through improved economy of operation for the various programs involved in the project and by the community development resulting from the location of new programs in the area. Also, such an approach coincides with the statewide effort to regionalize services. For example, under the Arkansas Health Systems Foundation an effort is being made to regionalize health services throughout the state. The Regional Service Center would afford a workable means for referring patients throughout the area into the designated regional hospitals. In a like manner, the Service Center could help facilitate other state efforts toward regionalization.

From every angle it appears that a rural Regional Service Center is a common sense approach for North Central Arkansas.

In closing let me emphasize the degree to which county and community leaders look upon North Central Arkansas as a "Regional Community", having many of the same problems and working together for their solutions. There is an attitude developing that you can almost reach out and touch, an attitude of cooperation and concern among county leaders. This attitude was particularly in evidence recently when three, three county groups (9 counties) bonded together to secure the services of three sanitarians. One month ago only one district county had the services of a sanitarian. Prospects are now good that the entire district will be covered in another month, strictly through regional cooperation.

Again let me thank you for the opportunity to appear before you today.

TESTIMONY OF THE TOWN OF OIL TROUGH, OKLA.

My name is Hogan Sisk, town councilman, of Oil Trough. I am pleased to have this opportunity to appear before this hearing and discuss with you some of the more pertinent economic needs facing our small towns and cities. It is encouraging to know that hearings of this type are being conducted in an attempt to help alleviate many of the problems which presently exist.

For those of you who are not familiar with Oil Trough, I would like to present the following background information. According to the latest census, Oil Trough has a population of 524, an increase of 287 since 1960. Until around 1960 most of the people living in the area were engaged primarily in agriculture, either farming for themselves or working on the farm. Due to the decline in the farm population since 1960, the majority of our residents are now employed in industry in Newport and Batesville.

With the current trend of declining population in our rural areas, we feel most fortunate in Oil Trough to have doubled our population during the last ten years. However, this increase in population has brought about a very significant increased demand for more services. The needs have always existed, but during the last ten years we have become much more aware of them and of the problems involved in trying to provide these most needed services to our residents.

The number one problem affecting the future growth of Oil Trough, and the public health of our residents, is the need for an adequate sewage disposal system. A sewage system has been needed in Oil Trough for many years and with the installation of our water system in 1965, the problem became even more acute. The increased water consumption has created a waste problem that our septic tanks and field lines now in use simply cannot handle. The homes in Oil Trough are grouped very close together on lots which are not large enough to permit field lines of sufficient size to carry the load. Added to this is the fact that the town is located in a low area near the White River and the water level is usually so high that the ground will not absorb much additional water. In the rainy season it is not at all unusual to see raw sewage in yards and open street ditches. This not only causes an almost unbearable odor, but presents a very serious health hazard to the residents of the area.

Another very serious problem facing Oil Trough, and most other small towns, is the need for a solid waste disposal system. At present, oil trough doesn't have a garbage dump and the closest one is located in Newport, twelve miles away. We presently have garbage and other litter being dumped on public highways, river banks, private farms, and many other places. Dumping in these areas is not being done because the people want it that way, there simply is no other place available. It is estimated that we have between 150 and 200 households in our area which do not have access to a public dump or garbage pick-up. A situation such as this is very undesirable in that it is a health hazard, very unsightly, angers property owners on whose property trash and litter is dumped, and, in general, creates a very bad image for Independence county, as well as the entire State of Arkansas. With the great emphasis now being placed on ecology and our environment, it is almost unthinkable that undesirable conditions such as these are allowed to exist.

While the two problems I have discussed above are perhaps the most serious, they are not by any means the only ones. We desperately need better drainage and street improvements. After a very heavy rain, yards and streets are flooded for long periods of time. Our streets are primarily dirt and gravel, and during the summer months, dust from the streets make living conditions almost unbearable. During the winter months, the streets are sometimes difficult to travel. We were able to pave two streets during this past summer using State turnback funds matched by the homeowners living on those streets. We would like very much to pave all of the streets, but at present the money is not available and there doesn't appear to be any way a small town can obtain the necessary funds.

Fire and police protection are also areas where improvements are urgently needed. As noted before, we have a water system, but no fire protection is available to protect lives and property. When a fire breaks out, the only thing we can do is try to get our families out then stand back and watch the house or business burn because of lack of adequate fire protection. In the past we have had many homes destroyed by fire which could have been saved with a very minimum of fire fighting equipment.

Police protection is almost non-existent in our small towns on a regular basis. In most cases the smaller towns mostly depend on the county sheriff and his deputies to maintain law and order. This is not usually a satisfactory method because of the large area the sheriff's office must service. In Oil Trough we have just recently been able to obtain a deputy on a full time basis under the emergency employment act. This program is monitored by the county judge and provides funds for a period of eleven months. This makes the first time Oil Trough has had a full time police officer and the results have been very good. The question is what happens at the end of the eleven month period? The town does not have sufficient funds to continue to provide the protection on its own and in all probability we will once again be without any local law enforcement to protect lives and property.

These problems that I have discussed are not unique to the town of Oil Trough, but exist in most small towns in Independence County and throughout Arkansas. All of these problems can be attributed to one thing—lack of money and an adequate program for small towns to obtain the needed financial assistance.

In an attempt to install a sewage system in Oil Trough, we retained an engineer to make a study of our needs and prepare a cost estimate. With this information an application was prepared and submitted to the Federal Housing Administration in April 1971, requesting a grant and a Government loan in the amount of approximately $120,000 to install the system. As of this date, our application has not been approved. We have been assured that our application will be reviewed and studied in February, but this does not mean that approval will be granted. Without Federal or State assistance, Oil Trough will not be able to obtain the most urgently needed sewage system.

Small towns are placed in the situation of having to operate almost exclusively on funds turned back to them by the state. Of course, these funds are helpful, but are usually only sufficient to meet normal operating expenses and do not permit any real improvements. Federal assistance is very difficult to obtain with the current cut-back in federal spending and when it is available, long waiting periods are usually required prior to receiving the funds. Bond issues do not appear to be the answer for small towns because of the long period of time required to pay off the bonds and the limited amount of money available to the towns. Current credit limitations imposed on small towns precludes the borrowing of money over a long period of time and in large sums.

Unless some method is established to provide financial assistance to our small towns, the exodus of people from our rural areas to our larger cities will continue to increase and the problems of our larger cities will be multiplied. Billions of dollars are already being spent in the ghetto areas of our larger cities with little, if any, results. It is about time that we recognized that a new approach must be taken to solve the problems of both our large cities and rural areas. We must put a stop to the out migration from the rural areas and I believe one way to do this is to help the small towns improve their living conditions through more services and more opportunities for employment.

One fact appears to be very clear, if Oil Trough and other towns like Oil Trough are to have a chance to alleviate their economic problems, new legislation must be enacted to provide assistance not presently available and allow small towns to borrow money at a low rate of interest. Few real improvements will be made under present set of guidelines and our towns will continue to fight for survival. People living in rural areas pay taxes just as those in our large metropolitan areas and I feel we are entitled to the same benefits.

PROPOSED TESTIMONY FOR COMMUNITY DEVELOPMENT PROPOSAL HEARING

I am Edwin T. Baldwin, Mayor of the City of Horseshoe Bend, Arkansas a City of the Second Class with a population of 604 as of November 29, 1971.

It is an honor for Horseshoe Bend to be represented in Congress by Bill Alexander and it is a privilege to be asked to give the views of our community on this important subject of community development.

The City of Horseshoe Bend is a new community created by the Horseshoe Development Corporation and incorporated as a municipality in 1969. Through the farsightedness of its original developers, William and Richard Pratt, Horseshoe Bend is planned to provide good zoning, a shopping center, an industrial park, lakes park areas and recreational facilities including clubhouse, golf course, swimming pools, tennis court, bowling green, children's play park, etc.

The City government however, is lacking in adequate revenues to provide some of the facilities needed for protection of life and property. We need a fire station to house our present two fire trucks, training quarters and city offices as well as space for our library. Since the clubhouse has limited capacity we also need a community center to house activities such as fairs, art exhibitions, indoor athletic events, large dances, etc.

We understand that funds are presently available for storm sewers and storm water drainage the need for such in Horseshoe Bend along with the need for maintenance and possibly replacement of streets will develop as the city grows to its projected size of 2,500 population by 1975.

With the widespread construction of homes in the community sewage is now adequately handled by individual septic systems except in the mobile home and manor home areas which have treatment plants.

In the future sewer and an adequate sewage treatment plant will be needed in order to control pollution. At present a newly formed investor-owned water utility furnishes water from several wells with a single storage tank. It may be desirable in the future for the City to acquire the water utility and this will require capital funds for acquisition and expansion of the system to serve an area of nearly 12,000 acres.

The great need for tax resources other than local is particularly important here because of the relatively low population density in an area of this size.

The present 5,000 foot airstrip should have adequate lighting to meet Federal Aviation Administration standards. We understand funds are now available for lighting and other airport improvements which will also be needed in the future.

An apartment type housing facility for the elderly is becoming a pressing need in the community.

In order to provide a reasonable estimate of the cost of the facilities described in the foregoing we need a planning and cost study, the funds for which we do not have at the present time because of the constitutional limitations on local tax sources and revenues. However, we believe that to meet our pressing need for fire and police and city administration facilities we will require approximately $150,000.00.

Our position as a City is unique in that we have been and will be for some time dependent almost entirely upon the generosity of the Development Corporation since we do not actually own any buildings, facilities or equipment of any kind nor have any employees except one part-time Recorder-Treasurer.

The Chamber of Commerce concurs in the foregoing statements.

Mr. Speaker, this is the 17th insertion in the CONGRESSIONAL RECORD of testimony and other materials which I have gathered during my research into ways to assist community development in nonmetropolitan areas. Other materials on this subject appear in the CONGRESSIONAL RECORDS, volume 117, part 25, pages 32740–32741; part 26, pages 34505–34506; part 27, pages 35409–35410, 36133–36135; part 28, pages 37358–37360, part 29, pages 38121–38123; part 30, pages 39156–39158; part 31, pages 40813–40817; part 32, pages 41882–41884; part 35, pages 45963–45965; part 36, pages 47309–47312; January 25, pages 1225–1226; February 9, pages 3583–3589; February 18, pages 4739–4742; and February 21, pages 4825–4827.

THE 90,000 PAKISTANI POW'S

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. RARICK. Mr. Speaker, while there is considerable publicity regarding the new State of Bangladesh, little concern is heard expressed over the 90,000 Pakistani POW's who reportedly remain political prisoners in their own country.

Nor has there been any activity at the United Nations to free these POW's who were captured in a war that the U.N. could not or would not prevent. A related newsclipping follows:

[From the Evening Star, Feb. 18, 1972]

RUSSIA URGES INDIA TO ACT ON PRISONER ISSUE

(By Kuldip Nayar)

NEW DELHI.—The Soviet Union has alerted India that it would be advisable to take a positive stand on the 90,000-odd Pakistani prisoners of war so that Islamabad is foreclosed from exploiting the issue.

Soviet Deputy Foreign Minister Firyubin, who has discussed the matter in Moscow with India's envoy to the U.S.S.R., Dr. Shelvankar, has said that Pakistan might seek to embarrass New Delhi by raising this issue at the U.N. Moscow would of course, Firyubin has assured, stand by India, but it would be worth trying if such a possibility could be avoided.

The Soviet deputy foreign minister is also reported to have said that President Zulfikar Ali Bhutto conveyed through the Soviet embassy in Islamabad that he was under great pressure from "rightist forces" to obtain the release of prisoners and that he had to do something about it.

POSTURE DEPLORED

New Delhi, which has received the gist of the talk from its envoy, is considering the matter. India's stand is that Pakistan must give up its "hostile posture" before the prisoners are released. The government here is also clear in its mind that since the prisoners had surrendered in Bangladesh to the joint command of the Mukti Bahini and the Indian Army, the concurrence of Dacca must also be obtained.

THAW IS ADVISED

The Soviet deputy in Moscow did have some leverage with Pakistan and would like to retain it. Some thaw on this subject would not only be helpful to the Soviet Union but also to India.

During his talks with the Indian envoy, Firyubin is said to have warned that in the absence of any move on the question of prisoners, China might try to fish in troubled waters. In that case another confrontation could not be ruled out completely.

Firyubin has confirmed that it was true that Bhutto's visit to Peking had not been too successful.

However he added that from this it should not be deduced that there was estrangement between Pakistan and China; both still remained very close to each other.

PARTY ABOVE COUNTRY

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. GOLDWATER. Mr. Speaker, the Republican National Committee's weekly publication, Monday this week carries a couple of very interesting articles about Democratic National Committee Chairman Lawrence O'Brien.

For the enlightenment of my colleagues on my side of the aisle, and perhaps some of those on the other side, I include the two items in the RECORD:

O'BRIEN PUTS PARTY ABOVE COUNTRY IN PLAYING POLITICS WITH VIETNAM

Of all the Democrats who have switched clothes on Vietnam, none have turned their coats faster and in a more pronounced manner than Democratic National Chairman Larry O'Brien.

As one of the Johnson-Humphrey Administration's chief tub-thumpers for escalation in Vietnam, O'Brien repeatedly urged audiences to get behind the President on the war and show the enemy the United States was not divided and weak.

For example, in July of 1966 in an address in Washington, D.C., O'Brien declared:

SUPPORT THE PRESIDENT

"We must show the world that we are determined to see a successful conclusion to our fight for freedom in Vietnam . . . To achieve this end, we must show that we are united behind the President's policy of fearless resistance to aggression. As our President strives to convince the aggressors that this final form of warfare must be abandoned, we must not permit anyone to believe that his policy is a minority policy . . . Let us end any delusion *any prolonging delusion,* by showing the President in unmistakable fashion that he has your support as well as your prayers in these trying times."

In 1966, O'Brien told an audience: "I know you will perform your *patriotic duty,* I know you will continue to give the President your active support and your prayers as he strives to secure a just peace—not only for the people in Vietnam but for all people who treasure liberty and yearn for democracy."

HANOI WATCHING DISSENT

In another talk in August of 1966, O'Brien pointed out in an Arlington, Va. address: "Hanoi sees in our dissent over our policy in Vietnam direct evidence that we are not mentally prepared. As the result of some dissenting voices at home, Hanoi sees us as a nation of affluent summer soldiers and sunshine patriots, a land of contented consumers."

In June of 1967 in South Orange, N.J., O'Brien spoke derisively of so-called "peace lovers" and contrasted them with President Johnson whom he called a "peace maker."

"There's nothing special about a peace lover. Even a loud one," O'Brien asserted before a Seton Hall University commencement crowd. "But it takes considerable thought, energy, imagination, diplomacy, and, in the world in which we live, sometimes force to be a peace maker. The President needs help in making peace. He's asked for it, but sometimes he can only hear the anguished cries of peace lovers."

But things are different now for Larry O'Brien. The former cheer-leader for the Johnson-Humphrey policies of escalation in Vietnam is now an outspoken critic of President Nixon's policy in Vietnam which has brought home nearly all the men sent to war by Mr. O'Brien's party. O'Brien has now joined the "peace lovers" whose anguished cries he used to delight in mocking.

O'BRIEN REJECTS UNITY NOW

Appearing recently on the NBC Today Show, the Democratic National Chairman was asked if there wasn't some validity to Republican suggestions that a united front behind President Nixon might help in negotiating a way out of Vietnam. O'Brien disagreed saying such an idea is "injurious to the future of the Nation" and "detrimental to every American."

Why what O'Brien himself advocated in 1966 and 1967 is now harmful to the Nation, O'Brien did not say. NBC's Bill Monroe did not ask him. But the answer is apparent. When Larry O'Brien, who once called for unity behind a Democratic President making war, now rejects a call for unity behind a Republican President making peace, one can only conclude that the primary motivation is political. Clearly the Democratic National Chairman is putting his party above his country when it comes to the issue of Vietnam.

LARRY O'BRIEN, PATRIOTIC DUTY AND VIETNAM; OR, MY HOW TIMES CHANGE ESPECIALLY WHEN YOUR PARTY'S ESCALATING THE WAR AND THE OTHER PARTY IS BRINGING THE TROOPS HOME

When his party and his President were escalating the war in Vietnam, there wasn't a hawkier hawk around than Larry O'Brien. In speeches from one end of the country to the other O'Brien defended both the U.S. commitment to South Vietnam and the conduct of the war itself.

In Des Moines, Iowa in 1966, O'Brien talked about appeasement, Neville Chamberlain, warned against "trembling knees" in fighting for freedom, and declared: "Let us remember in defending Vietnam—we are defending Iowa—and Massachusetts—and all the free world." Appeasement, O'Brien warned, "is but a down payment on a mortgage that comes due quickly and is payable in blood."

VIETNAM AND NEWARK

In New Jersey, at a dinner honoring a Democratic Congressman, O'Brien spoke of Americans fighting and dying in Vietnam to protect "freedom here in Newark . . ." To those who argued priorities, O'Brien responded: "The Nation is strong enough, secure enough, dedicated enough to defend freedom abroad while meeting our responsibilities at home."

In Washington speaking to a group of magazine publishers, O'Brien denounced the enemy in Vietnam as "modern age pirates, assassins, terrorists, and saboteurs. The hard lesson is that we do not find peace through cowardice or appeasement," he declared. "History shows that weakness tempts aggression, and strength deters it."

In Oakland, California, O'Brien labeled calls for a U.S. pull out from Vietnam not only simple but "simple-minded." To abandon an ally such as South Vietnam to Communist aggression, he said, would be to break faith "with ourselves."

O'BRIEN DEFENDS ELECTIONS

In Lincoln, Nebraska, O'Brien defended the 1966 elections in South Vietnam calling them "a 'shot heard throughout Asia,' just as two centuries ago we fired the shot heard round the world."

In San Juan, Puerto Rico, O'Brien told a National Association of Postmasters audience to speak out on the issue of how to achieve an honorable peace in Vietnam. "Pin down those who substitute wishes for hard thought," he urged. "Ask them what they would do if the Communists continue to refuse to come to the peace table."

This was a good question in 1966 when O'Brien asked it and it is a good question now. Larry?

FOREST CITY HOSPITAL'S GUIDING FORCE—ANDREW L. JOHNSON, JR.

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. STOKES. Mr. Speaker, as a member of the Cleveland Forest City Hospital Board of Trustees, I have had the privilege of working closely on several occasions with Attorney Andrew L. Johnson, Jr., president of the board.

Attorney Johnson has made a substantial contribution, of his time and energy, to the continual improvement of Forest City Hospital. Treating more welfare recipients than any other Cleveland hospital and operating constantly with full occupancy, the institution nonetheless provides some of the finest medical care to be obtained in the city of Cleveland.

In central cities across the country, a shortage of qualified physicians and the high cost of private medical attention, have resulted in residents' seeking medical care in the nearest hospital. Forest City Hospital is no exception to this unfortunate rule.

But Attorney Andrew Johnson has plans which will make Cleveland vary from the national norm. Under his guidance, the Glenville Health Association will soon be constructed. It will provide comprehensive health care services to people who have never been able to afford such luxury. Mr. Johnson's commitment is worthy of our recognition.

Attorney Johnson is a terrifically energetic man who is involved in a myriad of activities in the Cleveland area. Aside from chairing the board and leading the drive to expand the hospital, he serves as an acting judge in Shaker Heights, a hearing examiner for the Ohio Civil Rights Commission, and a trustee of the Cleveland Bar Association.

On February 9, 1972, the Cleveland Press featured an article about this fine gentleman. I would like to share Attorney Johnson's contribution to the city of Cleveland with my colleagues; therefore, I include the article below:

A Hospital Has a Stanch Friend

(By Bob Seltzer)

When Andrew L. Johnson Jr. was named to the board of trustees and also general counsel of Forest City Hospital four years ago, plans were afoot for building a new hospital to meet growing community needs.

Elected board president a year ago, Johnson began assiduously to implement the plans. He is spearheading a building fund campaign for an initial $1.5 million for a 200-bed facility with a projected ultimate cost of $15 million.

"Forest City Hospital took over the old Glenville Hospital at 701 Parkwood Dr. in 1957, and added a wing in 1959 for a total of 102 beds," Johnson said. "It serves the 90,000 residents of the Glenville Area, and has one of the highest occupancy rates in Cleveland.

"Statistics show that the Glenville Area has the highest rate of welfare recipients of any section of Cleveland. Forest City treats thousands of indigent patients in its emergency room. Many actually are not emergency cases, but are suffering from common ailments, such as colds, the flu or stomachache. They have no follow-up care from a private physician.

"Emergency rooms make no money. Other hospitals here have endowment funds. Forest City has none. It receives money from Blue Cross, Medicare and Medicaid and county and state welfare funds. About 99% of Forest City's patients are black, but the staff is integrated."

The trustees planned a first-class new hospital, and foresaw the need to improve outpatient care. From talks with residents, the Glenville Health Assn. was evolved. Johnson became a trustee of the association and drew up its incorporation papers in 1970.

A new comprehensive health care center is planned on the grounds of the new hospital in the Glenville Area at a cost of $4 million. It will use some of the hospital's facilities, and Forest City physicians have guaranteed 300 man-hours a week to serve the clinic.

Johnson, 40, tall, slim and purposeful, was born in Youngstown, son of a lawyer. He starred in football, basketball and track at Boardman High School, and played the saxophone and clarinet in the marching and concert bands at high school and at Northwestern University.

He earned a B.S. degree in political science from Northwestern, where he won an award for scholarship and leadership in human relations, and was active in the YMCA. Drafted in 1953, he served 14 months in Korea as military court stenographer.

While earning a juris doctor degree from Cleveland-Marshall Law School, he worked as an examiner for the Title Insurance Co. of Minnesota. He also worked there two years before practicing law fulltime.

Johnson sits as acting judge in Shaker Heights, and hearing examiner for the Ohio Civil Rights Commission. He is a trustee of the Cleveland Bar Assn. In 1969 he was named Lawyer of the Year by the Cleveland Lawyers Assn. He and his wife Joan and their sons, Andrew L. III, 12, and Paul, 10, live at 3456 Milverton Rd., Shaker Heights.

CONNECTICUT STATE WINNER OF VOICE OF DEMOCRACY CONTEST

HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. STEELE. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its ladies auxiliary conducts a voice of democracy contest. Each State has a winner who is then brought to Washington, D.C., for the final judging.

The winning speech for 1972 from the State of Connecticut was delivered by McKinley Winston, Jr., of New London. Mr. Winston is a senior at New London High School. I am including the text of his winning speech in the Record for the edification of my colleagues:

Voice of Democracy

(Spirit of McKinley Winston, Jr.)

My responsibility to freedom is to be aware; to be aware of the current events happening in America. Youth cannot afford to remain innocent, for youth must know exactly what is wrong with America in order to correct the errors made by their predecessors. I, as a responsible American, must seek out the facts and evaluate for myself what is true and what is false. It is not possible for anyone to just listen to the radio or just to watch T.V. and know what is going on in America. It is necessary for a concerned American to go to other sources such as magazines, books, and newspapers as well as the radio and television. It is necessary for us, as an obligation to freedom, to know what the Judicial, Executive, and Legislative systems of our country are doing. I cannot know every problem which exists in America by viewing only those in my municipality; therefore, it is incumbent upon me as a responsible American to seek information concerning other parts of our country, for I think it is important to know not only what effects me, my town, or my state, but what effects all Americans at home and abroad.

As a concerned American youth, I felt it incumbent upon me to learn the democratic principles upon which America was built. In the course of my study, I viewed the immortal words "all men are created equal and are endowed by our Creator with certain unalienable rights—Life, Liberty, and the Pursuit of Happiness." I learned what our forefathers founded America for and their dream of Her being the homeland of the free, the refuge of the tempest tossed, and the persecuted. But most significantly, I learned the meaning of Red, White, and Blue. Red signifies the bloodshed it took to create and defend America; White for peace, for after freedom, peace is one of America's foremost concerns, and the Blue for the grief and sorrow of those who lost loved ones and who died in defense of America's honor and her shores. All these things say freedom, the freedom which I must preserve.

It is also my responsibility, for I intend to maintain our freedom on all levels and in all branches of our government, to become active in my community, my state, and in our national government. As an American citizen, I am concerned with our entire nation, but it is important to be active in one's community.

I am concerned with the running of the city government because I think the city government should pass ordinances and make decisions which are for the good of not some, but all. It is my duty to see that the law is adhered to in my community because the law gives us our freedom as stated in the Constitution.

On the state level I have an obligation to inform my representative in the State Legislature what our state needs as added protection of our Constitutional rights.

On the national level it is important to know the government's constitutional powers, so that it does not exceed those powers. It is my desire for our government to remain a government for the people, by the people and of the people, not over the people.

On all levels of government, I as a responsible American intend to see to the adherence of the law because the law is the pathway to freedom and democracy. Law is the Mother of order, a necessity for the survival of any nation.

My prime responsibility is to love America. My love for America doesn't blind me to Her imperfections, but inspires me to make Her as perfect as she can be. I love America because I have experienced the freedom many people in other countries can only dream about. This is truly the land of opportunity. America is not stagnant, she is constantly progressing onward. Change and reform does not always come rapidly in America, but they do come, and will continue because it is my responsibility and the responsibility of every American to make change and reform whenever necessary to improve our Democratic system and perpetuate our freedom.

CARROTS AND KINDNESS VERSUS CUTTHROAT APPROACH TO AMERICAN POLITICS

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. EVINS of Tennessee. Mr. Speaker, the popular columnist, Miss Mary McGrory of the Washington Evening Star, has written an interesting article in the February 11 issue concerning the contrast in styles and approaches for securing success in American politics.

As I believe this will be of interest to my colleagues and the American people, I place the article in the RECORD herewith:

CONTRASTING STYLES OF KISSINGER AND HALDEMAN

(By Mary McGrory)

When Richard Nixon held his final pre-China press conference, the two men who represent the Ying and the Yang of his administration were standing in the back of the Oval Room.

H. R. Haldeman, of the "cut them off at the knees" school of political science, crew-cut and smiling, stood a few feet away from Henry A. Kissinger, the bespectacled Harvard professor who believes in keeping the lines open, and who looked apprehensive.

Two days after Haldeman, appearing on national television, attacked Democratic critics of the President's peace plan as traitors, Kissinger, at a White House briefing on the State of the World, called Sen. George S. McGovern, "patriotic."

Haldeman is out of the cutthroat world of the advertising agency, and nothing in his long association with the President, whom he serves as doorkeeper and confidante, had ever led him to think that Richard Nixon got where he is today by forgiving his enemies or putting any money on the "better angels" of their natures.

Kissinger has been trying to coax the President to the upper pastures of world statesmanship, and a short time ago, Nixon announced he had put away the helmet of the partisan politician for the homburg of the diplomat.

Kissinger's influence and his efforts have been prodigious. Not only has he negotiated with Chou En-lai and Hanoi with perfect tact and discretion, he has, on his own time, maintained a rational and civilized discourse with the left, doves, the press, the professors, and has generally functioned as ambassador to the constituency most outraged by the Haldeman onslaught.

Kissinger dominates the inner councils of the White House by superior intellect and information. He has shown a better understanding of power and self-preservation than any academic who ever whispered in a presidential ear, as the lesser minds around him have come to appreciate.

Yet he has been unable so far to help the President with his worst problem—the leprous war that will not go away, and which now menaces his re-election. Chou En-lai can't help either.

Neither of course, can Haldeman. But by initiating a search and destroy campaign against his critics, he at least made the President feel better.

Nobody who throws rocks at Democratic presidential candidates is going to get into any real trouble with the master of the White House. Haldeman's presence at the press conference yesterday indicated that he knew no public rebuke was in the offing.

Besides, the President agrees with Haldeman. He is unmoved by the public contrition of the Democrats who beat their breasts and say that the war was a mistake, and clamor for peace now.

Nixon knows what he would do if a Democratic president made a settlement which resulted in the Viet Cong flag flying over Saigon on election day. He would cry treason and sellout. That's what he did 25 years ago when China was "lost."

Even now, Nixon doesn't think the war was a mistake. He takes issue with its conduct, not its premises. In his heart of hearts, he thinks it could have been won. When it is attacked, he defends it. After the Canadian singer, Carol Feraci, disrupted a White House concert by demanding he stop the bombing, Nixon introduced members of the Marine Band, saying some had served in Vietnam. How could it be a bad war when such good men had fought in it?

He must know he looks odd setting forth in pursuit of "a generation of peace" while the bombs and the napalm continue to fall, at his command, on Asian villages.

He knows that if the public keeps hearing from the Democrats that the war could all be ended before Election Day, he may not be able to rally the Silent Majority just one more time.

So Haldeman was merely speaking of the President's instincts and fears. When a reporter asked Nixon insistently about denouncing senators who question negotiations almost four years old, the President raced right back where he was when he began the long, painful climb to the Oval Room, impugning the patriotism of the opposition.

"The responsibility for the enemy's failing to negotiate may have to be borne by those who encouraged the enemy to wait until after the election."

Haldeman is his boy. The Democrats have blood on their hands. Kissinger may have to head back for Harvard sooner than he wanted to and before it is too late.

SERVICE TO HUMANITY

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. GAYDOS. Mr. Speaker, few organizations today can match the reputation of Lions International for service to humanity. This outstanding group of men circles the globe with nearly 1 million members. It is reputed to be the world's largest, most active service club.

The reputation enjoyed by Lions International was not easily come by. It took years of work and reflects the accumulative effort of Lions Clubs everywhere. I am proud to say a group in my 20th Congressional District, the Homestead Lions, which is enjoying its 25th anniversary, has made a substantial contribution to that reputation.

I was privileged to attend the Homestead Lions' anniversary dinner and participate in the honoring of three of its members who have been with the club since its founding in 1947. These gentlemen, Mr. Ray Rutter, Mr. Edward Romig, and Mr. Bert Kondis, were given special recognition by their brother Lions for the time and effort they have spent working on behalf of the Lions Club and the Homestead community.

The list of accomplishments compiled by the Homestead Lions Club is rather remarkable when you consider its membership. Today the club has only 52 members, but in the 25 years of its existence the club has raised more than $500,000 for charitable purposes, notably for their work with the blind and in the field of sight conservation.

Mr. Romig, one of the original charter members and treasurer of the club for 20 of its 25 years, informed me the Homestead Lions have sent blind children to summer camp, purchased eye testing equipment for the local schools and sponsored visits of a mobile eye testing unit to the community. It also sponsors a Little League baseball team and helps to support a Boy Scout camp in the mountains near Ligonier, Pa.

One of the Homestead club's most interesting projects, I believe, is their tradition of donating a book to the public library in memory of a deceased brother. In this way, a Lion is assured of helping others even after death.

Mr. Speaker, Lions International and the Homestead Lions Club live by the motto: "We Serve." Indeed they do. They serve not only those afflicted with blindness, but also are working to help a nation which is groping for light in so many areas today. We need the help of the Lions and I thank them for it.

I commend Lions International for its many charitable deeds and activities. I also congratulate the Homestead Lions and its president, Mr. George Matta, on achieving this milestone in their history and I wish them the greatest success in the years to come.

HAIL TO THE SMALL FARMER OF THE AREA

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. ZWACH. Mr. Speaker, since I represent one of the most thoroughly agricultural congressional districts in the entire United States, it is only natural that our area newspapers should devote a good deal of thought and editorial space to the conditions on our family farms.

I insert in the CONGRESSIONAL RECORD at this point a particularly good editorial on our family farms which was written by Madonna Kellar in the Heron Lake News.

The editorial follows:

HAIL TO THE SMALL FARMER OF THE AREA

Small farming operations have become almost a thing of the past in the area due to increased cost of farming and limited credit for small operators. This is deplorable since being a small farmer meant personal independence, time to spend with the family, time for hobbies, landscaping and other related occupations.

Now with the increased cost of living, the average small farmer must hold down another job in order to make a living for his family. This limits his time to develop his small farm, as well as the time he is permitted to spend with his wife and children.

One by one, many of the farmers of the region have held farm sales disposed of their livestock and machinery and moved into more lucrative spots in city factories where the financial pressures were relieved.

Also, one by one many of the sets of farm buildings have been vacated and left to deteriorate as the families have left the farms.

Farming is hard work, but how rewarding it is for a man to till the soil and observe the crops as they grow to maturity and are ready for the harvest. What a sense of fulfillment there must be when the year is ended and he knows he has done a good job of raising crops which will feed the nation. What a satisfaction he must know when he raises hogs which are top quality and when he can produce top quality milk for the dairy product consuming nation. How nice it is for him to be able to be at home for all meals with his family instead of leaving early in the morning only to return in the evening after being subjected to the pressures of a competitive job in town.

While business strain has been heavy on farmers, he has possessed a sense of well being and independence as he has planted, tilled and harvested. However, he will agree that he is involved in one of the most scientific business of the country. He must have a good knowledge of conservation, weed control, insect control, marketing and seed type. He is a well educated business man who can control his own destiny—to a point.

However, with elections coming up, it is likely that the farmer will be very discriminatory in his choice of candidates when he casts his vote. He will certainly vote for the man who has the most to offer in the agricultural field. Since this area is entirely dependent upon the agricultural experts, it will be only natural that the general trend of the voting will be in the same direction.

The nation must look to the farmer for food products so steps must be taken to make it possible for him to stay in the business. The lure of high paying jobs can prove too great for him to resist.

SEVENTH-CLASS POSTAL SERVICE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. DERWINSKI. Mr. Speaker, Columnist Marquis Childs, usually one of my favorite writers, makes some sweeping criticisms of the U.S. Postal Service in today's Washington Post, February 22—which should not go unanswered. I, for one, consider the column overly pessimistic.

The main thrust of the article appears to be that improvements in the Postal Service are imperceptible, if at all existent.

I would suggest that there are perceptible improvements under way in the mail system if one chooses to perceive them. Nobody ever said postal reorganization would be accomplished in 6 months, 12 months, or 2 years—but the fact is that much has been done and much more will be done as time goes on.

As a matter of fact, under the law creating the Postal Service, Congress provided for a 7-year period for complete transformation from the previous departmental structure.

The Postal Service, as Mr. Childs does eventually point out, has for the first time established delivery standards for local first class and air mail items. The result is that overnight delivery is an accomplished fact for many areas of the Nation.

Work has begun on a bulk mail network which, upon completion in the next 2 or 3 years, will vastly improve the handling of parcels and bulk items while paving the way toward separate and more efficient handling of letter mail. A unified preferential mail network also is in the works. Admittedly, programs of such scope demand some time—and patience on the part of mailers—to complete.

From another operational standpoint, the organization has been streamlined so that the chain of command from headquarters to the postal regions to the local post office is more clearly and usefully defined. Local postal managers have more authority and greater flexibility to deal with their local delivery needs.

Mr. Childs also registers a complaint that second-class mailers are now deprived of a large subsidy to help pay their postage costs in moving their products through the mail. Congress in its wisdom saw fit to end such subsidies, and the law clearly spells out the requirement that each class of mail must pay its own way in the postal system. An argument for a subsidy should not be presented as a valid criticism of the Postal Service. The article unfortunately skips the fact that the demise of some magazines has been caused by a loss of advertising revenue in which television, not the struggling Postal Service, is the culprit.

The article follows:

SEVENTH-CLASS POSTAL SERVICE

(By Marquis Childs)

The theory was that a postal service divorced from the patronage control of Congress would be able to move a letter between two principal cities in, say, a day and a half instead of two to three days. Efficiency, economy—that was the pitch of former Postmaster General Winton M. Blount, a supersalesman who argued that it was time to junk the old mess for a business operation.

Today, nearly two years after the divorce, the turgid mass of the mail moves at the same glacial pace. Nothing so directly touches millions of Americans as the delay and uncertainty in the delivery of the mails. It is everybody's business and yet almost nobody seems able to do anything about it, if only because the process has the same impenetrable bureaucratic look as it had when Congress was calling the shots.

Elmer Cerin, a Washington lawyer who has made himself a postal expert, did a careful study last year on first-class mail delivery. He concluded that a program heralded as making better use of manpower and equipment had resulted in increasing mail handling time by 29 per cent for outgoing letter mail originating and destined for the nation's 10 principal post offices. The Cerin study was put in the congressional record by Sen. Gale McGee (D-Wyo) chairman of the Post Office and Civil Service Committee, with the threat that the post office reorganization act would be greatly modified or even repealed if things did not look up.

A fair-minded man, Cerin says there has been a slight improvement since he did his duty. But it is almost imperceptible as the P.S. faces the same frozen structure of union rigidity, rapid turnover of personnel and outmoded techniques as under the old system.

The choice is between stepping up efficiency and raising rates in the hope that more money will turn the trick. A business operation, the service was to pay its own way and Congress surrendered control over the mail rates.

In May the first-class letter rate went from six cents to eight cents. The air-mail rate is soon to jump from 11 to 13 cents. Business and banks, the principal users of first-class mail, will simply pass it on to the consumer, which means another upward notch in the inflationary spiral.

The power of the P.S. over rates cuts a wide swath. It threatens to put in further jeopardy the printed word that is now hard pressed under the impact of television. Nothing could illustrate this better than the way the Nixon China expedition is tailored for the cameras with the new technology of the satellite.

Under the old system Congress provided a subsidy for second-class mail covering magazines and newspapers. This was in the belief, advanced in the early days of the republic, in the educational value of the printed word, With that subsidy wiped out the Postal Service is proposing a 142 per cent increase in second-class rates.

In testimony the other day before Sen. Sam Ervin's Subcommittee on Freedom of Information, Andrew Helskell, chairman of the board of Time, Inc., said the increase would raise the mailing costs of Time's four magazines by $27 million over a five-year period.

And he set this against profits before taxes of the four publications. According to Helskell, it is even worse, with pretax earnings of $50 million under the gun of a rate increase of $130 million by 1976.

The concept of the subsidy as underwriting education has been stretched a long way, with publications pandering to sensationalism and others that offer thinly disguised political propaganda.

Yet the demise of the printed word is a fact of the television era. Collier's, The Saturday Evening Post, and Look have gone. And Life suffers heavy losses. Metropolitan dailies benefited little, if at all, from the subsidy, since distribution was largely by truck. But weeklies, the specialized periodicals of nationwide organizations and a host of other printed media will feel the heavy hand of the rate increase.

Setting up published service standards late last year, the P.S. promised one-day delivery within a 600-mile radius for first-class mail and a 95 per cent improvement in delivery of air mail. The way is open for infinite improvement.

LOOKING BACK AT DOC LAWLER

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 22, 1972

Mr. HUNGATE. Mr. Speaker, it is commonplace in politics that politicians are widely criticized and seldom praised during their most active years.

It is easy to recall Presidents, Governors, Senators, and almost any public office holders you can imagine, who were condemned, at least at the time they left office, but viewed through both the perspective and haze of time, their real public service becomes visible. Had it not been for the support and hard work of

Tom Pendergast, a Jackson County judge might not have ever become President of the United States and the Nation might have been denied the service of one of its greatest national leaders.

A recent article in the St. Louis Post-Dispatch follows which describes the influence and work of a recently deceased political leader in Missouri.

LOOKING BACK AT DOC LAWLER

(By Jake McCarthy)

It takes the death of a man like Doc Lawler to make a community stop and think about its own processes of judgment and standards of morality.

Now that he's dead of heart disease at age 67, all the trials that tested him will be forgotten. Much of the community made harsh judgments on him as a labor leader and political mastermind. Yet his wake drew so many people to pay him tribute that even a special traffic detail couldn't unsnarl the crowd.

There was considerable community pressure, and ultimately an indictment, a couple of years ago, aimed at putting Doc Lawler and the late Larry Callanan and their genial associate, George Seaton, into prison. They got convicted, too.

It happened because some people thought unions shouldn't spend money on the kind of politics that enhance their members' interests. Even in a time when every candidate from Richard Nixon on down is looking for a millionaire to bankroll his campaign.

The case is still before the Supreme Court and Doc Lawler and Larry Callanan had to drop dead to beat the system. But the attack on them always smelled bad to me.

What makes a community stop and think when a man like Doc Lawler dies is its basic sense of decency, which it sometimes loses in the heat of battle. So an embattled figure dies and most everybody finally says "I salute." But it's a hell of a way to go.

I knew Larry Callanan better than I knew Doc Lawler only because Larry was boisterous and Doc was quiet, and quiet people make me nervous. It's as if they know you have feet of clay. Boisterous people are always too busy covering up their own to notice yours. Larry did time, and admitted he'd made a mistake.

But together they made the Steamfitters Union, a pretty small outfit by comparative standards, into the biggest political power in the state. There are a lot of people who don't think unions have that right, even if corporations play the political power game all the time.

Society, it seems, always goes after the outriders who don't fit into the system, and Doc Lawler and Larry Callanan were no exceptions.

But every politician around these parts gave credit to Lawler and Callanan for a sense of honor and political savvy and determination to see that their Fitters did all right.

Now a political era has ended in Missouri and a lot of officeholders and candidates are wondering what it will mean. Because one of the things Doc Lawler did best was to effect the kind of political compromise that makes the system work.

The fact that he left an intricate political network behind him may mean that the impact to his loss will not be felt immediately, and that 1972 will drift on in its already confused way to the polls. But he was the one who held that network together, and things won't ever be quite the same again.

We find it easy to pass judgment on political leaders because they work at the level of back-room compromise without which no law ever got passed, or candidate elected.

Even in a society that has its stock deals and tax writeoffs and special undercover business transactions, we've always made politicians fair game for criticism. So Doc Lawler had his name muddied up through the years.

But the thousands who filed by his casket thought he was a good man, as good a man as he was a politician. And some of his critics are saying he will be missed.

I wish Doc Lawler could have heard some of that while he was still alive and kicking.